

business insurance

update:

Combined to acquire Rollins Burdick Hunter

CHICAGO—Combined International Corp., parent of Ryan Insurance Group and several life and health insurers, will soon acquire Rollins Burdick Hunter Co., the nation's eighth-largest commercial insurance brokerage.

The move will make Combined's brokerage holdings the nation's seventh-largest

Continued on next page

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Reporting weekly for corporate risk, employee benefit and financial executives/\$1 a copy; \$40 a year

Asbestos defendants' bond ratings cut

By STEPHEN TARNOFF

NEW YORK—The potential liability posed by asbestos injuries is having another damaging effect on some asbestos litigation defendants.

Two major rating services—Moody's Investors Service Inc. and Standard & Poor's Corp.—have lowered the securities ratings of a number of defendant companies because of the financial uncertainty caused by the litigation.

Effective Oct. 15, Moody's lowered ratings for Armstrong World Industries Inc. of Lancaster, Pa.; Flintkote Corp., part of Genstar Corp. of Irving, Texas; GAF Inc. of New York; Jim Walter Corp. of Tampa, Fla.; and Owens-Corning Fiberglas Corp. and Owens-Illinois Inc., both of Toledo, Ohio.

Earlier this year, Moody's also reduced ratings of Eagle-Picher Industries Inc. of Cincinnati and Manville Corp. of Denver.

Standard & Poor's has also reduced the ratings of Eagle-Picher, Owens-Corning and GAF, an S&P spokesman said.

A spokesman for Moody's said that a lower rating reflects an assessment of a company's capacity to repay debts as well as its fundamental financial strength.

A lower rating narrows the range of financing alternatives to a company while making it more expensive to borrow from investors, said Ken Pinkes, Moody's director of industrial research.

Not all companies are rated, Mr. Pinkes added, and "a mix of factors" enter into the rating equation. "It is very rare that a single factor will lead to a lowered rating."

Moody's said it took the actions partly because of a significantly increased assessment of possible liability of companies involved in asbestos litigation.

The rating service based the reductions on several assumptions including:

- Asbestos litigation will continue and competing theories of insurance coverage will proliferate.
- Manville Corp., which filed a petition for reorganization in August (BI, Sept. 6), will not contribute to

Continued on page 33

Reinsurers pulled into litigation, too

By STEPHEN TARNOFF

NEW YORK—The asbestos insurance litigation battle now includes reinsurers, too.

General Accident Insurance Co. of America is suing its reinsurers and other parties in U.S. District Court in New York, seeking more than \$30 million in compensatory and punitive damages.

The Philadelphia-based insurer—which wrote policies for Philip Carey Manufacturing Co., an asbestos company later acquired by Celotex Corp. of Tampa, Fla.—charges the defendants with failing to reimburse it under various reinsurance contracts.

The suit also charges the defendants with conspiracy and state and federal antitrust violations.

Named as defendants are two reinsurers, an underwriting manager and an association of insurance companies that wrote reinsurance.

Continued on page 32

Duluth proposes pool for public, private comp risks

By BETSY SHARKEY

DULUTH, Minn.—A precedent-setting joint venture among public and private entities is being developed by this economically hard-hit city to cut the rising cost of workers compensation insurance.

The brainchild of Duluth Mayor John Fedo, the joint venture would combine a cross-section of public and private organizations into a single pool to self-fund the costs of workers compensation coverage. It is thought to be the first such attempt in the country.

The idea, which has been handed to consultants Warren, McVeigh & Griffin Inc. of Newport Beach, Calif., for development, has drawn support from throughout the state including business groups, state and local agencies, the Chamber of Commerce and the AFL-CIO. One of the state gubernatorial candidates has incorporated the "Duluth Plan" into his campaign.

"Because we're a small business, we're not big enough to self-insure, which this (the pool) would allow us to do," said Tom Fitzpatrick, controller for Duluth-based Reach-All Manufacturing & Engineering Co. He is recommending that his com-

pany participate in the pool.

"When we took a look at what our insurance company was paying out in claims, it appeared to be a minor percentage of what we left at the insurance company."

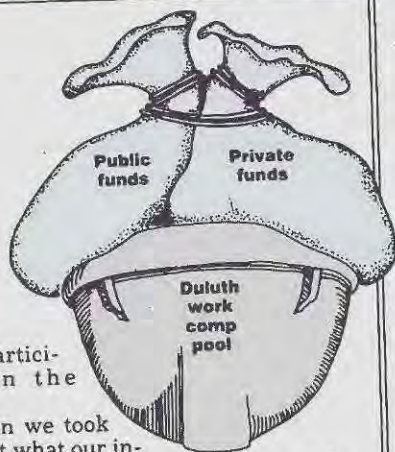
"Everyone talks about reducing the workers comp rates, but no one has done a lot to actually reduce it," he added. "I think this is a good effort to reduce those costs."

In addition to Reach-All, potential participants in the plan include four manufacturing firms, one public utility, two service groups and three governmental groups—the city, the school district and the sanitation district.

If adopted, the pool would cover 8,000 to 10,000 Duluth workers.

"Being in Minnesota, you cannot overlook any chance whatsoever to reduce the workers comp situation," said Bill Meierhoff, president of Duluth's Modern Con-

Continued on page 31



Shand increasing rates to catch up: Competitors

By DOUGLAS McLEOD

NEW YORK—Shand, Morahan & Co. Inc. is not leading the pack in raising rates for professional liability lines next year, its competitors say.

On the contrary, it is following some of its rivals like Victor O. Schinnerer & Co. Inc. that have been raising rates for several years and joining others like Insurance Co. of North America's INAPRO unit that are planning to raise rates in the near future.

Reacting to recent rate increases announced by Shand, Morahan, a leading underwriter of professional liability insurance, Shand's rivals say it is only playing catch-up ball after a period of highly competitive rating.

Shand's rate increases "only bring them up to the level" at which other major markets are writing professional liability risks, said J. Sprigg Duvall, president of Victor O. Schinnerer.

Shand said it was raising rates 10% to 30% on liability coverages for lawyers, architects and engineers, insurance agents and brokers and Realtors. According to company officials, the move was necessary to restore underwriting profitability and would be undertaken "regardless of what the rest of the world thinks" (BI, Oct. 18).

Other professional liability markets, however, had already raised their rates, including Shand's prime competitor, Schinnerer.

The Washington-based underwriting man-

ager has raised rates on its architects/engineers insurance in all but two of the last 13 years, according to Mr. Duvall.

Schinnerer shares about 80% of the market for architects liability insurance with Shand and places its risks with Continental Casualty Co., a unit of CNA Financial Corp. Its sponsors include the American Institute of Architects and the National Society of Professional Engineers, which have used Schinnerer's program since its inception in 1957.

Mr. Duvall said his company raised rates on architects liability insurance by an average 8% in 1981-82. The increase varied from state to state, depending on loss experience, added Paul L. Genecki, a senior vp at Schinnerer.

There were no increases in Indiana while architects in several states—including New York, New Jersey, Pennsylvania and California—saw increases of 9.5%.

This year's upward adjustment of 8% came on top of increases of 8% in 1980-81 and 12% in 1979-80, according to Mr. Duvall.

For the 1981 calendar year, loss frequency has so far shown a decline of just under 1%, while severity has increased by almost 16%, Mr. Duvall said. In 1980, frequency rose 2.5% and severity 6.4%, while 1979 showed a 22% increase in frequency and a 1% increase in severity.

Mr. Genecki said there could be another rate increase in the architects line for next year, but that no decision has been made. The

Continued on page 29

INSIDE:

Chronic pain can be costly for employers
Page 3

Baldwin-United's transfers of assets studied
Page 3

update:

Combined to acquire RBH

Continued from previous page

brokerage concern. The merger is subject to shareholder approval. The acquisition agreement, announced late last week, calls for Combined to pay \$24.50 for 4.45 million outstanding shares of RBH stock, a total of about \$109 million.

The RBH acquisition is the second major merger of the year for the insurance conglomerate founded by W. Clement Stone. In July, Combined merged with Ryan, parent of Globe Life Insurance Co. and several commercial brokerage and related service firms. Patrick J. Ryan, chairman of Ryan Group, became president and chief executive officer of Combined (BI, July 12).

"This is another step in our continuing strategy to become bigger in the commercial brokerage business," said Harold Hines Jr., executive vp of Combined and president of Ryan.

Ryan's 1981 brokerage operations ranked 11th in the *Business Insurance* listing of the top brokerages with about \$40.3 million in gross revenues, about half of the \$76.8 million in revenues posted by RBH. The combined revenues of the two operations topped \$117 million last year, which would push them past Bayly, Martin & Fay International Corp. of Newport Beach, Calif., in the BI rankings.

Officials of neither firm would say if the two brokerages would be united but according to the agreement, RBH Chairman Charles R. Hall will retain his title and be elected a director of Combined.

Bermuda may hike capital rules

HAMILTON, Bermuda—A government advisory committee recommends that capital requirements for insurers based in Bermuda be doubled. The panel recommends in the yet-unreleased report that the minimum capital requirement for property/casualty insurers be raised to \$250,000 from \$120,000. It also says that minimum capital for life insurers should be hiked to \$500,000 from \$250,000.

Jet crash victim's family settles

NEW YORK—The wife and four daughters of a Penwalt Co. official killed in a 1975 air crash will receive at least \$4 million over the next 30 years in a structured settlement, their attorney says.

The settlement, approved Oct. 28, will cost the federal government and United States Aviation Underwriters Inc., the lead underwriter for Eastern Air Lines Inc., an estimated \$1.5 million to \$1.8 million to fund an annuity and to pay lump-sum amounts, says Ronald F. Tutrone of the New York law firm of Geoghan & Tutrone. Both Eastern and the Federal Aviation Administration were found liable at an earlier trial, he said.

The settlement is one of the last in the 1975 crash of an Eastern 727 jetliner that crashed near New York's Kennedy International Airport while trying to land in a rainstorm that killed 113 people.

Ohio fund financially sound

COLUMBUS, Ohio—The state's monopolistic workers compensation fund is fiscally sound and will be able to meet future financial obligations, according to a report by an independent actuary.

The \$3.4 billion fund had an \$18 million surplus in 1981, said Fredrick Kilbourne, a Los Angeles actuary.

Lloyd's expels Moran

LONDON—Christopher Moran, former chairman of Christopher Moran Ltd., is the first Lloyd's of London broker to be expelled.

More than 2,000 of 21,000 invited Lloyd's syndicate, brokerage and underwriting members attended a special meeting last week with 92% of the body voting in favor of expulsion of Mr. Moran for acts discreditable to a Lloyd's underwriter. Lloyd's bylaws require an 80% vote for expulsion (BI, Oct. 4).

The body, however, voted not to bar E.R.P. Wilson, an underwriter formerly associated with Mr. Moran.

Losses to pierce retention

LOS ANGELES—The recent fire at a St. Regis Paper Co. bag plant may burn through the \$4.5 million annual aggregate retention on property and business interruption losses maintained by its Bermuda captive insurance company.

The Oct. 10 fire destroyed more than \$1 million in rolled paper kept in the plant's storage yard but did not damage the building.

St. Regis' captive, Pinetree General Insurance Co., insures the first \$1 million per occurrence of combined property damage-business interruption losses, subject to a \$25,000 deductible.

Per-occurrence losses above \$1 million are covered under a property damage-business interruption policy with Allendale Mutual Insurance Co., covering \$2 billion in replacement values at 120 St. Regis locations nationwide. The fire may combine with about a dozen business interruption losses to push Pinetree's losses "a few million" over its \$4.5 million annual aggregate, according to Peter F. Lopez, director of risk management for St. Regis.

index

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BI ticker	35	
Classifieds	32	
Datebook	12	
Editorial opinions	6	
Insurance services guide	34	
Letters	6	
Management	24	
Perspectives	23	
Washington	28	

Vol. 16, No. 44—Business In-

Punitive awards allowed for violations of ERISA

By JERRY GEISEL

LOS ANGELES—An employer can be sued for punitive damages for alleged violations of the Employee Retirement Income Security Act, a federal judge says.

When Congress passed ERISA in 1974, it intended that a full range of legal and equitable remedies be available for its enforcement, said U.S. District Court Judge Cynthia Holcomb Hall.

"Allowing punitive damages in appropriate circumstances... will further the express policy of ERISA to protect the interests of plan participants and beneficiaries by deterring fiduciary misconduct," Judge Hall said.

The particular case in which Judge Hall says punitive damages might be appropriate involves the amending of a pension plan sponsored by Pioneer Diecasters Inc., a privately held firm in Los Angeles with about 20 employees.

In January 1981, Pioneer amended its pension plan

by deleting the lump-sum payment option for ve employees who left the company.

Instead of receiving one large payment, bene were paid through a five-year annuity.

Jose Jiminez, a veteran diecaster who left the c pany several days after the lump-sum option was minated, was counting on a \$16,000 lump-sum ber to start a new business, according to his attorney, l Dean of Pacific Palisades, Calif.

Instead of the \$16,000 lump-sum payment, Mr. minez received a five-year annuity that pays \$4,00 \$5,000 a year.

Because Mr. Jiminez didn't receive the \$16,000 be fit he was counting on, he was forced to get a bank l at 21.5% interest to start his new business, Mr. D said.

In his suit filed in U.S. District Court in Los Ange Mr. Jiminez said Pioneer Diecasters and trustees of pension plan conspired to delete the lump-sum p

Continued on page

Chapter 11 filing doesn't terminate a pension plan

By JERRY GEISEL

NEW YORK—Filing a petition for bankruptcy does not automatically terminate a company's pension plan, a federal judge says.

"If Congress intended for a Chapter 11 petition to constitute automatic termination or to provide a basis for a termination date, it would have so stated," according to U.S. District Court Judge Kevin Duffy in New York.

The termination date of a pension plan is based on when the company notifies the Pension Benefit Guaranty Corp. that it wants to fold its plan, the date the PBGC realizes the plan should be shut down or the date the employer notifies its employees that the plan will be closed, Judge Duffy said. The earliest of these three dates would apply.

Judge Duffy's ruling came in a dispute over the termination of New York-based Broadway Maintenance Corp.'s pension plan.

In 1973, Broadway established a pension plan for non-union employees. The plan was funded through New York Life Insurance Co.

Broadway experienced financial

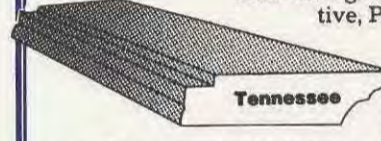
Continued on page 8

Mid Continent sets up captive in Tennessee

By RHONDA L. RUNDLE

Nashville, Tenn.—Goodbye, Bermuda—hello, Tennessee. Mid Continent Systems Inc., headquartered in West Memphis, Ark., is founding a new captive insurance company across the river in Tennessee after selling its Bermuda captive to Mottley Industries of McLean, Va., in August.

Recent amendments to Tennessee's captive insurance company law made the switch possible, says Wayne Taylor, Mid Continent risk manager and executive vp of the new cap-



adds. "We were seriously considering a move to Vermont when we learned about the changes," he

Mid Continent's captive could not meet Tennessee's \$500,000 direct premium requirement until the law was amended to permit property insurance to be applied to meet the minimum.

"The new captive will essentially be a carbon copy of the old one," Mr. Taylor says. "But we expect to save hundreds of thousands of dollars in administrative costs and taxes."

Mid Continent intends to manage the captive itself, which will substantially cut operating costs. The Bermuda captive was locally managed. Because Mr. Taylor lives in Tennessee, he meets the state requirement for a resident manager. Mid Continent also has an office in Memphis.

Pinecrest could be licensed as soon as this week, according to Roy F. Bess Jr., deputy commissioner in the Tennessee Insurance Department. The captive is in the final stages of firming up fronting arrangements for third-party underwriting and reinsurance contracts.

"We're very excited about it," said Mr. Bess.

Continued on page 4

CU asking judge to clarify order

By BILL DENSMORE

KANSAS CITY, Mo.—Commercial Union Insurance Co. is still unwilling to pay claims arising from the Kansas City Hyatt Regency Hotel disaster and is seeking clarification from a judge about any obligation to do so, its attorneys say.

CU wrote a \$1 million primary and \$10 million excess umbrella liability policy for hotel owner Crown Center Redevelopment Corp. and its parent, Hallmark Cards Inc.

CU, Hallmark and Marsh & McLennan Inc., Hallmark's broker, maintain that the \$101 million Hallmark/Crown Center line of coverage was written to be excess of \$201 million in insurance issued separately to Hyatt Corp., the hotel's operator.

Hyatt filed suit before Jackson County Circuit Court Judge Timothy D. O'Leary to clarify the question. Hyatt's insurers, primarily Northbrook Excess & Surplus Insurance Co., for the most part disagree with the

Hallmark-M&M-CU line of reasoning, even though M&M was also Hyatt's broker.

On Oct. 7—more than a year after the suit was filed—Judge O'Leary ruled that both insurance lines should contribute to claims payments with the Hyatt line paying two-thirds of the costs and the Hallmark line paying the other third (BI, Oct. 18).

CU's attorneys, who have completed their review of Judge O'Leary's findings, now say they will ask the judge to reconsider the 2-1 split. And they are asking the judge to postpone any effect of his ruling until he either hears CU's new arguments or allows CU to take its questions before an appellate court.

"Otherwise, he's forcing us to be deprived of our rights without due process because we can't appeal his interlocutory order," says CU attorney Stephen A. Cozen of the Philadelphia law firm of Cozen, Begier & O'Connor.

An interlocutory order is one issued at an interim point in a case and is not appealable under normal court procedures. Such an order, however, may be modified at any time by the judge who issued it.

CU may not be the only insurer seeking a clarification from Judge O'Leary.

"Northbrook is currently considering the question of whether it should seek clarification of Judge O'Leary's order and whether to prepare and file a motion requesting that CU deposit proceeds of its policies in the registry of the court," says Ronald A. Jacks, a partner with the Chicago law firm of Isham, Lincoln & Beale,

Continued on page 29

errors & omissions

- Hughes Aircraft Co.'s insurance broker for its Galaxy satellite program is Nausch, Hogan & Murray Inc. of New York (BI, Oct. 25). Sedgwick Group is one of two brokers working on the account in London.

Baldwin-United's transfers of assets concern regulators

By BILL DENSMORE

The shuffling of assets among Baldwin-United Corp. subsidiaries is being viewed as a key concern of Arkansas regulators looking into the affairs of the state's largest life insurance companies owned by Baldwin.

The key question facing the regulators is what restrictions should apply to the holding of stocks, bonds or paper of an insurer's affiliates as part of admitted reserves. They also must decide if such assets should be valued at market or book value.

Insurance Commissioner Bill Woodyard III of Arkansas—where there are no statutory restrictions on the holding of affiliated assets by insurers—has yet to answer either question, awaiting an unusually detailed examination of the two insurers.

Depending how Mr. Woodyard decides the two questions, Baldwin—an insurance holding company and musical instrument maker—may have to write off at least \$160 million to the two insurers' reserves to compensate for affiliated assets that he devalues or refuses to admit.

And, according to some analysts, his decision could make it more difficult for Baldwin to meet scheduled payments on bank loans that financed the \$1.17 billion acquisition of MGIC Investment Corp., the large property/casualty insurance holding company.

Baldwin still owed the banks \$567 million as of Sept. 14, which must be paid or refinanced by March 1983. The company proposes to fund much of that outstanding loan by trading stock and other paper of Baldwin affiliates for more than \$400 million in cash generated by insurer affiliates, including the two life insurers.

BI ticker

However, the management of the two insurers—National Investors Life Insurance Co., known as NILIC, and National Investors Pension Insurance Co., known as NIPIC—have pledged to Mr. Woodyard that he would have a right to approve any transactions by the companies involving affiliated assets.

Although Mr. Woodyard is waiting for the complete report—due before year-end—before he makes his decision, some analysts, critical of the company, say that decision has great importance for Baldwin-United.

"There are limited options (for funding the loan repayment) away from Woodyard," says an analyst at one brokerage firm who has studied Baldwin's finances in detail.

Mr. Woodyard says Baldwin's use of insurance company assets forced him to review "financings of the entire holding company."

"It has thrust us into a broader role than we had ever intended," he says. "But we are not concerned with what they do at the holding-company level unless it affects the insurance companies."

A spokesman for Baldwin says whatever Mr. Woodyard decides will not affect the company's debt-repayment schedule, nor is it the company's intention at this point "to seek any additional outside financing."

Asked what effect Mr. Woodyard's failure to allow further transfers of assets from the Arkansas insurers might have on the MGIC loan repayment schedule, the spokesman said, "The answer to the question is none. That's the company's position today."

Baldwin-United Corp. is a highly leveraged, Cincinnati-based financial conglomerate that includes life insurers, broker Bayly, Martin & Fay International Inc. and eight small property/casualty insurers. It is one of the nation's largest publicly held insurers with assets of at least \$6 billion.

Continued on page 34

CHRONIC PAIN

Quick employer action cuts long-term costs

By EILEEN NORRIS

Employers should think of an injured worker's response to pain as a fire that must be put out—and fast.

If the pain response (even to something as minor as a sprained ankle) isn't extinguished with the proper therapy, the injury can become a habit-forming crutch for the worker.

And, a long-term expense for the employer.

The employer pays for chronic pain directly through workers compensation and/or disability benefits and indirectly through the high number of lost work days, says a leading pain specialist.

"If the responses to pain are not extinguished quickly, the whole body goes up in smoke and an acute pain from a minor injury can become chronic," says Dr. Steven F. Brena, director of the Emory University Pain Control Center in Atlanta, Ga.

Simply put, chronic pain can develop from a minor injury in a worker whose pain doesn't go away. Chronic pain lasts longer than just a few weeks or the expected healing time for an injury.

The worker with chronic pain can't cope with the minor backache or headache and the 656 muscles in the body become tense from the stress.

The worker's pain is real, and if it is not treated, it can leave him or her functionally disabled.

Dr. Brena talked about how employers can try to prevent acute injuries from developing into chronic pain at the International Assn. of Industrial Accident Boards & Commissions meeting held in Puerto Rico last month.

Top on his list is early intensive treatment of an employee's injury. This is imperative to ensure proper healing and a return of the patient to a healthy physical and positive mental state, he says.

Secondly, employers should be careful not to unknowingly feed workers' pain by rewarding them for the disability.

The best thing an employer can do is get the worker back on the job as quickly as possible, says Dr. Brena.

"Forced immobility and drugs to kill pain during

the worker's recovery may result in a temporary impairment to the employees' skeletal system and an emotional imbalance—two reinforcers of pain that should be replaced with rehabilitation," he said.

"The pain-disabled worker is granted a disability status and is allowed to wait in rewarded idleness until the 'cause' for the pain is discovered and eliminated.

"But few medical and legal professionals realize that the idleness in itself is as much a factor in the disability as the injury itself."

Other things an employer can do to prevent an acute injury from developing into chronic pain include:

- Question excessive medical testing. Physicians should be encouraged to listen and reassure the injured worker about his or her injury and explain medical tests and results to the employee. A large number of unexplained medical tests only raises fears and adds to the stress the employee may be encountering during his recovery.

- Monitor the prolonged use of drugs for an injured worker's pain. One way would be through checking benefit claims filed by the employee.

- Work with the employee's family in encouraging the healthy behavior of the injured worker.

However, even the employer that follows these guides and prides itself on prompt therapy for the injured worker may be faced with employees who develop chronic pain. Other forces over which the employer has no control can enter the picture.

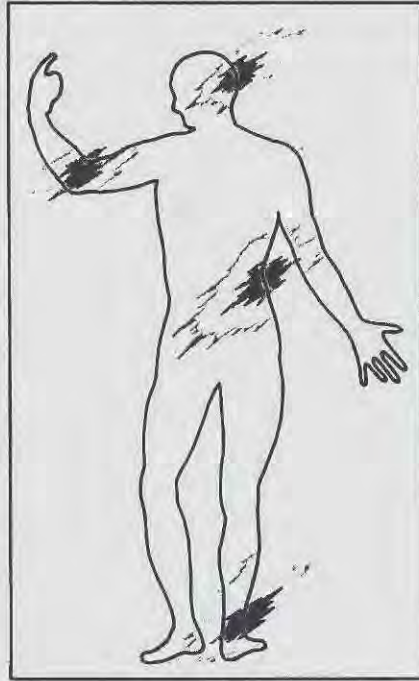
A tendency toward developing chronic pain can become fed by a worker's personality and other reinforcements already in place in the society, said Dr. Brena.

"Once the disability status is recognized, it becomes crystalized as a way of life for the individual."

Consider two workers who fall off a scaffold and sprain their backs. One recovers quickly and is back on the job.

The other worker remains in pain. The anxiety from being off work creates muscle tension. The

Continued on page 26



Safety should benefit bottom line: Expert

By STEPHEN TARNOFF

CHICAGO—Loss-control personnel trying to set up a safety program in adverse economic times must show their superiors how the program can be an integral part of good management, a leading safety expert says.

Frank E. Bird Jr., president and executive director of the International Loss Control Institute in Loganville, Ga., told a seminar at last month's National Safety Congress & Exposition that a soundly managed safety program contains the foundation of a complete management system that will benefit all areas of the business.

It will assist productivity and reduce costs as well as lead to a reduction in accidents, Mr. Bird said.

"Unfortunately," many safety managers try to implement programs directed solely at performing tasks in a safe manner, he said. "That is not necessarily the right way nor the most efficient method. The result is information overload, conflicting goals and frustrations.

"Properly managed and directed, a safety program can be a new avenue for the attainment of management's real primary goals and receive the optimum management sup-

port (it) deserves."

According to Mr. Bird, the key question to be answered by safety managers in adverse economic times is how to "get management to recognize that a good safety program makes a significant contribution to improved production, quality and cost control."

