

Business Insurance

Reporting weekly for corporate risk, employee benefit and financial executives / \$1.75 a copy; \$68 a year

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RIMS organizing coalition to amend Risk Retention Act

NEW YORK—The Risk & Insurance Management Society Inc. plans to organize a coalition to convince Congress to pass proposed changes to the Risk Retention Act advocated in a recent Commerce Department report.

Those changes include amending the federal law to make clear that insurers providing coverage to risk purchasing groups would have to meet the licensing or surplus lines rules in only one state—where the group is domiciled—and that

Continued on next page

Trial set for today in Shell dispute

By STEPHEN TARNOFF

SAN BRUNO, Calif.—The trial in the largest insurance coverage dispute over pollution claims ever to reach the trial stage is scheduled to begin today in a high school theater near San Francisco.

San Mateo County Superior Court Judge William Lanam will preside over a jury trial in which Shell Oil Co. is seeking coverage to pay potentially billions of dollars in cleanup costs for pollution at the Rocky Mountain Arsenal near Denver and McColl Air Force Base in Fullerton, Calif.

The litigation involves more than 250 of Shell's liability insurers dating back to the mid-1940s. The trial could take more than a year to complete.

Some insurers place the amount of coverage at issue at approximately \$2 billion.

But, Shell is contending it has nearly \$10 billion in coverage based on the fact that seven occurrences—six at the arsenal and one at McColl—triggered the pollution and the fact that many of the policies did

not have aggregate limits, said Shell attorney William E. Hegarty, with the New York firm of Cahill, Gordon & Reindel.

"It's the largest environmental insurance coverage case that has ever been tried to date," said Mitchell Lathrop, an attorney with the San Diego office of Adams, Duque & Hazeltine, who represents St. Paul Fire & Marine Insurance Co.

"It is very significant in that it is the first major litigation involving environmental pollution," said Ronald Mallen, with the San Francisco firm of Long & Levit, who represents CNA Financial Corp. units. "The resolution of the issues in this case will provide very persuasive precedent for generations in environmental pollution litigation."

"The petrochemical industry and the insurance industry are

Continued on page 46



Congress should amend COBRA penalties: Official

By JERRY GEISEL

WASHINGTON—The tax penalties imposed on employers that fail to comply with COBRA's health care coverage continuation provisions go too far and should be overhauled, a Treasury Department official says.

Susan Scherbel, attorney/adviser in the Treasury Department's Office of Tax Legislative Council, is the first Reagan administration official to speak out against the COBRA penalties, which she says are "draconian."

Ms. Scherbel says Congress should act to replace the current COBRA penalties with excise taxes that could be tied to the severity of the employer's violation.

This excise tax approach would be fairer than the current penalties, which have produced a tidal wave of employer complaints.

Under Internal Revenue Service regulations implementing the Consolidated Omnibus Budget Reconciliation Act of 1985, a one-day violation of the COBRA health care continuation rules involving just one employee would cost an employer its entire annual tax deduction for health care expenses.

The same penalty applies regardless of whether the violation was willful or inadvertent and quickly corrected.

In addition, under the current penalties, all of a company's highly compensated employees would be taxed on the cost of their employer-provided health care coverage if the company violates COBRA.

Ms. Scherbel, who helped draft the COBRA regulations, says Congress clearly did not intend such a severe result when it enacted the COBRA statute last

year. However, she says there is little that the regulatory agencies can do to alter the penalties, explaining that COBRA does not give the IRS or the Treasury Department the authority to amend the penalties on their own.

Speaking last week before a meeting of the National Employee Benefits Institute in Washington, Ms. Scherbel said it is up to Congress to amend COBRA penalties.

"We cannot create a new set of regulations. This would have to come from Congress. We would have to have a legislative change," she explained.

Ms. Scherbel's remarks could give a push to legislative staffers to draft new, more reasonable penalties as part of a technical corrections bill to last year's tax reform law or as part of a new budget reconciliation bill that now has started to wind its way through Congress, Washington observers say.

"If the Treasury gets behind this, the possibility of change being made increases substantially," said Edward J. Davey, a vp with Johnson & Higgins in New York.

"The Treasury clearly is uncomfortable with the law. It is trying to open up the discussion with Congress," pointed out Sharon Canner, director of employee benefits for the National Assn. of Manufacturers in Washington.

In fact, staff members from the Joint Committee on Taxation, the Senate Finance Committee and the House Ways and Means Committee already have met to discuss COBRA changes, though no changes have yet been finalized, according to lobbyists.

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Leaders unsure of extent of rate cutting

By KATHRYN J. McINTYRE

WHITE SULPHUR SPRINGS, W.Va.—Lower property and casualty insurance premiums will be the norm for most commercial insurance buyers renewing policies through the end of the year, but just how much lower is uncertain.

Most insurance brokers report more rate competition among the country's largest primary insurers than the executives of these insurers admit is occurring.

Whatever the range of rate reductions, both brokers and insurance company executives expect a competitive insurance market through the end of the year.

Generally, brokers peg rate reductions at 25% to 50% for property insurance and 10% to 25% for primary liability insurance, depending on the characteristics of the account. Excess liability insurance and directors and officers liability insurance are becoming cheaper and some insurers are increasing limits for the same premium.

The larger the account, the more likely insurers will compete for it, producing larger price breaks, brokers and insurers agree.

While insurance rates have been coming down throughout 1987, most insurance company executives and insurance brokerage ex-

ecutives agree that generally the price of insurance is still high enough to produce profits, with the possible exceptions of commercial automobile insurance and umbrella insurance. These policies are sometimes being written at prices that will produce losses for insurers, some insurers say. There also is growing concern about rate adequacy for large property risks.

Some brokers fear there is too much competition too soon and that insurers could be careening toward another rate war that will drive them into operating losses again. The brokers fear that would inevitably result in another insurance price and availability crisis for consumers.

Executives of the large primary insurers, which everyone agrees are driving the competition, contend that they are firmly committed to producing profits and have the management systems in place to enforce their commitment. And some declare that their companies will give up business and shrink if they must to avoid losing money again.

Rate cutting is not being supported by reinsurers, with the large primary companies writing insurance for their own accounts and not a multitude of reinsurers to which they can pass

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Photo: Kathryn J. McIntyre

The verdant rolling hills of The Greenbrier in White Sulphur Springs, W.Va., was the site for insurer and broker executives to discuss the state of the industry.

Ohio passes sweeping tort, insurance reforms
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Earthquake not likely to stir risk managers
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12 N.Y. exchange syndicates seek to withdraw by year-end
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Update

RIMS to seek risk act changes

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only one state would have the right to approve rates and forms provided to the groups.

Without these clarifying amendments, there could be years of litigation as insurers and regulators contest the extent of state regulation over risk purchasing group insurers.

"No one likes uncertainty. Insurers would be reluctant to provide coverage to purchasing groups, and an important alternative could be lost," said Jon Harkavy, director of governmental affairs for RIMS in New York.

"I don't think Congress wants legislation it passed to help buyers to become a dead letter," Mr. Harkavy said. He added that the Commerce Department report (BI, Oct. 5) lays the foundation for technical changes Congress can make to the Risk Retention Act.

Punitive award overturned

WASHINGTON—Merrell Dow Pharmaceuticals Inc. does not have to pay \$75 million in punitive damages to an 8-year-old boy whose birth defects were caused by his mother's use of the anti-nausea drug Bendectin, a federal judge has ruled.

However, U.S. District Judge June L. Green left standing a \$20 million compensatory award against the company on behalf of Sekou Ealy, who was born with deformed elbows and hands.

Last July, a jury awarded \$95 million to the boy (BI, July 20).

Judge Green said that the evidence presented in the case against Cincinnati-based Merrell Dow did not support a punitive award. However, she found sufficient evidence to uphold the \$20 million compensatory damage award against Merrell Dow, a unit of Dow Chemical Corp.

A spokesman for Merrell Dow said the company was pleased with the ruling, but will file an appeal with the U.S. Court of Appeal for the District of Columbia seeking that the compensatory award be overturned or that a new trial be granted.

The spokesman declined to comment on specifics of the company's insurance coverage except to say it had a complex program that is a combination of insurance and self-insurance.

Merrell Dow has primary and product liability insurance written by Dow-owned Dorinco Reinsurance Co. and excess insurance placed primarily with Lloyd's of London underwriters.

Merrell Dow manufactured Bendectin from 1956 until 1983. It has won 13 of 17 Bendectin trials to date, the spokesman said.

Panels act on pension bills

WASHINGTON—The Senate Labor and Human Resources Committee last week approved legislation that would more than double the annual pension termination insurance premium employers pay the Pension Benefit Guaranty Corp. to \$20 per participant from the current \$8.50.

The committee, which tacked the premium increase onto budget reconciliation legislation, also approved a provision that would require employers that terminate overfunded pension plans to give participants a share of the reversion. And, the measure sets complex, new minimum funding rules.

The measure was strongly criticized by the ERISA Industry Committee and the Assn. of Private Pension & Welfare Plans for failing to set a variable-rate PBGC premium structure and for giving participants—in the case of the termination of an overfunded plan—benefits that they were never promised.

On the House side, the Education and Labor Committee already has approved lifting the PBGC premium to \$19, while the House Ways and Means Committee agreed on a variable-rate structure under which PBGC premiums would range from \$14 to \$50, depending on how well a plan was funded. Those two panels' proposals also are part of budget reconciliation legislation.

Commonwealth suit stayed

NEW YORK—A federal judge has stayed proceedings in a suit filed by Commonwealth Insurance Co. against Beneficial Corp., its directors and officers and several others.

The suit, filed in U.S. District Court earlier this year, charged that the defendants defrauded Commonwealth on reinsurance it assumed from American Centennial Insurance Co., a former Beneficial unit, covering business produced by Barrett Treaty Corp., an ACIC managing general agent (BI, Aug. 3).

ACIC, which is not named in the suit, is currently arbitrating disputes with Commonwealth on the Barrett book.

In an order issued Sept. 22, U.S. District Judge Charles S. Haight Jr. stayed litigation on all but one of Commonwealth's charges, pending the arbitration.

The stay order does not include Commonwealth's charge that premiums were diverted by Barrett Treaty and its owner, William P. Barrett, and another agency, Dennis J. Vaughan & Co., and its principal, Dennis J. Vaughan.

While ACIC is not a defendant in the lawsuit, the same reinsurance contracts are at issue in both the litigation and arbitration, Judge Haight noted.

"If Commonwealth succeeds in the arbitration, then apparently... Commonwealth would have no damages to assert in the litigation against these defendants," the opinion says.

In arguing against the stay, Commonwealth had claimed that it would not be able to conduct adequate discovery in an arbitration proceeding.

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Errors & omissions

• California employers that self-insure their workers compensation risks are required to submit an audited report and post a security deposit equivalent to 135% of estimated future liabilities. The percentage was incorrectly stated in the Sept. 28 issue.

Ohio tort, insurance reforms rise from ashes, become law

By MEG FLETCHER

COLUMBUS, Ohio—Ohio's new massive tort and insurance reform law is designed to make product liability litigation more predictable, while making it more difficult for all plaintiffs to collect punitive damages.

Other provisions of the 125-page law, which Gov. Richard F. Celeste signed last week, eliminate joint and several liability for non-economic damages when a plaintiff was partially at fault and substantially increase the state insurance superintendent's regulatory power.

"We are pleased to have a first step in meaningful reform of Ohio civil justice laws enacted," said Mark Davidson, chairman and president of the Ohio Alliance for Civil Justice, which represents employers in the state.

The governor's signing of substitute H.B. 1 last week ended about 1½ years of debate that included Gov. Celeste's veto of an earlier version of the bill on Dec. 19, 1986 (BI, Dec. 29, 1986).

The law, which becomes effective in January and applies to actions occurring after the law's effective date, nearly died in conference committee over the summer as debate stalled while the alliance tried to line up enough Senate votes to override the governor's anticipated veto, Mr. Davidson said.

In the end, the votes were not there so compromises were reached, including the addition of the consumer safeguards Gov. Celeste wanted in the product liability provision of the bill, Mr. Davidson explained.

Dan Kelso, executive vp of the Insurance Federation of Ohio, said his association of Ohio-based property/

casualty insurers decided the bill contained enough tort reforms to overshadow its increased insurance regulation, so the association did not oppose it.

"It certainly starts in the direction of greater predictability and more stability in Ohio, and that is a positive move," Mr. Kelso said.

"It's a significant bill, but we didn't get everything we wanted," said Gene Wetzel, associate counsel of the Ohio Manufacturers' Assn. The association has tried for a dozen years to get a product liability bill passed he said. It now plans to try to improve upon the new bill "after the dust settles."



Previously, Ohio's product liability law generally was determined through judicial decisions, according to an analysis of the bill prepared by the conference committee.

The new law establishes a comprehensive statutory scheme to govern product liability claims against product manufacturers and suppliers.

The law still holds manufacturers strictly liable for their products but only if the plaintiff can prove the product was defective and the defect caused the plaintiff's injury.

Plaintiffs in product liability litigation must provide a preponderance of evidence that the product was defective due to its manufacture or construction, design or formulation, inadequate warning or inadequate instruction or for failure to conform to a manufacturer's

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Reinsurance brokers to be listed

Business Insurance will publish its annual directory of reinsurance intermediaries in the Nov. 16 issue, which will include a spotlight report focusing on reinsurance topics.

The directory includes both U.S. and Bermuda-based reinsurance intermediaries and serves as a resource to which subscribers can refer throughout the year.

There is no charge to be included in the directory; however, companies that wish to be listed must fill out and return a questionnaire provided by Business Insurance.

Questionnaires may be returned by facsimile machine at 312-280-3174.

If you have not yet received a questionnaire, please request one immediately by calling Marilou Jones at 312-649-5279.

The extended deadline for returning completed questionnaires to Business Insurance is Oct. 19.

2 courts disagree on auditors' liability

By STEPHEN TARNOFF

JACKSON, Miss.—Two recent court decisions differ on the circumstances in which third parties that rely on audited financial statements may sue auditors for negligence.

In *Touche Ross & Co. vs. Commercial Union Insurance Co.*, the Mississippi Supreme Court ruled in August that third parties relying on financial statements prepared by auditors can sue for negligence if it was "reasonably foreseeable" to the auditor that the third party would rely on them.

But in *Toro Co. vs. Krouse, Kern & Co.*, the 7th U.S. Circuit Court of Appeals in Chicago the same month interpreted Indiana law to apply a much more restrictive test before an auditor's liability can be established.

The Touche Ross case involved Boston-based Commercial Union Insurance Co.'s reliance on an audit of Fidelity Bank of Utica in Utica, Miss. The insurer relied on the audit when writing the bankers blanket bond that insured the bank against employee fraud beginning in November 1978.

In 1979 the state comptroller declared the bank insolvent by approximately \$7 million as a result of fraud by the bank's president.

The Federal Deposit Insurance Corp. subsequently made a claim against Commercial Union under the banker's blanket bond policy, and Commercial Union subsequently settled the claim for \$1 million.

Commercial Union then sued New York-based Touche Ross in 1983, alleging the auditor was grossly negligent in preparing the bank's financial statements.

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✓ Employers adopting no-smoking policies in the workplace believe the programs will reduce their health insurance costs over the long term. **PAGE 16**

✓ Even if the PBGC is able to return three defined benefit pension plans to LTV Corp., Congress still must give the agency the revenue it needs to avert bankruptcy, the agency's chief says. **PAGE 20**

✓ In Perspectives, Moshe Porat, professor of risk management and insurance at Temple University School of Business and Management, and Thomas Rattman, vp of CIGNA Investment Advisory Co., find Bermuda captives use a short-term investment strategy. **PAGE 27**

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Vol. 21, No. 41—Business Insurance (ISSN 0007-6864) is published weekly at 740 N. Rush St., Chicago, Ill. 60611-2590. Second-class postage is paid at Chicago, Ill., and at additional mailing offices. Postmaster: Send address changes to Business Insurance, Circulation department, 965 E. Jefferson Ave., Detroit, Mich. 48207; 800-992-9970 or 313-446-1611. Copyright 1987 by Crain Communications Inc.

12 NYIE members ask to withdraw

By DOUGLAS McLEOD

NEW YORK—Twelve New York Insurance Exchange syndicates, which accounted for almost one-quarter of the exchange's 1986 gross premium volume, are petitioning to withdraw from the exchange by year-end.

The exchange confirmed last week that 11 of its 45 syndicates had filed withdrawal petitions by Oct. 3.

In addition, a 12th syndicate has filed a withdrawal plan, although the syndicate failed to meet the Sept. 1 deadline for filing a notice of intent to withdraw—which must precede the withdrawal plan itself—and may be barred from withdrawing this year, syndicate and exchange officials say.

Together, the 12 syndicates accounted for about 23.3% of the exchange's 1986 gross written premium volume of \$267.7 million, but only about 16.7% of 1987 first-quarter volume of \$59.5 million.

Meanwhile, more details of a preliminary actuarial report on six of the exchange's eight insolvent syndicates emerged last week when a principal of the Tillinghast Division of Towers, Perrin, Forster & Crosby testified at a Wednesday court hearing that the six syndicates may be insolvent by

\$170 million.

An affidavit previously filed by an official of NYIE Security Fund Inc. said that the preliminary Tillinghast report estimated the insolvencies could amount to at least three times the \$39.1 million in the exchange security fund "with room for possible deterioration" (BI, Sept. 28).

Representatives of at least two of the six insolvent syndicates had not seen the confidential draft report as of last Wednesday, and these syndicates, as well as some solvent syndicates, could contest Tillinghast's methods and conclusions after reviewing the study, syndicate lawyers noted.

In an announcement last week, the exchange named 11 syndicates that have filed withdrawal plans. They are:

- Allianz Syndicate Inc.
- Brougner Syndicate Inc.
- CU Syndicate Inc.
- First Riverside Syndicate Inc.
- Fremont Syndicate Inc.
- Gamma Re Syndicate Inc.
- Golden Hill Syndicate Inc.
- Home Re Syndicate Inc.
- MONY-Re Group Inc.

- Republic Western Syndicate Inc.
- Sentry Syndicate Inc.

In addition, Syndicate of Wall Street Investors N.V. filed a notice of intent to withdraw and, more recently, a withdrawal plan, according to Betsy Brougner-Ayers, president of North Atlantic Treaty Managers Inc., which provides management services to Wall Street Investors.

However, Wall Street Investors did not file its notice of intent to withdraw until Sept. 11, well after the Sept. 1 deadline, according to exchange President Joseph Fahys.

Under exchange rules, syndicates wishing to withdraw by the end of the year had to file notices of their intent by Sept. 1 and follow up with more detailed withdrawal plans by Oct. 1.

The exchange has notified Wall Street Investors that its notice of intent was received too late, Mr. Fahys said. However, the exchange also told the syndicate that it would be willing to take its withdrawal plan before the board of governors—which must approve all such plans—at the board's Oct. 23 meeting, he added.

Several of the 12 withdrawing syndicates had previously
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Photo: AP/Wide World

Los Angeles suffered only minor damage from the quake, such as cracked walls and windows.

Few aftershocks Earthquake shifts few insurance plans

By GLENN HUNTLEY
and DONNA DIBLASE

LOS ANGELES—Southern California's recent spate of earthquakes may have stirred the populace but probably will not cause many changes in corporate risk management and earthquake insurance programs, area risk managers say.

For example, while the shaking earth caused light fixtures to fall from the ceiling at Fleetwood Enterprises Inc., a major manufacturer of recreational vehicles and manufactured homes based in Riverside, it will not trigger changes in its risk management program.

"We've been pretty lucky, I guess," said Cris Haislip, Fleetwood's insurance manager. "All we're getting is the aftershocks."

Fleetwood, like many other companies in the area, does not purchase earthquake coverage. Ms. Haislip said the company recently renewed its property policy for a three-year term and probably will not seek additional coverage for earthquakes while the policy is in effect.

Overall, insured losses suffered by area businesses remain low, as insurers expected soon after the quake (BI, Oct. 5).

The major temblor, measuring 6.1 on the Rich-
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California city plans to establish captive

By GLENN HUNTLEY

GARDENA, Calif.—The Southern California city of Gardena plans to establish what may be the first captive insurance company created by a local government as a response to rising rates and shrinking capacity for municipal liability insurance.

The captive, which city officials say could be operating by next July, would be established as a mutual insurer owned by Gardena and other California municipalities. Policyholder/owners would select the limits they desire within a yet-undetermined range and pay corresponding premiums.

If successful, the captive may eventually expand and provide commercial property and liability insurance, homeowners insurance and automobile policies for residents of municipalities that are policyholder/owners of the captive, according to city officials.

However, officials of a Northern California county that provides risk management services for 17 cities and the head of the Public Risk & Insurance Management Assn.'s pooling section criticize the city's plan.

And, the state Insurance Department already has told the city that state law would prohibit the captive from writing commercial liability, homeowners and automobile coverage for residents.

A feasibility study conducted by Security Pacific Merchant Banking Group in Los Angeles indicated the city of about 50,000, which borders Los Angeles, would need to attract participation from at least four other

municipalities to make the insurance company work.

That should be no problem, said Gardena City Manager Ken Landau, because Los Angeles County alone encompasses 84 cities.

Gardena is awaiting a permit from the state Department of Insurance to solicit other local governments.

The city has reached an interim agreement with Doctors' Management Co. of Santa Monica for development and first-stage management of the company and hopes to provide the department with a detailed plan of operation by early 1988.

The city envisions that the captive initially would provide liability coverage for local governments and later offer municipal liability insurance to public entities statewide.

If the captive is successful, city officials would like to offer commercial liability, homeowners, automobile liability and property coverage to residents of participating municipalities.

The captive would be capitalized through taxable bond issues by the captive's policyholders/owners. According to Mr. Landau, the amount of each municipality's bond issue would depend on the amount of capital it would have to contribute to the captive, which would depend on the amount of coverage it would seek from the captive. The bond issues would be repaid by the insurer's cash flow.

The city—which currently pays \$150,000 annually for \$10 million of general liability coverage excess of a \$1 million deductible through The Authority for California Cities Excess
Continued on next page

Wine maker presses \$57 million suit

By GLENN HUNTLEY

SAN FRANCISCO—A French wine producer, which claims an insecticide applied to its vineyards has produced a foul smell in three of its vintages, is suing the U.S. manufacturer of the chemical for \$57 million.

In a suit filed in San Francisco Superior Court, Chateau Phelan Segur, a wine maker in France's famed Bordeaux region, is suing Chevron Chemical Co., claiming the wine producer has been forced to buy back its 1983 vintage and withhold its 1984 and 1985 vintages.

The smell of the vintages is strong enough to "turn stomachs" and has been traced to chemical residue left by Orthene 50, an insecticide applied to the winery's vineyards between 1983 and 1985, said John C. Hancock, attorney for Phelan Segur with the San Francisco firm of Hancock, Rothert & Bushoff.

The odor made the wine "truly undrinkable and unmarketable," Mr. Hancock said. In its lawsuit, filed in August, the wine maker seeks actual damages of between \$5 million and \$7 million and punitive damages of at least \$50 million.

Chevron, a division of San Francisco-based Chevron Corp., denies that the insecticide caused the odor in the wine and says a problem in the winery's manufacturing process may have caused the odor.

The winery does not have insurance to cover losses caused by the application of a defective product on its crops, Mr. Hancock said.

Chevron will not comment on relevant liability insurance coverage while the lawsuit is pending against the company, a spokesman said.

Chateau Phelan Segur's 250-acre vineyard in the wine country near the small village of St. Estephe in southwest France is considered one of the most important in

France, and since the early 19th century has produced some of the finest Bordeaux wines, according to the lawsuit.

The chateau's customers include some of the finest restaurants in France and noted European wine merchants. Its wines also are marketed in the United States, the suit maintains.

According to court papers, Phelan Segur bought back 150,000 bottles of its 1983 vintage last year after it was found to have an odor resembling "the smell of rotting cabbage or asparagus." The winery subsequently withheld its 1984 and 1985 vintages, which also were found to be odorous.

According to the court papers, the Reims University of Sciences in France performed extensive tests of the Chateau Phelan Segur wines and concluded the odor emanates from mercaptans, a chemical residue.

Mr. Hancock said mercaptans are left from the breakdown of acephate, the active
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Map: Amy Palmer

B'nai B'rith to honor *BI* publisher

NEW YORK—*Business Insurance* Publisher Alfred Malecki has been selected by B'nai B'rith International to receive its National Insurance Industry Achievement Award.

Mr. Malecki will be presented with the award at a gala dinner on Dec. 8 at the Grand Hyatt Hotel in New York City.

Seymour D. Reich, president of the 500,000-member organization, said Mr. Malecki was singled out for his impressive and innovative achievements in the communication of risk management and employee benefit information.

Mr. Malecki has been with *Business Insurance* since the magazine's inception in 1967. He served as the magazine's first advertising director and was named publisher in 1970. Later that year he also was elected a vp at Crain Communications Inc., which publishes *Business Insurance*.

Before joining *Business Insurance*, Mr. Ma-

lecki was an advertising sales representative with *Advertising Age*, also published by Crain Communications.

Mr. Malecki, who was born and educated in Leipzig, Germany, escaped the Nazis in 1938.

After moving to South America, he embarked on a marketing career that culminated in his appointment as manager of Mobil Oil Corp.'s operations in Bolivia.

Mr. Malecki has been engaged in publishing activities in the United States since 1953.



Mr. Malecki

Mr. Malecki also serves as fund-raising chairman of the Robert S. Spencer Memorial Foundation, a scholarship fund established for the advancement of risk management studies.

The Dec. 8 dinner honoring Mr. Malecki will be chaired by L. Patton Kline, vice chairman of Marsh & McLennan Cos. Inc. in New York. In addition, Ron Judd, executive director of the New York-based Risk & Insurance Management Society Inc., will serve as associate chairman of the event.

Proceeds from the event will support B'nai E'rith's nationwide community service programs, reaching youth, senior citizens and other members of the community through voluntary action and leadership development activities.

Tickets to the gala dinner are \$350 per person. For more information, contact Ralph Oppler of B'nai B'rith at 212-490-3290.

Captive planned

Continued from previous page
Liability pool—would maintain its current coverage and deductible through the captive.

Gardena City Councilman Mas Fukai said he expects that the city's premium to the captive would be significantly lower than its current premiums. And, if few or no claims are made against the city, the city may not need to pay premiums to the captive after about seven years because of the amount of reserves it would have built up during that period.

Mr. Fukai initiated the plan this year as a response to years of rising deductibles and premiums for liability coverage—despite a good claims record—through a conventional insurer before it joined ACCEL last year. Although the city's premium dropped after joining the pool, its deductible was unchanged.

Historically, the city's pure loss ratio has been less than 10%, Mr. Fukai said.

City officials say the captive probably would be the first of its kind in the country. "To our knowledge no other city has tried this," Mr. Landau said.

Other than the Transit Mutual Insurance Corp. of Wisconsin formed by 15 medium-sized city bus systems (*BI*, Sept. 15, 1986), the Gardena program may become the only public-sector captive formed in the United States, said Jay Muzychenko, senior staff associate with PRIMA in Washington, D.C.

Other public entities in California have worked hard to develop risk financing alternatives like pools and super pools, but this may be the first time a city has proposed to start its own insurance company, said Jeffrey W. Pettegrew, risk manager of the Contra Costa Municipal Risk Management Insurance Authority, which provides risk management services to 17 San Francisco Bay-area cities.

However, Mr. Pettegrew said he does not understand why Gardena would want to form a captive insurer. "I don't know why they would want to do that in California with the plethora of pools and other alternatives," Mr. Pettegrew said.

"It seems like a direction that's not needed and not supported in California."

In addition, using insurance premium payments from a public entity to support financing of an insurance company would be "an abuse of public funds," said Harold Pumford, president of PRIMA's pooling section.

"It's ludicrous to me to pre-fund," said Mr. Pumford, also chief executive officer of Tulsa-based OML Municipal Insurance Group of Oklahoma, a self-insured municipal liability pool.

Mr. Landau said members of the Gardena city council were aware its plans would not be popular, but added that they are undeterred by criticism.

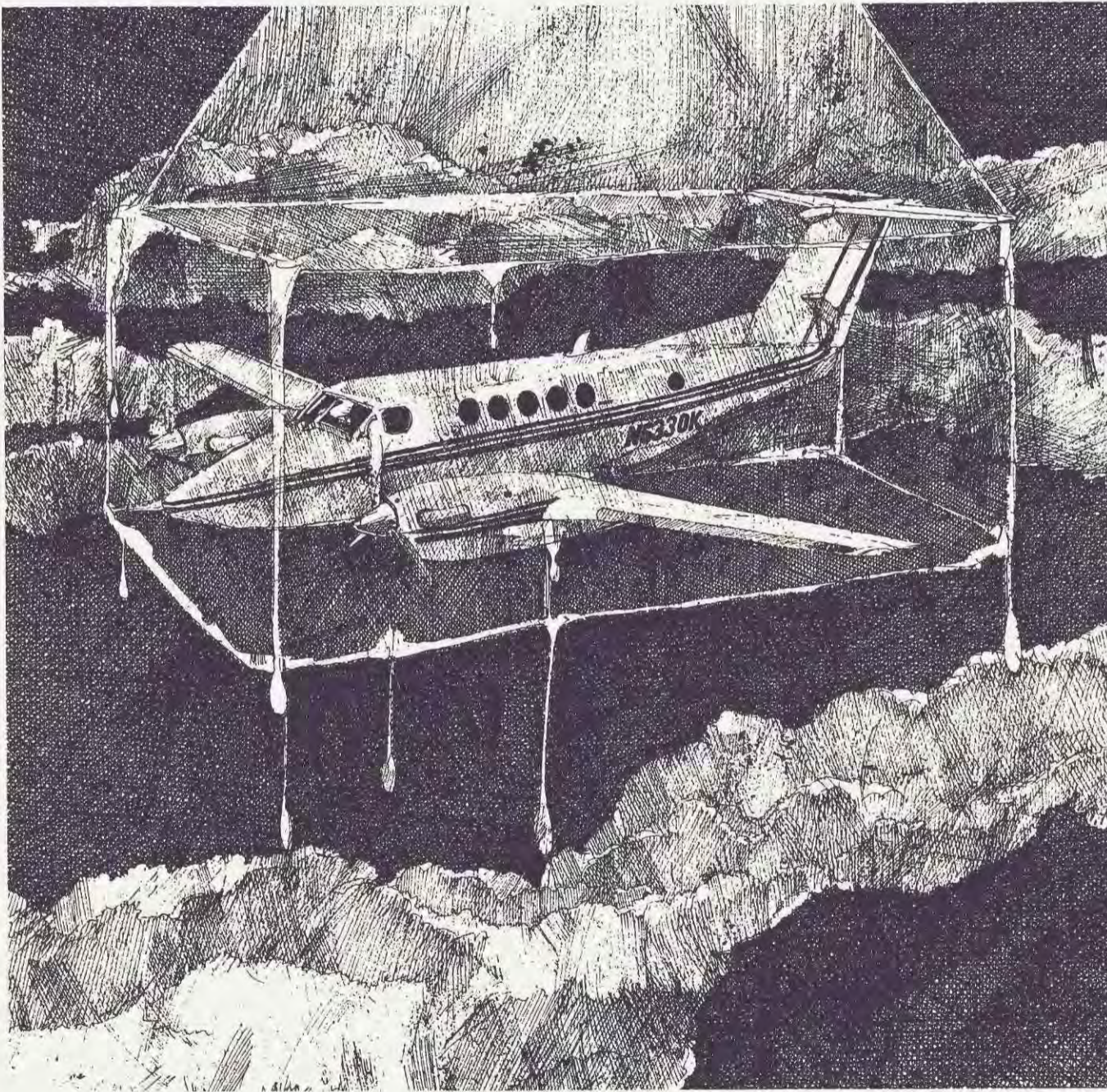
"Our city council isn't afraid of the insurance industry," he said.

The captive would proceed slowly at first to establish itself and look at how its might later expand, Mr. Fukai emphasized.

But, the city's plan to write commercial liability, homeowners and automobile coverages has already run into a snag. Mr. Landau said the state Department of Insurance informed him that state law prohibits municipalities from providing those types of coverage to residents.

A department official was out of town and unavailable for comment.

But Gardena officials argue the law prohibits municipalities outside of California from providing coverage to state municipalities through a captive and that the law does not apply to Gardena. ■



FROZEN ASSETS

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At NWNL Group, we're developing an employee benefit program called LifeScope® that would provide for a person's retirement and working years. What makes the LifeScope Program unique is its comprehensive approach to providing benefits. It is more than life insurance and a nursing home policy.

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*The right benefits for today.
The right ideas for the future.™*

Sources for statistics: Employee Benefit Research Institute, 1985; National Underwriter, 1986.

A division of Northwestern National Life Insurance Company, Minneapolis, MN (not admitted in the State of New York). The North Atlantic Life Insurance Company of America, Jericho, NY (a member of the NWNL Companies).

N.Y. exchange

Continued from page 3
confirmed filing notices of intent and withdrawal plans (BI, Sept. 21).

One syndicate that had filed a preliminary withdrawal notice—The 1792 Co., a CIGNA Corp. unit and the exchange's largest syndicate—did not file a withdrawal plan and will continue as an underwriting member during 1988, the exchange announcement said.

The exchange recently declared 1792 impaired after reserve additions and the drawdown of its \$500,000 security fund deposit—which each syndicate includes in its surplus—left the syndicate below the \$2.2 million minimum surplus requirement.

The impairment declarations against 1792 and four other syndicates were based on the syndicates' reported June 30 surplus, and the impairments of several of these syndicates could be corrected by the time Sept. 30 quarterly statements are filed, exchange officials say (BI, Oct. 5). Officials of 1792 could not be reached for comment.

In an interview, Mr. Fahys cited two possible reasons for the numerous withdrawal decisions:

- The failure of some syndicates' underwriting experience to perform up to expectations.

"To put it succinctly, they lost money," Mr. Fahys said.

- A change in direction of some syndicates' parents toward consolidation of operations, which meant discontinuing the syndicates.

In a prepared statement, he added that the experience of the remaining syndicates is improving, with active underwriting members posting a 102.2% combined ratio for the first half of 1987, compared with 119.4% for all of 1986.

Roy G. Nelson Jr., president of Johnson & Higgins Willis Faber (USA) Inc. and head of the exchange's syndicate members association, also noted in the prepared statement that the withdrawing syndicates generally were "minimally capitalized" with \$5 million or less "and therefore may have been unable to attract and retain business at the exchange."

Some withdrawing syndicates—including CU, Fremont, Gamma Re, Golden Hill, Republic Western and Sentry—have been inactive for several months to over a year.

Mr. Nelson also noted in the statement that the syndicates that will stay on the exchange in 1988 accounted for 80% of the exchange's premium volume during the first half of this year.

