

extended coverage

# Armco prescribes Bellefonte's cure

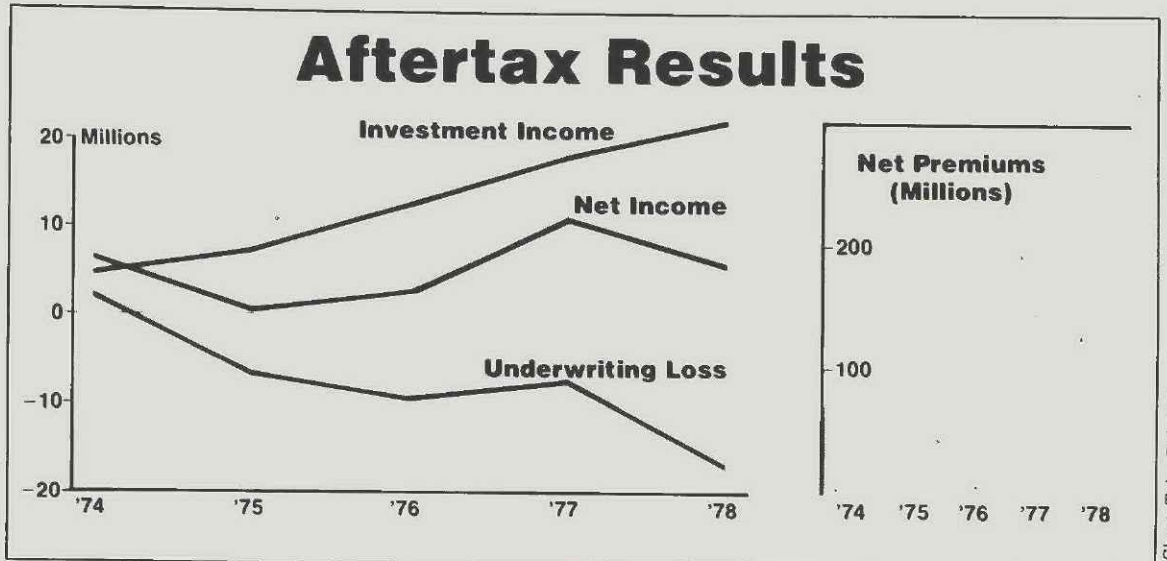
By KATHRYN J. McINTYRE

MIDDLETOWN, Ohio—Bellefonte Financial Corp. here is swallowing potent medicine to cure the financial and management indigestion that hit after gobbling up more third-party business than the captive-turned-insurer could stomach.

The parent company, Armco Inc., is administering the antidote to cure Bellefonte's ailments manifested in before tax underwriting losses of \$27.5 million for 1978 against annual net premiums of \$262.5 million with the same results expected this year.

Bellefonte's experience developing from a pure captive into the U.S.'s 64th largest insurance company with 10 affiliated companies provides risk managers who hunger for the chance to take a captive into the insurance business with a classic lesson in the pitfalls.

Systems professionals with the authority to veto business ventures they consider beyond Bellefonte's capability are  
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# business insurance

Week of October 15, 1979

the national newsmagazine of loss prevention, risk financing and employe benefit management

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\$1 a copy; \$20 a year

## New product liability bill dumps work comp proviso

By JERRY GEISEL

WASHINGTON—The Commerce Department has dropped its highly controversial proposal that for the first time would have linked product liability suits to the workers compensation system, *Business Insurance* learned.

The proposal, contained in the department's model product liability bill (BI, Jan. 22), would have dramatically altered the 60-year-old workers compensation system by allowing an injured worker to collect full wages from his or her employer, rather than just the

workers compensation benefit, and prohibiting him or her from suing the product manufacturer.

That radical alteration of the workers compensation system, which would have applied to accidents occurring more than 10 years after the product that caused the injury was first sold, has been eliminated in the Commerce Department's final model bill scheduled to be officially released later this month.

Under the new model bill, which is designed for states contemplating revision of their tort systems, injured workers still will be able to

sue manufacturers, although a product would be presumed non-defective 10 years after it was first used, making it tougher for a plaintiff to collect damages.

The revisions to the workers compensation section are but one in a series of changes in the final model bill, which is significantly different from the first draft. These changes will be important since some states, such as Wisconsin, are expected to rely heavily on the final model bill as they try to draft their own product liability bills.

The elimination of the provision allowing some workers to collect the full loss of wages from the employer settles a red-hot controversy that had pitted insurers against a small but vocal group of employer organizations.

Insurers argued against any tampering with the workers compensation system, warning that increasing the liability of employers could create new exposures and force big hikes in workers compensation premiums.

But some employers, particularly machine tool builders who have been especially hard-hit by product liability suits, contended that employers' exposure should be increased beyond the workers compensation benefit to give companies a greater incentive to maintain a safe work place.

In the end, the Commerce Department sided with insurers because of the growing realization that workers compensation boards, which determine the  
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## Two firms cancel brokers' contracts for risk managing

By MARGARET LeROUX

SAN FRANCISCO—Two large West Coast corporations are creating risk management departments, replacing their brokers who handled those responsibilities with in-house risk managers.

Fairchild Camera & Instruments Co. of Mountain View, Calif., is hiring a risk manager after a four-year hiatus during which its broker Marsh & McLennan Inc. acted as its risk manager.

Intel Corp. in San Francisco, the financially troubled leasing and financial services firm, recently named Steve Hause director of risk management, the first risk manager in the 11-year-old company. Intel's broker, Fred S. James & Co., had previously handled risk management.

Both companies will retain their brokers for insurance placement.

At a time when Intel has laid off 500 workers and corporations around the country are closely controlling their payroll expenses in fear of a heavy recession, these two corporations have decided in-house risk management departments are worth the investment after trying to go it without them.

Fairchild's decision was made after a review of its risk management program by consultant George Betterley of George Betterley Consulting Group in Boston. The consultant recommended Fairchild needs the more objective and independent approach of an in-house risk manager, said treasurer Ron Alessio.

Robert M. Hinton, the M&M account executive who was acting as risk manager at Fairchild, will continue to do so until the new risk manager is hired. Mr. Hinton re-  
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## Tax court forces Caterpillar review of its pension plan

By JOHN MAES

PEORIA, Ill.—Caterpillar Tractor Co. may be forced to revise its pension plan to provide benefits for workers who retire with less than 10 years of service or lose tax deductions for pension costs.

The tax court recently ruled the corporation's pension plan does not qualify for favorable tax treatment because it denies pension benefits to employees who retire with less than 10 years of service. The 10-year cliff vesting requirement essentially precludes newly hired employees from earning any pension benefit.

Attorneys for Caterpillar say the company will either appeal the tax court ruling or retroactively amend the plan to allow benefits for workers who reach retirement age with less than full vesting. Either must be done to avoid disqualification, which would mean loss of tax deductions for payments to the

plan and taxation of investment income.

Jerome Kenney, senior attorney for Caterpillar, said there has been no decision on the appeal or amendments but assured, "We won't jeopardize the plan. We won't lose the deductions and we won't be taxed on the investment income."

The tax court decision won't force massive juggling of many other pension programs, say benefits consultants, because most plans comply with the Internal Revenue Service code and provide some benefits for older workers even under 10-year cliff vesting permitted by ERISA. One consultant described the Caterpillar situation as an "aberration."

The decision apparently will only affect a small class of workers, those who change jobs late in their working lives and have been at one job for less than 10 years by the  
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# Frozen food institute votes to disband 1-year-old captive

By JERRY GEISEL

McLEAN, Va.—The American Frozen Food Institute, a large trade association here, is shutting down its one-year-old Bermuda insurance captive because of lagging member interest.

The decision to terminate the captive, Food Industry Insurance Co. Ltd., which was made at a Sept. 14 meeting of the executive board, marks the first confirmed case of a trade association disbanding its insurance captive.

FIICO is going out of business because "there wasn't enough of a groundswell of member interest to warrant continuing it at this time," said Tom House, president of the frozen food institute. "We were at break-even point, but our executive board and committee felt we really shouldn't be putting the kind of time and effort into the program unless there was greater interest on the part of our members than had been demonstrated," he said.

When FIICO began operations last year, association officials predicted the trade association's captive's premium flow would be between \$400,000 and \$500,000 in the first year, attracting half of the trade group's 120 members as policyholders (BI, Nov. 13, 1978).

Although Mr. House declined to release FIICO's premium volume and policyholder statistics, it is widely believed that its premium flow and number of policyholders fell far short of original expectations.

A date has not been set for FIICO's closing, although the captive is expected to remain in operation for some time to handle policyholders' claims. After FIICO does

close, a reserve will be established to pay any outstanding claims.

"We will make sure that all claims are fully covered and any claim that arises during the covered period will be paid," Mr. House said. "In other words, we are not going to shut the door. FIICO will fulfill its obligations until there is no longer a need for it."

FIICO offered policyholders \$1 million of coverage on general liability risks, including product liability. An additional \$5 million of excess umbrella liability coverage also was available through FIICO.

FIICO assumed the first \$50,000 of risk on an occurrence basis for the primary coverage. Scor Re, a Dallas-based reinsurer, picked up the next \$950,000 of risk, also on an occurrence basis.

FIICO's origins date back several years when frozen food processors were socked with huge product liability insurance premium increases. Premiums, in some cases, increased 10 times, even though the loss experience of the industry had been excellent.

Some frozen food companies complained their premiums were being hiked to pay for insurers' product liability losses in other industries, a situation that wasn't "quite right," FIICO vp Jerry Wallin said at the time.

Ebasco Risk Management Consultants, hired to come up with alternative insurance options, analyzed association members' claims and Ebasco recommended a Bermuda captive.

Although FIICO failed to attract the support association leaders believed was necessary to keep the program operating, the availability of FIICO insurance and the new insurance market it offered may have

caused underwriters to reassess their pricing strategy on liability insurance, Mr. House suggested.

"Underwriters were aware of FIICO existence and that, coupled with the soft market, seemed to make things more competitive and brought down the cost of liability insurance," he said.

Mr. House warned that if premiums begin to go out of sight, the association would be willing to start a new captive program. "If necessary, we'd do it again, and we would be a lot quicker this time," he said.

While one food association captive is on its way out, another group program, also proposed by a food industry, appears to be picking up steam.

The Grocery Manufacturers of America says it is receiving excellent cooperation from members in a study to determine if an offshore group-owned insurance company is feasible (BI, April 30).

Data from a feasibility study conducted by broker Johnson & Higgins and the association is being tabulated. If things go as planned, the GMA-owned insurance program could be in operation later next year.

The GMA insurance program would be expected to cover primary casualty coverages, including general liability, workers compensation and automobile liability.

The potential premium flow from the GMA program has been estimated at \$80 million, which would make it one of the largest group off-shore insurance programs. Members of the GMA include some of the leading names in corporate America such as Beatrice Foods, Kraft and Quaker Oats.

# Illinois insurance exchange draws little industry fanfare

By MARY ELLEN MCKEE

CHICAGO—Despite enabling legislation and promises from the state insurance department to deliver a blue chip interim board and high speed computers to run an Illinois-based Lloyd's of London type insurance exchange, the insurance industry here is still yawning.

Without the fanfare that accompanied the signing of the enabling legislation for the New York Insurance Exchange, the Illinois exchange bill was signed by Gov. James R. Thompson just three days shy of the 90-day limit he had to consider the legislation.

The governor did not issue a statement at the signing of the bill and many of the Midwest's brokers and insurance company executives contacted by *Business Insurance* were unaware that the bill had finally been signed. "That's not a very reassuring sign" about prospects for the exchange, conceded an executive of a major brokerage firm here.

But the cool reception the bill has received since its introduction in the Illinois General Assembly in February has not dampened the excitement or squelched the plans brewing in the Illinois insurance department. "We're confident that we'll pick up the support we need for the start-up of the Illinois insurance exchange when the industry hears about the rip-roaring interim board selections and when blueprints for the start-up of the ex-

**New York brokers propose a rule on eligibility of risks for the New York exchange. See page 12.**

change are unveiled," boasted Phillip O'Connor, acting director of the Illinois insurance department. The specific proposals from the insurance department will be released in two weeks, he said.

Already, Mr. O'Connor said, his office is seeing a surge in the number of recommendations of people to be appointed to the interim board of the exchange.

"We want to fit the free trade zone and insurance exchange concept, as we know it, into the 1980s," Mr. O'Connor explained. The Illinois insurance exchange will definitely depart from the geographical anchoring that has characterized Lloyd's of London and now the New York Insurance Exchange, he added.

Instead, the Illinois insurance exchange will rely heavily on high speed computers. "Hopefully, this will eliminate some of the concerns of the insurance industry about the shortage of underwriting talent in the Midwest," said James Skelton, the assistant director of insurance recently appointed executive director of the interim board.

As Mr. O'Connor envisions it, the exchange will have a couple of offices, computer terminals, an administrative staff and an executive director. "I conceive that risks would be put up for bids and the syndicates would bid on them. The

exchange would describe the risks and put them through the telex," the acting director explained.

With this kind of set-up there is no reason why an underwriter working for the exchange cannot work out of Marseilles, Ill., San Francisco or even Denver, Colo., Mr. O'Connor said. "What underwriting talent we can't tap in the Midwest we'll easily tap elsewhere."

But the ambitious planning going into the Illinois insurance exchange may be in vain if the insurance industry does not come out in support of the measure soon, em

*Continued on page 73*

## errors & omissions

• Southeastern Aviation (California) Inc. is owned by Alexander Howden Group Ltd. The parent company was incorrectly identified in a Sept. 3 article.

• A story Oct. 1 about the prospects for formation of new syndicates in the New York Insurance Exchange incorrectly said that the IRS ruling expected later this year relates to deductibility of funds set aside for reserves. The IRS ruling will determine whether the syndicates must operate as corporations or as partnerships, a point that has significant impact on the potential profits to be earned by individuals participating in the syndicates.

## for your information

### Transcon changing emphasis to higher, more profitable risks

HAMILTON, Bermuda—Transcon Insurance Co. here, the Ford Motor Co. insurance subsidiary that expanded into third-party underwriting, is changing its business focus.

"Transcon Insurance will be directing its efforts to acquiring participation in a wider selection of risks by participating in larger reinsurance programs," said Dan Sobczynski, Transcon's president and managing director. "A corollary of this change in emphasis will be a scaling back in writing smaller programs with lower premium volume."

Transcon is one of the 10 largest reinsurance underwriters here and its recent moves to switch business emphasis have been interpreted by some to mean the company was pulling out of the insurance business completely. Others, however, suggest Transcon found profits too low in the lower layers of reinsurance and wants to focus on potentially more profitable business.

### Tornado wrecks uninsured planes

WINDSOR LOCKS, Conn.—Twenty-five World War II-vintage military aircraft destroyed in a tornado that struck suddenly here earlier this month were uninsured, said a spokesman for the Insurance Assn. of Connecticut.

The craft, the combined value of which was unknown, were displayed on state property at Bradley International Airport. At least a dozen private aircraft and 10 National Guard helicopters were damaged by the Oct. 3 storm, which caused property damage estimated at more than \$200 million in the Windsor Locks area.

Insured losses, excluding aircraft coverage and properties insured through the federal flood insurance program, were estimated to be \$37.1 million, according to the American Insurance Assn.

The Travelers Insurance Cos. estimated its storm losses to be \$2 million and Hartford Insurance Co. said its losses were about \$2.2 million. Aetna Life & Casualty Co. did not have an estimate. The Aetna Insurance Co., a subsidiary of Connecticut General, estimates its losses at \$1.5 million.

### EEOC allows higher benefit

WASHINGTON—In a major concession, the Equal Employment Opportunity Commission has done an about-face and now says businesses that provide extended pregnancy benefits to women employees do not have to provide similar benefits for all other medical conditions.

In a letter commending the EEOC for no longer requiring non-pregnancy benefits be raised to the level of pregnancy benefits, Sen. Richard Schweiker (R-Pa.) said the new EEOC interpretation "allows (employers) a flexibility in fashioning health and disability plans as long as the plans do not make irrational and arbitrary distinctions based on sex or pregnancy."

### Insurance panel chief resigns

GARDEN CITY, N.Y.—State Sen. John Dunne (R-Garden City), a central figure in the legislative battles surrounding creation of the New York Insurance Exchange and Free Trade Zone, has resigned as chairman of the Senate Insurance Committee, citing a potential conflict of interest.

The possible conflict of interest concerns his association with the law firm Rivkin, Leff & Sherman, which he joined June 1. Several members of the firm are specialists in defense litigation and "it is probable that I will be involved, or firm members will be involved, with insurance companies," Sen. Dunne said.

### UAW, Ford reach agreement

DETROIT—The United Auto Workers and Ford Motor Co.'s tentative contract agreement for 197,000 workers closely resembles the UAW settlement with General Motors (BI, Oct. 1) in improvements in health benefits, pension adjustments and wages, said a UAW spokesman.

### Swissair crash kills 14

NEW YORK—A Swissair DC8 jetliner valued at \$10 million crashed and burst into flames after spinning off a runway at an Athens, Greece, airport killing 14 of 154 passengers.

The airline said it is fully insured for hull and liability losses in the Oct. 7 crash through the Swiss markets and Lloyd's of London, but refused to release details. A small bottle of plutonium was being carried in a passenger's suitcase but there was no fear of harm to anyone at the crash scene.

A \$2 million shipment of diamonds aboard the plane, which is insured by Lloyd's of London, is also being sought in the wreckage.

Another crash left seven passengers and a pilot dead when a commuter flight crashed Oct. 8 shortly after takeoff from Greater Cincinnati Airport. The plane, a twin-engine Piper Navajo owned by Comair of Cincinnati, was valued at \$250,000, said a spokesman for the airline. Comair is insured for \$5 million of hull and liability through Southern Marine and Aviation Underwriters. The coverage is brokered through Perkins & Geoghegan of Cincinnati.

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Vol. 13, No. 21—Business Insurance [ISSN 0007-6864] is published every other Monday at 740 Rush St., Chicago, Ill. 60611. Controlled circulation postage paid at Brookfield, Wis., Chicago, Ill., and New York, N.Y. Copyright 1979 by Crain Communications Inc.

## Special project

When Security Pacific National Bank established a new employee thrift plan Jan. 1, 1979, it needed a top-notch communications vehicle to explain to 20,000 employees why management had decided to make the switch from a profit sharing plan to a thrift plan, says David Chandler, vp of personnel.

"Employees perceived these changes (from a profit sharing to a thrift plan) as diminishing their benefits. We wanted to offset this fear," says Mr. Chandler, who points out as proof of the effort's success that 72% of the bank's employees signed up for the thrift plan. Mr. Chandler's department showed the audiovisual presentation portion of the package to employees in more than 500 bank locations in California within three weeks in late fall of 1978.

## Total program

In American Can Co.'s prize-winning total communications package were booklets, two audiovisual presentations, a plastic record, a binder, newsletters, manuals, a summary plan description handbook, payroll stuffers, hotlines for employees and training sessions for 150 administrators.

Richard Wibbelsman, director of salaried benefits, developed the theme for the communications program in early 1977, came up with a logo for the new flexible benefit plan being instituted for 9,000 salaried employees at American Can and phased in the various communications over the next 18 months.

Advising on benefit communications were 15 people, including administrative staff, insurance company representatives, benefit consultants and employee relations directors.



Accepting awards for the best special projects are (from left) Don Pellicano, manager of retirement communications for Benefacts Inc., consultant for third place winner Grumman Corp.; Dolores Stierle, manager of benefits for Grumman; David Wineland, manager of compensation and benefits for second place winner Armco Inc.; Richard T. Whitman, director of special communication for consultant Kwasha Lipton, which assisted Armco; Linda Trainor, consultant with William M. Mercer, which assisted first prize winner Security Pacific National Bank, and David Chandler, vp at Security Pacific.

## Audiovisual

First place audiovisual winner Tony Stewart put a 22-minute slide-tape presentation together for Tenneco Inc. explaining the entire benefit package to the company's 30,000 salaried employees. Starting the project in late 1978, Mr. Stewart had the presentation ready 2½ months later.

The program uses a television program format and is geared toward orienting new employees to the benefit programs, though it has been shown to everybody in the salaried ranks.



Best audiovisual presentations were prepared by (left) Ronald Kleiman, consultant with Hewitt Associates, which assisted first place winner Tenneco Inc.; A. Tony Stewart, manager of benefit planning for Tenneco; Mary Beth Moorad, media specialist with Levi Strauss & Co., second place winner, for a slide-tape presentation on HMOs; Marty Wiseman, accepting the third prize for Aerojet General Corp., and Al Schlactmeyer of Hewitt Associates, consultant for Aerojet General.

## Booklets

Clark Equipment Co.'s winning entry in the benefit booklet category was part of a total program aimed at reassuring salaried employees their needs were important and being considered by management, said Robert Thompson, director of personnel planning.

The booklet was the final reinforcing step, coming six months after holding a series of small group meetings with Clark's 6,000 to 7,000 salaried workers to explain some annual benefit changes.

"We wanted to produce a high-quality booklet that was a total revision of the old booklet. Cost wasn't a prime consideration, especially considering that we estimate we spend at least \$3,000 a year per salaried employee on benefits," Mr. Thompson said.



Accepting the awards for best total communications programs are (from left) Ron Kleiman, consultant with Hewitt Associates, which assisted Tenneco Inc. with its third prize entry; A. Tony Stewart of Tenneco; Gene Hill, benefits communication coordinator at second place winner Phillips Petroleum Co., and Richard Wibbelsman, director of salaried benefits for first place award winner American Can Co.



Awards were presented in the booklet communications category to (left) Al Schlactmeyer of Hewitt Associates, consultant for second place winner Guy F. Atkinson Co.; Philip Freud, consultant with Towers Perrin Forster & Crosby, assisting third place winner Supermarkets General Corp.; Maureen McGurl, vp of personnel for Supermarkets General; Edward Christie, consultant with Hewitt Associates, assisting first place winner Clark Equipment Co., whose director of personnel planning, Robert Thompson, is on the right.



Awards for the best personalized correspondence communications went to (left) John Ritz, vp of Benefacts Inc., consultant for second place winner Alexander & Alexander; Elayne Lewis, benefits analyst for Eaton Corp., third place winner; Mary Peterhans, benefits administrator for Harris Bankcorp, first place winner, and Ralph Jacqmin, consultant with A.S. Hansen, which assisted Harris Bankcorp.

# American Can packs honors in BI contest

NEW ORLEANS—American Can Co., Clark Equipment Co., Harris Bankcorp Inc., Tenneco Inc. and Security Pacific National Bank took top honors in the 1979 *Business Insurance* Employee Benefit Communications Competition.

Representatives of these companies, other winners in each of five categories and their benefit consultants received awards at a luncheon during the 33rd annual fall conference of the Council on Employee Benefits here Oct. 4, before an audience of 300 leading benefit experts.

The Council on Employee Benefits, founded in 1946, consists of 171 of the nation's leading companies which have a common interest in the field of employee benefit planning.

American Can Co. of Greenwich, Conn., submitted what was judged to be the best total communications package of the 18 programs submitted in the category. Phillips Petroleum Co. of Bartlesville, Okla., was the second place winner and Tenneco Inc. of Houston captured third place honors. Hewitt Associates was the consultant for Ten-

From among 37 booklets submitted, the 15 judges of the competition selected booklets prepared by Clark Equipment Co. of Buchanan, Mich., as best, Hewitt Associates was the consultant. Second place winner was Guy F. Atkinson Co. of San Francisco, also assisted by Hewitt Associates. Supermarkets General Corp. of Woodbridge, N.J., snagged third prize, assisted by consultants at Towers, Perrin, Forster & Crosby.

Twenty-three companies submitted personalized correspondence communications. First place went to Harris Bankcorp Inc. of Chicago, assisted by consultants at A.S. Hansen, Alexander & Alexander of Towson, Md., took second prize, assisted by consultants at Benefacts Inc., a division of A&A. Third place winner was Eaton Corp. of Cleveland.

Tenneco Inc. of Houston aced out 19 other entrants in the audiovisual communications category to take first place, assisted by Hewitt Associates. Second prize for audiovisuals was awarded to Levi Strauss & Co. of San Francisco, whose project was done in-house. Aerojet General Corp. of El Monte,

Calif., won third prize for audiovisuals, assisted by consultants at Hewitt Associates.

Fourteen companies submitted special communications projects prepared using multimedia to accomplish special objectives, with judges choosing Security Pacific National Bank of Los Angeles as the winner, for an audiovisual program with accompanying materials. Consultants at William M. Mercer Ltd. worked on the project.

Second prize for special projects went to Armco Inc. of Middletown, Ohio. Consultants at Kwasha Lipton assisted Armco in preparing a package of communications using an audiovisual presentation, a record and posters. A cassette and workbook program prepared by Grumman Corp. of Bethpage, N.Y., and assisted by Benefacts Inc. took third place.

In this year's competition, 113 programs were submitted for judging by 87 different companies. Twenty-one benefit consulting firms participated in projects submitted.

Judges for the 1979 *Business Insurance* Benefit Communications Award Competition included Donald Young, senior director of personnel and compensation at Trans

World Airlines; John Daugherty, director of benefit planning at Squibb Corp.; Beverly Braun, corporate communications at Reliance Insurance Cos.; Sal Spagnola, associate director of compensation at Thomas J. Lipton; Andrew Bandstra, manager of benefits administration at St. Regis Paper Co., and John Lamantia, director of benefits at Amerace Corp. in New York City.

Also, Barbara Ruane, administrator of benefit plans and personnel policies at Exxon Research & Engineering Co.; Kenneth Babo, director of executive and employee benefits at CBS Inc.; Joan Burns, advertising manager at General Reinsurance Co.; Patrice English, manager of communications at Heublein Inc.; Eileen Monaghan, administrator of compensation and benefits at Crompton & Knowles.

And Sidney Bernstein, chairman of the executive committee at Crain Communications Inc.; Richard Harvey, director of employee benefits at Pfizer Inc.; Heinz Weiser, manager of benefits for Nabisco and Hal Hudson, manager of welfare planning for Revlon Inc. ■

# Indexed pensions will spread in '80s: Vp

By SUSAN ALT

NEW ORLEANS—Automatic increases in retirement benefits by linking payouts to the Consumer Price Index will become universal in the 1980s, predicts Harrison Givens, vp of Equitable Life Assurance Society, citing his own company's experience as proof automatic pension escalators can work.

But Theresa B. Stuchiner, partner with Kwasha Lipton and a pension benefit consultant, argues automatic pension escalators are financially unwise. She cautions employers to avoid adding these provisions, despite the widespread and growing acceptance of ad hoc improvements in pension payments to retirees.

With proper attention to the in-

vestment of assets, indexed pension needn't bankrupt an employer trying to pay for these added liabilities, Mr. Givens contended here at the 33rd fall conference of the Council on Employee Benefits.

**Advocating that** companies index pensions to offset increases in the cost of living for retirees, Mr. Givens wove his way through an elaborate set of examples and calculations to convince his audience that indexing isn't as unaffordable as some employers and consultants believe.

Equitable, he noted, has had indexed pensions linked to rises in CPI since 1969, without any devastating financial consequences.

"We've come out and officially said we don't think any employer should put an automatic escalator

in its pension plan." Ms. Stuchiner countered. Companies are increasingly granting periodic gratis improvements in pensions to offset the ravages of inflation on fixed incomes, she noted.

The UAW settlement with General Motors, she commented, calls for eight ad hoc pension increases over the life of the three-year contract. "The interesting new twist is that part of the cost of these adjustments is coming out of the (wage and salary) cost-of-living adjustment applied to active workers." It's an acknowledgement by labor and management that new benefits for retirees must be paid for by active workers, she said.

Very few companies now have automatic pension escalator provisions. Those that do generally put a cap on the maximum amount of in-

crease that can be applied with the cap "usually far below the cost-of-living increase," Ms. Stuchiner said. The highest ceiling she knows of in any company with an automatic pension escalator is 10% and that plan belongs to a non-profit institution.

Typically, the cap on the automatic escalator limits the improvement to 3%, she said. "I know of fewer than a half-dozen companies with automatic pension escalators that don't have any cap at all," allowing benefits to rise periodically by the full amount of the CPI, she told *Business Insurance*.

Those companies making ad hoc improvements in pensions for retirees seldom go up the full amount of the CPI, she said. The increase is commonly one-half to two-thirds

of the increase in the CPI over a given period.

"I believe most employers today aren't ready for automatic escalators in pension benefits. I don't think they'll be added, unless they are mandated by Congress, and I certainly hope they will not be required," Mr. Stuchiner said.

Ad hoc pension benefit increases to offset inflation aren't being given at all by employers paying lump sum pension benefits to retirees, Ms. Stuchiner said. Once the employer pays a lump sum to a retiree, the obligation to incur any further liabilities is ended, she noted, and employers who've paid lump sums are refusing to make any improvements in pensions in these situations.

## Firms raise pensions, study says

NEW ORLEANS—Four out of five corporations increased pension benefits to some or all retirees at least once in the last five years to offset inflation's effects, up from three out of four in the five years before 1975, a survey by Bankers Trust Co. of New York reveals.

"Since the publication of the 1975 study, inflation has continued to increase and accelerate. As a result, an ever-greater concern over the adequacy of retirement incomes has developed among the public and within corporate and governmental communities," said William J. Mischo of Bankers Trust.

This is one of the preliminary findings released by Bankers Trust after studying 103 questionnaires received as part of its major study of corporate pension plans, due to be completed and released in mid-1980.

Preliminary findings of the study also disclosed that:

- 29% of companies extending increases have done so more than once, with seven companies having extended three or more increases.

- 71% of the companies making ad hoc improvements extended an increase equal to a fixed percent of current payable pension benefits.

- Another method of extending increases to retirees, more commonly used by firms associated with major unions, has been to extend a flat dollar increase (16% of the companies making improvements).

- Only two companies tied improvements to increases in the Consumer Price Index, one doing this on an ad hoc basis only once and the other using an automatic annual escalator providing for a maximum yearly rise of 3%.

- Six companies amended their benefit formula for active employees, increasing the minimum dollar formula, and then extended the improvements to retirees.

- 90% of the companies making pension improvements financed the increases as if they were simply added actuarial liabilities, paying the higher benefits by check from the pension fund.

- Eight companies considered the cost of improvements out-of-pocket expenses to be paid out of the companies' own accounts or from the pension fund which was later reimbursed.

Of the companies improving pensions by a percent of the current pension, most did so by applying a stated percent (1% to 9% with 3% the average) to the number of years of retirement.

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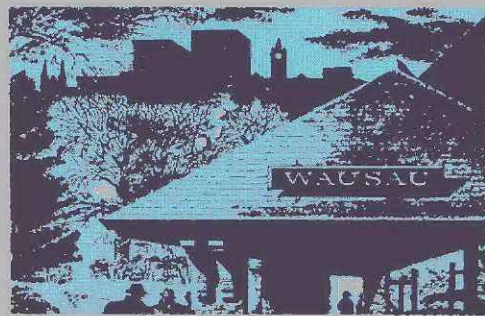
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## Dental plan next

Mobil Oil Corp. is likely to take a soft line on dental benefits and a hard line on pension escalators the next time it negotiates contracts with the Oil, Chemical & Atomic Workers union, indicated Robert B. Peters, manager of compensation and benefits.

"I personally feel our industry should have been in the dental benefit field by now," he said, noting OCAW is almost sure to ask for a dental plan when bargaining begins next month.

Mobil, with 400 contracts covering 60,000 OCAW employees, has defined three areas of negotiation next time around: cents per hour wage increases, health care benefits and vacation schedules, Mr. Peters told the CEB meeting.

"We will not get into cost-of-living allowance" adjustments in wages or pensions, Mr. Peters stated. "Our management feels that belt tightening is absolutely necessary, on wages and benefits."

Mobil will also adamantly refuse to yield to demands that it pay full medical benefit costs, he asserted. "We want employees to have their hands in their own pockets" by having to pay coinsurance and deductibles for health care.

# GM boasts of withstanding many UAW benefit demands

NEW ORLEANS—General Motors Corp. is proud of its achievements in the latest round of bargaining with the United Auto Workers union, said Kenneth E. Olthoff, director of the employee benefits section, because:

- "We avoided indexing of pensions, with all its attendant problems."

- "We also avoided the concept that all retirees should be receiving the same pension benefits as the benefits being earned by present and future retirees. The expense of this would be fantastic."

- "The level of age-65 benefits as a percent of pay was not increased. We held these benefits to about 27% of monthly pay, which is right

in the ballpark with other benefit plans of American industry."

- "We wanted to de-emphasize the trend toward early retirement and we feel we accomplished this. The level of early retirement supplemental benefits is a lot less than it was before and we hope this will reduce our costs substantially."

GM considers it "very significant" that the contract provides for a 14 cents-per-hour diversion of cost-of-living-allowance adjustments over the life of the contract to pay for benefit improvements, Mr. Olthoff said.

The union applied "considerable pressure," he said, to win more paid personal holidays, and ended up with only one more holiday in

the first year of the contract and a second additional personal holiday to be added in the second and third years.

The UAW laid out more than 375 separate benefit demands when it began negotiations with GM, Mr. Olthoff said, with 177 in the area of health care coverages alone.

"Pensions were obviously the big item, based on information in the press and discussions at the bargaining table. The number one demand was COLA for retirees, but when they laid the demands on the table, we saw they involved substantially more than COLA," he told an audience of more than 300 people attending the fall conference of the Council on Employee Benefits.

GM saw that based on union demands, everyone would be receiving the same pension benefits at the end of three years whether retired or not, "a terribly expensive package," he said. As bargaining continued, the UAW backed off its initial COLA demands and ended up bargaining for increases in pension benefits for retirees "more often than annually," which GM ultimately granted (BI, Oct. 1).

As part of its efforts to discourage the popularity of early retirement, GM achieved elimination of lifetime supplements and supplemental benefits for retirees between the ages of 62 and 65, equal to about \$3.33 an hour, up to \$100 a month.

Also in the area of early retirement, GM and the union agreed that retirees receiving early retirement supplements will be able to earn up to \$4,500 in 1980, \$5,000 in 1981 and \$5,500 in 1982 before triggering reduced supplement payments.

"We have unhitched from Social Security in this area, because we were unsure where it would go," Mr. Olthoff said.

For those already retired, pension benefits increase an average of \$1.90 a month per year of credited service. There is a "takeaway" provision, too, reducing the agreed increase to as low as 73 cents for those who retired in the last year with the supplement.

Mr. Olthoff considers the improvements in health care benefits very minimal. Despite the flood of union demands in this area, "We wound up doing very little," he said.

GM even won a few rounds with the union in the area of health care. There were some important "takeaways" in this area from what the benefits previously were, Mr. Olthoff said.

Employee eligibility for vision care was deferred to the first day of the month in which the first full year of employment is completed, a change from eligibility which had been the first day of the third month of employment.

Sickness and accident care eligibility was deferred by one month from what it had been, with coverage now commencing on the first day of the fourth month after the start of employment.

Also in the sickness and accident benefits area, the contract now provides for GM disability coverage of 75% of scheduled benefits "otherwise payable," a reduction of 25% in the first year of the contract. ■

### Halfway house cover

Cardiff General Insurance Agency in Pasadena, Calif., is offering a new liability program for halfway houses and drug abuse centers. Coverages include premises liability, professional liability, non-owned auto and personal injury.

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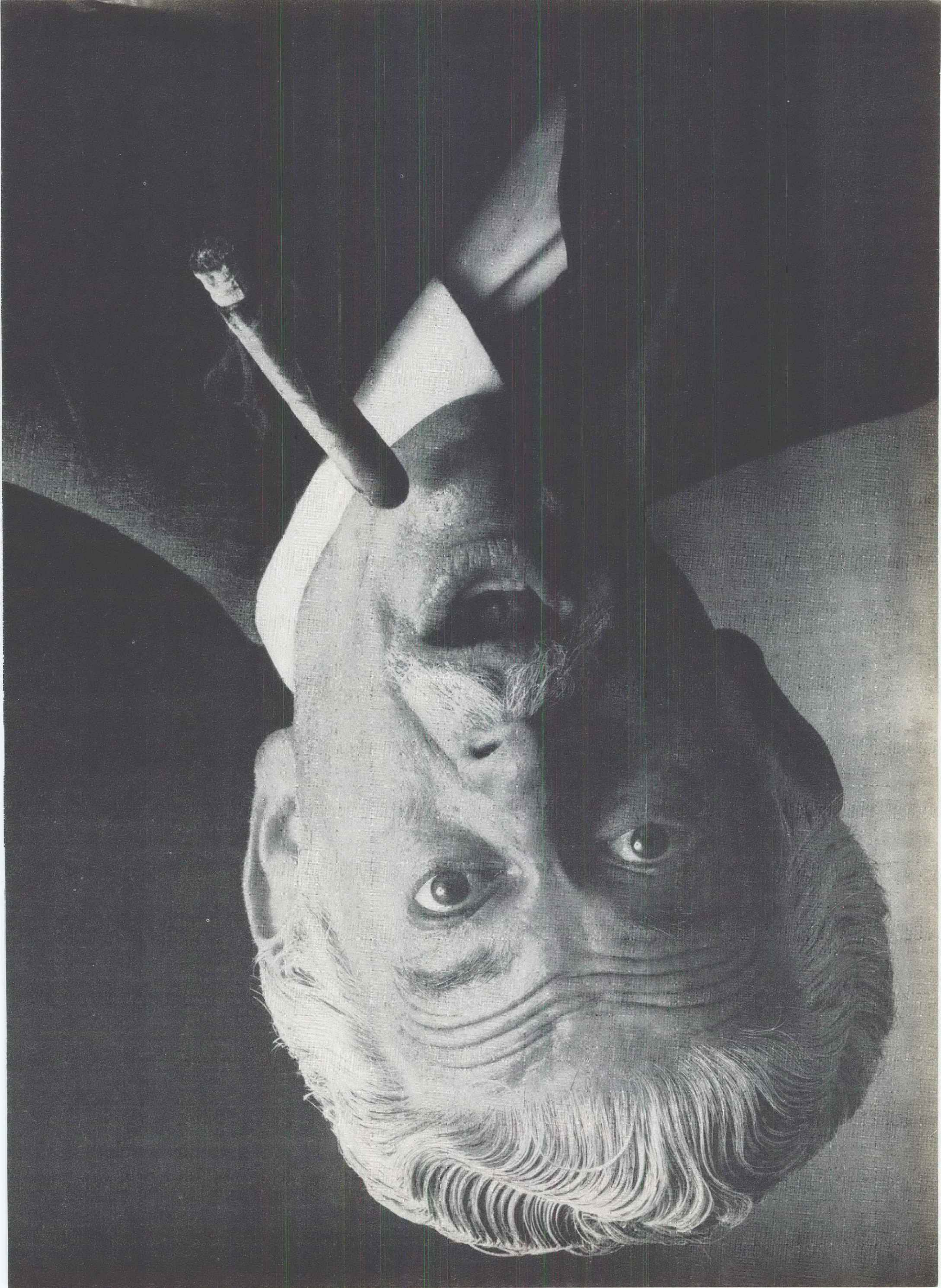
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## FTC investigates doctors for antitrust violations

NEW ORLEANS—The Federal Trade Commission plans to present a rule prohibiting physician groups from participating in the control of prepaid health plans or Blue Cross/Blue Shield plans.

The FTC is also carrying on "a number of investigations" of restraint of trade by physicians opposing the growth of health maintenance organizations and plans to prosecute more violators of antitrust laws in the health care delivery area, said W. Terry Winslow, assistant director of the bureau of competition in the FTC.

The thrust of FTC actions in the health care sector is based on the belief that consumers benefit from having a wide variety of options in health care delivery, HMOs being one option, he told the 33rd fall conference of the Council on Employee Benefits.

The FTC believes there is "less competition in the health care delivery system than one supposes would be the case" if there weren't some sort of restraints on the system being imposed by some providers themselves, Mr. Winslow said. He cited two basic reasons for the less-than-open competition: Medical society and physician control of Blue Shield plans and a concern of other health plans that they would meet organized resistance by providers if they tried to compete.

Based on its April 1979 report on the domination of Blue Cross/Blue Shield plans by medical societies, now being studied for possible future action by the FTC, Mr. Winslow told CEB members that the FTC believes "many Blue Cross/Blue Shield plans just aren't giving you employers your money's worth."

The FTC's bureau of economics is doing a followup study on how the relationships of doctors to health care providers and payers lead to higher reimbursement of doctors by these organizations, Mr. Winslow said.

For the time being, the FTC restraint of trade investigation is primarily focusing on the portion of health care costs attributable to doctors, dentists and other professionals. "This sector is more amenable to some types of enforce-

ment of competition" and enforcement may result in benefits for hospitals, helping them control costs, Mr. Winslow explained.

In addition to outlawing the American Medical Assn.'s prohibition on physician advertising, the agency most recently has sued dentists in Indiana. The FTC alleged they got together and agreed not to submit x-rays and not to engage in consultations with insurers regarding proposed treatment, thus thwarting insurance company and employer dental benefit programs. The Indiana Dental Assn. early this year signed an FTC consent decree, although the Indiana Federation of Dentists decided to litigate, leading to a trial that began late last month in Indianapolis. ■

## FTC favors medical fee schedules for claims departments, group policies

Although the Federal Trade Commission frowns on physicians, dentists and other health care professionals establishing fee schedules, an official of the bureau of competition sees nothing wrong with insurance companies devising fee schedules for their claims departments and their group policyholders.

W. Terry Winslow, assistant director of the FTC's bureau of competition, said, "The unilateral adoption of a fee schedule by an insurance company of the allowable fees to be paid to providers—presumably accepted by some providers and not accepted by others—would in my view be procompetitive and not anticompetitive. I would have to add the caveat that one would want to look at the market share held by the insurance company.

"If the insurer had something approaching

monopoly power, a different light would be cast on the matter, but I rather doubt that there's any one insurance company that has that kind of monopoly power. Of course, this would have to be checked out by locality."

Mr. Winslow expressed some surprise that insurance companies have not established and used such medical fee schedules in the past, noting that these would encourage price competition among doctors and other health professionals.

Mr. Winslow wouldn't say whether he thought the FTC would also look favorably upon attempts by individual employers or groups of employers in a local or regional area to establish "relative value" fee schedules with doctors and other health care professionals practicing in an area. "I haven't really thought about it," he said.

## Few firms find a place on rate panels

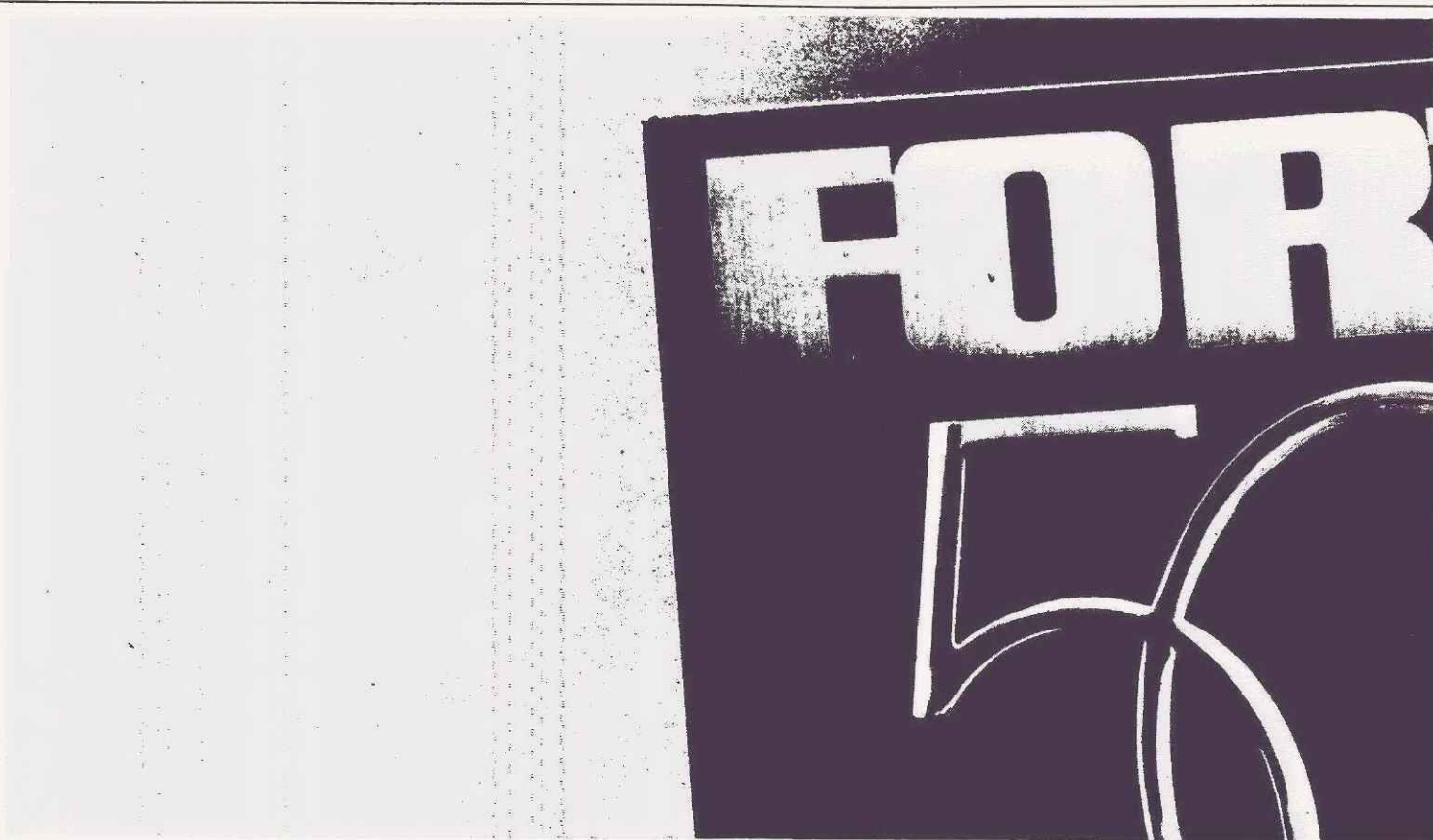
NEW ORLEANS—Relatively few corporate employers have been willing or able to place representatives on local or regional hospital rate-setting boards, a show of hands at the CEB meeting indicated.

During a panel discussion on health care cost containment, moderator Richard G. Wardrop, manager of employee benefits for Aluminum Co. of America, asked the several hundred people in the audience for a show of hands indicating how many companies represented have people involved in local hospital voluntary cost control efforts, on the boards of Health Systems Agencies (federally funded hospital planning bodies) or on state rate-setting commissions.

About 20 corporate managers said their companies are participating in these efforts. ■

## Office in Canada

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# Benefit bills wait on back burner: Rep.

NEW ORLEANS—Despite a long laundry list of employee benefit issues that need to be considered by Congress, Rep. Dan Rostenkowski (D-Ill.) doesn't think there's likely to be any action during 1980 in the areas of:

- Taxation of fringe benefits.
- National health insurance.
- Multiemployer pension plans.
- Structural and procedural improvement in ERISA.
- Legislation allowing workers now covered by qualified pension plans to establish individual retirement accounts.
- Problems with deferred compensation programs for tax-exempt entities.
- Money-purchase pension plans.
- Employee stock ownership plans and tax-reduction ESOPs.

In a speech here to more than 300 benefit experts attending the 33rd fall conference of the Council on Employee Benefits, Rep. Rostenkowski lamented the lack of consensus in Congress and the many pressures forcing benefits legislation far down the list of priorities. What's more, he said after recounting the long list of benefit problems demanding attention by the House and Senate, "the problems of legislating in an off-election year are bad enough, but in an election year, they're double."

The two subjects uppermost in employers' minds—national health insurance and taxation of fringe benefits—aren't high on the legislative priority list when considered alongside energy issues, SALT II and defense spending, Rep. Ros-

tenkowski told *Business Insurance*.

"I don't believe you're going to see national health insurance in the next four years, unless we pass sections of it to be phased in incrementally," he told CEB participants.

Despite the "sheer contentiousness" of House members lately on most issues, there is a degree of consensus opposing benefit taxation that he described as "wholly uncharacteristic." The broad-based public outcry at the Internal Revenue Service/Treasury Department suggestion that benefits and other fringes should be taxable as part of total compensation has propelled many members of Congress to oppose the Treasury draft proposal, or at least vote to defer the

issue until later, he noted.

In two recent moves, the House and Senate stalled Treasury on this issue, in effect barring the IRS from taking any positive action toward benefit taxation. "In a remarkably swift markup, the Ways and Means Committee (of which Rep. Rostenkowski is a member) voted to extend until the end of 1981 the current prohibition on the proposal, or adoption of new benefit regulations by the IRS. The effect is to give us one more year to study this most difficult issue," he said.

The Senate, "as if to underscore their disapproval of the IRS taking any step" toward taxation of fringe benefits, approved early last month a floor amendment "effectively prohibiting the use of any appropriated funds of the Treasury

Department to write regulations designed to force inclusion of fringe benefits in gross income," Rep. Rostenkowski said.

But Congress may not always be able to avoid this issue and its far-reaching consequences for employers and employees, he warned. Treasury Department definitions of gross income were upheld by the Supreme Court, which logically include the value of economic benefits in taxable income. Congress, on the other hand, reflects the views of taxpayers, pitting itself against the Treasury and the courts on an issue providing what Rep. Rostenkowski calls "a showcase... for the clash of public policy and private attitudes."

But, he warned employers, "If Congress simply ignores the problem of what and when to tax fringe benefits, you may eventually feel pressured to convert more and more employe cash compensation to tax-free fringes."

There is already a large and growing underground economy and barter system of in-kind exchanges at work, he pointed out, indicating congressional concern about the diminution of taxable income that could result from any shift toward reliance on such a system. "The implications of such a trend, were it to take place, would be long-lasting and quite dangerous for all of us," he said.

Rep. Rostenkowski also said confidence in the Social Security system must be restored and noted Congress has already taken steps to improve the financial soundness of the system. There is considerable pressure building to take the hospital insurance trust fund (Medicare) out of Social Security and fund it through general revenues, a solution "I absolutely disagree with," he said.

