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\$5

Late News

PBGC takes over Aloha Airlines plans

The Pension Benefit Guaranty Corp. has taken over three pension plans sponsored by Aloha Airlines Inc., a Honolulu-based carrier that recently emerged from bankruptcy. The plans are 55% funded, with \$190 million in assets and \$345 million in liabilities, and the PBGC expects to be responsible for \$117 million of the shortfall. The financial impact to the PBGC of the takeover was included in the agency's 2005 financial statement. The agency earlier in the week said that it would begin reporting in news releases announcing plan takeovers whether it previously booked a plan as a probable loss and thus included it in its financial balance sheet.

Mass. House overrides veto of employer charge

The Massachusetts House of Representatives overwhelmingly voted to override Gov. Mitt Romney's veto of a provision in a landmark universal health care reform law that would impose an assessment on employers that

See **LATE NEWS**/page 31

ACE pays \$80M to settle Spitzer probe

Latest deal may signal winding down of investigations

By DOUGLAS McLEOD

HAMILTON, Bermuda—ACE Ltd.'s \$80 million settlement of bid rigging and finite reinsurance-related charges may signal the latter stages of New York Attorney General Eliot Spitzer's campaign against alleged insurance industry abuses that began with his 2004 lawsuit against Marsh Inc.

ACE last week became the latest insurer to settle with state regulators, agreeing to pay \$80 million in restitution and penalties for allegedly participating with Marsh in rigging excess casualty bids and for executing half a dozen allegedly sham reinsurance contracts designed to improperly enhance earnings.

ACE's payment is the smallest of the insurer settlements to date.



PHOTO: ZUMA PRESS

New York Attorney General Eliot Spitzer's investigations of industry practices have so far produced settlements with three insurers.

American International Group Inc. earlier this year settled charges brought by Mr. Spitzer and the U.S. Securities and Exchange Commission for \$1.64 billion. Zurich Financial Services Group Inc. later

Costly resolutions

Insurers pay up to end probes

Insurer	Amount (in millions)
AIG	\$1,644.0
Zurich	324.7*
ACE	80.0
Total	\$2,048.7

*Includes two settlements with 12 states

regulators in other states as well as the SEC continue to probe alleged bid rigging and finite reinsurance abuses. Bermuda-based RenaissanceRe Holdings Ltd. and Armonk, N.Y.-based MBIA Inc., for example, remain under SEC investigation on finite-related issues, and MBIA last year set aside \$75 million for an expected settlement.

In its own financial filings, ACE has reported receiving inquiries or subpoenas from several state regulators, including the Pennsylvania Insurance Department—which did not participate in last week's settlement—and from the SEC. An ACE spokesman declined to comment on other investigations.

Still, Mr. Spitzer's own pursuit of

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Terror risk demands federal role: Groups

Private market still said lacking

By MARK A. HOFMANN

A continuing lack of guaranteed reinsurance, the long-term nature of the terrorism threat and the shortcomings of computer modeling to forecast terrorist losses are all reasons to maintain a federal terrorism insurance backstop, interested parties are telling a presidential task force studying the state of the terrorism insurance market.

The Terrorism Risk Insurance Extension Act of 2005 requires the President's Working Group on Financial Markets to issue its report on the state of the terrorism insurance market to Congress by Sept. 30. TRIA extended a federal backstop originally created by the Terrorism Risk Insurance Act of 2002 for insurers facing future catastrophic terrorist losses through Dec. 31, 2007. The working group solicited

comments from interested parties during a formal comment period that ended April 21. A spokeswoman for the U.S. Treasury Department said it received roughly 40 comments before the period ended.

And not surprisingly, comments offered by insurers, brokers and buyers alike supported some continued public-private partnership in guaranteeing the continued availability of terrorism insurance.

Bradley Wood, senior vp-risk management for Marriott International Inc. in Bethesda, Md., helped prepare the Washington-based Coalition to Insure Against Terrorism's comment.

"The reality is that the private terrorism insurance market has not improved," said Mr. Wood in an e-mail. "The notion that free-market solutions will prevail to provide adequate capacity for policyholders is an economics illusion. A federal role remains necessary for the indeterminate future—like it or not. Once again, time is against policy-

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Paid leave proposal

How the Massachusetts paid family leave program would work:

- Employees would be eligible for 12 weeks of job-protected paid leave at full salary—up to \$750 a week—to care for newborn or adopted children or for employees' own illness or that of a family member
- Benefits funded through mandatory employee-paid premiums
- One-week waiting period before paid leave could be taken
- Employees must have worked for their current employer at least 900 hours during the prior nine months to be eligible for paid leave

Massachusetts to mull paid family leave bill

By JERRY GEISEL

BOSTON—Weeks after passing landmark health care reform legislation, Massachusetts legislators soon will consider a proposal that would, if passed, create the nation's most generous paid family and medical leave program.

Senate President Robert Travaglini, D-Boston, is set to introduce legislation that would guarantee a worker in Massachusetts 12 weeks of full pay—subject to a \$750 weekly cap—if

he or she needs time off to care for a newborn or adopted child. An employee also could take paid, job-protected leave if he or she or a spouse, child or parent is seriously ill.

An employee, though, would be entitled to paid leave only after a five-day waiting period, during which the worker would have to tap sick leave, vacation time or take leave without pay.

Additionally, an employee

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BLAST DISPUTE

Reinsurer sues captive over explosion claim.

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RX FOR SAVINGS?

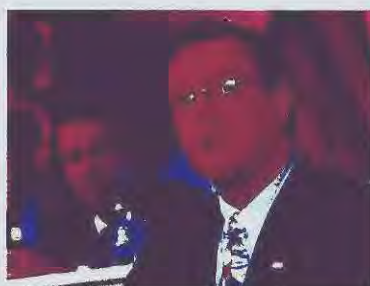
Some employers set up Medicare drug plans.

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SPOTLIGHT

RIMS CONFERENCE NEWS

Society's leaders call for quality; RIMS bestows highest honors; panel debates broker practices.

PAGE 13

AON

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Trend of companies refusing to employ smokers expected to grow.
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Guernsey expands ART options

Change designed to offer better protection of captive cells.
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Online poll - [4/24 - 4/28]

Do you believe that employers not offering health insurance coverage should have to pay an assessment to help fund coverage for the uninsured?



Participate in *BI's* online polls at www.businessinsurance.com.

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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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N.J. high court OKs asbestos suit

Welder's wife was exposed to fibers in his clothing: Suit

By MARK A. HOFMANN

TRENTON, N.J.—A New Jersey Supreme Court decision that expanded premises liability in a case involving the death of the wife of a worker who had been in contact with asbestos could ultimately have implications beyond the Garden State, say lawyers on both sides of the issue.

The April 24 decision in *Anthony Olivo vs. Owens Illinois et al. and Exxon Mobil Corp.* al-

lows Mr. Olivo to seek damages from Exxon Mobil for the death of his wife, Eleanor, who died of mesothelioma in 2001. Mr. Olivo held that his wife had contracted the disease while washing his work clothes that had been contaminated with asbestos when he worked as a contract welder for several decades at what was then a Mobil refinery in Paulsboro, N.J.

Mr. Olivo sought damages from about 30 defendants in connection with various worksites where he'd been employed over his nearly 40-year career. All of the defendants except Exxon Mobil settled with Mr. Olivo. Exxon Mobil, noting that Mrs. Olivo had never been in the refinery, sought to have the case dismissed, which a lower court did. An appellate court reversed the lower court, and the state Supreme Court affirmed that ruling last week.

"We hold to the extent Exxon Mobil owed a duty to workers on its premises for the foreseeable risk of exposure to friable asbestos and asbestos dust. Similarly, Exxon Mobil owned a duty to spouses handling the workers' unprotected work clothing based on the foreseeable risk of exposure from asbestos borne home on contaminated clothing," wrote Justice Jaynee LaVecchia for the court in a decision in which four other justices joined. Two justices took no part in the decision.

Even though the decision affects only New Jersey, employers have reason to be concerned, say employment law experts.

"The plaintiffs bar is starting to pursue premises owner liability theories for injuries

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PHOTO: AP/BELLINGHAM HERALD

Smoke billows from the site of a 1999 explosion at a gasoline pipeline near Bellingham, Wash.

Shell, captive sued over claim for blast

Reinsurer seeks reversal of arbitration

By DOUGLAS McLEOD

BURLINGTON, Vt.—A reinsurer of Shell Petroleum Inc.'s Vermont captive is asking a U.S. court to overturn an arbitration panel's decision awarding \$14 million to the captive for a massive 1999 gasoline pipeline explosion.

London-based Gerling-Konzern General Insurance Co. is suing Shell and its captive, Noble Assurance Co., to avoid the partial payment of its share of a \$200 million settlement of business interruption claims stemming from the explosion. Several of Noble's other reinsurers have already agreed to pay their shares of the settlement, court papers say.

Gerling charges that Noble improperly issued an insurance certificate after the loss to the pipeline company involved in the accident, a minority-owned Shell affiliate.

Noble counters, though, that Gerling raised the issue before the London-based arbitration panel and that the panel found nothing improper in the certificate's issuance.

A federal judge in Burlington last week granted Gerling's request for a

temporary restraining order barring Noble from enforcing the arbitration award while the Vermont action is pending. Chief U.S. District Court Judge William K. Sessions III is expected to decide early this month whether to issue a preliminary injunction against Noble.

The dispute stems from a nearly seven-year-old accident on a 400-mile-long pipeline that delivered gasoline from refineries in Washington state to points as far south as Portland, Ore. The pipeline, owned by Olympic Pipeline Co. Inc., ruptured in Bellingham, Wash., dumping 236,000 gallons of gasoline along creek beds in a city park. Gasoline fumes ignited and exploded, killing three people and causing other injuries and property damage, according to court filings.

Shell owned a minority stake in OPL as a result of an earlier joint venture with Texaco Inc.: In 1998, Shell and Texaco had combined their gas station, refinery and other operations in the western United States in a newly formed company, Equilon En-

Some employers opt to take on role as Medicare drug plans

By GLORIA GONZALEZ

While the vast majority of employers with retiree drug benefits chose to take the Medicare Part D subsidy for continuing their benefit this year, a few organizations decided instead to directly contract with the federal government to act as their own Medicare prescription drug plans.

The number of employers taking this approach was limited by several factors, including an early filing deadline and the administrative burden presented by directly contracting with the U.S. Centers for Medicare and Medicaid Services to become PDPs. And due to the obstacles involved with the direct contracting approach, observers believe that contracting with vendors to offer their PDPs will become a more popular option for employers.

Direct contract plans are programs in which an employer or union itself becomes a Part D prescription drug plan solely for its retirees.

Generally speaking, this approach is most attractive to tax-exempt entities that would not benefit from the tax-free retiree drug subsidy. The direct contract model is also more beneficial to large employers with sizable retiree populations, because it requires more administrative effort and employers must have a retiree base large enough to justify that effort. "You have to be willing to take on that large administrative burden, and it's usually larger entities that are willing to do that," said Todd Rooker, the Scottsdale, Ariz.-based president of SilverScript Insurance Inc., a subsidiary developed by Caremark Rx Inc. to market PDPs.

"You have to be willing to take on that large administrative burden, and it's usually larger entities that are willing to do that."

Todd Rooker
SilverScript Insurance Inc.

Limited interest in the approach

As of Oct. 21, 2005, only 10 organizations received permission from CMS to operate as their own Medicare PDPs, and a smaller number have actually created PDPs.

Several factors combined to limit the number of organizations that chose to directly contract with CMS, beginning with a March 2005 application deadline that most organizations simply could not meet. Employers were also leery about going the direct contract route last year, be-

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Employee tobacco ban curbs benefits costs: Exec

More employers expected to adopt zero tolerance

By JERRY GEISEL

WASHINGTON—When it comes to employees' tobacco use, a small Midwestern third-party benefits claims administrator has drawn a line in the sand.

Employees can smoke, but if they do and are caught through random nicotine testing, they will lose their jobs.

That zero tolerance of tobacco use is deliberate, said Howard Weyers, president and chief executive officer of Okemos, Mich.-based Weyco Inc., which introduced the ban last year.

Corporate America cannot afford to subsidize the health care costs of

employees who voluntarily engage in behaviors, like smoking, that are damaging to their health, Mr. Weyers said.

Speaking last week in Washington at the 18th annual meeting of the National Managed Health Care Congress, Mr. Weyers said it is up to employees to decide on their priorities.

"Our employees are adults," he said. As adults, they have to decide which is more important: their continued use of tobacco or their jobs, Mr. Weyers said.

While Weyco is one of a handful of employers closing off employment to those who smoke, more employers are likely to follow suit,

Mr. Weyers said. What unites such employers on the issue is a belief that they shouldn't have to pay for the results—higher health care costs—of tobacco use, he said.

The tobacco ban is just one aspect of Weyco's drive to keep employees' healthy. Among other things, it provides 100% coverage in its health care plans for certain preventive services, like annual physicals and cancer screenings, and it also reduces employees' health insurance premium contributions if they participate in certain preventive programs, like health care risk assessments.

See TOBACCO / page 6



More companies are expected to follow Weyco Inc. and ban employee use of tobacco as part of attempts to cut benefits costs.



AIR Worldwide Corp. has estimated that catastrophe losses, like those caused by Hurricane Katrina, can be expected to double every 10 years, due to both demographics and increased construction expenses.

Cat modeler offers 'doomsday scenario'

1% chance of \$100 billion 2006 loss

By MARK A. HOFMANN

BALTIMORE—An intense hurricane striking Miami before regrouping in the Gulf of Mexico and making landfall west of New Orleans could cause \$200 billion in insured property damage, according to the president of a major catastrophe modeling firm.

