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Update

PBGC opposes proposal to axe underfunded LTV pension plans

WASHINGTON—The Pension Benefit Guaranty Corp. says it will oppose an LTV Corp. reorganization proposal that includes the termination of three massively underfunded LTV pension plans.

The PBGC's challenge came as Dallas-based LTV Corp. last week outlined a reorganization plan that assumes LTV will make a "substantial" payment to the PBGC to partially satisfy the plans' $2 billion in unfunded liabilities.

In return for this payment—which

Continued on next page

Three fire losses may top $500 million

Property insurers and property owners are facing losses that could exceed $500 million from fires and explosions that ravaged buildings last Wednesday in three states.

Miraculously, the three disasters may have killed only five people, according to reports at the end of last week.

Although Los Angeles fire officials at first estimated damage to a 62-story downtown office building at $450 million, they said early Friday that they would release a lower estimate of the damage caused by the fire that destroyed five floors of the skyscraper.

While damage estimates from a fire at a Shell Oil Co. refinery in Norco, La., were not available last week, petroleum industry sources say that it could cost as much as $200 million to totally replace the catalytic cracker that exploded at the plant last week.

In addition, officials in Henderson, Nev., estimate losses to surrounding property from an explosion at a rocket fuel plant at about $100 million. That estimate does not include damage to the plant itself or a neighboring candy factory, both of which were destroyed.

Owners of the fire-ravaged First Interstate Bank Corp. building in downtown Los Angeles say insurance will pay losses stemming from the blaze, which also killed a maintenance worker and injured 40 others.

Insurance Co. of North America, a unit of Philadelphia-based CIGNA Corp., was the building's primary property insurer, said a spokesman for Equitable Life Assurance Society of the United States, which owned the building along with First Interstate.

Primary liability insurance was written by Continental Insurance Co. of New York, the spokesman said.

Continental also wrote property insurance that will respond to fire losses.

Kemper Group property/casualty national companies wrote $350 million in property insurance excess of $400 million on the building and $250 million excess of $50 million for personal contents for First Interstate.

Kemper does not expect the damages to reach its limits, a spokesman said.

Fred S. James & Co. Inc. in Los Angeles brokered coverage for the building.

The building owners and broker declined to disclose the details of the coverage.

Many other insurers are expected to be

Continued on page 35

Photo: AP/Wide World

A Las Vegas Metro Police helicopter hovers over the area near last week's explosion of a rocket fuel plant southeast of Las Vegas. The blast killed at least one person.

D&O insurer pays Seafirst $46 million to settle dispute

By MEG FLETCHER

SEATTLE—Seafirst Corp.'s excess directors and officers liability insurer will pay $46 million to the Seattle-based bank holding company for a D&O liability claim stemming from a suit the bank filed against its own executives.

Seafirst reached the agreement in mid-April with National Union Fire Insurance Co. of Pittsburgh, Pa., an American International Group unit, ending three years of litigation (*BI*, May 2).

In response to Seafirst's D&O liability claim, National Union sued the bank, contending the claim was not covered by its policy because its directors and officers had fraudulently concealed information or misled the insurer in securing the coverage.

Although the settlement amount was not disclosed, a recent quarterly consolidated financial statement issued by BankAmerica Corp., Seafirst's parent, cited an April 19 agreement reached in unnamed pending litigation that "provides for Seafirst to receive income of approximately $46 million in the second quarter of 1988."

While Seafirst recovered damages for a suit against its own directors and officers, it is unlikely the case will be a precedent for other policyholders because the Seafirst litigation helped spur insurers to alter policy wording and tighten underwriting guidelines.

For example, "insured vs. insured" claims are now excluded from D&O liability policies to prevent companies from suing their own directors or officers to recover from insurance policies.

Also, D&O liability insurance applicants now must undergo more rigid scrutiny, said National Union President Jeffrey W. Greenberg.

However, that may change as competition in the D&O liability insurance market heats up, a D&O liability insurance expert says.

Seafirst also benefited from Washington state law that makes it

Continued on page 28

Iowa ruling deals blow to purchasing groups

By MEG FLETCHER

DES MOINES, Iowa—State insurance regulators can require an insurer writing coverage for Iowa members of a purchasing group domiciled in another state to be admitted or authorized in Iowa, a federal court says.

The ruling is a setback for purchasing group proponents, who argue that only the state in which a purchasing group is domiciled—and not other states in which the group has members—can regulate the group.

"We now have a decision that is the first in the country that is directly on point on the 'located' issue," said attorney Bruce Foudree, who represents Frontier Insurance Co. in the litigation as well as six purchasing groups that bought insurance from the Monticello, N.Y., insurer. Mr. Foudree is a former Iowa insurance commissioner who is now with the Chicago law firm of Keck, Mahin & Cate.

Under the 1986 amendments to the Risk Retention Act, purchasing groups cannot buy insurance from an insurer not admitted or not authorized in the state in which the purchasing group is "located."

Frontier and the purchasing groups argued that "located" referred to the state in which a group is domiciled, while the Iowa Insurance Division argued that a group is "located" in every state in which it has members.

Iowa Insurance Commissioner William Hager called the decision an "excellent" ruling that will ensure that consumers are protected.

However, Mr. Foudree said the decision will limit competition and reduce the number of insurers that will underwrite liability insurance through purchasing groups.

"We are certainly disappointed with the interpretation," added Marvin Tepper, Frontier's general counsel. He added that Frontier has not yet decided whether to appeal the ruling.

The Iowa decision "will have considerable precedential value" and may influence more states to adopt Iowa's approach, said Mr. Hager.

While the decision is not binding outside Iowa, it should provide "constructive guidance" for other states, agreed Mr. Hager.

An attorney representing two insurers in similar litigation also pending in Iowa expects that court to render a similar decision.

In addition, another federal court has upheld the New York Insurance Department's authority to require purchasing groups to meet rate and form requirements. That decision is being appealed (*BI*, Oct. 5, 1987).

Most states already have indicated that they have—or plan to—take a position similar to Iowa's, said David Thornberry, a member of the Texas State Board of Insurance who oversaw development of the National Assn. of Insurance Commissioners' model risk retention law.

The April 27 decision by the U.S. District Court for the Southern District of Iowa came in a 3-month-old case brought by Frontier, which is licensed in New York and Washington, D.C., and six Washington, D.C.-based purchasing groups that bought insurance from the Monticello, N.Y.-based insurer:

- National Purchasing Group for Sexual Abuse, Molestation & Exploitation, which primarily provides liability insurance to children's summer camps.

Continued on page 34

N.Y. insurers angry over plan to replenish guaranty fund Page 2

Public broker revenue growth fizzles as competition heats up Page 3

Wyoming drops investigation of insurance commissioner Page 3

Update

PBGC balks at LTV proposal

Continued from previous page

LTV officials described as larger than the PBGC's historic recovery average of 7 cents per $1 of liability in underfunded plans the agency has taken over—the three plans would remain terminated.

"The cost associated with these pension plans was one of the major factors that put LTV into Chapter 11. The reduction of costs resulting from their termination is crucial to the company's successful reorganization," said LTV Chairman and Chief Executive Officer Raymond A. Hay.

But PBGC Executive Director Kathleen P. Utgoff rejected the proposal, saying: "LTV made pension promises and must keep them. LTV can afford its pension plans and the PBGC will oppose any plan of reorganization that does not reflect that fact."

The three pension plans have been bounced back and forth between LTV and the PBGC since LTV filed for Chapter 11 in July 1986 (*BI,* Sept. 28, 1987).

Merrett solvency report delayed

LONDON—Lloyd's of London's largest syndicate has asked for a three-week extension of Lloyd's April 30 solvency deadline to assess reinsurance contracts it wrote, including runoff policies.

Marine syndicate 418/417, managed by Merrett Underwriting Agency Management Ltd., is reviewing the claims and development information on runoff reinsurance policies it wrote, confirmed Stephen Merrett, chairman of Merrett Holdings P.L.C. and underwriter of the syndicates.

It is natural for runoff policy claims to come in at this late stage and it is not unusual for syndicates to ask for solvency deadline extensions, said Mr. Merrett, who is a member of Lloyd's Council.

But Merrett may have to keep syndicate accounts open for 1985, the year just closing under Lloyd's three-year accounting system "if we don't think we can complete the assessment," he said.

The delay will not affect Merrett's plan to place Merrett Holdings on the London Stock Exchange this year, he said.

MUAM syndicates 418/417 and 421 underwrote 11 unlimited liability runoff policies reinsuring nine Lloyd's syndicates and two insurance companies in the early 1980s. Four of the policies were placed entirely with Merrett and five were underwritten jointly by Lloyd's underwriter Richard Outhwaite, Merrett syndicates and Fireman's Fund Insurance Cos. of Novato, Calif. (*BI,* May 2).

Shell coverage rulings continue

SAN BRUNO, Calif.—New court rulings in Shell Oil Co.'s $1 billion battle with its liability insurers over cleanup costs at two hazardous waste sites could impact all hazardous waste litigation, says an attorney for Shell's primary liability insurer.

Following earlier rulings defining the pollution exclusion clause (*BI,* May 2; Feb. 8), San Mateo County Superior Court Judge William Lanam last week ruled that:

- The "owned property" exclusion bars coverage for first-party damage on property under the "care, custody or control" of Shell.

The jury in the next phase of the trial will determine how much of the costs at the Rocky Mountain Arsenal near Denver and a waste site in Fullerton, Calif., will be covered by Shell's property insurers and how much will be covered by liability insurers.

- That Shell's lease with the Army—which requires the land to be returned to its original condition—constitutes a contract, lending support to insurers' contention that the contractual liability exclusion bars coverage.
- That there is an element of fortuity in insurance, though Judge Lanam said there can be circumstances—depending on the language of the insurance policy—when an intentional act causes damage which is unexpected or unintended where there would be coverage.

"These decisions will enormously affect the coverage available to Shell" to pay for the cleanups, said Barry Ostrager, an attorney with Simpson, Thatcher & Bartlett in New York who represents Travelers Insurance Co. of Hartford, Conn.

The rulings will affect other pollution litigation nationwide because they "carry weight in both the appellate courts and the insurance community at large," he said.

Shell attorney Laurence A. Silverman of the New York firm of Cahill, Gordon and Reindel, said the rulings "are as much in Shell's benefit as the insurers'."

In rendering his decisions, Judge Lanam said that unlike many other courts around the country, he would not arbitrarily resolve ambiguities in insurance contracts in favor of the policyholder because Shell and its insurers were equal parties in their contract negotiations and that neither side is entitled to preferential treatment.

Chrysler to pay in Jeep suit

HIGHLAND PARK, Mich.—Chrysler Corp. will pay $11.5 million to a Florida woman who was paralyzed in an automobile accident in which a 1982 Jeep CJ-5 rolled over her.

The suit is one of several Chrysler became responsible for last year after it acquired American Motors Corp., which manufactured the Jeep CJ series of cars.

AMC was ordered in 1986 by a Michigan Circuit Court to pay $19.5 million to the woman, Elizabeth Walker. AMC appealed the

Continued on page 33

Errors & omissions

- A story in the April 11 issue incorrectly reported that National Dental Mutual Insurance Co. borrowed $1.5 million from the Dental Risk Management Foundation. The $1.5 million in initial surplus was provided by NDI Services Inc., a limited partnership of independent investors. DRMF is the sponsor of the Colorado domiciled risk retention group.

N.Y. insurers blame state for guaranty fund deficit

By JUDY GREENWALD

NEW YORK—Property/casualty insurers are livid over the New York Insurance Department's move to replenish the state's property/casualty guaranty fund by collectively assessing them tens of millions of dollars.

The insurers, which say they may sue the state, contend the assessments may not have been necessary had the state not appropriated $87 million from the Property/Casualty Insurance Security Fund in 1982 when the state was facing budgetary problems.

Insurers' legal efforts to block the appropriation were unsuccessful (*BI,* April 19, 1982).

The state, in effect, gave the guaranty fund an I.O.U. for the $87 million, which allowed the fund to continue to count the money as an asset.

However, because the fund did not actually have the cash on hand, the principal has not been earning any interest the past six years. As a result, insurers say, the Insurance Department now is asking them for more money.

The guaranty fund assessment would be the first in New York since 1973.

"The state gave us an I.O.U. we can never collect on," said Patrick J. Foley, senior vp at American International Group Inc. in New York. "They didn't borrow. We can't get it back. They're stealing."

New York's guaranty fund, which is the only state guaranty fund that prefunds its liabilities, requires a minimum balance of $150 million.

However, the fund's balance stood at only $128 million—including the $87 million I.O.U.—as of April 1. This year, the fund will pay an estimated $80 million to policyholders, said an Insurance Department spokesman.

As of year-end 1987, the fund's balance totaled $146.7 million, after distributing $70.2 million to the policyholders of insolvent insurers. A breakdown of how the money was disbursed is not available.

The department plans to raise about $15 million quarterly through the assessments, which are expected to continue at least through next year, said a department spokesman. "They want to create a proper cushion," he said.

The first round of assessments is due May 15.

The assessments, which must be paid by all insurers licensed to write property/casualty insurance in the state, are based on insurers' quarterly net written premiums and the lines of business they write.

For instance, insurers that write fire insurance must multiply their quarterly premiums for this line of coverage by 0.0032, while writers of "other liability" lines, which includes general liability, would multiply their premiums by 0.0061.

An insurer that writes $1 million in general liability insurance during a quarter, for example, would be assessed $6,100.

The multipliers range from 0.0001 to 0.0061, depending on the line of business.

AIG's Mr. Foley estimates that if the $87 million appropriated from the property/casualty fund had been invested in three-month U.S. Treasury bills, it would have grown to an estimated $135 million by year-end 1987. And, the $87 million would have increased with interest to $155 million if it had been earning interest at the prime rate.

"That might have been enough" to cover the fund's shortfall without an assessment, Mr. Foley said.

After the 1982 appropriation, a group of insurance associations and insurers sued for the return of the funds in *American Insurance Assn. et. al. vs. Roderick Chu, as Commissioner of Taxation and Finance of the*

Continued on page 33

Hertz backs proposal to kill collision damage waivers

By MEG FLETCHER

PARK RIDGE, N.J.—Hertz Corp., the nation's largest car rental company, is joining insurance regulators in calling for the elimination of collision damage waivers for rental cars.

"It is our contention that the cost of accidental loss or damage should be borne by the car rental company as a basic cost of doing business," said Hertz Chairman Frank A. Olson.

A Hertz spokesman said that eliminating the CDW would cause "an insignificant" nationwide increase in the base rental rate for a Hertz car.

But some other car rental companies, which advertise extremely low rental rates and rely heavily on CDW sales to supplement their income, may have to increase their base rates considerably if the CDW option is dropped, the Hertz spokesman added.

Car rental companies typically charge $7 to $13 per day for the CDW option, which alleviates a rental car customer's responsibility for accidental damage to the rental vehicle. Interest in CDWs has increased because most car rental companies have increased a client's maximum liability for damage to a rental car and the car's loss of use to the full value of the car from a few thousand dollars.

Hertz's proposal echoes one proposed in March by a task force of the National Assn. of Insurance Commissioners (*BI,* March 21).

In addition, New York state Sen. Joseph L. Bruno, chairman of the Senate Insurance Committee, recently proposed legislation that would prohibit rental car companies from holding customers responsible for repair costs or replacement of lost or stolen vehicles.

Mr. Bruno said he sees this as a more trouble-free approach than that recommended by Gov. Mario Cuomo and Insurance Superintendent James Corcoran. Their proposal, Program Bill 194, would define CDWs as insurance and bring them under the direct supervision of the state Insurance Department.

However, that proposal would establish "an unwieldy regulatory framework" and fly in the face of a 1987 court ruling that CDWs are not insurance, Mr. Bruno said.

Consumers have complained about the industry's use of CDWs because of scare tactics used by rental agency employees to persuade customers to buy the waivers and the fact that CDWs often duplicate existing personal auto insurance and contain significant exclusions.

In addition, customers who don't buy CDWs and are involved in an accident complain about the way damage costs are calculated and assessed and about

Continued on page 33

Inside

- Car rental companies should abolish the collision damage waiver and instead establish a reasonable deductible, says this week's editorial. **PAGE 8**
- A Texas judge has declared unconstitutional a law that called for third-party administrators to meet costly licensing requirements and pay an annual tax. **PAGE 12**
- Speakers tackled a host of topics, including foreign reinsurers, the 'LMX spiral,' California earthquakes and the future of reinsurance at a conference sponsored by Insurance & Reinsurance Research Group Ltd. Coverage begins on **PAGE 14**
- In Perspectives, Dr. Charles G. Lewis of Direct Reimbursement Services Inc. and Jerry R. Holcombe of Delta Dental Plan of California take sides over the topic of direct reimbursement dental plans. **PAGE 21**
- In Speaking Out, Franklin W. Nutter, president of the Alliance of American Insurers, assesses reinsurer regulation from a 'buyer's point of view.' **PAGE 23**
- The storm that hit Great Britian last October is the most expensive insured catastrophe loss in history. **PAGE 26**

Departments

Around the states....10
Benefit beat....6
Classifieds....30
Comings & goings: buyers....31
Datebook....33
Insurance services guide....34
Legal briefs....23
Letters....8
Opinions....8
Perspectives....21
Speaking out....21, 23
Ticker....35
Washington....25

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Wyoming regulator cleared in probe

By DOUGLAS McLEOD

CHEYENNE, Wyo.—Insurance Commissioner Gordon Taylor did not violate a state conflict-of-interest law in licensing Laramie Insurance Co., which later hired Mr. Taylor's father-in-law, state investigators say.

However, the circumstances surrounding Laramie's licensing last year "appeared suspicious and questionable" and state officials should take greater care to avoid "practices which are, or appear to be, improper," an investigator concluded in a report to Wyoming Gov. Mike Sullivan released April 30.

The Wyoming attorney general's division of criminal investigation is dropping an inquiry begun last month into the licensing of Laramie, a unit of Kensu Holdings Inc. of Kansas City, Mo.

Kensu is also the parent of Royal American Managers Inc., a managing general agency accused of defrauding Omaha Indemnity Co. on loss-plagued business that Omaha subsequently reinsured with syndicates on the now-defunct Insurance Exchange of the Americas.

Laramie, which was capitalized at about $5.2 million and is also licensed in Louisiana, writes property/casualty business primarily on a surplus lines basis in approximately 15 states, according to Insurance Department officials.

In addition to the conflict-of-interest charges leveled against Mr. Taylor by a former deputy insurance commissioner, state investigators looked into allegations that:

- Mr. Taylor and Bill Budd, the state's director of economic development and stabilization, acted together to "wine and dine" Laramie to induce it to incorporate in Wyoming and that in doing so, Mr. Taylor "performed duties beyond the scope of his position as insurance commissioner."
- Mr. Budd, whose wife and brother-in-law were named Laramie directors when the insurer was incorporated, also was guilty of a conflict of interest.
- Mr. Taylor issued a certificate of authority to Laramie without adequate information about the insurer.

Specifically, the Insurance Department was unable to obtain a copy of a multistate regulatory report dealing with two other Kensu units, Kansas City, Mo.-based RAM and Fielding Reinsurance Ltd. of Turks & Caicos.

The report was triggered by the allegations that Kensu, Fielding and RAM defrauded Omaha Indemnity of millions of dollars in premiums (*BI*, April 28, 1986).

Kensu officials originally had hoped to have Fielding licensed in Wyoming, but incorporated Laramie instead after the Insurance Department found Fielding to be statutorily insolvent and refused to issue it a license, department officials confirm.

Christopher A. Crofts, director of the state's division of criminal investigation, concluded in an April 28 report to Gov. Sullivan that no crimes had occurred during Laramie's admission and that no "actual conflicts of interest" existed.

In a statement, Gov. Sullivan said, "It is unfortunate that Gordon Taylor and the officials of Laramie Insurance Co. were put in the difficult position of defending their actions when they were in fact legal and above-board."

Mr. Taylor added in an interview: "I feel very bad that the company was drawn into a personal dispute I was having with an employee with whom I was having philosophical differences."

The allegations regarding Laramie were leveled by former Deputy Insurance Commissioner Kelly S. Davis, who says he has been forced to resign because of his opposition to Laramie.

"We have been having an ongoing disagreement, the commissioner and I, on our involvement with Laramie," Mr. Davis said in an interview. "We should not have brought them (Laramie) in at this time."

Mr. Taylor demanded Mr. Davis' resignation in March, telling Mr. Davis that he was

Continued on page 7

Tort system costly burden, survey finds

By ALISON KITTRELL

Product liability problems are costing U.S. companies more than just court awards, settlements and increased insurance expenses, corporate executives say.

Problems with the U.S. tort system also exact a heavy toll on the U.S. economy in terms of lost jobs, diminished innovation and a restricted ability to compete internationally, the executives say.

Product liability reform is essential to stop the continuing drain on the resources and ingenuity of U.S. businesses and its effect on U.S. society, they contend.

That is the message of more than 500 chief executive officers and other top executives of U.S. companies surveyed in "The Impact of Product Liability," a report by The Conference Board, a New York-based non-profit management information organization.

"Product liability issues have become a pervasive force in many corporate board rooms, distorting planning, sapping top-management time and consuming company resources," said E. Patrick McGuire, the study's author.

"Liability-related issues are also having a costly impact on the operations of companies that have never faced a product liability lawsuit," he added.

Some 42% of the survey respondents said that the product liability system has had a "major" impact on their company, and an additional 38% described the impact as "moderate." Only 20% of the respondents said the product liability system

Continued on page 32

UAW and Chrysler shape tentative national contract

By DONNA DiBLASE

HIGHLAND PARK, Mich.—A tentative national contract reached last week between Chrysler Corp. and the United Auto Workers union mirrors benefit improvements reached last year between the union and General Motors Corp. and Ford Motor Co.

In addition, the tentative accord includes special provisions for workers who will lose their jobs when parts of Chrysler's Kenosha, Wis., plant close at the end of this year.

The national contract, which is pending ratification by the union's membership this week, would be effective upon ratification and would expire on Sept. 14, 1990, the same date the GM and Ford contracts expire, according to a Chrysler spokesman.

The agreement would cover 60,000 hourly UAW employees and about 6,000 salaried UAW employees at Chrysler.

Photo: Stanley A. Miskiewicz

The tentative contract between Chrysler and UAW includes special provisions for workers who will lose their jobs when parts of Chrysler's Kenosha, Wis., plant close.

The general Chrysler agreement is modeled after GM and Ford contracts that include various employee benefit provisions, such as increased life and health insurance benefits and pension and profit-sharing improvements.

Neither UAW nor Chrysler spokesmen would provide details of the tentative agreement while it is pending ratification.

However, in a statement issued late last week, Anthony P. St. John, Chrysler vp of human resources, said "the agreement is affordable and equitable. It essentially follows the pattern set last fall by GM and Ford."

UAW President Owen Bieber said in a statement that "we achieved the full pattern settlement we set out to achieve and we accepted no deviations from what we have in effect today at GM and Ford."

If structured like the Ford and GM accords, the Chrysler national agreement would include various health and pension benefit provisions.

Most of the employee benefit provisions of the Ford and GM

Continued on next page

Competition tempers broker results

By LINDA J. COLLINS

Revenue growth among most publicly held insurance brokerages continues to taper off as competition intensifies in the commercial property/casualty insurance marketplace.

And, brokers do not expect to see any improvement in either rates or their results for the rest of 1988.

"We feel the primary markets will be competitive at least for the remainder of this year and we have prepared to manage in that type of environment," said J. Michael Bischoff, vp-corporate development group at Marsh & McLennan Cos. Inc. in New York.

"Competition seems to be accelerating. . . We're anticipating a continuing softening of the market through the rest of the year," agreed William F. Poe, chairman of Tampa, Fla.-based Poe & Associates Inc.

Financial analysts who track the results of the publicly held brokers pointed out that broker revenue growth waned during the first quarter of 1988 despite the strong expense control measures most of the companies implemented last year in anticipation of the softening market.

However, expense controls and a significantly lower tax rate in 1988 as a result of the Tax Reform Act of 1986 allowed all but one broker to register net income gains, they observed.

"I think results will look worse in the second quarter. In the first quarter, brokers benefited from reductions in their tax rates and tight expense controls," said Ira H. Malis, securities analyst for Alex Brown & Sons in Baltimore.

First-quarter 1988 broker results

(In thousands of dollars)

Broker	Gross revenues	% change	Net income	% change
Marsh & McLennan	$595,300	6.3%	$94,100	1.3%
Alexander & Alexander	283,400	5.2	16,500	14.6
Corroon & Black	106,115	3.7	87,071	534.1[1]
Frank B. Hall	102,012	−3.4	5,650	−27.4
Arthur J. Gallagher	36,761	13.5	4,084	17.0
Hilb, Rogal & Hamilton	11,102	13.8	1,718	37.2
Poe & Associates	10,133	20.1	1,869	55.4

[1] Includes $73.9 million gain from sale of investment in Minet Holdings P.L.C.

Chart: Chris Woolsey, Amy Palmer

"Tax cuts came to the rescue" for the publicly held brokers, agreed Michael A. Smith, research analyst for Shearson Lehman Hutton Inc. in New York.

"If it weren't for first-quarter tax breaks, broker revenues would have been lower than a year ago on the average," stressed analyst Thomas G. Rosencrants, senior vp of Johnson Lane Space Smith & Co. Inc. in Atlanta. And brokers did a "fairly good job" of keeping their expenses down, he added.

The results of the publicly held brokers also were boosted in the first quarter of 1988 by higher contingency commissions, analysts and brokers acknowledged.

Contingency commissions are a form of profit sharing usually paid by insurers to brokers in the first quarter of the year based on the profitability of the business the broker placed with the insurer. Since contingencies are often based on experience over a two- to three-year period and since most insurers reported improved underwriting results during that period, brokers received higher contingency commissions in the first quarter of 1988 than they did in 1987.

"It's important to recognize that contingent commissions played an important role for all the brokers. These results go straight to the bottom line," Mr. Rosencrants stressed.

"Contingents were very good to us in the first quarter," acknowledged Michael J. Cloherty, vp-finance for Arthur J. Gallagher & Co. in Rolling Meadows, Ill.