However, several of the withdrawing syndicates were among the exchange's largest in 1986 based on gross premiums:

- Home Re Syndicate was the exchange's fifth-largest, with \$13 million in gross written premiums and \$4.9 million in surplus.

- Allianz was the ninth-largest, with \$10.1 million in gross premiums and \$8.1 million in surplus.

- Brougner was the 10th-largest, with \$9.6 million in gross premiums and \$4.3 million in surplus.

In total, the withdrawing members—including Wall Street Investors—accounted for \$62.3 million, or 23.3%, of the exchange's 1986 premium volume of \$267.7 million and \$56.7 million, or 28.6%, of the exchange's aggregate surplus of \$198.2 million as of Dec. 31.

(The aggregate exchange figures include results of all insolvent syndicates except Heartland Group Inc., which has been ordered liquidated by a New York court.)

Assuming that all the withdrawal plans—including Wall Street Investors'—comply with exchange rules, are approved by the board and are not challenged by other members, the exchange will enter 1988 with 25 syndicates.

This number excludes the eight insolvent syndicates but includes the five syndicates recently de-

clared technically impaired.

Mr. Fahys noted that the remaining syndicates will have combined surplus of roughly \$160 million and will write about \$140 million in gross premiums in 1988.

Meanwhile, further details of the draft Tillinghast report on six insolvent exchange syndicates emerged last week at a hearing on lawsuits filed by three syndicates to prevent the drawdown of their security fund contributions.

Brougner, Wall Street Investors and Senate Syndicate Inc. sued NYIE Security Fund and the exchange in state Supreme Court last month, charging the security fund did not follow proper procedures in the drawdown.

The two-part security fund includes a deposit fund, to which each syndicate contributes \$500,000, and a surcharge fund, into which each syndicate pays a percentage of gross premiums.

The security fund board voted last month to draw \$25 million from the deposit fund after a review of the Tillinghast report indicated that the fund's potential liabilities would exceed the approximately \$14 million in the surcharge fund (BI, Sept. 14).

Last week's hearing before Justice Irving Kirschenbaum included testimony by Howard T. Cohn, a Tillinghast principal involved in preparing the report.

Lawyers representing the NYIE

attempted to have the hearing closed on the grounds that the report was a confidential document, but the motion was denied.

Mr. Cohn testified that Tillinghast projected the total liabilities of the six syndicates at \$215.7 million, net of reinsurance recoveries.

He added that if the actual number is less than this, it is expected to be no more than 10% below the projected amount. If the actual number turns out to be higher, it may be 25% more than the projected \$215.7 million, he testified.

After adding liabilities for uncollectible reinsurance and subtracting uncollected premiums and the syndicates' assets, Tillinghast concluded that total insolvency of

the six syndicates is \$170 million, Mr. Cohn testified.

The six syndicates covered by the report are Burt Syndicate Inc., First New York Syndicate Corp., Realex Group N.V., Heartland, Pine Top Syndicate Inc. and U.S. Risk Inc., he testified.

Liquidation petitions are pending against Burt, First New York and Realex. The NYIE recently asked the New York Insurance Department to petition for the liquidation of Pine Top and U.S. Risk.

The two insolvent syndicates not included in the report are KCC New York Syndicate Corp., which the exchange has asked the department to liquidate, and Candon

Continued on next page

Risk M

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Continued from previous page
Syndicate N.V., which has obtained an injunction against liquidation proceedings.

Tillinghast will not prepare a final report on the syndicates until the exchange signs an engagement letter with the firm.

Until last week, the exchange had not shown the confidential draft report to at least two of the insolvent syndicates—Burt and First New York—or to other solvent syndicates, including Brougher, Wall Street and Senate.

Roy Pomerantz, a lawyer with the New York firm of Kroll & Tract representing the Brougher, Wall Street and Senate syndicates, received a copy of the report at last Wednesday's hearing under a confidentiality agreement.

Peter Bickford, an attorney with Calinoff & Katz in New York representing Burt, said he also expected to receive a confidential copy.

Mr. Bickford, who attended last week's hear-

ing, said he has several questions about the methods and conclusions of the report, including whether Tillinghast considered commutation agreements between insolvent syndicates and ceding insurers and how Tillinghast arrived at incurred-but-not-reported reserve projections.

He also expressed concern that the \$215.7 million net liability figure is misleading, explaining that a solution to the insolvent syndicates' problems—which could include commutations, among other things—may significantly reduce that figure.

The exchange is currently pursuing a bailout plan for the insolvent syndicates that would involve consolidation of their assets and liabilities into a single run-off syndicate known as Syndicate 100 (BI, Aug. 31).

In addition, Burt and First New York have filed rehabilitation plans with the New York department, though both are on hold pending liq-

uidation proceedings, Mr. Bickford said.

Mr. Bickford and Mr. Pomerantz said they will not know the extent to which Tillinghast's methods or conclusions can be disputed until they have read the report.

"Their conclusions will be called into question. To what extent or to what degree is open at this point," said Mr. Pomerantz, who is scheduled to cross-examine Tillinghast's Mr. Cohn at a Tuesday hearing.

Mr. Bickford said that if Tillinghast's conclusions stand up, Burt and other syndicates may have a more difficult time sustaining their position that they have viable rehabilitation plans.

The size of the insolvency projected in the Tillinghast report, which was prepared to support the Syndicate 100 plan, may also raise questions about the plan's viability, though Mr. Bickford maintained that such a solution is viable regardless of the draft report's conclusion. ■

COBRA penalties

Continued from page 1

"There is interest among staff and members in making changes," said Mark Ugoretz, executive director of the ERISA Industry Committee, a Washington-based benefits lobbying organization representing large employers.

He says he is optimistic that Congress will make changes—if employers keep up the pressure. "No one in Congress wants to see a constituent lose a tax deduction. A rule of reason will prevail."

On Capitol Hill, staffers agreed that the door is open for changes to COBRA that would tie penalties to the length and type of violation.

"The door is not closed," said Phyllis Borzi, pension counsel for the House Labor Management-Relations Subcommittee and an aide to Subcommittee Chairman William Clay, D-Mo.

The COBRA penalties are getting more recognition on Capitol Hill, said Lawrence Atkins, an aide to Sen. John Heinz, R-Pa.

The penalties "serve as a disincentive for employers to start new plans or continue current health care plans," Mr. Atkins said.

While Congress may be willing to consider changes to COBRA penalties, employers should not expect that the current penalties will be gutted, government sources say.

While the current rules go too far, they have forced employers to take charge of their benefit plans to ensure that the rules are obeyed and health care benefits properly extended, Ms. Scherbel said.

"Congress wanted an 'atom-bomb' effect," Ms. Borzi said at the NEBI meeting.

Observers say the new receptivity in the regulatory agencies and in Congress to altering the COBRA penalties is a direct result of letters from employers to the IRS protesting the penalties (BI, Sept. 21). The IRS received more than 1,000 letters, 99% of which criticized the tax penalty, Ms. Scherbel said.

Most of the employers said stripping away a company's entire tax deduction for health care expenses was unfair because such a penalty failed to distinguish between willful and inadvertent violations.

In addition, employers griped that the size of the penalty was not tied to the number of violations.

Employers also complained that an innocent employer—that was not directly at fault for a COBRA violation—could still lose its tax deduction under collectively bargained multiemployer welfare plan arrangements. For example, if a multiemployer plan administrator violated COBRA, all employers contributing to the plan would lose their tax deductions for health care expenses.

Under COBRA, most public and private employers must extend health care continuation coverage to employees' widowed or divorced spouses and dependent children for up to three years (BI, June 22).

In addition, except when fired for gross misconduct, former employees have the right to obtain continuation coverage for up to 18 months after employment ends.

The only groups of employers that are clearly excluded from this broad benefit mandate are those with fewer than 20 employees (including part-time employees) that are not part of a "controlled group" or a collectively bargained multiemployer welfare plan, and religious organizations that operate so-called church plans.

Companies under common ownership are considered a controlled group.

Companies can charge COBRA beneficiaries a premium of up to 102% of the cost of coverage, including any costs formerly paid by the employer. COBRA beneficiaries have to pay this premium at least monthly or more frequently if the employer requests. ■

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Opinions

Taking the bite out of COBRA

AT LAST! Treasury Department officials finally realize what the employee benefit community has been saying for some time: Penalties for employers that do not comply with COBRA's health care coverage continuation provisions are unfair and illogical.

As any employer undoubtedly knows by now, proposed COBRA regulations state that a company that violates COBRA—even if the violation involves just one employee and lasts just one day—would lose its tax deduction for health care expenses for an entire year. And, all highly compensated employees of the company would have the cost of their employer provided health care benefits added to their taxable income.

But as we report on page 1 this week, Susan Scherbel, an attorney/adviser in the Treasury Department's Office of Tax Legislative Counsel, says Congress clearly did not intend to impose such draconian penalties when it enacted COBRA last year.

Ms. Scherbel, who helped draft the COBRA regulations, says applying the same harsh penalty for all COBRA violations fails, among other things, to distinguish violations that are willful and part of a pattern of non-compliance from those that are only inadvertent, one-time mistakes.

As an alternative to the total loss of tax deductions for health care expenses, the Treasury Department official suggests that Congress consider revamping COBRA so that the magnitude of the tax penalty is more closely tied to the severity and length of the violation.

One way of doing this, Ms. Scherbel suggests, is to impose an excise tax on employers that violate the health care continuation provisions of COBRA, the Consolidated Omnibus Budget Reconciliation Act of 1985. The size of the excise tax could be tied to the period of time that the employer was not in compliance with the law.

This approach, which undoubtedly requires fine-tuning, is basic common sense. It is only fair that the size of a penalty be linked to the duration of a violation.

Such a change, Ms. Scherbel says, will have to come from Congress. She believes the language of

the current COBRA statute does not give the regulatory agencies the authority to alter the penalties.

Already, staffers from the congressional tax writing committees have met to discuss alternatives to the current penalties. We hope that the committee staffers come up with fair, reasonable penalties.

The recognition within regulatory circles that the current COBRA penalties are overkill was the result of a massive letter-writing campaign by employers. In all, more than 1,000 employers wrote to the Internal Revenue Service, with nearly all of the employers denouncing the loss of tax deductions for health care expenses as a penalty for violating COBRA (BI, Sept. 21).

Employers, though, can't stop their campaign yet. Now that regulators are aware of the problem, employers have to direct their lobbying efforts at Congress to convince legislators that changes are needed.

Since the health care continuation provisions are part of the 1985 budget reconciliation bill, it makes sense to graft COBRA changes to the latest budget reconciliation bill now before Congress. Alternatively, changes to COBRA could be made part of a technical corrections bill that Congress is considering to fix glitches in last year's massive tax reform law.

Employers have to be reasonable, though, in the changes they seek if they are to have any chance of success. Congress passed COBRA with a specific social policy objective: to ensure that group health care coverage would continue for employees leaving a company and for dependents when there was a death, divorce or marital separation. Congress is not about to weaken that law or gut penalties to reduce significantly the incentive for employers to comply.

Indeed, employers have a powerful self-interest in the success of COBRA. To the extent that COBRA improves access to affordable health care coverage, it reduces the need for proposals, such as employer-subsidized risk pools or mandatory employer-provided health insurance, that many employers believe are far more objectionable.

half profits, during which time their mean surplus was \$99.95 billion, for an annualized return of 15.0% vs. a 10.4% return for all American industry. Thus, property/casualty insurers earned a 44% higher profit than average, albeit insurance is an average to below-average risk business according to economic analysts.

And this 44% higher profit, as you point out, counts \$1.1 billion of dividends as losses and does not include \$5.7 billion of unrealized capital gains. If they were included, the return leaps to \$14.3 billion, or 29% of surplus.

You say my use of this approach is "ridiculous." However, this is the approach used by the U.S. General Accounting Office. In its July 13 study titled "Insurance—Profitability of the Medical Malpractice and General Liability Lines," the GAO explains:

"...the industry objects to our including unrealized capital gains...and excluding policyholder dividends... We recognize that unrealized capital gains are just that, unrealized, and therefore subject to investment risks that could result in lower and higher amounts. However, we have chosen to include unrealized gains in our industrywide calculations because it is within a company's control to manage its investment portfolio to realize these gains while the investments are profitable. We have excluded policyholder dividends because we consider them to be voluntary, not mandatory, distributions by the com-

panies. Since the companies are not required to make these distributions, we have chosen to exclude them from our underwriting loss figure."

Now, reasonable people may disagree about the proper accounting treatment of dividends to policyholders and unrealized capital gains, but to dismiss the GAO approach to insurance accounting—after all, accounting is their middle name—as "ridiculous," as you do, does nothing to further the debate.

Even the 29% profit ignores the equity in loss reserves that exists since reserves are carried at full, undiscounted levels on the books of insurers. The effect of this is several billion dollars as well. Would you disagree with consideration of the time value of money in getting to the real bottom line?

Finally, you criticize me as follows: "We do not accept the NICO official's argument that the industry's improved profitability proves the tort reform movement is fraudulent."

But, the insurance industry's attempt to blame the legal system for the insurance crisis is a fraud, as demonstrated not only by insurers' supercompetitive profits but by their refusal to reduce rates in response to tort reform. On the other hand, reform that made the legal system more efficient—like no-fault auto insurance (which I persuaded two presidents to support) and limits on lawyers' fees on both sides—would reduce rates.

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Published by Crain Communications Inc., Chicago

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Published weekly at 740 Rush St., Chicago, Ill. 60611, Telex 6871241, Cable CRAINCOM. Offices: 220 E. 42nd St., New York, N.Y. 10017, Telex 640207 CRAIN COM NYK; 1 Northpark, East Suite 114, 8950 N. Central Expressway, Dallas, Texas, 75231; Suite 814, National Press Building, Washington, D.C. 20045; 6404 Wilshire Blvd., Los Angeles, Calif. 90048; 20-22 Bedford Row, London WC1R 4EB, England. \$1.75 a copy. \$68 a year in U.S. Canada and all other foreign add \$16 for surface mail. Europe and Middle East only add \$47 for air delivery. First-class mail to U. S. and Canada only, add \$48. Bermuda only, \$105 per year expedited delivery. WILLIAM STRONG, vp-circulation. BARBARA KISCH, circulation manager. JOHN HUFFMAN, fulfillment director. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, Business Insurance, 965 E. Jefferson Ave., Detroit, Mich., 48207, or phone 800-992-9970 or 313-446-1611. Microfilm copies are available from University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48103. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For information and rates to reproduce in general circulation media, contact: ART MERTZ, The Crain Syndicate, 740 Rush St., Chicago, Ill. 60611, 312-649-5303. For reprints or reprint permission contact: Reprint Department, Business Insurance, 220 E. 42nd St., New York, N.Y. 10017, 212-210-0229.

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Letters

Hunter maintains profits are excessive

To the editor: You take me to task in your editorial, "Realistic Profits," (BI, Sept. 21) on three points:

• The insurance industry's profits, you say, are not obscene.

• My claim that the industry understates profits by including policyholder dividends as losses and excluding unrealized capital gains as profits is, you say, "ridiculous."

• The profits do not undermine the need for tort reform.

Regarding profits, your editorial admits profits are now at about competitive levels—you say "competition is returning." Mr. Hunter won't have long to complain about obscene profits. Our argument, therefore, is not whether profits are too high, but whether or not they have reached the obscene level.

Insurers reported \$7.5 billion in first-

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Once he's out of danger the real danger begins. Because people who survive debilitating accidents or illnesses can lose one of the most compelling reasons to live. Their jobs.

And the reality is that one out of seven Americans will become disabled for five years or more before reaching retirement.

Which is why the CIGNA companies* created an organization to manage long-term disability claims exclusively.

It has a rehabilitation program to help people return to productive work. And that's helping companies hold down the cost of providing assistance to the disabled employee.

Unfortunately, not all employees who are rehabilitated can return to their old jobs. So we also help to find new jobs by providing assistance in vocational training and educational programs.

And if the workplace is the barrier to getting back to work, we'll help redesign it to accommodate the disability.

We were even the first insurer to help employees receive benefits that Social Security may initially deny them. Which lightens the load on monthly income replacement payments.

What does all of this mean? That a disability need not be a liability.

So it's not surprising that CIGNA is one of the leading providers of long-term disability insurance, offering coverage to companies of all sizes.

To find out how our program can work for your company, write to CIGNA Companies, Dept. R-A, One Logan Square, Philadelphia, PA 19103.

Because when it comes to making a complete recovery, work may be the best medicine.

CIGNA

Letters

Continued from page 8

I have continually asked insurers to join me in working to make the legal system more efficient so everyone could benefit (except the lawyers), but they apparently prefer to seek massive cutbacks in the legal rights of citizens rather than true legal reforms based on hard analysis of data, which the industry still refused to produce.

J. Robert Hunter
President
National Insurance
Consumer Organization
Alexandria, Va.

Rep. Stark's bill worse than COBRA

To the editor: Many employers were surprised last year by a provision in the Consolidated Omnibus Budget Reconciliation Act,

appropriately referred to as COBRA, that mandated continuation of employer-provided health insurance coverage. This year, the minimum health insurance bill introduced by Sen. Edward Kennedy, D-Mass., has received a great deal of attention, but the bill that is most likely to pass immediately is the risk-pooling bill sponsored by Rep. Fortney "Pete" Stark, D-Calif. That bill is part of this year's Budget Reconciliation Act (BI, Aug. 17; July 20; Jan. 12).

This year's serpentine surprise has all the potential to make COBRA look like a garden snake. The risk-pooling bill's economic bite is well hidden but substantial. The bill amends ERISA pre-emption so that states can establish risk pools for the uninsured and uninsurable, with losses subsidized by both insured and self-insured employers. Currently ERISA pre-

empts state laws that purport to require self-insured employers to share in risk pool losses, which makes most state pools impractical.

If Rep. Stark's bill is passed, which now appears highly likely, the magnitude of employers' potential exposure if every state enacts a risk pooling bill and every uninsured American is included could reach \$40 billion annually in 1987 dollars. Stated more directly, it would effectively impose a 30% tax on employer health insurance. Even if risk pools only covered one-third of the uninsured, employers would effectively face a 10% tax on their health insurance in 1987 dollars.

In addition, state risk pools like Medicare and Medicaid before, will raise the overall cost of health care and thus increase the direct cost of health insurance for employees and

retirees.

Employers concerned about the Stark risk pooling bill should do two things. First, they should immediately contact their senators and representatives to oppose the passage of the bill in the current Budget Reconciliation Act. Second, they should adopt a long-term strategy, with Congress and at their companies, to innovatively address health care costs.

Sen. Kennedy's bill and Rep. Stark's bill, like the COBRA coverage continuation law, are only examples of new financing devices Congress has invented to use employer and employee funds, rather than the federal budget, to provide health benefits to the uninsured and uninsurable. And, the companion issue of providing health insurance for retirees will not go away. Congress will take action, and it desperately needs innovative

ideas as alternatives to current proposals that are likely to worsen the problem for all.

Some employers, such as Ameritrust Corp., General Motors Corp., Stouffer Corp. and others, are now using the most innovative ideas in health insurance in 50 years. The heart of their innovation is to offer health insurance options that reward quality, cost-effective doctors and hospitals and to get employees actively involved in determining how employer and employee health dollars are spent. These innovations won't only help employers deal with their current health care costs for both employees as well as retirees, but will provide positive examples for Congress of the new ideas needed in federal health programs.

Concerned employers and others, however, must act now on the Stark risk-pooling bill and resolve to stay actively involved with Congress in developing new approaches to the challenge of providing health insurance to the uninsured, uninsurable, employees and retirees.

Charles D. Weller
Jones, Day, Reavis & Pogue
Cleveland

Quite comfortable with claims-made

To the editor: Well, here we go again. I must respond to Eugene R. Anderson's response (BI, Sept. 7) to my letter in the July 27 issue, "Claims-Made Form Not Inferior Product."

It is obvious that Mr. Anderson and I are "touching opposite sides of the elephant":

- Is the claims-made form inferior if the industry is unwilling to provide occurrence coverage at all, or at an affordable price?
- Is the occurrence form "equitable" if it causes the insurance industry to "gamble" on today's rates for potential claims 20 years down the road?

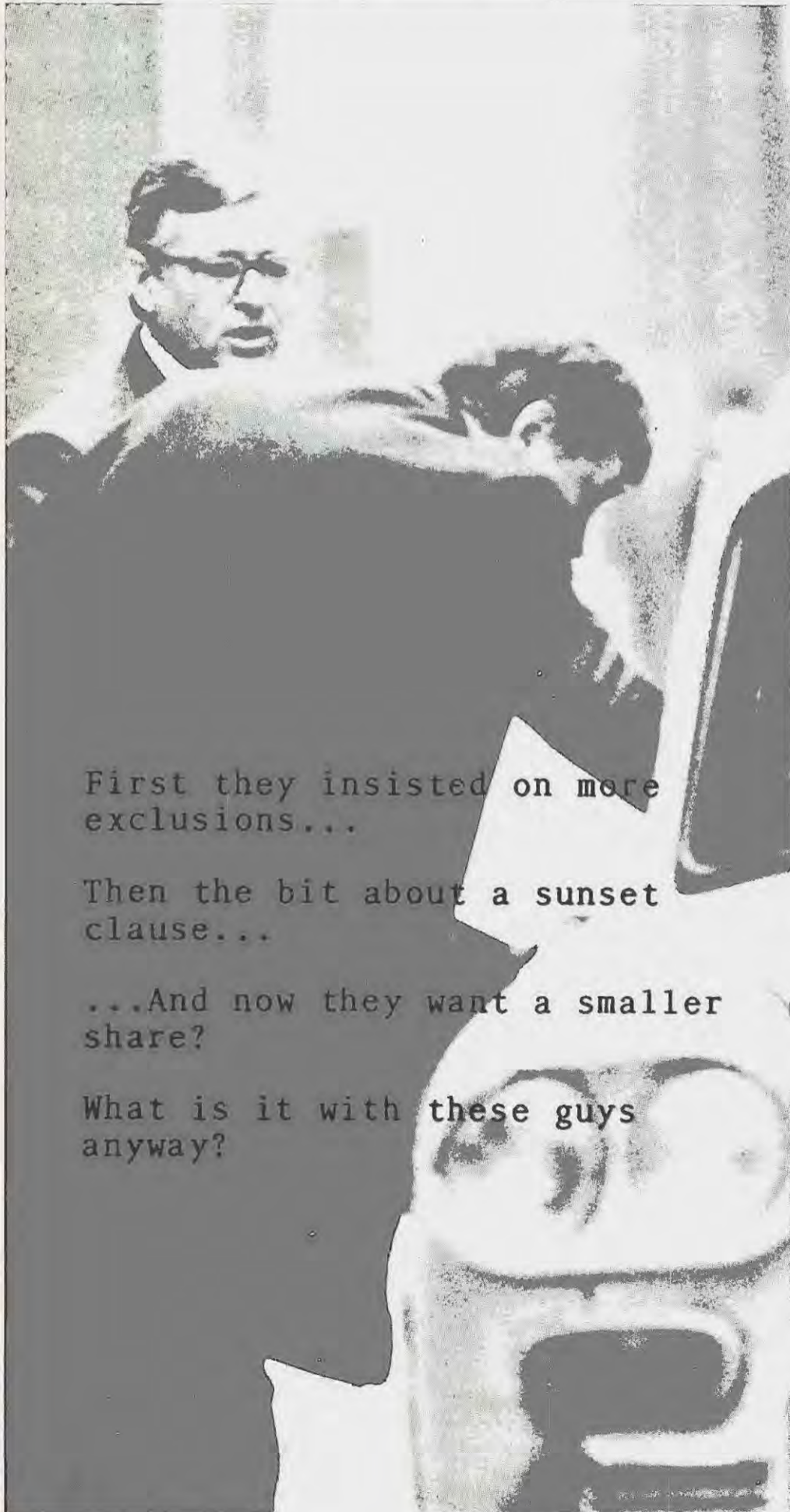
'Can the industry accurately account if it has infinite exposure under the occurrence form?'

- Will this "gamble" prevent investors from supplying needed capital to the industry?
- Can the industry accurately account if it has infinite exposure under the occurrence form?

Interestingly, the case Mr. Anderson cited in his letter, *Fogelson vs. The Home Insurance Co.*, and the recent 9th U.S. Circuit Court of Appeals case both involved law firms scurrying for cover under the claims-made form. While the court did state in the *Fogelson* case, "the coverage reported under 'claims-made' policies may thus become, in many cases, largely illusory," it did include in its decision a notation: "In a similar context, one federal district court made the following observations which are here pertinent: '(We) are of the firm opinion that the freedom to offer malpractice insurance contracts similar to the one before us serves the public interest.'"

As to Mr. Anderson's gratuitous fiduciary concern for our errors and omissions coverage, all of our clients own their own insurance companies and are quite comfortable with the claims-made policy in that dual capacity.

E. Richard Crebs
President
Commercial Insurance
Alternatives Inc.
St. Helena, Calif.



First they insisted on more exclusions...

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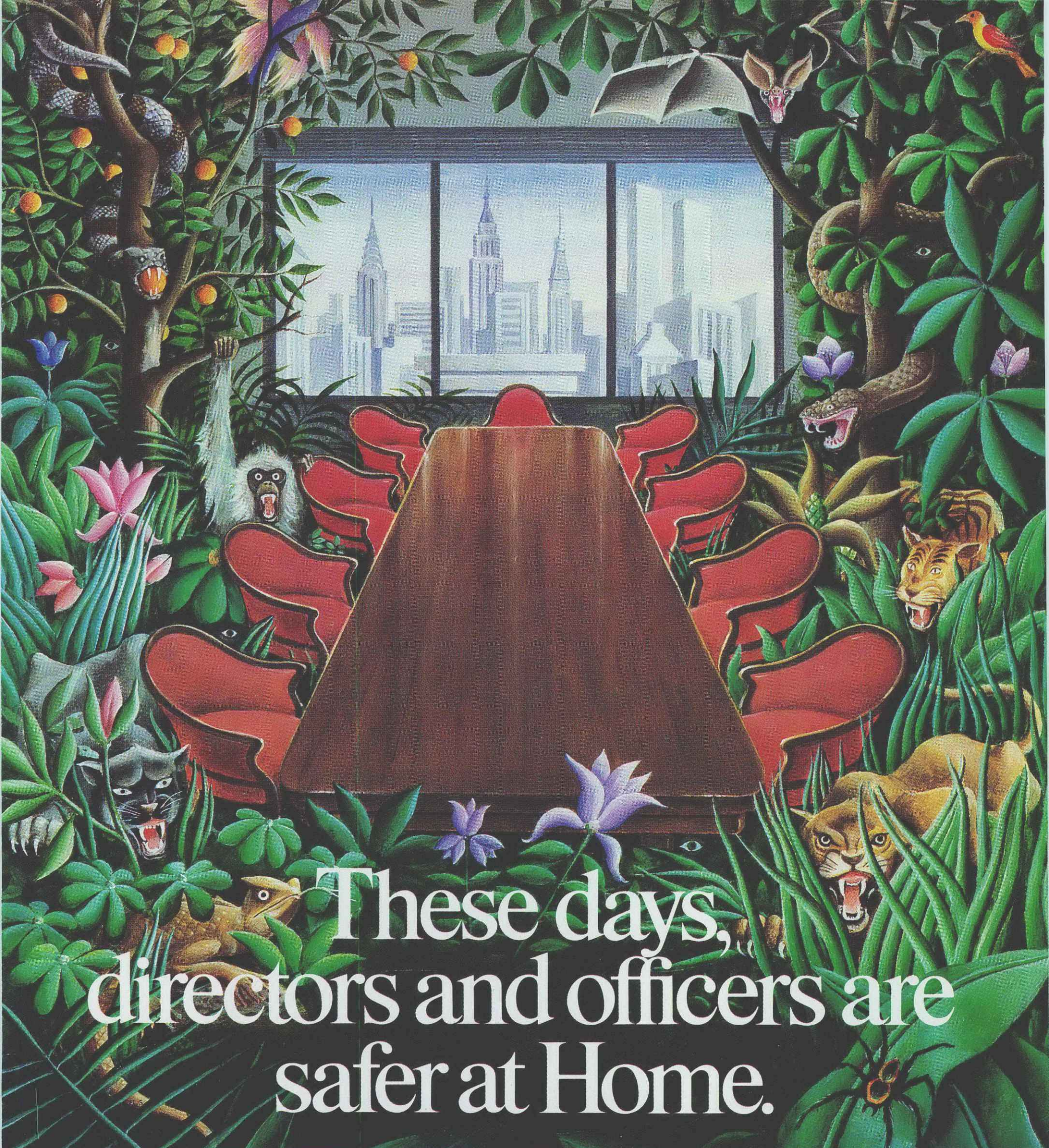
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Home Insurance

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Ruined vintages

Continued from page 3
ingredient in Orthene 50.

Chateau Phelan Segur is owned by Xavier Gardinier, who bought the winery from Guy, Pierre, Jarine and Marie Delon two years ago. Mr. Gardinier did not own the winery when most of the insecticide was sprayed on the grapes, but he purchased its wine inventory when he took over the operation.

Guy Delon applied the powdered Orthene 50 to the vineyards according to Chevron recommendations on eight occasions when his family owned the property and twice in 1985 after Mr. Gardinier bought it, the lawsuit said.

The odor problem was first discovered in March 1986 when Phelan Segur received a complaint from a noted wine brokerage firm. The brokerage firm determined the wine was "bottle sick," a condition that sometimes happens in young wines. Wine brokers and mer-

chants throughout Europe subsequently complained about odors in the 1983 wine according to the lawsuit.

Phelan Segur then found the 1984 and 1985 vintages also suffered from noxious smells. The 1984 wine was already contracted for sale and the 1985 wine was in vats when the problem was discovered. Mr. Hancock said.

Laboratory tests by the university subsequently determined the odors were a direct result of the application of Orthene 50 to the vineyards, according to the lawsuit.

Although the lawsuit says the odor is objectionable, it does not allege that the chemical residue in the wine presents any health risks.

Mr. Hancock said the withdrawal of the Phelan Segur wines from the market and its absence for three vintage years has damaged the winery's long-established reputation.

Monetary damages included the

Phelan Segur's '83 vintage smelled 'of rotting cabbage or asparagus,' court papers say.

repurchase of the 1983 vintage at inflated retail prices and withholding about 750,000 bottles from the 1984 and 1985 crops.

Three other wineries in France and wineries in two other European countries have reported similar problems, the complaint says.

The Chevron spokesman said the company is working with several small wine producers in Germany to determine the source of odors in their wine, but the apparent cause is an uncontrolled "wild yeast" that has seeped into the wine making process.

And, tests conducted by a Chev-

ron consultant indicate the odor in the Phelan Segur vintages was caused by some factor other than the Orthene insecticide, the Chevron spokesman said.

The company manufactures Orthene at its agricultural plant in Richmond, Calif. Chevron has marketed Orthene 50 in France since 1974. It is used to kill pests in damp soils in European countries and on grapes grown in the United States.

"We're quite comfortable that we're not responsible for problems they feel they have," the spokesman said.

The cause of the odor was "most likely a bacterial process" involved in wine making, he said, adding, "our research continues."

However, Mr. Hancock denied that the cause of odors was a natural bacterial condition in the wine making process.

"Anything is possible but that is so unlikely as to be ridiculous," Mr. Hancock said. Phelan Segur

carefully controls its process and uses only grapes from its own vineyards, he said.

The Chevron spokesman also noted that Orthene has been used on crops for many years without complaints.

Another factor may account for the recent spate of concern about chemicals in wine, he said.

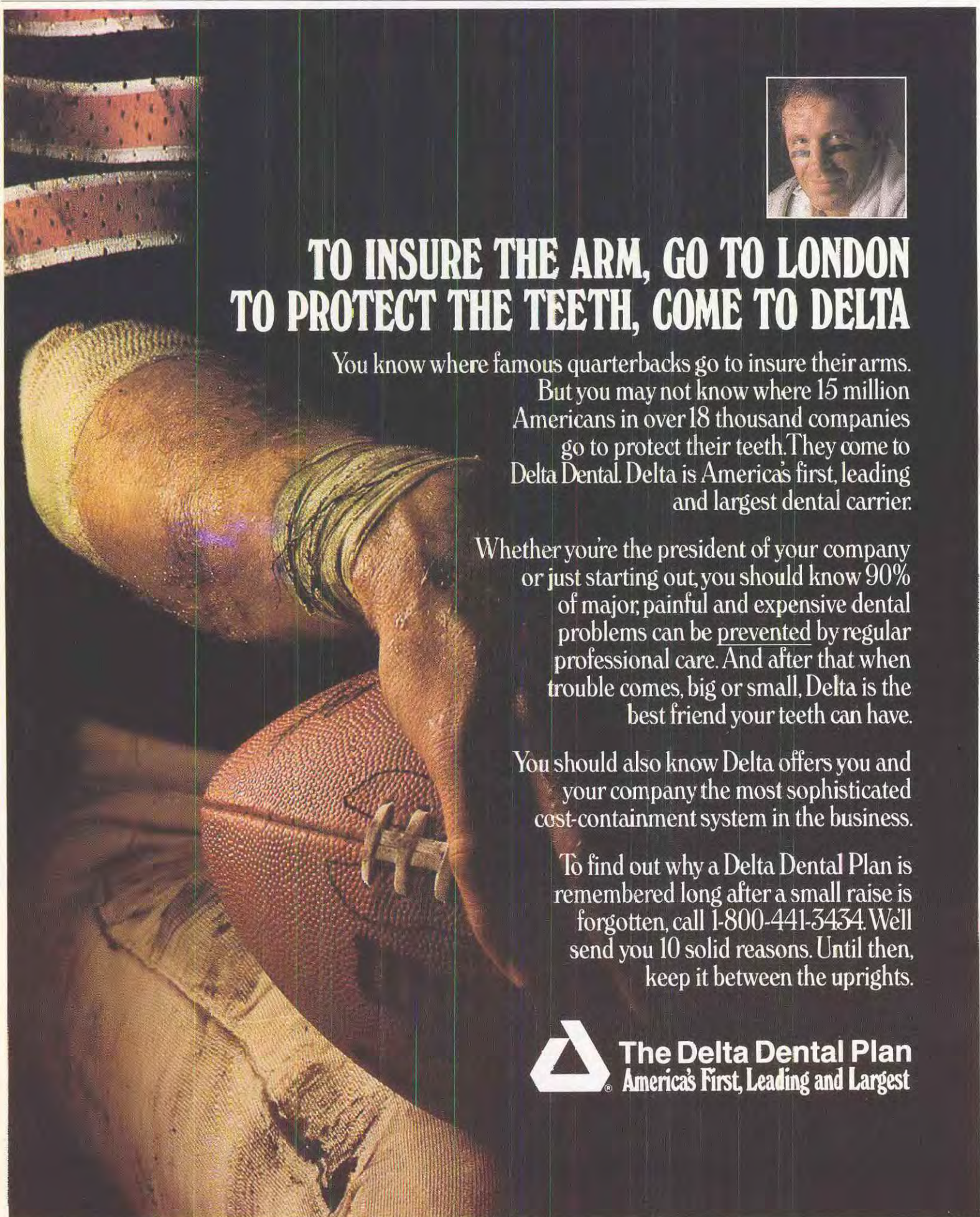
"Quite frankly, there are surpluses of wine. When that happens people, look for ways to sell their wine," he said. "We recognize that, and it may be part of the situation."