Karen M. Clark, president and chief executive officer of AIR Worldwide Corp., a Boston-based unit of the Insurance Services Office Inc., offered that "doomsday scenario" during an address at the Property Claim Services catastrophe conference in Baltimore last week. Ms. Clark said that there is a 1% chance that insurers will face catastrophic losses of \$100 billion this year, she said.

Events that could cause \$100 bil-

lion insured property damage include a Category 5 hurricane hitting Miami or a weaker Category 4, or even a Category 3, hurricane striking the Northeast "with the right track" just west of New York, she said. New York "is the worst area for storm surge after New Orleans," Ms. Clark said. A massive earthquake along the New Madrid Fault in the Mississippi Valley could also result in \$100 billion in insured property damage, she said.

By way of comparison, 2005's Hurricane Katrina caused an estimated \$38.1 billion in insured property damage according to PCS, another unit of Jersey City, N.J.-based ISO (BI, Jan. 30).

There is about a 3% chance that insurers will face Katrina-like losses

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Conn. Senate passes captive bill

Measure closely follows Vermont law

By JERRY GEISEL

HARTFORD, Conn.—Connecticut, long considered the unofficial capital of the commercial insurance industry, could become the nation's next captive insurance company domicile.

The measure, introduced by state Sen. Joseph Crisco, D-Hamden, the chairman of the Insurance and Real Estate Committee, was unanimously approved by the Senate last week and now is awaiting action on the House floor.

The bill is heavily based on the captive law in Vermont, the world's third largest domicile with more than 540 captives.

For example, the premium tax structure laid out in the Connecticut bill—S.B. 31—is identical to Vermont's. On direct written pre-

miums, the tax would be 0.38% on the first \$20 million in premiums, 0.285% on the next \$20 million, 0.19% on the next \$20 million and 0.072% on premiums exceeding \$60 million.

Premium taxes for reinsurance also follow Vermont's, with a tax of 0.214% on the first \$20 million of premiums, 0.143% on the next \$20 million, 0.048% on the next \$20 million and 0.024% on reinsurance premiums exceeding \$60 million.

The minimum annual premium tax would be \$7,500, while the maximum annual premium tax—regardless of how much business is funneled through a captive—would be \$200,000.

Also identical to Vermont, the minimum capital and surplus requirement for single-parent captives would be \$250,000, \$750,000 for association captives and \$1 million for risk retention groups.

It isn't clear whether the measure will gain final approval. On the one

hand, the measure has not attracted any opposition and is backed by Sen. Crisco, a powerful figure in the state legislature, notes Kristina Baldwin, regional manager and counsel in the Albany, N.Y., office of the Property Casualty Insurers Assn. of America.

Indeed, the Senate vote underscores the interest of state legislators in the issue, said Ray Oberg, the controller of hedge fund Aladdin Capital Holdings L.L.C. in Stamford, Conn.

On the other hand, the legislative session is set to expire next week. "Time is running short," Ms. Baldwin said.

With a big reinsurance industry and a strong financial services industry, Connecticut has the ingredients to be an attractive domicile, some state observers say.

"There are a lot of insurance professionals here and a reliable infras-

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Sunday work rule constitutes bias

By JUDY GREENWALD

NEW YORK—A district court erred when it ruled that an employee who did not wish to work on Sundays for religious reasons was reasonably accommodated when he was given only part of the day off to attend religious services, says an appellate court in overturning the lower court's ruling.

The April 19 decision by the 2nd Circuit Court of Appeals in *Bradley Baker vs. The Home Depot* was remanded back to the lower court for further action.

According to the opinion, Mr. Baker was initially permitted to take Sundays off by supervisors at the Henrietta, N.Y., Home Depot store in which he worked.

A new store manager objected, though, and offered him the option

of a later shift on Sundays, which Mr. Baker refused. He also refused to work part time, which would have permitted him to take Sundays off, explaining he needed to work full time. The supervisor said Mr. Baker also rejected a suggestion that he find another sales associate to swap shifts with him.

Mr. Baker was subsequently terminated for unexcused absences. He sued the Atlanta-based Home Depot, charging religious discrimination.

The shift change "offered to Baker was no accommodation at all because, although it would allow him to attend morning church services, it would not permit him to observe his religious requirement to abstain from work totally on Sundays," says the unanimous opinion by the three-judge panel.

Simply put, "the offered accom-

modation cannot be considered reasonable...because it does not eliminate the conflict between the employment requirement and the religious practice," said the court, in quoting a 1996 opinion.

The opinion adds, "Although we are constrained to vacate the judgment of the district court because of the inadequacy of the offer of shift change on Sundays as an accommodation, we express here no opinion as to whether Home Depot's offer of part-time employment or its allowance of the exchange of shifts with other employees would constitute reasonable accommodations. We leave the consideration of those matters to the district court."

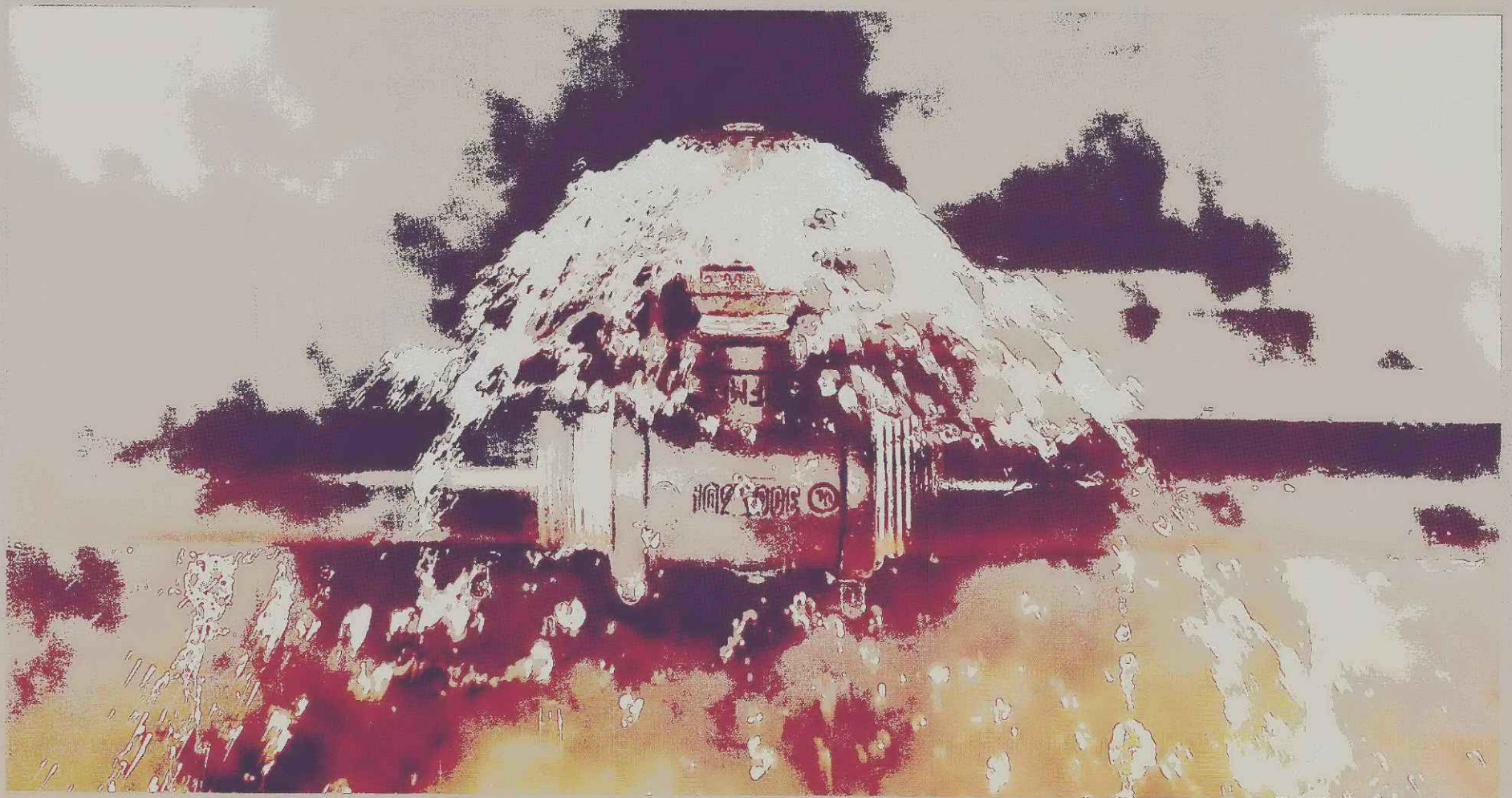
The opinion notes also that the Home Depot says giving Mr. Baker

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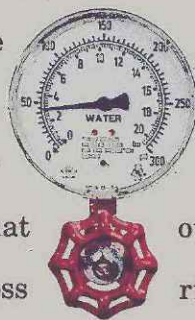
LOTS OF HEAT. A LITTLE WATER.

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OR A DISASTER.



WAUSAU PROPERTY AT WORK. A building material supply customer of ours recently moved into a larger building. Despite the extra space, it still had inventory stacked nearly to the ceiling. This presented a bit of a problem for the existing sprinkler system, which was not designed for high-pile storage. The system didn't have the necessary water and pressure to combat the type of intense fires that could result from the primarily wood materials. Our loss prevention experts estimated the entire \$4 million inventory could be lost in a fire. Working together, we found a solution



that appealed to both the company and its landlord. The existing system was replaced with one designed for high-pile storage and the building was outfitted with new heaters to prevent the pipes from freezing. In addition to protecting its inventory, the company saved almost \$30,000 a year in premiums. It's all part of Wausau TotalValueSM and our commitment to lowering our customers' total cost of risk. A commitment backed by the financial strength of the Liberty Mutual Group. To learn more, visit wausau.com or contact your Wausau representative.

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PDPs: Few employers seek direct contracts with CMS

Continued from page 3

cause CMS hadn't issued all the guidelines and waiver requirements before the filing deadline. In addition, organizations choosing the direct contract approach had to file a substantial amount of paperwork, including the submission of formularies for review and verification that their benefit design met more specific multiple actuarial standards than the retiree drug subsidy application.

An administrative burden

Employers described the direct contracting application process as onerous. Ronald Wyse, director of employee benefits for Harris Corp in Melbourne, Fla., noted the number of affidavits he had to sign with CMS related to various aspects of the program. "I'm the CEO, the CFO and just about everything else for the PDP," Mr. Wyse said at the 2006 Employee Health Care Conference, sponsored by Towers Perrin in New York. "But so far, at least we're approved and we're operational."

CMS has tried to simplify the process for employers and unions, approving waivers that would free them from meeting certain requirements that health plans have to meet, such as being licensed to sell insurance in all states. But by the agency's own admission, the administrative burden placed on organizations that directly contract to become PDPs was a key reason why the vast majority of employers shied away from this approach. "It's not easy being a Medicare plan," a CMS spokeswoman said. "It's not an easy undertaking, and I think most of our direct contractors clearly understand it."

Employers that choose the direct contract approach are responsible for interacting with Medicare and

ensuring compliance with federal regulations and laws, but they can hire a prescription benefit manager or health plan to perform certain functions to alleviate the administrative burden. For example, an employer can hire a PBM to produce a drug event report that contains all the data and claims information that influences the level of CMS reimbursements, said Mary Daschner, vp and general manager-Medicare, for Medco Health Solutions Inc. in Eden Prairie, Minn.

An employer can avoid these types of issues completely by contracting with a PBM or health plan to use its PDP rather than directly contracting with CMS. "It takes the administrative burden away from employers and leaves it with us as the PDP," she said.

If an employer can get past the application and administrative hurdles, though, there is the potential to achieve higher savings in its retiree drug program via higher reimbursements from CMS. "There definitely can be more money from CMS," said Cara Jareb, director of retiree medical consulting with Watson Wyatt Worldwide in Arlington, Va.

Organizations such as the Missouri Department of Transportation that chose the direct contract option cited the potential for larger savings for their retiree drug costs as the key driver behind the decisions to directly contract with CMS to become a PDP (see related story).

Theoretical savings

Along with the potential savings of the direct contract route, though, comes the possibility that the employer will miscalculate the level of reimbursement, consultants say. While there is a basic formula for determining the amount of the reimbursement, the amount is risk-

State agency sets up own drug plan

The Missouri Department of Transportation took a unique approach to revamping its retiree benefits program in light of the Medicare Modernization Act—the organization applied for and received permission to become its own Medicare prescription drug plan.

MoDOT is one of a small number of employers choosing to directly contract with the U.S. Centers for Medicare & Medicaid Services to act as their own Medicare PDPs, citing the potential for larger savings on their retiree drug costs.

The organization is projecting savings in the range of 10% for its retirees and 20% for the organization related to its retiree drug benefit. "It was apparent to our board that, at least theoretically, this option would provide both our members and our plan with a better return," said Jeff Padgett, manager of employee benefits for the Jefferson City, Mo.-based organization.

But the application process was more complicated than expected, so the organization was forced to rely heavily on its consultants to interact with both CMS and its prescription benefit manager, he said. "The process has been more costly than we anticipated it would be, mainly due to the amount of intervention by our consultants," Mr. Padgett said.

While CMS has tried to simplify the process for

employers by allowing waivers to be issued, freeing them from certain requirements that health plans and PBMs must meet, the agency could still make it easier for organizations such as MoDOT that are not trying to profit from acting as their own PDPs and

would offer benefits solely to their own members, he said. "I have a good appreciation for what the folks at CMS are doing," Mr. Padgett said. "Having said that, the process is a little bit cumbersome and a little bit complicated."

MoDOT has also had issues with its PBM because the PBM was unable to duplicate an aggressive pricing discount featured in its previous drug program, he added. MoDOT is still exploring ways to handle this problem, possibly changing the structure of the program or exploring other ways to deliver the product to its members, Mr. Padgett said.