"Contingency commissions and a decrease in our tax rate. . .made our results look better," agreed Stephen A. Crane, senior vp and chief financial officer of Corroon &

Continued on page 28

Chrysler accord

Continued from previous page

agreements are identical, except that the GM agreement also established an early retirement plan (*BI*, Oct. 19, 1987).

Under the GM agreement, the Mutual Retirement Option enables employees between the ages of 55 and 61 who have 10 or more years of service to elect early retirement and receive full retirement benefits. Under GM's regular retirement plan, GM provides retirees with full benefits for life after age 62 and one month, and partial benefits until then.

Other benefit provisions of the three-year Ford and GM contracts include:

- Both agreements increased the maximum annual amount of dental and mental health coverage to $1,200 from $1,000.
- Both companies increased their contributions to the monthly Medicare Part B premium—which covers physician services for retirees—to keep pace with expected health care cost increases. Under their agreements, GM's and Ford's share of Medicare Part B payments were increased to $25 on Jan. 1, and will be increased to $27 in 1989 and $28 in 1990.
- Maximum weekly sickness and accident benefits were increased to $430 per week, up from $390 per week. The S&A weekly benefit is based on 60% of an employee's weekly salary.
- Extended disability benefits were increased to a maximum of $1,560 per month from $1,405 for employees with fewer than 10 years of service and to $1,715 per month from $1,545 per month for employees with more than 10 years of service.
- The maximum basic life insurance benefit was increased to $41,000 from $37,500 and the maximum extra accident insurance was increased to $20,500 from $18,750.

And, beginning July 1, Ford and GM workers will be able to purchase additional life insurance coverage with values from $10,000 to $100,000. Workers also will have the option of purchasing dependent life insurance from $5,000 to $20,000 in value for spouses and from $2,000 to $8,000 for dependent children.

- The contracts also increased profit-sharing benefits for Ford and GM employees. A new formula provides that employees would receive a percentage of profits in any year profits exceed 1.8% of sales. Under the formula, they could receive from 7.5% to 16% of profits in excess of 1.8% of sales.

Prior to these agreements, GM employees were eligible to receive only 10% of profits excess of 1.8% of sales and Ford employees could have received 15% of the excess profits.

The tentative Chrysler agreement calls for a profit-sharing formula identical to those of Ford and GM, with the first payment under the new formula due in March 1989, according to the UAW.

- Pension benefits for Ford and GM workers were increased by $4.20 per month per year of service —or 19%—for employees retiring after Oct. 1.

Reports from a recent press conference on the Chrysler/UAW talks said that the automaker hopes to expand managed health care coverage. Chrysler currently offers employees a self-insured indemnity plan and two preferred provider organizations. Employees also can choose from several health maintenance organizations (*BI*, Jan. 19, 1987).

Under the indemnity plan—which includes provisions for mandatory pre-admission certification and second surgical opinion —employees pay no deductibles and minimal copayments on some procedures if they have hospital admissions certified.

However, if employees do not have admissions certified or decide to enter the hospital after an admission is denied, they must share in the costs of the hospitalization. Specifically, employees are required to pay a $100 per person deductible plus a 20% copayment, up to an out-of-pocket maximum of $750 for individual coverage and $1,500 for family coverage.

The indemnity plan is administered by Blue Cross & Blue Shield of Michigan. The Blues also administer a Chrysler PPOs.

Under Chrysler's Blue Preferred Plan, employees can choose from more than 6,000 physicians and 100 hospitals. They pay no deductibles or copayments if they use preferred providers.

If they use non-preferred providers, they pay a 20% copayment, up to a maximum out-of-pocket expense of $500 for individual coverage and $1,000 for family coverage.

Under SelectCare, a PPO offered only to employees in Michigan, employees can choose from about 2,000 physicians and about 13 hospitals. Employees pay no deductibles and minimal copayments on selected services if they use preferred providers. They receive partial coverage identical to that under Blue Preferred if they use non-preferred providers.

Both PPOs cover wellness services such as childhood immunizations and allergy shots, procedures that are not covered by the indemnity plan.

Contract negotiations between the UAW and Chrysler began in mid-April, with the first order of business being reaching an agreement with workers at the automaker's Kenosha plant.

Chrysler's Kenosha plant employs 5,500 workers, all of whom are UAW members, according to a union spokesman. Chrysler inherited the plant when it acquired American Motors Corp. last year.

Tension increased between Chrysler and the Auto Workers Union when the automaker announced in January that it planned to close portions of the Kenosha facility. The company still plans to close the stamping and assembly operations of the plant by the end of this year but will retain the engine production operations. This will leave about 1,000 workers employed at the facility, a Chrysler spokesman said.

A tentative wage and benefit agreement for the Kenosha plant was reached between Chrysler and UAW Local #72 early last week. Neither Chrysler nor the UAW would provide details of the Kenosha agreement, which is expected to be announced this week.

However, a UAW spokesman confirmed that the Kenosha contract includes Chrysler pension improvements and loosened rules for early retirement, though he would not elaborate.

The contract, if ratified, also would guarantee workers laid off from the plant a minimum of 24 weeks of unemployment benefits, according to Chrysler and UAW spokesmen.

The Kenosha employees would also receive about $50 million from a $60 million pool of money American Motors had established and promised to workers in return for wage and benefit concessions in the early 1980s, they said.

"The Kenosha agreement will be brought in line with the national agreement between Chrysler and the UAW" in terms of overall wage and benefit provisions, said the Chrysler spokesman.

He explained that the current contract between Chrysler and the Kenosha workers expires on Sept. 16 of this year. However, the tentative contract calls for an extension of the contract until the stamping and assembly operations are phased out at the end of this year. Then, the remaining Kenosha workers will be brought under the national agreement. ■

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New benefit plan aims at reducing costs

An international pharmaceutical corporation based in Fort Washington, Pa., expects to reduce its health care benefits costs by an estimated $500,000 this year through a restructured benefits package, the company reports.

Rorer Group Inc. paid $17 million in 1987 for the health care of nearly 4,000 non-union employees in Fort Washington and Chicago, said James A. Geier, Rorer's director of benefit and employee programs.

Rorer redesigned its health care plan earlier this year—as well as its dental, life and long-term disability benefits—as the result of a study conducted last year that compared the company's benefits with others in the pharmaceutical industry, Mr. Geier said.

The health care plan changes include:

- A new $200 deductible for each hospital admission.
- An increase in the major medical deductible to $200 from $100 per employee.
- An increase in the prescription drug copayment to $5 from $2.50 per prescription.
- Implementation of a pre-admission review program, with a $300 penalty for non-compliance.
- Mandatory second opinions for 23 listed procedures, with a penalty for non-compliance equal to 30% of the charges for the procedure.
- 100% reimbursement for some outpatient procedures such as ambulatory surgery.

Most of the savings will come from the new hospital deductible, the increased major medical deductible and the higher prescription drug copayment, Mr. Geier said.

The company decided to take action after its medical plan costs rose 55% to $1,700 per employee in 1986 from $1,100 per employee in 1982, he said.

The company's surgical and major medical coverage is underwritten by John Hancock Mutual Life Insurance Co. in Boston, and its hospitalization coverage is underwritten by Blue Cross of Pennsylvania.

Rorer also made improvements in its dental program because the study showed that it did not compare favorably with benefits offered by the other pharmaceutical companies, Mr. Geier said.

Reimbursement levels for basic services like fillings and extractions were increased to 80% from 50%, and the lifetime maximum for orthodontic work was increased to $1,000 from $750.

The dental plan also is underwritten by John Hancock.

Rorer also replaced its group term life insurance program, which excluded dependent coverage and was not portable, with a new plan underwritten by Equitable Life Assurance Society of the United States in New York.

The new group universal life plan allows employees to opt for coverage equal to up to four times their annual salary to a maximum of $750,000. Employees also can opt for spousal coverage of up to $50,000, and dependent child coverage of up to $10,000.

A new long-term disability program also was added. The plan offers a monthly benefit totaling 60% of monthly earnings to a maximum of $8,000 per month. Employees can join the plan without providing proof of insurability. The coverage is underwritten by Connecticut General Life Insurance Co. of Hartford, Conn.

Rorer pays premiums for minimum levels of all the coverages except LTD; it pays 60% of the LTD premium, and the employee pays the balance.

Benefit beat

The company did not previously offer a long-term disability plan.

The redesigned benefit programs cover Rorer's approximately 3,000 employees in the Fort Washington area and 1,000 in the Chicago area, Mr. Geier said.

Incentive program

A Salt Lake City company is finding that merchandise is an effective incentive to get employees to start exercising and stop bad health habits like smoking.

And, the "Aerobucks" incentive program, offered by Smith Administrators Inc. of Salt Lake City, has resulted in substantial health care savings for the company, said David G. Smith, vp of the employee benefits administration firm. The program is administered by ExcelAmerica Co., also of Salt Lake City.

The program, which was implemented about two years ago, rewards positive behavior such as weight loss, exercise and good eating habits with points that are translated into "Aerobucks," which can be used to buy merchandise listed in a special catalog.

Even after paying for the merchandise, ranging from home electronics to camping gear and exercise wear, Smith Administrators has seen health care costs decrease for program participants, Mr. Smith said.

"We're seeing massive savings," he said.

For example, the health claims for non-participants totaled $284,753 in 1987 compared with just $13,730 for those who participated for six months or more during the year, he said. About 40% of the company's 144 employees in Salt Lake City, Denver and Albuquerque participate in the program, he said.

In the first year, average health care claims for participants were $68, while those who chose not to participate generated average claims of $215, according to Mr. Smith.

The results were so impressive that the company has set a lower medical care deductible of $150 for program participants, compared with $200 for non-participants.

The program is run on the honor system, with each employee reporting activities that qualify for the program.

Mr. Smith said that although the potential for cheating does exist, it is prevented in large part because of the observable physical changes that come with proper diet and exercise.

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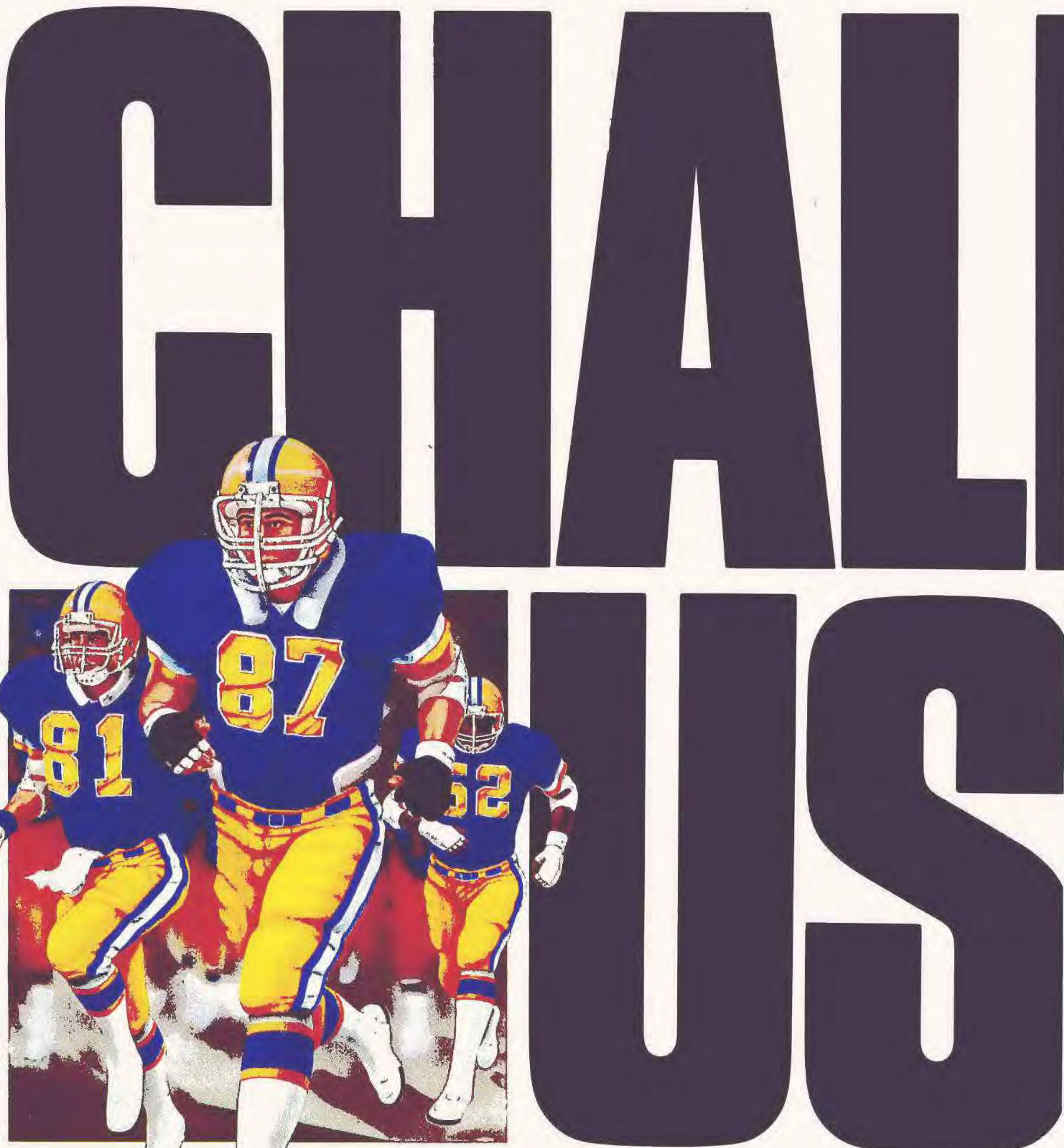
Benefit beat keeps insurance and employee benefit managers informed on what other companies are doing and of current developments in the employee benefit field. We'd like to know if you've made any changes. Write Glenn Huntley, Business Insurance, 6404 Wilshire Blvd., Los Angeles, Calif. 90048; 213-651-3710.



Wyoming

Continued from page 3

"not nice to people," the former deputy commissioner says. The examples Mr. Taylor cited of this alleged failing all related to Laramie, Mr. Davis says.

Mr. Taylor, however, denies that Mr. Davis' resignation had anything to do with Laramie, maintaining that it resulted from "philosophical differences" that he would not specify.

Mr. Davis, who left the department last week, said he will join Commercial General Insurance Co., another recently licensed insurer based in Casper, Wyo.

Mr. Davis says he opposed Laramie's admission for several reasons, one of which was the Wyoming department's examination of Fielding, which had initially applied for a license in the state.

Larry Elson, the department's chief examiner, confirmed that the examination found Fielding statutorily insolvent by about $13 million.

The insolvency resulted mainly from the Wyoming department's refusal to admit various assets claimed by Fielding, including a loan from Kensu, agents' balances receivable from RAM and funds posted by Fielding as security for reinsurance it assumed from Allied Fidelity Insurance Co., Mr. Elson said.

Allied Fidelity, based in Indianapolis, was ordered liquidated in 1986.

Officials of Kensu and Laramie could not be reached for comment either on the Fielding exam or the investigation into Laramie's licensing.

Mr. Davis says he also opposed Laramie's admission because the Wyoming department was unable in the spring of 1987 to obtain a copy of the multistate report on RAM and Fielding from either the Missouri Insurance Division or from Kensu itself.

Missouri regulators and Kensu officials both said the report was confidential, said to Mr. Davis.

The report, prompted by Omaha Indemnity's charges of fraud by Kensu and its subsidiaries, was prepared jointly by regulators in Missouri, Nebraska, Illinois and New York.

Last November, however, the Missouri and New York departments said they would not approve or release the report (*BI*, Nov. 9, 1987).

Illinois and Nebraska regulators have since redrafted the report with the intention of releasing it, and a hearing requested by RAM is scheduled for May 23 in Chicago.

Meanwhile, RAM is hoping to block the report and has filed various objections—including that the Illinois and Nebraska departments have no right to regulate RAM—with hearing officer Dan K. Webb, a partner with the Chicago law firm of Winston & Strawn and a former U.S. attorney.

Mr. Webb was expected to rule on the objections last week.

Wyoming department officials were given a copy of the RAM report after Laramie was licensed last September but before the Missouri and New York departments withdrew their support of the exam in November, according to Mr. Taylor, who suggested that the RAM report was irrelevant to Laramie's license application in any case.

"Frankly, it had nothing to do with Laramie itself," Mr. Taylor said of the report.

Mr. Davis also charged that Mr. Taylor may have violated a section of the state insurance code when his father-in-law, Bill Gray, joined Laramie as a marketing representative after the insurer was licensed, according to Mr. Crofts' report to Gov. Sullivan.

However, the investigation spurred by Mr. Davis' allegations found no conflicts of interest and no violations of law in Laramie's licensing.

Mr. Gray, a licensed insurance agent, joined Laramie "through a series of normal hiring procedures," and "there are no indications that he was hired. . .so that Laramie Insurance Co. could gain favor with Gordon Taylor or the Wyoming Insurance Department," a summary of the investigation concluded.

Mr. Gray continues to work for Laramie, according to Mr. Taylor, who noted that he also sees no conflict of interest in the hiring.

Under Wyoming law, any company incorporating in the state must have three Wyoming residents on its board of directors, and there is no sign that Laramie named Mr. Budd's wife and brother-in-law to its board "for any reason other than convenience," Mr. Crofts' report states.

Mr. Budd's relatives—who have since resigned from the Laramie board—were not compensated and "there are no indications that any incentives or inducements, on anyone's part, were offered or accepted, on anyone's part, for placement of these persons on the board," the investigative summary says.

Mr. Budd could not be reached for comment.

Mr. Crofts also concluded that there were no violations of law in the Wyoming department's decision to license Laramie, though he noted that he is not "qualified to judge whether or not that was a 'good' or 'bad' decision."

The investigation summary further concluded that Mr. Davis was terminated for "philosophical" differences with Mr. Taylor over whether the Insurance Department should act as a "chamber of commerce" in trying to attract insurers to the state or whether it should act simply as a regulatory agency.

While noting that the investigation had not uncovered any crimes, Mr. Crofts noted in his report to Gov. Sullivan that Laramie's licensing had created " 'appearance' problems."

Given these problems, Mr. Crofts suggested that "perhaps the proper role of government is an active regulatory role and a passive one with respect to promotion of private business."

Mr. Crofts, while adding that the state is probably committed to an active promotion of business, recommended that "all administrators and employees need to be constantly vigilant for practices which are or appear to be improper."

He also suggested that the governor appoint someone other than the division of criminal investigation to look into such practices and "correct them before they become a major source of public suspicion and concern."

Responding to Mr. Crofts' suggestions, Gov. Sullivan said in a statement: "I strongly believe that economic development efforts do not compromise our ability to adequately regulate the businesses we attract. Unfortunately, in this instance, a combination of factors left the appearance that we weren't regulating properly. I am pleased that the investigation has cleared the air in that regard."

Separately, arbitration hearings on Omaha Indemnity's fraud claims against RAM have been postponed until the conclusion of a separate trial involving some of the same issues.

Administrative Management Services Syndicate Ltd., an IEA underwriting member, is suing Omaha Indemnity, RAM and others in U.S. District Court in Miami, seeking recision of its reinsurance agreements with Omaha on RAM-produced business.

A trial in the case has been scheduled for Aug. 15, and RAM's arbitration with Omaha Indemnity has been postponed until after the conclusion of the trial. ■

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Around the states

Continued from page 10

impossible for us to quantify our exposure," he added.

—By Kari Berman

Hospital report

ALBANY, N.Y.—Hospitals should be required to have an attending physician on call 24 hours a day for each specialty for which they provide "substantial services," recommends the New York Insurance Department in a special report on medical malpractice.

The 243-page, legislatively mandated report was presented to Gov. Mario Cuomo and the New York Legislature earlier this month.

The report states that notwithstanding efforts to solve the medical malpractice insurance system's problems, it is "still in serious difficulty today."

"Unless major actions are taken soon, it is clear that the system will collapse in the not-too-distant future."

While most of the recommendations in the report focus on physicians, several are applicable to hospitals as well, including:

- The presence of an experienced, board-certified physician should be required whenever a physician is performing a procedure with which he is inexperienced.
- The immunity of hospitals, as well as of other physicians, should be strengthened when they report malpractice incidents, while failure to report them should be a misdemeanor.
- Hospitals should be permitted, with immunity, to suspend the privileges of physicians who are suspected of malpractice until a final administrative or legal determination is made.

In addition, members of the hospital board should be subject to indemnity the hospital if the hospital does not suspend the physician in these cases and a subsequent malpractice occurs, with the physician being found unfit to practice.

- Insurers should be required to employ risk managers to audit their policyholder physicians' activities at the hospitals at which they practice, with a percentage of premium set aside for this purpose.
- A less-stringent standard of care for emergency treatment should be permitted.
- "State-of-the-art" defenses in malpractice actions should be allowed, with hospitals as well as physicians held responsible only for their failure to use the medical knowledge generally available at the time of the treatment.
- Hospitals' and physicians' records should be required to be produced within 90 days of demand in malpractice actions, with substantial penalties for non-compliance.

—By Judy Greenwald

Buying group halted

SAN FRANCISCO—The California Department of Insurance is alleging an auto insurance purchasing group based in St. Louis acted illegally as an insurer and has ordered the group to halt its California business.

Luxury & Rental Auto Purchasing Group Inc. sold liability insurance to taxi cab operators and limousine services in the state, but had illegally retained part of the risk to be paid from its own funds, said John Fogg, senior counsel for the Insurance Department.

The department also has alleged that SIR Services Inc., an insurance administrator in Las Vegas, Nev., established the purchasing group and had acted as its managing agent even though it was not licensed to do so in California, Mr. Fogg said.

SIR denies that the group or the administrator violated California law, said Alan Jones, president of SIR Services. He said that the state is confusing Luxury & Rental Auto Purchasing Group, which does not retain any of its own risk, with another entity called Limo Auto Rental Assn., which also is administered by SIR.

Mr. Jones continued that SIR was not involved in the sale of policies for Luxury & Rental Auto Purchasing Group members and acted only as the group's administrator.

Insurance Department officials do not know how many members bought insurance through the group, because the purchasing group operated outside the regulation of the agency, Mr. Fogg said. However, filings with the state Public Utility Department, which regulates rental vehicles, indicate its business was "quite substantial," Mr. Fogg said.

Notice of the cease and desist order was delivered to the purchasing group last month, effectively ending its business in the state, he said.

Luxury & Rental Auto Purchasing Group and SIR Services have been ordered to answer the charges at a Department of Insurance hearing scheduled for 10 a.m. Wednesday in San Francisco.

The company had obtained a master policy from Bel-Aire Insurance Co. of St. Louis but had provided the first $50,000 of coverage for each occurrence, which would be paid from pooled funds, Mr. Fogg said.

"They called it a self-insurance pool, which, by the way, is a contradiction in terms," he said. "We call it a transaction of insurance."

Federal law allows creation of purchasing groups authorized to buy liability insurance on a group basis for members. However, Luxury & Rental Auto Purchasing Group went far beyond that, Mr. Fogg said.

Under state law, the unlicensed transaction of insurance is a felony punishable by a fine of up to $100,000 and imprisonment up to a year, he said.

—By Glenn Huntley

Minnesota JUA debt

MINNEAPOLIS—The Minnesota Joint Underwriting Assn. has generated a $287,000 debt since its establishment in 1986, according to a study by the Alliance of American Insurers.

The Alliance estimated that the JUA had maintained an operating ratio of 214.5%, or a loss of $2.14 for every dollar received.

The Minnesota Legislature created the JUA in 1986 to provide insurance coverage to entities unable to obtain coverage from the traditional market. The seven original classes declared eligible for the JUA by the Legislature were day care providers, foster parents, foster homes, developmental achievement centers, group homes, citizen participation groups, and shelter workshops for the physically and mentally disabled.

Later expansion of the law included classes ranging from water slides and landfills to asbestos abatement contractors. There are currently more than 40 classes eligible for participation in the JUA.

A major criticism of the JUA is that the insurance commissioner has appointed a primarily non-industry board of directors for the entity, said Mary Belgrade, government affairs counsel for the Alliance.

Since the JUA board is mandated by law to set insurance rates and operate on a sound actuarial basis, this mainly non-insurance board has been a detriment, she said. Ms. Belgrade maintains that the rates set by the JUA board are inadequate and, because they are so low, many entities that can buy coverage in the surplus lines market are buying their insurance from the JUA because it is cheaper.

Under the expanded JUA law, entities covered by JUA must prove that they were unable to buy coverage or that available coverage was prohibitively expensive, and that their business serves a public need. However, this criteria opened up the JUA to such entities as computer dating services, said Ms. Belgrade.

"All property and casualty insurers are 'on the hook' for the JUA deficit," said Ms. Belgrade. "This can increase insurance prices statewide, as insurers will be forced to pass the assessments and costs on to policyholders."

As of Feb. 15, the JUA is reported as writing approximately 130 policies.

—By Laura Mazzuca

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Texas TPA licensing, tax law is declared unconstitutional

By MICHAEL BRADFORD

AUSTIN, Texas—A state judge has declared unconstitutional a law that called for third-party administrators to meet expensive licensing requirements and pay an annual tax.

Travis County District Court Judge Hume Cofer late last month issued a summary judgment that H.B. 170, passed in the second special session of the Texas Legislature last summer and later signed by Gov. Bill Clements, was unconstitutional because it violated the state's "one-subject" legislative rule.

The bulk of H.B. 170 outlined licensing and reporting requirements for Texas TPAs, but included a section that allowed cities, counties or hospital districts to create non-profit programs to fund emergency medical vehicle services.

As a result of the ruling, both sections were declared unconstitutional. The ruling does not affect another controversial law passed during last year's special session that requires that a 2.5% administrative services tax be collected from administrators of employee benefit plans (*BI*, May 2).

The Texas attorney general's office has the right to appeal Judge Cofer's ruling but last week had not indicated whether it would seek to have the decision overturned. The judgment was expected to be finalized late last week.

The request for a summary judgment was part of a suit filed by the Austin law firm of Hughes & Luce on behalf of three TPAs: National Employee Benefit Administrators Inc. in Houston, EMS Administrative Services Corp. in Fort Worth and Insurance Consulting Claim Services Inc. in Arlington.

Altogether, the three firms paid around $1,600 in taxes under the law, which was effective Sept. 1, 1987.

