

business insurance

update:

Settlement talks rumored in Hyatt class action

KANSAS CITY, Mo.—A federal court judge has delayed the deposition by Hallmark Cards Inc. President Donald J. Hall and other Hallmark officials in the Kansas City Hyatt Regency Hotel skywalk collapse amid reports that an out-of-court settlement is being negotiated.

"We did receive a notification from the
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Reporting weekly for corporate risk, employee benefit and financial executives/\$1 a copy; \$40 a year

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Risk managers design own pollution liability form

By JOHN W. MILLIGAN

WASHINGTON—Suppose you're a risk manager with a pollution liability exposure and you don't like the insurers' restrictive policy forms.

You could bypass the commercial market totally and self-insure if your company can pass the federal Environmental Protection Agency's financial strength test.

You also could bargain for the broadest form possible if your company is a good risk, unburdened by a dirty past record for disposal of hazardous wastes.

Or you could take the approach of Denis Julien and Gene Heskett, two risk managers who filed all those unsuitable policy forms in the "can" and designed their own.

Mr. Julien, corporate risk manager for Republic Steel Corp., and

Mr. Heskett, risk manager for Hanna Mining Co., have designed a policy form that affords broader coverage, especially in the area of genetic injury in which insurers have been very conservative in spelling out what type of injuries will be covered or have not offered coverage at all.

The two Cleveland-based risk managers, who were speakers on a panel on pollution liability insurance at the Risk & Insurance Management Society Conference April 18-23, decided to write their own form "out of self-interest for our corporations," Mr. Julien says.

While the men do not expect any insurance company to use their form verbatim, they hope it will encourage insurers to examine their policies and think about broader coverage.

The two have had discussions with potential insurers, although they decline to mention any names.

"The unfortunate thing is that now the insurers have a ready-made audience," Mr. Heskett says in reference to recent EPA regulations that will force many companies to purchase environmental impairment liability insurance (BI, April 5).

Still relatively new to the insurance marketplace, this coverage provides indemnification against gradual or non-sudden hazardous waste pollution. While many insurers now offer EIL insurance, some are taking a conservative approach by using policy forms that leave important exposures uncovered.

The Julien/Heskett form draws heavily on the "London form" used by various EIL insurers, including the Alexander Howden Group, other Lloyd's of London underwriters and the Hartford Steam Boiler Inspection & Insurance Co. The London form is considered by one insurance broker to be the best of those currently available (see story, page 27).

On the other hand, the proposal by Messrs. Julien and Heskett would far surpass in coverage a second EIL policy developed by the Insurance Services Office, which is currently being used by the Pollution Liability Insurance Assn., and certain ISO member companies.

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A report on the property/casualty portion of the annual RIMS Conference begins on page 13.

Two captives may battle for McDonald's programs

By LEN STRAZEWSKI

CHICAGO—Two Bermuda-based captive insurers, promoted by two national brokers, may be vying for McDonald's Corp., franchisees' insurance programs by the end of this year, *Business Insurance* has learned.

The winner could become one of the larger captives in Bermuda.

Marsh & McLennan Inc., which markets the McDonald's endorsed program for franchisees, and Frank B. Hall & Co., which held the endorsement until two years ago, are both preparing captives to reinsure franchisees' property/liability package plans and workers compensation risks underwritten by fronting insurers, BI has confirmed.

The Marsh & McLennan captive design is now waiting for approval in Bermuda Parliament, said McDonald's Corp.'s risk manager, Jerry Lane.

He refused to elaborate on the captive's structure, but it is known to be a mutual. Bermuda law requires only mutual insurers to be approved by Parliament (see related story).

The captive, if approved, would reinsure policies issued by Insurance Co. of North America, which now underwrites the corporation-sponsored program.

"It's all up in the air right now," Mr. Lane says. "I can't say exactly what the structure will be until Parliament reviews it."

Mr. Lane also declined to say how many franchisees would be likely charter policyholders or how much premium volume the captive could expect in its first

year.

BI previously estimated that M&M/INA won about half of the 4,000 franchised restaurants after an unprecedented industry competition last year.

The corporate plan lost more than 1,000 restaurants

to a package plan sold by Financial Guardian Inc. and underwritten by Great American Insurance Co. Frank B. Hall, marketing coverage underwritten by Fireman's Fund Insurance Cos., came in third with fewer than 1,000 stores, according to industry estimates (BI, March 29).

Mr. Lane said that all estimates were "inaccurate" but declined to provide the correct distribution.

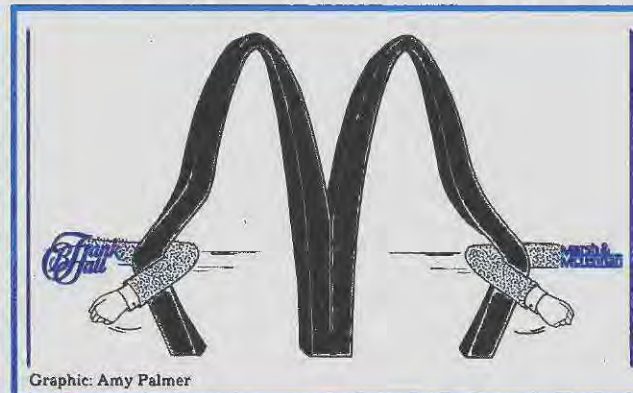
"If your estimates were accurate, brokers would have sold more policies than we have restaurants on the street. I know where all the operations are insured. It's part of my job," he said.

If, however, at least 2,000 franchised restaurants paying an average of \$6,000 a year in premiums were convinced to join the corporation-sponsored plan, the captive would generate at least \$12 million in annual premium volume. Most Bermuda captives have premium volumes of \$1 million to \$10 million.

A captive mutual of this size, according to Bermuda Registrar of Companies Verbena Daniels, would have to reserve \$2.4 million, or one-fifth its annual premium volume, beginning with a minimum of \$250,000.

The Hall captive program is being designed by the risk management services division of The Home Insurance Group, confirmed Fred Mina, senior vp for risk

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Graphic: Amy Palmer

Kentucky passes open rating, Rhode Island may follow suit

By EILEEN NORRIS

The drive to force workers compensation insurers to compete for risks is picking up speed.

By mid summer, two states will implement open rating laws, and a third is expected to follow later in the year.

In both Oregon and Kentucky, competitive rating laws will take effect July 15. For Oregon, the actual implementation of an open-rating system has been taking shape for almost a year since the law was passed last August.

But in Kentucky, where the law was just passed in mid-March, the transition away from insurers filing bureau-established rates will be a quick one. The ad hoc committee that will set up the system has not yet

even been named.

Meanwhile, in Rhode Island, the House was expected to pass an open rating law last week, and the governor's signature was guaranteed for the new system that will take effect Sept. 1.

Open rating also is slated to begin in Michigan in January 1983 and in Minnesota by the middle of next year. And Illinois may pass open rating this legislative session.

With competitive rating, supporters say, workers compensation rates will go down because insurers won't know what others are charging. Insurers will be more likely to lower rates to remain competitive.

Kentucky's law, which requires that workers compensation insurers use rates and file them later with

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Hyatt settlement talks rumored

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district court clerk's office that some settlement negotiations were in progress," said Robert D. St. Vrain, clerk of the 8th U.S. Circuit Court of Appeals in St. Louis. A three-judge panel of that court is considering appeals of a class action in the Hyatt litigation.

At least one lawyer involved in the case said he understood that Irving Younger of the Washington firm of Williams & Connolly, the class action's lead counsel, is seeking \$50 million from Hallmark and/or Hyatt Corp. to settle the punitive damage claims and pay lawyers' fees. Other sources said the defendants have countered with an offer of from \$10 million to \$15 million.

If a settlement were being negotiated, it would have to be contingent upon the appeals court upholding the class certification and would not cover compensatory damages, which could still be sought by victims or their families, said John M. Townsend of the New York law firm of Hughes, Hubbard & Reed, an attorney for Hallmark.

Mr. Younger, reached in Washington, declined comment on this report and on another published by the Kansas City Times, which said a settlement could range between \$10 million and \$50 million.

Mr. Hall's deposition had been scheduled for May 5. But U.S. District Judge Scott O. Wright, after a private meeting April 28 with attorneys for all sides in the class action, delayed all depositions and discovery at least until a May 14 hearing.

Hallmark attorneys could not be reached for comment on the settlement reports. Thomas E. Deacy Jr., a Kansas City attorney for Hyatt, which operates the hotel owned by Hallmark's Crown Center Redevelopment Corp. subsidiary, said Hyatt has taken no position in settlement talks.

However, two other sources said they understood that Hyatt lawyer Don H. Reuben of the Chicago law firm of Reuben & Proctor has participated in settlement discussions with Mr. Younger, as has Charles J. Egan Jr., Hallmark's general counsel. Insurers, apparently, are not yet directly involved in the talks.

Ruling may profit Keene parent

NEW YORK—Bairnco Corp., parent of Keene Corp., could add about 20 cents a share to its earnings during each of the next three quarters thanks to the ruling it won on coverage for asbestos claims.

The former insulation products manufacturer and defendant in thousands of lawsuits brought by victims of asbestos-related diseases will be reimbursed for asbestos-related losses under the broadest theory of insurer liability. The Supreme Court has refused to review a lower court's ruling in Keene Corp. vs. INA (BI, March 15).

In addition, Bairnco will not set aside any more reserves to cover asbestos claims this year. The company had set aside \$2.5 million in the first quarter, bringing its total reserves to \$16 million.

Government blamed for crash

WASHINGTON—Air Florida wants the federal government to reimburse it for damages it may have to pay in connection with the Jan. 13 crash of one of its B-737 jetliners, which killed 78 people.

In a suit filed late last month in U.S. District Court in Washington, Air Florida charges that Federal Aviation Administration air traffic controllers did not adequately separate aircraft during takeoffs and landings the afternoon of the crash and improperly permitted the jet to leave the gate during a snowstorm.

The suit also charges that controllers did not advise airline officials of other accidents during similar weather conditions.

Air Florida's suit against the government came as a response to one of the 30 personal injury suits filed by relatives of victims of the crash. The airline is expected to try to name the federal government as a third-party defendant in the other suits.

Argentines transfer risks

LONDON—Argentine insurance and reinsurance policies canceled by Lloyd's of London are moving to other markets, sources say.

Argentina's state reinsurer, Instituto Nacional de Reaseguros (INDER), formerly placed most of its retrocessions through more than 20 Lloyd's brokers. But Lloyd's underwriters are canceling these policies upon the request of Lloyd's Chairman Peter Green and the British government (see earlier story, page 74).

Reinsurance on the aviation policy covering Aerolines Argentinas, an Argentine airline, has moved to La Reunion Aeriennne in Paris, a Lloyd's aviation reinsurer said. Frank B. Hall & Co. Inc. in New York is brokering the policies, the source added.

"Frank B. Hall has had some involvement with Aerolines Argentinas for years," said Peter Pruitt, chairman and director of Frank B. Hall (U.K.). But he said he could not detail that involvement.

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Ruling rebukes AMC for faulty Jeep design

By RHONDA L. RUNDLE

CARSON CITY, Nev.—A Nevada judge's stern criticism of the safety of American Motors Corp.'s controversial Jeep CJ-5 could add fuel to scores of pending product liability actions across the country.

State District Judge Michael Fondi ruled April 19 that the design of the 1975 Jeep was defective and ordered AMC to pay \$4.1 million in compensatory and \$1 million in punitive damages to William C. Buckholt, who sustained permanent injuries in a Jeep accident six years ago.

"This decision is outrageous and flies in the face of the findings of two other juries in other states..." said an AMC spokesperson. "In addition, the judge had no right to file his findings at all. The case had been settled previously, thereby removing jurisdiction from the judge."

American Motors will ask the Nevada Supreme Court this week to annul Judge Fondi's decision be-

cause an out-of-court settlement preceded the decision, the automaker says. In the meantime, AMC has obtained a temporary restraining order to block distribution of the decision to the public.

But AMC is apparently more worried about the precedent-setting strong language in Judge Fondi's decision than the size of the award because court sources say the settlement was for \$8 million—\$5 million to plaintiff Buckholt and \$3 million to settle two other pending cases in the same accident.

Judge Fondi has refused to withdraw his opinion because he says the out-of-court settlement followed his disclosure to attorneys for the parties of a tentative decision in the case. Despite AMC's efforts to halt release of the opinion, Judge Fondi is permitting its distribution.

If the Nevada Supreme Court upholds Judge Fondi's decision, the award will be the largest to date against AMC in litigation concerning the Jeep CJ-5. The Ohio

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South Tucson's workers paying benefit costs

By STEVE SHERWOOD and JAMES LAWSON

SOUTH TUCSON, Ariz.—In a bid to save jobs and help the city weather a \$3.6 million damage award for which it is drastically underinsured, South Tucson's 80 employees will pay the entire cost of their health and dental plans.

City officials say transferring group insurance premiums and health maintenance organization fees to employees will save the city about \$5,000 a month.

South Tucson was drastically underinsured when one of its officers accidentally shot former Tucson police officer Roy Garcia during a mutual-aid response to a Oct. 11, 1978, shootout in South Tucson.

The city's only coverage was a \$100,000 police liability policy written by Jefferson Insurance Co. of New York.

The city's appeals of the \$3.6 million award have failed, and Mr. Garcia's attorney, Richard Grand, is seeking a special mandate ordering South Tucson to pay, even if this means increasing local taxes.

Last week, the city offered to settle with Mr. Garcia.

It offered him three parcels of city land valued at \$450,000 and annual payments of \$50,000 for 30 years. Mr. Grand was quoted as saying he

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Graphic: Amy Palmer

Insurers want to cool chances of barge blasts

By STACY SHAPIRO

LONDON—It soon will be summertime, and the livin' won't be easy on the barges carrying coal on the Mississippi.

The intense heat in the Southern United States can cause the coal to explode in the belly of some barges, and insurers are getting weary of paying the growing claims.

Last year some 40 to 50 vessels carrying coal from Midwest and Appalachian coalfields to New Orleans and Mobile, Ala., suffered damage after the coal they were carrying overheated, says Paul Koronka, an associate of the West England P&I Club.

Major fires from spontaneous combustion broke out aboard some seven barges, while the others had to be unloaded to avoid explosions.

"And that's too many," Mr. Koronka says. "Just unloading a ship costs a lot of money, \$500,000 before you've even blinked."

So before things get too hot this summer, the International Group of Protection & Indemnity Clubs, whose members insure about 95% of the world's cargo ships, is issuing new rules for coal-carrying barges operating on the Mississippi.

Shipowners are warned not to load coal whose temperatures exceed 131 degrees Fahrenheit, says Mr. Koronka, who chaired the committee that set the rules.

Shipowners should also make sure before the coal is loaded that

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New Florida law allows captives

By STEVE SHERWOOD and RHONDA L. RUNDLE

TALLAHASSEE, Fla.—Captive insurance companies owned by a single parent corporation are now welcome in Florida following passage April 7 of the Florida Regulatory Reform Act.

And another law permitting creation of limited reciprocal insurers, or "Blue Jays," was passed as part of the act, also called the In-

urance Sunset Code.

The new laws, along with the state's workers compensation wage-loss reform law, are designed to make Florida more attractive to business, says Spencer Cullen, director of the division of insurance company regulation of the Florida Insurance Department.

Associated Industries of Florida, a trade group representing about 1,600 employers, initiated the new laws. State Rep. Tom Gustafson,

chairman of the House Insurance Committee, sponsored the proposals to make entry into the insurance business less strict for employers, while preserving competition with commercial insurers.

The Florida Insurance Department says the new captive law permits single-parent captives only. The language of the Florida statute is somewhat ambiguous, however, and Associated Industries of Florida believes association captives may be allowed.

A captive insurer is defined in the law as "a domestic insurer established under this chapter to insure the risks of a specific corporation or group of corporations owned or controlled by the corporation or corporations from whom it accepts risk under a contract of insurance."

So if an association incorporates, it may be able to set up a captive, suggests Bill Griffin, staff vp of As-

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errors & omissions

• Several independent explosives distributors in the Northeast were faced with the prospect of going out of business when they could not obtain liability insurance in 1979, not their supplier, Atlas Powder Co., a unit of Tyler Corp., as reported in the April 19 issue.

• Meadows Indemnity Co. Ltd., a captive owned by Gould Inc. of Rolling Meadows, Ill., and domiciled in Guernsey, does a "substantial" amount of third-party underwriting. A story in the April 19 issue gave an opposite impression.

Program allows injured employees to do 'homework'

By EILEEN NORRIS

MINNEAPOLIS—In business circles, the "Homework" program is chalking up high marks as a way disabled workers can get back to work without leaving home.

Developed by Control Data Corp. for its own disabled employees and then marketed to other employers, the plan teaches disabled workers computer programming via a portable terminal that is tied to a computer in Control Data's home office in Minneapolis.

Four instructors are on line at that end to "teach" and answer the employee's questions electronically.

For the employer, the Homework program offers the chance to cut workers compensation costs that can equal 18% to 65% of total payroll annually.

To the dozens of handicapped employees in the program, this "homework" is a welcomed task that links them to the working world.

Control Data began the program in-house in 1978 to teach computer programming to 23 of its own workers who were severely disabled or unable to work in a traditional office environment.

After 13 of those disabled employees who graduated from the eight-month course returned to work again for the company, Control Data realized it had a promising concept that could be marketed to outside employers.

It expanded the vocational training program with hopes of luring self-insured employers and insurance companies concerned about rehabilitating disabled workers.

"Most employers probably have a need for computer programmers in-house, but they also have a need to get their disabled employees off workers compensation disability," said Julie T. Copenhaver, marketing manager of the Homework program.

"Insurance companies have those same two needs, but they also can offer the Homework program to their policyholders," she said.

The Travelers Insurance Co. already is offering the program to its insureds as a cost-effective way to get severely disabled employees back to work. And The Travelers is considering implementing the program for its own employees.

The state of Minnesota and Goodwill Industries of Atlanta also have their workers enrolled in the program, which costs \$25,000 per person.

Altogether, the program has 46 students from outside firms. It's too early to tell how much money employers are saving by enrolling their disabled workers in the program, but Control Data estimates the employer gets back its \$25,000 investment within three to four years after the employee is placed in a job.

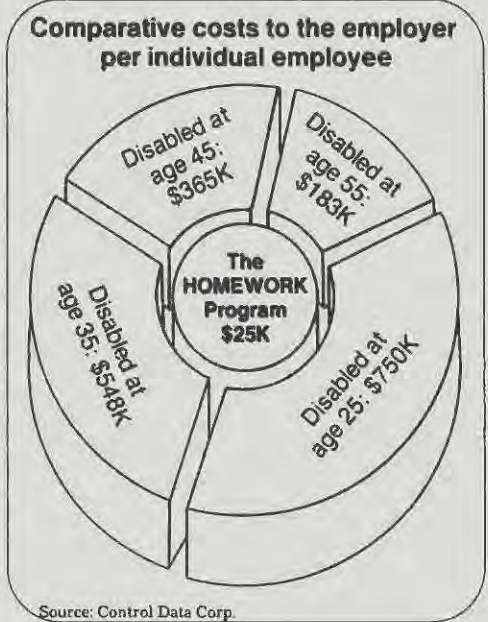
And that only considers discontinued government and insurance benefits, which equal more than the employment taxes paid.

The direct costs of maintaining an employee on medical leave after a serious injury are staggering.

If a worker is confined to a wheelchair at age 35, Control Data estimates the direct costs to the employer can total \$548,000 before the employee's disability insurance runs out at age 65.

That figure doesn't include indirect costs, such as hiring temporary replacements for injured employees, or hidden costs, like the cost of buying

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Multiemployer plans

Second judge upholds constitutionality of law

By JERRY GEISEL

LOS ANGELES—Employers hoping to overturn the Multiemployer Pension Plan Amendments Act of 1980 have suffered another setback.

The law, which gives multiemployer pension plans the power to demand enormous payments from withdrawing employers to help pay unfunded liabilities, is constitutional and does not place an unreasonable burden on the employers, U.S. District Court Judge Terry J. Hatter Jr. ruled.

In dismissing a request for an injunction to bar a multiemployer plan from demanding several hundred thousand dollars in withdrawal liability payments from two small Southern California construction firms, Judge Hatter said Congress had a legitimate interest in imposing financial penalties on employers that leave the plans.

That "heavy burden" was what Congress had in mind "to protect the vested interests of workers who had benefits that already had been earned," Judge Hatter said in a case involving the withdrawal of S&M Paving Inc. and Alan Ellis, a private contractor, from the Construction Laborers Pension Trust of Southern California.

Judge Hatter's decision follows a Pennsylvania court ruling that also upheld the law's constitutionality (BI, April 5).

Republic Industries Inc. had asked the court to bar a Teamsters' pension plan from demanding more than \$850,000 in withdrawal liability payments, but U.S. District Judge E. Mac Troutman ruled the Multiemployer Amendments Act "strikes a reasonable, rational, non-arbitrary and constitutional balance in the allocation of its benefits and burdens."

However, Republic, based in Kansas City, Mo., still is challenging several other pending withdrawal liability claims, including a \$16.9 million bill from the Central States, Southeast & Southwest Areas Teamsters' pension fund that is more than double the company's net worth (BI, July 20, 1981).

In another major multiemployer decision, a California federal judge declared unconstitutional a retroactive provision in the law that allows plans to collect withdrawal liability payments from employers that left the plans before the law was signed, but after its effective date.

As a result, U.S. District Judge Irving Hill's decision, which is being challenged by the Pension Benefit Guaranty Corp., only affects firms in his Central California district that withdrew from plans between April 29, 1980, the law's effective date, and Sept. 26, 1980, the day the law was signed.

With two federal judges upholding the constitutionality of the Multiemployer Amendments Act—at least at a preliminary stage—the courts may be giving a message to employers, one expert says.

That message is: "The act is not the blatantly unconstitutional statute that many have argued," said Baruch Fellner, associate general counsel at the PBGC, the federal agency that guarantees workers' vested pension benefits.

Mr. Fellner says employers that have complaints about withdrawal liability claims should try to have those disputes resolved through arbitration, a remedy offered by the law, rather than challenge its constitutionality.

But because so much money is involved—the nation's 2,000 multiemployer pension plans have promised but failed to fund tens of billions of dollars in vested benefits—the litigation is expected to continue until the Supreme Court resolves whether Congress had a right to pass a law that requires withdrawing employers to pay a share of a plan's unfunded vested benefits.

Before that law was passed, an employer could leave a plan without liability so long as the plan did not collapse within five years of the company's withdrawal.

Even if the plan did collapse within five years, an employer's maximum liability was set at 30% of its net worth.

Industries ask to waive some withdrawal liabilities

WASHINGTON—Two multiemployer pension plans covering workers in the clothing and longshore industries could be the first to allow certain employers to withdraw from the plans without paying any of the plans' unfunded liabilities.

The New York-based International Ladies Garment Workers Union pension fund this month will ask the Pension Benefit Guaranty Corp. for permission to adopt a special rule that would eliminate withdrawal liability for employers who retire, go bankrupt, die or sell their firms to companies that will contribute to the plan.

In addition, the California-based International Longshoremen's & Warehousemen's Union-Pacific Maritime Assn. longshore pension plan already has asked the PBGC to approve a rule that would allow employers that go out of business to escape withdrawal liability claims.

The exemptions requested are similar to those now covering employers in the construction and entertainment industries (BI, March 29).

Under those exemptions, companies in those industries that go out of business or leave a particular area can't be slapped with withdrawal liability claims.

It isn't known yet if the PBGC, the federal agency that guarantees workers' vested pension benefits, will approve the two plans' request for a withdrawal liability exemption.

First, the PBGC will have to decide whether the exemptions would damage the plan's contribution base, said PBGC Executive Director Robert Nagle.

Theodore Bernstein, director of the ILGWU's National Retirement Fund, which covers 270,000 active participants and 112,000 retirees, argues that broadening withdrawal liability exemptions would not damage its contribution base.

"One employer's misfortune is another's fortune," Mr. Bernstein said, noting that as one clothing manufacturer goes out of business, existing firms expand operations and new companies are formed.

As a result, additional contributions would be funneled to the plan by expanding firms. That would make up for lost contributions by firms going out of business.

In addition, by liberalizing withdrawal liability rules, the plan's financial base could be strengthened because additional employers would join the plan, Mr. Bernstein said.

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Curb use of toxic building materials: Experts

By STEVE SHERWOOD

HOUSTON, Texas—The fact that toxic fumes from burning plastic almost certainly killed 12 guests in the April 6 Westchase Hilton Hotel fire here is nothing unusual, says a fire safety expert.

"It is the same old story," says Gordon Vickery, director of the Foundation for Fire Safety in Washington, D.C., which sent investigators to the fire. "You have a one-room fire—a relatively small blaze for the fire department—that kills 12 people."

Likewise, in the Nov. 21, 1980, MGM Grand Hotel fire in Las Vegas, 69 of the 85 victims also died from inhaling toxic smoke, he said.

"There is nothing new here," says Mr. Vickery. "We are just blind to facts we have known for a long time and haven't equipped

ourselves with the knowledge to fight back."

He and others want to stem the use of toxic building materials in hotels with extensive testing of plastics and restrictions on the use of the worst through building codes.

Others, including Marriott Hotels Inc. risk manager John Woods, say the best solution is to prevent fires—and the consequent release of toxic fumes—by more use of sprinkler systems in buildings.

All agree there is no single, comprehensive solution to this problem that is costing the hotel industry and its insurers hundreds of millions of dollars a year in liability claims.

"We live in a synthetic world," says Mr. Vickery. "In essence, what we have are plastic rooms and



Often furniture used in public buildings releases toxic fumes when it burns.

when plastic burns it burns quickly and gives off extremely poisonous fumes."

Dr. Yves Alarie of the University of Pittsburgh, who is testing the toxicity of 43 types of plastics by

exposing laboratory animals to their smoke and comparing the results to wood smoke exposures, says, "In general, plastic is five times more toxic than wood."

In any major hotel, a guest can

look around and see normally friendly objects that give off gases during a fire that could burn his lungs, sap his oxygen and temporarily blind him, Dr. Alarie says.

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Teachers can get cash in lieu of health plan

The 3,000 public school teachers in Wichita, Kan., now have the option of receiving cash payments in lieu of health insurance benefits.

The Wichita School District will pay employees who do not choose to participate in the health plan \$60 per month. The cash payment is subject to Social Security and income taxes.

Previously, teachers not electing to participate in the health plan received a contribution toward a tax-sheltered annuity. But, the plan was changed after the Internal Revenue Service and the Social Security Administration ruled that district funds used to pay health insurance premiums would be subject to income taxes if the annuity option was offered.

About 40% of the district's teachers do not participate in the health plan. The teachers are members of

benefit beat

the Wichita branch of the National Education Assn.

The school district contributes \$65 per month toward the health coverage, underwritten by Blue Cross/Blue Shield of Kansas; the teachers pay \$75, far more than they should be paying, says Robert Wright, the district's director of employment relations.

The district's total annual contribution amounts to \$2.34 million.

The teachers receive the same health coverage that the district's 2,000 other employees receive from a new self-insured plan, which requires them to make no premium contributions.

Employees in the self-funded

plan, which was started late last autumn, also receive dental benefits not offered to the teachers, who negotiated their health plan options last year.

Under the self-insured plan, employees pay an annual \$200-per-individual or a \$400-per-family deductible for both medical and dental benefits.

The dental plan covers 80% of charges for diagnostic, preventive, restorative and periodontic services and 50% of prosthetic work. The plan has an annual \$1,000 maximum per individual.

The self-insured health plan pays 80% of the first \$1,000 in hospital charges, 90% for outpatient care.

The plan pays 100% of all claims exceeding \$1,000.

The self-insured plan is administered by Armfield-Cole Consultants Inc., a Wichita-based third-party administrator.

The district has also purchased stop-loss insurance for claims exceeding \$20,000. Aggregate stop-loss protection provides coverage over 120% of anticipated claims. Both stop-loss policies are underwritten by Equitable Life Assurance Society.

Vision plan

The 10,000 aerospace workers employed by Rockwell International Corp. have won a new vision care plan.

The new benefit, the result of collective bargaining between the workers—members of the Interna-

tional Union of United Automotive, Aerospace & Agriculture Implement Workers of America—and the Pittsburgh-based employer, goes into effect Oct. 1.

Under the plan, underwritten by Vision Service Plan of California, a pre-paid vision services firm, the employees are allowed one eye examination and a set of corrective lenses every 12 months. The plan will cover the purchase of new frames every 24 months.

The plan will pay \$250 annually for contact lenses for medical uses like glaucoma repair and it will provide a \$100 annual payment for contact lenses for cosmetic purposes.

Employees will be required to pay a \$5 deductible for examinations and a \$7.50 deductible for lenses and frames. Employees pay no other charges so long as they seek services from an approved panel of specialists.

Rockwell International, which employs more than 114,000 workers in a variety of fields, is a diversified manufacturer of military electronics, aerospace and textile machinery.

Trimming costs

The city of Madison, Wis., has worked out a new health insurance agreement that will help thwart a proposed 31% premium increase.

The new agreement with Wisconsin Physicians Services, an affiliate of Blue Cross/Blue Shield of Wisconsin, is expected to save the city about \$200,000 this year, while continuing to offer the same level of medical benefits to the municipal employees.

The reduction came after Wisconsin Physicians Services renegotiated its contracts with four local hospitals.

The city spent \$2.1 million on health insurance last year. The proposed 31% increase would have pushed the health premium to \$2.75 million.

Under the new agreement, however, the city will pay about \$2.55 million to provide health coverage to 1,750 of its 1,900 employees. Coverage for the other 150 workers is provided by another insurance plan.

The Wisconsin Physicians Services plan covers 100% of all diagnostic and hospital costs with no employee deductible.

Under the major medical portion of the plan, employees pay a \$100-per-claim deductible and 20% of all charges.

The plan also has a prescription drug rider that allows employees to purchase prescriptions with only a \$2-per-purchase charge.

Group coverage

The number of people covered by group health insurance underwritten by commercial insurers rose almost 21% in the 1970s, according to the Health Insurance Assn. of America.

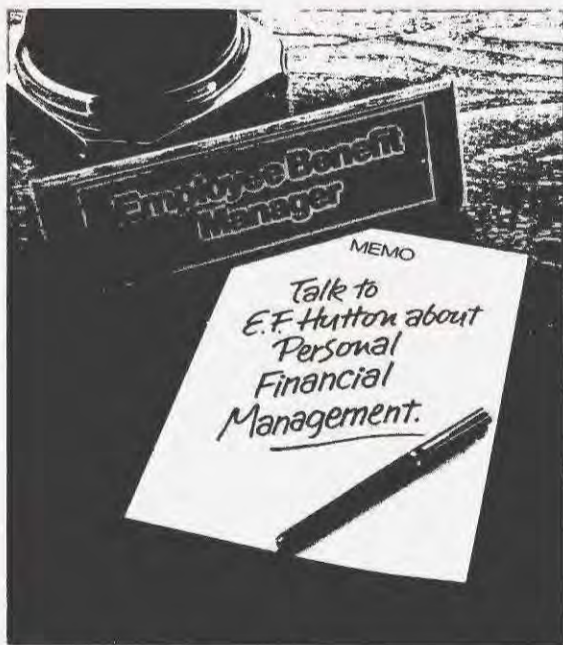
Almost 98 million people were covered by some form of private group health insurance in 1980, compared with about 81 million in 1970, reports the HIAA.

About 87 million people were covered by Blue Cross/Blue Shield plans in 1980, while about 34 million were covered by individual policies through commercial insurers.

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

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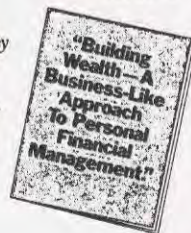
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Student blames insurer for fire injuries

WASHINGTON—A college student is blaming a university's property insurer for not making safety recommendations that could have prevented a 1979 dormitory fire.

Robbi Lynn Janicker, a former student at George Washington University, charges that the university's property insurer, The Hartford Insurance Group, knew that there were dangerous conditions at a school dormitory that were conducive to a fire.

In a suit seeking \$10 million from The Hartford, Ms. Janicker says the insurer failed to require George

Washington University to maintain the dormitory in a safe condition.

Ms. Janicker was one of seven people injured during an April 19, 1979, fire at Thurston Hall, a large dormitory about three blocks from the White House. Aside from burns, Ms. Janicker also suffered internal injuries after she fell from a window in her fifth-floor room onto a courtyard, her attorney said.

The Hartford declined to comment on the pending litigation.

According to the District of Columbia Fire Department, the dormitory fire, which caused about

\$65,000 in damage, was caused by a flammable liquid. The department labels the fire "suspicious."

But according to the suit, which was filed in U.S. District Court for the District of Columbia, The Hartford is liable for damages because:

- It failed to recommend measures that would have prevented the rapid spread of fire or smoke.

- The insurer didn't recommend and require sufficient fire exits and emergency procedures.

- Safety inspections by The Hartford "were performed in such a careless and negligent manner

that severe deficiencies were omitted from the inspection reports, year after year."

According to the suit, George Washington University relied on The Hartford's annual report and safety recommendations in deciding what steps were necessary to ensure that the dormitory was reasonably safe from fire.

The suit, which also seeks \$1 million for Ms. Janicker's mother for reimbursement for her daughter's medical care costs, has been referred to U.S. District Judge Norma Holloway Johnson. ■

Pan Am facing \$1 million claim

WASHINGTON—A Silver Spring, Md., woman wants Pan American World Airways Inc. to pay her \$1 million for injuries she says she suffered on an international flight last winter.

Ingrid Sophar says her eardrums burst after a change in cabin pressure on a Pan Am jetliner on a flight to Guatemala City, Guatemala, from Miami.

In a suit filed last month in U.S. District Court in Washington, Ms. Sophar says the bursting of her eardrums resulted in great pain and anguish.

Since her alleged injury, Ms. Sophar says she has suffered ringing in her ears, earaches and headaches and is now unable to travel by air.

However, a spokesman for Associated Aviation Underwriters, Pan Am's lead underwriter, denies that there was an abrupt change in cabin pressure during the flight to Guatemala.

"There was no incident, there was no malfunction of the cabin pressure and no other passenger experienced discomfort," the spokesman said. "We think there was no liability at all. If we had responsibility, we would try to settle it."

According to documents filed with the Civil Aeronautics Board, the New York-based airline has at least \$200 million of liability insurance (BI, March 8).

In seeking \$1 million plus court costs, Ms. Sophar says she will remain permanently disabled and will be unable to maintain "gainful employment" because of her ear injury.

In the suit, Ms. Sophar's attorney, Francis Redmond of Washington, said Pan Am breached its duty as a common carrier by failing to provide safe transportation from the time of departure to arrival.

The complaint has been referred to U.S. District Judge Harold H. Greene. ■

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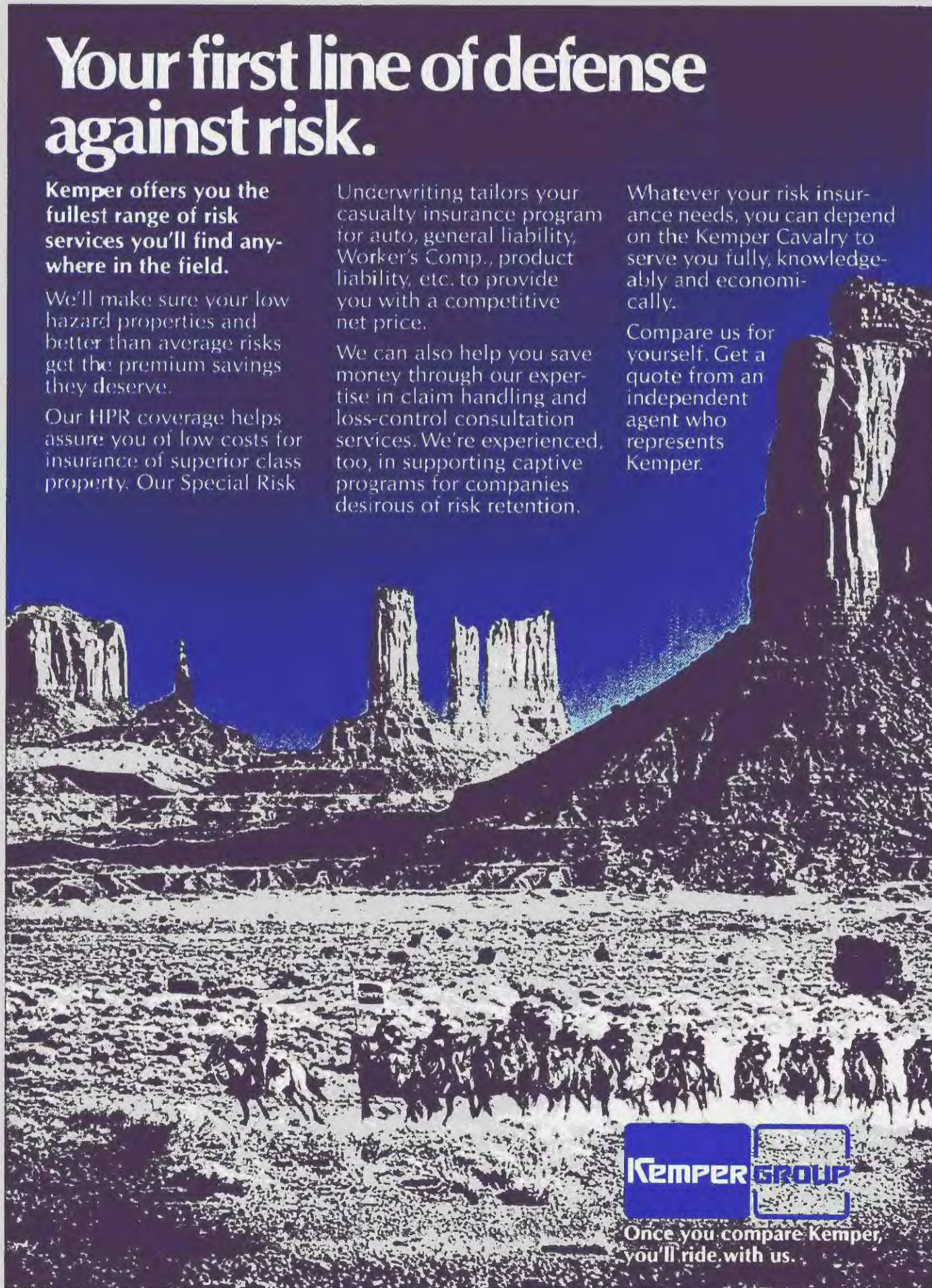
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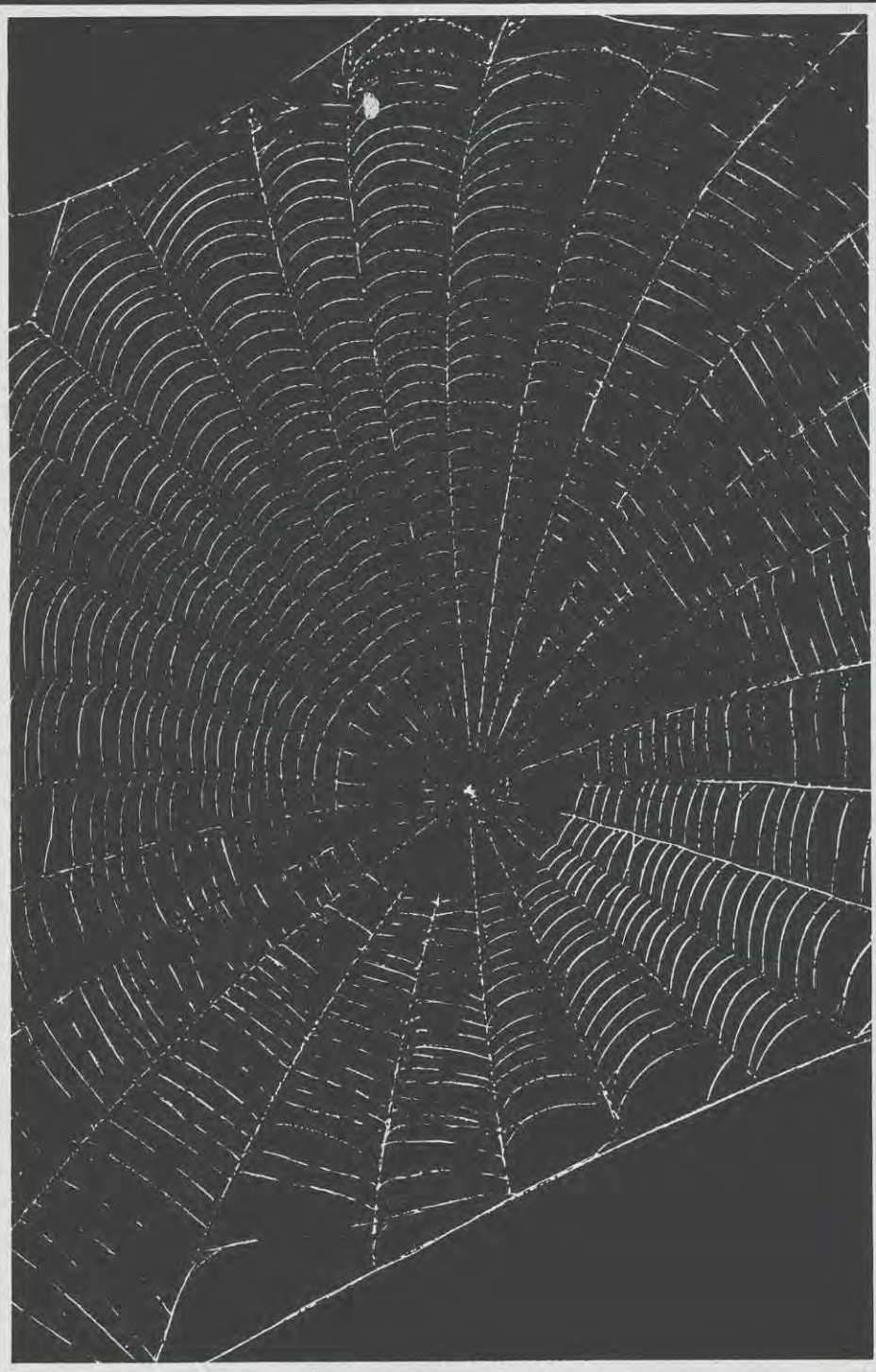
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editorial opinions

Tax battle just beginning

THE FOLLOWING IS a message to the Loss Reserve Deduction Committee and its fellow risk managers: Go for it!

After more than two years of hard work, the committee has succeeded in introducing a bill in Congress that would allow tax deductions for self-insured loss reserves and for premiums paid to captives (*BI*, April 26).

Our congratulations to the risk managers who served on that committee and stuck with the arduous job of finding a congressional sponsor to push the overhaul the Internal Revenue Code.

Now that the committee has gotten a man on first base, it's going to take a team effort to score.

A lobbying strategy must begin.

That effort will demand moral and monetary support. To get some momentum behind H.R. 6114, sponsored by Rep. Bill Frenzel, R-Minn., someone is going to have to let Rep. Frenzel's fellow congressmen on the House Ways and Means Committee know that the bill is important and deserves attention. Co-sponsors in Congress will have to be lured onto the bankwagon.

Risk managers, that is where you come in. Let your voices be heard and let your management know what is going on, so that the top brass in your companies—whose names often pack more power—can push for the legislation.

And, if you do a good enough job of selling the importance of the legislation to your corporation, top management also might be willing to contribute to the lobbying effort.

The Loss Reserve Deduction Committee spent \$100,000 as of last October just to have the bill drafted and to try to find a sponsor for it. Now that the bill has made it through the door of Congress, more funds will be needed to orchestrate a united drive to push it back out that door as a law.

Of course, convincing your top management to support the bill that has obvious advantages for a self-insuring corporation will be only half the battle.

First, someone has to convince Congress to pass a bill that will initially reduce the amount of revenue flowing into the Treasury at a time when President Reagan is trying to trim the federal deficit. Secondly, someone has to convince the Treasury itself to hold off the powerful drive it could launch against the bill.

Robert A. Reeves, vp of insurance for the Hospital Corp. of America in Nashville, Tenn., and the chairman of the Loss Reserve Deduction Committee, offers some pretty sound arguments (*BI*, Oct. 12, 1981) you'll want to arm yourself with:

- Although tax revenues would be reduced in the early years of the law, over time total tax revenues would increase. Given the right to take tax deductions

for the money now set aside as non-deductible loss reserves, companies would be allowed to funnel more money into their businesses. This would ultimately increase their revenues and, thus, the federal income taxes collected.

Now faced with the prospect of funding for self-insured losses with aftertax dollars, companies are often forced to choose the less economical alternative of buying insurance. This is counterproductive.

- The current tax penalty on self-insurers also can force business into imprudent risk management in tough insurance markets.

When insurance is unavailable and companies are forced to self-insure huge risks, they may leave unfunded many millions of dollars worth of retained risks they have been forced to accept rather than allocate aftertax dollars for reserves because they need the money for more productive projects.

- The change in the tax law also would encourage good risk management by placing the incentive to prevent claims in the first place. Self-insurers are more conscious of the need to produce quality goods and services since reduced claims costs directly increase their bottom line.

Some fear that the bill will face especially rocky times because congressmen like to have proposals boiled down into a few simple propositions they can deal with effectively. Since the changes in the tax law proposed by the Loss Reserve Deduction Committee go into details of various accounting methods and risk financing techniques, boiling it all down to a few key points is difficult.

The committee, however, has prepared a memorandum explaining how the legislation would work. We ask that some members of Congress take the time to stop and understand what is involved. Although it is complicated, there is a lot at stake for self-insured corporations.

The bottom line is that the current law is an antiquated one that has not kept pace with growing risks and the changing business of risk management.

Today's risk managers are much more professional and creative in risk financing than their predecessors decades ago. But the current tax law only benefits the corporations whose risk managers still cover most of their business risks with traditional insurance from the commercial market. For those premiums, the corporation can take a tax deduction.

But we say that the business that finds a more economical and productive way of handling risk should be rewarded, too, with a tax deduction for the money it invests.

That could be the best argument: It's hard to be against equality.

letters

Ethics question is important one

To the editor: I would like to extend my thanks to you for printing the Perspective article "Ethical questions" (*BI*, March 29). I also would like to extend my sincere thanks to Susan J. Alt for expressing, in words, many of the thoughts that I have had relative to the current "ethical practices" that are being followed in our profession.

During the past few decades, we have seen a liberalization of the original moral concepts upon which our nation was developed.

The liberality brought about by the humanist approach has caused a deterioration of the moral concepts under which our culture currently operates. It has not

been too many years ago that a man's word was his bond.

Today, this has deteriorated to the point where we are obligated to trust no one or contract for our own protection. Part of this has resulted from the litigious atmosphere brought about by the legal profession and, also, by the attitude that we currently find in the concept that it is never our fault that has caused the difficulty in which we find ourselves.

The article was excellent and one that risk managers should study and continually ask themselves if their actions are ethical—not only from the standpoint of the current morals, but also for the benefit of their corporations and their own futures in the business world.

Paul B. Harvey
Risk manager
Ponderosa Homes
Newport Beach, Calif.

'Perpetual' soft market needs more attention

To the editor: Congratulations on finally addressing the possibility of perpetual "soft" insurance markets in "What if the market doesn't tighten?" (*BI*, April 12).

More attention is needed on this subject.

David B. Kitterman
Account executive
Cook-Cravens, Warren & Co.
Houston

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24 Californians named in coverage scam

LOS ANGELES—A Los Angeles County grand jury has charged 24 Southern California residents with 111 counts of insurance fraud, grand theft and conspiracy in an alleged scheme involving group health insurance policies provided by their employers.

