UAW, GM assemble benefit bonanza

Benefit Increases

Type of benefit	Old	1st Year	3rd Year	Increase
Weekly sickness & accident				
Major Assembler	$ 180	$ 220	$ 230	$ 50
Diemaker	$ 220	$ 265	$ 280	$ 60
Monthly extended disability				
Major Assembler for 10 or more years	$ 710	$ 880	$ 915	$ 205
Diemaker for 10 or more years	$ 880	$ 1,045	$ 1,115	$ 235
Life Insurance				
Major assembler	$17,000	$21,500	$22,000	$5,000
Diemaker	$21,500	$25,500	$27,000	$5,500
Extra accident insurance				
Major Assembler	$ 8,500	$10,750	$11,000	$2,500
Diemaker	$10,750	$12,750	$13,500	$2,750

By JOHN MAES

DETROIT—The United Auto Workers won sweeping pension increases, improvements in most health care and insurance benefits and a new stock ownership plan in a three-year contract with General Motors.

The contract will set the pace for negotiations beginning soon with Ford Motor Co. and the financially troubled Chrysler Corp., although the union may accept a pared down version of the contract from Chrysler.

Other units of the UAW in Canada and in the U.S. aerospace and farm machinery industries are also expected to try to capture the generous benefit improvements won by 460,000 GM workers.

Historically, UAW contracts also set the goals for other unions.

Under the UAW and GM contract, due to be ratified by the rank and file Oct. 1, GM's total labor costs are estimated to increase to $20 an hour from $15 an hour now, with wages accounting for the largest portion of the increase.

In pensions, a hot issue in the negotiations, benefits will rise to $10,920 in the third year for workers under the "30 and out" retirement system. Workers with 30 years of service receive special retirement benefits until age 62, when regular pension levels plus Social Security take effect.

Under the pact, "30 and out" benefits will increase in steps from $800 ($100 more than is paid cur-

Continued on page 55

Colo. plots defense against IRS assault on captive insurers

By KATHRYN J. McINTYRE

DENVER—The Internal Revenue Service's most recent assault on captive insurance companies in Colorado could provoke an organized defense by the insurance commissioner, captive managers and risk managers here.

At least one captive insurer based in Colorado has been notified by an IRS agent that premiums it receives are not tax deductible to the parent company (*BI*, Sept. 17).

Insurance commissioner J. Richard Barnes pledges to "go to any extreme necessary to protect the integrity of the Colorado captive," specifically securing tax deductions for premiums paid to Colorado captives.

More reports on captives appear on pages 23-29 and page 43.

Captive managers in Colorado also are now assessing how they should respond to the IRS's new interest and challenge of Colorado captives, and are considering a Washington lobbying effort.

At the same time, risk managers with offshore captives are discussing the merits of lobbying in Washington to win IRS approval for tax deductions for premiums paid to all captives and perhaps even for self-insured reserves.

Members of the Captive Insurance Cos. Assn. meeting in Asheville, N.C., this week are ex-

Continued on page 58

Pa. jails excess broker in a $3 million probe

By LEN STRAZEWSKI

NORRISTOWN, Pa.—A former Philadelphia excess/surplus broker charged with pocketing $670,000 in insurance premiums may have stolen up to an additional $2.5 million, *Business Insurance* learned from sources in the insurance department here and the Montgomery County district attorney's office.

"The $670,000 is only what we can prove right now," remarked one of the investigators, "but this is a $3 million investigation."

Former broker Frederick O. Shabacker was arrested last month on charges developed by a joint investigation by the Pennsylvania state insurance department and the county white collar crime unit. He is charged with 15 counts of grand

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The inside story

Risk Manager of the Year

The judges are assembled to choose the 1980 Business Insurance Risk Manager of the Year. How to nominate someone is explained on **page 4.**

Actuaries debate pensions

Increasing pension payments to match inflation is a ridiculous expenditure, charges an actuary at a recent AMA meeting. **Page 47.** Report begins on **page 45.**

The people column page 57

Week of October 1, 1979

business insurance

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

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$1 a copy; $20 a year

Big pollution claim leaks out of nuclear waste spill

By ELLIS SIMON

ALBUQUERQUE—United Nuclear Corp. is still waiting for a report on how much its insurers will pay toward extensive cleanup costs endured by the company after its dam containing uranium wastes broke north of here last summer.

United Nuclear is insured for pollution cleanup and liability at undisclosed limits through a program written by Howden Swann, managing general agents of Cranford, N.J.

Howden Swann's pollution program provides maximum basic coverage limits of $4 million per occurrence and $8 million aggregate, which can be brought up to $10 million and $20 million through purchase of excess layers, industry sources say. The participating insurers and reinsurers are in the London and Continental European markets.

Though it's not known yet what the damages and costs of the spill are, experts within the insurance industry have said this case will produce the largest known claim to date under a pollution liability policy. United Nuclear wouldn't disclose what the limits of its policy are, but indications are there will be a dispute about the extent of coverage for this event.

An engineer's report that the spill would not have occurred had the dam been properly maintained might be used by the insurers to deny United Nuclear's claim for extensive cleanup costs. No decision on the claim has been made by the insurers, according to an informed source, and no liability suits have been filed as yet.

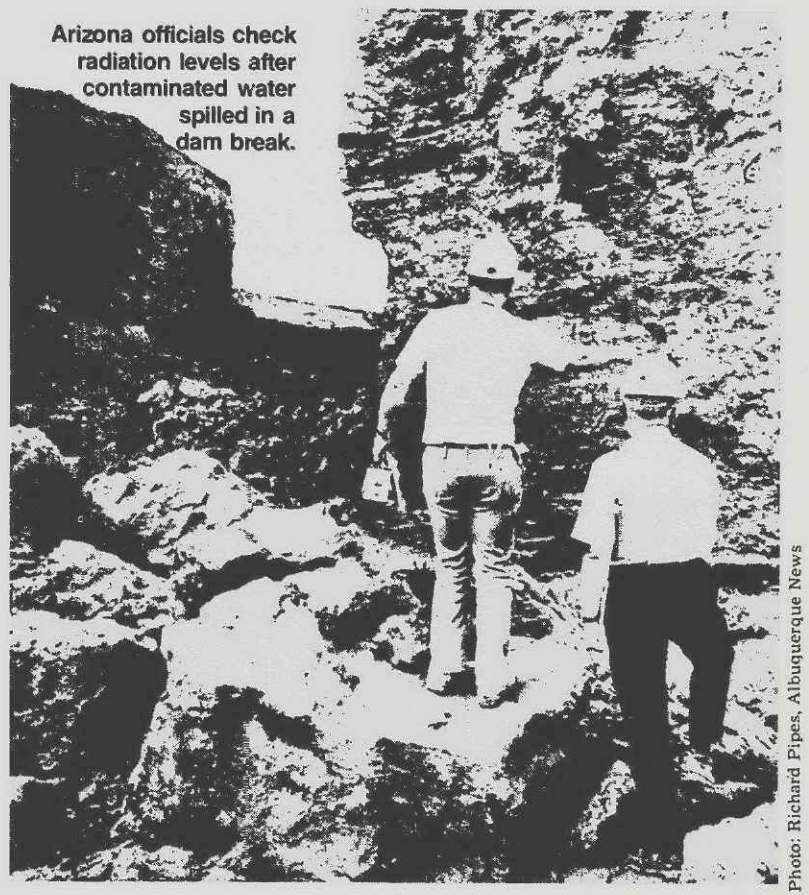
Neither United Nuclear nor the insurers would discuss the claim while it's under investigation.

The July 17 spill is the largest loss of liquid uranium waste in any dam spill, said Gerald Stewart of the New Mexico environmental improvement division's radiation detection section. It is the largest amount ever to enter a major water source, as well, he said.

An estimated 95 million gallons of radioactive water and 1,100 tons of radioactive sands were lost as a result of the 20-foot break in the dam, behind which were stored low-level radioactive wastes from United Nuclear's Church Rock uranium processing mill.

Approximately 1,700 members of the Navajo tribe and 2,600 head

Continued on page 56



Arizona officials check radiation levels after contaminated water spilled in a dam break.

Photo: Richard Pipes, Albuquerque News

Connally promises to fight 'excess' federal regulation

By LEN STRAZEWSKI

LAS VEGAS, Nev.—Former Texas governor John Connally, campaigning hard for the Republican presidential nomination, is attacking "inflationary" national health care proposals and is proposing a decade-long study of Social Security and pensions.

Decrying "excessive federal regulations," Mr. Connally surprised the annual convention of Independent Insurance Agents Assn. by adding his support to the group's fight against federal regulation of the insurance industry.

Mr. Connally said he and the agents can "fight together to prevent national health care, maintain the antitrust protection of the McCarran-Ferguson Act and oppose a federal consumer affairs organization.

"The best way to contain hospital costs," he explained, "is to contain inflation," adding that the multibillion dollar cost of proposed national health insurance would feed, not fight, inflation.

Mr. Connally lent his support to state regulation of the insurance industry, saying he opposes Sen. Howard Metzenbaum's (D-Ohio) proposed legislation that would "federalize" the insurance industry.

The Metzenbaum plan, not yet submitted to Congress, reportedly would establish a federal panel to review state regulation of the insurance industry and take charge of regulation if the state did not meet the panel's regulative standards.

"In addition, we're going to have to take the decade of the 1980s to study the issue of pensions and Social Security," Mr. Connally noted. "The Social Security system is actuarially unsound, in spite of the money being poured into it."

The candidate later said at a press conference that he has no firm proposals for changes in Social Security or private pension plans, but that "we need a whole re-look at the pension system in this country," apparently ignoring President Carter's present commission studying retirement issues.

"Soon the average life expectancy will be 100 years," he said. "If we are going to ask people to retire at 65, we have to be sure to provide them with the retirement funds they need."

Under the general goal of tax reform, Mr. Connally proposed a liberal depreciation schedule that would allow businesses to fully depreciate buildings in 10 years, equipment in five years and government-mandated equipment in three years or less.

The candidate also suggested an "individual investment account" regulation that would allow individuals to invest up to $10,000 or $20,000 in stocks, bonds or savings accounts and defer capital gains taxes. Unlike the present Individual Retirement Account allowances, an individual would be able to withdraw funds any time he chose without waiting for retirement, though he would have to pay taxes in his bracket at the time of withdrawal.

"I urge all of you to lay it on the line in your communities," he told the agents, "and with your political representatives. Let them know you support business. Get the message across to Congress that federal interference is destroying the business foundations that have made this country the great nation it is.

"Don't leave the decision-making to your politicians. Make them aware of your attitudes. If enough people get involved, Congress will listen." ■

Benefits in the 1980s

What employe benefit demands and issues will confront benefit managers and their employers in the 1980s?

Business Insurance will answer the question in its annual special issue focusing on employe benefits Dec. 10.

After the explosive growth in the type and cost of employe benefit plans that emerged in the 1970s, what could the 1980s bring? *BI* editors will probe for clues about the direction benefit programs and planning will take.

A report on the insurance market for group benefit plans will also be included in this annual issue, providing *BI* readers with an opportunity to zero in on the important issues of employe benefits financing and management that are discussed in each issue during the year.

If you have a special topic you'd like to see researched or if you would like to contribute an article to the issue, contact Susan Alt or Kathryn McIntyre at *Business Insurance*, 740 N. Rush, Chicago, Ill. 60611; 312-649-5278.

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Congress may snap up state model bill

LAS VEGAS, Nev.—The Commerce Department's model product liability bill, planned for adoption by state governments, will soon be introduced in Congress, said Victor Schwartz, chairman of the Commerce Department task force on product liability and accident compensation.

The model bill, designed to introduce general federal standards for product liability cases without forcing federal regulation, has drawn the attention of congressional critics of state regulation of the insurance industry, he told an Independent Insurance Agents Assn. panel on federal regulation.

Federalization of the model bill would probably not find much support, he noted, and would not be supported by the Commerce Department.

"We still plan to work with the product liability bill by states, concentrating our efforts in some larger states," he said. ■

errors & omissions

• Frederick J. Fisher was incorrectly identified with an article in the Perspective section of the Sept. 17 issue as being a lawyer, which he is not. He has not been admitted to the state bar in California, where he is with Miller & Gilbert, although he has a JD degree.

for your information

Hurricane Frederic's damage reaches $650 million mark

NEW YORK—Hurricane Frederic turned into the storm that David had threatened to be. Early reports of losses total $650 million, but the ultimate loss is expected to be higher.

Hardest hit was Alabama, with insured losses totaling $473 million, according to figures compiled by the American Insurance Assn. Florida, which bore the brunt of David's damage last month with $65 million in losses, suffered another $79 million in losses from Frederic and Mississippi had $95 million in losses. Estimates for the states of Louisiana, Tennessee, Kentucky, Ohio, Pennsylvania and New York are not yet official.

An AIA spokesman wouldn't speculate what the total figure from Frederic's damage will be, but it seems likely it will surpass the record of $715 million set by Hurricane Betsy in 1965. (But the 1965 loss from Betsy is not adjusted for inflation.)

Most insurers say the storm will have little impact on market prices for property insurance. "This was not a major loss for us; we have had bigger ones in the past," said Factory Mutual vp Charles Young. The Factory Mutual system suffered an estimated $20 million in losses from Frederic, with the largest single loss totaling $4 million. "At $20 million, that is just 5% of our annual losses. It could have been much worse," Mr. Young said.

Travelers reported losses of between $7.5 million and $10 million. Kemper estimated its losses "on the high side" of $15 million. Aetna Life & Casualty reported $16 million and Hartford reported $10 million. Industrial Risk Insurers said losses from Frederic were considerably higher than the $900,000 lost in Hurricane David. Other sources pegged IRI's losses at about $22 million. Crum & Forster said its losses from Frederic were $6.1 million, about double the damage caused by David.

EEC approves strict liability

BRUSSELS—The European Economic Community Commission has approved the long-delayed proposal establishing a uniform strict product liability law for the nine members of the Common Market.

In a major blow for manufacturers, the commission rejected an amendment that would have exempted companies from liability if they could prove that a defect was "unforseeable and unavoidable in light of the scientific and technological development at the time the product was first put into use."

Under the approved proposal, manufacturers will be strictly liable for their products up to 10 years after the time of first sale. The proposal limits to $27 million the amount of damages that can be awarded against one company for personal injuries caused by one product defect.

The EEC proposal now goes to the Council of Ministers which is expected to slowly and carefully consider the directive. New amendments are expected to be added to the directive during the council's consideration.

Fireman's Fund to buy E/S unit

SAN FRANCISCO—Fireman's Fund Insurance Co. said it has reached an agreement in principle to acquire Chicago-based Interstate Insurance Group for $54 million.

Interstate Group consists of Interstate Fire & Casualty Co., Interstate Indemnity Corp., Chicago Insurance Co. and George F. Brown & Sons Inc., a major excess/surplus lines brokerage. The group reported total 1978 premium volume of $78.5 million.

Should the acquisition be completed, Fireman's Fund, in purchasing the Brown firm, would follow the trend of other large insurance companies in acquiring excess/surplus brokerage operations.

Other major acquisitions in recent years include the purchase of J.H. Blades of Houston by Crum & Forster and Continental Corp.'s takeover of Los Angeles-based Swett & Crawford.

Interstate is a subsidiary of National Student Marketing Corp. of Chicago. Fireman's Fund is owned by American Express Co.

Equifax files countersuit

CHICAGO—Equifax Reporting Services Inc., a financial reporting firm in Atlanta, Ga., has filed a $30 million countersuit in U.S. District Court here seeking actual and punitive damages against five insurers.

Seven insurance companies earlier this year filed a $32 million lawsuit against Equifax, charging the firm was negligent in preparing a fire insurance inspection report on an egg processing plant in South Carolina (*BI*, April 12.) Two of the seven, Great Southwest Fire Insurance Co. of Scottsdale, Ariz., and First State Insurance Co. of Boston, have withdrawn from the suit.

The countersuit charges that the original suit was unlawfully instituted in bad faith without justification and contained false and malicious statements. The other five insurers are Lexington Insurance Co. of Boston; International Surplus Lines Insurance Co. of Chicago; California Union Insurance Co. of Philadelphia; Mission Insurance Co. of Los Angeles and Stonewall Insurance Co. of Birmingham, Ala.

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Vol. 13, No. 20—Business Insurance [ISSN 0007-6864] is published every other Monday at 740 Rush St., Chicago, Ill. 60611. Controlled circulation postage paid at Brookfield, Wis., Chicago, Ill., and New York, N.Y. Copyright 1979 by Crain Communications Inc.

the benefit beat

Sears discounts retirees' health premiums

Retirees of Sears, Roebuck & Co. have received a discount on the cost of health coverage and an increase in supplemental pension plan benefits.

Effective Oct. 1, retirees over 65 will receive company-provided group health insurance free of charge. The individual coverage cost to all other retirees will be cut to $150 from $207 a year. Benefits will remain the same, with the premium difference paid by the company.

In addition, any person who has dropped out of the retiree group medical plan will be able to reenter between Oct. 1 and Dec. 1.

Also effective Oct. 1, retirees who began receiving monthly supplemental plan benefits before Jan. 1, 1978, will receive a monthly increase of $10 to $200, based on current benefits and the number of years they have been receiving them. Surviving spouses or other beneficiaries of retirees entitled to the benefits also will receive the increases.

New dental plan

About 4,000 members of the International Brotherhood of Electrical Workers Local 1600 at Pennsylvania Power & Light have won a new dental plan as part of a recently ratified three-year contract.

The dental plan, effective Jan. 1, 1980, is on a schedule basis, covering all types of care except orthodontia up to a yearly $1,000 limit per individual. PP&L has not yet chosen an insurer for the dental plan.

Employes also won additional health benefits. The limit on major medical coverage was raised to $250,000 from $100,000, and emergency medical coverage was expanded to cover more health problems. The $10 deductible for diagnostic tests was dropped.

Metropolitan Life writes major medical and group life policies and Blue Cross & Blue Shield writes other health coverage. All premiums are paid by PPL.

The company now will also pay for all contributions to the pension plan; formerly, employes also contributed. PP&L will contribute 2.5% of a worker's base salary to the pension plan.

Social Security

Alaska has become the first state to withdraw from the Social Security program effective Jan. 1, after state employes voted last month to get out of the system. Instead, the 14,500 workers will be offered various benefit plans by the state division of retirement and benefits.

Among the plans are an expanded group health policy; disability insurance, with the levels to be chosen by the participants; life insurance with optional accidental death and dismemberment coverage, and a retirement annuity.

All of these benefit plans will be new except for the group health policy. The policy, written by Blue Cross of Washington and Alaska, presently has a lifetime limit of $250,000 which will be raised to $1 million under the new system. Deductibles now included in the health plan, which vary for different groups of employes, will be dropped.

Workers will take a 6.13% pay cut to fund the new programs and the state will match workers' contributions. The cost to the state is estimated at $25 million to $29 million for the first year.

Teachers retire early

Illinois public school teachers outside the city of Chicago are allowed to retire at age 55 under a bill recently signed into law by Gov. James Thompson. Another bill, which would make the state's pension contributions tax-sheltered income, awaits his signature.

The new law permits teachers to retire at age 55 if they make a contribution equal to 35% of their final annual salary. The required contribution would decrease 7% each year over 55 to 60. For example, a teacher retiring at 56 must contribute 28% of his or her final salary. The school board must supplement the teacher's contribution with a donation equal to 100% of the final annual salary for a teacher age 55. The amount of this contribution decreases 20% for each year over 55 to 60.

The law is estimated to cost taxpayers between $6 million and $35 million. It is not known how many teachers will take advantage of early retirement.

Under the second bill, the state's pension contributions for state employes would be tax-sheltered. When an employe retires, his or her pension would be taxable income. The reverse situation is true now.

If Governor Thompson signs the measure, it still would be subject to approval of the Internal Revenue Service.

Dental insurance

More than two million civilian federal employes and their dependents will receive dental insurance if Congress passes a bill introduced by Rep. Charles H. Wilson (D-Calif.) and Rep. Gladys N. Spellman (D-Md.).

The government would pick up 60% of the premiums for the insurance, which is expected to cover diagnostic services, x-rays, cleaning, fluoridation, fillings, extractions and emergency services. The annual cost to the government is estimated at $260 million.

The employes would be able to choose coverage through a service plan, an indemnity plan, an employe organization-sponsored plan or a health maintenance organization.

•

Benefit beat keeps insurance and employe benefit managers up-to-date on what other companies are doing and informed of current developments in the employe benefit field. We'd like to know if you've made any changes. Write Kathryn J. McIntyre, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611 or call 312-649-5286.

captives are coming to the Caymans.

Cayman Islands Captives ... an alternative domicile

A Two-Day Seminar—November 30 and December 1, 1979

The Grand Caymanian Hotel Grand Cayman Island, B.W.I.

More than ever, corporate management is looking into the feasibility of forming captive insurance companies. One of the more important considerations in forming a captive is the selection of a domicile. Factors affecting this decision include regulations (or the absence of regulations); tax considerations; capital requirements; availability of services; political stability; ease of communications and many more.

The Cayman Islands is increasingly becoming a popular alternative for many captive parents. The reasons behind this trend and how the Cayman business community and government are responding to it are primary topics of this two-day seminar.

The program will also focus on the problems and opportunities being faced today by all captives, wherever domiciled, such as:

- What is the outlook for U.S.-based captives?
- Is outside business necessary or advisable?
- Where can the best management expertise be found?
- Will group/association captives continue to grow in number in the future?
- What are the future risks facing captives?

The seminar sponsor is Risk Planning Group, Inc., an independent risk management consulting firm with years of experience in the captive field and an international reputation in organizing captive conferences. The firm publishes **Captive Insurance Company Reports,** devoted to analyzing and reporting events in the captive industry.

If you have a captive or are planning one, or if you are involved in the captive industry in a service capacity and want to explore the possibilities the Cayman Islands has to offer, you should attend this seminar.

The seminar fee is US$425. For more information, contact:

Risk Planning Group, Inc.
722 Post Road, Darien, CT. 06820
(203) 655-9791 Telex: 996358

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November 30 and December 1, 1979

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Contest seeks outstanding risk manager

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The nine criteria to be used in selecting the winner of the 1980 award broadly indicate that an outstanding risk manager will have accomplished one or more of the following tasks:

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- Innovatively applied the diverse tools of risk management and insurance.
- Established a workable intelligence system inside and outside the organization, culminating in access to information about events and activities affecting the organization's risk management and insurance programs.
- Skillfully applied the principles of management in the overall organization and within the risk management/insurance department.
- Achieved the most effective program at the optimum cost over the long term.
- Demonstrated technical expertise in any or all of the broad categories included within risk management, leading to a better managerial grasp of the operational aspects of the job. These categories include insurance, safety, law, industrial hygiene, claims control/administration, underwriting, communications and information systems.
- Demonstrated an attitude and participated in activities fostering the advancement of the risk management profession.

CHICAGO—Nominations are now being accepted for *Business Insurance's* third annual Risk Manager of the Year competition, with the winner to be chosen by 10 judges early next year. The award will be presented and announced in the pages of *Business Insurance* April 1, 1980.

Forms to use in nominating a corporate practitioner of the art of risk management may be obtained from the editorial headquarters of *Business Insurance*. The two-page nominating form contains instructions for the procedure to follow and the list of nine criteria to be used in selecting the winner of the annual award.

The competition was begun on the 10th anniversary of *Business Insurance's* inception, to honor an outstanding corporate risk manager and to give visibility to the profession of corporate insurance and risk management. Nominations may be submitted until Dec. 20.

Joining the team of 10 judges this year is Edward L. Erickson, director of insurance for ABC Inc. in New York and winner of the 1979 award for his outstanding performance at ABC. Returning for the second year as judges are John R. Cox, president of INA Corp. in Philadelphia, and Hal B. O'Connor, senior vp-operations for American Mutual Insurance Co. in Wakefield, Mass.

Several other prominent risk managers have agreed to act as judges for the 1980 competition as well. They are Edward D. Hansen, risk manager-attorney for Trans Union Corp. in Lincolnshire, Ill., and Ralph E. Gentry, insurance manager for the Times-Mirror Co. in Los Angeles.

Representing the insurance brokerage community on the panel of judges are John F. McCaffrey, executive vp of Frank B. Hall & Co. Inc. in Briarcliff Manor, N.Y., and William C. Cohen Jr., president of Insurance Management Associates in Wichita, Kan.

Assisting as a judge from the academic community is Dr. Thomas B. Morehart, associate professor of insurance in the college of business at Arizona State University in Tempe, Ariz.

The risk management consulting profession is represented on the judging panel by Leonard J. Silver, principal, First Risk Management Co. in Wyncote, Pa., who has worked with large and small corporate clients on insurance and risk management problems.

Last but not least, joining the panel of judges this year as a representative of senior management, aware of what a good risk manager can and should be able to do with insurance and risk programs, is Kenneth F. Reimer, executive vp-operations at Dallas-based Lehndorff Group of Cos., a real estate holding and development company. Mr. Reimer has long been a leading proponent and practitioner of progressive corporate risk management, at his former job with Austin Industries Inc. and now at Lehndorff.

Individuals eligible for nomination may be full-time or part-time insurance or risk managers or executives handling insurance and risk management as part of their overall duties. These managers may be employed by corporations, institutions or governments and are not restricted as to job title.

The competition is meant to foster the qualities of courage, innovation and upgraded general management and administrative skills among the men and women practicing the discipline of corporate risk management.

Nominations may be submitted to *Business Insurance* by anyone in the insurance industry or the field of risk management.

Names of those who nominate a candidate for the 1980 award will not be disclosed, just as the names of nominees not selected to receive the award are never revealed.

Managers nominated in the two previous years for awards are eligible for renomination.

The winner of the 1980 award will be announced in the April 1, 1980, issue of *Business Insurance*. As in previous years, the winner will receive an engraved plaque and will be honored at a special presentation sponsored by *Business Insurance*.

To request a nominating form, call 312-649-5278 or write to the Editor, *Business Insurance*, 740 N. Rush St., Chicago, Ill 60611. ■

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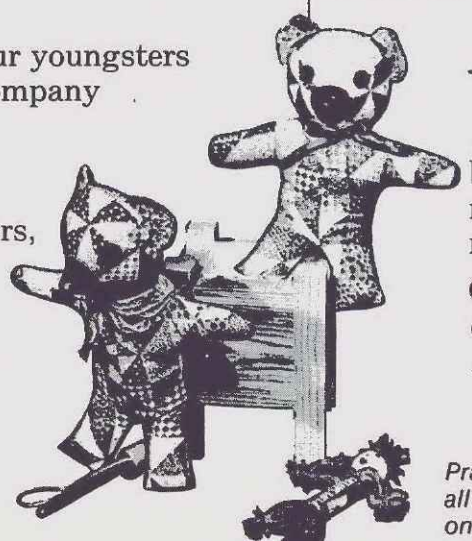


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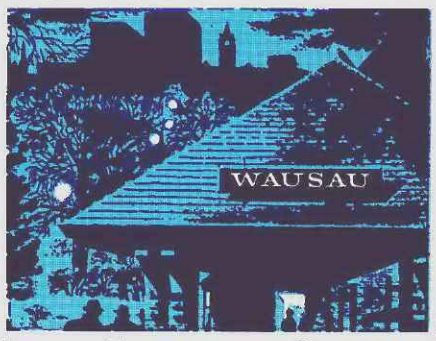
Q: "What would be fair profits?"
A: "Not more than 25%."
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Wash. to keep close eye on new risk pools

OLYMPIA, Wash.—The state of Washington has added an unusual rider to legislation that allows government entities to form self-insurance pools: strict regulation by the state.

Like many other states, Washington passed a law in May allowing formation of risk pools, but officials have taken an extra step they say will assure no amateurs or profiteers become involved.

Among the requirements of the law, effective Oct. 1, are that the state risk manager oversee the formation of any governmental self-insurance and insurance pool, that the pool's financial and administrative structures be investigated and approved, and that state officials conduct annual audits.

The law specifically spreads these functions among several administrative agencies, rather than giving sole responsibility to the department of insurance, to ensure that there will be checks and balances in the process.

Although no specific standards have yet been formulated for judging the acceptability of a proposed pool, state risk manager Jim Carlisle said he is now in the process of drawing them up.

"We want to make sure (the participants in a pool) have some sort of master plan. We want to know in detail how they intend to set up the pool, how it will be managed, what kinds of insurance and services it will provide, how claims will be handled and what sorts of loss prevention techniques they have in mind," Mr. Carlisle said.

Mr. Carlisle criticized other states for what he characterized as a lot of effort being put into writing and passing laws allowing formation of self-insurance pools, then requiring little more than perfunctory regulation of them once they are in operation.

"There should be some kind of professional person acting as a check against the agents or even consultants selling the pools. There also has to be someone there to put a damper on how much pools pay for administrative services," he said, explaining that the presence of a regulator might hinder someone thinking about overcharging a client.

The state will want to know that an intensive feasibility study was commissioned before the pool was formed, that professional management will be involved—although an exact definition of what is professional has not yet been determined, how much money has been placed in reserves and how assets would be invested.

Pools have become attractive to municipalities in recent years because of the uncertainty about obtaining affordable insurance from traditional underwriters. Court decisions that have gradually eroded the concept of government immunity and other factors in the market have made some underwriters wary about insuring municipal risks, Mr. Carlisle said.

The pools also give the municipalities direct access to the reinsurance market, he added. ■

Seattle transit system lowers its liability costs

By STJART EMMRICH

SEATTLE—Officials of the county's transit systems, who have complained about the unavailability and high prices of liability insurance, might take some encouragement from the recent experience of Seattle's Metro system.

Through revamping its insurance buying practices and beefing up its loss control efforts, Seattle Metro convinced its insurer to lower premiums on automobile liability insurance for the bus fleet by 30% from last year, reduce premiums for umbrella coverage to $89,000 from $170,000 and keep the same rate as last year for workers compensation excess of loss insurance.

What's more, the transit system managed to accomplish this without going into the highly touted APTIST program, an association plan being pushed by Marsh & McLennan and the American Public Transit Assn. (*BI*, Aug. 6).

Seattle supervisor of risk management George Jones said he had been interested in the APTIST program, described by its supporters as an antidote for the increasing costs of municipal insurance, but when its future seemed uncertain this summer, he and David Boggs, director of finance, budget and administration, decided to try to put together his own plan, for premium reductions.

"I was worried that the APTIST program wouldn't be ready until late this year and I was faced with a renewal in September," Mr. Jones said. "So I decided to see what I could accomplish on my own."

Although Mr. Jones said he had heard there were snags in getting the APTIST program started, Robert Goshay, vp at Marsh & McLennan, said "all systems are go" and the company still expects its first clients to officially sign up for the program in early October.

Mr. Goshay also adamantly denied rumors of disagreements between Marsh & McLennan and the APTA board over fees to be charged for the program. The program, which promises participants they can save up to 25% on their insurance programs, still is drawing high interest from the nation's transit officials, he maintained.

Mr. Jones admits he is still interested in the APTIST program and might consider signing up for it at some point.

Ironically, Transit Casualty Insurance Co., which underwrites the APTIST program, insures Seattle Metro's policies and awarded the premium reductions.

Transit Casualty won the renewal of the contract—including the stated savings—after Seattle instructed its broker, Johnson & Higgins, to solicit bids from 42 underwriters. Eight responded.

Transit Casualty was convinced to offer the considerably lower rates, Mr. Jones said, primarily because Metro formed its risk management department in 1978.