Mr. Hancock said he would favor a settlement to end the issue. The time and legal costs involved in a protracted court fight makes it in both sides' interests to settle, he said.

"The parties should get together and reach a fair, equitable and just settlement," he said.

But the Chevron spokesman said it would not be in the chemical company's best interest to reach a settlement as long as it remains confident that it was not responsible for chemical contamination.

It may take a year or more to get the case to trial, according to Mr. Hancock and the Chevron spokesman. ■



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- Title of publication: Business Insurance
- Date of filing: 9-28-87
- Frequency of issue: Weekly
- a. Number of issues published annually: 52
- b. Annual subscription price: \$68.00
- Location of known office of publication: 740 Rush Street, Chicago, Cook County, IL 60611
- Location of the headquarters or general business offices of the publisher: 740 Rush Street, Chicago, Cook County, IL 60611
- Name and address of the publisher: Alfred Malecki, 220 E. 42nd St., New York, NY 10017; editor, Kathryn J. McIntyre, 740 Rush St., Chicago, IL 60611; managing editor, James M. Burke, 740 Rush St., Chicago, IL 60611
- Owner (if owned by a corporation, its name and address must be stated and also immediately thereunder the names and addresses of stockholders owning or holding 1 percent or more of total amount of stock. If not owned by a corporation, the names and addresses of the individual owners must be given. If owned by a partnership or other unincorporated firm, its name and address, as well as that of each individual must be given: Crain Communications, Inc. 740 N. Rush Street, Chicago, IL 60611; Sidney R. Bernstein, G. R. Crain, R. E. Crain, 740 N. Rush St., Chicago, IL 60611; K. E. Crain, 1400 Woodbridge, Detroit, MI 48207.
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 Has not changed during the preceding 12 months
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10. Extent and nature of circulation	Average no. copies each issue during preceding 12 months	Actual number of copies of single issue published nearest to filing date
A. Total No. Copies Printed (Net Press Run)	52,261	51,800
B. Paid Circulation		
1. Sales through Dealers and Carriers, Street Vendors and Counter Sales	7	6
2. Mail Subscriptions	35,143	34,745
C. Total Paid Circulation (sum of 10B1 and 10B2)	35,150	34,751
D. Free Distribution by Mail, Carrier or other means: Samples, complimentary, and other free copies	15,663	15,880
E. Total Distribution (Sum of C and D)	50,813	50,631
F. Copies not distributed		
1. Office use, left over, unaccounted, spoiled after printing	1,436	1,163
2. Returns from news agents	12	6
G. Total (Sum of E, F1 and 2—should equal net press run shown in A.)	52,261	51,800

11. I certify that the statements made by me above are correct and complete.
Keith E. Crain
Vice Chairman

OPEN MINDS OPEN MARKETS.

If First Boston and The New England had not challenged conventional wisdom, the transaction on the right might be a blank box.

Instead, it signals the opening of a new market and new borrowing opportunities for mutual life insurance companies. The story is this:

People assumed that the domestic capital markets were out of bounds to mutual life insurance companies.

Normally, this financing would have followed the usual path—overseas and into the Eurodollar markets.

But in the course of structuring the transaction, market conditions changed. Interest rates available in the U.S. were more advantageous than those abroad. And The New England raised an interesting possibility—why not attempt to register the issue here.

First Boston listened and was intrigued. Together, The New England and First Boston pursued the idea and found that problems thought to be associated with filing a statutory financial statement with the SEC would not, in fact, block the issue.

As a result, The New England not only achieved a lower cost of funds, but set a precedent for all mutual life insurance companies.

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Conventional wisdom rarely leads to creative financing ideas. That's why, when First Boston works with clients, we encourage an exchange of ideas between open minds. And that's how we maintain an open-ended range of capital markets opportunities.

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First Boston

Argonaut acquired in leveraged buyout

Gibbons, Green, van Amerongen, a New York company that specialized in leveraged buyouts, has agreed to buy Los Angeles-based Argonaut Group Inc., the parent company of Argonaut Insurance Co., for \$620 million in cash and stock.

Observers say it could be the first leveraged buyout of an insurer.

Under the agreement, which was signed last week, Gibbons, Green will give Argonaut stockholders \$45 in cash and one share of publicly traded preferred stock for every Argonaut share they hold. The preferred shares each will have an expected value of \$8, according to a Gibbons, Green spokesman.

The move follows the failed takeover attempt of Argonaut by Hamilton, Bermuda-based insurer Clarendon Group Inc. earlier this year. In September, acquisition talks with Clarendon fell through (*BI*, Sept. 14).

Argonaut's stock price jumped \$1 in the two days following the announcement of the leveraged buyout to \$48 a share on Oct. 5.

According to Argonaut President D.W. Schrempf, management of Argonaut will remain the same following the acquisition.

The transaction is subject to shareholder and regulatory approval and the ability of Gibbons, Green to obtain the financing for the leveraged buyout, which is an acquisition that is financed mostly by debt.

Ultimately, the debt is repaid from the company's cash flow or by selling assets.

The acquisition is expected to be completed in the first quarter of 1988, spokesmen from both companies said.

Argonaut wrote \$164.2 million in net premiums during the first six months of 1987. Workers compensation represents more than 60% of the insurer's total business, with general liability being the next largest line.

Argonaut's net income in the first half of 1987 more than doubled to \$41.3 million, including capital gains of \$7.7 million, from \$17.1 million in the first six months of 1986, including capital gains of \$3.9 million.

Argonaut was formerly a unit of Teledyne Corp., which spun off the insurer to the public last year (*BI*, Oct. 13, 1986).

New consultant

HM Consultants has added two well-known insurance industry veterans and expanded its worldwide management consulting services to include a wide spectrum of insurance-related consulting services.

The new insurance consulting arm of the firm is headed by Richard E. Stone, executive vp, and Graves D. Hewitt, chairman. Prior to joining HM Consultants, Mr. Stone was chairman and chief executive officer of Crum & Forster Managers Corp. of Illinois. He was president of Cameron & Colby Co. Inc. in Boston until 1984, when he joined CFMC (Ill.).

Mr. Hewitt spent 20 years as chief executive officer of Cameron & Colby prior to joining HM Consultants.

Wellesley, Mass.-based HM Consultants provides consulting services to all areas of the insurance industry, including captives, alternative risk facilities, admitted insurers, excess/surplus markets, reinsurance and agents and brokers.

Approximately 20% of HM Consultants' business is insurance-related.

Services available include market surveys, reinsurance audits,

Markets

claims analysis and mediation and arbitration work. HM also offers—among other services—consulting on: business plans, reinsurance programs, premium collector problems, incurred-but-not-reported reserves, staff efficiency and managing general agents.

The firm has several areas of expertise including asbestos litigation and reinsurance recoverables.

"We take complex issues and bring them into focus," Mr. Hewitt said. "We work toward reliable workable conclusions."

HM Consultants has offices in Amsterdam, Netherlands; Frankfurt, West Germany; London; Milan, Italy; Paris; and Tokyo.

For more information contact Mr. Stone or Mr. Hewitt at HM Consultants, 40 Grove St., Wellesley, Mass. 02181-7702; 617-237-5777.

New asbestos insurer

Asbestos removal contractors now can purchase liability coverage on an occurrence basis from a new insurer recently licensed in New Jersey.

Fidelity Environmental Insurance Co. of Princeton, N.J., will sell long-tail liability coverage through a newly formed trade association and purchasing group, Professional Environmental Contractors Inc.

Only members of PEC are eligible for coverage, according to Richard C. McDonough, president, and James J. Sheeran, vp and general counsel of Fidelity Environmental.

Asbestos removal contractors can become eligible for coverage by joining the association and following its guidelines and procedures for removal.

Messrs. McDonough and Sheeran discussed the formation of Fidelity at the National Assn. of Insurance Commissioners meeting held recently in Pittsburgh.

They told attendees that Fidelity was formed with \$10 million in capital and surplus, which was provided by parent company Environmental Control Group of Delaware, an asbestos removal contractor.

Fidelity will write occurrence policies on a per-job basis with limits of \$1 million per claim and \$1 million aggregate.

"To my knowledge, the occurrence policy offered by Fidelity represents a first for asbestos contractors by a U.S. insurer," Mr. McDonough said.

Fidelity will begin insuring PEC members based in New Jersey immediately. The insurer also hopes to provide coverage to PEC members nationwide, but could face delays depending on whether states interpret the Risk Retention Act as granting them authority to regulate insurers of purchasing groups (*BI*, Oct. 5).

Policies written by Fidelity will be reinsured by Sirius Reinsurance Co. Ltd. of Hamilton, Bermuda.

Continued on next page



TEAMWORK

Continued from previous page

The insurer is managed by PRO-PAC Underwriters Inc. (Professional Property & Casualty Management), a risk management consulting firm in Princeton, N.J.

For more information, contact Mr. McDonough at PROPAC, 22 Chambers St., P.O. Box 713, Princeton, N.J. 08542; 609-924-6855.

KCC division

Kramer Capital Consultants Inc., a Los Angeles-based management consulting firm, has added a risk services division.

The new division provides complete risk management consulting services to self-insurers, risk retention groups and captive insurance companies.

Among the services to be offered are loss control engineering, claims administration, operational and claims audits, case reserve evaluation, excess insurance and reinsur-

ance and loss expense control programs.

KCC Executive Vp Dale F. Ogden is directing the risk services division.

KCC Risk Services Division's principal operating office is located at 19100 Susana Road, Rancho Dominguez, Calif. 90221; 213-605-3337.

New TPA formed

Joseph M. Ravich, formerly general counsel and senior vp at Adjustco Inc. in Tarrytown, N.Y., has launched his own third-party claims administrator.

SFA Cos. provides self-insurers with diversified claims services in both the property/casualty and employee benefit areas.

Services provided include claims administration, loss control and safety programs, actuarial audits and structured settlements.

SFA Cos. is located at 475 Park Ave. S., New York, N.Y. 10016;

212-685-9320.

Risk management firm

A former risk manager and a corporate attorney have banded together to form a new risk management consulting firm in Chicago.

The firm, Loss Reduction Inc., offers risk management consulting services specifically tailored to small and medium-sized businesses. Services include insurance management, litigation and claims settlement and loss prevention analysis.

John M. Lison, formerly vp and general counsel at ATCOR Inc. of Harvey, Ill., and Robert L. Russell, former corporate risk manager of U.S. Gypsum Corp. in Chicago, said their company specializes in providing advice to companies that do not have a full-time risk manager.

"Companies and professionals are deciding liability is too important to be left in the hands of law-

yers or insurance brokers. They want to manage their own risk. We tell them how to do it," said Mr. Russell, president of Loss Reduction.

"Large corporations have been using comprehensive risk management programs for years. Small companies and professional groups are just getting started," Mr. Russell observed.

Mr. Lison is founder and chairman of Loss Reduction Inc., which is located at 200 W. Adams St., Suite 2015, Chicago, Ill. 60606; 312-558-4500.

Kemper reorganizes

Long Grove, Ill.-based Kemper Group has split its recently renamed National P&C Cos. into two operating segments—one for commercial lines and another for personal lines. Each segment will have its own underwriting manager and field structure.

Keith Like, manager of Kemper's

Mid-Continent division, will head the commercial lines division. Peter T. Standbridge, marketing manager, will head the personal lines division.

Kemper President Gerald L. Maatman said the reorganization "is the logical continuation of our direction in recent years, during which we have limited the number of centers doing volume processing personal lines business, focused our branch offices on commercial lines, trained highly qualified marketing representatives specializing in either personal or commercial lines and dealt increasingly with agents primarily oriented to either commercial or personal lines sales."

The Kemper National P&C Cos.—all of which are based in Long Grove, Ill.—include Lumbermens Mutual Casualty Co., American Motorists Insurance Co., American Manufacturers Mutual Insurance Co. and American Protection Insurance Co.

Together, the Kemper National P&C Cos. reported 1986 revenues of slightly more than \$2 billion, \$506.2 million in personal lines and \$1.5 billion in commercial lines.

Name changes

Blue Cross & Shield of Michigan's six health maintenance organizations have changed their names to the **Blue Care Network**. "The name change reflects the network's unique reciprocity program," under which all six HMOs offer health care coverage to the Network's 500,000 enrollees, explained a company spokesman. In addition, the HMOs will coordinate their resources in the areas of marketing, account servicing, advertising and purchasing staff.

San Francisco-based **Graham Miller Inc.** has changed its name to **Maxson Young Associates Inc.** The name change follows the firm's acquisition by Abaco Investments P.L.C., an affiliate of Toplis & Harding P.L.C., from Inchcape P.L.C., both of London. Maxson Young will operate as the North American arm of Abaco's worldwide loss adjusting group.

Mergers/acquisitions

Towers Financial Corp. of New York has acquired **The United Diversified Corp.**, the Delaware-based holding company for Associated Life Insurance Co., United Fire Insurance Co., United Associated Insurance Agency Inc., United Premium Finance Co. and United Associated Adjustment Co.

Thweatt & Associates, a Richardson, Texas-based brokerage, merged with **Corroon & Black of Dallas Inc.**

New offices

Executive Compensation Systems Inc. opened a new office at 200 Field Point Road, Greenwich, Conn. 06830; 203-661-2976.

Regional Marketing moved its offices to 120 Monument Circle, Suite 227, Indianapolis, Ind. 46204; 317-263-4523.

Frankona Cos. has moved its offices to 2405 Grand Ave., Suite 900, Kansas City, Mo. 64108-2554; 816-471-2200.

Atlantic Insurance Services, a newly formed managing general agent and surplus lines operation, has opened an office at 1 Riverway, Houston, Texas 77056; 713-993-9011.

Capital Guaranty Corp. has relocated its San Francisco headquarters to Steuart Tower, 22nd floor, 1 Market Plaza, San Francisco, Calif. 94105-1413; 415-995-8000.

Clark/Bardes Organization Inc. has moved its Chicago office to 205 N. Michigan Ave., Boulevard Tower S., Chicago, Ill. 60601; 312-565-0700.

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WORK VS RISK.

Clearing the air

Firms hope smoking bans will trim health costs

By KARI BERMAN

NEW YORK—Employers adopting no-smoking policies in the workplace believe the programs will reduce their health insurance costs over the long term.

Group health insurers are encouraging workplace bans on smoking, though they generally do not offer upfront incentives for employers to adopt such programs. However, insurers note that if a smoke-free environment leads to a healthier workforce, employers' group health insurance rates will drop.

And, at least one health insurer is offering immediate group health insurance discounts to employers that prohibit smoking on the job.

'The benefits of workplace (no-smoking) policies to the employer are incredible,' says Kerrie Wilson, of the American Cancer Society. 'There is increased productivity, less illness for workers and a healthier atmosphere in general.'

Employers are adopting new attitudes about smoking in the workplace in an attempt to reduce the estimated \$200 billion spent by employers on employee health care benefits, according to a report published by the New Jersey Group Against Smoking Pollution.

Marvin M. Kristein, professor of economics and public medicine at

State University of New York at Stony Brook, claims that each smoking employee costs employers an estimated \$1,000 per year through higher absenteeism, reduced productivity due to smoking breaks and higher health, fire and life insurance costs, according to a report by the Bureau of National Affairs in Washington.

"The benefits of workplace (no-smoking) policies to the employer are incredible," says Kerrie Wilson, legislative representative for the American Cancer Society in Washington, D.C. "There is increased productivity, less illness for workers and a healthier atmosphere in general," she says.

UNJM Life Insurance Co. in Portland, Maine, is one of a handful of companies that has a totally smoke-free work environment policy. After one year, the program has proved both cost-effective and successful, reducing the company's smoking-associated health-related costs by an estimated \$200,000, according to a UNJM spokeswoman.

UNJM's policy prohibits smoking in all company buildings, and

rules are strictly enforced, the spokeswoman says. A smoking policy violation is treated like any other breach in rules: first a verbal warning, then a written warning and, if the problem persists, possible termination, she says.

Since 21% of all UNJM employees smoked in 1985, the implementation of the policy was initially controversial, the spokeswoman explains. She attributes its success to the variety of support programs offered free by UNJM to employees and their families.

For instance, UNJM will pay up to \$100 per employee per year for non-company-sponsored smoking cessation programs.

"Providing our employees with these helpful programs has brought about a smoother transition into a smoke-free environment," the spokeswoman says.

In addition to clearing the air, the no-smoking policy has also encouraged some smoking employees to throw away their cigarettes, according to Susan Olson, coordinator of UNJM's employee health programs.

"Not only do we have cleaner air, which makes it a much more pleasant place to work, but we have also reduced our number of smoking employees by 5%, Ms. Olson says.

Although it is too early to notice any reduction in health insurance costs as a result of the program, UNJM officials predict the company's health insurance costs eventually will decrease because of the smoking ban.

"Group insurance is based on experience," explains Dr. Stanley Sylvester, UNJM's medical director. "The positive affects of our program will be reflected in future low rates."

Ms. Olson agrees: "We have healthier employees and fewer health claims which will in time bring down our premiums."

Cardinal Industries Inc. is another employer that has gone totally smoke-free.

Employee pressure for smoke control coupled with statistics from the Washington Business Group on Health—which says that smoking employees can cost employers anywhere from \$624 to \$4,611 per year—prompted the Sanford, Fla.-based manufacturer to ban smoking in the workplace.

"We gave everyone a year to get off of their butts," says Bill Nolan, the company's vp. During that 12-month period, the company offered a series of company-sponsored programs, including educational seminars and even hypnosis programs, for employees who wanted to quit smoking before the new rules took affect.

Then, as of Jan. 1, Cardinal began enforcing a total ban on smoking, both in its buildings and on its grounds. The company also has stopped hiring smokers, according to Mr. Nolan.

"We will not hire smokers when we are trying to promote a smoke-free environment," he says. "We are happy with the way things are going and nobody has left because" of the no-smoking policy, he adds.

Although a Cardinal spokesman said the company's group insurance costs did not go down with the implementation of the no-smoking policy, management expects the policy to increase productivity, lower absenteeism and reduce health insurance costs in the long run as the company becomes a healthier place to work.

"We don't expect to see a deduction in the short term," says Bill Bridges, Cardinal's vp of human resources. "But in three to

Continued on next page

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Continued from previous page
five years, we hope to see a down turn in money spent on health and disability."

For Radar Electric Co. in Seattle, a company that implemented a no-smoking policy a decade ago, health insurance cost savings is a reality.

"Our lower rates are a direct reflection of our no-smoking policy," says President Wilber McPherson, who does not allow any smoking on the premises.

However, Mr. McPherson could not quantify how much the company has saved.

The Hewlett-Packard Co. facility in Fort Collins, Colo., also has taken steps toward reducing the \$35 million to \$40 million per year the company pays in costs directly related to smoking and health problems associated with smoking, according to a company spokesman.

Hewlett-Packard, however, is not totally smoke-free. Instead, there are designated areas where smokers can go to have a cigarette, the spokesman explains.

"What we do now is to try to accommodate the smokers, rather than accommodating the non-smokers," the spokesman explains.

However, a program like Hewlett-Packard's is less likely to bring about major reductions in health insurance rates, because

"We have problems knowing how much an effect is a result of no smoking."

Insurers "look kindly on companies that have no-smoking policies, but we don't lower rates up front just because they tell us that they do not allow smoking," says the HIAA spokesman.

However, rates will drop if an employer's loss experience is reduced because of a smoke-free working environment, the spokesman said.

Prudential Insurance Co. of America also offers no specific premium adjustments for no-smoking policies and rates by experience, a spokesman for the Newark, N.J.-based insurer.

However, "We offer referrals on studies and services that can aid companies in setting up a no-smoking policy, advising them that in the long run it may bring down their premiums, depending on how much their claims diminish," the Prudential spokesman adds. ■

'Insurance companies view smoking of any kind as a hazard,' says an HIAA spokesman.

smoke still remains in the air, leaving it polluted, a spokesman for an insurer trade association says.

"Insurance companies view smoking of any kind as a hazard," says a spokesman for the Health Insurance Assn. of America.

"If it is around at all, it lessens the chances for reduction" of premiums, he explains.

Although more and more companies are establishing no-smoking policies in an effort to diminish their health care costs and reduce health insurance expenditures, most health insurance companies are not quick to offer discounts just because a company has introduced a ban on smoking in the workplace.

However, at least one company is offering reduced group health insurance rates to employers that adopt such a ban.

Pacific Mutual Life Insurance Co. of Newport Beach, Calif., which itself has recently implemented a total ban on smoking in the workplace, offers up to a 5% reduction on group health insurance policies for employers that have adopted no-smoking policies, according to a spokesman.

Pacific Mutual is offering the rate reductions to encourage more employers to prohibit smoking, a spokesman said.

"Insurance carriers can envision and welcome a time in the near future when enough individuals make the personal decision to quit smoking that group discounts to non-smoking companies will become an actuality," said Walter B. Gerken, Pacific Mutual's chairman, in a recent speech.

Other insurers, though, are not offering discounts to employers with no-smoking policies. However, they do point out that if the programs are effective, claims history will improve and lead to rate cuts.

"There is no way to initially predict the success of a no-smoking program," explains a spokesman for Metropolitan Life Insurance Co. in New York.

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British risk managers multiply: Survey

By STACY SHAPIRO

London

LONDON—There are more employees at British companies called "insurance and risk managers" and fewer people called simply "insurance managers" in 1987 compared with 1985, according to a survey conducted by the Assn. of Insurance & Risk Management in Industry & Commerce.

Eleven percent of the 159 respondents to the survey conducted earlier this year said they are called "insurance and risk managers," while only 6.3% of 188 respondents to a 1985 AIRMIC survey said they had the same designation.

In addition, 64.8% of those who responded to this year's survey said they were called "insurance managers," down from the 71.3%

of those who responded to the 1985 poll.

The AIRMIC 1987 Report on the Status, Salary and Conditions of Service of Full Members also shows that:

- The average risk manager's salary has increased 26% in the past two years to 24,186 pounds (\$39,400).

U.S. risk managers, however, earn more than British risk managers. According to a survey released earlier this year by Logic Associates, a New York-based recruiting firm, U.S. risk managers' average salaries ranged from a low of \$44,851 at companies with less than \$200 million in annual reve-

nues to a high of \$90,992 at companies with more than \$7 billion in annual revenues (BI July 27).

- About 65% of AIRMIC members use independent brokers to place the companies' insurance coverage.

- More than 58% of those responding to the AIRMIC survey hold professional insurance qualifications.

The AIRMIC report is free to all AIRMIC members and costs 25 pounds (\$40.75) for non-members.

For more information contact the Assn. of Insurance & Risk Managers in Industry & Commerce, 6 Lloyd's Ave., London EC3N 3AX, England.

Trial to begin

A trial is scheduled to begin next week in a London High Court in a 1985 suit filed by South Carolina Insurance Co. against its retrocessionaires and brokers to recover about \$4 million in losses that South Carolina says it is owed.

The case involves as defendants:

- Retrocessionaires Mediterranean Insurance & Reinsurance Co. Ltd. of London, which hopes to have its rehabilitation plan approved by its creditors this week;
- Overseas Union Insurance Co. of Singapore; Arabian Seas Insurance Co.; Al Ahlia Insurance Co. Ltd. of London; Seven Provinces Insurance Underwriters Ltd. of London; and Cambridge Reinsurance Co., which is in liquidation in Bermuda.

- Lloyd's of London broker Hogg Robinson & Gardner Mountain Ltd., which acted as South Carolina's London reinsurance broker in the placement of the retrocessions.

- Lloyd's broker Hall Harford Jeffreys Ltd. and London broker Triton Brokers Ltd.

South Carolina's parent company, Seibels Bruce Group, Inc. of Columbia, S.C., has also been brought into the dispute as a third-party defendant.

Between September 1981 and September 1983, South Carolina reinsured marine hull, cargo, protection and indemnity and liability risks written by United National Insurance Co. and retroceded the business via marine quota-share reinsurance contracts brokered by Hogg Robinson to the defendant underwriters.

Losses have occurred that South Carolina says fall within the terms of the reinsurance contracts with the retrocessionaires. However, the defendants are refusing to pay, claiming non-disclosure of information at the time the coverage was placed.

Policy exclusions

London marine underwriters have updated the one-page Non-Marine Liability Exclusion Clause that is included in excess-of-loss liability reinsurance contracts written by the underwriters.

The clause, which first went into effect on March 1 and was recommended by the Joint Excess of Losses Committee of the Institute of London Underwriters and Lloyd's of London marine underwriters, reduced the amount of liability insurance capacity available for U.S. policyholders in the London market (BI, March 30).

The revised clause shows no "significant changes" or leniency on the kinds of risks marine underwriters can cover, said a spokesman for the ILU. "There is no real difference," he said.

However, the changes do expand available coverage somewhat to reflect risks that marine underwriters had intended to insure, he said.

The new version, enacted Oct. 1, says that contracts that contain the clause will exclude claims for third-party liability for:

- Product liability unless written on a "claims-made" basis within general liability policies. Underwriters will offer product liability coverage, however, for marine vessels, craft, offshore installations and aircraft, which the old clause omitted.

- Directors and officers liability and liability under the Securities Exchange Act. The older clause had omitted this particular exclusion.

- Professional liability and errors and omissions liability, unless directly related to the owning or handling of ships, cargos or goods in transit or classification societies and marine surveyors.

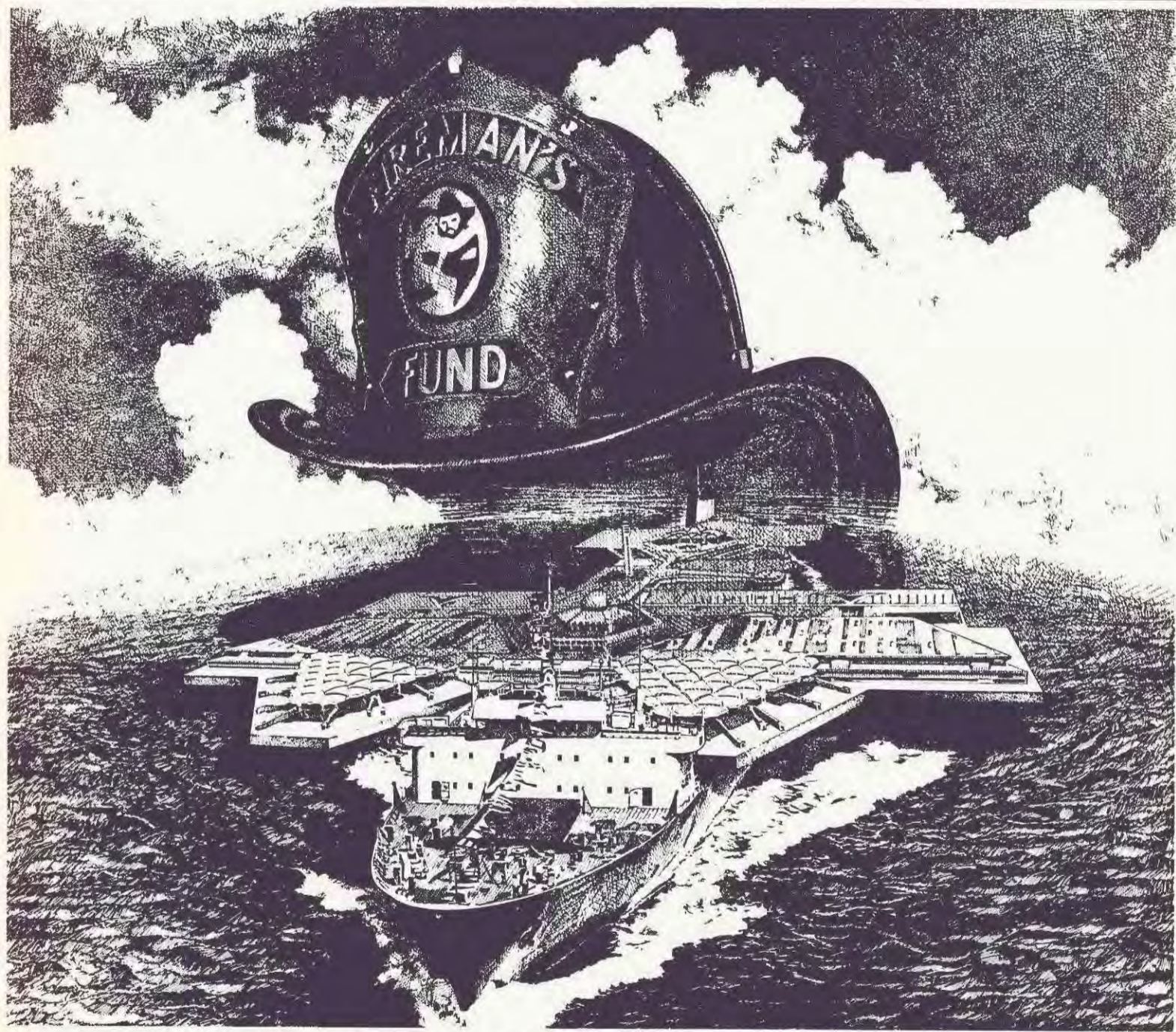
The ILU spokesman said that most London marine underwriters will continue to impose the exclusion through this year's renewal season.

"The other (clause) was universal and this is just replacing it," the spokesman said.

Ferry sold for scrap

Townsend Thoresen, a unit of Europe Ferries Group P.L.C., sold the ill-fated Herald of Free Enterprise ferry last week for scrap for around 250,000 pounds (\$407,250) to undisclosed Dutch interests, sources in London say.

A spokesman for Townsend
Continued on next page



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FIREMAN'S FUND
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Continued from previous page
Thoresen's parent, Peninsular & Oriental Steam Navigation Co., would not identify the Dutch interests or confirm the sale price of the ferry, which capsized outside Zeebrugge Harbor in Belgium in March, killing at least 188 people.

However, the 20 million-pound (\$32.6 million) hull claim for the ferry continues to be processed by P&O insurers, said the P&O spokesman.

The hull was insured by P&O's London-based captive, Proteus Insurance Co. Ltd., which was reinsured by Lloyd's of London syndicates (BI, March 16).

Lowndes Lambert

Lloyd's of London broker Lowndes Lambert Group Ltd. has a new parent company.

Last week, Britain's financial conglomerate TSB Group P.L.C. announced that it was buying Lowndes Lambert's parent Hill Samuel Group P.L.C. for about 777 million pounds (\$1.27 billion) to make it one of the largest financial conglomerates in the country.

TSB already owns 24.7% of Hill Samuel and the directors of Hill Samuel, who hold about 0.8% of the company's shares, intend to accept the offer.

Under the terms agreed by TSB and Hill Samuel, Hill Samuel Chairman Robert Clark, Chief Executive David Davies and Finance Director Dolf Mootham will all join the TSB board.

Hill Samuel, which reported pre-tax profits for the year ended March 31 of 61.8 million pounds (\$100.7 million), is involved in investment banking, employee benefits consulting through Noble Lowndes & Partners, insurance brokerage via Lowndes Lambert and shipping.

"The acquisition of Hill Samuel is a major step for TSB in its development as a financial services group," said TSB Chairman John Read. "I should like to emphasize the importance which we attach to the retention of the Hill Samuel name together with the other well known names in the Hill Samuel Group."

Hogg defection halted

Executives of Lloyd's of London broker Hogg Robinson & Gardner Mountain P.L.C. will not comment on how they stopped 17 employees from moving from Hogg's political and credit risk division to rival Lloyd's broker Lloyd Thompson Ltd. (BI, Sept. 28).

News reports speculate that Hogg threatened litigation to stop the employees, which include directors Jack Barnes and Mark Drummond-Brady, from leaving the company.

Hogg issued a statement that reads: "The announced departure of some of Hogg Robinson & Gardner Mountain's political risk staff to Lloyd Thompson Holdings has been curtailed by mutual agreement between the boards of the companies, in the interests of clients, underwriters and staff. The position of Hogg Robinson & Gardner Mountain and its clients has been safeguarded."

The Hogg Robinson statement continues, "The position of certain of the directors has been reviewed and discussions with the staff are continuing."

Hogg would not comment further.

Broker acquisition

Lloyd's broker Nelson Hurst & Marsh (U.K.) Holdings Ltd. has acquired C.L. Cognet & Co. Ltd., a broker based in Hounslow, Middlesex, that specializes in the placement of marine, freight forwarders and haulers liability and commercial non-marine risks.

In addition, NHM has announced

the formation of a new company called NHM Special Risks Ltd. The new company will be run by eight employees who joined NHM from the North American division of Bain Clarkson Ltd. (BI, Aug. 31).

NHM Special Risks Managing Director Tim Lardner and Directors Douglas Laithwaite and Daniel Fettel, along with five other Bain Clarkson colleagues, will handle North American facultative and treaty reinsurance business with a particular emphasis on specialty and association programs.

Comings & goings

A six-man aviation team from Lloyd's of London broker Bain

Clarkson Ltd. has moved to Jardine Insurance Brokers International Ltd. Bobby Llewellyn, former chairman and managing director of the Bain Clarkson aviation division, will become chairman of Jardine's aviation division. Also joining Jardine from Bain Clarkson are John Westoby, Jeremy Birtwhistle, Nick Woolley, Constantine Pilavachi and Tim Locke.

H.O. Collingwood has been appointed director of the claims division of Lloyd's reinsurance broker E.W. Payne (International) Ltd. Mr. Collingwood was previously a board director of Lloyd's broker Carter, Wilkes & Fane Ltd., a unit of Willis Faber P.L.C. ■

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PBGC deficit deeper than LTV: Utgoff

By JERRY GEISEL

WASHINGTON—Even if the Pension Benefit Guaranty Corp. wins its legal battle to return three massively underfunded defined benefit pension plans to LTV Corp., Congress still must give the agency the revenue it needs to avert bankruptcy, the PBGC's chief says.

"Returning LTV's plans has not solved our problems," PBGC Executive Director Kathleen P. Utgoff said last week at a meeting of the National Employee Benefits Institute in Washington.

Last month, the PBGC returned three LTV plans to the company after LTV established new plans that, among other things, restore certain non-PBGC guaranteed benefits that were lost to partici-

'The good news is that everyone (on Capitol Hill) recognizes that there are problems with funding standards that must be addressed. I'm very encouraged that there will be substantial reforms of the funding standards,' says Kathleen P. Utgoff.

pants when the PBGC terminated the plans in January.