Despite the obstacles involved, Mr. Padgett said he would recommend the direct contract approach to other employers if the organization were to achieve the projected savings. "The administrative expense and the administrative work seem to be pretty

worth it at this time," Mr. Padgett said. "It is a little bit of work up front, and if we fall short of our revenue projections, I might have to change my mind."

—By Gloria Gonzalez

"I have a good appreciation for what the folks at CMS are doing.... Having said that, the process is a little bit cumbersome and a little bit complicated."

Jeff Padgett
Missouri Department
of Transportation

adjusted for all organizations, meaning that the final reimbursement could vary significantly based on factors such as utilization.

Employers can also theoretically save money by directly contracting with CMS rather than paying a third party to provide the benefit, but organizations directly contracting are finding that they cannot meet all the increased responsibilities of acting as Medicare PDPs due to limited time, resources or experience. These organizations must contract with PBMs or consultants that can interact with CMS or ad-

minister the benefit on their behalf for a fee, which reduces any potential savings they might achieve by directly contracting with CMS.

"In theory, you would cut out some of the intermediaries," said Jerry Nebbia, a principal with Mercer Human Resource Consulting in Kansas City, Mo. "Frankly, I don't see it. I don't see how most employers can do it unless CMS radically makes the process easier."

In fact, consultants say they anticipate the majority of employers will contract with PBMs to offer their PDPs rather than directly con-

tracting with CMS because of the administrative burdens involved with the direct contract approach. Towers Perrin estimates that in five years, about 70% of employers will set up enhanced PDPs through vendors while only 5% will set up their own PDPs. "The vast majority of the market is going to gravitate toward product offerings by PBMs rather than going through the trouble of setting up their own PDP directly," said Paul Matthews, practice leader for Towers Perrin's health and welfare specialty practices based in Boston.

Tobacco: More adoption of zero tolerance likely

Continued from page 4

The results, Mr. Weyers said, speak for themselves: Weyco's annual health care costs are about one-third less compared with other employers in Michigan, he said.

"If you improve the health status of your employees, you will reduce costs," said the CEO of the 180-employee firm, whose average employee age is 41. "If we reduce demand for services, we reduce costs. We can't afford unhealthy lifestyles. They are expensive for employers and employees," and ultimately they "create pain and suffering" for employees, he said.

Health care plan design also is key to controlling costs, Mr. Weyers said. Most Weyco employees, for example, are enrolled in high-deductible health insurance plans linked to health savings accounts or health reimbursement arrangements.

Such arrangements, Mr. Weyers said, reward employees for staying

healthy. Employees who stay healthy can, in an HSA arrangement, build up their account bal-

"We can't afford unhealthy lifestyles. They are expensive for employers and employees," and ultimately they "create pain and suffering" for employees."

Howard Weyers
Weyco Inc.

ances, which gives them a source of tax-free funds in retirement to pay for health care expenses.

"I can save for retirement. The

HSA law allows that, and the best way for employees to do that is to preserve their health during their working years," he said.

At the same time, employers have to place the same emphasis on keeping their employees healthy as they do on customer service and accident prevention, he said.

He notes, for example, that while employers post signs in the workplace that keep track of how many days a factory has been without an accident, comparable promotional efforts—such as the number of days without a major illness—are nonexistent.

Mr. Weyers acknowledged that there is a lot more the company needs to do to get employees to take better care of themselves, including eating healthier foods and exercising more.

Those are, he said, monumental tasks, as individuals often have a "million excuses" as to why they don't have time to exercise.

Catastrophes: Modeler predicts 1% chance of \$100 billion loss

Continued from page 4

this year she said.

Ms. Clark said that catastrophe losses can be expected to increase perhaps doubling every ten years. Much of the reason for the growth in losses has to do with both demographics and the way people live, noted Ms. Clark.

During the period 1995-2004, the number of housing units in the United States grew by 31%, she said. In some catastrophe-exposed states, such as Georgia, the growth rate was above 40%.

But numbers alone do not tell the story, Ms. Clark said. "New homes are getting larger," causing larger exposures, she said.

Size is not all that matters, either, for the buildings are becoming more "architecturally complex." This means more windows, gables and other features can be damaged by hurricanes or other natural disas-

ters, Ms. Clark said.


And the more complicated housing package surrounds more "opulent" interiors, she said.

"What we're rebuilding after a catastrophe today" involves high construction costs that wouldn't have been the case only a few years ago, she said.

Meanwhile, insurers don't always have good data on their commercial account exposures, said Ms. Clark. In some cases, as many as nine out of 10 commercial properties carry "significantly" lower replacement values than should be the case, she said.

"We are going to see losses of Katrina size and larger," Ms. Clark said. The probability of such a loss will grow every year, she added.

No matter what happens with the climate, "you are going to be very busy," Ms. Clark told her audience of claims professionals.



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Editorial

New Jersey asbestos ruling stretches premises liability

THE NEW JERSEY SUPREME COURT'S recent decision expanding landowners' premises liability in an asbestos-related case should give employers and risk managers reason for pause.

As we report on page 3, the Garden State's high court ruled last week that Anthony Olivo, a retired contract welder who had worked at what was then a Mobil Oil refinery in Paulsboro, N.J., could sue Exxon Mobil in connection with the death of his wife from mesothelioma, a fatal cancer caused by asbestos, more than 15 years after he had retired. Mr. Olivo said that his wife had come into contact with asbestos when she washed his work clothes, which had been exposed to asbestos on the job.

The New Jersey Supreme Court ruled in favor of the retired welder in part because it said that Exxon Mobil should have been able to foresee that Mrs. Olivo could be harmed by her husband's exposure to asbestos and remanded Mr. Olivo's lawsuit to a lower court for reconsideration.

Even though the decision applies only to New Jersey, it could have national implications if other state courts follow New Jersey's

rationale when confronted with such cases. How far ahead—and how far afield—should an employer be able to see that an injury will occur to someone who had worked in its facility? Remember that Mr. Olivo was not a Mobil employee, and that the refinery was only one of numerous job sites at which he worked during a nearly 40-year career. In fact, he sought and received settlements from about 30 other entities in connection with the case.

What is more troubling about the decision is the fact that Mrs. Olivo had never set foot on the work site. Whereas landowners' premises liability traditionally ends at the property line, the New Jersey Supreme Court has extended it into the laundry room of a house in another municipality. One must wonder where liability for secondhand toxic exposure could now end—at the county line, or will it extend to the state line?

Employers need to know where that line is. As other state courts consider this issue, we can but hope that they will resist the temptation to extend that line far beyond its logical limit and instead choose a more restrictive boundary to the limits of premises liability, particularly regarding secondhand toxic exposure.

Is paid family leave a good idea?

DO THE BENEFITS of paid family leave programs outweigh the costs?

As we report on page one, that is what Massachusetts legislators will be debating in the coming months as they consider a proposal by Senate President Robert Travaglini, D-Boston, that would allow employees to take 12 weeks of paid leave—up to a \$745 weekly maximum—within any 12-month period to care for a newly born or adopted child or to take care of their own illness or that of a child, spouse or parent.

While employees would fund the benefit through mandatory payroll deductions, there is no question that there would be a cost to employers.

Employers would incur such costs as increased overtime as other employees are asked to work longer hours to take up the responsibilities of those on paid leave. In addition, employers might have to hire more temporary workers, who would require training and might not be as productive as those on leave.

That said, we believe there are benefits to paid leave programs that should not be over-

looked or discounted.

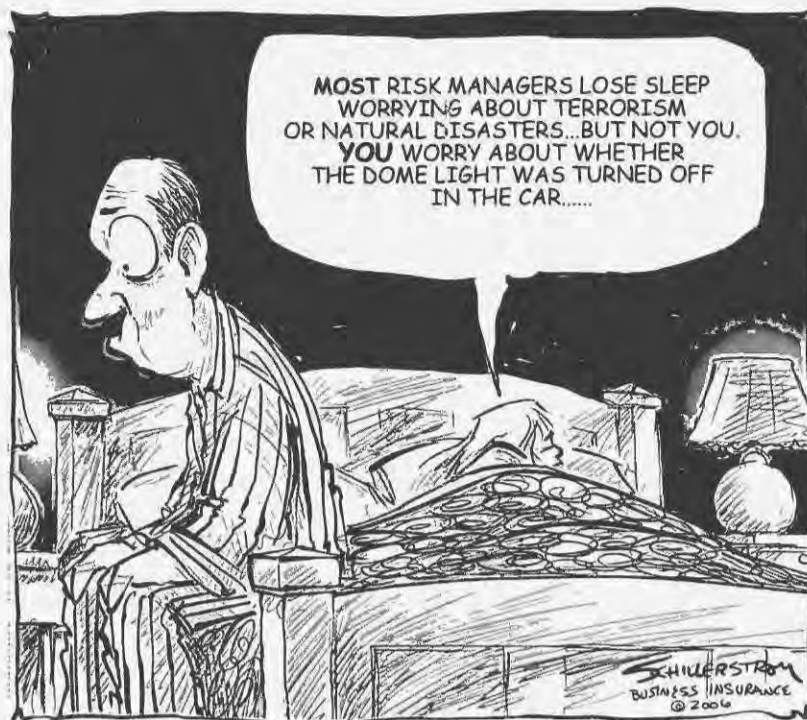
First, if employees can take paid leave, they are less likely to stay on the job when they are ill and, depending on the nature of their sickness, infect co-workers.

Additionally, when employees come back to work and are not financially in the hole, as they could be if they had to take unpaid leave, they may be much less stressed and distracted. That, as a result, could make them more productive than they otherwise would be.

We acknowledge that those last two points are just theories. Not enough employees have taken advantage of a pioneering California paid leave law—probably because the benefits aren't very rich—to draw firm conclusions on whether such a mandate does more good than harm.

But, clearly, we understand the potential advantages of paid family leave programs, and, if Massachusetts legislators enact the measure, we believe enough information will be produced over time to draw conclusions on whether the programs truly are in both employers' and employees' best interests.

Schillerstrom



Letters

New York paves way for Massachusetts reform

To the Editor: It is without dispute that Massachusetts has broken new and impressive ground in the provision of health insurance to its citizens with the recent passage of its health insurance reform package.

Jerry Geisel's story, "Massachusetts mandates cover," that appeared in the April 10 issue—which included the history of past reform efforts—failed to mention the successful public and private market-based initiatives championed by Gov. George E. Pataki and passed by the New York legislature several years ago. New York's Health Care Reform Act not only was years ahead of its time in targeting the plight of the working uninsured, it was, in fact, one of the early inspirations for Massachusetts Gov. Mitt Romney's initial "Commonwealth Care" proposal which presaged the final Massachusetts initiative.

Medicaid and Child Health Plus reforms, together with the unprecedented Family Health Plus and Healthy New York programs, all together in a single package, put New York in the vanguard of health insurance reforms, and crystallized the notion—which is the integral underpinning of the Massachusetts plan—that market-based programming, that reallocates state funds to the health insurance process rather than just the health care pro-

cess, can work to actually provide better coverage and care.

In New York, especially in the Healthy New York program, specific price points were established for the sale of private market health insurance policies to small businesses, sole proprietors or individuals. Reasonable coverages were provided to people who, in many instances, had never had their own health insurance before and were reluctant to utilize the health care system, and claims were covered by the private insurers with stop loss coverage provided through a state financing mechanism. And, all of this was done without adding any obvious or hidden expenses to New York's businesses.

The outcomes have been the insuring of hundreds of thousands of New Yorkers, an easy portal of entry for recent college graduates so that New York's future would not be priced out of the state and affirmations by groups like the Commonwealth Fund that initiatives such as this, and the Massachusetts reform that has now become law, can flourish in the marketplace.

As Governor Romney noted after the signing of the Massachusetts initiative, the states are the laboratories of public policy, and clearly the political scientists in Massachusetts have been not only achieving new and great successes for their people, but

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Business Insurance

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COMINGS & GOINGS - INDUSTRY

Brokers:

Charlotte, N.C.-based American Wholesale Insurance Group has appointed **J. Scott Reynolds** president of its specialty underwriting division. Before his promotion, Mr. Reynolds was chief actuary.

Willis Group Holdings Ltd. has made several appointments in its Toronto office:

• **Ayesha Navarro** has been named senior vp, account executive, with Willis' risk solutions practice. Previously she was a senior vp with Aon Corp.

• **Murray Kammer**, formerly senior vp at Marsh Canada, joins Willis as senior vp, director, commercial practice.

• **Charles Fogden** joins as a senior vp within the risk solutions practice. Before joining Willis, he was a senior vp at Aon.

• **Matthew Cook** joins the risk solutions practice as senior vp. Formerly, he was vice chairman at In Tech Risk Management.

Aon Corp. has named **Kathy Burns** chief executive officer of Aon Risk Services Americas eSolutions Group. Previously, she was a managing director at Marsh & McLennan Cos. Inc.'s CS STARS unit.

New York-based Mercator Risk Services has named **Peter McKeegan** executive vp of its professional liability

practice. Before joining Mercator, he was senior vp of the executive assurance group at Arch Insurance Group.

Also at Mercator, Senior Vp **John Cleary** has been appointed to lead the casualty construction and real estate practice.

Integro Ltd. has named **Robert Fenley** principal in the Chicago office. Previously, he was a senior director, risk management and real estate, for CNH Global.

Also at Integro, **Susan Carson** and **James Bacon** have been named principals in the San Francisco office. Ms. Carson previously was a senior vp at ABD Insurance & Financial Services Inc. Mr. Bacon formerly was a managing director and head of the risk management practice in Marsh's office in Northern California.

And **Steve E. Alexander Jr.** has been named principal in Integro's Atlanta office. Previously, he was president of Steve Alexander Agency, a division of Southern States Insurance.

