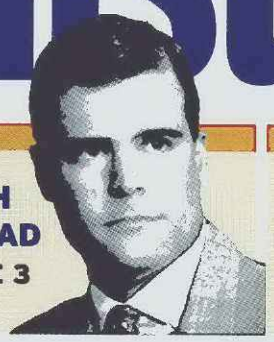
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Business Insurance

October 1, 2007

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IN SHUFFLE OF MARSH EXECS, MOYLES TO LEAD AMERICAS UNIT / PAGE 3

GROUP OF U.S. INSURERS ASKS SENATE PANEL TO CLOSE BERMUDA 'LOOPHOLE' / PAGE 3

In Brief

P/C income rises but premiums flat

The U.S. property/casualty insurers reported a 10.7% increase in profits, to $32.6 billion, for the first half of 2007, according to the Insurance Services Office Inc. and the Property Casualty Insurers Assn. of America. The increase over the same period last year reflects a $3.29 billion rise in realized capital gains, which offset a $616 million decline in pretax operating income. Among other results, the industry's combined ratio increased to 92.7% for the first half, up from 92.0% in 2006. Net premiums written increased 0.1%, to $223.4 billion.

E.C competition report questions practices

In its final report into competition in the business insurance sector, the European

See **IN BRIEF** page 46

GM puts brakes on retiree health benefits

Automaker, union embrace VEBA enabling GM to offload $50 billion in obligations

By JERRY GEISEL

DETROIT—A tentative contract agreement between General Motors Corp. and the United Auto Workers union that will allow GM to offload its more than $50 billion retiree health obligation is likely to increase the interest of other financially distressed employers to do the same, experts say.

Under the agreement reached last week after a brief strike, GM will contribute about $30 billion to a voluntary employees' beneficiary association. In return, the automaker will move its estimated $50 billion-plus accumulated retiree health care obligation to the VEBA.

That unfunded retiree health care liability is believed to be the largest amassed by any U.S. corporation.

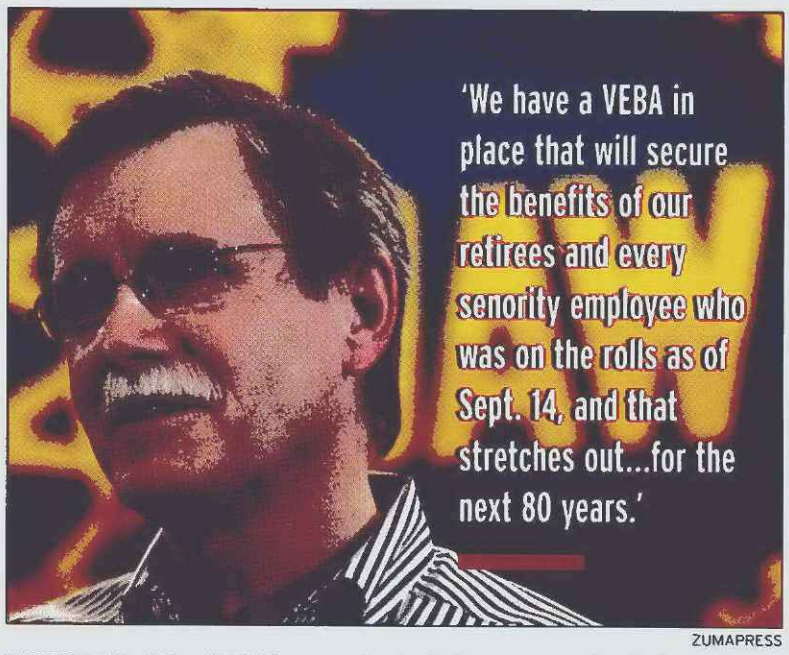
After GM makes its tax-free contribution to the VEBA, its responsibility to provide health care benefits to current and future UAW-represented retirees will end.

Correspondingly, retiree health care benefits no longer will be a subject of collective bargaining with the UAW.

In similar deals considered a model for GM, employers' VEBA contributions to fund current and future retiree health care obligations were a combination of cash and stock.

In one such deal, Toledo, Ohio-based automotive components manufacturer Dana Corp. earlier this year agreed to contribute $780 million to two VEBAs that will be set up by UAW and the United Steelworkers to fund health care benefits to retirees represented by the two unions. Of that $780 mil-

See **VEBA** page 45



ZUMAPRESS

UAW President Ron Gettelfinger on the tentative agreement with General Motors, last week.

SPOTLIGHT

SURPLUS LINES

Market softens for hard-to-place exposures; wholesalers diversify operations to grow in difficult market; surplus lines reform bill closer to passage; increased interest in product recall coverage linked to high-profile events; competition heats up between admitted, surplus lines insurers.
Page 10

High court agrees to hear product liability dispute

Drugmaker claims constitutional protection

By DAVE LENCKUS

WASHINGTON—When the U.S. Supreme Court hands down its decision in a product liability lawsuit against a pharmaceutical company that maintains it is constitutionally protected against such claims, all companies selling federally regulated products could share the same fate, some legal experts say.

Others, though, say that even the most pro-plaintiff decision in the case would affect only pharmaceutical manufacturers and consumers in the few states with statutes that provide drug companies some protection from product liability claims.

Still other experts, including the plaintiff's attorney in the case, say either scenario is possible, depending on how broadly the Supreme Court decides to approach the case's central issue.

"It's difficult to determine that" before the high court rules, said David B. Rodes, a partner at Goldberg, Persky & White P.C. in Pitts-

See **LIABILITY** page 44

House panel passes mental health parity

Measure more expansive than Senate version

By MARK A. HOFMANN

WASHINGTON—As far as employer groups are concerned, the House Ways and Means Committee did nothing to make a bad mental health parity bill any better when it approved the measure last week.

Employers greatly prefer a mental parity measure that won Senate approval last month. And employers are not alone in this preference. Last week, Labor Secretary Elaine Chao and Health and Human Services Secretary Michael Leavitt sent a letter to Sens. Edward Kennedy, D-Mass., and Mike Enzi, R-Wyo., commending them for their efforts in achieving Senate passage of the Mental Health Parity Act of 2007—S. 558—that they cosponsored.

"However, we are concerned that competing measures, such as H.R. 1424, could have a negative effect on the accessibility and affordability of employer-provided health benefits," wrote the secretaries in their Sept. 26 letter. "These proposals would mandate coverage of a broad range of diseases and conditions and undermine current law that provides for the uniform administration of employee benefit plans made possible by" the Employee Retirement Income Security Act.

While the Senate bill would require employers to provide the same cost-sharing and coverage for mental health care as they do for other medical conditions, H.R. 1424—the Paul Wellstone Mental Health and Addiction Equity Act—as approved by the Ways and Means Committee, goes much farther.

Under the version of the bill approved by the Ways and Means Committee, "in the case of a group plan that provides any mental health or substance-related disorder benefits, the plan must include benefits for any mental health condition or substance-related disorder

See **PARITY** page 45

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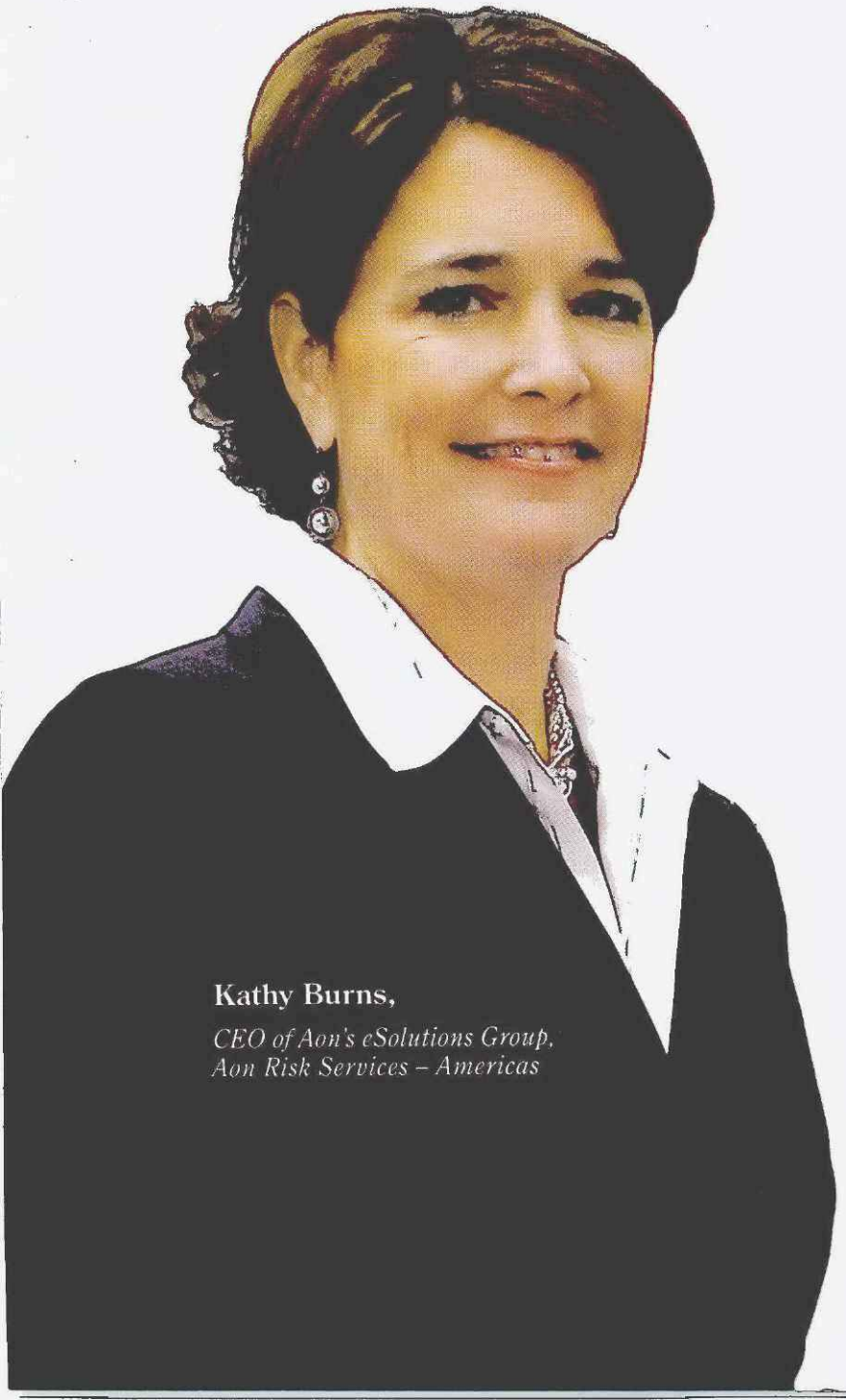
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On the Web

ONLINE EXECUTIVE FORUM

Comp webinar focuses on terrorism risk

Business Insurance presents "Workers Compensation: Protecting People in the Age of Terrorism Risk," a live online discussion, at 11 a.m. EST Nov. 14. Join *BI* Senior Editor Roberto Ceniceros and a panel of industry experts as they speak to the issue of workers comp exposures in the face of the continuing threat of terrorism. For details and to register, go to *www.BusinessInsurance.com/webinars.*

BI DIRECTORIES

Surplus lines directories updated for 2007

Business Insurance has updated its Surplus Lines Insurers and Insurance Wholesalers directories for 2007. Both are available online for purchase for download in either PDF or Excel spreadsheet format. Go to *www.BusinessInsurance.com/directories.*

BI VIDEO

See all *BI* videos in one place online

Since April, *Business Insurance* has been offering a series of online interviews with industry leaders that cover all facets of risk management and insurance. Now, all of *BI*'s videos are available for viewing on one large player that combines footage from Reinsurance Viewpoints, Leading Brokers and RIMS 2007, with plans for more features in the works. Updated weekly, the player is available at *www.BusinessInsurance.com/video.*

BI PHOTO GALLERIES

Spotlight company activities on *BI*.com

The new *Business Insurance* photo galleries are a great place to highlight your company's or association's news and activities. To see the latest galleries or to submit photos, visit online at *www.BusinessInsurance.com/gallery.*

Business Insurance

REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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RICO charges against industry dismissed

SALLY ROBERTS

TRENTON, N.J.—A New Jersey federal judge on Friday threw out the remaining racketeering claims pending against several dozen insurers and brokers in a class action lawsuit stemming from industrywide investigations into bid-rigging and client-steering allegations.

The decision, which follows a recent ruling dismissing antitrust claims against the brokers and insurers, resolves the major claims in the consolidated litigation brought on behalf of commercial property/casualty insurance policyholders and employee benefit plan sponsors, who sued the firms following the investigations initiated by then-New York Attorney General Eliot Spitzer.

Plaintiffs alleged that the companies engaged in a conspiracy in which they allocated clients, fixed prices and restrained trade in violation of Racketeer Influenced and Corrupt Organizations Act and the Sherman Antitrust Act.

In earlier rulings, Judge Brown and a previously assigned judge rejected antitrust and RICO allegations against the insurers and brokers. Judge Brown earlier this year gave plaintiffs a final chance to amend their filings and bolster their case with supplemental pleadings.

After ruling in August that the consolidated suit lacked factual support for claims of a widespread antitrust conspiracy (*BI*, Sept. 10), U.S. District Judge Garrett E. Brown Jr. said Friday the suit also lacked factual evidence of a RICO enterprise.

"Plaintiffs allegations offer nothing more than a kaleidoscope of acts executed by a kaleidoscope of actors, and combine broker-defendants and insurer-defendants in such a fashion that the court is unable to discern any systemic permutation," Judge Brown wrote in his decision. "While discussing dozens of transactions and hundreds of actors, plaintiffs fail to outline even a single set of actors that interacted with each other and executed their transactions *systemically*."

The plaintiffs alleged the brokers and insurers participated in the operation or management of a RICO enterprise by, among other things, reaching agreements with each of the insurers regarding the amount of contingent commissions to be paid to the broker and the level of business to be steered to each insurer defendant and then coordinated the concealment of the scheme, according to court papers.

The judge noted that certain charges against insurers alleging violations of the Employee Retirement Income Security Act still must be resolved.

"We are very pleased with Judge Brown's decision. It is a complete victory for the defendants," said Mitchell J. Auslander, an attorney for defendant Marsh & McLennan Cos. Inc. and a partner at New York law firm of Willkie, Farr & Gallagher.

In re Insurance Brokerage Antitrust Litigation, United States District Court for the District of New Jersey. MDL Docket No. 1663, Civ. No. 04-5184.

14 U.S. insurers decry Bermuda 'loophole'

By MARK A. HOFMANN

WASHINGTON—The U.S. domestic insurance industry may be forced offshore unless the tax treatment of foreign-domiciled reinsurers changes, the head of a U.S. reinsurer told the Senate Finance Committee last Wednesday.

William R. Berkley, chairman and chief executive officer of Greenwich, Conn.-based W.R. Berkley Corp., told the committee that such reinsurers enjoy an unfair tax advantage over their U.S. counterparts. "Current law allows a U.S. member of a foreign-domiciled group to avoid paying U.S. tax on much of its domestic underwriting and investment income, merely by reinsuring its business with a related-party reinsurer domiciled in a country such as Bermuda or the Cayman Islands," said Mr. Berkley, who appeared on behalf of a coalition of 14 U.S. insurers.

He called the tax treatment an "unfair" advantage, and said "if left unchecked, this could cause much more of the U.S. insurance capital base to migrate abroad and ultimately could threaten the future of our domestic insurance industry."

Donald Kramer, chairman and chief executive officer of Hamilton, Bermuda-based Ariel Reinsurance Ltd., said charges that companies sought a Bermuda domicile to avoid U.S. taxation are "simply incorrect." Mr. Kramer, who appeared on behalf of the Assn. of Bermuda Insurers and Reinsurers, credited a more favorable regulatory environment as the chief reason reinsurers choose Bermuda.

Mr. Kramer's testimony included an Aug. 6 letter from the Risk & Insurance Management Society Inc. to Finance Committee Chairman Max Baucus, D-Mont. "We strongly urge you to oppose any legislation that would result in negative implications for the global reinsurance marketplace and more importantly, those U.S. businesses who rely on this market to manage their risk exposure," wrote then-RIMS President Michael Liebowitz.

No legislation regarding the tax question has been introduced in the current Congress.

Sen. Trent Lott, R-Miss., criticized the handling of claims stemming from Hurricane Katrina. "I believe the industry uses the tax code to delay and delay," he said.

"Every claim we had in Mississippi was paid in full within 90 days," said Mr. Berkley.

This is not the first time Congress has examined the issue. In 2001, legislation to close the alleged loophole was introduced in the House, but did not become law.

Marsh executive revamp seeks 'focus and clarity'

Changes follow Brian Storms' recent departure

By SALLY ROBERTS

NEW YORK—Philip Moyles, executive vp of Marsh Inc., has been named chief executive officer of the Americas in a realignment of Marsh's senior management following the departure last month of former CEO Brian Storms.



Mr. Moyles

Mr. Moyles succeeds Timothy J. Mahoney, who will focus on leading Marsh's client services for its top global clients, according to an internal memorandum sent to Marsh employees last Friday. Mr. Mahoney earlier this month had resigned to join Integro Ltd. but changed his mind and decided to remain with New York-based Marsh. In his new role, Mr. Mahoney will report to Alex Moczarski, CEO of Marsh's Europe, Middle East and Africa—or EMEA—operations.

In addition, Mark Feuer has been named chief operating officer for Marsh's U.S. operations, reporting to Marsh & McLennan Cos. Inc. Chairman and CEO Michael Cherkasky, according to the memo from Mr. Cherkasky.

Mr. Feuer, who joined Marsh in late 2006 to grow its middle-market business, was named to the additional post of CEO of U.S. operations in July. He will remain head of the middle-market operations.

Also, Joe Varnas, who was named COO of Marsh in late 2006, has been named chief information officer and will refocus his efforts on technology only, reporting to Mr. Cherkasky.

All functions that reported to Mr. Varnas as COO will temporarily report to Mr. Cherkasky, he said in the memo.

"These changes are designed to bring greater focus and clarity to Marsh," Mr. Cherkasky said in the memo. "Next week, we are spending a day with about 40 of the senior leaders of Marsh...to get additional input on further steps. This group will be drawing on the data generated from recent surveys as well as more than 250 e-mails that I've already received from Marsh colleagues with suggestions about how we move forward."



ON OCT. 8, 2007, *Business Insurance* will celebrate its 40th anniversary of publication. Each week until then, *BI* will offer a peek at news we reported during the past four decades.

AUG. 14, 2006 A federal appeals court ruling that IBM Corp.'s cash balance plan does not discriminate against older workers will help keep the hybrid plan design alive, benefit experts say. Along with new federal pension reform legislation, which dispelled some certainty over the plans, the ruling was hailed as a key precedent.

OCT. 9, 2006 A long-awaited Treasury Department report brought relief and disappointment to supporters of a terrorism backstop. The report said that while terrorism risk has increased, the presence of federal reinsurance through TRIA has suppressed a private market for the coverage. TRIA is set to expire Dec. 31, 2007.

BI adds to staff in Chicago office

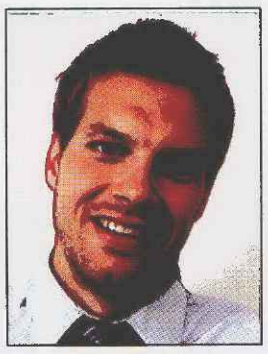
CHICAGO—*Business Insurance* has added to its editorial staff in Chicago.

Kristin Gunderson Hunt has joined the magazine as an associate editor.

She previously was managing editor of the Journal of Property Management, which is a publication of the Chicago-based Institute of Real Estate Management. Prior to that, she worked in the sports department of the Chicago Tribune.



Ms. Hunt



Mr. Casale

As associate editor, Ms. Hunt will cover news and features related to risk management and employee benefits as well as insurance industry events in the Chicago area.

She can be reached at 312-649-5282 or *khunt@businessinsurance.com*.

In addition, Jeff Casale has been named staff reporter-interactive.

Mr. Casale previously was a staff writer for the Daily News-Record in Harrisonburg, Va., and, prior to that, he was a staff writer/assistant editor for the News of Orange County in Hillsborough, N.C. He has also worked as a claims representative for Progressive Insurance in Rosemont, Ill.

In his role, Mr. Casale will primarily cover breaking news in risk management and employee benefits for *www.BusinessInsurance.com* and produce other stories for the Web site.

He can be reached at 312-649-5249 or *jcasale@businessinsurance.com*.

Disability: Player fights NFL over benefits

CONTINUED FROM PAGE 4

in 2003 of the 8th Circuit ruling, he filed suit against the plan and the board, charging they breached their fiduciary duty. He argued in part that a "reasonable person would have wanted to know about the *Brumm* decision" before agreeing to "forfeit significantly higher benefits."

A lower court agreed with Mr. Washington, rescinded the settlement agreement and reopened his reclassification claim. However, the 9th Circuit overturned that ruling in its 2-1 decision.

Brumm focused on the prior plan's language, defining a disability as resulting from "a football injury," the majority stated in the ruling. The new plan says a football degenerative disability arises out of "League football activities," but "nothing in the (*Brumm*) opinion sheds light" on what "League football activities" means, the decision says.

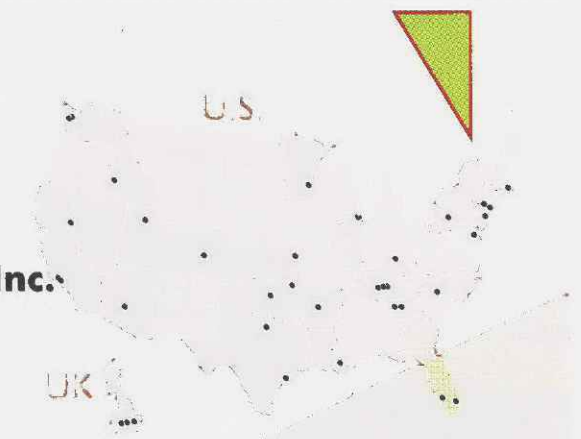
However, a minority opinion held that "knowledge of *Brumm* would likely affect a reasonable employee's decision on whether, and for how much, to relinquish his claims under the old plan."

Mr. Washington's attorney, Susan Martin, of Phoenix, Ariz.-based Martin & Bonnett, said, "We're reviewing the decision with an eye towards possibly asking the court for a rehearing." She said she believes "the majority opinion placed too much emphasis on parsing the technical language" of the amended NFL plan.

Attorneys for the NFL could not be reached for comment.

Victor A. Washington vs. Bert Bell/Pete Rozelle NFL Player Retirement Plan, No. 05-16366; 9th U.S. Circuit Court of Appeals; Sept. 21, 2007.

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Commentary

Care quality, expenses key to reform efforts



REGIS COCCIA

Editor Regis Coccia's commentary appears periodically. He can be reached at: rcoccia@businessinsurance.com

I'm no political strategist, but it doesn't take a genius to grasp that health care is going to be a defining issue of the 2008 presidential election.

Other than withdrawing troops from Iraq, health care questions already seem to be occupying a great deal of candidates' time. Most of the Republican and Democratic hopefuls have unveiled ideas to reform the health care system.

As *Business Insurance* reported last week, Democratic front-runner Sen. Hillary Rodham Clinton's reform outline has drawn skepticism but nowhere near the controversy that her first go-round did during her husband's administration in the early 1990s. Incremental reform based on existing components of the health care system is a far better approach, and one much more likely to win consensus, than the let's-tear-it-all-apart-behind-closed-doors tack that failed.

One of the key features of the health care program proposed by Sen. Clinton—and other candidates—is universal coverage. It's true that tens of millions of Americans lack health care insurance, and subsidizing the uninsured is a costly problem for those who do have coverage, either individually or through employer-sponsored health care benefits.

While reducing the number of uninsured is a good idea, it's how to achieve that goal that is so problematic and contentious.

While reducing the number of uninsured is a good idea, it's how to achieve that goal that is so problematic.

Mandates have been touted as a way to eliminate the number of uninsured, but I'm skeptical that mandates—whether they're to buy health care coverage or to provide it—will actually get the job done. I'm willing to concede that mandating the purchase of health care coverage would go a long way toward shrinking the number of uninsured, however large that number is, but mandates by themselves are not going to be effective over the long haul.

Some health care observers have noted that many of the reforms would emphasize universal coverage but give short shrift to the cost and quality of health care. This point cannot be overstated, as it's critical to the future of a sustainable health care system that covers all who need it.

A Leapfrog Group study of the nation's top hospitals shows that significant gaps still exist in safety and quality. Leapfrog has identified four practices it considers essential: computerized physician order entry; staffing of intensive care units by specialists; using evidence-based hospital referrals for certain procedures; a Leapfrog Safe Practices Score, derived from implementing a majority of 27 National Quality Forum safe practices.

As Leapfrog's study found, we are a long way from ensuring consistent quality standards, let alone finding a way to make health care more affordable.

How to control health care costs is a $2 trillion question. That's how much was spent on U.S. health care in 2005. By some estimates, the figure is expected to double by 2015.

It just doesn't make sense to me to unhitch quality from the cost of care. Consumerism has driven the price of commodity goods down throughout history, and it's now being applied to health care spending. But consumerism works best when consumers are equipped to make intelligent decisions.

Until the U.S. health care system can agree on standards of care and get better at delivering quality, and that information can be distributed widely to purchasers of health care, we will not see significant reductions in either the cost of care or the uninsured.

I hope that the presidential hopefuls understand this and will build it into their campaigns. They might find that there's a lot more common ground than they expect on solving the national health care crisis.

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Business Insurance OPINIONS

Clinton reform plan shows softer touch

HAS HILLARY CLINTON CHANGED her tune on health care reform?

That's an appropriate question to ask in the wake of the New York Democratic senator's release of a health care reform plan last month.

Sen. Clinton's plan has attracted much interest. That's not surprising for a couple of reasons. First, she is the front-runner for the Democratic party's nomination in the 2008 presidential elections.

And just as important, she served in 1993, while first lady, as director of a presidential task force that developed a sweeping health care reform package, which went down in flames.

The reasons for that failure were several, including its development behind closed doors, a failure to reach out to Congress to generate support and then-First Lady Clinton's rookie mistake of roasting opponents, as opposed to reaching out to them to try to find a common ground.

Looking at the new plan there are things we like, not the least of which its goal of universal coverage.

It also probably didn't help that the plan itself wasn't very good. President Bill Clinton put it best when he said, "We bit off more than we could chew."

Looking at the new plan—10 pages compared with the 1,342-page monster produced 14 years ago—there are things we like, not the least of which its goal of universal coverage and not having the government take over the nation's health care system.

