

business insurance

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update:

Auditors qualify opinion of MGM Grand's results

LAS VEGAS—Lawsuits seeking \$2.1 billion in damages arising from the November 1980 MGM Grand Hotel fire have caused outside auditors to qualify their opinion of the company's 1980-81 fiscal year financial statement.

"The qualification was not unexpected and is customary in this type of situation,"

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Computer coverage still has bugs

By STEPHEN TARNOFF

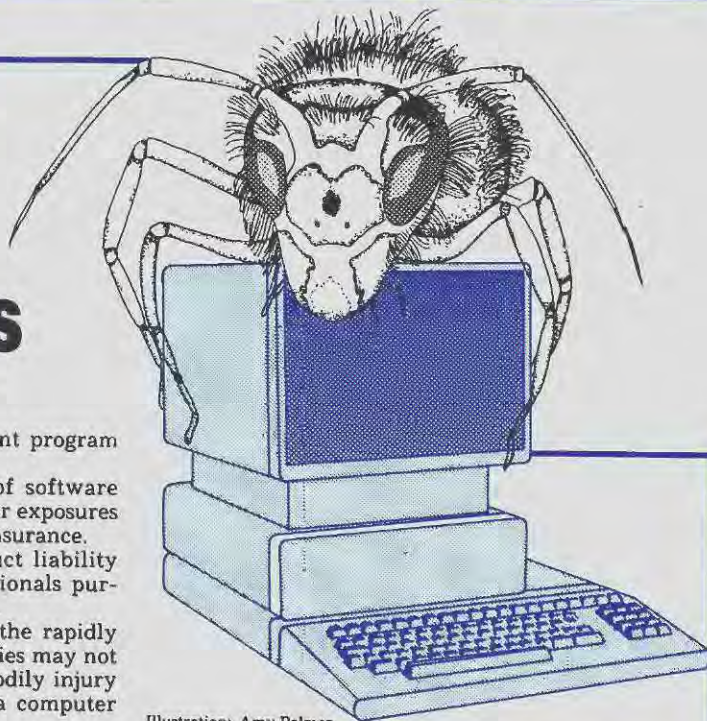


Illustration: Amy Palmer

There's a bug in the risk management program for the computer business, experts say.

Computer suppliers and designers of software programs may not be covered for all their exposures even if they have errors and omissions insurance.

Some exposures may demand product liability coverage, which few computer professionals purchase. And even that may be inadequate.

Lawyers and insurers conversant in the rapidly growing computer field say today's policies may not cover tomorrow's claims, especially if bodily injury or property damage occur because of a computer software error.

"We don't know the basis of liability a court may impose," says Roy N. Freed, an attorney for the Boston firm of Powers & Hall. "The nature of software programming is not fully defined in law."

Although errors and omissions coverage increasingly is included in the software computer specialists' risk management arsenal, it generally excludes bodily injury and property damage stemming from data processing errors.

E&O losses can climb into the millions of dollars, but bodily injury and property damage present even greater exposures for the software specialist, insurance industry sources say.

"The major exposure in software errors and omissions is bodily injury and property damage losses,"

says David Z. Webster, president of Frank B. Hall & Co. of Rhode Island Inc.

And those losses could be catastrophic if, for example:

- A computer used to calculate information needed to design an airplane malfunctions and produces faulty information and the poorly designed plane then has an accident in flight.

- A hospital patient treated in a computerized intensive care unit suffers harm because the computer malfunctions.

- A computer-operated oil refinery blows up because of a computer malfunction, injuring employees of the oil company.

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Pregnancy benefits can differ: Judge

By JERRY GEISEL

CHICAGO—An employer can provide extended health benefits to the pregnant wives of male workers but does not have to do the same for its pregnant female employees.

By dismissing a suit by the Equal Employment Opportunity Commission, Federal Judge James B. Parsons refused to overturn the ironic result of a 1978 law designed to provide health and disability benefits to pregnant employees.

That is, women who quit working while pregnant have lost the extended medical benefits they once had for their pregnancy. Employers have dropped the extended benefits for pregnancies in response to EEOC guidelines for implementing the Pregnancy Discrimination Act.

In the first case to raise this issue, involving the health insurance plan of Joslyn Manufacturing & Supply Co. of Chicago, Judge Parsons dismissed EEOC's contention that employers have to offer extended medical benefits for pregnancy to pregnant female employees who leave the company if they extend medical benefits for pregnancies to the wives of male employees who quit work.

Judge Parsons also ruled that group health plans can limit the

coverage for the medical costs of pregnancies of male employees' wives to less than coverage for other conditions.

The controversy over Joslyn's health insurance plan was foreseen by benefit experts after the EEOC issued guidelines two years ago to aid employers in complying with the Pregnancy Discrimination Act (BI, Oct. 29, 1979).

The act requires employers to extend the same medical and disability benefits to pregnant workers it provides other workers.

The EEOC interpreted the law as requiring an employer to extend medical benefits to all employees leaving a company on the same basis it extends medical benefits for the pregnancies of employees who leave the company.

Under extended benefit plans, employees usually receive up to one year of health care coverage after leaving the company.

Like many other employers, Joslyn had extended medical benefits to pregnant female employees who quit working while pregnant. The pregnant female employees did not have to be totally disabled to be insured for the medical costs of their pregnancy after leaving the company.

The company did require all other employees leaving the com-

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Unanswered prayers

While the preachers who joined the Ministers' Benefit Trust, a multiple employer trust, thought it would be the answer to their health insurance needs, they soon realized their prayers were not answered. On page 11, Associate Editor Steve Sherwood details how it went broke and explains problems similar to those others have had with unregulated, self-funded METs.



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California threatening to prosecute insurers with illegal cash-flow plans

By RHONDA L. RUNDLE

SAN FRANCISCO—California workers compensation insurers caught writing illegal cash-flow plans will be prosecuted, says Commissioner Robert C. Quinn.

Although this stern warning sent in a Nov. 20 letter to insurance company chief executive officers does not change existing policy, it signals the Insurance Department's intention to crack down on rule breakers.

This is the first strong statement from Commissioner Quinn regarding the controversial plans since he assumed office in January. Coupled with his recent public praise for the state's minimum rate law, some observers find hints in the letter that Commissioner Quinn will want tougher rules for cash-flow programs than what have been proposed.

The department currently is reviewing new cash-flow plans rules, proposed by the

state rating bureau last July (BI, July 20). If those rules are adopted, it is likely more California businesses will get a chance to use cash-flow plans. A decision is expected before the end of the year.

Although the individual contracts differ, cash-flow plans defer full premium payment on a policy until losses are paid or according to a predetermined schedule. The unpaid balance is collected by the insurer in a promissory note at the start of the policy period.

The lower the interest rate applied to the deferred premium, the more attractive cash-flow plans become to buyers. Policyholders are likely to "borrow" from their insurers if the interest charge is less than the cost of borrowing from banks or other sources.

Commissioner Quinn in his recent letter advises that this interest rate should not be less than the amount of investment earnings a cash transaction would have provided the insurer. The rating bureau is proposing the

floor be set at the Federal Reserve Bank of San Francisco discount rate.

Federal reserve discount rates are the rate at which banks loan funds to each other and are usually lower than the cost of corporate borrowing. The current discount rate at the San Francisco Federal Reserve Bank is 13%.

By choosing a different standard—insurers' investment earnings—as the floor for permissible cash-flow interest rate charges, the commissioner may be signalling he believes the discount rate is too low.

"The department is saying we like the minimum rate law and intend to uphold it," said Frank Damon, chief deputy insurance commissioner. "We don't want to do anything to impair the solvency of workers compensation insurers," he stressed. California's workers compensation law mandates minimum rates insurers must charge for various risk classifications.

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MGM Grand results qualified

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said a senior spokesman for MGM Grand Hotels Inc.

"The action relates solely to claims of punitive damages and there is a substantial question as to whether punitive damages can ever be recovered (by plaintiffs)," he said.

Outside auditors Arthur Andersen & Co. said in MGM Grand's annual report for the fiscal year ended Aug. 31 that their opinion of the accuracy of the company's financial statement is subject to adjustments required by the ultimate disposition of fire claims.

MGM Grand reports that it is defending 177 fire related suits, asking more than \$600 million in compensatory damages and more than \$1.5 billion in punitive damages.

The hotel company also said in its annual report it has obtained retroactive insurance bringing its total liability insurance available to pay fire claims to \$200 million.

Two more DC-10 suits settled

CHICAGO—The families of an insurance executive and a computer programmer killed in the 1979 crash of an American Airlines DC-10 will receive compensatory damage settlements that together total more than \$1.4 million, court documents show.

Both families are represented by a Los Angeles attorney, Lawrence J. Galardi, who disclosed the settlement amounts during a Nov. 19 hearing in U.S. District Court in Chicago.

Paula S. Muller of Valencia, Calif., widow of Carl F. Muller, will receive a settlement of \$835,000 from insurers for American Airlines Inc. and McDonnell-Douglas Corp., the plane's manufacturer, Mr. Galardi said. Mr. Muller was a Northbrook Insurance Co. executive.

Carol Frasier of Huntington Beach, Calif., widow of Walter L. Frasier, will receive about \$600,000, Mr. Galardi said. Mr. Frasier was a program analyst for International Business Machines Corp.

The two settlements are among more than 100 cases that have been settled by American's underwriter, United States Aviation Insurance Group. McDonnell-Douglas Corp. is paying 20%. Both firms trace their lines of insurance to Lloyd's of London.

Rate cut proposed in Michigan

LANSING, Mich.—The Workers Compensation Rating & Inspection Assn., a ratemaking group, is asking for a 5.5% decrease in workers compensation insurance rates, but it denies its request is tied to a 20% rate decrease that Michigan Democrats are pushing (BI, Oct. 19).

Michigan Insurance Commissioner Nancy A. Baerwaldt has asked the association for more information.

The rate decrease, which rating association President Robert J. Van Vonderen says is a "temporary respite from the reality of Michigan's economy," is being sought because of an improvement in claims experience and costs in 1979 and 1980.

Deflated stadium roof covered

MINNEAPOLIS—Losses of between \$50,000 and \$250,000, incurred after a portion of the unfinished Hubert H. Humphrey Metrodome's roof collapsed, are covered.

Central National Insurance Co. of Omaha, Neb., insured the \$55 million stadium, scheduled to open next year, under a limit-to-value builders risk policy. Alexander & Alexander in Minneapolis brokered the 30-month policy for a one-time premium of \$90,000 with Cravens, Dargan & Co. Pacific Coast of Illinois Inc. was the underwriting manager.

A 60-by-40-foot section of the Teflon-coated, suspended fiberglass roof collapsed Nov. 19 after it was torn a day earlier when a piece of iron support work broke.

Mine firm sues for \$219 million

JEFFERSON ISLAND, La.—The bizarre flooding and destruction of a subsurface salt mine has triggered a lawsuit claiming damages of \$219 million.

A rock salt mine with drifts running 1,300 feet beneath the bottom of Louisiana's Lake Peigneur was flooded and destroyed when a salt dome collapsed Nov. 20, 1980.

The lake drained into the mine, owned by Diamond Crystal Salt Co. of St. Clair, Mich., taking with it 11 barges, two drilling rigs, a tugboat and a large portion of the Live Oak botanical gardens located on the shore (BI, June 15).

Diamond Crystal blames the collapse on an oil drilling rig working on the lake for Texaco Inc. and recently amended a lawsuit, filed the day after the incident, to ask for \$219 million. The original suit sought an unspecified amount.

In addition to Texaco and Wilson Brothers Corp., Texaco's drilling contractor, the suit names the State of Louisiana as a defendant.

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Photo: Wide World

These aircraft, owned by Flying Tiger Lines, were damaged by the tornado at the Atlanta airport.

Twister at Atlanta airport causes \$3 million in losses

By STEVE SHERWOOD

ATLANTA, Ga.—"Fortunately, no one was seriously hurt."

Although a tornado that roared through Atlanta Nov. 20 caused more than \$3 million in estimated damage to aircraft and buildings at Hartsfield Atlanta International Airport, a spokesman for Atlanta's airport commissioner says he feels lucky.

Damages could have been much worse, he pointed out.

Shortly after midnight, a tornado packing winds of more than 100 mph whipped across a portion of the city-owned airport, cutting a swath 200 feet wide and

two miles long.

It first hit the passenger terminal area, causing about \$150,000 in structural damages to the building, flinging baggage carts and a food service truck against jet planes and pelting Delta Air Lines and Eastern Airlines jetliners with pea-sized gravel from the terminal's roof.

The tornado also damaged Eastern's Ionosphere Club and several jetways that link the terminal to the aircraft. The walkways are owned by the airlines.

From there, the tornado skipped 1½ miles across the airport grounds to the North Cargo building, causing an estimated \$250,000 of structural damage, says a spokesman for Airport Commissioner George Berry.

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UMW agrees to restrictions on black lung benefit eligibility

By JERRY GEISEL

WASHINGTON—The United Mine Workers of America is endorsing the Reagan administration's proposal to make it tougher for miners to collect black lung disability benefits—as long as current beneficiaries are not affected.

The proposal also would double the excise tax coal mine operators pay on mined coal.

The UMW's endorsement of the draft legislation, which is expected to be introduced in the House soon, ends a long-standing feud between the UMW and the administration over cutting black lung benefits.

That battle began earlier this year when the administration announced it would seek legislative action to pull the federal black lung trust fund out of debt. The fund, which is supported by the tax on coal production, has a \$1.2 billion deficit and is nearing insolvency.

The administration said the financial problems stem from lax administrative and statutory procedures that make black lung benefits equal to an automatic pension.

The administration said it would tighten eligibility standards to make it more difficult for miners to collect benefits. Its proposals include removing the current restriction that bars the Labor Department to get a second opinion on X-rays submitted by miners to prove they have black lung.

Fearing the loss of benefits to some 400,000 miners now in the program, tens of thousands of miners demonstrated in front of the Labor Department in Washington earlier this year.

After meetings with UMW officials, the administration said changes in eligibility would apply only to miners retiring in the future, not to those already in the program. This concession satisfied the UMW.

Under the administration's draft

proposal, spouses of deceased miners would have to prove that the miner's death resulted from black lung disease to collect benefits.

The current law says that a surviving spouse does not have to

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Two captives planned for black lung risks

By JOHN W. MILLIGAN

Coal mine operators are moving ahead on plans for two captive insurance companies in Bermuda to underwrite black lung exposures.

One of the proposed captives, Security Offshore Insurance Ltd., or SOIL, is being formed by two coal-mining companies to underwrite black lung exposures of surface-mining operations.

The other captive, Coal Operators Assurance Ltd., or COAL, would underwrite underground mining black lung exposures (BI, Nov. 3, 1980). COAL is in its final organizational phase and could be operational by March.

SOIL, sponsored by NERCO Inc. of Portland, Ore., and Peter Kiewit Sons' Inc. of Omaha, Neb., is still in the planning stages. The two companies are looking at a captive to insure their black lung risks "because there's really no attractive alternative in the commercial insurance market," says Peter Densen, president of Anistics Inc., consultant on the project.

Anistics is the risk management consulting subsidiary of Alexander & Alexander Services Inc.

While commercial insurance for black lung is available "to an extent," Mr. Densen says, it is not available with a guaranteed renewal clause, which presents coal operators with a "major problem."

Heavy black lung claims usually occur after a mine is closed, Mr. Densen explains. Without guaranteed renewal, an operator cannot be assured that he will still have protection after the facility is shut down.

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Embezzlement loss may be covered

By BILL DENSMORE

DENVER—City officials, stunned by the apparent loss of up to \$600,000 in what they say was a decade-long embezzlement scheme, aren't sure what they could have done to prevent the situation.

The city's risk manager, who says it is not his responsibility to prevent such losses, says a \$200,000 honesty blanket bond, with another \$200,000 in excess insurance, both from Hartford Accident & Indemnity Co., should cover most of any loss.

The alleged scheme involved Howard D. Davey, 54, a veteran city revenue supervisor who is accused of issuing at least 20 tax refund checks totaling \$411,607 since 1977 to non-existent contracting companies. The checks were deposited in accounts controlled by Mr. Davey, who accumulated a portfolio of penny stocks, real estate and collectibles, authorities say.

"What we have here is a garden-variety of embezzlement," says Richard T. Sprigs, an assistant district attorney for the city and county of Denver. He added that auditors expect the total to reach \$600,000 because of additional questionable

transactions traced back to the early 1970s.

Mr. Davey, who lives with his wife and three children in the Denver suburb of Littleton, was charged after a routine outside audit begun during September turned up irregularities in his Department of Revenue section, Mr. Sprigs said. He joined the city as an accountant 30 years ago.

If Mr. Davey is convicted on all 40 felony counts, he faces a prison term of two to 300 years.

The prosecutor noted that the alleged embezzlement scheme was difficult to detect because the check authorizations followed normal channels. "Viewed on the surface, no one of these actions appeared to be wrong or criminal," he said.

Mr. Davey and his attorney declined to comment on the charges pending his Dec. 17 appearance at a preliminary hearing. Mr. Davey is free on \$100,000 bond and has been suspended without pay from his \$30,500-a-year job.

What can a public agency do to make sure that a single employee cannot authorize issuance of bogus checks to non-existent companies?

"The action has already been

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Con Ed may be liable for blackout losses

By LISA BERGSON

NEW YORK—Many New Yorkers still blame Consolidated Edison for the 1977 blackout that left the city prey to looters and arsonists. Now it looks as if the courts are backing them up.

If a recent \$40,500 judgment against Con Ed by New York's highest court stands, the utility may be liable for another \$223 million in similar damages that occurred during the two-day blackout that affected New York City and Westchester County.

Con Ed says that its insurance can meet whatever final settlements arise, with no impact on the company's financial health or on rate payments. However, unless final judgments are far lower than original claims, there is scant evidence to bolster Con Ed's view.

Business Insurance's documentation of Con Ed's 1977 blackout insurance coverage, verified by the company, only shows protection for losses up to \$50 million and largely attributable to Lloyd's of London. The utility refuses to comment on the disparity.

Knowledgeable sources say that subsequent purchases of insurance up to \$200 million do not include retroactive protection. But the company reportedly is considering purchasing retroactive coverage now.

Meanwhile, on Nov. 19, the Court of Appeals found Con Ed guilty of gross negligence and thus responsible for the Food Pageant grocery chain's spoilage and business losses from the mid-July power failure.

"Con Ed will surely be responsible for any damage that is directly attributable to its own oversight," comments Fredric Lewis, Food Pageant's counsel.

Under the state laws governing its service, Con Ed can only be found liable for acts of gross negligence. It is not responsible for events beyond its control, like the



Photo: Wide World

Hotel phone operators worked by candlelight during blackout.

looting, or for the day-to-day incidents of employee negligence.

Among the 350 additional gross negligence suits and claims is one filed by New York City for \$108 million. The city wants compensation for such expenses as overtime for police officers and firefighters and income lost by the transit system, Offtrack Betting Corp. and other money-making services.

In the interim, the three-year statute of limitations for filing suits against Con Ed has expired, blocking any new negligence claims.

Further, the utility contends

that the existing claims are "inflated" well beyond the awards it may have to pay. Howard Weinreich, the attorney for another claimant, supermarket chain Shopwell Inc., agrees: "Lawyers like to put on the O's." Shopwell is asking \$275,000 to \$300,000 in damages.

Presumably, Con Ed will cover the Food Pageant claim out of its \$500,000 self-insured retention. The next \$1 million remains with Associated Electric Gas & Insurance Services (AEGIS), a Bermuda-based captive managed by Ebasco Risk Management Con-

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Indiana panel seeking tougher comp penalties

By EILEEN NORRIS

INDIANAPOLIS—The Indiana Industrial Commission wants a bigger stick to wield when employers ignore the law that says they must have workers compensation insurance.

When the Legislature convenes in January, the commission will ask for power to punish offenders more soundly. Currently, the maximum fine for not having workers compensation coverage is only \$500.