The suspects fraudulently collected about \$42,000 from six insurance companies and three self-insured corporations in Southern California, according to the indictments.

Companies and institutions employing the suspects and providing their insurance coverage include the University of California at Los Angeles, 7-Up Bottling Co., Centinela Hospital, Rockwell International Corp., Cedar Sinai Hospital, Lockheed California Co., Coast Television, Imperial Bank, the Au-

tomobile Club of Southern California, Hughes Helicopter Co. and Crown Zellerbach Corp.

An investigation revealed that one of the suspects, a former insurance billing secretary, allegedly provided medical billings to individuals, who would then submit them as medical insurance claims to collect money.

The investigation by the state Fraud Bureau began in November 1980. The indictments were handed down April 12.

As many as 50 people and as much as \$100,000 in fraudulent payments could have been involved in the scheme, state officials say.

around the states

Blues to merge?

BOSTON—Massachusetts Blue Cross and Blue Shield are supporting legislation that would allow the two to merge.

John Thompson, president of Blue Shield, recently said a merger would increase the organizations' efficiency and cut costs.

The move is opposed by several other groups, including the Massachusetts Medical Society, which represents 60% of physicians practicing in the state.

A medical society spokesman testifying against the legislation said recently that the legislation would extend the power of the two orga-

nizations beyond their original purpose of community service and would permit them to engage in new lines of business free from taxation, even if the new business was unrelated to health care.

The Professional Insurance Agents of Massachusetts and the Independent Insurance Agents of Massachusetts also oppose the legislation.

Byssinosis victims

RICHMOND, Va.—The Virginia Legislature recently passed a bill that extends the time period during which victims of byssinosis may file workers compensation claims.

The new law permits workers exposed to cotton dust to file claims seven years after exposure. Previously, workers had only five

years to file claims.

However, a worker still must file a claim within two years of a diagnosis of byssinosis.

The bill was signed into law by Gov. Charles Robb last month and will take effect July 1.

Liquidation order

CHICAGO—A Cook County circuit judge has ordered the liquidation of Kenilworth Insurance Co., a Chicago-based property/casualty insurer.

State Attorney General Ty Fahner petitioned for and received an order April 15 placing the company under an order of conservation. Illinois Insurance Director Philip R. O'Connor was appointed conservator.

The Department of Insurance, which investigated the company's financial condition, determined that the company was insolvent.

The liquidation order requires that all of Kenilworth's insurance policies be canceled effective May 21. The state Insurance Department is advising all Kenilworth policyholders to immediately contact their agents or brokers or to directly seek new coverage.

Most outstanding claims will be covered by the state's guaranty funds, state officials say.

Kenilworth was organized in 1961 and was licensed to transact business in seven states with principal business in Florida, Illinois, Kentucky, Missouri and Texas. Direct premiums in 1981 totaled about \$17 million, of which \$1.5 million was Illinois business.

Stress claims

LINCOLN, Neb.—The state Legislature has rejected a bill that would place the burden of proof on the state to show that stress-related diseases suffered by fire fighters and police officers are not job-related.

The law currently says it is up to the workers suffering from an ailment to prove that the disease is job-related when seeking workers compensation benefits.

The bill was introduced by state Sen. Steve Wiitala and will likely be introduced again in the next session, according to Terry Ford, an aide to Mr. Wiitala.

Dealers disagree about the value of stolen artwork

LONDON—Lloyd's of London underwriters are studying opinions by art dealers on the value of seven paintings stolen in what has been called Britain's biggest art theft.

The paintings, belonging to Brazilian businessman Fernando Marino, are reputed to be worth 6.25 million pounds (\$11.7 million).

But some art experts say the art is worth only 600,000 pounds (\$1.12 million), one-tenth of the value for which they have been covered for a year in the Lloyd's and London company market.

Loss adjusters for the lead Lloyd's underwriter involved were refusing to comment on the theft last week.

But the brokers who placed the risk as a new policy in London last year on behalf of Mr. Marino stated that the paintings had been appraised by a professional art dealer in Britain before the policy was taken out.

Underwriters agreed to this valuation, the brokers added, and there was no specific condition that the appraisal should be reviewed in case of loss.



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RIMS REPORT II

Do risk managers need an ethics code?

By KATHRYN J. MCINTYRE

WASHINGTON—The Ten Commandments, corporate guidelines and a variation on the Golden Rule will serve as better guides of conduct for risk managers than a written code of ethics, five leaders in the insurance business suggested at the Risk & Insurance Management Society Conference.

"We have a workable code of ethics in the Ten Commandments," contended risk management consultant Felix Kloman, president of Risk Planning Group in Darien, Conn. Any attempt to write a code of ethics for risk management would raise more questions than it would answer, he said.

All corporations have their own guidelines that deal with the obvious areas of conflicts, said James Mascarella, vp of insurance at Gould Inc. in Rolling Meadows Ill. "A person's conduct better be consistent with the corporate guidelines," he said.

"I'm totally opposed to writing down anything," declared Lloyd's of London underwriter Robin Jackson, a director of Merrett Syndicates Ltd. Any code of ethics for risk managers would have to extend to brokers and underwriters, he noted, creating "a magnificent opportunity for lawyers to make an even bigger mess of our business."

Mr. Jackson suggested that risk managers, brokers and underwriters should follow the rule, "Don't do to someone else what you don't want done to you."

Robert Clements, president of Marsh & McLennan Inc., argued that codes of ethics have been used by others to condone price fixing and restrictions on the ability of consumers to find out what is available.

"There's quite enough of an E&O problem as there is," quipped Henry U. Harder, chairman and president of The Chubb Corp.

Moderator Eckart Russell, director of insurance and risk management at Alcan Aluminium Ltd. in Montreal, suggested that perhaps the best code of ethics for risk managers and the insurance business could be taken from Confucius, who said that behavior is right if it optimizes benefits for both parties in a relationship.

Only one person in the audience of nearly 150 at the RIMS seminar stood up to suggest risk managers do need a written code of ethics. Another suggested RIMS needed one on accepting contributions to fund the spouses'

program at the annual conference (see related story).

While the panel quickly dismissed the need for a written code of ethics, they debated ethical issues confronting risk managers, brokers and insurers for another three hours. The topics ranged from the potential conflict of interest inherent in vertical integration of the insurance business, risk managers' obligations to disclose information to underwriters and insurers' obligation to pay claims to the ethics of business entertainment in the insurance business.

Vertical integration, the common ownership of brokers and underwriters that is developing in the United States, is not an ethical decision, "it's a business decision," Mr. Clements maintained.

State Farm, which employs its own agents, is vertically integrated and The Hartford, which is a broker market, is not, he noted. "Both are ethical."

The consumer has a choice, Mr. Clements said.

Vertical integration of U.S. and Lloyd's brokers, however, removes choice in some cases, moderator Mr. Russell observed. M&M, for example, has a policy of using its Bowring subsidiary in London and not other Lloyd's brokers.

"We do it for accountability," Mr. Clements responded, "to ensure the high quality and professionalism of the work and the efficiency of the business."

"I instinctively use my own resources to do the job. That way, I'm putting myself on the line."

Mr. Harder of Chubb also looked at the business considerations.

"What are the fractional costs in separating the broker, underwriter and consultant? Can they be reduced by integration?" he asked, answering, "I don't think the business is as inefficient as it looks."

"I have a difficult time with finding conflict in integration," Mr. Mascarella said. "My own company grows by integration."

Mr. Kloman put the conflict on the table for those who didn't see it: "The broker holds himself forth for the client." If the broker places business with a related underwriter, how is the client sure that the broker has searched the world market for the best deal? he asked.

"I don't care where resource talent comes from," Mr. Mascarella interjected. "I'm going after the talent. I draw the parameters of the relationship."

The broker doesn't always disclose his conflicts, Continued on page 18

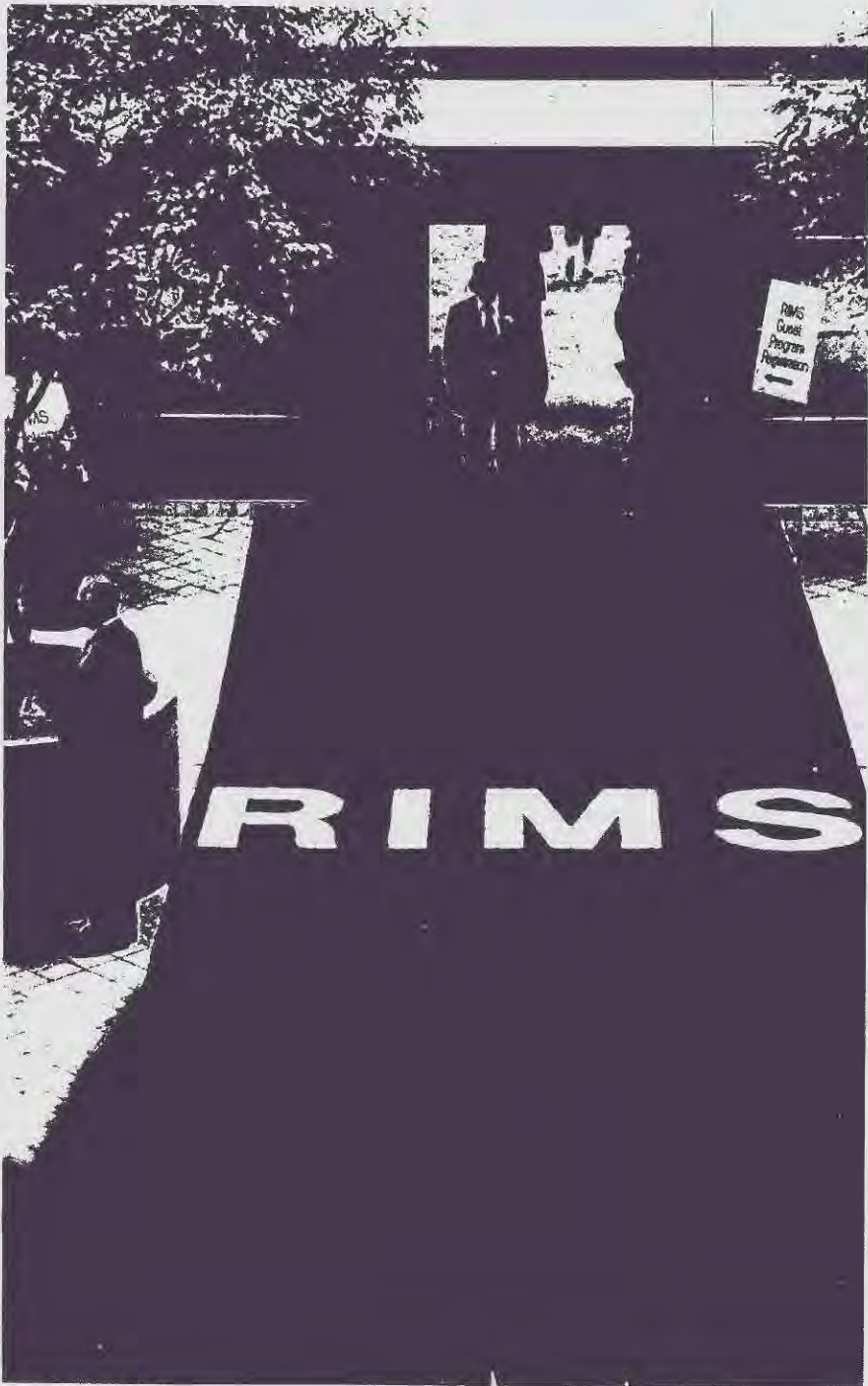


Photo: Kathryn J. McIntyre

Insurers face rocky profit picture

By BILL DENSMORE

WASHINGTON—U.S. storm losses exceeding \$400 million and continuing rate competition have made the first three months of 1982 the worst on record for insurers and their quarterly reports will show it, two industry executives warn.

And one of the executives told members of the Risk & Insurance Management Society at its annual conference last month that the new pinch on profits could finally force some insurance rates up.

"They're (the numbers) not going to be good," said John R. Cox, president and chief executive officer of Insurance Co. of North America, a subsidiary of newly formed CIGNA Corp. of New York. "In fact, there

are some people who are going to think they are disastrous."

Mr. Cox predicts that the combined ratios of the major public stock insurers will average about 110% for the first quarter, up from an average of 105% to 106% for all of 1981.

"The industry is in for a real first-quarter earnings surprise," predicted Frans R. Eliason, president and chief executive officer of Armco Insurance Group Inc. of Milwaukee, who also said he's telling friends in the industry to "buckle your seat belts."

Mr. Eliason forecasts a first-quarter combined ratio of 111% or 112%. He also says the effect of large weather-related losses and rate discounting has reduced cash flow "to a trickle for many if not most companies," adding that the stock market decline in the first

quarter has cut the industry surplus by an estimated \$2.5 billion.

Messrs. Cox and Eliason were among four panelists discussing "Developments in Commercial and Industrial Markets" in a general session at last month's RIMS Conference. The other panelists were James F. Billett Jr., president of Trenwick Ltd. in Bermuda, and John Lock, deputy general manager of British-based Mercantile & General Reinsurance Co.

While both Mr. Cox and Mr. Eliason said they were worried about the insurance industry's impending poor results, they differed on the effect of those numbers on the commercial insurance marketplace.

Mr. Eliason predicted that some insurers Continued on page 22

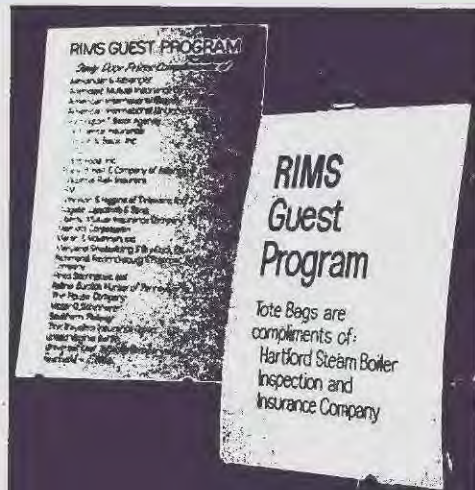


Photo: Kathryn J. McIntyre

Suppliers pay for many of the events in the spouses' program.

RIMS reviews conference contributions

WASHINGTON—The Risk & Insurance Management Society is rethinking the entire format and organization of its annual conference, including the solicitation of contributions from the insurance industry to support the spouses' program.

These contributions—in the form of cash, sponsored breakfasts, presents for door prizes and tours—were criticized during the session on risk management ethics at the annual RIMS Conference.

"Is it ethical as a professional organization for RIMS to go out to the brokerage community with our hands out?" asked Charles F. Scott, who was chairman of the solicitations committee this year.

Many of the people on his committee were employed by public agencies, he said. "We were so embarrassed when we asked for the contributions we had them sent to a locked box," he said. "We couldn't have those contributions coming into our offices," said the newly appointed director of the office of risk management for the Commonwealth of Virginia.

The tradition of the local chapter soliciting contributions for the spouses' program began with the 1963 conference in New Orleans, said Ron Judd, executive director of RIMS.

This practice, and the entire design of the conference, will be reviewed by RIMS officers and staff during a three-day meeting in June, Mr. Judd explained.

The industry contributions to the spouses' program "have never been hidden," he said.

At every RIMS conference, prominently displayed signs list the companies contributing to the program, and all gifts, tours and meals are credited to their sponsors.

Mr. Judd said he had not yet tallied the amount of contributions to the spouses' program.

"The time has come for RIMS to wake up and tell Los Angeles (the site of next year's conference) it will support the conference and they don't have to go out with their hats in their hands," said Felix Kloman, president of Risk Planning Group in Darien, Conn., and a member of the ethics panel.

"It will enhance the professional standing of RIMS if it pays its own way," he said.

The audience obviously agreed. They broke forth in applause, the only time during the session.

It's end of era for RIMS' fabled merriment

By LEN STRAZEWSKI

WASHINGTON—It may be the end of an era, but no one seems sad to see it go. If anything, brokers, insurers and corporate buyers are breathing sighs of relief.

The era of the "big shrimp," extravagant entertainment and riotous hospitality suites at the annual Risk & Insurance Management Society Conference seems to be over.

This year, with few exceptions, suppliers seemed more interested in chatting about the economy the insurance marketplace and who is unbundling what services for whom than the hors d'oeuvres, the

scotch and who is buttering up whom for what.

There were still some loud parties and grand shows. INA paid for a performance by Bob Hope who doesn't walk on stage at all for less than \$25,000. Small groups of leather-lunged buyers later gathered at the Fred S. James hospitality suite to sing an off-key "Oklahoma" at the piano bar.

Leather-eared risk managers dropped in at the Johnson & Higgins suite to hear a country-and-western band and at the end of a long night, some meeting-goers were still eager to stop at the Ideal Mutual suite for Cafe Royale.

But in general, neither hosts nor guests seemed to be doing anything worthy of embarrassment.

"This is the first year I didn't see

riskWatch

anybody really drunk and out of control," noted a brokerage executive.

"We had another convention in a couple of the hotels and I'm glad to say that anytime I saw someone weaving, he was wearing another group's badge."

The suite scene wasn't always so professional.

Just three years ago, an industry watcher attending the RIMS meeting for the first time suggested that the proud RIMS unicorn symbol on meeting guides be replaced by a winking shrimp with a dollar sign on its forehead.

The opulent Marsh & McLennan cocktail party, a RIMS mainstay for

years, and the giant Johnson & Higgins dinner (usually held in a rented amphitheater) set the pace for bigger and more dramatic entertainment with exotic food and flowing liquor.

This year both events were missing from the calendar and executives at both brokerages seemed relieved.

Other suppliers played follow the leader with simpler, less expensive entertaining.

"The board of directors voted unanimously last year not to hold the usual giant event, but we held it anyway because people had come to expect it," explained Robert

Clements, president of Marsh & McLennan Inc. "This year the board again voted unanimously against it."

M&M would not reveal the cost of the fabled event, but expense control and budget cuts—a quiet but constant topic of conversation in most hospitality suites—were not the reason for abandoning the big party plan, according to Mr. Clements.

"Travel and entertainment account for less than 2% of our revenues," Mr. Clements said. "And of course, travel is the biggest portion of that expense. Entertainment has to be less than 1% of our costs and it's not really going up."

"We started the tradition of the M&M reception as a way of supporting RIMS when it first began. Now RIMS seems perfectly capable of supporting itself."

Seth Faison, vp of Johnson & Higgins agrees. "RIMS said it really didn't need it anymore and we just couldn't cope with it anymore. It had just reached the point where it could not be held gracefully."

J&H had held a dinner since the first RIMS Conference, according to Mr. Faison. It started as a reception and dinner for 80 people and it just kept getting bigger and bigger. Other brokers and underwriters were the first to go when the invitation list began expanding out of control, but the ranks of benefit and risk managers were growing faster.

"Last year we realized that when we reached 1,600 people and were serving a buffet dinner in the foyers of a concert hall, we had stopped being able to do anything graceful with the event," Mr. Faison said.

Although the dinner disappeared, the expenses stayed almost constant.

Individual J&H offices held dinners for their own clients, the largest a 350-person gathering held by J&H's New York office. The brokerage purchased an exhibit booth for the first time and pumped the remainder into its advertising budget.

"You won't print this, but we evaluated our promotion program and put whatever we saved into the advertising budget. We saw what our ads do and realized that our entertainment costs were equal to several Wall Street Journal ads," Mr. Faison said.

New promotional considerations, the growing maturity of the RIMS annual meeting and a general notion that buyers were getting uncomfortable with extravagance from the suppliers promising them economy, were all reasons brokers and insurers cited for keeping costs down. But the bottom line reason is still probably the bottom line.

One hotel bartender at the Sheraton Washington costs \$17.50 an hour. Hot and cold hors d'oeuvres list for \$1.25 apiece. One bottle of Jack Daniels Black Label Tennessee Whiskey (list price: \$12) can be brought up by room service for \$42.

Entertainment costs big money, and considering the shrinking profit margins of both brokers and insurers, no one is spending thousands of dollars casually.

And even the most promotion-conscious supplier will not deny that given a choice between a \$40 bottle of booze and a \$40,000 premium cut, most buyers will drink ginger ale.



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The Eagle

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dangers. And the eagle was very good at his job. His keen eyesight and long experience had taught him to be intimately familiar with the slightest signs of mountain danger.

And with his strong wings he could regularly circle the entire mountain in minutes, and swoop down instantly with powerful claws whenever his help was needed.

THEN, one year the weather on the mountain began to turn unusually bad. Hard times beset all of the mountain's creatures. Food became scarce, surplus supplies disappeared. And at the same time, new dangers began to appear, upsetting the mountain community a great deal. But the eagle did not despair. He simply adapted to the new dangers and continued to protect all the mountain's inhabitants with great devotion and success.

Meanwhile, down in the meadow the times were turning equally bad. And the lion, who protected life in the meadow (just as the eagle protected it on the mountain), became more and more concerned with his dwindling fortunes. So he decided to

expand his domain and forage up into the mountain where he thought new opportunities awaited him, even though he was unfamiliar with the mountain's terrain.

The lion approached the inhabitants of the mountain and offered to be their new protector. In fact, he said he could do the job better because he was bigger than the eagle. He even offered to protect them for far less reward. And he would even show the mountain creatures how they could protect themselves, and save even more.

Some of the mountain's inhabitants talked it over and decided to accept the lion's offer. But others felt more comfortable with their old friend the eagle, and chose to remain under his protection.

THINGS went along well until one day more and more dangers began to surface all around the mountain. The lion did his best to keep up with these unfamiliar problems, but since he had to physically run from one to the next, parts of the mountainside were always left exposed to new dangers. And, since he was not familiar with the unique nature of mountain-type dangers he gravely miscalculated several serious situations. And unfortunately, even with

ONCE upon a time,

on a great mountain overlooking a meadow, lived a community of industrious and happy creatures. Together they enjoyed the many benefits of their mountainside existence and they all agreed that life was good indeed.

One reason for their sense of well being was the eagle who lived atop the mountain's highest peak. He, too, was a part of the mountain community and it was his particular job to protect the mountain's inhabitants from its many

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their crash course in self-protection, many of the creatures found they were unprotected when the occasion actually arose.

For the creatures who chose the lion as their protector, the times went from bad to worse. Before long even the lion realized he had underestimated the nature of risks on the mountain. And when conditions improved in the meadow, he eagerly and quickly returned to his natural habitat, leaving his mountain clients high, and unfortunately in some cases, dry.

ALL the while, the eagle continued to watch over the mountain, and indeed he developed many effective new maneuvers to cope with the mountain's new dangers whenever they arose. And in the final analysis, all agreed that his unique expertise, experience, adaptability and dedication proved to be the best policy of all for the mountain and its creatures.

Not only in good times, but in bad as well.

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Do risk managers need a code of ethics?

Continued from page 13
commented someone from the audience.

"Those brokers with significant underwriter interests take pains to operate them independently," said Mr. Clements, noting that M&M has only a very small interest in underwriting.

Can the broker also serve as a consultant?

"We can't be ob-

jective in helping the client decide which broker to hire," Mr. Clements admitted.

But otherwise, brokers already are held liable for advising clients, for example, on how much insurance to buy, he said.

"I believe any organization can serve in a consulting capacity," said Mr. Kloman, who was a broker before establishing his own risk management consulting firm.

"They can solve a problem so long as you define the problem in advance and how you will pay for

'It is practically impossible to win on misrepresentation. So when it is done, it must be a delay tactic,'
Mr. Harder says.

that service." which should be by a fee, he said.

"My own objectivity did not charge one whit from when I was a broker when I became an independent consultant," he added.

"The problem comes back to the perception of credibility.

"If I, as a broker's consultant, say, 'Do this' and Jim (Mascarella) takes it to his board, they say, 'They are brokers, why should we believe

them?'"

Not only the broker/consultant's credibility, but also the risk manager's was discussed. How much information does a risk manager owe an underwriter and what is the underwriter's obligation to pay claims based upon the amount of information disclosed?

"We're seeing more claims denied for non-disclosure of information," observed Mr. Russell.

"You will see more litigation over this. You haven't seen anything yet," said Mr. Jackson.

The conflicts over claims will be more numerous between insurers and reinsurers than between insurance buyers and their underwriters, he predicted.

In either relationship, Mr. Jackson contended that the underwriter has to ask for information. Unless relevant information is deliberately withheld, the claim ought to be paid.

"Too often now the underwriters are trying not to pay," Mr. Jackson said.

Some underwriters are denying claims to delay paying them, he said, and others are too embarrassed by their underwriting mistakes to pay.

Mr. Jackson laid more responsibility with the broker than with the risk manager. "It's the obligation of the broker who deals with both sides to see that the information gathered from the insured goes to the underwriter."

Mr. Harder agreed that as an underwriter, "I have to ask the questions—it is my role.

"Our basic business plan is to have the fastest checkbook around. We are busting our butt to get the payment out."

"I understand you don't have much competition," Mr. Clements retorted.

"It is practically impossible to win on misrepresentation," Mr. Harder added. "So when it is done,

'I believe any organization can serve in a consulting capacity,'
said Mr. Kloman.

it must be a delay tactic."

"I don't pass on information unless I'm asked," commented Mr. Russell.

"That's unethical," charged Mr. Kloman. "I think the risk manager has to report any information even if it is not requested if his long-term goal is to maintain a relationship with a market that will be there to pay claims. I realize it is not necessary in the law, but I think it's necessary."

"I assume something material is already on the table," Mr. Russell said.

Entertainment practices—lunch, dinner or weekends at a broker's expense—were discussed only briefly at the end of the session.

"This business is surprisingly clean," Mr. Clements said. "It is de-meaning to a risk manager to say he is for hire for a weekend in Florida. What's at stake is worth a lot more than that.

"I would be very upset," he noted, "if I ever discovered we gave a client a weekend in Florida. We will buy you lunch or dinner."

"We tend to balance and reciprocate," Mr. Mascarella said. "On a year-to-year basis, we entertain more than we are entertained."

"I do not accept lunch or dinner with people I don't do business with," he added.



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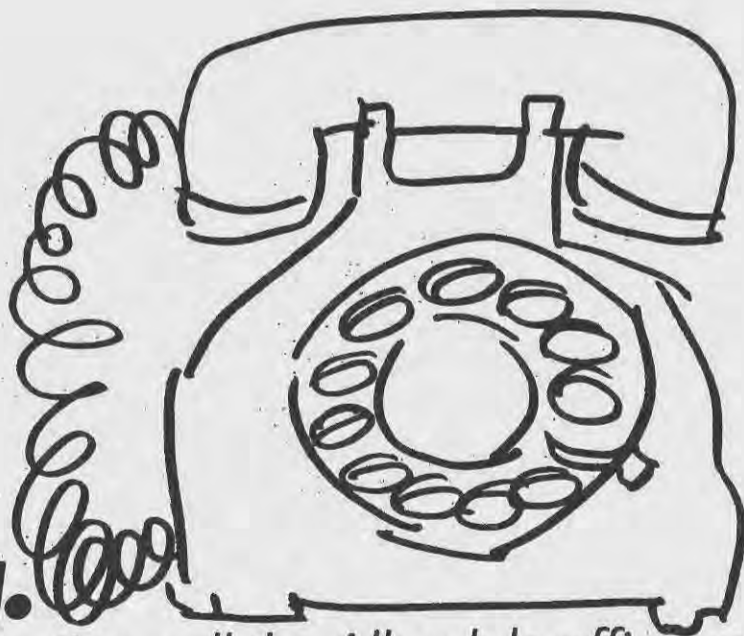
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Insurers facing gloomy profit picture

Continued from page 13

will begin to back away from "cash-flow" underwriting, in which an insurer agrees to underwrite a risk at a marginal price so it can earn a profit by investing the premium, and begin to boost rates.

"I believe I can state for the first time in 5½ years that a few—albeit very few—underwriting selection standards are now finally being tightened," Mr. Eliason told an audience of several hundred risk managers.

"I think that cash-flow underwriting will begin to lose its seductive powers in the near term—the next six to nine months," he continued. "Modest rate increases will

then follow, with more substantial increases for recession-affected lines of business with minimal investment income."

He cited property and crime loss coverages as two areas that may be the first to show rate hikes.

Mr. Eliason also said a few companies may not be around when the underwriting cycle finally turns.

Mr. Cox estimated that, despite underwriting losses, the industry's return-on-equity during 1981 averaged about 15%, a figure he said compares favorably with U.S. industry as a whole.

He also said that if CIGNA raised rates 10% across the board, the increase would produce about \$400 million in additional premium volume, of which 20% would be paid out in commissions and half of the remainder would be paid in corpo-

rate taxes. The \$125 million of net profit remaining—when added to CIGNA's 1981 net profit of about \$300 million—would represent nearly a 50% gain in earnings.

However, "I don't think you'll see corrections of that magnitude." In 1982, predicts Mr. Cox, virtually no insurer will have a statutory combined ratio of less than 105%, and that in itself proves that combined ratios, like measures of statutory reserves to premiums, "are meaningless."

The important number to look at in judging an insurer's health, according to Mr. Cox, is the ratio of reserves to capital. In addition, a buyer should know from whom his insurer buys reinsurance and he should know what the underwriter's return on employed capital equals.

Mr. Billett described the Bermuda captive market as the first substantive experiment where the capital of insureds has been segregated to support risk. More and more captives are providing capital to assemble risk services or purchase domestic insurers.

"The economics of our time may witness the parable of Jonah swallowing the whale," Mr. Billett predicted. Captives that retain larger shares of risks or handle only the risks of their parent company do better than competitors, he said, just as the specialty insurers do better than multiline companies.

"Problems are already apparent in some captives," explained Mr. Billett. "But similar problems are also becoming evident in Hartford, Conn."

Mr. Billett also agreed with Mr.

Cox that there will be no substantial decline in worldwide insurance capacity of the sort that would lead to significant rate hikes.

Mr. Lock said his talk to the RIMS members was his first before so large a U.S. audience. He described what he said were major changes in the reinsurance marketplace during the period he's been involved.

"We now have considerable contact with the insurance managers in major corporations," Mr. Lock commented.

Among other changes, he noted:

- The growth of captives and self-insurance.
- The increasing size and complexity of risks.
- More loss-prevention and control efforts.
- A widening of liabilities imposed by government.
- A crumbling of barriers between market sectors that results, for example, in captives becoming international reinsurers.
- More global, multiperil and excess liability risks.

RIMS elects new officers

WASHINGTON—The Risk & Insurance Management Society board of directors has elected a new president and first vp.

C.J. (Jim) Spivey, executive director of the Insurance & Risk Management Agency of Charlotte-Mecklenburg in Charlotte, N.C., was elected president.

He was first elected an officer of RIMS in 1976. Since then he has served as vp for communications, conference and business and industry liaison. Mr. Spivey was first vp last year.

Marc Darby was elected first vp. Mr. Darby is the director of risk management and insurance, Societe d' la Baie James (James Bay Energy Project) in Montreal. He was elected an officer of RIMS in 1978. He was vp for member affairs and secretary of communications and business and industry liaison.

Other newly elected RIMS officers are:

• Richard C. Heydinger, vp and treasurer. Mr. Heydinger is risk management director for Hallmark Cards in Kansas City, Mo. He has served on various RIMS committees.

• Ronald W. Stasch, vp-communications. Mr. Stasch is corporate risk manager for Federal-Mogul Corp. in Detroit.

• Arthur P. Bostwick, vp-conference. Mr. Bostwick, who was vp-communications last year, is risk manager for Stone Container Corp. in Chicago. He is responsible for planning the 1983 RIMS Conference in Los Angeles.

• William L. Mather, vp-business and industry liaison. Mr. Mather, who was vp-conference last year, is administrator of risk management for the Gillette Co. in Boston.

Others re-elected include Donald T. Browne, vp and manager of the insurance division of First Atlanta Corp., to continue as vp-governmental affairs; Thomas A. Duffield, vp of insurance and risk management at Archer-Daniels-Midland Co. in Decatur, Ill., to continue as vp-research; P. Richard Hackenburg, staff vp for risk management and realty services at Allegheny International Corp. in Pittsburgh to continue as vp-education; and Ronald M. Winans, vp of risk management and insurance at J.R. Simplot Co. in Boise, Idaho, to continue as vp-member affairs and secretary. ■

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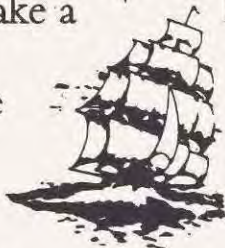
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'Paperless offices' to speed chores for risk managers

By EILEEN NORRIS

WASHINGTON—Risk managers in the future won't have to pour over stacks of paper to get a proper perspective on losses: It will be evident with the touch of a button.

A TV-like graph will chart the losses for the risk manager who can sit at the forefront of the coming paperless revolution, said risk management information systems experts at the Risk & Insurance Management Society Conference.

A picture really will be worth a thousand words in the future when about 70% of all workers are expected to have their own computerized work stations.

And the feeling is that risk managers should plan to be involved in the computer revolution—if they aren't already.

"Risk control is one of the most important tools a risk manager will have in the 1980s," Joseph A. Destein, president of Risk Sciences Group of Mill Valley, Calif., told a panel on "Model The Risk."

The so-called state of the art has been the insurance company setting vertical loss listings that the risk manager gets two months later, said Mr. Destein.

"Insurers and claims administrators have done a poor job in the past," he said, adding that many employers are not expecting or allowing their insurers or claims administrators to handle loss control anymore.

Top management people do not want to see traditional lengthy loss runs when the information can be presented graphically in a format that is easy to read and understand, he added.

"With an information system, a risk manager can focus on key problems. It's designed to produce results that will catch management's attention. The only limitation to a risk management information system is your imagination," said Alan B. Cantor, senior consultant with Warren, McVeigh & Griffin.

A computerized claims data base that risk managers can easily plug into can be a crucial tool in handling risks in the future, said Mr. Destein.

"Linking a claims data base information system with loss control can help identify 'big dollars' that can be controlled," he added.

For instance, a risk manager may trace large blocks of losses to improper training or poor supervision at one or more locations, Mr. Destein said. Risk managers are then able to show upper management where the losses are occurring and why, he added.

Most employers are eager to start out with a claims data base so that they can keep track of the companies' outstanding claims. But, many employers add loss reporting features to the computer system so that the risk manager can start to tackle the job analytically.

"A risk manager can get a look at not only the particular loss, but the incidence rates of losses by location or any other information that can be brought in to get a picture of what's really going on," he said.

A computerized risk management information system can be a valuable production tool because it

will involve hiring fewer workers to process papers to obtain information that will be available at the touch of a button.

Employees can then be better utilized to analyze data for trends by location or injury or even to watch for repeat claimants who pop up twice on the computer screen for the same injury, said Mr. Destein.

"Risk control is one of the most important things the risk manager of the 1980s can do, and I think the paperless office will help," he added.



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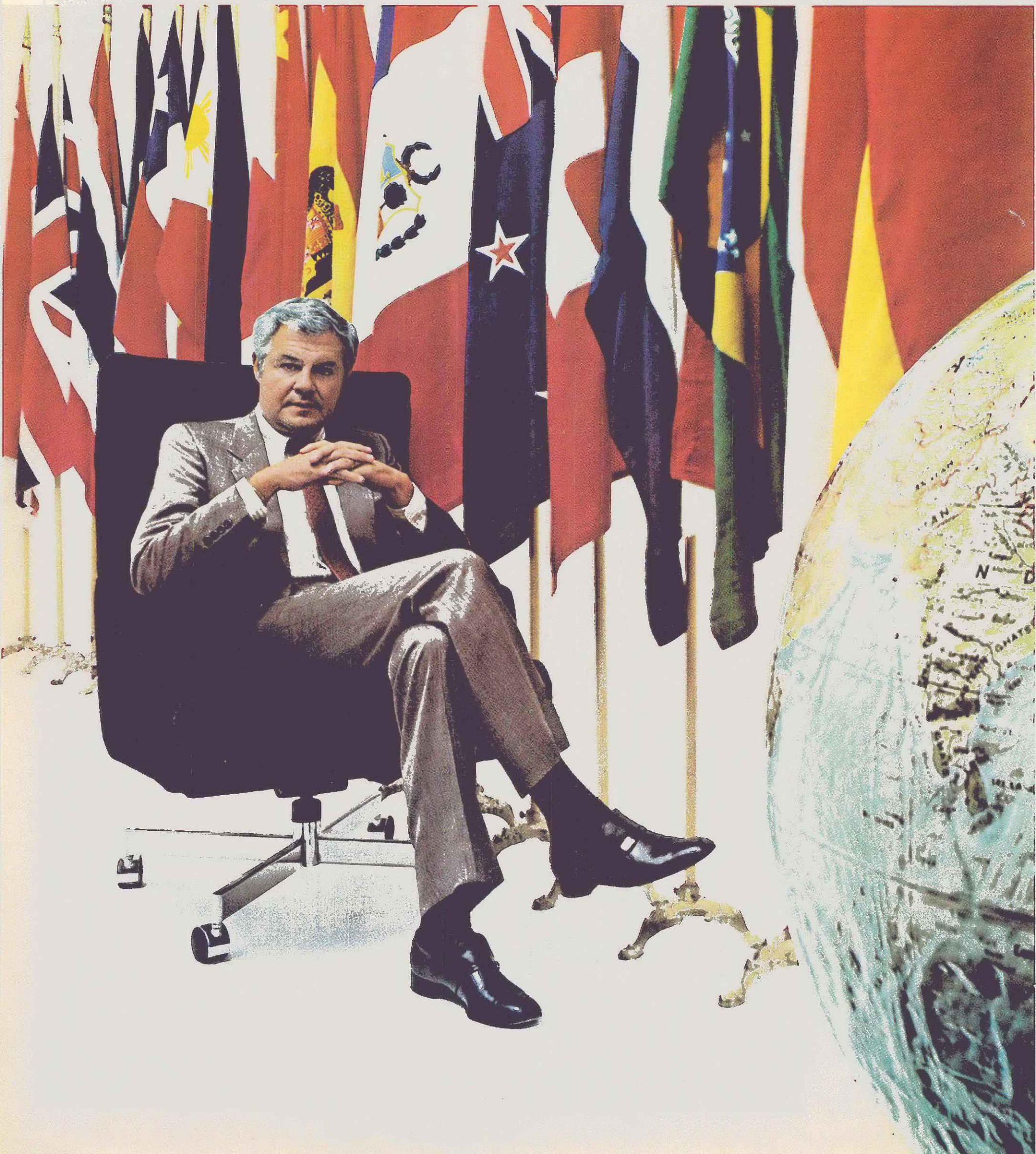
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Xerox thought before it bought system

By EILEEN NORRIS

WASHINGTON—Some might say the risk manager at Xerox Corp. was lucky to get his top management to buy a "Mercedes" of a risk management information system.



But luck didn't have anything to do with it.

The risk management department at Xerox Corp., in fact, was expecting a system more akin to a Volkswagen, what with these lean economic times.

"We were surprised when we got the Mercedes," admitted Charles Armstrong, manager of corporate risk management at Xerox in Stamford, Conn.

But that doesn't mean the department didn't shoot for the sky and have a strategy to get the best system it could.

There was definitely a method to what turned out to be six months of preparatory madness, said Ronald K. Grimm, manager of risk management administration at Xerox Corp., at the annual Risk & Insurance Management Society Conference.

"Selling management on a risk management information system requires a professional approach that is realistic and aggressive," he told the audience.

First, he said, a risk manager should define what the company's risk problems are and catalog what computer systems are available internally that might help solve some of those problems.

Then a risk manager is ready to go ahead and identify benefits that could be realized if an information system were approved. The risk manager also should get an idea of some of the costs associated with a risk management information system, said Mr. Grimm, before asking for management's approval to proceed.

The next step is to define what you want a system to do and what local segments will then be added to the system, he said.

"You have to decide if you want a claims data base first and what you might want to add on to that part of the system years later," Mr. Grimm said.

A risk manager is ready to obtain vendor proposals once he has a predetermined criteria to check each proposal, he added.

When it came time to create a formal proposal to upper management, he said, there was a discussion of alternative systems, but a firm recommendation and a justification for that selection accompanies the proposal, he said.

"You must justify the vendor selection and give management a detailed cost benefit analysis," he added.

Some warnings for the risk management about to embark on a similar venture include:

- Don't buy a system bigger than is needed and think about building in modules.

- Make sure you realize a information system takes time to implement.

- Make sure you can implement your system in segments so that employees become more comfort-

able working with the system.

- Don't buy a system on cost alone.

- Be optimistic when you are quantifying the benefits of the system to management.

Xerox Corp. said it expects to improve its cash flow by 20% within five years once its new information system is in place.

"We'll be able to understand our risks better, reduce claims costs and come up with better judgments than ever before," said Mr. Armstrong.

It's also expected the information system will pay for itself within 18 months of installation, he added. ■

Ask departments what they need

WASHINGTON—If you're a risk manager and your boss loses his hearing when you talk of buying a computerized information system, build it yourself.

Not literally, of course.

But try wrapping what the risk management department needs around what other departments in the corporation are after, says Ronald J. Lamb, corporate risk manager for Digital Equipment Corp. in Maynard, Mass.

Eventually, upper management will see that the risk management department would do well with a sophisticated information tracking system that could go a long way toward keeping claims costs down, said Mr. Lamb, who spoke at the annual Risk & Insurance Management Society Conference.

There are obstacles in the piecemeal approach to getting a risk management information system in place, but many of the obstacles can be overcome, said Mr. Lamb.

The alternative, he said, is to do nothing and pray for a better economy next year. And that's a pretty risky alternative.

Risk managers have to define the needs of the risk management department first and then see what other departments need so that they can sell the concept to upper management as a package, he said.

To work at getting a system without checking out the needs of the various departments is to work for a cause in a vacuum.

"See what security, and the health and fleet departments need in the way of computers and sell it to management as a whole."

If management won't buy an information system based on what the entire corporation's needs are, then a risk manager should look around and see if computers exist that can be used to assist the department in some capacity, said Mr. Lamb.

Digital Equipment found that a small "stand-alone" computer could handily pump out 3,000 certificates of insurance in some four hours—a pace that saved the department a lot of staff time and money.

"Excess computer capacity exists in every company," said Mr. Lamb.

"Most word processors have a lot of capability. A risk manager has to learn the capability of computer systems," he added.

Systems are terribly underutilized by employers, "even today, when we have college graduates working for us who can program a computer with no trouble," he said.

And risk managers should find that the companies' management information systems department will sell time on their computers cheaply, he said.

"Enlist the management information systems department to assist you so that a full-scale risk management system eventually can be justified as a risk management tool," he said. ■



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Pollution liability policy forms can differ

By JOHN W. MILLIGAN

WASHINGTON—Risk managers shopping for environmental impairment liability insurance beware: Not all policy forms are created equal.

As corporations look to insure their liability exposures for accidents involving hazardous wastes, one expert suggests that insurance buyers sort the wheat from the chaff.

The environmental impairment liability insurance marketplace currently is dominated by two policy forms offering significantly different levels of coverage: the London form, which has been used for years, and a new form developed by the Insurance Services Office.

While coverage for sudden or accidental pollution has been provided under most comprehensive general liability policies, coverage for non-sudden pollution has been omitted in CGL policies. However, now both sudden and non-sudden pollution coverage will be required by the U.S. Environmental Protection Agency (BI, April 5).

The London form, which is available from Alexander Howden Group and other Lloyd's brokers in London and from the Hartford Steam Boiler Inspection & Insurance Co. in the United States, provides broader coverage with fewer exclusions.

The ISO form, by contrast, provides much narrower coverage, says Robert M. Grella, vp of Alexander & Alexander Inc. This form excludes punitive damages, limits retroactive coverage and provides no worldwide coverage.

During a panel discussion on environmental impairment liability insurance at the Risk & Insurance Management Society Conference, Mr. Grella provided a quick analysis of the various coverage offered by what he identified as the six "major" primary insurers offering pollution liability coverage:

- Alexander Howden agencies, Lloyd's brokers and Hartford Steam Boiler: "They're very easy to get to, very easy to deal with," Mr. Grella said.

The London form they use, according to a survey prepared by William A. Mahoney, vp at Marsh & McLennan and another member of the panel, allows coverage for punitive damages if such coverage is allowed by law. While the form does exclude coverage for genetic damage, this option can be added as a "buy-back" feature, Mr. Mahoney's survey reveals.

- The Evanston Insurance Co. through managing underwriters Shand Morahan & Co.: "A good form," says Mr. Grella.

Mr. Mahoney's study shows that Evanston will cover punitive damages if the jurisdiction allows and it does not exclude genetic damages.

- National Union Fire Insurance Co. of Pittsburgh, Pa., a member of the American International Group: Very narrow coverage and a punitive damages exclusion, says Mr. Grella. "In my opinion, this coverage is worthless unless the policy is at least silent on the question of punitive damages," he added.

- Pacific Insurance Co., owned by Continental Insurance Co. with Swett & Crawford as underwriting managers: A "good" form except for its exclusion of punitive damages, Mr. Grella said.

- Great American Surplus Lines Insurance Co. through managing underwriter Stewart Smith: A "sleeper policy" that has made a "complete 180-degree turn in the last nine months," according to Mr. Grella.

While Mr. Mahoney's survey indicates that Great American does exclude punitive damages, it does not exclude genetic damages. But more importantly, Great American is the only market offering coverage for on-site cleanup following an accident, said Mr. Grella. Limits now are up to 10% of policy limits but the insurer soon will increase this coverage to 100% of policy limits, he said.

Mr. Grella did not have kind words for the ISO form. It is used by the Pollution Liability Insurance Assn., a recently formed reinsurance pool that underwrites environmental risks.

Mr. Grella said he could "never recommend this form" since it excludes punitive damages, provides limited retroactive indemnification and offers no worldwide coverage.

However, he did point out that this form provides coverage for both sudden and non-sudden exposures.

Mr. Grella also warned that EIL policies are in a development stage similar to directors and officers liability forms of seven to eight years ago. Insurers are still coming to grips with the new product, and risk managers should expect some litigation over policy terms and conditions in the years ahead.

The EIL marketplace is showing greater activity as corporations react to new regulations from the EPA, which requires companies that treat, store or dispose of hazardous wastes to purchase liability insurance.

In a separate RIMS panel discussion on EIL insurance, Myra Tobin, managing director of Marsh &

McLennan Inc., said her brokerage firm is aware of at least 100 purchases of EIL policies.

Larger corporations tend to look at this coverage as "sleep insurance" to put their minds at ease, Ms. Tobin said. They normally purchase the coverage over a large self-insured retention. The broker also expects many large companies to explore the possibility of self-insuring this exposure.

Ms. Tobin declined to compare the various EIL forms, saying, "There is no good, bad or otherwise form in the marketplace right now."

Like the policy forms themselves, EIL premiums vary.

Ms. Tobin says most premiums range from \$80,000 to \$150,000 annually depending on the risk, and the broker has seen premiums as

high as \$500,000.