But there is plenty we don't like. Just to take one example, Sen. Clinton would give big tax breaks to employers now offering retiree health care plans. We are hard-pressed to see why taxpayers—individuals and corporations—should subsidize the promises that employers made but now can't afford.

On the other hand, while Sen. Clinton she has plenty of criticism for insurers, she has not tried to demonize them as she did earlier.

We hope that signifies a willingness to negotiate, which is the only way comprehensive health care reform, regardless of who is elected, will be enacted.

Don't let fight for taxes cloud Bermuda's value

SIX YEARS on from an attempt to close the so-called Bermuda tax loophole, several U.S. insurers are once again urging Congress to find a way to increase tax revenue from Bermuda-based insurers and reinsurers.

Then, as now, the rhetoric used in the debate has muddied the issues. U.S. insurers that expertly use every trick that the tax code allows to reduce their own taxes sound a little hypocritical complaining about companies in Bermuda; and Bermuda-based companies sound a bit disingenuous when they suggest that taxes, or the lack of them, were not an important factor in deciding to set up on the island.

Regardless of the rhetoric, however, we urge Congress to tread carefully and not jeopardize the valuable role that Bermuda plays.

As the largest captive domicile, Bermuda for decades has been an integral part of many risk management programs; in the mid-1980s it was Bermuda-based companies that eased the liability crisis by offering much-needed capacity; and for the past 15 years reinsurers in Bermuda have provided huge amounts of capacity for insurers in United States and elsewhere—the value of that capacity is particularly noticeable today as property catastrophe rates head downward two years after hurricanes Katrina, Rita and Wilma struck.

Bermuda, with its business-friendly environment, is a world-class global insurance market that U.S. risk managers turn to time and again for capacity and expertise. That is something worth preserving.



Letters

Pre-emption won't close courthouse doors

TO THE EDITOR: Re your Sept. 17 article, "Senator, Others Chastise Bush Administration," a prevalent myth perpetuated by the personal injury bar—many of whom are huge campaign contributors to lawmakers—is that federal pre-emption of state regulation and tort law keeps injured consumers from the courthouse. This is not the case.

Consumers injured by defective products can still sue for defective design or manufacturing. Pre-emption deprives juries in Backwater USA from substituting their judgment (often emotions) for the seasoned judgment of experts at the FDA or other federal regulatory bodies on vaporous "failure to warn" claims.

Injured claimants still have open to them multiple avenues to get their case to court and collect damages. They simply must prove manufacturing or design defect, a not unreasonable requirement. Pre-emption does not lock the courthouse from injured consumers.

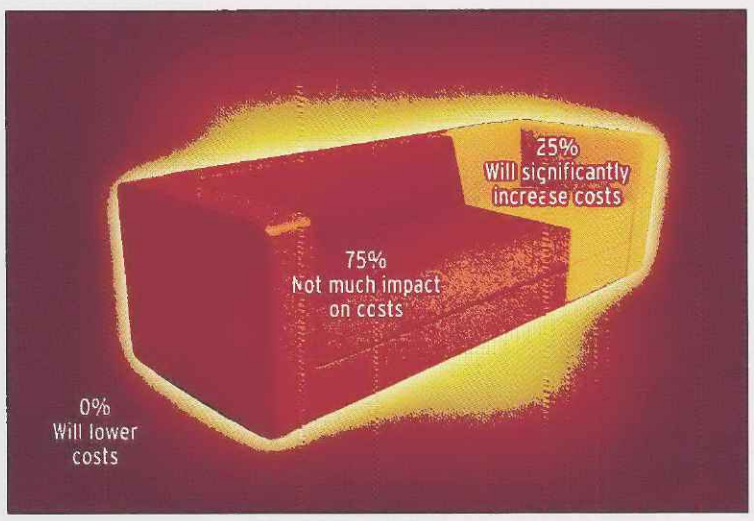
Kevin M. Quinley
Senior Vp
MEDMARC Insurance Group

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Online Poll at www.businessinsurance.com

What do you think will be the impact on your group health care plan costs if Congress passes legislation mandating that employers cover mental health care expenses the same as other medical expenses?



NEXT WEEK'S POLL: *Should Congress seek to equalize the tax burden of U.S.-owned and Bermuda-owned insurers and reinsurers?*

***BI* Online Poll tool sponsored by Wausau Insurance Cos.**

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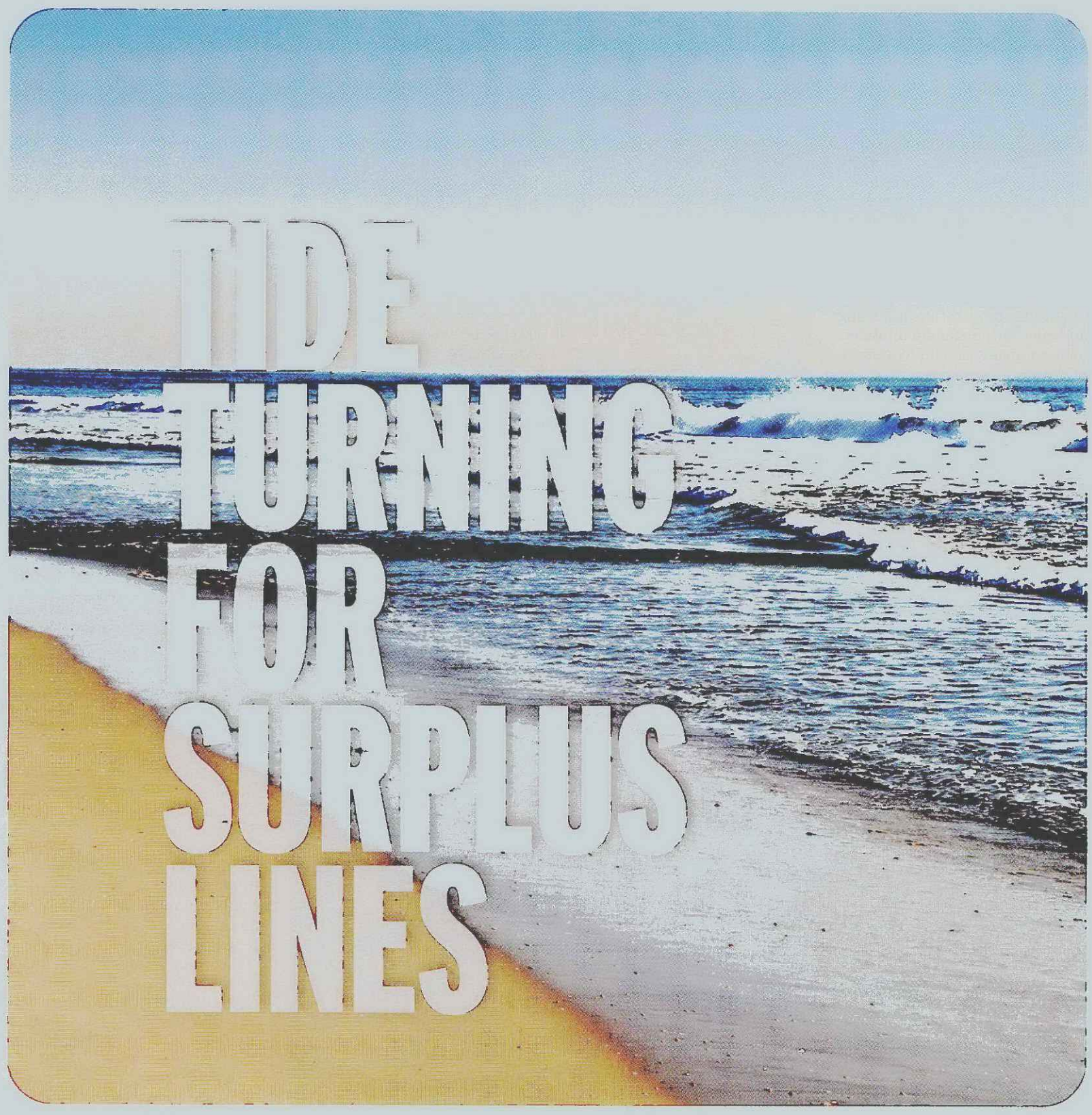
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Surplus Lines

SPOTLIGHT

Market softens for hard-to-place exposures

Even catastrophe-prone property risks catch a break from insurers eager to write business

By ROBERTO CENICEROS

Surplus lines insurers say they expect moderate growth for the rest of 2007 as they introduce measures to maintain U.S. business despite softening prices.

Even pricing for property coverage in catastrophe-prone regions began easing during the second quarter. The entry of standard insurers into that market is a substantial shift from the capacity crunch and steep rate increases that followed the 2005 hurricane season.

"The non-surplus lines markets are making forays into that area," said Shaun E. Kelly, president and chief operating officer of Lexington Insurance Co. in Boston. "It is putting pressure on price. Where you were getting rate increases—whether they be double-digit to single-digit—in the beginning of the year, you are now seeing (declining) to flat rates in the property market."

Casualty rates, meanwhile, continue to sag as competition from admitted insurers has increased gradually over the past 18 months, surplus lines underwriters say.

"My guess is we will finish this year maybe 1% or 2% ahead of the prior year, and that (growth) is a result of acquisitions and product launches," said Letha Heaton, senior vp of marketing for Shand Morahan & Co. Inc., an underwriting unit of casualty underwriter Evanston Insurance Co. in Deerfield, Ill.

"The pricing pressure on our core book and on our renewals remains just as tough, if not tougher, than it has ever been," Ms. Heaton said.

2006 strength waning

Yet several insurers say the current market is still a good one for the surplus lines industry, although not as favorable as conditions were last year.

Nonadmitted premium volume was up 11.8% when comparing 2006 with 2005, according to data submitted by 31 insurers to *Business Insurance*. Although up overall, some insurers experienced decreases. Total premiums generated during the same period by those 31 insurers increased 10.7 % (see chart, page 14).

Writing coastal, catastrophe-exposed properties remains a profitable line for surplus lines underwriters, as most standard market insurers are still shying away from risks that are not part of national accounts.

But slight decreases are now occurring.

"The second quarter (of 2007) was the first time since (hurricanes) Katrina, Rita and Wilma that we experienced an effective rate decrease," said Mark Lyons, president and chief operating officer for Arch Insurance Group in New York. "But we are still happy with the aggregate margins on the business because the changes post-Katrina were enormous. So a little drop-off

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Outlook: Pricing eases as competition grows for surplus lines business

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on that is not yet cause for concern."

Mr. Lyons described a "little drop-off" in the rates for excess and surplus insurance on coastal catastrophe-exposed properties to be about 10%.

A 10% reduction is "not out of the realm," agreed Lexington's Mr. Kelly. But such a decrease is not across the board for all accounts, he said.

Capacity increases

For West Coast earthquake-exposed property risks, insurers that would only put up $2.5 million in capacity last year now are offering $10 million to $20 million in limits for difference-in-conditions coverage, said Ronda Whaley, a property broker for Brown & Riding Insurance Services Inc. in Los Angeles.

Deductibles, meanwhile, have been halved, Ms. Whaley said.

Pricing could erode further, especially barring any new catastrophes, some insurers say. But for now, the catastrophe property line is holding up better for nonadmitted insurers than are many casualty coverages, they add.

"At least there is less competition, so it's not a bad place to play," said Gary L. Tiepelman, senior vp of underwriting for Scottsdale Insurance Co. in Scottsdale, Ariz., of coastal, cat-exposed property risks. "You just need to manage your exposure and make sure you are getting adequate rates and that you have the proper reinsurance in place."

> 'The pricing pressure on our core book and on our renewals remains just as tough, if not tougher, than it has ever been.'
>
> Letha Heaton, Shand Morahan & Co. Inc.

On the casualty side, surplus lines insurers say they are seeing cash "flow underwriting" as prices decrease for general liability, excess umbrella coverage, product liability and other lines.

Several nonadmitted underwriters say that they refuse to follow the market down.

"It's an increasingly difficult market and it's hard to retain the book," Mr. Lyons said. "When we look at business and feel it's close to being below levels that are acceptable, we make reasonable efforts, but we are not going to keep it at all costs. So a fair amount of business has been let go."

Evanston Insurance also refuses to follow the market into unacceptable pricing territory, Ms. Heaton said. It has seen increased competition, for example, from insurers writing coverage for hard-to-place medical malpractice business as well as from physician mutual insurers and even offshore captives, she said.

"There is capacity galore out there," Ms. Heaton said.

Expanding capabilities

To maintain growth in a softening market, E&S insurers are introducing new products, marketing more to wholesale and retail brokers, and expanding their underwriting capabilities and geographical reach.

Arch Insurance Group, for example, plans to open two new underwriting offices next year that target currently underserved regions, said Mr. Lyons, who declined to identify the regions.

Lexington's measures have included opening new offices and bundling coverages that meet the needs of specific industry groups, Mr. Kelly said.

In August, Evanston Insurance, through Shand Morahan, purchased Cambridge Alliance, a Burlington, Vt.-based managing general agent.

Cambridge underwrites small investment adviser firms. While the acquisition is not large, it expands Evanston's professional liability portfolio into a new area, Ms. Heaton said.

Shand also recently introduced "outbreak extra-expense coverage" that provides limits up to $50,000 per day should public health officials suspend a policyholder's operations because of a covered contagion, such as avian influenza.

"It's a little bit of a different twist, covering gaps that have existed in the industry for years," Ms. Heaton said.

Insurers also are relying on business that normally flows to the surplus lines industry even when conditions soften.

Large "brokerage" accounts favored by standard insurers are seeing the most competitive pressure, Scottsdale's Mr. Tiepelman said.

Wholesale brokers are making up for that loss of business by seeking more small accounts that standard insurers shun. Business underwritten by MGAs with binding authority also continues to grow for Scottsdale.

"The growth there really helps carry us and makes up for the deficit that we have experienced on the broker side," Mr. Tiepelman said.

Overall, "It's still a pretty good market," Mr. Tiepelman said. "Yes, it's down. The bottom line is, its still a good market. We are still seeing good business. (Although) not as much as we were."



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MOST COMMON CLASSES OF BUSINESS

Percentage of most common types of coverage offered



Source: BI survey

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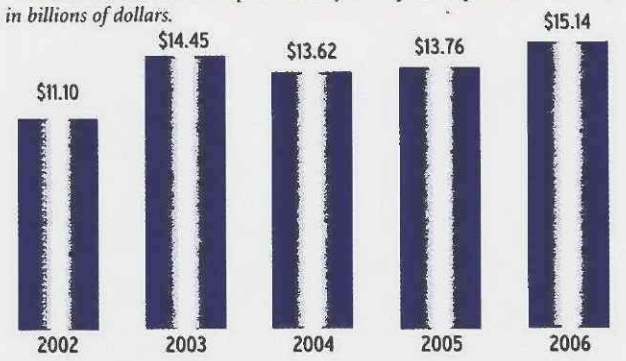
Ranked by combined ratio as determined by A.M. Best Co. Inc. and/or Standard & Poor's Corp.

LOWEST	
National Fire & Marine Insurance Co.	52.5%
American Empire Surplus Lines Insurance Co.	53.3%
Landmark American Insurance Co.	63.7%
Adriatic Insurance Co.	69.2%
RSUI Indemnity Co.	72.4%
HIGHEST	
First Specialty Insurance Corp.	141.4%
American International Specialty Lines Insurance Co.	110.7%
Noetic Specialty Insurance Co.	99.6%
Tudor Insurance Co.	98.8%
Western World Insurance Co.	98.8%

Source: BI survey

PREMIUM GROWTH

Nonadmitted direct written premiums by the top 10 surplus lines insurers, in billions of dollars.



Source: BI survey

Largest U.S.-based surplus lines insurers

Ranked by 2006 nonadmitted direct written premiums

Rank	Company/Address/Parent	Phone/Fax/Web site	2006 nonadmitted direct written premiums	% change	2006 gross premiums	% change	2006 net written volume	2006 net income (loss)	2006 combined ratio*	Principal officer
1	Lexington Insurance Co.[1] 2711 Centerville Road, Suite 400, Wilmington, Del. 19808 American International Group Inc	617-330-1100 *www.lexingtoninsurance.com*	$6,273,352,288	25.1%	$7,392,757,470	18.5%	$4,142,837,635	$895,991,016	N/A	Kevin H. Kelley, chairman/CEO
2	American International Specialty Lines Insurance Co. 1400 W. Benson Blvd., Suite 315, Anchorage, Alaska 99503 American International Group Inc.	212-770-7000 Fax: 212-509-7059 *www.aig.com*	$1,739,234,858	-3.8%	$1,782,582,278	-4.7%	$298,863,589	$45,950,147	110.7%	Kristian P. Moor, chairman/president
3	Steadfast Insurance Co.[1] 1400 American Lane, Schaumburg, Ill. 60196-1056 Zurich Financial Services Group	847-605-6000 Fax: 847-605-7895 *www.zurichna.com*	$1,412,233,290	-9.5%	$1,782,224,268	2.5%	N/A	$16,498,306	N/A	Louis J. Mennello Jr., president
4	Scottsdale Insurance Co.[1] 8877 N. Gainey Center Drive, Scottsdale, Ariz. 85258-2108 Nationwide Mutual Insurance Co.	480-365-4000 Fax: 480-368-5856 *www.scottsdaleins.com*	$1,278,278,992	7.0%	$2,791,552,061	7.0%	$623,715,100	$72,484,307	N/A	Michael D. Miller, president
5	Columbia Casualty Co. CNA Center, 333 S. Wabash, Chicago, Ill. 60604 CNA Financial Corp.	312-822-5000 Fax: 312-817-0787 *www.cna.com*	$842,816,747	2.9%	$864,103,358	4.2%	N/A	$5,120,799	N/A	Stephen W. Lilienthal, chairman/president
6	Landmark American Insurance Co. 945 E. Paces Ferry Road Suite 1800, Atlanta, Ga. 30326-1125 Alleghany Corp.	404-231-2366 *www.rsui.com*	$795,575,951	13.7%	$801,774,024	14.4%	$44,220,982	$15,894,733	63.7%	James A. Dixon, chairman/CEO
7	Arch Specialty Insurance Co. 1 Liberty Plaza, 53rd Floor, New York, N.Y. 10006 Arch Capital Group Ltd.	212-651-6500 Fax: 646-746-8105 *www.archinsurance.com*	$773,369,532	-3.5%	$792,340,473	-3.6%	$49,228,702	$27,666,829	N/A	Ralph E. Jones III, CEO
8	Evanston Insurance Co. 10 Parkway N., Deerfield, Ill. 60015 Markel Corp.	847-572-6000 Fax: 847-572-6259 *www.shand.com*	$711,214,211	-2.0%	$878,684,679	-1.5%	$683,265,356	$187,486,570	77.2%	Michael A. Rozenberg, president
9	National Fire & Marine Insurance Co. 3024 Harney St., Omaha, Neb. 68131-3580 Berkshire Hathaway Inc.	402-536-3269 Fax: 402-536-3350 *www.nationalindemnity.com*	$711,013,999	70.6%	$778,255,275	64.7%	$606,205,413	$245,131,689	52.5%	Donald F. Wurster, president
10	Admiral Insurance Co. 1255 Caldwell Road, Cherry Hill, N.J. 08034-3220 W.R. Berkley Corp.	856-429-9200 Fax: 856-429-8611 *www.admiralins.com*	$602,826,555	1.0%	$659,215,606	-0.4%	$604,481,757	$140,463,346	81.2%	James S. Carey, president/CEO

*Combined ratio as determined by A.M. Best Co. Inc. and/or Standard & Poor's Corp. 1 Figures reported on pooling basis. N/A=not available

Source: *BI* survey

Researched by Kevin Edison and Karen Tucker

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Stamping office data indicates slow growth

By ROBERTO CENICEROS

Data from the 14 stamping offices across the United States shows growth during the first half of 2007 but at a slower rate than recent years.

Under recent market conditions, premium generation has varied significantly, with some lines up and others down, surplus lines industry participants say.

In total, the 14 stamping offices saw $12.31 billion in premiums written during the first six months of this year, according to the Austin-based Surplus Lines Stamping Office of Texas, which compiles premium data from all 14 organizations each year.

That's a 13.2% increase from the $10.87 billion the stamping offices logged during the first half of 2006.

The bulk of the rise is attributable to Florida and New York, which saw substantial and anomalous increases during the first half of this year, said Philip Ballinger Jr., general manager for the Texas office.

When excluding Florida and New York's combined premium volume of $5.29 billion for the first six months of 2007, the remaining 12 stamping offices show a first-half increase of just $187 million.

That $187 million represents less than a 3% increase over the same period in 2006, according to the Texas office data.

New York is an anomaly in the overall picture because just a "handful" of large policyholders accounted for the state's 48% growth in premiums for the first six months of 2007 vs. the same period in 2006, Mr. Ballinger said.

Florida, where first-half premium volume rose 18.4%, also is unusual because many admitted property insurers avoid the state. That leaves a greater share than usual to surplus lines writers, Mr. Ballinger said.

Nonadmitted premium volume should be falling because surplus lines insurers are facing greater competition from the admitted market, Mr. Ballinger said.

While some casualty lines have been growing in terms of excess and surplus coverage purchased, others have been falling for up to 18 months, such as general liability insurance, product liability coverage and premises liability said Scott J. Bayer, senior vp at Liberty International Underwriters in New York.

"We have seen better days," Mr. Bayer said.

Because of increased competition, surplus lines casualty underwriters are seeking opportunity in "more volatile, tougher E&S type accounts where we are not competing against as many companies," Mr. Bayer said.

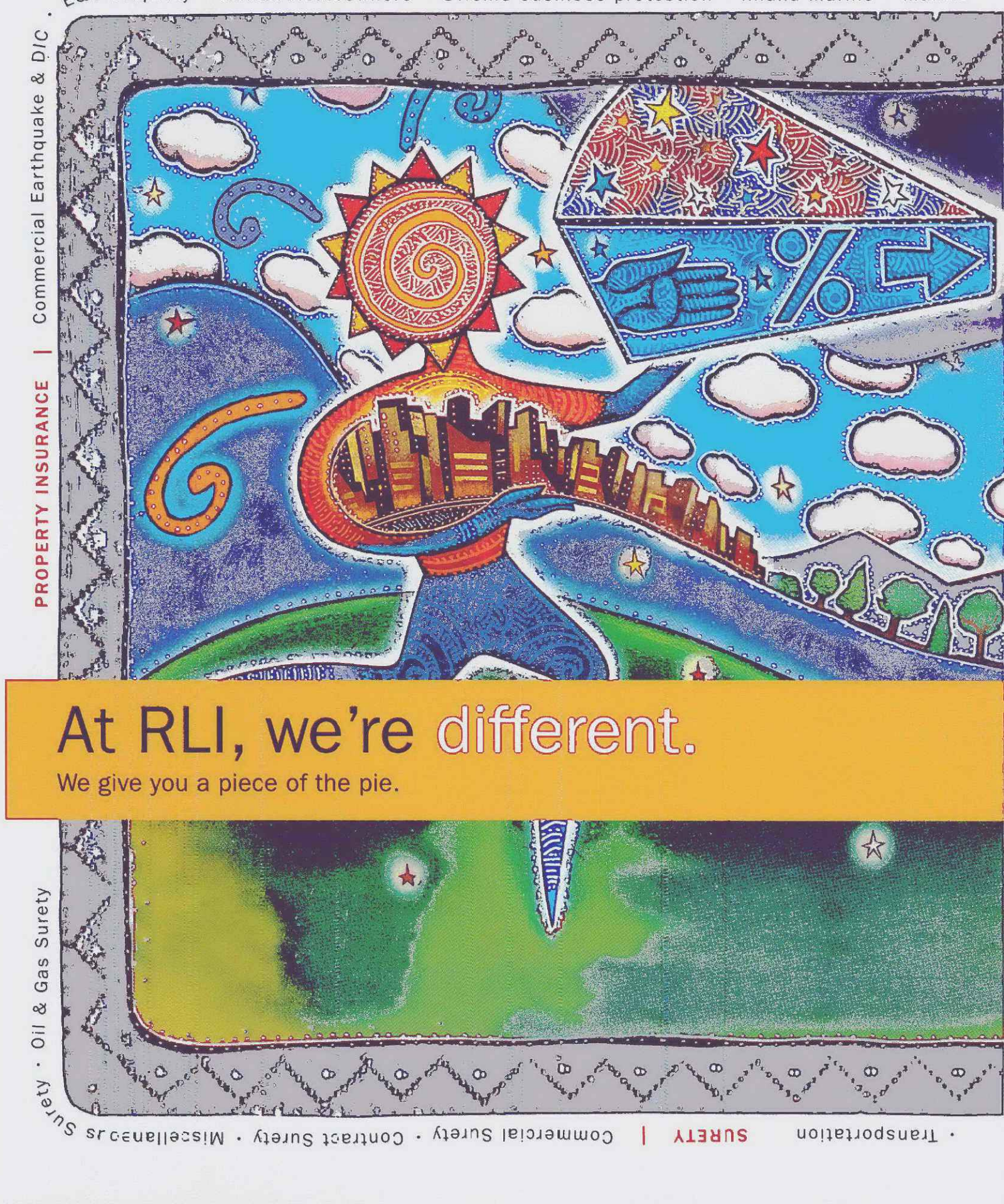
See **STAMPING** next page

FIRST HALF 2007/2006 COMPARATIVE STATISTICS

State	2007 Rates Fee	Tax	First-half premiums (in millions) 2007	2006	% Chg.	First-half items written 2007	2006	% Chg.	Fee changes
Ariz.	0.20%	3.00%	$286.4	$283.8	0.9%	34,098	30,788	10.8%	
Calif.	0.125	3.00	2,976.8	2,876.8	3.5	254,652	256,056	-0.5	New stamping fee rate effective Jan. 1, 2007
Fla.	0.10	5.00	2,806.4	2,370.4	18.4	631,769	634,045	-0.4	New stamping fee rate effective April 1, 2007
Idaho	0.25	1.50	45.9	43.9	4.6	7,016	7,566	-7.3	New stamping fee and tax rates effective Jan. 1, 2007
Ill.	0.10	3.50	540.5	475.1	13.8	57,749	53,419	8.1	
Mass.	0.25	4.00	172.4	164.8	4.6	32,890	31,803	3.4	
Mont.	1.00	2.75	36.4	25.5	42.7	5,541	4,133	34.1	
Nev.	0.40	3.50	168.7	261.2	-35.4	15,083	14,369	5.0	New stamping fee rate effective Jan. 1, 2007
N.Y.	0.20	3.60	2,486.6	1,679.3	48.1	108,298	107,041	1.2	Additional fee of $25 applies for late/erroneous filing
Ore.	$5.00	2.00	118.9	160.6	-26.0	17,699	17,860	-0.9	Flat stamping fee of $5 per original filing
Pa.	$15.00	3.00	460.4	515.0	-10.6	55,804	63,426	-12.0	Flat stamping fee of $15 per original filing
Texas	0.06%	4.85	1,802.9	1,579.1	14.2	440,400	442,479	-0.5	New stamping fee rate effective July 1, 2007
Utah	0.25	4.25	92.9	81.2	14.4	8,759	8,042	8.9	
Wash.	0.25	2.00	312.3	357.8	-12.7	46,868	50,233	-6.7	
TOTAL			$12,307.5	$10,874.5	13.2%	1,716,626	1,721,260	-0.3%	

New York data is gross premium; 2007 net premium = $1,489.3 million. Florida data for 2007 includes $392.9 million/6,671 policies in independently procured insurance. Texas data for 2007 excludes $335.4 million in other state and $186.4 million in tax exempt premium. Stamping fee rates shown reflect new rates where applicable. Items include certain nonpremium filings in Illinois, Nevada and Texas.

