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Update

Consumer group blasts waste in health insurance industry

WASHINGTON—Health insurance companies spend far more on administration, overhead and marketing than either the Medicare or Canadian systems, contends a consumer advocacy group.

A Citizen Action report on health insurance waste claims that private insurers spend 33.5 cents of every benefit dollar —excluding profits—on these expenses. These expenditures for Medicare and Canada are only 2.3 and 3 cents, respectively, the Washington, D.C.-based group says.

Continued on next page

Travelers move spurs stock slide

By JUDY GREENWALD

NEW YORK—Legitimate concern about insurers' real estate portfolios and unreasonable investor panic are fueling a dive in insurer stock prices, securities analysts say.

Insurer stocks were already slumping when a sharp downturn last week was sparked by Travelers Corp.'s Oct. 5 announcement that it was adding $650 million to real estate and mortgage loan reserves.

Travelers said the additional reserves would result in a $500 million net loss for the quarter—compared with net income of $94 million for third-quarter 1989—and an undetermined net loss for the year.

As reserves are used for impaired real estate, it would primarily reduce statutory capital of Travelers' life units with "little or no effect" on property/casualty units, according to a spokesman.

Travelers also stressed it is taking steps to enhance statutory capital, including cutting its common stock quarterly dividend by a third to 40 cents a share. The company said it wanted to maintain "strong capital ratios necessary to pursue the strategies of our core business," which includes underwriting property/casualty insurance, employee benefits and managed health care operations.

Travelers stock dropped 21% on Oct. 5, to $16.38 from $20.75 on Oct. 4. It dropped another $2 to $14.38 on Monday, Oct. 8, the first full day of trading after the announcement. On Friday, Travelers stock closed at $13.50, off 67.9% from its 52-week high of $42.

The *Business Insurance* index of insurance industry stocks has been falling since the week ending July 13, when it closed at 608.1. On Oct. 5, the *BI* index closed at 474.88, a 22% drop from July 13.

On Friday, the *BI* Index closed at 455.23, down another 4.1%.

Panic selling prompted by Travelers soon spread to other insurers with much stronger real estate portfolios, analysts say. Insurers with substantial real estate holdings, including multiline and life insurers, have been especially vulnerable, stock analysts note.

A consumer group study, to be released today, could further erode investor confidence in insurer stocks. Public Citizen is expected to conclude that five of the 20 largest property/casualty insurance companies are in poor financial condition and could become insolvent if the economy deteriorates further.

Public Citizen, a group affiliated with Ralph Nader, also is expected to warn that the insolvency of any one of the companies would overwhelm the state guaranty fund system.

On Friday, the group confirmed that it would hold a press briefing on Monday, but would not release an advance copy of the study, calling it "too sensitive."

Eventually, however, analysts expect insurance companies with better balance sheets are expected to differentiate themselves in the stock market.

Insurance stocks tend to move in groups, noted Peter Moynihan, vp-investments for Portland, Maine-based UNUM Corp. "We're in a market where I believe—and it's

Continued on page 47

Merger of Willis, Corroon affirmed

Shareholders ignore efforts to derail deal

By JUDY GREENWALD

NEW YORK—Corroon & Black Corp.'s merger with Willis Faber P.L.C. —creating Willis Corroon P.L.C., the world's fourth-largest brokerage—is a reality after C&B shareholders approved the deal last week by more than a 3-to-1 margin.

Shareholder approval came despite an effort by Bear Stearns & Co., a C&B shareholder, to rally other shareholders against the merger. Bear Stearns and other takeover stock speculators were unhappy over C&B's rejection of a $40 per share all-cash bid from Aon Corp. of Chicago.

Willis Faber shareholders had unanimously approved the merger last month (*BI*, Oct. 1).

With 86% of Corroon & Black shares voting, 65%—or about 13.1 million votes—were cast in favor of the merger, with 21%—or about 4.3 million shares —cast in opposition.

"I was surprised by the magnitude of the approval. I thought it would happen, but I thought it would be closer," commented Ira Malis, an analyst with Alex. Brown & Sons in Baltimore.

Corroon & Black shares closed at $32.50 on Oct. 8, their last day of trading, up $1.50. On Oct. 9, the day after C&B shareholders approved the merger, Willis Corroon shares began trading on the New York and Pacific stock exchanges as Willis Corroon American Depositary Shares.

Each ADS represents five Willis Corroon shares, which are traded on the London Stock Exchange. Based upon an exchange ratio of 7.8 Willis Faber shares to every C&B share, each former share of Corroon & Black stock will be represented by 1.56 Willis Corroon ADSs.

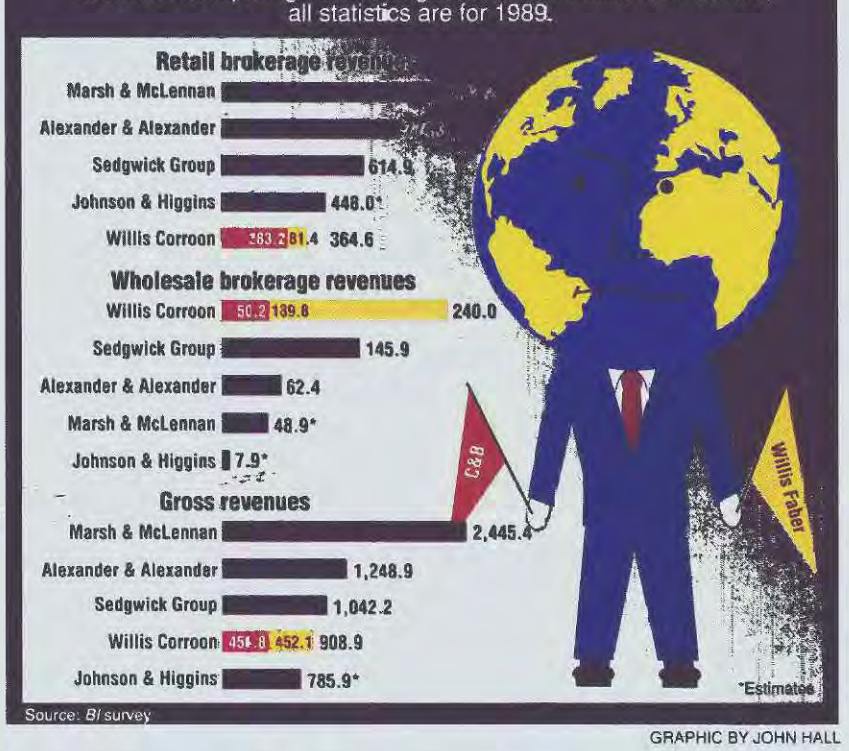
C&B stockholders of record as of Oct. 8 also will receive a special $2.50 per share dividend.

The ADSs closed at $18 on Tuesday, their first day of trading. Taking into account the dividend and the exchange ratio between Willis and Corroon

Continued on page 31

A global broker is born

Last week's vote by Corroon & Black Corp. shareholders to approve a merger with Willis Faber P.L.C. creates the world's fourth-largest insurance brokerage and the largest wholesale broker. Revenues comparing the five largest brokers in millions of dollars; all statistics are for 1989.



Source: *BI* survey

GRAPHIC BY JOHN HALL

Missouri seeks court permission to seize Bel-Aire

By COLLEEN JOHNSON

JEFFERSON CITY, Mo.—The Missouri Division of Insurance today will ask a judge to appoint it as receiver of Bel-Aire Insurance Co., an insurer primarily of risk purchasing groups that has a history of problems with regulators.

Missouri regulators charge that St. Louis-based Bel-Aire is insolvent, according to a petition filed Oct. 3 in Cole County Circuit Court.

Charles Renn, deputy director of company regulation for the Missouri Insurance Division, would not reveal the amount of the alleged insolvency.

Alan Gold, a South Miami, Fla., attorney for Bel-Aire, said the actuarial study on which Missouri bases its allegations says the company is insolvent by about $5 million.

However, Bel-Aire "will very strongly contest the findings," said Mr. Gold, a partner with Rassner, Malove, Rassner, Kramer & Gold. Bel-Aire's "accountants and actuaries have found them to be solvent," he said.

Bel-Aire's president and owner, Arthur A. Blumeyer, could not be reached for comment.

Bel-Aire's assets have been frozen by court order pending the receivership hearing.

The Missouri Insurance Division has not indicated whether it will seek an order to rehabilitate or liquidate Bel-Aire, Mr. Renn said.

"You have to assume there would be an attempt to rehabilitate it if at all possible," he said. "You really can't make that determination until you have full control of the company."

Bel-Aire has written coverage for 20 Missouri-based purchasing groups, according to The Risk Retention Reporter, an industry newsletter in Pasadena, Calif. Those groups primarily cover policyholders that have had difficult times finding liability coverage like truck owners and operators, limousine companies, amusement parks, daycare centers and petroleum distributors.

Most of Bel-Aire's current business is written for eight of the groups, Mr. Renn said.

A quarterly statement filed by Bel-Aire reports $6.1 million in net premiums written as of June 22, compared with $3.1 million for all of 1989.

Policyholder surplus stood at $3.7 million on June 22 and

Continued on page 46

New federal budget proposal further hikes PBGC premiums
Page 2

High court hears arguments on fetal protection policy
Page 3

Congress approves measure that allows window plans
Page 3

NEWSPAPER

Update

Health insurers' 'waste' faulted

Continued from previous page

If health insurance companies held their costs to those lower levels, they would save enough money each year to pay for coverage for 11 million people who now have no insurance, contends Robert M. Brandon, vp of Citizen Action.

However, the Health Insurance Assn. of America says private insurers are spending more to ensure appropriate billing.

Citing estimates that at least 25% of all medical and surgical procedures performed are unnecessary, the HIAA said in statement that by "discouraging such services, private insurers are saving billions of dollars annually."

The Washington, D.C.-based trade group also criticized the Citizen Action study for not reporting the administrative costs for self-insured health plans, which it says cover most Americans. According to the HIAA, the government estimates that 13 cents of every self-insured benefit dollar goes toward administration.

EPA mulls lender liability limits

WASHINGTON—A proposed U.S. Environmental Protection Agency rule could limit cleanup cost liability for lenders that become involved in managing a hazardous waste site solely to protect their security interest in the property.

Banking lobbyists, however, say lenders still would lack adequate protection from liability.

The proposed rule would allow lenders to police loans, foreclose on polluted property—as long as it is re-sold within six months—and undertake financial workouts on bad loans without incurring liability under the Comprehensive Environmental Response, Compensation and Liability Act.

However, since it could be difficult to sell polluted property within six months, the impact of the rule could be minimal.

"We don't find the EPA rule satisfactory," said Thomas J. Greco, associate general counsel for the American Bankers Assn. in Washington, D.C. He says the trade group will continue to lobby Congress to curb lender liability (*BI*, Oct. 8).

The proposed rule would also limit the liability of the Resolution Trust Corp. when it acquires polluted property from a failed thrift.

The EPA said it was motivated to release this rule, in part, because of two recent federal appellate court decisions expanding lender liability for pollution cleanups (*BI*, Sept. 3; June 4).

Agent Orange risk downplayed

CHICAGO—Two new studies indicate that exposure to Agent Orange, a herbicide widely used as a defoliant during the Vietnam War, did not cause veterans' later health problems.

The studies, published in the Journal of the American Medical Assn., suggest that "there is insufficient scientific evidence to implicate a causal relationship between herbicide exposure and adverse health."

In 1984, seven chemical companies—including Dow Chemical Co. and Monsanto Co.—established a $180 million trust fund to compensate veterans and their families who claimed injury from exposure to the herbicide. The companies, however, continued to deny liability (*BI*, May 14, 1984).

Humana to buy Chicago HMO

CHICAGO—Humana Inc., the hospital chain and managed health care giant, has signed a letter of intent to purchase Michael Reese Hospital & Medical Center of Chicago and its health maintenance organization. Terms were not disclosed.

A spokesman for Louisville, Ky.-based Humana, owner of 24 hospitals, said the deal is expected to be concluded by year-end.

The acquisition would boost membership in Humana managed care plans 20% to about 1.45 million, he said. Acquiring 652-bed Michael Reese Hospital, he added, reflects Humana's plans to pursue major hospitals and affiliated health plans.

With about 240,000 members, Michael Reese Health Plan is among the largest HMOs in Illinois.

But the HMO lost $7 million in 1989 on revenues of $257 million after losing $3.3 million the year before. Barry Averill, Michael Reese Health Plan president and chief executive officer, says the plan's 1990 profits through July 31 were $5.5 million.

Mr. Averill predicts that the purchase will spur growth. "We'll have access to Humana's insurance products, including their preferred provider organization. We'll be able to offer employers a double option and that should help us grow," he said.

Gathers' family to amend suit

TORRANCE, Calif.—Attorneys for survivors of Loyola Marymount University basketball star Hank Gathers, who suffered a fatal heart attack during a March 4 game, have 30 days to amend their lawsuits following dismissal of portions of their complaints.

Torrance Superior Court Commissioner Abraham Gorenfeld on Sept. 28 threw out portions of two suits brought by family members seeking future earnings assuming he would have become a professional.

Commissioner Gorenfeld also dismissed a $1 million claim by the estate, which contended that Mr. Gathers should have been listed as disabled. Then he would have collected on a $1 million disability insurance policy he had purchased in 1989 from Lloyd's of London.

The suit brought in April by Mr. Gathers' mother, brothers and an aunt originally demanded $22.5 million in compensatory damages and $10 million in punitive damages from the university, athletic director Bryan Quinn, former basketball coach Paul Westhead and numerous doctors (*BI*, April 30).

Another suit was filed in June on behalf of Mr. Gathers' estate and his 7-year-old son, Aaron Kevin Crump, seeking unspecified general, pecuniary and exemplary damages. That suit also requests treble damages from the university, Mr. Quinn and Mr. Westhead for allegedly practicing medicine without a license.

School officials would not discuss the suits or their insurance.

New budget proposal hikes PBGC premiums

By JERRY GEISEL

WASHINGTON—Premiums paid by employers to the Pension Benefit Guaranty Corp. would leap as much as 40% under a budget bill passed last week by a House panel.

The measure cleared by the House Ways and Means Committee would lift the annual PBGC premium for employers with severely underfunded defined benefit plans to $72 per participant from $50, a 44% increase, while the premium for employers with fully funded and overfunded plans would climb next year to $19 per participant from $16, a 19% increase.

Business groups say the proposed PBGC premium increase—which if approved by Congress would be the third hike in four years—is unnecessary at a time when the PBGC's financial condition is rapidly improving.

"It is a true outrage. It has nothing to do with the PBGC, but instead is pure budget gimmickry," said James Klein, deputy executive director of the Assn. of Private Pension & Welfare Plans in Washington, D.C.

"We're appalled," said Lisa Sprague, manager of employee benefits policy at the U.S. Chamber of Commerce in Washington.

The new budget legislation also would boost employers' benefit costs in other areas. Excise taxes imposed on employers terminating overfunded pension plans would, in certain cases, be increased by more than 200%. In addition, the agreement includes rises in FICA payroll taxes that would cost employers billions of dollars a year.

At the same time, sharp reductions in planned Medicare expenditures to physicians and hospitals would mean that providers—trying to recoup lost income—likely would shift more costs to employer health care plans. The agreement also would boost deductibles under Medicare Part B, which covers physician expenses. That would

Continued on page 45

Antitrust suit responses

States seek clarification of British brief

By JUDY GREENWALD

SAN FRANCISCO—The British government, which says U.S. antitrust law should not be imposed on the British insurance business because it conflicts with British law, has not explained the conflicts, says a brief submitted by state attorneys general pressing massive antitrust litigation against insurance industry defendants.

The states were responding to a friend-of-the-court brief the British government filed in August with the 9th U.S. Circuit Court of Appeals in San Francisco on behalf of British antitrust defendants (*BI*, Aug. 13).

The states' brief simultaneously responded to another brief that insurance industry defendants filed in August.

The states, along with private plaintiffs, are appealing U.S. District Judge William Schwarzer's 1989 dismissal of the antitrust suit (*BI*, Sept. 25, 1989).

The next step in the judicial process is oral arguments before the appellate court.

California Deputy Attorney General Kathleen E. Foote said arguments are expected to be heard in January.

In its brief filed in August, the British government said "an assertion of jurisdiction by the U.S. courts (over the British defendants) would constitute an offensive interference with the sovereign rights and interests of the British government."

Furthermore, the government argued, assertion of jurisdiction would "constitute an inappropriate interference with the regulatory and competition regime established by the British government."

Responding to the brief, the state attorneys general say that if a conflict between English and U.S. antitrust law exists, presumably the British government "would be in the best position to identify it."

Continued on page 20

Coleridge to deliver address at World Insurance Congress

David Coleridge, chairman of Sturge Holdings P.L.C. at Lloyd's of London, will present the keynote address at the 1991 World Insurance Congress to be held July 1-3 in London.

Business Insurance and Lloyd's of London Press, an independent subsidiary of Lloyd's, are sponsoring the event.

Sturge Holdings is the largest underwriting agency group at Lloyd's of London, and Mr. Coleridge is a member of the Council of Lloyd's.

"With London as the host city for the World Insurance Congress, we considered it most appropriate that the keynote address be delivered by a leader of Lloyd's of London, the world's oldest insurance market," said Kathryn J. McIntyre, associate publisher/editor of *Business Insurance*.

Ms. McIntyre is programming the congress with Cees Schrauwers, a partner and director of insurance consulting at Coopers & Lybrand Deloitte in London, who was appointed by Lloyd's of London Press.

Consulting on the programming are H. Felix Kloman, vp and principal of risk management consulting for Tillinghast, a unit of Towers, Perrin, Forster & Crosby Inc.; and two

Continued on page 46

Inside

- Proposals to increase PBGC premiums paid by employers to reduce the budget deficit are outrageous, says this week's editorial. **PAGE 8**
- The deadline is for nominating candidates for the 1991 *Business Insurance* Risk Manager of the Year Award is drawing near. Details on **PAGE 12**
- A new NAIC manual on regulation of risk retention and risk purchasing groups is released for comment at the National Risk Retention Assn.'s meeting. **PAGE 15**
- In Perspectives Wayne E. Seel of Anistics reviews a phased approach to developing the best risk management information system. **PAGE 27**
- The troubled Oil & Gas Insurance Co. is challenging a state's effort to liquidate the company. **PAGE 33**
- Participants in Seville's Expo '92 must buy more than $100 million of pre-arranged liability coverage for the event. **PAGE 37**

Departments

Advertiser index....00
At issue....10
Benefit beat....6
Bermuda....37
Classifieds....42
Comings & goings: industry....21
Datebook....43
Insider trading....22
Insurance services guide....43
International....37
Legal briefs....28
Letters....8
Markets....29
Opinions....8
Perspectives....27

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Congress gives OK to window plans

By JERRY GEISEL

WASHINGTON—Recently approved anti-age discrimination legislation will allow employers to continue to offer the most popular types of early retirement incentive programs, but the legislation will increase employers' administrative burdens.

In addition, the legislation, now awaiting President Bush's signature, will bar employers from reducing severance benefits to terminated employees by their pension benefits.

However, employers will be allowed to reduce severance benefits as long as they offer pension "sweeteners," such as special pension benefits payable when a factory is shut down or retiree medical benefits that are offered to terminated employees.

"The final bill is a clear improvement over earlier versions," said Henry Saveth, a principal with A. Foster Higgins & Co. Inc. in New York.

"Most concerns about window plans have been put to rest," added Chip Kerby, a principal in the Washington, D.C., office of William M. Mercer Inc.

The legislation, known as the Betts bill, was approved by the House and Senate after an intense employer lobbying campaign to alter provisions in earlier versions of the legislation that had been cleared by congressional committees.

The legislation was intended to overturn a controversial 1989 Supreme Court decision. In that decision, *Public Employees' Retirement System of Ohio vs. Betts*, the justices ruled that the Age Discrimination in Employment Act only applied to hiring and firing practices and not to employee benefit programs like life insurance and disability benefits (*BI*, July 10, 1989).

The decision effectively overturned ADEA regulations published by the Labor Department and the Equal Employment Opportunity Commission. Those rules said companies could provide older workers with welfare-type benefits that had a lower value than those provided to younger employees without violating ADEA, as long as the cost of the benefits was equal.

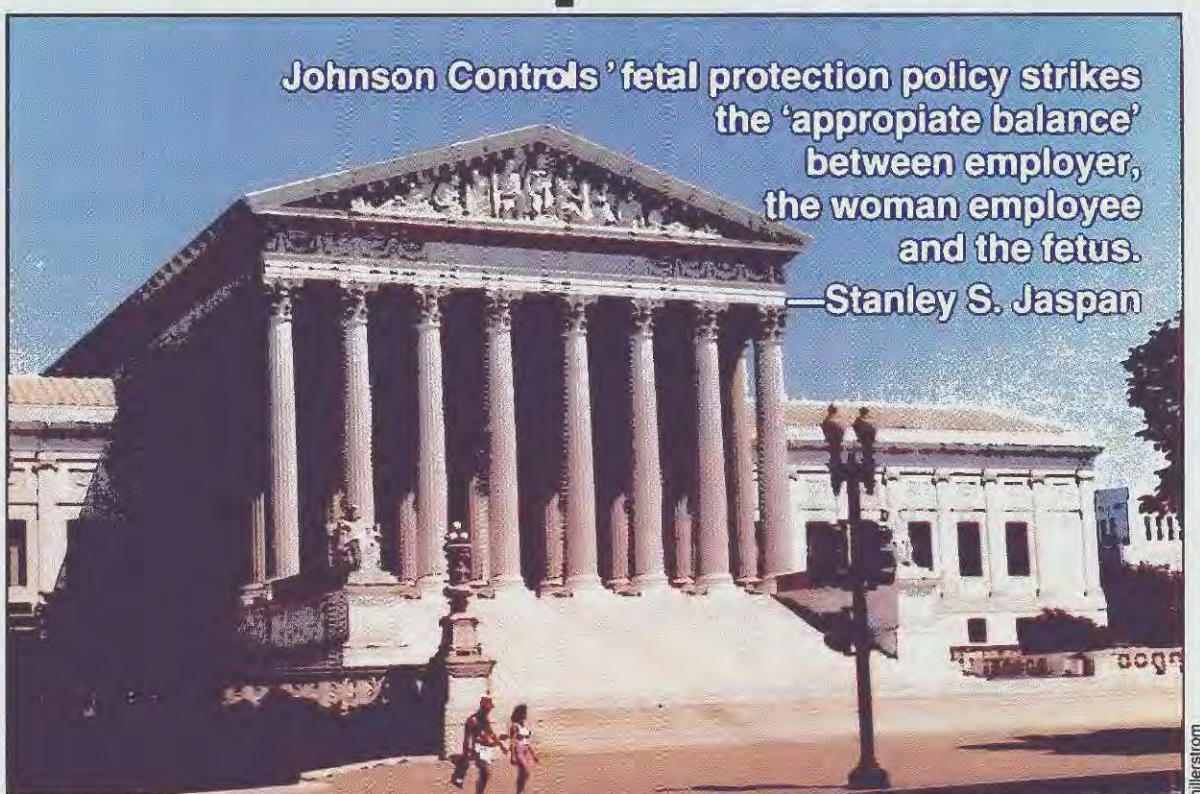
For example, a company could provide reduced life insurance benefits to older workers if it could prove that its cost of

Continued on page 36

Fetal protection policies

High court may limit application

By MEG FLETCHER



Roger Schillerstrom

WASHINGTON—Several U.S. Supreme Court justices are questioning whether a lead battery manufacturer's fetal protection policy violates the civil rights of all fertile women by excluding them from higher-paying jobs that pose a significant risk to the health of unborn children.

But, during oral arguments last week, a few justices appeared sympathetic to the efforts of Milwaukee-based Johnson Controls Inc. to protect itself from future lawsuits by children injured when their mothers were exposed to significant levels of lead while on the job.

Questions and comments during the hour-long session indicated that the justices are likely to allow the company to prohibit fertile women from holding certain jobs only when infertility is a "bona fide occupational qualification"—or BFOQ—as permitted under Title VII of the Civil Rights Act of 1964, according to several observers.

Courts have interpreted this as a tougher standard than allowing a company to discriminate against women based merely on "business necessity."

The 7th Circuit Court of Appeals, in upholding the Johnson Controls fetal protection policy, ruled last year that the policy was a business necessity (*BI*, Oct. 16, 1989).

In a similar case, the 6th Circuit Court of Appeals said in defining the tougher BFOQ standard that an employer must demonstrate a factual basis for believing that all excluded women would be unable to perform the work safely and efficiently (*BI*, Aug. 13). The court defined "safely" as "without inordinate risk to third parties, including fetuses."

In upholding the Johnson Controls policy, the 7th Circuit said the policy did pass the BFOQ test, but the court did not rely on this test in reaching its decision.

Two other federal appellate courts also have upheld fetal protection policies.

Justices Antonin Scalia and John Paul Stevens emphasized during oral arguments last week that they are uneasy about being asked to determine hard-to-quantify risk levels for fetal injury as well as to evaluate scientific studies.

The case is drawing wide attention.

The Johnson Controls case is "likely the most important sex-dis-

Continued on page 45

Federal appellate court ruling

Cleanup letter can trigger cover

By STACY ADLER

BOSTON—A letter from a state or federal environmental agency naming a company as a potentially responsible party for a hazardous waste cleanup could trigger the firm's liability coverage, according to a federal appellate court.

The 1st U.S. Circuit Court of Appeals late last month said that if such a letter is sufficiently coercive and "adversarial," it will be viewed as the equivalent of a lawsuit for the purposes of triggering coverage under comprehensive general liability policies.

Both policyholder and insurer attorneys claim the ruling will benefit their clients.

Policyholder attorneys say the ruling will be beneficial to policyholders nationwide because most letters from governmental agencies naming potentially responsible parties for a waste cleanup are sufficiently coercive and adversarial to trigger the duty to defend.

Insurer attorneys maintain that the opposite is true.

The Sept. 27 decision marks the second time a federal appellate court has said a cleanup letter from a government agency can trigger CGL coverage. The 2nd U.S. Circuit Court of Appeals handed down a similar ruling last year (*BI*, Oct. 23, 1989).

Both rulings center on the portion of the CGL policy that states the insurer has a "duty to defend any suit against the insured. . "

Insurers argue that the word "suit" means only a traditional lawsuit filed in a court of law. Policyholders counter that any governmental letter naming a policyholder as potentially responsible for a hazardous waste cleanup is equivalent to a lawsuit for the purpose of triggering an insurer's duty to defend.

The 1st Circuit adopted a middle-of-the-road position, saying that only those agency letters that are coercive and adversarial will

Insurers argue that the word 'suit' means only a traditional lawsuit filed in a court of law.

be viewed as the equivalent of a lawsuit to trigger the duty to defend.

The court held that Aurora, Ill.-based Royal Insurance Co. of America, a unit of Royal Insurance Group, did not have to provide a defense to a policyholder that received letters from the New York Department of Environmental Conservation regarding its liability for a hazardous waste cleanup. The court found the letters from the department were not sufficiently adversarial to trigger the policyholder's liability insurance.

However, in dicta—portions of a decision not essential to the ruling—the court held that in other instances where the "government assumes an adversarial posture, making sufficiently clear that the force of the state will be brought promptly to bear (on a policyholder). . .then the functional equivalent of a suit may be in progress and the insured might reasonably expect the insurer to defend."

"Logic dictates that if a proceeding is the functional equivalent of a traditional suit, then coverage may inhere," the court concluded.

Thus, while the insurance com-

Continued on page 42

States reconsider health plan mandates

By MEG FLETCHER

For the first time in several years, many states are putting the brakes on the benefits that they force insured health care plans to provide.

Others states, in an effort to encourage small businesses to offer no-frills health plans, are relaxing existing benefit mandates for smaller employers.

Employers and insurers applaud both developments. These actions, they say, indicate that legislators have realized why many small and mid-sized firms are not providing health care benefits: They cannot afford to, often times because states mandate that insured health care plans must cover non-basic, expensive procedures.

This warmer reception by state legislators to employer and insurer arguments may either give government and business a chance to work together or be the lull before the storm that would likely greet federal or state universal health care laws, observers say.

This year, the pace of state enactment of mandated employee benefits is "way down" compared with recent years, said Greg Scandlen, director of state research for the Blue Cross & Blue Shield Assn. in Washington, D.C.

According to a BC/BS survey of 45 states, only 20 new benefit mandates have been adopted by states so far this year. That figure is off 65% from a three-year average total of 57, BC/BS says. Seventy-five mandates were adopted last year, 45 in 1988 and 50 in 1987.

A total of 805 mandates have now been adopted, although many are duplicated from state to state.

According to BC/BS, the most commonly mandated benefits are care for babies up to 30 days old, mental health care, alcohol or drug abuse treatment and coverage for psychologist and optometrist services.

However, states now require businesses with insured health care plans to offer more than 100 different types of benefits including, in some states, coverage for hairpieces and naturopath treatment.

Two states recently took steps to try to curb future employee benefits requirements. Illinois and Indiana enacted nearly identical laws requiring that any future mandates also apply to federally regulated self-insured health care benefit plans.

States, however, cannot mandate that such plans offer certain types of benefits. Their power is limited by the Employee Retirement Income Security Act, which generally prohibits state regulation of employee welfare benefit plans. Yet the 1974 federal law allows states to continue regulating insurers that provide health coverage to employers that do not self-insure, as well as to policyholders who purchase health insurance on an individual basis.

Patterned on a 1986 Nebraska measure, the Indiana and Illinois laws are, thus, expected to effectively curb adoption of new benefit mandates.

And five states this year adopted

Continued on page 35

MGM/UA OKs $35 million settlement

LOS ANGELES—MGM/UA Communications Co. has agreed to pay $35 million to settle a class-action suit that charged the 1986 sale of some company assets to its majority shareholder breached duties to minority shareholders.

The settlement replaces a prior $20 million settlement reached between the shareholders and four MGM/UA directors and officers liability insurers without the company's consent. The earlier settlement left MGM/UA majority shareholder Kirk Kerkorian and his Tracinda Corp. as the sole defendants in the suit, which originally named other MGM/UA directors.

MGM/UA filed a bad faith suit Aug. 30 against its three excess D&O insurers for reaching the earlier settlement (*BI*, Sept. 24; Sept. 17).

The shareholders' suit charged MGM/UA directors, including Mr. Kerkorian, with breaching fiduciary duties to minority shareholders in 1986 when MGM/UA was sold to Turner Broadcasting Systems Inc. and then assets of subsidiary United Artists were sold back to Mr. Kerkorian at an allegedly inadequate price.

MGM/UA was forced to settle with the shareholders for $35 million, including settlement on behalf of Mr. Kerkorian and Tracinda, because as a director of MGM/UA, Mr. Kerkorian "had a written agreement to be indemnified" by the company, said Terry Christensen of Christensen, White, Miller, Fink & Jacobs in Los Angeles, an MGM/UA attorney.

The settlement will be paid to minority shareholders of record before the sale of United Artists to Mr. Kerkorian.

"We fully expect to recover these funds, plus punitive damages" in the bad-faith suit against the insurers, said Mr. Christensen.

MGM/UA is suing its excess D&O insurers, which wrote approximately $85 million in coverage excess of $5 million. The insurers are Forum Insurance Co., Associated International Insurance Co. and National Union Fire Insurance Co. of Pittsburgh, Pa.

Harbor Insurance Co. wrote the $5 million primary layer of D&O coverage and agreed to participate in the earlier $20 million settlement. But, MGM/UA does not name Harbor in its suit because Harbor did not try to prevent a settlement on behalf of all of the defendants in the class-action suit, MGM/UA said.

An attorney for one of the excess D&O insurers, who did not wish to be identified, said he objects to the $35 million settlement because "we already had a settlement in place." The earlier settlement was approved by the court, but the later settlement has yet to be approved.

The insurers have not yet filed their response to MGM/UA's bad-faith suit, the attorney said.

—By Louise Kertesz

GOOD NEWS

Businesses Wake Up To New Multi-Coverage!

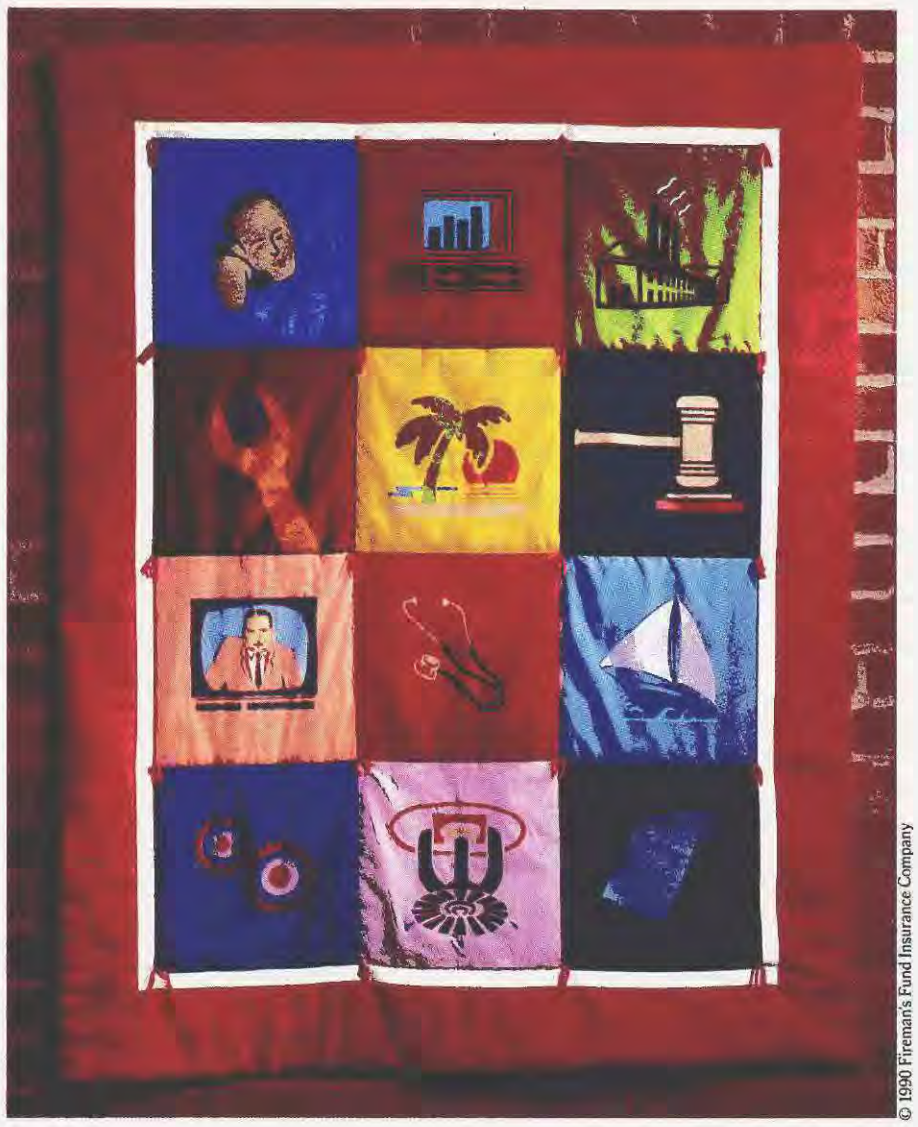
FIREMAN'S FUND NEW MULTICOVER 2000 POLICY OFFERS BROADENED GENERAL LIABILITY PROTECTION.

Multicover 2000 provides protection for a number of exposures that are increasingly sensitive to costly litigation. These include unintentional and non-employment related discrimination actions, trademark infringement, and libel or slander suits as a result of television advertising.

Multicover 2000 also gives your clients higher automatic limits for medical payments coverage and broader coverage for non-owned watercraft and tenant's legal liability exposures.

Multicover 2000 even provides expanded coverage for trips to several off-shore locations, including Bermuda and the Bahamas. Other coverages have also been broadened in terms of limits or exposures.

In an increasingly claims-conscious time, every firm needs to protect itself from costly problems. Multicover 2000, in its convenient packaging of new and expanded coverages, allows your clients to do exactly that. Ask us about it.



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Several changes in BI staff announced

Two *Business Insurance* staff members have assumed new positions and a new copy editor has joined the staff, Associate Publisher and Editor Kathryn McIntyre has announced.

Colleen Johnson, formerly a copy editor, is now an associate editor in the Chicago office.

Sara J. Harty, an editorial assistant with *Business Insurance* since 1989, will assume the new position of staff reporter.

In addition, Kathryn M. Larrabee has joined *BI* as a copy editor.

Ms. Johnson, 27, joined *Business Insurance* in March. She previously was a metro copy editor and a city desk reporter with the Sarasota Herald-Tribune in Sarasota, Fla. She has also been a reporter at Florida Today in Melbourne, Fla., and an intern with the Detroit News and The Pittsburgh Press.

Ms. Johnson

She received a bachelor of science degree in journalism from Northwestern University's Medill School of Journalism in Evanston, Ill.

Ms. Johnson, who will report on the insurance brokerage industry among other assignments, replaces Linda J. Collins, who took a speechwriting position with Royal Insurance Co. in Charlotte, N.C.

Ms. Johnson can be reached at 312-649-5482.

Ms. Harty, 24, joined *Business Insurance* in 1989 as an editorial assistant. She previously worked as a claims representative for The Travelers Insurance Co.

Ms. Harty

She graduated in 1988 from The University of Notre Dame in Notre Dame, Ind., with a bachelor's degree in English.

Ms. Harty, who will be responsible for many of the standing features in *Business Insurance* as well as other reporting assignments, can be reached at 312-649-7785.

Ms. Harty will assume Collin Nash's duties. Mr. Nash left the New York bureau of *BI* in September to join Bond World magazine in New York.

Ms. Larrabee, 24, comes to *BI* after completing a post-graduate summer writing seminar at the Iowa Writers' Workshop at the University of Iowa. She previously was an editorial assistant with Business to Business, a periodical in Rochester, N.Y., and an intern with The Review, a daily newspaper in St. Albans City, England.

Ms. Larrabee

Ms. Larrabee, who succeeds Ms. Johnson on the copy desk, received a bachelor of science degree in journalism from Northwestern University's Medill School of Journalism.

Ms. Larrabee can be reached at 312-649-5441. ■

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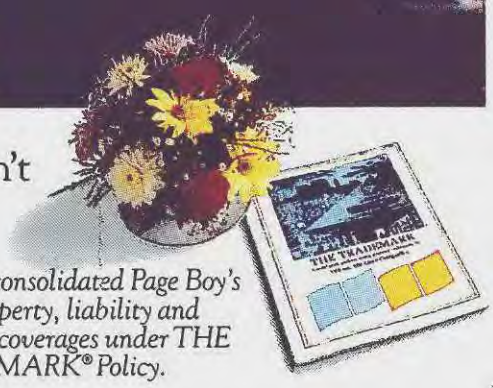

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Increase in Georgia health costs trimmed

By MICHAEL SCHACHNER

A managed care program has reduced by a quarter the rate at which health care costs were rising for Georgia's state employees, retirees and their dependents, says a state official.

And to further control costs, the state, beginning Jan. 1, will raise costs to employees through larger deductibles and higher out-of-pocket annual maximums.

The Georgia State Merit System administers a health and welfare benefit system that covers more than 400,000 people. After compulsory managed care components were added in 1989, its annual rise in health care expenditures dipped to 12% from 16%, said Bobbie Jean Bennett, assistant commissioner of the agency.

Benefit beat

Annual increases of about 16% had been typical since 1983, until the state contracted with an outside cost control firm to perform a mandatory utilization review, concurrent review and case management, among other things, said Ms. Bennett.

Through stringent managed care practices and raising employee deductibles, she said, state officials hope to keep the annual rate of increase at 12% to 14%.

The state, which spent about $485 million on employee health care in 1989, offers a self-insured indemnity plan and four health maintenance organizations. About 185,000 of 203,000 active employees, retirees and depednents seek care through the indemnity plan. The remainder are insured through the HMOs.

Under the indemnity plan, employees pay $29.56 per month for comprehensive medical coverage. They must pay a $150 individual deductible on major medical services and a $100 per-admission hospital deductible. The state pays 80% of major medical costs above deductibles up to $1,200 per year. After that, all costs are covered.

Family coverage under the standard plan costs $86.11 per month. Annual deductibles are $600 for major medical coverage and $100 per person for hospitalization. Out-of-pocket expenses are capped at $3,000 a year.

Beginning Jan. 1, the state will raise the individual deductible to $250 and the out-of-pocket maximum to $1,300. Family deductibles will jump to $750, while the annual out-of-pocket maximum will increase to $3,300.

Individual employees enrolled in an HMO pay a contribution of $30 to $72 per month, depending on the HMO, Ms. Bennett said.

Employees with family coverage through an HMO pay between $88 and $161 per month. HMOs require a $5 to $10 office visit copayment and $5 to $10 copayments on prescription drugs.

In June, Cost Care Inc., a unit of Boston-based John Hancock Mutual Life Insurance Co., replaced Parkside Health Management Corp. as the provider of utilization review services.