The state collected $85,424 in taxes and $384,000 in various fees mandated by the law, according to a spokeswoman for the State Board of Insurance.

Brian Shannon, an attorney with Hughes & Luce, said the three TPAs that brought the suit will receive refunds as a result of Judge Cofer's ruling. Other TPAs in the state will have to request refunds, he added.

Mr. Shannon said the three TPAs that filed suit had cooperated with regulators and legislators while H.B. 170 was being drafted. "They aren't against regulation in general," said Mr. Shannon. "They had worked with the state board to come up with legislation comparable to that in other states" that regulate TPAs, he noted.

But when the law was passed, Texas TPAs were outspoken about what they felt were onerous requirements in the legislation.

The annual tax called for by the legislation amounted to 1% of the "gross amount of all considerations, fees, payments, reimbursements and any other compensation received" by a TPA.

Some of the fees the law called for TPAs to pay included:

- A $3,000 license application fee.
- A $500 annual fee that accompanied the filing of an annual report.
- $200 to reserve a company name.
- $100 for each service contract the TPA has in force.

Copies of contracts would have to be filed with the State Board of Insurance. ■

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London reinsurance seminar

U.S. leans on Europe, reinsurer says

By CAROLYN ALDRED

> **U.S. reinsurers' dependency on foreign reinsurers is noticeable 'particularly the London market,' says John F. Storey, 'not only for volume placing but also for the underwriting of technically more difficult classes of business.'**

LONDON—The U.S. reinsurance industry is still greatly dependent upon foreign reinsurers and faces massive hurdles in overcoming that dependency, asserts John F. Storey, former president of Continental Reinsurance Corp. in New York.

Although the "U.S. reinsurance industry has begun to rival the London market for a share of the world insurance cake. . .it still finds itself substantially dependent upon foreign sources" for reinsurance, said Mr. Storey, who returned to his native Britain in February after resigning from his post at Continental Reinsurance.

This foreign dependency is noticeable "particularly the London market," he continued, "not only for volume placing but also for the underwriting of technically more difficult classes of business."

Speaking at a reinsurance conference organized by Insurance & Reinsurance Research Group Ltd. in London last month, Mr. Storey said the United States is a "catastrophe area of enormous, potential loss."

"And, the U.S. insurance market can only exchange a limited amount of natural perils business amongst itself," he continued.

Meanwhile, the Japanese market has earthquake problems, leaving U.S. insurers and reinsurers depending on London and certain European markets for retrocessional capacity, said Mr. Storey.

"Whilst this dependency, distasteful in some degree to the U.S. insurance market, may now be necessary, it is running 'head on' into the consumer pressure groups and state regulatory authorities which are convinced that there is an international cartel or conspiracy working against the interests of the U.S. policyholder," he said.

"There is a great deal of political mileage to be made out of this issue, given the state of American politics at the moment," he observed.

He also warned of significant problems prevalent in the insurance market in the United States, "which cause concern for its profitability in the coming years."

These problems, according to Mr. Storey, include:

- Recent adverse changes in the taxation of U.S. insurers under the Tax Reform Act of 1986.

The new tax law affected insurers both by general revisions in the tax code and by specific provisions applicable to property/casualty insurers, according to Mr. Storey.

"For U.S.-based multinational insurers/reinsurers, the effects of the new tax legislation are staggering, since it will force companies to report income from their overseas operations as U.S. income, thereby increasing the tax base for U.S. companies with foreign subsidiaries," Mr. Storey explained.

The Tax Reform Act also includes other features that will increase the future tax bill for most U.S. insurers and reinsurers "and could provide foreign competition with a new financial advantage," he added, referring to the requirement that U.S. insurers and reinsurers discount their loss reserves for tax purposes.

- Pollution liability.

"The proliferation of pollution liability suits and the problems involved in the cleanup of hazardous waste" have been touted as being among "the most serious issues facing the insurance industry," said Mr. Storey.

Whatever the final outcome "long-standing reinsurers of U.S. liability business are in for a long, uncertain and painful haul," he added.

- Unrecoverable reinsurance.

"One of the most severe problems threatening the financial stability of the industry is the collectibility of reinsurance recoverables and the increasing number of company insolvencies," said Mr. Storey.

- Competition from alternative market mechanisms.

The commercial insurance premiums lost to alternative insurance facilities and self-insurance are unlikely to return to the traditional marketplace, according to Mr. Storey.

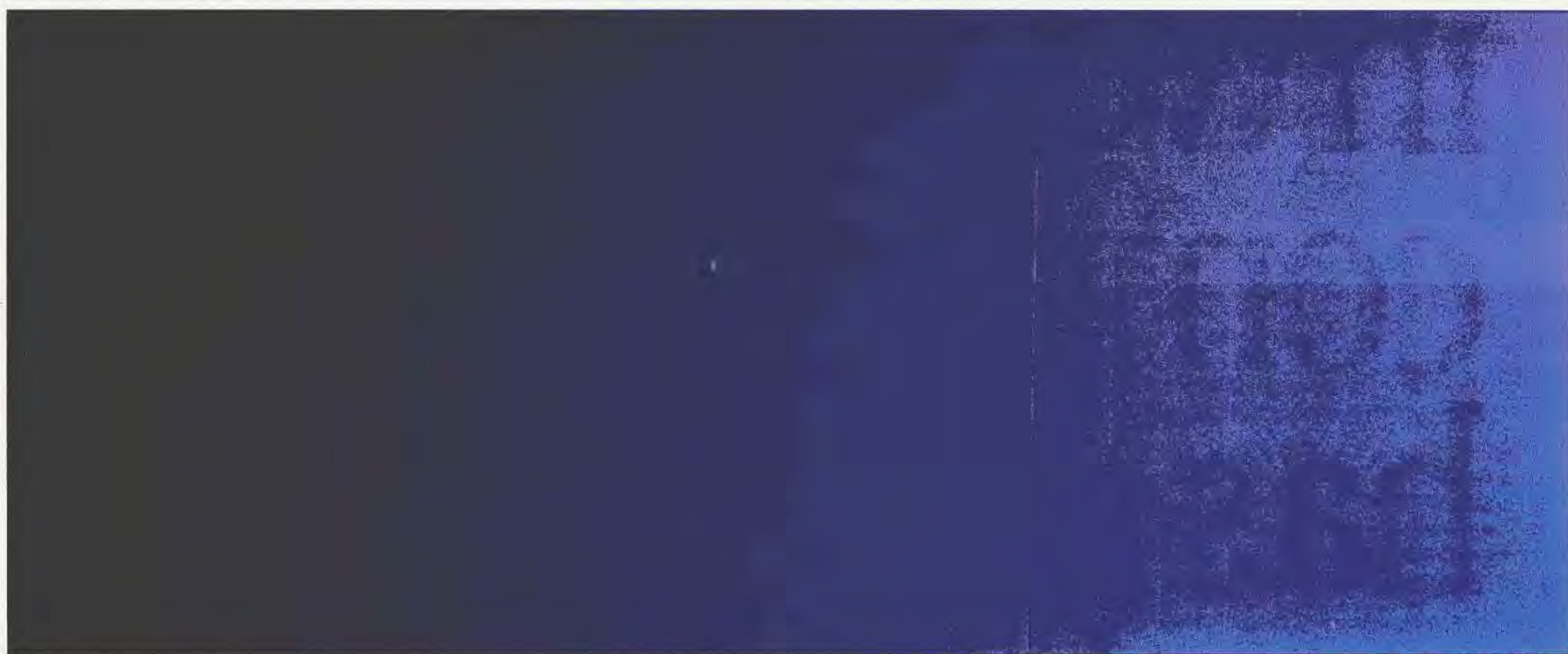
Moreover, "the insurance managers of large corporations plus the brokers appear to favor reducing their dependence on the shifting traditional insurance market," he added.

- The effect on the U.S. insurance/reinsurance market of the liberalization of trade within the European Common Market slated for 1992.

First, the U.S. insurance industry is worried that U.S. companies will not be in as competitive a position as European companies to take advantage of the creation of a single European market, said Mr. Storey.

Secondly, "they feel the opportunities created by this open market will produce, through purchases and takeovers, giant pan-European conglomerates, which could pose a threat to U.S. interests both at home and abroad," Mr. Storey added.

U.S. insurers with operations in the European Community "are beginning to ponder their future response and may well feel they must take to the acquisition trail to compete with their larger European rivals," he noted. ■



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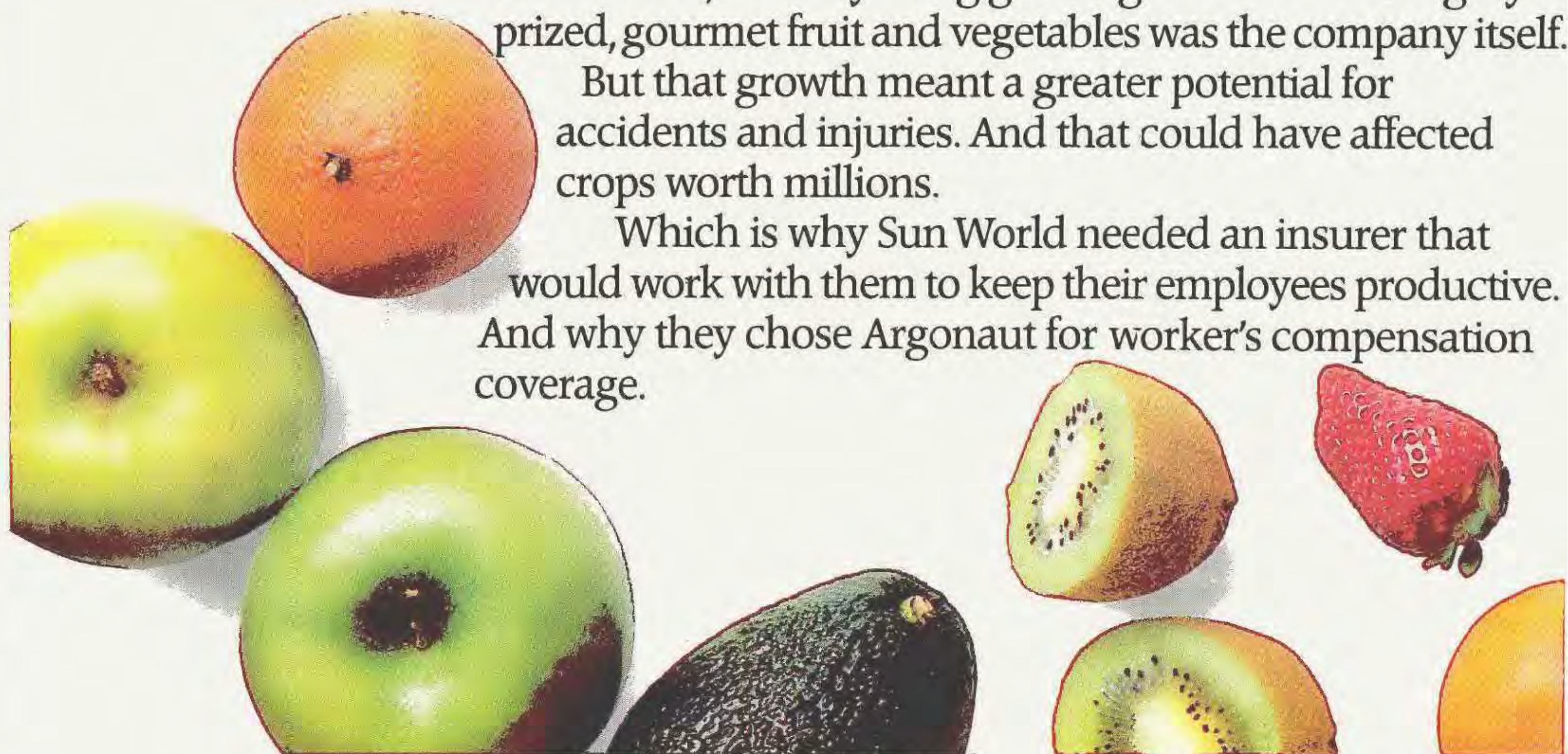

LMX spiral threatens market's life

By CAROLYN ALDRED

Although LMX underwriters have so far successfully evaded the effects of the spiral, the explanation for this 'obviously lies in the fact that there has not been a catastrophe loss large enough to test the market to destruction,' Mr. Outhwaite says.

LONDON—One major catastrophe could wipe out many of London's excess-of-loss reinsurance underwriters as major catastrophe losses wind through the market, two leading underwriters say.

The saga of the so-called London market excess-of-loss "spiral" and its threat to the survival of the London market was outlined by John Emney, chief underwriter of Charter Reinsurance Co. Ltd., and Lloyd's of London underwriter Richard Outhwaite of R.H.M. Outhwaite (Underwriting Agencies) Ltd. at a London reinsurance conference sponsored last month by Insurance & Reinsurance Research Group Ltd.

According to Mr. Emney, the LMX spiral occurs because the London excess-of-loss market is the world's catastrophe reinsurance market and last resort.

"As the direct underwriter buys excess-of-loss cover from the reinsurance market, so that reinsurer buys his excess-of-loss cover from the LMX market. The LMX underwriter can only buy his cover from other LMX underwriters as there is no other market for his type of reinsurance," he explained.

As a result, LMX underwriters end up reinsuring each other. When a major loss hits the LMX market, "it is passed 'round from underwriter to underwriter until it completes full circle and then starts again," Mr. Emney continued.

In theory, the loss will continue to circulate until every LMX underwriter's retrocessional coverage is depleted. "The upshot of all of this is that it will bring about the collapse of the LMX market," he said.

"It is an oddity that in the ordinary way a large risk is placed widely around the market in order to spread the load," said Mr. Outhwaite.

"However, once the claim is large enough, the loss would become increasingly concentrated amongst the few major syndicates and companies operating in the retrocession LMX market and would continue to go 'round and 'round until eventually each one exhausted his reinsurance protection and the loss would become net," he continued.

Although LMX underwriters have so far successfully evaded the effects of the spiral, the explanation for this "obviously lies in the fact that there has not been a catastrophe loss large enough to test the market to destruction," Mr. Outhwaite pointed out.

Particularly vulnerable at the moment are London's marine underwriters, both speakers agreed.

"In the marine market, high-level catastrophe rates are absurdly low. . .and bear no relationship whatsoever to the risk being run," said Mr. Outhwaite.

In addition, there are many examples where non-marine excess-of-loss reinsurance is being included with marine exposure and is being placed at a mere fraction—about one quarter—of what the non-marine market itself would require, he explained.

Mr. Outhwaite

Moreover, the weakness of the marine LMX market is "now having a dire affect on the original business. . .by positively encouraging irresponsible underwriting, both in terms of the risks covered and the premiums for doing it," Mr. Outhwaite said.

And, as a result of the non-marine market introducing liability exclusions into their excess-of-loss contracts, large amounts of non-marine casualty business was placed in the marine market "often not on a claims-made basis and at premium levels which non-marine underwriters thought were unrealistic," he added.

However, similar efforts to introduce excess-of-loss liability contract exclusions into the marine market last year were unsuccessful because of the massive overcapacity in the marine market, said Mr. Outhwaite.

As a result, there are two time bombs ticking away for the marine market: One bomb is huge losses that would be suffered in the event of a large catastrophe loss and the other time bomb is the inevitability of losses, which will eventually appear because of the scope of coverage now being written, he said.

Lloyd's marine syndicates are able to write up to 10% of their premium capacity for non-marine business written through incidental non-marine syndicates attached to the main marine syndicates.

However, "with the volume of non-marine business now being written in the Lloyd's marine market, it would probably be more appropriate to describe its inhabitants as incidental marine syndicates," quipped Mr. Emney.

Meanwhile, the accumulated major losses from Hurricane Alicia, which hit the Texas coast in August 1983 (*BI*, March 16, 1987; Aug. 29, 1983) and asbestos losses have forced the non-marine excess-of-loss reinsurance market "to take stock of its situation" and tighten the terms of its contracts, said Mr. Emney.

For example, non-marine excess-of-loss underwriters introduced casualty exclusions in the last half of 1986 and also abolished the aggregate extension clause, which allowed underwriters to aggregate losses paid to one policyholder in any one year (*BI*, Nov. 10, 1986).

"I only wish I could say anything approaching the same as regards the marine LMX market," said Mr. Emney. "We are certainly no nearer seeing the creation of genuine catastrophe coverage in the marine market and are unlikely to do so whilst the present overcapacity exists." ■

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Industry can survive disaster: Greig

By STACY SHAPIRO

LONDON—It is unlikely that the property/casualty insurance industry will collapse following a huge natural or man-made catastrophe, says a Lloyd's of London broker.

Although many industry observers say the industry cannot withstand the cost of a huge disaster like a major California earthquake, John Greig, chairman of Lloyd's broker Greig Fester Ltd., says underwriters anticipate a major catastrophe and most have adequate financial strength and reinsurance support to pay disaster claims.

"Despite a cataclysmic scenario, people in the industry have done their sums and the market will not be blown up," said Mr. Greig. "The great majority of our London underwriters have made a mature and balanced assessment of the impact of a reasonably foreseeable catastrophe."

The "big loss probably will not be a major. . .East Coast hurricane. It may be pollution, it may be AIDS or some so far unidentified peril," he added.

However, some underwriters may have miscalculated the impact of a gigantic disaster on their finances, which would force them to delay claims payment to policyholders or decline to make payments to ceding companies, he warned. "Then, the domino effect can quickly have a dangerous impact on the market," he conceded.

There are several traps that underwriters could fall into that would hinder claims payments following a major catastrophe, Mr. Greig said at a reinsurance conference sponsored by Insurance & Reinsurance Research Group Ltd. last month.

According to Mr. Greig, underwriters will face problems following a big disaster if they:

- Calculate premiums without accounting for: the increased loss payments due to inflated costs of construction; greater public awareness that there is coverage available to pay the losses; and the effects of rising inflation and currency values.
- Fail to exercise proper discipline when paying losses from a major catastrophe because claims personnel are overburdened.

For example, when hurricane-force winds in October smashed through southeast England, causing the worst insured single loss of all time, "human nature and pressure on claims departments meant higher loss settlements than would have been the case for a smaller loss," said Mr. Greig (*BI*, Oct. 26, 1987).

Many people filed claims that were inflated because British insurers told the public they wouldn't adjust losses that were less than 1,000 pounds ($1,873).

In fact, Mr. Greig said he filed a higher claim than was necessary for repairs to his own property and was surprised that it was paid without any negotiation. Mr. Greig said he returned the additional claim payment.

- Fail to understand the effect on the catastrophe reinsurance market caused by ceding companies purchasing less proportional reinsurance and more excess-of-loss coverage.

The move "has withdrawn much of the exposure from a wider market," said Mr. Greig. Because fewer companies participating in the excess-of-loss market may be taking on a larger portion of a risk, the losses are more concentrated, he explained.

"It would, in my view, be very helpful if catastrophe rates could drive part of this exposure back into the proportional area, but I am afraid this must wait until the next turn of the cycle."

- Fail to realize the capability of their reinsurers or retrocessionaires to pay losses after a major catastrophe. "Weak security, especially at the top level, must be eliminated; otherwise the company is living in a Fool's Paradise, which will lead to a rude awakening at the very time when the company will most need every help to survive," said Mr. Greig.

Brokers have a role in analyzing the security of ceding companies' reinsurers, he said. The broker's job includes assessing the type and volume of business written by a reinsurer; reviewing the reinsurer's claims payment record and its reserving practices; and assessing the reinsurer's exposure to stock market losses.

In addition, brokers should place business with reinsurers that would minimize the "spiraling" effect, which is caused by London market excess-of-loss reinsurance underwriters reinsuring each other for huge losses, said Mr. Greig. This inflates losses when claims are paid among ceding companies, reinsurers and retrocessionaires in the London market (see story, page 15), said Mr. Greig.

London brokers should favor reinsurers that are "geographically remote" and "philosophically remote" from the spiral and that are "fully reserved" for the dramatic increases in loss payments caused by the spiral, he said.

Mr. Greig agreed with one member of the audience who remarked that some underwriters feel they are a better judge of the security of their reinsurers than their brokers. However, brokers probably know more about reinsurers in remote parts of the world than underwriters, Mr. Greig said.

"Whilst we do our best, we know we are fallible. But we also know that we have an important role to play in the market," he said.

Another audience member asked to what extent brokers should analyze the security of individual Lloyd's syndicates.

"Lloyd's underwriters generally rely the most on retrocessional facilities and the spiral market and are more wayward than others on reserving techniques," said the conference member. "So, to what extent should the broker apply individual assessment on syndicates. . .than on the security of Lloyd's as a blanket entity?"

Mr. Greig responded, "One has to accept the broad premise that Lloyd's security is there and in place and you don't have to look at the balance sheet of each syndicate.

Mr. Greig added that his brokerage is not aware of any Lloyd's syndicates falling into that category, "although we listen to rumors that some Lloyd's underwriters are overstretching themselves."

The best weapon that ceding companies have to defuse the impact of a cataclysm, however, is charging proper rates on each piece of business, Mr. Greig pointed out. All underwriters should ask if "the rate charged is high enough to allow you to build proper reserves for future catastrophes," he said. "I do worry that this factor often becomes the victim of market cycles."

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Earthquake consultant sounds alarm

By STACY SHAPIRO

LONDON—None of the San Francisco Fire Department's fire stations could withstand another earthquake of the magnitude that struck the city in 1906, warns an earthquake engineering consultant.

The great San Francisco earthquake in April 1906 was later computed to have hit 8.3 on the Richter scale.

The 1906 earthquake and subsequent fires were blamed for approximately 700 deaths and are regarded as the worst North American natural insured loss.

Every San Francisco fire station where fire trucks are parked will have to be reinforced to withstand earthquakes, Earl J. Aurelius, vp of EQE Inc. in San Francisco, told attendees of a reinsurance conference held in London last month and sponsored by Insurance & Reinsurance Research Group Ltd.

EQE is currently conducting an earthquake engineering survey for the San Francisco Fire Department to determine how prepared the department's structures are for a major earthquake, said Mr. Aurelius.

The study is being conducted as part of the city's attempt to make San Francisco "earthquake-proof by the year 2000," he said.

His firm has found in every one of the fire stations that there is a basement underneath the floor where the fire trucks are parked, Mr. Aurelius explained.

These basements could swallow up the fire trucks in an earthquake.

Mr. Aurelius said EQE will examine other factors affecting the San Francisco Fire Department that could hinder the department's ability to extinguish fires that usually strike a city after an earthquake and cause further insured losses.

For example, EQE will check if all the city's emergency services are on the same radio frequency wavelength, which could make communication impossible if the frequency is engaged during a catastrophe with the broadcasts of all emergency agencies.

Forecasters predict that the next severe earthquake, of a magnitude greater than 8 on the Richter scale and capable of tremendous damage, has more than a 50% chance of occurring in California before the year 2100, Mr. Aurelius said.

California, with 28 million people and hundreds of active earthquake faults, "is the loudest tick you hear from the catastrophe time bomb," he said. "From (16th century physician and astrologer) Nostradamus' prediction of a major earthquake in May (of this year) to the federal Emergency Management Agency's statement that there is a better than 50% chance it will hit by the year 2100, it seems everyone is predicting the 'Big One' will happen some time soon."

The federal Emergency Management Agency estimates that an earthquake centered in Los Angeles measuring 8.5 on the Richter scale and occurring during rush hour could kill 13,000 people and cost the insurance industry $60 billion in insured losses, said Mr. Aurelius.

The California Department of Insurance projects that shake damage alone in California would cost insurers $4 billion to $6 billion, he said.

However, the All-Industry Research Advisory Council in Oakbrook, Ill., has concluded that in-

Continued on next page

Continued from previous page
sured losses from fire damage in California would exceed shake damage because almost all buildings are insured for fire but fewer than 20% are insured for shake damage, he added.

Fire loss estimates from AIRAC range from $4 billion to $15 billion for the San Francisco Bay area and $5 billion to $17 billion for Southern California, said Mr. Aurelius.

In addition, a major California earthquake would cause losses under all types of insurance policies, such as workers compensation and general liability insurance, he said.

"A loss of that size and lengthy periods of business interruption would certainly cripple the insurance industry and the rest of the U.S. economy," said Mr. Aurelius.

"The recent crisis in liability insurance availability and the closure of businesses unable to operate without it provided a small sample of what a large-scale reduction in insurance might be like."

Despite the gloomy prospect for the insurance industry, "there is hope," Mr. Aurelius said.

The Whittier earthquake of 1987 and the Mexico City earthquake of 1985 produced only pockets of damaged property and those buildings that crumbled were not built to withstand earthquakes, he said.

Californians now are more aware of the types of buildings and sites required to withstand a major temblor, Mr. Aurelius said.

To further understand the outcome of a major earthquake, Mr. Aurelius said EQE is currently analyzing every claim from every line of coverage that resulted from last October's earthquake in Whittier, Calif., which rocked the Los Angeles basin (*BI*, Oct. 12, 1987; Oct. 5, 1987).

The earthquake, which registered 5.9 on the Richter scale, was "the most heavily instrumented earthquake of all time and will provide engineers with enough data on building performance for years of study," he said.

According to the claims reported to EQE to date, only $72 million out of $400 million in losses caused by the Whittier earthquake were insured, said Mr. Aurelius.

Of the 8,000 claims already in, 38% were for earthquake/shaking; 13% were commercial multiperil losses; 5% were workers compensation; and the remainder were filed under inland marine, allied lines, fire and homeowners multiperil policies.

The claims data from the Whittier earthquake will be assembled into a data base. This data will be important to reinsurers because the California Department of Insurance estimates that 60% to 70% of California's insured structural losses will be borne by the reinsurance market, according to Mr. Aurelius.

And much of that reinsurance comes from foreign markets, he pointed out.

"I was told Mexican insurance companies continue to offer coverage for shake damage (after the Mexico City earthquake in 1985) at very low rates. When asked how this was possible, the answer was that it was no problem because foreign reinsurers would pay all the claims," he said.

There are some basic lessons to learn from past earthquakes, said Mr. Aurelius, including:

- Unreinforced masonry buildings collapse.
- Poor construction practices are quickly identified by an earthquake as the weaknesses become obvious.
- The importance of building on soils that can support the weight of buildings and do not move during an earthquake.