He outlined five points loss-control personnel should be aware of when selling a safety program to management during a recession. They are:

- Know what you are selling.
- Know and apply sound economic principles.
- Don't sell safety for safety's sake.

- Know how safety reinforces factors common to production quality and costs.
- Know how to sell.

Loss-control personnel first have to be aware of five myths and five truths go along with selling safety programs, he added.

The myths that must be dispelled include that:

- Safety programs can totally eliminate accidental losses.
- Safety is one of management's top concerns. "As a matter of fact, it is very low," he said.
- Safety programs are geared toward re-

duction of accidents because the welfare of employees is a high management priority.

- Safety programs automatically support production and quality efforts.

- Safety programs should be managed in the same manner as production, quality control and other important management functions.

"Actually, most safety programs impair production and quality efforts," Mr. Bird said.

Most safety programs are not "mission-oriented," Mr. Bird said, explaining that usually the only goal of a safety program is to reduce specific injuries, not to increase overall production or profit.

But when implemented properly, a mission-oriented program can:

- Control accidental loss.
- Be a top management priority.
- Best serve the welfare of everyone.
- Improve production and quality efforts.
- Be a catalyst to improve the general management of the company.

"If your safety program is a mission-oriented program, it's going to guarantee the conservation of your people, your material, your equipment—and the difference will be profit," Mr. Bird said.

"Companies that are using the right safety program are saying this is not just a safety program, this is our management system."

Mr. Bird emphasized that loss-control managers should use sound economic principles

Continued on page 18



Workplace safety needs to parallel management's profit goals.

Look closely at self-insurers: Committee

By EILEEN NORRIS

State regulators should take a new look at security requirements for the 30,000 employers nationwide that self-insure or pool their workers compensation risks.

Poor economic conditions coupled with the increased use of self-insurance should prompt all state regulators to re-evaluate the financial requirements they have for self-insured employers, concluded a committee of the International Assn. of Industrial Accident Boards & Commissions.

It recommended they give greater consideration to letters of credit for security.

The committee surveyed states last year to find out how many employers self-insure in two or more jurisdictions. Thirty-two state regulators responded.

The survey of those states showed that 795 employers self-insure their workers compensation in two or more states. Two employers self-insure in all 32 states polled.

Another five employers self-insure in 24 states, 11 self-insure in 20 states, 12 self-insure in 14 states, 21 self-insure in 10 states and 50 employers self-insure in six states.

The committee estimates 10,000 employers self-insure their work comp risks with another 20,000 individual employers in group self-insurance plans.

"These numbers, although staggering, are apparently increasing daily due to the desire of employers to obtain the benefit of retaining cash flow in the bad economic times now being experienced," the committee said.

"With financial troubles plaguing many employers, both large

and small, it is a high priority to guarantee injured workers their rightful benefits."

The committee said it considered recommending that the IAIABC finance and operate a warning system to alert all jurisdictions when it learned that a self-insured employer was in financial trouble.

But the concept was discarded due to "possible legal ramifications and the cost of operating such a system."

The committee did recommend that regulators give "greater consideration to a clean, irrevocable letter of credit" as security for self-insurers.

A letter of credit is a boon for a financially healthy self-insured employer because banks require the employer to deposit only a very small amount in return for the bank's commitment to pledge its

own net worth to guarantee payment of claims, said committee Chairman Glenn W. Adams, manager of the Colorado State Compensation Insurance Fund.

"The bank has a great motivation to make a proper financial analysis and refuse to issue a letter of credit for an employer it does not consider to have the financial strength to self-insure," said Mr. Adams.

The committee recommended that states that do not have the staff, funding or the expertise to evaluate an employer's financial ability to self-insure examine what Kansas and New York are doing.

Those two states have retained an independent consulting actuarial firm to assess past claims experience, established reserves and financial ratios for new as well as established self-insurers. The employer pays the consultant fee. ■

Mid Continen sets up captiv in Tennessee

Continued from page 2

Tennessee has repeatedly dered invitations to Bermuda tives to make their home in state. To make Tennessee mor tractive to captives, the insur department initiated a numbe changes in its laws last spring March 29).

Insurance Commissioner Job Neff recently announced that year his department would s another amendment to the law liberalize investment restrict that currently prohibit use of eign securities (BI, Oct. 25).

Mid Continent is a small c glomerate with about \$300 mil in annual revenues. It is one of largest independent petrole marketers in the Southeast ; furnishes financial services to dependent truck stops and priv motor carriers.

Pinecrest will directly insure property/casualty risks of M Continent and its affiliated cc panies, including workers comp sation risks in Tennessee. It v reinsure the parent's out-of-st workers compensation and auto bility risks as well as the thi party business of various petrole distributors and truck stop op tors.

Anticipated premium volu is \$500,000 on a direct basis and million to \$5 million in reinsu ance, according to Mr. Bess.

About 90% of Mid Continen Bermuda captive premium volur came from third parties and M Taylor expects that many of the will pick up with Pinecrest.

"Our program is like an associ tion program for profit," he e plained. It is marketed to petr leum distributors and truck stc operators by local insurance agen around the country.

"We handle all underwritin here," he pointed out. "Because o parent is in the same business, w know it from the inside."

Policyholders also know the Mid Continent's captive will be stable specialty market, whethe the insurance market is tight o soft.

"We are committed to the busi ness—we don't intend to move in or out," stressed Mr. Taylor. No does Pinecrest intend to expand it underwriting into unrelated indus tries.

The captive was finalizing fronting arrangements with a major U.S. insurer last week. Contracts for claims administration and loss prevention will depend upon the fronting agreement, said Mr. Taylor. The parent company will handle Pinecrest's investments.

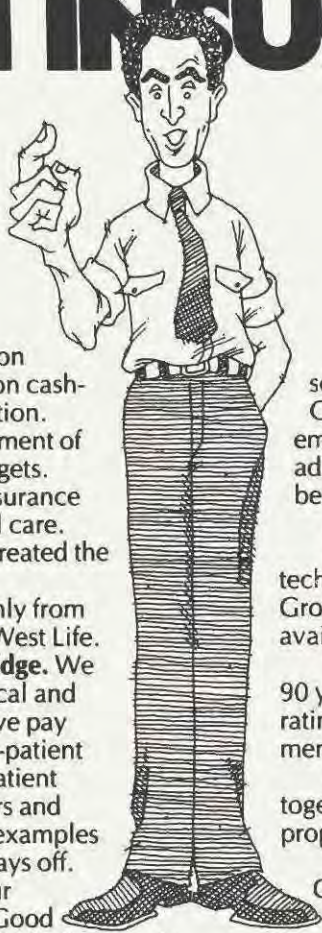
"We retained some senior management staff from the old organization and will add new people as needed," said Mr. Taylor.

Pinecrest will be capitalized with \$750,000 in certificates of deposit to meet Tennessee's minimum requirement of \$400,000 in capital and \$350,000 in surplus.

After deciding to relocate its insurance company in Tennessee, Mid Continent considered both sale and transfer of its Bermuda captive. "We could have transferred the corporation, but it is very legally complicated to transfer an offshore corporation onshore," noted Mr. Taylor.

The parent had already decided to sell the captive by the end of the year when it was approached by Mottley Industries, which wanted to buy it. Mottley will retain some of the captive's third-party business but will essentially go into competition with Pinecrest to underwrite those risks. ■

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Joe Kaminski got his start working for General Electric, left to get his M.B.A. at Harvard, and later rejoined them in Strategic Planning. He went to Greenwich Research Associates, then on to Bowmar Instruments and from there to City Investing Company in their housing operations. Joe became Senior Vice President & Chief Financial Officer at The Home two years ago.

“What made The Home so attractive was that it was different. Generally, the insurance industry has the reputation for being glacial and slow-moving. People don’t have the authority to make significant changes.

They do at The Home. Despite the fact that it’s been around for 130 years and represents significant financial resources and strength, with over \$4.5 billion in assets, people here have the opportunity and are encouraged to make those changes. New people see it like a business instead of

an institution.

The principal change I’ve been involved in over the last four years is decentralizing our entire financial reporting operation so the individual profit center managers and agents have greater accountability. Up until now, there was no easy way to assess the profit and loss data by product line on a timely basis. Under this new system, our field office receives and analyzes the P&L statement for each agent in clear, easy-to-read reports—all within a few days after the close of each month via hard copy, or instantly via terminal. This pinpoints problems faster so that we can work with our agents to be more responsive to their customers’ needs and, accordingly, become more profitable.

Down the line, the next thing we’ll be handling will be our billing and agency receivable accounting. We’re replacing systems. Now we have a new statement that can be easily used and understood by all

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No cause for alarm (Part II)

OUR EDITORIAL TWO weeks ago on rate hikes announced by underwriting manager Shand, Morahan & Co. Inc. needs a postscript.

We were inspired by Shand's announcement that it is raising professional liability insurance rates to endorse the concept of sound underwriting practices, specifically the development of rates based on actuarial data and not cash-flow considerations.

We also complimented Shand for its public announcement of the rate increases, which enlightens and prepares the buyers of insurance for rate changes.

And, we challenged its competitors to respond ethically to the Shand rate hikes. We urged them not to keep rates low just to grab market share and also not to raise their rates in a cartel-like response.

The editorial really rankled some Shand competitors that, as we report in our Page 1 article this week, contend that Shand's rates have been too low in the past.

Limit confusion, don't add to it

LYNDON OLSON, president of the National Assn. of Insurance Commissioners, wants the NAIC to formulate a "responsible" model bill to help state commissioners implement the Risk Retention Act.

We suggest the next step toward this goal will be to listen closely to those who object to NAIC's current proposal, which would let states decide what a product liability risk is based on their own laws and ignore the broad federal definition contained in the Risk Retention Act.

Congress passed that law in 1981 to ensure that businesses could quickly form their own captives to cover product liability exposures with minimal interference from state regulators.

To ensure that there would be no disputes on the kind of risks that could be covered, Congress defined the product liability exposures that risk retention groups could handle.

That definition was made deliberately broad so that risk retention groups could cover a maximum number of product liability exposures.

For example, a risk retention group can cover any personal injury, death, emotional harm, consequential economic damage or property damage resulting from

The competitors say they have been the responsible underwriters that have already raised rates as needed. We heard complaints that our editorial endorsed Shand as the leader in setting professional liability rates and ignored the actions of others in the marketplace.

We were careful not to make such an endorsement. But, to clear up any misunderstandings, we want to make it clear that we never endorse one underwriter to the exclusion of another.

When an underwriter tells us they are taking what we consider responsible actions, such as basing rates on actuarial statistics and openly communicating rates to the buyers of commercial insurance, we will endorse the actions.

We can't resolve the debate over whether Shand is coming late to these responsible actions. We refer you to the comments of the competing underwriters to form your own conclusions.

the manufacture of a product.

Congress also said that the federal definition of product liability would pre-empt any state definition.

Since a state's definition of product liability may be extremely limited, the NAIC's proposed model bill could sharply restrict coverages offered by a risk retention group.

For example, under Delaware law, damage to property, like a home, is not considered a product liability risk. Under the Risk Retention Act, though, risk retention groups can cover damage to a product itself rather than just damage caused by a product.

If the NAIC's proposed model bill is adopted by state legislatures, businesses would have to turn to 50 different state laws to determine what risks could be insured in a risk retention group.

That can only lead to more confusion and litigation—something Congress clearly saw when it decided that the federal definition of product liability would pre-empt all state definitions.

We encourage the NAIC to approve a responsible model risk retention bill—one that exclusively uses the federal definition of product liability spelled out in the Risk Retention Act.

letters

Smaller firms need claims help

To the editor: Your report, "Employers give claims a closer look" (*BI*, Sept. 20), accurately addressed the important financial problem that has existed for some time but is further highlighted by our depressed economy.

Organizations large enough to support risk and/or claims managers, like those who responded to your survey, can address this exposure both internally and through their insurers. Smaller firms, on the other hand, may lack the expertise, particularly in measuring their insurers' claims-handling performance.

As an outgrowth of our involvement in workers compensation claims administration, we have become an intermediary between the insured and the insurer. As a representative of the insured, we monitor the insurer's handling of (primarily large) workers compensation claims.

Your article correctly reflects many insurers' attitude of being uncooperative in these efforts, although some are very helpful.

Regardless of the degree of cooperation, however, we have found that our presence as an "overseer" has been a catalyst

for the insurer to handle these claims in an efficient manner.

Historically, insurers have demanded a hands-off policy of their insureds, perhaps to the detriment of those paying the premiums. We believe that it is the insurers' responsibility to work in harmony with their insureds to achieve an acceptable loss level. We try to reach an equitable conclusion to these claims in a timely fashion, to the benefit of all involved parties.

Peter G. Baldwin
Vp
Loss Control Management Corp.
Springfield, Va.

Car-rental coverage

To the editor: My compliments to *Business Insurance* for bringing the scurvy, scurrilous, abusive sales practices of the car-rental companies into the light of day (*BI*, Oct. 18).

There's only one problem—for the most part, you are talking to the wrong people. Most *BI* readers already know what a rip-off car-rental "insurance" programs are. I used to work for a firm that sells damage waiver protection—the loss ratio was consistently less than 10%. Is it any wonder the car-rental companies won't divulge this information?

If ever there was a need for regulation,

this is where it's at. Not for us—for the little guy, the small businessman and the personal renter who:

- Hasn't figured out that \$6 a day adds up to \$2,190 a year.
- Thinks he may have to pay for the whole car if he doesn't buy this waiver, not just \$500 or \$600.
- Thinks he must buy it to be protected from third-party claims.
- Doesn't know that many of the coverages in his own auto policy follow him when he drives a rental vehicle.
- Doesn't realize his employer's workers compensation and group benefit plans already give him personal accident protection.

● Isn't aware of the number of onerous provisions in the rental contract that could strip him bare of all protection, including that for which he paid extra.

Ralph Nader, where are you when we need you?

Lawrence J. Bell
Assistant vp-risk management
REVCO D.S. Inc.
Twinsburg, Ohio

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

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Chapter 11 filing doesn't terminate pension plan

Continued from page 2

difficulties and in 1978 sought protection from its creditors under Chapter 11 of the U.S. Bankruptcy Code.

The PBGC, the federal agency that guarantees workers' basic pension benefits, became aware of Broadway's financial problems in 1980 when it received inquiries from Broadway employees about the status of their company's pension plan.

A PBGC investigator assigned to the case learned that Denis Mousouri, Broadway's treasurer, believed that the filing of a bankruptcy petition automatically terminated the company's pension plan.

The PBGC discovered that

Broadway did not have enough assets in its plan to pay promised benefits, and on Dec. 5, 1980, PBGC filed claims with bankruptcy court as a Broadway creditor.

Under the Employee Retirement Income Security Act, the PBGC can seek up to 30% of a company's net worth to pay for pension benefits if the company's pension plan doesn't have sufficient assets to guarantee benefits to workers' retirees.

On March 16, 1981, Broadway filed a formal notice with PBGC that it intended to terminate its pension plan.

In its notice, Broadway proposed a retroactive termination date prior to Dec. 31, 1979. By that date, the company felt that participants in the plan knew that the plan was terminated, said Remy Ferrario, attorney with Shea & Gould New York.

By contrast, the PBGC usually insists that a termination date be set sooner than 10 days after the notice to terminate is filed.

By setting an earlier termination date, a company reduces the number of employees who are vested in its plan, which reduces the benefits the company will have to pay out.

When Broadway and the PBGC were unable to reach an agreement on the plan's termination date, the PBGC went to court to get a federal judge to set a termination date.

In dismissing Broadway's request for a retroactive termination date, Judge Duffy noted that PBGC rules bar retroactive termination dates except in "highly unusual cases."

In addition, Broadway had no legal basis for believing that filing a bankruptcy petition automatically terminated its pension plan, Judge Duffy suggested.

In fact, he said, prior case law stipulates three possible termination dates of a pension plan, with the earliest applying:

- Ten days after the employee notifies the PBGC that it intends to terminate the plan.
- The date the PBGC first recognizes the need to terminate the plan and can notify the participants.
- The date the employer notifies all participants of the plan's termination.

The earliest of these three would be the termination date, he said.

Based on this, the correct termination date for the Broadway plan is Dec. 5, 1980, Judge Duffy said. That is the date the PBGC determined that the Broadway plan was insufficiently funded and should be shut down.

"It was at this time that the corporation (the PBGC) should have notified all (Broadway) participants of the anticipated termination to preclude increased exposure," Judge Duffy said.

Hospital costs rise 14% in Washington

WASHINGTON—The average daily cost for hospital care in the metropolitan Washington area rose 14.4% in one year to \$387.10 from \$338.48.

But that increase, recorded between March 31, 1981, and March 31, 1982, was slightly lower than the 15.8% increase during the previous 12 months, says Group Hospitalization Inc., the Blue Cross plan serving the Washington area.

Between 1981 and 1982, the average length of hospitalization in the Washington metropolitan area remained unchanged at 8.5 days despite the cost increase.

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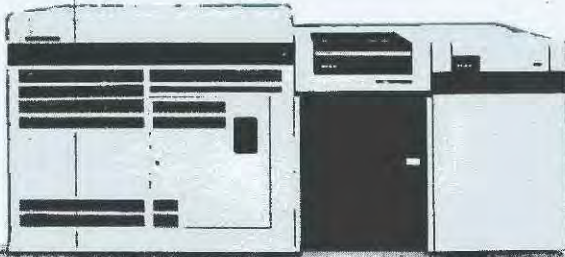
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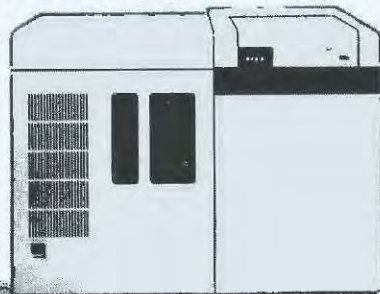
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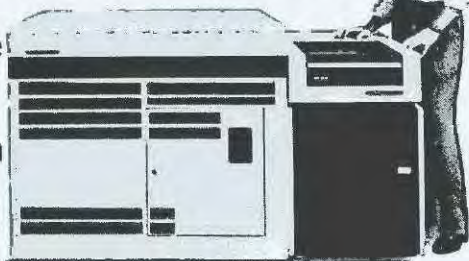
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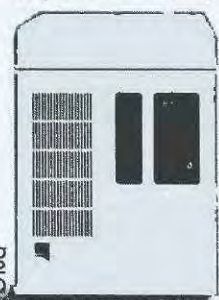
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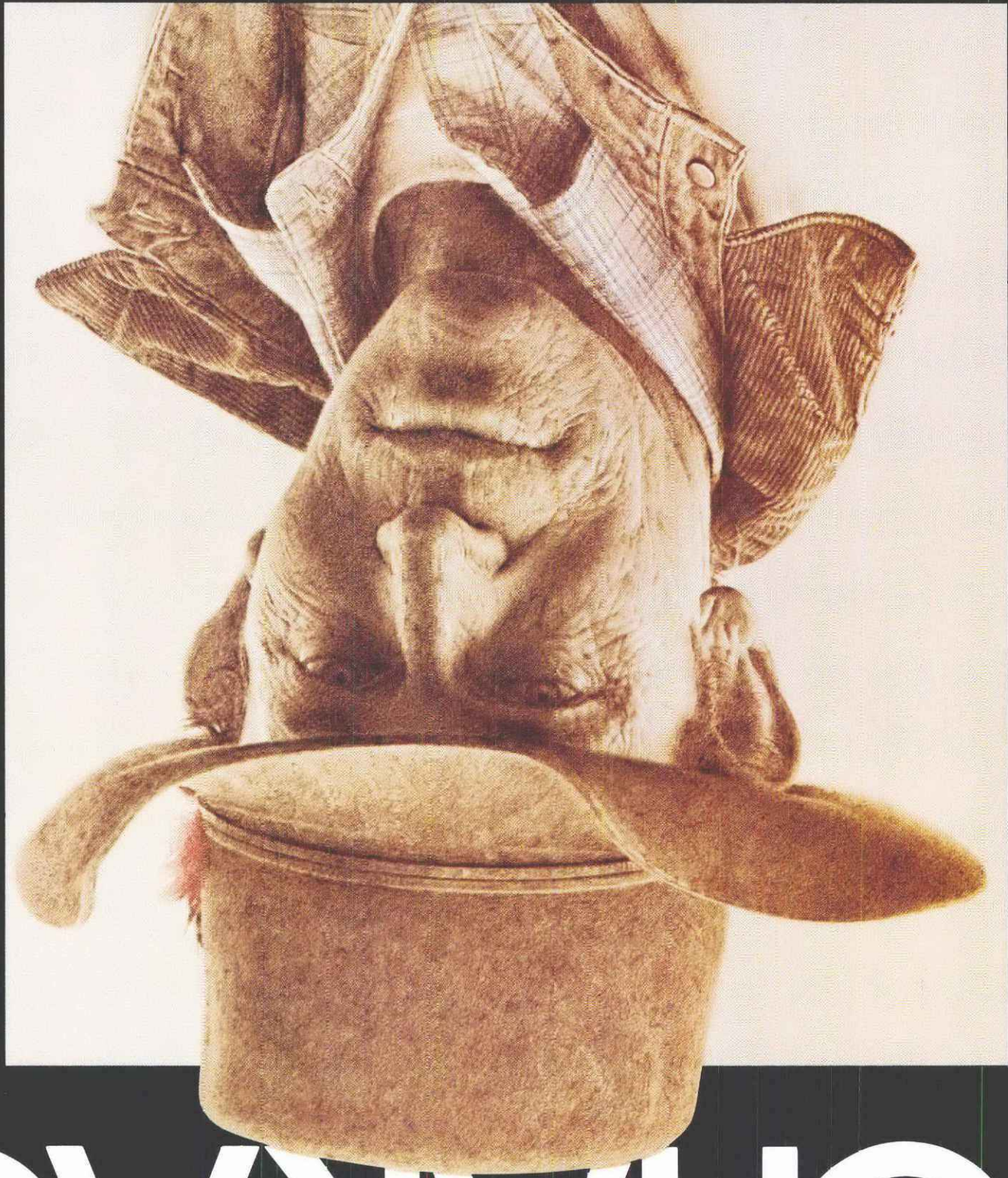
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NOV. 11-12. Exempt Organization: Tax Strategies and Legal Problems program in San Francisco, sponsored by the Practising Law Institute; \$325. Also, **Dec. 8-10** in New York. PLI, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

NOV. 11-12. Confined Space Entry workshop in Dallas, sponsored by Loss Prevention Associates; \$285. Loss Prevention Associates, Box 59888, Dallas, Texas 75229; 214-241-0396.

NOV. 15-17. Advanced Safety Management course in Atlanta, sponsored by the International Loss Control Institute; \$350. ILCI, Box 345, Loganville, Ga. 30249; 404-466-2208.

NOV. 15-18. Inspector Training seminar in Houston, sponsored by the International Safety Academy; \$490. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

NOV. 15-19. Practical Risk Management course in London, sponsored by Risk Research Group Ltd.; 590 pounds (approximately \$1,000). Elspeth Jones, RRG Ltd., Bridge House, 181 Queen Victoria St., London EC4V 4DD England; 01-236-2175; telex, 8811636 RRG G.

NOV. 15-19. Assets Protection course in Saddle Brook, N.J., sponsored by the American Society for Industrial Security; members, \$595; non-mem-

bers, \$650. American Society for Industrial Security, 2000 K St. N.W., Suite 651, Washington, D.C. 20006; 202-331-7887.

NOV. 16-19. Construction Insurance second annual conference in Dallas, sponsored by the International Risk Management Institute; \$435. IRMI, Building III, Suite 208, 10300 N. Central Expressway, Dallas, Texas 75231; 214-363-9656.

NOV. 18-19. Fundamentals of Occupational Health Programs course in Long Grove, Ill., sponsored by National Loss Control Service Corp.; \$250. George Krafcsin, Vp, NATLSCO, Long Grove, Ill. 60049; 312-540-2400.

NOV. 18-19. Techniques of Risk Management seminar in Washington, sponsored by the International Institute of Safety & Health; \$245. IISH, 5010A Nicholson Lane, Rockville, Md. 20852; 301-984-8969.

NOV. 19. Loss Avoidance seminar in College Park, Md., sponsored by Shand, Morahan & Co. and the University of Maryland School of Architecture; architects/engineers insured through Shand, Morahan, \$55; others, \$145. Jim Ruiz, Shand, Morahan & Co. Inc., One American Plaza, Evanston, Ill. 60201; 312-866-0765.

NOV. 21-24. Apprenticeship and Training institute in Hollywood, Fla., sponsored by the International Foundation of Employee Benefit Plans; members, \$390; non-members, \$465. IFEBP, 18700 W. Bluemound Road, Box 69, Brookfield, Wis. 53005; 414-786-8700.

NOV. 21-24. Corporate Benefits Management conference in New Orleans, sponsored by the International Foundation of Employee Benefit Plans; members, \$470; non-members, \$545. IFEBP, 18700 W. Bluemound Road, Box 69, Brookfield, Wis. 53005; 414-786-8700.

NOV. 22-27. Aviation Safety Program Management course in Sydney, Australia, offered by the University of Southern California; \$950. USC, Office of Extension & In-Service Programs, Institute of Safety & Systems Management, Los Angeles, Calif. 90007; 213-743-4617/6523.

NOV. 24-26. Captive Insurance Companies course in London, sponsored by Risk Research Group Ltd.; 350 pounds (approximately \$595). Sue Moore, RRG Ltd., Bridge House, 181 Queen Victoria St., London EC4V 4DD England; 01-236-2175.

NOV. 25-28. Hazard Control Sampler for Managers program in Washington, sponsored by the International Institute of Safety & Health; \$295; \$250 if three or more are registered from the same company. IISH, 5010A Nicholson Lane, Rockville, Md. 20852; 301-984-8969.