"We are constantly revising, redefining and modifying," Ms. Bennett said in explaining the change. "We're always tampering with our structure and we feel that Cost Care can offer us an expanded scope of services. Since June it has worked out great. The transition has been excellent."

Having a cost-control firm is vital, she says, because "the state system is so large that hiccups always occur with providers. Utilization review firms can give us the flexibility to deal with the hospitals who tend to like things done their way."

Cost Care must pre-certify all hospital admissions, she said. The firm is also responsible for concurrent review, case management on medical as well as mental health and substance abuse cases, discharge planning and managing short-term therapy, she said.

Ms. Bennett said Cost Care is not operating under a performance-guarantee contract.

Georgia has also contracted with INSURx to manage prescription drug benefits.

Cleveland-based INSURx will manage and administer the prescription drug plan while the state's major medical benefits administrator, Blue Cross & Blue Shield of Georgia, will continue to make payments to beneficiaries.

The state estimates that the INSURx plan will lower prescription drug costs by about 15%. Drug charges will be applied against medical deductibles and coinsurance.

Tuition benefits

Employees of Blue Cross & Blue Shield of Connecticut can now have their tuition paid in full if they choose to attend classes at one of five particular colleges in the New Haven area.

At the same time, employees attending other area schools will have their reimbursement cut to 80% from the current 90%. For all employees, the annual maximum benefit is $2,000.

What the North Haven-based health insurer calls a Managed Tuition Assistance Program in many ways resembles a preferred provider organization. BC/BS receives a discount on tuition from the colleges based on the number of employees enrolled, the spokesman said.

A BC/BS spokesman said the new plan has drawn approval from employees. He said 259 employees enrolled for fall semester classes, compared with only 150 who took courses during the entire 1989-90 academic year.

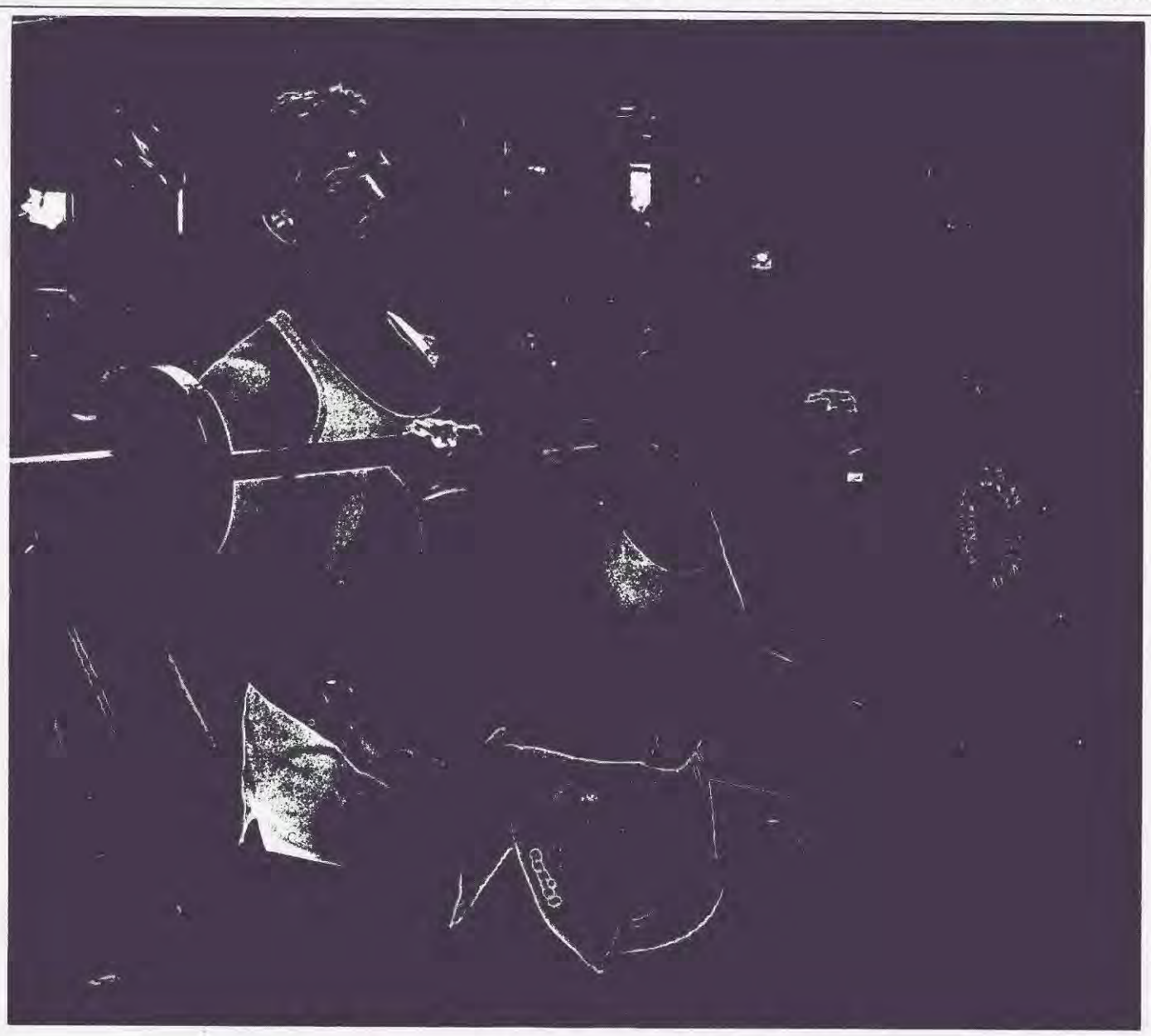
Participating schools are: Albertus Magnus College, Quinnipiac College, South Central Community College, Southern Connecticut State University and the University of New Haven.

Sharon Lewis, the insurer's director of management and organization development, said the colleges were selected because employees attended them most often.

"Our objective is to provide more employees with more cost-effective means of education than had been provided in the past," she said.

Enrollment has been so good, say local college officials, that the schools are trying to strike similar deals with other companies.

"We would very much like to get other companies involved," said Dany Washington, associate dean of the School of Professional Studies and Continuing Education at the University of New Haven. "We are currently surveying other companies to see if they're interested." ■



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Opinions

PBGC premium hike not needed

THERE IS ONLY ONE WAY to describe a Bush administration and congressional proposal to increase insurance premiums charged by the Pension Benefit Guaranty Corp.: outrageous.

The proposal, part of a deficit reduction pact crafted by administration and congressional negotiators, would boost premiums for employers with defined benefit plans by $600 million over the next five years.

While the entire budget pact was rejected earlier this month by the House of Representatives, a new budget agreement put together by the Ways and Means Committee also includes a PBGC premium increase.

A premium increase would seem to defy logic. PBGC finances have improved rapidly, thanks in large part to a big premium increase several years ago as well as an important Supreme Court victory this year that allowed the PBGC to return more than $2 billion in pension liabilities to LTV Corp.

At the end of fiscal 1989, the agency's deficit stood at about $1 billion, down from $1.5 billion in 1988 and about $4 billion in 1986. The PBGC's 1989 net income was $451 million, up from $28.8 million in 1988.

Things are continuing to go the PBGC's way. Last month, the agency reached an agreement with Eastern Airlines Inc. that should protect it from picking up $700 million in liabilities from seven underfunded pension plans Eastern is terminating (*BI*, Sept. 24).

Unquestionably, the ability of the PBGC to negotiate an agreement with Eastern was strengthened by 1987 amendments to the Employee Retirement Income Security Act that has made it difficult—rightfully so—for employers to walk away from their pension promises and dump their liabilities onto the PBGC. Those amendments should continue to protect the agency from big claims.

Obviously, a proposal to lift PBGC premiums is not motivated by any immediate financial crisis facing the agency. Indeed, the agency acknowledges that it isn't seeking a premium increase.

In fact, the premium increase has nothing to do with the agency's finances, but everything to do with the smoke and mirrors that legislators continue to use to mask the federal government's true budget deficit.

In the Alice in Wonderland method of accounting used to calculate the budget deficit, the PBGC's annual premium income is recognized as an offset

against the deficit, even though that premium income only can be used toward running the PBGC and pay benefits promised to participants in terminated plans the agency has taken over. It can't be used to reduce the cost of other government programs or interest on the national debt, which does not include the PBGC deficit.

While the PBGC premium increase on a per-pension-plan-participant basis would be relatively small—about $4—an unneeded increase sends a terrible message to employers.

Employers understand and support the PBGC program because it serves a vital social policy function: protecting the benefits of workers and retirees in defined benefit plans. But employer support for the PBGC—and for defined benefit pension plans in general—would rapidly evaporate if premium charges were based on political reasons rather than agency need.

Indeed, if the premium is increased this year to reduce the deficit, what is to prevent legislators from doing the same thing next year during the next round of budget deficit negotiations?

If that happens, no doubt employers, fearful of skyrocketing PBGC premiums, would begin to terminate their defined benefit plans.

We hope that legislators do not allow that scenario to develop and reject any increase in the PBGC premium.

Letters

Reinsurers entitled to fair notice of claim, too

To the editor: Isn't there any member of the private insurance and reinsurance bar who will speak up for a reinsurer's right to adequate notice of potential claims? Apparently not, judging from your article, "Courts Draft Different Rules for Reinsurers" (*BI*, Sept. 3). The quotations offered from attorneys in private practice seem designed to support the following propositions:

- Reinsurance is different from direct insurance.
- Court decisions should recognize and reflect that difference.
- Recent cases which apply a standard for notice to reinsurers different from that applicable to direct insurers are well reasoned and correctly decided.

The first two propositions are unexceptionable, but the third is untenable. Yes, reinsurance is different—"insurance between consenting adults," as one of those quoted for the article said. Surely the implication of that difference is that direct insurers, who are in the business and who have by far the greater bargaining power and influence with respect to reinsurance contract terms, should be held to at least as high a standard in dealing with their own insurers as the standard applied to an unsophisticated policyholder.

In New York, the notice standard imposed on such policyholders is a strict one. Joe Sixpack is out of luck if he is late giving his insurer notice, regardless of whether the insurer has been prejudiced by the delay. In contrast, the recent cases would allow the Omnium & Gatherum Insurance Co. Inc. to delay giving its reinsurers notice until a reinsurance claim has become a certainty, and be no worse off unless its reinsurers can establish prejudice.

Reasonable people (and states) can and do differ on whether prejudice need be shown to avoid direct insurance coverage on late-notice grounds. But it is difficult to see any justification for the courts to be significantly tougher on reinsurers seeking to deny coverage to insurance companies than they are on the same insurance companies denying coverage to their own policyholders.

Perhaps the most disturbing aspect of the recent cases is their utter failure to recognize that reinsurers, which in many cases will have the lion's share of the exposure, have legitimate needs for prompt notice of claims. One wonders if the judges appreciate that reinsurers have claims departments to evaluate claims, post reserves for claims and consider associating in the defense of claims; actuarial departments to project the company's

Continued on page 10

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Letters

Continued from page 8

exposures; and underwriting departments to decide whether and on what terms to renew coverage, partly based on claims experience.

Each of these tasks, if performed well, makes reinsurers better able to pay claims that are ultimately owed. But all are dependent on adequate and timely notice of potential claims. Direct insurers that see cause to celebrate in the recent decisions would thus do far better to work on improving their reinsurance reporting practices. Otherwise, they may find themselves one day invoking the principle of "follow the fortunes," only to look around and find that all too few insurers are left to do any following.

Kathryn P. Broderick
Attorney
Preston, Gates, Ellis
& Rouvelas Meeds
Washington, D.C.

Protect the name 'risk management'

To the editor: I believe the majority of your readers having the responsibility for buying insurance also have responsibility for "risk management" and many of them have the words "risk management" somewhere in their title. Our risk management department deals daily with our legal department, finance, corporate accounting, corporate engineering, all of our operations, marketing and so on, and clearly everything these people do has risk associated with it.

However, the proliferation of various financial disciplines calling themselves risk management is a clear infringement on what has been established by risk managers and the Risk & Insurance Management Society Inc. for many years.

I have on two occasions brought this matter to the attention of RIMS leaders and apparently they believe there is nothing they can or should do to attempt to rectify the situation. If they can't protect the usage of the term "risk manager," who else can?

If we, as risk managers in the traditional sense, and RIMS don't begin to do something about this, it will be unclear in corporate America in a few short years what risk management really is, and we may very well go full circle and again be referred to as insurance buyers.

John W. Robson
Director, Corporate Risk
Management & Insurance
Anheuser-Busch Cos. Inc.
St. Louis

Meatpacker holds safety in high place

To the editor: I was very pleased to read your Sept. 10 article, "Safety Standout in a Dangerous Industry," which mentioned my client, Aurora Packing Co. Inc. and Aurora Foodservice Inc. Their safety program, from my personal observation, truly is a daily priority at all levels of their operations.

Mike Fagel, Aurora's corporate safety director, made a statement in a recent meat industry newsletter that lies at the hear of Aurora's success: "Safety is not just a legal responsibility due to statutory requirements. It is a moral responsibility and you owe it to your employees to ensure that they return home each day as safe and healthy as they arrived."

That attitude on the part of Aurora is what makes it a real pleasure and an honor for us to be associated with their firm.

Mary K. Harriman
Account Executive
Risk Management Division
Frank B. Hall & Co.
of Wisconsin Inc.
Milwaukee

At issue

Would your company be hurt by federal law mandating family leave benefits?

Beverly E. Khosh
Manager-Employee Benefits
American Restaurant Group Inc.,
Newport Beach, Calif.

Yes, definitely. The restaurant industry is characterized by a young workforce with a historically high percentage of maternity-related claims. Also, the industry's profit margin is generally small and does not allow for significant fiscal impacts such as that which a federally mandated program could bring.

Carl Verdone
Manager-Corporate Employee Benefits
GAF Corp.,
Wayne, N.J.

Yes. It would hurt us the most in our plants in the rural South where there isn't a big labor pool. I think the government is getting involved in something it shouldn't, and the ultimate result of such a mandate will be a cost shift back to the employees.

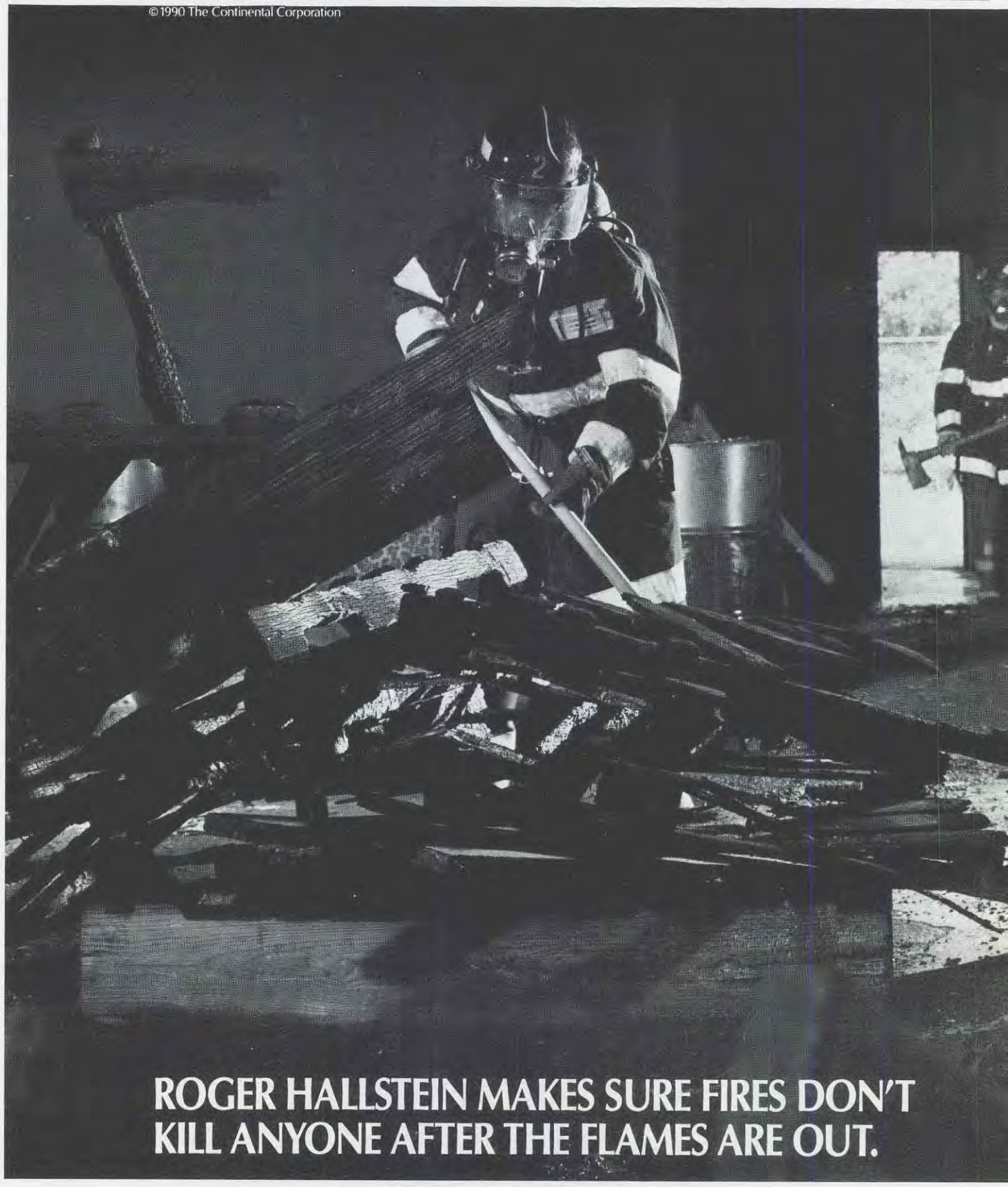
Elaine Langston
Human Resource Manager
Antrim Corp.,
Plano, Texas

We currently offer an eight-week leave of absence, so the effect may be less than that of an employer with a less generous leave plan. However, I can't imagine any company with less than 200 employees won't have to make some sort of adjustment. How hard the mandate would hit a company will depend on its current leave policy.

Michelle A. Fitterer
Personnel Officer-Benefits
Public Utility District of Grant County,
Ephrata, Wash.

Possibly. Since September 1989 we've had a state-mandated family leave policy that allows employees up to 12 weeks unpaid leave of absence. However, our employees typically utilize the paid leave of absence we offer rather than opting for unpaid family leave. A federal law mandating more than 12 weeks or introducing more regulations could hurt us.

Compiled by Christine Woolsey



A lawyerly challenge to legal Rambos

Inns seek civility, ethics where both found lacking

By STACY ADLER

Rambo lawyers. Hardball litigating strategies. Ruthless tactics.

These are just some of the phrases used to describe today's legal profession. Some lawyers are trying to change this.

Members of the American Inns of Court are coming together in an attempt to improve ethics within the profession.

By having seasoned lawyers rub elbows with novices, the association hopes to create an ethos of civility and collegiality throughout the profession.

The American Inns of Court is modeled after the English legal apprentice system. Each chapter, known as an inn, is composed of 44 to 65 attorneys that meet eight to 10 times a year.

Most inns are affiliated with a law school.

Chapter members are broken up into teams that are responsible for creating a demonstration, which includes role playing and discussions, to highlight a typical ethical dilemma.

In a staged courtroom scenario, for instance, the defense attorney may learn on the eve of trial that his client intends to lie to the jury. Or a prosecutor may learn that an alleged $6 million fraud is really a $6,000 fraud.

Teams include three types of members:

- Masters of the bench, who are judges, experienced litigators and law professors.
- Barristers, who are litigators with three to 15 years' experience.
- Pupils, who are law students and lawyers with fewer than three years' experience.

Currently there are 126 American Inns of Court in 38 states and the District of Columbia. Members represent 25% of the federal judiciary, about 600 state judges and more than 7,500 attorneys.

With the help of former U.S. Chief Justice Warren E. Burger and Judge J. Clifford Wallace of the 9th U.S. Circuit Court of Appeals, the organization was launched in 1980. Between 1987 and September 1990 the number of inns catapulted to 126 from 31.

A lawyer can go out 'realizing he is part of a group that expects better of him,' says Sherman L. Cohn.

Much of this growth has been attributed to the increasing criticism of the legal profession.

"This is a concrete response to that criticism," said Sherman L. Cohn, president of the American Inns of Court Foundation. The foundation is the national umbrella organization responsible for chartering inns and monitoring their compliance with the national charter and bylaws.

"The macro purpose is to encourage a culture among litigating lawyers in which excellence is the expected" explained Mr. Cohn.

One prominent criticism of contemporary lawyers is that they bring suits without merit. The Inns of Court, says Mr. Cohn, can help curb such frivolous actions.

"As you increase the ethics, you increase the ability of the lawyer to say 'no' to frivolous lawsuits," he explained.

The group also aims to make the civil justice system more efficient by curbing the use of litigating tactics that only delay or prolong a lawsuit.

"When the individual lawyer goes out realizing he is part of a group that expects better of him" he is less likely to employ obstructionist tactics, according to Mr. Cohn.

"Without obstructionist tactics things go more smoothly, more economically and quickly," he said. "And it increases the possibility of settlement."

Mr. Cohn predicts that within the next year more than 10,000 judges and lawyers will belong to the American Inns of Court.

His mission currently is to encourage lawyers working within the insurance industry to join the organization.

Because the industry "is involved heavily in litigation," it should be eager to support a group that is working to improve the civil justice system, he said.

Further, since some insurance companies employ more lawyers than the average-sized law firm, they are an important element of the legal profession, according to Mr. Cohn.

"The insurance industry has been campaigning for a more efficient and economical court system," said Mr. Cohn. "Here is a practical, proven device they should support with their money and by having their counsel become members."

One insurer that is taking this advice is Aetna Life & Casualty Co. based in Hartford, Conn., which employs more than 150 in-house attorneys.

Aetna has offered to host a program for the Hartford chapter and is exploring other ways to make the local chapter more active.

"We are a major consumer of legal services and a major provider of legal services," said Aetna attorney David Rome.

"Removing delay, waste and excessive costs from the system is in everyone's interest," added Stephen Packard, another in-house lawyer with the insurer. "This can be achieved by improving the quality of the bar."

Mr. Packard noted that Aetna commissioned a Louis Harris poll of 1,000 federal judges asking them about possible causes of delays in civil cases. Some 73% of the judges responded that incompetence of practicing attorneys was a possible cause.

"Incompetence is largely due to inexperience," said Mr. Packard. The American Inns of Court "tries to educate younger attorneys by having them interact with more experienced attorneys and practice litigation activities which are critiqued by fellow members."

For more information about the American Inns of Court, contact Michael G. Daigneault, Executive Director, American Inns of Court Foundation, 1225 I St. N.W., Suite 500, Washington, D.C. 20005; 202-682-1613. ■

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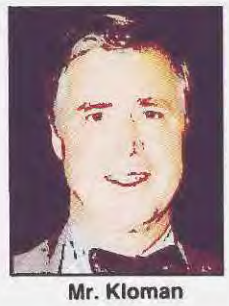

Mr. Kloman
Tillinghast

Mr. Quern
Rollins Burdick Hunter Co.

Ms. Johnson
UMMSS

Mr. Oaks
Tennessee Farmers Co-op

Mr. Trowbridge
Atlantic Mutual Cos.

Mr. Wilder
The Walt Disney Co.

Mr. Zuckerman
Thomas Jefferson University

Deadline nears for nominations for Risk Manager of Year Award

The deadline for nominating outstanding risk management professionals for the 1991 *Business Insurance* Risk Manager of the Year Award is quickly approaching.

Completed nominations must be postmarked by Nov. 19.

However, those who are interested in nominating a candidate should request a form now to allow enough time for completion of the nomination statement.

You can request a nominating form from *Business Insurance,* 740 N. Rush St., Chicago, Ill. 60611-2590.

Business Insurance's annual recognition of excellence in risk management is based on 10 independent judges' assessments of the candidates' accomplishments. The candidate receiving the highest score is named the Risk Manager of the Year. In addition, as many as five risk managers from different types of organizations will be eligible to be named to the 1991 Risk Management Honor Roll at the judges' discretion.

The 10 judges of the 1991 Risk Manager of the Year competition include the 1990 Risk Manager of the Year and three members of the 1990 Risk Management Honor Roll. Also included in the list of judges will be two insurance company executives, two brokerage executives, a risk management consultant and an insurance professor.

Created by *Business Insurance* in 1977 on the 10th anniversary of the magazine's founding, the Risk Manager of the Year Award is designed to honor outstanding professionals in risk management.

Candidates are scored on how well they have met 10 established criteria (see box).

After the highest-scoring candidate is named Risk Manager of the Year, the remaining candidates are separated by employment categories:

- Corporations with sales exceeding $300 million.
- Corporations with sales less than $300 million.
- Government entities.
- Tax-exempt or non-profit institutions.
- Financial institutions.
- Self-insurance funds and pools.

The highest-scoring candidate in each of the categories not represented by the Risk Manager of the Year is named to the Risk Management Honor Roll, subject to the judges' discretion.

The 1991 Risk Manager of the Year will be announced in the April 29, 1991, issue of *Business Insurance,* which will coincide with the 29th annual Risk & Insurance Management Society conference to be held in New Orleans.

Judging the 14th annual *Business Insurance* risk management awards will be:

- Ronald E. Compton, president and director of Aetna Life & Casualty Co. in Hartford, Conn. Mr. Compton is serving on the panel for a second year, representing a stock insurance company.
- John F. Doetzer, president of Consolidated Insurance Center Inc. in Baltimore. This is Mr. Doetzer's second year as a judge, representing a regional brokerage.
- Larry D. Gaunt, professor of risk management and insurance in the College of Business Administration at Georgia State University in Atlanta. This is Mr. Gaunt's first year on the panel, representing the academic community.
- Josephine Goode Johnson, executive director of the University of Maryland Medical Service System Self-Insurance Trust and director of its Office of Risk Management. Ms. Johnson was a member of the 1990 Risk Management Honor Roll, representing self-insurance funds and pools.
- H. Felix Kloman, a vp and principal with Tillinghast, a division of Towers, Perrin, Forster & Crosby Inc.

Continued on page 14

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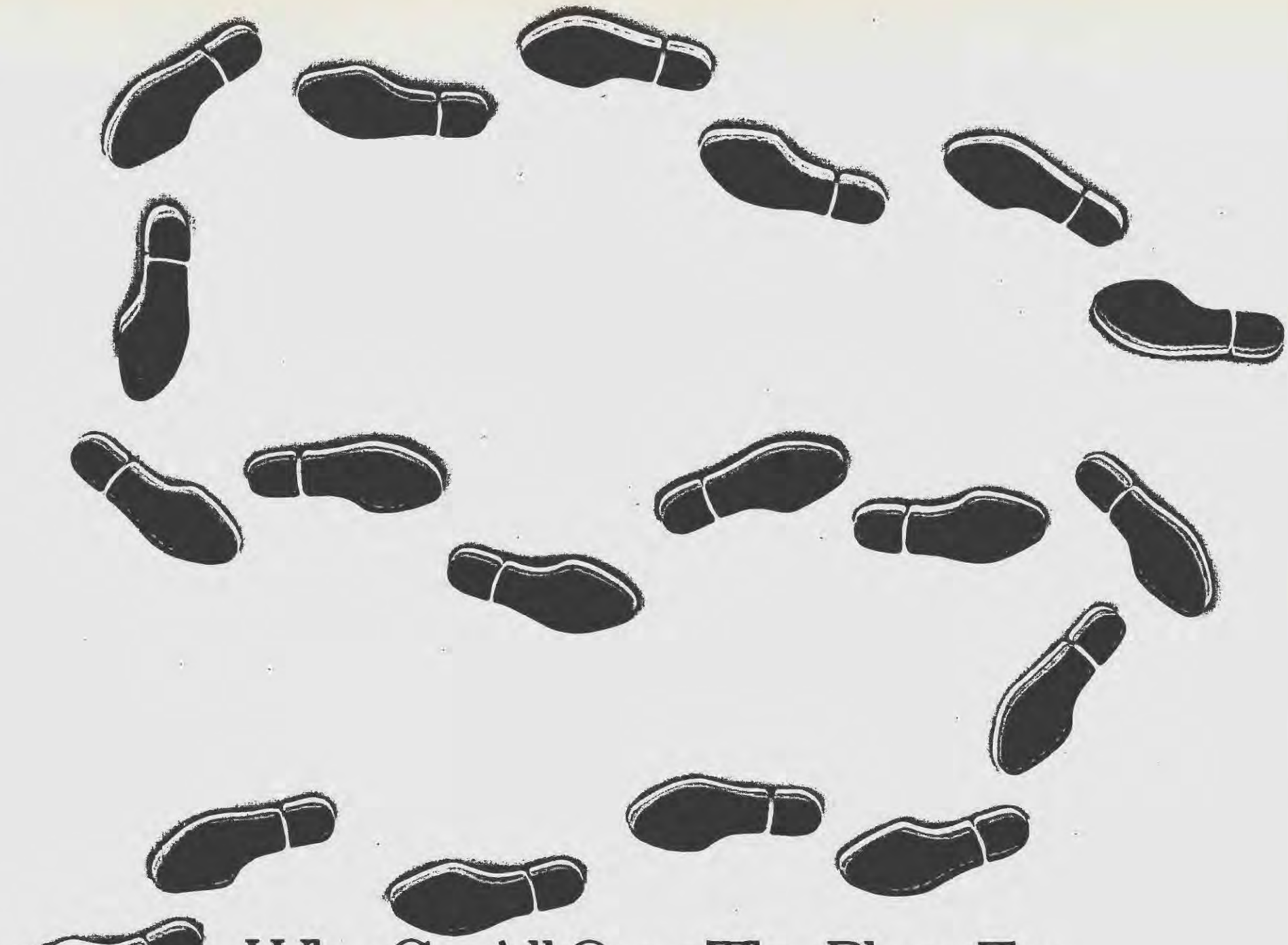

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Nominations

Continued from page 12

in Stamford, Conn. Mr. Kloman, who represents risk management consultants, is serving on the panel for the first time.

- Arthur F. Quern, chairman and president of Rollins Burdick Hunter Co. of Chicago. Mr. Quern is serving on the panel for a second year, representing national insurance brokers.
- Roger D. Oaks, director of risk management for the Tennessee Farmers Cooperative in LaVergne, Tenn. Mr. Oaks was named to the 1990 Risk Management Honor Roll, representing companies with less than $300 million in annual sales.
- Edward K. Trowbridge, chairman and chief executive officer of Atlantic Mutual Cos. in New York. This is Mr. Trowbridge's first year on the panel, representing mutual insurance companies.
- Stephen M. Wilder, director of corporate risk management at The Walt Disney Co. in Burbank, Calif. Mr. Wilder was the 1990 Risk Manager of the Year.
- M. Michael Zuckerman, director of risk management and insurance at Thomas Jefferson University in Philadelphia. Mr. Zuckerman was named to the 1990 Risk Management Honor Roll, representing non-profit institutions.

Nominations may be made by anyone aware of a candidate's accomplishments: staff, a colleague, a superior, a broker, an underwriter or a consultant. Candidates should be involved in preparing the nominating statement to make it as complete as possible.

In addition to the completed nominating forms outlining the candidate's accomplishments, each nomination must include a letter from the sponsor nominating the candidate and a letter of endorsement by an executive of the candidate's organization, who may be the candidate's superior or any higher-ranking officer. The letter must certify the accuracy of the information in the nomination.

A candidate need not spend full time handling risk management functions, but he or she must be a full-time employee of the organization for which he or she directs the risk management program.

Others winners of the Risk Manager of the Year Award and their positions at the time of the award are:

- 1989: Jefrrey W. Pettegrew, risk manager and chief administrative officer of the Contra Costa County Municipal Risk Management Insurance Authority in California.
- 1988: William L. Mather, administrator of risk management for The Gillette Co. in Boston.
- 1987: Edith F. Lichota, senior vp at Irving Trust Co. in New York.
- 1986: Donald Nelson, director of risk management for ARA Services Inc. in Philadelphia.
- 1985: Harold C. Lang, director of insurance and risk management at Leaseway Transportation Corp. in Cleveland.
- 1984: Richard M. Inserra, director of insurance and risk management at American Can Co. in Greenwich, Conn.
- 1983: John A. O'Connell, executive director and risk manager of Holy Cross Shared Services Inc. in Notre Dame, Ind.
- 1982: Eckart Russell, risk and insurance manager at Alcan Aluminium Ltd. in Montreal.
- 1981: Duane E. Allen, assistant treasurer at Hanna Mining Co. in Cleveland.
- 1980: Thomas V. Hallett, risk manager at General Motors Corp. in Detroit.
- 1979: Edward L. Erickson, director of insurance at American Broadcasting Cos. in New York.
- 1978: Howard T. Weber, director of insurance at Minnesota Mining & Manufacturing Co. ■

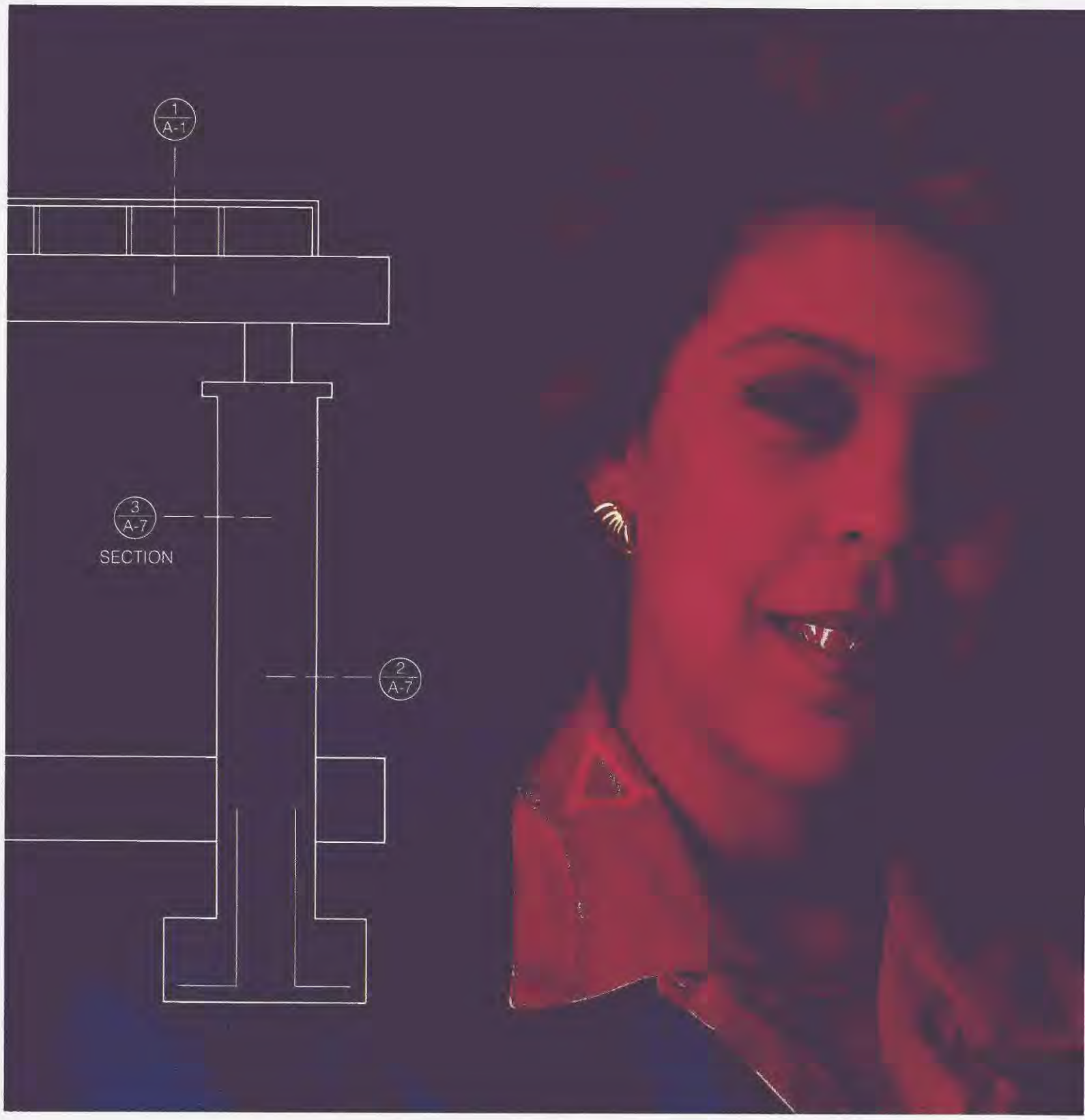
Nominees judged based on 10 criteria

Ten criteria will be used to score the nominations submitted for the 1991 *Business Insurance* Risk Manager of the Year Award and Risk Management Honor Roll.

The 10 independent judges of the annual competition will score each candidate on a scale of one to 10 according to how well he or she:

- Established and implemented an effective risk management program within the organization.
- Solved one or more major problem for his or her organization.
- Innovatively applies the diverse tools of risk management and insurance.
- Creatively and effectively uses the insurance markets to structure a program that serves the needs of the organization (specifically addressing the types of policies purchased and manuscripted policies, if any, developed).
- Established a workable intelligence system inside and outside the organization, culminating in a flow of information about events and activities that affect the organization's risk management and insurance. (How the risk manager secures information on risks from other departments and his or her use of risk management information systems are addressed in this criterion.)
- Skillfully performs the functions of management in the overall organization and within the risk management/insurance department. (The functions include planning, organizing, directing and controlling.)
- Achieves the most effective program at the optimum cost over the long term.
- Developed technical expertise in any or all of the broad categories included within risk management, leading to a better managerial grasp of the operations aspects of the job.
- Exhibits an attitude and performs activities fostering the advancement of the risk management profession (such as professional activities, speaking engagements, teaching and related activities).
- Develops in his or her career (as exhibited by job history, including current job description, education, honors and memberships).

THE HOM



OLD PROS ON

NAIC book highlights risk retention split

By ADRIENNE C. LOCKE

ARLINGTON, Va.—A new National Assn. of Insurance Commissioners manual does little to resolve the group's differences with the National Risk Retention Assn., but the NAIC hopes the draft released last week will serve as a primer for regulators in the treatment of risk retention and purchasing groups.

By explaining the Risk Retention Act of 1986 step-by-step and interpreting it, the NAIC says it hopes to better inform state regulators of their authority over risk retention groups and purchasing groups.

NRRA

"What we tried to do is just delineate as much as possible what is clear in the act, what is not clear in the act, and give some examples of how other states have dealt with situations," said David Simmons, general counsel for the Kansas City, Mo.-based commissioners group.

Released at the annual NRRA meeting held Sept. 26-28 in Arlington, the manual held no surprises for the NRRA.

The association was given a chance to comment before the manual was released and "still believes there are a lot of things in the manual that was not the intent of the law," said Leslea Dummer, the group's executive vp.

But, Ms. Dummer acknowledges that releasing the manual at the NRRA meeting and seeking its comments indicate a willingness of some state regulators to try to resolve their differences.

Regulators' positions in the manual differ little from those they have taken elsewhere, said Ms. Dummer. "There was nothing in there that we did not expect, there were no major policy changes," she added.

Both sides are far from agreement on the Risk Retention Act. In fact, the manual emphasizes several points of contention.

For example, the NAIC upholds a regulator's right to require that risk retention or purchasing groups be licensed to sell insurance in all states in which they do business.

And regulators, the manual contends, may apply individual state financial responsibility standards. Thus, coverage provided by a risk retention group or purchasing group could be deemed unacceptable in one state even if it is acceptable in others.

The NRRA believes that only the state in which risk retention or purchasing groups are domiciled have the authority to regulate the groups.

The NAIC also upholds the right of regulators in non-domiciliary states to charge registration fees. The commissioners add only that "states may wish to review the fees charged by other states when determining an appropriate amount for any fees to be charged."

On some issues, however, there is common ground between the risk retention trade group and state regulators.

For example, the NAIC does acknowledge the importance of regulatory efforts in a risk retention group's domiciled state in ensuring financial security. Regulators in other states, the commissioners say, lack the same level of influence.

"To facilitate compliance and promote uniformity" the regulators also offered uniform registration forms for states to adopt.

Some states, Mr. Simmons says, are very unfamiliar with the Risk Retention Act. They are unsure how much authority they have to regulate risk retention and purchasing groups and lack resources for information.

With so much "misinformation" circulating about regulatory authority, commissioners expect the manual to be widely used. "I think that most of the states are very interested in learning more about the act," he said.

As regulators use the manual, state treatment of risk retention and purchasing groups will become more uniform, said Mr. Simmons. But uniformity, he cautioned, would not always favor risk retention groups.

Ms. Dummer of the NRRA contends that this new tangible evidence of regulators' opinions could aid her group's lobbying efforts to amend the Risk Retention Act.

The manual "becomes another building block that we can take to Congress and say 'See? This is not the intent of the law, but they (the NAIC) are still saying that it is'," she said.

Even as their disagreements continue, both groups consider the cooperation in writing and reviewing the manual a good sign about future relations.

