business insurance

Week of May 5, 1980

the national newsweekly of loss prevention, risk financing & benefit management/$1 a copy; $20 a year

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HPR extended coverage

What will unlock the HPR property insurance market? **Page 3.** Is the HPR market worth the price? **Page 28.**

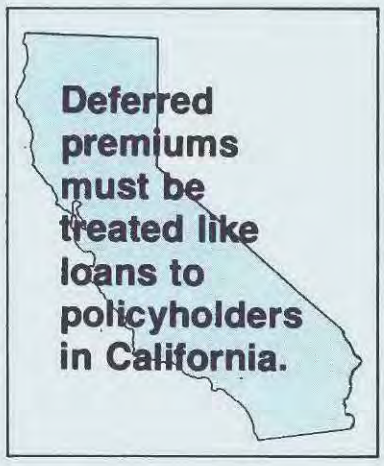
Another round

The United Steelworkers Union demands more from the aluminum industry Benefit beat, **page 6.**

Occupational disease

Employers lambast occupational disease claims at the National Council of Self-Insurers meeting: **Page 37.**

Setting the trend



Calif. dictates retro rule

By RHONDA L. RUNDLE

LOS ANGELES—California's eagerly awaited decision on the fate of paid-loss retrospectively rated plans for workers compensation appears to be qualified approval with a hitch that has caught insurers off guard.

The California department of insurance has ruled that deferred premium plans, including paid-loss retros, may be written if they meet certain requirements outlined in a five-page bulletin issued here last week.

The big surprise is that the department's ground rules for such plans include a proviso that deferred premiums must be "paid" with a promissory note made out to the insurer and bearing "the going (current) money market interest rate."

In other words, deferred premiums must be treated like loans to

Continued on page 44

Court kills settlement duty

By RHONDA L. RUNDLE

SAN FRANCISCO—California self-insurers may take a tougher line on jumbo claims—litigating more and settling less—in the wake of a state supreme court decision that clarifies policyholder duties to an excess insurer.

Self-insurers are not obliged to accept a settlement offer in order to avoid exposing an excess insurer to liability, ruled the state supreme court. This major decision resolves divergent opinions by two lower courts of appeal.

This decision strengthens the hand of a risk manager who opts to fight rather than pay off a questionable claim within his company's self-insured retention. If the plan backfires and ends in a big adverse jury verdict, the company cannot now be sued by its excess insurer

Continued on page 44



Ruling forces Utica to defend Love Canal suits

By ELLIS SIMON

NIAGARA FALLS, N.Y.—A state supreme court decision forcing Utica Mutual Insurance Co. to defend claims against Niagara County stemming from the Love Canal debacle may be a victory for all defendants in Love Canal litigation.

The pollution exclusion in Niagara County's liability coverage does not apply to Love Canal because the county was not an active polluter, Judge Joseph Kuszynski ruled in an April 14 memorandum.

The judge, requiring Utica Mutual to defend claims against the county, said the insurers' obligation to indemnify the county would be determined after the courts decide whether liability actually exists.

Niagara County, the city of Niagara Falls, the Niagara Falls Board of Education, Hooker Chemical and Plastics Corp. and its parent company, Occidental Petroleum Corp., are defending lawsuits brought by former Love Canal residents seeking more than $2 billion for damages resulting from chemical contamination of the neighborhood. Their insurers are denying coverage, however, saying pollution liability is excluded in their policies.

Hooker deposited toxic wastes in the canal during the 1940s and later sold the site to the school board.

Occidental and Hooker must also defend a $635 million suit filed April 28 by New York state and a $125 million action brought by the U.S. government last December.

Attorneys for Niagara County and Utica Mutual must still work out the wording of the court order implementing Judge Kuszynski's opinion, noted Niagara County attorney John V. Simon.

Niagara County's Utica Mutual policy had a $1 million limit over which the county has excess coverage, Mr. Simon added. The major advantage resulting from the ruling, however, is getting the insurer to pay the anticipated costly legal expense.

Utica Mutual has not decided whether it will appeal the deci-

Continued on page 44

Mandatory pension issue splits panel

By JERRY GEISEL

WASHINGTON—Pressing a mid-May deadline on its interim report to the President and Congress, the President's Commission on Pension Policy is sharply divided on whether to recommend mandatory private pensions, *Business Insurance* learned.

Several commission members favor some type of mandatory private system to take some of the burden off Social Security as the primary source of retirement income, sources close to the commission said.

Failing to mandate private pension plans could require dramatic increases in Social Security taxes to provide retirees with adequate retirement income, some commission members argue. But they fear further boosts in the FICA tax may be politically impossible.

Other commission members are resisting any attempt to introduce U.S. mandatory private plans. Commission member Martha Griffiths, for example, told *Business Insurance* she fears a mandatory system proposed by fellow commission members could cripple small firms.

"Such a requirement could put small firms out of business," Ms. Griffiths, a former congresswoman and now a Michigan attorney, told *BI*.

The commission also is reportedly backing away from recommending mandatory indexing of pension benefits with the Consumer Price Index. Such indexing would be prohibitive and only exacerbate inflation, sources said in describing the commission's analysis of

Continued on page 44



Photo: Ken Firestone

Retirement dilemma

Mandatory private pension plans or higher FICA taxes may be needed to provide adequate retirement income in the face of raging price hikes, members of the Pension Commission say.

NEWSPAPER

Kentucky Derby Page 3

for your information

Tenerife air claims won't hit rates hard: Underwriters

LONDON—Claims expected to reach $15 million for the Danair plane crash in Tenerife are not likely to severely affect aviation rates, say underwriters here.

The Boeing 727 that crashed into a mountain as it prepared to land at Los Rodels Airport was 14 years old with an insured value of $7.5 million. Passenger liability, underwriters say, is expected to be low with next of kin likely to claim no more than $30,000 in most cases. Some high liability claims might reach $50,000.

The crash was one of the worst on record for a U.K. vacationers flight. Twenty-five percent of the coverage was provided by Lloyd's and 75% by the London domestic market. The cause of the crash is still unknown.

Tenerife was the scene of the world's worst air crash in 1977 and is now opening a new airport at Reine Sophia in the southern part of the island.

Bowring approves M&M bid

NEW YORK—Following the C.T. Bowring board's unanimous approval of its offer for the Lloyd's of London broker, Marsh & McLennan Cos. Inc. has mailed documentation of the offer directly to shareholders for approval.

M&M shareholders are also receiving proxy statements on the proposal for a vote at the broker's annual meeting May 21.

M&M increased its offer nearly $556 million (*BI*, April 21).

PBGC mandate postponed

WASHINGTON—Congress last week approved legislation delaying until July 1 the date the Pension Benefit Guaranty Corp. begins mandatory coverage of terminating multiemployer pension plans. Mandatory coverage had been set to begin May 1.

The delay will give Congress more time to consider pending legislation (H.R. 3904) that would give PBGC more assets and reduce its potential liability to multiemployer plans.

Blues launch cost-cut program

CHICAGO—Blue Cross/Blue Shield Assns. is launching an experimental program designed to cut health care costs by shifting the emphasis to less costly outpatient services.

Under the program, participating hospitals will receive a fixed payment, called a capitation payment, for each Blue Cross/Blue Shield subscriber treated by the hospital. The hospital assumes responsibility for each subscriber's covered care, paid for by the capitation fund. Hospitals will share leftover fund surpluses.

This program induces hospitals to deemphasize inpatient treatment to hold down the cost, plan officials say.

The John A. Hartford Foundation has provided a $584,513 grant to the program for the first two years.

The program is similar in concept to a prepaid group health plan called United Healthcare set up by Safeco in Seattle, in which doctors receive a fund account to pay for hospital treatment and share in savings and deficits (*BI*, April 14).

N.J. suit seeks $500 million

ELIZABETH, N.J.—A Staten Island family has filed the first lawsuit resulting from the April 21 explosion of a chemical dump site that sent toxic fumes flooding sections of New York and New Jersey.

The suit, filed in U.S. district court here, seeks $10 million in compensatory damages and $500 in punitive damages from Chemical Control Corp in Elizabeth, N.J., the bankrupt owner of the site.

Plaintiffs Patrick McClosky, his wife Mary Ann and their two children charge they were exposed to debris and acid rain which caused them severe illness and mental anguish.

The chemical firm's lawyer and court-appointed receiver were unavailable for comment, but in the aftermath of the explosion, the liability for personal injury claims was uncertain (*BI*, April 28).

Bond covers N.Y. Brinks loss

NEW YORK—The city expects to recoup an estimated $1.2 million allegedly stolen by seven Brinks Inc. collectors from parking meter revenues over the past year, under a $5 million bond underwritten by Lloyd's of London.

Brinks, which has a three-year contract expiring April 30, 1981, to empty the city's 70,000 meters and turn proceeds over to the finance department, placed the all-risk bond through broker Stewart Wrightson, said city finance chairman Harry Tishelman.

When arrested April 10, the Brinks men had 300 pounds of coins—$5,177—in their personal cars from that day's collection, police said. The loss figure of $1.2 million is based on a 250-day collection year.

index

Extended coverage 3
Benefit beat.....6
Editorial opinions.....8
Letters.....8
Worldwide.....10
Datebook.....14
Washington.....22
Perspectives.....27
Legal briefs.....29
London line.....30
Around the states.....31
Markets.....33
Products & services.....33
Info.....40
BI ticker.....41
Comings & goings: buyers...43

Vol. 14, No. 18—Business Insurance (ISSN 0007-6864) is published weekly at 740 Rush St., Chicago, Ill. 60611. Application to mail at second-class rates is pending at Chicago, Illinois and at additional mailing offices. Copyright 1980 by Crain Communications Inc.

Record tanker losses bring surcharge in tow

By ELLIS SIMON



Photo: Wide World

Record year
Twenty-six tankers and 306 lives were lost in 1979 as a result of tanker accidents, the highest figure compiled since at least 1973.

NEW YORK—In the wake of record tanker losses, the London marine insurance market is leveling surcharges of 10 cents to 25 cents per $100 of value on hull insurance rates.

The surcharge, announced April 23 by the Joint Hull Committee, is the first indication that the low rates charged by the hotly competitive marine insurance market will go up as the result of big losses.

The American marine market hasn't yet adopted the surcharges.

There were 26 total losses of tankers and 306 deaths of tanker accidents during 1979, says the Tanker Advisory Center of New York. In addition, 723,533 tons of oil were lost in spills.

The figures are the highest compiled by the Tanker Advisory Center since at least 1973.

As policies come due, London underwriters will impose a surcharge of no less than 10 cents per $100 value on ships of more than 75,000 deadweight tons equipped with inert gas systems used to reduce the risk of explosion in the cargo holds.

Vessels not so equipped would be charged 25 cents per $100 of value.

The rate differential means insurers are recognizing that inert gas systems, which replace air with ignition-resisting inert gases, provide a safety benefit, said

Continued on page 43

Illinois: Exchange author to create syndicate

By JOHN MAES

CHICAGO—The legislator whose bill created the Illinois Insurance Exchange will form an underwriting syndicate on the exchange, slated to open July 1.

Rep. Bernard E. Epton, the legislator, said he and investors will form as many as three syndicates each capitalized at the minimum $2 million or one syndicate capitalized at $10 million.

No other syndicates have been announced, but they will be soon, said James M. Skelton, assistant director of the Illinois department of insurance.

"We've sent out about 200 application kits based on inquiries. How many will form syndicates remains to be seen," he said.

Some inquiries have come from companies and organizations overseas, including one from the People's Republic of China, Mr. Skelton said.

Organizers will be happy if the operation does $10 million of business in the first year, he said.

The exchange must have $4 million in capital before it can obtain a certificate of authority from the state and begin operations, Mr. Skelton said. The minimum capitalization requirement for each syndicate is $2 million. Each member of a syndicate must put up $30,000, Mr. Skelton said.

In other exchange-related developments, the insurance department announced:

- It has authorized the leasing of some 4,000 square feet of space on the 12th floor of the insurance exchange building at 175 W. Jackson Blvd. in Chicago. The space will be occcupied by June 1 in order to prepare it for the opening of the exchange.
- Lou Biegler, president of L. W. Biegler & Co. of Chicago, was appointed to the temporary board of directors. The board is responsible for soliciting memberships and fronting for the exchange. Mr. Biegler replaces William Haun, who resigned from the panel following his retirement from St. Paul Fire & Marine Insurance Co.
- Arthur Andersen & Co. will be retained as outside accountants for the exchange.

Applications for syndicates and subscribers are available from Mr. Skelton at the Illinois Department of Insurance, 320 W. Washington St., 4th floor, Springfield, Ill. 62767.



Photo: Mary Cairns

Chicago's LaSalle Street area will be home to the exchange.

D.C. faces comp battle

WASHINGTON—The District of Columbia's City Council is moving full speed ahead to cut workers compensation benefits, but the plan may break up on legal shoals.

Labor groups and the U.S. Department of Labor say the city lacks the authority to amend its program, which was placed under federal control by a 1928 congressional act.

"The city council is attempting to repeal a federal statute," says Joseph Koonz, an attorney representing the Greater Washington Central Labor Council. There is a real question about the legality of such a move, he adds.

Solicitor of Labor Carin Clauss said in a memorandum that the District of Columbia cannot change its workers compensation program unless Congress repeals the 1928 act. That law requires the city benefits to be the same as those payable under the federal Longshoremen's and Harbor Workers' Act.

City officials maintain, however, that the adoption of home rule in 1973 by this quasi-independent city of 700,000 allows it to move away from the federal program.

The city council already has given the benefit cutback plan preliminary approval and is moving toward final enactment this month.

If Mayor Marion Barry signs the legislation, the city labor groups plan to file suit to block its enforcement.

City business leaders have been pressing the city council for some time to cut back benefits, the second highest in the nation.

The legislation now moving through the city council would pare the weekly maximum benefit to $396 from $426, second only to Alaska's $650 weekly maximum benefit.

The measure, introduced by city council member Willie Hardy, also would place a 5% annual cap on benefit improvements. Currently, benefits are indexed to increases in the national average weekly wage.

This year D.C. employers are expected to pay $140 million in workers compensation premiums, a 700% increase in the last eight years. ■



Photos: IRI

Keeping fire protection facilities in good working order is vital to HPR programs. Investments in loss control pay off in premium savings.



Loss control programs buy HPR rate

By ELLIS SIMON

NEW YORK—Management interest spelled M-O-N-E-Y will open the doors to the highly protected risk underwriters.

To buy insurance in the HPR market for one-fourth to one-fifth of the premium charged by conventional property insurance underwriters, a company and the HPR underwriter have to agree to a property protection program that can be expensive the first few years.

To save money with HPR insurance, corporations must be willing to spend money on sprinklers and other loss prevention features to protect the property against fires and other perils. These loss prevention efforts gain HPR status for the property.

"You can protect anything, but it will eventually come down to the economics of the rates," said Jeffrey C. Chapman, account executive with Allendale Mutual Insurance Co., the largest member of the HPR-leader Factory Mutual System. "Even a building of wooden construction could be written as a highly protected risk if properly protected."

Engineering is the most important factor in buying HPR coverage: Perspective, page 28.

HPR experts speak of the payback period as the tool for analyzing the benefits of spending money on property conservation.

extended coverage

Premium savings should pay for loss prevention investments in about five years, most HPR experts say in advising on how to judge the benefits of tapping the HPR market.

One risk manager told *Business Insurance*, however, he normally looks for a two-year payback before making an HPR-motivated investment. In some industries a seven-year payback period is considered acceptable.

A straight-dollar value cost-benefit analysis can't always be used to decide whether to spend money on property conservation improvements. The risk manager is more concerned with the impact the loss of a facility will have upon a company's earning potential, said Mr. Chapman of Allendale.

A particular building's role in the production process could overshadow its cash value, adds Elmer Wallster, Allendale's senior engineering officer. If the loss would create a bottleneck in the plant flow, force other facilities in a company to shut down or disrupt clients and jeopardize market share, "Money goes out the window to prevent it," he said.

How much protection a particular risk needs to qualify for HPR status reflects the judgment of the insurer or its consultant and is often the subject of negotiation.

"The insurer tends to look at a risk from a pure protection view while the corporation tends to look from a pure financial analysis view, not looking at the intangibles," said Roger Meuer, fire protection consultant of Marsh & McLennan Protection Consultants.

Part of his role, Mr. Meuer believes, is to get the insurance company to recognize the economics versus pure protection aspects of a risk while getting the corporation to recognize its intangibles, such as the business interruption exposure from underprotection.

"Insurance companies ask for

Continued on next page

Derby results breed stud market race

By LEN STRAZEWSKI and JOHN MILLER

LOUISVILLE, Ky.—Insuring the fertility of Kentucky Derby favorites Plugged Nickel and Rockhill Native, in addition to other top-rated colts, is likely to cost stud agencies several million dollars, says an expert in the unusual coverage.

"The results of the Derby send the demands for coverage way up," explained broker Nancy Caldwell, an expert in bloodstock coverage. "That's because the winners and front-runners are the most valued for stud."

Though turf analysts contend this year's crop of three-year-old thoroughbred racehorses is not the equal of previous years, stud syndicates that finally market the services of the colts will still seek multimillion-dollar coverage, Ms. Caldwell says.

She should know. Ms. Caldwell has been dubbed "the $13 million woman" by Lloyd's of London underwriters because of her expertise in placing racing horse coverage for spectacular premiums and high limits.

She came on the scene five years ago and acquired her nickname by providing $13 million of insurance for Kentucky thoroughbred studs, including Derby winner Secretariat. Since then she had obtained $17 million in renewals for Smart Insurance Services, a Toronto-based agency with a complete office in Lexington, Ky.

Spectacular Bid, last year's derby winner, required $22 million in bloodstock coverage and the 1978 winner, Affirmed, is

Continued on page 43



Photo: Wide World

Governor vetoes product liability measure in Kan.

By JERRY GEISEL

TOPEKA—With a slap at the insurance industry, Gov. John Carlin stunned the Kansas business community by vetoing a major product liability bill.

Any time a bill takes away consumer rights, "The benefits should outweigh the detriments. This is not the case with H.R. 2493," Gov. Carlin said.

Questioning whether the bill would lower insurance premiums, Gov. Carlin said savings only could be achieved by the passage of a federal tort reform bill.

Insurers have cited a huge increase in the number and size of product liability awards to justify premium hikes, but data compiled by the Kansas insurance department indicates product liability insurance remains a very profitable line of business.

Only 21 cents of the product liability insurance premium dollar was paid out for losses and legal fees in 1977, Gov. Carlin noted. In 1978, 29 cents was paid. Insurers say a loss ratio of only 65 is necessary for them to earn an underwriting profit.

Gov. Carlin called these statistics "very disturbing."

"The early indicators show that the huge rise in insurance premiums in Kansas does not correspond to the level of awards received in products lawsuits," he said.

Kansas business leaders, caught offguard by the veto, denounced Gov. Carlin's action. "We are extremely disappointed that the governor vetoed a bill that would benefit all business and industry," said Jack Pearson, executive director of the industry division of the Kansas Assn. of Commerce and Industry. The measure would have "improved the business climate" in Kansas, he added.

But Gerald Scott of the Kansas Trial Lawyers Assn. said the veto was "terrific," labeling the measure "regressive."

Under the measure, approved by substantial majorities in the senate and house, products would be presumed nondefective 10 years after the time of first sale.

Products that conformed with government safety standards also would be presumed to be free from defects. In most cases, wholesalers and retailers could not be named in product liability actions.

In other product liability developments, Idaho Gov. John Evans signed legislation (H.B. 577) barring plaintiffs from introducing evidence of product design changes made after an accident.

The legislation, effective July 1, also makes it tougher for a plaintiff to sue 10 years after the time a product is sold.

The Ohio house put off until June 11 final consideration of that state's pending product liability bill.

Prevention program buys HPR status

Continued from previous page
the world (in fire protection expenditures) because it can benefit them," he said. "But if they can save money, they should justify it with a premium reduction, and often they don't.

"You must make the insurance company commit itself to a specific rate reduction for a specific improvement," says M&M's Mr. Meuer. General recommendations such as better housekeeping cannot always obtain a direct payback, but a policyholder can analyze the cost of specific improvements against premium reductions, he said

HPR insurers can be talked down on demands. Mr. Meuer cited several instances where the 100% protection sought by an insurer was impractical, and through negotiation 75% protection was agreed upon.

HPR markets only require accounts to protect against fire in buildings of combustible construction or having combustible contents, notes Vincent P. O'Beirne, Alexander & Alexander vp and property engineer.

Risk selection

A conventional market might require 80% of a building to be sprinklered, regardless of whether it was needed, he explained.

An insurer's HPR engineering begins with risk selection. Attitude toward property conservation is the key for selling a risk to an HPR underwriter. "If we don't have someone interested in property conservation, the best sprinklered property may not be an HPR risk," said Edward J. Drenzek, assistant field manager in the New York office of Industrial Risk Insurers.

In addition to demonstrating management willingness to bring property up to HPR standards, a buyer has a better chance with IRI if it owns and occupies the building and if the risk generates substantial premium, said New York field manager Edward S. Melley.

A risk must generate $2,500 premium before it becomes worth the insurer's time to come out and make an inspection, notes A&A's Mr. O'Beirne.

A potential account's debt structure, loss record and the business record of plant management is also considered, Mr. Melley said. Although newer facilities are preferred risks, IRI will write older plants if they are maintained to present standards, Mr. Drenzek added.

A well-maintained, older building can be brought up to HPR standards, he added. However, it is probably not feasible to bring an outmoded facility up to HPR standards, he contends.

Degree of protection

The combustibility of a building and its contents will determine the degree of fire protection needed. Property built of fire-resistant materials is the best risk, followed by buildings of noncombustible construction, said Allendale's Mr. Wallster.

A noncombustible building housing noncombustible products would not need sprinkler protection, Mr. Chapman added. However, there would be little savings under an HPR policy compared with a conventional insurer's coverage.

Insurers' field engineers make sprinkler system recommendations based upon protection standards they have adopted from fire codes or have developed as a result of their own testing.

Factory Mutual System laboratories have conducted more than 120 tests to determine the degree of fire protection needed for high rack storage areas, Mr. Chapman notes.

A good sprinkler system is useless without adequate water supply to back it up, HPR experts say. "If a plant's existing water supply is not adequate, we will recommend improving it," says IRI's Mr. Melley.

Special hazards, such as paint shops, ovens, quench tanks, data processing equipment and flammable materials, demand protection ranging from isolating inside firewalls to a Halon system in the data processing center to customized protection systems.

Highly explosive hexane extraction units at soybean processing plants owned by Gold Kist, an Atlanta-based farmers cooperative, are protected by automatic foam and deluge systems and gas detection units (*BI*, April 3, 1978).

Garden State Paper Co. of Garfield, N.J., which converts waste paper into newsprint, made extensive modifications to bring its $240 million, one-of-a-kind plant up to HPR standards, said purchasing manager Ernie Rosolen.

Improved system

Hose stations were located at five places along the length of the paper-producing machinery and a diesel-powered pump was installed to replace one of two electric units, he noted. Open sprinkler heads were installed in roof hoods, eliminating the need to drag hoses up there.

Garden State also improved its automatic sprinkler system and installed a deluge system in the power house. An in-house fire brigade was trained by Mr. Rosolen, a former chief of the Garfield volunteer fire department.

Fire brigades are often recommended for large complexes, notes IRI's Mr. Melley.

HPR insurers require more than local alarm systems. Watchmen with recorded rounds or a central supervisory station or an alarm system with direct connections to the fire department are preferred methods, Mr. Melley said.

Installation of alarm systems and placement of firewalls are less scientific than analyzing sprinkler protection needs, says M&M's Mr. Meuer. Although this aspect is becoming more analytical, decisions still are based more on the art of risk evaluation than science, he added.

Factory Mutual engineers can estimate the cost of acceptable solutions to potential problems and the insurers can provide information on premium savings. Sometimes a policyholder comes up with a better solution. "He lives there and he knows the risk," Mr. Chapman explained.

Although most of HPR engineering concerns fire and explosion prevention, HPR policy forms insure against a broad range of perils including windstorm and earthquake. Little can be done to minimize earthquake exposure of an existing facility but the insurer can specify that roofs be capable of withstanding 100-year-windstorm tests. ■

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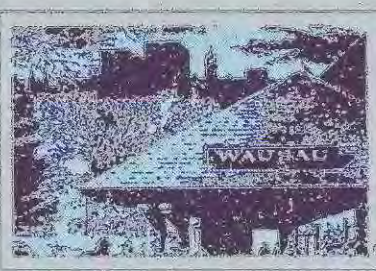
Consider Wausau's relationship with Alta Industries, Inc., in Halcottsville, deep in New York's Catskill mountains. Alta produces up to 350 high quality, pre-cut log homes a year. They supply 56 dealers in 22 states. Yet their work force averages less than 20 people.