Heavy self-insurance by the system also played a part in the savings, he said. Seattle Metro self-insures its primary layer of coverage for the first $125,000 per occurrence and $1 million of aggregate losses. It also self-insures the first $125,000 per occurrence on workers compensation losses. ■

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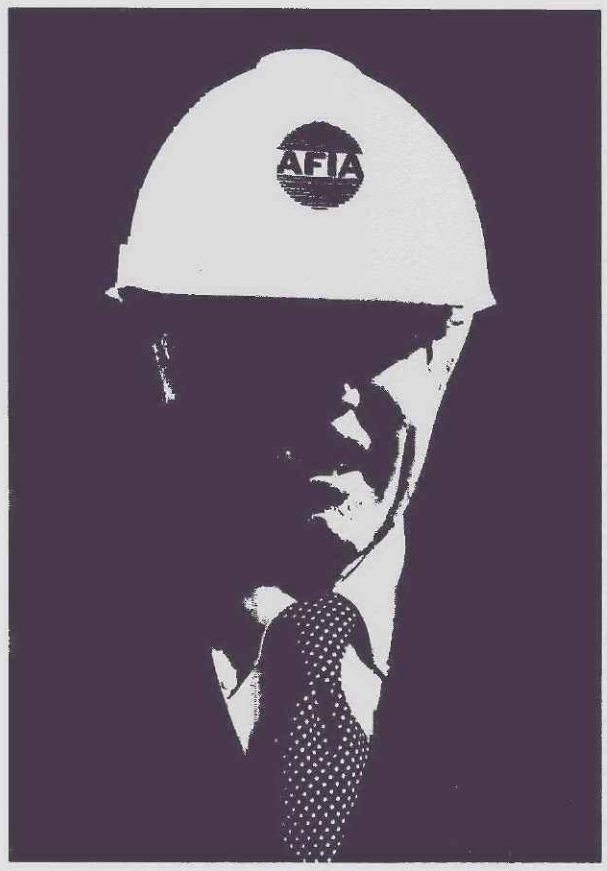
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BI-4

Insurance exchange admits it can't open business this year

By ELLIS SIMON

NEW YORK—New York superintendent of insurance Albert B. Lewis wants to see the New York Insurance Exchange up and running as soon as possible, but that is not likely to occur before the end of the year, says one of its governors.

During his visit to the international reinsurance conference held in Monte Carlo last month, Mr. Lewis wired members of the exchange's board of governors to call a special meeting in an attempt to speed up establishment of the exchange. Time conflicts and travel plans of members forced cancellation of that meeting.

The intent of that meeting, Mr. Lewis said, was to communicate the desire of those attending the Monte Carlo conclave to see the exchange in operation. "Everyone is anxious," he said. "There's some interest in moving in with syndicates, but they are waiting for it to start."

Mr. Lewis noted that T. Vincent Learson, chairman of the board of governors, and other members he spoke with agree they should move as quickly as possible. But he added that certain steps are "extremely vital" before operations can begin.

"To do things in haste would be inappropriate," Mr. Lewis said.

Originally, the exchange was expected to be operational by October, but that likelihood is remote, he said. Now Mr. Lewis said he hopes for a Jan. 1 start-up, conditional upon leasing of appropriate floorspace.

Mr. Learson could not be reached for comment, but David Holbrook, senior vp of Marsh & McLennan Inc. and a member of the board, said he doesn't expect the exchange to be open before the end of the year.

The governors have no intention of changing their plans at this time, he said.

Two of the major tasks to be completed before exchange operations can begin are selection of a chief executive officer and leasing of an underwriting floor. Once these are announced, things will probably begin to move at a quicker pace, said Donald Kramer, the consultant who developed the exchange concept.

Development has slowed because the board of governors does not have to conform to fixed deadlines such as those imposed upon the Committee of 13 that drafted the exchange's constitution and the seven-member interim board of governors that approved the first members.

Another issue to be resolved before start-up of the exchange is its procedure for accepting direct domestic business. Mr. Lewis has asked the board of governors to take a stand on a regulation to be proposed for interface of the exchange and free trade zone.

Mr. Holbrook anticipates that the board of governors will take a stand on the question after its next meeting in late September. The free trade zone is a provision in New York insurance law permitting specially licensed companies to write large premiums or select unusual risks without prior approval of rates or forms.

The insurance department will probably issue a draft version of the regulation, to be know as Regulation 86-a., by the end of October, Mr. Lewis said. A hearing will be held before the final regulation is announced.

Insurance brokers and several insurance companies, including the Continental, INA and Allianz, had objected to a proposed version of Regulation 86-a prepared by an ad hoc committee of free trade zone insurers. That draft, which would have required as many as eight rejections before a free trade zone risk could be eligible for placement in the insurance exchange, was decried as making the exchange less competitive than the London market (*BI*, Sept. 3). ■



Photo: George Poulos

"To do things in haste would be inappropriate," Albert Lewis says of the insurance exchange.

Exchange likely to gain 9 new members: Exec

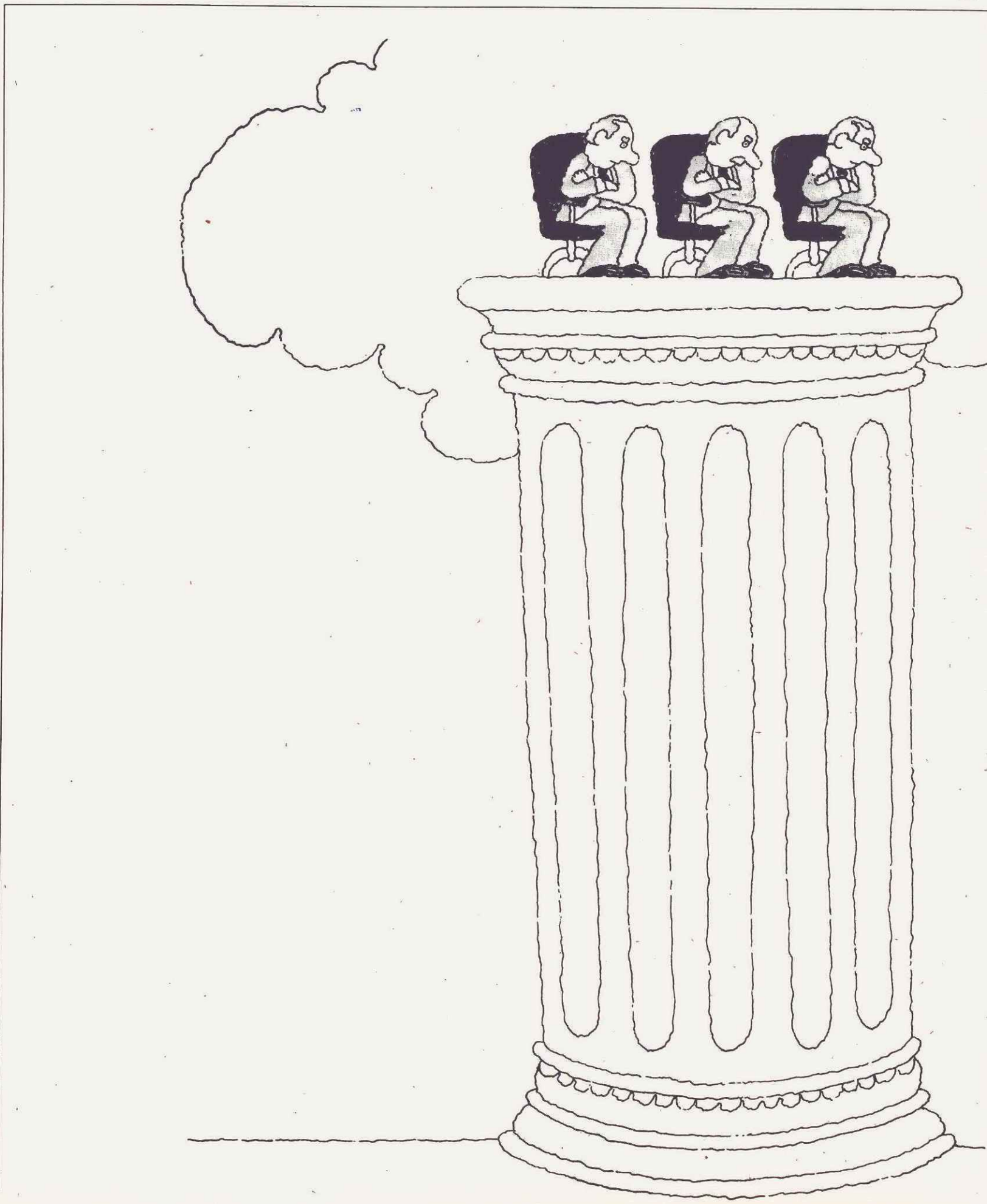
BOSTON—Even without a favorable tax ruling on the operations of New York Insurance Exchange syndicates, unwriting operations participating in the exchange will grow to 22 by mid-1980 from 13 now, predicts John R. Cox, president of INA and member of the exchange's board of governors.

Given a favorable tax ruling by the IRS on the deductibility of syndicate expenses for losses being reserved, there could be a flood of new capital into the exchange and the formation of many more new syndicates than nine, he believes. The money that "would come into the exchange would be unbelievable," because many people on Wall Street would be encouraged to raise capital, he said.

Though Mr. Cox would not say who is starting the nine new syndicates he is aware of, he believes there is considerable activity among foreign insurers interested in participating. "I am in the Geneva Assn., and many chief executives in that group believe U.S. investment right now is a very good bet," he added.

INA's recently formed exchange syndicate, he is certain, will be writing business early in 1980, though he doesn't expect operations to begin this year.

A favorable Internal Revenue Service ruling on the tax status of private investor capitalized syndicates could result in an influx of $100 million in new capital for the New York Insurance Exchange,



said Patrick J. Foley, vp and general counsel for American Home Assurance Co.

The IRS is expected to decide by November whether such syndicates could be treated as partnerships rather than corporations for tax purposes, he said. If the partnership treatment were permitted, after five years investors could enjoy a 30% return on investment. If taxed as a corporation, the return would likely be nearer 16%.

Mr. Foley made his remarks during a risk management conference in Tarpon Springs, Fla., sponsored by the American Management Assn.

While noting that a favorable IRS ruling would be a boon for the insurance exchange's capital needs, he questioned whether the exchange was to become a viable underwriting entity or a "capital machine" that would see syndicates pulling their money out after a few years.

Although the exchange is to be self-regulating, New York insurance superintendent Albert B. Lewis has said he wants to see the exchange maintain a three-to-one premium to surplus ratio, Mr. Foley noted, adding that he does not believe the question of how to police underwriting operations has been addressed yet by the exchange's board of governors.

Two tasks remain to be completed before the exchange can open its door, said Mr. Cox: the appointment of a chief executive officer and the establishment of a solvency fund.

More than six candidates for CEO of the exchange are now being considered by directors, Mr. Cox said. Within about six weeks, he expects the field to be narrowed to two or three finalists. "All of them are people whose names you would recognize; they are people who are well known," he said when asked whether all candidates are insurance industry executives. ■

Lake Placid broker retained to place Olympics coverage

By ELLIS SIMON

LAKE PLACID, N.Y.—Locally owned Placid Management Co. has been retained as broker of record for the 1980 Winter Olympics.

The firm, which placed the original builders risk and construction wrapup two years ago with Aetna Casualty & Surety Co., beat out three competitors to keep the account.

Insurance coverages for the Olympics were put out to competitive bid twice after U.S. Department of Commerce officials charged nepotism in the selection of Placid Management and urged hiring an outside consultant. Robert Damp, principal of the firm, is a nephew of Jack Wilkins, a member of the Lake Placid Olympic Organizing Committee.

Coverages were put out to bid in March, but the quotes failed to meet specifications. Following that unsuccessful attempt, consultant John Liner Associates of Boston was retained to conduct a rebidding.

Placid Management, National Preferred Risks of Great Neck, Frank B. Hall & Co. of Briarcliff Manor and Lawrence-VanVost of Schenectady submitted proposals to the Olympic committee in early September.

John Liner Associates recommended Placid Management's proposal as being the most economical and most complete, said William Kissell, counsel to the Lake Placid Olympics Organizing Committee.

Aetna Casualty & Surety Co. will continue to underwrite the builders risk and construction wrapup program, including workers compensation.

Spectator liability for the games and other Lake Placid events, workers compensation for administrative staff and volunteers and property coverage for completed buildings will be written by Insurance Co. of North America.

In writing the spectator liability coverage, INA has agreed to provide an on-site claims adjuster during the eight days of the Olympic games, said Jack Morrison, president of INA Special Risk Facilities.

The wrapup program provided by Aetna has a $15 million limit and the primary liability program written by INA has a $1 million limit. Insured property values are between $65 million and $70 million, Mr. Damp said. The total premium charge for these coverages is $662,000.

Yet to be placed is an umbrella liability policy that would provide $10 million excess coverage for the wrapup program and $24 million for the spectator liability and auto liability policies. The $1 million auto liability policy is written by Merchants Mutual Insurance Co. of Buffalo and brokered by National Preferred Risks.

Mr. Damp would not disclose the identity of the umbrella insurer since he is awaiting approval of his recommendation by the Olympic committee. He also did not disclose the premium for the umbrella layer, but said price appears to be considerably less than what could be obtained elsewhere on the market. ■

A&A acquires Keyes of Boston

BOSTON—Alexander & Alexander Inc. has acquired Keyes Insurance Agency of Boston and merged the newly acquired firm into its office here. Keyes, a general commercial lines agency is heavily involved with utility accounts in New England.

Robert F. Danahy, president of Keyes, was named senior vp of A&A's Boston office. His staff of six will also join the firm. ■

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Ill. firms sue to repeal work comp rate hike

By JOHN MAES

CHICAGO—A class action suit on behalf of thousands of Illinois employers has been filed in an attempt to block a 23.8% increase in workers compensation insurance rates approved in August by the Illinois department of insurance.

The suit, filed in Cook County circuit court here by 50 trade and business associations and the Illinois chapter of the AFL-CIO, asks that the rate hike order be overturned and that the National Council on Compensation Insurance, a ratemaking organization, be required to resubmit a proposal for rate increases. NCCI represents about 70% of U.S. workers compensation insurers.

The court has issued a stay order allowing the new rates to remain in effect but requiring insurers to inform their workers compensation policyholders of the litigation and to agree to refund any premiums found to be excessive or which are ordered reduced by the insurance department plus 6.5% interest, said Robert F. Coleman, attorney for the employers.

That development led to a counter-challenge by CNA, one of the largest workers compensation insurers in the state. CNA filed a motion asking the court to vacate the stay order and allow the new rates without provisions.

CNA's motion was denied during a court hearing here Sept. 21, but the decision will be appealed, according to a corporate spokesman.

The Illinois insurance department approved the new rates after lengthy hearings during which insurers asked for rate increases totaling 36.8%. The 23.8% boost will add $175 million to Illinois employers' premiums, which were $733 million in 1978, but will be $95 million less than if the 36.8% hike had been approved.

The suit contends the increase is excessive and is based on "inaccurate, unreliable and unaudited data," Mr. Coleman said. A check of records showed "significant discrepancies" in the loss figures filed with the NCCI and state insurance officials in Illinois, he said.

The state hearing officer, former Illinois Supreme Court Justice Walter Shaffer, received NCCI figures showing $75 million to $80 million more in losses than the insurers filed with the state, Mr. Coleman said. The NCCI data was used in considering the increase request.

"It's our position that if the data is unreliable, there can be no rate increase unless it is based on reliable, credible data," Mr. Coleman said.

Employers made a mistake if they compared the two sets of data and concluded the insurers are exaggerating loss figures to obtain a higher rate increase, said Richard Fein, actuary for the NCCI. The information submitted to state insurance officials and loss data used in ratemaking are not the same because they include losses from differing categories of risks, he said. In addition, the requirements for such reporting are different.

"It looks as if they compared apples and oranges," Mr. Fein said. "It's an absolute misunderstanding on the part of the individuals reviewing that document."

The NCCI uses insurers' estimates for incurred but not reported losses (IBNR) when calculating rates. But those estimates were not included in the loss experience reported to state insurance officials, because as late as 1977, "the instructions on IBNRs were not clear as to whether they should be reported," he said. This could account for the difference in the two sets of loss figures but "they're not supposed to agree. There are two different definitions of what is supposed to be reported," Mr. Fein said.

William Courtney, vp and general counsel for CNA, said the stay order allowing the new rates only with the endorsement is improper because the employers' group failed to provide any evidence or demonstrate a likelihood it will prevail in the case. In addition, complying with the order, preparing the special policy endorsement with the information and keeping special records to accommodate refunds, would put the company to great expense, he said.

Also, in light of the fact that workers compensation insurers are refunding $50 million in premiums because of a rate rollback ordered by the insurance department last year, "We've been waiting a long time for these new rates. They're long overdue," Mr. Courtney said.

In the meantime, CNA will abide by the stay order and charge its policyholders the new rates. Two other major workers compensation carriers, Travelers Insurance Co. and Liberty Mutual Insurance Co., also say they will charge the new rates in accordance with the court order.

When the new rates were granted, the hearing officer ordered that in future rate increase cases loss data should be audited. Attorneys for NCCI said they have filed a "protective appeal" that asks for a definition of the auditing procedure. ■

Tex. fights liability for car crash

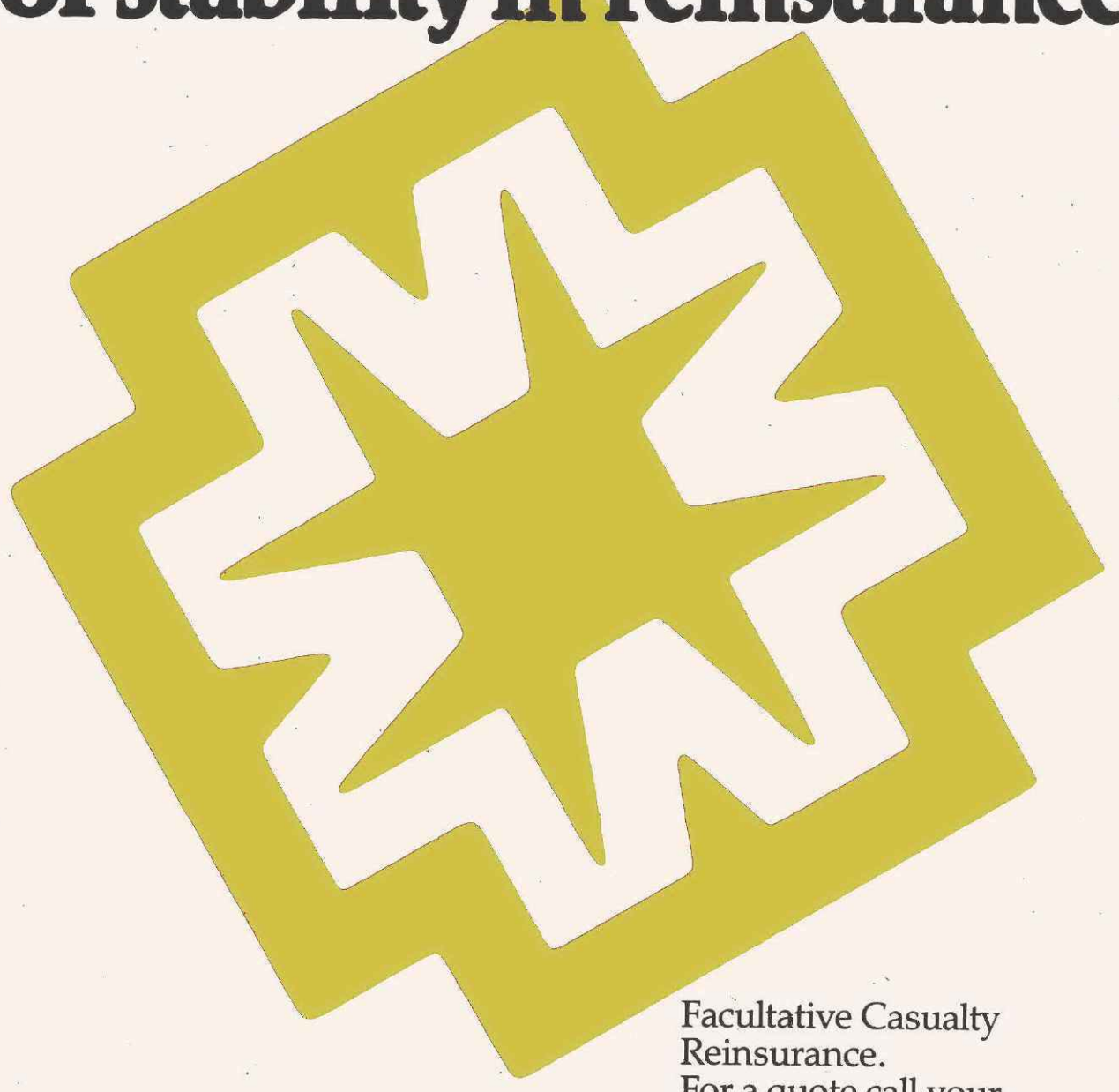
AUSTIN, Tex.—The state supreme court is expected to decide soon whether the state is liable for injuries caused when an emergency vehicle was involved in an accident while on an emergency run, but not using flashing lights and sirens.

The case grew out of a suit filed by James M. Terrell of San Angelo, Tex., and his insurer, Security National Insurance Co., against the state. Mr. Terrell was struck by a highway patrolman's car near Rowena in west Texas in December 1975. His suit contends he suffered back and kidney injuries and seeks $100,000 in damages, the maximum allowable under state tort liability law.

The patrolman, James E. White of the Texas Dept. of Public Safety, had just begun pursuing a speeder and had not had time to activate his lights and siren when the accident occurred, said Jack Sparks, an assistant attorney general.

A district court ruled the state was not liable because it was engaged in the activity of providing police protection at the time. But an appeals court overturned that decision, saying the patrol car's lights and sirens had to be in working order. ■

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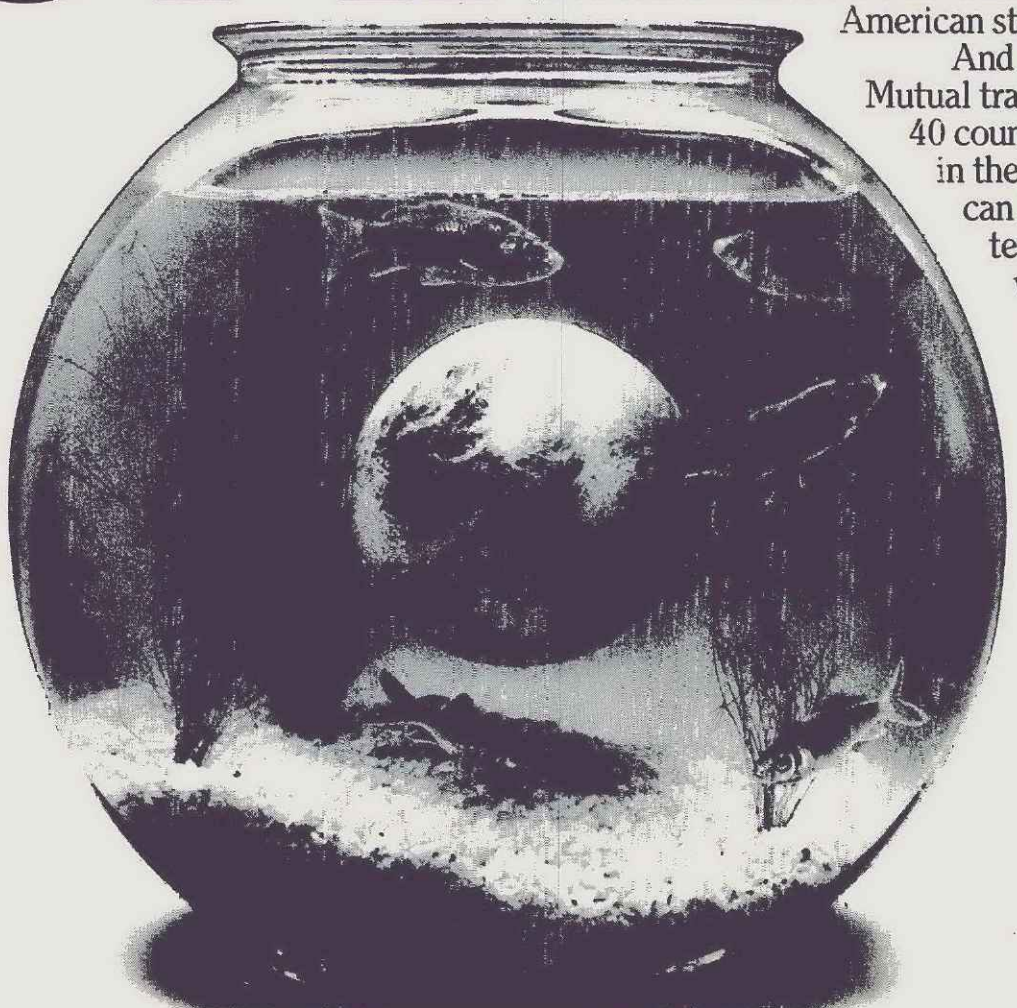
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editorial opinions

Free exchange best

THE NEW YORK Insurance Exchange won't be able to function as a viable insurance market, competing with the U.S. standard markets and Lloyd's of London, if regulations governing the exchange operations don't allow large risks to flow freely in and out of the exchange.

A number of leading insurers—particularly Continental, INA and Allianz—along with many insurance brokers, want to see exchange rules left as relaxed as possible so business can flow to the exchange in an unfettered way.

But they were opposed by other biggies—led by AIG, Atlantic, Utica Mutual, American Re and Crum & Forster—who want the rules to require that a risk be presented to and rejected by at least eight insurers before being marketed on the exchange. One argument being used by these insurers is that allowing risks to go directly into the New York Insurance Exchange would give it an unfair competitive advantage over admitted insurers obligated to pay the costs and suffer the travails of participating in assigned risk pools, FAIR plans and other "social" insurance programs.

It's unrealistic to think rules requiring a risk to be rejected by eight insurers before going to the exchange are going to work. Some states now have excess/surplus laws requiring risks to be rejected by several standard markets before going to nonadmitted excess/surplus carriers. These laws can be—and are—easily and regularly circumvented, to hear brokers and buyers talk.

Moreover, restrictive rules wouldn't accomplish anything worthwhile. They would only serve to prevent the exchange from getting off the ground and competing with Lloyd's of London, which is counterproductive.

Insurers often defend the concept of "open competition" in rating. This issue is closely related. Free competition will be enhanced by the startup of the exchange, a new market element. The restrictive rule that's been proposed is nothing more than an artificial trade barrier. It has no place in U.S. domestic insurance business. There shouldn't have to be any rejections of large risks by the standard markets before exchange underwriters have a chance to write the business.

Redlining problem

REDLINING HAS LONG been a subject of much controversy. Consumers denied coverage for properties and risks in the inner cities have charged insurers with wrongful discrimination based on race and other factors they say are improper to consider.

Consider what happens with property values: A business owner buys a building at a low price. The market value of the property is low because of a deteriorating neighborhood, a situation not uncommon in inner cities. Property insurance isn't supposed to reward the policyholder for having losses; rather, it's intended to make the business owner or building user whole. Because the insurance is written on an actual cash value basis, however, an insured stands to profit if there's a total loss, because if the purchaser of the insurance is allowed (indeed, he's usually obliged) to insure the property for actual cash value—replacement cost of the facility less physical depreciation—there's often a huge gap between the insured value and the purchase price or market value

Result: The building is worth more to the insured if it's burned down. And that's too often exactly what happens. Much of the increase in arson is a direct result of the moral risk created by what in essence is (intentional or unintentional) overinsurance.

Redlining, if racially motivated, is certainly despicable. But can insurers be blamed, particularly on commercial risks, if they try to avoid becoming entangled in situations where property owners are tempted to torch properties to collect the proceeds of policies, getting rich in the process?

Though it doesn't do our cities any good to have businesses driven out by their inability to buy adequate insurance at affordable prices, neither can we fault insurers for staying clear of these risks. Some insurers are experimenting with new rating methods on this type of business which would generate high enough premiums to cover losses, but create a disincentive for the owner to overinsure the building. We hope this solution works.

letters

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

Ramada reply

To the editor: In your July 24, 1979 issue, *Business Insurance* attributes to me statements that would indicate the Ramada Inn in Sarasota, Fla., is "in danger of losing its franchise" because the motel "apparently ignored the safety directives of its franchisor."

At issue, according to *BI*, was a Florida court ruling awarding $7,050 to a guest for injuries sustained in an attack alleged to have occurred in his room at the Inn.

While your article correctly points out that Florida law does not require motels to use dead-bolt locks, it fails to state that chains are required in that state and that chains are provided on all guest room doors at the Sarasota Ramada Inn.

Accordingly, Ramada is not now—and has not in the past—considered terminating this franchise for any reason.

Sandra L. DeWitt,
Risk manager, Ramada Inn, Phoenix, Ariz.

Article lauded

To the editor: It seems the more complex workers compensation becomes, the less can be written about it with any degree of objectivity or accuracy. Fortunately, that is not the case with the articles concerning the mess facing the Illinois compensation system, written by Paul Merrion, Marcia Stepanek and B.G. Yovovich (*BI*, Sept. 3).

We would like to thank and congratulate you on a superbly written, comprehensively researched series—certainly the articles were as informing as they were needed.

In addition to the business community we can only hope the workers compensation story will become mandatory reading for all state legislators.

William S. Sirola
Regional manager, Insurance Information Institute, Chicago.

Fourth member

To the editor: Some time ago *Business Insurance* covered the rather unusual approach used by Jack Love, risk manager for the city of Anaheim, to pick a broker. The article correctly noted that the committee was chaired by Professor Nestor Roos and included Ralph Gentry of the Times Mirror Co. and John Williams of the city of Long Beach.

It omitted the fact that I was also on the broker selection committee and participated in the oral interviews. This has caused me a little embarrassment, particularly since Ralph Gentry was my partner in the RIMS golf tournament. Ralph wanted to know if I were publicity shy. While I will never rival Muhammad Ali, I am not averse to a little ink from time to time.

J.J. Launie
Professor of insurance, California State University, Northridge

A dangerous issue

To the editor: The article in your July 23 issue by Stuart Emmrich entitled "Premium cuts don't cover sprinkler cost" has been followed by two letters to the editor on the same subject in the Sept. 3 issue. Trying to justify costs of sprinkler systems through potential premium cuts attendant on installation of such systems makes for specious arguments about a dangerous issue.

The arguments are specious because such costings put a price on human pain, suffering and death. Pricing arguments like these place a powerful weapon in the hands of trial counsel who press claims for individuals injured or killed in a building fire.

One need only reflect on the Ford Pinto suits to see evidence of a compelling parallel. Your Sept. 3rd issue also contains an article by Roger Rowand about the Ulrich case in Indiana where Ford Motor Co. is being charged with homicide in connection with a rear end impact to a 1973 Pinto with consequent fuel release and instant enveloping fire. Other well known Pinto rear end impact fire cases were the Grimshaw case in California and the Norton case in Virginia.

In the earlier Pinto cases, it was discovered that Ford had made a conscious decision not to modify the fuel system to install a longer filler pipe and cover the forward surfaces of the gas tank with a shielding material. This decision by Ford was made on the basis of cost: $10 per car as against the company's total estimated dollar liability exposure arising out of prospective fire-related injuries and deaths.

When the jury in the Grimshaw case learned of the decision by Ford to put a dollar value on human pain, suffering and death, Ford was hit with $125 million in punitive damages. (Editor's note: Punitive damages were later reduced to $3.5 million and Ford is appealing the award.)

