

Business Insurance

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Reinsurance broker E.W. Blanch sells 4.3 million shares to public
 MINNEAPOLIS—E.W. Blanch Co. raised \$27.8 million, part of which might be used to buy other reinsurance intermediaries, in an initial public offering last week of about 31% of its shares.
 A total of 4.3 million shares were sold—1.5 million by the company and 2.8 million by current shareholders—at \$18.50 per share, the company said. Blanch shares closed at \$19.38 Friday on the New York Stock Exchange.
 Blanch had been a limited partnership
Continued on next page

Delays, politics may hobble health reform



GRAPHIC BY CHRIS ROY

By JERRY GEISEL

WASHINGTON—Skepticism is growing over whether the Clinton administration has the political skill and muscle to win congressional approval of a comprehensive health care reform plan.
 Questions also are being raised about the cost of the package, which already is overdue, and how that cost will be financed.
 In addition, second-guessing is growing on whether the administration made a mistake in setting up such a large task force—more than 500 staffers—to develop a health care reform package and in selecting individual task force members.
 These questions are being raised as

the administration sent out word last week that the health care reform package may not be unveiled until mid-June. President Clinton originally promised the package would be ready within 100 days of his inauguration, or about May 1.
 Even with the delay, some expect President Clinton will only present a broad outline of the package rather than detailed legislative language.
 The delay comes as little surprise to lobbyists, who see no sign that the administration is close to making decisions on some of the toughest issues. These include: the level of benefits to which all Americans eventually would be entitled; how revenue will be raised to finance universal coverage; and the structure of giant health care purchas-

ing cooperatives or alliances through which many employers and individuals would purchase coverage.
 “We hear different options on different days,” said Pam Bailey, president of the Washington-based Healthcare Leadership Council, a diverse group of managed care firms, pharmaceutical manufacturers, hospitals and physicians.
 “What struck me was how many decisions have yet to be made,” said Edward J. Davey, a principal at A. Foster Higgins & Co. Inc. in New York. Mr. Davey, along with other representatives of the Assn. of Private Pension & Welfare Plans, met recently with Ira Magaziner, a White House senior domestic policy adviser who has coordinat-

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Lloyd's business plan inspiring optimism

By ALINE SULLIVAN and GAVIN SOUTER

LONDON—Lloyd's of London's new business plan offers the best chance to stem mounting losses and fleeing capacity, most in the market agree.
 And while some members are criticizing the plan for not doing more to alleviate members' past losses, others expect it to create new opportunities.

Lloyd's first-ever business plan, unveiled late last month, calls for a dramatic restructuring of the 305-year old market (BI, May 3). Key features of the plan include severe cost cuts, a move to a strong central management and the introduction of limited liability corporate membership.
 Robert Hiscox, deputy chairman of Lloyd's and one of the plan's authors, said Lloyd's will “be run more like a company”

with individuals accountable to the top levels of the market rather than to a “plethora of committees.”
 Lloyd's officials say strong management is necessary to attract corporate capital, one of the cornerstones of the plan.
 Lloyd's hopes corporate investors will help raise underwriting capacity to between 10 billion and 12 billion pounds (\$15.66 billion and \$18.79 billion) by

1997. Capacity dropped to 8.5 billion pounds this year from a high of 11.3 billion pounds in 1991. Converted at appropriate exchange rates, capacity has fallen to \$12.88 billion from \$21.81 billion.
 “We have very few options but to support the plan,” said Terry Hayday, chief executive of insurance operations at Sturge Holdings P.L.C., the largest underwriting agency at Lloyd's. “We

need new capacity.”
 David Seel, a personal stop-loss broker at Fraser Insurance Brokers Ltd., said he expects individual members in the future to form consortia that will apply for corporate membership with limited liability.
 “I am convinced that individual membership will decline until it disappears,” said Mr. Seel. Investors will be more at-

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AT&T to audit books of Blues plans it says overbilled for a decade

By DOUGLAS McLEOD

NEWARK, N.J.—American Telephone & Telegraph Co. will be allowed to audit the books of several Blue Cross & Blue Shield plans after AT&T filed a lawsuit charging the plans with a decade's worth of overbilling for health care services.
 AT&T, the largest customer of New York's Empire Blue Cross & Blue Shield, leveled federal racketeering charges earlier this year against Empire as well as Blues plans in Arizona, Illinois, Michigan, Ohio and Pennsylvania.
 The complaint charges that beginning in 1984, the insurers defrauded AT&T by failing to pass along hospital discounts due under an AT&T employee health plan administered by Empire.
 The suit does not specify how much AT&T allegedly lost, saying only that the amount is “substantial” and that the telecom-

munications company has been unable to determine the exact amount because BC/BS plans have refused to allow AT&T to audit their records.
 Since the suit was filed in March, Empire and BC/BS affiliates in Arizona, Illinois and Michigan have agreed to audits, according to a spokesman for Basking Ridge, N.J.-based AT&T.
 The company is still negotiating with the other BC/BS affiliates named in the complaint and has put the litigation on hold pending the audit results, the spokesman said.
 AT&T pays about \$3 million a day in health care benefits for employees, retirees and their dependents, according to the spokesman. The Empire-administered plan accounts for only a portion of this amount, though the spokesman said he did not know how much.
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Closing the book on RIMS conference

The 31st annual Risk & Insurance Management Society conference—which mixed sun, fun and business—attracted nearly 4,300 registrants to Orlando April 25-30, up from about 3,800 a year ago in Anaheim, Calif. Total registration—including registrants, exhibitors, press, students and guests—was just shy of 8,500. Reports on risk management sessions begin on page 3.

Analysts optimistic about brokers' future

But officials see little change from 1992

By SALLY ROBERTS

The year may be different, but the song remains the same: Brokers are continuing to rely on new business development and expense controls to counteract a dismal operating environment.
 But while low interest rates, a sour economy and generally flat insurance rates continued to hold down the publicly held brokers' revenue growth in the first quarter of 1993, analysts say a new tone of optimism has emerged.
 Brokers' outlook in general is a “little more bright and shiny,” even though there is no turn in the market, said Vanessa Wilson, equity research analyst with The First Boston Corp. in New York.
 “They have hit bottom,” and are now poised and ready for good things to start happening. “Things can only get better from here. What else could go wrong?” Ms. Wilson asked.
 “There are a lot of things going

(the broker's) way,” contends Ira Malis, a principal at Alex Brown & Sons Inc. in Baltimore. “Brokers are coming out of a bad economy,” and results have no place to go but up, he said.
 While brokers are indeed optimistic about rate increases for property insurance in coastal areas and overseas and for specialty lines like aviation and marine insurance, price hikes have yet to hit casualty lines and really make a difference to their bottom lines.
 “We're finally seeing some relief in some areas of the market, but not enough to change the year,” said Michael J. Cloherty, vp-finance for Arthur J. Gallagher & Co. in Itasca, Ill. “We're expecting a year similar to '92 overall,” with a continued need to produce new business to achieve growth, he said.
 In addition to the soft market, brokers continue to feel the effects of low interest rates, which
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Update

E.W. Blanch completes IPO

Continued from previous page

until March, when it became E.W. Blanch Holdings Inc. and issued 12.3 million shares to partners in exchange for their partnership interests. Chairman and CEO E.W. Blanch sold 38% of his 3.8 million shares, reducing his stake to 16.6%. President Michael W. Cashman Sr. retained his 1.7 million shares and 12.3% stake. Blanch directors and officers now own about 36.8% of the outstanding shares.

Motion says ELIC deal illegal

LOS ANGELES—An enhancement agreement between the National Organization of Life & Health Guaranty Assns. and California regulators to make whole policyholders of Executive Life Insurance Co. is illegal and cannot be executed, asserts a new motion filed in the ELIC rehabilitation saga.

Under the NOLHGA enhancement agreement, guaranty funds in more than 40 states will subsidize payments to California policyholders who by law are only entitled to an 80% reimbursement, asserts the motion filed Thursday in Los Angeles Superior Court.

Insurers' liability under the California Life Insurance Guaranty Assn. law that took effect in 1991 was limited to 80% of the \$100,000 per-policyholder cap because the state Constitution does not allow insurers to offset premium taxes by the amount of guaranty fund assessments, the motion says.

The NOLHGA enhancement agreement also violates a section of the California Insurance Code that limits guaranty fund payments on contracts that pay excessively high interest rates, which is what ELIC was famous for, asserts the motion by attorney Arthur F. Ferguson, with Weinberg & Green in Baltimore. He represents underwriters of municipal bonds backed by ELIC guaranteed investment contracts.

Judge Kurt Lewin declined to rule on the motion, instead asking NOLHGA to submit a brief explaining why it supports the latest version of the ELIC rehabilitation plan rather than efforts to rescind the plan that would cost member guaranty funds much less.

Mr. Ferguson last month filed a motion seeking rescission of the ELIC junk bond sale to French investors, alleging the bonds now are worth about \$2 billion more than their original \$3.2 billion purchase price (BI, April 26).

Meanwhile, in a related move, Pennsylvania's insurance commissioner and attorney general last week joined a class-action suit aimed at protecting the pensions of about 6,000 Unisys Corp. employees and retirees whose pension funds were invested in ELIC group annuities. The group seeks coverage from the state guaranty fund, which only covers individual annuity contracts.

Jobs lost due to workers comp

LONG GROVE, Ill.—About 40% of policyholders responding to a Kemper National Insurance Cos. survey say they either have eliminated jobs or have not created them in California because of the state's troubled workers compensation system.

Kemper surveyed about 2,500 California policyholders in April. More than 1,000 respondents reported that a total of 10,029 jobs had either been eliminated or not created because of the state's workers comp problems.

Respondents were also asked to rank six possible reform measures in order of importance. Ranked first was fighting workers compensation fraud. Ranking below that in order were: reducing litigation and the involvement of attorneys in the workers comp claims process; reducing the number of stress claims; lowering health care costs; increasing incentives to return to work after an injury; and placing a cap on the cost of vocational rehabilitation programs.

Arizona enacts tort reforms

PHOENIX—A menu of tort reforms drafted with the aim of reducing excessive litigation without limiting damage payments has been signed into law in Arizona.

The Injury Compensation Reform Act, introduced by Senate President John Greene, R-Phoenix, permits subrogation by automobile, *Continued on page 62*

Errors & Omissions

• Robert Pallari is senior vp of Legacy Health System, not Access Health Marketing Inc. as was reported in the May 3 issue.

• Richard Clayson, former governmental insurance adviser in the Bahamas, left the post at the end of 1992 when his three-year contract was not renewed. He was not dismissed as was stated in an April 26 story.

• Information supplied by a broker for an April 19 story did not take into account a reduction in insured property values in reporting a 50% drop in property insurance premiums for the city of Erie, Pa. Excluding the city's water authority, which obtained separate coverage this year, the city's premiums dropped by 20% in 1993.

• The following companies do not employ members of the Society of Risk Management Consultants as reported in the the March 8 directory of risk management consultants: Arlington Associates Inc.; CitySide Associates Inc.; EQE International Inc.; Jardine Risk Management Inc.; McGee Risk Management Services; National Medical Advisory Service; PRC Environmental Management Inc.; Professional Risk Management Consultants; Stone & Webster Management Consultants Inc.; and Tiller Consulting Group Inc. Also, E.R. Bain Consultants Ltd. was incorrectly listed as an SRMC member; it is a member of the Ontario Society of Risk Management Consultants.

In addition, First Risk Management Co. had 40 corporate and institutional risk management clients in 1992, not 40 association clients.

Salvaged work comp law to trim Kansas rate hike

By MEG FLETCHER

TOPEKA, Kan.—An all-night negotiating session by Kansas lawmakers helped transform a vetoed workers compensation reform bill into a viable measure that Gov. Joan Finney has agreed to sign, perhaps as early as this week.

Representatives for employers, insurers and labor, all of which generally support the more than 40 changes in S.B. 307, now are awaiting an estimate by the Na-

tional Council on Compensation Insurance of the cost savings the bill will provide. In light of the savings, employers hope the NCCI will pare—or eliminate—its pending request for a 21.3% workers comp rate hike.

The vetoed bill, known as the Senate version of H.B. 2354, was estimated to provide savings of 8.3% to 11.4%, said Peter Strauss, legislative manager for the NCCI's Western region.

"The new measure is expected to produce nearly the same level

of savings," said Mark Skinner, counsel with the American Insurance Assn. in Houston.

Kansas Insurance Commissioner Ron Todd is expected to rule on the NCCI's revised rate request within the next two or three weeks.

"Reform was the No. 1 legislative priority for the past two years," said Mike Taylor, the NCCI's director of government affairs for the Western region.

"Reform was driven by some *Continued on page 61*

Texas Medical Society requests state investigation

HMO denials questioned

By NANCY JOHNSON

HOUSTON—The Texas Medical Assn. is taking the unusual step of asking the state Insurance Department to investigate the denial of three claims by a health maintenance organization.

By pressing for an inquiry, the physicians' group hopes to reduce what doctors see as a quagmire of red tape and improper claim denials.

This action marks the first time in the past two years that the medical society has gone beyond its usual procedure of meeting with network representatives to resolve disputes.

Meanwhile, a spokesman for the HMO counters that its actions on the claims were within bounds of the normal managed care process.

Acting on complaints from three Houston doctors, the medi-

cal society last month sent the Texas Department of Insurance a letter asking it to investigate whether Travelers Health Network of Houston followed required standards when it denied payment for medical care to the doctors' patients.

The three procedures in question were a breast reduction, a tonsillectomy and hospitalization for a diabetic patient with *Continued on page 63*

Chubb forms Bermuda unit

New subsidiary to write finite risk, other coverages

By ROGER SCOTTON

HAMILTON, Bermuda—A new Chubb Corp. subsidiary, capitalized at about \$20 million, is expected to begin underwriting finite risk reinsurance and other

programs on June 1.

Chubb Atlantic Indemnity Ltd. is domiciled in Bermuda but will have no offices there. The company will be managed by International Risk Management Group Ltd., said John Stites, president of the new unit. Mr. Stites will remain in Warren, N.J., where he is manager of the Chubb & Son Inc. alternative risk transfer department.

"We're looking at writing fi-

nite risk and other reinsurance mechanisms," as well as some excess workers compensation and other traditional programs, said Mr. Stites.

"We could also look at streamlining some group programs and consolidated multiple policies that may be easier to write in Bermuda," he said.

Chubb Atlantic Indemnity will offer "blended finite risk pro- *Continued on page 62*

Not all calm after the storm

Andrew cleanup may tarnish insurers' image, executive says

By LOUISE KERTESZ

SAN FRANCISCO—Unrepaired damage from Hurricane Andrew is threatening to turn what had been one of insurers' prouder moments into a public relations disaster.

Insurers already have paid out \$14 billion to \$16 billion in Andrew claims, by far the most ever doled out for a single disaster. And both regulators and consumer groups have generally given insurers high marks for

their response to the disaster.

Yet large tracts of destruction remain, which could give insurers a black eye despite their best efforts, said David C. Cruikshank, president and chief executive officer of Service Insurance Co. of Bradenton, Fla.

"I was down there a week ago, riding around, looking at the area, expecting to see 95% of the area cleaned up. We're nowhere near that," he said.

The unrepaired damage from the hurricane hurts the insur-

ance industry's image, Mr. Cruikshank said.

"We're going to have to face that image because the frustration has got to be building," he said. "There are many, many homes that are vacant, many roofs that haven't been repaired. We've got a long way to go. When you get a block, two blocks off the main road—the garbage, the trash that's there," he said.

Insurers in Florida recently estimated that only 15% of homes *Continued on page 63*

Inside

✓ The business plan released by Lloyd's of London will serve as a road map for the market's march to recovery, this week's editorial says. **PAGE 8**

✓ Sturge Holdings P.L.C. is closing eight Lloyd's syndicates to streamline its operations and shed unprofitable business. **PAGE 55**

✓ The Nordic insurance market's future prospects aren't bright, a Standard & Poor's report states. **PAGE 55**

✓ The House Ways and Means Committee is expected to pass legislation this week that would reduce pension benefits for highly compensated employees. **PAGE 61**

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Gregory Hidden, left, and David Mair contend that precise planning is crucial to special event risk management.

Special events a big challenge in the risk management arena

Pre-event planning is a winning strategy, risk manager says

By MICHAEL SCHACHNER

ORLANDO—Risk managers should keep in mind two important facts when coordinating a special event: No two events are identical. The few events that are similar are that way by accident.

It's the nature of the beast—managing the risks surrounding a special event is one of the most challenging tasks in the risk management field. However, when done properly, it is also very rewarding, according to one risk manager who deals almost exclusively with special events.

From brand-new venues, to guests who consume too much beer, to the unreasonable demands made by entertainers who want everything done exactly their way, special events risk management is a breed of risk management unlike any other, insisted David L. Mair, risk manager for the U.S. Olympic Committee in Colorado Springs, Colo.

"The nature of our job is to protect special event participants and attendees from the hazards of the events. This responsibility is constantly changing. The key to every individual event is identifying risk, figuring out how much you can lose and then managing it," he said during a session at the 1993 Risk & Insurance Management Society Inc. conference last month in Orlando.

Unlike day-to-day corporate risk management, in which decisions are made periodically and have longer-lasting effects, managing the risks of special events requires a risk manager who can plan and evaluate every project in a different way.

"You have three basic options for special events, and only two are actually viable," Mr. Mair said. "You can avoid the risk, which really isn't an option. You can assume the risk if you're a large entity, but you probably cannot if you're a non-profit or small. Or, you can transfer the risk to an independent contractor or to an insurer, which is what most of us do, to a varying degree."

Mr. Mair said risk management for special events consists of three basic phases: pre-event planning, concurrent evaluation and post-event review. All are necessary, and each plays an equal role in the overall risk management process, he said.

Pre-event planning begins with the risk manager examining the facility or venue where the event will take place.

"Every site poses different kinds of exposures, whether it be a park, a concert hall or whatever. If you're having a company softball game, you look over the field realizing that clover and flat-soled tennis shoes don't mix," Mr. Mair said.

When evaluating a venue, issues that should always be considered include:

- Is the event being held indoors or outdoors?
- Are all entrances and exits accessible and clearly marked?
- In what shape are the floors, walkways and surface conditions?
- Are stages or bandshells permanent or temporary, and who built them?
- It's also good to know if the company that built your bleachers is at risk if they happen to collapse," Mr. Mair said.
- Are stairs, ramps and seating areas free from debris and obstacles, and can people move in and out freely?
- Do the restrooms work and are they unlocked?

"This is very simple, but very important. The last thing you need is to have a festival ongoing with nothing but padlocked bathrooms," he said.

• Who has access to storage and service areas? "This is especially important if you're responsible for valuables. Teen-age kids love expensive sound equipment and road signs," Mr. Mair said.

• Is the event site accessible to people with disabilities?

After examining the venue, risk managers must consider how to manage the risk to participants and attendees.

"Most important here is knowing whether those in attendance will be involved in activities. Sports are usually free from crowd participation, but parades and exhibitions often involve audience participation," he noted.

Mr. Mair also advised risk managers to collect certificates of insurance in advance from service contractors and to make sure they're covered as an additional insured under the contractors' policy.

"If you don't collect in advance, you'll be in an adversarial situation if a conflict arises. And don't expect that your contractor has his own workers compensation coverage because if he doesn't, those workers become yours," he said.

Having enough support services in place can also facilitate a special event.

Some examples of necessary support services include having ample communications like cellular phones, having medical and security personnel ready to respond if necessary and having maintenance and housekeeping staff ready.

Lastly, traffic and parking control are musts. "Pedestrians and moving cars don't mix well," Mr. Mair quipped.

Once the day of the event arrives, the risk manager's job still is not complete, added Gregory "Red" Hidden, director of risk and insurance services for American General Hospitality Inc. in Dallas, and voluntary risk manager for USA Hockey Inc.

"If you're sitting back watching the event, you're not practicing risk management," he warned. "The key is to manage by walking around. On-site risk management is vital considering your pre-event plan never goes 100% as expected."

"See how security is operating and make sure your liquor exposure is not getting out of hand," Mr. Hidden advised. "Too much wine or beer can turn a placid crowd into something much less desirable."

"The size of the containers you're serving and the length of sales plays a big role in your alcohol exposure," he added. "A 32-ounce beer cup can be much more problematic than a



Marketwide turn seen by RIMS-goers by January renewals

By JAMES M. BURCKE

ORLANDO—Rates will begin to rise for all lines of property/casualty insurance by January 1994 renewals, say two-thirds of the RIMS conference registrants responding to a survey by *Business Insurance*.

However, most of the survey participants expect the market turn to be much more mild than the turn in the mid-1980s: More than 80% said that prices would not rise by more than an average of 20% upon renewal after the market finally does turn.

The biggest price hikes will be felt by risk managers renewing workers compensation coverage and primary and excess property coverage, the survey found.

The third annual *Business Insurance* One-minute Opinion Poll was conducted April 25-28 at the BI booth in the Exhibit Hall of the Risk & Insurance Management Society Inc. conference in Orlando. Of the 360 RIMS conference registrants who participated in the survey, 53% were risk managers.

Twenty-nine percent of the respondents said that the property/casualty insurance market most likely will turn across all lines during January 1994 renewals. However, 21% expect the market to turn by July, while another 18% expect rates to rise across all lines by September.

Fifteen percent did not expect the insurance market to turn until July 1994, while 14% said a market turn would not occur until late 1994—at the earliest. And, 3% said the market would never turn. Several of these respondents explained that prices will never again rise across all lines of coverage at the same time.

While most of the respondents expect the market to turn within nine months, the price increases may not be as severe as in previous hard markets. Forty-six percent of the respondents said rate increases will average between 10% and 15% once the market does harden. Another 36% of the survey participants said the price hikes will average between 16% and 20%. And 0.5% of the respondents said average rate increases will be less than 10% even after the market turns.

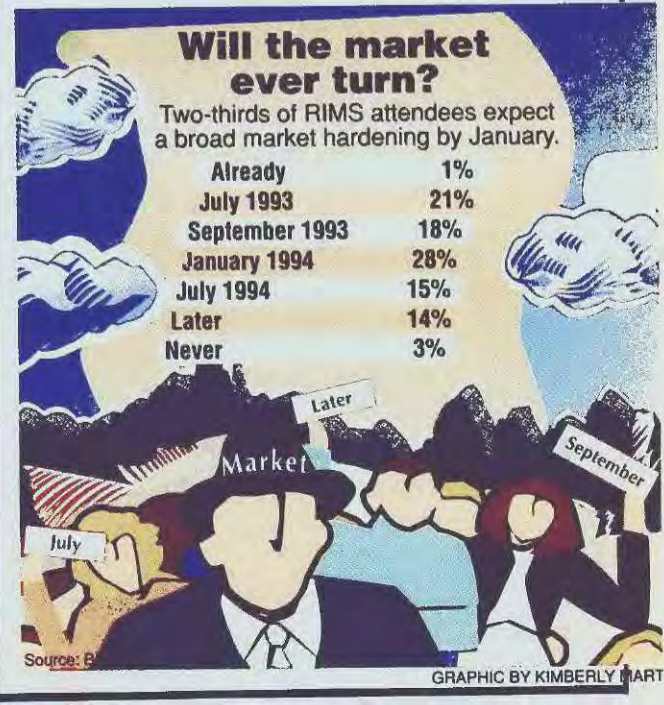
On the other end of the scale, 15% of the respondents expect rates to rise an average of 20% to 50% once the market hardens, while 2% expect rate increases of 50% to 100%, and 0.5% say rates will jump more than 100%.

The biggest rate hikes, according to 42% of the survey respondents, will include workers compensation insurance. In addition, 40% said the steepest rate increases will be assessed for primary property insurance, while 38% predicted rate hikes for excess property coverages to be among the steepest.

Twenty-nine percent expect big jumps in prices for primary liability insurance, while 24% say that rate hikes for excess liability coverage will be among the steepest. And, 21% of those surveyed are bracing for big rate increases for both professional liability and directors and officers liability insurance once the market turns.

Percentages exceed 100% because respondents

Continued on page 54



Battles continue over ad injury endorsement

Uncertainty reins over the intent behind this coverage

By JOANNE WOJCIK

ORLANDO—While policyholders have won the latest round in the high-stakes battle over advertising injury coverage, insurers maintain that they never intended to provide such broad



protection.

That conflict leaves risk managers uncertain as to whether they can count on the coverage when they need it.

As one risk manager put it following a session at the 1993 Risk & Insurance Management Society Inc. conference in Orlando:

"It's like buying a car that comes with a lot of options, but the sticker doesn't list them. Instead it just says you get the car plus 'other options.' And when you ask the dealer whether the 'other options' include air conditioning, he tells you, 'When you're driving down the road in the middle of August and you press the air-conditioner button and cold air comes out, you've got air conditioning. If it doesn't, you don't.'"

The advertising injury provision was added as an endorsement to comprehensive general liability insurance policies in the early 1970s after Lloyd's of London began offering the coverage as part of a new umbrella program called

"Bright New Star," explained Robert M. Horkovich, an attorney with Anderson, Kill, Olick & Oshinsky in New York.

In 1973, the Insurance Services Office Inc. included advertising liability in a "package" of 12 coverage endorsements to the standard CGL policy.

Today it can be found in the 1973 CGL form, the 1973 endorsement, the 1986 commercial general liability policy form and the 1986 CGL endorsement, all of which are still being sold, according to Mr. Horkovich.

Recently uncovered documents from ISO indicate that when selling the advertising injury coverage provision, insurance companies re-

presented that the endorsement was part of "the broadest package of coverage available to the average insured," he said.

According to ISO's explanatory memorandum filed with state insurance regulators in 1976, "advertising injury covers the insured for various types of injuries such as piracy, unfair competition, infringement of copyright, etc., arising out of the insured's advertising, promotional or publicity activities."

However, just because ISO issued a particular form doesn't mean all insurers follow all of its provisions, noted William Savino, an insurance defense attorney with Rivkin, Radler & Kremer in Uniondale, N.Y.

For example, an insurer could make variations in the basic ISO

language, such as eliminating coverage for "piracy," he said.

Since 1976, "Courts have found insurance coverage under the advertising injury coverage provision for such offenses as copyright infringement actions, trademark infringement actions, patent infringement actions, antitrust violations, unfair competition, defamation and privacy violations," said Mr. Horkovich.

One recent battle was won by Microsoft Corp., which sought coverage to pay attorneys' fees it incurred defending a 1988 copyright infringement lawsuit by Apple Computer Corp.

A federal judge ruled that Microsoft's insurers—Chubb Corp. units Federal Insurance Co. and Great Northern Insurance Co.—had a duty to pay the software maker's defense costs.

Last month a U.S. District Judge in Seattle rejected a motion to reconsider the decision, according to Mr. Horkovich.

Less than a year earlier, insurers prevailed in a case before the California Supreme Court. In *Bank of the West vs. Superior Court*, the court ruled that claims under the state's Unfair Business Practices Act are not the same as "unfair competition" as the term is used in the advertising injury provision (*BI*, Aug. 3, 1992; May 25, 1992).

Nor, the court ruled, did the alleged conduct occur "in the course of" the bank's "advertising activities," as the provision requires.

Insurers have maintained that coverage is only triggered by an injury "arising out of an offense committed during the policy period occurring in the course of the named insured's advertising activities."

"That language means any kind of advertising, not selling," Mr. Savino asserted. "You have to apply common sense and context."

For example, patent infringement results from manufacturing, not advertising, yet policyholders are seeking defense costs and indemnification in such cases, he noted.

Even in *Federal Insurance Co. vs. Microsoft*, the court validated the cause-and-effect relationship between advertising and injury, Mr. Savino said.

In addition, the advertising injury coverage was but one of 12 "fringe" coverages included in a "package," Mr. Savino said. The other coverages were: contractual liability; premises medical payments; host liquor law liability; fire legal liability; broad form property damage liability, including completed operations; incidental medical malpractice liability; non-owned watercraft liability; limited worldwide liability; additional persons injured; extended bodily injury; and automatic coverage for newly acquired organizations.

"There were 12 'fringe' coverages, taken together as a package, which the insured could not go out and buy separately," Mr. Savino asserted.

"The premium charged for the coverage, likewise, was an indicator as to the breadth of the coverage," he added.

"If this coverage is so broad, then why do we need D&O coverage? Why do we need environmental coverage?" Mr. Savino asked. "The most important thing is reading it in context. You can't just excise things from an insurance contract and interpret them."

The session was moderated by Spencer Rankin, director of risk management for Madison, N.J.-based Schering-Plough Corp.

Mr. Horkovich coordinated the session. **BI**



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The Global View

When it comes to international service networks, there are two kinds...owned and not. We prefer the former, because ownership control provides for quality control.

Alexander & Alexander's global network is second to none. We have offices in over 80 countries and more than 300 cities.

For global clients that translates into continuity of coverage, exceptional technical expertise, and the ability to deliver consistent service...anywhere in the world.

The Local View

In today's economy, global organizations aren't the only ones with risk management challenges.


If you're like most mid-sized firms, you probably don't plan to stay that way forever. And even if rapid growth isn't in your future, the impact of the global economy cannot be ignored.

That's why companies today, whatever their size, need a full service risk management partner. With the global experience to address their changing needs.

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Solutions...Worldwide.



WHAT PEOPLE WHO
SPEND THEIR DAYS
AMONG TREE FROGS,
TELESCOPES AND IVORY-
BILLED WOODPECKERS
FIND INTERESTING
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Financial insurance catching on—slowly

Accounting for risk transfer continues to be an obstacle

By JUDY GREENWALD

ORLANDO—While financial insurance is a market risk managers should be familiar with, corporations remain concerned about this risk financing method.

"We've gone to the dance a couple of times, but we've come home alone," said Michael W. Bryant, director of insurance for Westinghouse Electric Corp. in Pittsburgh, describing his company's involvement with the financial insurance market.

The issue of accounting for

risk transfer is one area of concern, said Mr. Bryant during a session on financial insurance case studies at the 1993 Risk & Insurance Management Society Inc. conference last month.

He pointed to Financial Accounting Standard 113, issued by the Financial Accounting Standards Board, which calls for risk transfer in reinsurance contracts (BI, April 26).

Some observers have pointed out that FAS 113 applies just to financial reinsurance, not to direct insurance, so the risk manager need not worry about it, Mr. Bryant said.

But, he cautioned, "The accountants read all the stan-

dards," and it could influence how they regard a financial insurance deal. "Essentially, a risk that we have is that accountants will become more conservative" in how they account for these deals, he said.

Another issue is what happens to the cash that is used to finance loss accounts under these deals, said Mr. Bryant.

Under a financial insurance transaction, an insurer essentially sets aside the premium into a separate account or fund, which is returned, less any administrative charges and losses, with interest.

But with short-term rates currently low, the income generated

in loss accounts is not very much and could be substantially less than the policyholder could make by using it in its own business, said Mr. Bryant.

Another issue is the transfer costs or expenses connected with the deal, said Mr. Bryant, suggesting corporations look at the bottom line. "Is the transfer cost worth the benefit?" The answer many times is "yes," he said.

Mr. Bryant said that when Westinghouse investigated one financial insurance deal for itself, it concluded "we just didn't need the loss smoothing at the end of the day." Another deal turned out to be unnecessary because the exposure, it turned out, did not exist.

Cost was the reason why Pep-

siCo Inc. decided against a financial reinsurance deal, said Steven H. Lawrence, director-risk management and insurance for the Purchase, N.Y.-based company. He spoke during a related RIMS session on risk and financial management leadership.

"Our financial management likes certainty and is sometimes willing to pay a cost to get certainty vs. uncertainty." However in this case, PepsiCo's management decided a proposed program, which would have cost \$15.4 million, was too expensive.

While PepsiCo decided against the deal, if the options improve, "we'll always go back and evaluate these programs," Mr. Lawrence said.

The advantages of using financial insurance programs by the large insurance buyer were outlined during the session on financial insurance case studies by Martin H. Scherzer, vp at Johnson & Higgins in New York.

Among them are:

- It allows for a graduated assumption of additional risk, protecting the policyholder from the one-in-100-year loss.

- Policy forms and financial structures are completely customized to the specific transaction and client. The typical deal starts out as a "nicely blank piece of paper," he said. "There's no such thing as a standard contract. That gives you great opportunity to do what you want."

- There is the potential for significant cost savings. While cash flow may be higher now, the ultimate cost may be a lot lower than the traditional program, said Mr. Scherzer.

- It can interact with the policyholder's captive insurance program.

- There is a stabilization of losses.

- "It enables you to leverage off of your strength," said Mr. Scherzer. With many corporate buyers now stronger than insurers, it allows you to "make use of that financial strength you have," he said.

- It protects the policyholder from disruptions in its future earnings caused by "latent liabilities."

"You're capable of doing this with an orderly, non-dramatic impact," said Mr. Scherzer.

- Multiyear contracts provide stability of coverage and pricing.