Insurers:

Jeff J. Gans has been named senior vp and chief underwriting officer of Employers Insurance Group in Reno, Nev. Most recently, he was a senior vp in the underwriting operation of Aon Underwriting Managers.

New York Life Insurance Co. has named **Mark E. Arning** senior vp. He will continue as the New York-based company's deputy general auditor.

The Halland Insurance Cos. has named **Andrew D. Loughrane** managing partner of its newly opened New York office. Previously, he was a managing director and practice leader at Marsh USA.

Carmel, Ind.-based Conesco Inc. has named **Daniel G. Walseth** executive vp, general counsel and secretary of the company. Previously, he was vp and senior associate general counsel for Trivent Financial for Lutherans.

Other providers:

Redwood City, Calif.-based Global Risk Advisors has appointed **John Schaefer** as president. Previously, he was senior vp in charge of risk management at ABD Insurance & Financial Services.

Alexander M. Clark has joined New York-based Sanders Morris Harris Group Inc. as managing director of the firm's insurance investment

banking practice. Previously, he was a managing director in the financial institutions practice at Advest Group.

Mercer Human Resource Consulting has named **Clive Kent** as a principal in its health and benefits business in Chichester, England. Previously, he was a commercial director at Rubicon Health.

Colin Fitt and **David Mocklow** have been made partners at Cochran Caronia Waller in Chicago. Both will continue as

managing directors. Overland Park, Kan.-based First Horizon Msaver Inc., a health savings account administrator, has named **Byron Mickle** senior vp of business development. Before joining First Horizon, he was vp-sales at Evolution Benefits Inc.

Needham, Mass.-based Albert Risk Management Consultants has named **Frederic C. Church Jr.** senior consultant. Mr. Church also is a principal of FirstChurch Consulting and a founder of Boston Risk Management Corp.

Full Capture Solutions Inc., an East Hartford, Conn.-based provider of

predictive analytics software and services, has made two senior-level appointments:

• **William Nadal** has been named senior vp and chief technology officer. Previously, he was chief technology officer at Herzum Software.

• **Myong Yun Lee** has been named senior vp. Before joining Full Capture, she was senior vp of risk, systems and analytics at General Electric Commercial Finance.

Kathryn Walker-Eich has been named principal of WFG Capital Advisors' corporate finance service in Chicago. Previously, she was executive vp of Lake Forest Bank.

Washington-based Watson-Wyatt Worldwide has named **Carl Hess** practice director of Watson Wyatt Investment Consulting Inc. Before his promotion, he was East division practice director.

Also at Watson Wyatt, **Rebecca Carroll** has transferred from Watson Wyatt's retirement consulting practice to serve as chief compliance officer in the investment consulting group. She will continue as senior consulting actuary.

Bill Nicholson has joined Atlanta-based Buck Consultants as principal in the communications practice. Previously, he was vp and communication practice leader for Aon Consulting.



Mr. Kent



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Spotlight

RIMS 2006 Conference Report

Risk management requires holistic approach / page 14

Making cut-through clauses work in Latin America / page 16

Risk managers, chapters honored by RIMS / page 20

Risk managers skeptical over reform claims

By JOANNE WOJCIK

HONOLULU—Senior executives of the nation's leading insurers and brokers were downright glib when talking about how they are addressing the industry's image crisis, and insurer executives were tight-lipped when asked to explain why premiums haven't fallen in sync with the end of contingent commissions.

But risk managers' reactions to responses during the leadership panel discussion at this year's Risk & Insurance Management Society Inc. annual conference suggest the industry hasn't weathered the worst of the storm.

"I didn't receive a corresponding reduction in my premium for the fact that contingents were not paid for my broker," said Ellen Vinck, outgoing president of RIMS and vp of risk management and benefits at BAE Systems Ship Repair Inc. in San Diego.

tems Ship Repair Inc. in San Diego.

"I also feel that there's a pot of money that hasn't come back to the insureds," she said, triggering a round of applause during the discussion that was sometimes cordial, sometimes contentious as moderators Steve Wilder, vp-risk management at The Walt Disney Co. in Burbank, Calif., and former RIMS President Ron Stasch challenged the panel of chief executives of seven of the nation's largest brokers and insurance companies.

J. Patrick Gallagher, president and CEO of Itasca, Ill.-based Arthur J. Gallagher & Co. Inc., claimed that his large risk management clients did not participate in any contingent programs.

While the executives sparred on stage, several members of the audience shook their heads in disbelief.

If only the small accounts were



Top-level executives from seven of the nation's largest insurers and brokers joined several senior risk managers to participate in a leadership panel discussion of current industry concerns.

generating contingents, then why did so many large accounts receive refund checks, wondered Terri Majcher, risk manager for Rochester, N.Y.-based Bausch & Lomb, who

was seated at a table reserved for risk managers from the pharmaceuticals industry.

"How dumb do they think we are?" she asked.

New York-based Marsh Inc. just completed a survey with Consensus Research, which went around the

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Vinck blasts quality of insurance placement process

By SALLY ROBERTS

HONOLULU—Risk managers need to take an active leadership role in establishing performance expectations with their insurance partners that will improve quality in the insurance placement process, according to the outgoing president of the Risk & Insurance Management Society Inc.

The risk management community is "not happy" with the insurance placement process or with the insurance product itself, Ellen Vinck, vp-risk management and benefits at BAE Systems Ship Repair Inc. in San Diego, said during last week's mem-

bership meeting at RIMS' annual conference and exhibition, held last week in Honolulu.

To back up her assessment, Ms. Vinck revealed some results of RIMS' 2006 Quality Survey.

When it comes to providing an insurance quote 30 days prior to the expiration of an existing policy, Ms. Vinck said that almost 50% of the more than 700 U.S. and Canadian risk manager respondents said they do not get a quote within that time frame.

Of those, 10% say they receive quotes three weeks prior to expiration, 26% said two weeks prior and 24% said one week or less, Ms. Vinck said, describing the findings

as "a failing report card."

And the situation isn't any better when it comes to policy issuance, she said.

Only 5% of the respondents reported receiving a policy within 30 days of binding.

The vast majority, she said, wait between 90 and 120 days to get the product that they paid for.

"The litigation following the attack on the World Trade Center proved to us all something that we all already knew—the insurance policy placement is many times secured with written documents but more so with verbal communications and a handshake," she said.

The timely issuance of insurance policies is "critical," and it "just cannot take this long," said Ms. Vinck, whose comments brought overwhelming applause from the audience.

And timeliness is not the only issue, she said, noting that accuracy, too, is lacking.

According to the quality survey, 53% of the respondents report not being satisfied with the quality or accuracy of the policy issued.

In answering her own question of "where do we go from here?" Ms. Vinck said that RIMS advocates open and honest dialogue among all parties of the insurance transac-

tion. And while "we appreciate some of the changes that have been made...we are not there yet."

She implored risk managers in the audience to use the framework of RIMS' Quality Improvement Process initiative to help boost quality in the industry.

"We, as the risk management community, need to actively play a leadership role and require definitive performance expectations that will improve quality in the insurance placement process," Ms. Vinck said, noting that she remembers hearing the same message 10 years ago while sitting in the audience of the annual RIMS conference.

See next week's issue for more RIMS conference coverage



PHOTO: MICHAEL MARCOTTE

Lori Jorgensen, senior director of finance at Microsoft Corp., was a keynote speaker at this year's RIMS conference.

Holistic risk management is key in complex, changing world

By JOANNE WOJCIK

HONOLULU—The changing nature of risk on the world stage has created the need for risk management professionals to have a holistic understanding of their organization's exposures, a high-profile risk manager says.

Risk managers also need more sophisticated risk management information systems to gather, analyze and communicate "business intelligence" throughout their organiza-

tions, according to Lori Jorgensen, senior director of finance at Microsoft Corp., who gave a keynote address at the Risk & Insurance Management Society Inc.'s Conference and Exhibition in Honolulu last week.

At Microsoft, for example, when the software maker branched out into other areas of business after 1995 "risks for Microsoft changed fundamentally, as products were no longer contained within the desktop," she said. "I don't think this is

unique to Microsoft. Like yours, Microsoft's is a complex business."

"There are seven product segments for which financial information is separately reported," she said. "While they have certain risks in common, the risks show up differently for each, as there are additional risks for each business."

For example, while product development is concerned with patent infringement, the network services division wants to ensure the security of personally identifiable information and prevent service disruption, while home entertainment is concerned about pandemic illness possibly disrupting manufacturing and shipping in Asia and component failure in the company's Xbox video game system.

In response, the risk management department at the Redmond, Wash.-based company grew from just three individuals in 1995 to 16 professionals today, each of whom is focused on both Microsoft's hazard and financial risks.

"For optimal impact, Microsoft's treasury risk group must be more than well-informed concerning risks to the organization. It is incumbent on us to collect information, gather relevant and credible data and build reliable analytical tools so that we may deliver insight and understanding necessary to act," she said.

In addition, the department must "communicate our findings throughout the organization and arrange for insurance and other solutions as appropriate," she said.

To better manage this collection of diverse risks, Microsoft built a tool called "Project Atlas" to organize information and data for evaluation and to deliver the results in a credible and easy-to-understand fashion that is "scenario-driven and multifaceted, rather than siloed and vertical," Ms. Jorgensen said.

"As a result of this work, Microsoft's treasury risk group evolved the risk practice at Microsoft from delivering an insurance product to enabling and executing a risk management process," she said.

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Cut-through clause gains appeal in Latin America

Policyholders more likely to seek direct access to reinsurers

By ROBERTO CENICEROS

HONOLULU—With support growing for left-leaning populist governments in Latin America, cut-through clauses are attracting new interest in the region, speakers told the Risk & Insurance Management Society Inc.

But cut-through arrangements can be tricky and perhaps unenforceable, requiring insurance pur-

chasers to consider factors such as the local insurance laws, the broad variations in contract wording and the attitudes of reinsurers, speakers said.

Essentially, a cut-through endorsement provides that, should a primary or fronting insurer not be able to pay a claim, the policyholder is entitled to collect directly from the reinsurer backing that primary or fronting insurer, said Stavros

Costarangos, executive vp of Balance Seguros S.A., a Panama City, Panama-based broker.

Fronting insurer arrangements are common in Latin American nations that allow only local underwriters to sell policies. In such cases, a multinational company purchases a local insurer's fronting policy backed by a multinational insurer or reinsurer.

Uncommon clause

Cut-through arrangements remain rare throughout Latin Ameri-

ca, though, and many reinsurers decline to support them, said Andres Ricardo Holownia, regional risk manager in Sao Paulo, Brazil, for truck manufacturer Scania Latin America Ltda.

But with a rise in populist governments, some investors and lenders are demanding that their commercial borrowers insure their businesses with policies that contain cut-through clauses, Mr. Costarangos said.

Cut-through clauses traditionally have been used to protect policyholders in cases where primary

insurers become insolvent and cannot pay claims, the speakers said.

But more Latin American insurance market participants are beginning to suggest that they might be useful to protect policyholders when an insurer cannot pay because of political instability, said Jorge Daniel Luzzi, group risk management director in Sao Paulo, Brazil, and Milan, Italy, for tire manufacturer Pirelli S.p.A.

Any use of the clauses, though, would call for policyholders' careful review of their wordings, the speakers cautioned.

Contract wording

While they have been rare, the examples of cut-through clauses that do exist have had wordings that varied greatly. Some of the clauses written in the region have been a single paragraph in length, while others have been 20 pages long, Mr. Costarangos said.

A policyholder considering such an arrangement should determine whether the contract calls for the cut-through clause to be applicable only in the case where the primary or fronting insurer is not financially sound or whether there are other triggers, Mr. Costarangos said.

Also, while a policy issued by a local insurer could contain a cut-through clause, the contract between the insurer and reinsurer might specifically exclude backing such clauses, Mr. Costarangos noted.

Policyholders should obtain proof that the reinsurer will honor such an arrangement, Mr. Costarangos said.

One reason cut-through clauses have not been more extensively used in Latin America, though, is that reinsurers often oppose them, maintaining that if they were to honor a cut-through agreement, the insurer could later argue that it should have been paid the funds, Mr. Holownia said.

Reinsurers fear they could be forced to pay twice.

Differing laws

Another concern is that the clauses may not be enforceable in some countries.

Mexican law, for example, is very clear that reinsurers cannot pay directly to policyholders, because that is strictly the responsibility of insurers.

In contrast, Chile allows cut-through arrangements, while the law in Colombia does not specifically stipulate whether they are valid, Mr. Costarangos said.

But arrangements can be made even for coverage in countries where cut-through clauses are not allowed.

A multinational company purchasing difference-in-conditions coverage or an umbrella policy for a worldwide program, for instance, can arrange for the coverage to be paid outside of any country in which such clauses are restricted, the speakers said.

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RIMS salutes risk managers at annual awards presentation

By MATT SCROGGINS

HONOLULU—Roger L. Andrews, director of risk management for E.D. Bullard Co. in Cynthiana, Ky., has been given the 2006 Harry and Dorothy Goodell Award, the highest honor bestowed by the Risk & Insurance Management Society Inc.

Mr. Andrews accepted the award last week at the society's annual membership meeting, which kicked off the 2006 Conference & Exhibition in Honolulu. The Goodell Award recognizes an individual who has furthered the goals of risk management and of RIMS. It is named after Mr. Goodell—the society's first president—and his wife.

Mr. Andrews, who has been active in RIMS for two decades, served as the society's president in 2000-2001 and has held various other governance roles during his tenure with the society. He also served as president and director of RIMS' Bluegrass Chapter in Lexington, Ky., and currently is delegate and co-chair of the Western Regional Conference from the Utah Chapter. In addition, in 2003 Mr. Andrews was named to the Business Insurance Risk Management Honor Roll.