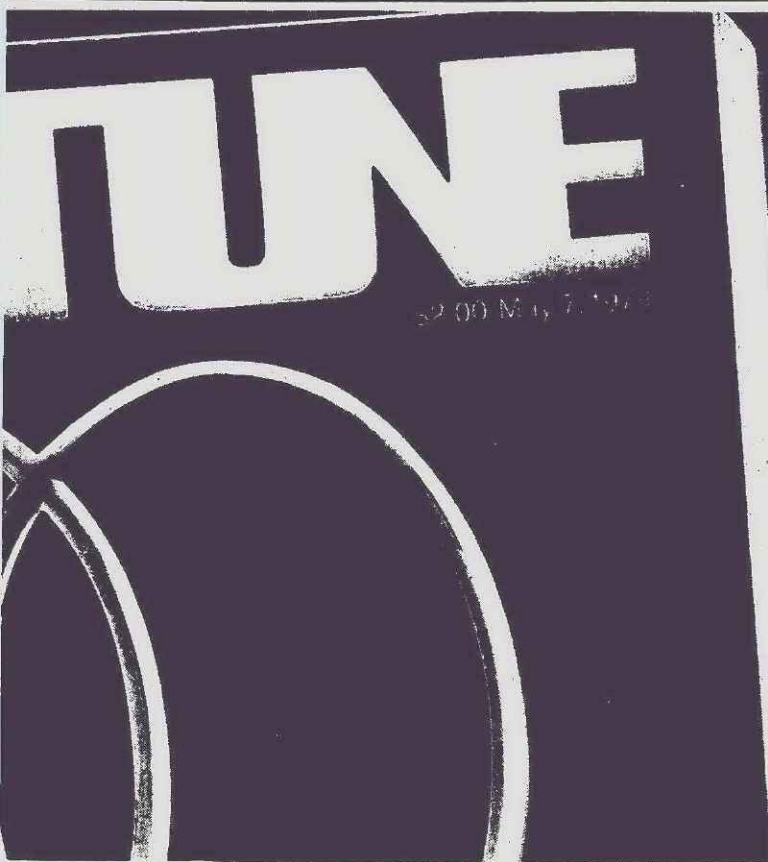
Though the House Ways and Means Committee has considered several suggestions for legislation on ESOPs and TRESOPs, "I haven't heard of any activity on legislation being promulgated" in these areas, Rep. Rostenkowski said. He reiterated when asked about the possibility of more activity in this area, that "our calendar has become so full that going into an election year, you're going to see more members (of Congress) standing pat" on most benefit issues.

## Pension law likely: Prof

NEW ORLEANS—A pension reform law regulating public pension plans will be enacted with two years, but it'll be a weak law requiring only uniform reporting and not mandating minimum funding levels, predicted Dan M. McGill, chairman of the pension research council and professor of insurance at the University of Pennsylvania's Wharton School.

A so-called PERISA "Will be pressed vigorously" in the next year and will pass in Congress even though it may have some court tests challenging its constitutionality, Dr. McGill told the fall conference of the Council on Employee Benefits here.

The law, he thinks, will require uniform reporting by pension and retirement plans sponsored by government entities, "but won't establish funding standards. Those will be worked out in future years. And if they're not established soon enough, the federal government will intervene" and impose regulations on the public plans because of taxpayer pressure, he predicted.



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## Brokers propose 2-day restriction on exchange risks

**NEW YORK**—Three rejections in two days should be sufficient evidence that a risk cannot be placed in the New York Free Trade Zone and should be eligible for the New York Insurance Exchange, according to the Insurance Brokers Assn. of the State of New York.

That position is presented in a draft regulation on interface between the free trade zone and exchange proposed by the brokers group, president Robert Sanford said.

A proposed regulation drafted by

an ad hoc committee of free trade zone insurers called for as many as eight rejections by insurers in five days. Brokers and some insurers had criticized that proposal as making the exchange less competitive with the London market (*BI*, Sept. 3).

The insurance exchange board of governors to date, has not taken a position on the question, but a committee is studying the issue. New York insurance superintendent Albert B. Lewis said his department would issue a draft regulation by the end of the month (*BI*, Oct. 1).

In a preamble to their proposed regulation, the brokers call upon the state legislature to dismantle the free trade zone. Only a few companies have benefited from its existence and the free trade zone's "only success" has been in "blocking business from the exchange," Mr. Sanford said.

"Hopefully, in two years it will become a fossil," he said.

Meanwhile, five insurance interests are at varying stages in forming syndicates for the New York Insurance Exchange.

The Travelers Insurance Cos. has filed an application for underwriting membership with the board of governors of the exchange.

Some details of the syndicate's operating budget must be worked out before the governors can grant approval, a Travelers spokesman said, adding that the company is "positive about the future of the exchange."

**Atlantic Co. intends** to have a syndicate in operation when the doors of the insurance exchange open for business sometime next year. "We're committed to the exchange," said Atlantic vp and secretary Joseph Decaminada.

Atlantic chairman Harold Eckmann was a member of the Committee of 13, drafters of the exchange constitution, and was on the interim board of governors. But the company decided to watch developments further before finalizing its plans, Mr. Decaminada said.

Prudential Reinsurance Co. has been authorized by the directors of its parent company, Prudential Insurance Co. of America, to spend up to \$10 million on the capitalization of an exchange syndicate, said senior vp Leroy J. Simon.

However, the company is waiting for information on the operating costs and budget of the exchange before making its decision, he said.

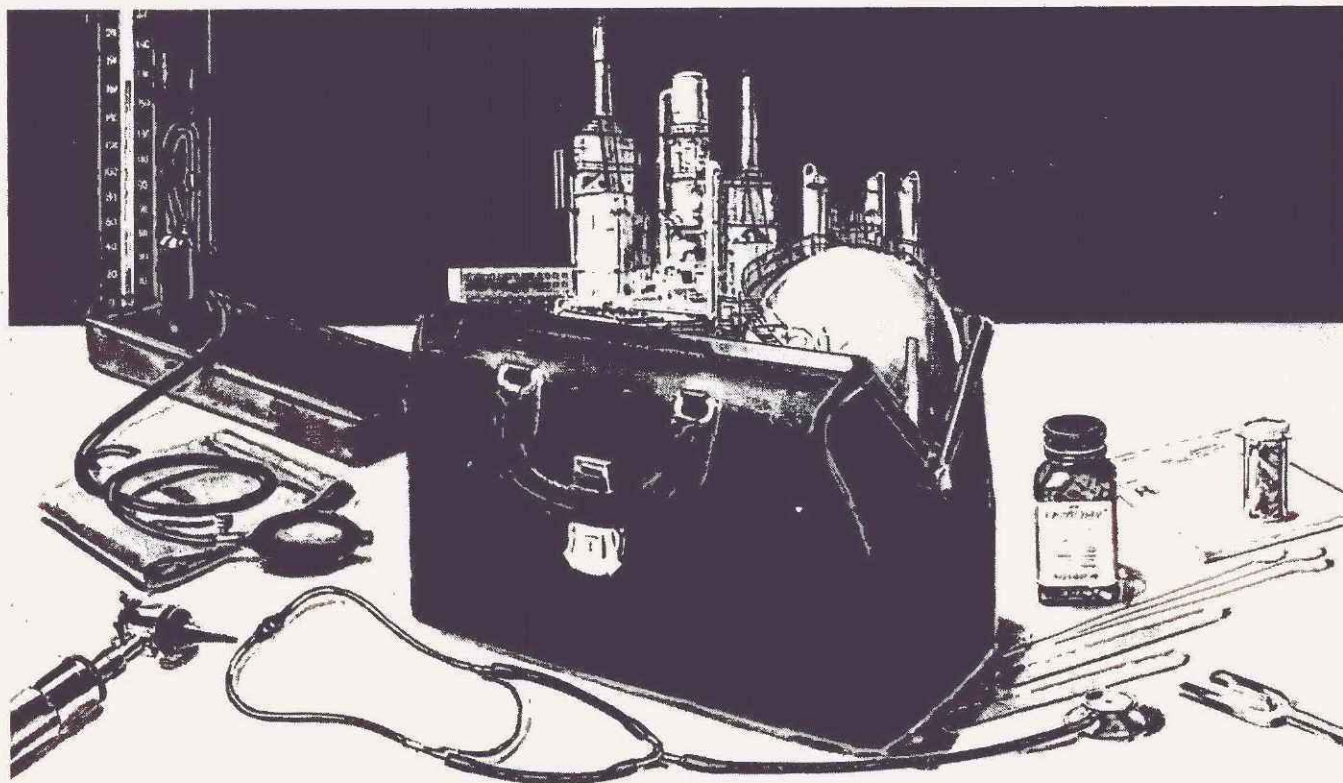
In any event, Prudential's syndicate is not expected to be capitalized for the full \$10 million, but Mr. Simon did not indicate the planned amount of funding.

Duncanson & Holt, a New York reinsurance intermediary, is seeking to capitalize a \$10 million syndicate through a private offering to its clients, said executive vp William Holt.

The firm expects its syndicate to operate primarily in the accident and health market. However, it does not expect to join the exchange until the centralized market has a "decent flow of business," Mr. Holt said.

American Overseas Management Corp., the underwriting management arm of Marsh & McLennan, reportedly is also seeking to capitalize a syndicate through a private offering, but officials of the company wouldn't comment on this.

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# editorial opinions

## Generous Uncle Sam

GOVERNMENT EMPLOYEES traditionally have been able to look to job security and job continuity as advantages of working in the public sector. In some but not all cases, these pluses frequently accounted for a more-than-adequate offset of slightly lower salaries and benefit programs that were average or slightly below business benefit programs.

Not so any more. For the past 10 years or so, government salaries and benefits—federal, state, county and municipal—have improved to the point where they not only match opportunities in the private sector, but often exceed the compensation offered by private companies.

This may well have come about simply because it was necessary to make government employment attractive enough that talented, qualified people could be attracted to work there.

The tables have turned, however. Government's need to "compete" in the labor market has created a situation that we frequently hear benefit people (only half-jokingly) say will lead to the entire labor force working for the government.

What reminded us of this theme once again was a story in the Sept. 17 issue about a finding that municipal benefits are better than private industry's benefits, documented by a U.S. Conference of Mayors study.

The irony, of course, is that the private sector supports the government and its terrific benefit plans. What will happen to the system if we all decide to go to work for the government because we're being shortchanged by continuing to work for private industry?

Another irony is that there are administrative costs imposed by law—the 1974 pension law, for example—on corporate benefit plans from which government plans are exempt. Costs of compliance, added to the costs of simply trying to maintain benefits competitive with those in the public sector, will kill us yet.

Legislation putting a cap on government benefits at all levels, limiting them to a specified portion of the average benefit levels of private industry, would work as effectively as any Proposition 13 measure to limit government (over)spending.

## Outlook for agents

THE QUESTION is frequently posed: What effect will the increasing use of self-insurance for funding commercial risks have on aggregate demand for commercial insurance?

There are pessimists in the insurance industry who worry that so many corporations will begin to fund their own losses that there will be a drop in the overall demand for insurance.

At the opposite extreme are optimists who think self-insurance is merely a passing fad which will disappear each time there is competition among insurers, enabling corporate insurance buyers to discard their self-funding plans and return to the insurance marketplace for cheap coverage.

The latest forecast comes from Robert Leibold, president of Allstate's Northbrook Property & Casualty Insurance Co., who thinks commercial property/casualty business will continue to grow very substantially over the next five years (at least), by 77% to \$83 billion.

Issues attendant to the question of demand for commercial insurance center on the changes in distribution systems as a

result of growth in self-insurance, use of captive insurers and the growing concentration of commercial volume in the hands of relatively few large national insurance brokers.

Smaller local and regional commercial brokers have been attractive acquisition prospects for the large firms. But what's to happen to the ones that haven't been swept up by the nationals? Will the agents and brokers without the capability of handling self-insurance administration fall by the wayside?

Mr. Leibold doesn't appear to think so. Allstate and its Northbrook division are relying on independent agents and brokers more now than they ever have. The reason, to hear Mr. Leibold describe it, is "because they have proven over the years to be the most effective, most knowledgeable, and most successful . . . for the distribution of commercial insurance products." How's that for an endorsement of the independent agency system?

Allstate/Northbrook are taking a particularly close look at agents and brokers with \$2 million to \$3 million in premium volume as the best producers.



## letters

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

### Free speech

To the editor: Re: "Insurers' free speech"—editorial Sept. 3. While I have not always agreed with your bottom line conclusions and recommendations made on your editorial page, invariably the subject at hand receives a fair and thorough hearing.

I must respond and applaud your most recent statement on the matter of the right of insurance companies to speak out on the matter of the cost of the liability claims heaped upon us in recent years. It is very refreshing to me personally and certainly welcomed by liability underwriters everywhere.

**Jim Biernat**

Manager commercial lines, Denver branch, Fireman's Fund Insurance Cos.

### Rx misses mark

To the editor: Your Sept. 17 editorial "Give Buyers More Facts" certainly does a good job of diagnosing one of the illnesses of our industry, but your nine-point prescription for cure seems to miss the mark.

Although the regular membership of the National Assn. of Professional Surplus Lines Offices is

dedicated to high standards of professional conduct, I don't think all of our members would be overjoyed about disclosing their premium volume and commission and fee income. By not so doing, it would seem, they might come under criticism from Len Strazewski ("Tight-lipped E/S brokers could tarnish industry"), who overlooks the fact that a higher percentage of E/S brokers responded to your directory questionnaire than did regular agents/brokers. Is that quite fair?

Too, you suggest that names of five corporate customers "with whom the firm has worked" be given as references. The regular membership of our association (some 260 member firms) is made up of "wholesalers" who could not meet this requirement.

I daresay that all of the "bunco artists" you named in your column could come up with falsified annual statements to satisfy regulators who, for the most part, do not have budgets to allow extensive investigations.

While your editorial certainly gives no ill advice, we would make another suggestion: know your broker. Check him out with people you know and who have used him.

Continued on page 74

# business insurance

the national newsmagazine of loss prevention, risk financing and employe benefit management

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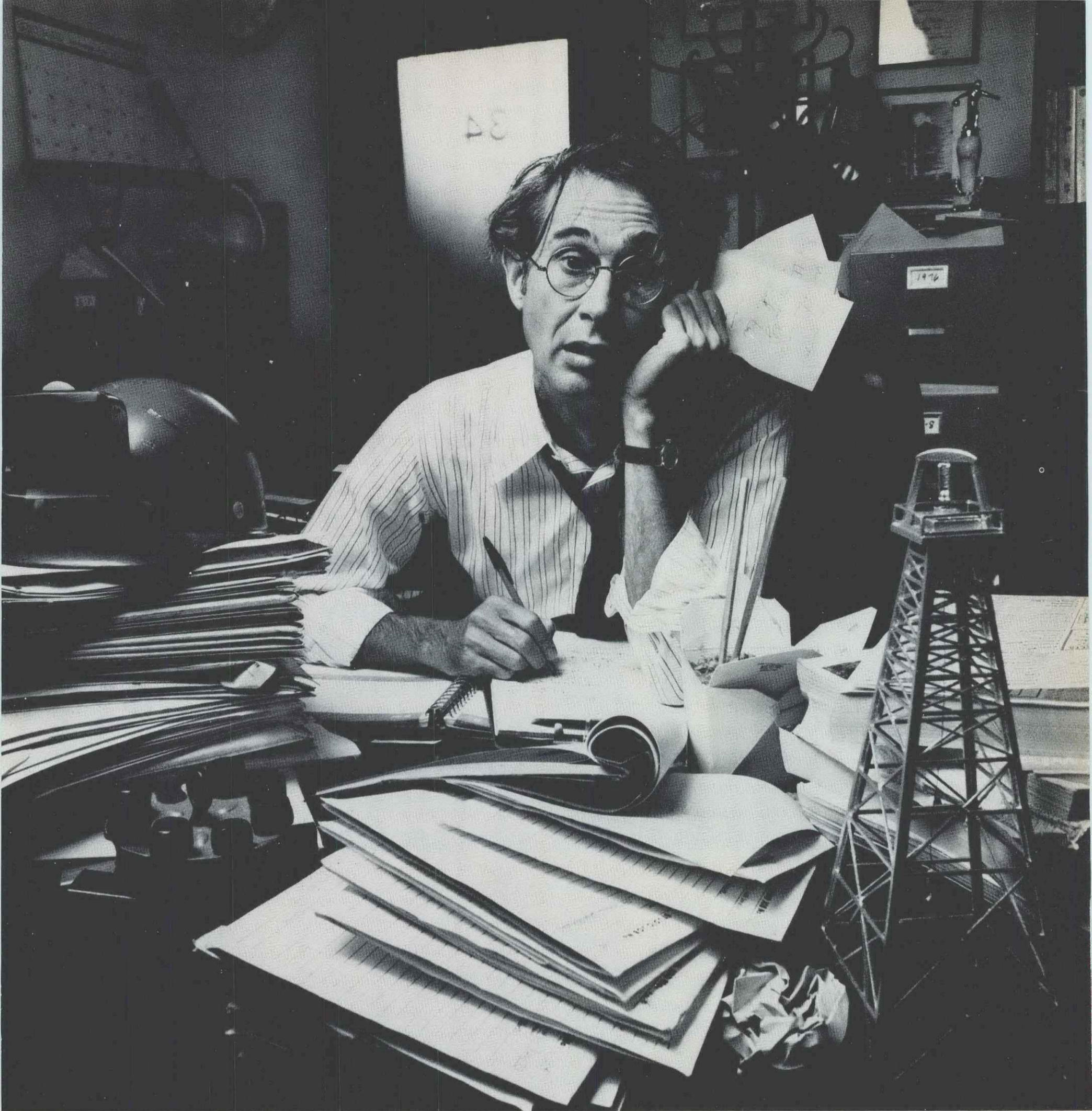
Published by Crain Communications Inc., Chicago, HERBERT ZELTNER, group vp; ALFRED MALECKI, J.J. GRAHAM, S.E. COHEN, LOUIS F. DE MARCO, WILLIAM STRONG, ROBERT W. KRAFT, STEPHEN D. GILKENSON, ARTHUR E. MERTZ, vice presidents; JAMES M. FRANKLIN, vp-finance and administration; MERRILEE P. CRAIN, assistant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

Published biweekly at 740 Rush St., Chicago, Ill. 60611 (312-649-5200). Offices: 708 Third Ave., New York, N.Y. 10017 (212-936-5050); Suite 1253 National Press Building, Washington, D.C. 20004 (202-638-5300); 6404 Wilshire Blvd., Los Angeles, Ca. 90048 (213-651-3710). \$1.00 a copy. \$20.00 a year in U.S. Foreign \$5 a year additional. For first class mail add \$20.00 U.K. and Canada; add \$12.00 for air delivery Europe and Middle East only. WILLIAM STRONG, vp-circulation. PAMELA JANOUSEK, circulation manager; ROGER DiGREGORIO, fulfillment director. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, Business Insurance, 740 Rush St., Chicago, Ill. 60611 or phone 312-649-5221. Telex 25-4248; Cable CRAINCOM. Microfilm copies are available from University Microfilms, 300 Zeeb Rd., Ann Arbor, Mich. 48013. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Rd., Wooster, Ohio 44691.

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# Hospitals sue HEW over malpractice insurance proposal

By STUART EMMRICH

CHICAGO—Charging that a Health, Education and Welfare proposal to cut the cost of malpractice insurance paid for Medicare and Medicaid patients is illogical and unfair, a group of hospital associations is suing the federal agency.

The suit seeks to block HEW from implementing a plan forcing hospitals to separate the cost of the insurance policies from their administrative costs and then bill the government for only the share of insurance that directly affects

Medicare and Medicaid patients.

If the proposal is allowed to go through unchanged, opponents say, it will cost hospitals \$300 million in reimbursements during 1980 and will bring about higher rates for private patients and their insurers to make up the difference (BI, May 14).

Among those suing to block the proposal are the American Hospital Assn., the Federation of American Hospitals, the Hadley Memorial Hospital of Hays, Kan., and more than a dozen other state hospital associations. The suit was filed in the federal court of Topeka, Kan., on Sept. 12. No date is set for a formal hearing yet.

"The regulation is just outrageous," complained Jennifer Stiller, senior staff attorney for the Chicago-based AHA. "It completely misunderstands the purpose of purchasing insurance."

Ms. Stiller argues that HEW's rationale that Medicare and Medicaid should only pay a share of the insurance premiums equal to the percentage of malpractice claims generated by their patients ignores how insurance works and how hospitals handle administrative costs.

"The main purpose of insurance is to protect corporate assets against a large loss. What the regulation assumes you are buying with insurance is claims paid. This is not true. You can pay \$1,000 a year in premiums and, if your experience is good, you may end up not submitting one claim all year. That doesn't mean you should get back that \$1,000, however," she said.

The suit also charges that in trying to separate the cost of malpractice premiums, HEW is conveniently ignoring the fact that the same principle could be applied in ways that would benefit the hospitals, not the government.

Hospitals regularly incur costs that can be tied to handling Medicare and Medicaid—some record keeping functions for instance—that they do not directly charge the government for, but spread the costs to all patients. These costs, like insurance premiums, are grouped into general administrative cost categories and then computed as part of all patients' bills.

The government's proposal that malpractice premiums be separated from this category would not only cause administrative nightmares, Ms. Stiller said, but also would create a further hardship on private patients who indirectly already share a part of Medicare and Medicaid costs.

"Even assuming that HEW's logic is correct in this matter—and it isn't—they don't do the same thing with other costs that would benefit the hospitals," Ms. Stiller argued.

Although it is estimated that hospitals could lose \$300 million next year if this proposal is allowed to go through, AHA officials say they are unable to come up with estimates about how much an average hospital might have to raise daily rates to make up the lost funds.

For instance, a hospital that in the past few years paid out two losses, both to non-Medicare or Medicaid patients, will shift the entire cost of the following year's malpractice premiums to private patients, while a hospital that might have paid one claim to a Medicaid patient would have the government pay for all the premium costs.



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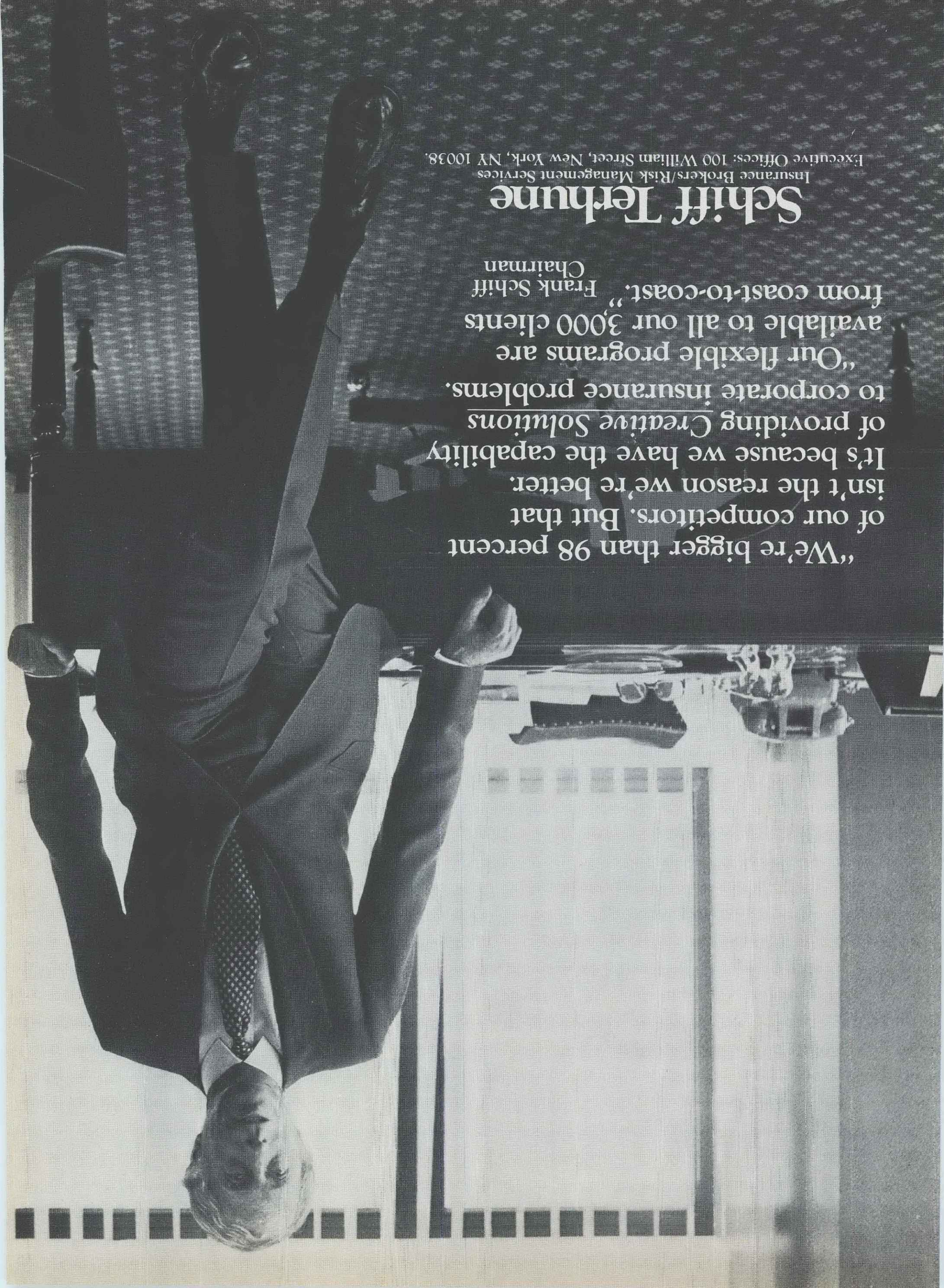
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# N.Y.C. officials reform work comp system

By ELLIS SIMON

NEW YORK—Administrators of the city's self-insured workers compensation program hope to correct within six months overpayment problems uncovered in a state audit this summer.

The workers compensation section of the city's department of law has been chipping away at claims handling problems since the audit released in July charged the section with paying too much and failing to control costs in the program

covering 200,000 employees.

It will probably be six months before changes recommended by the state controller's office can be fully implemented and the savings measured, said Phillip Agree, assistant in charge of the law department's division of affirmative litigation, which includes the workers compensation section.

The audit recommended improved recordkeeping to provide effective financial and managerial data and controls. The study was based on a random sampling of

cases during the 1976-77 fiscal year.

Since the audit, injured employees have been assigned set times for medical examinations by the section's physicians. The results of the exams are often integral to defending a workers compensation claim. Previously, examinations were scheduled on an irregular basis, usually six weeks to two months after an injury occurred, Mr Agree said.

According to the audit report, exams, when made, took place an av-

erage 8.3 months after cases were accepted for payment.

Although examinations are now performed sooner after an injury, Mr. Agree said it is too early to measure the effect. In addition, a newly established medical examination unit is making sure that appointments are kept, he noted.

The workers comp unit has also beefed up its effort to recover benefits from the state's special disability fund, which reimburses insurers and self-insurers for payments to claimants whose on-the-job inju-

ries were related to prior handicaps, Mr. Agree said.

For 1976-77, the city's recovery rate was 7% of eligible cases versus as much as 91% for private insurers and the state insurance fund, the state's residual market. The recovery has since been improved to between 12% and 18%, but Mr. Agree said further improvements are anticipated.

In 1976-77, the year of the audit, New York City handled 12,868 compensation claims, resulting in medical payments of \$1.9 million and indemnity payments of \$8.8 million.

The city's defense of workers compensation claims was often found to be inadequate. City attorneys often neglected to cite a claimant's failure to notify the city within the required 30-day period as a defense in these cases.

In addition, claims were accepted for payment without independent confirmation of medical information. Employer's injury reports were occasionally filed by personnel office employees based on "unsupported statements made by the injured employee."

Employees were also being paid benefits after returning to work, the audit said. One claimant received an extra \$4,315 even though a notice of his return to work was filed with the workers compensation section and a section physician was also notified.

Other overpayments resulted from the section's failure to comply with state workers compensation board decisions to stop payments or deduct attorneys fees from benefits.

Where the section had identified some \$88,000 in overpayments, it only recouped \$12,800 of this sum, the report said. Letters requesting repayment were sent in only two-thirds of the cases an average 3½ months after discovery. Only one in seven of the letters was followed up on even though some claimants were back on the city's payroll.

The section also did not monitor the status of cases that were deemed by the compensation board to be "closed" as a result of permanent partial or permanent total disability. A change in the claimant's status could lead to an end to his collecting benefits.

Of the \$8.8 million in indemnity payments made during 1976-77, \$3 million were for claimants in closed cases.

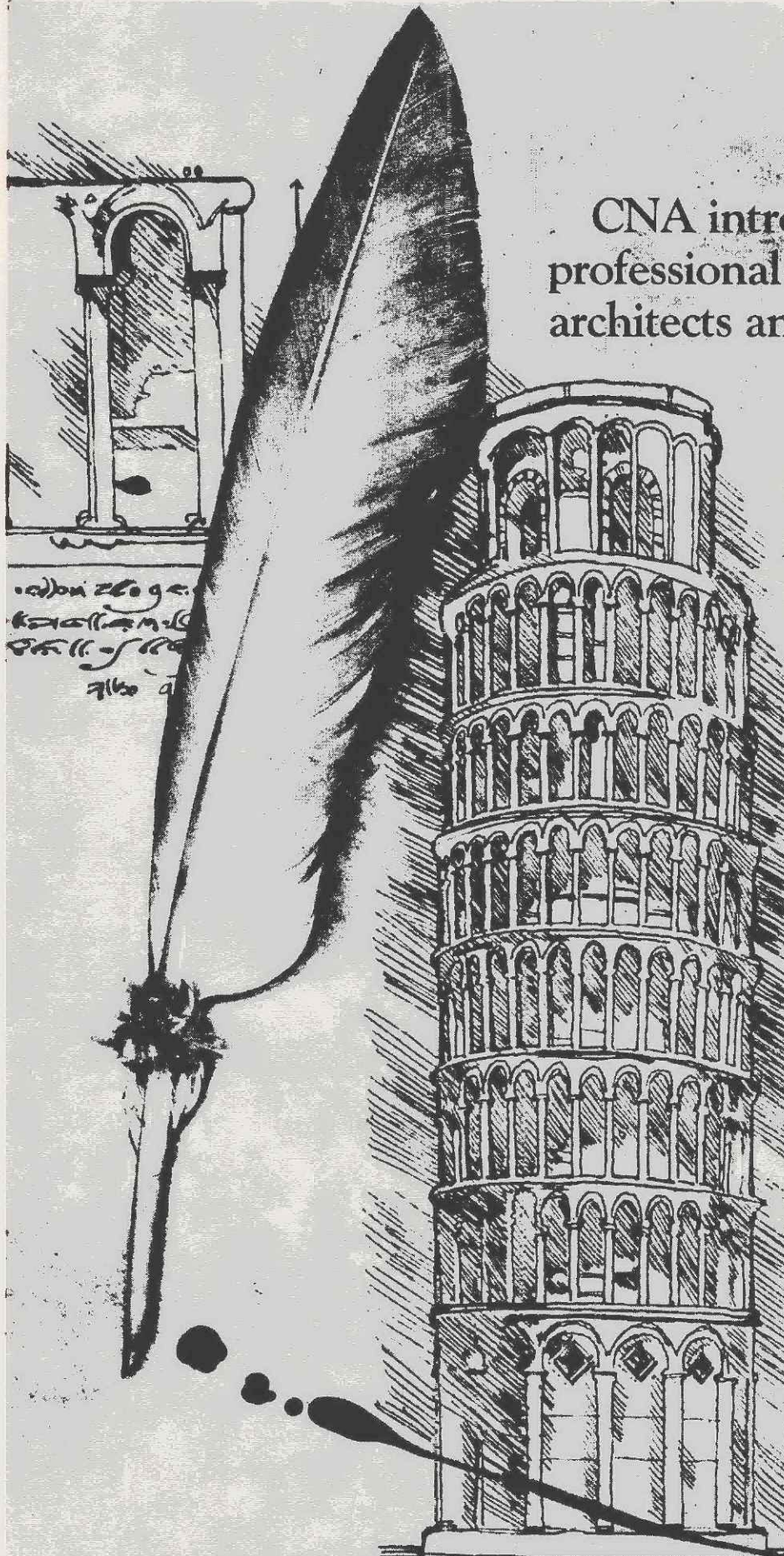
In addition, the state audit learned through the use of Social Security administration data that in 27% of the 190 cases checked, claimants were wage earners. Half of these had earnings in excess of \$5,000 per year.

Under New York law, claimants are entitled to a benefit equal to two-thirds the difference between the pay in their old job and new job, provided they do not return to work in their original field. As a result, benefits to those claimants found to be working could have been reduced or eliminated.

The audit also found the city failed to fully utilize the state's Special Disability Fund, which reimburses insurers and self-insurers for workers compensation payments to claimants whose on-the-job injuries were related to prior handicaps.

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## Against lab, doctor

# Paralysis victim wins \$1 million in settlement

By MARY ELLEN McKEE

WAYNE, N.J.—After a nine-day trial, Lederle Laboratories and the family of a late pediatrician have agreed to share payment of a \$1 million personal injury settlement to a woman paralyzed since 1968.

Lori Waegerle of Amityville, N.Y., charged she was indirectly crippled by a polio vaccine manufactured by Lederle Laboratories, a subsidiary of American Cyanamid. She will receive \$975,000 from Lederle and \$25,000 from the estate of her daughter's pediatrician, the late Dr. Milton Schneider of Queens, N.Y.

Lederle had argued during the trial that it couldn't be proven who had manufactured the vaccine.

"The levels of awards and the nature of suits being slapped on companies producing immunization vaccines is appalling," an American Cyanamid spokesman said. "The Waegerle case is just another in a long line of cases where a vaccine company has to pay a very generous award when they were not at fault."

In the \$3.25 million lawsuit filed by Mrs. Waegerle and her husband in December 1970, it was charged that Mrs. Waegerle's legs had been paralyzed ever since Dr. Schneider administered a Lederle sabine vaccine to her daughter. Mrs. Waegerle charged she had contracted polio after touching a live polio vaccine virus in fecal matter on a diaper.

Mrs. Waegerle fell ill shortly afterward, her attorney said, and lost all feeling in her legs. That year, Mrs. Waegerle was the only polio victim reported in the state of New York.

Vaccine with live viruses can only be prescribed for people 18 years and under, while people over 18 years can only be given vaccine with dead viruses, explained one of American Cyanamid's staff physicians.

The suit also charged that Lederle should have had warning labels on the packaging of the vaccine and the pediatrician should have warned Mrs. Waegerle about the dangers to adults exposed to live vaccine.

Lederle, however, argued that the court had not positively found the vaccine was manufactured by Lederle. "The Waegerle incident was a rare and isolated occurrence and the risks so minimal that the company had seen no real need to put warning labels on the packaging of the vaccine. Physicians are well aware of the risks," noted a spokesman for American Cyanamid.

The settlement has greased the way a little more for a string of suits against companies that are not negligent, are in complete compliance with the Food and Drug Administration and are not at fault for paralysis, argued the spokesman.

"Immunization vaccine companies have just been made even fairer game."

American Cyanamid refused to reveal the liability insurance program for Lederle Laboratories. ■

## NIOSH reveals mask defects

WASHINGTON—The National Institute of Occupational Safety and Health has disclosed serious malfunctions of Survivair Mark I pressure demand breathing apparatus.

Users of this model are urged to remove the units from service immediately and return them to the manufacturer for inspection and repairs. The masks are manufactured by U.S. Divers in Santa Ana, Calif.

Although the warning applies to only the Survivair Mark I masks, all users of breathing apparatuses are urged to have them inspected according to the manufacturer's recommended procedures.

All problems with the units or requests for information on any NIOSH-approved breathing apparatus should be directed to NIOSH, Division of Safety Research, 944 Chestnut Rd., Morgantown, W. Va. 26505; phone 304-599-7595. ■



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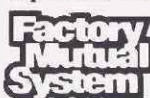
hundreds of other applications.

*The Eyes of Awareness* aren't only meant for desk flags, you'll find them applied to stickers, posters, badges, employee handouts and more. This comprehensive effort is designed to touch all levels of business.

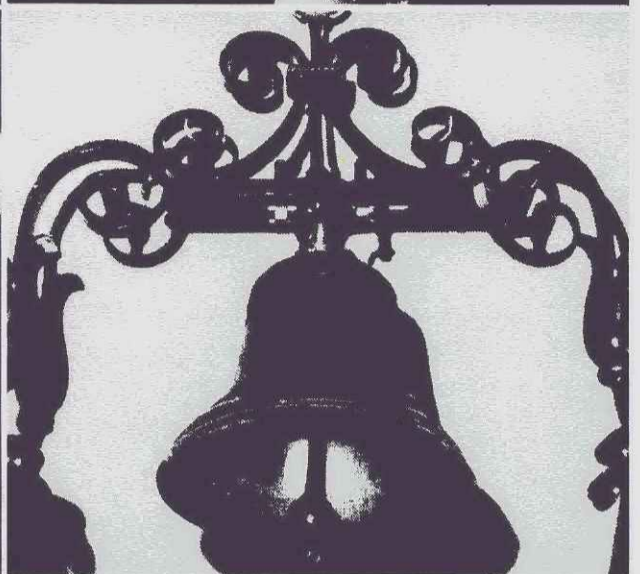
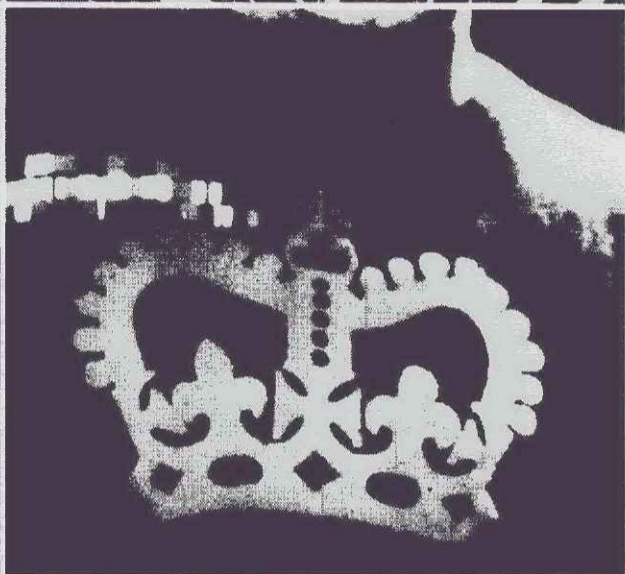
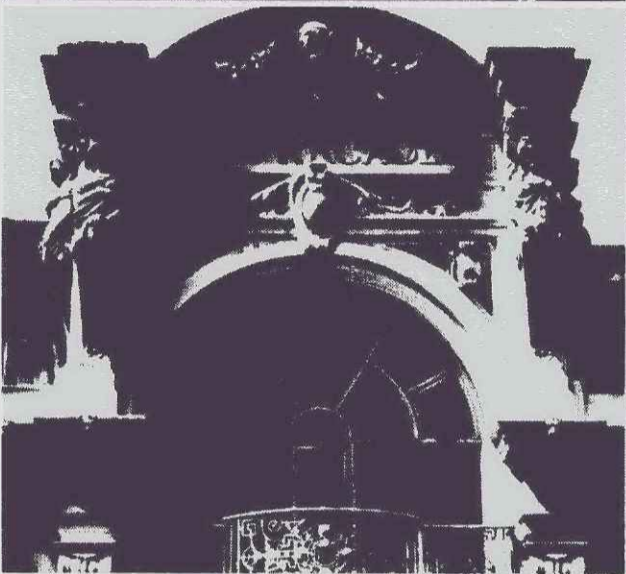
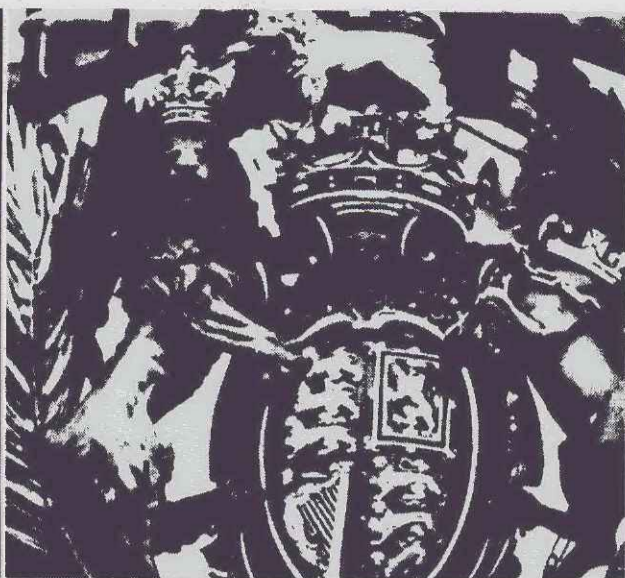
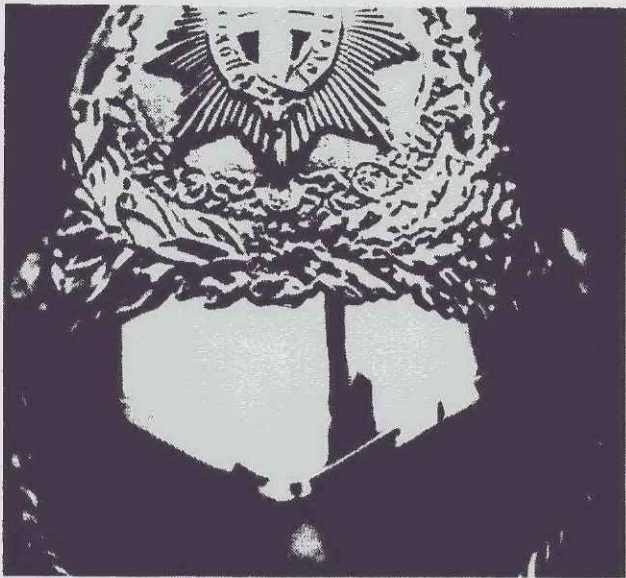
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The determination of a property insurance company to adapt its skills to changing conditions could, likewise, lead it down a path where few dare to tread. To walk such a line would take a great deal of flexibility. It would take the ability to provide coverage in situations that don't lend themselves to rule-book solutions. It would take the ability to be consistent whether the market was hard or soft. It would take, no less than it would to adapt to a career at 1000 feet above the street level, a specialist.

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# Nassau county nets 30.6% cost savings through trade zone

By ELLIS SIMON

MINEOLA, N.Y.—Nassau County slashed 30.6% off its bills for property and boiler and machinery insurance by remarketing the coverages.

The property program, effective Aug. 1 and covering insured values totaling \$712 million, is the first municipal coverage written in New York's Free Trade Zone, said Douglas MacLeod, assistant director of the county's real estate and insurance bureau.

The Free Trade Zone is a provision in state insurance law permitting specially licensed companies to write high premium and exotic risks without prior regulatory approval on rate and form.

Nassau's new property program qualified for the Free Trade Zone because it is written on a broad all-risk form, Mr. MacLeod noted. The program includes a substantially increased amount of highly protected risk engineering services, in recognition of the "risk getting more lopsided to the highly protected risk area," he said.

Nassau, which borders on New York City, is the area's largest bedroom community, with a population of more than 1.4 million. County-owned properties include a medical center valued at more than \$100 million, a 16,000-seat coliseum, a community college, two sewage treatment plants, each valued at more than \$30 million, and a \$20 million-plus county courthouse.

Coverage is layered, with American Home Assurance Co., a member of the American International Group, writing the first \$3 million and American Protection Insurance Co., a Kemper company, writing the \$97 million excess layer. Kemper's policy also includes business interruption coverage for limits of over \$33 million and \$500,000 extra expense coverage for each facility on the medical center and coliseum.

The combined premium is approximately \$488,000, versus \$690,000 for the previous program had it been retained. Nassau is also raising its deductible to \$100,000 per occurrence from \$25,000. Over a five-year period, gross savings would be about \$1 million, but increased self-assumption of losses would reduce this to about \$720,000, Mr. MacLeod said.

The county's loss experience has been good. Over the past 10 years, its largest property loss was a \$400,000 explosion at one of its sewage treatment facilities.

United States Fidelity & Guaranty Co. had written Nassau's property coverages, with the exception of the coliseum and medical center. These have been written by Kemper since February and were previously insured with the Factory Mutual System.

U.S. F&G's quote was "very competitive," Mr. MacLeod said, noting the remarketing program had been explored over the course of a year with several insurers.

Effective Oct. 1, Kemper is writing all of Nassau County's boiler and machinery exposures. It had previously provided boiler and machinery coverage on the coliseum and medical center as part of the property coverage.

The Travelers Insurance Cos. had written the balance of the county's boiler and machinery exposure, but Kemper came in with a quote of \$7,486 on this risk versus Travelers' \$22,738, Mr. MacLeod said.

Richard A. Williams & Son of Hicksville, N.Y., brokered both programs. ■

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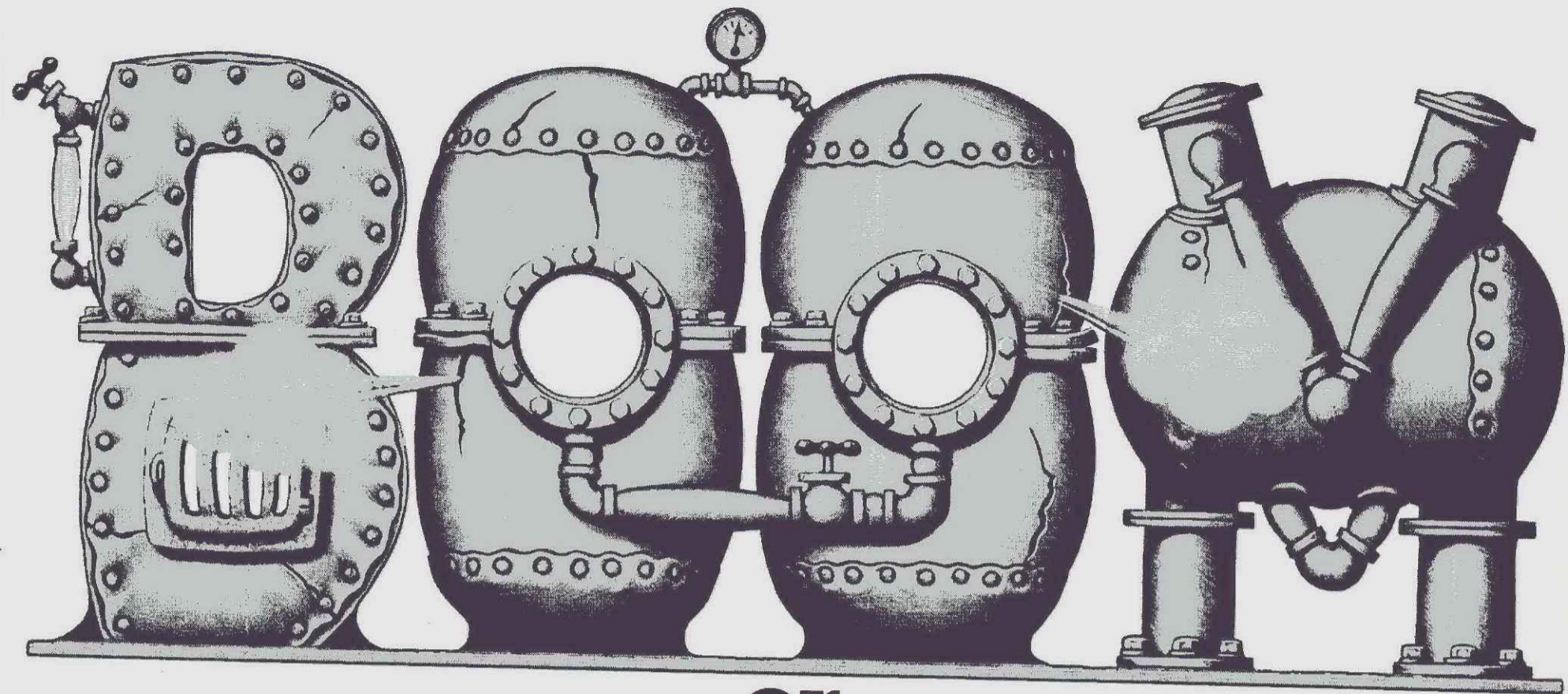
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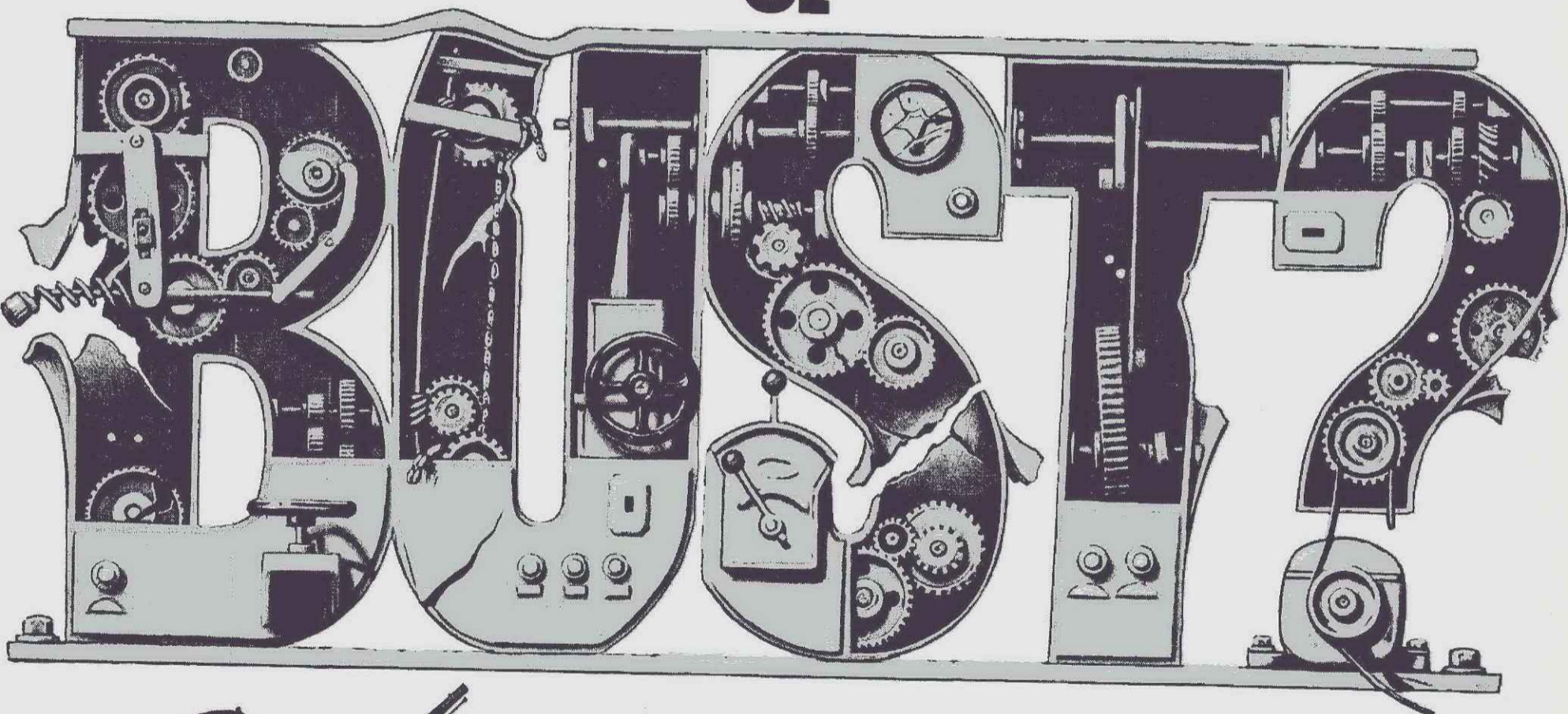
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# around the states

## N.Y. makes six-month report on product liability optional

NEW YORK—The New York state insurance department has made insurance company reporting of product liability claims, policy cancellations and nonrenewals optional for the first six months of this year.