From research at the National Bureau of Standards and other testing agencies, it has long been known that even a small amount of water is very effective in saving lives in a fire. The water release keeps the fire down long enough to permit evacuation by restricting

Continued on page 56

business insurance

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

Published biweekly at 740 Rush St., Chicago, Ill. 60611 (312-649-5200). Offices: 708 Third Ave., New York, N.Y. 10017 (212-986-5050); Suite 1253 National Press Building, Washington, D.C. 20004 (202-638-5300); 6404 Wilshire Blvd., Los Angeles, Ca. 90048 (213-651-3710). 75 cents a copy. $15 a year in U.S. Foreign $5 a year additional. WILLIAM STRONG, *vp-circulation*. PAMELA JANOUSEK, *circulation manager*; ROGER DiGREGORIO, *fulfillment director*. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, Business Insurance, 740 Rush St., Chicago, Ill. 60611 or phone 312-649-5221. Telex 25-4248; Cable CRAINCOM. Microfilm copies are available from University Microfilms, 300 Zeeb Rd., Ann Arbor, Mich. 48013. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Rd., Wooster, Ohio 44691.

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- ☐ Does your policy limit loss to damages by definition, and exclude non-pecuniary claims?
- ☐ Does your policy by definition exclude employee benefits liability losses?
- ☐ Does your policy include outside persons as insured fiduciaries?
- ☐ Does your policy contain a limited retroactive acts exclusion?
- ☐ Does your policy give the insurer the right to settle claims without your consent?
- ☐ Has your policy been purchased without the advice of competent legal counsel who has rendered an opinion in writing as to which contract he felt offered the broadest coverage?

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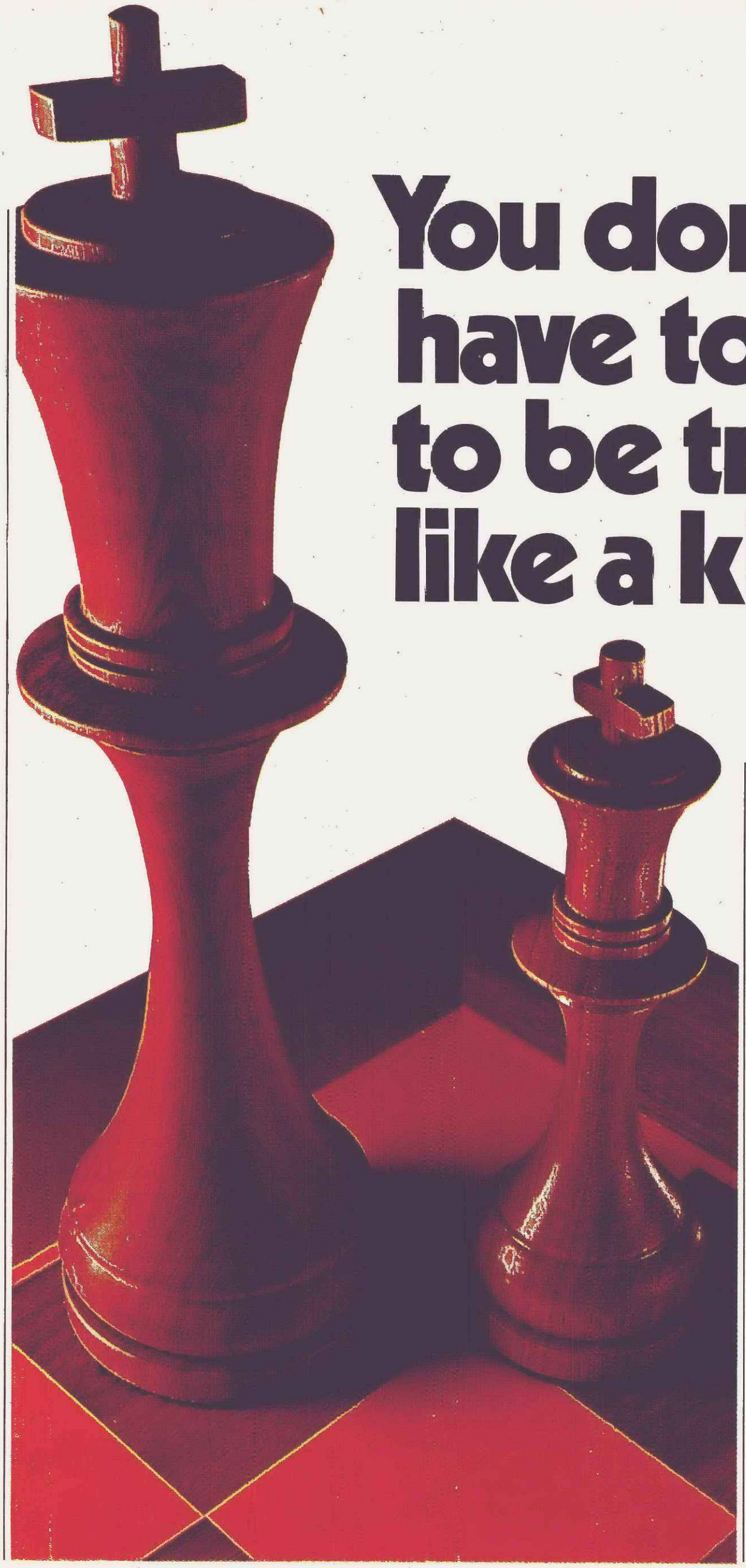
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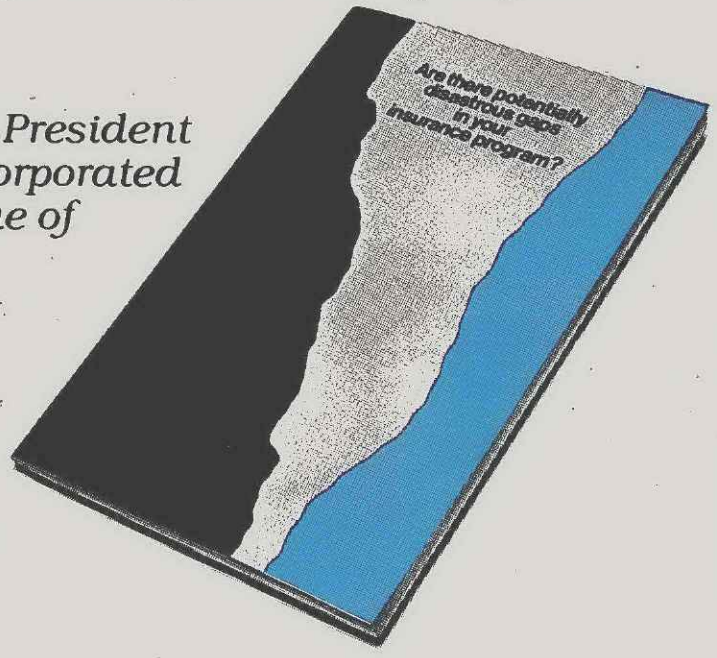
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30 file countersuit

Lloyd's sues Sasse members for a promise to pay losses

By JOHN H. MILLER

LONDON—Lloyd's filed suit Sept. 12 in England's High Court against 30 members of the Sasse Syndicate, seeking by Sept. 30 a declaration in which they promise to pay their share of the syndicate's $41 million losses.

The 30 have countered the suit by asking the high court to release them from paying the losses until the question of liability is settled.

The Sasse members have not refused to pay their losses, but the argument over financial assistance from Lloyd's has delayed the audit for 1976. The audit is needed to comply with U.K. Trade Department regulations.

Ian Findley, Lloyd's chairman, has warned the rebellious Sasse members that "it is essential for your assets to be provided to meet the audit requirements, and any failure to do so will mean that the members concerned will be stopped from further underwriting at Lloyd's until they do so."

The losses resulted from U.S. fire risks and computer leasing claims over the past four years (BI, Aug. 20). Individual Sasse members have lost between 50,000 and 500,000 pounds sterling and some as much as one million. (A pound sterling is currently worth $2.24.)

Lloyd's has promised Sasse an interest-free loan of about $16 million until the syndicate sorts out its problems. But the group of 30 contends Lloyd's should provide more help because its monitoring system failed to spot the syndicate's losses as promptly as it should have and the Lloyd's committee may be legally responsible for any defects in the system. Some Sasse members have threatened to sue Lloyd's if more financial aid is not forthcoming.

The members being sued represent about a third of the syndicate, and probably owe between $13 million and $14 million. The remaining syndicate members have promised to settle quickly to help speed Lloyd's annual audit.

The legal action last month has drawn angry responses.

Stephen Merrett, named as a defendant in Sasse's suit, has quit as management of the syndicate in reprisal.

"The Lloyd's committee began this extraordinary legal action against some members of the syndicate just when we were discussing how we could resolve the dispute amicably. I got no warning about it in any way, and feel completely deflated after all the months of hard work I've been putting in," Mr. Merrett said.

"Now some members of the syndicate have named me in their own lawsuit and that's enough for me."

The Sasse group leaders, Murray Gordon, chairman of Combined English Stores, and Joe Benjamin, chairman of Thames Investments & Securities, say they are amazed at Lloyd's decision to sue them and will fight the writs "all the way through the courts."

"We relied on the committee of Lloyd's but it is clear that the affairs of the syndicate were in a chaotic state for a long time, the circumstances are unique," said Denis N. Davies, another Sasse protestor. "We have been advised by our lawyers that we do not owe the money in these circumstances."

Another person named in the Lloyd's lawsuit, Earl Fortescue, has complained that he is being sued even though he has satisfied the audit requirements. ■

2 charged for chasing DC10 suits

JOLIET, Ill.—An attorney and an ex-insurance investigator have been charged with trying to solicit legal business from the surviving families of two victims of the May 25 crash of an American Airlines DC10 jetliner at O'Hare International Airport that killed 273 persons.

The Illinois attorney registration and disciplinary commission, which participated in the investigation, said the case is the first out of the DC10 crash that has resulted in charges of improper solicitation.

Charged are Marshall I. Teichner, a Chicago attorney, and Thomas Hogan, a former insurance investigator. Ed Petka, Will County state's attorney, said the charges stemmed from an investigation conducted by his office and the attorney disciplinary commission.

The investigation was launched after the two families, which lost daughters in the disaster, contacted the state's attorney's office, saying they had been contacted by Mr. Teichner and Mr. Hogan, Mr. Petka said.

The accused men tried to persuade the families to let an attorney they said they represented file a lawsuit against American Airlines and predicted a huge settlement for a 25% fee, Mr. Petka said.

The two families had received letters from the disciplinary commission, as did all the families of crash victims, asking them to inform the commission if any attorneys tried to solicit business from them.

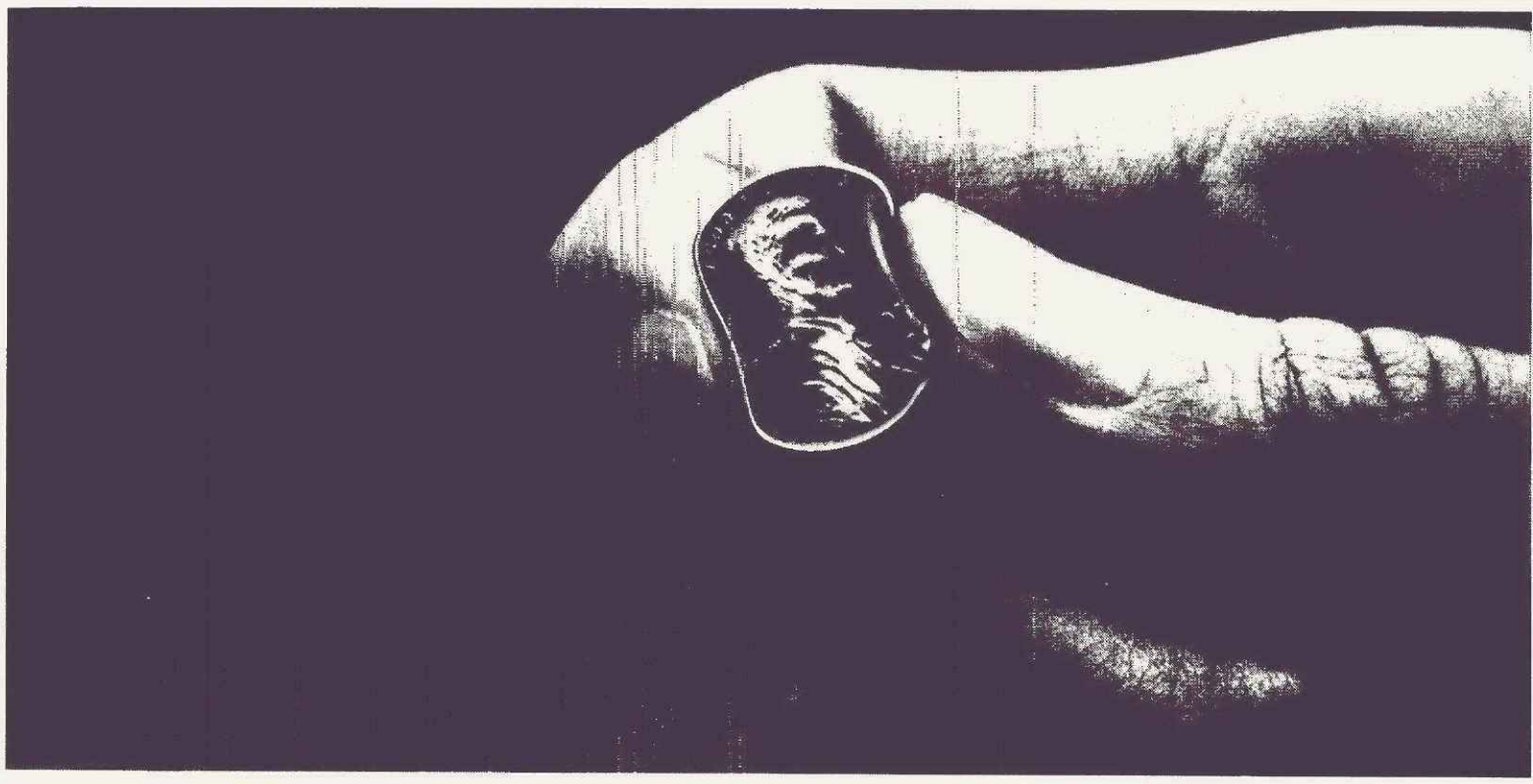
On Aug. 15, Mr. Teichner and Mr. Hogan met with the two families with one of Mr. Petka's investigators posing as a relative, while a secretary from the commission hid in another room recording the conversation in shorthand, Mr. Petka said. The illegal offer was allegedly made then.

The two men are charged with Class B misdemeanors and if convicted, face up to six months in jail, a $500 fine or both.

Mr. Teichner is currently appealing an Illinois supreme court decision that suspended his license to practice for two years for soliciting lawsuits in a 1974 railroad disaster.

John Oswald, chief investigator for the disciplinary commission, said the investigation is continuing but wouldn't elaborate. He said the agency conducts its own probe for possible solicitation of business by attorneys after a mass disaster.

The legal profession came under considerable attack following the O'Hare crash from critics who contended improper solicitation was rampant among lawyers. ■



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PSROs haven't proven savings: U.S. official

WASHINGTON—Congress will never know if Professional Standards Review Organizations are cost-effective until better data is produced and the program is changed, a Congressional Budget Office official said as he released the latest study of PSRO savings.

PSRO reviews of hospital treatment for Medicare patients cost 30% more than they saved, the CBO found in its reevaluation of 1978 Health Care Financing Administration data. The study found PSROs reduced Medicare patient days by almost 2%.

Deputy director Robert O. Reischauer said the CBO was particularly dissatisfied with the latest HCFA study because the HCFA contends PSROs save about 10% more than they cost. HCFA defined savings as those that accrue to the government, while CBO defined savings as those resulting from PSRO-induced reductions in utilization.

Medicare days declined as a result of PSRO activity, but hospitals compensated for the lost revenue by charging non-Medicare patients more, the report said. Mr. Reischauer said the reduced days of care probably were offset by increases in days spent in other care facilities such as ambulatory centers or nursing homes.

Mr. Reischauer warned that PSRO effectiveness claims have been distorted because PSROs decide for themselves whether to undertake reviews. Instead, he said, the program's cost-effectiveness should be measured by comparing two similar settings, only one of which conducts PSRO programs.

The CBO official criticized a current shift to reviews focusing on specific problems, because the PSROs decide the method and extent of the focus. He agreed that such reviews would improve the program, but said criteria should be changed from specific norms for length of stay to such factors as severity of illness or intensity of services.

PSROs should be tested in selected areas to prove whether the program is really economical instead of being applied nationwide, he added.

Clifton Gaus, director of HCFA's office of planning, evaluation and legislation, said the PSRO law prevented the Department of Health, Education and Welfare from experimenting with control groups or phasing in the program. ■

Senator suggests PBGC get budget for administration

By LES STERN
Crain News Service

WASHINGTON—Sen. Harrison Williams (D-N.J.) has suggested giving the Pension Benefit Guaranty Corp. an administrative budget paid by general revenues in order to more fully guarantee pension benefits to participants in multiemployer plans.

The senator, chairman of the Senate Labor and Human Resources Committee and a leading pension expert in Congress, made the remark at an American Bar Assn. seminar here on pension termination insurance.

Currently, the PBGC's administrative costs are paid by premiums paid to the corporation from pension plans. Sen. Williams said putting the PBGC on a budget would allow premium dollars to be used exclusively to pay benefits to participants in terminated plans.

Sen. Williams said the suggestion is one "simple solution" to fully guaranteeing benefits to participants in multiemployer plans. Under the PBGC proposal currently before Congress, only the first $5 per month per year of service is fully guaranteed, and only 60% of the next $15 per month per year of service is guaranteed.

This proposal has created controversy among labor unions and in Congress not only because benefits in single employer plans are fully guaranteed up to a certain ceiling, but also because it goes against the "reliability" principle embedded in ERISA.

This idea is only one which the Senate committee and other congressional panels are looking at to raise benefit guarantee levels under multiemployer plans. Others include raising the proposed $2.60 premium, using general revenues to cover some liabilities and making defined contribution plans pay a premium which they do not now and are not covered by termination insurance.

Sen. Williams also suggested the guarantee level must be partially indexed for inflation.

And he sounded his support for the controversial withdrawal liability provisions in the PBGC package, which have come under sharp criticism from management groups and some unions.

The withdrawal liability provisions would force withdrawing employers withdrawing from multiemployer plans to pay their "fair share" of unfunded liabilities. Those opposed to the provisions believe that employers should only be liable for contributions they agree to make in collective bargaining, even if that amount is insufficient to pay benefits. The PBGC believes this is probably the most important component.

"I believe that if employers agree in bargaining to sponsor defined benefit plans, they must accept financial responsibility," Sen. Williams said. "In multiemployer plans, this means withdrawal liability and liability at termination for insufficiency in assets."

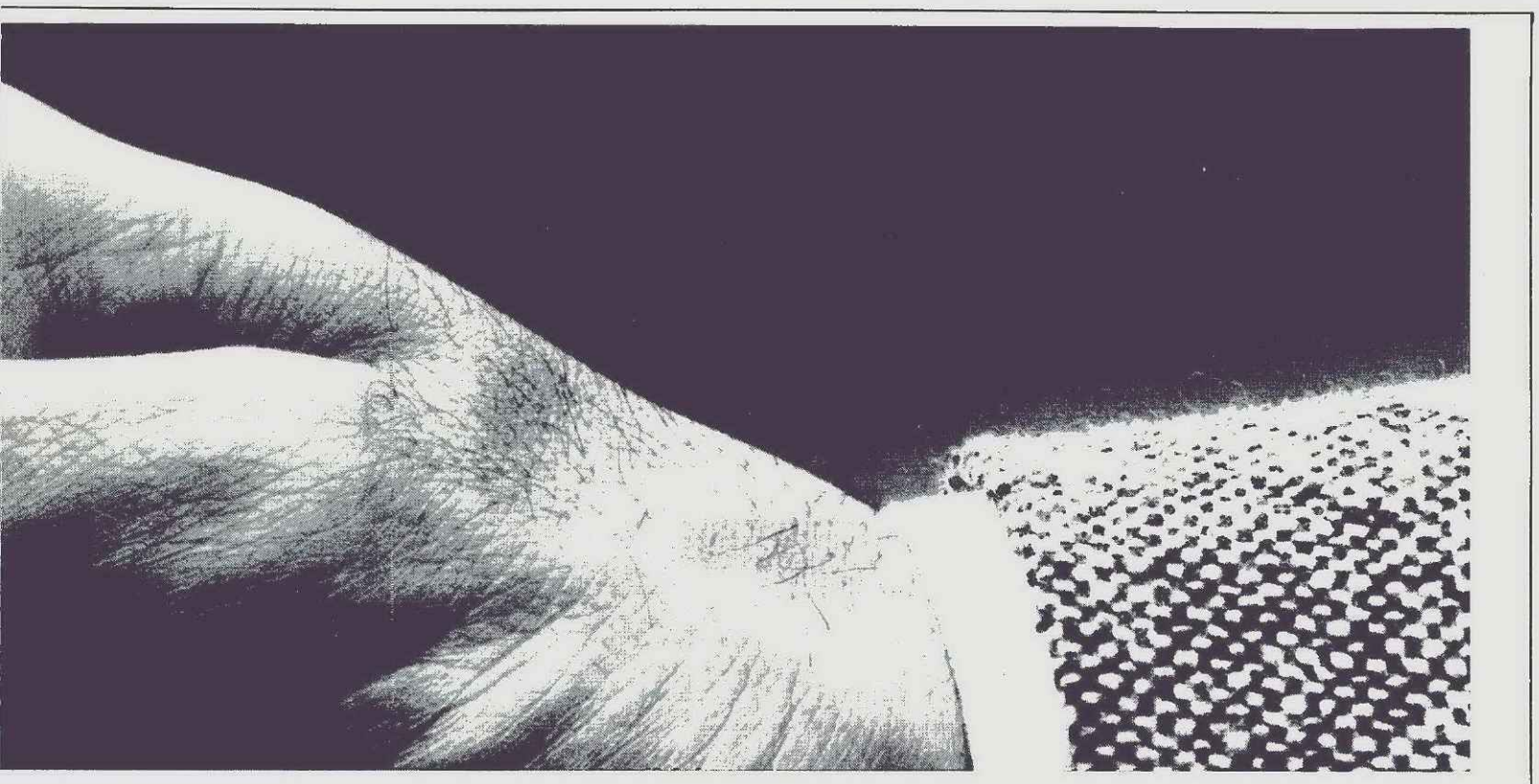
The withdrawal liability provisions, however, were strongly endorsed at the conference by Robert Georgine, chairman of the National Coordinating Committee for Multiemployer Plans.

"Withdrawal liability is overall the fairest approach," he said. If an employer chooses to withdraw from a plan, he said it would be unfair for the remaining employers to increase their contributions to fund a liability they didn't create.

"But we can't let liabilities be taken care of simply by making the participants suffer" by reducing benefit guarantees, he said. ■

Surplus, assets up

Policyholders' surplus at Argonaut Insurance Co. nearly doubled during the first half of this year to $181.9 million from $97 million, while total assets of the firm jumped 12%.



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around the states

Court tells Aetna to pay for sex change

NEW YORK—A New York state supreme court justice has ruled that Aetna Life & Casualty must pay for a sex-change operation.

Judge Louis Grossman, in his decision, said the operation was performed to correct a psychological defect and not to improve appearance. The claimant sought payment under an employe group policy.

Aetna had argued that the sex-change operation is elective surgery and is not medically needed. The insurer is considering an appeal, but has not decided yet.

Commissioner's power

DOVER—The Delaware supreme court has upheld the state insurance commissioner's right to disapprove an insurance rate filing without first holding a hearing.

The decision reversed a ruling by chancery court that Commissioner David H. Elliott did not have such power and that an insurer could change its rates even though the commissioner found grounds to disapprove them. The court had said Mr. Elliott had to hold a hearing before disapproval.

The case concerned a series of rate filings by Blue Cross & Blue Shield of Delaware in February 1978. Mr. Elliott denied the rate change, but at the same time the insurance department gave the insurer the right to request a hearing. Insurance department attorneys said this was legally proper and had been authorized by a 1971 amendment to the insurance code, Mr. Elliott said.

The department and the insurer later reached a settlement on the rate controversy.

Maine work comp

AUGUSTA—Workers compensation benefits in Maine will now be reduced by the amount of unemployment benefits except for lump sum payments, under legislation that took effect in mid-September.

Another new workers compensation law requires that within 90 days of an employe's injury, the workers compensation commission notify the employe that he may file a petition. A third law spells out the information to be contained in workers compensation rate filings and requires a public hearing on the filings.

The legislature also extended the life of the Maine Medical and Hospital Malpractice Joint Underwriting Assn. until July 1, 1980, but not for coverage beyond July 1, 1981.

Sovereign immunity

ANNAPOLIS—The Maryland Court of Appeals has upheld the doctrine of sovereign immunity for state and local governments, but advised the legislature to abolish it.

The case involved a 5-year-old girl who drowned at a day camp run by the city of Baltimore. The girl was permitted to go into the water at a park without supervision, although she could not swim.

The girl's mother sued the city and a Baltimore superior court jury awarded her more than $150,000. But the court of special appeals ruled the city was immune from suit and struck down the award. In its decision, the lower appellate court called the result "eminently unfair, but one required by the present state of the law."

The higher court of appeals upheld the decision.

Rate hike sought

CONCORD—New Hampshire workers compensation insurers requested a 33% increase in premiums at a hearing before insurance commissioner Francis Whaland. But a state insurance department actuary said an 18.9% hike would be more appropriate.

Attorney Ronald L. Snow, representing the National Council on Compensation Insurance, an industry-funded rate-making body, said companies writing workers compensation in the state have been losing more than $12 million a year.

But the department actuary said the insurers were still making money nationally, despite losses on individual lines.

No decision has been made on the rate increase. Workers compensation rates were last raised 10% in 1978.

Tex. rates up

AUSTIN—Workers compensation rates in Texas increased 5% as of Sept. 1 and are expected to add about $50 million in premiums annually.

An increase in the weekly workers compensation benefits also took effect on the same date. The maximum weekly benefit was raised to $119 from $105 and the minimum was raised to $23 from $21.

Medical records

COLUMBUS—Ohio Gov. James A. Rhodes signed legislation requiring that employers answer employes' and former employes' requests for copies of their medical records kept in connection with the job.

Under the new law, effective Oct. 26, the employer can charge up to 25 cents a page for any medical report, but will be subject to a fine of up to $100 for failure to furnish the requested information.

If a physician determines that "serious medical harm" would result from directly revealing the contents of the medical records to the affected employe, the report will be given to a physician of the employe's choice.

ISO seeks increases

PROVIDENCE—The Insurance Services Office has requested a 25% increase in its rates for liquor liability in Rhode Island and a 39.8% increase in the basic limits for bodily injury and property damage in product liability.

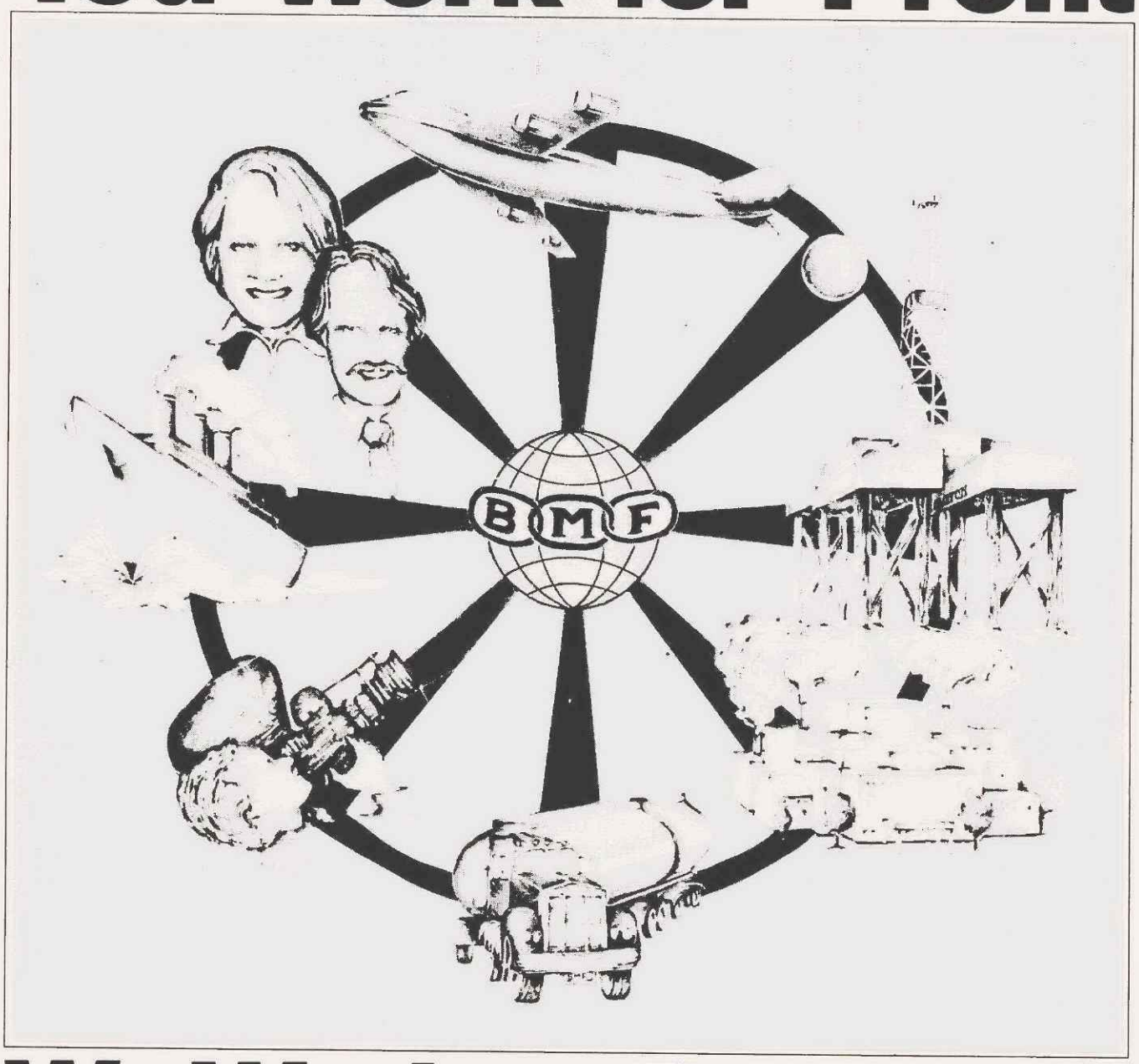
Hearings on both requests are scheduled for Oct. 9.

Rate hike denied

DOVER—Delaware insurance commissioner David H. Elliott has denied a portion of an 11.5% workers compensation rate increase, saving employers a little more than $2 million. But a 5.4% increase went into effect Sept. 1.

Delaware law ties workers compensation benefits to the statewide average weekly wage. The average wage recently increased 6.6%. ■

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Tennessee officials use southern charm to attract captives

By KATHRYN J. McINTYRE

NASHVILLE, Tenn.—Insurance regulators here are turning on the southern charm and hospitality to attract captive insurance companies to the state.

Since Tennessee adopted its captive insurance company law a year ago, two captives have set up shop in the state: Parthenon Insurance Co., a subsidiary of Hospital Corp. of America, and Hospital Underwriting Group, owned by hospital management companies. Their combined premium volume is $25 million.

Both captives are transplants from other domiciles. Parthenon started operation in Colorado and HUG was a Bermuda-based company.