Source: Surplus Lines Stamping Office of Texas



Stamping: Bulk of increase due to hikes in two states

CONTINUED FROM PREVIOUS PAGE

Insurers and brokers say premiums for catastrophe-exposed property coverage also began a slight descent during the second quarter.

That, however, would not show up in data for the first half of 2007, Mr. Ballinger said, because brokers typically have two to three months after a deal closes to submit premium information to the stamping offices.

Therefore, total nonadmitted premium could be falling more than the stamping office data suggests, Mr. Ballinger said.

The Kansas City, Mo.-based National Assn. of Professional Surplus Lines Offices Ltd. estimates that stamping offices review about 80% of all E&S insurance placements in the nation.

The 14 states with stamping offices are Arizona, California, Florida, Idaho, Illinois, Mississippi, Montana, Nevada, New York, Oregon, Pennsylvania, Texas, Utah, and Washington.

Wholesalers diversify operations to grow during difficult market

Brokers try new lines, expand MGA business as rating levels fall

By SALLY ROBERTS

With the soft property/casualty insurance market stymieing growth opportunities among the nation's largest wholesale brokers, diversification has become a key strategy.

After capitalizing on the difficult property catastrophe market through last year, wholesalers now say that capacity is plentiful and premiums are declining, in some cases dramatically, as the insurance and reinsurance markets have not had to absorb a major catastrophe over the past two years.

That lack of catastrophes, coupled with the continued softening general property/casualty market, is forcing wholesalers to focus on other strategies to grow their business, and that means diversifying their operations and adding more value to their retail brokerage clients, which increasingly have more opportunities to place their business directly with standard insurance markets.

"We're not seeing growth any place in the market right now, certainly not on the property/casualty side," said Kevin Westrope, president and chief executive officer of Kansas City, Mo.-based wholesaler Westrope, which recently expanded its product offerings to include transportation.

"The big thing in this market is it's become difficult to grow, and while we're up maybe 1% to 2%, that's a real struggle to be up 1% to 2% in this market," said Christopher J. Cavallaro, managing director of Garden City, N.Y.-based ARC Excess & Surplus L.L.C.

'A lot of standard markets that were out of a particular business are back in a particular business.'

Joel Cavaness,
Risk Placement Services Inc.

"Obviously, it's extremely competitive. It's a challenging market," said Joel Cavaness, president of Itasca, Ill.-based Risk Placement Services Inc. "There's a lot more people coming into our marketplace in many different areas—a lot of standard markets that were out of a particular business are back in a particular business. Of course, that impacts us. When the retailers can go direct, most likely they're going to go that way."

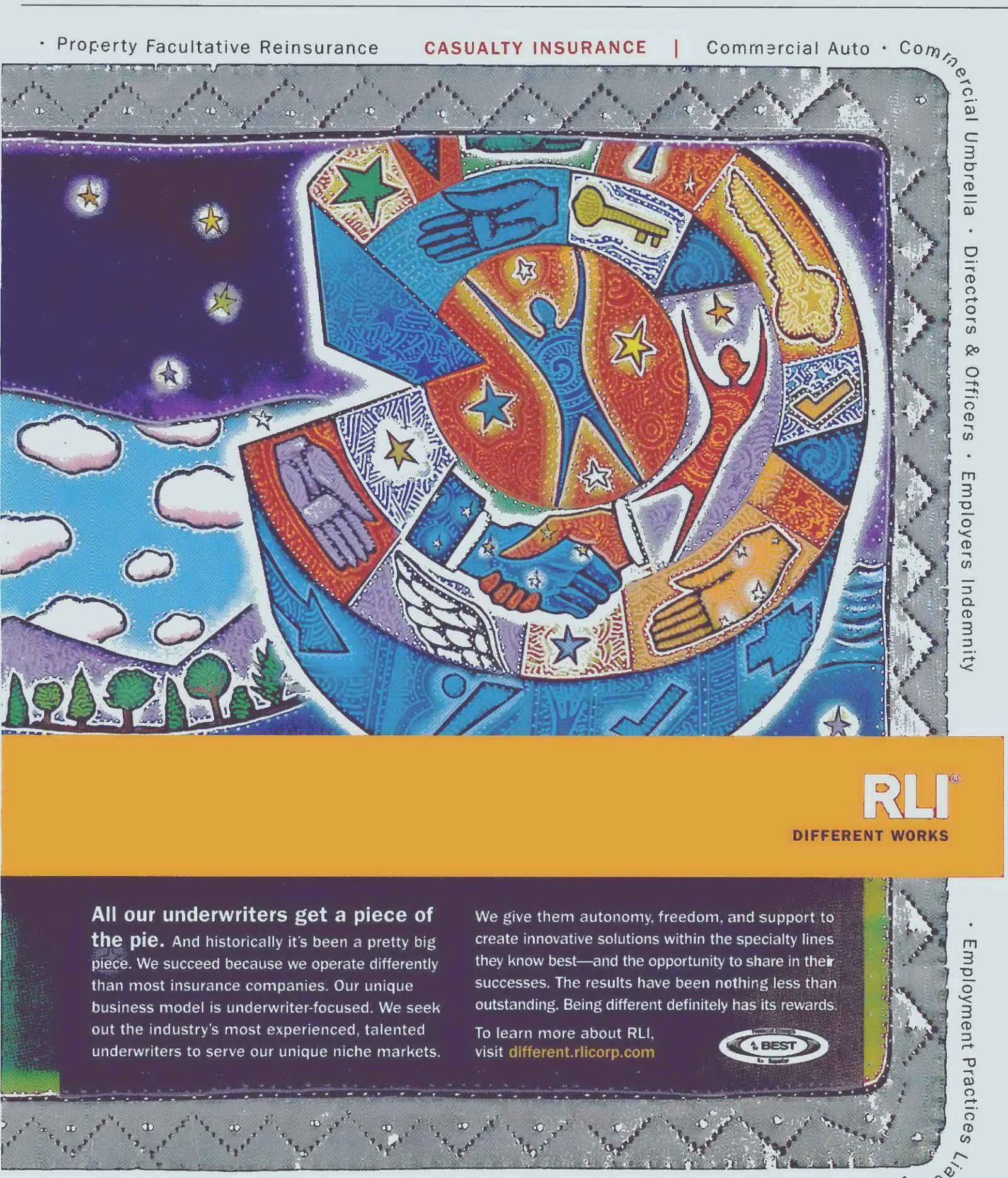
To compete and grow, wholesalers are looking to diversify their business, and in many cases that means focusing on growing their managing general agency business, which tends to weather a cyclical market better, they say.

"Our goal is to grow that business dramatically," said Tom Curtin, founder, CEO and co-chairman of CRC Insurance Services Inc., referring to its MGA operations, Southern Cross Underwriters Inc. While Southern Cross accounted for a little over 7% of CRC's 2006 premium volume, it's more in the range of 12% to 14% right now, Mr. Curtin said. Acquisitions have played a large part in that growth, and CRC has four or five potential deals in the pipeline, he said.

The MGA business is "less subject to the peaks and valleys of the transactional side of the business," Mr. Curtin said. "It's less volatile and less competitive on renewals."

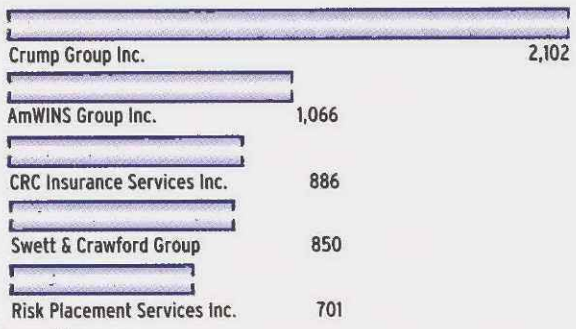
"We're definitely looking to

See **DIVERSIFY** page 20



LARGEST BY NUMBER OF WHOLESALE EMPLOYEES

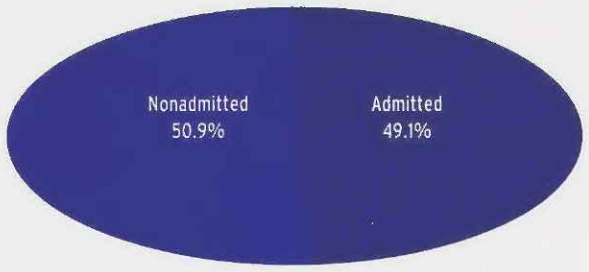
Number of wholesale employees as of 12/31/06



Source: BI survey

ADMITTED VS NONADMITTED

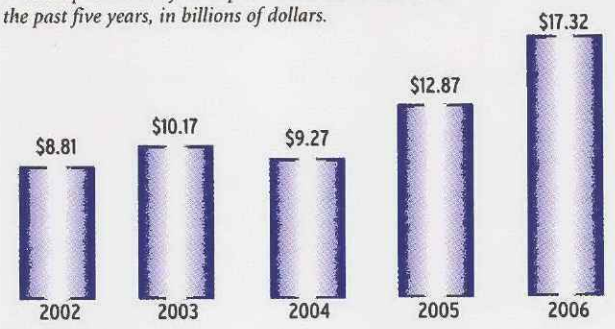
Business performed by wholesale brokers



Source: BI survey

PREMIUM GROWTH

Written premiums of the top 10 wholesale brokers over the past five years, in billions of dollars.



Source: BI survey

Largest wholesale insurance brokers*

*Ranked by 2006 wholesale premium volume***

Rank	Company/Address	Phone/Fax/Web site	2006 premium volume	% change	2006 gross revenues	% change	Surplus lines	Underwriting manager	Wholesale broker	Managing general agent	Lloyd's of London coverholder	Employees	Principal officer
1	Crump Group Inc. 7557 Rambler Road, Suite 350, Dallas, Texas 75231	214-265-2660 Fax: 214-265-2683 *www.crumpins.com*	$3,496,000,000 [1]	233.0%	$286,672,000 [1,2]	198.6%	55.0%	0.0%	58.0%	40.0%	2.0%	2,102	Glenn Hargrove, president/CEO
2	CRC Insurance Services Inc. 1 Metroplex Drive, Suite 400, Birmingham, Ala. 35209	205-870-7790 Fax: 205-986-6385 *www.crcins.com*	$3,320,020,368	18.0%	$249,868,465	7.9%	74.0%	7.7%	85.1%	7.2%	0.0%	886	Thomas Curtin Sr., chairman/CEO
3	AmWINS Group Inc. [3] 4725 Piedmont Row Drive, Suite 600, Charlotte, N.C. 28210	704-749-2700 Fax: 704-943-9000 *www.amwins.com*	$3,286,471,677	16.8%	$233,480,074 [2]	22.1%	56.0%	0.0%	80.9%	15.6%	3.5%	1,066	M. Steven DeCarlo, president/CEO
4	Swett & Crawford Group 3715 Northside Parkway N.W., Building 200, Suite 800, Atlanta, Ga. 30327	404-240-5200 Fax: 404-240-5393 *www.swett.com*	$2,640,908,000	-6.0%	$235,040,812 [2]	-6.0%	55.0%	0.0%	74.0%	20.0%	6.0%	850	Neal Abernathy, president/CEO
5	Risk Placement Services Inc. 2 Pierce Place, 20th Floor, Itasca, Ill. 60143-3141	630-285-4303 Fax: 630-285-4075 *www.rpsins.com*	$1,398,000,000	7.5%	$111,267,000	3.4%	60.0%	0.0%	60.0%	35.0%	5.0%	701	Joel Cavaness, president
6	Colemont Insurance Brokers Inc. 5910 N. Central Expressway, Suite 400, Dallas, Texas 75206	214-561-7000 Fax: 214-523-1571 *www.colemont.com*	$1,292,000,000	24.0%	$96,900,000	27.7%	50.0%	0.0%	90.0%	8.0%	2.0%	660	Marshall P. Kath, CEO
7	Westrope 801 W. 47th St., Suite 500, Kansas City, Mo. 64112	816-842-8222 Fax: 816-842-3081 *www.westrope.com*	$512,900,000	4.4%	$35,500,000	3.5%	57.0%	0.0%	97.0%	3.0%	0.0%	133	Kevin T. Westrope, president/CEO
8	ARC Excess & Surplus L.L.C. 1122 Franklin Ave., P.O. Box 9240, Garden City, N.Y. 11530	516-747-4100 Fax: 516-747-3633 *www.arcbrokers.com*	$500,000,000	5.3%	$41,000,000 [2]	5.3%	20.0%	5.0%	95.0%	0.0%	0.0%	130	Christopher J. Cavallaro, managing director
9	U.S. Risk Insurance Group Inc. 10210 N. Central Expressway, Suite 500, Dallas, Texas 75231	214-265-7090 Fax: 214-265-2454 *www.usrisk.com*	$465,000,000	23.0%	$82,000,000	9.3%	95.0%	0.0%	60.0%	20.0%	20.0%	667	Randall G. Goss, chairman/CEO
10	Partners Specialty Group L.L.C. Bentwood Executive Campus, 301 E. Germantown Pike, Suite 402, Norristown, Pa. 19401	484-322-0400 Fax: 484-322-0401 *www.psgins.com*	$410,300,000	10.0%	$31,278,000	10.7%	52.0%	0.0%	97.0%	2.0%	1.0%	158	Maureen C. Caviston, president

*Companies deriving more than 50% of their wholesale premium volume from wholesale brokerage. ** Premiums from both property/casualty and employee benefits/group life. 1 Pro forma to include BISYS Commercial Insurance Services Inc. purchased May 2007. 2 *BI* estimate.
3 Formerly American Wholesale Insurance Group Inc.
Source: *BI* survey
Researched by Kevin Edison and Karen Tucker

Visit *www.businessinsurance.com/directories* for more information and to access the full searchable Directory of Insurance Wholesalers.
Business Insurance now offers the option to purchase the entire online directory as an Excel file or as a PDF.

Ok, now we're #1



The addition of industry leaders, Tri-City Brokerage and BISYS Specialty Programs to the Crump team means we have a wealth of talent and products that are unmatched in the industry. But, being number one doesn't mean much without our relentless focus on using these resources to help our clients succeed.

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Diversify: Surviving the soft market

CONTINUED FROM PAGE 17

expand our MGA operations, both through the expansion of existing capabilities as well as looking at new acquisition targets and new products," said Neal Abernathy, president and CEO of Swett & Crawford Group in Atlanta. About 20% of Swett's premiums are derived from MGA business, an overall premium ratio Mr. Abernathy said he likes.

Acquisitions and new hires are the two top growth strategies at RPS, which also is looking to expand its MGA business in addition to its wholesale brokerage and program management businesses, according to Mr. Cavaness.

But it's not just MGA business that wholesalers are relying on to diversify.

"For the first time, you are seeing traditional wholesale E&S brokers bring on to their platforms...other businesses that are different from that core E&S transactional broker or maybe MGA business that they've done forever," said Marshall Kath, CEO of Dallas-based Colemont Insurance Brokers Inc.

In 2004, for instance, Colemont formed Colemont Global Group, a full-service worldwide insurance and reinsurance brokerage network specializing in aviation, marine, professional liability, property/casualty and treaty business.

That is a primary area of growth for us in the diversification world, Mr. Kath said.

Charlotte, N.C.-based AmWINS Group Inc. also is relying on nontraditional E&S business as a means to grow in the soft E&S market, according to its president and CEO, M. Steven DeCarlo.

While others might view the wholesale business as strictly excess and surplus lines, "I see wholesalers as product suppliers to retail brokers," Mr. DeCarlo said. "I don't care what the products are."

Toward that end, AmWINS in May acquired American Equity Underwriters Inc., a Mobile, Ala.-based U.S. longshore and harbor workers compensation underwriter.

"The USL&H business is not as cyclical as property cat, so we're using that to protect the overall franchise," he said.

Overall, "our strategy is not to be so weighted as an E&S broker to not be able to survive or to prosper during a declining E&S market," he said. That means that in addition to E&S brokerage, AmWINS looks to grow its MGA and benefits business.

Crump Group Inc. also has diversified outside the traditional E&S business through the addition of BISYS Group Inc.'s wholesale brokerage operations, which were acquired by Crump parent J.C. Flowers & Co. L.L.C. in May, according to Glenn Hargrove, president and CEO of the Dallas-based wholesaler.

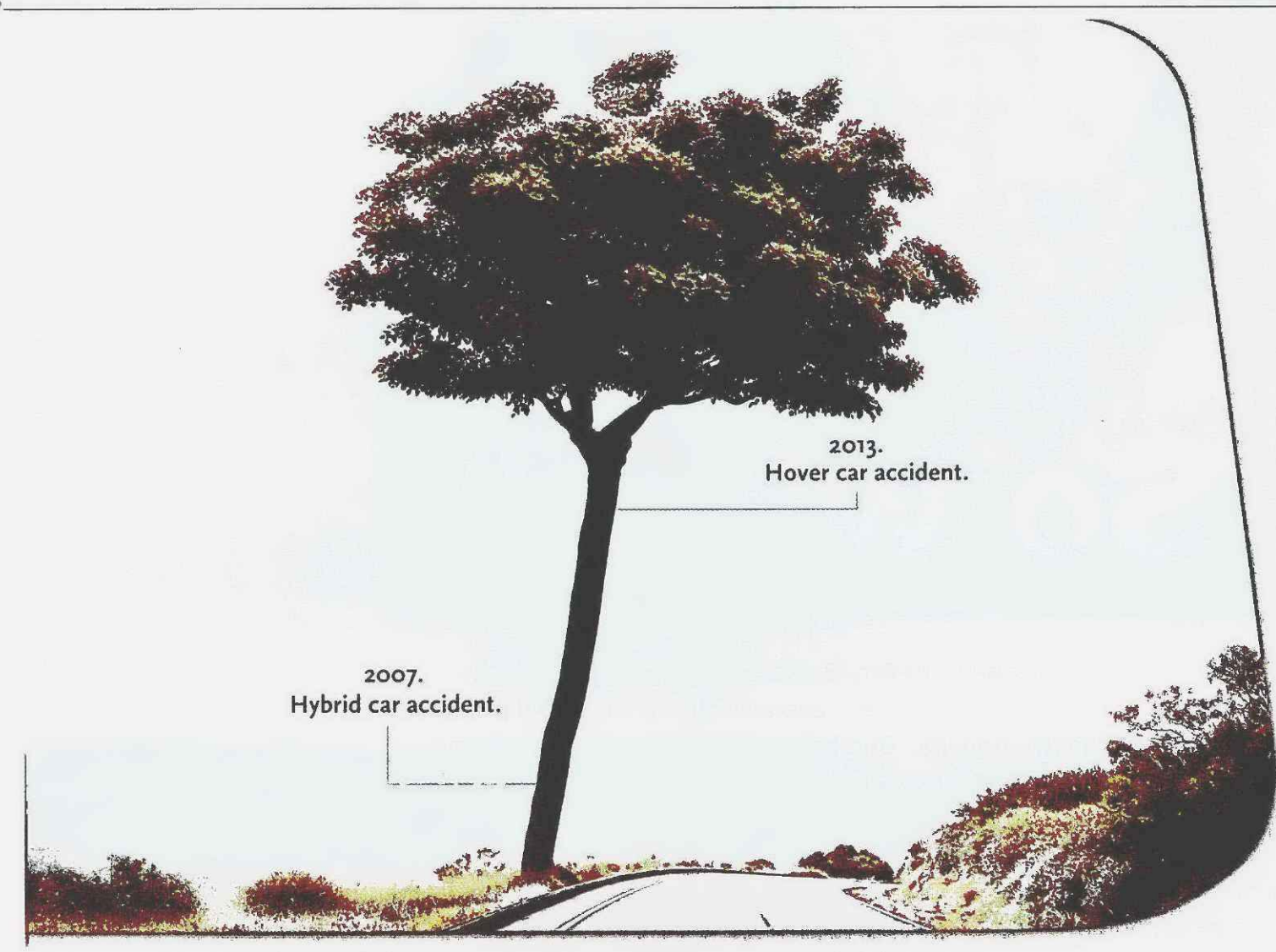
Not only was Crump able to round out its geographic presence in the Northeast, where BISYS' wholesale brokerage operations had a strong presence, but the BISYS acquisition also included BISYS Life Insurance Services, a large life insurance wholesale brokerage unit, and BISYS Retirement Services, which provides products and services to the retirement plan industry, Mr. Hargrove said. "Those two businesses give us a terrific diversity (and) helps round out our overall financial picture."

LARGEST WHOLESALE INSURANCE PROPERTY/CASUALTY BROKERS*

Ranked by 2006 wholesale premium volume

CRC Insurance Services Inc.	$3,320,020,068
Swett & Crawford Group	$2,640,908,000
AmWINS Group Inc.[1]	$2,287,384,287
Crump Group Inc.	$1,999,000,000[2]
Risk Placement Services Inc.	$1,398,000,000
Colemont Insurance Brokers Inc.	$1,292,000,000
Westrope	$512,900,000
ARC Excess & Surplus L.L.C.	$500,000,000
U.S. Risk Insurance Group Inc.	$465,000,000
Partners Specialty Group L.L.C.	$410,300,000

**Companies deriving more than 50% of their wholesale premium volume from wholesale brokerage. 1 Formerly American Wholesale Insurance Group Inc. 2 Pro forma to include BISYS Commercial Insurance Services Inc. purchased May 2007.*
Source: BI survey



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Private equity moves to sidelines

By SALLY ROBERTS

With the exception of J.C. Flowers & Co. L.L.C.'s acquisition of BISYS Group Inc.'s wholesale brokerage operations in May and resulting merger with Crump Insurance Group, the infusion of private equity capital into the wholesale insurance business has died down considerably.

The current credit market crisis, driven by the turmoil in the subprime mortgage market, has made borrowing money for highly leveraged deals difficult, wholesalers say.

But there is private equity capital still out there and more private equity deals could still be possible as long as investors believe the wholesale insurance market is worth their investment, wholesalers say.

Two years ago, private equity changed the wholesale landscape as the world's largest retail brokers divested their wholesale operations amid industry investigations led by then-New York Attorney General Eliot Spitzer, who raised conflict of interest concerns over retail brokers owning their own wholesale distribution channels.

'Three of the top four (wholesalers) are already owned by private equity. There is not as much opportunity for them to penetrate.'

Glenn Hargrove,
Crump Insurance Group

Marsh & McLennan Cos. Inc. and Aon Corp. sold Crump and Swett & Crawford Group, respectively, to private equity firms, while Willis Group Holdings Ltd. sold its Stewart Smith Group to private equity-owned AmWINS Group Inc.

With the exception of J.C. Flowers acquisition of BISYS, however, private equity firms have remained on the sidelines of the wholesale market recently.

"The debt market and private equity market has changed in the last three months and to a great extent that has changed the game," said M. Steven DeCarlo, president and chief executive officer of Charlotte, N.C.-based AmWINS, which is owned by Parthenon Capital L.L.C.

"Those folks that have (the) capital to go do a merger or acquisition will continue to do that. Those folks waiting for additional capital—that's going to be a little harder," he said.

"The situation with the credit market makes it a little less attractive to do any kind of leveraged buyout," said Glenn Hargrove, president and CEO of Crump. "Frankly, you've got us, Swett and AmWINS, three of the top four (wholesalers) that are already owned by private equity. There is not as much opportunity for them to penetrate."

But Marshall Kath, CEO of Dallas-based Colemont Insurance Brokers Inc., said, "There is always money for a good story and/or good deals...even though there is that turmoil from the credit markets."

$300 billion to invest

There is over $300 billion in uninvested private equity money out there, Mr. Kath estimated. "So if you have a good business and there's a compelling thesis to it and you have good growth and acquisition opportunities for that, there will be a line out the door. If you don't have that, you won't have that line.'

Whether there will be more private equity deals within the wholesale insurance market remains to be seen, Mr. Kath said. Private equity firms are going to look to deploy their capital where they think they can get the best return on a risk-adjusted basis.

If they think they can get a good return in from the wholesale market, then they'll probably continue to look at opportunities there. But "if the next hot thing down the path was...a totally different industry, then the money will move that way and the money moves quickly," Mr. Kath said.