On Aug. 2, the department sent a letter to insurers requesting the data, but company objections that gathering such information retroactive to Jan. 1 "would be an extreme hardship and involve tremendous cost" prompted the de-

partment to revise the reporting requirement.

The voluntary reports were due to be submitted to the insurance department by Oct. 15. Reports are mandatory for future six-month periods, beginning with the period

ending Dec. 31, and must be submitted 60 days after the end of the period.

### Rate increase

TOPEKA—The National Council on Compensation Insurance has filed for a 3.2% workers compensation insurance rate increase in Kansas on behalf of its 260 member and subscriber companies. If approved, the increase would apply to new and renewal policies effective Nov. 1 and would increase the annual cost to Kansas employers by \$3.5 million.

Manufacturers would receive an average rate decrease of 2.5%, contractors an average 7% increase

and other industry classifications would receive a 5% increase, insurance commissioner Fletcher Bell said.

If approved, this would be the second workers compensation rate increase this year. Rates were raised 5.5% in July.

### Benefits payable

HARRISBURG—Commonwealth Court has ruled that workers compensation benefits are payable to the widow of an employee who committed suicide.

The 2-1 decision handed down by a three-member court panel held that the deceased's job led to a depressed mental state, which led to the suicide.

Previously, the court had held that if an employee killed himself while in an uncontrollable state, such as the result of an accident, benefits could be awarded. However, since the law now compensates for a work-related injury, the court panel held that the work-related mental illness can be a compensable injury.

### Accidental death

AUSTIN—Insurers may not deny accidental death benefits to survivors of persons killed in accidents while driving under the influence of alcohol, the Texas supreme court has ruled.

Crown Life Insurance Co. had paid \$15,000 in basic benefits to the family of Jackie W. Freeman, but refused to pay \$15,000 in accidental death benefits. Mr. Freeman's blood alcohol content showed he was intoxicated.

A Dallas district court ruled that the death could not be deemed accidental under the terms of Mr. Freeman's group policy, but the appeals court disagreed and the high court upheld that court's ruling.

### Refund to doctors

RUTLAND—More than 600 Vermont physicians will have their malpractice premiums reduced next year by about 4.2%.

The reductions in premiums paid to Aetna Life & Casualty will range from 4% to 4.3% depending on the medical specialty and are effective Nov. 1.

Aetna also said that \$308,751 will be returned to Vermont State Medical Society members because of favorable claims experience over the past four years.

### Malpractice panel

BISMARCK—The North Dakota supreme court has been asked to determine the constitutionality of a state law creating a panel to review medical malpractice claims.

The high court set a hearing Nov. 6 to decide if it should assume jurisdiction in the case, which has not been appealed from a lower court.

### Wage-loss benefits

LANSING—Wage-loss benefits paid to accident victims under Michigan's no-fault automobile insurance law will rise to a maximum of \$1,636 per month from the old standard of \$1,475, effective Oct. 1. The 10.9% increase reflects changes in the cost of living as calculated under the U.S. Department of Labor's consumer price index, said state Insurance Commissioner Richard A. Hemmings.

Total maximum benefits have also been increased to \$58,896, a jump of 61% since 1973. Wage-loss payments are limited to a maximum duration of three years and are a combination of benefits payable through no-fault insurance for wages lost because of injuries from an auto accident and any other income earned by the injured person during a 30-day period.

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# Ontario RIMS members show faith, loyalty to their brokers

TORONTO—In a wide-ranging study of its members' experiences and attitudes toward brokers, the Ontario Risk & Insurance Management Society found that the overwhelming majority of insurance managers:

- Are loyal, sticking with a broker for the last three years or more.
- Enjoy being wined and dined by their brokers.
- Wouldn't hesitate to insist on

speaking directly with an insurer to better explain a risk.

- Believe their brokers are very honest and believe they are similarly honest in their dealings with brokers.

- Consider their relationships with their account representatives to be close.

The survey questionnaire sent to about 120 corporate members of ORIMS elicited 47 responses, pro-

viding insights into experiences and attitudes covered by an exhaustive 57 questions.

Two-thirds of the insurance managers said they use two or more brokers for their corporate insurance needs. All but one of the participants have dealt with the current (main) broker for three years or more.

Three-quarters of the group said they have a close relationship with

the account representative of their main broker.

Members of ORIMS by and large haven't experienced many situations where they are told by their bosses which brokers they must work with. Only eight out of 46 respondents said they'd ever encountered this politically sensitive problem, though a few more divulged they had at some time been "advised" by a boss about the broker to be used.

There was a surprisingly even split (24 to 21) on the question of whether they'd resent any intrusion by a superior into this broker selection, with only a slight majority indicating they would be un-

happy with such a suggestion.

In 23 cases, risk managers said their brokerage account representatives at one time or another had a senior person from the brokerage firm contact their bosses. But 22 said this never happened. In about two-thirds of the companies whose risk managers responded, the accounts rep has dealt with the risk manager's boss.

Five insurance managers said they are wined and dined about 12 times a year by their principal brokers, while another 16 commented they are entertained about six times a year by their brokers. Two out of five participants said they play golf or socialize with brokers.

Only seven risk managers said they had ever visited Lloyd's of London with their broker, although nearly half said they go out of town to inspect risks with their brokers. In all but one case, risk managers who'd been to Lloyd's concluded the trip was necessary.

Insurance managers overwhelmingly indicated they enjoy being entertained by their brokers, although only about 40% admitted they consider this opportunity to be wined and dined a "perk" of the insurance buyer's job.

Most participants in the survey ask their brokers for competitive bids, with a majority preferring to ask for conceptual proposals to be able to assess an existing program.

With few exceptions, insurance managers answering the ORIMS queries said they'd find it easy to tell a broker of plans to have others assess an insurance program. They'd also find it comparatively easy, they said, to tell the principal broker of dissatisfaction with the service being provided.

Only a few participants don't think their brokers' services are keeping pace with the client company's expansion, and only a couple complained their brokers weren't "on the ball."

But more than a third of the insurance managers say their brokers take them for granted, which may tie in with the response of about 15% of the group that the brokerage account rep gives priority to larger or other clients.

Ten survey participants said they've fired a broker in the past, usually because services weren't good enough.

One manager commented generally that his company is dead set against brokers sending presents for the holidays and he thinks "that should be strongly enforced."

Several managers commented that they sometimes insist on picking up the check at lunches, so the broker isn't always expected to be doing the entertaining. One said he makes a practice of wining and dining his broker six times a year.

Without exception, insurance managers said they are scrupulously honest with their brokers and all but one said they believe brokers are very honest with them. Two out of three managers said they implicitly trust their account representatives at the brokerage firms, but six managers commented that an accounts rep has "played dirty pool" when a major coverage was switched to another broker.

One-third of the insurance buyers pay fees to brokers for services, with a majority noting they've at least discussed payment of fees for services. But fully one out of every three insurance managers participating in the ORIMS survey admitted he didn't know what percentage of commission brokers were paid.

## Insurer moves

The Union Indemnity Insurance Co. of New York, a wholly owned subsidiary of brokers Frank B. Hall & Co. Inc., has moved its administrative and executive offices to Greenwich, Conn.

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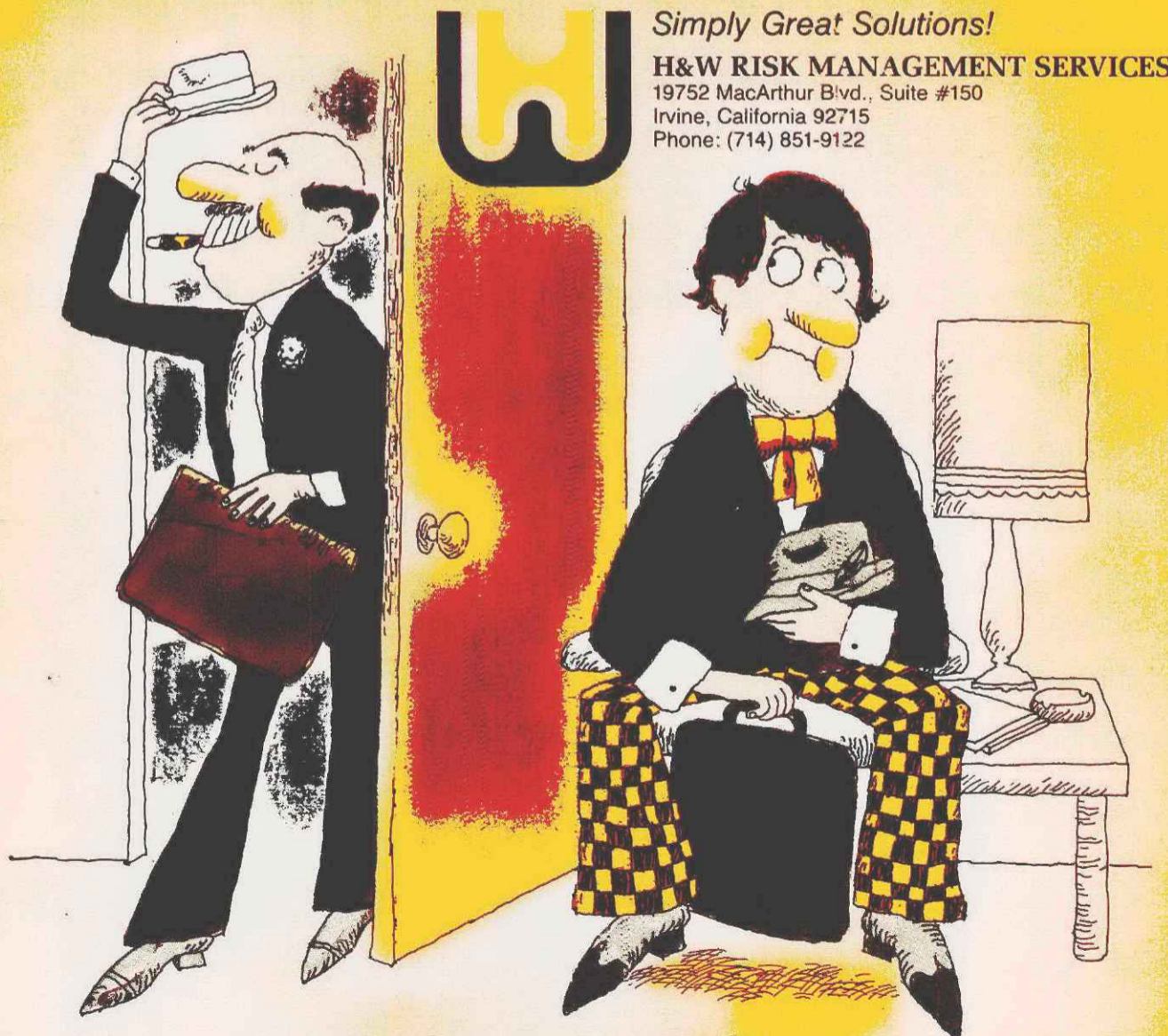
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# EEC product liability proposal faces business opposition

By JERRY GEISEL

BRUSSELS—Europe's drive for a uniform product liability law still faces many obstacles despite last month's advisory panel approval of the European Economic Community's proposed product liability directive.

The directive, which was cleared by the EEC Commission, an advisory group, now goes to the Council of Ministers, whose nine members represent the governments of each EEC country. The Council of Ministers is where the real power lies.

When the council begins considering the directive, a process that is not expected to begin until next year, it will be subjected to intense pressures from business groups which are very concerned about certain directive provisions.

"Now that the directive is back in the governments' laps, industry can now lobby their own governments on the issue," says European observer Frank A. Orban III, international counsel at Armstrong Cork Co. in Lancaster, Pa. "This lobbying will go on in a very intense way."

Manufacturers are especially worried about a section of the directive that would make them responsible for "developmental risks," even if they could prove in the light of scientific developments that the defect was unforeseeable and unavoidable.

Making manufacturers liable for unforeseeable developmental risks "is a bit too radical for governments" to accept and the council probably will make some changes in that area, Mr. Orban says.

On the other hand, the directive's statute of repose, which would bar product liability suits 10 years after a product was first sold, is under attack by consumers as being too short and it too may be revised.

Consumers argue that a time limitation on filing suit should not apply in cases involving toxic substances, where injuries may not turn up for 10, 20 or 30 years after

## British physicians join protest against the law

LONDON—U.K. doctors are protesting that proposed product liability rules in the European Common Market area will make it hard for them to treat their patients.

The Brussels-based European Economic Commission proposes manufacturers will be liable for their products up to 10 years after they go on sale. Consumers will be able to file suits whether or not they used the product negligently and the manufacturer must prove the product itself was not defective.

"It seems highly likely that pharmaceutical companies will insist on doctors warning their patients of all possible hazards of each drug they prescribe," said Alan B. Shrank, deputy president of the



Lobbying against the product liability proposal will be intense, says Frank A. Orban III, international counsel of Armstrong Cork Co.

initial exposure.

The council's consideration of the directive is expected to be slow and careful and it may ask the EEC Commission to revise the directive.

Technically speaking, the directive needs only the support of a majority of the council members to be approved. But in reality, the council does not approve directives unless all members are united in favor of it.

The need to line up unanimous support could present problems for the EEC product liability directive since the British are concerned that the directive will preempt its Parliament from acting independently to refine its product liability law.

If the council approves it—and a vote is not expected for at least two years—EEC countries will have up to 18 months to pass legislation closely corresponding to the directive's principles.

The EEC directive, unveiled in 1976, is an attempt to end the jumble of varying product liability laws in the EEC that distorts competition by placing a greater burden of liability on manufacturers in some countries than in others.

The EEC directive as written is a lot tougher in some instances than liability theory guiding U.S. courts. In the U.S., it is up to the plaintiff to prove a product was defective at the time it left the manufacturer's control. But under the EEC directive, the manufacturer will have to prove the product was not defective when it left his hands, a tre-

U.K. Hospital Consultants Assn.

"This will lead to an intolerable burden on the relationship between doctor and patient. The outcome will very likely mean that doctors will decide to reduce the number of patients they see in this event."

Food and drink manufacturers, he points out, might find it fairly easy to comply with the rules. But pharmaceutical manufacturers will find it difficult to list all the possible risks of their products on the label.

He is urging all members of medical associations in western Europe to try to get the proposed rules changed before they are put before the European parliaments for ratification.

## USFA to launch attack on arson

WASHINGTON—The U.S. Fire Administration has received \$500,000 from the Law Enforcement Assistance Administration to expand and develop a national attack on arson.

The program will be coordinated by USFA's office of planning and education and marks the first time USFA has received this type of

monetary assistance.

The USFA will conduct arson detection and investigation courses for firefighters, investigators and fire and police officials; present a course for prosecutors; design an arson program for volunteer firefighters, and develop arson task seminars for agencies and municipal officials.

mendous shift in the burden of proof, Mr. Orban observed.

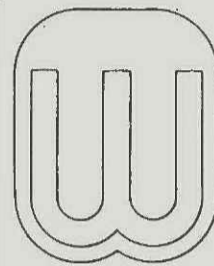
The directive limits to \$27 million the amount of damages that can be awarded against one company for personal injuries caused by one product defect. Liability for property damage is limited to \$18,000 for each claimant and the liability limit on movable property is \$60,000 on an individual claim rather than on a cumulative basis.

Damages for pain and suffering are prohibited, a provision to which consumer groups object. Wholesalers and retailers would be excluded from liability for damages caused by products they handled unless the manufacturer could not be identified.

Although approval of the directive still may be a long way off, eventual enactment is likely, say informed observers. "The directive will be passed in one form or another. But not in this one," Mr. Orban says.

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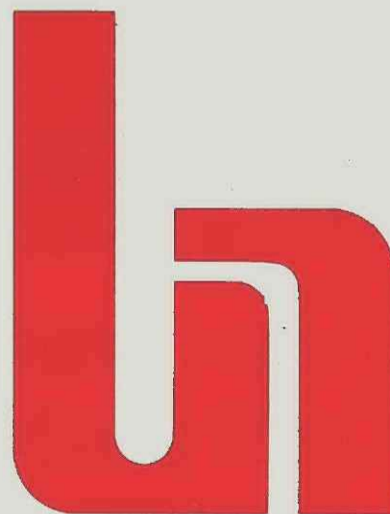
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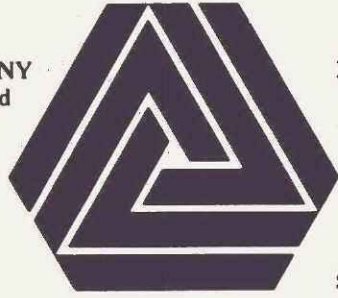


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# Mex. drill company will pay liability suits in oil spill: U.S. firm

By ELLIS SIMON

DALLAS—SEDCO (Southeast Drilling Co.) says any liability awards against it stemming from the Campeche oil spill will be indemnified by Permargo, the Mexican drilling company that had leased the ill-fated SEDCO Rig 135. Commercial fishermen, shrimp, crab and oyster operators in South Texas have filed a \$155 million class action suit against SEDCO, Permargo and PEMEX, the Mexican state-owned petroleum company that hired Permargo to drill

off the Mexican coast.

The suit, filed in federal court in Houston, contends that oil from the still-uncapped leak "substantially and irreparably damaged" marine life along the South Texas coast.

SEDCO leased the rig to Permargo on a bareboat (no crew) charter basis. Under a separate contract, it provided the Mexican firm with laborers and technical advice, said Irving Davis, SEDCO's vp-taxation.

The Dallas-based firm has denied any liability in the case and has been granted an Oct. 23 deadline for filing of suits against it. In addition, SEDCO has asked a federal judge to exonerate the U.S. company from any claims or to limit its liability to \$300,000.

"We're protected (against liability) in our contract with Permargo," Mr. Davis said. "We also understand Permargo is protected in its contract with Pemex."

It is common practice for owners of drilling rigs to be indemnified against pollution liability by the organizations chartering their rig. Pemex, which would be ultimately responsible for hiring the rig, is believed to have been uninsured for pollution liability at the time of the blowout.

On June 2, Permargo removed the drilling equipment from the well and failed to fill the well with sea water after the rig lost circulation of drilling mud, a mixture of chemicals and water used to lubricate the well and keep pressure down, Mr. Davis said.

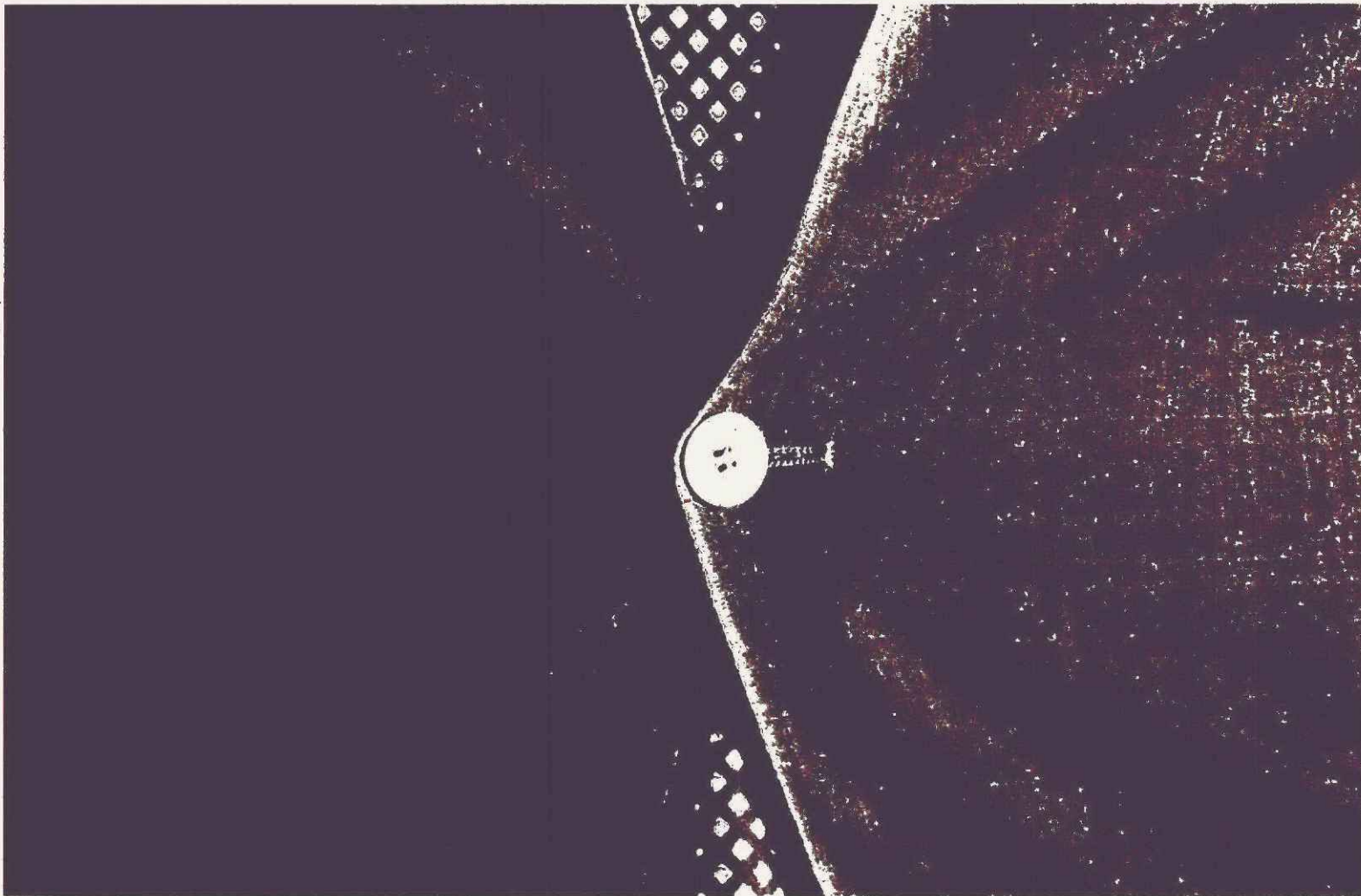
SEDCO personnel had advised Permargo not to remove the drilling equipment from the well unless drilling mud circulation was reestablished or the hole was filled with sea water, he said. The following day the drilling pack was removed and the well blew, capsizing the rig, which was later scuttled.

Although Permargo is a privately held Mexican corporation which can be sued in the United States, questions had been raised as to whether government-owned PEMEX could be taken to court. Plaintiffs' attorney Joseph Jamail, who represents the South Texas commercial fishermen, says it can, citing the U.S. Foreign Immunity Statute passed in the early 1970s allowing U.S. citizens to bring action in federal court against countries involved in commercial enterprise.

"It is immaterial whether Mexico recognizes this provision since they have assets here that I can levy against," he added.

Mr. Jamail said he is "convinced we'll be able to defeat SEDCO's claim" of no liability since he intends to introduce evidence to show that SEDCO had supervisory control of the drilling rig.

Some legal experts believe that in order to prevail against SEDCO, Mr. Jamail would have to prove the rig was defective at the time of the blowout and that SEDCO knew or should have known this. However, a good deal of his evidence lies under 8,000 feet of water off the Mexican coast.



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### New RBH company

Rollins Burdick Hunter Co. has acquired Sturm-Roseberry & Associates, an insurance brokerage in Billings, Mont. The acquisition will become the Billings office of Rollins Burdick Hunter of Montana.

# Personal injury awards drop in Illinois

CHICAGO—The average personal injury verdict in the 1978-79 Illinois court term dropped to \$54,643 from \$59,319 the previous year, the Illinois Insurance Information Service said in its Illinois Jury Verdict Reports.

The decrease resulted from a lack of "blockbuster" awards in Downstate counties, the report indicated. In Downstate counties, the defense won 52% of the verdicts, the highest figure in 17 years. The average verdict in the 209 cases tried was \$37,028, down from \$42,970 in 1977-78, resulting in an all-time low gross award of \$1,917,413.

But in Cook County, juries awarded in favor of 51.5% of the plaintiffs in 757 cases. Although the number of cases was down from last year's 829, gross awards remained high at \$24,029,186, only slightly less than last year's \$26,046,090. The average verdict was \$64,423, the highest since the record \$66,243 in 1974-75.

The Illinois Insurance Information Service, an association of leading property/casualty insurers in the state, compiles jury verdicts periodically for its members based on information provided by insurers and attorneys in Downstate Illinois and from statistics compiled for Cook County by the Cook County Jury Verdict Reporter.

The average Downstate award in wrongful death verdicts, \$51,817, dropped from \$73,750 last year. Plaintiffs won 55% of the court cases. Most of these cases—23%—were filed for the deceased guest passenger against his or her own driver and 62% of these were won by the plaintiffs. Only 19% of the cases were filed for pedestrians and the plaintiffs won 17% of these. And suits for the driver killed in a head-on collision comprised 12% of the cases; awards were made in 50% of these.

In 25% of all Downstate cases this court term, the plaintiffs claimed a whiplash ailment. The juries awarded an average \$21,759 verdict in 58% of these whiplash cases, or \$652,778 in gross awards. Four counties had the majority of these cases: DuPage ruled in favor of 55% of the plaintiffs, Kane in favor of all defendants, Lake split 50/50 while Winnebago was in favor of 57% of the plaintiffs.

Most of the medical, financial or legal malpractice or product liability trials were in the counties surrounding Cook. Plaintiffs won more than half of the malpractice suits and one-third of the product

liability suits.

Filings in medical and financial malpractice suits are spiraling in Cook County, with 671 filings for medical in the first eight months of this year compared with 485 in the same period last year. Financial malpractice filings totaled 234 cases this year compared with 205

last year.

The trend in malpractice suits is toward fewer trials but more settlements—and in Cook County, where settlements are at an all-time high, they appear to be much greater than the awards for cases brought to trial.

Medical malpractice awards in

Cook County totaled \$1,878,000 this past court term, with an average verdict of \$313,000 in the six guilty verdicts. Last year seven awards totaled \$972,900, with an average verdict of \$138,985. The total amount of settlements was \$27,552,440, for an average settlement of \$82,989.

Two-thirds of the product liability suits filed in Illinois were found to be without merit, the publication says, and only 14 in Cook County were decided in favor of the defendant this past court term. The 14 resulted in a total award of \$3,601,348 and an average verdict of \$257,238.

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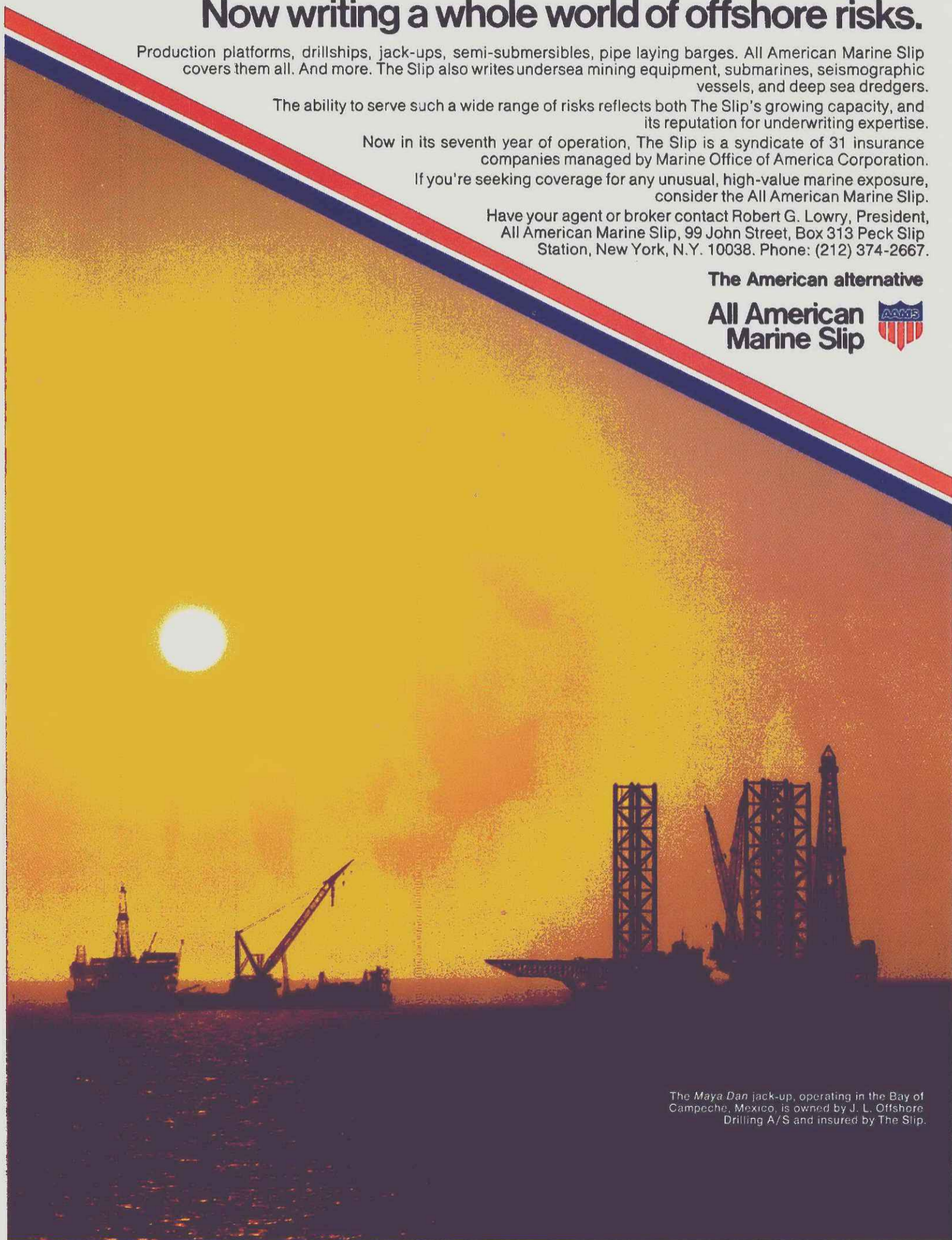
## James division, branch merge

CHICAGO—Fred S. James & Co. Inc. has merged its mass-marketing subsidiary, James Group Services Inc., with its local corporation, Fred S. James & Co. of Illinois, to eliminate disputes over which division handles trade association accounts, said executive vp Douglas Pallay.

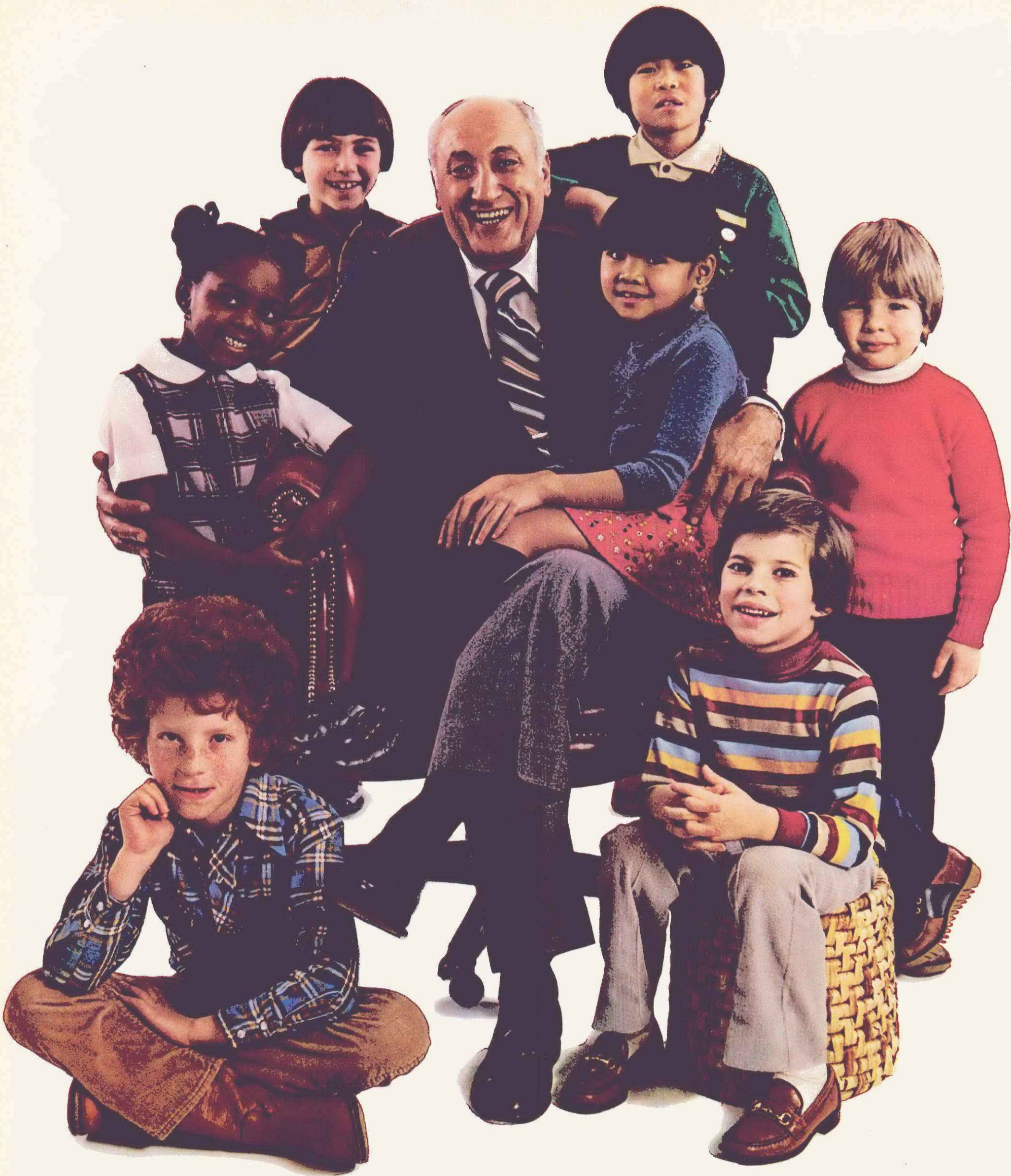
"We've had several trade associations who wanted us to handle business for their members and it's been debatable whether the accounts should have been handled through the mass-marketing division or the James of Illinois employe benefits staff," he said.

The combination concentrates the broker's total life, disability, special risks and employe benefits under one management headed by Mr. Pallay, former president of James Group Services Inc.

"We also expect to be more effective with our markets because of the attention our combined volume will demand," Mr. Pallay noted.



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# Pierre, Mohammed, Chueng, Hans, Maria, Sean, Tess and A.J. discuss growth strategy.

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## New policy guarantees 1st Amendment defense

NEW YORK—Newspapers will soon be able to buy insurance policies guaranteeing up to \$1 million in defense funds for court cases challenging the First Amendment rights of the press.

The first-time-ever policy, underwritten by the Mutual Insurance Co. of Bermuda, the group captive of the American Newspaper Publishers Assn., will be offered to the 1,300 ANPA members as a way to stem what some publishers see as an alarming rise in court restrictions on the press.

"We are trying to make it possible, particularly for the smaller papers, to be able to finally go up to bat instead of having to run because of the huge legal costs involved," explained Arthur Hanson,

general counsel to the ANPA.

Other supporters of the program have argued that many small papers have been unable to defend themselves against legal challenges because they don't have the money to invest in lengthy court battles. Those few papers that do press First Amendment defenses in the courts usually have relied on donations from newspaper association groups or other press beneficiaries.

**The First Amendment** insurance policy is still being hammered out by Mr. Hanson and others but it is expected to cover such things as gag orders, restrictions on press access to government information and other issues touching on "freedom of the press" rights. Mr. Hanson said he has sent out questionnaires to more than 100 lawyers asking for their suggestions about what to either include in or restrict from the policy.

Premium rates have not been determined for the policy, Mr. Hanson said, but would probably be based on individual papers' circulations. He said deductibles for the \$1 million per occurrence policies would probably range between \$2,500 and \$25,000.

Mutual Insurance Co. also provides libel insurance and strike insurance for newspapers.

The First Amendment policy is expected to be available by the beginning of 1980. It was recently endorsed by both the ANPA and the Reporters Committee for Freedom of the Press.

## 8 brokers hold 15%: M&M

BOSTON—The group of eight leading national insurance brokers, consisting of the seven largest publicly held firms plus Johnson & Higgins, control an estimated 15%-plus share of the total commercial property/casualty market, with direct writers close behind holding 14%, said Harold H. Hines Jr., president of Marsh & McLennan, speaking at the annual conference of the Society of Chartered Property & Casualty Underwriters here.

These brokers, he said, have now advanced beyond the stage of the "cottage industry" that the brokerage business has heretofore been. Their share of market, he estimated, will grow by 1.5% per year. He subsequently told *Business Insurance* the figure is probably closer to 1% cash each year in market share growth.

**Mr. Hines's** comments were in response to a question from a risk manager, a member of CPCU, who asked about the issues surrounding increased concentration and control of the commercial insurance business in the hands of the so-called alphabet houses of the brokerage business. Mr. Hines doesn't believe there is enough concentration of the business in the hands of a few firms to worry about.

This estimate of the eight firms holding 15% of the commercial property/casualty market differs from the estimates *Business Insurance* has published (Aug. 6) indicating the 10 largest insurance brokers control 30% of the total commercial insurance business, including group lines.

Subsequent conversations with Mr. Hines and several other individuals close to the brokerage industry indicate that the true figure is probably about midway between the 15% and the 30% figures.

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# Product liability complaints surge: Report

WASHINGTON—Product liability complaints filed in U.S. district courts increased sharply in the last year, the administrative office of the U.S. Courts reports.

According to the courts' preliminary annual report, 6,132 product liability cases were filed in U.S. courts in fiscal 1979, 40.3% more than fiscal 1978 when 4,372 cases were filed. Fiscal years end every June 30.

Although most federal courts experienced increases in the number of product liability cases filed, one of the biggest percentage increases occurred in the District of Columbia. The number of cases filed surged 407.7% in one year, increasing to 462 in fiscal 1979 from 91 in fiscal 1978.

This huge increase was the direct result of more than 400 suits filed against the federal government in connection with the 1976 swine flu program, the administrative office explained.

**West Coast** litigation also jumped significantly because of the large number of airline personal injury suits, filed in connection with the crashes of a Pacific Southwest Airlines jet in September 1978 in San Diego and an American Airlines DC-10 in May at Chicago's O'Hare Airport. In both disasters, most of the victims came from the West Coast.

In California, the number of cases filed shot up to 510, from 162 cases filed in fiscal 1978, a 214.8% increase. In Washington, a 464.9%

## Brown vetoes liability bill

SACRAMENTO—In a move that surprised business groups, California Gov. Jerry Brown vetoed a product liability bill (AB 18) that would have given manufacturers a defense if their products were altered or modified without their consent.

In his veto message, Gov. Brown said he opposed the legislation, which previously passed the House assembly by a more than 2-1 margin, because ambiguities in the measure could actually increase the amount of litigation.

Gov. Brown also contended that recent court decisions already protect manufacturers if an unauthorized alteration resulted in an injury. He questioned if there would be any premium savings for businesses if the legislation passed.

**A spokesman** for the California Manufacturers Assn. said the tort reform measure was needed to restore balance to the legal system. He said it is unclear if the legislature will attempt to override the veto when it returns next January.

Meanwhile, in Ohio, the state Senate last month on a 22-10 vote approved a comprehensive product liability bill (SB 67) that bars suits based on strict liability 10 years after the time a product was put into use. This time limitation, however, would not apply to cases involving toxic substances.

The Ohio measure also would give manufacturers a defense if the product were altered or modified. Products would be presumed non-defective if they complied with the state of art prevailing at the time of manufacture or if they conformed to state or federal safety standards.

"Considering that we had the combined powerful opposition of trial lawyers and organized lawyers against us, we're delighted that the Senate approved the bill," said Bob Day of the Ohio Manufacturers Assn. in Columbus.

The bill now goes to the House. Hearings have not been set yet. ■

increase was recorded, with the number of product liability cases rising to 209 in fiscal 1979 from 39 cases filed in fiscal 1978.

Seven states saw decreases in cases filed: Massachusetts; Vermont; Virginia; Alabama; Tennessee; Iowa; and Hawaii. Of these seven states, Tennessee showed the biggest decrease, with cases declining in one year to 111 in fiscal 1979 from 178 in fiscal 1978, a 37.6% decrease.

As in past years, the U.S. Court report revealed that the number of

product liability cases filed in a state is not directly linked to a state's population.

**For example**, Louisiana, the 20th most populous state, had 340 product liability cases filed in U.S. courts in fiscal 1979, making the state fourth in the number of cases filed.

California's 510 product liability cases gave it the dubious distinction of having the most product liability cases filed in federal court.

Second in the U.S. district court

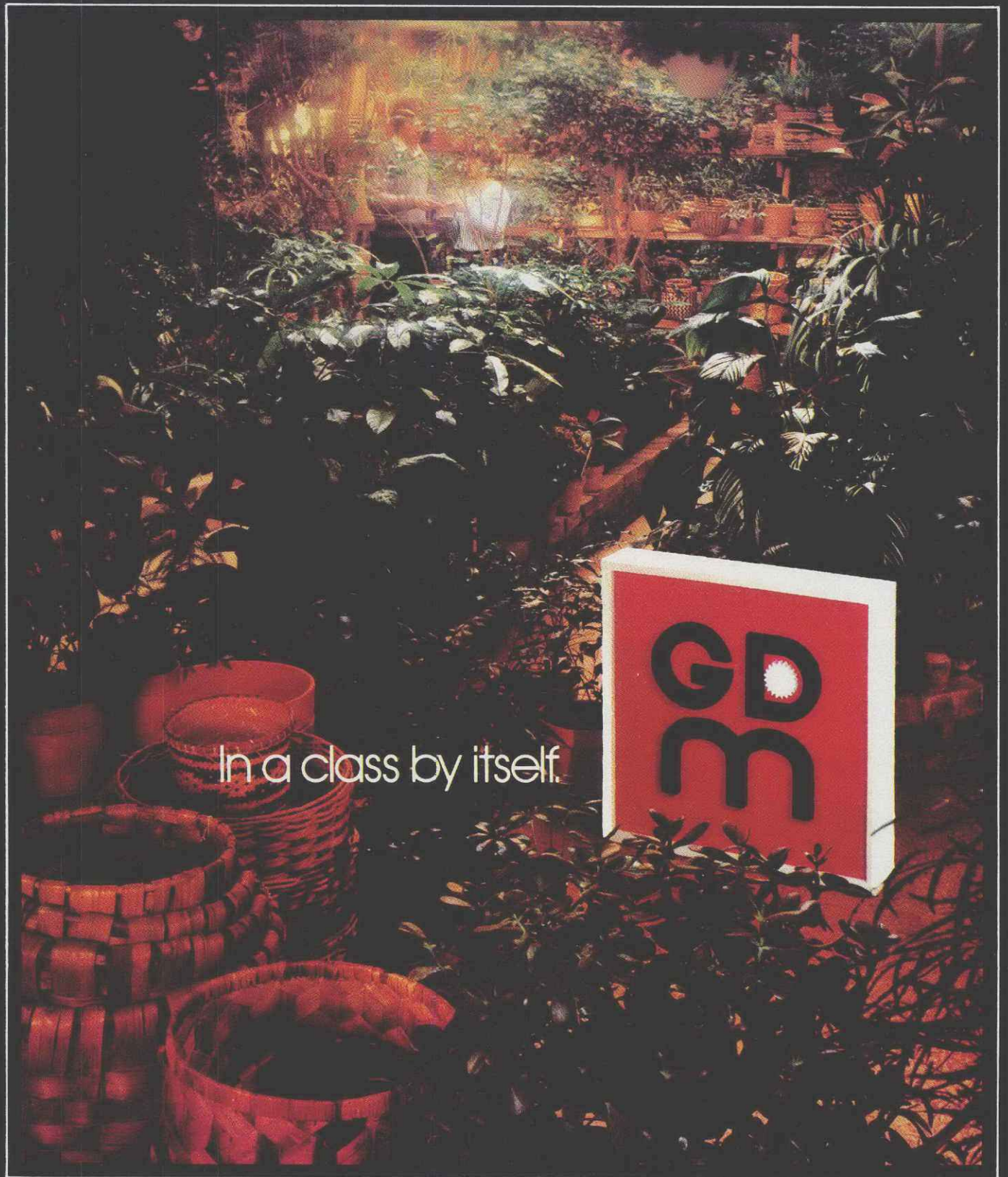
product liability standings was Texas with 475 cases, followed by the District of Columbia with 462 cases and Pennsylvania with 444 cases.

Of the 50 states and the District of Columbia, Wyoming won honors, from business and insurers' viewpoint, by having the fewest number of product liability cases filed in U.S. district courts in fiscal 1979—nine.

In North Dakota, meanwhile, which had tied Wyoming last year in having the fewest number of

product liability cases, the number of cases filed rose a whopping 212.5%. In fiscal 1978, eight product liability cases were filed, compared with the 25 cases filed during the latest fiscal year.

Ironically, North Dakota was the first state this year to pass a product liability bill placing new restrictions on injured consumers who file suit to recover damages. That new law, it seems, so far has not held down the number of suits filed in federal court in that state. ■

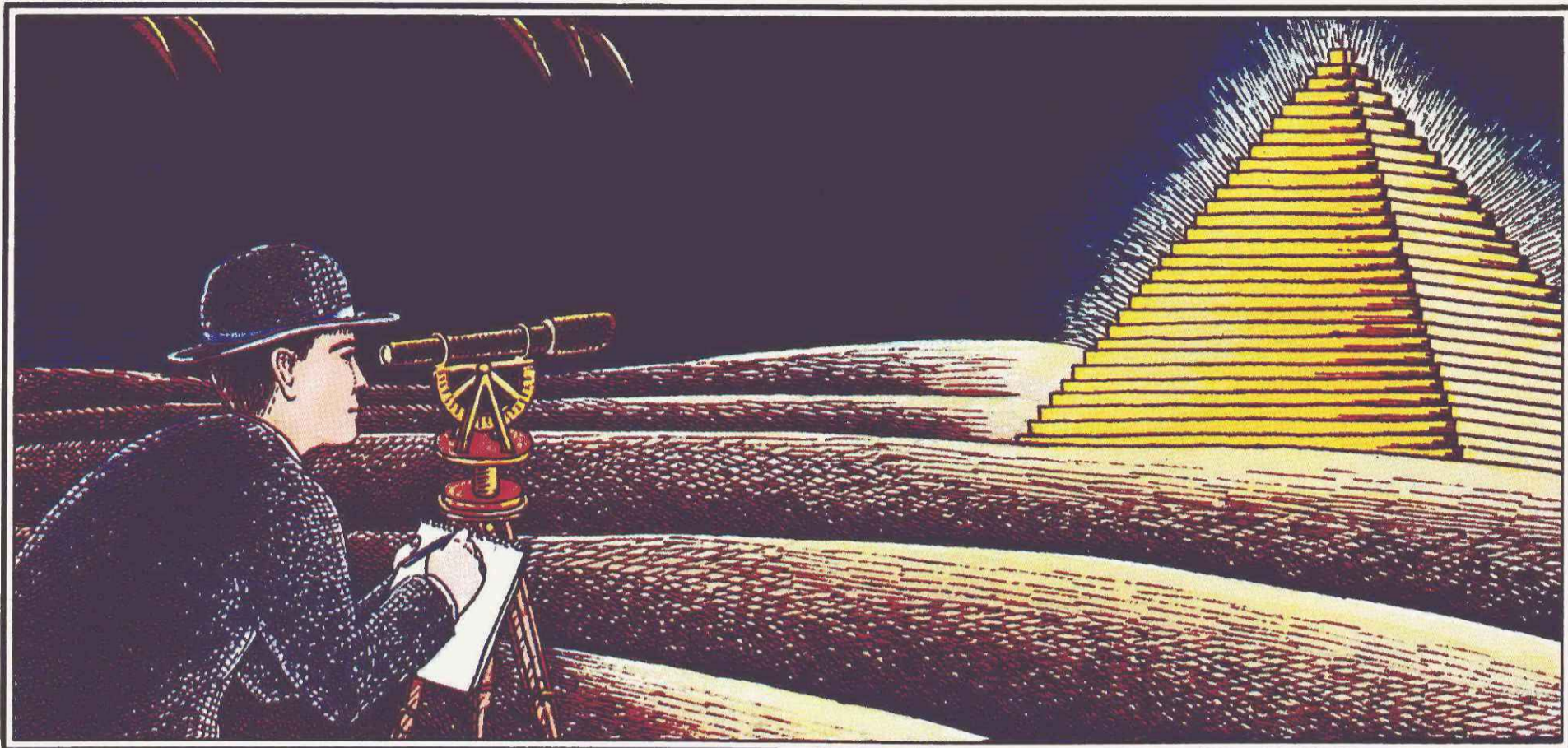


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# Determining Risk



With the magnitude of business risks expanding, sophisticated techniques are being developed to determine more precisely the optimum degrees of risk retention for a company's exposures.