The PBGC has charged that the new plans are an illegal continuation of the old plans. LTV denies the charge (BI, Sept. 28).

While the restoration of the LTV plans—if upheld by the courts—would reduce the PBGC's deficit to about \$2 billion from \$4 billion, the agency still will need more income in order to tackle its deficit,

Ms. Utgoff said.

She noted that it took Congress more than four years—after the PBGC made its initial request—to raise the termination insurance premiums employers with defined benefit pension plans pay the PBGC.

By the time Congress last year boosted the annual premium to \$8.50 per plan participant from \$2.50 the \$8.50 premium was in-

adequate to tackle a deficit that by then had hit \$1.5 billion, Ms. Utgoff said.

The question legislators have to face is not whether a premium increase is necessary, but adopting a method that boosts income in the "least destructive" way, Ms. Utgoff said.

The fairest way to boost the agency's revenues is to establish a variable-rate premium structure in which the premiums employers pay the PBGC would be based on the funding levels of their pension plans, she said.

For example, under a measure approved by the House Ways and Means Committee, which Ms. Utgoff said is a step in the right direction, employers—depending on how well their plans are funded—would pay premiums ranging from

\$14 to \$50 (BI, Aug. 3).

Ms. Utgoff said it is likely that the Senate Finance Committee also will adopt a variable-rate premium structure, but she said the Senate Labor and Human Resources Committee will follow in the footsteps of the House Education and Labor Committee and simply raise the current flat-rate premium.

The Education and Labor Measure calls for a boost in the premium to \$19.

While the method and the amount of the premium increase ultimately will be decided by a congressional conference committee, Ms. Utgoff is optimistic that when the dust settles, Congress will adopt a variable-rate premium structure.

"There is growing support for a variable rate premium. It stands a very good chance" of passage, she said.

While a fairer, more equitable premium structure is essential, Ms. Utgoff says Congress also has to tighten minimum funding standards for pension plans to reduce the PBGC's vulnerability to huge pension claims in the future.

The PBGC chief described as inadequate the current minimum funding standard in which companies can amortize pension liabilities over 30 years.

Such a standard is especially weak for companies that have a high proportion of older workers who will soon retire and collect pension benefits.

"Thirty-year amortization is too long for benefits that may be paid in six or seven years," Ms. Utgoff said. "It means you are going to run out of money."

As examples of the inadequacy of the current minimum funding standard—set by the Employee Retirement Income Security Act of 1974—Ms. Utgoff cited an LTV pension plan which had \$230 million in liabilities and just \$7,700 in assets at the time the PBGC took over the plan last year and a plan terminated by Allis-Chalmers Corp. in 1985 which had and \$165 million in liabilities and only \$5 million in assets (BI, July 22, 1985).

While both the LTV and Allis-Chalmers plans were essentially broke at the time of termination, there was no evidence that either company violated ERISA's minimum funding rules, Ms. Utgoff said.

To improve plan funding, Ms. Utgoff recommended an approach adopted by the Ways and Means Committee. The committee proposal would set a new schedule in which the speed of new liabilities—those created after June 30, 1987—would be amortized based on the funding level of a plan.

- Under this schedule:
- Pension plans that are less than 50% funded would have to amortize new liabilities in three years.
 - Plans that are between 50% and 70% funded would have to amortize liabilities over five years.
 - Plans that are more than 70% funded would have 15 years to amortize new liabilities.

A similar rapid amortization schedule would be established for old liabilities, though that schedule would not take effect until 1991.

Ms. Utgoff is confident that Congress—in large part because of the recent termination of such massively underfunded plans as LTV's—will tighten ERISA's minimum funding rules.

"The good news is that everyone (on Capitol Hill) recognizes that there are problems with funding standards that must be addressed. I'm very encouraged that there will

Continued on next page

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Continued from previous page

be substantial reforms of the funding standards," she said.

In fact, the "silver-lining" in the agency's battle with LTV has been an increased understanding and awareness of the PBGC's problems since the enactment of ERISA, she said.

"People's eyes don't glaze over when you talk about 30-year funding standards. Now, people (in Congress and in private industry) call up with suggestions," she said.

Still, Ms. Utgoff warned of an 11th-hour campaign by underfunded plans to try to derail funding standard reforms.

Turning to another area—overfunded plans—Ms. Utgoff said backers of proposals that would make it more difficult and expensive for employers to recover surplus

assets from terminated plans may not understand the damage such proposals would inflict on the nation's private pension plan system.

For example, a proposal approved by the Education and Labor Committee would require employers to give participants a share of the surplus assets (BI, July 27).

If such restrictions were imposed, employers would reduce plan funding, jeopardizing the security of the plans, she said.

"You will have low levels of funding and that is not in the interest of benefit security," Ms. Utgoff said. ■

"Thirty-year amortization is too long for benefits that may be paid in six or seven years," says Kathleen P. Utgoff.

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Association of risk groups elects board

CRYSTAL LAKE, Ill.—The first national trade association to represent risk retention and risk purchasing groups now has a board of directors.

The 11 members elected to the National Risk Retention Assn.'s board last month at the trade group's first membership meeting in Oak Brook, Ill., include:

- James Sackett, president of the Assurance Alliance Risk Retention Group in Crystal Lake, Ill. Mr. Sackett also will serve as president of the trade group.

- Harley Bierce, president of Star Services, a unit of American Trucking Assurance Alliance, a Crystal Lake-based company providing insurance consulting services to the trucking industry.

- Kim Brunner, government relations officer for Nationwide Insurance Co. in Columbus, Ohio.

- Daniel Dinur, executive vp of American Contractors Insurance Co. in Dallas.

- Robert Larsen, president of Insurance Administration Center in Park Ridge, Ill.

- James McKenna Jr., a partner with the law firm of Dickie, McCamey & Chilcote in Pittsburgh.

- Dr. Edward Negley, president of J.J. Negley Associates, a Cedar Grove, N.J.-based underwriting manager specializing in malpractice insurance for health and social service organizations.

- Richard Senn, president of North American Physicians Insurance Risk Retention Group of Pacific Palisades, Calif.

- Charlotte Smith, executive vp of Protective Management Corp., a Baton Rouge, La.-based marketer of computer services.

- Rosita Steele, managing director and partner at Risk Retention Planners Inc., a Chicago-based provider of consulting services to alternative risk financing vehicles.

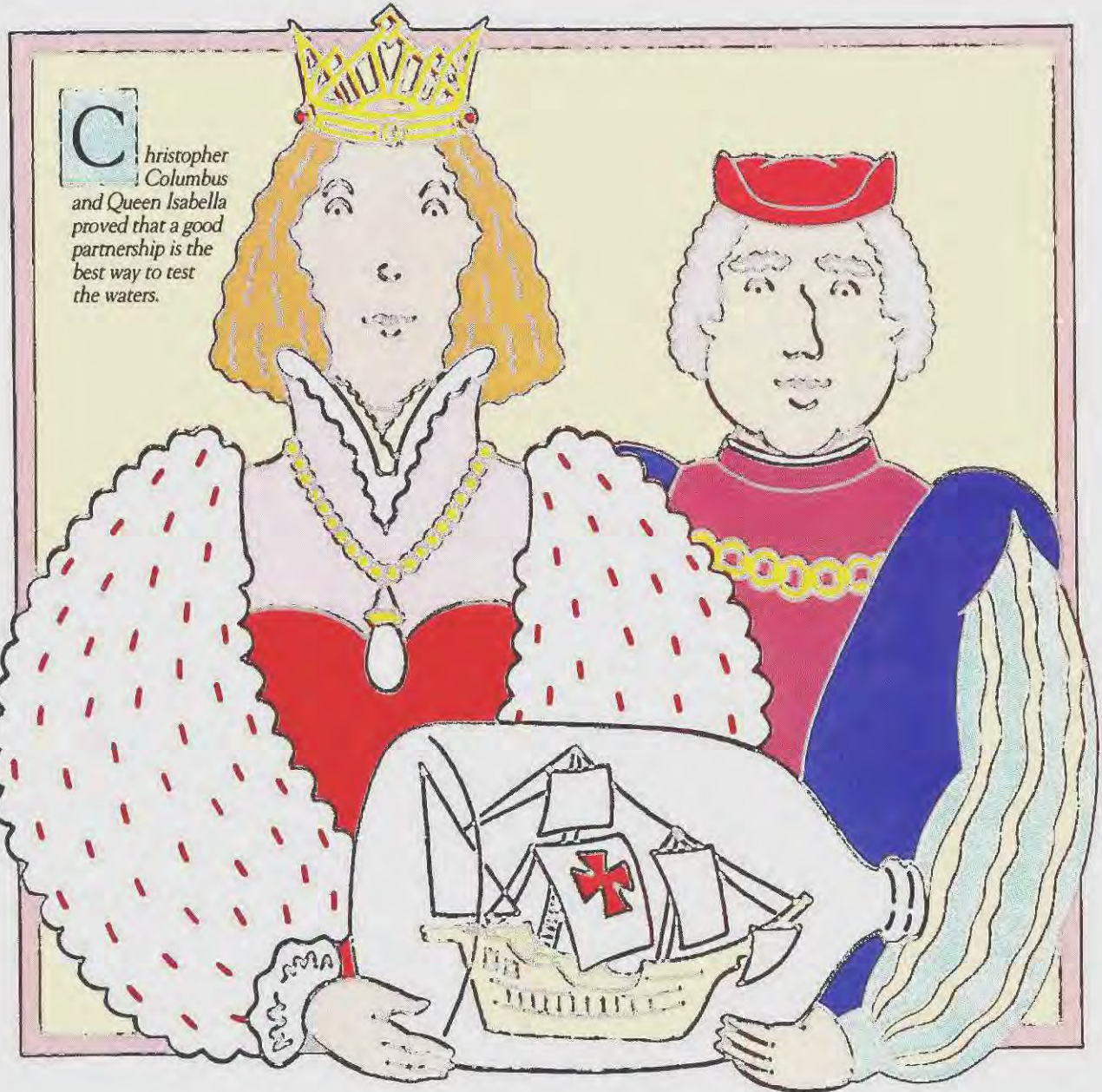
- William Watt, president of Wm. J. Watt & Associates, an Indianapolis-based management consultant.

The trade group also said it will be publishing a semi-monthly newsletter on developments affecting risk retention and risk purchasing groups. The newsletter will be free to trade group members and \$295 for non-members.

Annual dues for membership in the National Risk Retention Assn. will be \$500. A \$750 initiation fee also will be assessed except for those who attended the group's meeting in Oak Brook.

The National Risk Retention Assn. can be reached at P.O. Box 9289, Crystal Lake, Ill. 60014; 815-455-6602. ■

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**CATASTROPHIC CASE
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Myre named president of Sodarcac affiliate

Mario Myre has been appointed president of Dale-Parizeau, a unit of Sodarcac Ltd., the largest independently owned brokerage in Canada and the 21st-largest in the world as ranked by *Business Insurance*.

Mr. Myre replaces Pierre Chouinard, who remains chairman of the board at Montreal-based Dale Parizeau.

Prior to his appointment, Mr. Myre was president and chief executive officer of Le Blanc Eldridge Parizeau Inc., a sister company of Dale-Parizeau.

Other agent/broker changes:

William R. Schuck named chairman and chief executive officer of Frank B. Hall & Co. Inc.'s Los Angeles office. In addition, Herbert L. Strong named president and chief operating officer of the Los Angeles office. Previously, Mr. Schuck was president and chief operating officer of Hall in Los Angeles and chairman of Hall's Orange County, Calif., office. Mr. Strong previously was senior vp and director of client services at Hall in Los Angeles.

Richard A. Maxwell promoted to senior vp/director of marketing and professional standards at Corroon & Black Corp. in New York. Most recently, Mr. Maxwell was president of Corroon & Black's Brokerage Services Group.

Stuart M. Neye named managing vp in the Cleveland office of Alexander & Alexander Inc. Mr. Neye formerly was president of Associated General Agency, which recently merged with the A&A Cleveland office.

David F. Peck elected a senior vp of Johnson & Higgins in New York. Most recently, Mr. Peck was vp and senior account manager for some of the firm's multinational clients.

Also At Johnson & Higgins in New York, Susan D. Kaminsky, Thomas C. Wafer and John N. Park Jr. were elected vps. Ms. Kaminsky and Mr. Wafer work in the international reinsurance department. Mr. Park works in the political and financial risks unit of the international department.

Joseph P. Platt Jr. elected executive vp of Johnson & Higgins of Pennsylvania Inc. in the firm's Pittsburgh office. Mr. Platt, currently chairman of the J&H National Health-Group, most recently was a senior vp in Pittsburgh.

David W. Bianchi, manager of the Johnson & Higgins Detroit office, has moved to the J&H office in Los Angeles as a co-manager. The other managers of the Los Angeles office are James W. McElvany and Martin L. Rayner. Mr. Bianchi succeeds E. Eric Johnson who is retiring at the end of the year.

Pam Riley Blake named vp of Marsh & McLennan Group Associates in New York. Formerly a regional director with Minet International in the professional indemnity division, Ms. Blake manages the professional liability program for the Assn. of the Bar of the City of New York.

Robert A. LeBreton elected vp of Gillis, Ellis & Baker Inc. in New York.

Continued on next page

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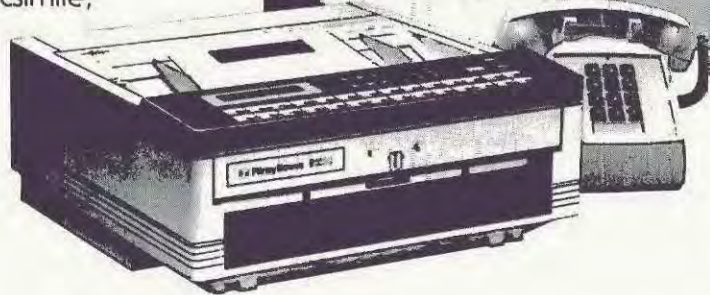
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Pitney Bowes

Continued from previous page
Orleans. Previously, Mr. LeBreton was owner of LeBreton Insurance in New Orleans.

James C.J. Schober appointed senior vp at Fred S. James & Co. Inc. in Irvine, Calif. Mr. Schober directs the Pacific Rim business. Previously, Mr. Schober was a vp in the San Diego office of Johnson & Higgins and most recently chief operating officer of J&H's Honolulu office.



Mr. Schober

Insurers

Robert J. Vairo, president and chief operating officer of Crum & Forster Inc., will assume the duties of **William E. Buckley**, chief executive officer of Crum & Forster Commercial Insurance, who has resigned.

Also at Crum & Forster in Morristown, N.J., **Richard M. Jaeger** joined as vp and actuary responsible for insurance pricing issues and special regulatory reports. Mr. Jaeger comes to C&F from the Insurance Services Office, where he was actuarial director in charge of reserve analysis, investment income issues and forecasting.



Mr. Jaeger

Charles Groth named senior vp and chief actuary at American General Group Insurance Co. in Dallas. Previously, Mr. Groth was a vp and actuary.

James A. Fowler appointed regional vp and manager of the Manhattan special risk regional office of Zurich Insurance Co., U.S. Branch, in New York. Previously, Mr. Fowler was senior vp-special risks at American International Group Inc. in New York.

William E. Grams promoted to vp from assistant vp of loss control services for Wausau Insurance Cos. in Wausau, Wis. Mr. Grams succeeds **Robert E. Hawkinson**, who retired at the end of August.

Frank J. Coyne named executive vp of General Accident Insurance Co. in Philadelphia. Previously, Mr. Coyne was senior vp and general counsel.



Mr. Coyne

Robert Catalano joined Continental Insurance's Agency Group as vp and branch manager of its Southern California office in Newport Beach. Most recently, Mr. Catalano was manager of commercial insurance for Fireman's Fund Insurance Cos. in San Jose, Calif.

Carl Weber appointed vp-underwriting at Republic Indemnity Co., a workers compensation insurer in Encino, Calif.

At St. Paul Fire & Marine Insurance Co. in St. Paul, Minn., **James A. Schulte** was named vp-regional operations. Mr. Schulte's primary responsibility will be to strengthen the service capability of the insurer's service centers and field offices. Previously, Mr. Schulte directed the business owners services department at St. Paul Fire & Marine.

Michael P. Bigley, vp of Farmers Group Inc. and South Texas regional manager in Austin, has been transferred to the Los Angeles home office as vp-claims.

William J. Young named vp-claims at Society National Group in Indianapolis. Prior to joining SNG, Mr. Young was second vp and

group claims manager of American General Life Insurance Co. in Nashville, Tenn.

Neil Vannoy promoted to vp in charge of the Prudential Insurance Co.'s Southern group operations in Atlanta. Previously, Mr. Vannoy was vp-group operations in the Atlanta office.

Also at Prudential in Fort Washington, Pa., **Dennis R. Walsh** promoted to vp in charge of Central Atlantic group operations. Prior to his promotion, Mr. Walsh was vp-regional group operations.

At American Bankers Insurance Group in Miami, **John Flynn**, formerly regional sales director in Santa Ana, Calif., promoted to vp/national marketing manager. Also at American Bankers, **Orion (Skip) Whitlock**, previously director of casualty claims, was promoted to vp-claims.

Reinsurance

Mary M. Noonan promoted to

vp in the Chicago office of General Reinsurance Corp.

In addition, **James J. Olzacki** promoted to vp in General Re's St. Paul, Minn., office.



Mr. Hussey

A. James Hussey appointed general manager at American Re-Insurance Co. in New York.

Mr. Hussey will oversee the Canadian and Australian offices. Previously, Mr. Hussey served as vp in the international department.

Robert A. Roepke, a vp with American Re-Insurance Co., has been placed in charge of the company's claims division in New York.

Phillip Buckingham named executive director of the United Kingdom operations for E.W. Blanch Co.

Continued on page 26

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HIGH RISK PREGNANCY
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Comings & goings: industry

Continued from page 23

Prior to joining Blanch, Mr. Buckingham was divisional director of Willis Faber & Dumas Ltd.

Raymond L. Karnofski joined Hartley Cravens in Seattle as vp. Most recently, Mr. Karnofski was president of CIGNA Corp.'s E&S division in San Francisco.

R. Bebe Hayes promoted to vp from assistant vp at Saturr Intermediaries Ltd. in Chicago.

Excess/surplus

Marilyn Thomas named senior vp for Stewart Smith West Inc. in Los Angeles. She will continue as manager of the casualty department of Stewart Smith West. Ms. Thomas was most recently vp.

Paul Sanchez named vp and head of American Home Assurance Co.'s excess casualty division in

New York. American Home is a subsidiary of American International Group Inc. Prior to his appointment, Mr. Sanchez was assistant vp at American Home.

Vincent Delaney, formerly chief executive officer of International Insurance Marketing Ltd. and past president of The London Agency Inc., has joined Gresham & Associates Inc. in Morrow, Ga. as senior vp.

John E. "Kip" Whiteside joined R.L. Jarrett Holdings Inc. in Dallas as vp in charge of the energy department. Mr. Whiteside will be responsible for growth and expansion of new and existing producers.

HMOs/PPOs

William A. Schlag promoted to senior executive director and chief operating officer of Community Health Plan Inc. in Boston, a health maintenance organization subsidiary of Blue Cross/Blue Shield of Massachusetts. Previously, Mr. Schlag was regional executive director of another BC/BS HMO, Medical South Community Health Plan. Mr. Schlag succeeds **Jim M. Sleeth**, who retired earlier this year.



Mr. Schlag

Other suppliers

Reese I. Bowen appointed regional vp at Commonwealth Risk Services Inc. in Philadelphia. Most recently, Mr. Bowen was president of Corporate Risk Consultants in Atlanta, a risk management consulting firm.

Gerard E. Desmond appointed president of Meeker Sharkey Consultants, formerly Actuarial Consultants Inc., in Cranford, N.J. Previously, Mr. Desmond was a senior consultant at Frank B. Hall & Co. Inc. in New York.



Mr. Desmond

Lee F. Anderson joined Boone & Co. in Birmingham, Ala., as vp and retirement consultant. Prior to joining Boone, Mr. Anderson spent 22 years with Wachovia Bank & Trust in Winston-Salem, N.C.



Mr. Anderson

Leslie K. Marsh appointed vp-health and welfare services at Herget & Co. Inc. in Baltimore. Prior to joining the benefit consulting firm, Ms. Marsh was senior vp for Willse & Associates in Baltimore.



Mr. Zaeh

Donald E. Zaeh joined Buck Consultants Inc. in New York as a consulting actuary. Previously, Mr. Zaeh was vp and consulting actuary at Frank B. Hall & Co. Inc. in New York.

Stephen G. Singer appointed president and chief executive of Noble Lowndes Becker, part of the Noble Lowndes international actuarial and employee benefit group. Prior to joining Noble Lowndes Becker, Mr. Singer was managing vp with Alexander & Alexander in New York. ■

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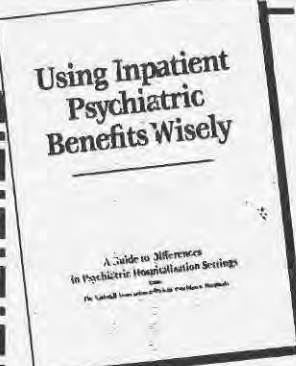
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BI 1012

Captive investments

Bermuda insurers find short-term vehicles more appealing

By M. Moshe Porat
and Thomas E. Rattmann

THE PREMIUMS, SURPLUS and assets of captives have grown substantially over the past five years, with the growth experienced by Bermuda-based insurers exceeding that of the U.S. property/casualty insurance industry.

Captives are generally established and maintained to act as a cost-effective mechanism for providing insurance and/or a mechanism to secure stable, adequate coverage and capacity for a parent company. Within this context, investment activities should clearly be a significant area of attention for captives, since investable funds constitute some 85% to 95% of all captives' assets.

To examine the important aspect of captives' activities, we surveyed investment patterns among Bermuda-based captive insurers. In total, 341 surveys were mailed out and 90 were returned, of which 80 were usable for tabulation. These respondents represent about 10% of Bermuda's 798 active insurers at the end of 1985—namely those insurers that actually had written premiums or maintained investable funds at the end of that year.

A substantial number of the active insurers in Bermuda are not "captives," but are owned by insurance companies, agents or brokers. When we excluded such companies, there were 619 active Bermuda captives at year-end 1985. Our survey respondents constituted 13% of this total. In terms of total assets, the respondents represented \$3.2 billion—or 19.6%—of the \$16.3 billion total.

As noted earlier, investable funds comprise about 85% to 95% of the average captive's total assets. Thus, for 1985, investment totaled in excess of \$14 billion.

There are three dominant investment instruments used by captives: money market securities, bonds and loans to affiliates. Money market securities—which include bank time deposits, floating rate instruments, commercial paper, Treasury bills and interest-bearing demand accounts—make up about 49% of the captives' total investments. Bonds make up about 37% of the aggregate investments, while loans to the parent and/or affiliates represent approximately 10% of assets. The other 4% is composed of demand accounts, common stocks and other investments.

It is important to note that these proportions reflect aggregates for the entire Bermuda captive population and, in fact, there are substantial differences in the asset allocations of individual companies. For example, some captives invest 100% of their funds in bank time deposits, while

Period	Common stocks	Corporate bonds	Treasury bills	Consumer inflation
1925-85	9.84%	4.79%	3.41%	3.06%
1955-85	9.46	5.29	5.79	4.79
1975-85	14.33	9.84	9.03	7.01
1980-85	14.71	17.83	10.30	4.85

Source: Ibbotson Associates
Chart: Amy Palmer

others do not use these instruments at all. The most widely used individual instruments are bank time deposits and bonds.

It is interesting to compare the captive averages to the investment mix of the U.S. property/casualty industry, where bonds make up 65% of investments, common stocks make up 12%, miscellaneous instruments—including preferred stocks, demand accounts and mortgages, among others—make up 9%, short-term securities make up 8% and investments in affiliates make up 6%.

For example, although both groups allocate a significant portion of their assets to bonds, the allocation given in this area by the U.S. property/casualty industry is substantially greater. Bermuda captives allocate almost half their assets to short-term securities; in contrast, the U.S. property/casualty industry has less than 10% of its funds

shorter-term orientation by captives but that conceptually, captives may be better served by investing a greater proportion of their funds in more long-term investments.

The relatively smaller size of most Bermuda captives helps to explain some of the additional liquidity when expressed as a percentage of assets. A small company needs to have a much greater percentage of its assets in short-term securities because of the greater role that daily operating cash requirements play in the company's overall investment needs.

In addition, a more significant focus on investment activities may be more difficult and not as cost-effective for a small company. For example, a \$2 million portfolio does not cost justify a person within the captive spending a significant amount of time managing the investments; neither is that person likely to have great expertise in investment matters. Similarly, outside investment advisers oftentimes are neither interested nor able to effectively manage a small sum of money on a separate monetary basis.

About 30% of all captives have less than \$2.5 million in assets, and 60% of all captives have less than \$10 million in assets.

Perhaps a more effective way to manage these smaller pots of assets is through a pooling mechanism like a mutual fund. Such a mechanism can insure that the assets are professionally managed in a prudent fashion and that costs are held down due to the aggregate size of the pool and its economies of scale.

It is important to view the investments or assets of a company in the context of its liabilities and financial strength. A financially weak company obviously has a lower tolerance for investment risk than a stronger company and should be expected to adopt a shorter investment time horizon.

Obviously, there are differences in the underlying liabilities of Bermuda captives and the larger U.S. property/casualty insurers. The most obvious difference is the relationship and knowledge the insurer has of the ultimate policyholder and the underlying risk.

In this regard, captives that limit themselves to writing related-party risks have a major advantage over other insurers. This knowledge should help to reduce the aggregate risk level

associated with the captives' liabilities.

Similarly, captives have more conservative premium-to-surplus ratios in aggregate than the U.S. industry.

However, these facts suggest that many captives should have a greater tolerance for investment or asset risk rather than a lesser tolerance.

One also would expect both captives and traditional insurers to assess the returns likely to be provided by varying asset mixes.

The chart presents the long-term historical total returns (interest income plus change in asset values) provided by bonds, short terms and common stocks.

Although the actual level of return is dependent upon the time period being examined, the chart shows that longer-term securities show greater returns over time than shorter-term securities. While bonds fluctuate in day-to-day market value, depending on changes in the overall level of interest rates, they also provide a relatively stable level of investment income as defined by generally accepted accounting principles. In contrast, a portfolio invested solely in short-term securities will fluctuate substantially in its investment income as interest rates change and maturing instruments are reinvested.

Overall, captives allocate a much greater proportion of their investable funds toward shorter-term securities than the U.S. property/casualty industry. Their relative smaller size and, thus, greater operating liquidity requirements—as well as their more frequent lack of in-house investment professionals—suggest a somewhat greater short-term orientation than the typical U.S. property/casualty insurer.

However, captives' relatively conservative premium-to-surplus ratios and greater knowledge of the risk, the availability of outside investment expertise, the overall higher returns provided by longer-term securities over the long run and the importance of investment results to overall financial performance suggest that these liquidity levels are probably excessive.

A small company needs a much greater percentage of its assets in short-term securities because of the greater role that daily operating cash requirements play in the company's overall investment needs.

allocated in this area.

Loans to affiliates represent a somewhat greater percentage of the captive industry's assets than the U.S. property/casualty industry's assets. However, contrary to what some might expect in a relatively free regulatory atmosphere, less than 15% of all captives invest in parents and affiliates, and this practice generally is limited to larger captives.

Common stocks also play an important role in the portfolio of the average U.S. property/casualty insurer, whereas they are rare in the average Bermuda company's portfolio.

Overall, these comparisons indicate that captives take a shorter-term perspective with respect to their investment activities than the U.S. property/casualty industry does. Short-term securities are a much more significant percentage of the average captive's assets, while longer-term instruments, such as bonds and common stocks, play a much less significant role.

Are there solid business reasons that drive these differences in asset allocation? We believe there are some good reasons to expect a somewhat

M. Moshe Porat is a professor of risk management and insurance at the Temple University School of Business and Management in Philadelphia. Thomas E. Rattmann is a vp of CIGNA Investment Advisory Co.

ASK A RISK MANAGER

What is the best way to allocate premiums?

Q

Insurance premium allocations are an annual risk management department exercise that causes internal discussions and challenges on the proper way to charge this expense to our profit centers. Is there an acceptable and simple way to handle this problem?

A

The simplest way would be to allocate this cost on a percentage of total revenue basis. Some trade journals have reported that many corporations spend about 1.5% to 2% of their revenues on property/casualty insurance.

However, if you elect to allocate expense on this basis, you have lost an effective risk control tool and have failed as well to properly consider risk exposures and past loss history. Loss history can, despite what senior management may think, be *one* of the indicators of management problems and excessive claim expense.

Insurance companies develop premium on the basis of operational activity and their exposure to risks and losses, together with past loss and claim experience. Collecting adequate premium volume to pay losses and make a profit is their goal, and there is good reason why you should use their basic reasoning in allocating your expenses.

Our corporate position in allocating insurance expense was to follow the insurance company's methods of determining premium expense. This allowed profit centers to check on the cost allocation system and properly price the cost of insurance in their product and service expense makeup. This method may be considered antiquated by some risk managers, and I would tend to agree.

Divide the problem into two major sectors—property and business interruption expense and casualty expense. The latter area causes the greatest problems and probably always will, especially in large insured and self-insured programs.

In analyzing your property and business interruption coverages, we can probably agree that specific contract expense for such covers as fine arts, mobile equipment, boiler and machinery and marine exposures can be allocated with little effort.

The master property cover—if you have many diverse locations and operations—can be more difficult. I see two ways to handle this allocation.

The first way is to allocate the property and business interruption premiums based on total values at risk for each location, with no consideration for loss history. You can take the bureau rates for the major perils insured and develop a "manual" premium for each location. This rate is developed independently from your office and takes into consideration the operation, construction and exposures at risk.

When you develop the location premium, the premium percentage calculated to the total is the

same percentage you use in allocating your master policy insurance expense. This expense is made up of premium dollars in both your insured and self-insured program and gives you a sound and credible basis for the allocated cost.

For some strange and unexplained reason, the fact that one profit center has more property losses than another (and this fact is not taken into consideration in refining your allocation) bothers the loss-free profit centers very little. All profit centers are charged on the basis of total values at risk and there are no retros.

The second method still does not adjust premium allocation by taking into consideration actual losses but does recognize internal and controllable exposures affecting the risk. A property insurance inspection report provides this information and then grades the facility on a scale of "poor" to "superior." The advantage of this plan is that it provides you with a procedure to reward those locations with premium credit when their facility is upgraded from a "tolerable" rating to a "satisfactory" grading. You are not only allocating costs on the physical exposures at risk, but also on the local managers' attitudes toward controlling risk at their location by giving them an economic incentive to increase the level of protection.

Incentives to control and reduce loss potential by addressing the need for an adequate level of loss protection has a twofold effect. The first is for the benefit of local managers' insurance expense budget and the second is for your benefit in marketing your property program.

Casualty insurance principally encompasses workers compensation, general liability and automobile liability programs. For most companies, these coverages collectively add up to the largest expense dollar in your budget. The basic or "primary" coverage, subject to retrospective adjustment, may be insured (although it is more likely to be self-funded). Costs allocated in this area govern the cost allocation of excess liability expense as well.

While we include directors and officers liability, fiduciary liability, "special" liability, bonds and aircraft liability under the casualty heading, the effort to properly allocate these costs is minimal compared to those large casualty dollars, subject to retrospective adjustment.

A further consideration is how you handle claim expense, state taxes and assessments and other "service charges." You may or may not also want to include your department expense in this category—in our case, we do. Tying this into your basic premium allocation seems the best solution.

Historically, the workers compensation, general liability and automobile liability covers are prospectively rated. Initially, we did this on the basis of the past 3½-year claims history and current revenue size for each profit center. Because of the magnitude of the adjustments made during the 1983, 1984 and 1985, we now secure the assistance of outside actuaries to help us better project the prospective expense by profit center separately by line of coverage.

Our reason for using outside actuaries is to more accurately determine a true insurance expense for the product being manufactured, processed or sold or the service offered. The second reason is to

reduce the effect, if at all possible, of large adjustments in later years.

These prospective cost allocations are the basis for allocating excess expense. Right or wrong, our general understanding is that excess underwriters base their premiums on the primary premium expense, subject to minimum premiums and other internal guidelines. We allocate our excess liability expense, therefore, on the same percentage basis that the primary expense bears to the total, for each profit center.

Once you have an effective prospectively rated program, you're halfway home. All you need to work on now is the best way to make retrospective adjustments.

At this point, your company's philosophy comes into play. For example, do they intend to have all losses within the \$500,000 retention charged to profit centers? Are "retros" to be separated by line of cover or combined under a single, combined adjustment?

We have found that combining the adjustment (i.e., premium for workers compensation, general liability and auto liability coverages collectively go toward paying any losses for these coverages and within the retained limit) as the better way. This method permits a smoothing of losses and a simplified understanding of the adjustment.

Our master property premium allocation works fine and presents few problems. The casualty adjustment is a continuing problem; but since we have been retrospectively adjusting profit center expense in this area for more than 10 years, most of our financial people understand the process.

We find that while our financial people have grown used to our method of allocation and retrospective adjustments, they have also grown used to the premium charge. The idea of using premium allocations as an effective risk control tool is fading. Has anyone an answer to this problem?

Would you like advice from an experienced colleague on a risk management, benefits management or actuarial problem? Four features in the Perspective section of Business Insurance can give you some answers.

Ask A Risk Manager, Ask A Benefit Manager, Ask A Benefit Actuary and Ask A Casualty Actuary answer written questions from readers on risk and benefits management issues and actuarial problems.

This month's column, on risk management issues, is written by Ralph F. Perry Jr., vp and director of risk management at Amfac Inc. in San Francisco. Joseph W. Duva, director of employee benefits at Allied-Signal Inc. in Morristown, N.J., answers benefits management questions. William J. Miner, an actuary with The Wyatt Co. in Chicago, answers actuarial questions on benefits issues. And, Richard E. Sherman, a principal with Coopers & Lybrand in San Francisco, answers actuarial questions in the casualty field.

Mr. Duva's and Mr. Perry's columns appear alternately on the second Monday of each month. Mr. Miner's and Mr. Sherman's columns appear alternately on the first Monday of each month. Mr. Perry's next column will appear in December.

Address your questions to ASK, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please give us your name, title and employer; however, Business Insurance will consider unsigned letters.



Mr. Perry

Denial of benefits to widow is constitutional: Court

A state law excluding survivor's benefits to a widow who married an injured worker more than two years after his disabling injury is constitutional, an Oregon appellate court ruled.