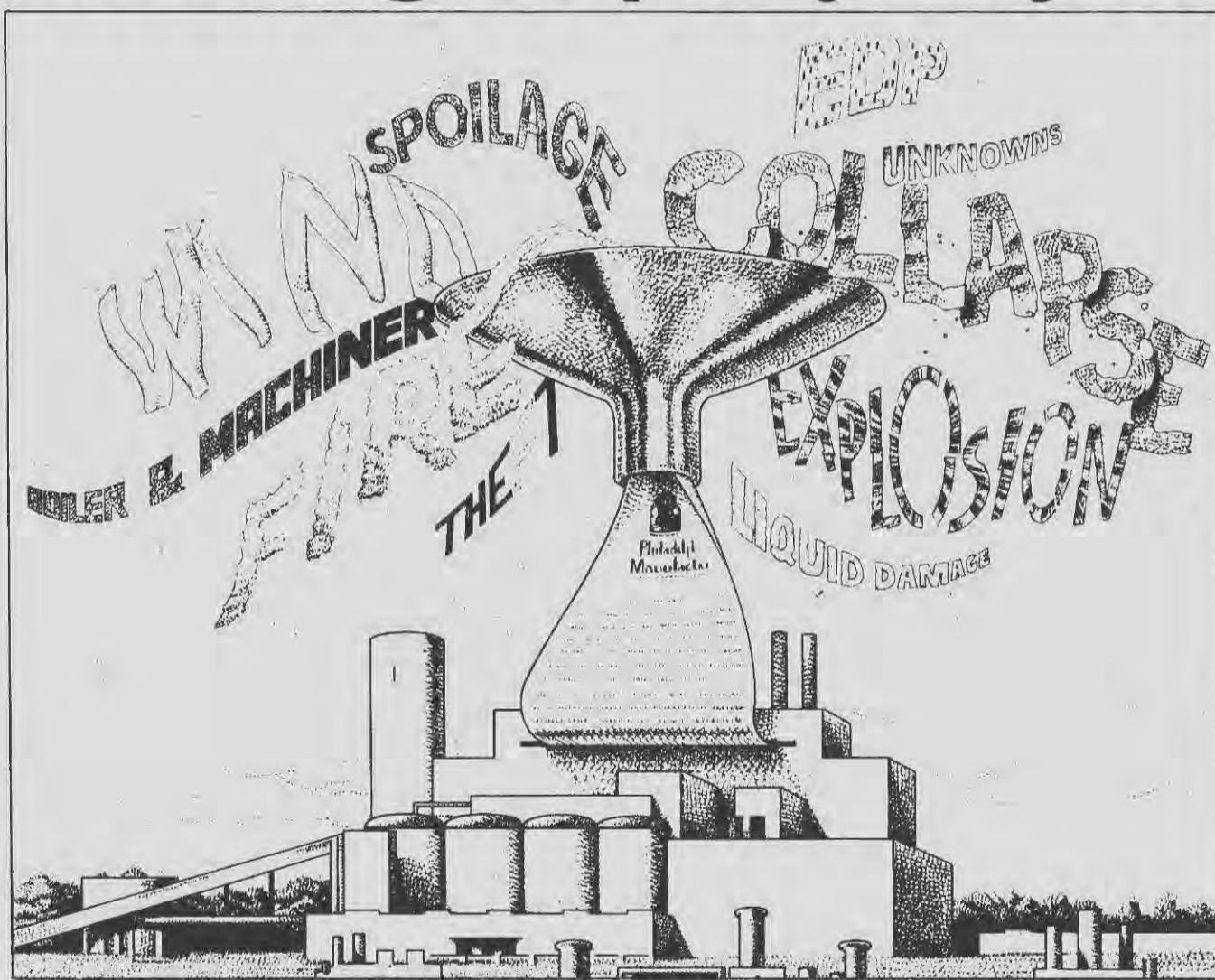
"And the clients have bought it," she said.

Ms. Tobin did advise risk managers to combine their sudden/accidental and non-sudden/gradual exposures in the same policy form or at least place the coverage with the same carrier.

This guards against a possible gap in coverage when two different insurers argue whether a pollution incident constitutes a sudden or non-sudden claim, she said.

Companies will pay a higher premium for combined coverage, however. Ms. Tobin warned risk managers not to expect much of a premium credit for removing accidental coverage from their CGL policies. It will not offset the higher cost of combined coverage, she said.

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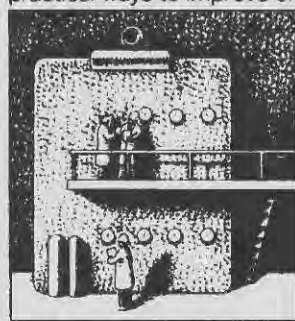
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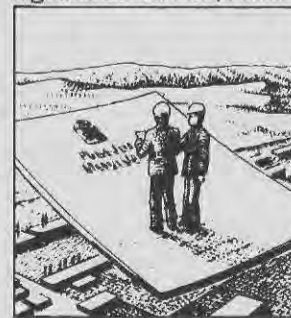


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Foreign partners can cut political risks

By JERRY GEISEL

WASHINGTON—Multinational companies that invest overseas should consider taking on local partners to reduce the risk of expropriation, an expert advises.

"American companies are beginning to realize the political advantages of bringing in local partners when investing in politically unstable countries," says W. Michael McDonald, risk manager for foreign administration at United Technologies Corp. in Hartford, Conn. It has major investments in 80 foreign countries.

Speaking before a Risk & Insurance Management Society Conference session on managing political

risks, Mr. McDonald outlined a series of steps firms can take to make overseas investments less vulnerable to takeover.

The first step to reduce expropriation risk is to try to make the overseas site blend with the local surroundings. "Take down corporate signs," Mr. McDonald said. "Make yourself look like a local."

Taking in a local partner also will make an overseas facility a less likely candidate for expropriation, especially if the local partner has a lot of political clout, he said.

The overseas site also will be less vulnerable to expropriation if it has borrowed a lot of money from banks in the host country. Local borrowing makes the foreign subsidiary "a pretty unattractive target for takeover" since the host country then will have its own banks clamoring for repayment, he noted.

In addition, the overseas subsidiary should attempt to buy supplies locally to increase the number of accounts payable to firms in the host country.

A company investing overseas should also concentrate its research and development capabilities in the United States. This cuts down on possible losses if a foreign facility is taken over.

If possible, companies investing abroad should try to double the number of countries in which they have key sites. That way a company can turn to another site if one overseas site is expropriated.

Multinational companies also should consider making the foreign subsidiary dependent on the United States for supplies. As a result, the host country knows it could not operate the facility on its own if it expropriated the property,

Mr. McDonald said.

The parent company also can structure the overseas facility so that its exports are limited to the United States. "As a result, if the host country takes over, it doesn't have a broad market to export to. That makes it less attractive for a possible takeover," he said.

The major market to buy political risk insurance against expropriation remains the Overseas Private Investment Corp., a private U.S. government corporation.

One key advantage to OPIC policies is that coverage against a variety of political risks can be purchased for up to 10 years.

By contrast, private insurers in the commercial market, such as the American International Group and Lloyd's of London, rarely will write a policy for more than three years, said Mr. McDonald. ■

Get the ears of top brass: Risk manager

By LEN STRAZEWSKI

WASHINGTON—Risk managers can get the ear of top management if they are willing to speak the language of various departments, a risk manager advises.

"A lot of executives may not know what a risk manager does and they may not be immediately interested. But they have to be interested in something," Valerie Kwiatkowski, risk manager of Varco International, told Risk & Insurance Management Society members here.

"Find out what they are interested in. Read some of the publications they read. Ask for speeches their executives have made. Then speak to them in their own language," she said.

"For example, if I am speaking to the marketing department, I describe my job as 'selling Varco to underwriters so we can get a lower premium.' If I am speaking to the chief financial officer, I say that I prepare and forecast premiums and help the company budget its insurance costs."

Even the company president can be reached with a little effort, Ms. Kwiatkowski believes. "When I was interviewing for this job, I told my interviewer that I wanted to meet the president. I did and I was able to communicate to him the things that I wanted to do as risk manager and find out what he wanted from me."

The board of directors and board meetings also were accessible, Ms. Kwiatkowski related. "I had met them all individually and had gone to lunch with them so when I decided to sit in on a board of directors meeting, each of the members and the president thought that one of the others had invited me. Now, when I don't go to one of the meetings, they ask me where I was."

Once contact is made, Ms. Kwiatkowski advises regular reports to top managers that do not demand a lot of reading. A monthly one-page project report with a handwritten note saying, "This saved us \$10,000," is more effective than a 20-page report, she said.

If you want action, prepare what you need for approval and seek it confidently, she added.

If, for example, the president's support is needed, Ms. Kwiatkowski advises the direct approach. "Say, 'We need a stronger policy. Here's a letter. Sign it.'"

Risk managers also can use consultants to help communicate with top management, a consultant and former risk manager added.

Though many risk managers fear a risk management audit, the outside review can actually help an inside executive alert higher executives to the importance of the position, said Berry Griffin, senior consultant with Warren, McVeigh & Griffin and the former risk manager of Baker International.

"We don't like or frequently take assignments designed to crucify a risk manager," he said. "More often than not, we help senior management to realize that risk managers are involved in big bucks and big risks."

"Very seldom do we find serious faults, but when we do, it's usually because the risk manager already has prepared a solution but has not gotten the support from top management. We can help him get it." ■

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Make friends on the job to succeed: Consultant

By EILEEN NORRIS

WASHINGTON—You gotta have friends on the job...if you're going to be a successful risk manager.



"The only way to get things done through other people in the company is to have friends, who will alert you to things the risk manager has to know," Susan J. Alt, a consultant with The Wyatt Co. in Chicago told members of the Risk & Insurance Management Society at its annual conference.

"My premise is that you have to have friends you can talk to—not communicate with, that's just a buzz word for talking—so that you can enter into the politics of getting things done," Ms. Alt explained at a session for new risk managers.

The telephone conversation can be one of the best ways to build new solid friendships at a company, she said.

It's one way of building relationships, she said, that help a new risk manager get things done.

New risk managers should make themselves very visible to employees by visiting plants, subsidiaries or branch offices. "Walk around the headquarters and base-build," she advised.

Once a new risk manager has established his or her presence, it's important to establish task forces and name key people that will become the eyes and ears of the risk manager, Ms. Alt said.

The task force could involve anywhere from three to 15 people. "Task forces are not efficient, even with the best-laid groundwork, but everyone on the task force ends up feeling involved and valuable to the group," she said.

The role of the risk manager in any task force should be one of close, personal involvement, she said. "Allow the task force to work itself toward a solution to a problem, but have some idea of the outcome you, as a risk manager, would like to see."

Beyond using the task force as a tool, risk managers should try newsletters written in conversational language to be distributed to department heads, supervisors and plant managers explaining the need for safety and loss-prevention procedures or how excessive workers compensation costs can injure the employer financially.

In the last nine years, Ms. Alt said, only six new internal risk management newsletters have been started by employers.

"It's amazing to me that many more risk managers don't use newsletters. They are very effective," she said.

G.D. Searle & Co., a pharmaceutical company based in Skokie, Ill., started a monthly risk management department newsletter about four years ago with a mailing list of less than 100.

"It's been so effective in giving key management people the 'how to' information about risk management that the newsletter now has 500 employees on the mailing list, mostly on the basis of requests," she added.

One of the best ways a new risk manager can communicate his or her importance to the employer is to draw up a detailed job description that covers the broad scope of the risk manager's involvement in the many different areas of corporate activity, Ms. Alt said.

Job descriptions will vary widely from employer to employer, but there are some basic ingredients to

any risk manager's job that should be considered the most important functions of the job, Ms. Alt said.

The new risk manager should detail the overall risk changes in the company as they occur and tell upper management how changes are being handling, said Ms. Alt.

"A very important part of the risk manager's job will be planning, both financially, by estimating expected costs and trends for the next five years, and in the corporate end, by planning and identifying risks for the company's mergers or acquisitions," she said.

Risk managers must also keep good records so that incidents are documented for future reference and the employer's legal exposure is kept at a minimum. ■

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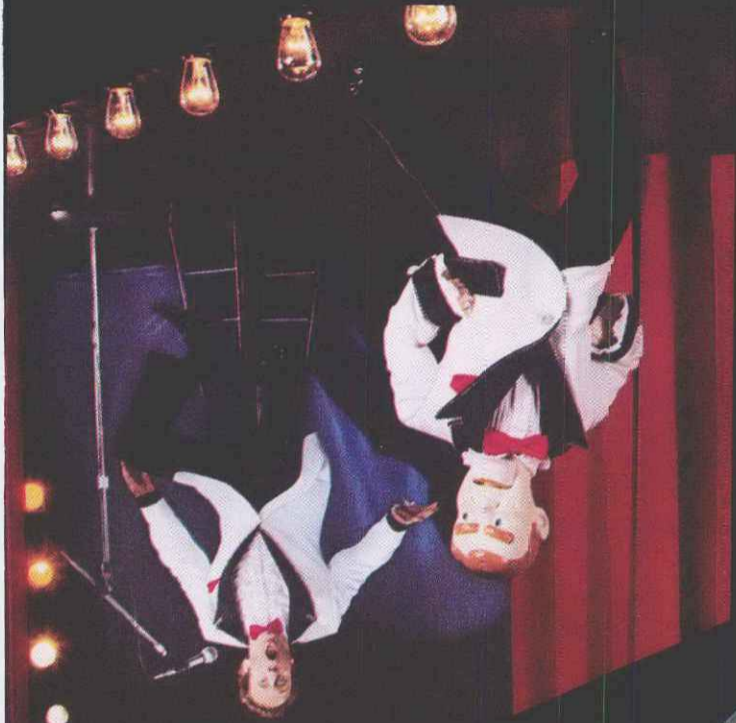
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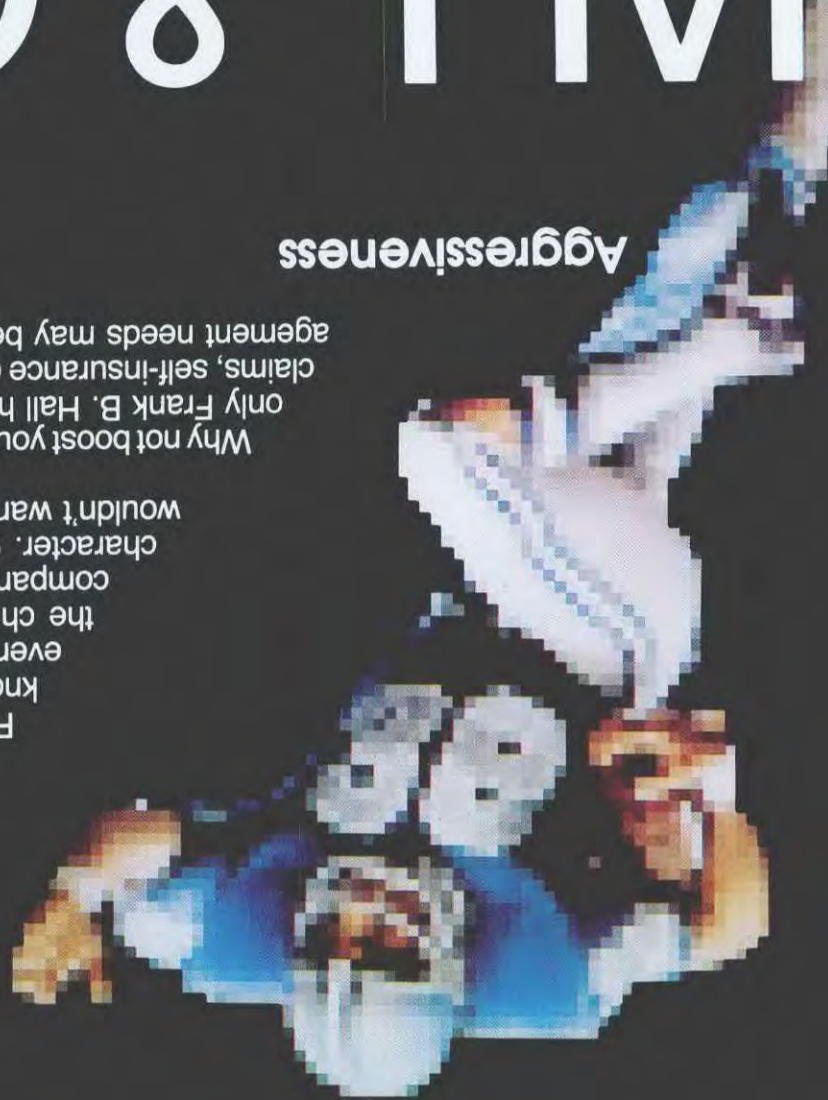
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Women must take steps to improve careers: Panel

WASHINGTON—The times they are a-changing, especially for the 15% of the Risk & Insurance Management Society's membership.



But if there is discrimination in the industry, it affects both sexes, participants at the annual Risk & Insurance Management Society Conference were told.

There are no formal support systems for either men or women in the risk management business, three female conference panelists said they discovered while researching changing roles for men

and women, the subject of the session.

"The issues confronting women today confront men as well," said Suzanne Cramer, corporate risk manager for Provident National Bank in Philadelphia. "They are everyone's issues."

Women are beginning to remain in the workforce longer and the discrimination between the sexes is being reduced, but she said there is still evidence that women earn about 65 cents for every \$1 earned by a man.

But ground has been gained. In 1970, women represented 32% of the total workforce, while in 1981, the figure jumped to 43%. By 1990, women are expected to comprise 47% of the workforce, according to the U.S. Bureau of Labor Statistics.

In the insurance industry, there has been a 12% increase in the number of professional female employers since 1970. The number of women office managers has increased 99% since 1970, and the number of female technicians has increased by 65%.

According to the Federal Equal Employment Opportunity Commission, the insurance industry has a higher percentage of women employed in those three categories than all other industries.

And there is evidence that even more women will enter the industry because more than half of the students at U.S. colleges and universities are women, according to the Census Bureau. Ninety percent of the female students are expected to receive degrees.

"My career didn't come easy," said Susan DiRenna, senior risk planner for Continental Speciality Risks Underwriters in New York, "but I let management know what I wanted."

Part of the difficulty women experience while climbing the career ladder can be blamed on themselves, said Eileen Hinnegan, an assistant account executive for Rollins Burdick Hunter.

"Before there is a drastic change in the way others perceive us, we have to learn to set short-term goals, take risks and not be afraid of making mistakes," she said.

Men take risks while women avoid taking a chance or, if they do take a risk and it doesn't work out, they overreact to the situation, Ms. Hinnegan said.

"When a man makes a mistake, he learns from it and goes on, while we women tend to stop and retreat until we feel secure enough to go on," she said.

Some things women can do to further their careers, she said, include:

- Having confidence. "If you don't believe that you deserve a salary increase or promotion, you're probably not going to get it."
 - Using manipulation to gain assistance from colleagues in an effective way, so that it's not obvious and doesn't injure anyone.
 - Above all, women have to learn to work together.
- "Men compete as a team while women compete against each other and are afraid of each other," she said.

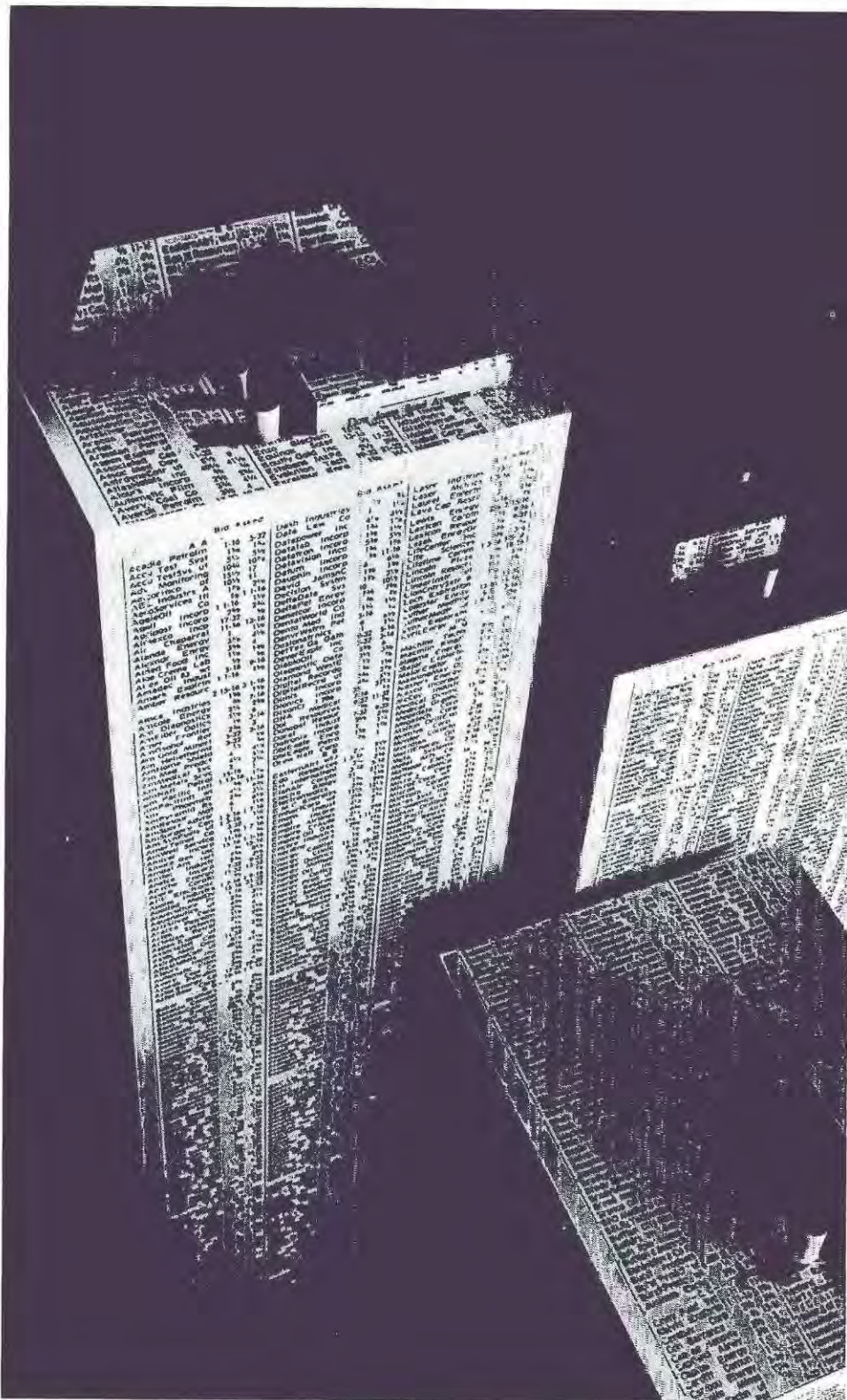
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Manual can cut errors by field managers

By KATHRYN J. McINTYRE

WASHINGTON—Your horror stories from the field are your best arguments for developing a risk management manual.

When submitting a risk management manual for approval, also submit a report on the incidents of misfiled claims or ignored lawsuits to prove that the manual is needed, advises Douglas Craven, risk manager for Wometco Enterprises in Miami.

"Go back and find those things that go wrong that cause you harm, time, money and may hurt the corporate body," he suggested during a miniseminar on risk management manuals during the Risk & Insurance Management Society Conference.

About 60 people attended the seminar, some of whom had the opposite problem of getting a manual approved.

"I've been told to have one finished by August," remarked one risk manager.

If your boss is a chief financial officer or treasurer who is accustomed to working with manuals, you shouldn't have any problem getting approval of a manual that explains risk management and how to work with the corporate risk management department, noted Mr. Craven.

But if you need to build your case for distributing a risk management manual, recite some recent problems when field management didn't understand risk management or insurance procedures, he said.

"You all have your own," Mr. Craven said, but to stimulate their memories he recited a few of his stories.

- A unit manager received a letter from an attorney saying if the company or its insurer did not respond within a certain time frame, the company would be sued. He let the letter sit and indeed was sued. Why? He didn't think the incident was covered by insurance.

- Another unit manager hired his own attorney but never informed the risk management department. The risk management department learned of the incident when the attorney called for insurance information.

- A health claim was sent to the casualty insurer.

- A claim for a collision loss was sent to the auto insurer but the company didn't buy collision coverage. The insurer even paid it.

"Bring your experiences together. Show senior management how each one causes a loss of money—in phone calls and time—and the jeopardy in an unreported claim."

The manual you prepare should be as simple as possible for those in the field to use, Mr. Craven said. And it should be carefully worded, or field management will be confused.

A manual Mr. Craven wrote for his company's 242 units, for example, twice referred to the need to run a motor vehicle record check on all new drivers. In one section, it said this must be done. In another section, it said this should be done.

"You know which one was quoted to us after an accident" involving someone whose rec-

ord had not been checked, Mr. Craven said. The "should," of course.

The risk management manual should begin with a statement of policy by the chief financial officer, Mr. Craven suggests. "That tells the readers the manual was prepared to assist them in the orderly process of risk management. It tells them, in essence, 'Use it.'"

A statement from the risk manager can follow.

In Mr. Craven's outline for a risk management manual, he includes another 15 sections. Depending upon the risk manager's responsibilities, all or only some of these sections will be needed.

All policies, what they cover and how to handle claims, should be addressed, with a different section for each. If field management files their own claims with insurers, pol-

icy numbers must be listed.

"Each section discusses claim procedures. It also says, 'If you don't know if you are covered, call us,'" Mr. Craven stressed.

The amount of detail needed on each coverage is the amount of information the field management needs to do what you are asking them to do, Mr. Craven noted.

After sections on property insurance, workers compensation, liability, state funded plans and bonds, Mr. Craven's manual includes a section on property conservation.

"We tell them what we expect of them," he said.

A section on inspection services describes all the inspections of company property that can be expected by insurers and government agencies. "We tell them what to do when someone comes to inspect the

premises and how to treat them."

A section on security would describe such procedures if the risk manager is in charge of security.

Safety is discussed in detail in Mr. Craven's manual, again with step-by-step instructions.

Federal and state acts like Occupational Safety and Health Administration regulations are described in another section.

Certificates of insurance—who issues them and how to get them—are described under another heading.

The legal action section, which Mr. Craven considers one of the most important sections in the manual, "says in black and white and step-by-step how to handle a legal action."

This section is very important because lawsuits aren't always filed

against a company in its home office. They often are filed against operating units.

Contractual agreements are covered in their own section. "We insist that any new contracts be sent to us before they are signed," Mr. Craven said.

Group insurance and how to handle claims is described in its own section.

The last section probably doesn't need to go to the field managers but should be kept in the risk management department. The last section will be a file of pages in the manual that have been replaced by updated information.

The manual, Mr. Craven suggested, should be distributed to all those in the field who have any involvement in the risk management process.

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Risk managers utilize different styles

By JOHN W. MILLIGAN

WASHINGTON—Management styles do not have to fit one mold to be successful.



At least that's the consensus of five prominent risk managers who spoke at the Risk & Insurance Management Society Conference in Washington last month. The all-star panel, including three past RIMS presidents and one former *Business Insurance* Risk Manager of the Year, described management styles that are uniquely their own during a session entitled "Management—The Indispensable Ingredient."

For A. Grant Whitney, executive vp for Belk Stores Insurance Recip-

rocal of Charlotte, N.C., and a past RIMS president, successful management seems to evolve out of hard work and determined creativity.

With more than 30 years of experience in the risk management field, Mr. Whitney started plying his trade at Belk Stores, a nationwide retail operation, before many modern risk management procedures were invented.

"If you do the job right, and do the study, there's always an answer there," Mr. Whitney said.

Rolyn L. Storey, director of risk management for SCM Corp. in New York, also told the audience that determination pays off.

During his earlier years with SCM, when the office products company diversified through various acquisitions, Mr. Storey had to

combat some independent division presidents who did not want the corporate office involved in their insurance purchasing. Overcoming that obstacle took perseverance, remembered Mr. Storey, another past president of RIMS.

Mr. Storey acknowledged the importance of "knowledge and credentials" for younger risk managers since "it gets you started." Mr. Storey's credentials include a law degree and CPCU and ARM designations.

Yet when you're dealing with the "big boys," as Mr. Storey described upper management, "knowing isn't enough. You've got to know how to lead."

And equally important is knowing how to "meet people's needs."

"This is management, and at the higher levels it's more important

than the credentials," he said.

A third RIMS past president on the panel, Thomas A. Duffield, vp of insurance and risk management for Archer-Daniels-Midland Co., headquartered in Decatur, Ill., said a corporation's risk management department reaches the "ultimate point" when it becomes a profit center, evolving beyond just a corporate expense.

This achievement takes some "managerial talent" when technical knowledge is no longer enough, he said.

Mr. Duffield also said he likes working in an "entrepreneurial" atmosphere where there is little structure and the creative juices can flow. Such an atmosphere contrasts with his first risk management experience at the Ford Motor Co. during the era of the "whiz

kids," a group of young veterans returning from World War II who reshaped the automaker. Mr. Duffield described that very structured environment as "MBM—management by manual."

Thomas V. Hallett, vp and director of risk management for brokerage Frank B. Hall & Co. Inc. Briarcliff Manor, N.Y., provided the session with almost an entire dictionary of management strengths.

The good risk manager, according to *Business Insurance's* 1981 Risk Manager of the Year, is "available, decisive, humble, patient, communicative, humorous, and has 'technical competence.'"

Mr. Hallett said communication is a key strength and explained that a strong risk manager must not only be able to communicate downward with his staff but with upper management as well to explain a complicated subject like risk management.

While the risk manager does not have to be a "conformist" to succeed in his profession, said George Bausom, assistant treasurer and director of long-range planning at Esmark Inc. of Chicago, he must try to "truly be part of the management team."

Mr. Bausom stressed that risk managers must stay abreast with the "explosion of information" in the field and suggested that they devote at least 50% of their time keeping track of new developments.

He also recommended that risk managers learn two languages: that of top management as well as that of the broker and underwriter.

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Barlow wins Goodell award from RIMS

WASHINGTON—Douglas Barlow, retired risk manager for Massey-Ferguson Ltd. in Toronto, is this year's recipient of the Risk & Insurance Management Society Harry & Dorothy Goodell Award.

The award recognizes outstanding achievement in the risk management field and exemplary service to the society.

Mr. Barlow was risk manager for Massey-Ferguson from 1959 to 1972. He was president of RIMS from 1971-72 and named an honorary member in 1977.

In a now-classic September 1967 article, he set forth the "cost vs. risk" theory, which has now become universally accepted.

"It is our job as risk managers... to learn of company operations and changes in them, and recognize the risks in the operation; get risks eliminated or reduced; get the lowest costs, and substitute the cost of a measure of loss prevention for a greater savings in premium and the probable cost of uninsured losses; to save upon the considerable expense factor in premiums by retaining risks within bearable limits through non-insurance franchises, deductibles, self-insurance, perhaps through a captive company; to see that catastrophic risks are fully covered by insurance; to see recoveries from third parties are effected when practical; to see that due account is taken in administration exposures," he wrote.

"Doug was one of the earliest risk managers, in the fullest sense of the term, to recognize, in the use of cost of risk, the relationship of risk management to overall organizational management," said H. Felix Kloman, president of Risk Planning Group in Darien, Conn.

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Federal tort reform needed: Kasten

By JERRY GEISEL

WASHINGTON—A federal product liability law is needed to reduce the growing uncertainty in the tort law, Sen. Bob Kasten says.



"There is no way we can predict what is going to happen," says Sen. Kasten, R-Wis. "There is a need to stabilize this area of the law."

Speaking in Washington before a Risk & Insurance Management Society Conference session on legislative and regulatory developments, Sen. Kasten said the 5-year-old effort to give more predictability to tort law through state product liability reform legislation has failed.

While about 25 states have enacted tort reform laws since 1977, no two laws are alike.

For example, South Dakota's law, passed in early 1978, requires product liability suits to be filed within six years after the product was delivered to the first user. But Indiana and several other states have 10-year limitations on filing suits. These different statutes of repose create more uncertainty.

"It is our strong feeling that this problem can't be solved at the state level," Sen. Kasten said.

Last October, Sen. Kasten introduced legislation to create a federal product liability law (BI, Oct. 19, 1981). Key provisions in his proposal include:

- Requiring product liability suits to be filed within 25 years after a major capital good is sold.
- Barring most product liability suits against wholesalers and distributors.
- Strengthening a manufacturer's defense if products are altered or modified without its permission.

But Sen. Kasten's drive to have his proposal passed stumbled when the Reagan administration

refused to lend support. Administration officials said a federal product law ran counter to their drive to give the states more power.

Sen. Kasten, though, is optimistic that the administration, after analyzing his proposal in greater depth, will support the measure.

"It is my strong belief that the administration will support the bill," he said.

Sen. Kasten noted that his bill specifically bars any time limitation on filing suit in cases where the injury is caused by prolonged exposure to a product like asbestos.

"The asbestos people are mad at me," Sen. Kasten acknowledged, adding that the "idea is to get one broad bill. The bill is not meant to take care of special interests."

So far, he has not formally introduced his bill. Its first two versions were presented in draft form to give the public a chance to comment. However, the freshman Republican said he expects to formally introduce his latest product liability proposal sometime this month.

Once the bill is formally introduced, Sen. Kasten intends to line up support from other senators on the Senate Commerce Committee, where the bill would be heard.

And Mr. Kasten said his bill has a reasonable chance of passage. "There is half a chance we could be as successful as we were with the Risk Retention Act. It is possible to get a bill through," he said.

The key factor in the passage of the Risk Retention Act, which makes it easier for businesses to band together to form captives to insure their product liability exposures, was building a broad-based coalition of employer groups.

Developing a similar coalition will be needed if federal tort reform is to become a reality, Sen. Kasten acknowledged.

Longshore reform to be slow process: Erlenborn

WASHINGTON—The leading congressional backer of reform of the federal Longshoremen's and Harbor Workers' Act doesn't think Congress is going to act soon to overhaul the controversial law.

"The clock is ticking away," said Rep. John Erlenborn, R-Ill., of the slow pace. "I'll believe it (getting a reform bill passed) when I see it."

Speaking before a Risk & Insurance Management Society Conference session on legislative and regulatory developments, Rep. Erlenborn said support from Democrats is the key to getting longshore reform passed.

"It will take strong Democratic leadership to get a longshore bill out of committee," he said.

Currently, a longshore reform bill, S. 1182 (BI, June 8, 1981), proposed by Sen. Don Nickles, R-Okla., is stuck in the Senate Labor and Human Resources Committee because of opposition from Democrats like Sen. Edward Kennedy.

And the House Education and Labor Committee won't even begin to consider a similar longshore bill, H.R. 25, introduced by Rep. Erlenborn, until the Senate takes action.

As a result, "I'm not very optimistic about congressional passage of longshore legislation," he said.

While Congress fiddles, maritime employers have to contend with a law that is a legislative nightmare,

Rep. Erlenborn said.

Features in the law that are causing the most problems include:

- The lack of a cap on benefit increases.
- Extending the scope of the law to workers beyond the waterfront.
- The lack of a ceiling on survivors' benefits.

Instead of linking benefit increases to the rise in the national average weekly wage, as is the case now, Rep. Erlenborn's bill would cap benefit hikes at 3% annually.

His legislation also would overturn a 1979 Supreme Court decision that said widows are entitled to up to two-thirds of the deceased worker's weekly wages without an upper limit.

Under the new bill, survivors' death benefits would be limited to 200% of the national average weekly wage, subject to a weekly maximum of \$496.70.

Since maritime workers can make as much as \$800 a week, the savings from these limits on death benefits would be substantial.

In addition, under another section of the legislation, jurisdiction of the Longshore Act would be limited to the "point of rest," the spot where the cargo comes off the ship and is put on the ground.

Because of several court decisions, no one is sure just how far inland the law extends. ■

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'Shoppers' at RIMS focus on loss control

By LEN STRAZEWSKI

WASHINGTON—Risk managers came to the Risk & Insurance Management Society Conference ready to lay their loss-control deeds on the line, according to service firms exhibiting at the meeting.



As the economic recession tightened belts in risk management departments, corporate buyers walked the exhibit areas like shoppers, not browsers.

"This is not usually a place where we actually do sales," noted Fred Minch of NATLSCO, a risk management services division of the Kemper Group based in Long Grove, Ill. NATLSCO was one of the first insurer subsidiaries to offer services to self-insured companies and is a long-time RIMS Conference exhibitor.

"For us, exhibiting at RIMS is a maintenance affair. There's no other place where we can meet all our major clients at one time," Mr. Minch said.

This year, however, risk managers came ready to talk about their specific problems.

"There's definitely a more open approach to specifications. Risk managers were more willing to talk about their specific needs, espe-

cially in dealing with problems caused by unemployment and the increasing number of claims that usually follow."

Risk managers were also preparing against future staff losses, according to Mr. Minch.

"If a risk manager has his staff reduced or a loss-control position is abolished, an outside provider will wind up doing the job," Mr. Minch said.

Buyers were also buzzing about the unbundled services that more and more insurers continue to offer. Scores of companies offering various services presented an amazing and sometimes confusing array of claims processing, loss-control engineering, environmental safety and cash-flow management services.

The Home Insurance Group of New York, for example, promoted its risk management and loss-control services with a new emphasis, according to Fred Mina, head of the risk management services division. Although the division has been offering fronting, cash-flow programs and captive insurance company designs since 1978, it only recently received corporate approval to unbundle its loss-control engineering services (BI, April 19).

"Reception has been excellent," Mr. Mina said. "We may be new to the game of offering unbundled

services in loss control, but through risk management services and Scott Wetzel Services Inc., we have been in the business for some time. Obviously this is going to be a growing business."

Crawford & Co. of Atlanta, a large claims administration and adjustment firm, agrees. The company added "risk control services," a form of comprehensive loss-control management and engineering services, after the 1981 RIMS Conference and promoted the services at the 1982 gathering.

"We certainly met lots of potential clients," remarked Leo Kiebala, vp of risk control services. "And we even picked up two contracts. They are not really big contracts, just spot-checks. But they are from potentially big clients, and they will help us show what we can do."

The market for loss-control services is growing but so are the number of providers. Mr. Kiebala notes.

"There are lots of risk managers out there who looked like heroes when they developed cash-flow programs and self-insurance plans that saved their companies lots of money. Now they have used the cash advantages up and losses are still mounting. They are looking for ways to look like heroes again."

"And everyone is offering something to try and meet that need.

There's lots of competition and, in the long run, that will be good for everyone, both the sellers and the buyers. The problem is that many of the buyers still don't know what they want," he said.

Banks, too, climbed onto the services bandwagon at the RIMS Conference, and two banks, Citibank and Chemical Bank of New York, came touting cash and credit services for firms using captives or complex self-funded programs.

Citibank is exhibiting at the RIMS meeting for the third time, according to Frank T. Dunn Jr., coordinator of the captive insurance task force, and has been adding to services each year.

"We'll do just about anything in finance," Mr. Dunn said. "Arrange letters of credit, establish trust funds, plan Eurodollar transactions, establish a 501(c)(9) trust for self-insurers—whatever you need."

Citibank will also arrange "back-to-back" loans, a financing technique that allows a subsidiary in one country to use its assets as collateral for a loan for subsidiary in a second country.

The technique allows a captive insurer parent, for example, to control its assets and continue to earn interest while the subsidiaries obtain a lower rate than the market interest rate on funds it needs, Mr. Dunn says.

Competing with brokers and insurers, Citibank has also developed an automated safety and loss-reduction system for worker injury and property losses.

Chemical Bank was exhibiting at the RIMS Conference for the first time and took a more conservative approach.

"We're not competing with the insurance industry at all," remarked Anthony F. Heatly, vp and group head of Chemical Bank's world insurance group. "But we are offering anything a bank can do for an insurance company or a self-insuring company."

"We are not selling any engineering or actuarial services as some of our competitor banks are, but we are deeply involved in portfolio investment, premium collection, management information systems and claims payment control," he said.

Captive insurers, he believes, will provide a growth area for the insurance group.

"We are always hearing that the captive market will take a nose-dive, but we haven't seen it yet. I think they are here to stay, though a few may disappear from time to time," Mr. Heatly said.

The RIMS meeting, he added, was a valuable way to reach that market with the bank's services. "We met a lot of old and new friends. We will be back."

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Captive may make new home in U.S.

By BILL DENSMORE

WASHINGTON—Verlan Ltd., the National Paint & Coating Assn.'s Bermuda-domiciled captive, is thinking about making a U.S. home in Vermont, company officials say.

Verlan, one of the oldest association captives, has an operating staff of about 25 employees in offices in Washington separate from the as-

sociation.

It insures the property, product liability and general liability risks of about one-third of the manufacturing members of the 1,000-member parent group.

If Verlan would move to Vermont, it would be the second captive organized under the state's 1981 captive law.

The first was chartered by tire maker BFGoodrich Co. (BI, Sept. 14, 1981).

"We are interested in bringing Verlan back out of Bermuda and back into the United States," Ver-

lan President Harry R. House told an audience of about 100 people at a seminar at the 20th annual Risk & Insurance Management Society Conference.

"So, we're taking a look at it for the first time," he said.

Mr. House says he met April 19 with George A. Chaffee, Vermont's commissioner of banking and insurance, in Montpelier to discuss the idea of setting up an industrial insurer domiciled in Vermont.

Vermont Gov. Richard A. Snelling signed April 8 a law described by Mr. Chaffee as the nation's first

"miniRisk Retention Act," patterned after the federal statute enacted last year.

The law, which takes effect July 1, is designed to make Vermont an attractive home for association captives (BI, April 26).

Both Mr. House and Larry G. Noble, vp of field services for Verlan Ltd., said there is a feeling among some members of the paint and coating association that locating an insurer offshore is not good for U.S. interests.

"There's somewhat of a feeling that 'Hey, we better get more national or we're liable to wake up and find somebody else owns this country,'" said Mr. Noble, adding that Verlan might actually realize a financial advantage in locating in Vermont because association members would no longer have to pay the 4% federal excise tax on direct premiums exported offshore.

Vermont's premium tax for direct captive business is only 1%, and the difference between that rate and the offshore tax could save Verlan's owners about \$100,000 a year, Mr. Noble estimated.

On the other hand, financial reporting requirements under Vermont's captive statute are somewhat more extensive than in Bermuda, Mr. Noble said.

"This is a situation that is being investigated," he adds. "Our board had voted to investigate it...if it ends up being profitable to us, we'll do it."

On another point, Mr. House said he knows of two association captives that have lost more than 65% of their premium volume in the last

'We are interested in bringing Verlan out of Bermuda and into the U.S.,' Mr. House says.

18 months because of competitive product liability rates currently offered by commercial insurers.

Verlan has been able to fight this trend, he said, by telling association members that if they jump to a commercial insurer, they may find it difficult to get Verlan to insure their risks in the future when outside underwriting capacity tightens.

Mr. House was among five risk managers and captive owners on a panel entitled "The Captive Movement: An Update."

The other panelists were Robert A. Reeves, president of Hospital Corp. of America's Parthenon Insurance Co.; Joe I. Cline Jr., director of risk management and insurance operations at Republic Steel Corp.; John A. Dixon, chairman of Unilever PKC's Blackfriars Insurance Ltd.; and Cheri J. Hawking, assistant insurance director for Weyerhaeuser Co.

Mr. Reeves' Parthenon Insurance Co., formed in 1976 in Colorado, insures medical malpractice and other risks for an estimated 230 hospitals owned or managed by HCA, based in Nashville, Tenn.

Mr. Reeves said that in 1976, HCA's total property/casualty insurance costs were 1.6% of sales. Last year they were 1.2%.

Mr. Reeves estimated that it could be about two years before a bill to provide tax-deductions for self-insurance loss reserves or premiums paid to captives becomes law.

The measure, backed by the Loss Reserve Deduction Committee, of which Mr. Reeves is a member, was introduced in the House on April 20 by U.S. Rep. Bill Frenzel, R-Minn. (BI, April 26).



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China puts more emphasis on risk management

By JOHN W. MILLIGAN

WASHINGTON—Chinese officials are placing greater emphasis on risk management techniques as China moves from the Cultural Revolution to a period of industrial development.

This new emphasis on risk management also parallels a growing insurance industry that is underwriting both domestic and foreign risks on the mainland.

The Chinese style of risk management centers primarily on loss prevention at large industrial risks, Song Guohua, deputy general manager at the People's Insurance Co. of China, told a general session at the Risk & Insurance Management Society Conference in Washington last month.

"As China's insurance industry is developing rapidly, it is imperative for us to pay greater attention to loss prevention and risk management," Mr. Guohua said.

"To make sure that the insured life and property are properly protected, our local branches and sub-branches attach great importance to loss prevention of the insured subject matter—especially of the industrial risk," he said. "We make it one of their tasks and a criterion for appraising the results from their operations."

A few examples of the Chinese approach to loss prevention include:

- Establishment of safety inspection systems, assisting insureds and "fire brigades" in conducting regular inspections and developing loss-prevention programs.

Those industrial concerns that decline to abide by such helpful hints had best beware. "If they refuse to accept our suggestions," Mr. Guohua said, "we would give them a warning and have the right to render the policies void or decline any payment of claim."

- Establishment of a loss-prevention safety fund to build "safety facilities" where loss-prevention work is conducted. The fund is financed by a portion of the People's Insurance Co. of China's premium income.

- Obtaining regular forecasts from Chinese meteorological and seismic bureaus to prepare precautionary measures in the event of major earthquakes or floods.

This measure is especially important in China, a nation subject to severe tremors and heavy flooding in certain locations.

For example, in 1981 China's Szechwan province experienced "notorious floods rarely seen in history," Mr. Guohua said. "The total flood claim payment was five times the annual premium income of that province." PICC was able to pay those claims by using insurance reserve funds accumulated by other cities and provinces, he explained.

Students invited to attend meeting

WASHINGTON—Sixteen college students majoring in insurance or risk management attended the annual Risk & Insurance Management Society Conference last week as special guests as part of RIMS' 5-year-old Student Involvement Program.

The students, selected by the society from a pool of applicants nominated by colleges and universities throughout North America, spent the week attending conference sessions and special orientation events sponsored by the society.

And when a catastrophe does occur, Chinese officials strive to cooperate with the insureds "in every possible way in order to minimize the loss."

This increased attention on loss prevention comes at a time when the Chinese insurance industry is starting to flex some muscle.

One of three Chinese insurance companies, PICC is the only market writing domestic and foreign risks on the mainland. The company dates back to 1949 when it started providing property, life, liability, agriculture coverages and reinsurance, Mr. Guohua explained.

Domestic underwriting was suspended from 1958 to 1980, a casualty of the Cultural Revolution, but has resumed as the Chinese work to modernize their economy.

Results for 1981 saw a "rapid growth in domestic business," Mr. Guohua said. Total premium volume increased 80% over 1980 figures. The number of PICC branch and other offices increased from 300 in 1980 to more than 700 in 1981, and the insurer's nationwide staff swelled from 5,000 to 10,000.

PICC also started writing several new coverages on a trial basis for such domestic risks as rural livestock, life, pension and medical insurance. The company's underwriting of foreign risk—risks owned by foreign investors with operations on the mainland—increased, too, rising some 22% in 1981.

In an effort to "serve the open-door policy," Mr. Guohua said, PICC tries to meet the needs of for-

eign investors and keep them happy with "adequate, reasonable and reliable insurance coverage with proper terms and conditions at a comparatively lower premium rate."

And since PICC is accustomed to providing services directly to its clients in China, he added, "This makes it all the more easier for it to tailor-make all sorts of policy wordings as required by its clients."



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"Project Orbis first caught Chairman Robert F. Corroon's attention in 1974," says Richard A. Loughlin, executive vice president of Corroon & Black Company of New York. "It was an ambitious plan to build an ultra-modern eye care hospital inside a DC-8, which would fly worldwide and spread the latest in ophthalmological science and surgical techniques."

Now, with Project Orbis literally off the ground, Corroon & Black handles its complex insurance program. "The project," notes Loughlin, "demands an international carrier able to do it all: aviation, malpractice, property, casualty, bond, benefits, war risk. That's why we chose INA."

"Not only is INA truly international, it has specialists in virtually every insurance area, and just as important, the ability to coordinate these experts on an account underwriting basis. They've worked with us on the design and implementation of the program over an eight year period, through widely fluctuating market conditions, constantly updating the coverage as our projections change."

INA Special Risk, formed in 1977, carries the program now, "which makes it even easier for us to obtain the services we need from a variety of INA people. That's important when you're putting together a risk protection program for the world's first flying medical teaching hospital."