For commercial structures, steel frame buildings are the best at withstanding earthquakes, while for residential structures, wood-frame buildings are the best, said Mr. Aurelius.

In addition, since major California faults are well-known and mapped, potential land purchasers must be notified of the danger and building restrictions apply.

Also, building codes are improving as a result of lessons learned from past earthquakes, he said.

And pension funds, the major source of capital for the purchase of commercial/industrial buildings, conduct detailed engineering reviews of property's physical condition and strength in the event of an earthquake.

"Much is being done to make buildings better and safer and to prepare for survival if and when the next major earthquake occurs," said Mr. Aurelius. "The 'Big One' does not have to trigger a worldwide financial disaster if seismic safety continues to improve." ■

Reinsurers' future depends on new financial trends: Lock

By STACY SHAPIRO

LONDON—In order to understand what will happen in the reinsurance industry in the next 10 years, one must understand what will happen to the world at large, says John Lock, general manager of the Mercantile & General Reinsurance Co. P.L.C.

For example, the Common Market will develop more fully once trade barriers are eliminated among European Economic Community member nations in 1992, Mr. Lock said, referring to an agreement reached last year by the ministers of the 12 European Community nations to allow insurers in one EC nation to underwrite large risks in other nations (*BI*, Feb. 15; Dec. 28; 1987).

However, individual European nations will continue to be nationalistic and protectionist, predicted Mr. Lock at a reinsurance conference held by Insurance Risk & Research Group Ltd. last month in London.

"I do not believe nationalism will disappear and I do not believe politicians will open their market to all and sundry," he said. "Protectionism will continue to be a powerful mechanism."

Such protectionism would hinder the expansion of reinsurers across European borders, he implied.

In the future, there will be a desire for society to be enterprising and create new products and technologies, Mr. Lock also predicted. But, there will also be an aversion to risk. "The conflict there will influence insurance in the coming years."

There also will be a tendency to "widen the boundaries of what is called liabilities" through the legal systems both in the United States and other parts of the world, Mr. Lock said. And the concept of what damages should be awarded to consumers will broaden, he said. This, he said, "is a worrying trend."

Risks will get larger and larger as more multinational corporations expand through mergers and acquisitions, he said.

Continued on page 24

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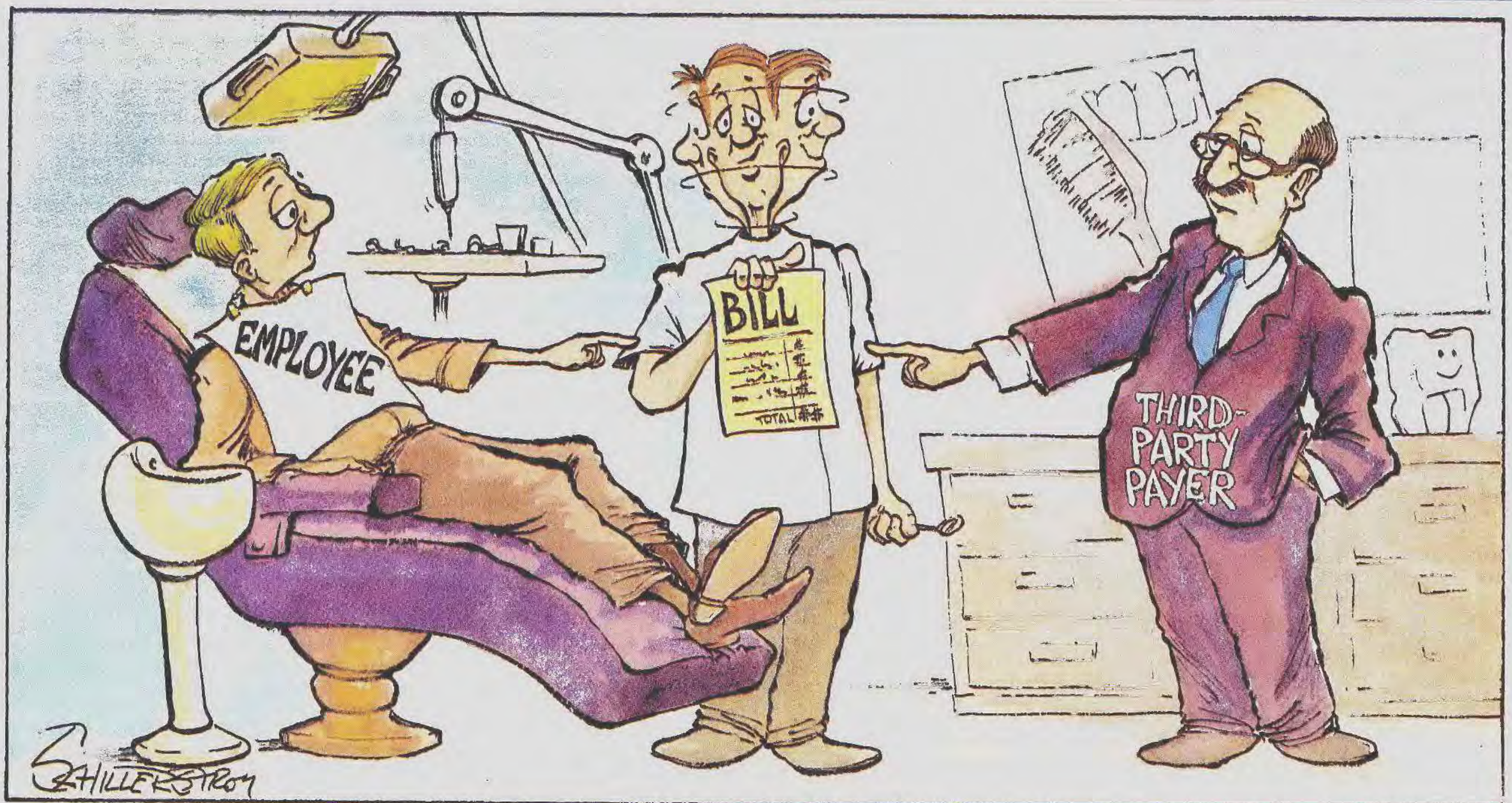
Assessing reinsurer regulation



Dental benefit delivery

Success in the marketplace shows merits of third-party reimbursement

By Jerry Holcombe

PURCHASERS IN TODAY'S competitive dental benefits marketplace confront a wide variety of options: There are the traditional fee-for-service programs; health maintenance organizations; preferred provider organizations; exclusive provider organizations; capitation plans; direct reimbursement plans; and all the variants in between. Each type of delivery has its own set of advantages and disadvantages relating to quality of service, cost, reliability, convenience, freedom of choice, etc.

Proponents of the direct reimbursement method—in which a patient receives services, pays for them out of pocket and then presents a receipt to his or her employer for reimbursement—make the plausible argument that since there is no third-party insurer involved, direct reimbursement must represent the best value for the health care dollar.

You might expect third-party insurers to disagree, and they do, but not for the reasons you might expect. More than 30 years of industry experience has shown that key arguments in favor of direct reimbursement have two serious flaws.

First, the administrative savings of direct reimbursement programs have been greatly overstated, particularly over the long run. Second, the sacrifice of service normally provided by a third-party insurer detracts significantly from the value of a direct reimbursement program.

Direct reimbursement's minor position in the dental benefits marketplace suggests that purchasers, too, have found that a claims-based system allows them to provide a high level of benefits without giving up important services or paying exorbitant rates.

Direct reimbursement's supporters have claimed that the administrative costs of claims-based systems range from 18% to 40%. This greatly exaggerates typical administrative rates of most third-party insurers. For example, the nationwide Delta Dental Plan system, which pioneered dental benefit programs in 1955, reports that 90 cents out of every benefit dollar goes into paying dental claims for the 17 million people it covers.

Speaking out

The savvy purchaser knows that a program's long-term costs outweigh the initial outlay. In other words, saving 10 cents in the beginning is not worth $3 of headache in the end. And here is where the real value of a third-party system becomes apparent.

That 10 cents of administrative services buys you labor: Instead of paying your own employee or group of employees to issue checks, record payments, keep track of costs, answer questions, etc., you leave the paperwork to the third-party insurer. This can be not only cost-effective but necessary for certain purchasers, such as those who manage welfare or trust funds, who may be required to provide meticulous accounting as to exactly

Continued on next page

Choice of practitioners, simplicity foundation of direct reimbursement

By Charles G. Lewis

DIRECT REIMBURSEMENT was born over a decade ago out of a need for a vehicle to dispense dental benefits that was simple, straightforward and cost-effective; a vehicle that would maintain freedom of choice for the patient; a vehicle in which there would be no outside "cookbook" treatment planning for the doctor or patient; and a vehicle that would allow a broad latitude of participation in plan design by the employer or employee group.

For more than a decade those employers that selected direct reimbursement as the vehicle for their denta plan have enjoyed the cost containment of a free market environment created by a system that allows the patient to direct the dental economy. Patients have directed the economy of their dental plans by exercising freedom of choice of their dentist. Employers have enjoyed the simplicity of a plan that has translated its benefits into dollars and not services.

Direct reimbursement eliminated many costly and confusing third-party mechanisms, such as pre-authorization; insurance forms; prefiling of fees; usual, customary and reasonable rates; and submission of treatment plans and various diagnostic records to third parties.

These same employers have enjoyed the most effective fraud control imaginable. This has occurred because direct reimbursement is a payment structure in which participants use their funds to buy dental services and to direct compensation between the providers of such services.

Under a direct reimbursement plan, the patient plays an active part in treatment decisions and payment. Patients are not restricted to particular practitioners. These are the two central elements necessary to secure an environment that will assure high-quality dental care and—combined with the fact that misuse of the dental benefit is a crime against the employer and is grounds for immediate dismissal—result in a plan in which fraud is not a significant issue for concern.

Notwithstanding all of these attributes, until recently, direct reimbursement has had difficulty being accepted in the general marketplace. There were many employers that would have liked to have had direct reimbursement as a vehicle to administer their plans. However, they found very quickly after accepting the philosophy that there were very few—if any—sources of help for developing and customizing such a direct reimbursement program for their particular use.

A case in point: Lubbock Independent School District in Lubbock, Texas. The school district began looking for an inexpensive way in 1985 to enhance its employee benefits package. LISD evaluated many alternatives, finding that most plans were too expensive and would

Continued on next page

New economic trends

Continued from page 17

The risks will be "more complicated and more expensive," he said.

At the same time, however, "The insurance industry will mirror the rest of industry. We will see bigger insurance groups expanding across frontiers. . .and insurers will be caught up in the financial services conglomerate. I sense that large insurance groups will be very much dominated by personal services at the expense of the commercial insurance area."

For underwriters, the debate over what is insurable and what isn't and the availability of capacity will continue, he said. For example, "AIDS will raise issues about insurability on the life side," Mr. Lock said.

Insurers also will be concerned about the long tail of past liabilities, which are only just cropping up on policies written 40 years ago. This is a problem "that isn't going to go away and will continue to cause problems for us," he said.

Mr. Lock suggested that the insurance industry should take the lead and impose first-party coverages instead of selling third-party liability coverages to take the sting out of the long tail.

As for the reinsurance industry, "insurers will need reinsurance largely for catastrophe risks as a balance sheet protection," he added. However, "there will be a continuing role to play for the reinsurer."

Fierce competition ahead, reinsurance brokers predict

By CAROLYN ALDRED

LONDON—Commercial insurance rates will continue to plummet at least until the end of the year, two London reinsurance brokers say.

"We are moving into a ferociously more competitive non-marine market for 1988 which has, particularly with regard to casualty, still some way to go," said Callum Stewart, chairman of C.E. Heath & Co. (Aviation) Ltd. and a director of Heath's North American division.

"We have a situation where competition is rife and we are well into another down cycle," agreed Richard Bowes of Lloyd's of London broker Willis Faber & Dumas Ltd.

Messrs. Stewart and Bowes spoke at a London reinsurance conference last month sponsored by Insurance & Reinsurance Research Group Ltd.

Both brokers predicted no end to the underwriting cycles that plague both the insurance industry and policyholders.

"We have to accept that this supply and demand volatility will continue. The market will continue to ebb and flow," said Mr. Bowes.

However, Mr. Stewart predicted that the intervals between market peaks and valleys will shorten.

"My own personal belief is that we can expect underwriting cycles in the future to accelerate and become very much shorter," he said.

Both brokers agreed that the current competitive market among primary insurers has not been caused by new and so-called "innocent" capacity entering the reinsurance market but, rather, by an increasing amount of risk retained by commercial insurance policyholders.

"It seems to me that the turning away of business in the tight market has meant that less business worth underwriting is now finding its way to the reinsurance market place, particularly from the U.S.," said Mr. Stewart, adding that the fall in the value of the dollar against the British pound has also increased capacity for U.S. business overseas.

"This has meant that whereas as little as two years ago there was insufficient or only just sufficient capacity for most risks, we now have a situation of considerable overcapacity with ferocious competition between markets, companies and Lloyd's syndicates in virtually every class except nonmarine liability—and all this without any major new reinsurance force entering the market," said Mr. Stewart.

The brokers also pointed to improved communications fundamentally changing the industry.

"Simple but sophisticated computer technology has greatly accelerated the speed of reporting and presentation of data and has enabled reinsurers to make themselves aware much earlier of what the numbers actually mean in terms of profit and loss," said Mr. Stewart.

The improvement of communications has produced a "more volatile connection between reinsurer and reinsured," noted Mr. Bowes.

Mr. Bowes described other developments that are causing fundamental changes that could be detrimental to the reinsurance industry, including:

- Growth of nationalism.

"National insurance markets have grown up in many areas of the world, particularly the developing world, which has reduced the outflow of reinsurance premium (to existing markets)," he said.

- Enormous increases in loss exposure to reinsurers from elemental, or natural, perils.

"In almost all areas of the world elemental peril rates have been woefully inadequate and the claims have passed into the reinsurance industry," said Mr. Bowes.

Also, the softening market and social pressures have caused policy terms to be widened to include elemental perils, thus increasing exposures "vastly out of proportion to premiums," he noted.

- A change in the pattern of insurers' reinsurance programs.

Insurers and reinsurers worldwide have examined their reinsurance arrangements in the last decade and many have increased their retentions, particularly the larger companies, said Mr. Bowes.

Because larger insurers are retaining more risk, more business for reinsurers is coming from smaller insurers, he explained.

- More severe losses.

"Larger individual losses are the price of industrial and economic progress," Mr. Bowes explained.

The these factors have left the reinsurance business dangerously insufficiently capitalized, he said. "It is up to the current crop of reinsurance underwriters and their successors to do everything possible to improve the technical underwriting results of the business," he said, adding that the future of the industry is "poised in a very difficult balance." ■

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version of Dental 2000 also includes a check writing operation. The program also can be incorporated nicely into Internal Revenue Code Section 125 flexible benefits plans.

also an assistant professor in the Department of Community Health and Preventive Dentistry at the Baylor University College of Dentistry in Waco, Texas.

Bill allows vested benefits to rollover to IRA account

By DEBORAH SHALOWITZ

Washington

WASHINGTON—Employees could have vested pension benefits added tax-free to an individual retirement account upon leaving a company instead of receiving the money in a taxable lump sum or waiting to receive post-retirement benefits under a bill approved late last month by a House committee.

Under the bill, IRAs and simplified employee pension plans would serve as the "portability vehicles" for transfers of both taxable and non-taxable pension benefits. Those benefits could remain in the IRA or SEP until retirement or could be transferred into another qualified pension plan.

The bill also would, among other things, allow all employers, regardless of size, to establish a salary reduction feature for SEPs. Under the Tax Reform Act of 1986, only employers with 25 or fewer employees may establish a salary reduction feature for SEPs.

The bill, H.R. 1961, was introduced by Rep. James Jeffords, R-Vt., in April 1987 and revised this year. The House Education and Labor Committee approved the bill April 29. No further action has been scheduled.

OSHA proposal

Most employers must establish procedures to control how dangerous machinery and energy sources are turned off and reactivated under a new rule proposed by the Occupational Safety and Health Administration.

Certain industries—such as paper mills, textile factories and bakeries—already are subject to "lockout/tagout" rules, which prevent the unexpected energization, start-up or release of stored energy.

OSHA's new rule would apply to most employers and would cost employers approximately $212 million in the first year and $135 million in subsequent years.

OSHA estimates that the rule could save 122 lives and prevent 60,000 injuries annually.

Under the proposal, employers must:

- Establish basic steps to be followed in de-energizing and securing energy sources.

The sequence may direct employees first to turn off equipment, then shut off the main power switch, then attach a lock switch and then dissipate the residual energy in the machine, suggested OSHA.

- Establish basic steps to be followed before re-starting equipment.
- Standardize within a plant all equipment locks and tags.
- Train employees to follow the lockout/tagout procedures.

According to Assistant Labor Secretary John A. Pendergrass, 7% of all workplace deaths are associated with failure to properly restrain or de-energize equipment during maintenance.

Mr. Pendergrass asserted that "very simple lockout/tagout measures, which take only a few minutes, can prevent up to 10% of all the serious injuries in some major manufacturing industries."

Craft workers, machine operators and laborers generally face the highest risk of injury from energy sources. Packaging and wrapping equipment, printing presses and conveyors are associated with a high proportion of the accidents, according to OSHA.

Agriculture, maritime and construction employers will be covered under a future rule. Oil and gas drilling and electrical utilities will be covered under a separate rule currently being developed by the agency.

Comments on the new proposal and requests for a hearing should be sent by June 28, in quadruplicate, to the OSHA Docket Officer, Docket N. S-012A, Room N3670, Labor Department, 200 Constitution Ave. N.W., Washington, D.C. 20210.

Asset reversion ban

Employers terminating overfunded pension plans would be temporarily barred from taking asset reversions under legislation introduced in the Senate last month.

The bill, introduced by Sen. Howard Metzenbaum, D-Ohio, is identical to legislation introduced in the House by Rep. William Clay, D-Mo. (*BI*, March 21).

Under the bill, if an employer terminates an overfunded pension plan, excess assets would have to be put into an escrow account until Oct. 1, 1989.

Sen. Metzenbaum said when he introduced the bill that Congress "should temporarily suspend the ability of employers to dip into their pension plans as an easy source of capital" before "millions of workers and retirees see the promise of a secure future broken by companies seeking quick cash."

The ban is aimed at giving Congress time to enact a "permanent resolution" to the problem, Sen. Metzenbaum said.

Sen. Metzenbaum's bill, S. 2284, was co-sponsored by five other senators.

HIAA taps chairman

John L. Marakas, president of Nationwide Life Insurance Co. of Columbus, Ohio, is the new chairman of the Health Insurance Assn. of America.

Mr. Marakas succeeds Stanley P. Hutchison, chairman and chief executive officer of Washington National Insurance Co. of Evanston, Ill.

Philip Briggs, vice chairman of Metropolitan Life Insurance Co. of New York, was elected vice chairman of HIAA at the group's annual meeting late last month.

HIAA members also elected Robert L. Roberts, president of Allstate Life Insurance Co. of Northbrook, Ill., as secretary.

The HIAA is a trade association representing about 350 health insurance companies that underwrite about 85% of the commercial health insurance in this country.

New exposure limit

A new federal government standard lowers the short-term exposure limit for ethylene oxide to five parts per million parts of air averaged over a 15-minute period.

The new limit, developed by the Occupational Safety and Health Administration, will be fully effective Sept. 6. The existing standard, adopted in 1984, requires employers to limit exposure to one part ethylene oxide per million parts of air averaged over an eight-hour day.

Ethylene oxide is used as a sterilizer in some medical procedures that currently can briefly expose workers to levels above the five parts per million limit. OSHA estimates the new standard will affect about 68,000 workers employed primarily by hospitals and medical products manufacturers.

Justice aide resigns

Robert L. Willmore, deputy assistant attorney general at the U.S. Justice Department, resigned effective May 2 to join the Washington law firm of Arent, Fox, Kinter, Plotkin & Kahn.

Brent O. Hatch, previously general counsel for the National Endowment for the Humanities in Washington, replaced Mr. Willmore.

In his position with the Justice Department, Mr. Willmore supervised all tort litigation involving the United States and developed the department's policy positions on legislation related to tort reform, product liability, toxic torts, victim compensation and liability insurance.

Mr. Willmore also served as executive secretary of the White House Tort Policy Working Group and as chairman of the administration's Task Force on Liability Insurance Availability.

Previously, Mr. Willmore served from 1982 to 1985 as an assistant general counsel at the Office of Management and Budget, where he worked extensively on tort and victim compensation issues. ■

New Hampshire limits volunteers' liability

CONCORD, N.H.—Volunteers who work for non-profit organizations in New Hampshire will be generally protected from liability for volunteer-related actions under a bill expected to be signed by Gov. John H. Sununu.

New Hampshire Assistant Insurance Commissioner David Kearns said the law will shield volunteers from personal liability except in cases of outright negligence. In addition, the law caps the liability of non-profit organizations at $250,000 per individual claimant or $1 million per incident.

The bill's passage follows Gov. Sununu's March signing of H.B. 936, which allows defendants in product liability litigation to use the state-of-the-art defense. Mr. Kearn explained that the law allows a manufacturer to use as a defense in a product liability case the fact that his product was of the "best, safest possible design."

The law replaces a similar law declared unconstitutional two years ago.

Meanwhile, a bill that would have modified the state's doctrine of joint and several liability was not enacted during the recently adjourned legislative session.

H.B. 1200 would have allowed defendants in tort suits to pay only their portion of damages if they were found less than 50% liable for an accident.

—By Michael Bradford

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October storm sets record insured loss

By CAROLYN ALDRED

LONDON—The severe windstorm that blistered portions of Europe last October will not cause U.S. property insurance rates to rise even though the freak storm now ranks as the most expensive insured catastrophe loss in history, London brokers say.

Current competition in the U.S. property insurance market will stop European property insurers and reinsurers from increasing rates in the United States to recoup their windstorm losses, the brokers explain.

However, as the losses from the storm start to spiral in London's excess-of-loss reinsurance market, LMX underwriters may increase catastrophe reinsurance rates, according to London market sources.

Several British insurers already have increased property insurance rates for U.K. domestic policyholders as a result of "deteriorating weather patterns in Europe."

However, London brokers do not expect the loss to have any effect on commercial U.S. policyholders' property insurance costs.

"The U.S. property market at the moment is so competitive European companies cannot afford to increase rates for U.S. policyholders," said a property broker with C.T. Bowring & Co. (Insurance) Ltd. He added that U.S. property rates now are dropping 25% to more than 50% on renewal.

Claims from the Oct. 16 storm eventually will total at least 1.5 billion pounds ($2.8 billion at current exchange rates), brokers and underwriters agree.

The October storm swept up the English Channel damaging residential and commercial buildings, overturning ships, planes and automobiles, and ripping down electrical and telephone cables in southeastern England, western France, Portugal and Norway (*BI*, Oct. 26, 1987).

The October storm "was the largest single, natural hazard which has occurred in the annals of insurance. Translated into today's values, it compares with the San Francisco earthquake of 1906," said Ernesto Jutzi, an executive vp with Swiss Reinsurance Co. in Zurich, Switzerland.

The largest previous natural disaster loss, according to Swiss Re, was a July 1984 hailstorm in Munich, West Germany, which caused $985 million in insured damage (*BI*, Oct. 26, 1987).

However, as in the aftermath of the San Francisco earthquake, insurers and reinsurers have settled claims promptly and efficiently and proved the ability of the international insurance industry to spread the risks of a major catastrophe, brokers note.

British claims from the storm already exceed 835 million pounds ($1.56 billion) with hundreds of claims still being filed each week, according to the Assn. of British Insurers.

In addition, the French and Norwegian insurance industries have paid out massive sums, according to two industry associations.

The estimated insured loss in France exceeds 350 million francs ($61.4 million), said a spokesman from Paris-based Assemble Pleniere des Societe d'Assurance Contre l'Incendie et les Risques Divers (Apsaird). Apsaird compiles property/casualty statistics for the French insurance industry.

In Norway, the insured loss exceeds 650 million Norwegian krones ($105.2 million at current exchange rates), said Real Rossvoll, a director of the Norwegian Insurance Assn., which represents more than 50 Norwegian insurance companies.

However, the severe loss has left the European insurance industry remarkably unscathed. For example, despite bearing the brunt of this loss, many British insurers are reporting buoyant profits for 1987.

For example, eight of Britain's largest insurers paid a total of 603.5 million pounds ($1.13 billion) in storm claims between Oct. 17 and Dec. 31, according to a *Business Insurance* survey. However, the same eight companies also reported that pretax profits increased 10.1% to 1.52 billion pounds ($2.8 billion at year-end 1987 exchange rates) in 1987 from 1.38 billion pounds ($2.05 billion at year-end 1986 exchange rates) in 1986.

The eight companies surveyed are:

- Sun Alliance & London Insurance P.L.C., which paid 128 million pounds ($239.4 million) in storm-related claims by year-end with no catastrophe reinsurance protection. Sun Alliance's pretax profits dipped slightly to 171.5 million pounds ($320.7 million) in 1987 from 180.4 million pounds ($267.5 million) in 1986 (*BI*, April 18).
- Royal Insurance P.L.C., which paid 105 million pounds ($196.4 million) in storm-related claims last year with no reinsurance protection. Royal's profits fell about 10% to 274 million pounds ($512.4 million) last year from 304.8 million pounds ($452 million) in 1986 (*BI*, March 7).
- Commercial Union Assurance Co. P.L.C., whose gross storm claims totaled 70 million pounds ($130.9 million) by year-end and whose net loss from the storm totaled 15 million pounds ($28.1 million). CU's pretax profits increased 42.8% to 170.1 million pounds ($318.1 million) in 1987 from 119.1 million pounds ($76.6 million) in 1986 (*BI*, March 21).
- Legal & General Group P.L.C., which paid gross storm claims of 67.5 million pounds ($126.2 million) and whose net storm losses total 43.1 million pounds ($80.6 million) as of year-end. L&G's profits fell 22.2% to 79.2 million pounds ($148.1 million) last year from 101.8 million pounds ($151 million) in 1986 (*BI*, March 28).
- Guardian Royal Exchange Assurance P.L.C., which paid out 53 million pounds ($99.1 million) in gross storm claims and 25 million pounds ($46.8 million) in net storm losses by year-end. GRE's pretax profits increased 14.7% to 165 million pounds ($308.5 million) last year from 143.8 million pounds ($212.3 million) in 1986 (*BI*, April 11).
- Prudential Assurance P.L.C., whose gross storm claims totaled 55 million to 60 million pounds ($102.9 million to $112.2 million) and whose net storm claims totaled 18 million pounds ($33.7 million) at year-end. Profits increased 17.4% to 242.4 million pounds ($453.3 million) in 1987 from 206.4 million pounds ($306.1 million) in 1986.
- General Accident Fire & Life Assurance Corp. P.L.C., which paid 60 million pounds in gross storm claims ($112.2 million) and 30 million in net storm losses ($56.1 million) as of year-end. G.A.'s profits increased 65.9% to 204.4 million pounds ($382.2 million) from 123.2 million pounds ($182.7 million) in 1986.
- Eagle Star Holdings P.L.C., which paid 60 million pounds in gross storm claims ($112.2 million) and $16 million in net storm losses ($29.9 million) as of Dec. 31. Eagle Star's profits increased 3.1% last year to 210.5 million pounds ($393.6 million) from 204.1 million pounds ($302.7 million) in 1986.