"You're going to know exactly where you stand," he said. "You will know every term and condition at the start of your contract. Every term and condition will be clearly identified upfront."

- Significant capacity is available to insure large exposures.

- There is the ability to insure otherwise uninsurable exposures.

Also speaking at the financial insurance case studies session was David K. Wasserman, president and chief executive officer of Centre Reinsurance Co. of New York.

The session was moderated by Richard H. Klovstad, vp-risk management and insurance at PNC Bank Corp. in Pittsburgh, who said PNC has not yet purchased financial insurance, but "we're very, very close to making a decision."

Also speaking at the session on risk and financial management leadership was J. Scott Bradley, senior vp for Centre Reinsurance Cos. in Bermuda.

The coordinator was Lloyd Kelley, senior vp-advanced risk management services for Willis Corroon Corp. in Nashville, Tenn.

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Opinions

Mapping the road to survival

LLOYD'S OF LONDON'S business plan is a bold, radical and promising proposal for guiding Lloyd's in its march to financial recovery.

The fact that Lloyd's of London—which for more than 300 years has been run as a society rather than a business—has offered this comprehensive business plan shows how far Lloyd's has traveled down the road to recovery in the past two years. Such a document would have been unimaginable several years ago.

While support for the business plan is widespread (see story, page 1), some Lloyd's members are disappointed that the plan does not do more to resolve disputes between members and underwriting and members' agencies. That is not the purpose of the business plan. The plan is meant to serve as a map for future business operations, and we think it plots a good route.

To survive, Lloyd's must attract more capital—clear and simple. No insurance market can consider itself strong when its capital shrinks by 25% in two years. The best method for Lloyd's to attract new capital—whether from individuals as in the past or from corporations as it proposes in the future—is to show that it is indeed a well-run business, just as a company listed on a stock exchange must inspire investor confidence to attract capital. Lloyd's is attempting to win investor confidence in several ways, most significantly by cutting costs and by consolidating liabilities.

While the lion's share of publicity has been given to the huge claims that have swamped Lloyd's syndicates over the past decade, a significant portion of Lloyd's losses can be attributed to the market's bulging overhead. By streamlining its operations and reducing headcount in an attempt to cut expenses by 30% over two years, Lloyd's is promising future investors that their money will not be squandered through inefficiency.

It will also be more efficient—and thus less costly—for Lloyd's syndicates to consolidate their pre-1985 liabilities into a central runoff company,



"QUITE FRANKLY, I HAD ALWAYS ASSUMED LLOYD'S WAS A BUSINESS!!!"

dubbed "NewCo." Current members will be insulated from the constant parade of cash calls stemming from these old years of account, and new members will be insulated from these liabilities.

In any proposal, there will be winners and losers. Some suggest that the business plan is not fair to members who quietly paid their losses on pre-1986 years of account and have left Lloyd's. They're probably right. But, we frankly can't see any other way for Lloyd's to get its house in order.

Make no mistake: Lloyd's still has a long way to go before its problems are finally behind it. A settlement of the disputes between names and agents over losses must be found, and it likely will be up to Lloyd's leadership to help find that solution.

But, we believe the business plan sends a strong signal to potential investors, policyholders and those working in the market that Lloyd's can solve its problems and provide needed capacity in the world insurance and reinsurance marketplace.

Letters

Comparison between PBGC and S&Ls is valid

To the editor: Despite the assertion in the May 3 editorial, "PBGC Woes Unlike S&L Mess," comparing the PBGC to the S&L mess is valid. It is a comparison that has been used by the General Accounting Office, the Congressional Budget Office, the Congressional Research Service, the Federal Reserve Bank in Atlanta and many editorial writers, including yourselves.

The PBGC, just like the defunct Federal Savings & Loan Insurance Corp., is an unsound government insurance program fraught with moral hazards. Savers went for the highest interest rates even though S&Ls were foundering. Some companies, pension plan participants and unions negotiate benefit increases even though the plan sponsor cannot honor their commitments because there is a PBGC guarantee. Creditors do not complain because the promises require little cash and the PBGC's priority in bankruptcy proceedings are not honored by courts. They expect the well-funded pension plans to pay for broken promises.

The Bush administration never suggested that the PBGC's problems were the size of the FSLIC's, but where I come from tens of billions of dollars still is a real problem. We always said that the pension system was healthy and that there was not significant fraud. But even in the S&L world, the

greater portion of the losses was caused by the moral hazards of an unsound insurance system.

The normal partnership between an insurer and an insured to reduce losses is missing. Funding, guarantee and bankruptcy reforms will install the proper risk management partnership.

I am troubled to hear that the Clinton administration's reforms will not be ready until September rather than May, as earlier promised. I hope it is not because several major unions are negotiating pension benefit increases this summer and the administration does not want PBGC reform to interfere with health reforms. Maybe we are discovering a new moral hazard.

Marty Slate's comment that cash flow will pay benefits "as far as the eye can see" smacks of the disastrous cash-flow underwriting in the property/casualty insurance market of the early 1980s. The deficit hole will be as deep as the eye can see when the cash

runs out. It is like saying that as long as the government can continue to raise taxes to pay interest on the federal deficit, we should not worry about the size of the deficit.

It worries me that the current campaign to distort and ignore the real S&L analogy may be an excuse for inaction that will hurt retirees, the employers that pay premiums to the PBGC and the overall defined benefit pension system. As you rightly suggest in the latter part of the editorial, reforms are needed. The groundwork has been laid and the Clinton administration should get on with it.

James B. Lockhart
Managing Director
Smith Barney, Harris,
Upham & Co. Inc.
New York

■ Mr. Lockhart was executive director of the PBGC during the Bush administration.

Two reforms for the price of one?

To the editor: There is a way to obtain product liability reform: Tie it into the national health care reform process (BI, April 5).

If everyone's medical bills were paid, we could get back to a system of strict liability.

Of course, this would have tremendous opposition from the trial lawyers.

Theodore M. Pappas
President
The McLaughlin Co.
Washington, D.C.

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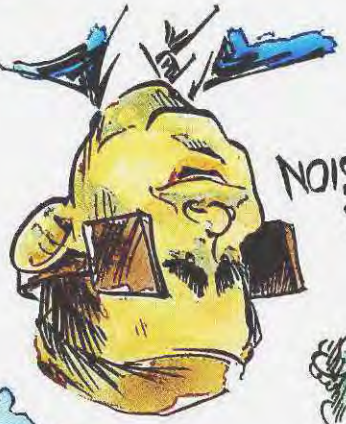
THE WEATHER WAS GREAT IN UNFORTUNATELY, I RAN INTO MY EDITOR ON MY ONE VISIT TO THE POOL...



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Managers have duty to prevent sexual harassment

By NANCY P. JOHNSON

ORLANDO—Employers that do not have a separate policy prohibiting sexual harassment are at risk for liability suits, warns a consultant who deals in sexual harassment education.

And, even if an employer has a sexual harassment policy, managers must be very careful about dealing with sexual harassment situations and with their own behavior in the workplace, added Stephen Anderson, president of Anderson-davis Inc. of Aurora, Colo.

Speaking at the 1993 Risk & Insurance Management Society Inc. conference in Orlando last month, Mr. Anderson noted that a company is open to liability if any of the following conditions exist:

- There is no policy specifically addressing sexual harassment, which is a violation of the Equal Employment Opportunity Commission's Policy Guidelines on Sexual Harassment issued in March 1990.
- Senior management has a reputation for either blatant sexual harassment or subtle harassment, such as making sexual comments.
- Management personnel have not been educated about what subtle sexual harassment is and how to intervene and respond appropriately to a complaint.
- Employees have not been educated about appropriate workplace behavior and whom to talk with informally and formally about sexual harassment.
- There is no specific person or department responsible for handling such complaints, or that person has not had adequate training on how to investigate complaints.
- The employer does not take steps to "heal" the workplace and make sure no reprisals occur.

Sexual harassment in the workplace is an illegal act under Title VII of the 1964 Civil Rights Act. While an employer can be found liable if overt sexual harassment takes place—such as a manager making sexual demands of a subordinate as a condition of employment—an employer also is liable if the workplace is found to be hostile, offensive and intimidating to employees.

The burden is on managers to prevent sexual harassment, to monitor the workplace and to intervene when they see sexual harassment taking place—even if no one has complained, said Mr. Anderson.

To better educate employees and management about acceptable workplace behavior, management should distribute a policy statement describing unacceptable behaviors, such as touching others, making sexual jokes or comments, or displaying sexual cartoons or calendars.

The policy should: outline whom employees should talk to about sexual harassment; emphasize confidentiality; and explain that reprisals will not be tolerated and that discipline could include termination.

Policies should not include: a rule that the victim tell the harasser to stop; a requirement that the incident be reported within a certain number of days;

Specific employer policy may reduce firm's liability if incidents do occur

or a statement outlining penalties for false charges.

Very few sexual harassers intentionally harass, but it is the impact, not the intent, that creates conflicts and legal and financial liabilities, Mr. Anderson emphasized. Therefore, it is important to know how to recognize subtle harassment.

Mr. Anderson demonstrated how difficult it is to get a consensus on harassment when he and another panelist, Michelle M. Patton, director-risk management at Mervyn's Department Stores in Hayward, Calif., did about a minute's worth of role-playing.

Ms. Patton greeted Mr. Ander-

son as if in an office hallway, asked him numerous questions about what he has been doing

It is the impact, not the intent, (of harassment) that creates liabilities, says Mr. Anderson.

lately and whom he is now dating, adding a compliment about his physique. She stood close to him and toyed with his tie while touching him repeatedly on the

shoulder, as Mr. Anderson backed away slightly and tried to turn the conversation to impersonal topics.

"Was this a case of harassment?" he asked the audience. The audience was split into thirds: yes, no, and don't know.

But as far as an employer's liability is concerned, this was indeed harassment, Mr. Anderson explained. No overt sexual remarks or gestures were made, but the important question was: Does the recipient of the behavior equally initiate and participate by exhibiting similar behavior? In this case, the answer was no.

Other factors in identifying

harassment are: Is there equal power or status between both parties? Would the initiator use the same behavior with a person of the same sex?

Mr. Anderson emphasized that managers are responsible to intervene even when no complaints have been made by participants, because such behavior can create a hostile work environment for other employees. And, businesses that have a culture of jokes and horseplay are even more at risk of liability, because the management "should have known" what was going on and should have stopped it, he warned.

Once a complaint is made, the

Continued on next page

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Continued from previous page
 employer is responsible for conducting an investigation, which is especially difficult in cases where there were no witnesses. Because sexual harassment cases fall under civil law, only a "preponderance of evidence"—not "evidence beyond a reasonable doubt"—is needed to determine whether harassment occurred.

The EEOC keeps statistics on sexual harassment cases, and the number is on the rise, said Peter M. Sloan, an attorney with a private practice in Los Angeles who specializes in labor law.

More complaints are being filed because there are more women in the workforce, there are more women at the management level, and the recession encourages individuals to hang on to their jobs, rather than just quit and find another job, he explained.

Wrongful termination suits also are on the rise, due to the same factors, he said.

Under the 1991 Civil Rights Act, the complaining party must prove that race, color, gender or religion was the motivating factor in the termination, Mr. Sloan said.

Employers can limit their exposure to these cases by making sure there was a defensible cause for the termination.

For example, a woman who meets all the criteria for becoming a partner at an accounting firm should not be denied the promotion simply because her co-workers don't like her personality and would rather not work with a woman, he said.

Ann C. DesLauriers, general manager, Becher & Carlson (Vermont) in Burlington, Vt., coordinated the session. Ms. Patton was the moderator. **BI**

Rehearsing the jury selection

A staged panel provides insights

By MICHAEL BRADFORD

ORLANDO—An employer looking for an edge in litigating claims might suggest that his attorney get



some pretrial instruction in picking and influencing a jury. Selecting a jury and anticipating a panel's behavior falls into the realm of social science, according to Allan J. Campo, president of Allan Campo & Associates in Lafayette, La. Firms like his that help attorneys recognize and manipulate jurors' verdicts can give an

employer's legal team a leg up in the courtroom, he says.

Speaking at the 1993 Risk & Insurance Management Society Inc. conference in Orlando last month, Mr. Campo said his firm goes to great lengths to stage mock jury trials as a way to put an attorney through a trial run.

"We create panels that look like juries and sound like juries and we give them questions to answer," Mr. Campo said. "Then we very carefully analyze the stuff that they say and the things they respond to."

Some of the re-creations involve heavy research and an exactness to closely match the anticipated courtroom situation.

The most elaborate mockup is a "test trial," which Mr. Campo

explained involves two adversaries and is a full-blown replication complete with pretrial motions, jury selection, witnesses and other aspects of a real trial.

Jurors for the mock trials are chosen from respondents to classified ads the firm runs in a local newspaper. As a result, the mock juries resemble those in real trials.

The "mini-trial" is a shorter version that involves a presentation by two lawyers before a neutral observer who provides feedback on the presentations.

Mr. Campo listed several advantages to holding a test trial:

- The trial provides a forum to learn how jurors will react to the issues.
- Lawyers are able to more clearly grasp the concepts of their case.
- Questions may surface that had not been considered.
- The impact of charts and graphs can be tested.
- The credibility of expert witnesses can be evaluated.
- Lawyers are given the chance to do battle with their "opponents."

"The test trial is a powerful tool," said C.K. "Pete" Rowland, a professor at the University of Kansas in Lawrence. It gives the attorney a "window to the mind of the juror."

In most trials, jurors are inundated with evidence that may be unreliable in a situation that is highly adversarial, Mr. Rowland said. In the absence of hard data with which to make an objective decision, most jurors must make judgments that lead to their decision, he said.

An attorney must understand how jurors make those judgments if he or she hopes to sway the panel, he added.

"Think about the predicament that juror is in," Mr. Rowland told the group. "The poor juror is dragged off the street, put in front of two hyperactive attorneys and forced to make a decision...based on information that is inadequate or contradictory."

There are certain predictable behavior patterns that jurors act out when making judgments, according to Mr. Rowland, and attorneys can consider that behavior when presenting a case.

Human beings, Mr. Rowland said, "have little objective information processing capacity. Jurors can't sit through a trial and process all that information objectively."

Instead, jurors tend to amass all the information into a story, he explained. "They want it to have a very plausible plot and flow like a good novel."

Therefore, jury selection becomes an important tool for an attorney because it allows for the selection of jurors who are predisposed to a "story that is consistent to your case," said Mr. Rowland.

For example, he explained, "Someone who has been involved in personnel decisions is likely to agree with a defense story in an employment discrimination case. The key thing here is in jury selection, what you're selecting for is not someone who is going to go in and say, 'I like refineries so I'm going to rule for the defense,' but rather someone who will be open to the refiner's story of that case."

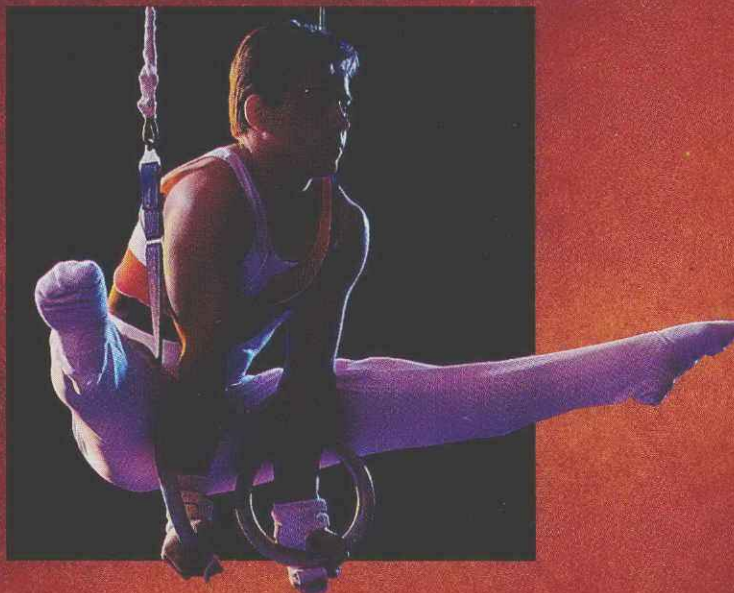
The session was moderated by Lance Ferris, corporate risk manager at Zurich-American Insurance Group in Schaumburg, Ill. It was coordinated by Donna Briggs, vp at Allan Campo & Associates. **BI**

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Pitching risk management companywide

Team effort required for success

By JUDY GREENWALD

ORLANDO—The success of a risk management program depends upon senior management buying into it—and then selling it to employees.

Senior managers will become involved in the program if they receive encouragement from risk managers to do so, contends Raymond P. Springer, executive vp-administration and chief financial officer for Tampa, Fla.-based Kash n' Karry Food Stores, a 116-store supermarket chain.

Successful risk management "can only be done if (senior managers) are backing you up and having the whole company engaged in the risk management approach," he said.

Mr. Springer spoke during a session that looked at risk management from the perspective of several different professional roles at the 1993 Risk & Insurance Management Society Inc. conference in Orlando last month.

Mr. Springer said the responsibilities of his risk management department include: safety and training programs; workers compensation claims, including back strains, cuts, burns and cumulative stress disorders; and general liability claims, which are most frequently slip-and-fall cases.

To avoid claims at Kash n' Karry, safety programs are particularly emphasized. In the scheme of the risk management program, establishing an effective safety program is more important than trying to avoid a 10% increase in insurance rates, he said.

For example, Kash n' Karry cut its slip-and-fall incidents in produce departments by 80% after its risk management department convinced the chain to begin wrapping its grapes instead of leaving them loose, where they could fall to the floor and cause slips, Mr. Springer said. Each slip and fall could cost the company \$100,000. "We couldn't sell enough grapes if our lives depended on it" to make up for the losses that had been occurring, he said.

Kash n' Karry incorporates risk management into its operation by providing bonuses to store managers for low accident rates. "When you begin to get into store managers' pocket-books" it affects their behavior, said Mr. Springer.

Once incidents become claims, "I think it's important you have a very aggressive defense posture," said Mr. Springer. In slip-and-fall cases, for instance, the chain does whatever it legally can to uncover background information about the individual involved and to obtain information about the incident itself. Risk management personnel also frequently testify at trials.

"To the extent you're good at that, you add value to the firm," said Mr. Springer.

Discussing budgeting for losses, Mr. Springer complained that often consulting firms come up with unrealistically high estimates. The company cannot budget for \$2 million in losses because of its impact on its profit and loss statements, he said.

Mr. Springer also complained

that often coverage is extended for 10 days or two weeks at extra expense because renewals are not ready. "I think we're getting hosed on this thing and I'd like it to stop," he said.

Philip S. Renaud, director of insurance for The Limited Inc., a Columbus, Ohio-based retail chain with 5,000 stores, offered other qualities vital to a risk manager's success.

"Clearly, the risk manager must possess the technical skills to interact with a number of disciplines both internal and external to the company he or she works for," he said.

While the word "pro-active" tends to be overused, the risk

manager must take the initiative in program design and cost control strategies, he said.

Although the soft market has helped risk managers achieve savings for their companies, loss costs have continued to increase and risk managers must develop a well-thought-out plan to control them, he said.

Workers compensation is the "next challenge and opportunity," he added.

Risk managers in the '90s will "need to be much more hands-on as corporate downsizing continues," said Mr. Renaud. They "must learn to live with a much leaner corporate structure."

Turning to risk managers' relationships with their brokers, Mr. Renaud said, "Communica-

tion is the key to establishing a good, strong broker relationship." He said he would like to define the relationship as a partnership without which goals cannot be achieved.

A partnership, he said, requires that each side know the other's strategies and responsibilities. "Each must truly be comfortable with each other's role and allow each other the freedom to carry out the assigned task."

Incorporating risk managers into his analysis, Mr. Renaud said it is important each party communicates factors like loss control and claims handling.

In some cases, he said, underwriters involved in large retention-type programs want to assume the traditional under-

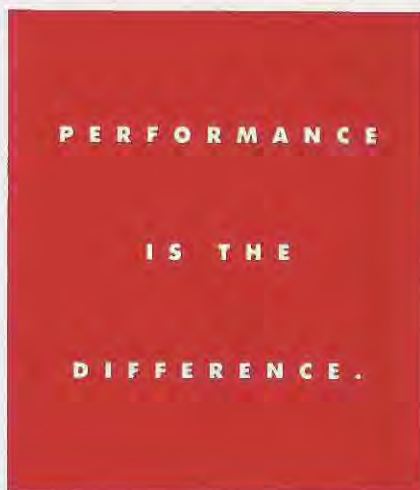
writing role. But, underwriters must also understand that the client's need for service continues. Often, the underwriter's role shifts from risk-taker to service provider, he said.

Mr. Renaud called for mutual long-term commitment. Risk managers must be less subject to the pressures of soft pricing. Underwriters should make a better attempt to work out problems with a policyholder when loss experience is worse than expected, he said.

Fred W. Reiniger, senior vp with Alexander & Alexander of New York Inc., said brokers "expect the risk manager to be endowed with honesty, integrity, realism and credibility." To be effective, the risk manager must understand the company and his position in it.


Each year's corporate goals

Continued on next page



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Continued from previous page should be discussed with the broker, who must understand the client's needs, goals and expectations, to marshal the resources to help the client.

The risk manager, however, does encounter problems, some of which are out of his control, said Mr. Reiniger. Among these are insufficient management directives.

Another potential problem area is outsourcing—farming out corporate risk management functions. This may lead to less of a hands-on approach by the risk manager, he said.

Yet another problem is the risk manager who protects the staff at the expense of the broker. This could cause problems if an employee commits an error, said Mr. Reiniger. This creates problems within the brokerage team and generates animosity, he said.

There must be excellent communication between the risk manager and the broker, said Mr. Feiniger. At A&A, he said, an account service plan is used. This plan helps define needs, establish goals and tactics, and helps develop the appropriate service mix. It helps support continuing growth with clients, he said.

Also speaking at the session was Marge Wagenvoort, division vp-excess risk management for American Home Assurance Co. in New York, a unit of American International Group Inc. Ms. Wagenvoort discussed how she works with risk managers.

The session was moderated by Kathleen G. Walters, director of risk management and insurance at Temple University in Philadelphia. The coordinator was W. Lee Carter, vp-research and development for Alexander & Alexander Inc. in Dallas. **BI**

Controlling risks by design

Company culture shapes risk management strategy

By SARA MARLEY

ORLANDO—When formulating a risk management strategy, risk managers need to look no further than their organization's mission statement.



That blueprint should guide risk managers through decisions about assessing, controlling and financing risk, a broker and risk manager said at the 1993 Risk & Insurance Management Society Inc. conference last month in Orlando.

"A clear risk management strategy is grounded in the real-

ity and culture of a firm," said Thomas V. Ealy, vp of Alexander & Alexander Services Inc. in Chicago.

"When we talked about HPR locations, we got a blank look," said Donald J. Sullivan, director-risk management of Baxter International Inc. in Deerfield, Ill, referring to highly protected risks. "But when we showed (senior management) what would happen if they lost a location, how it would hurt the customers and they would lose market share, we got their attention."

Corporate competitive, operating and financial strategies correlate with major risk management decisions, Mr. Ealy said.

First, a company's competitive strategy dictates its risk assessment process.

If a retailer is committed to offering the lowest prices, it is probably asset-intensive with concentrated property values, Mr. Ealy said.

Because of cost leaders' low overhead, business interruption may be their most important exposure.

For a manufacturer focused on differentiation, however, product liability becomes one of the most important risk management areas.

An organization's operating strategy should guide a risk manager's loss control activities, Mr. Ealy said.

For the cost-leader retailer dependent on timely delivery of inventory, loss control may center on the suppliers themselves. The risk manager might become involved in the suppliers' risk management program to determine if they are taking precautions that could prevent an interruption to the retailer's operations. If the suppliers' programs are inadequate, the retailer's risk manager might recommend changes.

Finally, a company's financial strategy should be reflected in the financing of risk, Mr. Ealy noted.

Policies on earnings goals, capital construction, taxes and investment dictate the size of deductibles or self-insured retentions.

For example, a company seeking rapid growth in earnings will look for significant risk transfer.

When planning his risk management moves, Mr. Sullivan keeps in mind Baxter's corporate mission of providing quality products and services through innovation and excellence.

The risk management department considers the operating units, as well as the ultimate consumer, to be its customers.

"In the past, we said, 'Here's your program,'" he said. "We decided what was best for them."

Because he had to know his customers to serve them, Mr. Sullivan began visiting operating units, attending their strategy meetings and learning about their risk management needs.

"You'll be surprised how few times you'll be turned down," he said. "They're happy to see you. They want to tell you their mission and how you can help them."

Risk managers must be careful to be supportive of the strategy and help operating managers achieve their goals while still maintaining good risk management, he added.

Another way to incorporate organizational goals into risk management goals is to expand the definition of risk, Mr. Ealy said.

Risk managers should start addressing business risks like currency and interest rate risks.

"The corporate and personal stakes never have been higher," he said. "Resources have never been as precious. Staff and budgets are shrinking. The potential losses are greater than ever."

The session was moderated by David G. Adler, risk manager for The Portman Cos. in Atlanta. W. Lee Carter III, A&A's director of research and development, coordinated the session. **BI**

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Risk manager learned from mistakes

By STACY SHAPIRO

ORLANDO—When risk managers are thrown into the international arena, it often takes a few mistakes to wise them up.

Eugene R. Schoenleber, international risk manager for United Parcel Service of America Inc. in Atlanta, is no exception.

Speaking at the 1993 Risk & Insurance Management Society Inc. conference in Orlando last month, he explained some of the difficulties

he faced when UPS was in "overseas acquisition mode."

And, he acknowledged some of his mistakes and frustrations over the past five years, during which UPS made 16 acquisitions.

For example, during one acquisition Mr. Schoenleber asked that all the insurance policies of the acquired company be sent to his office. But when he received them, he found they were in Japanese. "I didn't say, 'Send me summaries of the policies in English,'" he said. "I failed to communicate properly."

Communication and control are the two C's that should be the creed of every risk manager who is setting up an international risk management program, said Mr. Schoenleber, who coordinated and moderated the session.

UPS exported its U.S. risk management procedures by meeting with overseas employees who represented all areas of the business, like claims control, driver training, safety, emergency operations, auto maintenance and plant engineering.

A risk manager of a multinational company must be "a team player" and work with all kinds of people, said Mr. Schoenleber. The success or failure of an international risk management program will depend on who does what, he said.

UPS has a controlled master insurance program in which liability exposures are covered by CIGNA Corp. worldwide and property risks are underwritten by members of the Factory Mutual System. The global program excludes auto coverage—a major risk for UPS—which is still written locally under separate policies because of various foreign laws.

UPS' insurance program helps fill in the gaps in locally purchased coverages and to simplify coverage for worldwide operations. It replaces or supplements the approximately 400 insurance policies that UPS acquired during its international expansion, he added.

However, not every foreign executive understood the importance of this kind of central program until it was explained, Mr. Schoenleber said.

Part of the reluctance was because many of the policies that were in place before the acquisition had been insured by family friends or relatives and these relationships were difficult to break, he said.

"We went in and tried to sell, not tell," and explain the advantages and cost savings to the company, he said.

But, communicating with overseas personnel "can be a three-ring circus" when no one understands each other, he said. "You have to be careful and be patient."

It is also very important for risk managers to be in on discussions before the foreign acquisition takes place, he said.

Mr. Schoenleber wasn't part of the UPS preacquisition/due diligence team until he badgered the board for a place on it.

For example, acquisitions were finalized before verifying that the purchased company had an insurance program. UPS also didn't know in these first purchases whether the company was insured for old claims, what contractual liabilities amounted to and what obligations UPS had for subcontractors' insurance programs.

Mr. Schoenleber now ensures that the preacquisition team adheres to

Continued on page 22



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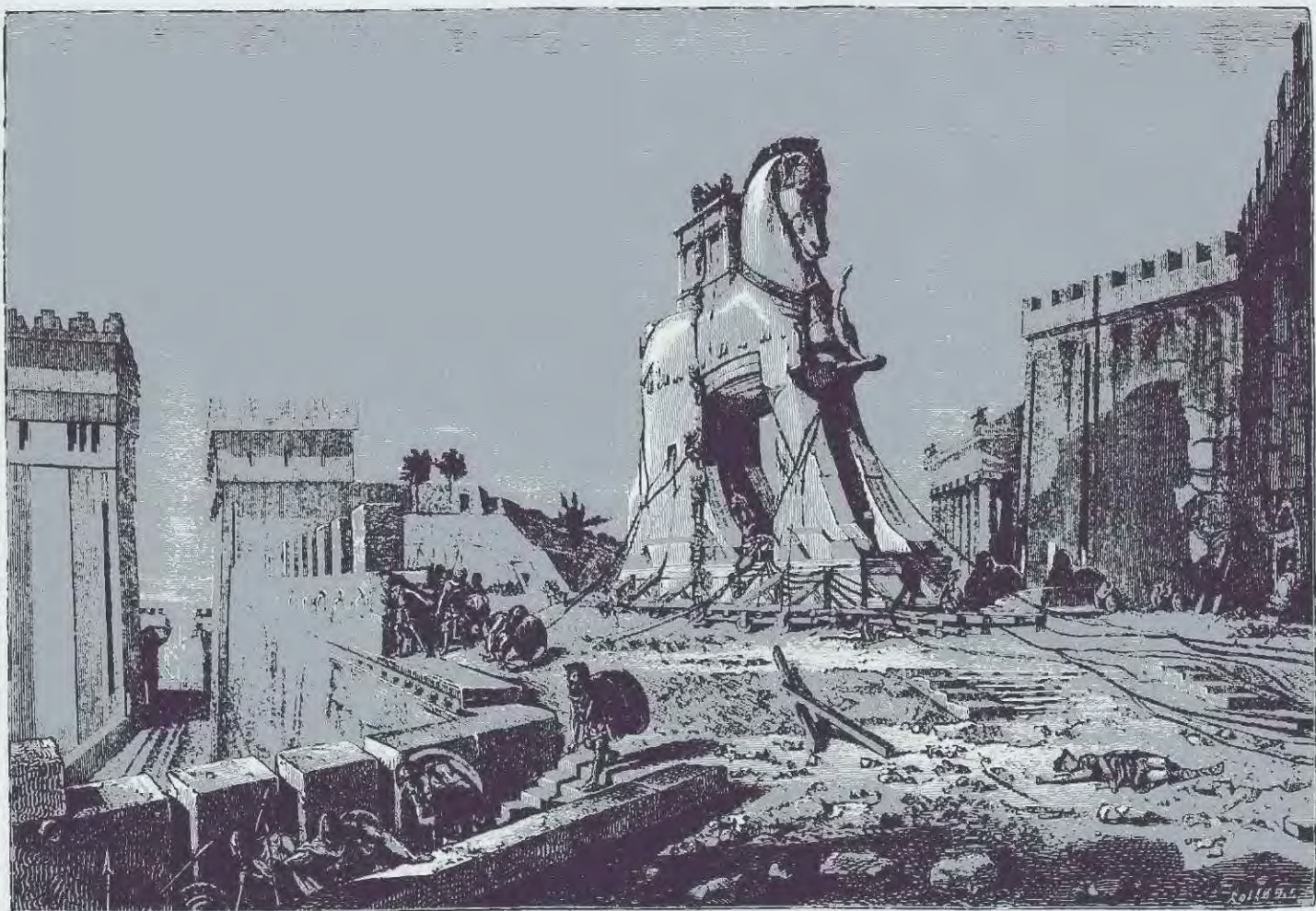
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Global programs

Continued from page 20
the UPS due-diligence checklist on insurance. This check list includes obtaining:

- The names, addresses and phone numbers of the company employee responsible for purchasing insurance and the current insurance broker.
 - A summary of all existing insurance policies, in English if possible, and copies of all the policies.
 - A list and description of all surety bonds in force.
 - Copies of hold-harmless, indemnity and insurance provisions in all major contracts.
 - A list and description of all open claims and lawsuits against the company.
 - Lists of property values by location, company employees and owned vehicles.
- The solvency of insurers outside

the United States continues to be a prime concern for multinational risk managers as international markets contract and harden, another speaker observed.

"Things have changed very dramatically since the fourth quarter of 1991," said Michael Linde, senior vp of Johnson & Higgins in New York.

During the past year and a half, there has been a "very dramatic change of attitude" among large European reinsurers like Munich Reinsurance Co. and Swiss Reinsurance Co. These companies now are focused on turning red ink into profit, Mr. Linde told *Business Insurance* after the session.

The result of this attitude has been a major contraction and increased pricing for treaty reinsurance capacity, he said.

"Clearly, the most dramatic segment of the market to be affected is the catastrophe/peril area. So any client that has any significant values subject to earthquake, windstorm or coastal flooding will be looking at very significant reductions in the amount of capacity that primary insurers have to offer," he said.

This contraction plays right into the hands of the global insurance program, which combines a corporation's U.S. insurance program with its overseas coverage to give uniform coverage worldwide.