"INA's dedication," he concludes, "has matched that of Project Orbis' creators in making this exciting humanitarian concept a reality."

Several years ago, PPG Industries, a multinational manufacturer of chemicals, glass, fiberglass, and coatings and resins products, took a hard look at its overseas liability coverages.

"Based on our domestic experience with third party and product liability exposures," says Lawrence Call, director of risk management for PPG, "we were concerned that our foreign subsidiaries, which account for about 20% of our total net sales, might be underprotected."

***Meeting
international
challenges
with domestic
experience.***

-PPG Industries'
Lawrence Call



"Buying all the necessary insurance through the home office could have caused tax disadvantages. Besides, it wouldn't have meshed with our local profit center orientation. So instead, we encouraged our subsidiaries to purchase local coverage from admitted carriers at the recommended limits in those countries."

Many of these local carriers were INA International companies, and INA was also involved with PPG back home. "To bring the various policies up to U.S. terms and conditions," explains Call, "we purchased a blanket excess and Difference-in-Conditions policy from INA which unified and strengthened our entire program."

According to Call, INA has helped reconcile PPG's risk management program with its international financial objectives. "INA International's participation has allowed us to broaden coverage, reduce costs, improve our tax position and absorb expenses locally."

"We once relied heavily on retrospectively-rated insurance policies," says Larry Gabriel, manager of pension funding and general insurance for Clark Equipment Company. "But that approach made it impossible for us to accurately predict what our annual insurance costs would be."

The multinational manufacturer of axles, transmissions, material handling and construction equipment moved to solve this problem in 1979 by forming a captive insurance company. Today, with INA as the primary underwriter, the captive reinsures Clark's domestic general liability and workers' compensation coverage, and its foreign property insurance.

According to Gabriel, the captive operation has yielded benefits beyond the initial goal of cost containment: "We now have direct access to worldwide reinsurance markets."

Dealing directly with these markets has enabled Clark to negotiate both single and multiple occurrence loss limits on its foreign property and general liability coverages. These limits help protect Clark against the possibility of a catastrophic loss—as do the company's extensive loss control efforts.

"Our profit center managers know that the captive's fiscal health affects our overall corporate balance sheet, so they're eager to control losses," notes Gabriel. "This has been especially important in the area of workers' compensation, where the cost of benefits increases yearly."

Clark has also improved its cash flow by going the captive route. Explains Gabriel: "At today's high interest rates, our reserves are generating income that will help finance our continued expansion around the world."

***Reaping the
benefits from
a move
offshore.***

-Clark Equipment's
Larry Gabriel



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RECREATIONAL CLAIMS

Employers can limit their exposures by laying down some ground rules

By Thomas R. Bond

EMLOYERS FREQUENTLY ask insurers and attorneys whether injuries sustained by their employees while engaged in recreational or sports activities are compensable under the workers compensation laws.

Many employers are surprised to learn these injuries are usually compensable. This is true regardless of whether the injuries occur on or off the premises of the employer.

Here are some cases and recommendations that could help reduce an employer's workers compensation exposure in this area.

The Pennsylvania Superior Court stated that every injury occurring on the premises of the employer during work hours is compensable as long as there is nothing to show that the employee abandoned the course of his employment or was engaged in something wholly foreign to it. The claimant in this case was injured during his lunch hour while playing football on the employer's premises. The court held the continuity of employment is not broken by the employee's action in engaging in play and recreation on the employer's premises during his lunch hour.

A Maryland case involved an employee who suffered a ruptured kidney during a coffee break while playing touch football on a grass lot owned by his employer. The employees at Mack Trucks Inc. were permitted to take two 15-minute coffee breaks. During the afternoon break the claimant and his co-workers would play football on the grass lot. The football games had not been expressly authorized. They were, however, considered by the court to have been permitted as a result of the company's acquiescence over a period of three months.

The Maryland Court of Special Appeals found that the employee's activity was sufficiently work-related to be an incident of employment. The rationale of the court was that the employer's actual knowledge and acquiescence served to establish the

recreational activity as an "incident of employment."

The judicial views reflected by these two cases are representative of the majority view

There are, of course, some methods of reducing employers' workers compensation exposure in this area. Compensability exists if the activity has achieved some standing as a custom or practice. As the courts have noted, there is no precise formula that can be used in determining when a recreational or sports activity becomes a fixture of employment. It has been suggested, however, that it should be at least long enough for a reasonable employer to become aware of it.

If employers do not want their employees to engage in such activities while on the premises, the employees should be informed, verbally and in writing, that these activities are not permitted during any part of the work day.

If management observes employees engaged in such activities, they should be notified that the activities are prohibited, asked to immediately stop participation and advised that employees violating the rule do so at their own risk, without the benefit of workers compensation.

Injuries taking place off the employer's premises are also sometimes found to be compensable. This is true even though the

injuries occurred after working hours. To recover compensation, the claimant must show the existence of an association between his employment and the sports or recreational activities. There are a number of ways the employee can accomplish this.

If the injured employee can establish that his employer encouraged his participation in the activity, he will also be establishing his eligibility for workers compensation benefits.

Upholding the benefits award to an injured employee in the case of *Hendrey vs. Industrial Commission*, an Illinois court noted that the employer had permitted players to take time off work in order to participate in team activities. The employer had also provided free tickets to the annual league banquet and had displayed team trophies.

In New York, a claimant was awarded benefits for injuries he sustained in a softball game that was sponsored by an employer-sponsored club. The court commented that all expenses had been paid by the employer. The employees had been encouraged by the employer to participate in the activity. The court also pointed out that the purpose of the club was to "develop a spirit of friendliness and cooperation among the employees."

This case should be contrasted with an earlier judicial decision reached within the same jurisdiction. In the other case the employer, after having refused on two

previous occasions, donated \$225 to be used in the establishment of an employees' softball team. The employer made it very clear, however, that he would have nothing more to do with the team and the employees were to assume full responsibility for the team's activities. The court held that the injuries sustained by the claimant during the course of team play were not of a compensable nature.

Similarly, in an Oklahoma case, the claimant was denied workers compensation benefits for injuries he had received while playing softball on a team organized by the employees. The court noted that the employer's only connection with the team was that he had furnished equipment and uniforms bearing the employer's name and had paid the league entrance fee. Compensation benefits were denied on the theory that the injury did not arise out of or in the course of employment.

Employers wishing to limit their exposure should not permit the use of the company name on team jerseys or other team equipment. It was held in an Illinois case that the employer had, in fact, derived an advertising benefit from team jerseys bearing the company name. The jerseys, combined with the presence of articles in the company paper and magazine and coverage over a company-owned radio station, supported the fact finder's decision to award workers

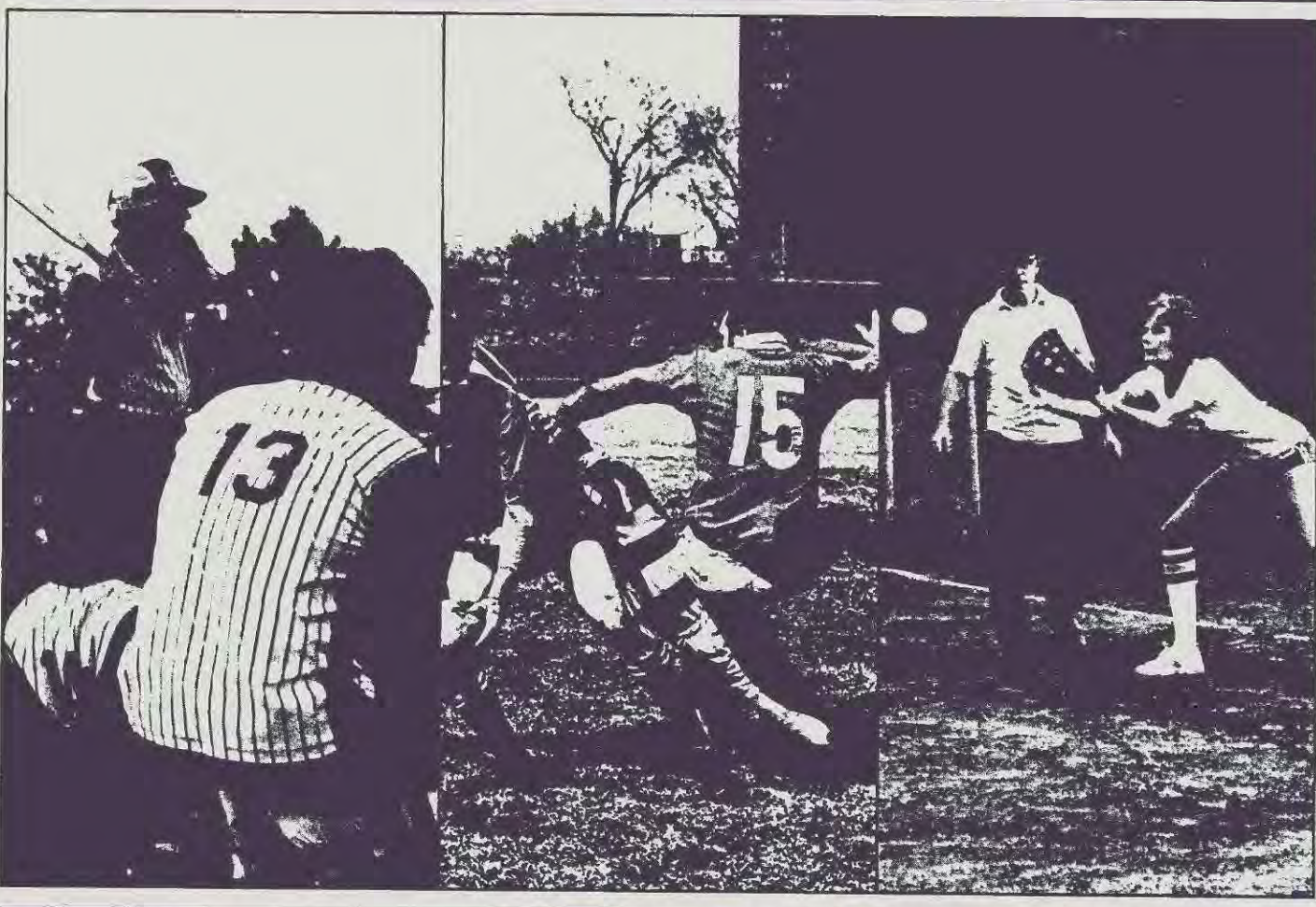
compensation benefits to the claimant.

Participation of managers has been found sufficient to establish a connection between the activities of the athletic team and the employment of the participating employees.

In the same Illinois case, the court noted that the recreational activity afforded the employees an opportunity to socialize not only with each other, but also with the district manager and other company executives.

The court concluded that the improvement of employer-employee relationships through this activity was of significant benefit to the employer and therefore awarded benefits to the claimant.

With respect to off-premises



perspective

Salaries: The sensitive issue

By Kenneth P. Shapiro

ON A RECENT episode of the popular "Lou Grant" television series, an inventive extortionist created turmoil in the newsroom by threatening to publish the paper's employees' salary list. Although network dramas are an unlikely place for a management lesson, there's one here: What people make in relation to their co-workers is a sensitive issue.

When there is not a strong correlation between compensation levels and the hierarchy created by job title, function and seniority, there is potential organizational danger. For instance, the probability of employee discontent increases when:

- A plant foreman makes only slightly more than his crew.



Kenneth P. Shapiro is a vp at Hay Huggins & Co. in Philadelphia. His column on management appears monthly in Business Insurance.

management

- Entry-level engineers earn almost as much as those with two or three years' experience.

- New MBAs are compensated better than seasoned managers.

These examples are part of the phenomenon known as "salary compression."

Salary compression can cause employee dissatisfaction that may lead to decreased productivity. And the corollary is "pay raise compression." As demonstrated by Hay Associates surveys, for the past 10 years the gap is shrinking between pay increases for average workers and those who are outstanding performers.

The average worker of 10 years ago might have received a 7% raise and the outstanding performer a 13% increase. Yet 1981 data from the Hay Compensation Information Center shows that these raises are now 8.8% and 12.7%. If this trend continues, pay will become a less-powerful tool in motivating employees.

The best way to prevent salary

compression is to install a job evaluation system that will accurately differentiate among job levels of an organization. Pricing these jobs on this basis should create acceptable salary spreads.

Some companies are using the so-called "front-end bonus" to sidestep the salary compression problem. New employees are attracted to a company by a one-time out-front cash award, possibly 10% of the first year's salary for those in the \$30,000-to-\$80,000 range. Thereafter, their compensation conforms to existing structures. Although this may help recruit talent and ease the internal tensions of compression, it encourages job hopping. And the front-end bonus actually takes motivation away from those receiving it by giving them a total compensation decrease in their second year.

Although most compression problems can be remedied through a thorough job analysis, real market conditions must also be recognized and addressed. For example, companies must accept realities such as the

high market price of data processing professionals or petroleum engineers or geologists. These realities of the market must, in some cases, supersede the internal equity of a job evaluation system.

Here are some ways to combat the compression problem:

- Open up communications in your organization when the market makes compression unavoidable. Use survey data to justify, but not defensively, your position. Be on the lookout, however, for morale and productivity problems.

- See if your compression problem is caused because your salary structure increases are staggered. Sometimes salaries in lower-level jobs approach those of mid-management when changes in the lower-level structures are not synchronized with the mid-level increases. Change your schedule or inform your employees about it.

- Pay more for certain jobs than the market demands. This is a conscious pricing decision you make when you feel that avoiding the compression potential for disruption is worth more than the extra money for salaries.

Worker assault at job site is compensable



WHERE THERE was some causal relationship between a

claimant's employment and an assault, or where the employment conditions could expose an employee to an assault, any resulting injury is compensable, according to an Oklahoma appellate court.

Chris Cyrus was told by his employer that he would have to pick up his final paycheck at the site of the drilling rig where he had been working just two weeks earlier.

When he reached the site, he was told by the foreman to see another employee

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legal briefs

named "Red." Red accused Mr. Cyrus of stealing a pair of boots at the time he quit. Mr. Cyrus denied it. Nevertheless, Red and a second employee began to curse and physically attack him. At one point he was knocked down a flight of stairs, resulting in serious injuries.

He filed for compensation and was awarded 300 weeks of temporary total disability plus 18% interest on the accruals from the date of the award.

On appeal, the insurer argued that Mr. Cyrus' injuries did not arise from his employment because he became involved in an altercation over a "purely personal" and not job-related matter.

The court, however, said the conditions of his employment exposed him to the assault and there was a causal connection between the act of trying to pick up the check, as he had been directed to do, and the battery. The court also upheld the 18%

interest rate as "not excessive in terms of today's money market." *Cyrus vs. Vierson & Cochran Inc.*, Court of Appeals of Oklahoma, June 18, 1981 (BI/04/J.-\$5).

Material misstatement



An insurer need not prove fraudulent intent in order to cancel a group insurance

policy where an applicant makes a material misstatement concerning his prior medical history, according to a Michigan appellate court.

The court, however, concluded that under the policy the insurer had not reserved a cancellation right, only the right to adjust the premiums or benefits.

An employee signed an application for a group health and life policy issued by

Midland Mutual Life Insurance Co. The application was accepted by Midland and the insurance policy went into effect Dec. 1, 1975.

His application indicated that he had not consulted or been treated by a physician in the previous five years. Six weeks later the employee was hospitalized for chronic congestive heart failure. A claim for benefits was denied. A premium refund check was sent, but not accepted. Later, the employee died and his widow sued for benefits. The trial court ruled for Midland.

The appellate court concluded that the insurance company had no right to cancel the policy even if there was a material misrepresentation of fact as to the employee's prior medical history.

According to the court, the policy itself permitted the insurer to adjust only the premiums or benefits in the event of a misstatement on the application.

Wiedmayer vs. Midland Mutual Life Insurance Co., Court of Appeals of Michigan, July 27, 1981 (BI/01/A.—\$5).

A few rules can help limit sports claims

Continued from previous page

recreational and sports activities of employees, employers should consider taking the following steps to reduce possible workers compensation exposure:

- Employers should not make financial contributions to the formation or maintenance of employee athletic teams. Sponsorship of teams composed of employees should be avoided. If a donation is made, it should be clearly communicated and documented that the employer doesn't intend to sponsor the team.

- It should also be made clear that full responsibility for all aspects of team participation is to be assumed by the participating employees.

Thomas R. Bond is an attorney with the law firm of LaBrum & Doak in Philadelphia.

- Employers should not control the internal and external affairs of such teams. Examples of such control are scheduling practice or games or selecting players.

- Employers should refrain from using employee team members as a source of advertising.

- Employers should not permit employees to take time off in order to participate in team play and should dock the pay of those employees who miss time from work due to their involvement in such activities.

Employer policy with respect to recreational and sports activities of employees should be clearly communicated. A written statement of this policy should be posted conspicuously throughout the premises. If a brochure is given to new employees, it should include a policy statement. Existing employees should

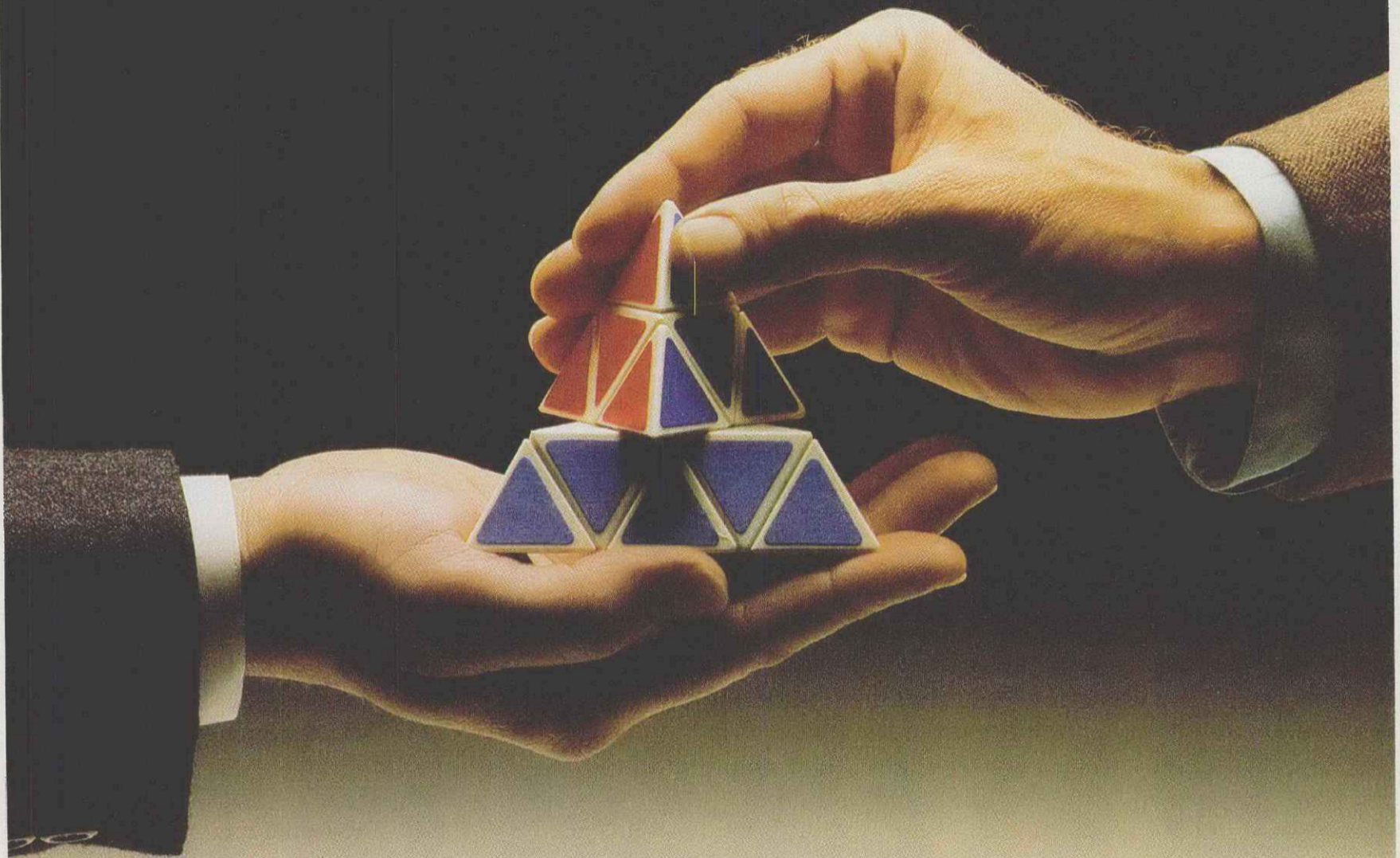
be given a written statement of this policy.

The suggested protective steps might seem to be a bit harsh. Yet, it should be remembered that, particularly within the past 10 years, an alarming increase has occurred in the workers compensation benefits employers are being called upon to pay.

Employers should carefully weigh the value of promoting good employee morale by encouraging employees to participate in recreational activities against the very real risk of numerous claims for compensable employee injuries during these activities.

The generosity of an employer making a substantial contribution to promote employee recreational and sports activities should not result in a penalty. The employer should not be criticized for guarding against such a result.

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Montreal, Toronto, and London.

Control small disasters to prevent big ones

By LEN STRAZEWSKI

WASHINGTON—Small property catastrophes can grow into bureaucratic disasters without proper planning, a panel of experts told Risk & Insurance Management Society members.

"Most catastrophes start out small," explained Jack M. Rhodes, chief operating officer of Factory Mutual Research Corp. "But if you can control the little losses, you will avoid the big ones."

A good precatastrophe plan should be supported by top management, administered by a designated executive like the corporate risk manager and backed up by loss-control engineers and a complete insurance program, he said. But, he added, any plan should cover at least three practical issues:

- Location.
- Protection.
- Emergency organization.

Location planning begins whenever a company begins discussing construction of a new factory, office or corporate headquarters, according to Mr. Rhodes. "Logically, a company should avoid building on a flood plain or hurricane coast, in traditional tornado paths, active seismic areas or high crime areas. That leaves out most cities and industrial areas, so obviously there have to be some compromises."

Companies should plan the construction of their buildings to cope with the particular risks of its location, Mr. Rhodes advised. "Look at how far apart you are planning your buildings. In the snow belt, it is wise not to put a tall building adjacent to a smaller structure. The snow weight on the small building will be much more than usual, increasing the risk of roof collapse."

"If you are in a tornado-prone area, you may consider putting expensive, essential services, like a computer center, in a tornado-resistant building."

The inside of buildings should also be protected. Although many concrete and steel structures are considered fire-resistant, "it's a very rare building that doesn't require sprinklers," Mr. Rhodes said.

People have to run the catastrophe plan, Mr. Rhodes added, so emergency organization is a top priority. Catastrophe plans, including evacuation procedures and role assignments, should be rehearsed until employees "have a conditioned reflex when the alarm sounds. They should be prepared to respond by preparing 'what if?' exercises," he said.

After a large loss, risk managers should carefully monitor loss accounting and insurance coverage to make sure the loss does not turn into a financial catastrophe, two other panelists said.

Hire an independent adjuster, the experts agreed, and then monitor the adjuster's work to keep track of costs. Companies need to avoid paying more than they must in reopening costs and avoid suppliers that overcharge during a period of confusion.

"Catastrophe, of course, is a relative term. What may seem to be a small loss for an insurance company may clearly be a catastrophic loss to a small family-owned business developed over several years. That makes it particularly important to keep track of costs and avoid charges for services not ordered by your adjuster," said Chris Campos, president of Campos & Straits, an accounting firm that works with independent loss adjusters on catastrophic claims.

"After a loss, sit down with your comptroller and accountants to dis-

cuss costs and a cleanup operation. When cleanup begins, report costs to your accountants weekly and allocate costs by function and department through purchase orders."

Documented, organized bills can speed claims payment from insurers, he added.

"Invoices should match purchase orders. If they do not and the invoices were not seen by the adjuster, you should not pay the bill under the matter can be researched. All bills should be rectified before final restoration," he said.

Even if bills are kept in perfect order, insurers may try to deny coverage, especially if several layers of insurance are being tapped, noted John W. Foley, senior vp and senior claims officer of Marsh & McLennan Inc.

Before and after a catastrophic loss, companies need to carefully review coverage to make sure all policies and layers of coverage are properly designed and understood.

"Many times, policyholders, especially plant managers or plant comptrollers, simply do not understand the coverage problems," Mr. Foley said. "Just because you have a business interruption policy doesn't mean that the insurance will fill the gap between the profits you would have earned before a loss and what you are still receiving. The period of suspension of business isn't always the period of indemnification."

"Also, you can't use plant capacity as a measure of the loss. Some plant managers expect to be compensated for the loss of a full plant capacity even when the factory

may have been operating only at 60% or 70% capacity. Insurers will look at past production experience and future potential experience before paying a business interruption claim."

Property and business interruption coverage rarely pays for building upgrading, Mr. Foley added, although many non-risk managers stuck with managing disaster recovery may believe they do.

"If after a fire, for example, the company does some building improvements during reconstruction, the extra work may delay reopening. Though it seems like a longer period of indemnity, the insurer's adjuster will most likely say you cannot collect for the full period under a business interruption policy," he said.

Insurers will credit themselves if

an industry exchange agreement gets your company back into business before facilities are reconstructed or if rescheduling prevents you from taking a loss on a missed order.

Before and after large liability losses, companies should look at the way coverage is layered. Policies labeled "following form" may only follow the previous policy or may not have to follow any policy at all, Mr. Foley said.

"A risk manager should make sure the forms are concurrent, looking closely at the definition of insured under all forms, adjustment terms and terms of defense cost payments. In general, coverage tends to narrow as layers increase, so if it's too late to change it, you should be aware of what the forms may be eliminating."

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Be sure umbrella covers catastrophes: Consultant

By **BILL DENSMORE**

WASHINGTON—Risk managers who worry more about the price of an excess umbrella liability insurance program than the quality of its reinsurers or the language of the contracts may find themselves going bare when a catastrophe strikes, an expert warns.

"The price of the paper has become more important than the quality," says C.C. (Bud) Griffin, president of Warren, McVeigh & Griffin, a risk management consulting firm based in Newport Beach, Calif. "I've reviewed hundreds of programs and many of them are very poorly structured and some are outright deficient."

Mr. Griffin was one of three members of a panel at the Risk & Insurance Management Society Conference on "Excess Liability: Are Your Catastrophe Exposures Really Insured?"

Also on the panel were Samuel Alcorn, senior vp of Bayly, Martin & Fay International Inc. of Newport Beach; and James A. Robertson, a senior consultant and an associate of Mr. Griffin.

Moderating the panel were Richard C. Heydinger, risk management director for Hallmark Cards Inc. in Kansas City, Mo., and Bob Ariagno, manager of insurance and safety for United Telecommunications, also in Kansas City.

Catastrophes like the Kansas City Hyatt Regency Hotel skywalk collapse, the MGM Grand Hotel fire in Las Vegas, Nev., and the Stouffer's Inn fire in White Plains, N.Y., have shocked the insurance industry, Mr. Griffin said. At least the first two have been the subject of disputes among various insurers over coverage.

For example, in the Hyatt collapse, insurers for Hallmark Cards Inc., the hotel's owner, contend they don't insure Hyatt Corp. for an event that occurred after Hyatt began operating the hotel. Hyatt says it was added as a named insured and is owed coverage (BI, March 29).

According to Mr. Griffin, the risk manager should be considering higher limits, more skillful structuring of excess programs, better-quality insurers, better policy draftsmanship and better initial risk analysis.

He said the risk manager should seek to avoid:

- Failure of the insured and insurer to communicate their respective understandings of the policy.
- Ambiguous, artless or unclear drafting of contracts allowing differing legal interpretations.
- Use of insurers or reinsurers that are non-admitted or with inadequate surplus that might not be around when it comes time to pay a claim.
- Inadequate or missing documentation or signatures on the policy itself, its endorsements or additions.
- Failure to clearly tell a broker what coverage is desired.

Mr. Alcorn's advice to risk managers centered on the process of completing an application for insurance. The application, he said, should be handled with the knowledge that the information it contains could ultimately form the basis of a coverage lawsuit if disaster strikes and an insurer balks at paying a claim.

"When you're filling this thing out and signing it, it should be approached as a legal document in the manner of two porcupines making love," Mr. Alcorn said. "There's one thing we can count on:

Theories of liability will arise from every catastrophe, even when it involves an act of Mother Nature."

The standard application form that umbrella insurers use contains general questions, but if those questions are not answered fully, the policyholder risks having the coverage canceled when he really needs it, Mr. Alcorn said.

Whom a policy insures "appears to be a rather clear and simple area, yet it has led to many disputes," said Mr. Alcorn. He suggests a risk manager specifically name all the entities to be covered, down to the second- and third-tier subsidiaries.

"What about joint ventures?" he asks. "If you don't want to argue, you better name it."

For franchise operations, he suggested that the risk manager be sure to explicitly state whether you

are providing excess, direct or contributory coverage. Insurance provided to a managing agent operating a property owned by the insured must also be spelled out either in the insurance contract or the management contract.

"Each contractual relationship has to be carefully reviewed and you have to decide if you intend to pick that manager up or you don't intend to," Mr. Alcorn said.

Underwriters also expect a specific listing of geographic locations that are to be insured, especially those located overseas.

When the application asks for a schedule of prior losses and exposure to flammables or explosives, it is best to make a complete disclosure.

"I have seen some very nasty litigation develop over the failure of

an insured to disclose previous claims or dangerous situations at the time the policy was written," Mr. Alcorn pointed out. He said this is particularly important in an era where long-term exposures to such environmental hazards as asbestos can result in a manifestation claim decades after exposure.

"Again, I don't think any of you would enjoy having the name of your firm conveyed all over the press because you failed to disclose something," he said.

Policies with differing expiration dates in a complicated excess umbrella coverage program involving millions of dollars can create unintended coverage gaps if they aren't corrected or explicitly acknowledged, warned Warren, McVeigh & Griffin's Mr. Robertson.

Language in excess policies that

conflicts with underlying policies on coverage or named insureds causes problems.

An excess policy should be written to provide coverage "at least as broad as" the underlying policy, he said. He added that a risk manager should check to see if an excess policy promises to "pay on behalf of" or "indemnify" the named insureds.

If it says "pay on behalf of," it usually means any legal expenses involved in defending a claim will be paid by the insurer in addition to the policy limits. If the policy says "indemnify," it usually means that defense costs will be included in policy limits.

The danger in the second situation is that huge, unforeseen legal fees will eat into claim funds, he warned.

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Panel should select brokers: Risk manager

By LEN STRAZEWSKI

WASHINGTON—Use a management panel to help choose your broker and avoid charges of favoritism, advises Gary Toms, director of risk management for Intel Corp. in Santa Clara, Calif.

Mr. Toms told Risk & Insurance Management Society members at the group's annual conference that his broker review and selection technique, using a team of middle managers, also pays back in internal corporate relations.

"Dale Carnegie said that if you ask someone for a favor, you have a friend for life," Mr. Toms said. "It works. The panel gets to know you

and the risk management department, and you get to take advantage of their particular skills and expertise."

Mr. Toms chooses representatives from his company's legal, personnel, finance and purchasing departments to participate in the broker selection process, which can take several months.

The legal and finance department members have obvious roles, he said. The finance department is closely involved in risk funding, and the legal department has expertise with liability issues.

"The purchasing department is experienced in dealing with and evaluating suppliers of various sorts, and the personnel department is always interviewing new people. A member of the personnel department brings both employee

benefits expertise and experience and instincts in evaluating people."

Intel, a Silicon Valley electronics firm with \$800 million in annual sales, uses four brokers to market various parts of its \$2 million insurance program.

Brokers are reviewed every three years and corporate risk management policy mandates that the company go through its selection process every six years even if broker performance has been satisfactory, Mr. Toms said.

Brokers, however, can be discharged at any time if service is unsatisfactory.

Brokers that want to compete for Intel risks are given four 3-inch binders of background information on the company and its products and one month to study the data, Mr. Toms explained. The brokers

may also schedule a two-hour session with the risk management department to discuss the information and ask questions.

The competing brokers may not test-market risks based on the information they are given and may not discuss the information with anyone but the risk manager. Companies that violate the rules are eliminated from the process.

At the end of one month, brokers submit written proposals, which are evaluated by the panel.

Brokerage staff members who would be assigned to the account are allotted two hours to present their proposal to the committee. The competitors cannot import brokerage executives from other offices to help.

"We don't want some sales executive from New York to carry the

proposal into us. We want to talk to the people we will have to work with," Mr. Toms said.

From the presentations, the panel evaluates the brokers according to a list of criteria designed and weighed by the risk manager and two finalists are chosen.

"The two finalists are then allowed to compete directly on one aspect of our account using the same specifications that we have designed. They are allowed to establish protected markets that they may want to quote by alternately choosing insurers they think would be interested. We flip a coin to see who gets first choice," he said.

Then the finalists have two weeks to bill the order. The broker with the best price and service package wins.

Although the selection process seems long and complex, Mr. Toms said the rewards are worth the efforts. "The brokers know they are being treated fairly and no one can charge that we choose our brokers by historical accident or golf score."



A leading insurance executive discusses safety and the company plane.

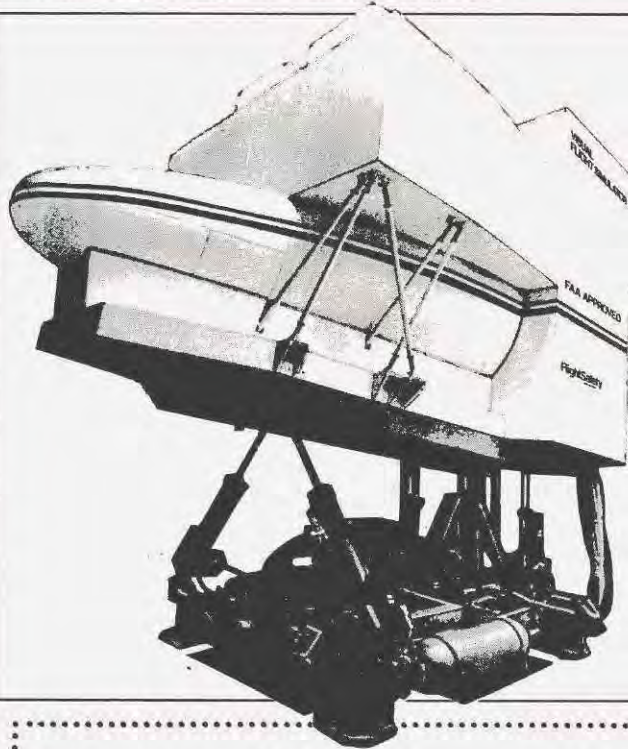
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normal and emergency procedures under controlled conditions. The alternative of training in the aircraft is hazardous and incomplete—in addition, it wastes fuel.

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Be candid about needs, broker says

WASHINGTON—Go insurance shopping with your brokers if you want, but let them do the haggling over price, a broker says.

"It's important to be completely candid with your broker," Thomas W. Shepard, vp of Marsh & McLennan Inc. in Boston, told members of the Risk & Insurance Management Society here last week.

"Before he can market your risk, he needs to know your feelings on self-insurance, retention levels and what kind of input your corporation expects," he said.

"For example, do you have a general counsel that wants to retain control of claims defense? Many insurers will not allow you to handle your own defense."

The broker and risk manager also should decide early whether the risk manager will participate in marketing the risk. Mr. Shepard thinks it is a good idea.

The broker advised that risk managers accompany brokers on a personal tour of six to eight key underwriters and help choose prospective insurers.

Then the risk manager and broker should limit the field to only two or three quoting insurers.

"Once you and your broker decide who will quote, the broker, with your input, should write the specifications and return to the underwriter to talk price. The underwriter should be given a timetable and told when a quote is expected," Mr. Shepard said.

It's important that the broker control presentation of risk specifications, he noted, because salesmanship is the key to attracting the attention of the underwriter. The broker may decide to have the risk specifications printed and bound in leather, just to catch the underwriter's eye.

"It may sound silly, but eye appeal is important, and with the right underwriter, a \$100 investment could save thousands," Mr. Shepard said.

The risk manager can also help sell the company to underwriters, however.

"If your company manufactures a non-offensive product, don't be afraid to give a sample to the underwriter. The more he knows, understands and likes your company, the better you will do in the marketing process," he said.

Catastrophic work comp injuries could hurt reserves: Reinsurer

By EILEEN NORRIS

WASHINGTON—The number of catastrophic worker injuries not receiving cost-control attention is beginning to create a reserve problem, says one major reinsurer.

"I wonder how many of you are aware of the actual number of these cases we have facing us, plus the life expectancy that has been preserved by today's state of the medical arts," said William W. Davis, assistant secretary with the American Re-Insurance Co.

He spoke before a session on controlling workers compensation costs at the Risk & Insurance Management Society Conference.

"I represent just one company and my diary of cases includes a total of 530 spinal cord and brain stem injury cases," Mr. Davis said.

"Other reinsurers have their fair share, too, so you can see that we are dealing with a sizable exposure," he said.

Self-insured and insured employers should be responsible for helping to control the payments for catastrophic injuries, he said.

Risk managers can assist the cause by placing their business with a service company or insurer that does more than just give lip service to cost control, he said.

Just 24 years ago, the American Medical Journal conducted a study on paraplegic cases that showed the average life expectancy was 47.7 months—a sharp contrast to today's projection for a 26-year-old paraplegic injured on the job. That person can expect to live 47.7 years, said Mr. Davis.

"Originally, the spinal cord injury and brain-stem patient did not present a financial threat to the insurance industry because the patient simply did not live," he said.

"But as medical advances kept the patient alive, the natural sequel was a cost factor that never existed before. That is, a costly maintenance status," he added.

Thankfully, rehabilitation has taken the patient "beyond maintenance," Mr. Davis said.

"Paraplegics are trained to be completely independent in activities of daily living. To a lesser degree of success, but ever increasing in numbers, quadraplegics are sometimes reaching almost complete independence," he said.

This reduces the medical costs for a paraplegic to as little as \$500 per year and often the employee can return to work, he said.

"I urge you to take heart when I say the medical and lay forces are out there working on the problem."

But, it is estimated there will be 15,000 new spinal cord injuries suffered by workers on the job this year, he warned. "Just eight years ago, there were only half that number. On top of that number, we're estimating an additional 15,000 head injuries will occur in 1982," he said.

"The question you must answer for yourself," he said, "is whether or not your claims people are involved in cost control and rehabilitation and know how to take advantage of what's out there."

Employers, he predicted, will see an acceleration of rehabilitation action in the future, particularly within workers compensation laws.

"Florida, Georgia, California and Minnesota now have mandatory laws which, in various ways, dictate that the employer must provide rehabilitation to an injured worker," Mr. Davis said.

Since California's law went into effect about three years ago, 420 rehabilitation vendors have "cropped up," he said.

"Is your claims company or insurer ready to meet the challenge of selecting the proper company?" he asked the risk managers attending the session.

Using the proper medical manager on a serious injury case can be the key to saving many dollars on

non-massive injury cases as well as massive, Mr. Davis said.

"The medical manager can be a claims staff adjuster or a rehabilitation vendor, but remember that the rehabilitation profession is controlled by the bell curve just like any other field of endeavor," he said.

"That is, 25% are very good, 25% are very bad and the other 50% are mediocre."



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• "Terrorism," a pamphlet for financial institutions listing **sources of information on worldwide terrorist activities and related security measures**, is available from the Bank Administration Institute.

The directory outlines agencies and organizations that monitor criminal activities and track crime trends and patterns affecting the financial community. It also includes sources of information on bank security, fraud, embezzlement and protection for the financial executive. The pamphlet includes information on security and protection in foreign countries. Ten of the pamphlets cost \$7. Contact Keith D. Marshall, Security Research Manager, Bank Administration Institute, 60 Gould Center, Rolling Meadows, Illinois 60008; 312-228-6200.

• Bayly, Martin & Fay has prepared a four-page report on the **Risk Retention Act**. For a free copy write Samuel Alcorn, Senior vp, Bayly, Martin & Fay International Inc., 660 Newport Center Drive, Newport Beach, Calif. 92660.

• The International Foundation of Employee Benefit Plans has published its 1982 information book. **The 32-page paperback book includes dates of the association's 1982 educational programs**; titles of books, periodicals and research reports recently published; and a description of the foundation's objectives, functions, history and various membership services. Available without charge, the book may be obtained by contacting the International Foundation of Employee Benefit Plans, Box 69, Brookfield, Wis. 53005; 414-

786-6700.

• A new booklet explaining **how workers compensation insurance rates are set** has been published by the National Council on Compensation Insurance. Items covered in the 12-page booklet, called "Rate-making: The Price of Workers Compensation," include tests for premium level adequacy, calendar/accident year data, experience rating plans and premium discounts. It presents a step-by-step breakdown of the process used to set workers compensation rates, such as formulas applied, the type of data and ratio adjustments used in the formulas and the method used to change rates among individual classifications. The booklet costs \$2. To order write the National Council on Compensation Insurance, Box 6585, Church Street Station, New York, N.Y. 10249

• Johnson & Higgins is offering an eight-minute audiovisual pre-

sentation that assesses the **benefits and restrictions of investing in Individual Retirement Accounts**. Companies wishing to show the program to their employees may purchase the slide-and-sound package for \$1,200 or lease it for a two-week period for \$750. The show can be customized to explain an employer's IRA or payroll deduction options at an additional charge. Johnson & Higgins also can provide brochures that reinforce the presentation at a cost of \$300 per thousand. For information contact Constance Newhouse, Johnson & Higgins Communications, 95 Wall St., New York, N.Y. 10005; 212-701-8181.

• A six-page paper, "The Key to Self-Funding Long Term Disability Benefits," is available to companies that self-fund or are considering **self-funding LTD plans**. To obtain a copy free write James W. Becker, The Wyatt Co., Suite 5600, 233 S. Wacker Drive, Chicago, Ill. 60606.

• "How Long Is Your Lifeline?" is a set of employee and employer brochures describing a **payroll-deduction life insurance plan** available from North American Company for Life & Health Insurance. For free copies write Bill Retnauer, North American Co. for Life & Health Insurance, 209 S. LaSalle, Chicago, Ill. 60604.

• The use of a trust, the need for a will, stock option plans and other matters of finance are in the booklet, "**Financial Planning for the Corporate Executive**," from Bankers Security Life Insurance Society. For a free booklet write Marketing Department, Bankers Security Life Insurance Society, 1701 Pennsylvania Ave. N.W., Washington, D.C. 20006.

• A promotional pamphlet on a **yacht insurance program** is available from The Maryland Casualty Co. This pamphlet describes the property and liability coverage offered for owners of private watercraft and related equipment. For a free copy write to Garry R. Bolan, The Maryland Casualty Co., 3910 Keswick Road, Baltimore, Md. 21211.

• The Hanover Insurance Cos. has published **brochures describing insurance coverages** for a variety of professionals, including funeral directors, barbers and beauticians, hearing aid retailers, opticians, optometrists, veterinarians, contractors and computer firms. For free copies write Harold J. Newman, The Hanover Insurance Cos., 440 Lincoln St., Worcester,

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• "Are You a Target?" is a pamphlet describing **directors and officers liability coverages**. For a free pamphlet write Warren Grady, Scarborough & Co., 222 N. Dearborn St., Chicago, Ill. 60601.

• "Trucking Services" is the title of a promotional pamphlet from Arthur J. Gallagher & Co. that outlines the physical damage and rental **insurance services for fleet and independent owner-operators**. To order a free pamphlet write John P. Gallagher, Arthur J. Gallagher & Co., 10 Gould Center, Rolling Meadows, Ill. 60008.

• "Rimcospecs—Insurance Specifications" is a brochure that describes a service to **help buyers obtain broader coverage and lower premiums**. For a free copy write Publication Coordinator, International Risk Management Institute Inc., 10300 N. Central Expressway, Building III, Suite 208, Dallas, Texas 75231.

• A series of **loss-prevention and control** articles for practicing architects and engineers is contained in "Guidelines for Improving Practice," published by Victor O. Schinnerer & Co. The series is \$30 to \$50 annually and is available by writing Douglas C. Dolan Jr., Victor O. Schinnerer & Co. Inc., 5028 Wisconsin Ave. N.W., Washington, D.C. 20016.

• "Experience Modification" outlines an explanation of how California employers can use **experience rating with the state workers compensation insurance program**. For this free pamphlet write Lynne Geries, State Compensation Insurance Fund, Box 807, San Francisco, Calif. 94101.

• "How to Select and Work with Your Broker" is a paper that discusses the **process and criteria used to select agents, brokers and consultants**. For a free copy of the paper write Haig G. Neville, Haig Neville Associates, 6290 Commerce Road, West Bloomfield, Mich. 48033.

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Social Security benefits to increase 7.4%

By JERRY GEISEL

WASHINGTON—Social Security benefits are going up again, but the increase won't be as large as in previous years.

On July 1, monthly benefits will jump an average of 7.4%, or \$27, the Social Security Administration reports.

That 7.4% increase is down sharply from the July 1981 rise of 11.2% because inflation has eased.

The latest Social Security benefit hike is based on the difference in the Consumer Price Index during the first three months of this year and the first three months of 1981.

With a 7.4% increase, the average monthly benefit will rise to about \$401 from \$374. At the same time, the total annual Social Security payout will climb to about \$155 billion from \$144.6 billion.

In a related matter, hospital administrators are making hasty decisions by opting out of the Social Security program, says Health and Human Services Secretary Richard Schweiker.

Leaving the program harms both the public and employees because it "undermines" confidence in the system, Mr. Schweiker said.

The Social Security Administration has received about 270 requests from non-profit hospitals to withdraw from the public retirement program.

Under the Social Security Act, non-profit organizations and local and state governments can withdraw from Social Security after a two-year waiting period.

Mr. Schweiker said he hopes that some of the hospitals will change their minds before the two-year waiting period expires.

While private pension plans may cost less, they cannot provide benefit portability for employees who change jobs or increase benefits to match the inflation rate, two key features that Social Security offers, Mr. Schweiker said.

Tort reform bill

A federal product liability law that would pre-empt state tort laws is necessary, an influential California congressman says.

"The interstate character of the manufacture and distribution of products necessitates a clear, uniform (federal) law," said Rep. Henry Waxman, D-Calif., who plans to introduce such a bill. Two others already have been introduced.

Speaking before a product liability conference sponsored by the National Legal Center for the Public Interest, Mr. Waxman, chairman of the House Health and Environment subcommittee, said a federal bill should clarify manufacturers' defenses in cases where products are altered or modified.

In addition, old products should not be judged by today's standards, but by those prevailing at the time of their manufacture or date of sale.

While Mr. Waxman said manufacturers should be given a stronger defense against liability in cases involving products that are more than 10 years old, he rejected an absolute liability cutoff based on the age of a product.

"I would not include in federal legislation a statute of repose which absolutely bars a suit," Rep. Waxman said. "Statutes of repose, no matter how carefully crafted, also invite ridicule by barring meritorious suits."

Agent Orange study

The Reagan administration is moving forward to discover the possible health hazards posed by exposure to the herbicide Agent

washington

Orange.

The science panel of the White House Agent Orange Working Group has approved a pilot study, the last preliminary step before launching a massive survey of 18,000 Vietnam veterans who may have been exposed to Agent Orange during their tours of duty.

"Results (of the survey) are expected to provide the administration with policy guidance for action and possibly new legislation, if warranted," said Secretary of Health and Human Services Richard Schweiker.

Other research efforts coordinated by the Agent Orange Working Group include:

- The so-called Ranch Hand Study, in which the health of 1,200 Air Force personnel who sprayed Agent Orange on the Vietnamese countryside will be compared with the health of 1,200 Air Force members who did not participate in the Agent Orange missions. Preliminary results are expected in 1983.