DEC. 1. Accident Investigation and Analysis seminar in Houston, sponsored by the International Safety Academy; \$150. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

DEC. 1-2. Oil Field Health and Safety conference in Houston, sponsored by The Energy Bureau; \$695. Registrar, The Energy Bureau Inc., 41 E. 42nd St., New York, N.Y. 10017; 212-687-3178.

DEC. 2. Effective Safety Committees seminar in Houston, sponsored by the International Safety Academy; \$150. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

DEC. 2-3. Nuclear Litigation program in New York, sponsored by the Practising Law Institute; \$375. PLI, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

DEC. 2-4. Employee Benefits and Workers Compensation: A Shotgun Marriage? conference in Miami, sponsored by Risk Planning Group Inc.; \$600. Eileen B. Callahan, Conference Coordinator, Risk Planning Group, 722 Post Road, Darien, Conn. 06820; 203-655-9792.

DEC. 5-6. Public Employees conference in Orlando, Fla., sponsored by the International Foundation of Employee Benefit Plans; members, \$390; non-members, \$465. IFEBP, 18700 W. Bluemound Road, Box 69, Brookfield, Wis. 53005; 414-786-8700.

DEC. 6-10. Basic Safety Management seminar in Houston, sponsored by the International Safety Academy; \$535. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

DEC. 7. Safety/Loss Control by Objectives seminar in Tampa, Fla., sponsored by the International Safety Academy; \$150. Also, **Dec. 14** in Los Angeles. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77024; 713-932-9400.

DEC. 8-10. Captives: The Offshore Funding Alternative conference in Nassau, Bahamas, sponsored by Risk Planning Group Inc.; \$200. Eileen B. Callahan, Conference Coordinator, Risk Planning Group, 722 Post Road, Darien, Conn. 06820; 203-655-9792.

DEC. 8-11. Benefits Processing institute in Orlando, Fla., sponsored by the International Foundation of Employee Benefit Plans; members, \$390; non-members, \$465. IFEBP, Box 69, Brookfield, Wis. 53005; 414-786-8700.

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Disease claims pose huge threat: Attorney

By STEPHEN TARNOFF

CHICAGO—Companies fighting the growing number of occupational disease claims have the law "stacked against them," an insurance company attorney says.

Speaking at a National Safety Congress & Exposition seminar, Robert Schuch, regional legal manager for the Wausau Insurance Cos. in Wausau, Wis., said that occupational disease cases are increasing rapidly and covering areas not originally intended by workers compensation legislation.

Mr. Schuch said, for example, occupational disease claims in Wisconsin have increased 150% during the last three years.

"Occupational disease cases are very expensive and very difficult to defend," he said. "They are still a small percentage but they are growing and growing fast—like a snowball going downhill."

Currently, a Wisconsin worker can receive \$289 a week tax-free if he or she can successfully claim temporary total disability and \$79 a week for permanent partial disability.

In addition, a claimant with permanent total disability can get \$289 a week for the rest of his life, along with all medical expenses related to his or her injury. A death benefit of \$75,000 is also awarded if the claimant dies before 1,000 weeks of disability benefits have been paid out, Mr. Schuch said.

"It is not uncommon for a young person who has been declared to be a permanent total to be an exposure to his employer or the employer's insurance company for about \$500,000," he explained.

"That is one of the big problems with seeing an occupational disease case. If you have a permanent total on your hands, you're talking a lot of money."

Mr. Schuch attributes the rise in occupational disease claims to two factors:

- Employees have become more aware of diseases due to greater publicity.
- Such cases are very lucrative for plaintiffs' attorneys.

Because plaintiffs don't have to pay their attorneys unless they win, "the worker has very little to lose" by filing an occupational disease claim, Mr. Schuch said.

The definition of what is covered under occupational disease has also increased significantly in recent years, he added.

Occupational diseases that are "on the upswing" include asbestosis, other pneumoconioses, dermatitis, hearing loss, injuries to the internal organs, job stress and cancer.

"These are the things going through your employee's minds these days," he said. "Anything they think is unusual is somehow related to employment."

"The last occupational disease that I'm seeing a lot of are heart attack cases. People are now saying, 'Something frightened me,' 'I was under a lot of stress at work,' 'I was doing a lot of exertion.'

"If heart attacks, cancer and stress are all to be covered under workers comp, what else is there to die from?"

Workers compensation was in part designed to be a quick way to compensate people, Mr. Schuch said. "However, when we're talking about an exposure of \$500,000, I don't know that I want to see it done quite so haphazardly and quite so quickly."

Mr. Schuch also said that occupational disease claims are a problem because they involve maladies with no established compensation schedules. Rather than paying a set amount as is done for other injuries, a worker can bring in an expert who can testify to the worker's loss of future earning power.

Mr. Schuch also said that companies have little opportunity of having a decision overturned once it is made in favor of the plaintiff.

In addition, workers compensation law is liberally construed in favor of granting awards to plaintiffs, he said.

"You've got one foot in the grave and one foot on the banana peel," he added. "Sometimes you go to these hearings and you feel like the applicant's only burden is to state his name and address, and then the burden shifts to you to disprove everything about the case."

Mr. Schuch also said that companies have little opportunity of having a decision overturned once it is made in favor of the plaintiff.

In addition, "How do you defend a case when the first exposure was 35 years ago?" he asked those attending the session. Most of the time, he explained, no records dating back that far exist because employers didn't think they had a problem at the time.

Employers also have difficulties proving that the workplace environment was not responsible for

the claimant's injury, he said.

"Let's take the person who has smoked three packs of cigarettes for the past 22 years, but has also worked in a foundry and he comes down with cancer," he said.

Years ago, the disease would have been attributed to smoking, he said. But there have been recent rulings that said if there is a synergistic effect between the carcinogenic effect in the environment at work and the cigarette smoking, that's enough to qualify the worker for compensation.

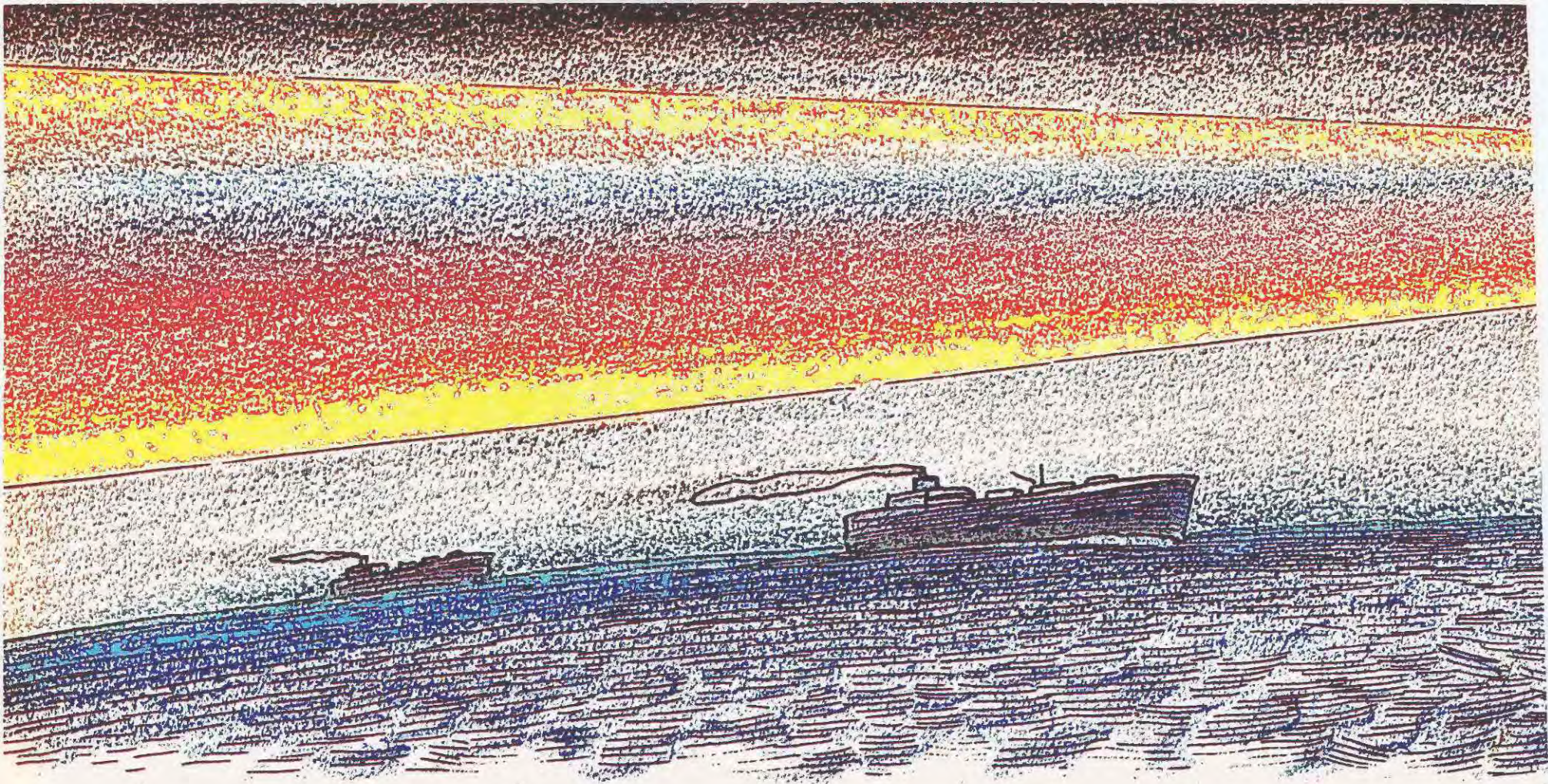


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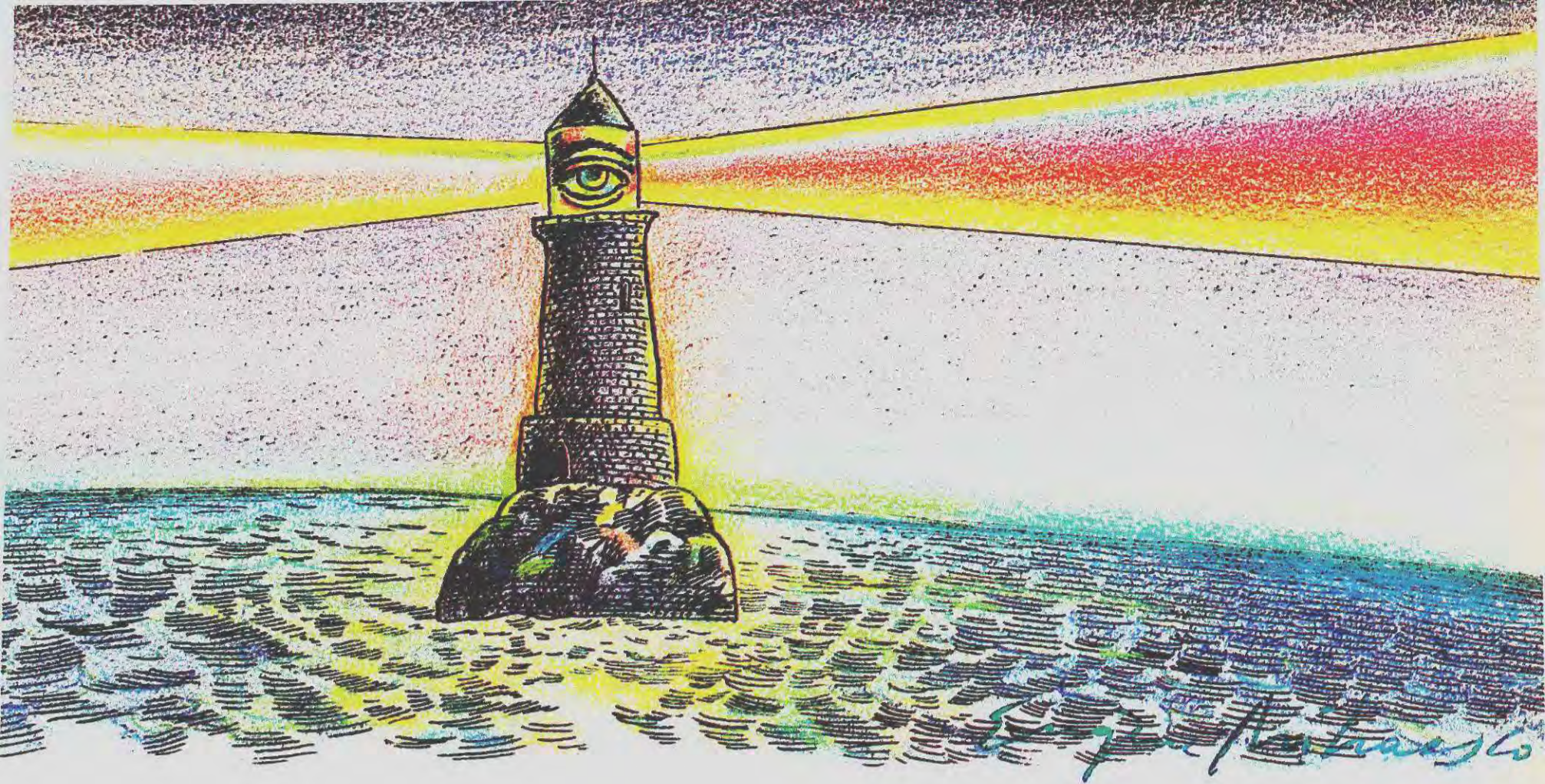
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Comp costs won't decline in '80s: Consultant

By **STEPHEN TARNOFF**

CHICAGO—Occupational injuries and illnesses will be dramatically reduced in the 1980s because of job safety and health improve-

ments and the modernization of American industry, an industrial consultant says.

But those improvements could be accompanied by higher workers compensation costs, more product

liability claims from workers and additional government regulation.

Raymond P. Boylston of Ennis, Lumsden, Boylston & Associates Inc. of Chapel Hill, N.C., said at last month's National Safety Congress & Exposition that workers compensation costs will continue unabated throughout the decade.

"The high cost of occupational injuries and illnesses will continue due to workers and their representatives insisting on proper compensation," Mr. Boylston said.

He said that the "single most important future impact" on workers compensation claims will be chronic obstructive lung disease also known as COLD.

"The major change in COLD compensation concerns the trend of state compensation administrations to grant benefits for aggravation of pre-existing pulmonary disease such as asthma, bronchitis and emphysema," he said.

"Since about 25% of all workers at age 65 or greater have some chronic obstructive lung disease, the potential compensation costs could be very great."

In addition to workers compensation claims, employers will likely be faced by more product liability lawsuits claims filed by employees, he added.

Even though lawsuits against employers are largely prohibited by state workers compensation laws, Mr. Boylston said employees can currently sue their employers in California, Massachusetts, Alabama and West Virginia.

"This increasing liability lawsuit problem is expected to continue at an increasing rate in the future," he said. "As with workers compensa-

tion, the best employer defense against the liability problem is to maintain an effective occupational safety and health program."

Government regulations, especially those enforced by the Occupational Safety and Health Administration, will continue to have an effect on workplace safety during the 1980s, but more emphasis will be placed on voluntary compliance with those rules, Mr. Boylston said.

"Some very significant trends have developed under the Reagan administration to reduce the negative impact of OSHA on business. However, most informed observers believe that any future decrease in OSHA emphasis may be small. The maximum de-emphasis may have already passed."

But "failure of industry to accept the challenge and do an effective job will result in a new wave of future job safety and health regulations," he added.

The desire of employees to participate in job-related activities during the decade will be satisfied, to some degree, by participation in job safety programs, he said.

"Those companies recognizing the need for and advantages of employee involvement in occupational safety and health will be among the industrial leaders for the future," he explained.

The nation is already seeing new, improved management systems for managing occupational safety and health, he said. "Those companies with effective job safety and health programs have learned that safety is a line supervisory responsibility and cannot be relegated to staff personnel.

"Beginning with the ranking

company manager, each department head, unit manager and supervisor must be directly involved in safety and health activities. That involvement must include chairing management and supervisory safety committees and assignment of specific safety and health coordination responsibilities."

Overall, Mr. Boylston said that the opportunities for improving occupational health and safety are good in the wake of the nation's past mistakes.

He said government intervention into safety areas has stemmed from American industry not keeping pace with other countries in improving the industrial working environment and industrial management systems not keeping up with significant changes in worker education and desires.

In addition, past labor-management relationships have not fostered a cooperative, team approach and in some cases caused an adversarial relationship.

As a result, the government has enacted rules like the Occupational Safety and Health Act of 1970, the Consumer Products Safety Act, the Toxic Substance Control Act and various Environmental Protection Agency regulations.

Mr. Boylston said "good progress" has also been made by industry in incorporating job safety and health improvements when automating and retooling its plants.

"New high-speed machines with much-improved guarding and local ventilation is being installed," he said. "Replacement of old machinery with high-speed units is also creating more work space and more orderly facilities."

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Safety can be basis for firm's management plan

Continued from page 3
when approaching company management.

"Speak management's language," Mr. Bird said. Know how much will exactly be saved, give adequate information in a timely fashion and be aware that a manager is predominantly interested in economic considerations affecting the company's budget.

"Saving lives is not why management's in business," Mr. Bird added.

"A manager will usually give priority response to items pos-

sessing the potential for the greatest proportion of results for least investment of available sources," he said.

If the company is using an untested object, just don't go to management and tell them someone is likely to be killed, Mr. Bird added.

Tell the manager what the likelihood of an accident occurring how much it will cost to control risk of an accident, what the alternative methods of control are and how successfully the risk can be controlled.

"A manager is predominantly interested in those economic considerations affecting his own budget," Mr. Bird said.

"Don't waste your time on a cost that isn't on that man's budget or on his ledger. He has a vested interest."

Mr. Bird advised loss-control managers not to emphasize safety alone when trying to sell a safe program to management.

Safety for safety's sake is not a major priority of management, he explained.

"It (safety) doesn't sell very well. Safety is low on management's motivational scale."

But Mr. Bird said that some companies institute procedures that in effect make safety a very high priority and the basis for improving cost, productivity and return on investment.

For example, a properly executed safety program can improve quality control.

"They know if they have a top notch, well-designed safety program, quality will take care of itself," he said.

Loss-control managers should change their safety programs so that they become mission-oriented, Mr. Bird added.

"A safety analysis keeps your profit down because it is not a mission-oriented analysis."

Mr. Bird explained that does not mean that companies should not conduct job safety analyses.

"But you want to make sure that your quality analysis and your production analysis are also going into the procedure. I am against job safety procedures as they are frequently written. They are not mission-oriented," Mr. Bird said.

"What we need is more information for the worker on how to do the job the right way. He screws up because he doesn't do the work properly, not because he doesn't know how to work safely. And when we speak this kind of a language, we are speaking the language that management listens to," Mr. Bird added.

A properly implemented, mission-oriented safety program will reinforce other management objectives that relate to quality control, Mr. Bird said, including employee attitude; skills, knowledge, fitness and the safety of structures, machines, equipment, materials and processes.

Finally, Mr. Bird said that it is essential for loss-control personnel to know the proper tools to sell their programs to management.

Mr. Bird told the session that a loss-control manager trying to sell a safety program to management must use a formula that involves getting management's attention, developing its interest, building personal desire through the promise of real benefits and obtaining management's commitment to action.



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NA/Aetna to stress smaller package plans

By LEN STRAZEWSKI

CHICAGO—Smaller commercial package insurance plans and independent agents will be the keys to growth for INA/Aetna, CIGNA Corp.'s redesigned property/casualty division, executives are telling agents around the country.

But large commercial risks, emphasized by INA for the past five years, will not go wanting, they said later to *Business Insurance*.

CIGNA, the product of the landmark merger of INA Corp. and Connecticut General Corp., took a reorganization of its property/casualty insurance division on the road to 46 cities and 10,000 independent agents last month to explain the combination of INA and CIGNA's Aetna Insurance Co. and promote a new products plan to independent agents.

and the cost, subject to underwriter approval, to the buyer.

Agents also can look forward to expanded underwriting authority and many may be allowed to issue policies themselves, INA/Aetna executives said.

Although the subject of the marketing campaign was the agent-controlled small and medium-sized risk marketplace, INA/Aetna has no plans to de-emphasize or limit its commitment to large commercial risks or tailored risk management programs, Mr. Cox told *BI*. However, the company expects stronger growth in coverage for smaller firms.

"Sure, we can still grow with the jumbo accounts," Mr. Cox said. "But we do about \$2 billion in wholesale premium and about \$3 billion in retail. The retail business

is already bigger and has a larger growth potential."

Jack Morrison, INA/Aetna's senior executive vp and chief underwriting officer for both the wholesale and retail divisions, agrees. "In the next seven to 10 years, we will be emphasizing the retail side where we feel we will have great potential strength."

As director of INA Special Risks until the CIGNA merger, Mr. Morrison spearheaded INA's entry into large, layered insurance programs and risk management products.

While the large risk business boomed, retail market share "was just holding its own," he said. The addition of package programs and additional mass-marketed coverage for affinity industry groups may soon light a fire under the smaller business lines.

Financial analysts who watch CIGNA stock hope so, too. But they are a bit more skeptical.

"It has to be viewed as a defensive measure," remarked Michael Frinquelli, vp and analyst at Salomon Brothers in New York. "You have to hold on to what you have and the small- to medium-sized commercial risks are probably the single most competitive aspect of the marketplace right now—and the biggest."

Stock agency insurers have been losing market share in this business niche for years to large direct writers like Allstate, State Farm and commercial insurance mutuals, he added. So INA/Aetna has little choice but to design a plan to try to get some of the market share back.

"All the insurers are looking forward to limited premium

growth with losses and expenses growing," he said.

The appeal to independent agents is also predictable, added Michael Lewis, financial stock analyst and insurance specialist at E.F. Hutton Group Inc. in New York. "They must get agent loyalty to go after this business. Primarily, the small business is agent-controlled."

Although INA/Aetna was not emphasizing its advanced service capability to agents during its presentations, another analyst, Dennis Callaghan, first vp at Dean Witter Reynolds Inc., thinks that the insurer's experience with big risks may give it an edge.

"Small and medium-sized buyers are interested in the same risk management services as big risks now and the insurer which provides them to agents will prevail."

Five teams of senior executives, sitting two cities a day from Oct. 1 to Oct. 22, told the story of INA/Aetna and what it could do to help agents recapture small to medium-sized commercial risks.

"We want to be the agent's banker," CIGNA Executive Vp John R. Cox told about 200 agents in Chicago. "We are asking to be our No. 1 insurance market, provide financial support when you want to buy other agencies, assist in training and be the company you come to for computerization, rating and policy issuing needs."

Mr. Cox and other executives explained that INA/Aetna will operate in two divisions, wholesale and retail. Wholesale services will design and service coverage for large commercial risks that generate more than \$500,000 in premium for casualty insurance or \$1 million for workers compensation or demand layered or excess property insurance coverage.

Unusual or excess/surplus lines coverage also will be administered by the wholesale division.

The retail division will focus on products for agents, including a recently introduced series of nine commercial insurance packages.

The packages, called the "Advantage Series," include coverage for funeral directors, manufacturers/contractors, retailers, wholesalers/distributors, service industries, commercial residential property, office buildings, institutions and small businesses.

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Robert Strom, Vice-President of field operations, Gallagher Bassett Insurance Services.