"If a company has an exposure in California and another one in Japan and another one in Mexico, to maintain distinct domestic and foreign programs will mean seeing an amount of premium increase very dramatically and limits available drop," said Mr. Linde. "One way to mitigate that is leveraging their premium dollar with several underwriters in a global program."

Mr. Linde said he spoke at the RIMS conference 10 years ago about the need for global insurance programs, but corporations weren't receptive at the time because they weren't managing their operations globally.

"The programs are more interesting to risk managers today because they're hearing in their own corporate culture the need for global management," Mr. Linde said.

Meanwhile, security is a major issue for brokers and U.S. risk managers to make sure that global and international programs are placed with solvent underwriters, he said.

But internal security guidelines used to measure an insurer's stability can sometimes be unusually restrictive, Mr. Linde observed.

For example, one of J&H's guidelines states that the limits provided by an insurer should not be more than 10% of its policyholder surplus, said Mr. Linde. If an insurer cannot meet this or other guidelines, then J&H writes a letter to its client stating that the guidelines have not been met. Some clients don't care and use the insurer anyway; others do care and may not use the insurer, said Mr. Linde.

Lately, J&H has had a dilemma with global insurer Allianz A.G. Holding. The German giant's U.S. subsidiary, Allianz Insurance Co., which writes U.S. multinational business, only has \$130 million in policyholder surplus, Mr. Linde said.

As a result, though Allianz clearly is financially strong, J&H guidelines dictate that it not place more than \$13 million in coverage with the insurer, said Mr. Linde.

J&H's guidelines would be satisfied if the Allianz parent company would provide a guarantee to honor all claims above the \$13 million, he noted.

"But Allianz A.G. won't give this cut-through agreement," said Mr. Linde. J&H is now considering whether make an exception to its rule in this case.

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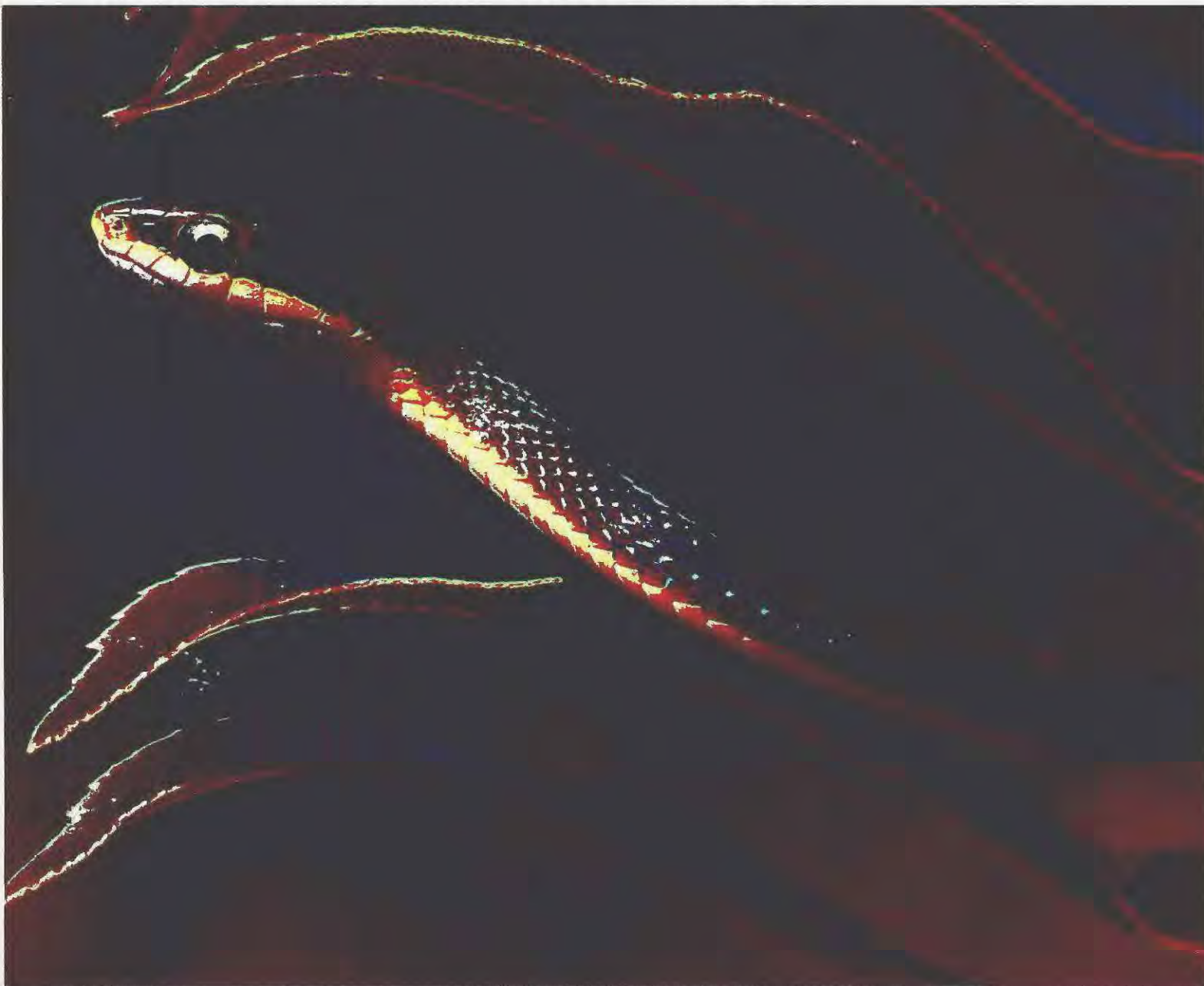
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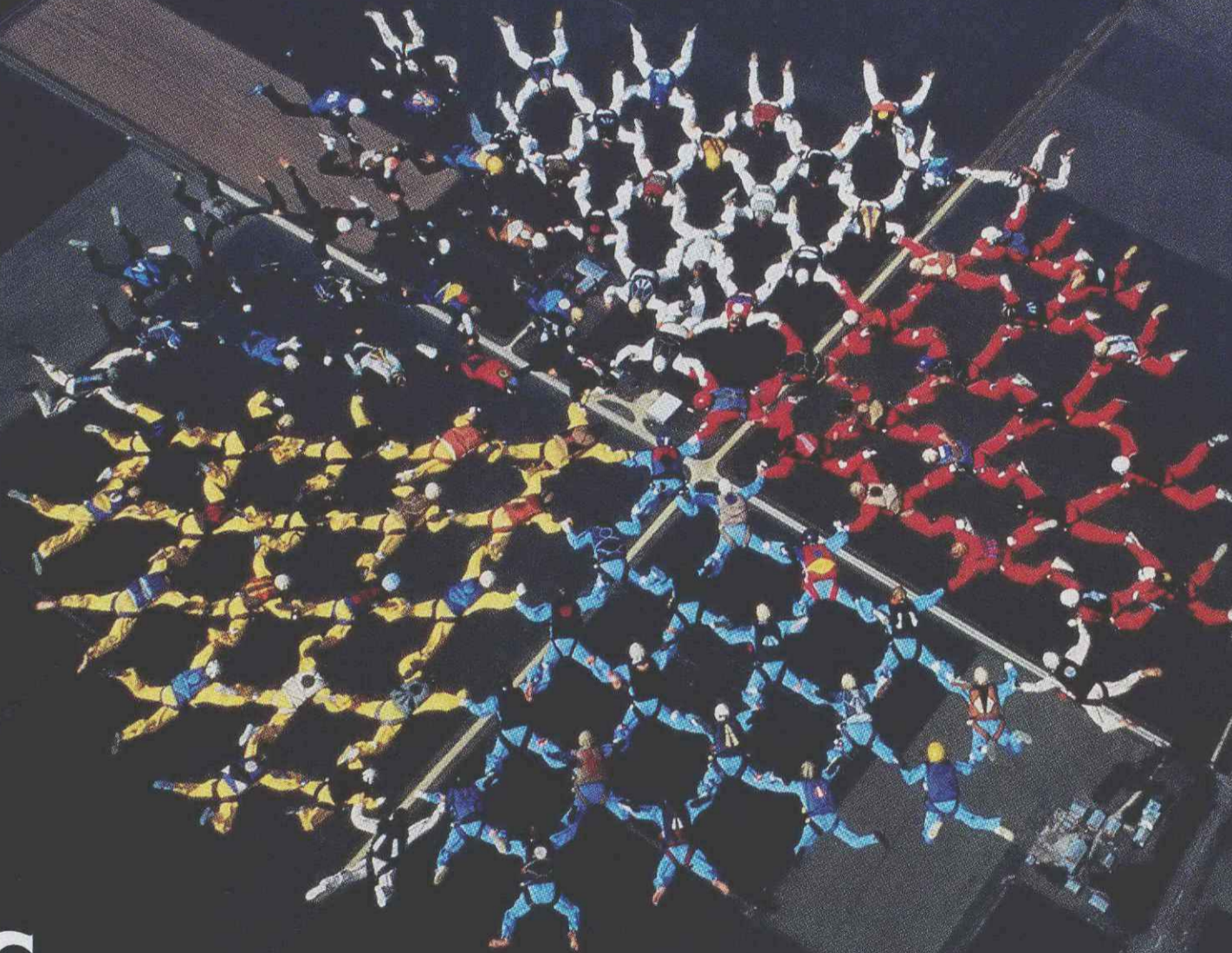


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Insuring programs globally

Centralized insurance plans work well—for some companies

By GAVIN SOUTER

ORLANDO—Global insurance programs can enhance coverage and allow greater control of risks, but they don't suit every company and every insurance marketplace.

Companies that place coverage in both the United States and Europe have the opportunity to set up some kind of global coverage, but risk managers in Japan will have to wait at least another two years before they can do the same from their home market, experts point out.

The structure of insurance programs based in the United States depends on a company's management style, financial structure, diversity of sites and internal politics, said Barbara Babiak, corporate risk manager at American Telephone & Telegraph Co. in Berkeley Heights, N.J.

"Decentralized and centralized programs are not better than one another; choosing the type of program to use depends on the company style," she said during a session at the 1993 Risk & Insurance Management Society Inc. conference last month in Orlando.

For example, some companies may prefer a decentralized program because the policies then match local laws. However, other companies may prefer a centralized program to avoid a wide disparity of policy wordings, Ms. Babiak said.

To justify having a centralized program, a company should have operations in at least two countries outside the United States.

And, when risk managers are setting up global programs, they should ensure that all relevant personnel in the different countries agree on terminology and coverages, Ms. Babiak said.

"You have to have great com-

munication so that everybody understands what the coverage is and what the game plan is," she said.

A global program brings significant advantages, said Pierre Sonigo, director of risks and insurance at Saint Gobain, a manufacturing company in Paris. Among them:

- Peace of mind. "All of your subsidiaries are covered in a similar manner and if something happens, you know that it is insured," he said.

- Economies of scale that allow a company to negotiate lower premiums.

- More effective control and monitoring of the risk management function.

- Risk management information that is obtainable on a central basis.

- Coherent loss prevention services throughout subsidiaries.

To help the global program run smoothly, the subsidiaries must realize they will share in the fortune of the parent company and must report their losses to central management, he said.

Saint Gobain uses highly protected risk techniques throughout the company to achieve a unified approach to risk management, Mr. Sonigo said. "We use (highly protected risk) to change the culture of the group to one of risk management."

But, no matter how well a program is set up, it is always susceptible to outside forces.

"Most of the companies in Europe that set up global programs did so in a buyer's market. Those were the golden years of risk management in Europe, from 1982 to 1992," he said.

Now the market has changed, with prices for catastrophe coverages increasing and severe reduction in capacity in many areas, Mr. Sonigo said.

"So global programs need to be adapted and some people are asking whether it makes sense to

have a centralized program," Mr. Sonigo commented.

The wide disparity in insurance prices and capacity throughout Europe may mean it would be more prudent to buy coverages locally, he said.

The hardening market may also prompt Saint Gobain to set up a captive insurer instead of relying solely on the insurance market, he said. "In the soft insurance market we had stability, but now we are having problems in maintaining (that) stability."

Saint Gobain has a three-year policy term, which expires at the end of 1994, he said. "Then we will probably have to use a captive, unless our insurers provide stability of rates."

In Japan, global policies are a thing of the not-too-distant future, according to Isao Takei, professor in the graduate school of economics at the University of Toyama. "Japan is at a turn in the history of its insurance market," he said.

The government has announced that within two years it will introduce measures that will liberalize the strongly regulated and protected Japanese insurance market, Mr. Takei said.

"For the first time in our history, we will have insurance law that is comparable with the U.S. and the European Community," he said.

One of the features of the change will be the growth of captive insurers with Japanese parents, Mr. Takei predicted.

As a consequence of this and other changes, the role of risk management will be enhanced in Japanese companies and the global insurance programs will be more easily introduced to cover companies' global exposures, he said.

The session was moderated by Ms. Babiak and coordinated by John C. Thomson, senior vp of global risk management at CIGNA Worldwide Inc. in Philadelphia. **BI**

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Managing project risks in developing countries

Loss control crucial—though locals may disagree

By GAVIN SOUTER

ORLANDO—Western companies operating in developing economies should rewrite their risk management rule-books.

The special nature of the risks and the lack of Western-style insurance markets in those countries call for innovative risk management techniques, risk management experts say.

"Risk management standards which might be considered a necessity in developed countries are seen as a luxury in developing countries," said Marion Gallis-Quednau, chief of the insurance program at the United Nations Conference on Trade and Development in Geneva.

The lack of interest in risk management in those countries can be traced to rapid industrial development, she said. Rapid industrialization has been the priority, and concerns about loss control have lagged behind, Ms. Gallis-Quednau explained.

And, the inherent loss control problems are made worse in developing countries by the wide variety of aid they receive, she said. "Much of the industrial equipment is donated and installed by outsiders, so there is great disparity in machinery and it is often difficult to get spare parts."

Consequently, machines are often inadequately maintained, she said.

Ms. Gallis-Quednau spoke at a session titled "Managing Risk Where They Don't Play by Your Rules" at the 1993 Risk & Insurance Management Society Inc. conference last month in Orlando.

"Many managers just keep their fingers crossed" instead of implementing risk management techniques, she said.

And, the fatalistic nature of some religions does not encourage attention to loss control, Ms. Gallis-Quednau said. "When something goes wrong they just say 'It was God's will.'"

Consequently, rather than trying to avoid losses, many companies in developing countries just pass as much of the risk as possible on to insurers, Ms. Gallis-Quednau said.

However, if Western companies operating in those countries take this approach, they are often confronted with an insurance system very different from the one with which they are familiar.

"It can be very difficult for U.S. risk managers to understand the rules of other markets," said Leonard J. Battifarano, vp in the global development group of Alexander & Alexander International Inc. in New York.

Many developing countries have state-run insurance and re-insurance industries, such as in many African nations, India, Iran, the republics of the former Soviet Union and Vietnam, Mr. Battifarano said.

"The terms and rates are set by the government, there are often no brokers or agents and there can be severe penalties for using non-admitted insurers," he pointed out.

The use of non-admitted insur-

ers is even considered a crime in some countries, and penalties can include imprisonment.

The use of non-admitted insurers is even less realistic if you are in a joint venture with a local company, because your partner will likely insist on doing everything by the book, he said.

Government insurance regulations differ widely from country to country.

For example, in India, insurance regulations are based on the British model, and the state companies are well-capitalized and well-reserved, he said.

But, in other countries, government regulation is ineffective. In Taiwan, for example, the in-

urance industry is being overhauled because there are so many concerns over its financial stability, he said.

"And Poland has seen its first insurance company failure," Mr. Battifarano said.

Local rules often make economic sense when they are properly understood. For example, nationalized insurers are often established to support the development of industry, he said.

However, even if the rationale behind state control is clear, U.S. companies seeking coverage in those countries can still face difficulties, Mr. Battifarano said.

Consequently, risk managers should be well-briefed on the

foreign insurance markets they have to use, he said.

"It's important to understand the systems or to find somebody else who does," he said.

'When something goes wrong they just say, "It was God's will," ' says Marion Gallis-Quednau.

Despite the many differences in risk management and insurance in developing countries, there are some basic rules to play by, said Claude Boudreault,

director of risk management and insurance at The SNC Group Inc., a construction company in Montreal.

These rules are: "Never take anything for granted; don't believe that you know everything; and trust only those who you are sure that you can trust," he said.

Risk management mistakes in developing countries can be tricky, dangerous and very expensive to overcome, Mr. Boudreault warned.

Some countries have a full tariff system with very little room for negotiation, he said.

"In these situations you must look at the wordings of the policies and try and accommodate them in your risk management

Continued on next page



It's hard to find the responsiveness you need with some case management services.

Continued from previous page plan," Mr. Boudreault said.

The security of the government-run insurers also is often unsatisfactory, he said.

Companies can use techniques not normally used in developed countries to try to ameliorate their risk management problems, Mr. Boudreault said.

For example, a company can try to make its own reinsurance arrangements through a fronting arrangement with a Western reinsurer, he said. "You should also try and get good cut-through clauses with the fronting insurer."

A cut-through clause would provide a foreign company direct access to the reinsurer if the local company fails to pay the claims.

Foreign companies should also try to write their policies in hard currency to avoid the diminution

of insured values in countries with inflationary economies, Mr. Boudreault said.

"If you can't get a good cut-through endorsement or you are stuck with insuring with the local company, get some contingency coverage," he said.

Contingency coverage can be bought from Western insurers to pay losses if the local insurers fail to pay claims, Mr. Boudreault said.

"In some countries we consider the local premium as tax and it is just the cost of doing business in that country, and then we buy contingency coverage," he said.

The session was moderated by W. Thomas Henderson, corporate risk manager for Texas Instruments Inc. in Dallas. It was coordinated by W. Lee Carter III, vp and director of research and development at Alexander & Alexander in Dallas. **BI**

Global health, safety standards

A strategy to help employers keep up with E.C. rules

By STACY SHAPIRO

ORLANDO—It isn't easy staying on top of the plethora of regulations and laws governing workplace health and safety in the European Community.

But several methods and resources are available to multinational firms trying to keep abreast of these rules, according to speakers at the 1993 Risk & Insurance Management Society Inc. conference last month in Orlando.

Multinational companies should first set global standards

for health and safety, said Laura L. Markos, vp-risk management of Avery Dennison in Pasadena, Calif. These standards "have to be a way of life" for every employee within an organization, she said.

The company should have an agreed-upon philosophy on which goals are best for all employees, such trying to eliminate workplace injuries or reducing the number to a small percentage, or just trying to comply with local regulations, she said.

The objectives must be communicated throughout the company, said Ms. Markos.

"Each employee should see health and safety as their per-

sonal responsibility," she said. And employees should feel comfortable telling executives where workplace hazards lie. Teamwork is the name of the game, she added.

Margarito T. Bercilla Jr., senior consultant of environmental, health and safety for Arthur D. Little Inc. in Los Angeles, also called for a corporate strategy for employee health and safety to be implemented worldwide.

Risk managers should decide which levels of loss control are acceptable in each country and whether these goals are achievable, he said.

American executives must realize that imposing these corporate health and safety objectives locally might not be achievable outside the United States, he added.

One of the biggest lies in the world is told when a corporate executive walks into a local office and says, "I'm from corporate and I'm here to help you," said Mr. Bercilla.

Barry J. Trilling, attorney at law for Doeppken Keevican Weiss & Medved in Pittsburgh, explained some specific resources that risk managers can tap to learn about E.C. health and safety regulations:

- The Official Journal, which is the European Commission's version of both the U.S. Federal Register and Congressional Record, is published daily in Brussels.

"It is the definitive source on what legislation the community is formally considering and what it has passed," said Mr. Trilling.

The Official Journal has two sections: the "C" communication series, which publishes proposed directives, recommendations and decisions; and the "L" legislation series, which cites approved directives and the date they are to be implemented.

- The U.S. Chamber of Commerce, which publishes "How the E.C. Works and How to Work It" and other documents on E.C. regulations and legislation.

- American chambers of commerce in major European cities.

- The European Commission's recent publication, "1992 European Year of Safety, Hygiene and Health Protection at Work."

All E.C. publications can be purchased from UNIPUB, a division of Kraus Organization Ltd., 4611-F Assembly Drive, Lanham, Md. 20706-4391; 301-459-7666; fax: 301-459-0056.

Mr. Trilling also suggested contacting various trade associations to see if they track E.C. legislation for members.

In addition to resources for information about E.C. rules and regulations, the British government's Health & Safety Executive recently published a brochure on new U.K. workplace health and safety regulations that became effective in January and are designed to comply with E.C. directives. These regulations deal with: health and safety management; work equipment safety; manual handling of loads; workplace conditions; personal protective equipment; and display screen equipment.

This leaflet and information about other HSE publications are available from: HSE Information Centre, Broad Lane, Sheffield S3 7HQ, England; 742-892345; fax: 742-892333. **BI**



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Excess litigation ailing European countries

Cure calls for rigorous safety standards

By GAVIN SOUTER

ORLANDO—Europe already is developing symptoms of the litigation virus that is spreading from the United States, but the disease can be overcome with some strong medicine and careful treatment, a broker and risk manager say.

And if the cure doesn't work, at least the virus will be back where it started—in England, a lawyer suggests.

Despite providing the foundation for many coverage disputes, the English legal system has inherent differences from the U.S. system that discourage high costs and prolonged litigation, said Jerold Oshinsky, a partner at Anderson Kill Olick & Oshinsky in Washington.

The litigious nature of the U.S. insurance market has clearly affected disputes in Europe, said Michael Wilmot, a director in the Global Business Unit of Alexander & Alexander (U.K.) Ltd.

Large court awards to victims of accidents in the United States have encouraged more Europeans to go to court, he said at a session of the 1993 Risk & Insurance Management Society Inc. conference in Orlando last month.

"The U.S. awards attracted public attention in Europe and this led to more people seeking redress in courts," Mr. Wilmot said.

The problem has been compounded as U.S. law firms, in search of more business, have set up European offices, he said.

European lawyers were equally eager to join the legal gold rush, Mr. Wilmot said.

"As a result, there's been a much more aggressive approach by lawyers to seek people willing to go to court," he said.

The increased litigation has led to a growing interest in specialty insurance products, like directors and officers liability insurance, as companies try to contain their potential losses, Mr. Wilmot said.

In other cases, the increased liabilities arising from the litigation surge have gone so far as to kill some lines of insurance in certain markets, he said.

For example, British insurers stopped offering coverage for gradual pollution in standard liability policies at the beginning of 1991, Mr. Wilmot said.

To control the risk of increased litigation, risk managers should: understand and identify their risks; minimize them as much as possible; regularly meet with directors and officers and brief them on legislative changes; and buy insurance from reliable markets, he said.

"These measures may ensure the containment of the virus if not its retreat," Mr. Wilmot said.

However, to exterminate the virus would require a fundamental change of opinion in the legal community, he said.

"Legislators and courts need to recognize that risk is inherent in life and insurers are not an all-catching charity," Mr. Wilmot said.

There is still time to stop U.S.-style litigation from spreading in Europe, said Gail M. Baldes, risk management administrator in

the corporate services division of Caterpillar Inc. in Peoria, Ill.

Caterpillar has not experienced legal battles at its overseas locations that can be compared with the litigious nature of doing business in the United States, she said.

"I believe that the legal environment overseas is significantly different and that the values are significantly different from the U.S.," Ms. Baldes said.

However, corporations should not be complacent. Preventative medicines should be dispensed now, she said.

One way in which corporations can benefit from their U.S. experiences is to ensure that the rig-

orous safety standards that are necessary at home also are imposed at all of their overseas operations, Ms. Baldes said.

Corporations should also make sure they have a good team of defense lawyers and records of all of the company's past insurance policies, she said.

"If you don't have the policies, maybe you should hire an insurance archeologist to find them," Ms. Baldes said.

The litigation concern can be traced back more than a century, according to Mr. Oshinsky.

"The leading pollution case of all time is *Rylands vs. Fletcher*, which was heard in England in 1866," Mr. Oshinsky said.

In the *Rylands* case, which began the spread of the legal

virus in Europe, a landowner was found strictly liable for damages caused by non-natural and abnormal activities, Mr. Oshinsky said.

However, many differences still exist between the U.S. and English legal systems, he said.

One of the major differences is that in England, juries are only used in libel and criminal cases. As a result, large jury awards are not a problem often faced by English insurers, Mr. Oshinsky said.

Also, in England the costs follow the case. So usually the losing party pays the winner's legal costs as well as their own, he said.

"That's one of the best ways of keeping baloney cases out of the

courts," Mr. Oshinsky said.

English courts also allow very little pretrial discovery, he said. The limits on discovery get cases into court more quickly, thus saving costs, he said.

"I'm working on some cases (in the United States) that are more than a decade old. . . . Our judicial system is not capable of saying, 'OK, that's enough, we're going to trial,'" he said.

English litigants also have no choice of jurisdiction. Therefore, they do not need to rush to court to ensure they are heard in a jurisdiction of their choice before the opposing party sues in its chosen jurisdiction, he said.

The session was moderated by Jerry R. Lane, assistant vp at McDonald's Corp. in Oak Brook, Ill. It was coordinated by W. Lee Carter, vp and director of research and development at Alexander & Alexander in Dallas. **BI**

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Managing risk in Latin America

Four nations establish Hispanic version of RIMS

By STACY SHAPIRO

ORLANDO—Risk management has taken one more global step with the recent formation of the first Latin American Assn. of Risk & Insurance Managers.

During the 1993 Risk & Insurance Management Society Inc. conference in Orlando last month, executives from four Latin American risk management associations met to set up "ALARYS," Asociacion Latino Americana de Administradores de Riesgos y Seguros.

Together, the associations from Argentina, Brazil, Mexico and Ven-

ezuela hope to promote risk management education among the Spanish/Portuguese-speaking nations of Latin America.

In particular, they are hoping ALARYS will hold its first conference in Mexico City in September 1994. The conference's main language will be Spanish, but English also will be spoken. As many as 1,000 people are expected to attend.

"During the last year, there has been a lot of contact between the different risk management associations in the region," said Jorge D. Luzzi, insurance risk manager for Latin America for tire manufacturer Pirelli Group in Buenos Aires, Argentina, and president of ALARYS.

"For the time being, Latin

America has only four associations: Argentina, Brazil, Venezuela and Mexico. But we know that there is a risk management association set up recently in Guatemala, and I've contacted some people in Chile with the same idea."

ALARYS' main goal will be to educate risk managers throughout Latin American countries by publishing textbooks and other information in Spanish, he said.

Over the years individual Latin American risk management associations have been learning techniques through the International Federation of Risk & Insurance Management Assns. Of the four associations mentioned above, only the Venezuelam group is not an IFRIMA mem-

ber.

However, "Not a lot of technical books on insurance and risk management are in our language," he said. "Unfortunately, in my association we have 60% to 70% of our membership who cannot speak English and they lose a lot at the international conferences, which are normally in English. Our intention is to continue working with the international federation but also to develop a conference in our region."

Risk management in South and Central America has been developing over the years through multinational operations with global risk management programs, he said. For example, Mr. Luzzi worked in Pirelli's headquarters in Switzerland to learn about the company's risk management strategy and then returned to Argentina last year to manage the region. "This is similar in other countries," he said.

However, "We don't have a lot

of books or the possibility to attract young people to our profession because (risk management) is not discussed at university level."

After several meetings during the RIMS conference, ALARYS appointed its first board of directors:

- President: Mr. Luzzi, head of Asociacion De Administradores De Riesgos De La Republica Argentina.

- Executive vp: Jorge Luis Hernandez, president of Asociacion Venezolana de Administradores de Riesgos y Seguros. Also representing Venezuela at the meetings was ALARYS Director Francisco Bello risk manager for Corpoven S.A.

- Conference vp: Graciela Soto, president of Instituto Mexicano de Administradores De Riesgos A.C. and risk manager for J.V. Corporacion in Mexico City.

- Treasurer: Roberto Lievano Gallegos, head of risk management for Almacenes Aurrera, S.A. de C.V. in Mexico City.

- Secretary: Elizabeth Macari Pasqualino, risk manager for General Motors de Mexico S.A. de C.V. in Mexico City.

Other directors include members of the Brazilian risk management association Associacao Brasileira de Gerencia de Risco.

For more information about ALARYS or the conference, contact Ms. Pasqualino, General Motors de Mexico, Oficinas Generales, Lago Victoria No. 74-8 Piso, 11520 Mexico City, D.F.; 905-625-3392; fax: 905-625-3395. **BI**

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Improving risk manager-broker relations

Communication is a key to success, risk manager says

By SALLY ROBERTS

ORLANDO—To improve current business relations between risk managers and their brokers, a broker service agreement, a stewardship report and a performance appraisal is mandatory, a risk manager says.

RIMS
REPORT

"The key to success is communication," said Ellen Pfeiffer, risk manager-corporate affairs for computer software firm Borland International Inc. in Scotts Valley, Calif.

A broker needs to know the risk manager's goals and objectives, just as the risk manager should be aware of the broker's capabilities of obtaining them, she advised.

Communication between the two parties about the goals and capabilities will develop the trust necessary to establish a long-term partnership, Ms. Pfeiffer said during a session at the 1993 Risk & Insurance Management Society Inc. conference in Orlando last month.

Although verbal communication is good, it often leads to misunderstandings that could ul-

timately terminate the business partnership, she said. To increase the probability of success, communication between risk managers and brokers must be reinforced by a written broker service agreement, she said.

In a broker service agreement, which can be initiated by either the risk manager or the broker, the broker's responsibilities are clearly defined, Ms. Pfeiffer said.

The agreement should include, among other things, a survey of

available markets, claims administration procedures, risk control services, general risk management consulting services and exposure assessment, she said.

Using the phrase "shall include but not be limited to" in the broker service agreement is advisable so the broker is not limited in suggesting additional services, Ms. Pfeiffer noted.

When the risk manager and the broker have agreed on goals and responsibilities, a stewardship report also should be prepared, she recommended.

Among the items to be included in this report are an organizational matrix of the account team personnel with an outline of responsibilities for each member, she said.

Other areas of the stewardship report include:

- A schedule of all insurance policies in force, showing expiration date, limits and premiums.

- A summary of losses—paid, incurred and reserved—for the previous year and for a five-year period.

- Comments on major pending loss prevention recommendations, claims assistance and other services.

- Status of the financial responsibility of the broker.

- Status of mutually agreed-upon objectives.

- Specific plans for the coming year.

- Future long-term objectives.

Risk managers should then conduct performance appraisals of the broker, which can be used to communicate with upper management on how the broker is performing, Ms. Pfeiffer said.

Suggested areas of evaluation include general performance, insurance brokering services, risk management services and communication, she said.

In addition, administrative services like timing and accuracy of documentation, timely delivery of risk management information, quality of claims administration and quality of loss control services should be evaluated, she advised.

Performance appraisals should be conducted quarterly, recommends Michael W. Bryant, director of insurance for Westinghouse Electric Corp. in Pittsburgh and another speaker during the session.

While this is not "absolutely necessary," risk managers who evaluate their broker's performance more frequently are able to find and address problems sooner than those who wait for problems to manifest, Mr. Bryant said.

In addition to catching potentially large problems, risk managers also benefit by evaluating performance because they can "predefine what success means" and then focus efforts toward success, he said.

Additionally, it results in a mutual understanding of the processes and facilitates process improvement, Mr. Bryant said.

Performance appraisals also facilitate benchmarking because risk managers become aware of "who is doing a better job," he said.

A performance evaluation with brokers also "sharpens skills in risk management," Mr. Bryant said.

Elisha Finney, manager-risk management and corporate credit for electronics and scientific instrument maker Varian Associates in Palo Alto, Calif., coordinated the session. **BI**

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A warning on buying into risk

Risk manager's input needed in mergers, acquisitions

By JUDY GREENWALD

ORLANDO—Risk managers should be heavily involved in their company's merger and acquisition activities, from the planning stage right through to the finishing touches, an attorney and broker advise.

A guiding principle should be that the danger is not the bear in the woods you know about, "it's the bear in the woods you don't know about," said Jonathan Alpert, an attorney with Alpert, Josey, Grilli & Hughes in Tampa, Fla.

Focusing on the preparatory stage, Mr. Alpert said a key factor is to identify the business targeted, including whether it is an asset-based, cash flow, service, manufacturing or "intellectual property" firm, like a computer software company.

Generally, the company involved will be a mix of these types. But, identifying precisely which ones helps to determine the risk manager's issues and concerns, said Mr. Alpert at a session on merger and acquisition due diligence during the 1993 Risk & Insurance Management Society Inc. last month.

Depending on the types, "There will be different risk management issues and different risk manager concerns," he said.

In a manufacturing plant, for instance, the concern could involve protecting a manufacturing base, a chain of distribution, a warehouse or inventory.

In the case of an intellectual property firm, the focus could be on protecting the software, or even using the intellectual property—which can also be a trademark or trade name—as a tax write-off.