"I really do feel that there is a pretty strong need for communications between the NAIC and the industry. The presentation of this manual to us at our annual meeting, and willingness to speak to us about it shows that they are more than willing to talk and listen" than before, Ms. Dummer said.

Mr. Simmons compared the NRRA-NAIC relationship to an arranged marriage—"neither party is particularly in love, but do what we can to get along."

"I think that everyone will benefit from as much education and background that we can bring to the table," he said.

Comments on the manual will be received by the NAIC throughout October. The NAIC hopes to be able to to propose to its board the adoption of the final draft by December.

The NRRA will issue comments to the NAIC on the manual again before the final draft is made. ■

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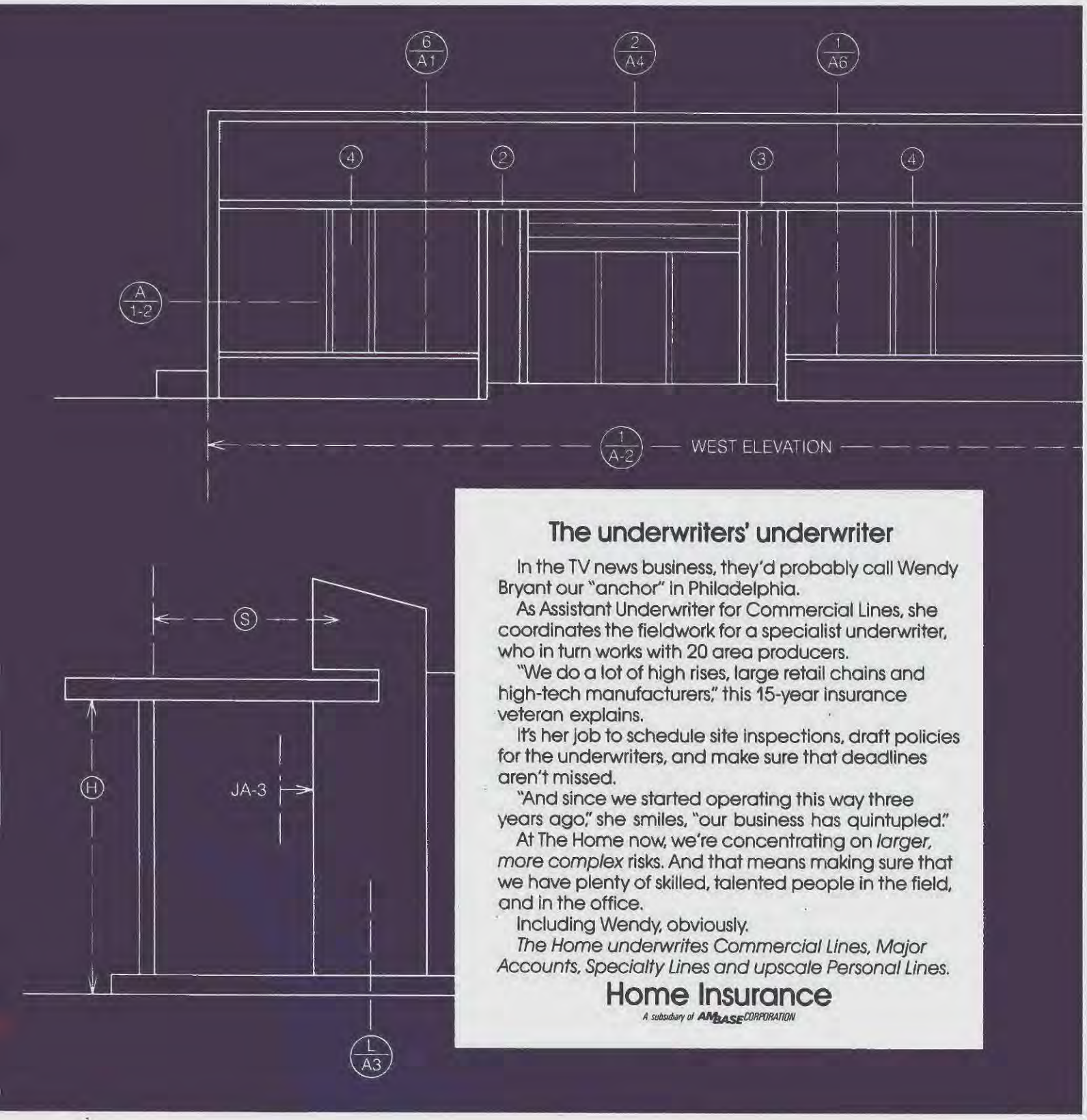

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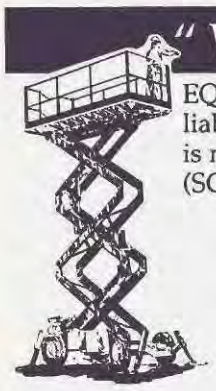

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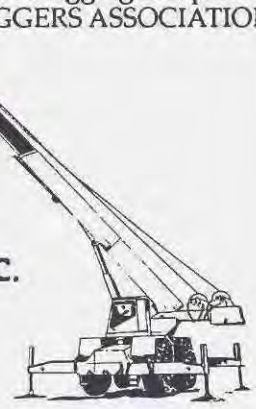

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Kasten to push bill to clarify regulation of purchasing groups

By ADRIENNE C. LOCKE

ARLINGTON, Va.—Legislators who support attempts to amend the Risk Retention Act of 1986 have set a goal to push for approval of such legislation in Congress next year, says one lawmaker.

And, while some state insurance regulators may continue to throw up roadblocks that are contrary to the original purpose of the Risk Retention Act, Sen. Robert Kasten, R-Wis., says that he and other members of Congress will continue to press for legislation that contains "some of the things that are needed so the Act can fulfill its intent."

For example, while the Risk Retention Act was designed to allow policyholders to purchase most types of commercial liability insurance on a group basis with minimum interference from state regulators, some states require that a purchasing group insurer domiciled in another state be licensed in their state before the purchasing group can do business in those states.

NRRA

Two federal appellate courts have upheld such requirements, noting that the pre-emption provisions in the Risk Retention Act do not bar states from imposing licensing requirements on purchasing group insurers domiciled in another state (*BI,* Aug. 13).

Sen. Kasten made his comments during the annual meeting of the National Risk Retention Assn. held in Arlington, Va., earlier this month.

Sen. Kasten reaffirmed his commitment to make changes in the Risk Retention Act by announcing that he will introduce legislation by next February that is almost identical to the amendments he proposed in November 1989 (*BI,* Nov. 27, 1989).

That bill, S. 1936, among other things would:

- Prohibit states other than the state in which a risk retention group is domiciled or a purchasing group maintains as its principal place of business from imposing any registration requirements or fees on the groups.
- Allow risk retention groups and purchasing groups to market their products without the use of an agent or broker.
- Exempt directors, officers and full-time employees of the risk retention and purchasing groups from state agent licensing requirements.
- Allow risk retention groups and purchasing groups to file uniform registration forms in each state where they operate.
- Allow risk retention groups to file the same annual financial statement in each state and authorize the use of letters of credit to meet a group's capital requirements.
- Require purchasing groups to provide to the insurance department in each state in which it intends to do business certain information regarding the group's insurer, principals and officers, as well as its managing or servicing organization.

After introduction, S. 1936 was referred to the Senate Consumer Subcommittee where no action has been taken.

Sen. Kasten says that he has been developing an "overall consensus" about the need for his proposal with other lawmakers and hopes that his actions in the Senate will stir action in the House where Rep. Jim Slattery, D-Kan., introduced a similar bill, H.R. 4351, in March (*BI,* July 16).

While Sen. Kasten recognizes that the Risk Retention Act is not functioning as well as it could, he says that the problems just need to be worked out.

And since he feels S. 1936 will accomplish the fine-tuning needed, he is planning to make few changes when the legislation is reintroduced next year.

"In my judgment, there might be some changes around the edges, but the bill I plan to introduce in January or February will be very similar to S. 1936," Sen. Kasten said. ■

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Selection of risk group vendors debated

By ADRIENNE C. LOCKE

ARLINGTON, Va.—A newly formed risk retention group faces a big decision: whether it wants to manage all of its responsibilities on its own or seek outside help.

Outside service providers—like underwriting managers, claims administrators, investment managers and outside counsel—could offer several advantages. But sometimes using them is not necessary, experts say.

NRRA→ Risk retention groups that do decide to contract out some responsibilities should look for certain things in an outside provider, experts said at the annual meeting of the National Risk Retention Assn., held last month in Arlington.

To a new risk retention group, knowledge and experience in this sort of work are two things that make service providers attractive, said David A. Bossman, president of Iowa-domiciled American Feed Industry Insurance Co. Risk Retention Group Inc.

Contracting with someone familiar with risk retention groups makes a successful "partnership" more likely, he said.

Also, using a service provider can expand a risk retention group's manpower, easing workloads and enabling the group to concentrate on things like attracting more policyholders, he said.

Costs, however, could be a problem. And the risk retention group might not be able to find a service provider flexible enough to meet its needs, Mr. Bossman said.

Also, some outside firms may not be able to provide the level of help a particular risk retention group needs, he said.

If hiring a service provider is still appealing and the risk retention group is ready to begin its search, Mr. Bossman suggests that the group begin by talking to high-ranking officers and executives of the provider.

A risk retention group must be wary of certain traps that it can fall into when looking for a service provider, such as dealing with salesman "who will tell you anything," and lawyers "who won't tell you anything at all," Mr. Bossman said.

By contrast, executives of the provider should give risk retention groups a feel for the provider's commitment to meet their needs and its willingness to listen, he said. In addition, a high-ranking official may be able to give a more honest appraisal of a company's

Continued on next page

Bossman is elected NRRA chief

ARLINGTON, Va.—David A. Bossman was elected president of the National Risk Retention Assn. during the group's annual meeting, held Sept. 26-28 in Arlington.

Mr. Bossman, who will serve a one-year term, is president of American Feed Industry Insurance Co. Risk Retention Group Inc. of Des Moines, Iowa, which provides general and product liability coverage to the livestock and feed industry.

He replaces two-term president Robert L. Larsen, president of Insurance Administration Center Inc., a Park Ridge, Ill.-based firm specializing in trade organization insurance programs.

More than 200 people attended the annual conference of the NRRA, a non-profit group whose membership includes risk retention groups, purchasing groups, risk managers, attorneys, insurers, reinsurers, and service providers.

The NRRA seeks to develop and promote the use of alternative risk sharing mechanisms under the Risk Retention Act and improve the regulatory environment under which risk retention groups and purchasing groups must operate.

Leslea Dummer, president of Donner Specialty Markets Inc. in Salt Lake City, a firm specializing in forming and managing risk retention groups, was elected to the new office of executive vp. She had been vp and executive director.

Two vps—James A. Anderson, senior director of government affairs in Washington, D.C., and Joseph Peloso, vp of Prudential Reinsurance Co. in Newark, N.J.—were re-elected.

And two others were elected vps for the first time: Jane Y. Rastallis, senior consultant for Betterley Risk Consultants, an insurance and risk management consulting firm in New York; and Jaxon White, president of MEDMARC Insurance Co. Risk Retention Group Inc., a Vermont-chartered company that provides product liability coverage for medical device manufacturers.

James A. Ebel, president and chief executive officer at Toplis & Harding Inc., an insurance services firm in Chicago, was elected secretary of the group. And Davide Tomei, director and vp of sales with American Inter-Fidelity Exchange, a Merrillville, Ind.-based risk retention group that provides coverage for long haul trucking operations, was elected treasurer.

Next year's NRRA meeting will be held in October in the Washington, D.C, area.

For more information on the NRRA, contact Leslea Dummer at Donner Specialty Markets Inc., 4505 S. Wasatch Blvd., Suite 310, Salt Lake City, Utah, 84124; 800-999-4505.

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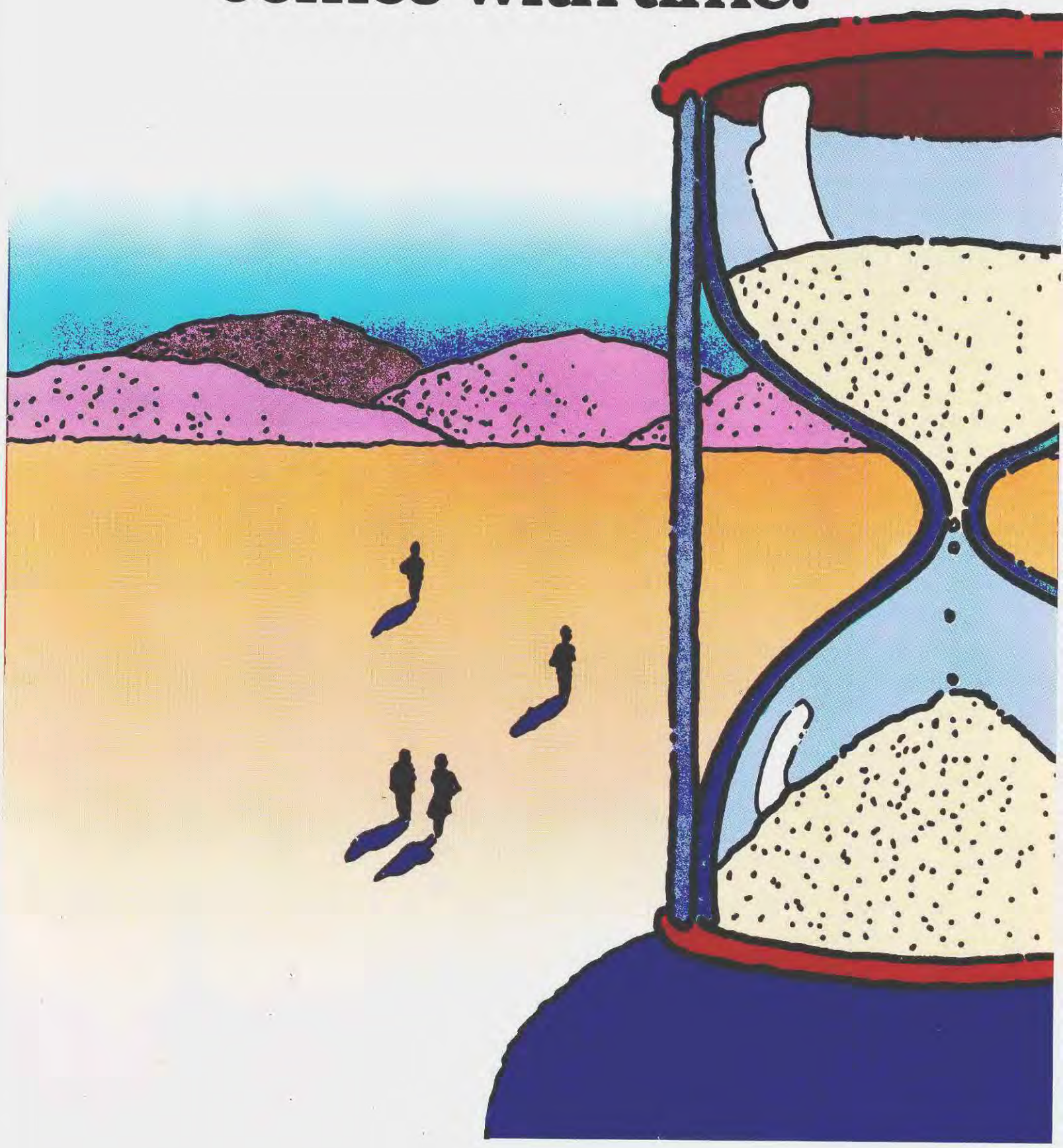

Continued from previous page
ability to suit a risk retention group's needs than the same firm's sales or promotional staff, he said.

Also, Mr. Bossman pointed out, a risk retention group should try to interview some of the services provider's staff who would do the actual work.

Seeing first-hand how the firm works can yield more insight than discussing with a top executive how experienced a staff is, its degree of organization and especially how the chain of command works when things need to be done, he said.

Managers with the service provider may not be cooperative about allowing access to the staff, but Mr. Bossman says a risk retention group should push the issue.

And while he said it should go without saying, Mr. Bossman suggested that a risk retention group always check a service provider's references.

When the risk retention group has finally selected a service provider, each party should understand perfectly what its responsibilities are and what is expected from each other, Mr. Bossman said.

Also, be careful of package deals for a particular service because they are probably not what you want to buy, he said. And beware of being locked into long-term contracts for solutions to short-term problems, he said.

'When a partner goes bad, drop him,' Jaxon White urges risk retention groups.

A risk retention group should know what it wants from the partnership before drafting the contract, have those responsibilities and expectations put in writing and, more importantly, make sure the contract has an escape clause, Mr. Bossman said.

"A risk retention group should assume that the partnership is going to terminate because it will," he said.

Jaxon White, president of MEDMARC Insurance Co. Risk Retention Group Inc., a Vermont-domiciled risk retention group that provides product liability coverage to manufacturers of medical devices, agreed.

"Change your partners when you've lost trust in them. You can't spend your time worrying about whether the people you've hired to do your job are not doing your job," he said. "When a partner goes bad, drop them."

Just as providers differ in the services they offer, the qualities a risk retention group should look for in each type of provider also may vary, Mr. White said.

For example, Mr. Bossman said the basic requirement for a legal service provider for a risk retention group should be a strong familiarity with regulations and corporate law in the group's domiciliary state and in each state in which it does business.

However, legal service providers must also be well-versed in the language of the Risk Retention Act itself and believe in its principles of federal pre-emption of state law to best serve its client, he said.

In addition, a claims management company should know the expectations of the risk retention group regarding claims handling, what steps should be taken and how strong of a stance to take when resolving a claim, Mr. White said.

"A claims service provider should like the word 'subrogation.' There are a lot of other people out there who could share in the responsibility for a bad situation," Mr. White said.

However, claims managers also should know when the speedy resolution of a claim is in the best interest of the risk retention group, he said.

In addition, claims managers must be willing to provide full documentation on how a specific claim was handled and be willing to involve the insurer in the claims handling process, Mr. White said.

An underwriting manager hired by a risk retention group must have a clear understanding of the group's underwriting philosophy, he said.

"There are lots of new businesses with limited business histories, and underwriters must take that into account. They should be willing to talk with the people in the company to better understand their risk," Mr. White said.

Underwriters for risk retention groups should have a "can-do" attitude about being able to tailor premiums to risk and be able to give options on coverages and costs to the policyholder, Mr. White said. ■

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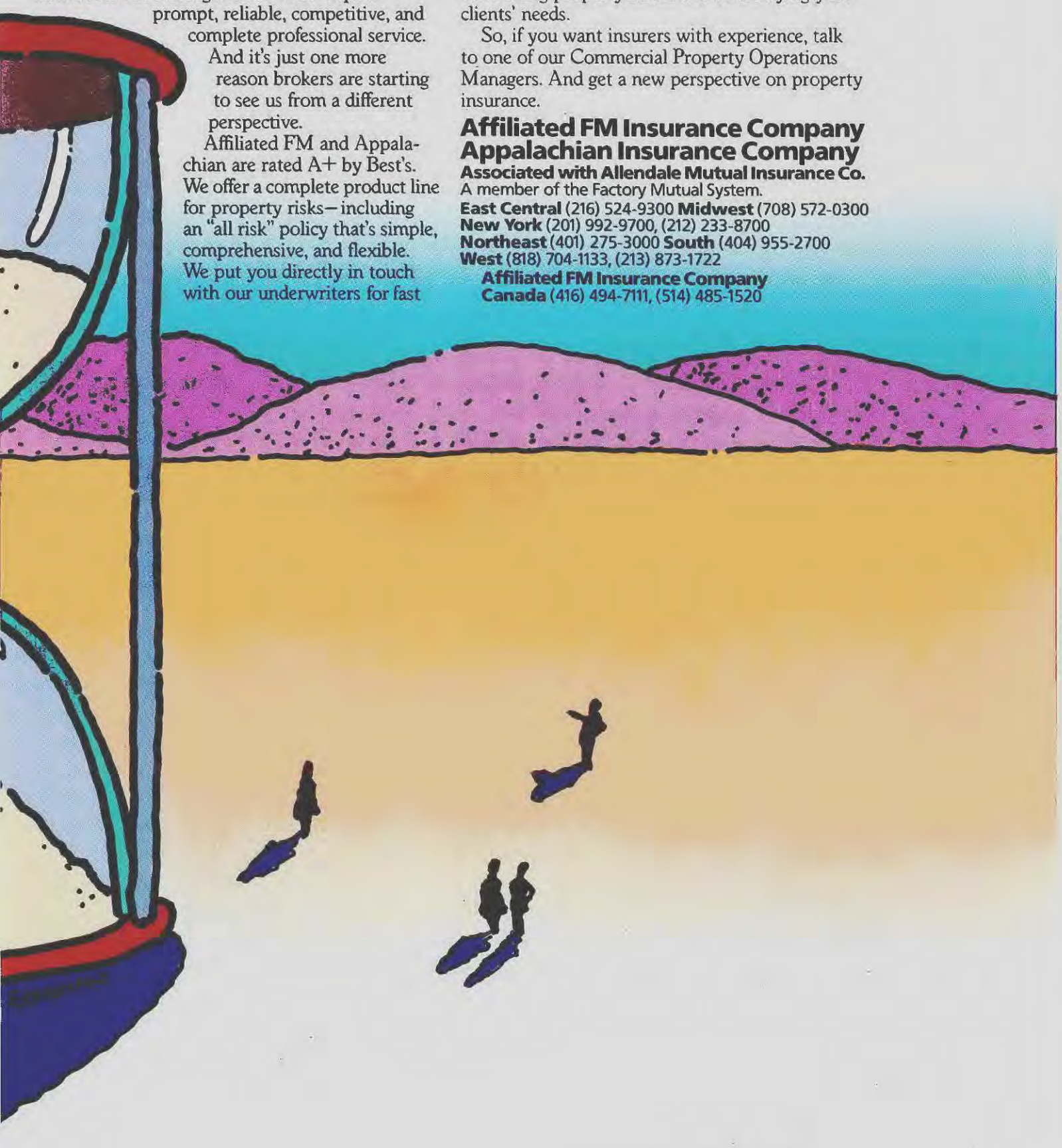

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Antitrust suit

Continued from page 2

But, says the states' brief, the British government's brief "cites no statute, regulation, court decision, policy paper or any other source to show that English law and policy acquiesces in, much less supports, conduct of the sort alleged in the complaints. One can read and reread the British brief, however, and the question remains: What is the conflict?"

Concluding there is no conflict between the laws on business competition, the states' brief quotes the British government brief as stating that "it is for the United Kingdom to determine how and when such laws apply."

"The British government presents a novel proposition for which it can find no case support," says the states' brief. "It argues the American courts should decline to enforce American antitrust laws against conduct with significant American effects, simply out of deference to the wishes of another country, even though no conflict exists.

"Moreover, it urges abstention from federal jurisdiction in cases where no proceedings are pending before British authorities," the states' brief adds.

A lawyer for the British government who filed that brief claims that the state attorneys general are ignoring his main point.

That point is that the British government finds assertion of jurisdiction by U.S. courts objectionable—regardless of whether U.S. and British law conflict, said Joseph P. Griffin of Morgan, Lewis & Bockius in Washington, D.C.

"From our perspective, it doesn't make any difference," he said.

This point is ignored, though, by the states, Mr. Griffin said.

"I think it's just the old art of advocacy—keep making the same argument," said Mr. Griffin, who described the state' reply as "a kind of whistling against the wind."

Responding to Mr. Griffin's remarks, California's Ms. Foote commented that the British government's brief implies that any multinational firm based abroad, but engaging in antitrust activity that affects American markets, "gets off scot-free."

"It seems to us pretty clear that if these activities were designed to affect American commerce, the (American) antitrust laws apply," said Ms. Foote. And in this case, she said, there is no question that the activities were designed to affect American commerce.

The brief also raised several other issues that have been argued by both sides in earlier briefs, including the major issue of whether insurance industry defendants violated the boycott exemption in the McCarran-Ferguson Act.

While generally exempting insurers from federal antitrust law, that law specifically bars acts of "coercion, boycott and intimidation."

In arguing their case, the attorneys general stated in their brief that:

- The "state action" doctrine, which provides immunity from antitrust laws if the anticompetitive restraint of trade reflects a state policy and if the state actively supervises any private anticompetitive conduct, does not protect the defendants' activity and that Judge Schwarzer incorrectly dismissed the case on this ground.
- Judge Schwarzer incorrectly dismissed the states' global conspiracy charge, which alleged that U.S. insurers and certain insurance trade groups conspired with foreign reinsurers to restrict coverage available under general liability insurance policies.
- Judge Schwarzer correctly ruled that the plaintiffs have standing to bring the case against the reinsurance defendants.

The attorneys general's brief also charges that "defendants have mischaracterized the facts of these cases because there is no other way that they can prevail on the law."

New York submitted its own brief in addition to participating in the main brief filed by the attorneys general. ■

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California to consider comp hike

SACRAMENTO, Calif.—The Workers Compensation Insurance Rating Bureau of California is seeking an average manual rate increase of 6% for policies issued or renewed in 1991.

The bureau also is seeking a 4.1% rate increase on the unexpired portion of 1990 policies that are outstanding on Jan. 1, 1991.

According to the rating bureau, the increases are needed to pay for improved benefits and other increased expenses created by the Workers Compensation Reform Act of 1989.

The 1989 law increased maximum weekly compensation to $336 from $266 for both temporary and total disability and to $148 from $140 for permanent partial disabilities.

In addition, the maximum death benefit was raised to $95,000 from $70,000 for a worker with a single dependent and to $115,000 from $95,000 for a worker with multiple dependents.

The law also mandated that the 1991 workers compensation rates reflect a reduction in insurer expenses to 33% from 34% of premium.

Hearings on the rate increase application are scheduled for 10 a.m., Oct. 16, in Room 1158 of the State Building, which is located at 455 Golden Gate Ave. in San Francisco.

—By Joanne Wojcik

Chanzis joins Corroon as a liaison between broker, risk managers

Norman B. Chanzis, who retired as risk manager of American Standard earlier this year, named senior consultant at Corroon & Black Co. of New York.

Mr. Chanzis, who the company says will be a "liaison with the New York risk management community," had been with American Standard for 17 years. He has won professional honors including the Richard W. Bland Memorial Award and the Matthew Lenz Jr. Risk Management Award.

Mr. Chanzis

He is also known for his work in 1985 and 1986 as head of a committee that suggested revisions to the Insurance Services Office Inc.'s claims-made commercial general liability form.

Other agent/broker change:

Dennis O. Lofton named executive vp of Hilb, Rogal & Hamilton Co.'s holding company in Richmond, Va. He had been president and chief executive officer of Hilb, Rogal & Hamilton Co. of Savannah Inc. in Georgia.

John D. Belisle named vp at Oswald, Trippe & Co. Inc., an agency in Fort Myers, Fla.

Dean L. Middour joins Jardine Insurance Brokers San Jose Inc. as senior vp. Mr. Middour had been regional director of property and liability underwriting at Industrial Indemnity Co., also in San Jose, Calif.

Harry C. Crowell, chairman of the board of the Insco/Dico Group of Anaheim, Calif., named to the additional titles of president and chief executive officer. He replaces **Gerald A. Sauvageau**, who died recently.

Dirk S. Nohre named vp-finance at Laub Group Inc., a Milwaukee agency. He had been chief financial officer with Camelback Reinsurance Underwriters Inc. in Arizona.

Dan Layton Jr. named executive vp of Welsch, Flatness & Lutz Inc. of St. Louis.

Vincent P. Mantione named vp with DSI Insurance Services of San Francisco. He had been an account executive with Rollins Burdick Hunter Co.

Lew H. Walter joins Johnson & Higgins of New York as vp and corporate controller. Mr. Walter, who had been corporate controller for Squibb Corp., succeeds **Gerald W. Huff**, who has retired.

Charles R. Shoemaker joined Woodruff-Sawyer & Co., a San Francisco brokerage, as vp and bond department manager. He had been surety bond manager at Alexander & Alexander Inc. in San Jose, Calif.

Insurers

William B. Johnson elected to the newly created position of vp-claims with Accel International Corp., an insurance holding company in Dublin, Ohio. He had been a vp of specialty claims for Transamerica Insurance Co.

Nationwide Mutual Insurance Co. of Columbus, Ohio, announced these changes: **Richard D. Crabtree**, vp and regional manager in Annapolis, Md., named vp and regional manager in Harrisburg, Pa.; he replaces **Philip J. Lucia**, who has been regional manager since 1986 and is retiring at year end; **Danny M. Fullerton**, now vp of information systems in Columbus, named vp and regional manager in Annapolis; and **John X. Teevin**, now vp of the Denver office, which is closing, named vp-national accounts.

Richard J. Hoinski joined State Life Insurance Co. of Indianapolis

Continued on next page

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Comings & goings: industry

Continued from previous page
as regional vp.

Marine Office of America Corp., a Continental Corp. unit, announced these appointments: **Ron Thornton**, a vp and assistant regional manager since 1987, named senior vp and regional manager; and **Greg Gutchigian**, a branch manager since 1983, named vp and assistant regional manager.

Mark McMonigle promoted to vp in the diversified sales resources, group and pension area with Home Life Insurance Co. of New York. He had previously been director of diversified sales resources.

John O. Beeks and **Dennis P. Drent** appointed vps with Transamerica Insurance Co. of Woodland Hills, Calif. Mr. Beeks is also director of commercial property/casualty marketing.

Excess/surplus

David W. Lacey joined PW Group of Providence, R.I., as senior vp and chief of staff. He had been president and chief executive offer of the Private Industry Council of Philadelphia Inc., an employment training firm.

Frank Robbins elected vp-underwriting for Investors Insurance Holding Corp. of Laurence Harbor, N.J., parent of Investors Insurance Co. of America and Chesapeake Casualty Co.

Swett & Crawford, a Los Angeles-based wholesaler and St. Paul Cos. Inc. unit, announced two changes. **Richard P. Nowell** named vp of the financial institutions division in Chicago; he had been vp of specialty products with Bankers Insurance Services Corp. **Barry J. Riff** joins Swett Insurance Managers as vp and underwriting manager in New York; he had previously been president of Insurex Inc.

Bradley M. Busch promoted to vp with Sherwood Insurance Services, an excess & surplus lines broker and managing general agent in San Francisco.

Other suppliers

Factory Mutual Engineering and Research of Norwood, Mass., a loss control training and research firm owned by three industrial and commercial property insurers, announced two major changes. **Paul M. Fitzgerald**, a senior vp and chief operating officer, named president and chief executive officer, replacing **John A. Love**, who retired earlier this year. **Raymond J. Croteau** promoted to senior vp and chief operating officer from vp and assistant manager.

Buck Consultants Inc. announced these changes: **Bernard Kesler** joined as director of administrative systems development in Secaucus, N.J.; **Robert L. Carr** promoted to senior actuarial manager in New York; and **John L. Livingston** joined as consultant in health and welfare practice in Dallas.

Milliman & Robertson Inc., a consulting actuarial firm in Brookfield, Wis., announced three promotions to principal: **Gregory N. Herrle**; **Mark E. Litow**; and **Tim D. Lee**.

Gary Swager joins health and welfare benefits consulting practice of Ernst & Young as regional director in Chicago. He had been vp and chief marketing officer with Provident Life & Accident Insurance Co. of Chattanooga, Tenn.

J. David Tiller named vp at Crawford & Co., a risk management consulting firm in Atlanta. ■

PRIMA looks for new leader

ARLINGTON, Va.—The Public Risk Management Assn. has set Nov. 5 as the deadline for applications for executive director.

In the meantime, Dennis M. Kirschbaum has been named acting executive director of the Arlington, Va.-based association of public entity risk managers. Mr. Kirschbaum has been a PRIMA assistant director since July 1989.

R. Bradley Johnson recently resigned as the group's executive director to join the public entity division of broker Sedgwick James Inc.

The salary for the position ranges up to $75,000. For further information, contact PRIMA Search Committee, c/o John C. Pine, Louisiana State University, 108 Doran, Baton Rouge, La., 70803-4505; phone: 504-388-1075; fax: 504-388-3492. ■

Injured football player sues Chicago schools

By CHRISTINE WOOLSEY

CHICAGO—The Chicago Board of Education has liability insurance to cover its share of any award stemming from a $50 million lawsuit filed on behalf of a former high school football player who was paralyzed from the neck down during a 1988 game.

"If the board is found liable, (the damages) will be covered by someone, whether it be our insurers or ourselves or the Illinois High School Athletic Assn.," which helped arrange the board's interscholastic sports coverage, said Cleveland Tyson, director of risk management and employee benefits for the school board.

The lawsuit seeks $50 million in damages from four defendants, explained William Hooks, one of the attorneys for plaintiff Kenneth Jennings. Mr. Hooks is with the Chicago firm of Garland W. Watt & Associates.

Specifically, the suit alleges that:

- The Chicago Board of Education should have better supervised athletic programs.
- All-American Maxpro Inc., the Elyria, Ohio-based manufacturer of Mr. Jennings' football helmet, may be liable because the helmet was defective.
- Alvin Scott, a Simeon Vocational High School football coach, allowed Mr. Jennings to play although Mr. Scott allegedly knew the student had suffered a serious back injury in a previous game.
- Daniel Davison, the Simeon team physician and a doctor of osteopathic medicine, had five days earlier prescribed two different pain medications for Mr. Jennings that often cause dizziness, headaches and blurred vision.

"The school board should have had policies in place that once a child sees a physician, (the board) should require medical clearance from the doctor before putting him on the football field, said lead plaintiff's lawyer Willie Gary of Gary, Williams & Parenti in Stuart, Fla.

The suit replaces a previous complaint, filed by another attorney, that sought "more than $15,000" in damages from the coach and the school board.

Mr. Tyson said last week that he had not yet seen a copy of the current lawsuit, filed Oct. 3 in Cook County Circuit Court, and could not comment on the litigation itself.

"There is a serious question as to whether there is any liability on anyone's part," said Lance Harrison, manager of life, safety and property loss prevention for the Board of Education. However, he said, the board has insurance "for any medical claims incurred during interscholastic sports."

The board's interscholastic athletic insurance is underwritten by United International Insurance Co., Mr. Harrison said. The Warwick, R.I.-based company specializes in athletic participant liability and general liability coverages.

The policy provides for $25,000 in insured medical benefits for any injured athlete, with no deductible, if a lawsuit is not filed. In addition, the policy includes a settlement option that offers an injured athlete $250,000 if he or she waives the right to sue, explained Mr. Harrison.

However, with Mr. Jenning's medical expenses already exceeding $200,000, the settlement offer "did not make sense to Jenning's family," said Mr. Hook.

When a lawsuit is filed by an injured student, the policy provides $2 million in excess liability insurance in addition to the Board's $2 million self-insured retention, Mr. Harrison said.

United International will pay any damages for "bodily injury to students catastrophically injured while practicing for or participating in activities or athletics sponsored by or under the jurisdiction of the state high school association," according to documents supplied by Messrs. Tyson and Harrison.

Litigation expenses are included within the limit.

According to those documents, however, the policy will only provide coverage on an excess basis when $25,000 in medical expenses are incurred within one year of the date of injury.

In addition to the athletic injury coverage from United International, the board also has $40 million of umbrella coverage excess of its $2 million self-insured retention.

A number of insurers wrote the umbrella coverage, said Mr. Tyson, who could not be more specific.

Mr. Harrison said the board is not clear whether the United International coverage attaches above or below the umbrella coverage.

"When litigation is started against the school board, there is a question as to whether the liability coverage is in excess of $25,000 or $42 million," he pointed out.

However, he said information from the Illinois High School Assn. and Doug Ruedlinger Inc., the Topeka, Kan.-based broker and parent company of United International, "implies the coverage is in excess of $25,000."

United International officials did not return phone calls.

Mr. Hooks said plaintiffs attorneys are still investigating their product liability complaint against All-American Maxpro Inc. "But, we've made an assessment that it is not a state-of-the-art helmet."

A spokesman for the manufacturer would not comment on the lawsuit or provide coverage details. ■

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I think the answer to both of these questions boils down to one word: *service*. It's service, or the lack of it, that causes consumers to be disillusioned and it's service that can change that disillusionment into satisfaction.

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The System

Over 75 years ago, when it was created to protect workers from on-the-job injuries, Workers Compensation was based on some well-intentioned and well-received ideas:

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To give prompt, quality medical attention and equally prompt income benefits.

To rehabilitate injured workers and help them get back to work.

To offer cost stability to the employer.

And ultimately, to keep the entire workplace productive—the less down-time, the more time you have to be competitive, and stay competitive.

The Obstacles

It bears repeating: There are problems. Big problems, in many states, that need fixing. We also need to strengthen the system so that these problems don't spread to other states.

Problems like unnecessary, time-consuming litigation. Soaring claims costs. Underfunded, understaffed state-administered agencies. And on a national level, runaway medical costs.

Fact is, the economies of entire states are hurting—

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body Gets Hurt.

partly because businesses won't relocate in places where Workers Compensation is in disarray.

For some states, the situation is so critical, insurers have stopped writing Workers Compensation Insurance altogether—premiums won't even cover losses and expenses.

The Way To Help

What can *you* possibly do to help? You'd be surprised. To help restore and strengthen the system in your state, you can take two courses of action.

First: Be aware. Find out what's happening in your state, how you're affected, and what you can do to help. Talk to your insurance company or business trade association.

Or two: Share your views by writing to Gary Countryman, President and CEO of Liberty Mutual, 175 Berkeley Street, Boston, MA 02117. We'll help you get in touch with people in your state who can help.

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RMIS fears and frustrations

'Phased approach' may let managers breathe a bit easier

By Wayne E. Seel

THE PAIR OF HEADLINES in the July 23 *Business Insurance* said it all: "Risk Managers Say They Love Their Computers. . .But Struggle to Find RMIS Software They Like."

In that report, one risk manager said, "I see a lot of advertisements, but it's hard to get an indication of what's quality software for the price. It's hard to get a sense of value. There's no place I'm aware of I can go to get more objective input on whether software is good or not. I don't know where you can go to get that input other than by talking to other risk managers."

Another risk manager said that while "there's a lot of people out there offering risk management software, it's difficult to find the right system."

I have good news for anyone who feels that the above comments echo their own frustrations and fears of making an expensive mistake. There is a method designed to address these concerns.

The method is called the phased approach to risk management information systems. It is on the cutting edge of the RMIS environment and the emerging tool for RMIS consultants.

Before discussing the phased approach, I believe it is important to state that few, if any, of the commercially available RMIS are inherently bad. Second, there is no inherently wrong RMIS approach. Each approach—whether it be an "off-the-shelf" RMIS, custom-designed RMIS, general business software like Lotus 1-2-3, personal computers, mainframes, in-house systems or time-share arrangements—may be right in some situations.

However, you as a risk manager do face a very real possibility of choosing a RMIS or approach that isn't right for you, even though it may be perfectly fine for someone else. Furthermore, even though there may be no bad choices—only wrong choices—a wrong RMIS can be expensive.

A wrong RMIS can satisfy needs that you do not have or can fail to satisfy needs that you do have. A wrong RMIS direction—whether "off-the-shelf" or built from scratch—can cost more money at every stage. It can cost more to develop, start up, maintain and enhance in order to meet changing needs and market conditions. It can also have a significant long-term adverse impact on productivity.

The right RMIS is one that meets your needs in a cost-effective manner. It helps streamline your work flow, supports your decision-making process, and helps you receive, process and disseminate risk management-related information. The right RMIS, in other words, is the one that helps you accomplish your risk management objectives.

In today's environment of explosive growth in both the RMIS industry and the computer industry, getting the right RMIS may mean:

- Buying or leasing an entire, ready-made RMIS.
- Constructing an entire RMIS from scratch.
- Assembling and combining a variety of well-targeted specialized components and making sure they are integrated (meaning they can share data with one another).

The method of choosing the right RMIS for your company is the phased approach to RMIS. The phased approach is designed to answer three basic questions: What do I need? What do I already have, or what can I buy, that will meet my needs? And, what's the best way to put it all together?

The phased approach to RMIS begins with a system requirements study (sometimes called a needs analysis) and ends with the phases of installation, testing, training and post-implementation review. As illustrated in the diagram of the phased approach, there are several alternative paths and possible steps in between.

It may not always be necessary to go through all possible intermediate phases of the phased approach. Conversely, it may be necessary to go through some of the phases several times.

The phases include:

- **The system requirements study.**

This all-important first phase identifies who has needs and what those needs are; it also identifies the present information flows. Finally, it identifies resources that may be available internally and those that may need to be obtained externally in order to satisfy those needs.

The reasons why a requirements study is critical are simple. First, needs must be identified before they can be addressed. Second, the requirements study helps you avoid acquiring resources, such as hardware, software or support personnel, that you may already have or might be unable to effectively use. And, third, the requirements study helps you obtain what you need and not what someone else needs.