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Steel union duels aluminum industry

THE ALUMINUM bargaining unit of the United Steel Workers union will stray from past practices and seek higher wages, benefits and pension increases than their counterparts in the steel industry who have just accepted a new three-year pact.

In previous years, the basic steel contract has set the pace for subsequent settlements in the aluminum sector, but this year the union apparently is not willing to settle for the benefit and pension increases attained by steel workers.

Union officials have said the steel pact is somewhat moderate, a concession to the steel industry's strapped financial position. In the steel negotiations just concluded, the union also made concessions to get pension increases for retired workers (*BI*, April 28).

benefit beat

But the aluminum producers are likely to encounter a stiffer challenge from the union because of their healthier financial state. Union officials say they will fight harder for inflation-indexed pension increases and to keep the cost-of-living wage adjustment their steel counterparts had to give up to obtain pension increases for retirees.

On the industry side, the three major producers—Aluminum Co. of America, Reynolds Metals Co. and Kaiser Aluminum & Chemical Corp.—are expected to bargain jointly with workers rather than separately as they have in the past. The move is aimed at strengthening the industry bargaining position but the union says it does not view the move as a threat from industry management.

The steel workers union represents the 40,000-member Aluminum Workers International union in bargaining with the manufacturers.

In another labor matter, Ozark Airlines has warned its maintenance workers that the airline's financial future will be jeopardized if their union persists in its wage, health insurance benefit and pension demands. The 700-member union is seeking larger medical and pension benefits than the airline is willing to give.

Rx for inflation

In the face of feverish inflation, almost nine out of 10 doctors would prescribe larger paychecks to keep office medical assistants happy rather than expand benefits, shows a survey of 229 doctors taken by the American Medical News. Only 8.5% said their assistants would prefer more benefits.

Pension and profit sharing plans and various insurance plans are the most commonly provided benefits. A total of 143 physicians offer pensions or profit sharing; 113 provide medical insurance or medical care as a professional courtesy; 95 provide hospitalization coverage; 59 provide life insurance, and 37 offer a disability plan. Fourteen physicians said they provide no benefits for their office employes.

Federal Sign-up

More than 34,000 federal employes have joined Continental Assurance Co.'s health plan in the annual "open season" when government workers may choose from 106 benefit plans offered nationwide.

The Continental plan, offered by the Mail Handlers Union but open to any federal employe, saw a 50% gain in membership during the enrollment period, with premiums expected to total $85 million this year. Last year Continental received $63 million in premiums for 70,000 persons covered.

Under the Continental family plan with dental options, employes pay biweekly premiums of $9.98 and the government pays $29.94.

The government sets minimum benefit levels and approves premiums, but does not make recommendations about the health plans. Blue Cross/Blue Shield and Aetna Life Insurance Co. hold the lion's share of the three million federal employe market, with the Blues covering half and Aetna about 14%.

Dental care

A new self-funded dental plan covering about 1,100 full-time employes of Regal Ware Inc. and their dependents was initiated May 1 by the Kewaskum, Wis., cookware manufacturing firm.

The program covers 100% of biannual examinations and teeth cleaning, with other basic dental care procedures 80% covered. Individuals will pay a $25 deductible and will be covered up to a $500 annual limit.

The self-funded plan, administered by Delta Dental Plan of Wisconsin, will cost Regal Ware an estimated $130,000 to $140,000 the first year, said James G. Moran, director of human resources for the company.

Stock options

Chicago-based Joslyn Manufacturing & Supply Co. has instituted its first employe stock option plan aimed at keeping key management employes and attracting new employes, said Richard A. Kruk, vp and general counsel for the metals manufacturer.

The company is also amending its current profit sharing plan to make future contributions in stock instead of cash. The company has nearly 3,000 employes.

The new plan for key managers provides stock options and appreciation rights with an option to purchase a maximum of 25,000 shares per individual and not more than 150,000 total of the company's 2.3 million outstanding shares. The board of directors is considering which management employes will be included in the offer.

Pension boost

Increases in pensions and other benefits are among the contract improvements being sought by the International Longshoremen's Assn. from Atlantic & Gulf. The union will ask that employers increase their contributions for health and welfare benefits to $2.50 from $1.50 per employe hour the first year and to $3.50 and $4.50 in the second and third years. Pension increases to $5.25 from $2.25 are also being asked.

•

Made any benefit changes? Write Valerie Berg, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611 or call 312-649-5430.

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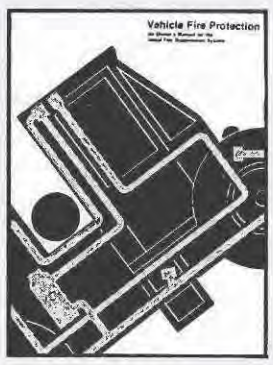
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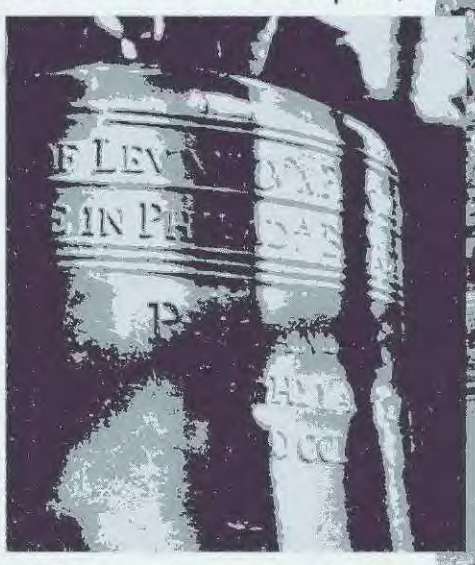
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editorial opinions

Regulation at its worst

THE IRS'S BOLD move to force employers to give faster pension vesting to newer employes is an example of regulation at its worst.

The Treasury Department intends to bully employers into liberalizing their pension plans by threatening to audit plans for discriminatory practices that effectively prevent people who've been with a firm for shorter periods of time from earning any pension benefits.

In principle, this sounds reasonable. Pension plans shouldn't unfairly discriminate against newer workers and in favor of highly paid top executives who stay with an employer for many years.

But wait a minute. When the IRS proposed to force this additional cost burden on employers by mandating easier, quicker vesting, it sounded to us as if the implication were that a lot of employers are intentionally cutting people out of pensions. What the IRS didn't do was clarify for the public how many companies have the kind of pension requirements and employe turnover that mean few people if any are vesting in pensions, constituting an unfairly discriminatory program.

■ Nor do we have any idea what portion of a company's employe population should be earning pension benefits, in order for the plan to not be considered discriminatory in the IRS's eyes. In other words, at what point does the IRS decide that too small a portion of workers are earning pensions?

What does a company do if it has employes who are semi-skilled and prone to high rates of turnover? What if a company is heavily clerical, with high turnover? Does the fact of high turnover by itself mean a pension plan is unfairly discriminating against certain workers, simply because the higher-paid managers and executives are the only ones who stay very long?

ERISA gave employers three options on minimum pension vesting, one of which is cliff vesting—giving the employe 100% pension rights at the end of the tenth year of employment. Though some employers, both large and small, have opted for the other two alternatives which grant more pension rights in earlier years, most companies have apparently chosen to use cliff vesting, which they're allowed by law to do.

■ Also under ERISA, the IRS was given the authority to impose so-called 4-40 vesting, meaning a company having a discriminatory pension plan would have to speed up its vesting so a worker would earn 40% of a pension after the fourth year and 10% more in each year of employment thereafter.

But the IRS has proposed to take a giant step beyond its legal authority, announcing it'll impose requirements on plans it views as unfair, which will mean 100% vested pension rights after the sixth year, at the outside. The IRS is so generous that it plans to offer an easier alternative that would mean giving 100% vested pension rights to workers after only three years.

Congress didn't intend for the Treasury Department to have this regulatory authority. There is nothing in the law or its accompanying regulations giving a federal agency the power to impose these stringent vesting rules. Congress and the Carter Administration should call a halt.

Some observers believe that as a matter of social policy, the IRS has shifted its philosophy to a view that every employe is entitled to a pension, regardless of how long he or she has worked for a company. We fear the federal government is beginning to consider pensions as deferred wages that every worker earns from the first day of work, to be collected at retirement.

■ A key question, then, is whether pensions have become public rights for anyone who works. Pensions have been used to encourage longevity among workers; this purpose is clearly defeated when anyone mandates that all employers must provide pensions and must grant vested pension rights at the start of employment.

This issue of vesting in the early years of employment is at the heart of the pension portability issue now being studied intensively by the President's Commission on Pension Policy. We strongly suggest the commission is better equipped to study the impact of early vesting and/or portability and make recommendations than the IRS is. The job should be left to the commission and then to Congress.

letters

Business Insurance welcomes letters from its readers. Please keep your comments as brief as possible and we reserve the right to edit or shorten letters for clarity or space. Please send your comments to Letters to the Editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611.

Unfair stance

To the editor: Re "Fairer system" editorial April 7. What prompts a stand in *Business Insurance* regarding "fairness"? You even state that Social Security looks to be a shaky system, so why do you think everyone ought to be forced into it?

I am a member of 110,000-member state retirement system that came into existence in 1931 and is actuarily (sic) funded, not a pay-as-you-go system like Social Security. We sympathize, but don't feel we are being "unfair" to those who unfortunately have already been mandated into Social Security. Can't someone who worked under Social Security "earn" a second pension of another type if he or she desires to? What's wrong with enhancing one's own retirement program by savings, tax-sheltered annuities, second employment or whatever? The rhetoric being thrown about so-called double dipping and "fairness" is a lazy way to address this situation. It seems the intent must be to make those not in Social Security feel guilty for not already being one of its victims.

The problem with the Social Security fund is that it is run by Congress. If there's any doubt why it's in trouble just look at the state of the economy and continued federal deficit spending. The 14% rise in benefit payments at July 1 this year will further erode the Social Security fund and is certainly much greater than annual increases granted under our system.

We in public employe retirement systems would appreciate the presentation of the contrary point of view in the future.

Edward W. Murrow
University of Colorado
Boulder, Colo.

No more smudges

To the editor: Please stay with your new printing paper. I hate that slick coated paper which promotes the transfer of ink onto my hands and makes handled copies illegible.

It's an ill wind that blows no good. Isn't it?

Neil Sandow
Q3 Insurance Agency
Scotts Valley, Calif.

Soft spot

To the editor: Congratulations!

Your April 7 editorial ("Waiting for delivery") touched on a very soft spot in the industry. This spot has finally reached the proportion of being a cancerous blot that obscures one of the key words in our industry: service.

You of course realize that as respects any London contract—particularly where Lloyd's of London is involved—that the contract is actually issued by the Lloyd's broker and not by the underwriting syndicate or syndicates. Perhaps it would be wise for you to do an investigation from the standpoint of contract issuance, securing responses from the three major parties involved: the buyer, the broker and the underwriter. Though I would warn you, such an article will envelop your reporters in a miasmatic cloud.

Wasn't there an old John Ruskin statement that in part says something about "If you deal with the lowest bidder, it is well to add something for the risk you run," etc.?

As for the idea of a "penalty clause," surely in this industry we have enough legal problems without inviting another way to enhance the wealth of the legal fraternity.

Ralph S. Butterfield
Branch manager
Baccala & Shoop
San Francisco, Calif.

Reprint requests

To the editor: I would like to receive an article published in the March 10 issue of *Business Insurance* concerning a report on a survey on some 80 companies on your Employe Benefit Board.

Sol Goldstein
Senior compensation analyst
The Research Foundation of State
University of New York
Albany, N.Y.

To the editor: We would like to receive a reprint of "Overthrow predicted" in the Worldwide column of March 31.

In addition, we would like to have the mailing address for Frost & Sullivan.

R.A. Hoel
Director of loss control
Bellevue, Wash.

■ *Frost & Sullivan's World Political Risk Forecasts, quoted in the article you refer to, is prepared by Frost & Sullivan Inc., 106 Fulton St., New York, N.Y. 10038.*

Your request for a copy of the March 31 article has been forwarded to our circulation department, which fills requests for single copies of past articles by sending the issue in which they appeared at a charge of $1 plus postage.

Requests for reprints in lots of 100 of an article should be sent to Reprints Department, Business Insurance, 708 Third Ave., New York, N.Y. 10017. The reprint charge varies with the length of the article.

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Published by Crain Communications Inc., Chicago, HERBERT ZELTNER, *group vp*; ALFRED MALECKI, J.J. GRAHAM, S.E. COHEN, LOUIS F. DE MARCO, WILLIAM STRONG, ROBERT W. KRAFT, STEPHEN D. GILKENSON, ARTHUR E. MERTZ, *vice presidents*; JAMES M. FRANKLIN, *vp-finance and administration*; MERRILEE P. CRAIN, *assistant secretary*.

Published weekly at 740 Rush St., Chicago, Ill. 60611 (312-649-5200). Offices: 708 Third Ave., New York, N.Y. 10017 (212-986-5050); Suite 1253 National Press Building, Washington, D.C. 20004 (202-638-5300); 6404 Wilshire Blvd., Los Angeles, Ca. 90048 (213-651-3710). $1.00 a copy. $20.00 a year in U.S. Foreign $5 a year additional. For first class mail add $20.00 U.K. and Canada; add $12.00 for air delivery Europe and Middle East only. WILLIAM STRONG, *vp-circulation*. PAMELA JANOUSEK, *circulation manager*; ROGER DiGREGORIO, *fulfillment director*. Circulation Dept.—Chicago (312-649-5227). Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, Business Insurance, 740 Rush St., Chicago, Ill. 60611 or phone 312-649-5221. Telex 25-4248; Cable CRAINCOM. Microfilm copies are available from University Microfilms, 300 Zeeb Rd., Ann Arbor, Mich. 48013. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Rd., Wooster, Ohio 44691.

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Arab nations form reinsurance group

By JOHN MAES

KUWAIT—Four Arab nations are forming a new $3 billion reinsurance venture to compete with Lloyd's of London and other western insurance organizations for reinsurance business.

The syndicate, to be based on Bahrain, will be funded by the republics of Kuwait, the United Arab Emirates, Qatar and Libya, according to an agreement signed two weeks ago.

Members of the organization say the venture is necessary to counter stiff premium increases on ships sailing through the Persian Gulf after Lloyd's, the primary market for marine insurance, declared the area a war-risk zone last year.

Earlier this year, 17 insurers from the entire network of six Persian Gulf states announced formation of an insurance pool to cover Arab shipping sailing the gulf (*BI*, March 3).

The pool, also set up in response to Lloyd's increases, will insure vessels against riot, war, and civil commotion while operating in the gulf and flying Arab flags. The syndicate is expected to begin operations by next January.

worldwide

Coffee recovered

LONDON—The British Salvage Assn. has secured the release of tons of coffee being held in Cuba during the government uprising in Nicaragua, sparing Lloyd's of London and U.S. insurers sizable losses.

The shipments ended up in Cuba and Panama while the Nicaraguan ships carrying them were ordered to return home by their government while enroute to the U.S. But the crews, fearing their safety if they returned, diverted their vessels to the foreign ports. Underwriters feared large claims if the coffee was never delivered, London sources said.

Neil Hudson, salvage association chairman, said there was little trouble getting the coffee released from Panama but long negotiations were needed to secure the release of the coffee shipments from the Cuban government.

Egypt dangerous

NEW YORK—U.S. businesses operating in Egypt should beware that President Anwar Sadat's regime will probably be overthrown in the next five years for a Muslim government that will likely hit them with stiffer regulations, according to a Frost & Sullivan political risk forecast.

Firms in industrial construction or petroleum would probably be the least vulnerable to government action, according to the report. But companies engaged in other types of business stand a 55% chance of suffering a major loss in the next five years, especially during periods of social unrest, the report said.

The Sadat regime now faces serious internal and external threats but will likely remain in power during the next 18 months, according to Frost & Sullivan. "As long as Sadat stays in power, it is unlikely that joint ventures will be adversely affected," the firm says.

However, underlying socio-economic factors such as tension between Muslim factions and disaffection toward government by the unemployed will lead to political turmoil in the next five years, the report says.

Computer losses

PARIS—Terrorist attacks during early April on two computer centers near here will disrupt but not seriously hamper the operations of Phillips Data Systems Co. and C.I.I. Honeywell-Bull, owners of the systems, according to security experts.

Disruption of a company's computer operation hurts profits but the cost is not as great as replacing the equipment, said New York computer security consultant Robert Jacobson.

Insurance sources in London said that French risks the size of the damaged installation are usually locally insured.

Benefits expand

SAN JUAN, P.R.—Employe benefit plans similar to those in the U.S. are becoming more widespread here among the local subsidiaries of U.S. firms, according to a Johnson & Higgins study.

A wide range of benefit plans can be found in Puerto Rico including group term life insurance, fully employer-paid health benefit coverages and pension plans, J&H says. Some employers also provide dental plans and long-term disability benefits.

More than 70% of the medical coverages are fully employer-paid. About two-thirds require employe contributions toward dependent coverage, the consultants found.

Among other findings are that basic surgical benefits are provided by 70% of the plans, with two-thirds of those plans covering 100% of the costs. Benefits usually range from $35 to $60 per day for 31 to 120 days.

Typical major medical deductibles are $50 to $100 with 20% coinsurance provisions. Medical coverage for active workers past age 65 is provided by three-quarters of the responding firms.

Prescription drug plans are provided in more than half of the surveyed companies. Dental plans are offered by about one-third.

Although the Health Maintenance Organization Act of 1973 also governs Puerto Rico, no HMOs operate there and there are no prospects of any being set up in the near future, J&H notes.

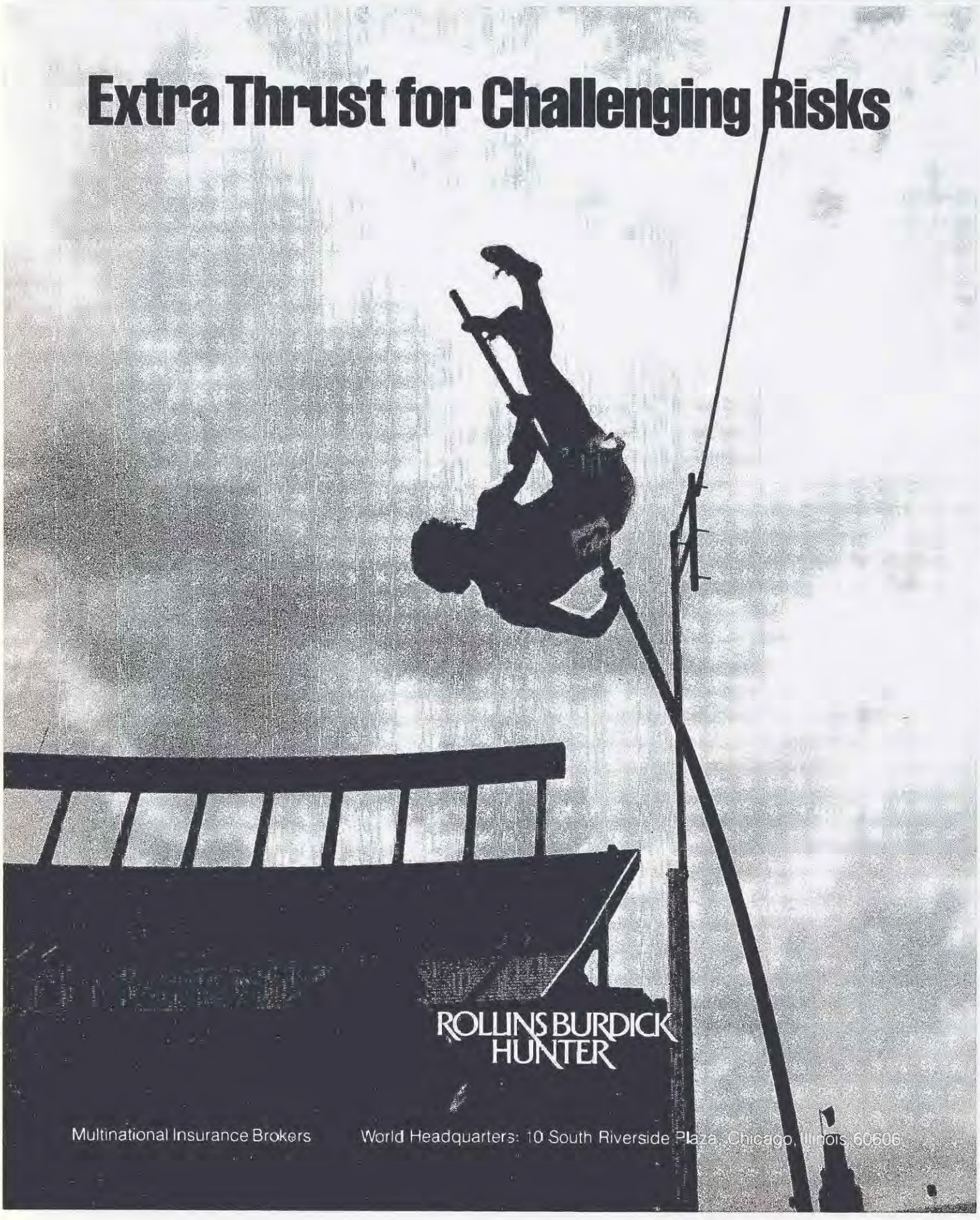
All but nine of the surveyed companies provide some type of retirement plan with liberal eligibility provisions requiring only about a year or less of employment. However, 10-year "cliff" vesting is standard.

Arson attack

MELBOURNE, Australia—The Australian Insurance Council is forming a register of suspicious claimants in an effort to control arson-for-profit schemes.

Arson is believed to have cost Australian insurers some $40 million last year alone, according to John Janicke, council director.