When the risk manager is involved at a very early stage of the merger process, he or she "can be a positive and useful member of the management team," said Mr. Alpert.

Another consideration in this early stage, he said, is the impact of the merger or acquisition on the risk manager's business. For example, a company could find itself acquiring an inventory of asbestos products or other unsafe products. "Do the products contain hidden liabilities?" he asked.

Another key issue is personnel, said Mr. Alpert. Although this traditionally falls into the realm of human resources, it can involve risk management issues as well, he said.

"Is the purchase of the business or the sale contingent on key folks involved?" And if it is, what is their reaction to the proposed deal?

"Your key people will vary depending on the type of organization," Mr. Alpert told the session. He noted that in some instances, they are not necessarily obvious—like a secretary who knows more about the business than anyone else.

Once they have been identified, they could be asked to sign non-compete agreements. He told of one instance in which employees were given "stay on" bonuses, and one by one, after each employee received the check, they quit. These people were a key reason why the firm

was acquired to begin with, and this issue should have been dealt with up front, said Mr. Alpert.

Changes in business direction and goals and their impact on insurance must also be evaluated, he said. "One needs to engage in financial planning for risk" and consider factors like funded and unfunded reserves and self-insured retentions.

Look at the operating characteristics of the entity to be acquired, as well, Mr. Alpert said. Loss runs and experience ratings, for instance, "will quite often tell you about how a business is being operated and run," he said. A well-run business anticipates losses.

First- and third-party liabilities should also be examined, he said.

Government regulation is yet another area of concern, said Mr. Alpert. Are Superfund sites involved? Is there an underground storage tank on the premises?

Also, has there been any union trouble? "These are risk management issues because clearly one's labor relations is going to have a tremendous impact on productivity." This could affect a company's liability risks because unhappy workers can lead to accidents and injuries, he said.

Issues related to the Equal Employment Opportunity Commission, health insurance, work-

ers compensation and pension should be considered as well, said Mr. Alpert.

For instance, is the company committed to paying pensions from an unfunded pension plan? he asked.

Denis A. Julien, senior vp with Rollins Hudig Hall of Florida Inc. in Tampa, warned risk managers against running afoul of the dealmaker in their company.

Mr. Julien, who is a former risk manager, said a dealmaker once threatened him by saying, "Julien, don't you wreck my deal, because I'll get you out of here." "Just be careful," he advised.

An exposure analysis should be done before any merger or acquisition, said Mr. Julien, who said a good question to ask supervisors is "What keeps you up at night?"

Discussing coverage issues, he suggested looking at old forms

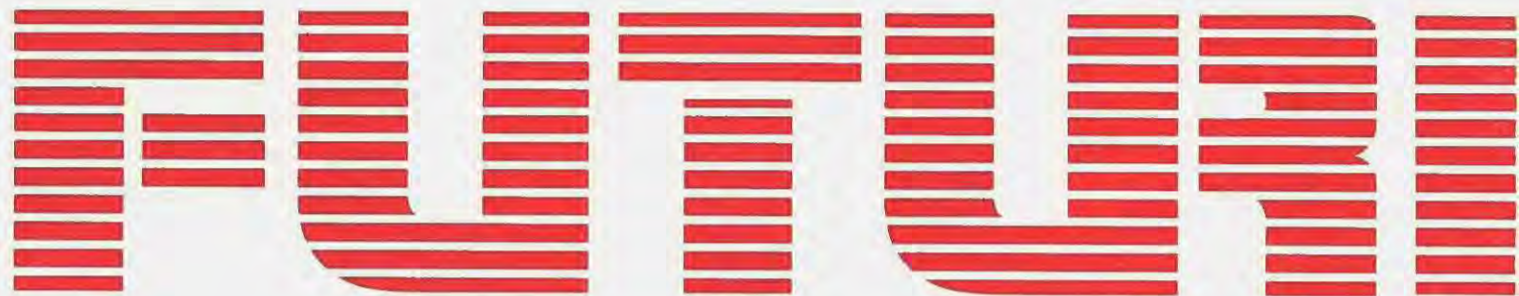
and embarking on a quantitative and qualitative analysis of IBNR reserves, perhaps with the help of an outside firm.

The impact on the ongoing insurance program should also be examined. The risk manager might want to keep two separate programs for a while, he said.

Look at the broker involved, he advised. Is it someone you could work with? On the other hand, a merger or acquisition could also provide a welcome opportunity to get rid of the company's existing broker, he said.

The session also featured a skit in which a risk manager learned his boss did not know what risk management entailed.

The session was coordinated by Mr. Julien. Thomas A. DeLillo, vp-risk management services for the Jim Walter Corp. in Tampa, Fla., served as the moderator. **BI**



IS H

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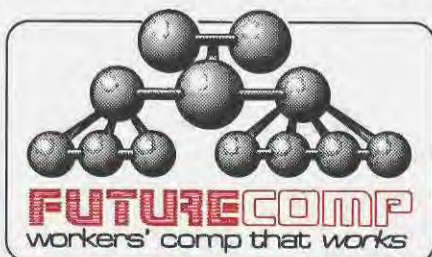
The program in action

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HOME INSURANCE

MEDICAL MANAGEMENT

Shedding light on AIDS-related costs

Education helps manage the risk

By NANCY P. JOHNSON

ORLANDO—AIDS and HIV can cost employers big money, according to an economist.



Researchers are just beginning to release figures on direct costs to employers due to acquired immune deficiency syndrome and the virus that causes it, but the indirect costs are considerable, too, said Paul G. Farnham, a visiting health economist at the National AIDS Information and Education Program at the Centers for Disease Control and Prevention in Atlanta. He also is a professor at the Depart-

ment of Economics and Center for Risk Management and Insurance Research at Georgia State University in Atlanta.

Speaking at the 1993 Risk & Insurance Management Society Inc. conference in Orlando last month, Mr. Farnham noted that AIDS is an ever-growing concern for employers and employees alike. One in every 250 Americans is infected with HIV, and AIDS is the third-highest cause of death among adults between ages 25 and 44, the CDC estimates.

These numbers are taking a toll on large and small businesses, he said. Half the nation's workers are in the at-risk 25-to-44 age group, he said. And, more than two-thirds of companies with 2,500 to 5,000 em-

ployees and nearly one in 12 small employers have experienced an employee who is infected with HIV or AIDS, he said.

The total cost for treating AIDS patients or HIV-positive people is increasing dramatically, mostly due to drug research and increases in drug prices, Mr. Farnham said.

The average cost to society for medical treatment of an AIDS patient—including lost tax revenue and lost productivity, as well as medical costs paid by employers and insurers—rose to \$102,000 in 1992 from \$85,000 in 1991, according to the Agency for Health Care Policy Research in Washington. This cost represents the average 20 months between diagnosis of AIDS and death.

Likewise, the average annual cost

to society of medical treatment for an HIV-positive individual who has not been diagnosed with AIDS rose to \$10,000 in 1992 from \$5,100 in 1991. Again, most of the increase was due to higher drug costs.

Of the \$67 billion total cost to society in 1991 due to AIDS and HIV, at least 80% is due to indirect costs, like lost productivity and lost revenue due to individuals dying prematurely, he said, quoting figures from the Agency for Health Care Policy Research in Washington.

AIDS- and HIV-related costs to employers fall into three categories, he said.

The easily measurable costs fall under: health insurance; short-term and long-term disability; life insurance paid prematurely; and costs

associated with recruiting, hiring and training a replacement.

The partially measurable costs include: analysis of impact of federal and state legislation on business, including the Americans with Disabilities Act; legal defense against discrimination and privacy suits; and HIV/AIDS policy development and education programs.

But the last group, perception-based costs, are not yet measurable, said Mr. Farnham. This includes: the reduced productivity of co-workers of employees with HIV or AIDS; lost business due to customers' concerns about employees with HIV or AIDS; reduced productivity of employees who are caring for a person with AIDS; and managers' lost productivity due to dealing with these issues.

Employers should be concerned about lost workplace productivity due to employees' fears about working with someone with HIV, said Mr. Farnham.

The fear of contracting AIDS is prevalent, he said. Some 50% of working Americans consider AIDS their chief health concern, and 34% know someone with HIV or AIDS, according to the National Leadership Coalition on AIDS.

Plenty can be done about AIDS and HIV from a risk management point of view, according to James Seaman, division employee assistance program administrator at Owens-Corning Fiberglas Corp. in Toledo, Ohio.

Until a cure for AIDS is found, education and prevention are the best tools available for managing the risks associated with the disease, he said.

But many employers have not conducted AIDS education programs in their workplaces, he pointed out.

Mr. Seaman created an AIDS/HIV training program for Owens-Corning in 1990 for use at the manufacturer's 27 U.S. plants. In 1992, the program won an award from the American Red Cross.

A good AIDS/HIV training program has several elements, Mr. Seaman said: Its goals should be clearly outlined; the presentation should be clear, concise, culturally sensitive and age-specific; the material should focus on skills that help people make responsible choices and change dangerous behaviors; and the program should evaluate results.

Many corporate AIDS/HIV awareness programs rely on "passive" materials, like printed handouts or a video presentation, Mr. Seaman said.

Those methods used by themselves can increase knowledge about AIDS/HIV, but they are ineffective in changing behaviors, and in fact can increase employees' fear of contracting AIDS, he said.

The most effective AIDS/HIV awareness programs are interactive, he stressed. For example, a program can include guided question-and-answer sessions led by a medical professional.

Another successful interactive method is role-playing in small groups, he said.

For example, two employees can play out a scene in which a health professional must inform an employee that he has tested positive for AIDS. Later, members of the group ask the two players how they felt while playing the role and how they would feel if the situation were real. This method is very successful in changing negative attitudes about working with individuals with HIV, said Mr. Seaman.

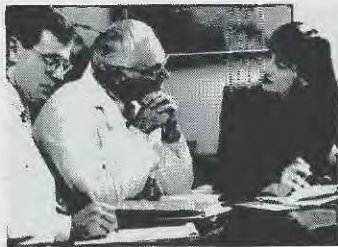
Finally, the program should be measured periodically to see whether goals are being reached and results are being achieved.

Kelly L. Traw, manager at the Washington Business Group on Health, coordinated the session. **BI**

COMPFSM

HERE!

to a physician or medical facility in the Preferred Provider network. Over the next 30 days, The Home case managers work with the employer, The Home Claims professional and the medical provider to assure that

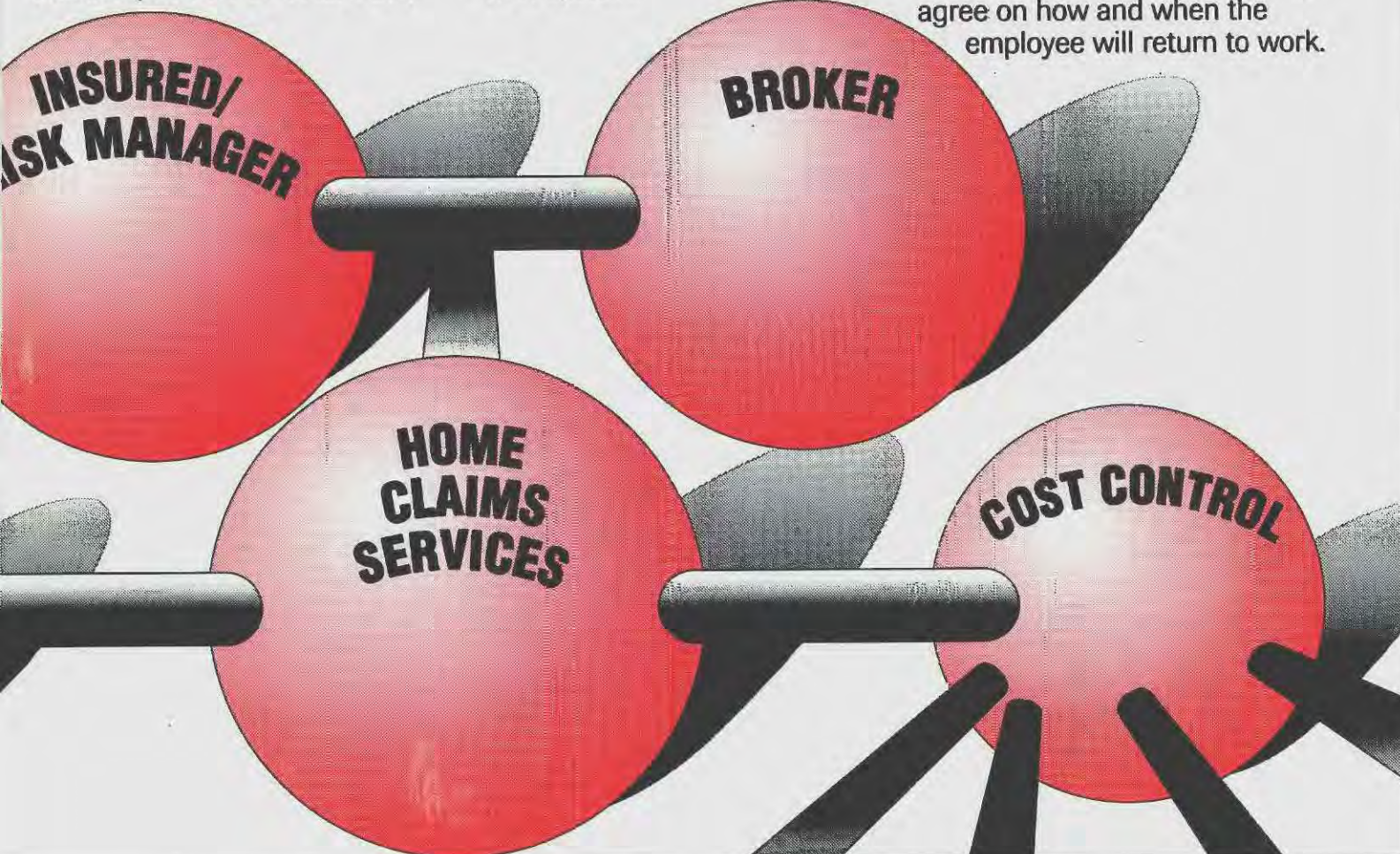


comprehensive automated review system.

the treatment plan conforms to database norms and treatment guidelines. All medical bills are put through the

"Return to Work" at work

When the employee's condition permits, the "Return to Work" program is initiated. All parties — including the employer's Return to Work Coordinator, Home Loss Control experts and the injured employee — review the job bank already set up and agree on how and when the employee will return to work.





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ASK A BENEFITS MANAGER

Tax proposal to increase interest in some benefits

Q

Based on the program outlined by President Clinton, it appears that income taxes will increase. What impact will this have on employee benefits?

A

Ever since the tax rates were decreased under the Tax Reform Act of 1986, we have been waiting for the individual income tax rate to increase. It appears that this may happen in the very short term.

President Clinton's tax plan proposes a new 36% tax rate—up from 31%—for taxable income in excess of \$140,000 for married individuals filing jointly; \$127,500 for heads of households; \$115,000 for unmarried individuals; \$70,000 for married individuals filing separately; and \$5,500 for estates and trusts.

While one's initial reaction to the proposal is that it will affect only the highest-paid in an organization, we can't lose sight of the large number of dual-income families. Considering the dual-income families, this tax package affects more individuals than one would initially think.

Two other elements of the tax proposal include a "high-income surcharge" of an additional 10% on individuals with taxable income in excess of \$250,000, and the elimination of the cap on wages subject to Medicare taxes. Currently, an employer and employee Medicare tax of 1.45% is applied to the first \$135,000 of earnings.

As a result of the increase in the individual tax rate, those benefits that shelter income from current taxes will become increasingly important to employees. These benefits include 401(k) plans, premium conversion plans, flexible spending accounts and possibly full flex plans:

- 401(k) plans.

The benefit that provides the greatest opportunity for employees to maintain direct control of their income while sheltering it from taxes is the 401(k) plan. The typical 401(k) plan allows employee contributions of up to 15% of pay, with the employer matching up to 6%. The IRS sets an annual maximum contribution amount; for 1993 it is \$8,994. Contributions can be based on salary up to a maximum of \$235,840 for 1993.

As employees look for ways to shelter an increased amount of their income from taxes, they will be looking to contribute additional dollars to

their 401(k) plans. To meet the needs of their employees, employers may want to consider increasing the maximum contribution allowed under their 401(k) plans. This is generally a no-cost move by employers—beyond some administrative work—and will be a plus for employees.

However, before making a change, employers will want to closely review their non-discrimination tests to ensure these tests still will be passed with increased contributions from highly compensated employees. Some plans have had to lower their maximum contribution allowed for highly compensated employees to meet the requirements of the non-discrimination tests.

- Pretax premium contribution plans.

Many health care plans today provide for employee contributions to the plan to be made on a pretax basis under Section 125 of the IRS code.

Establishing these plans can be done with little start-up cost and minimal ongoing costs. With the increasing cost of health care being shifted to employees through increased premiums and the increased tax rates, such a plan is a nice plus for employees.

- Flexible spending accounts.

Flexible spending accounts for health care and dependent care provide for pretax contributions to cover non-reimbursed medical expenses and eligible dependent care—child and elder—expenses.

With the increased tax rates, FSAs will become more attractive to employees. Currently, average participation rates in these plans are 20% for health care and 3% for dependent care. The average amount contributed to health care FSAs is about \$600, while the average for dependent care FSAs is \$2,900.

Many employees have not pursued these plans due to the "use it or lose it" provision. Any dollars not withdrawn from the plan during the year are forfeited to the plan. But employees are likely to take another look at FSAs, especially because taxes are never paid on contributions to an FSA. Unlike 401(k) plans, in which you defer the payment of taxes, FSA contributions are never subject to taxes. And, increased contributions to FSAs can save employers money, because FSA contributions are not subject to Federal Insurance Contributions Act taxes, which the employer must match.

The flexibility with regard to FSAs is somewhat limited, since employees can only enroll in the plan during the annual enrollment period. And, once an employee enrolls, they cannot make a change in the amount contributed unless there is a change in the employee's family status—such as marriage, divorce, birth or adoption of child.

- Full flex plans.

A full flex plan gives employees the opportunity to choose those benefits that are most appropriate for their personal situation. Most benefits under flex

plans are provided on a tax-free basis.

The best example in which flex can help an employee is where an employer currently provides life insurance in excess of \$50,000 and the employee's personal situation calls for life insurance at or below the \$50,000 level. If a flex plan is implemented in this situation, the employee would opt for the \$50,000 life coverage, use the additional credits for opting for a lower level of life coverage to "buy" other, more appropriate benefits and not pay additional taxes on the imputed income related to life coverage in excess of \$50,000.

Implementing a flex program ensures the most effective use of benefit dollars, but adds administrative expense. As a result, employers will want to implement a flexible benefit program for reasons other than potential tax savings for employees.

The two most common reasons companies implement flex programs are generally to meet the diverse needs of their employees and to manage medical costs.

As employee benefit professionals, we always need to be aware of happenings in Washington and to determine the impact of changes on our organizations and more specifically our benefit plans. The changes in the individual income tax rates provide us with the opportunity to modify current plans and possibly implement new plans. In either case, increased communication to employees will be necessary so that employees can understand how to use the benefit plans available to them and to appreciate these plans. **BI**

Would you like advice from an experienced colleague on a risk management, benefits management or actuarial problem? Four quarterly features in the Perspective section of Business Insurance can give you some answers.

Ask A Benefit Manager, Ask A Risk Manager, Ask A Benefit Actuary and Ask A Casualty Actuary answer written questions from readers on risk and benefits management issues and actuarial problems.

This month's column on employee benefit management issues is written by Dennis J. Nirtaut, manager of employee benefits at Continental Bank Corp. in Chicago. Susan M. Werner, director of risk management at Hardee's Food Systems Inc. in Rocky Mount, N.C., answers questions on risk management issues. William J. Miner, an actuary with The Wyatt Co. in Chicago, answers actuarial questions on benefits issues. And, Richard E. Sherman, president of Pacific Actuarial Resources (PAR)



Mr. Nirtaut

Excellence in Ashland, Ore., answers actuarial questions in the casualty field.

Mr. Nirtaut's next column will appear in August. Address your questions to ASK, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please give us your name, title and employer; however, Business Insurance will consider unsigned letters.

No penalty for employer's failure to remind employee of IRS requirements

Monetary damages sought under the Employment Retirement Income Security Act by a former employee for the failure of savings plan administrators to give him notice of the "roll-over option" required by the Internal Revenue Service did not constitute "equitable relief" allowed under ERISA, according to the 8th U.S. Circuit Court of Appeals.

James Novak, an employee of Andersen Corp., quit in June 1987 and elected to cash out his accumulated benefits in the company stock ownership plan, a qualified ERISA plan. He received a first distribution of about \$85,000 followed by a final

Legal Briefs

distribution of about \$3,200.

Neither the employer or the plan administrators gave Mr. Novak written notice of the "roll-over option" as required by the Internal Revenue Code.

Mr. Novak did not transfer his distribution to an eligible retirement plan and was, therefore, taxed on the entire distribution. Mr. Novak sought damages from the plan for failure to give him the notice, but his claim was denied. Mr. Novak sued and lost in the trial court.

On appeal, Mr. Novak argued that the plan's breach of contract in failing to give him the notice entitled him to equitable relief under ERISA.

The court said that the ERISA provision at issue entitled him, as a beneficiary, to equitable relief, i.e., forcing a delinquent plan administrator to perform required duties under the plan or even, if warranted, imposing a constructive trust on the plan's assets.

"It does not, however," the court stressed, "entitle him to force a delinquent plan administrator to pay monetary damages to compensate Mr. Novak for injuries suffered as a result

of the administrator's alleged breach of the plan. . . ." The trial court decision was affirmed.

Novak vs. Andersen Corp., 8th U.S. Circuit Court of Appeals, April 9, 1992, rehearing and suggestion for rehearing en banc denied May 29, 1992 (BI/04/My.-\$10).

These abstracts were prepared by Mayo H. Stiegler. Copies of these decisions are available by sending a \$10 check payable to Mayo H. Stiegler, to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. List the number for each opinion.

New vendors, products liven RIMS exhibit

By JOANNE WOJCIK

ORLANDO—Risk managers cruising the exhibit hall at the 1993 Risk & Insurance Management Society Inc. conference in Orlando last month seemed more interested in serious product demonstrations than in wily giveaways.

Indeed, unlike past years in which vendors had run out of goodies by the last day of the exhibition, this year many exhibitors were seen urging risk managers to take two or three of each "gift" as the end of the week drew nigh.

And while some vendors said exhibit hall traffic was up, others complained that the lure of Walt Disney World and nearby golf courses may have kept risk managers away.

But risk managers who did take time to tour this year's exhibit hall in the Orange County Convention Center found several new vendors offering new products and services to make their jobs easier.

Traffic was steady at booths offering products and services to help diagnose, prevent and treat carpal tunnel syndrome.

Claims Director Steve Kennebeck from Seattle-based Tyson Seafoods Inc. and Assistant Treasurer Karen Edlund at M/A Com Inc., a Lowell, Mass.-based electronics firm, were attracted to Tropical Testing Inc.'s demonstration of a device used to test for carpal tunnel syndrome.

At \$18,000, the cost of TTI's Vibrotactile Tester "is one-third of a claim for us, and we have a lot of claims," said Mr. Kennebeck. The average carpal tunnel claim for Tyson Seafoods, which employs about 1,000 people on fishing boats in the Pacific Ocean, is nearly \$40,000, he estimated.

"I could see it cost-justifying itself quickly," agreed Ms. Edlund, who said many employees in her company often wait too long to be diagnosed with the crippling disorder out of fear they could lose their jobs.

The Vibrotactile Tester screens for early signs of peripheral neuropathy, or the loss of sensation, explained Gaelyn Derr, vp-sales for Salt Lake City-based TTI.

As Mr. Kennebeck watched, Ms. Edlund placed her hand over the dome-like testing device and waited to feel the sensation in her middle finger that would indicate whether she was losing her sense of touch.

Besides being its cost, the device is quicker, more accurate and certainly more comfortable than a nerve conducting test, the usual method used to diagnose carpal tunnel syndrome, Ms. Derr pointed out.

"Its clinical accuracy is 77%, compared with 44% for the nerve conducting test," she said. "So it's more sensitive and it doesn't hurt."

However, Ms. Derr was quick to point out that the test, which can be performed by laypersons, should not be used as a substitute for a physician's examination.

Another new exhibitor, MyoNetics Inc. of Satellite Beach, Fla., marketed an ergonomic keyboard holder with attached

armrests than can help prevent repetitive strain injuries.

Jim Moss, president of the newly formed company, invented the product for himself.

"I was an engineer who was hurting," he recounted. "My daughter, who is a physical therapist, said to keep my wrists up," but fatigue often caused his arms to slouch at the keyboard.

"So I developed this for myself," Mr. Moss said as he demonstrated how the wrist supports could be adjusted for three different arm weights by changing a plate designed like a shock absorber that is attached to the keyboard shelf.

Risk managers see everything from bankers' booths to carpal tunnel diagnostics

deposit and cash management, as well as international cash management, she explained.

A few rows away, Comerica Bank was touting its international banking services.

Manufacturers Bank of Detroit was acquired in 1992 by Comerica, which adopted Manufacturer's international banking department as its own, explained Carlyle "Eugene" Justus, vp in the international banking department.

"Captives are looking at the creditworthiness of banks, and our exhibit points out all the domiciles where our bank is active," he said, pointing to the nu-

time standards for treating physicians "to take the dead time out of the workers compensation system," he said.

National Rehabilitation Centers does not charge for its cost-containment services, however. The only charge is for the physical therapy services the company provides from its 200 locations in 30 states, according to Mr. Miller.

As a result, clients get to keep their savings, he said, pointing out as an example Walgreen's Orlando Distribution Center, which shaved its workers compensation rehabilitation costs to \$32,000 in 1991 from \$324,000 in



Realizing that many keyboard operators are now using a mouse, Mr. Moss developed a version with a single arm for mouse users and an extended table that can accommodate both a keyboard and a mouse.

The products range from \$89.50 for a single sliding keyboard shelf that fits below a desktop and pulls out like a drawer, to \$339.50 for the double-arm mouse and keyboard combination unit.

Florida Orthopedics Inc. of Miami Lakes, Fla., also was marketing carpal tunnel prevention products along with its line of back supports.

The firm's SafeTwist support, which resembles the braces that bowlers often wear to keep their wrists straight, comes in three

support weights: firm support, standard support and lightweight support.

Several non-traditional exhibitors touted the services they could provide to risk managers at this year's RIMS conference.

For example, four banks had their own booths, up from just one last year.

Conveniently located adjacent to the Colorado Assn. of Captive Entities exhibit, the Colorado National Bank booth attempted to complement its neighbor.

"We wanted to show what a bank can do for a captive," explained Leslie Kelley, vp-commercial loans in Denver, a first-time exhibitor.

Banks can provide captive insurers with such services as letters of credit, lines of credit, and

merous flags plotted on an illuminated map of the world.

The other two new bank exhibitors were: the Bank of N.T. Butterfield & Son Ltd. in Hamilton, Bermuda, and the Central Bank of Barbados in Bridgetown.

Another first-time exhibitor, National Rehabilitation Centers Inc. of Brentwood, Tenn., attracted risk managers to its booth with a striking mural of a worker being guided through a green hedge maze.

The physical therapy company was promoting its Early Return to Work System, which uses managed care techniques and medical protocols, explained Thomas Miller, director of managed care systems.

The company also negotiates

1989.

First-time exhibitor Nova Technology Inc. of Calabasas, Calif., demonstrated how a defense contractor can find a peacetime application for a wartime product.

NovaScan combines the latest in computer technology—a flight simulator—with clinical psychology to create a video-game-like device that can detect employee performance impairment.

The device "is an alternative to drug and alcohol testing," explained Susan Hulett, director of implementation services. Employees taking the test use a joystick to line up objects on the screen, thereby testing their eye-hand coordination.

Unlike drug and alcohol tests

Continued on page 38

Funny how all Helmsman customers look alike.



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Little wonder Helmsman customers are recognized as geniuses. Relatively speaking, of course.



Exhibit hall

Continued from page 36 which can only detect trace amounts of these substances if they are active in an employee's bloodstream, NovaScan can detect other, less obvious causes for impairments, like sleep deprivation, personal problems, even hangovers, she added.

No capital investment is required to use the device, which is self-administered by individual employees, according to Ms. Hullett. The device is left on site, and employers pay a per-test charge.

NovaScan will be used by NASA to test the effect of weightlessness on astronauts' motor skills when the device travels into space on a June 1994 space shuttle mission.

While these new products and services drew considerable at-

tention, many vendors used tricks, toys and even treats to lure risk managers into their booths.

Mutual of Omaha Cos. presented its customary zoo escapees, while Hartford Steam Boiler Inspection & Insurance Co. offered a "mentalist" who could not only read minds, but perform card tricks as well.

Liberty Mutual Insurance Co. and Sedgwick James Inc. each offered risk managers the opportunity to sit for either a sketched portrait or a less serious caricature, depending on each person's demeanor.

ITT/Hartford Group Inc.'s Jud Barker—an appropriate surname for an exhibit hall vendor—offered passersby sunscreen as "protection" from Florida's harmful ultraviolet rays.

Meanwhile, premium financing company A.I. Credit Corp. tried

to grab the attention of risk managers with a cassette of "premium hits" from the '50s and '60s.

"It's not magic, it's risk management," was the message on a paper star dangling from a magic wand filled with glitter and tiny images like a burning building

ston, R.I., office.

Protection Mutual Insurance Co. handed out navy rain ponchos to illustrate that "we can cover you and protect you with our global policies," said Dennis Butson, a district vp in Park Ridge, Ill.

Treats at this year's RIMS ex-

As always, 'Zurich still has the best candy bars,' quipped Fred Berhenke, a Colorado Assn. of Captive Entities member, as he strolled off toward Zurich-American Insurance Group's booth for a snack.

and the logo for Arkwright Mutual Insurance Co.

The Waltham, Mass.-based insurer used the RIMS conference to market its seminars on loss control for high-rise buildings.

At another booth, visitors were encouraged to "Take two, we have plenty," as Richard E. Wiegandt, vp and operations sales manager for Allendale Insurance in Seven Hills, Ohio, held out a teal-colored coil resembling a "Slinky" toy.

"Once people realize what they are, they start to smile," he said.

"I think it's because it makes them remember their childhood," said Florine Edwards, an assistant vp in Allendale's John-

hibit also came in the form of perishable goods.

Robert Boyer, Northwest sales manager based in Seattle for Diagnostic Environmental Inc., handed out Washington state apples to lure risk managers in to discuss the company's architectural site evaluation services.

Transamerica Insurance Group offered free cappuccino and truffle cookies. The Woodland Hills, Calif.-based insurer, which just completed an initial public offering, didn't want any gadgets with its logo to outlive a six-month deadline for using the name of parent Transamerica Corp.

Although the IPO was for

shares in TIG Holdings Inc., a new name has not yet been chosen for the property/casualty insurance company, according to Eileen McGinty, resident vp in the national broker marketing division.

And, as always, "Zurich still has the best candy bars," quipped Fred Berhenke, a Colorado Assn. of Captive Entities member, as he strolled off toward Zurich-American Insurance Group's booth for a snack.

Because it was far away from aisles full of exhibitors' tricks and treats, few risk managers sought out claims administrator Sarasota International Risk & Insurance Services Inc., whose booth was all alone in the first row of the exhibit hall.

"I'm the Maytag repairman of exhibitors," lamented Marketing Representative Angela Borthwick as a few risk managers peeked around the corner to see who was talking.

A real attention getter at the exhibit hall was a wedding proposal broadcast over the hall's announcement system on Monday.

Ted Dhooge, an engineer with AVO MultiAmp Institute of Dallas asked Grace Gagnet, safety services supervisor for NJ & Associates of Dallas, to "take the ultimate risk and be his wife." She accepted in a more private setting. **B**

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ITT HARTFORD

Ways to reduce risk of work comp fraud

Background screenings, fraud hot line helpful, expert says

By JUDY GREENWALD

ORLANDO—Conducting pre-employment background screenings of job applicants is one of several measures risk managers take to reduce workers compensation fraud, an insurer says.

Such investigations can cost anywhere from \$50 to \$120 and touch on most of the significant elements of a person's background, explained Robert L. Buckley, manager-special investigations for Kemper National Insurance Cos. in Long Grove, Ill.

"A variety of elements pop up if you do the background investigation," he said during a session at the 1993 Risk & Insurance Management Society Inc. conference last month.

For instance, these investigations may give employers a better chance of learning if an applicant is not properly prepared for the job, can provide information about high turnover in previous jobs and could indicate whether the prospective employee has engaged in criminal activity, said Mr. Buckley, who is a former FBI agent.

In addition to screening potential employees, Mr. Buckley recommended that employers install confidential telephone lines for employees to report suspicious workers comp claims. Coworkers have a responsibility to report the information in cases of fraud, he said.