The eight companies surveyed recovered a total of 223.4 million pounds ($417.8 million) from reinsurers for storm claims.

The reinsurance was well spread throughout Europe, according to London reinsurance brokers.

Storm-related losses sustained by Swiss Re total "well in excess of 100 million Swiss francs" ($71.5 million), according to Mr. Jutzi.

The storm cost Munich Reinsurance Co. of Munich, West Germany, between 70 million and 80 million deutsche marks ($41.7 million and $47.7 million), said a Munich Re spokesman.

Much of the reinsurance that will ultimately pay storm losses was placed with Lloyd's of London syndicates, which will not report their 1987 results until 1990 under Lloyd's three-year accounting system.

The impact on reinsurers was softened because most insurers retain more risk now than they did several years ago, brokers agree.

"The reinsurance was well spread and two major British companies had no reinsurance cover at all," pointed out Hugh Prior, managing director of Winchester Bowring Ltd.

However, while the initial impact on reinsurers has been slight and slow, brokers expect the storm's aftermath will increase as losses begin to spiral among London market excess-of-loss reinsurers. The LMX spiral is caused because underwriters in the LMX market reinsure each other many times, so losses caused by one event continue to be passed around the London market for many years. For example, retrocessional losses from Hurricane Alicia, which hit the Texas coast in 1983, are still being paid in the London market (*BI*, Nov. 16, 1987).

Reinsurance claims from the October storm have not multiplied as quickly as expected, but "once they get moving, the storm will produce a very substantial reinsurance loss," said David Graves, a director of E.W. Payne (U.K.) Ltd.

Speakers at a recent reinsurance conference sponsored by Insurance & Reinsurance Research Group Ltd. (see stories starting on page 14) also noted the effect of the storm on the LMX market.

The October storm loss "will have a special effect on the U.K. and Continental markets which have taken the vast majority of the loss," said Callum Stewart, a director of C.E. Heath P.L.C.

With Hurricane Alicia continuing to barnstorm its way through the upper layers of LMX reinsurance, the October storm is "poised to give a repeat performance," said John Emney, chief underwriter for Charter Reinsurance Co. Ltd.

"There is no doubt whatsoever that the October storm is going to cause a radical re-think in some of the retrocessional markets," said Hady Wakefield, chief executive of the North American division of C.T. Bowring (Reinsurance) Ltd., adding that the "retrocessional underwriters will, quite reasonably, try to drive up rates."

Already one Lloyd's syndicate has been forced to make a cash call to members because it has inadequate reserves in British pounds to pay storm losses.

Lloyd's underwriter Peter Coffey, chairman of underwriting agency P.B. Coffey (Underwriting Agency) Ltd., has asked the 60 members of non-marine syndicate 905 to pay 280,000 pounds ($523,600) to cover storm losses.

In a letter sent to the syndicate's names, Mr. Coffey explained most of the syndicate's loss reserves are in U.S. dollars since the principal business of the syndicate is excess-of-loss reinsurance.

"It will come as no surprise that we shall be involved in the (storm) loss and it's clear that our sterling funds will be inadequate to fund the claims presented," said Mr. Coffey, adding that "the syndicate has a reinsurance program but depending on the final claim we shall be retaining approximately 200,000 pounds ($374,000) which will not be recoverable."

The syndicate is new and has been unable to build up adequate reserves in British pounds to pay a large U.K. loss so early in its history, brokers say, adding that the cash call has been caused by technical difficulties because Lloyd's syndicates cannot cash in their U.S. dollar reserves for pounds. ■

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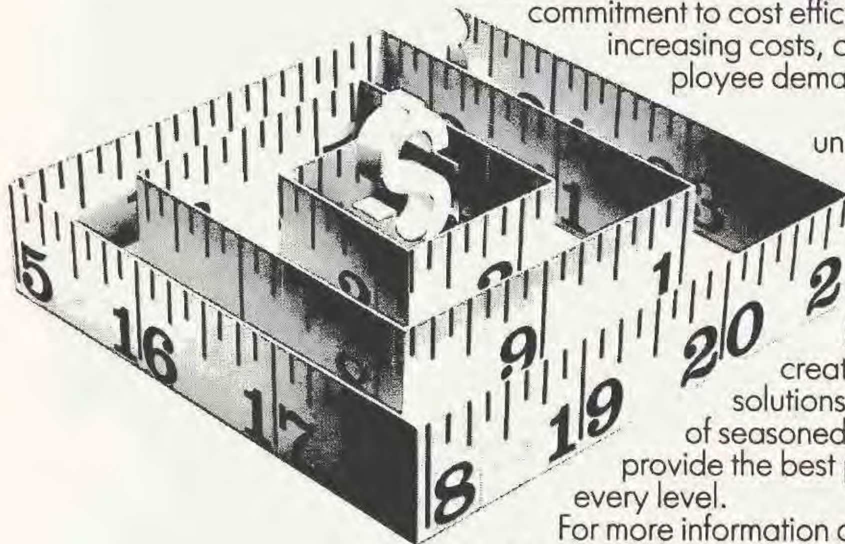

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Municipal bond tax ruling

No bust for municipal bond insurance

By JUDY GREENWALD

WASHINGTON—A Supreme Court decision that declares Congress has the power to tax income from municipal bonds is not expected to have a dramatic impact on the financial guarantee industry or the municipal bond market in general, say many observers.

"My view is it's not going to have an effect on the municipal bond business. I also don't think it's going to have an effect on the municipal bond insurance business," said Robert J. Genader, senior executive vp at New York-based AMBAC Indemnity Corp., a financial guarantee insurer.

Commercial property/casualty insurers say last month's Supreme Court decision also is not expected to influence their investment strategies.

The high court's ruling last month overturned a 93-year old precedent that provided that income earned from state and municipal bonds is tax-exempt. Government entities' tax immunity has permitted them to save money by issuing bonds with interest rates lower than those for taxable corporate instruments.

If the Supreme Court decision were to impact the municipal bond industry in any significant way, it likely also would affect financial guarantee insurers, because municipal bond insurance is one of the most common types of financial guarantees issued by insurers (*BI*, June 1, 1987).

Municipal bond insurers confer their own Triple-A ratings on the lower-graded investments they guarantee. This gives investors the security of knowing their money is safe in the event of a default, though they receive a lower interest rate on the issue than if they had purchased uninsured issues with lower ratings and greater risk.

Financial guarantee underwriters insured about 28% of the $24.7 billion in municipal bonds sold in the first quarter of 1988, said Mr. Genader.

Observers also point out that Congress for many years has been acting under the assumption it has the authority to tax municipal bonds.

Last month's high court decision, they say, only makes explicit what had been implicit previously.

The Supreme Court decision only served to clarify that the taxation of income from municipal bonds is an issue for Congress—not the courts—to decide, said Michael Djordjevich, president and chief executive officer of Capital Guaranty Insurance Co., a San Francisco-based financial guarantee insurer.

Observers say Congress' longstanding willingness to pass legislation affecting municipal bonds is illustrated by the Tax Reform Act of 1986, which put a per-state cap on the tax-exempt volume of private activity bonds.

Congress for several years has paid no attention to the theory that states' bonds are constitutionally protected from federal taxation, according to Dennis Holt, manager of special projects for the Public Securities Assn. in New York.

With this decision, "the battle shifts from the courts to Congress, where in large measure it has been fought for several years anyway," he said.

"The war was already lost" before the high court's latest decision, agreed Sylvan Feldstein, manager of municipal credit analysis at Merrill Lynch Pierce Fenner & Smith in New York.

Michael Djordjevich of Capital Guaranty Insurance Co. believes that pressure to cut back on the number of tax-exempts will continue. Washington, he says, will deploy 'salami tactics' to reduce the number of tax-exempts on a piece-by-piece basis.

"The Supreme Court only finalized what we knew already," agreed Kevin Conery, vp and senior analyst at Shearson Lehman Hutton Inc. in New York.

Rep. Dan Rostenkowski, D-Ill., chairman of the House Ways and Means Committee, said in a statement "there is no reason to believe" the Supreme Court's decision "will either prompt or deter future congressional action."

However, a spokesman for the Washington-based National League of Cities labeled the decision "ominous."

"It's certainly created a new element of uncertainty, I think, in terms of what the long-term outlook is going to be for (municipal) bonds," he said.

But others point out that congressmen are not especially eager to eliminate municipal bonds' tax-exempt status, knowing they would have to explain their action to their constituents.

That would fly in the face of "political reality," said Capital Guaranty's Mr. Djordjevich.

Shearson's Mr. Conery noted that the country's infrastructure, including roads and other public projects, much of which is the responsibility of state and local governments, needs an estimated $1 trillion capital infusion between now and the end of the century. At the same time, the federal government is cutting its own budget.

To tax what are now tax-exempt bonds, which would force states to offer higher interest rates to attract investors, "would be kind of a double whammy," Mr. Conery said.

"I really don't believe there's any realistic chance at the present time" for the elimination of the tax-exempt status of "fairly pure" municipal issues such as general obligation bonds, said Wallace O. Sellers, chairman and chief executive officer of New York-based Enhance Reinsurance Co., a financial guarantee reinsurer.

He added issuers and investment bankers had made themselves vulnerable to begin with by extending the tax-exempt privilege to municipal-backed private-use bonds. "It's hard to argue General Motors should build a plant with tax-exempt bonds," he said.

Mr. Djordjevich believes that while no major changes are impending, pressure to cut back on the number of tax-exempts will continue.

Washington, he said, will deploy "salami tactics" to reduce the number of tax-exempts on a piece-by-piece basis. "It's going to be a long process. It's not going to happen overnight."

"They will come back at us every year. That is predictable," agreed PSA's Mr. Holt.

But while there are moves to further eliminate tax-exempts, there have been countermoves to restore some that were eliminated with the Tax Reform Act as well. "It's not a one-way street. We're not totally on the defensive," Mr. Holt said.

Most observers believe that in any case, it is virtually certain Congress would limit any cutback in tax-exempts to future issues and not touch the tax-exempt status of any bonds that have already been issued. "That's a zero risk," Mr. Sellers declared.

But Leon J. Karvelis Jr., executive vp and director of underwriting and research at MBIA Inc. in White Plains, N.Y., a financial guarantee insurer, feels less assured. Mr. Karvelis said he fears that sooner or later, someone in Congress is likely to look at the $756 billion in outstanding tax-exempt bonds as a "potential golden egg."

"It might be too tempting for certain politicians to resist," he said. "I'm an insurance man, and therefore I'm not a betting man."

Financial guarantee insurers say that while the bulk of the issues they currently insure are non-taxable, they are prepared to continue to insure municipal bond issues even should they lose their tax-exempt status.

In fact, said AMBAC's Mr. Genader, an increase in taxable municipal issues could be a "tremendous opportunity" for the financial guarantee insurance industry because pension plans that would purchase such bonds do not have the financial guarantee industry's in-depth knowledge of municipal finance.

"There are a lot of buyers on the corporate side who don't know or understand the tax-exempt side and would value insurance" if these issues became taxable, said MBIA's Mr. Karvelis.

Commercial property/casualty insurers say the Supreme Court decision has not had any impact on their investment strategies so far. Many are now investing most of their funds in taxable investments anyway (*BI*, March 21).

"In our view, it's kind of a non-event, and the market seemed to handle it the same way," said Dave Miller, vp in charge of investments at Sentry Insurance Cos. in Stevens Point, Wis. "I don't think it created a great deal of concern."

A CIGNA Corp. spokesman also said the ruling should not affect the company's investment strategies. ■

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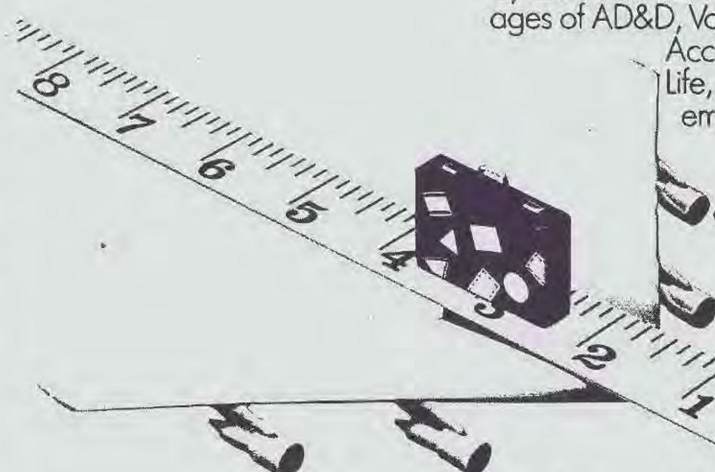

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Seafirst settlement

Continued from page 1

extremely difficult for an insurer to rescind a policy, National Union's attorney said.

"We are pleased with the settlement and pleased that the litigation ended," said Stan Carlson, Seafirst's general counsel.

The settlement came after a U.S. District Court jury in March cleared Seafirst and some of its former officers of National Union's allegations that they fraudulently concealed or misrepresented information when seeking the $55 million excess D&O liability policy (*BI*, July 14, 1986).

The settlement eliminated the need for the second phase of the trial in which Seafirst sought to recover the excess D&O liability policy limits and more than $50 million in "bad faith" damages from National Union (*BI*, April 11).

The litigation began when National Union tried to rescind the excess D&O liability policy it wrote for Seafirst. The policy, issued formally on Nov. 8, 1982, covered the period from Sept. 21, 1982, to Oct. 13, 1984. Seafirst paid a premium of $186,560 at the inception of the policy, which included prior acts coverage.

National Union bound the first $20 million of the excess coverage almost immediately and said it would seek reinsurance support for the remaining $35 million in limits.

National Union's Mr. Greenberg declined to comment on how much of the coverage National Union retained and how much it reinsured.

Seafirst subsequently sued several of its officers after losing nearly $500 million from energy-related loans in 1982, about half of which were related to the collapse of Penn Square Bank in Oklahoma City.

Seafirst agreed to settle the suit with its directors and officers on the condition that it could recover damages from its D&O liability insurers.

The primary D&O liability insurer agreed to pay its $20 million policy limits, although about $5 million had already been spent on defense costs.

The primary policy was underwritten by MGIC Indemnity Corp., a former Baldwin-United Corp. unit whose book of D&O liability business was purchased by CNA Financial Corp. (*BI*, Sept. 26, 1983).

However, National Union "objected rather strenuously" to paying the claim and instead sued the bank, said George D'Amato, a senior partner with D'Amato & Lynch in New York, which acts as National Union's outside counsel.

In presenting its case, National Union alleged Seafirst's former officers obtained the policy "by concealing the truth about what they knew about mismanagement at the bank and about the seriousness of the bank's financial condition" in its application, said National Union trial attorney Richard Yarmuth.

Specifically, National Union alleged that Seafirst concealed pertinent information about nearly $250 million in non-Penn Square loans when making its application for insurance coverage. And, National Union's underwriters did not discover this despite their "longest investigation ever," said the opening statement by Mr. Yarmuth, who is with the Seattle law firm of Culp, Guterson & Grader.

"Seafirst's purchase of this mismanagement insurance from National Union when Seafirst knew about its own mismanagement is like someone trying to buy fire insurance when their barn is already burning and they themselves set the blaze," the statement asserted.

National Union argued that Seafirst officials' public announcements of loss estimates were significantly lower than internal estimates.

National Union also alleged that it did not know that mismanagement had occurred prior to the policy being issued, although media reports citing inadequate control of loan practices prompted insurance underwriters to require Seafirst to supply information in addition to the standard policy application.

In contrast, Seafirst argued that the insurance application had been accurately completed by a lower-level employee.

In fact, the application included Seafirst's report of $963.75 million in "classified" loans, which indicated that 12% of Seafirst's total loan portfolio might be in trouble, said Steve Bomse, Seafirst's trial attorney, in presenting his opening statement.

That rate is "unbelievably high" because a financial expert has said that any amount more than 1% is high, said Mr. Bomse, who is with the San Francisco firm of Heller, Ehrman, White and McAuliffe.

"National Union wasn't misled, National Union wasn't deceived. It took a calculated risk," he said.

In fact, National Union charged Seafirst a premium more than nine times the going rate to cover that risk, he noted, though National Union's Mr. D'Amato said the premium was only double the norm.

In return for an unusually large premium, the world's "biggest and most sophisticated" D&O liability insurer decided to take a risk that D&O liability claim payouts would not exceed the $20 million primary layer and pierce the excess layer, Seafirst's attorney said.

"I think this case is about a company that's happy to write a policy, happy to take a premium, but is nowhere around when it comes time to pay," Mr. Bomse asserted in his opening statement.

The four-week trial ended with about four days of jury deliberations after which Seafirst was found innocent of fraud allegations.

A major reason for National Union's defeat was the fact that Washington law requires a plaintiff to show clear and convincing evidence that an applicant intended to make misrepresentations when seeking an insurance policy, said National Union's Mr. D'Amato.

Also contributing to the decision was testimony that top officers failed to read the policy application, he said. Although ignorance of a policy's contents may provide a defense in Washington, it would not work in most other states because laws elsewhere put less of a burden of proof on the plaintiff's shoulders, he said.

However, Seafirst's Mr. Carlson emphasized that the bank successfully defended itself because "the jury found no fraud."

National Union is now seeking to recover its Seafirst-related losses by suing two Seafirst advisers who participated in filing the insurance application. Broker Marsh & McLennan Inc. is named in a state court suit in Washington, while the Seattle law firm of Davis, Wright, Todd, Riese & Jones is named in a federal district court suit in New York.

In addition, National Union is suing Arthur Andersen & Co., Seafirst's accountant, in Washington state court because the accountant approved the third-quarter financial information on which National Union relied in issuing the policy.

Arthur Andersen already has contributed a portion of a $13.6 million settlement of a class-action lawsuit filed on behalf of Seafirst shareholders (*BI*, Dec. 1, 1986). Seafirst contributed the bulk of the $13.6 million.

The Seafirst-National Union litigation is one of several of suits in the early 1980s filed by banks seeking to recover D&O liability insurance proceeds by suing their own employees for misdeeds. Other cases included BankAmerica Corp. and Chase Manhattan Corp.

Those cases were an attempt to make D&O liability insurance respond to first-party claims instead of the third-party claims for which it was designed, Mr. D'Amato said.

Insurers have responded to this legal tactic by excluding coverage for "insured vs. insured" claims, said Dan A. Bailey, an attorney specializing in D&O liability cases at Arter & Hadden in Columbus, Ohio.

Courts generally are upholding the intent of that exclusion, National Union's Mr. Greenberg said.

However, at least one court has ruled that enforcement of the exclusion might defeat a policyholder's "reasonable expectation" of coverage, Mr. Bailey found. As a result, the exclusion may be considered invalid if executives did not sign the policy or did not read it, he said. However, there are "so few decisions, it renders it impossible to predict with certainty," he said.

In addition to the new exclusion, Seafirst-type D&O liability claims also have caused insurers to change their underwriting approach, Mr. Greenberg said.

National Union ceased to follow the forms of some primary D&O liability insurers as frequently when writing excess coverage, he said.

In addition, underwriters are more closely examining bank applicants by scrutinizing financial information supplied by brokers, loan portfolios, analyzing the composition of the board and visiting managers in person to figuratively "kick the tires," he said.

Mr. Bailey said it is unclear whether the expanding D&O liability insurance market will tempt insurers to eliminate the "insured vs. insured" exclusion.

However, Mr. Greenberg said National Union "would not be so foolish as to do that." ■

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Broker revenues

Continued from page 3

Black Corp. in New York.

Mr. Malis said "revenue growth for all brokers was masked by a weaker U.S. dollar and gains in contingency commissions. Those first-quarter bonus payments from insurers were up between 25% and 100%."

According to Mr. Smith, while domestic insurance services revenues for the four largest publicly held brokers—M&M, Alexander & Alexander Services Inc., Corroon & Black and Frank B. Hall & Co. Inc.—were flat or down, their international insurance revenues appeared strong due to the translation of those revenues into U.S. currency.

Marsh & McLennan, the world's largest broker, reported a 6.3% increase in gross revenues in the first quarter of 1988 to $595.3 million from $560 million in the first quarter of 1987. Net income rose 1.3% to $94.1 million from $92.9 million in 1987.

M&M's insurance services revenues—insurance and reinsurance brokerage—declined 0.6% in the first quarter to $385.3 million from $387.8 million in 1987. And revenues from its investment management subsidiary, Boston-based Putnam Cos., declined 9.7% to $64.6 million from $71.5 million in the first quarter of 1987.

But M&M's first-quarter consulting revenues rose 44.4% to $145.4 million from $100.7 million, helping the broker report a revenue gain.

M&M's "strength in the quarter came in consulting, primarily employee benefits," analyst Mr. Rosencrants observed.

"Employee benefits consulting saved the day for them," agreed Shearson's Mr. Smith.

"It's hard to show good revenue growth as a large company when (premium) rates are going down," said Alex Brown's Mr. Malis.

He also pointed out that since M&M has a predominance of jumbo accounts where compensation is based on a negotiated fee vs. commission basis, "they got less of a kick from contingent commissions than other brokers."

M&M's Mr. Bischoff said property/casualty rate reductions and a slight increase in non-renewals due to aggressive market competition "basically negated our new business effort" in the first quarter, though new business was strong.

"We were very pleased with our consulting and investment management results," Mr. Bischoff stressed. He noted that about half of the consulting revenue gain "reflects acquisitions that were not included in last year's revenues, and the other half is attributable to strong growth, particularly in benefits and actuarial consulting."

Mr. Bischoff explained that it is hard to compare Putnam's first-quarter 1987 and 1988 results accurately because the sale of new mutual funds was at a historic high in the first quarter of 1987. But Putnam's assets under management "hit an all-time high of over $43 billion" at the end of the first quarter this year.

"It was a very, very good bottom-line quarter for Putnam," he added.

Continued on next page

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Continued from previous page

M&M's expenses rose 11.9% in the quarter to $432.9 million from $387 million in 1987. That, combined with declines in operating and interest income, caused M&M's pretax income to drop 7.5% to $163.7 million in the quarter from $177 million in 1987.

But, a 17.2% drop in M&M's tax liability to $69.6 million in the first quarter of 1988 from $84.1 million in the first quarter of 1987 permitted the broker to report a net income gain.

New York-based Alexander & Alexander reported a 5.2% first-quarter gross revenue gain to $283.4 million from $269.5 million in 1987. A&A's net income rose 14.6% in the first quarter to $16.5 million from $14.4 million.

The broker's first-quarter 1987 income reflected a gain of more than $6 million on the sale of real estate. First-quarter 1988 earnings reflect an 11.3% decrease in tax liability to $13.3 million, compared with $15 million in 1987.

A&A's expenses rose only 4% in the quarter to $264.6 million from $254.5 million in the first quarter of 1987. About half of the expense increase was attributed to adverse currency exchange rates.

"A&A showed low expense growth, and it would have been lower if the dollar had remained stable," Mr. Malis explained.

The broker was "most definitely" pleased with its ability to hold expense growth to a minimum, said A&A Secretary Frank Wieczynski in Baltimore. "Our expense controls are still in place and will continue to be" throughout 1988, he added.

"Our new business growth was super. It had better be when you're losing commission dollars because of rate decreases," he said.

A&A had some lost business, Mr. Wieczynski acknowledged, noting that this is "not uncommon" in a softening marketplace. "It's sort of the nature of the beast when your client has been burned by insurers for a few years," he said.

A&A's results were "a little better than I had expected," said Mr. Rosencrants. "Their revenue growth was modest but much better than it was in the second half of 1987."

A&A was the only one of the top four publicly held brokers "to show an increase in pretax earnings," said Shearson's Mr. Smith. "Their results were acceptable."

He noted that the broker has done a lot to control expenses, but he is concerned that the hiring and salary freezes that A&A implemented "tend to be temporary in nature and could be explosive."

"I think they are on the right track. They've done a lot. . .to focus on their core business," Mr. Malis pointed out.

Corroon & Black reported a 3.7% gain in gross revenues in the first quarter of 1988 to $106.1 million from $102.4 million in the first quarter of 1987. Net income, though, grew 534.1% to $87.1 million in the quarter from slightly under $14 million in the first quarter of 1987.

Corroon & Black's first-quarter 1988 earnings include a non-recurring aftertax gain of $73.9 million from the sale of its 29.9% stake in Lloyd's of London broker Minet Holdings P.L.C. (*BI*, Feb. 1; Dec. 14, 1987).

Without the effect of this gain, the broker's pretax income from continuing operations fell 11.4% to $21.2 million in the quarter from $23.9 million in 1987.

While the broker did not break out its expense figures in its quarterly report, Mr. Crane estimated total operating expenses rose 8%.

"We're not yet satisfied with the ratio between the growth in our operating expenses and the growth in our revenues," he said. However, he pointed out that expense growth in the first quarter of 1988 is inflated as a result of an acquisition made during the quarter.

"We're looking at 1988 as a difficult year," Mr. Crane added. "New business growth continues at quite satisfactory levels, but the level of lost business also continues to be high. . .as a byproduct of market conditions."