Its hands tied by a lack of information on how many employers operate in Indiana and a lack of a system for tracking those who choose not to buy workers compensation insurance, the commission believes a substantial number of small employers are skirting the law.

One small Indiana employer has successfully avoided buying workers compensation insurance for 60 years.

That manufacturer was only recently "discovered" when a disgruntled, injured employee made his way to the Industrial Commission to complain about his employer's lack of concern for workplace safety.

It discovered that the manufacturer was without, and in fact had

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Illinois exchange opens, writes first risks

By BILL DENSMORE

CHICAGO—The Illinois Insurance Exchange amounted to a 3,600-square-foot office with carpeting, partitions, a few desks, some telephones and a conference table when state Insurance Commissioner Philip R. O'Connor signed a paper putting it in business.

Now two of the fledgling insurance marketplace's syndicate members have something more to propel them toward the goal of slicing off a piece of the estimated \$4 billion dollars in U.S. premiums exported annually overseas:

Risks. Exactly \$400,000 worth.

After three years of planning and more than a year of delay, the nation's second risk exchange was born Nov. 20 when Mr. O'Connor signed a certificate of authority for the non-profit Illinois corporation.

"The Illinois Insurance Exchange is now a reality," said Mr. O'Connor. "It will bring to Chicago and Illinois another critical, I think, financial entity... and underscores Chicago's growing role as a financial center."

Three underwriting syndicates with a total initial capitalization of \$9 million already are exchange members. Three or four additional syndi-

cates are expected to join before the end of the year.

The three member syndicates are Midwest General Syndicate, Inc., wholly owned by Reliance Insurance Cos., capitalized at \$2.5 million; The LWB Syndicate, Inc., owned by L.W. Biegler Inc., capitalized at \$4 million; and The Sentry Syndicate/Illinois, Inc., a unit of Sentry Insurance Co., capitalized at \$2.5 million.

In addition, 15 exchange brokers are included as charter members eligible to bring risks to the exchange for coverage. Among them are Frank B. Hall & Co. of Illinois and Corroon & Black.

To emphasize that the exchange had really opened for business, two of the three syndicates subscribed to two risks immediately at the opening ceremony.

The first risk is a portion of the excess casualty insurance coverage of Tribune Co., the privately held publishing conglomerate that owns the New York Daily News, the Chicago Tribune and TV, radio and cable properties. Each syndicate assumed a \$100,000 limit for a total 20% of a \$1 million policy. The balance will be underwritten by other markets.

The second risk, also for \$100,000

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Photo: Kathryn J. McIntyre

Paul H. Inderbitzin, left, and Louis W. Biegler accept the exchange's first risks. Standing at right is Alan E. Samuelson, Tribune risk manager. Left of him is Larry R. Sorenson of Rollins Burdick Hunter.



Photo: Kathryn J. McIntyre

Insurance Commissioner Philip O'Connor signs paper that opened the exchange.

Pennsylvania bill would cut comp benefits

HARRISBURG, Pa.—A bill has been introduced in the state Senate that would reduce workers compensation benefits and costs.

The bill, which is backed by business groups, includes a ban on payment of both workers compensation and unemployment compensation to the same claimant, which is currently permitted in some circumstances. It would also deduct

around the states

Social Security benefits from workers compensation payments.

The bill also provides for panels of physicians to review occupational disease claims in place of workers compensation referees, who do not have medical training.

The legislation also seeks to limit benefits to truly job-related injuries. The bill is in committee and action is not expected until next year, said a spokesman for Sen. J. Doyle Corman, the bill's chief sponsor.

Consultant barred

TRENTON, N.J.—The state insurance commissioner has barred a Chicago-based dental consulting firm from providing services to 6,000 members of the largest union in Atlantic City.

Associated Health Services Inc. was to have provided dental services to members of Local 54 of the

Hotel & Restaurant Employees & Bartenders International Union.

The company was barred, however, because Commissioner James J. Sheeran had concerns about the plan's proposed consultant, John J. O'Connor of Palm Harbor, Fla. Mr. O'Connor was administrator of a Miami dental plan in which three principals were indicted in connection with a large-scale organized crime kickback scheme involving a union's dental, welfare, health and other funds.

According to the commissioner, more than \$1 million in kickbacks were paid by Dental & Vision Care Centers during the period Mr. O'Connor was the administrator. Mr. O'Connor was not named in the indictment.

The dental plan was the first to be denied by the commissioner under a new state law strengthening the commissioner's authority over dental plan organizations.

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Wrongful death suit

AUSTIN, Texas—The state Supreme Court will determine the validity of a wrongful death suit brought by the family of a farm worker whose workers compensation suit before the state Industrial Accident Board had been rejected.

The case, which will be heard Dec. 9, involves a Texas farm worker who died when loaded fruit crates dropped from a forklift crushed him in 1977.

The family filed both a workers compensation claim with the accident board and a wrongful death suit in state court.

The workers compensation claim was rejected. The board said that since the man was only a seasonal employee for his employer, Donna Fruit Co., he was not considered an employee on the date of the accident.

Under Texas law, workers compensation coverage is not required for farm workers.

The state court also rejected the wrongful death suit saying that the accident board's ruling disposed of the case. The decision was affirmed on appeal.

In its appeal to the Supreme Court, the family is claiming that the accident board had no right to make a determination in the case since the worker was one of 200 seasonal employees for which the company had no coverage.

Malpractice reporting

TRENTON, N.J.—The Legislature is considering a bill to change requirements for reporting evidence of physician incompetence to the state and recently passed a law making it easier to complain to state panels about overpricing by health care professionals.

The proposed law would require medical malpractice insurers, doctors, nurses, pharmacists and hospital medical boards to bring evidence of incompetence to the state Board of Medical Examiners.

The board could then suspend or revoke licenses of the doctors in question or order them to undergo treatment for alcoholism and drug addiction.

The measure would require insurance companies to notify the medical board of an adverse judgment, arbitration award or settlement of more than \$20,000 due to negligence, errors or omissions by a health care professional.

The new law, which took effect Oct. 1, allows patients to complain to state panels about health care overpricing.

The Board of Medical Examiners recently passed a regulation prohibiting the charging of excessive medical fees and established a fee-review committee.

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editorial opinions

Clean up the MET mess

WE ARE APPALLED that self-funded multiple employer trusts can continue to run themselves into bankruptcy before any one notices they are there.

Insurance regulators and professionals must team up to clean up the conditions that allow some self-funded METs to go broke, leaving unpaid medical bills.

This week, Dallas-based Associate Editor Steve Sherwood reports in detail the history of a self-funded MET that went broke and the efforts of a liquidator to find money to pay outstanding medical care claims (see story, page 11).

We present this extensive report with the same hope we have had over the last five years of reporting on the financial messes created by some self-funded METs: that exposure of the problem will attract attention and solutions.

But as self-funded METs continue to fold, we can only conclude everyone is ignoring the problem.

We don't expect our reports to directly reach the less-sophisticated insurance consumers who can be attracted to a shaky self-funded MET.

We do expect the influential readers of *Business Insurance* to do their part to protect these less-sophisticated consumers.

The regulators in the Department of Labor should realize by now that they must quickly respond to letters from self-funded METs looking for federal regulation under the Employee Retirement Income Security Act. Qualification as an ERISA trust is a powerful marketing tool and a trust will claim that distinction of credibility until it hears otherwise from the Labor Department.

It took that department two years to tell the trust reported on this week that it was not a benefit plan under ERISA. All the while the trust claimed to be an ERISA trust.

If the Labor Department drags its feet, state insurance regulators are likely to do the same when they should pursue questionable self-

funded METs as unlicensed insurers. Only bona fide ERISA trusts should be exempt from state regulation. Those without an opinion from the Labor Department should be scrutinized by state regulators who can act before the department does.

And state regulators should dig through the remains of defunct trusts to be sure the seeds of new problems aren't ready to sprout.

Insurance companies should respond better to the group insurance needs of small employers, as individual companies and METs. Small employer groups are driven to self-funded METs when they can't find or can't afford group insurance for employees.

Agents and brokers must carefully analyze the financial stability of any program they offer a buyer, but special care must be taken in analyzing a self-funded MET. Anyone who discovers a questionable self-funded MET should report it and its agents to state insurance departments for investigation.

Sophisticated commercial insurance buyers can act, too. They can use contacts with regulators to point them in the direction of self-funded METs. They can speak to associations of small employers about their insurance needs and how to get the best service.

The broke MET we report on this week leaves \$300,000 to \$500,000 in unpaid medical claims incurred by the ministers who paid premiums to it. That sounds like small change to some, but not to the ministers and their families with unpaid medical bills. One family is being hounded by a collection agency because it can't afford to pay the bills the MET was supposed to cover.

Concern for the potential victims of bankrupt self-funded METs is reason enough for insurance regulators and professionals to tackle the problem. A further incentive should be recognition that the continuing demise of self-funded METs leaving unpaid claims reflects poorly on the entire insurance industry and its professionals.

letters

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. Please send your comments to Letters to the Editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611.

A message from overseas

To the editor: Might I suggest that articles examining from the United Kingdom, and particularly those that quote action groups commenting upon product liability exposures, should be subject to editorial comment. This would have the effect of negating a false sense of security in the minds of your readers, either in the United States or in Europe, with regard to the size of the potential awards for product-related lawsuits.

If you are speculating as to the precise subject matter to which I refer (i.e., what's this Limey talking about?) let me explain:

"The Action Group of the European Community Group (U.K.) suggests in its pamphlet that we should fear not, for only the Colonies shall be plagued with a pestilence of punitive damages and a legal system which alloweth the ungodly to operate a contingency fee system for their own enrichment. It is not promised that thou shalt forever be sheltered from such trials and tribulations by British common law or European statute" (*BI*, Oct. 12, page 45, paragraphs 12-15).

And much of the same is said under the headline, "Product liability not as big a problem in foreign nations" (*BI*, Oct. 12, pages 55 and 57).

Both are perfectly true, subject to the following provisos:

- You are not a subsidiary of a U.S. corporation.
- You are not insured by a company with representatives in the

United States (see the New York Supreme Court's decision, *Seider vs. Roth*).

- Your product is not sold to any U.S. citizen.

- Your product is incapable of injuring any U.S. citizen.

Unless you comply with all these provisos, you may find yourself the subject of an action in the United States. If you have based the limits of liability on European awards, these may well be inadequate and the problem facing you may be a bigger rather than smaller one (*BI*, Oct. 12: "Robins to defend U.K. suits in the U.S."). I am sure this trend will continue and grow.

Hence my request that an article bear an editorial health warning, similar to the governmental warnings on cigarette packs, to ensure that readers are made aware of the dangers of accepting literally everything they read.

Whilst on the subject of accepting literally the written word, may I take you to task on the "Risk-watch" and "Range of British benefits is enormous," also in the Oct. 12 issue. Do you realize what this will have done to my image with my colleagues in Chicago? A lazy, moonlighting, overpaid, cosseted, underworked, overindulged Limey slob. That's what they thought before your article—what must they be thinking now? Thanks, pal!

E.J. Yates

Insurance manager
Europe and Africa
Borg-Warner Ltd.
Letchworth, England

Regulation is not the only answer

To the editor: I'm writing in response to the comments of William Woodyard, president of the National Assn. of Insurance Commissioners, as quoted in "Regulators may examine capives, self-insurers" (*BI*, Nov. 16).

First, I am alarmed he said that self-insurers and captives operate at an unfair advantage against licensed insurers. That implies that one role of an insurance commissioner, paid with public funds, is to ensure that no one be able to use innovation other than through licensed insurers.

Why cannot an entity pay for losses with its own money rather than passing those funds on to a third party who then pays the losses and charges for the administration, profit and other overhead of its organization? This is hard to swallow when the insurance industry is not subject to many federal antitrust laws. Self-insurance in most instances arose due to an unavailable or unstable insurance market and not to compete against insurers; there was no competition.

The real issue, I believe, is to protect claimants from the insolvency of an entity that has a duty to pay for damages for which they are responsible. Given this premise, the ability to pay claims is a function of funding, adequate reserving and insuring for catastrophe. It doesn't revolve around a guarantee fund or surplus. An entity may have a small reserve fund and nothing is wrong if claims are also low.

It appears to me that the commissioners should address the issue of proper reserving practices as compared to loss reserves for this sector, rather than guarantee funds and unfair competition. Let's not let regulation hinder the old virtue of creativity, which sometimes is obstructed by overregulation or the wrong regulation.

Currently, I am chairman of the public entities industry section of the Risk & Insurance Management Society. Regulation will definitely be a topic of discussion at our industry session this coming spring.

James E. Loeb
Scottsdale, Ariz.

Cayman has the needed resources

To the editor: I was more than a little surprised at the comment attributed to Paul Napolitan, president of a reinsurance intermediary in New York bearing his name, in your Nov. 2 issue: "Anyone who deals with anything in the Caymans ought to be in another business."

I would imagine the alphabet brokerage houses that have incorporated Cayman subsidiaries would also be startled to learn that they have been operating all this time within the wrong industry.

I am sure that everyone operating within the insurance community in Cayman would openly admit the industry is still in a nas-

cent state, but there are many people with extensive knowledge and experience of the insurance industry.

In addition, there is a small number of substantial reinsurance companies, which frequently receive submissions from major reinsurance intermediaries.

The fact that Mr. Napolitan is not aware of these companies would suggest he is not as well-informed about Cayman as he would like readers to believe.

Ian Kilpatrick
Chairman
Cayman Underwriting
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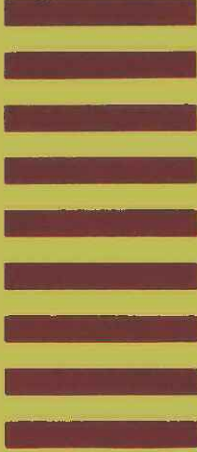
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Unanswered prayers

How a self-funded ministers' MET went astray

By STEVE SHERWOOD

HURST, Texas—Before Ministers' Benefit Trust went broke, leaving \$300,000 to \$540,000 in unpaid medical care claims, ministers in 15 states saw it as the answer to their health insurance prayers.

Robert E. Browning says the trust was the ministers' financial salvation.

His company, Browning Corp. International, located in this church community north of Fort Worth, was third-party administrator of the self-funded multiple employer trust. It provided health care benefits for up to 1,500 ministers and church employees from July 1978 to November 1980.

But Anthony Harris, liquidator for the state Board of Insurance and the court-appointed receiver for the insolvent trust, is suing Mr. Browning, Browning Corp. International and Ministers' Benefit Trust officials in state court for more than \$300,000 in actual and punitive damages.

"I brought suit as representative of the policyholders," says Mr. Harris. "Basically, it is due to the fact that they continued to bill premiums knowing they couldn't pay losses and paid benefits to some people and not to others."

Auditors are still poring over the records of MBT and finding more unpaid claims than were known when the suit was filed.

Among other things, the suit, which was filed July 28 and is pending in 200th District Court in Austin, claims Ministers' Benefit Trust fiduciaries, including Mr. Browning:

- Presented MBT as a benefit plan governed by the Employee Retirement Income Security Act of 1974, the federal law that pre-empts state regulation of employee benefit plans. However, the plan never qualified under ERISA and "this was a mere scheme for the unregulated sale of insurance," the suit says.

- Misapplied trust funds by using money collected from Ministers' Benefit Trust members to pay

claims incurred before MBT was formed.

- Paid Mr. Browning and his company unreasonable administrative fees and showed preference in the payment of these and the trustees' fee when they knew or had reason to know MBT was insolvent.

- Attempted to conceal insolvency by paying claims preferentially for newer members and misstating the cause for delayed claims payments.

Investigative auditors examining MBT's records for Mr. Harris say some newer members' claims were

paid fairly, quickly and in full, while other claims were delayed six to seven months before being only partially paid.

Ministers' Benefit Trust was started July 1, 1978, to provide accident and health insurance to groups of ministers, church employees and their families in 15 states, including California, Texas, Virginia and Florida.

According to the benefit plan description filed with the U.S. Department of Labor, MBT was to provide 80% of the first \$5,000 of major medical expenses and then 100% up to \$250,000 a year per participant.

Although Ministers' Benefit Trust had an excess insurance policy with Lloyd's of London for single occurrence claims above \$10,000, the plan was essentially a self-funded multiple employer trust, or MET.

Multiple employer trusts are ty-

pically formed to strengthen the insurance purchasing power of small employers that don't get the price breaks on group insurance that larger employers enjoy. As a larger group, the MET can negotiate with insurers for lower-priced insurance for their members.

MET administrators, however, took many of the plans self-funded when the insurance market for METs dried up in the mid-1970s after Old Republic Life Insurance Co. was ordered out of the MET business by the Illinois Insurance Department.

About the same time, others started organizing self-funded METs.

Some MET operators have contended that their trusts qualify as ERISA benefit plans and as such are free from state regulation since ERISA pre-empts state insurance laws.

The Labor Department, how-

ever, often has been slow in deciding whether an individual MET qualifies as an ERISA plan and state regulators won't step in to regulate the plan until that decision is made. Therefore, some METs operate free of regulatory restraints.

A number of self-funded METs have folded in the past, and at least two have collapsed recently (BI, Sept. 7 and 14). State regulators fear more self-funded METs will fail this year because of rising health care costs.

The history and financial problems of MBT present a case study of how small employers get involved in multiple employer trusts and the problems that can strike a self-funded MET.

Besides Mr. Browning and his company, the suit by the state liquidator also names Ministers' Benefit Trust Trustee Robert A. Littlejohn of Dallas and the trust's benefits

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Photo: Steve Sherwood

Mr. Browning

operations.

- The payment by MBT of \$278,000 to \$300,000 of medical claims incurred under SEBRA contributed to MBT's insolvency.

That is where the agreement ends.

Robert E. Browning, former third-party administrator of MBT and a defendant in the lawsuit, claims SEBRA's role in MBT's downfall is virtually ignored by Anthony Harris, MBT's court-appointed receiver and liquidator for the Texas State Board of Insurance.

Mr. Harris is suing Mr. Browning, Browning Corp. International in Hurst, Texas, and MBT officials on behalf of the trust's policyholders (see related story).

Mr. Browning blames MBT's troubles on misinformation he says he received from SEBRA officials. He says he was assured when MBT agreed to pay outstanding SEBRA claims that the total would be no more than \$25,000. But MBT ended up paying about \$300,000 in SEBRA claims.

The SEBRA connection

ARLINGTON, Texas—The story of the Ministers' Benefit Trust cannot be told without knowing the tale of another self-funded multiple employer trust that folded: the Standard Employees Benefits Reserve Assn. Trust.

Principals on both sides of a lawsuit seeking payment by Ministers' Benefit Trust officials of more than \$300,000 in unpaid medical insurance claims agree on two points:

- MBT was started July 1, 1978, to continue major medical coverage for about 900 Baptist and Methodist ministers and church employees who were left uninsured when SEBRA, based in Arlington, ceased

Mr. Browning also says Dallas-based Life Insurance Co. of the Southwest, which at one time agreed to administer claims and arrange reinsurance for SEBRA, is obligated to cover SEBRA's outstanding claims.

"Why didn't the state Insurance Department go after the first group (SEBRA)?" he asks. "The state allowed SEBRA to run off owing \$278,000 in claims. They failed to respond to our request to investigate SEBRA and try to recover the ministers' money from a document signed between the SEBRA trustees and Life Insurance Co. of the Southwest."

Mr. Harris' investigative auditors, who have been examining MBT's claims files and other records since the trust went into receivership in November 1980, say the Insurance Department not only investigated SEBRA but also asked the Texas attorney general to place it into receivership for liquidation. The attorney general's office decided such action would be inappropriate.

Although payment of SEBRA claims certainly contributed to MBT's financial problems, it was not the only cause of MBT's insolvency, the auditors say. They say MBT would have gone broke even without this added burden because of other financial problems.