The session's moderator, Ken Albrecht, director-risk management for Frito-Lay Inc. in Plano, Texas, said his company has introduced a confidential phone line for reports of workers comp abuses.

Calls on the line average about five a week, of which two are "personnel-related," with the remaining three having "some validity," said Mr. Albrecht.

The biggest benefit of the line, he said, is it serves as a deterrent to employees who might engage in workers comp fraud.

Among other suggestions Mr. Buckley made for reducing workers comp fraud:

- Conduct immediate and thorough inquiries into workplace injuries, record the results and provide them to the insurer.

- Encourage a prompt return-to-work policy, including light duty where feasible.

"You must get people back to work before they get comfortable" sitting at home and watching television, Mr. Buckley said.

- Strive to maintain a safe workplace. "That's axiomatic," said Mr. Buckley.

- After a conditional job offer is made, ask the applicant about any prior workers comp filings, including how many were made and for what reasons.

The Americans with Disabilities Act prohibits employers from asking about workers comp claims before a conditional job offer is made, Mr. Buckley noted. But, a job offer can be withdrawn if the applicant cannot provide a legitimate reason for any previous filings, he said.

- Educate employees, legislators and the general public about workers compensation fraud

- Press for criminal prosecu-

tion of those committing insurance fraud.

However, employers should recognize the complexity of prosecuting workers comp fraud cases, Mr. Buckley said.

The employer, for instance, must be able to state the misrepresentation involved, identify the evidence, explain how the facts would change the decision to grant workers comp benefits, and provide evidence supporting that an injury or illness was misrepresented, he said. The employer's claims files should include interviews, photographs and surveillance video, he advised.

"It's difficult to satisfy the

prosecution that you have sufficient information for a viable case," Mr. Buckley observed.

Furthermore, prosecutors at the state and federal levels have a shortage of available personnel, which means "you guys must do a lot of the upfront work," he said. A fraud case must also involve a sufficient amount of money to interest a prosecutor, he said.

That amount will vary according to the jurisdiction, Mr. Buckley said. For instance, in Detroit, Kemper was able to convince a prosecutor to pursue a case involving only \$4,000, while a prosecutor in Chicago would not have been interested, he said.

"There is no fixed level," said Mr. Buckley. However, he added, "for the most part, \$25,000 should be sufficient for a local level."

An employer is obligated to present to prosecutors even information that could hurt their case, said Mr. Buckley. "You can't just give them the good stuff. You have to give them all of it."

Insurance company claims adjusters and examiners should also be trained to reduce workers comp fraud, said Mr. Buckley. And those involved in litigation should be taught that settlement is "not always the way to go," because they have a responsibility to the policyholder as well as the industry overall.

Mr. Buckley said among the "red flags" that indicate possible workers comp fraud are:

- The refusal of treatment for an alleged injury, or a change in job status.

- The employee having as a hobby "high-risk activities" like skydiving.

- "Mixed messages" about the accident, such as inconsistent explanations of what happened.

- The absence of any witnesses to the accident.

- Late reporting of an accident.

Also speaking at the seminar was T.J. Harrington, supervisory special agent for the FBI in Washington, who discussed his agency's efforts in the area of insurance fraud.

The session coordinator was Raymond M. Barrett, national account claim officer for Kemper in Long Grove, Ill. **BI**



Getting a grip on carpal tunnel

Surgery common despite little information on its cause

By MICHAEL SCHACHNER

ORLANDO—Although surgery designed to relieve carpal tunnel pressure has become the most frequently performed orthopedic procedure in the United States, there still is not enough information available on what exactly causes carpal tunnel syndrome and how it can be prevented, a physician says.

"Physicians today are cutting simply because a person says 'My wrists hurt.' But, clinical evaluations of carpal tunnel syndrome can be wrong as much as 80% of

the time. Surgery is not even a guaranteed cure for CTS. A person sent back to repetitive motion after an operation stands a good chance of having a recurrence," said Dr. Lawrence K. Spitz of the Penn Diagnostic Center Inc. in Philadelphia.

What workers, employers, insurers and doctors need is more clinical information about the causes of and cures for repetitive motion disorders like carpal tunnel syndrome, said Dr. Spitz during a session on the prevention and management of CTS at the 1993 Risk & Insurance Management Society Inc. conference last month in Orlando.

"We know that repetition is a

major cause of carpal tunnel and that vibration and force factor into the equation, but beyond that we're not totally sure," he said. "The highest prevalence of carpal tunnel syndrome is among women between the ages of 25 and 55. But, this is no great finding. Women work the majority of repetitive motion jobs and they have a smaller carpal tunnel by nature. They're also prone to biological conditions that cause them to retain water. The fact that women get carpal tunnel the most is not surprising."

Dr. Spitz explained that carpal tunnel syndrome occurs when the median nerve in the wrist is compressed by swelling of the

nine flexor tendons that control the fingers and thumb. The swelling that causes carpal tunnel syndrome has traditionally been traced to repetitive gripping and other repetitive hand motions. Symptoms of CTS are numbness in the fingers and pain throughout the hand and fingers.

Corrective surgery can alleviate some of the pain and numbness caused by the tendons putting pressure on the median nerve, but the operation's effect can be temporary if scar tissue builds up or a person resumes the same job or a job similar to the one that caused the problem in the first place.

"There still exists a general lack of understanding about the natural history of CTS," Dr. Spitz said. "Subjective complaints have not been valid in many cases and we have not really had a gold standard for

evaluating full-blown CTS."

However, Dr. Spitz said a relatively new testing device that measures nerve conduction velocity may be just what the medical and workers compensation communities have been waiting for in terms of distinguishing true carpal tunnel syndrome from other hand, wrist and forearm ailments like tendonitis.

The NeuroSentinel, which was developed by Penn Diagnostic Center and costs about \$15,000, appears to be a reliable, valid and objective device that can accurately measure a person's ability to feel an electrical stimulus in the fingers. The device, which resembles an armrest with electrodes, stimulates the forearm in a certain spot and measures the time it takes the stimulus to register in the fingertips.

"Placed next to the EMG (electromyogram), the nerve conduction velocity tests performed by the NeuroSentinel are equally reliable, objective and valid. When you have these three qualities, you have a good test," said Dr. Spitz.

Monfort Inc., a major meat-packing company based in Greeley, Colo., last year used this nerve conduction velocity tool to test 1,200 workers for carpal tunnel symptoms.

The study's goal was twofold. First, Monfort wanted to determine on its own what its susceptibility to carpal tunnel claims was. Second, the company wanted to use the results to complement its carpal tunnel syndrome prevention and management program, which began in 1998 and centers on job rotation, ergonomic improvements and work hardening.

"We had about 20% abnormal nerve conduction velocities among our test group, whereas regular society has about 5%. It was very important for us to do the study because symptoms don't always correlate directly with NCV," said Lucille Gallagher, vp-risk management with Monfort.

The program that preceded Monfort's pilot testing project is known as the Monfort Industrial Athlete program. It includes work hardening sessions, job pairing, job rotation, worksite analysis and ergonomic training, among other things.

Ms. Gallagher said the company's cumulative trauma disorder claims and related costs have decreased by 50% since it started the programs. "It appears as though the programs we have implemented are making a difference," she said.

"Doing studies like this is the boldest form of proactive risk management," added Dr. Spitz, who consulted on the Monfort project. "With test results in our hands, we can then approach the keyboard manufacturers and other companies about their products and the effect they have on people. We have to try to figure out what is reality."

Otherwise, employers will be forced into attempting to change the medical community's attitude toward carpal tunnel surgery, Ms. Gallagher said.

"Standard carpal tunnel surgery can earn a physician as much as \$4,000 for seven minutes of work. It's great work if you can get it," Dr. Spitz said.

Zung Vu Tran, a professor of kinesiology and physical education at the University of Northern Colorado in Greeley, also spoke at the session, which was coordinated and moderated by Ms. Gallagher. B

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Boss listens when safety plans talk money

By SALLY ROBERTS

ORLANDO—Loss control is the No. 1 return on investment for employers, a insurance company executive says.



Yet risk managers still must sell upper management that safety is a profit center, said James W. Smirles, brokerage marketing officer for

Kemper National Insurance Co. in Long Grove, Ill.

Certain problems arise in selling safety, not only to management but also to employees, he said. For example, it is hard to change an employee's behavior, especially when habits have set in. And because there is no hard-dollar value associated with safety, it is not seen as a profit-producing mechanism.

"This is a challenge (risk managers) must bridge," Mr. Smirles

said during a session at the 1993 Risk & Insurance Management Society Inc. conference last month.

To sell anything, two ingredients are essential: a product and a need, he said.

Although safety is a product that meets a definite need, risk managers cannot sell safety to management without knowing the actual costs involved, he said. Costs can be charted to obtain quantitative data on how important it is to prevent

on-the-job accidents.

For example, using one chart, Mr. Smirles calculated that an accident that costs \$200,000 is not "paid for" until a company with a 2% profit margin sells \$10 million worth of goods, Mr. Smirles said.

In a less costly example, a fast-food restaurant must serve 2,500 lunches at \$4 to offset a \$500 accident loss, he said.

Risk managers can demonstrate the importance of safety to upper management by applying the costs and figures associated with their own companies, he said.

In addition to the direct costs involved in an on-the-job accident, indirect and hidden costs take a toll on the employer's bottom line, Mr. Smirles said. For every \$1 spent on actual insured costs—medical expenses and indemnity benefits—uninsured, indirect costs can total \$1 to \$50, he said.

Risk managers should determine their indirect cost by multiplying their direct incurred loss by four, he said.

Uninsured or indirect losses include, among other things: time lost by supervisors in assisting an injured employee; investigating accidents; preparing accident reports; and hiring and training new employees, he explained.

Time is also lost when co-workers aid or simply ask sympathetic questions to the injured individual.

Losses also are incurred from accident-related damage to equipment or products. For example, a small grease fire in a restaurant that results in an employee injury will also result in loss of profit because all the

food exposed during the fire must be thrown away, he explained.

Other indirect losses due to accidents include the loss of goodwill, Mr. Smirles said. For example, a truck driver who injures a child while on the job would not only generate medical claims but may damage the company's reputation.

Once a risk manager obtains quantitative data about the company's losses due to accidents, he or she can go to upper management with suggestions for loss control plans. Risk managers and upper management have a common interest in wanting to protect the company's assets, Mr. Smirles said.

One loss control method to contain the costs associated with on-the-job accidents is investigations, he said. For example, investigators could determine that an employee who said he strained his back lifting boxes really hurt himself falling off of a bar stool.

"Any accident that might have resulted in serious injury must be thoroughly investigated," Mr. Smirles contends.

An accident that produced minor injuries should also be checked, he said, because minor and "near-miss" accidents almost always lead to bigger ones. For every accident that results in one serious injury, about 30 minor injuries and 300 incidents occurred previously that resulted in no injuries, he said.

Thomas R. Chapman, president and chief executive officer of Kemper National Services Inc. in Fort Lauderdale, Fla., and Gerald L. Maatman Jr., a partner for law firm Baker & McKenzie in Chicago, also spoke at the session. JoLynn Holzward, director-risk management for Sears Roebuck & Co. in Chicago, moderated the session. **B**

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Walking the ADA's fine lines

Law puts work comp history off limits during job interviews

By SALLY ROBERTS

ORLANDO—Employers need to understand the caveats in the Americans with Disabilities Act, not just the big picture, to avoid ADA claims and treat employees fairly.

For example, employers cannot terminate or refuse to hire someone because a disabled spouse might raise insurance costs, said Sharon A. Falkenburg, vp/manager-technical services for Rollins Hudig Hall of Wisconsin Inc. in Milwaukee. A relationship provision in the ADA protects an employee with a disabled family member or dependent from such job discrimination.

Discrimination based on this type of relationship will be contested more in the future, she predicted. Accordingly, employers need to educate themselves on the ADA's provisions.

Ms. Falkenburg discussed the ADA and its relationship to workers compensation at a session during the 1993 annual Risk & Insurance Management Society Inc. conference last month in Orlando.

The ADA's effect on workers comp is first felt at the time a prospective employee applies for a job, Ms. Falkenburg said. During an interview, employers cannot talk about an applicant's workers compensation history, she noted.

When employers start asking "how do" questions regarding an

interviewee's past like, "How do you do your (current) job with your back injury?" employers start getting in trouble, she said.

On the other hand, employers can ask good questions pertaining to the potential employee's disability if they regard the job at hand, Ms. Falkenburg said. For example, if a job applicant walks into the interview with a cane, an employer can ask: "There is walking on this job—delivering the mail. Would you be able to do this? I'd also like you to explain to me how you would carry files with your cane," she said.

However, a question that may draw an ADA claim in this situation would be: "How did you hurt your leg?"

In short, employers should not "talk about body parts," she said. This opens up potential workers comp history, which could lead to an ADA claim against the employer.

Another ADA distinction that employers must be aware of is that it is geared toward permanent disabilities and does not usually apply to temporary disabilities. For instance, if an employee breaks a leg on the job, takes a short medical leave and then returns to work, is he or she then covered under the ADA? Ms. Falkenburg asked.

"The (Equal Employment Opportunity Commission) says no" because it's a temporary disability and does not permanently limit essential life activity, Ms. Falkenburg said.

"There are qualifiers," though, she added. What if that employee also has diabetes, which could slow the

healing process? Can he or she file for protection? Yes, Ms. Falkenburg said, because diabetes is in a protected category under the ADA.

Employers also need to be certain they provide equal access or make limitations universal in light of potential ADA claims.

For example, "Discrimination can be considered if a qualified individual with a disability is denied equal access to (health) insurance or condition of insurance based on disability alone," she said.

Equal access is questioned when

one person is denied insurance coverage because of the high risk and increase in insurance premiums.

Employers also need to be aware of ADA provisions governing pre-existing conditions, she said. Employers can offer pre-existing condition exclusions "as long as they are not avoiding the ADA" and discriminating against one person, Ms. Falkenburg said.

Employers can also place limits on procedures and treatments as long as they apply universally to everyone, she added. Benefit caps and exclusions also can be imposed as long as they are applied uniformly to all employees.

Future claims of unlawful discrimination could be made if benefit plans are inconsistent with laws

like the Employee Retirement Income Security Act of 1974, Ms. Falkenburg said. Claims also can be made if coverage is intended to disqualify and ignores the ADA.

However, if employers can show that a change in a benefit plan would contribute to the potential financial disaster of the company, a discrimination claim could not be made, she said.

In the meantime, employers should continue health insurance practices aimed at cost containment as long as the practices are not based on health-related factors including potential disabilities, Ms. Falkenburg advised.

Mary Lynn Bangs, risk manager for Wyndham Hotels & Resorts in Dallas, moderated the session. **BI**



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The battle against workers comp costs

Loss control is the sure-fire weapon

By MICHAEL BRADFORD

ORLANDO—Risk managers must rethink their strategy for fighting the workers compensation battle if they ever hope to conquer rising costs and reduce worker injuries.

The soaring costs related to workers compensation are fueled by

several sources, but a "failure of general management" is the biggest reason for an out-of-control workers comp system, said James V. Davis, chairman of Willis Corroon Corp.'s Advanced Risk Management Services Division in Nashville, Tenn.

"I would suggest that there needs to be a change of emphasis within the risk management profession," said Mr. Davis, who spoke at a session at the 1993 Risk & Insurance

Management Society Inc. conference last month in Orlando.

He pointed out that "a lot of risk management careers over the last 20 years have been built on the risk manager's ability to design effective loss financing programs." Although those programs continue to be important, Mr. Davis said it is time for a "very strong emphasis" on loss control and claims management if risk managers expect to achieve career success.

If risk managers don't seize the

initiative, they may see their responsibilities shifted to other departments like human resources, which are seen as more pro-active, he warned.

Mr. Davis pointed out that in focusing on loss control, risk managers have to address several areas, including:

- **Personnel.** A job analysis should be performed to determine whether work can be redesigned so workers can perform their tasks with fewer injuries.

Mr. Davis also noted that in hiring workers, employers should screen out prospective employees who could be predisposed to certain injuries that the work could cause.

Preplacement and periodic physicals also can determine whether a worker is fit for a job.

- **Communication.** A loss of communication between management and employees is a "root cause of some of the problems that we observe in the workers compensation area," he added.

Mr. Davis suggested employees be well-informed about the workers comp process and their participation in the system.

- **Skill and safety training.** Not only should line workers be well-trained in their duties, but supervisors should also know the line jobs well in order to prevent and minimize workplace injuries, he said.

He also charged that "claims management has gone backwards dramatically in this country over the last 10 or 15 years."

Insurers will acknowledge that as they began to depend on the telephone rather than face-to-face interviews with claimants, "that the whole process has gone gradually downhill," he said.

Some risk managers are taking steps to improve the process, according to Mr. Davis. Instead of taking three to four weeks to get a claim into the system, some companies are "trying to make that a 24- to 48-hour process," he said. Other companies are bringing all or a portion of the claims servicing process in-house.

There are other problems with the claims process, according to Robert Maciorowski, a partner in the Chicago law firm Seyfarth, Shaw, Fairweather & Geraldson.

Mr. Maciorowski explained that many insurer claims handlers are underpaid and have no motivation to move up within the company. That means there is a lot of turnover among claims personnel, and risk managers frequently must establish new work relationships.

"What I think we need to do is make claims handling more of a profession," Mr. Maciorowski suggested. "We need to certify these people, we need to do more training. We need to pay them more money and make it a position where people are going to work hard because they are going to advance and make a decent wage."

Some risk managers are taking on more responsibility for their workers comp programs by self-insuring, said Steven H. Pahl, vp with Arthur J. Gallagher & Co. in Schaumburg, Ill. Self-insurance and large deductible programs "have proven to be the only effective means of reducing the crushing burden of residual market loads imposed by the failure of the voluntary marketplace," he said.

Self-insuring workers comp exposures, which is allowed in all but three states, "gives the employer an added ability to influence the injured worker's decision as to where he or she goes for medical care and to directly benefit from that decision in two ways," said Mr. Pahl.

First, the employee can be steered to a health care provider network that is paid negotiated fees, he explained.

Secondly, employers have the opportunity to reduced administrative and medical care costs by implementing 24-hour coverage for work-related and non-work-related illnesses and injuries.

Paul A. "Pete" Synott Jr., executive vp of the Society of Chartered Property & Casualty Underwriters in Malvern, Pa., was the session moderator. Cynthia R. Ziegler, senior vp at the Society of CPCU, coordinated the session.

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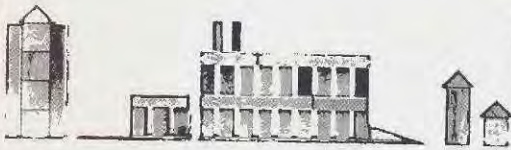
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Risk managers on a mission

Controlling work comp medical costs seen as a test of success—and survival

By CHRISTINE WOOLSEY

ORLANDO—Risk managers who don't do something meaningful to curb rising workers compensation medical care costs may find themselves looking for a way to justify their existence to senior management—or worse, looking for another job.

That was the consensus of a risk manager and a consultant during a session at the 1993 Risk & Insurance Management Society Inc. conference last month in Orlando.



Health care inflation coupled with unemployment—which typically coincides with a rise in workers comp claims—have put increased financial strain on the workers comp system, explained Jan Lommele, a principal and consulting actuary for Deloitte & Touche in Hartford, Conn. “As a result, senior management is asking some tough questions of risk managers.”

Risk managers can gain valuable insight by examining strategies used by their employee benefit counterparts, Mr. Lommele said. “If risk managers don't follow these techniques to manage workers comp costs, the responsibility for doing so

may be given to employee benefit managers” who have had at least limited success in controlling group health costs.

Risk managers should at least establish a rapport with their employee benefit colleagues, said Don MacMeekin, corporate risk manager for Cinemark USA Inc., a Dallas-based chain of motion picture theaters.

“As property/casualty risk managers, if we don't develop a coalition with employee benefits, we might lose our responsibility” for managing workers compensation, he said.

Over the past year, Mr. MacMeekin, who oversees both the risk management and employee benefits departments at Cinemark, has had considerable success in managing the company's workers comp program by adopting cost containment programs used by benefit managers.

The company was in dire need of workers comp cost management, Mr. MacMeekin noted. Operating in 26 states, the theater chain had to comply with 26 different jurisdictions. “Nobody in the organization until a year ago controlled any insurance,” he said. About 65% of Cinemark's workers comp claims were being handled through the legal system, he pointed out.

One of the first things Mr. MacMeekin did when he was hired last July was implement a \$250,000 self-insured retention for workers comp, general liability and employee medical claims, coupled with stop-loss insurance.

The company now also has an internal claims staff that administers claims up to a \$25,000 limit.

Cinemark uses a national third party administrator to administer its workers comp and group health claims above that amount. The TPA can pay both workers comp and group health claims, and Cinemark internal claims managers have on-line access to the system.

Both in-house and external claims processors now check to be sure claims are being paid according to established fee schedules, Mr. MacMeekin said. “I found out when I started that insurance companies were paying bills according to the doctor's invoice, not according to fee schedules. We now review all medical bills—workers comp and group health—to be sure we are paying according to a state's fee schedule or usual and customary rates,” he said.

By “repricing” medical claims, Cinemark has reduced its overall medical care costs by more than 13%, he said.

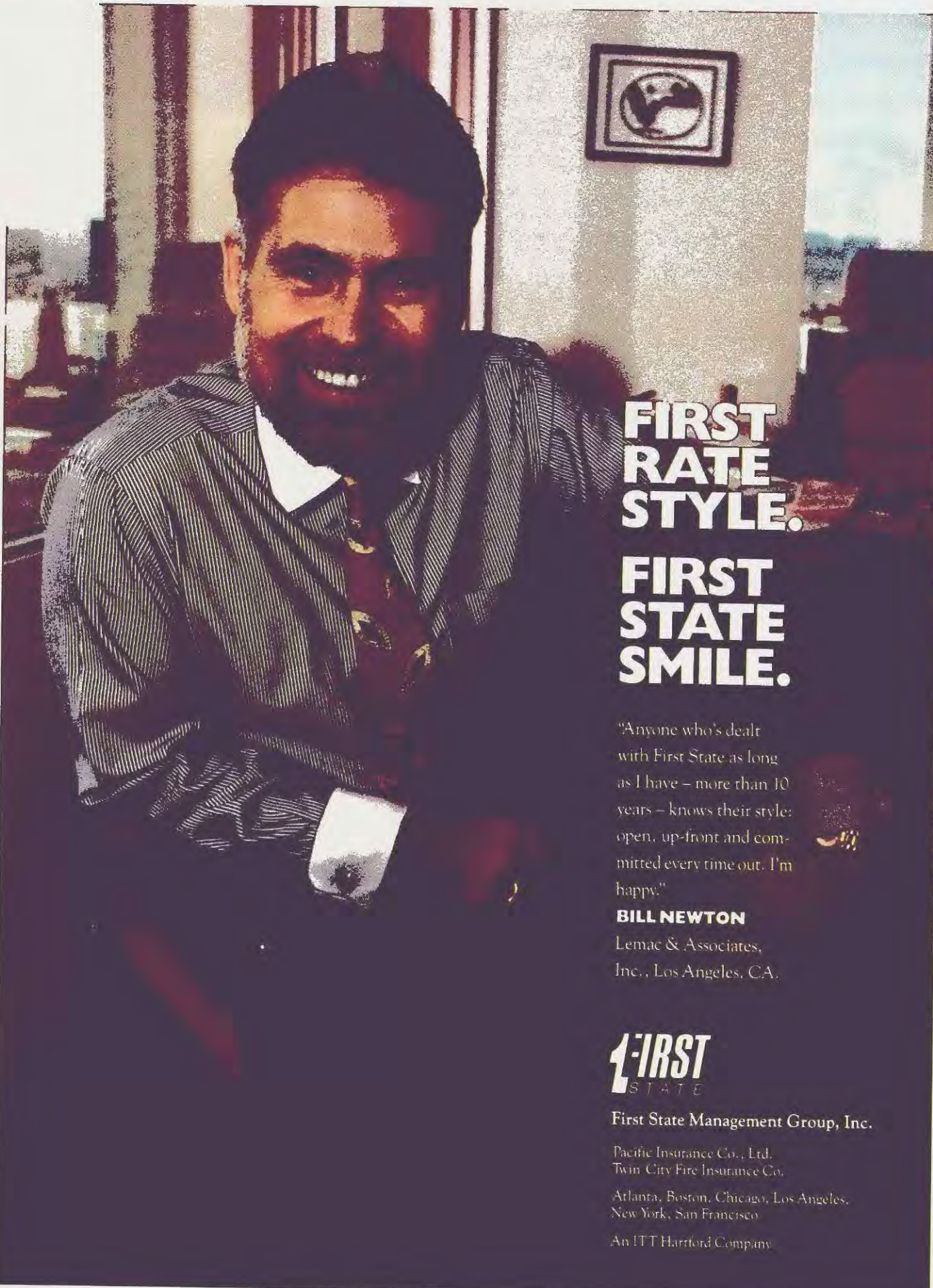
Workers compensation medical care accounts for about 35% to 40% of Cinemark's total health care budget.

One of the central goals of the new program was to have employees view their medical benefits as one package, regardless of whether they suffered a work-related injury or incurred an illness or injury that would be covered under Cinemark's group health plan, Mr. MacMeekin said.

To that end, the company abolished a two-tiered system in which employees seeking reimbursement under the company's workers comp plan do not pay deductibles or co-payments, but those seeking payment from the group health plan do pay such charges, he explained. Under the new plan, all employees are required to pay modest co-payments for doctor visits and if an injury or illness is later determined to be work-related, those employees are reimbursed, usually within one week.

In addition, employees are en-

Continued on next page



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Continued from previous page
courageous to use the same PPO physician for all medical treatment regardless of its cause.

"We do not discuss physicians as workers comp- or health program-related, they are family physicians," Mr. MacMeekin explained. "And we stopped talking about workers comp and group benefits. We now talk about the responsibility Cinemark has to employees to make them whole and deal with their illness or injury."

Cinemark also established a managed prescription drug and case management program, which helps keep workers comp claims "out of the hands of attorneys and doctors

RIMS elects new officers

ORLANDO—A new team of officers, led by President J.A. "Tony" Bridger, will lead the Risk & Insurance Management Society Inc. during 1993-94.

Mr. Bridger, risk manager for the Bank of Montreal in Toronto, formally took office as

RIMS' president on May 1. He succeeds Suzanne H. Crager, assistant vp-risk management and insurance for PNC Bank Corp. in Pittsburgh (BI, May 3; April 19).

Mr. Bridger, who served as first vp of RIMS in 1992-93, was first elected to the RIMS executive council in 1987.

Lucille A. Gallagher, vp-risk management for Monfort Inc. and the red meat companies division of ConAgra Inc., succeeds Mr. Bridger as first vp, the traditional stepping stone to the RIMS presidency. Ms. Gallagher, who most recently was vp-governmental affairs, was first elected to the executive council in 1990.

Five other members of the executive council were re-elected for 1993-94:

- Louis J. Drapeau, vp-conference. Mr. Drapeau, manager of insurance and risk management for The Budd Co. in Troy, Mich., most recently was vp-business and industry liaison. He was elected to the executive council in 1991.

- Frieda L. Jackson, vp-education and research. Ms. Jackson, who is president/risk manager of Park South Associates Inc. in Charlotte, N.C., had been vp-education. She joined the executive council in 1992.

- Marge P. Layne, vp-membership and chapter services/secretary. Ms. Layne, corporate risk manager for Core-Mark International in South San Francisco, Calif., retains the office she held in 1992-93. She was first elected to the executive council in 1988 and re-elected in 1991.

- David R. Haight, vp-environmental. Mr. Haight, director of risk management for CF Industries Inc. in Long Grove, Ill., had been vp-research. He was elected to the executive council in 1991.

- Gerald J. Ciardelli, vp-finance/treasurer. Mr. Ciardelli, corporate risk manager for Jostens Inc. in Minneapolis, is serving in the same position for the second straight year. He was elected to the executive council in 1990.

Three risk managers were elected to the executive council for the first time this year:

- Stephen M. Wilder, vp-safety and health. Mr. Wilder is assistant treasurer-risk management for The Walt Disney Co. in Burbank, Calif.

- Jay B. Waters, vp-government and public affairs. Mr. Waters is director of risk management for Forest City Enterprises Inc. in Cleveland.

- William J. Kelly, vp-interna-

who 'specialize' in workers compensation," Mr. MacMeekin said.

Among the results: Only 13% of injured employees seek legal representation, compared with 65% before the program was implemented. And, workers comp costs, including reserve contributions, have been reduced by \$600,000—or about 35% of the company's \$1.5 million program. Medical bill review has reduced costs by about \$75,000 per year.

Steve White, senior vp of workers compensation services for Blue Cross of California in Woodland Hills, Calif., also spoke during the session. Mr. Lommele served as coordinator and Mr. MacMeekin as moderator. **BI**

tional. Mr. Kelly is senior vp of J.P. Morgan & Co. in New York. **BI**

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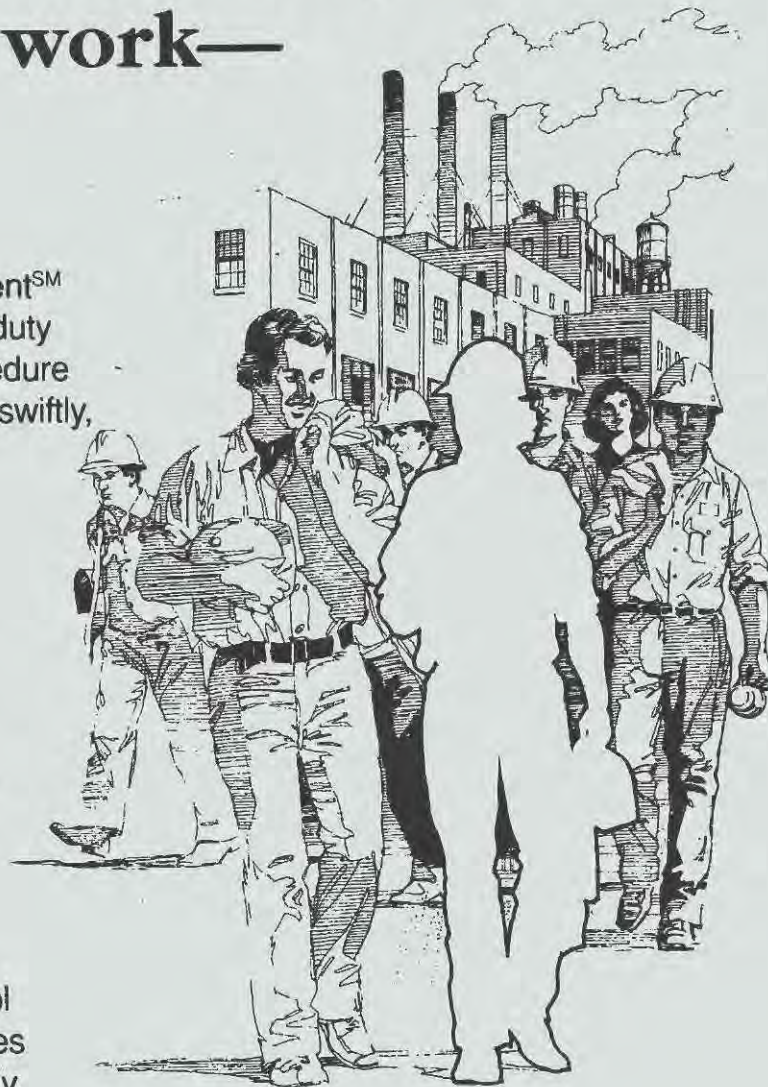
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P. Richard Hackenburg receives Goodell Award

ORLANDO—P. Richard Hackenburg, a former Risk & Insurance Management Society Inc. president, has now won RIMS's top honor: the Dorothy and Harry Goodell Award.

The award recognizes outstanding achievement in furthering the goals of risk management and RIMS.

Mr. Hackenburg, currently chairman of risk management services for broker Willis Corroon Corp. in Nashville, Tenn., was elected to the RIMS executive council in 1980 and was elected president of the society in 1985. Mr. Hackenburg also served as vp-research, vp-education, vp-conference and first vp.

Before joining Willis Corroon in 1987, Mr. Hackenburg spent 13 years with Allegheny International Inc., rising to assistant treasurer/staff vp. He also worked in the insurance department of Westinghouse Electric Corp. from 1967-1974.

"Throughout his career, from the time he was a risk manager until now in his position with Willis Corroon, Dick has been an outstanding spokesman and representative for what risk management is all about," said Robert Esenberg, risk manager for the city of Virginia Beach, Va., and chairman of the Goodell Award Committee.

Mr. Hackenburg is a frequent speaker on risk management and insurance topics. He testified on behalf of RIMS before numerous legislative and regulatory hearings. And, during his year as RIMS president, he formulated the RIMS Risk Management Roundtable.