A lot of fraudulent claims are being filed every year by business proprietors who hire arsonists to set fire to their businesses to collect from an insurer, he said. ■



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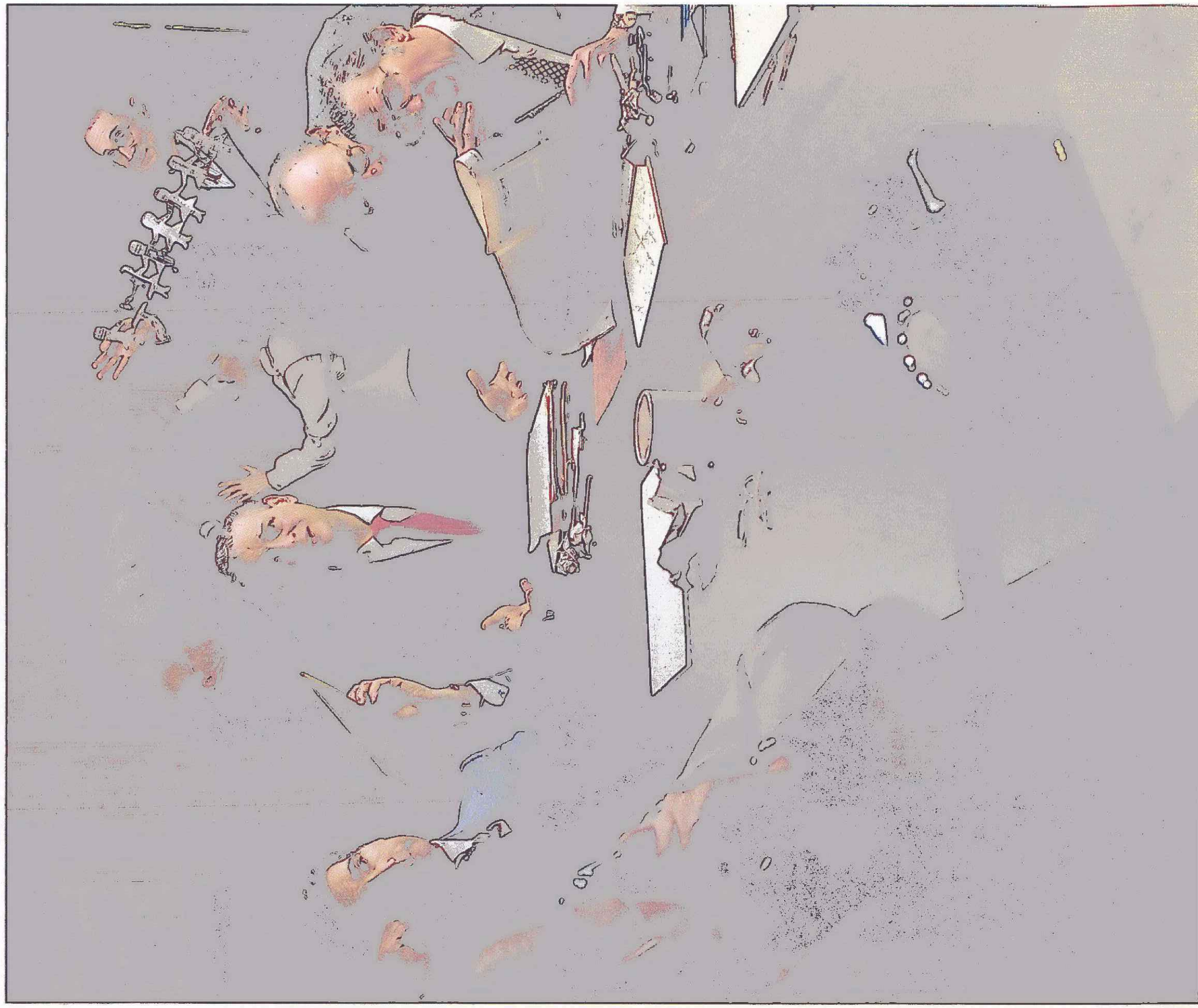
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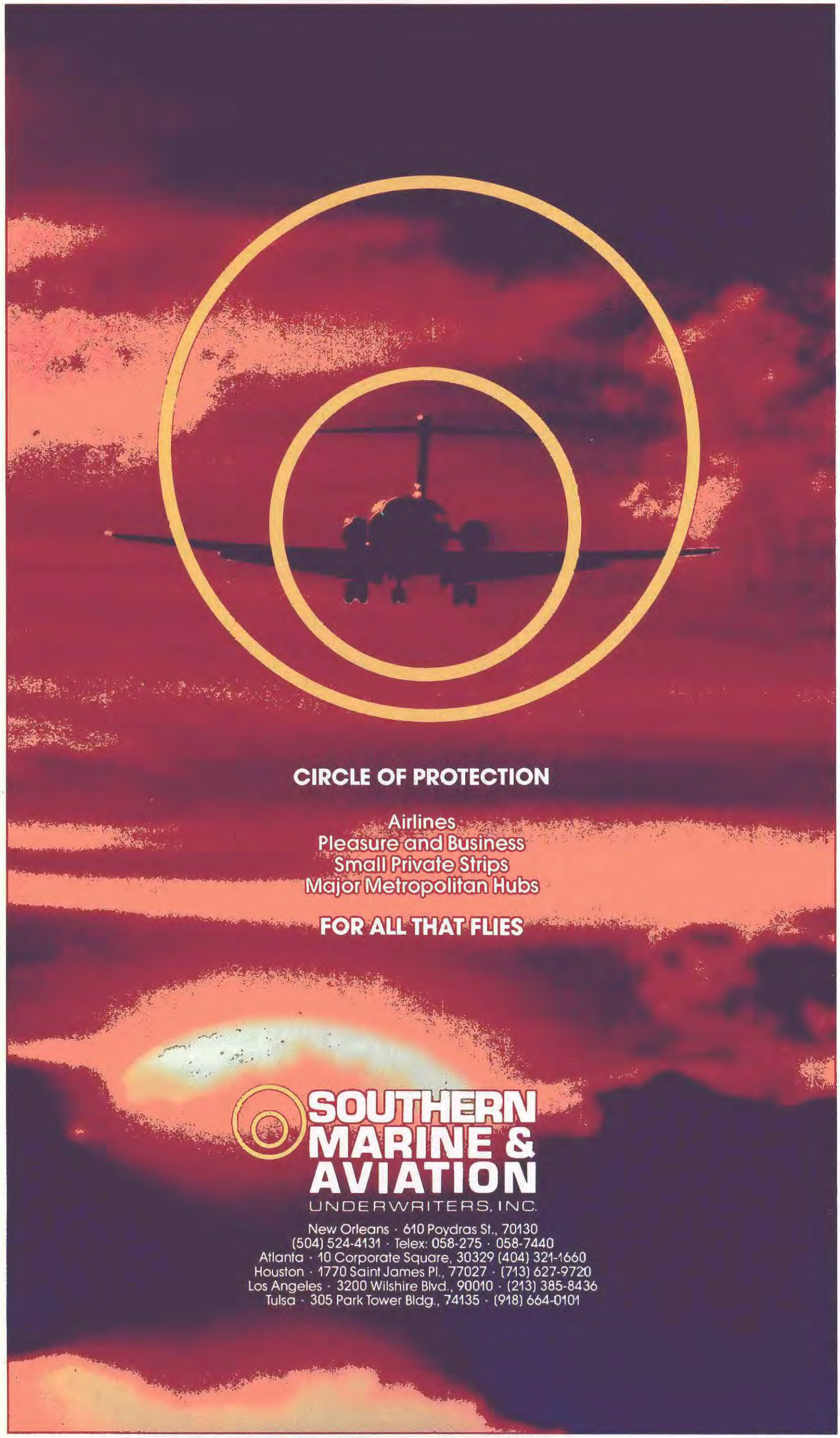
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JUNE 9-11. Freight Claims in Plain English Course in Chicago, sponsored by Shippers National Freight Claim Council Inc.; $275 for members, $300 for nonmembers. SNFCC, 120 Main St., P.O. Box Z, Huntington, N.Y. 11743; 516-549-8984.

JUNE 9-11. Computer Security Conference in Boston, sponsored by the American Society for Industrial Security; $245 for members, $295 for nonmembers. Education & Seminar Programs, ASIS, 2000 K St. N.W., Suite 651, Washington, D.C. 20006; 202-331-7887.

JUNE 9-11. Techniques of Risk Management Course in Montreal, sponsored by the Risk & Insurance Management Society; $225 for members, $150 for each additional participant from the same firm and $325 for nonmembers. Also **June 11-13** in New York. Lynn Fischoff, RIMS, 205 E. 42nd St., New York, N.Y., 10017; 212-557-3294.

JUNE 9-13. Risk Management in Practice Course in London, sponsored by Risk Research Group Ltd.; £661.25. Elaine R. Cumberland, course coordinator, Risk Research Group Ltd., Bridge House, 181 Queen Victoria St., London EC4V 4DD; 01-236-2175.

JUNE 12. Risk Management: Today's Techniques vs. Tomorrow's Risks Conference in Hartford, sponsored by Connecticut Valley Chapter of the Risk & Insurance Management Society Inc.; $50. M.J. Sullivan, Risk & Insurance Management Society, Connecticut Bank & Trust Co., 1 Constitution Plaza, Hartford, Conn. 06115; 203-244-5000.

JUNE 13-14. Emergency Forces Training Workshops in Detroit, sponsored by the National Fire Protection Assn.; $30 for members, $35 for nonmembers for one half-day workshop; $50 for members, $60 for nonmembers for two half-day workshops or one full-day workshop; $90 for members, $110 for nonmembers for two full days of instruction. NFPA Seminars, Continuing Education Division, 470 Atlantic Ave., Boston, Mass. 02210; 617-482-8755.

JUNE 16-18. International Security Conference in Chicago, sponsored by Security World Magazine; $75 for one day of three seminars; $175 for three days; exhibition free if preregistered two weeks before. Executive director, ISC, The Show Co. International, 8687 Melrose Ave., Los Angeles, Calif. 90069; 213-659-2050.

JUNE 16-20. Los Control Management Seminar in Atlanta, sponsored by the International Loss Control Institute; $450. ILCI, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

JUNE 17-18. Health Care Workshop in Austin, Tex., sponsored by the National Fire Protection Assn.; $175 for members, $185 for nonmembers. Also **June 23-24** in Seattle. Ina L. Miller, NFPA, division for continuing education, 470 Atlantic Ave., Boston, Mass. 02210; 617-482-8755.

JUNE 19-20. Self-Insurance and the Use of Captive Insurance Cos. Seminar in Chicago, sponsored by New York University's school of continuing education; $640 tuition per person plus $75 registration fee per organization per seminar. Information Services, University Conference Center, 20th floor, 360 Lexington Ave., New York, N.Y. 10017; 212-953-7272. ■

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Tucson risk exec wins self-funded comp plan

By RHONDA RUNDLE

TUCSON, Ariz.—When insurance premiums on a big risk incrementally exceed claims payments year in and year out, it may be time to self-insure, reasons the risk manager of Arizona's second largest city.

But you'd better be prepared for a tough first year and protests from aggressive insurers willing to go over your head to keep the business.

Tucson was one of seven cities and school districts to insure workers compensation through a special pool that's part of the Arizona state compensation fund. After studying costs, however, risk manager Terry Anderson didn't think the city was getting its money's worth.

Annual premiums for fiscal 1978-79 reached $866,000 and Tucson still retained the first risk layer of $30,000 per occurrence. "We were spending a lot and not getting much back in return," Mr. Anderson says.

Heartened by a very successful two-and-a-half-year-old general liability self-insurance program, Mr. Anderson opted to steer Tucson out of the state pool and into self-insurance last July. Only nine months after the switch, Mr. Anderson calculates his decision has saved the Sunbelt city nearly $100,000.

The first year is the toughest, Mr. Anderson says, because the workers compensation reserve fund, seeded with a budget allocation of $350,000 in cash, is vulnerable until the plan stabilizes.

Additional allocations each year will replenish and expand the fund, making it safe from a series of giant claims. The reserve is held in certificates of deposit and new issues are earning 14% interest.

Tucson pays losses up to $250,000 per occurrence, the city's self-insured retention, from this reserve. Larger claims are insured up to $2 million through excess coverage underwritten by Employers Reinsurance Corp.

"At the outset this high retention during the first year was a major concern," Mr. Anderson admits. "When we looked closer, however, we decided it wasn't a problem." Workers compensation payouts typically extend over several years, he points out, so that even two or three serious losses in the first year would not require full payment immediately.

Indeed, Tucson has not had a large, serious claim since it went self-insured. So far, $108,000 has been paid from the reserve fund and incurred losses are estimated to be about $140,000. In July, the reserve fund will be strengthened with another $350,000.

In a real emergency, Tucson could tap its robust general liability reserve to pay workers compensation losses, Mr. Anderson explained. Although this would undoubtedly raise eyebrows at city hall, it is a stopgap measure that could bail Tucson out of a catastrophic loss, he says.

The new program is sailing on smooth waters now, but the decision to withdraw Tucson from the state fund was bitterly opposed by officials there, Mr. Anderson reports.

"They fought us tooth and nail," he declared. "I've never seen an insurance company so aggressive in trying to retain business.

"I have nasty letters from them to the city manager and to the mayor saying that we do not know what we are doing and that we are making a big mistake," Mr. Anderson continued. He was understandably distressed when state fund officials took their arguments over his head to the top echelons of city government.

"They fear a trend toward self-insurance that would undermine their business," Mr. Anderson says. "Tucson is the top of the dam and they are worried other government units might follow our lead into self-insurance."

Tom Charles, director of policyholder services at the state fund, denies these suppositions. The departure of Tucson has had no impact on the fund, he insists. Nor has any other city withdrawn from the self-rated group, an alternative plan to self-insurance that provides reinsurance to $20 million at favorable rates, he said.

Mr. Charles did meet with the Tucson mayor at the request of the state fund's senior attorney, who is a friend of Mayor Lewis C. Murphy, Mr. Charles says. "We believe that taxing agencies in Arizona should not be in the insurance business," he stated. "We have a duty to explain our philosophical disagreement with Mr. Anderson to the mayor."



"They fought us tooth and nail," Terry Anderson said of state fund officials who opposed Tucson's self-insured plan.

Tucson, a fast-growing city of 400,000 residents, adopted self-insurance on its liability risks before Mr. Anderson joined the city 18 months ago. The move was essentially forced upon Tucson to stabi-

HOW TO GET MORE THAN A MILLION DOLLARS IN HEALTH CARE FOR YOUR MILLION DOLLARS.



lize its coverage for police professional liability.

In 1974, Tucson's liability insurer, Maryland Casualty Co., asked to be taken off the police professional liability portion of the city risk. Although claims were stable at about $6,000 a year, the premium for $100,000 limits through a separate policy with a $25,000 deductible cost Tucson $200,000 in 1976. The premium doubled every year from 1974-76, Mr. Anderson recalls.

The liability loss reserve fund began with $300,000 in 1977 and has now grown to a robust $1.2 million, Mr. Anderson says. The city retains $100,000 of risk per occurrence and buys excess coverage with limits of $25 million through Central National Insurance Co. of Omaha. "We have just the one policy, which is kind of unusual," Mr. Anderson notes, "but Central National has the risk reinsured all over the place."

As reserves have been building in the fund, Mr. Anderson is looking for competitive quotes to renew the excess coverage with a higher self-insured retention. "We tried to do the same last year but didn't feel the quoted premium reductions were big enough to offset our increased responsibility," he says.

Tucson was offered a $40,000 cut in its $520,000 premium for fiscal 1979-80 to hike its retention from $100,000 to $250,000, he reports. "We thought the increased retention should be worth $75,000 to $100,000."

The market has been very soft, he says, so it might be an artificial savings to take a reduced premium with an increased retention. "We might get the same premium quote without changing our retention level," he says. Tucson has watched its excess liability insurance decline in cost 20% during three years.

During his brief stint with Tucson, Mr. Anderson has been concentrating his efforts on the financial and loss funding aspects of the city's risk program. A close look at loss prevention and safety is next on the agenda.

Mr. Anderson also plans to pull claims administration in-house. A city claims manager has recently joined the six-person risk management staff and his responsibilities will expand.

Although the city retains considerable control over loss adjusting, about half of the liability claims and all of the workers compensation claims are handled by Mountain States Adjusting Co., a subsidiary of Tucson's designated insurance agent, Snodgrass, Lovitt, Downey & Touche, Inc. ■

Auto accidents worst

Automobile accidents involving Tucson's 1,400 fleet vehicles have historically proved to be the city's biggest source of losses, says risk manager Terry Anderson.

To remedy this situation, Tucson hired an automobile safety expert as safety coordinator about the same time Mr. Anderson came on board. Bill Wantland has been teaching evasive driving to the police force and other city divisions to reduce the accident rate.

The worst accident in Tucson over the past decade was a crash in the wake of a police high-speed chase, says Mr. Anderson, who would like to see the hot pursuit eliminated from police procedures.

In the summertime, people roll up their car windows, flip on the air conditioning and tune in their favorite radio stations. They can't hear a police siren. If they are traveling at high speed, hot pursuit by the police may become extremely hazardous.

"Such traffic violators are hardly dangerous criminals," Mr. Anderson notes. He believes the damage caused by most high speed chases is not offset by any valuable contributions to law enforcement.

In reviewing health care coverage, a lot of executives make a false assumption—that health care costs will be the same no matter who the carrier is. After all, the same people will get sick and incur the same costs. The only variable is what the carrier charges for administering the program.

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Survivors awarded benefits

HELENA, Mont.—John Gordon of Butte, Mont., was traveling from his electrician job at missile sites in the Denton area when he was killed in a traffic accident May 1, 1978, and his survivors are entitled to benefits under the state workers compensation laws, the Montana supreme court ruled.

The workers compensation court initially ruled that the widow and four minor children qualified for benefits, but the decision was appealed by H. C. Smith Construction Co., Mr. Gordon's employer, and Argonaut Insurance Co.

Although his permanent residence was in Butte, the court noted Mr. Gordon was living out of a motel room in Lewistown and receiving subsistence pay because of the relatively long drive it would take him to report to his job.

The court said it didn't matter that Mr. Gordon had stopped at a Denton bar on his way back from work the night of his death or that he and his coworkers were traveling to a Stanford steakhouse when the accident occurred.

The high court said Montana law clearly affirms that Mr. Gordon's death arose out of and in the course of his employment and that his survivors qualified for workers compensation death benefits. Justice Gene Daly wrote that the law involved in the case specifically holds that travel by an employe to and from work is generally regarded as outside the course and scope of employment, except when there is a "deliberate and substantial payment for the expense of travel . . . ."

In this case, Mr. Gordon was receiving a daily subsistence of $22.

"Because the union contract singles out for special consideration a travel allowance and it is paid as an incentive to get men to jobs and results in a reasonable benefit to an employer, then while the employe is traveling en route to or from work, any injury is within the exception and arises out of and in the course and scope of employment," Justice Daly wrote.

The judge also said the insurance company was wrong in contending that Mr. Gordon's death was not compensable because he stopped at a Denton bar and proceeded to Stanford. It "cannot come as a great shock to the employer or be unforseeable by the insurer that working men away from their homes and families may visit a saloon for a beer after work," he wrote. ■

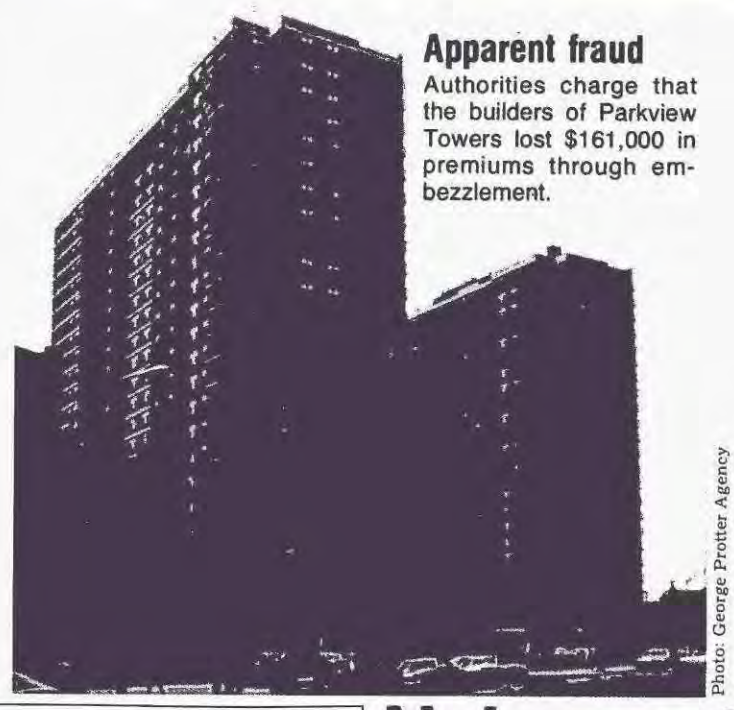
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Apparent fraud
Authorities charge that the builders of Parkview Towers lost $161,000 in premiums through embezzlement.

Photo: George Protter Agency

N.J. agent to be tried for fraud

$261,000 stolen, state charges

By JILL KAPLAN

OCEAN,N.J.—An insurance agent and broker here will be tried on charges of stealing nearly $261,000 from the New Jersey housing finance agency, two of its housing projects and the contractors of one of the projects.

George Protter, sole operator of George Protter Agency in Ocean, N.J., allegedly embezzled more than $161,000 from subcontractors and the general contractor of Parkview Towers, a NJHFA-funded project in West New York, N.J.

About $100,000 was reportedly embezzled from the Parkview Towers project, the NJHFA and another of its Hudson County projects, Overlook Terrace.

Mr. Protter is charged with intentionally overcharging clients for comprehensive general liability and umbrella liability policies, underwritten by The Hartford Insurance Group. Hartford returned the extra money to Mr. Protter, but he knowingly pocketed the funds for his own use, it's charged.

A.J. Tenwood & Associates Inc., general contractor for Parkview Towers, lost nearly $71,000 in the alleged embezzlement. The firm's subcontractors, which lost about $90,000, are: Astro Concrete Inc., Excavatus Inc., Circle Industries Inc. and Soldo Construction Co.

Mr. Protter's alleged fraud was uncovered in a routine investigation by the New Jersey economic crime section. An attorney at the NJHFA grew suspicious of NJHFA audit reports, called in the crime unit and Mr. Protter's name turned up in a routine review of records. After subpoenaing Mr. Protter's files, the team found him to be writing bogus policies and inflating premium costs, officials say.

Mr. Protter was indicted on 11 counts of fraud by a New Jersey grand jury in March for embezzlement and obtaining money by false pretenses from contractors of the Parkview housing project. He had been indicted on nine counts in January for defrauding the NJHFA and its two projects.

Each count is punishable with a prison sentence of up to three years and a fine of up to $1,000. No date has yet been set for the trial.

Mr. Protter wouldn't return calls from *Business Insurance*. ■

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Schwartz to leave Commerce Dept.



Product liability expert Victor Schwartz will leave the Commerce Department for the academic world.

By JERRY GEISEL

washington

THE FEDERAL government's top product liability expert is leaving the Commerce Department to teach law.

Victor Schwartz, chairman of the Task Force on Product Liability and Accident Compensation, will become a professor of law at American University this fall after the task force disbands.

Four years ago, Mr. Schwartz left the University of Cincinnati, where he taught law and was acting dean of the law school, to answer the Ford Administration's cry for help in finding out what was causing product liability premiums to soar.

Under Mr. Schwartz's direction, a team of experts began an 18-month investigation of the nation's product liability problems. They produced a massive report in October 1977 that cleared up many product liability myths. It is now recognized as the most balanced explanation of the roots of liability problems.

Following the completion of the task force report, Mr. Schwartz, whose text "Comparative Negligence" is a classic in the field, drafted a model product law for state adoption. That law, adopted last year by Connecticut and now being considered by several other state legislatures, is an attempt to eliminate the inconsistencies and uncertainties in case law that make risks so difficult to measure.

The law professor's latest project is trying to get Congress to pass the Risk Retention Act, which he also helped draft. The act, now stuck in the Senate Commerce Committee, would allow firms to set up groups to self-insure their product liability exposures under federal charter.

The author of more than 40 legal articles, Mr. Schwartz also may establish a private practice as a consultant.

Work comp

Enactment of federal minimum standards for state workers compensation programs would impede state efforts to develop equitable workers compensation systems, an insurance trade group says.

A federal standards bill "would inhibit innovative proposals to deal with individual state problems and could possibly address these deficiencies on a uniform basis," American Insurance Assn. counsel Robert Flockert told the House Labor Standards subcommittee.

Innovative state efforts to improve workers compensation programs, such as Florida's year-old law that bases benefits on loss of wages, would be stifled if a federal standards bill were enacted, Mr. Flockert said.

Mr. Flockert also noted the states have dramatically improved their workers compensation programs since a 1972 national commission found grave deficiencies in most state systems.

Social Security

Rep. Richard Gephardt has introduced legislation (H.R. 7046) that would give taxpayers a tax credit equal to 10% of their Social Security taxes.

Such a tax credit would cost the Treasury Department about $10 billion in revenues. But Rep. Gephardt believes this loss could be made up by the proposed oil import fee.

Rep. Gephardt's bill is one of several measures pending in Congress that propose to offset next year's hike in the payroll tax to 6.13% of the first $29,700 of salary from the current tax of 6.05% of the first $25,900 of wages.

OSHA revamp

The National Assn. of Manufacturers has endorsed legislation (S.2153) that would exempt employers with good safety records from routine Occupational Safety and Health Administration inspections.

NAM said the OSHA legislation, introduced by Sen. Richard Schweiker (R-Pa.), would provide relief from the time-consuming inspections for employers "who have consistently demonstrated the willingness and expertise to voluntarily comply with regulations."

IRAs grow

The number of Individual Retirement Accounts continues to grow, according to the IRS.

More than 2.7 million persons participated in IRAs in 1978, the last year for which complete figures are available. That is an increase from the 2.5 million IRA arrangements in 1977.

New exemption

The Labor Department has proposed allowing pension funds and employe benefit plans to purchase certain short-term investments from banks and other organizations that provide services to the plans. Currently, ERISA and federal tax law bar such arrangements.

Under the proposed exemption, published in the April 25 issue of the Federal Register, a pension fund or benefit plan could make certain investments with maturities of less than a year, such as commercial paper and bankers acceptances.

However, plans couldn't invest in concerns in which they have a fidelity relationship.

Comments on the proposal should be sent to the Labor Department in Washington, D.C. by June 24. ■



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- ☐ Does your policy provide defense costs within limits of liability?
- ☐ Does your policy limit loss to damages by definition, and exclude non-pecuniary claims?
- ☐ Does your policy by definition exclude employee benefits liability losses?
- ☐ Does your policy include outside persons as insured fiduciaries?
- ☐ Does your policy contain a limited retroactive acts exclusion?
- ☐ Does your policy give the insurer the right to settle claims without your consent?
- ☐ Has your policy been purchased without the advice of competent legal counsel who has rendered an opinion in writing as to which contract he felt offered the broadest coverage?