This first phase thus helps in the later phases of evaluating how well available RMIS alternatives meet your needs and in implementing the RMIS components that best meet those needs. The requirements study consists of three steps:

- Identifying the users to be interviewed. RMIS users should be defined to include not only people who will directly use the RMIS, such as the risk management department, but also people who must supply information to the RMIS and people who must receive information from the RMIS. Possible interviewees might be drawn from many different departments within your organization and from a number of outside organizations.
- Conducting the interviews. So that the interviews will be structured, questionnaires are prepared that are tailored to each interviewee's function. The objective of the interviews is to gain an understanding of the following as they relate to the risk management process:
  - What information is currently being collected? Why is it being collected? How is it being collected?
  - What information and procedures are viewed as particularly helpful and valuable?
  - What information and procedures are viewed as particularly cumbersome and inefficient?
  - What are the perceived bottlenecks?
  - What are the perceived information gaps?
- Integrating and analyzing the findings. Each interview yields information from one department's point of view. The purpose of this third step is to combine the various "small pictures" into a "big picture." The results of this integration and analysis are then assembled into a report or recommendation.

A requirements study should cover not only the desired computer system but also the overall operational procedures and information flows that the computer system is presumably intended to assist and enhance. The reasons for this are quite straightforward: The overall process must be understood before it can be enhanced. In addition, a requirements study may uncover procedures or information flows that should be revised or eliminated rather than automated.

- **Design alternatives study.**

This phase is used to identify and evaluate the abilities of various computer hardware and software options and to provide alternatives to meet the needs specified in the requirements study.

This phase may not always be necessary. Sometimes it is obvious from the requirements study that, for example, a mainframe is needed or that a personal computer is clearly sufficient. Sometimes it is clear that no commercially available RMIS meets the identified needs. In this case, there may be a need for a custom-designed RMIS. At other times, however, the answers are not as obvious and require further study.

- **Request for proposal and proposal**

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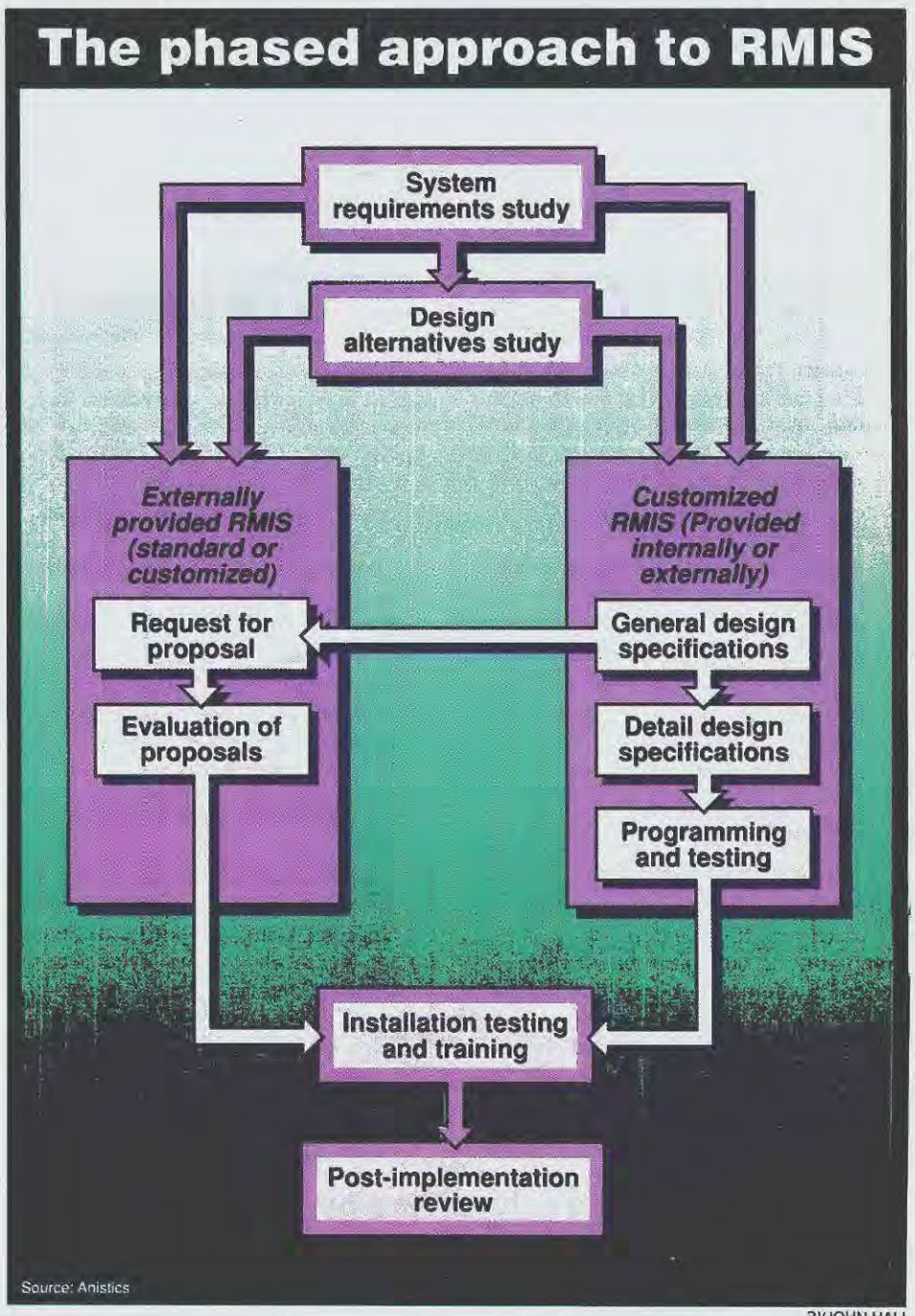

Phased approach to RMIS

Continued from previous page
evaluation.

These phases arise when the system is to be provided by external sources, particularly when it is an "off-the-shelf" system. The requests for proposal assist the risk manager to evaluate and select an RMIS vendor.

- **General design specifications.**

This phase arises when the risk manager selects a custom-designed system. A general design specification is prepared by a systems analyst and approved by the risk manager. The general design specifications can also accompany a request for proposal, if the customized system is to be written by an outside vendor.

General design provides for the development of a functional and data processing description of the system that most appropriately meets the needs identified in the requirements study.

The functional description includes a discussion of the system's operational and management functions, its inputs (the forms and sources of data) and its outputs (pro forma screens and reports with accompanying narrative descriptions).

The data processing description contains an overview of the system's architecture. It also includes an estimate of the input, output and storage volumes, and a discussion of special considerations and constraints. The general design specification is written from a business standpoint and describes aspects of the system that will be visible or apparent to the user (such as menus of functions, screen layouts, reports and processing rules).

- **Detail design specifications.**

This is another phase that arises in the development of a custom-designed system. The detail design specifications are prepared for and used by the programmers. They are specific and technical in nature and, therefore, are generally not intended for review by the risk manager.

Detail design provides a description of both the automated and manual workings of the system. These specifications describe how the system will accept, process, store and report information—in other words, how the computer will get from input to output. Detail design addresses file or data base structures, data conversion programs, system processing logic and data backup and recovery.

- **Programming and testing.**

A custom-designed RMIS must, of course, be programmed. But even an "off-the-shelf" RMIS generally involves some programming. For example, conversion programs must often be written to convert your old data to the new RMIS; customization may be made to tailor the product more closely to your particular needs. RMIS providers should do their own internal testing to see that the RMIS does everything it is supposed to do. In their testing they should only try to make the system work, they should try to make it break. In addition, you and the RMIS provider should agree on the "acceptance test plan" (what will be tested) and on the "acceptance test criteria" (how you will know that the test results are successful and satisfactory).

- **Installation, testing and initial training.**

Regardless of whether the RMIS is a customized one or an "off-the-shelf" system, once it is installed it must be subject to final testing. This final test examines not only its self-contained operations, but also necessary interactions with other systems. Initial training is conducted and documentation (both user documentation and, for in-house systems, system documentation) is provided.

- **Post-implementation review.**

This phase, unlike all previous phases, does not end; it is—and, indeed, must be—continuous. It includes additional training—to deal with such situations as employee turnover—and ongoing support. Monitoring needs to be done to see that expected benefits are being realized and expected costs are not being exceeded. It also includes ongoing assessment by you as a risk manager of any changes in risk management needs and conditions. In this way, you can respond to those changing needs and conditions, perhaps by conducting a new requirements study.

RMIS consultants can perform each of the above phases. They should be willing, for a given project, to be involved in all phases or in selected phases only. They should also be willing to perform a given phase either totally or as part of a "team" that might involve members of your own organization. For example, consider a customized system that will run in-house. Your company's management information systems department and the RMIS consultant might team up during the general design phase. The MIS department might perform 100% of the programming and then join up again with the RMIS consultant, who would perform the acceptance testing and quality assurance review.

At the conclusion of any phase in the phased approach to RMIS, recommendations can be made as to which phase to perform next. At the end of one given phase, one can make reasonable estimates for the cost of the next phase and come up with a ballpark figure for the cost of subsequent phases.

The phased approach does, of course, require an investment of time and, if an RMIS consultant is retained, money. However, your own staff, MIS department or other knowledgeable people in your company may be able to perform some, if not all, of the phases. In addition, the phased approach may seem difficult to "sell" to top management, especially if management is impatient to be finished and see results. However, not following the phased approach is somewhat like "shoot first, aim later."

Another advantage to the phased approach is that it allows you to commit to only one step at a time. Finally, top management may not realize just how costly a wrong RMIS direction can be, not only in terms of the costs of developing and using the RMIS itself, but also in terms of the costs of being unable to manage your company's risks effectively. ■

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Injury while intoxicated not compensable

If an injured employee was intoxicated from cocaine at the time of his injury to the extent that he could not physically and mentally perform his job duties, then his workers comp claim is to be denied, ruled a Missouri appellate court.

Craig Haynes worked for the R.B. Rice Co. cleaning metal chili tubs using 180 degrees Fahrenheit water directed into the tubs with a high pressure hose. On the evening and early morning hours preceding his injury, Mr. Haynes had intravenously injected approximately 1½ grams of cocaine into his blood stream and had also consumed from four to six beers. Mr. Haynes was injured on April 19, 1986, after he had been at work from 90 minutes to two hours. He was found lying unconscious in scalding water in the chili room. As he lay unconscious on the floor, his head, face, right arm and buttocks were severely burned by water from an open hose.

Mr. Haynes filed a claim for compensation but was denied by the commission on the grounds that his fall was not work-related. On appeal, the court said that Missouri courts have long held that if an injured employee is intoxicated at the time of his injury to the extent that he cannot perform his job duties, then his claim is to be denied. A majority of the court was here convinced that Mr. Haynes was so intoxicated and, therefore, that his injury did not occur by accident arising out of and in the course of his employment.

Legal briefs

However, Justice Kennedy filed a dissent because it was his opinion that the record showed, through medical experts, that cocaine does not intoxicate. In his opinion, the broad definition of "intoxicate" might include the "highs" and "lows" induced by cocaine use, but it is not the kind of intoxication that is a defense to a workers comp claim.

Haynes vs. R.B. Rice Co., division of Sara Lee Corp., Missouri Court of Appeals, July 25, 1989; *Court of Appeals Opinion Re-adopted* Feb. 16, 1990 (*BI*/04/Nov.-$10).

Unusual stress compensable

Mental injuries may be compensable if caused by unusual and extraordinary conditions in employment, according to the Supreme Court of South Carolina.

Cleo N. Powell was employed as a foreman at a quarry responsible for overseeing the production of various sizes and grades of rocks. Shortly after arriving at work on March 21, 1984, Mr. Powell learned that a piece of production equipment had failed and needed repair. He also learned that two of his seven subordinates would miss work that day. Furthermore, Mr. Powell was informed by his supervisor that, because of his poor performance of his maintenance duties, some equipment had worn out. This comment brought on a heated exchange between Mr. Powell and his supervisor. Mr. Powell left the quarry and drove directly to his family doctor. He was hospitalized because of severe anxiety. Thereafter, Mr. Powell underwent extended inpatient psychiatric treatment. He filed for and was awarded compensation benefits.

On appeal, his employer argued that Mr. Powell had not suffered a compensable injury. The court was satisfied that Mr. Powell's mental injury resulted directly from emotional stress brought on by the unexpected confrontation with his supervisor.

Powell vs. Vulcan Materials Co., Supreme Court of South Carolina, Sept. 5, 1989 (*BI*/04/Aug.-$10).

Unambiguous effective date

The Court of Appeals of Arkansas held that a provision of a group accidental death policy stating that it was effective on the first day of the month following approval of the application was unambiguous.

Valerick Watts was the named beneficiary in an application for a group accident life insurance policy that was completed on Sept. 5, 1985, by his deceased sister, Debbie. Debbie was murdered on Sept. 18, 1985. The application for the policy provided that persons may apply within 31 days after they become eligible and individual insurance would become effective on the first day of the month next following the date the application was received. Valerick submitted a proof of claim to the insurer, Life Insurance Co. of Arkansas, on Oct. 10, 1985. The insurer, upon learning of Debbie's death, returned the premium that was submitted with the application and denied Valerick's claim for benefits.

On appeal, Valerick argued that the effective date on the application was left blank until after it was signed by Debbie, thereby making the policy ambiguous as to its effective date and creating a reasonable expectation in Debbie that coverage was in force from the time the premium was submitted with the application. But, the court said that, "only where the receipt or application expressly provides for temporary insurance is the applicant covered prior to the effective date provided in the policy." The court concluded that the provision in the policy here was clear and unambiguous.

Watts vs. Life Insurance Co. of Arkansas, Court of Appeals of Arkansas, Jan. 10, 1989 (*BI*/05/Aug.-$10).

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

InsurerTopics

A special editorial section sent exclusively to insurers and reinsurers

Making paper disappear

Imaging relieves claims handlers' paper overload

By MARK A. HOFMANN

There's a ghost on the computer screen, and some insurers think it's the friendliest apparition since Casper made his debut.

The specter is a relatively new technology known as imaging. Through imaging, insurers can create electronic images of the millions of sheets of paper that cross and recross desks day in and day out. Once imaged, a document can be read on-screen simultaneously by several claims handlers.

"Moving paper costs money. Imaging requires the insurer to move paper one time," said Frank Abramcheck, a product manager with Electronic Data Systems. The Plano, Texas-based company recently installed one of the world's largest imaging systems to handle the Medicare claims at Blue Shield of California of San Francisco.

Imaging allows insurers to speed up the claims handling process by "removing the constraints of paper," said Tom Frederick, vp-strategic development for Recognition Equipment Inc., an Irving, Texas, company that manufactures imaging equipment.

Insurers really don't have much choice whether to adopt new technology, said Mr. Fredrick. Demographic changes mean that companies have fewer and fewer people to draw on to handle claims. As a result, the job must be made easier, he said. But because insurers want to reduce exposure, forms now require more data, "so you have fewer people trying to process more information."

By capturing an electronic image, insurers can have greater control over the work flow of a claims department, Mr. Frederick said. "I have an inventory of claims and I can route the claims to the people who can work on them," he said. Because a supervisor knows exactly where a document is, the supervisor can match people to work "on a minute-by-minute basis," he said.

Users and vendors point out that with imaging, claims processors are no longer dependent on internal mail delivery systems for access to documents.

Mr. Frederick, whose company has about 30 insurer clients, said the insurance industry's paper-intensive nature makes it a logical candidate for large-scale imaging. He said, however, that the technology only became affordable in the mid- to late 1980s.

He added that he thinks the life insurance industry is somewhat ahead of the property/casualty industry in its use of imaging technology. Life insurers have fewer transactions that generally require less data than property/casualty insurers, he said. But with the advent of acquired immune deficiency syndrome, life insurers are demanding more data, and imaging technology allows them more ready access to that information, he said.

Charles A. Plesums, senior director of image technology for information services for San Antonio-based United Services Automobile Assn., described the imaging process at the annual CCC Information Services Inc. claims conference in Chicago last month. CCC Services is a Chicago-based provider of automated claims services to property/casualty insurers

Mr. Plesums said that at USAA—a reciprocal insurer that limits its members to active or retired members of the armed forces and the fifth-largest writer of private passenger automobile insurance in the country—said the claims process begins in the mail room, where mail is opened and sorted. But instead of being hauled throughout USAA's headquarters mail is coded and scanned by a machine much like an office copier. Once the scan is completed, the document is entered into the system and available for processing, he said. Claims processors then can call up the image on their computer screens.

He said that even though USAA receives about 27 million pieces of mail a year, Robert McDermott—a retired U.S. Air Force brigadier general who became USAA's chief executive officer in 1969—set a goal of creating a "paperless environment" shortly after taking the helm of the insurer.

Mr. McDermott would walk through the insurer's headquarters building at night, noting how high stacks of paper stood on employees' desks, according to Mr. Plesums. After repeated visits to the same spots, Mr. McDermott found that the piles didn't shrink very quickly, and decided to promote automation as a solution.

The first step in cutting the paper was to get data on on-line systems and to add data as it was collected, thus reducing the number of files needed, Mr. Plesums said. By 1981, much of the on-line system was up and running.

However, a commercially practical technology for imaging didn't exist until later in the decade, which meant that incoming mail had to be handled the old-fashioned way, with mail clerks pushing carts through the miles of hallway at USAA headquarters. A full-scale research and development project began in late 1982, and two different small-scale experimental systems operated from 1984 to 1987, said Mr. Plesums. International Business Machines Corp. received the contract to install USAA's large-scale image system in July 1987. The system began operating about a year later, Mr. Plesums said.

Because images are stored electronically, file cabinets can be eliminated, he said. Necessary paper files are stored in warehouses, freeing up office space.

The current year's files for USAA's property/casualty policies took up about 39,000 square feet of office space, Mr. Plesums told his Chicago audience. Once transferred by laser onto optical disks, the same information took up about 100 square feet of shelf space, he said.

Savings in office space, reassigned personnel and supplies amounted to about $5 million, which was about equal to the annual cost of operating the system, he said. However, USAA estimates that it will have a productivity gain of between 2% and 10% among the people initially using the system, he said. The company estimates that each percentage point of improved productivity translates into a gain of about $1 million.

Scott Kania, assistant director of group pensions for CIGNA Corp. in Hartford, Conn., is also looking for a productivity gain with his department's imaging system, which was designed and installed in December last year by Lowell, Mass.-based Wang Laboratories Inc. CIGNA currently has a backlog of 1.5 million documents on microfilm to be transferred to optical disks, so that they can be called up on the imaging system, he explained.

Mr. Kania estimates that once his system is totally operational, the productivity gain among administrators freed from routine tasks may be as great as 30%, although he said that CIGNA can't assign the savings a monetary figure yet.

He explained that his department currently uses two "jukeboxes"—robotic devices that scan optical storage disks on a claims handler's demand much as 1960s musical jukeboxes picked out and played 45-rpm records in response to a teen-ager's dime.

Mr. Kania said that, just as the traditional musical jukebox stored its records, the electronic information jukeboxes store the disks themselves, with each CIGNA jukebox holding 89 disks. The disks, which "look like huge compact disks," according to Mr.

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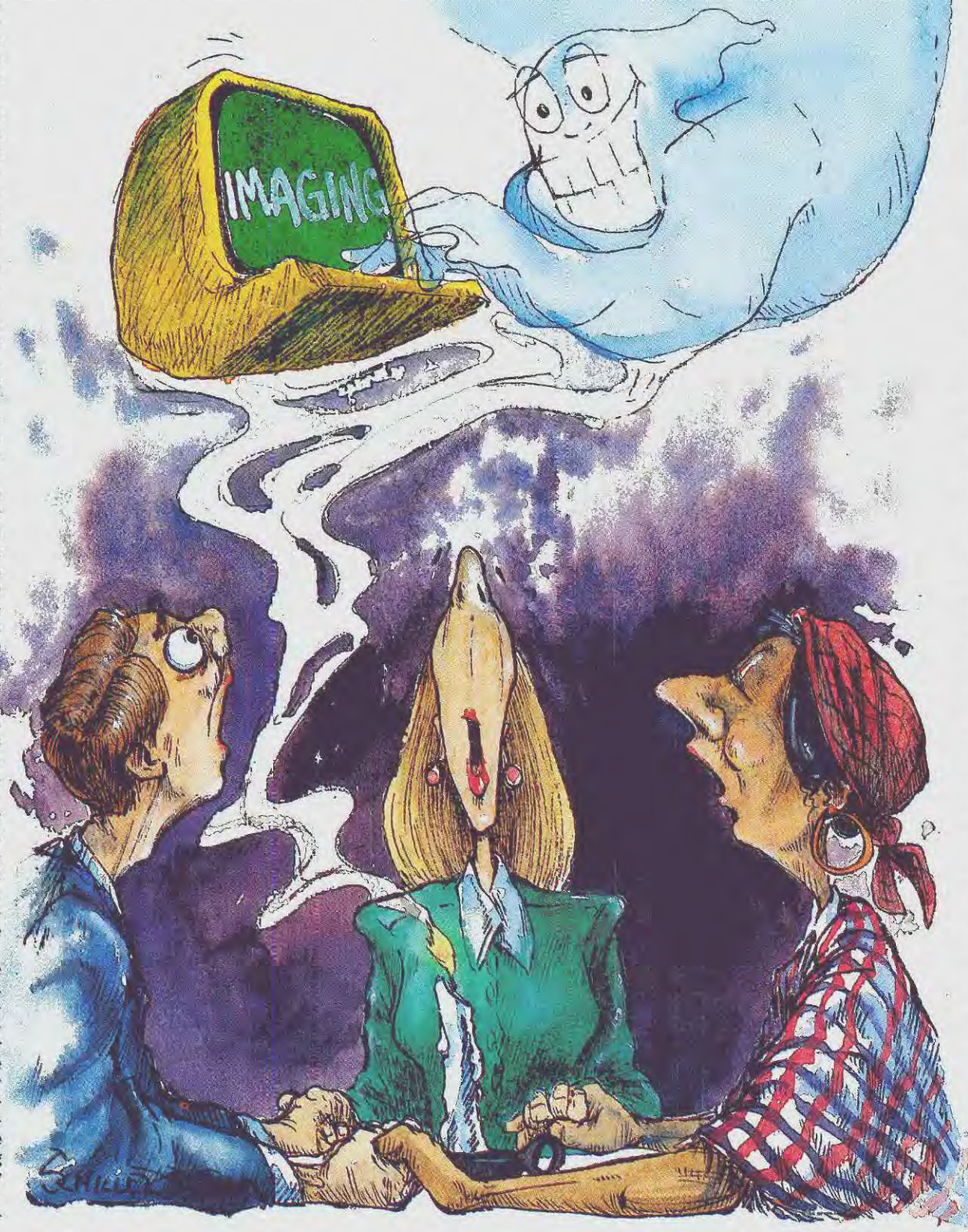

Imaging

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Kania, each weigh a few pounds. Each disk costs about $500, he said.

About the size of a side-by-side refrigerator, the jukeboxes will ultimately store all the information now contained in "a huge records room," he said. In fact, although the system currently contains fewer than 100,000 documents representing incoming mail since last December, CIGNA plans to store as many as 5 million documents in the future, he said. The entire system cost less than $2 million, said Mr. Kania, who would not be more specific.

USAA's Mr. Plesums said that the price of setting up an image system can vary widely depending on the sophistication of the terminals and the number involved. USAA, he said, is trying to determine how much its system cost. Imaging systems require specialized terminals and other equipment, and cannot be operated on standard personal computers.

Image technology requires equipment that reflects high-level technology, Mr. Plesums said. The imaging process breaks documents into a series of lines like those on a television screen and divides the lines into a series of dots, called pixels. Pixels are so small that they're considered either wholly black or wholly white.

Each inch in the original document is broken into 100 pixels horizontally and 100 pixels vertically, or 10,000 pixels per square inch. Nearly all documents can be read at 200 pixels per inch, or 40,000 per square inch. USAA chose to scan and store documents at 200 pixels per inch and to display them at 100 pixels per inch, with an option to enlarge a portion of the document to 200 pixels per inch.

However, document images require high resolution displays. For example, an 11-inch document displayed at 100 pixels per inch needs a display with 1,100 lines on the screen, plus some some extra lines at the top and bottom of the screen for messages and operating instructions. But conventional displays consist of anywhere between 200 and 500 lines per screen, and even commonly used "high resolution" displays have between 800 and 1,000 lines, so even higher resolution displays must be used, he said.

Mr. Plesums said that while USAA currently has about 1,400 terminals being used by about 2,000 employees at the company's San Antonio office, between 2,500 and 4,000 terminals will be added during the next few years as USAA implements its imaging system for claims.

The claims image system will go beyond picture images, he said.

"One of the interesting new problems of claims is that half of the files include a tape recording of a phone call—over 400,000 recordings per year," Mr. Plesums said. "These will be stored in the image system, similar to the way music is stored on a compact disk. It appears that the hard part is not storing the phone calls, but connecting the system to the telephone," he said.

Mr. Plesums maintains that imaging is one situation where big is best. Imaging does not make sense for small offices, he said. "If I've got five people in a corner handling paper, I'll buy them a file cabinet," he said.

A "bare-bones" image terminal costs roughly $10,000, but buying in bulk for a large system could cut that price about 30%, he said. Mr. Plesums stressed that by "large" he meant "large," such as USAA's 1,400-plus terminal system. "With a 50-terminal system, you won't get as deep a discount," he said.

Disks, jukeboxes and other supporting technology increase the cost per terminal to the $10,000-to-$15,000 range, he said. The total cost of running a system for five years—including training, maintenance and other operations—would amount to roughly $25,000 per terminal.

Looking back on USAA's experience, Mr. Plesums pointed to several essential factors for the success of introducing an imaging system. One is the presence of a "very strong" online data processing system before imaging is introduced. Another factor are "secure" employees who won't fear the change, he said. Yet another factor is the maintenance of "clean" office procedures with as much paperwork as possible being transferred to the imaging system, he said. Mr. Plesums said there's no reason to install an imaging system if it's not going to reduce the paper load.

Is imaging for small firms? No, says Mr. Plessums. 'If I've got five people. . .I'll buy them a file cabinet.'

Above all, there must be strong management support, said Mr. Plesums. "With image systems, you have a large investment," he said. Committing money to a large-scale imaging system is "a board of directors kind of decision," he said.

EDS has estimated, however, that for every million claims processed, imaging saves about $100,000. That type of savings can scare some employees, said Ed McPherson, vp-research and development for Computations, Inc., an image technology vendor in Marietta, Ga.

Mr. McPherson said that companies going to imaging often face employee resistance. Employees fear that the new technology will cost them their livelihood, although this is not the case, he said.

In fact, Mr. McPherson said that the technology can preserve jobs. He said that an insurance company president—whom he declined to identify—said that using imaging reduces overhead, which allows a reduction in premiums charged to clients. The reduction helps generate more business, which in turn requires human handling, thus protecting jobs, Mr. McPherson said.

USAA's Mr. Plesums said that when his company went to imaging, the reduction of files to electronic images affected about 120 employees. The employees were not fired; they were assigned to new tasks.

CIGNA's Mr. Kania said that his system has been well-received by both employees and customers. "We did a survey a couple of months ago and not a single person said he wanted to go back to pre-imaging," he said. Clients who have toured the imaging operation have also been favorably impressed, he said.

Mr. Plesums likened the amount of training needed to use an imaging terminal to that needed for an office telephone system. "If all you need to know is dial 9 to get an outside line, it takes a minute," he said. But learning to use a conference call system would take more time, he said.

The same is true of using an imaging terminal, Mr. Plesums said. Learning how to access the image doesn't take very long, but learning how to use all of the terminal functions generally takes a little less than a day, he said, and USAA's instructions generally run six to seven hours.

The key to the productivity gain is the instant access to information, the experts agree. Lou Resca, vp-government programs for Blue Cross & Blue Shield of Massachusetts in Boston, said that his Medicare claims operation had depended on microfilm before going on line with an EDS system a few weeks ago. Mr. Resca said microfilm wasn't ideal, both because it has to be tracked down and because it is not always easy to read, but imaging is much clearer. Most importantly, he said, the image is instantly accessible.

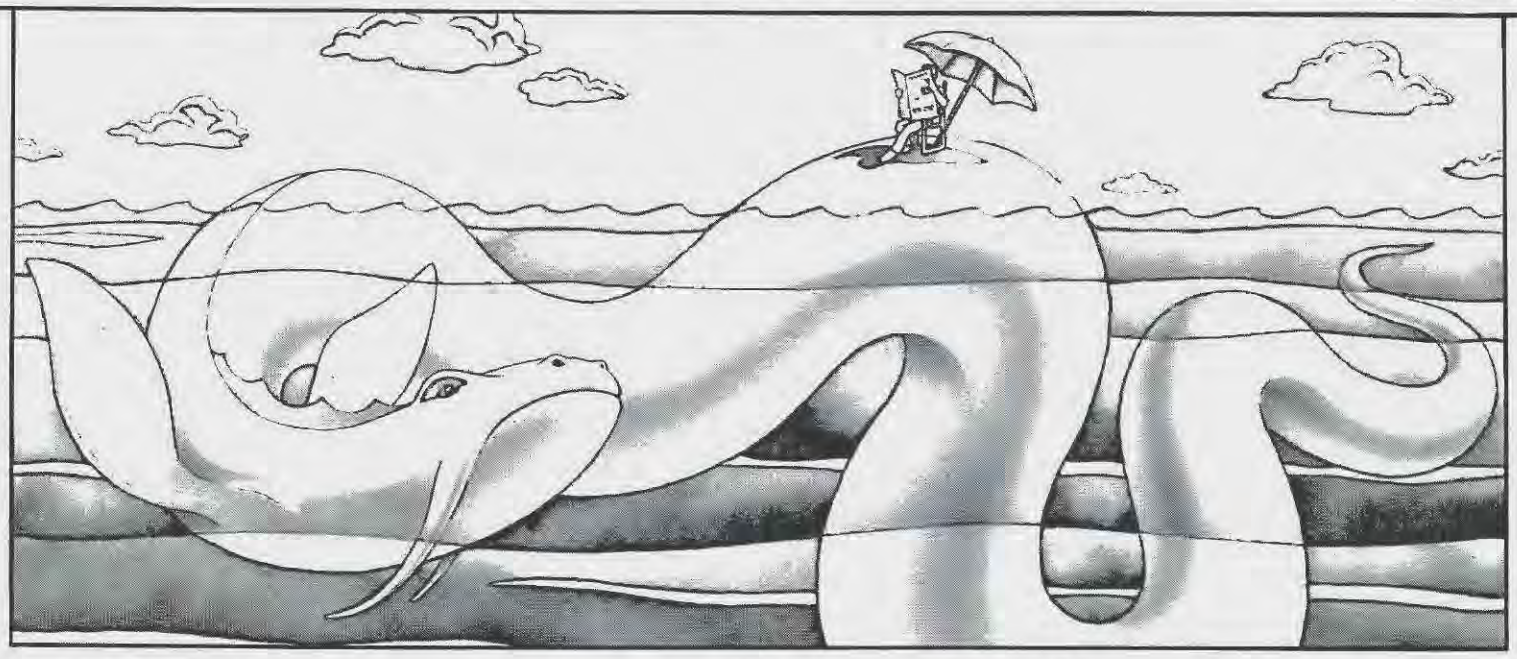
Mr. Resca added, however, that he doesn't expect to see any "real productivity changes" for some time. "It may take us as much as six months before we get rid of the microfilm chasing."

"It's not like a faucet you can turn on and off," he said.

The experts agreed that imaging cannot help but become more common in insurance technology. EDS's Mr. Abramcheck said that with the rising cost of health insurance becoming a major political issue, health insurers have come under increasing pressure to reduce administrative costs. Imaging will help slow overhead costs, he said.

USAA's Mr. Plesums said that imaging provides several intangible benefits. Files are no longer lost in transit, and the imaging process provides replacement copies to back up paper or microfilm files, he said.

Imaging, he adds, provides enhanced service. "All the information needed to serve the customer at once is always there," he said. ■



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Insurer Topics

Automation expert seeks 'radical redesign'

By MARK A. HOFMANN

CHICAGO—Putting automation to its best use requires radical rethinking of how work is done, says an expert on technological change.

"It's no longer enough to simply automate the work systems we've inherited since the 11th century," said Michael Hammer, founder of Hammer & Co., a Cambridge, Mass., consulting firm. Systems, he says, must be "re-engineered."

Mr. Hammer, a former computer science professor at the Massachusetts Institute of Technology, spoke to an audience of claims professionals during a three-day symposium on "Managing People and Technology" sponsored by CCC Information Services Inc.

According to Mr. Hammer, who has been a consultant to several life and property/casualty insurers, re-engineering involves "the fundamental analysis and radical redesign of everything"—business process flows, management and control processes, job definitions and organizational structures.

In a delivery reminiscent of political satirist Mark Russell, Mr. Hammer ticked off a list of problems besetting the property/casualty insurance industry. "We used to have a nice predictable cycle—seven good years followed by seven lean years. Now it's seven lean years followed by seven good minutes," said Mr. Hammer.

He cited eight problems:

Organizations were designed for more peaceful times: the 1950s, says Michael Hammer.

- Overseas competition poised to enter domestic markets.
- Long-term cyclical patterns that are no longer reliable.
- Huge worldwide overcapacity.
- Yearly shifts in legislative and regulatory environment.
- Soaring combined and loss ratios.
- Increasingly restless agents.
- Tougher, more sophisticated, more demanding customers.
- High demand for services.

To remedy these woes, Mr. Hammer said the business agenda for insurers and all other enterprises for the 1990s should include an emphasis on quality and service, which he defined as "understanding and meeting customer needs." The agenda also should include innovation and flexibility because shorter product life cycles require anticipation of and rapid response to changed conditions.

Businesses also have to reduce costs to compete in a global economy and against non-traditional players, he said. Successful business of the 1990s will have to focus on customers, speed and change, said Mr. Hammer.

"But our organizations weren't designed for the 1990s. They were designed for more peaceful times. They were designed for the 1950s," said Mr. Hammer. He said the business agenda of the 1950s included managed growth, control and planning. Its themes were bureaucracy, risk avoidance and short-term profitability.

"It is no accident that your organization stifles creativity. Your organization was designed to stifle creativity. That's not a bug; that's a feature," Mr. Hammer said.

"The business as it is currently configured is untenable," Mr. Hammer said of the insurance industry. He provided an example to show just how illogical routine claim processing can be.

One of Mr. Hammer's clients, a life insurer, found that it took 25 days to process an application from receipt to issuance of the policy. The process involved 30 identifiable steps, executed by 19 people in five departments.

Another life insurer took only 22 days to perform the same process. After further study, the insurer found that only 17 minutes of real work was required to process the policy. "Where was that application for 21 days, seven hours and 43 minutes?" he asked. "It was in transit."

The first insurer decided to put one person, called a case manager, in charge of all 30 steps. The case manager was given access to all backup systems containing data needed to process the application. The case manager also had access to an expert system that could provide guidance on most questions. As a result, the processing time was cut to four hours, more than 100 people were reassigned to more productive work and productivity increased significantly, Mr. Hammer said.

Mr. Hammer made clear that successful re-engineering, such as the type that cut the life insurer's processing time from 25 days to four hours, requires more than a little commitment. Those who re-engineer must have an ambitious goal and be willing to break the rules, he said. Re-engineering requires uses of technology previously thought unfeasible, he said.

"What we've been doing for 30 years is creating automated versions of manual systems," Mr. Hammer said.

The prerequisites for a successful re-engineering are vision, resources and a champion, Mr. Hammer said. "If the guy at the top doesn't want it done, it doesn't get done," he said.

He said the following three steps are necessary to a successful re-engineering: preparation, redesign and implementation. Or, as he said, "get focused, get crazy and get real."

According to Mr. Hammer, "getting focused" means clarifying and understanding the current process, assessing current performance against envisioned improvements and translating that projection into performance targets.

"Getting crazy" consists of developing new designs for the processes and organization, as well as for the management systems and information systems, Mr. Hammer said.

"Getting real" means "reorchestrating" the business as a whole and developing, piloting, implementing and evaluating the re-engineered system.

"Predict rather than react," Mr. Hammer said. "We must avoid using computers to automate the past." ■

October

Claims Automation & CPCU Report

Today's technology provides claims departments with more than statistics ... now qualitative information — programs that offer value judgements — are also available. From the detection of insurance fraud to artificial intelligence, BI editors will report on how insurers are using advanced automation systems to improve their operations. Also in this section — a report on the Chartered Property & Casualty Underwriters conference.

Published: October 15

November

Reinsurance Issues & Relations With Intermediaries

BI editors will report on how insurance companies select reinsurance intermediaries — what they look for and what they expect. In addition, this section will reveal how direct writers — reinsurers not marketing their coverage through an intermediary — approach insurance companies as well as how insurers interact with direct writers.

Issue: November 19
Ad Closing: November 6

December

Mergers/Acquisitions/Divestitures

How outside economic forces are reshaping the property/casualty and life insurance industries will be the focus of this section. BI editors will assess merger activity ... is it on the rise in the insurance industry? Are foreign companies setting their sights on U.S. insurers? These questions and more will be examined in an issue of vital concern to our readers.

Issue: December 17
Ad Closing: December 4

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Insurer Topics

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Insurer Topics

Continental's sting puts bite on local crime

By MARK A. HOFMANN

NEW YORK—Continental Corp. put its money where its mouth is when it became involved in a insurance "sting" operation in Pennsylvania about a year ago.

Continental's participation in such operations serves several purposes.

"We're interested in getting the bad guys off the street," said Chris Scaturo, director of corporate security at the New York-based insurer.

He added that the program also creates favorable publicity for Continental. And, although the impact of the program is short-lived, local thefts decline measurably for several months after a successful sting, Mr. Scaturo pointed out.

According to Mr. Scaturo, Continental made a $5,000 grant last year to Pennsylvania authorities, who used the money to operate a bogus business that bought stolen goods valued at about $325,000. The sting, which operated between Nov. 30, 1989 and May 21 of this year, ultimately resulted in 76 arrests, he said.

But Mr. Scaturo, whose company has been involved in 16 sting operations since 1986, is quick to point out that stings—like the stolen goods involved in them—have a limited shelf-life. "We can't do a sting operation and wrongfully think it will solve all of our problems," he said. Instead, stings are just "Band-Aids," he said.

According to a spokesman for Pennsylvania Attorney General Ernest D. Preate Jr., the Lancaster, Pa. operation—which did business under the name "T'n'T Wholesalers"—attracted thieves looking for drug money. Some of the customers who brought goods to the downtown "store" were as young as 14, he said.

"They said fairly often that they're going to go out and get high," he said. In fact, far more than half of the sales of stolen goods were drug-related, the spokesman estimated. As a result, the thieves were quite willing to sell goods at extremely depressed prices. According to the attorney general's office, a thief sold a 1989 Mercury Grand Marquis—worth about $20,000 at the time of its sale— to T'n'T for $740. A 1989 Chrysler Eagle four-wheel drive vehicle, also worth about $20,000, was sold for a mere $650, while an $8,000 laser alignment device used in construction sold for $30.

Both the attorney general's spokesman and Mr. Scaturo stressed that the sting was meant to send a message to a very specific group of criminals: non-professional thieves. "We want to make the non-professional thief think twice," Mr. Scaturo said.

But professional thieves are not likely to be deterred by well-publicized sting operations, Mr. Scaturo said. "We've learned in the past that a professional needs to steal about a car a day. It's remarkable how proficient they are," he said.

Mr. Scaturo said that professionals thieves aren't attracted to storefront operations like the one in Lancaster. Rather than accept quick cash representing only a small percentage of a vehicle's value, the pros take stolen autos to "chop shops," where they are rendered into piles of resellable parts, he said. "Once it gets in a chop shop, we never see that car again," Mr. Scaturo said.

T'n'T's clientele did not limit their goods to cars. Bikes, guns, knives, videocassette recorders and other pieces of electronic equipment changed hands at the store, Mr. Scaturo said. That's where Continental's participation came in.

Mr. Scaturo said Continental provided some of the capital used by the undercover officers to purchase the stolen goods. "We contribute funding with no strings attached," he said. He added, however, "maybe a little thread—we would ask that when the press conference takes place that they mention Continental as one of the contributors."

Under no circumstances would Continental employees, even members of its investigative unit, actually work at the counter in a sting, Mr. Scaturo said.

Counter duty went to three professionals—a state trooper, an agent from the Pennsylvania Bureau of Criminal Investigation and a police officer from the neighboring city of York, the attorney general's spokesman said. Lancaster officers were deliberately not involved out of concern that thieves might recognize them, he said.

"One of the cardinal things about a sting is you never use local officers," said the spokesman.

He said that additional precautions were taken to protect the personnel involved by building higher-than-normal counters made from bulletproof materials. Hidden cameras videotaped transactions, the spokesman said.

The spokesman said that arrests began on Aug. 16, 1989. Some 76 people, including 23 juveniles, were arrested. The spokesman said that no trials have taken place yet, and noted that in previous stings, many thieves have chosen simply to confess in the face of videotaped evidence.