- A study by the Centers for Disease Control in Atlanta that will use a registry of 7,500 children with birth defects to determine if exposure to Agent Orange increases the risk of fathering children with birth defects. The study is expected to be completed by September 1983.

Between 1965 and 1971, the Air Force dumped about 12 million gal-

lons of Agent Orange to destroy jungle cover.

Military personnel who served in Vietnam claim exposure to Agent Orange has led to a variety of disorders including rashes, personality changes and birth defects in their children.

Thousands of those veterans are now suing the major manufacturers of Agent Orange. The outcome of the federal government's research efforts could have a major effect on the outcome of that litigation.

Longshore Act

A construction company and its insurer have asked the Supreme Court to review an appellate court decision that said under the federal Longshoremen's and Harbor Workers' Compensation Act, bene-

fits must be considered as wages when calculating a workers compensation award.

Both Morrison-Knudsen Co. and Liberty Mutual Insurance Co. have asked the high court to overturn the decision by the U.S. Court of Appeals for the District of Columbia.

In that ruling, the appeals court said if the cost of benefits received by an employee can be identified and calculated, they must be included in the average weekly wage on which the workers compensation award is based (BI, Feb. 8).

The appellate court ruling is a radical departure from the 50-year-old method of basing workers compensation benefits on wages only. If upheld, the appellate court ruling could sharply increase work comp costs.

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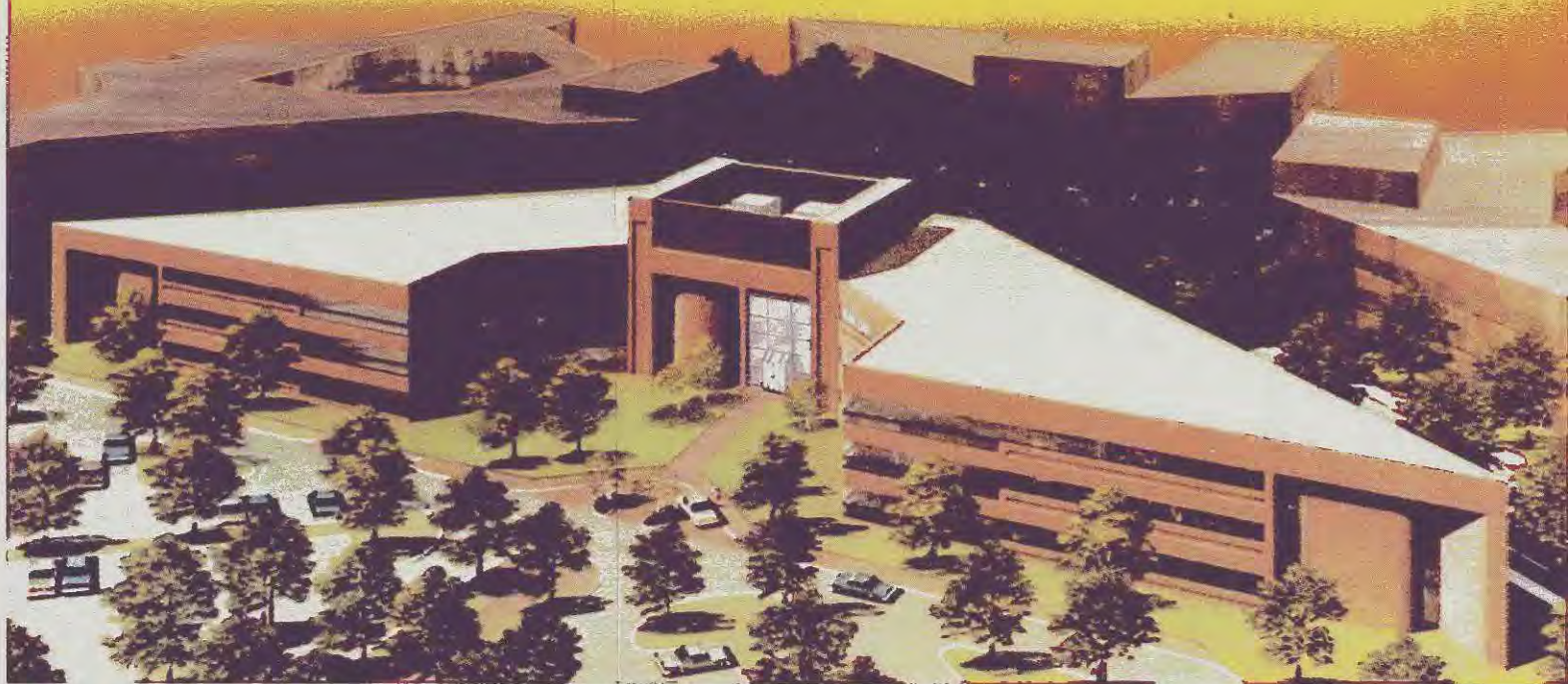
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Paton named risk manager at Insilco Corp.

Richard R. Paton has joined Insilco Corp. in Meriden, Conn., as director of risk management, a new position. Mr. Paton will be responsible for the company's risk and insurance programs. He formerly served as risk management coordinator with Pratt & Whitney Aircraft Group of United Technologies in East Hartford, Conn. Prior to that he served in the property/casualty special accounts marketing department in the Hartford and Boston offices of The Travelers Insurance Co. He received a bachelor of science degree



Mr. Paton

of arts degree from St. Lawrence University. Both report to Ronald J. Rakowski, compensation and benefits manager.

comings & goings: buyers

in marine engineering from the Mairie Maritime Academy in Castine, Mairie, and master of science in engineering and master of business administration degrees from Rensselaer Polytechnic Institute in Troy, N.Y. He is also the program chairman of the Risk & Insurance Management Society. Mr. Paton will report to John A. McLendon, executive vp.

Great Northern Nekoosa Corp. in Stamford, Conn., has promoted **John Slattery** and **Sibyl McBride** to newly created positions in the company's compensation and benefits department. Mr. Slattery, 36, is now senior benefits administrator,

handling all of the company's and its subsidiaries' benefit plans. He has held cash management positions at the company since 1972, and he was previously employed at Fepsico Inc. in Purchase, N.Y. Mr. Slattery received a bachelor of science degree in finance from Syracuse University. Ms. McBride, 33, is now senior personnel administrator. In addition to recruiting and salary administration, Ms. McBride is also responsible for employee benefits orientation. She has held employee relations positions with Union Trust Bank in Stamford and Butterick Fashion Marketing, a division of American Can Corp. in New York. She received a bachelor

of arts degree from St. Lawrence University. Both report to Ronald J. Rakowski, compensation and benefits manager.

Michael A. Marra, 40, has been appointed benefits counsel at the Lexington, Ky., office of Ashland Oil Inc. In his new position Mr. Marra handles legal matters affecting the company's employee benefit plans. He also served as benefits compliance manager and plan administrator for Carborundum Co. in Niagara Falls, N.Y., and was a member of the law firm Phillips, Lytle, Hitchcock, Blaine & Huber in Buffalo, N.Y. He received a bachelor of science degree from the U.S. Naval Academy in Annapolis, Md., and a juris doctor degree from the State University of New York in Buffalo. He replaces

David Schroer, who is now with Phillips Petroleum Co. in Bartlesville, Okla. Mr. Marra reports to Henry K. Benson, director of personnel and services.

Terry R. Moulder, 34, is the new property and risk manager at Teleflex Inc. in Limerick, Pa. Mr. Moulder supervises loss prevention and property/casualty coverage for the company. He most recently served as the risk management director for Jones Motor Co. in Spring City, Pa., and also worked in the claims department of Liberty Mutual Insurance Co. in Philadelphia. Mr. Moulder received a bachelor of science degree from La Salle College in Philadelphia. He is secretary of the Delaware Valley Chapter of the Risk & Insurance Management Society and is secretary of Delta Dental of Pennsylvania's board of directors. He reports to John F. Schoenfelder, Teleflex's secretary/treasurer, and succeeds **A. Walter Lukens**, who died recently.

The Metropolitan Government of Nashville and Davidson County, Tenn., has appointed **Janis D. McCormick**, 35, assistant director of risk management. She will assist in supervising the government's self-insurance and insurance coverage, claims and employee safety, as well as office management. Ms. McCormick held positions at Jack Brandon Insurance Agency and Carroon & Black Corp., both in Nashville. She attended Cumberland College in Lebanon, Tenn. Ms. McCormick reports to Robert L. Sinclair, director of the department of risk management.

We'd like to report on staff changes in your risk management or employee benefits department. Just drop a note to **Sallie Drury**, Editorial Assistant, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611, or call 312-649-5398.

GRE to lead Law Society's liability cover

LONDON—Guardian Royal Exchange is replacing two Lloyd's of London syndicates as lead underwriter for the British Law Society's professional liability coverage.

Although GRE plans to increase the rates charged to Law Society members by 26% in September, the society accepted the bid because it is "substantially below" the rate that the two Lloyd's syndicates—the G.N. Rouse and the Frank Barber & Others syndicates—offered in light of the plan's poor loss experience.

The 21,500 solicitors covered under the scheme will have to pay premiums ranging from 1,000 pounds (about \$1,870) to 1,300 pounds (\$2,431) in the 1982-83 policy year, compared with about 310 pounds (\$580) when the plan was begun in 1975.

The Law Society pays about 20 million pounds in annual premium for the coverage.

"The effect of inflation and the deteriorating claims record meant inevitably that all the quotations received from Lloyd's and the company market involved an increase in total premium requirement. But the Guardian Royal Exchange quote was substantially below all others, including the present lead underwriters," the society said.

The switch is significant because Lloyd's underwriters have led the risk since it was begun seven years ago.



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J&H names Edwin Knetzger president

Edwin L. Knetzger Jr. has been named president of Johnson & Higgins in New York.

Mr. Knetzger succeeds **Robert V. Hatcher**. Mr. Hatcher, as previously announced, was named chairman. He also will continue to serve as chief executive officer of the privately held brokerage company.

Mr. Knetzger was formerly head of J&H's Philadelphia office. He also spent 11 years at Prudential Insurance Co. before joining Johnson & Higgins in 1959.

Mr. Hatcher replaces former Chairman **Richard I. Purnell**, who retired last year.

Other agent/broker changes:

B. Michael Schlenke named president and chief executive officer of Alexander Howden Group U.S. Inc., a subsidiary of Alexander

comings & goings: industry

Howden Group Ltd.

Also, **William Isom** named resident vp for the Dallas branch of Alexander Howden Insurance Services.

Michael J. Burica promoted to vp and Midwest regional coordinator of Reed Stenhouse International Inc.

R.C. Hug Jr. joined E.H. Crump Cos. Inc. in Memphis, Tenn., as vp. Mr. Hug will be responsible for the Crump-affiliated property/casualty insurance agencies in developing and marketing new insurance programs.

Mr. Hug was previously employed as president of Corroon & Black of Memphis.

Insurers

Arthur Phillips joined The Home Insurance Cos. in New York as senior vp responsible for all casualty underwriting operations. He was previously vp at American International Group Inc. Also at The Home, **Fouad A. Mina** promoted to senior vp with responsibility for Association Marketing, a trade and professional association, franchise owners and risk retention pools unit. He will retain his duties as the head of the The Home's risk management services department. Mr. Mina has been with The Home since 1977.

James H. Schaarsmith ap-

pointed regional vp and manager of the Zurich-American Insurance Cos. special risk regional office in New York. Mr. Schaarsmith was most recently with Liberty Mutual Insurance Co. in New York.

Gerald L. Geers promoted to executive for central states operations for Fireman's Fund Insurance Cos. in San Francisco. He was previously the Chicago branch manager. Mr. Geers succeeds **Robert B. Thomas** who is retiring.

Christian R. Jensen named senior vp for the group underwriting and trust division at Central Reserve Life of North America Insurance Co. in Berea, Ohio. Prior to assuming this newly created position, Mr. Jensen was vp of group administration at Security Benefit Life Insurance Co.

Andrew S. Frazier elected se-

nior vp of finance of Westco Insurance Group in Ramsey, N.J. Mr. Frazier was most recently a senior vp and member of the board of Schroder Capital Management Inc.

Reinsurers

Three were promoted at Armco Reinsurance Managers Inc. **Juan F. Roman** named vp of marketing. He was previously a senior underwriter with Armco Financial Services Group's Latin American office. **Michael S. Hanuschak** named vp of property underwriting. Mr. Hanuschak was a property underwriter in the Latin American office. **Harold Stewart** named vp of casualty underwriting. Mr. Stewart was most recently facultative underwriter at the Coral Gables, Fla., office.

Few sign up for IRA plans, study shows

LINCOLNSHIRE, Ill.—More employers are setting up payroll-deduction Individual Retirement Account programs for their employees but few workers are signing up, according to a recent survey.

Just 4% of employees at 12 companies that recently established IRA payroll-deduction plans agreed to make contributions to the IRAs, according to Hewitt Associates, a Lincolnshire, Ill., benefits consulting firm.

Participation in the IRA payroll-deduction programs ranged from 1% to 10% of eligible employees among the companies Hewitt surveyed.

But several of the companies believe that participation rates will climb sharply as more employees examine the new retirement savings option.

Payroll-deduction IRA programs were made possible by the Economic Recovery Tax Act of 1981, which allows employees to make tax-deductible voluntary contributions to an IRA of up to \$2,000 a year. And some employers, like the dozen that Hewitt surveyed, want to make it easier for their employees to take advantage of the IRA option by offering investment opportunities through payroll deductions.

One East Coast company, where less than 2% of 10,000 employees joined a payroll-deduction IRA program the firm set up last month, says that as many as 20% to 30% of employees eventually will participate.

One Midwest-based company reports that less than 1% of its 5,000 employees are participating in its payroll-deduction IRA program. However, the company says a "wait-and-see" attitude is the reason for the low employee participation rate.

Companies that have set up payroll-deduction IRA programs are offering their employees a wide range of investment options, according to the Hewitt survey.

For example, one Midwestern company permits employees to choose from among 12 IRA funds. Most companies offer between six and nine IRA investment choices, Hewitt says.

One East Coast company reported in the survey that administration of its payroll-deduction IRA program is burdensome. But other firms said they were happy they set up such programs because of the "good will" they offered to employees.

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Rate cuts put mass-marketing efforts on hold

Continued from previous page

The mass-marketed packages include extras because the policies are tailor-made for the industry, explains Charles Rinehart, senior vp for Fireman's Fund Commercial Group and president of Famex, the insurer's mass-marketing arm.

A broad and tailored policy design tells potential policyholders that the insurer knows something about the industry and has made an investment in the market, he says.

At least one mass-marketing group, Famex, actually trains its agents and brokers directly in the special exposures of a targeted industry.

That shows a commitment to the industry, the mass marketer says. When rates begin to rise and coverage for some industries becomes hard to get, the insurer and mass-marketing group it owns or spon-

sors will still be selling coverage to the industry it had invested time and effort in.

Commitment to an industry and willingness to continue coverages and rating structures over the long haul is perhaps the most important sales tool used by agents currently selling mass-marketed programs. It's also a reason why many agents, even those who are not now selling a large volume of association plans, believe mass marketing is going to be a major industry force.

"When the war is over, businesses will look at past performance (when choosing insurance)," says Stephen A. Warner, executive vp for Ulrich Voorhees Warner Associates in Somerset, N. J., and a Famex member.

Mass marketers now have a track record for coverage in many

industries; they're no longer the new kid on the block. They have an advantage over insurance companies that have recently entered markets in search of premium dollars that don't have a lot of experience with that type of coverage, adds Stephen Jackman, president of Seitlin & Co. in Miami, who like Mr. Warner is a founding member of Famex.

About 6% to 8% of Seitlin's \$18 million annual premium volume stems from Famex products, Mr. Jackman notes.

But volume and commission is not the whole value of the agency's Famex relationship, he says.

Seitlin has received another valuable asset from the mass-marketing group: "They taught us discipline," he says.

Before signing a Famex contract,

the Seitlin agents "were typical" of most of their counterparts around the country, Mr. Jackman relates. "We weren't soliciting agents" who spend the lion's share of their time out in the field, he explains.

Famex taught the agents to go out selling. "We're really a cross between an independent agent and a direct writer now, but more like a direct writer."

Unlike their mass-marketing competitors, Famex contractually requires agents to follow up on the programs they solicit, Mr. Warner says. The mass marketer can then guarantee the association that all members have been contracted.

Under other mass marketers' structures, there's no guarantee that all association members will be contacted by an agent, he says.

In return for signing a rather

strict contract agreeing to contact all leads furnished by Famex, the more than 200 member agents are guaranteed exclusivity. Famex will only market its products through those agents, Mr. Rinehart says.

Because of the Famex contract, "we've grown to be a marketing company," Mr. Warner says. "There have been a number of accounts (that started as Famex leads) that we got because we constantly followed up."

Not all groups maintain that close of a relationship with their agents. Marketpac, for example, will work with non-Marketpac agents if individual businesses so request, according to Raymond T. King Jr., the group's executive vp.

For example, if Marketpac offers a program for garden nurseries and receives the association endorsement, the association may send out a mailing to all members announcing the program, Mr. King says.

Marketpac also sends a kit with the necessary information about the nursery package to its member agents. "We suggest our agents contact leads within 48 hours," Mr. King notes.

Marketpac also continues to promote the program directly to the nursery owners. So, a member of the association may direct his or her agent to get a quote from the insurance company sponsored by the association, Mr. King says.

Marketpac will then work with the designated agent on the coverage. If no agent is specified by the

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Mr. Rinehart

potential policyholder, the Marketpac agent continues to solicit the coverage until the client specifies preference for another agent, he adds.

Marketpac actually places more business through non-member agents than through its more than 300 members. "About 65% of Marketpac's clients want their own brokers," Mr. King notes. "We feel strongly about letting the consumer specify whom he wants to do business with."

Most mass marketers and their agents note that the strength of the association can make or break a project. On one hand, a strong association that its members trust can be the strongest selling point for an agent that has the association's backing.

On the other hand, if an association doesn't have much clout with its members or it doesn't throw its weight behind the insurance program, the mass-marketed coverage may just be another non-distinctive insurance policy to choose from.

An industry with a weak association, however, will not destroy all chances of sales, mass marketers say. Marketing Management Inc. has found a way to reach those industries (see story, page 58E).

But agents can't sit back and let associations do all the selling either, agents say. The association backing is just a foot in the door.

"You can't lose sight of the cus-

tomers," Mr. Jackman notes. "You have to sell yourself and make (the association member) your customer." You have to replace the agent who sold the client his insurance in the past and, with luck, sell as many other lines of coverage as possible to a client picked up through an association plan.

Many agents note that they added to their workers compensation and personal lines business through their association contacts.

Since associations play such an important role in the success or failure of a mass-marketed effort, some industry sources charge that kickbacks and endorsement fees run rampant through the business as the group packagers compete for sponsorship. Government regulations, however, forbid rebating for association help in property/casualty lines.

Mass-marketing group principals say they don't reward associations for successful mass-marketing efforts, but they will, however, rent membership lists and participate in association functions.

One mass marketer warns that solicitors be wary of groups looking at the insurance as a money-making proposition.

A mass-marketing company may want to reimburse an association for advertising expenses, notes Steven Williams, executive vp of operations for Marketing Management Inc. "But if (association executives) start asking about commissions right away, walk out the door. They're going to be more trouble than they're worth."

Mass marketers are also eliminating the use of their own member agents in developing coverage. MMI, for example, has historically used its agents to help design programs for associations they know, but that's changing slowly, according to President Ken L. Williams.

"Instead of reacting (to members' efforts to reach associations), we need to be identifying industries for potential programs," he comments.

MMI has started to use its own staff to do more marketing research, Mr. Williams says. "We're picking our own shots and finding where insurance problems exist."

MMI staff members haven't taken over all of the investigation into new opportunities, however. For example, Jim Ferrer, manager of Ferrer & Associates Insurance Services in San Francisco, is putting the finishing touches on two new

agents that originate programs may just make initial contact and let Famex staff follow through. For that, those agents get a finder's fee.

With other programs, members stay involved until the program is developed, similar to MMI's system. And like MMI agents, they receive a small commission on all policies written for the industry, in addition to commissions on policies they personally sold.

Commissions on mass-marketed programs range from less than 10% to 15%. The actual commission usually depends on how much effort a program requires.

Some MMI programs are serviced more heavily by the mass-marketing group's staff than by the agents. Under one group plan, for example, MMI gets a quote prepared on a business before the agent gets the prospect. For those policies, agents receive 10%. On other business, when agents receive leads but make the initial contact, commissions range up to

'If (association executives) start asking about commissions right away, walk out the door. They're going to be more trouble than they're worth,' Steven Williams says.

13% of premium.

Mass marketers generally push the need to follow up on leads and in some cases, such requests fall on less-than-enthusiastic ears.

Turnover rate among members of mass-marketing groups varies among the groups. Famex, on one hand, has a turnover rate of less than 10%, according to Mr. Rinehart.

On the other hand, Marketpac does more replacing agents "than anything else," Mr. King notes. The group spends a lot of money advertising, he says, actively soliciting members and advertising that its

groups are open, allowing non-Marketpac agents to sell its programs.

Marketpac adds agents until all territories are filled—about 300 agencies. "Agents join and for any number of reasons don't follow through," Mr. King notes.

A lack of enthusiasm can be damaging to a mass-marketing effort, he adds. "Lack of participation is what draws down this program."

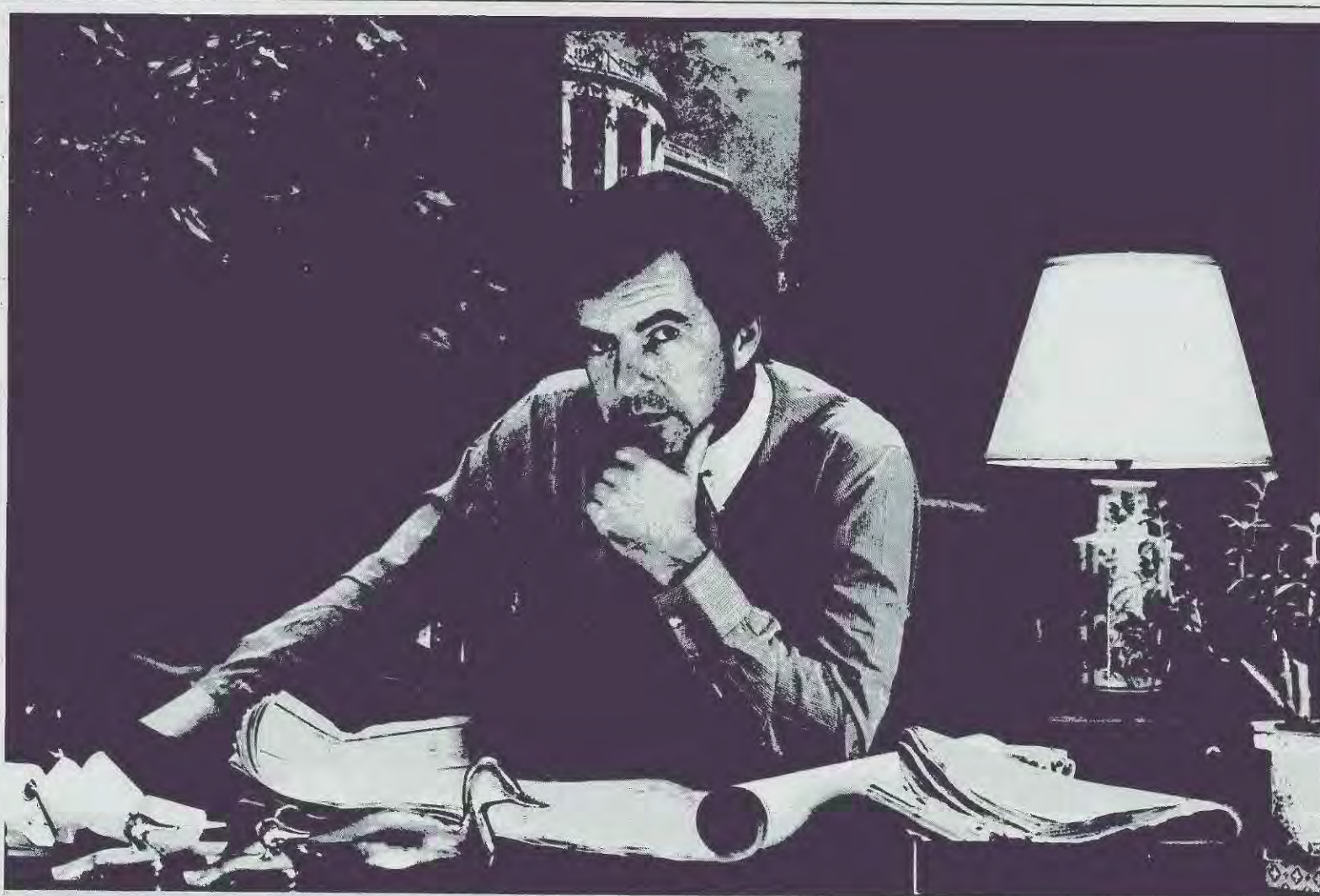
The drain, however, hasn't caused a major problem for Marketpac. Sales have jumped to \$38 million last year, from \$1 million two years earlier, Mr. King notes. It

is predicting another huge leap in 1982, with expected sales to hit \$65 million.

Enthusiasm for mass-marketed programs, both among associations and many agents in the insurance industry, accounts for much of the sales increases, Mr. King says. Mass marketing is going to continue and increase its strong showing, he emphasizes, echoing others in the industry.

Some agents and mass-marketing principals are looking even beyond the time when current market conditions become less competitive and rate-slashing abates. Individual contact will become a thing of the past, they say, particularly for smaller commercial accounts and personal lines. Computers will take over, selling the packaged plans to fill insurance needs.

And agents with that foresight want to get in on mass marketing before it takes off. They want to be on the other end of those computer terminals.



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Mr. King

association programs.

Mr. Ferrer discovered the industries' need for a comprehensive package to solve specific problems in working with individual industry members, he notes. He approached MMI with the groups and made initial contacts with the associations. New MMI programs will soon blossom from the efforts.

Rewards for efforts by members like Mr. Ferrer's can be substantial, depending on the success of the program. Originating agents usually receive about 1.5% commission for all business written for that program.

Commissions for originating agents differ among the various mass-marketing groups. Famex

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Big brokers' mass-marketing efforts small

NATICK, Mass.—Independent agents needn't worry that the big brokers will try to steal their mass-marketing business.

At a time when national brokers rank at the top of virtually everyone's list of threats to independent agents, mass marketers can breathe a sigh of relief.

None of the large brokers are heavily into mass marketing, and it doesn't look like they're anxious to expand the small mass-marketing departments they do maintain.

Size of accounts is perhaps the biggest drawback to mass marketing from the large brokers' perspective. While many of the thousands of associations are made up of small businesses, their individual members don't yield a large enough premium to cover the national bro-

A/BT

kers' overhead.

"You can't profitably sell a \$1,000 premium account on an individual basis," says Thomas W. Abell, president of the Association Management Services Division of Corroon & Black in Miami.

Much of the association work Corroon & Black handles consists of setting up pooling groups and coverage under the 1981 Risk Retention Act.

Other brokers agree. Johnson & Higgins' mass marketers focus on associations whose members' accounts are the size that the broker would solicit on an individual basis, notes John P. Keyser, senior vp

and director of the New York-based firm.

Large brokers, however, haven't totally written off small accounts as untouchable. Computerization may put small business associations within the national brokers' reach.

"As we and others develop sophistication with computers, some things that would be too expensive to deal with now may become profitable," Mr. Keyser says.

Unprofitable premium size, however, isn't the only drawback to mass marketing for the national brokers. Not being able to reach all association members is the bane of many big-brokers mass marketers' existence.

Since the national brokers have only a handful of principals actively soliciting mass-marketed

plans, they can't personally contact all association members. Promises are made to association executives that members will be contacted but they aren't kept, one mass marketer notes.

That problem, however, isn't confined to mass-marketing efforts of the large brokers. They note that mass-marketing groups of independent agents face the same dilemma. They must also depend on agents all over the country to contact association members with no guarantee their members will make the contacts (see story, page 58A).

"No broker or agent has a large staff doing association work. They have to use sources in the field," Mr. Abell says.

"When you deal with a national association, no agent or broker has the capability to provide that na-

tional base."

To try to solve that problem, Alexander & Alexander has recently developed a plan to offer independent agents a chance to sell A&A mass-marketing programs, according to Ronald Krebs, vp in charge of production at Alexander & Alexander of St. Louis.

Local agent involvement is a key to the success of the mass-marketing efforts by big brokers, he says. In return for collecting premiums, servicing accounts and reporting losses through Alexander & Alexander, the local agent receives half of the commission the broker earns on each account.

Whether A&A's program is the answer to the solicitation problem remains to be seen. "There's still no way to know if producers in an agency that has a program from A&A will make those calls," Mr. Krebs says.

However, the large brokers can avoid the distribution problem connected with national associations, Mr. Krebs notes. A&A has maintained better control over a program by marketing a plan through



Mr. Krebs

local or regional associations rather than the national group, he says.

"In a local or regional association, the members know and have access to the executives, while they may view the national association as remote and self-serving," Mr. Krebs explains.

Another mass marketer agrees, citing other advantages to working on a local or regional basis. Consistent underwriting standards can be obtained when the program is less broad-based, he says. With national accounts, on the one hand, the broker may be dealing with several branch offices of an insurance company, with each small office varying its underwriting standards a little bit.

On the other hand, if a mass-marketed plan covers members of a regional or local chapter of an association, underwriting will probably be handled through one branch of an insurance company.

Narrowing the scope to a local or regional association may allow a broker to handle all the group's members, overcoming that obstacle.

Whether the large brokers want to extend the effort to overcome the obstacles to success in the mass-marketing area is another question. The answer depends on how profitable they perceive mass-marketed plans to be.

Brokers do think that some mass-marketed plans are worth fighting for. For example, they have fought for years over the McDonald's Corp. endorsement for coverage for its 4,000 franchises (BI, Oct. 12). How far they're willing to extend the battle to other mass-marketing efforts remains to be seen.

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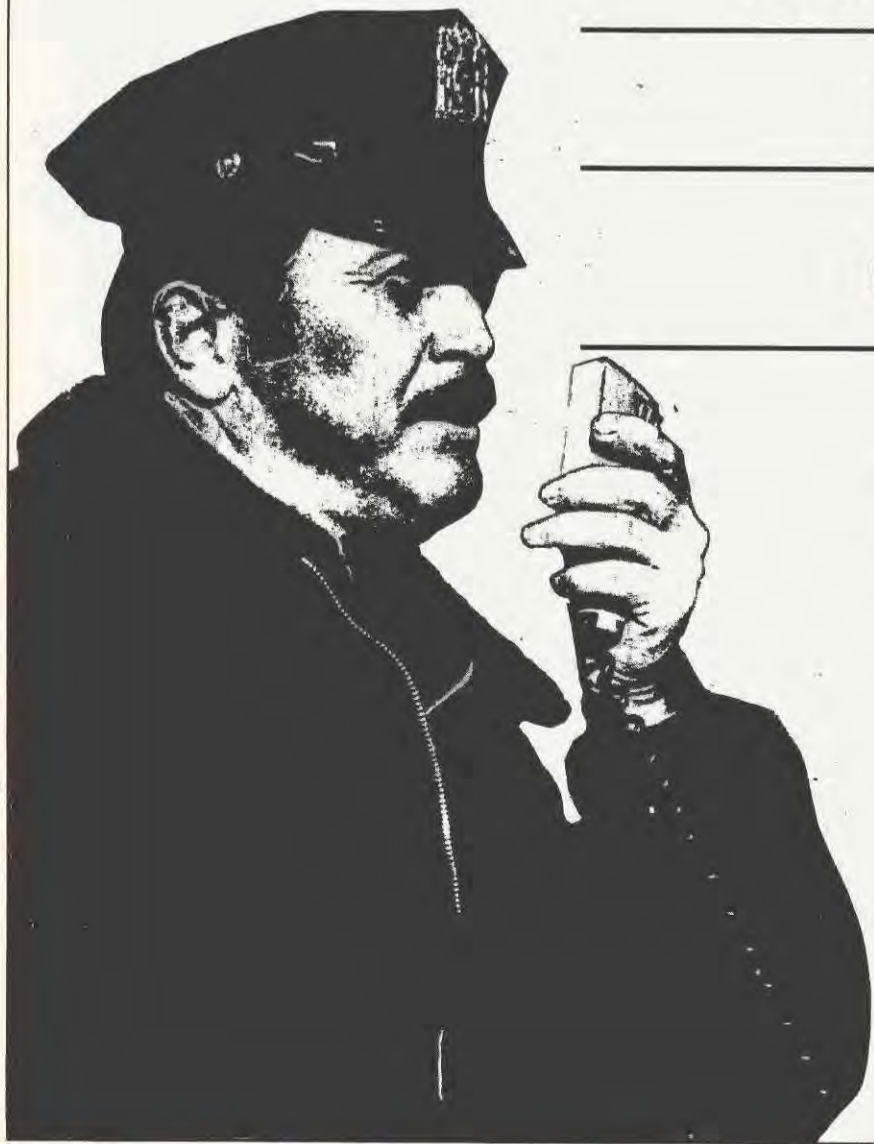
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MMI meeting

Set up association to peddle program

NEW ORLEANS—Industries that don't have strong associations aren't off limits to mass-marketing insurance groups looking for an industry endorsement.

One mass marketer says if you can't find an association in the industry with enough clout to help your program, form an alternative yourself.

Marketing Management Inc. has formed about seven quasi-associations, called insurance trusts, to help market programs designed for specific industries, according to President Ken L. Williams.

Those industries had a need for packaged insurance programs especially designed for their members, he says, making them ripe for a mass marketer's project. Research showed, however, that there weren't associations in any of those industries with enough strength to carry the project.

Strength is the key to finding an association that will support a successful mass-marketing campaign, Mr. Williams stressed. For example, an industry may have an association, but the group only claims a small fraction of the industry as members, he said. Getting that association's endorsement wouldn't be worth the mass marketer's time.

Instead, MMI focuses on other vehicles to reach the industry members. It creates the insurance trust as an entity and advertises it through the industry's trade journals, Mr. Williams explained.

One recently established trust, for example, covers electric sign manufacturers, noted Steven Williams, executive vp for operations for MMI.

After determining that the industry didn't have a far-reaching association, the mass marketers established the trust, filing the appropriate papers with the Federal Trade Commission. The trust is not an association, Steven Williams emphasizes. A new association requires far more preparation and depth.

The trust simply serves two purposes. It distributes the dividends from a profitable insurance program to members of the trust and establishes a safety committee for those members.

The safety committee for the electric sign manufacturers includes industry members, MMI staff representatives and the MMI agent who originated the project, Steven Williams says. That committee will come up with a basic loss-control program that the average industry member can use.

The loss-control program and the dividend plan give the trust tangi-

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ble assets—elements agents can play up when selling.

While developing an insurance trust may not be as effective as finding a good association sponsor, Steven Williams notes, "It may be more influential and less trouble than a weak association."



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Mass marketing

NEW ORLEANS—Mass-marketing opportunities were among the subjects discussed at Marketing Management Inc.'s recent annual meeting in New Orleans.

Business Insurance Associate Editor Donna Leigh Yanish attended the annual meeting, which also featured workshops and seminars on advertising, strategic planning and getting a grasp on the future.

The articles on pages through 58K explore some of the issues discussed at the meeting.



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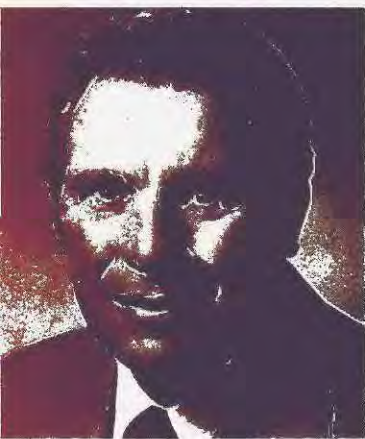
NEW ORLEANS—Far-reaching strategic planning is essential for independent agencies. But successful planning doesn't necessarily mean those agencies will exist in the next decade.

What strategic planning is and how one small insurance brokerage used its own plan to become one of the largest brokerages in the country were the topics of speeches by Robert A. Leibold, president of Northbrook Property & Casualty Insurance Co. of Northbrook, Ill., and Bernard H. Mizel, president and chief executive officer of San Francisco-based Jardine Insurance Brokers Inc., to agents at Marketing Management Inc.'s annual conference.

Northbrook, whose operations include more than 700 commercial agencies, uses a running five-year strategic planning process, noted Mr. Leibold. Each year, the insurance company's long-term business plan is reviewed and updated, and Northbrook continuously monitors and analyzes its business environment, he explained.

The planning process itself contains seven basic steps, Mr. Leibold said:

- Define the mission. This definition stakes out the arena in which the agency will operate. It's important to begin with a clear idea of these elements, Mr. Leibold noted, because they greatly influence the remainder of a strategic



Mr. Leibold

plan.

- Formulate goals. These goals are "clear statements of what you want to achieve within a given time period," Mr. Leibold explained.

- Analyze the environment. This analysis is a description of the world in which an agent will operate in the future—and the opportunities and threats facing that agent.

Elements of the environment that deserve the agent's attention include the effects of the economy, changing demographics, a specific outlook for the industry and analysis of the competition.

"Honestly analyze your own strengths and weaknesses, your own resources and abilities, including your client services and delivery systems," Mr. Leibold suggested.

- Select strategies. This is the step you've been building to reach. Major strategies are the most important part of the plan, Mr. Leibold stressed.

- Develop programs. At this point the agency puts its strategies into action.

- Produce a long-range financial plan. This financial forecast is the end product of careful thought about the future, Mr. Leibold said. It includes all the key ingredients of the long-term profit and loss statement and balance sheet: expected revenues, returns, manpower and capital requirements, as well as expenses.

- Consider contingency plans. No matter how strong a plan appears to be, it needs a strong

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backup.

At this step the agency must develop alternative strategies and possible revised goals to prepare for events that could have a significant impact on the agency's future. "This we also must undertake in order to prosper in today's environment," Mr. Leibold stressed.

Success in today's environment isn't determined today; it was determined years ago when the players in the market, like Northbrook and what is now Jardine were developing their strategic plans, Mr. Mizel said. That means that unless agents and brokers make some firm decisions today, they're seal-

ing their fate for tomorrow.

Don't fall victim to the miscalculations many agents make, Mr. Mizel warned. Those marked-for-death agents confuse 1990 with the future.

But 1990 isn't the future, he stressed. "The events of 1990 are being decided and shaped and managed right now.

"Even as we meet in this room," Mr. Mizel told the MMI agents, "men and women all over the country are attempting to anticipate and exploit the insurance distribution possibilities of 1990."

"Think of it. Men and women all over America trying to formulate methods of walking away with books of business."

These highly educated people come from a wide range of backgrounds, Mr. Mizel said. "Some of

them are veteran insurance professionals and many of them wouldn't know a premium order from a laundry ticket," he contended.

These future movers and shakers in the insurance industry may not work within industry today, Mr. Mizel notes. Rather, they're employed by securities brokerages, banks, savings and loans, giant retailers, steel manufacturers and a myriad of other industries. The managements of these companies are looking toward integration, deregulation and convergence in financial markets, including the insurance industry, he said.

These schemers and plotters who may be devising ways right now to take over agents' books of business aren't necessarily, however, enemies to those agents, Mr. Mizel continued. "They might be. But maybe

not. Plenty of surprising things can happen in the short 7½ years to 1990."

Using his own brokerage to illustrate, Mr. Mizel pointed out how agents, too, with their own strategic plans, can participate with the movers and shakers shaping the insurance industry.

Like most of the agents in his audience, Mr. Mizel joined his firm, Albert M. Bender Co. in San Francisco, when it was still a local broker. That was in 1964 when "we had five employees and gross commission revenues of only \$60,000," he noted.

The firm didn't stay static, however. Albert M. Bender grew steadily and by 1972 it had gross commission revenues of \$1.3 million. Within a year, the brokers felt strong enough to expand through



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acquisition, Mr. Mizel said.

One of the goals the brokerage had established within its strategic planning process was to better service a growing book of business in Southern California. Toward that goal "we acquired three Los Angeles-area brokers," Mr. Mizel pointed out. And by 1977, the firm's commissions and fees had grown to \$5.3 million.

While the brokerage was riding high on its accomplishments, however, it didn't let its planning process fall by the wayside. It continued to look toward the future and feared that it wasn't positioned to continue its growth pattern into the 1980s.

That fear, Mr. Mizel explained, was based on an analysis of the environment, a step Mr. Leibold pointed out as essential to a successful strategic plan.

"About 7½ years ago, I realized that the insurance industry was headed for some radical adjustments," Mr. Mizel said.

Those adjustments included new competition for regional and local accounts from many different directions, continued growth of national brokers in Bender's territory and direct writers interested in personal lines and small property/casualty accounts, he explained.

While these encroachments were approaching, Albert M. Bender was far from unable to ward off their attack. While analyzing the environment, the brokerage didn't lose track of its established position in the scenario. "I know that local and regional accounts, even some relatively small ones, had been profitable pieces of business for us," Mr. Mizel said.

There had to be reasons why others were zeroing in on the small and medium-sized brokers' territory. Changes had to be occurring in the environment, creating gaps that weren't being filled by the brokers that traditionally served the

'We wanted to grow to take advantage of economies of scale and be cost-efficient,' says Mr. Mizel.

local and regional accounts, Mr. Mizel said.

"That void was being created by two trends," he theorized, "increasing complexity of small business insurance needs and growing sophistication of managers of small businesses."

Small and medium-size business created the potential niche for Albert M. Bender, Mr. Mizel said. The big brokers, at that time, couldn't serve that segment of the market cost-efficiently, and business was good in other segments of the market.

But the need was there. The

small and medium-size businesses weren't being served by the big brokers, but they needed insurance products that most local or regional brokers just couldn't offer them, Mr. Mizel said.

Bender, however, had been successful in filling the needs of this group of businesses in the past. "We had the basic expertise within our company to solve the emerging risk management problems of this new sophisticated class of prospects," Mr. Mizel noted. But as the environment changed, the brokerage had to plan a strategy for the change as well, or they couldn't ward off the potential enemies coming near.

"The things we lacked were presence outside the West Coast and the sufficient capital to acquire other brokerage firms to meet this need," Mr. Mizel said. "We wanted to grow to take advantage of economies of scale and make ourselves more cost-efficient."

With growth as a goal and a clear

view of the environment, Albert M. Bender was ready to analyze and select strategies to meet that goal. The broker saw three options. First, it could sell shares of stock to the public. After its review of the environment including stock market conditions, the broker was able to rule out that strategy, Mr. Mizel said.

"The second option was to take on a major insurance carrier as a financial partner," he continued. That option, however, didn't seem to fit with the broker's goals.

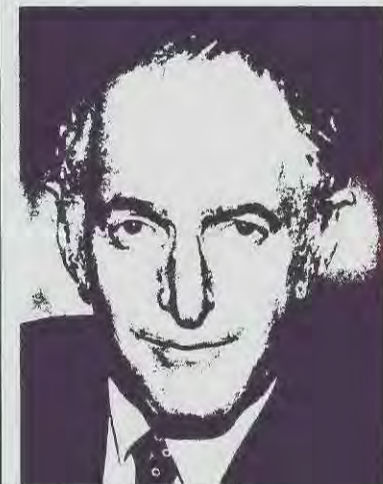
Finally, the broker could sell out to a compatible company with the deep pockets needed to meet Bender's goals, Mr. Mizel said. "We also hoped to identify a buyer with sufficient financial management and administrative depth to support our ambitious expansion plans," he added.

This was the strategy Bender selected.

Discussions with possible candidates for the sale focused on not only Bender's strategic plan, but also the potential buyers' plan as well. In choosing Bache Group, Bender noted that they had both the financial muscle to go along with its financial expertise, and the desire to diversify. This desire meant that Bender could fit into the buyer's strategic plan.

"The Bache Group wanted to learn more about insurance and risk management," Mr. Mizel noted.

The program the two companies developed to put their now common strategic plan into action was



Mr. Mizel

one of mutual education, Mr. Mizel said. Bache learned about the insurance industry, while the insurance brokers from Bender, renamed Bache Insurance Services, were exposed to the securities business.

The brokers learned how to provide financial services—just what their research in the early steps of their strategic planning deemed they needed to do to meet client needs, Mr. Mizel said.

Statistics suggest Bache Insurance succeeded in meeting those client needs. "In the 3½ years we were owned by Bache Group, our company grew from \$5.6 million in annual commissions to \$33 million," Mr. Mizel pointed out.

The insurance broker, however, tied to the plan it had developed and implemented, Mr. Mizel noted. A takeover attempt was averted through a friendly purchase from The Prudential Insurance Co. of America, he explained.

But those changes forced Bache Insurance Services to at least partially change its plan. "Several potential conflicts of interest were apparent between Bache Insurance Services and Prudential," Mr. Mizel admitted. So, the insurance brokers, with their basic plan in hand, searched for a buyer for the company.

The new parent, Jardine, Matheson & Co. Ltd., once again fits into the brokers' strategic plan, Mr. Mizel said.

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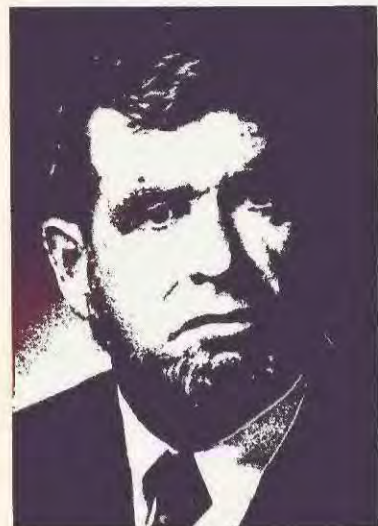
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Agents could dominate industry: Siver



Mr. Siver

NEW ORLEANS—Independent agents control the key to becoming the dominant force in the insurance industry.

That's the message risk management consultant Edward W. Siver gave to agents at Marketing Management Inc.'s recent annual meeting.

While the address was entitled "The Future of the Independent Agency System: One Man's Opinion," Mr. Siver's message has been echoed by many other industry observers.

Agents' strength, according to Mr. Siver, rests in the fact that they own the essence of the insurance business. "They own the market; they own the business; they own the expirations, both de jure and de facto," he said. "Organized and

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committed to common objectives, the independent agents could easily become the dominant force in the industry."

However, disorganization has impeded agents' accumulation of power, Mr. Siver contended. Unorganized and unrecognized, market ownership is worth little to agents, either individually or collectively, he said.

Agent organizations, of course, aren't foreign to independent agents. Indeed, almost every agent belongs to at least one state or national group. But the traditional agent groups have failed to provide agents with necessary leadership,

Mr. Siver explained.

"One of the reasons the national and state associations have not been able to act as a catalyst for this force is because they have been committed to the 'partnership theorem,'" he told the MMI members.

"Most of their activities, such as education, lobbying, Big I advertising, licensing, market studies, have included a close involvement with the (insurance) companies; in fact, more often than not, the companies have been largely responsible for the funding of these association projects," Mr. Siver said.

This close relationship stifles agents' ability to assert their power in the industry, Mr. Siver said. "Under the partnership theorem, the agents' sovereignty has been badly compromised.

"The companies, through their role as big brother and banker, could monitor and tend to the agents' business. The agent had no such vehicle for quid pro quo except the often symbolic 'agents' advisory council' established by some of the companies."

While the insurance companies have enjoyed the upper hand to date, the scene is rapidly changing, Mr. Siver said. "Agents are, for the first time, beginning to form groups and take action independent of the (insurance) companies."