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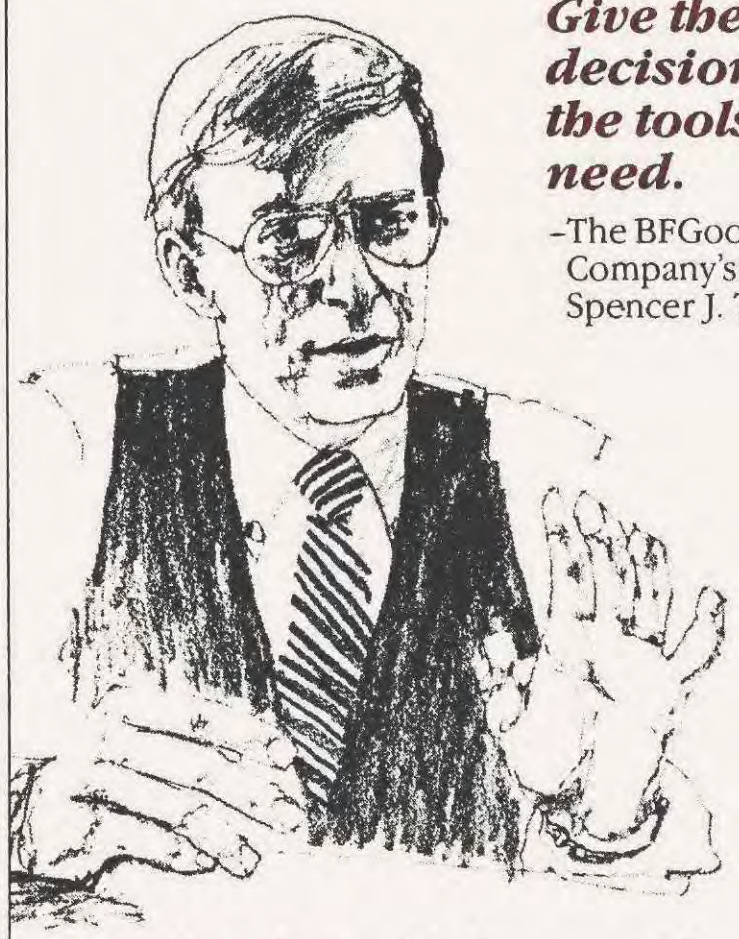
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-The BFGoodrich Company's Spencer J. Traver

Holding the line on total risk expense in a major manufacturing company involves such techniques as self-insuring, cash flow programs, and – perhaps most crucial – analysis of loss experience for projecting future costs. Spencer J. Traver, Assistant Treasurer of The BFGoodrich Company, has made loss protection a cornerstone of his operations.

For each of BFG's over 900 operating centers, loss experience figures are compiled for the previous five years. "The tremendous amount of data cranked in," says Traver, "allows us to base risk-management decisions on highly accurate forecasts."

Operating center managers are given a set of optional plans at the start of each fiscal year. One details the insurance expense necessary if no substantive changes are made from the prior year. Another option, based on computer modelling, sets up the cost-value relationship between risk coverage and new loss control steps.

Traver comments: "Each center can choose the alternative best suited to revenue projections and other factors." By use of this analytic system, linked to BFG's management-by-objective program, casualty/liability risk costs have held about even in the face of industry growth that exceeds 20% per year – and property risk costs have declined by 36%.

A multinational firm, according to William L. Mather, Administrator of Risk Management for The Gillette Company, doesn't necessarily have to buy all its overseas property coverage at the high rates that often prevail locally.

In Gillette's case, when the company determines that an overseas exposure is costing more than a comparable U.S. exposure (.20-per-$100, for example, as opposed to .10-per-$100), corrective measures are taken. "In countries which permit the practice," says Mather, "we export the reinsurance back to our offshore captive."

An admitted national carrier writes the basic property coverage for Gillette at prevailing



Cost analysis tells us when to go offshore.

–Gillette's
William L. Mather

rates – assuring that the policy is in compliance with local laws and regulations. But the carrier retains only part of the risk, with the majority being reinsured by the Gillette captive. When the two premiums are averaged, the high rate of .20-per-$100 can be substantially reduced.

Mather sees this as a viable way of smoothing out differentials between U.S. and overseas property-coverage costs.

Careful examination of a company's balance sheet can often give a brokerage firm clues about which type of cash flow insurance program to recommend. The Advanced Risk Management Division of Corroon & Black, noted that one client had large amounts of short-term debt with its lead bank.

"After studying the company's position," says Jake Wallace, Director of this division, "we felt that a compensating balance offset plan could save the client significant dollars in his casualty program."

Under C&B's recommended compensating balance plan, premiums are "substituted" for cash balances. The insured pays an annual premium – in toto – to the carrier. After deducting expenses, the carrier then deposits a major portion of these funds in the company's bank. Result: immediate reduction of the compensating balance position.

The more knowledge, the more gain.

–Corroon & Black's
Jake Wallace



Over three years, the Corroon & Black client has had a net gain in working capital of over $20-million. Jake Wallace again: "This is a perfect example of how in-depth financial analysis leads to cost-effective risk coverage." Working with brokers and insureds, INA provides the types of coverage and service that enable companies to put compensating balance plans into effect.

Decision-making in business insurance has never been more complex. And the financial implications have never been greater. Today, devising cost-effective insurance programs requires knowledge, experience, capacity – and a complete range of products and services. Flexibility and the willingness to innovate are also essential.

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Even though Allendale helps many of the world's largest companies conserve their property, Fiat was a special challenge. Turning billions of dollars of industrial facilities into protected risks takes more than installing the latest hardware. Or translating our state-of-the-art loss prevention techniques into Italian. It takes a strategy. A systems approach that integrates the entire risk management process.

The first thing that Fiat needed was a complete orientation to the Allendale approach to modern fire protection.

In developing this program, we utilized all the professional and technical resources available at Allendale and the Factory Mutual System. Including the new Training Resources Center, which customized the program to fit Fiat's needs. Even fine points such as cultural differences and attitudes were addressed.

When the program was ready, nine of our people presented it to Fiat people in their Training Center, located in the old Martini and Rossi Villa near Turin. When the program was finished, Mr. Salaroli, Fiat's Director of Corporate Risk Management, said, "You did the impossible."

We wouldn't say that what we are doing for Fiat is routine, but we don't think it was extraordinary, either. After all, when you've been working on loss prevention for as long as we have, you learn to speak a lot of different languages.

Allendale Mutual Insurance Company,
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Allendale Insurance

perspective

Individual benefit reports

THE INDIVIDUAL benefit statement continues to grow in popularity as an effective means of communicating to employes the value of their full benefit program. In 1980, we foresee more employers distributing benefit statements to a greater number of employes than ever before. Our best estimate shows that more than 12 million such comprehensive reports will be received by employes this year.

Still more employes will receive smaller reports showing the benefits from a specific plan, such as a defined contribution plan or a defined benefit plan.

The increasing use of the statements by employers is due to four key factors that are unattainable or difficult to accomplish in other forms of benefit communication. These factors are:

• The benefit statement is a personalized communication piece. Each employe's report has his/her name and address on it and all benefits and their value included in the report relate specifically to that individual. This type of personal identification increases employe readership and meaning to the individual.

• The benefit statement is usually organized by benefit event rather than by plan. For example, all the benefit plans that come into play in the event of disability, death, retirement or termination are clearly shown and itemized under that particular event. Therefore, this approach is more in tune with employe thinking and results in a much better understanding of how the plans complement one another.

• The actual dollar amount of benefits can be shown. The use of complex formulas, charts and lengthy or legal explanations is avoided. Rather, the status of the employe in each plan is clearly shown in dollar figures.

• The benefit statement is one of the few vehicles that can give an employe a meaningful idea of the cost of his/her benefits. Perhaps this is the most important and impressive communication feature. The statement shows a reasonable estimate of the employer's cost of benefits for a particular employe.

Benefit statements are not designed to replace other types of benefit communication. The statements merely supplement and enhance other communication vehicles in a synergistic fashion. Some employers have been distributing comprehensive benefit statements for well over 15 years and continue to rely on this vehicle to communicate the value of the otherwise hidden income the full benefit program represents.

Unfortunately, we cannot monetarily determine the effectiveness of communicating this value by applying a mathematical measure. The reason is that it is impossible to develop such a mathematical relationship between any single communication event (or series of events) and any measurable condition such as turnover rate, absenteeism or productivity.

Nonetheless, effective communication is instrumental in increasing employe understanding of the benefit plans and in developing employe "recognition" (but not necessarily "appreciation") of the large expenditures required to fund and maintain these plans.

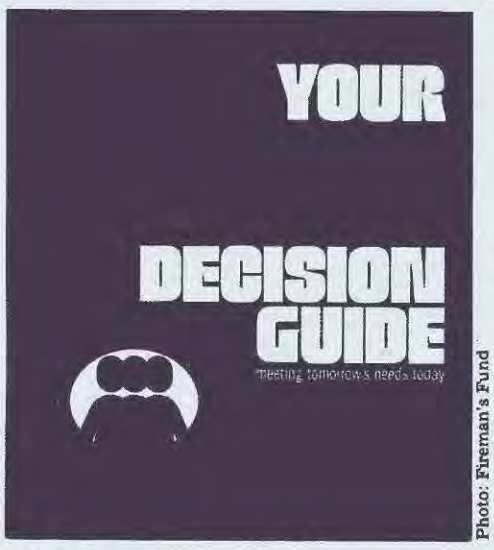


Photo: Fireman's Fund

Company asset

Individual statements pay off in recognition of a benefit program and its costs.

A distinction has been made here between appreciation and recognition. As benefit programs such as medical plans, vacations, holidays and other basic plans (perhaps even pension plans should be included) proliferate, some would argue that such programs have been taken for granted in that employes come to expect participation. Unfortunately, the objective of employe appreciation may not be attained. However, it is realistic to expect employes to recognize that:

• The employer's total expenditure for these plans is substantial.

• The substantial expenditure for the various plans is wisely made.

• The role of the overall employe benefit program as a part of compensation is of considerable value.

The individual benefit statement has proven itself to be an effective means of generating this recognition.

In discussions with employers who distribute such statements and in talking with selected employe groups, we drew the following conclusions:

• Employes look forward to receiving their benefit statements each year.

• Many employes save the report from year to year for comparative purposes. This can dramatize the employe's growth within the company.

• Some employers have used the benefit statement as a hiring and recruiting tool. One company was able to recruit a senior manager by completing a blank showing him an estimate of his benefits after one year.

• One company happily reports, "It is the first thing we have done to adequately advise employes of their benefits." Another comments, "We received more favorable comments after distributing the benefit statement."

• An employer reports that it used the benefit statement in order to retain an employe who, at the time of distribution, was negotiating for possible employment with a competitor. Although the employe in question was a sophisticated senior manager, the report served to remind him of the value of the present employer's program and prompted him to compare his total compensation at both companies.

• In a discussion with a group of employes who had just received their first benefit statement, the following enlightening comment was made: "Gee, I never realized I had so much." ■

These remarks are reprinted from Hansen News & Views, a publication of benefit consultant A.S. Hansen of Lake Bluff, Ill., with its permission.

Meal exclusion dishes up tax disputes

benefit tax slants

By Joseph S. Robinson

Attorney-at-law



THE TAX LAW allows an employe to exclude from his taxable income the value of meals furnished by the employer, provided the meals are served on the business premises of the employer for the employer's convenience *(I.R.C. Sec. 119)*.

In the past several years, the tax treatment of employer-provided meals has been the subject of two Supreme Court decisions. In Kowalski *(434 US 77, 1977)*, the court ruled that cash allowances paid to state troopers for meals were not excludable from income. Then in Central Illinois Public Service Co. *(435 US 21, 1978)*, the court ruled that although cash meal allowances paid to employes engaged in non-overnight business travel were taxable income, the allowances did not constitute "wages" subject to the income tax withholding provisions.

Last year, the court of claims ruled that excludable meals provided by an employer were not wages for purposes of withholding under the Federal Insurance Compensation Act and the Federal Unemployment Tax Act *(Hotel Conquistador Inc., Ct. Cl., 597 F. 2d 1348, 1979)*.

Recently, IRS announced it will not follow the rule set in the Hotel Conquistador case *(Rev. Rul. 80-41)*. This means employers must continue to withhold FUTA and FICA taxes on free meals furnished to employes unless they want to face a possible fight with the IRS.

Life insurance

The deductibility of interest payments for income tax purposes is familiar to anyone who has filed a "1040." Generally, the deduction is applicable to interest payments on life insurance policy loans or on collateral loans secured by a policy.

However, there is a specific set of tax rules to be followed when insurance loans are involved, the most important of which is that at least four of the first seven annual premiums must be paid in full by means other than borrowing.

More top-level employes are taking advantage of financed insurance as an additional fringe benefit. Here's how it can work for them:

The company takes out a policy on the executive's life and pays the first four annual premiums. Then the company sells the policy to the executive for its cash value. The executive borrows all future premiums against the cash value of the policy and deducts the interest he pays on the policy loan each year.

Thus, the executive's only cash outlay is the amount he paid to the company when he bought the policy plus his after-tax cost of the interest on the policy loan.

This is much less of a cash outlay than he would have to make had he taken out the policy himself, paid four out of the first seven premiums in cash and then borrowed the rest.

The company makes it possible for the executive to get insurance at low cost without him realizing any taxable compensation when it sells him the policy.

Reason: Even though the cash value in the fourth year is much less than the company paid in premiums, that's about all the policy is worth at that time. Since the executive is paying the full value of the policy to the company, he realizes no compensation income as a result of the deal. ■

perspective

Rate engineering when measuring HPR coverages

Insurers assume less risk as loss control takes over

By Robert W. Hedges and Ronald J. Juda

A TRADITIONAL CONCEPT in the field of highly protected risk insurance is that the insurer should be basically in the engineering business and offer some property insurance on the side. In the light of the inflationary economy, perhaps it is time to take a fresh look at the HPR segment of the insurance industry.

The corporate risk manager, individual insured or, for that matter, the insurer involved with or contemplating involvement with the specialized line of highly protected risk coverage needs to consider a number of factors, some of which have been present since the conception of HPR coverage and others that have evolved through changing times and possibly passed traditional thinkers by. Both the insurer and the policyholder must see themselves in a decision-making position and understand how their decisions will affect them, particularly financially, in the short and long runs.

From an underwriting standpoint, the highly protected risk insurer sustains itself by providing low-cost property insurance to those policyholders that qualify as being superior to others in their class. Therefore, selective underwriting obviously is a key factor in the success of an HPR operation for the insurer. The policyholder, however, should also realize that this selectivity, or more specifically a lack thereof, can affect his operation adversely in the areas of both loss prevention and cost.

In 1835, when one firm owned one plant, selective underwriting on the part of an HPR insurer was a simple process. An operation either qualified for coverage or it didn't. Today a corporation with a varied schedule of risks in its property portfolio is certainly not uncommon. Some locations qualify for HPR, some nearly qualify and some may qualify with considerable improvements. They are being written as HPR business as part of the HPR insurer's book of business.

At this point, a firm should consider whether an insurer specializing only in HPR business understands enough about the nonqualifying business being written to be able to price it and reinsure it so insurance costs will not be adversely affected by the possible poor results of those whose protection is not on a par with his own.

Theoretically, because an HPR rate is promulgated largely on the basis of the physical characteristics of a given risk, it should never change as long as these characteristics remain constant. An absorption factor, based on the results of loss and expense of any insurer operating on a deposit system for premiums, can change, although to our knowledge it has never decreased. Therefore, the concern should be that in the competitive marketplace we see today, an insurer whose rates vary little still finds it necessary to be competitive.

Robert W. Hedges is vp and Ronald J. Juda is assistant vp of Commerce & Industry Insurance Co., an American International Group Company.





A fire detector (above, atop right pole) turns on extinguishing systems immediately while a flow test (left) determines water volume.

Because overall costs are the buyer's chief consideration and because the implementation of loss prevention procedures cost money, recommendations made in the interest of preventing losses may be waived or pursued with less fervor by the insurer faced with losing business. The firm that is genuinely interested in loss prevention here runs the risk of having an important recommendation overlooked or played down.

Any firm having to deposit with someone else a substantial amount of money, a small part of which is used as the premium, must be having second thoughts about what it could be doing with that money right now. A change in insurer may not be the answer to the problem. Insurance alternatives must be scrutinized as to whether or not a change will help long- and short-term cash flow.

A corporation that already maintains a well-organized loss control department may do well to find an insurer that will work with its loss control staff, instead of one that tries to operate as the loss control staff. This could result in no loss of engineering quality and possibly in the gain of manhours previously lost in arguments about who is right.

For other corporations, engineering needs should probably be planned using a cost-benefit formula. The object is to evaluate whether or not they are getting what they are paying for, need what they are getting and whether someone else should and could be found to provide for their needs at an overall favorable cost. In today's economy, any premium that depends on a stable environment and interest rates will require a full-time wizard to predict the future.

In exploring the possibilities of self-insured retentions, captives and unbundled services, the corporate buyer should take care to verify that professional advice and insurer involvement

extended coverage

are sophisticated and have a track record of successful operations in HPR. Consideration should be given, also, to the possibility of a superior account taking on an excess/surplus lines role in the marketplace and suffering from lack of good engineering through layer placements with insurers unfamiliar with the HPR business.

We are seeing more and more large insurers beginning to incorporate higher deductibles into their programs, and HPR is no exception. In our opinion, if we have an insurance crunch like the last, even more companies will move from first-dollar coverage to larger self-insured retentions or, as some have learned by dissecting their accounts, placing one layer of insurance with one company and a sec-

Photos: Detector Electron, ICS & IRI



Safety first

A sprinkler head is tightened before a demonstration of the sprinkler system.

ond layer with another and so on, for a financial advantage. They probably have achieved one, but now for the caveat:

What have they purchased for the price? Built within the total cost of HPR is the most expensive factor, engineering and loss control. This factor in HPR coverage will amount from 5% to 10% or more, depending on the company.

Therefore, the risk manager or insurance buyer must ask how important is this HPR engineering service and whether he or she is purchasing at a price that may adversely affect him or her later.

The insurance buyer must remember that the level of engineering service is determined by the insuring company and its purpose is to protect the insurer, which normally also helps the policyholder. Whether a company decides to assume a large portion of risk or layers out his risk among many companies, the insurer will not bear the same proportion of the risk and the chances of deterioration of service could increase.

The change we see in the future is the risk manager or buyer bearing a greater absorption of loss through deductibles, self-insurance programs and captives. We see the buyer questioning the level of service he is receiving for his money and looking elsewhere to purchase services. By this we mean purchasing a level of service he believes is needed, not what is determined for him. The insurer will, of course, need to provide for its own protection by providing engineering but this should be more an audit of what is being done.

The risk manager, then, through his broker, may purchase insurance through one company and engineering, claims and appraisal services through another. In this way, the firm could have the level of service it needs to protect itself.

The entire HPR concept is built around superior construction, protection and management attitude and any deviation from that concept will and should change a risk from HPR to something less. The part engineering plays in that concept must not be minimized. It is our philosophy that what constitutes the low premium rate of HPR is justified by the high quality of engineering that goes into risk, and that the risk should meet and maintain high engineering standards.

Engineering today is as important or even more so than it was in the past. Modern warehouse facilities providing rack storage of various materials were not heard of a few years ago. New building materials require new approaches only engineering can provide. The science of fire prevention will become even more important in our future of scarcity. No one can tell accurately how many billions of dollars have been conserved or lives saved as a result of this science.

As cost increases in the future, companies will be tempted to cut back on engineering service. This, we fear, could have a disturbing effect on both the insurer and policyholder. We would hope for, instead, an intelligent approach to be considered with the risk in partnership with their insuring companies. The corporations could help themselves by providing the routine inspection following the advice of the insurer. In essence, provide the routine fire prevention work and utilize the insurer as specialist in plan review, hydraulics and as auditor when the policyholder is providing its own engineering.

We believe the insurer should provide its stated purpose, absorption of monetary loss, promulgation of standards to separate the HPR from non-HPR and high-quality engineering consulting services. The policyholder provides its own engineering services through staff or purchasing services and maintains the insurer's standards. This will not only ensure the integrity of HPR but maintain the low premium rate it has enjoyed in the past.

Traditional thinking on the part of an HPR insurer or policyholder could be detrimental to each one's survival in an economy and industry subject to such fluctuation and growing expertise. This is not easy for an insurer whose forms and filings are based on an antiquated named peril structure and whose present-day philosophy has not changed much since the days fire insurance companies wrote only property business and casualty insurance companies wrote only liability insurance.

It is also not easy for the policyholder which may question the ability of the property-only insurer to at least understand the relationship of property coverage to the remainder of the corporation's entire insurance program.

The 1980s hold in store a multitude of financial and insurance-related decisions to be made by the corporate buyer, and consideration should seriously be given as to whether the company providing that corporation with a policy is in the engineering business or the insurance business. ■

legal briefs

Company may recover for flooding damage despite policy clause

RECOVERY UNDER a fire insurance policy may be allowed when the insured risk itself set into operation a chain of causation in which the last step may have been an excepted risk, a New Jersey appellate court ruled.

The Franklin Packaging Co. was issued a standard fire insurance policy by California Union Insurance Co. that included coverage for "direct loss by vandalism and malicious mischief." The policy excluded flood, surface, overflow, sewer backup, seepage, etc., unless caused by an explosion.

Vandals broke into Franklin's warehouse and drove a truck into a water-cooled air-conditioning system, breaking a valve, which created a constant flow of water. The water would have drained out of the building if it were not for a blockage in a pipe below the first floor.

Franklin's inventory was damaged from the backup. The insurer denied Fraklin's claim for damages. Franklin sued but lost in the trial court.

The appellate court reversed. The court said that in a chain of events, the predominant cause that sets the chain into motion may be regarded as the proximate cause. *Franklin Packaging Co. vs. California Union Insurance Co.*, superior court of New Jersey, appellate division, Oct. 29, 1979 (*BI*/01/My.-$4).

Property damage

Losses sustained by a marketer of candy products, after plastic trays used by a manufacturer to package its product "impregnated" the candy with a plastic taste, were in the nature of a pure economic loss. Thus, an Illinois appellate court ruled they did not satisfy the "property damage" definition of the manufacturer's liability policy.

Ludwig Candy Co., a candy manufacturer, used the ill-fated plastic trays in packaging its products. Seaway Candy Co. distributed Ludwig's products. Seaway received consumer complaints on the taste and ceased marketing the candy products.

Ludwig was insured under a policy issued by Iowa National Mutual Insurance Co. against property damage liability. Property damage was defined as "injury to or destruction of tangible property." Seaway sued Ludwig seeking loss of profits, damage to its business reputation and loss of goodwill. The insurer refused to defend the suit. Ludwig, in the present suit, sought to force the insurer to indemnify it. The trial court ruled in favor of Ludwig.

The appellate court reversed, noting that the completed product was defective when sold to Seaway. Thus, the court said, the losses Seaway sought were all intangible and did not fall within the coverage. *Ludwig Candy Co. vs. Iowa National Mutual Insurance Co.*, appellate court of Illinois, Nov. 13, 1979 (*BI*/102/My.-$4).

Amputation refused

The Illinois supreme court, in a workers compensation case, ruled that if a claimant's response to an offer of treatment (refusal of amputation) was within the bounds of reason, his freedom of choice should be preserved even when an operation might mitigate the employer's damages.

In 1971 an employe of Goldblatt Brothers, in the course of his employment, was injured in a Jeep accident that crushed the lower part of his left leg. Although the doctor questioned the viability of the foot, he operated.

The employe filed for benefits. One medical report submitted by the employer concluded that the employe's continuing problems would be solved by a below-the-knee amputation. Other reports suggested an attempt should be made to save the leg. The employe rejected the amputation and was awarded disability.

On appeal, the employer contended any disability suffered by the employe beyond losing the use of one leg was attributable to his refusal to have the leg amputated rather than to the accident. The court said that if an employe's decision against an operation was reasonable, an additional financial burden may be imposed on an employer. *Goldblatt Brothers Inc. vs. Industrial Commission*, supreme court of Illinois, Dec. 3, 1979 (*BI*/103/My.-$4).

Proof of loss

A federal appellate court ruled that athough a claimant's proof of loss under a group policy must give the insurer sufficient medical information on which to base a reasoned judgment, he was not required to prove the claim to the satisfaction of the insurer.

The decedent was insured under a group life policy issued by The Equitable Life Assurance Society. The policy provided benefits in the case of death from bodily injuries caused by external violence or an accident. The decedent, who had serious breathing problems, broke his hip in a skiing accident. He died several weeks later.

His widow submitted a notice of accidental death form and a certificate of death. Equitable's independent investigation led it to decline the claim. The widow sued and recovered a judgment.

On appeal, one of Equitable's arguments was that the widow had failed to provide it with due proof of loss as required under the policy. Equitable insisted medical information it obtained by its own efforts should not constitute part of the widow's proof of loss. However, the court disagreed. *DeMars vs. the Equitable Life Assurance Society*, U.S. Court of Appeals for the First Circuit, Dec. 11, 1979 (*BI*/05/My.-$4). ■

These abstracts were prepared by Cases Unlimited Inc. Copies of the entire decision may be obtained by sending a check for $4 made out to Cases Unlimited, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please list the number for each opinion.