Mr. Scaturo said that the successful Lancaster sting was the 16th the company has participated in. "Most law enforcement people in the Northeast know that Continental has a program. They come and ask us," Mr. Scaturo said. He noted, however, that Continental has participated in stings as far away as Spartanburg, S.C.

"Word of mouth is the way they learn about it," Mr. Scaturo said.

"I do not make the decision to fund a particular operation," Mr. Scaturo stressed. "It is a company project." Mr. Scaturo examines a proposal and makes recommendations to a senior management group which in turn decides whether participation is appropriate.

"We have never turned anybody down," he said.

Mr. Scaturo is sanguine about the impact—albeit temporary—of a sting.

"People ask, 'What are the results of a sting operation? What happens after the sting?' " he said.

According to Mr. Scaturo, statistics compiled by law enforcement officials in Union County, N.J., where Continental participated in a sting, indicate that theft drops for a period of four to six months before it begins swinging up to its old levels. ■

October November December

Customer Service
IIAA Conference Report

Are agents and brokers delivering what their clients are looking for? BI editors will focus on how agents and brokers can improve the service they give to clients and look at customer service representatives, their responsibilities and their compensation. Plus, this section will report on happenings at the annual convention of the Independent Insurance Agents of America.

Published: October 1

Automation:
Interface With Insurers

BI editors examine state-of-the-art automation equipment and software that agents use to communicate with their insurance companies. Plus — inside views — agents talk about hardware and software, what systems and programs they're currently using, what works best for them with insurers, and what doesn't.

Issue: November 5
Ad Closing: October 24

PIA Conference Report

The National Association of Professional Insurance Agents Conference is one of the year's most important gatherings of insurance producers. BI editors will report on sessions, providing readers with up-to-the-minute news and information on industry trends, developments and market forecasts.

Issue: December 3
Ad Closing: November 19

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Agent/Broker Topics

LEA opens claims school for beginners

By MARK A. HOFMANN

A need for quality education near the beginning of a claims professional's career led the Loss Executives Assn. to establish a claims school, which opens its doors for the first time next February.

The LEA's Property Claims College is an offshoot of the Tenafly, N.J.-based LEA's national claims forum, which takes place every November in Princeton, N.J. (*IT*, July 17, 1989).

The claims forum, however, is meant to serve highly experienced claims professionals rather than relative newcomers, pointed out Charlie Osborne, program chairman for the new claims school. In fact, those who attend the claims forum often have 20 or more years of claims experience.

"We just didn't have a course that was meaningful for people with six months to just under three years' experience," said Harold J. Sofield, second vp-property for Stamford, Conn.-based General Reinsurance Corp. Mr. Sofield also is a member of the claims school committee as well as vp of Loss Executives Assn.

"It's the LEA's effort to continue the education process in the industry," said Mr. Osborne, vp-property for American International Adjustment Co. in East Orange, N.J.

The inaugural property claims school will be held Feb. 3-7 at Hamilton Park Conference Center in Florham Park, N.J., according to Mr. Osborne. He said he hopes the school will attract about 60 students.

Mr. Sofield said that enrollment is open to claims professionals of all sorts. He commented that a bachelor's degree is not a prerequisite because some claims professionals without a four-year degree would benefit from attending the claims school.

Mr. Sofield also stressed that enrollment is not restricted to insurance company personnel.

"We're not confining it to independent adjusters or (insurance) company people," he said.

Mr. Sofield said that agency personnel involved in claims would also be welcome to attend. He noted, however, that of the 25 or so students who had already enrolled by the end of September, more than 60% were insurance company personnel.

Mr. Osborne said that the courses would be taught by working property claims professionals and specialists such as arson and fraud investigators.

Mariellen Whelan, the program's academic coordinator and president of the Insurance Society of Philadelphia, commented that the purpose of the claims school is to teach beginning claims professionals "the procedures and processes for efficient and proper claims handling."

A key element of the claims school's instruction will be to make students "able to put themselves in the shoes of the insured," Ms. Whelan said.

"We're basically going to do the anatomy of a claim," she said. Instruction will take students through the claims process from first notice of a claim to settlement of the claim.

Students at the claims school will also learn the history of the insurance policy from the 18th century to the present, Ms. Whelan commented.

Tracing the evolution of property insurance policies will help students understand why certain policy exclusions and conditions have been instituted, Ms. Whelan explained.

Students will learn to deal with initial client contact and will learn the do's and don'ts of taking statements, Ms. Whelan said.

The course will also cover investigation techniques and the use of investigative reports from such organizations as the Westport, Conn.-based Insurance Crime Prevention Institute, she said.

Experienced claims professionals will instruct students in such areas as subrogation, salvage, reserving, negotiating and valuation, she said.

Ms. Whelan said that the school also will discuss both commercial and personal lines insurance claims issues.

Mr. Sofield said that fees for the week-long course will range from about $750 to $1,000 per student depending on choice of accommodation and meals.

Mr. Sofield said students will attend about seven hours of classes a day. The classes will focus on lectures, case studies and working with experts, he said.

He added that LEA had initially considered including laboratory-style work as well, but decided that the classroom approach was more appropriate for the claims college.

Graduates of LEA's Property Claims College do not receive an industry designation.

The LEA is a property insurance educational organization founded in 1921. In addition to holding the national forum each November in Princeton, the group holds three meetings each year.

The Loss Executives Assn's annual meeting takes place in Absecon, N.J., each June. The other two meetings are a one-day workshop held in New York each October and a two-day gathering held in various cities each January to discuss technical issues.

Membership is granted on an individual rather than company basis. The organization offers two types of membership.

Regular membership, which includes the right to hold office and to vote for officers, is restricted to loss management executives of property/casualty insurance companies.

Associate membership, which carries no voting rights, is open to independent adjusters, accountants, defense lawyers, insurance company trade association employees, engineers, salvagers and others.

For further information on the LEA claims school, contact Mr. Osborne at 201-414-2677, or Mr. Sofield at 203-328-5442. ■

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Insurer Topics

Kemper ads avoid tourneys at biased clubs

LONG GROVE, Ill.—The Kemper Group's national property/casualty insurance companies have adopted guidelines designed to ensure that their television commercials do not appear during golf tournaments broadcast from clubs that practice racial or sexual discrimination.

"Kemper will not advertise on golf tournaments played at clubs which the appropriate sanctioning bodies certify have discriminatory membership policies. In deciding if Kemper will or will not advertise on golf telecasts under this policy, we will make our own judgment calls independently of the actions of other advertisers or organizations," says a Kemper statement.

A spokesman said that the new policy follows the company policy of not advertising on programs that "glorify violence, speed, racism, sexism" or other factors not in keeping with its corporate philosophy. The spokesman noted that the policy will affect neither of the tournaments Kemper sponsors.

The insurance group currently sponsors the Kemper Open, which is played at Avenel, a tournament players course with an integrated membership in Potomac, Md. Kemper also co-sponsors the Women's Kemper Open, which is played at Wailea Resort, a public course in Kihei, Hawaii.

Big-city auto theft

PALOS HILLS, Ill.—A recent study indicates that big cities in the Northeast have the highest auto theft rates.

The Palos Hills, Ill.-based National Automobile Theft Bureau studied the theft rate for 503 American cities and townships with a population of 50,000 or more. NATB ranked the cities on the basis of the number of vehicle thefts per 100,000 residents. For jurisdictions with populations below 100,000, the bureau extrapolated the rate of thefts per 100,000 people.

The highest incidence of vehicle theft was reported in Newark, N.J., which led the list with a rate of 4,994 thefts for 100,000 inhabitants. The lowest theft rate—13 per 100,000 inhabitants—was in Clay Town, N.Y.

Nine of the 10 worst rates were in Northeastern cities, five of them in New Jersey. Of other New Jersey cities, Elizabeth ranked third with a 3,696 per 100,000 rate, Irvington fourth with 3,690, Camden sixth with 3,178 and Trenton ninth with 2,822.

Two Massachusetts cities, Lawrence and Boston, also made the 10 worst list, with Lawrence ranking second with a 4,622 per 100,000 rate and Boston eighth with 2,829. Bridgeport, Conn., ranked fifth with a 3,309 per 100,000 rate and Providence, R.I., rounded out the Top 10 with a rate of 2,767 per 100,000.

The only non-Northeastern city in the Top 10 was Huntington Park, Calif., which ranked seventh at 2,933.

Five of the 10 cities with the worst auto theft rates have populations greater than 100,000. But population does not correlate directly with the rate of auto thefts. For example, the nation's largest city—New York—ranked 47th with a theft rate of 1,816 per 100,000 inhabitants.

Los Angeles, the second-largest city, had a slightly worse rate of 1,859 per 100,000 people, ranking it 43rd. But Chicago—the nation's third-largest city—ranked 66th with a rate of 1,565 thefts per 100,000.

The largest jurisdiction among the 10 best was Middleton Township, N.J., which has a population of 69,544 and a vehicle theft rate of 131 per 100,000. Middleton Township ranked 497th out of the 503 jurisdictions surveyed.

Just slightly above top-ranked Clay Town, at 503rd, was Naperville, Ill., which ranked 502nd with a rate of 65 auto thefts per 100,000 residents; Appleton, Wis., ranked 501st with 82 thefts per 100,000; West Jordan, Utah, ranked 500th with 87 thefts per 100,000; and Cheyenne, Wyo., ranked 499th with 121 thefts per 100,000.

Insurance exec survey

MEDIA, Pa.—A recent survey of insurance company executives found that they regard the industry's image and customer satisfaction to be the two major areas needing attention in the 1990s.

The study, by the for-profit Insurance Research Foundation of Media, Pa., was mailed to about 1,800 executives. Of the 200 who completed the survey, 71% selected industry image as one of the Top Five issues of the 1990s, while 68% selected customer satisfaction. Rounding out the Top Five were affordability problems, cited by 57%; availability problems, cited by 33%; and competitive evaluations, cited by 29%.

NAMIC elects Russell

INDIANAPOLIS—Tim Russell, executive vp of Foley, Ala.-based Baldwin Mutual Insurance Co., was elected chairman of National Assn. of Mutual Insurance Companies during the group's annual convention in Orlando, Fla., last month.

Mr. Russell succeeds Dale Correll as chairman of the Indianapolis-based group. Mr. Correll is president of the Mutual Aid Assn. of the Church of the Brethern in Abeline, Kan.

Robert Harrison, president of Indianapolis-based Indiana Lumbermans Mutual Insurance Co. was chosen as chairman-elect and E. Alan Johnson, president of Dayton, Iowa-based Scandinavian Mutual Insurance Assn., was elected vice chairman. Bruce Heaton, secretary/manager of Pontiac, Ill.-based Point Mutual Insurance Co., was elected the group's treasurer.

NAMIC is a national trade association representing 1,257 property/casualty mutual insurers.

Auto theft bureaus

OMAHA, Neb.—The heads of insurance industry-supported automobile anti-theft agencies from five countries have created the International League of Theft Bureaus.

The five signed a statement of mutual assistance and cooperation pledging to share information between their agencies during a meeting in Omaha last month. The signatories were:

- Paul W. Gilliand of the National Automobile Theft Bureau, representing the United States.
- Jean-Claude Cloutier of Canada's Insurance Crime Prevention Bureau.
- Bo Kohler of Sweden's Larmtjanst AB.
- Bernard Sala of France's Argos.
- And, Alex H. Westerman of the Central Informatiesysteem Schade of the Netherlands.

Mr. Gilliand said that representatives from Austria, Italy, Norway, Poland, Spain, Switzerland, Tunisia and the United Kingdom have also expressed interest in the international exchange of information about automobile theft.

Industry salary hikes

BOSTON—Salary increases in the insurance industry have been higher in 1990 than the national average, according to a new study by the Boston office of William M. Mercer Inc.

The 50-page study, "1990-91 Compensation Planning Survey," found that salary increases in all sectors of the insurance industry averaged 5.8% in 1990, compared with a national industry average increase of 5.5%. The survey of 215 companies did not differentiate among the life, health and property/casualty sectors.

The study costs $50. For further information, contact Robert M. Skaldany, William M. Mercer Inc., 200 Clarendon St., Boston, Mass. 02116; 617-421-5300.

Solvency guidelines

WASHINGTON—The American Council of Life Insurers recently adopted recommendations designed to strengthen regulation of the life insurance industry and to aid in the detection and prevention of insolvencies.

The recommendations were drawn up by the ACLI task force on solvency concerns. The task force, established last year, contained five subgroups.

One subgroup examined the history of 68 life insurers that became insolvent between January 1985 and September 1989. The others investigated trends in financial ratios; reinsurance issues; the effectiveness of the National Assn. of Insurance Commissioners' Insurance Regulatory Information System; and possible alternatives to the current state insurance guaranty fund system.

The task force offered 16 recommendations, including:

- Urging the NAIC to develop model legislation that would impose fines or other regulatory sanctions as a means of assuring that insurers file timely and accurate statutory statements.
- Proposing that the NAIC conduct a study to determine whether and how insurer and academic research on alternative methods of evaluating the financial strength of insurance companies can be incorporated into the regulatory group's review process.
- Recommending that the NAIC establish mechanisms for individual insurance departments to report to NAIC committees any action they have taken regarding potentially impaired insurers identified by the IRIS process.
- Support efforts to strengthen state insurance departments by, among other things, ensuring adequate funding.
- Support "reasonable limitations" on the quality of investments and on the amount or shares of investments made in specific categories of investment by life insurers.

For further information, contact The American Council of Life Insurance, 1001 Pennsylvania Ave. N.W., Washington, D.C. 20004, 202-624-2408.

Liability research firm

SCHAUMBURG, Ill.—A new organization has been created to help insurance companies answer liability coverage questions.

The Schaumburg, Ill.-based Liability Insurance Research Bureau opened its doors in July and currently has 46 members. LIRB attorneys research coverage questions raised by member insurer claim departments. LIRB deals with questions involving three lines of liability coverage: commercial, auto and homeowners.

LIRB provides its members with three monthly publications. The publications are Homeowners Liability Insurance Law Review, Auto Insurance Law Review and Commercial Liability Insurance Law Review. Future projects include a liability insurance question-and-answer service; an annual education conference for liability claims personnel; computer-based training programs; and training materials for member companies.

For further information, write the Liability Insurance Research Bureau, 1501 Woodfield Road, Suite 400 West, Schaumburg, Ill. 60173-4978; 708-330-8647.

Fire safety for children

BLOOMINGTON, Ill.—State Farm Fire & Casualty Co. recently launched a national fire safety program aimed at elementary school children.

The program, called "Smoke Detectives," revolves around a videotape featuring comedian Joe Flaherty playing "Count Floyd." Mr. Flaherty originally played Count Floyd—a vampire—on the syndicated television comedy SCTV during the 1970s and 1980s.

In "Smoke Detectives," Count Floyd is instructed in the basics of fire safety by a group of children. By the end of the story, Count Floyd himself qualifies as a smoke detective. The Smoke Detectives kit also contains lesson plans aimed at various grades, suggested home activities, a poster and other materials. State Farm has waived copyright privileges on the program so that schools can make copies for schoolwide distribution.

Helpline helps image

WASHINGTON—Consumers feel better about insurance companies due to the National Insurance Consumer Helpline, according to an independent study.

The Helpline, launched Jan. 2, is a joint venture of several insurance industry trade associations and answers questions about life, health and property/casualty coverages.

National Research Inc. of Chevy Chase, Md., surveyed people who had called the Helpline.

Nearly 70% of the respondents said their call to the Helpline had caused them to form a better opinion of the insurance industry. And, 30% said their experience with the service was better than they had expected. Eighty-two percent said they would recommend the service to family and friends.

"These results show that improved communication is the key to improved understanding," said Barbara Taylor, vp-consumer affairs for the Insurance Information Institute in New York and a key organizer of the Helpline.

Of the respondents, 86% were seeking general information about coverage or about a particular company. Another 6% were seeking help with a claim, and 5% had a complaint.

AISG meeting

NEW YORK—The Premium Audit Advisory Services division of the American Insurance Services Group will hold its 12th annual meeting Oct. 29-31, focusing on "Excellence Through Quality Customer Service."

Frederick H. Jarvis, chairman, president and chief executive officer of Branchville, N.J.—based Selective Insurance Group Inc., will deliver the keynote address dealing with "Meeting the Challenge of Exceptional Customer Service."

The meeting, which will be held in Alexandria, Va., will also feature panel discussions on customer service from several viewpoints, including those of risk management and agents.

For further information, contact William F. Hauswirth, vp, Premium Audit Advisory Services, 85 John Street, New York, N.Y. 10038; 212-669-0510.

—By Mark A. Hofmann

IT briefs

Advertiser Index

Insurer Topics

Issue of October 15

ADVERTISER	PAGE #
Agent/Broker Topics	28F
Alliance Capital Management	28E
Insurer Topics	28D
Munich Reinsurance Co.	28G
North American Reinsurance	28C
Society of C.P.C.U.	28B

Business Insurance

American General group life/health units get new name

American General Group Insurance Co. is changing its name to Anthem Life Insurance Co.

The Dallas-based group life and health insurance operations were sold last year by Houston-based American General Corp. for $185 million to Associated Insurance Cos. Inc. in Indianapolis.

The name change was part of the purchase agreement and will apply to divisions located in Jacksonville, Fla., and Sacramento, Calif. In addition, American General's health maintenance organizations operating in Florida and Texas will be renamed Anthem Health Plans of Florida and Anthem Health Plans of Texas.

Anthem companies operate 17 sales and 14 claims offices in the South and Midwest and the entity's annual premium volume is more than $800 million, according to Howard L. Korn, president and chief executive officer of Anthem Life Insurance Co.

Medical malpractice

A doctor-owned captive is the newest source of medical malpractice insurance in Delaware.

The Delaware Physicians Insurance Purchasing Group Inc. created the Delaware Professional Insurance Co.—DELPRO—an insurer owned by physicians insured under the program.

Approximately 180 doctors have joined the purchasing group, which offers standard medical malpractice coverage ranging from $1 million per occurrence to $3 million aggregate per year. Doctors can purchase additional limits up to $10 million per occurrence/$12 million aggregate.

Master policies are issued by St. Paul Fire & Marine Insurance Co. of St. Paul, Minn. The program includes a $100,000 self-insured retention. DELPRO will pay all medical malpractice claims up to the self-insured retention and all claims exceeding $100,000 will be paid by St. Paul, explained Dr. Ben C. Corballis, president of DELPRO.

Interested doctors must submit an application to the Delaware Physicians Insurance Purchasing Group Inc., which will assess each risk and decide whether or not to underwrite that physician. "One premise of this whole deal is we can decide who can be insured," Dr. Corballis said.

According to Dr. Corballis, the captive's premiums are competitive with other insurers' but DELPRO wants to use tighter underwriting practices and more efficient claims management than commercial insurers typically would.

"If we are correct in that we can manage the underwriting and claims better, then maybe five years down the line the doctors may benefit from premium credits."

Loss control and risk management are to be emphasized.

"This type of program, in addition to helping contain insurance costs for doctors, encourages risk management and loss prevention activities which will help insure that patients receive the highest possible quality of care," Dr. Corballis said. St. Paul risk management experts will work with the purchasing group on quality assurance, he added.

In addition, Dr. Corballis said DELPRO will support any physician in the group who is sued. "We'll assign a case manager to that physician," often someone in the physician's area of specialty, who will work with St. Paul and provide psychological support to the doctor."

For more information, contact

Continued on next page

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Markets

Continued from previous page
Dr. Ben C. Corballis, President, Delaware Professional Insurance Co., P.O. Box 26220, Wilmington, Del. 19899; 301-633-2345.

Joint venture

Hewitt, Coleman & Associates Inc., a risk management services company based in Greenville, S.C., will begin providing environmental engineering services through a joint venture with Kemron Environmental Services Inc. in Washington, D.C.

The joint venture will target airports, municipalities, construction projects and hospitals.

Services offered by the joint venture will include underground storage tank testing, removal and remediation of hazardous wastes, asbestos investigation, laboratory testing and employee training services.

Mergers/acquisitions

Two managed care companies, **The Admar Group** in Orange, Calif., and **CAPP CARE Inc.** in Fountain Valley, Calif., plan to merge operations. Both companies offer preferred provider network services, utilization review and third-party claims administration services to corporate clients, insurers and TPAs.

The new company will operate as The Admar/CAPP CARE Group Inc. Total gross revenues for the two firms in 1989 were $21 million. The venture will include PPO networks operating in 30 states and nationwide UR services. More than 700 hospitals and 60,000 physicians are under contract with the two companies.

K&K Insurance Group Inc., a brokerage subsidiary of Lincoln National Corp. in Fort Wayne, Ind., acquired High Point, N.C.-based **American Insurance Consultants Inc.**, a managing general agency specializing in insurance programs for local governments, public entities and public officials. AIC will retain its name and continue its operations out of its High Point office.

Name changes

Zimmerman & Co. Line Slip Inc., an accident and health reinsurance facility based in Hartford, Conn., changed its name to **Hartford Line Slip Inc.**

New offices

US Benefits Inc., a subsidiary of US Facilities Corp. in Costa Mesa, Calif. and an underwriting manager for excess group medical stop-loss coverage, opened a regional office in Tulsa, Okla. The address is 1412 S. Boston Ave., Suite 620, Tulsa, Okla. 74119; 918-584-1400.

The office of **Poe & Associates Inc.** in Houston is moving to the offices of Bynum, Beck & Poe, an agency Poe acquired in February. All of Poe's Houston operations will be located at 1 Riverway, Suite 1500, Houston, Texas; 713-621-1020.

San Mateo, Calif.-based **Andreini & Co.** opened a retail brokerage branch office in Dallas—Andreini & Co. of Texas. The address is 3010 LBJ Freeway, Suite 320, Dallas, Texas 75234; 800-776-6235.

Oxford Health Plans has relocated its New York sales and marketing office to 521 Fifth Ave., 15th Floor, New York, .Y. 10175; 212-599-2266.

Swiss Life Insurance Co. has changed the telephone number at its headquarters in Zurich, Switzerland, to 411-284-3797, effective Sept. 17.

Houston-based **Underwriters Indemnity Co.**, which specializes in underwriting oil and gas risks, opened a new office in Denver. The company's new address is 410 17th St., Denver, Colo. 80202; 303-534-5300.

Baldwin Sadler Corp., an underwriting manager specializing in commercial group transportation risks based in King of Prussia, Pa., moved its offices. Baldwin Sadler's new street address is 2495 Blvd. of the Generals, Building C, Norristown, Pa. 19403; the mailing address is P.O. Box 12, Audubon, Pa. 19407-0012; 215-630-6600; 800-227-9040; 800-433-6969 in Pennsylvania.

Tyler, Texas-based claims administrator **Lindsey & Newsom Claims Services Inc.** opened three new offices. An Atlanta office is located at 3050 Presidential Parkway, Suite 101, Atlanta, Ga. 30340; 404-457-3452. A Massachusetts office is located at 120 Forbes Blvd., P.O. Box 9115, Mansfield, Mass. 02408; 508-339-3405. A Houston-area office is located at 5959 W. Loop South, Suite 500, Bellaire, Texas 77401; 713-664-5566.

Johnson & Higgins opened an office in Rochester, N.Y. The address is 1700 Midtown Tower, Rochester, N.Y. 14604; 716-262-5690.

Martin E. Segal Co.'s national headquarters and **Segal Advisors Inc.** both in New York relocated to 1 Park Ave., New York, N.Y. 10016-5895; 212-251-5000.

The Fisher Associates, a third-party claims adjusting firm based in Torrance, Calif. opened a new office in San Francisco. The mailing address is P.O. Box 282045, San Francisco, Calif. 94128-2045; 415-574-1933 or 574-1934.

Chikara Pacific Insurance Services Inc., a Concord, Calif.-based brokerage and managing general agency specializing in difficult-to-place marine, property and entertainment risks for admitted and non-admitted insurers, has moved. The new address is 498 N. Wiget Lane, Walnut Creek, Calif. 94598; 415-935-9770.

St. Paul, Minn.-based **Delta Environmental Consultants Inc.** opened an office in Salt Lake City. The address is 6925 Union Park Center, Suite 300, Salt Lake City, Utah; 84047; 801-566-9762.

The Florida Employers Insurance Co. based in Grand Cayman, Cayman Islands, consolidated its U.S. subsidiary offices in Sarasota, Fla. FEICO Agency Inc., Florida Employers Excess Insurance Agency Inc., Florida Employers Insurance Service Corp. and Florida Employers Life Insurance Corp. will now operate from 2601 Cattlemen Road, Sarasota, Fla. 34232; 813-955-2811.

Surplus lines broker **F.B. Beattie Insurance Services Inc.** relocated its Orange, Calif., office to 765 The City Drive, Suite 380, Orange, Calif. 92668; 714-740-1930.

ADJUSTCO Inc., a third-party claims administrator, recently moved its corporate offices to 200 Pringle Ave., Suite 450, Walnut Creek, Calif. 94596; 415-295-1660.

Bermuda-based **Tate & Lyle Management & Finance Ltd., Tate & Lyle Reinsurance Ltd.** and **Tate & Lyle Commodities Ltd.** moved to Jardine House, 33-35 Reid St., P.O. Box HM 337, Hamilton, HM BX Bermuda; 809-295-9911.

Chartwell Reinsurance Co. relocated its office to 300 Atlantic St. Suite 400, Stamford, Conn. 06901; 203-961-7300.

Jardine Risk Management Inc., a Los Angeles-based subsidiary of Jardine Insurance Brokers Inc., opened a new office in Hawaii. The new office is located at 711 Kapiolani Blvd., Suite 1400, Honolulu, Hawaii 96813; 808-536-0811. ■

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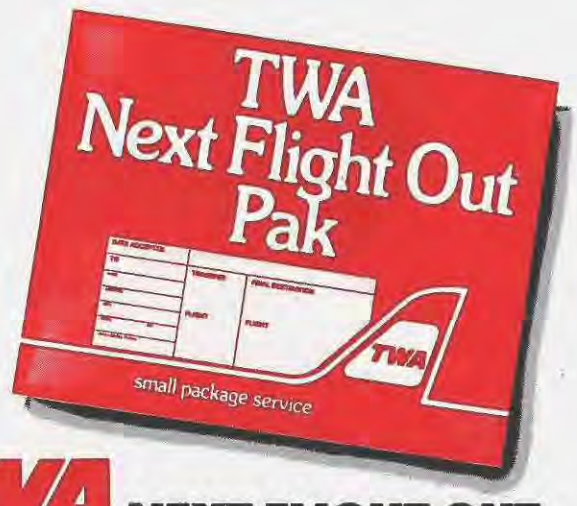

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Willis Corroon

Continued from page 1

shares, this amounts to the equivalent of $30.58 a share.

"The stock has held up very well in a bad market," commented Mr. Malis.

Corroon & Black stock traded at $33.75 per share shortly after the merger was announced in June.

Mr. Malis said he estimates the ADSs will generate a high 9.2% yield, which will help their trading price. "When companies are paying a large dividend, that will tend to put a floor under a stock," he said.

Meanwhile, Willis Corroon opened trading on the London Stock Exchange Tuesday morning at 205 pence ($4.02). It dropped about 6% Wednesday, closing at about 192 pence ($3.77). Analysts point out that most other insurance brokerage stocks were equally depressed in London.

No one in the audience of about 200 spoke at the C&B shareholder meeting, which lasted less than a half-hour, including the time it took to count the votes.

Richard Miller, C&B chairman and chief executive officer and now chief executive of Willis Corroon, told *Business Insurance* following the meeting that "I feel great. I just feel wonderful."

While "we were quite well-prepared for whatever might have come up," Mr. Miller said that he knew early this month, based on the proxies that had already been submitted, that the merger would be approved. "We got such an overwhelming response."

The vote indicates recognition of the "tremendous value" of the combined Willis Corroon as well as confidence in C&B's strategy and in its "Plan 95."

Plan 95, prepared with management consultants Booz Allen & Hamilton, evaluates the company's strategic objectives this decade, and includes as one of its primary objectives the re-establishment of C&B's presence abroad, particularly in London.

He noted that the participation of 86% of the shares in the vote was "truly outstanding" since many C&B shares changed hands after the merger announcement. New shareholders, he noted, cannot cast proxies, while previous shareholders were probably not interested in doing so.

Mr. Miller had harsh words for Robert Steinberg, the arbitrage director who lead the Bear Stearns opposition to the merger.

Arbitrageurs at Bear Stearns tried to generate opposition by encouraging shareholders to file for appraisal rights.

The law in Delaware, where C&B is incorporated, allows stockholders of a company planning a merger to ask a court to determine the fair market value of shares. The combined companies would then be required to pay that price.

In the merger agreement, Willis Faber reserved the right to terminate the merger if holders of more than 9% of C&B shares sought appraisal rights.

Shareholders holding about 11.8% of the company's shares gave valid notice that they would seek to assert appraisal rights, says C&B. But the merger is proceeding and C&B says it expects a number of shareholders to abandon the potentially lengthy process. While seeking appraisal, shareholders cannot sell their shares.

Michael Smith, vp with Lehman Bros., a division of Shearson Lehman Hutton Inc. in New York, said he was surprised that the percentage of votes filing for appraisal rights was so low.

"I'd have expected more of the negative votes to file for appraisal rights," he said.

Following the shareholder meeting, Mr. Miller accused Mr. Steinberg of making exaggerated claims

Continued on next page

U.S. edges U.K. at recent regatta in N.Y. waters

The United States swept six of seven races in the first annual London-New York Insurance Regatta in New York Harbor late last month. Fifteen members of the U.S. insurance market raced 15 members of the London market—five to a crew on six J24s—under the sponsorship of Continental Corp. and Johnson & Higgins. The British captured one third-place. The regatta was first proposed by William E. Thiele, president of Continental and an avid sailor. Mr. Thiele did not crew but instead cheered the U.S. teams to victory. The British crews were led by Chris Burbidge, chairman and president of Terra Nova Co. Ltd.

Kathryn McIntyre

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Willis Corroon

Continued from previous page
to C&B directors. In a letter to the board, Mr. Miller charges, Mr. Steinberg expressed his opposition to the merger and claimed that Bear Stearns had control of more than 2 million shares, or about 10% of C&B's outstanding stock. In fact, Bear Stearns had only cast negative votes representing 10% of that amount, Mr. Miller claims.

"All I can say is that the integrity of the arbitrage department at Bear Stearns has to be questioned," Mr. Miller said.

He also dismissed as "ridiculous" Mr. Steinberg's contention that rejecting the higher, all-cash Aon bid was setting bad precedent. "If we set a precedent, I'm delighted," Mr. Miller said.

Mr. Steinberg contends that his letter said only that "Bear Stearns & Co. holds for itself and its clients nearly 2 million shares of C&B common stock." The letter did not say all these shares would be voted against the merger, said Mr. Steinberg. "Don't question someone's honesty" when you put your own interpretation onto something, he said.

Other C&B officials allowed that Mr. Miller may have been wrong about the number of votes involved. Nevertheless, they said, Mr. Steinberg left the impression that Bear Stearns-owned stock, as well as stock held by its clients, would be voted against the merger.

"It was implied" those shares would vote against the merger, said Robert Cuthbert, first vp and chief financial officer.

And Joseph V. Ambrose Jr., senior vp and general counsel, referring to the letter, said: "That's obviously trying to give you some sort of a message."

Meanwhile, Mr. Steinberg said that in light of the merger approval, "we are looking at our alternatives." These include pursuing appraisal rights and selling the shares.

"I think it's a shame that the board of directors of Corroon & Black, supposedly representing all shareholders, did not see fit to review what I think is clearly a superior transaction," said Mr. Steinberg, referring to the Aon bid.

A 'poison-pill' C&B shareholders adopted in 1987 'probably would have an impact on Pat Ryan's decision to get the company under a hostile situation,' says analyst Julie Hilt. Aon has 'never really been in an all-out bidding war.'

Aon withdrew its $840 million bid after C&B rejected it and refused a second request by Aon for a meeting to discuss the proposal (*BI*, Sept. 24).

"We made a good offer," commented Aon Chairman Patrick G. Ryan last week. C&B "did not feel it was appropriate and made their decision. We wish them well."

Mr. Ryan said Aon, parent of broker Rollins Burdick Hunter Group Inc., is not seeking to acquire another broker in lieu of C&B.

"We're not looking for another broker," he said, noting that the acquisition of C&B would have been a "good fit" after "they had put themselves up for sale."

He also said there was no truth to a rumor circulating in London that Aon would bid for the merged Willis Corroon.

Lehman Bros.' Mr. Smith suggested that Aon withdrew its offer because of a "poison pill" provision in C&B bylaws that would make an unfriendly bid expensive. Mr. Ryan was "not going to pursue an unfriendly offer. It had to be friendly," said Mr. Smith.

In 1987, C&B approved a shareholder rights plan that in the event of an unfriendly takeover would have permitted C&B shareholders to themselves purchase the shares of an acquiring corporation.

"That probably would have an impact on Pat Ryan's decision to get the company under a hostile situation," commented Julie Hilt, assistant vp at Atlanta-based securities firm Intersaate/Johnson Lane.

In addition, said Ms. Hilt, Aon's past acquisition history—including its acquisition of RBH in 1982—must be taken into account.

"They've never really been in an all-out bidding war," she said. Aon has always made a proposal, then acquired the target company in "very congenial" transactions. "I think from their perspective they didn't want to get into that type of situation," said Ms. Hilt.

Walter Fitzgerald, an analyst with Baird, Patrick & Co. in New York, said Mr. Ryan "probably had poor advice" in how he dealt with the situation. However, he added, there is some substance to the argument that he had to have management approval to acquire C&B.

Instead, he said, "they just ignored him."

Mr. Fitzgerald added he remains convinced that Aon had offered the better bid for C&B. "There is still substantial spread between what he and they're offering," he said, referring to Mr. Ryan and Willis Faber. "In my judgment, the Aon bid was the superior bid.

"The shareholders have been ripped off again. I really haven't changed my mind that $40 is better than $30. But obviously the shareholders do not agree with me," Mr. Fitzgerald said.

Meanwhile, all three shareholder suits filed in connection with the C&B-Willis Faber merger have been settled.

Samuel Sporn, an attorney with Schoengold & Sporn in New York, said he was filing an amended complaint on behalf of all three suits along with a settlement agreement in New York Supreme Court.

Mr. Sporn represented Polar International Brokerage Corp., a New York insurance brokerage, in a suit it had filed in New York Supreme Court. The two other suits were originally filed in Delaware's Court of Chancery.

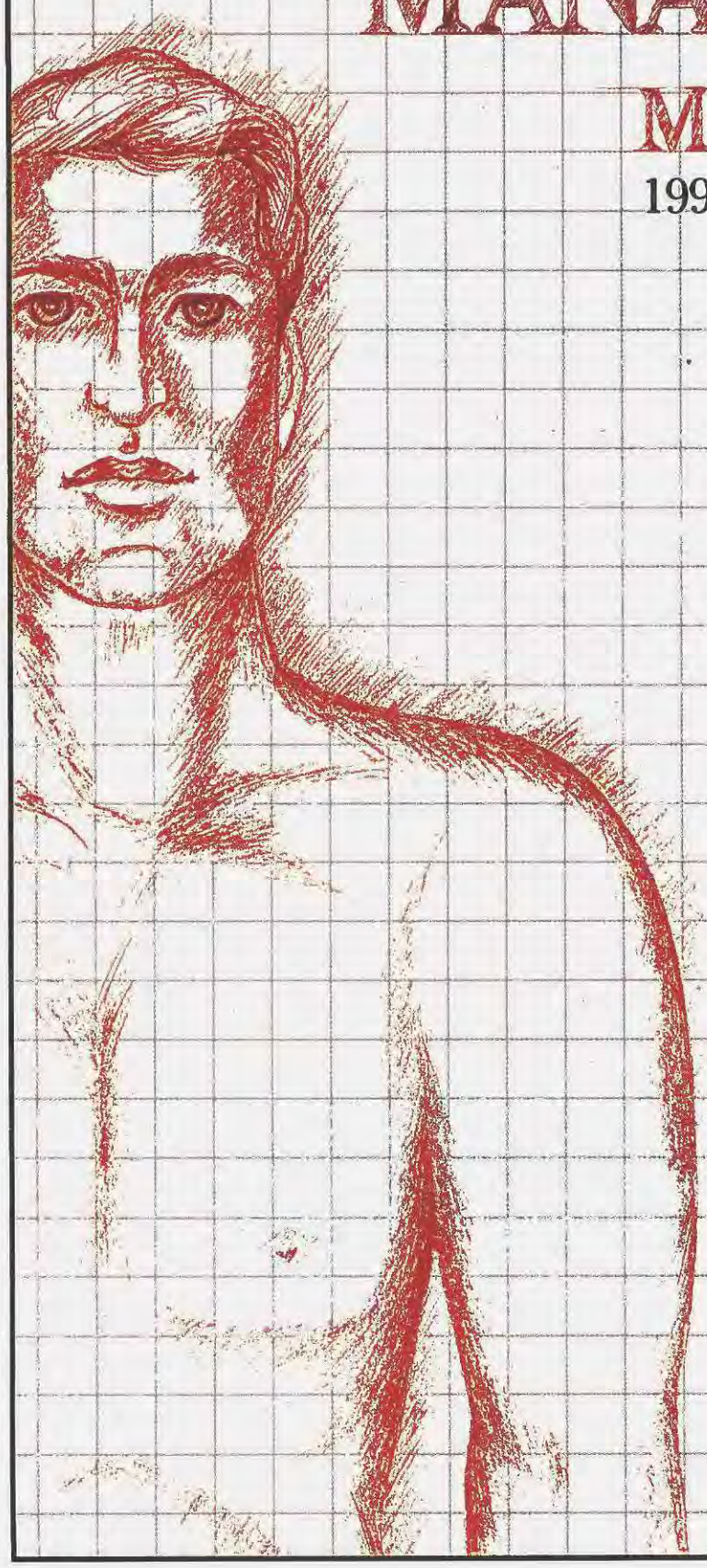
The settlement of three suits called for the issuance of supplemental proxy materials explaining the Aon offer, which was done, and the adjournment of the special meeting until Oct. 8, which was also accomplished.

In London, Roger Elliott, chairman of Willis Faber and now chairman of Willis Corroon, said in a statement: "I am delighted that shareholders of both Willis Faber and Corroon & Black have given their approval to the merger."

"We can now begin to realize the many exciting opportunities which will be available to Willis Corroon, one of the world's four largest insurance brokers. I believe firmly that the future of our clients, staff and shareholders is excellent," according to the statement issued by Mr. Elliott.

With the merger completed, Willis Corroon is now managed by a 14-member board, with seven members each from C&B and Willis Faber.

While the parent company will be named Willis Corroon, British operations will continue to carry the Willis Faber name, while Corroon & Black's operations will retain their old name. ■



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OGICO challenging Ohio liquidation order

By ROGER SCOTTON

HAMILTON, Bermuda—In a direct challenge to Ohio insurance regulators attempting to liquidate Oil & Gas Insurance Co., the company is pressing ahead with a filing under Chapter 11 of the U.S. Bankruptcy Code.

The challenge sets the stage for a confrontation between federal and state authorities over who should manage the liquidation of insolvent insurers, says an attorney for the insurer.

OGICO Chairman Mark Hardy—also chairman of The Group Inc. of Concord, Mass., OGICO's parent—argues that using federal, rather than state, priorities for creditors' claims would be the fairest way to handle payouts.

Westerville, Ohio-based OGICO was ordered into rehabilitation in May. The Ohio department sought permission to liquidate the insurer in July (*BI*, July 23; May 21).

Mr. Hardy says OGICO still is seeking permission to proceed with its Chapter 11 reorganization filing, despite the dismissal last week of its initial filing and despite an order of liquidation entered Aug. 31 against OGICO in an Ohio state court by the Ohio Insurance Department.

Challenging the payout system, Mr. Hardy says, will pit federal and state authorities against one another. He vows he is prepared to "go all the way to the U.S. Supreme Court."

"Under the state system, the liquidation expenses are paid first, followed by the reimbursement of state guaranty funds, which are used to pay direct policyholders' claims in full. But the federal way is for all creditors to rank pari passu (equal) once the federal government's claims and any outstanding payroll have been paid," he says.

The federal approach would also be more favorable to The Group Inc. Another Group Inc. subsidiary, Chicago-based Millers National Insurance Co., participated with OGICO on runoff reinsurance programs and is its biggest single creditor.

Illinois liquidators are seeking to liquidate Millers National.

OGICO's net premium volume last year totaled $22.8 million, of which $15 million was made up of direct policy writings. The company was licensed in 13 states.

Ohio regulators put OGICO's net deficiency at about $27 million. But Mr. Hardy claims that OGICO assets "exceed claims from direct policyholders" and that its reinsurance creditors would get substantially more from Chapter 11 proceedings than from a state-administered liquidation.

"What we're saying is that in OGICO's case, the order of payout should be changed to one in which federal priorities apply and state guaranty funds rank as unsecured creditors, like everyone else," he said.

OGICO first attracted regulators' attention when it failed to meet the state minimum $2.5 million surplus requirement based on the department's valuation of OGICO assets. Regulators secured an order of liquidation on Aug. 31, but five days later the company filed a Chapter 11 petition in the U.S. Bankruptcy Court in San Bernardino, Calif.