Surplus lines reform closer to passage

But several hurdles could hamper bill's progress

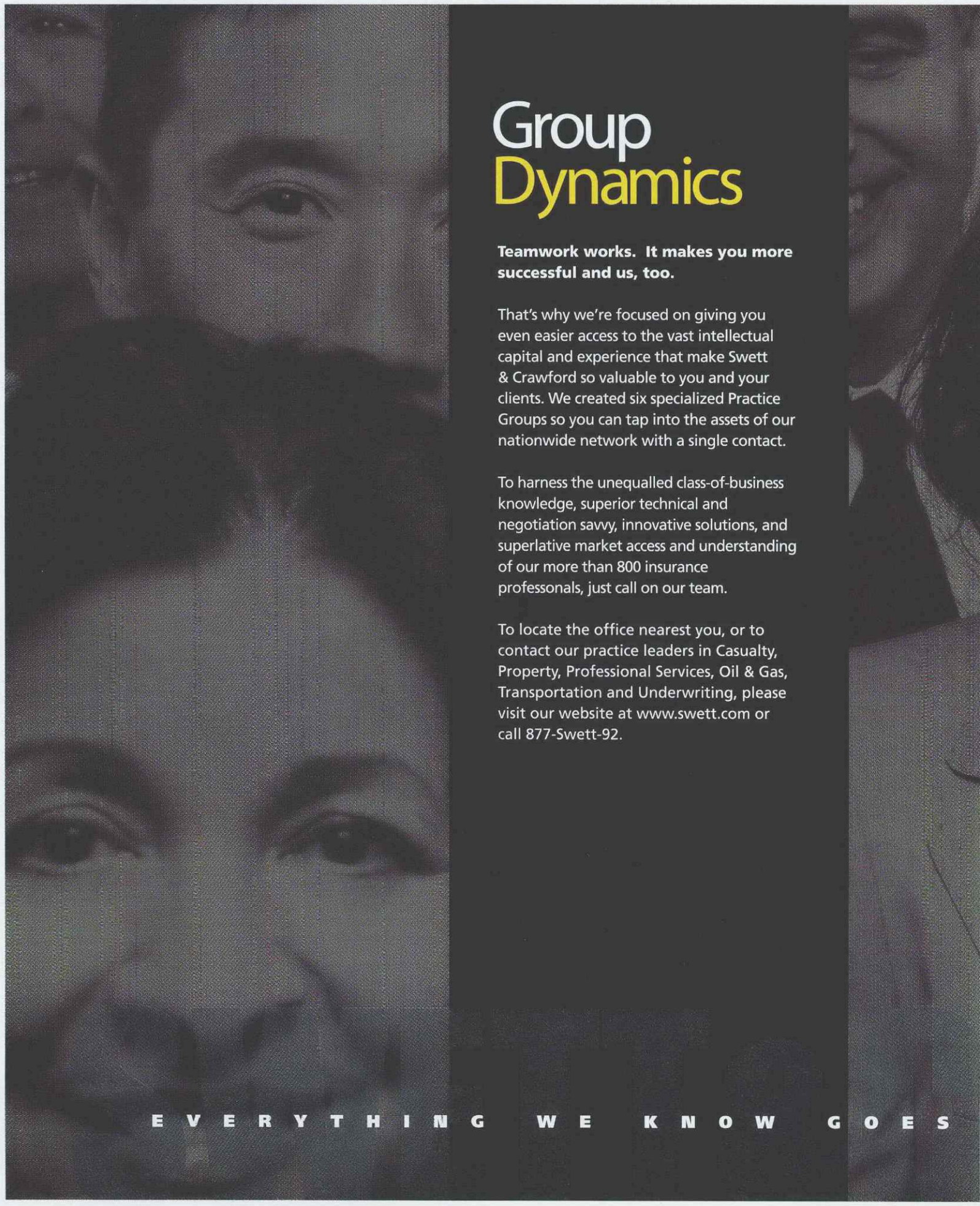
By MARK A. HOFMANN

This Congress could approve a measure that would streamline the regulation of surplus lines insurers, say supporters of the measure.

In late June, the House of Representatives approved by voice vote the Nonadmitted and Reinsurance Reform Act, introduced by Rep. Dennis Moore, D-Kan., and co-sponsored by Rep. Ginny Brown-Waite, R-Fla. (*BI*, July 2).

A key provision of the reform bill would allow brokers representing large policyholders to go directly to the nonadmitted market to seek coverage without having to prove that they had first sought the coverage in the admitted market. One of

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CONTINUED FROM PREVICUS PAGE

the prerequisites for doing so, however, is that the policyholder must employ a "qualified risk manager."

An earlier version of the bill drew opposition from the Risk & Insurance Management Society Inc. because of the bill's definition of "qualified risk manager," a definition RIMS held was too restrictive. Lawmakers, however, restored a more flexible definition to the measure, and RIMS dropped its opposition long before the June vote.

The bill also would simplify the regulation of nonadmitted insurers by subjecting them to the premium taxes of policyholders' home states. States would create a compact among themselves to allocate taxes collected.

Supporters pointed to the lack of opposition to the measure in the House as a plus in getting a bill through the Senate.

"This is the second year in a row where there's been no real opposition to the bill in the House," said Ben McKay, a senior vp in the Property Casualty Insurance Assn. of America's Washington office. "There is a Senate bill that's been introduced, which means we're well-positioned this year given that it's September and we've got a pretty noncontroversial bill. The outlook is cautiously optimistic."

"We saw it pass the House again expeditiously this year," said Maria Berthoud, senior vp and partner at Washington-based B&D Consulting, which represents the Kansas City, Mo.-based National Assn. of Professional Surplus Lines Offices Ltd. on Capitol Hill. "We expect Senate passage as well in this Congress."

'There is a long history in our industry of allowing the perfect to be the enemy of the good. We may have a limited, narrow window to enact this legislation.'

Joel Wood, CIAB

Ms. Berthoud acts as a spokesperson for the Surplus Lines Coalition, which she described as a broad-based group of brokers, agents, individual companies, trade associations and risk managers who have banded together "to get Senate passage" of the bill this year.

"RIMS does support the surplus lines bill," said Beaumont Vance, director-external affairs of New York-based RIMS and senior enterprise risk manager for Sun Microsystems Inc. in Denver. "We feel that it's going to offer significant savings to consumers and we approve of the free market approach. In addition, we believe that it will facilitate the speed with which innovation will reach the marketplace and be available to our membership."

"We're encouraged with the meetings that we've had with members of the Senate Banking Committee," said Justin Roth, senior director-federal affairs in the National Assn. of Mutual Insurance Cos.' Washington office. "Several members have expressed interest in trying to get this bill through the Senate Banking Committee."

"There is a hope that there could be a hearing, whether in the full committee or subcommittee, sometime this fall. The chief objective is to try to increase momentum in the Senate after the House passed the bill overwhelmingly," said Drew Cantor, vp and director of federal affairs for the American Insurance Assn. in Washington.

PCI's Mr. McKay said, though, that "there's a lot of pressing business before Congress—budgets, Iraq spending and other legislation surrounding the war, so there's always the chance that we get crowded out. Nevertheless, (with) a bill like this, we'll hopefully push (it) through. Granted, it's only the second year and the average bill takes three to six years to get through."

An attorney specializing in insurance and reinsurance issues said the measure could run into some problems because of its method of allocating premium taxes after their collection by a policyholder's home state.

"There are no specific guidelines as to how this allocation would be implemented," said John P. Dearie Jr., a partner in New York office of Edwards Angell Palmer & Dodge L.L.P.

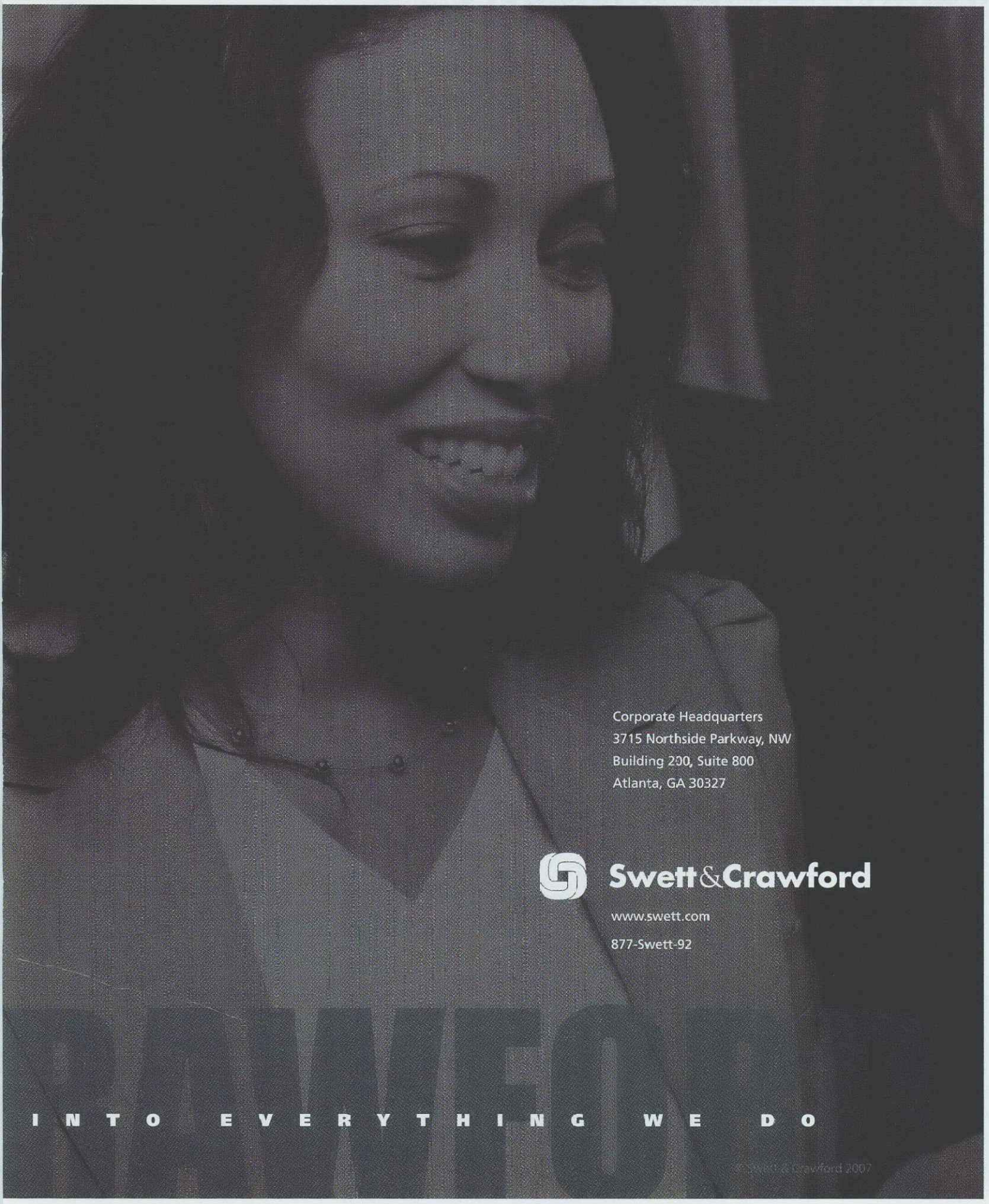
Some industry figures have proposed the creation of an interstate compact to deal with the issue, he said.

Dan Maher, executive director of the Excess Line Assn. of New York, said that the House bill "essentially says, 'As a broker, you pay all of the taxes to the home state of the insured.'" The compact that ELANY supports would create a clearinghouse to receive transaction and tax data, which would be used to report periodically what each state is owed by each broker and what each broker owes each state, and adopt uniform tax allocation formulas to be used by each compacting state. Each state would be able to charge its own tax rate on the portion of the risk located in that state.

"We're not quite sure the federal bill would quite give the brokers the freedom from further problems" that the compact approach would, Mr. Maher said.

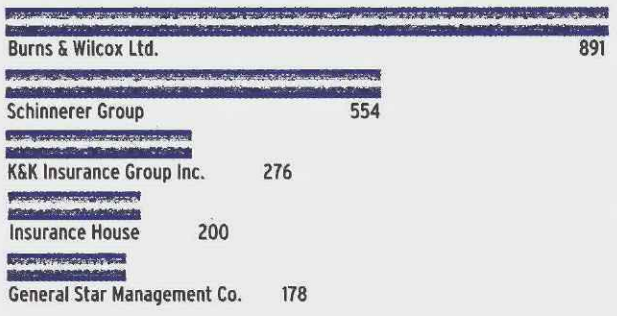
"Never before has a pre-emptive federal bill gathered as much stakeholder support as this one," said Joel Wood, senior vp at the Council of Insurance Agents & Brokers in Washington. "That includes the policyholders, the brokers, the insurers and, perhaps most importantly, the regulators. I believe that the concerns that Mr. Maher has raised can largely be worked out and we are endeavoring to do so.

"I also believe there is a long history within our industry of allowing the perfect to be the enemy of the good. We may have a limited, narrow window to enact this legislation given the overflowing plate of insurance issues before the Senate Banking Committee."



LARGEST BY NUMBER OF MGA EMPLOYEES

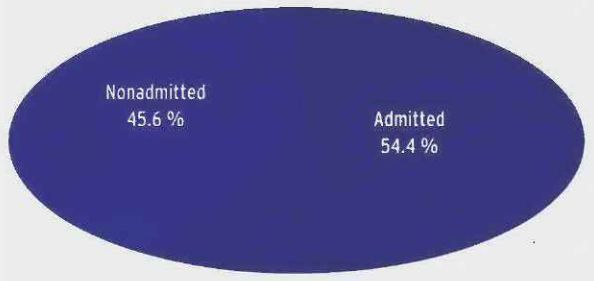
Number of wholesale employees as of 12/31/06



Source: BI survey

ADMITTED VS. NONADMITTED

Business performed by MGA/underwriting managers



Source: BI survey

PREMIUM GROWTH

Written premiums of the top 10 MGAs/underwriting managers over the past five years, in billions of dollars



Source: BI survey

Largest MGA/underwriting managers*

Ranked by 2006 wholesale premium volume

Rank	Company/Address	Phone/Fax/Web site	2006 premium volume	% change	2006 gross revenues	% change	Surplus lines	Underwriting Manager	Managing general agent	Wholesale broker	Lloyd's of London coverholder	Employees	Principal officers
1	Schinnerer Group 2 Wisconsin Circle, Chevy Chase, Md. 20815	301-961-9800 Fax: 301-951-5444 *www.schinnerer.com*	$959,000,000	-3.2%	$80,566,000 [1]	-3.2%	5.0%	99.0%	0.0%	1.0%	0.0%	554	Lorna Parsons, Marie Solomon, managing directors
2	Burns & Wilcox Ltd. 220 Kaufman Financial Center, 30833 Northwestern Highway, Farmington Hills, Mich. 48334	800-521-1918 Fax: 248-932-9046 *www.burnsandwilcox.com*	$750,000,000	7.1%	$185,000,000	5.7%	90.0%	0.0%	58.0%	30.0%	12.0%	891	Alan J. Kaufman, chairman/president/CEO
3	W. Brown & Associates Insurance Services 19000 Mac Arthur Blvd., Suite 700, Irvine, Calif. 92612	949-851-2060 Fax: 949-794-0744 *www.wbais.com*	$235,900,003	6.3%	$44,000,000	7.3%	20.0%	80.0%	15.0%	4.0%	1.0%	68	Scott Brown, president-aviation; John W. Krebs, president-property/casualty
4	Eastern America Insurance Agency Inc. Metro Office Park, Street One, Lot 10, P.O. Box 193900, San Juan, Puerto Rico 00919-3900	787-273-1288 Fax: 787-782-8233 *www.universalpr.com*	$224,463,335	-6.3%	$11,359,439	-8.8%	2.0%	0.0%	100.0%	0.0%	0.0%	159	Luis Miranda Casanas, president
5	K&K Insurance Group Inc. 1712 Magnavox Way, Fort Wayne, Ind. 46804	260-459-5000 Fax: 260-459-5606 *www.kandkinsurance.com*	$213,316,406	-3.5%	$42,902,000	-10.1%	15.0%	0.0%	96.0%	4.0%	0.0%	276	Ross T. Smith, president/CEO
6	NIF Group Inc. 30 Park Ave., Manhasset, N.Y. 11030	516-365-7440 Fax: 516-365-7392 *www.nifgroup.com*	$205,000,000	-2.5%	$21,000,000	4.5%	32.0%	0.0%	62.0%	35.0%	3.0%	128	Mark P. Maher, president
7	WKF&C Agency Inc. 1 Huntington Quadrangle, Suite 4N20, Melville, N.Y. 11747	631-756-3000 Fax: 631-756-2500 *www.wkfc.com*	$200,000,000	23.5%	$28,400,000 [1]	20.1%	65.0%	0.0%	95.0%	0.0%	5.0%	88	Thomas J. Kennedy, chairman/CEO
8	Sullivan Group-Wholesale Operations 800 W. Sixth St., Suite 1800, Los Angeles, Calif. 90017	213-626-1000 Fax: 213-628-8852 *www.gjs.com*	$197,265,797	-6.7%	$22,932,679	5.0%	25.0%	0.0%	50.0%	47.0%	3.0%	149	Gerald J. Sullivan, chairman
9	LoVullo Associates Inc. 6450 Transit Road, Depew, N.Y. 14043	716-856-3065 Fax: 716-857-8057 *www.lovullo.com*	$141,984,000	6.4%	$39,000,000	11.1%	78.0%	0.0%	65.0%	30.0%	5.0%	78	Leonard T. LoVullo, president
10	Insurance House 1904 Leland Drive, Marietta, Ga. 30067	770-952-0080 Fax: 770-952-3274 *www.insurancehouse.com*	$114,000,000	2.7%	$17,816,000	25.3%	31.0%	0.0%	65.0%	30.0%	5.0%	200	Jill Jinks, CEO

*Companies deriving more than 50% of their wholesale premium volume from acting as managing general agent, underwriting manager, and Lloyd's of London coverholder. 1 *BI* estimate.
Source: *BI* estimate
Researched by Kevin Edison and Karen Tucker

Visit *www.businessinsurance.com/directories* for more information and to access the full searchable Directory of Insurance Wholesalers.
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25 YEARS IN BUSINESS

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CRC Insurance Services is proud to celebrate our 25th anniversary. We've built our company on unrivaled service, performance, and expertise. Come to CRC for all of your hard to place accounts in Casualty, Property, and Professional.

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Increased interest in recall coverage linked to recent high-profile events

Brokers see rise in demand, but most companies still go uncovered

By DAVE LENCKUS

A string of high-profile recalls of tainted and defective goods over the past year has heightened interest in product recall insurance but not to the extent that brokers see it as the next sure runaway success for the surplus lines market.

Historically, interest in the coverage largely has been tied to the number of recalls and media interest, brokers say. But some say the rise in demand for product recall coverage is comparable to the 1990s surge in demand for employment practices liability insurance.



LANDOV

Highly publicized toy recalls earlier this year have fueled an upsurge in interest in product recall insurance.

Meanwhile, a spate of recalls—ranging from E. coli-tainted spinach last summer to melamine-contaminated pet food and lead paint-coated toys this year—has not stymied soft conditions in the small market for stand-alone coverage, experts report.

Food companies account for 75% to 90% of the buyers of product recall coverage, which was introduced in the late 1980s after the 1982 Tylenol tampering incident in Chicago. But even most food companies do not purchase it, brokers report.

Since last summer, however, demand has ballooned.

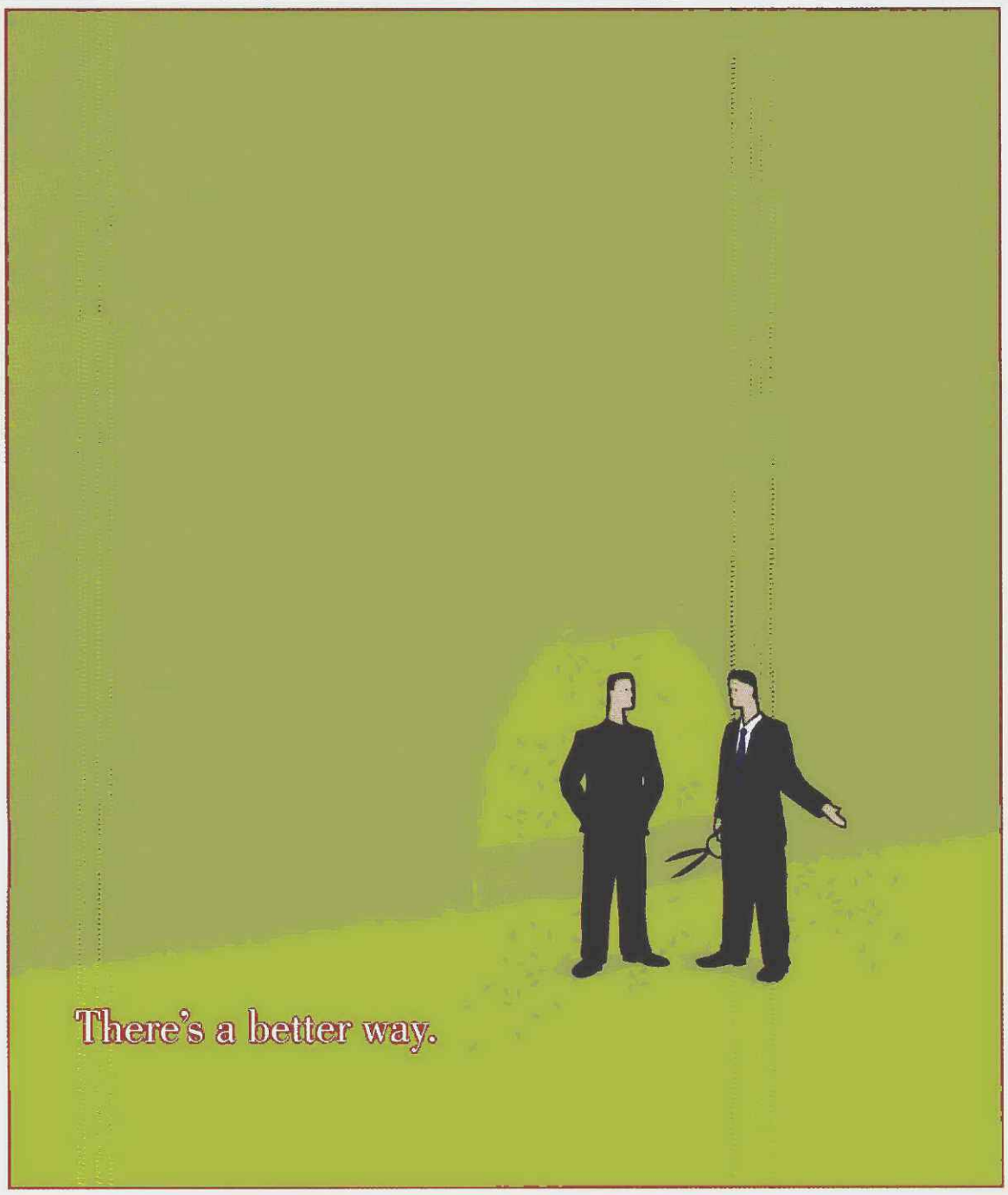
"We certainly have seen a big upswing in inquiries but also new accounts," said Bernhard Steves, a senior vp with Chicago-based wholesale broker and managing general agent Colemont Insurance Brokers. Colemont's product recall client roster has grown by 50% this year, he said.

Other brokers report a similar increase in demand from buyers industrywide, with suppliers of nonfood goods accounting for a large part of that greater demand.

Suppliers demand for the coverage has been fueled by new contractually imposed liability and insurance requirements from their buyers, brokers said.

While EPLI coverage grew slowly after its early 1990s debut in the sur-

Continued on next page



Rehab, consulting services important for recall recovery

While the limits available from stand-alone product recall underwriters in the nonadmitted market far outstrips what is available from general liability underwriters, brokers talk more about the importance of product rehabilitation coverage and the consulting services that surplus lines underwriters provide.

"The most devastating impact of a recall is business interruption—no one wants to buy your product," said Bill Harrison, a Somerset, N.J.-based managing director at Aon Crisis Management, a unit of Aon Corp.

"My understanding is they're taking advantage of those experts," said insurer attorney Joseph F. Bermudez, a Denver-based partner with Cozen O'Connor P.C. and chairman of its food contamination coverage practice area.

And many risk managers like the consulting services, market experts report.

The services "are invaluable," said Bernhard Steves, a senior vp with wholesale broker and managing general agent Colemont Insurance Brokers of Chicago.

Referring to the crisis management consulting the coverage provides in the wake of determining that a product recall is necessary, he said: "If you handle the incident improperly, we can't get enough insurance for you. Getting out the proper message is really more important than anything else."

Buyers cannot comment on their coverage when they opt for malicious tampering coverage. Just as kidnap and ransom insurance companies bar policyholders from disclosing they have purchased the coverage, insurers that write malicious product recall coverage fear that such disclosures would encourage extortion threats.

—By Dave Lenckus

CONTINUED FROM PREVIOUS PAGE

plus lines market, it has become a sought-after coverage as the frequency and severity of losses—particularly related to employment discrimination claims—have mushroomed. Now, admitted markets also write EPLI coverage, which is frequently bundled with directors and officers liability insurance.

Analogy to EPLI

Some brokers likened the evolution of the product recall insurance market to the EPLI market.

"The analogy to EPL is very apt," Mr. Steves said. Product recall coverage is gaining buyer acceptance in different industries, and insurers are customizing policies to the needs of each industry, he said.

Plus, intensifying media interest in product recalls will continue to stoke buyer interest in the coverage, Mr. Steves predicted.

"I do, I guess, see the comparison" between the evolution of the two insurance products, said Chris Martin, a casualty broker with wholesale broker Swett & Crawford Group in Chicago.

While acknowledging that demand even from food companies remains light, Mr. Martin said: "It may be too early to say if most will, but I think eventually more than not will buy the coverage."

Other market experts said they were not sure that stand-alone product recall coverage would emerge as a mainstream insurance product.

The popularity of recall or product contamination insurance comes in waves every time a large number of recalls occurs, said Bill Harrison, a Somerset, N.J.-based managing director at Aon Crisis Management, a unit of Aon Corp.

More companies are investigating the coverage. "Sometimes they bite, and sometimes they don't," he said.

'Product recall coverage is gaining buyer acceptance in different industries.'

Bernhard Steves,
Colemont Insurance Brokers.

"It's hard to say" whether product recall will follow the same path as EPLI, said Julie Ross, vp-product contamination with Marsh Ltd. in London.

"As long as the press activity continues, it will drive companies to purchase it," Ms. Ross said.

Only a handful of underwriters offer product recall coverage, including some Lloyd's of London syndicates, a few Bermuda-based insurers and New York-based American International Group Inc., which also writes the coverage on a nonadmitted basis, brokers say.

The coverage also is available as a sublimit under commercial general liability insurance policies from admitted insurers. But CGL coverage is much narrower, and the available sublimits typically range from $50,000 to $100,000 compared with $100 million to $300 million of limits that stand-alone polices offer.

Both stand-alone and CGL polices cover a policyholder's cost of communicating that a product is defective as well as warehousing and shipping the product.

But stand-alone policies also cover replacement costs of products that no longer can be sold, up to 12 months of lost profits related to defective products, the cost of rehabilitating a product's brand, and some risk management and crisis management consulting expenses. The stand-alone market also allows policyholders to select coverage for accidental product defects, malicious tampering or both.

Plus, underwriters of the stand-alone coverage have beefed up the policies in the past 12 months by adding third-party recall and loss-of-profits coverage, according to brokers. The additional coverage is attractive to suppliers, which increasingly must provide contractual financial guarantees that they will cover their buyers' costs as a result of a recall, brokers say.