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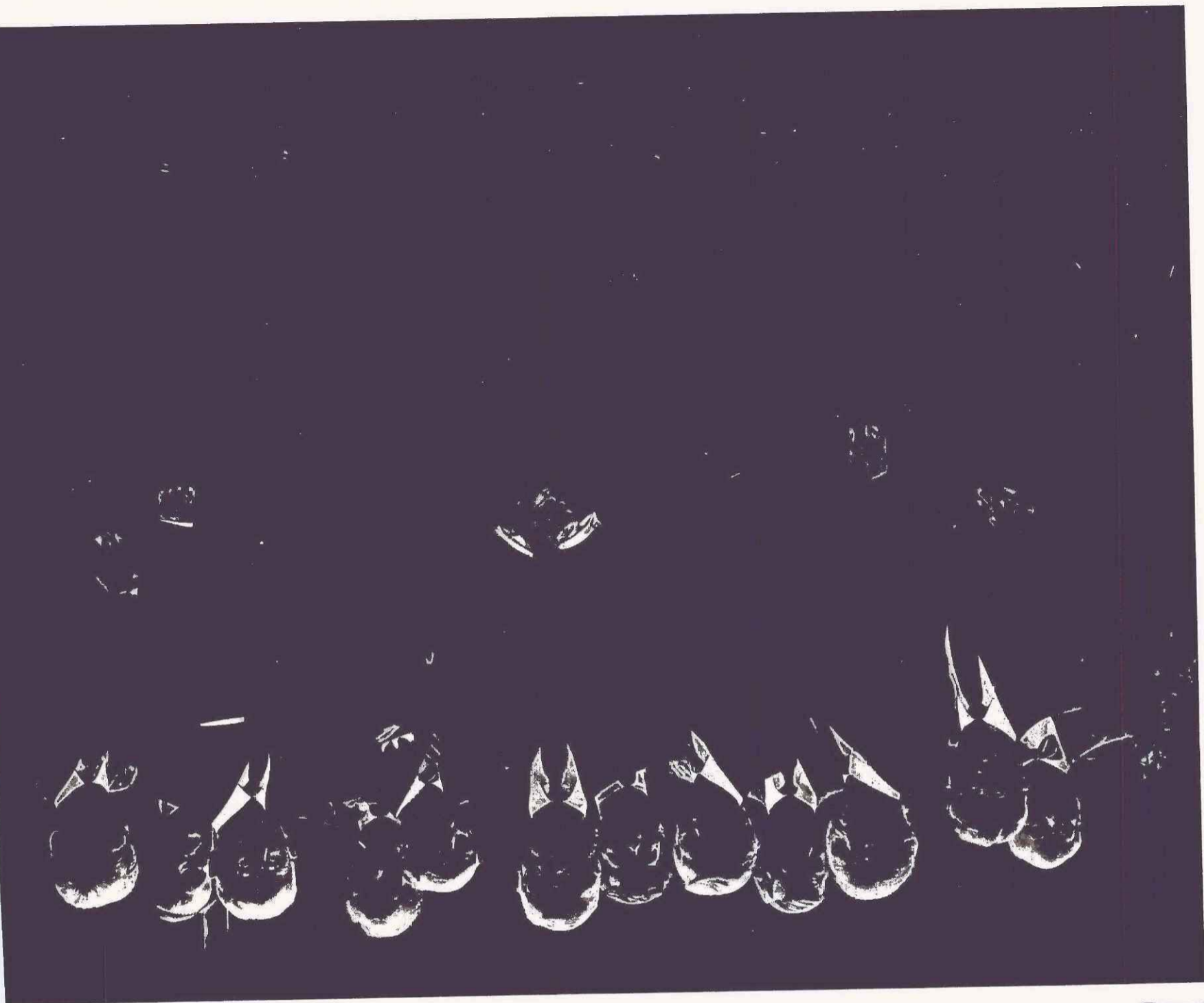
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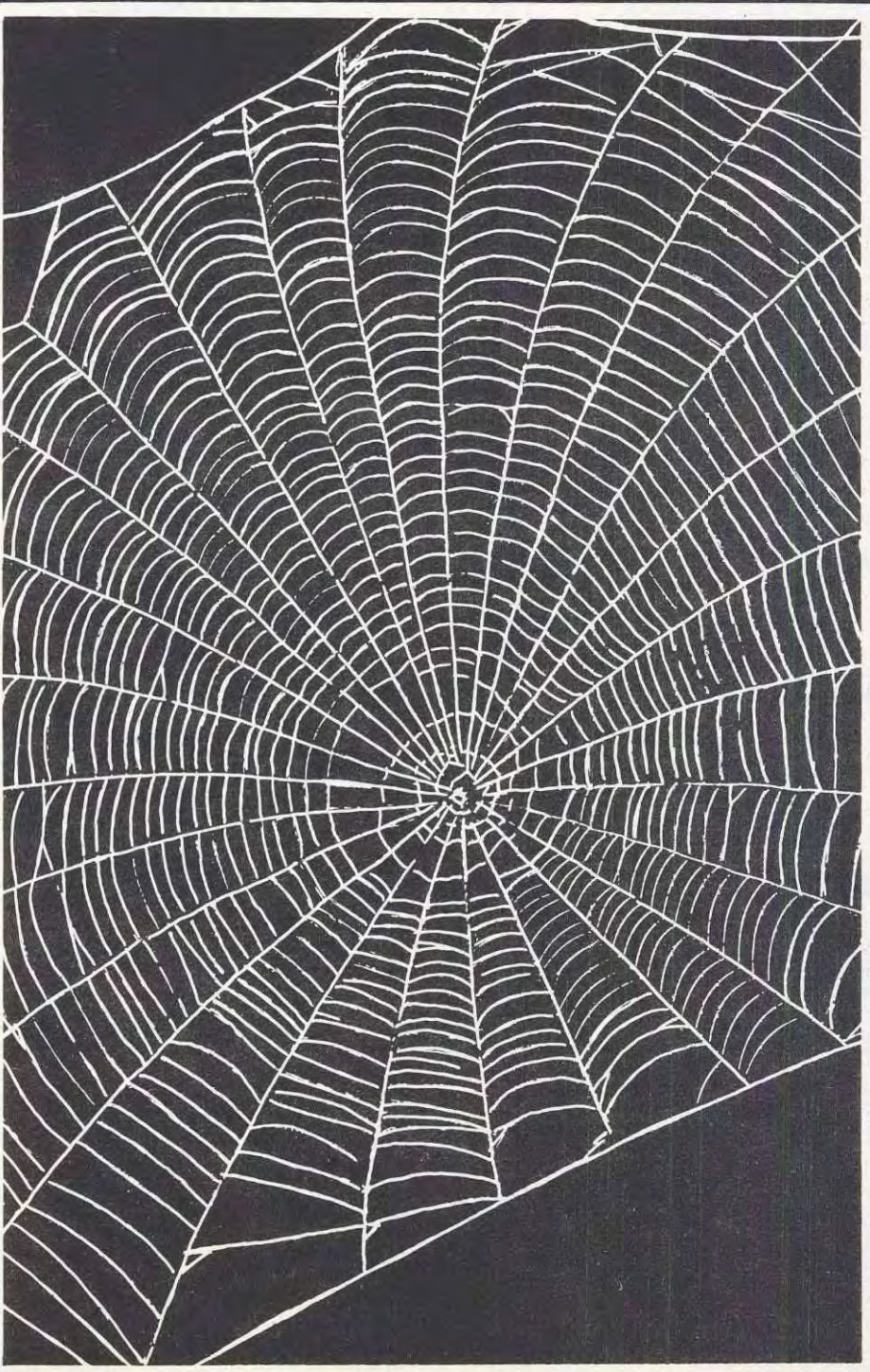
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perspective

CUTTING PROPERTY LOSSES

Clients are controlling the problems with 14-part plan devised by insurer

By James A. Lambert

INDUSTRIAL RISK Insurers recently examined 1,169 losses totaling \$172 million that occurred during a three-year period. An analysis of these losses revealed that human failure—errors of commission or omission—contributed to 97.9% of them.

That is a significant percentage and IRI decided to do something to control it. In late summer of 1981, a task force was appointed to develop a management system that would help prevent single human errors from multiplying into full-fledged disasters.

Everyone agrees programs are needed to manage the interaction among people, hazards and protection equipment. But not everyone can implement them. Some simply lacked the resources, personnel or time to devote to this type of project.

IRI wanted to develop an overall system that could be modified for use at any facility. The overview committee that prepared the program included members of the national research, human resources and communications departments, as well as members of the national engineering staff.

Management's commitment was seen as the necessary foundation for any serious loss-prevention effort, and the 14 interlocking programs that took shape were viewed as a wall or barrier against disaster (see diagram).

Called Overview, the system was introduced in April 1982 at the annual Risk & Insurance Management Society conference as a tool that management of any facility could use to meet its property loss-control responsibilities. Overview consists of 14 separate programs that can help management develop or strengthen its own loss-prevention and control program.

Overview is directed at those members of management who have the authority to make things happen in their companies. Each of the 14 Overview sections consists of an introduction, a statement of the problem and an action plan aimed specifically at top management. These sections explain various problems and their significance and tell management what



approach it might take when setting up programs to combat these problems.

Each section also contains a background portion that explains how to go about establishing the various programs. This portion is aimed not at management but at those who will actually develop and implement the program.

Overview's 14 sections, which run the gamut from topics as simple as smoking regulations to more complex subjects such as hazardous materials evaluation sections, are:

- Impairments to protective systems.
- Smoking regulations.
- Maintenance.
- Employee training.
- New construction.
- Insurance company recommendations.
- Pre-emergency planning.
- Hazardous materials evaluation.
- Cutting, welding and other hot work.

- Loss-prevention inspections.
- Fire protection and security surveillance.
- Fire protection equipment inspection.
- Process hazard evaluation.
- Proper housekeeping.

These kinds of loss-prevention and control programs are not new, but Overview's approach to them is. For the first time, they have been gathered into one document to be used as an easy reference guide. Apparently, the approach is valuable. Within six months of Overview's introduction, IRI distributed all 5,000 copies of the first printing, many in multiple copies to single companies, and a second printing is almost completed.

The first section, "Impairments to Protective Systems," explains the problem of impairments in detail and describes the actions management should take when faced with such impairments. These actions include assigning

responsibility for supervising the impairments, adopting a detailed system for supervision and making sure that appropriate personnel know the importance of impairment handling.

Overview also deals with "Smoking Regulations." To establish smoking regulations, management must determine where smoking can and cannot be permitted and must let its employees know what they have decided. Management must then discipline those who violate the regulations.

The "Maintenance" section is designed to help develop a comprehensive maintenance plan. It suggests that management establish a written policy for each facility and appoint an experienced individual as maintenance manager. This individual will then set up the actual maintenance procedures, establish a maintenance information system and set up a training program for maintenance personnel.

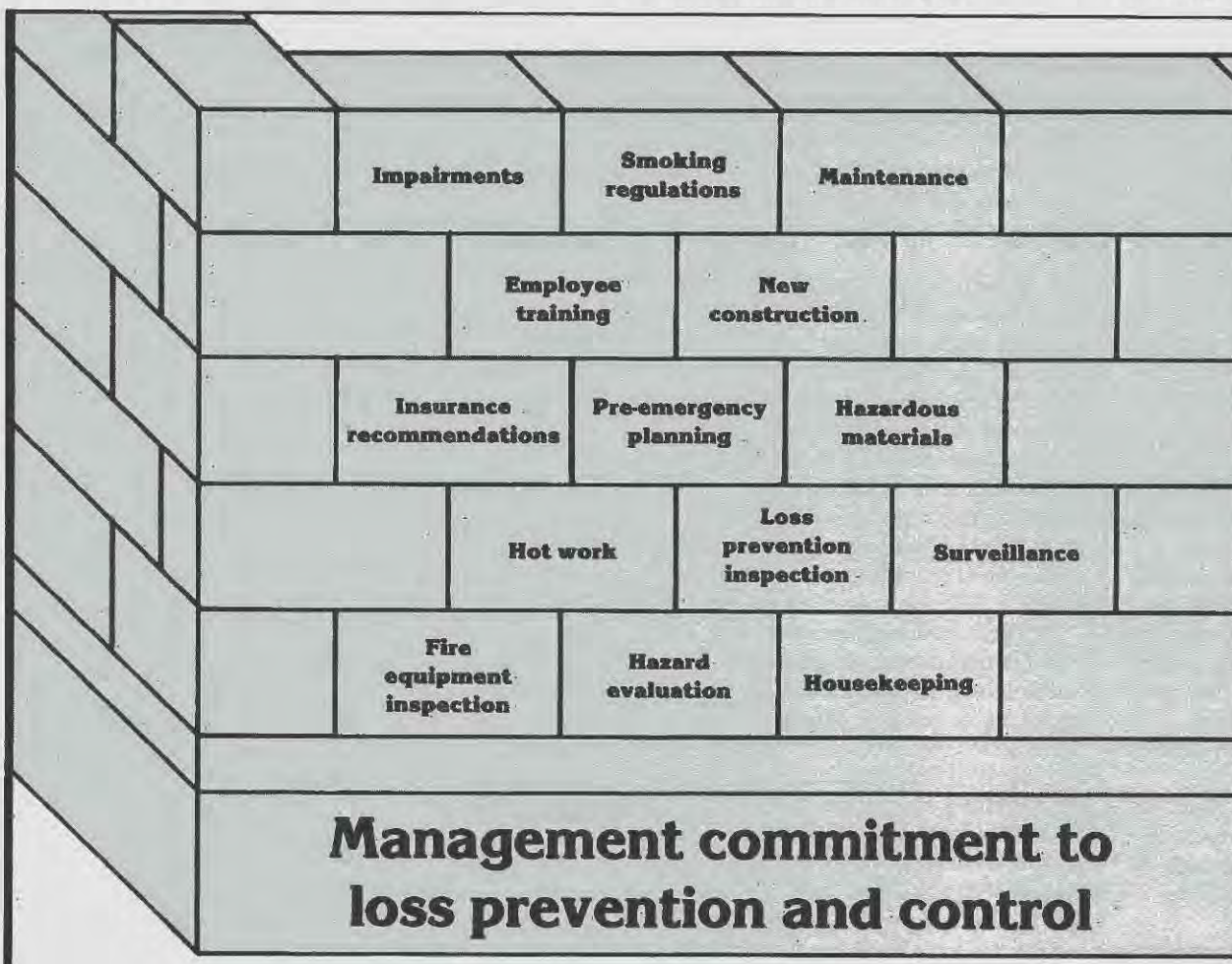
Of course, training programs are needed for more than just maintenance personnel. Overview's "Employee Training" section suggests that each company develop an effective program for everyone who needs it. To do this, management should appoint a training director to supervise the development of a written program and inform all employees of the need for proper training. Management should also

demonstrate its support of the program by making sure that none of the decisions relating to job performance and procedures violate those taught in the programs.

To prevent losses that might occur at a plant during construction, the section called "New Construction" suggests that management start an aggressive loss-prevention and control program at any site for which it is responsible. To establish this type of program, management must make sure the installation of protection features keeps pace with the progress of construction. Management should also appoint a fire brigade chief and assign an individual to coordinate the loss-prevention aspects of the construction project at the site.

Management is also responsible for

Continued on next page



perspective

How to avoid wasting time on the job

By Kenneth P. Shapiro

LAST MONTH'S column discussed the many ways that managers can make the best use of their time. The following expands on that by pointing out common time wasters and how to avoid them.

To avoid time wasters, we must first identify them. A useful tool is to keep a time log. Reviewing your log will indicate some obvious activities that are time-consuming but not productive.

But how can you avoid these intrusive activities? Here are some tips.

1. Delegate.

Ask yourself: Is there anyone else in the organization who could perform this task, attend that meeting or convention?

2. Make telephone time more productive by:

- **Scheduling calls.** While telephones are essential lifelines of business, they can also cause us to waste a great deal of time. The interruption of telephone calls can be distracting and disrupt our flow of concentration when we're working on an important project. One possibility is to schedule all calls for a certain time of day.

- **Screening and delegating.** Experts

management

suggest logging calls just to get an idea of how much time is spent with whom on the phone. Generally, 80% of the calls are coming from 20% of the callers. One way to cut down on the number of incoming calls is to set a special time for calls, as mentioned above, or to have a secretary screen them. Calls can also be assigned to someone else. If a lot of time is being spent on the phone with the same people over and over again, try coming up with a way to consolidate the calls.

- **Cutting down on the length of calls.** To cut down on the length of phone conversations, keep a three-minute timer by the phone to become aware of the time you spend. Also, curtail the social aspects of calls without being abrupt.

3. Control conversations with others.

Sometimes, we have a need to socialize at the office, but we must be realistic when this becomes detrimental to our effectiveness. When we are talking with associates about business-related problems or situations, encourage them to come to the point. It is

helpful to be briefed in writing before a discussion so as not to waste time on background. Finally, find a polite way of getting people who ramble back on the track. One way of doing this is to ask clear, precise questions until they are answered.

4. Limit meetings.

We have meetings for a variety of reasons: To conduct legitimate business, to disseminate information, to provide an audience for someone, to socialize, habit and, sometimes, even to pass the buck. We usually have a specific purpose for calling meetings but sometimes they outlast the original intent and become time wasters. Ask yourself:

- **Is the meeting really necessary?** The first thing that needs to be determined about any given meeting or committee is the necessity for it. Has the meeting or committee outlived its usefulness? When forming a committee, it's a good idea to state the purpose, set a deadline and then dissolve the committee after the deadline is met. Before calling a meeting, ask

whether there is a reasonable alternative. Could the information be disseminated a memo or some other way?

- **Is attendance really necessary?** We invited to a meeting, we must ask ourselves if our presence is really necessary or if there is someone else who could go and brief us later. Before attending a meeting, it is useful to state those involved the amount of time we have available for the meeting.

- **Am I prepared for the meeting?** Be clear about the goals that are to be accomplished in any given meeting. Give the participants a written agenda ahead of time so they know what issues are going to be covered and can be prepared.

- **Have I set a time limit?** Before the meeting, set a time limit and then stick to both the agenda and that limit.

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



Insurer devises program to control losses

Overview

Continued from previous page following up on insurance recommendations. Overview can help here, too. The section on "Insurance Company Recommendations" suggests that the property recommendations made by the insurer are fully understood. Then management should have someone make engineering and cost analyses. After reviewing them, management should establish a schedule for completing the recommendations.

Because experience has shown that action in emergencies is seldom effective if not planned in advance, Overview includes a section on this critical subject. "Pre-emergency Planning" suggests management first appoint an emergency coordinator, then create and disseminate a customized plan that will reduce loss by anticipating emergencies and developing appropriate measures. Next, management should make sure that a private fire brigade is formed and encourage training with local emergency agencies. Finally, management should see to it that the pre-emergency plan is used when needed and modified to keep pace with changes in property, facilities and processes.

One thing that can help a plant develop an effective pre-emergency plan is a hazardous materials evaluation. Most facilities handle a number of hazardous chemicals and they must be evaluated in order to plan proper precautions. The section on "Hazardous Materials Evaluation" helps management establish

a program to determine the hazards of substances within its facility and develop methods to disperse information to those that deal with those substances.

A related section is one in which hazards associated with processes and operations are evaluated so that they can be controlled. To establish an effective program, Overview's "Process Hazard Evaluation" section suggests developing an evaluation policy that states all new or revised operations and processes should be formally investigated and existing procedures be formally reviewed. This philosophy should then be incorporated into the company's safety policy statement. Finally, management should develop evaluation teams and review their investigations to determine if the relative hazard is acceptable. If it is not, management must decide how to handle it.

In order to prevent losses caused by hot work, management should establish a comprehensive program that helps control those hazards. The "Cutting, Welding and Other Hot Work" section lays out the elements in this program. They include assigning responsibility for its development, establishing and implementing a permit system and providing the equipment and personnel necessary to put safety regulations into effect.

Fire protection and security surveillance allow management to continuously monitor a plant for emergencies, notify the fire department when an emergency occurs and keep intruders out. However, adequate surveillance systems are often difficult to set up. Before management designs a system, Overview's "Fire Protection and Security Surveillance" section suggests that it determine which areas of the facility are not always occupied. It can

then select the types of surveillance that will adequately cover these areas. Management should also designate a representative to oversee the security program and evaluate changes in the plant for program modifications.

Another part of any facility that requires careful attention is the fire protection equipment. This equipment must be operable at all times, so management must develop a program to regularly inspect, test and maintain it. According to Overview's section on "Fire Protection Equipment Inspection," the first step in this program is the appointment of an individual to monitor it and report to management. Selected personnel should then be trained to conduct the inspections and tests. Management should also make sure that effective steps for reviewing the reports have been established, deficiencies are corrected and reports are filed for subsequent insurance company review.

A portion of any management program for loss prevention and control involves the development of practices in Overview's "Proper Housekeeping" section. Again, management can establish these practices with a written program. It should then appoint a housekeeping committee to be responsible for initiating and implementing proper practices and for reporting needed changes. Management should inform all employees of the committee's authority and actively demonstrate support of proper housekeeping through positive reinforcement.

Finally, there is the section on "Loss Prevention Inspections." To set up an effective inspection program, Overview encourages the use of inspection report forms in standard procedures in making loss-prevention inspections. IRI even provides a sample report form.

Management should then see to it that personnel are chosen and trained to conduct the inspections, with the cooperation of all employees.

This loss-prevention inspection program is the one that provides essential feedback needed to tell whether the 13 other loss-prevention and control programs have been implemented as intended. With the loss-inspection report form, inspectors can check housekeeping practices, maintenance procedures and smoking regulations throughout a facility. They can make sure that hazardous materials are being evaluated. They can check on hot-work permit programs, fire protection and security surveillance. In short, this program allows management to monitor the effectiveness of all the 13 other programs it has established.

Each of the Overview's 14 sections is a tool that can be used to help control and prevent property loss. Of course, all programs do not apply equally to all plants. But those that do should be developed, implemented and monitored. Overview can help manage risks only if it is used.

Next week: What Overview can tell management.

For a complete Overview kit, contact Patricia Sasso, Communications Department, Industrial Risk Insurers, 85 Woodland St., Hartford, Conn. 06102; 203-525-2601.

James A. Lambert is vp-engineering for Industrial Risk Insurers in Hartford, Conn. He is responsible for monitoring losses and loss trends and evaluates the progress of engineering programs like Overview.



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How to spot a worker faking an injury

The worker that malingers after an injury could very well meet the criteria in the "Faker Profile" developed by Emory University's Pain Control Center in Atlanta, Ga.

Of the 900 patients the Emory University clinic sees annually, only about 15, or 1% to 2%, are faking their pain, says Stanley D. Chapman, a psychologist there.

According to Emory University, the following marks a faker:

- The worker will often not show up at the pain clinic for his first appointment and will not make an effort to cancel or postpone the meeting.
- The employee has no words to describe the pain he is feeling, but is overly dramatic and gives an unprompted denial that he is malingering.
- The patient has a negative workup for organic disease.
- The worker shows a poor willingness to be evaluated (for his or her disability) and exhibits an

overall lack of commitment to physical therapy.

- The employee gives evidence during the initial interview that he realizes there is an economic gain to be made in connection with chronic pain behavior.

- The worker has a history of manipulative behavior.

- The worker's report on his pain disagrees with reports from his spouse or other family members who are asked for their reaction in separate interviews.

- Before the question is asked, the worker will bring up his fervent desire to get back to work.

"The malingerer is a loser that is hard to treat, but an employer must try to get at the worker's inability to cope," said Mr. Chapman.

"A worker who is faking pain may very well have psychological problems, but the malingerer shouldn't be rewarded financially or any other way," he added.

Injured workers' pain can become chronic

Continued from page 3

doctor orders more tests, but doesn't tell the worker why. This adds more tension. The employee hurts from the muscle inflammation and is scared, adding more muscle tension, which increases pain.

He's worried about paying bills, and he can't sleep. The doctor orders sleeping pills, setting the stage for another serious complication of chronic pain—drug misuse or addiction.

The "sick role" solidifies as the worker is relieved from the stress and responsibility of working and gets extra attention and sympathy from his or her spouse.

And then the employer provides

another reward for sickness—ability income.

"There is data today that shows significant relationship between spreading 'disability epidemic' the liberalization of workers' compensation and disability laws," Brena added.

When does an acute pain from injury become chronic? It's impossible to tell because no one can measure pain, says Stanley Chapman, a psychologist who works with Dr. Brena in the university's pain control center.

"Pain is 100% physical and 10% psychological because it varies from person to person," he adds.

"Prior to the 1960s, we thought chronic pain was a mental disease but it's really a classical condition: just like Pavlov's dog who hears the bell and starts salivating because he has learned to expect food when he hears the bell.

"We can't measure pain, but we can measure behavior," he says. "And we know that behavior rewarded becomes more likely to occur."

"The time course of pain, impairment and disability following an accident can be viewed as a sequential series of events," says Dr. Brena, "ranging from the injury to a phase of conditioned disability."

The Emory Pain Control Center developed the following social model for disability that it believes precedes chronic pain in workers:

- Crisis buildup from job dissatisfaction and poor coping skills.
- Accident.
- Medical intervention that complicates the healing process. (If a physician fails to communicate with the worker and tell him or her what testing is necessary and when it is crucial and can help prevent an acute injury from becoming chronic pain.)

- Stabilization of chronic pain.
- Legal intervention. (An attorney stretches his client's condition attempting to get disability for the worker.)

- Learned helplessness as the worker becomes more accustomed to his sick role.

The worker that can't deal with pain and learns to develop a helplessness that is rewarded affects the employer in indirect ways, too.

Half the population over the age of 40 has chronic pain, but many employees cope with it.

However, those that don't cope may not always be evident to the employer, but may affect the bottom line when it comes to lost productivity or sick days.

The Panel on Pain to the National Advisory Neurological and Communicative Disorders and Stroke Council in 1979 found a high price associated with pain.

The council found that 65 million workdays are lost annually due to migraine headaches, with about 40 million Americans suffering from chronic headaches.

Another 93 million work days are lost each year because of chronic low back pain. Altogether, about \$14 billion is spent annually on the treatment and compensation of low back injuries by U.S. employers.

In a study of 97 workers examined at Emory University for complaints of low back pain, almost 67% demonstrated pain behavior in excess of medical findings and were still on workers' compensation benefits years after the original injury, said Dr. Brena.

If the employer fails to intervene quickly and learned pain sets in, a sophisticated evaluation is necessary to motivate the patient to commit him- or herself to a pain re-

Continued on page 28

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Workers with chronic pain can be treated

Continued from page 26

rehabilitation program, says Dr. Brena. The conditioned state of disability has to be completely wiped out.

An evaluation should include a review of the injury, an assessment of the illness behavior, establishment of a pain classification and impairment rating, a vocational evaluation and a specific disability rating for a specific job, says Dr. Brena.

The Emory Pain Control Center uses the Hester System, which consists of 27 vocational tests, such as analyzing manual dexterity, coordination and perception, to name a few.

After testing, the raw scores and demographic data are fed into a computer, which analyzes the individual scores and matches them with job characteristics contained in the U.S. Dictionary of Occupational Titles.

"Disability evaluation should be the basis for meaningful planning and counseling following pain rehabilitation," he said.

"We need to convince injured workers that they would have the support of all parties if they make

an honest effort to return to work," pointed out Dr. Brena.

Vocational counselors, rehabilitation nurses, legal professionals and the employers themselves should all be involved in this crucial process, which Dr. Brena calls "humane recycling of injured workers to productivity."

To grant a disability status to workers with low impairment ratings is socially irresponsible and medically wrong, concluded another group of researchers at Emory University. "It condemns those workers to a lifestyle of learned illness and helplessness."

"In addition, it rewards the worker for continuing to complain about the pain and so avoiding work and other functional activities."

"It would be much more sensible to take some of the money from the huge sums currently paid to maintain workers in a state of conditioned sickness and use it to provide economic incentives for the injured worker to return to work after rehabilitation," the researchers concluded.

Late benefit statements to cost employers more

By JERRY GEISEL

WASHINGTON—It's going to cost employers more next year if they are late filing their annual benefit statements with the Internal Revenue Service.