Among other accomplishments, Mr. Andrews, who began his career at Travelers Insurance Co., in 1982 drafted the legislation that created the risk management division for the State of Maine and became the state's first director of risk management.

Others honored

RIMS also presented other awards at the conference on Monday.

The Ron Judd Heart of RIMS Award was, for the first time, given to two individuals this year. Diana J. Rich, director of risk management for Aliso Viejo, Calif.-based Reme-



Roger L. Andrews, center, director of risk management for E.D. Bullard Co., receives the Harry and Dorothy Goodell Award from Michael Liebowitz, RIMS president, and Ellen Vinck, the immediate past president of RIMS.

dyTemp Inc., and Cheryl P. Johnson, executive director of risk management for the Dallas Independent School District, both received the award, which is given to an individual nominated by his or her chapter for outstanding performance on behalf of the chapter. Ms. Rich represents the Orange County Chapter, while Ms. Johnson is a member of the Dallas Fort Worth Chapter of RIMS.

In addition, Frances Duron received RIMS' Cristy Award, which

recognizes the risk manager with the highest cumulative average in three exams leading to the Associate in Risk Management designation.

In addition, several chapter recognition awards were presented at the conference.

The South Texas, Broward County, Orange County, Palm Beach, San Diego and Houston chapters won outstanding chapter programming awards.

The Orange County, Palm Beach,

San Diego, Dallas Fort Worth, Minnesota and Rocky Mountain chapters won outstanding member services awards.

The South Texas, Orange County, Palm Beach, San Diego, Dallas Fort Worth, Houston and Minnesota chapters won advancing the risk management profession awards.

And the South Texas, Orange County, Palm Beach, San Diego, Dallas Fort Worth and Rock Mountain chapters won overall chapter excellence awards.

RIMS board elected

RIMS last week announced its board of directors for 2006-2007. The directors are:

- **Michael Liebowitz**, director, risk management, for Bridgeport Hospital & Healthcare Services Inc. and a member of the Fairfield/Westchester Chapter, who also was elected president of the society.
- **Janice Ochenkowski**, director of global risk management, for Jones Lang LaSalle and a member of the Chicago Chapter, who will serve as vp.
- **Deborah M. Luthi**, director, risk management services, University of California, who is treasurer.
- **Joseph A. Restoule**, senior risk consultant, NOVA Chemicals Corp.
- **Janet E. Barnes**, risk manager, Snohomish County PUD No. 1
- **Scott B. Clark**, risk and benefits officer, Miami-Dade County Public Schools
- **D. Terry Fleming**, director, division of risk management, Montgomery County, Md.
- **Jackie Hair**, corporate director, risk management, Ingram Micro Inc.
- **John B. Hughes**, director, risk management, Alex Lee Inc.
- **Kim A. Hunton**, risk manager, City of Ottawa, Risk Management Financial Services Branch
- **Daniel H. Kugler**, assistant treasurer, risk management, Snap-On Inc.
- **Ellen Vinck**, vp, risk management and benefits, BAE Systems Ship Repair Inc., who is ex-officio/former president

These individuals will continue to serve in their existing board positions through Aug. 31, 2007:

- **Karen Beier**, vp, risk management, Shaklee Corp.
- **Michael J. Gaona**, Piedmont Chapter
- **Janice McGraw**, manager, risk management and insurance, McGill University
- **John R. Phelps**, director of risk management, Blue Cross & Blue Shield of Florida Inc.

RIMS leaders urge change in broker service standards

By SALLY ROBERTS

HONOLULU—The brokerage compensation scandal shook up parts of the commercial insurance industry, but RIMS' leaders say more change is needed to ensure that risk managers are getting the best service from their brokers and underwriters.

In a press conference last week, Ellen Vinck, outgoing president of the Risk & Insurance Management Society Inc., said that, among many RIMS members, there is no "feeling that we can all collectively sit back and say we have a great process, it runs smoothly and we're happy."

A key concern is the timeliness of coverage quotes, said Ms. Vinck., echoing remarks she had made earlier during the RIMS membership meeting.

"Fundamentally, we should be able to get a quote on a renewal 30 days" prior to expiration, she said. "Fifteen years ago, I was getting them 30 days out," but over the years, risk managers seem to have become "hostage to the process," said Ms. Vinck, who is vp-risk management and benefits at BAE Systems Ship Repair Inc. in San Diego.

She noted that lots of "finger pointing" goes on when a buyer tries to get to the root of why it takes so long to get quotes. Brokers, for example, point the finger at underwriters, saying they won't even look at a renewal until 30 days out.

When asked whether she thinks it is an intentional move on the part of markets to try to keep risk managers from moving accounts, Ms. Vinck said: "It goes back to the

issue of integrity. You certainly hope it's not intentional."

She noted that part of the problem is that many risk managers are not having meetings upfront with their brokers and insurers and demanding a commitment to service standards, such as insisting that they be given quotes 30 days out from a policy's expiration.

Why the wait?

Michael Liebowitz, RIMS' new president, noted that he starts his renewal process six months out and at his last renewal, he sat down with his broker and said, "I'd like to have my quotes 30 days prior to expiration and my policy in my hand 30 days after issuing the policy, and if you cannot provide that to me within 30

days, I want to know why."

He said he also asked to see all of the communications between his broker and the various markets involved.

"I now have an e-mail file from last year's renewal that has somewhere around 1,200 e-mails from various markets," said Mr. Liebowitz, who is director, risk management for Bridgeport Hospital & Healthcare Services Inc. in Bridgeport, Conn.

Mr. Liebowitz said that, as a result of his efforts, he did receive his quotes and 75% of his policies within the specified time frames.

"I believe the markets can respond if you inform your broker and underwriters through meetings that you should be having," he said.

"My take is, if the markets can create a bill in 24 hours and the bill

is accurate, why can't they create a policy...within a certain period of time and get it to the broker to check for accuracy and then get it to us?" Mr. Liebowitz asked.

"The industry has to realize the need for quality going forward and quit wasting time year after year," Ms. Vinck said.

The litigation over the World Trade Center coverage "should have been a tremendous wake-up call to everyone" to ensure contract certainty, she said. But "we didn't see improvement in it after the litigation."

"It's ridiculous that we are still talking about it," she said.

But unlike past years, RIMS is a larger organization today and has the online tools for risk managers to raise the bar and improve quality, Ms. Vinck said.



Between the Lines

Compiled by Joanne Wojcik

The fungus among us

Perhaps adding a touch of irony to this year's annual meeting of the Risk & Insurance Management Society Inc. in Honolulu was the fact that while the conference was being held, Hilton Hotels Corp., the owner of the Hilton Hawaiian Village and RIMS' headquarters hotel, was hammering out the settlement of a mold suit.

Local media reported last week that the Los Angeles-based hospitality company agreed to pay up to \$1.8 million to settle a lawsuit filed on behalf of guests who stayed in Kalia Tower during a six-week period in 2002 when the Waikiki Beach hotel discovered mold problems in guest rooms.

Under the terms of the settlement, guests who participated in the suit will receive either \$150 in travel coupons or \$50 in cash for each night's stay at the property.

The suit was originally filed by a Florida resident over the hotel's failure to warn guests of the mold contamination. It was granted class action status last December and included all guests who stayed in the tower between June 14, 2002,

when mold was discovered, and July 23, 2002, when the tower was closed. News reports said Hilton spent \$60 million to clean up the mold and that the hotel was reopened in 2003.

Approximately 2,900 Hilton guests are eligible to participate in the settlement, according to the Honolulu plaintiffs firms Davis Levin Livingston Grande and Price Okamoto Himeno & Lum, which announced the settlement.

Baking company exec steals dough

A Japanese court has sentenced a 56-year-old former general manager of the Shikishima Baking Co.'s health insurance society to 11 years in prison for embezzling 979 million yen (\$8.39 million) in the company employees' premiums to buy a car and to pay for dates with his 17 girlfriends. The court also fined Masaaki Matsubayashi, of Toyohashi, 30 million yen (\$257,180).

Presiding Judge Shinichiro Ito said in handing down the ruling, "There should be no extenuation, as he repeatedly embezzled the money based on his selfish motivation."

The judge also said, "The act could uproot the foundation of the health insurance system and greatly affect the company employees and society as a whole."

According to news reports of the case, Mr. Matsubayashi simply raised premiums after the funds held in the health insurance society's accounts became depleted.

Employee swats company over spanking

A woman who had worked in sales for a California alarm company is seeking more than \$1 million in damages from her former employer in a lawsuit alleging she was humiliated when she was spanked as part of a team-building exercise.

Employees were paddled with rival companies' yard signs as part of a competition that pitted sales teams against each other, court papers said. The winners then poked fun at the losers, throwing pies at them, feeding them baby food, making them wear diapers and swatting their buttocks.

Shortly after the incident, Janet Orlando quit her job at Anaheim-based Alarm One Inc. and sued the company, alleging discrimination, assault, battery and infliction of emotional distress.

"No reasonable middle-aged woman would want to be put up there before a group of young men, turned around to show her buttocks, get spanked and called abusive names, and told it was to increase sales and motivate employees," her lawyer, Nicholas "Butch" Wagner, said during his closing arguments Tuesday in Fresno Superior Court, where the case was being tried.

But lawyers for Alarm One said at trial that the spankings were part of a voluntary program to build camaraderie and were not discriminatory because they were given to both male and female workers.

Tips and feedback from readers are welcome. Please send information to jwojck@businessinsurance.com.

Planning needed before a crisis occurs

By JUDY GREENWALD

HONOLULU—The most important factor at stake in a crisis is a company's reputation, and half of what must be done to protect it can be accomplished before a crisis ever develops, according to one public relations expert.

Mike Hatcliffe, executive vp, U.S. corporate practice, for Ogilvy Public Relations Worldwide in Chicago, discussed the steps companies should take before a crisis at a session called "Public Perception is Reality—Effective Communication in a Crisis," at the Risk & Insurance Management Society Inc.'s annual conference, held in Honolulu last week.

Build third-party support, advised Mr. Hatcliffe. "All companies need to engage and understand the power of influence." When there is a crisis, "you'll need those friends" who will speak on your behalf, he said. This group could include academics and media representatives, among others, he said. "Think about how you can build and strengthen those relationships right now," said Mr. Hatcliffe.

If there is no planning, you are going to be surprised, and if you are surprised, "you will have no control over the situation," Mr. Hatcliffe said. While the crisis is ongoing, the company will be losing its reputation "bit by bit," he said.

Companies must prepare with a strategic approach, said Mr. Hatcliffe. "Plan for the worst. Look at what keeps you awake at night," he said. And "when it does happen, resist the instinct to become combative," he said.

Companies should also understand the media's purpose, Mr. Hatcliffe said. "They are doing their job," he said.

"Media coverage is just a byproduct of what happened," he said. The more authoritative a company's answers to media questions, the "better off you'll be," he said. Do not give "no comment" responses to questions, Mr. Hatcliffe recommended. And "do not be combative; do not go into your shell," he said.

Also, acknowledge the wider public interest in what you say, said Mr. Hatcliffe. "It's not just about you," he said.

Also speaking at the session was Denise A. Goto, director of tax and risk management for Honolulu-based Hawaiian Telecom. Have a well-thought-out and organized plan and engage in testing, practicing and training, Ms. Goto suggested. Work with vendors as well as government agencies before a crisis. A crisis "is not the time" to get to know regulators, she said.

Finding the right key spokesperson is also critical. "I can't tell you how important that is," said Ms. Goto.

"Hoping you can just wing it" will not work, she said. It is also important to obtain senior management's buy-in into a crisis management plan. To get funding for a crisis management plan, "you've got to have senior management support," she said.

It is vital that companies recognize the importance of corporate responsibility, Ms. Goto said.

"The expectation of the public is a lot higher than it was 10 to 20 years ago" in this respect, she said. "Show some compassion and caring for the people that have been hurt," she said.

Ms. Goto said one example of failed crisis management involved TWA Flight 800, which exploded off of Long Island in New York

shortly after takeoff in 1996, killing all 230 people aboard.

TWA's chief executive officer was not publicly involved until days after the crash, and the public was outraged by what was perceived as a lack of compassion by the company, said Ms. Goto.

Conversely, the CEO of Alaska Airlines—which remains in business—came out before the public immediately following the crash of one of its planes off the coast of California in 2000 that resulted in the killing of all 88 people aboard.

"There was instant communication," Ms. Goto said. The company "set the bar up to a higher standard" for others' response to similar accidents, she said.

Also speaking during the session was Lori Brassell-Cicchini, El Dorado, Hills, Calif.-based assistant vp, catastrophe services, for ESIS Inc., a risk management services company. Among the mistakes companies make is "playing ostrich" when a crisis develops, Ms. Brassell-Cicchini said. "It never works," she said.

Be proactive rather than reactive, avoid the use of jargon and acronyms and do not assume that truth will triumph, Ms. Brassell-Cicchini warned. "It's only in the movies that truth triumphs," she said. She emphasized that the company must talk about what happened.

It is also important that the company communicate one message in one voice, and that includes communication from rank-and-file employees as well as top officials. "It has to be a consistent message, because it's going to be repeated continually," said Ms. Brassell-Cicchini, who also moderated the session.