Now, three more captives are in the various stages of formation, says Paul Tidwell, assistant director for financial affairs with the insurance department.



Three more captives are being formed in Tennessee, says Paul Tidwell of the insurance department.

Among them is a Nashville-based clothing manufacturer and a major medical group, *Business Insurance* learned.

And since the insurance department sponsored a seminar on captives here last month, three or four more companies have told the insurance department they want to talk more about setting up a Tennessee captive, Mr. Tidwell said.

The two-day conference on captives here presented some of the best known authorities on captive insurance companies, tax issues and reinsurance concerns. The conference also was a lively affair, from a luncheon picnic outdoors at the Opryland Hotel to an evening at Printers' Alley and a show including Boots Randolph. The Tennessee officials stress that Nashville is as nice a place to do business as Colorado or Bermuda.

"Bermuda may have sand and beaches and Colorado may have its skiing, but we have Dolly Parton," insurance commissioner John C. Neff told the audience of more than 200.

Risk managers attending the conference came from companies already operating captives elsewhere and companies that are still considering a captive insurance company as a risk financing tool.

The insurance department asks companies interested in setting up a Tennessee captive to submit a letter of intent describing the parent company and a summary of why the captive is being considered. Like Colorado, the only other state with a law encouraging the formation of captives, Tennessee requires parent companies to show that the insurance they need from the captive is either unavailable or unreasonably priced in the commercial markets.

A Tennessee captive can be created to underwrite professional liability, comprehensive general liability, product liability and errors and omissions insurance on a direct basis. Once the need for the captive is established, other lines of insurance can be reinsured with the captive, except for personal lines and employe benefits.

Tennessee officials are particularly appealing to corporate concerns about the image of doing business offshore. Roy F. Bess, assistant commissioner for insurance, noted that the amount of regulation over captives in offshore havens can be considered "too liberal for good, sound business practices." The Tennessee law, he said, is "designed to provide supervision and control and an inducement to keep business here."

The Tennessee law is very similar to Colorado's law, allowing letters of credit to satisfy the capital and surplus requirements of at least $750,000 for a captive underwriting risks for a single parent and $1 million for an association captive.

However, Tennessee's regulation over reinsurance of risks by the captive is more liberal than Colorado's (see related story on page 25).

The insurance department has prepared a detailed package of information on how to establish a Tennessee captive, which can be obtained by writing the department of insurance in Nashville. ■



Photo: Kathryn J. McIntyre

Even the governor of Tennessee dropped by to open the conference on captives sponsored by the state insurance department. "Captives are obviously a wave of the future and we hope they flourish in our state," Gov. Lamar Alexander said.

Settlement ends city's fire liability

BRECKENRIDGE, Minn.—An out-of-court settlement of $50,000 has released the city of Breckenridge from all liability connected with the Stratford Hotel fire that killed 16 people nearly two years ago.

The agreement between the city's insurance company and relatives of 13 victims provides that the money will be divided among the victims' families.

The fire began early on the morning of Jan. 28, 1977, and destroyed the 67-year-old Breckenridge landmark. Firefighters pumped more than a million gallons of water on the blaze in 20-below-zero weather. They searched two days before finding all the bodies.

Relatives of 13 victims charged the city and the state of Minnesota were negligent in maintaining and improving the building. A $20 million lawsuit against the state is pending.

Breckenridge city officials were surprised to learn of the out-of-court settlement. But they said they were not involved in it because the insurer, The Home Insurance Co., was handling the case.

Richard Chadwick, attorney for The Home, said the company decided the settlement was "the most economical approach." City attorney Daniel Sandell agreed the insurer had the right to settle, but added, "This is not to say the city has admitted any form of liability in the case. The insurance company is just trying to avoid a long court battle. In effect, it's buying peace." ■

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DELTA

Test can determine if captive insurer works well: Broker

NASHVILLE—A simple five-point test can determine if a company would benefit from using a captive insurance company, a consultant says.

James V. Davis, vice chairman and chief executive officer of the research and development division of Corroon & Black Corp., suggests that if a corporation answers yes to the following questions, a captive will be beneficial in 98% of the cases.

- Does the corporation pay income taxes near the statutory tax rate? If it does, the tax deductions and cash flow offered by the captive arrangement are more important than if the company pays a lower tax rate.
- Does the corporation expect a large return on investment? The higher the cost of money to the firm, the more attractive the captive will be.
- Is there a broad mix of insurance with long payout periods on losses being considered? The longer the payout period for losses insured by the captive, the more attractive the captive route is.
- Does the company expect its insurance premiums to keep increasing in the future? While self-insured reserves will eventually be as advantageous as a captive for a company for which losses and premiums become equal and stay static, a captive will benefit a company that continues to expand its operations.
- Does the company have an aggressive tax posture? Does it want to take a chance on a showdown with the Internal Revenue Service over the deductibility of premiums paid to a captive?



A corporation can gain by holding its own loss reserves, says James V. Davis of Corroon & Black.

Addressing a conference on captives held here, Mr. Davis stressed a corporation's advantages in holding its own loss reserves and earning interest on them.

But a reinsurance underwriter cautioned the same audience about the risks involved in captive insurance companies. "You'll not only lose your shirt, you'll lose your job" if the captive loses money for the parent, warned William G. Clark, senior vp of General Reinsurance Corp.

The prime concern, Mr. Clark said, is "will the business you write deteriorate faster than money grows?" Many of the insurance indicators are growing faster than the consumer price index, Mr. Clark said. As a result, the cost of a loss because of economic inflation and social inflation (the increasing size and number of lawsuits) could increase more than the interest earned on the reserves for the loss could meet, he said.

"Inflation is not your friend. Be very careful of what you retain," he advised.

And it's taking longer for losses to develop, surprising some underwriters with the amount of losses incurred on a risk, Mr. Clark said. General Re is now projecting it will take 13 years before all the losses are reported on an excess general liability insurance policy written this year.

In five to 10 years, most captives will write insurance on a claims made basis, not an accident basis, to recover for underpricing the insurance on an accident basis, Mr. Clark predicted. ■

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Benefits sought for rescuers

DURHAM, N.C.—John Ingram, North Carolina state insurance commissioner, called for increased federal benefits to emergency medical service and rescue personnel in a speech at the opening of the North Carolina Rescue College here.

Mr. Ingram had recommended the change in North Carolina's law that increased line-of-duty death benefits to $25,000 and made those benefits available to rescue personnel in the state.

The federal law also should include benefits for line-of-duty death by heart attack, Mr. Ingram said. Federal line-of-duty benefits now cover only fire personnel. ■

Use two captives for savings: Risk exec

By KATHRYN J. McINTYRE

NASHVILLE, Tenn.—Corporations using an offshore captive insurance company should also consider forming a Tennessee captive to cut taxes and fronting insurance costs, says a promoter of this state as a home for captives.

Operating a Tennessee-based captive along with an offshore captive can cut in half the taxes due on premiums and can eliminate the need for a fronting company except for statutory lines of insurance, explains Robert A. Reeves, vp-insurance at Hospital Corp. of America here.

"You can save on the excise tax, eliminate the front, get U.S.-based loss prevention and claims services and not disturb your offshore tax advantage," he told participants at an insurance department sponsored captive seminar here last month.

Tennessee levies a 1% tax on premiums paid to captives. If the Tennessee captive reinsures the risk with an offshore captive, a 1% excise tax is levied by the federal government. Directly insuring business with an offshore captive, however, is subject to a 4% excise tax on the premiums paid.

The parent company can also set up a claims handling and loss prevention staff in Tennessee if it has a Tennessee captive, eliminating the need for buying these services from a fronting insurer, Mr. Reeves says. Companies directly insuring with their offshore companies can't service the claims in the U.S. without jeopardizing the captive's offshore tax status.



Operating a Tennessee captive as well as an offshore one has advantages, Robert A. Reeves says.

The job of managing the Bermuda company then becomes less cumbersome, he noted, because the Bermuda company is only a reinsurer and requires less staff.

Insuring risks first with an admitted insurer to be reinsured with the captive would only be necessary for statutory lines of insurance where an admitted insurer is required, Mr. Reeves said, such as workers compensation.

This "tandem insurance company" concept is possible only in Tennessee because of the state's liberal rules governing reinsurance under its captive insurer.

Tennessee will recognize reinsurance placed with a nonadmitted reinsurer, such as a Bermuda company, if the reinsurance premiums and commissions are held in a trust approved by the insurance commissioner. Colorado, the only other state with a law encouraging the formation of captive insurers, doesn't recognize reinsurance with nonadmitted insurers.

In addition, the insurance commissioner is empowered by the captive law to approve reinsurance with a nonadmitted reinsurer and waive the trust requirement, Mr. Reeves noted.

The tandem insurance company concept would appeal most to a company with an offshore captive that would like to run the captive from the U.S. without moving it to the U.S. By making the Bermuda company only a reinsurer and the Tennessee company the service company, a parent company can accomplish that goal, Mr. Reeves suggests.

The ideal candidate for this concept, however, is an association, Mr. Reeves maintains. The association could form a Tennessee company, owned by the association, and a Bermuda company, owned by the members of the association. If more than 10 members own the offshore company and no one member controls more than 10% of the company, the offshore company earns the tax status of a noncontrolled foreign corporation and its earnings are not subject to a U.S. income tax unless and until the money is repatriated to the U.S. **(See related story on page 28.)**

No one is taking advantage of this concept yet, but risk managers of companies using offshore captives who attended the conference said they are interested in the idea.

Hospital Corp. of America doesn't need the tandem captive approach because it doesn't have an offshore captive. Its captive, Parthenon Insurance Co., was originally formed in Colorado in 1976. HCA moved the captive to Tennessee in January 1979 because HCA is based in Nashville, Mr. Reeves said.

Parthenon has $24 million in assets and earned premiums of $12 million, underwriting HCA's comprehensive liability insurance, workers compensation and property insurance to various limits. ■

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Domestic home for captive may be best choice: Attorney

A wholly owned domestic captive is probably cheaper than an offshore captive with two exceptions, says James Cameron, an attorney with Baker & McKenzie.



NASHVILLE, Tenn.—The tax and regulatory breaks offered by an offshore home for a captive insurance company can be more illusory than real, counsels a noted tax attorney.

And a domestic captive doesn't present the administrative problems an offshore company does, says James Cameron, an attorney with Baker & McKenzie in New York.

"A wholly owned domestic captive is probably cheaper than an offshore captive with two exceptions," Mr. Cameron told participants of a conference here on captive insurers sponsored by the Tennessee insurance departments.

The difference in the excise tax owed on premiums paid to an offshore insurer and the premium tax owed in Tennessee or Colorado can make the domestic captive more attractive, he said.

Premiums paid to an offshore captive are subject to a 4% excise tax on direct property/casualty insurance and 1% on reinsurance or life insurance. But premiums paid to a captive based in Tennessee or Colorado, the two states that encourage captives, are subject to just a 1% premium tax.

For a wholly owned captive insurance company, the income tax owed in the U.S. will probably be the same except in two circumstances, Mr. Cameron continued.

The domestic captive is subject to U.S. income tax. But a foreign captive's earnings on business related to U.S. risks is also subject to U.S. income tax if the captive is considered a controlled foreign corporation, which wholly owned captives are. The captive's income is reported as Subpart F income by the parent corporation.

If, however, the parent company has excess foreign tax credits (credit for paying taxes in foreign countries above what the U.S. tax rate is), the parent company can offset the tax due on Subpart F income with the foreign tax credits, Mr. Cameron noted.

In addition, if the captive is going to underwrite foreign risks, there would be a tax advantage in putting it offshore because income to an offshore captive related to the foreign risks would not be taxed by the U.S. until the income is paid to the parent company in dividends, Mr. Cameron said.

The regulatory break offered by foreign homes for captives that have smaller minimum capitalization requirements isn't all that important either, Mr. Cameron suggested. Although the capital commitment necessary offshore is less than in the U.S., "to be a responsible insurer, you need the capital."

Both Tennessee and Colorado require capital and surplus of $750,000 to incorporate a wholly owned captive insurance company and capital and surplus of $1 million to incorporate an association captive. The financial commitments, however, can be met in each state with a letter of credit.

"There is nothing in the Tennessee regulations to thwart a responsible captive," Mr. Cameron observed. Asked to compare the Tennessee and Colorado captive laws, Mr. Cameron said, "There are great similarities, but Tennessee does offer some reinsurance advantages."

Tennessee, for example, will recognize reinsurance of a captive's risks with any reinsurer admitted in at least one state in the U.S. In addition, the reinsurance can be placed with a nonadmitted insurer if the premiums and commissions are held in a trust approved by the insurance commissioner. Colorado only recognizes dealings with admitted or approved reinsurers.

A domestic captive is also easier to run, Mr. Cameron suggested. "It's easier to get personnel, expertise and to hold meetings in the U.S. with a domestic captive." Directors of foreign-based captives have to meet outside the U.S. to transact business or else foreign captive can be charged with carrying on U.S. trade or business and jeopardize its offshore status.

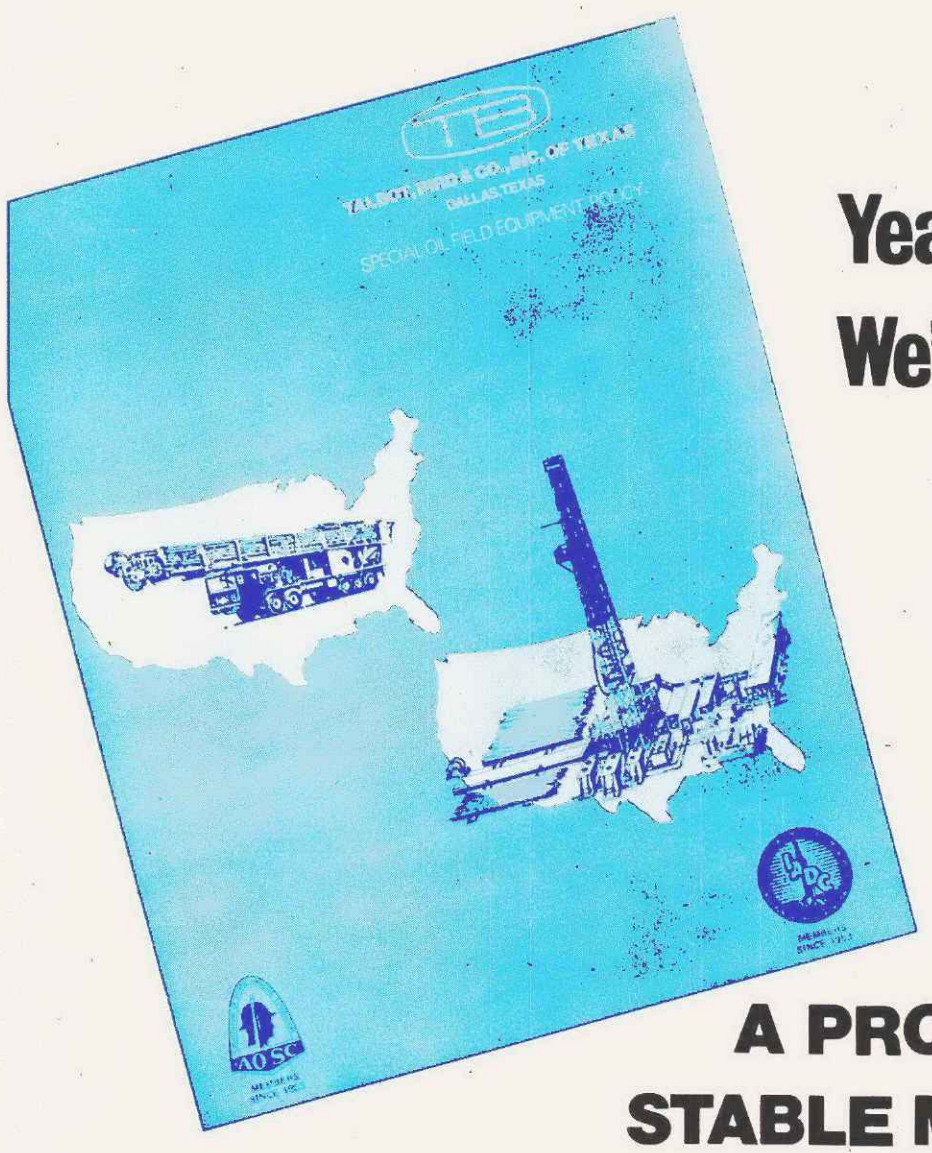
Baker & McKenzie counseled its client Hospital Underwriting Group to relocate to Tennessee from Bermuda more for the ease of administration than the tax advantage, Mr. Cameron noted.

A U.S. company that can insure its risks with a decontrolled foreign corporation, however, can win tax advantages, Mr. Cameron said. A decontrolled foreign company can hold premiums and interest earned tax free until they are distributed as dividends to the shareholders.

A foreign corporation can be decontrolled one of several ways through joint ownership, he said:

- If less than 75% of the gross premiums are for U.S. risks, then one U.S. corporation can't hold more than 50% of the voting power and the balance must be held by either a foreign corporation, a group of foreign corporations or a group of foreign and U.S. corporations with no one U.S. corporation holding more than 10% of the voting power.
- If more than 75% of the gross premium is from U.S. risks, then one U.S. corporation can't hold more than 25% of the voting power and the balance must be held by either a foreign corporation or group of foreign and domestic corporations with no U.S. corporation holding more than 10% of the voting power.
- If more than 10 corporations own the company with no one company holding more than 10% of the voting power, no matter how much premium is attributable to U.S. risks.

In deciding whether to form a domestic or foreign insurance company, a corporation should "look at each situation on its merits," Mr. Cameron advised. ■



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New insurance law to tighten the reins on Cayman captives

GEORGETOWN, Grand Cayman—The government here is looking for a superintendent of insurance to enforce the insurance law passed here last month that will regulate captive insurance companies for the first time.

Regulations implementing the new law have not been released yet, but essentially the law calls for each captive to submit a statement signed by an auditor certifying that the captive is liquid.

The government hopes to implement the new law by year-end or early 1980, said Vassel Johnson, financial secretary. The law can't be implemented until an insurance superintendent is hired and the government is now combing London for candidates.

The 500 insurers in the Caymans, only a fraction of which are active, will have six months after the law takes effect to apply for a license, Mr. Johnson said. Domestic companies will be granted an A license and companies underwriting risks arising outside of the Caymans will be granted a B license, designated either restricted or nonrestricted.

A captive issued a restricted license will only be allowed to deal with the number of clients declared on its license application form, such as its parent company. Captives securing unrestricted licenses will be allowed to deal with clients internationally.

Capitalization requirements to be set by the regulations will probably differ for restricted and unrestricted companies, tracking the Cayman's banking regulations.

A bank or trust company in the Caymans seeking a general license needs $240,000 in capital while a bank seeking a restricted license needs only $24,000 in capital. But the banking laws were established more than 10 years ago, Mr. Johnson noted, and inflation has since decreased the value of a dollar. As a result, the capital requirements for captive insurance companies may be higher than for banks, he said.

Applicants for insurance company licenses will be screened much the same as applicants for a bank or trust license are, Mr. Johnson said. The applicants' background and financial status will have to be explained to the government, he said.

While domestic companies will be subject to defined investment and liquidity standards, captive insurers will not, Mr. Johnson said. Instead, each captive will have to file a statement with the government signed by an auditor and the company manager certifying that the company is liquid. Exactly what form the statement will take has not been determined, Mr. Johnson said.

In addition, each captive will have to maintain audited accounts, which will not be filed with the government but must be made available to regulators if requested.

The Cayman legislature unanimously passed the insurance law, Mr. Johnson said, "because we never had an insurance law and it's time to regulate insurance companies."

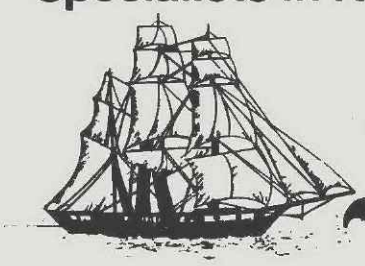
One captive manager on the island said the law "is not particularly onerous. No one is particularly worried about it and most are pleased with it in general."

The Caymans, like Bermuda, offer U.S. corporations a tax free haven in which to operate subsidiaries. Fewer than 100 captive insurance companies are believed to be active in the Caymans compared with nearly 600 active insurance companies in Bermuda.

Mr. Johnson would not speculate about the potential growth of the captive industry in the Caymans. A few U.S. companies with Bermuda-based captives, however, set up companies in the Caymans following the civil disturbances in Bermuda more than a year ago, anticipating possibly having to move out of Bermuda if the political climate changed.

The Cayman Islands are located 450 miles south of Miami. ■

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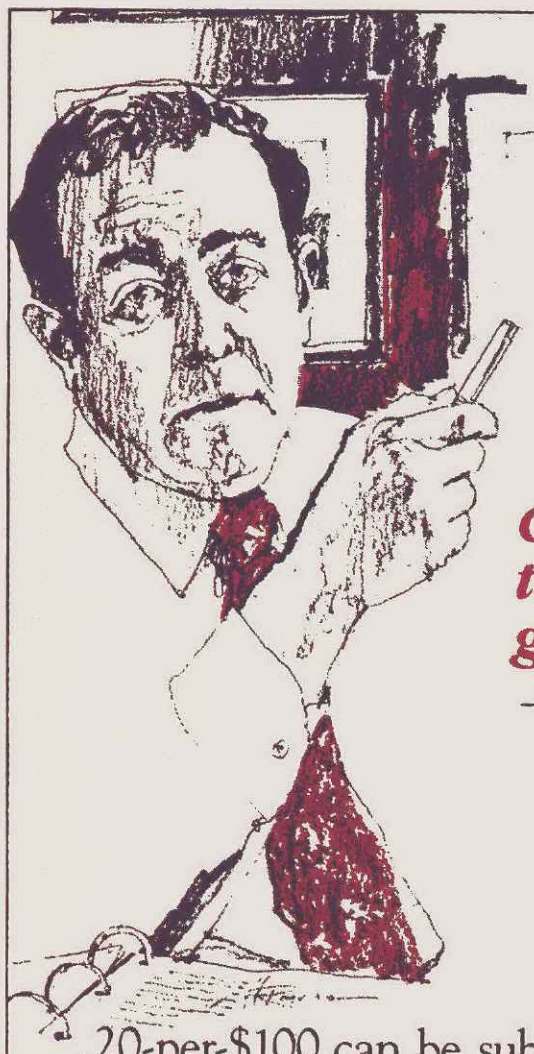
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A multinational firm, according to William L. Mather, Administrator of Risk Management for The Gillette Company, doesn't necessarily have to buy all its overseas property coverage at high local rates.

In Gillette's case, when the company determines that an overseas exposure is costing more than a comparable U.S. exposure (.20-per-$100, for example, as opposed to .10-per-$100), corrective measures are taken. "In countries which permit the practice," says Mather, "we export the reinsurance back to our offshore captive."

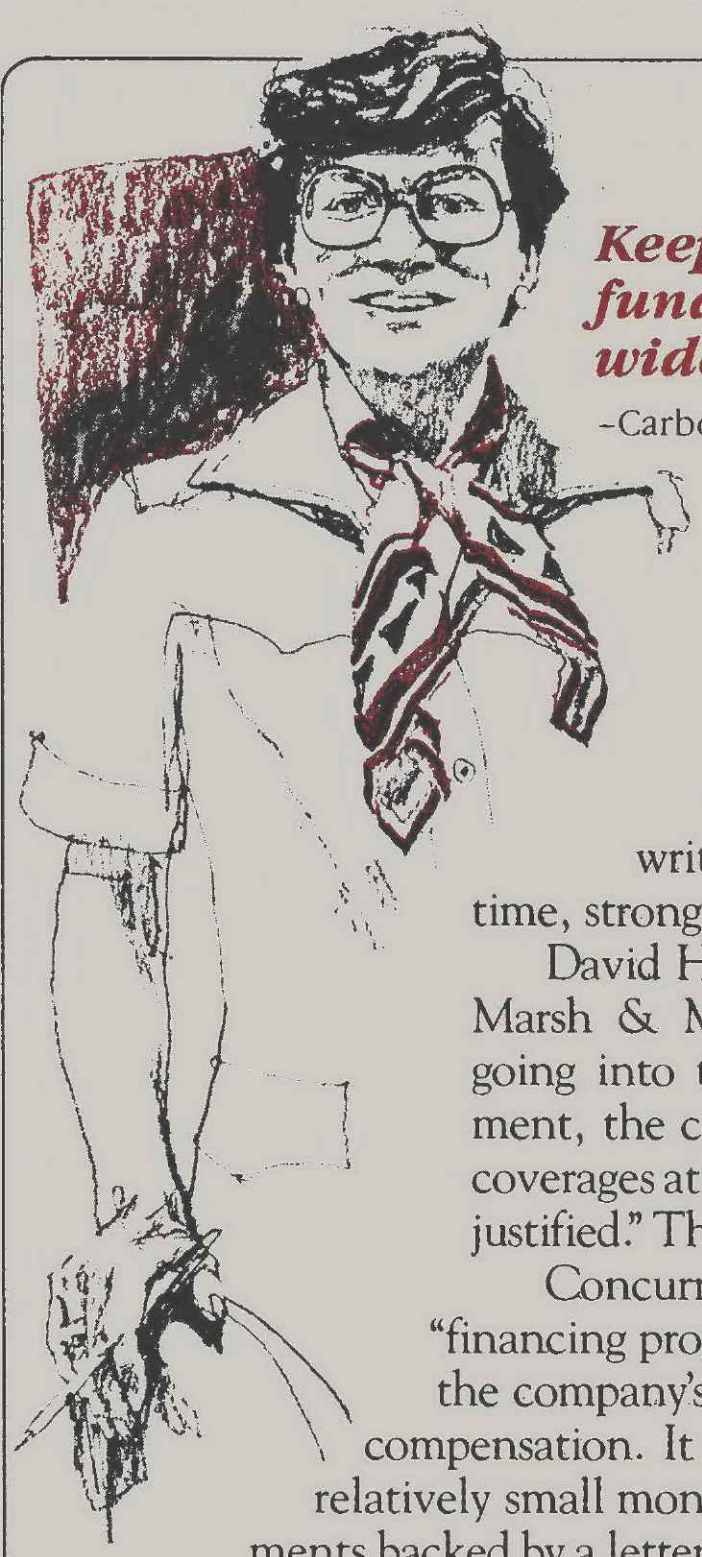
An admitted national carrier writes the basic property coverage for Gillette at prevailing rates – assuring that the policy is in compliance with local laws and regulations. But the carrier retains only part of the risk, with the majority being reinsured by the Gillette captive.

When the two premiums are averaged, the high rate of .20-per-$100 can be substantially reduced. Mather sees this as a viable way of smoothing out differentials between U.S. and overseas property-coverage costs.

Inflationary pressures continue to push employee benefit costs higher and higher. Outlook for a slackening of this trend is doubtful, but one hopeful sign exists in a mechanism for controlling the rate of growth of these costs. From the corporate standpoint, flexibility in cash-flow management and investment return are additional advantages.

The Carborundum Company now self insures medical, surgical and death-benefit programs for over 3,000 salaried employees in the U.S. "Our cost increases," says Edith Lichota, Assistant Treasurer of Insurance and Benefits, "have beaten the inflation statistics in this area by one-third to one-half."

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current basis – or, alternatively, be pre-funded. In the latter case: no impact on P&L. Additionally, tax-exempt interest generated in the Trust reduces corporate expenses or accumulates as a funding reserve.

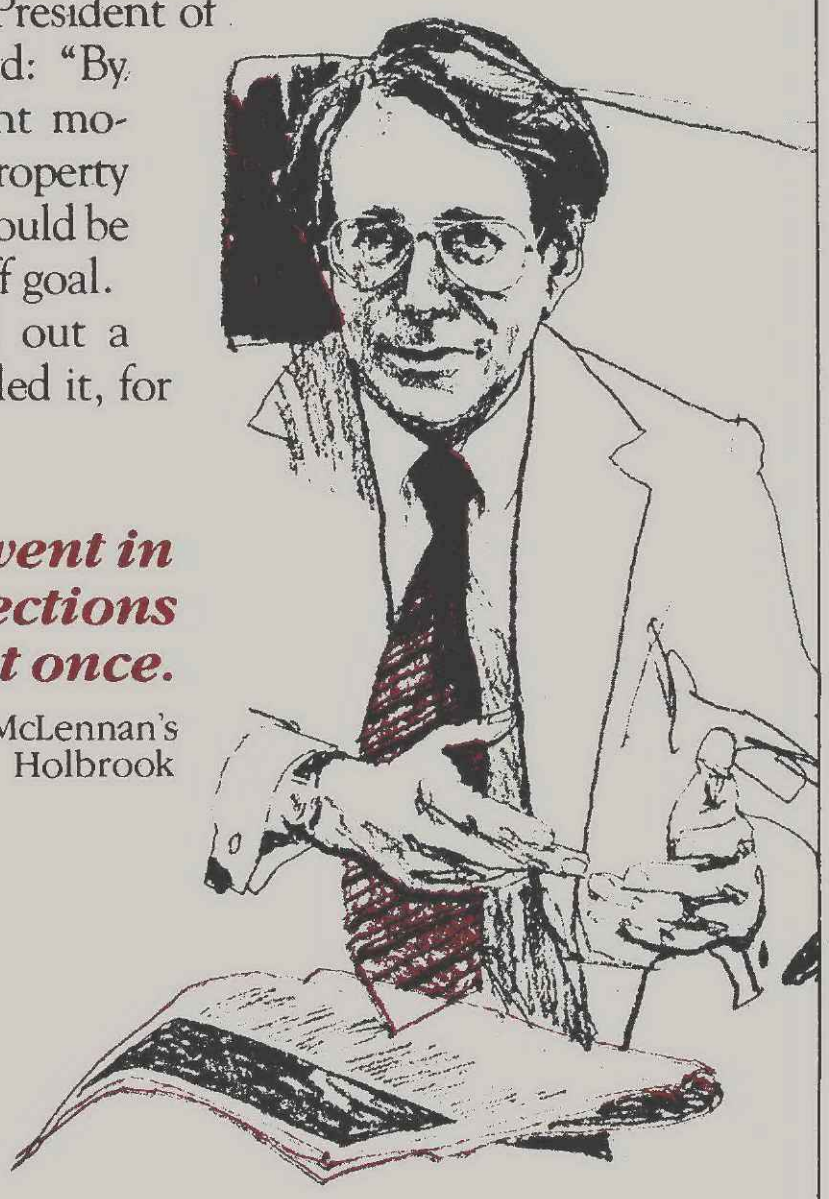
Ms. Lichota sums up: "We've got an effective vehicle from the benefits viewpoint and the Treasurer's."

A brokerage firm reports that a large conglomerate's insurance department recently implemented two "opposing" money-management plans – with excellent results. Management had requested that department heads seek operating tax write-offs through purchases and capital investment. At the same time, strong cash-flow positions were to be maintained.

David Holbrook, Senior Vice President of Marsh & McLennan, commented: "By going into the market at the right moment, the conglomerate bought property coverages at as large a premium as could be justified." This satisfied the write-off goal.

Concurrently, M&M worked out a "financing program," as Holbrook called it, for the company's workers' compensation. It involved relatively small monthly payments backed by a letter of credit guaranteeing the carrier future premiums plus loss-adjustments.

Large amounts of cash were retained by the company in the same year it achieved a major write-off on insurance purchases.



We went in two directions at once.