A brief review by INA of an insurance topic of interest to business executives.

In an increasingly demanding economic environment, corporate financial executives are re-examining the capital and cash flow needs of their businesses. Part of this analysis focuses on the cost of business insurance, which in the typical corporation has risen in direct proportion to expanded exposures. In this environment, corporate risk managers are attempting to structure their insurance programs to help enhance cash flow without jeopardizing financial results through inadequate protection against losses.

Specifically, they are looking

for ways that will help determine the most productive retention levels for their companies' growing exposures to risk and financial loss, recognizing that the ability and willingness to bear risks can vary sharply from one company to another.

For example, it might be advantageous to retain, either partially or completely, such exposures as automobile fleet physical damage and workers' compensation, where losses tend to have a high degree of predictability. Dollars that would otherwise be committed to insurance premiums would then be

available for corporate use. Before setting specific retention levels, however, a determination is needed of the maximum amount of loss, in dollars, a company would be willing to bear.

Based on trend analysis, the availability of coverages and, most important, personal knowledge and judgment, there are several approaches to establishing this amount.

## Maximum retention limits

Perhaps the most common, particularly for publicly held companies, is an earnings-per-share determination, in which uninsured losses are retained up to the limit where they will adversely impact the company's financial results. This figure is sometimes set at five percent of the company's operating earnings for its most recent year. Thus, a company reporting pre-tax earnings of \$60 million would not retain risks with a maximum possible loss in excess of \$3 million.

# Retention Levels

A second method is to use a percentage of net working capital, generally between one percent and five percent. This method is frequently employed because it is based on corporate liquidity.

And a third method is based on an earnings-and-surplus yardstick. Here the limit of retained losses is set at a given percentage of current retained earnings, plus an equal percentage of average pretax earnings over the preceding several years.

In each case the figure represents an aggregate maximum retention for all lines. It is usually fixed at the beginning of each fiscal year to reflect an up-to-date picture of the company's financial position.

## Arriving at specific retention levels

Having ascertained a maximum retention amount, the next step is to determine the optimum choice among a number of possible specific retention levels.

This is done by a fairly complicated procedure. Essentially, it consists of taking two varia-

bles – the maximum retention figure expressed as a company risk tolerance level, and another factor called the “risk-adjusted cost” – and using them as the two axes of a graph. Various retention options (such as complete self-insurance, \$10,000 deductible, \$50,000 deductible) are then plotted on the graph as curves. The best decision at a given risk tolerance level is that option having the lowest risk-adjusted cost.

An example is a large integrated oil company with an experience of 720 property damage claims, both open and closed, over a recent three-year period. The average severity was \$11,214, with a maximum possible loss per occurrence of \$2.5 million. The expected frequency was 240 occurrences a year and the expected aggregate loss was \$2,691,464.

After taking into account both the expense of self-insurance and the premiums for commercial insurance with various deductibles, risk curves were computed and plotted for a number of options. They in-

cluded full retention of the risks by the company; partial retention, with a large deductible; and full coverage by commercial insurance. The results indicated that at the company's risk tolerance level, the preferable option would be an insurance policy with a deductible of \$1 million.

Even with the assistance of techniques such as these, setting risk retention levels remains a subtle and sometimes demanding process. Risk managers have found that consultation with insurance agents, brokers, and companies providing insurance products as well as self-insurance services is often invaluable in arriving at viable solutions.

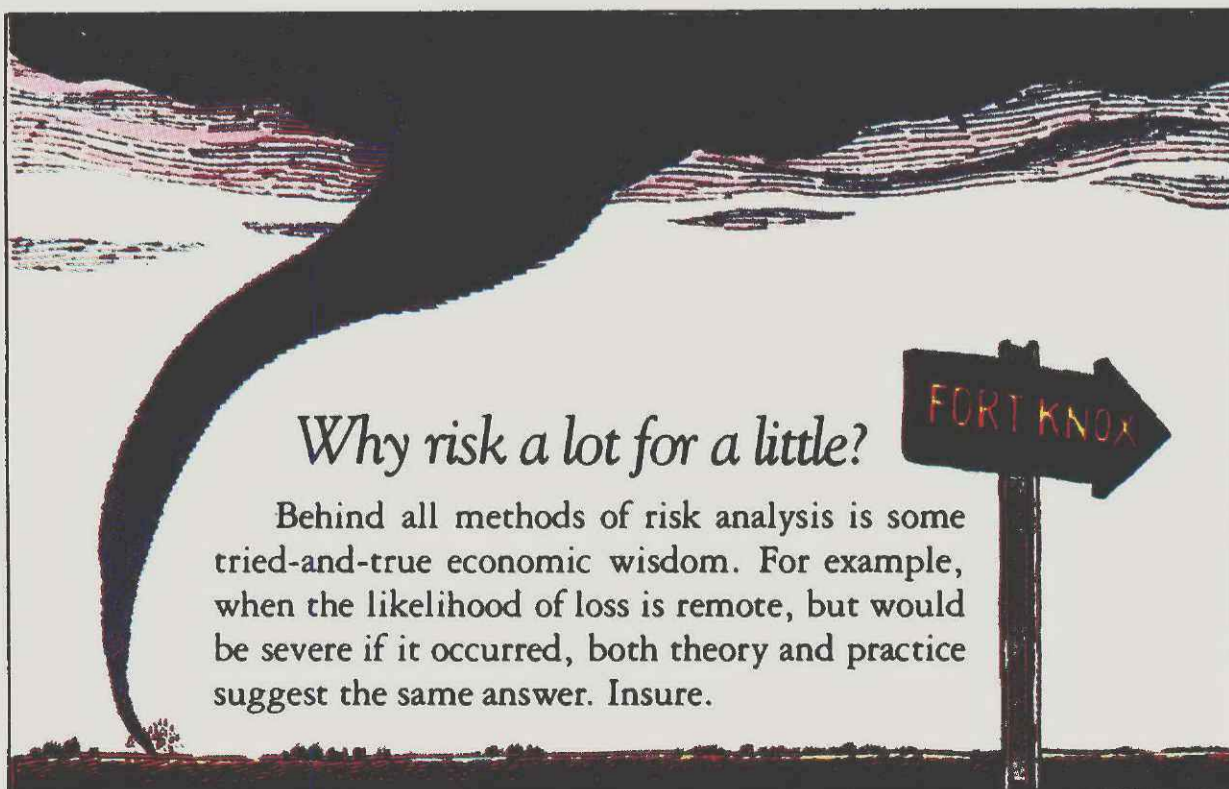
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## PERSPECTIVE

# Employers suffer sickly effects from government's HMO treatment

By Kenneth K. Keene

WASHINGTON, D.C., loves health maintenance organizations and it dearly wants everyone else to feel the same.

But when everyone else didn't rush out to embrace the idea, it gave these prepaid health care programs a shot in the arm with the enactment of the 1973 HMO Act. This law allocated \$325 million for the development of HMOs, \$50 million to monitor their results and five years for them to gain momentum. Further, the 1973 Act provided that employers meeting certain standards must, when properly approached by an HMO, offer that HMO as an alternative, or dual choice, to employees residing in the service area of the HMO.

When this attempt at winning friends turned out to be as successful as the Administration's anti-inflation campaign, the Act was amended in 1976 and 1978 to provide additional funding over a longer period of time.

The attitude of Washington has been like that of a parent or an Uncle Sam, trying to get his child to eat something he doesn't like or want. Washington prefers the forced-feeding technique.

Its heavy hand emerges, once again, in the form of recently proposed regulations that would make it mandatory, under ERISA reporting and disclosure provisions, for a plan administrator of an employer-provided health benefit plan to take part in the distribution of material required from an HMO under the proposed disclosure rules issued by the Department of Health, Education and Welfare.

## Plan or benefit?

The purpose of this article is not to attack the concept of HMOs—we believe they are a valid and viable health care alternative—but to point out the problems created by trying to force an HMO on an employer as part of its own employee health plan.

It all started in March 1978 when the Department of Labor, in a news release and not through proposed regulations, announced that a federally qualified HMO was not a plan under ERISA, but a benefit under an

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ERISA plan. The DOL assumes this is supportable under ERISA and the HMO Act of 1978. We have our doubts. If an HMO became a plan benefit, wouldn't it follow that reporting and disclosure could be foisted on the employer?

The answer, at least from the DOL's point of view, appears to be yes. The proposed regulations would require that the summary plan description, distributed by plan admin-

istrators to participants and beneficiaries, contain a notice stating:

- "The availability of membership in one or more federally qualified HMO as a benefit under the plan." Note that this forces the employer to concede that the DOL position is correct and that the availability of the HMO is indeed a benefit provided under the employer's plan.

- Whether HMO membership is the sole

benefit under the plan or in addition or as an alternative to one or more other benefits.

- That each HMO in which membership is available will supply to the participant or beneficiary, upon request, written information on services provided, conditions for eligibility and circumstances under which services may be denied and procedures for obtaining services and claims procedures.

- That requests for the above information be addressed to the plan administrator, to be forwarded to the HMO.

## Duplicative reporting

Although the identity of the HMO does not have to appear in the summary plan description, the plan administration must furnish this information separately to every person receiving an SPD and who is eligible for HMO membership as a benefit under the plan, either at the time the SPD is distributed or within 30 days after the HMO makes such information available to the plan administrator.

However, the HMO Act requires that an employer, upon being approached by an HMO, offer the HMO to its employees on either a date negotiated by the employer and the HMO, or a date tied to the anniversary date of the employer's health benefit contract or as provided under any collective bargaining agreement. Unless these dates miraculously coincide with the SPD distribution date, the employer will be burdened with more duplicative reporting efforts—and material modification disclosures.

If nothing else, the phrase which continually pops up in the proposed regulations, "benefit under the plan," pretty well concludes that at this point in the proposed regulations: the HMO is part of the employer plan for reporting purposes.

When an employer approaches an HMO, the argument for employer-as-plan administrator and/or fiduciary of the HMO plan is at least somewhat viable. However, when the situation is reversed and an employer is required by law to offer an HMO to its employees, who is the plan administrator then? Would the HMO arrangement in this case be considered a benefit under the employer plan for disclosure and reporting purposes?

Regulations issued by HEW on the same day as those from the DOL would answer this last question affirmatively. Among other things, the HEW proposed regulations would require an HMO to provide upon re-

*Continued on page 43*

# Captive brokers turn costs into profits

By Jim Bannister

"CAPTIVE" BROKERS are relatively rare in the U.S. Most states have legislation limiting the proportion of insurance business a broker can accept from a parent.

But in Britain and many other countries, the captive broker is seen both as an important working facility and source of career advancement for the insurance manager. In Brazil, limitations on commission rebating have led many major companies to acquire a captive broker to secure part of the commission.

Commission rates vary dramatically between countries. In the Far East, several countries have commission terms of up to 50%, although the big buyer will usually secure the majority of the commission on the major account. In the U.K., major industrial accounts will usually feature commission rebating.

As most British insurers have readily established a new insurance agency for any producer whether technically qualified or

not, it has been natural for the enthusiastic insurance manager to take advantage by establishing an insurance broker. The insurance department cost center thus became the broking subsidiary profit center.

There are some dangers, of course. The broking subsidiary may be tempted to maintain uncompetitive rates (particularly if it has a monopoly of insurance buying in the group) at the expense of subsidiaries. If the inexperienced captive broker replaces the services of a professional insurance broker with long service and good market knowledge, there may be a reduction in standards. However, many captive brokers are technically highly skilled and very able insurance buyers.

## Long history

In Britain, captive brokers have existed for more than a century. A number of today's well-known names started life as the in-house subsidiaries of merchant groups. It was natural for a trading company to provide insurance as one of a number of services for importers, exporters or residents.

In many ways this interchange of know-how was a benefit to both insurer and buyer. The insurer was able to provide local service

and receive local underwriting information without the expense of a local branch office. The buyer often secured the advantages of a skilled buyer with substantial market leverage.

It is difficult to illustrate a typical captive broker, because there are many varieties and unique features. As a first example, we can consider Cayzer Steel Bowater—one of several captive brokers that represent alliances between a substantial insurance buyer and a Lloyd's broker. The captive broker thus gains access to the full range of skills of a substantial market broker; the Lloyd's broker gains the continuity and economy of a virtually "captive" account.

Cayzer Steel Bowater had its origins in Bowater Hammond about 16 years ago. The insurance department of Bowater, a major U.K. paper group, was taken over and operated within L. Hammond, a Lloyd's broker since merged into another—Lowndes Lambert. The move helped reduce the expensive head office staff of Bowater.

With active support from Hammond, the worldwide insurance of the Bowater Group was pulled into the new broking company. Where Hammond was not directly represented, commission was shared with the local holding broker.

Bowater's staff insurance was drawn into the new brokerage operation and some Bowater suppliers were persuaded to place part of their business with the new broker. An example was the Swedish Gorthon fleet, heavily involved in chartering to Bowater. The company was jointly owned and substantial profits were shared between the two partners.

## Costs saved

Acquisition costs and much of the entertaining cost associated with retention of a valuable industrial account were saved—for joint benefit. Policies were amalgamated and streamlined, doubtless saving work throughout the group as well as producing economies in the captive broker.

Following the demise of L. Hammond, the captive broker was reformed with Cayzer Steel, itself the product of two in-house insurance operators—Cayzer Irvine (a shipping group) and Steel Brothers (a major trader). It continues to benefit both partners. Although there are other captive broker joint ventures between Lloyd's brokers and major industrial groups, the more normal pattern is for the broker to be indepen-

*Continued on next page*

*Jim Bannister is chairman of Risk Research Group (London) Ltd. and a frequent organizer of Bermuda and U.K. seminars on the use of captive insurance companies.*

## PERSPECTIVE

# Risk management lessons remain in the wake of Three Mile Island

By Belden Menkus

THERE ARE STILL some risk management and security lessons to be learned from the March 28 malfunction of the nuclear generator at Three Mile Island, despite the near ad nauseam discussion of the incident already.

And the value of these lessons is not limited to those with protection responsibilities in the nuclear power community.

A U.S. General Accounting Office study (Report EMD 78-110, released coincidentally two days after the Three Mile Island incident) examined preparations for handling radiological emergencies at 11 selected continental U.S. nuclear facilities. The report concluded that the staffs at these sites were reasonably capable of handling the on-site aspects of such incidents. However, in an April 22 interview, the president of Metropolitan Edison, the firm that operates the Three Mile Island facility, admitted that he and his staff had been unprepared to deal with the March 28 incident.

The GAO report indicated, however, that planning for protecting the public from the off-site effects of a nuclear accident was less than adequate; in some instances it was nonexistent. Apparently, the U.S. Nuclear Regulatory Commission and its predecessor, the Atomic Energy Commission, had failed to analyze and coordinate risk management at its regulated nuclear reactor facilities.

The report also found that operators of some of these facilities assumed there was no serious risk to the general public from radiological emergencies. Management of these facilities apparently had resisted efforts by local government agencies and the public to identify the risks associated with the facilities' operations and how to prepare to react to them.

A few exposed communities, such as Waterford, Conn., had conducted limited disas-

*Belden Menkus, of Middleville, N.J., serves as a consultant in the fields of data processing, personnel, records and microfilm.*

ter response exercises in June 1978. Waterford apparently is in the primary nuclear accident exposure area of two nuclear power plants, a nuclear submarine base and a plant at which nuclear reactors are built. Yet it does not appear that any of these facilities had cooperated with Waterford local government officials in this test.

## Hidden consequence

Lessons: Hiding or ignoring the existence of a risk exposure does not make it disappear. Nothing of long-range value results when you try to hide the possible consequences of a risk exposure from the public.

Two months before the Three Mile Island incident, another GAO report (EMD 79-16, issued Jan. 26) had faulted the NRC's handling of reports of unscheduled events (the NRC's term, not mine) at licensed nuclear facilities. The private commercial firm operating the facility apparently often was the judge of what was to be reported.

But in fairness to the NRC and the license-holding firms, Congress did not allocate the money to place full-time resident inspectors at all of the nuclear power sites until June 19 of this year. Coincidentally, two weeks earlier a privately conducted survey of NRC field inspector attitudes made well before the Three Mile Island incident indicated there was widespread dissatisfaction among these people. Among other things, they were reported to question the adequacy of the NRC decision-making process.

Incidentally, at the time Congress acted on the inspector funds, there were resident NRC inspectors at less than one-third of the nuclear power sites.

Quite apart from the possibilities for licensee bias in the incident reporting process, GAO Report EMD 79-16 found the NRC staff apparently lacked a reliable and consistent way to evaluate what was reported or to develop a means for resolving whatever problems were disclosed. In essence, there did not appear to be an absolute assurance that a risk discovered at a nuclear

site would be disclosed, or that its significance could be assessed reliably, or that a means for reducing or eliminating the risk would be formulated and put into effect in anything resembling a prompt fashion. Direct telephone hotline connections between the nuclear-power generation facilities and NRC headquarters were not installed until just a few weeks ago.

As an illustration of this delay in responding to risk reports, the NRC staff had acknowledged more than 14 months before the Three Mile Island incident that there were important engineering flaws in the type of Babcock & Wilcox reactors then still to be installed at that site, and that there had already been a serious problem with at least one of the already installed Babcock & Wilcox reactors.

This operational failure was reported to be similar to that occurring later at Three Mile Island; means for remedying it was still being discussed by the NRC staff on March 28 of this year—14 months later. According to testimony on May 30 and July 20 before the presidential commission investigating the Three Mile Island incident, comparable problems had occurred during the 14 months before the reactors went on line at the Pennsylvania site.

## Reports inadequate

A thorough review of a large sample of NRC regulations leaves one with a strong feeling that the agency's central staff may be more concerned with the niceties of the rule-making process than with the practical results of someone following its instructions.

In fairness to those involved, this condition tends to exist in any organization—in or out of government—where the central staff is located a significant distance from the people within the organization with whom they must communicate. This becomes especially acute when the people involved must deal with a heavy flow of paperwork.

Lessons: Risk identification and management efforts based on site-initiated problem

reporting processes tend to perform less than satisfactorily. They are more effective when they are supported by on-the-spot visits. For instance, too few risk managers in all organizations are using their internal auditors as their on-site eyes and ears.

When incident/problem reports are required from field sites, they should be handled by the risk manager, decisively, consistently and, most of all, promptly. Nothing will destroy the credibility of the reporting requirement faster than regular delays in responding to or acting upon the matters covered in the report.

## Deactivation problem

Even earlier than the two GAO reports already mentioned, GAO had recommended (Report B164052, Jan. 17) to the Federal Energy Department that it defer plans to deactivate one of the reactors at its Hanford, Wash., facility. The project was expected to cost \$1.5 million and take at least six years to try to dismantle the facility, decontaminate the site and release it for non-government commercial, residential or recreational use. Yet, as the report indicated, there did not appear to be any safe way known to dismantle and decontaminate a nuclear reactor site.

Both Battle Pacific Northwest, a private research firm about 150 miles from the Hanford site, and the Atomic Energy Forum have recommended that dismantling and decontamination of close/deactivated nuclear reactor sites be postponed into the middle of the next century, or even later—well beyond the lifespan of most of those currently active in the nuclear field. The trouble is that several other reactors in the continental U.S. already are scheduled for deactivation by 1984; at least 75 to 100 sites would be ready for deactivation by 2050.

Lessons: Failure to plan early to deal with a probable risk doesn't make it possible to avoid dealing with it at all.

Delay in facing up to a risk possibility only makes the situation more expensive, time-consuming and dangerous.

# Britain's captive brokers turn costs to profits

*Continued from previous page*  
dependent of outside interests.

One "independent" captive broker with a good market reputation in Britain is Marbach Insurance Brokers, the captive of Associated Communication Corp. Currently headed by risk manager Hugh Loader, it handles the group's insurance needs in both the U.K. and abroad, and has particular expertise in insurance of the entertainment world. Marbach uses Lloyd's brokers when circumstances make it desirable, sharing commission with them.

## Low-key brokers

Many British-owned captives, both in the U.K. and offshore in Bermuda and Guernsey, also have a broking role. Many are reinsurance captives accepting the parent's business from a U.K. fronting insurer, limiting the role of a broker who might otherwise handle the direct planning and the reinsurance to and from the captive. (But no broker would expect three lots of commission!)

The typical British captive broker is low-key, seeking little publicity, operating closely with a chosen insurer and limiting the use of brokers to part of the account. Many handle a large part of the parent's claims-recovery work, although others prefer to pass the more complex and specialist technical work to broker or insurer.

There are many variations on the captive broker theme. One of the more interesting is Glaxo Risk Management Ltd., carrying out a variety of roles with a strong orientation toward in-house risk management. Formed by Bill Sennett, who is now general manager of European Risk Management, the U.K.-based arm of the Reiss organization, it is now headed by his colleague Tony Benson,

a recognized authority on in-house insurance and risk management as well as captives and captive brokers.

In Britain a captive broker is, of course, not strictly necessary—any company with a worthwhile account can persuade one or more insurers to grant an "own case" agency giving commission without the necessity of a new company. However, a separate broking company can help the insurance department in its work, improve its position and motivate insurance management.

Currently, insurance brokers in Britain are being registered by an industry-controlled body, the Insurance Brokers Registration Council. Captive broking executives with broking qualification or recognition, such as the members of the now defunct Corp. of Insurance Brokers, normally receive automatic recognition. In at least one case, the council has queried the registration of a captive broker executive, but it is not believed it will uphold this stance.

## Useful operation

Many of the captive brokers are well run with competent, knowledgeable, skilled management and adequate staffing. They are an important part of the British insurance market. For companies with substantial insurance expenditures—more than one million pounds sterling per annum—they can be a useful administration, buying and risk management head.

Professional management is essential whether operated in partnership with a regular insurance broker or independently. The professional indemnity (malpractice) risk must not be forgotten.

If care is taken to keep net premiums to other subsidiaries competitive, a captive



Photo: Kathryn J. McIntyre

**A captive broker helps management assess its insurance department by stating its income and cost in profit and loss terms, says Jim Bannister.**

broker helps senior management to assess the worth of its insurance department by stating income and cost as profit and loss.

The odd captive broker has to compete with the regular market in winning the group business. It may work, but it really is an unrealistic approach—the social skills and entertainment softeners of a tough regular broker can eliminate all but the toughest captive broker. This is perhaps the most difficult aspect of captive broking—giving the in-house broker competition while preventing it from becoming "fat and lazy."

What do the regular insurance brokers think? Most are reluctant to comment, wishing neither to condemn nor commend. Peter Moorman, partner of a medium sized inde-

pendent broker with an international account, welcomes them. They can save on broking costs, while still providing the efficient broker with a reasonably profitable account. He favors joint ventures with regular brokers. But he adds that captive brokers are not for everyone; they may not suit a group's style or be worthwhile where an account is well handled.

Most European countries have one or more captive brokers, too. Outside Europe, they are found in virtually all the countries where legislation does not bar their use.

For U.S. insurance managers all is not lost—at least two states do not have legislation barring the practical use of captive brokers: Kentucky and New Jersey.

# Employers suffer ill HMO effects

*Continued from page 41*  
 quest to each employer or plan administration which includes an HMO option in its employees' health benefit plans the "information necessary to satisfy its reporting and disclosure obligations under ERISA insofar as that HMO is involved."

Although this is the most important worry of the plan administrator, it is not the only one. The proposed regulations leave a lot of unanswered questions on how to report on HMOs in SPDs—no matter who is the administrator.

### ERISA rule

First of all, ERISA requires that an SPD be sent to all plan participants and beneficiaries. This includes retirees. However, the HMO Act does not require that HMOs be offered to retirees. Should an SPD in this instance, then, contain a notice that the section on HMO benefits is applicable only to active employees?

What about an HMO that would affect only a geographically clustered group of employees? Should the SPD state that the HMO is applicable only to plan participants and beneficiaries residing within a 25-mile radius of Anytown, U.S.A.? And then, would the employer have to explain to non-Anytown residents why an HMO is not a benefit under the plan?

Secondly, the proposed rules deal only with federally qualified HMOs. The issue of who has to report what, when and where for state-certified-only HMOs, which employers are required to offer under certain state laws, was not addressed.

Further, what would happen, vis-a-vis reporting, if no eligible employees enrolled in the HMO once it was offered—a not uncommon occurrence? If only one eligible employee enrolled, would information on the HMO still have to be disclosed in the SPD or annual report?

If more than one HMO is offered, would they all have to be reported upon, and would the plan administrator have to disclose the identity of each one upon request by a participant, or sort out only the one or more in the same geographical area as that participant?

Lastly, a benefit available under employee benefit plans must be disclosed, per ERISA, in not only the SPD, but also reported in the annual report (Form 5500) and Schedule A and the summary annual report to plan participants and beneficiaries. The proposed rules do not address either of these two reporting requirements. However, since an HMO would be considered to be a benefit under the plan, the annual report for welfare plans would have to include information about it.

### More questions

What information would be disclosed, since with an HMO there are ordinarily no claims, reserves or commissions? Must the HMO supply this information to the employer in terms suitable for inclusion in Form 5500 and Schedule A? Should the data be certified by the HMO?

Similarly, how would HMO information be reported in the DOL's standard summary annual report format for welfare plans, which does not specifically allow for HMO information?

Unfortunately, there are more questions than answers. It seems, though, that the more Washington tries to "streamline" duplicative reporting and disclosure, the more reporting it generates to replace what it has phased out. It's like taking two steps backward for every step forward.

What is critically important is that employers demand from Washington a crystal-clear answer to whether an HMO is an employer plan, a benefit under an employer plan or simply an alternative to an employer plan.

If employers become, in fact, plan administrators for HMO benefits, then they should keep a good supply of antacids on hand for the indigestion that will inevitably ensue. ■

## Nomination of a Candidate for Risk Manager of the Year 1980

Candidate's Name \_\_\_\_\_

Title \_\_\_\_\_

Company/Affiliation \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Phone Number \_\_\_\_\_

Describe this individual's risk management/insurance responsibilities: \_\_\_\_\_

\_\_\_\_\_

Description of company's business: \_\_\_\_\_

\_\_\_\_\_

Number of people in risk management/insurance department: \_\_\_\_\_

Company or organization's annual revenues: \$ \_\_\_\_\_ million (billion)

Company's or organization's asset size: \$ \_\_\_\_\_ million (billion)

Number and description of operating subsidiaries: \_\_\_\_\_

\_\_\_\_\_

### Scope of Operations

U.S. domestic only \_\_\_\_\_ U.S. & international \_\_\_\_\_ International only \_\_\_\_\_

Number of states this organization operates in: \_\_\_\_\_ Number of countries: \_\_\_\_\_

Risk management and insurance-related activities: \_\_\_\_\_

\_\_\_\_\_

## How to nominate a candidate

To give your candidate an equal chance in the judges' eyes, please follow each step carefully.

### Please submit:

1. A resume of the candidate's job history and employment record, pertinent facts about education, degrees, honors, including other accomplishments.
2. Address each of the following criteria on a single page, providing as much detail as possible about how the candidate fulfills this requirement for the award. You will end up with nine separate pages of materials addressing the criteria.
3. Accompanying your nomination should be an endorsement of the candidate by a corporate or organization executive, either the nominee's superior or any other higher officer. This should take the form of a letter, certifying the accuracy of all information supplied.
4. A nominating statement from the

5. Last, but most important, a typed summary by the sponsor, a superior or the nominee capsulizing the most significant recent changes and accomplishments (within the last two years) of the candidate.

Please attach all of these pages to the entry form above.

### The nine criteria to be used in selecting a Risk Manager of the Year are:

1. The establishment and implementation of an effective risk management program within the organization.
2. Tackled and solved one or more major problems for his or her organization.
3. The innovative application of the diverse tools of risk management and insurance.
4. Creative and effective use of the in-

5. Establishment of a workable intelligence system inside and outside the organization, culminating in access to a flow of information about events and activities which impact on the organization's risk management and insurance.
6. Skillful application of the principles of management in the overall organization and within the risk management/insurance department.
7. Achievement of most effective program at the optimum cost over the long term.
8. Technical expertise in any or all of the broad categories included within risk management (insurance, safety, law, industrial hygiene, claims control/administration, underwriting, communications, information systems, etc.) leading to a better managerial grasp of the operational aspects of the job.
9. Attitude and activities fostering the advancement of the risk management profession.

## book review

# Hospital managers will find insider's view informative

By WARREN G. BROCKMEIER

**Risk Management for Hospitals—  
A Practical Approach**  
By Bernard L. Brown Jr.  
Published by Aspen Systems  
Corp.  
20010 Sentry Blvd.  
Germantown, Md. 20767  
Price: \$18.75

Mr. Brown has written an excellent book on hospital risk management which should be invaluable to many hospital administrators who wonder about the real meaning of the buzz words to which they have been subjected so frequently in the last four years.

Not only is Mr. Brown's book well organized and quite readable, but the material in it should also be readily accepted by hospital gov-

erning boards and administrators. There have been numerous treatises written by specialists in the field of risk management, but the superior quality of this book may well result from the fact that its author is a distinguished hospital administrator.

Mr. Brown has an excellent grasp of the fundamental principals of risk management and their application. He has placed this within the context of his field of hospital administration, and his experience in overseeing the development of a risk management program.

Thus the reader is not the recipient of opinion from one outside the field of hospital administration, but rather from an author who was forced to develop skill in this field of management and who is able to

relate the knowledge he has gained in a meaningful way to others who follow in his footsteps.

It is true there are some weaknesses in the text. Mr. Brown's description of a safety program seems to dwell more on police and security functions than on employe or patient safety, and his description of the prerequisites for a risk management program appears somewhat light in reference to the need for communication.

However, Mr. Brown's grasp of the application of basic management principles to risk, and his description of the optimum organization of a risk management program and the procedures for handling potential liability problems are quite good. Of particular excellence is a small chapter entitled "Philosophical Look at a Risk

Management Program," which draws a parallel between a hospital with risk problems or exposures and a patient or group of patients with physical illnesses or exposures to illness.

One feels, after reading this book, that one would be safer as a patient in Mr. Brown's hospital than in most other hospitals in the U.S.

**Risk Management for Hospitals  
and Health Care Institutions**  
Published by the Practising Law  
Institute  
810 Seventh Ave., New York, N.Y.  
10019  
Price: \$20.00

This is actually a course handbook for use as an educational supplement to programs put on by the Practising Law Institute. It may be quite adequate as a supplement to presentations made to a one or two day seminar, but as a resource for those seeking to learn more about risk management for hospitals it becomes of relatively little value.

Four speakers at the seminar have contributed papers or outlines reproduced in this volume. In the case of two speakers, however, the material reproduced is essentially only an outline of their talks,

and without the accompanying development of theme these outlines are of very limited value.

Mary M. Bertolet of the Mount Sinai Medical Center in New York City submitted an excellent paper on the development of a risk management program. These 18 pages hit some aspects of initiating a hospital risk management program that desperately need emphasis, such as her statement that data feedback from the computer is only the beginning of management, not the end product.

The paper submitted by James E. Ludlam Esq., of the firm of Music, Peeler & Garrett in Los Angeles, is quite interesting reading and helpful in portraying the methodologies involved in a long term risk management effort—state or otherwise. The identification of risk problems, weighing of several alternative solutions and description of the process of choosing a solution is fascinating.

On the balance, however, we would suggest that members of hospital governing boards or hospital administrators who wish to familiarize themselves with the application of risk management principles to hospitals will be better served by the Aspen publication on risk management for hospitals. ■



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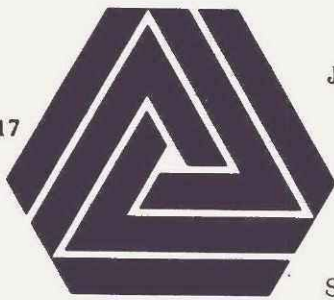
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## Slow E/S industry won't see upswing in near future: Vp

**BOSTON**—Excess and surplus lines brokers waiting out the current period of sluggish business for another market contraction to cause a boom in the E/S business might be indulging in "wishful thinking," says one leader in the field.

Mitchell Gwinn, executive vp of The Insurance House in Atlanta and president of the National Assn. of Professional Surplus Lines Offices, told the annual meeting of CPCUs here that history simply may not repeat itself between 1980 and 1983.

Insurers, he said, are being more cautious about rate-cutting during this competitive cycle than they were a few years ago and they are also "well-invested" with diversified portfolios of stock, bond and cash holdings. As a result, insurers may not find themselves with restricted underwriting capacity as they did in 1976-77.

"I don't think there are going to be mass withdrawals from the insurance markets, creating the voids into which excess/surplus writers leap," he said.

**Disagreeing with Mr. Gwinn** was Earl Lanning, executive vp of Crump London Underwriters, who predicted that despite a dropoff in excess/surplus lines business this year, 1980 will see a resurgence of excess/surplus business to the \$3 billion-plus volume level.

"I predict that in 1980-82 we'll have a repeat of 1974 through 1976" when the losses in primary markets were heaviest and when business flowed quickly into the excess/surplus markets.

He advised excess/surplus agents to spend their time during this slack period to "be out lining up your excess/surplus markets in preparation for the busy period ahead."

Total excess/surplus volume reached an estimated \$3 billion in 1977, Mr. Lanning said, equivalent to about 4% of total property/casualty premiums. Since 1977, E/S volume has fallen off and premiums, he thinks, will end up at about \$2.5 billion this year, down about 17% from the peak year in 1977.

He worried about competition in the marketplace and regulation of excess/surplus lines business. "The regulators are taking a very, very close look at us," he warned.

Of competition, he cited the example of commercial property insurance policy with a \$1,000 deductible being underwritten at 10% lower than the manual rate. "If that's not cutthroat competition, I don't know what is," he bemoaned. "I've been in the business 30 years and I've never seen rate competition as severe as it is today."

**Umbrella liability rates** are also being cut to such an extent that Mr. Lanning estimated average rates are now trimmed to about 45% of rates charged in 1978, and 1978 rates were down about 35% from 1977 when, he acknowledged, "we got excessive premiums on this business."

Derek Hughes, president of Western World Insurance Co., agreed with Mr. Gwinn that "those people who look for another excess/surplus bonanza in the 1980s may be in for a rude shock." He thinks the overall demand for insurance will grow enough that the surplus lines carriers and brokers will do well, but doesn't foresee a capacity crunch causing an E/S boom again.

### ENCON opening

ENCON, a surplus lines agency specializing in course of construction on large, engineered projects, has opened in Dallas. John Marshall, formerly of Alexander & Alexander in Dallas, and Ronald Travis, formerly of Rollins Burdick Hunter in New York, will manage the company. ENCON Dallas is a subsidiary of ENCON Insurance Underwriting Agency Ltd. of Ottawa, Canada.

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# agent/broker topics

A REGULAR EDITORIAL SECTION EXCLUSIVELY FOR AGENTS AND BROKERS



## Personal lines pile high . . .

By ELLIS SIMON

NEW YORK—Personal lines business drives commercial brokers wild with details, small premiums and account changes, but it's not an ignored stepchild of the agent/broker industry.

Many commercial brokers have found that life, auto and homeowners insurance can draw substantial profits riding on the tail of commercial accounts.

Personal lines are important components of the overall business mix for several large brokers, including the nation's second largest insurance broker, Alexander & Alexander Services Inc.

At A&A, personal lines accounted for 9% of its 1978 revenues of \$229 million, or \$26 million, more than the entire volume of such large commercial brokerage houses as Arthur J. Gallagher, Penn General Agencies and E.H. Crump Cos.

A&A's personal lines business comes primarily from four sources: acquisitions of smaller firms, referrals, serving the accounts of commercial clients and the core book of business the firm has built up over the years, said Donald Cleveland, managing vp of its Chicago office.

"I'm sure there are some personal lines accounts we've had for

40 years," he said.

A&A's Chicago office employs 21 persons in its personal lines department, which produces annual premiums of about \$10 million. The personal lines clients span the economic spectrum and the firm doesn't have a minimum size account.

Personal lines account executives are responsible not only for selling but also for marketing the business and servicing coverage amendments as needed, Mr. Cleveland said. Specially trained claims adjusters work exclusively on personal lines losses, although they, along with their counterparts in commercial lines, report to the office claims manager, he added.

Some brokers are seeking to expand their personal lines business. Olliver, Pilcher & Associates, a

Phoenix firm with \$3 million 1978 revenues, recently hired two commission-only producers for personal lines business, increasing its total to three, chairman William Pilcher said.

Clauss & Co. in Buffalo will open a suburban branch Nov. 1 in Amherst to service and expand its 2,000 personal lines accounts in that area, vp Robert DiMatteo said. If the venture proves successful, two additional suburban offices will be opened within two or three years, he added.

Olliver Pilcher's personal lines trade, which accounts for about 15% of its volume, is primarily with the wealthy. The firm's reputation for writing insurance for many of the community's business leaders is a big marketing factor, Mr. Pilcher said.

Although personal lines are a

profitable source of business, some brokers indicated that higher overhead makes personal lines less profitable than commercial business. Olliver Pilcher, with 15% of revenues generated by personal lines business, employs nine personal lines underwriters and 10 commercial underwriters in its Phoenix office, Mr. Pilcher reported.

**The reason:** Changes in coverages on personal lines policies come with greater frequency than for commercial accounts. Although a small merchant or factory may expand once every few years, the personal lines customer is constantly adding new drivers to the auto policy, a new ring to the jewelry floater or a new addition to the house.

In marketing new business, Ol-

liver Pilcher relies most on word-of-mouth but also gets referrals from real estate, mortgage and title trust firms. The broker still advertises a great deal in newspaper and on the radio to "keep our name in front of the public" or to announce new products, Mr. Pilcher says.

Unlike Olliver Pilcher, Buffalo-based Clauss & Co. uses in-house sales representatives to produce its personal lines business. In the past five years, the firm has stopped relying upon the more expensive commissions-only producers, replacing them with salaried staff. The firm presently employs three sales people and will add two more when it opens its Amherst branch office.

Clauss relies upon direct mail, newspaper advertising and referrals in its marketing efforts. A large  
*Continued on next page*

## . . . and ignite commercial sales

CHICAGO—Mack & Parker Inc., a medium size broker here, is trying to turn conventional personal lines wisdom upside down.

While most commercial brokers use existing commercial accounts to sell a small amount of life, auto and homeowners insurance, M&P

is turning up the heat under personal lines sales to open new doors for commercial business.

The sales technique is a personal insurance seminar designed for small groups "of wealthy individuals and key corporate executives," explained executive vp Edward

Mack III.

"The seminar is almost an employee benefit itself," he said. "Whether or not the executives finally come to us or not for their personal insurance, the people will be better able to work with their own brokers to adjust their coverage."

And offering the seminar to corporations' key executives gets M&P a foot in the door for pursuing commercial business. The cost of the seminar is minimal—just a producer's or account analyst's time and some basic prepared display boards.

But the managing of the personal lines accounts can be expensive.

"If you have a computer facility, for example, you know that personal lines, by their very nature, draw an unreasonable amount of a computer's capacity," Mr. Mack

noted. "In name and address changes alone, 25% of your file changes each year. But if it helps put together one large commercial deal, the seminar can pay for itself for a year."

Though personal lines may be time-consuming and require lots of accounting changes, targeting wealthy executives helps keep the personal lines profits beating the expenses. The amount of work a broker does to produce and market a homeowner's policy on a \$50,000 home, for example, is about the same as what the broker does for a \$250,000 policy, Mr. Mack noted.

The seminar hasn't yet yielded the big commercial deal, Mr. Mack says, but is still in the developing stages, being offered to existing M&P clients and a select group of corporation prospects.

*Continued on next page*

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Victor Schwartz  
Commerce Dept.

# Personal lines win brokers' attention

Continued from previous page  
chunk of its personal lines business, which accounts for one-third of its \$1.3 million in revenues, is written for its commercial customers. In addition, the firm seeks personal lines business among employees of its commercial clients, Mr. DiMatteo said.

A. W. Lawrence & Co. of Schenectady, with 40% of its \$1.5 million in revenues generated by personal lines, has also found its commercial accounts to be a ticket to personal lines dollars. "If we have an account at a hospital, school system or factory we take advantage of our good position to seek business from the employees," president Albert W. Lawrence explained.

The firm also uses a combination of radio and newspaper advertisements, calendars and newsletters to reach prospective clients.

Clauss finds personal lines as profitable as commercial lines because the firm has invested in special training for its people and is keeping a lid on overhead costs, Mr. DiMatteo said.

Another cost saving for Clauss and other firms has been computer terminals that tie in with an insurer's home office and issue and print policies. Mr. Pilcher of Olliver Pilcher says it now takes only

two days to get a policy to a customer after it has been approved, because of the enhanced computer speed.

But regulatory compliance has also eaten into personal lines brokerage profits in some states. In New York state, inspection photographs must be taken of cars before a policy can be issued. The compensation for this added burden does not cover costs, Mr. Lawrence noted.

## Mass marketing

Several brokers have tried to tap mass marketing techniques to improve efficiency and boost personal lines volume. They have met with mixed results.

"We've never been able to click with them," said Clauss & Co.'s Mr. DiMatteo. "Underwriters in New York want to be very selective and will write the coverage only if it meets their criteria. But there have been other companies not involved in mass marketing who write the whole product at lesser cost."

Out in Phoenix, Olliver Pilcher successfully mass marketed a new retirement community where it wrote coverage on the construction risk.

Even Alexander & Alexander has found resistance to some mass



Olliver Pilcher has successfully mass marketed personal lines, says chairman William Pilcher (left), but Paul Hertel (right) says his namesake firm has trouble finding markets.



marketing programs, but a thorough search located insurers willing to write such programs for auto, homeowners and personal umbrella coverages, Mr. Cleveland said.

Mr. Lawrence in Schenectady would prefer more personal lines accounts than commercial business, but restricted markets have moved him in the opposite direction. The firm formerly held group meetings with prospective clients, but stopped to avoid losing "good, congenial markets."

"If we had two or three more insurers wanting to write all personal lines, we'd probably get a lot more business," he said.

Tight markets for automobile

coverage have forced the Lawrence firm to sharpen its underwriting standards, Mr. Lawrence said. His underwriters have become adept at "sizing someone up" and often pull motor vehicle bureau files to doublecheck on a potential policyholder.

## Growth restricted

Operating from a large metropolis in the Northeast restricts Paul Hertel & Co.'s personal lines growth. The Philadelphia firm's insurance markets are willing to take on more commercial business from urban agencies but have "let it be known that they don't want more personal lines business than

they're already getting," said Mr. Hertel, president. Some of his markets will only accept commercial business from the firm.

Serving personal lines business requires adequate staffing with intelligent people, observes Paul Hertel of Philadelphia. His firm and Clauss in Buffalo employ similar techniques, dividing their clients according to the alphabet and assigning permanent customer service representatives to each third.

"The client can identify with the service representative. They'll know to call Lorraine or Joyce," said Mr. DiMatteo, adding that most of his customer service staff has been with the firm five years or longer.

# Executive seminar aids commercial business

Continued from previous page

Covering homeowners, personal property, personal automobile, personal umbrella and recreational vehicle coverages, the seminar "puts a question in the mind of everyone who attends it," says personal lines manager Suzanne Theis, a new employee of M&P who was formerly a personal lines supervisor for Fred S. James & Co. here.

"We cover key concepts that the executives might not be familiar with," she explained, "including basic and broad perils, the difference between replacement cost and actual cash value and some unusual coverages available."

The seminar, however, is not an insurance primer, but a presentation geared to explain insurance problems that the executives might be unaware of and coverages that they may want but don't see advertised.

The homeowners part of the seminar, for example, covers the complex condominium insurance requirements set forth in Illinois law—a consistently confusing issue while proposed amendments await the governor's signature (BI, April 16).

The seminar also explains personal lines coverage that are clearly designed for the wealthy, including a homeowners plan that provides for full replacement of a destroyed home at any site chosen by the policyholder rather than the traditional replacement on site coverage.

The personal property part of the seminar promotes markets for extended theft coverages that include boats and automobiles in addition to coverage at home and jewelry plans that guarantee an agreed-upon appraisal value, rather than whatever it costs for the insurer to replace a gem through a wholesaler. The seminar also explains how to properly insure expensive antiques.

**Recreational vehicles**, a growing personal market is also covered briefly.

Mack & Parker posted nearly \$2.2 million in revenues in 1978 with about 6% of income generated by personal lines. The business mix is not likely to change much, Mr. Mack says, but the firm is targeting a 20% yearly growth rate, which demands increasing personal lines as well as commercial, he said.



Executive personal lines seminars, the brainstorm of Mack & Parker executive vp Edward Mack III and personal lines manager Suzanne Theis, may help

sell commercial accounts too, by introducing the agency to new prospects and identifying the skills of the firm.

## Workshop answers buyers' questions

At the end of the M&P executive seminar, personal lines prospects should know the answers to these questions:

- Under which homeowners form should I insure my residence?
- How much insurance should I carry?
- What items of personal property should be insured on a separate schedule and why?
- How do I protect myself against personal injury lawsuits such as libel, slander, etc.
- What options are available to me when buying family automobile insurance?
- What liability limits should I carry on my personal automobile?
- Who needs a personal umbrella policy and why?

## A/B/T letters

### Set record straight

To the editor: After reading the article appearing Sept. 3 dealing with remarks I made at a forum sponsored by the Chartered Property and Casualty Underwriters, I felt compelled to set the record straight on the meaning of a few points I made.

Several of my remarks, which pertained to the hypothetical task of creating the efficient agency of the future, may have tended to give your readers an erroneous impression regarding Corroon & Black Corp.'s attitude, policy and practice toward equal employment opportunity. Not only is equal employment opportunity the law of the land, it is a policy which is vigorously pursued by me personally and by Corroon & Black as a corpo-

ration both in the letter and in the spirit of the regulation.

Corroon & Black prides itself as a corporation which provides every employe, regardless of age, race, color, creed, sex or ethnic background, with the opportunity to advance to the limits of his or her ability. We feel this is not only in keeping with our corporate conscience, it also makes good sense in today's competitive business environment.

**Webb Follin**

Vice chairman of the board, Corroon & Black Corp., Nashville, Tenn.

### Taking offense

To the editor: Webb Follin's comments in the Sept. 3 Agent/Brokers edition of *Business Insurance* were arrogant and offensive. He displayed an absence of tact, an excess of prejudice and an ignorance of the law.

The remark about hiring "female

support staff because we can pay them less" would surely invite EEOC scrutiny were someone unenlightened enough to follow that advice. He would also deny women both the opportunity and recognition of management talent with: "About 15 employes would be needed, including three—the producers, two principals and one other male."

It is this kind of thinking and action that will do more harm and cause more government interference in the insurance industry than all of our other failings put together. You may have thought yourself pragmatical, Mr. Follin, but that wasn't an outburst of candor, but of bigotry. I'm surprised you didn't end your statement with "don't get me wrong, some of my best friends are females."

**Mina MacFarlane**

Partner, M&B Brokerage, New York; principal, The Bird Brokerage

# IIAA report:

Convention coverage continues on page 46D through 46I

## Boost personal lines to balance business

LAS VEGAS—Independent agents and insurance companies should reaffirm their commitment to personal lines of property and casualty insurance, said Lee H. Meyer, Independent Insurance Agents Assn. president, at the recent IIAA convention here.

But Donald C. Brain, CPCU, incoming IIAA president, warned that personal lines must be designed to be profitable for agents and urged the association to resist federal regulation of the insurance industry.

The commitment to personal lines is essential "to the very existence of the American agency system," Mr. Meyer said. "Any company not willing to participate in the largest portion of the insurance market today, personal lines, is certainly taking a very shortsighted view and will at some point down the road wake up and realize that they have not only lost the personal lines market but the commercial market also."

Mr. Meyer commended company executives for their improvements in the personal lines market during the past year. "To the others, let me again beg you to reconsider and to become active and participate in the personal lines market with an attitude that would indicate a real desire to become involved."

The independent agent is often armed with products that are neither innovative nor competitive, says Mr. Brain, and cannot be blamed for seeking new markets.

"Companies that have not honed their efficiencies to match the best in the marketplace should not expect to compensate by trying to reduce the agent's share of the transaction. If companies truly want to strengthen their independent agents' sales force, they must avoid destroying the sales force by curtailing its income to such an extent

## Calif. agents given award for lobbying

LAS VEGAS, Nev.—The Independent Insurance Agents Assn. presented a special award to the California state branch of the association for its successful lobbying effort in favor of legislation preventing bank holding companies from selling property and casualty insurance.

"The ultimate economic winners of this legislative victory are the state's insurance consumers," said Lee R. Meyer, CPCU, president of the IIAA.

The California legislature overrode the veto of Gov. Jerry Brown, becoming one of 24 states with laws preserving the traditional separation of banking and insurance. California had previously passed such a law, but it was only a temporary measure. Bank holding companies may still sell credit life or disability insurance.

The IIAA believes that allowing bank holding companies to enter the insurance business would "deprive consumers of their essential freedom of choice to select insurance coverage" and would "result in unfair competition with unaffiliated business by tying the sale of insurance to the extension of credit," Mr. Meyer said.

### A/BT

of all new personal business in return for a new personal lines marketing plan, Mr. Brain said.

"It would seem that many of these plans, while ostensibly designed to increase the agent's market share, are in fact primarily designed to increase the carrier's share of an existing book of business," he said.

"Too often the competition is for those accounts the agent has already written, not to secure a significant number of new accounts and thus increase the agent's market share."

that agents will be unable to attract new and able people."