Still, the coverage is not as broad as it was during the 1990s, when losses forced the market to tighten, according to Marsh's Ms. Ross. For example, unlike current policies, the coverage at that time would cover the recall of a product that was defective but had no potential to cause any bodily injury or property damage, she said.

While the product recall market is relatively soft, insurers have not allowed their underwriting to slide, according to brokers.

"I think the underwriters are looking at more things than they used to," Swett & Crawford's Mr. Martin said.

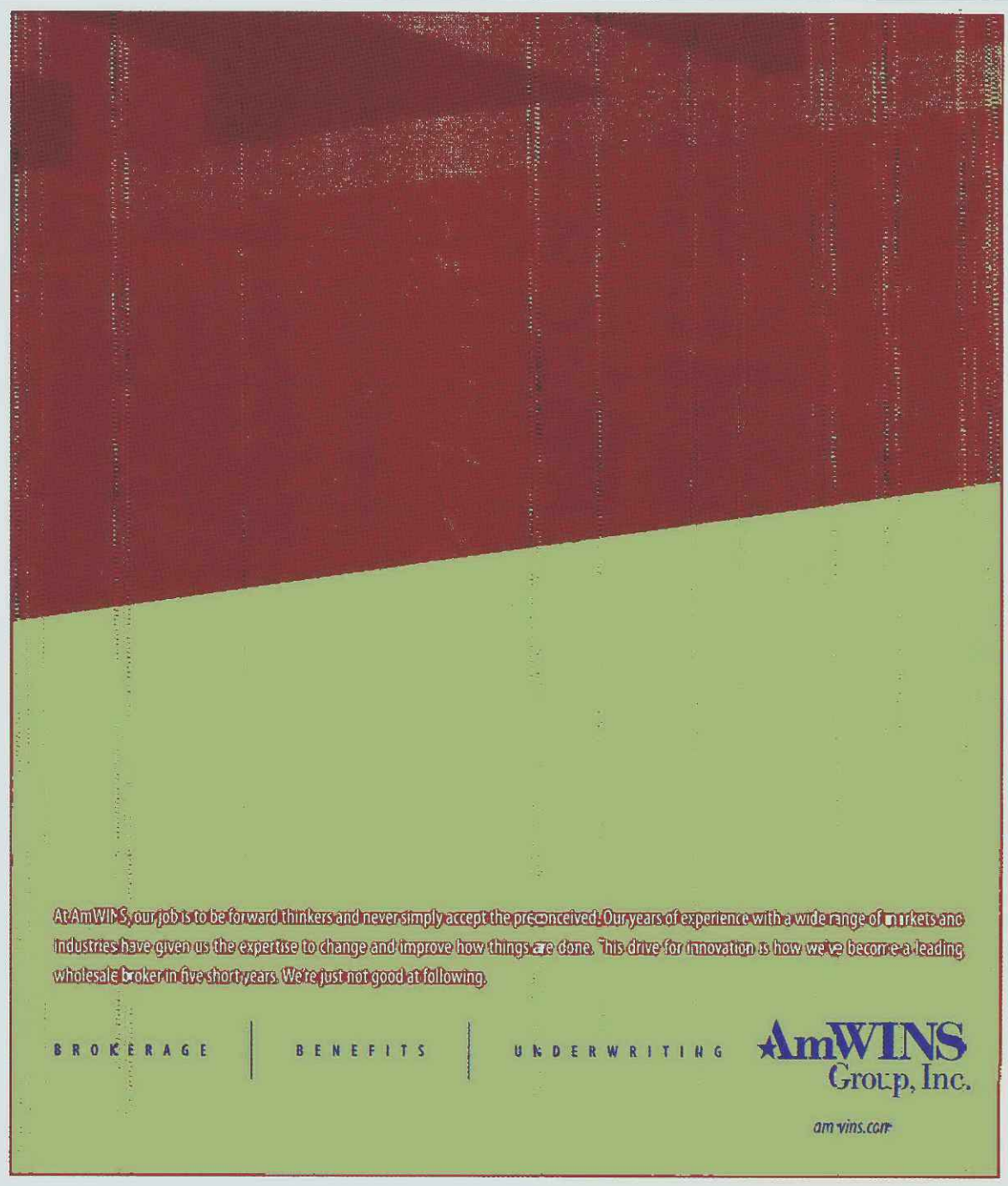
Insurers want to make certain that policyholders have established quality assurance processes for their products and have hold-harmless agreements in their contracts with suppliers, brokers said.

So, insurers will not necessarily impose higher rates on companies with good quality assurance systems, even if those companies work with suppliers in China, Marsh's Ms. Ross said.



AP PHOTOS

Even though food companies account for 75% to 90% of the buyers of product recall coverage, the majority of companies do not purchase it.



Surplus lines premiums and taxes by state

	Gross surplus lines premium written			Percent Change		Surplus lines taxes collected			
State	2006	2005	2004	2005-2006	2004-2006	2006	2005	2004	Tax rate
Alabama [1]	$451,530,667 [2]	$445,746,000 [2]	$406,991,433 [2]	1.3%	10.9%	$27,091,840	$26,744,760	$24,419,486	6.0%
Alaska	102,172,010	103,996,208	86,653,822	-1.8	17.9	2,336,754	2,413,186	1,746,501	2.7
Arizona	568,661,085	575,388,342	509,184,668	-1.2	11.7	17,040,032	17,261,650	15,379,570	3.0
Arkansas [3]	231,123,111	201,859,745	184,392,693 [4]	14.5	25.3	9,244,924	8,074,390	7,375,693 [4]	4.0
California	7,245,191,416	6,423,082,782	6,542,147,725	12.8	10.7	187,456,876	168,673,514	167,183,075	3.0
Colorado	508,831,342	503,030,140 [5]	497,584,265	1.2	2.3	15,525,724	15,340,834	15,160,057	3.0
Connecticut	343,269,576	342,533,152	312,783,484	0.2	9.7	13,202,676	13,174,352	12,030,134	4.0
Delaware	69,555,579	92,689,683	73,810,093	-25.0	-5.8	1,391,112	1,856,719	1,476,202	2.0
District of Columbia [1]	140,411,550	154,855,058	178,630,423	-9.3	-21.4	2,808,231	2,632,536	3,077,593	2.0
Florida	4,567,682,045	3,467,239,050	2,747,919,356	31.7	66.2	205,739,594	160,641,155	125,464,271	5.0
Georgia [3]	942,684,870	895,643,175	852,746,750	5.3	10.5	37,707,394	35,825,726	34,109,870	4.0
Hawaii	323,215,121 [6]	233,981,170 [6]	198,509,751 [6]	38.1	62.8	15,126,468	10,948,720	9,294,008	4.68
Idaho	74,485,837	81,022,035	70,201,277	-8.1	6.1	2,097,486	2,040,562	1,821,783	2.75
Illinois	918,477,742	1,016,395,632	1,012,483,750	-9.6	-9.3	32,166,151	35,577,662	35,440,099	3.5
Indiana	371,996,109	409,581,452	375,323,146	-9.2	-0.9	9,299,903	10,239,536	9,383,079	2.5
Iowa	163,006,640	134,327,940	131,528,643	21.3	23.9	2,037,583	2,014,919	2,301,751	1.25
Kansas	155,422,120	170,585,763	152,743,375	-8.9	1.8	9,338,004	10,481,866	9,497,768	6.0
Kentucky	172,487,709	168,339,118 [4]	152,622,801 [4]	2.5	13.0	5,251,389	5,144,899	4,544,989	3.0
Louisiana	1,216,561,799	882,190,525	840,477,720 [4]	37.9	44.7	60,828,090	44,109,526	42,023,886 [4]	5.0
Maine	70,753,336	73,296,943 [4]	68,738,259	-3.5	2.9	1,950,277	2,016,163	1,889,611	3.0
Maryland	439,263,980	434,889,000	395,981,938	1.0	10.9	13,174,919	13,046,628	11,873,458	3.0
Massachusetts	750,927,907	760,792,604	767,642,863	-1.3	-2.2	27,577,916	28,115,151	28,345,609	4.0
Michigan [1]	721,487,485	715,567,116	683,621,656	0.8	5.5	17,918,515	17,581,213	17,898,108	2.5
Minnesota	361,736,603	392,730,267	377,566,333	-7.9	-4.2	10,852,098	11,781,923	11,326,990	3.0
Mississippi	346,124,602	263,329,614	264,177,156	31.4	31.0	13,844,009	10,532,527	10,566,888	4.0
Missouri [3]	504,277,809	461,035,990 [4]	472,048,703 [4]	9.4	6.8	24,287,252	22,227,451	24,596,483	5.0
Montana	58,032,705	64,932,129	47,584,379	-10.6	22.0	1,604,037	1,997,423	1,908,585	2.75
Nebraska	96,543,856	92,141,171	92,163,633	4.8	4.8	2,892,931	2,764,235	2,764,909	3.0
Nevada	443,921,611	370,018,174	336,217,740 [4]	20.0	32.0	15,537,292	12,950,663	12,043,760 [4]	3.5
New Hampshire	76,017,900	102,917,482	80,254,867	-26.1	-5.3	1,787,011	2,058,925	1,605,098	2.0
New Jersey	1,252,113,734	1,197,282,785	1,204,845,857	4.6	3.9	36,871,781	35,526,829	35,021,639	3.0
New Mexico [3]	91,627,155	81,341,786 [4]	90,892,482 [4]	12.6	0.8	2,560,869	2,525,186 [4]	2,559,531 [4]	3.003 [7]
New York	4,661,146,925	5,202,372,438	3,905,706,554	-10.4	19.3	94,396,410	99,670,251	93,953,772	3.6
North Carolina	508,249,065	516,807,631	496,474,709	-1.7	2.4	25,389,360	25,842,686	24,852,938	5.0
North Dakota	33,056,680	36,222,949	30,843,557	-8.7	7.2	578,536	633,919	539,812	1.75
Ohio [3]	202,262,453	430,334,745	551,508,331	-53.0	-63.3	27,419,179	12,076,886	8,129,123	5.0
Oklahoma	333,761,067	319,526,400	304,275,767 [4]	4.5	9.7	20,025,664	19,171,584	18,256,596 [4]	6.0
Oregon	320,800,101	289,169,707	257,090,552	10.9	24.8	6,416,002	5,783,394 [4]	5,141,811	2.0 [8]
Pennsylvania	1,023,614,979 [9]	987,736,270 [9]	1,185,757,000 [9,10]	3.6	-13.7	26,402,000	23,420,000	25,968,090 [10]	3.0
Rhode Island	70,480,500	71,794,062	76,957,466	-1.8	-8.4	2,114,415	2,153,822	2,308,726	3.0
South Carolina	573,454,293	412,680,977	389,533,050	39.0	47.2	22,938,166	16,507,235	15,581,323	4.0
South Dakota	35,087,568	38,702,132	45,127,696	-9.3	-22.2	877,189	967,553	1,128,192	2.5
Tennessee	471,747,480 [2]	270,373,000 [2]	298,450,000 [2]	74.5	58.1	12,612,474	11,314,281	12,226,772	2.5 [11]
Texas	4,675,581,647	3,860,649,387 [4]	3,881,019,276 [4]	21.1	20.5	163,745,314	146,246,324	154,573,555	4.85
Utah	162,393,456	147,809,055	146,245,111	9.9	11.0	6,901,722	6,281,885	6,215,417	4.25
Vermont [12]	37,913,016	41,919,438	38,173,706	-9.6	-0.7	1,137,390	1,257,583	1,145,211 [10]	3.0
Virginia	610,770,223	634,472,929	684,693,630	-3.7	-10.8	14,180,202	13,759,440	14,256,074	2.25
Washington	678,587,399	740,466,877 [4]	712,382,187 [4]	-8.4	-4.7	13,571,750	14,809,339	14,247,644	2.0
West Virginia	146,936,094	140,307,224	139,249,875	4.7	5.5	5,525,082	5,219,050	5,135,375	4.0
Wisconsin	297,051,583	248,758,333	328,196,368	19.4	-9.5	8,911,547	7,462,750	9,845,891	3.0 [13]
Wyoming	54,316,403	42,548,643	34,599,082	27.7	57.0	1,557,061	1,215,809	993,678	3.0
Totals	**$38,676,805,943**	**$35,745,414,228**	**$33,714,754,958**	**8.2%**	**14.7%**	**$1,281,248,601**	**$1,150,114,620**	**$1,098,630,484**	

1 Fiscal year ending 9/30. 2 Estimated. 3 Fiscal year ending 6/30. 4 Numbers revised following new information. 5 Includes surplus lines taxes paid directly to state of Colorado under self procured policies. 6 Net surplus lines premiums written. 7 3.003% effective as of July 1, 2003. 8 Plus 1% on premium subject to fire marshal tax. 9 Includes premiums for independently procured insurance. 10 BI estimate. 11 3.25% on fire and 4.4% on excess workers compensation. 12 Gross surplus lines premiums reported to the department and multiplied by the 3% tax equals surplus lines taxes. 13 0.5% on ocean marine premiums.

Source: *BI* survey

Researched by Karen Tucker

Competition heats up among admitted, surplus lines insurers

By STEVEN TUCKEY

As insurance rates continue to fall, more and more insurers in the admitted market are competing for business that they had left to surplus lines insurers in the hard market.

Previously hard-to-place catastrophe coverages, for example, are increasingly being written by admitted market insurers, experts say.

With softening price trends not expected to end anytime soon, surplus lines insurers likely will see more competition from the admitted market.

But while competition is heating up, it has not yet reached the level of soft markets during the 1990s, observers say. Regardless of price, surplus lines insurers still have expertise that is not easy to find in the admitted market.

'When the standards get the rate increases approved and revenue costs modify, business flows back.'

Alan J. Kaufman, Burns & Wilcox Ltd.

As executive director, Richard Bouhan has headed the National Assn. of Professional Surplus Lines Offices for more than two decades and sees nothing surprising about current market conditions.

"That is one of the general definitions of a softening market," Mr. Bouhan said. "The admitted market will take the business back that went to the surplus lines market as it hardened."

In recent years, property coverage in catastrophe-prone regions has more frequently been written by surplus lines insurers as prices soared and capacity contracted after the chain of destructive hurricanes in 2005, observers say.

Admitted market insurers were hit with sharply higher reinsurance costs, which they could not recoup through premium hikes, so they often withdrew and surplus lines insurers were able to step in and offer coverage, said Alan J. Kaufman, president, chairman and chief executive officer of the Farmington Hills, Mich.-based wholesale brokerage and managing general agent Burns & Wilcox Ltd.

"When the standards get the rate increases approved and revenue costs modify, business flows back," Mr. Kaufman said.

And property insurance costs have fallen significantly over the past year, said Kevin Westrope, president and CEO of Kansas City, Mo.-based wholesale brokerage Westrope.

"We are experiencing tremendous price erosion for catastrophe perils," Mr. Westrope said.

Admitted insurers now offer catastrophe coverage in high-risk areas as part of an account approach covering multiple properties to acquire business. "Such an approach represents a significant departure from as recently as eight months ago," he said.

Frank Mastowski, president of the Montvale, N.J.-based Jimcor Agencies, said those insurers that remain wary of coastal risks will write policies in inner city areas "where property and liability exposures exist but have less cat exposure" at prices that are "well below surplus lines."

"Also as pricing decreases, admitted markets need to make budget by writing more exposed business to maintain their cash flow," Mr. Mastowski said.

Rate decreases are not yet as severe as they were in previous soft markets, said Richard Kerr, chairman and CEO of Dallas-based insurance exchange MarketScout.

Still, as the admitted market becomes more interested in certain areas, it is often difficult for nonadmitted insurers to compete.

"In our side of the business, most of the producers, if they can place it with an admitted market and get the full commission, they will do so," NAPSLO's Mr. Bouhan said.

But surplus lines insurers do offer knowledge and expertise that may not be found in the admitted market, said Jim DeSimone, who is senior vp of the New York-based specialty casualty unit of Zurich Financial Services Group.

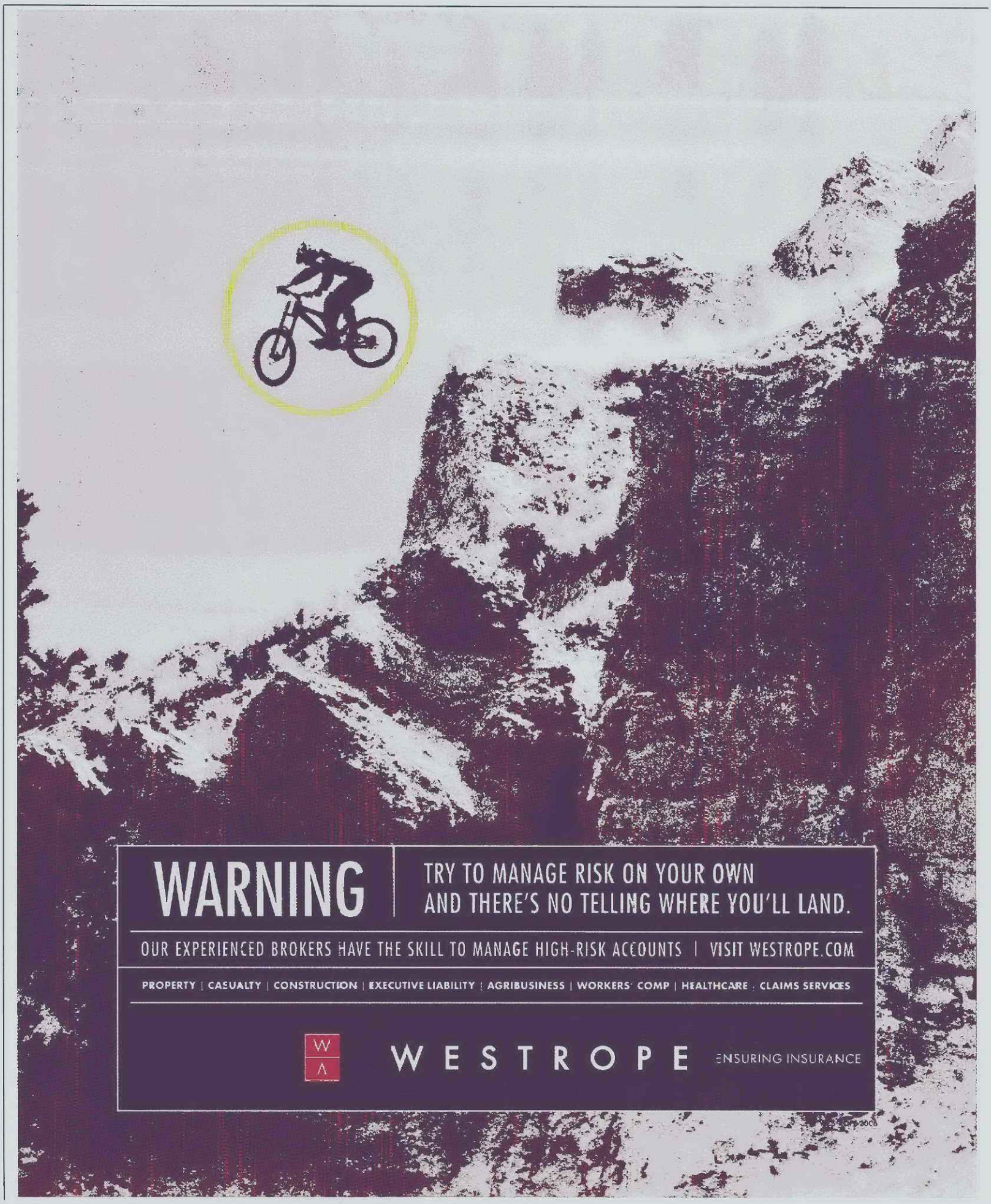
"It is up to (specialty insurers) to express to the wholesale broker and ultimately the insured, that we have a higher level of expertise in this business because this is what we focus on," Mr. DeSimone said.

In addition, surplus lines insurers can offer specialized claims handling services and networks of attorneys dealing with certain risks, Mr. DeSimone said.

To stay ahead of their rivals in the admitted market, surplus lines insurers have to concentrate on innovative coverages, said Mr. Kaufman of Burns & Wilcox.

When surplus lines insurers offer innovative coverage, such as employment practices liability insurance, they enjoy a monopoly but only for a limited time, he said.

"Many standard markets have (surplus lines) subsidiaries and see the success of these new coverages," Mr. Kaufman said. "Eventually, the standard markets will see the profitability and write coverages themselves as admitted markets."



Weight: Low-cost contest gets big results

CONTINUED FROM PAGE 30

heart disease.

Of the 69 employees on BGF weight loss competition teams, 77% shed an average 4.49% of their weight, Ms. Legendre Stop said. For employees that competed as individuals, more than 61% shed an average of 1.83% of their weight. Although some participants actually gained weight, the average weight loss per participant was nearly 8 pounds.

Teams, which consisted of two to five members, probably lost more weight because members confronted each other for behavior that might set back their combined effort. Each member's weight counted in the final tally except those who had left the company or taken medical leave.

Weigh-ins were held every two weeks, allowing the company's nurse practitioner to regularly examine contestants.

Weight loss was measured as a percentage of total weight, rather than in pounds, to eliminate differences between men and women and between larger and smaller people.

Cash prizes included $300 for each 1st place team member, $200 for second place and $100 for third. BGF also provided prizes throughout the contest, including monthly drawings for $25 gift certificates for employees who attended a required number of weigh-ins.

The total cost was minimal and didn't even require hiring consultants, said Ms. Legendre Stop, noting that small changes can make a big difference.

To help sustain the weight loss, Ms. Legendre Stop said the North Carolina textile manufacturer already is planning next year's contest.

Intel clinics chip away worker health delusions

Expert advice used to boost employee wellness

By ROBERTO CENICEROS

SEATTLE—To help its employees better understand and maintain their health, Intel Corp. opened onsite clinics last year as part of a broadening of its health assessment and wellness efforts.

The Santa Clara, Calif.-based technology manufacturer also wanted to help the 60% of its employees whose health care costs are less than $5,000 annually to avoid becoming part of the less healthy 1% that account for more than $50,000 each in annual costs.

Intel was spending more than $50 million annually caring for the latter group, said Steven Lensing, Intel's benefits program manager for global benefits design.

The company's first step was to try to better understand the current health status of its employees, Mr. Lensing said during a presentation at the International Society of Certified Employee Benefit Specialists' recent annual symposium in Seattle.

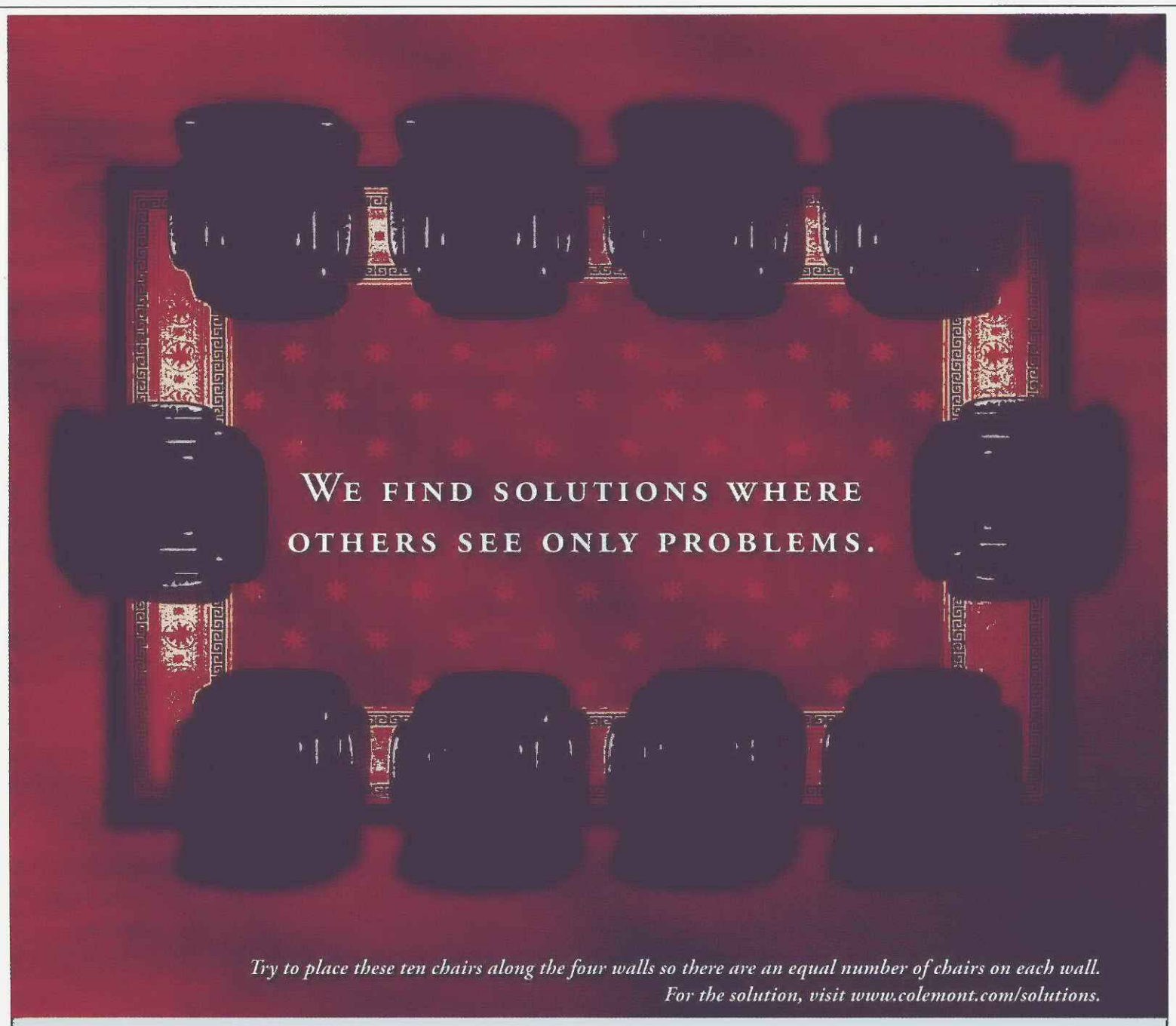
Intel since 2001 offered a health risk assessment, Mr. Lensing said. However, only about 4,000 of the company's 45,000 U.S. employees annually took the health risk assessment. Additionally, the assessment relied on self-reported data, asking employees about such things as their cholesterol, blood-sugar levels and overall health concerns, Mr. Lensing said.

According to the health risk assessment, 93% of Intel's employees believed their health status was good or better, with 45% ranking their health as "excellent."

But such self-assessments didn't match other information about Intel employees, Mr. Lensing said.