In categorizing these groups, Mr. Siver pointed to franchise and other related organizations, although he notes that even some of these relatively new agent groups, like Famex, MarketDyne and Marketpac, are insurance company-sponsored programs.

Even beyond joining one of these groups, agents have another option for establishing a more distant relationship with the insurers, Mr. Siver noted. "They can individually and collectively enter the risk-bearing business with relative ease through the formation of jointly owned captive or special purpose companies."

Given organization and a relatively short time, agents could build their power base at the expense of the insurance companies, according to Mr. Siver. Insurers, however, don't have a similar, quick-response option, he said.

They can't form a controlled or owned distribution network in an equivalent time frame, as obstacles like litigation, start-up time and start-up costs would make such a move all but impossible, Mr. Siver said.

The insurance industry, however, isn't conceding anything to the independent agent. The insurers have their own battle plan in mind, Mr. Siver said. And that strategy could, if properly executed, bring mutual benefits to both the insurers and the agents.

"The insurance companies want to pare down their shotgun approach to distribution," Mr. Siver said. An agency distribution network does fit into their game plan, he said, but only to the extent it can continue to profitably serve their needs.

Meanwhile, the insurers also want to remain free to employ alternative marketing systems that can maximize their business opportunities and increase premium volume.

"To achieve these objectives, the insurance companies wish to create a closer relationship with fewer, highly selected agents," Mr. Siver told the group.

"The critical problem before the companies is to determine what adhesive or bonding agent can cause the new relationship to occur and have both the (insurance) companies and the agents aware of and comfortable with their objectives that are not always going to be jointly shared objectives," he said.

Agents' fundamental goals are straightforward, Mr. Siver said. "They wish to make a reasonable living during working years and at the appropriate time, convert their equity in the agency by having available a willing and able buyer."

Agents also need to be perceived by their peers and customers as professional, Mr. Siver added.

Both insurers and agents can attain their goals without a battle, Mr. Siver said. But both groups must be willing to change some habits that are 200 years old.

Therefore, they must accept that business opportunities "will not always dictate that they be together or that they even use their respective facilities to achieve their objectives," Mr. Siver said.

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Identity is perhaps the most important asset an agent has when marketing insurance to prospective clients, Robert G. Cleveland, vp of Marketing Management Inc., told member agents at MMI's annual meeting.

The ability to share common experiences with clients adds value to the insurance product agents have to sell, Mr. Cleveland pointed out. That's important in today's market, where traditional product features may not be as valuable as they were in the past.

In bygone days agents had their products' price to help sell the coverage, Mr. Cleveland reminisced. That was especially true for agents selling mass-marketed insurance products that, because they're homogenous pre-packaged plans, generally cost less than traditional insurance coverages.

But price may not be a helping hand anymore—for either mass marketers or other agents.

"If you think you'll always have the best price on the street, that's one thing," Mr. Cleveland said. "But I don't think anybody can guarantee that."

"That leaves you with some hits and a lot of misses with price being the only selling tool for the vast majority of prospects," he concluded.

To effectively reach that majority, agents need a more stable selling tool. They need an asset that's long-lasting, rather than a tool that comes and goes with the market, Mr. Cleveland said.

A carefully chosen identity gives an agent that stability. But an agent must chose that identity in order for it to succeed, he emphasized. After all, an agency already has an identity, whether the agent actively established it or just let it develop.

"You project an identity in everything you present to the public, both in its contents and in its manner," Mr. Cleveland explained. What you say, what designs you use on your stationery, what kind of office you have and the way you present yourself to the public all play a part in establishing that identity.

But, is the image your agency portrays the one you want to present to potential clients? "Keep in mind, it's not what we think that makes the public receptive to us, but rather what the public thinks about us," Mr. Cleveland noted.

Choosing the identity is not an easy job. Focus on not only what you're proud of and what you want to project, but also what will work best in the marketplace (see story, page 58J).

What can you project that potential clients will appreciate and latch onto? Mass marketers, for example, can identify with the association endorsing their product. The association gives those agents a ready common bond with the potential clients who know and trust the group, Mr. Cleveland said.

That association identity may give the mass-marketing agent a competitive edge if it is established properly. But the agent has to build the

foundation, Mr. Cleveland stressed.

Whether trying to establish an identity with an association or an image of your own, actively choose how you want to be viewed in the marketplace and then tie everything you do into that identity. Establish it well. A well-known image can give you a long-lasting competitive edge under any market conditions.

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Agents don't advertise correctly: Consultant

NEW ORLEANS—Most agents are throwing their advertising money down the drain, according to an insurance marketing expert.

Only 2% of the country's independent agents use advertising effectively, Kimberly Paterson, president of Creative Insurance Marketing Co. in Red Bank, N.J., told a group of independent agents at Marketing Management Inc.'s annual meeting.

Those agents use advertising as a sales tool, combining the right mediums and good marketing skills to set themselves apart from the competition, she said.

Success in the insurance industry requires good advertising, Ms. Paterson added.

"The intangible nature of insurance creates the need for advertising. Agents must tell their clients

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what a good job they're doing," she told the group.

Frequent communication, through advertising or personal contact, establishes a familiarity with the clients, Ms. Paterson said. And familiarity breeds security, she added. "Advertising helps establish a comfort zone."

Creating that comfort zone isn't easy, however. It takes time and planning.

Before spending money on advertising, an agent should undertake a broad research project. "Ask yourself, 'What do I want to do?'" Ms. Paterson said.

"The average agent goes wrong

by approaching advertising on a hit-or-miss basis," she said.

One agent, for example, was spending the greatest share of his advertising budget on miscellaneous expenses for goodwill advertising, like sponsoring charitable organizations.

The next largest portion of that budget was devoted to a newsletter printed without a plan of action. The agent didn't spend a single penny on advertising the agency itself, Ms. Paterson related. "He'd spend \$20,000 on advertising and then waited to the end to find out what he wanted to say."

What that agent should have done is created a plan for systematically spending his \$20,000 in advertising. After deciding what he wanted to accomplish, the agent should have investigated the best

vehicles for getting the job done.

Good advertising is creative, backed by research, focused on objectives and well-monitored, she said.

Buy spots from the best mediums, Ms. Paterson stressed. Don't necessarily place your ads with your favorite publication or someone you insure. National publications are also better than their local counterparts, she added.

An advertising consultant to help with the research and other steps in executing an advertising plan may be worth the investment.

"Commit an advertising plan to writing, incorporating all programs," Ms. Paterson said. That plan should be a relatively long-term guidebook for upcoming advertising decisions.

Advertising doesn't bring results

overnight, Ms. Paterson warned. "If you're only going to use an ad once, save your money. It takes at least a year for anything to begin to happen" in an ad campaign.

Whether or not anything does happen depends largely on the creativity of the ads an agency uses, Ms. Paterson emphasized. Historically, agents have failed miserably in making their ads creative, she said.

Plagerism runs wild among agents' advertisements, Ms. Paterson said. In one case, she noted, agents were competing with the same ad.

"Just because an ad is right for someone else doesn't mean it's right for you." For example, a problem with a franchise is that you may not want to be hit with the franchise's image, Ms. Paterson noted.

Instead, agents should develop their own ads that tell their story and portray the image they want to create, she said.

That image should have a positive rather than negative slant. Many agents still use graphics of people covered with bandages or devastated by a disaster. Those images help convey a negative perception of the industry, Ms. Paterson said. Get away from accident pictures and playing up pain.

Pay attention to design. Family demographics have changed. Forget the old stereotypes of a family



Ms. Paterson

made up of a businessman with a wife who stays at home with the children. If you're trying to reach the decision maker in a business, don't assume you'll be dealing with a man.

Be aware of other demographic changes, too, Ms. Paterson stressed. For example, she said 20% of the country's population is gay. Many unmarried couples are living together. If your ads focus on a husband and wife, "you turn off a major portion of your audience," she noted.

Advertising can work around the changing society, however. With statistics in hand, an agent can let creativity take over to develop a workable advertising design, Ms. Paterson said.

If the design is flexible, it can also form the basis for other types of advertising. A newsletter can be effective, but only as part of a broader plan.

Don't rule out your basic sales letters when planning your advertising schedule, Ms. Paterson said. Your sales letter has to sell. If not, you may not get another chance to reach potential clients.

When all forms of communication reflect your objectives, your advertising plan will blossom into a well-rounded campaign, Ms. Paterson said.

But you can't stop there. Monitor the results of each advertising medium you use. Make changes where appropriate, but give your basic plan a chance to work. If it's well-thought-out, it most likely will. ■

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Agent calls mass-marketing contract crucial

FORT LAUDERDALE, Fla.—Douglas Heller considers his contract with a mass-marketing group the most important contract in his office.

The young president of Insurance Marketing Associates Inc. strove for three years to win the Marketing Management Inc. service contract for his area.

"I saw a real need about six years ago to get affiliated with MMI," Mr. Heller explains. The mass marketers offered the best opportunity to stay independent, he adds.

Since winning the MMI contract in 1979, Mr. Heller's agency has placed about 15% to 20% of its \$3.5 million premium volume through the MMI mass-marketing programs. That just scratches the surface of the potential offered by MMI's association marketing plans, Mr. Heller contends.

He sees a time when the agency will be marketing MMI products almost exclusively.

The MMI program is broad and becoming broader all the time, Mr. Heller says.

The mass marketers have added several programs this year, he notes, although the number of new projects introduced has tapered off over the past two years, reflecting poor market conditions in the insurance industry.

MMI plans to introduce about 12 programs in 1983.

Some of those programs, both old and new, have sparked greater interest in the business community than others. A package for companies that use electronic data processing, relatively rare in the insurance market in general, has been a particular gold mine for Mr. Heller.

The program offers some features not available anywhere else, although the market requires the coverages, he explains.

A client of Alexander and Alexander apparently recognized that need. The alphabet broker, which handles all of the client's other coverages, approached Mr. Heller with the prospect of brokering the data processing coverage, he says.

"I told them I could do it but wasn't in a position to give them any commission," Mr. Heller relates. A&A still requested the coverage—with Mr. Heller as broker.

That wasn't the first time Mr. Heller served as a subbroker on an MMI package for a major broker, he notes, although it doesn't happen every day.

The exclusive programs developed by mass marketers give small and medium-sized agents and brokers clout with the large alphabet brokers, Mr. Heller says. "I have a product they can't get to."

The untouchable products, particularly those designed for industries with medium-sized businesses, for example, \$10,000-to-\$15,000 accounts, appeal to both the major brokers and smaller agents, Mr. Heller notes. As competition for those accounts escalates, he's thankful for the security of a monopoly on MMI products.

Such monopolies may become more important in the future. Innovations in the insurance market may make industries with smaller individual businesses more attractive to the big brokers, market observers note (see story page 58D). They point to computers as the device big brokers need to reach smaller accounts profitably.

Computers, however, aren't reserved for major brokers, Mr. Heller says. "Automation will help mass marketing, especially with small and medium-sized agents and brokers," he says. Computers will give those agents and brokers the capability to reach a larger number of potential clients than were

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tapped through previous mass-marketing efforts.

Once agents reach those people, mass-marketing programs, which usually include an association endorsement, are much easier to sell than traditional plans, Mr. Heller notes.

"If I can talk to the person who makes the insurance decision, I can usually make the sale," he says. Past performance studies show the Insurance Marketing Associates' agent gets a foot in the door in about 70% of the leads furnished by MMI, Mr. Heller points out. "And we write about 40% of those," he says, adding, "I expect it'll go even

higher this year."

Many of the leads furnished by MMI are from association members that have already expressed an interest in the MMI insurance program, Mr. Heller notes. For example, they may have returned a reply card from an association newsletter.

Once people express interest in a program, "if you have the goods, you can sell it," he says.

MMI products have also generated other business for Mr. Heller's brokerage, he notes. "For every dollar of MMI business generated once we get in the door, we sell \$2 or \$3 in other business such as health and life insurance," he says.

Along with making the sales job easier, mass-marketed programs

may ease the burden of using new producers, Mr. Heller says. Pulling in unskilled and untested producers can be a financial drain on small and medium-sized agents, he explains.

But with mass-marketed programs in-house, new producers can get their feet wet with specialized, relatively easy-to-sell products.

"They don't need a lot of experience to sell one particular program," Mr. Heller says. "A beginning producer can sell a beginning program, and then move on to more difficult ones as he or she gains experience."

Using this method, the agency also isn't opening itself up to errors and omissions exposures as broadly as it might by using a new producer to sell an array of tradition insurance policies, he adds. ■



Mr. Heller

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Agents can compete with the giants

Independent agents shouldn't throw in the towel despite the industry buzz about the powerful giants threatening to encroach on their territory. They still have the means to keep a competitive edge on the giants.

That's the message Jeffrey M. Yates, executive vp and general counsel of the Independent Insurance Agents of America Inc., gave to members of the IIAA of Massachusetts last month.

Those giants appear to be taking the first step to create a new industry for the consumer—the one-stop financial services supermarket, Mr. Yates admitted. "The impact of this trend on the independent agent will be profound."

Industry observers who haven't noticed the financial empires being built should open their eyes and re-

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view the events of 1981, Mr. Yates continued. Throughout the year, the financial newspapers announced one acquisition after another:

- Sears, Roebuck & Co. acquired Coldwell Banker & Co., the nation's largest independent realty broker, and Dean, Witter, Reynolds, a major stock brokerage. Reporters quoted Sears Chairman Edward Telling as saying, "Our goal is to become the largest consumer-oriented financial service entity," Mr. Yates noted. Sears' empire already included 17 million Allstate insurance policyholders, he reminded his audience.

- Prudential Insurance Co. of America Inc. bought Bache Group, giving Prudential immediate access to several Bache money market mutual funds and the opportunity for Prudential to provide "bank-like" services.

"It was a surprise when Prudential then moved to sell the property/casualty affiliate of Bache shortly thereafter," Mr. Yates noted.

But that sale doesn't necessarily signal that Prudential isn't interested in building a one-stop financial shop, he warned. "Pru's Chairman, Robert Beck, is reported as having long wanted to market a 'family account,' where the customer would participate in a money market fund, would earn interest on his balances and would be given

a line of credit."

That fund would also provide the vehicle from which the consumer's life, homeowners and automobile insurance premiums automatically would be deducted, Mr. Yates explained. "In my judgment, independent agency companies will have to offer this kind of innovative product to their broad base of agents if they are to maintain market share."

- Merrill Lynch continued to maintain its lead with innovative financial service products. "Merrill Lynch is frequently described as the organization closest to being the 'bank of the future,'" Mr. Yates said. Its cash management account offers tremendous convenience to consumers and encourages them to place other business with Merrill Lynch, he said, "in other words,

one-stop shopping for financial services."

Questions still abound about how far Merrill Lynch's project will go, Mr. Yates continued. "Will a CMA (cash management account) secured by a small business's inventory or plant and equipment be next? And how easy will it then be for Merrill Lynch to offer its customer the convenience of automatic deduction for his life and property/casualty insurance premiums if they are written through Merrill Lynch?"

With one-stop shopping for financial services heading toward becoming reality, agents must realize what that scenario means to them, Mr. Yates said. First, these changes are likely to alter the kind of products independent agents offer their customers as well as alter who the agent's major competitors will be, he noted. "The change will be profound and will be forever."

Secondly, agents must realize that now is the time for independent agents and their companies to begin to innovate and to capitalize on their strengths if they are to survive in this new market, Mr. Yates continued.

Even in the new market, he commented, those strengths aren't few and far between. Agents, for example, possess a knowledge of the property/casualty insurance business second to none.

They also are immediately accessible to the consumer in his or her own community, Mr. Yates said. "We identify with and relate to the consumer in a way the large corporation never could; we are able to provide an extra measure of personal service being right there on the spot."

"Probably most important, we are a proven distribution system, whereas financial conglomerates, for the most part, need to develop a distribution system that can sell and service property/casualty insurance effectively," Mr. Yates contended.

These strengths, however, don't give agents license to sit back contently when the environment is changing around them, Mr. Yates warned. Agents must capitalize on these advantages to make sure they stay in the forefront.

Take action now, Mr. Yates told the audience, giving them concrete ideas to fortify their advantages. These suggestions include:

- Develop a written business plan so that you can concentrate the agency's resources on those markets where you are strongest. That plan can also allow you to evaluate employee performance on how well that business plan being is met.

- Make an investment in your most important resource, your employees, to improve their educational level so that the expertise and professionalism your agency offers to the public continues to increase.

- Consider branching out into new related products and services that can be reasonably integrated into your operation. This expansion lets you capitalize on your customer base and insulate those customers from other organizations offering such products and services.

"For years you have heard others advise you along these lines—set up a life insurance department, an employees benefits division, a management services capability. Now we are seeing the financial conglomerates take exactly this kind of step by adding to the array of services they offer their customers," Mr. Yates noted.

"We would do well to heed their example."

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Honesty test helps banks screen workers

By STEVE SHERWOOD

ROLLING MEADOWS, Ill.— Can this person be trusted?

With white-collar crime costing banks \$236 million in 1980—according to Federal Bureau of Investigation statistics—this has become a crucial risk management question for financial institutions.

In an attempt to provide the answer, the Bank Administration Institute of Rolling Meadows is marketing a paper-and-pencil "honesty" test its officials say is a viable alternative for polygraph testing.

The Bank Personnel Selection Inventory Test, developed in conjunction with London House Management Consultants Inc. of Park Ridge, Ill., is designed to help banks screen out potentially dishonest employees. It is now being used by 75 banks across the nation.

The test comes in two versions: BPSI 1 and BPSI 3.

The first is a 66-question gauge of a job candidate's honesty. The second uses 108 questions to dig a bit deeper, rating applicants' potential for violence and drug/alcohol abuse as well as honesty.

"To date, banks have relied on either FBI fingerprinting or polygraph tests to screen employees," says Keith Marshall, research manager for security programs at BAI.

"The problem with fingerprinting, which has been temporarily suspended by the FBI, is that it can only be administered after a person has been hired. It takes four to six weeks to receive the results, and it only identifies a previous criminal conviction."

As for polygraph tests, they are useful and generally accurate, but expensive, and validity depends on the administrator's skill, Mr. Marshall says. Also, the polygraph tests are illegal in 13 states.

Test questions essentially ask whether an employee believes it is right to steal, use violence or use drugs in different situations.

"It is surprising to me how honest people are who sit down and take the test," Mr. Marshall says.

"You have to keep in mind there is a series of questions being asked several different ways, relating to theft. There is a lie scale built in for those who attempt to play head games with the test. This gives it a measure of accuracy."

Once the job candidate completes the test, the bank tabulates responses and calls BAI's toll-free number to report to them. Within minutes, BAI provides a computer analysis of the results, Mr. Marshall says. Within 24 hours a written confirmation of the score is sent to the bank.

Each candidate is rated high or low, on a numerical scale.

"We will not tell the bank whether it should hire any individual, but will tell them the average score," Mr. Marshall says. "The employer definitely needs to go back to past employment records and use other factors in making a decision. But we think the test should figure heavily in consideration."

He emphasizes BPSI is strictly a pre-employment test and, because of psychological differences between those seeking jobs and those already on the job, cannot be used for testing current employees.

The BAI has heavily researched the legal aspects of the test and found it suitable for all states, Mr. Marshall says. "It also meets the Equal Employment Opportunity Equal Testing Code."

A BAI press release says, "A number of validity and reliability studies were conducted to ensure the effectiveness of the test. In addition, the studies indicated that there was no adverse impact for minority groups."

Bank takes second look at results and costs

The Continental Illinois National Bank of Chicago, which has used the Bank Personnel Selection Inventory test since October 1980 to screen cash-handling clerical workers, says it might change its screening tool.

Stressing that they are not saying the test is faulty, bank officials are looking at the results they get from the test and the money they spend to get them.

Division heads, who said they see little change in employee quality with the test, believe too many qualified applicants have been turned away from employment at the bank because of test results.

The BPSI's fairness is not in question, said Janet Wilson, manager of general employment for the bank.

"What we've had to ask ourselves is: Does the test help us and is it worth the expense?"

"I found we were losing 50% of our job applicants because of low test scores and the divisions getting the employees said they didn't see any marked difference in quality."

An official at another bank did see results.

"I think the test has many things going for it," he said. "There are very few tests on the market that can do what it does."

But the main problem for Continental Illinois was to validate the test results against actual performance of the employees, Ms. Wilson explained.

"In the clerical positions being tested, we found there already were such rigid cash controls that there was no way to tie performance

to scores on an honesty test."

In addition, testing costs added up, she says. BAI charges from \$8 to \$13 per test, depending on the quantity ordered. Continental Illinois tested a total of 1,200 applicants.

"What I did was recommend that we discontinue the test and use the money to address other risks," Ms. Wilson says.

She pointed out that data processing systems present more risk to the bank than cash on hand.

Continental Illinois officials say their decision does not reflect on the quality of the BPSI test.

"For us to be unable to validate it doesn't mean the test itself is invalid," Ms. Wilson says.

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Gen Re to acquire underwriting manager

General Re Corp. has reached an agreement in principle to acquire U.S. Aviation Underwriters Inc. in exchange for \$58 million in common stock.

U.S. Aviation is a New York-based aviation insurance underwriting manager, while General Re is the parent company of reinsurance, insurance and management service operations.

Edmond F. Rondepierre, General Re's senior vp and general counsel, calls the move a "logical addition to the Gen Re corporate family."

The parent company already has underwriting management operations in the workers compensation and black lung lines, Mr. Rondepierre says, adding that the acquisition will further broaden its activities.

markets

General Re is not a major reinsurer of aviation risks, Mr. Rondepierre says.

U.S. Aviation will continue as an autonomous operation, Mr. Rondepierre says.

Fidelity, surety bonds

Northwestern National Surety Co. has been formed by the Armco Insurance Group as a holding and management company for its fidelity and surety bond business.

The new market will serve as a profit center for these lines of business, which are currently written by Armco's Lawyers Surety Corp. in Dallas and State Surety Co. in

Des Moines, Iowa.

Northwestern also will manage the surety business of several Armco property/casualty companies, including Northwestern National Insurance Co., Continental Western Insurance Co., North Pacific Insurance Co. and Pacific National Insurance Co.

The president and chief executive officer of the new unit is Donald L. Bowen, formerly vp of fidelity and surety for Northwestern National.

Reinsurance

UMC Management Services Inc. of New York has formed a new re-

insurance underwriting group—UMC Ltd.-Bermuda Syndicate—to write facultative and treaty reinsurance. It will be written for property, casualty, marine and aviation exposures.

UMC Ltd.-Bermuda Syndicate members include Chesapeake Insurance Co. Ltd., KIC Ltd., Norad Reinsurance Co. Ltd. and Paladin Reinsurance Corp.

UMC Management Services Ltd., located in Bermuda, will manage the syndicate.

Name change

Don Flower Associates Inc., a subsidiary of insurance brokerage Rollins Burdick Hunter based in Wichita, Kan., has changed its name to Rollins Burdick Hunter of Kansas Inc.

NYIE members

The New York Insurance Exchange has approved Capacity Managers International Inc. of New York as a broker member of the exchange. Capacity Managers becomes the NYIE's 58th broker member.

Also, G.L. Hodson & Son Inc. has been approved as an associated broker, raising the number of associated brokers to 28. Associated brokers meet the same standards as full broker members but do not have voting rights and can submit business only for their own accounts.

Acquisitions

Maryland Casualty Co. has reached an agreement in principle to purchase Commercial Lines Systems, a division of Insurance Systems of America Inc.

Minneapolis-based American Hardware Mutual Insurance Co. and Frankona Ruckversicherungs-A.G. of Munich, West Germany, have purchased ownership interest in California Reinsurance Management Corp. of Pasadena, Calif.

The First American Financial Corp. has acquired St. Paul Title Insurance Corp. from The St. Paul Cos. Inc. and changed the company's name to First American Title Insurance Co. of Mid-America.

In another move, The St. Paul has reached an agreement in principle to acquire Minneapolis-based brokerage John H. Crowther Inc.

Burns & Wilcox Ltd./Marketfinders Inc. has acquired the Alexander Howden Services branch office in Indianapolis.

Alliance Brokerage Corp. of New York has acquired the brokerage firm of Case, Metz & Dickstein Inc., also of New York.

Alexander & Alexander Inc. has acquired Ivor M. Grant & Associates, an insurance brokerage based in Santa Ana, Calif.

Milliman & Robertson Inc. of Seattle, a leading actuarial and employee benefit consulting firm, has acquired the actuarial valuation and consulting segment of The Equitable Life Assurance Society of the U.S.'s group pension business.

New offices

Scottish & York International Insurance Group has moved to new headquarters at Carnegie Center, U.S. Route 1 and Alexander Road, Princeton, N.J. 08540.

Alliance Brokerage Corp. has relocated its New York offices to 770 Lexington Ave., Fourth Floor, New York, N.Y. 10021; 212-753-7600.

INA offers umbrella as group product

NEW YORK—Insurance Co. of North America is filing with state regulators to offer its personal excess liability insurance policy as a group product.

Offering the personal umbrella policy as a group coverage will allow corporations, associations and professional organizations to provide more personal asset protection to employees.

The coverage is especially suitable for executives, professionals and others with annual incomes of more than \$50,000 and who own their own home and have other valuable properties.

The coverage will be available to groups of 25 or more.

Premiums will be based on a flat average rate for each participant. Limits of \$1 million to \$10 million in excess coverage are available.

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The bigger the company, the bigger the pension

GREENWICH, Conn.—The nation's biggest corporations pay their retired employees the most generous pensions, according to a new survey.

In 1980, the most recent year complete statistics are available, the nation's 100 largest industrial corporations, as ranked by Fortune Magazine, paid newly retired workers an average annual pension benefit of \$6,872.

By contrast, the bottom 100 members of the Fortune 1000 paid workers who retired in 1980 an average annual benefit of \$3,099, the survey showed.

The difference in pension benefits according to company size is one of several key findings in a massive pension survey of large corporations conducted by Greenwich Research Associates, a research and consulting firm here.

To get a handle on pension trends, Greenwich Research interviewed senior financial executives responsible for pension funds at 1,073 of the nation's largest companies.

The survey reveals that the largest corporations, which generally are also the nation's wealthiest firms, offer the most generous pension plans to their retirees and pay correspondingly higher pension costs.

Pension contributions as a percent of payroll averaged 13.9% among the 100 largest members of the Fortune 1000.

The smallest 100 companies among the Fortune 1000 paid an average of 7.3% of payroll for pension contributions.

Big firms also had the highest percentage of pension plan participants who had vested or had earned a right to receive a pension benefit.

Some 53.3% of pension plan participants with the top 100 industrial corporations were vested in 1980, compared with 45.5% of plan participants with the bottom 100 members of the Fortune 1000, the survey showed.

Regardless of the individual size of the firm, Fortune 1000 companies generally offer cliff vesting schedules in which an employee has to work 10 years before he has a right to a pension, according to the survey.

The biggest firms were the most likely to use a final-pay formula to determine an employee's pension benefit.

This final-pay method offers greater protection against inflation than a career-average formula since salary, on which the benefit is based, is usually highest during an employee's last years of service with a company.

Some 78% of the nation's 100 largest corporations in 1980 used a final-pay formula to compute pension benefits, while 13% used a career average formula.

By contrast, just 48% of the bottom 100 companies in the Fortune 1000 offered final-pay formulas, while 19% used career-average formulas in computing pension benefits.

A significantly higher percent of plan participants were retired at the largest corporations, compared to the smaller firms.

About 20% of plan participants at the 100 largest companies were retired, while just 13% of participants at the smallest 100 companies of the Fortune 1000 were retirees.

Other findings include:

- The nation's 1000 largest corporations have promised their pension plan participants a whopping \$354 billion in benefits. However,

the firms have put away just \$297 billion to pay for those benefits, leaving unfunded liabilities of \$57 billion.

- In 1980, Fortune 1000 companies paid their pension plan participants some \$16.1 billion in pension benefit payments.

- The typical large company offers an average of 10.8 different employee benefit plans. The 200 largest industrial companies provide an average of 20 different employee benefit plans.

Copies of "Large Corporate Pensions 1982: Report to Participants" are available from Greenwich Research Associates, Office Park Eight, Greenwich, Conn. 06830; 203-629-1200. The cost is \$25.

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Asbestos insurer wants Agent Orange ruling

By STEPHEN TARNOFF

BOSTON—A major asbestos industry insurer is seeking to borrow a recent decision in Agent Orange litigation to relieve defendants in asbestos cases of millions of dollars in liability.

Commercial Union Insurance Co. recently filed motions in courts in Maine and Connecticut to apply in asbestos cases a decision reached in an Agent Orange case by the U.S. District Court for the Eastern District of New York on Feb. 24.

The decision spelled out the criteria of a legal defense by which Agent Orange manufacturers who provided toxic substances to the government under contract during the Vietnam War could avoid liability in suits brought by injured soldiers.

Known as the government contract defense, it says a manufacturer may be shielded from liability if a product causing a plaintiff's injuries conformed to the specifications of a third party—in this case the United States government.

Commercial Union, which represents asbestos manufacturers in suits brought by thousands of victims of asbestos-related diseases, is arguing that analogous circumstances surrounded contracts between manufacturers and the government during World War II when thousands of shipyard workers were exposed to asbestos.

"The Agent Orange decision is equally applicable to cases involving asbestos insulation products conforming to government specifications and sold for use by the

United States," says a law memo by the New York firm of Rivkin, Leff, Sherman and Radler, which represents Commercial Union.

"The factual setting of many asbestos lawsuits makes these cases particularly appropriate for the assertion of the government contract defense."

The district court's ruling paved the way for Commercial Union to so far file motions in ongoing asbestos trials in Maine and Connecticut, asking the courts to apply the Agent Orange decision, according to CU attorney Leonard L. Rivkin.

In Maine, the company is defending about 160 cases where Pittsburgh-Corning Corp. is a defendant, and in Connecticut in about 200 cases where Sepco Corp. is a defendant.

Mr. Rivkin, who also represents

Dow Chemical Co. and is the lead defendants' counsel in the Agent Orange litigation, said Commercial Union is asking the courts to pull out asbestos cases that allege the government contract defense and litigate the issue in a separate trial.

The insurer likely will first need a decision from the court that the government contract defense is applicable in asbestos situations, Mr. Rivkin said.

A favorable ruling would then require CU to prove that contracts by its policyholders with the government conformed to the criteria laid down by the court for the government contract defense to apply.

If this could be proved, it would spare manufacturers and their insurers from having to pay damages in the related shipyard cases.

A separate trial also would result

in substantial savings in legal costs.

Mr. Rivkin said a decision as to whether manufacturers can argue the government contract defense in the Maine asbestos cases could come by June.

For the government contract defense to apply in Agent Orange cases, the U.S. district court in New York said contracts between manufacturers and the government had to meet four requirements. They are:

- The manufacturer must have supplied the Agent Orange to the government pursuant to a contract.

- The government must have established the specifications for Agent Orange.

- The product must have met the government's specifications in all material respects.

Small firms offered help

NEW YORK—Help may be on the way for small businesses that find it tough to buy group health insurance and other benefits.

The New York Business Group on Health, a non-profit arm of the New York Chamber of Commerce, has begun a one-year health study designed to aid small businesses having problems purchasing insurance coverage, designing benefits packages or finding consultants to ease them through their benefits worries.

Funded by a \$99,222 grant from the John A. Hartford Foundation, a New York-based philanthropy that finances health-care and cost-containment projects, the study will survey 6,000 to 7,000 small businesses in Connecticut, New Jersey and New York City.

The project, says Dr. Leon J. Warshaw, executive director of the New York Business Group on Health, "will enable us to pursue one of our major concerns: the health-related problems of small companies."

"Our first objective is a survey to determine how small-business managers deal with their employees' health care and how the cost of that care impacts upon business."

Participants will be asked to complete questions on gross sales volume, number of employees, types of health benefits currently offered, types of cost-containment measures employed, and employee cost-sharing requirements. They will be asked if they're interested in changing their health plan.

The survey was prompted by continued questions small business operators had about insurance, Dr. Warshaw explains.

"A number of small businesses' owners said they had problems getting insurance. Some said they needed consultants," he says.

The survey, Dr. Warshaw explains, will be used as the basis of a health benefits course the New York Business Group on Health will conduct this autumn in Manhattan for small businesses.

The course will deal with the history of benefits, the administration of benefits and what insurance coverages are available.

The group also plans to use the information to develop a guide to assist small-business managers with their health insurance questions.

The study, Dr. Warshaw says, is believed to be one of the first of its kind. "It's a subject about which very little information exists. When the survey is completed, we'll make the results available to anyone who wants to have them."

"The program will have a national utility," Dr. Warshaw says. ■

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• The government must have known as much or more than the defendants about the hazardous aspects of Agent Orange.

But Mr. Rivkin and an attorney for the U.S. government differ on whether the criteria applies in asbestos cases.

One area of disagreement is whether the military need for asbestos was as necessary to the World War II effort as Agent Orange was to the Vietnam war effort, an important basis for the Agent Orange decision.

"Courts should not require suppliers of ordnance to question the military's needs or specifications for weapons during wartime," the decision says.

According to Peter Nowinski, lead counsel for the government in asbestos litigation, asbestos is not analogous to the Agent Orange situation because asbestos was used primarily in shipbuilding and not in the manufacture of weapons.

The defense also may not be ap-

'If they offer the defense, they must concede the immunity,' Mr. Nowinski says.

plicable because much of the sale of asbestos during wartime was not to the government but to defense contractors, he pointed out.

"The government was not directly involved," he said.

Mr. Nowinski contended also that the U.S. Navy did not purchase the asbestos according to a government design or specifications as is required by the district court's criteria. In most cases, the Navy went to the marketplace to purchase asbestos, he said.

In addition, Mr. Nowinski said it certainly could be argued that the industry had more opportunity for

knowledge of asbestos hazards than the government.

He added that the industry can't argue the government contract defense without conceding government immunity. "If they offer the defense, they must concede the government's immunity," he said.

Such immunity could mean asbestos plaintiffs would not recover compensation from the federal government, placing more of the burden on the industry.

Commercial Union, however, argues that asbestos used to build naval vessels during the war was as necessary to the war effort as weapons and comes under the government defense doctrine.

"Clearly, asbestos was equally a matter of military necessity, a position which is bolstered by the fact that it was stockpiled as a strategic material," the law memo from Mr. Rivkin's firm says.

It further contends that the manufacture of asbestos conformed to government specifications because

the government made final determination and approval of it even though manufacturers gave input to the government.

In addition, Commercial Union argues that the government knew as much as manufacturers about asbestos dangers.

"There is much evidence that indicates that the knowledge was at least equal," the memo says. "In any event, it is also important to note that the government contract defense imposes no independent duty upon the manufacturer to test the product.

"Rather, it need only be demonstrated that nothing was concealed from the government that might have altered its decision whether to use products containing asbestos."

He added that the fact the government did not always purchase the asbestos directly from the manufacturers would not bar use of the defense.

The defense might even apply in contracts not made in wartime.

"Keeping up the defense is just as important," Mr. Rivkin said.

Commercial Union and other companies such as the Johns-Manville Corp. and Keene Corp., have filed third-party complaints against the government seeking to recover what the companies allege is the government's liability in asbestos cases.

As of last week, about 1,200 such suits had been filed against the government by either asbestos manufacturers or their insurers, according to Mr. Nowinski.

In addition, Keene Corp. has filed suits in federal court and in the U.S. Court of Claims seeking damages from the government's involvement in the asbestos-related diseases of thousands of former shipyard workers.

None of the suits has taken the government contract defense approach, which does not seek to assess liability on the government but only to relieve the companies from liability.

Storm damage worst since '79 hurricane

NEW YORK—A series of tornadoes that caused an estimated \$234.5 million of property damage last month rank as the worst catastrophe since Hurricane Frederic in 1979, which caused \$752 million in losses.

The damage estimates from the storms, which devastated Paris, Blossom and Reno, Texas, were released by C.E. Hermanson, assistant vp of property claim services at the American Insurance Assn. in New York.

The storms, which included wind, hail, ice and snow as well as the tornadoes, caused damage in Texas, Wyoming, Colorado, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Wisconsin, Illinois, Michigan, Indiana, Ohio, Kentucky, Tennessee, Mississippi, Alabama, West Virginia and Pennsylvania.

The costliest damage, \$55 million, occurred in Texas, including a total of \$41.75 million in Paris, Blossom and Reno.

Other states with extensive damage include:

- Indiana, \$30 million.
- Illinois, \$28 million.
- Oklahoma, \$26 million.
- Colorado, \$18 million.
- Arkansas, \$11 million.
- Missouri, \$10.5 million.
- Ohio, \$10 million.

The series of storms has been assigned Catastrophe Number 54 by the Insurance Services Office.

In addition, insured property damage caused by wind, hail, tornadoes and flooding that affected portions of central Florida April 8-11 was estimated at \$25 million by Mr. Hermanson.

The estimate does not include damage insured under the National Flood Insurance Program.

The most extensive damage, according to the AIA, occurred in Seminole, Volusia, Marion, Orange Brevard, St. Lucie and Lee counties.

The storm was assigned Catastrophe Number 55 by the Insurance Services Office.

Both of the catastrophes came at the beginning of the second quarter. The AIA and most major property insurers reported record weather-related losses during the first quarter of 1982.

In addition, a series of fires that swept through Orange County, Calif., April 21 caused an estimated \$30 million of property damage, Mr. Hermanson said.

The bulk of the damage took place in Anaheim and included apartment buildings and commercial buildings.

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Law conference

Professionals more liable than ever: Lawyer

By STACY SHAPIRO

LONDON—One thing you can be sure about when it comes to professional liability doctrines in the United States.

They never remain the same for very long.

"This area of law and its conclusions is constantly changing," said Ronald A. Jacks, a member of the Chicago firm of Isham, Lincoln & Beale, who reported on U.S. legal developments at the International Insurance Law Assn. Conference in London last month.

But, he said, one item holds true: "Legal doctrines have evolved to the point where professionals of all kinds are presently subject to greater scrutiny and more exacting liability than at any time in the past."

Mr. Jacks, who is currently representing Northbrook Excess & Surplus Insurance Co. in the complex liability litigation arising from last summer's skywalk disaster at the Hyatt Regency Hotel in Kansas City, Mo., said this confusion over liability standards has a big impact on the insurance buyer.

"The end result is that the traditional doctrines have given way or been modified to the point where liability is more often imposed than not with a corresponding impact on the cost and availability of liability insurance," he stated.

No real principles of law are ap-

Mission won't swallow liability

LONDON—British lawyer Michael Cohen wanted to see the sights when he visited the United States.

So he took in one of the nation's more famous tourist attractions: California's Mission of San Juan Capistrano, founded in 1776.

Inside the little church was a sign expressing the hope that visitors would enjoy what they saw and requesting that they donate \$1.

"So being a rich Briton, I did," Mr. Cohen told a group at the International Insurance Law Conference in London last month.

Mr. Cohen says he was almost forced by a church employee to take a receipt, which he put in his pocket.

When he later read it, he discovered it just wasn't a receipt. The back of the ticket read:

"The person using this ticket assumes all risk of

personal injury and loss of property. The management reserves the right to revoke the license granted by this ticket.

"Vaya con Dios (Go with God)."

This waiver of liability by the California mission raises an important question, said Ronald A. Jacks of the law firm of Isham, Lincoln & Beale in Chicago.

Is providing a service, like a tour of a historic sight, akin to making a product under California law?

Such a judicial determination would show that the rendering of service is akin to a product, along with the liabilities and all that follows, Mr. Jacks answered.

And soon, companies that offer services to the community may be held just as liable for "injury" as manufacturers, he said. "We are almost there."

plicable to liability decisions in the United States, Mr. Jacks continued. Each court case, it seems, is concluded on its own merit and the relationship between defendant and plaintiff.

And this spawns more lawsuits, he said.

Instead of basing liability on contractual agreements, like in most other countries, Mr. Jacks explained that U.S. courts focus on negligence and wrongful acts as the basis of their judgments.

But, he said, the glut of court

cases in some areas of professional liability may have stopped growing.

"I think we have seen a leveling off of medical malpractice lawsuits in intensity of judgment and expansion," he said. "Today it seems to be a manageable line of business."

The medical profession is taking a bigger role in settling medical malpractice complaints, he noted. In New York, Illinois, California and several other states, groups of doctors examine medical malprac-

tice complaints before they go to court.

"And if the peer group decides the doctor was not negligent, their findings can be introduced in litigation," Mr. Jacks explained.

Other professions, however, are witnessing a major push into strict liability, with courts holding that they provide products rather than services, Mr. Jacks pointed out.

"The higher degree of risk, the higher degree of care," he said.

One lawyer from the Netherlands said he didn't understand the

logic of establishing strict liability for providers of services.

"With dangerous operations where there is a risk involved, you shouldn't impose strict liability as you do with products," he said.

"I agree with you," Mr. Jacks replied, "but the court decision doesn't always think that way."

There are two basic rules in the U.S. legal system that are different from anywhere else in the world, Professor Spencer Kimball of the University of Chicago pointed out.

"One is the contingency fee system, whereas in other countries it is considered either illegal or unethical or both," said Mr. Kimball. And the other is that U.S. courts make a defendant bear his own legal costs.

"So, the plaintiff risks relatively little. He wins big and his lawyer wins big," he said.

The contingency fee system, in which a lawyer is usually paid a percentage of any award granted to the plaintiff, brings more cases to court, Mr. Kimball said, since a plaintiff does not have to worry about paying his or her legal fees should the case be lost.

The plaintiff also doesn't have to worry about paying defense costs should the suit be unsuccessful.

"This will unfortunately be a part of our system in the future," Mr. Jacks said.

European lawyers, however, said the adoption of such practices in their countries was unlikely. ■

More countries demand liability cover

By STACY SHAPIRO

LONDON—The world is becoming more litigation-minded, forcing professionals to ask for more liability insurance, an International Insurance Law Assn. study reveals.

"In many countries there is an increased number of claims with a higher demand for liability insurance," said Professor Hugh Cockerell, vp of the British Insurance Law Assn., who compiled the results.

More countries are also requiring that certain professionals, like doctors, purchase liability insurance, Mr. Cockerell said during the association's conference last month.

He said that the number of claims is increasing in nations where strict standards of liability are imposed

on the legal, medical, architectural or engineering fields.

"This also shows an increase in the size of the insurance policies taken out and the premium charged," Mr. Cockerell said.

But the liability insurance needs of professionals vary from nation to nation.

For example, nearly 95% of the professionals in the United States bought some form of professional liability coverage in 1969, up from just 5% in 1955, he said.

But in Japan, where liability claims are not as rampant, professional liability insurance wasn't introduced until 1963. Similarly, medical malpractice insurance was not introduced in Argentina until last year.

Although there are great differences in the legal climates of various nations, most of the world's courts base their judgments on Roman teachings, said Mr. Cockerell.

"One thing will be apparent to anyone who reads this report: the debt that present-day law owes to Roman Law," he said.

"Justinian claimed 'All nations now are ruled by laws which we have issued or compiled.' Fifteen hundred years later, he could say that again."

Most countries, Mr. Cockerell pointed out, say that coverage for intentional acts or gross negligence cannot be excluded from professional liability policies. In the Netherlands, such exclusion clauses were allowed in policies until about 10 years ago, but not today.

Some limitations of liability on behalf of companies or professionals are derived from international conventions, such as the Warsaw Convention, which governs international air transportation, Mr. Cockerell also said.

However, there are some differ-

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Attorneys, companies wary of international product code

By STACY SHAPIRO

LONDON—There is still talk among the Common Market nations about finalizing a product liability directive to apply to all members, but no one knows when they will agree on the directive's wording.

Despite the delays, attorneys and European manufacturers are more concerned about the possibility of a directive than ever before, said Jorgen Hansen of Denmark, chairman of the product liability working party of the International Assn. of Insurance Law (AIDA).

Under the current proposal, a manufacturer of a defective product in the Common Market countries would be liable for damages "whether or not he knew or could have known of the defect."

The proposed directive adds that the producer shall be liable "even if the article could not have been regarded as defective in the light of scientific and technological development at the time the article was put in circulation."

However, Britain would like to

soften this standard of strict liability with a provision that would protect manufacturers of products that employ state-of-the-art technology (BI, Oct. 12, 1981).

Mr. Hansen said that attorneys, legislators and manufacturers are also wondering if the directive should include:

- Minimum or maximum amounts of awards?

- Construction risks? "I think they will be excluded in the liability directive and decided by the various countries," Mr. Hansen said.

- Exclusion of some products such as agricultural or fish products?

Manufacturers will have to wait a long time for those questions to be answered. It could take members of the European Economic Community six years to approve the directive once its final language is worked out. And no one expects the wording to be finalized very soon.

Meanwhile, the AIDA product liability working party, headed by Mr. Hansen, is trying to develop

standards for uniform product liability laws 10 to 15 years from now.

The panel has received comments from nations from Austria to Japan about the problems of product liability legislation.

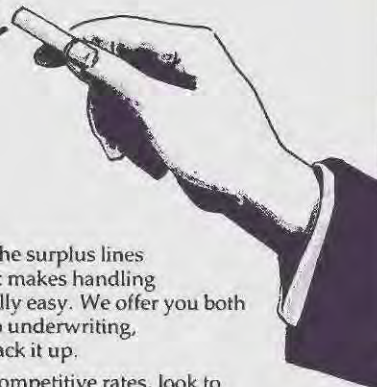
"There is a gap between the liability rules and insurance coverage," said Mr. Hansen. He explained that in many countries, the maximum amount of product liability coverage a manufacturer can purchase does not approach the maximum amount of tort judgments.

And other quirks exist in product liability coverages and laws.

For example, an investigation by a defendant after a product liability claim is filed may reveal that no damage or injury was suffered by the plaintiff. However, the company is still left with the cost of the investigation.

"Compensation can be claimed under the rules of the law of damages, but according to the terms of the product liability policy, the loss will be excluded from insurance coverage because no actual damage occurred," Mr. Hansen said.

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International lawyers confer in insurance capital

LONDON—Try understanding legal jargon in Chinese.

That's just one of the languages delegates used to write papers for the Sixth International Insurance Law Assn. Conference in London, better known as AIDA.

From Austria to Yugoslavia, attorneys gathered for a week last month to discuss insurance and legal problems that affect their multinational clients.

Delegates discussed the legal relationships between policyholders and insurers in today's litigation-minded society and expressed concern about the growing problems of product liability. They are watching U.S. courts to see what repercussions their decisions might have on international insurance law.

"The development of insurance law must occur between practitioners and theorists," said Dr. Simon Frederico of Belgium, president of the association. Members of government organizations, insurers, judges and lawyers and scholars "all play a part in the blood of insurance," he added.

British speakers at the conference stressed the nation's role in the international insurance market.

"We cannot claim to be inventors of insurance," said the Lord Mayor of London, "but we can claim to learn early and fast."

The mayor pointed out that it was appropriate that the international insurance gathering be held in London, because that's where buyers, brokers, underwriters and reinsurers from around the world gather to trade risks.

"This is the home of a great insurance market," added Dr. Gerald Vaughan, minister of consumer affairs for the Department of Trade, which regulates insurance in Britain.

"And it is in Britain that legislation has been streamlined to guarantee that the policyholder gets his claim paid," he said. "The insurer must have the resources to carry out his business" in Britain.

Study looks at liability standards

Continued from facing page
ences in liability standards around the globe. For example, the United States stands alone in assessing punitive damages against defendants.

"Damages in most systems of law are calculated so as to indemnify the plaintiff against his loss by making it good so far as money can," Mr. Cockerell said.

"In the U.K., aggregated damages may exceptionally be awarded to compensate the plaintiff for any aggravation of the damage caused by the defendant's conduct, motives or manner," he said.