Several companies have announced new underwriting and rating plans intended to recapture a larger market share of personal lines for agents, he said. However, these personal lines must be profitable in themselves and cannot be subsidized by other categories.

Often an insurer wants a larger percentage of the agent's present book of business or the first choice

More than 5,000 independent agents attended the Independent Insurance Agents Assn. convention in Las Vegas, Nev., and shared a new national preoccupation.

From comments of agents gathered at the convention and the general topics of convention panel discussions, federal regulation has replaced competition with direct writers as the group's biggest concern.

Both outgoing president Lee Meyer and incoming president Donald Brain included the fear of and battle against federal regulation of the insurance industry in their respective convention reports.

Both all-convention panel discussions (on consumers and regulation) focused on a likely encroachment of the federal agencies on what are primarily state regulatory issues. Three national speakers—Sen. Paul Laxalt (R-Nev.), former Texas governor John Connally and retired Gen. Alexander Haig—addressed that issue.

There was not a direct writer to be found.

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# Commerce exec sees no federal rules

LAS VEGAS, Nev.—The federal government has already been active in regulating the insurance industry through model bills and “40 different initiatives to insurance agents,” said Victor E. Schwartz, chairman of the Commerce Department’s task force on product liability.

Mr. Schwartz, however, denied that there is an overall federal game plan for assuming complete regulation of insurance, “at least in the Commerce Department,” and the general goal of the federal government is to keep state regulation.

The Commerce Department’s model product liability bill, though, has drawn the attention of Congress and may be introduced as a congressional bill soon, he told a panel on regulation at the Independent Insurance Agents Assn. convention.

“The federal government was pushed into looking at product liability,” Mr. Schwartz explained, “and though we discovered that 80% of the premium rates today are based on a personal judgment, we still believe that the best rate is not to tell the insurer how to set rates.

“But self-insurance should be encouraged and that is the reason for the Risk Retention Act,” he said, “to help ensure that there is competition.”

The Risk Retention Act, which would allow federally approved risk-sharing pools for firms not able to find reasonably priced product liability coverage, is “a kind of safety-valve plan” for firms needing insurance, he said.

“The risk retention groups would be subject to state premium taxes, subject to all antitrust regu-

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lations and would not be allowed to use retroactive rating plans,” he explained. Federal regulation, he noted, would only require that the groups be adequately capitalized and managed.

Insurer and agent panel members, however, agreed that federal agencies are forcing federal regulation of the insurance industry, possibly to the disadvantage of the insurance consumer.

“There’s already a large amount of government involvement in the insurance industry,” remarked Edward J. Kremer, IIAA federal affairs committee chairman. “Repeal

of the McCarran-Ferguson Act (the law that exempts insurance companies from anti-trust regulation) would be the formal ratification of a battle that has already been lost.”

The Federal Trade Commission, Mr. Kremer explained, has been following “a coordinated program” for the past two years leading to federal regulation that would force insurers to disclose underwriting policies and agreements with insurance agents and brokers.

Mr. Kremer quoted “one of 600 lawyers the FTC has working in its bureau of competition” as listing a series of FTC goals for controlling the insurance industry.

“He told me that the FTC wants to set a price for personal auto in-

surance, make company policies available to all consumers and force every insurer to be licensed with the federal agency,” Mr. Kremer said.

Alleged FTC goals would “eliminate underwriting judgment” by mandating coverages and rates, he said. “In addition, insurers would be required to alert policyholders that they have the right to reject an agent and keep the insurer on a direct-bill basis,” a policy that could eliminate the role of the independent agent.

Another panelist, Darrell Coover, vp for government relations of the National Assn. of Independent Insurers charged federal intrusion from another direction.

“Federal health insurance would definitely affect the property and intrusion from another direction—liability business,” he said. “Any federal health plan is bound to drive health care costs up. Federal minimum standards is a trap for free enterprise, and whatever bill is past, costs will go up.”

Mr. Kremer added that one of the leading federal health care bills, proposed by Sen. Edward Kennedy (D-Mass.), includes participation by insurers and would cost more than \$80 billion, not the estimated \$30 billion.

Mr. Kremer and Mr. Coover also agreed the proposal by Sen. Howard Metzenbaum (D-Ohio), now circulating in Congress but not yet introduced, is “anti-small business.”

The proposal, which would establish a federal panel to review state insurance regulations. ■

# Agents can boost image: Consumerist

LAS VEGAS, Nev.—Agents and brokers can do much more to support their claim of representing the insurance buyer on consumer issues, a Virginia consumer advocate told the Independent Insurance Agents Assn. convention here.

“National consumer groups believe that any industry should respond immediately to social issues,” explained Patrick S. Portway, president of Consumer Activity in Banking & Insurance, a nonprofit research foundation in Oakton, Va.

“But the consumer movement is not a homogenous movement,” he continued, “and it is possible to make points with local organizations that you might not be able to make with the more aggressive national consumer groups.”

Mr. Portway, who also served on the insurance consumer affairs panel sponsored by the White House and Professional Insurance Agents Assn. and as a consultant to the American Council of Life Insurance, recommended insurance vendors be more aggressive in offering information.

“When I was on a special legislative committee researching insurance consumer affairs, the insurance industry never offered information. I had to go and get it and sometimes it wasn’t easy.

“The national consumer groups, however, sent me reams of information on their view,” he said.

Expressing some sympathy for the role of business, Mr. Portway noted that he has worked as a marketing executive in industry and

that the agent/broker business could benefit from better self-marketing to consumers.

Agents need to do much more to improve their image as professionals representing the consumer and advising him on certain kinds of insurance needs, and also bargaining for the consumer with insurance companies to get the kind of product and pricing he wants, he explained.

Among individual consumers and national consumer groups, commission sales in general is suspect, as is the contractual connection between agents and insurers, he added.

“But there has always been an adversary relationship between the agent/broker and insurance companies,” retorted John N. Trimble, Arizona state director of

insurance, another panelist.

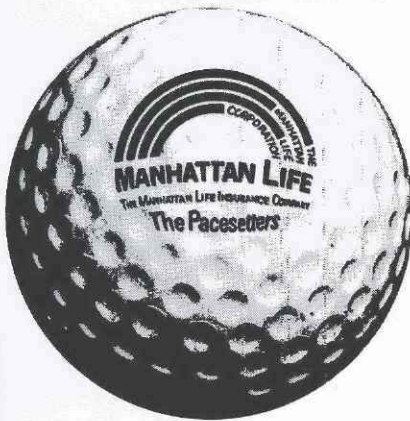
“Then you need to communicate that to consumer groups,” responded Mr. Portway, who also proposed local agent groups and insurers set up a regular liaison with local consumer organizations.

State insurance departments, Mr. Portway added, are not seen as adequate referees by consumers or consumer groups. “Though insurance commissioners are not viewed as representatives of the insurance industry, they are seen as foils for the insurance industry.”

The consumer advocate’s comment drew groans and boos from the agent audience of more than 2,000 and strong negative responses from Mr. Trimble and Jack Moseley, president of the United States Fidelity & Guaranty Co., an insurer. ■

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# Four insurers launch IIAA contract ideas

LAS VEGAS, Nev.—Four large commercial insurers have wholeheartedly embraced the Independent Insurance Assn. contract and profit sharing guidelines, reports IIAA contracts committee chairman Josiah Welch.

Commercial Union, Industrial Indemnity, Travelers and Zurich America Insurance Cos. have responded with formal written changes in agency agreements that follow all or some of the association recommendations, Mr. Welch told the IIAA convention here (BI, Feb. 19).

Zurich-America is the most recent addition to the "honor roll," he said, having recently redesigned its profit sharing plan with the consultation of IIAA.

"The Zurich still hasn't shown us a new basic agency contract but they have assured us that changes are already in the works and we will see a new contract soon," he noted.

For that reason, Mr. Welch also cited Zurich as a company with "passing grades" for the current basic contract in addition to six other insurers "who have expressed a desire to incorporate our provisions, though nothing is written down yet."

Continental, Crum & Forster, Fireman's Fund, Great American, Reliance and St. Paul insurance companies filled the "passing" column of the IIAA report card.

"Then there are the flunks," Mr. Welch explained, "the insurers who have expressed no interest in upgrading contracts according to our guidelines."

**Aetna Casualty & Surety**, Aetna Life & Casualty, Atlantic, Chubb Group, CNA, General Accident, Hartford, INA, Kemper Group, The Home, Maryland, Royal Globe and U.S. Fidelity & Guaranty insurance companies failed the IIAA contract criteria, Mr. Welch said.

Some companies still take a perverse pride in boasting that their contract was first written on papyrus," Mr. Welch explained. "And when we ask them about their contracts they usually smile and say that they have a 'personal agreement' that are better than contracts with their agents."

INA, despite its flunk grade by the IIAA, did receive praise for its new agency termination guidelines which follow almost exactly the IIAA recommendations for 180 days notice of contract cancellation and final cancellation only after a rehabilitation plan has failed (BI, May 28).

Mr. Welch, however, also noted that some agents take too little care

## Fireman's tells changes

LAS VEGAS, Nev.—Fireman's Fund Insurance Cos. will introduce a revised agency agreement next year that includes recommendations made by the Independent Insurance Agents Assn. contracts committee.

Improvements in the contract include:

- Increased time of notice about changes in agents' binding authority, from 30 to 90 days.
- Delay of changes in binding authority up to 90 days at the agents' request.
- 180-day written notice of termination, increased from 90-day notice in the present contract.
- Articles covering indemnification of agents for insurer errors or omissions have been expanded to include some claim settlement procedures.

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in monitoring their own contracts.

"Many agents, including myself at one time, would have been hard-pressed to locate copies of their contracts. But I think we have come to agree that the day of the handshake contract is long gone," he said.

Key provisions sought by the association include specific explanation and guidelines of when direct billing is allowable, when and for what reasons an agency contract can be terminated and what mix of business must be produced for the insurer.

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# Computers may pose investment risks

## Tips for buyers

If you are planning to buy an in-house computer, here's some tips from Mr. Newkirk on planning your change:

- Get a feasibility study. Vendors or independent consultants will do one at nominal cost, but a consultant may be better to prevent the study from becoming another sales pitch, he says.
- Demand to know what alternatives the consultants considered, including buying the computer and software they recommend versus using whatever you have now, whether it is batch data processing or a roomful of clerks.
- Ask for a clear breakdown of the costs and benefits their proposal has for you. On hardware, get the cost of the unit and freight and installation charges. On software, "Ask how much it will cost to develop the programming from scratch because you can expect constant change in your needs and the availability of package software."

LAS VEGAS, Nev.—While more than a dozen vendors exhibiting at the Independent Insurance Agents Assn. convention here pushed computer hardware and software, at least one consultant was warning that computers may not always be a good buy.

"The logic lately is that when all else fails, buy a computer," remarked Nate Newkirk, president of NGP Associates Inc., a training and personnel management consulting firm.

"But computers are not always the answer to an agency's problems," he continued. "In fact, as an investment, computers don't stand up too well."

Though there are social and competitive motivations to buy or lease an in-house computer, there are some reasons why popularity can

## A/BT

cause a mismatch of computer to agency or vendor to buyer, he suggested.

"What we have are laymen buyers who know very little about computers dealing with very eager sellers who are well-trained and who receive a good commission for selling," explained Mr. Newkirk, who formerly sold computers for IBM. "And agents are usually very reluctant to reveal data about the workings of their agency."

The overall eagerness to sell and the pressure to buy without telling the vendor much about how the hardware will be used often results

in an agent buying more than he needs or what he doesn't need.

"Buying a computer can be the greatest opportunity we have to waste money and people that we have, all for the promise of a better, cheaper tomorrow. But it doesn't always work for the best," Mr. Newkirk said.

Computers bear a host of hidden costs that are not usually discussed during a vendor's sales pitch, he continued. "For example, an in-house computer is continually decreasing in value as new hardware becomes available. There is a continuing cost in maintenance that is rarely discussed."

Hardware or the actual computing machinery "is basically all alike," he said, despite the differentiation of features vendors proclaim. Software, the programming that makes the computer do what an agency requires, is often an additional expense, even if the hardware and software are sold as a package.

"The average life of software is 2½ to five years and I'm being conservative in saying five years. The package is all right when you buy it, but you want to make changes after a while to accommodate new tasks you want the system to do. That means a new investment in hardware," he said.

Computers always precipitate change in an office organization, he said, and sometimes the change can be expensive.

"If you have had one clerk doing all the filing and billing for 20 years and then try to bring in a computer which will do the job faster and cheaper, you may find out that the only key to your office system was in that clerk's head," Mr. Newkirk noted.

"The clerk and other office workers may resent the change. You may be stuck not wanting to fire a valuable employe, but unable to decide what to do with that person. It always causes upheaval and office traumas."

In spite of these negative comments, Mr. Newkirk still favors computerized agencies for the speed and efficiency that the machines can produce if used properly.

"What I do recommend is making a creeping commitment to computerization, maybe starting with a batch processing system done outside the office before investing in a bought or leased computer.

"If you do go into any kind of system, including batch processing, it is important to clearly define a problem or need that you have that the computer can solve. Don't change a system of management that works just because you want a computer," he said.

If an agency does have a problem a computer can solve, like too many delinquent accounts that are caused by slow billing or reminders, a computer might be the answer. But the answer needs definition, too, Mr. Newkirk says.

"Define the desired situation and also what is adequate performance. That is almost never done in computer planning, but it should be," he noted. "If you have 55-day accounts receivable and a 2% bad debt loss, target an improvement that is specific, like 45-day accounts receivable and 1% bad debts."

## Neilson, A&A merge

Neilson Underwriters Inc. of Alexandria, La., has merged with Alexander & Alexander Inc. there. The Neilson office, which was founded in 1933 and handles commercial accounts including Louisiana utilities, will operate as a satellite office of A&A's Shreveport office.

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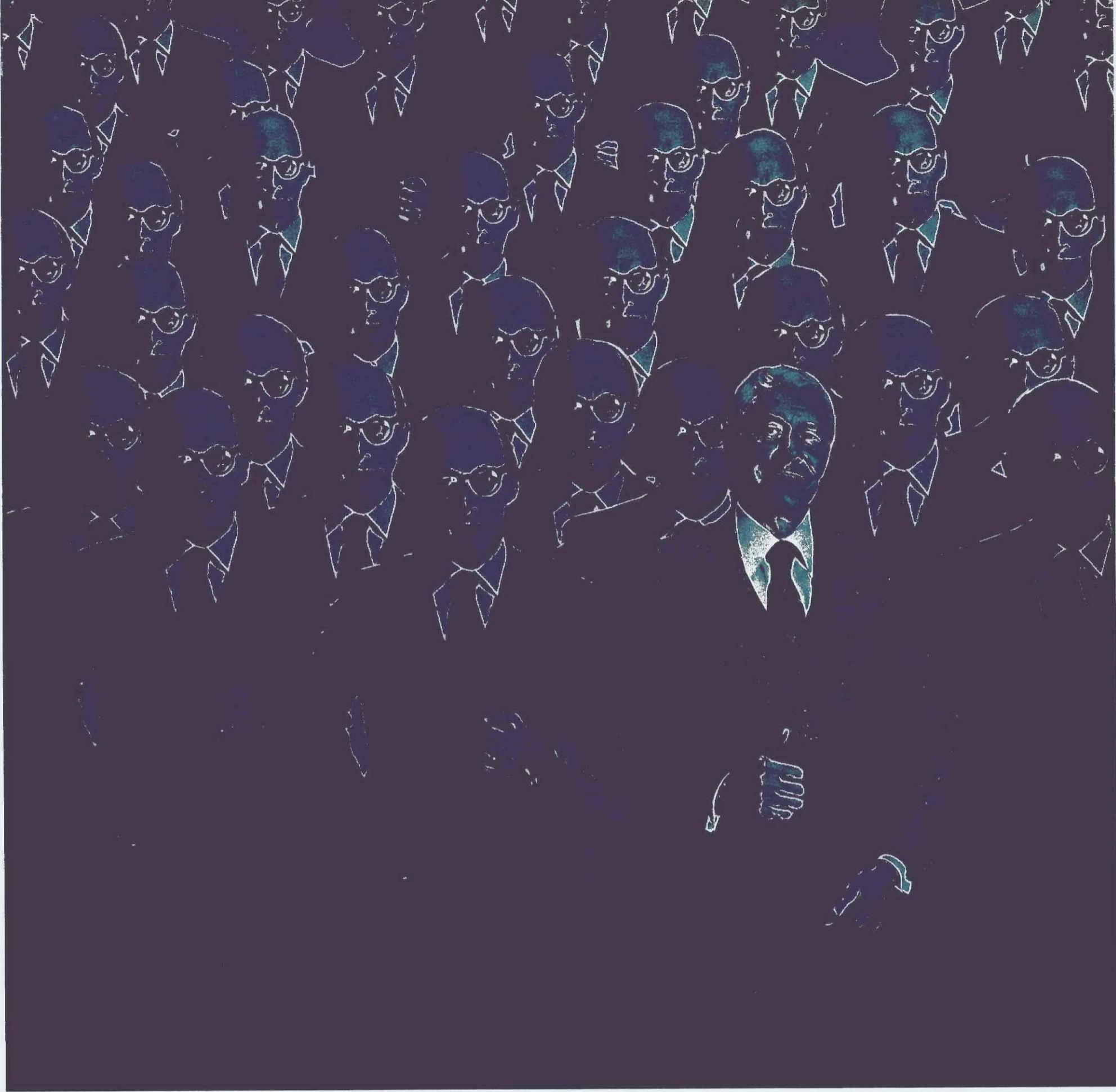
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# Agents see Feds under their beds

By Len Strazewski

LAS VEGAS, Nev.—“They’re everywhere,” he told me, “and they’re out to get us. If we don’t stop them right at the line, they’ll come marching right over us. And then where will we be, huh? Then where will we be?”

His eyes were red and he had a nervous twitch. I could see his head move in small circles as he watched the roulette ball go around and around.

There was something familiar in that dizzy look, though. I couldn’t place it exactly, until he took another nervous look over his shoulder.

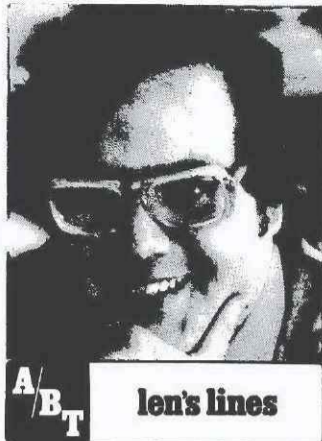
“Wait a minute. Aren’t you the guy I talked to last year who tried to convince me that there were female gremlins that intentionally screwed up agency operation?”

He looked hurt. “You misunderstood me,” he said. “I didn’t really mean that.” But he raised one finger to his lips and whispered, “Quiet, the change girls

have ears.”

That’s the first thing he was right on so far, but then you never know. Maybe he was onto something this time. After all, he had been in the insurance business for 25 years and always listened carefully at agency seminars.

“You know, I’m the kind of businessman that likes to keep on top of things,” he said. “Six months ago I was leading the fight against those darn direct writers who were coming in trying to ruin our lives and business and destroy our beloved free enterprise system. A year ago . . . well you



know. Ten years ago I was out there on the front lines protesting those computers that they were going to use to replace me. Why, 25 years ago I was a good citizen and helped check under beds for Communist spies from Russia.”

“No one said you didn’t like to keep up,” I responded.

He reached down to place another bet, all his chips on black. I mentioned that black numbers had won three times in a row. But he just glared at me and straightened his stack.

“You’re too young to remember,” he continued. “But I remember. There was a bunch of them Reds who were out to destroy our very way of life. They wanted to ‘socialize’ everything, but we whupped ‘em.”

“Socialize? Oh, you mean like national health care?”

He nodded. “Well, we didn’t quite get all of them, but we will this time.”

“Okay, enough,” I said. “What’s the menace this time? From what do we need to defend truth, justice and the American way?”

He lowered his voice. It was just like old times.

“Federal regulators, that’s who. They’re going to try to take control of insurance from the states.”

“Is that bad?”

“Bad? That would be death itself for independent agents and brokers? Them regulators would probably just give away insurance like they do food stamps. Or they’d make so many bureaus and organizations that they’d have to tax the premiums and raise the rates. Besides, when was the last time the feds ran anything efficiently?”

He had a point there. The national parks are pretty clean, but aside from them, most federal operations leave something to be desired. Letters often take more than a week to go from California to New York. Social Security pays a pittance after retirement, but draws a hefty chunk of cash from the paycheck when you are working. The IRS . . . boy . . . you really do have to look under the bed for them.

“Okay, what do we have to do?”

“First,” he said, “we have to make sure them regulators don’t talk Congress into revoking good ol’ McCarran-Ferguson that protects us from the antitrust boys. Then we got to keep those consumerists under wraps so they don’t go and form a federal consumer affairs bureau that will poison the minds of all the buyers with nonsense about how commission sales are dangerous to them.”

“I got it. That’s all the stuff that the agent and broker groups around the country have been battling.”

“That’s right,” he said. “And one more thing. We have to convince the Senate not to ratify SALT II.”

“What’s that got to do with it?”

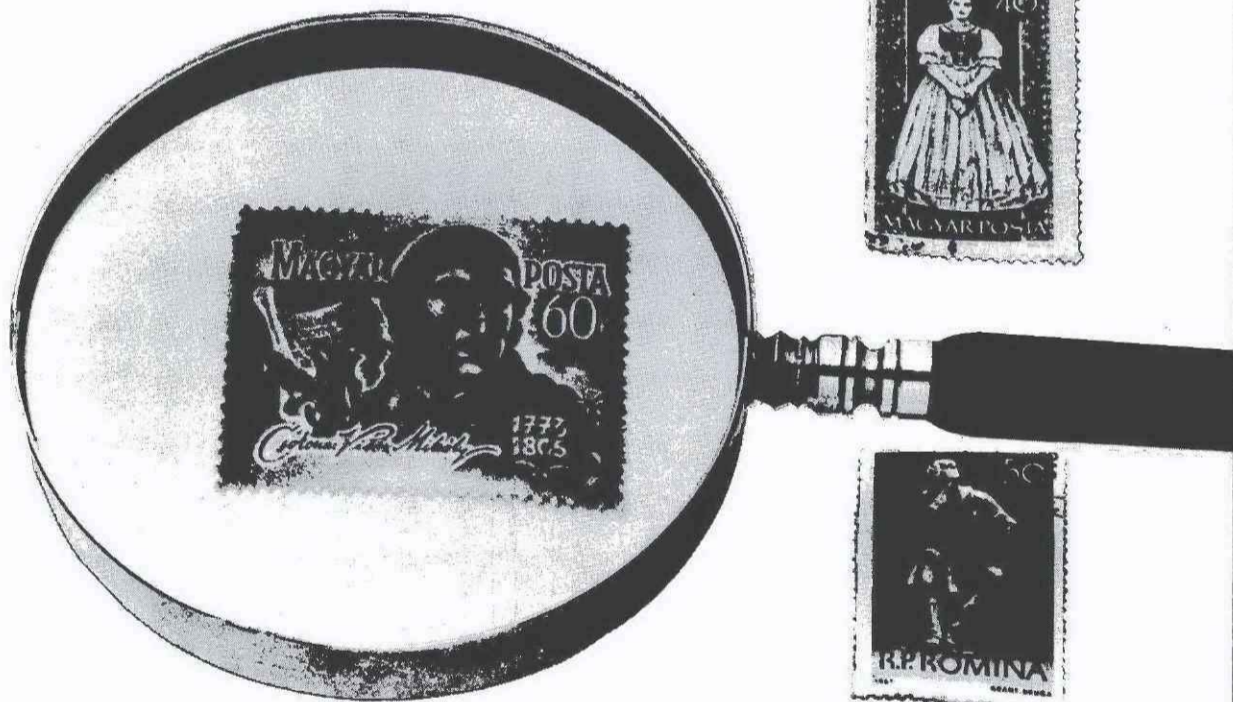
“You never know what those Ruskies are going to pull.”

I would’ve liked to have stayed and talked more about the federal regulatory menace, but the IIAA convention was getting in full swing. It showed me that my dizzy agent friend wasn’t too far away from the industry party line.

Sen. Paul Laxalt (R-Nev.) greeted the agents and told them to fight for free enterprise and oppose SALT II. He got a standing ovation. John Connally, running for the presidential nomination, said to fight federal regulation and that darn SALT II. Retired Gen. Alexander Haig, who knows several Russians personally and probably a few federal regulators, said to fight all of them at the same time. He and Connally both got standing ovations.

Outgoing IIAA president Lee Meyer told agents to fight federal regulation and then stopped. But he still got a standing ovation. ■

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# Proper coaching fields a winning sales team: Prof.

LAS VEGAS, Nev.—Producers need coaching and a specific game plan in order to do their best, not vague cheerleading and encouragement.

That's the latest advice from Emmett Vaughan, Partington professor of insurance at the University of Iowa, CPCU, CLU and honorary Certified Professional Insurance Woman.

The list of titles and an arm-length list of past speaking engagements make Mr. Vaughan the dean of insurance industry speakers. He continued his run at the Independent Insurance Agents Assn. convention here with advice on managing an efficient sales staff.

"The single most important factor in the success of a new producer is the expertise of the manager," he stated, and even the brightest producer prospect can fail "if you just give him a briefcase and put him on the street."

Mr. Vaughan recommends a coordinated sales effort beginning with careful choosing of a new producer and continuing with specific "how-to" examples and advice.

"Getting a good producer is a one-in-10 shot," he explained, "and one of the most important qualities of a good producer is the hardest to measure, that is, desire."

Psychological testing can take some of the chance out of picking a likely sales all-star, he suggested, with emphasis on the candidate's empathy or ability "to people-read," and his "need to conquer."

Few good producers come from outside the insurance industry, he noted, and traditionally agency sales staffers begin with insurers or in another job within the agency. Some producers are generated by college insurance programs or swiped from other agencies. Some producers do transfer from teaching or coaching jobs because "some of the same qualities that make up a good producer make up good teachers," he explained.

**But don't stop** at hiring a motivated, likable guy, Mr. Vaughan suggests. Even the best potential salesman needs technical training in insurance and a specific agency's methods. Some may need a crash course in sales skills, like the Xerox personal sales skills seminar, he said.

"Then it pays to continue with advice and training in work habits. Producers need to be shown how to find business, even if you force them to put together a prospects list from the telephone book."

Like a football team that rides the crest of victory to more victories, successful selling breeds more sales. Failures breed failures, so it may be a good idea to let new producers call on existing agency accounts to get rolling as a salesman, he suggests.

Once a new producer is trained in insurance, selling and starting to do his job, armed with advice, he is ripe for success.

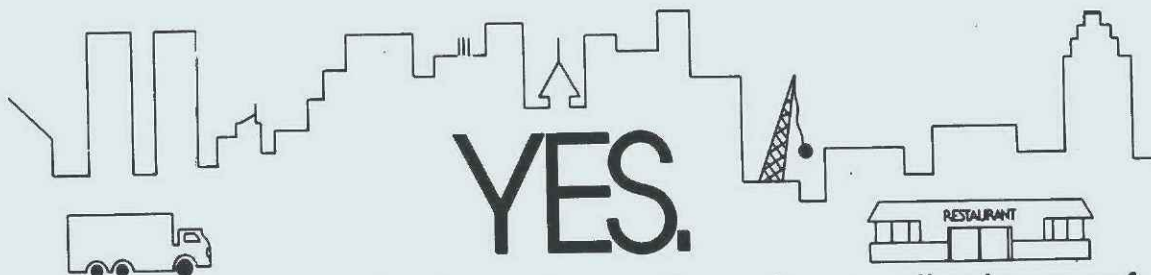
He is also ripe for dissatisfaction or a limbo state of not being satisfied or even dissatisfied, which could lead to quitting.

Proper compensation is the answer and that doesn't necessarily mean the traditional salary plus commission, he said.

"Many managers believe in the old theory that says that most people are lazy and that the average person dislikes work," Mr. Vaughan explained. "Other managers believe that work is as natural as play."

**A/B/T systems**

Some people, however, cannot be pushed into the "satisfied" group with any incentives, simply because the job to them is just a place to earn money for some other off-job satisfaction. Others will work better on straight salary, a kind of compensation Mr. Vaughan recommends, because of self-motivation and recognition of their commitment. ■



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# Homework can detect insurer's insolvency

By Richard M. Haverland

**T**HE STARTLING INSOLVENCY of two large specialty insurance companies of the American Reserve group has affected more than 10,000 agents throughout the U.S.

More insolvencies are expected. Though there have been more than 30 property/casualty insurance company insolvencies in the U.S. in the last four years, no prior insolvency has surprised as many agents, cost them as much money or caused them as much aggravation and embarrassment as the American Reserve insolvencies.

Agents need to understand the risks and nature of insolvencies to help protect themselves from future insolvencies. Agents cannot rely on regulators to

*Mr. Haverland is president and CEO of Progressive Casualty Insurance Co. and has held financial positions with Allied Chemical, TWA and Shearson-Hamill & Co. His advice is excerpted from a booklet distributed to Progressive agents.*

protect them.

Webster's dictionary says insolvency means "unable to pay debts." For an insurance company, this normally means that the company has no policyholders' surplus, or simply stated, liabilities exceed assets. It should be noted that a company may be insolvent and still able to do business—if the payment of its debts and bills can be deferred.

Deferring debts is, however, a short-lived strategy. Without infusion of new capital or a major turn to profitability, a company will almost certainly be forced into bankruptcy or conservatorship—which usually signals



A/B/T perspective

the end of a company's existence.

Today there is substantial evidence that the subsidiaries of American Reserve were in fact insolvent at the end of 1975—but they were able to continue doing business until 1979.

In my judgment, well over 50 property/casualty insurance companies doing business in the country today are in fact, insolvent. Any agent who believes that the insolvencies of American Reserve and Reserve Insurance Co. were isolated, non-recurring events is likely to suffer the same trauma that so many agents have recently experienced.

Most agents believe they shouldn't have to worry about insolvencies because they know state regulators and guarantee associations are primarily responsible for insolvency prevention and detection. They don't always succeed. Otherwise, there would not have been more than 30 insolvencies in the last four years alone.

The guarantee associations were established by state laws to collect and disburse funds to policyholders and claimants of insurance companies being

liquidated by the states. They also have a responsibility to detect potential insolvencies. As a practical matter, they don't. The associations' representatives typically have legal or claim backgrounds, and focus little effort on attempting to detect weak companies.

The state insurance departments have the primary responsibility for company solvency. Historically they haven't done a good job in preventing or detecting insolvencies. With the development of the National Assn. of Insurance Commissioners' Insurance Regulatory Information System (formerly known as the Early Warning System), the regulators have an excellent tool to identify those companies in poor financial shape. The fact is that there is little evidence that they act upon the good information available.

**I believe there are two reasons:**

- There is a lack of political pressure. The "security blanket" provided by the guarantee associations has taken the pressure off the regulators. An insolvency today does not cause the political repercussions it did in the past because in most states losses are paid and unearned premium is returned. In the past, neither was taken care of, which caused great consternation among policyholders—who in turn were vocal in their concern to insurers and brokers.

The regulators aren't sure what to do or what they can do when they sense a company is in financial trouble.

The combination of not being sure what to do and the lack of forcefulness on the part of regulators has rendered state regulators ineffective in performing their important duty.

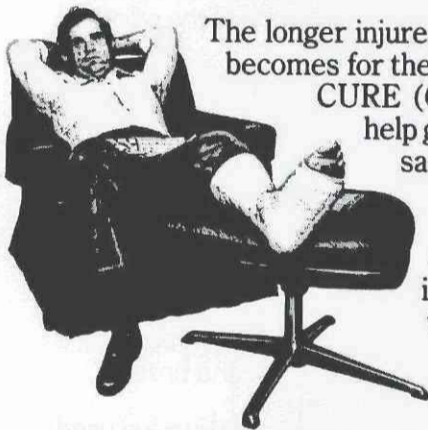
The principal reason for insolvencies of insurance companies is under reserving. Loss reserves represent a company's estimate of how much money will have to be paid to settle losses that have occurred as of the date of the company's most recent financial statement.

Loss reserves are a liability on the company's balance sheet. If they are understated, then the policyholders' surplus is overstated. There is another important result of under reserving: it leads to under pricing. The company which does not reserve properly does not have good understanding of its most important cost: losses. If a company under reserves, it is likely to underprice its product, plunging it into a "death spiral" where solvency is impacted by both pricing and balance sheet risks.

**The historical accuracy** of loss reserving provides a sad commentary on either the quality or honesty of insurance company management. In recent years, company

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loss reserve estimates have been very inaccurate. A study published by Conning & Co., the nation's leading insurance research firm, indicated that of the 240 largest property/casualty companies in the United States 24% were under reserved by more than 25% of their reported 1977 year-end surplus. A sample a year earlier yielded similar results.

The severity of insurance company insolvencies is compounded by the poor accounting principles used by the industry. Insurance company accounting virtually disregards the true value of bonds that are held by the companies.

Over the years, interest rates have generally risen, causing the true market value of the bonds held in insurance company portfolios to decrease in relationship to the value used to determine surplus. As a result, assets are overstated, therefore causing overstatement of statutory surplus for most companies.

This becomes particularly relevant for those companies which, because of financial problems, may be forced by insurance departments to reduce their premium volume. Cutting back business results in decreased cash flow, forcing the liquidation of investments to pay claims.

As bonds are liquidated, their true market values are realized. The true market value of insurance company bonds has been disregarded by insurance examiners in state insurance departments. It is very relevant, particularly for companies that are in otherwise weak financial condition.

The real issue for you is, what can you do to identify companies that are in weak financial condition.

First, get the results of the NAIC-IRIS Tests.

The NAIC has developed a series of financial tests to measure the solvency of each U.S. insurance company. These tests, formerly known as the Early Warning System, have been renamed the Insurance Regulatory Information System and are helpful in determining which companies may be in weak financial condition. In my judgment, these objective tests provide a good method to determine a company's true financial condition.

While the IRIS results are not generally available, most state insurance departments will allow the test results to be inspected in their offices. The State of Michigan's Bureau of Commerce will provide test results to interested parties.

Sadly, there is little evidence that regulators are using the results of the tests. Based on 1978 financial statements, 10% of 1,878 property/casualty companies were outside the NAIC norms on four or more tests.

Then, check the A.M. Best Co. policyholders' rating of the companies with which you are doing business.

The policyholders' rating does reflect loss reserve inadequacies, operating performance and numerous other relevant factors. The Best rating system has proven to be fairly reliable over the years.

Other signals you should watch:

- Companies that rely heavily on reinsurance as a means to generate surplus should be considered carefully, as this is frequently a sign of weakness. This information is readily available in the company's annual statement in the general interrogatories section—Part A, question 31.

- As an agent, you should feel somewhat better to know that the company with whom you are doing business is regularly audited by independent CPAs and has received certified nonqualified financial statements from its auditors. This is not a guarantee that the company is in the shape it says it is, but it is an indication that at least it has

been reviewed by an outside third party. It should be remembered that Reserve Insurance Co.'s statements were certified as accurate consistently—including the 1977 statement.

It is interesting to note that the American Reserve Corp. (parent holding company) had switched accountants in three consecutive years. Changing accountants often could be a sign of problems.

Be aware of independent premium finance companies' refusals to finance the company's premiums. The finance companies are fairly sophisticated. If they become concerned about a company's ability to return unearned premiums, they may elect to stop doing business with that company.

- Another indication of weakness is a slowdown in claim settlements or return of unearned premium. This frequently reflects cash flow problems.

- An agent should also be alert to company withdrawals from vari-

ous states. No matter how the company rationalizes these, they may be indicative of state insurance department orders, formal or informal.

- An agent can benefit by keeping current on the company's financial condition. If you are doing business with a publicly owned company, write to the secretary of that company and ask to be placed on the company's financial mailing list.

If you had been on American Reserve Corp.'s mailing list, you would have been aware of the company's financial crisis well before the insolvency came about. Many agents who were aware of this problem called their policyholders and were able to initiate cancellations without the embarrassment that accompanied the subsequent insolvency.

A number of agents with whom I have spoken have indicated it is pretty difficult to keep track of all

## Save yourself

As an alternative to learning a lot about the companies, I have found some agents who have come up with a unique solution. They feel compelled to offer the insurance programs of some companies in which they have little confidence. However, they recognize the potential for subsequent financial problems, and they have developed a form for the insured to sign which says, "I, \_\_\_\_\_ (insured), recognize that \_\_\_\_\_ (insurance agent) is concerned about the financial condition of \_\_\_\_\_ (company), and I recognize the risk associated with doing business with the company."

This unique solution takes the agent "off the hook" to a large degree. In fact, agents who have used it have told me it usually results in the client refusing to be insured by the inferior company and insuring with a better company—even when the price may be substantially higher.

the various things I have suggested. I understand that, but I am not sympathetic because I view the establishment of a relationship between a company and an agent to

be a very serious responsibility of the agent. The time spent in determining which companies are worth doing business with can be the best time an agent spends. ■

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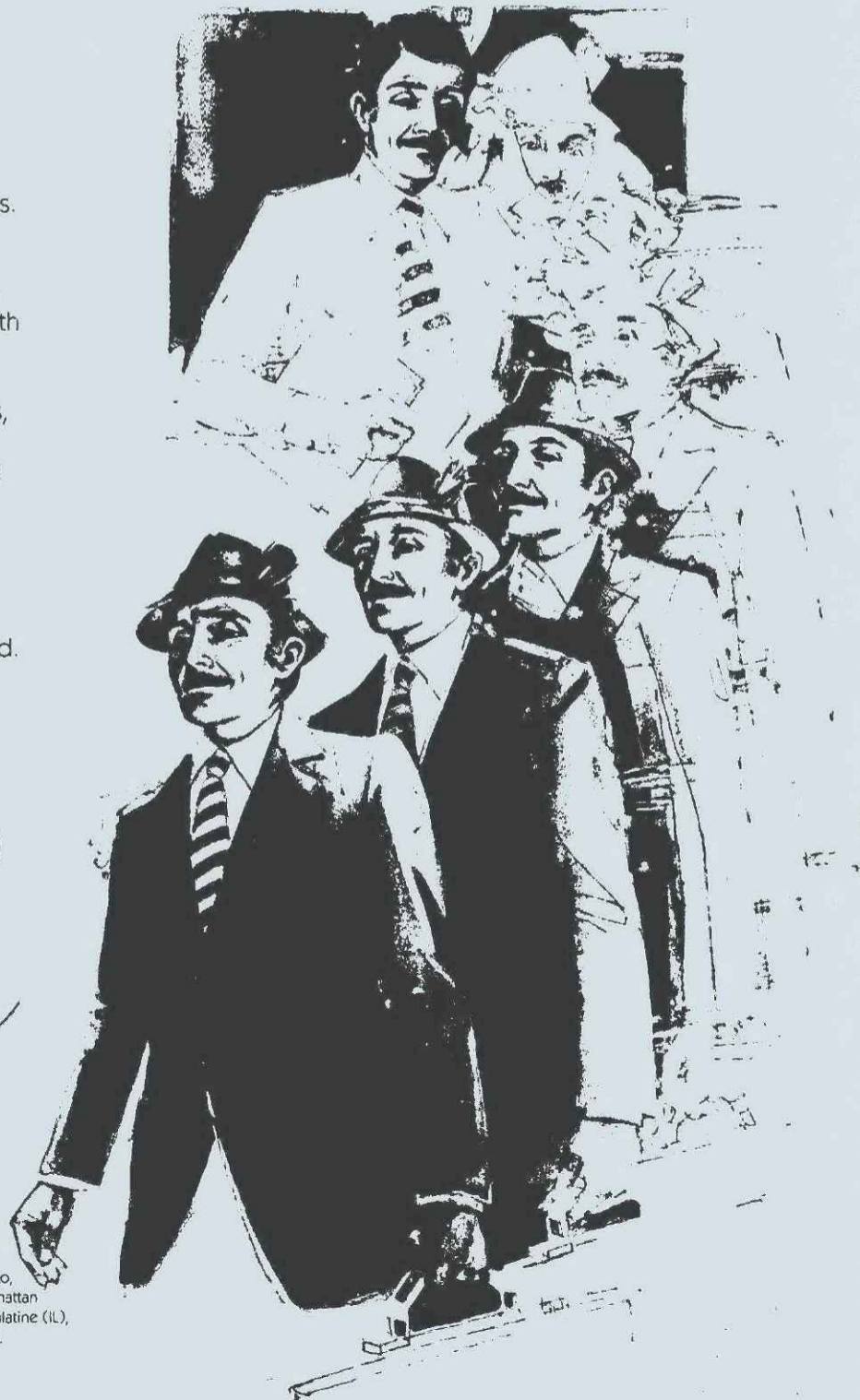


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# 'Pods' cut through agency jungle

MINNEAPOLIS, Minn.—Pods are sprouting at Brandow, Howard Kohler & Rosenbloom, but no one is getting trapped in the underbrush.

The goal is to get the producers out of the jungle, said managing partner John Kohler, and the "pods," or teams of young employees coupled with experienced producers and support staff, seem to be effective.

BHK&R, the largest local broker with only a Minneapolis office, is predicting \$20 million in premiums for 1979, a growth rate of more than 20%, following a 15-year history of averaging more than that.

"We went through a period of centralized marketing," Mr. Kohler explained, "but we found it too tough for a producer to find out about any given account. So we broke the operation up into 'pods,'

## A/B/T local leader

which are teams that include one of the older agency principals, a younger producer and the support staff they need."

The marketing teams are grouped in the same area of the office within easy speaking distance of each other. Three of the principals have formal offices, but most spend their time moving from pod cubicles to conference rooms.

"We try to keep the same people on existing accounts so the producer can get information immediately and a client can always find someone in the office who knows his account," Mr. Kohler noted.

Pod tactics are coordinated by a marketing manager who schedules

and records new business calls and prevents mistaken double-teaming of prospects.

Some double-teaming is encouraged, however. It's a tactic in itself and the older producers "will drop everything to make a call with one of our young guys," Mr. Kohler remarked.

BHK&R supports its commitment to a youthful staff with more than organization, Mr. Kohler noted. The agency is owned by 10 full-time employees who are required to sell their stock back to the remaining partners when they turn 65, though they can continue to work as producers.

Chairman William Brandow, 64, already has begun to sell back his piece of the business and the partners have already decided on the crown prince, Frank Howard, to

take over as chairman.

Mr. Howard, one of 11 chartered Property & Casualty Underwriters (11 more are in training) at the agency, has taught several underwriting and risk management courses in the Minneapolis area. Principal Amos Rosenbloom came into the partnership after taking one of Mr. Howard's courses.

"Teaching is a good experience," Mr. Howard noted, "and sometimes people get back to us after taking classes and want us to handle their business, but it's not the reason we do it. We have other ways of finding new business."

An Assurex member, BHK&R taps mass marketing lists which provides it with 300 to 400 prospects "which are more suspects than prospects," Mr. Rosenbloom said. "But basically there are so many good middle-size companies



"We try to motivate people to have fewer accidents," says Amos Rosenbloom of BHK&R.

in the area we couldn't begin to call on them all."

Specializing in non-jumbo accounts of less than \$1 million in premiums, the pods sometimes target geographical areas and make a blitz of calls based on Dun & Bradstreet data. The agency once made 255 separate calls in one day in St. Cloud, Minn., northwest of Minneapolis.

Though the pod system has provided a slick, organized approach to account handling, Mr. Kohler said, it has caused some drawbacks in marketing coverages because insurers accustomed to working with a single marketing staffer from the agency had to adjust to talking to two or three people on a single account.

"But the advantages surpass the problems," Mr. Rosenbloom noted. "When I go out on an account, I follow it top to bottom. I'm the quarterback."

Mr. Rosenbloom is also the quarterback of a separate BHK&R division called "Attitude Helpers," a consulting operation that works to promote safety and fewer workers compensation claims for clients.

The technique requires "Attitude Helpers" working outside a firm's budget because "when production pressure is on, safety is always the first to be squeezed," Mr. Rosenbloom said.

"We try to motivate people to have fewer accidents and we do it by going into a firm and seeing what the production people think can be done," he explained.

"If they think they need, for example, an industrial vacuum cleaner to keep the workplace cleaner but have not been able to get it because of budget problems, I advise the staff to buy it and send the bill to me. I pay it and bill the company."

By cutting red tape, promoting safety and encouraging workers, "Attitude Helpers" tries to target 50% accident reductions for firms and charges between \$2,000 and \$8,000 a year for the service.

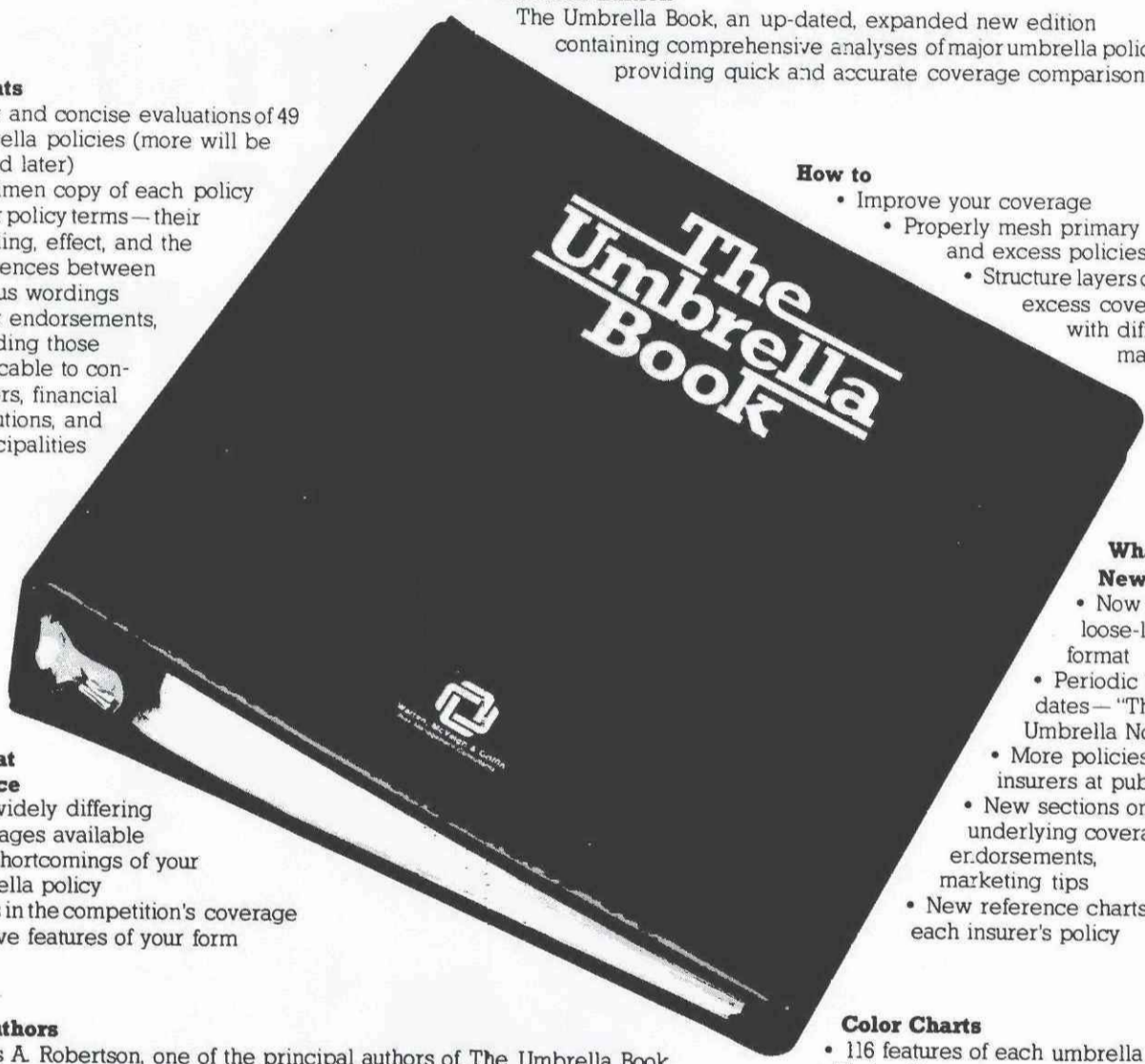
"What we are trying to do with BHK&R and "Attitude Helpers" is to undertake the same way the jumbo brokers do business and apply those skills to the thousands of middle-sized companies who don't have the sophistication of jumbo accounts," Mr. Rosenbloom explained.

## New Poe agency

Poe & Associates Inc., one of Florida's largest insurance brokerages, has reached an agreement in principle to acquire its first agency outside of its home state, O'Connell & Salisbury of New Brunswick, N.J. O'Connell, a multiline agency, has marketed Poe's dental program in New Jersey since 1972 and is expected to operate as a separate subsidiary of Poe under its present management. Poe & Associates also owns a New York state insurer, Whiting National Insurance Co.

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# N.Y. agents find commercial lines still most fruitful

SYRACUSE—Commission rates for commercial lines declined more than those for personal lines in the last three years, but commercial lines are still more profitable than personal, according to the preliminary findings of a study by the Professional Insurance Agents of New York State Inc.

In another study of 40 of this state's agents by the Independent Insurance Agents Assn. of New York, the average agency's income increased 39.3% from 1975 to 1977, but expenses grew 42%.

The PIA study, based on data from 594 PIA agencies and conducted by the State University of New York at Albany, revealed that the average agency has a premium volume of \$892,031. The agencies sampled wrote a total of \$217.3 million with 10 carriers: Aetna Life & Casualty, Hartford, Travelers, Kemper, Merchants, INA, Continental, New York Central Mutual, USF&G and Crum & Forster.

Commission rates for personal lines declined steadily in the last three years, about 6% overall. Commercial commission rates dropped more, by 8.4%. But commercial lines have proven to be more profitable than personal lines, the researchers said, urging agencies to develop commercial business.

The researchers also compiled data for different size agencies. In agencies with less than \$500,000 premium volume, contingent income made up an average 22% of agency revenue; in agencies with \$500,000 to \$1.2 million volume, contingent income comprised 10%, and in agencies of more than \$1.2 million, it was 5%.