Marvin Tenepaugh received a compensable injury in 1964 while he was married to Bertha Tenepaugh. He was awarded permanent and total disability in 1967. His marriage to Mrs. Tenepaugh later ended. Mr. Tenepaugh married Ruby in July 1968 and

was married to her when he died in 1984. She filed for survivor's benefits but was denied. An appeal ensued.

The appellate court noted that at the time of Mr. Tenepaugh's injury in 1964 the state compensation law excluded benefits to a widow unless she was his wife at the time

of the disabling injury or within two years thereafter. The court concluded that the law did further some legislative purpose. "Although the statute may not provide benefits to every person who might suffer a pecuniary loss from the death of an injured worker," the court said, "the statute cannot

be described as arbitrary." The constitutionality of the classification was upheld.

Tenepaugh vs. Saif, Court of Appeals of Oregon, Aug. 13, 1986 (BI/05/Jy./\$10).

These abstracts were prepared by Cases Unlimited Inc. Copies of these decisions are available by sending a \$10 check payable to Cases Unlimited to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. List the number for each opinion.

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Frat fosters interest in insurance

By MARK A. HOFMANN

If you ask an 18-year-old college freshman what career he or she intends to follow, odds are slim the reply will be insurance.

For instance, a 1986 survey by New York-based Continental Corp. found most college students consider the insurance industry "boring."

But Gamma Iota Sigma, a national collegiate insurance fraternity, is working to change the industry's image among college students. And, companies in the industry are beginning to look for fraternity members when hiring college graduates.

"Insurance companies have a need for students majoring in all fields," said G. Gregory King, an agency director for State Farm Ir-

sureance Cos. in Middleburgh Heights, Ohio, and president of Gamma Iota Sigma.

"We've come up with some 125 different career paths within the insurance industry, such as risk management, underwriting, marketing and sales, Mr. King pointed out. "And we're interested in anyone who will come and see what a career in insurance can be. The more diverse, the better."

Promoting careers in insurance has been one of the group's aims since 1965, when it was founded by Warren L. Weeks, a Columbus, Ohio, independent property/casualty agent.

Mr. Weeks sought to create an organization that would encourage high ethical and professional standards among its members while providing new social opportunities

and career contacts. And, Mr. Weeks position as vice president of the Griffith Foundation for Insurance Education at Ohio State University in Columbus helped him realize his goal.

The 35-year-old foundation, which is supported by private and corporate gifts, conducts several educational programs dealing with all facets of the insurance industry.

According to Alan Williams, who is the fraternity's executive vp and the foundation's executive director, Mr. Weeks devised the idea of Gamma Iota Sigma to make the foundation a more effective tool for promoting collegiate insurance education.

The fraternity chartered its first chapter at Ohio State University in 1966.

Fraternity membership, which is for life, currently totals about 20,000, several hundred of whom are currently college undergraduates, according to Mr. Williams. The fraternity now has about 20 active college chapters, primarily at Southern and Midwestern schools, and some dormant chapters may be revived, he said.

Mr. Williams stresses that the local chapters operate autonomously. But the national office encourages them to prepare resume books, schedule field trips and provide campus lectures by insurance industry figures.

Local chapters also are encouraged to provide scholarships for outstanding insurance students. The scholarships provided by campus chapters complement the national body's two \$300 annual scholarships.

Ellen Thrower, associate professor of insurance at Drake University in Des Moines, Iowa, says that the fraternity provides "a real good inroad for industry contacts, particularly for students in geographic locations that are not easily accessible to insurance companies."

David D. Wood, assistant professor of insurance and adviser to the Gamma Iota Sigma chapter at Appalachian State University, agrees with Ms. Thrower's assessment. ASU is located in Boone, N.C., a small town about 80 miles northwest of Winston-Salem.

"A student who's in a financial center would have other avenues through which to meet insurance executives. We bring the executives to Boone," Mr. Wood said.

Mr. Wood estimated that 20 students currently belong to the ASU chapter. Most major in insurance, business or mathematics, and most pursue insurance careers.

Mr. Wood also noted that unless their families own insurance agencies, students tend to pursue career opportunities with insurance companies.

James R. Ridley, president of Integon Corp. Group in Winston-Salem, shares Mr. Wood's opinion of the fraternity's value.

"Fraternities like Gamma Iota Sigma at ASU provide excellent support for the business schools' curriculum," he said. "They provide avenues for students to apply what they learn in class through special fraternity-backed programs and projects with area companies."

Another insurance executive, Patrick L. Doyle, a vp with Nationwide Group in Columbus, Ohio, said: "Gamma Iota Sigma is really on the move. At Nationwide, an application with Gamma Iota Sigma on it goes to the top of the pile."

Mr. Doyle said the fraternity's special programs and the energy of its members better prepares students for entering the insurance business.

Gerrit Starke, vp of corporate human resources at Long Grove, Ill.-based Kemper Group, says Gamma Iota Sigma's value is its projection of the positive aspects of an insurance career.

"We applaud any organization that brings college students in touch with the opportunities and challenges open to them in the insurance industry," Mr. Starke explained.

"Ours is a fast-paced and vital business. We need highly motivated people with a well-rounded education able to adapt to changing work environments and markets."



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Datebook

OCT. 19-20. Coping With Change—Directors and Officers Liability symposium in San Francisco, sponsored by The Wyatt Co.; \$525; \$425 for additional registrants from the same organization. **Also Nov. 12** in Boston. The Wyatt Co., Suite 5600, Sears Tower, 233 S. Wacker Drive, Chicago, Ill. 60606; 312-876-2000.

OCT. 19-20. Preparing and Analyzing Property and Casualty Statutory Financial Statements seminar in Boston, sponsored by Executive Enterprises Inc.; \$875; \$775 for additional registrants from same organization. **Also Dec. 2-3** in Los Angeles. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-223-0787; 800-831-8333 within New York.

OCT. 19-21. Techniques of Finance and Accounting course in Chicago, sponsored by the Risk & Insurance Management Society Inc.; \$540 for RIMS members; \$640 for non-members. Fran Jordan, Risk & Insurance Management Society Inc., 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

OCT. 19-23. Recognition of Occupational Health Hazards course in Los Angeles, sponsored by the Institute of Safety & Systems Management at the University of Southern California; \$735. The Institute of Safety & Systems Management, University of Southern California, Office of Extension and In-Service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-8523.

OCT. 20. The View from the Top: 1987 Insurance Industry Seminar in New York, sponsored by Coopers & Lybrand; \$100. **Also Oct. 21** in Chicago and **Oct. 23** in San Francisco. Jeanne Saffer, Coopers & Lybrand, 1251 Ave. of the Americas, New York, N.Y. 10020; 212-536-2210.

OCT. 20-22. Cargo Insurance Clauses Workshop in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; 506 pounds (approximately \$832). Caroline Atkinson, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London EC4V 4DD; 01-236-2175.

OCT. 21. 20th Anniversary Meeting of the Florida Gulf Coast Chapter of the Society of Chartered Property & Casualty Underwriters in Boca Raton; \$16.50-\$17.50 for dinner costs only. Contact Irene McKee at 305-781-5862.

OCT. 22. Coping With the Responsibilities of Risk Management workshop in Northbrook, Ill., sponsored by the Chicago, Wisconsin and Northeastern Illinois chapters of the Risk & Insurance Management Society; \$80 for RIMS members and prospective members. Art Meyer, Wisconsin Gas Co., 626 E. Wisconsin Ave., Milwaukee, Wis. 53202; 414-291-6520.

OCT. 22-23. Third Annual National Dram Shop Seminar in Boston, sponsored by The Dram Shop & Alcohol Reporter; \$250; \$50 discount for two or more registrants from same organization. The Dram Shop & Alcohol Reporter, P.O. Box 590, Falmouth, Mass. 02541; 617-548-7023.

OCT. 22-23. Advanced Employee Benefits Workshop in New York, sponsored by the Practising Law Institute; \$475. Practising Law Institute, Dept. 2Z, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

OCT. 22-23. Advanced Employee Benefits workshop in New York, sponsored by the Practising Law Institute; \$475; \$45 for coursebook only. **Also Nov. 2-3** in New York. Practising Law Institute, Dept. 8A-105, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700, extension 271.

OCT. 22-23. Letters of Credit and Trust Agreements in the Insurance Industry conference in New York, sponsored by Executive Enterprises Inc.; \$875; \$775 for additional registrants from same organization. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-223-0787; 800-831-8333 within New York.

OCT. 22-23. Techniques of Self-Insurance: Corporate Survival in a World With Inadequate Commercial Insurance seminar in San Francisco, sponsored by the Practising Law Institute; \$425; \$45 for coursebook only. **Also Nov. 2-3** in New York. Practising Law Institute, Department 8A-105, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700, extension 271.

OCT. 22-24. 11th Annual Employment Law Seminar in Napa, Calif., sponsored by the Defense Research Institute Inc.; \$525 for DRI members; \$550 for non-members. Defense Research Institute Inc., 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

OCT. 24. The ABCs of Employee Benefits seminar in Chicago, sponsored by the Chicago Chapter of the International Society of Certified Employee Benefit Specialists; \$50; \$60 at the door. Sid Brant, Chicago Chapter, CEBS, P.O. Box 600, Chicago, Ill. 60690; 312-673-4900.

OCT. 25-28. 1987 Corporate Health Care Cost Management Conference in Washington, D.C., sponsored by the International Foundation of Employee Benefit Plans; \$605 for IFEBP members; \$680 for non-members. Registration Department, International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

OCT. 26-27. Insurance Company SEC Accounting and Reporting course in New York, sponsored by Peat Marwick Main & Co.; \$725. Peat Marwick Registrar, Executive Education Department, 3 Chestnut Ridge Road, Montvale, N.J. 07645-0435; 800-762-3932.

OCT. 26-27. Fall Conference of the American Assn. of Insurance Services in Charleston, S.C.; \$250 for first registrant; \$125 for additional registrant from same organization; \$100 for spouses. American Assn. of Insurance Services, 1035 S. York Road, Bensenville, Ill., 60106; 312-595-3225.

OCT. 26-27. Health Care Cost Containment workshop in San Francisco, sponsored by the Health Research Institute; \$495. **Also Nov. 9-10** in New York; and **Dec. 7-8** in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

OCT. 26-27. Year-end SEC Accounting and Financial Reporting for Property/Casualty Insurance Companies conference in New York, sponsored by Executive Enterprises Inc.; \$875; \$775 for additional registrants from same organization. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-223-0787; 800-831-8333 within New York.

OCT. 26-28. Government Risk Management Seminars: Basic Fundamentals, Advanced Techniques or School Risk Management in Washington, D.C., sponsored by the Public Risk & Insurance Management Assn.; \$350 for PRIMA members; \$400 for non-members. Public Risk & Insurance Management Assn., 1120 G St.

N.W., Suite 400, Washington, D.C. 20005; 202-626-4650.

OCT. 27. Corporations vs. Directors: The Real Struggle Over D&O Liability conference in New York, sponsored by the Tillinghast Division of Towers, Perrin, Forster & Crosby; \$450. **Also Nov. 5** in San Francisco. Conference Director, Tillinghast/TPF&C, 722 Post Road, Darien, Conn. 06820; 203-655-9791.

OCT. 27-28. Personnel Law Update 1987 seminar in Seattle, sponsored by the Council of Education in Management; \$495; \$475 each for two or more from the same organization. **Also Nov. 4-5** in Detroit, Morristown, N.J., Honolulu; **Nov. 10-11** in San Diego; **Nov. 17-18** in San Jose, Calif., Minneapolis; **Dec. 1-2** in Tampa, Fla.; and **Dec. 8-9** in Phoenix, Ariz. Karen Nelson, Council on Education in Management, 321 Lennon Lane, Walnut Creek, Calif. 94598; 415-934-8333.

OCT. 28. 12th Annual Research Seminar in New York, sponsored by the Insurance Information Institute; \$125. Carlet Icontro, Insurance Information Institute, 110 William St., New York, N.Y. 10038; 212-669-9215.

OCT. 29. Risk Management and Safety Techniques for Public Agency Recreation Programs and Facilities seminar in Pleasanton, Calif., sponsored by Risk Management Seminars; \$150 in advance; \$175 at the door. **Also**
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Continued from previous page
Nov. 18 in Sacramento, Calif.; **Nov. 19** in Fresno, Calif. Risk Management Seminars, P.O. Box 1601, Sonoma, Calif. 95476-1601; 415-943-1405.

OCT. 29. Assessing Vendors (HMOs, PPOs, Utilization Review Firms, etc.) workshop in San Francisco, sponsored by the Health Research Institute; \$250. **Also Nov. 12** in New York; and **Dec. 10** in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170 Walnut Creek, Calif. 94596; 415-676-2320.

OCT. 29. Cost Containment Through Communications and Education workshop in San Francisco, sponsored by the Health Research Institute; \$250. **Also Nov. 12** in New York; and **Dec. 10** in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

OCT. 29. Philly I-Day in Philadelphia, sponsored by the Insurance Society of Philadelphia; \$45; \$50 at the door. Philly I-Day, 737 Public Ledger Building, Philadelphia, Pa. 19106.

OCT. 29-31. Asbestos Medicine seminar in Reno, Nev., sponsored by the Defense Research Institute Inc.; \$410 for DRI members; \$435 for non-members. Defense Research Institute Inc.,

750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

NOV. 1-4. Insurance Technica. Conference in Boston, co-sponsored by the Alliance of American Insurers and the American Assn. of Insurance Services; \$275 for Alliance/AAIS members/subscribers; \$100 for family members; \$325 for non-members. Donna G. Pillstrom, Alliance of American Insurers, 1501 Woodfield Road, Suite 400 W, Schaumburg, Ill. 60173-4980; 312-490-8595.

NOV. 2-6. Developing and Managing a Basic Safety and Health Program course in Long Grove, Ill., sponsored by National Loss Control Service Corp.; \$650. Tommy Thomas, NATLSCO, K-3, Long Grove, Ill. 60049; 815-323-9585; 312-540-2400 within Illinois.

NOV. 2-6. Sampling and Evaluating Airborne Asbestos Dust course in Los Angeles, sponsored by the Institute of Safety & Systems Management at the University of Southern California; \$725. Institute of Safety & Systems Management, University of Southern California, Office of Extension and In-Service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

NOV. 4-6. Marine Cargo Insurance and Ocean Cargo Claims seminars in New York,

sponsored by the World Trade Institute; one day (Ocean Cargo Claims): \$425, \$380 for additional registrant; two days (Marine Cargo Insurance): \$665, \$600 for additional registrant; three days (both seminars): \$845, \$760 for additional registrant. Registrar, World Trade Institute, 1 World Trade Center, 5W, New York, N.Y. 10048; 212-466-4044.

NOV. 5. 36th Annual All Industry Day in Troy, Mich., sponsored by the Greater Detroit chapter of the Society of Chartered Property & Casualty Underwriters; \$30. Geraldine Lowman, Collett Lowman Agency Inc., Suite D, 27908 Orchard Lake Road, Farmington Hills, Mich. 48024; 313-855-1166.

NOV. 5-6. Integrating and Expanding the Role of Employee Health Care conference in San Antonio, Texas, sponsored by the American Hospital Assn.; \$395 for AHA members, \$495 for non-members. American Hospital Assn., P.O. Box 98946, Chicago, Ill. 60693; 312-280-6083.

NOV. 5-6. Seventh Annual Occupational Health Nursing Principles and Certification Review Course in San Rafael, Calif., sponsored by the Occupational Health Consulting division of Fireman's Fund Risk Management Services Inc.; \$275. **Also Dec. 3-4** in Orlando, Fla.; **Jan. 7-8** in New Orleans; **Feb. 4-5** in Torrance, Calif.; **Feb. 18-19** in Schaumburg, Ill.; **March 3-4** in Arlington, Va.; and **March 17-18** in Cambridge, Mass. Annette B. Haag, Director, Occupational Health Consulting, Fireman's Fund Risk Management Services Inc., 4040 Civic Center Drive,

Rafael, Calif. 94912; 415-492-4708.

NOV. 5-6. Managing Intergovernmental Pools conference in San Antonio, Texas, sponsored by the Public Risk & Insurance Management Assn.; \$150 for PRIMA members; \$250 for non-members. Public Risk & Insurance Management Assn., 1120 G St. N.W., Suite 400, Washington, D.C. 20005; 202-626-4650.

NOV. 5-6. Recovering Uncollectible Reinsurance conference in New York, sponsored by Executive Enterprises Inc.; \$875; \$775 for additional registrants from same organization. **Also Dec. 10-11** in Los Angeles. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-223-0787; 800-831-8333 within New York.

NOV. 6. Alternate Dispute Resolution and Risk Management: Controlling Conflict and its Costs seminar in New York, sponsored by the Practising Law Institute; \$250; \$45 for coursebook only. Practising Law Institute, Department 8A-105, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700, extension 271.

NOV. 8-11. Legislative Research Commission's Third Biennial Workers Compensation Seminar in Louisville, Ky.; before Oct. 9; \$150; after Oct. 9; \$190. Charlene Collins, Legislative Research Commission, Fourth Floor, Capitol Building, Frankfort, Ky. 40601; 502-5640-8100.

NOV. 9-10. The Solution to the High Cost Claim—Medical Case Management conference in New York, sponsored by Intracorp; \$385; \$340 per additional registrant from the same organization. Jackie Mazoway, Intracorp, Chesterbrook Corporate Center, 701 Lee Road, Wayne, Pa. 19087; 800-345-1075.

NOV. 9-10. Medical Malpractice in Cardiac Care seminar, sponsored by Law Journal Seminars-Press; \$390; \$365 each for two or more registrants from the same organization. Registrar, Law Journal Seminars-Press, 111 Eighth Ave., Suite 900, New York, N.Y. 10011; 800-221-8195; 212-741-8300.

NOV. 9-10. Establishing Risk Retention Groups and Other Self-Insurance Programs seminar in New York, sponsored by Executive Enterprises Inc.; \$875; \$775 for additional registrant from same organization. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-223-0787; 800-831-8333 within New York.

NOV. 9-12. Seventh Annual Construction Insurance Conference and Pre-conference Seminars in New Orleans, sponsored by the International Risk Management Institute Inc.; \$235 for one pre-conference seminar (Nov. 9): Construction Insurance Primer, Insurance Cost Control, or Risk Financing Alternatives; \$495 for conference (Nov. 10-12); \$595 for conference and one pre-conference seminar. International Risk Management Institute Inc., 12222 Merit Drive, Suite 1660, Dallas, Texas 75251-2217; 800-527-2580; 214-960-7693 within Texas.

NOV. 9-13. International Reinsurance Practice course in London, sponsored by Insurance & Reinsurance Research Group Ltd.; 675 pounds (approximately \$1,110) plus VAT. Joy Bam-brough, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London EC4V 4DD; 01-236-2175.

NOV. 10. Atlanta Insurance Day '87: Strategies for a Changing Climate seminar, sponsored by Alliance of American Insurers, American Insurance Assn., Atlanta Assn. of Independent Insurance Agents, Atlanta Assn. of Insurance Women Inc., Atlanta Claims Assn., County Assn. of Independent Insurance Agents, Georgia Assn. of Property & Casualty Insurance Companies, Gwinnett Assn. of Insurance Women, Honorable Order of Blue Goose International, Independent Insurance Agents of Georgia, Insurance Information Institute, Insurance Women of Cobb County Inc., Insurance Women of Decatur-DeKalb, Life Office Management Assn., Professional Insurance Agents of Georgia Inc., Atlanta Chapter of the Risk & Insurance Management Society, Georgia Chapter of the Society of Chartered Property & Casualty Underwriters and Southern Insurance Managers Assn.; \$35; \$300 for a table of 10; \$17.50 for students. Randall D. Tanner, Huffines, Tanner & Russell Inc., 404-393-2401.

NOV. 11-13. New Age Retirement Planning workshop in New York, sponsored by Retirement Advisors; \$495; \$395 if registration is made three weeks in advance. Retirement Advisors, 919 Third Ave., New York, N.Y. 10022; 212-421-2400.

NOV. 11-13. Fundamentals of Property and Casualty Reinsurance Agreements conference in Los Angeles, sponsored by Executive Enterprises Inc.; \$975; \$875 for additional registrants from same organization. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-223-0787; 800-831-8333 within New York.

NOV. 12-13. Going Bare: A Survival Course for Self-Insureds conference in Orlando, Fla., sponsored by the American Bar Assn.'s Section of Tort & Insurance Practice and Division of Professional Education; \$375 for ABA members; \$350 for TIPS members; \$325 for young lawyers; \$75 for law students; \$400 for non-members. American Bar Assn., Division for Professional Education, Department NI 487, 750 N. Lake Shore Drive, Chicago, Ill. 60611; 312-988-6200.

NOV. 15-19. National Assn. of Independent Insurers' 42nd Annual Meeting in Maui, Hawaii; \$250 for members; \$350 for subscribers and guests; \$100 for spouses. National Assn. of Independent Insurers, 2600 River Road, Des Plaines, Ill. 60018-3286; 312-297-7800.

NOV. 16-18. Utilization Review Systems
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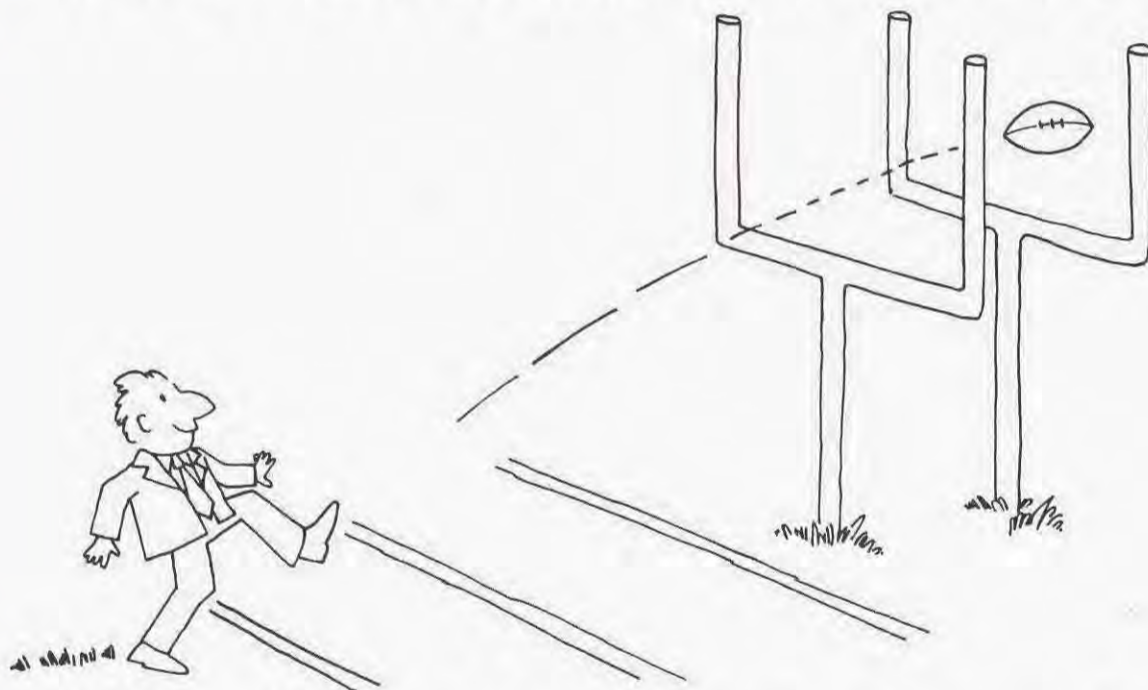
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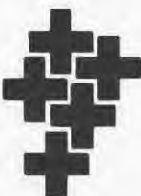
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workshop in Scottsdale, Ariz., sponsored by the Group Health Assn. of America Inc.; \$425 for GHAA members; \$500 for non-members. Group Health Assn. of America Inc., 1129 20th St. N.W., Suite 600, Washington, D.C. 20036; 202-778-3275.

NOV. 19-20. Drafting and Negotiating Reinsurance Contract Wordings and Market Presentations seminar in New York, sponsored by Executive Enterprises Inc.; \$875; \$775 for additional registrant from same organization. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-223-0787; 800-831-8333 within New York.

NOV. 20. Political Risk & Credit Insurance seminar in New York, co-sponsored by The College of Insurance and Cook & Miller; \$125. Professional Development Division, The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111, extension 203.

NOV. 30-DEC. 1. Behavioral Science as an Approach to Accident Prevention course in Los Angeles, sponsored by the Institute of Safety & Systems Management at the University of Southern California; \$375. The Institute of Safety & Systems Management, University of Southern California, Office of Extension and In-Service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

DEC. 2-3. Legal Aspects of Occupational Safety & Health course in Los Angeles, sponsored by the University of Southern California's Institute of Safety and Systems Management; \$385. University of California, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

DEC. 2-4. Fundamentals of Insurance course in Atlanta, sponsored by the Risk & Insurance Management Society Inc.; \$495 for RIMS members; \$595 for non-members; after Oct. 20 add \$45. Fran Jordan, Risk & Insurance Management Society Inc., 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

DEC. 4-9. 33rd Annual Employee Benefits Conference in San Francisco, sponsored by the International Foundation of Employee Benefit Plans; before Oct. 4: \$480 IFEBP members only; after Oct. 4: \$525 IFEBP members only. Registration Department, International Foundation of Employee Benefit Plans, 18700 Bluemound Road, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

DEC. 7-9. Hazard Communication: Worker Training Right to Know course in Los Angeles, sponsored by the University of Southern California's Institute of Safety and Systems Management; \$400. University of California, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

JAN. 20. Managing and Controlling Asbestos Contamination/Exposure course in Los Angeles, sponsored by the University of Southern

California's Institute of Safety and Systems Management; \$160. University of California, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

JAN. 21-22. Transportation of Hazardous Materials/Waste course in Los Angeles, sponsored by the University of Southern California's Institute of Safety and Systems Management; \$265. University of California, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

JAN. 25-29. Hazardous Materials: Handling and Disposal course in Los Angeles, sponsored by the University of Southern California's Institute of Safety and Systems Management; \$735. University of California, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

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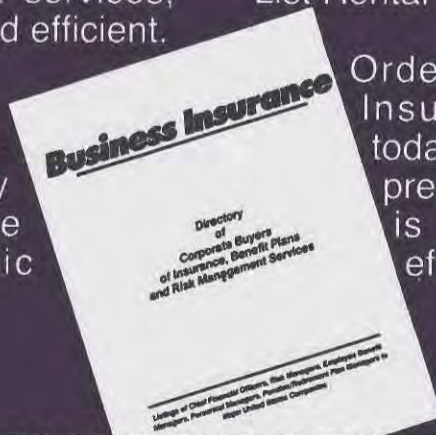
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Judicial activism hurts tort system: Willard

By MARK A. HOFMANN

CHICAGO—Business must rein activist judges to curb insurance affordability and availability problems, according to a U.S. Jus-

tice Department official.

"Judicial activism"—not a lack of regulation—is to blame for the liability explosion that caused the liability insurance crisis of the mid-1980s, said U.S. Deputy At-

torney General Richard K. Willard during a civil justice education meeting earlier this month in Chicago sponsored by the Alliance of American Insurers.

"The explosion of liability is the result of activist judges whose penchant for social engineering has distorted beyond recognition the common law of torts. If such far-reaching changes are to be made in our legal system, they should be the product of our elected legislatures," said Mr. Willard, who also is chairman of the Justice Department's tort policy working group.

Mr. Willard urged business leaders and other non-lawyers to become more involved in the judicial selection processes in their states to curb tort law excesses.

"The public is frozen out," he explained.

The trial bar dominates the selection process for state supreme court justices, whether the justices are chosen by election or merit selection, according to Mr. Willard. Justices, thus, tend to snare the viewpoints of the trial bar, he explained.

Mr. Willard said that while the liability insurance crisis of the mid-1980s may be over, problems persist in the areas of environmental impairment liability, directors and officers liability and medical malpractice insurance.

He said the insurance crisis reminds him of the energy crisis of a decade ago: After an initial period of anger and frustration, people became accustomed to paying higher prices for gasoline.

"Similarly, insurance is now more readily available and prices

have stabilized, but at much higher levels," Mr. Willard noted.

Another similarity to the energy crisis is that some people blame the insurance crisis on "a conspiracy of big business" and have called for increased government regulation, Mr. Willard pointed out.

The conspiracy theory is "pure hogwash," he asserted. "As with other competitive industries, the best protection for consumers of insurance is the free play of market forces."

Neither repeal of the McCarran-Ferguson Act nor increased federal regulation of the property/casualty insurance industry will ease insurance affordability and availability problems, Mr. Willard said.

The increase in the size of jury awards in tort cases has far outstripped the inflation rate, he said.

For example, citing a study by the Rand Corp.'s Institute for Civil Justice, Mr. Willard said the average medical malpractice award made by Cook County, Ill., juries during the early 1960s was \$52,000, adjusted for inflation. The average award 25 years later was \$1.1 million—a 2,015% increase.

But Mr. Willard said that while "we do hear of juries doing wild and crazy things," juries are not the major cause of increases in liability verdicts. Instead, the real problem is "the movement toward liability without fault," he said.

Mr. Willard traced the development of no-fault liability to the writings of Yale University Law Professor Fleming James, who Mr. Willard said saw personal injury damage judgments as a form of social insurance. Losses should be shifted from the plaintiffs to those

defendants able to spread them broadly over society through insurance or by increasing the prices of their products, Mr. James wrote about 50 years ago.

A few years later, Mr. Willard said, California Supreme Court Chief Justice Roger Traynor wrote in a decision involving an exploding soft drink bottle: "The risk of injury can be insured by the manufacturer and distributed among the public as a cost of doing business."

Mr. Willard branded the James-Traynor approach to tort law as "demonstrably false." The economic impact of such forms of spreading risk is regressive, because "costs are passed on evenly to all purchasers of a product or service," regardless of their ability to pay, he said.

In addition, he pointed out that less than half of damage awards actually going to plaintiffs. In addition, he said, the fear of excessive legal costs keeps important goods and services off the market.

Because of this, the Reagan administration supports tort reform efforts, Mr. Willard explained.

After blasting Congress for not acting on administration-backed tort reforms, such as a uniform federal product liability standard, Mr. Willard praised state lawmakers for passing a variety of tort law changes during the past two years.

But Mr. Willard questioned the effectiveness of new state laws, often tied to tort reforms, that require insurers to provide regulators with more detailed data.

"I never thought there was a shortage of insurance data," Mr. Willard said, declining to comment on any specific state law. ■

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Products & services

New BC/BS program backs healthy habits

Blue Cross & Blue Shield Assn. is launching a new health management program, dubbed "Healthtrac," that employers can adopt to further control health care costs by encouraging employees to adopt healthy lifestyles.

Healthtrac is a comprehensive health management program that includes three elements: a health risk assessment, a self-care component and education reinforcement. The program was developed by Dr. James Fries, a professor at Stanford University in Palo Alto, Calif.

"Traditional cost-containment programs," like pre-certification, second surgical opinions and case management, "may not be the final answer to reducing the unacceptable rate of increase of health care costs," said Larry Parcell, senior vp of marketing at Blue Shield of California, which administers the Healthtrac program.

"Most illness today results from health risks that individuals can control. Taking action to reduce these risks and improve health can redirect illness, and this is where Healthtrac has proven to be effective," Mr. Parcell says.

One of the keys to the Healthtrac program is a health risk assessment, which is repeated regularly. The initial assessment points to desirable lifestyle changes for an individual, like seat belt use, more exercise or quitting smoking.

Subsequent assessments measure the individual's changing health status and help to encourage healthy lifestyles. Regular aggregate health assessment reports allow an employer to monitor its entire workforce's health status.

The risk assessment component utilizes an extensive data base and can help determine savings and losses resulting for a group's changing health status.

For more information contact your local BC/BS plan or John E. Reidel, National Marketing Manager, BC/BS, 676 N. St. Clair St., Chicago, Ill. 60611.; 312-440-5571.

Benefits software

The Flexible Benefits Manager," a new software package for personal computers, is now available from Western & Pacific Services Corp. of Kansas City, Mo.

The cafeteria plan administration software package was developed by several members of the Society of Professional Benefit Administrators in cooperation with benefit managers and certified public accountants.

An employer version of the software is available for rental at \$200 per month and a third-party administrator version is available at a rate of 25 cents per employee/enrollee per month, with a \$300 per-month minimum.

Both versions require an initial registration fee of \$500, but the number of registered users will be limited, according to the company.

For a demonstration diskette, send \$25 to Ashley/Nichols Division, Western and Pacific Services Corp., 9229 Ward Parkway, Suite 320, Kansas City, Mo. 64114; 913-642-5011.

Prescription benefits

Newly formed third-party administrator GCP Inc. of Lewisburg, Pa., has launched three new prescription drug services.

RxPress is a reduced-cost mail-order prescription drug service for employees with health conditions that require long-term medication.

RxAcute is a reduced-cost prescription drug reimbursement plan designed for use with acute medications purchased through local pharmacies.

RxCard is a prescription card plan.

With RxPress, employees who require maintenance medication for chronic conditions—such as diabetes, high blood pressure and arthritis—can purchase certain drugs in large volume—up to a 90-day supply—at reduced costs.

In addition, the program reduces dispensing and administrative fees.

Continued on next page

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The Professional Marketplace. Turn to page 42

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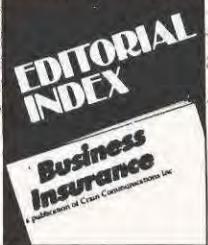
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Products & services

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For more information on any of these prescription drug programs, contact Robert L. Lyons, GCP Inc., P.O. Box 12, Lewisburg, Pa. 17837; 717-523-1146.

Pooling guide

"Pooling: An Introduction for Public Agencies" provides a step-by-step guide for establishing all types of public entity pools.

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The 144-page book, published by the Public Risk & Insurance Management Assn. in cooperation with PRIMA's Pooling Section, is available for \$20 to PRIMA members and \$35 to non-members.

To order, contact PRIMA, 1120 G St. N.W., Suite 400, Washington, D.C. 20005; 202-626-4650.

Windshield repairs

Minneapolis-based Novus Inc. has launched a monthlong national campaign announcing its new guarantee on windshield glass repairs.

The company, which claims it can reduce windshield replacements by repairing small holes or cracks in the glass, now guarantees its service for as long as the car owner retains ownership.

A Novus glass repair costs about one-fifth the price of a windshield replacement, and most insurers waive the policyholder's deductible to encourage repair, according to the company.

"We will refund a customer's money if the repaired area does not retain its optical clarity, fails to pass inspection or cracks further," said Walt Haselhuhn, director of insurance relations for Novus.

The Novus process cures under ultraviolet light and permanently repairs holes the size of a half-dollar and cracks up to 6 inches long.

For more information about Novus, contact Mr. Haselhuhn at Novus Inc., 10425 Hampshire Ave. S., Minneapolis, Minn. 55438.

E&S directory

"Crittenden Excess & Surplus Directory" is intended to help risk managers locate the specialty coverages they need, its publisher says.