"I think that Corroon will be able to control expense growth to within the limits of their revenue growth," predicted Shearson's Mr. Smith.

According to Mr. Rosencrants, Corroon & Black's results were "modestly disappointing. We had been hoping for better revenue growth but, while new business was strong, their lost business is running at historically high rates for this point in the cycle." He estimated lost business at about 10%.

Mr. Malis said that the cash Corroon & Black now has as a result of the sale of its investment in Minet "makes them a very attractive acquisition candidate. They are a high-class organization. Someone might see the value there," he added.

Briarcliff Manor, N.Y.-based Frank B. Hall reported a 3.4% decline in gross revenues in the first quarter to $102 million from $105.6 million in the first quarter of 1987. Hall's net income dropped 27.4% to $5.7 million in the first quarter of 1988 from $7.8 million in the corresponding quarter of 1987.

However, Hall did manage to curb expense growth as Chairman and Chief Executive Officer Saul P. Steinberg vowed last summer (*BI*, Aug. 24). Expenses grew only 0.4% to $93.9 million in the quarter from $93.6 million in the first quarter of 1987. Hall's tax liability dropped 43.6% in the quarter to $3.3 million from $5.8 million in 1987.

Peter T. Pruitt, president and chief operating officer, said Hall is "very pleased with the quarter. This is probably the first quarter that, from now on, you can compare our results on a quarter-by-quarter basis."

But, he considers it "difficult to compare our top line in 1987 with this year because of our divestitures and the change in focus of our operations."

John A. Addeo, Hall's senior vp and treasurer, noted that the broker's consulting business was "up for the quarter, but reinsurance brokerage operations were down considerably. That operation is going through reconsolidation," he noted and probably will not show the "fruits of those labors until the beginning of 1989."

According to Mr. Addeo, Hall's new business growth outpaced its loss of business for the quarter. The broker has new business incentives and a new business budget in place for 1988 to assure that this growth continues, he said.

Shearson's Mr. Smith views as encouraging that Hall had a "clean accounting quarter. I don't think it's a satisfactory quarter or a precursor to profits," he added.

While Hall's expense control was also encouraging, "as long as their revenues are declining, they have to accelerate their expense reductions," Mr. Smith noted.

"Historically Hall has strong first quarters," Mr. Rosencrants said, which makes it difficult to draw conclusions about the company's performance based on its first-quarter results.

"It's hard to effect a turnaround in a soft insurance market," Mr. Malis observed.

Arthur J. Gallagher reported a strong first quarter, with revenue gains of 13.5% to $36.8 million from $32.4 million in the first quarter of 1987. Gallagher's net income grew 17% in the quarter to $4.1 million from $3.5 million in 1987.

Gallagher reported an 11.4% gain in commission income from its brokerage operations, as well as an 18.7% gain in fee income from its self-insurance administration, claims management and information system services.

Gallagher's earnings increased despite the fact that the broker's tax liability rose 27.3% in the first quarter, unlike the tax reductions realized by other public brokers.

The tax increase was due to two reasons, Mr. Cloherty explained. First, acquisitions the broker made "in 1987 were in high tax jurisdictions such as New York and California." Second, "with the softening market, we were not able to run as much business through our Bermuda operations as we have in the past.

"We're real pleased with our results. We're a new-business company and new business has greatly outpaced our lost business," Mr. Cloherty stressed.

Gallagher has not lost self-insured clients to conventional insurance markets because of rate cutting, he added, because clients are made aware initially that the purpose of these programs is to "show a consistent, year-to-year cost savings" over insurer market swings.

"Their fee income is up, proving that brokers can continue to do this business in a soft market," Mr. Malis agreed, noting that Gallagher "seems to do the best job at this" of any of the brokers.

Richmond, Va.-based Hilb, Rogal & Hamilton Co. reported a 13.8% gain in revenues in the quarter to $11.1 million from $9.8 million in the first quarter of 1987. Net income rose 37.2% to $1.7 million from $1.3 million in 1987.

"We are ecstatic. Our system did extremely well under terribly difficult market conditions," said HRH President Robert H. Hilb.

HRH, which has grown rapidly in the past several years through an aggressive acquisition campaign, plans to "continue in an acquisition mode. That is one way to make up for" a decline in revenues due to the soft market, Mr. Hilb added.

"They have a strategy to grow their way through the soft market and continue to do so (by acquisition). I'm very optimistic about their strategy and they are doing a great job," Mr. Malis said.

Poe & Associates' gross revenues grew 20.1% in the quarter to $10.1 million from $8.4 million in the first quarter of 1987. Net income for the quarter grew 55.4% to $1.9 million from $1.2 million in 1987.

Mr. Poe noted that Poe managed to maintain its expenses at about the same level as in the first quarter of 1987. The broker's earnings were "up as a result of extra commission dollars," he explained.

According to Mr. Poe, contingency commissions in the first quarter totaled about $900,000, compared with about $400,000 in the first quarter of 1987. And Poe & Associates was able to negotiate higher commission rates on a couple of its programs, he said.

"Our new business growth was reasonably strong. Our wholesale programs are doing very well in this market," Mr. Poe added.

He explained that when The St. Paul Cos. Inc. pulled out of the Florida medical malpractice insurance market last year, Poe & Associates arranged with Chicago-based CNA Financial Corp. to write medical malpractice coverage for those health care providers previously insured through St. Paul's program.

"We picked up about $1 million in revenues" on the program, Mr. Poe noted. He estimated that Poe & Associates and CNA wrote about 80% of the business formerly insured by St. Paul.

None of the financial analysts contacted track Poe & Associates' results. ■

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Flex plans curb medical costs: Study

By ALISON KITTRELL

Flexible benefit plans are helping U.S. employers control rising medical care costs, according to a recent survey.

Lincolnshire, Ill.-based consultant Hewitt Associates looked at 206 flexible benefit programs offered by 202 employers nationwide and found that the employers surveyed—all of which had some kind of flexible benefits program—reported health care benefit cost increases that were significantly lower than the national average.

For example, the 163 plans surveyed that offered employees a choice of medical plans reported that the employers' share of overall medical costs rose only 4.2% in 1985. That compares with an overall national increase in employers' medical costs of 8.5% in 1985, according to data compiled by the federal Health Care Financing Administration.

And, the employers' savings have been evident for several years: The Hewitt respondents reported an average health care cost increase of 4.2% in 1984, compared with a national average of 10%. And, in 1983, the survey respondents reported an average decrease of 1.8% in their medical costs, compared with an increase of 11.3% nationally reported by HCFA.

One reason for the savings at companies with flexible benefit plans is that the programs often are introduced as a way of making other cost containment or cost shifting moves—such as increased deductibles or copayments—more palatable to employees.

However, the survey shows that not all the savings experienced by employers with flex plans can be attributed to cost shifting.

For example, the respondents reported that overall medical

Continued on next page

The professional marketplace

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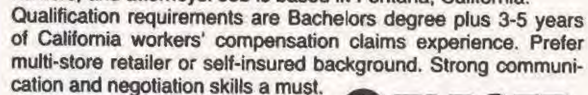

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Forest Agency is looking for a producer/firm with less than 2 million in premiums to purchase. Principals/key personnel joining will be considered. **Dan Browne, 1111 Chicago, Oak Park, IL 60302**

BROKERAGE FIRM WANTED

The New Mexico Association of Counties will be implementing a multi-line property and casualty pool effective January 1, 1989. It is the intention of the Board to select a single agent/broker to negotiate all reinsurance options. Claims and safety contracted providers will also be exclusively selected. **Request for Proposals may be obtained by writing Donna K. Smith, Executive Director, New Mexico Association of Counties, 410 Don Gaspar, Santa Fe, New Mexico 87501.** Completed Proposals accepted no later than May 20, 1988.

HELP WANTED

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25 years' Experience. Will handle assignments: Inspection Reports, Loss Control, Audits P&C Licensed. **Paul Sood, P.E., P.O. Box 277522, Riverdale, IL 60627 312-748-5300.**

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Combined all lines adjusting and management. Eight years experience required minimum. Salary dependent on qualifications. Send resume by 5/31/88 with salary history and requirements to: **City of Shreveport, Department of Finance, P.O. Box 30168, Shreveport, LA 71130, Attention: Claims Manager Application.**

WORKERS' COMPENSATION CLAIMS ADMINISTRATOR

The City of Daytona Beach self-administers its self-insured workers' compensation claims. The qualified applicant must have a Bachelor's degree and three years experience in W.C. claims handling. Experience with Florida Workers' Compensation and Safety is preferred. Salary range $15,704-$24,336 per annum. Equal Opportunity Employer. Please submit resume to: **Risk Manager, City of Daytona Beach, P.O. Box 551, Daytona Beach, FL 32015.**

HELP WANTED

ASSISTANT TO CITY MANAGER
EMPLOYEE SAFETY

The City of Cincinnati is seeking a dynamic, innovative individual to supervise and direct the administration of the employee safety, risk management and employee health services programs. Reports directly to the City Manager. Develops city-wide safety policy, evaluates safety training programs and develops a comprehensive plan to reduce occupational injuries. Must have five years experience as an Industrial Hygienist or Safety Manager performing work of similar complexity to the duties listed above. Must have completed 90 quarter hours at an accredited college in courses closely related to the required duties. Salary range $34,585 to $52,824 per year with excellent fringe benefit package. Applications may be obtained from: **Frank B. Hotze, Personnel Department, City of Cincinnati, 215 City Hall, 801 Plum Street, Cincinnati, Ohio 45202.** Applications must be postmarked not later than May 21, 1988. CITY RESIDENCY REQUIRED AT TIME OF APPOINTMENT. THE CITY OF CINCINNATI IS AN EQUAL OPPORTUNITY EMPLOYER M/F/H. QUALIFIED DISABLED PERSONS ARE ENCOURAGED TO SELF—IDENTIFY AT THE TIME OF APPLICATION AND AT THE EMPLOYMENT INTERVIEW. HELP THE CITY HELP YOU!

NOTICES

MARYLAND DEPARTMENT OF TRANSPORTATION MASS TRANSIT ADMINISTRATION
REQUEST FOR PROPOSAL FOR INSURANCE CONSULTANT BROKER SERVICES FOR OWNER-CONTROLLED INSURANCE PROGRAM FOR BALTIMORE RAIL PROJECTS
CONTRACT NO. MTA 23-92-4

The Maryland Mass Transit Administration is soliciting proposals from qualified insurance consultants/brokers to perform services as the Insurance Administrator for an Owner-Controlled Insurance Program (OCIP). The OCIP will be used for construction of a 1½ mile underground extension of the Baltimore Metro System and may be used for construction of 27-mile light rail system. Proposals are due no later than 4:00 p.m. local time, on June 6, 1988. The Request for Proposal (RFP) document sets forth all details concerning the projects, services required, and proposal preparation requirements. A copy of the RFP for Contract MTA-23-92-4 may be obtained by contacting: **Mr. Nicholas J. Kiladis, Director, Contract Administration Department, Mass Transit Administration, 300 West Lexington Street, Baltimore, Maryland 21201-3415. Telephone (301) 333-4087.** A Pre-Proposal Meeting is scheduled to be held at 10:00 a.m. on May 23, 1988 in the Presentation room on the fourth floor at the above address. Firms wishing to attend this meeting should telephone (301) 333-4087 by May 19, 1988. The Mass Transit Administration hereby notifies all Proposers that, in regard to any Contract entered into pursuant to this advertisement, Minority Business to this Notice, and will not be subjected to discrimination on the basis of political or religious opinion or affiliation, race, color, creed, sex, age or national origin in consideration for an award. Minority Business Enterprises are encouraged to respond to this solicitation notice.

The Professional Marketplace TARGETS your BEST JOB Candidates

Continued from previous page

costs—including the share paid by employees—rose an average of 6.6% in 1985, compared with a national average increase of 8.5% reported by the HCFA.

In 1983 and in 1984, the survey respondents reported total medical cost increases of only 7.2%, compared with the HCFA national average of 11.3% in 1983, and 10% in 1984.

Marianne Brackey, Hewitt's national practice leader for flexible compensation, explained that flexible benefit plans save money because they result in a much more cost-efficient expenditure of employers' benefit dollars.

"What happens under a typical flex plan is that employers give employees some control over how their benefit money is spent," she explained.

"Employers can make employees more satisfied with fewer benefit dollars" by giving them spending control, Ms. Brackey said.

Offering employees a choice also causes the employees to take a hard look at the benefits they need, she said. "As employees have more options, they tend to shop for health care more carefully," she said, noting that also saves employers money.

Containing medical care costs was mentioned second-most often by the survey respondents as the reason for implementing a flexible benefit program.

And, more than half—56%—said their flex programs had helped them to meet that objective.

Only 5% said the cost containment objective was not met, while 39% said it was too early to tell.

The most-often cited reason for implementing a flex plan was to meet diverse employee needs. And, 84% of the respondents said their flexible program had helped them meet that goal, while only 2% said that objective had not been met and 14% said it was too early to tell.

Ms. Brackey said that the double benefit of meeting the needs of a changing workforce and putting the reins on health care costs are leading increasing numbers of employers to implement flex plans.

"The interest has been growing dramatically," she said. "I don't see any reduction in interest, and I think it's building momentum."

Other reasons for implementing flex plans include maximizing the tax-effectiveness of benefits, increasing employee understanding of benefits, reducing benefit expenditures, offering new benefits at little or no cost to employers, controlling other benefit costs, meeting competitive pressures, and facilitating mergers and acquisitions.

The survey authors pointed out that although facilitating mergers and acquisitions is "a recently appearing objective. . .for those organizations that mentioned this as a program objective, 75% ranked it as first or second in importance."

The survey found that a variety of sources were used to finance the programs that offered benefit choices, not including stand-alone flexible spending accounts in which employees have the choice only of whether to participate in a health care, dependent care or legal expense reimbursement. Employee salary reduction was a source of funding in 93% of the choice-making plans, while employer contributions were used in 78%. Some 35% of the plans also used funds gathered from trade-offs among benefits, such as selling vacation time.

And, the survey found that flexible credits or "dollars" were used to purchase benefits in 64% of the choice-making programs.

Flexible plans cover a variety of benefit areas, the survey noted, including:

• Medical care. Some 98% of the flexible plans include an indemnity medical care plan among medical care options, and employers offered an average of three indemnity options.

In 96% of the plans, the employees premium contributions in pretax dollars, while the premium is fully employer-paid in the remaining 4% of the plans.

In addition, 83% of the plans offer at least one health maintenance organization, with the respondents offering an average of six HMO options.

• Dental care. Eighty-three percent of the plans offer dental care. The surveyed plans offered an average of two dental plan options. Employees in 95% of the plans can pay dental plan premium contributions with pretax dollars.

The survey authors also note that dental coverage often is introduced as part of a flexible program: "Of the 138 survey programs that include dental, 15% are offering the benefit for the first time."

• Vision care. Seventeen percent of the plans offer vision care, with an average of one option per plan. And, 93% of the plans allow employees to use pretax dollars to purchase the coverage.

• Life insurance. Group life insurance options are offered by 77% of the plans, with an average of four options available. Seventy-six percent of the plans allow workers to use pretax dollars to pay contributions for group life insurance.

Somewhat fewer—59%—of the plans offer dependent life insurance, with an average of three options available. Pretax dollars can be used to fund this benefit in 58% of the plans.

• Disability coverage. Almost half—48%—of the plans offer long-term disability coverage options, with an average of two options per plan. Seventy-one percent of those plans allow employees to buy LTD coverage with pretax dollars.

• 401(k) plans. Some 57% of the flexible benefit plans offer a 401(k) or capital accumulation plan option.

The employees most likely to be included in a flexible benefit program are full-time salaried and/or exempt employees, who are included in 96% of the plans surveyed. Non-bargaining hourly employees are eligible to participate in 62% of the plans.

Hourly employees covered by bargaining agreements are eligible to participate in only 16% of the plans, but there is an indication that more unionized workers are becoming eligible for flexible benefits: Some 47% of the respondents that have expanded the eligibility of the plan since it was implemented have included bargaining employees, compared with only 28% that have added non-bargaining hourly employees.

"This indicated that bargaining units may be becoming more receptive to choice-making programs," the survey authors say.

In other survey findings:

• Costs for setting up a flexible benefit program increased with the number of employees eligible. For example, costs averaged $26,000 for companies with fewer than 1,000 eligible employees but climbed to $118,000 for companies with 1,000 to 5,000 employees. The average start-up cost was $152,000 for employers with 5,000 to 10,000 eligible employees and $260,000 for plans with more than 10,000 employees eligible.

• A variety of media are used to communicate flexible programs to employees. For example, in the year the plan is introduced, 79% of the respondents used newsletters and highlight brochures, while 71% used personalized enrollment materials, 63% used bulletin board notices and 47% used a videotape presentation.

However, in subsequent years, communication efforts were reduced. For example, only 67% used newsletters and 57% used brochures in subsequent years and only 20% used videotapes. But, 71% continued to use personalized benefit enrollment materials.

• Employees covered by the survey plans expressed high levels of satisfaction. A whopping 84% of the total employees gave the plans a very favorable or somewhat favorable rating.

Only 13% of employees had a mixed reaction to the plans and a mere 3% gave them an unfavorable rating.

Union workers were less enthusiastic, however: Forty-eight percent of bargaining employees gave the plans a favorable rating, but an equal number had a mixed reaction. Still, only 4% of union workers had an unfavorable reaction.

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Copies of "1987 Survey of Flexible Compensation Programs and Practices" are available for $100 each from Cathy Schmidt, Hewitt Associates, 100 Half Day Road, Lincolnshire, Ill. 60015; 312-295-5000.

Stand-alone FSA losing popularity, survey shows

By ALISON KITTRELL

Stand-alone flexible spending accounts—which offer employees no choice in determining benefit levels—are decreasing in popularity, according to a survey by consultant Hewitt Associates.

The survey, "1987 Survey of Flexible Compensation Programs and Practices," shows that while flexible benefit programs in general are popular with employers, fewer stand-alone FSA porgrams are being formed.

For example, 11 surveyed stand-alone FSAs were implemented in 1984 and 12 were started in 1985. But, only half that many—six—were started in 1986.

Employers can offer stand-alone FSAs to reimburse health care or dependent care expenses under Section 125 of the Internal Revenue Code.

Previously, they had been able to also offer group legal benefits through FSAs, but the section of the tax code authorizing employers to provide group legal benefits on a tax-free basis expired Dec. 31, 1987.

The vast majority—84%—of employers with stand-alone FSAs offer both health care and dependent care accounts, according to the survey. Eight percent offer only health care accounts and 2% offer only dependent care accounts. And, 6% offer health care, dependent care and legal expense accounts.

The majority of the stand-alone FSAs are funded by employee contributions. Some 68% of the accounts are funded solely by employees, while 15% use only employer funding and 17% are funded by both employer and employee contributions.

The survey found that, during the 1987 plan year, the average participation rate in stand-alone health care accounts was 31% of eligible employees, and the average employee contribution was $653.

Under federal law, employees must forfeit any funds remaining in a flexible spending account at the end of the plan year. Forfeitures in stand-alone health care accounts in 1986 averaged $16 per employee.

During the 1987 plan year, an average of 3% of eligible employees participated in stand-alone dependent care accounts, with an average contribution of $1,820. The average forfeiture for dependent care accounts in 1986 was $11 per participant.

And, an average of 2% of eligible employees participated in personal legal spending accounts in 1987, with an average contribution of $753.

Employees are pleased with stand-alone spending account programs, though slightly less pleased than employees who have choice-making flexible benefit programs.

Some 79% of employees with stand-alone FSAs gave the programs favorable ratings, compared with 84% of employees in choice-making plans.

Eighteen percent of the employees with stand-alone FSAs had a mixed reaction, while 3% had negative reactions.

Among union employees with stand-alone FSAs, 50% were favorable, 33% had a mixed reaction, and 17% had an unfavorable reaction.

Genentech names Finney risk manager

Robert D. Finney, 30, has been named risk manager for Genentech Inc. in San Francisco. In this newly created position he is responsible for developing a comprehensive risk management program for Genentech, which manufactures pharmaceuticals and is involved in genetic research and development. He reports to Kathy Glaub, assistant treasurer. Prior to joining Genentech, Mr. Finney was an assistant vp/account executive with Fred S. James & Co. of San Francisco and, prior to that, served as risk manager of Esmark Inc./Beatrice Cos. in Chicago. He holds a bachelor's degree in risk management and a master of business administration degree in finance from the University of Georgia at Athens.

* * *

Comings & goings: buyers

Ellen G. Mason has been promoted to manager of insurance at AMAX Central Services, a division of AMAX Inc. in Greenwich, Conn. In this newly created position she is responsible for the development and implementation of corporate policy on insurance and risk management, as well as management of AMAX's North American property/casualty insurance and risk management programs. She reports to Robert J. Ryan, vp-insurance. Ms. Mason, who joined AMAX in 1985 as insurance administrator, most recently served as assistant manager in the insurance department. Prior to joining the mining concern, she held various positions with Marsh & McLennan Inc. and American Standard Inc. She received a bachelor of arts degree from Hamilton College in Clifton, N.Y. In addition, Ms. Mason is a deputy member of the Risk & Insurance Management Society.

Ms. Mason

* * *

William H. Meyerholt has been named corporate director of risk management and loss prevention at The Lubrizol Corp. in Wickliffe, Ohio. In this position he oversees international insurance programs and loss prevention activities at the company's facilities worldwide. He replaces **James G. McMullen**, who left the company, and reports to J.R. Cooper, Lubrizol's controller. Prior to joining Lubrizol, which manufactures specialty chemicals, Mr. Meyerholt served as risk management administrator for Seminole Electric Co. in Tampa, Fla. He holds a bachelor of science degree in engineering from the U.S. Military Academy at West Point, N.Y.; a master's degree in education from Boston University; and a doctorate in education administration from Auburn University in Auburn, Ala. In addition, Mr. Meyerholt holds the Associate in Risk Management and Chartered Property & Casualty Underwriter designations.

* * *

John J. Bayeux, 32, has been named vp and assistant director of risk management at Shearson Lehman Hutton Inc. in New York. In this newly created position Mr. Bayeux is involved in all aspects of the financial services company's risk management program, including directors & officers insurance, bonds and other property/casualty coverages. He reports to Bernard A. Kesselman, senior vp and director of risk management. Prior to joining Shearson, Mr. Bayeux was vp and risk manager at L.F. Rothschild & Co. in New York. Before that he served as senior risk analyst at PepsiCo Inc. in Purchase, N.Y., and has also held risk management positions with Revlon Inc. in New York, and Foster Wheeler Corp. in Livingston, N.J. Mr. Bayeux received a bachelor of arts degree in history and master of business administration degrees from Seton Hall University in South Orange, N.J. In addition, he holds the Associate in Risk Management designation and is a deputy member of the Risk & Insurance Management Society.

* * *

Gary G. Gillham, 46, named director of risk management and insurance at Inspiration Resources Corp. in New York. In this position he oversees the diversified natural resources company's property/casualty insurance, safety and risk management programs. He replaces **Stephen Giles**, who left the company, and reports to Denis B. Brady, senior vp and chief financial officer. Prior to joining Inspiration, Mr. Gillham served as corporate director of risk management at ADT Inc. in New York and before that held a

Continued on next page

Product liability

Continued from page 3

has had only a "minimal" impact on their company.

Companies feeling a major impact are those that have experienced or anticipate five or more of the following eight adverse effects:

- Plant closures.
- Discontinuation of an existing product or products.
- Layoff of employees.
- Loss of market share.
- Discontinuation of research on liability-prone product lines.
- Movement of production to an overseas location.
- A decision not to introduce newly developed products.
- A decision not to acquire or merge with another company.

Companies experiencing a moderate impact were those that had experienced some cost increases and at least four of the adverse consequences.

Companies experiencing a minimal impact had no cost increases above 2% and no direct experience with any of the adverse effects.

In addition to the effect on their individual company, 45% of the respondents said their industry was feeling a major impact from the product liability system, while 39% described the effect on their industry as moderate and 16% said their industry was only minimally affected.

In some cases, the effect is concrete, reflected in plant closings, product discontinuations and worker layoffs.

For example, 47% of the survey's respondents said they have discontinued product lines as a result of product liability problems, while 16% said they have laid off workers and 9% said they have closed plants.

In addition, 22% said product liability issues have caused them to decide against a merger or acquisition, and 22% said they have lost market share as a result.

In fact, some of the executives said they felt entire industries may be driven out of business by rising product liability costs.

The president of a major sporting goods company said: "All recreation activities now conducted in an organized format will likely be discontinued as parks, schools, camps, Boy Scouts, etc., are unable to obtain insurance. Not only our company, but an entire industry, could well be eliminated."

Product liability problems also are hurting U.S. manufacturers' ability to compete on an international scale. The huge product liability costs that U.S. manufacturers pay are not, by and large, shared by manufacturers in other countries, the executives said.

Some 49% of the executives said the U.S. product liability system has had a major impact on the country's international competitiveness, while 37% described the impact as moderate, and only 14% said it has had a minimal effect.

Even more executives expect product liability issues to play a greater role in the future by eroding the U.S. position abroad: Seventy-five percent said product liability would have a major impact on future U.S. international competitiveness, while 21% said the future impact would be moderate, and only 4% said product liability would become a less-significant factor.

The chairman of a company with more than 25,000 U.S. employees said: "This (the product liability system) is an extremely serious problem in the context of U.S. competitiveness. It needs urgent attention."

The product liability situation has had another global impact on U.S. employers: Four percent of the respondents said it has caused their company to move production offshore.

The product liability system is affecting research of new products, as well as existing products. For example, 25% of the respondents said their company had discontinued product research as a result of the product liability situation, and 39% said they had decided against introducing a new product.

"We have been forced to discontinue sale of therapeutically beneficial drugs because of excessive product liability costs," a drug manufacturer said. "In the future, unless balance is restored to the product liability system, more and more health care companies will be deterred by liability concerns from pursuing certain areas of research and introducing innovative new products.

"Ironically, the victims of the excesses of the product liability system will be the consumers, the very persons the system purports to protect," the executive said.

Twelve percent said their company raised its prices to cover all the added costs related to product liability, while 22% said it absorbed some of the cost increase itself but raised prices to cover the remainder, 48% said their company absorbed all of the increase and 18% said it took some other action.