Recommendations for Lloyd's

Fisher report to be finished this month

By JOHN MILLER

london line

LONDON—The long-awaited Fisher committee report on the workings of Lloyd's will finally be completed this month after 15 months.

The biggest inquiry of the last decade into the seemingly mysterious workings of Lloyd's will most likely have a long-term effect rather than prompt any sharp, short-term changes. An act of Parliament will be needed to enact major changes, but Lloyd's authorities may implement other recommendations.

The report will likely focus on:

• The 20% outside interest rule. Relaxation of the limit is already gaining support, for Lloyd's certainly has no wish to shut out U.S. interests indefinitely.

• The controversial relationship between the big broking groups and the underwriting agencies they manage. Most large brokers argue there is enough competition at Lloyd's to prevent any monopoly, but some smaller syndicates contend all syndicates should be independent.

• Disciplinary proceedings, which are believed to be operating under old-fashioned and cumbersome procedures.

• More formal rules for arbitration on market disputes. Current informal arrangements are felt to lack certainty.

Lloyd's 16-member committee, headed by chairman Peter Green, will study the report before releasing full details to the 18,000 Lloyd's members.

"Until the committee has seen the report and had time to digest it, we'll not be able to make up our mind what course of action to adopt over it," Mr. Green said.

"Reviews of Lloyd's activities go on within the market community all the time through other subcommittees and the like. There's always an intake of new people on the committee every year, in any case, to keep ourselves up-to-date with market attitudes."

Market associations, such as Lloyd's Underwriters Assn. and Lloyd's Non-Marine Assn., will be consulted at an early date. Insurance brokers have urged all members of Lloyd's to be aware of their "democratic rights" to vote on important issues debated at Lloyd's annual meeting.

Non-nuclear risks

Conventional peril risks for part of the Three Mile Island nuclear plant have been placed at Lloyd's after coverage was requested following last year's accident.

The coverage was arranged on behalf of Frank B. Hall & Co. by Fenchurch broking group and applies to normal fire and non-nuclear risks. The first two layers have limits of $10 million each and the third is $30 million, with Lloyd's and the U.K. market covering all but about 20% of the final layer.

Iran coverage

U.K. underwriters are reluctant to cover physical damage for drilling operations in Iran, at least until the Khomeini regime allows Lloyd's agency in Tehran to reopen, because there is no way to find what the "proven loss" is, one broker says.

Confiscation risks are led separately by a few specialist Lloyd's syndicates.

"The Iranian situation can result in substantial losses for some drilling contractors, but they may well find it hard to substantiate their claims until the position gets better," Brian Blackshields, a prominent U.K. broker for oil risks, told *Business Insurance*.

"Underwriters need to have on-the-spot knowledge about the extent or nature of losses, and the closure of Lloyd's agency in Iran severed their links in this direction. It is doubtful if surveyors will be allowed to enter the country at present to get the necessary information, so the scene is a bleak one for many U.S. contractors who have used Lloyd's for cover."

Millions of dollars worth of risks are tied up in Iran, with many exposures running $50 million to $70 million, according to Mr. Blackshields, managing director of the oil and energy division of the Lowndes Lambert broking group.

"The losses faced by individual contractors vary," he said. Some of them may have been able to sell their rigs to the Iranian authorities or even got them out of the country. But many U.S. contractors still have a huge investment in drilling equipment tied up in the Iranian oilfields.

"They may have very little knowledge either of the location or condition of their rigs, and whether they have been damaged or dismantled," Mr. Blackshields predicted.

"They've probably lost effective control over the equipment in any case and have no reasonable chance of identifying anyone in Iran to whom they can turn for help.

"Naturally, they may look to their underwriters to help them with their problems. But in the majority of cases at present, it seems likely that specific proof of loss will be hard to get.

"The vital role of surveyors and adjusters in evaluating claims has had to be abandoned in light of the Iranian attitude, so there will have to be a definite change in its political approach for underwriters to be able to offer any effective physical damage programs," Mr. Blackshields said.

Few other international markets write this type of cover, so many U.S. firms will find it hard to place their risks elsewhere.

Surprise loss

Butcher Syndicate at Lloyd's faces a surprise loss of $6.5 million on livestock liability business in 1978. The losses include heavy claims on U.S. reinsurance contracts. ■

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22.		JUN 2	May 20
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24.		JUN 16	Jun 4
25.	EXCESS/SURPLUS	JUN 23	Jun 10
26.		JUN 30	Jun 18
27.		JUL 7	Jun 25
28.	Spotlight Report: Fidelity & Surety Bonds	JUL 14	Jul 1
29.		JUL 21	Jul 9
30.	AGENT/BROKER PROFILES	JUL 28	Jul 15
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Minn. law blocks 28% rate increase

ST. PAUL—Minnesota employers will be spared a 28% rate increase sought by workers compensation insurers, thanks to new legislation signed by Gov. Al Guie.

Under the measure, the state commerce department's insurance division cannot grant any rate hikes until insurers supply detailed information on their costs and reserves.

State insurance commissioner Michael Markman said he expects insurers to file for a 70% rate increase next year, in addition to the 28% hike requested.

Workers compensation insurance rates are generally higher in Minnesota than in many other states. Some contend the higher rates are because of benefits paid to injured workers; others contend insurers are making excessive profits on their Minnesota operations.

Cover restored

LANSING—In an interim ruling that could affect 700 state workers, Michigan's civil rights commission ordered a 68-year-old worker's long-term disability coverage restored, along with that of any other worker whose disability coverage was cut off at age 65.

Ernest Adler, an assistant attorney general assigned to the state highway division, had charged his state coverage was canceled after he turned 65. The state denied his request to have his coverage restored under the state's 1977 civil rights act.

Under the ruling, Mr. Adler may also be entitled to payment for the difference between the cost of the state coverage and lower-quality, higher-cost private coverage he purchased. The commission also ordered the state civil service department, defendant in the case, to supply names and addresses of all current or past state civil service workers in similar positions.

The civil rights commission issued a charge of unlawful age discrimination last May in Mr. Adler's case. In October, the civil service department changed its policy to cover all workers with long-term disability insurance until retirement.

Legal malpractice

ST. PAUL—The Minnesota supreme court has upheld a damage award of nearly $650,000 against a Hopkins lawyer and his firm for failing to carry out a medical malpractice suit the plaintiffs could have won.

Jerre Miller and his firm, Vesely, Otto, Miller & Keefe, must pay the damages to John R. Togstad of Hopkins and his former wife, Joan, as the result of an incident in Methodist Hospital in 1971.

The suit charged Mr. Miller failed to act before the statute of limitations had run out, preventing the suit from being brought by other attorneys.

Mr. Togstad had been suffering from headaches and was diagnosed as having an aneurism, or ballooning of an artery in his head. His physician, Dr. Paul Blake, applied an instrument known as a Selverstone clamp to slow the flow of blood and allow the aneurism to heal. After 13 days in the hospital, a nurse found Mr. Togstad unable to move or speak. Dr. Blake was summoned and opened the clamp about an hour later, but Mr. Togstad suffered permanent paralysis in his right arm and leg and still cannot speak as a result of brain damage.

Witnesses in Mr. Miller's legal malpractice trial said both Dr. Blake and the hospital were negligent, with Dr. Blake's negligence the direct cause of the permanent injury. The trial jury awarded $610,500 to Mr. Togstad and $39,000 to his wife for "loss of consortium."

Mrs. Togstad first met with Mr. Miller about 14 months after the hospital incident. He suggested there probably was not a good medical malpractice case, but Mrs. Togstad said she expected a firm answer later. She said she was not told that the statute of limitations for medical malpractice cases was two years.

By the time other lawyers were contacted, it was too late to sue Dr. Blake and the hospital.

around the states

Work comp suits

HELENA—A worker may file suit in district court against a workers compensation insurer over a dispute arising after the worker ceases employment, the Montana supreme court has ruled.

The court ruled an injured worker may go to district court when a workers compensation insurer acts in bad faith, if the action is related to something that occurs after the worker ceases employment.

However, the court added, the workers compensation court has exclusive jurisdiction "to settle disputes of all kinds that arise in good faith and legitimately out of a worker's claims." Montana law requires that injuries compensated for under the workers compensation act may not also be redressed by other court actions.

Survivor benefit

HARRISBURG—Survivors of volunteer firefighters killed in the line of duty are entitled to the same $25,000 death benefit granted survivors of paid firefighters, the Pennsylvania department of general services has ruled.

"The families of volunteer firemen killed in the line of duty suffer no less of a financial impact than those of a paid fireman," Gov. Dick Thornburgh said in announcing the decision. "It is only fitting that families of volunteer firemen be entitled to these benefits, in recognition of the invaluable protection the volunteers provide for millions of Pennsylvanians."

A department hearing officer made the decision in a case filed by Farlamay Downing of Pottsville, whose husband Ralph was fatally injured Dec. 15, 1978. Mr. Downing, a volunteer firefighter, was struck by a car while directing traffic at the scene of a fire.

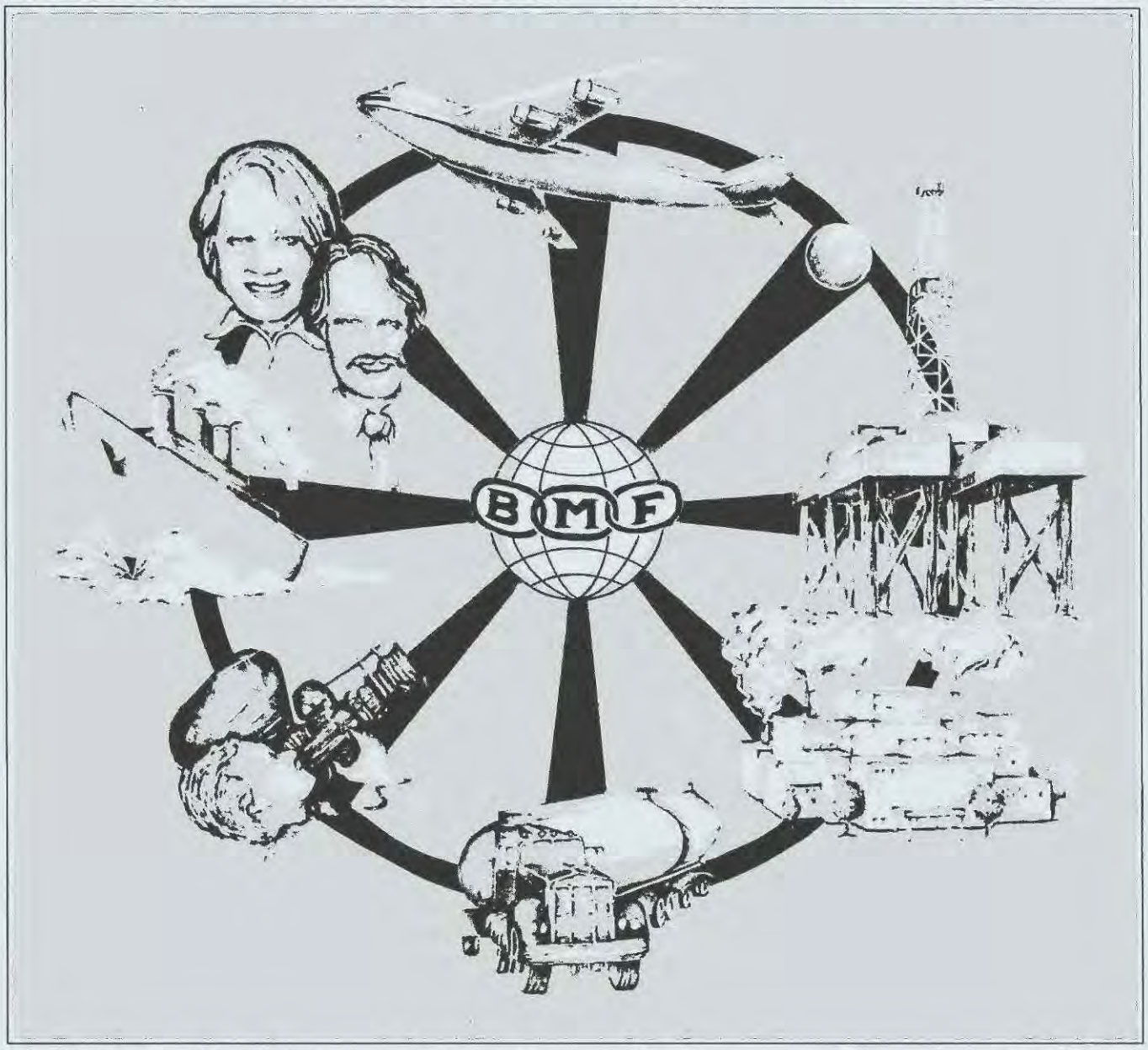
The hearing officer said the 1976 law that established the $25,000 death benefit made no distinction between paid and volunteer firefighters. Previous interpretations had made a distinction.

Increase denied

CONCORD—A request for a

Continued on next page

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N.H. turns down 20% rate increase

Continued from previous page

20.6% workers compensation rate increase filed by the National Council on Compensation Insurance was rejected by New Hampshire insurance commissioner Frank Whaland. He rejected the request on grounds that evidence did not justify a premium hike, also noting the council was granted a 10.4% increase in January. The council had received a 21.6% increase in September 1977. About 300 companies underwriting workers compensation insurance in New Hampshire in 1978 collected $65 million in premiums.

Higher premiums

BISMARCK—North Dakota employers will pay an average 12% more for workers compensation premiums after July 1.

The increase will range from 8% to 16%, said workers compensation bureau chairman Ronald Thompson. The construction industry, which normally has the highest rate classifications because of the hazards involved, is expected to be among the hardest hit.

Mr. Thompson said the bureau needs to keep rates in line with increasing wage scales upon which workers compensation benefits are paid. Benefits to North Dakota workers are paid on the basis of two-thirds of the state's average weekly wage, currently $196. It's expected to rise to $210 by July 1.

The state's workers compensation fund now has about $70 million, Mr. Thompson said.

Ratings hearing

ST. LOUIS—The Missouri division of insurance will continue hearings on Blue Cross/Blue Shield ratings at the end of May, says Dwain Akins, staff counsel of the department.

The hearings, which began April 14, will determine if BC/BS rating practices are discriminatory. Under the present system all BC/BS groups are rated by a modified community rating which a committee then reviews. The committee, however, has no defined standards for readjustment and consequently may favor certain groups, Mr. Akins says.

Insurance director Richard J. Frederick began investigating the Blues' market conduct and ratings at the request of the governor. A new state statute instituted in December 1979 authorizes the insurance department to look into all health insurance policies.

The department is sampling 18 group clients of Blue Cross/Blue Shield to study its rating practices. Groups include employes of the Globe-Democrat, St. Louis Archdiocese teachers, St. Louis Union Trust, Teamsters Local 54 and the Chase Park Plaza.

Limit on lawsuits

RICHMOND—A Virginia special legislative subcommittee has recommended that legislation be enacted barring product liability suits from being filed six years after a product was manufactured.

The joint subcommittee for courts of justice on product liability said in a report to the governor that without a time limitation of filing suits, manufacturers face an "almost insurmountable burden" in gathering evidence to defend their products.

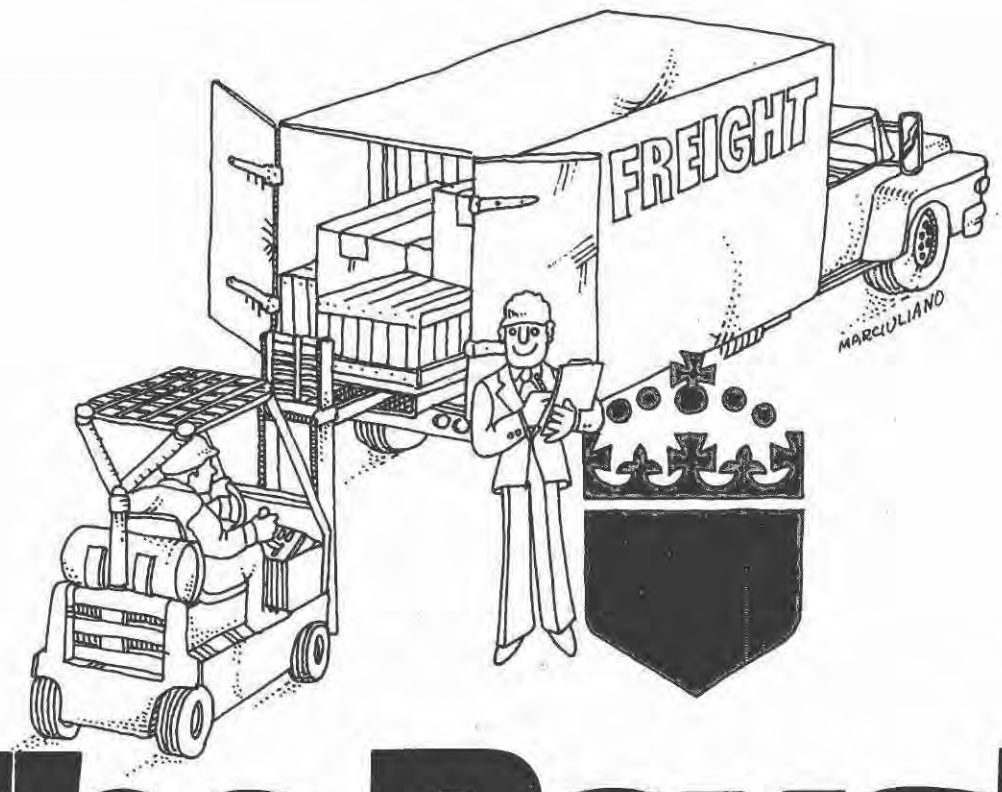
However, subcommittee member George E. Allen in a separate statement warned that a six-year cap on filing suit would unfairly deprive consumers of their rights because many products have much longer lifespans.

Insurers fined

TALLAHASSEE—Florida insurance commissioner Bill Gunter fined two member companies of the State Farm Insurance group of Bloomington, Ill., for using unapproved policy forms.

Mr. Gunter said the companies, State Farm Fire & Casualty Co. and State Farm General Insurance Co., committed "nonwillful violations" of Florida law by using the casualty policy forms without the consent of the department.

State Farm Fire & Casualty Co. was fined $5,000 and State Farm General Insurance Co. $3,000. ■



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BMF and Nordstrom end merger talks

MERGER DISCUSSIONS between Bayly, Martin & Fay of Los Angeles and Nordstrom Group Inc. of Minneapolis are over, *Business Insurance* learned, but BMF has announced it has made a smaller acquisition in Salt Lake City.

BMF senior vp Sam Alcorn said his firm is not currently talking with Nordstrom Group nor does he anticipate any conversations in the near future. The high financing cost of the acquisition may have deterred Sperry & Hutchinson Co., BMF's parent company, sources told *BI*.

BMF acquired The Continental Agency Co. in Salt Lake City on April 1. Financial terms were not announced. The agency will become a division of BMF under the leadership of its present president and chief executive officer, W.J.Garrett.

Continental, with 40 employes in three offices, specializes in student accident programs and workers compensation. Mr. Alcorn said acquisition of the agency will help BMF service the portion of the insurance program it handles for the Mormon Church.

products & services

Movie outlines care cost

CONCERNED ABOUT rising health care costs? "Medi$ense," a 20-minute film, traces the problem and can help motivate employes to do their part in battling health care cost inflation.

The film, produced by Robert Drucker & Co. exposes misconceptions about health care, explains why the system has gotten out of hand and outlines the roles played by health care providers, insurers, government, and consumers, according to Tylie Jones Communications, which is releasing the film.

The film may be rented for three days for $100, including postage, with additional days at $20 each. The cost for leasing or purchasing the film is $400 for each 16 mm print or $325 for each video cassette, including postage.

More information is available from Tylie Jones Communications, 10718 Riverside Drive, North Hollywood, Calif. 91602; 213-980-7300.

Eye-wash unit

Haws Drinking Faucet Co. has introduced a self-contained, portable eye-wash station with a 16-gallon capacity for more than 15 minutes of flushing time. The gravity-operated unit requires no plumbing connections and can be kept in areas where workers are subjected to potentially eye-injuring substances.



A nontoxic additive allows water to be stored up to two years without bacteria forming.

For more information on this model 7604 or the six-gallon model 7606, contact Haws Drinking Faucet Co., P.O. Box 1999, Berkeley, Calif. 94701. ■

markets

James purchase

Fred S. James & Co. Inc. has agreed to acquire Galbraith & Green Inc., a Salt Lake City, Utah, employe benefits consulting firm.

Galbraith & Green provides online computerized claims administration to firms that self-insure employe benefits. The firm now processes 5,000 claims a day, but has the capacity to handle up to 16,000 claims per day, says president Richard J. Galbraith.

The claims firm projects $14 million in revenues for 1980. That income will increase the James portion of revenues based on benefits to 18% in 1980, from 11% in 1979, according to James executives.

The purchase will cost James over $13 million in stock.

Hard-to-place risks

Northeastern Fire Insurance Co. in Upper Darby, Pa., has established a new underwriting facility to insure hard-to-place risks.

The "Net Line Facility" enables NFI to offer new limits for general liability and auto excess liability classes. Limits have been expanded to $500,000 CSL. Coverage is available for such diverse risks as boiler and machinery, crop dusting, fireworks, motion picture production, professional malpractice, scaffolding and sprinkler systems.

More information is available at 215-528-6780.

New offices

U.S. Facultative Management Corp., manager of two property facultative reinsurance syndicates, and **R. Todd Stutler & Associates,** an agency representing Washington National Insurance Co., have moved to 1 N. LaSalle St., Chicago, Ill. 60602.

HL Capital Management Corp. has established a San Jose-area office at 262 E. Hamilton Ave., Campbell, Calif. 85008.

Kemper Group has opened a commercial lines insurance office at 404 Camino del Rio S. in San Diego, Calif.

Acquisitions

General Reinsurance Corp. has reached an agreement to acquire the **Trident Insurance Group** from Britain's S.E.I. Ltd.

James S. Kemper & Co. has acquired **Ringe & Ringe** insurance brokerage in Philadelphia. The firm will be incorporated into Kemper's Bala Cynwyd, Pa., office. ■

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Annual Report Section

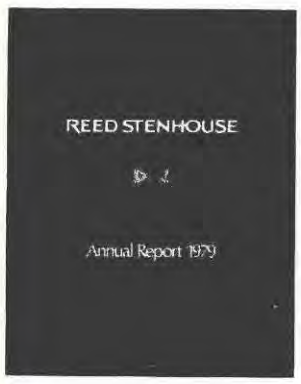
A special advertising section for insurance companies and related services.



Frank B. Hall & Co. Inc.

A leading international insurance services firm, Frank B. Hall reported record results in 1979. Revenues increased 31% to $258,871,000; net income rose 21% to $27,543,000; per share earnings advanced 20% to $2.91. Revenues and earnings per share have more than doubled during the last 5 years. Since 1974, dividends have increased at a compound annual rate of 25%. Currently the Company pays $1.34 annual dividend. NYSE symbol FBH.

1



Reed Stenhouse Companies Limited

Reed Stenhouse Companies Ltd. is one of the world's largest insurance brokerage organizations with 5100 employees in 32 countries. The American operation, Reed Stenhouse Inc. established in 1974, currently has 20 offices nationwide and is among the top 12 in the U.S. in terms of revenue. The parent company's head office is in Toronto, Canada, and its common stock is listed on the Toronto, Montreal and Vancouver Stock Exchanges.

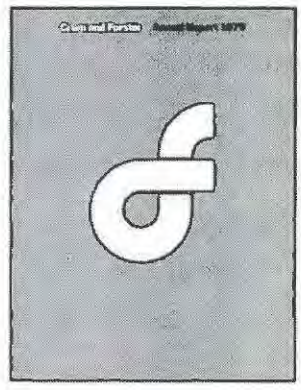
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Improved Risk Mutuals

IRM, a commercial property underwriting organization continued its success in 1979. During the past year IRM not only wrote its largest gross premium to date, but achieved an underwriting profit for the tenth consecutive year.

3



Crum and Forster

An insurance holding company with total premiums exceeding $2 billion (net premiums written of $1.6 billion) and assets over $3.5 billion in 1979. C&F concentrates its activity in P/C insurance where it ranks 14 in the U.S. Our high rate of earnings and dividend growth enabled us to rank 7 among the Fortune magazine "50 Largest Diversified Financial Companies" in total return to stockholders over the last ten years.

4



The Continental Corporation

A leading property/casualty insurer and 10th largest U.S. diversified financial company. Record 1979 revenues, assets, shareholders' equity, insurance writings. Operating income, second only to 1978 as best year. Investment income, up 15%, increased for 36th consecutive year. Divident increased 18% and another 10% after year-end to annual rate of $2.20 per share. Property/casualty written premiums rose to $2.2 billion.