–Marsh & McLennan's Holbrook

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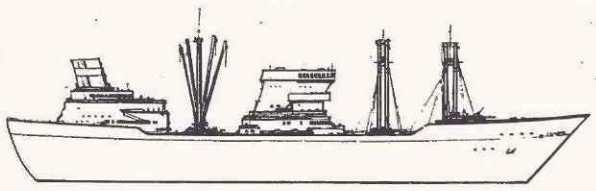
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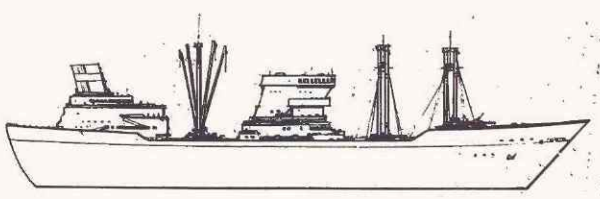
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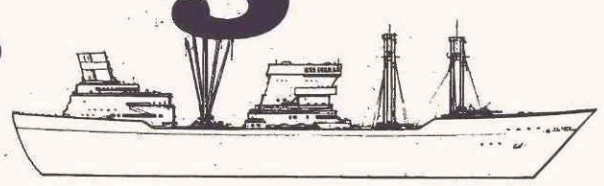
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PERSPECTIVE

Investment in flexible benefits plan yields high return in productivity

By Robert F. Lewis II

ARE EMPLOYE BENEFITS productive? Does their presence in the employe compensation package improve the productivity (output/input) ratio? The answer is probably not—and productivity statistics certainly support this.

Even more important, companies do not introduce or manage employe benefits with productivity in mind. Perhaps there is an element of self-fulfilling prophecy in this process. Employe benefits management tends not to be active, but reactive—to local market and industry trends, to top management and/or union demands and to anticipated or actual government requirements. Reactive management helps employe benefits serve a variety of company purposes—employment competitiveness, union security goals, top management desires and company paternalism—but rarely do benefits improve productivity.

Although they usually study stringent cost reviews and supplier comparisons, benefit managers typically do not consider a specific benefit's "investment" return to the company. Even less frequently do they attempt to measure that return to the company over time.

A company almost never reserves a benefit implementation decision because that benefit is nonproductive. Yet, benefit cost escalation increasingly dictates use of investment analysis techniques in implementing and continuing benefits. "The return on benefits investment" can logically come from increased employe productivity.

Corporate welfare

It is ironic that corporate leaders often decry increasing governmental tendencies toward a welfare state that gives people what government perceives they need rather than what they earn. Corporations themselves, however, are gradually becoming private welfare states which provide more and more security to employes with less and less recognition of their relative contributions to the firm.

How can a company more closely correlate its employe benefit program with its efforts to improve productivity? A theoretical answer has existed for some time, but only a few companies—notably American Can Co. and TRW—have utilized it: cafeteria, flexible or personal benefits or compensation.

The contribution of flexible compensation to improved productivity can be seen through two aspects: the employe involvement process, which is generally regarded as an effective component of labor-related productivity improvement, and the cost control mechanism that ties benefit costs to on-the-job wages.

These aspects reflect the two major management theories in this country: the involvement process is seen in the human resources approach and cost control is a significant facet of scientific management. The merging of those two theories provides significant opportunity for improved productivity.

Involvement process

The involvement process recognizes the need to respond to an employe's higher level (social, achievement, self-actualization) Maslovian needs and to ensure effective interaction to achieve the firm's goals. The typical benefits program focuses only on the employe's lower level (survival, security) needs and benefit managers tend to define and "satisfy" those needs without involving the employe.

As Karyl Lynn, director of compensation at Colt Industries, observes: "We just give them what we think they want, or should want, and then we are surprised at their ingratitude." That ingratitude does not increase productivity; in fact, it may do the opposite.

In the latest Quality of Employment sur-

Continued on page 35

Robert F. Lewis II is vp, diversification for the Prudential Insurance Co. of America. He spent the past year on loan from Prudential to the American Productivity Center, an independent, non-profit and non-partisan organization dedicated to working with labor and management "to increase productivity, improve quality of working life and preserve the private enterprise system."

Example illustrates company program

AN EXAMPLE of a hypothetical flexible compensation program is outlined in the chart below.

In the first year, John Smith receives a $20,000 base salary and his company allocates $6,460, an amount equivalent to 35% of his working pay (base salary minus core vacation and holidays—in this example, $18,460), for his benefits. The company has elected to provide a core benefit package worth $3,975 ($22,435 minus $18,460) for him. He has $2,485 additional company credits with which to purchase or partially purchase additional benefits. In addition, he could spend $6,405 of his own if he chose to purchase the most expensive option available in each subcategory.

This core package is smaller than the typical flexible compensation program core arrangement and emphasizes the significant flexibility available to the employe. For instance, no medical benefit is provided in the core package. This recognizes that an employe might be covered by a spouse's plan elsewhere.

Unlike typical programs, this core arrangement explicitly includes government-mandated benefits (workers compensation, unemployment, Social Security) to remind the employe that these are company expenses paid on his behalf. In this example, those benefits account for 41% ($1,626) of the core package, illustrating the significant cost employers must bear to provide mandated benefits.

The numbers in the company pay and employe pay columns illustrate Mr. Smith's choices for his flexible benefits. For his company paid options, he has elected an additional week's vacation, a first-dollar medical plan for himself and his dependents and the company's contribution to a thrift plan. He chose to use all company credits for benefits rather than take additional cash. In addition, Mr. Smith has decided to purchase long term disability and dependents life insurance and to contribute to the employe thrift plan.

In the second year, Smith receives a $1,744 (7%) total compensation increase and elects to take $1,000 in salary and the remainder in benefit credits. He once again chooses an additional week's vacation and the company's thrift contribution equal to 3% of his new salary. He replaces his first-dollar medical plan with a health maintenance organization and a dental plan for himself and his dependents.

He also secures an accident plan and allocates the remaining company credits to the thrift plan. He continues his payroll deduction purchase of dependents life insurance and long term disability, but reduces his contribution to thrift because of the additional company credits to his account.

In subsequent years, the individual benefit values and the combined company core and paid-for option credits may change in response to changes in benefit costs and the individual's salary. Nevertheless, the company could maintain the 35% relationship to working pay. If the individual's salary/benefit credits did not increase as fast as benefit costs, he would have to allocate credits to benefits that otherwise might have gone for salary increases, pay more out of his own pocket or alter his benefits portfolio. ■

Flexible Compensation Example

John Smith—age 40; $20,000 salary; 10 years service; spouse and two children
Base Salary—$20,000 ($18,460 working pay plus core benefit holidays and vacation)
Benefit Package—$6,460 (35% of working pay) from company; remainder at employe cost
Total Compensation—$24,920 ($18,460 working pay plus $6,460 benefit package)
Second Year Compensation Increase—7% (from $24,920 to $26,664); Smith elects $1,000 in salary and $744 in benefits

	First Year				Second Year			
Benefit Options	**Benefit Values**	**Company Core**	**Company Pay**	**Employe Pay**	**Benefit Values**	**Company Core**	**Company Pay**	**Employe Pay**
Salary								
Working Pay		18,460				19,384		
Company Holidays		770				808		
2 week Vacation		770				808		
Total Base Salary		20,000*				21,000*		
Add'l Cash	up to 2,485		—*				—*	
Vacations								
Add'l 1 Week	385		385		404		404	
Add'l 2 Weeks	770				808			
Add'l 3 Weeks	1,155				1,212			
Life Insurance								
1 x salary		100				110		
Add'l 1 x Salary	100				110			
Add'l 2 x Salary	200				220			
Survivors	300				330			
Dependents	50			50	50			50
Accident	100				100		100	
Disability								
Workers Compensation		200				210		
Short term		150				160		
Short term Supplement	200				215			
Long term	100			100	105			100
Medical (without/with dependents)								
Comprehensive	300/1,000				340/1,130			
First-dollar	400/1,500				480/1,800			
HMO	350/1,200		1,500		385/1,320		1,320	
Dental	100/400				110/440		440	
Unemployment		200				210		
Retirement								
Social Security		1,226				1,287		
Company Pension		559				575		
Company Thrift	600		600		630		630	
Employe Thrift	2,600			1,200	3,380		218	1,000
Total Used		**22,435**	**2,485**	**1,350**		**23,552**	**3,112**	**1,150**
Total Available		**22,435**	**2,485**	**6,405**		**23,552**	**3,112**	**7,852**

*subject to withholding

PERSPECTIVE

Know everyone's responsibilities when entering premium finance pact

By Bruce Eric Dizenfeld



It has long been recognized that the question of agency is one primarily of fact. There is no general rule determining whether an agent is acting within a particular agency relationship, says attorney Bruce Eric Dizenfeld.

PREMIUM FINANCING HAS become fairly common in the insurance industry. But one insurance buyer, one insurance company and one financing company recently found that such arrangements may sometimes breed temptation. The following situation, which occurred in California but the names are changed here because settlement is being sought, may serve as a warning. This could happen to you.

Mr. Adams, president of Neighborhood Insurance Agency and an independent agent, sold Insured Co. Inc. a liability policy underwritten by Protection Insurance Co. Insured, through Mr. Adams, paid Protection a $29,000 down payment. In exchange for the down payment, a binder was issued.

Mr. Adams told Protection that Insured wanted to prepay its entire annual premium and Protection agreed. He then contacted Premium Bank to arrange for the financing of the $116,000 balance due on the $145,000 annual premium. Mr. Adams handled all phases of the financing process. Protection was not informed of this financing arrangement, nor was it mentioned by name or as signatory on the financing forms.

The bank advanced Mr. Adams the amount stated in the finance agreement solely on the basis of the form presented by Mr. Adams and on the basis of his other representations. He took the money and left the country. At this time Protection learned of the financing arrangement.

Bruce Eric Dizenfeld is an attorney with the Encino, Calif., law firm of Flame, Sanger, Grayson & Ginsburg. His hypothetical examples are drawn from actual cases he has handled.

Questions raised

The following questions are raised by this situation:

- Was Protection Insurance Co. entitled to cancel Insured Co. Inc.'s policy for nonreceipt of premiums?
- If Protection was entitled to cancel the insurance policy, did it have any obligation to pay Premium Bank the amount of the unpaid balance due under the financing arrangement between the bank and Insured for the portion of the insurance policy canceled?

There is little doubt Protection could cancel the insurance policy. This usually is specifically provided for in any insurance contract. Cancellation of the policy, however, carries with it a concurrent obligation to restore to the policyholder any payments made in excess of those earned under the policy. This obligation would be the basis of the bank's claim.

As to who must bear the loss resulting from the agent's embezzlement, Protection or Premium Bank, the answer turns on a question of agency. Was Mr. Adams acting as an agent of Protection or an agent of Premium Bank (or Insured) when he accepted the money from Premium Bank and left the country?

It has long been recognized that the question of agency and the responsibility of its principal is one primarily of fact. There is no general rule determining whether an agent is acting within a particular agency relationship. Thus, the facts must be scrutinized to resolve the question of liability.

Agent's responsibility

When an insurance agent solicits a client to buy a liability policy, the general rule is that the agent is the agent for the insurer. When the agent has authority to solicit and accept applications for liability insurance and to collect and receive premiums, payment to the agent with such authority is deemed constructive receipt by the insurer.

Thus, if the agent embezzles money after receiving premiums on an insurance policy, the risk of loss falls on the insurer who has placed the agent in a position enabling him to obtain control of the money for his own purposes.

When the insurer realizes the agent has embezzled the premiums due, the insurer has the choice of either maintaining the insurance policy in force or canceling the policy and returning pro-rata the premiums paid in advance for the balance of the year. This assumes, of course, that the agent and agency are either unavailable or judgment proof.

Although this is the general rule, the law recognizes that an agent may serve more

Continued on facing page

Speaking Out

Account exec tied to the whipping post

By Peter Downes



In modern times, it is the account executive who gets verbally assaulted by his client, gets cut off by insurers because his account is unprofitable and fired by his employer because he is not producing, says Peter Downes, insurance manager.

FIRST OF ALL, let me say to any account executive who may read this article that any resemblance between any person with whom I do business, whether living or dead, and any person depicted in this article is coincidental—I think.

It seemed to me that I had better state my disclaimer at the outset since every account executive I have ever known may read this article, and every one of them will surely believe that anything I say is libelously directed toward himself. Of course, they may be right—who has any idea of how events affect one's subconscious mind?

What function does an account executive serve? If one listens to the account executives, they will tell you that it is to service a policyholder's account. The next question is, for whose benefit is the account serviced? If the question is ever asked, an account executive may just look puzzled. Probably he will be doing no more than asking himself, "What kind of question is that?" If he is a little more astute than average, he may think to himself, "Oh, boy! I'm going to have trouble with this one. He's caught on."

The first duty of any account executive is to his employer and his second duty is to insurers. Of course, in a mutual company where no broker is involved, employer and insurer are one and the same. In either case, the main job of the account executive is to maximize earnings, this being the reason his employer is in business.

This is true of both mutual insurers and brokers since neither can afford to operate at a loss for very long. Publicly owned brokers, in particular, are greatly concerned with profits and they had better be more than marginal or people will lose their jobs.

The account executive also has another important job if he works for a broker, namely that he is obliged to take care of the insurers who form his markets—at the expense of his client, if necessary. If he fails to do so, he may find himself cut off from those markets, which in turn will reduce his employer's earnings, with inevitable results.

Where does the policyholder come into all this? His main function is to be a source of income. No broker can maximize his profit and no underwriter will have a chance of looking like a hero to his management if there are no customers.

Peter Downes, manager of insurance at American Trading & Production Corp. and a regular contributor to Business Insurance, is back after a bout with writer's block.

Keep client happy

The account executive's method to achieve his ends is to keep his client happy. At least, that is what his employer tells him to do. For myself, one of the minor regrets of my life is that I have always been associated with account executives who are staid, respectable and honest.

I have heard of some who are less than this and who interpret "keeping the client happy" in a most liberal way. Some are said to employ cash kickbacks, some I know give lavish presents and others are reputed to offer the company of complaisant young ladies. I do not even get a desk calendar from my account executives anymore, although I have been known to eat a meal at their expense, three martini style.

But the account executive has a sound working knowledge of his business, does he not? Indeed, he may find this useful but it is not wholly necessary. I have in my files, for example, a letter from an account executive to the controller of a subsidiary we acquired some time ago. Attached to the letter, which concerned workers compensation, was a computation which led to an enormous experience modification debit. The account executive in question informed his client that he did not understand it at all; it was far too technical for him.

That was a dumb account executive. Had he taken but a moment's thought he could have blinded his client with pseudo-science and left him dripping with guilt feelings, even though he did not know the first thing about what was going on.

When one receives something in the mail from an account executive, does one believe it without question? Personally, I check every dot and comma simply because I no longer trust anybody. My own account executives have pleaded that errors have escaped them because they were so busy that they were obliged to take things on trust. Since I deal only with staid, respectable and honest persons, I believe them. But in many cases I believe errors have arisen because the insurers did not know what they were doing and the account executive had no idea of what he was supposed to be checking.

Then comes the day when I have a problem. "Please solve this problem for me," I say. After supplying all the relevant details I sit back and wait for an answer. . .and wait. . . and wait. . .and wait. In due time I remind the account executive of my unsolved problem and I am assured that the underwriter is considering the matter. "Well, tell him to hurry up," I yell. "We will have an answer within the week," I am promised.

Whipping boy

A month later I want to know what the heck is going on and suggest I should talk to the underwriter. "We will arrange things," I am told, but somehow no appointment is made and probably what I thought was meant was never intended.

Having gone this route for the umpteenth time, I woke up one day to what it was all about. The function of the account executive is indeed as I have described it, but not the purpose. The sole purpose of the account executive is to be the modern version of the whipping boy, or girl, as the case may be.

In olden times, when the young noble misbehaved himself, did he get a beating? Not on your life, it was the whipping boy who suffered for him. In modern times, it is the account executive who is verbally assaulted by his client, gets cut off by insurers because his account is unprofitable and fired by his employer because he is not producing.

Many years ago I lived in Northern Ireland and had occasion to read the daily paper, the Belfast Telegraph. In the classified section, the help wanted ads would describe the job and many of them would contain the sentence "Only Protestants need apply," or Roman Catholics if that was the employer's religious persuasion.

Perhaps the modern American employer should be equally honest. When advertising for an account executive he might end his appeal by saying, "Only masochists need apply." ■

PERSPECTIVE

Flexible benefits . . .

Continued from page 33

vey by the American Productivity Center, employes expressed increased desire for improved and additional benefits. Some 58% of the employes wanted at least one existing benefit liberalized and 55% (versus 45% four years earlier) wanted at least one additional benefit.

When compared with the alternative of a 10% pay raise, employes preferred better retirement, medical and vacation benefits more than a better chance for promotion or more interesting work. These benefit preferences are not surprising when one considers the growth in two-income families and the increasing drain on disposable income of a progressive income tax not indexed to inflation.

Employe decisions

What is practiced in firms' organizational development efforts through work teams, quality circles, job enrichment and Scanlon plans can be utilized and reinforced in a flexible compensation program. Rather than merely receiving (and often forgetting) the top-down package, the employe has the opportunity, usually above a certain core (company paid, company selected) benefit level, to choose benefits that are important to him and that the company or he will pay for.

It is quite possible for an employe over a period of time to receive benefits of less monetary value, yet perceive them as more valuable since they are more correlated to his needs. Further, an employe more involved in decision-making tends to be more productive.

Through a flexible compensation program, a company can tie its benefits cost to an employe's working pay over a period of time. This can be accomplished by granting a total annual compensation percentage increase, equal to the percentage applicable to salary alone, to the combined pay-benefits base after the initial year of a flexible compensation program.

Sections 134 and 135 of the 1978 Revenue Act provide liberalized opportunity to combine pay and benefits without unfavorable tax consequences. Previously, when a cash option was included, alternative benefit choices were subject to inputed income taxation.

Many benefits—retirement and thrift plans, most life and disability insurance and, for lower paid individuals, Social Security—already are related to salary. Vacation and holiday per diem costs are a function of salary but length of vacation is not. Medical and dental benefits usually bear no relation to salary. While salary doesn't determine one's need for medical or dental care, a merit compensation system would adjust the company contribution to those and other benefit programs according to salary.

The cost control system better enables a company to reduce this continuing tendency for benefits to escalate at a rate faster than direct compensation. The company and the employe share proportionately in existing benefit cost increases—if the employe chooses to continue receiving the benefit. More importantly, new benefits can also be added to the package without adding to company compensation costs.

Through the disclosure process inherent in a flexible compensation program, the employe becomes more cognizant of the rising cost of benefits. His ability to choose what is more valuable to him gives him options that are not available in a conventional program. He will seek to use his combined pay-benefit dollars in the most "productive" way for his own security program.

Productivity reflected

For this approach to be productive for the company, its compensation system must correlate positively with productivity efforts of individual employes. The appropriate, though simplified, syllogism would be:

Compensation reflects performance (productivity);

Benefits are part of compensation; therefore,

Benefits should reflect performance (productivity).

If salary reflects productivity, benefits will also, since they will be tied by the constant factor to an employe's salary in a flexible compensation plan. A merit salary program which proportionately rewards more productive employes will also provide increased benefits for those employes.

Another way of looking at the productivity of employe benefits is through what can be called the gainsharing concept. Gainsharing is a continuous organizational process which positively encourages and rewards workers and management for working cooperatively to improve productivity.

Although the individual employe reward reinforcement is too often diffused by the size of the organization and the consequent blurring of the relationship between individual and organization performance, this concept underlies most profit-sharing programs. As profit sharing exemplifies, gainsharing simply tries to tie individuals and organizations closer to achieve separate and mutual goals. Gainsharing-related plans are receiving increasing attention. ■

Output and Hourly Compensation 1968-1978 (Per Work Hour)

	1968	1970	1972	1974	1976	1978
Output	100	101.2	107.5	106.4	112.8	114.9*
Compensation	100	114.6	129.1	152.7	182.6	216.4*
Unit Labor Cost	100	113.4	120.3	143.6	161.1	188.6*

Source: American Productivity Center

*preliminary

PRODUCTIVITY IS TYPICALLY measured in this country in terms of output per manhour. When we compare output growth rate domestically with the rate of increase in the compensation per manhour, we find a gap widening significantly.

During the past decade output per manhour has only increased by about 15%, while compensation per manhour has more than doubled. In other words, employers are paying almost 90% more for a unit of labor than they did 10 years ago.

To compound the problem, the compensation-productivity gap has been widened by the impact of employe benefits. The rate of increase in employe benefits during the past 10 to 15 years has been about 50% higher than the increase rate of wage and salary.

This benefit escalation, which accounts for about 30% of the gap, reflects a number of factors relating to our growing tendency toward a public and private welfare state. Cost of governmental social programs goes up. Their increase accounts for about one-fourth of that 50% differential between wage and benefit growth.

Private insurance plan costs, aggravated by health care cost increases and government-mandated benefit liberalizations, account for another third of the differential. And employers, with or without union impetus, continue to broaden their benefit programs for employes.

Premium financing . . .

Continued from facing page

than one principal. When a policyholder requests an insurance agent to do an act which the policyholder knows is beyond the scope of the agent's authority, he makes the agent his own agent, for that act. For example, a policyholder, by paying a premium to an insurer's agent whom he knows has no authority to receive it, makes the agent his own agent for paying the premium to the insurer. Here may be a situation of dual agency.

But the underlying question of whether the agent is the agent of the insurer or the policyholder is one of fact.

In this case, although Mr. Adams, as a soliciting agent of Protection, had authority to receive premiums on behalf of Protection, he did not have authority to execute any contracts on Protection's behalf. Paragraph 9 of the standard agency agreement in this case provided that "[t]he agent shall have no authority to make, add to or in any way alter any policy of insurance or other contract affecting the company." Thus, Mr. Adams had no actual authority to process or execute the premium finance agreement with Premium Bank on Protection's behalf.

The authority of an agent, however, need not be "actual" in order to bind the alleged principal. If the agent has ostensible authority, the principal may be equally bound. To establish the agent's ostensible authority, the party alleging such authority must show he believed the agent had authority to do the act in question, the principal intentionally or negligently caused that party to believe the agent had such authority and that the party made reasonable inquiry as to the extent of the agent's authority. If the agent acts beyond his authority and the principal did not grant the agent ostensible authority, the principal cannot be held liable.

In the present case, Protection's only act in furthering the transaction with Insured was to receive the $29,000 down payment, issue a policy and approve Insured's request to prepay the annual premium. The bank alleges Mr. Adams had authority to execute the premium finance agreement and receive the proceeds.

But it doesn't seem that the agent had the authority. Further, a principal's failure to anticipate that an agent will act far beyond the scope of his granted power doesn't constitute a want of ordinary care on the part of the principal.

Bank negligent

The circumstances of this case would indicate Premium Bank acted negligently in granting the loan while failing to ascertain Mr. Adams' authority to execute the premium finance agreement, because:

- The form used for processing the premium finance agreement was not Protection's, but rather an Everyday Insurance Agency form which had been adapted by Mr. Adams for his own use by crossing out the name of Everyday Insurance Agency wherever it appeared.
- The name Protection Insurance Co. neither appeared on the form nor was inserted in any of the applicable blanks.
- Mr. Adams executed the premium finance agreement on behalf of his own agency, Neighborhood Insurance Agency, whose name appeared stamped beneath that of Mr. Adams, creating the appearance that Mr. Adams was acting as the agent of the Neighborhood Insurance Agency rather than on behalf of the insurer, Protection.
- There were two places on the form for signatures, the first for a signature representing the agent's warranty, which would have been appropriate for Mr. Adams to sign. The other was for the signature of someone who had authority to assign the insurer's right, title and interest to premiums under the insurance policy, providing a guarantee of payment of any amounts due under the premium finance agreement should the policyholder be released of its obligations under the insurance policy.

This latter assignment and guaranty would seem to be distinguished from that of the agent's warranty, and thus notified the bank of the difference in the type and nature of the authority required to execute the agreement at these different locations.

- Since Mr. Adams' signature appeared to be on behalf of the Neighborhood Insurance Agency, it was incumbent upon the bank, if it intended to hold the insurer primarily liable, to ascertain the authority of the agent and the agency to execute the agreement on Protection's behalf. Otherwise, the bank would appear to be accepting the signature of Mr. Adams as being on behalf of his agency rather than the insurer.
- It is customary practice in the premium finance business to obtain the signature of the insurer as assignor of payments under the policy before paying out the money. By acting in a manner other than what is customary, the bank indicates it assumed a risk or was negligent in executing the finance agreement.

For these reasons and based on case law, it would appear that Premium Bank would be hard-pressed to establish Protection's liability on the basis of any ostensible authority created in Mr. Adams.

The bank did not even notify Protection that the premiums were being financed. Since the bank did not ascertain who was to receive payment on behalf of Protection or notify Protection as to whom it intended to pay the loan proceeds, the bank took it upon itself to select an agent for payment of the loan proceeds and made Mr. Adams its agent.

Conclusions drawn

Between Protection and the bank, the bank was in the better position to prevent the wrong and therefore must bear the resulting loss. Protection took no part in the financing transaction nor was informed of it. Protection did not place the agent in a position to prosecute a financing transaction and its lack of knowledge that such a transaction was occurring made it impossible for it to take any precautionary or preventative steps.

The bank, however, had direct dealings with the agent, was in a position to ascertain the authority of the agent and enabled the agent to embezzle the loan proceeds by placing the money directly in the agent's hands. Considering the court's opinion in the case of *National Premium Budget Plan Corp. v. LaSalle Casualty Co.*, 8 Ill. App. 2d 466, 225 n.e. 2d 400 (1967) the following can be concluded:

- The financing of premiums is to be considered a separate transaction from that of issuing a binder or an insurance policy by or on behalf of the insurer.
- When a third party perpetrates a wrong resulting in a loss that must be borne by one of two parties, assuming both parties are guiltless of any intentional moral wrong, the loss must be borne by the one who by its conduct has rendered the injury possible or could have prevented the wrong from occurring.
- When a premium finance company fails to ascertain or notify to whom payment of loan proceeds is to be made on behalf of the insurer, payment is considered made to an agent/designee of the premium finance company who is not for those purposes considered an agent of the insurer regardless of any prior or existing relationship with the insurer.

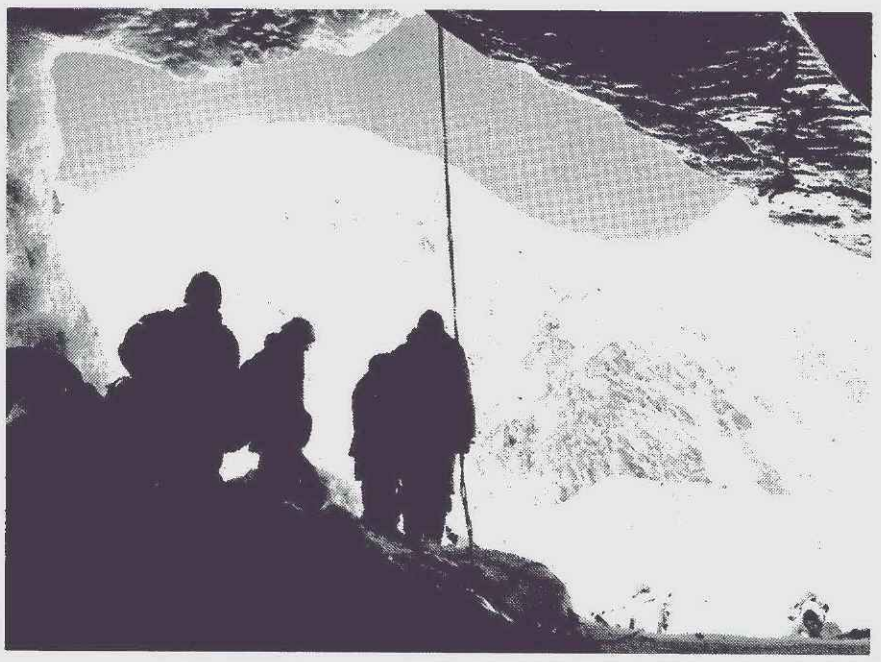
Thus, it would appear that Premium Bank in this instance must bear the loss. Furthermore, should Insured Co. Inc. present a claim, the decision in National Premium Budget Plan points out that for purposes of the financing transaction, the agent was acting on behalf of both the premium finance company and the policyholder. As between the policyholder and Protection therefore, the policyholder must bear the loss.

Although National Premium Budget Plan is an Illinois case, the principles adjudicated are common law principles and the court's determination is equally applicable nationwide.

I believe the bank must be the party to bear the loss and that Protection should be held free of any liability. But should the facts in your case differ in any material respect, the result may also differ. When entering into a premium finance agreement, make sure you know the authority and financial stability of each party to the agreement and the party to whom payment is being made. ■

The indomitable snowman.

Few people share the Sherpa's reputation for dependability. Fewer still will ever dare face as mighty a foe as the Himalayas. After all, to handle such a nemesis takes a lot more than raw courage. It takes the capacity to protect others against monumental risks. The capacity to keep people going in the event of serious injuries or losses. It takes, in short, a specialist.



In today's industrial environment, the capacity to cover substantial risks is no less important than it is on the icy footpaths of the Himalayas. But to gain this capacity is no small task. It takes years of success in meeting the needs of a wide variety of insureds. It requires the ability to recognize and understand the particular perils that an individual company might, or will, encounter. It takes, in a word, a specialist.

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Allstate seeks more benefit clients . . .

CHICAGO—Allstate Life Insurance Co. plans to go after more group benefit business.

"We plan to be hitting the market pretty hard by next April and maybe six months after that, people will know we're there," said Robert L. Roberts, newly appointed executive vp of Allstate Life. Allstate Life, with about $300 million in group premiums, is about the 18th largest insurer of group life and health coverage but wants to be bigger by this time next year.

A "broad range" of products will be offered including dental plans. The feasibility of selling prepaid legal services is still under study, Mr. Roberts said.

In addition to insurance, Allstate will also market more services, such as administrative services contracts to appeal to the growing number of self-insured firms, Mr. Roberts said.

He would not discuss premium volume goals for the first year of operation, but said, "We have every intention of becoming one of the major writers in the group insurance field." Allstate Life will seek a wide variety of corporate and individual clients, he added.

To help with the new market push, a significant number of new employes will be hired, especially marketing, actuarial and technical personnel, Mr. Roberts said.

The life company and its existing sales force will be used to market plans geared at smaller employe groups. But for larger clients, Mr. Roberts said, Allstate will use agents and brokers. In addition, there will be a "tie-in" with Northbrook Property & Casualty Insurance Co. and its nationwide network of about 1,000 independent agents. Northbrook Property & Casualty was formed earlier this year when Allstate disclosed plans to snare a larger portion of the commercial-lines market (*BI*, Jan. 8).

Mr. Roberts said the independent agents will procure business in rural areas of the country where Allstate has no regular representatives.

Since Allstate Life began group operations in the late 1950s, it has had successful but small sales in the group life and health area, as well as some ASO and stop-loss business, Mr. Roberts said. But group sales recently have lain somewhat "dormant" and the company now wants to grab a larger share of the fast-growing employe benefits market, he said. ■



"We plan to be hitting the market pretty hard by next April," says Allstate's Robert L. Roberts.

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INSURANCE

October 1, 1979

. . . as commercial lines live up to expectations

CHICAGO—Allstate's push into commercial lines has been moving along on schedule, even though the company has encountered a bit of rough sailing on the choppy sea of the soft, competitive commercial lines market.

Earlier this year, Allstate officials announced formation of Northbrook Property & Casualty Insurance Co., which was to carry Allstate into the commercial market and eventually make it a leader among commercial carriers. To accomplish the task, Northbrook announced it would tap a nationwide network of 1,000 independent agents for sales, open branch offices to handle the business and tie into Allstate's computerized business processing system.