SEBRA was established July 1, 1977, by Ronald L. Huffstetter, now of Plattville, Ala., and was described to subscribers as a benefit plan complying with the Employee Retirement Income Security Act of 1974.

Records from the Texas State Insurance Board and the U.S. Department of Labor say Mr. Huffstetter was SEBRA's initial trustee and president of its administrative firm, First Standard Cos.

At its height, SEBRA had about 1,200 participants from Bible Baptist Fellowship, Central Texas Conference of United Methodist Church, Texas Finance Assn. and Denton Independent School District groups.

After only 13 months, SEBRA ceased to exist due to increasing inability to pay claims and difficulty in arranging insurance and reinsurance coverage.

"We had tried to get insurance and were not successful with it," Mr. Huffstetter says. "We determined that we didn't have the right to stay

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Ministers stung by broke trust say never again

HURST, Texas—Ministers will likely continue to put their trust in the church, but some may balk at putting their churches into a self-funded multiple employer trust again.

As the Rev. William Hallsted put it, "Once stung, twice shy."

He and about 1,500 other ministers, church employees and their families who were covered for accident and health care expenses by the self-funded Ministers' Benefit Trust were left holding thousands of dollars of unpaid claims when the trust went broke in November 1980 (see related stories).

"Absolutely not," says the Rev. Hallsted of the Fort Dodge Church of Christ in Fort Dodge, Iowa, when asked if he would ever again consider joining a self-funded trust like MBT.

His family is now covered by a fully insured trust in Tennessee that has so far handled claims "relatively well."

When MBT went bust, the Rev. Hallsted was left with more than \$2,000 in unpaid medical bills that he is still paying. "We received information through the mail about an open enrollment for Ministers' Benefit Trust. You could get complete coverage for the family without proof of insurability," he says. This interested him because one of his sons is epileptic and was previously uninsurable.

"I asked them (Browning Corp. International, the trust's third-party administrator) about it and they said he would be fully insured," the Rev. Hallsted says. During the first year MBT paid \$500 in medical claims for his son and several small claims for other family members. It was not until late 1979, after they had been members of the trust for

more than a year, that they began having trouble with claims payments.

"We chalked up a lot of doctors' bills in a short time," the Rev. Hallsted says. "We had a baby, our son had a kidney removed, our daughter had an operation and there were several other expenses. We couldn't get the Browning people to pay claims."

The MBT's administrator told the Hallsteds that checks already were made out and should have been sent, he says. "They stalled us for a long time. Finally, they told us they didn't have any money."

In the meantime, doctors and hospitals sued him in small claims court for their share of the bills, he said. "I had to borrow a chunk of money to pay them. That has just crippled us financially."

Finally, Rev. Hallsted sent a letter informing the Browning Corp. International that his family was withdrawing from the trust and he demanded payment for the claims. In response he received bills for further premiums and sent another letter saying:

"Again after repeated letters and phone calls, I have received a statement for insur-

ance premiums on a worthless policy which doesn't pay its claims and which I dropped months ago.

"Please do the following:

- "1. Kick someone in claims hard enough to get our 7-month-old claims settled and paid.
- "2. Check your records and make sure that whoever is responsible has gotten around to terminating our membership as of June 1, 1980.

- "3. After you have sent the nearly \$2,000 which you owe me, please lose my address and spare me any further services of your company.

"They told us on the telephone they were fully insured and could never get into trouble," he says. "I got the idea the whole thing was started as a service to ministers. Some service."

Deborah Evans, wife of seminary student Michael Evans of Carthage, Texas, says she and her husband were left with about \$1,700 in unpaid claims.

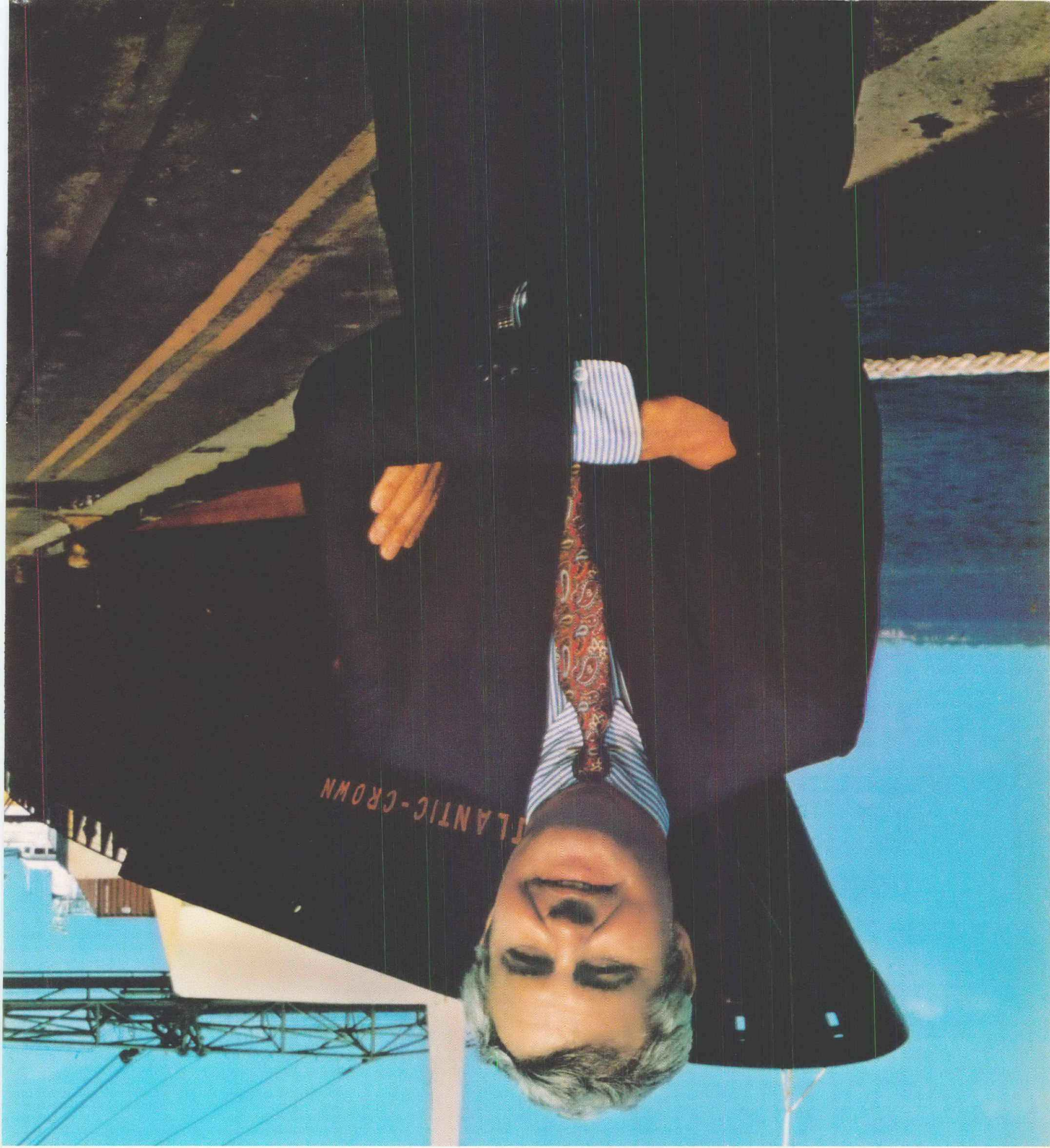
"I am furious," she says. "They took our premiums for over a year knowing they were

Continued on page 26

Steve Sherwood, *Business Insurance's* associate editor in Dallas, spent four weeks digging into state Insurance Department records concerning Ministers' Benefit Trust to write this series.



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Unions seek limits on formaldehyde use

By BILL DENSMORE

Business and labor are at odds over a petition filed by major labor unions that seeks to toughen government-imposed restrictions on exposure to formaldehyde, a widely used chemical that some believe can induce cancer in humans.

The administration appears ready to side with business. The Environmental Protection Agency was expected to decide to not invoke provisions of the Toxic Substances Control Act to curb manu-

facture of formaldehyde or its widespread use, a source says.

The government estimates that 1.6 million workers are exposed to formaldehyde in more than 60 industrial categories. The categories with the greatest exposure concentrations are chemicals, plastics, wood products, textiles, health care and home building.

Of those workers, according to a 1972-1974 study, about 57,000 workers are exposed to formaldehyde for four hours or more per day.

At least two recent medical stu-

dies—one of them commissioned by the industry-backed Chemical Industry Institute of Toxicology—have shown a high incidence of cancer of the nose in rats forced to inhale the pungent, colorless gas for six to eight hours per day over periods of longer than a year.

And earlier this year, the National Institute for Occupational Safety and Health recommended that formaldehyde "be handled as a potential occupational carcinogen and that appropriate controls be used to reduce worker exposure."

Business and labor groups dispute whether the concentrations inhaled by the rats in the studies—14 parts per million—are in the same range as workplace exposure.

So far, no one can cite any conclusive studies that establish a link between workplace formaldehyde exposure and human cancer. Nor can anyone point to any lawsuits filed by workers claiming injuries resulting from exposure.

However, the industry is concerned enough to have mounted a \$1 million research and lobbying

effort. It also formed the Formaldehyde Institute, based in Scarsdale, N.Y., about the same time as the first scientific results raised warning flags.

The latest salvo was fired Oct. 27 by the United Auto Workers and 11 other major unions. The unions and the AFL-CIO jointly petitioned the Occupational Safety and Health Administration to adopt emergency standards limiting workplace exposure to formaldehyde.

"We have a history of human exposure and we haven't noticed a large increase in the incidence of cancer in formaldehyde workers," says John F. Martonik, deputy director of health standards programs for OSHA.

But Mr. Martonik said the labor unions' petition will likely result in hearings by OSHA to determine whether there is enough evidence to conclude that the substance constitutes a "grave danger" to workers that require emergency rules.

The directors of two research organizations have recommended that formaldehyde be treated as a "potential human carcinogen," Mr. Martonik said. He identified them as Arthur C. Upton, director of the Institute of Environmental Medicine at New York University School of Medicine, and Richard A. Griesemer, director of biology at the Oak Ridge National Laboratory in Oak Ridge, Tenn.

Formaldehyde has dozens of industrial applications, and more than 6 billion pounds are produced annually in the United States. OSHA says 14 companies synthesize formaldehyde at 52 plants.

Its use in foam home insulation has dwindled because of allegations during the Carter administration that homeowners suffered headaches and other symptoms from prolonged exposure to fumes.

The Formaldehyde Institute says a partial list of ordinary products containing the chemical would include synthetic and permanent-press fabrics, detergents, air fresheners, plywood, cosmetics, deodorants, shampoos, nail polish, foam insulation and seats and some pharmaceuticals.

Both laboratory rat studies were completed within the year. In November 1980, researchers at the Chemical Industry Institute of Toxicology reported that after exposing 200 laboratory rats to five-day-a-week, six-hour-per-day doses of air containing 14.1 ppm of formaldehyde for two years, 93 of the rats were found to have nasal cancer.

Meanwhile, a study conducted at the New York University environmental facility found that 20 of 200 rats developed nose cancer. In neither case, researchers said, did control groups of rats exhibit any evidence of similar disease.

"The rats were exposed to an uncharacteristically high level" of formaldehyde, argues Clifford T. Howlett, corporate coordinator of environment, health and chemical safety for Georgia-Pacific Corp. in Portland, Ore., one of the four largest formaldehyde manufacturers.

The labor unions' petition urges OSHA to require that employers determine exposure levels to formaldehyde and give OSHA information about feasible ways to limit such exposure. It also asks that employees exposed to the gas be provided with respirators, medical exams and educational programs.

An industry spokesman, responding to the petition, said there is no justification for any emergency government action.

"Epidemiology studies of more than 7,000 workers who have been exposed for decades have failed to disclose a single case of nasal cancer," said James M. Ramey, of the Formaldehyde Institute.

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Number of work-related deaths dropping

By JERRY GEISEL

WASHINGTON—American workplaces are becoming safer, according to recently released statistics.

The number of work-related deaths dropped last year to 4,400 from 4,950, an 11.1% decrease, according to a Bureau of Labor Statistics survey.

The survey, which covered companies with more than 10 employees, found that the workplace fatality rate in 1980 decreased to 7.7 per 100,000 workers, compared with 8.6 in 1979.

Other key findings include:

- The number of job-related injuries in 1980 fell to 5.5 million, down from 6 million the year before.
- About 40.9 million lost work-

washington

days resulted from work-related injuries last year, down from 42.6 million in 1979.

- Car and truck accidents were involved in about 30% of job-related deaths.

- The insurance, finance and real estate industries had the lowest occupational injury and illness rate, 2.0 per 100 workers. The construction industry had the highest injury and illness rate, 15.7 per 100 workers.

Tort reform

The American Insurance Assn. says it will support the efforts of business groups to enact federal

product liability tort reform legislation.

The AIA, a major insurance industry trade group, says federal legislation is needed to restore balance between product sellers and consumers in the tort area.

However, the AIA, which previously only supported tort reform legislation at the state level, did not commit itself to any particular federal product liability bill.

Meanwhile, in a related development, a major consumer group says draft legislation that would set federal product liability standards is really a "stunning reversal of the modern and enlightened trend in the law of product liability."

The Health Research Group, a public advocacy group backed by Ralph Nader, says draft product liability legislation (BI, Oct. 19) proposed by Sen. Robert Kasten, R-Wis., raises "unjustifiable roadblocks" for consumers seeking to recover damages from manufacturers that produced defective products.

The health group also questions whether there is a need for national product liability legislation, while noting that tort law has historically been a state concern and should remain that way.

Key provisions in Sen. Kasten's draft bill include barring some product liability suits in cases where a product is more than 10 years old and requiring a consumer to identify the product manufacturer before filing suit.

Pension guarantees

The Pension Benefit Guaranty Corp. next year will boost the maximum monthly pension benefit it will guarantee for participants of terminating pension plans.

For single-employer plans that terminate in 1982, the new monthly maximum guarantee will be \$1,380, up from \$1,261.

Under pension reform legislation, the PBGC pays benefits to workers whose pension plans terminate with assets insufficient to pay guaranteed vested benefits.

The PBGC is currently paying a monthly average of about \$135 each to participants of terminated plans.

Social Security

A majority of Americans favor raising Social Security taxes to keep the system sound, according to a new survey.

The National Council of Aging survey, which was conducted by pollster Louis Harris, found that 51% of those surveyed favored raising the FICA payroll tax to strengthen the Social Security system.

Some 92% opposed reducing benefits for those already retired, 85% opposed reducing benefits for future retirees and 59% opposed raising to 68 from 65 the age at which a worker could retire and receive full Social Security benefits.

About 73% opposed eliminating the current automatic indexing of Social Security benefit increases to consumer price increases.

In addition, 54% of those surveyed who were over the age of 18 had "hardly any confidence" that Social Security would be able to pay them benefits when they retired.

The bulk of the funding of the \$400,000 survey was provided by Atlantic Richfield Co., Exxon Corp., Levi Strauss & Co., Colonial Penn Life Insurance Co., Bankers Life Insurance Co. and Equitable Life Assurance Society.

N.J. adopts new claims regulation

TRENTON, N.J.—Insurance Commissioner James J. Sheeran has adopted a comprehensive regulation banning unfair claims settlement practices by insurance companies.

The Unfair Claims Settlement Practices Regulation, to go into effect Jan. 15, will apply to many commercial and personal lines contracts. Most provisions will also apply to third-party claimants as well as to policyholders making claims under their own policies.

Under the new regulation, an insurance company:

- Must disclose all benefits for which a policyholder may be eligible.
- Must explain to a claimant what proof or information is required to settle the claim.
- May not withhold payment on undisputed elements of a claim because other elements of the claim remain in dispute.
- Must acknowledge all claims and begin its investigation within 10 working days of receiving notification.
- Must settle claims within 30 days after receiving notice on claims submitted by its own policyholders. It must settle claims submitted by a policyholder of another company within 45 days of a property claim and 90 days after notice of a bodily injury claim.



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DEC. 4-9. 27th Annual Educational IFEBP conference in Acapulco, Mexico, sponsored by the International Foundation of Employee Benefit Plans, \$360. IFEBP, 18700 W. Bluemound Road, P.O. Box 69, Brookfield, Wis. 53005; 414-786-6700.

DEC. 8-9. Safety Management—A Behavioral Approach course in Tucson, Ariz., sponsored by Don Petersen, management consultant; \$275. Don Petersen, 9236 E. Walnut Tree Drive, Tucson, Ariz. 85715; 602-749-2319.

DEC. 8-10. General Liability Insurance conference, sponsored by the International Risk Management Institute; \$450, which includes set of general liability manuals, or \$295 if manuals have already been purchased. International Risk Management Institute, Suite 208, Building IV, 10300 North Central Expressway, Dallas, Texas 75231; 214-363-9656.

DEC. 9. Insurance Perspectives 1981 symposium in Dallas/Ft. Worth, sponsored by Peat, Marwick, Mitchell & Co.; free. Keith Tucker or Paul Zucconi, Peat, Marwick, Mitchell & Co., Suite 1500, 2001 Bryan Tower, Dallas, Texas 75201; 214-747-8911.

DEC. 9-10. Mine Accident Liability in Arlington, Va., sponsored by The Energy Bureau Inc.; \$50. Also **Jan. 18-19** in Las Vegas. Robert W. Nash, Executive Director, The Energy Bureau Inc., 41 E. 42nd St., New York, N.Y. 10017; 212-687-3177.

DEC. 10-11. Interest Rate Risk Management seminar in New York, sponsored by New York University's School of Continuing Education; \$655, plus \$95 registration fee. Registrar, 14th Floor, University Conference Center, 360 Lexington Ave., New York, N.Y. 10017; 212-953-9022.

DEC. 14-16. 1981 EDP Conference in Hollywood, Fla., sponsored by the International Foundation of Employee Benefit Plans; members, \$360; non-members, \$435. IFEBP, 18700 W. Bluemound Road, Box 69, Brookfield, Wis. 53005; 414-786-6700.

DEC. 14-16. Product Liability of Manufacturers program in New York, sponsored by the Practising Law Institute; \$325. Also **Jan. 21-23** in Los Angeles. Practising Law Institute, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

DEC. 16-17. New York Self-Insurers Assn. annual meeting, sponsored by the New York Self-Insurers Assn.; members, \$125; non-members, \$175. Mary Ann DeSanto, 420 Lexington Ave., Room 2910, New York, N.Y. 10017; 212-867-9200.

JAN. 7-8. Products Liability, Defense Techniques and Trial Tactics seminar in Houston, sponsored by the Defense Research Institute Inc.; members, \$210; non-members, \$235. Tony Karpowitz, Public Relations, Defense Research Institute, 1100 W. Wells St., Milwaukee, Wis. 53233; 414-272-5995.

JAN. 10-12. Fifth Annual HMO National Policy conference in Washington, sponsored by the Group Health Foundation; Group Health Assn. of America members, \$240; non-member, \$260. Conference Office, Group Health Foundation, 624 Ninth St. N.W., Washington, D.C. 20001.

JAN. 15. Risk Management Information Systems seminar in Denver, sponsored by the Public Risk & Insurance Management Assn. and Warren, McVeigh & Griffin; PRIMA members, \$95; non-members, \$170. Also **Feb. 5** in St. Louis. C.C. (Bud) Griffin, President, Warren, McVeigh & Griffin Inc., 1420 Bristol St. N., Newport Beach, Calif. 92660; 714-752-1058.

JAN. 18-19. Preparation of Annual Disclosure Documents program in New York, sponsored by the Practising Law Institute; \$290. Also **Jan. 28-29** in San Francisco. Practising Law Institute, Department UYC, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

JAN. 18-20. Physical Security workshop in Orlando, Fla., sponsored by the American Society for Industrial Security; members, \$295; non-members, \$375. ASIS, Education and Seminar Programs Department, Suite 651, 2000 K St. N.W., Washington, D.C. 20006; 202-331-7887.