The Tax Equity and Fiscal Responsibility Act increases the penalty for failing to file Form 5500, which describes a benefit plan's financial operations and conditions, to \$25 for every day past the deadline from \$10. Form 5500 is supposed to be filed within 210 days of the end of a plan's fiscal year.

The new penalty also boosts the maximum late-filing penalty to \$15,000, up from \$5,000. The higher charges will apply to reports due after Dec. 31, 1982.

washington

About 650,000 benefit plans file Form 5500 every year.

Pregnancy law

The Supreme Court should block the Equal Employment Opportunity Commission's attempt to expand the scope of the Pregnancy Discrimination Act, a business group says.

The National Chamber Litigation Center, the legal policy arm of the U.S. Chamber of Commerce, has filed a brief with the high court asking it to review an EEOC rule that requires employers to offer equitable pregnancy benefits to spouses of male employees.

Under that rule, employers must offer the same health care benefits to male employees' wives as are provided to other employees' dependents.

But the litigation center, in its brief to the court, said the Pregnancy Discrimination Act only was intended to regulate pregnancy benefits for employees, not for their spouses.

In addition, the cost of providing equal pregnancy benefits for spouses can be enormous. "The cost for a single company to comply with these (EEOC) guidelines can exceed \$450,000," the center noted.

Appellate courts are divided on the issue. In a case earlier this year involving Newport News Shipbuilding & Dry Dock Co., the 4th U.S. Circuit Court of Appeals in Richmond, Va., upheld the EEOC guideline (BI, Feb. 1).

Several months later, however, the 9th U.S. Circuit Court of Appeals, in a case involving Lockheed Missiles & Space Co. Inc. of Sunnyvale, Calif., said the 1978 law only requires employers to offer equitable pregnancy benefits to female employees (BI, Aug. 2).

The amicus curiae brief was filed in the Newport News Shipbuilding case.

Social Security

Senate Majority Leader Howard Baker, R-Tenn., says any action on overhauling the financially ailing Social Security program should be taken during a special congressional session next year.

Mr. Baker last month ruled out taking up Social Security problems during the lame-duck session this year.

A blue-ribbon presidential commission is supposed to begin making recommendations this month on how Social Security can be restored to fiscal stability.

Members of the commission need time to review and discuss the commission's report before they can act, Mr. Baker said.

Meanwhile, the commission is supposed to develop recommendations on how to

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agent/broker topics

A REGULAR EDITORIAL SECTION EXCLUSIVELY FOR AGENTS AND BROKERS

Minority brokers

Will big risks still elude struggling competitors?

By DONNA LEIGH YANISH

Minority agents and brokers, like their competitors, are grasping for a share of big corporate insurance risks. But many can't get near enough to grab hold.

When you branch out to service more than the minority community, many doors are closed, says Milton Moses, president of black-owned Community Insurance Center Inc. in Chicago.

Community is one of many minority agencies and brokerages that are trying to compete for majority-owned business. This section tells the stories of some of those firms.

"We only want an opportunity to compete," Mr. Moses explains. "Give us a fair shot and kick us out if we don't perform."

The same sentiment is echoed among many other minority agents and brokers. "That segment of the market (medium-sized to large corporate risks) just isn't open to us," agrees another black agent.

However, some minority agencies and brokerages, including Community, are getting a shot at portions of some Fortune 500 companies' insurance programs.

Companies like Beatrice Foods Co. and Illinois Bell Telephone have awarded insurance accounts to minority brokers. Some corporations that have government contracts must extend this opportunity because of federal equal opportunity laws but others do it out of a feeling of social responsibility.

But these efforts to recognize minorities sometimes pose problems of their own and may even provide corporations with excuses for not continuing the effort, minority agents say.

The awards are usually pieces of a much larger insurance package. Some, Mr. Moses points out, are such small portions that the minority agent or broker may lose money on the project. That's just tokenism, he says, not a business relationship to help the agent or broker grow.

Sometimes companies overlook the largest minority-owned agencies and brokerages and give coverage to a very small minority-owned agency or brokerage that may not have enough expertise or manpower to handle the risks they are asked to place, Mr. Moses says.

"If they can't handle it, the policyholder can stop doing business with minority firms," Mr. Moses says,

Continued on next page



Hispanic agent captivates neighborhood

By DONNA LEIGH YANISH

CHICAGO—Not all agents and brokers face fierce competition.

One agent, who draws clients from a mostly Hispanic neighborhood on Chicago's West Side, says he doesn't have to race troops of other agents to his policyholders' doors.

That's because his firm, Spanish Community Insurance Agency, is practically next door to his clients. As President Juan R. Valdesuso walks around the neighborhood, he can point to many of the small businesses and say, "They have insurance with me."

And the ones that don't do business with his office now may buy from it later. For example, the owner of the furniture store next to Mr. Valdesuso's agency switched all of his commercial and most of his personal insurance to the Spanish Community Insurance Agency after 10 years of buying insurance from Allstate.

The key to success seems to be commitment to the neighborhood commercial needs and a willingness to do business in the language of the community.

Spanish-speaking agents are relatively rare, even in Chicago where about 10% of the population is Hispanic. There are only about five Hispanic independent agents in the city, Mr. Valdesuso notes.

Small commercial accounts make up about 70% of Mr. Valdesuso's book of business, he says. "I do a lot of small group health business packages in the neighborhood," he says, adding that virtually all of his agency's \$800,000 in annual premium volume comes from referrals.

"I'm indebted to the Spanish-speaking lawyers in town," he says.

Placing his neighbors' risks isn't difficult, Mr. Valdesuso says. It's only difficult for the policyholders to get coverage if they don't meet standard requirements. "They have to keep in line with the insurance company standards."

Mr. Valdesuso also tries to help his clients solve their exposure problems. For example, a grocery store that does commercial cooking on the premises may not have proper fire protection.

"I inspect the risk. Many times I advise people they can invest \$50 or \$70 (to eliminate an exposure) and save money on their insurance premium," he says.

Advising his clients is easier for Mr. Valdesuso than for other agents trying to service the area because he speaks their language. "People prefer dealing in Spanish," he says.

English is a second language to many of the neighborhood business owners and the agency's policyholders feel more comfortable speaking in Spanish, especially when trying to understand the technicalities of insurance, he adds.

The agency also uses Spanish for written communications, Mr. Valdesuso notes. Renewal letters, for example, are in Spanish.

For personal lines, the agency has printed in Spanish an information card on what to do in case of an auto accident, Mr. Valdesuso

adds. "Many people don't know what they have to do when an accident occurs."

While information on procedures for reporting a loss is vital and must be understood, the technicalities of the insurance policy itself are just as important to a client. Here, however, policyholders have to resort to English.

Only one insurance policy is written in Spanish, Mr. Valdesuso explains—an auto policy for tourists traveling in Mexico where standard U.S. auto insurance policies aren't valid.

Insurers print all other policies, commercial and personal lines, in English, Mr. Valdesuso says, though "some insurance companies do write brochures in Spanish."

English is a second language to Mr. Valdesuso, too. Born in Cuba, his family emigrated to the United States when the Castro regime confiscated the family furniture factory after the revolution.

He entered the insurance business in 1964, selling life insurance for the Minneapolis office of American National Property & Casualty Co.

In 1970, he moved to Chicago for a life insurance sales position with The Prudential Insurance Co. of America.

"After two years, I decided to open an agency" along with a partner, Mr. Valdesuso recalls. "At first, we only had a contract with The Travelers Corp., but it was amazing how much insurance we sold."

The Spanish-speaking community wasn't being serviced, Mr. Valdesuso contends.

In 1973, Mr. Valdesuso bought out his partner, who then opened a grocery store down the street and became another of Mr. Valdesuso's clients.

The agency grew slowly until 1976 when insurance industry profits took a nosedive, taking some agencies with them.

Many minority-owned insurance firms, including Spanish Community Insurance Agency, lost contracts with insurers, Mr. Valdesuso recalls.

Along with other minority agents and brokers, he says he fought "a real hard battle" to get contracts with major insurers, pushing it as far as discussions of a lawsuit (see story below).

The suit was never filed because minority agencies and brokerages began to be awarded



Photo: Mary Herlehy

Juan Valdesuso, Spanish Community Insurance Agency Inc., speaks his clients' language.



more contracts, due to the efforts of some agents and brokers and a turn in the market that made the industry more competitive.

Spanish Community Insurance Agency currently has agency contracts with five insurers including CNA Insurance Cos., The Travelers and St. Paul Fire & Marine Insurance Co.

Once the agency acquired a contract with CNA, Mr. Valdesuso recalls, the insurer set a first-year goal at \$50,000. "That year, we hit \$135,000."

Minority-owned agencies and brokerages are impeded by the inability to attract additional insurer contracts, Mr. Valdesuso contends.

"We could do a better job if we had (contracts with) more insurance companies." His insurers don't always have the best price and his clients could sometimes do better by going to another agency, he points out.

The agency can handle the additional contracts, Mr. Valdesuso says. His staff of four keep the files up-to-date, he notes. "We have zero backlog."

Mr. Valdesuso plans to begin investigating other insurers for potential contracts after

the first of the year, he adds.

Minority-owned agencies and brokerages haven't completely won the war to get a fair crack at insurer contracts, Mr. Valdesuso contends. While some insurers have felt they "had to give contracts to minorities," they may take them away when the competitive market eases up.

Insurance isn't Mr. Valdesuso's only involvement in the Hispanic community.

He's an officer with the Cuban-American Chamber of Commerce, which provides him business contacts and enables him to put something back into the community, he says.

You can't expect to get something out of the community unless you're willing to put some effort into it, he stresses.

Minority brokers reach for corporate risks

Continued from previous page citing some unsuccessful experiences.

Companies should award risks to minority-owned agencies and brokerages that can handle the business or they should set up a program to aid minorities in gaining the insurance experience they need to branch out into mainstream business, he contends.

Some professional colleagues are trying to do just that through co-broker arrangements. One of the purposes of these arrangements is to let minority agents and brokers gain experience in handling large corporate risks, according to Lawrence W. Burkhardt, senior vp and Midwest regional director for Fred S. James & Co. Inc. and co-chairman of the insurance committee of Chicago United.

Chicago United is a consortium of black, white and Hispanic business executives organized to improve business opportunities for Chicago-area minority members. Most of the major Chicago-area insurance brokerages are members.

Under a co-broker plan, a corporate risk manager selects both a minority- and a majority-owned large agency or brokerage to service part of a corporate insurance account,

Mr. Burkhardt explains. The two agencies or brokerages share income and gain experience from the program.

"It's a business solution to a sociological problem, recognizing minorities may have disadvantages," he says.

But these arrangements sometimes bring other problems with them, contends Alvin J. Robinson, executive vp for Community Insurance Center.

"Many times majority brokers only allow you to be involved in token servicing," he says. In that case, all the minority agent or broker gets is a commission check.

"What we wind up with is money, but nothing else, from the relationship," Mr. Moses adds. Insurance is a people business, he says, and minority agents and brokers expect to be involved in servicing the clients in a co-broker arrangement.

To the minority agent or broker, the value of the experience gained from the relationship may even outweigh the value of the commission.

"We'd tell the other broker, 'We'll handle (the servicing) and send you the commission check,'" Mr. Moses says.

Besides having to battle for major corpo-

rate accounts, these minority agencies and brokerages may also have to fight to win major insurer agency contracts.

However, heavy insurer competition in the last few years has put some major insurer contracts within minority members' reach, many note.

Until two years ago, minority agents and brokers fought a long, hard battle for greater access to major insurer contracts, notes James C. McDowell, secretary-treasurer of Beneficial Insurance Agency Inc. in Chicago, also black-owned.

In mid-1980, an association of minority agents, including Mr. McDowell, threatened to file suit against insurers and charge discrimination in the awarding of agency contracts, he recalls.

The suit was never filed. Perhaps as a result of the group's efforts and the increase in competition among insurers for premium dollars, minority agencies won several contracts, he says (see story, above).

The field, however, isn't as wide-open for minority agencies as it is for their majority counterparts, Mr. McDowell contends.

Some insurance companies don't have any

minority agencies representing them, he claims.

History also shows that contracts minority agents hold aren't etched in stone, Mr. McDowell adds. When insurance companies' capacity was pushed back in the mid-1970s, minority agents lost many of their contracts.

Maryland Casualty Co., according to Mr. McDowell, canceled his contract in 1975, saying it had to reduce its agency force. The insurer said it chose Beneficial by using the last-hired, first-fired formula, Mr. McDowell says.

Maryland Casualty had no comment on the seven-year-old cancellation.

Minority agents are at a disadvantage because most are small businesses, Mr. McDowell contends. They don't have the volume to remain on the insurers' list of agency contracts when the insurers are cutting back, he adds.

If another round of cuts is just around the corner, as some industry observers say, minority agents fear they'll lose contracts again, Mr. McDowell notes.

"The fight may be easier the second time around," he speculates, "because of the way insurance companies hate public pressure." ■

Products, services, not race, win risks for black agency

MINNEAPOLIS—Insurance buyers are far more interested in products and services an agent has to offer than whether the agent is a member of a racial or ethnic minority, says one agent. "People in the business community are looking for a good price" on their insurance, contends Bernard Glover, president of Glover Insurance Agency Inc., the only black-owned agency in the Minneapolis-St. Paul metropolitan area. "I don't think color has anything to do with it," he says, although he's met "isolated examples" of race being a factor when he's soliciting business for his agency, which opened in January.

Mr. Glover's nearly 16 years of experience in life insurance includes positions as a sales representative as well as a sales manager for Prudential Insurance Co. of America. He opened an agency in response to the urging of clients he served as a life insurance sales representative.

"I had a lot of clients that wanted me to handle their property and casualty insurance," he says.

Dreams of benefits from owning his own business further pushed him to start the agency, Mr. Glover says.

"I wanted to build a business that can create jobs and income for my children," he explained. "Working for Prudential, I was building pension checks, but that was all."

By owning the agency, Mr. Glover notes that his children can either take over the business when he retires or sell it and reap the proceeds.

"In the meantime," he adds, "it's growing by leaps and bounds."

The agency has grown not only financially but also in expertise in handling property/casualty risks, Mr. Glover says. While he does attend training seminars, much of his experience has been gained by learning as he goes, he notes.

Relative inexperience in the property/casualty market isn't a problem, however. "In everything, you have to stay on top of changes."

A few insurers have also given "excellent assistance in helping to get the agency off the ground," Mr. Glover says.

Glover Insurance currently has agency contracts with Western Fire Insurance Co. in Fort Scott, Kan., and St. Paul Fire & Marine Insurance Co. in St. Paul. Both companies "really took an interest in the agency," he says.

Getting contracts for a newly opened agency isn't easy, however. "I've approached a number of other insurance companies," he says. "Everything is fine but when they meet me, the whole story changes."

Mr. Glover says that one insurer, Minnesota Farmers Mutual Insurance Co., based in the Minneapolis suburb of Minnetonka, seemed interested in appointing him an agent. But he says the insurer changed its tune after meeting him.

"Before they met me, they went along with everything but the contract. After (the meeting) they made a lot of excuses."

Minnesota Farmers blames the misunderstanding on an overzealous field representative.

"Sometimes the field rep gets things going, but he doesn't make the final decision" on contracting with an agency, says William Laidlaw, president of Minnesota Farmers Mutual. "Someone can misinterpret that (zeal), but we reserve the right to reject agents from the home office."

Mr. Laidlaw says that Minnesota Mutual looks at an agency's experi-

A/BT

ence level when evaluating the business. "If they're new, we normally choose not to do business with them."

Location of the agency also plays a part in the insurer's evaluation, Mr. Laidlaw continues. While the insurance company can't redline, "we may not take an agency in the inner city," he says.

Some insurers believe that if an agent is black, "he's going to spend his time (prospecting for business) in the black community," Mr. Glover contends. That, however,

isn't even possible here, he notes, because there are not that many black-owned businesses in the Twin Cities.

"I would starve if I were only looking for black business," he says.

In fact, only 5% of the population of the metropolitan area is black.

The neighborhood surrounding the Glover Insurance Agency on the near-north side of Minneapolis is being re-established as the a viable business district, Mr. Glover notes.

"A lot of people who moved away from the north Minneapolis area have moved back in," he says. "The neighborhood will grow up around the agency," he predicts. ■

Affirmative action slowed

Affirmative action to employ minorities is difficult for brokers who are trying to reduce their number of employees, according to affirmative action officers for major brokers.

There just aren't many brokers who are hiring, other than on a selective replacement basis, one brokerage affirmative action officer confirmed. That makes it hard to increase the opportunities for minority members within the company. Producers or account executive positions may be particularly difficult for minority recruiting since most brokerages are hiring only sales staff with long and successful track records.

Moreover, though federal contractor regulation mandates affirmative action, it is unclear exactly what is expected by the Reagan administration, according to the affirmative action officer for Marsh & McLennan Inc.

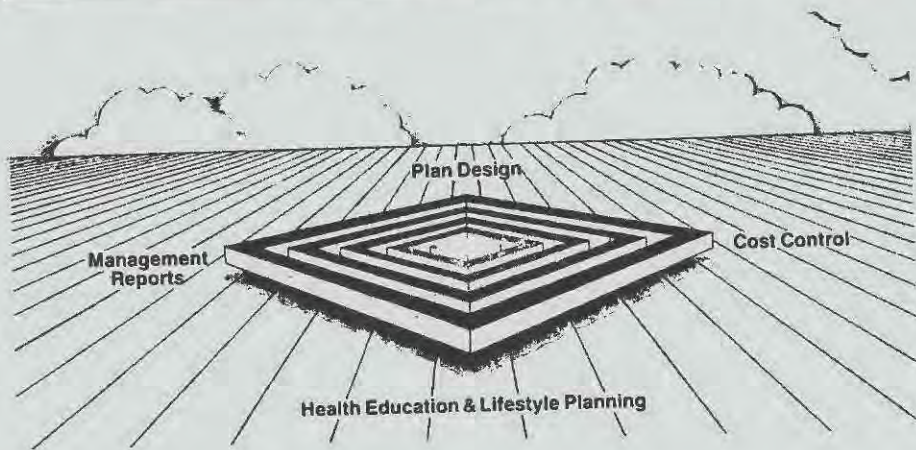
None of the major brokers would discuss the results of their affirmative action programs with *Business Insurance*, though most tried to emphasize that they are active within economic constraints.

Alexander & Alexander Inc., for example, establishes guidelines for an affirmative action program for each branch office and reviews what each branch develops to fit its particular needs, according to Thomas L. Davis, vp for personnel for Alexander & Alexander Services Inc.

"We also audit their performance on a quarterly basis," he adds.

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for surgery and the like. Other innovative plans are in the works and will be announced soon.

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COST CONTROL

A special Cost Control unit has been set up at Pilot which concentrates on reviewing unusually large claims, auditing charges of hospitals where services seem inconsistent with treatment, or where costs seem out of line. They are in constant contact with Professional Standards Review Organizations, and other auditing organizations across the country, seeking more effective means of cost control.

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Minority brokers need fair chance to succeed: Moses



CHICAGO—Minority-owned agencies and brokerages can successfully handle corporate risks if they have a fair opportunity to compete, says one black broker.

"If risk managers really want (minority agents and brokers) to be competitive, they have to give us a chance," says Milton Moses, president of Community Insurance Center Inc.

Minority agents and brokers are often allowed to bid on a small part of a much larger insurance program, but not on the whole package, Mr. Moses says. That decision,

though generous-appearing, may put the minority broker at a competitive disadvantage.

"When we're not competitive a small piece, we can never bid anything else.

"We've even been offered some business that would cost us money to take," Mr. Moses says.

And when it does compete, Community finds it hard to beat the broker who controls the majority of the program, he notes.

If the competing brokerage knows that another firm is bidding on a small portion of the account the larger broker can bid lower knowing it can make up any lost income on the rest of the insurance package, he explains.

Potential clients are also slow to act on just a small part of their business. One large Chicago company told Community Insurance Center it could bid on a small piece of its total insurance program, he says.

But when Mr. Moses called to find out the status of his bid, he was told that the company hadn't acted on the small portion because the rest of its insurance package was up for renewal. "Why couldn't we bid on that?" he wonders.

Despite the competition, Community has been able to bid on, and win, portions of the insurance pro-

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Mr. Moses

grams of some of the nation's largest companies and government entities. Clients include Standard Oil Co. (Indiana), Sears, Roebuck & Co., Esmark Inc. and the city of Chicago. It has earned nearly \$5 million in premium volume so far this year.

"Our major marketing thrust has been the Fortune 500 companies," notes Executive Vp Alvin J. Robinson. Through the Chicago United Minority Insurance Standing Committee, the principals at Community have met executives from the Chicago-based Fortune 500 corporations, he says.

Many have been receptive. With those companies, there's a "psychological commitment" on the part of corporate executives to advancing minority members, Mr. Robinson. "Those people try to fit you into their insurance program."

The commitment can come from two sources, Mr. Robinson explains. Corporate executives or risk managers may read or hear something positive about a minority-owned agency or brokerage and seek them

Continued on facing page

continued from facing page
 , or they may feel a social responsibility toward advancing minority members, he says. Most agencies and brokerages Community's size don't have a chance at the largest corporate insurance risks, Mr. Moses admits. "We get our foot in the door because we're a minority," he explains.

However, many corporations haven't considered placing insurance with minority-owned firms, Mr. Moses says. Some risk managers say they deal only with the largest national brokers, he notes. They will consider no other type of broker even if portions of their insurance packages that don't require the larger brokers' broad service capabilities.

Some risk managers also cite a lack of experience within minority-owned agencies and brokerages as another reason for not considering bids from them, Mr. Moses says.

"They feel there's a lack of experience in the black community," he says.

Although Community Insurance Center celebrated its 20th anniversary this year, it's still a newcomer compared with agencies and brokerages that boast 50 years or more of experience.

"Companies haven't had exposure to deal with minorities on a business level," the Chicago broker explains.

"We've got the same needs, wants, and concerns" as everyone else, he contends.

And minority brokers learn their trade the same way other agents and brokers do—by experience. When the agency has encountered special or unusual risks, its staff learned to deal with them in order to get and hold onto the business.

"There's very little difference between what we see as good business practices and what others see," Mr. Moses says.

While some of the brokers' initial contacts with large corporations stem from communication with top corporate officials through groups like Chicago United, the minority agent or broker must build rapport with risk managers, Mr. Robinson notes.

"They're going to have to want to make it work," Mr. Robinson says; the chief executive officer isn't going to do it.

Difficult as it may seem, building rapport with the nation's largest corporations is probably easier than trying to tackle some smaller businesses, Mr. Moses says.

"What we find is that (the smaller corporations) don't have the social commitment that publicly held companies do," he maintains.

Minority agents and brokers also have far more competition at that level, Mr. Moses notes. "The small majority brokers have access to that clientele."

While striving to attain a foothold with Fortune 500 insurance programs, Community Insurance Center hasn't forgotten the minority community, Mr. Moses says. In 1976, when the agency moved from its original headquarters in the basement of a commercial building in a residential area on Chicago's predominantly black South Side, Mr. Moses chose to stay in the area rather than move downtown. He points to the agency's location as indicative of a commitment to the community.

"We never wanted to be downtown," Mr. Moses says.

"We felt an obligation to the community and a need to stay in the community."

That commitment also extends to providing insurance services to minority groups.

The agency serves minority-

owned businesses of all sizes and descriptions including manufacturing companies, contractors, gas stations, taverns and exterminators, Mr. Moses notes.

"We try to be all things to all people," explains Mr. Robinson. "That's what a general agency is all about. Being generalists has been the key to our success."

Unlike most commercial agencies, Community is seeking to expand personal lines sales by underwriting them itself, Mr. Robinson notes.

"We're trying to capitalize a personal lines casualty company," he says.

The agency is currently looking for major corporations to invest in the venture, he says.

"We really need a minority casualty insurance company," Mr. Robinson contends.

"Right now, there isn't one in the whole country. We'll put in \$1 million ourselves."



Community Insurance Center is still located on Chicago's South Side.