The directory, published by Crittenden Newsletters Inc. of Novato, Calif., lists more than 150 excess and surplus lines insurance companies and the lines of coverage they write, plus more than 30 medical malpractice insurers.

The directory also lists syndicates on the Illinois Insurance Exchange and the New York Insurance Exchange, as well as more than 25 Lloyd's of London underwriters and their U.S. affiliates.

The directory, available for \$287, comes in a loose-leaf binder format that is updated every eight weeks.

Those who order the Excess & Surplus Directory also receive a subscription to the weekly Crittenden Excess & Surplus Insider, which reports on news in the excess/surplus lines industry.

For more information, contact Crittenden Newsletters Inc., P.O. Box 1150, Novato, Calif. 94948; 415-382-2440 or 800-247-7119 outside California.

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Insurer Topics

A special editorial section sent exclusively to insurers and reinsurers



Customer service

Insurance companies striving to ensure clients' satisfaction

By MARK A. HOFMANN

Insurers agree that keeping the customer satisfied is a priority.

However, they disagree how to best accomplish this mission. Virtually every insurer has its own system to ensure that employees serve their clients both promptly and courteously.

To some insurers, improving customer service focuses on the basics, which may include answering the telephone promptly and spelling policyholders' names correctly—the first time. Others are taking a wider view of customer service, attempting to improve efficiency in areas like claims handling and underwriting.

But, some insurers point out that customer service efforts are stymied by the fact that no two customers are exactly alike. In fact, the definition of a customer itself differs from insurer to insurer, with some companies considering their agents their real customers rather than policyholders.

Insurers do agree that no matter what an insurer does in the field of customer service, the most important facet of satisfying a customer is his or her perception of the service offered, not necessarily the service

itself.

"If the customer thinks it's great, it's great," says Thomas Swope, marketing director of the "Service Excellence" project, the customer service effort at The St. Paul Cos. Inc. in St. Paul, Minn. "If he thinks it's lousy, it's lousy."

William H. Boornazian, senior vp at Aetna Casualty & Surety Co. national accounts division in Hartford, Conn., which handles large commercial accounts, says the focus of its customer service efforts is on the policyholder.

"It's our responsibility to assist the customer in identifying all the critical success matters that help them achieve their risk management goals and provide them with the resources to achieve those goals, he explains.

Mr. Boornazian says that Aetna relies on 13 field teams in the company's five national regions to "provide hands-on contact with the customer to make sure his everyday needs are met." Each member of the field team has a speciality, such as loss control or underwriting, but all members are cross-trained in other disciplines.

The field teams, he explains, both produce new busi-

ness through Aetna's agents and brokers and service existing business.

Mr. Boornazian adds that Aetna provides tailor-made underwriting, claims and engineering programs for its national accounts customers. He admits that doing so is not always easy, but adds that such individualized service stems from the mission statement issued to the national accounts division when it was founded 15 years ago. The division was charged with offering "quality and market-responsive insurance product services" to its clients.

According to Mr. Boornazian, customers appear satisfied with the program. He adds that the program's success is reflected in requests from non-insurance customers who want Aetna's claims and loss control services to support self-insurance programs.

Zurich-American Insurance Group of Schaumburg, Ill., reorganized commercial lines business on an account basis in 1984 and 1985 in an effort to bolster its customer service, says Joseph T. Basta, senior vp and general manager of standard lines.

Before the change, explains Mr. Basta, accounts were divided up by underwriting discipline and sent to

Continued on next page

Customer service

Continued from previous page

different departments for processing. The result, he says, was sometimes chaotic, with customers receiving bills at different times for various portions of the coverage.

Zurich-American now uses about 40 territorial teams working from its field offices to deal with a selected number of agents and brokers. The team takes care of a producer's total commercial book of business.

"The account goes to one team and stays there," Mr. Basta says.

To cut down on home office customer service problems, the company simultaneously conducted a project called "Standardization, Territorial Efficiency and Processing Systems"—or STEPS—to find out where the insurer faced work flow problems. A team of employees from both the company's data processing and business divisions reviewed operations and found bottlenecks.

The problems occurred because departments were not following uniform work processing procedures, Mr. Basta says. Because different units needed different pieces of information, carrying out a particular customer service task might take as many as 47 steps. The inevitable redundancy of effort, he says, led to bottlenecks and customer dissatisfaction.

The STEPS program, Mr. Basta says, proved a success. By breaking down work flow, the number of steps required to do a job was cut to nine and the amount of paper flowing through the office has been cut as well.

"We do not have a paper blizzard today," he says with a note of pride.

Mr. Basta thinks one of the major customer service concerns facing all insurers will be maintaining experienced underwriting services. He notes that training budgets at some insurers were a prime casualty of the soft market of the early 1980s and that underwriters who began working during the soft market lack experience in dealing with hard market realities (*Insurer Topics*, Nov. 25, 1985).

"Good, sound, consistent underwriting" will take time to build, he says.

Building a good relationship between a commercial lines customer and Kemper Group begins even before a policy is sought, says Frank Snook, a special risks underwriting officer at the Long Grove, Ill.-based insurer. The special risks department handles large commercial accounts with a minimum premium of \$1 million.

"What we sell is good service," Mr. Snook says, noting that a combination of thoroughness and accessibility at each step of the policy process is of major concern to its corporate customers.

Mr. Snook says many risk managers want a close involvement with the insurer even before they decide where to buy coverage from an insurer and that many risk managers request that an underwriting executive, a loss control coordinator and a claims control coordinator be present when the agent or broker handling the account makes the initial presentation.

When the account is obtained, Mr. Snook says, the customer is assigned an individual claims coordinator and generally a specific underwriting executive. In addition, a loss control coordinator meets with the policyholder's risk management team to devise a loss-control program that complements, rather than replaces, the policyholder's existing strategy.

Mr. Snook says a key part of maintaining good customer service involves accessibility to information. Kemper has

used computerization to further this goal.

A substantial portion of each claim file is stored in a computer, he explains. The policyholder can contact either the company or any branch office to find out the status of a claim.

"With this system," Mr. Snook says, "the claim file's always accessible."

Company personnel have to be accessible as well, he says. On new accounts, the Kemper representatives generally check back with the policyholder two or three months after the policy has been issued to answer questions and to iron out any problems that might have arisen. No matter how long Kemper has had an account, Mr. Snook says that at least one annual meeting between policyholder and insurer takes place to monitor performance.

Like Mr. Snook, Glenn W. Soden, customer relations officer for all the Nationwide Mutual Insurance Cos. based in Columbus, Ohio, stresses the importance of encouraging direct communication between policyholders and insurer.

"To keep customers, you have to show customer service. It helps us retain customers and that's why it's necessary to follow up on customer complaints," he observes.

Mr. Soden sees customer complaints themselves as one of the most important facets of a successful customer service program. "It's not necessarily bad for a company to have a lot of complaints," he says. "It may be to a company's advantage to encourage policyholders to report problems." Insurers have to hear from unhappy customers in order to improve services, he maintains.

Mr. Soden estimates that about 90% of any insurer's unhappy customers never speak up. Instead, they move their business elsewhere when they become sufficiently dissatisfied.

Claims handling is the most common cause of customer dissatisfaction at Nationwide, according to Mr. Soden. Complaints about claims comprise roughly half of the complaints the company receives, he says.

The nature of complaints has not changed much over the years, either, he says. "Even though we've had our ups and downs, the percentage of complaints concerning a particular area of service stay pretty standard."

Nationwide emphasizes educating its employees to be more sensitive to policyholder concerns, Mr. Soden says. He cites a three-week school at the insurer's Columbus headquarters that new claims adjusters must attend as an example of how the company instills employee awareness.

Mr. Soden notes that Nationwide established, to the best of his knowledge, the insurance industry's first official customer relations office in 1965. Founded by John T. Doulin, who stepped down as the insurer's customer relations chief a few weeks ago, the office serves to enhance policyholders' access to the company's management.

However, Mr. Soden points out that another of the company's customer service innovations did not prove to be quite so successful.

Nationwide launched a national Advisory Committee of Policyholders in 1952 to encourage comments on service and products. Policyholders would meet with company representatives in their own communities and make recommendations on improving services. The process continued with the election of delegates to district and regional conferences.

Once a year, Nationwide paid for regional delegates to travel and stay in Columbus to discuss their concerns with company managers and members of its board of directors.

But, Mr. Soden says that while the concept of a policyholder advisory board was worthwhile, perhaps even ahead

of its time, the execution was flawed.

For example, participating policyholders often lacked sufficient time to devote to the project. In addition, providing a balance of interests on the council proved to be extremely difficult, he says, pointing out that Nationwide disbanded the committee in 1965 because of these problems.

However, Mr. Soden says Nationwide could revive the group in a different form as the company reviews its current customer service operations. Any new board, he said, probably would rotate its membership annually to allow the expression of a wide range of views.

Unlike Nationwide, American Reliance Group—a regional insurer in Lawrenceville, N.J., with more than 60% of its premium in commercial business—maintains virtually no direct contact with its policyholders.

"We communicate exclusively through our agents," explains Robert Gage, vp of marketing for the company, which writes most of its business in the Mid-Atlantic states.

Mr. Gage says the 300 or so independent agents who represent American Reliance are the company's customer service representatives. He adds that one of the few times a policyholder might deal directly with the company is when the customer is dissatisfied with an individual agent's performance but pleased with the policy.

In that case, the policyholder may contact the company to request the name of another agency representing the company, he says. "Of course, such a situation happens very, very rarely," Mr. Gage observes.

On the other hand, actively soliciting customer input is one of the chief techniques Hartford, Conn.-based Travelers Cos. uses to gauge the effectiveness of its service efforts. Walter Shey, vp in the Agency Marketing Group, says his company views its customers as not only its agents and policyholders, but beneficiaries of the Travelers policies as well.

An internal company committee that has been reviewing Travelers' customer service activities since this summer is examining how policyholders of every type can best be served, he says.

The nationwide review stems from a mission statement by Travelers Chairman Edward H. Budd, who called upon Travelers employees to "execute throughout the Travelers a level of service that is competitively superior in meeting our customers' expectations as we strive to be a profitable leader in our various businesses."

Travelers surveys various classes of policyholders periodically in an effort to improve customer service, Mr. Shey says, adding that surveys have involved as many as 10,000 policyholders at a time.

One of the most valuable things to emerge from the survey program is evidence that insurers and their customers place different values on different types of service.

Insurers often think the most important aspect of customer service is producing new policies and endorsements on a timely basis, Mr. Shey says. But, according to some surveys, customers said they feel that having access to home office personnel to answer complaints and questions is the most crucial aspect of customer service, he says.

Mr. Shey considers errors in policies and endorsements to be one of the biggest customer service headaches. "Correcting an error costs the company three or four times as much as doing it right the first time," he says, adding that policy issuance error rates have hit 10% or 15% for some types of coverage.

Meeting customers' demand for service requires better training of personnel, Mr. Shey says. "Training tends to be a

Continued on page 36D

Fireman's Fund emphasizes accuracy

By MARK A. HOFMANN

The insurance industry has not done a particularly good job of meeting customer needs, one insurance company executive says.

"Basically, this industry has a poor record in accuracy. We make too many mistakes," said Edward T. Laugle, senior vp and senior marketing official of Fireman's Fund Insurance Cos. in Novato, Calif.

Mr. Laugle pointed out that Tom Peters, co-author of "In Search of Excellence" and other books on business practice, does not cite any insurers as paragons of corporate excellence. "I'd like to see that change," he said.

To make the lists of the best corporations as compiled by Mr. Peters, insurance companies will have to change some of the ways they do business, according to Mr. Laugle.

To cut mistakes and instill a greater sense of individual responsibility for customer service in its employees, Fireman's Fund about four months ago launched a customer service program called "Excellence: It's Your Policy." According to Mr. Laugle, the program has been well-received by employees.

Mr. Laugle says policyholders and agents would probably rank the insurer's degree of customer service as about average within the industry, though he calls that level of response to customer needs unacceptable.

"Business doesn't come to us out of any

special obligation. It will go where the customer finds the best service. We're seeking a 0% error rate. We want to be second to none," he said.

The program was devised after the company tracked quality standards for about a year, he explained. The thrust of the campaign is based on an Aristotle aphorism. "We are what we repeatedly do," the Greek philosopher wrote. "Excellence, then, is not an act but a habit."

The program is aimed at developing a habit of accuracy, which will be sought by double-checking policies, quotes, correspondence, endorsements, invoices or any other form of communication with the customer the correspondence is sent out. The program also is aimed at making sure the correspondence is sent out on time.

Getting things right on the first try is particularly critical when policies are issued, Mr. Laugle said.

"Everybody has heard horror stories about a policy that's been returned seven or eight times because it contained errors," he observed, pointing out that one of the most common errors is misspelling the policyholder's name.

Mr. Laugle says the industry's paper-intensive nature breeds inaccuracy. Information transferred from one person to another via handwritten notes can lose something in translation, he explained. And, when handwritten information is transferred to a typewritten format or into a word proces-

sor, it can become mangled even further.

To impress employees with the importance of accuracy, Fireman's Fund stresses that every mistake means a job that has to be redone. And, every job that is redone costs money.

Because Fireman's Fund employees participate in an employee stock ownership plan, the company emphasizes that any money it loses is money its employees lose as well. "We constantly talk about ownership," Mr. Laugle noted. "Sloppy work will cost us money."

Ownership entails individual responsibility, he said. "We say: 'It's up to you to be your own customer service representative. You have to do it right the first time.'"

And, doing it right means more than just checking spelling.

An eight-page employee handbook lists several procedures, both philosophical and practical, for Fireman's Fund employees to follow in the course of their duties. Two of the basic guidelines include treating each policyholder or agent as if that person were the company's only customer, and communicating pride in one's work.

More specific guidelines spell out such matters as required telephone etiquette.

For example, employees should answer the telephone within three rings. When answering, they are to first give their name and then ask how they can help the caller.

In addition, callers are never to be put on hold for more than one minute, and all

delays must be explained. All telephone inquiries and messages must be returned the same day they are received, even if the employee cannot answer the caller's inquiry immediately.

The program also mandates that all written communications, no matter how informal, should be double-checked for spelling of the customer's name and for the accuracy of his or her address.

If the employee is not certain of the address, he or she must contact the agent for the information.

Mr. Laugle emphasizes that the guidelines set out in the program are not window-dressing.

Employees who do not follow the rules will be disciplined, he said. Repeated failure to abide by the standards could result in termination.

Mr. Laugle claims that the program has cut down errors, although he could not quantify the effort's precise impact.

However, despite the initial signs of improvement in the quality of customer service, the program has a long way to go, he says. "We still have trouble getting things out on time, but that has to do with volume. Our aim is to achieve both accuracy and speed."

"We'll complain about manufacturing defects, but we'll come to work and give less than we'd be willing to accept. Doing things right the first time doesn't cost anything," he said.

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Customer service

Continued from page 36B

second-class citizen in most companies," he says, noting that training budgets tend to be slashed when budgets constrict. "We cannot afford to cut training."

Mr. Shey says that Travelers is approaching its employee training program through a variety of methods. For example, employees attend workshops on general customer service training and written and oral communications.

One of the most effective training techniques are employee quality circles, where problems are discussed and better means of meeting customer desires suggested, he says.

In addition, field representatives come to company headquarters to discuss products and services with Hartford-based personnel. Mr. Shey also says the company relies on industrial engineering techniques to analyze how work is done and to make changes where necessary.

But, Mr. Shey stresses that training alone is no panacea for customer service problems. The employees who deal with customer service must be empowered to make decisions dealing with customer complaints.

"You can't afford to have bureaucracy if you're going to deliver quality service," he says.

Mr. Shey says his own department underwent what he calls "pyramid flattening" about two years ago. As he describes it, there are now only five layers of interaction between a customer and Mr. Budd, the company's chairman. Before the reorganization, there could be as many as nine layers.

The St. Paul Cos. Inc. does not have a formal program for enhancing customer service, says Marketing Director Thomas Swope.

"We consider it an 'effort,' not a program. We're going to employees and asking them what they need to serve customers," he explains.

St. Paul defines the term "customer" broadly, Mr. Swope says. Customers include agents, policyholders, beneficiaries and third-party claimants. "There's nobody who isn't a customer at some point."

Although much of the insurer's attempts to enhance customer service revolves around employee feedback, Mr. Swope notes that St. Paul periodically surveys its agents and policyholders on claims and general policy design. He says the design of a survey is left up to the department that issues it.

In another effort to generate new ideas on customer service, St. Paul earlier this year brought groups of its employees from all over the nation to the insurer's St. Paul headquarters to discuss customer service questions. Mr. Swope says that about 300 of its employees participated in the one-day programs, which were held over a period of several months.

The visiting employees did most of the talking, Mr. Swope says, while home office managers listened to their ideas. The ideas brought up tended to be like those that routinely arise, Mr. Swope says.

"Most are common-sense, meat and potatoes kind of stuff—nothing earth-shattering," he says.

Better customer service is goal of organization

By MARK A. HOFMANN

Customer relations receive top billing when a group of insurance company employees gathers twice a year in an effort to improve relationships between policyholders and insurers.

The Insurance Consumer Affairs Exchange, which was founded in 1976 by about 10 insurance company professionals involved in customer affairs, has four major goals:

- Improving products and services to customers.
- Educating its members about consumer affairs.
- Providing a forum for the discussion of insurer/consumer issues.
- Helping insurance industry employees do their jobs better.

The group's goals have not changed over the past 11 years, even though membership has climbed to more than 100, says Wayne R. Umland, ICAE president and assistant vp of staff support services for Colonial Penn Group in Philadelphia.

However, insurance consumers have become more sophisticated, he says.

Consumers used to be more satisfied with simply accepting what their agents offered them, Mr. Umland says. "Consumer awareness and consumer knowledge has changed, which makes our job more interesting."

The ICAE acts as a clearinghouse of information for its members. Individual insurer employees and insurance companies are eligible for membership. The group attempts to give insurers, state regulators and consumer representatives a forum in which they can talk about matters of mutual concern.

Mr. Umland stresses that the exchange of information is fairly informal, occurring mainly at the group's two annual meetings. All facets of customer service are discussed, whether they involve personal lines, commercial lines, life insurance or any other type of coverage.

Specifics discussed by the group range from techniques, such as strategies for measuring customer satisfaction, to broader philosophical questions, such as attempting to determine what consumers expect from their insurers.

"We don't have anything aimed at any one type of buyer," Mr. Umland says.

Instead, the group attempts to respond to whatever developments happen to be dominating the insurance industry at a given time. For example, when the hardening commercial property/casualty market of the mid-1980s led insurers to refuse to renew to write certain types of cover-

age, the ICAE's attention focused on commercial lines customers.

Mr. Umland says the exchange happened to hold its 1985 fall meeting in Denver just days after the state of Colorado's commercial liability insurance had not been renewed. State employees attending the Denver conference voiced their dissatisfaction with the insurer that had been providing the coverage, he recalls. "We found very bad reactions."

But the meeting did not degenerate into a shouting match, Mr. Umland says. Insurers used the occasion to explain why the coverage had not been renewed and how trends in tort law affected the availability of liability insurance. The state employees left the meeting with a better understanding of insurer perspectives, he says.

The gradual improvement in the availability of commercial liability insurance has caused new consumer issues to come to the fore, Mr. Umland notes. While tort reform continues to demand attention, matters being discussed by the ICAE now tend to center around health insurance issues.

The spread of AIDS and its impact on insurers is one of the most common topics of concern among ICAE members, Mr. Umland says, adding that the spread of acquired immune deficiency syndrome has raised new privacy questions for insurers.

Insurance company personnel have to deal with the impact of not always having adequate medical information on health insurance applications, Mr. Umland says, since some jurisdictions will not allow insurers to test applicants for the presence of antibodies that can signify exposure to the AIDS virus.

In the District of Columbia, for example, the anti-testing law caused insurers to cease writing individual health insurance coverage, he says.

Mr. Umland says that controversies like AIDS testing and the availability of commercial liability insurance assure that there will be friction among the three groups associated with ICAE: insurers, consumers and state regulators. But, he adds, the friction does not have to be acrimonious.

Pointing out that the executive director of the Consumer Federation of America addressed a recent ICAE meeting in Boston, Mr. Umland says, "For the first time, two notorious enemies are sitting down together." And, increased contact among insurers, consumers and regulators will lead to closer working relationships and ultimately better service for all insurance customers, he says.

Insurer outside directors hard to find: Study

By JAMES M. BURCKE

Most insurance companies still report problems finding qualified outside directors to serve on their boards, a recent survey says.

Sixty-five percent of the insurers surveyed by Korn/Ferry International, a New York-based management search firm, said they have a hard time attracting qualified outside directors, though 60% of the insurers surveyed believe that increased compensation for outside directors is the key to finding qualified individuals.

Korn/Ferry surveyed 51 insurers as part of a larger survey of trends at boards of directors among the nation's largest businesses. A total of 532 companies—including industrial and service companies, banks, other financial institutions and retailers—responded to the study.

While insurers say it is still tough to find good outside directors, insurers are more likely to have women represented on their boards than any other type of company surveyed.

Sixty-three percent of the insurers responding to the study had women directors, compared with an average of 43% at all companies surveyed. Six years ago, only 54% of the insurance company boards surveyed contained women members.

The primary source of outside women directors is academia, the survey shows. One-third of the women members of insurance company boards last year were academics.

Insurers are about as likely as other companies to include minority representatives on their boards. Twenty-nine percent of the surveyed insurers contained minority members in 1986, virtually unchanged from six years ago, and just slightly under the average of 30% of all companies surveyed.

Ninety percent of the insurers surveyed compensate outside directors both on an annual and a per-meeting basis. Eight percent pay their outside directors only an annual fee, while one company—representing 2% of the surveyed insurers—pays only a per-meeting fee.

The average annual compensation for insurance company outside directors in 1986 for board activities was \$18,863, the survey reports, up 7.9% from \$17,490 in 1985. The 1986 average compensation is based on an average annual director's fee of \$13,488 and an average per-meeting fee of \$780.

The average compensation paid to insurance company outside directors is 8% less than the average annual compensation of \$20,462 paid by all companies responding to the survey.

Twelve percent of the insurance companies surveyed paid their outside directors more than \$25,000 annually, while only 9% paid their outside directors less than \$11,000 per year.

When fees for committee meetings are included, the average annual compensation for an insurer's outside director jumps to \$24,406 in 1986, compared with average total compensation of \$23,676 at all the companies included in the survey.

Interestingly, insurers are less likely than other types of companies to seek shareholder approval for bylaw changes that would take advantage of new state laws allowing corporations to limit their directors' liability (BI, April 13).

Only 23% of the insurers surveyed are asking shareholders to approve such a measure, while 34% of all the companies surveyed by Korn/Ferry are considering such step.

In the wake of the upsurge in shareholder suits, 77% of the insurers responding to the survey said their directors are probing for

more information on the impact of their companies' strategic plans.

According to the survey, 90% of the insurers currently have directors and officers liability insurance, although 6% of the respondents said they had been denied coverage within the last year.

Seventy-five percent of the insurers whose D&O policies renewed last year reported a premium increase, compared with 71% in 1985. The average D&O premium increase for insurers was 670% last year, compared with 431% during 1985.

Forty-six percent of the insurers said their D&O limits were cut last year, up from 39% in 1985.

Some 23% of the insurers responding said they are considering self-insuring their D&O risks, the same percentage as last year. And, 50% said they had been approached to join some type of alternative risk financing facility offering D&O coverage.

All of the insurance company boards surveyed have formed an audit committee, while 90% have an executive committee and 73% have a compensation/personnel committee. Among the other committees established by some insurer boards are finance committees, formed by 71%; nominating committees, formed by 52%; public affairs committees, formed by 17%; and corporate ethics committees, formed by 13%.

Eighty-three percent of the insurers offer outside directors additional compensation for serving on a board committee.

Insurer finance committees met most often, averaging 12 meetings in the preceding 12 months. Executive committees were the next most likely to meet, averaging six meetings in the preceding 12 months.

Insurance company boards of directors average seven regular meetings per year, one less than the average for all respondents. An

outside director of an insurer devoted an estimated 134 hours annually to board-related business in 1986, up from 129 hours in 1985 and higher than the 114 hours reported by all respondents to the survey.

Based on the compensation data reported in the survey, insurers' outside directors earned an average hourly rate of \$141 in 1986, up from the \$136 average reported in 1985. With the addition of committee fees the average hourly compensation for insurer outside directors was \$182 last year, compared with \$208 for all outside directors.

Publicly held insurers have an average of 15 board members, down from an average of 16 reported in 1985. However, this is still two members more than the average of 13 for all responding companies, but two members less than banks and financial institutions, which have an average of 18 board members.

Insurance company boards average three inside and 12 outside directors, one fewer outside director than was reported in 1985. The average corporate board, according to the survey, consists of three inside and 10 outside directors.

The most important issue considered by the boards at 56% of the insurance companies surveyed are financial results. Other issues considered important include strategic planning, ranked as most important by 23% of the insurers surveyed; management succession, ranked as most important by 13%; industry competition, ranked as most important by another 13% of the respondents; and day-to-day operations, ranked as most important by 4%.

For a free copy of the "1987 Annual Board of Directors Study of Insurance Companies," contact Korn/Ferry International, Board Services Division, 237 Park Ave., New York, N.Y. 10017; 212-687-1834.

Insurer topics products & services

Data base facilitates sharing of loss info

ATLANTA—Equifax Services Inc. has created a new claims history data base, the Comprehensive Loss Underwriting Exchange, that allows insurers to share loss information on prospective policyholders.

Phase I of the CLUE project, to be launched soon, will involve private passenger auto claims of 27 insurance companies, representing about 35% of the U.S. market and, in some states, up to 50%. The insurers will initially provide three-to-five year claims experience, which will be updated monthly.

Phase II should become operational in 1988 and will involve the addition of homeowners and commercial auto claims. Phase III, to become operational in 1989, will include commercial property claims data.

"While this information often exists in the files of previous insurers, attempting to access this information was difficult, time-consuming and expensive," explains Stan Hopp, assistant vp-new product development at Equifax. "With the introduction of CLUE, however, insurance companies can easily obtain loss information from one source and readily identify questionable risks."

A prototype of the CLUE system was tested in Illinois because of the state's population density and lack of accident reporting information on motor vehicle records.

The test revealed that an overwhelming majority of new applicants that matched up with previous claims in the data base had not admitted prior accidents or did not accurately recall details such as the amount or type of loss.

In Phase I of CLUE, the data base is searched for all current and former addresses, all driver names, dates of birth, drivers license numbers, previous insurers, policy numbers and vehicle identification numbers.

For more information on Equifax's Comprehensive Loss Underwriting Exchange contact CLUE's Customer Service Center at 404-320-8514.

Financial software

DETROIT—The Tillinghast division of Towers, Perrin, Forster & Crosby has developed a new software product that performs financial planning models for property/casualty insurers.

INVISION provides income statements, cash-flow exhibits, balance sheets, GAAP statements, ratio tests, Schedule P-type exhibits, NAIC profitability tests and federal tax calculations.

In light of the Tax Reform Act of 1986, strategic planning for maximum profitability has become more complex, according to Tillinghast. As a result, INVISION will allow insurers to coordinate their investment, underwriting and reinsurance programs.

Steve Lowe, a consultant in Tillinghast's Simsbury, Conn., office and a primary architect of INVISION, says the software will help answer such questions as:

- Should I use my own payment patterns or industry patterns in the tax discounting calculation?
- Is my current mix of taxables and tax-free bonds appropriate?
- Will my current financial strategy trigger the alternative minimum tax?
- Will my projected growth for 1987 cause my financial ratios to exceed accepted norms?

INVISION is priced at \$8,500, and includes two days of training by a Tillinghast consultant. In addition, the Extended Software and Support Plan offers more than 24 hours of technical support assistance for approximately \$1,200 per year. ESSP participants also receive all new software enhancements at no extra cost and will share in future enhancements.

For more information on INVISION, contact Mark E. Dorn, Unit Manager, Tillinghast, 200 Renaissance Center, Suite 2700, Detroit, Mich. 48243; 313-567-6616. ■

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CLEAR OR CONFUSING?

State of life reinsurance market varies with the observer

By Charles A. Wittenberg

THE LIFE REINSURANCE picture: Is it clear or confusing?

Originally, or as recently as 1960, the picture was very clear. As on the direct side, there were about three layers of reinsurers. One was dominant, there was a secondary company, four or five companies vied for the third spot and the remainder were further down the line in terms of their new business and their in-force business, as well as their impact on the marketplace.

Most companies used the same set of yearly renewable term rates. There was YRT for non-refund or non-par, and there was YRT for refund or par rates. In addition, from time to time, coinsurance would be used as a specific marketing tool to reflect a rating basis more competitive than the standard YRT rates.

Reinsurance companies competed on the basis of service, and especially in the '50s and '60s, service to the newly emerging life insurance company. As you will recall, many of those companies were headed by agency-oriented operations, and these groups welcomed the help in the way of experienced administration systems, forms, training and other things that major life reinsurers provided at that time. A fair amount of wining and dining completed the reinsurance sales strategy.

At that point in time, the typical direct company would have one or two reinsurers, some as many as three. If they went on the basis of experience refund, planning on their mortality experience being better than the average company, they probably split the alphabet between two companies, so that one claim wouldn't reduce their entire experience refund. At that point in time, I knew of one company that had its alphabet split four ways.

The rate structure then was an attained-age rate structure—one column based on the attained age. As a concession to and recognition of the high first-year costs, a special first-year column was added to those rates and "scientifically" calculated as 50% of the renewal rate.

Back in those days, when you made an agreement with a company and a company made an agreement with a reinsurer, everybody pretty much sat back and let the reinsurance process roll. The reinsurance premiums early on in that period were extremely profitable. Thus, reinsurance was a measurable cost to the direct-writing and ceding company.

When we entered the period of product development to encourage our agents to write more business for us, the reinsurers responded with more and more calculations or modified coinsurance, depending on the relative tax basis and financial strengths of the reinsurer and the ceding company. Innovation and creativity on the part of the direct-writing product developers—and on the part of the

reinsurers—tended to make the reinsurance picture somewhat less clear and somewhat more confusing. But, all in all, compared with today or yesterday, it was much simpler.

Coinsurance began to be used as a tool of the direct writer, particularly those with exceptionally rapid growth in new business sales, to reduce the first-year strain of writing ever-increasing amounts of new business.

As term rates became cheaper in the direct marketplace and administrative and issue costs rose in proportion to the total premium collected, it became more and more important to the rapidly growing direct writer to get a more significant amount of relief from the first-year strain. Coinsurance rates, at one time limited to 100% minus the first-year reserve, found themselves breaking the 100% barrier and moving ever upward as competitive pressures from both the client and the reinsurer had more of

passing on to its insured clientele.

While this was going on, there was a drive for market share and market dominance in the life reinsurance arena. Consider the combination of additional income caused by the ability to locate disjoints in the federal income tax phases, the drive on the direct side with low-priced term highlighted by both modified premium whole life and its tax advantages and the marketing sizzle of the revertible or re-entry term pushing first-year prices even lower. (Remember our comments earlier about the effect on the rapid-growing direct company with lower and lower first-year premiums. These are expenses.)

Suddenly, we found in the marketplace the opportunity to share in profits formerly accruing to the life reinsurer and produce an asset share that showed greater profits after reinsurance than before.

This caused a number of companies to reduce rates even further and

reinsurance community took note of the deterioration of the profitability of their product line. For those companies in multiple-line distribution of products, a cycle emerged in an industry that was formerly non-cyclical. At those companies where life reinsurance was 100% of the product, the deterioration was felt even more noticeably.

Reinsurers began to draw in their belts or expenditures. They began to cut back on the marketplace they were serving, either in the types or number of companies or perhaps by serving only existing clients.

Along with that came the other side of the coin: reduction in expenses. Since the main distribution effort of all North American reinsurers is salaried sales representatives, a number of companies cut back on their sales force and cut back on their travel. They eliminated regional offices, while cutting back on sales representatives to reduce the overhead expenses now spread over a weaker first-year premium.

Today, we find ourselves with a number of reinsurers appearing to ignore some of the basic marketing strategies and lessons of the late '70s and early '80s. We do find the majority of reinsurers trying to clarify objectives, markets and their definition of success and trying to determine for the balance of the '80s and into the '90s the sales and operating strategies needed to re-establish a profit center of a profitable reinsurer.

How does all of this affect you as the buyer of reinsurance? Do you know what you are trying to accomplish with your reinsurance and your reinsurer? Are you ready to bargain, negotiate or maybe even concede some points to come as close as possible to satisfying your most important reinsurance needs? Are you willing to discuss and divulge marketing and operating strategies to those life reinsurers that are seeking to probe and find the maximum fit between your needs and their haves and can dos?

Are you willing to have your reinsurance decision makers involved in the process of dialogue with the reinsurer? Or, do you keep the reinsurers talking to lower levels in the hierarchy, knowing full well that all levels have some bias and some coloration in their own agendas and information-passing abilities? When such information is passed upward, how do you know the decision maker or makers are making the right choices?

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The supercharged activity of the reinsurers eventually caught up with the reinsurance industry. Deferred acquisition numbers were not being supported by ever-increasing term lapse rates. Traditional lapse expectations became a parody in light of the emerging experience.

an effect.

Reinsurance began to get more notices in the trade press. People investigated the phenomenon of how the total business written in the industry was inflated. Some companies passed a piece of reinsurance from Company A in their group to Company B, Company B kept a small retention and passed it to Company C in their group, Company C kept a small retention and passed it to Company D, so that the A, B, C and D insurance groups showed perhaps three times the total amount of insurance in force and written than if reinsurance were discounted.

While term rates were becoming lower, the direct product area was moving into an era of tax-generated sales. Products to fit these special tax situations emerged, flourished, had tax "corrections" and then died. Split dollar, minimum deposit, Section 79—these are only a few of the names that we now find in a glossary of insurance terms rather than in the current rate book.

During these times, reinsurance companies also discovered some differences based on taxes. When a client and a reinsurer had a different tax phase, moving premium and income from one to the other could cause a reduction in taxes for one company without a significant increase in taxes to the other. To put it simply, tax savings were generated and split between the direct-writing company and the reinsurer. Thus, the direct-writing company began to experience some of the same tax-related product benefits as it was

reduce their retention, causing a rapid but artificial growth in the size of the new paid life reinsurance marketplace and more confusion.

The reinsurance marketplace responded like a proud race horse under the whip. Volumes grew so rapidly that even players in the second five of the top 10 found themselves coveting a move upward in market share. Old in-force numbers were sometimes doubled in a year or two with the astronomical growth of new paid volume.

Premiums, however, received no such accommodation. Premiums after allowances even shrunk in some situations. The size of the net deferred asset on a generally accepted accounting principle basis grew rapidly as portions of tomorrow's premium emerged as today's GAAP income.