JAN. 19-21. Financial Analysis for Risk Management Decisions seminar in Dallas, sponsored by Cozzolino Associates Inc.; \$685. Cozzolino Associates Inc., 12 Chippenham Drive, West Berlin, N.J. 08091; 609-784-7105.

JAN. 25-27. Fundamentals of Property and Casualty Insurance seminar in Dallas, sponsored by the American Management Assns. AMA members, \$625; non-members, \$720. Also **Feb. 1-2** in New York. American Management Assns., 135 W. 50th St., New York, N.Y. 10020; 212-246-0800.

JAN. 25-28. Industrial Safety Awareness course in Los Angeles, sponsored by the University of Southern California; \$525. University of Southern California, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, Los Angeles, Calif. 90007; 213-743-6523.

JAN. 25-28. National Insurance & Protection Conference of Financial Institutions in New Orleans, sponsored by the American Bankers Assn; financial institution employees, \$375; non-financial institution employees, \$475. Shelly Davis, Program Coordinator, American Bankers Assn., 1120 Connecticut Ave. N.W., Washington, D.C. 20036; 202-467-4048.

FEB. 1-2. Construction Insurance Costs conference in Dallas, sponsored by the International Risk Management Institute; \$395; for the half-day primer, \$95; for half-day session on cash flow, \$95. International Risk Management Institute, Suite 208, Building III, 10300 N. Central Expressway, Dallas, Texas 75231; 214-363-9656.

FEB. 8-9. Third Annual Petroleum Insurance

conference in Houston, sponsored by the Professional Development Institute of North Texas State University; \$395. Joanne Paulman, Conference Center, Professional Development Institute, North Texas State University, Box 13288, Denton, Texas 76203; 817-768-2483.

FEB. 8-9. Practical Law and the Security Manager program in Arlington, Va., sponsored by the American Society for Industrial Security; ASIS members, \$240; non-members, \$325. ASIS, Education for Seminar Programs Department, 2000 K St. N.W., Suite 651, Washington, D.C. 20006; 202-331-7887.

FEB. 8-12. Recognition of Occupational Health Hazards seminar in Los Angeles, sponsored by the University of Southern California; \$415. Office of Extension and In-service Programs, Institute of Safety and Systems Management, University of Southern California, Los Angeles, Calif. 90007;

213-743-6523.

FEB. 9-12. Hazardous Materials seminar in Nashville, Tenn., sponsored by the Hazardous Risk Advisory Committee in cooperation with agencies of the Nashville metropolitan government; \$100; after Jan. 8, \$125. Hazardous Risk Advisory Committee, Seminar Registration Desk, Metro Civil Defense, Floor 7N, Metro Courthouse, Nashville, Tenn. 37201; 615-259-6145.

FEB. 16-17. Occupational Noise seminar in San Francisco, sponsored by the University of Southern California Institute of Safety and Systems Management; \$195. Office of Extension and In-service Programs, Institute of Safety and Systems Management, University of Southern California, Los Angeles, Calif. 90007; 213-743-6523.

FEB. 17-19. Product Safety Management course in Washington, sponsored by Technology Management Inc.; \$590. Richard White, George Washington University, Continuing Engineering Education, Washington, D.C. 20052; 202-676-6106/800-424-9773.

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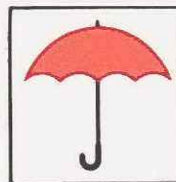
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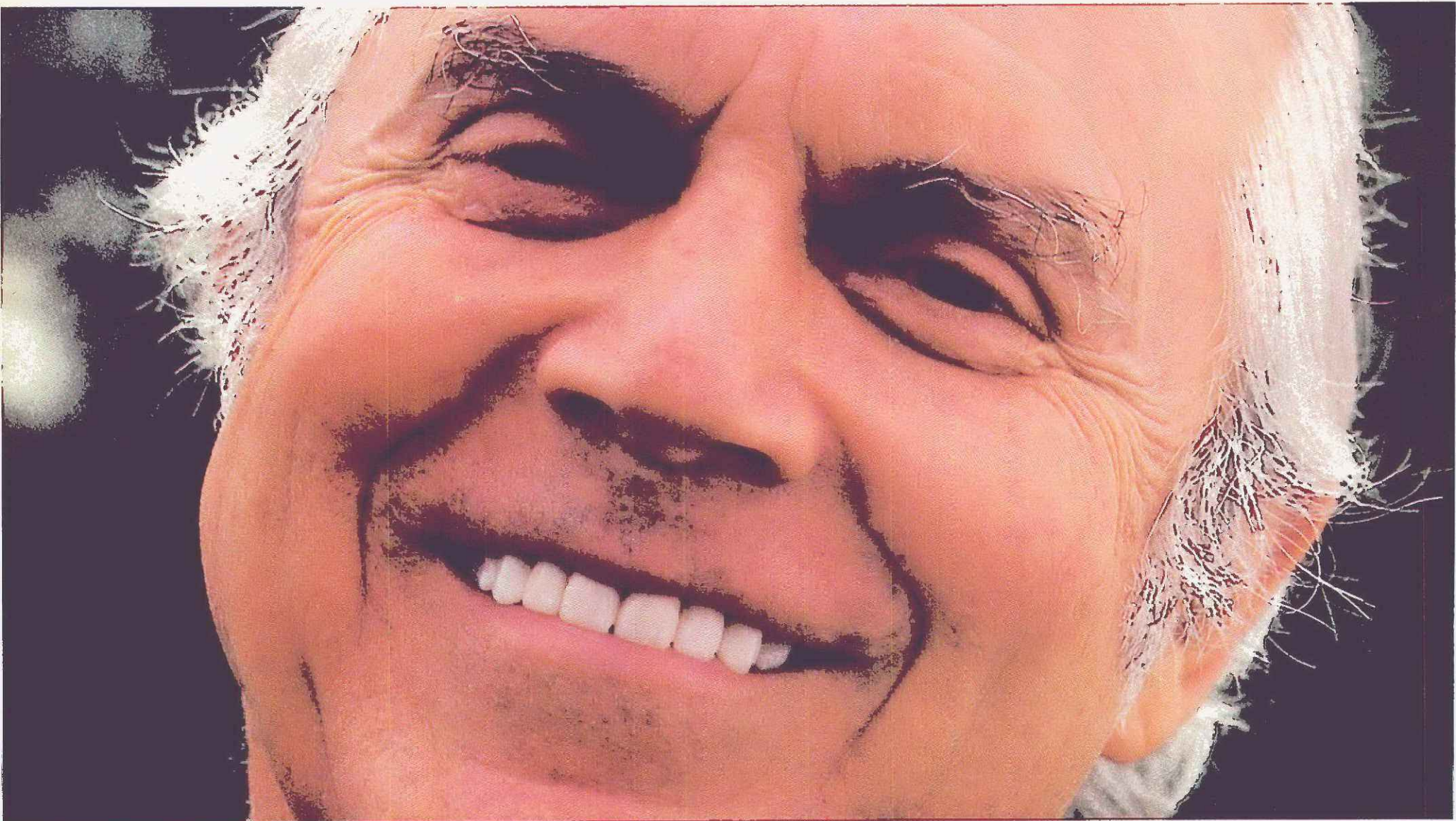
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Cooperation and conflict

Relationship between risk manager, broker is dynamic and changing, but still ambivalent

By Harold H. Hines Jr.

THE RELATIONSHIP between risk managers and brokers has been ambivalent, full of reciprocal feelings of cooperation and conflict. Their interaction deserves study, because risk manager-broker connections are fundamental to the development of decisions that determine the structure of insurance transactions and related service support mechanisms.

History shows how deeply the risk manager's struggle for respectability has affected the broker. Thirty years ago, the risk manager led an isolated corporate existence on the borderline of risk decision making, a fact not entirely due to resistance in his own company or to the business practices of brokers.

Risk managers, then known as insurance buyers, questioned whether their function was a professional discipline or an audit exercise, whether their mission was to make a substantive contribution to the progress of their companies, or simply to record risk transfer documents and perplexing insurance price changes.

For many years, a clear verdict about the corporate citizenship of this young vocation was not forthcoming. Higher management often circumvented insurance buyers, preferring to consult brokers about complex insurance placement and price performance problems. The gap between early buyers' routine duties and current risk managers' comprehensive responsibilities was wide and, as time has revealed, difficult to bridge.

Foundations for the connective links between then and now were forged by three compelling factors: price fluctuations, corporate growth and social inflation. Of these unmistakable influences, price vicissitudes caused by the vagaries of insurance economics were the most significant. Top operating and financial management, surprised and confused by regular periods of rapid price escalation, began to look to their insurance buyers as the only appropriate parties to search for remedial actions.

Managements demanded that their buyers avoid unexpected, damaging cyclical increases in the cost of protection.

As corporations grew larger and more complex through capital formations and mergers, higher managements asked buyers to gain price advantages usual to economy-of-scale purchases. They wanted their buyers to seek unit cost reductions and to verify automatic extensions of coverage to newly acquired, unrelated operations.

When the pace of social inflation quickened, American companies were suddenly confronted with huge unproductive expenses that threatened profit margins and upset competitive strategies. Management, again, turned to

their buyers for solutions, asking that fixed and variable insurance and self-funded loss costs related to casualty burdens be reduced.

Slowly but surely, an accumulation of aggravations produced profound responsibility shifts from the external broker to the internal buyer, which has had far-reaching effects on the commercial property/casualty business. Buyers met the challenges of their gradual acquisition of decision-making power with bursts of creativity, which fostered many of the significant insurance industry innovations of the past few decades.

The long quest for professional identity bound buyers together in constructive communication and fellowship. From the shared experiences of early buyer meetings grew an important trade association, first known as the National Insurance Buyers Assn., then as the American Society of Insurance Managers, and now called the Risk & Insurance Management Society.

These name changes were very significant, reflecting the evolution of responsibility from insurance buyer to insurance manager, and then from insurance manager to risk manager.

Their association's names underlined the buyers' search for significance and acknowledged the buyer's emerging professionalism as a manager—as one who directs rather than responds. Consecutive name modifications finally established the insurance manager's involvement in all risk decisions, including the complex evaluations that preceded insurance choices.

The steady expansion of functions, confirmed by the status change from insurance buyer to risk manager, is a conspicuous example of American management's ability to achieve results by broadening and differentiating skills. What began in the trial and error of early buyers' on-the-job learning ultimately became the effective application of sophisticated risk theory. Today's risk managers use valuable analytical processes to quantify and to qualify risk decisions in ways that promote corporate achievement and in forms easily explained to operating and financial management.

The progression from buyer to risk manager threatened brokers, who met unwanted change with understandable fear. Provocations for such psychological reaction related to sharing knowledge that was once privileged, to relinquishing access to hierarchy communication that formerly afforded security and to accepting frequent performance reviews that were previously rare.

In past decades, brokers maintained business through close ties with top management. Is there any reason why the broker's inability to relate directly to top management should not have generated insecurity? Long ago, brokers controlled



Harold H. Hines Jr. is president of Chicago-based Ryan Insurance Group Inc., whose subsidiaries include brokers and insurance companies. Mr. Hines delivered this address at a recent meeting of the South Texas Chapter of the Risk & Insurance Management Society in San Antonio.

contact between purchases of insurance and related service support systems, and the insurers that provided both. Why should not risk manager probes for insurer information and interaction have disturbed brokers, whose jurisdiction over transactions was once sacrosanct? Formerly, it was unusual for corporations to change alert brokers who delivered well-researched quotations. Who can argue that it was unreasonable to experience trauma when unfamiliar criteria were used to measure accomplishment?

Brokers' resistance to the metamorphosis of the risk manager was not irrational and disconnected; it was a legitimate reaction to what brokers considered objectionable change. While enlarged risk manager responsibility and authority engendered broker anxiety, they also created remarkable adaptations that altered and improved the way brokers conducted business. They mostly ordered, but occasionally muddled, adjustments brokers made to factors that prompted the vocational advance of risk managers altered the U.S. commercial property/casualty distribution system profoundly.

Small- and medium-sized local broker enterprises dedicated to serving expanding American enterprises were merged and consolidated into large national and regional firms, capable of solving problems created by economic growth, insurance price instability and social inflation. The transformation of the

broker mode from cottage industry to big business was as far-reaching as the risk manager's mutation; in fact, it exactly paralleled the buyer's persistent advance.

Risk managers and brokers achieved their advancement independently, yet the progress of each was linked to the others, as each made it possible for the other to deliver required results. Out of the conflicts nurtured by change came the necessary cooperation that made it possible for both to fulfill their widening obligations to the enterprises they served together. Their harmonized responses to the post-World War II rapid expansion of American business illustrate the efficiency of broker-buyer interactions.

By working concurrently they caused modifications in new and old plant and equipment so that aggregate values, subject to a single loss, were reduced and the ever-present influence of catastrophes were limited.

Especially close collaboration was prompted by the severe property insurance crisis of the 1960s, which caused the availability and the price of property coverage to menace the operating results of many industries.

Concurrent actions of brokers and buyers won time concessions from insurers in order to implement improvements in the physical characteristics of old and new plants. There is clear evidence these common efforts ameliorated the aggregate hazards of U.S. industry; in fact, the substantial physical improvements, initiated during that time of crisis, continue to influence the quality of property risks underwritten today as well as the relative quantity of premiums required to cover property risks compared to total commercial property/casualty premiums.

Of course, the predominant cause for the dramatic premium gain of casualty insurance was the unprecedented growth of social inflation, attributable to incredibly expensive applications of tort law. Actions to neutralize these adverse developments were replete with examples of cooperation between brokers and insurance managers. Their teamwork designed the broad contract language that permitted transfers of new risks like pollution, directors-officers, fiduciary and performance liabilities, risks which tormented all major enterprise in the United States.

When the implications of these new risks were exacerbated by the plague of economic inflation and concomitant high interest rates, brokers and insurance managers were able to find effective antidotes to mitigate the burdens. Remedies included paid-loss retrospective programs, fronting arrangements supported by promissory notes, deferred premium payment opportunities and many other imaginative tactics invented

Continued on next page

perspective

Risk manager-broker relationship changing

Continued from previous page
to conserve cash flow.

It is important to emphasize that the acquiescence of insurers was essential to all industry progress. However, the risk manager, working with the broker, tempered the impact of the twin scourges of social and economic inflation.

Their energetic, concerted efforts also defied impediments to financial results occasioned by periodic, sudden and very steep upswings in insurance prices. By working together to establish self-insurance arrangements, retroactive insurance alternatives and captive insurance companies, risk managers and brokers created strategic plans to partially assuage the adverse impact of costly, unexpected price demands. The creation of captives, more than any other development, brought about the sophistication of brokers and risk managers. Both were required to understand reinsurance utilization, financial analysis, probability theory, reserving practices and information systems; both had to appreciate and apply their new knowledge in order to make captives work.

And the applications of valuable new knowledge forced development and evaluation of risk management alternatives that changed the structure of risk manager insurance departments and broker organizations. Risk managers looked to fellow staff managers within their own companies to gain better perspective about the financial and operating meaning of their new knowledge, so that intelligent risk management decisions could be made.

Brokers used their fresh insights to modify their firms from orientations concerned almost exclusively with gathering and organizing insurance capacity to businesses capable of offering a wide range of new services able to function for or to consult with the well-informed risk manager. By offering comprehensive loss-control, claims-management and information-retrieval services, brokers made it possible for risk managers to unbundle risk transfer transactions from ancillary services whose costs always seemed obscured by combined price constructions. Opportunities for choices to bundle or to unbundle are prime examples

of the advantages broker-risk manager cooperation generates.

All progress born of collaboration was preceded by, indeed included, the stress of conflict—that abrasive force from which constructive change is wrought. Perspective of how conflict contributed to progress in the past can be gained by speculation about a few issues likely to confront risk managers and brokers in the future.

'History shows how deeply the risk manager's struggle for respectability has affected the broker.'

The years immediately ahead will surely require re-examination of the way brokers are compensated. Risk managers probably will resist too much movement from commissions, which offer unlimited broker attention, to fee-for-service arrangements that bill time and expense for all services rendered. While fee-for-service recompense had great appeal to buyers when "long-tail" risk transfer transactions affected relatively smaller numbers of placements, increasing premium investments in long-tail casualty coverages will make unlimited broker commitment a subject for negotiation. Brokers who offer to service placements without considering future time commitments will be vulnerable to dangerous operating losses; risk managers who agree to pay fees for whatever time it takes to service derivative claims will be exposed to precarious, uncertain future expenses. Resolution of these disparate positions in the give-and-take of negotiations cannot happen without friction.

Risk managers will employ competition to test their skills in resolving future contention, just as they have used competition to verify their past accommodations to conflict. During the years ahead, competition will include buyer calls for direct insurance price and service support quotations from insurers that traditionally only work through

brokers.

Buyer searches for competitive price and performance promises that reach beyond the typical array of brokers plus selected direct underwriters will ferment enormous conflict. Some broker-committed insurers will refuse to participate in these departures from tradition; others will find means to deal directly with buyers.

Some brokers will repudiate relationships with risk managers and insurers that engage in such perceived affrontary to the values of the trade; other brokers will regard such clashes with convention as opportunities to provide new products and services for buyers. Brokers that adapt will find new solutions for new problems by demonstrating an ability to organize capacity and service strategies more effectively than direct-dealing insurers and more productively than risk managers can do with internal staff.

Risk managers that build large diverse staffs are certain to provoke hostile reactions from many brokers who will see these indigenous developments as permanent threats to their revenues. When it is in the risk manager's best interest, brokers will cooperate by helping to construct effective departments capable of dealing with loss control, claims management and information retrieval plus comprehensive analytical and planning services. Collaborators will prove risk management cannot be transformed into routine, stereotyped functions that endure alone in major corporations. There must be external interaction with brokers to help nurture creativity and to provide monitoring vehicles to relate performance to standards of excellence. Taking the position they do not wish to do anything for the risk manager that the risk manager can do better for himself will cause brokers to invent new coverages and to use insights gained from observing risk management departments to design a wide range of useful, cost-effective new services.

As current trends expand the purview of the risk manager to include evaluation of and protection against speculative as well as fortuitous risks, brokers will discover ways to collaborate in the accretion of the risk manager's responsibilities. While brokers' and risk managers' duties have been confined to

concern for pure risks where there is only a chance of loss, both are beginning to understand how evolving concepts of risk theory are advancing skills to measure and to cover risks involving gain or loss.

Early applications of broker-risk manager cooperation in the implementation of speculative risk management can be observed in placements of retroactive insurance. By assessing potential gains and losses from protections against claims that have already happened, brokers and risk managers, working together, have constructed useful coverages at attractive prices to meet relevant income statement and balance sheet contingencies. There will be many extraordinary future examples of this type of cooperation that must, of course, be related to insurer willingness to accept venturesome transfers.

The relationship between the risk manager and the broker will continue to be dynamic, changing and always subject to ambivalence—ambivalence related to the historic polarity of cooperation and conflict. The principle of polarity is one of the most fundamental in human nature, for emotional forces always appear in opposite pairs. To find polarity in the functional

'Neither can achieve their established goals without expressing trust and commitment.'

connection of risk manager and broker is neither surprising nor a departure from what can be observed in all human attachments. The more the broker cooperates with the risk manager, the more the broker fears he will create his greatest enemy—risk manager self-sufficiency. And the risk manager sees cooperation with the broker as equally menacing, for it fosters what he wants most to avoid—total broker dependence.

But risk managers and brokers see exaggerated conflict as unproductive—in fact, antithetical to the need both have to succeed. Neither can achieve their established goals without expressing trust and commitment, the cement of cooperation. While there will always be issues that divide and distort the values of cooperation, there is no way the risk manager or the broker can meet their expectations or fulfill their obligations when conflict dominates interaction.