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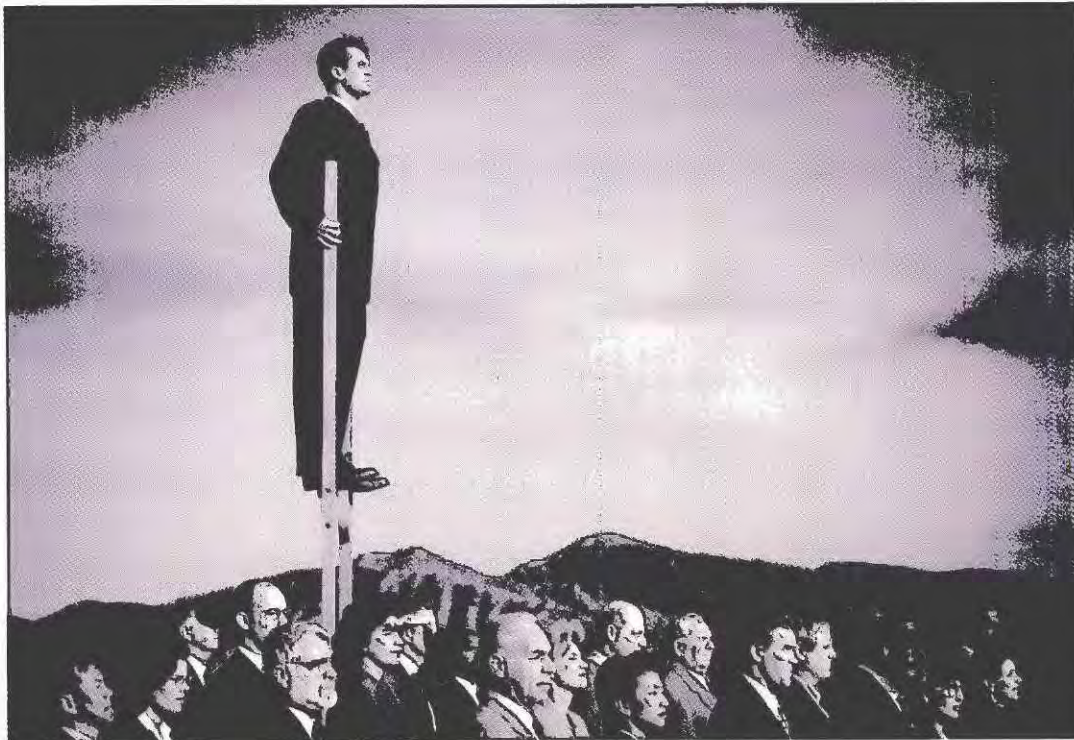
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Guernsey rolls out alternative captive tool

Domicile also makes law change to ring-fence protected cell assets

By SARAH VEYSEY

ST. PETER PORT, Guernsey—Guernsey has expanded the categories of captive structures that can be established in the domicile to include segregated cell companies in which individual cells are more closely insulated from the liabilities of other cells in the entity.

The so-called "incorporated cell companies" could prove attractive

to captive owners with complex insurance arrangements, though owners with more traditional programs will most likely continue to use protected cell companies, experts say.

The States of Guernsey, the island's government, also approved modifications to the law for PCCs, a form of rent-a-captive that was introduced in the British crown dependency in the 1990s.

ICCs originated in Guernsey's Channel Island neighbor of Jersey, where they are used primarily for structured finance deals, sources say.

The structure establishes cells as legal companies in their own right and will be a useful tool for captive owners, experts say.

The introduction of ICCs is "another structuring tool in the arsenal" for captive parents, said Mark Helyar, a partner at the St. Peter Port, Guernsey-based law firm of Bedell Cristin Guernsey.

"ICCs are an extension of the PCC concept and are being made available to be used as structures by

the insurance sector in Guernsey.... We welcome the potential added flexibility that the legislation will provide," Peter Neville, director general of the Guernsey Financial Services Commission, commented in an e-mail.

Unlike PCCs, each cell within an ICC is an incorporated company with its own "legal identity," said Mr. Helyar.

This will enable owners to transact among cells or to float off cells as separate entities, among other things.

The structure would make it easi-

See GUERNSEY / next page

Updates

Aon terror map reveals countries' risks

Terrorism risk has increased in five countries over the past year, according to the annual terrorism threat map published by Aon Ltd., the London-based arm of Aon Corp. According to Aon, the threat of terrorism increased in Denmark, whose status was changed to "elevated risk" from "guarded risk"; Egypt, which is now rated "high risk"; Jordan, which is rated "severe risk"; Mauritania, which is rated "elevated risk"; and Uzbekistan, also rated "elevated risk." Aon's map ranks countries' risks on a five-point scale ranging from "low risk" to "severe risk."

Shareholders OK SVB restructure

Shareholders of London-based SVB Holdings P.L.C. have voted in favor of a scheme of arrangement that would restructure the group and enable it to set up a U.K.-based insurance company, SVB, which operates two syndicates at Lloyd's of London, is planning to set up a holding company, Novae Group P.L.C., and an insurance company, Novae Insurance Co. Ltd., that would be ring-fenced from the legacy business written by SVB's Lloyd's operations. Novae will write liability business for small- and medium-sized businesses in the United Kingdom.

Lloyd's hires COO for Shanghai operations

Lloyd's of London has appointed Ian Faragher chief operating officer of Lloyd's Reinsurance Co. (China) Ltd., its onshore reinsurance operation in Shanghai. Mr. Faragher will join Lloyd's China on May 15. He previously was chief operating officer of the Hong-Kong-based educational organization English Schools Foundation. Before that, Mr. Faragher served as president and COO-Asia for Liberty Mutual Ltd.

U.K. pension regulator gets tough on deficits

The United Kingdom's pension regulator said strengthening the funding of defined benefit plans, improving the governance of occupational pension plans and reducing the risks to the members of defined contribution plans are its main strategic challenges over the next three years. In its medium-term strategy document, published last week, the London-based Pensions Regulator said that it aims for all defined benefit pension plans to have completed plan specific funding valuations and for those with deficits to have reached agreement on recovery plans with the regulator.

Suncor settles interruption claim from fire

By SARAH VEYSEY

CALGARY, Alberta—Suncor Energy Inc. has settled a business interruption claim stemming from a 2005 fire at one of its oil sands upgrading facilities for about \$980 million Canadian (\$866.0 million).

Calgary, Alberta-based Suncor said about \$385 million Canadian (\$340.2 million) of the total will be recorded in the company's first-quarter results slated for May 4, while about \$594 million Canadian (\$524.9 million) is slated for 2005.

"The settlement of our business interruption claims is a major milestone in the fire recovery," Ken Alley, senior vp and chief financial officer of Suncor, said in a statement.

Suncor is a member of the Bermuda-based energy mutual sEnergy Insurance Ltd. that provides business interruption and excess property coverage, a spokesman for Suncor said. The mutual announced in April that it was suspending underwriting.

The fire at Suncor's oil sands facility in Fort McMurray, Alberta, where the company extracts and upgrades oil sands into synthetic oil, also caused property damage. Suncor said in the statement that it was working with its insurers to settle the property claim.

Suncor's primary property cover is underwritten by OIL Insurance Ltd., the Bermuda-based energy mutual that is a partner company to sEnergy, the Suncor spokesman said.

The company said it had received about \$115 million Canadian (\$101.6 million) from its property loss policy in 2005, and that total property claims resulting from the fire are not expected to exceed the full policy limit of about \$290 million Canadian (\$256.3 million).

Suncor said that, in all, it expects to recoup about \$1.2 billion Canadian (\$1.06 billion) in insurance for business interruption and property claims.



Martin Dahlin, a star striker for the Blackburn Rovers professional soccer team, was injured during a practice match in 1997. Mr. Dahlin retired in 1999, following failed attempts to return to the game.

Disability policy doesn't cover soccer player's injury: Court

By JONATHAN GARDNER

LONDON—A professional soccer player whose career at a top-flight English team ended due to back pain was suffering from a degenerative condition that is not covered by the club's disability policy, a U.K. High Court judge ruled last month.

Martin Dahlin, who played for Sweden in international competition and was a striker for the Blackburn Rovers, a member of the English Premier league with clubs such as Manchester United and Chelsea, was injured during a practice match in 1997 and, after failed attempts to come back from the injury, retired in 1999.

In 2002, Blackburn, which had signed Mr. Dahlin for £1.8 million (\$2.9 million) three months before he was injured, sought compensation under its disability policy, which was underwritten by Avon Insurance P.L.C. in Stratford-upon-Avon, England. The Blackburn, England-based club argued that the training injury resulted in Mr. Dahlin's permanent disability.

Avon, however, denied the claim, saying that Mr. Dahlin's disability was a result of a degenerative disorder in Mr. Dahlin's spinal cord discs, and not as a result of the acute injury. Degenerative conditions were ex-

cluded from coverage under the policy.

Blackburn then sued the insurer in 2003 seeking £4 million (\$7.2 million) in damages.

A trial court judge in 2004 ruled in favor of Blackburn, but the ruling was overturned on appeal in 2005. The High Court upheld the appeals court ruling.

In backing Avon, the High Court rejected Blackburn's argument that the policy should cover the injury because while soccer players commonly suffer spinal degeneration, few are disabled by the disc prolapse that Mr. Dahlin suffered.

Instead, the High Court supported Avon's claim that Mr. Dahlin suffered the disc prolapse because of his degenerative spinal disorder, which was outside the scope of the insurance policy.

"In any event, (degenerative disc disorder) need not be the cause, so long as it is a cause, in order to fail to come within the insuring clause," Justice Linda Dobbs wrote in her judgment. "This medical evidence is not adequately rebutted by the claimant."

An Avon spokesman said: "We're pleased that the case has been finalized and Avon's position has been supported by the court."

A Rovers spokesman said the club had no comment.

Guernsey: Protected cell company law modified

Continued from previous page

er for a company to set up a cell to judge whether a captive is a suitable mechanism for certain of its risks and later convert that cell into a single-parent captive, said Chris Le Conte, managing director of Aon Insurance Managers in St. Peter Port.

In addition, because the cells in an ICC would be independent legal entities, they could be used to contract with other cells, Mr. Le Conte said, enabling, for example, one cell to reinsure another, he said.

The ICC structure likely will make it easier for captive owners to "novate"—or transfer—books of business, he added.

Merise Wheatley, managing director of St. Peter Port-based Heath Lambert Insurance Management (Guernsey) Ltd. and chairman of the Guernsey Insurance Co. Management Assn., said the ICC structure will likely be useful for large, complex groups that want to facilitate borrowing between cells, among other things.

Smaller or medium-sized captive owners still will likely favor the

FCC structure, Ms. Wheatley said, which offers "a cheaper, simpler and less time-consuming alternative to the full captive insurance company."

The ICC structure likely will provide more certainty in international law courts that the assets of a cell within an ICC cannot be seized in the event of the insolvency of another cell within the same entity.

While the potential for assets to be tapped by creditors of insolvent cells has been a concern for some FCC cell owners, the structure of FCCs does offer sufficient protection for most captive owners, sources say.

Owners of PCCs tend to lodge their assets with banks or custodians to avoid such risks, Ms. Wheatley noted.

In addition to enacting the ICC legislation, Guernsey made changes to the law governing PCCs in order to address some of these concerns.

Previously, according to Mr. Helyar, there was "a reasonable presumption contained in Guernsey law that once the assets of an individual cell are exhausted, in the ab-

sence of sufficient assets within the relevant cell to satisfy that liability, recourse could be had by a creditor to the noncellular—or core—assets of the PCC to settle the liability."

The law has been altered, though, so that the presumption is reversed and creditors will not have an automatic right to proceed against the core assets of a PCC unless there is a specific agreement in place to enable them to do so, Mr. Helyar said.

The change of law governing PCC structures potentially could prove more important for the captive insurance industry than the introduction of ICC legislation, according to Ian Swan, a barrister at the law firm of Babbe Le Pelley Tostevin in St. Peter Port. He said the ICCs are likely to be popular with the investment funds industry in Guernsey but it "remains to be seen to what extent they will, in practice, be used by the captive insurance sector."

The changes to the PCC law that will strengthen ring-fencing of core assets may prove to be more significant for captive owners, Mr. Swan said.

Rate levels up: Survey

Rates increased for both property and general liability lines in the first quarter of 2006, but conditions overall suggest that the insurance market generally remains soft, according to the latest findings of the RIMS Benchmark Survey.

The survey, which is produced for RIMS by New York-based Advisen Ltd., collects data from participating risk managers.

In terms of property insurance, 70% of survey participants said their coverage cost more in the first quarter of 2006 than it did in the same quarter last year, with rates rising by nearly 7% on average.

The first quarter of this year marked the second consecutive quarter of increased property rates, following several quarters during which prices fell.

Advisen analysts attributed the upward movement in property rates to insurers' response to the devastating hurricane losses in 2005.

"The property pricing increases were a knee-jerk reaction by underwriters to the hurricane catastrophe losses, but probably will not be sus-

tainable," David Bradford, editor-in-chief at Advisen, said in a statement.

"The insurance industry posted a profit for 2005 despite record catastrophe losses and experienced strong growth in policyholders' surplus, indicating that rate levels are still stalwart and capacity is abundant in most lines. Conditions are ripe for further softening," he said.

In general liability, rates rose by 5.1% on average compared with the same quarter in 2005—reversing several quarters of price drops—though Advisen analysts believe that rates in the most recent quarter "may have been temporarily pulled higher by the spike in property premium levels, but will return to the pervasive softening trend by next quarter."

Other liability lines saw price decreases. Directors and officer liability rates, for example, were down 3.5%, while workers compensation rates fell by around 3%, Advisen found.

—By Matt Scroggins

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Shell: Reinsurer charges captive issued policy after explosion occurred

Continued from page 3

terprises L.L.C. Among the assets that Texaco transferred to Equilon was its 37.45% ownership of OPL.

OPL's other owners included Atlantic Richfield Co., and the OPL pipeline was transporting gasoline from an ARCO refinery in northwest Washington when it ruptured.

After the accident, ARCO and its insurers sued Equilon and OPL for more than \$563 million in business interruption losses resulting from ARCO's inability to use the pipeline during the roughly 22 months that it was closed by regulators.

Faced with the ARCO claim, OPL—which had \$50 million in liability coverage written by London-based Hiscox Dedicated Corporate Member Ltd.—filed for bankruptcy.