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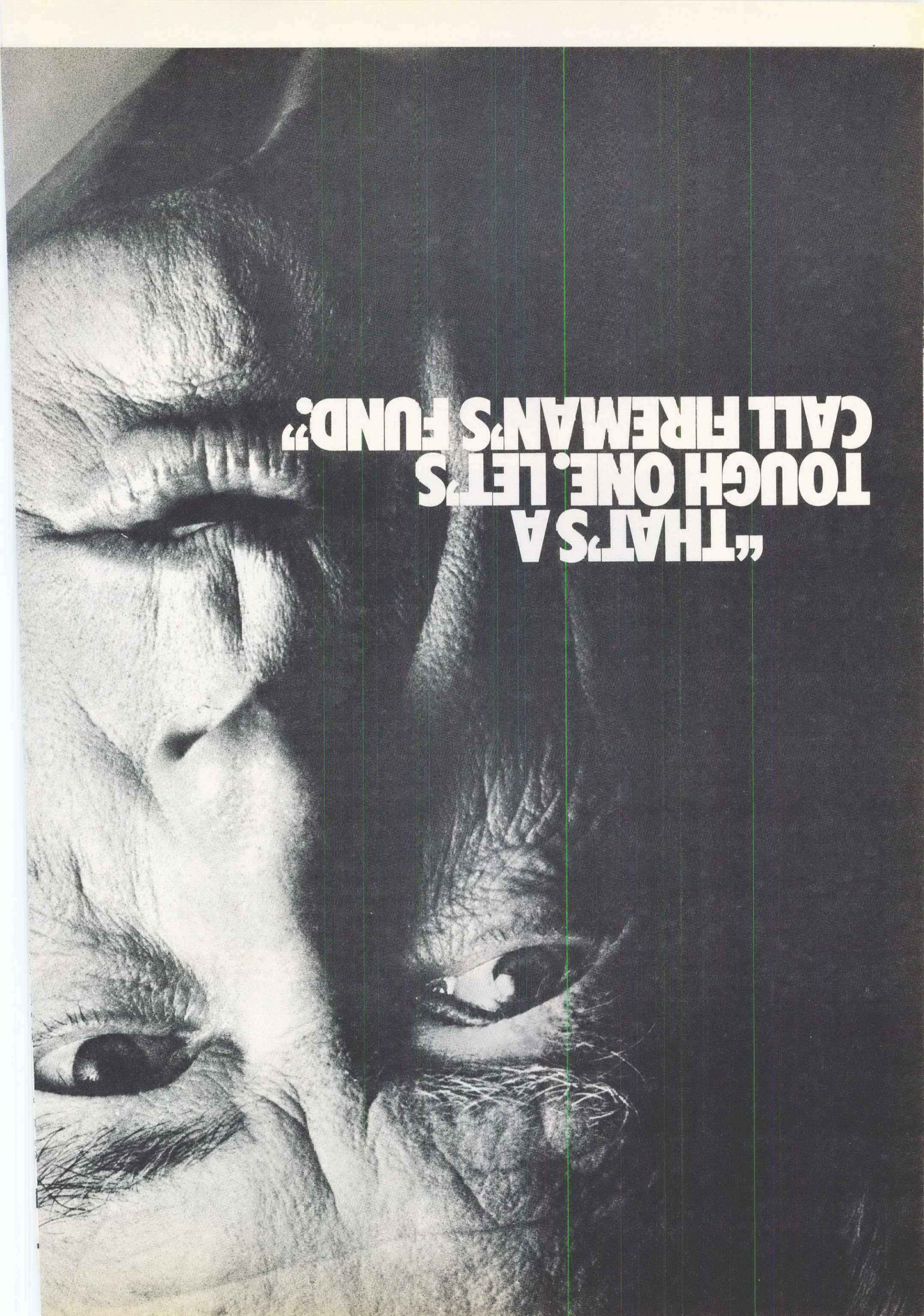
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IBM chosen for agents' computer network

WHITE PLAINS, N.Y.—The outlook is brightening for agents and brokers seeking computer-based communications with many different insurers.

Early last month, International Business Machines Corp.'s Insurance Communication Service was chosen by the Insurance Institute for Research Inc. to establish a communications network to electronically link agencies and brokerages, insurers and service organizations, IIR President John W. Folk announced.

The IBM subsidiary was selected from among several contenders (A/BT, Oct. 4) because it fit most closely into the insurance industry's automation plans, according to an IIR spokesperson.

Those plans include sophisticated two-way communications with

A/BT

minimum redundancy for agencies, brokerages and insurance companies.

However, that advanced communication program so far has been more fantasy than reality, because insurance company researchers seem to be going in different directions.

Many insurers, anxious to communicate via computers with their agents, have set up programs to develop their own networks. Unfortunately, some insurers' networks don't always mesh with the other projects.

The result is that agents' com-

puter communications with insurers will be limited by the network the agent is using. Independent agents wishing to communicate with several insurers may need several computer terminals or programs in more than one computer language.

To eliminate redundancy, the insurance industry has entrusted IIR with the task of establishing a nationwide network, in part to translate each insurer's computer language into a form that can be used by many different computer systems.

IBM says that when the network is ready, it will:

- Deliver messages among agencies and insurers instantaneously, on an assigned schedule or on demand.
- Allow a simultaneous flow of

information between agent and insurer.

- Enhance agencies' and insurers' computer systems by permitting agents to choose from a directory of services, ask about the status of quotations and route messages to multiple network destinations.

The network can also increase agencies' computer storage by enabling them to store data in the network over an extended time.

- Use standards established by IIR and the Agency-Company Operations Research & Development Corp. IIR and ACORD have merged their efforts to establish some industrywide consensus on computer rating and forms.
- Allow insurers to communicate within their own regional,

branch, claims and home office well as with other insurance companies.

- Provide network users with connection to the IBM Inform: Network computer complex in Tampa, Fla., and use more than standard computer programs available there.
- Grant access to an on-problem-reporting system.
- Provide agencies access to data processing resources of insurance companies and to the work's computer center.

The network's subscribers generally will be able to use the system around the clock, seven days a week, an IBM spokesperson adds.

By tapping the network, independent agents can communicate with several insurers without having multiple computers or using multiple computer languages, a spokesperson stresses. That freedom from forming ties to specific insurers helps agents maintain

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Mr. Folk

their independence. Pilot testing on the data storage service will begin early next year and the system should be generally available to users by mid-1983, according to IBM.

The IBM system may provide some of the solutions to the automation questions facing agents today but the full service, including multi-insurer communication for agents, is still several years away, industry watchers say.

Revised guide now available

WHITE PLAINS, N.Y.—Trying to choose among dozens of computer and agency automation vendors?

The Agency Automation Guide is a manual on computerization that contains an updated vendors digest listing sellers of data processing hardware and software. The digest lists vendor information, like comments on user experience and service; system capacity; system costs; functions available including accounting, rating and policy issuing; and technical data about the systems offered.

John Folk, president of Insurance Institute for Research Inc., says the digest "is the only comprehensive source to allow agents considering automation to compare vendor systems and services."

The digest alone can be purchased for \$75 or with the AAG for \$125 from The Merritt Co., 1661 Ninth St., Santa Monica, Calif. 90406.

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Political committee reaches lawmakers for broker group

WASHINGTON—Brokers have new vehicle for reaching legisla-

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The National Assn. of Insurance Brokers' board of directors formed a group's first political action committee last month as part of the NAIB's recently announced legislative program.

That plan keeps with the NAIB's effort to become a major political force in Washington, according to Bert H. Moore, corporate vp for Alexander & Alexander Services and chairman of NAIB's PAC Steering Task Force.

The Independent Insurance Agents of America, another promoter group, also has a political action committee based in Washing-

ton. When the NAIB decided to become more active in the political arena, its members knew they needed a political action committee, he notes.

"But we knew we first had to have a disciplined and tightly focused agenda," he says. "We didn't want to have a political action committee just to have a political action committee."

The task force determined that the NAIBPAC's agenda should reflect its members' service orientation, according to Mr. Moore.

It chose to represent issues that related to risk management because the brokerage business was firmly linked to it, the board agreed.

Occupational disease, for example, was chosen as a priority issue because it is a concern for many brokers' clients, Mr. Moore explains. "We want to be a resource for policymakers on the issue just as we're a resource to our clients" on handling the risks.

Other issues on NAIBPAC's agenda include financial services deregulation, federal tort liability initiatives, federal involvement in insurance—principally through financial responsibility standards—and tax equality.

These issues are the NAIBPAC's agenda. Individual or corporate voluntary contributions will be pooled to make donations to candidates involved in those issues. Candidates will be chosen by a candidate selection committee that reports to the NAIBPAC board. "We acknowledge that unless we're willing to support candidates we won't be as effective in participating in the (political) process," Mr. Moore says.

Political action committees have increasingly become sources for contributions to candidates' campaigns, he adds. The cost of those campaigns can be gigantic.

Getting elected to Congress can cost more than \$1 million for a senator and \$250,000 for a representative, Mr. Moore says. The NAIB is receiving an increasing number of appeals for financial support from congressional candidates, he adds.

Contenders in this month's election, however, will have to wait until next time around to tap funds from NAIBPAC.

The association hopes to have the PAC in place by spring of next year, Mr. Moore noted. "We want to key in on the 1984 election."

Timing for the PAC's birth was planned to immediately follow a national election, Mr. Moore notes. "We want to use 1983 to explain to brokers that our notion on (the PAC agenda) is a long-range conception."

"People asked us why we didn't come out with this six or seven

months ago," Mr. Moore says. "But six or seven months wouldn't give the group enough lead time to sell the PAC's design to brokers."

The NAIB's plan for the group to participate in the development of legislation is different from the association's traditional approach of reacting to it, Mr. Moore points out.

"We need time to explain that," he says.



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AGENT/BROKER TOPICS PERSPECTIVE

New law could increase agents' taxes

By ROBERT FEINSCHREIBER

The new tax law signed by President Reagan on Sept. 3 significantly increases business taxes. These provisions are most important to insurance brokers and agents:

- Restrictions on tax-free acquisitions.
- Reductions of investment incentives.

A/BT

- Limits on pension benefits.
- Withholding on dividends and interest.
- Acceleration of corporate tax payments.
- Deferral of construction period expenses.

- Other business provisions.

Tax rules for corporate acquisitions have been totally revised. These rules affect the way companies buy and sell businesses and may even affect the businesses they buy and sell.

When an acquisition takes the form of a stock purchase, the buyer may pay more for the stock than the amount of these assets on the seller's tax books.

The buyer may then seek to assign its purchase price to these assets, particularly assets with a high turnover such as receivables or inventory or assets eligible for fast depreciation write-offs, in order to gain tax benefits from its purchase price.

Under prior law, the acquiring company could take up to two years to decide on its tax strategy for the acquisition. During this

two-year period, it could sell assets and buy others. The tax benefits were obtained through a liquidation, which could be extended over the following three years that the entire process could take as long as five years.

Under the present law, no asset liquidation is necessary, but assignment of the stock purchase price to the assets must be elected within 30 days from the date of the stock purchase. The 1982 tax act limits the opportunity to obtain high values for appreciated assets without reducing values for assets that have declined in value.

The Internal Revenue Service now specifically authorized its regulations for allocating the stock purchase price to specific assets. As a result, a significantly higher portion of the price may be allocated to goodwill, land and other assets that do not provide a tax benefit.

The new procedures do have an advantage from a corporate and local tax standpoint. Since actual liquidation is not required, various transfer charges can be avoided and corporate paperwork can be reduced.

The new law reduces depreciation deductions for property received in an investment credit unless the business elects to forego a portion of the investment credit. The

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Mr. Feinschreiber

investment credit decrease is two percentage points, while the basis adjustment is half of the credit.

Insurance brokers and agents should make a discounted cash-flow present-value analysis in selecting between these two adverse alternatives. These provisions can be avoided, however, for assets acquired before the end of 1982.

Companies using the investment credit to offset most of their tax liability are faced with a second cut-back. Credits above \$25,000 can be used to offset up to 85% of the company's liability. Under prior law, investment credits could offset 90% of the taxes in excess of \$25,000. This new tax burden falls most heavily upon companies that are struggling to maintain their capital investments despite lower profit levels.

Another major decrease in investment incentives is the reduction in the investment credit. *Continued on facing page*

Robert Feinschreiber is a partner in the law firm of Feinschreiber & Associates in New York.

nued from facing page in depreciation deductions. Under the prior tax law, depreciation deductions were scheduled to be increased in 1985 and 1986, but increases have now been cancelled.

Benefits from safe-harbor leasing are greatly curtailed. Safe-harbor leasing is permitted until the end of 1983, but its use is so restricted that relatively few companies will find the remaining benefit worth the effort required to use them.

The new law sharply reduces deductible employer contributions to defined contribution pension and profit-sharing plans that require contributions equal to a percentage of participants' salaries. The new tax law also reduces the amount of defined benefit pension plans that require contributions to fund a fixed benefit at retirement.

Maximum annual contributions to defined contribution plans have been reduced to \$30,000 per employee from \$45,475. Cost-of-living increases will raise this amount, only after 1985.

The prior law permitted a defined benefit pension plan to fund retirement benefits of as much as \$6,425 per year, beginning as early as age 55, but the new law limits this amount to \$90,000 and eliminates the use of a 62-or-younger retirement age.

Loans in excess of \$10,000 from pension and profit-sharing plans to participants are now limited to half the participants' vested benefits (\$50,000, whichever is less).

These rules also apply to renewals and extensions. New loans must be repaid within five years unless the proceeds are used for a personal residence.

Plans must now provide greater benefits for low-paid employees, but contributions for low-paid employees can still be reduced through employer Social Security contributions.

For defined contribution plans, the employer's Social Security contribution plus the plan contribution must be the same percentage of compensation for each employee.

Top-heavy plans that primarily benefit high-paid participants must adopt rapid-vesting schedules, provide minimum benefits for low-paid employees and limit benefits for high-paid employees.

Insurance brokers and agents paying interest and dividends to individuals must withhold 10% of these payments.

These rules apply to interest and dividends paid or credited after June 30, 1983.

Exceptions apply to low-income and elderly recipients who file exemption certificates. Interest and dividends received by tax-exempt institutions or corporations and interest payments of \$150 or less annually are exempt.

The administrative burden of implementing these new rules is onerous, but companies will be able to delay payment of the withheld amounts and use the float to help offset these administrative burdens.

Substantial computer reprogramming will undoubtedly be necessary, and other procedures must be established and used to maintain compliance with the new rules.

Taxable distributions under deferred compensation plans and annuity plans are also subject to federal income tax withholding unless the recipient elects otherwise. Notice must be provided to recipients of the withholding and their right to elect not to have the tax withheld.

The new law accelerates the payment of corporate taxes. The prior law generally required companies to pay 80% of their current year's tax liability in quarterly estimated

payments. The new law raises the minimum level to 90% of the tax liability.

Under the prior law, companies could avoid the penalty, even if the estimated tax payments were below the required 80%, if the estimates were based on the prior year's tax, the prior year's taxable income using the current tax rates or upon annualized taxable income.

More stringent tax rules apply to larger corporations earning \$1 million or more annually.

After payment of estimated taxes, the old law permitted a company to pay the first half of its remaining tax 2½ months after the end of its tax year.

The remaining half could then be paid three months later. For tax years starting in 1983 and afterward, the full amount of the unpaid tax is now due 2½ months after the end of the tax year.

The 1982 tax law decreases tax incentives for new construction. Interest attributable to a construc-

tion project as well as real estate taxes on the property must now be capitalized. These amounts can generally be amortized over a 10-year period.

These new restrictions apply to virtually all structures. However, audited companies are already subject to capitalization rules for accounting purposes.

This new law is likely to lead to disputes with the IRS over such issues as the determination of the beginning and the end of this construction period.

Insurance brokers and agents that act promptly can delay the imposition of these new rules. The rules apply to companies with a tax year beginning after 1982 and to construction that begins after 1982. One approach is to begin construction before year-end. Another is to establish a new corporate entity after Dec. 1 that has a November 30, 1983, year-end date.

For businesses that file a consoli-

dated return, steps must be taken by the filing parties to exclude the new entity from the consolidated return.

The jobs credit has been extended until the end of 1984 and a new category of eligible employee has been added. Wages paid to economically disadvantaged youths ages 16 or 17 for summer jobs are now included in the targeted-jobs tax credit.

Starting in 1983, wages of up to \$3,000 are eligible and the credit is 35% of eligible wages, or a maximum of \$2,550. This tax incentive should provide many companies with a powerful inducement to hire disadvantaged youngsters.

Under prior law, certification had to be requested before the individual began work, but certification now can be requested on the first day of work, which will lessen inadvertent loss-of-jobs credit.

The new tax bill restricts the use of tax-exempt bonds for private activities. Industrial development

bonds will generally be precluded after 1986 and limitations are placed on the uses of IDBs between 1983 and 1986.

Major increases in unemployment tax have been scheduled for 1983 to 1985. The first phase of this increase begins in 1983 when the wage base is increased from \$6,000 to \$7,000 and the rate is increased from 3.4% to 3.5%. Except for workers who earn below the base amount, the cost per employee increases from \$204 to \$245 per year. In 1985, the tax rate will increase to 6.2%, raising the cost to \$434 per year.

Corporate debt obligations issued after 1982 must be registered-form instead of bearer-form. An issuer that fails to register its obligations receives no interest deduction and is subject to a new excise tax. This rule does not apply to private obligations and obligations with an original maturity of one year or less.

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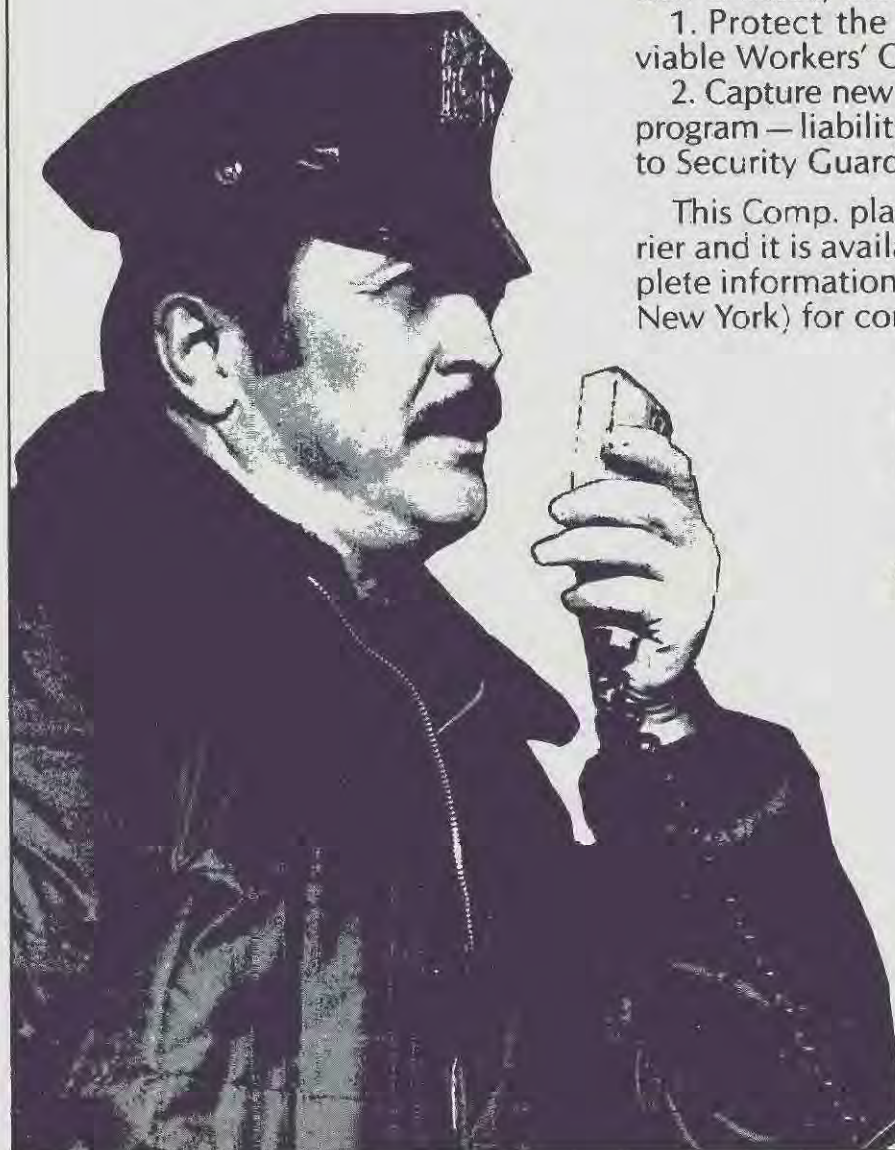
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Shand's competitors raising rates, too

Continued from page 1
 ase would probably not top
 ear's 8% hike unless there was
 astic increase in frequency
 severity," he said.

innerer also underwrites law-
 and directors and officers lia-
 insurance and medical mal-
 ice insurance, but no increases
 planned for these lines, Mr.
 ecki said.

of Schinnerer's lines are pro-
 ing an underwriting profit, Mr.
 ecki added.

"We're not in a position of hav-
 o play catch-up ball," he said.

National Union, an affiliate of
 erican International Group
 raised rates for lawyers' pro-
 onal liability insurance a year
 In December 1981, it raised the
 it had placed on lawyers liabil-
 rates in California two years

earlier, effectively boosting the
 rates 15%. National Union's pro-
 gram is sponsored by the Bar Assn.
 of San Francisco.

Richard O'Egan, an account ex-
 ecutive with Marsh & McLennan
 Inc., the bar association's broker,
 said he had expected Shand to raise
 rates then to follow National
 Union. "We were surprised when
 they didn't," he said.

INAPRO, which has under-
 written \$70 million in professional
 liability premiums over the last 4½
 years, will raise rates in several
 lines next year.

The company is refiling forms
 and rates for its lawyers, account-
 ants and insurance agents liability
 lines, according to Stephen Gerst-
 man, senior vp in New York. Base
 rates for these lines will actually
 decline, but new experience-rating

factors will be added that will re-
 sult in selective rate increases, Mr.
 Gerstman said.

Lawyers may be hit with the
 largest increases. Firms with large
 exposures and poor loss experience
 may face rate hikes of up to 50%,
 Mr. Gerstman said. By the same
 token, firms with good loss experi-
 ence and small exposures may see
 rate cuts of up to 20%.

In the last year, INAPRO has
 seen a 20% increase in frequency of
 lawyers liability claims, and a 25%
 increase in claims exceeding
 \$100,000, according to Mr. Gerst-
 man.

INAPRO has about 20% of the
 total market for lawyers' liability
 coverage, according to Mr. Gerst-
 man's estimate.

Accountants liability rates will
 probably increase 15% to 25% for

limits under \$5 million. Smaller in-
 creases can be expected for limits
 above \$5 million, Mr. Gerstman
 said. Losses have increasec about
 20% in frequency, and losses of
 \$100,000 or more have increased
 30%.

About 10% of the total market for
 accountants liability coverage is
 held by INAPRO, Mr. Gerstman
 estimated.

Liability rates for insurance
 agents in Pennsylvania were in-
 creased 25% this year, and increases
 in other states may come in mid-
 1983 after the company has re-
 viewed its loss experience, Mr.
 Gerstman said. Frequency of
 agents' claims has increased 7% to
 10% in the last year, but severity is
 "not serious," he added.

INAPRO's insurance agents lia-
 bility program is sponsored by 11

state associations, and the company
 holds about 20% to 25% of the total
 market for the coverage, according
 to Mr. Gerstman.

Other professional liability lines
 written by INAPRO will be subject
 to more limited increases or no in-
 creases at all.

Although INAPRO saw a 10% in-
 crease last year in claims exceeding
 \$100,000 in its architects/engineers
 liability program, only selective in-
 creases are now being considered
 he said.

No increases are planned for
 Realtors liability, and rates for
 directors and officers liability are
 still declining, although INAPRO
 will not be matching other markets
 in further reductions, Mr. Gerst-
 man said.

"We're definitely losing our
 Continued on next page

seeks clarification

Continued from page 2
 ch represents Northbrook.
 n the meantime, Commercial
 on's attorneys say, CU will not
 r any cash toward settlements
 ess its insureds—Hallmark or
 wn Center—ask it for defense
 indemnity, something neither
 requested.

s of last week, Hyatt's insurers
 paid 200 claims totaling \$32.8
 lion to victims of the July 17,
 1, skywalk collapse that killed
 people and injured at least 200
 ers.

Early claims were paid by Occi-
 tal Fire & Casualty Co. of North
 rolina, which wrote a \$1 million
 mary liability policy for Hyatt,
 d by Northbrook, which wrote a
 5 million first-layer excess pol-
 y.

For several months, claims have
 en paid by Baccala & Shoop In-
 surance Services, acting as under-
 riting and claims manager for
 ree excess insurers that share the
 xt \$25 million layer in the Hyatt
 e: Pine Top Insurance Co., Cen-
 ur Insurance Co. and INSCO Ltd.
 With settlement offers of at least
 8 million outstanding, Baccala &
 hoop has now committed its limits
 nd claims attorneys in Kansas
 ty are now declining to enter ne-
 gotiations with plaintiffs' lawyers
 or any new settlement offers.

Once Baccala & Shoop has ac-
 ally paid out the full \$25 million
 ayer it manages, settlement re-
 sponsibility shifts to Columbia Cas-
 alty Co., a CNA Financial Corp.
 subsidiary, which wrote the next
 25 million layer.

"There has to be a clear enumer-
 ation of CU's position before settle-
 ments can go forward in any effec-
 ive way," says Lawrence M. Ber-
 owitz of the Kansas City firm of
 Stinson, Mag & Fizell, which was
 hired by Pine Top, Centaur and
 nsco to settle claims on behalf of
 Hallmark and Crown Center.

Officials at Baccala & Shoop de-
 clined comment on the settlement
 situation.

One insurance attorney noted
 that the claims attorneys may be
 attempting to give plaintiffs' law-
 yers the impression that it would be
 prudent to accept the \$18 million in
 pending offers in case new settle-
 ment talks become permanently
 snagged by the insurance dispute.

Besides apportioning claims re-
 sponsibilities between the Hyatt
 and Hallmark lines, Judge
 O'Leary's Oct. 7 order also ap-
 parently directed CU and North-
 brook to continue to defend their
 respective insureds even after their
 indemnity limits are exhausted.

Thus, while CU and Northbrook
 have bitterly opposed each other
 concerning their indemnity obliga-
 tions, both are likely to ask Judge
 O'Leary at the upcoming hearing to
 modify his ruling concerning de-
 fense obligations.

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Professional liability rates ris

Continued from previous page
larger (D&O) accounts intentionally because there is just no relationship between exposures and premiums available in the marketplace," he said.

Rates for all lines of professional liability insurance have been highly competitive, no different from other lines of insurance in the current marketplace. But some underwriters contend Shand has been offering the lowest rates.

"It's about time they raised their rates," said Robin Jackson, a director of Merrett Syndicates Ltd. at Lloyd's of London that underwrites professional liability insurance.

Shand entered the market for architects liability more than 11 years ago and has become one of the two largest markets.

"For a company to have that kind of growth, and for a company to do that in the market we've just been going through, it would have to be writing at very low rates," said Myra Tobin, managing director of Marsh & McLennan.

Shand acknowledges that it has been competitive, but it denies that it is guilty of excessive rate cutting. Shand's rates for its professional liability lines generally are at 1977 levels, according to Don Brayer, a Shand vp.