But no other country except the United States regularly awards damages as punishment, the survey showed. "In most states of the United States, it is possible to obtain punitive damages which are not compensatory but are viewed as a method of discouraging evil motives," Mr. Cockerell said. Most countries say that damages in tort actions should be the same as dam-

ages that are paid through contractual agreements.

And most countries assess damages according to the amount of blame that can be attributed to the plaintiff, he added.

Also, all nations limit the amount of time during which a plaintiff can file a lawsuit. Under ancient Roman law, the "period of prescription" is between 30 years and 40 years, but is reduced to three years for some claims. Many legal systems have adapted these same time frames, Mr. Cockerell said.

"Time limits are a lawyer's nightmare, particularly if he fails to file an action in time," he said.

"But the U.S. has a jungle of prescriptions state by state," Mr. Cockerell pointed out. Malpractice lawsuits can be filed one to six years after the alleged injury. Six states have special time periods for architects and engineers. And California is has a time limit for malpractice suits against lawyers.



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Safety experts want to control toxic fumes

Continued from page 3

Burning nylon carpeting releases smoke that is 20 times as toxic as wood smoke, containing deadly carbon monoxide and hydrogen cyanide gases, Dr. Alarie has found.

Vinyl chair covers or shower curtains made of polyvinyl chloride also burn with a toxicity 20 times that of wood, releasing carbon monoxide and hydrogen chloride, a highly corrosive gas that yields hydrochloric acid when dissolved in water.

Polyurethane foam in chair cushions discharges smoke five times as toxic as wood, Dr. Alarie says. Like nylon, it contains hydrogen cyanide and carbon monoxide.

These are but a few of the toxins carried by smoke, says Dr. Rosalind Anderson, head of toxicology for consulting firm Arthur D. Little Co. of Cambridge, Mass.

"Smoke is composed of hundreds of different chemical materials, each of which has a different effect on the functions of the human body," she says. "If you identify components and look them up in a handbook, you don't find anything. They change into something else, combining with other chemicals, during the fire."

While carbon monoxide and cyanide gas act to inhibit the body's use of oxygen, acid gases like hydrogen chloride burn mucous membranes.

"They do the same things to lungs that they would do to clothes or skin—they corrode them," says Dr. Anderson. "People who

breathe acid material usually die from pulmonary edema."

Preliminary reports on the West-chase Hilton fire indicate polyurethane foam from a burning chair was the source of thick black smoke that poured into rooms, sources say. Harris County Medical Examiner Joseph Jachimczyk has said two of the victims' blood had higher than normal levels of cyanide.

"Smoke inhalation deaths are nearly always ascribed to carbon monoxide, since it is the only toxic substance generally found in victims' bodies in any quantity," says Mr. Vickery. He says better testing methods need to be developed to pinpoint the cause of death so use of materials that contribute to it can be restricted in buildings.

But Dr. Anderson says, "Almost no lab in the country can do a hydrogen cyanide determination accurately. You cannot test for the fatal presence of hydrogen cyanide."

Because of the variety of toxins released by fires, "We will never be able to work backward from a victim's body to determine exactly what substance or combination of substances killed him," she says. "But there is an indication that we can handle the problem by cleaning up materials used before we have a death."

Dr. Anderson, who until recently advocated addressing toxicity through building codes, now says this approach might be too slow.

"This part of the Uniform Build-

ing Code doesn't come up for review until 1985 and politically the earliest we could get any changes through would be 1991," she says. "So I am discouraged."

Another route may be through the nation's fire marshal, she says. "Codes don't address the use of wallpaper, rugs and other furnishings, but apparently a fire marshal has the authority to set standards for these things. He could restrict the use of a certain chair until it has been tested for total fire performance, including toxicity, flammability and heat release."

Two New York state legislators, Sen. John Dunne and Assemblyman John Branca, have introduced a bill in that legislature that calls for:

- Evaluation of the hazards of smoke and gases produced by the combustion of materials used in building construction and furnishings.

- Determination of the feasibility of rating materials according to their toxicity during combustion.

- Recommendations for incorporating combustion toxicity information into the New York Uniform Fire Prevention and Building Codes.

The legislators hope the law would move the study of toxicity out of the laboratory and into practical use. "It's not feasible to place an outright ban on all materials that are more toxic than wood when burned, but we can require that some materials be used with greater care, based on our knowledge of their fire-related properties," they said in a joint statement.

Dr. Anderson agrees, saying, "We can't talk elimination of products yet. We don't have enough data to say which we should or should not allow on the market, but it is time to test materials to get that data."

The main problem is money, she says. It costs about \$5,000 to test one material for total fire performance, including toxicity, using National Bureau of Standards-type testing. This adds up when one considers that some of the larger plastics manufacturers produce up to 20,000 different materials each.

Money for testing will not come from the government since fire safety programs are already falling victim to budget cuts, most sources agree. They say it must come from manufacturers, the hotel industry or insurers.

"There are about 12,000 hotel fires reported each year, with \$150 million of property losses," Mr. Vickery says. "God only knows

how many go unreported and what the liability losses are. This would seem to be a message to the insurance industry that something needs to be done."

But George Mulligan, vp of government affairs for the American Insurance Assn., says he doesn't think the insurance industry should fund testing for toxins in plastics.

"I would say that studies need to be done, but I'm not sure the industry should be where the money should come from initially," he said. "There is just so much you can do and so much of other people's burdens you can assume."

He believes the government has the primary responsibility for funding toxicity testing but says insurers would be willing to aid the government's efforts.

"There are a lot of interests involved in this issue besides insurers," Mr. Mulligan says. "Insurance only plays a role in trying to reimburse people for their damages."

Pressure also is coming to bear against the hotel industry from plaintiff attorneys, Dr. Anderson says. "A representative of the American Hotel & Motel Assn. told me more than \$4 billion in lawsuits is pending against hotels stemming from fires and other disasters."

"With the price tag that high, testing will become more attractive. It could be cheaper to test than to pay (liability damages)."

A spokesman for the American Hotel & Motel Assn., however, suggests the most practical way to fund improvements would be for insurers to give premium credits to hotels that install fire retardant/low toxicity materials and full sprinkler systems.

Products such as fire retardant mattresses and wall hangings are already being developed, but tend to cost more than ordinary furnishings, he says. "If insurers would give us credit for putting these in, this plus tax relief would make it something we couldn't afford to pass up."

An insurance consultant says the basic idea of giving premium credits for the use of materials low in toxicity and combustibility has merit.

"The competitive market for liability insurance right now is so soft, however, that the effect of such a rating schedule as of 1982 would be destroyed," he says.

Steps are being taken by some plastics manufacturers to lessen the toxicity of their products.

A fire-safe material developed by PPG Industries, a company that

helped support Dr. Alarie's research, is nearly ready for release into the general marketplace.

PPG's patented plastic resin Envirez, which has a low toxicity, puts out relatively little smoke and is difficult to ignite, can be used for wall and ceiling panels, seating, and ventilation duct work, a PPG official says.

During extensive testing Envirez panels were burned and monitored for smoke generation and emission of toxic fumes. It was found that its smoke was no more toxic than that produced by wood from a Douglas fir.

But Marriott's Mr. Woods says the development of materials with low toxicity is not where the ultimate solution to the problem lies.

"I'm not sure anyone fully understands the question here," Mr. Woods says. "If they did, the insurance industry would send in a team of extremely competent engineers to test all aspects of a hotel's construction and fire safety before insuring it. But you don't see that happening. It costs too much."

If it is possible to reduce toxicity at a reasonable cost, it makes sense to do so, he says. "But the odds of eliminating the use of toxic materials in buildings are not good."

Perhaps the best way to reduce toxic smoke is to put fires out as quickly as possible, Mr. Woods says. "Probably the cheapest and most effective way to do this is for all new construction to be fully sprinklered."

Those who point out the toxicity problem are the first to agree with this assessment—in part.

"No one can start without a good sprinkler system," says Dr. Anderson, adding that the next logical step is to plan for evacuation, isolation of the fire and providing safe rooms where trapped people can wait out the blaze. After that comes their evacuation.

"Prevention of fire is the ultimate solution," says Dr. Alarie. "Sprinkler systems are a good answer."

But in the meantime about 130 people have died in four major hotel fires in the last 16 months, Mr. Vickery says. As a former chief of the Seattle Fire Department, Mr. Vickery has been outspoken in favor of sprinkler systems, but says he believes toxic fumes must be addressed through fire and building codes.

"It is incomprehensible in a country with all our expertise that we do not address toxicity in our codes," Mr. Vickery says. "This needs to be done." ■



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MGM suits linked to toxic fumes

LAS VEGAS, Nev.—An attorney representing 100 MGM Grand Hotel fire victims draws a clear line between the use of toxic building materials and potentially huge liability judgments against major hotels.

"Any fire in a building with toxic materials like those present in the MGM will be very expensive to insurers, or to the hotel if it doesn't have adequate insurance," says attorney Fred J. Kumetz of Los Angeles.

His clients are suing MGM Grand Hotels Inc. and other defendants for \$15 million following the November 1980 fire that killed 85 people. Fire safety experts say 69 of the victims died of smoke inhalation, many 20 stories above the actual blaze.

The toxicity of building decorations and furnishings will be emphasized in the suits, he says. "Wherever plastics resulting in toxic fumes were used, their suppliers were brought into our cases as defendants."

Mr. Kumetz estimates the MGM liability cases, with 1,000 claims still outstanding, will cost a total of \$150 million to \$200 million. This would be within MGM Grand's liability insurance coverage limits of \$200 million, consisting of \$30 million of

coverage purchased before the fire and \$170 million in back-dated insurance.

"Many of my clients have smoke inhalation problems," Mr. Kumetz says. "Toxic substances in smoke cause lung problems, cut down on the supply of oxygen to the heart and bring other reactions. Inhaling polyvinyl chloride, we're informed, can cause sterility in women."

"People exposed to smoke also have developed problems with memory, feel fatigued and feel weak," he says. "There is a high incidence of lung cancer among them, and I have some clients who have developed diabetes since the fire."

He says he expects 50% of the people inside the MGM Grand during the fire to have residual effects from breathing toxic fumes.

Asked about possible solutions to the toxic materials problem, Mr. Kumetz says, "We attorneys can't limit their use. Only the industry can do that."

"The only thing we can do is recover damages for people exposed to them. Hopefully the MGM and (Las Vegas) Hilton fires will do something to show builders and contractors we mean business."

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MAY 10-14. Loss Control Management course in Atlanta, sponsored by the International Loss Control Institute; \$590. Also **June 14-18** in Atlanta. ILCI, Box 345, Loganville, Ga. 30249; 404-466-2208.

MAY 10-14. Sampling Strategies course in San Diego, sponsored by the University of Southern California, Institute of Safety & Systems Management; \$475. Institute of Safety & Systems Management, Office of Extension & In-Service Programs, Los Angeles, Calif. 90007; 213-743-6523/6524.

MAY 11-12. Confined Space Entry workshop in Houston, sponsored by Loss Prevention Associates; \$285. Loss Prevention Associates, Box 59888, Dallas, Texas 75229; 214-241-0396.

MAY 11-12. Principles of Petroleum Insurance workshop in Houston, sponsored by RIMCO Risk Management Inc. and the Professional Development Institute of North Texas State University; \$345. Also **May 26-27** in San Antonio, Texas. Barbara Elliott, Professional Development Institute, North Texas State University, Denton, Texas 76203; 817-788-2483.

MAY 11-14. Electronic Funds Transfer Security conference in Chicago, sponsored by the American Bankers Assn.; members, \$415; non-members, \$515. Julia Hollander, Payment Systems Policy Board, ABA, 1120 Connecticut Ave. N.W., Washington, D.C. 20036; 202-467-4295.

MAY 12. Developing Medical and Industrial Hygiene Surveillance Systems seminar in Chicago, sponsored by Carnow, Conibear & Associates Ltd.; \$15. Carnow, Conibear & Associates Ltd., 20 N. Wacker Drive, Chicago, Ill. 60606; 312-782-4486.

MAY 12-14. Establishment, Operation and Management of Captive Insurance Companies course in Amsterdam, Netherlands, sponsored by the Risk Research Group; 330 pounds (approximately \$581). Sue Moore, Risk Research Group Ltd., Bridge House, 181 Queen Victoria St., London EC4V 4DD, England; 01-236-2175.

MAY 12-14. Safety Management—Direction for the '80s conference in San Francisco, sponsored by the National Safety Management Society; members, \$245; non-members, \$295. NSMS Conference, Box 5701, San Francisco, Calif. 94101.

MAY 12-14. Techniques of Loss Control course in Los Angeles, sponsored by the Risk & Insurance Management Society; members, \$345; non-members, \$445; for additional participants from same company, \$195. Claudia Shneider, RIMS Schools Administrator, RIMS, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

MAY 13-14. Hazardous Waste Training for Managers and Supervisors seminar in Houston, sponsored by the International Safety Associates; \$335. International Safety Associates, 126 Northpoint Drive, Suite 157, Houston, Texas 77060; 713-999-0000.

MAY 13-14. Radiation Protection of the Public in a Nuclear Accident course in Washington, sponsored by the International Institute of Safety & Health; \$245; three or more participants from same company, \$195. Harold M. Gordon, 5010A Nicholson Lane, Rockville, Md. 20852; 301-984-8969.

MAY 14. Air Sampling Techniques for Safety Professionals workshop in Boston, Mass., sponsored by Fireman's Fund Risk Management Services Inc.; \$130. Robert Yamamoto, Fireman's Fund Risk Management Services Inc., 1600 Los Gamos Drive, San Rafael, Calif. 94911.

MAY 17-19. Fundamentals of Insurance course in New York, sponsored by the Risk & Insurance Management Society; members, \$345; non-members, \$445; additional participants from same company, \$195. Claudia Shneider, RIMS Schools Administrator, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

MAY 17-21. Advanced Security Management program in Atlanta, sponsored by the American Society for Industrial Security; \$595. ASIS, 2000 K St. N.W., Suite 651, Washington, D.C. 20006; 202-331-7887.

MAY 17-21. Total Loss Control Management seminar in Houston, sponsored by the International Safety Academy; \$570. International Safety Academy, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

MAY 18. Employee Benefits briefing in Boston, sponsored by the International Foundation of Employee Benefit Plans; members, \$130; non-members, \$155. Also **May 19** in Buffalo, N.Y. IFEBP, 18700 W. Bluemound Road, Box 69, Brookfield, Wis. 53005; 414-786-6700.

MAY 18. Loss Control Plan, Design and Evaluation seminar in Houston, sponsored by the International Safety Academy; \$150. International Safety Academy, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

MAY 19. Analytical Approach to Risk Management briefing in Chicago, sponsored by *Business Insurance*; \$435. Also **May 24** in San Francisco. Beth Levine, *Business Insurance*, 220 E. 42nd St., New York, N.Y. 10017; 212-210-0229.

MAY 19. Portland Chapter, Western Pension Conference in Portland, Ore., sponsored by the Western Pension Conference, Portland Chapter; members, \$15; non-members, \$16. David I. Crowell, 503-221-0800.

MAY 19. Southern Pension Fly-In conference in Atlanta, sponsored by the Southern Pension Conference; members, \$50; non-members, \$75. Nancy Connell, Southern Pension Conference, P.O. Drawer 47309, Atlanta, Ga. 30362; 404-458-6233.

MAY 19. Workers Compensation Insurance in Kansas seminar in Wichita, Kan., co-sponsored by the National Council on Compensation Insurance and the Kansas Insurance Department; free of charge. Also **May 20** in Topeka, Kan. David V. Chartrand, Insurance Information Institute, 6701 W. 84th St., Suite 215, Shawnee Mission, Kan. 66202; 913-831-0080.

MAY 20. Third Annual Crime Prevention seminar in Clayton, Mo., co-sponsored by the St. Louis Crusade Against Crime and the Insurance Information Institute; \$16. Crusade Against Crime, 4158 Lindell Blvd., St. Louis, Mo. 63108.

MAY 20. Industrial Back Pain Patient seminar in Chicago, sponsored by the National Safety Council and the Midwest Industrial Back Care Institute; NSC members, \$90; non-members, \$110. Robin Morgenstern, Chicago Back School, 670 N. Michigan Ave., Chicago, Ill. 60611; 312-951-1115.

MAY 24. Ways to Contain Business Health Care Costs seminar in St. Paul, Minn., sponsored by Control Data Management Institute; \$195. Control Data, Box O, Minneapolis, Minn. 55440; 800-638-6590.

MAY 24-25. Guard Training program in Chicago, sponsored by the American Society for Industrial Security; members, \$240; non-members, \$325. Lewis C. Schneider, ASIS, 2000 K St. N.W., Suite 651, Washington, D.C. 20006; 202-331-7887.

MAY 25-26. Asbestosis, DES and Agent Orange Claims symposium in Chicago, sponsored by the Society of Chartered Property & Casualty Underwriters; members, \$185; non-members, \$195. Harry Niemann, Director of Continuing Education for CPCU, Kahler Hall, Providence Road, Malvern, Pa. 19355; 215-648-0440.

MAY 26. Employee Training Programs: How to Achieve Cooperation and Compliance seminar in Chicago, sponsored by Carnow, Conibear & Associates Ltd.; \$15. Carnow, Conibear & Associates Ltd., 20 N. Wacker Drive, Chicago, Ill. 60606; 312-782-4486.

MAY 26-27. Health Care Cost Containment workshop in Chicago, sponsored by the Health Research Institute; \$395. Also **June 15-16** in St. Louis. Health Research Institute, 49 Quail Court, Suite 200, Walnut Creek, Calif. 94596; 415-676-2320.

MAY 26-28. Safety Management in the Petrochemical Industry conference in Houston, sponsored by International Safety Associates Inc.; \$395. International Safety Associates Inc., 126 Northpoint Drive, Houston, Texas 77060; 713-999-0000.

MAY 27. Greater San Diego Insurance Day meeting in San Diego, sponsored by the Independent Insurance Agents & Brokers Assn. of San Diego; \$20. IABA, 3421 Park Blvd., San Diego, Calif. 92103.

MAY 27-28. Practical Methods of Combining Safety and Production seminar in El Paso, Texas, sponsored by the Paso Del Norte Chapter of the American Society of Safety Engineers; members, \$40; non-members, \$50. Jim Jordan, Seminar Chairman, 10727 Gateway West, El Paso, Texas 79935; 915-593-3400.

MAY 28. First Annual Bay Area RIMS conference in Palo Alto, Calif., sponsored by the Northern California and Santa Clara Valley chapters of the Risk & Insurance Management Society; \$40. Stephen Deness, University of California, 1942 University Ave., Berkeley, Calif. 94704; 415-642-3754.

JUNE 14. Inspector Training seminar in San Diego, Calif., sponsored by the International Safety Academy; \$490. International Safety Academy, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

JUNE 2-4. Application of Risk Control and Financing seminar in Richmond, Ky., sponsored by Eastern Kentucky University Departments of Insurance, Fire Prevention & Control and Security and Safety; \$325. Division of Special Programs, Eastern Kentucky University, Richmond, Ky. 40475; 606-622-1444.

JUNE 2-5. Dollars & Sense of Local Government Risk Management conference in San Antonio, Texas, sponsored by the Public Risk & Insurance Management Assn.; members, \$250; non-members, \$325. PRIMA Conference, 1120 G. St. N.W., Suite 707, Washington, D.C. 202-737-7556.

JUNE 3-4. Ergonomics course in Los Angeles, sponsored by the University of Southern California, Institute of Safety & Systems Management; \$195. USC, Institute of Safety & Systems Management, Office of Extension & In-Service Programs, Los Angeles, Calif. 90007; 213-743-6523/6524.

JUNE 3-4. Disaster Management workshop in Harrisburg, Pa., sponsored by the Disaster Management Committee of the American Society for Industrial Security; members, \$240; non-members, \$325. Lewis C. Schneider, ASIS, 2000 K St. N.W., Suite 651, Washington, D.C. 20006; 202-331-7887.

JUNE 6-9. Dialogue with Senior Management forum in Boston, sponsored by Arthur D. Little Inc.; \$975. Janet Maurer, Arthur D. Little Decision Resources, 17 Acorn Park, Cambridge, Mass. 02140; 617-864-5770, ext. 4400.

JUNE 7-11. Basic Safety Management seminar in Houston, sponsored by the International Safety Academy; \$535. Also **July 12-16** in Houston. International Safety Academy, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

JUNE 7-11. Reinsurance Practice course in Warwick, Bermuda, sponsored by Risk Research Group; 630 pounds (approximately \$1,109); 560 pounds for each additional participant (approx-

mately \$986). Course Coordinator, Risk Research Group Ltd., Bridge House, 181 Queen Victoria St., London EC4V 4DD; 01-236-2175.

JUNE 8-10. Financial Analysis for Risk Management Decisions seminar in Washington, sponsored by Cozzolino Associates Inc.; \$685, plus \$50 registration fee per company. Cozzolino Associates Inc., 12 Chippenham Drive, West Berlin, N.J. 08091; 609-784-7105.

JUNE 8-10. Industrial Fire Brigade seminar in Columbus, Ohio, sponsored by Mead Loss Control Consultants Inc.; \$300. Mead Loss Control Consultants, Courthouse Plaza N.E., Dayton, Ohio 45463; 513-223-1300, ext. 240.

JUNE 9. Risk Management Information Systems seminar in Tulsa, Okla., sponsored by Corporate Systems; \$50. Matt Davis, Corporate Systems, Box 31780, Amarillo, Texas 79120; 806-376-4223.

JUNE 9-11. Advanced Safety Management course in Atlanta, sponsored by International Loss Control Institute; \$350. ILCI, Box 345, Loganville, Ga. 30249; 404-466-2208.

JUNE 14-15. The Mine Safety and Health Act conference in Denver, Colo., sponsored by The Energy Bureau Inc.; \$650. Jane Marsik, The Energy Bureau, 41 E. 42nd St., New York, N.Y. 10017; 212-687-3178.

JUNE 14-16. 1982 Washington Legislative Update program in Washington, sponsored by the International Foundation of Employee Benefit Plans; members, \$390; non-members, \$465. IFEBP, 18700 W. Bluemound Road, Box 69, Brookfield, Wis. 53005; 414-786-6700.

JUNE 14-16. Techniques of Risk Management course in Hartford, Conn., sponsored by the Risk & Insurance Management Society; members, \$345; non-members, \$445, \$195 for each additional participant from same company. Claudia Shneider, RIMS Schools Administrator, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

JUNE 14-18. Recognition of Occupational Health Hazards course in Los Angeles, sponsored by the University of Southern California, Institute of Safety & Systems Management; \$475. USC, Institute of Safety & Systems Management, Office of Extension & In-Service Programs, Los Angeles, Calif. 90007; 213-743-6523/6524.

JUNE 16-18. Techniques of Finance and Accounting course in Nashville, Tenn., sponsored by the Risk & Insurance Management Society; members, \$345; non-members, \$445; \$195 for each additional participant from same company. Claudia Shneider, RIMS Schools Administrator, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

JUNE 17-18. Structuring and Managing Association Captives conference in New York, sponsored by Conning & Co.; \$495. Robert Brian or Lynn Prunkl, Conning & Co., 41 Lewis St., Hartford, Conn. 06103; 203-527-1131.

JUNE 17-19. Corporate Benefits Management conference in Stateline, Nev., sponsored by the International Foundation of Employee Benefit Plans; members, \$470; non-members, \$545. IFEBP, 18700 W. Bluemound Road, Box 69, Brookfield, Wis. 53005; 414-786-6700.

JUNE 20-23. Group Health Institute conference in Detroit, sponsored by the Group Health Foundation, an affiliate of the Group Health Assn. of America Inc.; members, \$320; non-members, \$370 before May 17; members, \$345; non-members, \$395 afterward. Conference Office, Group Health Foundation, 624 Ninth St. N.W., Washington, D.C. 20001; 202-737-4311.

JUNE 21-23. Accident Potential in Workplaces Due to Human Factors course in Los Angeles, sponsored by the University of Southern California, Institute of Safety & Systems Management; \$260. USC, Institute of Safety & Systems Management, Office of Extension & In-Service Programs, Los Angeles, Calif. 90007; 213-743-6523/6524.

JUNE 28-29. Health Care Security workshop in Philadelphia, sponsored by American Society for Industrial Security; members, \$265; non-members, \$350. Lewis C. Schneider, ASIS, 2000 K St. N.W., Suite 651, Washington, D.C. 20006; 202-331-7887.

JUNE 28-30. International Computer Privacy and Security conference in Chicago, co-sponsored by SKK Inc., Racal-Milgo Inc. and John Marshall Law School; \$495. Mike Harnack, SKK Inc., 10400 W. Higgins Road, Rosemont, Ill. 60018; 312-635-1040.

NCCI promotes James R. Nau

NEW YORK—James R. Nau has been named manager of products and services at the National Council on Compensation Insurance.

Mr. Nau is responsible for development, evaluation and implementation of new products and services offered by the NCCI. He will also review and recommend changes in current products and services available to NCCI members.

He will continue to serve as field coordinator for government, consumer and industry affairs.

Mr. Nau was previously assistant manager of the Illinois Council of Compensation Insurance and was a classifier/inspector with the Indiana Compensation Rating Bureau.

The NCCI prepares and administers workers compensation insurance rates in 32 states.

Judge sides with EEOC in pregnancy benefits case

By STEVE SHERWOOD

DALLAS—A Blue Cross/Blue Shield clerk whose demand for pregnancy disability benefits triggered an Equal Employment Opportunity Commission lawsuit appears to be on the verge of legal victory.

The litigation is still continuing, but an April 10 ruling by U.S. District Judge Barefoot Sanders distinctly sides with the EEOC's arguments in the case.

Judge Sanders said he stopped short of resolving the lawsuit in the EEOC's favor because the commission had not yet filed for a motion for a summary judgment.

Although Blue Cross/Blue Shield may be required to pay health benefits it denied to a "group" of pregnant employees in 1979, it's not known how many women could file similar suits focusing on the effective date of the 1978 Pregnancy Discrimination Act.

The scope of the Dallas case is limited to employees who were on maternity leave April 29, 1979, and denied disability benefits, the attorney says. "There may be hundreds of women around the nation affected, or there may be 10. It probably would not apply unless they protected their rights by filing a complaint themselves."

Glenda Denise Lumpkin claims her employer, Blue Cross/Blue Shield of Texas, wrongly denied her short-term disability benefits for a May 1979 childbirth. The EEOC filed suit on behalf of Mrs. Lumpkin and other women who were allegedly refused benefits because they were not actively at work when Blue Cross/Blue Shield—also known as Group Hospital Services Inc.—changed its employee benefit program to comply with provisions of the Pregnancy Discrimination Act.

The law compels employers to treat pregnant women the same as they would treat all others employees unable to work because of medical reasons. The law specifically applies to medical and income maintenance benefits.

When Congress passed the law in October 1978, it gave employers 180 days, or until April 29, 1979, to comply.

The EEOC suit says Blue Cross/Blue Shield made the necessary changes in its basic benefit plan, but circulated a memo two days before the deadline saying pregnant women on leave as of April 29, 1979, were ineligible.

According to Judge Sanders' order the memo read, "To be covered by the disability benefits the employee must be actively at work on Monday, April 30, 1979. Employees on any type of leave of absence on April 29, 1979, will not be able to receive these benefits until they return to work and their coverage becomes effective again."

The EEOC suit contends Blue Cross/Blue Shield should have paid pregnancy disability benefits to eligible employees on April 29, regardless of whether the employees were actively at work.

Further, the commission accuses Blue Cross/Blue Shield of invoking the active-at-work policy in order to sidestep the Pregnancy Discrimination Act, saying the employer did not have such a policy before the law was passed.

In his April 10 ruling, Judge Sanders did not address the company's motives but did say the active-at-work policy was contrary to the intent of the law.

"A plain reading of the act suggests that on April 29, 1979, employers were obligated to begin compensating female employees

with pregnancy disabilities regardless of whether they had taken maternity leave prior to that date," Judge Sanders said. "Such a reading is consistent with the purpose of the act, which was to ensure that men and women would receive comparable disability coverage."

He denied Blue Cross/Blue Shield's motion for a summary judgment to dismiss the case and said Blue Cross/Blue Shield's argument that paying the benefits would constitute a retroactive application of the law was invalid since benefits would not begin accruing until April 29.

The EEOC filed a motion for summary judgment in its favor later last month. A hearing has

been set for May 7.

Mrs. Lumpkin went on maternity leave April 13, 1979, and her baby was born May 4 that year, she says in a Sept. 16, 1981, affidavit. "I have not received short-term disability benefits from Blue Cross/Blue Shield."

She was aware at the time that such benefits were not given for maternity leave, but read newspaper articles and heard rumors that the company would have to cover her as of April 29, 1979.

Mrs. Lumpkin filed charges of employment discrimination through the EEOC after talking to the company personnel department "at least 10 times" without satisfaction, she says.

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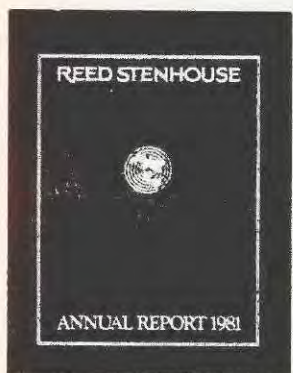
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| 3. North American Reinsurance | 11. Ryan Insurance Company |
| 4. Reed Stenhouse Co., Ltd. | 12. Trenwick |
| 5. Midland Insurance | 13. ARMCO |
| 6. American International Group | 14. The Reliance Companies |
| 7. Puritan Insurance Company | 15. Optimum Holding Corp. |
| 8. PMA Insurance Company | |

Pacific American Group, Inc.

Pacific American Group reports record results for the fiscal year ended 12/31/81. Pacific American is an international insurance holding company with subsidiaries domiciled in the U.S.A., the U.K. and Bermuda. The Group works with brokers and risk managers in the development of special programs and reinsurance facilities in most lines of insurance.

Pacific American Group, Inc.

10

Ryan Insurance Group, Inc.

Ryan Insurance Group reported 1981 operating income attributable to common shareholders of \$9,282,000 or \$2.35 per share. James S. Kemper & Company was acquired in April of 1981 to add 26 offices to the Group's brokerage operations. New property-casualty specialty products were developed and marketed during 1981.

11

Trenwick Ltd.

Trenwick is a professional reinsurance group with assets of over \$40 million. The Group is dedicated to providing risk-taking and risk reduction services to captives, self-insurers and insurers. From offices in Bermuda and Connecticut, Trenwick offers reinsurance, insurance, consulting and management products to clients everywhere.

12

ARMCO Financial Services Group (ARMCO Inc.)

ARMCO INC., reports its fourth consecutive record year in sales and earnings in 1981. Earnings reached \$294.5 million, 11% higher than 1980. Earnings per share of \$4.97 was 5% higher than 1980. Sales were \$6,906 million, or 22% higher than in the previous year. ARMCO's Financial Services Group reported 1981 net income of \$30.3 million and total revenues of \$833.4 million for the same period.

13

The Reliance Companies

During 1981, The Reliance Companies reported operating income of \$100.9 million and net income of \$119.0 million—up from \$92.1 million and \$101.7 million, respectively, reported in 1980. Premiums written of \$948.5 million represented an increase of nearly 2 percent over the \$933.5 million reported a year earlier. The combined ratio for 1981 was 102.8. Reliance is one of the nation's 25 largest property-casualty stock insurance groups.

14

Optimum Holding Corporation

For the year ending December 31, 1981, Optimum Holding Corporation reported total revenues of \$33,099,000; net premiums written \$30,546,000; net income was \$1,798,000 (\$1.31 per share on 1,371,823 average shares outstanding). Optimum Insurance Company of Illinois, operates through a pooling arrangement with the Ideal Mutual Insurance Company, which owns 51% of Optimum Holding Corporation's stock.

15

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Hall asks court to overturn \$2.3 million damage award

By STEVE SHERWOOD

HOUSTON—Frank B. Hall & Co. Inc., this nation's third-largest brokerage, is appealing a \$2.3 million slander and breach of contract jury award to a former employee.

The appeal, filed in 14th State Civil Appeals Court of Texas, seeks to overturn a civil court ruling that late last year ordered Hall and two of its former managers to pay Larry W. Buck, now an independent consultant here, \$1.3 million in punitive damages \$700,000 in actual damages and \$300,000 in attorney fees.

In the original lawsuit, filed in the 189th District Court of Harris County in 1977, Mr. Buck claimed that Hall deliberately broke a contract that had lured him from a job with brokerage Alexander & Alexander of Houston.

The Hall contract gave him a salary of \$30,000 a year plus a 7.5% commission on business he brought to the firm, to maximum compensation of \$600,000 a year, Mr. Buck said.

Mr. Buck also charged that the Hall office manager, Lester W. Eckert, slandered him by telling others he was dishonest and a crook and had been fired because of serious misconduct.

In the court documents, Mr. Buck said these statements prevent him from finding equivalent work in the insurance business.

Defendants include Frank B. Hall & Co. Inc. of Briarcliff, N.Y.; Frank B. Hall & Co. of Texas; Mendel S. Kaliff, former chairman and

president of Frank B. Hall of Texas; and Mr. Eckert, former office manager.

Mr. Buck was hired June 1, 1976, by Hall and discharged in March 1977. In the original suit, he claims his firing was the result of a conspiracy between Mr. Kaliff, whom the suit says approached Mr. Buck about changing the employment agreement, and Mr. Eckert.

The suit further charges that they maliciously attempted to prevent him from securing employment elsewhere and that he has been unable to obtain comparable employment since his discharge.

On Dec. 14, 1981, Mr. Buck's attorney amended the lawsuit to add charges of slander.

Mr. Eckert, through written misrepresentations and innuendos, gave the impression that Mr. Buck had stolen documents from Alexander & Alexander, the amended

suit alleged, seeking unspecified damages for injuries to Mr. Buck's business and personal reputation.

On Dec. 16, a civil jury found that Hall did not have good cause to discharge Mr. Buck, that a series of statements Mr. Eckert made about him were untrue and slanderous and that the contract between Hall and Mr. Buck had been breached.

The Hall Texas subsidiary has previously been a trouble spot for the brokerage. In 1979, Hall admitted that possibly illegal business practices had increased the company's revenue reports by \$3.8 million over a three-year period (BI, May 28, 1979).

Mr. Kaliff, the former principal who is named in the Buck suit, agreed to cover more than half of the brokerage's exposure by posting a \$2 million letter of credit and resigned from the Hall subsidiary that month.

Managing agencies join institute

MALVERN, Pa.—Nine general agencies have become members of the American Institute for Property & Liability Underwriters and the Insurance Institute of America.

The new members are:

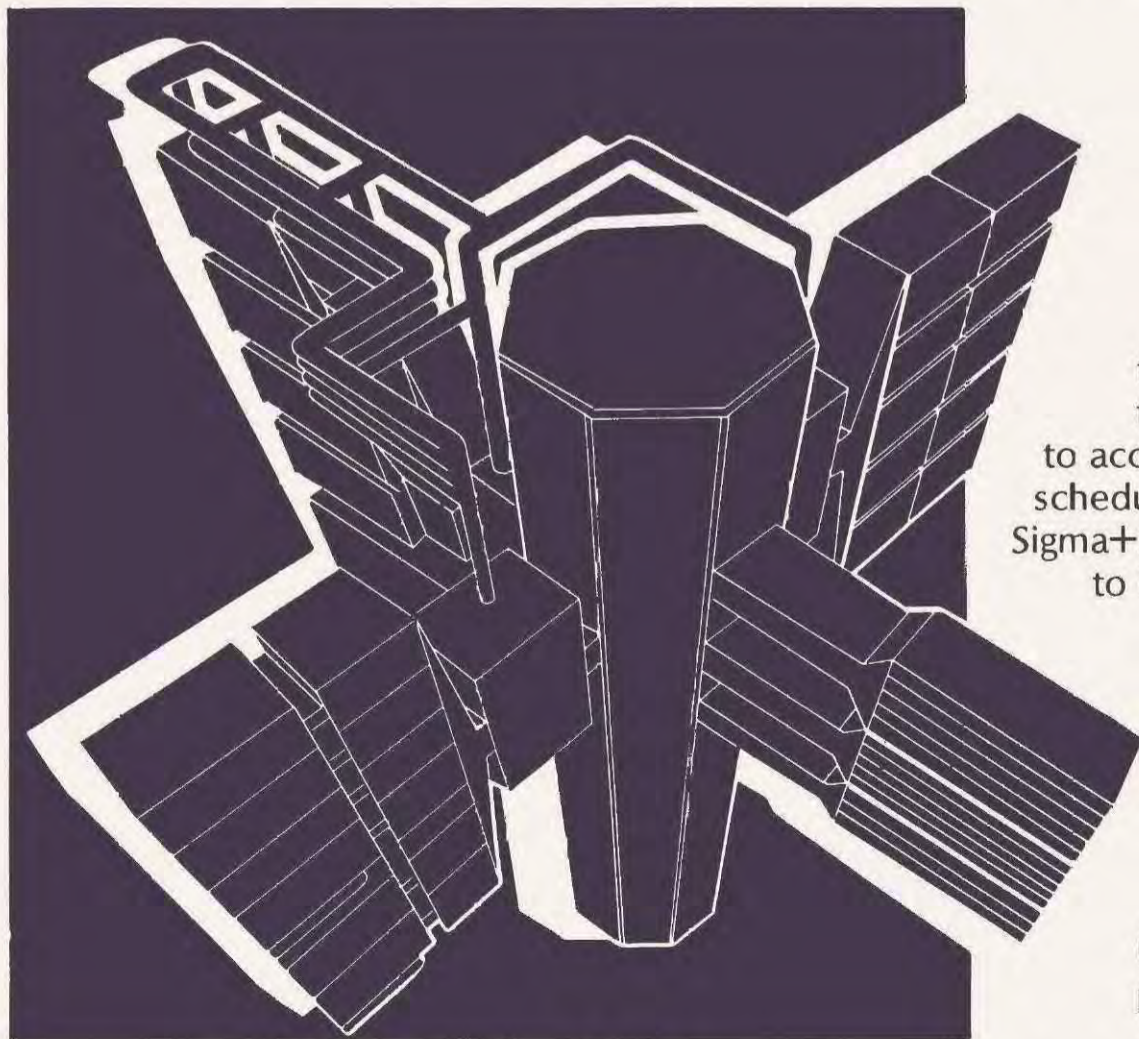
- American National General Agencies Inc. of Los Angeles.
- Anderson & Murison of Pasadena, Calif.
- Delaware Valley Underwriters of Wyncotte, Pa.
- Aaron B. Dupuy & Sons of Jackson, Miss.
- Casualty Underwriters Inc. of

St. Paul, Minn.

- Horan, Goldman & Co. of Bryn Mawr, Pa.
- Montgomery General Agency of Wynnewood, Pa.
- Southern Insurance Services of New Orleans.
- Rocky Mountain General Agency of Great Falls, Mont.

"Today, more and more of the managing general agents are becoming interested in continuing education and in the programs offered by the institute," said President Edwin S. Overman said.

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Pair writes own pollution liability form

Continued from page 1

A direct comparison of the ISO and London policies reveals several differences. Coverage by the ISO form is not as broad as its London counterpart, limiting retroactive coverage and excluding punitive damages and worldwide coverage.

"We just rolled all the good things into one form," says Mr. Julien of their combined effort over the last several months.

Searching for a description of their policy, he adds: "Eclectic would be the right word."

The policy's treatment of genetic damages is one of its most important features, providing a very broad definition for such exposures.

Under the term "personal injury," the policy includes "mutagenic, teratogenic, antenatal and heritable genetic damage." These terms refer to any "abnormality, deformity or damage to any fetus, or any defect or abnormality that is carried and/or passed from one generation to another."

Genetic exposures are covered in the ISO form, but the definition of genetic injuries is not as broad. While they are excluded in the London policy, they can be added as a "buy-back feature," but again the definition of injury is not as broad.

The two risk managers took special care with this portion of the policy, striving for a broad definition through what Mr. Julien describes as the "thesaurus approach" to policy writing.

"You would be nuts not to have it," Mr. Julien says of coverage for genetic damages. "This is where the emotion is and you need big bucks."

The Julien/Heskett form also focuses on:

- Definition of insured. Their form provides a very broad definition of the word "insured," including any "officer, director, stockholder or employee" and any "partner or joint venture."

Indemnification also would be extended to "any person or organization while acting as agent with respect to real estate management," as well as "any person, organization, trustee, executor or administrator to whom the insured is obligated by virtue of a written contract or agreement..."

While virtually identical to the London form, this wording is much more precise than the ISO form, which only uses the undefined term "named insured."

- Punitive damages. The Julien/Heskett form stipulates that punitive damages are covered where allowed by law, similar to the London-policy. The ISO form is silent on this point, however, indicating that coverage may or may not be provided.

- Liability assumed under con-

Self-insurers reap savings

SARASOTA, Fla.—Savings in excess of \$7.5 million are being divided among more than 2,000 Florida businesses that participate in the Florida Construction, Commerce & Industry Self Insurers Fund.

The fund, with \$25 million in annual premiums, has issued refunds to nearly 90% of its insureds.

The discounts, bonuses and refunds go to insureds with good safety records and prompt premium payments. Some members with substantial premiums and no losses in 1981 received more than 50% of their premium.

The fund, which employs 10 safety counselors and eight rehabilitation nurses, stresses loss control and rehabilitation. ■

'You would be nuts not to have it (coverage for genetic damages). This is where the emotion is and you need big bucks,' says Denis Julien of Republic Steel Corp.

tract. This exposure includes those situations where the insured has contracted for services with an outside party, actions which later lead to a pollution accident. Such coverage is provided in the London form but excluded in the ISO policy.

The Julien/Heskett form contains numerous exclusions that are common to all EIL insurers, plus a few others. However, Mr. Heskett points out that other risk managers, depending on their exposures, might want coverage for some of

the risks the Julien/Heskett form excludes.

For example, their form does not offer coverage for both sudden /accidental and non-sudden/gradual pollution incidents in the same policy.

This is an important feature of the ISO form, but is excluded in the London form.

Messrs. Julien and Heskett took this approach since the premium credit that companies will receive for removing the accidental expo-

sure from their comprehensive general liability policies will not offset the higher cost of combined coverage.

The risk managers also excluded blanket coverage for a company's risk located anywhere in the world, coverage that the London form provides but the ISO's does not.

Companies that have risks outside the United States and Canada may want to add this feature, Mr. Heskett says.

A third exclusion is coverage for cleanup operations on the insured's property following a pollution accident, a feature that Mr. Julien described as "more of a maintenance sort of thing" that can be done by the company. This is one exclusion that all three policies have in common, although at least one insurer—Great American Surplus Lines

Insurance Co.—will pay for on-site cleanup costs of up to 10% of policy limits.

Messrs. Julien and Heskett say their policy, with only a few modifications, could be utilized by both coal mining and steel producing companies.

The risk managers had to determine how steel and coal risks differ through a process of "risk identification," Mr. Heskett says, and the resulting policy form comes "pretty darn close" to fitting both companies' needs.

Even if their effort does not stimulate a debate on EIL policy forms and result in broader coverage, both men will look upon the experience as a good one.

"I think at the very least it's one of the more educational processes I've had," Mr. Heskett says. ■

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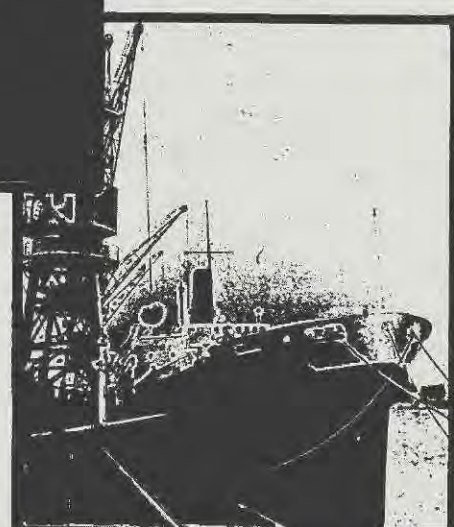
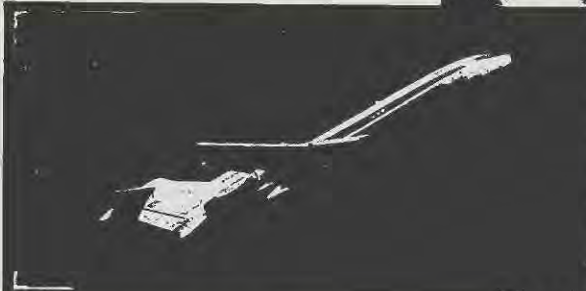
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arrange filings for you where applicable and can take charge of your claims administration. In short, if you would like to enjoy the refreshing experience of dealing with knowledgeable specialists who are totally responsive to your needs, call Midland. Even if you're a long way from the Fortune 500, you're close to our heart.



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Program gives injured workers 'homework'



Photo: Control Data Corp.

Injured employees work on computer terminals installed in their homes.

Continued from page 3

disability insurance or being self-insured, says Ms. Copenhaver.

"When Control Data started this program in-house, we were short of programmers, and we had disabled employees whose skills and expertise with the company were needed," she said.

"The program was so successful with our own workers (the company has 50,000 employees across the nation), we wanted to develop it for other employers who face the similar dilemma of putting an injured worker back into a productive career," Ms. Copenhaver said.

The Control Data PLATO computer terminal is placed in the worker's home once the company has determined that the employee is able to work a minimum of 20 hours a week on a flexible schedule.

The potential student also has to express a keen interest in returning to gainful employment and be self-motivated to produce in a solitary situation.

The PLATO terminal can be installed wherever there is a telephone line.

During training, which takes about 8 months, students learn how to become the "interpreter" between humans and computers and eventually learn how to write a set of instructions that tell the computer what to do.

The last phase of the program provides placement opportunities for each graduate at a full-time job.

Control Data is targeting its expansion efforts at self-insured employers and insurance companies, said Ms. Copenhaver.

The program is not a "sheltered workshop" type job where the handicapped worker may be given the opportunity to work, but at meager wages.

"The beginning computer programmer graduates with a certificate from the Control Data Institute, which has 26 vocational schools in the U.S., and is paid the same salary as a graduate who isn't disabled," Ms. Copenhaver said.

Besides rehabilitating a severely disabled worker into a contributing member of the workforce again, there is an added incentive for the employer trying to get a maximum output from its workers.

Control Data says it found that being in an office had absolutely no relationship to workers' productivity. "Most people really work only about 4 to 4.5 hours a day in an office setting," said Ms. Copenhaver.

"But when people work at home, their productivity increases to 6 to 6.5 hours a day.

"If our students can't sleep at night, they get up and work on their course work," she said.

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Lloyd's underwriters told to drop Argentine risks

By STACY SHAPIRO

LONDON—Any Lloyd's of London underwriter insuring or reinsuring an Argentine risk should cancel the policy or treaty immediately, Lloyd's Chairman Peter Green has requested.

Some Lloyd's underwriters have already followed Mr. Green's request and canceled Argentine policies and treaties totaling up to 30 million pounds (approximately \$53.4 million) in annual premiums, said a Lloyd's spokesman.

Mr. Green's request contains elements of both world politics and tradition, the Lloyd's spokesman pointed out.

The British government has banned any currency transactions between British and Argentine companies since the South American nation invaded the Falkland Islands April 2. Lloyd's, therefore, must pay Argentine claims into an escrow account here until the crisis is over, the spokesman explained.

And since Lloyd's traditionally always pays its claims directly to policyholders, "they (the underwriters) should not keep in force policies if claims cannot be paid," he said.

Although Lloyd's had advised its underwriters last month to follow the government's directive and not directly pay or deal with Argentine policyholders, a member of parliament, Christopher Priest, said recently that he believed that Lloyd's underwriters and brokers were trying to renew the reinsurance policy for Argentina's airline, Aerolineas Argentinas.