Smaller agencies also acquire more of their total revenue from personal lines than do large agencies, the survey shows, an industry truism. The personal/commercial income ratios are 70/30 for small agencies, 57/43 for medium and 47/53 for large.

Commission revenue per clerical employe averaged \$27,000 in small agencies, \$35,000 in medium and \$39,000 in larger.

The IIAANY survey found that the average agency income increased to \$138,356 in 1977 from \$99,350 in 1975. But expenses grew more: \$111,787 in 1977 compared with \$78,719 in 1975, excluding owners' remuneration.

Total income was related to agency size and mix of personal and commercial business. The greater the number of full-time employes, the higher the total income.

Agencies that reported low commercial volume averaged \$88,677 in 1977 total income. Agencies with greater commercial premium volume averaged \$323,205.

Commercial lines commissions comprised \$54,429 or 39.3% in 1977 and \$36,292 or 36.5% in 1975. Life, health and accident commissions remained the same at 3.6%, \$3,625 in 1975 and \$5,002 in 1977 and other income—broker's fees, interest income, etc.—was \$12,007 or 8.7% in 1977 and \$9,414 or 9.5% in 1975.

On the expense side, the greatest increase was in remuneration of non-owner producers. The average agency spent \$10,881 for this in 1977, 7.9% of expenses compared with 7.5% in 1975 or \$7,478. For clerical employes' remuneration, an agency spent \$24,107, or 17.4% of expenses in 1977 compared with \$17,607 or 17.7% in 1975.

The average agency spent \$34,286 or 24.8% of expenses on principals' remuneration in 1977

## A/BT

and \$26,417 or 26.6% in 1975. The average principal, however, was paid \$24,518 in 1977 compared with \$19,008 in 1975; the average agency had 1.38 principals.

The average agency's profits before principals were paid was \$26,569 in 1977, compared with \$20,631 in 1975. This 28.8% growth falls short of the 39.3% growth of income.

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# Wholesale broker whips the cycles

ATLANTA—The Insurance House, an insurance wholesale broker here, is continuing to find ways of offsetting the effects of recurring insurance industry cycles of feast and famine.

The solution: diversification into five businesses related and unrelated to insurance. As Mitchell Gwinn, executive vp, acknowledges, this type of plan may not be for everybody, but he suggested in a recent interview that insurance brokers—both retail and wholesale—might want to take a close look at other business opportunities as he has.

Over the past several years, Insurance House has expanded into premium financing, real estate rentals, putting together primary insurance packages for clients, computer hardware and software sales and services and insurance

## A/BT

underwriting.

"In our shop, our concern for the size, shape and arrival date of the next (insurance) cycle" dictated that Insurance House diversify operationally as well as geographically, Mr. Gwinn said.

Most recently, the insurance underwriting operation was established in the form of Southern General Insurance Co., licensed in Georgia in late July to write property and casualty business. The Insurance House plans to move a \$1 million book of business to Southern General that it has been placing with another admitted company in Georgia, and will also use Southern General to put together its own

garage liability program for state garage operators, Mr. Gwinn said.

Not long before going into the underwriting business, Mr. Gwinn "ventured into" selling computers and related programming services, an outgrowth of having an in-house computer operation with four staff programmers. Under the name of Data Professionals, Insurance House sells mini-computers bearing the Data General name, along with some IBM equipment and programming services to go along with the sales. Customers include agencies using Insurance House's excess/surplus brokerage facilities.

"We have also begun to write standard business to a great extent," said Mr. Gwinn, explaining that for an override averaging about 5%, his firm now will do the

necessary marketing and negotiating with insurance carriers to put together packages of primary property and casualty coverage for agents to sell to their small business customers.

Insurance House doesn't do any retail brokerage business, but handles the range of coverages that might be needed by, for example, a fast-food chain. The local agent servicing this kind of account might

ask Insurance House to help do an insurance program using insurers that the small agent might not have access to.

What Mr. Gwinn characterizes as the "landlord business" involves buying three office buildings in Atlanta and leasing them out to tenants.

Premium financing has recently been expanded to three more states, so that Insurance House is doing this business in six states, offering premium financing services to agents using the firm as a wholesaler. ■

## House panel approves anti-bank insurer bill

WASHINGTON—A House banking subcommittee has approved legislation that would bar most bank holding companies from selling insurance.

Under the bill (H.B. 2255) sponsored by Rep. James Hanley (D-N.Y.), which is supported by a broad coalition of agent and broker trade associations, bank holding companies with assets of more than \$50 million generally would be prohibited from selling property/casualty and life insurance.

It is the only federal regulation favored by agent/broker groups, who are hoping it will pass this term.

Financial companies that are subsidiaries of bank holding companies could continue to sell property credit insurance in connection with loans up to \$3,500, regardless of the bank's size.

In addition, bank holding companies could continue to sell insurance in towns of less than 5,000 population or in communities that lack adequate insurance agency facilities as determined by the Federal Reserve Board. The legislation would not affect the sale of credit disability insurance by banks.

The measure would not apply to banks' insurance operations that began before June 6, 1978; only new insurance activities would be barred.

Although bank holding companies' role as insurance agents is not currently extensive, agent trade groups fear that situation could change dramatically unless the federal legislation is passed. "They (banks) want to get into the insurance business in a big way," says Roger Levy, director of legislative affairs for the Independent Insurance Agents of America here.

Agent groups contend that if banks are allowed to sell insurance, they could make loan approvals contingent on purchasing insurance from the bank, putting the consumer at a competitive disadvantage.

Similar legislation cleared both houses of Congress last year, but died when the Senate failed to approve the conference report accompanying the measure. Opposition from banks as well as the legislative logjam during the closing days of Congress were blamed for the 11th-hour defeat.

The full House banking committee is expected to approve the legislation later this month. The House itself may vote on the bill before the end of the year. But the Senate says it won't act until the House completes its action. ■

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# James promotes boiler division executive

**Fred S. James & Co. Inc.** has made several personnel changes. **Thomas W. Hobbs** has been appointed senior vp in charge of boiler and machinery insurance for the national sales division. He previously was vp for this specialty insurance line. **O. Bradley Fickle** has joined Fred S. James & Co. of Florida, Inc. as vp and assistant manager of the Fort Lauderdale office. He previously operated his own insurance agency.

**Peter W. Kininmonth** of London has been elected to the board of Fred S. James & Co. Inc. He has been a member of Lloyd's since 1949 and formed P.W. Kininmonth Ltd., a Lloyd's brokerage firm.

**Robert L. Adler**, president of Associated Agencies in Chicago, received the Julius Rosenwald Memorial Award from the Jewish Federation of Metropolitan Chicago. The award is presented to the individual who has done the most to advance the Jewish Federation's aims and the welfare of the Jewish and general communities.

**Allen M. Reager Co.** of Louisville has announced several personnel changes. **Larry P. Westmoreland** has been named vp and director. He has been an account executive with Reager since 1970. **Frank E. Dodson III**, formerly account executive, is now a vp. **Larry Starr** has joined the agency as an account executive in the bond department. He previously was Kentucky bond manager for a major insurer.

**Jim Montano** and **Henry Bayard** have joined Adams & Porter Associates Inc. in Houston. Mr. Montano joined the company's claims department. During the past 2½ years he was with a major insurer, where he was responsible for claims pertaining to marine and aviation services. Mr. Bayard joined the organization in the marine insurance division. For the past eight years he was corporate insurance manager for Dixie Carriers Inc.

**Charles R. Fosdick**, formerly senior district sales manager with Allstate, has joined the Orange, Calif., office of Anderson & Anderson as a senior account executive. He will assist branch manager Brian Sincock in a major expansion of that office.

**Karen Ann Murphy** has joined



Murphy



Turner

**Johnson & Higgins** of Pennsylvania Inc. as head of the Philadelphia employe benefit department's actuarial unit. Ms. Murphy was a consulting actuary and officer with another Philadelphia consulting firm before J&H. Previously she was an actuary with the Social Security Administration.

**Joe Ben Turner** has been elected president and chief executive offi-

cer of Flenniken Financial Services Inc. in Knoxville, Tenn. He succeeds R. L. Oakes Jr., who died in June. Mr. Turner was named executive vp last year and has been a member of the board of directors since 1970.

**Leon S. Schor** has been promoted to assistant education director of the Independent Insurance Agents of America Inc. He joined the IIAA in March as program director for the education department, responsible for sales, sales management and agency management programs.

**Gary V. Trippe** has been appointed president and chief operation officer of D.R. Mead & Co., an independent Florida insurance agency. He will be responsible for



Pluss



Rupp

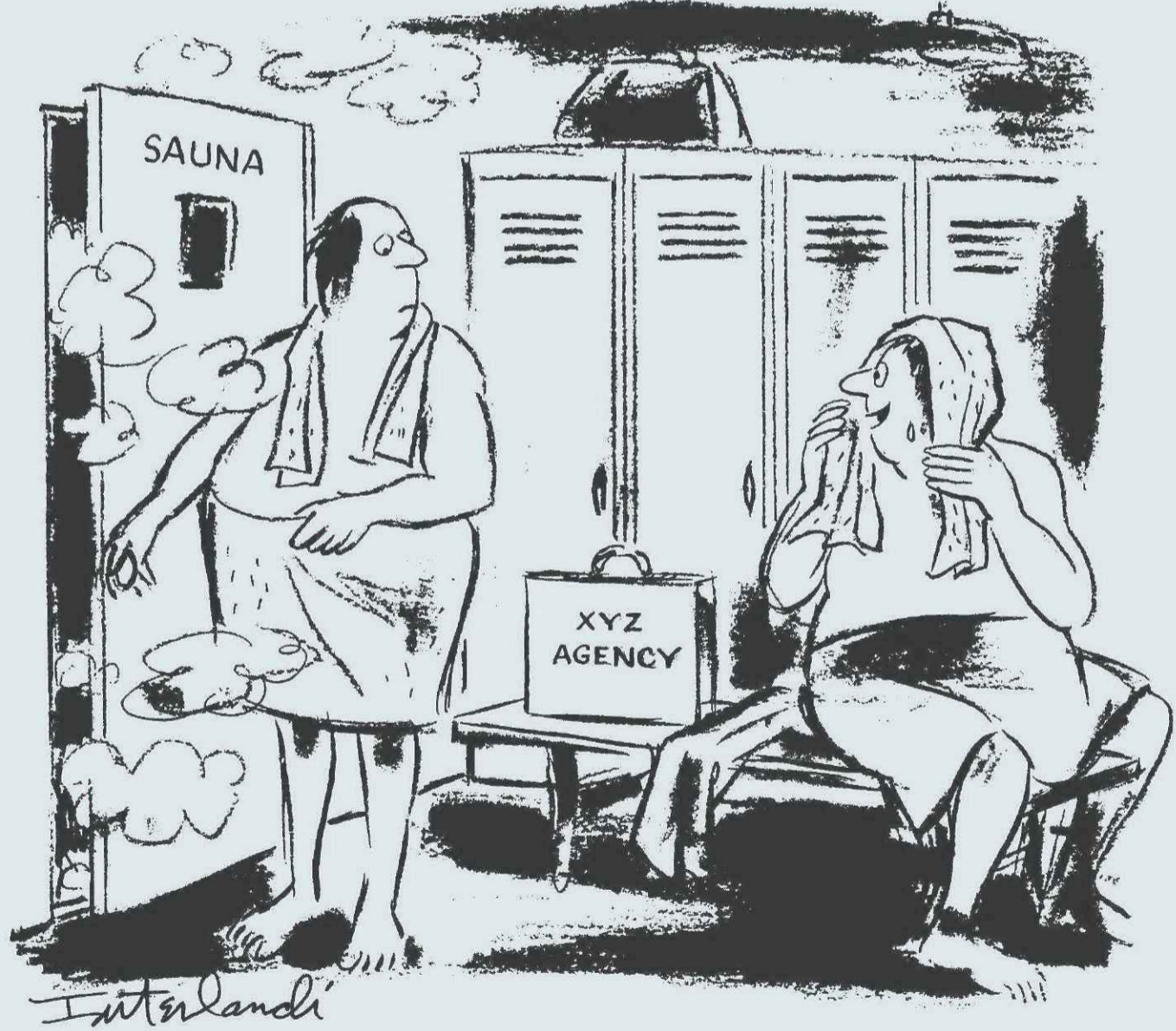
the firm's Miami, Fort Lauderdale, West Palm Beach and Orlando offices and will continue to serve on the board of directors. He has been executive vp since 1976.

Chicago-based **Schwartz Brothers Insurance Agency Inc.** has named **J. Spence Miller** and **Thomas Pluss** to its staff as an account executive. Mr. Miller is a recent graduate of Augustana Col-

lege in Rock Island, Ill., and worked for the firm as an intern. Mr. Pluss is a graduate of the University of Colorado.

**Richard V. Rupp**, CPCU, will join newly formed H&W Risk Management Services as a vp responsible for the technical aspects of the firm's services. He leaves Warren, McVeigh & Griffin, a risk management consulting firm where he was a principal consultant to corporations, associations and public entities.

We'd like to report on staff changes. Just drop a note to Len Strazewski, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611 or call 312-649-5393. We'd also like to receive pictures of those involved.



## A&A, college set memorial

NEW YORK, N.Y.—Alexander & Alexander Inc. and the College of Insurance here have established the William L. Carter Jr. seminars funded by A&A in memory of its late chairman and chief executive officer.

The seminar series will provide a forum allowing in-depth discussion and presentation of issues of concern to insurance industry leaders, according to the College. Speakers will be drawn from business, government, the humanities and the physical and behavioral sciences. Attendance, by invitation only, will be limited to the chief executive officers of insurance companies and insurance brokerage firms.

"Bill Carter was a great supporter of the College of Insurance and of insurance education," explained A&A chairman Kenneth W. S. Soubry. "The fact that the College of Insurance will conduct a series of seminars for the leaders of our industry as a memorial would, I believe, make Bill very happy."

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His front page story in Business Insurance was read into the Congressional Record and was reprinted in newspapers around the country. As a result, insurance trade associations changed some of their literature and, advertising claims by some insurers were modified to provide more credible information about the troublesome tort situation.

Jerry has also given readers of Business Insurance the first summary of product liability and tort reform actions and proposals on a state by state basis. This chart has been widely reprinted and circulated.

Yet Jerry, like all of our editors and reporters, does not specialize. His stories cover a wide spectrum of insurance, risk management and employee benefits and his incisive, in-depth reports have been the subject of discussion, earnest analysis and *action* by influential corporate and government officials.

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## At life insurance companies

# Savings, thrift plans supplement pensions

ATLANTA—Life insurance companies most often use matched savings and profit sharing plans to supplement employee pension plans, according to the Life Office Management Assn.'s first post-ERISA study of defined contribution plans.

A total of 98 U.S. companies reported matched savings and/or profit sharing plans for their salaried employees and 138 reported no such plans. Both types of plans are used most often by companies with fewer than 500 employees.

These plans are almost always supplemental in the life insurance industry. Most responding companies have defined benefit pension plans or other plans as their primary type of retirement program; only 12 of the 98 had no primary plan.

The study analyzes 48 matched savings plans. Only 11 plans use the ERISA standard eligibility requirement of age 25 plus one year of service; 14 plans use an age/service combination that is more liberal than the ERISA standard. Fifteen use a one-year requirement, four use less than one year.

The bulk of the companies reported 50% to 79% employee participation and use base salary for calculating contributions. The most common contribution formula took 6% of an employee's pay and the company contributed a sum equal to half that amount. Thirty-five plans enable employees to contribute more than the maximum amount subject to company matching contributions.

Twenty plans report investment begins on the date of payroll deduction; 14 plans indicate a monthly effective date following deduction; 10 plans indicate a monthly effective date following receipt by the investment fund.

Six plans provide for full and immediate vesting. Thirteen use the class year method, in which the employee is never fully vested for all years of employer contributions. Most of the remaining companies base vesting on years of participation in the plan, and many of them require 10 years or more.

Forty-five plans allow employees to withdraw assets from the plan while they are employed and 36 of them penalize employees for doing so. But many plans permit withdrawals without penalty in cases of financial hardship.

Twenty-seven savings plans allow deferral or distributions beyond period of termination or retirement. Twelve allow deferrals at termination and retirement; five at termination and 15 at either one. Periods of deferral range from less than a year up to normal retirement date. Options other than lump sum distribution are available.

Thirty-seven plans indicate employees have an option as to how contributions are to be invested. Usually the employee has a choice only regarding his or her own contributions, not those of the company.

Thirty-two of the plans were established before ERISA, and 23 of those made more liberal changes than those required by ERISA.

The profit-sharing part of the survey includes 53 plans. Thirty-seven of the plans were with companies of less than 500 employees, and 22 of the plans were offered by Midwest companies.

Companies with profit sharing plans tended to provide other retirement income plans as well—42 companies in all. Thirty-four offered defined benefit pensions.

Twelve companies use the ERISA standard eligibility requirement of age 25 and one year of service; four companies allow immediate participation and 26 use a service-only requirement.

Graduated vesting schedules are provided by 60% of the plans, in which full vesting is achieved after five to 15 years of service. Eleven companies grant full and immediate vesting after a range of one to three years of service. Firms reporting full and immediate vesting as well as those with graduated vesting within 10 years of service comprise 83% of the firms with less than 500 employees.

Only 10 firms require employees to contribute to the plan in order to participate, and these contribu-

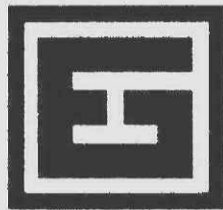
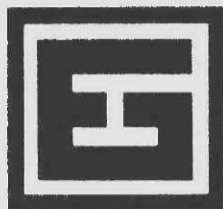
tions range from 1% to 5% of compensation, usually base salary. Twenty-eight companies permit participants to make voluntary contributions, ranging from 5% to 10% of compensation. Most companies with no pension plan permit

voluntary contributions. Sixteen of the 28 give the employee a choice of how the money is invested.

Twenty-two plans use a discretionary formula in determining company contributions to the plan; 16 base contributions on a percent-

age of profits and 10 use a combination of the two.

Thirty-eight plans were established before ERISA, and 45% of those have undergone substantive improvements in addition to those required by that law.



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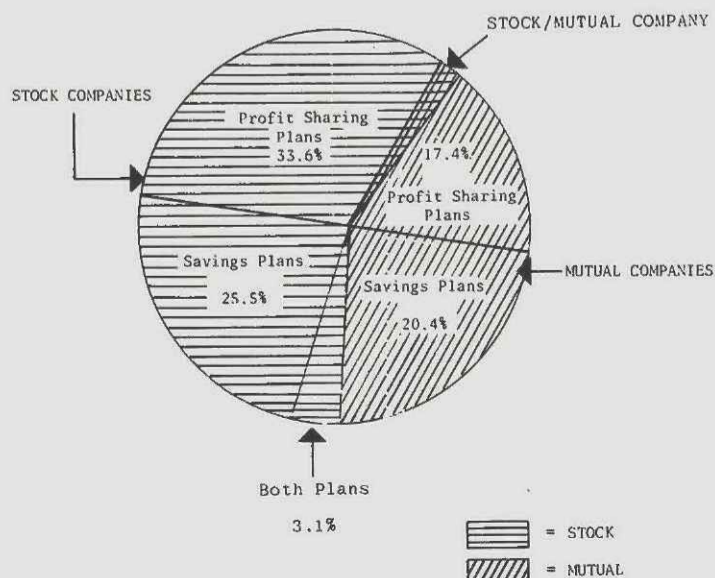


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## London line

# Lloyd's to lend more money to Sasse in return for audit

LONDON—Lloyd's has agreed to lend more money to the hard-hit Sasse syndicate's members, as long as they allow Sasse's audit to be completed without further delay.

Lloyd's already granted \$15 million several months ago.

In return, Sasse members will abide by judicial arbitration on the reasons for the syndicate's failure. Explanations for Sasse's troubles range from misjudgment on the part of underwriters to the acceptance of an excessive spread of

U.S. risks through binding authority granted to Den-Har, a Florida agency.

Lloyd's nearly two-year-old probe into the syndicate's collapse may be completed by December, making it possible to decide who will bear the losses, which may reach \$41 million. Extensive U.S. fire claims have already been paid out through the syndicate's available funds.

Sasse members had threatened to take legal action if Lloyd's failed to provide the extra money and

held up its vital audit of the 1976 accounting year in protest (BI, Oct. 1).

The other 340 Lloyd's syndicates have put in their full audit returns for 1976.

### Underwriting agency

Lloyd's has formed its own underwriting agency, Additional Underwriting Agencies Ltd., with \$34,000 capital to provide top level managerial support to any syndicate that runs into temporary difficulties.

The new organization will not be able to feed any cash into the syndicates asking for its help, but will advise members on how to run their affairs until their cash problems are solved.

Senior members of Lloyd's will no longer have to voluntarily act as managerial agents, as Stephen Merrett did with the Sasse syndicate.

Peter Daniels, chairman of Lloyd's Underwriting Agents Assn., has agreed to be a working director of the new company, with marine underwriter Eric Bruce and underwriting agent James Bazell. They will do this in addition to their normal commercial activities, and will have the assistance of Ted Merrett, one of Lloyd's administrative staff (no relation to Stephen Merrett).

The first syndicate to ask for their services is Ashby and Co. (BI, Sept. 17), which faces problems with excessive premium income and has halted its underwriting un-

til the situation is resolved.

### War-risk zone

Lloyd's has declared politically troubled Afghanistan a war-risk zone and will levy an extra 50 cents per \$100 in premiums for goods sent there from the U.K. Underwriters in other western European countries are expected to follow suit.

The regime is regarded as being under strong Russian control, with Moscow sending military aid to combat opposition by any rebel groups.

New laws required local firms to buy insurance through the Afghan state insurance company. Lloyd's has shut down its administrative agency in the capital city of Kabul because there are so many restrictions on claims handling and other loss-adjustment facilities.

### Hull rates

London insurers, who have lost a lot of marine business to foreign insurers whose rates run as much as 40% lower, would like a 25% across-the-board hike for hull rates, with still more to cover catastrophe provisions.

So said John Russell-Taylor, who heads the joint hull advisory committee of Lloyd's and the Institute of London Underwriters, at the annual conference of the International Union of Marine Underwriters.

But William J. Bradford Jr., chairman of the ocean hull committee of the American Institute of Marine Underwriters, told delegates that "no meaningful turnaround" can take place until excess capacity is burned off.

The major shipping fleet policies come up for renewal in November and firms are likely to switch their risks among insurers seeking better terms in the cutthroat business climate.

Although British insurers have come up with guidelines on renewal rates and conditions which they hope will be accepted by other countries, the Far East is expected to show opposition (BI, Sept. 17).

"We're not trying to stop competition—but we are trying to stop unbridled competition. I can't ask the rest of the London market to support an understanding about renewal rates if the other world markets won't back it up," Mr. Russell-Taylor said.

The London market appreciates the enormous capacity problem and the attraction of high interest rates for investment, he said. "But we're in danger of destroying our own business in the end if the whole criteria of underwriting is the amount of investment that can be derived from it. Shipowners and similar clients will get lasting benefit if we avoid reckless competition."

Norway and Denmark are showing signs of support, but competition still looms in Hong Kong, Singapore and Taiwan "and to a lesser extent Japan," he said.

IUMI members must show greater cooperation if the organization is to have any future role, he said. The IUMI, which represents more than 40 leading markets, normally avoids open discussions on rates.

E.D. "Ted" Rainbow of London, chairman of the IUMI's ocean hull committee, warned that 1979 may see the worst underwriting result in decades.

"It's simply not conceivable that present rating levels are based on any form of sound underwriting judgment," he said.

"Capacity has so far outstripped the values it has to cover and the premiums it needs that concern has turned into a desperate thirst for premium."

Some shipping fleets saw a 30% to 40% drop in premium ratings in the last three years, he said. ■

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Because of this emphasis on preventive care, there may be fewer major dental procedures and lower average claim charges over the long run. After all, an ounce of prevention costs less than a pound of cure in today's market.

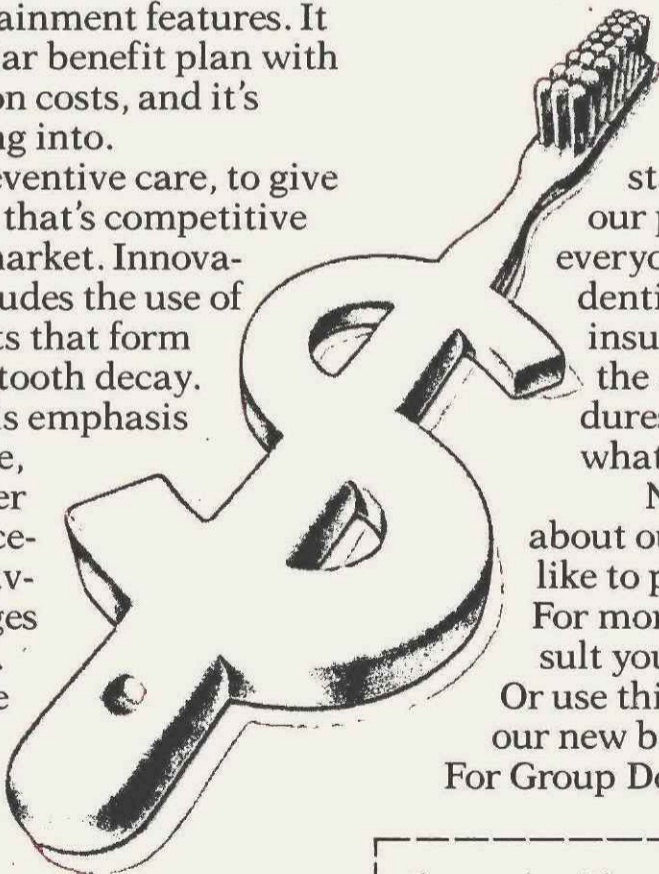
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# benefit tax slants

## New SEP law offers flexibility for firm, employe pension

By JOSEPH S. ROBINSON

Attorney-at-Law

THE CURRENT tax law opens the door to liberalized company contributions to employes' individual retirement accounts. The rules permit the creation of simplified employe pensions, or SEPs—a combination of corporate pension plans and individual IRAs.

Starting this year, the law permits employers to make tax-deductible contributions of a worker's compensation, up to a maximum of \$7,500, into an IRA. For higher-salaried employes, this is a substantial break, because their own tax-free dollar contribution is limited to \$1,500. For these new pension plans to qualify for tax deductions, however, they must be available to all company employes, not just to top executives.

The SEPs offer companies a great deal of flexibility. Although the corporate contributions have a high dollar ceiling, businesses do not have to earmark the maximum for a worker's retirement. The worker can make up the difference, but if he does, his maximum contribution is limited to \$1,500. The law also permits a company that has never had a pension plan to establish SEPs and add its contributions to any IRAs already set up by employes.

In another interesting aspect relating to IRAs, a recent IRS private letter ruling approved the rollover of a lump-sum distribution by a 72-year-old retiring employe. (*Private Ruling No. 7919045*). This ruling contradicts an earlier one that stated a person 70½ or older cannot make a tax-free rollover. (*Letter Ruling No. 7826117*).

### Food for thought

Under a recent U.S. Supreme Court decision, companies that provide their employes with food on the business premises must bargain with their union representatives over prices. This is true whether the company operates a full service cafeteria for employes or merely installs a vending machine. Here's the story:

The Ford Motor Co. stamping plant in Chicago employed about 3,600 production workers, all members of a union. The company provided its employes with two air-conditioned cafeterias and five vending machine areas. An independent caterer provided these

### Blue Shield protests award

LOS ANGELES—Blue Shield of California is protesting an arbitrator's decision to award more than \$313,000 to a policyholder whose claim for diagnostic tests was refused because the insurer said hospitalization was unnecessary.

Blue Cross was planning to contest the awards of \$300,000 for punitive damages, \$12,000 for emotional and mental distress and \$1,116 for unpaid hospital charges in a hearing before a Los Angeles Superior Court at the end of September.

The insurer contends the tests could have been done on an outpatient basis at less cost.

meals under a contract with Ford, which gave Ford the right to approve the quality and price of the meals.

The Supreme Court held that whenever an employer has influence over the prices charged employes for meals, the price of meals is a mandatory bargaining subject. (*Ford Motor Co. v. NLRB, Sup. Ct., 47 U.S. Law Week 4498, 1979*). ■

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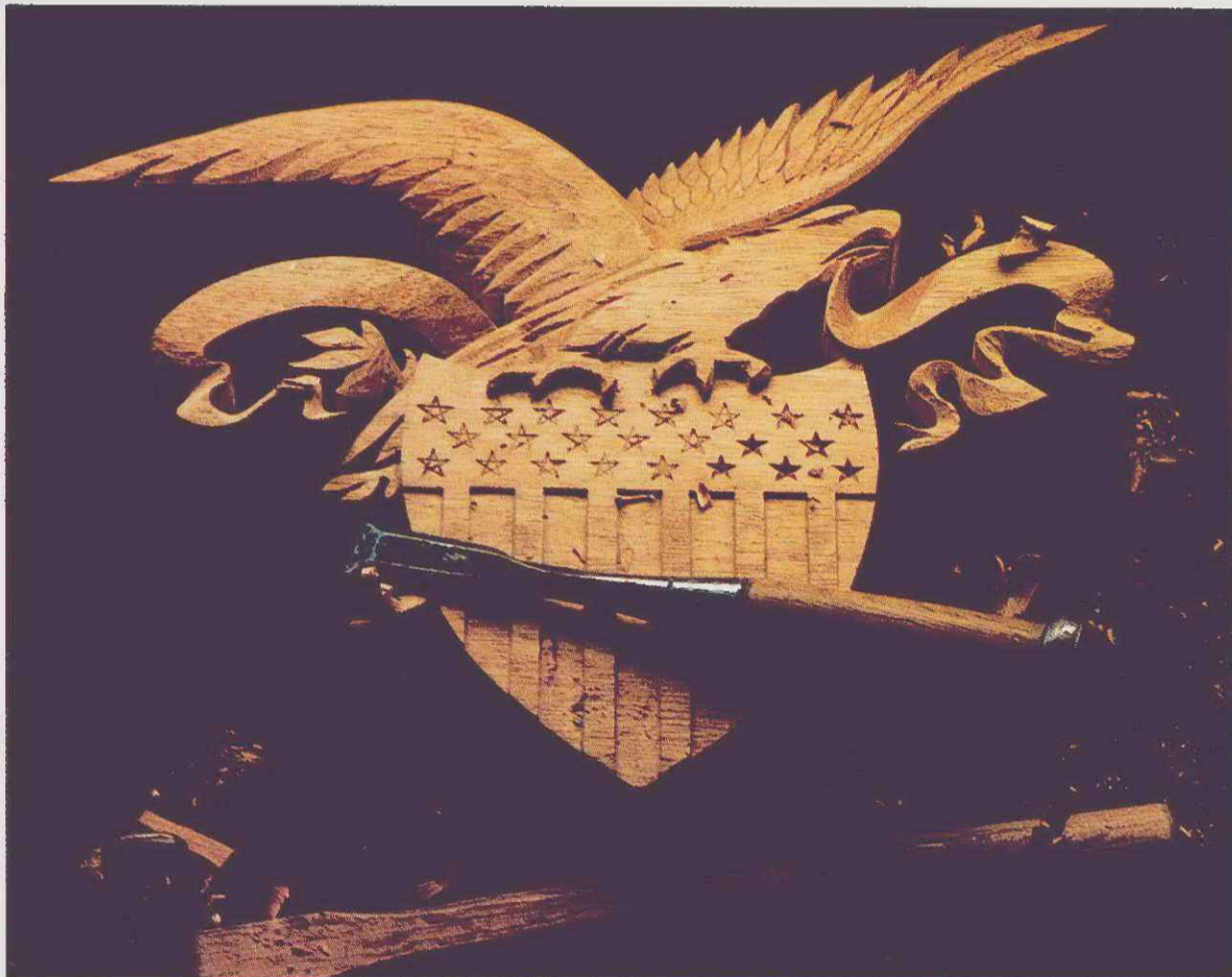
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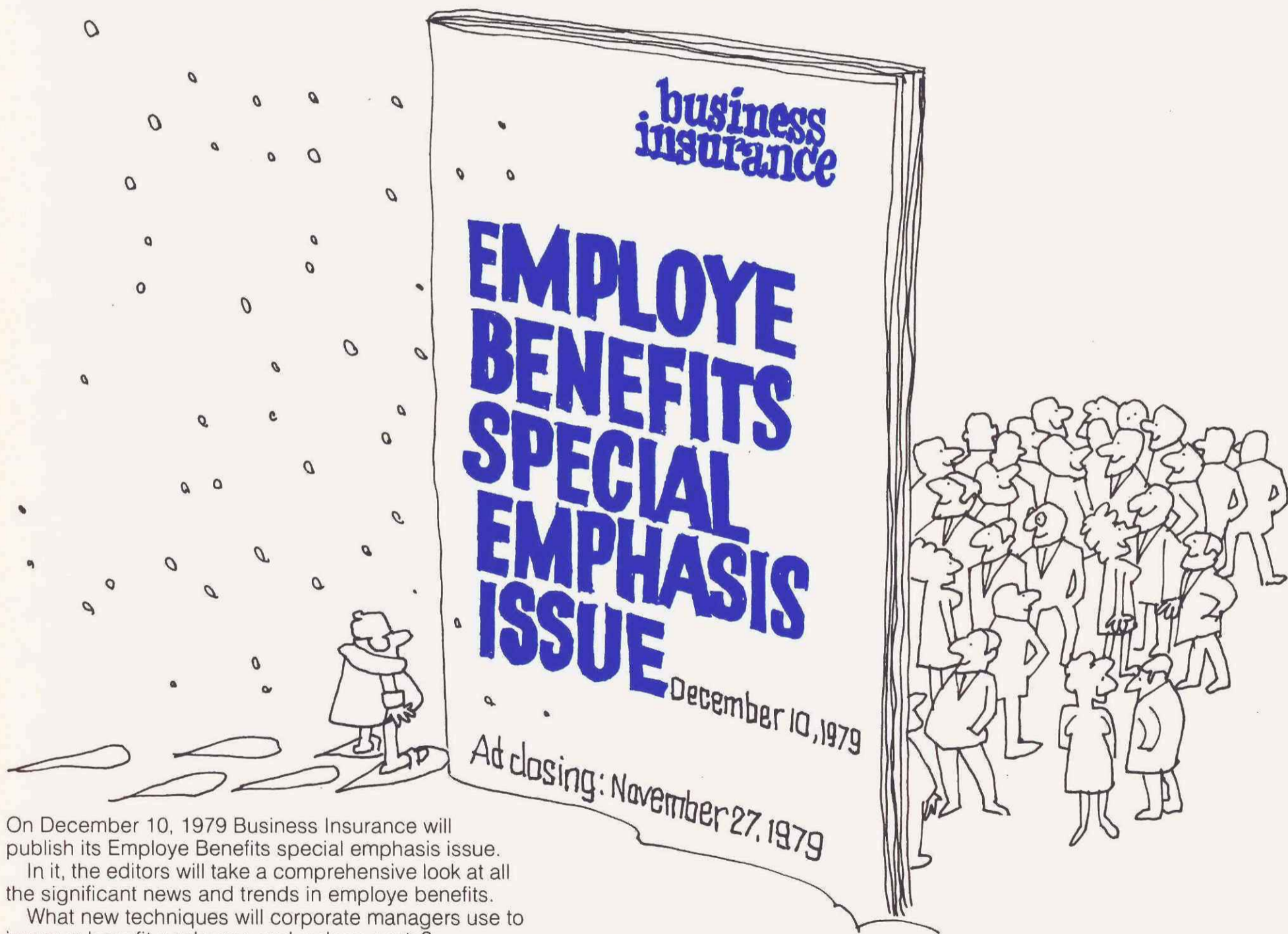
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# Ky. commissioner fears insolvent insurers

LOUISVILLE—Kentucky insurance commissioner Harold B. McGuffey says his "number one concern" is the solvency of insurance companies and predicted financial difficulties may cause even more firms to dip into state guaranty funds to cover losses.



Photo: John Maes

"There are 50 insurance companies around this country that could go broke over the next two years," says commissioner Harold McGuffey.

lier this year because of insolvency. The insurer "looked okay" on a 1977 financial examination report, but "they under-reserved and these things can happen," he said.

Sometimes there are few telltale signs of a company's impending insolvency, but Mr. McGuffey says he tries to scan the horizon of companies doing business in Kentucky for possible warnings by obtaining as much information about them as he can. Best's statistics, insolvency tests and annual financial statements are useful tools in this regard, he said.

He said insurance buyers should not be deluded into thinking insurance firms are attempting to wring excessive profits from the market because many firms are trying to

build surplus levels to stave off insolvency. The buying public must realize that "making a profit is not a dirty word," Mr. McGuffey said.

But at the same time, Mr. McGuffey said, buyers must be protected from "unfair insurance rates," adding Kentucky will never adopt the "file and use" method where insurers notify state officials of a rate increase, then put the new rates into effect without prior approval.

In Kentucky, insurers must obtain approval from state insurance officials before being allowed to increase rates.

In response to a question about why Kentucky does not adopt the file and use concept, Mr. McGuffey said the prior approval method is working well in the state, "and if nothing's broke, well, why fix it?"

## Fire safety measures lacking: Vp

LOUISVILLE—Industrial fire hazards abound today and companies that pay inadequate attention to safety measures, warehouse storage techniques and fire suppression systems are asking to be burned, an insurance company executive says.

"There are serious exposures that exist throughout industry," said Earl W. Harrington Jr., vp/marketing for Allendale Mutual Insurance Co. "Loss prevention is critical to successful operations, it needs high priority in corporate policy and it's a key element in risk management."

The consequence of improper attention to fire prevention and safety measures could be a fire such as the one that destroyed the Ford Motor Co.'s parts and accessories depot in Cologne, Germany, in 1977. Property damage from the blaze totaled \$100 million while business interruption losses were set at another \$50 million. The destruction of the 800,000-square-foot facility was one of the worst industrial fires in history.

Mr. Harrington said the blaze was a classic example of inadequate attention to safety because it was apparently caused by careless smoking and heat and flames were fueled by improper storage of materials. In addition, the building's sprinkler system was inadequate, he said.

## Tolley sells fiduciary unit

INDIANAPOLIS—Tolley International Corp., a consulting and administrative service firm here for employe benefit and pension plans, has sold its fiduciary liability agency and will no longer deal in that type of insurance, the company has announced.

The operation, Professional Indemnity Agency Inc. of New York, has been purchased by Marshall Rattner, president of the agency while it was under Tolley's control. "I wanted out," Mr. Rattner said. "All I did was buy my freedom."

Under the sales agreement, Tolley will be paid 22% of PIA's net fiduciary insurance commissions from January 1979 through Dec. 31, 1985, said a Tolley spokesman. In addition, Tolley will receive 58% of all outright profit sharing commissions on fiduciary liability policies issued during that period, the spokesman said.

Mr. Rattner said he is optimistic about the future of the business and hopes to enter the kidnap and ransom insurance market, along with other fields in the next year. He also said the agency may eventually handle directors and officers

over the next two years." In Kentucky alone, the state's guaranty fund has been used five times since its inception in 1972 and it's "imminent" that two more firms will use it in the foreseeable future, he said.

A major contributor is that too many firms under-reserve for losses even though they are financially sound otherwise, the commissioner said. This was the case with the Reserve Insurance Co. of Illinois, which closed its doors ear-

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# Work comp benefits, costs to rise: Chief

LOUISVILLE—The disabled worker will command attention in the 1980s just as the abused child has been spotlighted in this decade, said Glenn L. Schilling, chairman of the Kentucky workers compensation board.

The lot of the injured worker will improve substantially through legislation in the coming decade but at the risk of increased costs, he said. "The federal government will be coming down on the side of the injured worker and costs are going to be secondary."

The federal government will be setting benefit standards over the entire country, he said. Although he does not necessarily like the idea of federalizing the benefit schedule, Mr. Schilling said some uniformity is needed. Weekly benefit maximums, for example, range wildly from \$654 in Alaska to \$223



Photo: John Maes

"The federal government will be coming down on the side of the injured worker," said Glenn L. Schilling, Kentucky work comp board chairman.

in Michigan, \$221 in Kentucky and \$87.50 in Arkansas.

SB 420, sponsored by Sen. Jacob Javits (D-N.Y.) has little chance of passage soon, however, because organized labor is seeking a federal program, not just benefit standards, and will oppose it.

State compensation officials will have to help ensure that their state laws are updated and improved enough to stay ahead of proponents of federalization who attack state compensation laws as inadequate, he said.

But while the next decade por-

tends a brighter future for the disabled worker, some disability issues still lack attention, he said. "There is no research going on in the area of occupational diseases," Mr. Schilling said, adding that the law still works to the detriment of the worker in some occupational hazards.

**Brown lung disease**, for example, brought on by prolonged exposure to cotton dust has a latency period of up to several years, but many cotton workers have been precluded from seeking compensation by statutes of limitations, Mr. Schilling said. "These problems are not going to go away as long as we chip away at the system and pretend to be doing more than we are," he said.

Mr. Schilling noted local weaknesses in the Kentucky

workers compensation system:  
 • The chairmanship of the workers compensation board is now a part-time position but should be made full-time to pay proper attention to the growing needs and the problems of the system.

• Farm workers should be included for coverage; many are currently without disability coverage.

• Labor interests favor a state fund for workers disability benefits, similar to the method of compensating injured workers used in Ohio. "This is the way labor-oriented people are talking."

• Death benefits should be increased. The state's death benefits of \$100.45 weekly for a widow with no dependents and \$121 weekly for a widow with dependents are the seventh lowest of any state.

## Work comp rose more than wages

WASHINGTON—Compared to average wages, maximum workers compensation benefit levels among the states are substantially higher now than at the beginning of the decade, according to figures from the UBA Inc., a research and education organization.

Increased benefit levels, coupled with the effect of double-digit inflation on wages, are the primary reasons employers' costs have more than tripled since 1970, UBA notes.

The number of states paying maximum weekly temporary total disability benefits of 66% or more of the state average weekly wage has increased to 42 from two since January 1970. The number of states paying less than 50% has dropped to zero from 35 since 1970.

Maximum permanent total disability benefits now equal or exceed 66% of the state average weekly wage in 41 states, compared with only three in 1970, and 26 of those states are paying 100% or more. The number of states paying maximum death benefits of 66% or more of the state average weekly wage has increased to 38 from one since 1970, and 24 of these pay 100% or more.

Many of the states that have increased maximum benefit levels also have adopted escalator provisions to automatically adjust their maximum benefits as the average state wage increases.

In 1970 only nine states had escalator clauses; that number increased to 29 in 1975 and 41 in 1979.

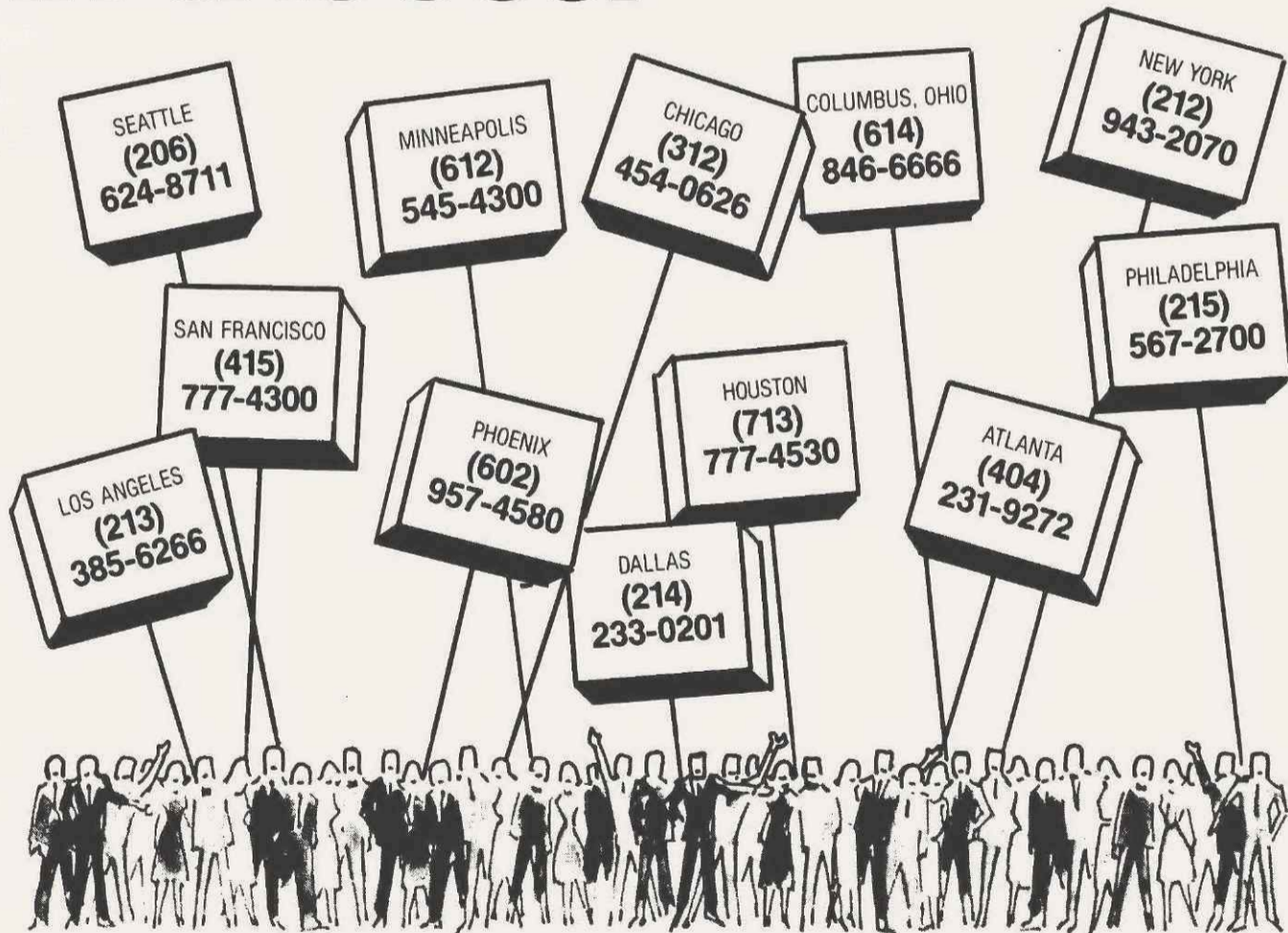
During 1969 to 1978, average weekly wages increased between 60% and 90% in 48 of the 52 jurisdictions (states plus Puerto Rico and the District of Columbia). However, between 1970 and 1979 maximum temporary total disability benefits increased faster than wages in every jurisdiction except Arizona and Puerto Rico.

Maximum benefits increased by 100% or more in 48 of the 52 jurisdictions and in 30 states the increase was more than 200%.

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## dates for buyers

**OCT. 18-20.** The Wharton School of the University of Pennsylvania is sponsoring a seminar on how scientific methods can be used to make **risk management** decisions. Cost is \$515 per person plus a \$50 registration fee per company. The seminar will be repeated in San Francisco on **Nov. 5-7** and in New York on **Dec. 6-8**. For more information write The Business Risk Education Center, Rm. 415, Vance Hall/CS, University of Pennsylvania Philadelphia, Pa. 19104; phone 215-243-3230 or 215-243-4476.

**OCT. 22-23. Hospital Liability 1979** is the name of a Practising Law Institute seminar to be held in Chicago. The use of malpractice panels for presuit screening of cases, the methods of preparing for these panels and the avoidance of

liability through effective risk management will be discussed. The seminar will be repeated in Los Angeles on **Dec. 13-14**. Cost is \$185. For more information contact Nancy B. Hinman, Practising Law Institute, 810 Seventh Ave., New York, N.Y. 10019; phone 212-765-5700.

**OCT. 22-24. The Product Liability Prevention** conference will be held in New York. Human factors in the analysis of product liability, preparing for a product liability trial, handling customer complaints and the necessity of labels and warnings will be discussed. Cost is \$515 for nonmembers and \$475 for members. Contact Product Liability Prevention Conference, 23 Rumson Road, Livingston, N.J. 07039; phone 201-992-3811 or 201-992-2495.

**OCT. 23.** The California Workers Compensation Institute will sponsor a **vocational rehabilitation** management workshop in San Jose. The workshop will examine reporting requirements and the legal aspects of rehabilitation. The workshop will be repeated in Fresno **Oct. 25**, Van Nuys **Oct. 30**, Los Angeles **Oct. 31-Nov. 1** Anaheim **Nov. 27** and San Diego **Nov. 28**. Cost is \$40. Contact the California Workers Compensation Institute, 201 Sasome St., Suite 202, San Francisco, Calif. 94101; phone 415-981-2107.

**OCT. 23-24. Reducing hospital insurance** costs while improving coverage is the subject of a RIMCO Risk Management Inc. seminar in Dallas. Cost is \$395. Contact RCI Communications Inc., 10300 N. Central Expressway, Suite 350, Building V, Dallas, Tex. 75231; phone 214-363-9656.

**OCT. 25-26.** Company Communications Center is sponsoring a conference on **business interruption insurance** to be held at the Royal Lancaster Hotel in London W2. The first day of the conference will concentrate on arranging coverage and the second day will examine settling losses. Cost is \$135 for two days or \$199 for one day for nonmembers and \$329 for two days or \$176.25 for one day for members. Contact Glenna Blackwell, Company Communications Center Ltd., 50 Tufton St., London SW1P3RA; phone 01-222-6362.

**NOV. 8-9.** New York University is sponsoring a seminar in Chicago on **ocean marine insurance** management. The seminar will focus on how to broaden insurance coverage, how to react to disasters and how to save money while improving coverage. Cost is \$545 per person plus \$75 registration fee per organization. Contact NYU-OMIM, Registrar, 14th Floor, NYU Conference Center, 360 Lexington Ave., New York, N.Y. 10017; phone 212-953-7262.