Schinnerer's rates for the architects coverage will still average 10% to 15% more than Shand's even after the Shand increases take effect, Mr. Genecki said. In the past, Schinnerer's premiums have been 30% to 50% higher, according to Mr. Duvall.

"We did not follow (Shand) several years ago when they started cutting rates," said Mr. Genecki. "By inference you could say we thought they cut too much."

Mr. Duvall added that he had been expecting the Shand move "for quite a while."

"Anyone who makes business by discounting rates sooner or later will have to come out with a big announcement (like Shand's)," Mr.

Duvall said.

"They have been much more competitive than we have," Mr. Gerstman of INAPRO. "The facts speak for themselves; they have to make a major adjustment like this."

Mr. Brayer pointed out that Shand has lost business to other derwriters, including CNA, rather than cut rates further.

"It would be suicide" to raise the lower rates, Mr. Brayer said.

Mr. Brayer added that rating accusations against Shand only indicate bad feeling on part of companies that lost out in competition for business.

"They are going to point a finger and say, 'Shand, Morahan is selling business very cheaply,'" Brayer said.

Mr. Brayer also refuted suggestions by some in the professional liability area that Shand has not provided a stable market for the business.

Between 1973 and 1980, Shand insured architects/engineers and lawyers risks through Northbrook Insurance Co. In 1980, it moved to Potomac Insurance Co., which subsequently absorbed by General Accident Insurance Co. of America. Shand has been with General Accident since.

Some have suggested that Shand switched policy-issuing companies to cut rates or because of poor experience.

Mr. Brayer flatly denied the charges. Shand moved its business from Northbrook, he said, because Northbrook is a surplus lines market in 48 of 50 states.

As competition in the professional liability lines increases, Shand decided "marketing advantages," such as the avoidance of surplus lines taxes, could be gained by shifting to an admitted insurer, Mr. Brayer said.

Insurers debate whether Shand's rate hikes signal a tightening in the market for professional liability lines.

Mr. Gerstman said he expects markets to tighten. He added, however, that as established insurers increase their rates, newer insurers may offer lower rates.

For example, when INAPRO boosted agents liability rates 25% in Pennsylvania, it lost the sponsorship of the Independent Insurance Agents of Pennsylvania. The agents moved their program to a company that has written professional liability for only one year but which offered a 10% reduction in their current rate.

A spokesman for the agents group says it placed its coverage with Fremont Indemnity Co. of Los Angeles, which basically kept INAPRO's old rates except for some 3% to 5% rate reductions.

NRC OKs rules for nuclear wastes

WASHINGTON—Sources of low-level radioactive wastes will be responsible for classifying and shipping them to disposal facilities, the Nuclear Regulatory Commission says.

The new regulations divide the wastes into three categories. Class A wastes decay to safe radiation levels within 100 years and may be buried in liquid form in containers. Class B wastes reach safe radiation levels after 300 years and must be solidified or buried in high-integrity containers. Class C wastes do not reach safe levels for 500 years and must be solidified and buried at least 15 meters underground.

Facilities producing these wastes must now classify them and ship them to disposal facilities in Barnwell, S.C.; Hanford, Wash.; and Beatty, Nev. The Nevada Board of Health, however, hopes to close down the Beatty site.

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Duluth comp pool

Continued from page 1
 Inc., a company that also to participate. "If there is the ability of improving the situation as a businessman I have to do it."

In addition to opening up a way for smaller firms to self-insure, the pool would offer a small business the flexibility in spreading its risk, Mr. Meierhoff says. Participation in the pool would allow his steel fabrication company to cover its higher-risk field operations with a traditional insurer and the pool to self-insure the lower-risk shop operations.

Comparing the risks would result in lower costs for the company and the hazard levels for shop and field operations would be assessed individually.

However, the state Insurance Commission is not sure Duluth's proposed association between the public and private sector is legal.

The question now rests with the Minnesota attorney general's office, which is expected to hand down an opinion within the week. It looks very likely that it (the bill) can be cleared on the basis that we're a home-rule charter and that we already have a (city) self-insurance operation with a proven track record," said Mr. Fedo.

The legality of the pool is tied to an obscure state statute that was recently passed as part of a larger bill in 1981. The bill removed a same industry requirement that stated that companies had to be in the same industry group, or the same hazard group, to form a workers compensation pool.

Without the same-industry requirement, there is nothing that specifically precludes business and government from forming a consortium to fund work comp risks.

If the attorney general's opinion determines that the venture is illegal, the city of Duluth is prepared to seek enabling legislation for its proposed pool.

"At least one of the candidates for governor (Rudy Perpich) has endorsed the plan," said Duluth's risk manager Bob Healey, who is coordinating the effort to develop the pool. "We'd have people fighting to stand in line to offer it as a bill."

The pool does, however, raise many unanswered questions.

"One of the questions that has to be answered is the legality of a municipality basically pledging its assets to others," said Assistant Insurance Commissioner William Howard. "If there were a bankruptcy by one of the members for a large claim that could result in an assessment (of the pool's members), then you have municipalities participating in private debt."

If the city faced such an assessment, for example, could a private citizen or a non-participating business object to the assessment as an improper city expenditure?

"If the Legislature wants to, it can say, 'Yes, they can assess for reasonable workers comp losses, they can participate in this or they can participate in that,'" said Mr. Howard.

"It is inherently doable. It's just a question of policy and there are a lot of questions whenever anybody does anything the first time. That doesn't mean it won't happen."

Even if such a partnership can be legally established, the Insurance Commission is still faced with questions of how to regulate such an entity.

"There are a lot of things we would have to do in rules—for instance, comparing a municipality's financial ability to pay with a private entity's," said Mr. Howard. "They use a funds-flow method of accounting rather than an assets and liabilities method, which you have with a regular business."

Additionally, how would the

new entity be defined?

"If we do have to (make) rules to regulate them, do you treat them as an apple or an orange or a tangelo?" asks Mr. Howard. "If they're a hybrid, then they can't fit under an existing set of rules and maybe they'll have to have their own set of rules."

There are also tax considerations in blending non-profit and commercial company moneys, which the consultant, Warren, McVeigh, is being asked to address in its feasibility/implementation study to be completed in early 1983.

The consulting firm's report will analyze other key areas identified by the Duluth task force on the workers compensation pool, including funding mechanisms for the organization, specific financial criteria for participating members, the structure of the insuring organization, loss-control management

and administration of the program. Minnesota consistently has had high workers compensation costs, ranking among the top 20 states nationwide.

The average workers compensation costs for employers in Minnesota is double that of Wisconsin, triple Iowa's costs and about four times higher than North Dakota's, according to Mr. Howard.

"I can't remember the last workers comp claim of any significance that we've had," said Modern Constructors' Mr. Meierhoff. "But it's still a high expense. Whereas one mile away in Wisconsin, it's 50% cheaper for a new company."

"Obviously, for those of us who are here, it (workers compensation) would have to be a pretty heavy burden for us to move, but where it really hurts is when somebody wants to locate a new plant."

The proposed pool is seen as a way to attract new business to the area.

Since a 1974 legislative initiative

greatly liberalized workers compensation benefits and sent insurance costs spiraling upward, workers compensation has been a political hot potato.

With Minnesota trying to stem a wave of business flight to nearby states, workers compensation costs have been identified as one more economic straw on the camel's back of industry—a straw Duluth hopes to remove with its unique pooling proposal.

Duluth officials feel these costs are hitting small business the hardest. As a result, participation in the workers compensation pool may be limited to small- and medium-sized businesses employing 25 to 500 employees.

"What we're trying to do is set Duluth forward as a good place to do business," said Mr. Fedo. "The economic times are hard ones, but most of the businesses in Duluth are hanging in there. But what we don't want to do is be content with just holding our own."

"Workers compensation costs have been extremely controversial and somewhat insolvable on the state level," he added. "We felt that our own workers compensation self-insurance plan was a tremendous success, so why not a public-private partnership?"

If the plan is uncontested, it would take the state a minimum of six months to develop a set of rules to govern the new entity. However, if the pooling entity is contested, it would take at least nine months for rule development.

Even with the maze of approvals the proposal faces, Duluth officials hope to put the public/private workers compensation pool into effect between April and October of next year.

Besides Reach-All, Modern Constructors and the three Duluth public bodies, other potential participants include Minnesota Power Co., Diamond Tool & Die Co., Miller Dwan Hospital, Super Wood Corp. and Del Zotto Manufacturers.

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UPCOMING ISSUES		ISSUE DATE	AD CLOSING
		AUG 30	Aug 18
		SEP 6	Aug 25
		SEP 13	Aug 31
MARINE INSURANCE: IIAA Convention		SEP 20	Sep 8
Risk Management Board Survey		SEP 27	Sep 14
EMPLOYEE BENEFITS: PERSONNEL ADMINISTRATION		OCT 4	Sep 22
		OCT 11	Sep 28
FINANCIAL SERVICES: FOR CAPTIVES & SELF-INSURERS		OCT 18	Oct 6
Employee Benefits Board Survey		OCT 25	Oct 12
REINSURANCE: NAII Conference		NOV 1	Oct 20
		NOV 8	Oct 26
NEW ENGLAND MARKET REPORT		NOV 15	Nov 3
Risk Management Board Survey		NOV 22	Nov 9
INTERNATIONAL INSURANCE		NOV 29	Nov 17
		DEC 6	Nov 23
EMPLOYEE BENEFITS: IN RETROSPECT		DEC 13	Nov 30
Employee Benefits Board Survey		DEC 20	Dec 8
		DEC 27	Dec 15

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Reinsurers sued for asbestos claims

Continued from page 1

They are:

- American Re-Insurance Co. of New York, a subsidiary of Aetna Life & Casualty Co.
- Employers Reinsurance Corp., of Overland Park, Kan., a subsidiary of ERC Corp., which is a subsidiary of Getty Oil Co.
- The Excess & Treaty Management Corp., a foreign corporation with offices in New York City, that is an underwriting manager for reinsurance assumed by members of Casualty Reinsurance Associates of America and the Excess & Casualty Reinsurance Assn. or ECRA.
- ECRA, an unincorporated New-York based association of insurers that assumes reinsurance written by Excess & Treaty Management.

According to the complaint, filed Sept. 30, General Accident purchased \$14 million in reinsurance from the defendants between 1943 and 1971. The company's retention ranged from \$25,000 to \$150,000 over the same period, it said.

Beginning in the 1960s, General Accident's policyholders were hit with the first of thousands of lawsuits from victims with asbestos-related diseases. General Accident advised its reinsurers of the suits and complied with all obligations of the treaties, the complaint says.

In the meantime, General Accident, which had been involved in litigation with Celotex over how asbestos claimants were to be paid, reached a settlement with the company on Sept. 1, 1981.

The agreement required General Accident to pay Celotex \$7 million,

and in return, Carey, Celotex and their parent, Jim Walter Corp., released the insurer from past, present or future liability for asbestos claims and defense costs.

General Accident has had to pay more than \$7.8 million as a result of the settlement, including investigation and defense costs, the suit says, adding that the defendants have refused to reimburse General Accident although the reinsurance treaties obligated them to.

The insurance policies General Accident wrote for Carey were automatically reinsured under the treaties by their language and by the practices of the industry, the complaint adds.

The suit also alleges that the defendants violated New York state insurance and general business laws and federal antitrust laws. It claims the defendants "conspired and unlawfully agreed among themselves to refuse to deal with plaintiff in the settlement of claim under the treaties."

In addition to seeking more than \$21 million in damages and \$10 million in punitive damages, the suit seeks injunctions to enjoin the defendants from continuing their alleged conspiracy.

According to a source close to the litigation, the three main issues the court must decide in the case are:

- The time at which the reinsurance was triggered.
- Which of General Accident's reinsurance treaties would cover the settlement with Celotex.
- Whether General Accident's retention under the treaties should be paid just once since it made a

lump-sum settlement with its cyholder, or whether the rete should be paid for each asbestos claimant who received a portion of the settlement.

"There will be a lot of law here," the source said.

The reinsurance contracts reportedly contained arbitration clauses, and the defendants seek to have the case sent to arbitration. The defendants have Nov. 19 to file an answer to the complaint.

An attorney for ECRA and Excess & Treaty called the complaint "a hodgepodge of allegations" makes it difficult to respond to.

Eugene Wollan of the New York City law firm of Rein, Moun Cotton said issues concerning liability for the \$7 million in damages were potentially a legitimate area of controversy, but added the conspiracy and antitrust allegations cluttered the suit unnecessarily.

Mr. Wollan called the additional allegations "nonsense and ill-vised" and said they turned potentially legitimate issues into "unnecessary mudslinging."

Some of the "technical reinsurance issues" are not unique to asbestos and could be potentially applicable to other product liability issues as well, Mr. Wollan added.

A spokesman for American Insurance refused comment because the matter was under litigation.

A spokesman at Excess & Treaty Management said ECRA will be dissolved at the end of the year. The business it wrote will then be underwritten by St. Paul Fire Marine Insurance Co., he said.

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Business Insurance

Circulation Breakdown*

Commercial Consumers

Administrative Management:
owners, presidents,
vps, etc. 6,497

Financial Management:
chief financial officers,
vps of finance, secretaries,
treasurers, etc. 9,634

Insurance Management:
vps, directors, managers of
insurance, risk, benefits,
compensation, safety,
security, etc. 5,948

Government, Associations,
Unions, Educational
Institutions 1,004

Commercial Consumers
Sub-total 23,083

Insurance Agents
& Brokers 9,629

Insurance Cos. 4,944

Financial Institutions 314

Actuaries, Attorneys,
Adjusters, Appraisers
& Consultants 2,408

Others allied to the field 854

TOTAL 41,232

*Source: Business/Occupational
breakdown of qualified circulation,
May 3, 1982 issue, as submitted to
BPA for June 1982, BPA Publisher's
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Moody, S&P lower asbestos firms' ratings

nued from page 1
 re compensatory damage
 s in ongoing litigation.
 herefore, the full weight of
 costs will be shared by the re-
 ing companies," Moody's says.
 The remaining asbestos defen-
 s will be faced with an esti-
 d 52,000 total claims.
 ody's also said it agrees with
 rates by independent observers
 asbestos-related liability will
 etween \$4 billion and \$10
 n through the year 2010.
 ody's also said it agrees with
 rates by independent observers
 asbestos-related liability will
 etween \$4 billion and \$10
 n through the year 2010.
 ody's also said it agrees with
 rates by independent observers
 asbestos-related liability will
 etween \$4 billion and \$10
 n through the year 2010.

company said in a report.
 "Accordingly, we have intensi-
 fied our rating reviews and signifi-
 cantly increased our assessments of
 the possible liabilities to be in-
 curred by Manville and other com-
 panies."

The Moody's report indicated
 that Armstrong World Industries,
 GAF, Owens-Illinois, and Owens-
 Corning have been harder hit by
 the litigation than Flintkote and
 Jim Walter.

In addition, factors other than as-
 bestos liability, like the effects of
 the recession, also contributed to
 the lower ratings, the report noted.

Although Moody's also reviewed
 several other asbestos defendants
 and five insurance companies sig-
 nificantly involved in asbestos liti-
 gation, it did not lower their rat-
 ings.

Defendants whose ratings were
 studied but not lowered include
 Asarco Inc. of New York, a subsidi-
 ary of Lac d'Amiane; Combustion
 Engineering Inc. of Stamford,
 Conn.; Louisiana Pacific Corp. of
 Portland, Ore.; and National Gyp-
 sum Co. of Dallas.

Insurance companies whose rat-
 ings were reviewed but unchanged
 are A.I. Credit Corp. of New York,
 a subsidiary of American Interna-
 tional Group Inc.; Aetna Life &
 Casualty Co. of Hartford, Conn.;
 AFCO Credit Corp. of New York,
 a subsidiary of Continental Corp.;
 CIGNA Corp. of Philadelphia; and
 The Travelers Corp. of Hartford,
 Conn.

"The companies whose ratings
 remain unchanged demonstrate
 strength compatible with their ex-
 isting rating categories despite the
 incremental risk of asbestos-related
 litigation," the Moody's survey
 said.

"Our review of the potential as-
 bestos-related liability for the five
 rated insurance carriers indicates
 that no rating action is required at
 this time. Moody's reviews of the
 potential liability of those com-
 panies (insurers) indicate that their
 reserves to cover such liability are
 adequate, based on information
 available to date."

Officials of many of the com-
 panies whose ratings were lowered

either refused or were unavailable
 for comment.

However, a spokesman for GAF
 said that Moody's action was un-
 warranted.

"There have been no new devel-
 opments regarding our asbestos ex-
 posure," a company statement said.
 "Our insurance companies continue
 to defend and indemnify us. And
 we consider that we have our ex-
 posure situation under good control."

GAF is facing about 10,000 suits
 and has settled 2,500 cases for an
 average of \$7,000, the spokesman
 said.

The Moody's rating reduction
 "didn't really affect us because
 we're not issuing commercial paper
 now," a spokesman for Jim Walter
 Corp. said. "It really wasn't nega-
 tive for us."

The spokesman also pointed out

that the company's long-term bond
 rating was not reduced.

Thomas Petry, president and
 chief executive officer of Eagle-
 Picher, said that his company does
 not agree with the lowered rating.

"We are a very sound financial
 company and don't feel the uncer-
 tainty of asbestos litigation war-
 rants a downgrading to the level
 they have done."

Eagle-Picher's long-term debt
 and commercial paper ratings were
 downgraded by Standard & Poor's
 earlier last month and by Moody's
 within the past two months.

Standard & Poor's reduced
 Eagle-Picher's rating because of
 the company's impaired financial
 flexibility and ability to attract cap-
 ital due to the uncertainty of its in-
 volvement in asbestos litigation,
 the S&P spokesman said.

Punitive awards OK for ERISA violations

Continued from page 2
 at option in retaliation for his
 eated complaints about his
 'king conditions.

In addition, Mr. Jimenez said the
 pany didn't tell him about the
 etion of the lump-sum option
 il after he left the firm.

As a result, Mr. Jimenez charged,
 lost a valuable business opportu-
 y as well as the tax benefits asso-
 ed with a lump-sum distribu-
 n.

Mr. Jimenez sought an unspeci-
 d amount of punitive damages
 ause Pioneer Diecasters alleg-
 y acted with malicious and will-
 l intent when it deleted the
 mp-sum payment option, accord-
 g to the suit.

Judge Hall agreed that punitive
 mages can be sought against an
 ployer as a pension plan fiduci-
 y. Allowing punitive damages
 ainst plan fiduciaries furthers
 RISA's intent of protecting the in-
 rests of plan participants by de-
 rring fiduciary misconduct, she
 lded.

"Judge Hall is saying that puni-
 ve damages will be allowed in
 regious situations such as this
 ne," said plaintiff's attorney Mr.
 lean.

But other pension experts say
 dge Hall erred.

"Putting in a plan amendment is
 business decision, not a fiduciary
 ct," said Frank Cummings, a part-
 ner with Nossaman, Krueger &
 Knox, a Washington, D.C., law
 irm.

In addition, ERISA lays out spe-
 ific criminal—not punitive—pen-
 lties for willful pension viola-
 ons, Mr. Cummings added.

In reaching her decision, Judge
 Hall has allowed the case to go to
 the discovery stage and seek puni-
 tive damages but has not yet ruled
 on whether the company violated
 its fiduciary responsibilities as a
 pension plan sponsor.

Carl Spahr, a member of Pioneer
 Diecasters' pension committee, said
 all of Mr. Jimenez's allegations are
 unfounded.

Fires in California to cost \$16 million

NEW YORK—Insured property
 losses caused by a series of fires in
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 strophe No. 72 by the Insurance Ser-
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Regulators study asset shifting at Baldwin

Continued from page 3

Once primarily a musical-instrument manufacturer, Baldwin earned \$85.5 million on revenues of \$2.5 billion in 1981 and scored a compounded five-year revenue growth of 65.7%. Its return on shareholders' equity reached 33.6% in 1981, among the highest for diversified financial companies ranked by Fortune magazine.

Much of the company's growth has come from its sales of single-premium deferred annuities, known as SPDAs, which are considered a life-insurance product (see related story). The sale of SPDAs in 1981 generated \$1.5 billion, or 60% of its revenues. During the first half of 1982, it sold an-

BI ticker

other \$913.2 million in SPDAs.

Although it is primarily a life insurer, Baldwin cast itself in the property/casualty limelight and attracted the attention of regulators in at least two states when it acquired Milwaukee-based MGIC in March (see related story, page 35).

To buy MGIC—parent of MGIC Indemnity Corp., Mortgage Guarantee Insurance Corp. and about a half-dozen other primarily property/casualty insurers—Baldwin used about \$517 million in internal funds and obtained a one-year bridge loan of \$654 million from a

consortium of banks.

Details of the MGIC financing emerge in a Sept. 14 prospectus for the offering of \$100 million in debentures by D.H. Baldwin Co., a Baldwin subsidiary. That prospectus, combined with other public documents, picture Baldwin as a labyrinth of at least 57 interlocking corporations, joint ventures, real estate partnerships, equity investments and insurers.

In summary, the documents reveal that:

- Baldwin proposes to sell a total of \$426 million in related assets to its insurance subsidiaries, including the two Arkansas insurers, in exchange for cash to pay the loans.

- The two insurers already hold at least \$471 million in Baldwin-affiliated investments among their estimated \$2.9 billion in reserves, according to documents provided by Baldwin to Mr. Woodyard.

- An evaluation by the National Assn. of Insurance Commissioners securities valuation office in New York City, ordered by Mr. Woodyard, recommended reducing the statutory carrying value of some of the affiliated assets held by the two insurers by about one-third or \$162.6 million. Baldwin officials disagree with the valuation changes, and Mr. Woodyard hasn't yet accepted them.

- Because of the valuation dispute and continued sales of SPDAs, Baldwin was forced to make additions to reserves of the two companies of \$109 million on Aug. 31—assets that might otherwise have been available to pay the loan.

- Baldwin's SPDA insurers own substantially all of Baldwin's operating subsidiaries. They also used the cash in large part to buy stock or debt of affiliates, including the purchase of MGIC.

As long as the entire Baldwin-United group performs well, the arrangements are fine, analysts say. But what happens, some ask, if SPDA policyholders decide to cash in their annuities?

Baldwin officials say the Arkansas insurers hold enough non-affiliated assets to more than cover the liquidation value of the SPDAs they have written.

Baldwin's corporate structure is, on the surface, similar to that of at least one other large insurer—Hartford Insurance Group Inc. Hartford Fire Insurance Co., the principal holding company of the group, is also an insurer in its own right, notes Joseph H. Gareau, a Hartford Group secretary who manages the group's investments. But about 40% of Hartford Fire's assets, he says, consist of stocks or bonds of subsidiary insurers.

Mr. Gareau says insurance regulators in Connecticut allow such holdings because Hartford Fire's non-affiliated assets more than support its insurance writings. "They strip out your affiliated holdings and compare what's left to your writings."

The Arkansas regulators' scrutiny focuses on NILIC, which writes most of Baldwin's SPDA business, and NIPIC, which reinsures most of the SPDA business. They share the same management.

The two insurers also own 35% of Balunit Inc., a Baldwin holding company subsidiary that, in turn, now wholly owns MGIC. Balunit itself has no operations; thus the value of its stock depends entirely on the value of its investments, most of which are tied up in MGIC.

Thus, Baldwin has managed to use cash generated by the SPDAs sold by the two life insurers to purchase stock in Balunit, which in turn purchased MGIC.

After looking at these transactions, the Arkansas regulators asked the NAIC experts to look at MGIC's assets to decide what value the Arkansas insurers should be allowed to place on Balunit's stock. The NAIC, using the book value of MGIC's assets, says the assets are worth \$136,000 per share. Baldwin, arguing for market value, had been using \$200,000 a share. As of Sept. 15, the Balunit shares held by the two companies totaled \$185.1 million after the proposed reduction, according to Baldwin documents.

Besides the 35% stake held by the two insurers, a large chunk of Balunit is also held by D.H. Baldwin Co., another non-operations holding company.

The two Arkansas insurers also hold approximately \$181.5 million in D.H. Baldwin preferred. Since D.H. Baldwin's principal asset is Balunit, which in turn chiefly owns MGIC stock, the NAIC actuaries say the \$181.5 million in D.H. Baldwin stock is actually worth only

\$106.0 million.

Although the NAIC may recommend devaluation of other affiliated assets, its recommendations have not yet been made public and Mr. Wood says they will not be released until the examination is complete.

"We recognize that affiliate investments are not as liquid as of AT&T," says L. Guy Dillah III, the former assistant controller of Baldwin-United who became executive vp of the two Arkansas based insurance affiliates on Oct. 1. "But you have to ask, 'what are the best investment candidates?' We have decided that among the candidates are companies within the Baldwin-United group."

"If it's a non-traded or an affiliate asset, then you have to know more about the affiliate," Mr. Woodyard responds. "You can't be a participant in your regulation. You have to be aware of the non-insurance companies and the effect that

Continued on facing page 2

SPDAs profitable for Baldwin

A single-premium deferred annuity has the characteristics of a tax-deferred savings account.

A policyholder makes a lump-sum payment to the insurer in return for a guaranteed investment return at market rates during the first year of the policy. For annuities written by affiliates of Baldwin-United Corp., the lump-sum amount averages \$23,000 and the first-year guaranteed rate is currently 13.5%.

The policyholder incurs federal tax penalties upon any withdrawal of principal before retirement or any disability. As long as no withdrawal is made, however, the policyholder pays no taxes on the accumulating interest.

In the meantime, the insurer makes money on the difference between what it pays the policyholder and what it can earn by investing the accumulating cash hoard of many policyholders.

The insurer also has to pay a commission to stockbrokers who sell the annuities. Baldwin pays 4% of the principal—or about \$920—on an average sale.