Working together accomplishes the highest purpose available to risk managers and brokers—the opportunity to successfully manage risks for the benefit of the companies they both serve and of the society they both value.

Risk advances all human endeavor, stimulated by conflict and assuaged by cooperation; relationships between risk managers and brokers epitomize how best to contain risk, how best to adapt to the ambivalence that promotes creative performance.

Occupational injury exclusion upheld

PROVISIONS IN group health insurance policies that exclude liability for occupational injuries are common and are enforceable, the Court of Appeals of Arkansas ruled.

Benton Hydraulics Inc. purchased a group insurance policy from Prudential Insurance Co. that provided medical expense benefits for its employees. James Jones was the company president, and he and his wife owned all of the stock. The

A copy of the entire decision may be obtained by sending \$5 to Cases Unlimited, in care of Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. List the case number.

legal briefs

policy excluded occupational injury or disease.

State law allowed an officer of a corporation who owned and operated his own business to exclude himself from coverage under the Workmen's Compensation Act. Mr. Jones was injured within the course of his employment for Benton. He filed a claim with Prudential. Prudential paid a hospital bill but refused further benefits. Mr. Jones sued Prudential and was successful in the trial court.

The appellate court said that Mr. Jones was not a proprietor and, thus, was excluded from recovery under the Prudential policy. The court said Jones owned only shares in Benton. "Even the stockholders of a small, family-owned corporation," the court said, "are not permitted to deny the corporate entity when convenient and claim the benefits of the corporate structure when to do so is advantageous." *Prudential Insurance Co. vs. Jones*, Court of Appeals of Arkansas, March 18, 1981 (BI/05/N.-\$5).



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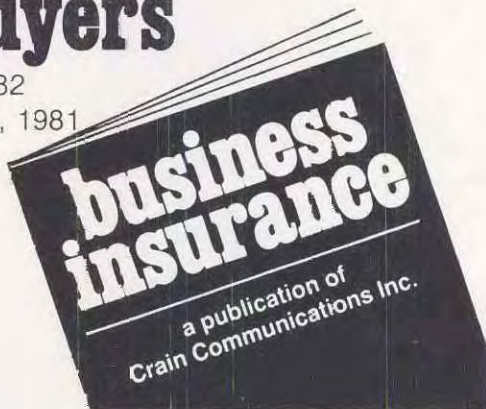
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Defunct MET leaves members holding bag

Continued from page 11
committee, which included the Rev. A. Alvis Edmonson of Arlington, Texas; the Rev. Donald Stone now of Waipahu, Hawaii; and the Rev. A.R. Wilson of Stafford, Mo.

Mr. Edmonson, who headed the committee, would not comment on the suit.

Mr. Browning says the suit, by naming him, simply seeks the deepest pocket to pay outstanding claims and covers up the state's failure to act against officials of an earlier multiple employer trust that went broke in 1978. He blames Ministers' Benefit Trust's financial problems on misinformation he says was given him by officials of MBT's predecessor—the Standard Employee Benefits Reserve Assn.

Trust.

SEBRA stopped operating in summer of 1978, leaving claims unpaid and two large ministers' groups without health insurance, according to the U.S. Department of Labor. The groups—the Bible Baptist Fellowship and the Central Texas Conference of the United Methodist Church—were the original members of Ministers' Benefit Trust. They formed it to continue health insurance coverage after SEBRA ceased operating (see related story).

Mr. Browning, who was the Baptist group's agent to SEBRA, was hired by the two church groups to administer Ministers' Benefit Trust (see related story).

The Methodist group dropped out of MBT in July 1979 because they felt they did not have a voice in the operation of the trust.

Later, a Church of Christ group and four church groups in Lynchburg, Va., that associated with evangelist and Moral Majority leader Jerry Falwell joined MBT. They had not belonged to SEBRA.

When it was formed, Ministers' Benefit Trust agreed to pay outstanding claims incurred by the ministers when they belonged to SEBRA. Mr. Browning said SEBRA officials assured him that only \$25,000 in claims were outstanding. But, Ministers' Benefit Trust ended up paying \$300,000 in SEBRA claims, a fact that prompted Mr. Harris to charge that the trust misapplied funds.

"I want the ministers to get their money back," says Mr. Browning. "If the state had come in when it should have (during SEBRA's collapse), they would have gotten it. My job is not to hurt people; it is to help the preachers. It is not my fault the trust went under."

He says the receiver should seek recovery of funds from SEBRA officials and an insurance company with which they had contracted for claims administration and to place reinsurance.

The ERISA question

The Ministers' Benefit Trust billed itself as an ERISA benefit plan when it sought subscribers. However, it ultimately did not qualify as one under Department of Labor rules.

Ministers' Benefit Trust summary plan description filed with the Labor Department mentions ERISA and informs plan members of their rights under the law. Letters written on Browning Corp. International stationery sometimes begin, "Ministers' Benefit Trust is a self-funded ERISA trust..."

Mr. Browning says he believed MBT was an ERISA trust. The Dallas law firm that drew up the plan description that was filed with the Labor Department also believed that.

"At the time we did it, the Labor Department hadn't come out with regulations or guidelines about what was required for an ERISA trust," says attorney David McLane of Wynne & Jaffe. "We were more or less shooting in the dark."

The Labor Department decision not to accept Ministers' Benefit Trust as an ERISA benefit plan was announced to MBT trustee Mr. Littlejohn in an opinion letter dated Aug. 18, 1980, more than two years after the trust began operations.

The letter said MBT did not qualify as an ERISA trust because "it was not established and is not maintained by an employer or employee association."

Four months later—Nov. 5, 1980—the 200th District Court of Texas

Continued on next page

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found Ministers' Benefit Trust to be insolvent, declared it an insurance company subject to state regulation and placed it into receivership for liquidation of assets.

Old claims

By paying SEBRA claims with Ministers' Benefit Trust funds, MBT officials seriously contributed to the trust's insolvency, says Mr. Harris and the investigative auditors.

Although the suit says Ministers' Benefit Trust paid \$80,000 in claims incurred through SEBRA before MBT began operations in July 1978, additional examination of MBT records by the auditors shows that MBT paid about \$300,000 in SEBRA claims.

The records show MBT paid about \$43,000 in SEBRA claims in July 1978; \$31,000 in August; \$41,000 in September; \$38,000 in October; \$34,000 in November; and \$14,000 in December. This adds up to \$201,000 in six months. However, one of the auditors points out, "We've gone through files and listed more than \$300,000 in SEBRA claims so far."

Mr. Browning says MBT did not realize until the end of the year that it had paid \$278,000 in SEBRA claims. He says he would not have gotten involved with the trust if he had known the outstanding claims exceeded \$25,000.

His company paid claims only at the ministers' direction, he said. "The ministers said, 'Anyone with SEBRA, pay their claims.' We paid them with checks written and approved by the trustee and authorized by the ministers. The ministers were the same people who were in SEBRA and said they wanted to go ahead and pay."

The investigative auditors, however, point out that ministers and church employees who never belonged to SEBRA later joined the Ministers' Benefit Trust and their premiums also were used to pay SEBRA claims.

Administrative fees

The auditors estimated that \$2 million to \$2.4 million in premiums were collected by Ministers' Benefit Trust from July 1979 to November 1980, based on an average monthly premium of \$100,000.

During these 26 months, Ministers' Benefit Trust records show that Browning Corp. International's administrative fees averaged \$40,000 a month. During the life of the trust, fees received totaled \$980,000, or 40% of premiums. Insurance companies normally use 10% of premiums collected for administrative costs.

Ministers' Benefit Trust balance sheets for the Old Time Gospel Hour and Liberty Baptist College, two of the Lynchburg, Va., groups, show their 550 to 600 members paid \$377,849 in premiums from July 1979 to June 1980. Medical claims totaling \$188,408 were paid by the trust during that period.

According to a notation made on MBT financial records, the remaining \$189,441 was available for "administrative fees and other expenses."

Monthly premiums paid by the Lynchburg groups, which joined the trust in July 1979, ranged from \$25 to \$68 per participant. Others paid premiums of \$25 to \$125 a month.

For each participant, regardless of the premium paid, Browning Corp. International was paid administrative and claims processing fees of \$27.25 a month, plus a one-time set-up fee of \$10 for new members. The number of participants varied from a peak of 1,500 to well below 1,000.

Toward the end of Ministers' Benefit Trust's operations, many participants stopped paying premiums because their claims were not

being paid, but the investigative auditors say Browning Corp. International continued to charge monthly administrative fees for those who did not formally drop out of the plan.

According to the trust agreement, an employer group could withdraw from MBT by giving written notice and paying any premiums owed the trust up to the formal withdrawal date. Unless this procedure was followed, a participant could still be considered a member.

"We are the administrators and agreed on fees and respected those fees," said Mr. Browning.

"This is not different, unusual or clandestine. It's the way we do business."

As trustee, Mr. Littlejohn was paid \$1,000 a month. He also was vp and director of three corporations, including Browning Corp. International, which was formed in September 1978. Letterheads on

Continued on page 26

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MET not the answer to ministers' prayers

Continued from previous page
Browning Corp. International stationery name Mr. Littlejohn alternately as Ministers' Benefit Trust trustee and Browning Corp. International vp.

Falwell's groups

The investigative auditors said claims from the Lynchburg groups associated with Jerry Falwell, received preferential attention and were paid before others. These groups included the Old Time Gospel Hour, Thomas Road Baptist Church, Lynchburg Christian Academy and Liberty Baptist College.

The investigators point to copies of claims from these groups that have "priority pay" written across them in red ink. The auditors say

they have not yet found similar notations on other files.

Records show that members of the Lynchburg groups often were paid 100% of their claims in two to four months and some within weeks. At the same time, other trust members received no payment or only partial payments after six or seven months, the auditors say.

Mr. Harris' suit says the Lynchburg claims were paid preferentially to conceal the trust's insolvency from the 500 to 600 members of the Lynchburg groups, which brought in \$30,000 in premiums per month.

The Lynchburg groups joined the trust about the same time a Methodist group dropped out, and saved the trust at that point, says Mr. Browning.

"The (news) papers say we paid their claims in preference to others, but they weren't in the old (SEBRA) group. Why should they be penalized by the old group?"

No special treatment

Dewitt Braud, chief executive officer of the Old Time Gospel Hour, said he never noticed any special treatment. "Based on the way we had to get our claims paid I can't see how we got preferential treatment," he said. "We certainly didn't have a good deal."

The Old Time Gospel Hour paid \$200,000 of its own claims when Ministers Benefit Trust folded, says Mr. Braud. It is currently filing claims with the state to recover this money.

Before joining MBT, Old Time

Gospel Hour employees were covered for major medical under Blue Cross/Blue Shield, Mr. Braud says. He switched to Ministers' Benefit Trust because "the presentation I looked at led me to believe it was a good, fair deal for us."

When the Lynchburg groups stopped paying premiums to MBT in September 1980, they bought coverage from Aetna Life & Casualty Insurance Co. in Hartford, Conn.

Other Ministers' Benefit Trust members who were left without coverage when MBT was placed in receivership initially signed up with Blue Cross/Blue Shield, but may have transferred coverage elsewhere since then, the auditors say. The liquidator's suit seeks money to pay their outstanding claims of \$500,000 to \$500,000.

Some members of the Church of Christ group, which dropped out of MBT in spring of 1980, formed a new self-funded multiple employer trust called the Christian Employers Trust. It is administered by a former employee of Mr. Browning.

The purpose of Ministers' Benefit Trust was "to keep preachers from losing all their money (after SEBRA collapsed)—period," Mr. Browning says. "I feel my purpose is to help the ministers recover any losses they have had."

"The questions (about the suit) are overwhelming," he says. "Are we condemned because we did what the ministers wanted us to do? They need to be addressing themselves to the benefits committee and trustee, not to me. I think they're going for the deepest pocket."

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Ministers say never again

Continued from page 11

going bankrupt. Everytime I called they told me they would pay the claims, but they didn't," she explains.

One of the most aggravating aspects of her experience was that after submitting her claims, MBT raised her premium from \$75 to \$91 a month, Ms. Evans says. "I went ahead and paid. A year later we were told they were going bankrupt."

Actually, Ministers' Benefit Trust was placed into judicial insurance receivership, similar to bankruptcy, but carried out under the auspices of the state.

Ms. Evans says they were told Ministers' Benefit Trust was an insurance company when they joined.

"No one told us when we got into it that it was a trust. We had an insurance agent come to our house and talk to us. He said the main office was in Hurst."

Both she and the Rev. Hallsted say that after numerous complaints their doctors or hospitals were paid several \$50 or \$100 installments by MBT.

These amounted to only a fraction of the total claims, the bulk of which were never paid.

"We make \$175 a week and are stuck with more than \$1,750 in bills," Ms. Evans says.

"We've been turned over to two collection agencies which has been really embarrassing for us. We've never had problems with bills before."

In a June 1980 letter to the State Board of Insurance in Austin, Michael Evans complained about the slow payment of his wife's claims by their "insurance company."

"As of now, six months after the claim was filed, we know of not one cent that has been paid on our claims," the letter said.

"Furthermore, when the insurance agency (Browning Corp. International) was contacted, they became very hostile when questioned as to a date of payment, even to the point of threats to 'put your claim on the bottom of the list' if we contact them further," it continued.

Mr. Evans asked the state to investigate.

"We stopped sending our payments in when we finally got a letter from the state saying Ministers' Benefit Trust had gone into receivership and probably wouldn't be paying any claims," Ms. Evans says.

"We never missed one premium," she explains.

Broke MET inherited predecessor's bills

Continued from page 11

self-insured, and I had our attorney write everyone a letter and tell them they should find coverage elsewhere."

A tentative agreement with Life Insurance Co. of the Southwest for claims administration and the placement of reinsurance was made in July 1977.

The Texas Insurance Board's SEBRA file says any relationship between that insurance company and SEBRA was terminated by a Nov. 23, 1977, letter from the insurer's senior vp, Pat Caudle.

Mr. Caudle confirms this, saying his company agreed to administer claims and place reinsurance based on SEBRA's representation that it was a fully insured trust. When the insurer discovered the trust was self-funded, Life Insurance Co. of the Southwest and Duncanson & Holt of San Francisco, managing general agent for American Accident & Reinsurance Co. of New York, withdrew coverage and returned premium checks uncashed.

Former SEBRA attorney James Morgan argues in a Dec. 1, 1977, letter that the agreement permitted Life Insurance Co. of the Southwest to withdraw only after giving SEBRA two months' notice.

Mr. Caudle, however, contends that insurance contracts are valid only if the premium is accepted, adding, "We never got a dime out of any SEBRA policy."

But, Mr. Browning, following Mr. Morgan's reasoning, says the insurance company should be forced to pay the SEBRA claims that MBT picked up.

Also, Mr. Browning points to the results of a limited special purpose examination of SEBRA's records conducted at his request by an auditing firm.

The examination of SEBRA's records by Dallas certified public accounting firm Elmer Fox, Westheimer & Co., shows SEBRA collected \$802,000 in premium and paid \$330,000 in claims during its short life. Of the remaining \$472,000, about \$237,000 went to management fees and agent commissions, the report says. The balance should have been \$235,000 but only \$14,000 could be found. This left an estimated \$221,000 unaccounted for.

However, the firm's report cautions Mr. Browning against relying on the findings because the examination was not a formal audit carried out in accordance with generally accepted accounting standards.

Still, Mr. Browning says the state should have investigated SEBRA.

Mr. Huffstetter says he has been available to answer questions.

"They (Mr. Browning and MBT) took all the records and everything and did an audit," Mr. Huffstetter says. "I hung around for two or three months and assisted when I could. Then I had to seek employment elsewhere and returned

home to Alabama. As far as I knew then, everything was fine and I haven't heard a thing since. If anyone wanted to reach me they could have. They knew where I was."

"I told Bob Browning what my best estimates were" on the outstanding claims, he says. "They brought in an auditing team. I didn't fiddle with it much, so I don't know exactly what they found."

Mr. Browning and the group of Baptist ministers he represented in SEBRA indicated they wanted to continue the operation when SEBRA announced it would end coverage, he says. He referred several times to the change from SEBRA to MBT as a "takeover."

Mr. Browning's association with SEBRA began July 4, 1977, when he transferred coverage of about

300 Baptist ministers to SEBRA from a fully insured trust in California, he says. He believed SEBRA also was fully insured and that by switching he could save ministers money through reduced administrative fees, he says.

The Browning company was paid a monthly commission of 15% of premiums the ministers brought to the trusts. Mr. Browning became "general representative" for SEBRA and says his duties were limited to billing the ministers on its behalf. He acted as the ministers' agent to SEBRA.

The Baptist group grew to about 500 to 600 while SEBRA was in operation. Mr. Huffstetter says Mr. Browning's group made up a majority of the membership at the end.

SEBRA was investigated by state Insurance Department officials almost from its beginning. R.B. Ashworth, manager of business practices and enforcement for the State Board of Insurance, began making inquiries in October 1977. In December of that year he wrote SEBRA attorney James Morgan saying in his opinion the trust did not qualify under ERISA.

In October 1978, two months after SEBRA closed its operations, Texas Insurance Commissioner John Voorhis asked the state attorney general to sue for a receivership and to enjoin the trust from doing business. In addition, a Labor Department investigator reported Sept. 19, 1978, that in her opinion SEBRA did not qualify as a ERISA benefit plan.

But the attorney general decided

not to sue for receivership. According to an August 1979 reply to Mr. Voorhis' request, the attorney general's office doubted there was enough evidence to prove SEBRA was not an ERISA trust. This opinion was based primarily on the disappearance of trust records and the fact that Mr. Huffstetter had left the state and his whereabouts were unknown, the reply says.

The attorney general's office said a suit enjoining the trust from doing business would not be feasible or advisable since SEBRA no longer existed.

The Standard Employees Benefits Reserve Assn. Trust never filed for formal bankruptcy. It simply ceased doing business. Its participants either purchased medical insurance elsewhere or became members of Ministers' Benefit Trust. ■

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Applications for the examination must be received no later than 60 days before the date of the examination.

For information on other locations and dates of the examination and information about the CPSM Academy, contact the Board of Product Safety Management, 8009 Carita Court, Bethesda, Md. 20817; 301-984-8969. ■

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In addition, **Gary B. Lanham** has been named an assistant vp at Marsh & McLennan in San Fran-

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cisco. Mr. Lanham was the director of the American Hospital Assn.'s division of quality control management in Chicago.

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Daniel V. Malloy, executive vp and director of Fred S. James & Co. Inc., also named Northeast regional director for property/casualty operations.

Insurers

Ralph W. Murray appointed executive vp and chief operating officer, a new position, at CU Commercial Lines Inc. in Boston. Mr. Murray had been senior vp of commercial lines field operations at CU Commercial Lines. **Gilbert B. Kerr**, senior vp, assumes Mr. Murray's former position. **Ronald E. Guthenberg** appointed senior vp of technical operations. Mr. Guthenberg was formerly vp of field operations.

In addition, **J.F.G. Emms** will retire in April as chief general manager of Commercial Union Assurance Co. Ltd. in London. Mr. Emms will remain on the board and continue as vice chairman. **C.E. Harris**, deputy chief general manager, will replace Mr. Emms as chief executive of the group. **R.I. Sloan** and **J. Linbourn** will become his deputies and serve as executive directors.

Matt Bonath named executive vp for the Mission Insurance Group's primary insurance division. Mr. Bonath was vp of Mission Risk Management Services. He will remain executive vp of that operation. Also, **Helen Savage** was promoted to vp of Mission Risk Management Services.

Robert Q. Bodenstein named vp of Continental Corp. and senior vp of administration for the international insurance/reinsurance division in New York. Mr. Bodenstein was formerly a vp at North American Reinsurance Corp.

Bennett H. Clark and **Richard L. Brown** named senior vps at Unigard Insurance Group in Seattle. Both men will have responsibilities for the property/casualty insurance operations at Unigard Mutual Insurance Co. Mr. Clark will supervise claims and marketing activities; Mr. Brown will supervise underwriting, actuarial and reinsurance activities.