For example, data collected in a

Continued on next page



Try to place these ten chairs along the four walls so there are an equal number of chairs on each wall.
For the solution, visit www.colemont.com/solutions.

Does your broker have a seat at the right table? When it comes to placing the tough accounts who you know can be just as important as what you know. As one of America's largest wholesale specialty lines insurance brokers, we have the right relationships with the right people to obtain coverage for just about any kind or size of risk. So let our brokers pull up a chair, roll up their sleeves, and design an insurance solution that works for you.

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ISCEBS draws 450 to Seattle

SEATTLE—About 450 people attended the International Society of Certified Benefit Specialists' Employee Benefits Symposium 2007, which was held Sept. 16-19 in Seattle.

Benefit managers and providers presented case studies and delivered presentations on issues such as pension protection, absence management and reducing health care costs.

Next year's symposium will be held Sept. 21-24, 2008, at Walt Disney Co.'s Yacht & Beach Club Resorts in Lake Buena Vista, Fla. The deadline for submitting presentations for next year's event is Jan. 22, 2008.

For more information, call 262-786-8771 or visit the ISCEBS' Web site at *www.iscebs.org*.

—By Roberto Ceniceros

CONTINUED FROM PREVIOUS PAGE

2006 pilot study that invited 300 Intel workers to participate in a screening found that blood-pressure levels were much higher than employees estimated in their health risk assessments. The pilot also revealed that cholesterol and blood-sugar levels were three to four times higher on average than employees thought.

"They may understand computer chips, but they don't understand themselves or their own health," Mr. Lensing said. "So we wanted to provide data to help them understand their health."

After conducting a study that showed a substantial return on investment within three years from onsite wellness centers and after securing upper management support, Intel's benefits department opened clinics in at least seven of its major U.S. locations.

'They may understand computer chips, but they don't understand themselves or their own health. So we wanted to provide data to help them understand their health.'

Steven Lensing, Intel Corp.

Phlebotomists and health coaches staff the clinics, at which employees can schedule a 20-minute appointment to have blood drawn and receive measurements of health indicators such as their weight and body fat.

Within 24 to 48 hours, employees receive an e-mail with a link to the results. Then, in the second step, participating employees complete a health risk assessment. In the third step, they can meet with a health coach to discuss potential behavioral changes to improve their health.

Participants receive a $25 American Express gift card when they have their blood drawn and a second one when they meet with a health coach.

Surprising completion rate

A year after the program's launch, more than 14,000 employees have participated in the health risk assessment. "And every single one of them (has) hard, factual data," Mr. Lensing said.

Of the employees who complete the first step, 95% complete all three steps, he added.

"That was a shock to us," Mr. Lensing said. "We estimated only half of them would take the time because, of course, this is a 'very healthy' group of people that (think they) are in 'excellent health.'"

One key to the successful launch included obtaining upper management's support, Mr. Lensing said. To do that, the benefits department found a senior vp "to be our champion of the cause with his colleagues."

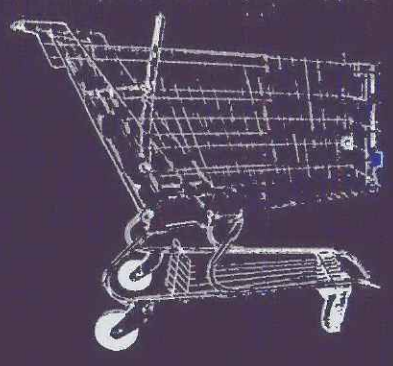
The senior vp helped the department shape the business case to use when approaching the company's president and its chief financial officer, Mr. Lensing said.

Before offering the wellness program to Intel's entire U.S. employee population, the benefits department offered it to about 1,000 employees and then solicited their feedback on its convenience.

Communications to employees, which included posters, stressed how quick, private and convenient that participation in the program would be.

Intel is now considering extending the program globally and already has approval for operating facilities in Costa Rica and Malaysia in January, Mr. Lensing said.

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D&O: Claims frequency, severity to increase against Canadian firms

CONTINUED FROM PAGE 4

panies not listed on U.S. stock exchanges that have market capitalization below $100 million Canadian ($99.1 million) (see story, page 35).

"You're going to see an upswing in both frequency and severity" in claims against companies listed only in Canada that have market capitalization of less than $100 million Canadian, Mr. Solway said.

Canadian companies with greater market capitalization are often listed on U.S. stock exchanges and already resemble U.S. companies in exposure to securities claims, he said.

Several major Canadian companies trading on U.S. stock exchanges have settled securities claims filed against them. Toronto-based communications equipment provider Nortel Networks Corp. last year agreed to pay more than $800 million, $228.5 million of which was paid by D&O liability insurers, to settle securities claims in the United States and Canada.

"Those organizations, I think, by and large, have already experienced the frequency and severity that defines the U.S. market," Mr. Solway said.

In addition to Bill 198-related claims, a ruling from the Supreme Court of Canada may affect the frequency and severity of D&O claims in Canada, according to Garth Pepper, a principal and national leader of the management risk practice for Integro (Canada) Ltd. in Toronto.

The Supreme Court's opinion could 'severely support or test' the business judgement issue.

Garth Pepper, Integro (Canada) Ltd.

The Supreme Court is considering an appeal of an Ontario Court of Appeal ruling in *Douglas Kerr vs. Danier Leather Inc.* that overturned a lower court decision. The lower court significantly expanded financial disclosure requirements for Canadian companies and failed to give deference to the business judgment of directors and officers, leaving them vulnerable to lawsuits (*BI*, Jan. 2, 2006).

The Supreme Court's opinion could "severely support or test" the business judgment issue, Mr. Pepper said.

Despite the risks, Canadian D&O rates have declined amid an abundance of capacity in the market, said Darin Scanzano, senior vp, specialty casualty division for Liberty International Underwriters in Toronto.

"There's no doubt about it," Mr. Scanzano said. "There's an oversupply of capacity right now."

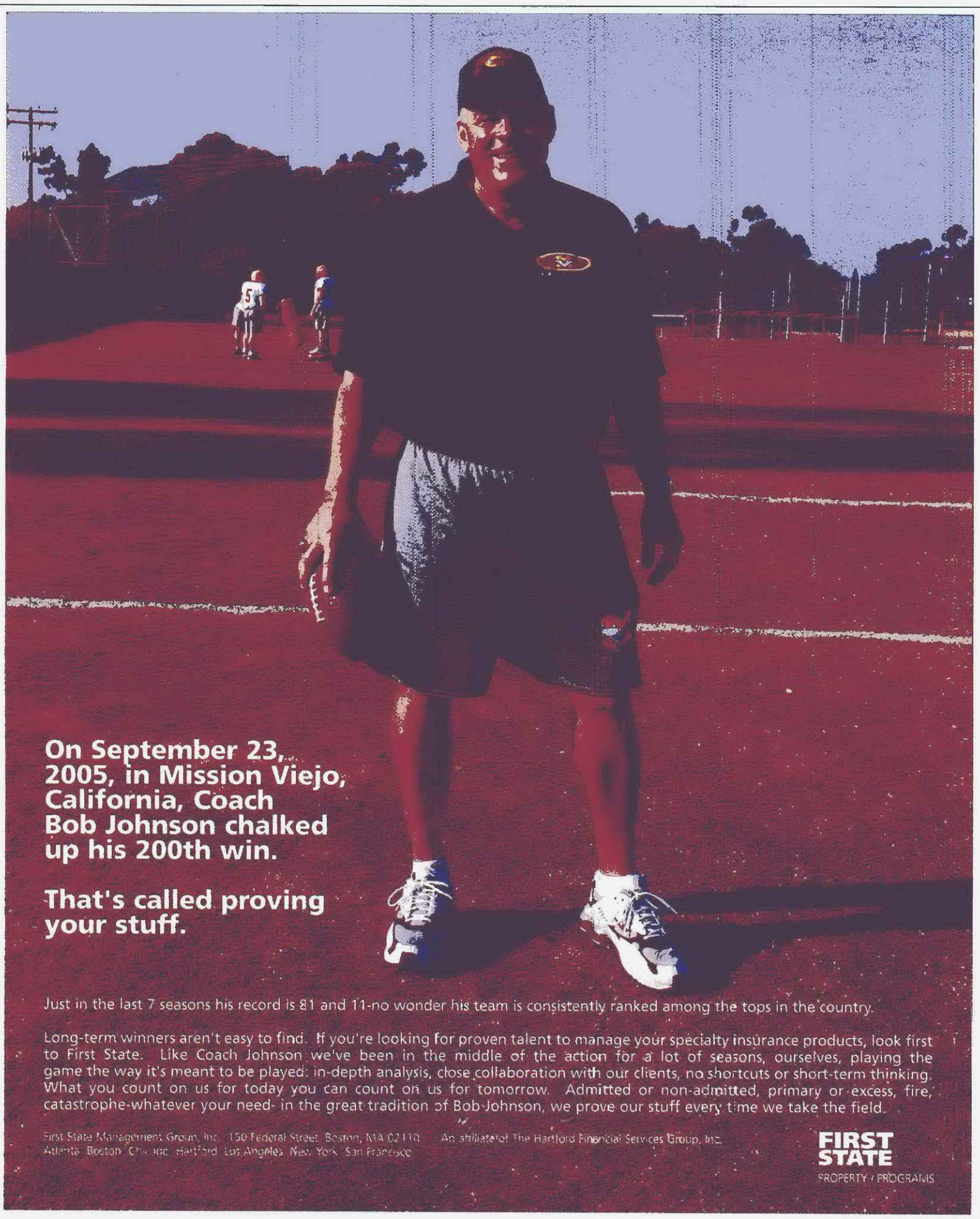
Policyholders with multiple layers, though, need to pay careful attention to their D&O renewals as "consistency of coverage" is becoming an industry issue, Mr. Pepper said.

While excess insurers previously may have simply followed a primary D&O insurer's form, excess policies now often have major differences in wording. That could permit excess insurers to exclude coverage, such as different requirements for reporting claims and different presumptive indemnification provisions, Mr. Pepper said.

"There's a real need to really understand how these excess layers apply in the program," he said. "They're not all just straight follow-form wordings."

The expected increase in frequency and severity of claims and problems inherent in traditional D&O policies have led to development of new or enhanced D&O policies such as Side A difference-in-conditions coverage that could address some of the deficiencies, the insurers and the broker said.

In 10 years, the market may even see separate policies for directors and for officers because independent directors are probably the "least in the know," yet often are accused of participating in fraud, Mr. Solway said. Director-only coverage would be better because directors are viewed by underwriters as being a "better risk" than officers, he said.



RIMS Canada draws 650 to Halifax

HALIFAX, Nova Scotia—More than 650 people attended the 32nd RIMS Canada Conference Sept. 17-19 in Halifax, Nova Scotia.

The conference, which was sponsored by the Canadian arm of the Risk & Insurance Management Society Inc., featured sessions on executive risk insurance, commercial general liability insurance and other claims issues. Sessions also addressed enterprise risk management, pandemics and terrorism risks.

Next year's conference will be held Sept. 21-24, 2008, in Toronto.

—By Gloria Gonzalez

Increase in D&O claims expected

Directors and officers liability insurers in Canada are preparing for increased claims under Ontario's amended securities law amid the recent filing of several lawsuits.

A sharp rise in securities claims was expected after the law, known as Bill 198, went into effect on Dec. 31, 2005. However, Mississauga, Ontario-based IMAX Corp. was the only company to face class action lawsuits alleging misrepresentation of its 2005 earnings in the law's first year.

The conditions now exist for an increase in claims, observers say. That includes tapping the expertise of lawyers involved in class action lawsuits in the United States, recent investor losses, and limited regulatory oversight of corporate disclosures in Canada that has led to lax policies and procedures.

"The brief message to the D&O market is that the party is over in Canada," said Dimitri Lascaris, a partner in the class action department of Siskinds L.L.P., a London, Ontario-based firm that filed four Bill 198 lawsuits on behalf of investors last year and this year.

In recent months, three more companies were named in Bill 198-based lawsuits. Two claims involve Canadian companies with shares listed only on domestic stock exchanges, which are vulnerable to such litigation, experts say.

"Companies only listed in Canada are less rigorous in their disclosure policies," Mr. Lascaris said.

A July lawsuit filed against Vancouver, British Columbia-based Southwestern Resources Corp. alleges that the company and former Chief Executive Officer John Paterson negligently or recklessly made materially false or misleading statements related to a China mining project. It seeks $320 million Canadian ($319.7 million) in general, special and punitive damages.

Also in July, a suit was filed against Edmonton, Alberta-based CV Technologies and executives alleging that they made untrue, inaccurate or misleading statements related to the U.S. sale of one of its products. The lawsuit seeks $110 million Canadian ($109.9 million) in damages.

—By Gloria Gonzalez

Supply: Scrutinize risks from recalls to shutdowns

CONTINUED FROM PAGE 4

culprits? You'd better understand where those products are coming from, even if they're two steps removed," Mr. Osselton said.

Such recalls may change how boards of directors look at quality problems in China, but risk managers need to develop plans to handle the risks associated with outsourcing production, because China's manufacturing is cost-effective, he said.

"China is here to stay from a manufacturing perspective," Mr. Osselton said. Companies "have to factor in the risks."

Managing supply chain exposures requires risk managers to take steps that include mapping the company's supply chain and identifying and prioritizing suppliers that are critical to the continued operation of the company's business, Mr. Osselton said.

Too often, risk managers "just don't know where several of these bottlenecks exist," he said.

Risk managers should examine the exposures and contingency planning of key suppliers to determine whether they can withstand risks or if exposures could cause a disruption affecting the risk manager's business, Mr. Osselton said.

For example, infrastructure risks are often the highest priority for senior management of Asian companies, but a sizable number of executives said they were not satisfied with their company's ability to maintain business continuity in the event of an infrastructure failure, according to a Marsh study last year. Fifty-six percent of respondents said they had effective continuity plans to deal with a power supply disruption, while 44% said their power supply disruption plans needed work.

'China is here to stay from a manufacturing perspective.' Companies 'have to factor in the risks.'

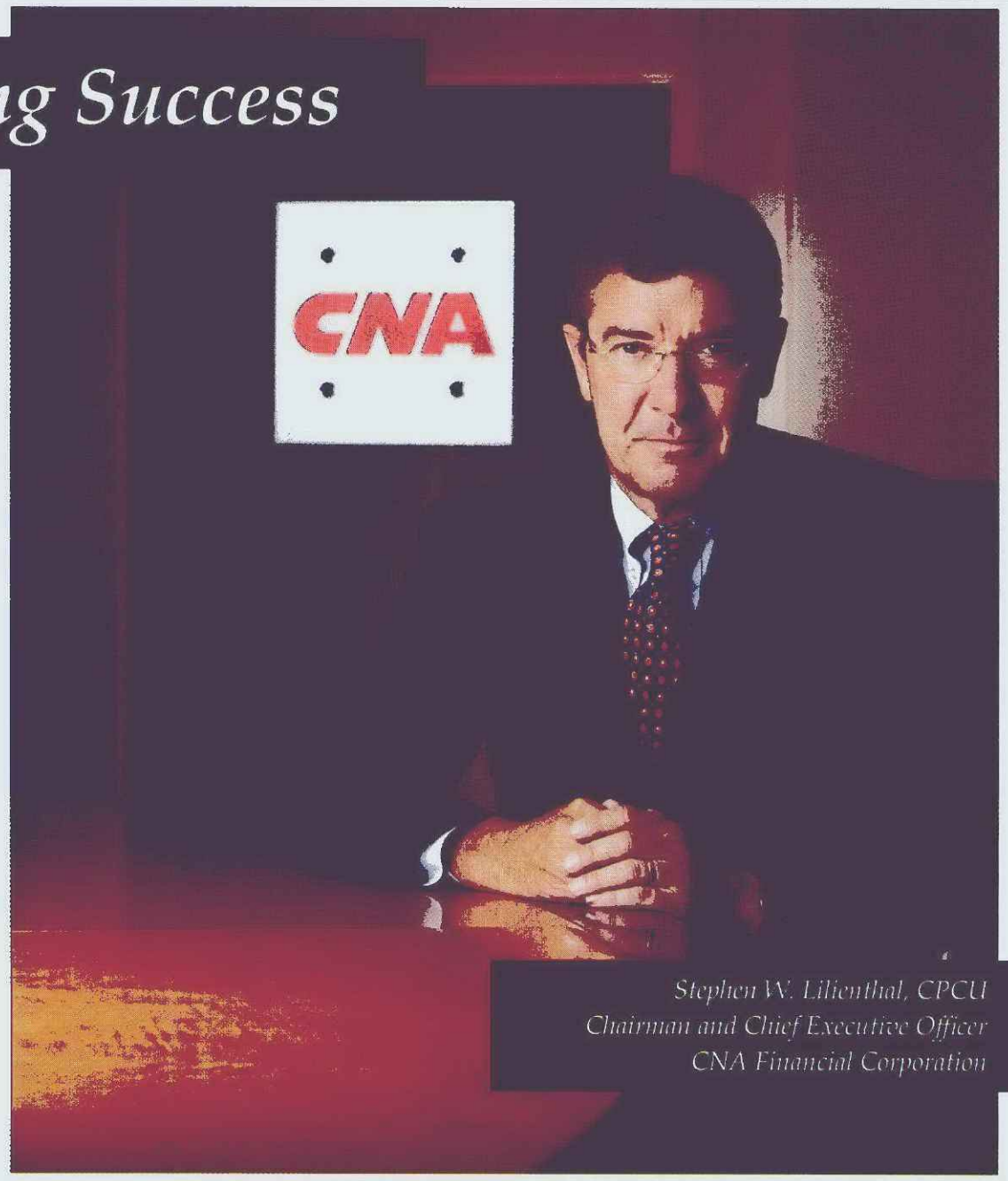
Steve Osselton, Marsh Canada Ltd.

Risk managers should implement a system to manage and track potential disruptions, Mr. Osselton said.

Alcan Inc., for example, has a

See **SUPPLY** next page

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Supply: Investigate partners thoroughly

CONTINUED FROM PREVIOUS PAGE

database listing of all its business units with employee contact details, to quickly gather and report information about any incidents, said Gilles Lavoie, senior security adviser, program development, for the Montreal-based producer of aluminum and packaging materials.

To ensure the resilience of its business operations, every Alcan unit must have an emergency response plan to handle every possible disaster situation, and the company asks the same of its business partners, he said.

For example, the company has a pandemic response plan that covers everything from screening measures to stockpiling medical supplies to telecommuting and foreign travel policies.

"We have a very detailed avian influenza program," Mr. Lavoie said.

Background checks

The company's supply chain risk management process also includes due diligence investigations when Alcan considers buying or entering into business partnerships with a company, Mr. Lavoie said.

The corporate security department conducts background checks on executives of companies, including criminal, financial and sometimes even lifestyle habits to determine if potential business partners are living beyond their means, he said. The department also conducts thorough investigations of business partners when dealing with intellectual property issues, he said.

The risk management process should include constant monitoring of suppliers, even after business agreements are finalized. Alcan's contracts with business partners give it the right to conduct unannounced inspections, which it does regularly. Mr. Lavoie encouraged risk managers to do the same.

Capacity not available for megacatastrophes

By GLORIA GONZALEZ

HALIFAX, Nova Scotia—The insurance industry has withstood catastrophic events such as the hurricanes of 2004 and 2005, but it does not have sufficient capacity to withstand a megacatastrophe, such as a tsunami hitting a major U.S. city.

Climate change is increasing the probability of such catastrophic events, and while the events themselves may not be preventable, potential losses can be managed, insurers told attendees of the 32nd RIMS Canada Conference, which was held Sept. 17-19 by the Canadian arm of the Risk & Insurance Management Society Inc.

The 2004 and 2005 hurricanes were significant events, but they "did not bring the industry to its knees," said Urs Uhlmann, senior vp for Zurich Canada in Toronto.

The key risk for the industry is a catastrophic event that cannot be modeled, such as a tsunami hitting New York, which would affect property, workers compensation and life insurance coverage, he said. The industry does not have sufficient capacity to sustain such an event, he said.

If such a catastrophic event did happen, some insurers may be unable to pay claims and risk managers need to be aware of that possibility, insurers say.

'When you have infinite risk and finite capital, (the industry) needs help. The industry cannot survive that.'

Kristian Moor,
National Union Fire Insurance Co.

"When you have infinite risk and finite capital, (the industry) needs help," said Kristian Moor, New York-based president of National Union Fire Insurance Co. of Pittsburgh, Pa. "The industry cannot survive that."

Events that cannot be modeled are the ones that could potentially have the most damaging effect on the sustainability of the insurance industry, said Lloyd's of London Chief Executive Richard Ward in London. "That's what's going to really worry us," he said.

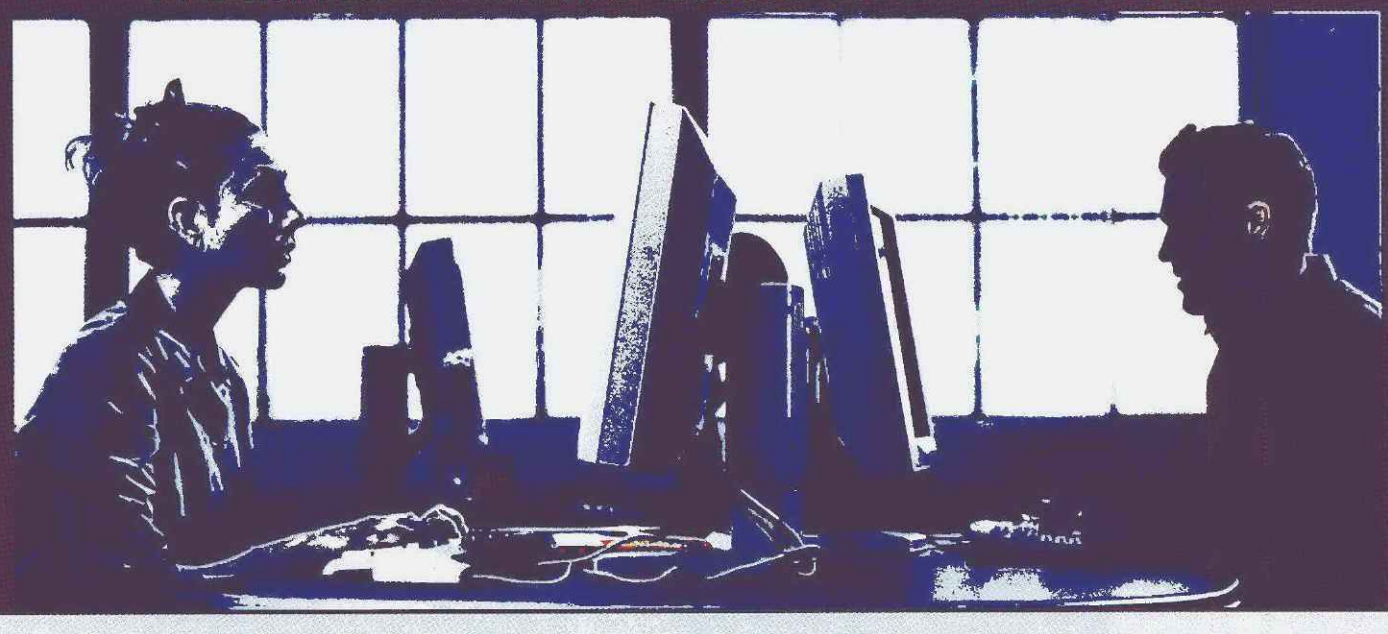
While the catastrophic events may not be preventable, the damage they cause can be greatly minimized, said Brian Hurley, Johnston, R.I.-based executive vp for Factory Mutual Insurance Co., which does business as FM Global. "We believe that loss is preventable," he said, citing FM Global's post-Hurricane Andrew initiatives that minimized losses during subsequent storms.

Technology plays an important role in improving underwriters' ability to assess risk, Mr. Moor said.

For example, when incidents occur such as the August fire at the Deutsche Bank building in New York, an insurer can quickly look up every company it covers and analyze potential losses.

"For many insurance companies, the ability to assess your risk is much faster today than it was before," Mr. Moor said, adding this helps insurers set prices, terms and conditions as well as alleviate the impact of the hard/soft market cycle. "Overall, I would think the cycle would be less volatile than it has been in the past," he said.

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QUESTIONS TO BE ADDRESSED:
- What choices do employers have for protecting their workforces from terrorist attacks?
- Should employers avoid concentrations of workers in urban areas?
- What coverages are available to respond to catastrophic workers comp risk?
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Business Insurance
PERSPECTIVE

Supreme Court shift favors employers

Bush appointees make pro-business rulings more likely in workplace rights cases



Gerald L. Maatman Jr. is a partner in the law firm of Seyfarth Shaw L.L.P. in Chicago.

By Gerald L. Maatman Jr.

The Supreme Court's 2006/2007 term has enhanced expectations for employers and employment practices liability insurers looking for a leveling of the EPLI playing field.

Plaintiffs took it on the chin in workplace rights cases, and employers chalked up significant victories. Given the recent addition of two justices picked by President Bush—Chief Justice John Roberts and Associate Justice Samuel Alito—the Supreme Court shifted decidedly to the right on workplace legal issues over the past year.

The most significant ruling—and the key win for employers—is *Ledbetter vs. Goodyear Tire & Rubber Co.*, in which the Supreme Court determined that pay decisions are discrete personnel actions triggering separate filing periods and statutes of limitation; thus, the Supreme Court rejected the plaintiff's argument that a new violation of the law occurred and a new charging period commenced with the issuance of each pay check, even when unaccompanied by any discriminatory intent.

As a result, plaintiffs bringing pay discrimination claims under Title VII of the Civil Rights Act of 1964 must file their claims over payroll personnel decisions within 180 or 300 days—depending on whether the complainant has first instituted proceedings in state court—or forever lose the ability to sue on the claim. In so holding, the Supreme Court rejected the longstanding plaintiff-friendly policy of the U.S. Equal Employment Opportunity Commission that Title VII's statute of limitations for filing a pay bias charge begins to run when each allegedly discriminatory pay decision was made and communicated to the employee and ruled that period does not start over with each subsequent paycheck.

Ledbetter aside, more limited but equally important decisions demonstrated the Supreme Court's willingness to defer to agency regulations on workplace issues.