During the first year, Baldwin guarantees it will not reduce the interest rate it is paying by an increment exceeding 0.75%. If Baldwin violates that pledge, the policyholder can withdraw the money without the 5% surrender penalty that Baldwin otherwise charges.

After the first year the policy is in force, Baldwin can set the interest rate anywhere market conditions dictate above a floor of 7.5%.

The key to the appeal of SPDAs for insurers like Baldwin is the ability to generate tax losses in the annuities' early years that can be used to shelter profits from other highly profitable operations—like, in Baldwin's case, its MGIC Investment Corp. unit.

The tax losses result from rulings that allow deduction of the first-year 13.5% interest payments as a business expense, as well as deducting the commission paid to the broker.

The Internal Revenue Service earlier had indicated it might dispute this practice, but the Tax Equity and Fiscal Responsibility Act signed Sept. 3 by President Reagan makes it clear that insurers can continue to do so.

As the years go by, the SPDAs become more and more profitable since the insurer can lower the original interest rate.

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ued from facing page in the insurance companies." "perfect example" of this, says Mr. Wood- s the purchase by NILIC from Baldwin- d of 100 shares or 100% of Phoenix a non-insurance Baldwin affiliate, on 18 for \$17.2 million—equivalent to 00 a share. Three days before, 54 shares transferred between two other Baldwin for \$83,333 a share. viously, what catches your eyes is the ential in price within the two- or three- ransaction," says Mr. Woodyard. Bald- fficials say they are preparing an expla- n of this transaction for Mr. Woodyard. e commissioner says he hopes the results e study will be complete by the end of ear. But NIPIC and NILIC, under ure from the commissioner, agreed in ist to place under his control 1,500 Ba- shares, which Baldwin valued at \$300 on at the time. Under the agreement, Woodyard could tender the Balunit s to the two insurers if state examiners d that their reserves were impaired. Aug. 31, at the request of Baldwin, Mr. dyard transferred 805 of the 1,500 Ba- shares valued by the NAIC at \$109.5 on, to beef up their reserves. The two

companies also detailed a series of other affi- liated transactions to produce another \$106 million in admitted reserves. On Sept. 30, the two insurers told Mr. Wood- yard that transactions completed to date left them with a combined surplus equal to \$104.1 million, or 3.6% of their \$2.9 billion in admitted assets. That compares with a life-insurance in- dustry aggregate in 1981 of 7.2% of assets, ac- cording to A.M. Best Co. NILIC and NIPIC executives also gave Mr. Woodyard a written pledge on Sept. 15 that they won't buy any affiliated assets without his approval. "(T)his will assure you that no premi- ums of any of these three companies will be invested in any affiliated assets except with your prior approval in compliance with the Arkansas Insurance Code," wrote Sherman M. Jensen, president of both companies. However, the debenture prospectus by D.H. Baldwin Co., which was dated the day before the pledge was delivered to Mr. Wood- yard, outlines plans to take at least \$526 million in cash from the insurance company reserves, including NILIC and NIPIC, to help finance the MGIC acquisition, replacing the cash with \$426 million in stocks, bonds or notes from a variety of Baldwin affiliated

companies, plus \$100 million in real estate. Another \$8 million to \$28 million would come from the sale of Baldwin assets to unre- lated third parties. In the prospectus, Baldwin does warn that about \$390 million it wants to raise involves regulatory approval of some sort, although it does not name the agencies that would have to approve the transactions. And the com- pany adds that it might have to sell other assets, "which may include operating subsidi- aries," to raise the funds. The company says these transactions will net "in excess" of \$534 million toward the \$567 million in loans due in March. One analyst, James S. Chanos, who works in the Chicago office of Guilford Securities Inc., argues Baldwin may have trouble gen- erating enough cash flow to make payments on the bridge loan. However, Mr. Chanos ac- knowledges that his firm stands to lose money if Baldwin's stock price rises because it sold Baldwin shares short. "The bears are focusing on cash flow and financial structure and the bulls are focusing on earnings and sales trends," says Mr. Chanos. The bulls disagree. "It's really a connoisseur-type stock," says Robert W. Back, a vp at Prescott, Ball & Tur- ben in Chicago. "They're really a bank. They take in the revenues from any source, they hold it and then they pay no taxes. Their product is all cash, except for pianos." Also, it has been reported in the last two months that securities firms curtailed the sale of Baldwin SPDAs. Baldwin denies that this has occurred and the firms mentioned in the reports either decline to comment or say they have resumed their previous sales efforts. The part of the complex financing plan is of particular interest to commercial insur- ance buyers since it involves the sale of Bald- win's insurance brokerage subsidiary, Bayly, Martin & Fay, the seventh-largest U.S. bro- ker, according to BI estimates, with revenues of \$85.5 million in 1981. Under the plan, a management group at BM&F will contribute \$20 million to a part- nership with an "unrelated investor." The unnamed investor will also contribute \$20 million in cash or Baldwin-United stock. That partnership will then give Baldwin, through a subsidiary, a promissory note val- ued at \$59 million plus the \$40 million in cash and/or stock for BM&F. Thus, the partnership will own BM&F in a cash-and-paper transaction totaling \$99 mil- lion, with Baldwin-United, in effect, loaning it \$59 million. Baldwin-United says it will then take the loan—in the form of a promis- sory note—and plop it into the assets of NIPIC for \$59 million in cash.

Much of the rest of the \$526 million pro- posal involves Balunit, which the prospectus says is 17.6% owned by Baldwin-United, 20.9% owned by D.H. Baldwin Co., 35.2% owned by NIPIC and 26.3% owned by other insurance affiliates: ● The issuance of \$200 million in Balunit preferred stock for investment in several joint ventures. The venture partners will, in turn, contribute real-estate assets. Then, Bal- unit's interests in the ventures will be placed into the portfolios of unspecified affiliated in- surance companies in exchange for approxi- mately \$200 million in cash. In effect, the insurers would then hold half of the venture's real-estate holdings worth \$100 million and half of the Balunit preferred stock valued at \$100 million. ● The placement of an \$80 million promis- sory note issued by Balunit in the portfolio of Mortgage Guaranty Insurance Co., the mort- gage insurance subsidiary of MGIC, in ex- change for \$80 million in cash. The promis- sory note is to be backed by a letter of credit. ● The transfer of stock and notes of sev- eral MGIC affiliates to NILIC in exchange for "in excess of \$50 million in cash." ● Reinsuring of \$115 million in SPDA re- serves and \$57 million in property/casualty reserves with an "unrelated insurance com- pany" not named by Baldwin. Baldwin-United would then establish an offshore captive to which the unrelated rein- surer will retrocede "up to \$137 million" of those reserves. The captive will then loan the \$137 million to Balunit at market rates and will back its obligations to the unrelated reinsurer by a letter of credit from Balunit. Baldwin officials say none of the reinsur- ance transactions have been finalized.

Wisconsin also watching assets

National Farmers Union Property & Casualty Co., a Baldwin-United Corp. af- filiate, must now give Wisconsin regula- tors 30 days' notice of "any material changes contemplated in its current invest- ment portfolio." The move came after Wisconsin regula- tors discovered almost half of the insur- er's assets were tied up in Baldwin- United affiliates, says Gunther H. Ruch, an assistant director of the financial ex- aminations bureau of the Wisconsin In- surance Department. In 1978, a Baldwin-United subsidiary bought the parent company of National Farmers Union Property & Casualty Co., a Utah-chartered insurer with offices in Denver. National Farmers and its subsi- diaries are collectively known as the property and casualty companies (PACO) of Baldwin-United. Then, last year and in early 1982, MGIC Indemnity Corp., which was being acquired by Baldwin-United, sought to acquire National Farmers Union. "We noted that a substantial amount of National Farmers' investment portfolio was in Baldwin-United group securities,"

Mr. Ruch recalls. "Affiliated assets are limited in the extent to which they can be counted in statutory surplus." During the first three months of 1982, according to Mr. Ruch, National Farmers purchased \$55.4 million worth of Bald- win-affiliated securities or paper, in- creasing its total holdings to \$63.1 million. That equaled 44.4% of its overall assets and 75% of its stock, bond and real estate portfolio. When the Wisconsin regulators noticed those percentages, they discussed the matter with MGIC's management, which by then was controlled by Baldwin-United. "We said that we wouldn't approve the purchase of PACO by MGIC Indemnity with the investments that PACO had," says Mr. Ruch. During the second quarter, National Farmers purchased another \$10.3 million in Baldwin-affiliated bonds, adds Mr. Ruch. But the insurer turned around and on June 24 sold \$46.6 million in Baldwin- related investments, reducing its Bald- win-related holdings to 20% of total assets and 30% of its investment portfolio.

British Issues

26 Oct Companies	Price	P/E	Div. pence	Yield %	High—Low pence
Comm Union	134	14.1	16.86	12.6	138—131
Eagle Star	328	11.7	21.43	6.5	330—318
Genl Accident	334	12.4	23.21	6.9	348—332
Gdn Royal Exch	372	9.4	25.00	6.7	388—372
Phoenix	284	10.9	24.00	8.5	300—284
Royal	440	11.9	36.07	8.2	460—440
Sun Alliance	905	12.9	61.43	6.8	936—905

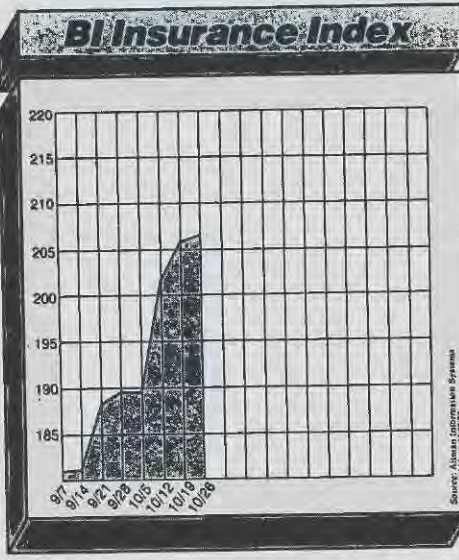
Brokers	Price	P/E	Div. pence	Yield %	High—Low
CE Heath	342	9.4	18.71	5.5	363—342
Hogg Robinson	110	8.5	8.57	7.8	112—110
JH Minet	134	11.2	5.43	4.1	140—134
Sedg Grp	211	12.1	8.57	4.1	220—211
Stenhouse Hldg	101	8.9	7.28	7.2	105—101
Stew Wrightson	245	8.7	18.57	7.6	255—245
Willis Faber	530	13.3	21.43	4.0	545—530

Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kitcat & Aitken Stockbrokers, London

BI Industry Stock Report

Insurance Cos.	Price	% Chg.	P/E	S Div.	% Yld.	High	Low	Vol (000)
ana Life & Cas Co	40.50	-4.1	6.5	2.52	6.2	43.25	40.50	1,188.2
merican Bankers Ins Group	11.63	-2.1	8.7	0.48	4.1	11.75	11.38	331.7
merican Gen Ins Co	45.25	-1.6	6.2	2.20	4.9	47.13	45.25	129.9
merican Indty Finl Corp	16.50	-0.8	12.7	1.12	6.8	16.75	16.50	4.3
merican Intl Group Inc	79.25	1.9	12.1	0.48	6.8	80.25	78.00	586.7
merican Natl Ins Co	16.38	2.3	7.0	0.76	4.6	17.25	16.25	82.0
merican Sta Life Ins Co	17.00	3.0	5.4	0.80	4.7	17.00	16.50	0.3
merico Reins Ltd	2.88	4.5	0.0	0.00	0.0	2.88	2.75	48.5
mesco Corp	13.38	9.2	7.0	0.54	4.0	13.50	12.88	19.2
inks Iowa Inc	41.50	2.5	10.1	1.48	3.6	41.50	41.00	7.5
itco Corp	33.00	0.0	5.1	1.92	5.8	33.00	33.00	0.8
italins Cas Ins Co	6.50	0.0	6.4	0.32	4.9	6.50	6.50	0.0
ubb Corp	46.38	-1.6	7.5	2.92	6.3	48.50	45.38	445.4
mbined Intl Corp	26.00	-4.6	7.4	2.00	7.7	27.25	25.75	349.6
nternational Corp	29.88	0.0	9.5	2.60	8.7	31.00	29.75	1,069.5
anfford & Co	16.00	4.9	11.7	0.56	3.5	16.00	15.50	28.4
rown Life Ins Co	76.25	-4.7	5.0	3.10	4.1	80.00	76.25	0.9
rua & Forster	49.88	-0.3	9.6	1.76	3.5	50.13	49.88	929.1
mployers Cas Co	29.25	0.0	12.9	1.20	4.1	29.25	29.25	21.7
quifax Inc	22.88	11.6	12.1	1.30	5.7	22.88	21.88	59.5
ccelsior Ins Co	11.25	0.0	0.0	0.70	6.2	11.25	11.25	1.4
raemers Group Inc	38.00	-0.7	10.6	1.24	3.3	39.63	38.00	275.5
reast Corp Amer	33.00	0.0	10.0	1.12	3.4	33.00	33.00	49.6
rest West Life Assurn Co	190.00	5.6	15.3	10.00	5.3	190.00	190.00	0.0
anover Ins Co	35.25	-1.4	4.8	0.88	2.5	36.25	35.25	42.8
artford Steam Boiler Insapnt	42.00	0.0	8.3	2.80	6.7	42.25	42.00	7.0
efferson Natl Life Ins Co	39.50	-1.3	11.0	0.76	1.9	40.00	39.50	16.4
emper Corp	33.65	-0.7	6.0	1.80	5.4	34.50	33.63	112.1
ncolin Natl Corp Ind	43.00	-1.1	7.4	3.00	7.0	45.00	42.63	152.0
ntation Ins Group Inc	26.75	-3.6	6.2	0.80	3.0	29.00	26.75	63.8
ationwide Corp Ohio	25.50	1.0	7.3	0.70	2.7	25.50	25.25	2.8
orthwestern Natl Life Ins	25.88	-2.4	5.6	1.50	5.8	28.00	25.88	56.5
hio Cas Corp	45.13	2.0	8.2	2.36	5.2	45.75	44.88	142.6
ld Rep Intl Corp	23.25	12.0	5.4	0.92	4.0	23.50	22.50	147.7
referred Risk Life Ins Co	23.50	-4.1	6.3	0.92	3.9	24.50	23.50	13.1
rovident Life & Acc Ins Co	47.00	0.0	6.7	2.44	5.2	47.00	47.00	31.5
ryan Ins Group Inc	33.75	0.0	13.6	0.16	0.5	0.00	0.00	0.0
St Paul Cas Inc	58.13	0.6	7.7	2.60	4.5	59.75	58.13	877.1
Safeco Corp	42.63	-2.0	7.3	2.20	5.2	43.13	42.63	223.2
Sri Corp	29.00	-1.7	6.6	1.12	3.9	29.50	29.00	130.9
Seibels Bruce Group Inc	24.75	-8.3	22.7	0.80	3.2	26.75	24.75	77.7
Statesman Group Inc	6.88	0.0	6.2	0.15	2.2	7.00	6.75	31.9
Tokio Marine & Fire Ins Co	78.00	-6.3	6.2	0.92	1.2	82.25	78.00	2.3
Travelers Corp	24.13	-3.0	6.3	1.64	6.8	25.25	23.75	1,271.0

United Fire & Cas Co	Price	% Chg.	P/E	S Div.	% Yld.	High	Low	Vol (000)
United Fire & Cas Co	32.75	-6.8	8.6	0.88	2.7	32.75	32.75	0.9
United States Fid & Cty Co	42.50	0.0	9.0	3.60	8.5	45.00	42.50	205.8
United States Life Ins Co	18.88	11.9	6.1	1.00	5.3	19.75	17.63	98.7
Ualife Corp	23.63	3.5	5.0	0.84	3.6	25.00	23.63	324.4
Washington Natl Corp	19.38	-8.3	9.3	1.08	5.6	21.50	18.50	133.4
Zentel Natl Ins Corp	16.00	-1.5	7.3	0.76	4.8	16.25	15.75	51.8
AVERAGE			8.0		4.4			
Agents/Brokers								
Alexander & Alexander Svcs	25.50	2.0	9.3	1.94	7.6	26.00	25.13	292.0
Baldwin & Lyons Inc	34.50	0.0	6.0	0.80	2.3	34.50	34.50	3.4
Corroon & Black Corp	25.00	11.1	12.3	1.80	7.2	25.50	23.88	26.5
Crump E H Cos Inc	9.88	-7.1	16.7	0.40	4.1	10.50	9.88	57.2
Emett & Chandler Cos Inc	8.50	0.0	12.7	0.00	0.0	8.50	8.50	1.8
Hall Frank B & Co Inc	25.50	2.0	9.9	1.70	6.7	26.50	25.25	214.2
Integrated Res Inc	26.63	10.4	9.0	0.00	0.0	28.13	25.75	217.0
James Fred S & Co Inc	25.00	0.0	12.2	1.60	6.4	25.63	25.00	56.0
Marsh & McLennan Cos Inc	40.00	5.3	12.4	2.20	5.5	42.50	38.00	265.0
PennCorp Fincl Inc	11.38	-1.1	8.0	0.16	1.4	11.50	11.38	384.8
Poe & Assoc Inc	9.00	0.0	10.2	0.80	8.9	9.00	9.00	1.0
Reed Stenhouse Cos Ltd	12.63	1.0	18.3	0.60	4.8	13.25	12.63	103.6
Rollins Burdick Hunter Co	17.25	-0.7	12.3	1.32	7.7	17.50	17.25	27.8
AVERAGE			10.0		4.9			
Conglomerates/Holding Cos.								
American Express(Fireman's Fd)	58.50	0.9	10.0	2.20	3.8	60.00	56.38	1,641.2
Anderson Cleyton(Ranger/PanAm)	26.00	-1.0	5.8	1.32	5.1	26.50	25.50	40.9
Araco Inc	16.88	0.0	31.8	1.20	7.1	16.88	16.25	969.9
City Investing Co. (Home Ins.)	24.88	-3.9	7.7	1.70	6.8	26.00	24.88	554.5
CNA Finl Corp (CNA)	16.50	0.0	6.9	0.00	0.0	16.88	16.50	34.5
Control Data (Comm. Credit)	36.00	4.0	8.9	0.55	1.5	38.00	35.00	1,445.9
General Re Corp	52.25	-4.3	11.9	1.08	2.1	56.50	52.00	214.6
Gulf Utd Corp	24.00	-4.0	8.4	1.32	5.5	25.00	24.00	185.0
Cigna Corp	43.75	-1.1	6.1	2.30	5.3	45.25	42.00	738.3
ITT (Hartford Group)	30.13	-0.8	6.9	2.68	8.9	31.75	29.50	1,651.6
Optimum Hldg Corp	7.75	-7.5	6.2	0.00	0.0	8.38	7.75	5.6
Sears Roebuck & Co. (Allstate)	27.25	0.9	12.7	1.36	5.0	28.75	26.00	3,975.9
Baldwin Utd Corp	38.75	12.7	8.2	0.88	2.3	38.75	36.00	758.3
Teledyne Inc (Argonaut)	130.75	3.8	7.9	0.00	0.0	135.00	125.88	1,730.1
Transamerica Corp (Occidental)	23.00	-0.5	8.0	1.50	6.5	23.88	23.00	857.3
AVERAGE			8.3		3.3			



The Business Insurance Stock Index set a record high for the third consecutive week as the average of insurance industry securities rose 0.7 points during the week ending Oct. 26 to 206.6 from 205.9. However, losers outnumbered gainers 30-21, with 17 issues unchanged. The largest gains were posted by Old Republic International Corp., 12.0%; United Services Life Insurance Co., 11.9%; Equifax Inc., 11.6%; and Corroon & Black Corp., 11.1%. The largest declines were posted by Washington National Corp., 8.2%; Optimum Holding Corp., 7.5%; E.H. Crump Cos. Inc., 7.1%; and Tokio Fire & Marine Insurance Co., 6.3%. Although the BI index continued its record-breaking rally, most other stock market indicators showed declines during the period, including a 0.7% fall in the Dow Jones 30 industrials.

*Record high/low since Jan. 1, 1982

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An interview with Tony Lubimir, Senior Vice President, Office of Underwriting, The Hartford.

Q. The Hartford is known for the quality of its underwriters. Why is that?

A. Our whole approach to the market depends upon developing and keeping outstanding underwriters. That's why we give top priority to specialized training and career incentives that make underwriting both challenging and rewarding. For example, we created the position of Executive Underwriter for our most experienced professionals. They have broad underwriting and pricing authority coupled with production responsibility. The position may be unique in the industry.

Q. How do insurance buyers benefit from the specialized training of Hartford underwriters?



A. Their insurance needs are addressed by an underwriting professional with in-depth experience and expert knowledge of the particular type of coverage involved. That high level of underwriting expertise is just what

brokers and agents tell us they need to help their clients—especially in the current business environment, where quality of protection is as important as price.

Q. How does that underwriting expertise help insurance buyers get high-quality, cost-effective protection?

A. The more underwriters know about available programs, the better they can put together a plan that is truly responsive to a particular situation. This is especially true in complex areas such as Workers' Compensation, where a superficial approach may not produce a program that works in a buyer's best long-term interest.

Q. What happens when insurance buyers need specialized underwriting help on both the Property and Casualty sides?

A. They get it. The Hartford has a well-coordinated team approach that gives brokers and agents unlimited access to specialized underwriting and loss control assistance—in effect, our best corporate underwriting resources—when called for.

Q. Do Hartford underwriters in the field have adequate authority to accept or reject risks without consulting the home office?

A. Because of the superior training and experience of our underwriters, we're able to give them significant authority within which to operate. In fact, over 95% of underwriting decisions are made in our regional offices. Of course, our field underwriters are encouraged to utilize all corporate resources to develop the best approach to a given situation.



Q. Is The Hartford consistent in its underwriting program?

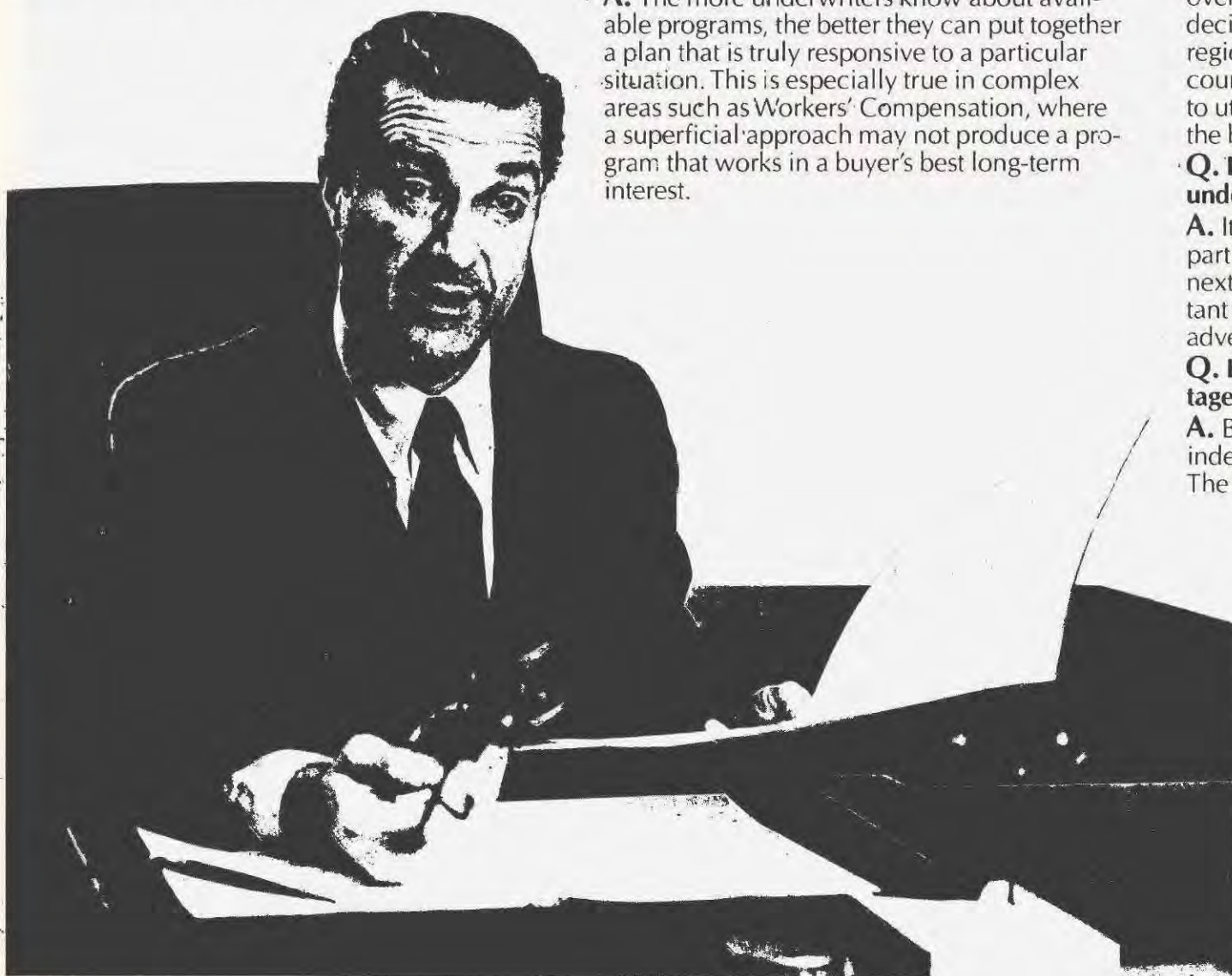
A. It is our policy to be. We don't cover a particular type of risk one year and drop it the next. This will become an even more important factor as the market starts to respond to adverse underwriting results.

Q. How can insurance buyers take advantage of Hartford underwriting capability?

A. By contacting a broker or independent agent who represents The Hartford.



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