Richard W. Dorman, **John R. Maimone** and **Bruce W. Marlow** named vps at Progressive Casualty Insurance Co., based in Mayfield Village, Ohio.

Charlotte Smith named senior vp of Blue Cross of Southern California. Ms. Smith is responsible for government programs, provider services and claims.

Reinsurers

John D. Dunn Jr. and **Edmund D. Machen** elected senior vps and directors at Buffalo Reinsurance Co., located in Los Angeles. Both were formerly vps. At the same company, **James P. Rapp** and **John D. Reid** elected vps. Mr. Rapp was the national casualty/facultative manager. Mr. Reid continues as manager of reinsurance claims and reinsurance claim audits for facultative and treaty accounts.

Trenwick Reinsurance Group elected **Stephen H. Binet**, **K. Bruce Connell**, **Donald D. Hall** and **Daniel L. Siegel**, all vps, to the board of directors.

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Illinois exchange opens, writes first risks

Continued from page 3

per syndicate, is for an excess portion of the property insurance written for the Roman Catholic Archdiocese of Chicago. Both policies are effective Jan. 1 to avoid partial-year accounting.

As Tribune and archdiocesan representatives looked on, Louis W. Biegler, president of L.W. Biegler, signed the risk contract. Biegler's syndicate manager at the exchange will be John A. Dore.

Signing for Midwest General was Paul H. Inderbitzin, an assistant vp of corporate insurance operations from Reliance in Philadelphia. Mr. Inderbitzin said Reliance is still looking for a Chicago-based manager but should have one by next year. Mr. Dore said he would spend about 75% of his time at the exchange.

The opening of the exchange had been delayed until it could satisfy its bylaw requirement that at least \$4 million in capitalization be pledged before applying for a state operating certificate.

Now, the bylaws give the exchange nine months to replace its current 19-member interim board of directors with a permanent

board of mostly syndicate representatives. The permanent board will then select a director for the exchange, which is being run on a part-time basis by James M. Skelton, a Champaign, Ill., insurance agent and a former state Insurance Department official.

The Illinois Department of Insurance said the Illinois exchange will provide brokers a market for risks that today would only be accepted at Lloyd's of London. However, Mr. Biegler, who heads the Chicago-based LWB syndicate, says the exchange "wasn't put into existence to challenge Lloyd's."

"It's my fond hope that the exchange will write treaty business for American companies that now place business with Eastern European and Asiatic markets," Mr. Biegler said.

The reinsurance written for American insurers by these markets is unlicensed reinsurance, Mr. Biegler noted, and there is a political risk exposure in using reinsurers from countries in these areas.

A special state law enacted by Illinois in 1979 provided the structure for the exchange and also dif-

ferentiates it from the New York Insurance Exchange in at least three ways:

- Member brokers can submit direct casualty, fidelity, surety, fire and marine risks to exchange underwriters as long as the premium is at least \$50,000.

However, the act provides that if the exchange broker is unable to place the risk in the regular market, he may bring it to the exchange, regardless of the premium. This differs from the New York exchange law, which prohibits acceptance of most direct premiums.

- There are less restrictive capitalization requirements for syndicates. In Illinois, a syndicate may consist of subscribers who have pledged as little \$2 million to the syndicate. Fifty percent of the \$2 million may be in the form of qualified letters of credit. Each partner in the syndicate must commit at least \$30,000. Under New York's rules, a syndicate must show \$3.55 million in capital to apply for membership and may operate with \$2.2 million. No letters of credit are permitted.

- There are no restrictions on broker ownership of syndicates, like L.W. Biegler, which is also a broker member of the Illinois exchange. The New York exchange limits broker ownership to 20% of a syndicate.

Mr. Skelton says six syndicates in addition to the three already admitted have each paid the \$20,000 application fee to be considered for membership. Under the exchange's bylaws, syndicate annual membership fees will be a percentage of premiums written totaling at least \$10,000.

The six syndicates are: The First Management Syndicate of Bloomington, Ill.; The RCA Syndicate of Chicago; The Nutmeg Syndicate (The Hartford) of Hartford, Conn.; The Travelers No. 2 Syndicate of Hartford, Conn.; the Lincoln Union Syndicate (INA) of Philadelphia; and the NESCO Syndicate (Northbrook Excess & Surplus Insurance Co.) of Northbrook, Ill.

Exchange broker applications, besides Biegler, Frank B. Hall and Corroon & Black, include Stewart

Smith Mid America Ltd. of Chicago; Thomas F. Sheehan Inc. of Park Ridge, Ill.; Bowes & Co. Inc. of Chicago; George F. Brown & Sons Inc. of Chicago; M.E. Pritikin & Co. Inc. of Chicago; Morency & Associates Ltd. of Hinsdale, Ill.; James S. Kemper & Co. of Chicago; Corey & Adams Inc. of Oak Brook, Ill.; J.L. Kelley Inc. of Franklin Lakes, N.J.; E.W. Blanch Co. of Chicago; Thomas A. Green & Co. of Chicago; and Insurance Brokers Service Inc. of Chicago.

Buck Forward rate drops to 15%

NEW YORK—The Buck Forward Interest Rate declined by one point to 15% as of Nov. 1, providing a current benchmark to help pension plan sponsors comply with pension accounting disclosure statements.

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and is thus responsive to market conditions on an ongoing basis. It is intended to help financial officers select investment return assumptions to determine the actuarial value of accumulated pension benefits for comparison with the market value of plan assets.

The rate was 12.8% on Nov. 1, 1980.

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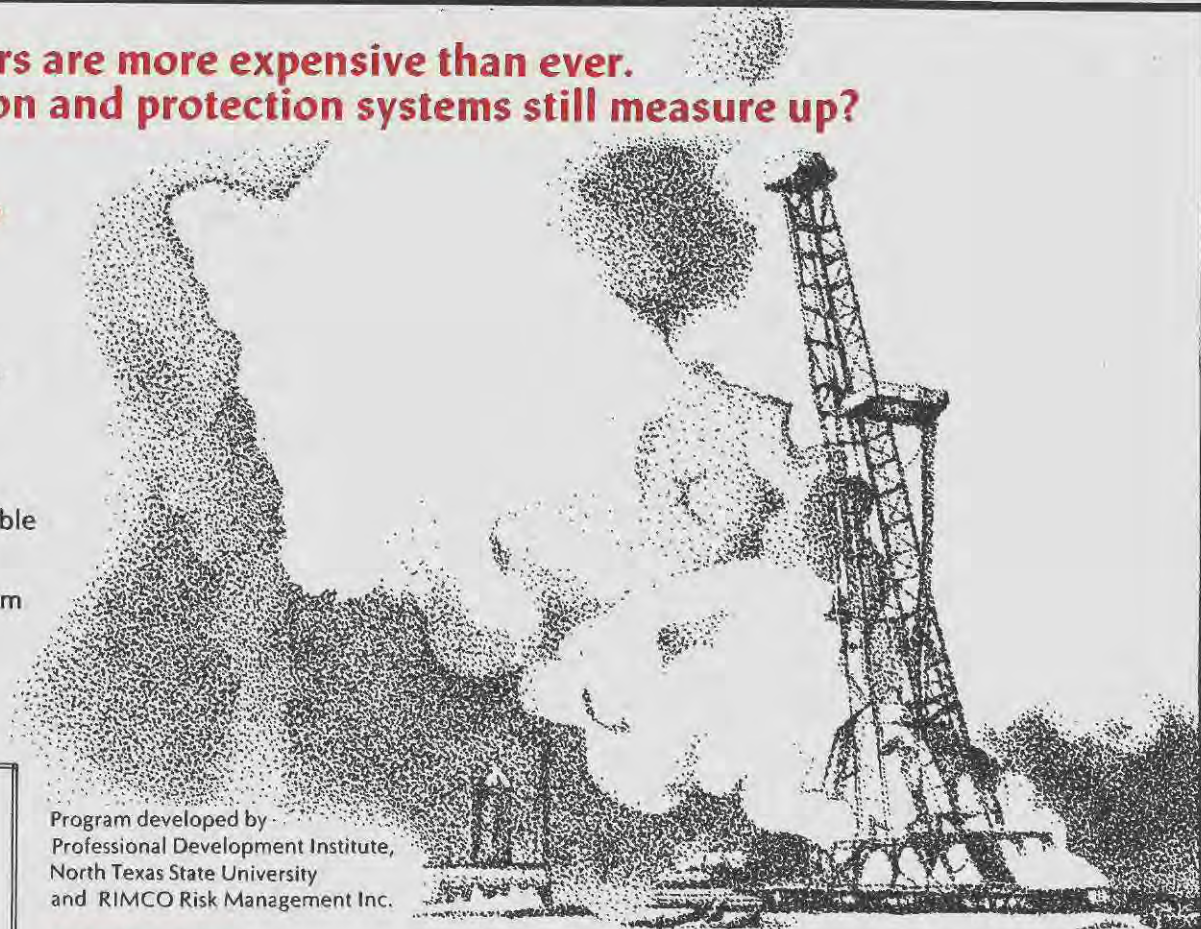
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Commission seeks power to force work comp cover

Continued from page 3

never had, insurance for workers compensation, says John N. Shanks II, chairman of the Industrial Board of Indiana.

That case, although unusual because the employer broke the law so many years before he was caught, is not a one-of-a-kind happening in Indiana.

Another pending case involves an Illinois man who was killed while working for another Indiana manufacturer that did not have workers compensation insurance.

That legally translates into zero death benefits for the man's widow and two children, but it's possible the Indiana Industrial Commission will try to come up with some benefits for the man's dependents, Mr. Shanks said.

"What's really scary is that we don't know how many (employers without workers compensation insurance) are out there," he admitted.

"It's cheaper for employers to take care of injured workers on their own than to insure. The only way we find out about a company that doesn't have workers compensation insurance is when they don't play ball and the worker complains to us," he added.

Indiana is without data processing or a cross-reference system to link the four state departments where employers register depending on their size and type of business.

Mr. Shanks hopes to get a microfiche index system to help the various agencies cross-reference employer information.

"We need to interface with other state agencies so we know when new businesses come into the state or when small 'ma and pa' type operations start up," he said.

The Industrial Commission will apparently have to get the job done alone.

The Indiana Department of In-

surance has no authority to check that employers have workers compensation insurance, said Helen Adrian, a deputy insurance commissioner.

The Indiana Chamber of Commerce is not even sure how many employers operate in the state. The Chamber figures there are 95,000 businesses in the state, compared with the 200,000 employers the Industrial Commission estimates are in the state.

There is no estimate on how many small or medium-size employers have neglected to buy workers compensation coverage.

Workers compensation insurance is statutory. Businesses employing one or more persons must purchase the coverage through conventional insurance methods or operate a state-approved self-insurance plan.

However, there is little incentive for employers to purchase the coverage since the law prescribes only a maximum \$500 fine for violators, Mr. Shanks said.

"Presently, we don't even have a slingshot to go after these guys, much less a big gun," he added.

"We're trying to prosecute, but this is not exactly a top priority item for state prosecutors who have murder and robbery cases pending.

"It's a very serious problem and it's a sign of the high unemployment and the bad economic times," said Mr. Shanks.

"A few guys will get together and start up an aluminum siding business and they may not think they need workers compensation insurance."

What's really frustrating, he said, is the lack of employee awareness about workers compensation and the coverage they're afforded under the law.

"We want to stimulate workers' knowledge so that they can ask their employer if the company is covered for workers compensation."

Formation of two captives proposed for black lung risks

Continued from page 2

A captive will not necessarily lead to lower costs, he says. The organizers are focusing their attention at this point on providing renewable coverage.

While surface coal mines "are presumed" to present less of a black lung risk than their deep mine counterparts, Mr. Densen says, they still entail some risks nonetheless.

SOIL must attract at least 11 owners before it will be operational. The organizers have received positive indications from nine and a number more are considering it, he says. The captive will write insurance only for its members.

Mr. Densen stressed that there are many details yet to be worked out and says the 11 or more owners will "ultimately decide how the structure will look." Such details include whether to reinsure the captive's activity and selection of a manager.

On the other hand, organizational details of the other captive, COAL, are "pretty well set" and await only a commitment from a sufficient number of prospective members, says Duane Allen, risk manager at Hanna Mining Co. in Cleveland and co-chairman of a steering committee set up to oversee the captive's development.

The 15-member steering committee is in the process of preparing its final feasibility study and drafting documents for membership in the black lung captive, Mr. Allen

says.

This should be completed by mid-December, after which a final draft will be sent to all committee members for their comments.

Mr. Allen hopes the committee can write up the final materials and have the captive ready to go by mid- to late January.

The policy form and rating plan already have been prepared, he adds, and the committee will have cost proposals ready for each company's mine by mid- to late January as well.

All that remains is approval from prospective members, and Mr. Allen gives the captive a "better than even chance" of reaching the operational stage.

"Pending approval from a number of companies, we could be in operation by March," he says.

Capitalization will be at least 10% of the insurer's annual premium, although the latter will depend on the number of member companies.

Mr. Allen could not say how many companies will be needed to form the captive. He did indicate, however, that membership will not necessarily be limited to the 15 members of the steering committee that have contributed \$10,000 each toward the feasibility study.

Any members who did not participate in the study would have to match the \$10,000 study fee and perhaps more, he says.

Mr. Allen identified the 15 companies as Eastern U.S. coal mining companies with deep-mining operations.

City's embezzlement losses probably will be covered

Continued from page 3
taken to plug the hole in this situation," says John E. McDermott, the city's director of risk management. "But I'm sure there is that opportunity in every income-producing area of city government."

Mr. McDermott said he became the city's risk manager three years ago. In that period, he said, he has not had time to focus on financial security questions because of more pressing concerns like insurance and employee benefits.

"It's a problem that the manager of revenue ought to do something about," he said told *Business Insurance*. "... We haven't gotten around to looking at security as far as the finances are concerned."

Milo E. Scram, the city's deputy treasurer and in charge of the Department of Revenue, says the audit systems in the department were adequate to ensure against fraud "but the procedures were being perverted."

"I feel betrayed by an employee, a friend," Mr. Scram said of Mr. Davey. "I worked with him for 18 years."

Under a municipal ordinance, Mr. Scram explained, companies that purchase materials in Denver pay the city's 3% sales tax on the items. But at the end of each year, those firms that used the materials outside the city can get a tax rebate by submitting bills of sale showing the taxes paid.

The department verifies the sales with the original vendor, Mr. Scram added, then issues a check for the refund amount.

Fewer than 200 such checks are issued each year, said Mr. Scram, mostly to building contractors. Most checks are in the \$300 to \$500 range, he added.

Each of the 20 checks alleged to have been fraudulently authorized and then cashed for Mr. Davey was in the \$20,000 range.

The final step in the refund process was a review by Mr. Davey of the refund documentation, said Mr. Scram.

Now, Mr. Scram is conducting the final review.

No refund records exist that verify issuance of checks in 19 of the 20 cases resulting in charges against Mr. Davey, Mr. Scram said.

In the 20th case, he added, the department has a letter from a company created by Mr. Davey requesting the refund and a letter from Mr. Davey back to the dummy company that notes that the department is returning the company's bills of sale and issuing a check.

Investigators have have a pretty good idea of Mr. Davey's assets, court documents reveal, because of a wealth of information they found in his office desk Oct. 28 after obtaining a search warrant.

An inventory of the desk's contents was filed in Denver County Court.

The city has filed a civil suit against Mr. Davey to recover the \$400,000 to \$600,000 if he is convicted. One question still unanswered is whether Hartford Accident & Indemnity would have a claim on Mr. Davey's assets if it pays losses under the honesty bond and excess coverages.

"That's a good question," Mr. McDermott said.

Hartford Accident & Indemnity would not be Mr. Davey's only creditor if it were to pay the insurance and then file a claim. The Colorado Department of Revenue filed a warrant in neighboring Arapahoe County District Court arguing that Mr. Davey owes \$21,698 in back state taxes, penalties and interest for the tax years 1979, 1980 and

1981. Although the Internal Revenue Service has announced no public action against Mr. Davey, authorities say the IRS generally considers ill-gotten income to be taxable.

Mr. Davey's arrest shocked city officials.

"You can have fail-safe things up and down the ladder, but if you have somebody in there who is clever enough... then it's a matter of dealing with human nature," Mayor William H. McNichols Jr. told a Denver newspaper following Mr. Davey's arrest.

"Somewhere up and down the line, if you can't trust people, these things are going to happen," he said.

"Fortunately, it doesn't happen too often."

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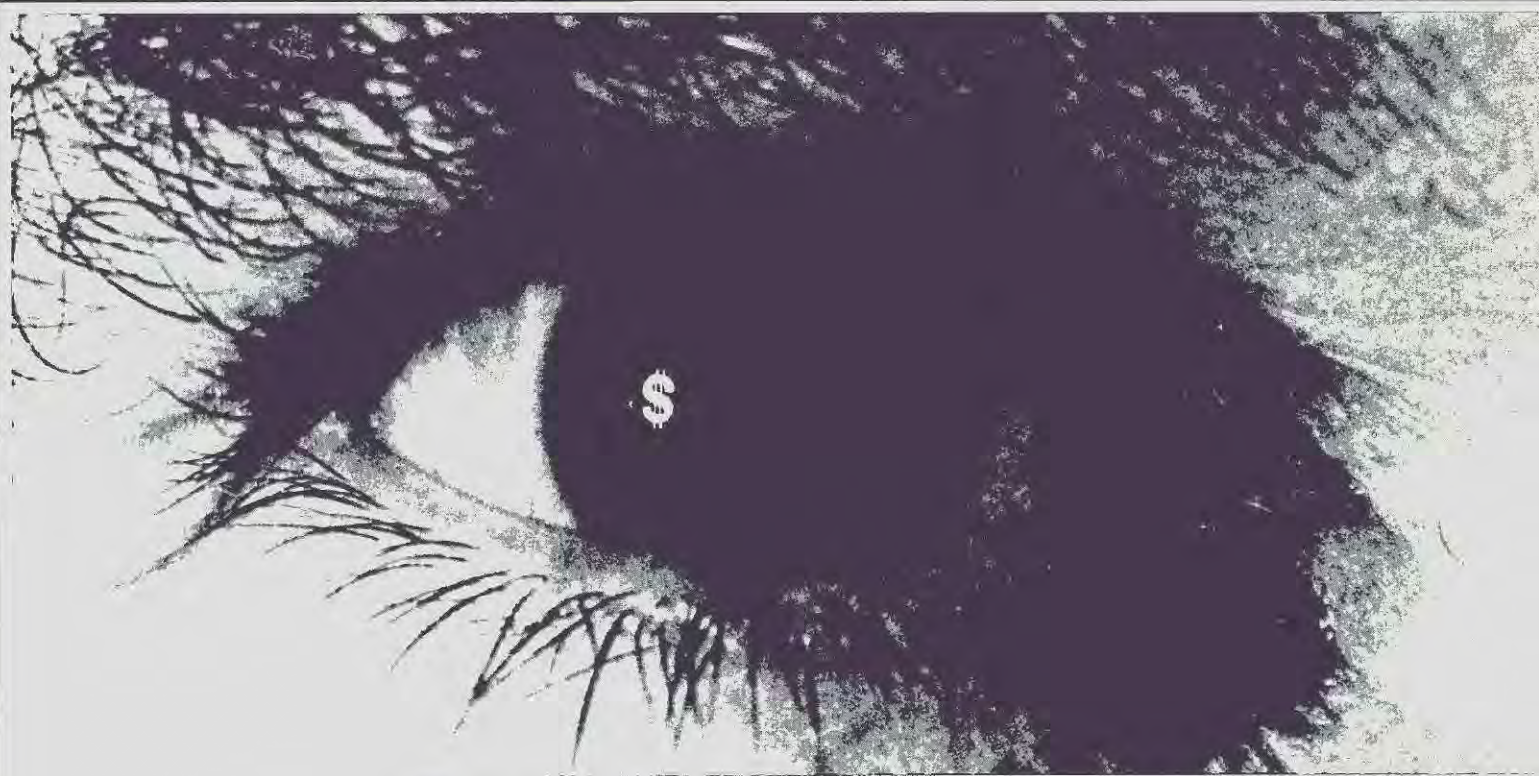


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Some tornado damage not insured

Continued from page 2

The airport's \$400,000 in property damages are insured by the city's \$47 million property coverage underwritten by The Home Insurance Co. and Employers of Wausau and brokered by Fred S. James & Co. The policy includes deductibles of \$10,000 and \$3,000 for the terminal building and cargo building, respectively.