In December 2004, insurers for Shell and Texaco settled the ARCO claim for \$200 million, with Shell contributing \$112 million—commensurate with its 56% stake in Equilon—and Texaco the remaining \$88 million. The settlement released Equilon and OPL from fur-

ther liability, court filings say.

At the time of the pipeline break, Shell was insured by its captive, Noble, which provided \$650 million in liability limits excess of a \$20 million self-insured retention. Noble acted only as a fronting insurer, though, ceding 100% of its risk to nine reinsurers.

National Union Fire Insurance Co. of Pittsburgh, Pa., an American International Group Inc. unit, wrote an initial \$100 million layer of the reinsurance program, followed by Gerling with \$50 million; Zurich North America's Steadfast Insurance Co. with \$50 million; AIG's Starr Excess Liability Insurance International Inc. with \$75 million; XL Capital Ltd. with \$150 million; Oil Casualty Insurance Ltd. with \$100 million; Starr Excess with an additional \$25 million; Commercial Union Insurance Co. with \$25 million; Swiss Reinsurance Co. with \$25 million; and Lumbermen's Mutual Casualty Co. with \$50 million.

Equilon and various other Shell limited liability company affiliates

were named as additional insureds in endorsements to the Noble policy and reinsurance agreements, but OPL was not specifically named as an additional insured, court papers say.

With the ARCO settlement, Noble expected its affected reinsurers to contribute 56% of their limits toward Shell's \$112 million payment, the percentage again reflecting Shell's stake in Equilon. All of the exposed reinsurers agreed to pay their shares except Gerling, according to Noble's court filings.

Scope of coverage

According to Noble, Gerling was obligated to pay \$28 million, or 56% of its \$50 million layer. Gerling paid only \$14 million, though, arguing that half of the liability related to OPL and that OPL was not covered under the Noble policy.

Gerling charges that Shell and Noble improperly extended coverage to OPL after the pipeline accident, knowing that OPL's own lia-

bility policy didn't provide sufficient limits. In October 2000, 16 months after the accident, Noble issued a "certificate policy" to Equilon, effective retroactively to 1999. The certificate policy incorporated the terms of the Noble-Shell policy, including an endorsement that extended coverage to entities in which Equilon owned more than 5% but less than 100% of the equity, such as OPL, court filings say.

Under the terms of the reinsurance agreement, the two sides arbitrated the dispute in London earlier this year. Last month, a three-member panel decided against Gerling, awarding Noble the \$14 million balance of its claim.

The panel found that the Noble-Shell policy covered OPL under the endorsement extending coverage to partly owned affiliates. While the endorsement applied to affiliates to which Noble "issues a policy," the panel accepted Noble's argument that it would be an "unnecessary formality" for the captive to have issued a policy directly to OPL.

The arbitrators also accepted Noble's argument that it issued the certificate policy to Equilon simply to clarify the terms of its coverage and that the certificate did not represent an abuse.

In the context of Noble's dealings, "there seems to be a habit of retroactive insurance without abusive intent," the panel wrote.

Soon after the decision, Gerling filed suit against Noble and Shell in Vermont. The lawsuit charges that the retroactive certificate, issued without Gerling's knowledge, amounted to misrepresentation by Noble and a breach of the captive's duty of good faith to its reinsurers.

In addition to an order blocking enforcement of the \$14 million award, Gerling has asked the court to vacate the award and to allow Gerling to rescind its reinsurance agreement with Noble.

Noble, in asking the court to dissolve its restraining order, argues that the arbitration panel has already considered Gerling's contentions and rejected them.

Asbestos: Concerns surround ruling

Continued from page 3

to persons exposed offsite, in part because many traditional product liability defendants have been forced into bankruptcy," said Mark Behrens, a partner in Kansas City, Mo.-based law firm Shook, Hardy & Bacon L.L.P.'s Washington office. Mr. Behrens worked on a brief supporting Exxon Mobil on behalf of the American Tort Reform Assn., the U.S. Chamber of Commerce, the National Assn. of Manufacturers and other business groups.

"Generally, property owner liability stops at the property line," said Mr. Behrens, who noted that courts in both Georgia and New York have recently taken a less expansive view of landowner liability in asbestos injury cases.

The actual scope of the offsite asbestos exposure involved in the Olivo case may be limited, but expanded liability is of concern, said one trade association attorney.

"As a practical matter, the number of situations where an employee is likely to bring home a hazardous substance is fairly small," said Quentin Riegel, vp-litigation for NAM in Washington. "But the principle of holding a landlord liable for activities that occur offsite could have unintended consequences."

In an e-mail, Robin S. Conrad, senior vp of the National Chamber Litigation Center Inc., which handles

litigation for the U.S. Chamber of Commerce said: "This is an unfortunate—and misguided—expansion of premises liability. Fortunately, other states—like Georgia and New York—have seen fit to rein in the potential for the kind of unlimited liability New Jersey now seems to endorse."

"The New Jersey Supreme Court going the other way gives the plaintiffs bar a decision that they will try to shop around to other courts," said Mr. Behrens. "Most courts that look at the issue should adopt the reasoning of New York and Georgia and focus on the public policy implications of these cases." He said the two courts had examined "a lot of factors, particularly the possibility of an open-ended population of plaintiffs" emerging. New Jersey, however, had traditionally placed "great weight on the foreseeability of harm."

While "most state courts probably would not place the same weight on foreseeability as the New Jersey court did," the decision may not impact "just the relatively few" people who are sick, but could result in "countless cases on the benefit of people with little or no injury" who were exposed to offsite asbestos, said Mr. Behrens.

Mr. Olivo's attorney, George Greatrex Jr., a partner in the law firm Shivers, Gosnay & Greatrex L.L.C. in Cherry Hill, N.J., called the decision "hugely significant" not only for his

client but for the "family members of New Jersey workers that work in environments where they're exposed to toxic" substances.

Mr. Greatrex noted that Mr. Olivo had been exposed to asbestos in the 1950s, 1960s and 1970s. "I would like to think that in today's world, industrial sites are a lot cleaner," he said.

"Is this going to open up the floodgates?" asked Mr. Greatrex. "I don't think so. I think for people who have already been exposed and become ill as result of it, it will give them the opportunity for full recovery for their damages from all responsible parties, including premises owners. It's hopefully going to cause premises owners to be more diligent" in making workplaces safer for both their workers and the people at home, he said.

"I think it will have an impact across the country," he said. "Part of the process of researching this appeal is to find what other states had dealt with the issue in their courts," and the New Jersey Supreme Court was the first supreme court to address the issue so directly.

"Spouses at home are not just exposed in New Jersey—they're exposed all over the country. This may provide some guidance for some other courts...on how to protect the workers and workers families," Mr. Greatrex said.

Connecticut: Viable domicile

Continued from page 4

structure," said Dan Labrie, chief executive officer in the Cheshire, Conn., office of Housing Authority Risk Retention Group, a Vermont-domiciled RRG.

"Connecticut could become a viable captive domicile," said Nick Pearson, a partner in New York with the law firm Edwards, Angell, Palmer & Dodge L.L.P. The fact that Connecticut lacks a captive statute is "an oversight that should be remedied," Mr. Pearson added.

Connecticut is at least the third state this year in which legislation to allow the formation of captives has been introduced. A measure, similar to the Connecticut bill, was introduced earlier this year in New Jersey. The New Jersey bill, introduced by Assemblyman Neil Cohen, D-Union, has not yet been considered by state legislators.

And last month, Alabama passed

captive legislation in response to the huge damages caused by Hurricane Ivan in 2004.

In addition, last year several U.S. domiciles overhauled their statutes to attract more captives. Delaware, for example, slashed premium taxes, setting up a tax formula that would especially benefit small start-up captives.

Additionally, Utah eliminated captive premium taxes, while both Montana and Nevada placed caps on the maximum premium taxes captives pay.

Indeed, the United States, over the past two decades has emerged as a major captive hub, with more than 1,000 captives licensed in states with captive laws.

Of the world's 20 largest domiciles, seven—Arizona, the District of Columbia, Hawaii, Nevada, New York, South Carolina and Vermont—are in the United States.

Letters

Continued from page 8

building on successes heretofore realized in places like New York and fashioning those lessons learned into programs that work best for the people of the commonwealth.

Gregory V. Serio
Managing Director
Park Strategies L.L.C.
New York

The writer is a former New York Superintendent of Insurance.

The true purpose of firearm bans

To the editor: Regarding Joanne Wojcik's Between the Lines column in the April 3 issue of *Business*

Insurance, I want to make a couple of points.

A more correct headline than "NRA Targets Workplace Gun Bans" would be "NRA Targets Parking Lot Gun Bans." Plus, the column does not touch on the true purpose of National Rifle Assn. efforts until the end of the item, and then only very briefly.

At no time has the NRA challenged employers from banning firearms from the "workplace," only that employees not be subject to termination and other disciplinary actions for having legal firearms in their vehicles.

The legislation pending in Florida is to correct this imbalance.

You can find more information on this subject at www.nra-ila.org.

Ronald D. Buzek
Evans Insurance Agency
Akron, Ohio

Home Depot: Employee claims religious bias

Continued from page 4

Sundays off would place an undue burden upon it. "It contends that Baker's request for Sundays off would require his 'co-workers to shoulder a larger workload of undesirable shifts, which, in turn, fosters lower morale and decreased productivity, while at the same time in-

creasing the likelihood that the employer would have to pay overtime premiums," says the opinion. "We leave this defense also for consideration by the district court in the first instance."

Briefs in support of Mr. Baker were filed by the U.S. Equal Employment Opportunity Commis-

sion and the U.S. Dept. of Justice, Civil Rights Division, in Washington and by the American Jewish Congress in New York.

Bradley Baker, plaintiff-appellant, vs. The Home Depot, defendant-appellee, United States Court of Appeals for the 2nd Circuit, No. 05-1069-cv.

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ACE: Insurer settles with Spitzer

Continued from page 1

insurer settlements may be "closer to the end than the beginning," a person familiar with the investigations said.

In his lawsuit against Marsh and in other court filings, Mr. Spitzer cited a handful of insurers for colluding in bid rigging, including AIG, Zurich, ACE, Hartford Financial Services Group Inc., Liberty International Underwriters Inc. and the Munich-American RiskPartners unit of American Re Corp.

AIG, Zurich and ACE were Marsh's three largest excess casualty markets in that group. Additional settlements are expected in coming months.

Representatives of Hartford, Liberty and Munich-American only would say that the insurers continue to cooperate with regulators.

ACE's settlement last week resolves investigations by Mr. Spitzer and the attorneys general of Connecticut and Illinois. Under the deal, ACE agreed to pay \$40 million in restitution to policyholders damaged by the alleged bid rigging. It will also pay penalties of \$24 million to New York and \$8 million each to the other two states.

Following the form of previous insurer settlements, ACE promised to comply with several business reforms, including improved compensation disclosure, tighter controls on finite reinsurance transactions and added reinsurance reporting obligations to regulators.

In a conference call with stock analysts last week, ACE President and Chief Executive Officer Evan Greenberg said that ACE "had already come in line ourselves voluntarily with anything that they were asking us to do," and that the deal imposes "no additional restrictions on us."

The settlement outlines a variety of charges against ACE, including that it entered into half a dozen sham reinsurance contracts that transferred no risk, and that it willingly provided bogus premium quotes to help Marsh rig client insurance placements.

One of the reinsurance contracts, the document says, was a 1998 deal in which London-based Hiscox Syndicates Ltd. paid ACE \$45 million for \$50 million in coverage on business that was expected to produce at least \$50 million in losses. To protect ACE from a loss, though, the two insurers signed a side agreement that ACE would not have to pay any claims until 2002, giving it time to earn enough investment income to cover the \$5 million gap.

ACE inadvertently showed a copy of the side agreement to its auditors, who then refused to treat the contract as reinsurance for accounting purposes, according to the settlement. Rather than abandon the deal, ACE told its auditors that it would proceed without the side agreement; in reality, though, ACE simply made a verbal agreement with Hiscox to go ahead under the original terms, regulators charge.

Bronek Masojada, Hiscox's chief executive, said that Hiscox accounted for the contract properly. "This is about ACE's accounting treatment, not Hiscox's," he said.

In another contract, ACE agreed in 2000 to provide \$60 million in coverage to American Capital Access, a credit insurance unit of New York-based ACA Capital, for a \$60 million premium, making it essentially a loan, the settlement charges.

The ACA contract featured two secret side agreements guaranteeing and capping ACE's profit at \$500,000 and eliminating any risk of loss, regulators allege. An ACA official declined to comment.

ACE also used finite reinsurance to shift losses improperly among its subsidiaries, the settlement charges. In one 2000 deal, ACE Tempest Reinsurance Ltd. agreed to pay \$70 million to affiliate ACE Bermuda Insurance Ltd. for \$120 million in coverage. Under another secret side agreement, though, the two affiliates agreed to cancel the deal as soon as ACE Tempest Re had paid the first \$45 million in premiums and a \$5.7 million fee to ACE Bermuda. The contract thus appeared to remove losses from ACE Tempest Re's books, freeing up capital for it to write other business, regulators charge.

The settlement also cites a number of cases, several reported before, in which ACE provided phony excess casualty quotes to support Marsh's scheme to rig bids in favor of incumbent insurers. In one case, for example, an ACE underwriter raised the insurer's \$990,000 bid on one program to \$1.1 million at Marsh's request to avoid competing with AIG, the incumbent insurer.

ACE's participation in the Marsh scheme allowed it to gain excess casualty market share with "phenomenal speed," the settlement notes. In 2001, before entering the scheme, ACE received only \$5 million in excess casualty premiums from Marsh; by 2004, it got \$93.5 million, and ACE was Marsh's third-largest excess casualty market, regulators say.