The court dismissed that petition. An attorney for OGICO argues, however, that it was dismissed under Section 109 of the U.S. Bankruptcy Code, which allows for appeals, rather than under Section 305, which does not.

"Section 109 says a domestic insurance company cannot be eligible for protection as a Chapter 11 debtor and that's the position that we are now appealing to the U.S. District Court in Los Angeles, which is our first level of appeal," says Dan Rothman, an attorney with Sulmeyer, Kupetz, Baumann & Rothman in Los Angeles.

Mr. Rothman points to an unpublished March decision by the U.S. District Court in Columbus, Ohio, in a case involving Ohio Superintendent of Insurance George Fabe and the U.S. Department of Treasury over the payment of federal taxes owed by the insolvent American Druggists Insurance Co.

In ruling for the Treasury Department, "essentially the court said that once an order of liquidation is entered, the insurance company is no longer in the business of insurance and the regulation of the company is no longer reserved to the states," says Mr. Rothman. "The typical state prioritization scheme places policyholders' claims ahead of trade creditors and governmental claims. This was rendered invalid and inapplicable and the federal system was put in its place."

Mr. Rothman says this ruling—while dealing with the payment of taxes and not representing a direct challenge to the right of state regulators to liquidate insurers—could have a "severe impact" on state regulators and guaranty funds and "may eliminate from the states entirely the business of liquidating insurance companies."

"The federal bankruptcy code states that a domestic insurance company cannot file a Chapter 11 petition. However, an insurance company in liquidation is no longer in the insurance business. It does not seem difficult, in my view, to find that a company, in liquidation, is eligible to be a Chapter 11 debtor. That means that the bankruptcy code system of distribution will be implemented, as opposed to the state system."

Mr. Rothman says the stage is now set for a confrontation between federal and state authorities, not only over who should manage the liquidation of insolvent insurance companies but also on the question of "whether or not the state statutory liquidation scheme should fall in favor of the federal prioritization classification scheme."

Mr. Hardy says, "We can and we are appealing against the dismissal of our Chapter 11 filing. And if we have to, we'll go all the way to the U.S. Supreme Court."

Clive Becker-Jones, president of OGICO, says he was disappointed that the company was put into liquidation.

"We came up with a rehabilitation plan in August which would have produced a $1 million surplus after $28 million" of adjustments, he says. "But this was rejected on the grounds that it relied on too many contingencies, one of them being the sale of a subsidiary which is now very near to completion and which would have reduced the OGICO deficit by about $10 million."

Yet Mr. Becker-Jones is optimistic about the outcome of the Chapter 11 appeal.

"I think we have a good chance of winning this," he says. "Whichever way it goes, the policyholders will not suffer because we believe that both the state and federal approach will trigger the guaranty funds. But the federal scheme is more equitable and means there should be something for reinsurance creditors as well as direct insureds."

Officials at the Ohio Insurance Department did not return phone calls.

Mr. Hardy also is chairman of Forum Re Group (Bermuda) Ltd., which announced last month that it would run off the business of its Aneco Reinsurance Underwriting Ltd. subsidiary (*BI*, Sept. 10). ■

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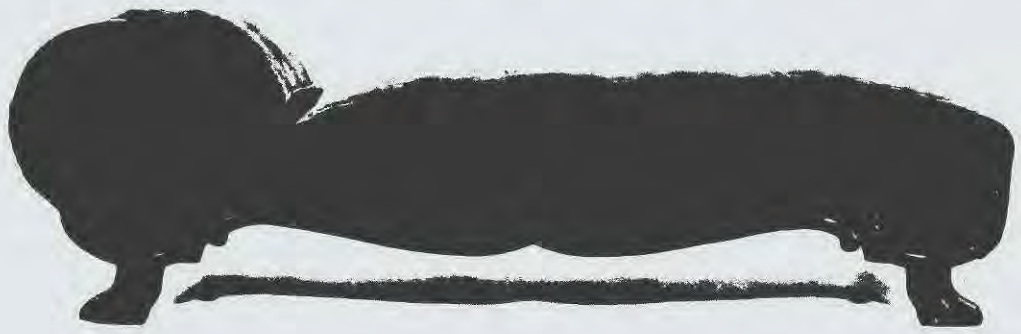

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• **Aetna Life & Casualty Co.:** Arthur K. Ashe, director, purchased 128 shares of common stock at $53 per share on June 25 and now directly holds 432 shares.

Aetna stock was trading at $29.88 per share on Oct. 10.

• **AmBase Corp.:** William L. Munson, officer of subsidiary, purchased 25,000 shares of common stock at $2 per share on Aug. 20 and now directly and indirectly holds 34,163 shares.

AmBase stock was trading at 81 cents per share on Oct. 10.

• **American International Group Inc.:** Edward F. Andrzejewski, officer, exercised an option for 654 shares of common stock at between $17.80 and $24.55 per share on July 23 and now directly holds 2,525 shares.

Patrick J. Foley, shareholder, sold and disposed of by gift 2,100 shares of common stock at between $56.88 and $104.37 per share from Jan. 31, 1988, and Dec. 31, 1989, and now directly and indirectly holds 12,701 common shares.

Lawrence O. Johnson, officer, exercised an option for 500 shares of common stock at $45.14 per share on March 27 and now directly holds 500 shares.

American International Group stock was trading at $59.26 per share on Oct. 10.

• **Continental Corp.:** George H. Ramsdell, vp, purchased 500 shares of common stock at $210.75 per share on Sept. 14 and now directly and indirectly holds 1,018 shares.

George P. Zipf, director, purchased 500 shares of common stock at an unreported price per share on July 12 and now directly holds 4,000 shares.

Continental stock was trading at $17.88 per share on Oct. 10.

• **Corroon & Black Corp.:** James Verlin Davis, vp, sold 400 shares of common stock at an unreported price per share on June 11 and now directly holds 10,784 shares.

Corroon & Black stock was trading at $32.50 per share on Oct. 8, the final days the shares traded prior to the merger of Corroon & Black and Willis Faber P.L.C.

• **Fremont General Corp.:** Lee E. McIntyre, beneficial owner, indirectly sold 16,000 shares of common stock at $16.13 per share on July 16 and now indirectly holds 1,512,187 shares.

Fremont General Corp. stock was trading at $10.75 per share on Oct. 10.

• **Arthur J. Gallagher & Co. Inc.:** David B. Hoch, officer, sold 182 shares of common stock at $22.25 per share on July 24 and no longer holds any shares in the company.

Arthur J. Gallagher stock was trading at $20.50 per share on Oct. 10.

• **The Hartford Steam Boiler Inspection & Insurance Co.:** T. Skipwith Lewis, officer, sold 3,000 shares of common stock at between $53.50 and $54 per share on Aug. 1 and now directly holds 15,534 shares.

James E. Stevens, officer, exercised an option for 2,433 shares of common stock at $32.56 per share on Aug. 2 and now directly and indirectly holds 9,636 shares.

Hartford Steam Boiler stock was trading at $48.25 per share on Oct. 10.

• **Lincoln National Corp.:** Robert A. Anker, officer of subsidiary, exercised an option for 1,500 shares of common stock at $25.78 per share on Aug. 20 and now directly and indirectly holds 7,671 shares.

M. Leanne Lachman, director, purchased 100 shares of common stock at $49.50 per share on Aug. 7 and now directly holds 500 shares.

Lincoln National Corp. stock was trading at $37 per share on Oct. 10.

• **NAC Re Corp.:** Ronald L. Bornhuetter, president, sold 2,000 shares of common stock at $29.25 per share on Aug. 16 and now directly holds 62,249 shares.

John W. Kluge, director, indirectly sold 10,000 shares of common stock at $27.75 per share on Aug. 29 and now indirectly holds 1,019,438 shares.

NAC Re stock was trading at $26.75 per share on Oct. 10.

• **RLI Corp.:** The RLI ESOP, beneficial owner, purchased 6,700 shares of common stock at between $11.82 and $12.07 per share from Aug. 6 to Aug. 21 and now directly holds 1,502,805 shares.

RLI stock was trading at $10.25 per share on Oct. 10.

• **SAFECO Corp.:** Jean D. Percevault, vp, sold 2,779 shares of common stock at $68.50 per share on Aug. 3 and now directly and indirectly holds 699 shares.

SAFECO Corp. stock was trading at $26.50 per share on Oct. 10.

• **Travelers Corp.:** David C. Garrett, director, purchased 3,000 shares of common stock at $24.25 per share on Aug. 7 and now directly holds 8,000 common shares.

Travelers Corp. stock was trading at $13.63 per share on Oct. 10.

• **USF&G Corp.:** David H. Meehan, vp, disposed of by gift 2,500 shares of common stock at $26.25 per share on July 12 and now directly holds 11,944 shares.

USF&G stock was trading at $14.50 per share on Oct. 10.

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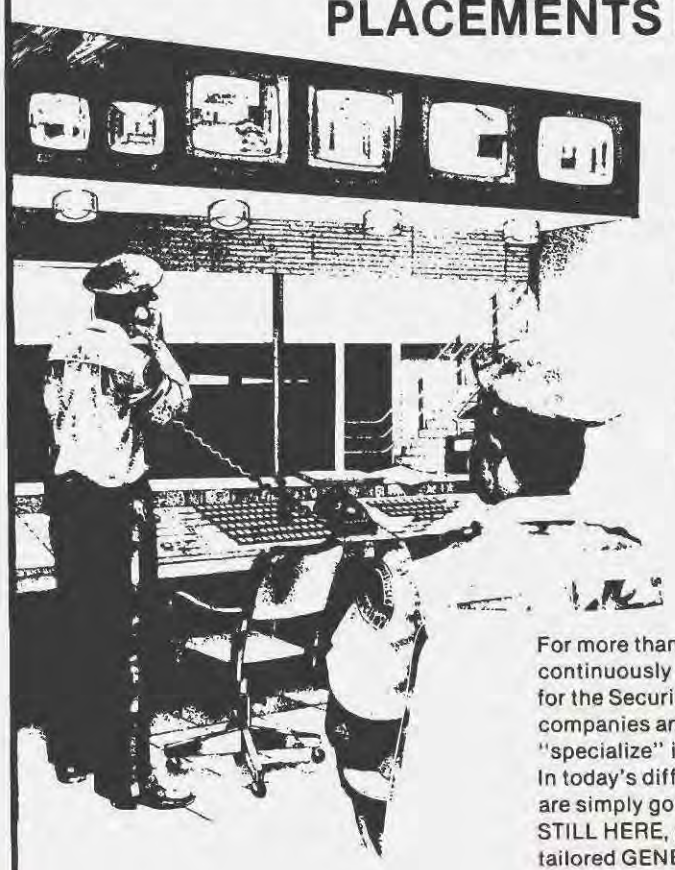
Insider Trading, compiled by Invest/Net Group Inc. of North Miami, Fla., from reports filed with the Securities and Exchange Commission, tracks stock sales and purchases by insurance industry directors and officers. The feature is distributed by Tribune Media Services.

A BRIEF MESSAGE ABOUT INSURANCE PLACEMENTS FOR



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Benefit mandates

Continued from page 3

laws—or amended existing laws—to require that any legislative discussion of proposed requirements include an analysis of their impact, Mr. Scandlen said. Seventeen states now require impact analysis, he said.

Requiring the analysis makes those states less likely to require insured health care plans to cover additional types of treatment, BC/BS says. Impact assessments can blunt the lobbying edge enjoyed by advocates of mandatory benefits, the group adds.

Legislatures in several other states are expected to consider pending bills to require such analysis when they reconvene, said Mr. Scandlen.

States are doing more than turning away from mandated benefits.

This year, seven states also waived existing benefit mandates for small employers—generally those with up to 25 or 50 employees—as a way to encourage them to offer no-frills health plans. Those states were Virginia, Washington, Missouri, Florida, Kentucky, Rhode Island and Illinois (*BI*, Sept. 17; April 2; March 26).

In Illinois, for example, the Small Employer Group Insurance Law applies to firms with 25 or fewer employees that have not provided health coverage in the last year. Companies taking advantage of the exemption from benefit mandates can provide only basic coverage, including coverage for hospital and physician charges and the cost of mammograms for women over age 35.

Under the Illinois law, insurers also are allowed to offer incentives for workers to go to certain hospitals or doctors, but cannot require them to do so.

Oregon earlier adopted a similar law and Maine has begun a similar pilot program, Mr. Scandlen said.

These legislative trends demonstrate that state legislators are taking a more realistic approach to the intertwined problems of making care affordable and accessible, said Jim Kinder, executive vp of the Self-Insurance Institute of America in Santa Ana, Calif., which represents employers that self-insure their health care benefits.

"The amount of mandated benefits that become law is strictly a part of the political process and lobbying efforts for providers," he contends.

It is also a reflection of the needs of individuals who want coverage for specific problems, trade groups say.

The Illinois law "is a very positive sign from a number of legislators that they are starting to understand the message that every time you mandate you're pricing someone out of the market," said Pamela D. Mitroff, director-health policy for the Illinois State Chamber of Commerce.

"There will be no more mandated benefits in Illinois until the federal law changes," said Larry Barry, president of the Illinois Life Insurance Council, a trade group for both life and health insurers.

"It establishes by legislation a level playing field," said Robert Steil, senior counsel with the Health Insurance Assn. of America in Chicago.

Support for curbing benefit mandates was far from unanimous, even in Illinois. The measure passed during the hectic closing days of the session with only a few votes to spare, Ms. Mitroff noted.

Legislators debated the actual effect of the bill and questioned whether it would excessively restrict legislators' ability to make law, Ms. Mitroff said.

They also passed a law requiring insured health care plans that offer mental health coverage to reimburse clinical social workers for their services.

"State policymakers across the board—governors, staff and Medicaid directors—have come to the realization that increasing mandates is ultimately a dead end that has negative consequences," said Mr. Scandlen of BC/BS.

"Many of the commonly mandated benefits significantly increased the price of family coverage," claims the HIAA in a recent paper.

Mandating chemical dependency treatment coverage, the HIAA said, increased premiums for family coverage by 8.8%; requiring coverage for routine dental services increased premiums by 15%; and requiring coverage for psychologist visits hiked premiums by 11.8%.

The HIAA study was based on data from 1981 to 1984, which was the period covered by the latest Bureau of Labor Statistics Employee Benefits Survey data used in the researchers' statistical model.

However, the HIAA researchers found that a few benefit mandates actually decreased premiums, often by substituting less expensive care for more costly care. For example, mandating coverage for home health care reduced premiums for family coverage by 3.2%, while mandating coverage for stays in extended care facilities cut premiums by 3.5%.

State benefit mandates may also encourage firms to self-insure, according to the survey by the health insurer trade group. The HIAA estimates that 51% of the firms that converted to self-insurance between 1981 and 1984 would not have done so had there not been state benefits mandates.

However, Mr. Kinder of the Self-Insurance Assn. of America disagrees.

He cited a Self-Insurance Education Foundation survey last year, which found that 77% of self-insured employers cited their desire to control health care costs as the reason for switching to self-insurance. Only 2% of the self insurers said switching from insured plans to avoid state benefit requirements was their primary motivation.

However, Mr. Kinder still is opposed to state benefit mandates.

"To mandate benefits is not to increase access to health care but to reduce it because of the funding issue," Mr. Kinder said.

"I can't go to a conference dealing with the uninsured without the issue being generally accepted that mandates, for whatever good they do, have unintended consequences in making coverage less affordable," agreed Mr. Scandlen, adding that the issue "is a tightrope."

States now generally are receptive to limiting or abolishing benefit mandates because they find themselves "between a rock and a hard place," said Diana Reace, a consultant in the research group of Hewitt Associates in Lincolnshire, Ill.

On one hand, federal authorities are expanding the benefits that state-funded Medicaid programs must offer. On the other, taxpayers are balking at higher taxes, she said.

So legislators are more willing to consider alternatives like relaxing benefit mandates to encourage small employers to cover low-paid employees who would otherwise resort to Medicaid, observers say.

Nearly three-fourths of the 37 million uninsured Americans have a family member in the workforce, the HIAA reports.

With states more receptive to employer and insurer arguments against mandated benefits, all sides should "work together before legislators impose something draconian, like universal health insurance," said Ms. Mitroff of the Illinois Chamber of Commerce.

Relaxed benefit requirements in the short term may prove only a temporary lull if states ultimately require universal health care coverage, she added.

A business-supported group—the Partnership on Health Care and Employment—estimated earlier this month that 630,000 to 3.5 million workers "will likely lose their jobs if mandated employer health insurance legislation is enacted."

The study analyzed an insurance package based on core benefits included in a proposal that would require employers to offer health care coverage that was passed by the U.S. Senate Labor and Human Resources Committee last year (*BI*, July 17, 1989). ■

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Age bias bill

Continued from page 3

providing the reduced benefit was equal to the cost of providing greater benefits to younger workers.

The Supreme Court, though, said an employer need not demonstrate a legitimate cost justification in order to reduce or deny employee benefits based on age. The justices said that when Congress passed ADEA, it "left the employee benefit battle for another day."

The original Betts legislation, introduced last year after the Supreme Court decision, originally did more than restore the so-called equal benefit/equal cost rule.

It suggested that features common to early retirement incentive programs or window plans, such as subsidized early retirement benefits, would have to be offered on a permanent basis for a window plan to be lawful.

For example, under a common type of window plan, a company may waive its normal practice of making an actuarial reduction in defined benefit pension benefits for workers who retire before age 65. Instead, the early retiree would receive pension benefits as if he or she were 65.

Such sweetened benefits typically are only offered for a limited period of time—like a two- to three-month period—to encourage older workers to retire in order to reduce overstaffing.

Companies would have been reluctant to offer such window plans if the subsidies they offered as an incentive to early retirement would have to be offered on a permanent basis, benefit consultants said.

But the final bill, to the relief of employers, no longer suggests that early retirement subsidies have to be provided permanently for a window plan to be legal.

In addition, a much criticized provision in the earlier legislation that could have exposed employers offering window plans to a torrent of litigation has been altered—to the benefit of employers.

Under that provision, a window plan only would have been considered bona fide if it "furthered the purposes" of ADEA.

Benefit experts earlier noted that the nature of window plans—encouraging older workers to retire—put them at odds with a major, clearly defined ADEA goal: encouraging the employment of older workers.

As a result, experts didn't see how window plans could comply with this vague standard.

The final bill, though, says window plans will be bona fide if they are consistent with the "relevant purpose or purposes" of ADEA.

Specific examples included in the legislation of window plans that would be considered bona fide include:

- A plan that offers a specific dollar amount for employees above a certain age.

For example, a pension plan might normally provide a pension benefit of $20 a month for each year of service. To encourage workers over age 50 to retire, a window plan could provide a benefit equal to $25 a month per year of service for those workers.

- Giving employees additional service or age credit for pension calculation purposes. For example, an employee who has reached age 55 might be credited with an additional five years of service toward calculating pension benefit.
- A plan that provides a so-called Social Security bridge benefit. Under such an arrangement, an employer provides a special supplement benefit until an early retiree is entitled to full Social Security benefits.

Benefit consultants say that the most widely used window plans will be considered bona fide under the final legislation.

"Most plans will pass muster as long as they are truly voluntary," said Mark Arian of Hewitt Associates in Bedminster, N.J.

However, the legislation makes clear that one feature in some window plans that has been the subject of numerous legal challenges by workers and retirees will be unlawful. Under such an arrangement, employers offer window plans to employees between certain ages, like employees between age 50 and 60.

Under the final legislation, window plans cannot have an upper age limit. For example, a window plan only could be offered to a group of employees over age 50.

Benefit experts say the number of window plans with upper age limits has been decreasing due to legal challenges.

"These plans had been suspect," noted Mr. Arian.

The final legislation also will add administrative burdens to certain employers offering window plans.

Currently, many employers ask employees to voluntarily waive their rights to file an ADEA claim as part of agreeing to retire under a window plan.

However, under the legislation, such waivers, to be considered voluntary and legal, would have to include information like the groups of employees to whom the window plan is being offered, their job titles and the ages of those employees. Typically, employers have not made such personal information available to employees eligible for window plans.

The legislation eliminates the employer practice—also the subject of much litigation—of reducing severance benefits to terminated employers by their pension benefits.

That elimination should have only a minimal impact on employers, since companies were moving away from offsetting severance benefits by pension benefits because of litigation, Mr. Arian said.

However, the final legislation will allow offsets against severance pay in some situations.

For example, a company could offset severance pay by additional or supplemental pension benefits that are triggered by a contingent event unrelated to an employee's age, such as a plant shutdown.

Assume, for example, a company offered a special pension benefit of $100 a month for two years to workers laid off because of a plant closing. The employer could offset the value of the shutdown benefit —$2,400 in this example—against the severance benefit.

In addition, severance pay could be offset or reduced by the value of retiree medical benefits. The amount of the reduction in severance pay would depend on the value of the retiree medical benefits and how long those benefits would be offered.

Under the legislation, retiree medical benefits could be used to offset severance benefits if the package of health benefits offered to terminated employees under 65 is at least comparable to benefits provided under the federal Medicare program. Also, the package of health care benefits available to terminated employees over 65 would have to be one-fourth the value of Medicare to be used to offset severance benefits.

The legislation does not define the value of Medicare benefits.

If the employer agrees to provide retiree health care benefits to terminated employees for a "limited duration," the value of the offset would be $3,000 per year for employees before they reach age 65 and $750 for each year benefits are provided after age 65.

If a company agrees to provide retiree health benefits of "unlimited duration" to terminated employees, the offset could be as much as a total of $48,000 for employees under 65 and $24,000 for employees over 65. ■

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INTERNATIONAL

Britain to get tough with polluters

Paper details government plan

By CAROLYN ALDRED

LONDON—The British government plans to increase the level of pollution control and monitoring throughout the United Kingdom, while cracking down on polluters by adopting the "polluter pays" principle, according to a policy paper released last month.

The government proposes having potential polluters pay for pollution control by purchasing authorizations or licenses to operate from a state agency.

Officials also propose to tackle past pollution problems by increasing the inspection of old landfill waste sites and undertaking remedial cleanup work. Site owners would be charged for the cost of such work.

Many proposals in the White Paper on the Environment, published Sept. 25 and designed to outline a plan for dealing with environmental problems, are included in legislation currently working its way through Parliament.

Under the new proposals, potential polluters would have to obtain special authorization from Her Majesty's Inspectorate of Pollution, an office created in 1987, before engaging in business that may generate pollution. HMIP would be given increased powers to impose more stringent pollution controls on industry, the policy paper states.

License fees charged to potential polluters would be used to fund much of the increased pollution control and monitoring costs, according to the paper.

However, the government has no plans yet to establish a principle of strict liability for pollution, partly because of the difficulty in obtaining environmental impairment liability insurance. Under British law, negligence must first be proven in civil litigation against parties potentially responsible for pollution.

"Some people have suggested that a system of strict civil liability for environmental damages would increase the incentives on polluters to carry out their activities with a greater degree of care," the paper notes in an appendix.

However, "it might be difficult to obtain insurance for some environmental risks, which could limit the potential for this approach," the White Paper adds.

Despite the British government's reluctance to adopt strict liability, the European Community—of which the United Kingdom is a member—currently is discussing adopting strict liability for pollution, the White Paper notes.

The 292-page paper outlines the government's proposed approach

Continued on page 41

ARIG sees little change in business

By STACY SHAPIRO

MANAMA, Bahrain—Despite the Persian Gulf crisis, "it's 100% business as usual" for the Middle East's largest reinsurer, Bahrain-based Arab Insurance Group (B.S.C.), says a company executive.

Although ARIG is based in Bahrain—an island nation connected to Saudi Arabia by a modern causeway—the company reports few problems related to the Gulf crisis. One exception is the 4% of premiums that came from Iraqi and Kuwaiti risks, said General Manager Nooruddin A. Nooruddin.

Otherwise, "everyone's been very supportive," he said, referring to clients in the Middle East, Asia, Europe and North and South America.

ARIG's capital base of $3 billion, of which $150 million is paid up, reserves of $200 million and surplus of $270 million are intact even though the reinsurer is one-third owned by the Kuwaiti government, he said. The company's two other owners, each holding 33⅓% of the stock, are the governments of Libya and the United Arab Emirates.

The reinsurer's capital and reserves are stated in U.S. dollars. And its investments are made outside the Middle East in instruments like U.S. Treasury bonds and stocks traded in the major international markets, Mr. Nooruddin said.

"So we have little investment in the Middle East as such," he said. "Our policyholder funds are secure."

Despite the United Nations-ordered freeze of Kuwaiti assets overseas begun in August to protect the assets from be plundered by Iraq, foreign governments have not frozen ARIG assets, according to Mr. Nooruddin. "We checked this with different governments and have made sure that our assets are not frozen. . .because it's a Bahrain company, an international reinsurer, and managed by its own executive committee," he said.

Should war break out in the Middle East and Bahrain becomes embroiled in the conflict, ARIG has contingency plans to protect its clients and its future, Mr. Nooruddin said.

"We have always had duplicate records outside Bahrain—mainly

Continued on page 39

Sevillana de Electricidad

Seville, Spain, is hosting Expo '92, which will commemorate the 500th anniversary of Columbus' discovery of the Americas.

Mandatory cover part of preparing for world's fair

By MARIA KIELMAS

SEVILLE, Spain—Although the opening day of Expo '92, the world's fair to be held in Seville, is more than a year off, insurance arrangements for the event are well under way.

Expo '92, which will celebrate the 500th anniversary of Columbus' discovery of America, will begin a seven-month run on March 31, 1992, in Seville, capital of the Spanish province of Andalusia.

More than 80 countries and international organizations will take part and organizers expect a total attendance of 20 million to 30 million people—about 200,000 to 300,000 visitors per day.

Construction of the exposition site has been under way for more than two years and participant pavilions are now being erected in Seville.

Participants are required to purchase a package of insurance for the event. Certain casualty coverages must be purchased from the organizers, while other mandatory coverages can be purchased from other sources or be self-insured.

Spain's largest insurance group, Mapfre Group of Madrid, developed the Expo '92 insurance program and is its lead insurer.

The program is managed by a joint venture between brokerages Gavial Alexander S.A., an affiliate of Alexander & Alexander Services Inc., and Correduria Tecnica Aseguradora S.A., which is partially owned by the Spanish government.

Coverage requirements for participants are stipulated under the Special Regulation No. 6 on Insurance, issued in 1988 by the Spanish government.

Participants are required to buy:

- Comprehensive liability coverage with limits of 10 billion pesetas ($104.1 million at current exchange rates) per occurrence.
- Automobile liability coverage with limits of 600 million pesetas ($6.2 million).
- Visitor personal accident coverage up to 1 million pesetas ($10,290) per person in case of injury and 2 million pesetas ($20,580) per person in case of death.

In addition to the core liability insurance package, several other coverages are required:

- All-risk coverage relating to construction, assembly, installation and dismantling of exhibits.
- Professional indemnity coverage for architects and engineers working on the exhibits.
- All-risk coverage for damage to contents.
- All-risk coverage for transport exposures.

The insurance program divides the exhibition into three periods.

The first, construction and assembly, began in 1987. This phase involved developing the infras-

Continued on next page

Mentor liquidators hope to speed suit

BERMUDA

By ROGER SCOTTON

HAMILTON, Bermuda—The liquidators of Mentor Insurance Ltd. believe a recent court order will enable them to "accelerate" their stalled negligence lawsuit against Mentor auditors KPMG Peat Marwick.

Begun two years ago, the action is part of wider litigation involving Mentor's parent, New Orleans-based Ocean Drilling & Exploration Co., that seeks damages "reflecting the deterioration in Mentor's financial condition since November 1981." After initial skirmishes in the New York Supreme Court, the liquidators served notice on KPMG Peat Marwick offices in Bermuda and New York in May.

Peat Marwick objected to the "form of the statement of claim," yet the accounting and consulting firm "refused to provide any detailed indication" of the objection and instead filed for dismissal of the suit, according to the Mentor liquidators' report, which was released Oct. 1.

After hearing arguments from both sides, the chief justice of the Bermuda Supreme Court on Sept. 6 "acceded to the joint liquidators' application and ordered that Peat Bermuda serve a request for particulars (of the suit) within 14 days," the report said.

The report says the liquidators now have received the Peat Marwick request and are formulating a response, which is expected to expand on the allegations contained in their initial suit.

In addition, Mentor liquidators Charles Kempe and Michael Arnold point out: "The terms of the court order. . .call for Peat Bermuda to file a statement of defense within 21 days of the further particulars being served upon them. The practical effect of this should be to accelerate the progress of the claims being pursued against Peat Bermuda."

The liquidators' suit alleges negligence in the Mentor audits for the years-ended Dec. 31 1981, 1982 and 1983.

The suit claims the accounting practice was also negligent in advising Mentor on the accounting treatment of financial reinsurance contracts the reinsurer had secured with Bermuda-based Pinnacle Reinsurance Ltd. Pinnacle Re is a defendant in a related action by the liquidators.

The Mentor liquidators' recent report, which is intended to set the scene for a Nov. 1 creditors meeting, also says that an amended claims statement is to be served on Ocean Drilling & Exploration Co., Pinnacle and other defendants as of today.

Meanwhile, the liquidators report also notes that creditors at the November meeting will be asked to consider a resolution, put forward by a small group of Mentor's 3,000 creditors, asking the liquidators to seek permission from the Bermuda Supreme Court to discount "all contingent claims and liabilities of the estate of Mentor calculated to Dec. 31, 1988, at a rate of 5% per annum."

These liabilities are expected to exceed $700 million.

Continued on page 40

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INTERNATIONAL

World's fair

Continued from previous page

tructure for the site, such as developing sewage and power works.

The next phase, which is just beginning, includes building participant pavilions and the actual exhibition period.

The third phase involves the dismantling or surrender of premises occupied, which will start after the exposition closes its seven-month run on Oct. 31, 1992.

All participants are required to purchase the comprehensive liability insurance and visitor personal accident coverage from Mapfre, according to Gonzalo Pastor, the insurance manager for the exposition.

For the other mandatory coverages, participants have a choice whether to buy the coverage from Mapfre, other insurance companies authorized in Spain or to self-insure the risk.

According to the exposition's insurance rules, participants are individually assessed for the mandatory casualty coverages according to their level of risk, which is to be assessed by the Expo '92 insurance managers.

Comprehensive liability insurance coverage written by Mapfre has been reinsured largely in the London market, according to Mr. Pastor.

Other policies have been reinsured mainly with companies in continental Europe, according to Expo '92 officials.

Coordinating all the different policies in force is the principal task now facing the Expo '92 insurance managers now, according to Mr. Pastor.

"The main problem is the possibility that there are gaps between the cover for any damages during construction, transport and cover for contents, and how to link all the different policies," says Mr. Pastor.

Exhibition pavilions, which now are starting to be constructed, will be erected on a sand island in the middle of the Guadalquivir River, which flows through Seville.

This island houses the former Cartuja, or Santa Maria de las Cuevas, monastery where Christopher Columbus' remains rested between 1507 and 1537.

Along with being the birthplace of three Roman emperors and the inspiration of 80 operas, the city of Seville controlled a monopoly of trade with the Americas in the 16th century.

All shipments to the Americas from Spain and all goods shipped from the Americas passed through Seville until it was surpassed in 1680 by Cadiz as a pre-eminent port.

Seville's trans-Atlantic history was last celebrated by a similar world fair, the Iberoamerican Exposition in 1929.

However, the stock market crash of that year devastated the exhibition, leaving it an expensive failure. Many pavilions representing Spain and Spanish America were erected around Maria Luisa park in central Seville for that exposition.

Today many of these structures are restaurants, theaters and tourist sights.

According to Mr. Pastor, the experience from the 1929 exhibition can provide little guidance in the insurance sphere today, since the insurance market's capacity and the public's consciousness of risk and insurance are immeasurably greater. ■

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INTERNATIONAL

Arab reinsurer

Continued from page 37

in London—so in case of a crisis we could put the company back together," he said.

"We have 22 nationalities represented in ARIG and we can operate anywhere else" if the situation in the region becomes worse.

In particular, ARIG could move its headquarters to its offices in Hong Kong or Tunis, Tunisia, Mr. Nooruddin said.

ARIG could also move its base of operations to London. The company is awaiting its license to write insurance and reinsurance from the British Department of Trade and Industry, Mr. Nooruddin pointed out.

ARIG applied for a license earlier this year for its new London branch, which was launched with 25 million pounds ($49.1 million) in capital, according to Mr. Nooruddin.

However, "I personally believe that nothing will happen in Bahrain" during the conflict, he said.

"There's a big deterrent now," he said, referring to the U.S.-led military force in Saudi Arabia.

"If war flares up, we don't think Bahrain will be (one of) the arenas of conflict. But in case it is," ARIG won't be affected much, Mr. Nooruddin stressed.

ARIG was established in Bahrain in 1980 and began underwriting business in 1981 "as an international reinsurer," Mr. Nooruddin said.

'I personally believe that nothing will happen in Bahrain' during the conflict, Mr. Nooruddin says.

The company's shareholders—Libya, Kuwait and United Arab Emirates—each appointed two board members. The chairman of ARIG is Abdul Whab al Tammar, former governor of the Central Bank of Kuwait.

Before ARIG was established in 1981, the Middle East had no large insurers or reinsurers writing international business, said Mr. Nooruddin.

The primary objective in establishing the company was to create an Arab-owned company that would operate on an international level as a professional reinsurer, Mr. Nooruddin noted. This also allows development of Arab reinsurance expertise, he explained.

Shareholders chose Bahrain as the company's headquarters because the country is an offshore center in the Middle East with no direct corporate taxation, Mr. Nooruddin said.

When ARIG was opened for business, "it created certain waves" in the international reinsurance world—particularly in London—because of the size of its authorized capital, he said.

But the company slowly entered the market "and made sure it worked with the London market rather than against it.

The company today enjoys a reputation of being a respected, responsible reinsurer," Mr. Nooruddin added.

Last year, ARIG reported gross written premiums of $155 million and $95 million in earned premiums. Between 25% and 27% of ARIG's business originated in the United States; 20% in Europe; 22% in the Middle East; and 15% in Asia.

Nearly all of the coverage it writes is reinsurance. Less than 40% of its business is composed of aviation and offshore/onshore oil risks. The rest is in other classes of business, particularly engineering risks, according to Mr. Nooruddin.

Some of ARIG's Middle Eastern business from nations other than Iraq and Kuwait has been affected by the Persian Gulf tensions because construction and investment in that part of the world has dropped off since the conflict began, said Mr. Nooruddin.

"But overall, there won't be much effect on the company," Mr. Nooruddin added.

If ARIG does show a decline in premium volume this year, it will be because of the overcapacity in the world's reinsurance markets and not because of the Iraqi invasion of Kuwait, he emphasized.

"The reinsurance business is going through a difficult time worldwide," said Mr. Nooruddin. "If ARIG has a reduction in premium, it will be due to the cycle, not the crisis."

He noted that in the aviation insurance market—where ARIG is a major player—airline premiums have fallen 60% from what was paid in 1986.

"That's huge," Mr. Nooruddin said, and "as long as there's overcapacity, rates will continue to drop. I hope some sense will come to the market next year." ■

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BERMUDA

Continued from page 37

The liquidators, who are preparing to pay Mentor's first interim cash dividend "during or before 1992," said earlier this year that discounting will help avoid "an injustice to those creditors whose claims were mature" as of the June 21, 1985, winding up order. They added that the market value of the claims should be determined as of that date.

In their report, however, the liquidators said that, pending court approval, they will agree to discounting as of Dec. 31, 1988, a date at which creditors' claims were calculated for the purposes of an earlier claims filing deadline. But, they stressed in their report that "the issue is one for the court to decide."

A Bermuda Supreme Court hearing on the matter is scheduled for Dec. 10.

The liquidators' report says that creditors who disagree with either the suggested date or the percentage rate of discounting can "apply to the court to state their preference and reasons before a ruling is handed down."

Stockholm Re

Stockholm Re (Bermuda) Ltd. has acquired a controlling stake in HJF International Ltd., an independent Bermuda insurance and reinsurance brokerage.

The purchase, which was made for an undisclosed sum, gives Stockholm Re (Bermuda) an 80% stake in HJF International, with the remaining 20% split evenly between the brokerage's founding directors, Michael Jenkins and Michael Foulger.

The deal marks the end of HJF International's affiliation with Lloyd's of London broker Blackwall Green, which had held a 60% stake in the Bermuda firm.

Stockholm Re (Bermuda) is the former National Underwriters (Reinsurance) Ltd., which was acquired by Sweden's Stockholm Reinsurance Co. Ltd. in early September.

The HJF International acquisition makes us a more complete organization," said Stockholm Re (Bermuda) President and Chief Executive Jim Parkinson.

He previously was chief executive of National Underwriters (Bermuda).

"We had underwriting, an underwriting agency and captive management operations and we now have a brokering unit," observed Mr. Parkinson.

Mr. Parkinson said Messrs. Jenkins and Foulger will remain with HJF International as executive vps.

He added that the firm would not change its name because it had built up a strong reputation as a reinsurance intermediary for smaller U.S. brokerages.

HJF International will "continue to concentrate in the areas of excess umbrella liability, directors and officers liability, captive and financial reinsurance programs," said Mr. Parkinson.

Mr. Foulger, who formerly worked for Frank B. Hall & Co. before co-founding the Bermuda brokerage, said he welcomed the new affiliation with Stockholm Re (Bermuda).

"We're happy to be a part of a far more substantial organization," he said.

The purchase will let HJF International draw on a much wider range of services and, by being part of the Swedish-owned group, will enjoy the benefits of "an expanded European horizon," Mr. Foulger said.

Losing its link with Lloyd's broker Blackwall Green will not hurt the company, he said, because the Bermuda firm specializes in U.S. business.

The HJF International deal closely follows the reorganization of the former National Underwriters (Bermuda), which was acquired and re-named by Stockholm Re in September.

National Underwriters was a subsidiary of National Employers Mutual General Insurance Assn., a U.K. insurer that collapsed earlier this year (*BI*, May 21).

NEMGIA held a 55% stake in the Bermuda company, while Stockholm Re's parent, Swedish insurance group Lansforsakringbolagens AB, held 39% of the Bermuda firm, and the remaining 6% was held by Bermuda insurer Colonial Insurance Ltd.

National Underwriters' captive management firm, Regatta Management Ltd., also was re-named after the acquisition, becoming Stockholm Management Ltd.

"We now have one owner instead of three," said Mr. Parkinson. "I think everyone is happy with that, especially those leading brokers who used to say we were acceptable only for the short-tail business," he added.

"The market likes to see one respectable owner, especially if you're in a small jurisdiction like Bermuda," said Mr. Parkinson.

"I think we're going to be seeing everything now and that's got to be good news, coming as it does at the start of the renewal season. The timing is perfect for us," Mr. Parkinson added.

Meanwhile, Stockholm Re (Bermuda) has increased its share capital to $20 million and Mr. Parkinson said he expects the $32 million in property and marine premiums written in 1989 by the company to rise 25% to 30% this year. New business and higher rates would contribute to such growth, Mr. Parkinson said.

Mutual Fire suit

Lawyers representing the insolvent Mutual Fire, Marine & Inland Insurance Co. have begun proceedings in Bermuda Supreme Court to try to force a Philadelphia-based company to cover claims filed against its failed Bermuda reinsurance subsidiary.

Mutual Fire's action is designed to obtain evidence that the insolvent Norad Reinsurance Co., a Berwind Corp. unit, was effectively controlled from the Philadelphia offices of its parent company.

Norad acted as a reinsurer and retrocessionaire for Mutual Fire, which has been in rehabilitation since 1985.

The rehabilitator of Mutual Fire, Pennsylvania Insurance Commissioner Constance Foster, is suing Berwind in U.S. District Court for the Eastern District of Pennsylvania. Mutual Fire is seeking about $25 million from Berwind for losses it suffered when Norad went into liquidation in October 1988 (*BI*, Jan. 23).

"We're holding Berwind responsible for Norad's obligations to Mutual Fire. We are hoping to pierce the corporate veil and we're going to be seeking depositions and documents we believe are available to us in Bermuda," said Ralph Jacobs, an attorney with the Philadelphia firm of Hoyle, Morris & Kerr, who represents Mutual Fire's rehabilitator. ■

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Pollution paper

Continued from page 37

to solving environmental problems.

"The White Paper maps out the main areas of environmental concern and the measures which the government is adopting to deal with them in the United Kingdom, in the European Community and in the world at large," said Chris Patten, the U.K. secretary of state for the environment.

Topics range from population control in poor nations to possibly requiring more environmental education in British schools.

Although it includes many issues that would affect industry in Britain, "the government is anxious to consult the business community at every stage, and to take full account of the implications for business," the paper says.

"The government will proceed sensibly, at a pace which the United Kingdom can afford and which matches progress in other countries," said Mr. Pattern.

Many measures outlined in the document are included in the Environmental Protection Bill, which is due to be debated soon by Parliament.