Some 38% of the respondents said the product liability situation has had a major impact on their company's direct costs, such as liability insurance costs, product-related litigation costs and payment of claims and court awards. In addition, 36% of the respondents reported a moderate impact on their company's direct costs, and 26% said the impact was minimal.

The largest number of respondents, 30%, said the average increase in direct costs from 1984-87 was more than 20%. Some 27% said the increase averaged 3% to 5%, and 23% said it averaged 1% to 2%.

In addition, 12% said the average increase in direct costs from 1984-1987 was in the 6% to 10% range, 6% said the cost increase ranged from 11% to 20% and 2% said the cost increase was less than 1%.

One of the major cost increases reported was for liability insurance.

"Virtually all companies surveyed report increases in insurance costs. But several also face availability problems: Their insurance has been canceled and they cannot get a new policy. Other companies have been faced with such drastic increments in cost that they could not afford to buy insurance and also stay in business," the survey said.

In response to rising insurance costs, roughly one in seven companies—15% of the survey respondents—said their company has opted not to buy product liability coverage. An additional 15% formed captive insurers. And, 70% continued to purchase commercial insurance but faced drastically increased premiums, severely lowered limits or both.

In addition to increases in direct costs, some 35% of the respondents said product liability has had a major impact on their general and administrative costs, while 40% said the impact was moderate, and 25% said it was minimal.

Some 29% put the average increase from 1984-87 at 1% to 2%, and an equal number said the average increase ranged from 3% to 5%. Sixteen percent said the increase was more than 20%, 14% said it was from 6% to 10%, 10% said it was from 11% to 20%, and 2% said the increase was less than 1%.

A major indirect cost of product liability was the cost of executives' time spent on legal concerns.

"Among the reasons that chief executives are adamantly opposed to the current product liability system is the enormous tax it exacts on executives' time. Senior executives are often called on to testify—both in depositions and in court—on products their company has manufactured," the survey noted.

"Although companies win a majority of cases, the process of defense nonetheless absorbs significant amounts of executives' time," the survey said.

In addition, the product liability system exacts a toll because its unpredictable nature makes corporate planning extremely difficult, the respondents said.

One of the respondents, the president of an aerospace products company, said: "The primary impact results from uncertainty, which makes rational business planning impossible. We're defending suits, involving ancient products, with claims that were totally unforeseen when the products were designed and sold and when insurance was purchased. It is impossible to predict what future application of product liability law will be made to today's products. . . .We can take no adequate precautions against future liability."

The respondents did see some positive effects of the current product liability situation: Some 47% of the respondents said their experience with the product liability system had caused them to improve product usage and warnings, while 35% said they had improved the safety of their products and 33% said they had redesigned some product lines.

Even companies without any actual experience with the system cited some beneficial results: Twenty-one percent said their company had improved product usage and warnings, 19% said it had improved product safety and 13% said it had redesigned product lines.

But, many of the respondents also noted that such safety improvements and redesigns very likely would have happened in the normal course of business.

And, the overwhelming majority of the executives surveyed expect the product liability situation to become worse: Two-thirds said product liability will have an even greater impact on their company in the future than it currently has, while only 2% expect it to decrease in significance.

Many also are increasingly doubtful of the chance for product liability reform, at least partly because of attorney opposition.

"Congress is controlled by lawyers, and lawyers are getting rich quick on product liability cases. No action is likely to occur except to try to shift the blame to the insurance industry," commented the president of a diversified manufacturing firm.

Despite their cynicism, most of the respondents agree that tort reform is the best way to correct product liability problems.

The respondents ranked their top 10 desired tort liability reforms in order of significance:

- Replacing strict liability with a fault-based system.
- Curtailing or eliminating joint and several liability.
- Capping damages for pain and suffering.
- Capping on punitive damages.
- Limiting attorneys' contingency fees.
- Limiting the time span during which a suit can be filed.
- Allowing use of the state-of-the-art defense, under which manufacturers claim they are not liable because they could not have known of a problem or defect based on the technology in existence at the time a product was made.
- Including collateral source payments when calculating award payments.
- Federal pre-emption of state tort liability laws. Federal product liability reform ranked low because many executives believe that state reform would be more meaningful and they wish to avoid more federal intervention.
- Applying antitrust laws to the insurance industry. The ranking of this as the least-desired reform indicates that the executives feel that the tort system, rather than insurers, is primarily to blame for problems in product liability, the study said.

The respondents also were asked to rank the proposed reforms according to which they felt were most likely to occur. Their top choice—replacement of strict liability with a fault-based system—falls to No. 7 in this ranking, indicating many of the executives believe that the concept of strict liability is too strongly entrenched in U.S. law to be easily pushed out.

The reforms that the executives consider most likely are:

- Caps on punitive damages.
- Inclusion of collateral source payments.
- Caps on damages for pain and suffering.
- Curtailment or elimination of joint and several liability.
- Limiting the time during which a suit may be filed.
- Allowing use of the state-of-the-art defense.
- Replacing strict liability with a fault-based system.
- Federal pre-emption of state tort liability laws.
- Limiting attorneys' contingency fees.
- Application of antitrust laws to the insurance industry.

The respondents also recognize that product liability reform is extremely complex and that there are no simple answers.

"There is clearly no quick fix for the nation's product liability dilemma," said Mr. McGuire, the survey's author. "Only broad-based action, including tort reform, changes in the design of some products and improved training and instruction, are likely to keep this country's companies and its people out of the courts."

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Copies of The Conference Board survey, "The Impact of Product Liability," are available for $15 for Conference Board associates, non-profit organizations and government agencies, and $60 for other companies. To order, request Report No. 908 from The Conference Board, Publications Unit, 845 Third Ave., New York, N.Y. 10022; 212-759-0900.

Comings & goings: buyers

Continued from previous page

similar position with Baker Industries Inc. in Parsippany, N.J. Mr. Gillham received a bachelor's degree from Elizabethtown College in Elizabethtown, Pa., and a master's degree in occupational safety and health from New York University. In addition, Mr. Gillham holds the Chartered Property & Casualty Underwriter designation.

* * *

Steve Johnson, 35, has been named risk manager at Mosler Inc. in Hamilton, Ohio. In this position he oversees property/casualty insurance and risk control. He replaces **Dave Peterson**, who retired from Mosler, and reports to Richard Gamble, vp-human resources. Prior to joining Mosler, which produces electronic and physical security systems and services, Mr. Johnson served as a safety/risk management consultant for Federated Department Stores Inc. in Cincinnati and a safety consultant for Commercial Union Insurance Co. He received a bachelor of science degree in biology from the University of Washington in Seattle and is pursuing a master of business administration degree at Xavier College in Cincinnati. In addition, Mr. Johnson holds the Associate in Risk Management and Certified Safety Professional designations.

* * *

Elisha W. Finney, 27, has been named risk manager for Varian Associates Inc. in Palo Alto, Calif. In this newly created position she oversees worldwide property/casualty insurance programs for the manufacturer of communications, defense, scientific and medical systems and components. She reports to James A. Taylor, treasurer. Prior to joining Varian, Ms. Finney served as risk manager of The Fox Group Inc. in Foster City, Calif. Prior to that she worked in the risk management department of Esmark Inc./Beatrice Cos. in Chicago. Ms. Finney received a bachelor of science degree in risk management from the University of Georgia at Athens and served an internship at Lloyd's of London. She is a deputy member of the Risk & Insurance Management Society and is working toward her Chartered Property & Casualty Underwriter designation.

* * *

William J. Pazely, 26, has been named risk management analyst at General Binding Corp. in Northbrook, Ill. In this newly created position he is responsible for the daily administration of General Binding's property/casualty insurance, as well as the financial analysis of life and health insurance coverages. He reports to Perry S. Zukowski, director of corporate risk management. Prior to joining General Binding, Mr. Pazely worked for Auto Owners Insurance Co. in East Lansing, Mich. He received a bachelor's degree in business and communications from Michigan State University in East Lansing.

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We'd like to report on staff changes in your company's risk management, safety and employee benefits departments. Just drop a note to Paul Winston, copy editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590, or call 312-649-5442. Please send a photograph, too.

N.Y. guaranty fund

Continued from page 2

State of New York, et. al.

Besides the $87 million appropriated from the guaranty fund, the insurance industry also sought the return of $60 million appropriated from the Aggregate Trust Fund, a fund that pays workers compensation death benefits to which insurers can transfer their liabilities for lifelong payments to beneficiaries, and $67 million appropriated from the Stock Workers Compensation Fund. That fund, which is financed by insurers, guarantees payment of work comp benefits if a work comp insurers is declared insolvent.

In February 1985, the state Court of Appeals—the state's highest court—ruled the state did not have to return the money appropriated from the property/casualty guaranty fund, stating, in effect, that the fund did not then need the money (*BI*, March 4, 1985).

The court said the possibility that insurers may have to contribute additional funds because of the appropriation in the future "is nothing more than speculation in light of the history of the funds."

The U.S. Supreme Court subsequently refused to hear the case.

A separate case decided simultaneously by the appellate court involved the transfer of $190 million from the State Insurance Fund, the state's competitive workers compensation fund.

"Under the current circumstances, the state is not required to pay the money back" to the property/casualty guaranty fund, said a spokesman for New York Gov. Mario Cuomo. He pointed to Section 7603 of the state insurance law, which permits appropriations of the guaranty fund by the state's general fund.

"Do you think they should be allowed to take money and never give it back?" asked Mr. Foley of AIG, which was among the companies that brought suit against the state following the 1982 appropriation. "This is a disgrace."

Insurers say that because the impact of the state's $87 million appropriation is clearly no longer speculative, they may file another joint suit against the state.

"We are looking into the matter," said Ken Nails, senior vp and general counsel for the Alliance of American Insurers, which was one of the plaintiffs in the 1982 case. "I'm sure we'll make a decision on litigation within a week."

Mr. Nails pointed out that if insurers decide to file suit, they will have to determine whether to seek the return of only the $87 million or the principal plus the interest it could have generated over the past six years.

Phillip Schwartz, vp-financial reporting and associate general counsel at the American Insurance Assn. said the AIA also is considering filing suit against the state.

"We're checking with our members now just to see whether we would go further," he said.

"We are looking at it," an official of the Royal Insurance Group in Charlotte, N.C., said of the guaranty fund assessment, adding that bringing suit is "one option."

August P. Alegi, vp and deputy general counsel for GEICO Corp. in Washington, D.C., which participated in the 1982 case, said that while no decision has been made on filing a suit, he believes the insurers would have a "fairly good chance of winning."

Thomas P. Bonaros, vp and general counsel for Utica Mutual Insurance Co. in New Hartford, N.Y., which was also a plaintiff in the 1982 appropriation litigation, said the state guaranty fund is now facing "the very kinds of circumstances for which the fund was created years ago. The only problem is, the money wasn't there, because it had been transferred out."

"I think it's a very important issue because ultimately, people pay for these things in the form of a premium. It's not a free ride," Mr. Bonaros said.

"Monies which are committed and set aside for a specific purpose should only be used for that purpose," said Seymour L. Morgenroth, vp at Interboro Mutual Indemnity Insurance Co. in Mineola, N.Y., another plaintiff in the 1982 case.

"You've got to keep the state away from the pre-assessment money. The money shouldn't be touched. It was collected for a purpose," agreed Joseph P. Decaminada, executive vp, secretary and general counsel for New York-based Atlantic Mutual Insurance Co., also a plaintiff in the case.

"They've got to exercise fiscal integrity. They're robbing Peter to pay Paul. States shouldn't do this. It's improper conduct," he said.

Mr. Decaminada supports the idea of assessing insurers to prefund the guaranty fund. That way, instead of levying assessments during bad times, which is when many insurers become insolvent, the money is already sitting in the bank, he explained.

He speculated the state's 1982 appropriation from the fund probably is one reason that other states have not followed New York's lead in establishing pre-assessment guaranty funds. "Why tempt the state legislature to come in and take the money?" he asked.

Mr. Decaminada said Atlantic Mutual has not yet estimated how much it will be assessed, but he said the assessment will be significant for all insurance companies. "It won't be change. It'll be a bite." ■

Collision damage waivers

Continued from page 2

charges for loss of use assessed by the car rental companies while a damaged car is being repaired (*BI*, March 9, 1987).

Hertz in mid-March became the first car rental company to call for state regulation of CDWs, Mr. Olson said. "At that time, our emphasis was on sales practices relating to CDW, including the use of coercion and intimidation by some rental car companies," he said in a statement.

However, after meeting with state attorneys general and state legislators, Hertz concluded that the monitoring and control of sales practices "would be difficult at best and that many of the abuses would persist even in the face of such regulation."

"We are now convinced that the only way to safeguard the renter from such abuses in the sale of CDW is to eliminate it," he added.

The issue of rental car abuses is a sensitive one for Hertz.

In January, the New York-based company announced that it was in the process of returning $13 million to customers who were overcharged by damage incurred to rental cars that were not covered by CDWs for several years prior to 1985 (*BI*, Feb. 1).

The proposals to eliminate CDWs would not affect the sale of other types of coverage, including liability insurance, by rental car companies. These coverages also sometimes duplicate a renter's personal coverage, critics have charged. ■

Datebook

MAY 16. How to Form an Offshore Insurance Company seminar in Philadelphia, co-sponsored by Rossiter Blumentritt Consultants and Cayman Business Services; $195 in advance; $210 at door. Rossiter Blumentritt, P.O. Box 12844, Austin, Texas 78711; 512-472-7659.

MAY 16-18. Corporate Benefits conference in New Orleans, sponsored by the International Foundation of Employee Benefit Plans, $605 for IFEBP members; $680 for non-members. **Also Aug. 1-3** in Monterey, Calif., and **Sept. 14-16** in Atlanta. International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 63008-0069; 414-786-6700.

MAY 16-20. Developing and Managing a Basic Safety and Health Program course in Long Grove, Ill., sponsored by the National Loss Control Service Corp.; $750. **Also Sept. 12-16, Oct. 24-28.** National Loss Control Service Corp., K-3, Long Grove, Ill. 60049-0075.

MAY 17. Peer Review in Today's Health Care Environment conference in Chicago, sponsored by the Joint Commission on Accreditation of Healthcare Organizations; $300; $275 for additional registrants from same organization. Cashier, Joint Commission on Accreditation of Healthcare Organizations, 875 N. Michigan Ave., Chicago, Ill. 60611-1846; 312-642-6061 extension 616.

MAY 17. Questions on the CGL and CP Policies? Ask the Claims Department seminar in Rochester, N.Y., sponsored by the Society of Chartered Property & Casualty Underwriters; $85 for Society of CPCU members; $105 for non-members. **Also May 24** in Allentown, Pa. Bonnie Kinsley, Society of CPCU, 720 Providence Road, CB#9, Malvern, Pa. 19355; 215-251-2735.

MAY 18. Health Care in the '80 and '90s: What Employers Want workshop in Chicago, sponsored by Health Research Institute; $495. Workshop coordinator, Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

MAY 18. Communications/Education and Advanced Cost Containment Workshops in Chicago, sponsored by Health Research Institute; $250. **Also June 17** in Dallas and **June 20** in San Antonio, Texas. Workshop coordinator, Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

MAY 18-19. 101 Ways to Cut Business Insurance Costs Without Sacrificing Protection seminar in Honolulu, sponsored by International Risk Management Institute Inc.; $498. **Also June 8-9** in Tampa, Fla. International Risk Management Institute Inc., 12222 Merit Drive, Suite 1660, Dallas, Texas 75251-2217.

MAY 18-20. Fundamentals of Insurance course in Denver, sponsored by the Risk & Insurance Management Society Inc.; $495 for RIMS members; $595 for non-members. **Also Sept. 26-28** in New York City, **Dec. 5-7** in Charlotte, N.C. RIMS Education Department, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

MAY 19-20. Health Care Cost Containment Workshop in Chicago, sponsored by Health Research Institute; $495. **Also June 15-16** in Dallas and **June 21-22** in San Antonio, Texas. Workshop coordinator, Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

MAY 19-20. Managing the Cost of AIDS: Case Management and Home Care seminar in San Francisco, sponsored by the American Medical Care and Review Assn.; $275 for AMORCA members; $375 for non-members. AMORCA, 5410 Grosvenor Lane, Suite 210, Bethesda, Md. 20814.

MAY 20. The Future of Health Care: Public Policy and Trends seminar in Boston, co-sponsored by The Boston Globe, Massachusetts Health Data Consortium Inc., WBUR Radio, WNEV-TV and the Challenge to Leadership Project; $75. **Also June 24.** Massachusetts Health Data Consortium Inc., 400-1 Totten Pond Road, Waltham, Mass. 02154.

MAY 24-25. Ergonomics and Job Modifications course in Long Grove, Ill., sponsored by the National Loss Control Service Corp.; $350. **Also Sept. 20-21.** National Loss Control Service Corp., K-3, Long Grove, Ill. 60049-0075.

MAY 25-28. Eastern Assn. of Workers Compensation Boards and Commissions Annual Conference in Columbus, Ohio; $125 for EAWCBC members; $135 for non-members; $75 for guests. EAWCBC, Lawrence J. Whalen, Conference Coordinator, The Industrial Commission of Ohio, Division of Safety and Hygiene, 246 N. High St., Columbus, Ohio 43215.

MAY 26. Harold H. Hines Jr. Memorial Symposium in Chicago, co-sponsored by the Chicago chapter of the Risk & Insurance Management Society and the Insurance School of Chicago; free. Insurance School of Chicago, 312-427-2520.

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The Datebook is compiled from notices sent to Business Insurance. Notices should be sent at least eight weeks in advance to Datebook, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. Please include the price, if any, of the meeting and information on registration for interested readers. Business Insurance reserves the right to select meetings of most interest to its readers and cannot guarantee that notices will be printed.

Update

Chrysler to pay in Jeep suit

Continued from page 2

verdict (*BI*, April 7, 1986).

A Chrysler spokesman said the company has insurance to cover the settlement but did not provide details. However, Chrysler and AMC agreed last year to share liabilities for accidents stemming from the Jeeps (*BI*, March 16, 1987).

AMC reported it carried a $2 million per occurrence/$20 million annual aggregate self-insured retention in 1985 and purchased excess coverage from several insurers.

Minnesota allows tobacco suits

MINNEAPOLIS—Tobacco companies can be sued in Minnesota for damages related to smoking-related diseases, according to a May 3 state appellate court decision.

The decision marks the first time an appeals court has ruled that tobacco companies are not shielded from liability for smoking-related diseases by the 1966 federal law requiring warnings on cigarette packages, said Richard Daynard, chairman of the Tobacco Products Liability Project in Boston.

The Minnesota Court of Appeals unanimously overturned a July 1987 decision by the Hennepin County District Court in *Forster vs. R.J. Reynolds Tobacco Co.* that said the federal warning law preempted a plaintiff's right to sue a tobacco manufacturer, explained plaintiff's attorney Michael L. Weiner, with the Minneapolis firm DeParcq, Hunegs, Stone, Koenig & Reid.

Reynolds, a unit of RJR Nabisco Inc., plans to appeal.

Lloyd's may seize deposits

LONDON—Lloyd's of London is preparing to seize the deposits of members of loss-riddled syndicates formerly managed by Oakeley Vaughan (Underwriting) Ltd. unless they pay assessments within the next month to cover losses dating from the early 1980s.

Lloyd's Members Solvency and Security Department sent letters last week to some members of the Oakeley Vaughan syndicates asking them to pay assessments within 30 days.

If members do not to respond, Lloyd's will draw down on their deposits, according to the letter.

All Lloyd's members are required to deposit with Lloyd's at least 20% of their premium limits.

Losses from Oakeley Vaughan syndicates total at least 20 million pounds ($37.5 million), and many of the 190 syndicate members are refusing to pay. About 50 members are embroiled in litigation with Lloyd's over the losses (*BI*, Feb. 15).

This is the second deadline imposed this year by Lloyd's for the Oakeley Vaughan members to pay outstanding assessments. However, this is the first time Lloyd's has warned members that it will draw down on deposits, sources say.

Bond fraud investigated

CLEVELAND—The FBI is investigating two construction bonds issued by the defunct Merchants & Manufacturers Insurance Co.

Beachwood, Ohio-based Merchants, ordered into liquidation in 1986, issued the bonds on a failed construction project in Princeton, Minn., and on a housing project in the U.S. Virgin Islands.

Before it entered liquidation, Merchants had denied a $1 million claim on the Minnesota bond, which the insurer's former president called a forgery. The Virgin Islands bond, which was rejected by the island's housing authority, was also found not to be valid.

Merchants was licensed to write business only in Ohio, and the insurer's liquidators have found no record that the company ever received premiums on the bonds.

Briefly noted

The New York Insurance Department will withdraw its petition to liquidate New York Insurance Exchange syndicate **KCC New York Syndicate Corp.** if commutation agreements reached with between 30 and 40 of its insurers are completed, said Don Kramer, one of KCC's principal equity owners (*BI*, Feb. 8). KCC will pay the insurers $3.5 million in exchange for removing the loss liabilities from its books, he said. A hearing on the department's liquidation petition is set for Nov. 30. . . .**Union Carbide Corp.** is suing more than 50 of its liability insurers for the costs of cleaning up 19 hazardous waste sites in the United States and Puerto Rico. . . .Aetna Casualty & Surety Co. and four other insurers battling with **Diamond Shamrock Chemicals Co.** have appealed the December ruling that cleanup costs are damages under comprehensive general liability policies (*BI*, Jan. 25). . . .Bermuda Premier John Swan met last week with President Reagan for a briefing on the status of the **proposed U.S.-Bermuda tax treaty**. The accord, stalled in the Senate since November 1986, would waive current federal excise taxes on premiums paid by U.S. companies to Bermuda insurers. . . .The 8th U.S. Circuit Court of Appeals on May 4 denied a petition for rehearing of its full court decision in *Continental vs. NEPACCO* that CGL policies do not cover the cost of government-mandated hazardous waste cleanups at **Times Beach, Mo.** (*BI*, March 7). . . .The Pennsylvania Insurance Department has filed a confidential report with the Commonwealth Court of Pennsylvania to consider before directing regulators to either rehabilitate, liquidate or continue working on a rehabilitation plan for **Mutual Fire, Marine & Inland Insurance Co.** . . .Under an agreement with the California Insurance Department, National American Insurance Co. of California will assume the policyholder liabilities of **Mission American Insurance Co.** and its subsidiary, Compac Insurance Co. In return, NAICC, a subsidiary of Rancho Dominguez, Calif.-based KCP Holding Co., will receive certain assets of Mission American and Compac. . . .**Leo M. Walsh Jr.** resigned late last week as chairman of Equicor, the joint venture between Equitable Life Assurance Society of the United States and Hospital Corp. of America.

Purchasing group ruling

Continued from page 1

- North American Horse Assn. Inc.
- American Internist Purchasing Group.
- American Physicians Purchasing Group.
- American Dental Purchasing Group.
- American Part-Time Physicians Purchasing Group (*BI*, Sept. 14, 1987).

Frontier filed the lawsuit in January after the Iowa Insurance Division ruled that a purchasing group is located where its members are located. Under that interpretation of the Risk Retention Act, Iowa insurance regulators said they could require Frontier to be an admitted or authorized surplus lines insurer before it could sell insurance to Iowa members of a purchasing group domiciled in another state.

The Insurance Division initiated the controversy by summoning Frontier and 22 other insurers who had intended to write insurance for purchasing group members in Iowa to an administrative hearing last September to determine whether they should be fined for violating the state's Unauthorized Insurers Act (*BI*, Aug. 17, 1987; Aug. 3, 1987; July 27, 1987).

Most of the insurers summoned by the Insurance Division agreed not to sell insurance to purchasing group members in Iowa. Others planned to become eligible surplus lines insurers in the state or to write purchasing group business through eligible insurers.

However, Frontier filed suit, arguing that a purchasing group should be considered "located" only in the state where it is domiciled.

In its decision written by U.S. Magistrate Ronald E. Longstaff, the court rejected Frontier's argument and instead granted the Insurance Division's motion for summary judgment.

The court noted that the Risk Retention Act specifically pre-empted a limited number of identifiable state laws that prevent the establishment and functioning of purchasing groups.

"However, because the bulk of the testimony at these (congressional) hearings dealt with risk retention groups instead of purchasing groups, it is difficult to construe the breadth of pre-emption of state laws relating to the latter entity to the degree of absolute certainty," the decision said.

Since the court found "no outright conflict between federal and state law in this case. . .requiring plaintiff Frontier to be licensed in Iowa before offering insurance coverage to Iowa purchasing group members does not conflict with these exemptions," the decision continued.

'We fully support the Risk Retention Act and its purpose. However, I do not believe that Congress intended to allow insurers to skirt the licensing process,' says Iowa Commissioner William Hager.

"This licensing is necessary as an important safeguard for a state's citizens," the decision said. "Iowa citizens covered by a carrier licensed in Iowa have the additional protection of the Iowa Guaranty Fund Coverage in the event the insurer becomes insolvent. This protection would not be available if plaintiffs' interpretation of located is adopted.

"The absence of protection by the Iowa Guaranty Fund concerns not only Iowa residents who become members of purchasing groups covered by non-admitted carriers but also could affect potential claimants who might seek redress against Iowa resident members. Without licensing, these claimants are unprotected by Iowa's guaranty fund," the magistrate wrote.

Iowa's Mr. Hager shares the magistrate's concern. "Licensure is imperative to effective regulation and consumer protection," he said.

Without licensure, insurers could form their own purchasing groups and use them as a means to gain entry into states where they were not licensed, Mr. Hager added.

"We fully support the Risk Retention Act and its purpose. However, I do not believe that Congress intended to allow insurers to skirt the licensing process," he added.

A large number of insurance companies providing coverage to risk purchasing groups are likely to fail over the next few years, Mr. Hager predicted at last month's 26th annual Risk & Insurance Management Society conference in Washington, D.C. (*BI*, May 2).

As many as 60% of the insurers writing coverage for purchasing groups either are not listed or are unrated by A.M. Best Co., he pointed out at the conference.

While Frontier is listed in the 1987 Best's Insurance Reports, it has not been assigned a rating because it "has an insufficient number of years of representative operating experience for rating purposes."