Seven aircraft belonging to three air freight companies were also damaged or destroyed. Los Angeles-based Flying Tiger Lines, owner of a damaged DC-8, has property and business interruption losses estimated at \$2.5 million. Flying Tiger Lines spokesmen were unavailable for comment.

Smith Air, the owner of two twin-engine airplanes that were destroyed and three that were heavily damaged, is uninsured for damage and business interruption losses of about \$250,000.

Ronald Smith, owner of the air carrier, told *Business Insurance* he did not buy insurance for his planes because he felt he could self-insure the loss of one airplane and never expected a catastrophic loss.

An Eastern Airlines official says about 10 of its jets suffered damage to their

windshields from flying gravel and fuselage skins were damaged by the dislodged baggage cars and food service truck. Several jet engines also need replacing. Eastern's Ionosphere Club, a passenger lounge, was damaged by water from fire sprinklers set off by windstorms.

A Delta Air Lines spokesman says damage to 10 of its planes was confined to windshields and fuselage skins. He said he thinks the damage will be less than \$1 million.

Neither Eastern nor Delta have set final damage estimates for their jets or jets and neither would comment on insurance coverage.

But total damages to all facilities and aircraft will run into the millions, the airport spokesman says.

"Fortunately, no one was seriously hurt," he said. "We know of only one man who was hurt and he was treated and released from the hospital."

The man, an Eastern maintenance mechanic, crawled into the wheel well of a jet when the tornado struck.

His shoulder and back were wrenched, apparently from the effort of holding on against the wind.

Bahamas try to lure captives

NASSAU, Bahamas—A new Bahamas Insurance Act is being drafted as part of a package of incentives designed to attract captive insurance companies.

Among the revisions in the law, designed to make the Bahamas more attractive as a captive domicile, are:

- Clarification of the status of captives.
- Incorporation of the waivers and exemptions now granted non-resident insurance companies under separate legislation.
- Introduction of the same secrecy provisions in effect for banks and trust companies.

Prime Minister Lynden Pindling and a large delegation of insurance representatives, bank and trust company officials, accountants and attorneys will attend the Risk Planning Group's conference on alternative captive domiciles to be held Dec. 4 and 5 in Hollywood, Fla.

A new government brochure spelling out the advantages of a Bahamian domicile will be circulated at the meeting.

"We don't expect to steal any business from Bermuda, but there are a lot of companies looking for domiciles," says Charles Donaldson, manager of Bahamas Underwriting Services, the Charter Oil subsidiary that manages Charter's captives, New Providence Assurance Co., incorporated in the Bahamas, and St. Ives Assurance, a Cayman-incorporated company.

The drive to re-establish the Bahamas as an insurance center shifted into high gear about a year ago when the government became convinced of the potential benefits.

Close cooperation with the private sector has started to pay off.

Fred S. James & Co., the fifth-largest broker in the United States, and Wilden Associates of Jacksonville, Fla., have recently been licensed as co-brokers with Bahamas Underwriters to do third-party business in the Bahamas.

British-American Management Co., incorporated nearly two years ago as a subsidiary of British-American Insurance Co., signed on its first captive under management this year. President Justin Tierney describes it as an agency-owned captive.

By Jan. 1, British-American expects to have also set up one or more multiple-owner insurance companies that by Internal Revenue Service definition would not be classified as a controlled foreign corporation.

Most of the problem in the past has been the country's 12-year-old insurance legislation which did not expressly exempt from taxes companies insuring only non-Bahamian risks.

The regulations were amended three years ago to provide the tax break, but there was little response until the government started promoting the Bahamas.

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Pregnancy benefits can differ: Judge

Continued from page 1

pany to be totally disabled to be eligible for extended medical benefits.

Rather than assume the cost of providing extended medical benefits to all employees leaving the company for whatever reason, Joslyn discontinued extended medical benefits for female employees who quit work while pregnant.

Providing extended benefits for all other medical conditions occurring after an employee left on the same basis as Joslyn provided extended pregnancy benefits "would have been unprecedented, impractical and prohibitively expensive," according to an affidavit filed by Lewis Jacobson, the company's personnel manager.

However, the company continued to provide extended pregnancy benefits for spouses of male employees who left the company, reasoning that the women could not obtain coverage under their husbands' new health plans.

The EEOC filed suit against Joslyn charging that the company discriminated against female employees because it provided extended

benefits to spouses of male employees, but not to female employees.

As a result, female employees received a less favorable medical benefit package than male employees, a violation of the Civil Rights Act of 1964, EEOC said.

In addition, EEOC said Joslyn discriminated against male employees because it didn't provide the same hospital benefits for pregnant wives of male employees as it provided for other hospital expenses incurred by spouses of female employees.

For example, under a group health insurance program written by Equitable Life Assurance Society, Joslyn pays 100% of the first \$400 of hospital expenses of spouses of female employees and 80% of all expenses over \$400.

However, it places a \$400 benefit cap on the hospital expenses for pregnancies of wives of male employees.

According to Mr. Jacobson's affidavit, Joslyn would have to spend an additional \$235,000 to cover pregnancies among spouses on the same basis as any other illness. This added cost would force the com-

pany to reduce other benefits.

EEOC said that provision discriminated against male employees, a point Judge Parsons refused to uphold.

"Congress did not intend for this

legislation to be a catchall provision to provide benefits to all women including wives of working men," Judge Parsons said.

"For this court to interpret the PDA as applying to wives of male

employees would stretch the language impermissibly beyond its plain meaning thus distorting the intent of Congress."

EEOC has asked Judge Parsons to reconsider his decision. ■

Warning sounded on cash-flow plans

Continued from page 1

Mr. Damon also emphasized that the department will prosecute other illegal practices that undermine the minimum rate law. These include inadequate premium deposit collection, depression of estimated annual payroll and unlawful dividend practices.

The department's pointed support for the minimum rate law is interpreted by some insurers, which dislike cash-flow plans, as a criticism of those plans. They argue that cash-flow plans discount the minimum rate and give an unlawful rebate to the policyholder.

Insurers' reactions to the commissioner's letter correlate greatly with their view toward cash-flow plans. Proponents believe the letter merely reinforces earlier department policy. Opponents claim it signals impending victory for their position.

"The letter changes nothing—it merely admonishes everyone to be in compliance," sums up Creighton White, senior vp of Fireman's Fund Insurance Cos., a strong supporter of cash-flow plans.

Mr. White said he was slightly mystified by the investment earnings standard for deferred pre-

mium interest rates referred to in Quinn's letter. The discount rate proposed by the rating bureau has the advantage of being easy to administer, he said.

But quibbling over interest rates is a camouflage for insurers that oppose cash-flow plans across the board, he added.

"This letter won't make any difference," agrees another insurance company executive who favors cash-flow plans as a competitive tool. "Insurers should be charging a reasonable amount of interest—whether it is the discount rate or investment earnings."

But opponents of cash-flow plans, who say they threaten insurer solvency and payment of benefits to injured workers, attach more significance to the commissioner's letter.

"I commend Commissioner Quinn on his stand supporting the minimum rate law," declared Ralph Leatherby, president of the Unicore Insurance Co. "If insurers do not collect interest with the premium, they are discounting the minimum rate."

One insurance company chief, who asked not be identified, opined that if the commissioner follows through with statements in his letter, all "cash-flow plans will virtually be eliminated."

Although much of the controversy about the plans seems to focus on the amount of interest that should be charged, critics of the plans say that some companies do not collect interest at all.

They reduce interest charges by the amount of the dividend return paid to policyholders one to three years after the end of the policy period.

"I think the letter is very significant," said the president of a California workers compensation specialty insurer who opposes cash-flow plans that offer "below-market rate" loans to policyholders.

But no one step will cause violators to get religion, he said. The commissioner will have to show he means business by citing violators. The letter eliminates the notion that the federal reserve discount rate is fair, said the executive. "Corporations cannot borrow at that below-market rate." But he pointed out that cash-flow plans could still be attractive for borrowers whose cost of funds is higher than their insurers' current return on new money. ■



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Business Insurance

Circulation Breakdown*

Commercial Consumers

Administrative Management: owners, presidents, vps, etc.		6,635
Financial Management: chief financial officers, vps of finance, secretaries, treasurers, etc.		9,335
Insurance Management: vps, directors, managers of insurance, risk, benefits, compensation, safety, security, etc.		5,112
Government, Associations, Unions, Educational Institutions		952
Commercial Consumers Sub-total		22,034
Insurance Agents & Brokers		9,486
Insurance Cos.		4,486
Financial Institutions		292
Actuaries, Attorneys, Adjusters, Appraisers & Consultants		2,135
Others allied to the field		752
TOTAL		39,185

*Source: Business/Occupational breakdown of qualified circulation, May 4, 1981 issue, as submitted to BPA for June 1981, BPA Publisher's Statement.

Computer coverage still has some bugs

Continued from page 1

These examples are not necessarily far-fetched. Recently, the Strategic Air Command ordered bomber crews to start engines and prepare to take off when a display terminal erroneously showed a submarine-based missile launch destined for the United States.

Computer software firms sued in these kinds of indirect situations could be found liable under product liability, which is excluded under most errors and omissions policies, according to Mr. Freed.

But because of the nature of software, some experts also say there would not even be coverage for bodily injury and property damage under a product liability, comprehensive general liability or completed operations policy.

"In the opinion of many, software is not a 'product' as defined in the CGL policy nor is a (computer) system an 'operation,'" said Mr. Webster of Frank B. Hall in a speech before a joint meeting of the Chartered Property & Casualty Underwriters and the Risk & Insurance Management Society of Massachusetts.

"A software error due to a sys-

tems analysis error, a systems design error or a coding (programming) error causing a bodily injury, property damage or delay loss mostly likely would be excluded under a CGL policy because the loss is due to a design error, not a defect in the software system."

"Policyholders are liable to be trapped one way or the other," Mr. Freed says.

Both Mr. Freed and Mr. Webster say insurers and the computer software industry are unaware of the implications of their insurance contracts.

"There's very little awareness on the part of consumers, lawyers and vendors," Mr. Webster points out.

"There's a pervasive ignorance on the part of business which doesn't take time off to assess its exposure. They hate like hell to focus on this to try to buy insurance and recognize the risk," Mr. Freed adds.

While there have been few suits for product liability against a software manufacturer—most are brought on the basis of breach of contract—the increased use of computer technology almost assures there will be more.

According to Mr. Webster, there are more than 100,000 customers for more than 11,000 pre-packaged software programs. The cost of software exceeds 50% of the cost of installing an electronic data processing system.

Software manufacturers and consultants, however, are not worried.

"Right now, that is not a concern of the industry," says Steven Epner, president of the Independent Computer Consultants Assn. based in St. Louis. "It's mostly an ancillary thing."

Mr. Epner says that the software programmer would be a remote party to any lawsuits and that the burden of inspections often falls upon the purchaser to test the program and make sure it is adequate.

Even those in highly scientific fields, in which the danger of

bodily injury and property damage looms the greatest, don't feel the danger of liability is great, he says.

William Herman, a spokesman for Hughes Aircraft Co. in Los Angeles, which designs computer software used in defense equipment, said the company "hasn't had any addressing of the problem."

"It has not come up with regard to the defense contracts we're involved in," he said.

Others believe that comprehensive general liability policies would cover bodily injury and property damage resulting from software design errors.

"One or the other will have to cover it," said Mike Rekruciak, manager of the professional liability department at brokerage Alexander & Alexander in Chicago. He emphasizes, however, that software specialists should "make sure the

policy covers what you want to cover, that it covers the particular work done."

Mr. Webster and Mr. Freed advise that software producers make sure bodily injury and property damage losses are not excluded from their errors and omissions policies.

"Many policies are written from an antiquated point of view," Mr. Freed says. "They are written in terms of concepts that are outmoded in light of the advances in computer technology."

"I feel we must get away from the rigid, old-fashioned policies and give broader coverage to cover liability for that imposed by the courts."

Insurance companies, he says, should "get off their duffs" and offer policies without the hidden traps.

Con Ed may be held liable

Continued from page 3

sultants Inc. in New York.

The next \$19 million in excess is carried by Lloyd's and other British companies. According to a spokesman for Con Ed, another \$30 million over the first \$20 million is shared by Lloyd's, American Centennial Insurance Co. of Morristown, N.J., Lexington Insurance Co. of Boston, American Home Assurance Co. of New York and approximately 30 other companies.

Yet, American Centennial, which is now involved with AEGIS, and American Home both deny having insured Con Ed during the blackout. Lexington would not comment.

This roster has changed over the years. Because of the blackout, the \$30 million layer was canceled in January 1978. Since then, Con Ed apparently has rebuilt its third-

party liability coverage to a much higher level.

American International Group's National Union Fire Insurance Co., for one, carries the top layer of \$50 million in excess of the first \$150 million on a liability policy running to April 1982 from 1980, according to Robert Pinto, the division manager for umbrella and excess coverage. This coverage does not extend to pre-1980 incidents.

Asked to comment on the adequacy of Con Ed's blackout coverage, Robert Lee, vp and manager of Alexander & Alexander's boiler and machinery department, suggests that a \$200 million to \$500 million pool applicable only to third-party blackout and brownout losses makes the most sense. Such a pool would combine the risks of many utilities and take advantage of what is still a soft market.

UMW supports black lung bill

Continued from page 2

prove that the miner's death was caused by black lung if a miner dies while collecting black lung benefits.

In addition, the affidavit of a miner's widow would no longer be sufficient to establish disability or death due to black lung. Only neutral third-party affidavits would be acceptable in cases where medical evidence was not available.

The measure would reduce a disabled miner's black lung benefits by a portion of his other earnings in cases where the miner can assume another job.

The bill also would mandate the

secretary of labor and the secretary of health and human services to launch a study of medical methods now used to diagnose black lung disease; the report would be submitted to Congress within 18 months of the legislation's enactment.

In addition, the administration's proposal would double the tax that coal mine operators pay on mined coal (BI, Oct. 19).

Coal operators would pay 50 cents to the fund for each ton of surface-mined coal, up from 25 cents. The tax on underground coal would rise to \$1 per ton, an increase from 50 cents.

Errant North Sea oil platform covered

LONDON—High winds and roaring seas endangered some of the insured oil rigs in the North Sea last week.

One U.S.-operated oil production platform broke loose near where the Alexander Kielland sunk last year and headed toward a Danish gas field.

All but 22 of the 70 rig workers were lifted off the Transworld 58 rig as Hamilton Brothers Oil & Gas Ltd., the rig owner, tried to steer the runaway rig from the Danish field.

The \$50 million platform was insured for any collision by two Norwegian protection and indemnity clubs, said Howard Wyatt, director

of risk management and benefits for Hamilton Brothers, headquartered in Denver.

The two P&I clubs—Assuranceforeningen Gard Gjensidig and Assuranceforeningen Skuld Gjensidig—insured the platform for more than \$50 million for loss of life to crew, third-party liability and damage to other property.

"It will cover the worst disaster you can think of like the rig running into the Danish field," Mr. Wyatt said.

A property policy insured in part by American International Group will pay for the reanchoring of the North Sea platform, Mr. Wyatt explained.

Software firms discover E&O cover

Manufacturers and designers of computer software are discovering insurance and loss prevention—just in time.

Software includes the instructions that tell the computer what to do with the data it has. Since the early days of computers, software designers have pictured themselves outside most liability problems.

But their liability is growing, experts say.

"Computer systems will increasingly be highly visible, directly accessible, distinct but integral parts of businesses, known to and directly affecting customers," said Daniel T. Brooks, an expert on computer law in Springfield, Va.

"That means that claims against their manufacturers, distributors, owners and operators based on errors and omissions by such systems generally will increase," he said.

"In short, there is an increasing likelihood of accidents involving incompetent specialists and aware claimants, thus increasing the likelihood of malpractice claims against the specialist."

Errors and omissions insurance is the first step in protection. Available since the 1950s, computer software E&O insurance is underwritten by at least five U.S. insurers and Lloyd's of London.

Admitted insurers offering the coverage include St. Paul Fire & Marine Insurance Co., Fireman's Fund Insurance Cos., National Union Fire Insurance Co. and the Chubb Group.

Shand, Morahan & Co. in Evanston, Ill., an underwriting management firm, underwrites the coverage for various other insurers. Computer specialist E&O policies are also available in the surplus lines marketplace.

Although coverage availability is growing, many computer firms still ignore the need.

"A lot are not buying it yet. As more get sued and a hold-harmless agreement (inserted by some companies into contracts to limit liability) does not hold up, more and more will be buying policies," notes National Union Assistant Vp Raymond Wahl.

One group that recently considered errors and omissions coverage was St. Louis-based Independent Computer Consultants Assn. According to Steven Epner, president of the 700-member association, they started looking for a policy 2½ years ago.

At the time, they found that insurers were reluctant to cover computer consultants. The insurers claimed they didn't like to insure doctors who are well-regulated and were even more reluctant to insure

computer consultants who aren't regulated at all, Mr. Epner says.

"We found a number of companies who said they would insure data processing in terms of a service bureau, but found very few that were willing to insure program design, program development or consultants."

The atmosphere has changed, however, although Mr. Epner believes that premiums are still high for the risk involved.

The policy forms do vary. Virtually all insurers selling the coverage will insure service bureaus, those companies that take information and process it for others.

The policies generally cover negligence associated with errors or omissions only and are not responsible for fraud, theft or other intentional acts.

E&O policies also exclude bodily injury and property damage claims (see related story).

Some insurers offer broader coverage. National Union's policy is "broad enough to protect data processing firms, programmers and computer consultants, basically all of the service bureau industry," Mr. Wahl says.

Deductibles generally range from minimums of \$1,000 to \$10,000 but can climb into the hundreds of thousands of dollars. Policy limits vary from \$1 million to \$25 million and premiums can be as low as \$272 for small consultants.

Underwriters will generally want to know what type of data is being processed, what kinds of services are being performed, how experienced is the staff, what type of equipment the staff is using, how long the company has been in business and how frequently employees leave the firm.

Although all software profes-

sionals should probably buy errors and omissions insurance, contract provisions that limit liability can reduce losses and help keep insurance costs down.

Mr. Epner says that the most important thing for a risk management program is to be "brutally honest with yourself in terms of what you can and can't do."

If a consultant is asked to design an online data base and has never done it, he shouldn't do it, he says.

A consultant should also make sure that the business manager making a software purchase makes the final decision himself without badgering by the consultant. The client should know what he is getting for the company's money.

Mr. Epner also recommends that a computer consultant use client-chosen test data to test a system and prove that it works. The test can eliminate problems before they cause losses.

Computer companies can also try to limit liability in contracts with purchasers.

Many companies require purchasers to waive their rights to liability actions or limit damages that will be paid in case something goes wrong. Whether such waivers will stand up in court, however, is uncertain.

Associated Data Processing Service Organizations provides a "contracts reference directory" that gives alternative clause formats that companies can build into contracts to suit their own needs. It provides a way for a company to sit down with a client and negotiate cost, time and other essentials.

"The best thing we can tell people is to get it in writing," so everyone understands what is happening, says Dave Sturtevant, a spokesman for ADSPO.