This proposed legislation introduces a system of "integrated pollution control," or IPC, which incorporates a series of objectives that are outlined in the White Paper. These objectives include:

- Prevent pollution at its source.
- Minimize the health and environmental risks of pollution.
- Encourage and apply the most advanced technical solutions to prevent pollution.
- Assess maximum levels of pollutant that local environments can tolerate.
- Ensure that the polluter pays for controls needed to prevent future pollution.

The IPC approach "will be applied to the most polluting industrial processes which have the potential to cause the most harm to man and the environment," the White Paper states.

As a first step toward IPC, the government formed Her Majesty's Inspectorate of Pollution in 1987, combining three existing inspectorates—concerning industrial air pollution, radioactive substances and hazardous waste—with a newly created water pollution inspectorate called the National Rivers Authority.

"HMIP in England and Wales will control releases to air, water and land from the most polluting industrial processes," the White Paper says.

The government proposes "to strengthen HMIP's position" by increasing its status to a separate government agent that would have "an enhanced status and a clearly separate identity, which should strengthen its authority in controlling pollution," the White Paper explains.

"Potential polluters must curb the creation and discharge of wastes by applying the best available techniques which do not entail excessive cost," the White Paper states. Anyone wishing to operate a process that is subject to pollution control would have to obtain prior authorization from HMIP's chief inspector, who would set specific conditions that the operator must meet.

Meanwhile, "potential polluters will have to pay for this control system" and HMIP would "recover the bulk of the costs of operating" the pollution control by charging for the authorizations.

HMIP is preparing guidance papers for inspectors on how to enforce the environmental protection legislation, as well as how to control the most polluting industrial processes, according to the White Paper. These would cover about 5,000 industrial installations in the United Kingdom, the government says.

"The environmental protection bill radically overhauls British pollution control systems," the White Paper states.

"It introduces tighter environmental controls and stiffer penalties; it strengthens the power of HMIP and local authorities to control pollution; and it ensures for the first time that the public will have a systematic right of access to environmental information, including documents concerning authorizations," the paper explains.

The environmental protection bill would also toughen existing legislation concerning the disposal of waste.

The bill for the first time imposes a duty of care on all those involved in the waste disposal chain to ensure that waste is disposed of safely. A breach of this duty would be a criminal offense, the White Paper points out, although it does not specify the severity of the penalty.

The bill also imposes a new duty of aftercare, where license holders would continue to be responsible for sites once "tipping," or waste dumping, activities have ceased until "they are able to demonstrate that there is no continuing risk of environmental harm and they will be responsible for restoring and cleaning up the site," the White Paper explains.

On pollution cleanups, Britain will proceed 'at a pace which it can afford,' says Chris Pattern.

Local authorities who would be responsible for waste site regulation would be able to charge for waste management licences and recover costs associated with monitoring and inspection, and the authorities would also have a "new duty to monitor and inspect old landfill sites, to undertake remedial work where necessary and to charge site owners for the costs," according to the White Paper.

"The environmental protection bill's new duty of care will encourage an environmentally conscious approach to waste disposal. Every producer will now have to take as much care to what happens to its waste as it does to its consignments of its products," the White Paper states.

By charging site owners for the costs of licensing and inspection, the authorities would have adequate resources to carry out their responsibilities effectively, the White Paper maintains.

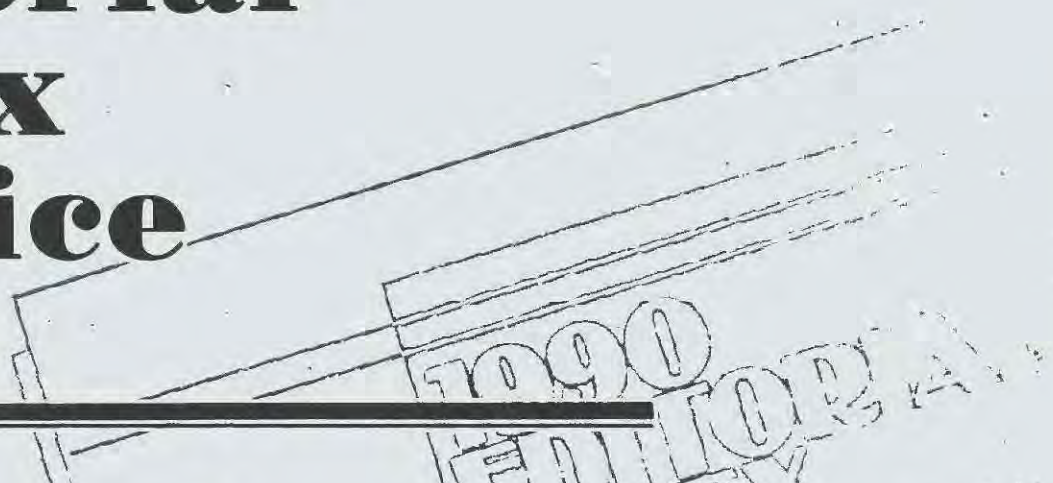
However, "Britain, like other industrialized countries, has to cope with the legacy of past waste disposal practices when authorities were less aware of the potential hazards," the White Paper adds.

"Some old landfill sites which contain poisonous wastes may leak and contaminate soil or water supplies in the surrounding area. Some are emitting methane gas, which carries the risk of explosion," the paper points out.

Local authorities and industry are starting a program of remedial work at up to 1,000 such old sites, the paper notes.

"The government has earmarked 33 million pounds ($64.7 million at current exchange rates) for 1990/91 to tackle these problems. WRAs will be monitoring especially those sites where past standards were inadequate," the paper adds. ■

Editorial Index Service 1990



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Cleanups

Continued from page 3

pany won this case, it may have inadvertently created a precedent that ultimately aids policyholders.

"The insurance company won the battle, but lost the war," quipped policyholder attorney Edward Joyce of Anderson, Kill, Olick & Oshinsky in New York.

"The 1st Circuit's extended discussion regarding whether potentially responsible party letters are 'suits' is very favorable to policyholders because it recognized that a traditional lawsuit is not necessary for a 'suit' and because it recognized that many types of communications from federal and state agencies are 'suits' for coverage purposes," he said.

The decision also benefits policyholders because it recognizes that the reasonable expectations of the policyholder should be met, added Mr. Joyce, who represented the policyholder in this case.

Most policyholders expect their insurers to provide a defense when they receive a so-called PRP letter from a government agency, he said.

Furthermore, most potentially responsible party letters would be sufficiently adversarial under the 1st Circuit standard, said Mr. Joyce.

However, Walter Mugdan, deputy regional EPA counsel, contends that most letters from the federal agency would not be adversarial. "The general notice letter doesn't necessarily threaten specific action against a PRP," he said.

Nonetheless Mr. Mugdan personally favors making PRP letters trigger coverage. "The serious transaction costs start almost immediately upon receipt of a notice letter," he said.

Insurer attorney Thomas Brunner characterized the 1st Circuit ruling as "pro-insurer."

"Most PRP letters would not trigger coverage under this decision," said Mr. Brunner of Wiley, Rein & Fielding in Washington.

"This ruling undercuts the suggestion of policyholders that they can go running for an insurer-provided defense the moment they receive an inquiry from the government," he said.

In addition, the fact that some policyholders may be able to use this ruling to obtain a defense from their insurers does not mean there will be duty to indemnify, stressed Kenneth P. Borden, an attorney with Higgins, Cavanaugh & Cooney in Providence, R.I., who represented Royal. The duty to defend is much broader than the duty to indemnify.

Furthermore, many courts nationwide have held that only a judicial proceeding triggers the duty to defend, added insurer attorney Mr. Brunner, who filed an amicus curiae brief in the case on behalf of the Insurance Environmental Litigation Assn., which represents insurers in pollution coverage litigation.

In fact, in its decision, the 1st Circuit recognized that both state and federal courts nationwide are split over interpreting the word "suit" in liability policies.

Specifically, the court looked at a New York appellate court decision that found a federal agency's letter did not trigger the duty to defend and the 2nd U.S. Circuit Court of Appeals' decision finding that a state agency's letter did trigger the duty to defend.

In the New York appellate court case, the court found that a letter from the U.S. Environmental Protection Agency designating a policyholder as a potentially responsible party for a waste site was not a "suit" sufficient to trigger the duty to defend (*BI*, Dec. 5, 1988).

The New York appellate court said the EPA letter at issue merely informed the policyholder of its potential liability under the Comprehensive Environmental Response, Compensation and Liability Act and that "the EPA was interested in discussing voluntary participation in remedial measures. The letter was an invitation to voluntary action on (the policyholder's) part and is not the equivalent of the commencement of a formal proceeding within the meaning of the subject comprehensive general liability policies."

Thus, the New York appellate court found the insurer had no duty to defend.

This decision was affirmed by the New York Court of Appeals, the state's highest court, but on the grounds that the policy's pollution exclusion precluded coverage (*BI*, July 10, 1989). The state high court did not address whether the EPA letter constituted a "suit."

In contrast, the 2nd Circuit, interpreting New York law because the policyholder had been a subsidiary of a New York company, found that a letter from the Louisiana Department of Environmental Quality to a New Orleans policyholder constituted a "suit" for the purposes of triggering coverage.

The 2nd Circuit focused on the adversarial nature of the agency's letter.

The 2nd Circuit noted that the letter from the Louisiana department was more than an invitation to to voluntarily participate in the cleanup. The letter was rather a "coercive demand letter" compelling the policyholder to clean up the site.

The letter is "sufficiently adversarial to constitute a suit under

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Sub-total	**25,592**
Associations	511
Government, Unions and Educational Institutions	1,289
Commercial Consumers	
Sub-total	**27,392**
Insurance Agents and Brokers	9,815
Insurance Companies	7,891
Accountants, Actuaries, Attorneys & Consultants	3,377
Adjusters, Appraisers, TPA's, Captive Managers & Health Care Providers	1,218
Others Allied to the Field	1,693
TOTAL	**51,386**

* Source Business/Occupational breakdown of qualified circulation, May 28, 1990 issue, as submitted to BPA for June 1990 BPA Publisher's Statement.

Continued from previous page
New York law and within the meaning of the policy," the 2nd Circuit held.

Despite the differences between the New York appellate court decision and the 2nd Circuit's decision, the 1st Circuit found that these two decisions and others like them have a common denominator.

"All of them stand for the proposition that, to find agency conduct to have created a suit counterpart sufficient to trigger the duty defend under New York law, there must be some cognizable degree of coerciveness or adversariness in the administrative body's actions," the 1st Circuit said.

Thus, the court said that those government agency letters with the requisite level of coerciveness would trigger coverage.

The court then applied its reasoning to the facts of the case before it.

In this case the policyholder, the Ryan, Klimek, Ryan Partnership, leased property that was used to conduct metal plating and painting operations. A fire at the plant left the property contaminated with trichloroethylene and other hazardous chemicals.

Ryan hired an environmental consultant to study the site and voluntarily forwarded copies of the report to the New York Department of Environmental Conservation and the EPA.

The New York department responded by saying that it was going to place the property on its list of waste sites and asked the policyholder to submit a cleanup plan. However, the department did not demand that Ryan clean the property.

The EPA did not respond to the policyholder's submission of the environmental study, according to court papers.

Ryan then asked its comprehensive general liability insurer to provide a defense to the state agency proceedings.

Royal wrote CGL coverage for Ryan from 1974 to 1987, with limits of about $1 million each year.

Royal not only denied Ryan's claim, but it also canceled the policy.

Shortly thereafter, one of the Ryan partners based in Rhode Island filed this lawsuit in U.S. District Court claiming that the letters from the New York department triggered Royal's duty to defend.

The U.S. District Court in Rhode Island disagreed, ruling the insurer did not have a duty to defend because the New York department's letters never "rose to the level of (making) coercive, adversarial demands."

The 1st Circuit affirmed this decision, saying the letters from the New York department were "conciliatory rather than belligerent."

The letters "patently lack any significant indicia of adversariness. . . .No mention is made of a 'demand' or an 'order,' " said the court.

Ryan's attorney, Mr. Joyce, criticized the 1st Circuit ruling, saying it could encourage policyholders that receive conciliatory letters from governmental agencies to sit back and wait for a more hostile follow-up.

"The whole purpose of CERCLA is to get people to step forward," Mr. Joyce pointed out. This ruling contradicts that purpose in that it "will encourage policyholders to wait for a more coercive letter."

Mr. Mugdan of the EPA said the federal agency usually will not send a second letter. "If we invite PRPs to the bargaining table and they refuse we usually give them a second bite at the apple."

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Maury A. Ryan et al., dba Ryan, Klimek, Ryan Partnership vs. Royal Insurance Co. of America Inc., U.S. Court of Appeals for the 1st Circuit; No. 90-1217.

Datebook

OCTOBER

OCT. 22-24. Environmental Regulation Course in Philadelphia, sponsored by Executive Enterprises Inc.; $1,045. **Also Oct. 31-Nov. 2** in Honolulu. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

OCT. 23. Flex 2000 Conference in Houston, sponsored by the Employers' Council on Flexible Compensation; $185 for ECFC members; $195 for non-members. **Also Oct. 30** in Pittsburgh. ECFC Conference Center, Dept. 5063, Washington, D.C. 20061-5063; 202-659-4300.

OCT. 22. Contractual Risk Transfer seminar in Chicago, sponsored by the International Risk Management Institute Inc.; $235. Seminar Coordinator, International Risk Management Institute, 12222 Merit Drive, Suite 1660, Dallas, Texas 75251; 800-827-4242.

OCT. 22. Surety Bonding seminar in Chicago, sponsored by the International Risk Management Institute Inc.; $235. Seminar Coordinator, International Risk Management Institute, 12222 Merit Drive, Suite 1660, Dallas, Texas 75251; 800-827-4242.

OCT. 22. Construction Insurance Cost Control seminar in Chicago, sponsored by the International Risk Management Institute Inc.; $235. Seminar Coordinator, International Risk Management Institute, 12222 Merit Drive, Suite 1660, Dallas, Texas 75251; 800-827-4242.

OCT. 22. Construction Insurance Primer seminar in Chicago, sponsored by the International Risk Management Institute Inc.; $235. Seminar Coordinator, International Risk Management Institute, 12222 Merit Drive, Site 1660, Dallas, Texas 75251; 800-827-4242.

OCT. 22-23. American Assn. of Insurance Services Fall Conference in San Antonio, Texas; $375. AAIS, 1035 S. York Road, Bensenville, Ill. 60106; 708-595-3225.

OCT. 22-23. Fourth Annual National Disability Management Conference and Trade Show in Miami, co-sponsored by the Washington Business Group on Health, Institute for Rehabilitation & Disability Management and Thomas L. Jacobs & Associates; $325 for WBGH members; $300 each for three or more member registrants from the same company; $400 for non-members; $375 each for three or more non-member registrants from the same company. Washington Business Group on Health, 777 N. Capitol St. N.E., Suite 800, Washington, D.C. 20002; 202-408-9320.

OCT. 22-24. Environmental Regulation Course in Philadelphia, sponsored by Executive Enterprises Inc.; $1,045. **Also Oct. 31-Nov. 2** in Honolulu. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

OCT. 22-25. Introduction to Infrared Thermography and Infrared Non-Destructive Inspection course in Dallas, sponsored by American Risk Management Corp.; $950; reduced rates for three or more attendees from the same company. Jim Armstrong, American Risk Management Corp., 1 Independence Place, Suite 500, 4807 Rockside Road, Cleveland, Ohio 44131; 800-882-5528 or 216-447-1600.

OCT. 22-25. 10th Annual Construction Insurance Conference in Chicago, sponsored by the International Risk Management Institute Inc.; $725. International Risk Management Institute, 12222 Merit Drive, Suite 1660, Dallas, Texas, 75251-2217; 214-960-7693.

OCT. 22-26. Fundamentals of Employee Benefits Management course in Brookfield, Wis., sponsored by the International Foundation of Employee Benefit Plans; $1,000 for IFEBP members; $1,125 for non-members. IFEBP, Registration Department, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

OCT. 23. The Future of Employee Benefits presentation in Skokie, Ill., sponsored by WEB; $18. Yvonne Hurlbutt, 708-405-7413; or Joyce Dickerson, 708-405-6091.

OCT. 23. Lessons from Hurricane Hugo, California Earthquake seminar in Atlanta, sponsored by the Inland Marine Underwriters Assn.; $50. Sandra McDaniel, Chubb & Son, Atlanta; 404-266-4000.

OCT. 23. Flex 2000 Conference in Houston, sponsored by the Employers' Council on Flexible Compensation; $185 for ECFC members; $195 for non-members. **Also Oct. 30** in Pittsburgh. ECFC Conference Center, Dept. 5063, Washington, D.C. 20061-5063; 202-659-4300.

OCT. 23. Punitive Damages-Implications for Insurers conference in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; 250 pounds ($486) plus 15% VAT. Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

OCT. 23-24. Environmental Regulation Course in Toronto, sponsored by Executive Enterprises Inc.; $1,045. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

OCT. 23-25. Contract Works and Construction Liabilities course in London, England, sponsored by Insurance & Reinsurance Research Group Ltd.; 540 pounds ($1,050) plus 15% VAT. Joy Bambrough, IRRG Ltd., Bridge House, 181 Queen Victoria St., London EC4V 4DD; 071-236 2175.

OCT. 23-26. Leaking Underground Storage Tank Workshop in Atlanta, sponsored by Georgia Tech Research Institute; $550; $75 for optional exam. Education Extension-R, Georgia Institute of Technology, Atlanta, Ga. 30332-0385; 404-894-2400 or 800-325-5007.

OCT. 23-26. The First World Captive Forum in New York City, cosponsored by Scandinavian Insurance Services Ltd., Skandia America Group and Tillinghast; $900. Eileen Callahan, Conference Director, Tillinghast, 100 Summit Lake Drive, Suite 3S, Valhalla, N.Y. 10595; 914-745-4611.

OCT. 24. Washington Executive Briefing in New York City, sponsored by the New York City Chapter of the Financial Executive Institute; no charge. Alvin H. Fenichel, 787 Seventh Ave., New York, N.Y. 10019; 212-554-4489.

OCT. 24-26. Claims Management course in Scottsdale, Ariz., sponsored by the Risk & Insurance Management Society Inc.; $595 for RIMS members; $695 for non-members; if registered six weeks prior to course, subtract $50. **Also Dec. 5-7** in Charlotte, N.C. Risk & Insurance Management Society Inc., Education Department, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

OCT. 24-26. Financial Aspects of Premium Rate Development course in Miami Beach, Fla., sponsored by the Group Health Assn. of America Inc.; $560 for GHAA members; $660 for non-members; optional primer course: $60 for members; $80 for non-members. GHAA, Dept. 0612, Washington, D.C. 20036; 202-778-3228.

OCT. 25. Insurer Insolvency satellite seminar broadcast to 64 sites, sponsored by the American Bar Assn; $140; $85 for government employees; $65 for law students. ABA-Division for Professional Education, Dept. GAALN, 750 N. Lake Shore Drive, Chicago, Ill. 60611; 312-988-5032.

OCT. 25-26. Financial Reinsurance conference in New York City, sponsored by Executive Enterprises Inc.; $1,045. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

OCT. 25-26. Managing The Costs of Health Care and Employee Benefits conference in Madison, Wis., sponsored by Wisconsin Manufacturers & Commerce; $150 for WMC members, $175 for non-members; Thursday only, $125 for members, $150 for non-members; Thursday evening only, $50 for members, $75 for non-members; Friday only, $75 for members, $100 for non-members. Wisconsin Manufacturers & Commerce, Janet Thorson, P.O. Box 352, Madison, Wis. 53701; 608-258-3400.

OCT. 25-26. Rational Managed Care Participation seminar in Tacoma, Wash., sponsored by Temple University School of Business and Management; $695. **Also Nov. 8-9** in Dallas; **Dec. 13-14** in Williamsburg, Va. Temple University, Center for Healthcare Administration and Finance, School of Business and Management, 393 Speakman Hall, Philadelphia, Pa. 19122; 215-787-8154.

OCT. 25-27. Profit Sharing Council of America's 43rd Annual Conference in Washington, D.C.; $655 for PSCA members; $735 for non-members. Profit Sharing Council of America, Kathleen McHugh, 20 N. Wacker Drive, Suite 1722, Chicago, Ill. 60606; 312-372-3411.

OCT. 26. Health Care Facility Risk Management seminar in Princeton, N.J., sponsored by Smith Insurance Services; $125. Smith Insurance Services, P.O. Box 6509, Lawrenceville, N.J. 08648-0509; 609-895-1414.

OCT. 26. 19th Annual All Industry Day conference in Irvine, Calif., sponsored by the Orange Empire Chapter of The Society of Chartered Property & Casualty Underwriters; $60. Katy Capune, 17264 Citron, Irvine, Calif. 92715; 213-403-2224.

OCT. 26-27. Technology Assessment conference in San Diego, Calif., sponsored by the American Managed Care & Review Assn.; $175 for AMCRA members attending 19th Annual Managed Care Conference and Exhibition; $275 for non-members attending annual conference; $395 for AMCRA members not attending annual conference; $500 for non-members not attending annual conference. AMCRA, 1227 25th St. N.W., Suite 610, Washington, D.C. 20037; 202-728-0506.

OCT. 28-31. 19th Annual Managed Care Conference and Exhibition in San Diego, sponsored by the American Managed Care & Review Assn.; $475 each for first two AMCRA members from the same organization; $356 each for third and fourth; $250 each for five or more; $130 for spouses/guests and students. AMCRA, 1227 25th St. N.W., Suite 610, Washington, D.C. 20037; 202-728-0506.

OCT. 28-31. Asia-Pacific Strategies for the '90s conference in Singapore, co-sponsored by the Risk & Insurance Management Society Inc. and the Risk & Insurance Management Assn. of Singapore; $1,000 Singapore ($563) for risk/insurance managers and academics, $1,500 Singapore ($845) for brokers/insurers and other vendors. Barbara Parker, RIMS, Singapore Conference, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

OCT. 28-NOV. 2. The Management Program seminar in Princeton, N.J., sponsored by The College of Insurance; $1,495 for College sponsors;

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Continued from previous page
$1,695 for non-sponsors. The College of Insurance, Professional Programs, 101 Murray St., New York, N.Y. 10007; 212-964-3381.

OCT. 29. Benefits: A Capital Focus in Washington, D.C., sponsored by WEB; $200 for WEB members; $250 for non-members; $400 for exhibitors. WEB, 1620 I St. N.W., Suite 220, Washington, D.C. 20006; 202-223-2828.

OCT. 29. Managed Flex conference in Arlington, Va., sponsored by Employers Council on Flexible Compensation; $265 for members; $315 for non-members. Employers Council on Flexible Compensation, 927 15th St. N.W., Suite 1000, Washington, D.C. 20005.

OCT. 29-30. Managing Hazardous Substances at Federal Facilities: A Hands on Workshop in Denver, sponsored by Executive Enterprises Inc.; $1,045. **Also Nov. 27-28** in San Diego. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

OCT. 29-30. The International Business Climate in 1991 conference in Washington, D.C., sponsored by Political Risk Services; $695. Political Risk Services, 407 University Ave., Suite 107, Syracuse, N.Y. 13210; 315-472-1224.

OCT. 29-30. Changes in Insurer Data-Reporting Requirements conference in New York City, sponsored by Insurance Services Office Inc.; $450 for ISO member companies; $550 for non-members. Maureen Karon, Assistant Manager, Insurance Services Office, 160 Water St., New York N.Y. 10038; 212-487-4722.

OCT. 29-30. PCB Course: Practical Solutions to Solving PCB Problems in Washington, D.C., sponsored by Executive Enterprises Inc.; $1,045. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

OCT. 29-NOV. 2. Reinsurance Practice course in London, England, sponsored by Insurance & Reinsurance Research Group Ltd.; 825 pounds ($1,603) plus 15% VAT. Joy Bambrough, IRRG Ltd., Bridge House, 181 Queen Victoria Street, London EC4V 4DD; 071-236 2175.

OCT. 30. A Step Ahead workshop in Irvine, Calif., sponsored by the California Chapter of the Public Risk Management Assn.; $30 for PRIMA members; $40 for non-members; $40 at the door. Jeff Stevens, City of Santa Ana Risk Management, M-28, P.O. Box 1988, Santa Ana, Calif. 92702; 714-647-5470; 714-647-5476.

OCT. 30-31. Health Care conference in Carrollton, Texas, sponsored by Texas Business Group on Health; $185 for members, $225 for non-members. Dallas Business Group on Health, P.O. Box 116807, Carrollton, Texas 75011-6807; 214-436-0617.

OCT. 31-NOV. 1. State Issues Forum in San Diego, co-sponsored by the California Assn. of HMOs and the American Managed Care & Review Assn.; $50 for AMCRA and CAHMO members; $75 for non-members. Sandra Drury; AMCRA, 1227 25th St. N.W. Washington, D.C. 20037; 202-728-0506.

NOVEMBER

NOV. 1. Insurance Procurement & Negotiations seminar in New York City, sponsored by the American Management Assn.; $525 for AMA members; $575 for non-members. American Management Assn., P.O. Box 319, Saranac Lake, N.Y. 12983; 518-891-0065.

NOV. 1. Qualified Plan Compliance under Current Non-discrimination Rules and Guidance satellite broadcast to more than 60 cities, sponsored by the American Law Institute-American Bar Assn.; $140. ALI-ABA Committee on Continuing Professional Education, 4025 Chestnut St., Philadelphia, Pa. 19104; 800-253-6397; 215-243-1661.

NOV. 1. Managed Health Care: A Guide to Evaluating and Selecting a Direction for Your Company conference in Boston, sponsored by the New England Employee Benefits Council; $90 for members; $125 for non-members. Linda Price, New England Employee Benefits Council, 45 William St., Suite 225, Wellesley, Mass. 02181; 617-239-1767.

NOV. 1-2. Insurance Claims for Environmental Damages course in Washington, D.C., sponsored by Executive Enterprises Inc.; $1,045. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904.

NOV. 1-2. Environmental Technology Regulation Conference in Washington, D.C., sponsored by Executive Enterprises Inc.; $1,045. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

NOV. 2. Insurer Symposium, a Case Review and Claims Workshop in Chicago, sponsored by the law firm of Hinshaw, Culbertson, Moelmann, Hoban & Fuller; no charge. Nancy P. Roberts, 222 N. La Salle St., Suite 300, Chicago, Ill. 60601-1081; 312-704-3330.

NOV. 2. Establishing an Effective Claims Management Program seminar in New York City, sponsored by the American Management Assn.; $525 for AMA members; $575 for non-members. American Management Assn., P.O. Box 319, Saranac Lake, N.Y. 12983; 518-891-0065.

NOV. 5. Eastern States Conference on Corporate Initiatives for a Drug Free Workplace in New York City, sponsored by Hoffmann-La Roche Inc.; $200. Paula Evangelista-Frakes, Hoffmann-La Roche Inc., 201-235-5929; or Christine Stampar, Public Communications Inc., 312-558-1770.

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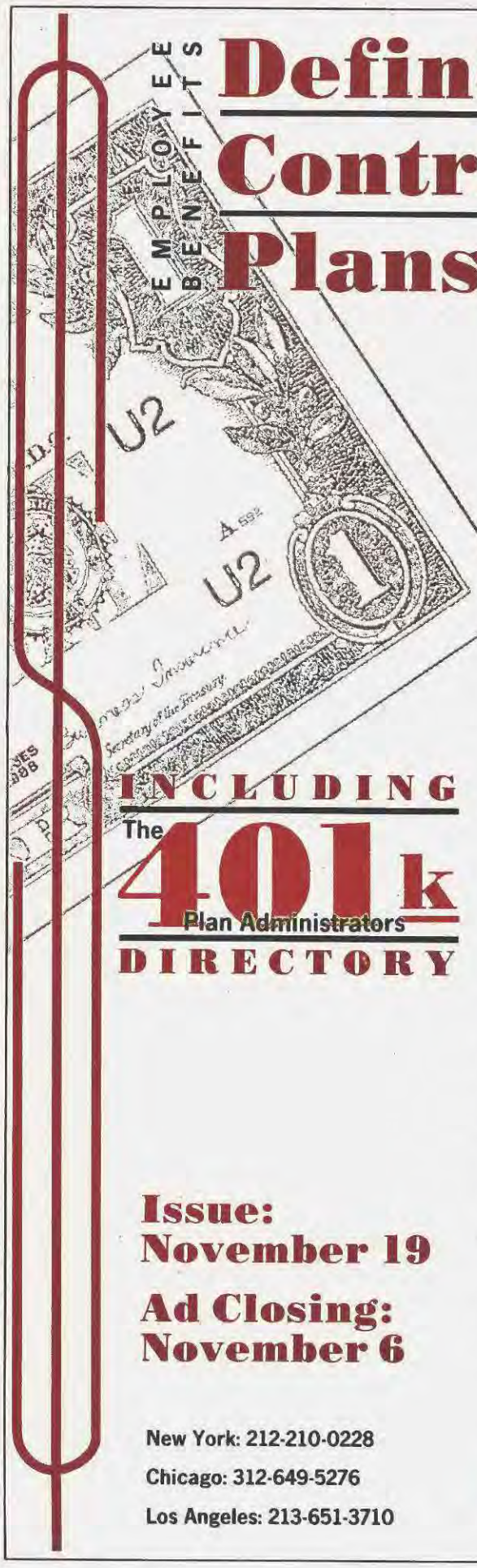

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Advertiser Index

Issue of October 15

Advertiser	Page #
ACS Group	39
Affiliated FM/Appalachian	18-19
American Arbitration	34
Am-Re Brokers	36
American Reinsurance	29,31,33
Assurex International	39
Business Insurance	32,40,41,44
Chubb	22
Conning & Company	34
Continental Insurance	10-11
Continental/Rehab Resource	20
Cover X	34
Crawford & Company	21
ECI	38
Equipment Insurance Mgrs.	16
Fireman's Fund	4
Hermitage Insurance Company	38
Home Insurance Company	14-15
Illinois Captive Insurance	40
K&K Ins./Lincoln National	6
Liberty Mutual	13,24-25
Metropolitan Life Ins. Co.	12
National Reinsurance	26
Northfield Insurance	16
Reliance National	7
Reliance Re	20
RLI Corp.	23
Sentry Insurance	17
Sun Financial Group	35
Towers, Perrin, Forster & Co.	38
Travelers Insurance Co.	9
TWA Airlines	30
Wausau Insurance Company	5
Zurich-American Insurance Co.	48

Business Insurance

Fetal protection

Continued from page 3

crimination case in any court since 1964, when Congress enacted Title VII" of the Civil Rights Act, which barred sexual discrimination in the workplace, said Judge Frank Easterbrook in dissenting from the 7th Circuit ruling upholding the Johnson Controls policy.

The Supreme Court ruling could determine whether as many as 20 million hazardous jobs can be filled by women who cannot show proof of sterility, Judge Easterbrook said.

Several employer representatives contend that the judge overstated the significance of this case.

The class-action litigation was first brought in 1984 by units of the United Auto Workers representing workers in nine Johnson Controls plants and by the Allied Industrial Workers of America, which represents employees in a 10th Johnson Controls' facility.

At issue is a policy, adopted in 1982, that women with childbearing capacity will not be hired for or allowed to perform jobs that could entail significant exposure to lead.

Johnson Controls calls the policy part of its longstanding efforts to protect the health of employees who work with lead. Lead passing through the mother's blood system can cause irreversible neurological and development disabilities in fetuses, say medical experts.

The company dropped its voluntary program in favor of a mandatory one in 1982. During its voluntary program, which included individual counseling, at least six women with elevated levels of lead in their blood became pregnant. One gave birth to a child with elevated levels of lead in his blood.

The U.S. District Court in Milwaukee in 1988 granted Johnson Controls' motion for summary judgment and held that the policy was justified as "a business necessity" that did not intentionally discriminate against women, even though it had that impact.

The 7th Circuit, sitting en banc, affirmed the lower court decision on a 7-4 vote.

The U.S. Supreme Court earlier this year agreed to the unions' request that it review the 7th Circuit decision.

During oral arguments last week, Marsha S. Berzon, a San Francisco lawyer for the unions, argued that the Johnson Controls policy "would cut the heart out" of the 1978 Pregnancy Discrimination Act amendments to Title VII and subject women to embarrassment and harassment.

"The net effect would be to sanction resegregation of the workplace," she said. Children would suffer, she argued, because their mothers would not be hired or even eligible for better-paying jobs.

Justice Scalia commented that he was "troubled" by laws that "whipsawed" an employer and "put him between a rock and a hard place."

Justice Scalia predicted that companies that allowed fertile women to work in hazardous jobs could face negligence suits from injured offspring.

Ms. Berzon countered that such actions are hypothetical and employers should be able to protect themselves by providing appropriate safety measures and warnings.

The Occupational Safety and Health Administration does not prohibit fertile women from working in high-lead areas, she pointed out. Some research also indicates that male employees' exposure to lead could also lead to health risks for unborn children, Ms. Berzon said.

Arguing on behalf of Johnson Controls, Stanley S. Jaspan of Foley & Lardner in Milwaukee pointed out that every federal court that has heard the case has rejected the union's position.

He contended that the company's policy was an exercise of the its rights and obligations under the bona fide occupational qualification standard in Title VII.

Its medical staff urged the company to develop the policy in keeping with guidelines from the federal Centers for Disease Control and the company's commitment "to do all it can to reduce and clean up lead exposure," Mr. Jaspan said.

He argued that the policy strikes the "appropriate balance" between the employer, the female worker and the fetus, he said.

According to Mr. Jaspan, Johnson Controls met the test that courts and federal administrative agencies have set for such policies: There is a substantial risk of harm to employees' offspring through workplace exposure to toxic hazards; the transmission of that harm is confined to one sex; and there are no adequate but less discriminatory alternatives to the employer's policy.

However, Justice Sandra Day O'Connor, who is the first female jurist to consider this case, told Mr. Jaspan: "It seems to me you are not coming to grips with the Pregnancy Discrimination Act, which says women employees will be treated the same" as long as they can do the work.

Mr. Jaspan replied that the 1978 law requires that an employee be able to perform a job safely, and a pregnant woman cannot work in a high-lead environment without risking damage to unborn child.

Justice O'Connor noted, however, that the Johnson Controls "policy applies to women who are not pregnant who can perform the work."

Case law allows a company to set a policy like the Johnson Controls policy when the employer cannot determine which class of workers should be restricted, Mr. Jaspan said. A voluntary fetal protection program did not work and constantly monitoring the intimate lives of employees is not feasible, he pointed out.

Justice Scalia stressed that continuing to allow exceptions to protect unborn children makes the Pregnancy Discrimination Act a "ridiculous" piece of legislation.

Mr. Jaspan maintained that the Pregnancy Discrimination Act also is concerned with fetal health issues and requires employers to provide benefits for pregnant women.

Both Justice Stevens and Justice Scalia noted during the oral arguments that they were concerned about being asked to quantify the level of fetal risk associated with women's exposure to lead so they could balance the risk to the fetus with women's right to work.

Mr. Jaspan responded that he could not provide precise statistics to help the justices quantify the risk, though he added that "there is no zero risk" to fertile women exposed to lead.

Representatives of groups that submitted amicus curiae briefs for both sides said they felt the justices' questions demonstrated sensitivity to the intertwined social, economic and scientific issues in the case.

"I certainly think Scalia and O'Connor seemed hostile to the employers' position," said Stephen Bokat, vp and general counsel with the U.S. Chamber of Commerce in Washington, D.C., which filed a brief supporting Johnson Controls. However, several justices, he pointed out, made no comments during the arguments.

The justices appeared "highly skeptical" of the company's position and the breadth of its fetal protection policy, said Joan Bertin, associate director of the Women's Rights Project of the American Civil Liberties Union in New York, which sides with the unions.

"I don't think that the case will be disposed of by the Supreme Court," said Quentin Riegel, deputy general counsel of the National Assn. of Manufacturers in Washington, D.C., which filed a brief supporting Johnson Controls. He predicted that the justices will adopt a test that can be applied by lower courts reviewing fetal protection policies. ■

PBGC premium

Continued from page 2

increase costs for employers that coordinate their retiree medical plans with Medicare.

And like a budget summit pact put together by White House and congressional negotiators but rejected earlier this month by the House of Representatives, the Ways and Means Committee bill would boost taxes paid by both life insurance companies and property/casualty insurers (*BI*, Oct. 8).

The full House is likely to vote on the Ways and Means Committee bill this week. It is possible, though, that alternative deficit reduction packages being put together last week by separate groups of Democrats and Republicans also could be considered.

Meanwhile, the Senate Finance Committee last week began to craft its own package to reduce the federal budget deficit by about $500 billion over the next five years.

Benefit provisions in that package are expected to be similar to the Ways and Means Committee bill, benefit experts said.

Of the benefit provisions in the Ways and Means Committee bill, none has generated more employer anger than the PBGC premium increase. Under that provision, the base PBGC annual premium—paid by employers whose pension plans are at least 100% funded—would rise next January to $19 per plan participant from $16.

In addition, surcharges paid by employers with underfunded plans would increase substantially.

Under a 1987 law, the surcharge has been set at $6 per $1,000 of unfunded benefits with a maximum surcharge of $34 per plan participant. Thus, the maximum total premium for an employer with an underfunded plan now is $50 per participant.

The Ways and Means Committee bill would increase the surcharge formula to $9 for each $1,000 of unfunded benefits, up to a maximum surcharge of $53.

As a result, the maximum total annual PBGC premium for an employer with an underfunded plan would rise to $72 per participant.

Employers are denouncing the proposed premium increase, which never was discussed at a congressional committee hearing and was approved behind closed Ways and Means Committee doors.

They note that the PBGC, which did not request a premium increase, has made significant progress in reducing its deficit. A 1987 premium increase, which more than doubled the average premium to $19 from $8.50, as well as a recent Supreme Court decision that allowed the agency to return more than $2 billion in pension obligations to LTV Corp. have helped the PBGC slash its deficit to about $1 billion from a 1986 peak of $4 billion.

At the same time, observers say that reforms contained in a 1987 law making it tougher for employers to terminate underfunded pension plans have reduced the PBGC's vulnerability to big losses.

Rather than being motivated by any new financial problems at the PBGC, benefit lobbyists say the increase is being driven solely by the politics of deficit reduction.

Legislators want to raise the PBGC premium so that the additional revenue—about $600 million over the next five years—can be counted toward reducing the federal budget deficit.

"Legislators are digging into the pension trough for no reason other than to raise revenue to reduce the budget deficit," said Mark Ugoretz, president of the ERISA Industry Committee, a Washington-based benefits lobbying group representing large employers.

"A premium increase is purely revenue-motivated. It is not being done out of financial need," agreed Christopher Bowlin, associate director of employee benefits and compensation at the National Assn. of Manufacturers in Washington.

Some benefit experts are especially angry that employers with fully funded plans would be hit with a premium increase.

"It is very upsetting for an employer that has responsibly funded its pension plan to be hit with a premium increase. It is another disincentive for a company to offer a defined benefit plan," said the Chamber's Ms. Sprague.

"The increase is puzzling. The PBGC's claims exposure comes from companies with underfunded plans. Yet, there would be a hit to companies with fully funded plans," complained Chip Kerby, a principal in the Washington office of William M. Mercer Inc.

While PBGC Executive Director James B. Lockhart III acknowledges that the PBGC did not ask Congress for a premium increase, he says a hike can be justified.

"I can't fault a premium increase. Our balance sheet still is not sound. We still have a billion-dollar deficit," he said.

And, while the agency's deficit has declined, the PBGC's financial condition could worsen rapidly if it gets hit with a new batch of claims—possibly as much as $7 billion to $8 billion—if a number of financially struggling companies with severely underfunded pension plans collapse, Mr. Lockhart said.

'Legislators are digging into the pension trough to raise revenue,' says Mark Ugoretz.

Aside from increasing PBGC premiums, the Ways and Means Committee bill would stiffen the current 15% excise tax on pension asset reversions.

Under the measure, an employer terminating an overfunded pension plan and not establishing a replacement plan would be slapped with a 50% excise tax.

For other companies, the excise tax generally would be set at 20%, while another 30% of the reversion generally would have to be shifted to the replacement plan.

These penalties, similar to those in the budget summit agreement that was rejected by the House, would essentially kill pension reversions, consultants say.

Meanwhile, like the rejected budget summit agreement, the Ways and Means bill would allow companies to remove surplus assets from overfunded pension plans—without paying any excise taxes—to fund retiree health benefits.

Under the proposal, employers could transfer surplus assets from their pension plan once a year between 1991 and 1995 to a special account to cover retiree health expenses incurred those years.

To be eligible for a transfer, an employer would have to meet several conditions, including fully vesting pension plan participants and agreeing not to decrease retiree health expenditures for five years.

These stiff conditions would make such transfers attractive only for mature companies with low turnover and a big retiree health care liability, benefits experts said.

"It is a new opportunity that employers should evaluate, but only a small number of employers will probably use," said Frank McArdle, a consultant with Hewitt Associates in Washington.