Accepting the award at last month's RIMS conference, he said, "to be recognized by your peer group is the greatest honor."

He credited his accomplishments in risk management to many others, saying, "I was fortunate to be a member of the team... To be a member of the team—that's what it is all about."

He also noted in his remarks a "member of the team" who "has been taken from us," referring to Thomas V. Hallett, senior vp of Alexander & Alexander Inc. and former risk manager for General Motors Corp., who died in March (BI, March 29). Mr. Hackenburg donated the \$1,000 stipend that accompanies the Goodell Award to the Spencer Educational Foundation Inc. in Mr. Hallett's name.

In addition to the Goodell Award, others honored by RIMS include:

- Richard C. Keady, senior insurance representative with Shell Oil Co. in Houston, who won the Richard W. Bland Memorial Award, which recognizes outstanding efforts by a risk manager in the area of legislation and regulation.

Mr. Keady, among other things, promoted legislation passed in Texas that allows employers to self-insure their workers comp risks.

- Thomas B. Lowe, insurance manager at Paccar Leasing Corp. in Bellevue, Wash., who won the Crispy Award, which is presented annually to the risk manager with the highest average on the three examinations leading to the Associate in Risk Management designation.

For the first time this year, RIMS recognized outstanding achievements by individual RIMS chapters through its Chapter Recognition Program (BI, April 19).

Five chapters were honored in five different categories:

- The Santa Clara Valley Chapter and the Houston Chapter were given awards for chapter programming, which recognizes chapters that provide members with programs and events of exceptional quality.

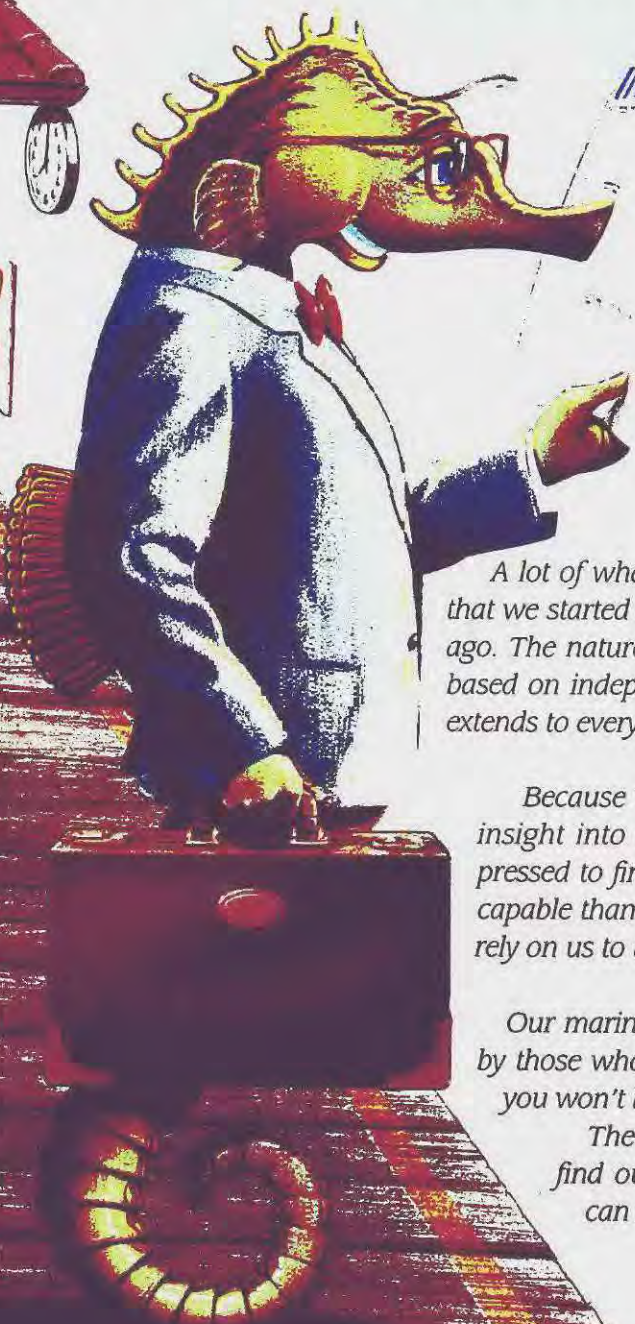
- The Oregon Chapter and the Houston Chapter received awards for outstanding member services.

- The Rocky Mountain Chapter received the membership development award, presented to chapters that have demonstrated creativity and success in recruiting new members and retaining old ones.

- The Oregon Chapter and the Atlanta Chapter received awards for advancing risk management through education, research and legislative advocacy.

- The Oregon Chapter and the Atlanta Chapter received the award for overall chapter excellence. **BI**

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Central focus furthers risk management

By SARA MARLEY

ORLANDO—Breaking up is hard to do, but when it comes to consolidating a risk management department, getting together can be just as tough.

Despite the difficulties, however, consolidating risk management into a single function is the best way to serve operating units cost-effectively and to ensure professional visibility and survival, speakers agreed at the 1993 Risk & Insurance Management Society Inc. conference in Orlando last month.

"We can talk about protecting assets and protecting employees, but ultimately risk managers have to save money," said Michael M. Kaddatz, a principal with Advanced Risk Management Techniques in Laguna Hills, Calif. "That's what gets top management's attention."

"Are (risk managers) looked at as affecting the bottom line?" asked Norman L. Cocanour, senior vp-underwriting of Aegis Insurance Services Inc. in Jersey City, N.J. "Or are they looked at as an expense?"

Risk management has "to be part of all operations," said David Carboneau, vp-corporate services for Portland General Electric Co. in Portland, Ore., who oversees a consolidated risk management department. "We have to have a constant presence in the field. They need to know us and we need to know their business. Risk management can't be a backroom operation."

Portland General began consolidating three years ago, Mr. Carboneau said. Now, risk analysis, insurance purchasing, claims handling, fire protection, safety, workers compensation and security are handled by a single department.

While risk managers are taking on more professional risk by consolidating, other managers also become responsible for the total loss and insurance costs of their units.

"Risk management is an attitude we are trying to instill in managers as they assume responsibility for managing assets and people," Mr. Carboneau said.

Another reason for centralization is that decentralized departments make it difficult to determine an organization's overall cost of risk, said Mr. Kaddatz.

For example, if risk management is responsible for premiums and another department is responsible for adjusting claims, increases in retentions will show up as gains for risk management but increased losses for claims adjustment.

Consolidation takes cooperation, a commitment from the highest level, broad company-wide support and, above all, patience, Mr. Kaddatz said.

In return for the company's commitment and support, Mr. Kaddatz said, "Promise accountability where none exists."

Clear performance measures must be set for each risk management area, for example: number of inspections, recommendation compliances and OSHA violations for loss control; number of files closed and files per adjuster for claims administrators; number of litigated cases and files per attorney for the

legal department; and changes in premium for insurance personnel.

Once a department has been consolidated, risk managers and their bosses must give it time to work, Mr. Kaddatz added. Success is best measured over at least 10 years.

Too much pressure has been placed on risk managers to produce short-term results, Mr. Co-

canour agreed. That pressure has led to "micromanagement of premiums," which focuses attention on obtaining the lowest price available rather than building the best risk management program for the long run.

After consolidating a risk management program, a company must then choose the area to which the risk manager will report. The most common area—

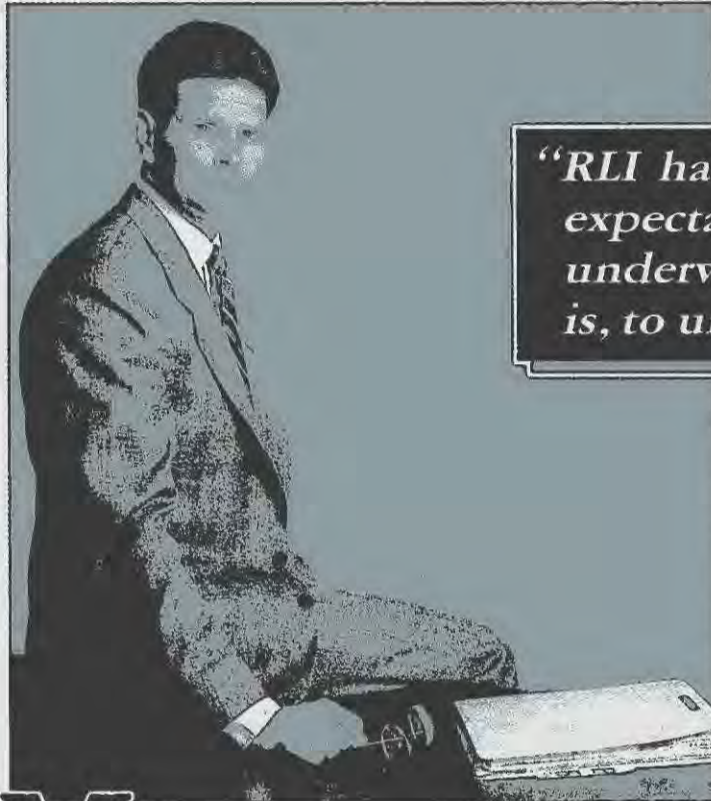
under the chief financial officer—is also the best, Mr. Cocanour said. The legal department's restrictive atmosphere is the worst place for risk management, he added.

Prior to risk management centralization at Portland General, the function was viewed as "intrusive." Now other managers seek out the department, Mr. Carboneau said.

And, other managers have come to the aid of risk management.

During a difficult renewal for the utility's transmission and distribution coverage recently, other managers helped prepare and present loss prevention information to underwriters, Mr. Carboneau said. Their help ultimately led to a favorable renewal, he said.

Mr. Carboneau coordinated the session, which was moderated by Susan Clark, Portland General's risk manager. **B**



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World Trade Center lessons

Executives learn critical nature of contingency plans

By SARA MARLEY

ORLANDO—A consolidated risk management program helped the Port Authority of New York & New Jersey get the World Trade Center operating again after the explosion earlier this year.

"I got an answer to the question 'Does my risk management operation work?' It did work," says John E. Davison, assistant director-treasury and general manager-risk management for the authority, which owns the World Trade Center.



Mr. Davison addressed senior executives who supervise risk managers as part of the Executive Track—one day of sessions specially geared toward supervisors—at the 1993 Risk & Insurance Management Society Inc. conference last month in Orlando.

Tenants began returning to the twin towers just 16 days after a bomb exploded in an underground parking garage, causing \$510 million in insured property damage (BI, April 5; March 8).

"You can have a written disaster or contingency plan, but you don't pull it out when something happens," Mr. Davison said.

Instead, members of the risk

management department knew what to do. And they also knew what their co-workers were doing, which avoided turf wars, he explained.

Safety, engineering, medical and environmental teams worked together, Mr. Davison said.

"We needed to pull together pieces of risk management into one central location," Mr. Davison said. "Risk management is not a natural singular function. It's a concept."

Despite its importance, convincing top management to invest in contingency planning can be difficult, said William J. Kelly, senior vp of J.P. Morgan.

"Contingency planning is a very tough sell," he noted. "It involves the significant expenditure of funds, which do not translate into revenue, for the purpose of creating a plan, which must be continuously updated, and which everyone hopes will never be used."

The risk manager does have some leverage, however. "The quality of a unit's plan will directly affect the cost and availability of consequential loss coverage. Insurance will actually pay for much of the cost of carrying out the plan," he said.

Contingency planning is a natural lead-in to crisis management.

The risk manager should identify the critical businesses and their interdependencies, he said. Both a small, high-level crisis team and a larger liaison team should be formed in advance of an emergency.

"A large organization does not have one plan but hundreds of contingency plans," Mr. Kelly said. Those plans form an infrastructure that must be managed, especially in large disasters when there may not be resources to activate all contingency plans.

"If a crisis occurs, internal and external communication must be managed and resources may not be sufficient for all affected areas to implement their plans. Decisions about prioritization have to be made," Mr. Kelly observed.

Other executive track speakers addressed the strategic function of risk management and its contribution to an organization, creative funding of risk and risk management as viewed by corporate officers.

The other speakers included David E. Bell, professor of business administration at Harvard University; Carolyn Simpson, vp and director of insurance and risk management at Merrill Lynch & Co. Inc.; Stephen M. Wilder, assistant treasurer-risk management at The Walt Disney Co.; and G. Roger Greiner, president of Genesis Underwriting Management.

Rounding out the list of speakers were James A. Kellogg, executive vp of Old Republic Risk Management Inc.; William J. Loschert, executive vp-underwriting at ACE Ltd.; Douglas Hoffman, managing director of Bankers Trust Co.; Judith M. Tornese, vp-risk management for Transamerica Corp. and Peter Warzel, president and chief operating officer of United Artists Theater Circuit Inc.

Ron Stasch, manager-risk management services for Federal-Mogul Corp. was facilitator for the Executive Track. **BI**

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A roundup of RIMS sessions from OSHA to 24-hour cover

ORLANDO—The annual Risk & Insurance Management Society Inc. conference is an opportunity for risk managers to hear expert perspectives on a variety of pressing issues, learn solutions for problems, and exchange ideas with their peers.



Following are summaries of several sessions at the 1993 conference:

Crisis management

Every company should have a crisis contingency plan to handle adverse publicity, a panel agrees.

A company should identify any possible situation that could cause adverse publicity and determine the best way to handle the situation, they say. And, when dealing with the media, the company should announce the bad news fast and get it over with, they advise.

The speakers were: Ray Hodges, senior vp-corporate risk management, and David Olson, vp-corporate communications, both of National Medical Enterprises Inc. in Santa Monica, Calif. Mr. Hodges moderated the session.

Corbette S. Doyle, senior vp of Willis Corroon Advanced Risk Management Services in Nashville, Tenn., was a speaker and coordinated the session.

OSHA regulations

Risk managers should not be shy about using the Occupational Health and Safety Administration as a resource for controlling workplace accidents and illnesses, a panel of experts agrees.

Many OSHA regulations and enforcement actions are aimed at areas that can help reduce employers' workers comp costs, according to session moderator Robert H. Siepka, director of risk management at CC Industries Inc. in Chicago.

While some OSHA regulations are "nitpicking," OSHA's efforts don't deserve the widespread condemnation they receive, said Gerard F. Scannell, vp-corporate safety affairs at Johnson & Johnson in New Brunswick, N.J., and a former OSHA director.

Also speaking was George B. Gibson, regional manager with National Loss Control Service Corp. in Long Grove, Ill. Mr. Gibson coordinated the discussion.

Workers comp financing

Large deductible plans are one of the newest ways risk managers have found to control workers compensation insurance costs, a risk manager says.

Large deductible plans generally allow policyholders to pay premiums in installments as with any other coverage. The insurer pays losses and at the end of the policy period bills the policyholder for the deductible amount and expenses related to losses.

A big advantage of such a plan is that the lower premium generates lower residual market charges assessed to insurers, who pass them on to insurance buyers, says Lynn A. Gaughan, director of risk management at Reebok International Ltd. in Stoughton, Mass.

Raymond J. Abromitis Jr., risk manager-North American operations at Whirlpool Corp. in Benton Harbor, Mich., discussed the increasing number of risk managers self-insuring workers comp risks.

The discussion moderator was Douglas S. Kasten, assistant treasurer-corporate risk management at Northern Telecom Ltd. in Missis-

sauga, Ontario. The coordinator was Catherine D. Bennett, assistant vp at Johnson & Higgins of Tennessee Inc. in Nashville.

Ergonomics

Designing workplaces to better suit employees' physical needs can slash workers compensation costs, experts say.

Packaging Coordinators Inc. of Pennsauken, N.J., managed to reduce its workers comp costs to \$939,000 from \$1.7 million in one year by making machines fit their operators, said Barbara Wittenberg, director of human resources.

Innovative redesigns of equipment or workstations can also increase efficiency by making tasks easier to

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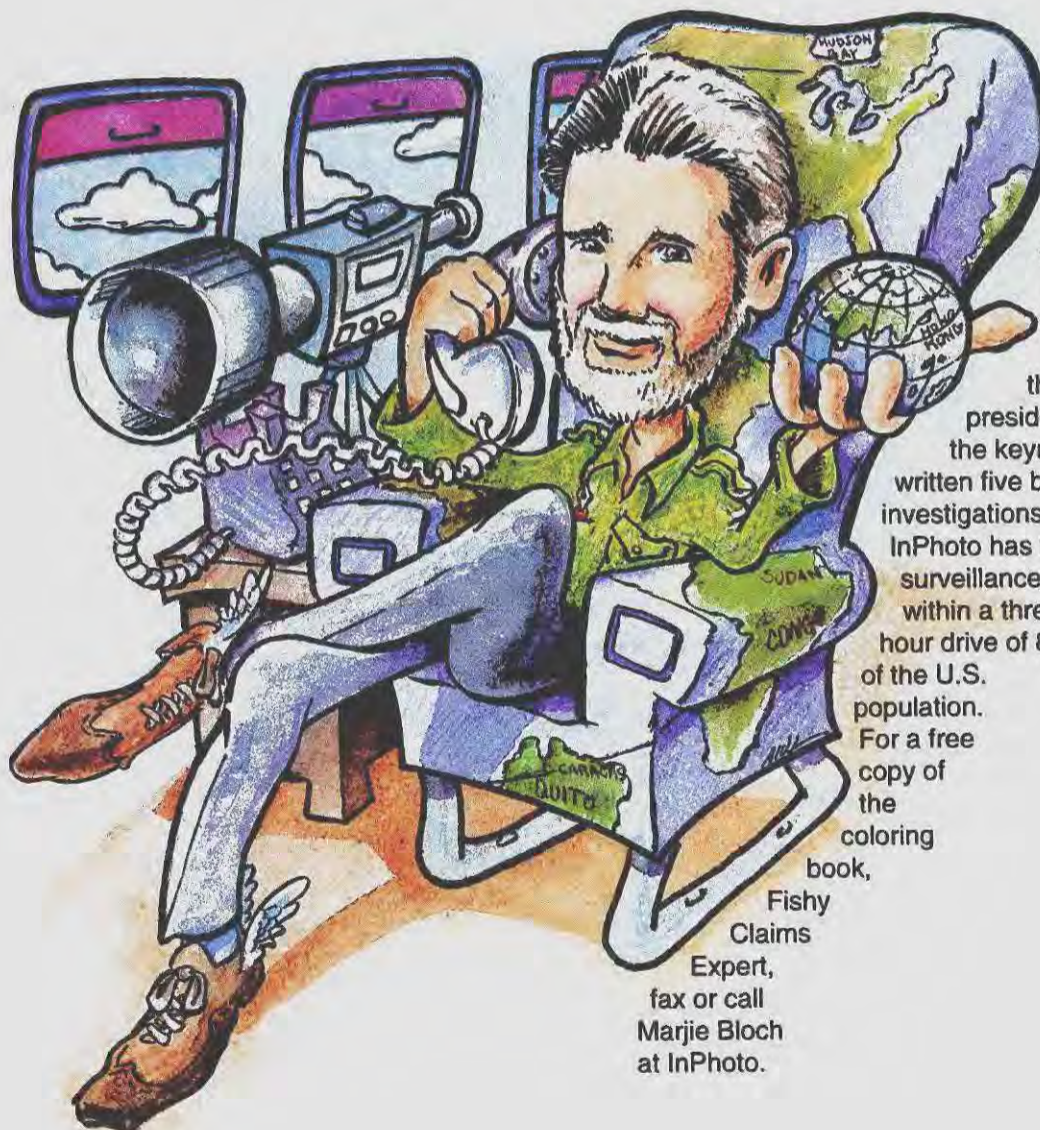
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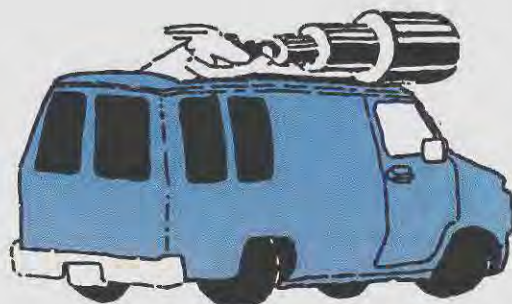
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RIMS sessions

Continued from previous page perform, said Shirley M. Zmlauski, an engineering specialist at Traver Cos. in Hamden, Conn.

The session was coordinated and moderated by Cheryl A. Bravo, assistant risk manager at MEDIQ Inc. in Pennsauken.

Alternative markets

Using alternative insurance and reinsurance markets can create win-win insurance programs that lower premiums and expand coverage.

And access to alternative markets is not limited to large corporations. For example, small towns in some states can form insurance pools to improve their coverage, observed Kevin J. Christel, director of insurance and risk management at Primerica Corp. in New York.

Alternative markets also provide a happy medium between self-insurance and traditional insurance, said M. Michael Zuckerman, a vp in the commercial lines division of Willis Corroon Corp. of Pennsylvania in Radnor, Pa.

Mr. Christel was moderator, and Carla D. Shenkman, a vp at North American Reinsurance Corp. in New York, was coordinator.

Canadian liability

Doing business in Canada is not as safe as it used to be.

Recent court rulings have increased corporations' liabilities, especially related to directors and officers, said Carla A. Noer, assistant vp and special counsel at Chubb & Son Inc. in Warren, N.J.

"Directors are concerned about the dangers, and some of them are resigning and running away from the board," she said.

Recent pollution legislation could also start a flood of litigation in Canada, contends Robert Patzelt, group corporate counsel and risk manager at Scotia Investments Ltd. in Bedford, Nova Scotia. "It was once commented that we were hewers of wood and drawers of water. New environmental legislation has made it increasingly difficult to hew and draw."

The session was moderated by J. Douglas Haughton, manager of general credit and insurance at Westinghouse Canada Inc. in Hamilton, Ontario. It was coordinated by Wheldon Wheeler, manager of corporate insurance at Royal Trust Co. Ltd. in Toronto.

24-hour coverage options

Although few U.S. domiciles explicitly permit employers to insure group health coverage in a captive insurer, companies may find the climate ripe in other domiciles for 24-hour coverage experiments, a consultant says.

Hawaii law permits captives to write workers compensation coverage for their parents and also "disability insurance and accident and sickness insurance," which has been interpreted to mean captives can write group health coverage, said Paul W. Pinckney, vp at Tillinghast in Irvine, Calif.

Vermont recently passed legislation—now awaiting the governor's signature—that would allow captives to directly write group health and group term life coverages. However, Vermont regulators say that they will initially only allow captives to write group term life coverages. Vermont allows workers comp risks to be reinsured or written on an excess basis.

Another U.S. captive domicile—the U.S. Virgin Islands—allows captives to directly insure group health coverage but does not permit them to write workers comp coverage, Mr. Pinckney noted.

Dean A. Reynolds, director of risk

management at Nissan North America Co. in Torrance, Calif., and P. Bruce Wright, an attorney with LeBoeuf, Lamb, Leiby & MacRae in New York, also spoke. The session was coordinated by Mr. Pinckney and moderated by Mr. Reynolds.

Stress claims

An employer's best defense against a workers comp stress claim is proving that a pre-existing factor or disorder caused the employee's disability, a risk manager says.

"I want to know how much of a person's disability is attributable to pre-existing conditions because I'm perfectly willing to compensate someone if their problem is truly work-related," said Lori Jorgensen, risk manager with McCaw Cellular Communications Inc. in Kirkland, Wash. "But at the same time, I want the phonies out of the system."

Ms. Jorgensen moderated the session on job stress claims. Also

speaking was Cassie Mebes, a vp with Alexsis Risk Management Services in West Covina, Calif., who said "there is no end to the imagination of some employees" who file stress claims under state workers comp laws.

Dr. Peter Brill, chief executive officer with Integra Inc. in Radnor, Pa., said the number of workplace stress claims are on the rise as employees grow more disenchanted with their employers.

California Assemblyman Dick Mountjoy, D-Arcadia, added his views about the California workers comp system during the session, which was coordinated by W. Lee Carter, director of research and development with Alexander & Alexander of Texas Inc. in Dallas.

Regulatory issues

A national guaranty fund would give more security against insurer insolvencies and would eliminate

inequities among state guaranty fund associations, a risk manager asserts.

Claiming that a nationwide guaranty fund would improve the state systems that currently punish the best and strongest insurers, Kathleen G. Walters, director of risk and insurance with Temple University in Philadelphia, advocated a national fund for bailing out failed insurers.

Paul Brown, director of governmental and public affairs with RIMS in New York, also spoke, saying he and RIMS will continue to support product liability reform, provided that any proposed bill calls for the elimination of joint and several liability on non-economic damages against manufacturers.

Paul Sprague, insurance director of Ciba-Geigy Corp. in Ardsley, N.Y., said workers comp costs are crippling American businesses, and all employers should try to get reform passed in their states.

The session was coordinated and moderated by Ms. Walters.

Lloyd's new plan

Lloyd's of London's new business plan is needed because the market must be run like a business if it is to return to profitability, says the deputy chairman of Lloyd's.

The business plan is also necessary because "Lloyd's has made absolutely catastrophic losses recently," observed Robert Hiscox, chairman of Lloyd's underwriting agency Roberts & Hiscox Ltd.

He reviewed key points in the business plan the day it was released in London (*BI*, May 3). These include the creation of a runoff company to assume pre-1986 liabilities and the introduction of corporate capital.

The plan has a good vision and the people in the Market Board have the conviction to implement it, said

Continued on next page

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CONFERENCE AGENDA

SUNDAY, MAY 16

6:00 – EARLY REGISTRATION & COCKTAIL RECEPTION
7:30 p.m. Hosted by *The Upjohn Company*

MONDAY, MAY 17

- 7:45 a.m. *Continental Breakfast & Registration*
- 9:00 a.m. OPENING REMARKS BY CONFERENCE CO-CHAIR
Kathryn J. McIntyre
Publisher & Editorial Director
Business Insurance
- 9:15 a.m. NEW INITIATIVES IN MANAGED CARE
Panel Moderator:
James M. Burcke, Editor
Business Insurance
Joseph W. Duva, Chairman and CEO
Preferred Solutions Inc.
Larry Goelman, President and CEO
Cost Care, Inc.
Harry Neer, Vice Chairman
USA Healthnet, Inc.
- 10:30 a.m. MID-MORNING REFRESHMENTS
& TABLE-TOP EXHIBITS
Hosted by Clinical Pharmacy Advantage
- 11:00 a.m. MULTI-EMPLOYER COALITIONS:
A GRASSROOTS APPROACH
J. Bryan Bushick, M.D., Consultant
Towers Perrin
Lawrence J. Frye, President
Iameter, Inc.
Dee Kemnitz, Vice President, Employee Benefits
Carlson Companies, Inc.
- 12:15 p.m. LUNCHEON FOR SPEAKERS AND ATTENDEES
Hosted by John Hancock Financial Services
- 1:00 p.m. KEYNOTE LUNCHEON SPEAKER
Sean Sullivan, President & CEO
National Business Coalition Forum on Health
- 1:45 p.m. *Break*
- 2:00 p.m. *Concurrent Session A:*
STRUCTURING AND MANAGING
AN ON-SITE MEDICAL FACILITY
Panel Moderator:
Kathryn J. McIntyre
Publisher & Editorial Director
Business Insurance
Jerry Appelbaum, M.D., Corporate Medical Director
The Gates Clinic, Inc.
Deborah T. Carroll, Director of Benefits
Barnett Banks, Inc.

Continued from previous page
Michael Butt, director of Phoenix Securities Ltd. in London and future vice-chairman of Mid Ocean Reinsurance Co. "The change of style is dramatic for the Lloyd's community."

Also speaking was Alan Levin, director of insurance rating services for Standard & Poor's Corp. in New York.

Workplace violence

As violence in the workplace becomes more common, risk managers and personnel directors must develop specific policies to help prevent it and deal with its aftermath.

It is critical to "address threats and violent behavior" from employees, said Julianne Stanton, staff occupational health consultant and training specialist for Kemper National Insurance Cos. in Long Grove, Ill.

Employers "should have proce-

dures and codes of conduct in place for people to report" such violent incidents, she said.

Companies' facilities should be designed to prevent violent incidents, said Warren Miller, a casualty loss control specialist with Kemper in Dewitt, N.Y., who coordinated the session. "Crime prevention through environmental design" is crucial, he said, noting that risk managers can control risk by controlling access and increasing surveillance.

Chris Guarrero, director of security for Pizza Hut Inc. in Wichita, Kan., and Frank Sup, director of risk management for Pizza Hut, also spoke. Mr. Sup served as moderator.

'Internal' customers

Risk managers can better manage their internal "customers" by using the power of persuasion.

"Risk managers should convince their internal customers that their

sensitivity to risk management concerns will help them accomplish their own goals," says Dave Eaton, risk manager for Bandag Inc. of Muscatine, Iowa.

In addition, brokers can help manage a company's internal customers by knowing the company's business, by listening to the company, and by being creative and innovative to help find practical solutions, said Larry Johnson, vp for Alexander & Alexander Inc.

John Axel, senior vp for HON Industries Inc. in Muscatine, Iowa, also spoke. Stan Johnson, risk manager for HON Industries, coordinated and moderated the session.

Disaster recovery

Employers should develop a disaster recovery plan so critical functions are resumed as smoothly and as quickly as possible in a crisis.

Among other things, one high-ranking senior management repre-

sentative needs to be in charge to provide focused direction during disaster recovery efforts, recommends Don Herbstman, vp-safety and risk management for Burger King Corp. in Miami. In addition, clear roles and responsibilities must be assigned for portions of the recovery effort, he said.

Scott B. Clark, insurance supervisor for Dade County School Board in Miami, gave a case study of how the school board coped after Hurricane Andrew.

Ron Forte, vp-corporate risk management for the American Bankers Insurance Group in Miami, described how the insurer coped with Hurricane Andrew from the perspective of an insurer and a policyholder.

Susan H. Weiner, assistant superintendent-risk management for Dade County School Board, moderated the session. Mr. Clark was the session's coordinator. **B**

Spencer fund the winner in hockey game

ORLANDO—The U.S. contingent of the RIMS Hockey All-Stars showed up in this Central Florida hockey oasis last month armed and ready for a friendly battle with their Canadian counterparts.



Team Canada arrived ready to skate but was woefully outnumbered by the U.S. squad.

Employing three forward lines and two pairs of defensemen, Team USA poured in eight third-period goals to beat the seven-man Canadian team 15-11 on April 28.

The victory, Team USA's third in a row in the ongoing series, will keep the Golden Skate Trophy in the United States for at least another year.

Although Team USA finished strongly to post the win at the Rock on Ice Arena in Orlando, Team Canada, bolstered by excellent goaltending from veteran Steve Patenaude, controlled much of the play for two periods.

Mr. Patenaude, a senior account executive with Arkwright Mutual Insurance Co. in Montreal, came up with several brilliant saves throughout the game, and Karl Burns, an Ontario-born account representative with Zurich-American Insurance Co. in Chicago, had points on nine of his team's 11 goals. Ron Williams, risk manager with CSF Foods Inc. in Saskatoon, Saskatchewan, also had a solid game for Canada, tallying four goals and three assists.

Meanwhile, Team USA was paced by Bob Nusslein, an account executive with Arkwright in San Mateo, Calif. The defenseman scored five goals and assisted on a second-period power play goal by Team USA Captain Peter King, a vp with Marsh & McLennan in Philadelphia. Jim Wixtead, an assistant vp with General Reinsurance Corp. in Hartford, Conn., and Mike White, a vp with The Holborn Agency Corp. in New York, both helped the U.S. squad with multipoint performances.

Frank Lerczak, an Orlando entrepreneur, covered the net for Team USA.

"If it's true that the sign of a good team is winning ugly, then we were awfully good," said Mr. King, noting the game should raise about \$2,000 for the Robert Spencer Memorial Scholarship Fund.

Team Canada 4 5 2—11
Team USA 4 3 8—15

First Period—1, USA, Bill Baker, (unassisted), 2:46. 2, USA, Mike White (John Vlachos), 4:27. 3, Canada, Ron Williams (Georges Balcer), 5:16. 4, Canada, Dan Vujacic (Karl Burns), 6:01. 5, Canada, Burns (Williams, Brad Campbell), 8:18. 6, USA, Bob Nusslein (White), 14:01. 7, USA, Jim Wixtead (White, Vlachos), 14:26. 8, Canada, Burns (Bill Vanderwood, Williams), 15:57.

Second Period—9, Canada, Burns (unassisted), 3:16 (sh). 10, USA, Peter King (Pete Bostwick, Nusslein), 3:34 (pp). 11, Canada, Burns (Vanderwood, Campbell), 4:54. 12, Canada, Campbell (Balcer), 7:47. 13, Canada, Williams (Burns), 8:04. 14, Canada, Williams (Burns), 10:59. 15, USA, White (Wixtead), 12:20. 16, USA, Nusslein (White, Vlachos), 16:25.