So far branch offices have been opened in Chicago, Los Angeles, Valley Forge, Pa., and Atlanta, with other office openings expected in San Francisco and Milwaukee later this year, said vp Robert A. Leibold. Six more branch offices will be opened next year, he said.

In addition, hundreds of inquiries have been received from independent agents seeking agency appointments. Numerous appointments have been made, but Mr. Leibold would not say how many. The computer tie-in has also been completed, he said.

Northbrook has encountered the difficulty faced by many other insurers: intense competition and lower than expected prices. Still, Mr. Leibold said he expects Northbrook to reach or at least come close to its premium goals for the first year of operation, which he declined to divulge. "We'll be fairly close to our premium expectations but we'll have to work a heck of a lot harder to get there." ■

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Anti-nuclear group tries to speed damage suits

By WILLIAM ECENBARGER

HARRISBURG, Pa.—Three Mile Island Alert Inc., a Harrisburg anti-nuclear group, has petitioned the U.S. Nuclear Regulatory Commission to declare the March 28 accident at Three Mile Island nuclear generating station an "extraordinary nuclear occurrence."

Under the Price-Anderson Act, such a designation would eliminate the need for persons who have filed lawsuits in connection with the accident to prove negligence on the part of Metropolitan Edison Co., the plant operator, or other defendants.

The Price-Anderson Act provides $560 million in private funds and government indemnity to pay public liability claims for personal injury and property damage resulting from a nuclear accident.

For the Three Mile Island accident to be designated an extraordinary nuclear occurrence, the NRC commissioners would have to decide that a substantial quantity of radioactive material was released from the plant and that the accident caused substantial damage off site.

If those two requirements have been met, plaintiffs only would need to prove the injury or damage, the monetary amount of the damages and that the damages were caused by the accident.

The NRC staff has advised the commission that it does not believe the accident should be declared an extraordinary nuclear occurrence because radiation released during the accident "appears to be several hundred times less than that required to meet the criterion in the regulations."

According to TMIA's petition, a substantial quantity of radioactivity was released from the plant because at least one person off site and "probably many more" received a 30 rem dose.

Lee B. Musselman, author of TMIA's petition, says he calculated the 30 rem dose on the basis of radiation figures cited in NRC reports and in the testimony of state and federal officials. The petition does not list any individuals who might have received that dose.

Mr. Musselman's calculated dose conflicts with the findings of the federal Ad Hoc Population Dose Assessment Group, which determined that the maximum dose received by an individual off site was less than 100 millirems. A rem is equal to 1,000 millirems.

TMIA's petition asserts that "the potential for high dose exposure to the thyroid has existed for the past 4½ months and will continue to exist until the damaged reactor and contaminated water (at the plant) are safely disposed of."

Concerning the NRC's requirement that the accident caused substantial damage off site, the petition contends "it is much too early to meet" that requirement.

Also, the petition says, "Future land contamination or further evacuation may be caused by releases of radioactive materials during the cleanup of the Unit 2 (reactor)."

The petition contends farmers near the plant have not been able to sell their dairy farms, homeowners have not been able to sell their homes and business suffered losses because of the accident. ■

Consultant plays diagnostician too, IRMC speaker says

SAN DIEGO—Financial executives and insurance managers can expect risk management consultants to provide reasonable assistance in determining the scope of a consulting job and a reasonably accurate estimate of what the work will cost. But a client can hardly expect a consultant to complete a significant project within 30 days, as many are requesting.

These conclusions were drawn from a discussion at the annual conference of the Institute of Risk Management Consultants here last month.

George Betterley, head of Betterley Consulting Group in Boston, noted that an important part of a consultant's job often is helping the corporate or institutional client define the scope of a consulting project.

"At times the client isn't ready for a study at all, but must instead go through an intensive interviewing process" with the consultant to diagnose the problems that need study and solutions and to establish clear objectives and scope for the project, he said.

Most consultants at the IRMC session, including Mr. Betterley, seemed to agree that the diagnostic and scoping interviews are part of the preliminary process of starting a project before making a formal consulting proposal. The client or prospective client won't be charged a fee for this session, usually lasting a half-day or one day, they said. A few consultants, however, won't do anything for free, even the preliminary interviews or discussions, Mr. Betterley noted.

When Betterley Group makes a proposal to a prospective client, Mr. Betterley said, the proposal includes six significant points, including:

- Scope of services to be provided.
- Objectives of the study.
- Technical approach to the work.
- Timing when the project will begin, when it is scheduled for completion.
- Staffing: who is going to do the work and what different people will be needed.
- References.

Betterley also provides clients with the high and low estimated cost of the proposed project based on the time required and expenses to be reimbursed. Quite often, if the estimate is rough and might tie the consultant's hands, Mr. Betterley's firm agrees the costs will be between a low amount and a higher amount, not to exceed the high figure without prior approval by the client. Mr. Betterley generally calculates these high and low amounts by estimating costs at a point and then adding 10% to arrive at the high end and subtracting 10% to arrive at the low end.

Many corporate clients, Mr. Betterley said, are more frequently asking for the hourly billing rates of individual consultants working on a project. They are also requesting that consultant's bills detail breakdowns of work performed, including a breakdown on who performed the work and for how many hours.

The time lapse from the moment an inquiry comes to Betterley to when a proposal is made and the project started generally varies with the client, Mr. Betterley said. Betterley Group submitted proposals for five successive years to fifth year, the budget was finally approved for the project.

Several consultants attending the meeting concurred it is more common today to receive consulting specifications from a prospective client, particularly a government entity, that call for a massive project to be completed within 30 to 60 days. That goal is "plainly impossible," they said.

It isn't uncommon today, either, for corporate and government consulting clients to ask a consultant to quote a flat annual fee for a risk management project. ■

Thou shalt not forget these

George Betterley solemnly approached the waiting audience of risk management consultants. He was sporting a newly grown beard and a Jewish skullcap that another consultant had placed on his head earlier while pronouncing him a "Moses" likeness.

He raised his arms and said he had been on the mountain overnight and was ordained to bring the Ten Commandments of Risk Management Consulting. In jest, he recited:

1. Thou shalt not work on the Sabbath, except at IRMC Conferences and when a report is two weeks overdue.

2. Thou shalt not accept a free cup of coffee from thy favorite insurance broker.

3. Thou shalt not commit a grammatical error in a client report.

4. Thou shalt not take the name of another consultant in vain, unless he is also an insurance broker.

5. Thou shalt not dishonor thy IRMC presidents—Peter D. Norman (outgoing) and Donn C. McVeigh (newly elected)—for God made both the English and the Irish.

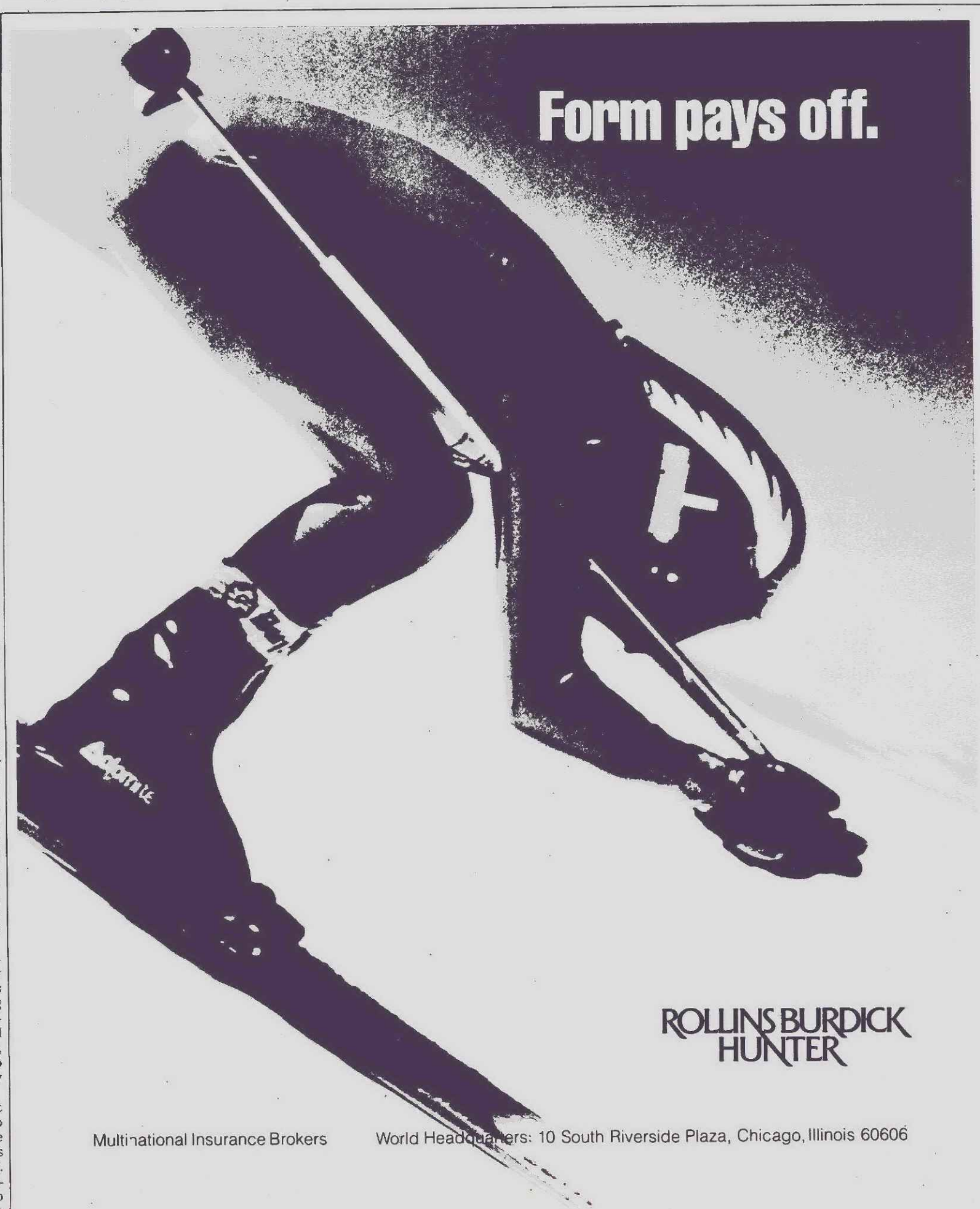
6. Thou shalt not work for the Shifting Sands Mutual if thou hast not taken the "Salwen pledge" (an ethics rule suggested by Bernie Salwen of S.B. Ackerman Associates about how a consultant is to function when working for an insurer or provider of risk management services).

7. Thou shalt not charge thy client for a Beefeater martini when an ordinary brand will do.

8. Thou shalt not aim for a 30% pretax profit, lest the public accuse thee of being an insurance broker.

9. Thou shalt not charge billable time while sitting on the throne, unless thou hast a throne phone.

10. Thou shalt not hang up thy dirty linen before the press.



Broker predicts growth in loss-control demands

SAN DIEGO—Major insurance brokers, already involved in supplying risk management services on a fee basis to customers, are likely to become more involved in loss prevention services and in the treaty reinsurance intermediary business, predicted Peter Hawes, vp of Alexander & Alexander.

Mr. Hawes, of A&A's Palo Alto, Calif., office, said in an address to the Institute of Risk Management Consultants here that he sees growth of broker services in the areas of health care and claims cost control, as a result of increasing corporate emphasis on holding risk-related and benefit-related cost inflation to a minimum.

"We are referring to the 1980s as the decade of loss control," he noted. "The traditional services approach (of the large insurance companies) has not been successful on a large scale, especially in controlling the basic cost of health care and the incidence of litigation in workers compensation, the two critical components of overall employe benefit costs.

Blue Cross, Prudential, Aetna, state funds and so on have lost their credibility," he maintained.

Large employers are now demanding "something more" from their suppliers, he said, indicating he thinks brokers are jumping in to fill the void by offering services that encompass everything from creative public relations and communications programs to analytical techniques and "modern psychological techniques" to deal with the human element of cost control, benefit abuse, litigation and other costly problems.

Among the problems that he suggested must be coordinated into "a tangible strategy" are the closely related areas of long term disability, conventional group medical insurance and workers compensation.

He acknowledged that in providing risk management services, it's not possible for a broker to be "independent" as the independent consultants define it, but suggested that a "constant danger" for brokers is codes of ethics and laws prescribing the services consultants and brokers are allowed to perform in the personal services field. He termed "this hyperprofessionalism" as counterproductive.

For the publicly owned insurance brokers, the highest priority for investment promising the highest returns in the near future includes "such activities as the treaty reinsurance intermediary business that has been so lucrative for Marsh & McLennan and which Alexander & Alexander has not developed," Mr. Hawes asserted.

The lowest priority, on the other hand, "are the pure project consulting areas ... one-shot time-and-expense fee-based studies" which "are simply not an area likely to see major resource commitment," Mr. Hawes said.

In a broad allusion to the interest brokers have in acquiring services companies—perhaps even consultants—Mr. Hawes suggested that should some "pure" independent consultants find themselves "unable to ignore the profit motive," they should "consolidate their invention, develop it, capitalize it," and the large national brokers including A&A will be "in the business of buying innovators." ■

Risk pooling programs gain favor: Consultant

SAN DIEGO—More governmental entities and corporations will be participating in risk pooling programs in future years, attempting to stabilize their insurance coverage and costs, predicted Steven P. Kahn, a consultant with Newport Beach-based Warren, McVeigh & Griffin, speaking to the Institute of Risk Management Consultants here.

Though the popularity of pools may grow, the market for excess aggregate insurance to cover high-level liability losses may become more difficult in the next two or three years as a result of market tightening following a period of underwriting losses, Mr. Kahn noted. This may ultimately slow the growth of pools temporarily, but won't prove to be much of a deterrent to their formation, he said.

"The biggest problem with pools, and the most hotly debated issue, is the equitable distribution of losses among entities participating," he said. Each company or governmental body usually believes it's being unfairly penalized by having to carry the burden of another participant's heavy losses, which causes a lot of administrative headaches when setting up the allocation system at the time a pool is formed, Mr. Kahn noted.

In some cases, organizations looking at a joint pooling arrangement have found the insurance markets giving much lower premium quotes than their individual costs for the previous year's policy, so that the pool looked less attractive than when prices were high, Mr. Kahn said.

For example, when he worked with a group of school districts to set up a pool, the districts obtained individual renewal quotes 20% to 30% lower in March through May 1979 than for 1978. The softer prices in the insurance markets prompted the districts to decide not to establish the pool after all.

Several factors account for the growing popularity of pools, including the ability of organizations to afford larger risk retentions jointly than they could individually, Mr. Kahn said. The 80 participants in the California Water Districts, for example, were able to jointly retain $500,000 per loss, compared with much lower deductibles than each district would have had without pooling.

Quantity discounts on the cost of excess insurance via a pooling arrangement also constitute significant advantages, he said, citing the experience of the Southern California Joint Powers Insurance Authority. The JPIA obtained an extra $5 million of excess coverage for all 33 members, covering them up to $10 million each for liability losses, for only a $50,000 premium.

A single member of that group had received a quote only a short time earlier for this $5 million excess of $5 million at a premium cost of $20,000. ■

Office relocated

Intercounty Agencies, a property and casualty insurance and surety bond firm, is leasing new space at 616 S. Westmoreland Ave., Los Angeles, for its headquarters. Daniel P. Hayes, managing officer of the Ramsey-Shillin Commercial Brokerage Co., and Sean P. O'Brien of the firm represented both Intercounty and its lessor, the Operating Engineers Pension Trust.

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BI-6

Risk exec lambasts overuse of captives

By SUSAN ALT

SAN DIEGO—"Captive insurance companies are grossly overrated and grossly over-utilized," asserted Alan M. Pearce, assistant treasurer of Foremost-McKesson Inc. in San Francisco, charging risk managers with ignoring the often more significant advantages of self-insurance programs.

Mr. Pearce acknowledged that his opinion of captives has "always been negative and has become more so over the years." There are only three real advantages of using a captive insurance subsidiary, he believes:

- Direct access to the reinsurance markets.
- Circumvention of state insurance regulations and premium taxes.
- Joint pooling of risks.

"All other benefits are either illusory or are of marginal value," he told attendees of the annual conference of the Institute of Risk Management Consultants here.

To argue that a captive allows a corporation to reduce the costs of commissions it pays to its insurance broker "is really fallacious," Mr. Pearce states. Because of high management fees charged by firms which administer captive operations, the costs may outweigh any savings.

In one case Mr. Pearce cited, a company saved $75,000 on ceding commissions by using its captive but paid $100,000 for management services which meant a net added cost of $25,000 for the captive.

"Most companies large enough to have a captive are paying fees to brokers for their services anyway," so the savings on commissions wouldn't be that large, he noted.

"You don't need a captive to structure a better loss prevention program, either," he believes. Because a captive insurer is shrouded in the mysteries of insurance, "you don't create the awareness of loss prevention" as well as might be thought possible, particularly compared with self-insurance, which is very effective in creating an awareness of paying for one's own losses, he said.

"A far easier, indeed far less cumbersome way of accomplishing this" is simply to charge back losses retained to the various operations in the company that caused the losses, doing this internally through an accounting system, he is convinced.

Some flexibility is achieved by using a multi-owner captive to pool risks, particularly when the insurance to be written isn't available in the traditional marketplace, such as airline strike insurance, Mr. Pearce said. "The problem in this area, however, is the divergence of special interests. Each company participating wants different things from the pool. In CIRCL, for example, the purpose of the pool became a political football," he noted.

"A captive is often considered a better cash flow vehicle than self-insurance, but too many people fail to evaluate paid-loss retro plans or other forms of pure self-insurance which are often more advantageous," Mr. Pearce said.

The advantage of gaining direct access to reinsurance markets can sometimes be illusory, too, he asserted. "Over the years, you don't know for sure whether you're really getting the best reinsurance cost or not, because you can become too cozy with the reinsurers," and can forget to check whether their charges are competitive.

At Foremost-McKesson, Mr. Pearce splits 50-50 the risks insured in the markets and those put into the company's captive, "so we're aware of the pricing in the insurance marketplace at all times."

Until two years ago, Foremost-McKesson participated in International Risk Management's Hopewell pool in Bermuda for companies sharing property risks. Initially, participation in that pool offered about a 30% reduction in property premiums, "but when we looked at the experience two years ago, we saw that our risks had improved while those of other companies hadn't, we had no losses and other companies had heavy losses and we had lost our identity as a company with reinsurers—we weren't able to negotiate effectively with them" because of being overshadowed by the collective image of companies in the pool, Mr. Pearce said.

The result: He was able to reduce Foremost-McKesson's costs 40% on a net basis by pulling out of Hopewell.

Invariably, Foremost-McKesson has found self-insurance far less costly than any kind of fronting arrangement in terms of cash flow advantages, Mr. Pearce said, not-

Continued on next page



Too many people fail to compare paid-loss retro plants to captives, says Alan Pearce.

Insurers plan move to Atlanta

CRANFORD, N.J.—Drake Insurance Co. of New York and Cranford Insurance Co. here will be moving to Atlanta by the end of this year to join the parent company, Alexander Howden Group U.S. Inc., which recently located there.

Drake is changing its name to Atlanta International Insurance Co.■



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Captive over-use . . .

Continued from previous page

ing that he's presently considering taking the company's marine risks (mainly cargoes and inventories) out of the captive and simply self-insuring the entire exposure.

"In some states, self-insurance assessments are so low as to be almost ludicrous" compared with fees for fronting programs, he told the consultants. For example, in California, Foremost-McKesson pays a ridiculously low $1,100 a year to self-insure workers compensation liabilities, versus the $90,000 to $100,000 it would pay in premium taxes alone under a fronted program using a captive.

Besides the average 4.5% of premiums for state taxes under fronted plans, companies pay about 1% in excise taxes, 1% for boards and bureaus fees, "easily 2%" for broker's fees and 3% to 6% in fronting fees to the issuing insurance company," Mr. Pearce figures.

Foremost-McKesson still uses its captive insurance subsidiary "on a limited basis" for fronting and for a few other programs, but is using it less all the time. Workers compensation liability and auto liability risks are still underwritten in the captive, as are some small general liability risks ("where we need to be able to show certificates"). The captive also helps market reinsurance on excess liability risks.

The marine risks now in the captive generate about $250,000 a year in premiums, which Mr. Pearce characterizes as a "very small program," and will be taken out and self-insured within the next three or four months.

"This reduces my administration effort," Mr. Pearce says. ■

Captive pulls out of pool

Foremost-McKesson Inc., San Francisco, will complete before year-end its pullout from the third party underwriting business in which it involved its captive insurance company subsidiary beginning in 1977.

Alan M. Pearce, assistant treasurer, told *Business Insurance* at the meeting of the Institute of Risk Management Consultants that the captive's book of third party business is already wound down to about $400,000 in premiums, a decrease from about $1 million in premiums from third parties (non-Foremost-McKesson risks) in 1978, the peak year for the company in this type of outside underwriting activity.

The company's captive participated in this business through International Risk Management's Bermuda operations, sharing in some 65 different reinsurance treaties established by Fred Reiss for IRM.

"We've looked at this as we look at any other investment opportunity, and we've concluded that the potential return on this business would never—emphasize never—approach the returns to be generated by our general business activities," he said.

"In fact, the potential return was so deficient that it overwhelmed any possible tax advantages we might get for being in the third party commercial insurance business," he stressed.

Though there is no way of estimating the ultimate long-tail losses of casualty risks reinsured while in this program, Mr. Pearce roughly calculates that "at this point, I think we should end up with about a 100% loss ratio" on the third party business underwritten in the captive.

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IRMC stops resignation; alters rules

SAN DIEGO—The Institute of Risk Management Consultants rejected the resignation of Chicago consultant and founding member Warren Brockmeier of Wyatt Co., and voted to change the bylaws which had prompted Mr. Brockmeier's resignation.

The rule changes voted by members deal with independent risk management consultants' ethics as prescribed by IRMC's bylaws. Several sections of the rules which dealt with the issue of competition among consultants were deleted by IRMC members.

Mr. Brockmeier had violated one of these rules because he frequently became a consultant for organizations previously working with another consultant member of IRMC (*BI*, July 9).

"We're not here to minimize competition among IRMC's members," said Donn McVeigh, newly elected president of the group.

Adopted by IRMC members was an amendment to the bylaws dealing with the issue of providing multiple services to clients:

"There shall be no prohibition against furnishing risk management consulting services to any company, but in so doing the member must adhere to the following rule:

"If the client is an insurance company or a provider of other risk management products or services, then during the consulting engagement and for a period of three years thereafter, under circumstances where the client company is competing for another client's business, and the ultimate decision for all practical purposes will rest on the consultant's advice, then the member shall suggest the names of other IRMC members, one of whom will be selected by the client to review the situation and make necessary recommendations. The particular company in question will not be identified to the member so identified.

"This standard shall also apply to the situation of a corporate client owning an insurance company writing third-party business.

Besides electing Mr. McVeigh of Warren, McVeigh & Griffin president for 1979-80, members elected Bernard A. Salwen of S.B. Ackerman Associates, vp; Thomas Briggin of Warren, McVeigh, treasurer, and R. Maynard Toelle, secretary.

Mr. Toelle is responsible for providing information about IRMC and its members to anyone who asks. He can be reached at 703 Thunderbird Ave., Sun City Center, Fla. 33570, (813) 634-4975. ■

Actuary supports supplemental thrift, profit-sharing plans

This story and stories on the following pages were written by associate editor Ellis Simon who attended the American Management Assn.'s conference on risk and insurance management at Tarpon Springs, Fla.

TARPON SPRINGS, Fla.— Profit sharing and thrift plans should be used to supplement rather than substitute for defined benefit retirement plans and of the two, thrift plans offer more advantages, says a consultant.

Defined contribution plans, such as profit sharing and thrift plans, tend to place the employe, rather than the employer, at risk, said Deborah J. Fishman, a partner with Kwasha Lipton, consulting actuaries of Englewood Cliffs, N.J. And they fail to recognize past service prior to institution of the plan, she said.

"You can make a long term employe fully vested, but fully vested with what?" she asked.

Defined contribution plans are career averaged, reducing the benefit's impact as a source of retirement income, she noted. "In a career average plan, 6% of 1939 pay is nothing."

Profit sharing plans are worthwhile as retirement vehicles for small or relatively new companies, Ms. Fishman suggested. Unlike the open-ended commitment of a pension plan, profit sharing's costs are relatively fixed. The work-incentive provided by profit sharing can help a small, young firm grow, she added.

However, as a company develops and gains a greater sense of permanence, the firm should consider implementing a defined benefit retirement plan and using a defined contribution plan to supplement these benefits, Ms. Fishman said.

With larger companies, thrift plans, wherein employers match employe contributions, have become more popular than profit sharing plans, she noted.

The work-incentive aspect of profit sharing is lost in a large firm. Its success is not affected by the "little guy" but by other factors, such as the price of its raw materials, she continued.

Thrift plans also have cost advantages. Where a profit sharing plan could cost anywhere from 5% to 15% of pay, a popular thrift plan might run a company only 1% or 2% of wages, Ms. Fishman said.

Thrift plans also have good psychological effects. "When was the last time someone paid you to save money?" But the positive value of the plan could become a negative one if employes can't withdraw money from thrift plans during their careers, she added.

The plans are capital accumulation plans. They can provide the capital needed for large purchases such as a down payment on a home or sending a child to college, Ms. Fishman said. "Capital accumulation plans are for dreams. They're a positive part of a benefits program. To collect on other parts of the program you need to get sick, retire or die."

A company that withholds that money until retirement could see its vested employes quitting, taking their profit sharing funds and getting a job elsewhere, she added.

However, because funds in thrift plans are tax-sheltered, she doubts many employes would draw on the funds while working. ■

Library donated

An anonymous donor has supplied a complete library of insurance and business texts and periodicals to the insurance department of the International College of the Cayman Islands. The donor "is one of the largest insurance firms in the world," said David H. DeMarco, president of Cayman Underwriters Services, which helped establish the college's insurance department, which offers a two-year degree.

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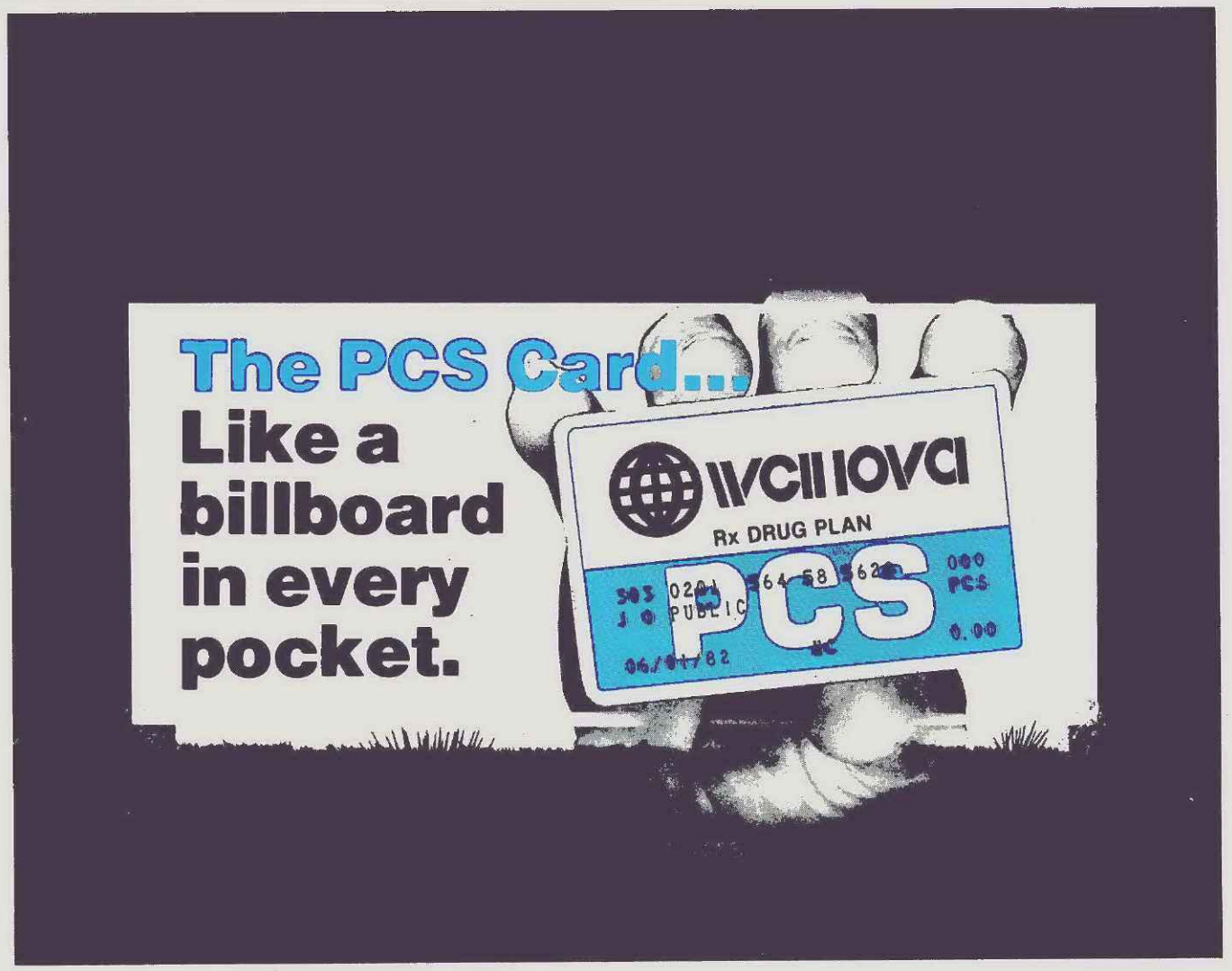
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Remove unfunded liabilities from balance sheet: Actuary

Corporate financial people should be concerned with the smaller "unfunded value of vested benefits" rather than the unfunded value of past service contributions, says Len Mactas, consulting actuary with Kwasha Lipton.

TARPON SPRINGS, Fla.—Unfunded corporate pension liabilities should be removed from balance sheets and relocated as a footnote to financial statements, says Len Mactas, partner with Kwasha Lipton, consulting actuaries of Englewood Cliffs, N.J.

Mr. Mactas blasted the financial community for its "erratic and excessive" response to ERISA since the pension reform law was signed five years ago. The unfunded liabilities, or unfunded value of past service contributions, have found their way onto the corporate balance sheets and raised the eyebrows of Wall Street analysts.

In placing them on the balance sheet, however, corporate finance departments ignore two considerations, Mr. Mactas said:

- The pension fund liabilities should be "tax-effected," since pension plan contributions are tax deductible.
- Including unfunded liabilities in the balance sheet meets a "significant part of the company's current pension costs," in effect reducing expenses and increasing profits.

Mr. Mactas deplored the latter practice, arguing it would mislead the public and investors and improperly affect decisions regarding pensions.