Many other provisions in the Ways and Means Committee proposal are similar to the rejected budget agreement, including:

- Raising the amount of wages subject to the Medicare portion of the FICA tax to $73,000 from $51,000. A Democratic alternative prepared by Ways and Means Committee Chairman Daniel Rostenkowski, D-Ill., would lift the wage cap to $100,000.
- Extending the 1.45% Medicare portion of the FICA tax to all state and local governments and their employees. Currently, the tax does not apply to public employees hired before March 31, 1986, if their employer does not participate in Social Security. Hundreds of public entities never joined Social Security or opted out of the program before such withdrawals were banned several years ago.
- Requiring public employers and employees to pay the entire 7.51% FICA tax, which covers both Social Security and Medicare, for workers like part-time employees not covered under state and local governments' retirement programs.
- Cutting about $33 billion in expected Medicare payments to physicians and hospitals over the next five years. The rejected budget summit pact called for $30 billion in cuts. Benefit experts earlier said that any cuts in Medicare payments by providers will mean more cost shifting to employers.

However, in a change from the budget summit pact, the Ways and Means bill would raise the current $75 Medicare Part B deductible to $100 next year and $125 in 1992. The rejected budget summit pact would have lifted the Part B deductible to $100 next year, $125 in 1992 and $150 in 1993. It also would have imposed a 20% coinsurance fee on clinical lab tests.

The Democratic alternative to the Ways and Means Committee bill would lift the Part B deductible to $100 next year and keep it at that level.

- Retain the current requirement that the Medicare Part B premium cover 25% of program costs. Under the rejected budget pact, the Part B premium would have covered 30% of program costs.

By requiring the Part B premium to cover 25%—rather than 30%—of program costs, the monthly premium is expected to rise to $46.50 in 1995 rather than $55.

- Boost taxes for the nation's life insurers by $8 billion by requiring insurers to amortize over 10 years certain policy acquisition costs, such as agents' commissions. Currently, insurers can immediately deduct those costs.
- Require property/casualty insurers to reduce tax deductions taken for loss reserves by the amount they expect to receive through subrogation and salvage. Currently, income from subrogation and salvage is not recognized until it is received. This change would raise $1.1 billion in new revenues over five years.

Meanwhile, it wasn't clear last week if the Ways and Means bill includes provisions in the rejected budget summit pact that would have raised fines for employers violating Occupational Safety and Health Administration rules. ■

Bel-Aire

Continued from page 1

$3.5 million at year-end 1989, according to Bel-Aire's statement.

Bel-Aire, which is domiciled and licensed only in Missouri, began operating in May 1987. It wrote $2.3 million in net premiums that year and $4.9 million in 1988, according to A.M. Best Co.

Bel-Aire had been placed in conservatorship with the Missouri division under a June 21 court order. Conservatorship proceedings in Missouri are held confidential, though regulators in all states were notified of the conservatorship through the National Assn. of Insurance Commissioners' computer network.

The conservatorship was sought because of Bel-Aire's "potentially hazardous financial condition," said Mr. Renn.

Under the conservatorship, the division had "veto power" over Bel-Aire's activities, but lacked the authority to restructure, Mr. Renn said. A receivership would give the division full control over Bel-Aire, he said.

No determination has been made whether the Missouri guaranty fund would cover Missouri policyholders if the company is placed in receivership and liquidated, said Paul Dygard, executive director of the Missouri Property & Casualty Insurance Guaranty Assn. If the insurer was properly licensed, Missouri policyholders most likely would be covered, but those in other states would not, he said.

The Missouri Insurance Division's petition for receivership alleges that:

- Bel-Aire incurred a net loss from operations in the first quarter of 1990 of about $394,222, compared with $289,287 in 1989.
- Bel-Aire's assets "are unduly concentrated in receivables or mortgage loans which are of questionable value."
- The company terminated nearly $2.3 million of loss reserves in its March 31 quarterly statement "without reasonable explanation."
- Bel-Aire has understated its loss reserves as of Dec. 31, 1989, and as of June 22.
- The company has increased its premiums for the first quarter of 1990 by 44% compared with the same period in 1989.
- Bel-Aire violated Missouri law by allegedly transferring risk to Atlantic General Insurance Co. on March 29 without regulators' approval.

The state alleges that "the entire liability to policyholders has been transferred," said Mr. Renn. "That cannot occur in Missouri without a petition being filed with the director" of insurance, he said.

Atlantic General Insurance Co. has been licensed in the Cayman Islands since August 1989, according to a spokesman for the Cayman Insurance Department. Caledonian Bank & Trust Ltd. in Cayman, the insurer's manager, would not comment.

On the day the receivership petition was filed, Judge James F. McHenry ordered Missouri insurance regulators to take control of the property, books, records and accounts of Bel-Aire and two related companies, A.B. Carter Inc. and Risk Retention Service Corp.

The judge also ordered that the division would receive the income of the three companies and would make no expenditures other than those that would be made in closing Bel-Aire and disposing of its assets if it were placed in receivership.

In its petition, the Insurance Division alleges that A.B. Carter Inc. and Risk Retention Service Corp. together perform "all or nearly all functions necessary to the operation of Bel-Aire." The division asks that it be appointed receiver of the three companies.

The alleged problems at Bel-Aire could further heighten the debate over whether the Risk Retention Act, which authorizes purchasing groups, gives state regulators enough power over purchasing group insurers, especially insurers based in other states.

Purchasing group insurers and others interpret the Risk Retention Act as permitting only regulators in the state in which a purchasing group is based to regulate the insurer. However, several courts have disagreed.

State regulators "have to police the industry, but they're having to fight federal pre-emption to do the policing," Mr. Renn said. The act would benefit from "fine-tuning" that would establish states' rights to regulate insurers operating in their jurisdictions, he said.

Beth Stuchel, acting chair of the National Assn. of Insurance Commissioners' risk retention working committee, agreed that the Risk Retention Act could stand improvement. "I think that state regulators should be given the authority to regulate under the act.

"The only reason I think Bel-Aire is around is because of the Risk Retention Act," Ms. Stuchel said. "This is a company that started up and decided to use the Risk Retention Act as a marketing tool."

Ms. Stuchel, who also is bureau chief for market conduct at the Iowa Department of Insurance, called the Bel-Aire controversy "a symptom of what's wrong" with the act.

But others point out the Risk Retention Act did not prevent Missouri regulators from taking action earlier.

Mr. Renn said that the Missouri division began scrutinizing Bel-Aire's financial condition in September 1989, largely because of its purchasing group activities.

"Nothing in the Risk Retention Act prevents regulators from requiring a company that is going to insure a purchasing group to maintain capital and surplus and reserves needed to protect the soundness of the company. In many cases, that will require amounts that exceed the minimum amounts laid out in a state insurance code," said Michael Mullen, who as a congressional staffer helped draft the original Risk Retention Act.

Mr. Mullen now is executive director of the National Assn. of Insurance Brokers in Washington, D.C.

"The argument that regulators lack the tools to take action against a purchasing group insurer is not true. They have the power to take a player out. It is tremendous power, but regulators must be willing to use that power," said Barbara Haugen, the NAIB's director of federal affairs.

"I don't think the cause of the insolvency was (any problem) with the Risk Retention Act. Rather, it is one more unfortunate incident in which insurance regulators have not imposed adequate requirements regarding the capital and surplus that is needed to support a particular book of commercial business," Mr. Mullen said.

"The failure of Bel-Aire rests more with the amount of business it was allowed to write in relationship to its capital and surplus. It has nothing to do with any shortcomings in the Risk Retention Act," said Leslea Dummer, executive vp of the National Risk Retention Assn., a Washington, D.C.-based trade group.

Supporters of the Risk Retention Act say that, on balance, the act is working well and that there have been only a handful of failures of purchasing group insurers and risk retention groups.

"The success stories far outnumber failures," Mr. Mullen said.

But supporters say while the Risk Retention Act is working well, legislation proposed by Rep. Jim Slattery, D-Kan., would decrease the likelihood of future failures of purchasing group insurers by toughening solvency standards (see story, page 16).

Among other things, the bill would require a purchasing group insurer to be admitted in at least one state and maintain capital and surplus of at least $3 million. By contrast, Bel-Aire was licensed in 1987 with only $900,000 of capital and surplus.

Regulation of purchasing group insurers also could be improved by requiring an insurer to be in business for a certain number of years before it could offer coverages to purchasing groups, some suggest.

"This would give greater assurance that the insurer is stable and has a track record," Ms. Haugen said.

Bel-Aire has long been at the center of controversy surrounding the Risk Retention Act.

In a case involving Bel-Aire, the 11th U.S. Circuit Court of Appeals in Atlanta ruled in July that the preemption provision in the federal Risk Retention Act did not bar states from imposing licensing requirements on purchasing group insurers domiciled in another state (*BI*, Aug. 13). The decision upheld the authority of Florida regulators to stop Bel-Aire from providing coverage to Florida policyholders of the National Amusement Purchasing Group.

Mr. Gold, Bel—Aire's attorney, said that last week he filed a motion to stay the 11th Circuit mandate prohibiting Bel-Aire from writing business in Florida to allow the company time to seek review from the U.S. Supreme Court.

The Florida Insurance Department opposes the motion for a stay, said Dennis Silverman, a senior attorney with the department. He said there are still Bel-Aire policyholders in Florida, and that they would not be covered by Florida's guaranty fund if the insurer is liquidated.

This also is not the first time Bel-Aire has clashed with the Missouri Division of Insurance. In a 1987 complaint, the division charged Bel-Aire's management was "so incompetent or untrustworthy" that further operation of the company would be "hazardous to the insurance-buying public."

Bel-Aire later agreed, as part of a settlement, to alter its reinsurance program and file more frequent financial reports to the division (*BI*, Dec. 7, 1987; Nov. 30, 1987).

Missouri and Florida are just two of several states that have taken action against Bel-Aire since its formation in 1987.

"Bel-Aire has been a concern among regulators and the NAIC for several years," observed Steve Imber, an attorney in the Kansas Insurance Department.

For example:

- The New York Insurance Department in September said Bel-Aire could not write business in the state because it was not an admitted insurer and did not meet state requirements for an excess lines insurer, a spokesman said.
- Bel-Aire's authorization to write for 21 risk purchasing groups was withdrawn by the Texas State Board of Insurance on Aug. 1 because the company had failed to use properly licensed agents, a spokesman said. One of the authorizations was reinstated Aug. 10, but was again withdrawn after Missouri sought to have Bel-Aire placed in receivership, he said.
- The Kansas Insurance Department in July removed Bel-Aire from its list of authorized surplus lines insurers after receiving "confidential information" on the company's financial condition, Mr. Imber said.
- The Illinois Department of Insurance in March declared Bel-Aire ineligible to write business in the state because it "did not meet our accounting requirements," a spokeswoman said. Bel-Aire had been writing coverage for Illinois members of about 25 purchasing groups, she said.
- The Louisiana Insurance Department informed Bel-Aire in September 1989 that it could not write business in that state because it was not admitted.
- The Pennsylvania Insurance Department in 1989 told Bel-Aire it could not write business in that state because it was not an admitted insurer or an eligible surplus lines insurer. Bel-Aire wrote $282,000 in premiums in Pennsylvania in 1989.
- The California Insurance Department in May 1988 alleged Bel-Aire was insolvent and prohibited it from writing business.
- The Arkansas Insurance Department in May 1988 ordered Bel-Aire to stop writing business because it was not an admitted insurer.
- Bel-Aire, which had been accused of writing unauthorized insurance by the Iowa Insurance Department, agreed in December 1987 to stop writing business in that state unless it became an admitted or qualified surplus lines insurer (*BI*, Dec. 14, 1987). The company never did so, said Iowa's Ms. Stuchel.

●

Senior Editor Jerry Geisel in Washington contributed to this report.

World Insurance Congress

Continued from page 2

partners of the London law firm of Gouldens: Martin Piers and Ian Lupson.

With the theme "Restructuring for Opportunity," the first World Insurance Congress will present a host of leaders in the risk management, insurance and reinsurance communities.

They will deliver papers on, and debate, major changes in insurance and financial services and how insurance will cover risk in the future.

The congress will be held at the Queen Elizabeth II Conference Centre in the heart of Westminster. Opened in 1986, the modern conference center can accommodate up to 1,000 registrants. To enhance the opportunity for registrants to discuss mutual concerns, the congress will include an exhibition.

Lunch also will be served each day in the conference center.

Twenty-three speakers are confirmed for the congress, according to Ms. McIntyre.

The congress will be opened on July 1 by the Right Honorable Lord Mayor of London, followed by Mr. Coleridge's keynote address.

Other morning speakers on July 1 will focus on "The Distribution System."

Debating the best method for brokers to serve clients worldwide will be John T. Sinnott, president of Marsh & McLennan Worldwide Services, and Christian Dahms, a partner with Jauch & Hubener in Mulheim, Germany, a member of the UNISON brokerage network. The debate will be moderated by Edith Lichota, an award-winning risk manager and now president of her own consulting firm, Lichota & Associates of Norwalk, Conn.

Ms. Lichota has received the Insurance Woman of the Year award from the Assn. of Professional Insurance Women, the Risk Manager of the Year award from *Business Insurance* and the Dorothy & Harry Goodell award from the Risk & Insurance Management Society Inc.

"Captive Insurers: Their Role in the Marketplace" will be addressed by David Olsen, president of Johnson & Higgins in New York, the world's largest manager of captive insurers.

"Private Insurers: Their Role in the Marketplace" will be addressed by John Cox, chairman of ACE Ltd., the Bermuda-based excess liability insurer founded by major corporations during the mid-1980s liability insurance crisis. Mr. Cox also was senior executive vp of the former INA Corp.

In the afternoon, registrants will be able to attend two of four sessions.

Trends in "Global Insurance Programs" will be addressed by John J. Carey, chairman and chief executive officer of Allendale Mutual Insurance Co. in Johnston, R.I., and Joseph Smetana, president of AI Global, a unit of American International Group Inc. in New York.

Trends in professional liability will be addressed by Peter Christie, New York-based vice chairman of Minet Holdings P.L.C., and Mr. Piers.

Developments in financial reinsurance will be discussed by Steven Gluckstern, president of Centre Reinsurance Holdings Ltd. in Bermuda, a specialist in financial reinsurance, and Mark Burbidge, managing director of Robert Fraser Insurance Brokers Ltd. in London. The session will be moderated by Mrs. Lichota.

Mr. Schrauwers will lead a session on "Banking and Insurance."

The subject Tuesday morning will be "Coping with Catastrophes."

Among the speakers Tuesday morning will be David Rowland, chairman of Sedgwick Group P.L.C., who will address "The Broker's Role Following a Catastrophe."

Other speakers will address the role of an insurer, a reinsurer and a bank following a catastrophe.

Tuesday afternoon, registrants can attend two of three sessions.

Among the speakers on the topic "Claims Handling Following a Disaster" will be Robert Keville, chairman of Willis Faber Dumas Ltd.

Developments in "Toxic Torts and Product Liability" will be addressed by Colin Croly, senior partner at Barlow Lyde & Gilbert in London, and William Zeller, member of the board of Cologne Reinsurance Co. of Cologne, Germany.

The third session will cover developments in the LMX market.

On Wednesday morning, "Global Restructuring of Insurance Markets" will be discussed. Speakers will include H.E. Hanway, president of CIGNA Worldwide Inc., presenting an American's viewpoint.

Mr. Kloman of Tillinghast will deliver a paper titled "Rethinking Risk Management."

On Wednesday afternoon, registrants again will choose two of three sessions.

Speakers on "Insurance Regulation Worldwide" will include Henry G. Parker III, senior vp of Chubb & Son Inc. and an expert in international trade negotiations.

"The Green Movement" and its implications for insurance and risk management will be discussed by Roy Marshall, senior underwriter for Swiss Re (U.K.) Ltd.

European Community directives governing insurance operations will be addressed by an E.C. representative and J.E. Adams, emeritus professor of Queen Mary & Westfield College, University of London, and director of training at Titmuss, Sainer & Webb in London.

Other speakers will be announced in coming weeks.

In addition to the program for registrants, the congress is offering a program for accompanying persons that includes a tour of Blenheim Palace, the birthplace of Winston Churchill, and a day of polo at Guard's Polo Club, Windsor Great Park.

The congress will conclude the evening of July 3 with a casino ball for registrants and guests.

After the congress, registrants may wish to spend a day at the Henley Royal Regatta, an optional event.

The conference fee for those who register before March 1, 1991, is 550 pounds ($1,080 at current exchange rates, though the fee must be paid in British pounds). After March 1, the conference fee will be 650 pounds ($1,276 at current exchange rates), with a discount to 585 pounds ($1,148) for each additional person from the same company. The accompanying guest's registration fee is 275 pounds ($540). All fees are subject to British value-added tax. Major credit cards will be accepted.

For additional information on the conference, including registration and exhibit space reservations, write to the "1991 World Insurance Congress" at either: *Business Insurance,* 220 E. 42nd St., New York, N.Y. 10017; phone 212-210-0299, fax 212-210-0704; or Lloyd's of London Press, 1 Singer St., London EC2A 4LQ, England; phone 071-250-1500, fax 071-253-9907. ■

Insurer stocks

Continued from page 1

not unusual—emotions have possibly misplaced judgment."

UNUM dropped 13 cents on Oct. 8 to $35.75 per share and on Friday its stock closed slightly lower at $34.13.

"We're sort of the unwitting victims of the selloff and the panic," said an Aetna Life & Casualty Co. spokesman.

Aetna dropped $1.63 to $32 on Oct. 8 and on Friday closed at $31.75.

A CIGNA Corp. spokesman commented that "The market is treating all financial stocks in a similar manner, and I think there are some differences among the different financial stocks, and insurers are perhaps unfairly being lumped into that general category."

CIGNA Corp. dropped 88 cents to $35.25 per share on Oct. 8 but by Friday had risen slightly to $35.63.

"Nobody likes insurance stocks. They think they're going in the tank," commented Gloria Vogel, associate director at Bear Stearns & Co. in New York.

"I think the stocks started selling off long before Travelers' news came out," commented Ms. Vogel. Investors saw the problems of savings and loans institutions and banks with real estate investments and junk bonds and predicted insurance companies would be next.

The Travelers announcement "sort of burst the balloon—whatever was still left of it." Now, she said, the question is whether Travelers is unique, and if it is not, how bad other insurers' real estate situation is.

Skidding share prices reflected some of that concern last week, said Ms. Vogel.

"To some degree" the fault lies with analysts who "tend to overreact," she noted. Part of the problem, she explained, is the data available for the industry is very sketchy. More data is available from banks on factors like reserves and problem loans, she said.

But what's "scary," she added, is that the factors Travelers cited in explaining its huge real estate losses are not unique to it.

These, according to the Travelers release, include the credit crunch, higher long-term interest rates, more aggressive asset disposal efforts by the Resolution Trust Corp., dramatic energy cost increases, turmoil in the Middle East and a weaker economy.

"It does lead to some questions about what's going to emerge over time," Ms. Vogel said.

"My knee-jerk reaction is that the market is overreacting," said Herbert Goodfriend, an analyst with Prudential-Bache Securities Inc. in New York. "It's classic market psychology" to fail to differentiate the better companies.

But, once the third quarter results are released and it becomes plain that not everyone is equally suffering, the stocks could rebound, said Mr. Goodfriend. Concerns over asset quality and whether dividends are protected, rather than worries about earnings per se, have generated the dive, he said.

"I think a lot of it has to do with the asset quality side," agreed Gordon D. Luce, assistant manager at Brown Bros. Harriman & Co. in New York. Life and multiline insurers have been hit a good deal more than the property/casualty insurers, except for those with significant junk bond or real estate holdings, according to Mr. Luce.

"I think if you can find a really pure company in this group, it's probably Gen Re, and Gen Re has been a pretty stable performer here," said Mr. Luce. General Re Corp. closed at $75.50 on Oct. 8, down 50 cents, but had risen to $76.75 on Friday. Gen Re is not involved in real estate or junk bonds, Mr. Luce said.

Meanwhile, Mr. Luce noted the quality of Travelers' real estate investments "is at least modestly inferior to its competitors." Other insurers must have problem real estate investments but so far Travelers has been the only one to quantify the problem, he said. "Travelers certainly can't be alone."

To a certain extent, the selloff in insurance stocks is justified because of concerns about asset quality as well as factors including low property/casualty rates, possible increased taxes, the soft economy and a generally disappointing stock market, said Michael Lewis, first vp at Dean Witter Reynolds Inc. in New York.

But, he added, the selloff may be approaching the point of being excessive because the market is not differentiating among companies. "It's almost an attitude of sell now and differentiate later."

"I think what's happening is clearly we've got a market that's extremely wary of any kind of uncertainty," said Udayan Ghose, an analyst with Shearson Lehman Hutton Inc. in New York.

"I think the market has been extremely indiscriminate in selling stocks with real estate exposures," he said. UNUM, for instance, has a much less troubled real estate portfolio than Travelers. But right now, the market is saying one insurer is just like another. "I think the market will eventually correct for that," said Mr. Ghose.

"In the long run, we'll differentiate ourselves," agreed UNUM's Mr. Moynihan. He noted that 2.6% of UNUM's $2 billion real estate portfolio is considered delinquent.

This compares with about 20%, or $3.5 billion, of Travelers' $17.2 billion real estate portfolio, according to a spokesman. "That does not mean that $3.5 billion is lost to us," said a spokesman, explaining that this total includes restructured loans and modified loans.

The Aetna spokesman noted that Aetna's delinquency rate is 2% of a $23 billion mortgage and real estate portfolio.

"I think in general the market has radically and unequivocally overreacted to Travelers," said the spokesman.

Just because one insurer has problems, the attitude is that "every insurance company has the same disease, and we don't necessarily believe it to be true," he said.

There is general concern, said the CIGNA spokesman, about financial stocks' asset quality, as well as worry that the very high dividend payout ratios, at current stock prices, will lead some managements to lower their dividends, said the spokesman. Traditionally, many bank and insurer stocks have been known for their high yields.

Furthermore, he added, "among the insurers, there are distinct differences in their exposures to such things as real estate or commercial mortgages and once again, all insurance companies, particularly the multilines, are being treated quite similarly by the market."

The spokesman said about 8.5%, or $947 million, of CIGNA's $11 billion real estate portfolio, is considered problem loans.

Travelers said in a statement that with the addition of the $650 million, real estate reserves are estimated to total $1.15 billion at the end of the third quarter.

Travelers' Chairman and Chief Executive Officer Edward H. Budd said in a statement that the one-third reduction in dividend will aggregate $100 million by the end of 1991.

"Despite the negative trends in real estate markets, the earning power of our main businesses continues to be strong," Mr. Budd said in the statement. "Our property/casualty national accounts continue to earn excellent returns," he said, while Travelers wrote "a record $1.3 billion" in new business in managed care and employee benefits.

Travelers is predicting that its operating income in 1990 will be up about 25% from $318.8 million in 1989.

But investors remained skeptical.

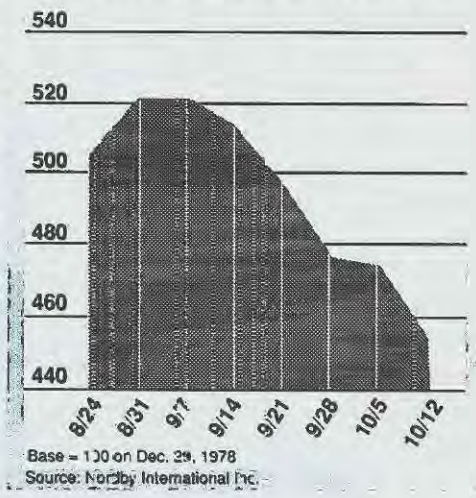
"We don't know how to rationalize the current price of our stock," said the Travelers spokesman. "It is simply priced too low according to any of the traditional financial measures.

"For example, over the last 10 years we have been selling at about 85% of book value," he said.

With the additional reserving, "our book value should be adjusted down to perhaps $40 a share," the spokesman said. At 85% of book, Travelers should be trading at $34 a share.

"We do believe over the next 12 to 24 months the price of our stock will behave more rationally," he said. ■

BI Insurance Index



Insurance industry stocks dropped sharply last week as the *Business Insurance* Index fell 19.7 points to 455.23 on Oct. 12, from 474.88 on Oct. 5. Advancing issues for the week were led by Chandler Insurance up 9.1%; Trenwick Group Inc., up 6.6%; and Ohio Casualty Corp., up 6.4%. Declining issues for the week followed Seibels Bruce Group, down 19.1%; Provident Life, down 18.9%; and Lincoln National, down 17.8%. The most active issue for the week was Travelers Corp., with 8 million shares traded, whose share price dropped 17.6%. The *BI* Index dropped 4.1% for the week; The Standard & Poor's 500 fell 3.7%; the Dow Jones 30 Industrials were down 4.5%; and the New York Stock Exchange Composite dropped 3.7%.

British Issues

Oct. 11 Companies	Price pence	P/E	Div. pence	Yield %	1 Week High—Low pence pence
Comml Union	476	21.9	28.7	6.0	502—476
Genl Accident	483	14.6	33.4	6.9	495—483
Gdn Royal Exch	187	16.3	15.3	8.2	209—187
Royal	393	21.0	34.0	8.6	424—393
Sun Alliance	309	11.7	16.7	5.4	330—309
Brokers					
Bradstock	204	14.2	10.0	4.9	204—204
CE Heath	393	11.6	34.5	8.8	399—393
Hogg Group	138	9.2	9.7	7.0	143—138
Lloyd Thompson	269	18.0	10.0	3.7	269—265
PWS Holdings	69	10.6	3.3	4.8	69—69
Sedgwick Grp	196	14.6	16.0	8.2	197—189
Steel Brrf Jones	230	13.6	14.7	6.4	232—230
Willis Corroon	194	14.7	16.0	8.2	213—194

Source: Philip Olsen, Insurance Industry Specialist London

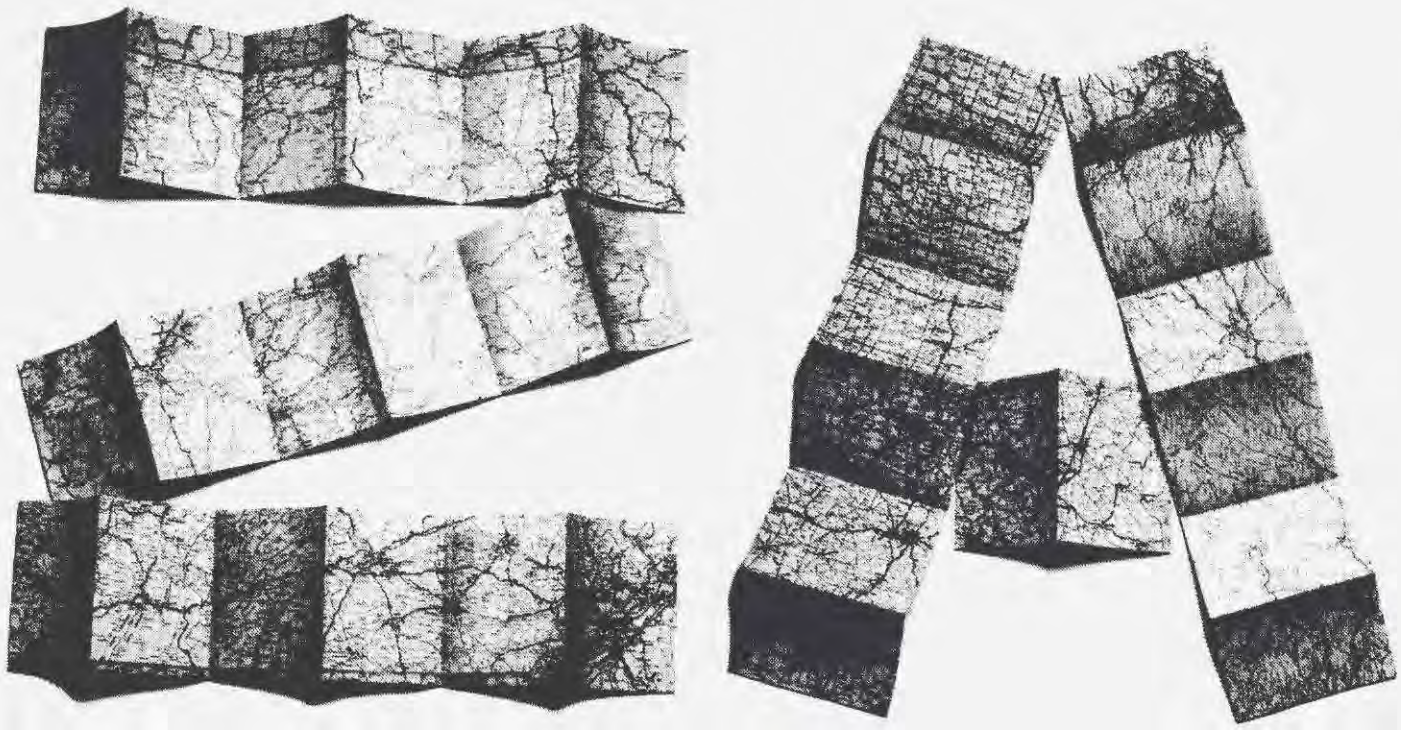
BI Industry Stock Report

OCTOBER 8, 1990 THROUGH OCTOBER 12, 1990

		Price	Weekly % change	Year to Date % change	Annual High	Annual Low	Vol.(000)	$ Div.	% Yield	P/E	Book value	Mkt/Bk. value
BROKERS												
Alexander & Alexander	NYS	16.88	-5.62	-46.43	34.00	16.50	317	1.00	5.93	15	9.18	1.84
Corroon & Black	NYS	32.50	4.84	-15.03	41.00	28.50	480	1.35	4.18	16	12.73	2.55
Gallagher Arthur J. & Co.	NYS	20.00	-4.21	-19.19	26.50	20.25	27	0.60	3.00	16	5.33	3.75
Frank B. Hall	NYS	2.63	-4.55	-12.50	4.25	2.50	30	0.00	0.00	-2	-2.80	-0.94
Hilb, Rogal & Hamilton	OTC	12.00	-5.88	-35.57	20.63	11.50	66	0.28	2.33	16	4.60	2.61
Marsh & McLennan	NYS	65.88	0.96	-15.54	89.75	59.75	579	2.60	3.95	16	10.56	6.24
Poe & Associates	OTC	10.25	0.00	-22.64	13.00	8.75	0	0.40	3.90	13	1.93	5.31
BROKERS	AVERAGE		-2.1	-23.8					3.3	13		
CONGLOMERATES & HOLDING COMPANIES												
Berkley W.R. Corp.	OTC	31.63	1.20	-24.02	46.50	28.50	203	0.44	1.39	7	25.06	1.26
Berkshire Hathaway Inc.	NYS	5735.00	-0.26	-33.51	8900.00	5675.00	1	0.00	0.00	-19	2869.00	2.00
ITT (Hartford Group)	NYS	40.75	-9.94	-31.94	61.38	42.00	2289	1.72	4.22	5	56.33	0.72
Sears (Allstate)	NYS	23.00	-8.00	-40.65	42.00	22.50	3498	2.00	8.70	7	37.75	0.61
CONGLOMERATES	AVERAGE		-4.3	-32.5					3.6	0		
INSURERS/REINSURERS												
Aetna Life & Casualty	NYS	31.75	-5.22	-45.26	62.50	29.75	3394	2.76	8.69	5	58.11	0.55
Ambase Corp.	NYS	1.00	-5.66	-92.08	15.25	0.63	984	0.00	0.00	0	29.08	0.03
American General	NYS	29.25	-11.36	-10.69	50.63	28.13	2865	3.20	10.94	7	34.68	0.84
American Heritage	NYS	20.00	-3.61	-29.82	24.63	19.75	2	1.00	5.00	10	22.60	0.88
American Indemnity/Fin'l	OTC	4.25	0.00	-46.88	9.25	3.38	9	0.08	1.88	-1	17.38	0.24
American International	NYS	58.88	-2.49	-30.24	89.63	57.00	1929	0.44	0.75	9	41.92	1.40
Aon Corp.	NYS	28.00	-6.29	-33.92	43.25	26.75	623	1.52	5.43	8	19.62	1.43
Argonaut Group	OTC	53.00	-17.19	-23.05	78.00	54.00	108	1.60	3.02	6	36.83	1.44
AVEMCO Corp.	NYS	22.38	-0.02	-8.21	30.13	20.38	30	0.44	1.97	16	9.52	2.35
Baldwin & Lyons Inc.	OTC	18.75	-2.60	-12.79	24.00	18.25	2	0.28	1.49	6	20.80	0.90
Belvedere Corp.	ASE	2.00	-6.10	-63.64	5.63	1.75	403	0.04	2.00	-2	8.03	0.25
Chandler Insurance	OTC	6.00	9.09	-48.94	13.25	5.25	19	0.00	0.00	3	9.53	0.63
Chubb Corp.	NYS	35.75	-2.72	-62.71	51.38	34.75	1444	1.32	3.69	7	55.49	0.64
CIGNA Corp.	NYS	35.63	-1.40	-40.87	66.75	33.25	1873	3.04	8.53	11	66.64	0.53
CNA Financial Corp.	NYS	54.00	-8.47	-46.00	108.75	53.13	328	0.00	0.00	9	54.87	0.98
Continental Corp.	NYS	19.00	-1.96	-39.44	34.75	17.50	1097	2.60	13.68	14	41.36	0.46
Durham Corp.	OTC	26.00	-4.59	-15.45	34.75	25.00	69	0.92	3.54	12	26.32	0.99
Fund American Corp.	NYS	43.88	-3.57	24.47	51.88	29.50	233	0.68	1.55	93	32.74	1.34
Fremont General Corp.	OTC	10.75	0.00	-46.58	22.50	10.25	168	0.80	7.44	3	19.09	0.56
Frontier Insurance Group	NYS	19.00	-1.30	2.70	33.00	14.13	41	0.00	0.00	8	7.29	2.61
General RE Corp.	NYS	76.75	0.99	-14.72	96.25	69.00	1325	1.52	1.98	12	29.04	2.64
Hanover Insurance Co.	OTC	22.50	0.00	-26.23	32.25	21.75	62	0.44	1.96	7	32.03	0.70
Harleysville Group	OTC	14.50	-3.33	-47.27	27.38	13.50	12	0.60	4.14	5	18.94	0.77
Hartford Steam Boiler	NYS	46.88	-4.34	-13.59	62.13	43.50	88	1.80	3.84	12	18.94	2.47
Kansas City Life Ins.	OTC	36.00	0.00	0.35	36.50	34.50	6	1.12	3.11	9	39.22	0.92
Kemper Corp.	NYS	18.88	-10.67	-60.05	51.00	19.00	482	0.92	4.87	29	29.97	0.63
Lawrence Insurance Group	ASE	7.00	-1.82	-1.75	9.13	6.50	0	0.36	5.14	12	4.40	1.59
Liberty Corp.	NYS	42.25	-4.52	-0.59	50.25	35.00	6	2.92	2.18	10	31.82	1.33
Lincoln National	NYS	35.25	-17.79	-42.21	62.88	34.88	508	2.60	7.38	6	49.19	0.72
NAC Re Corp.	OTC	27.00	-4.42	-25.52	41.00	25.50	95	0.20	0.74	12	22.81	1.18
Navigators Group	OTC	26.25	-7.89	-4.55	33.75	25.25	9	0.00	0.00	10	15.22	1.72
Nobel Insurance LTD.	OTC	2.63	-6.58	31.25	3.75	1.50	39	0.00	0.00	-7	7.76	0.34
NWNL Companies	OTC	14.50	-3.33	-63.29	44.13	12.25	1498	1.32	9.10	3	37.50	0.39
Ohio Casualty Corp.	OTC	29.00	6.42	-39.27	52.50	26.75	565	2.32	8.00	9	33.30	0.87
Old Republic Int'l	NYS	21.63	-2.28	-15.61	28.13	21.00	47	0.76	3.51	5	30.70	0.70
Orion Capital Corp.	NYS	15.25	-9.66	-34.41	26.13	15.25	38	0.92	6.03	5	19.72	0.77
Phoenix RE Corp.	OTC	5.00	-23.08	-61.54	15.50	5.25	113	0.20	4.00	-5	12.99	0.38
Protective Life Corp.	OTC	11.75	-4.08	-17.54	15.38	10.25	30	0.76	6.47	7	14.54	0.81
Provident Life	OTC	13.50	-18.82	-47.83	30.13	13.50	319	0.80	5.93	4	23.24	0.58
Re Capital Corp.	ASE	12.00	-3.07	-17.24	15.25	11.25	13	0.00	0.00	10	14.43	0.83
RLI Insurance Corp.	NYS	9.88	-3.66	11.27	14.75	6.88	15	0.44	4.46	5	12.42	0.80
St. Paul Companies	OTC	49.50	2.06	-17.50	63.50	47.00	1308	2.40	4.85	6	43.47	1.14
SAFECO Corp.	OTC	26.13	-2.34	-34.28	42.38	25.75	1192	1.36	5.21	6	24.87	1.05
SCOR U.S. Corp.	NYS	8.88	-1.39	-37.72	14.50	8.50	6	0.20	2.25	13	10.61	0.84
Seibels Bruce Group	OTC	4.25	-19.05	-60.92	11.75	5.00	44	0.80	18.82	-1	13.75	0.31
Selective Ins. Group	OTC	13.75	-3.51	-28.10	20.25	14.00	182	1.04	7.56	5	15.72	0.87
Statesman Group Inc.	OTC	1.38	-4.96	-50.00	3.31	1.25	94	0.04	2.91	2	4.19	0.33
Tokio Marine & Fire	OTC	42.00	5.00	-44.28	78.13	34.50	26	0.26	0.62	-	70.93	0.59
Torchmark Corp.	NYS	39.25	-7.10	-31.44	58.75	38.75	516	1.40	3.57	9	13.23	2.97
Transamerica	NYS	25.00	1.01	-43.98	47.38	23.75	776	1.96	7.84	6	34.63	0.72
Travelers Corp.	NYS	13.50	-17.58	-63.39	42.00	12.75	7983	1.60	11.85	3	44.85	-
Trenwick Group Inc.	OTC	18.13	6.62	-25.64	26.88	16.25	36	0.48	2.65	8	16.91	1.07
United Fire & Casualty	OTC	29.50	-2.48	-10.61	35.00	29.50	3	1.20	4.07	8	22.56	1.31
USF&G Corp.	NYS	13.63	-3.95	-54.01	31.38	13.50	2380	2.92	21.43	10	22.87	0.60
UNUM Corp.	NYS	34.13	-4.89	-28.53	57.13	32.13	1271	0.80	2.34	7	31.20	1.09
USLIFE Corp.	NYS	27.50	-2.65	-39.23	47.00	26.25	341	1.48	5.38	6	54.34	0.51
Washington National	NYS	14.63	-10.00	-48.23	28.75	14.50	38	1.08	7.38	16	32.90	0.44
USLICO Corp.	NYS	15.13	-5.47	-36.32	24.50	15.50	35	1.00	6.61	6	27.73	0.55
Zenith National Ins.	NYS	10.88	-15.35	-42.00	19.38	11.63	16	0.88	8.05	7	13.81	0.79
INSURERS/REINSURERS	AVERAGE		-4.9	-32.6					5.0	8.8		
HEALTH MAINTENANCE ORGANIZATIONS												
FHP International	OTC	10.75	-6.52	-49.41	26.38	10.25	596	0.00	0.00	10	3.54	3.04
HMO America Inc.	OTC	4.38	-7.89	-43.55	8.13	4.38	69	0.00	0.00	6	1.12	3.91
Pacificare Health Sys.	OTC	14.25	-3.39	-45.19	29.13	12.00	439	0.00	0.00	11	6.35	2.24
Safeguard Health Enter.	OTC	4.75	0.00	-44.12	11.38	4.00	357	0.00	0.00	8	2.99	1.59
Sierra Health Services	ASE	6.38	-3.85	-28.17	9.63	5.50	34	0.00	0.00	-18	0.62	10.28
United Healthcare Corp.	OTC	14.00	-9.68	14.29	20.13	7.88	2197	0.12	0.86	14	0.34	41.18
United Medical Corp.	ASE	6.88	-1.79	14.58	11.38	5.88	2	0.20	2.91	10	5.70	1.21
U.S. Healthcare	OTC	16.50	-14.86	15.79	22.25	9.63	0	0.36	2.18	19	3.07	5.37
HMOs	AVERAGE		-6.0	-20.7					0.7	7		
ALL COMPANIES	AVERAGE		-4.6	-29.7					4.2	8		

System design: Nordby International Inc.

Who Knows Your Territory Like The Back of Their Hand?



Zurich-American. We provide all of our agents with a special territorial team. And these teams are created expressly to help map out plans for developing local business.

Our team of professionals works directly with you, to identify potential customers in your area and help you serve them. What's more, we've empowered these decision-makers with the underwriting, claims, loss control and processing authority to serve you more effectively.

So go with a team that goes all out for you. Go with Z-A. Zurich-American.

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