Frontier now must decide whether to appeal the decision. It also faces charges brought by the Iowa Insurance Division that it operated as an unauthorized insurer.

Frontier has not yet determined its strategy, Mr. Tepper said.

One option the insurer has is to seek authorization as an admitted or an eligible surplus lines insurer, although as a surplus lines insurer it would be required to use brokers or agents, which could increase its costs.

In addition, Frontier could lobby Congress to seek a favorable clarification of a purchasing group's "location."

Frontier's arguments already are contained in a U.S. Commerce Department report that recommended Congress clarify that a purchasing group should be regulated only in its state of domicile and not in every state where a member of the group is based, said Edward T. Barrett II, a Commerce Department official who co-authored the report (*BI*, Oct. 5, 1987). The Iowa court decision does not change that recommendation, he said.

James Sackett, president of the National Risk Retention Assn., said the decision will make it "extremely difficult" to follow Congress' intent of simplifying the purchase of group insurance. He stressed that the Risk Retention Act of 1986 was designed to allow buyers to band together to buy all types of commercial liability coverages, except workers compensation, from an insurer with minimal oversight by state regulators.

However, the Iowa court decision will not directly affect any Iowa insurance buyers because Frontier currently is not writing business for any purchasing group members in the state. It had written a few policies, but did not renew them as part of an an agreement with the Insurance Division.

But there will be more direct buyer impact assuming a similar verdict is rendered in a nearly identical case brought against the Iowa Insurance Division by United International Insurance Co. of Warwick, R.I., and Swanco Insurance Co. in Tucson, Ariz., said attorney John Schachterle of Hopkins & Huebner in Des Moines.

UII currently writes coverage for purchasing group members in Iowa through the National Federation of State High School Associations Inc. and the Sports Risk Purchasing Group. ■

Liquidator sues Bercanus' ex-president

By ROGER SCOTTON

HAMILTON, Bermuda—The liquidator of Bercanus Insurance Co. Ltd. is suing the company's former president, Neill Portermain, for fraud, negligence, breach of fiduciary duty and violations of the Racketeer Influenced Corrupt Organizations Act.

The suit also names Mr. Portermain's wife, who was co-director of Bercanus.

Bermuda-based Bercanus put itself into liquidation on March 11, 1985, when it was found to be insolvent by about $35 million.

The action filed by liquidator Chris Whittle in U.S. District Court in Dallas seeks to recover about $10 million allegedly channeled from the company by the Portermains.

Mr. Portermain, reached at his home in McKinney, Texas, refused to comment on the litigation.

Bercanus, incorporated in Bermuda in April 1970, wrote medical malpractice insurance and excess-of-loss reinsurance for U.S. risks. It was a wholly owned subsidiary of United Nebraska Investors, a Nebraska company owned and controlled by Mr. Portermain.

In June 1978 Mr. Portermain organized a producer agreement between Bercanus and South Rock Ltd., another Bermuda-based company he controlled, the suit alleges. The agreement required Bercanus to pay South Rock commissions of between 20% and 30% on business it purportedly placed with Bercanus.

However, Mr. Portermain did not disclose his interest in South Rock to the Bercanus board, the suit says.

In October 1979, Mr. Portermain organized a two-year agreement under which South Rock would manage Bercanus, the suit alleges. Under this arrangement, Bercanus was to pay South Rock an annual fee equal to 5% of gross premiums plus commissions received by Bercanus.

The suit charges that these payments were privately fixed at $1 million a year, irrespective of the level of underlying business. Between May 1978 and December 1983 Bercanus paid South Rock a total of $4.8 million in commissions and fees, the complaint alleges.

South Rock, in turn, paid dividends of about $3.4 million directly or indirectly to Mr. Portermain and another $600,000 to other South Rock directors and shareholders, according to the suit.

"Both the producer agreement and the management agreement were shams contrived and used by Mr. and Mrs. Portermain and other conspirators to loot Bercanus and to steer funds rightfully belonging to Bercanus to South Rock. These funds were then passed through South Rock as dividends or other payments to Mr. and Mrs. Portermain," the suit says.

The Portermains steered funds 'belonging to Bercanus to South Rock,' the suit says.

"South Rock did not, nor at any time was it in a position to, render any genuine services of any substantial worth to Bercanus," the suit charges.

South Rock merely acted as a conduit for business already destined for Bercanus, the suit says, adding that this business was almost exclusively produced by Portermain-controlled entities in the United States.

The suit also alleges that the Portermains arranged fraudulent quota-share reinsurance deals in 1978 and 1979 between Bercanus and shell corporations in the Cayman Islands and Panama that the Portermains directly or indirectly owned or controlled, including Avis Insurance, Canadian Republic & Province Co., Property Special Services Co., Security Exchange Co., Taylored Investors Development Co. and Western Home & Overseas Exchange.

All were owned, according to the suit, by Plano Real Property Investments Inc., a Portermain-owned Texas company.

These companies were not bona fide reinsurers but were set up "for the purpose of funneling monies out of Bercanus under the guise of being premiums for reinsurance," the suit says, adding that more than $1.2 million was transferred to these companies during the 1978 and 1979 treaty years.

The suit also alleges that Mr. Portermain caused Bercanus to enter into a limited partnership agreement in October 1981. The partnership, known as Canus Portermain Associates, was formed to acquire and develop real estate in Dallas and Collin counties in Texas, which it did largely with funds contributed by Bercanus, the suit says.

Under this agreement, Mr. Portermain was required to distribute partnership profits back to Bercanus and render full accountings to the Bermuda-based insurer.

According to the suit, he did neither. "Instead," it says, "Mr. Portermain dealt with the funds contributed by Bercanus and belonging to the limited partnership as his own."

In addition to substantial monetary damages, Mr. Whittle, Bercanus' liquidator, is seeking an order requiring Mr. Portermain to turn over full and proper accounting of the partnership's affairs. He also is asking the court to impose a constructive trust on the defendants' real property acquired with Bercanus money.

Under its RICO allegations, the suit claims that the defendants repeatedly used U.S. mail, telephone, telex and air links with their offices in Richardson, Texas, to divest Bercanus of funds.

These activities, along with the assumption of risks that were "imprudent and unreasonable" and aimed at quickly generating high premiums, led to the demise of Bercanus, which wound up with assets of about $3 million and liabilities of around $38 million, the suit says.

"As an actuary, Mr. Portermain was fully aware that this cause of action would inevitably result in massive losses for which Bercanus would be financially unable to respond," states the action.

The suit alleges that Mr. Portermain "knowingly and intentionally misrepresented the financial condition of Bercanus to insurance regulators in Bermuda" and failed to inform them that the company's reinsurers could not be expected to satisfy their obligations to it.

Mr. Whittle, a partner in the Bermuda office of Ernst & Whinney, said last week that Bercanus' biggest creditors are Fremont Insurance Co. of Los Angeles and American Centennial Insurance Co. ■

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Fire losses

Continued from page 1

liable for property losses, including those suffered by other building tenants, which could report smoke damage, loss of use and business interruption losses.

The fire, which was first reported late Wednesday, raged for several hours in Los Angeles' tallest structure until about 300 firefighters brought it under control in the early morning hours Thursday. By that time, flames that started on the 12th floor had moved upward through offices until reaching the 16th floor, officials said.

A maintenance worker, Alexander Handy, 24, of Compton, Calif., was found dead early Thursday in an elevator that had caught fire. About 40 people, most of them maintenance and janitorial workers, suffered smoke inhalation or minor injuries during the blaze. The fire department reported 17 people were transported to area hospitals for treatment.

The First Interstate building, which includes about 1 million square feet of office space and houses about 5,000 workers during weekdays, is one of many high-rise buildings in Los Angeles that is not equipped with fire suppression sprinklers. However, the First Interstate building owners had begun a $3.5 million project a year ago to retrofit the structure with sprinklers, an effort that was about 85% complete, the Equitable spokesman said.

The five demolished floors included space for First Interstate Bank's foreign exchange operations, public affairs, corporate loan administration and personal trust division, a bank spokesman said. First Interstate Bancorp and its banking subsidiary, First Interstate Bank of California, occupy about 60%, with law firms and other banks leasing the remaining space, he added.

The entire building remained closed Friday and likely will stay closed except to approved individuals this week, officials said.

It was not known last week if the intense heat from the fire, estimated at 1,500 to 1,800 degrees, caused any structural damage.

First Interstate officers were back to work Thursday morning at an alternative location just six blocks from the company's fire-scarred headquarters, the bank spokesman said, noting the bank had developed a disaster plan two years ago.

Meanwhile, Shell Oil Co. is "fully insured" for both property damage and any liability stemming from the explosion Wednesday of a catalyst cracker at a Shell refinery in Norco, La., a company spokeswoman said. She would not comment on any self-insured retentions.

The explosion, which caused a fire that burned for nearly a day, killed three workers and injured at least 17 other employees. Four employees are missing. In addition, an undetermined number of area residents reported injuries, the spokeswoman said.

Neither Shell officials nor the Louisiana state fire marshal's office could estimate damages Friday. The blast is under investigation.

Oil industry sources estimated that replacing the catalytic cracker could cost as much as $200 million. They cautioned, however, that it is extremely unlikely that the catalytic cracker would have to be totally rebuilt.

One petroleum engineer estimated that getting the facility back on line could take as long as two years.

All insurance for the plant was written by Bermuda-based Oil Insurance Ltd., a group captive that writes all-risk property insurance, well-control insurance and third-party pollution liability insurance for oil companies, confirmed a Shell spokeswoman.

OIL currently offers primary limits of up to $150 million depending on the assets of the company, and offers an additional $150 million in excess limits for all three types of coverage, Ronald Massey, senior vp of OIL.

Mr. Massey also confirmed that Shell is a member of Oil Casualty Ltd., a sister company to OIL that writes excess liability insurance.

Oil Casualty offers $100 million in general liability coverage excess of $20 million.

Mr. Massey and the Shell spokeswoman declined to give further details of the Houston-based oil company's insurance program.

However, Shell has set up a hot line to handle third-party claims, the spokeswoman said.

Shell self-insures its workers compensation risks in Louisiana, a spokesman for the Louisiana Insurance Department confirmed. The maximum workers compensation death benefit in Louisiana is $261 per week.

The blast rocked Norco, a town of 5,000 on the Mississippi River between Baton Rouge and New Orleans, breaking windows and damaging buildings. Roughly 2,800 people were evacuated.

Catalytic crackers are used in petroleum refineries to break heavy hydrocarbons into lighter products, such as gasoline.

Officials in Nevada late last week were still attempting to determine damage caused by a series of spectacular explosions that destroyed a rocket fuel plant in Henderson, Nev., owned by Pacific Engineering & Production Co.

The blasts also destroyed a nearby marshmallow factory and damaged many surrounding buildings.

Although estimates of the value of the two plants were not available, damage to nearby businesses and homes totals about $100 million, according to Henry N. Jones, Henderson's senior building inspector.

"The fire station that's a mile and a half away and the commercial structures around it are uninhabitable," he said. "Within a three-mile radius, no structure was left undamaged."

A spokesman for Gov. Richard Bryan said officials late last week were still trying to determine the extent of the damage.

At least one person was killed, another was listed as missing and presumed dead and as many as 350 have been reported injured by the explosions that rocked the area, several miles from the Las Vegas Strip. Of the injured, 26 were workers at Pacific Engineering. The remainder included workers at the Kidd & Co. marshmallow factory and residents of the area near the plant.

Officials at Pacific Engineering and parent American Pacific Corp. could not be reached for comment last week.

A spokeswoman for American International Group Inc. in New York confirmed that AIG wrote both property and liability insurance for Pacific Engineering. Details of the coverage were not available.

American Pacific issued a statement that said the plant was insured for $29 million, according to press reports.

The coverage was brokered by Lane & Associates in Las Vegas. Officials at the brokerage would not comment on the coverage.

Jim Thompson, president of United Steelworkers of America Local 4856 in Las Vegas, said plant officials told workers at a Thursday meeting that the facility would be rebuilt in six months.

The competitive state workers comp fund insured Pacific Engineering, confirmed Deborah Weaver, chief of benefit services for the State Industrial Insurance System in Carson City.

A surviving spouse or dependent children of a worker killed would receive 66 ⅔% of the wages the worker would have earned, up to a maximum benefit of $1,534.66 per month.

Meanwhile, union officials last week alleged the plant was unsafe and claim Pacific Engineering's management was not responsive to concerns about working conditions.

Mr. Thompson said union workers at Pacific Engineering had been injured in less dramatic accidents before last week's blast.

"There have been "minor explosions that injured employees in the past," said Mr. Thompson. "We've had employees burned in the past."

The union leader said Pacific Engineering "was not a good, safe environment for our people. Our main concern is that there were never any codes or standards set down by the state or OSHA for this type of plant."

Management at Pacific Engineering was not as safety-conscious as it should have been, he charged. "As you know, a good safety program is a costly program. We felt they were not doing enough—not responding to our concerns."

A spokeswoman for the Clark County Fire Department said 60 firefighters were called to the scene Wednesday morning after employees at Pacific Engineering were unable to extinguish a small fire at the plant.

When workers realized they could not put out the fire, the building was ordered evacuated, she said.

The spokeswoman said the fire reached supplies of ammonium perchlorate, "a solid-based rocket fuel" that she called a "highly unstable oxidizer that, when heated, will explode."

"Pacific Engineering was destroyed," said the spokeswoman. "At Kidd & Co., there were just some girders left standing."

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Contributing to this story were Bureau Chief Donna DiBlase and Associate Editor Glenn Huntley in Los Angeles, Associate Editor Michael Bradford in Dallas and Associate Editor Mark A. Hofmann in Chicago.

BI Insurance Index

440 435 430 425 420 415 410
3/17 3/24 3/31 4/7 4/14 4/21 4/28 5/5
Source: Lomas Publications. Base 100 on 12/29/78

Insurance industry stocks continued to post positive results last week, as the *Business Insurance Index* climbed 3.4 points to 424.7 on May 5, from 421.3 on April 28. Advancing issues were led by American Indemnity Financial Corp., up 18.4%; Zenith National Insurance Corp., up 11.8%; Baldwin & Lyons Inc., up 11.1%; Lawrence Insurance Group, up 8.6%; Seibels Bruce Group Inc., up 8.3%; and W.R. Berkley Corp., up 6%. Declining issues were led by: Protective Corp., down 8.1%; American General Corp., down 5.4%; Trenwick Group Inc., down 5%; Fremont General Corp., down 4.9%; USLIFE Corp., down 4.6%; and Aon Corp., down 4.6%. Issues showing the most activity during the period were: Sears, Roebuck & Co. (Allstate), 2.6 million shares traded; ITT Corp. (Hartford Group), 2 million shares traded; and Aetna Life & Casualty Co., 1.7 million shares traded. The *Business Insurance Index* gained 0.8% for the period, faring better than the declining market indicators: The Standard & Poor's 500 slipped 1.5%; the Dow Jones 30 Industrials dropped 1%; and the New York Stock Exchange Composite fell 0.4%.

British Issues

May 5 Companies	Price pence	P/E	Div. pence	Yield %	1 Week High—Low pence pence
Comml Union	338	12.8	21.9	6.3	338—335
Genl Accident	898	10.4	47.9	5.2	900—897
Gdn Royal Exch	895	13.3	55.2	6.1	901—888
Royal	415	11.0	26.4	6.2	435—412
Sun Alliance	923	15.1	43.1	4.5	933—923
Brokers					
Bradstock	224	12.6	6.8	3.0	226—223
CE Heath	390	14.4	34.5	8.5	400—390
Hogg Robinson	139	11.1	9.6	6.7	143—138
Lloyd Thompson	165	14.3	6.8	4.0	165—165
PWS Holdings	189	7.9	14.4	7.4	190—189
Sedgwick Grp	220	13.7	16.4	7.3	224—220
Steel Brnl Jones	192	11.9	13.7	6.9	194—191
Willis Faber	225	11.8	15.4	6.8	225—222

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

BI Industry Stock Report

MAY 5, 1988 **4/29/88 THRU 5/5/88**

		Price	Weekly % change	Year to Date % change	Annual High	Annual Low	Vol.(000)	$ Div.	% Yield	P/E	Book value	Mkt/Bk. value
BROKERS												
Alexander & Alexander Svcs	NYSE	22.13	1.1	24.7	24.50	17.75	282	1.00	4.5	14.0	3.40	6.51
Baldwin & Lyons Inc.	OTC	15.00	11.1	25.0	15.50	12.00	0	0.20	1.3	5.8	18.66	0.80
Corroon & Black Corp	NYSE	31.63	-1.2	12.0	34.75	28.00	130	1.08	3.4	4.8	5.43	5.83
Gallagher Arthur J. & Co.	NYSE	15.38	2.5	-3.9	18.00	13.88	42	0.48	3.1	10.2	5.16	2.98
Hall Frank B. & Co.	NYSE	4.50	0.0	56.3	5.50	2.88	75	0.00	0.0	10.2	0.00	N/A
Hilb, Rogal & Hamilton	OTC	12.25	4.3	25.6	12.75	9.75	13	0.00	0.0	10.2	0.00	N/A
Lawrence Ins. Group	AMEX	15.75	8.6	133.3	15.88	6.88	16	0.32	2.0	16.1	4.10	3.84
Marsh & McLennan Cos. Inc.	NYSE	50.75	2.0	2.5	55.63	45.25	375	2.40	4.7	12.4	6.74	7.53
Poe & Assoc. Inc.	OTC	9.25	0.0	32.1	9.25	6.75	0	0.40	4.3	9.0	0.57	16.23
BROKERS	AVERAGE		3.2	34.2					2.6	10.3		
CONGLOMERATES & HOLDING COMPANIES												
Berkley W.R. Corp.	OTC	26.50	6.0	10.4	29.00	23.50	182	0.36	1.4	6.5	17.63	1.50
Berkshire Hathaway Inc. DEL	OTC	3725.00	-0.7	26.3	3775.00	2755.00	214	0.00	0.0	19.9	69.38	10.08
CIGNA Corp.	NYSE	43.50	-3.1	-0.9	51.88	43.50	979	2.96	6.8	5.4	50.12	0.87
CNA Fin'l Corp.	NYSE	56.13	-3.4	0.9	64.25	51.00	189	0.00	0.0	8.6	42.71	1.31
General Re Corp.	NYSE	49.00	1.3	-12.3	56.38	45.50	1280	1.20	2.4	9.7	26.60	1.84
ITT (Hartford Group)	NYSE	48.25	3.5	7.2	49.25	43.25	1975	1.25	2.6	6.1	52.23	0.92
Sears Roebuck & Co. (Allstate)	NYSE	35.25	-1.8	4.8	39.88	32.25	2579	2.00	5.7	8.7	32.94	1.07
Transamerica Corp.	NYSE	32.63	0.0	9.7	36.75	29.75	497	1.84	5.6	6.5	24.94	1.31
CONGLOMERATES	AVERAGE		0.2	5.8					3.1	8.9		
INSURERS												
Aetna Life & Cas Co.	NYSE	41.25	-4.4	-8.8	49.88	41.13	1672	2.76	6.7	5.9	53.56	0.77
American General Corp.	NYSE	28.38	-5.4	-10.6	36.38	28.50	1347	1.40	4.9	7.7	27.99	1.01
Amer Heritage Life Invt	NYSE	25.75	3.0	6.2	26.00	24.00	3	1.08	4.2	11.7	21.70	1.19
Amer Indty Fin'l Corp.	OTC	11.25	18.4	25.0	10.75	8.25	11	0.56	5.0	11.7	20.30	0.55
American Int'l Group	NYSE	52.50	-0.7	-12.5	65.38	49.00	1131	0.30	0.6	9.1	34.54	1.52
Aneco Reins Ltd.	OTC	3.25	3.8	-3.8	4.00	3.13	6	0.00	0.0	4.5	2.51	1.29
Aon Corp.	NYSE	23.25	-4.6	1.6	27.00	21.88	530	1.28	5.5	8.3	15.13	1.54
Argonaut Group	OTC	46.75	3.3	57.1	49.00	29.50	457	0.00	0.0	7.6	29.19	1.60
AVEMCO Corp.	NYSE	24.00	-2.0	22.3	25.25	17.88	17	0.34	1.4	11.7	7.74	3.10
Belvedere Corp.	AMEX	5.00	0.0	14.2	6.00	4.38	3	0.04	0.8	7.2	7.87	0.64
Business Mens Assurn Co.	OTC	33.75	5.5	26.2	36.00	25.50	118	1.20	3.6	91.2	27.39	1.23
Chubb Corp.	NYSE	53.38	0.2	-4.5	63.38	51.38	627	2.16	4.0	6.1	46.13	1.16
Continental Corp.	NYSE	34.75	-3.8	-10.3	41.63	34.88	528	2.60	7.5	6.5	42.10	0.83
Durham Corp.	OTC	26.25	0.0	22.1	28.00	21.50	27	0.92	3.5	22.4	26.00	1.01
Farmers Group Inc.	OTC	60.75	0.0	50.9	65.75	40.50	1580	1.44	2.4	14.8	22.15	2.74
Fireman's Fund Corp.	NYSE	28.25	-1.7	8.7	31.00	25.75	394	0.50	1.8	470.8	26.17	1.08
Fremont Gen Corp.	OTC	9.75	-4.9	1.2	13.50	9.25	63	0.60	6.2	470.8	16.75	0.58
Home Group Inc.	NYSE	11.88	-1.0	0.0	14.38	11.50	493	0.20	1.7	2.5	17.65	0.67
Hanover Ins Co.	OTC	21.88	-2.8	-5.9	26.25	21.50	144	0.36	1.6	4.8	25.10	0.87
Harleysville Group Inc.	OTC	15.50	1.6	18.1	16.38	13.38	34	0.40	2.6	6.9	16.18	0.96
Hartford Steam Boiler Insp	OTC	27.50	-0.9	19.6	29.25	22.50	66	1.20	4.4	10.2	10.65	2.58
Kans City Life Ins	OTC	30.50	3.4	16.2	30.50	25.25	0	0.00	0.0	10.2	0.00	N/A
Kemper Corp.	OTC	22.50	2.3	9.8	25.25	20.75	1071	0.72	3.2	7.0	27.11	0.83
Liberty Corp. S.C.	NYSE	43.75	0.3	23.2	47.25	34.50	8	0.80	1.8	16.1	17.40	2.51
Lincoln Nat'l Corp.	NYSE	43.38	-3.3	8.1	48.75	40.25	264	2.36	5.4	8.3	36.62	1.18
NAC Re Corp.	OTC	21.50	-3.4	21.1	24.50	18.50	231	0.00	0.0	12.5	19.92	1.08
Nobel Ins Ltd.	OTC	5.38	2.5	-38.5	9.50	4.50	23	0.40	7.4	25.6	9.37	0.57
Northwestern Nat'l Life	OTC	26.25	2.4	14.7	29.25	22.63	67	1.12	4.3	7.1	35.05	0.75
Ohio Cas Corp.	OTC	34.50	-1.4	-4.8	38.25	33.25	239	1.88	5.4	8.2	27.86	1.24
Old Rep Int'l Corp.	OTC	22.63	2.3	13.2	24.63	19.13	119	0.74	3.3	5.2	27.82	0.81
Orion Cap Corp.	NYSE	15.75	-0.8	16.7	17.25	13.13	9	0.76	4.8	15.6	11.55	1.36
Phoenix Re Corp.	OTC	7.75	3.3	19.2	8.75	6.75	15	0.00	0.0	9.8	10.15	0.76
Protective Corp.	OTC	12.63	-8.1	3.1	15.13	12.25	166	0.70	5.5	12.0	16.98	0.74
Provident Life & Acc Ins Co.	OTC	19.63	-4.2	25.6	21.88	15.63	606	0.84	4.3	163.6	27.00	0.73
St. Paul Cos. Inc.	OTC	41.75	0.3	-9.2	51.00	38.25	1120	2.00	4.8	5.9	36.34	1.15
SAFECO Corp.	OTC	24.00	1.1	-13.5	30.00	23.00	1118	0.96	4.0	7.6	21.39	1.12
SCOR US Corp.	OTC	8.25	3.1	-10.8	9.25	7.25	70	0.00	0.0	6.3	9.20	0.90
Seibels Bruce Group Inc.	OTC	13.00	8.3	15.6	14.25	11.00	158	0.80	6.2	8.4	12.88	1.01
Selective Ins Group Inc.	OTC	23.75	1.1	25.0	23.75	19.25	65	1.08	4.5	6.3	19.47	1.22
Statesman Group Inc.	OTC	4.25	-3.0	-9.4	5.56	3.81	53	0.05	1.2	6.3	5.43	0.78
Tokio Marine & Fire Ins	OTC	85.75	1.9	30.2	85.88	63.25	25	0.19	0.2	76.6	0.00	N/A
Torchmark Corp.	NYSE	30.88	2.9	26.0	31.25	24.50	163	1.00	3.2	9.9	12.24	2.52
Travelers Corp.	NYSE	34.13	-0.7	-2.8	40.00	33.25	1007	2.40	7.0	8.8	45.28	0.75
Trenwick Group Inc.	OTC	11.88	-5.0	15.9	12.50	9.75	200	0.16	1.3	10.2	14.65	0.81
United Fire & Cas Co.	OTC	26.25	1.0	1.0	27.00	24.00	4	0.96	3.7	5.1	21.64	1.21
United States Fid & Gty	NYSE	30.38	-2.0	6.6	34.38	28.88	843	2.64	8.7	6.8	19.53	1.56
UNUM Corp.	NYSE	21.13	-1.2	14.2	22.75	17.88	418	0.48	2.3	12.1	28.53	0.74
USLIFE Corp.	NYSE	33.50	-4.6	17.5	39.00	28.00	223	1.28	3.8	8.7	46.77	0.72
Washington Nat'l Corp.	NYSE	28.50	6.0	19.3	28.50	24.00	134	1.08	3.8	22.4	34.12	0.84
Zenith Nat'l Ins Corp.	NYSE	22.50	11.8	50.0	22.50	15.00	194	0.80	3.6	10.0	12.26	1.84
INSURERS	AVERAGE		0.4	10.4					3.4	26.2		
ALL COMPANIES	AVERAGE		0.7	13.0					3.3	22.1		

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