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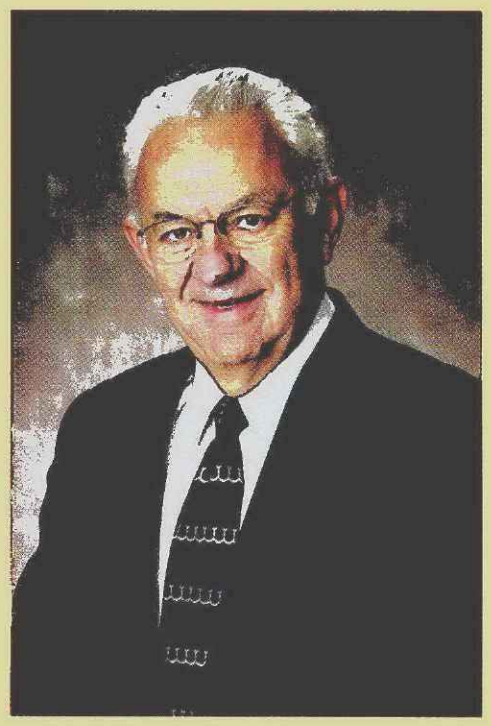
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The court upheld a Department of Labor regulation interpreting the Fair Labor Standards Act in *Long Island Carrot Home vs. Coke*. The Supreme Court deferred to the Department of Labor in ruling the regulation inapplicable to home health care workers who were employed by a service provider rather than the individual for whom they are providing care.

Plaintiffs took it on the chin in workplace rights cases, and employers chalked up significant victories.

Similarly, in *Beck vs. Pace International Union*, the Supreme Court determined that employers may not merge a defined benefit plan with another plan as a form of terminating the plan for purposes of the Employee Retirement Income Security Act. The Supreme Court reasoned that a termination in this context includes only a distribution of an annuity or lump sum payment to employees. The Supreme Court deferred to the opinion of the Pension Benefit Guaranty Corp. on this issue.

On the state labor law front, the Supreme Court restricted union rights in *Davenport vs. Washington Educational Assn.* by holding that a Washington state statute was valid insofar as it required public employee unions to obtain affirmative authorization from nonmembers for use of their agency fees for electoral purposes. The Supreme Court unanimously rejected the union's First Amendment challenge to a voter initiative, which passed the statute, on the grounds that public sector unions have no constitutional entitlement to nonmember employees' fees.

Two cases involving nonworkplace issues also may prove to be significant for employers defending future workplace discrimination cases. In *Bell Atlantic Corp. vs. Twombly*, the Supreme Court established precise pleading requirements necessary to bring lawsuits in federal court, and it held that plaintiffs must plead facts that are sufficient to render their claim plausible. For the first time, the Supreme Court indicated that lower federal courts may consider evidence outside of the complaint in undertaking this analysis and consider whether there is an obvious benign explanation for what plaintiffs challenge in the lawsuit. *Twombly* sends a strong message to the plaintiffs' bar that filing complaints merely to get discovery in workplace disputes will not be tolerated.

Similarly, in *Philip Morris vs. Williams*, the Supreme Court determined that juries may not punish a defendant for harms caused to individuals not directly involved in the lawsuit, although it avoided the question of when the excessiveness of a jury's punitive damages award may violate due process. The decision calls into serious question the strategy of plaintiffs in employment discrimination class actions—notably the infamous pro-plaintiff ruling this past year in *Dukes et al. vs. Wal-Mart Stores Inc.*—seeking class-wide punitive damages without proof of injury to class members.

While some of the 2006/2007 decisions represent a deeply divided Supreme Court, the trend in employment litigation is significant and is a harbinger of a movement to the right. Employers and EPLI insurers should be hopeful that future workplace rulings in the 2007/2008 term will continue to reflect the Supreme Court's shift in their favor.

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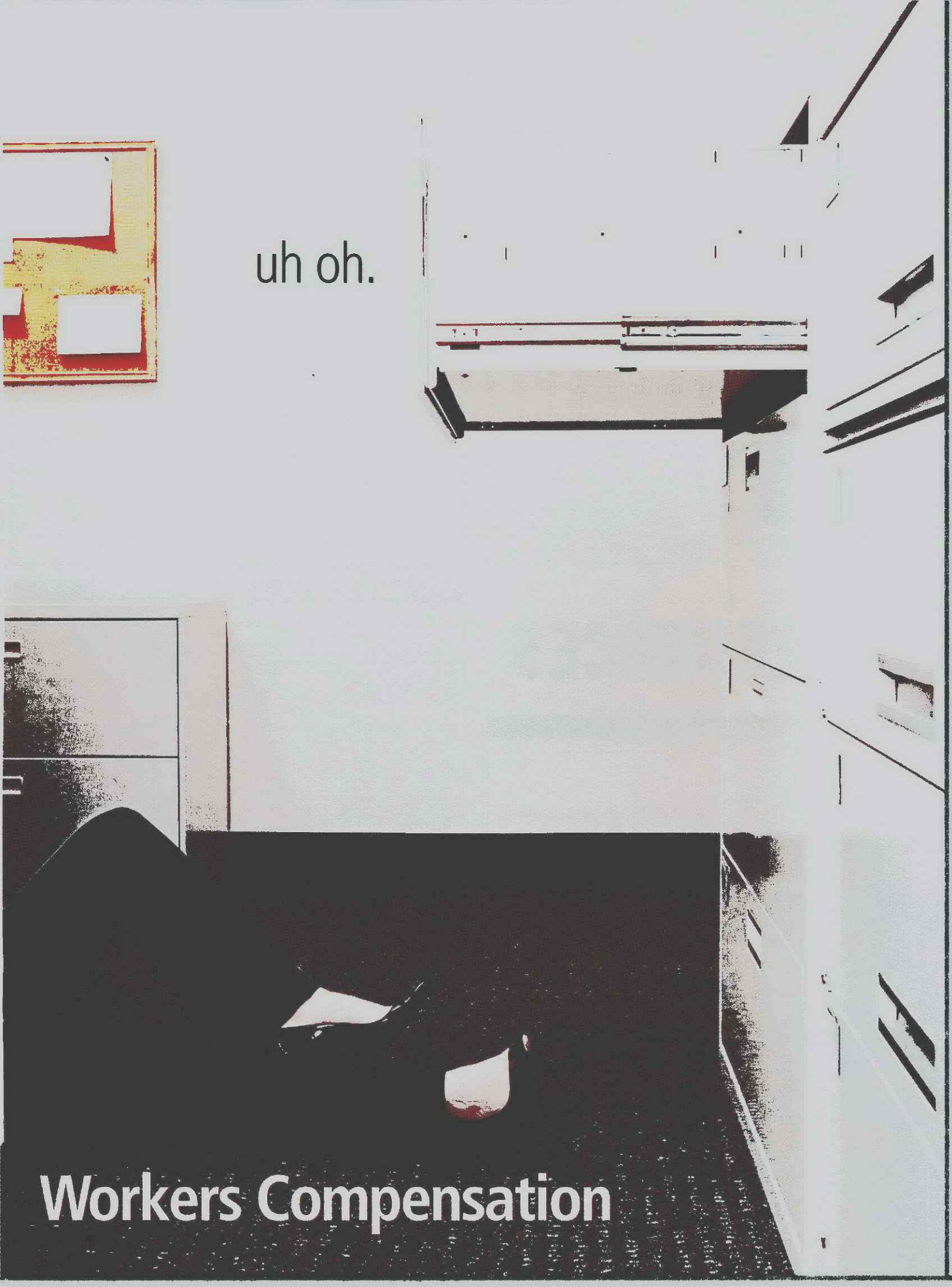
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Alba Group and IAG have referred this matter to relevant regulatory authorities for their attention. Investors should also contact regulatory authorities.

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LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT • SOUTHERN DISTRICT OF NEW YORK

In re Petition of PRO Insurance Solutions Limited, as foreign representative of GREYFRIARS INSURANCE COMPANY LIMITED, SOVEREIGN INSURANCE (UK) LIMITED, ALLIANZ INSURANCE PLC, HEDDINGTON INSURANCE (U.K.) LIMITED, MITSUI SUMITOMO INSURANCE COMPANY (EUROPE), LIMITED, THE OCEAN MARINE INSURANCE COMPANY LIMITED, OSLO REINSURANCE COMPANY (UK) LIMITED, THE SEA INSURANCE COMPANY LIMITED, TOKIO MARINE EUROPE INSURANCE LIMITED, WAUSAU INSURANCE COMPANY (U.K.) LIMITED, and ALLIANZ GLOBAL CORPORATE & SPECIALTY (FRANCE) Debtors in a Foreign Proceeding.	In a Case Under Chapter 15 of the Bankruptcy Code Case Nos. 07-B-12934 (JMP) through 07-B-12944 (JMP) (Jointly Administered)

NOTICE OF FILING AND HEARING ON PETITIONS UNDER CHAPTER 15 OF THE UNITED STATES BANKRUPTCY CODE

PLEASE TAKE NOTICE that on September 18, 2007, PRO Insurance Solutions Limited (the "Petitioner"), as the duly authorized foreign representative, as defined in section 101(24) of title 11 of the United States Code (the "Bankruptcy Code"), of **Greyfriars Insurance Company Limited, Sovereign Insurance (UK) Limited, Allianz Insurance plc, Heddington Insurance (U.K.) Limited, Mitsui Sumitomo Insurance Company (Europe), Limited, The Ocean Marine Insurance Company Limited, Oslo Reinsurance Company (UK) Limited, The Sea Insurance Company Limited, Tokio Marine Europe Insurance Limited, Wausau Insurance Company (U.K.) Limited, and Allianz Global Corporate & Specialty (France)** (collectively the "Petitioning Companies"), commenced cases (the "Chapter 15 Cases") by filing Petitions (the "Petitions"), pursuant to Chapter 15 of the Bankruptcy Code, with the United States Bankruptcy Court for the Southern District of New York (the "Court");

PLEASE TAKE FURTHER NOTICE that the Petitioner seeks, among other things, entry of an order giving full force and effect in the United States to the Schemes of Arrangement (collectively, the "Schemes") proposed by each of the Petitioning Companies and sanctioned pursuant to section 425 of the Companies Act 1985 of Great Britain by the High Court of Justice of England and Wales (the "High Court"), a permanent injunction and related relief;

PLEASE TAKE FURTHER NOTICE that with respect to each of the Petitioning Companies, other than Allianz Global Corporate & Specialty (France) ("Allianz Global"), the Petitioner is requesting recognition of foreign main proceedings, as well as a permanent injunction and related relief;

PLEASE TAKE FURTHER NOTICE that with respect to Allianz Global, the Petitioner is requesting recognition of a foreign nonmain proceeding, as well as a permanent injunction and related relief;

PLEASE TAKE FURTHER NOTICE that by Order dated September 19, 2007, the Chapter 15 Cases are being jointly administered for procedural purposes only and all pleadings filed in the Chapter 15 Cases should bear the above-referenced caption;

PLEASE TAKE FURTHER NOTICE that in addition to the Petitions, the Petitioner filed, among other things: (i) the list required to be filed with each of the Petitioning Companies' Petitions pursuant to Rule 1007(a)(4) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"); (ii) the Statement of Foreign Representative required to be filed with each of the Petitioning Companies' Petitions pursuant to section 1515 of the Bankruptcy Code; (iii) the Verified Petition under Chapter 15 of the Bankruptcy Code for Recognition of Foreign Proceedings, for a Permanent Injunction and Related Relief (the "Verified Petition"); (iv) the Memorandum of Law in Support of Petitions Under Chapter 15 of the Bankruptcy Code for Recognition of Foreign Proceedings, for a Permanent Injunction and Related Relief; and (v) the Declaration of William Nigel James Montgomery, UK Counsel (collectively, the "Supporting Documents");

PLEASE TAKE FURTHER NOTICE that pursuant to the Order Limiting Notice, Scheduling Hearing and Specifying the Form and Manner of Service of Notice, dated September 20, 2007 (the "Scheduling Order") the Court has scheduled a hearing (the "Hearing") for October 23, 2007 at 10:00 a.m., or such other time as counsel may be heard, before the Honorable James M. Peck in Room 601 of the Bankruptcy Court, One Bowling Green, New York, New York, to consider the Petitions and the relief requested by the Petitioner;

PLEASE TAKE FURTHER NOTICE that any party in interest wishing to submit a response or objection to the Petitions or the relief requested by the Petitioner must do so pursuant to the Bankruptcy Code and the Local and Bankruptcy Rules, including, without limitation, Bankruptcy Rule 1011, in writing and setting forth the bases therefore, which response or objection must be filed with the Office of the Clerk of the Court, Room 534, One Bowling Green, New York, New York 10004-1408, and served on (i) Chadbourne & Parke LLP, 30 Rockefeller Plaza, New York, NY 10112 (Attn: Howard Seife, Esq.) and (ii) Allen & Overy LLP, 1221 Avenue of the Americas, New York, New York 10020 (Attn: Ken Coleman, Esq.), so as to be received by them all no later than 4:00 p.m. Eastern Time, October 16, 2007;

PLEASE TAKE FURTHER NOTICE that the response or objection to be filed with the Office of the Clerk of the Court must be filed: (i) electronically by registered users of the Court's electronic case filing system in accordance with General Order M-242 of the Bankruptcy Court for the Southern District of New York, a copy of which may be viewed on the Court's website, www.nysb.uscourts.gov; and (ii) by all other parties in interest on a 3.5 inch disc, with hard copy provided to the Chambers of the Honorable James M. Peck, at the address specified above;

PLEASE TAKE FURTHER NOTICE that all parties-in-interest opposed to the Petitions or the Petitioner's request for relief must appear at the Hearing at the time and place set forth above;

PLEASE TAKE FURTHER NOTICE that the Hearing may be adjourned from time to time without further notice other than an announcement in open court at the Hearing or the adjourned date or dates of the Hearing and filing of a notice on the Court's electronic docket of the Chapter 15 cases; and

PLEASE TAKE FURTHER NOTICE that if no response or objection is timely filed and served as provided above, the Court may grant recognition and the other relief requested by the Petitioner without further notice.

Copies of the Verified Petition are available for review and download at www.wfumpools.com. Copies of the High Court's orders sanctioning the Schemes, the Petitions, and the Supporting Documents will be made available upon request at the office of the Petitioner's United States Counsel at the addresses below:

CHADBOURNE & PARKE LLP
Attorneys for Petitioner, as foreign representative of all the Petitioning Companies
30 Rockefeller Plaza
New York, New York 10112
(212) 408-5100
Attn: Howard Seife, Esq. and Francisco Vazquez, Esq.

ALLEN & OVERY LLP
Attorneys for Petitioner, as foreign representative of Greyfriars and Sovereign UK
1221 Avenue of the Americas
New York, New York 10020
(212) 610-6300
Attn: Ken Coleman, Esq. and Stephen Doody, Esq.

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REQUEST FOR STATEMENT OF INTEREST

NEW YORK LIQUIDATION BUREAU

The New York Liquidation Bureau (the "Bureau") is reconstituting its outside counsel panel. If your office or law firm is interested in joining the panel, please refer to our website at **www.nylb.org** for details regarding the application process. Existing members of the panel must apply in order to become a member of the re-constituted panel and receive new assignments from the Bureau.

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Panelists

Jim Gault
President and COO, Arthur J. Gallagher & Co., Brokerage Services Division

Don Kramer
Chairman and CEO, Ariel Reinsurance Company Ltd.

Claudia Temple
Assistant Treasurer, Global Risk Management and Insurance, Kraft Foods Inc.

Mark Willis
Executive Vice President, American International Group

Moderator

Millicent Workman
Director of Training and Education, International Risk Management Institute Inc.

For registration information, please e-mail katie@exchange.cob.ilstu.edu or call (309) 438-3021 or (800) 697-8692.

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LEGAL NOTICE | **LEGAL NOTICE**

Return Date: October 23, 2007
Time: 10:00 a.m. (New York time)
Objection Deadline: October 16, 2007
Time: 5:00 p.m. (New York time)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re Petition of Anthony James McMahon and Philip Wedgewood Wallace, as Joint Provisional Liquidators of SOVEREIGN MARINE & GENERAL INSURANCE COMPANY LIMITED, Debtor in Foreign Proceedings.	In a Proceeding Under Section 304 of the Bankruptcy Code Case No. 97-B-44652 (JMP)

NOTICE OF MOTION PURSUANT TO SECTIONS 105 AND 304 OF THE BANKRUPTCY CODE TO AMEND PERMANENT INJUNCTION ORDER TO AID ENFORCEMENT OF AMENDED SCHEME OF ARRANGEMENT

PLEASE TAKE NOTICE that pursuant to an order of the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), a hearing is scheduled to be held on October 23, 2007 at 10:00 a.m., or as soon thereafter as counsel may be heard (the "Return Date"), before the Honorable James M. Peck in Courtroom 601 of the Bankruptcy Court which is located at The Alexander Hamilton Custom House, One Bowling Green, New York, New York, 10004, to consider the motion (the "Motion") of the Scheme Administrators of Sovereign Marine & General Insurance Company Limited ("Sovereign Marine") for entry of an order (the "Amending Scheme Permanent Injunction Order") pursuant to 11 U.S.C. §§ 105 and 304 modifying the Permanent Injunction Order entered by this Court on December 30, 1999, and giving full force and effect in the United States to the Amended Scheme of Arrangement (the "Amended Scheme") between Sovereign Marine and its Scheme Creditors (capitalized terms not defined herein shall have the meaning defined in the Amended Scheme).

The Amended Scheme, which was proposed pursuant to section 425 of the Companies Act 1985 of Great Britain, was approved by Scheme Creditors in the requisite statutory majorities (*i.e.* a majority in number representing 75% in value of those in each class present and voting in person or by proxy) at the Scheme Creditors meeting which was convened on October 27, 2006. On September 17, 2007, the Amended Scheme was sanctioned by the High Court of Justice of England and Wales (the "High Court"). Accordingly, the Scheme Administrators intend now to proceed with their Motion and request entry of the Amending Scheme Permanent Injunction Order that would: (A) continue recognition of the Scheme Administrators as the exclusive representatives of Sovereign Marine, and give effect to the Amended Scheme in the United States so that it binds all Scheme Creditors; (B) except as provided expressly in the Amended Scheme or at the express written direction of the Scheme Administrators, permanently enjoin and restrain all entities from (i) relinquishing, disposing or transferring any property of Sovereign Marine or property involved in the Amended Scheme, or the proceeds of such property (collectively, the "Related Property") to third parties other than at the express discretion of the Scheme Administrators; (ii) drawing down any letter of credit established by, on behalf or at the request of, Sovereign Marine (a "Letter of Credit"), or withdrawing from, setting-off against or otherwise applying property that is the subject of any escrow or trust or similar arrangement (an "Escrow") in which Sovereign Marine has an interest, in excess of what is expressly authorised by any related agreement; (iii) commencing or continuing any action or other legal proceeding (including, without limitation, discovery proceedings, arbitration or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever) (an "Action") involving Sovereign Marine or the Related Property, or any of Sovereign Marine's representatives or agents or their respective predecessors or successors (the "Agents") or any of their property; (iv) enforcing any judgment, assessment, order or award, or commencing or continuing any Action to create, perfect or enforce any lien, set-off or other claim against Sovereign Marine or the Related Property, or any of the Agents or any of their property except as expressly stated in the Amended Scheme; (v) invoking, enforcing, or relying on the benefit of any statute, rule or requirement of federal, state, or local law or regulation (a "Security Requirement") requiring Sovereign Marine, or any of the Agents to establish or post security of any kind as a condition of prosecuting, defending or Amending any Action, and such Security Requirement will be rendered null and void for such Actions; (vi) commencing or continuing any Action against Sovereign Marine, the Scheme Administrators, the New York Superintendent of Insurance (the " Superintendent"), the members of the Creditors' Committee or their respective predecessors or successors, or any of their respective directors, officers, agents, employees, representatives, financial advisers or attorneys (the "Pre-Scheme Parties") or any of them with respect to any claim or cause of action in law or in equity, arising out of or relating to any action taken or omitted to be taken as of the Effective Date by any of the Pre-Scheme Parties in connection with the section 304 case or in preparing, disseminating, applying for or implementing the Original Scheme, the Permanent Injunction Order or the Amending Scheme Permanent Injunction Order; (vii) commencing or continuing any Action against the Scheme Administrators, Sovereign Marine, the members of the Creditors' Committee, the Scheme Actuary, the Independent Actuary, the Scheme Adjudicator, the Superintendent, or their respective predecessors or successors, or any of their respective directors, officers, agents, partners, employees, representatives, financial advisers or attorneys (the "Scheme Parties"), or any of them, with respect to any claim or cause of action, in law or in equity, which may arise out of the construction or interpretation of the Original Scheme, or the Amended Scheme or out of any action taken or omitted to be taken by any of the Scheme Parties in connection with the administration of the Original Scheme or the Amended Scheme; (C) require (i) all entities or persons in possession, custody or control of property of Sovereign Marine, or the proceeds thereof, to turn over and account for such property or its proceeds to the Scheme Administrators; (ii) all entities in possession, custody or control of any records of Sovereign Marine to deliver such records to the Scheme Administrators, and all persons having any books, paper or records of Sovereign Marine or relating to Sovereign Marine's business or to any matter which may affect the administration of Sovereign Marine's estate or the Amended Scheme, to preserve them and submit them to the Scheme Administrators or their designee for examination; (iii) all entities that are beneficiaries of Letters of Credit, or any parties to any Escrow, to provide notice to the Scheme Administrators and their United States counsel of any drawdown on any Letter of Credit, or any withdrawal from, set-off against, or other application of property that is the subject of any Escrow (any of which, a "Draw"), together with information sufficient to permit the Scheme Administrators to assess the propriety of such Draw, including, without limitation, the date and amount of such Draw and a copy of any agreement pursuant to which such Draw was made and provide such notice and other information contemporaneously therewith; and turn over and account to the Scheme Administrators for all funds resulting from a Draw in excess of the amount expressly authorised by the agreement pursuant to which such Letter of Credit or Escrow was established; (iv) parties to any Action in which a liability of Sovereign Marine may be established to place the Scheme Administrators and their United States counsel on the master service list of any such Action and ensure that such counsel receives copies of all documents served by the parties to such Action or issued by the tribunal or other official having jurisdiction over such Action and all correspondence or other documentation circulated to parties named on any service list; (v) all Scheme Creditors of Sovereign, insofar as they are Scheme Creditors of any other Scheme Company, to abide by, and be bound, by the terms of the sanctioned and effective scheme of arrangement for that other Scheme Company; and (D) further provide that (i) except as specifically set forth in the Amended Scheme Permanent Injunction Order, nothing in the Amended Scheme Permanent Injunction Order prevents the continuance or commencement of an Action against or involving any party other than Sovereign Marine but no settlement or judgment in any such Action shall be binding on or enforceable against Sovereign Marine or the Related Property; (ii) the High Court has exclusive jurisdiction to hear and determine any Action and to settle any dispute relating to the interpretation of the Amended Scheme, or to any action taken or omitted by any of the Scheme Parties in connection with the administration of the Amended Scheme or Original Scheme; (iii) the Scheme Administrators are authorized to transfer to the foreign proceedings any monies or assets of Sovereign Marine located in the United States; (iv) the Bankruptcy Court shall retain jurisdiction with respect to the enforcement amendment or modification or the Amending Scheme Permanent Injunction Order, requests for any additional relief in the case and all adversary proceedings in connection therewith; and (v) no action taken by the Provisional Liquidators or the Scheme Administrators, their successors, the Agents, or any of them, or their counsel, in acting in connection with the Original Scheme, the Amended Scheme, the Permanent Injunction Order, the Amending Scheme Permanent Injunction Order, the section 304 proceeding, any further order for additional relief in the section 304 proceeding, or any adversary proceeding in connection therewith as the Court may make shall be deemed to constitute a waiver of the immunity afforded to the Provisional Liquidators of Sovereign Marine or the Scheme Administrators, their successors, agents or representatives pursuant to section 306 of the United States Bankruptcy Code.

Copies of the Scheme Documents, the Motion, the form of the Proposed Amending Scheme Permanent Injunction Order to be presented on the Return Date and the Memorandum of Points and Authorities in Support of the Motion are available to review and download at www.wfumpools.com), as well as by fax, email or written request to the Scheme Administrators' US counsel at:

Allen & Overy LLP
1221 Avenue of the Americas
New York, New York 10020
(212) 610-6399 (Facsimile)
Attention: Lisa J.P. Kraidin, Esq.
lisa.kraidin@allenovery.com

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Motion must be made in writing describing the basis therefor and shall be filed with the Court electronically in accordance with General Order M-182 by registered users of the Court's electronic case filing system, and by all other parties in interest, on a 3.5 inch disc, preferably in Portable Document Format (PDF), Word Perfect or any other Windows-based word processing format, with hard copy to the Chambers of the Honorable James M. Peck, and served upon Allen & Overy LLP, 1221 Avenue of the Americas, New York, New York 10020 (Attention: Ken Coleman and Stephen Doody), counsel to the Petitioners so as to be received on or before October 16, 2007 at 5:00 p.m., New York time.

ALLEN & OVERY LLP, Attorneys for the Petitioners,
Ken Coleman, Stephen Doody, Lisa Kraidin,
1221 Avenue of the Americas, New York,
New York 10020, (212) 610-6300

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Products & Services

Darwin introduces media liability coverage

FARMINGTON, Conn.—Darwin Professional Underwriters Inc. has introduced new professional liability coverage for media entities.

Darwin's media product incorporates features that include governmental claim coverage; declaratory judgment actions coverage, which provides funding for proactive legal action; and merchandising cover. Additionally, the coverage is offered on either an occurrence or claims-made basis. Defense expenses are offered both within and in addition to the limits of liability.

Limits of $10 million are available on either a primary or excess basis.

The policy also addresses communications liability, personal injury, and contextual errors and omissions coverage. Additionally, the policy's all-risk approach opens coverage to possible future liability theories. Independent contractor and confidential source coverage are also included in the policy. Choice of counsel is available on a claim-by-claim basis.

Media liability coverage applies to wrongful acts on a worldwide basis, and is written through the surplus lines market.

For more information, contact Jonathan Yeisley, vp, professional liability underwriting, at 860-284-1456 or by e-mail at *jyeisley@darwinpro.com*.

Hanover offers ERISA bonds online

WORCESTER, Mass.—Hanover Insurance Group Inc. has made Employee Retirement Income Security Act bonds available through the company's online point-of-sale system, BONDirect. The federal government's ERISA bonds protect employee benefit plans against losses caused by fraud and dishonesty committed by employee trustees.

Using BONDirect allows agent partners to rate, quote and issue ERISA bonds within minutes—instead of hours.

ERISA requires every fiduciary of an employee benefit plan and every person who manages funds or other property of such a plan to be bonded with specific coverage limits.