**DEC. 3-5. Creativity in Communications** is the theme of *Business Insurance's* third annual Employee Benefit Communications Conference at the Ritz-Carlton Hotel in Chicago. The conference will examine and critique various corporate communication approaches and investigate generic communications, choosing the right graphic approach, adapting a communication effort to the size and needs of a company and the packaging and legal ramifications of communications. Cost is \$310 with a 10% discount for additional registrants from the same company who register at the same time. Contact Sari Lipschultz, Crain Educational Division, 740 N. Rush St., Chicago, Ill. 60611; 312-649-5246.

# Facultative Reinsurance Questions & Answers #2

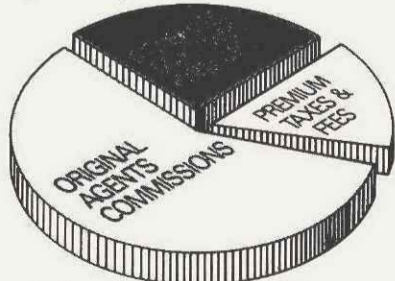
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**Q: You do business directly with insurance companies. Do you also work with reinsurance brokers?**

**A:** Yes. We do work with reinsurance brokers because Prudential

Re recognizes that many insurance companies want the services brokers provide. Other companies prefer arranging their facultative reinsurance directly. So Prudential Re does business both directly and through reinsurance brokers. But there are some cases, like the unique, high-risk business handled by surplus line companies where we prefer a first-hand relationship.



Pete Greene, Manager of Prudential Reinsurance Company's Facultative Regional Office in Houston.

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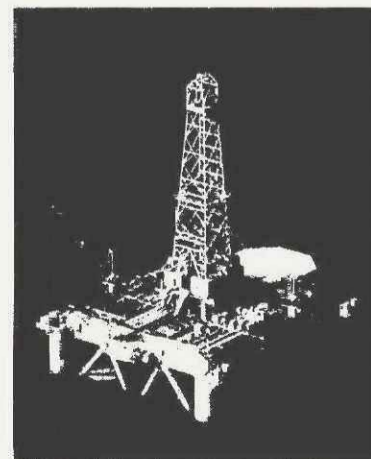
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Offshore drilling rigs are an example of some of the "tough risks" covered by Pru Re.

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• **Risk Management Made Simple** is a promotional brochure describing H&W Risk Management Services. An outline of the services available and a detailed background of the H&W staff are included. For a free copy write H&W Risk Management Services, 19752 MacArthur Blvd., Suite 150, Irvine, Calif. 92715.

• **Nationwide Boiler Rentals Inc.** describes its **mobile boiler rental service** in an eight-page brochure. The brochure explains savings of renting or leasing a mobile boiler room especially when supplemental or temporary steam is needed. For a free copy write Gary R. Bliss, advertising manager, 1061 Terra Bella Ave., Mountain View, Calif. 94043.

• Just starting your own business? Know someone who is? **Kemper Insurance Cos.'s Businessowners Guide To Insurance** may be a valuable explanation of the basic types of insurance that are available. For a free copy write Communications & Public Affairs Dept., Kemper Insurance Cos., Long Grove, Ill. 60049.

• **Second Surgical Opinion: What's It All About?** is a booklet prepared by Personnel Research Associates offering some suggestions for implementing and promoting a program of second surgical opinions for elective surgery. The potential for saving money, describing second opinions and getting people to use the voluntary program are also discussed. Cost is \$4.50. Write Marilyn Udis, Personnel Research Associates, 49 Oakridge Road, Verona, N.J. 07044.

• The International Foundation of Employee Benefit Plans is offering a 130-page book of the proceedings of the **1979 investment institutes** which were held in May at Lake Tahoe. Cost for foundation members is \$6 each for one to four copies and \$5.50 each for five or more. Cost for nonmembers is \$10 for one to four copies and \$9.50 for five or more. Write International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53005.

• The proceedings of the International Foundation of Employee Benefit Plans' spring **corporate benefits** management conference are now available. Cost to members is \$5 for one to four copies and \$4.50 each for more than five copies. Cost to nonmembers is \$8.50 each for one to four copies and \$8 for five or more. Write the International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53005.

• Do your employees understand their **benefit plans**? If not, the Employee Benefit Research Institute is offering pamphlets on a thrift plan, disability income plan, prepaid prescription drug plan, vision care plan and profit sharing plan which might increase an employee's awareness of benefits. Cost is \$1 for each pamphlet. Write EBRI, 1800 M St., N.W., Washington, D.C. 20036.

• The defense of medical mal-

practice cases is the subject of the recently published **Medical-Legal Monograph** offered by the Defense Research Institute. A collection of five articles provides observations regarding the investigation and preparation of medical malpractice litigation, the medical standard of care, the statute of limitations and informed consent. An appendix outlining a strategy of discovery for the defense, an annotated bibliography and case references to nearly 90 briefs are included. Each copy of the monograph costs \$7.50.

Write William H. Kotlowski Jr., Information Director, Defense Research Institute, 1100 W. Wells St., Milwaukee, Wis. 53233.

• **A Products Liability Position Paper** prepared by the Defense Research Institute is available for \$1 a copy. The 52-page booklet is available by writing The Defense Research Institute, 1100 W. Wells St., Milwaukee, Wis. 53233.

• A defense attorney provides the medical expert with **10 Tips on Handling Yourself in Court**. The article gives a detailed list of tactics to aid the physician in giving medical testimony. The author deals first with substantive areas and

then the procedural areas of medical testimony. Following the article is an outline. Trial by Expert, directed toward the defense counsel handling medical malpractice cases. Copies are \$2. Write Defense Research Institute, 1100 W. Wells St., Milwaukee, Wis. 53233.

• **Insurance Coverage for the Motor Carrier** is a 60-page guide to assist those responsible for motor carrier insurance decisions. It will help analyze past incidences, project adequate insurance needs, comply with legal requirements and formulate a loss prevention program. Cost per copy is \$8.50. Write Thomas Fugee, Executive Director, National Accounting &

Finance Council, American Trucking Assn., 1616 P St., N.W., Washington, D.C. 20036.

• **Insuring Business Risks in Canada** is a book by Geoffrey R.E. Bromwich written in nontechnical language for the administrator of a medium sized firm or a part-time risk manager. It gives pointers on handling an insurance program, safety features and pitfalls when presenting a claim. There are sections about different kinds of insurance companies, how to read a policy and insurance terms. Cost of the book is \$3.50. Write International Self-Counsel Press, 306 W. 25th St., North Vancouver, British Columbia V7N 2G1.

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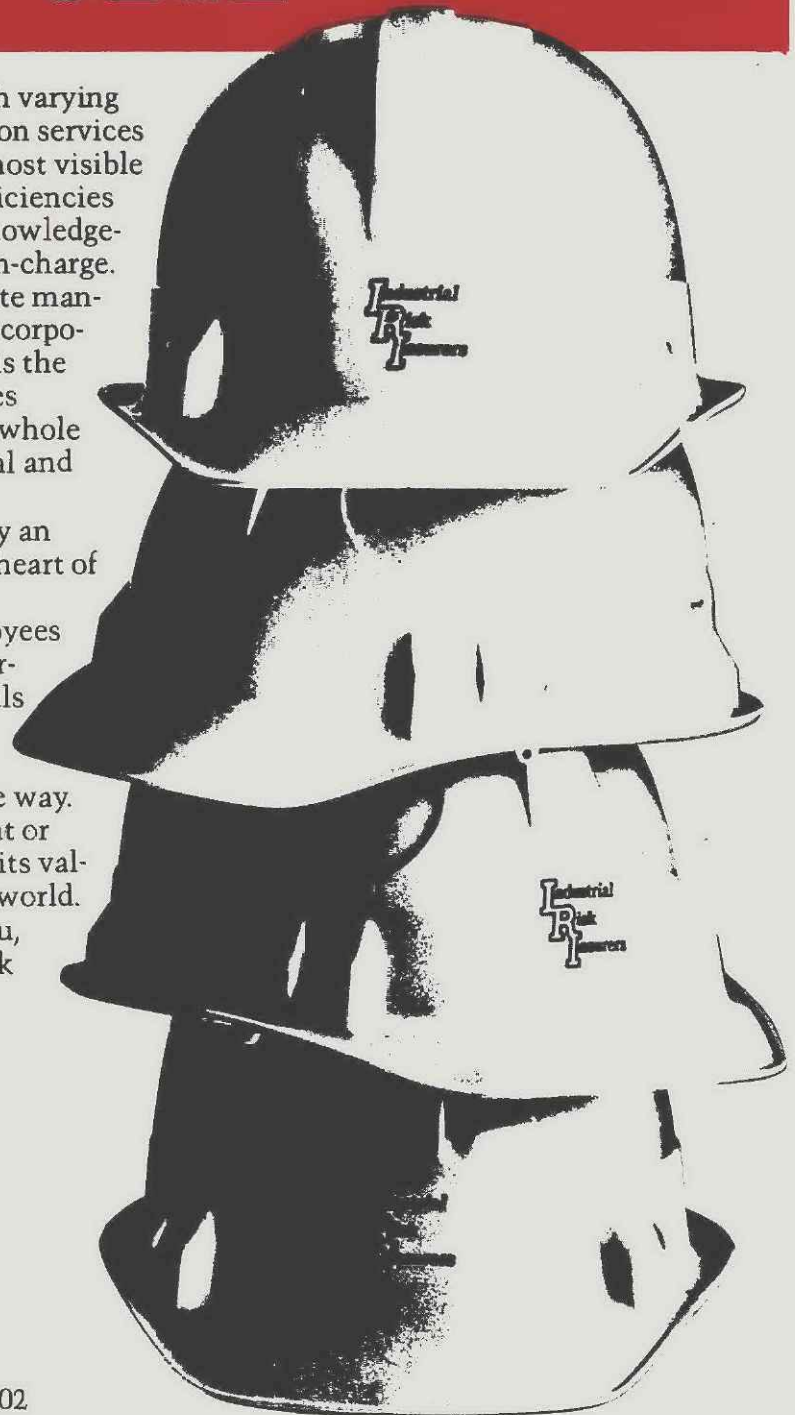
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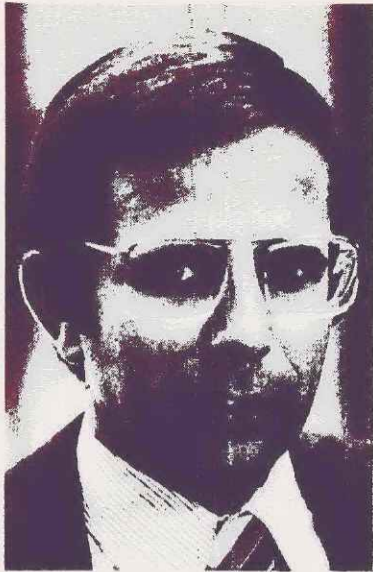
That's why more than half of our employees are directly involved in loss prevention services. Working together, these professionals draw on their combined experience and knowledge to solve your fire safety problems in the most economical and effective way. Their ability to respond to problems - great or small, routine or emergency - has proven its value to thousands of companies around the world.

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A small increase in the retirement age would reduce the unfunded liability, says William Agee.

# Higher Social Security age would slash costs: Chairman

By JERRY GEISEL

WASHINGTON—Increasing the age at which retirees can collect Social Security benefits could slash the constantly rising cost of Social Security, a top business executive told the President's pension commissioner.

"Phasing in . . . a relatively small increase in the retirement age would reduce the unfunded liability drastically—potentially by as much as \$1 trillion," said William Agee, chairman and chief executive officer of the Bendix Corp., speaking before a hearing of the President's Commission on Pension Policy.

Mr. Agee advocated a sliding

scale for retirement eligibility be enacted for those under 55 years old. Social Security benefits would be offered at 66 for those now in the 45 to 54 age bracket. Workers between 35 and 44 would receive benefits at 67, while those under 34 would be entitled to benefits at 68, he said.

Over the long term, Social Security benefits would be slashed for those who receive other sources of retirement income, Mr. Agee said. "Eventually, it will be necessary to completely eliminate Social Security for those who have earned high incomes throughout their working lives and who also receive lucrative, private sponsored pensions

after retirement," he added.

Mr. Agee also suggested that private plans be expanded to gradually replace Social Security. Expanded private plans, such as individual retirement accounts, not only afford incentives to prepare for retirement, but also build up savings that provide investment capital for the economy, he said.

But other speakers who appeared before the commission, which met to discuss the relationship of Social Security, private pensions and savings, cautioned against reducing the role of Social Security in meeting retirement income needs.

"While a new emphasis on private plans may seem an appealing

alternative to substantial increases in the payroll tax, the private pension system should not be viewed as a panacea since it is plagued with problems of its own," said Alicia H. Munnell, vp and economist at the Federal Reserve Bank of Boston.

Ms. Munnell noted that workers would forfeit substantial benefit protection if all responsibility for retirement benefits were shifted to the private sector from the public.

While Social Security permits individuals to accrue benefits continually as they change jobs, private plans lack portability of benefits. In addition, while Social Security benefits are annually adjusted upward to compensate for inflation, the cost of living increases that some private plans periodically provide usually fall far short of matching inflation, Ms. Munnell said.

If private plans assume a greater role in meeting retirement income needs, a major restructuring of the private system would be necessary to ensure benefit equality, the Boston economist said.

These changes would include pension portability and the indexing of pension benefits to inflation, Ms. Munnell said.

Jerome R. Gulan, speaking on behalf of the National Small Business Assn., advocated adopting a two-tier Social Security system. Under this system, new small businesses would be exempt from paying Social Security payroll taxes. Only when the firms were economically mature and entered the "second tier" would they begin paying the payroll taxes.

This payroll tax phase-in would give small businesses the economic breathing space they need to help them in their competitive battle against more firmly entrenched rivals, Mr. Gulan said.

Although commission member Martha Griffiths said she saw some merit in Mr. Gulan's proposal, commission chairman C. Peter McColough questioned if such a payroll tax moratorium might not distort competition in the marketplace.

J.B. McClintock, vp of Nationwide Life Insurance Co., urged the commission to reject proposals to use general revenue funds to finance Social Security.

"The substitution of general revenues for payroll tax revenues would weaken the link between Social Security benefits and costs" and could also add to inflationary pressures by deepening budget deficits, Mr. McClintock said.

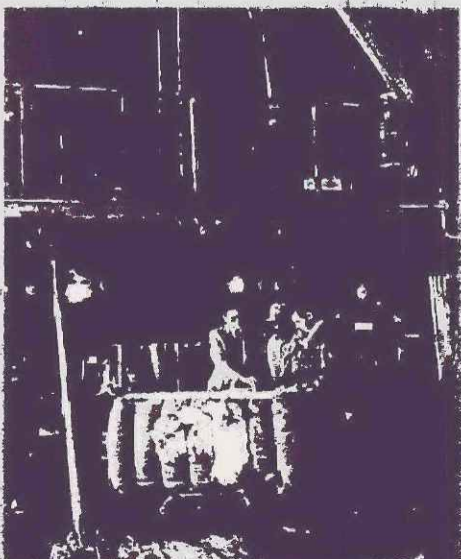
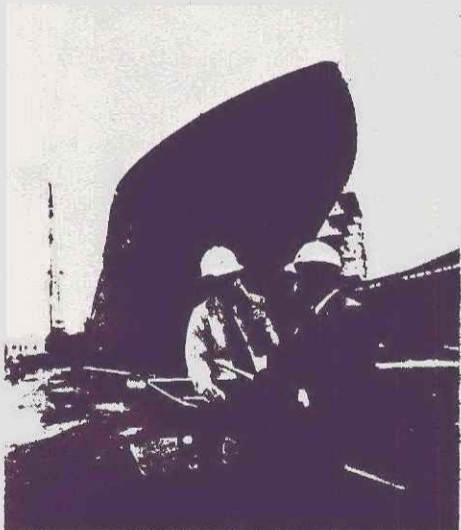
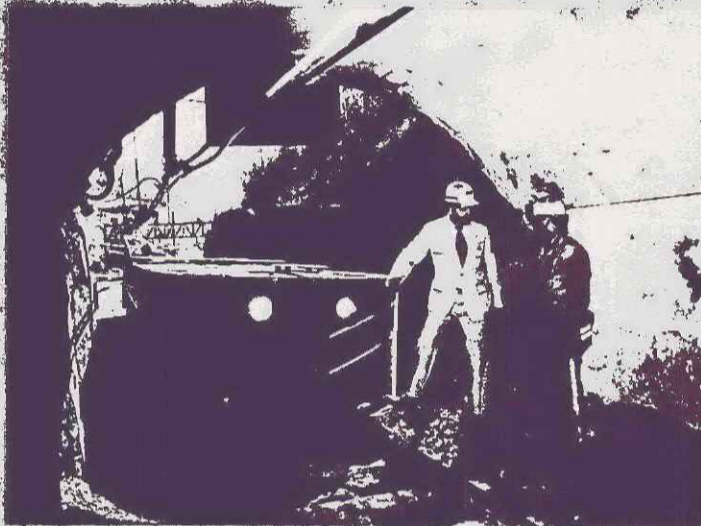
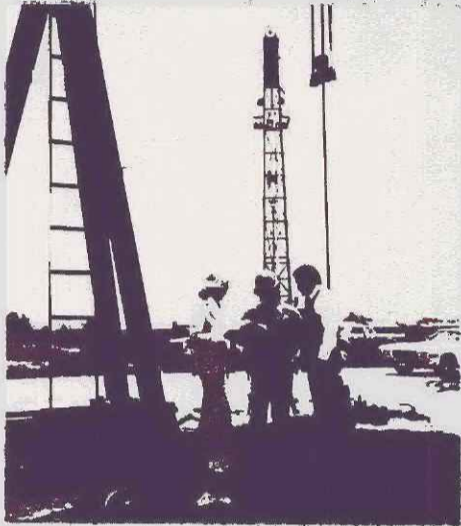
But Mr. McClintock, who chairs the American Council of Life Insurance's Social Security Committee, recommended that the current \$1,500 annual limit on tax deductions for individual retirement accounts be raised to reflect the substantial increases in the cost of living since 1974, when the present limit was set.

While business groups may grumble that the current 6.13% Social Security payroll tax is too high, employers pay a much higher rate in other countries, Max Horlick, director of the comparative studies staff of the Social Security Administration, told the commission.

"People call us up and ask: 'Our payroll tax seems pretty high. What's it like in other countries?' We tell them it's three or four times higher elsewhere. Then they hang up," Mr. Horlick said.

## ASSE chapter

The American Society of Safety Engineers has chartered a new chapter in Casper, Wyo., its 100th chapter. Officers of the 55-member chapter are: Schooley D. Wilcoxon of Bear Creek Uranium Co., Casper, president; Pat Palmer, president-elect; Williams Blevins, secretary, and Carl Steiner, treasurer.



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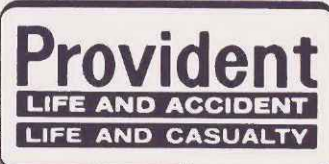
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# Captives plan N.Y. exchange syndicate

By KATHRYN J. McINTYRE

ASHEVILLE, N.C.—Captive insurance companies are plotting their route into the New York Insurance Exchange and a way to tap high quality reinsurance business.

So far 11 corporations operating subsidiary insurance companies are discussing forming an exchange syndicate with 14 small U.S. stock and mutual insurance companies. Although a few large U.S. insurers starting exchange syndicates may offer participation to client companies with captives, the proposed formation of the Heartland Group syndicate is the first solid movement of captives into the exchange.

The group now has enough interest to meet the minimum capitalization of \$3.5 million and hopes to be organized as a syndicate by year-end to underwrite primarily property insurance.

Parent companies rather than their insurance subsidiaries will most likely join the group to avoid the tax penalties of having their offshore captives in the group. But the association will provide the captives with the opportunity to reinsure business underwritten by the syndicate and the contacts to do business with the other members of Heartland. The contacts with U.S. insurers are most prized by the captives.

"It's a good way for a captive to get mainstream American business," said Joseph Cline, risk manager at Republic Steel which operates Kingsley Insurance Co. Ltd. in Bermuda. Mr. Cline moderated a workshop on Heartland at the Captive Insurance Cos. Assn. meeting here earlier this month.

**Heartland Group** is the brainchild of Celina Insurance Group of Celina, Ohio, which wanted to invest in the exchange but lacked the \$3.5 million capital to form a syndicate. It contacted other insurers and captives and found interest in forming a syndicate.

Howden-James, the syndicate management company formed by Fred S. James & Co. and Alexander Howden, was tapped to manage the syndicate and will also invest in Heartland, although a contract hasn't been signed.

The forming syndicate is looking for more potential investors of anywhere from \$50,000 to \$250,000.

Investors must either be insurance companies or companies with subsidiary insurance companies because the Heartland wants members it can count on to produce reinsurance business for it. Although investing in the syndicate doesn't mandate that an insurer cede reinsurance business to Heartland, "It's a natural," said Bernard Moore of Celina Group.

Heartland Group can also provide a link between the New York Insurance Exchange and the Risk Exchange Inc., which started up this month.

REX is an organization of insurance companies linked by computer terminals to facilitate the placement of facultative reinsurance (BI, Feb. 19).

As a member of REX as well as Heartland, Celina can install its REX terminal in Heartland's office, said Mr. Moore, and take business from REX in the name of Ce-

lina and cede it to Heartland.

No one will own more than 10% of Heartland Group, giving corporations with captives a chance to get involved in the management of an insurance venture, said Gordon Werner, attorney for Heartland. At the same time, the company's liability for this experience is limited to its investment in Heartland Group, he added.

The parent company and not an offshore captive should be a member of the syndicate, Mr. Werner noted, because dividends paid by

Heartland to an offshore captive would be subject to a 30% withholding tax as well as taxable when returned to the parent company by the subsidiary. In addition, an offshore captive wouldn't want to jeopardize its foreign tax status by participating directly in the exchange. The parent company could form a holding company to own both the share in Heartland and the captive, he said.

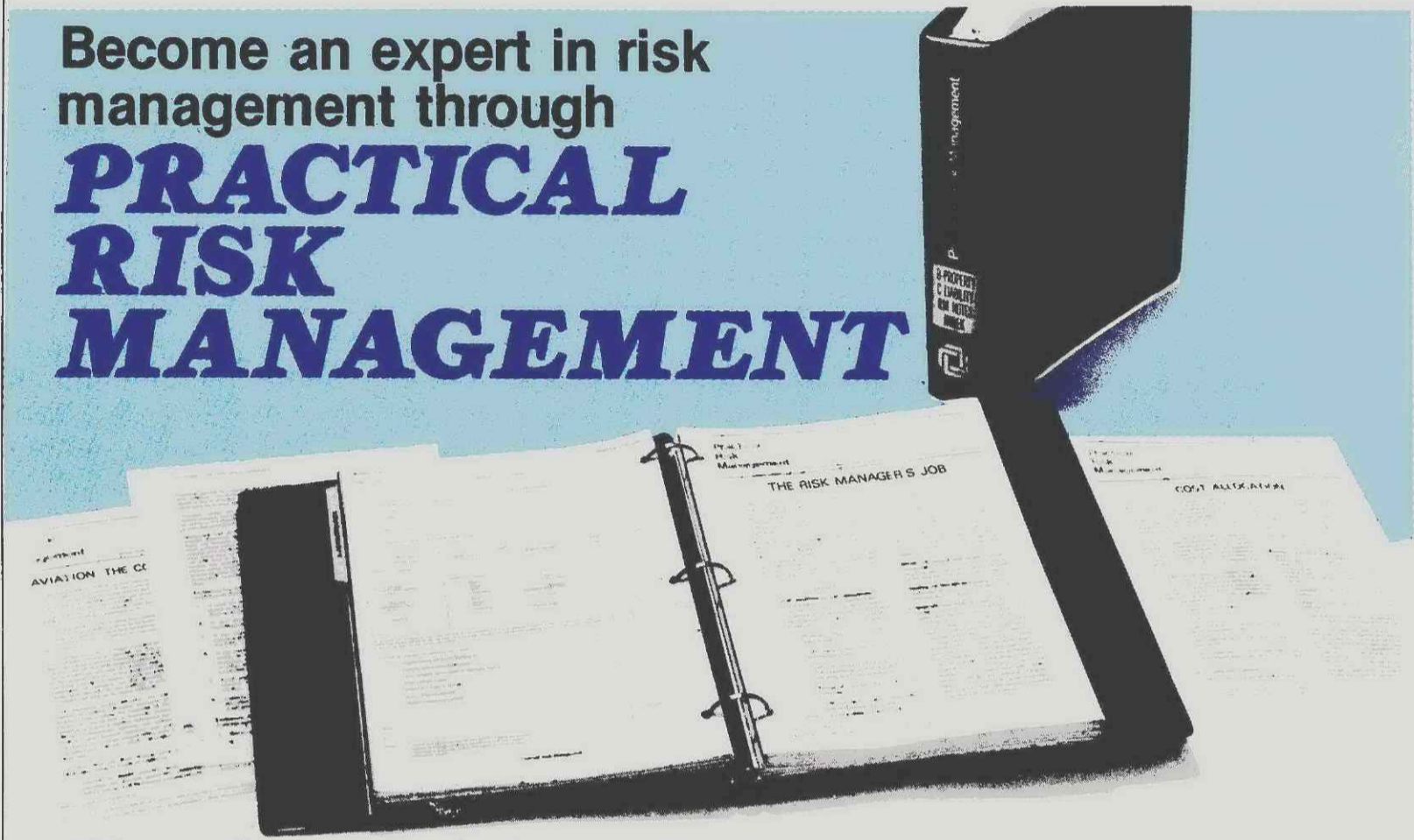
Corporations with captive insurers involved as of Oct. 1 in organizing Heartland Group include:

Charter Medical Corp. of Macon, Ga.; Rockwell International Corp. of Pittsburgh; Cargill Inc. of Minneapolis; Rexnord Inc. of Milwaukee; Owens-Illinois of Toledo; Hanna Mining, Republic Steel, Midland-Ross and Diamond Shamrock, all of Cleveland; Young & Rubicam Inc. of New York and Great Lakes Chemical Corp. of West Lafayette, Ind.

The insurance companies involved include: Celina Group; Milwaukee Mutual of Milwaukee;

Shelby Mutual of Shelby, Ohio; Donegal Mutual of Marietta, Pa.; R.L.I. Insurance Co. of Peoria; Michigan Mutual of Detroit; Guilderland Mutual of Delmar, N.Y.; Universal Surety of Lincoln, Neb.; Northeastern Fire Insurance Co. of Upper Darby, Pa.; American Druggists Insurance Co. of Cincinnati; American Southern Insurance Co. of Atlanta; United Fire & Casualty Co. of Cedar Rapids, Iowa; American Bankers Insurance Co. of Miami and Pinehurst Reinsurance Co. of Los Angeles. ■

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# DO YOU FEEL



The FTC is on a "fishing expedition" regarding captive insurers, Kenneth Soubry says.

## A&A chairman warns captives of close encounters with FTC

ASHEVILLE, N.C.—Corporations operating captive insurance companies should brace themselves for an encounter with another federal regulatory agency in addition to the IRS, says the chairman of Alexander & Alexander, The Federal Trade Commission.

The FTC is on a "fishing expedition" regarding captive insurers, Kenneth Soubry told members of the Captive Insurance Cos. Assn. meeting here this month.

The FTC's concern is with the amount of regulation governing the use of captives and whether captives, if available only to large corporations, further concentrate the power of large corporations over small companies, he said.

"Be prepared to confront these questions," Mr. Soubry advised in a speech criticizing the increasing role of the federal government in the insurance business.

But the FTC denies it is conducting any "formal investigation into captives." Albert Foer, acting deputy director in the bureau of competition at the FTC, said, "We are merely interested in captives as part of our general monitoring of important events occurring in the economy and what the growth of captives may imply for competition."

Mr. Foer had met with representatives of the National Assn. of Insurance Brokers to discuss the

FTC's interest in the insurance business and to discuss captive insurance companies in general. "Captives are a rapidly growing area that we know little about," Mr. Foer told *Business Insurance*.

In his address to CICA, Mr. Soubry also questioned the implications of a Commerce Department proposal approving the use of federally chartered insurance cooperatives for product liability insurance. Although not opposed to the proposed Risk Retention Act of 1978 that would allow companies to band together to form product liability pools free of state regulation, Mr. Soubry said he is concerned with "where this might lead."

The potential for conflict with state regulations, the possibility the act may be a precursor to repeal of the McCarran-Ferguson Act and the chance additional taxes would be needed to administer the act if passed are all issues that must be considered when analyzing the bill as proposed in the Senate by John C. Culver (D-Iowa) and in the House by John J. LaFalce (D-N.Y.), Mr. Soubry cautioned.

Conceding that the bill "could be helpful to small business," Mr. Soubry maintained that the cost and availability of product liability insurance have improved recently. He gave the bill only a "slim chance of passage this year."

Similarly, Mr. Soubry predicted that a national health insurance plan won't be passed by Congress this year and the McCarran-Ferguson Act won't be repealed.

The American public is opposed to big federal spending projects, he explained regarding national health insurance. Attendant issues, however, such as cost control in medical services and subsidizing low income people for health care costs will remain alive, he suggested.

Repeal of the McCarran-Ferguson Act isn't likely in the next year or two either, Mr. Soubry said. But he warned that a bill being prepared by Sen. Howard Metzenbaum (D-Ohio), while targeting personal lines insurance problems, "could easily be amended to apply to commercial lines."

In personal lines, the bill would limit insurers' antitrust immunity, establish average premiums for auto and homeowners policies, demand full availability of property and casualty insurance and eliminate excessive rate differences, Mr. Soubry said.

The chairman of the second largest brokerage firm in the country also advised risk managers to support improvements in state workers compensation programs to stave off federal standards or a federal program for workers compensation risks.

"Cost control is at stake," Mr. Soubry said, charging a federal system for workers compensation would jeopardize cost control efforts and double the benefit costs.

## Panel advises FICA tax cut

WASHINGTON—A governmental advisory committee has recommended that Congress pass legislation slashing Social Security taxes, which have been climbing by leaps and bounds.

The Advisory Council on Social Security, which meets every four years to consider how to change the Social Security system, recommended that the current 6.13% Social Security payroll tax rate on employers and employees be reduced to 5.5%. The council is a group of 13 private citizens appointed by the secretary of Health, Education and Welfare.

The entire income from the 5.5% tax would go to the retirement and disability trust funds. Medicare, which currently shares in the 6.13% tax, would instead be financed by federal income taxes.

The council also recommends that newly hired state and federal government employees be required to participate in Social Security. Employees already covered by public plans could opt into Social Security or remain in existing plans.

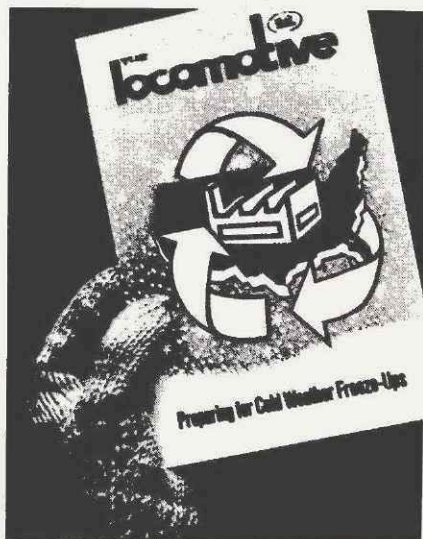
Several bills have been introduced in Congress this year that would withdraw the Medicare program from Social Security, but these proposals have not gone anywhere. The previous council also recommended that Medicare be separated from Social Security.

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# Captives contribute to tax code lobbying

ASHEVILLE, N.C.—The Captive Insurance Cos. Assn. is socking \$15,000 into trying to change the tax law regarding captives and self-insurance reserves.

The group wants Congress to amend the tax code to allow tax deductions for reserves that are required under Financial Accounting Standard No. 5. Currently, a company can tax deduct only insurance premiums or losses as paid, not premiums paid to captives or self-insurance reserves.

The Risk & Insurance Management Society and individual corporations will be asked to contribute to the lobbying effort that CICA hopes to begin by spring.

Robert A. Reeves, vp-insurance at Hospital Corp. of America, is drafting a questionnaire to send to CICA members asking for their opinion on a position paper he presented to CICA's board, which met here earlier this month. Mr. Reeves is on the legislative committees of both CICA and RIMS and believes he can win RIMS's support, too.

The position paper basically argues that if a corporation must establish reserves for losses on its financial statements under the test outlined in FAS No. 5, it should be able to deduct those reserves from its income. The test under FAS No. 5 is: If it is probable that a loss has occurred, that the outcome will be determined by future event and the ultimate cost is reasonably determinable, the company should reserve for the loss.

"We're not seeking a tax deduction for contingency funds or future claims, but for incurred but unpaid claims," Mr. Reeves said.

A nonprofit corporation will probably be established to collect the funds and carry out the lobbying effort, Mr. Reeves said. A law firm will be hired to help draft the bill and the same or another law firm engaged to help with lobbying in Washington.

The pitch to Congress will be that self-insurance and the use of captive insurance companies are better for the consumer because they are more efficient ways to allocate risk and reduce the cost of goods and services, Mr. Reeves said.

It's hoped the bill will be ready this spring, a good time to exert lobbying pressure as congressmen seek re-election, Mr. Reeves noted.

He's optimistic about the chances of getting the legislation through Congress, while conceding, "It's a major task to put a comma in the law."

Said Mr. Reeves: "I wouldn't have undertaken this if I didn't think it was worthwhile. The tax code as interpreted now is an injustice."

## Training center to be done in '80

NORWOOD, Mass.—The Factory Mutual System is building a \$7 million conference center for training personnel in loss control concepts, scheduled for completion by mid-1980.

The 107,000 square-foot center, being built near the system's headquarters here, will include 24 conference rooms, sleeping accommodations for 125 people along with dining, recreation and audiovisual facilities.

Factory Mutual conducts extensive training for engineering and inspection personnel in loss prevention for such areas as fire and extended coverage, boiler and machinery and specialized loss control techniques. In 1978, 1,600 loss control specialists were trained by Factory Mutual.



"I wouldn't have undertaken this if I didn't think it was worthwhile," says Robert Reeves.

# MILWAUKEE and PITTSBURGH

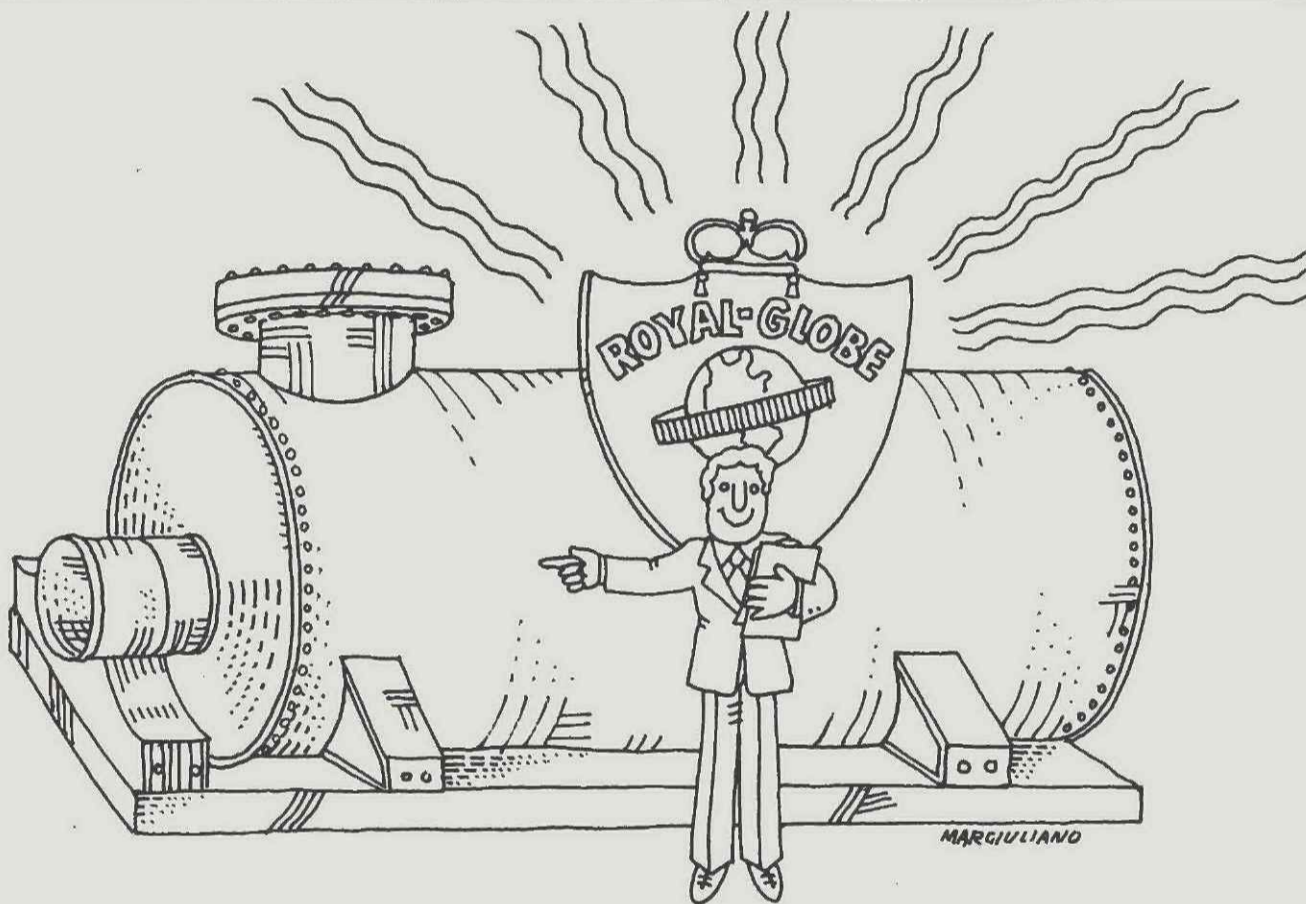
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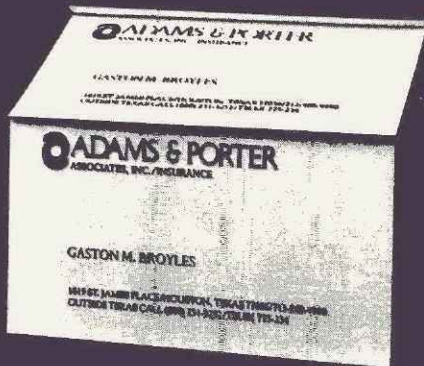
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## Captive can expand business by doing own brokering: Exec

By KATHRYN J. McINTYRE

ASHEVILLE, N.C.—Captive insurance companies can expand their operations beyond third-party underwriting for improved profits by acting as their own reinsurance broker, reinsurance experts suggest.

Some Bermuda-based captives are brokering their own business already, but the practice is not widespread.

The onset of business links between U.S. and London brokers and the new insurance law in Bermuda, however, should induce more captives to act as their own broker, says Joseph H. Blades, chairman of J.H. Blades & Co.

"The merging of big brokers and London brokers hasn't been in the buyers' interest; it's not working as well as it should," Mr. Blades charged at a meeting of the Captive Insurance Cos. Assn. here this month.

Suggesting that the business links between the major U.S. and London brokers have limited competition in London and forced use of affiliated London brokers, Mr. Blades lamented the previous open market. "Risk managers liked the choice and London brokers liked to hustle for the business. Now brokering is like sacking groceries."

Twenty to 30 London brokers are already working directly with Bermuda captives registered to act as brokers, Mr. Blades said.

London brokers will "do it, provided the captive acting as broker has the expertise and handles the business in the right way," he said. Smaller and medium sized London brokers are losing access to corporate customers as a result of the London links between the large U.S. and leading London brokers, Mr. Blades explained, which



Mark Hinkley

Joseph Blades

### London on the line

"London is on the phone for you," a voice from the back of the room told Joseph Blades, interrupting his speech at the CICA meeting.

Mr. Blades thought it was a joke and the audience wondered if it was a plant. But, indeed, someone was calling from London and Mr. Blades refused the call, returning it later.

Mark Hinkley, senior vp of the recently organized reinsurance group Trenwick Inc., admitted he couldn't follow Mr. Blades' act. "As a member of a new company, all I could expect is an obscene phone call—collect."

makes the smaller brokers all the more eager to establish relationships with U.S. corporations' captives.

In addition, the new Bermuda insurance law, which requires insurance companies, managers and brokers to register as such, provides an impetus for captives to also seek status as brokers, Mr. Blades said.

"We will advise our clients to file

as an insurance company and a broker," Mr. Blades said, referring to captive companies Blades manages in Bermuda.

"When a captive registers in a dual capacity, it has the power to contact NAPSLO members (National Assn. of Professional Surplus Lines Offices) and to go to London to get the best broker to handle the business," Mr. Blades explained.

"It's not going to hurt the big broker doing a first-class job," he noted, "but the monopolistic hold is over."

Acting as one's own reinsurance broker can also open the door to better reinsurance business a captive seeks to underwrite for third parties, Mr. Blades continued. A client providing a London broker with a big account can expect the London broker to turn around and broker good business into the captive, he said.

Another speaker, Mark W. Hinkley, senior vp of Trenwick Inc., cautioned risk managers that the "broker's job is not to guarantee you a profit. It's your job."

Mr. Blades countered, "It's true a good broker won't tell you to get on or off a risk, but a good broker tells the truth and a broker can make or break an underwriter so there's quite a rapport there."

Mr. Blades stressed later, however, that he is not advocating that the captive licensed as a broker do any brokering of reinsurance for third-party risks underwritten by the captive.

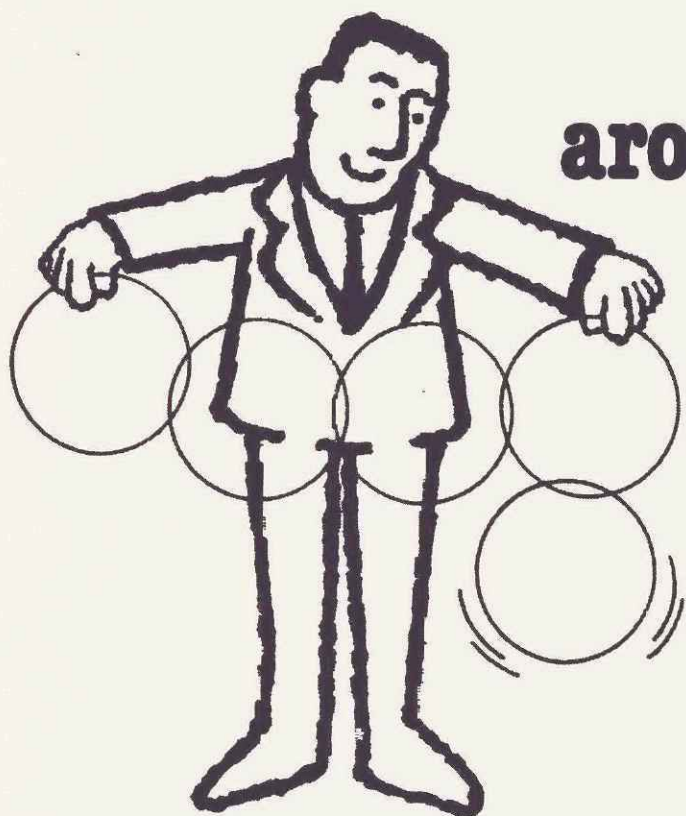
Captives, however, have to build up a good track record before they can expect the best prices in London, Mr. Blades noted.

Others in the reinsurance business are also suggesting that captives act as their own brokers, focusing on the commissions that will accrue to the captive. James F. Billet, president of Trenwick Inc., tells risk managers their captives can realize a 30% commission on the reinsurance they buy if the captive is the broker.

Mr. Blades said the average savings to a captive acting as its own broker would be more like 5% to 10% of the premium.

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# Captives, reinsurers win IRS concession

ASHEVILLE, N.C.—Captives in the reinsurance business and reinsurers won a minor concession from the Internal Revenue Service last month.

The IRS conceded in Announcement 79-131 that its April 30 ruling on how to figure the excise tax due on reinsurance premiums paid to foreign insurers only partially applies retroactively.

Revenue Ruling 79-138 said that the 1% excise tax due on reinsurance premiums paid to foreign insurers must be figured on the gross premium, not the net premium after subtracting ceding commissions and loss and loss adjustment expenses (BI, May 14).

Now the IRS says the ruling doesn't apply regarding ceding commissions for premiums paid before April 30. However, losses and loss adjustment expenses should not have been subtracted when figuring the gross premium, the IRS maintained, and the ruling does apply retroactively to those items.

Tax attorney Sidney R. Pine of Trubin Sillcock Edleman & Knapp suggests that in response to the ruling, companies should exclude commissions and loss adjustment expenses from the premium. "Provide for them by separate agreement," he advised members of the Captive Insurance Cos. Assn. meeting here earlier this month.

Companies, however, should be wary of reinsurance agreements established only to cut the cost of excise tax on insurance or reinsurance placed with foreign insurers, he indicated.

The Justice Department is investigating a U.S. company that is advertising its fronting services to provide a reduction on the excise tax due. A 4% excise tax is due on insurance placed directly with a foreign insurer but it's only 1% if the business is reinsurance.

The Justice Department is looking at the company, which Mr. Pine declined to identify, because the department considers it fraudulent activity to lend one's name to a transaction only to reduce taxes. ■

# Panel passes hospital bill

WASHINGTON—A House committee has approved the Carter Administration's controversial hospital cost control legislation.

By a 23-19 vote, the Interstate and Foreign Commerce Committee agreed to send the measure to the House floor, where hospital trade groups are expected to wage an all-out effort to kill the bill. A similar bill passed by several House and Senate committees last year failed to get congressional approval because of industry lobbying.

This year's bill, which previously was passed in slightly different forms by the Senate Labor and Human Resources Committee and the House Ways and Means Committee, would place an 11.6% cap on annual hospital cost increases.

Health, Education and Welfare Sec. Patricia Harris said the bill is "the most significant piece of anti-inflation legislation we've seen for a long time," adding that it also would move toward the enactment of a nation health insurance plan.

Hospital groups, though, such as the American Hospital Assn. charge that the cost controls would result in service cutbacks and saddle the industry with oppressive government regulation. ■



Photo: Kathryn J. McIntyre

**Provide for commissions and loss adjustment expenses by separate agreement, says attorney Sidney Pine.**

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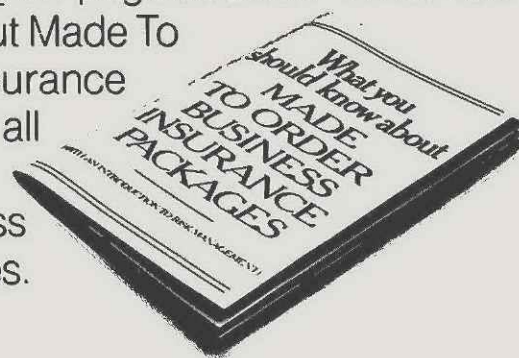
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# Commerce revises model bill . . .

Continued from page 1

amount of damages, simply were not equipped to determine whether a product was defective or not, a source said.

In another tentative change, the Commerce Department has raised to \$50,000 from \$30,000 the cap on cases that are to be resolved through arbitration boards. However, either party could appeal the board's decision in court and the jury would be allowed to hear the evidence presented before the arbitration board.

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Elsewhere, formulas have been set up to make it easier for a judge to instruct a jury on determining liability and basic standards of responsibility in producing and using products.

### Sections remain

Other sections of the first draft that are expected to remain in the final model bill include:

- Manufacturers could not be held liable if a product is altered or modified without their permission and the alteration caused the accident.
- State of the art becomes a stronger defense.
- In most cases, products are presumed not defective after 10 years from the time of first use by consumers.
- Manufacturers are responsible for only the "useful safe life" of their products.
- Pain and suffering damages generally are capped at \$25,000.
- A judge determines the

amount of punitive damages.

The final model bill is designed for state adoption. It attempts to end current inconsistencies in the tort litigation system from state to state, which cause uncertainties in measuring product risks and contributing to the rise in product liability insurance premiums.

These uncertainties would be eliminated through a uniform product liability law that would give insurers the predictability they say is needed to assess and quantify product exposures.

To date, the first model bill has had a limited influence at the state level. The governors of North Dakota and Idaho vetoed tort reform bills passed by their legislatures and urged legislators to take a closer look at the model bill before attempting to revamp the tort system. Only in Connecticut was much of the first model bill incorporated in that state's new product liability law.

Meanwhile, the Commerce Department's task force on prod-

uct liability, which has been studying the nation's product liability problems since 1976, says its last major effort in the area—a study on insurance industry rate making practices, informally known as the "Barrett Report"—is expected to be published later this fall.

The product liability task force will be disbanded at the end of December, but a new task force, the Interagency Council on Accident and Insurance, already has been set up to continue the federal government's scrutiny of a wide range of insurance issues.

### Principal activities

The council's principal activities include:

- Taking inventory of present federal insurance programs and initiatives.
- Serving as a clearinghouse for research on accident compensation and insurance issues.
- Serving as a forum for discussing legislative initiatives in the ac-

cident compensation-insurance area.

• Identifying expertise in the federal government to deal with insurance issues.

The council, whose members represent 17 federal agencies, has met periodically this year. At one meeting, representatives of the Justice Department's antitrust division discussed without resolution the agency's followup efforts on an earlier Justice Department report that recommended substantial revisions to the McCarran-Ferguson Act. This is the 1945 law that gives insurers immunity to federal antitrust law in favor of state regulation.

At another meeting, assistant secretary of Labor Donald Elisburg revealed the Labor Department is preparing a study on insurance availability and affordability problems caused by the federal Longshoremen's and Harbor Workers' Act.

The council is chaired by C. L. Haslam, general counsel of the Commerce Department. Other officers include Victor Schwartz, executive director, and Carol Kindig, special assistant.

# Fairchild, ITEL hire risk managers . . .

Continued from page 1

ports to Dennis Townsend, assistant manager of M&M's San Jose office. Mr. Townsend was the M&M executive first named to act as Fairchild's risk manager (BI, Oct. 5, 1975).

The arrangement with M&M began in 1975 on a 12-month trial basis, after the electronics firm decided not to replace Ralph F. Perry, who left to join Amfac Inc. in San Francisco.