However, Frank Hitchman, secretary of the Sedgewick Group, which is the current reinsurance broker for the airline, said "we are not handling the renewal of the Argentine airline."

And the Lloyd's spokesman said that no new Argentine policy has passed through the Lloyd's Policy Signing Office since April 2.

Lloyd's issued an official statement last month to remind its underwriting and broking agencies

not to deal with Argentine companies. "Lloyd's must and would wish to follow not only the letter but also the spirit of the emergency measures recently issued by the government," the statement read.

"It would be wrong for Lloyd's underwriters and Lloyd's brokers to be involved with underwriting or broking of Argentine direct or reinsurance business, including retrocessions of Argentine business from any source. . . Where an underwriter has a choice, he should decline to accept, extend, or renew any such business.

"The Lloyd's market must fully support Her Majesty's government on this issue (and) commercially it is unacceptable to accept the business on the knowledge that we will be unable to pay claims." ■

Three insurers join association

DES PLAINES, Ill.—Three commercial insurance companies have joined the National Assn. of Independent Insurers.

The three insurers are:

- Louisiana Farm Bureau Insurance Co. of Jackson, Miss. The company, formed in 1981 in Louisiana, writes general liability and workers compensation coverages in Louisiana and is affiliated with Southern Farm Bureau Casualty Insurance Co. and Louisiana Farm Bureau Mutual Insurance Co.

- United Community Insurance Co. of Coral Gables, Fla. United Community was formed in New York in 1967 as Urban Community Insurance Co. Its name was changed in 1981. The company writes fire, inland marine, general liability, glass, burglary, multiperil, malpractice and workers compensation coverages.

- Western Community Insurance Co. of Pocatello, Idaho. The company was formed in Idaho in 1980 and writes fire, inland marine, general liability, glass, multiperil and workers compensation insurance. ■

Judge rebukes AMC for design of Jeep

Continued from page 2
Supreme Court last year upheld a \$2.2 million lower-court award against AMC in the only other Jeep case it has lost.

Two other jury trials last year resulted in quick defense verdicts.

At least 185 personal injury lawsuits naming AMC and subsidiary Jeep Corp. as defendants have been filed in courts around the country. Among them is a class-action suit filed against Jeep in U.S. District Court for the Southern District of New York. Efforts by AMC to have the case dismissed have failed, but no trial date has been set.

The smallest of the Big Four automakers has settled some claims out of court for undisclosed amounts. The company has shelled out about \$9 million to settle Jeep cases, according to a copyrighted story in the Detroit Free Press last year.

Insurers spell out directives to cool exploding coal problem

Continued from page 2
special mixtures are not present that can cause the fuel to more readily ignite, the directive says.

"This is significant in the Gulf of Mexico area because cargo ships last year were presented with hot cargo," Mr. Koronka explains. "This directive will require shippers (of coal) to produce information about the coal to see if it is safe."

"Up until now they have not been willing," says Mr. Koronka.

Some shippers may resist the rules because they do not want to disclose information about how coal is mixed, he says.

However, any P&I club member that does not comply with the directive may have a hard time getting its claim paid if an explosion does occur.

"If the shipowner ignores the advice given, then he goes to the club's board, which decides on the claim. My guess is it wouldn't be paid," Mr. Koronka says.

Different hazards face shipowners carrying coal mined in the United States to European and Japanese power stations.

Methane gas can accumulate in the ships holds, and several U.S. cargo ships have suffered explosions, says Mr. Koronka. For example, a coal carrier exploded in Rotterdam, Netherlands, several weeks ago, he says, and another ship carrying Canadian coal exploded last year, killing three people.

"So far with the U.S. coal we have been looking at the heating problem almost at the exclusion of the methane gas problem," Mr. Koronka says. "You must ventilate the gas, but ventilating heats up the coal."

But masters of coal barges can take measures now to prevent coal from igniting in summertime heat, Mr. Koronka explains.

They can cool the problem by shipping coal to be transported overseas to a port in a more moderate climate than New Orleans, he says. Coal can be carried by railroad or truck, for instance, to the East Coast to cut the risk of an explosion.

"But the problem with the East Coast has been the congestion in the ports, and it is far cheaper to ship coal down the Mississippi on barge trains and load in New Orleans," he says.

And U.S. coal exporters have their own reasons for floating their product down the Mississippi. The companies, which ship nearly 30

In the Nevada decision, Judge Fondi said, "The evidence clearly shows that the rollover propensity of the Jeep CJ-5 is abnormal, unusual, unexpected and a safety hazard. A normal consumer doesn't expect a vehicle capable of operation at highway speeds to be nearly as susceptible to accident rollover as is the Jeep CJ-5."

He said that the testimony of defendants' experts was less credible than that of plaintiffs' experts, who showed that side forces upon the tires of the Jeep when it is skidding sideways cause it to upset and roll. "This characteristic is not true of most other vehicles," the judge wrote.

Judge Fondi cited research and statistical studies conducted by the Highway Safety Research Institute of the University of Michigan that show that within its class of utility vehicles, the Jeep CJ-5 rolled over

The rollover propensity of the Jeep CJ-5 is abnormal, Judge Fondi wrote.

much more frequently.

He also identified a design defect that makes the Jeep uncontrollable when loaded with four adults as a specific cause of the rollover accident that caused Mr. Buckholt's injuries.

"When the vehicle is operated with four adult occupants including two in the rear, the placement of the rear seat hanging over the aft portion of the rear axle causes a shift in the weight distribution toward the rear of the vehicle which causes the vehicle to have a ten-

dency to oversteer," he wrote.

Also, "The height of the roll bar was inadequate to keep a person of average torso height from having his head strike the ground due to the inadequate strength and deformation of the windshield frame in a rollover sequence," the judge noted.

"The judge's decision was made in the absence of evidence that has since come to light clearly refuting various so-called scientific materials relied upon by the plaintiffs and their experts, and failed to give appropriate emphasis to the human and environmental factors that actually caused the accident," says the AMC spokesperson.

The Buckholt accident occurred when the Jeep hit an ice patch on a bridge at high speed, he pointed out. Since the case was tried in Nevada and the accident took place in Wyoming, local knowledge of existing conditions could not be put in proper perspective at the trial, he added.

A December 1980 segment of the CBS-TV news program "60 Minutes" first focused national attention on the Jeep's alleged rollover problem. The report relied heavily on tests of Jeep CJ-5s conducted for the Insurance Institute of Highway Safety, a non-profit organization supported by the insurance industry.

At least one insurer, Erie Insurance Co. in Erie, Pa., will not underwrite new automobile insurance coverage on AMC Jeeps. "We will not accept new Jeep risks but we do continue to provide coverage on them for existing customers," a company executive said.

The company's conservative underwriting stance was justified by loss data that shows that utility vehicles are bad risks, he said. "I think it may be wrong to isolate Jeeps, however, because our statistics are not sufficiently precise to show that they are worse than other utility vehicles."

million tons of coal, valued at about \$4 billion annually, have invested heavily in loading docks in New Orleans and other Gulf ports like Mobile, Mr. Koronka says.

"Unfortunately, when they set up their operations, no one thought about the problems like heat," he says.

But explosions may be prevented if the coal is loaded properly, Mr. Koronka pointed out.

"All coal heats if provoked. So either you keep out oxygen, which means there is no ventilation, or push through so much air that the coal is cooled down," he says.

"If coal is 'peaked' when it is loaded, more oxygen can get to it, causing problems. We've suggested

they flatten out the coal."

But the U.S. coal industry is so fragmented that it is virtually impossible to settle on any uniform loading methods, Mr. Koronka explains.

"Other nations' coal industries are nationalized," he says. "Here you are dealing with hundreds of different voices instead of one. And it has been a weakness in this case."

The final alternative, of course, is for barge masters to refuse to ship coal, something they will not do in the current economic uncertainty.

"Our members need to carry these cargos, but equally they need to look at safety regulations," he says.

When it comes to marine insurance, you need all the help you can get.

Late last year, the Federal Trade Commission announced terms of a consent decree in which AMC agreed to attach stickers to new Jeep CJ-5s warning prospective buyers that the vehicles handle differently from ordinary passenger cars. The automaker also agreed to send the message to current owners of Jeeps manufactured since 1972.

"AMC's advertising campaign led consumers to believe Jeep would maneuver the same way as a passenger car when that was not the case," said an FTC spokeswoman. She said the FTC's Jeep investigation began about a year before the consent decree was reached with the company.

Mr. Buckholt, the 33-year-old plaintiff in the Nevada suit, sustained permanent brain damage and other injuries when the Jeep in which he was riding rolled over. He is married and has an 11-year-old child.

Judge Fondi's \$4.1 million compensatory damage award to Mr. Buckholt is broken down as follows:

- \$101,960 for actual loss of earnings.
- \$187,589 for future loss of earnings.
- \$333,754 for future loss of pension.
- \$416,882 for future loss of service earnings.
- \$1,478,010 for the cost of an attendant.
- \$169,750 for future physicians' costs.
- \$48,441 for future costs of special equipment and repairs.
- \$1 million in general damages for pain, suffering, humiliation, disability and loss of use.
- \$400,000 to Mrs. Buckholt for loss of consortium.

Punitive damages of \$1 million were assessed against Jeep Corp. because the company suppressed certain tests performed in 1972, according to the court opinion.

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Underinsured city shifts benefit costs to its employees

Continued from page 2

would pass the offer on to his client but thought South Tucson was offering Mr. Garcia a deal worth about "20 cents on the dollar."

The city, whose annual budget is \$1 million less than the \$3.6 million award, also has considered seeking protection under bankruptcy laws.

"Balance sheets show there would not be sufficient funds to meet the debt even if city property were liquidated," says an attorney representing South Tucson.

In the meantime, South Tucson is looking to its employees for financial relief, says Enrique Serna, deputy city manager.

Previously, South Tucson paid about \$62 per employee per month for major medical insurance from Blue Cross/Blue Shield of Arizona or paid the costs of membership in two local HMOs: INA Health Plan of Tucson Inc., which charges \$48 per month per employee, and Pima Care, which charges \$58 per month per employee.

The city also paid \$7 per month per employee for dental insurance through Calzona Dental Services and Arizona Dental Services, both located in Tucson.

Employees desiring family coverage have always paid extra for it, Mr. Serna says, estimating that a family of three might now pay \$150 a month.

Blue Cross/Blue Shield recently dropped the 10 remaining city employees it insured because they constituted too small a group, he says. "When (BC/BS) rates went up, a lot of our people shifted to HMOs."

South Tucson will still pay group life insurance premiums for its employees.

"This (the benefits concession) was a mutual agreement to help out the city and the employees," he says. "Our people are rolling with the punches. They said they would rather do this than have more layoffs."

Employees will pay their own health care costs until South Tucson regains financial strength, Mr. Serna says. "When we're back on our feet, the city will take over payments again."

How soon this happens will depend on whether some kind of compromise can be worked out between the city and Mr. Garcia, which could take some time, sources say.

"A lot of people around the country are looking at us because many communities don't have a great deal of resources," Mr. Serna says. "Municipalities have become easy pickings in lawsuits."

Withdrawal liability waivers sought

Continued from page 3

Some experts have warned that the fear of incurring massive withdrawal liability claims is causing employers to shun multiemployer plans.

This fear would abate if employers knew that they would not automatically be responsible for plan liabilities if they joined.

Mr. Bernstein stressed, however, that the clothing workers' pension plan would still impose withdrawal liability on employers that shift operations offshore, sell their businesses to companies that won't contribute to the plan or go out of business and then reopen as a non-union operation.

"We want an exemption for a no-fault withdrawal liability," Mr. Bernstein said.

In the longshore plan's formal request to the PGBC, prepared by

Arnold & Porter, a Washington, D.C., law firm, it was noted that shippers and carriers do not diminish their operations when a stevedoring employer goes out of business.

"They (shippers) merely find other employers of longshore labor. . . (Thus) an employer that goes out of business, whether because of business failure or voluntary retirement, does not take any covered employment with him, and does not damage the fund's contribution base or increase the funding obligations of other employers," the longshore application letter said.

The longshore pension plan also noted that the West Coast shipping industry is healthy and growing. For example, according to one study, the amount of dry cargo handled by four West Coast ports is

expected to increase more than 100% by 1990.

If the PGBC doesn't approve the plans' exemption requests, members of the plans that go out of business could be hit with massive withdrawal liability claims.

For example, the ILGWU plan has about \$1 billion in unfunded vested benefits. The much smaller longshore plan, which covers 10,245 active participants and 9,237 retirees and survivors, has \$361 million in unfunded vested benefits.

Under the Multiemployer Pension Plan Amendments Act of 1980, employers that leave plans are required to pay a share of the plan's unfunded vested benefits.

Generally, the bigger a plan's liabilities, the greater the withdrawal liability claims it assesses employers leaving the plan.

Seized ship not covered: Court

WASHINGTON—A marine insurer does not have to pay for the loss of a ship seized in a drug smuggling operation, even when the event leading to its illegal use could have set the stage for a valid claim if the ship had been lost in another way.

The Supreme Court last week declined to review a decision by the 4th U.S. Circuit Court of Appeals in which Edinburgh Insurance Co. Ltd., an insurer based in the British Virgin Islands, was absolved of any obligation to pay for a rented ship that had been seized by Colombian authorities during a smuggling operation.

Harold P. McKay Sr. and a crew composed of family members rented a 45-foot ketch in St. Thomas, Virgin Islands, in January 1979 and landed in Puerto Rico a week later.

He and several others left the vessel and stayed ashore, leaving his son, Harold McKay Jr., and his daughter-in-law alone with the ketch.

Ten days after the two sailed from Puerto Rico, they were arrested by the Colombian navy for attempting to export 150 bales of marijuana, and the boat was confiscated.

The loss will be borne by an Annapolis, Md., couple that owned the vessel and occasionally rented it through Nautilus Virgin Charters Inc., a charter firm insured by Edinburgh.

If the ship had simply disappeared after the elder Mr. McKay disembarked, Edinburgh would have had to pay the claim, the court said, because losses due to the irresponsibility of the captain were covered by the insurance agreement.

Nautilus was covered by an all-risks yacht policy that covered such irresponsibility, called "barratry" in the jargon of maritime law, but did not cover seizure.

The vessel's owners initiated the suit in an attempt to show that "barratry" was the real cause of the loss, arguing that the ship would not have been used for drug smuggling if the elder Mr. McKay had remained on board.

The appellate court, however, said that the insurer did not have to pay the claim, regardless of the course of events leading to the confiscation.

The court said that the insurer wrote a policy that did not cover losses due to seizure, and the vessel was seized.

The Supreme Court, by refusing to review the case, let the lower court judgment stand.

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Circulation Breakdown*

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

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

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Two captives for McDonald's risks planned

Continued from page 1
services at The Home.
The proposal, which calls for a stock association captive insurer with minimum participation of only 200 franchisees (with an undisclosed number of restaurants), is being reviewed by Hall executives this week.

The Home, Mr. Mina says, would issue policies for property, liability and workers compensation coverage and reinsure the risks with the captive formed by independent franchisees and managed by Hall.

"We are working on this captive program with Hall, but the final decision rests with them," he said.

The Home captive plan, however, is not designed to win franchisees back to Hall with rock-bottom prices, he explained. "We are trying to present a mature approach to a captive and not really paying attention to the soft market and competition. The operators will be getting into the insurance business and the cash flow will be returned to them."

"We think they should be reserving maturely for the risks, and we will help them calculate reserves if needed," he says.

Hall Executive Vp John McCaffrey would not comment on the brokerage's plans for the McDonald's insurance program.

Officers elected

PHOENIX, Ariz.—Gerald L. Silver of Rathbone, King & Seeley Inc. has been elected president of the Specialty Underwriters Assn. of Arizona.

Curtis Anderson of Skanco International Ltd. was elected vp, and Gertrude De Rose of Sayre & Toso was named secretary/treasurer at its annual meeting.

Mutual a good idea, expert says

DARIEN, Conn.—A captive mutual insurer based in Bermuda for McDonald's Corp.'s franchisee risks may be easier to sell to operators and cheaper to maintain than a traditional stock company, says a captive expert.

"The mutual insurance vehicle is more clearly an insurance vehicle than a stock company," explains Bernard Brown, vp of the Risk Planning Group in Darien.

"When the immediate need for a stock association captive is over, investment considerations take over and the structure may go on beyond its time."

Since control and ownership of a mutual insurer rest by law with its policyholders, the concept may be easier to market to a diverse mix of potential policyholders like the McDonald's franchisees, he told *Business Insurance*.

"My general impression of franchisees of any sort is that they are always concerned about overpaying for supplies. Since they tend to buy from corporation-sponsored programs, they always feel like they are paying too much for the parent's catsup," Mr. Brown said.

A mutual insurer structure would remove McDonald's Corp. from the difficult paternalistic role and eliminate the need for federal Securities and Exchange Commission registration, he suggests.

SEC registration costs \$100,000 and demands stringent financial reporting.

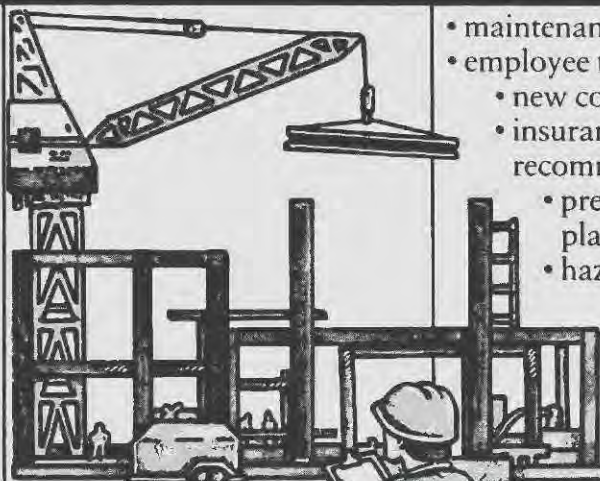
"There are some negatives to the mutual concept," he added. "Mutuals are particularly difficult for a founder to control and can present problems when a policyholder decides to disengage. You have to decide early on what a policyholder is entitled to when he decides to get out of the company."

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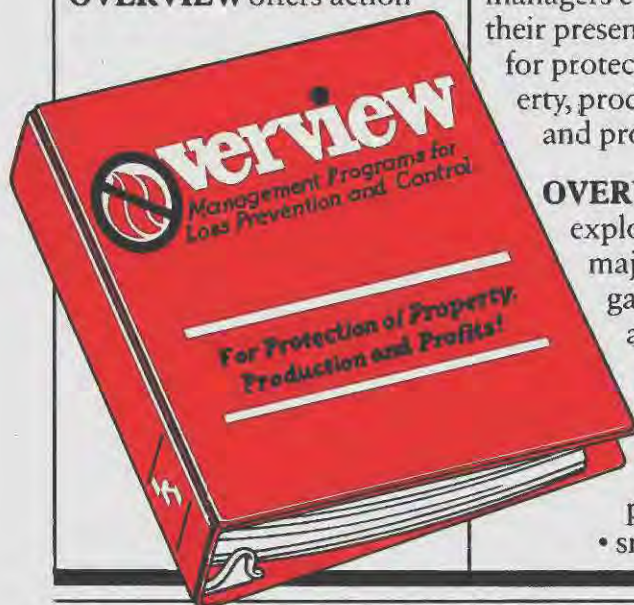
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Florida law allows formation of captives

Continued from page 2

sociated Industries, who was active in preparing the legislation. He acknowledges that the Insurance Department wants to rule out association captives.

Chapter 628 of the Florida statute specifies that a captive insurance company may be formed with \$500,000 in capital and \$250,000 in surplus, which must be maintained at all times. The statute does not address the use of letters of credit, which have given the Florida Insurance Department headaches in the past.

Captives will be permitted to underwrite all lines of commercial property, casualty and marine insurance except workers compensation.

"We advocated prohibition of workers compensation because it opened up the potential of adding a second regulatory authority," explained Mr. Griffin.

Self-insurers writing workers

compensation currently are regulated by the state Department of Labor through the Division of Workers Compensation.

"Employers are satisfied with this arrangement and did not want to bring the Insurance Department into the picture," Mr. Griffin commented.

He did not think this prohibition on underwriting of workers compensation would pose a serious handicap to Florida corporations wishing to form captives because they are able to self-insure or form self-insurance pools.

The new statute does not require a parent organization to demonstrate special need to form a captive as is required in Colorado.

But the captive must apply for a license from the state Insurance Department and will be subject to nearly the same regulation as a commercial insurer. Captives will not be permitted to underwrite third-party business, however.

Some attractive features of Florida as a captive domicile include simple reporting requirements. Captives will not be required to complete the detailed National Assn. of Insurance Commissioners' blank. They will be asked to prepare a report designed by the insurance commissioner outlining the financial condition of the captive as verified by two executive officers. The Insurance Department will not regulate rates or forms used by the captive.

Also, captives domiciled in Florida will be exempt from the state's 2% premium tax, as are most other commercial insurers headquartered in Florida. But they will be assessed 0.625% of premiums collected on property insurance to fund firefighters' pensions.

When will the first Florida captive form?

"We've had some interest," says Mr. Griffin. Florida is home to a

large number of employers with offshore captives. Some companies in the transportation industry, including trucking and shipbuilding, tend to be conservative and reluctant to form their captives offshore, he says.

The continued soft insurance market and uncertainties about the tax deductibility of premiums paid to a captive also will be factors, he notes. "You won't see a large market for captives in this market, but if it turns around, companies with good books of business will think about forming a captive."

Limited reciprocals are similar to regular reciprocals only smaller, says Jack Herzog, staff director for the House Insurance Committee. Reciprocals are unincorporated co-operatives in which every member is both a policyholder and an insurer to all other members.

Until passage of the Blue Jay law, only full reciprocals were permitted in Florida, Mr. Herzog says.

They require a minimum of 25 members with \$25 million of capital. Now groups ranging in size from two to 250 members can form limited reciprocals with initial capitalization of \$1 million.

Like captives, Blue Jays can write all commercial property and casualty risks except workers compensation, Mr. Cullen says. "To assure financial integrity, policies are fully assessable up to the net worth of each member for any third-party liability. Each member would pay damages on a proportionate basis."

"What this has done is create an alternative marketplace to normal insurers," Mr. Herzog says. "Florida companies can now self-insure workers compensation and set up either a captive or a limited reciprocal insurer to cover other property/casualty risks."

"This is probably the most significant rewriting of an insurance code ever done," he adds.

Five more suits filed in Indiana ramp collapse

By STEPHEN TARNOFF

CHICAGO—The engineers of an East Chicago, Ind., expressway ramp that collapsed last month while under construction and the alleged manufacturer of the scaffolding that supported the ramp are named as defendants in at least five lawsuits.

Named are Figg & Muller Engineers Inc. of Tallahassee, Fla., the engineering firm on the project, and Anthes Industries Ltd. of Mississauga, Ontario, the alleged manufacturer, designer and supplier of the scaffolding.

The five suits were filed on the behalf of injured workers or the survivors of those killed in the collapse. Twelve workers were killed and another 18 injured when the 100-foot-high structure collapsed (BI, April 26).

Four of the lawsuits were filed in Cook County, Ill., Circuit Court in Chicago by prominent personal injury attorney Leonard M. Ring. Each seeks more than \$50 million in compensatory and punitive damages.

Another lawsuit was filed last week in Lake County, Ind., Superior Court by the family of David Kaser, who was killed in the collapse. The family is represented by the law firm of Nicholls & Podgor of Crown Point, Ind.

Mr. Ring's clients include the wife of John Chester, a carpenter for Superior Construction Co. of Gary, Ind., the project's contractor. Mr. Chester also died in the collapse.

Filed April 28, the suit seeks more than \$56 million in compensatory and punitive damages from both Anthes and Figg, including \$5 million in compensatory damages, \$1 million for pain and suffering and mental anguish experienced by Mr. Chester before he died and \$50 million in punitive damages.

The suit also seeks an unspecified amount of funeral and burial expenses.

The other three suits were filed by Mr. Ring on behalf of workers critically injured in the accident. Each suit seeks \$66 million in compensatory and punitive damages from Figg & Muller and Anthes.

Each of the suits—brought by workers Louis Cloutier, another Superior employee, and Mark Mays and Donald Hanft, both iron workers for subcontractor Midwest Steel Erection Co. of Chicago, and their wives—seeks \$15 million in compensatory damages, \$1 million for loss of consortium, support and services and \$50 million in punitive damages.

All of the suits allege strict product liability, negligence and willful and wanton misconduct on the part

of Anthes.

A recent Illinois appellate court decision permits juries to assess punitive damages in strict liability cases where a flagrant disregard of safety can be shown, Mr. Ring said.

Anthes was cited for erroneously designing support structures following an accident at a high-rise office building in Vancouver, British Columbia, last year, the attorney said.

The suits also allege negligence and willful and wanton misconduct on the part of Figg & Muller.

Neither Superior, Midwest Steel nor the state of Indiana, the owner of the expressway, were named in any of the suits but they could be

added as defendants later, Mr. Ring explained.

He added that the firm will file two additional personal injury suits on behalf of two workers injured in the accident and a wrongful death suit on behalf of the survivors of another victim.

The suits were filed in Chicago because, among other reasons, juries there generally award higher damage judgments and because Indiana law permits defendants to transfer such cases to portions of the state where juries are not as familiar with worker injuries, Mr. Ring added.

"Admittedly, damage awards are greater in Chicago than in Indi-

ana," Mr. Ring said.

Mr. Ring is chairman of the plaintiff's committee involved in litigation arising from the November 1980 fire at the MGM Grand Hotel in Las Vegas, Nev. He is representing the families of six people who died in the fire and 15 others who were injured.

The first suit stemming from the East Chicago ramp collapse was filed April 22 in Cook County Circuit Court in Chicago by Frederick A. Torrijas, an inspector employed by the state of Indiana, who suffered multiple injuries. The suit seeks \$15 million in compensatory and punitive damages and names Superior, Midwest Steel and Figg.

Kentucky passes open rating law

Continued from page 1

the state Insurance Department, was signed into law as part of a reform package, S.B. 274.

Insurance Department officials could be not reached for reaction to the new law late last week because Kentucky Derby festivities already were under way.

But a source in the department said the new rating bill includes a provision that the insurance commissioner can reinstitute a prior-approval system if competitive rating is not successful.

In Rhode Island, a statutory amendment to the law is expected to be signed by that state's governor as early as this week, sources say.

Under S.B. 2427, workers compensation insurers with more than 2% of the market would not be able to agree on a price and file rates through a rating organization.

The amendment dictates that those insurers, which have 70% of the state's business, file rates individually for approval by the Insurance Department.

Those insurers with less than 2% of the market still will be allowed to file rates through the National Council on Compensation Insurance, a rating organization.

Deputy Insurance Director Edward H. Balfour said the amendment has met little opposition in the Legislature, easily passing the Senate.

"There were sections of the amendment that created a little controversy, but not overall," he said.

Rhode Island's bill has been unexpectedly successful in attracting support, sources say.

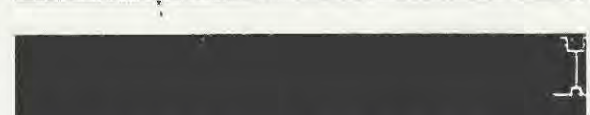
And all the activity in Rhode Island may help Illinois get its competitive rating bill through the Legislature. A lobbyist for one of the insurance trade associations opposing the bill was so busy trying to defeat the bill in Rhode Island that he couldn't get to Illinois to head off that battle.

Illinois' effort for competitive rating legislation fell by the wayside last year, but it's rapidly picking up steam.

The cause was helped by newspaper stories that said Illinois employers were being overcharged for workers compensation insurance.

Illinois Insurance Director Philip R. O'Connor ordered hearings to determine whether the premiums in Illinois are excessive. Those hearings are still going on.

An amended version of last year's open rating bill is being hashed out by business and labor, which "isn't used to working together," said Mr. O'Connor.



By early fall, three states will have open rating systems in operation for work comp coverage.

S.B. 1496, introduced by Sen. Aldo DeAngelis, R-Chicago Heights, replaces last year's S.B. 664.

The new version was assigned to the Senate Insurance Committee and may be acted on this week.

"I feel very hopeful about the bill," said Mr. O'Connor. "The new bill is a compromise that would allow the insurance industry representative to recommend rates but prohibit insurers from agreeing to one price."

The bill, which would be implemented over a three-year period, "would change the law so that business wouldn't be trapped in an outmoded system of workers compensation rate setting," Mr. O'Connor said.

He estimates employers in the state could have saved at least \$50 million in premium costs had competitive rating been in effect last year.

The Illinois Legislature adjourns June 30.

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Ryan's rare combination intrigues some analysts

By LEN STRAZEWSKI

BI ticker

ARARE COMBINATION of insurance brokerage and underwriting operations, the Ryan Insurance Group seems to be defying tradition and is striking the fancy of some securities analysts.

Although Chicago-based Ryan's brokerage divisions rarely are reported in competition for major corporate accounts and its underwriting resources seem primarily devoted to credit and ordinary life insurance, one analyst is touting the company as an excellent investment with great long-term growth potential in both life and property/casualty insurance.

Financial analyst Thomas G. Rosencrants of William Blair & Co. in Chicago, in a report released earlier this year, pointed to several forces that make Ryan stock a bargain:

- Significant price erosion from its all-time high of \$26 per share in 1980.
- A price/earnings multiple of 5.8 times estimated 1982 earnings, while major brokerage competitors sell at eight to 11 times their earnings.
- Prospects for significantly faster earnings growth (20% to 22%) than major competitors.

The company, however, remains thinly traded, selling at \$6 below its peak.

Ryan's hybrid nature is part of both its confusion and potential, according to Chairman Pat Ryan, who owns more than 53% of the company's stock.

"Analysts have traditionally analyzed the industry by putting companies into one of five categories: life, property/casualty, multi-line, specialty or brokerage," he explains. "We've forged a sixth category: all of the above."

"Baldwin-United and Reliance-Crump are probably in this same category," he continues, "as well as the Continental Group that owns part of Reed Stenhouse in the United States and Great American Insurance Co. that owns Nordstrom Group."

The Ryan Group, which includes Globe Life Insurance Co., Virginia Surety Co., Pat Ryan & Associates (a direct sales force aimed at the auto industry) and five brokerage/service companies, ranks as the ninth-largest in-

sureance brokerage firm in the United States, according to *Business Insurance* statistics.

The brokers in the group are: James S. Kemper & Co., a national firm acquired about a year ago; Youngberg-Carlson, a Chicago regional brokerage; Scarborough & Co., a Boston regional brokerage; Scarborough & Co., a banking industry specialist; and American Benefit Corp., an employee benefit marketing and consulting company. Self-Insurers Services, a claims service company, focuses on self-insured corporations.

Operating income in 1981, according to Ryan's recently released annual report, shrank about 5% to \$9.3 million from \$9.8 million in 1980. Per-share earnings dropped to \$2.35 from \$2.54 in 1980.

Among the agency/brokerage divisions, gross revenues—including nine months of revenues from the Kemper agencies—jumped to \$33 million in 1981 from about \$17 million in 1980. Gross written premiums among Ryan underwriters increased to \$148.5 million from \$130 million in 1980.

The hybrid broker/underwriter structure provides a special marketing opportunity, Ryan executives say, because it allows the company to use its capacity to develop specialty insurance products sold by its direct marketing force and insure other risks by using its brokerage divisions. The company can reinsure its own risks and provide self-insured services through SIS.

Although President Harold H. Hines Jr. says the group plans on developing both underwriting and service capabilities, industry watchers see the company developing more like a broker, marketing risks internally to its various divisions.

"Ryan is essentially a broker—even though this is not readily apparent from its financial statement presentations—with a business mix shifting farther and farther in that direction," Mr. Rosencrants noted in his report.

"Ryan's underwriting participation on credit insurance premiums (which dominate the income statement) written through auto

dealers continues to diminish as more than half of this business is now fully reinsured through dealer captives, with Ryan acting in an administrative, non-risk-bearing capacity. We estimate that one-third to one-half of credit insurance profits are derived from Ryan's administrative/servicing capacities," he said.

The remaining liability the company retains on the credit insurance, its relatively new automobile mechanical repair policy and life insurance coverage, is all low-risk, he added.

Although the captive concept is a growing approach at Ryan Group, Mr. Ryan is surprised at the analyst's reaction. Ryan has been using the captive technique for credit life coverage since 1971.

Captives, adds Mr. Hines, relate credit insurance directly to the economic interest of the dealers. "Losses are quite predictable and the financial goals of a captive of this sort are quite the same as the goals would be for a property/casualty captive insurer," he says.

The cash-flow advantage is very important, of course, for the beleaguered auto industry upon which a major portion of the group's business is built. Auto dealers participating in the projects have been much healthier than the average, Mr. Ryan says, and the company is also working with the very successful foreign car dealers.

General property/casualty brokerage is also on the rise, Ryan executives report. While volume is expected to grow 25% overall for both underwriting and brokerage activities, Mr. Hines says brokerage operations should grow much faster.

Although general industry forces, including the continued competition for premium among property/casualty insurers and the expansion of independent-agent and regional-broker support groups, tend to undermine company projections, analyst Rosencrants is likewise positive.

"We regard the purchase of the Kemper agencies as a major positive development for Ryan because it further diversifies the mix of business away from the overwhelming reliance on the fortunes of the automobile industry. In addition, we see the opportunity for the doubling of Kemper profit margins over the next few years to bring it more into line with previously acquired brokerage operations and major competitors," he said.

Although the Kemper acquisition, financed completely by a \$17.5 million bank loan, diluted Ryan's 1981 earnings by 8 cents to 11 cents per share, Mr. Rosencrants predicted that the new management will raise Kemper's pretax profit margin to 20% and more than make up for the temporary dilution.

Overall, the analyst expects earnings growth of 20% of better for the next several years, exceeding that of Ryan's major brokerage competitors.

Financial briefs

EMC Insurance

EMC Insurance Group Inc. of Des Moines, Iowa, a holding company made up of property/casualty and life insurers and reinsurers, has declared a quarterly dividend of 12 cents per share of common stock, payable June 30 to shareholders of record June 1. The stock was first offered in February.

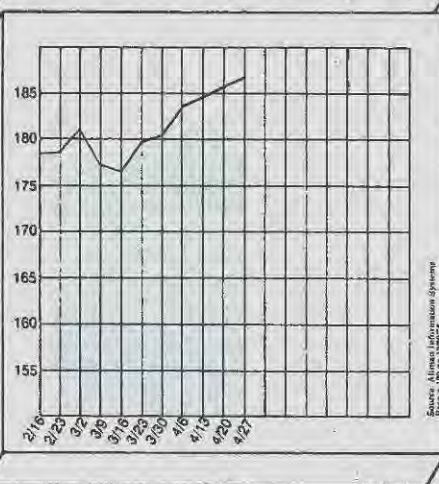
Fred S. James

Fred S. James & Co. Inc. has declared a regular quarterly dividend of 40 cents per share of common stock, payable May 27 to shareholders of record May 3.

Nationale-Nederlanden

Nationale-Nederlanden, Holland's largest insurance company, reported a 11% net income gain in 1981 to \$160.3 million. Total revenue increased 17% to \$3.8 billion.

BI Insurance Index



Insurance industry stocks gained 1.1 point for the period ending April 27 as the *Business Insurance* stock index rose to 186.7 from 185.6. Thirty-two securities showed gains, 18 issues posted losses and 19 were unchanged. The largest gains were posted by: PennCorp Financial Inc., 13.0%; Washington National Corp., 11.1%; Banks Iowa Inc., 8.3%; SRI Corp., 7.9%; and Armco Inc., 6.6%. The largest losses were suffered by: CIGNA Corp., 9.4%; The Travelers Corp., 7.3%; USLife Corp., 7.1%; St. Paul Cos. Inc., 6.4%; and Reed Stenhouse Cos. Ltd., 5.9%. The 0.6% increase in the BI index propelled the average to a new high for the year. However, the index's performance lagged behind the major stock market averages.

British Issues

27 Apr Companies	Price pence	P/E	Div. pence	Yield %	1 Week High—Low pence
Comml Union	131	10.9	16.86	12.9	133-128
Eagle Star	368	12.5	21.43	5.8	371-367
Genl Accident	296	6.6	23.21	7.8	302-292
Genl Royal Exch	286	6.9	25.00	8.7	292-284
Phoenix	236	7.9	24.00	10.2	236-228
Royal	325	8.1	36.07	11.1	340-323
Sun Alliance	804	9.6	61.43	7.6	804-790

Brokers	Price	P/E	Div.	Yield	1 Week High—Low
CE Heath	317	9.2	15.71	4.9	317-312
Hogg Robinson	108	8.3	8.57	7.9	108-102
JH Minet	171	10.7	8.14	4.8	171-164
Sedg Corp	167	10.8	8.57	5.1	167-163
Stanhouse Hldg	112	8.2	7.28	6.5	112-109
Stew Wrightson	247	8.8	18.57	7.5	247-237
Willie Faber	477	11.9	21.43	4.5	477-465

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

BI Industry Stock Report

APR. 27, 1982 4/21/82 THRU 4/27/82

APR. 27, 1982 4/21/82 THRU 4/27/82

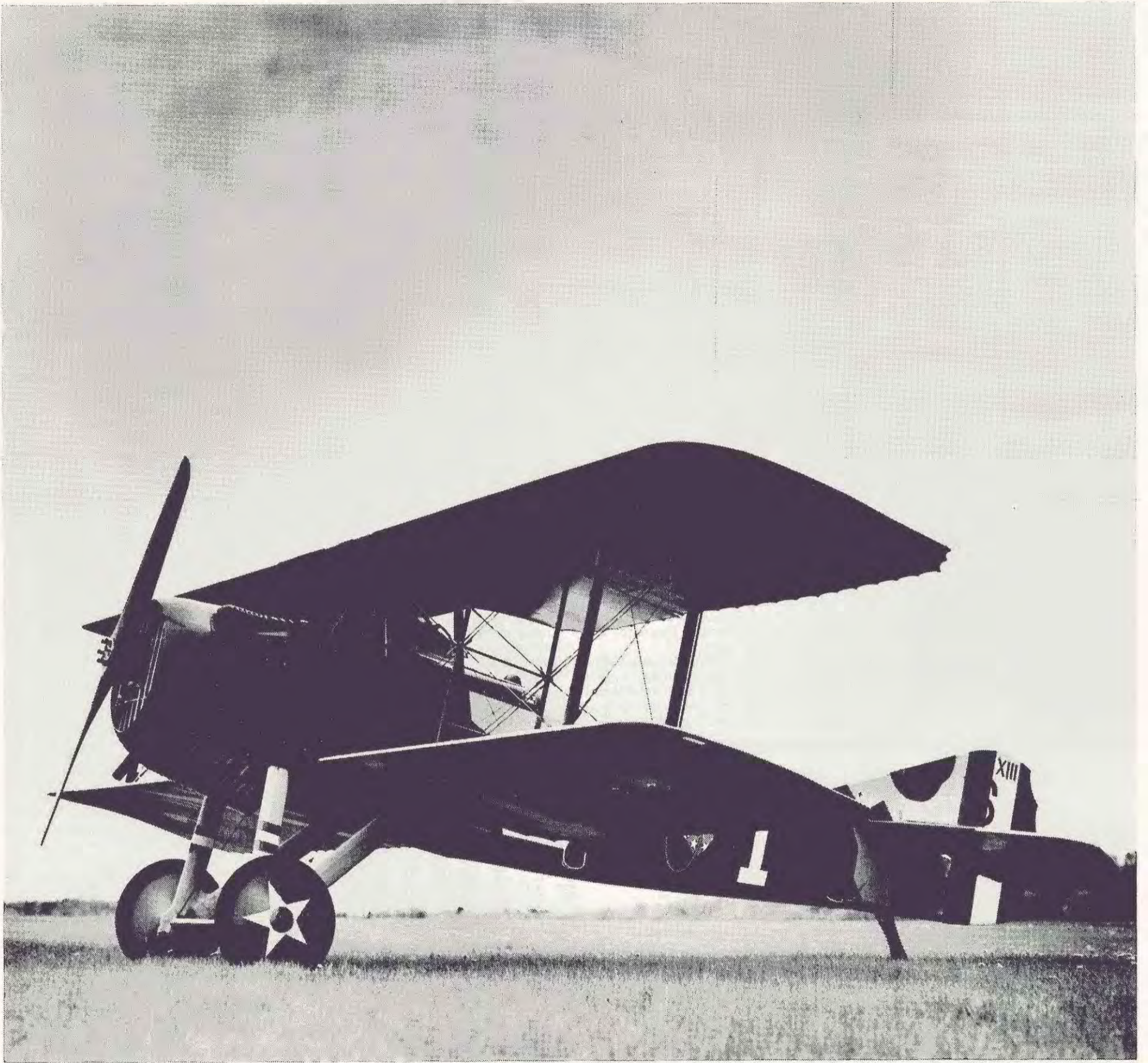
Insurance Cos.	Price	% Chg	P/E	S Div	% Yld	High	Low	Vol (000)	United Fire & Cas Co	Price	% Chg	P/E	S Div	% Yld	High	Low	Vol (000)	
Aetna Life & Cas Co	NYSE	43.25	2.7	7.1	2.52	5.8	44.00	42.63	2,867.1	OTC	29.75	0.0	7.8	0.88	3.0	29.75	29.75	0.0
American Bankers Ins Group	OTC	8.38	3.1	7.0	0.48	5.7	8.50*	8.25	367.9	NYSE	44.50	-3.0	7.4	3.60	8.1	46.00	44.50	233.3
American Gen Ins Co	NYSE	42.00	1.2	6.3	2.20	5.2	42.25	41.38	194.7	OTC	16.25	-0.8	6.0	1.00	6.2	16.63*	16.25	23.2
American Indty Finl Corp	OTC	16.00	-0.8	9.3	1.12	7.0	16.38	16.00	32.3	NYSE	21.25	-7.1	4.3	0.84	4.0	22.75	21.25	80.7
American Intl Group Inc	OTC	70.75	0.7	11.8	0.48	0.7	71.25*	69.50	233.8	NYSE	20.00	11.1	7.2	1.08	5.4	21.00*	18.38	223.9
American Natl Ins Co	OTC	16.00	4.9	6.8	0.76	4.8	16.00*	15.63	80.8	OTC	16.75	3.1	8.0	0.76	4.5	17.00	16.25	40.0
American Sts Life Ins Co	OTC	17.00	0.0	5.4	0.80	4.7	17.00	17.00	3.7	ZENITH NATL INS CORP								
Amoco Reins Ltd	OTC	1.75	0.0	0.0	0.00	0.0	1.75	1.75	1.3	INSURANCE COMPANIES								
Amoco Corp	AMEX	11.75	-1.1	7.3	0.54	4.6	11.88	11.75	3.0	AVERAGE								
Banks Iowa Inc	OTC	39.00	8.3	6.8	1.48	3.8	39.00	36.00	7.4	6.8 4.5								
Bitco Corp	OTC	28.50	0.0	4.3	1.92	6.7	28.50	28.50	1.9	AGENTS/BROKERS								
Carolina Cas Ins Co	OTC	6.75	0.0	6.3	0.32	4.7	6.75	6.75	0.3	Alexander & Alexander Svcs								
Chubb Corp	OTC	41.88	-4.3	5.0	2.92	7.0	43.50	41.88*	225.0	NYSE								
Combined Intl Corp	NYSE	21.63	4.2	5.8	1.80	8.3	21.63	20.88	169.1	OTC								
Continental Corp	NYSE	28.25	1.8	7.9	2.60	9.2	28.63*	28.00	438.3	NYSE								
Crawford & Co	OTC	13.50	1.9	10.2	0.56	4.1	13.50	13.25	7.2	AMEX								
Crown Life Ins Co	OTC	85.00	0.0	6.2	3.10	3.6	85.00	80.50	0.4	NYSE								
Crum & Forster	NYSE	30.00	0.0	4.9	1.64	5.5	31.25	30.00	250.7	OTC								
Employers Cas Co	OTC	30.75	0.8	6.6	1.20	3.9	30.75*	30.50	0.7	NYSE								
Equifax Inc	NYSE	31.38	3.7	9.4	2.60	8.3	31.38	29.88	23.5	AVERAGE								
Excelsior Ins Co	OTC	17.25	0.0	10.8	0.70	4.1	17.25	17.25	25.1	9.1 5.2								
Farmers Group Inc	OTC	35.50	1.8	10.1	1.24	3.5	35.50	34.88	336.8	Conglomerates/Holding Cos.								
First Colony Life Ins Co	OTC	65.75	0.0	18.7	1.02	1.6	65.75	65.75	2.0	American Express (Fireman's Rd)								
Foremost Corp Amer	OTC	29.50	2.6	8.3	1.12	3.8	29.50	29.00	79.4	NYSE								
Great West Life Assurn Co	OTC	210.00	0.0	6.2	10.00	4.8	210.00	210.00	0.0	NYSE								
Hanover Ins Co	OTC	34.25	1.5	4.2	0.88	2.6	34.25*	33.75	15.0	NYSE								
Hartford Steam Boiler Insptn	OTC	41.00	0.0	7.1	2.80	6.8	41.00	41.00	12.6	NYSE								
Jefferson Natl Life Ins Co	OTC	42.00	0.0	12.9	0.76	1.8	42.00	41.00	6.5	NYSE								
Kemper Corp	OTC	33.50	0.0	5.5	1.80	5.4	33.50	33.50	36.1	NYSE								
Lincoln Natl Corp Ind	NYSE	42.50	4.0	6.9	3.00	7.1	42.50	41.25	78.5	NYSE								
Mission Ins Group Inc	NYSE	26.63	0.5	6.9	0.80	3.0	27.00	26.42	177.5	NYSE								
Nationwide Corp Ohio	OTC	26.75	0.0	7.8	0.70	2.6	26.75	26.75	1.5	NYSE								
Northwestern Natl Life Ins	OTC	27.88	0.9	5.8	1.50	5.4	27.88	27.63	13.3	NYSE								
Ohio Cas Corp	OTC	43.50	-3.1	6.5	2.36	5.4	44.88	43.50	41.3	NYSE								
Old Rep Intl Corp	OTC	19.63	1.3	4.7	0.92	4.7	19.63*	19.50	25.4	NYSE								
Preferred Risk Life Ins Co	OTC	22.13	-1.7	5.6	0.92	4.2	22.50	22.13	8.9	NYSE								
Provident Life & Acc Ins Co	OTC	47.00	-1.1	5.8	2.44	5.2	47.50	47.00	3.9	NYSE								
Ryan Ins Group Inc	OTC	20.75	1.8	3.8	0.16	0.8	20.88*	20.50	8.4	NYSE								
St Paul Cos Inc	OTC	45.50	-6.4	5.0	2.60	5.7	48.38	45.50	393.7	NYSE								
Safeco Corp	OTC	39.63	0.0	7.2	2.20	5.6	39.63	39.50	285.3	NYSE								
Sri Corp	OTC	24.00	7.9	4.8	1.00	4.2	24.00	22.50	77.4	NYSE								
Selbels Bruce Group Inc	OTC	24.50	12.0	11.8	0.80	3.3	24.50	21.63	71.0	NYSE								
Statesman Group Inc	OTC	6.00	-4.0	4.7	0.15	2.5	6.25	6.00	32.1	NYSE								
Tokio Marine & Fire Ins Co	OTC	97.25	2.4	7.8	1.00	1.0	97.63	95.25	2.5	NYSE								
Travelers Corp	NYSE	47.38	-7.3	5.6	3.28	6.9	50.88	47.38	686.5	NYSE								

*Record high/low since Jan. 1, 1982

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