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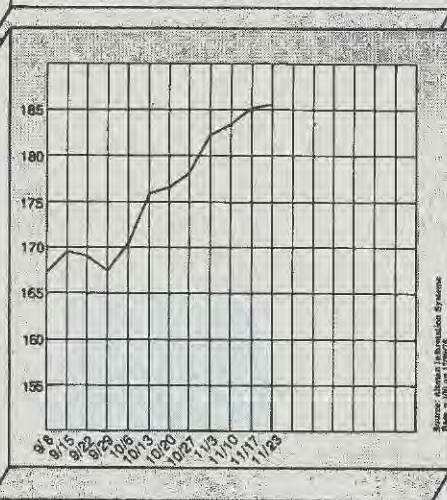
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BI Insurance Index



Insurance industry stocks advanced slightly last week, pushing the *Business Insurance* stock index up 0.1 point to 185.3 from 185.2. However, declining issues outnumbered gainers 32 to 26. Fifteen stocks were unchanged. Stocks posting the largest advances were: Tokio Fire & Marine Insurance Co., 10.3%; Aneco Reinsurance Ltd., 10%; Avemco Corp., 7.9%; American Bankers Insurance Group, 6.9%; and General Reinsurance Corp., 5.1%. The biggest losses were suffered by: Crown Life Insurance Co., 9.6%; Banks Iowa Inc., 7.4%; United Services Life Insurance Co., 6%; American National Insurance Co., 3.6%; Frank B. Hall & Co. Inc., 3.4%. The 0.07% index increase fell behind the major market indicators.

British Issues

11/23	Price	P/E	Div.	Yield	High—Low
Companies	pence	pence	%	pence	pence
Comm Union	127	8.4	16.07	12.8	134—121
Eagle Star	318	10.2	21.43	6.7	315—310
Genl Accident	344	8.0	21.07	6.2	350—342
Gdn Royal Exch	316	8.3	23.21	7.5	320—308
Phoenix	260	8.5	22.43	8.6	262—252
Royal	365	9.8	35.00	9.6	370—357
Sun Alliance	905	9.0	53.57	5.9	930—900

Brokers	Price	P/E	Div.	Yield	High—Low
CE Heath	310	11.3	15.00	4.8	310—302
Hogg Robinson	108	8.6	8.57	7.9	109—108
Alex Howden	144	11.1	10.71	7.4	144—142
JH Minet	140	11.7	6.80	4.8	140—138
Sedg Grp	144	10.6	7.50	5.2	144—141
Stenhouse Hldg	94	8.6	6.64	7.1	95—94
Stew Wrightson	222	11.1	17.14	7.7	225—222
Willis Faber	382	13.2	17.85	4.7	382—378

Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kitcat & Aitken Stockbrokers, London

Insurers weathered the woes of the soft market last quarter

By MYRON M. PICOULT
Special to Business Insurance

THE THIRD QUARTER for the property/casualty industry was "supercalifragilisticexpialidocious"!

Loss ratios did not deteriorate as much as expected, since storm losses were below year-ago levels; expense ratios were held in reasonably good check, perhaps because of cost-control measures; and net investment income continued to grow at a stronger-than-expected pace, as yields more than offset the declines in cash flows.

As a result, operating earnings for our survey of major insurers actually grew 2.6% for the third quarter.

As has been the case all year long, there were wide variations among the companies' results. Nonetheless, we are seeing a very subtle thread in industry underwriting results. Those companies that have been keeping their rates at respectable levels and apparently not compromising their underwriting standards are beginning to move away from the crowd.

Perhaps we are finally beginning to separate the men from the boys.

Once again, premium growth was virtually negligible and evidence continues to mount that a cash-flow squeeze is in the offing. Written premiums increased by a meager average of 0.2%. Of greater significance is that this trend has endured for the past six quarters.

Of the 16 property/casualty companies surveyed (which account for approximately 42% of total stock industry volume), seven com-

Myron M. Picoult is a vp and senior insurance analyst with Oppenheimer & Co. in New York. He is the past president of the Assn. of Insurance & Financial Analysts and a member of the New York Society of Security Analysts. His column for *Business Insurance* appears the fourth Monday of every month.



Mr. Picoult

BI ticker

panies posted premium gains above the average in the third quarter, one company was even with the average and eight companies reported premium gains below the average. Personal or commercial lines orientation did not have any particular bearing on overall premium trends.

The sluggish premium growth evident in the third quarter is a further reflection of the soft market environment that has existed for many months. The volume gains for individual companies is also indicative of the various operating postures managements have taken.

The third-quarter combined ratio (after policyholder dividends) for the companies surveyed edged up to 103.6%, compared with 102.5% a year ago. For the nine months ended Sept. 30, the aggregate combined ratio was 103.7%, compared with 101.7% a year ago. For the third quarter, the expense ratio accounted for 0.6% of the increase and the loss ratio 0.5% of the increase. In the first nine months, the expense ratio edged up 0.7% and the loss ratio rose 1.3%.

For the quarter, seven of the companies posted combined ratios above the average, two were even with the average. Those companies with a personal lines orientation continued to outpace their property/casualty counter parts, which isn't a surprise. The sole exception to this trend was American International Group.

Pretax net investment income for the companies surveyed rose 18.8% in the quarter. Admittedly, this figure is somewhat distorted by the gains posted by Aetna Life & Casualty and SAFECO over aberrant quarters during 1980. Nonetheless, it is evident that high yields have proven to be an effective offset to declining cash flows.

It is interesting to note that within the crisis environment that existed in 1974 and 1975, management suites were the sites of sessions dealing with what premium volume to cut, what agencies to eliminate, how to most effectively control expenses and the

most expedient means available to boost the surplus account.

Today, the discussions are apparently revolving around the structural changes that are taking place in the industry. While the underwriting side is not being totally ignored, we sense there is complacency in some quarters.

It is ironic that this complacency can lead to the demise of those companies that seem to be most concerned with these changes. Companies that disregard intelligent pricing and the adherence to rational underwriting standards may find investors becoming disenchanted with their equities to the point of liquidating their holdings. This, of course, could be an open invitation to a suitor who has an interest in expanding or diversifying into the financial services field.

The performance of property/casualty equities thus far this year has been nothing short of phenomenal. The obvious question is what to do with the stocks now? To be sure, underwriting results are sure to deteriorate further in the near future. If nothing else, investors should realize that while there are 365 days a year, there is only one Dec. 31. We could see some reserve surprises from companies that either recognize that they have not towed the mark and from those that simply want to protect themselves as they go into 1982, given the good results they have posted thus far in 1981.

Notwithstanding the downward trend of the underwriting cycle, we continue to believe that the performance of property/casualty stocks will be strongly influenced by the perceptions of the value of holding a financial asset and the structural changes taking place in the industry—specifically the possibility of further consolidations.

Financial briefs

Washington National

Washington National Corp. reported net income of \$8.39 million in the third quarter, compared with \$8.63 million in the third quarter of 1980. Premium income decreased to \$168.99 million from \$178.25 million.

Ryan Insurance Group

Ryan Insurance Group Inc. and its subsidiaries reported net income in the third quarter of \$2.57 million on total revenue of \$59.54 million, compared with net income of \$2.74 million on revenue of \$44.09 million in the third quarter of last year.

For the first nine months, Ryan posted net income of \$6.86 million on revenue of \$152.09 million, compared with net income of \$7.09 million on revenue of \$135.1 million in 1980.

Excelsior Insurance Co.

Excelsior Insurance Co. of Syracuse, N.Y., reported net income of \$734,000 on net premium income of \$7.93 million in the third quarter. That compares with net income of \$472,000 on net premium of \$6.59 million in last year's third quarter.

For the first nine months, Excelsior reported net income of \$1.22 million on net premium of \$21.32 million, compared with net income of \$472,000 on net premium of \$6.59 million.

Reliance Group

Directors of Reliance Group Inc. and Leasco Corp. have approved an amended offer from Leasco and Reliance Chairman and President Saul P. Steinberg and members of his family to take complete control of the companies.

Shareholders of both companies will meet Jan. 7 to consider the \$530 million cash and securities offer. The offer requires majority approval by shareholders of both companies, excluding those shares controlled by Mr. Steinberg and his family.

BI Industry Stock Report

NOV. 23, 1981										11/18/81 THRU 11/23/81									
Insurance Cos.										NOV. 23, 1981									
	Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low	Vol. (000)		Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low	Vol. (000)		
Aetna Life & Cas Co	NYSE	44.50	0.0	7.5	2.32	5.2	44.75	44.50	383.8	Travelers Corp	NYSE	46.75	-3.6	5.5	2.88	6.2	47.88	46.75	120.1
American Bankers Ins Group	OTC	7.75	6.9	8.2	0.48	6.2	7.75	7.38	128.0	United Fire & Cas Co	OTC	34.50	4.5	9.0	1.00	2.9	34.50	34.50	0.6
American Gen Ins Co	NYSE	43.75	0.0	6.4	2.00	4.6	44.25	43.75	50.4	United States Fid & Gty Co	NYSE	42.75	-1.2	7.0	3.20	7.5	43.25	42.63	68.6
American Indty Finl Corp	OTC	15.25	0.0	6.4	1.12	7.3	15.38	15.25	7.9	United Svcs Life Ins Co	OTC	15.75	-6.0	6.1	1.00	6.3	16.75	15.75	29.0
American Intl Group Inc	OTC	64.75	-1.1	11.2	0.40	0.6	65.25	64.75	203.7	USlife Corp	NYSE	23.25	4.5	5.5	0.80	3.4	23.63	22.50	78.4
American Natl Ins Co	OTC	13.38	-3.6	5.7	0.76	5.7	13.75	13.38	28.6	Washington Natl Corp	NYSE	18.63	-3.2	5.6	1.08	5.8	19.25	18.63	39.0
American Sts Life Ins Co	OTC	16.50	-2.9	5.3	0.72	4.4	17.00	16.50	0.2	Zenith Natl Ins Corp	OTC	15.30	-1.6	8.1	0.60	3.9	15.75	15.50	9.3
Aneco Reins Ltd	OTC	2.75	10.0	0.0	0.00	0.0	2.75	2.75	13.2	INSURANCE COMPANIES									
Appalachian Natl Corp	OTC	2.31	0.0	0.0	0.00	0.0	2.31	2.31	0.9	AVERAGE	6.3			4.0					
Avemco Corp	AMEX	10.25	7.9	7.0	0.50	4.9	10.25	10.00	8.2	Agents/Brokers									
Banks Iowa Inc	OTC	43.50	-7.4	6.3	1.84	3.3	47.00	43.00	19.1	Alexander & Alexander Svcs	OTC	28.75	-2.5	10.1	1.84	6.4	29.25	28.75	78.3
Bitco Corp	OTC	40.25	3.2	4.8	2.16	5.4	40.25	39.75	2.4	Baldwin & Lyons Inc	OTC	31.50	0.0	5.5	0.80	2.5	31.50	31.50	0.2
Carolina Cas Ins Co	OTC	6.75	0.0	6.8	0.32	4.7	6.75	6.75	0.0	Corroon & Black Corp	NYSE	20.25	0.6	12.0	1.76	8.7	20.25	20.13	6.0
Central Natl Finl Corp	OTC	32.25	1.6	10.5	0.65	2.0	32.25*	31.75	0.5	Crump & H Cos Inc	OTC	11.63	-3.1	13.7	0.40	3.4	11.63	11.63	10.9
Chubb Corp	OTC	51.75	0.2	6.4	2.68	5.2	52.38*	51.75	162.7	Hall Frank B & Co Inc	NYSE	28.63	-3.4	10.8	1.66	5.8	30.00	28.63	99.2
Combined Intl Corp	NYSE	23.63	1.6	6.1	1.80	7.6	23.63	22.88	52.5	Integrated Res Inc	AMEX	16.13	0.8	6.6	0.00	0.0	16.25	15.13	24.5
Connecticut Gen Ins Corp	NYSE	54.25	-2.3	6.9	1.76	3.2	55.25	54.25	312.7	James Fred S & Co Inc	NYSE	24.75	-2.5	11.6	1.60	6.5	26.00	24.75	45.5
Continental Corp	NYSE	26.75	1.4	8.4	2.40	9.0	26.88	26.25	92.8	Marsh & McLennan Cos Inc	NYSE	35.25	-0.7	11.3	2.00	5.7	35.75	35.25	270.8
Crawford & Co	OTC	15.75	1.6	12.2	0.52	3.3	15.75	15.50	2.1	Peacock Finl Inc	NYSE	6.00	0.0	8.7	0.16	2.7	6.13	5.88	119.6
Crown Life Ins Co	OTC	80.00	-9.6	8.7	2.80	3.5	88.50	80.00*	0.4	Pinehurst Corp	OTC	8.50	-1.4	0.0	0.00	0.0	8.63	8.50	5.6
Crum & Forster	NYSE	32.75	-2.2	5.4	1.64	5.0	33.38	32.63	123.3	Poe & Assoc Inc	OTC	10.00	0.0	8.7	0.80	8.0	10.00	10.00	2.4
Employers Cas Co	OTC	34.00	-1.4	5.4	1.20	3.5	34.50	34.00	2.5	Reed Stenhouse Cos Ltd	OTC	11.50	1.1	9.1	0.60	5.2	11.50	11.00	2.8
Equifax Inc	NYSE	22.88	1.7	5.1	2.40	10.5	23.25	22.88	7.4	Rollins Burdick Hunter Co	OTC	22.50	-2.2	12.9	1.32	5.9	23.00	22.50	21.9
Excelsior Ins Co	OTC	16.75	0.0	14.4	0.70	4.2	16.75	16.75	0.1	CONGLOMERATES/HOLDING COS.									
Farmers Group Inc	OTC	31.75	0.0	9.3	1.12	3.5	32.88	31.75	235.0	American Express(Fireman's Id)	NYSE	46.50	0.5	8.3	2.00	4.3	46.50	45.50	436.5
First Colony Life Ins Co	OTC	57.50	0.0	16.3	1.00	1.7	57.50	57.50	0.8	Anderson Clayton(Ranger/Panvsn)	NYSE	25.63	-1.4	5.3	1.20	4.7	25.75	25.25	15.2
Foremost Corp Amer	OTC	29.75	4.4	8.4	0.80	2.7	29.75	28.50	5.0	Armco Inc	NYSE	26.88	4.4	3.1	1.80	6.7	26.88	25.75	179.7
Great West Life Assurn Co	OTC	240.00	-0.4	8.9	10.00	4.2	241.00	240.00	0.1	City Investing Co. (Home Ins.)	NYSE	23.25	4.5	6.7	1.60	6.9	23.25	22.75	252.2
Hanover Ins Co	OTC	35.50	-1.4	4.3	0.72	2.0	36.00	35.50	19.8	CNA Finl Corp (CNA)	NYSE	13.50	1.9	5.6	0.00	0.0	13.63	13.50	6.3
Hartford Steam Boiler Insn	OTC	45.00	-1.1	7.9	2.60	5.8	45.50	45.00	2.0	Control Data (Comm. Credit)	NYSE	38.38	-1.0	9.0	0.50	1.3	38.63	37.00	467.3
Jefferson Natl Life Ins Co	OTC	33.75	-2.2	19.4	0.64	1.9	34.50	33.75*	2.3	General He Corp	NYSE	87.00	5.1	11.1	1.76	2.0	87.00*	83.75	112.8
Kemper Corp	OTC	34.00	1.5	5.3	1.60	4.7	34.00	33.50	21.5	Gulf Wtd Corp	NYSE	20.25	-1.2	7.0	1.32	6.5	20.25	19.88	494.6
Lincoln Natl Corp Ind	NYSE	42.00	-1.2	6.5	3.00	7.1	43.00	42.00	77.7	INA Corp (Ins. Co. of NA)	NYSE	47.38	-1.3	6.6	2.40	5.1	48.00	47.38	710.2
Mgic Invst Corp	NYSE	39.38	-0.3	9.8	1.28	3.3	40.38	39.38	393.8	ITT (Hartford Group)	NYSE	29.13	0.9	7.7	2.68	9.2	29.13	28.88	659.1
Mission Ins Group Inc	NYSE	37.13	3.8	6.5	1.00	2.7	37.38	35.50	103.1	Optimum Hldy Corp	OTC	11.00	0.0	14.1	0.00	0.0	11.00	11.00	10.2
Nationwide Corp Ohio	OTC	24.63	0.0	7.6	0.70	2.8	24.63	24.63	4.1	Reliance Group Inc	NYSE	98.00	5.4	10.6	3.00	3.1	98.00	94.00	62.6
Northwestern Natl Life Ins	OTC	22.75	-1.1	4.9	1.36	6.0	22.75	22.63	18.2	Sears Roebuck & Co. (Allstate)	NYSE	16.63	-3.6	8.3	1.36	8.2	16.75	16.63	662.7
Ohio Cas Corp	OTC	46.00	4.0	7.0	2.04	4.4	47.50*	46.00	141.5	Baldwin Wtd Corp	NYSE	53.50	-2.1	9.2	1.60	3.0	55.00	53.50	37.3
Old Rep Intl Corp	OTC	20.00	1.3	4.8	0.92	4.6	20.13	19.88	82.9	Teledyne Inc (Argonaut)	NYSE	145.38	0.4	7.5	0.00	0.0	147.75	142.00	275.1
Preferred Risk Life Ins Co	OTC	21.00	0.0	5.6	0.80	3.8	21.00	20.75	4.5	Transamerica Corp (Occidental)	NYSE	23.50	0.5	6.8	1.40	6.0	23.63	23.38	197.4
Provident Life & Acc Ins Co	OTC	52.50	1.0	6.9	2.20	4.2	52.50*	52.00	8.2	CONGLOMERATES/HOLDING COS.									
Ryan Ins Group Inc	OTC	18.25	-1.4	7.9	0.12	0.7	18.50	18.25*	1.9	AVERAGE	7.7			3.2					
St Paul Cos Inc	OTC	51.75	-1.7	9.4	2.32	4.5	52.88*	51.75	178.3										
Safeco Corp	OTC	38.75	0.0	7.4	2.20	5.7	39.75	38.75	77.2										
Sri Corp	OTC	23.25	-1.1	4.6	1.00	4.3	23.25	22.50	48.2										
Seibels Bruce Group Inc	OTC	26.13	-1.9	14.7	0.80	3.1	26.88	26.13	23.1										
Statesman Group Inc	OTC	6.63	-3.6	5.8	0.15	2.3	6.88*	6.63	12.6										
Tokio Marine & Fire Ins Co	OTC	125.50	10.3	10.0	1.00	0.8	125.50	114.00	12.3										

How The Hartford protects your world: a series.

"Now The Hartford offers a true two-year rate guarantee on Group Life and LTD plans."

*An interview with
Ray Drury, Assistant
Vice President, Group
Sales Department,
The Hartford.*

Q. What groups are eligible for The Hartford's two-year rate guarantee on Group Life and LTD plans?

A. Our two-year rate guarantee is standard for groups of 10 to 99 employees and is available on a selected basis on larger risks.

Q. What is the primary benefit to policyholders of a two-year rate guarantee?

A. Basically, it helps policyholders accurately predict their costs so they can plan and project budgets realistically. This is an important advantage.

Q. What is the primary benefit to agents?

A. The two-year rate guarantee helps agents obtain new business. And since first-year renewal activity is eliminated, other client needs can be better served.



Q. How does the rate guarantee work?

A. It becomes effective on the date The Hartford's Group Life/LTD plan is effective and runs for the first two years the policy is in force.

Q. Is the rate guarantee affected by first-year experience or changes in group makeup?

A. No. The rate guarantee is not qualified by first-year loss levels or changes in employee age, income level, or male/female mix. The rate is subject to change only if benefits are changed or if the

group changes substantially—through merger or acquisition, for example.

Q. How can employers and Group Benefit Managers find out more about The Hartford's Group Life and LTD programs?

A. They can call or write Group Sales at any Hartford regional office, contact an agent or broker who represents The Hartford or call me at 203-547-2599.



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