Mr. Alessio acknowledged that

having an M&M employee on staff at Fairchild "was sort of unfair to the individual in his relationship with M&M." But he praised M&M for "going out of its way to accommodate us."

### Structure same

After the new risk manager is hired, expected within two months, Mr. Hinton will rejoin M&M's office and Mr. Townsend will continue as Fairchild's M&M

account executive.

The electronic firm's acquisition by Schlumberger Ltd. of New York earlier this year will not affect the structure of the risk management department, Mr. Alessio said.

"Because Schlumberger is decentralized in its approach to administration and because it is unfamiliar with our industry, we will continue to operate as before," he said. "The new risk manager will report to me, not to Schlumberger headquarters."

Schlumberger does not now have a corporate risk manager. Those responsibilities are handled by treasurer Richard Stearns.

In sharp contrast to the thriving Fairchild company, whose sales are about \$500 million, ITEL's naming of a risk manager stems from serious financial difficulty.

With second quarter losses in excess of \$10 million, ITEL dismissed 500 employees. The firm is also involved in a \$50 million lawsuit and \$20 million countersuit involving a computer leasing claim (BI, Aug. 6).

### Cost consciousness

At San Francisco headquarters of ITEL, the mood has been one of "cost consciousness, consolidation

and retrenchment," said one executive.

ITEL's decision to centralize risk management in a single department "indicates its concern with the need for cash management and control of risk," the new risk manager Mr. Hause said. He had been a marketing associate with a newly formed brokerage subsidiary for ITEL, and a risk management consultant with Warren McVeigh.

The subsidiary arranged insurance for ITEL's lessees, working with the corporation's broker, Fred S. James & Co., which designed the insurance programs. "It was a good idea, but not the right time," Mr. Hause said. A large volume of business offered savings for lessees, but ITEL's leasing business turned sour.

For now, the brokerage subsidiary has ceased to exist. "It's on the back burner, but given the right circumstances it could be revived in the future," Mr. Hause said.

Fred S. James & Co. had handled risk management for ITEL for the past 11 years.

ITEL operated so long without an in-house risk manager, Mr. Hause explained, because of "the company's growth-oriented attitude. They were very light on administration."

# Plan fails tax court . . .

Continued from page 1

time they are ready to retire.

The case ended up in tax court after a Caterpillar employee complained to the IRS that he would collect no pension benefits if he retired because he had not been with the company for 10 years and did not qualify under the cliff vesting requirement.

The court held that even though ERISA allows 10-year cliff vesting, the "rule of 45" in the IRS code requires that an employee with at least five years of service has a "non-forfeitable" right to a percentage of accrued benefits. The benefit is determined according to a formula taking into account the employee's age and years of service.

Caterpillar contended the employee did not forfeit his benefits but his benefit level amounted to nothing because he did not meet the plan requirements. The court, however, rejected this argument as a "semantical analysis."

Benefits consultants landed the decision of the tax court, saying it addresses the matter of equity for

older employees near retirement, but not fully vested in a pension plan. "This issue has been argued since ERISA was passed, we all felt it would be litigated sooner or later and we support the court," said Alan B. Shidler of A.S. Hansen Co. of Lake Bluff, Ill.

But the number of plans that do not provide some level of benefits by either the rule of 45 or graded vesting are relatively small.

Lloyd Kay, vp with William M. Mercer Inc. in New York, said he can think of no pension plan handled by the firm that does not provide some benefits for that class of workers. "It makes little sense for a company to say that someone can be in a pension plan for nine years but that he's not entitled to anything."

Consultant Steven Schanes said he doubts the case will become much of an issue because with the mandatory retirement age now at 70, older workers can continue on the job until they reach vesting.

Mr. Kenney of Caterpillar would not discuss the reason for 10-year vesting.

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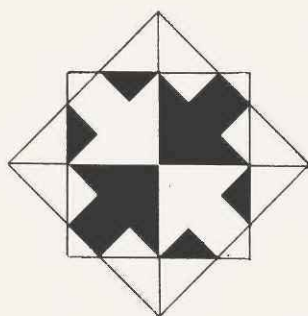


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## Bellefonte plots recovery . . .

*Continued from page 1*

directing a massive project to develop an adequate data system and efficient organization.

A newly hired heavyweight in the insurance business is now chairman of Bellefonte and is directing a reorganization of the 11 insurance and service companies that comprise BFC and is controlling growth.

These treatments to turn around Bellefonte's disappointing beginning in the insurance business are on top of a \$25 million capital transfusion over the last two years, part of the total \$104 million Armco has pumped into BFC since the steelmaker decided in 1969 to take the Kentucky-based captive Bellefonte Insurance Co. into the general insurance business.

Once hailed as the shining success story of how a risk management department can develop into an insurance profit center, Bellefonte's experience in the reinsurance and excess/surplus lines business is now being cited by the skeptical as proof that outside business can be a disaster for a captive of a noninsurance concern.

"Bellefonte provides the first indication that all is not rosy in third-party risks," observes a West Coast risk manager whose company operates a Colorado captive insurance company.

"They are finding out the game is a rough one," observes an executive of a reinsurance company doing business with Bellefonte. "Bellefonte underlines the need to have your wits about you when going into third-party underwriting. It's not for the here-today-and-gone-tomorrow type."

Agreeing to assess Bellefonte's development from the perspective of hindsight, Armco group vp Lee G. Weeks, who has been with the company from the beginning, pointed to two critical mistakes: deciding against developing an in-house data system at the start and ignoring the need for seasoned in-

urance industry talent.

Both those mistakes are now being rectified.

The attendant errors and problems, however, will have to be endured until they eventually run their course. These include letting Bellefonte grow too fast, taking reinsurance from pools managed by noninsurers with the resulting terrible underwriting losses and getting into the insurance business at the wrong time in the insurance cycle.

### Systems overhaul

The corrective treatment began when a systems squad of three Armco professionals moved into Bellefonte last fall on the heels of realization that earlier reinsurance business was producing heavy losses: A \$17.2 million before tax underwriting loss against net premiums of \$262.5 million for 1978 was created primarily by the need to set aside adequate reserves for reinsurance business accepted in the early and mid-1970s. The after-tax underwriting loss was \$17.2 million. According to A.M. Best's, Bellefonte Insurance Co. held excess statutory loss reserves totaling \$11.7 million at the end of 1978.

The unforeseen heavy losses were the result of inflation and an "immature data base," Mr. Weeks said. Bellefonte just didn't see the loss development in its statistics, drawn mainly from the experience of other insurers.

The data Bellefonte was accumulating was inadequately processed, say the systems professionals who have been sorting it out for a year.

The outside computer service Bellefonte had engaged was incapable of keeping up with the demands of a company growing at a 65% compounded growth rate. In taking reinsurance from a multitude of pools and not keeping track of the risks it was on, Bellefonte found itself over committed and even paying for the same loss out of multiple reinsurance commitments—a reinsurer's nightmare.

The inadequate data has also forced some calendar year accounting although Bellefonte prefers accident year accounting as a clearer indication of its underwriting results.

"It was the classic entrepreneurship," said Blasdel Reardon, one of three people on the systems project team. "Bellefonte was extremely successful in producing business, but it outstripped its data processing ability to handle the business."

"We thought a data system was too big an investment and now we know it wouldn't have been," Mr. Weeks said. Bellefonte is now the biggest user of Armco's computer facility.

### New chairman

But the systems professionals aren't just cleaning up Bellefonte's data processing: They are on a management, organization and work flow mission to whip the company into shape and to keep it from taking on more business than the systems of people and machines can properly process.

A year into their project, the systems professionals agree the "crisis is over."

This fall, Armco also hired Howard T. Cohn away from International Telephone & Telegraph, where he had been vp and product group manager for insurance and finance, to be the chairman of Bellefonte. He steps in to take up the reins that previously passed directly from Robert C. Lee, the Armco risk manager who became president of Bellefonte, to Mr. Weeks as chairman. Mr. Lee continues as president, reporting to

Mr. Cohn, and Mr. Cohn reports to Mr. Weeks.

"You can have strong functional people, but you need an industry perspective," Mr. Weeks said. "It's a long, painful learning curve. Those of us helping Bob Lee should have said we needed to make the investment in industry experience."

Mr. Cohn speaks of the Bellefonte problems with the calm and confidence of a family doctor who has been at the patient's bedside throughout the illness and now has a cure in mind. And he issues orders with the same professional authority.

Although Mr. Cohn denies organizing a new squad to run Bellefonte as had been rumored in the industry, he is planning to direct a reorganization of Bellefonte Financial Corp. to create separate insurance companies for specific lines of business instead of the current underwriting system which allows domestic and international reinsurance, excess/surplus lines and standard lines to be underwritten at the same time by one company.

By year-end, Mr. Cohn hopes to have Bellefonte's different operations reorganized to segregate in separate companies reinsurance, admitted insurance, excess/surplus lines insurance and international insurer.

### New organization

Farther down the road, Armco management and Mr. Cohn agree that Bellefonte should acquire a life insurance company to help offset the cyclical swings of the property/casualty underwriting business just as Armco diversified when it took Bellefonte into the insurance business to help offset the peaks and valleys of the steel business.

Mr. Cohn also intends to build up revenues from selling insurance-related services that don't entail underwriting, such as aggressively marketing the new services and consulting firm, Armco Risk Management, set up in Dayton, and captive management in Bermuda through Armco Insurance Management Ltd.

The advantages of segregating Bellefonte's underwriting by line of business will be threefold, Mr. Cohn says. "It will give more substance to the profit center management. The managers' results will be very visible to the world—to Armco and the public.

"It will also improve our ability to explain the position of each company so insurance departments are more comfortable. It's difficult for us to get licensed in some states because of our mixed book of business.

"And we will get appropriate ratings for blocks of business that deserve good rating," said Mr. Cohn, alluding to the recent demotion of Bellefonte Insurance Co. to a B company from an A company by Best's.

"The present level of underwriting commitments are well above average in relation to net resources available to meet contingencies in light of standards normally prevailing in the insurance industry and recognizing the classes of business underwritten," said Best's in its 1979 account of Bellefonte Insurance Co.

Bellefonte's poor results last year and continuing into this year are attributed to losses on quota-share reinsurance it assumed in the early and mid-1970s, mostly out of London. Bellefonte's results on business written by its Dallas operation opened in 1976 for excess/surplus lines underwriting is very good, Mr. Weeks said.

The worst reinsurance business came from pools managed by non-

insurers who didn't have a financial stake in the underwriting results, Mr. Weeks noted. Aviation and marine risks proved to be the most damaging, he added.

Bellefonte has pulled out of the pools that caused its problems and has remained with only a few that have produced profitable business.

But first assuming international reinsurance business wasn't a mistake per se, Mr. Cohn and Mr. Weeks hasten to note. Bellefonte's contacts in London developed over the years when it was a captive reinsuring its parent company's property risks, so London was the natural source of third-party business, Mr. Cohn observed.

### Reinsurance lessons

"Reinsurance seemed best to get a spread of risk," Mr. Weeks added. And in 1970 and 1971 when Bellefonte first began assuming international reinsurance business, it was good business at adequate rates.

But then the insurance industry blindly went into a competitive cycle and the fledgling Bellefonte was nearly doubling its premium volume every year on business that was to create bad losses for everyone concerned. The young Bellefonte's internal troubles compounded the effect of the bad business.

One lesson learned is that companies expanding into the reinsurance business should only give underwriting authority to insurers. Even this is not an easy answer, though, since the profitability of various risks changes so rapidly and unpredictably, Mr. Weeks notes. "The excess marine market looked so good, and then the rate structure collapsed," he said with a grimace.

Bellefonte also erred in giving underwriting authority too freely to too many general agents, some observers say. Indeed, one general agency that underwrote aviation hull and liability risks for Bellefonte allegedly skimmed premium dollars for its own use and wasn't placing the proper reinsurance for Bellefonte. Bellefonte sued Omni Aviation Managers Inc. and the agency countersued, charging Bellefonte with unfair business dealings (BI, March 19). The cases are now stalled in the courts.

Concentration on long-tail liability risks was also too great for a new insurance company, Bellefonte management concedes. Mr. Cohn intends to steer Bellefonte underwriters toward standard liability lines and away from those risks like medical malpractice and product liability that are likely to produce losses long after the business is written.

As Bellefonte's president Mr. Lee warned colleagues at a conference on captives in Bermuda last year, "Your investment base builds up over a number of years. In the initial years of growth, you will not have sufficient income from investments to sustain you through any downturn in underwriting profitability."

### Growth pains

"Since in the long run, most of the profit comes from investments, it is important that you be especially careful to get into sound programs at the outset that will have positive cash flow and good underwriting results."

Facultative reinsurance is also now preferred by Bellefonte over treaty reinsurance during this restructuring period.

"We also learned growth is very difficult to manage," Mr. Weeks continued. "We've had a 65% compounded growth rate and that's impossible to control."

As the professionals on the systems project explain, people can't grow in their expertise fast enough to handle the business.

Bellefonte Insurance Co.'s net

premium volume exploded from \$219,000 in 1969 when it underwrote only property insurance for Armco to \$17.4 million in 1972. Volume doubled again to \$34.8 million in 1973, doubled again by 1975 with \$76.2 million and soared to \$207.4 million in 1978. Premium volume for the first six months of 1979 was \$99.7 million.

Net premium volume for all operations in Bellefonte Financial Corp. topped \$262.5 million in 1978.

Timing, too, is critical to building a profitable foundation for a new insurance company, Mr. Cohn suggests. Bellefonte went into the insurance business when it saw a need for capacity in the late 1960s. But by the time it was geared up and looking to expand, the insurance market had recovered from the crunch and was in a competitive cycle, as it is now.

This time, however, Bellefonte is going to lay low. Mr. Cohn will be content with 10% growth over the

next few years, which Mr. Weeks notes will barely keep pace with inflation. During this competitive cycle when rates are depressed, Bellefonte won't participate in rate cutting, Mr. Cohn pledges.

Instead, the company will be correcting its administrative and technical problems in preparation for expanding when the market is profitable for insurers. "It's very fortunate that the realization of needs comes at the right time in the market cycle when we should not be writing new premiums," Mr. Cohn said.

Without expanding its underwriting and expecting to suffer losses for the next few years along with the rest of the industry, Bellefonte can't look for an underwriting year in the black until 1982, Mr. Cohn says.

But Armco is committed to seeing Bellefonte through the rough times and building one of the 10 largest insurance companies in the U.S., Mr. Weeks contends. Hiring

## Without expanding its underwriting and expecting losses for the next few years along with the rest of the industry, Bellefonte doesn't expect underwriting profits until 1982.

Mr. Cohn is proof of Armco's commitment to Bellefonte, he adds.

In addition, while pumping \$104 million into Bellefonte over the last 10 years—\$79 million into Bellefonte Insurance Co. and \$12 million into Bellefonte International—Armco has allowed Bellefonte to retain its net earnings, which despite heavy underwriting losses are being produced by investment income.

Although 1974 was the last year Bellefonte produced a combined underwriting ratio of under 100%, the company has consistently pro-

duced a net income, which in 1978 was \$5.8 million and is expected to be higher in 1979.

For the first six months of 1979, Bellefonte also produced a net income of \$9.1 million although it lost \$9.6 million on underwriting. Interest, dividends, rents and realized gains on the sale of stocks and bonds and in the conversion of foreign currency produced income.

Mr. Weeks maintains that Armco expects an 18% to 20% return on equity "over time" on its investment in Bellefonte and would do it all again—just a little differently. ■

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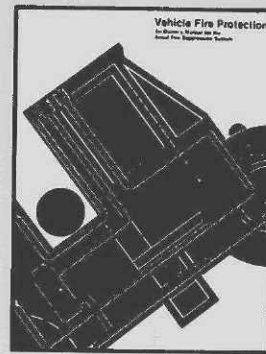
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# Bellefonte chairman hopes changes will bolster company

MIDDLETOWN, Ohio—Bellefonte Financial Corp.'s new chairman Howard T. Cohn says a new structure will whip the company into financial shape so it can exercise its strong muscles and develop its weak ones.

The current organization, he says, weakens the financial picture of Bellefonte. Its good performers, like domestic excess/surplus lines, are overshadowed by the bad, like old reinsurance business. The problem arose because Bellefonte grew by bits and pieces during its first 10 years in the general insurance business.

When Armco decided in 1969 to break into the insurance business with its Kentucky-based captive insurance company—a fully licensed insurer—it plugged \$10 million into Bellefonte Insurance Co. and \$5 million to start Bellefonte International, a reinsurance company in Bermuda.

But as Bellefonte tried to grow in the excess/surplus lines business,

along with reinsurance, it discovered that it had to become approved in the states as a surplus lines insurer. Not only was it a time-consuming task, said Bellefonte president Robert C. Lee, but it also "presented another problem in that there are many states in which a company must be licensed to write reinsurance or it is disallowed in computing the surplus of the reinsured company. Thus, it is not possible to do both nonadmitted surplus lines business and authorized reinsurance in the same company in many states."

So Bellefonte Underwriters Insurance Co. was licensed in early 1973 to underwrite almost exclusively excess/surplus lines but is also admitted in seven states. Compass Insurance Co. was acquired in late 1974 and is admitted in 39 states. With Bellefonte Insurance Co., admitted in six states, the companies are jointly administered. At least one BFC company is a-

proved in every state to write excess/surplus lines.

Armco Underwriters Agency was created in 1976 to function as an underwriting manager for three products written exclusively in the U.S. through contracted agents and brokers: special risk property, umbrella liability insurance and transportation. It now produces one-third of Bellefonte's business.

In addition, the international operations were expanded to include: The Compagnie Europeenne de Reassurances, a reinsurance company in Paris which deals with continental European companies; Bellefonte Insurance Co. of Australia Ltd. (dormant); Armco Insurance Management Ltd. in Bermuda to manage captive insurance companies for other operations (20 now), and a branch office in London, Bellefonte Insurance Co. U.K. to directly manage the business there, which was formerly managed by C.E. Heath & Co.

Most recently, a consulting and services firm, Armco Risk Management, was created in Dayton.

Armco Risk Management, formed in July, will advise clients on setting up a captive and will complement the Bermuda captive management services offered by Armco, said Armco Risk Management president Richard Rogers.

"A lot of Armco Insurance Management clients in Bermuda wanted U.S. service for loss control engineering, policy issuance and reinsurance and claims handling," Mr. Rogers noted.

Fees will vary with the project, but if Armco Risk Management is servicing a client buying services from another Bellefonte Financial Corp. company, Armco Risk Management will not charge a fee.

The Associated Insurance Agency Co. Inc. in Texas was also acquired this year to act as a captive managing agency.

**Bellefonte Financial Corp.** is the holding company for the 11 companies of 640 employees that comprise the Bellefonte companies. It was formed in 1977 as a subsidiary of Armco Financial Corp., which is a holding company for all of Armco's financial services business. Insurance is the bellwether.

BFC was created to untangle the complex accounting and reporting problems created by operating international and broking activities as subsidiaries of an insurance company.

A reorganization of Bellefonte's business into companies that write specific lines of insurance shouldn't be difficult since the operations are organized into specific functions now.

Reinsurance business is headquartered in Middletown, broken down into treaty and facultative units. The treaty reinsurance unit focuses on two types of business, specialty accounts and business produced in the U.S. market by non-U.S. brokers and the other specializing in the larger domestic accounts. Facultative reinsurance is written on a regional basis through offices in San Francisco, Houston, Atlanta and Miami.

The insurance group is headquartered in Dallas. Managing general agents, Armco Underwriters Agency and a corporate risk program that specializes in larger corporate accounts of premiums in excess of \$200,000 produce the business.

The third major group in Bellefonte is the international operations involving everything written outside the U.S. and mostly reinsured into Bellefonte International in Bermuda.

## riskWatch

By KATHRYN McINTYRE

### Captives turning insurers becomes fait accompli

It's assumed these days that companies operating captive insurers have to unhitch the captive strings and let the company get tangled up in the risks of others.

Few people debate any more the merits of taking a captive into the insurance business. At every seminar, at every conference, speakers focus on where and how a captive can get third-party risks. The token speaker of caution is usually from a reinsurance company and risk managers suspect that his motives might be to protect his own territory.

Indeed, hordes of captives are getting into the insurance business. Andy Barile of Andrew Edwards & Co. says there are 277 captives of U.S. companies writing or looking to write the risks of others along with 33 companies in Bermuda set up to underwrite reinsurance programs. That's anywhere from a third to a half of all active captive insurance companies, depending upon whose estimate of captive activity one believes.



McIntyre

Tax attorneys counsel that underwriting third-party risks is one way for a captive to defend its parent company against Internal Revenue Service attacks on the deductibility of premiums paid to the captive by the parent and affiliated companies. Attorney Sidney Pine predicts 20% outside business will be enough to establish the captive as a bona fide insurer for tax purposes while James Cameron of Baker & McKenzie says 50%, but they aren't sure.

But being an astute buyer of insurance doesn't guarantee that one will be an astute underwriter or insurance company manager. As the article on Bellefonte in this issue points out, Armco Inc. considers one of its crucial mistakes in developing Bellefonte to be the ignored need for seasoned insurance industry talent.

Even granting the corporate risk manager the underwriting and management talent to take the captive into the insurance business, where does the risk manager find time to be both protector and generator of corporate profits? Mr. Barile complained recently that in acting as a reinsurance intermediary with some captives he finds time wasted waiting for an underwriting decision from a risk manager out inspecting his corporations operations.

Companies dead set on underwriting the risks of others should at least stay with risks they know, most experts agree. That includes writing insurance for suppliers, contractors, and others with which a company has existing market relationships. Signing on treaties as a quota share reinsurer of risks the captive knows nothing about can only lead to poor results later, it's warned.

The only way to establish a major insurance operation is to buy an existing insurance company rather than trying to create one, some experts say. Two non-insurance companies with captives looking to expand into the insurance business are known to be shopping for small insurers to acquire, convinced the ground-up approach is too slow and subject to too many pitfalls.

There's another potential problem for the parent company of a captive taking on substantial third-party business: Auditors. Insurance companies, as well as corporations maintaining self-insured reserves, have to meet the reserving test of Financial Accounting Standard No. 5. A new insurance company with no historical loss data is going to have a hard time justifying its reserves to auditors, warns Ralph Milo of Coopers & Lybrand.

Given the talent and time it takes to be successful with a captive in the insurance business, how much return can a risk manager and his employer expect out of an industry prone to dramatic ebbs and flows?

During this next bad underwriting cycle, the analysts expect return on investment in insurance companies to bottom out 13%. But Allan Pearce at Foremost-McKesson says the most a company can expect to earn in the insurance business is 7% over the long run.

It's generally agreed that the tide of insurance industry profits is flowing out. Insurance industry analysts Conning & Co. predict an insurance industry combined ratio of 102% in 1979 and 106.5% in 1980. The crystal ball gets fuzzy for 1981, with analysts hedging their predictions that the business could be as bad in 1981 as 107% combined ratio or could improve to 103%. It's clearly not the time to be looking for underwriting profits. Ask Bellefonte, which got into the insurance business the last time the tide was going out.

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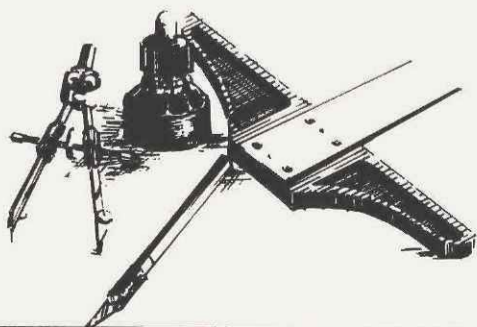
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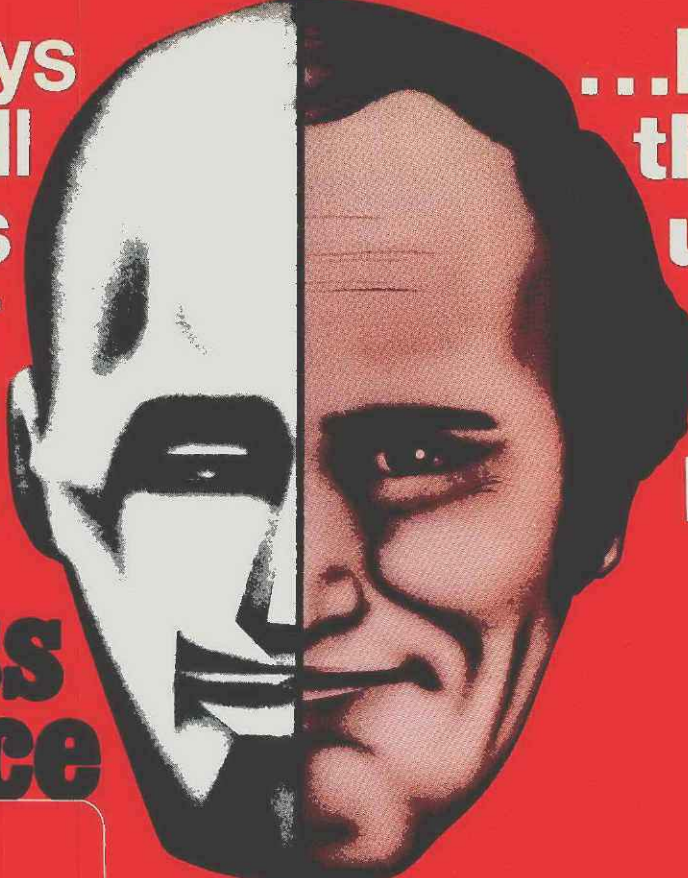
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### PROGRAM

#### MONDAY, December 3

**8:15 am: Registration.** Enjoy coffee, rolls and our display of print materials from the 1979 Business Insurance Employee Benefit Communications Awards Competition.

**9:00 am: Creative Benefit Communications—An Overview.** Exciting audio-visual presentation by Peter Iversen, President & Chief Executive Officer, Iversen Associates, and John Kerney, Jr., President, Emcom Group Inc.

**9:15 am: Creative Benefit Communications—A Marketing Approach.** Keith L. Reinhard, Executive Vice President, Director of Creative Services, Needham, Harper & Steers Advertising, Inc., talks about communicating with employees as benefits "customers."

**10:45 am: Concurrent Sessions.** Attend the one of your choice to discuss specific challenges in depth.

• **Packaging Your Communications—Media And Their Uses.** Judith A. Karam, President, Karam & Versch.

• **How To Avoid Litigation Arising From Language.** Robert W. Ridley, Partner, Forster, Gemmill & Farmer.

• **The Potential For Generic Communications.** John Kerney, Jr. and Robert J. Ellis, Communications Consultant, Eastern Division, William M. Mercer Inc.

**12:45 pm: Luncheon/Program Screening.** View audio-visual entries to BI's Awards Competition as lunch concludes.

**2:00 pm: Daring To Say It Right And Daring NOT To Say It At All.** Audrey Zale Cramer, Staff Assistant, Office of Program Operations, and Sarah W.

Casseday, Public Information Specialist, Pension Benefit Guaranty Corp., discuss the language of benefit communications.

**3:15 pm: Concurrent Sessions.** Repeat of morning sessions; attend the one of your choice.

**5:15 pm: Reception.**

#### TUESDAY, December 4

**8:15 am: Coffee, rolls and review BI competition entries materials.**

**9:00 am: How To Make A Successful Benefits Presentation.** John A. Connellan, President, The Executive Technique, tells how to utilize personal presentations as "selling" opportunities.

**12:00 noon: Luncheon/Program Screening.** View additional audio-visual program entries.

**1:30 pm: The Mechanics Of Putting Your Program Together.** Three consecutive general sessions on specific areas of program implementation.

• **Tailoring The Program To Your Company.** Philip Murphy and William S. Miller, Employee Communications Specialists, Emcom Group Inc.

• **Developing The Graphic Approach/Working With Suppliers.** Peter Iversen.

• **Developing A 5-Year Communications Program.** Curtis L. Snodgrass, Vice President, Principal, Towers, Perrin, Forster & Crosby.

**4:30 pm: Discussion & Questions.**

#### WEDNESDAY, December 5

**9:00 am: You Be The Judge.** Herbert Zeltner, Group Vice President, Crain Communications Inc., evaluates communications programs along with a panel of registrants and speakers.

**12:00 noon: Adjournment.**

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# Health plans to stress prevention: Study

By STUART EMMRICH

NEW YORK—Employer-paid health care benefits will change radically toward preventive care in the next decade as companies look for ways to reduce skyrocketing health care costs, a new study predicts.

Employers are unhappy with rising health costs, dissatisfied with previous efforts to control costs

and are groping with schemes to stem the tide of rising medical expenses says a recently released survey by the California-based Health Research Institute based on extensive interviews with almost 400 of the country's largest firms. Fifteen hundred questionnaires had been mailed.

The biggest change expected by HRI is a shift away from just after-the-fact health care, such as pro-

viding surgical benefits for a heart attack, to an emphasis on preventive health care, like an employer-funded exercise program to reduce the chances of employees suffering heart attacks.

That might be the only way to combat health costs that have risen as a percent of payroll to 5.8% from 5.1% in the past three years, says William Hembree, director of HRI in San Francisco. Mr. Hembree, who released the results of the survey in New York earlier this month, said there is also a trend to alternative health care by some employers.

"Employers have tried the traditional ways to keep health costs down and they just don't seem to be working. They realized they have learned a lot by doing this, but now it is time to look more broadly at the entire picture of health care and come up with some radically new ideas," Mr. Hembree said.

At firms reporting annual health care costs ranging between \$194 and \$2,200 per employee, Mr. Hembree said he is already seeing some small signs of companies investigating significant alternatives to the traditional health benefits provided in the past.

Among the programs a significant number of companies have added to their health benefits packages in an attempt to head off medical problems before they become too serious—and more costly—are alcohol abuse treatments, drug abuse treatments, psychological care, physical therapy, weight control, nutrition and diet counseling and home health visits.

Although some programs might seem farfetched and extravagant, such as employer-funded weight loss programs and stress-reducing plans, Mr. Hembree said they are paying dividends for the companies that offer them. But he admitted that with inadequate corporate records, the savings can't be quan-

tified.

"It is better to spend some money now on preventive care than to spend much more money later in treating an illness that could have been avoided," Mr. Hembree argued. For instance, he said some firms have acknowledged they are better off spending \$100 a year to screen and treat an employee for hypertension than to suffer thousands of dollars in health costs and lost work time because the employee has a heart attack.

Companies are not only looking at programs to promote employees' "wellness," rather than just treating them when they are ill, but they are also investigating alternative methods of health care that might be less expensive than the traditional doctor-and-hospital one.

For instance, more than 50% of the firms that responded to the survey said they offer HMOs to their employees. And Mr. Hembree said that while only 3% of the firms now provide reimbursement for holistic health care, 13% reported they expected to do so within the next three years.

At the center of what Mr. Hembree sees as changes in health care benefits is a greater flexibility that allows employees to take a more active role in the treatment or prevention of medical problems.

"Employees have a far greater potential for cost control than we have given them credit for in the past," Mr. Hembree told a recent gathering of company officials who had responded to his survey.

He said Kimberly-Clark and Xerox have successful exercise facilities and physical fitness programs and American Can's "cafeteria" benefit plan offers potential for savings.

Firms responding to the survey that said they had taken active steps toward cost containment—including involving employees in

the process—reported their health care costs averaged 5.12% of payroll, compared to the 5.84% of the firms that said they were not actively involved in cost control efforts.

Although some of the firms seemed somewhat optimistic about their efforts to combat medical inflation in the years ahead, they were anything but happy about their past experiences.

Myriad government regulations were cited as an important contribution to rising health costs, but the existence of insurance was blamed as the number one factor in hiking those costs. The corporate officials argued that third-party payments make medical consumers and purchasers less conscious about the cost of health care.

With these twin factors blamed for rising costs, it was not surprising that national health insurance was overwhelmingly opposed by the surveyed officials.

The employers also responded that they doubted the best way to control health costs is for them to pay 100% of medical expenses in hopes it would encourage employees to seek early care. Instead it was seen as just one more factor that would remove the employee from the fight to control costs.

Mr. Hembree intends to conduct a similar study in two years.

## Ill. insurance exchange receives little fanfare

Continued from page 2

phasized an executive vp of a major reinsurance company headquartered here.

Support may be slow to come, said Marsh & McLennan president Harold R. Hines. "The insurance industry has to see more to make an informed and intelligent decision about the Illinois insurance exchange. We need to see how the New York insurance exchange will work, discuss how the Illinois exchange will relate to New York and make sure that there is enough capacity to support more than one exchange in the United States."

Kemper Insurance Cos., CNA Insurance Co., Alexander & Alexander, State Farm Insurance Co., St. Paul Fire & Marine Insurance Cos., Employers Reinsurance Corp. and E.W. Blanch of Minneapolis echoed Mr. Hines's sentiments.

Allstate Insurance Cos., which had openly objected to the Illinois insurance exchange when the enabling legislation was first introduced in the Illinois legislature, refused to comment further on the Illinois exchange (BI, Feb. 19).

Corroon & Black of Illinois has appointed one of its vps to study the Illinois insurance exchange, said Richard Schmidt, president and chief operating officer, and is not taking an official stand until it sees the report.

The Chicago chapter of the Risk & Insurance Management Society has been involved in numerous roundtable discussions about the Illinois insurance exchange since it was first introduced, said president Sheldon Staubitz, risk manager for the Amateur Athletic Union.

Although he could not comment for RIMS, Mr. Staubitz said the risk management community as a whole is in favor of the Illinois insurance exchange.

"Risk managers are in favor of the Illinois exchange because it is another vehicle to add flexibility to

the marketplace," Mr. Staubitz noted. "Flexibility of the marketplace is an insurance buyer's dream."

But David Brown, associate general counsel of Kemper Insurance Cos., complained, "The minimum premium is too low and I don't see many companies coming up with the \$2 million in minimum capital requirement." With the minimum premium so low, many lines will be attracted that are unsuitable for the exchange, especially workers compensation, Mr. Brown charged.

In its present shape, the Illinois insurance exchange will merely become the direct competition with the excess and surplus lines brokers, Mr. Brown added.

Mr. Brown also thinks Illinois is foolish to start up an Illinois insurance exchange before the Internal Revenue Service answers some of the tax questions holding up the New York Insurance Exchange.

"It's (the Illinois insurance exchange) like apple pie and motherhood," chuckled Gerard Curtis, president of AAMET Inc., Alexander & Alexander's New York Insurance Exchange brokerage subsidiary. "People can't exactly openly oppose a measure that might bring more and keep more insurance dollars in Illinois and bring more jobs into the state.

The real problem with the Illinois insurance exchange is that no one really supports it, no one rejects it. It's political," Mr. Curtis said. "Legislators and state officials don't want to lose face by tabling the idea."

The Illinois insurance exchange is in a state of limbo and the lack of an insurance industry stand on the exchange put it there, Mr. Curtis said. "The insurance industry should have learned one thing from New York. An exchange cannot take off without enthusiastic support from the insurance community."

## Canada boosts deferred plans

TORONTO—Deferred income arrangements, including non-registered pension plans, have been given a boost here by the assistant deputy minister of revenue's statement that an employer can make tax deductible contributions to a pension plan which is not registered under the Income Tax Act.

Tax experts generally had said an employer could not take a current tax deduction for a contribution to a non-registered pension plan without conferring an immediate taxable benefit on participating employees equal to the contribution, according to a bulletin by William M. Mercer Ltd., employee benefits consultant.

"As with registered plans, an employer can deduct contributions which are irrevocably made in respect of current service of participating employees without the latter incurring an immediate tax liability," Mercer says.

"Unlike registered plans, no monetary limit is placed on the annual contributions, but as they are deductible under paragraph (1)(a) of the Income Tax Act they must satisfy an imputed 'reasonableness test.' No deductible contributions are permitted on account of employees' part service, but this is less of a disadvantage than it would be under the contribution-limited registered plans."

Employees' contributions to a non-registered pension plan are not deductible and the trust is not tax-sheltered. Double taxation may result because beneficiaries are fully taxed on amounts received.

Double taxation may be avoided through careful selection of the trusts' investments, Mercer said. For example, an investment in a deferred annuity would allow the income to accrue without immediate tax consequences.

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September 1979

## people

# Paper company lists Lopez as risk director

**Peter Lopez** has been hired as director of risk management and insurance by St. Regis Paper Co. of New York. He will coordinate the risk management and casualty and property insurance programs for the company, reporting to Robert Milkey, vp for administration. The former corporate insurance manager for the New York-based Celanese Corp. has a B.A. degree in economics and an M.B.A. from Fordham. Celanese has not yet named a replacement.

**Dennis Daugherty** has joined TRW Inc. in Cleveland as manager of property and casualty risk. Mr. Daugherty, 30, was formerly senior risk finance specialist with E.F. Goodrich. He replaces Robert Savata, who recently left TRW. Mr. Daugherty has a B.A. degree from Lehigh University, an M.B.A. from the University of Pittsburgh and an ARM designation. He reports to A.H. Seiple Jr., director of risk management. A replacement for Mr. Daugherty has not yet been named by Goodrich.

Texas Instruments Inc. of Dallas has hired **Richard Deal** to fill the newly created position of corporate risk analyst. Mr. Deal, 23, will be involved in coordinating computerization of various facets of Texas Instruments' current risk management program, including premium allocation and forecasting. He will report to Hugo Hines, corporate risk manager. Mr. Deal is a recent graduate of the University of Georgia, where he received B.B.A. and M.B.A. degrees in risk



Bowman



Lewis

management.

Two new employees have bolstered the insurance department of the San Francisco-based Pacific Gas & Electric Co. **Robert Bowman**, 37, has been hired as insurance analyst to administer the owner-controlled insurance programs for the gas company and its subsidiaries. Mr. Bowman was previously manager of the Southern California Joint Powers Insurance Authority and risk management administrator for East Bay Municipal Utility District in Oakland. He has a B.A. degree in political science from California State University at Northridge. **Collin Lewis** has also joined Pacific Gas & Electric as coordinator of property loss

control. In this newly created position, he will be responsible for overseeing, designing, implementing and determining the cost effectiveness of the property loss control program for the company and its subsidiaries. Mr. Lewis was previously vp of engineering for a San Francisco insurance brokerage and before that was an assistant accounts engineer for Industrial Risk Insurers. Both men report to William Ncone, insurance manager.

**Karen A. Manning** has been named to the newly created position of manager of employee benefits planning and communications at American Express in New York. The 31-year-old Ms. Manning was formerly a benefits specialist at Citicorp. In her new position, she reports to Margaret Gagliardi, director of employee benefit planning and administration. Ms. Manning has a B.A. degree in psychology from Fordham University.

**Don Hilliard** has been promoted to assistant vp for insurance and employee benefits at Newmont Mining Corp. of New York. In his new position, he will continue to coordinate the company's insurance

programs and will have increased responsibilities in the area of employee benefits. He will also continue as director, vp and treasurer of N.I. Ltd., Newmont's captive in Bermuda, and director and treasurer of Peabody Insurance Ltd., the captive of Peabody Holding Co. Inc., which owns Peabody Coal Co. Mr. Hilliard, 55, joined Newmont in 1974 as manager of insurance. Before that he was insurance manager for 15 years at Cerro Corp. He is a graduate of Washington University in St. Louis, where he received a B.A. degree. He is also director of the New York chapter of the Risk Insurance Management Society.

**William C. Holl** has been hired as the new risk manager for the city of Stockton, Calif. Mr. Holl, 39, replaces **Gary Perusse**, 31, who recently left to become insurance manager for the Bay Area Rapid Transit Authority in Oakland. Mr. Holl previously worked for the insurance departments of Tulare County and Fresno County and was a field claims adjuster with the Travelers Co. He reports to Gary Ingram, director of finance for Stockton.

**Barry Barnett** is the new employee benefits manager at the New York-based ADT Inc. Mr. Barnett, 31, was previously an employee benefits consultant with Becker Co. of East Orange, N.J. Mr. Becker replaces John Lange, who left the company. In his new position, Mr. Barnett reports to Henry Cox, director of personnel. He has M.A. and B.A. degrees from Penn State University.

**Larry Watson**, former insurance manager of Dylex Ltd. in Ontario, recently was named risk manager of the Winnipeg-based Federal Industries Ltd. He was replaced at Dylex by **Brien Smith**, recently named insurance supervisor. Mr. Smith has been at Dylex for six months, joining the firm from the underwriting department of the American International Group.

*We'd like to report on staff changes in your risk management or employee benefits department. Just drop a note to Stuart Emmerich, Business Insurance, 708 Third Ave., N.Y., N.Y., 10017 or call 212-986-5000. We'd also like to receive pictures of those involved.*

## Letters column . . .

*Continued from page 14*

with the state insurance authorities, with company representatives and with any of your fellow buyers or even friendly competitors.

**Mitchell Gwinn, CPCU**  
President, NAPSIQ, Atlanta, Ga.

### Mystery solved

To the editor: Perhaps I can solve a mystery posed by your article entitled "Specialties lure risk excess to market," which appeared in *BI's* Sept. 17 issue. I refer to the paragraph which reads: "One product that buyers lament is not available to them in the fabulous sidewalk excess/surplus sale is excess workers compensation insurance. Searching the market for this product, the buyers find most underwriters have gone fishing."

Since my employer is one of the largest writers of excess workers compensation, I would not want my employer to think that I have "gone fishing." There is a large,

competitive market for this product, and anyone who can't find it hasn't really looked. I will be glad to direct unsuccessful potential buyers to a competent, competitive underwriter.

**Paul G. Klein**  
Underwriting officer, Employers Reinsurance Co.

### Further comment

To the editor: Your article Sept. 17 on workers compensation in Michigan deserves some further comment.

A specific case involving General Motors changed the standards by which injury, physical or mental, is measured. Instead of using the "normal person" standard, measuring whether or not such pressures as occur in a work environment would cause, for example, psychosis in the normal or average person, the standard now is whether or not a person perceives that he/she has psychosis and

whether or not he/she perceives job pressure to be the cause. When faced with mental strain and an economic decision as to whether the employee or employer should pay for treatment and wage loss, it is easy to see how many employees will make claims against employers.

One feature of Michigan's compensation system, and probably a feature of the systems of many other states, is that an injured employee will receive a certain percentage of the state average wage. Since many employees are below the state average wage, a goodly percentage of those will receive as much, if not more, in tax-free workers compensation benefits as they did while working. If the money is as much as or greater during a period of compensation, what incentive is there for an employee to speed his or her recovery or even return to work?

Also not mentioned in the article was the attempt by labor to remove the mandatory rehabilitation section of the present law, thereby dooming an employer to the payment of compensation benefits for the rest of that person's life.

What is needed is true reform, a reform that will provide adequate benefits to those truly suffering from employment-related injuries, but not the natural aging process or slips in one's own driveway while getting into one's car on the way to work. Benefits should never exceed an employee's take-home pay so as to provide an incentive to malingering. True reform is necessary, but most employers are not holding their proverbial breaths.

**Kenneth Bush**  
Risk insurance manager, County of Kent, Grand Rapids, Mich.

### More on E/S

To the editor: I was pleased to see the list of Excess/Surplus Line brokers in your issue of Sept. 17.

I would like to call to your attention a misunderstanding with many of them when they report gross revenues. Most of us report gross revenue less commissions that we have paid our agents and brokers. I know that several of them, however, reported a gross

revenue, before paying commissions, such as Dwight Tope, Gateway Underwriters, Graham Rogers, The Hillside Co., H&W Underwriters Inc. and Landmark Insurance Group.

For your information, the national average for excess/surplus lines brokers is between nine and 10 points.

There are some exceptions to this rule where they might barely go over 10, and there are also other exceptions where they handle large lines and captive insurers where they will fall as low as 2%.

Next year when you send the inquiry it might be well to ask for revenues less commissions paid agents and brokers. Then we'll all report on a uniform basis.

Enjoyed very much your magazine. In fact, I read it first—before the Wall Street Journal and all the rest of my subscriptions.

**Victor D. Blakely**  
Blakely General Agency Inc., Topeka, Kan.

## Consultant buys risk publication

CHICAGO—Crain Communications Inc. has sold all rights to Risk Management Reports to the risk management consulting firm of Risk Planning Group Inc. in Darien, Conn.

Risk Planning Group's founder and president, H. Felix Kloman, has been editor of Risk Management Reports since its inception in 1974 by *Business Insurance*, a division of Crain Communications.

Risk Management Reports is a bi-monthly publication aimed at providing an in-depth practical working tool for risk managers and corporate executives. The sale of the publication is effective immediately, with Risk Planning Group continuing to publish the reports under its own name commencing with the September 1979 issue.

This brings to an end a six-year collaboration between *Business Insurance* and Risk Planning Group.

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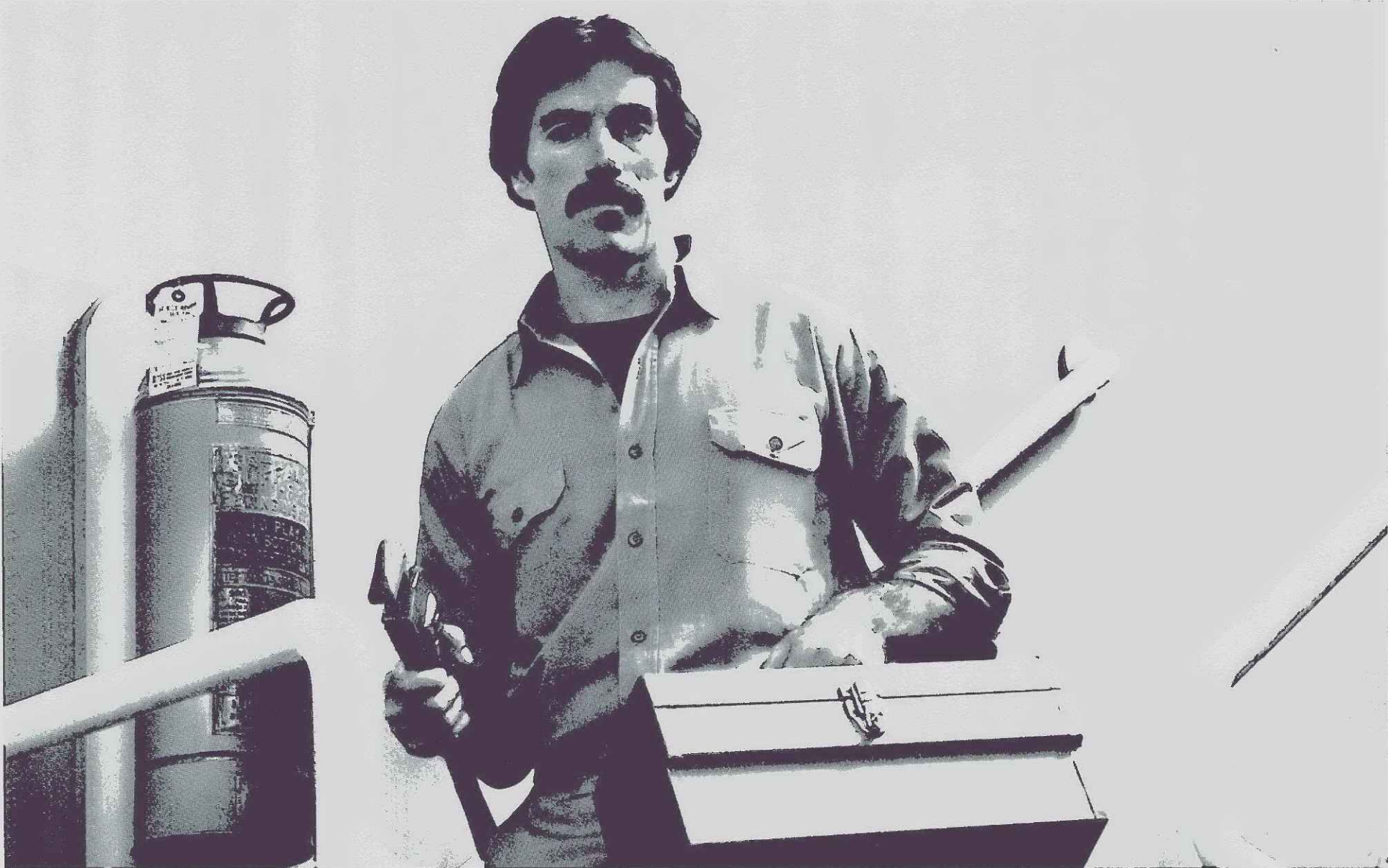
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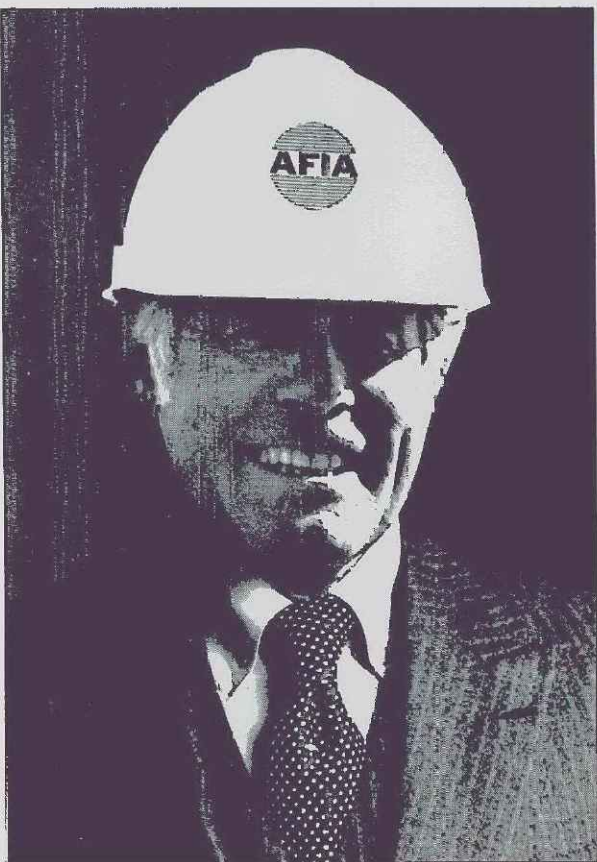
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Paul Colony, managing vice president, tells how A&A works from a client's point of view:

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