ACE also improperly helped brokers in other ways: An official of Willis Group Holdings Ltd. told ACE in 2003 that he was under "significant pressure" to meet year-end revenue targets and asked ACE to pay Willis \$500,000 up front for business that he promised to produce in 2004, the settlement charges. ACE paid the \$500,000, and Susan Rivera, then president of ACE's North American operations, provided fraudulent e-mails—that Willis had actually drafted—indicating that Willis was entitled to the payment. Willis then gave the e-mails to its auditors to support booking the revenue, regulators charge.

Ms. Rivera—now president of the New York-based Praetorian Financial Group unit of Hannover Re Group—declined through a spokesman to comment. A Willis spokesman noted that the issue was raised and resolved in Willis' 2005 settlement with Mr. Spitzer.

As part of its settlement, ACE neither admitted nor denied the charges but acknowledged that "certain of its employees violated both acceptable business practices and ACE's own standards of conduct.... ACE apologizes for this conduct. It has reformed its business practices and is satisfied that this behavior will not be repeated."

TRIA: Federal role still needed in terror coverage

Continued from page 1

"We pointed out the reinsurance aspect. Everything revolves around the lack of a reinsurance marketplace," said Martin DuPoy, who spoke on behalf of CIAT as vp-government relations for the Washington-based National Assn. of Real Estate Investment Trusts. "Everything goes back to the question of reinsurance. Currently there is capacity in the market to provide terrorism risk insurance only because the federal government has stepped in. If the government steps aside, there is little or no evidence that there is a viable private reinsurance market to take its place."

Ellen Vinck, immediate past president of the Risk & Insurance Management Society Inc., said that RIMS sent its comments to the working group, asking for a "seat at the table" as well as calling for the closing of certain gaps in coverage that exist under the current program. "If RIMS has one seat at the table, you have 4,000 policyholders at the table," said Ms. Vinck, who is also vp-risk management and benefits for BAE Systems Ship Repair in San Diego.

A prominent broker also cited policyholder concerns as a reason for submitting comments to the

working group.

"We feel it's a very important issue and our clients expect us to be proactive on it," said Jill Dalton, managing director in Marsh's North American property practice in New York.

"While we understand the federal government's role in insuring terrorism was meant to be short-term, quite frankly, three and even five years is not enough time for the markets to adjust to the increased exposures," said Ms. Dalton in written comments submitted by Marsh to the working group. She added that Marsh believes that the program "is doing exactly what it was intended to do, namely to foster the creation of new capacity, to force insurers to learn how to underwrite the risk by making the offer of coverage mandatory, and more importantly to give American businesses the financial security they need."

Joel Wood, senior vp for the Council of Insurance Agents & Brokers in Washington, also noted that a straightforward extension of the backstop isn't likely.

"It's critical for the industry and policyholders to work together to create an alternative market mechanism that doesn't look, smell or feel like TRIA that could pass the political test of the administration and

those in Congress who are not fond of the program," said Mr. Wood.

Whatever happens with the program, the solution must be a long-term one rather than a short-term fix, said Ben McKay, acting head of the Property Casualty Insurers Assn of America's Washington office.

"The main thing we're calling for is a long-term solution to this crisis. We believe that the threat of terrorism isn't going to subside in the foreseeable future and a program to protect the economic interest of America is crucial. Until such time as we can either predict the frequency and severity of terrorist attacks, we're not going to be able to appropriately price it, thus necessitating some sort of backstop or partnership if we're going to write it," said Mr. McKay.

In its comments, the CIAB also noted problems with terrorism catastrophe modeling as adding uncertainty to the issue. "The extreme variations in terrorism insurance availability and pricing reflect the difficulty in predicting the likelihood of a terrorist event," said the CIAB in a statement. "Terrorism risk models cannot simply follow models for natural catastrophes, which do not involve human intent."

The Washington-based American Insurance Assn. also cited difficulties in modeling terrorism risk in its comments.

"In the terrorism context, deterministic modeling presents significant limitations. First, the technique is based on an assumed event," said the AIA in a statement. "If the actual event exceeds the assumed event, the insurer's losses would be greater than management expects. Second, the technique assumes a single event in the future. That is, the insurer manages against one event over any given period of time. Third, the technique does not consider the likelihood of the selected event. Finally, modeling is generally only available for property, workers compensation and group life insurance—not liability insurance."

Senior Editor Sally Roberts contributed to this report.

ABA urges permanent terror cover solution

The pre-emption of state insurance pricing laws and the extension of terrorism insurance coverage to such perils as nuclear, biological and chemical losses should be part of a "permanent government/industry solution" to the provision of terrorism insurance, according to an American Bar Assn. task force.

"It seems unlikely that the risk of terrorism, or what we know about that risk, will so change in the next two years that the market will be willing and able to provide terrorism insurance without the backstop" provided under the Terrorism Risk Insurance Extension Act, said the Federal Involvement in Insurance Regulation Modernization Task Force of the ABA's Tort Trial and Insurance Practice Section in a paper released a few days ago. TRIEA, which provides a federal financial guarantee to insurers facing future catastrophic terrorist attacks, is slated to expire Dec. 31, 2007.

"The task force therefore recommends that a permanent government/industry solution be developed and adopted that will continue to provide the framework necessary for market forces to develop capacity for highly unpredictable terrorism risk," according to the paper.

Francine Semaya, the task force chair and a member in the New York office of the Philadelphia-based law firm of Cozen O'Connor, called the paper "an educational piece." Ms. Semaya

said the task force began working on the paper last fall as Congress debated extending the backstop—which was initially scheduled to end on Dec. 31, 2005—for another two years.

In addition to endorsing a permanent public/private partnership, the ABA task force also recommended that:

- Federal law pre-empt state pricing and coverage requirements for terrorism insurance to "allow market forces to operate to set the price for terrorism insurance, which will allow development of capital and resources for purchasing reinsurance."

- Coverage be expanded to nuclear, biological, chemical and radiological losses. Doing so "would provide the benefits of insurance, such as incentives for mitigation and a claims-handling apparatus, which would be superior to reliance on after-the-fact governmental relief to address the economic impact of such an event."

- Coverage be expanded to include acts of domestic terrorism as well as those perpetrated by terrorists acting on behalf of foreign interests.

- Financial and market circumstances be used to set retentions. Doing so would permit retentions to be set high enough to create demand for reinsurance while remaining low enough "to avoid significant risks of insolvency," according to the task force.

—By Mark A. Hofmann

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Massachusetts: Mulling paid family leave bill

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would be eligible to take family leave only if the individual had worked for his or her current employer for the prior nine months and for a total of at least 900 hours.

The Massachusetts measure—in terms of generosity of benefits—goes far beyond California, which nearly four years ago became the first state to enact paid family leave legislation. Under the California law, which went into effect in July 2004, an employee eligible for paid family leave is entitled to 55% of pay, up to a weekly maximum of \$840. Benefits run out after six weeks.

The California benefit is funded through mandatory employee deductions of 0.08% of salary. The exact employee contribution level has not been set yet for the Massachusetts paid family leave program, but Sen. Travaglini predicts that employees would each pay less than \$2 a week for the benefit.

Like California, the Massachusetts measure would be funded solely through employee contributions.

Paid family leave advocates say the benefit would be a boon to both employees and employers. If employees were to know that such a benefit is available, they would have greater peace of mind and be more productive, said Deborah Cuevas Hill, policy counsel for the National Partnership for Women & Families, a Washington-based family and health care advocacy group.

Sen. Travaglini, in a speech last week to the Greater Boston Chamber of Commerce, said a paid leave

program would reduce employee turnover. "This saves companies the cost of hiring and training replacement workers," he said.

Others also see a beneficial impact. "Employees are much less likely to show up sick," which would reduce the likelihood of other employees becoming infected, said Marie Killian, a vp in the Philadelphia office of Aon Consulting.

Some business groups, though, say some companies, especially smaller firms, would find it difficult to provide 12 weeks of job-protected leave. "Some businesses are large enough that guaranteeing a job is not difficult. But for others, it could be very hard to lose an employee for such a long period of time," said Alan Macdonald, executive director of the Massachusetts Business Roundtable in Boston.

The 1993 federal Family & Medical Leave Act guarantees eligible employees 12 weeks of unpaid job-protected leave to meet certain family situations, but that law does not apply to companies with fewer than 50 employees.

Others, while holding off judgment until they see all details, say the measure should be considered on the basis of its impact on the state's ability to attract and retain employers.

"The question to be asked is how this would affect our competitiveness," said Jim Klocke, executive vp of the Greater Boston Chamber of Commerce.

One big unknown is how many employees would use paid family leave. In California, about 138,000

employees—or roughly 1.1% of an eligible workforce of nearly 13 million—tapped the program in its first full year. That compares with the California Employment Development Department's original estimate of 300,000 participants in the first year.

Observers attribute that low take-up rate to both the reduced income the benefit provides and a lack of employee awareness of the benefit.

The Massachusetts proposal, if enacted, likely would generate greater participation because of the generally richer—compared with California—benefits provided, experts say.

Yet another unknown is whether employee contributions would adequately fund the program. "If the program is not self-sustaining, there is only one place to turn to," and that would be employers, said John Piro, an attorney with Hewitt Associates Inc. in Norwalk, Conn.

It isn't known whether Massachusetts legislators will complete action on the proposal. Serious consideration is more likely next year, because the current session runs out in July, said the MBR's Mr. Macdonald.

The health care reform measure Massachusetts passed last month is intended to ensure that 95% of state residents have coverage within the next three years. To accomplish that goal, all residents would be required to obtain insurance, if affordable coverage is available, while the state would expand eligibility for Medicaid and subsidize health insurance premiums for other lower income individuals.

Late News

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don't provide health insurance. The provision, vetoed by the governor earlier this month, requires employers with at least 11 employees that do not offer health insurance or make a "fair and reasonable" contribution toward that coverage to pay an annual \$295-per-employee fee. The state Senate also is expected to override the veto. The underlying bill, which Gov. Romney signed earlier this month, requires all state residents to have coverage—if affordable coverage is available—or face financial penalties.

Jeb Bush signs Fla. tort reform bill

Florida Gov. Jeb Bush has signed a law that repeals the doctrine of joint and several liability in the state. H.B. 145, which won legislative approval late last month, substitutes a system of proportional liability—under which a defendant in a civil case pays only its assigned portion of the damages suffered by the plaintiff—for the joint and several system, under which any defendant can be held liable for the entire award regardless of that defendant's share of blame. "We've built one of the most attractive business environments in the world, but to stay competitive we must continue eliminating impediments to our future success," the Republican governor said in a statement.

Texas hail storm losses could top \$100M

A hail storm that raked central Texas on April 21 may result in more than \$100 million in insured losses, according to the Insurance Council of Texas. The Austin-based trade group estimates that the hail storm will generate about 17,000 claims, more than half of which will be auto claims. A spokesman for the group said that baseball-size hail fell in the San Marcos vicinity. He said this was Texas' most destructive hail storm so far this year.

Canada Supreme Court declines pension case

The Supreme Court of Canada declined to hear the appeal of an Ontario Court of Appeal decision that removed a major obligation imposed on pension plan administrators to disclose any plan

changes under consideration. In *Hembruff vs. Ontario Municipal Employees Retirement Board*, the Ontario Court of Appeal had ruled that the plan administrator had no duty to advise plan members that it was contemplating making benefit improvements to the pension plan, overturning a lower court decision (*BI*, Nov. 14, 2005). Canadian pension experts expressed relief regarding the Court of Appeal decision, saying the trial court ruling would have created an onerous mandate for pension plan administrators.

BP to challenge fine for Ohio plan violations

BP Products North America Inc. disagrees with a \$2.4 million fine it received last month from the Occupational Safety and Health Administration for allegedly unsafe operations at an Ohio refinery and plans to challenge it at an informal settlement conference, a company spokesman said. OSHA fined the company more than \$2.2 million for 32 "willful" violations, \$140,000 for two other willful violations and another \$35,000 for five "serious" violations at the refinery. These included "a number of violations similar to those found during an investigation of the fatal explosion at BP's Texas City, Texas refinery that claimed the lives of 15 workers and injured more than 170 others" in March 2005, according to an OSHA statement.

Two insurers take 45% of Medicare Rx market

Two big commercial health insurers are dominating the Medicare prescription drug market, according to government statistics released Friday. Of the nearly 13.8 million Medicare beneficiaries who have purchased coverage from Medicare prescription drug plans, nearly 3.8 million, or 27%, have done so through plans offered by UnitedHealth Group, while just over 2.4 million, or 18% have coverage through Humana Inc., the Centers for Medicare & Medicaid Services reported. Other leaders in the Medicare PDP market include WellPoint Inc., with just over 1 million enrollees and a 7.3% market share, and Member Health Inc., a Solon, Ohio-based prescription benefit manager, with 924,000 enrollees and a 6.6% market share.

BI Stock Index [4/24 - 4/28]

Up-to-the-minute data for all 85 companies that comprise the BI Stock Index can be found at www.businessinsurance.com.

Percentage change of BI Stock Index vs. key indicators

BI Stock Index	
2968.12	0.91
Dow Jones	
11367.14	0.17
S&P 500	
1310.61	-0.05

Source: FinancialContent Inc. (<http://financialcontent.com>)

Largest gains

Vesta Insurance Group	18.18%
Clark Inc.	12.83%
PXRE Group Ltd.	12.62%
EMC Insurance Group	12.59%
Hartford Financial Services	8.13%

Largest losses

Aetna Inc.	-18.26%
Brown & Brown	-11.35%
CIGNA Corp.	-10.90%
Humana Inc.	-8.89%
Ohio Casualty Corp.	-8.18%

Weekly change by market segment

Brokers	0.31%
Insurers/reinsurers	1.16%
Managed care organizations	-5.19%



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New Online Poll: How likely are other states to follow New Jersey's lead in expanding asbestos-related premises liability?

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