Third Period—17, USA, Nusslein (White), 2:20. 18, USA, Nusslein (Bostwick, King), 19. Canada, Williams (Burns, Balcer), 7:20. 20, USA, Baker (King, Nusslein), 8:50. 21, USA, Wixtead (Vlachos), 12:00. 22, USA, Wixtead (Vlachos, Baker), 14:10. 23, USA, Nusslein (Sandy McMullan, Nick Steffey), 16:14. 24, USA, Vlachos (White, Wixtead), 16:34. 25, Canada, Burns (Williams), 17:05. 26, USA, Bostwick (Rick Curran, King), 17:58.

Series: USA leads 3-2-1

—By Michael Schachner

Concurrent Session B: HOW TO ENROLL RETIREES IN MANAGED CARE PLANS

William J. Boyle, Director, Benefits and HRIS
Western Union

Marcia Inch, Principal
William M. Mercer, Inc.

Charles A. Newman
Program Manager, Health Care Management
GE Power Systems

3:15 p.m. MID-AFTERNOON REFRESHMENTS & TABLE-TOP EXHIBITS

Hosted by *Clinical Pharmacy Advantage*

3:45 p.m. WORKERS COMPENSATION: INTEGRATING MANAGED CARE TO CONTROL WORKERS COMPENSATION COSTS

Edwin E. Freedman
Managing Director, AlexComp Consulting Plus
The Alexander Consulting Group Inc.

Bill Murphy, Director of Risk Management
Sky Chefs

Robert L. Buckley
Manager of Special Investigations
Kemper Risk Management Services

5:00 p.m. COCKTAIL RECEPTION

Hosted by *USA Healthnet, Inc.*

TUESDAY, MAY 18

7:45 a.m. Continental Breakfast & Table-Top Exhibits

9:00 a.m. REMARKS FROM THE CHAIR

9:15 a.m. KEYNOTE ADDRESS

John Polk, Executive Director
Council of Smaller Enterprises

9:45 a.m. HEALTH CARE REFORM: WHAT ARE THE OPTIONS?

Panel Moderator:
Jerry Geisel, Editor-at-Large
Business Insurance

Ellen Goldstein, Director of Health Care Policy and Communications
Association of Private Pension & Welfare Plans

Doug Leland, Vice President
Intracorp

Thomas R. Reardon, M.D.
Member, Board of Trustees
American Medical Association

Michael A. Zarcone, Government Relations Counsel
MetLife Insurance Co.

11:00 a.m. Mid-Morning Refreshments & Table-Top Exhibits

11:30 a.m. RECEIVING THE MOST VALUE FROM YOUR PHARMACEUTICAL BENEFIT PLAN

James W. Heenan, Director, Corporate Account Sales
The Upjohn Company

Jim Miller, Vice President - Marketing
PreferredOne

Norrie Thomas, President & COO
Clinical Pharmacy Advantage

12:30 p.m. LUNCHEON FOR SPEAKERS AND ATTENDEES

Hosted by *The Alexander Consulting Group Inc.*

1:15 p.m. KEYNOTE LUNCHEON SPEAKER

The Honorable Robert G. Torricelli
House of Representatives, New Jersey, Democrat

1:45 p.m. Break

2:00 p.m. CASE STUDIES OF SELECTED WINNERS FROM THE BUSINESS INSURANCE EMPLOYEE BENEFITS COMMUNICATION AWARDS

Concurrent Session A:
Charlotte Jerace, Manager
KPMG Peat Marwick

Concurrent Session B:
Richard D. Quinn, III
Director, Corporate Benefits Planning
Public Service Electric & Gas Co.

Lee Saviola
District Manager, Managed Care Administration & Employee Education
AT&T

Pamela G. Stout
Communications Team Leader - New York Region
The Wyatt Company

Concurrent Session C:
Vicki Dungan, Principal
Dungan Communications Resources

Lorna Mackey, Manager, Benefits Communication
PepsiCo Inc.

3:15 p.m. Mid-Afternoon Refreshments

3:30 p.m. SHOULD THE PRIVATE SECTOR ADOPT RESOURCE-BASED RELATIVE VALUE SCALE (RBRVS) PHYSICIAN FEE SCHEDULES?

Panel Moderator:
Christine Woolsey, Associate Editor
Business Insurance

Zachary Dyckman, Ph.D., Executive Vice President
Center for Health Policy Studies

Thomas R. Reardon, M.D.
Member, Board of Trustees
American Medical Association

4:30 p.m. CONFERENCE ADJOURNS

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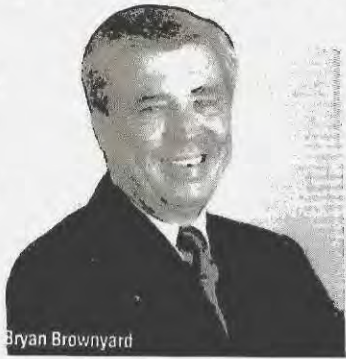
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Special events

Continued from page 3
buffet-size cup. And shortening the period you sell liquor also stops a lot of problems... a liquor-related accident is where you can get stung the hardest."

Managing the risk of a special event even continues after the event has concluded, said Mr. Mair.

"Getting people out quickly and safely is very important. After that, you can review the entire venue including doors, halls and bathrooms. You can probably check all this in the time it takes the parking lot to clear. And if you videotape it, you can learn for the next time and have some proof of the shape you're leaving the building in, in case you need it later," he said.

Mr. Hidden said it is a mistake to ignore this crucial phase of special event risk management. "You may be tempted to say who cares?

But you may have to bill a promoter for damage, or defend yourself against a claim. Your post-event inspection is very important in these types of cases."

He also stressed the importance of dating and signing all documents and check lists. "Without a date and signature, an order form or contract can become a liability in court."

Mr. Mair moderated and coordinated the session. **BI**

BI opinion poll

Continued from page 3
could choose up to three lines in which they predicted steep rate hikes.

Sixty-nine percent of those polled expect risk managers to increase self-insured retentions once the market turns, while 22% expect that new captives will be formed. Five percent believe that companies will buy finite risk insurance if the price of traditional coverage rise, while 3% checked an answer on the multiple-choice survey that said: "Risk managers will resign from their jobs." One percent gave some other response.

More seriously, many risk managers are not likely to resign from their jobs soon because they don't see a bullish employment market in the insurance industry and the risk and employee benefit management profession over the next year.

Fifty-eight percent of those polled said the insurance/risk and benefit management job markets—which have been the scene of layoffs for the past two years—will not change, while 23% believe the job market will become even worse. Only 19% think employment opportunities will brighten in the next year.

Risk managers may be boning up on employee benefits because that's where they see the greatest employment opportunities. Twenty-five percent of the respondents said the best job opportunities will be in employee benefit management, while 23% selected risk management. Sixteen percent said the best opportunities would be in consulting, 12% said claims, 8% said brokerage and 5% said insurance and reinsurance underwriting. Eleven percent gave some other response.

While those at RIMS think the job market is slightly deteriorating, they see much bigger problems in the workers compensation market. Fifty-four percent of those answering the survey said the workers compensation climate in the state in which their company had the most employees had deteriorated in the past year. Twenty-nine percent said the workers comp market stabilized in their primary state of business, while only 13% said it improved. Four percent did not answer the question.

There is one bright spot on the workers compensation map: Texas. Thirteen respondents noted that the workers comp climate in Texas has improved over the past year with the implementation of reform legislation, while another six said it has stabilized and only five said it deteriorated.

However, survey results confirm that deep workers compensation problems exist in California. Forty respondents said conditions in the California workers comp system had deteriorated in the past year, while only six said they had stabilized and none said they had improved.

Other states where a significant number of RIMS attendees see a deteriorating workers comp climate include Florida, New Jersey, New York and Pennsylvania. No state other than Texas was seen as an improving workers comp market.

Editorial Assistant Kerry Dziubek contributed to this story.

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INTERNATIONAL

Sturge to close eight Lloyd's syndicates

By ALINE SULLIVAN

LONDON—Sturge Holdings P.L.C., Lloyd's of London's largest underwriting agency, is closing eight of its 22 managed syndicates and three of its five managing agencies by the end of the year.

The move is part of an effort to shed unprofitable business and streamline Sturge's operations to attract new capital, said Terry Hayday, chief executive of Sturge's insurance division.

Sturge Holdings is headed by David Coleridge, the former chairman of Lloyd's.

The eight syndicates slated to close and go into runoff include non-marine syndicates 209, led by underwriter K.W. Hopwood; 210, a major U.S. property insurer, underwritten by Alan Lee; 212, led by underwriter Richard McCarthy; and 782, underwritten by P.N. Slade.

Marine syndicates to be closed include 203, underwritten by Simon C. Wilmot-Smith; 206, underwritten by Brian G. Adams; and 428, underwritten by Dick Wyatt.

Aviation syndicate 950, which is underwritten by John Nevitt, also will be closed.

Messrs. Nevitt, Lee, Wilmot-Smith, Adams and Wyatt will lose their jobs in the reorganization. The underwriters of the other syndicates will manage their runoffs.

Although syndicate 209 will cease trading, part of its operations will be merged into Sturge's new marine syndicate 978, to be underwritten by Mr. Hopwood, leaving Sturge with 15 managed syndicates, down from 22 at the start of the year.

According to Mr. Hayday, a selection of conventional marine business from all of the closed marine syndicates will be moved to the new syndicate.

The most profitable property business also will be transferred to continuing syndicates.

Syndicates 210 and 206 were Sturge flagship syndicates and two of the largest syndicates at Lloyd's.

Sturge's strategy is similar to that of the new Lloyd's business plan, says Terry Hayday.

Syndicate 210 lost 66 million pounds (\$100 million at the applicable exchange rate), or 36% of its capacity, in the 1990 underwriting year, when it had 5,234 members.

Syndicate 206 lost 62 million pounds (\$93.9 million), or 35% of capacity, in the 1990 underwriting

year, when it had 5,510 members.

The other six syndicates also reported substantial losses, largely because of claims from errors and omissions line slips and personal stop-loss business. Together, the eight syndicates lost 222 million pounds in the 1990 underwriting year (\$336.2 million).

The three managing agencies to close, subject to Lloyd's approval, are: Sturge Aviation & Marine Syndicate Management Ltd., Sturge Non-marine Syndicate Management Ltd. and Sturge Motor Syndicate Management Ltd.

Mr. Hayday said Sturge's strategy is similar to that of the Lloyd's business plan released on April 29 (BI, May 3). The company hopes to attract corporate capital and is in talks with banks and life insurance companies "on both sides of the Atlantic" that are interested in becoming Sturge syndicate members, he said.

"We have made some fundamental changes to create a portfolio of distinctive syndicates," said Mr. Hayday. "The active underwriters on the continuing syndicates represent a strong overall team with a successful track record. They will be merging the best aspects of our current portfolio into their 1994 accounts and retaining the most profitable business of those syndicates that have ceased to trade."

Brokers voiced concern that the Sturge cuts would reduce capacity in the marine and non-marine markets. However, Mr. Hayday said new corporate capital should maintain capacity at the current level of 725 million pounds (\$1.1 billion).

Including the five underwriters, 40 jobs will be eliminated on top of 170 cuts made earlier this year, leaving Sturge's insurance operations with about 1,200 employees, he said. **BI**

Merrett to leave syndicate 418's account open

LONDON—Stephen Merrett, the senior Lloyd's of London underwriter who spearheaded a solution to Lloyd's open-year problem in the market's new business plan, is leaving his biggest syndicate—marine syndicate 418—open for the 1990 underwriting year.

Open years are the current bane of Lloyd's members, who cannot withdraw from the market until all of their syndicate accounts are closed. And, until then, the members can face an unknown quantity of cash calls.

The 1990 underwriting account is supposed to close at year-end 1992 under Lloyd's three-year accounting system, and the market will declare its results next month. Instead, members on syndicate 418, the flagship syndicate of Merrett Underwriting Agency Management Ltd. and one of the market's largest syndicates, have been warned by their members agents to expect a major cash call in July. The syndicate's membership totaled 6,429 for the 1990 underwriting year.

Anton Underwriting Agencies Ltd., a members' agency that was spun off from Merrett Holdings P.L.C. 18 months ago, warned its members on April 27 to expect a cash call for 15% of syndicate 418's 1990 allocated underwriting capacity of 213.5 million pounds (\$344.6 million at the appropriate exchange rate), or 32 million pounds (\$51.6 million). Anton said it based its forecast on verbal advisories from Merrett underwriters.

The decision to leave the 1990 year of account open for syndicate 418 was a "pragmatic course of action" that had been adopted because it is likely to prove cheaper for members than paying a large cash call now to establish reserves for unpaid claims.

Syndicates that wish to close their accounts when they still have unpredictable liabilities on their books can only do so if they set aside large reserves, which are transferred into the next accounting year as a "reinsurance-to-close" premium. With the Lloyd's market as a whole expected to announce 1990 losses of between 2.5 billion and 2.8 billion pounds (\$3.92 billion and \$4.39 billion at current exchange rate) in June, members of syndicate 418 might not have taken kindly to massive cash calls to boost the syndicate's reserves.

Syndicate 418 has been a very active underwriter of professional liability business. Losses from business written for accountants represents the "principal area of deterioration" in the syndicate's portfolio, according to the Anton memo to members.

The syndicate's participation on an errors and omissions line slip for Lloyd's underwriting agents was cited by Anton as another problem area.

Thousands of members are currently suing or planning to sue their underwriting agents over massive losses. If they win, at least part of their court award will be paid by the underwriting agencies' E&O coverage.

The underwriting capacity of syndicate 418 has declined steadily in recent years. In 1988, the syndicate was authorized to write up to 284 million pounds (\$535.9 million at the appropriate exchange rate) of premiums, which had dropped to 150 million pounds (\$227.2 million) this year.

—By Aline Sullivan

Nordic insurers' future

Outlook for security remains poor, S&P analysis contends

By MARIA KIELMAS

The outlook for the security of insurers in the Nordic region remains generally poor, a recent report suggests.

The reduced scale of Nordic insurers' overseas operations and continued partnerships with banks and finance companies are negative influences for the insurers, according to the report released late last month by Standard & Poor's Insurance Rating Services.

Additionally, asset quality continues to be problematic for most of the region's insurers.

S&P deems only 17 Nordic insurers as offering "adequate" security, with an S&P claims-paying ability rating of "BBB" or higher, compared with 26 in 1990.

The S&P report also states:

- The Nordic region's overall proportion of premium volume is likely to weaken over the next few years.
- Large international reinsurance losses have prompted the Nordic market's major players to retreat from those lines. By the middle of this decade, the Nordic presence in the international reinsurance market will be significantly decreased.

The Nordic insurers' domestic operations probably will come under increasing pressure as companies try to make up for the deterioration in international results by increasing market share at home. At the same time, competition from insurers elsewhere in the European Community is likely to increase.

A decline over the last two years in the security of Nordic insurers has been reflected in a fundamental deterioration in earnings as well as weakened capital and reserves.

The study points to several examples of troubled Nor-



GRAPHIC BY JOHN HALL

dic companies. UNI Storebrand A/S of Norway and Denmark's Hafnia Holding of 1992 A/S have filed for protection from creditors—and Sweden's Svenska Kreditförsäkrings A.B. was declared bankrupt.

Nordic insurers with a high proportion of equities or real estate assets have suffered both loss of capital and diminished liquidity, the S&P report said.

The Danish stock market fell by 25.8% and the Norwegian market fell 10% last year, while the Finnish and Swedish markets fluctuated wildly throughout 1992.

And the real estate markets in Finland and Sweden

Continued on next page

UNI Storebrand presses on with refinancing

OSLO, Norway—The board of administrators of UNI Storebrand A/S has awarded Oslo-based stockbrokers Sunndal Collier & Co. and Fondsinans the contracts to manage the company's refinancing as its administrators proposed in mid-April (BI, April 26).

The refinancing plan calls for merging UNI Storebrand A/S with UNI Storebrand New A/S, a holding company formed after the insurer went into administration; writing down the value of shares in the original holding company; a share offering for the merged entity; and transferring UNI Storebrand's Skandia Group shares to a newly formed entity.

An roadblock to the process could come from the UNI Storebrand Shareholders Assn., which represents small shareholders. The asso-

ciation is discussing its opposition of the restructuring plan with the UNI Storebrand administration board, said Hans Olav Heli, a lawyer at law firm Stabel, Tellmann, Strom & Elde in Oslo, which is acting for the shareholders.

In other Scandinavian market news last week:

- Denmark's Hafnia Holding of 1992 A/S reported that its 1992 loss totaled 9.15 billion Danish kroner (\$1.45 billion at year-end 1992 exchange rate), compared with a loss of 1.31 billion kroner in 1991 (\$222 million at year-end 1991 exchange rate).

The 1992 performance, a record loss among Danish corporations, partly resulted from a 1.33 billion kroner (\$211.5 million) loss from the drop in share value of Hafnia's 14.8% stake in Sweden's Skandia

Group and a 3.09 billion kroner (\$491.3 million) loss from the drop in value of a 34.6% stake in Baltica Holding A/S. The remaining losses were caused by decreasing values of real estate and other securities holdings.

Danish insurance analysts say that the Hafnia loss will be absorbed by the company's creditors, Den Danske Bank, UNI Bank of Denmark, Germany's Commerzbank and Holland's ABN Amro Bank, among others. Den Danske bank also is the principal creditor of Baltica Holding.

Codan Insurance Ltd., a Danish insurer that is 71% owned by Sun Alliance Insurance U.K. Ltd., acquired Hafnia Insurance Co. Ltd. and five other Hafnia Holding units last month.

—By Maria Kielmas

INTERNATIONAL

Nordic market

Continued from previous page plunged 20%—weakened by an almost total lack of buying interest.

However, solvency margins reported by Finnish companies remain closer to historic levels, almost entirely because local accounting rules allow recognition of declining values in certain assets, notably real estate, to be deferred, S&P notes.

To a certain extent, capitalization is protected by the strong position that most of the companies enjoy in their domestic markets.

But economic conditions in the Nordic states and growing competitive pressures limiting imposition of higher rates will slow premium growth for much of 1993, the report adds.

S&P also foresees continuing problems as a result of the relationship forged between Nordic insurers and banks. Sometimes these links were no more than distribution agreements, but more typically they involve high levels of equity.

The banks have been squeezed by credit problems, declining asset quality and by the aftermath of the European Monetary System crisis last year (BI, Sept. 14, 1992).

In order to maintain solvency

margins, the banks have resorted to central bank support to provide liquidity. Insurers increasingly have been swept into this crisis, S&P says.

For example, Sweden's Trygg-Hansa SPP reduced its policyholder surplus to 8.4 billion Swedish kronor (\$1.2 billion) from 14 billion kronor (\$1.9 billion) as a result of write-downs in its exposure to Gota Bank, as well as its losses in Svenska Kredit.

Danish insurer Baltica Holding A/S reported 4.4 billion Danish kroner (\$724.2 million) in 1992 losses as a result of real estate-related lending and investments.

In addition, half of Hafnia Holding's debt is held by Den Danske Bank, Uni Bank and Skandinaviska Enskilda Banken, S&P said.

Only the Finnish insurers escaped this tangle because Finnish banks and insurers have not had such close links, the report noted.

Regarding individual insurers, S&P sees improving results in the future for the Skandia Group, the region's largest insurer. The improvement will come about as the company takes advantage of its market position and as rates harden in Sweden.

Liquidity remains a significant

concern for Skandia, however. Efforts to lengthen the company's debt-maturity profile have been limited due to tight credit conditions in Scandinavia since 1992. Financial flexibility also remains notably constrained due to the effect on surplus of recent years' losses, a changing investment climate and the control of 40% of the group's shares by troubled UNI Storebrand and Hafnia.

"Because of its ownership situation and priority on reducing debt, Skandia will have limited access to capital markets going forward," S&P says.

The S&P report was written before the latest refinancing of Baltica Forsikring and the proposed winding up of Baltica Holding. But S&P suggests that if a way can be found for Hafnia and UNI Storebrand to "exit gracefully" from their ownership of Skandia shares, then talks between Baltica and Skandia over a possible merger, suspended in 1991 following the Hafnia/Storebrand assault on Skandia, may be resumed.

Copies of the "Nordic Insurance Market Report" are available for \$25 by calling Standard & Poor's Corp. in New York, 212-208-1592.

Walton Insurance Ltd. runoff moves to United Kingdom to cut costs

By ROGER SCOTTON

HAMILTON, Bermuda—The runoff of Walton Insurance Ltd., a Bermuda-based insurer formerly owned by Phillips Petroleum Co., will be transferred to the United Kingdom in a cost-cutting move.

Walton President Timothy Spafford said the runoff of \$60 million in long-tail liabilities—mostly from casualty policies written for U.S. policyholders—is being "contracted" to a London-based insurance services company.

The U.K. company is "one that I'm presently seeking to acquire," added Mr. Spafford, who declined to name the company.

He said the July 1 relocation is "based on economics."

The move will lead to the loss of 11 jobs. Six more jobs will also be axed with the closing of an affiliated Bermuda claims auditor, Insurance & Reinsurance Services Ltd.

Mr. Spafford was one of three current and former Walton managers who jointly acquired the company in 1990 (BI, April 23, 1990).

Walton stopped writing non-related business in January 1983, but continued to underwrite Phillips' business until 1986, when the petroleum company decided to place its risks with its Vermont captive, Sooner Insurance.

According to financial data released in March 1983, Walton had capital and surplus of \$28.4 million and total liabilities of \$175.4 million, of which \$127 million was described as a gross case reserve provision for losses from non-parent business. The provision for losses from Phillips' risks was listed as \$15 million, while Walton's incurred but not reported losses at that time were \$73.6 million.

Latvian captive forms

The state-owned Latvian Shipping Co. has set up the first Bermuda captive insurer formed by a former republic of the Soviet Union.

Kristaps Insurance Ltd. is being formed as a wholly owned subsidiary of the shipping company. The shipper is an official enterprise of the Republic of Latvia and generates the bulk of the Baltic state's hard currency earnings.

The Kristaps captive will be managed by CFM Insurance Managers, a small, independent captive management company.

Kristaps will provide direct hull

BERMUDA

and machinery coverage for a fleet of about 100 vessels—tankers, reefers, dry cargo bulkers and specialized ice-breaking ships.

The Latvian Shipping Co. currently is insured in the commercial insurance markets—with coverage led by Norwegian insurer UNI Storebrand A/S in the Scandinavian market—against catastrophe losses of up to \$500 million. It pays between \$4 million and \$5 million in premiums. The shipper currently has a \$1 million self-insured retention and a \$125,000 deductible per vessel.

"The captive's initial aim will be to fund working-layer deductible losses retained by the LSC under its commercial hull and machinery policy," said CFM President Simon Scupham.

With the current hardening in marine insurance markets showing no signs of easing, Mr. Scupham said he would evaluate the scope for higher levels of working-layer retention by Latvian Shipping Co. before its commercial coverage comes up for renewal in August.

Swann leaves Pinnacle

Bermuda's financial insurance market still has plenty of growth potential, says departing Pinnacle Reinsurance Co. Chairman Bruce Swann.

After seven years as head of one of the island's financial reinsurance pioneers, Mr. Swann said that financial insurance and reinsurance will remain a strong growth area for Bermuda.

"Niches are still open, and I think we'll see some new players diversifying into financial insurance in the not-too-distant future," he said.

Mr. Swann came to Bermuda in 1986 as an appointee of Pinnacle's British parent, Lloyd's broker C.E. Heath P.L.C.

He steered the company through a difficult period during which market competition intensified and Pinnacle found itself facing a high-profile legal battle over business it transacted with the insolvent Mentor Insurance Ltd.

Since the acquisition of Pinnacle's business by Bermuda's Centre Reinsurance Holdings P.L.C. in December 1991, Mr. Swann has also acted as chairman of Centre Re's CentreLine subsidiary. **BI**

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Health reform

Continued from page 1

ated the work of the Task Force on National Health Care Reform.

Administration officials, though, attribute the delay to recognizing that more time is needed to develop support for the package—especially from Congress—rather than problems in finishing the package.

In addition, a number of high-ranking officials—most notably House Ways and Means Committee Chairman Daniel Rostenkowski, D-Ill., and Office of Management and Budget Director Leon Panetta—have told the administration that a health care reform package shouldn't be presented while Congress still is wrestling with a tax bill that calls for the biggest peacetime tax hike in history.

While the delay shows the administration is listening to advice from Congress, questions have yet to be answered on the administration's ability to win congressional support and ultimately a consensus for its health care reform program.

Developing a consensus on health care reform—regardless of who or which party is in the White House—is an extraordinary challenge. Congressional support is splintered among a variety of health care reform approaches.

One faction, still sizable, favors a single-payer, Canadian-style health care system.

Another faction favors a system of managed competition in which the government's role would be to set certain standards for health care plans, make it easier for employers to band together to buy coverage through big purchasing cooperatives, and give employers

or employees tax incentives to select the lowest cost health care plan.

Still other members of Congress support a much more limited set of reforms, like extending tax credits and vouchers to make it easier for lower- and middle-income individuals to obtain affordable health care coverage.

And, many lawmakers say the health care system must be reformed, but they have yet to decide how.

Another division exists between those who say a limited series of reforms should be passed now—while broader reforms are studied—and those who fear this approach would kill the momentum for more far-reaching reform.

Some members of Congress, like Sen. John Rockefeller IV, D-W.Va., have argued that past congressional indecision on health care reform largely was due to a lack of strong presidential leadership and interest in health care reform.

Certainly, no one would deny that President Clinton has made health care reform one of his top domestic priorities. He established his health care task force within days of his inauguration and named his wife to chair it.

But what about President Clinton's ability to work with Congress? That may be suspect, especially after Senate Republicans held firm to block passage of a \$16.2 billion economic stimulus bill, which was a relatively small-potatoes proposal compared with revamping the nation's \$900 billion health care delivery system.

Some political observers say health care reform could meet the same fate.

"If you have a clear, left-wing

proposal, you will see support peel off" from moderate Democrats and Republicans, said Edmund Haislmaier, senior policy analyst for health care issues with The Heritage Institute, a conservative think tank in Washington.

Aside from possible problems in developing a congressional consensus, President Clinton faces a more immediate problem: rising concern from groups representing large employers that the administration will require them to participate in health care purchasing pools or pay special surcharges if they choose to continue their own health care plans.

Even if employers are permitted to continue operating outside the health care purchasing alliances, it is not clear that the rules will "make that an attractive option," said APPWP Executive Director James Klein in a memorandum to the group's members.

Meanwhile, estimates of how much a health care reform package could conceivably cost continue to grow.

Projections by the Health Care Financing Administration say universal health care coverage could initially increase health care spending by \$100 billion to \$150 billion a year.

Mr. Magaziner earlier put the tab at between \$30 billion and \$90 billion.

But some economists and others dismiss the HCFA estimate, noting that it is based on unrealistic assumptions: that universal coverage would be immediate and that all Americans would be entitled to a super-rich benefits package with no deductibles and small coinsurance limits.

"The figures are inflated. I would discount (the estimate of) \$100 billion to \$150 billion. Those benefit options are unrealistic," said Jack Meyer, president of New Directions for Policy, a research and consulting firm in Washington.

Whatever the cost, benefit lobbyists say the administration still has not decided how universal coverage will be financed.

Some believe that an idea once thought dead—taxing employees on at least a portion of employer-paid health care premiums or limiting employer tax deductions for health care expenses—remains on the table because of the revenue such a tax would generate.

"The idea of taxing benefits clearly is not gone," said Claudia Bradbury, policy associate in the AFL-CIO's employee benefits department in Washington.

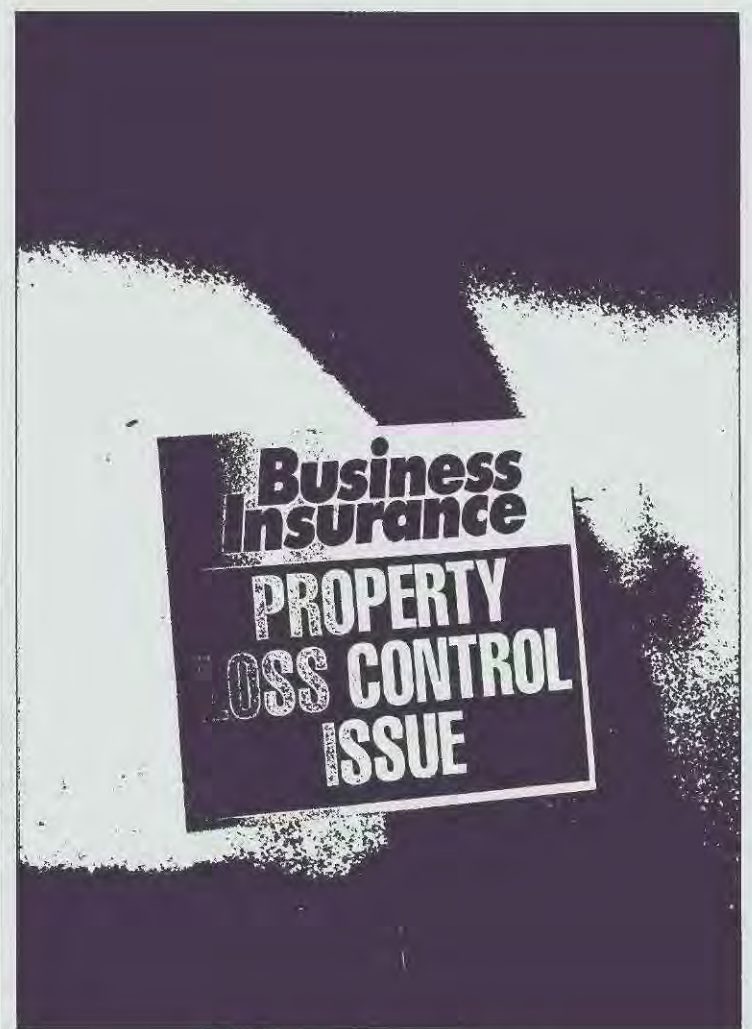
While President Clinton is delaying his recommendations, there is a sign that the task force is winding down its work. The Clintons recently gave a farewell party for many of the 511 staff members who served on several dozen working groups.

Some observers say the Clinton administration erred in selecting so many representatives from government and so many academics to serve on the task force working groups.

"It is unfortunate that the task force was made up of predominately academics and government officials. These people may be brilliant, but they are not employers who have to deal with health plans every day," pointed out Leslie Aubin, a health care policy analyst with The National Federation of Independent Business in Washington.

Others, though, were more impressed with task force and working group members.

"I have the utmost confidence in them. They are astute and know the issues," said the AFL-CIO's Ms. Bradbury.



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Vice-presidents, directors, managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations 15,035

Sub-total 28,114

Associations 392
Government, unions and Educational Institutions 1,120

Commercial Consumers

Sub-total 29,626

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TOTAL 52,785

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Brokers' results

Continued from page 1
have battered investment income.

For example, Hilb, Rogal & Hamilton Co.'s investment income fell 14.4% in the first quarter of 1993. Robert H. Hilb, president of the Glen Allen, Va.-based broker sees interest rates "continuing to go down through '93."

In addition to slumping investment income, Alexander & Alexander Services Inc. also was hurt by the strength of the dollar against the pound in the first quarter, said Frank R. Wiczynski, corporate secretary for the New York-based broker. First-quarter revenues were "impacted to the tune of \$11.8 million" due to exchange rate fluctuations, he said.

Brokers didn't bet on much of a boost from the contingent commissions that insurers pay to brokers in the first quarter based on the profitability of their books of business.

Contingent commissions in the first quarter had "no impact one way or the other," Mr. Malis said.

"Many brokers were surprised (contingent commissions) weren't down given the underwriting year underwriters had," he said. However, most of the losses were centralized weather-related losses, which may have helped national brokers.

"Commissions reflect the rate environment" today, Mr. Cloherty said. Arthur J. Gallagher reported only single-digit increases in commissions, including contingent commissions, for the first quarter.

Poe & Associates Inc.'s contingent commissions were about 10% lower than last year, said William F. Poe, chairman of the Tampa, Fla.-based broker, which merged with Brown & Brown Inc. late last month to form Poe & Brown Inc.

However, Acordia Inc.'s contingent commissions increased by about 40% this year, said Robert Schneider, senior vp and controller of the Indianapolis brokerage.

Acordia's increase in contingent commissions came "entirely from acquisitions," he said. Excluding the bought companies, contingent commissions remained relatively flat for the first quarter.

Despite all the problems, the seven largest publicly held brokers all reported revenue increases in the first quarter—though A&A's and HRH's were meager at first glance—while six of the seven increased first-quarter profits, with A&A the lone exception.

Brokers credit much of their profit increases to tight expense controls.

Brokers are working hard on controlling expenses, Ms. Wilson said. They've "done an amazing job" holding on in a bad environment, she said.

Mr. Malis, though, sees brokers "running out of gas in expense controls."