Inflation, meanwhile, caused expenses for the reinsurer to grow at an increasing rate and, for some reinsurers, pressure was put on the statutory statement to slow down the outflow of funds and the annual dip in surplus.

Unfortunately for both the direct marketplace and the reinsurance community, the supercharged activity of the reinsurers eventually caught up with the reinsurance industry. Deferred acquisition numbers were not being supported by ever-increasing term lapse rates. Traditional lapse expectations became a parody in light of the emerging experience.

First one at a time, then in increasing numbers, members of the

Charles A. Wittenberg is vp of the life reinsurance division in the group benefits department at CNA Insurance Cos. in Chicago. He delivered these remarks last month at the 23rd annual Conference for the Life Insurance Executive, sponsored by CNA's life reinsurance division.

More women buying disability cover: Study

FARMINGTON, Conn.—In 1986, 23% of all disability income policies were purchased by women, reveals a study by the Life Insurance Marketing & Research Assn. Inc.

The study found that women for the first time are a major market for disability income sales, noting that the 23% market share represents a 156% increase from their market position in 1972, when LIMRA last conducted a study on disability income.

LIMRA attributes the growing importance of women in the disability insurance market to their changing status in society over the past two decades.

"More women are working outside the home, in higher-salaried professional occupations. Forecasts for labor force participation indicate that even more women will be working over the next 10 years, at comparatively better jobs," said Barry J. Edmonston, associate scientist-manpower and market research at LIMRA.

The study also drew a composite of the female disability income buyer:

- The median age is 36.
- More than six in 10 hold executive or professional positions—such as an accountant, attorney or medical profes-

Insurer Topics briefs

sional—and earn a median income of \$28,600. Some 14% are self-employed.

LIMRA further notes that among female buyers, medical professionals buy 14% of all non-cancelable disability insurance policies, accounting for 27% of premiums.

- Slightly more than half—52%—are married, 35% were single and the remainder were either separated, widowed or divorced.

- Average premium-per-policy was \$815. Three in 10 women prefer to pay premiums annually.

The LIMRA study also analyzed and evaluated the characteristics of the male disability income buyer:

- The median age is 35.
- Approximately eight in 10 are professionals or executives, and the median income was \$54,700—91% higher than that of females.

- Eight in 10 male buyers were married, a trait that has remained virtually unchanged since LIMRA's first study of

disability insurance in 1949.

- Average premium-per-policy was \$1,283, and four in 10 men prefer to pay premiums annually.

The Life Insurance Marketing & Research Assn. plans to release a second report that will deal specifically with guaranteed renewable and commercial disability income policies that were purchased in 1986.

Atlantic Mutual joins ISOTEL

NEW YORK—Atlantic Mutual Cos. is the 25th insurer group to access ISO Telecommunications Inc., bringing the number of clients of the on-line information service to more than 250, according to Dominick R. Cortellessa, ISOTEL's president.

ISOTEL, a subsidiary of Insurance Services Offices Inc., offers on-line access to commercial fire advisory rates and building information for 2.5 million specific properties across the country through its Specific Property Information service. ISOTEL also offers Public Protection Classification Codes, which includes information on the size and

Continued on next page

Life reinsurance

Continued from previous page

I know the story about how some flip a coin and see who has to go to lunch with the visiting reinsurer. But, I think one of the things that is clear is that most of those types of reinsurance people belong to a previous era.

More and more I find reinsurance companies and reinsurance sales people not only with professional designations, but also with professional sales skills and a salesman's professional desire to be matched, hopefully for long-term relationships, with a client that itself is on a well-defined strategic journey out of the '80s and into the '90s.

What about tomorrow? Will the picture continue to clear? Or is it only clear for those who take off the rose-colored glasses of "no one can fail in life insurance" or the rose-colored glasses of "to be successful all we have to do is sell more"?

Can we ignore such items as expenses, marginal expenses, deterioration of profits and build-up and recoverability of our net deferred assets? Only time will tell.

The picture can be very clear or very confusing: confusing to those direct companies that do not know what they want to accomplish with their reinsurer and their reinsurance; confusing to those that do not have a successful marketing strategy; confusing to those that create or tolerate a mismatch of direct company needs and reinsurer abilities.

On the other hand, the picture will be clear to that majority of life reinsurers that are profit-motivated; clear to those direct companies that still need what reinsurers can offer; and clear that both sides can only wistfully wish for a return to those good old days of laissez-faire and gentlemen's agreements.

In the meantime, keep your picture clear. Notice that it starts with defining your objectives and reinsurance needs. Notice that there are reinsurers clearly trying for the long-term aspects of business rather than the industry equivalent of the rollover.

So, is the life reinsurance picture clear or confusing? From your vantage point, a lot of it depends on you. Each of us in the reinsurance business wants to provide for your needs. Each of us wants to be financially successful. Each of us wants to have a return to that measure of feeling that gentlemen's needs can be satisfied with a gentlemen's agreement. Each of us also has the capacity to confuse those issues with the introduction of many points.

So, the answer is that the life reinsurance picture is both clear and confusing. I hope I have made that clear. ■

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Insurer topics briefs

Continued from previous page effectiveness of community fire protection services, as well as advisory class fire rates, which provide the building and contents rates for class-rated properties.

Atlantic Mutual will access ISO-TEL's Specific Property Information Service and receive weekly-updated advisory rates for commercial general liability and commercial auto on magnetic tapes.

"Atlantic has automated 95% of its commercial lines policy processing, so the addition of ISOTEL products was a logical decision for us," said Edmund Schubert, senior vp-commercial lines at the Boston-based insurer group.

For more information on ISO-TEL products, contact ISO Telecommunications Inc., Marketing

Support, 160 Water St., New York, N.Y. 10038.

III data base

NEW YORK—The Insurance Information Institute has formed an advisory panel for its electronic data base services.

The Data Base Advisory Panel will hold its first meeting Nov. 6 to address the content of the data base, technical issues and any quirks in the system.

The III Data Base, launched in 1985, now consists of Data Base News, a daily newsletter of articles of interest to property/casualty insurers; Data Base Reports, composed of in-house research on 30 topics, updated monthly and available in book form as well as online; and the III Data Base, con-

sisting of citations, references to and summaries of insurance-related materials, including newspapers, magazines, news releases, pamphlets, books, studies and government documents. Documents in the system are increasing at a rate of about 800 a month, says the III.

The advisory panel will examine the current status of the III Data Base, complaints and compliments from users, subject headings, searches that didn't produce the needed information and technical problems with system access.

Those interested in attending should contact: Marjorie Gordon, Director of Information Services, Insurance Information Institute, 110 William St., New York, N.Y. 10038; 212-669-9264.

NAMIC appointments

INDIANAPOLIS—The National Assn. of Mutual Insurance Companies has made two recent ap-

pointments, NAMIC President Harold W. Waters announced.

Larry G. Kahl has been named vp-membership development and Roger L. Ronk has been named government affairs specialist.

Previously, Mr. Kahl served as vp-member services.

Mr. Ronk served as director of education for NAMIC prior to joining the government affairs department.

Fire safety award

NEW YORK—The National Fire Protection Assn. has bestowed its highest honor—the Paul C. Lamb award—on John L. Jablonsky, vp of the Engineering & Safety Service of American Insurance Services Group Inc.

The Lamb Award recognizes extraordinary voluntary service and dedicated action on behalf of fire safety. It is named for a former NFPA president and has now been

presented to five individuals since its establishment in 1980.

Mr. Jablonsky is a registered professional engineer and an expert on fire prevention and building construction. In 1970 he was appointed to the President's National Commission on Fire Prevention and Control, the body whose work led to the widespread use of home fire detectors. He has served on numerous commissions on fire prevention and construction standards. Mr. Jablonsky is a fellow of the Society of Fire Protection Engineers and a member of the American Society of Safety Engineers and the American National Standards Institute.

Aetna golf tourney

HARTFORD, Conn.—Aetna Life & Casualty Co. plans to host a new senior golf tournament in Naples, Fla., Feb. 24-28.

"The Aetna Challenge," a new event on the Professional Golfers' Assn. Senior Tour, will be held at The Club at Pelican Bay in Naples. The tournament will be part of the 1988 Mazda Series in the Senior PGA Tour—35 events across the country offering a total of \$12.8 million in prize money.

The Aetna Challenge will be a \$300,000, 54-hole tournament played for the benefit of local charities, to be selected by Aetna. All three rounds will be televised on the ESPN cable network.

Aetna decided to sponsor the tournament "because golf is one of the most effective advertising vehicles to reach our prospective and current policyholders," said Peter Egan, assistant vp-corporate communications for Aetna. Mr. Egan said about \$1 million has been budgeted for the event, which is being managed by People & Properties Inc., a Greenwich, Conn.-based sports marketing firm.

Farm Credit System

WASHINGTON—Representatives and members of the two largest independent agent associations complain that the federal Farm Credit System's ability to sell insurance gives it a competitive advantage over agents.

Federal law now permits the FCS and its affiliates to sell credit life, hail, multi-peril crop and other types of insurance to farmers when they seek farm loans.

"A serious conflict of interest, along with a very real threat of coercion, occurs each time a farm lending bank wishes to provide insurance to a farmer borrower," said Jack McNeil, vice chairman of the Farm Agribusiness Committee of the Independent Insurance Agents of America, in testimony recently before the House Subcommittee on Conservation, Credit and Rural Development.

The IIAA, the National Assn. of Professional Insurance Agents and other industry representatives charge that farmers seeking loans from the FCS are coerced into purchasing insurance from the agency.

"The inherent problem of coercion remains in a system where the financial loan functions of a lending institution are side-by-side with the insurance marketing functions," said Robert E. Fulwider, chairman of the IIAA Farm Agribusiness Committee.

"Farm and ranch borrowers are better served through a Farm Credit System that separates the loan functions from the insurance needs of that borrower," he said.

In a written statement to the Senate Subcommittee on Agricultural Credit, PIA Chairman William C. Rue noted that because a borrower may be pressured into securing insurance from the credit office, he is unable to look for the best price. ■

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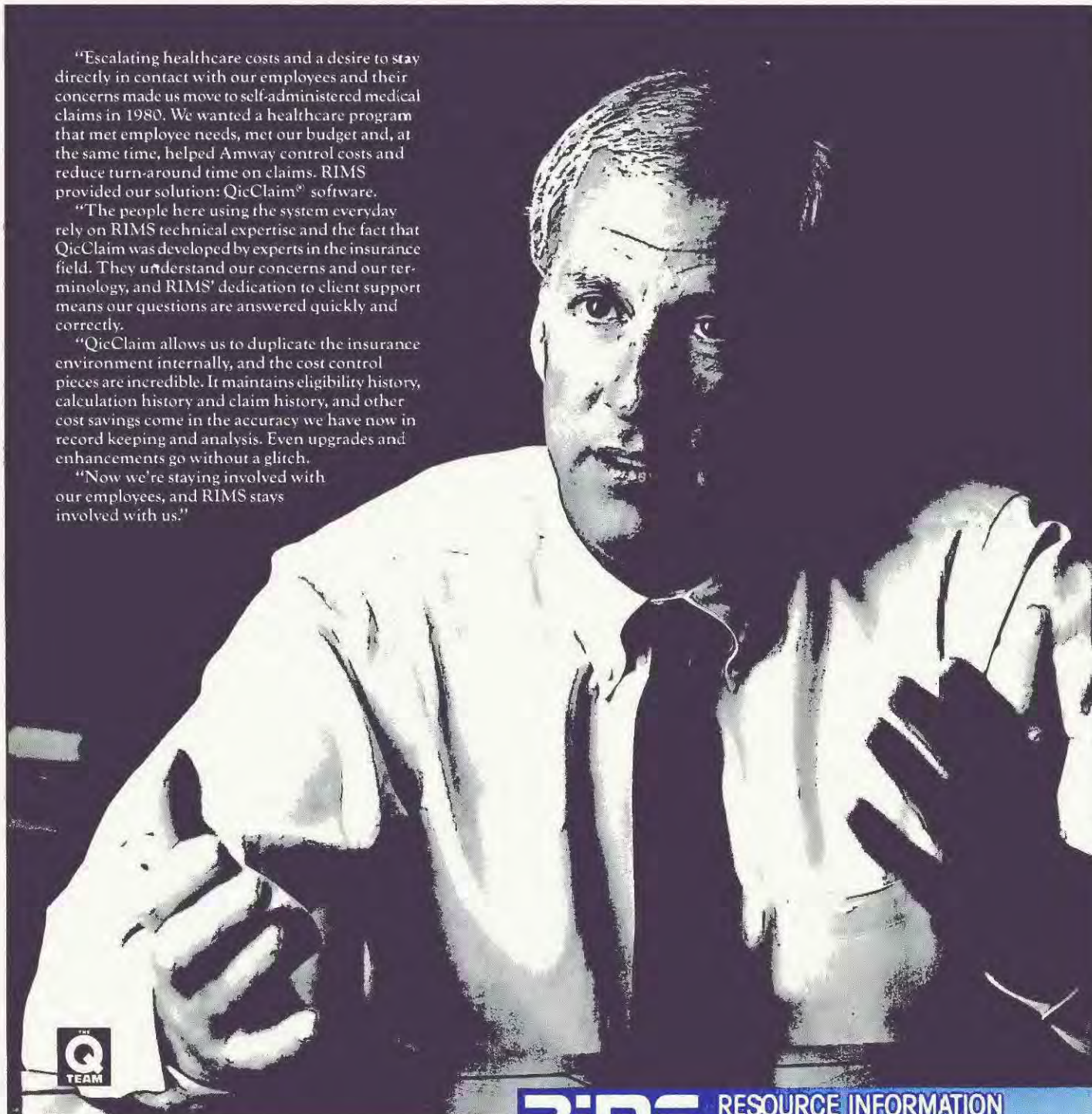
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Secretaries, Treasurers, controllers and other Financial Personnel	5,600
Risk/Employee Benefits:	
Vice-presidents, directors, managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations	9,701
Sub-total	23,868
Associations	500
Government, Unions and Educational Institutions	914
Commercial Consumers	
Sub-total	25,282
Insurance Agents and Brokers	10,858
Insurance Companies	7,140
Financial Institutions	989
Actuaries, Attorneys, Adjusters, Appraisers and Consultants	4,617
Others Allied to the Field	1,792
TOTAL	49,689

* Source Business/Occupational breakdown of qualified circulation, May 25, 1987 issue, as submitted to BPA for June 1986 BPA Publisher's Statement.

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Industry outlook

Continued from page 1

ensuing losses. Absent a return of large reinsurance support, which is not expected, primary companies will not cut rates to money-losing levels, some speculate.

These are the observations of insurance market conditions by leaders of the U.S. property/casualty insurance business who gathered at The Greenbrier last week for the annual joint meeting of the National Assn. of Casualty & Surety Agents and the National Assn. of Casualty & Surety Executives. They spoke publicly on the market during a round-table discussion, some granted interviews and others spoke informally at receptions and dinner parties.

The joint NACSA/NACSE meeting is always held beginning the first Sunday in October at the luxurious Greenbrier resort, nestled in the Allegheny Mountains in southeastern West Virginia. The meeting attracts the top executives and spouses of the country's largest agents and brokers and property/casualty insurance and reinsurance companies. This year's registration: 1,265.

NACSA is a politically active association of the nation's largest retail brokers; NACSE's only function is to organize the attendance of insurance and reinsurance company executives at The Greenbrier meeting.

The executives gather formally and informally to discuss current issues confronting the commercial insurance business. Insurance companies and agents and brokers also use the four-day meeting to improve their relationships with each other.

Formal business meetings are limited to mornings, with the afternoons reserved for the gamut of sports activities available at The Greenbrier: golf, tennis, bowling, horse-shoe pitching, trap shooting, bridge and horseback riding. Attendees can compete for prizes in all but horseback riding.

In the evenings, black-tie receptions are sponsored by brokers, insurers and reinsurers.

Whether in the meeting rooms or on the golf course, the issue on everyone's mind this year: price competition in the property/casualty insurance business.

Coming to the end of a year that most insurance industry leaders considered nearly perfect for the insurance industry—profitable pricing of insurance with enough capacity to satisfy consumer demand and spur some competition—no one is certain how much more competitive the market may become.

"It's a 'perfect' market now," observed Paul B. Ingrey, president of F&G Re Inc. in Morristown, N.J., the reinsurance underwriting subsidiary of USF&G Corp. "There's a good balance between buyer and seller."

But when asked if the market was going to become even more competitive in December for January renewals, Mr. Ingrey quipped, "I'm not that smart."

Richard M. Page, chairman and chief executive officer of Fred S. James & Co. Inc. in New York, the fourth-largest U.S. insurance broker, said: "I would like to believe that we'll see stability in rates in the near term, but my gut reaction is it's not going to happen."

"This is going to be a critical renewal year," commented N. David Thompson, president of North American Reinsurance Co. in New York, a leading reinsurance company. "If renewals are at weaker terms, it is a very unhealthy sign." But, he added, "I don't

think it will be an all out war. It will be relatively brief. Too many people are too uncertain about the economy."

John A. Bogardus Jr., chairman of Alexander & Alexander Inc., the second-largest U.S. broker, is less optimistic: "The thing that worries us is that the CEOs of too many property/casualty companies are still saying that their people aren't telling them what their agents are telling them: there are enormous price reductions across the line."

Mr. Bogardus reports that A&A sees the competition not only for large accounts but also "middle America-type business." Citing offices in non-industrial cities, he said, "The price war in those areas is intense."

A&A sees property insurance renewing at 25% to 50% less than expiring rates and liability insurance—excluding very high-risk business—renewing at 10% to 25% less than expiring rates. Mr. Bogardus expects this level of rate cutting to continue.

And for many accounts, this is the second rate reduction in two consecutive years, Mr. Bogardus said. A&A saw rate cutting emerge in August 1986.

"That's too much too soon," Mr. Bogardus suggests. "Our people say we will be back to prices in 1933" that produced large losses for most insurers.

Some insurers are quoting umbrellas at rates as low as \$400 to \$600 per \$1 million of coverage, compared with the \$1,000 minimum rate per \$1 million that was pervasive in the hard market, brokerage and insurance executives say. Umbrella rates fell to their lowest—\$200 per \$1 million—in the height of the competitive market.

"We don't feel the companies are fully appreciative of what's going on," Mr. Bogardus said. "If the companies don't know the extent of price cutting, it's cause for worry. It just will keep going until the insurers are really hurting and then unfortunately there will be an abrupt change again. I desperately hope this scenario is not played out."

Peter Pruitt, president and chief operating officer of Frank B. Hall & Co. Inc. in Briarcliff Manor, N.Y., the fifth-largest U.S. broker, said during the round-table discussion that Hall surveyed its offices 90 days ago and found primary casualty insurance prices down 20%, property insurance prices down 25% and highly protected risk property insurance rates down 25% to 50%.

Transamerica Insurance Co. President Gerald Isom, also a member of the round table, observed: "A survey like that might tend to get extreme examples." But Mr. Pruitt maintained, "It's not a survey of extreme examples."

James is planning for rates to continue to decline: 25% to 50% in the large risk property lines, 15% to 25% in commercial package lines and 10% to 25% for general liability insurance, Mr. Page said during an interview.

He noted that the rate reductions, as well as rate increases, appear first on the coasts of the country and then move toward the center of the country.

These rate reductions began in earnest in April, though there were some instances at year-end 1986, Mr. Page said.

Rate reductions appeared later in Canada, surfacing there in June, July and August, Mr. Page added.

Accounts that obtained rate reductions at year-end 1986 are looking for them again, said Mr. Page.

Most agree that at least one round of rate reductions was justified.

"Pricing in some areas areas was briefly over excessive, but market forces corrected it," said Mr. Thompson of North American Re.

"Prices did get too high and, privately, insurance executives will say there was an overreaction," Mr. Page said.

William E. Thiele, executive vp of Continental Corp. in New York, observed that "this summer saw precipitous softening in rates." However, he suggests that because the commercial insurance market was at its "tightest vice-like crunch in July 1986," comparisons of prices in the third quarter of 1987 with the third quarter of 1986 could be expected to be "really dramatic."

"That is not likely to be the case in the first and second quarters of 1988," Mr. Thiele said, adding, "maybe that is a little wishful thinking. There could be a revenge factor among buyers."

Separating the anecdotes about price cuts from the statistics, Continental's price monitoring show rates fell in 4% to 5% range through July. "There's no question the last three months were very different," he said.

Insurance prices today "are still better than we are accustomed to," Mr. Thiele observed. They are "mostly still within the band of reason," he said, with the exception of commercial auto and umbrella prices.

However, William M. McCormick, president of Fireman's Fund Insurance Cos. in Novato, Calif., says prices were overshot only on "some lines," citing property insurance as the best example. Commercial auto and general liability were not overshot, and yet prices are starting to come down, he said.

"Prices at the end of the first quarter were in the band of reason. In September, they are not," Mr. McCormick said. The rates are not yet so low to make insurers lose money, he said, "but they are not very profitable."

Insurance company executives say they are committed to giving up business if the competition quotes it for a loss-producing price.

Continental's strategy in the increasingly competitive market is to specialize in such lines as marine and aviation, where pricing is more steady, and profitable geographic and industry niches, Mr. Thiele said.

Fireman's Fund is "far more disposed to say no" when the prices get too low and already is "letting some business go," said Mr. McCormick during an interview. "If the cycle keeps heading down, Fireman's Fund will be a smaller company than it is today. We won't grow if the prices are lousy."

Concerned by stories that Fireman's Fund was leading the competition, the company hired a research firm to canvass agents and brokers on who was leading the price changes. The research found: "it's a company here, a company there." Fireman's Fund was not leading the price decreases, the survey found, but "we're in it," Mr. McCormick admitted.

Sidney F. Wentz, chairman and chief executive officer of Crum & Forster Inc. in Morristown, N.J., said during the round-table discussion: "We are very committed to avoiding the follies of the past." Crum & Forster is committed to "underwriting and pricing discipline and walking away" if the competitive prices are too low.

Michael Goldberg, vp of Berkshire Hathaway Inc. in Omaha, Neb., said that with competition back, Berkshire Hathaway will write less than the more than \$1 billion in premiums the group wrote last year. The group has more than \$2.7 billion in surplus.

"We quote to make an underwriting profit," Mr. Goldberg said. "We don't have volume projections or budgets."

Berkshire Hathaway started writing large commercial accounts in June and July of 1985. Now, the Berkshire Hathaway companies are losing more than one-third of their directors and officers liability insurance business, which last year produced \$70 million to \$80 million in premiums, said Ajit Jain, president of the professional liability and specialty risks division of Berkshire Hathaway's insurance group.

The group does want to hold business. In some cases, premiums have been cut 50% to retain renewals, Mr. Jain said. And the group has increased to \$15 million and sometimes \$20 million the limits it offers on a primary and excess basis for directors and officers liability insurance, compared with the \$10 million limit it offered last year.

The companies also write errors and omissions insurance, with an emphasis on architects and engineers and the insurance industry.

While agreeing that the large account market is the most competitive now, Zurich-American Insurance Group President William H. Bolinder predicts that insurance price reductions overall will stabilize in the 15% to 20% range.

And, Schaumburg, Ill.-based Zurich-American is "trying not to compound rate reductions," Mr. Bolinder said.

"It's dangerous to say, but things seem to be stabilizing," said Arthur Quern, president of Rollins Burdick Hunter Co. in Chicago, the seventh-largest U.S. insurance broker. "There is downward pressure, but no snowballing."

"Our statistics show the rate of decline has leveled in May, June, July and August," said Mr. Page of James, adding "we're not really sure why. It may be our statistics. The people I talk to here say the erosion in rates continues."

Reinsurance company executives attending the NACSA/NACSE meeting echoed the comments of reinsurers who gathered for their annual Rendez-Vous de Septembre in Monte Carlo last month: no softening in reinsurance market conditions (BI, Sept. 21).

"I am hearing from my reinsurance colleagues that they are holding stiff and continuing to exercise discipline," said James F. Dowd, president and chief executive officer of Skandia America Corp. in New York, a leading reinsurer. "Reinsurers are going to hold the line and, to the extent that reinsurance can contribute to market conditions, it won't be this time."

Reinsurance companies are losing premium volume, Mr. Dowd pointed out. Primary companies are keeping larger retentions and reinsurers are not renewing some business because the rates are too low, particularly for facultative property reinsurance.

However, Mr. Dowd confirmed that primary rates are falling, with the most competition on the largest accounts, such as those generating more than \$100,000 in premiums.

In response to primary insurers' observations that prices are still within a band of adequacy, Mr. Dowd suggested there are enough examples of cutthroat competition driving rates down that "in the aggregate it's a negative trend."

While executives of primary insurers say their price monitoring systems tell them pricing is adequate, Mr. Dowd observed that

Continued on next page

The professional marketplace

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Industry outlook

Continued from previous page
 the systems may not be sensitive enough to produce timely information. "And then they only provide information and not fortitude," he added.

Another insurance company executive, who asked not be identified, suggested that the price monitoring systems can be manipulated by underwriters to conceal big premium reductions—a suggestion confirmed by others.

Despite the strong contentions by reinsurance company executives that reinsurers will not be dragged into another rating war, some are skeptical.

"The general view is that reinsurers will make themselves known at the end of the year. Reinsurers will get back in because rates are still high," said Mr. Quern of Rollins Burdick Hunter. But to get back in the market, reinsurers will have to reduce their rates because ceding companies are content to retain more business at current prices, he added.

Mr. Thompson of North American Re disagreed. "Reinsurers are not going to rush to cut prices. Reinsurers won't cut rates because there are lower rates in the primary market. It would be a double rate cut."

Brokers and insurers alike express concern about the impact of market cycles on insurance buyers, regulatory trends and the future of the commercial insurance business.

The recent hard market "was unfortunate for the industry," Mr. Page of James observed, linking the effort to amend the McCarran-Ferguson Act with the insurance price and availability crisis.

"I feel strongly that we have to do something in the soft market

cycle so that we don't go head-on into another crisis," he said, advocating a "federally focused instrument to help us control the cycle."

"State regulation has not been effective. We need an SEC-type mechanism to provide information to the consumer," said Mr. Page, referring to the Securities and Exchange Commission, which dictates what information publicly traded companies must disclose.

"All the large brokers maintain internal security mechanisms, but we cannot voice our opinions publicly for fear of starting a run on a company," said Mr. Page.

Commenting on the market cycles, A&A's Mr. Bogardus said: "The client is really whipsawed. Clients want stability for financial planning. Risk managers would be willing to pay more for stability."

At least two insurers are testing this philosophy, Mr. Bogardus said, by asking brokers if buyers would be interested in a three-year guarantee that prices would not vary up or down more than 10%, barring a terrible catastrophe striking the business.

"Some buyers would be," he said.

Mr. McCormick of Fireman's Fund agrees that the cycle is "terrible for the consumer and then regulators get into the act." He suggested: "We have to do something different about industry governance."

Some of his ideas include marking bonds held by insurers to their market value and not their amortized value in order to more accurately reflect the value of an insurer's holdings, a suggestion that many insurance company executives oppose. "Maybe it should be done over a rolling time period," Mr. McCormick said, in order to avoid big swings in insurers' surpluses that would be created by a

volatile bond market. Mr. McCormick also suggested there needs to be more discipline imposed on how insurance companies reserve for losses, perhaps by insurers adopting standard actuarial techniques.

"I'd like to see us go on the offense" against the insurance industry's problems, Mr. McCormick said. To that end, Fireman's Fund has put up seed money for a survey by Conning & Co. of the industry to see if there is interest in a larger study on accounting and regulatory issues.

While there is disagreement on how competitive the insurance marketplace is today, few expect there will be a prolonged period of strong competition as in the last competitive cycle.

"I don't see some basic factors supporting this downturn for an extended period of time," commented Robert S. Seitzer, president of Cohen-Seltzer Inc., a Philadelphia agency, during the round-table discussion.

"I don't see high interest rates. I don't see a hard dollar buying cheap reinsurance in foreign markets. I see primary companies with high retentions. I classify this to be a correction to the huge profits of the last two years and to pressure from clients to be sure our pencils are sharp."

Mr. Isom of Transamerica took issue with the suggestion that insurers have made huge profits. "The industry has improved from where it was, but where it was was abysmal. We are not at a point yet to sustain the kind of returns prudent investors are looking for."

Mr. Isom suggested that there are many reasons that insurers should be raising prices, not cutting them, citing the impact of the Tax Reform Act of 1986, inadequate loss reserves, reinsurance recoverables and the lack of meaningful judicial reform.

Edwin J. Goss, president of American States Insurance Co. in Indianapolis, said in response during the round-table discussion: "I can see a scenario that the next downturn should be shorter and less deep than the last one. Interest rates are one half of what they were in the last downturn. We don't have new entries from the industrial or foreign sectors. And there is no apparent inclination on the part of the reinsurance industry to support reckless pricing.

And there are concerns about claim reserves, uncollectible reinsurance and taxes."

While expressing concern about the growing competition among insurers, Mr. Dowd of Skandia predicted that the result will not be as dramatic as the last market cycle because two contributing factors will not occur at the same time: high interest rates and the explosion in tort cases.

Many brokers and insurers are concerned that the marketplace not become so competitive that a sudden price and capacity crunch will occur again.

Citing the development of large policyholder-owned offshore insurance companies, risk retention groups and the use of larger self-insurance retentions in response to the last hard market, Mr. Pruitt of Hall warned: "If we go into another cycle where we can't provide transfer of risk, we will take another chunk out of our hide."

Don D. Hutson, chief executive officer of Maryland Casualty Co. in Baltimore, who moderated the panel, suggested: "We need stability in the market for a longer period of time to repair the economic damage and to repair some of the damage we have done in the marketplace. With each cycle, we remove a block of business to other mechanisms. If we do this another two or three times, we will shrink the market so small there won't be enough left."

Mr. Goss of American States suggested: "There is a lot of careless conversation going on about the next downturn. CEOs in our business are the only group of people that can do anything about pricing. We all have to establish pricing policies for our companies, to implement monitoring procedures to move in and influence that when it gets to an unacceptable level."

James J. Meenaghan, president of The Home Insurance Co. in New York, agreed. "Business moves based on emotion." He called on CEOs to provide leadership. "If he insists on production, he will get production. If he insists on profit, he's going to get profit."

Mr. Bogardus of A&A is skeptical that insurers can resist cutting rates to maintain their profits. Of the current rate cutting, he said: "We won't see a change until insurers' earnings show it—the last half of 1989 or 1990." ■

Executives view gamut of issues

WHITE SULPHUR SPRINGS, W.Va.—While competition in the commercial insurance marketplace was foremost on the minds of executives attending the joint NACSA/NACSE meeting, other issues also were discussed.

Many insurance company and brokerage executives are concerned that more insurance companies will become insolvent.

"There is enormous concern about solvency and reinsurance collectibles," said John Bogardus, chairman of Alexander & Alexander Services Inc. "All over the insurance industry, companies are slower paying, trying to hang on to dollars."

Foreign reinsurers, including nationally owned companies, all want to negotiate the payments they will make under reinsurance contracts in an effort to reduce losses, he said.

But participants were split about whether insurance buyers consider security when buying insurance.

Arthur Quern, president of Rollins Burdick Hunter Co., said that while clients generally are looking for lower priced insurance, "I hear people say there are questions about stability, security and solvency. There is a heightened awareness," he said. "The act of buying is more analyzed," he added.

But Ajit Jain, president of the professional liability and specialty risks division of Berkshire Hathaway Inc.'s insurance group, contends that "there is not enough concern about security. Buyers are factoring it in, but not with the weight they should be. They need a time horizon of five to 10 years."

"Most insurance companies do not pay sufficient attention to security when they buy reinsurance," said Michael A. Goldberg, vp of Berkshire Hathaway.

Brokers, insurers and reinsurers also were talking a lot about the growing number of asbestos and pollution liability losses.

"There is continuing surprise at the emergence of asbestos and pollution losses," said James F. Dowd, president of Skandia America Group.

Said William Thiele, executive vp of Continental Corp.: "Our people are getting nervous about asbestos and pollution."

William Bolinder, president and chief executive officer of Zurich-American Insurance Group, pointed out that the extent of pollution losses is still unknown.

The future of insurance regulation and the McCarran-Ferguson Act, which grants insurers limited immunity from federal antitrust laws, also were debated.

"There is not great unanimity on federal involvement anymore," said Mr. Bogardus. "People have a general reluctance for government to become involved, but there are many who feel this would create the greatest efficiency. There is a wide range of feelings."

And, the potential for banks to enter the insurance business was discussed, mostly by the agents.

"It will only be a matter of time before banks are in the insurance business," Mr. Bogardus observed. Although he expects to see it occur before the year 2000, some say it change within two years, he said.

While agents generally oppose banks entering the insurance brokering business, several executives of large independent agencies admitted privately that they look forward to the day when banks start bidding to buy agencies, offering agency owners the opportunity to sell at large profits.

—By Kathryn J. McIntyre

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Insurance industry striving for plan to pay quake losses

WHITE SULPHUR SPRINGS, W.Va.—The insurance industry is working toward a historic consensus on how to cope with a devastating insurance loss brought about by an earthquake.

This development is very important for two reasons, according to N. David Thompson, president of North American Reinsurance Corp. in New York.

One, the problem of how the insurance industry will cope with a devastating earthquake loss "is one of the most critical issues if not the most important problem we face," according to Mr. Thompson.

Two, the insurance industry previously has not spoken with one voice on important issues, but "we have the first faint indications of an industry consensus" on the earthquake catastrophe proposal, he said.

Mr. Thompson discussed the earthquake proposal and building an insurance industry consensus on important issues in his address as president of the National Assn. of Casualty & Surety Executives at NACSE's joint meeting with the National Assn. of Casualty & Surety Agents last week.

There is a 50% probability of a devastating earthquake occurring in California in the next 30 years, Mr. Thompson said, citing scientific opinion. The recent earthquake in Los Angeles was only 6.1 on the Richter scale (see story, page 3). A quake registering 7.1 on the 10-point scale is 30 times more powerful than an earthquake registering 6.1, Mr. Thompson reminded the audience.

While estimates vary widely, most agree that a major earthquake could result in insured losses of \$50 billion, including fires following the earthquake, workers compensation claims and liability claims, Mr. Thompson said.

"There is no one in this room who would not feel the effects from a major earthquake," he said. A devastating earthquake

would affect not only reinsurers' ability to pay but also some primary insurers, Mr. Thompson predicted.

"If reinsurance recoverables are threatened, there will be a significant effect on many primary companies and that, in turn, besides the obvious disruption of insurance markets, could affect ability to pay and possibly even involve guaranty funds throughout the country," Mr. Thompson said.