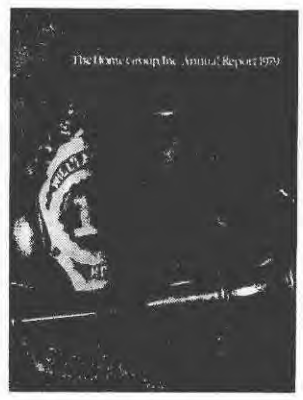
5



Arkwright-Boston Insurance

Arkwright-Boston Insurance policyholders surplus climbed $27.4 million in 1979 to $263.6 million. Offering fire and extended coverages, boiler and machinery, DIC and overseas insurance, the company reported a $5.5 million net income. Earned premium volume totaled $169.6 million. Losses were above average, primarily due to three weather-related castastrophes. During the 1970's assets grew from $252 to $682 million; policyholders surplus rose from $135.7 to $263.6 million.

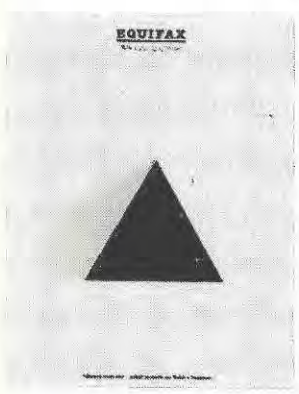
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The Home Group, Inc.

The Home Group, Inc., a subsidiary of City Investing Company, is parent to The Home Insurance Company and its property-casualty and life insurance subsidiaries. The Group reports 1979 revenues rose 12% ($1.85 billion from $1.65 billion); total assets grew to $3.8 billion from $3 billion.

7



Equifax Inc.

An international firm providing informational and administrative services for Risk Management, Financial Control and General Business purposes, reports revenues of $340.5 million, up 10.6%. Risk Management services primarily to insurance companies and self-insureds contributed 74% of the total. The dividend to shareholders in 1979 amounted to $2.20, a yield of 10.1% on the stocks' average price.

8



Pacific Mutual

Largest West Coast based life ins. co. Assets up 15% to $2.6 billion, life ins. in force up 23% to $16.3 billion. Premium income up 12% at $743 million. Record profitability with net gain of $24.3 million. Pac. Inv. Management Co. (subsidiary) has $774 million assets under management. PM Life Ins. Co. of New York (subsidiary) sells group life, health, & pensions in East.

9



E.H. Crump Companies, Inc.

E.H. Crump Companies, Inc., the largest insurance brokerage firm headquartered in the South, announced record revenues and earnings for 1979, with net income up 24% over last year. Revenues $24,471,925, up 15%, net income $2.4 million from $1.9. Per share earnings $1.03 vs. $.85. Dividends recently increased fourth time in 15 months, from $.08 to $.09 per common share. Stock traded NASDAQ:CRMP.

10

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American International Group, Inc.

In 1979 AIG achieved record earnings of $231.4 million after income taxes, or $6.17 per share. The annual compound 10-year growth rate was 25.2%. AIG reported an underwriting profit (combined loss and expense ratio under 100%) for each of the 10 years of the decade. As the leading broker-oriented insurance organization in the U.S. and one of the world's largest international insurance groups, AIG employs 19,400 people in more than 130 countries and jurisdictions.

11



MONY Mutual of New York

MONY's 1979 Corporate Review reports individual life insurance sales reached $3.7 billion, an increase of 15% from 1978. For the first time in Company history, total premiums from all products surpassed $1 billion. These and other financials are housed in MONY's Corporate Capabilities book, Promises Made and Promises Kept, which emphasizes the people, products and services behind the Company's promises to its policyowners.

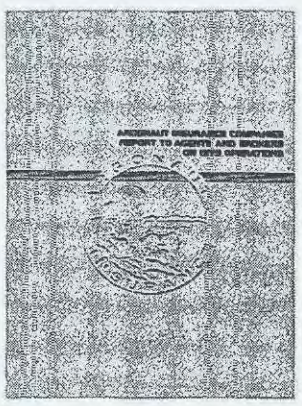
12



Corroon & Black Corporation

At the completion of its 75th year, Corroon & Black reports an increase in total revenues over 1978 of 18% to a new high of $140,325,000. Corroon & Black has paid cash dividends for 33 consecutive years and has increased its dividend for 14 successive years.

13



Argonaut Insurance Company

The Argonaut Insurance Companies reported 1979 consolidated earned premiums of $243.0 million and surplus of $237.9 million. Their written premium to surplus ratio was 1 to 1. Net operating income rose to $61.3 million; total assets were $999.4 million. The combined underwriting ratio was 99.8%. High lights included a 34% growth in workers' compensation earned premium and geographic expansion to better serve policyholders.

14



Pennsylvania Manufacturers Asso. Insurance Company

PMA's financial results for 1979 were outstanding. Two hundred and twelve million dollars in written premium. After tax profit up 21% (10.6 million from 8.8 million). Policyholders' surplus increased by 19.4% (78.8 million from 66 million). PMA is one hundred percent commercial property/casualty—licensed in 35 states—primary market in Pennsylvania, Maryland, Delaware, New Jersey and Florida.

15



Republic National Life Insurance Company

Republic National Life (OTC) 1979 operating income up 14%, $17,815,000 from $15,571,000. 1980 quarterly dividends rose to $.17½ per share. 1979 net income $20,236,000 up from $16,897,000; operating income $1.90 per share, up from $1.66; net income $2.16 up from $1.80. Stockholders' equity was $111,406,000 at Dec. 31, 1979. New Life Insurance sales, including revivals and increases were $3,216 million and Life Insurance in force increased by $983 million to $14,307 billion.

16



INA Corporation

INA Corporation's net operating income was up 16% to a record $245 million, or $6.34 per share, on record revenues of $4.6 billion. Cash dividends declared increased 18% to $2.05 per share. Based on the current quarterly rate, the annual dividend equals $2.20 per share. INA, founded in 1792, has worldwide operations in property-casualty insurance, life and group insurance, health care and investment management.

17



Reliance Insurance Companies

1979 was a record breaker for the Reliance Insurance Cos. Reliance reported the highest revenues and profits in its 163-year history. Net income was up 20% to $98.8 million. Revenues climbed to $1.03 billion and net investment income increased 24% to $106.9 million. However, pre-tax underwriting income for property and casualty operations amounted to only $2,475,000—a $16,911,000 drop—and the combined ratio climbed to 101.0 compared with 1978's 98.2.

18



Aneco Reinsurance Company, Limited

Aneco Re of Hamilton, Bermuda reports earnings of $.04 per share on gross written premiums of approximately $2 million. 1979 was Aneco Re's first full year of operations and saw the establishment of a number of subsidiary companies in the fields of reinsurance, excess and surplus lines, risk management and management of Bermuda companies.

19

CALIFORNIA MARKET REPORT

A special section in the June 9 issue of Business Insurance

In many ways California is the most active and progressive insurance state in the union.

Many regulatory innovations have created a climate conducive to healthy competition as well as readily available coverages and services, making it easier for risk managers, their brokers and agents to transfer risks and protect their companies' workers and assets.

Highlighting and analyzing the California insurance and services market, the editors of *Business Insurance* will present the readers of the weekly newsmagazine with an up-to-date package of information that will include reports and interviews such as:

- The active California excess and surplus market;
- Special characteristics of the California brokerage community;
- The huge commercial insurance market in the state and how it is regulated by a tough and well informed regulatory department;
- An analysis of the fastest growing commercial insurance buying areas of the state along with a score card of the leading brokers and underwriters in these areas;
- The state of competition among agents and brokers in California and how this compares with other states around the nation;
- Views of risk managers and other company insurance buyers regarding the quality of services available to them from in-state and out-of-state headquartered suppliers.

If California is your market, or part of your market, the special section in the June 9 issue represents an outstanding advertising opportunity to register your presence in that state with a dominant message which will reach the largest and most influential audience of risk management/employe benefits executives along with the thousands of agents, brokers and service organizations who cater to their needs.

There's no other publication which affects insurance markets as deeply as *Business Insurance.*

Closing date for advertising in this special California Market Report Section is May 19*. For more information, contact Don Walsh, Advertising Sales Director, 212/986-5050 or write to one of our sales offices listed below.

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National Council of Self-Insurers

Keep out of work comp, firms tell feds

By JILL KAPLAN

LAKE LANIER ISLANDS, Ga.—The Department of Labor's draft report suggesting employers take increased responsibility for compensating workers with occupational diseases is riddled with holes, members of industry charge.

The programs outlined in the interim report on occupational disease (*BI*, Dec. 24, 1979), if enacted, would federalize the current compensation sytem for workers with occupational diseases. Employers fear that such a move could lead to unduly harsh regulation for industry.

"The federal government is the last administration in the world that should undertake this effort because its track record is so poor," Thomas Sprentall, president of the National Council of Self-Insurers, told *Business Insurance*.

"States must continue to improve their own workers compensation laws and to administer them," said Mr. Sprentall. "States are more responsive to their own citizenry than is the federal government."

The final DOL report on occupational disease will be released in June. Controversial statistics on occupational disease have been deleted and apparent recommendations qualified as alternatives, says Thomas C. Brown, one of the drafters of the report.

Compensation for occupational disease victims has long been a problem for both the business community and government. The government contends that workers with occupational diseases are not being compensated. Employers argue that they should not bear the full cost of compensation when other factors may have contributed to a worker's disability.

Employers charge that they can barely keep their businesses afloat because of soaring compensation costs. Industries are now bogged down in a sea of litigation from workers who say they were disabled by long-term exposures in the work place.

The Labor Department's interim report outlines the creation of a specific industry trust fund against employers whose products are linked to certain diseases.

The report also describes enlarging the Social Security disability system with supplemental payments to workers whose disabilities are caused by occupational diseases.

"The problem is that occupational diseases just don't get compensated," Mr. Brown, one of the drafters of the report, told members at the annual meeting of the National Council of Self-Insurers here. "A few extremely well-documented cases do get compensated, but the numbers are small."

Though Mr. Brown said there is little incentive for industrial hygiene controls, he pointed to a number of incentives for employers to contest claims made by victims of occupational disease.

"Claims contests defer benefit payments until contests are resolved and cause some claimants to either drop or compromise their claims," he said.

Mr. Brown said that the percentage of claims contested varies according to three factors: cost, ambiguity of illness and proximity of financial liability. Self-insurers contest claims nearly three times as often as state-operated compensation insurance funds, he added.

"Decisions on compensation payments have to be separated as far as possible from the people who pay those claims," urged Mr. Brown.

To improve the compensation system for occupational diseases, Mr. Brown called for the creation of independent boards that would gather medical evidence and evaluate each claim. The development of rebuttable presumptive standards is also needed, he said.

"Burden of proof is the biggest problem," said Mr. Brown. "I argue that it's unfair that diseases are compensated only if the sole cause is occupational.

"Employers are immune to tort liability by virtue of workers compensation, so they should have to adhere to a reasonable definition of what caused the disability," Mr. Brown told *Business Insurance*.

Industry representatives argue they should not be required to support a health and welfare program.

"Why should industry be 100% responsible?," asked Raymond A. Ledogar, a Western Electric Co. at-

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The problem

"Occupational diseases just don't get compensated," says Thomas C. Brown of the Labor Department.

Wrong approach

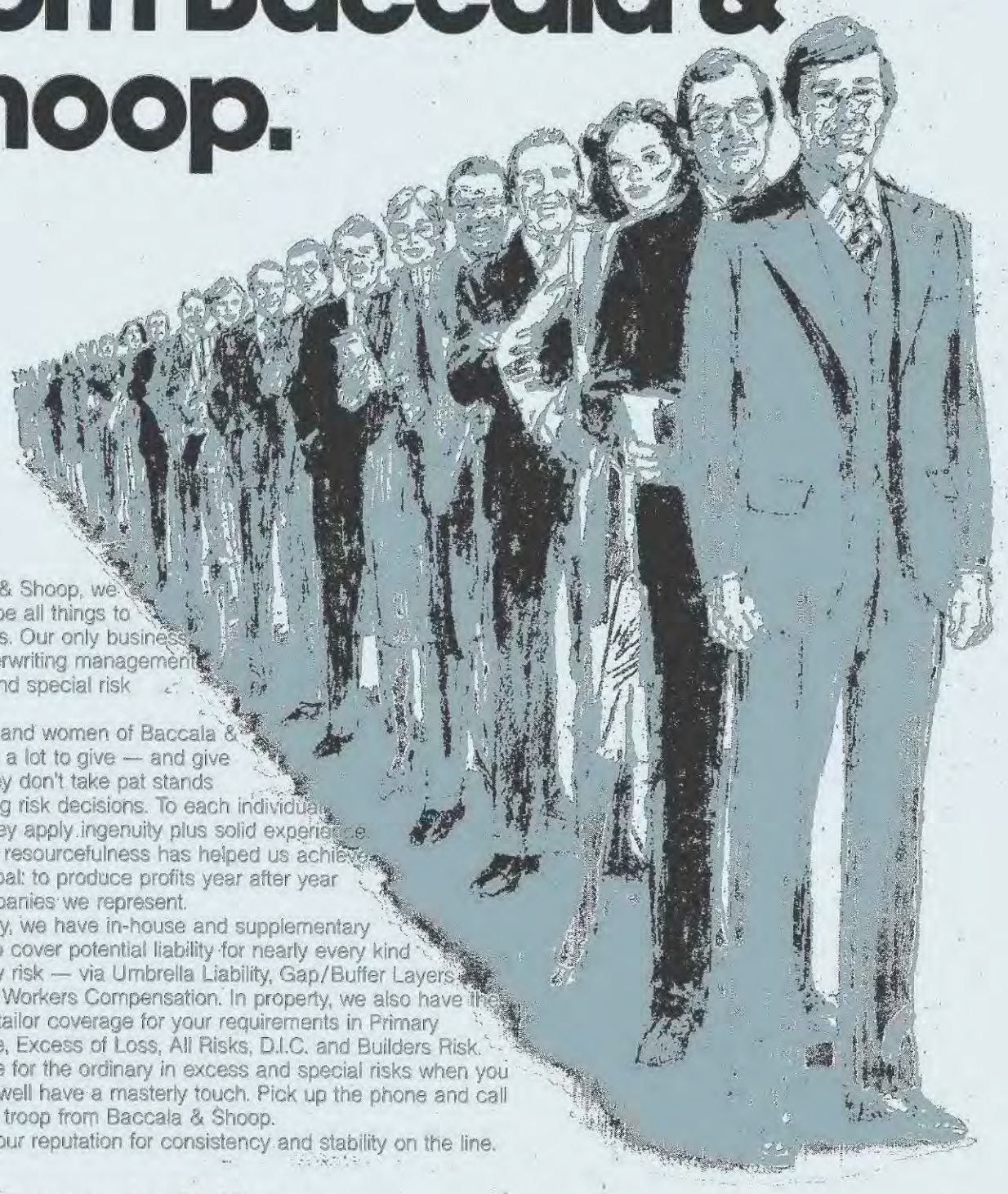
"Why should industry be 100% responsible?" asks Raymond A. Ledogar of Western Electric Co.



Photos: Jill Kaplan

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Employers criticize cancer research

Continued from previous page
torney and member of a panel discussing the problem at the meeting.

"There's no way to distinguish one cause from another," contended Mr. Ledogar. "It's unfair to put 100% of the liability on industry when lifestyle, environment or aging may have made a substantial contribution."

At least 92% of lung cancer is caused by cigarette-smoking, said panel member Dr. Richard W. Burack, medical director at Allied Chemical Corp. in Morristown, N.J.

"Why not have the liability imposed on the cigarette industry?" Dr. Burack asked. "Why is it imposed on manufacturers?"

"Because smoking contributed to the disease is not a reason to reject the idea that occupational exposure contributed," countered Mr. Brown. "I reject the idea that industry should compensate diseases solely caused by occupational exposure."



Placing blame

"Regulators are trying to pin a cancer epidemic on the chemical industry," charges Dr. Richard Burack.

Employers should not take solace by thinking that smoking is the only cause of cancer, Mr. Brown said. "Smokers who work with asbestos are five times as likely to die of lung cancer as smokers who do not work with asbestos."

"Regulators are trying to pin a cancer epidemic on the chemical industry," charged Dr. Burack. "It's a propaganda effort. The public believes that an asbestos epidemic is going to sweep apocalyptically through the land. There is no epidemic and I wouldn't hold my breath waiting for one.

"The estimates report that 30% of cancer is due to industry gave Walter Cronkite and the Nightly News something to talk about," Dr. Burack continued. "It's a piece of junk put together by people even more unscrupulous—the National Cancer Institute and the National Institute of Health Sciences. They were urgently requested to do so by OSHA when hearings were going poorly for them."

People are making money researching and selling mice, charged Dr. Burack.

"People at the NCI want money so they created a cancer scare," Dr. Burack told *Business Insurance*. "They've got their little empires, summer homes and boats and want to maintain their standard of living and their jobs."

"Regulation on the basis of rats and mice is speculation—it's hardly evidence," Mr. Ledogar charged. "Overdosing rats and mice over a long period of time has no relevancy to the ingestion of substances by humans over a short period of time."

The mice used are specially bred to produce cancer, contends Mr. Ledogar. "Humans have a defense mechanism developed over a period of time. It must be a hell of a good system because we've been able to ward off disease for many years."

"There is reason to believe that humans are up to one billion times more resistant to strains of cancer than are mice," Dr. Burack added.

Panel members also levied criticism against the Department of Labor for using figures supplied in a report by the National Institute of Occupational Health and Safety, a fact which Tom Brown says is no longer true.

Mr. Brown contends that figures from the NIOSH survey have been excised from the report and other changes have been made in the study, too.

"The changes make it more clear that the alternatives we offer are just sketched out, not recommendations. There is more emphasis that we don't think the alternatives are ready for legislative action without more thought or research."

Members of the NCSI maintain that the report is based on specious and thin documentation and that this has not been changed.

"Tom Brown says the report is full of disclaimers, yet there are specific recommendations as if the data is fact," charged NCSI president Thomas Sprentall.

"There is no question that legislation will be based on the findings of the study," said Mr. Sprentall. "One of these recommendations will be that the federal government take over the handling of occupational disease."

Members of the NCSI suspect that the data is false, claimed president Thomas Sprentall. "They have never let us look at the raw data," he said.

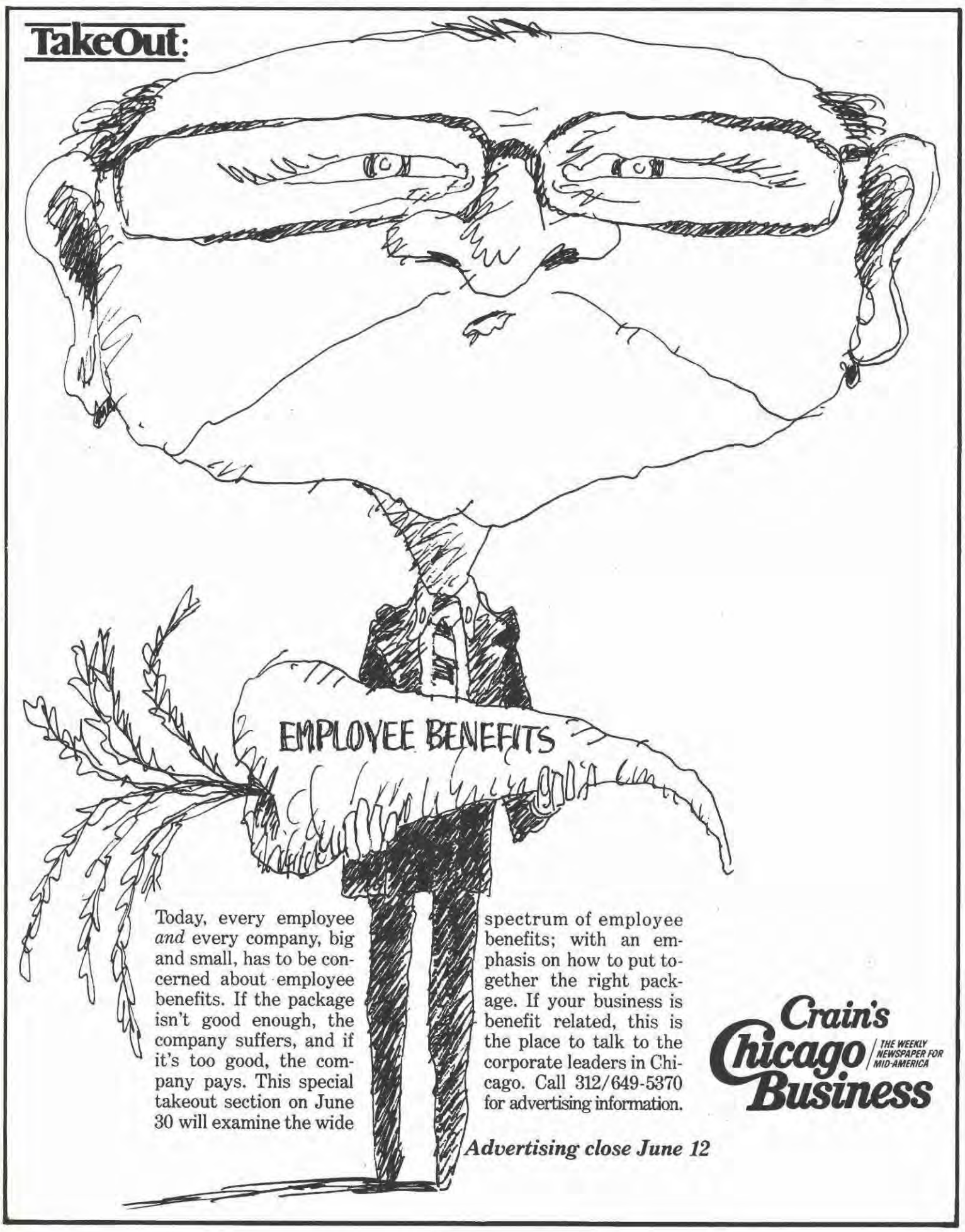
Thomas Brown hotly denies that the data was unavailable to others, and further charges that the NCSI supplied him with the figures used in the report.

Mr. Brown sent *BI* a copy of the letter to Mr. Sprentall in which he offered to make available data from the survey. Mr. Sprentall never responded to the letter, Mr. Brown charged.

The basic source was a closed claims survey performed in 1975 by a task force on workers compensation, he said. Data was collected from insurance companies by the National Council on Compensation Insurance and from self-insurers through the NCSI.

Industry should gather its own data to refute OSHA and the Department of Labor where necessary, suggested panel member Mr. Ledogar. He urged employers to hire industrial hygienists and to purchase sophisticated equipment to measure exposure to quantities over long periods of time.

Meaningful data will be available within the next one to two years from research now being conducted at a number of companies, he said, including: Western Electric, DuPont, Standard Oil of Indiana, GM and General Electric. ■



Regulatory nightmare

Self-insurers fear growth of pools

By JILL KAPLAN

LAKE LANIER ISLANDS, Ga.—Group self-insurance might appear to be a knight in shining armor, rescuing employers from runaway workers compensation costs, but individually self-insured employers fear the fantasy could prove to be a nightmare.

"I think that self-insurers across the country have pretty high standards and are doing an excellent job paying claims and reporting injuries promptly," said Ralph Adams, unemployment and workers compensation director at General Motors Corp. in Detroit and board member of the National Council of Self-Insurers.

"We want to be sure that new self-insurers provide the same quality of services that present self-insurers do, so that the image and quality of self-insurers in general is maintained."

Employers fear that if many small new businesses turn to group self-insurance, states may impose unduly harsh regulations on all self-insurers.

Employers in states with insolvency or guarantee funds are also worried they will be forced to shell out for the outstanding claims and benefits due employes of companies participating in a pool if the pool goes out of business. States that permit group self-insurance now impose various regulations to ensure solvency of the pools.

"Guarantee funds are a cost you will not want to have to support," C. John Urling Jr. told self-insurers at the annual NCSI meeting here. Mr. Urling is a former director of workers compensation in Pennsylvania and is now a vp with Claude R. Martin Co. in Camp Hill, Pa.

"Group self-insurers do not have the protections that insurance carriers have unless every company is a blue chip company and can minimize risks," Mr. Adams contended. "It's difficult to believe that they're all blue chip companies and financially solvent."

The general fear among employers is that hundreds of small firms are going self-insured but probably shouldn't.

"Many are turning to self-insurance only because it's a cheaper way to insure," contended Thomas Sprentall, manager of workers compensation at Kodak and NCSI president. "Many are not qualified and may be looking only at the dollar. If they bring ill repute to the field, the additional regulation they will cause will be a burden on all of us."

To help small businesses administer group self-insurance programs, NCSI members recommend they hire a good service firm.