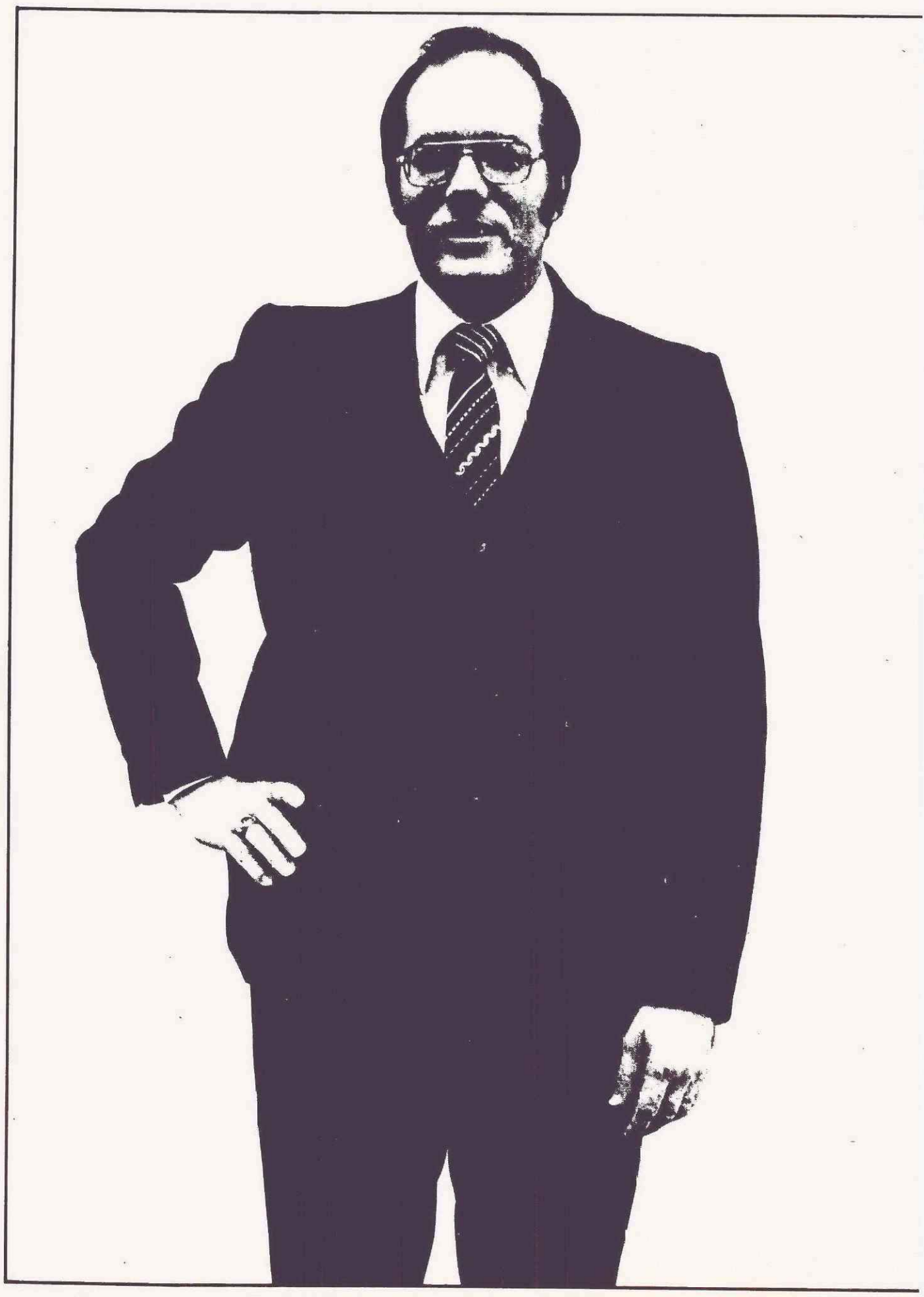
Corporate financial people should be concerned with the smaller "unfunded value of vested benefits" rather than the unfunded value of past service contributions, Mr. Mactas said. "It's an item that a company has committed itself to cover."

Disclosure of the unfunded value of vested benefits has been accepted practice since 1967, when Accounting Principles Board Opinion No. 8 was adopted, he added.

"Although unfunded liabilities (past service contributions) do matter to a limited extent, their impact upon a company's financial condition comes nowhere near what some would have us believe," he said. The numbers reflect the actuarial method chosen to fund the pension plan.

It is "nonsense" to believe systematic underfunding of pension plans exists when past service contributions are not fully covered by a plan's assets at all times, Mr. Mactas said. Past service contributions are paid off on an installment basis similar to a homeowner's mortgage over a period ranging from 10 to 40 years.

Mr. Mactas also decried the "totally meaningless" comparisons made by some firms of their pension costs to profits. Profits tend to fluctuate from year-to-year, he noted. Pensions are an expense and, as such, can only be compared rationally with related expense items or revenues, he said. ■



Pay hikes can hit pension tab

TARPON SPRINGS, Fla.—Higher-than-anticipated pay hikes resulting from 1979's record inflation are going to be felt by the typical corporate pension plan for the next 15 years, an actuary predicts.

The higher inflation rate and the wage increases it brought are also likely to retard the progress pension plan sponsors make in eliminating their unfunded pension liabilities, said Len Mactas, partner with Kwasha Lipton, the Englewood Cliffs, N.J.-based consulting actuarial firm.

Pay increases this year are likely to exceed actuarial assumptions for many companies, resulting in actuarial losses, Mr. Mactas noted. Typically these are amortized over a 15-year period, he said.

Left untouched, pension plan contribution levels for past service would be insufficient if salary gains were out-of-line with actuarial assumptions. Past service contributions to pension plans are made on an installment basis over long periods similar to mortgage payments on a home.

A two-thirds funded pension plan with funded and unfunded past service credits totaling $10 million would suffer a $500,000 actuarial loss if pay increases ran 5% greater than the actuarial assumption, Mr. Mactas said. Amortization of this loss would require an additional $50,000 or 10% contribution for prior service in each of the next 15 years.

If a plan's future service contributions ran $300,000 per year, they would also be subject to a 10% increase. The combined effect would restore plan funding to proper levels.

Investment gains resulting from higher investment returns could offset some of the increased unfunded prior service liabilities caused by higher salaries, Mr. Mactas noted.

In previous periods of higher-than-expected salary increases, pension plans had suffered market losses that resulted in adjustments designed to correct more severe combined actuarial losses, he said. ■

Workers comp payments down

COLUMBUS—The Ohio Bureau of Workers Compensation paid $35.6 million in disability compensation, medical and death benefits during June, 3.2% less than the $36.8 million paid in May.

Payments in June for disability compensation and death benefits were $24.2 million, 0.5% more than May. Weekly medical bill payments during June were $11.4 million, down 10.3% from May.

A total of 32,207 claims were filed during June, 15.6% less than the May figure of 38,188. ■

Actuary criticizes cost-indexed pensions

By ELLIS SIMON

TARPON SPRINGS, Fla.—Increasing pension payments to retirees according to the increase in the consumer price index is a "ridiculous" expenditure, argues Guy Shannon, consulting actuary with the Washington office of The Wyatt Co.

"The difference between solving the problem and the amount of money available is enormous," he says. Even capping increases at 3% adds 40% to 50% to pension costs, he says.

The need to index pension benefits to inflation is overstated, he maintains.

Social Security and private pension benefits provide a high level of replacement of preretirement spendable income and in some cases exceed preretirement income, he said. In addition, it's "not at all unreasonable" for a retiree's standard of living to decline as he reaches the late 70s and 80s.

A person's spendable income before retirement equals his gross income less state and federal income taxes, Social Security tax, savings plan contributions and work-related expenses. The latter two usually equal 10% of gross pay, Mr. Shannon said.

After retirement, a person's spendable income equals his pension and Social Security benefits less state and federal income taxes. However, because his gross income is less, his taxes are lower.

Pension plans and Social Security combined ideally provide 60% of preretirement pay to persons in low income brackets and 40% of preretirement pay to persons in upper income brackets, Mr. Shannon noted.

However, retirement benefits typically replace more than 100% of preretirement spendable income for low income persons and 80% of preretirement spendable income for upper income persons, he continued.

In the typical union plan, post retirement benefit levels are "way off the chart," he added. Because these plans often provide benefits that are not integrated with Social Security, retirement benefits often are a lot more generous than preretirement income, he explained.

Where the plans have made ad hoc adjustments for inflation, they have resulted in 10% to 20% gains in spendable income for retirees, Mr. Shannon said.

Social Security and other government pension plans are fully indexed with inflation. With Social Security providing 80% of retirement benefits for low wage earners, the need for private pensions to provide adjustments for inflation is minimal, Mr. Shannon noted.

Retirees' lifestyles aren't so expensive that their incomes need to remain constant with the cost of living, he also suggested. Although retirees tend to spend large amounts on travel and retirement homes when they quit working, this pattern is reduced with aging, he added. Because of this, some pension plans provide partial lump sum settlements to handle immediate needs, Mr. Shannon noted.

The long term solution to the problems of retirees is to control inflation through indexing tax rates to cost-of-living increases and ending indexing of pensions for members of Congress and the civil service, Mr. Shannon suggested.

"The people who cause inflation benefit from it," he charged. ■

Oil woes threaten insurers

TARPON SPRINGS, Fla.—Development of new energy-producing facilities could test insurance industry capacity, but continued energy shortages could increase losses for insurers, two insurance experts say.

Property insurers would face the greatest challenge from the development of new energy sources, predicted Johnson & Higgins vp Frank Eblen. Expanded tapping of both traditional energy sources, such as fossil and nuclear fuels, and renewable sources, such as solar, wind and geothermal power, will increase the need for property insurance, he said.

Insurers so far have been able to meet the challenge, but as property values rise and the markets tighten, this might not be the case, Mr. Eblen noted. Coal gasification plants and other synthetic fuel facilities will be expensive and could present a capacity problem.

Offshore oil production platforms are already beginning to face capacity problems as values run between $1.2 billion and $1.5 billion while "world market capacity is straining for $1 billion coverage," he added.

Energy facilities are likely to use captive insurance companies to meet their needs. The New York Insurance Exchange will also provide additional capacity for energy risks, Mr. Eblen said.

Other insurers are likely to follow the path of American International Group and establish specialized units to meet the insurance needs of energy producers, he added.

But failure to increase energy supplies could also result in problems for insurance companies and their clients.

Power shortages and blackouts can result in equipment and machinery damage that would lead to increased business interruption claims, said David T. Baskett Jr., senior vp at Philadelphia Manufacturers Mutual Insurance Co.

Reducing plant lighting to conserve energy could result in increased workplace accidents, theft and malicious mischief, he added. And if companies hoard emergency fuel in their facilities, they may increase their fire hazard exposure.

Boiler and machinery insurance writers would face increased exposure if blackouts and power shortages force the increased shutdown of equipment and subsequent hazardous startups, Mr. Baskett noted. Additional maintenance problems would result as well. ■

CNA gets offer

Loews Corp. is planning to make a tender offer to purchase six million shares of CNA Financial Corp. common stock at $15 per share and three million shares of the Series A preferred stock at $20 per share. If all of the shares tendered are purchased, Loews would own approximately 76% of CNA's present outstanding voting securities.

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U.K. court to rule on liability of insurers for Beirut losses

By JOHN H. MILLER

LONDON—Insurers' liability for damage caused by violent uprisings in Lebanon in recent years is being debated in British courts, with a decision expected by year-end.

Spinneys (1948) Ltd., whose three Beirut supermarkets were looted on Jan. 22, 1976, is seeking $3.5 million in damages for losses from its insurer. But Royal Insurance Co. of the U.K. contends the amount of destruction in Beirut in the months preceding the looting showed governmental authority was collapsing and that a state of civil war existed at the time of the looting.

Spinneys' insurance policy excluded losses because of war, invasion and civil war, but Spinneys argues the exclusions don't apply because the central government was still functioning.

The same issue is being tried in the U.S., where Holiday Inns awaits a ruling on its claim against Aetna Insurance Co. for $10.9 million in losses to its Beirut hotel (*BI*, Aug. 6).

The British court's decision in the Spinneys case may affect other British insurers' efforts to get an up-to-date interpretation of civil war exclusion clauses that apply to many insurance contracts in troubled areas of the world.

The Spinneys case is also being studied by U.S. insurers, even though U.K. court decisions carry no authority in the U.S. but represent a trend in generally accepted doctrines of insurance.

Both sides have produced substantial weight of evidence, with Spinneys calling a former governor of Beirut and a former Foreign Ministry official from Lebanon, while Royal Insurance relied heavily on testimony from journalists who had been in Lebanon to support the contention that civil war had broken out.

The period of Lebanese strife under scrutiny ran from September 1975 to April 1976. Royal Insurance officials say the main issue is whether there was a breakdown of order in a particular part of Beirut on Jan. 22.

In the Holiday Inns case, the policy terms and conditions are believed to differ from those in the Spinneys case, but any judicial interpretation of the latter case may have an important bearing on the meaning of civil war as opposed to riot and civil commotion.

But underwriters interested in the implications of the Spinneys case may have a long wait. If the decision is appealed, the superior court may take another two years to reach a verdict.

Strike insurance

The powerful Confederation of British Industry, with more than 300,000 corporate members, is asking Lloyd's to provide a "super policy" to protect industry against strikes, which are costing the U.K. economy millions of pounds a year.

Proposals on the policy are being developed and will be debated by the CBI at its annual conference in November. But it is believed the program will consist of a mutual fund operated by the CBI which will be open for any firms to join. Excess of loss reinsurance will be taken out with Lloyd's or other U.K. companies.

"The basic essential is that members will be able to insure themselves against two kinds of strikes," said Sir John Methuen, director general of the CBI. "One is the losses they suffer when supplies are halted through strikes in other firms' plants, and the other will help them to meet any losses they suffer through strikes in their own industrial plants.

"I think it's been done for certain U.S. industries, such as airlines and rail operations, but it's never been conceived before on the scale which may be adopted in Britain."

Anthony M. Williams and Nigel Kemble-Clarkson, two principals of Gault Armstrong & Kemble, a small Lloyd's broker, originated the idea of strike insurance. Two leading U.K. brokers, Sedgwick Forbes Bland Payne and Willis Faber & Dumas, are advising the CBI.

But the proposed policy is not without its problems.

Although an insured firm could take out coverage against other firms' strikes, it would be difficult to insure against its own actions if it were involved in contract negotiations that could precipitate industrial trouble.

Labor politicians will probably protest if the resources of Lloyd's and insurance companies are mounted against strike-prone workers. Half of Britian's working population is allied with the 11 million-member trade unions.

Howden division

Lloyd's broking group Alexander Howden, which recently announced its plans for a joint underwriting management company with Fred S. James to set up a syndicate on the New York Insurance Exchange, is establishing a North American division.

The division, under chief executive Colin G. Bird, will handle all business produced from the U.S. except for specialties such as aviation, jewelers block and bullion, marine and reinsurance.

"We've got a plan to raise the proportion of U.S. business which we place in the London market from 20% to more than 50% and hope we can achieve this within the next five years," said Michael Glover, Howden's deputy chairman.

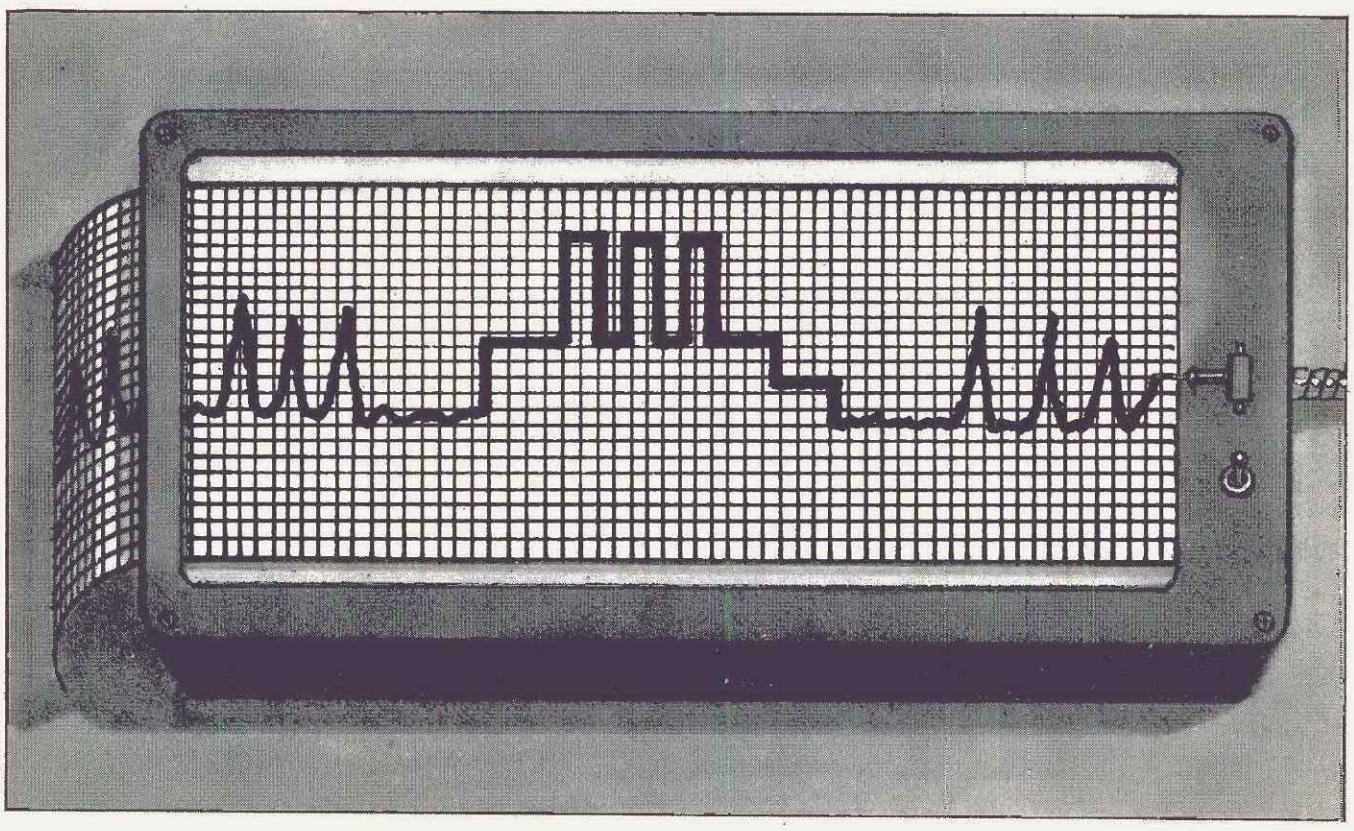
Howden aims to establish a definite corporate identity for its U.S. operations, Mr. Bird said, which already is spread over excess and surplus broking lines through Wohlreich & Anderson and other producers; Howden Agencies for underwriting; Drake Insurance with $30 million premium income and South Eastern Aviation Underwriters Inc.

Its business interests in the U.S. are under Alexander Howden Group U.S. Inc., operating out of Atlanta with W. Neal Irby as chairman.

Another Lloyd's broking group, Hogg Robinson, which last year took a 30% stake in Markel Services of Richmond, Va., is continuings to seek out areas for further expansion in North America. ■

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State should control Pa. workers comp, actuary tells panel

HARRISBURG, Pa.—An actuary has urged the Pennsylvania legislature to turn the workers compensation program over to full state control.

Actuary Conrad Siegel told the house labor committee it is "incredible" that the state allows a private group, the Pennsylvania Workers Compensation Rating Bureau, to impose what amounts this year to a $138 million tax increase on industry to pay the legislatively mandated benefits to injured workers.

The bureau is seeking a 14.2% rate increase which, if granted, would increase to more than $1.1 billion the amount Pennsylvania employers will pay next year in workers compensation premiums. Last year employers paid $790 million in premiums.

Mr. Siegel suggested that workers compensation be underwritten by the State Workers Insurance Fund "because it could not possibly be worse than the current situation."

"If the insurance industry cannot accept the uncertainties of the present expanded benefit structure, then perhaps government, which established the structure, should also carry the financial risk of all coverage and not just the poorer risks in SWIF," he said.

Meanwhile, the Pennsylvania Chamber of Commerce has launched a legislative effort to curb the soaring cost of compensating workers disabled by job-related injury or illness.

A package of bills introduced in the senate would freeze maximum benefits at $227 a week, tighten controls on eligibility and make several other changes.

The chamber may be facing an uphill battle, however, because the Pennsylvania AFL-CIO has vowed to fight any attempt to curb current benefits.

With Democrats still controlling the Senate and Republicans holding a slim margin in the House, the package appears doomed without a strong endorsement from Gov. Richard Thornburgh. But the Republican administration at this point is noncommittal and has proposed no major changes in the law.

The chamber is proposing:

- Eliminating automatic increases in maximum benefits and freezing the current maximum of $227 a week, which is higher than all surrounding states except Ohio's $241.
- Eliminating minimum benefits and requiring that all claimants be compensated at two-thirds of their wage loss, up to the maximum.
- Restricting persons from collecting both workers and unemployment compensation.
- Denying workers compensation benefits to employes who have a heart attack on the job unless the attack was caused by an accident or an unusual strain.
- Establishing regional medical panels to replace referees in hearing occupational disease cases.

"An advanced industrial society needs an effective, equitable workers compensation system," the chamber said, "but we need to keep costs under control while maintaining a humane system."

Harry Boyer, president of the Pennsylvania AFL-CIO, called the chamber package a "vicious attack by those who would place costs or profits ahead of the basic right to protection of the health and safety of working Pennsylvanians."

Mr. Boyer said freezing the maximum benefit, which now is tied to the average wage, "would be debilitating in these times of double-digit inflation." ■

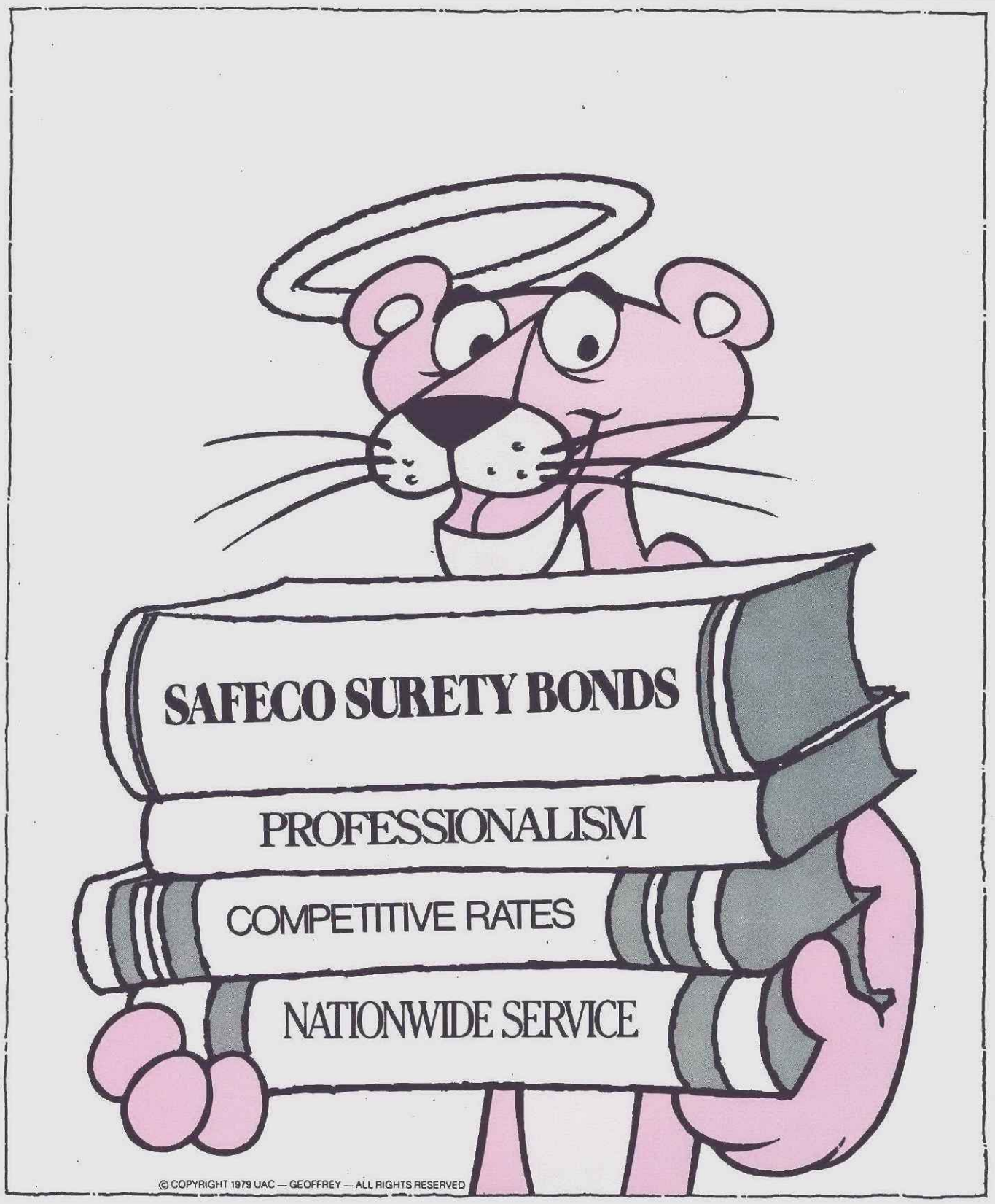
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• A booklet on **multinational insurance** contracts from Metropolitan Pensions Assn. describes the various networks available. For a free copy write Metropolitan Pensions Assn., Haymarket House, 28, Haymarket, London SWIY 4SR.

• Kwasha Lipton is offering a booklet named Some Thoughts Regarding Fundamental Principles of **Pension Plan Design.** For a free copy write Dept. M, Kwasha Lipton, 429 Sylvan Ave., Englewood Cliffs, N.J. 07632.

• Chemtron Fire Systems describes its automatic **fire suppression** system for self-service gasoline stations. The system operates automatically when combustion triggers a heat detector. It stops the power to the gasoline pump when the fire suppression agent— potassium bicarbonate dry chemical—is discharged. For a free copy write Chemtron Fire Systems, Illinois Route 50 and Governor's Highway, Monee, Ill. 60449.

• A new directory of national, state and local organizations and task forces involved in **arson control** is available from the Insurance All-Industry Committee for Arson Control. For a free review copy write Insurance All-Industry Committee for Arson Control, 20 N. Wacker Drive, Suite 2140, Chicago, Ill. 60606; extra copies are $15 each.

• **Insurance Coverage for the Motor Carrier** is a 60-page guide to assist those responsible for motor carrier insurance decisions. It shows how to analyze past incidents, project adequate insurance needs, comply with legal requirements and formulate a loss prevention program. Cost is $8.50 per copy. Write Thomas Fugee, executive director, National Accounting & Finance Council, American Trucking Assn., 1616 P St. N.W., Washington, D.C. 20036.

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dates

OCT. 22. The balance sheet approach to **risk management** is the subject of a Society of Chartered Property and Casualty Underwriters seminar to be held in Fort Worth. The seminar will be repeated in Raleigh, N.C., on **Oct. 30** and in Saddle Brook, N.J., on **Nov. 20.** Cost is $60 for members and $70 for non-members. Contact Society of CPCU, Providence and Sugartown roads, CB#9, Malvern, Pa. 19355.

OCT. 22-24. Risk Management/ Self-Insurance for Hospitals is a seminar prepared by Aspen Systems Corp. to be held in Las Vegas. The seminar will examine today's malpractice crisis and approaches to liability protection. Cost is $250. Contact Registrar, Aspen Systems Corp. 20010 Century Blvd., Germantown, Md.; phone 301-428-0700.

NOV. 11-13. The Society of Chartered Property and Casualty Underwriters is sponsoring a seminar on **risk management** in action to be held in Chicago. A $100 deposit is required; total price will be announced later. Contact The Society of CPCU, Providence and Sugartown roads, CB#9, Malvern, Pa.

DEC. 3-5. Creativity in Communications is the theme of *Business Insurance's* third annual Employe Benefit Communications Conference at the Ritz-Carlton Hotel in Chicago. The conference will examine and critique various corporate communication approaches and investigate generic communications, choosing the right graphic approach, adapting a communication effort to the size and needs of a company. The conference will also show how to effectively package a communication message and discuss the legal ramifications of communicating benefits. Cost is $310 with a 10% discount for additional registrants from the same company who register at the same time. Contact Sari Lipschultz, Crain Educational Division, 740 N. Rush St., Chicago, Ill. 60611; 312-649-5246.

Life insurance up

Group life insurance set up under new or revised group contracts totaled $13.7 billion, compared with $12.5 billion a year earlier, according to the Life Insurance Marketing and Research Assn. Industrial life insurance purchases were $471 million, compared with $520 million a year earlier. Total purchases were $41.5 billion, compared with $37.5 billion a year earlier.

All-in-one deductible cuts N.J. cities' cost

By STUART EMMRICH

UNION, N.J.—A consolidated property and casualty insurance program that features a single self-insured retention for several risks is being used by some New Jersey municipalities to cut an estimated 20% to 30% off the cost of their insurance.

Developed and marketed by the New Jersey-based brokers Robert L. Frings Co., the program offers municipalities a chance to reduce premiums on workers compensation, automobile and general liability policies if they go along with the steep self-insurance requirements. A typical client would self-insure the first $100,000 of any loss and between $200,000 and $300,000 of annual aggregate losses, explained Frank Gartland, vp for the firm.

The selling point of the program, which Frings says is the only one of its kind in New Jersey, is the ability to combine all the claims for three programs into one category for purposes of paying losses.

The program is only open to municipalities because N.J. law places severe restrictions on self-insuring by private corporations.

For instance, if a fire occurred in a police station, destroying some police cars and injuring police officers and civilian visitors, the fire would be considered one occurrence. Combined claims under workers compensation, property and third-party liability policies would all be subject to one self-insured retention, say $100,000. Over the year, the city would pay no more than its selected aggregate self-insurance for all the combined policies, rather than one limit for each of the separate coverages.

An incident that would trigger claims under more than one policy is also treated as one occurrence for purposes of loss adjusters and legal fees, Mr. Gartland said.

It took Mr. Gartland a year-and-a-half to find an insurance company willing to underwrite the program. Finally, Princeton-based Scottish & York International Insurance Group, through its subsidiaries of the Guarantee Insurance Co. and the Lincoln Insurance Co., agreed. Now other insurers seem more interested, Mr. Gartland added.

In operation for a year, the program has attracted clients from the cities of Perth Amboy, Patterson and Elizabeth, the Trenton Board of Education and several other townships in New Jersey and eastern Pennsylvania.

The longest participant has been Perth Amboy, where officials say they have been happy with their year's experience.

"It has been great so far," city comptroller Richard Majeski said. "The savings will be very good for us."

Although Mr. Majeski would not disclose actual insurance savings reaped by the city through the program, the figure has been described as "well into six figures."

There is no mystery about why Perth Amboy found the program attractive. "Money. Premiums were going off the wall," Mr. Majeski said.

Other cities were having the same problem, said Mr. Gartland, whose firm specializes in selling insurance programs to municipalities. "They were having severe problems with outlandish premium increases, without any corresponding relation to losses," he said.

And Mr. Gartland added that the program seemed to be doing the job of now saving those cities needed funds.

He said one city used to pay $750,000 for its insurance program, including $20,000 for boiler and machinery. Boiler and machinery, inland marine and bonding for public officials, are excluded from the Frings coverage program because they don't meet the same sorts of mathematical probability requirements that allow the company to estimate each client's potential yearly losses.

Under the new program, this city paid a reduced premium of $278,000 (plus the additional $20,000 for boiler and machinery) and took self-insured retentions of $100,000 per occurrence and $400,000 aggregate. It paid out about $30,000 in losses, plus an additional $70,000 in incurred losses scheduled to be paid next year. Added on to those totals was $39,000 for claims administration and engineering services by Frings. So, Mr. Gartland said, the city was now paying $427,000 for insurance and losses compared with its original premiums of $750,000.

"When you look at what they spent, compared to what they would have spent, they are way ahead of the game," he said.