Individual first-quarter results for the publicly held brokers follow:

Marsh & McLennan

First-quarter gross revenues for the world's largest broker rose 8.5% to \$833.9 million from \$768.8 million in the year-earlier period. Net income soared 76.4% to \$107.4 million from \$60.9 million, though the comparison is skewed by a \$40.1 million aftertax charge in last year's first quarter to recognize retiree health care liabilities under Financial Accounting Standard 106. Excluding the charge, net income increased only 6%, said J. Michael Bischoff, vp-corporate development for the New York-based broker.

The key contributor to M&M's increased revenues was once again The Putnam Cos., M&M's Boston-based investment management subsidiary.

Investment management revenues increased 22% to \$114.3 million from \$93.7 million in 1992.

"The only weak area" for M&M was its consulting revenues—including revenues from benefit consultant William M. Mercer Inc., Mr. Bischoff said. Consulting revenues fell 5.7% to \$215.3 million from \$228.3 million last year. He attributes this decline to a drop in demand from clients during the lame-duck Bush administration and the new Clinton administration. The Clinton administration is not yet at the legislative and regulatory stage for clients to start needing consulting help, he said.

Revenues from insurance services, which include brokerage, rose 12.9% to \$504.3 million from \$446.8 million.

Expenses rose in the first quarter,

jumping 9.7% to \$646.7 million from \$589.3 million last year. This increase was "acquisition-fueled," Mr. Bischoff said, pointing to expenses linked to the acquisition of Frizzell Group Ltd. in the United Kingdom late last year.

Excluding the expenses from the acquisition, expenses remained flat, he said.

Alexander & Alexander

Revenue at A&A was essentially flat for the first three months of 1993, rising 0.5% to \$322.8 million from \$321.2 million in the first quarter of 1992, while net income declined by 31.7% to \$14.2 million from \$20.8 million.

But, Mr. Wiczynski says those numbers are misleading.

Excluding the effects of the weak-

Continued on next page

First-quarter 1993 broker results

In thousands

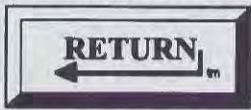
Broker	Gross revenues	% change	Net income	% change
Marsh & McLennan	\$833,900	8.5%	\$107,400	76.4%
Alexander & Alexander	322,800	0.5	14,200	-31.7
Rollins Hudig Hall	306,500	73.8	57,000 ¹	66.2
Arthur J. Gallagher	66,765	7.4	3,936	23.1
Acordia	55,265	10.4	5,585	4.3
Hilb, Rogal & Hamilton	34,122	0.1	3,260	7.9
Poe & Associates	13,433	4.9	1,189	5.5

¹Pre-tax income
Source: Company reports

GRAPHIC BY JERRY PARKS

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Brokers' results

Continued from previous page
ening British pound against the dollar and revenues of operations that were sold in 1992, operating revenues increased 5%, he said. And "a 5% increase in this kind of environment is quite good."

A&A's operating income increased by more than 34% when adjusted for foreign exchange fluctuations and sold operations, Mr. Wiczynski said. This gain reflects the performance of A&A's specialty and reinsurance brokerage operations as well as its human resource management consulting group.

While net income dropped more than 30%, it's "not a fair comparison on a percentage standpoint" to last year's first quarter, he said, noting that first-quarter 1992 net income included a \$26.4 million gain on the sale of two non-core businesses.

While A&A is not budgeting for any rate increases, it will continue to "ride herd" curtailing expenses, he said. Operating expenses fell 2% in the first quarter to \$301.1 million from \$307.3 million in 1992.

Rollins Hudig Hall

Rollins Hudig Hall's revenues soared 73.8% to \$306.5 million from \$176.4 million in the first quarter of

1992, due to the acquisition of Frank B. Hall & Co. Inc. Combined, the former Rollins Burdick Hunter Co. and Hall reported first-quarter 1992 revenues of \$298.7 million.

Pretax income for RHH's insurance brokerage and consulting services also soared in the first quarter, jumping 66.2% to \$57 million from \$34.3 million in 1992. Parent Aon Corp. does not break out net income figures for units like RHH.

However, brokerage earnings continued to be damaged by the soft U.S. property/casualty insurance market and lower short-term interest rates, said Patrick G. Ryan, Aon's chairman and chief executive

officer.

In the nearly seven months since acquiring Hall, the integration process has gone very well, Mr. Ryan said.

In addition to growth in insurance brokerage and consulting services, there was "good growth" in reinsurance services and Aon Risk Services, he said.

"I'm very optimistic for '93 for continued growth in the brokerage," Mr. Ryan said.

Arthur J. Gallagher

Gallagher's revenues rose 7.4% to \$66.8 million from \$62.2 million in the first quarter of 1992, while net

income jumped 21.9% to \$3.9 million from \$3.2 million.

Expenses rose 5.6% to \$60.5 million from \$57.3 million.

The soft market continued to hold down commission revenues for Gallagher. Commissions, including contingent commissions, rose only 3.1% to \$36.8 million from \$35.7 million in the first quarter of 1992. Investment income dropped 13.8% in 1993 to \$2.5 million from \$2.9 million in the first quarter of 1992.

The increase in revenues can be attributed to fees. Continued emphasis on new business helped generate a 16.5% increase in fee-based revenue to \$27.5 million from \$23.6 million in 1992, Mr. Cloherty said.

Acordia

Revenues for the Indianapolis-based broker increased 10.6% to \$55.3 million from \$50 million in the first quarter of 1992. Net income rose 5.7% to \$5.6 million from \$5.3 million.

Acordia adopted FAS 106 in the first quarter, which resulted in a \$776,000 one-time charge to the company's earnings. Excluding the charge, net income increased 19% to \$6.4 million, said Patrick M. Sheridan, executive vp and chief financial officer.

Expenses also were on the rise in the first quarter, increasing 9.8% to \$44.8 million from \$40.8 million last year. A majority of this jump is attributable to the two acquisitions the broker made in the first quarter, said Mr. Schneider. Excluding the acquisition-related costs, expenses only rose 2% in the quarter, he said.

Because Acordia is not planning any rate hikes this year, it will continue efforts to curtail expenses, including staff reductions and closing offices and operations that are inefficient, Mr. Sheridan said.

Hilb, Rogal & Hamilton

Gross revenues at HRH were flat, rising less than 0.1% to \$34.12 million from \$34.1 million in last year's first quarter. Net income rose 10% to \$3.3 million from \$3 million.

Expense controls continued to be a major factor in the broker's bottom line, Mr. Hilb said. Operating expenses fell 1.7% to \$28.9 million from \$29.4 million.

Investment income was down 10.1% in the first quarter to \$280,310 from \$311,912 last year. Commissions and fees, including contingent commissions, increased only 0.9%.

HRH in March completed a secondary offering of stock, Mr. Hilb noted. The sale of more than 1.5 million shares raised \$22.3 million "to be used exclusively for mergers and acquisitions," Mr. Hilb said.

Poe & Brown

Poe & Associates has a new name, Poe & Brown Inc., reflecting its April 28 merger with Brown & Brown Inc. of Daytona Beach, Fla.

Not including the financial results from Brown & Brown, Poe & Associates reported a 4.7% increase in revenues to \$13.4 million from \$12.8 million in last year's first quarter. Net income rose 9.1% to \$1.2 million from \$1.1 million.

Expense controls and a focus on new business development were the catalysts of the increases, Mr. Poe said. Although he intends to continue this plan, 1993 is going to be "a whole different ball game" due to the acquisition costs, he said.

In addition to increased expenses, capacity problems in Florida may also cause trouble, he said. About 70% of Brown & Brown's business is conducted in Florida, and "problems are beginning to rise" there as insurers limit their property underwriting, Mr. Poe said. But he noted that property insurance rates are rising substantially in Florida. **BI**

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HARTFORD, CT—Hours before Storm Josh arrived with high winds and heavy snow, IRI representatives telephoned insureds and reviewed with them the hurricane and flood checklists in OVERVIEW, IRI's total management program for loss prevention and control.

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"Losses were minimized, thanks to OVERVIEW."
—Wayne Sabins, IRI

From Louisiana to Maine, The Blizzard of '93 dumped two inches to four feet of snow on roofs and roadways, creating drifts up to 10 feet or more.

Once the storm passed, IRI staff made follow-up calls to customers. "We wanted to make sure that insureds cleared off roofs as quickly as possible," said Bill Brennan, District Manager, Pittsburgh Office. Because of the intensity of the storm and high wind gusts, people could not shovel roofs during the blizzard.

OVERVIEW Manuals are available in English, French and Spanish to help reduce property loss worldwide.

IRI staff also called insureds with facilities in low-lying areas, where flooding could occur, urging them to review OVERVIEW's flood checklist. "A lot of insureds we called were grateful for our concern," said Wayne Sabins, District Manager, New Jersey Office. "... and I'd like to think that their losses were minimized, thanks to OVERVIEW."

For more information about the OVERVIEW Manual and Forms Packet, which includes the hurricane and flood checklists, contact your agent or broker, the IRI office nearest you or IRI Marketing (800) 243-8308 (in Connecticut, call Trish Sasso, 520-7412.)

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Aon to buy entertainment underwriting manager

CHICAGO—Continuing its effort to build strategic niches, Aon Corp. is planning to acquire K&K Insurance Specialties Inc., a sports/leisure and entertainment underwriting manager in Fort Wayne, Ind.

"This is an outstanding strategic fit for Aon," said Chairman and Chief Executive Officer Patrick G. Ryan. This acquisition will expand Aon's entertainment niche as well as expand the company's specialty managing general agency operations, he said.

Currently, Aon, parent of Rollins Hudig Hall Inc., has MGA subsidiaries in the fields of media, workers compensation, entertainment and governmental agencies, he said.

K&K, currently a unit of Lincoln National Corp., will maintain its own name and location, while K&K officers will report to Michael D. O'Halleran, chairman of Aon Risk Services Inc.

K&K is a wholesaler that other brokers tap for hard-to-place coverage for sports, leisure or entertainment companies. It acts as an underwriting manager for Lincoln National Specialty Insurance Co. in Fort Wayne and as an MGA for Transamerica Insurance Co. in Woodland Hills, Calif.

Aon does not expect K&K to lose business from brokers that might be skeptical about dealing with K&K once it is a unit of Aon, Mr. Ryan said.

K&K's premium volume totaled \$162.5 million in 1991 when it ranked as the 10th-largest U.S. wholesaler (*BI*, Aug. 17, 1992).

K&K has about 45 programs in its product lists. New products introduced since 1992 include: liability coverages for bungee jumping operations, summer camps, recreational campgrounds, circuses, carnivals and ice and roller rinks.

Kansas reforms

Continued from page 2

phenomenal increases—21.7% and 24%—in workers compensation rates" in the past two years, said Terry Leatherman, executive director of the Kansas Chamber of Commerce and Industry in Topeka.

Also, "the market for placing a new piece of business was almost non-existent," said Larry Magill, executive vp of the Professional Independent Insurance Agents of Kansas.

Insurers also face a 20-cent assessment from the state's residual market for every \$1 in voluntary market premium, Mr. Taylor said.

Aiding the reform effort were reports that Fletcher Bell, Kansas' former insurance commissioner, legally received more than \$90,000 in permanent partial disability payments after injuring his back lifting a briefcase out of his car trunk.

Mr. Bell, now retired, became "the poster child for workers compensa-

tion reform," Mr. Leatherman said.

As a result of his case and others like it, the 139-page bill would limit an employer's liability for pre-existing conditions to aggravations caused by work. It also would change the formula to reduce permanent partial disability awards for higher-paid workers and caps benefits for functional impairment at \$50,000.

S.B. 370 also would reject the compensability of injury claims stemming from social or recreational programs and raises the compensability threshold when a worker illegally uses alcohol or drugs.

The bill also more narrowly defines "work disability" so a worker's ability to find a job is less important in determining a permanent partial award.

The bill calls for implementing a previously authorized medical fee schedule and utilization review, adding shoulder injuries to that fee schedule and making vocational rehabilitation voluntary.

Other measures seek to resolve disputes early by creating an ombudsman and benefit review conferences. The bill also alters the process for changing physicians and limits attorneys' fees according to formulas included in the bill.

Other provisions promote safety and foster education of employers and workers. For example, a joint employer-labor committee will be formed to constantly review workers compensation issues.

In addition, the bill would phase out the second injury fund and allow heterogeneous groups of small employers to form workers compensation pools, said Roland Smith, executive director of the Wichita Independent Business Assn.

"The new bill meets the governor's goal of all parties sharing in cost cuts," said Wayne Maichel, executive vp of the Kansas AFL-CIO.

Gov. Finney vetoed the first bill because she believed that labor would have had to make too many concessions. **BI**

For the Record

PRIMA elects new officers for 1993-94

ARLINGTON, Va.—The Public Risk Management Assn. has elected new officers for its 1993-1994 board of directors.

Elizabeth D. Puddington, executive director of the New Hampshire School Boards Insurance Trust, is the new president.

Stephen A. Finley, risk manager for Lakewood, Colo., is the new Region II vp.

Ken Horner, the director of member services for the Cities and Villages Mutual Insurance Co. in Brookfield, Wis., is the new vp of Region III.

Eunice Brown, risk manager for the Cuyahoga County Board of Mental Retardation and Developmental Disabilities in Cleveland, is Region IV's new vp.

Five men plead guilty to major health scam

PHILADELPHIA—Five men have pleaded guilty to charges of operating a health insurance fraud scheme using the now-defunct Cabot Day Insurance Co. Ltd.

Four Cabot Day officers and an escrow agent were indicted last year on charges of using the insurer and its marketing vehicle, Equity Med-Kare Plan Trust, to sell fraudulent health insurance to employer groups in 14 states and to divert millions of dollars in premiums for their own benefit.

Equity Med-Kare and Cabot Day—domiciled in the British Virgin Islands but operated from Denver—took in \$5.7 million in premiums but paid out only \$894,940 in claims from 1988 to 1990, prosecutors say.

The insurer left thousands of policyholders with \$5.7 million in unpaid claims when it declared bankruptcy in 1990, prosecutors charge.

Pleading guilty in U.S. District Court in Philadelphia to racketeering conspiracy charges were: J. William Van Derveer Jr., Cabot Day president; Neil E. Smith, a former Cabot Day president; Robert M. Munroe, president of Morgan-Puttman Insurers Ltd., Cabot Day's parent company; Frank L. O'Bryan, a Cabot Day official; and Fred M. Dellorano Jr., an escrow agent for Cabot Day funds.

Each faces a maximum of 20 years in prison and fines of \$250,000 or twice the proceeds of the fraud. The five men will be sentenced separately this month and next.

Cover for experimental care denied on appeal

CHICAGO—Mutual of Omaha Co.'s denial of health care coverage for a therapy to treat advanced breast cancer was upheld by a federal appeals court.

Judy Harris, 50, sued Mutual of Omaha after the insurer denied coverage for high-dose chemotherapy and an autologous bone marrow transfusion (*BI*, Jan. 4).

The 7th U.S. Circuit Court of Appeals in Chicago, which upheld a lower court ruling, said the policy language clearly stated that the plan would not provide coverage for treatment or procedures considered experimental.

As a result, Mutual of Omaha had the right to deny coverage because the "efficaciousness" of HDCT/ABMT to treat breast cancer "has not been established and that it still is in the experimental/investigative

stage," the 7th Circuit ruled April 29.

Information in brief

California employers were unsuccessful in an attempt to obtain relief from a state law that imposes a 10% penalty for refusing to pay or unreasonably delaying payment of workers comp benefits to an injured worker. The state Supreme Court ruled April 8 that the penalty should be assessed on the total amount of benefits awarded to an injured worker, not just on the amount of benefits an employer refused to pay. . . . The storm system that included the killer tornadoes that ravaged parts of Tulsa, Okla., April 24-25 caused an estimated \$85 million in insured property damage, reports the Property Claim Services division of the American Insurance Services Group (*BI*, May 3). . . . John Seal, acting director of ACTION, the federal domestic volunteer agency, was named chief management officer, a newly created position, at the Pension Benefit Guaranty Corp. . . . Virginia's workers compensation system will become a competitive rating system on Jan. 1, 1994. The National Council on Compensation Insurance will be able to file loss costs, and will continue to file full assigned risk rates and rating programs, but will not be allowed to file expense and profit information. . . . Former investors and 12 managers of Simmons Co. of Atlanta will pay at least \$14.5 million to settle an ERISA lawsuit alleging that the mattress manufacturer caused, or allowed, the 1989 sale of common stock to an employee stock ownership plan at a price higher than fair market value. **BI**

Panel debates benefit issues

WASHINGTON—The House Ways and Means Committee this week is expected to pass legislation, H.R. 1960, that would reduce pension benefits for highly compensated employees.

The legislation, proposed by President Clinton and formally introduced by Ways and Means Committee Chairman Daniel Rostenkowski, D-Ill., also would boost payroll taxes, subject a greater portion of Social Security benefits to taxation and retroactively extend the tax-favored status of employer-provided tuition reimbursement benefits.

A slew of amendments to the measure are expected. For example, provisions may be added to simplify the administration of pension plans and reduce the burdens of a federal law that imposes a 20% withholding tax on certain pension distributions.

As introduced, the measure would reduce to \$150,000 from \$235,840 the amount of employee compensation that could be recognized in setting defined benefit pension formulas and making contributions to defined contribution plans.

In addition, the 1.45% Medicare

portion of the Social Security payroll tax would be imposed on employees' total wages. Currently, the tax, paid by both employers and employees, only is imposed on an employee's first \$135,000 of salary.

The legislation also would raise to 85% from 50% the percent of Social Security benefits subject to taxation for individuals who make at least \$25,000 a year and couples who earn adjusted gross incomes exceeding \$32,000 annually.

Employer-provided educational assistance benefits would also become a permanent, tax-free benefit under the measure.

Section 127 of the Internal Revenue Code, which allows employers to reimburse employees for their educational expenses without being taxed on the reimbursement, would be made retroactive to June 30, 1992, the date the law was last in effect.

The legislation also would continue a \$5,250 ceiling on the maximum amount of tax-free educational assistance benefits an employer could provide.

—By Jerry Geisel

AT&T health care

Continued from page 1

An Empire spokesman denied any wrongdoing.

"We never denied AT&T the opportunity to audit our books," the spokesman said. "We are confident the audit will prove no wrongdoing on Empire's part."

Meanwhile, AT&T's suit charges that the alleged overbilling was part of a pattern of fraudulent activity by the Blues plans that has also hit other employers, including K mart Corp. of Troy, Mich., and Dana Corp., an automotive components manufacturer, in Toledo, Ohio.

A Dana spokesman said litigation between Dana and BC/BS plans in Michigan and Ohio has been settled, but declined to comment further.

K Mart could not be reached for comment.

Separately, the federal Health Care Financing Administration warned Empire last month that its handling of \$1.7 billion in Medicare claims for doctors' services over the last three years has been so poor that the agency may decide to cancel Empire's contract for processing the claims.

The Empire spokesman said processing problems were caused by a computer system mandated by HCFA, and the problems are being corrected.

The AT&T complaint, filed March 19 in U.S. District Court in Newark, names Empire; Blue Cross & Blue Shield of Arizona; Blue Cross & Blue Shield of Illinois Health Care Service Corp.; Blue Cross & Blue Shield of Michigan; Blue Cross & Blue Shield Mutual of Northern Ohio; Central Benefits Mutual Insurance Co. of Columbus, Ohio; and Independence Blue Cross of Philadelphia, Pa.

According to the suit, Empire has administered a medical benefits plan for AT&T for several years on a cost-plus basis. Under the plan, Empire or the other Blues plans pay hospitals directly for covered medical services and are reimbursed by AT&T.

Reimbursements are paid from a fund AT&T established to prepay anticipated claims and expenses. The amount in the fund has been revised periodically based on Empire's reports of paid claims and estimates of expected claims, the suit says.

Empire has received administrative fees based at various times on a

percentage of AT&T's reimbursements to Empire or on the number of claims Empire has processed, according to charges in the lawsuit.

The plan was supposed to allow AT&T to take advantage of BC/BS plan-negotiated discounts for medical services.

For example, Empire told AT&T in 1985 that the telephone company would save between 9% and 11% on hospital costs under contracts with Blues plans.

Instead, Empire and its affiliates have overcharged AT&T and pocketed all or part of the discounts for themselves, the lawsuit alleges.

Since at least 1984, the BC/BS plans have filed false reports with Empire overstating the amounts actually paid for medical expenses, causing Empire to overcharge AT&T, the suit alleges.

The plans also have fraudulently failed to report and pass along to AT&T amounts credited or rebated by hospitals when bills are finalized, the suit charges.

As a result, AT&T has reimbursed to Empire amounts "substantially in excess" of what the telecommunications company actually owed. It has also deposited excessive prepayments for anticipated claims and has paid inflated administrative fees to Empire, since those fees were based in some cases on inflated reimbursements, AT&T alleges in the lawsuit.

AT&T has tried to determine the total of these overcharges but was blocked by the refusal of the Blues affiliates in Arizona, Illinois, Michigan, Ohio and Philadelphia to allow audits, the suit says.

The Illinois plan, for example, forced AT&T to negotiate an audit and then canceled after the audit was arranged, the suit says.

The Arizona, Illinois and Michigan affiliates have since agreed to audits, according to the AT&T spokesman.

The suit seeks an unspecified amount of actual damages, which could be trebled under the federal Racketeer Influenced and Corrupt Organizations law.

Along with the RICO allegations, the suit charges Empire and the other defendants with violations of the Employee Retirement Income and Security Act of 1974; breach of contract; fraud and fraudulent inducement; and breach of fiduciary duty. **BI**

Business plan

Continued from page 1

tracted to joining on a limited liability basis, he said. This spells the eventual demise of members agencies, he predicted.

Chris Hitchings, an insurance analyst at London stockbroker Phillips & Drew, said he expects Lloyd's to be successful in attracting corporate names in Europe and the United States. "Insurance in the next five years will be considerably more profitable than in the past five years," he observed.

However, corporate members will not be allowed the same leverage as individual members whose liabilities remain unlimited. Corporate members will have to deposit funds at Lloyd's equal to at least 50% of their overall premium income limits. That compares with between 20% and 25% of premium income limits for individuals, depending on their wealth.

The business plan calls for a 30% cut in Lloyd's costs over the next two years. About 2,500 jobs will be cut and managing agents' fees will be restricted to a maximum of 0.5% of capacity in 1994 and 0.4% in 1995.

Charles Sturge, director of syndicate analyst Chatset Ltd., applauded Lloyd's cost-cutting efforts, but he said the market must make more dramatic cuts before it is competitive with other insurers and reinsurers.

"Lloyd's must get expenses down to about 30% of premium income from the current 42% to be competitive with U.S. reinsurance companies," Mr. Sturge said. "All this nibbling away at agents' and syndicates' expenses will produce a savings of between 1% and 2%," he said.

Mr. Sturge also suggested that Lloyd's place a levy on all premiums that will be paid into the Central Fund. This levy could be absorbed by the underwriting syndicates or, better yet, could be paid by the brokers, he said.

"The cost to the market of brokers is somewhere between 15% and 20%," he said. "Lloyd's has to find a way to make the brokers contribute to the Central Fund."

Lloyd's proposal to establish a new runoff company, called "NewCo," to handle the problems of open years prior to 1986 must be approved by Britain's Department of Trade and Industry. Lloyd's officials said they are confident their plans will be accepted by the DTI.

The DTI said it would act "quickly and constructively" to review the aspects of the Lloyd's plan that require government approval.

"The DTI recognizes that Lloyd's has before it the prospect of a significant return to profitability," the spokeswoman said.

Some members were critical of the plan's absence of proposals for alleviating devastating losses from prior years.

While NewCo and the existing CentreWrite Ltd. will reinsure existing liabilities to protect future members from assuming

New Chubb subsidiary

Continued from page 2

grams" for commercial buyers, rather than insurance companies, he said.

"We're thinking of this Bermuda facility in terms of existing insureds with coverage problems, say in the areas of professional liability or products liability," said the Chubb

past liabilities, members of still-open syndicates could face cash calls to boost reserves before old accounts are closed.

"Lloyd's has a continuing moral duty to help distressed names," said Trevor Bradley, managing director of underwriting agency Knightstone Group. "The plan fails to indicate how they can be given material help or how a settlement of litigation may be achieved. Further work will be needed. Lloyd's must show that this plan does not mean that distressed names are being abandoned."

Mr. Bradley added, though, that all sections of the market should support the plan.

The business plan does nothing for existing members, complained George Nordhaus, regional director for the Assn. of Lloyd's Members in Southern California, Arizona and Nevada. "It totally ignores the problems of the past."

Litigation by members over

The business plan has boosted the confidence of some U.S. members, says John Hayter.

huge losses on London market excess-of-loss syndicates could still bring down Lloyd's, Mr. Nordhaus contends.

The business plan is an attempt to build a new Lloyd's, but it does not dispose of the market's current problems, agreed Richard Rosenblatt, a Lloyd's member who lives in San Diego.

"I've not found anything in there that will address the basic problem of Lloyd's," he said.

And, the problem of members litigation will grow if it is left unchecked as losses for 1990 and 1991 are announced. "By then there will be more than 10,000 distressed names," he predicted.

However, many participants in the market agreed with Lloyd's officials' contention that the business plan was not the place to address the problems of loss-plagued members.

Members should not have expected the business plan to have disposed of their outstanding losses, said Nigel Rogers, managing director of Octavian (Underwriting) Ltd., a managing and members agency.

"I don't think that the business plan can do a huge amount for names facing large losses because it cannot manufacture money and nobody is going to just give us 2 billion pounds (\$3.13 billion)," he said.

Reaction to the plan from U.S. observers was mixed.

"The business plan makes steps in the right direction, but the crucial question is how names and policyholders will react to it," said Alan M. Levin, a director of insurance rating service at Standard & Poor's Corp. in New York, which analyzes Lloyd's syndicates.

executive. "These are companies that want to establish funds for a rainy day, but at the same time want to obtain coverage, too."

Mr. Stites said the subsidiary should have no trouble meeting Financial Accounting Standards Board risk transfer requirements (BI, Jan. 11).

Once the subsidiary is up and

Policyholders have been increasingly concerned about the security of Lloyd's as losses have mounted in recent years, he said.

The more open attitude that the business plan indicates and the market's willingness to address problems could help improve its image in the United States, Mr. Levin said.

The business plan already has boosted the confidence of some U.S. members, said John Hayter, a consultant with members agent Cox Tudsbery & Wills Ltd., who is currently in New York briefing U.S. members on the plan.

In fact, Mr. Hayter said, one U.S. member who has suffered moderate losses over the past two years has decided to double his premium income for 1994 after reading the business plan. Members facing losses now see the opportunity to trade their way out of the losses, according to Mr. Hayter.

"We applaud their efforts and the business plan. It's a plan that does not seem to have a lot of rhetoric—it looks like a real action plan to get things done," said Marcus Payne, executive vp and chief operating officer of Dallas-based wholesale broker Crump Insurance Services Inc., a unit of Sedgwick Group P.L.C.

"What they're proposing is probably as much as they could do, but whether or not they succeed in attracting corporate investments... remains to be seen," said Ralph Palmieri, president of First State Management Group Inc. in Boston.

Joseph Walsh, chairman of American Empire Surplus Lines Insurance Co. in Cincinnati, said, "I'm very suspicious of the English ability to carry through with something with a lot of teeth in it." He added, "I'm quietly cheering for them. I'd like to see them make thing work."

"If they can exercise some control over those syndicates and the names in those syndicates that tend to be more frivolous," then the plan could work, Mr. Walsh said, adding that he wants to see the mechanics of how the market will oversee syndicates.

"That's the area where they've done such a lousy job in the past," he contends.

Mr. Walsh also predicts the 1991, 1992 and 1993 underwriting years "will be tough... I don't see any reason for them to be so positive about their future profitability."

Views were also mixed on the plan's goal of attracting capacity of 10 billion to 12 billion pounds (\$15.66 billion to \$18.79 billion) by 1997.

"It'll probably have to come from the European Community. I don't think they'll get that kind of support from the United States," said Mr. Walsh.

Mr. Palmieri agreed: "It would depend on where they're successful in attracting it." If the source is just the United Kingdom or just the United States, "it's probably ambitious."

Associate Editor Deborah Shalowitz contributed to this report.

running, he said, Chubb might consider coordinating its global reinsurance programs in Bermuda and actually setting up an office there.

He described the \$20 million capitalization as "a good starting point" and said financial strength would be a hallmark of the new company. **BI**

Update

Arizona enacts tort reforms

Continued from page 2

homeowners, health and other insurers so that medical payments in personal injury cases are paid from only one source.

The new law also further modifies the collateral source rule. Arizona since 1976 has permitted disclosure of payments from other sources in medical malpractice cases; such disclosure now will be permitted in all personal injury cases.

Among other provisions, the new law, which will begin to take effect in July, also: Limits defendants' liability if plaintiffs in personal injury cases are found to be more than 50% at fault; establishes a 12-year statute of limitations in personal injury cases and a one-year limit on suits filed against governmental entities; requires gross or intentional negligence to be shown before damages can be recovered by a person injured in the course of committing a felony or in fleeing from a crime scene; and limits liability for volunteers.

The Arizona Constitution prohibits limiting damage payments in personal injury cases, said a spokesman for the American Insurance Assn.

Worker wins fear of AIDS suit

UNIONDALE, N.Y.—For the first time, a federal court has held an employer liable for a worker's fear that he contracted the AIDS virus.

In the first fear of AIDS suit brought under the Federal Employers' Liability Act, a jury last week found the Long Island Railroad partially liable for failing to provide safe working conditions.

John Marchica sued last year, claiming unsafe working conditions caused the welder to prick his finger on a used hypodermic needle in 1989 and fear that he had contracted HIV (BI, March 1).

Last week, the 10-person jury said Mr. Marchica's fear of AIDS was justified and the railroad failed to provide him with a safe worksite. Jurors, though, held Mr. Marchica 55% liable, stating that he should not have placed his hands in a littered area that contained the needle, regardless of his work assignment. That finding reduced a \$260,000 damage award to \$126,000.

The railroad said it will appeal the ruling.

Florida windstorm cat pool

TALLAHASSEE, Fla.—Florida Insurance Commissioner Tom Gallagher is expected this week to announce details of a windstorm catastrophe insurance or reinsurance pool aimed at alleviating a capacity shortage in the state.

Details were not available last week, though a Florida Insurance Department spokeswoman confirmed that the commissioner will discuss a statewide windstorm facility.

The commissioner hinted during a speech in Bermuda last month that he would unveil plans to help property owners find coverage as insurers cut back their underwriting in the state.

St. Paul reinsurance shift

ST. PAUL, Minn.—The St. Paul Cos. plans to shift a higher percentage of its reinsurance underwriting toward casualty business, says Douglas W. Leatherdale, chairman and chief executive officer.

Historically, property coverage comprised more than 60% of St. Paul's reinsurance products, said Mr. Leatherdale at the company's annual meeting last week. In addition to a shift to more casualty business, the company is also moving away from pro rata business and toward excess-of-loss business, he said.

St. Paul's reinsurance operations reported a 187.1% combined ratio for 1992 (BI, March 29). St. Paul posted a \$156 million net loss for 1992 (BI, March 22).

Briefly noted

Faced with a shortfall in funds, the **Louisiana Insurance Guaranty Fund** is now pro-rating payments on its 30,000 or so claims against failed insurers. State officials have repeatedly denied requests to sell bonds, accusing the fund of padding legal fees and cronism... Ralph Nader and J. Robert Hunter called for a **national consumer boycott** of American International Group Inc. and State Farm Group, accusing the two of "attempting to create a national insurance crisis" by restricting their underwriting in hurricane-prone areas... Barges, tugs and supply boats that purchase pollution liability insurance from the **Water Quality Insurance Syndicate** will face rate hikes that vary by account beginning with June 1 renewals. The syndicate says the cost of pollution cleanups has significantly increased under the Oil Pollution Act of 1990 (BI, Aug. 27, 1990; Aug. 6, 1990)... Florida regulators have filed criminal charges against four officials of **Dominica-based Provident Capital Indemnity Ltd.** for selling insurance without a license. Provident's assets allegedly included \$75 million in bogus certificates of deposit from a non-existent Hong Kong bank (BI, Nov. 2, 1992)... Georgia Flint is leaving her post as **Texas insurance commissioner** by Sept. 1, and Kay Doughty is resigning as Massachusetts' top insurance regulator, by July 1... The California Assembly has approved legislation that would force Blue Cross of California to dedicate some \$2.5 billion in assets to **charitable purposes**. The bill was triggered by Blue Cross' creation last year of a for-profit holding company called Wellpoint into which it transferred all of its income-generating assets... **Allstate Corp.** has raised its maximum stock price to \$27 from \$26 for its initial public offering expected next month... **The Equitable Cos. Inc.** has completed an \$800.5 million private placement of convertible preferred stock intended to add capital to its life insurance operations... **Bruce Maines**, chairman and retired chief executive officer of **SAFECO Corp.**, died May 3 at age 66. Roger H. Eigsti, president and CEO, will become chairman.

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