The solution: a federal backup mechanism that would assure the ability of the insurance industry to meet its obligations following a devastating occurrence. The three major property/casualty insurance trade associations, two insurers and others are working on such a proposal.

Mr. Thompson said his purpose was not to advocate any one plan "but rather to salute the efforts of those who are working hard to make an industry response a reality.

"Without an industry consensus, we won't resolve issues," Mr. Thompson advised.

Recently, two U.S. senators speaking at separate functions said the insurance industry lacks credibility because it presents competing viewpoints on Capitol Hill, Mr. Thompson reported.

"Sometimes we even come forth with different facts," Mr. Thompson observed.

"If we do not speak with one voice and with one common set of assumptions or based on the same data, we appear fragmented and will have no one to take our part," he warned.

The Earthquake Project, as it is now known, includes on its steering committee representatives of the Alliance of American Insurers, the American Insurance Assn., the National Assn. of Independent Insurers, State Farm Insurance Co. and American International Group Inc. (BI, June 15; Sept. 28).

In August, the committee began working

with the Independent Insurance Agents of America and the National Assn. of Professional Insurance Agents. And, in September, representatives of the Reinsurance Assn. of America, which previously had promoted its own catastrophe proposal, joined committee deliberations.

"We have high expectations that by year-end we will have resolved differences and have an industry proposal," said Franklin W. Nutter, chairman of the project and president of the Alliance, in an interview.

Many details of the proposal are not finalized, Mr. Nutter said. "We have talked generally about the creation of a \$50 billion pool coming over time through the purchase of the reinsurance coverage, or if the event should happen before funds are accumulated, the government would provide sufficient resources to pay the claims," he said.

The program now envisioned calls for two tiers. One would be a primary program to cover quake damage only to residential dwellings, organized like the National Flood Insurance Program. Insurers would market the insurance, but the federal government would be the risk bearer. The policy limit has not been determined.

The second tier of the program would create a federal corporation to provide excess catastrophe reinsurance for essentially all losses that emanate from the earthquake or wind exposures independent of the earthquake.

The current trigger to tap these special reinsurance funds would be an aggregate loss to the insurance industry of \$8 billion. But, the figure is subject to further discussion, Mr. Nutter noted.

Members of the Earthquake Project plan to have their proposal finalized for public discussion in December and for the legislation to be ready to be introduced in Congress in early 1988, Mr. Nutter said. ■

Brokers deny churning business

SULPHUR SPRINGS, W.Va.—Retail insurance agents and brokers deny they are trying to churn business in the increasingly competitive commercial insurance market in order to maintain their own revenues.

With insurance premiums falling, brokers' revenues will fall if they don't develop new business. And new business is most often developed when a broker is able to offer a client a better price than the incumbent broker. That induces brokers not only to seek lower rates for new client prospects, but also to search the market for the best prices for existing clients for fear of losing the account to a competing broker.

"I know companies feel brokers churn the market, but we are client-driven," declares Richard M. Page, chairman and chief executive officer of Fred S. James & Co. in New York. "When the buyer wants to make the most cost-effective use of his purchasing power, if we don't do it, another broker will."

John A. Bogardus Jr., chairman of Alexander & Alexander Services Inc., admits: "The broker is inevitably part of the process. We exacerbate the situation. But the underwriters have the final say. We are part of the problem, but we cannot solve it."

But Gerald A. Isom, president of Transamerica Insurance Co. in Los Angeles, said during a round-table discussion at the joint NACSA/NACSE meeting last week: "It isn't going to work if every CEO says, 'This is our price,' if we don't get help from the distribution arm—for producers to sell discipline as best they can."

"It's a tough sell," according to Mr. Page, to keep a client with an insurer for a higher rate than the competition will charge on the basis that continuity will provide the buyer with a more price stability over time: smaller rate reductions in a competitive market but also smaller rate increases in a tight market.

The problem: There were buyers who practiced this continuity only to find themselves without coverage when their insurer pulled entirely out of a line, Mr. Page said.

Mr. Bogardus says he sees less loyalty today than ever before to insurance companies and, to some extent, to brokers. Brokers attracted a lot of new business in the hard market when buyers needed a large broker's clout. But many of these buyers do not feel strong loyalty to their new national brokers.

"A sophisticated buyer will agree, all things being equal, that they like long-term arrangements," Mr. Bogardus said. "But in the conditions in this decade, they say they can't afford that kind of loyalty."

Frederick J. England Jr., president of Hastings-Tapley Insurance Agency Inc. in Cambridge, Mass., observed during the round-table discussion that in an effort to be more efficient, agents are doing business with fewer insurance companies than in years past. At the same time, insurance companies want a commitment of more business from their agents.

"That has the seeds of a solution," he said. "Hopefully those agents with larger commitments will be responsible."

It is expensive for both brokers and insurers when buyers change markets.

In defense of brokers' role in the marketplace, Mr. Page points out that the insurance product is not brokers' only business. "We're going to become a risk services industry," he predicts.

"There is a fundamental change going on," he continued. "The entire industry is becoming more client-oriented. We're beginning to recognize that we are not a product industry, we are a service industry."

Of the five components of risk services—identification, analysis, avoidance, control and transfer—only transfer is product-driven, Mr. Page pointed out.

—By Kathryn J. McIntyre

Agent advocates improved services

By KATHRYN J. MCINTYRE

WHITE SULPHUR SPRINGS, W.Va.—The property/casualty insurance industry needs to improve its delivery system and claim services, a leading insurance agent advises.

It also needs to improve its public image, its products and pricing and relationships with regulators, according to John F. Doetzer, president of Consolidated Insurance Center Inc. in Baltimore.

Mr. Doetzer made his suggestions as president of the National Assn. of Casualty & Surety Agents in his address during the opening of the joint meeting of NACSA and the National Assn. of Casualty & Surety Executives last week.

Insurance company executives and other agents speaking later in the week at a round-table discussion of current issues agreed with Mr. Doetzer's call for improved delivery systems and services.

"The redundancy of services and functions performed by both agents and companies must be more carefully refined and the duplicities eliminated," Mr. Doetzer advised.

In addition, agents and brokers need to automate and they need a multiple company interface system using common industry standards "if we are to realize the potential benefits of technology and reduce the delivery costs for our clients," Mr. Doetzer said.

His point was carried forward at the round-table discussion.

"We have to find a way to represent a multiple company system in an automated environment," said Frederick J. England Jr., president of Hastings-Tapley Insurance Agency Inc. in Cambridge, Mass.

Robert S. Seltzer, president of Cohen-Seltzer Inc. in Philadelphia, commenting on the lack of progress on a multiple company interface system, said: "At the risk of sounding like a cynic, there is a lot of hocus pocus about computers. I can't buy the opinion that the technology doesn't exist to do what has to be done. The barrier is a political one rather than a technical one. There's enough talent and clout that comes to The Greenbrier to get it done," he said.

In his president's address, Mr. Doetzer also called on insurers to allocate more of their resources to improving claims services. "Millions of dollars could be saved by the industry by providing immediate and fair claim resolution," he asserted. "We must keep our promises so that the public perceives a sense of urgency and honesty at the time of a claim."

James J. Meenaghan, president of The Home Insurance Co. in New York, focused on the quality of insurance company service during the round-table discussion. "There's tremendous room to improve services," he said. "We don't get policies out. There is a question of efficiency, timeliness and accuracy."

Asking the audience, "Are we more accurate, timely, than five, 10 years ago?" Mr. Meenaghan heard a resounding answer: "Worse."

Sidney F. Wentz, chairman and chief executive officer of Crum & Forster Inc., also participating in the discussion, said: "There is a shortfall of talent in claims and on the actuarial side."

Mr. Doetzer also made several other suggestions for how the insurance industry can "correct our past difficulties and change consumer

attitudes and perceptions in order to avoid further government intervention." These suggestions included:

- Intensifying public relations to "tell our story. We must improve our image and back up our arguments with credible data."

Mr. Doetzer complimented the television ad campaign launched last spring by the Insurance Information Institute and the insurer profitability study issued by the Insurance Services Office Inc. as good beginnings, but added, "We need lots more."

- Working with insurance regulators and the National Assn. of Insurance Commissioners.

- Agents and insurers working together to develop long-term relationships with clients "by providing quality products and pricing commensurate with the risk involved."

"Agents and brokers must avoid shopping a risk every year and concentrate on value-added services to clients. This will reduce the delivery costs for both companies and agents," Mr. Doetzer said.

These efforts are needed, he said, because: "Insurance buyers are not very happy with us. They feel forgotten and caught up in the complex financial issues of our business that they find to be incomprehensible."

"How can an industry that is on the brink of financial disaster suddenly rise, phoenix-like, from the ashes and report enormous profits and huge bonuses to its managers?" he asked.

Mr. Doetzer recalled that one of his clients spotted news in The Wall Street Journal last spring that the chief executive officer of the insurance company issuing his coverage had received a seven-figure salary and bonus. The client called Mr. Doetzer to comment that "now he understood why it was necessary to double his premium again this year."

"I am not questioning the compensation, only the timing," Mr. Doetzer said.

"We can hardly be proud of these past several years," Mr. Doetzer said, citing the change "overnight from a market with seemingly endless capacity at any price to a market condition that said our shelves are empty and we have nothing to sell at an affordable price."

Saying that it is "unfair to level criticism at an entire industry," he said: "Many companies acted responsibly, doing their best to communicate with their agents to maintain market stability in the face of collapsing reinsurance treaties and rapidly rising premiums."

"However, there were other companies that took advantage of consumers by unreasonably raising prices beyond what was necessary for a sound recovery. For the first time in my career I heard more than one corporate client use the term 'greed' to describe some companies who took unfair advantage of a market situation, certainly to the discredit of us all."

As a result of the "chaotic pricing and availability swings, the insurance business is under scrutiny not only by consumers but also by regulators, legislators and "so-called consumer groups," Mr. Doetzer said. ■

Shell dispute

Continued from page 1
treating it as the case," said Barry Bunshoft, with the San Francisco firm of Hancock, Rothert & Bunshoft, who represents more than 200 Lloyd's of London syndicates and other London market insurers, known as the Froude and companies defendants. "We think it's extremely important."

Among the major insurers named in the Shell litigation are Travelers Insurance Co., which wrote primary insurance for Shell; the Froude defendants; The Home Insurance Co.; Fireman's Fund Insurance Cos.; and American International Group Inc.

Travelers wrote at least \$39 million in primary coverage for Shell on a per-occurrence basis between

'Shell from the beginning attempted to settle the case and would like to settle the case,' Mr. Hegarty says. 'While it is improbable we will have a global settlement, I do not rule out Shell will settle with some major players. That's a possibility.'

1947 and 1975.

The London market insurers and Lloyd's syndicates known as the Froude defendants by far wrote the largest portion of Shell's coverage, amounting to at least \$1.5 billion.

In addition, Home wrote about \$70 million in coverage between 1969 and 1978. Fireman's Fund wrote about \$45 million in excess coverage between 1961 and 1963 and between 1969 and 1981.

So far, Travelers and Shell have split the defense costs in the underlying Rocky Mountain and McColl litigation, with Travelers paying 55% of the costs and Shell paying 45%.

As of last November, Travelers said it had paid in excess of \$10 million in defense costs and was paying an additional \$500,000 per month.

Late last year, Judge Lanam ruled that excess insurers above Travelers would not have to contribute to the defense of Shell in the litigation before Shell's primary limits were exhausted (*BI*, Nov. 24, 1986).

While the trial is scheduled to begin today, jury selection will probably not begin for a week or more while other matters are finalized, such as jury instructions, which documents should be stipulated as exhibits and other matters, attorneys say.

In addition, a court-ordered settlement conference is scheduled for next week, but attorneys for insurers say that the possibility of a settlement is unlikely.

"From everything that I have heard, it is unlikely there will be any settlement," Mr. Lathrop said.

"It (a settlement) seems unlikely at this time," agreed Donald Rees, with the San Francisco firm of Gordon & Rees, who represents several excess insurers.

According to Mr. Bunshoft, the attorney for the Froude defendants, Shell's settlement demand in the case is \$1.3 billion, which insurers have dismissed out of hand. "The chances of settlement are remote," he said.

Shell's Mr. Hegarty would not comment on that figure. "Shell from the beginning attempted to settle the case and would like to settle the case," he said. "While it is improbable we will have a global settlement, I do not rule out Shell will settle with some major players. That's a possibility."

Shell filed its declaratory judgment action against the insurers on Oct. 5, 1983, asking the court to rule on coverage for cleanup costs imposed on the oil company by the U.S. Environmental Protection Agency, the U.S. Department of the Army and the California Department of Health Services (*BI*, Nov. 7, 1983).

The agencies, under a variety of state and federal laws, notified Shell of its potential liability for response measures at the 27-square mile Rocky Mountain Arsenal northeast of Denver and the six-acre McColl site in Fullerton, Calif.

The Rocky Mountain Arsenal installation has been used by the Army to manufacture and store chemical weapons, including nerve gas, starting in 1942. From 1947 until 1982, Shell and a predecessor company, Julius Hyman & Co., leased buildings at the arsenal to produce pesticides.

In December 1983, two months after Shell filed its coverage lawsuit, the federal government sued Shell for \$1.9 billion in damages to the environment at the arsenal.

At the same time, the state of Colorado sued Shell for soil and groundwater contamination at the same site, seeking damages of up to \$50 million per release of hazardous substance. The U.S. Army is also named in that suit (*BI*, Dec. 19, 1983).

Both actions were filed in U.S. District Court in Denver under the Comprehensive Environmental Re-

Continued on next page

Update

Commonwealth suit stayed

Continued from page 2

However, Judge Haight found that "if Commonwealth wished to be certain of full-scale litigation discovery in the event of disputes involving ACIC and these contracts, it could have declined to enter into arbitration agreements."

Hall sells Stockton division

STOCKTON, Calif.—Frank B. Hall & Co. Inc., the fifth-largest U.S. insurance brokerage, has sold the Stockton division of Frank B. Hall & Co. of California to Allied General Agency Inc., a managing general agent based in Scottsdale, Ariz.

Early this year, Hall decided to sell its Franchised Dealer Division in Stockton—which markets a large insurance program for new car dealers—because the office had lost an undisclosed amount of money (*BI*, March 23). Hall recorded the write-off in the fourth quarter of 1986. Since Hall has written off the operation, the sale price will not be reflected in its fourth-quarter 1987 results.

The Stockton office—renamed Allied Dealer Insurance Services—will provide property and casualty insurance to the automobile and truck dealer industry on a nationwide basis through independent agents and brokers. Allied Dealer Insurance Services will retain offices in Canoga Park, Calif.; Portland, Ore.; Overland Park, Kan.; and Marietta, Ga.

Ex-insurer president sought

CHARLESTON, W.Va.—An arrest warrant has been issued for Luther L. Britt, the former president of Quality Insurance Co. of Fairmont, W.Va., a state law enforcement official confirmed.

Mr. Britt was indicted in Marion County Circuit Court in June on one count of embezzlement related to his alleged sale at depressed prices of Quality-salvaged automobiles, according to Monty Brown, Marion County prosecuting attorney.

A trial had been scheduled to start Sept. 15, he said. However, law enforcement authorities have been unable to locate Mr. Britt, and he now is considered a fugitive, Mr. Brown said.

The West Virginia Insurance Department petitioned for Quality's liquidation Sept. 17. A court hearing on the petition is scheduled for Tuesday (*BI*, Oct. 5).

Court stays Fed bank ruling

NEW YORK—The 2nd U.S. Circuit Court of Appeals last week stayed a Federal Reserve Board ruling that would have allowed two Indiana-chartered banking affiliates to sell insurance despite a federal moratorium on such activity.

A group of four agency associations and one underwriters' association filed suit Sept. 18 against the Federal Reserve Board after the Fed allowed the two banks, owned by Merchants National Corp. of Indianapolis, to resume insurance sales.

The plaintiffs, under the banner of the Alliance for Separation of Banking & Insurance, argued that allowing bank holding companies to sell insurance despite the moratorium on bank insurance sales until March 1, 1988—established under the Competitive Equality Banking Act of 1987—could cause "irreparable harm" to agents.

The plaintiffs also argued that the Fed ruling, in effect, legitimized the so-called "South Dakota loophole" in the Bank Holding Company Act, which bankers claim allows them to sell insurance through state-chartered subsidiaries if state law allows it.

The suit was filed by the Independent Insurance Agents of America, the National Assn. of Casualty & Surety Agents, the National Assn. of Professional Insurance Agents, the National Assn. of Surety Bond Producers and the National Assn. of Life Underwriters.

The plaintiffs' arguments were supplemented by a brief filed by six members of the Senate Banking Committee, including Chairman William Proxmire, D-Wis.

New charges set in IMC case

MIAMI—The former president of insolvent International Medical Centers Inc. of Miami is facing four additional counts of conspiracy and wiretapping in an indictment returned by a federal grand jury last week.

Miguel G. Recarey Jr., who founded the HMO in 1972 and acquired it in 1977, was indicted earlier this year on five counts of conspiracy, bribery and obstruction of justice for his alleged role in attempting to secure a health care contract with the South Florida Hotel & Culinary Employees' welfare fund (*BI*, May 11).

The earlier indictment named Mr. Recarey's brother Jorge; Antonio Fernandez, former president of AFL-CIO Local 355 of the Hotel and Restaurant Employees Union; and Mariano Villa Del Rey, former director of personnel for Doral Properties of South Florida. Those three were not named in last week's indictment.

IMC once was one of the country's largest HMOs, but by year-end 1986 was \$3.8 million short of the state's \$5 million surplus requirement, according to the Florida Insurance Department.

Briefly noted

Alexander & Alexander Services Inc. signed a definitive agreement on Oct. 7 for the sale of Evanston, Ill.-based **Shand, Moran & Co. Inc.** to a group of investors that includes Shand officers, Markel Corp. and Fairfax Financial Holdings Ltd. (*BI*, Sept. 28). . . . Bel-Aire Insurance Co. of St. Louis last week filed a lawsuit in U.S. District Court in Des Moines, seeking clarification of the **1986 amendments to the Risk Retention Act's** definition of where a purchasing group is considered located, and therefore, what state can regulate the insurer providing coverage to group members (*BI*, Sept. 14).

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Continued from previous page
 sponse and Liability Act of 1980, better known as the Superfund Act, which requires removal of hazardous wastes that were generated, transported or stored by private industry.

In 1985, a federal judge ruled that Shell and the U.S. government were both liable for cleaning up the Rocky Mountain Arsenal.

An attorney for the U.S. Justice Department said last week that progress is being made in settlement discussions with Shell on cleaning up the arsenal site.

A spokeswoman for the arsenal cleanup project said that the Army estimates the cost to clean up the site in 1984 dollars is \$764 million, though that estimate could change depending on the results of a remedial investigation and feasibility study that is under way.

However, one estimate placed the cost of cleaning up the site at between \$5 billion and \$8 billion.

And, some attorneys say the state of Colorado is seeking to recover several billion dollars for the cleanup and other costs.

Attorneys and spokesmen for the state could not be reached for comment.

The coverage trial will be held in various phases that are tentatively set to address issues of lost policies, what disputed terms in the policies mean, whether there is coverage for events that occurred at the Rocky Mountain Arsenal and at the McColl site and other issues, such as the trigger of coverage and the number of occurrences and deductibles that apply.

Attorneys say that virtually every coverage issue that has arisen in similar litigation will come under scrutiny. "They all will be litigated in this case," said Richard Williams, with the Beverly Hills, Calif., office of Finley, Kumble, Wagner, Heine, Underberg, Manley, Myerson & Casey, who represents The Home.

"It is the first case that is exhaustive on the spectrum of issues likely to come up. Every conceivable issue will be litigated," Mr. Mallen added.

Insurers contend that a major issue in the litigation will be Shell's alleged knowledge that it was polluting the arsenal over a long period of time and its attempts to cover up those actions. Because such acts are not fortuitous, they are not covered by insurance, the insurers charge.

"The most important issue is whether Shell expected or intended the damage at the Rocky Mountain Arsenal," said Mr. Williams. "If they did, there is no coverage."

"We believe the evidence will establish Shell was a knowing and active polluter at the Rocky Mountain Arsenal for 30 years of operation and there is no coverage because of this," he said.

"To maximize their short-term profits, Shell conducted its chemical manufacturing operation at the arsenal in utter disregard of the environmental consequences of its actions and with full knowledge of the adverse

environmental consequences," said Barry Ostrager, with the New York firm of Simpson, Thatcher & Bartlett, who represents Travelers.

"Now, when Shell is called upon to return its ill-gotten profits from conducting its operations in such a scandalous fashion, Shell wants to transfer its financial responsibility for its conduct to its insurers. We're not going to let that happen," Mr. Ostrager said.

As evidence of Shell's knowledge of the pollution, Mr. Williams said that thousands of ducks died at a pond at the arsenal between 1950 and the 1980s and that insurers have evidence Shell attempted to cover up from authorities the fact the ducks were dying.

"We're going to produce evidence Shell knew wildlife was dying due to exposure in the ponds but covered it up," Mr. Bunshoft said.

In addition, Mr. Williams said that there was evidence from the early 1950s that the contaminants in ground water migrated off the arsenal site and destroyed crops of nearby farmers and that Shell knew about these occurrences.

Mr. Hegarty, Shell's attorney, said that a major issue was "Shell's knowledge of the circumstances and the significance that Shell reasonably attributed to those circumstances," with more emphasis on the latter.

"Our position is that over 30 years, we may have known of circumstances, such as the ducks, but that is no reason for Shell to attribute significance" to them or to inform authorities or insurers, he said, noting that the Superfund Act did not become law until 1980.

"Insurers contend Shell willfully, maliciously and intentionally polluted the environment. I don't think anybody is going to believe that Shell did that," Mr. Hegarty said.

In addition, Mr. Hegarty said that the insurers changed their interpretation of the policies.

"Insurers sold insurance based on one representation as to the meaning of the policy, and when the claim arose, put forth another meaning," he said.

He explained there is evidence to show insurers described to regulatory authorities and brokers that only intentional pollution was to be excluded by the pollution exclusion clause but are now arguing that the policies excluded the intentional releases of pollutants—a crucial difference.

Shell is contending that all of its liability insurers are jointly and severally liable for indemnity from the time any pollution began at the various sites until it ended.

Among the numerous other issues that the trial will address are:

- The application of the pollution exclusion clause that was included in many policies beginning in the early 1970s.

- Whether Shell provided late notice of the claim to the insurers and concealed certain information.

- Whether cleanup of the environment under the Superfund Act is considered property damage that is covered under liability policies.

- The number of occurrences that took place, the trigger of coverage and which policies should respond to the losses.

- Whether cleanup costs are considered "damages" under liability policies.

Another issue in the trial involves the potential liability of Oil Insurance Ltd., a Bermuda-based mutual insurance company owned by Shell and 34 other petroleum companies.

Shell joined OIL in 1976, and some of Shell's liability insurers contend that if insurers are held liable in the years Shell bought umbrella coverage from OIL, they should be considered excess of OIL in those years.

However, Raoul Kennedy, an attorney for OIL, said that the insurer does not owe coverage because problems at the arsenal commenced before 1976, and under the wording of the OIL policy these problems are not covered.

In addition, OIL contends that if OIL's coverage is held to be triggered, it is excess of the other liability insurers, said Mr. Kennedy, with the San Francisco firm of Crosby, Heafey, Roach & May.

The trial is the second massive insurance coverage trial to take place in the San Francisco area in the past few years.

On March 4, 1985, five asbestos producers and their insurers began a trial in San Francisco Superior Court over coverage for asbestos claims.

That trial is still going on in a high school auditorium to accommodate the many teams of attorneys involved.

But St. Paul's attorney Mr. Lathrop said that while there are similarities between the Shell trial and the asbestos litigation, the Shell case is very different.

"It's a totally different situation" than asbestos, Mr. Lathrop said. "There are different issues and different laws and no bodily injury."

One similarity, however, is that like the asbestos coverage cases, the Shell trial has been moved to a makeshift courtroom at a nearby high school.

The Shell trial will be held in a theater at Crestmoor High School in San Bruno, Calif., which has undergone substantial renovations prior to the trial.

To convert the theater into a courtroom, the theater was gutted and completely redone. A judge's chambers, a jury room and lounges were built and practically one wing of the school was turned into offices for attorneys and their staff, said San Mateo County Clerk/Recorder Warren Slocum.

The operations will be computerized, with attorneys, Judge Lanam, the witnesses and the jury having access to thousands of documents and exhibits via nine computer terminals.

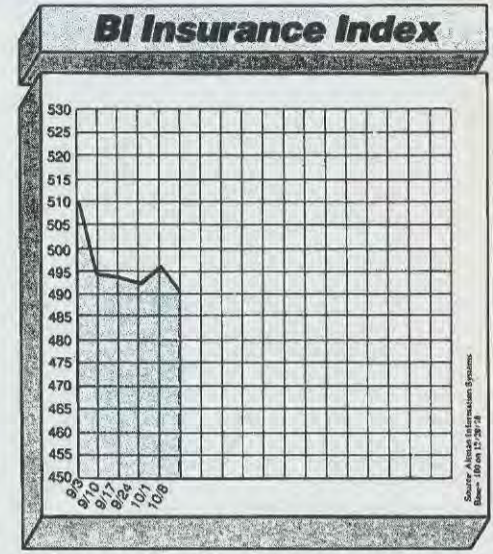
As of last week, between 5,000 and 6,000

documents consisting of about 60,000 pages had been entered into the computer system. In addition, about 3,000 trial exhibits may be entered into evidence.

Construction costs to convert the Crestmoor School came to about \$300,000, which attorneys for both sides are paying, Mr. Slocum said.

In addition, San Mateo County is paying \$7,000 a month rent to the school district for use of the school. The county will be submitting monthly bills to the various law firms involved to recover costs for staff time, equipment the county has purchased and supplies, Mr. Slocum said. He estimated these costs at \$17,000 a month.

"While the financial impact has been hard on San Mateo County, we are making the best of the situation," Mr. Slocum said.




Industry stocks followed the rest of the market last week and took a nose dive, as the **Business Insurance stock index** fell 4.9 points to 491.8 on Oct. 8 from 496.7 on Oct. 1. Advancing issues were led by: Frank B. Hall & Co. Inc., up 9.1%; Tokio Marine & Fire Insurance Co. Ltd., up 5.4%; Fireman's Fund Corp., up 4.9%; Siebels Bruce Group Inc., up 4.8%; and Business Men's Assurance Co., up 4.0%. Declining issues were led by: Reinsurance Rensurance Ltd., down 9.3%; Statesman Group Inc., down 8.5%; Protective Corp., down 7.5%; Sears Roebuck & Co., down 7.2%; and Baldwin & Lyons Inc., down 5.9%. The most active issues during the period were: Aetna Life & Casualty Co., 5.5 million shares traded; Sears Roebuck & Co., 3.5 million shares traded; ITT Corp., 2.6 million shares traded; and The St. Paul Cos. Inc., 2.3 million shares traded. The **Business Insurance index** fell 1.0% for the week, less than the leading market indicators: The Dow Jones 30 Industrials average dropped 122.56 points, a 4.6% decline; the Standard & Poor's 500 average fell 13.16 points, a 4.0% decline; and the New York Stock Exchange composite average lost 6.64 points, a 3.6% decline.

BI Industry Stock Report

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Company	NYSE/OTC	Price	Weekly % change	Year to Date % change	Annual High	Annual Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value	Company	NYSE/OTC	Price	Weekly % change	Year to Date % change	Annual High	Annual Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value	Company	NYSE/OTC	Price	Weekly % change	Year to Date % change	Annual High	Annual Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																							
Alexander & Alexander Svcs	NYSE	27.50	1.4	3.8	32.00	22.38	353	1.00	3.6	24.3	2.98	9.23	Durham Corp.	OTC	28.00	0.9	1.2	34.00	27.25	17	0.92	3.3	18.3	26.15	1.07	Aetna Life & Cas Co.	NYSE	60.13	-0.4	6.2	68.13	55.75	5511	2.76	4.6	8.5	44.75	1.34	1.35	American General Corp.	NYSE	36.50	-5.2	-1.0	44.75	34.88	1050	1.25	3.4	9.8	27.13	1.41	1.41	Amer Heritage Life Invnt	NYSE	28.75	-1.7	12.0	34.00	25.75	2	0.96	3.3	14.2	20.37	1.41	1.41	Amer Indly Fin'l Corp.	OTC	14.00	1.8	-22.2	19.00	12.75	8	0.56	4.0	14.2	20.40	0.69	0.69	American Int'l Group Inc.	NYSE	77.75	-2.2	27.2	83.75	60.00	1279	0.30	0.4	15.5	29.02	2.68	2.68	Argonaut Group	OTC	47.88	1.9	128.0	52.13	21.00	217	0.00	0.0	14.7	14.60	3.28	3.28	AVEMCO Corp.	NYSE	23.00	-3.2	-12.4	25.25	13.25	15	0.28	1.2	14.5	6.94	3.31	3.31	Belvedere Corp.	AMEX	5.88	-4.1	-31.9	9.13	4.75	4	0.01	0.2	14.5	6.71	0.88	0.88	Business Mens Assurn Co.	OTC	45.25	4.0	74.8	0.00	0.00	209	1.10	2.4	14.5	22.15	2.04	2.04	Chubb Corp.	NYSE	66.75	3.1	12.7	73.50	53.75	572	1.88	2.8	9.4	39.52	1.69	1.69	Continental Corp.	NYSE	46.50	2.2	3.9	54.88	40.38	1091	2.60	5.6	9.2	41.62	1.12	1.12	Farmers Group Inc.	OTC	48.75	1.0	25.8	51.00	38.75	894	1.20	2.5	14.8	19.95	2.44	2.44	Fireman's Fund Corp.	NYSE	37.38	4.9	6.4	42.75	33.50	1329	0.40	1.1	14.8	23.55	1.59	1.59	Firemont Gen Corp.	OTC	14.50	-3.3	-10.1	20.50	14.50	113	0.60	4.1	14.8	16.75	0.87	0.87	Home Group Inc.	NYSE	17.75	-1.4	-15.5	24.88	17.38	297	2.00	1.1	3.9	16.30	1.09	1.09	Hanover Ins Co.	OTC	34.50	-0.7	8.7	37.25	29.50	37	0.36	1.0	7.9	20.91	1.65	1.65	Hartford Steam Boiler	OTC	29.25	-3.3	24.1	36.63	23.50	31	1.00	3.4	12.1	10.17	2.88	2.88	Kansas City Life	OTC	30.75	-2.4	19.4	31.50	25.75	0	0.00	0.0	12.1	0.00	N/A	N/A	Kemper Corp.	OTC	30.50	-5.4	22.0	38.75	25.00	538	0.60	2.0	9.7	23.48	1.30	1.30	Liberty Corp. S.C.	NYSE	50.25	-5.2	36.7	53.00	36.50	13	0.80	1.6	19.5	19.95	2.52	2.52	Lincoln Nat'l Corp.	NYSE	51.75	-2.4	11.6	60.50	44.38	222	2.16	4.2	10.4	44.85	1.15	1.15	NAC Re Corp.	OTC	25.00	3.1	-4.8	0.00	0.00	55	0.00	0.0	32.1	18.12	1.38	1.38	Nobel Ins Ltd.	OTC	13.00	-3.7	-20.0	18.50	10.75	117	0.00	0.0	32.1	9.04	1.44	1.44	Northwestern Nat'l Life	OTC	28.88	-1.3	-6.8	32.38	24.00	120	0.96	3.3	8.1	33.26	0.87	0.87	Ohio Gas Corp.	OTC	44.00	1.7	13.9	49.25	38.50	86	1.68	3.8	10.8	26.80	1.64	1.64	Old Rep Int'l Corp.	OTC	27.75	-3.5	1.4	33.63	23.63	118	0.74	2.7	9.3	19.80	1.40	1.40	Orion Cap Corp.	NYSE	22.00	0.0	-18.9	31.00	20.00	58	0.76	3.5	9.3	9.39	2.34	2.34	Phoenix Re Corp.	OTC	10.00	0.0	-23.1	14.63	10.00	11	0.00	0.0	9.3	0.00	N/A	N/A	Protective Corp.	OTC	15.50	-7.5	-13.9	21.25	12.38	45	0.70	4.5	13.4	16.51	0.94	0.94	Provident Life & Acc Ins Co.	OTC	21.88	-2.2	-11.2	28.75	19.13	233	0.84	3.8	17.1	27.00	0.81	0.81	St. Paul Cos. Inc.	OTC	54.13	0.2	34.5	55.00	40.25	2260	1.76	3.3	10.0	29.89	1.81	1.81	SAFECO Corp.	OTC	33.75	-4.3	26.2	36.50	24.38	902	0.96	2.8	11.7	19.68	1.71	1.71	SCOR US Corp.	OTC	12.00	0.0	4.3	16.25	11.00	65	0.00	0.0	11.0	8.08	1.49	1.49	Seibels Bruce Group Inc.	OTC	16.25	4.8	10.2	19.00	14.25	70	0.80	4.9	10.8	11.88	1.37	1.37	Selective Ins Group Inc.	OTC	24.75	0.0	13.8	27.50	21.00	67	1.08	4.4	7.9	16.02	1.54	1.54	Statesman Group Inc.	OTC	5.38	-8.5	13.3	3.50	1.94	79	0.05	0.9	7.9	5.19	1.04	1.04	Tokio Marine & Fire Ins	OTC	73.00	5.4	30.6	103.38	63.88	1199	0.19	0.3	61.9	0.00	N/A	N/A	Torchmark Corp.	NYSE	30.75	-2.4	18.3	36.75	23.75	482	1.00	3.3	11.0	13.01	2.36	2.36	Travelers Corp.	NYSE	44.50	-1.4	-0.3	52.63	41.50	671	2.28	5.1	9.2	45.03	0.99	0.99	Trenwick Group Inc.	OTC	13.00	-3.7	-21.2	19.13	11.50	19	0.00	0.0	16.0	13.83	0.94	0.94	United Fire & Cas Co.	OTC	30.50	-1.6	-7.6	33.00	26.50	42	0.96	3.1	8.9	18.32	1.66	1.66	United States Fid & Gty	NYSE	39.88	0.3	0.3	48.75	37.00	979	2.48	6.2	8.5	20.19	1.98	1.98	UNUM Corp.	NYSE	23.75	1.1	-11.6	31.38	20.38	1052	0.40	1.7	8.5	26.81	0.89	0.89	USLIFE Corp.	NYSE	39.25	-1.3	-9.8	47.63	34.75	86	1.12	2.9	10.0	43.09	0.91	0.91	Washington Nat'l Corp.	NYSE	35.63	2.9	11.3	37.88	23.25	64	1.08	3.0	20.8	32.80	1.09	1.09	Zenith Nat'l Ins Corp.	NYSE	21.50	-0.6	-18.9	24.00	21.13	28	0.80	3.7	20.8	11.19	1.92	1.92



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