But, Mr. Gartland cautions, cities wooed by the potential savings in the program should also realize that the self-insured requirements pose a substantial liability. ■

Va. county may create risk program

RICHMOND, Va.—Officials in the northern Virginia county of Henrico are considering forming a risk management department to try to reduce the annual costs of their insurance program.

That proposal was one of several suggested by a Florida consulting firm, E. Associates, in a recent study that criticized the county's insurance operations and pointed out ways it said the county could save several hundred thousands of dollars a year. Henrico currently spends about $1 million a year on insurance.

One of the report's suggestions is to combine the insurance programs for both the county government and the school board.

The report also criticizes "many deficiencies" in the county's loss control programs and suggests corrective action. Self-insuring of some coverages is also seen as a potential saving.

The county already self-insures its professional liability coverage and is in the process of drawing up a proposal to do the same with workers compensation. Workers compensation premiums cost the school board $180,000 and the county government $375,000.

The county is also looking to develop a department of two or three people to coordinate insurance buying and loss control, said Paul Carlson, risk analyst in the county administration services department. Right now loss control is handled by a county safety officer and insurance purchasing is coordinated through the administrative services department. ■

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Pa. jails broker . . .

Continued from page 1

theft after allegedly not forwarding premiums paid to him as president of the Abington Group, an excess/surplus brokerage he closed in spring, 1977.

Representing a number of domestic insurers, including AIG's Lexington Insurance Co., and bearing binding authority for Lloyd's of London broker Hogg Robinson, Mr. Shabacker allegedly wrote commercial property and liability policies that have been honored by the insurers though no premiums were received.

Recent cases of excess/surplus brokers charged with pocketing premiums have been for much less than $3 million. Martyn Hall, a Washington excess/surplus broker, is facing charges in that state of stealing $500,000 in insurance premiums (*BI*, Sept. 3). Donald Kubovchick, a St. Louis excess/surplus lines broker, is serving a jail term for skimming $1.2 million in insurance premiums from insurers (*BI*, Sept. 3).

Mr. Shabacker, formerly an underwriter with Reliance Insurance Co. and a broker with Schiff Terhune of Pennsylvania, served as a wholesale broker for Marsh & McLennan, Alexander & Alexander and Frank B. Hall of Pa., *BI* learned. He placed a variety of surplus insurance and specialty risks.

No claims are outstanding, according to the insurance department, and all the policies have been honored by the insurers. Through Frank B. Hall of Pennsylvania, Mr. Shabacker placed risks for the Penn Central railroad, the precurser to Conrail, Swann Oil Co. and other large firms.

The Abington Group stopped functioning before Conrail was formed in 1977, said John Kasinoff, Conrail's director of insurance. Penn Central had used Abington to place railroad property and cargo risks with Lexington, a leading market for that coverage at the time, he said, and to his knowledge all claims under the policies had been paid.

M&M, A&A and Hall have had their records subpoenaed by the district attorney and will appear at a hearing this month as the investigation into additional lost funds continues.

The Lexington Insurance Co. has also been asked to testify and verify records it filed with the state insurance department during the preliminary investigation, according to a spokesman for the insurer. In addition to insuring Penn Central, Lexington covered several smaller accounts of $10,000 to $50,000 in premiums for Mr. Shaubacker.

Mr. Shabacker, according to the Lexington spokesman, also issued certificates of reinsurance for many of the accounts in the name of the Abington Group. "When we got back to the carriers who were listed on his paper, some of them said they never heard of the accounts," he said.

In addition to pocketing premiums, Mr. Shabacker allegedly wrote personal expense checks to himself and purchased 17 Mercedes Benzes for his firm, investigators say.

The Abington Group ceased doing business in 1977 and Mr. Shabacker moved to Florida to found a yacht-chartering business. Subsequently, he was arrested and charged by Florida authorities for grand theft and fraudulent practices in his new business. The arrest in Florida, coupled with complaints from insurers, prompted Pennsylvania authorities to step up their investigation of Mr. Shabacker.

He left Florida in 1978 and moved to New Jersey where he opened a retail business. He was arrested in New Hope, Pa., and is being held in Montgomery County Prison in lieu of $1 million bail. ■

New broker helps city slash insurance costs

ANAHEIM, Calif.—Anaheim's risk manager, Jack Love, knows it pays to shop around.

After a nine-month search with the help of a four-person committee, Mr. Love presented the city with a two-year insurance package brokered by Marsh & McLennan of Los Angeles providing more extensive coverage for only slightly more than half the price paid last year.

The city's 1979 insurance costs are $328,601 for $20 million of comprehensive general liability coverage with a $500,000 self-insured retention, $10 million in dam coverage with a $25,000 self-insured retention, and $1 million in errors and omissions coverage.

Last year the city paid $592,564 for $20 million of general liability insurance with the same self-insured retention, $5 million for dam coverage with a $1 million self-insured retention and $3 million errors and omissions. Continental General Insurance Brokers Inc. of Anaheim was Anaheim's broker last year.

In addition, the city is saving about $70,000 in broker's fees, Mr. Love said. M&M is charging a flat fee of $30,000 for the first year and $25,000 the second year. Continental General charged commissions and fees.

"We were very surprised in terms of the attractiveness of the quotes," Mr. Love said of the offers by M&M and Alexander & Alexander, the top two. "We were most pleased with the final package."

"The soft market probably accounted for 30% to 40% of the total savings," he said, adding that the marketing skills of the brokers, the competitiveness of the selection process and his own efforts contributed to the savings.

Under the M&M proposal, Anaheim will pay $67,080 for $500,000 liability coverage from Admiral Insurance Co. over a $500,000 self-insured retention; $72,558 for $4 million excess from Transcontinental and $51,180 for another $5 million layer from the same insurer, and $40,000 for $10 million of excess from Associated International Insurance Co., which also covers dams.

The city will pay California Union Insurance Co. $10,000 for dam coverage of $1 million with a $25,000 self-insured retention and $46,000 for excess coverage of $9 million. Forum Insurance Co. is providing $1 million in errors and omissions coverage for $11,783. All of the city's liability policies also include errors and omissions.

The search for the new broker began in August 1978. The selection committee, headed by Dr. Nester Roos of the University of Arizona, received proposals from about a dozen brokers and interviewed the six best offers.

Also on the committee were Ralph E. Gentry, insurance manager for the Times Mirror Co. in Los Angeles; John Williams, risk manager for the city of Long Beach, and Joe Launie, professor of insurance at the University of California-Northridge.

In May, M&M was appointed the broker of record. ■

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GM, UAW . . .

Continued from page 1

rently) to $915 a month.

At the same time, basic pension benefits for future retirees will be increased to $480 a month from an initial $429.90 under the old pact. In the third year, the basic benefit will become $553 monthly, according to figures released by the union.

Current retirees will also receive regularly scheduled increases. A worker who retired between 1970 and 1974 after age 62 with 25 years of service will see his pension benefits rise from the previous $3,060 annually to $4,140 by the third year of the pact, not counting Social Security.

A UAW spokesman said the settlement marks the first time retirees will be given periodic step increases within each year of the contract. In previous years, one increase was awarded in each contract year for "30 and out" as well as regular retirees.

The pension improvements, though not tied to the cost of living index as the union had previously hoped they would be, will provide retired GM workers with some measure of inflation protection, which was a "top priority" in bargaining, the union said.

GM will also increase its payments of Medicare Part B premiums to $9.70 from $7.20 for current and future retirees and their spouses over the life of the pact.

In a new benefit, UAW members at GM will have a stock ownership plan to which each year GM will contribute money from federal tax credits on its investments, machinery and equipment. From the trust fund, the corporation will automatically credit GM common stock to accounts of individual workers 24 or older with at least two years of service. Stock credits will be proportionate to the employe's earnings on the total payroll, and will depend on the amount of tax credit and market value of GM stock.

For example, if tax credits permit allocation of $2 worth of stock for each $1,000 worth of earnings for an employe making $17,500 a year, the account would be credited with $35 worth of stock. The basic allocation will be noncontributory but employes may obtain additional shares through payroll deductions.

Many improvements

There were also substantial improvements in life insurance, disability, dental and vision care benefit plans.

In life insurance, underwritten for GM in Michigan by Metropolitan Life Insurance Co., GM has agreed to increase the value of life insurance to $22,000 from $17,000 over the three-year period for a major assembler and to $27,000 from $21,500 for a diemaker. In addition, weekly sickness and accident benefits for the assembler will rise $50 over the life of the pact to $230 from the current $180 while monthly extended disability benefits will rise to $915 from $710 with 10 years or more of service.

A diemaker in that category will see weekly sickness and accident improved to $280 from $220 and monthly extended disability jump to $1,115 from $880.

A new benefit, contributory dependent group life insurance, will take effect July 1, 1980, for interested employes. It will provide $5,000 of coverage for a spouse and $2,000 for each dependent child. Workers will be assessed for the cost of the coverage at group rates.

Extra accident insurance for the major assembler will also be increased to a high of $11,000 from $8,500 and to $12,750 from $10,750 for the diemaker. A GM employe totally disabled at any age will be able to receive the life insurance payout if he or she has participated in the group insurance program for 10 years or more. Previously, the benefit was available only to workers becoming disabled before age 60.

Pregnancy coverage

Also in the disability area, a woman worker disabled because of pregnancy complications can receive full sickness and accident and extended disability benefits for a maximum of 52 weeks. Then, EDB payments will remain in effect for the duration of the disability. Previously, she could receive only six weeks of sickness and accident benefits.

Another new provision would allow a GM worker on personal leave in the early stages of pregnancy or a degenerative disease to switch to total disability leave if an approved physician certifies that the worker is totally disabled.

GM has also agreed to broaden health care benefits, which in Michigan are primarily provided by Michigan Blue Cross and Blue Shield. The plan will cover patients requiring correction of post-surgical scars or deformities such as breast reconstruction following cancer surgery. Previously, this benefit was accorded only to workers whose reconstructive surgery was necessary because of an accident.

Among other new and improved health care benefits are coverage for syringes and needles, the addition of six new drugs to the prescription drug coverage plan, benefits for patients transferred by ambulance from one hospital to another out of medical necessity, private hospital rooms when medically necessary and improved benefits for computerized axial tomography (CAT) scans. Coverage for medical appliances was also expanded to include adjustable chairs, seat lifts and digital electronic pacemaker monitors.

The key improvement in the dental program, underwritten in Michigan by Michigan Delta Dental, is the increase in the annual maximum plan payment per person to $1,000 from $750. Among others are an increase in the lifetime maximum benefit for orthodontic treatment to $800 from $650.

Dental and vision

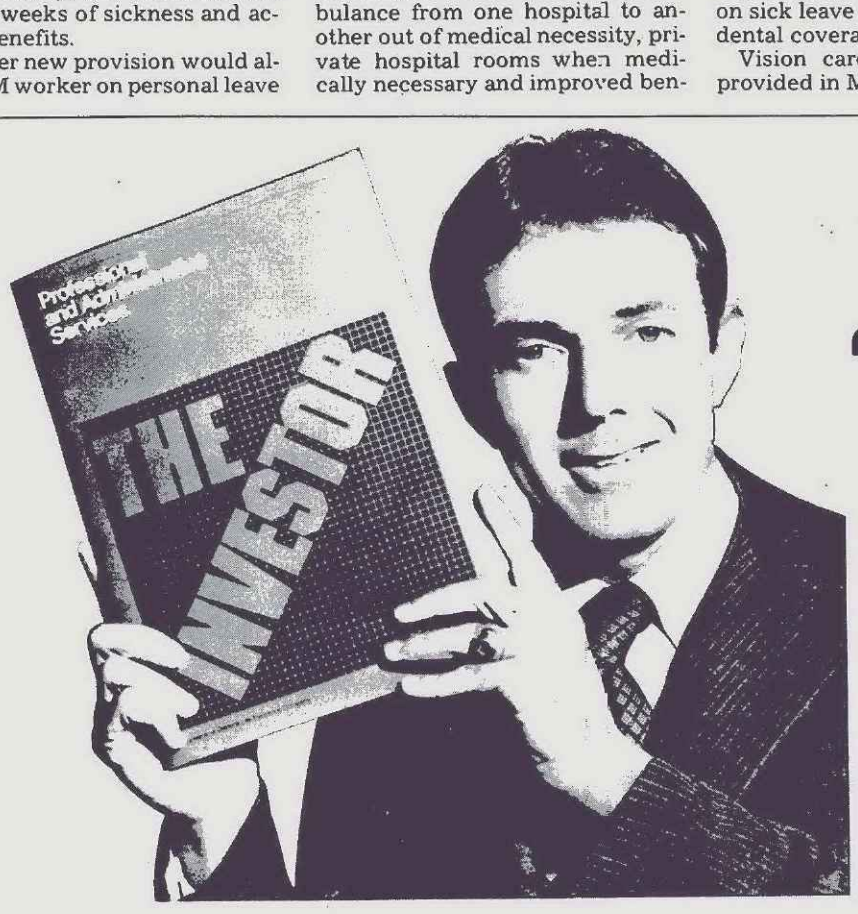
In related improvements, diagnostic and oral surgery procedures for orthodontia will be excluded from the lifetime maximum and extension of coverage of patients beyond age 19. Eligible employes on sick leave will also be given full dental coverage.

Vision care for GM employes provided in Michigan under a plan with Metropolitan Life, is also being upgraded. In addition to bringing retirees and spouses under the plan effective Oct. 1, 1980, workers will receive an increase to $35 from $25 in payments for contact lenses not medically necessary. For a specified condition requiring contact lenses, costs will be covered in full with the exception of specified copayments.

Other new vision benefits include payment of examination expenses to an eye doctor who recommends the patient be examined by an opthalmologist, and to include payments for tinted prescription lenses.

Other benefits negotiated were:

- Improvements in the "bridge benefit," a pension payment designed to tide over a surviving spouse of a UAW member until age 62 when Social Security begins.
- A second, mid-year opening for enrollment in the UAW-automaker sponsored health maintenance organization. ■



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Big pollution claim . . .

Continued from page 1

of livestock live in the Rio Puerco valley. The Indians normally use the river's water for drinking and agriculture. They were advised by state officials following the dam break not to use the water.

Eight Navajo children suspected of drinking from the river were tested in August for radiation sickness, but the results proved negative. Tissue culture from some area livestock are currently being examined at an Indian Health Service laboratory in Las Vegas.

The Indian Health Service advised the Navajos against eating the animals until results of the tissue analysis are complete. The results should be available some time in October.

Engineers report

Expenses incurred by the Navajos as a result of the spill have run in excess of $100,000 and the tribe intends to seek recovery from United Nuclear, according to a report in an Albuquerque newspaper. Navajo officials could not be reached for comment.

United Nuclear's coverage with Howden Swann is for pollution of a "sudden and accidental" nature.

An engineering report on the cause of the dam break attributed it to shifting and settling of the soil underneath the dam and United Nuclear's failure to maintain a "beach" of waste sands on the backside of the dam.

The alluvial soil, deposited over the centuries by the Rio Puerco and other tributaries in the valley, rested on an irregular formation of bedrock.

The beach, between the crest of the dam and the water level in the reservoir behind it, is created by the pumping of uranium wastes into the reservoir at the dam and the settling of the heaviest materials to the bottom. When the break occurred, the water level had risen above the beach.

Although the failure occurred "very suddenly," the engineering report conducted jointly by Sergent, Hauskins & Beckwith and Jacobs Engineering Group Inc. concluded that the break would not have occurred if the waste beach had been properly maintained, said Fred Allen, chief of the technical bureau of the New Mexico state engineer's office.

Cleanup work

United Nuclear's cleanup costs are believed to be extensive. According to a report on the cleanup presented to New Mexico environmental officials Sept. 21, United Nuclear has made 2,495 sediment samples, 110 surface water samples and 4,500 gamma radiation measurements as a result of the spill.

The company said it has also taken numerous background measurements of air and well water and has removed 1,545 tons of contaminated earth from streambeds in the vicinity. United Nuclear has distributed 680,000 gallons of water for livestock and drinking to residents of the Rio Puerco valley contaminated by the spill.

The company said it will also conduct a follow-up program involving less sampling than before, but designed to ascertain how much radioactivity has entered the soil and whether the ground water is contaminated. ■

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Letters . . .

Continued from page 14

generation of toxic gases and obscuring smoke, and by delaying rapid flashover and total involvement.

Traditional sprinkler systems may serve well for property protection but the overriding concern must always be that of preservation of life. Sprinkler system costs have been decreasing due to the introduction of new systems using lightweight materials or systems using the piping for dual purposes.

Simpler systems could be termed "people sprinklers." There would have been a profound difference in outcome at the Kentucky nightclub fire or at the recent Holiday Inn fire if people sprinklers had been installed in the buildings.

Just as there is licensure for the healing arts to protect the public health, there is licensure for the design professionals for the purpose of protecting the public safety. Sprinkler systems are a proven means for saving life. Architects and engineers should include sprinkler systems in their designs for all buildings that will be occupied by people.

Alan D. Morris, Dr. Eng., P.E.
Morris & Ward, Washington, D.C.

Control Data taps new claim firm

MINNEAPOLIS—Control Data Corp. has awarded a two-year contract to U.S. Administrators to handle and process claims for the firm's self-funded workers compensation program covering about 4,000 California employes.

ESIS, an INA subsidiary, had administered the California program since it began six years ago.

U.S. Administrators will be paid approximately 10% to 12% more than ESIS for comparable services but that increase is largely because of inflation, said David Evert, manager of employe disability and safety management for the Minneapolis, Minn.-based Control Data.

The switch to U.S. Administrators was made because corporate officials were impressed with U.S. Administrators' computer methods, Mr. Evert said. The computer methods will eliminate a great deal of manual processing work, he noted. Eliminating manual tasks will allow more time for "human judgment" in investigating and evaluating claims, Mr. Evert said.

ESIS was being paid on a payroll basis while U.S. Administrators is being paid on a per-claim basis. ■

people

Itel leases Hause to start risk department

Stephen Hause has been named risk manager for Itel Corp. in San Francisco, the first time that position has been filled at the equipment-leasing company. He has been given the responsibility of "starting from scratch" a risk management department. Mr. Hause, 30, was formerly a marketing associate for the insurance division of Itel, where he established a property and casualty insurance brokerage operation for marketing insurance to Itel's clients. The formation of a risk management department is part of a consolidation of functions being carried out by the company, recently hit with a year of bad losses. Mr. Hause, a CPCU, has a B.S. degree in industrial engineering from Northwestern University.

* * *

Hugh Loader, 35, has been hired to fill the newly created position of group insurance manager for London-based Tetra Pac Development Ltd. For the past 5½ years, Mr. Loader was group insurance manager for Associated Communications Ltd., also of London. He now reports to the managing director of the multinational company. Mr. Loader was replaced at Associated Communications by **Ronald Muckleston**, 33, formerly group risk management adviser and insurance manager for Inco (Europe) Ltd. His replacement at the London-based company has not yet been named. Mr. Muckleston now reports to the corporate treasurer at Associated Communications.

* * *

Ray Wheeler is the new insurance manager at Raymond International Building Inc. of Houston. The 35-year-old Mr. Wheeler replaces **John Messinger**, recently named corporate insurance manager for Raymond International Inc. Mr. Wheeler, a University of Houston graduate, reports to Jerry Davis, vp, secretary and general counsel. He was formerly property and casualty manager at Cooper Industries, also of Houston. Cooper has replaced Mr. Wheeler with **James Martin** and given him the new title of risk manager. Mr. Martin was formerly the assistant insurance manager of A.O. Smith & Co. in Milwaukee, a position now held by **Eugene Jacobson.** Mr. Jacobson, formerly of Employers of Wausau, reports to Jim Fix, insurance manager.

* * *

Data General Corp. of Westboro, Mass., has made several personnel changes in its risk management department. **Martin Tannenbaum,** 26, has been named assistant risk and insurance manager and is responsible for the domestic property and casualty programs for the company. Promoted from his position as claims administrator, he replaces Judith Roberts, who recently left the company to become risk manager of Compugraphic, as reported. Mr. Tannenbaum has a B.A. degree from Harvard College and is studying toward an M.B.A. from Boston University. **Jane Woodworth**, previously a claims administrator for Liberty Mutual Insurance Co., has joined Data General as claims administrator. She has a bachelor's degree in political science from the University of Colorado. Both Ms. Woodworth and Mr. Tannenbaum report to Charles Colarullo, risk and insurance manager.

* * *

Lawrence Salerno has been promoted to director, corporate insurance, at Boehringer Ingelheim Ltd., a Ridgefield, Conn.-based researcher, manufacturer and distributor of pharmaceuticals. Mr. Salerno, formerly corporate insurance manager, will continue to be responsible for all property and casualty insurance programs and will have added responsibilities for safety and loss prevention and the financial administration of self-funded employe benefit plans. Mr. Salerno reports to Karl E. von Jena, vp of administration and corporate secretary. He has a B.B.A. from St. John's University and has done graduate work in finance. Mr. Salerno said he anticipates adding more staff to fill the void created by his promotion, but has made no official announcement yet.

* * *

James J. Gallagher was recently appointed insurance manager of Stauffer Chemical Co., a newly created position at the Westport, Conn., firm. He has been a senior insurance administrator in the company's insurance department since 1970. He continues to report to Walter E. Winans, director of insurance.

* * *

Lawrence Bell has been named to the newly created position of assistant vp-risk management for Revco D.S. Inc., an Ohio-based national chain of drugstores. Mr. Bell, 58, previously was manager of insurance and claims for Alyeska Pipeline Service Co. in Alaska. He reports to R. Carroll Hudson, vp of finance, and has a B.S. degree in insurance from Arizona State University.

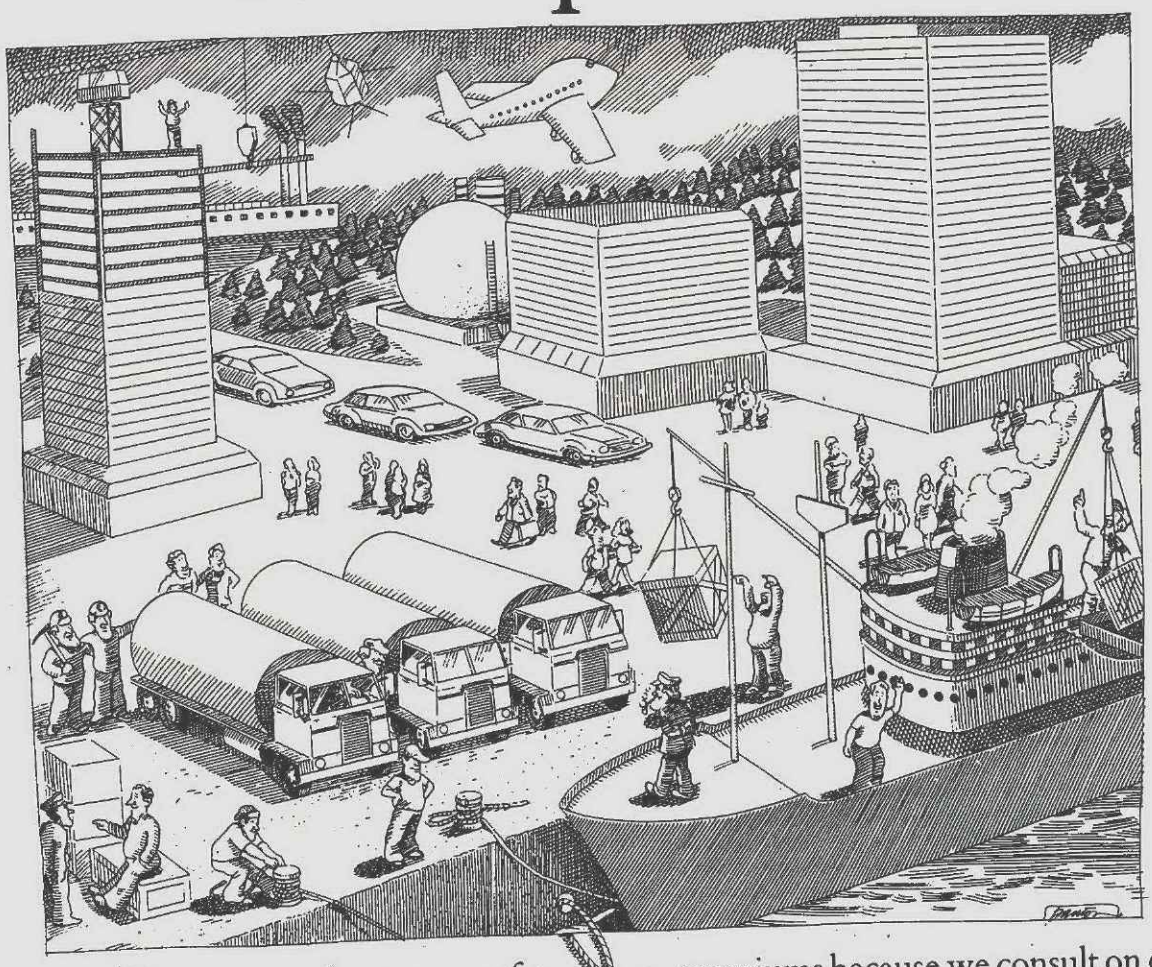
* * *

William H. Frawley, 34, has been named assistant manager in the insurance department of Dayton Hudson Corp., Minneapolis, a newly created position. Mr. Frawley formerly was risk manager at Hoerner Waldorf Co. in St. Paul, a division of Champion International Corp. of Stamford, Conn., and has a B.S. degree from the University of Wisconsin, Eau Claire. He reports to Bill Cain, director of insurance and risk management. He is replaced at Hoerner, Waldorf by **James Stone.** Mr. Stone reports to Bill Wynn, director of risk management for Champion.

●

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Colo. plots defense . . .

Continued from page 1

pected to discuss lobbying for tax advantages that could encompass domestic and offshore captives and self-insured reserves. Some risk managers say they will also ask the Risk & Insurance Management Society to take up the captive crusade.

"Risk managers are tired of the controversy. They want it settled," reported one member of CICA.

But even risk managers promoting a lobbying effort in Washington admit they probably won't be able to convince Congress to encourage the use of offshore captives by permitting deductions for premiums paid. Most agree domestic captives have a better chance at winning Congress's favor.

The controversy over the use of captives appears to be heating up now in Colorado, where in addition to National Medical Care Inc., two or three other companies have also been told by the IRS that their premiums paid to Colorado captives are not tax deductible, said James Cameron, an attorney with Baker & McKenzie which works extensively with captives.

Sources in Colorado, however, deny there have been other IRS objections to the use of Colorado captives and *Business Insurance* was unable to confirm with risk managers using Colorado captives that they have had any objections from the IRS to their programs.

Lobbying possible

Colorado captive managers, however, have warned their clients that the IRS is on the prowl and as many as 10 of Colorado's 25 captives may be under some degree of scrutiny. Some captive managers have also discussed the possibility of lobbying in Washington with their clients.

A lobbying effort for captives could pit risk managers with Colorado captives against risk managers with Bermuda captives. Mr. Barnes, for example, intends to lobby for a change in the IRS attitude toward only Colorado captives. "The Colorado law was designed to meet IRS objections," he explained.

Basically, the IRS argues that the use of a captive insurer is a formalized self-insurance program that doesn't afford the parent company a deduction for premiums paid to the captive as though they were insurance premiums. Additionally, the IRS objects to captives underwriting only parent company business reporting income as though they were insurance companies, a substantial blow to the reserving advantage of using a captive.

IRS challenges of captives and revenue rulings involving captives have traditionally addressed only offshore captives. IRS audit activity and challenges heating up in Colorado are probably attributable to the short time Colorado captives have been used compared with offshore captives, sources agree.

An IRS spokeswoman told *BI* in January 1978 that the logic of Revenue Ruling 77-316, which disallows deductions for premiums paid to offshore captives, would apply equally to domestic captives (*BI*, Jan. 9, 1978).

Captive notified

"We demand arms length dealings," Mr. Barnes said, defending the legitimacy of Colorado captives as insurance companies. "We demand adequate capitalization and there is more rigid regulation over captives than regular insurance companies."

National Medical Care Inc. in Boston is the one company to publicly say the IRS is challenging the use of its Colorado captive. The IRS sent a letter about a month ago to the captive, Westminster Insurance Co., saying the premiums paid to the captive "are not expenses to the parent and not includable to the captive," said David Lubrano, treasurer of National Medical Care. The IRS is also proposing changes in Westminster's net taxable income.

Westminster underwrites professional and general liability insurance for National Medical Care, which operates dialysis centers, to a limit of $200,000 per occurrence and $600,000 aggregate. A Bermuda-based company, Dartmouth Insurance Co. Ltd., which owns Westminster to keep the captives out of National Medical Care's consolidated statements, underwrites the next layer of professional and general liability insurance to $5 million.

Mr. Lubrano considers the IRS notice on Westminster odd since the parent company's tax return for 1976, the first year the captive was used and the year at issue, has not yet been audited. "We're not required to do anything until an examiner comes and looks at the parent company's return," he said. He does expect the IRS to audit 1976 soon.

Extent unknown

Because National Medical Care's premiums are relatively small compared with its net income of $20 million, the IRS's recommended changes in Westminster's income tax return are not going to substantially change the company's tax liability, Mr. Lubrano noted.

National Medical Care hasn't decided whether to spend the money to fight the IRS on the use of its captives.

The amount of IRS activity involving other Colorado captives is debated by sources. Bill Kersten, whose firm manages Westminster and four other captives, maintains the letter to Westminster "is the only incident of this kind to my knowledge." Other captive managers in Colorado would not answer calls from *BI*.

"There is no widespread IRS investigation of Colorado captives going on to my knowledge," Mr. Kersten said. Westminster's income tax return was audited as part of a routine taxpayer compliance measurement program by the IRS and not specifically designed to uncover Colorado captives, he said. Other Colorado captives have been audited without any further action by the IRS, Mr. Kersten added.

The IRS letter to Westminster also does not make it clear on what grounds the IRS is recommending changes to the captive's tax return, Mr. Kersten maintained, although reserves appear to be at issue.

The IRS could be challenging Westminster based on its traditional argument that the use of a captive is just self-insurance or it could be challenging the amount of premium paid by National Medical Care as excessive, suggested one source in Colorado.

At least one company managed by Frank B. Hall & Co. in Colorado has also been through a TCMP audit as was Westminster, *BI* learned, but the IRS hasn't made any recommendations.

Three risk managers with Colorado captives would not comment when asked if they had received any communication from the IRS regarding their Colorado companies. Eight other risk managers said they had not had any contact with the IRS. ■

Four no longer captives

Four of the 29 captives organized under Colorado's captive insurance company law since 1973 are no longer Colorado captives and at least one is inactive.

Glendale Insurance Co., formed in 1974 by Sterns-Rogers Corp. of Denver, and Aspen Indemnity Corp., formed in 1977 by a holding company owned by Caterpillar dealers associations, have both put up additional capital and surplus to obtain charters as multiline insurers in Colorado.

A multiline insurer in Colorado needs a minimum of $2 million in cash in capital and surplus compared with cash or letters of credit of $750,000 for a single owned captive and $1 million for an association captive.

Pageco Insurance Co., formed in 1973 by Pat Griffin Co., merged with a Wyoming insurance company and Parthenon Insurance Co., formed in 1977 by Hospital Corp. of America, moved to Tennessee in January to operate under that state's captive insurance company law.

Another Colorado captive, formed in 1976 for casualty insurance, is now not underwriting anything for the parent company because programs "just as good" were found in the commercial market, said the risk manager who asked not to be identified. Potential tax problems, however, were not a consideration, he added.

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