"Small service stations or lumber mills that employ maybe 10 or even 100 people are not always big enough to hire one person to become an expert in workers compensation," Mr. Adams said. "To the extent that they hire a well-rounded service company, I guess they'll be all right."

"It's easy to cut corners and hire cheap claims adjusters," said John H. Hettrick, executive vp of Penn General Services in Southfield, Mich. "A lot of outfits rubber stamp claims."

While several employers agreed increased regulation of self-insurers would be good, all seemed to fear regulation might be unfair.

"It's the overreaction by people in the state agencies that scares me," Mr. Adams said. "There is a tendency to enact regulation over what is needed."

Mr. Adams cited New York as a case where a state took regulation too far.

"New York has a papermill to administer work comp claims," Mr. Adams said. "They spend half to 70% of their time compiling reports and reporting to the state organization on each payment and on every step of handling the case.

"Instead of rehabilitating and preventing accidents, the workers compensation people are forced to perform administrative burdens," the General Motors executive said.

Employers generally agree that some kind of regulation is needed, however. This might include having the state audit company records or requiring claims administrators to pass a state exam and to be licensed.

"People are opposed to government intrusion in their lives," Mr. Sprentall said. "I think it's very necessary to have regulation if self-insurance is a privilege we're going to ask for. When in Rome, do as the Romans do—if the states need the material, fine." ■



Seeking quality
"We want to be sure new self-insurers provide the same quality of services," says Ralph Adams of General Motors.

Added expense
"Guarantee funds are a cost you will not want to have to support," says C. John Urling of Claude R. Martin Co.



Photo: Jill Kaplan

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Doctors cause disability problem: M.D.

By JILL KAPLAN

LAKE LANIER ISLANDS, Ga.—Get the patient with chronic pain back to work and a normal life pattern as soon as possible, advises Dr. Steven F. Brena, director of the Emory University pain control center in Atlanta.

Doctors, not disease, may be the major cause of disability for workers with chronic pain, Dr. Brena told members at the annual meeting here of the National Council of Self-Insurers.

"Behavior modification is the most rewarding and promising technique today," Dr. Brena said. "The mind is more important than the body."

Most physicians fail to recognize that pain can become a learned or conditioned response through a system of rewards, Dr. Brena contends. Doctors prescribe the wrong treatment, causing conditions that are iatrogenic, or physician-induced, he said.

"Doctors give the wrong instructions by telling patients to take drugs or to stay in bed," Dr. Brena said. "Staying in bed limits function. You are creating a muscle tension and muscles not functioning become tense."

Dr. Brena advocates a system of rehabilitation, mostly through behavior modification, to get workers back on their feet as quickly as possible.

Programs for pain control and rehabilitation, Dr. Brena says, should:

- Detoxify patients in cases of drug abuse.
- Desensitize patients to stimuli they have learned to perceive as painful.
- Teach patients how to cope in situations of distress or emotional arousal.
- Train patients to increase daily physical performance of activities.
- Ask relatives to help change the life of chronic sufferers by avoiding the reinforcement of sick behavior and by rewarding a return to healthy activity.

An employe should not be placed back on the job without the proper rehabilitation, however, Dr. Brena stressed.

"One of the problems is that a worker is put in bed and after the tissue has recovered he/she is sent back to the job," Dr. Brena said. "The employer expects a full recovery. The worker can't make it, tries and is hurt again."

The best method of rehabilitation for patients under the workers compensation system is the inpatient program, Dr. Brena suggested.

An inpatient program allows continual accurate observation of the patient's actions, makes it easier to communicate with the patient and shelters him/her from any environmental stress.

"After 15 days in the hospital, with the worker under constant supervision, it's easier to spot the malingerer," Dr. Brena added. "It's hard to maintain a fake injury for 15 days."

To help employers know when to initiate the rehabilitation program, Dr. Brena outlined five characteristic symptoms (known as the five Ds) of learned pain response: drug abuse, disuse or dysfunction, dependency, depression and disability.

The longer the interval between the stimuli and the response, the less likely the response is related to the stimuli, he added.

The Emory pain control center has been very successful in rehabilitating patients with the five Ds, Dr. Brenna says.

In a follow-up investigation averaging 21 months after treatment, Dr. Brena said patients showed further increase in physical activities, very little recurrence of drug misuse and some residual pain at much lower intensity and frequency than before treatment.

Of the 82 patients who responded to the survey, nine were working before treatment and 24 had returned to work at follow-up. Only eight of the 100 sampled received further surgery for their pain problems.

"It is up to you, whether or not to help workers with chronic pain," Dr. Brena told the audience. "If you do not, costs will skyrocket and you may be bankrupt." ■

New prescription

"Behavior modification is the most rewarding and promising technique today," says Emory's Dr. Steven Brena.



Photo: Jill Kaplan

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• Four **studies of accident investigations** following fatalities related to scaffolds, ladders, fixed machinery and roofs, ceilings and floors are available to assist compliance, safety and health officers in making inspections. Limited numbers of each study are available free through the OSHA Publications Office, Room S1212, U.S. Department of Labor, Washington, D.C. 20210.

• The **ERISA "Survival Kit"** explains a step-by-step process to achieve compliance for group life, health and disability income plans. For a free copy, write Stephen L. Smith, vp-product development, Unionmutual, 2211 Congress St., Portland, Maine 04122.

• A booklet outlining the services and educational programs offered by the International Foundation of Employe Benefit Plans is available. **Design for a New Decade** also provides advice on effective employe benefit plan management. For a free copy, write International Foundation of Employe Benefit Plans, 18700 Bluemound Road, P.O. Box 69, Brookfield, Wis. 53005.

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• Interested in the International benefit scene? The **Worldwide Benefit Review,** published by William M. Mercer, summarizes the political, economic and social developments during the past year that have affected benefits. Write William D. Welsford, director, William M. Mercer International, 11211 Avenue of the Americas, New York, N.Y. 10036.

• Surveys of group health insurance policies recently written by 30 insurance companies are available in the **New Group Health Insurance** booklet. For a free copy, write to the Health Insurance Institute, 1850 K St. N.W., Washington, D.C. 20006.

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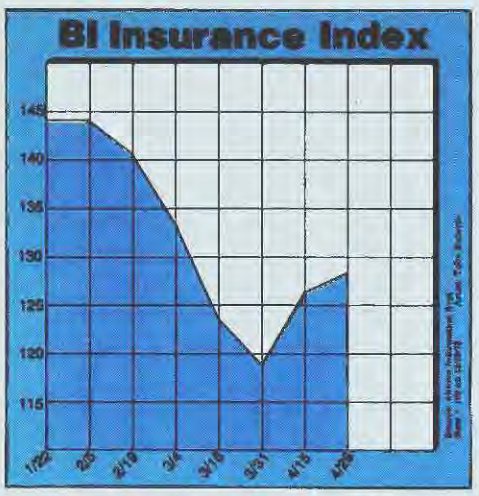
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Thirty-eight of the stocks on *Business Insurance's* industry index rose in the latest two weeks, outpacing the declining prices of 29 stocks and pushing the value of the index up just over 1% to 128.6 from the value two weeks ago. (The base of 100 was at year-end 1978.) Six of the insurance industry firms whose stocks make up the index saw their shares sit idle during the period, registering no change. Biggest gains were Standard Life, up 22.7%, Ryan Insurance Group, up 16.1%, and Integrated Resources, up 13.3%. Biggest declines were in shares of American Bankers Insurance (down 15.9%), Pinehurst (down 14%), and SRI Corp. (down 13.9%). During the last two weeks, the BI Insurance Index lagged behind the three other leading stock market indices.

British Issues

4/29 Companies	Price pence	P/E	Div. pence	Yield %	2 Week High—Low pence	pence
Comml Union	131	6.0	14.00	10.7	134—	126
Eagle Star	184	7.1	12.64	6.9	92—	176
Genl Accident	248	6.9	1.00	.9	248—	236
Gdn Royal Exch	246	7.8	19.28	7.8	246—	236
Phoenix	220	7.3	19.00	8.6	230—	212
Royal	328	6.7	30.71	9.4	328—	315
Sun Alliance	582	9.2	40.00	6.9	582—	566
Brokers:						
CT Bowring	153	10.8	8.57	5.6	156—	145
CE Heath	210	8.9	11.83	5.6	218—	210
Hogg Robinson	104	9.4	7.48	7.2	112—	103
Alex Howden	102	8.0	10.00	9.8	102—	93
JH Minet	97	10.5	6.38	6.6	101—	95
Sedg Fb Bl Pn	103	9.8	7.14	6.9	105—	101
Stenhouse Hldg	75	6.7	6.46	8.6	77—	74
Stew Wrightson	207	7.3	17.14	8.3	215—	202
Willis Faber	288	11.2	15.71	6.9	245—	225

Source: Kitcat & Aitken, London

Strong broker returns show no profit slump this year

By STUART EMMRICH

BI ticker

FIRST QUARTER earnings figures for some of the nation's top insurance brokers show that industry doomsayers may have been premature predicting a slump in profits this year.

Equally impressive was that the revenue growth rate stayed remarkably close to that recorded in 1979. Some industry analysts had warned that the first signs of a slump would be in revenue increases lower than those of comparable periods.

But revenue growth during the first three months of 1980—10% to 17%—was close to 1979 revenue growth.

Almost all the major brokers report that both profits and earnings are substantially ahead of the same period a year ago.

The pacesetter for the year's first quarter was Fred S. James & Co. Inc., which increased revenues 17% and net income 8%. Revenues and income of $46.7 million and $5.5 million, respectively, set new company records.

The performances of Alexander and Alexander Services Inc. and Marsh & McLennan Cos. were equally impressive. Both increased first-quarter net income 14%. A&A also showed a revenue jump of 12% and M&M increased its sales 15%.

Rollins Burdick Hunter Co. lagged just a few percentage points behind the leaders, but still set new standards for the firm. Net income increased 10% to $3.1 million and revenues climbed 12% to $20.1 million. The company also announced it will pay a quarterly dividend of 31 cents per share to shareholders of record May 28.

The first quarter was slightly less successful for Corroon & Black Corp., which reported that net income dropped 13% from a year ago. Security transaction losses of $96,000 lowered its profit figure to $4.8 million, but the company did manage to increase revenues by 9% to $37.7 million.

The stocks of these brokers reflect continued investor optimism in the brokerage business. All stocks rose at least slightly in the past few weeks and earnings-per-share predictions for both A&A and James were recently upgraded by at least one analyst.

Despite all this rosy news about brokers, industry observers still urge caution. Speaking to a group of analysts in Boston recently, A&A president John Bogardus admitted he was surprised at how well the earnings of A&A and competitors held up in recent months.

He said both the amount of profits and sustained improved earnings contradict his recent predictions.

But Mr. Bogardus noted there was a cloud around this silver lining: The longer-than-expected good operating results undoubtedly means the bottoming out of the current insurance cycle will last longer and hit deeper than most believed.

He predicted soft markets will probably last well into 1982, with marine and aviation coverages, as well as reinsurance business, most likely to deteriorate further.

Mr. Bogardus was also more pessimistic than most analysts about predicted combined ratios for insurers in the next couple of years. He forecasted that combined ratios would reach 112% to 115% before the cycle bottoms out. This is higher than the 107% generally predicted and the 107.8% reached during the last trough of the cycle.

The good news, Mr. Bogardus told the analysts at a seminar sponsored by Bache Group, was that insurers are better managed and reserves are in better shape than ever before.

With competition growing more fierce in the next couple of years, the number of both insurers and brokers might well decrease, he added, but they will most likely be more efficient.

Ruling out many mergers between underwriters and brokers, Mr. Bogardus said a further expansion into the "financial services" field was likely for more brokers.

INA

First-quarter earnings for INA Corp. totaled $64.3 million during the first three months of 1980, a 15% increase from the $55.9 million earned during the same period last year. Revenues for the first quarter rose 12.6% to $1.2 billion. Both earnings and revenue figures set records for the company.

Property/casualty underwriting losses in the first quarter increased to $32.1 million, compared with $25.7 million in 1979's first quarter.

Company officials said the higher earnings and revenues resulted from an absence of heavy catastrophe losses during the first three months of 1980, compared with the high number recorded in 1979. The combined ratio for the company's property/casualty operations improved to 101.9% this year from last year's ratio of 102.3%.

INA chairman Ralph Saul said he expected the company's earnings would continue growing through the remainder of the year. But he also noted that it's likely the next nine months would be less favorable than the first quarter, mainly because of continued double-digit inflation and recession.

Aetna

Operating earnings dropped 1% during the first quarter for Aetna Life & Casualty, to $122.7 million from $122.9 million recorded during the first three months of 1979. A 15% profit decline in the property/casualty division was somewhat offset by a 22% gain in the company's group division and a 25% gain in the individual life division.

Operating earnings from Aetna's commercial property/casualty business in the year's first quarter dropped almost 10% from a year ago, to $46.4 million, with a combined ratio that climbed to 100.8% from last year's 96%.

Group pension plans were the fastest growing part of the company's business during the first quarter. Total premium income from group business increased 48% to $1.5 billion.

Fireman's Fund

Fireman's Fund Insurance Cos. earned $46 million on revenues of $710 million during the first quarter of 1980, an increase of 16% over the same period a year ago.

Investment income, up 19%, spurred much of the revenue gain the company reported. Earned property/liability premiums increased 8.3%.

The insurer's combined operating ratio for the first quarter of 1980 improved slightly to 103.3% from 103.9% recorded a year ago.

General Re

General Reinsurance Corp. reports first-quarter earnings increased 14%, to $33.9 million from $29.8 million during the first three months of 1980. Net premiums totaled $193.8 million, a drop from the $195.6 earned during 1979's first three months.

Standard Life

Standard Life Insurance Co. of Indiana, which has aggressively fought a takeover bid by Kaufman & Broad Inc. for the last two months, has found a suitor more to its liking—INA Corp.

Standard Life and INA have reached an agreement that calls for INA to make a tender offer of $28 a share for all Standard Life's approximately 900,000 outstanding shares, a total price of approximately $25 million. The INA offer tops the Kaufman & Broad bid by $5 a share.

Standard Life fought the takeover bid by Kaufman & Broad through a series of court suits and appeals to the Indiana insurance commissioner (*BI*, April 14). Standard Life argued that Kaufman & Broad violated several securities laws and was in financial
e that allegedly would have en-
ed the future of Standard Life. ■

BI Industry Stock Report

Insurance Cos.		April 29,1980 Price	% Chg.	P/E	$ Div.	%Yld.	4-16-80—4-29-80 High	Low	Vol. (000)
Aetna Life & Cas Co	NYSE	34.25	-1.4	4.7	2.12	6.2	35.63	33.63	1,362.0
American Bankers Ins Co Fla	OTC	7.25	-15.9	4.9	0.44	6.1	8.63	7.25	209.5
American Finl Corp Ohio	OTC	27.25	-2.7	3.0	0.04	0.1	28.00	27.25	61.9
American Gen Ins Co	NYSE	30.25	-3.2	4.6	1.00	3.3	31.38	30.13	84.4
American Indty Finl Corp	OTC	14.00	4.7	4.0	1.12	8.0	14.13	13.50	37.4
American Intl Group Inc	OTC	57.00	-0.4	9.2	0.50	0.9	57.00	52.50	394.0
American Natl Ins Co	OTC	12.00	7.9	4.8	0.62	5.2	12.50	10.75	278.7
American Sts Life Ins Co	OTC	17.00	3.0	7.2	0.64	3.8	17.50	16.00	9.3
Aneco Reins Ltd	OTC	5.00	-7.0	38.5	0.00	0.0	5.38	5.00*	123.6
Appalachian Natl Corp	OTC	2.00	-5.9	5.7	0.16	8.0	2.13	2.00	0.5
Avemco Corp	AMEX	9.87	5.3	6.5	0.50	5.1	10.00	9.38	19.7
Banks Iowa Inc	OTC	23.50	6.8	4.9	1.32	5.6	23.50	22.00	0.9
Bitco Corp	OTC	24.00	4.3	3.9	1.68	7.0	24.00	23.00	7.9
Carolina Cas Ins Co	OTC	6.37	10.9	3.7	0.32	5.0	6.38	5.88	3.5
Central Natl Finl Corp	OTC	7.25	0.0	2.3	0.50	6.9	7.25	7.25	0.6
Chubb Corp	OTC	38.25	1.0	4.3	2.40	6.3	39.38*	37.88	264.6
Combined Ins Co Amer	OTC	18.00	0.0	5.4	1.40	7.8	18.38	17.63	234.0
Connecticut Gen Ins Corp	NYSE	32.75	-2.6	5.0	1.52	4.6	33.25	32.00	952.1
Continental Corp	NYSE	26.00	1.5	5.0	2.20	8.5	26.25	23.38	293.9
Crawford & Co	OTC	13.25	1.9	11.2	0.54	4.1	13.25	12.75	50.5
Crown Life Ins Co	OTC	62.25	-1.6	45.1	2.40	3.9	63.00	62.25	3.9
Crum & Forster	NYSE	47.75	-7.5	4.4	2.52	5.3	51.00	47.75	126.2
Employers Cas Co	OTC	28.50	0.0	5.1	1.20	4.2	28.50	28.50	3.6
Erc Corp	OTC	57.00	-1.3	6.5	1.40	2.5	59.00	56.50	243.6
Equifax Inc	NYSE	19.25	10.0	6.2	2.20	11.4	19.38	17.38	15.0
Farmers Group Inc	OTC	26.00	2.0	8.7	1.00	3.8	26.38	25.75	228.7
First Colony Life Ins Co	OTC	30.00	3.4	12.7	0.76	2.5	30.00	26.50	13.2
Foremost Corp Amer	OTC	15.62	-3.8	6.3	0.60	3.8	16.50	15.50	41.6
General Reins Corp Del	OTC	81.00	-9.5	6.4	2.80	3.5	88.00	79.00	258.5
Globe Life & Acc Ins Co	OTC	29.00	-0.9	10.8	0.40	1.4	29.13	28.75	30.9
Great West Life Assurn Co	OTC	141.00	0.0	7.0	8.00	5.7	141.00	141.00	2.0
Hanover Ins Co	OTC	32.50	4.8	3.6	0.72	2.2	32.50	30.25	28.1
Hartford Steam Boiler Insptn	OTC	27.50	-5.2	5.5	2.20	8.0	29.00	27.50	5.4
Integon Corp	NYSE	19.75	-1.9	7.5	0.48	2.4	20.00	19.50	60.1
Jefferson Natl Life Ins Co	OTC	31.00	10.7	7.9	0.64	2.1	31.00	27.00	25.2
Kemper Corp	OTC	24.63	4.8	3.6	1.40	5.7	24.88	23.63	49.2
Lincoln Natl Corp Ind	NYSE	36.38	4.7	5.3	2.80	7.7	36.88	34.25	66.3
Mgic Invt Corp	NYSE	22.00	9.3	6.5	1.12	5.1	22.00	18.75	937.7
Mission Ins Group Inc	NYSE	28.00	0.9	6.7	0.80	2.9	28.50	27.63	20.3
Nationwide Corp Ohio	OTC	15.50	-6.1	4.4	0.66	4.3	15.75	15.25*	3.6
Nn Corp	OTC	34.00	5.4	7.3	2.00	5.9	34.00	32.00	110.9
Northwestern Natl Life Ins	OTC	24.75	-3.4	5.0	1.25	5.1	26.00	24.50	37.4
Ohio Cas Corp	OTC	35.25	3.3	5.0	1.76	5.0	35.75	34.13	182.1
Old Rep Intl Corp	OTC	13.50	2.9	7.1	0.92	6.8	13.50	12.00	299.4
Pinehurst Corp	OTC	5.37	-14.0	5.6	0.00	0.0	6.63	5.38*	37.8
Preferred Risk Life Ins Co	OTC	16.00	-3.0	5.7	0.64	4.0	16.25	16.00*	8.8
Provident Life & Acc Ins Co	OTC	38.50	0.0	5.1	1.88	4.9	39.00	38.50	18.4
Republic Natl Life Ins Co	OTC	18.88	1.3	9.9	0.70	3.7	18.88	18.63	449.5
Ryan Ins Group Inc	OTC	18.00	16.1	4.4	0.16	0.9	18.50	16.00	10.7
St Paul Cos Inc	OTC	35.25	0.0	4.6	2.00	5.7	35.63	34.75	291.6
Safeco Corp	OTC	32.12	-1.9	4.6	1.80	5.6	33.13	32.13	218.0
Sri Corp	OTC	15.50	-13.9	3.1	1.00	6.5	18.00	15.50	37.4
Seibels Bruce Group Inc	OTC	13.00	-1.9	5.2	0.80	6.2	13.25	12.25	90.0
Southwestern Life Corp	OTC	42.00	7.7	15.2	1.00	2.4	42.00	38.00	961.7
Standard Life Ins Co Ind	OTC	27.00	22.7	14.8	0.44	1.6	27.00*	22.00	22.9
Statesman Group Inc	OTC	4.25	6.2	3.3	0.15	3.5	4.50	4.25	43.5
Tokio Marine & Fire Ins Co	OTC	124.25	8.8	13.2	0.00	0.0	124.25	116.25	10.0
Travelers Corp	NYSE	37.25	-2.6	4.1	2.48	6.7	40.00	37.25	536.0
United Fire & Cas Co	OTC	26.25	1.0	8.0	0.90	3.4	26.25*	26.00	0.8
United States Fid & Gty Co	NYSE	39.37	-0.3	4.7	2.80	7.1	40.00	38.50	132.6
United Svcs Life Ins Co	OTC	13.75	3.8	4.9	0.96	7.0	14.00	13.38	57.4
Uslife Corp	NYSE	20.63	-2.9	5.2	0.70	3.4	21.25	20.00	428.6
Washington Natl Corp	NYSE	20.75	2.5	4.4	1.50	7.2	21.00	19.50	25.6
Zenith Natl Ins Corp	OTC	13.75	3.8	8.4	0.40	2.9	14.25	12.50	43.3
INSURANCE COMPANIES	AVERAGE			6.0		4.3			
Agents/Brokers									
Alexander & Alexander Svcs	OTC	28.75	0.9	9.6	1.64	5.7	29.00	28.25	334.2
Baldwin & Lyons Inc	OTC	22.88	-5.2	4.2	0.80	3.5	24.13	22.38	23.3
Corroon & Black Corp	NYSE	23.62	1.6	8.9	1.72	7.3	24.00	23.25	30.2
Crump E H Cos Inc	OTC	8.75	6.1	8.0	0.36	4.1	9.00	8.13	28.3
Hall Frank B & Co Inc	NYSE	23.50	-0.5	7.8	1.44	6.1	23.50	22.38	55.5
Integrated Res Inc	AMEX	11.75	13.3	7.5	0.00	0.0	11.88	10.00	87.1
James Fred S & Co Inc	NYSE	21.00	3.7	7.7	1.40	6.7	21.00	20.00	55.1
Marsh & Mclennan Cos Inc	NYSE	56.75	-0.2	9.2	3.60	6.3	56.75	55.50	144.9
Penncorp Fincl Inc	NYSE	7.50	7.1	4.5	0.16	2.1	7.50	6.50	287.3
Reed Stenhouse Cos Ltd	OTC	7.87	5.0	6.2	0.48	6.1	8.00	7.50	26.5
Rollins Burdick Hunter Co	OTC	17.75	-1.4	8.0	1.24	7.0	18.25	17.75	8.1
AGENTS/BROKERS	AVERAGE			7.5		5.6			
Conglomerates/Holding Cos.									
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Anderson Clayton(Ranger/PanAm)	NYSE	20.63	7.1	5.2	1.12	5.4	20.75	19.25	49.1
City Investing Co. (Home Ins.)	NYSE	18.50	14.7	3.5	1.50	8.1	18.50	16.88	1,009.3
CNA Finl Corp (CNA)	NYSE	14.25	0.0	3.0	0.00	0.0	14.25	13.38	32.6
Control Data (Comml. Credit)	NYSE	52.75	1.7	7.2	0.60	1.1	52.88	48.38	649.2
INA Corp (Ins. Co. of NA)	NYSE	30.75	-2.8	4.7	2.20	7.2	32.00	30.00	534.2
ITT (Hartford Group)	NYSE	26.13	1.5	9.9	2.40	9.2	26.38	25.50	2,272.4
Reliance Group Inc	NYSE	62.38	-2.7	2.7	2.00	3.2	62.38	58.63	79.4
Sears Roebuck & Co. (Allstate)	NYSE	16.00	-0.8	6.3	1.36	8.5	16.13	15.50	1,413.8
S & H Co. (Bayly Martin & Fay)	NYSE	12.38	-3.9	4.5	1.00	8.1	12.88	12.38*	10.1
Teledyne Inc (Argonaut)	NYSE	94.62	-6.8	4.2	10.00	10.6	98.25	92.75*	473.9
Transamerica Corp (Occidental)	NYSE	16.25	4.8	4.5	1.12	6.9	16.25	15.00	459.4
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Assistant risk director

Reynolds Metals taps Smith for new slot

R. Kemper Smith, 38, has been named assistant director-risk management for Reynolds Metals Co. in Richmond, Va. Mr. Smith, in this newly-created position, will assist director of risk management William H. Murphy in planning and forecasting, department staffing, premium cash-flow stabilizing and implementing a foreign risk management program. He has a B.S. degree in business and an M.S. degree in business from Virginia Commonwealth University. He joined Reynolds in 1966 and before this new appointment was casualty administrator in the insurance department. In his new position, in which he reports to Mr. Murphy, he will also perform the duties of casualty administrator.

* * *

The San Francisco-based firm of American Building Maintenance Industries has named **Steve Rades,** 26, to the new position of assistant risk manager. Mr. Rades, who reports to risk manager Mitchell Cohen, joined the firm in 1971 as employe benefit administrator, a position now vacant. He has a B.B.A., his ARM designation, is working toward his CPCU and belongs to RIMS.

* * *

Winnie Romefelt has been named to the new position of assistant vp and risk management officer at the First National Bank of Toms River, N.J. Ms. Romefelt, who previously was assistant to cashier Roger N. Lane, will report to Floyd R. Smith Jr., senior vice chairman. She graduated with an A.A. degree in merchandising from Briarcliff Junior College and attended the Insurance Institute of America at Stockton State College. She is a deputy member of the New Jersey RIMS chapter.

* * *

Barbara Moore, 35, has been named insurance and risk management officer for New Jersey National Bank in Trenton to replace **John A. Marcuso,** 33, who joined Interpace Corp. in Parsippany as insurance manager. Ms. Moore, who reports to corporate comptroller Thomas A. Gasper, will be responsible for property and casualty insurance programs. She was formerly with Manufacturers Hanover Trust Co. in New York. She belongs to RIMS and the National Assn. of Bank Women. Mr. Mancuso, who reports to Barton A. Bayly, director of risk management and real estate, replaces **Steve Kovacs,** who left Interpace. He has a B.B.A. degree from The College of Insurance and belongs to RIMS.

* * *

Neil A. Kassan, 33, was recently elected risk bank officer at M&T Bank in Buffalo, N.Y. Mr. Kassan, who reports to Bonnie J. Bishopp, vp-finance and controller, is the bank's risk and insurance manager. He has a B.B.A. degree from the University of Oklahoma, an ARM and is working on a CPCU.

•

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comings & goings: buyers

Surcharge trails losses

Continued from page 2

Christopher Carven, manager of Exxon Corp.'s transportation operations division and chairman of the Oil Companies International Marine Forum.

Tanker hull rates currently range from 60 cents per $100 value to $5 per $100 value, notes John Hickey, assistant manager of the American Hull Insurance Syndicate. Newer ships with double hulls benefit from the lower rates, notes Robert Quinn, president of J.H. Blades & Co. of Houston.

Whether tanker owners will actually pay more for hull coverage on their renewals will reflect the success of negotiations with the insurance markets, Mr. Quinn noted. Loss experience is usually the greatest factor in determining rates, particularly for large fleets, he said.

The tanker surcharge has yet to be tested in the American market. No tanker renewals have been negotiated since the surcharge was announced, said Mr. Hickey of the Hull Syndicate.

Generally, American marine markets follow the lead of London. "I hope the surcharge will stick here," Mr. Hickey added.

The hull underwriters are looking for new ways in which to increase revenues to pay for higher losses, said Robert L. Kreiling, general manager of insurance for Texaco Inc. Texaco would feel the surcharge to a lesser degree than other fleet owners because all of its ships were retrofitted with the inert gas systems.

But if the company's hull rates remain unchanged otherwise, the surcharge would add $1 million to the cost of insuring Texaco's $1 billion tanker fleet. That amount pales next to the oil giant's $38.3 billion sales, but "it's still something I would have to explain to my board of directors," Mr. Kreiling said.

One risk manager who will shortly be testing London's waters is M.L. Flink Jr. of Standard Oil of Indiana. Mr. Flink, who was contacted by *Business Insurance* just before he left for London to negotiate hull coverage and other renewals, said he expects to know shortly what impact the surcharge and other developments will have.

Standard Oil's tanker fleet has had good experience despite the Amoco Cardiz loss in 1978, which has already been accounted for in the company's rates, he said.

Fires and explosions accounted for 12 of the 26 tanker losses during 1979, according to the Tanker Advisory Center. More than one third—132 of 306—of the people who died in tanker accidents were killed in fires or explosions.

Other total losses to tankers were due to: collisions, in six instances; strandings, in five instances and contact with fixed objects or being struck while moored, in two instances. The cause of the remaining total loss was not classified by the Tanker Advisory Center.

Eighty-three of the remaining fatalities occurred in contact incidents. Sixty-one were due to collision with another vessel and 30 occurred in weather damage incidents.

A recently announced study of tanker losses to be conducted by the London-based International Chamber of Shipping will look closely at the causes of explosion losses, with special attention to the use of inert gas systems.

Insurance underwriters require that inert gas systems be used when tankers are equipped with them. Underwriters are concerned that tanker captains do not use them properly or do not use them at all, said John Joyce, secretary of the chamber's tanker committee. ■

Derby launches race for cover

Continued from page 3

insured by Lloyd's for $14.4 million.

Coverage costs can reach as high as $1 million for animals of exceptional importance and provides for payments if an insured animal dies while being worked or raced or in stable accidents.

The special fertility coverage, also applicable to other breeding stock, ensures the stud animals will bring to foal 60% of the mares they are introduced to, a success rate set by Lloyd's underwriters, Ms. Caldwell said. Premiums are usually 10% to 11% of insured value.

Fertility test

"But a good fertility test can knock the fee down to 3% or 4%," she added, "and a bad test can really affect your planning."

Secretariat, the first of a string of several super-horses to run the Derby, failed its first fertility test, setting the owners and Ms. Caldwell to nail biting. Luckily, the famous racer performed better on a second test a few weeks later.

Most of the bloodstock coverage is placed with Lloyd's, though three U.S. insurers share about 10% of the market: American Livestock Insurance Co., American Banker of Florida Insurance Co. and The Hartford Group.

Volatile coverage

The coverage is volatile, underwriters say, and rates are being raised to account for some big losses in the U.S. and Europe.

One of Lloyd's biggest livestock liability syndicates, JNEB Butcher, is facing surprise losses of more than $6 billion on its underwriting in the U.S. and other countries.

Bad results on U.S. reinsurance contracts for bloodstock cover in 1978 hit the syndicate heavily, said underwriter Terry Hall, especially from U.S. insurers that cover thoroughbred racers, jumpers and breeders.

Losses on farm animals in Spain also hurt the syndicate. Calls are being made on members to meet the losses, though the syndicate will continue to trade normally.

U.S. underwriters also report underwriting fertility insurance, but note that at the high values stud syndicates currently demand, "If we were to lose one, we would really take a bath." ■

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Pension panel split

Continued from page 1
that controversial issue.

Mandatory pensions and indexing are just two of the dozens of policy options the commission is expected to act on this month in its interim report.

The commission is mandated under an executive order to issue its tentative findings in a public report before it completes its final report in February 1981.

The interim report not only will make recommendations in myriad areas, but also will indicate areas in which the commission remains undecided and wants further time to study.

The tentative recommendations are just that—tentative. Strong public comment and additional information could convince the commission to revise recommendations in the final report.

In other vital pension issues, the commission is thought to be leaning in favor of a universal Social Security system. Currently, federal employes are exempt from Social Security.

In its options paper, the commission notes that universal Social Security would eliminate the "windfall" benefits civil service retirees receive if they also worked for private industry.

Universal Social Security also would provide new money for the financially ailing system, but the funds would be hardly sufficient to "bail out" the system.

Other possibilities such as requiring faster vesting or portable private pension plans have not been decided on yet. The commission may not make a recommendation until the final report, sources said.

Interestingly, the commission apparently has devoted little discussion to whether funding and vesting standards should be mandated for the nation's 7,000 state and local retirement plans.

Other issues the commission may address in the interim report include:

- Should joint and survivors benefits be required for widows and widowers whose spouses die after becoming vested but before reaching a pension plan's early retirement age?

- Should pension assets be divided between spouses in divorce settlements?

- Should age and service participation requirements be eliminated? Generally ERISA requires a company providing a pension plan to open it to employes who have worked for the firm at least one year and are age 25. Women's groups say such a requirement amounts to sex discrimination because women are much more likely than men to leave work before age 25 to raise families and therefore never vest in pension benefits. ■

Utica to defend Love Canal suits

Continued from page 1
sion, said its attorney, John J. Heffernan.

Meanwhile, The Hartford Insurance Co., primary insurer for Niagara Falls and the school board, agreed to provide legal defense for claims against those entities. It had originally cited the pollution exclusion, too, said Niagara County's counsel, Sheldon Hurwitz.

Hartford is still disputing coverage of Hooker, for which it was primary insurer from 1942 until 1973. More than 40 other primary and excess insurers have been named defendants in a suit demanding coverage brought by Hooker and Occidental in California (*BI*, Jan. 14).

Hooker and Occidental are also defending suits filed in Niagara Falls and Los Angeles by Hartford and other insurers that seek to settle the pollution liability exclusion question and determine which insurers would be liable for damages.

Mr. Hurwitz said the pollution exclusion may not apply to Hooker's coverage because the firm's actions were storing the chemicals underground rather than willfully polluting.

The "sudden and accidental" exception to the coverage exclusion could also apply since chemicals leaked out of storage in supposedly impermeable clay, he said.

Reacting to the April 28 lawsuit filed by the New York attorney general's office, Hooker officials charged that damages to the site were caused by city and state agencies that had built highways and a school in the area and sold lots to contractors for home development.

Occidental attorneys expect insurer involvement in defending a similar suit filed by the federal government (*BI*, Jan. 14).

The New York claim seeks $250 million for environmental damage, $95 million for relocating residents and clean-up, $20 million for damage to private property and $270 million in punitive damages. ■

Calif. qualifies approval of retro plans

Continued from page 1
policyholders by insurers at current insurance rates. That rate would presumably be hooked to the prime, now running about 18%, although a spokesman at the insurance department admitted those details had not been ironed out.

The California decision is likely to be closely scrutinized by insurers throughout the country, especially in light of another investigation into paid-loss retros in Texas.

At first blush, the department's interest requirement would seem to erode if not eradicate the cash-flow advantages of paid-loss retros, the chief selling point of these plans. Insurers are cautiously optimistic, however, that the interest charge could be refunded to the customer as part of a dividend declaration after the policy period has ended.

"We are pleased the commissioner has decided to regulate rather than to invalidate these plans," observes J. Creighton White, senior vp at Fireman's Fund Insurance Cos. "There are many questions still to be resolved, but basically I think this is something we can live with."

No expectation

"We're frankly flabbergasted," admits Bill Lachner, vp of INA Special Risks in Los Angeles. "We had no expectation of a decision coming along these lines."

It's premature to evaluate the prospects for paid-loss retros in California until the decision gets a thorough going-over by INA attorneys and executives, Mr. Lachner says. But he doesn't think the ruling is going to create a flurry of excitement among insurers rushing out to offer these plans.

"Mental gymnastics" is how Sam Alcorn, senior vp at Bayly, Martin & Fay, sums up the insurance department's ruling. "The commissioner has clearly backed off his original starting point," he says, hinting that the interest charge may be merely a face-saving device.

"It's a wash," Mr. Alcorn explains. There is nothing to prevent insurers from restoring premium interest to policyholders as part of a dividend, which is not subject to regulation by the insurance department as long as it is not discriminatory. Ingenious insurers have always found a way to justify paying whatever dividend they want to pay," he says.

Indeed, some industry sources told *Business Insurance* that insurers writing paid-loss retros have always levied a charge on policyholders for lost use of premium dollars. Consequently, it's really no hardship, they say, for insurers to make a formal, upfront declaration of that interest charge as a direct cost of deferring premiums.

No guarantee

While acknowledging the possibility of an "offset dividend," INA's Mr. Lachner points out that dividend programs in California and other states cannot be guaranteed. That creates a question about the attractiveness of an "estimated" but not "promised" offset dividend to the policyholder, he suggests.

Typically, dividends are distributed six to 18 months after the end of a policy period. Although there is nothing to prevent an insurer from paying dividends sooner, the policyholder's money paid to cover the interest charge will be tied up during that adjustment period.

Mr. White expressed puzzlement about the vagueness of the department's proviso for promissory note interest. "We're hoping this can be clarified," he said. Because interest rates fluctuate from day to day, this requirement that charges be related to current returns could create instability and technical problems for companies trying to get out quotes to brokers, agents and policyholders, he noted.

Setting rate

Fireman's Fund would rather see the interest rate established as an average over time, Mr. White said. Such a rate, established by the department, would reduce the temptation for competing insurers to discount the rates they quote.

Mr. Lachner, however, raises a question about the authority of the department of insurance to dictate interest rates on a promissory note. Generally, such rates are agreed upon by parties to a note.

Last November, both INA and Fireman's Fund voluntarily agreed to stop quoting and issuing these plans until the department of insurance could complete its investigation (*BI*, Nov. 26, 1979). Six to eight other companies are also believed to have written paid-loss retros in the state before the moratorium was called by the insurance department six months ago.

The California department of insurance now believes the INA and Fireman's Fund paid-loss retro plans do meet the requirements of the state's minimum rate law. The premium collection mechanism seems to be the primary feature of the policies that deviates from other California retro plans.

Paid-loss retrospective plans, although they may be known by various names, usually share certain common features, notes the department of insurance. "Basically, they contemplate an initial payment by the employer/policyholder of an amount characterized as an expense provision adequate for the insurer to pay the administrative expenses incurred in issuing the policy," the department said.

Matching payments

"Subsequent payments to the insurer match the loss payments disbursed by the insurer to or on behalf of injured employes or their dependents. Instead of collecting the full (manual) estimated annual premium or the appropriate deposit premium, promissory notes, sometimes collateralized by letters of credit, are accepted in lieu of the difference between the full premium due and the monies actually collected.

"A final adjustment to the premium is made retrospectively at the end of the policy term using formulas similar to those adopted by the commissioner as the California workers compensation retrospective rating plan."

The department's ruling had been expected any day for the last two weeks. It was announced by the department on April 29, five months after the moratorium was called. ■

Court kills self-insurer's obligation to settle suits

Continued from page 1
for drawing it into the loss.

California's highest court affirmed the decision of the 1st District Court of Appeal in San Francisco in Commercial Union Assurance Cos., et al. vs. Safeway Stores Inc. (*BI*, Feb. 4). At the same time, the court rejected the controversial 1978 Transit Casualty Co. vs. Spink Corp. ruling (*BI*, Sept. 17, 1979) that appeared to establish a duty of reasonable settlement for policyholders.

Although the court said the policyholder has no implied duty to protect its excess insurer from a loss, the opinion left the door open to special policy provisions that could accomplish the same end.

"If an excess carrier wishes to insulate itself from liability for an insured's failure to accept what it deems to be a reasonable settlement offer, it may do so by appropriate language in the policy," wrote Justice M.O. Sabraw in his lower court decision adopted almost verbatim by the supreme court.

Fresh look

Insurers will probably take a fresh look at their policies and put in stronger language to protect themselves from liability, observed an attorney for Transit Casualty Co. If they cannot avoid increased exposure brought about by more litigation, higher premiums may be in store, he added.

By finding in favor of Safeway, the court is establishing a distinction between the contractual obligations of self-insureds to excess insurers and of primary insurers to excess insurers, points out Frederick J. Fisher, vp of Miller & Gilbert, a firm specializing in surplus lines claims analysis and adjustment.

He referred to other landmark decisions, including Northwestern Mutual Insurance Co. vs. Farmers Insurance Group, that recognize a primary insurer's duty of reasonable settlement to an excess insurer. In the Transit Casualty decision, it seemed duty was being extended to include self-insureds as well.

The supreme court did not technically overrule the Transit Casualty decision because that case has not been heard before the high court. Legal experts, however, agree the effect of the court's Commercial Union decision is to overrule Transit Casualty insofar as it addresses the issue of a duty between policyholder and excess insurer.

Commercial Union, Safeway's excess liability insurer, sued its policyholder and Safeway's primary insurer to recover $25,000 Commercial Union paid on a claim that it believed could have been settled below its threshold limits of $100,000.

The Travelers Insurance Co. and The Travelers Indemnity Co. insured Safeway for the first $50,000 of liability.

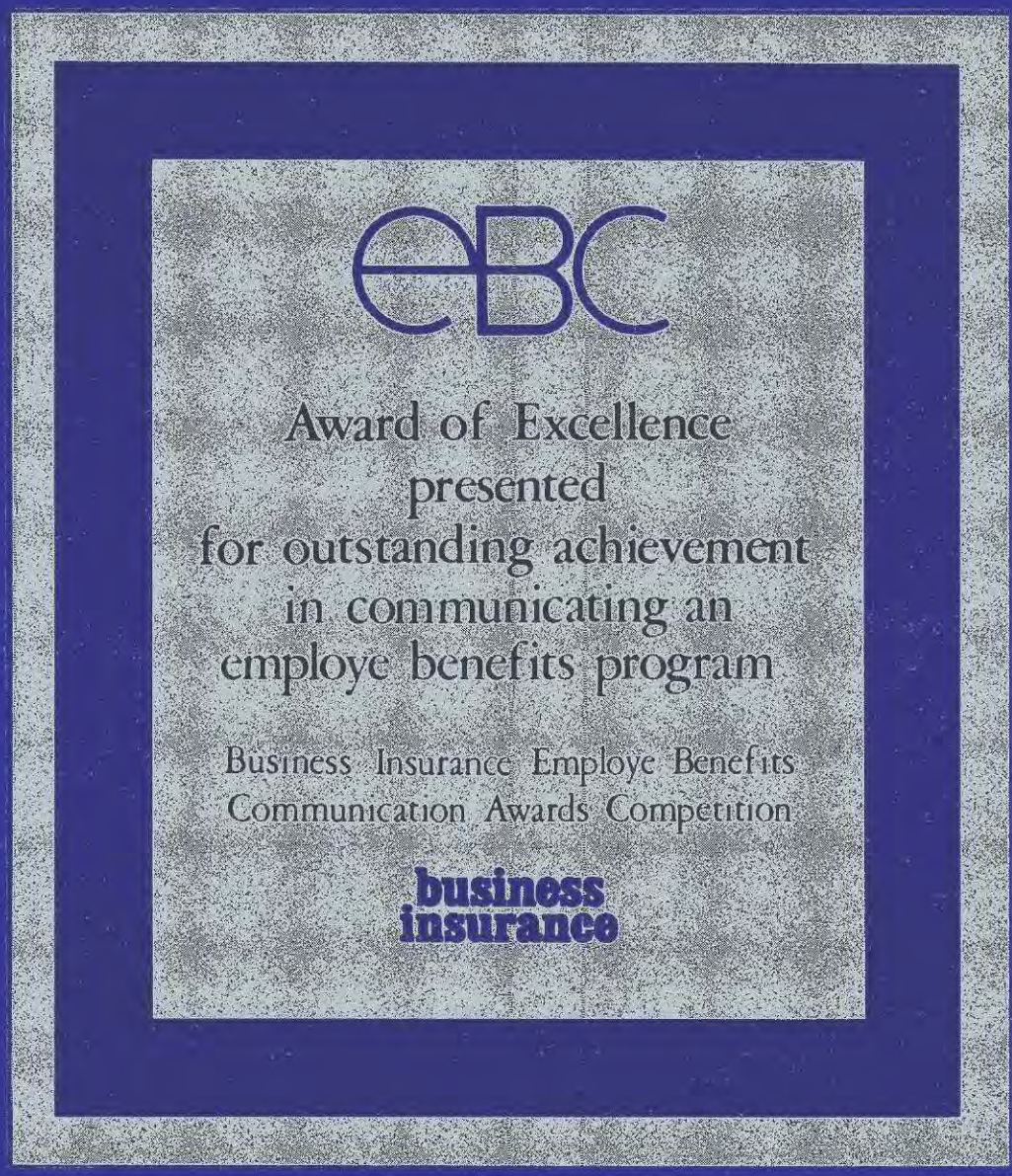
Safeway was self-insured to $100,000 and carried excess coverage up to $20 million through Commercial Union and Mission Insurance Co.

Safeway case

Hazel Callies sued Safeway in San Francisco superior court and recovered $125,000. Commercial was required to pay $25,000 of that sum after Safeway and Travelers refused to settle the case for $60,000 or less.

Commercial, as excess liability insurer, brought suit against its insured, Safeway, to recover the $25,000 it had paid. Commercial alleged Safeway and Travelers had a chance to settle the case and should have known there was a "possible and probable liability" in excess of $100,000.

It was further alleged Safeway and Travelers had a duty to settle the claim for a sum less than $100,000 when they had an opportunity to do so. ■



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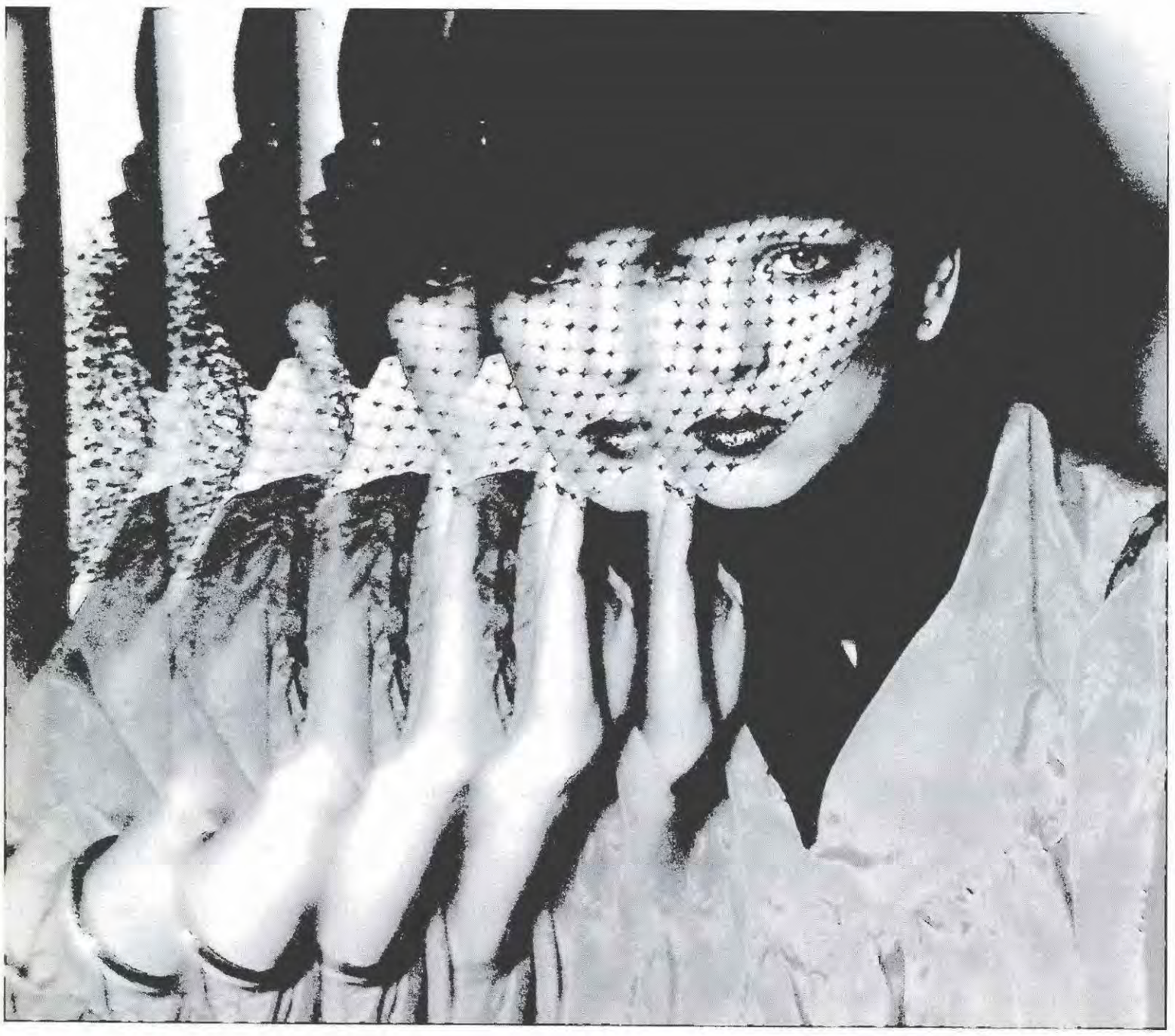
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