Accessed through Hanover's portal, The Agency Place, BONDirect also enables key agent partners to quote, issue and print a variety of commercial surety bond business online. To further minimize paperwork for agents, BONDirect also enables clients to be billed directly for cancelable bonds purchased through the system.

For more information or to schedule a demonstration of BONDirect, contact Stephen Brault, assistant vp, at 508-855-2765 or via e-mail at *sbrault@hanover.com*.

Drugstore.com opens HSA Web site

BELLEVUE, Wash.—Drugstore.com Inc., an online provider of pharmacy, health and vision products, has opened an online store for health savings account holders.

The online pharmacy, HSA Store, is located at *www.drugstore.com/hsa*. It identifies more than 3,000 HSA-eligible products, automatically tracks purchases, provides an HSA-only receipt and offers additional resources to help users of consumer-driven health plans record expenses for tax purposes.

In addition, drugstore.com has formed a relationship with *www.doclopedia.com* to provide a free online personal medical organizer for recording medical history, doctor visits and prescription drugs. Customers may link to the HSA tracker from the HSA Store home page.

Drugstore.com's HSA Store is available to all consumers. More information is available at *www.drugstore.com/hsa-info*.

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Computer crime losses double

By SUSAN KELLY

Corporate losses from computer crime more than doubled last year, reversing a five-year declining trend.

The Computer Security Institute's survey of 494 computer security professionals found that the average reported loss due to cyber crime jumped to $350,424 last year from a $168,000 average loss reported for 2005. That was the highest average loss since 2004, but still far below the peak of $3.1 million reported in 2001.

Explanations for the increase range from craftier hackers to companies being forced to disclose breaches of personal information by new state laws.

Robert Richardson, director of the institute, said the survey results suggest that cyber crime is evolving into a form that traditional information security measures are less successful at stopping.

"We got pretty good at certain kinds of traditional computer security," Mr. Richardson said, citing companies' fine-tuning of firewalls and the rapid response to new computer viruses. Now, there seems to be "a shift toward attacks that are designed to be running below the radar, not broadly distributed, and unique," he said. "Because they aren't broadly distributed, you can't just pick up one, find the pattern, and distribute the signature as a virus."

Geoffrey Allen, errors and omissions and eRisk product leader for the executive risks practice at Willis Group Holdings Ltd., said that over the last 12 to 18 months, he has seen "a significant uptrend" in client losses, reflecting "more clients with losses and clients with larger losses." Mr. Allen linked those losses to "security breaches that release personal identifiable information, and the costs associated with dealing with such breaches."

Ted Doolittle, national practice leader for the errors and omissions practice at New York-based Integro Insurance Brokers, said that he has not seen an increase in losses, but that he does see a lot more companies having to report breaches of personal information now that almost 40 states have passed laws requiring businesses to notify consumers of such incidents.

Mr. Allen agreed that the security breach laws were a factor, and pointed out that such incidents can be costly, with expenses ranging from the forensic work to identify the breach and catch those responsible to public relations costs to the cost of providing credit monitoring services or replacing the credit cards of the people affected.

In addition, security breaches that involve personal information falling into unintended hands "attract litigation and often class action lawsuits, which are costly," he said.

Even so, according to the CSI survey, just 29% of organizations purchased insurance against computer crime, unchanged from the level shown in the previous year's survey.

Brokers say the CSI figure seems low and may have been depressed by confusion about the insurance that covers such losses, which can be purchased as a standalone policy or as part of broader coverage, like E&O or media liability policies.

"It really is just an issue with naming," Mr. Doolittle said. "From the insurance perspective, everybody uses a different name for cyber liability, and all the insurance companies have different methods of providing that coverage."

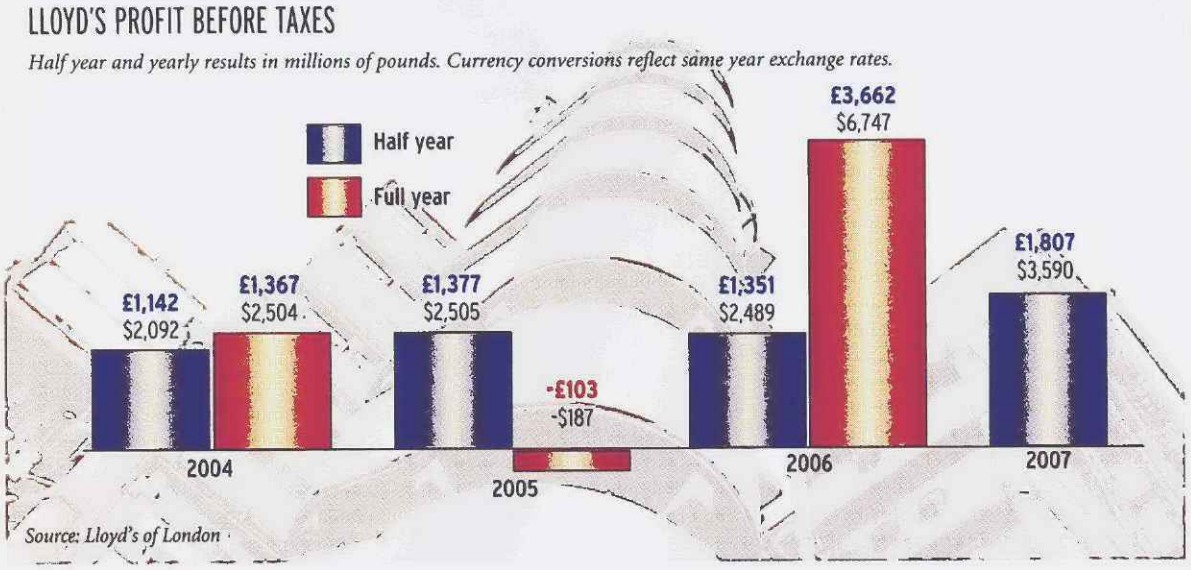
"I think probably more people have it than those numbers say, but I also think less people have it than should," he added.

Mr. Allen said that the increased losses were driving "a huge upsurge" in demand for insurance to protect companies against network breaches and privacy liability, especially businesses that use credit cards, whether they do transactions online or offline. Mr. Doolittle noted that cyber coverage has become more attractive, in part because the cost has declined in line with the overall softening in insurance prices in recent years.

"It's very easy to get the coverage, it's cheaper than it's ever been, and the coverage is broader than it's ever been," he said.

Susan Kelly is a reporter for Financial Week, a sister publication of Business Insurance.

International NEWS



Lloyd's reports first-half profits

By MATT SCROGGINS

LONDON—Lloyd's of London posted a pretax profit of £1.81 billion ($3.65 billion) for the first half of 2007, up 33.8% over its marketwide profit for the prior-year period.

Lloyd's attributed the increase to profitable underwriting conditions and releases from claims reserves for prior years, among other factors.

The Lloyd's market recorded a combined ratio of 82.9%, compared with 86.0% for the first half of 2006.

Gross premiums written at Lloyd's totaled £9.86 billion ($19.88 billion) for the period, down 1.0%.

Lloyd's profits for the first half of 2007 "reflect the recent favorable rating environment and a relatively low level of catastrophe claims. We are now seeing a downward pressure on rates and a softening of conditions across all classes. This reinforces the continued need to focus on underwriting for profit," Lloyd's Chief Executive Officer Richard Ward said in a statement.



AP PHOTO

Widows of workers who died after being exposed to asbestos march in Paris. Some hold a banner saying "Our poisoners must be judged without delay." A French study of artisanal workers found half had been exposed to asbestos.

IRM launches international diploma

Qualification encourages broad view of risk management discipline

By TONY DOWDING

HATFIELD, England—The London-based Institute of Risk Management has launched a new professional development qualification designed to reflect a much broader view of risk and risk management.

Unveiling the new International Diploma in Risk Management to IRM members at the association's annual forum in last month in Hatfield, England, Steve Fowler, chief executive officer of the IRM, explained that the IRM views risk management as a multi-faceted, integrated, enterprisewide tool.

"If you are teaching risk management, then you need to teach a balanced view of risk management, including the upside as well as the downside of risk," he said.

Two years ago, the IRM began a consultation to discover exactly what employers wanted from risk managers. The course was then critically evaluated to see whether it met the needs of future risk management professionals.



'If you are teaching risk management, then you need to teach a balanced view of risk management.'

Steve Fowler
Institute of Risk Management

Cary Depel, IRM chairman and director of the ECU Group P.L.C.—the London-based specialist currency manager—said that he felt that the materials for the old course, which were written by different authors, had little commonality of language or concept, style or approach.

"My personal view is that there was no coordinated approach," he said. "The new diploma program provides this. It seeks to provide cutting-edge theory, application and language, but also to do it in such a way that allows it to evolve, without the need to rewrite the entire program in the future," he said.

The new diploma involves postgraduate level work, but a degree is not required. Entry requirements are a degree or a certain level of experience—about three years' or more risk management experience at a senior level.

Mr. Fowler said that features of the new course include a broad range of options with an enterprisewide approach, international applicability and availability, improved student support, and flexible distance learning so that students can progress at their own pace.

See **IRM** next page

Many French retirees worked with asbestos

But small percentage of craftsmen suffered serious health problems

By RICK MITCHELL

Half of retired French artisanal workers—craftsmen—have been exposed to asbestos during their careers, according to early results from a French government study.

From September 2005 to February 2007, researchers for the pilot phase of the Epidémiologie et Surveillance des Professions Independantes study contacted 2,334 retired workers from the Aquitaine, Limousin and Poitou-Charentes regions to determine whether they had been exposed to asbestos, and if they had, the long-term health effect on them, according to the a report released this month.

The program offered exposed workers a free medical checkup and treatment, if necessary.

Report on artisans

"Overall...about one out of every two retired artisans...had been exposed to asbestos during their careers, which averaged 25 years," according to report by the health watch authority Institut de Veille Sanitaire, which is conducting the study with the Regime Social des Independants, the social security organization for independent workers to which most artisanal workers belong.

The program contacted workers—88% of whom were men—that had worked in a variety of areas including construction, metalwork, chemical, plumbing, manufacturing and mining, it said.

Of the exposed, some 25% had at least one anomaly or pathology—

See **ASBESTOS** next page

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Asbestos: More lawsuits expected from French workers

CONTINUED FROM PREVIOUS PAGE

benign in most cases—that could be linked to asbestos, while a small percentage had suffered more serious health implications, the report

'Hundreds of thousands of artisans have worked or still work–10 years after it was made illegal–in contact with asbestos in building sites and plants. They are too rarely informed.'

Institut de Veille Sanitaire

said. The anomalies included: 42 people (13.4%) with benign lung abnormalities, 32 (10.2%) with isolated pulmonary nodules, 12 (3.8%) with pulmonary fibrosis, and two with suspected lung tumors and cancer.

The program, which the InVS plans to eventually extend to all potentially exposed retired artisans in France, will allow researchers to evaluate workplace exposure to asbestos by sector and profession, as well as how this population is compensated by public health insurance and by special funds for asbestos victims, the InVS said.

Asbestos victims' association Assn. Nationale de Défense des Victimes de l'Amiante called the new data "particularly alarming" and demanded improved government protection of workers and increased compensation for those exposed.

"Hundreds of thousands of artisans (plumbers, pipefitters and welders, electricians, plasterers and bricklayers) have worked or still work—10 years after it was made illegal—in contact with asbestos in building sites and plants. They are still too rarely informed of the presence of carcinogenic material, and the risks and prevention measures necessary," the organization said in a statement on its Web site.

Jean-Paul Teissoniere, Paris-based attorney for ANDEVA, said: "We could easily imagine many court cases that could be based on this new data, as artisans could charge



AP PHOTOS

In a 2006 Paris march of about 3,000 people, protesters argued companies should be held responsible for exposing workers to asbestos. "Asbestos breaks our lives, getting compensation is a right, not a privilege," said one protester's sign.

that suppliers or manufacturers of materials that contained asbestos had provided defective products."

"They could also sue the contractors that hired them for projects, but they would have to prove that the contractor required them to use a certain product that contained asbestos. Artisans often choose their supplies themselves," Mr. Teissoniere said.

State fund

He said asbestos victims can already get compensation for their illnesses from a state fund administered by social security.

The InVS estimates that 11,000 to 23,000 out of 280,000 cases of cancer detected annually are due to exposure to carcinogens at work, and artisans are particularly concerned.

"Although these cancer cases often occur after retirement, there is currently no standard system for postwork life observation of people enrolled in the various social security systems," the report said.

"A 1995 regulatory framework (article D.461-25 of the social security code) exists, but it concerns only retired salaried workers and is rarely used, mainly because it is not well known by the people concerned, just as they rarely realize that they have been exposed (to asbestos) during their careers," continued the report.

IRM: International risk management diploma introduced

CONTINUED FROM PREVIOUS PAGE

He estimated that the diploma should involve about four years' part-time study, with a minimum of two years' and an upper limit of eight years' study involved. It would cost around £4,000 ($8,082) over four years, Mr. Fowler said.

At the end of the program, successful students would qualify as a member of the IRM.

The new diploma has three levels (see box).

Mr. Fowler stressed the importance of the support given to students.

"We have worked hard to improve the student experience with the new diploma," he said.

He pointed to new online resources with journals and articles; discussion forums for each module, moderated by the examiner; module handbooks; practice examinations; and local study groups.

Mr. Fowler also announced at the annual forum that, in the next few weeks, IRM would be launching a new international version of its basic course—Management of Risk and Uncertainty, which is a two-day, classroom-based course on identifying and managing risk.

In addition, he said IRM was conducting research into launching a program for continuous professional development.

"We want to do it right, and we need to include an element of flexibility, especially with regard to other CPD schemes for other professions," Mr. Fowler said.

According to IRM, the new diploma is an acknowledgement that risk management has broadened out into many different areas, said Mr. Depel, and "there is a great opportunity for us to be the coalescing factor. Because we are not the Institute of Project Risk Management, we are not the Institute of Operational Risk Management, and we are not the Institute of Public Risk Management. We are the Institute of Risk Management."

INTERNATIONAL DIPLOMA

The International Diploma in Risk Management is made up of three levels.

LEVEL ONE consists of five core modules that must be taken by all students.

Those modules are:

- Principles of risk: an introduction to the concept of risk management
- Risk and organizations: how risk affects different organizations
- Risk decisions: the use of risk and decision analysis
- Risk leadership: the development of risk programs, including governance and ethics
- Risk solutions: practical solutions including risk control, risk financing, business continuity and project risk management.

LEVEL TWO modules allow students to develop specializations, and students are required to take two Level Two modules. The Level Two modules are split into two broad categories: technical modules and sector modules.

The technical modules are:

- Project risk
- Business continuity and crisis management
- Governance
- Risk financing
- Information risk
- Physical risk control
- Environmental risk
- Occupational safety and health

The sector modules are:

- Public sector
- Retail, logistics and supply chain
- Construction
- Manufacturing
- Health sector
- Sports and entertainment
- Legal risk
- Financial services
- International business

LEVEL THREE of the course is an 8,000-word practical assignment on a risk management subject chosen by the student.

Source: Institute of Risk Management

Ignoring safety rules doesn't bar comp: Court

By JEFF CASALE

COLUMBUS, Ohio—The Supreme Court of Ohio has reversed its 2006 decision denying workers compensation benefits to a former fast-food worker who broke safety rules and caused his own injury.

In a divided 5-2 opinion, justices for the state high court said the teenager, who was badly burned while cleaning a KFC pressure cooker in 2003, was entitled to workers compensation benefits, despite causing his own injuries by committing safety violations for which he was later terminated.

The court's reversal upheld an earlier decision by the state's 10th District Court of Appeals reinstating the injured worker's state benefits.

This week's ruling marks the first time in seven years that Ohio's highest court has reversed its own decision.

The reversal arose from a motion for reconsideration that was filed by Mr. Gross' counsel, which advised the court that the decision "wrongfully injects fault" into the workers comp system, according to court documents.

Ohio law states that losses from a workers comp claim "would be charged, without regard to fault or wrongdoing, to the industry rather than to the individual or society as a whole."

Last December, the court ruled 5-2 against David Gross, finding that his termination for misconduct constituted "voluntary abandonment" of his employment, which barred him from receiving temporary total disability compensation (*BI*, Jan. 8).

Justice Evelyn Lundberg Stratton, writing on behalf of the court, explained the court's reasoning in her opinion summary: "If an employee's departure from the workplace 'is causally related to his injury,' it is not voluntary and should no preclude the employee's eligibility for (temporary total disability) compensation."

Stae ex rel. Gross vs. Indus. Comm., Supreme Court of Ohio, 2005-1689; decided Sept. 27, 2007

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VEBA: More deals to come

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be exploring the VEBA option, said Michael Morfe, senior vp with Aon Consulting in Somerset, N.J.

"Because of its size, this deal is going to attract a good deal of attention for other employers in distressed industries," said Steve Ferruggia, a principal with Buck Consultants L.L.C. in Secaucus, N.J.

"For certain situations, this deal is a very conspicuous precedent," said Stephen Parahus, a senior consultant with Towers Perrin in New York.

Employer interest in trying to pare massive retiree health care obligations isn't new. Over the past decade, hundreds, if not thousands, of employers have terminated or drastically reduced retiree health care coverage for salaried employees. Popular approaches include giving employees credits—expressed as a fixed dollar amount—annually. When employees retire, they can tap the amounts accumulated to pay for retiree health care expenses.

What has changed, though, is the recent willingness of unions to negotiate deals that allow employers to end retiree health care coverage for union members in exchange for big upfront VEBA contributions.

That union willingness is a direct result of seeing the erosion of union membership as companies with huge retiree and other benefit obligations have slashed their workforces as they lost market share to nonunion competitors with lower cost structures.

"Unions have seen jobs vanish," said Barry Barnett, a principal with PricewaterhouseCoopers L.L.P. in New York.

At the same time, unions have witnessed the termination of retiree health care plans when employers, such as those in the steel and airline industries, filed for bankruptcy. Unlike pension plans, there is no federal protection of promised but unfunded retiree health benefits when employers fold plans.

Through the VEBA approach, unions are getting financial assets to pay for retiree health care benefits. And those assets can't be touched by creditors if an employer files for bankruptcy or liquidates.

"You are getting a bird in the hand, and giving up an unsecured promise for full benefits," said Mr. Ferruggia.

For employers, the appeal of such arrangements is obvious. They rid themselves of a huge liability, the future costs of which are almost impossible to predict precisely.

"What keeps CFOs up at night is not just the magnitude of the cost, but the unpredictability of that cost," Mr. Parahus said.

Through a VEBA liability shift in exchange for an upfront cash contribution, "You get a clean balance sheet. You have outsourced your problem," Mr. Morfe said.

For unions, though, the challenge will be managing that contribution and earning sufficient investment income to continue to provide retiree health care for members in the decades ahead.

Unions will have to find ways to stretch the contribution to make it last, said Cara Jareb, director of retiree medical consulting with Watson Wyatt Worldwide in Arlington, Va.

That will mean unions—or the trustees of the unions—will have to find ways to make retirees better consumers of health care services or perhaps even reduce benefits—issues that employers have tackled with varying degrees of success.

"Trustees will have to decide on the level of benefits that are appropriate so the funds last for decades," Mr. Morfe said.

"We have a VEBA in place that will secure the benefits of all our retirees and every seniority employee who was on the rolls as of Sept. 14," said UAW President Ron Gettelfinger in a video posted on the union's Web site. "That stretches out, in our projections, for the next 80 years."

As for the other automakers, Mr. Gettelfinger said the union is "going to move on and get the other two wrapped up as quickly as possible."

WHO'S NEXT?

Employers this year that have reached agreement with unions to shift retiree health care liabilities to union-controlled voluntary employees' beneficiary associations.

Employer	2006 net loss	Retiree health care liabilities	VEBA contribution
Dana Corp.	$739 million	$1.1 billion	$780 million
General Motors Corp.*	$2 billion	$51 billion	$29.9 billion
Goodyear Tire & Rubber Co.	$330 million	$1.3 billion	$1 billion

**Agreement not yet ratified.*

News In Brief

CONTINUED FROM PAGE 1

Commission's Competition Directorate says it has concerns about the transparency of broker remuneration and conflicts of interest, and said it would further explore the issue in the already slated review of the Insurance Mediation Directive (2002/92/EC). The report leaves open the question of whether coinsurance and certain approaches to reinsurance constitute restrictive business practices.

Bill would require product recall funds

Distributors of certain imported consumer and food products would be required to demonstrate that they have the financial ability to cover risks associated with recalls and product safety under a bill introduced by two freshman senators. Under the Food and Product Responsibility Act, a manufacturer would have to obtain a "certification from the U.S. Customs and Border Protection that a manufacturer possess sufficient means (through insurance or otherwise)" for a five-year period to cover the "entire cost of a recall of that product." The bill would cover auto parts; food, drugs, devices and cosmetics; biological products; consumer products; as well as meat and meat products, poultry and poultry products, and eggs and egg products.

State Street freezes DB pension plan

State Street Corp. will freeze its defined benefit pension plan next year and enhance its 401(k) plan, the Boston-based financial services firm said. Effective Jan. 1, 2008, employees will stop accruing benefits, while State Street will match 100% of employees' 401(k) salary deferrals up to the first 6% of pay. State Street now matches 50% of deferrals, also up to the first 6% of pay, a spokeswoman said. New employees and current employees who don't contribute to the 401(k) plan will—unless they object—be automatically enrolled, with 3% of their salary contributed to the plan. That amount will increase by one percentage point each year, rising to a maximum of 6% of pay.

Bill would reduce pension funding break

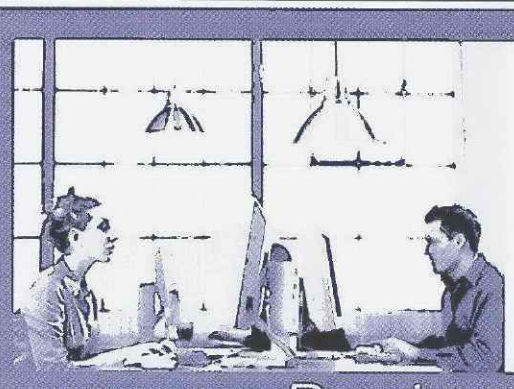
A provision tucked into legislation cleared last month by a Senate panel would strip part of a pension plan funding break Congress approved earlier this year for U.S. airlines that haven't frozen their plans. The funding break allows airlines that haven't frozen their plans to use a substantially higher interest rate to value plan liabilities. Under a broad transportation bill approved last week by the Senate Finance Committee, the affected airlines would have to use a roughly 6% interest rate, rather than previously allowed 8.25%, to value benefits that accrue in the future. The full Senate is not expected to take up the legislation until next month.

Missouri names captives regulator

The Missouri Department of Insurance, Financial Institutions and Professional Registration has named John Rehagen as captive insurance program manager for its Insurance Solvency and Company Regulation Division. Missouri Gov. Matt Blunt in July signed legislation allowing the formation of captive companies in the state. Mr. Rehagen previously worked as a financial examiner for the insurance department. He also worked for several years in the insurance, manufacturing and engineering fields.

Health plan cost hikes slowing: Survey

Adding to evidence that group health plan cost increases are easing, new research shows that such costs rose an average 5.3% this year to $7,982 per employee, according to Hewitt Associates Inc. That 5.3% increase is down sharply from 2006, when Hewitt reported that plan costs rose an average 7.9%. In 2005, plan costs rose 9.2%. Hewitt projects an average increase of 8.7% in 2008.



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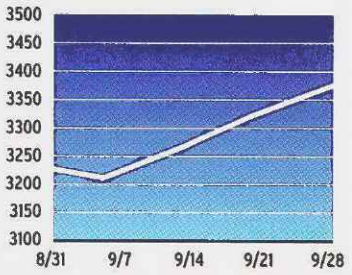
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Stock Index

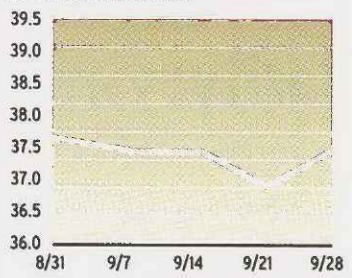
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Up-to-the-minute data for all 82 companies that comprise the BI Stock Index can be found at www.BusinessInsurance.com.

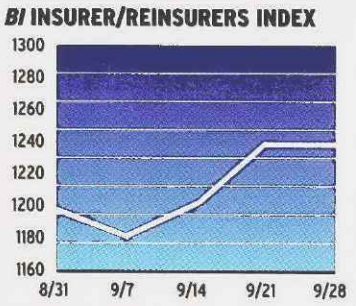
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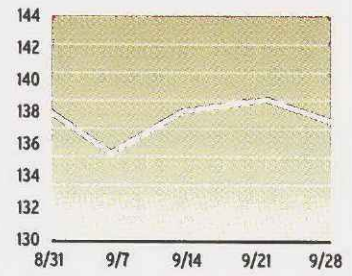
BI BROKERS INDEX



BI INSURER/REINSURERS INDEX



BI MANAGED CARE ORGANIZATIONS INDEX



Percentage change of BI *Stock Index vs. key indicators*

BI STOCK INDEX	▲
3362.72	1.09%
DOW JONES	▲
13895.63	0.55%
S&P 500	▲
1526.75	0.07%

LARGEST GAINS

Philadelphia Consolidated	8.96%
RenaissanceRe Holdings	7.25%
Endurance Specialty	6.46%
Humana Inc.	4.07%
AXA	4.01%

LARGEST LOSSES

Fairfax Financial Holdings	-6.36%
PMA Capital Corp.	-5.85%
CNA Surety Corp.	-4.18%
Harleysville Group Inc.	-3.88%
Ambac Financial Group Inc.	-3.56%

Source: Financial Content Inc. http://financialcontent.com

Business Insurance END PAGE

Contributing: Jeff Casale, Judy Greenwald, Kristin Gunderson Hunt

Overtime suit puts canine cop in the dog house

Police in McAlester, Okla., undoubtedly will continue trying to sniff out illegal drugs, but officials have decided to do so without the aid of Bosco, the department's sole drug dog.

Police Chief Jim Lyles suspended the department's canine program following a federal lawsuit by Officer Jeremy Busby, the primary handler of the German Shepherd since the canine program began in August 2005.

Officer Busby's suit reportedly contends the department did not compensate him sufficiently for the off duty hours he took care of Bosco. Citing the Fair Labor Standards Act, the suit says the city allowed the officer to exceed the maximum overtime hours in each seven-day work period.

Chief Lyles said suspending the canine program was disappointing because Bosco had been such an asset to the department, sniffing out more than 200 pounds of marijuana last year.

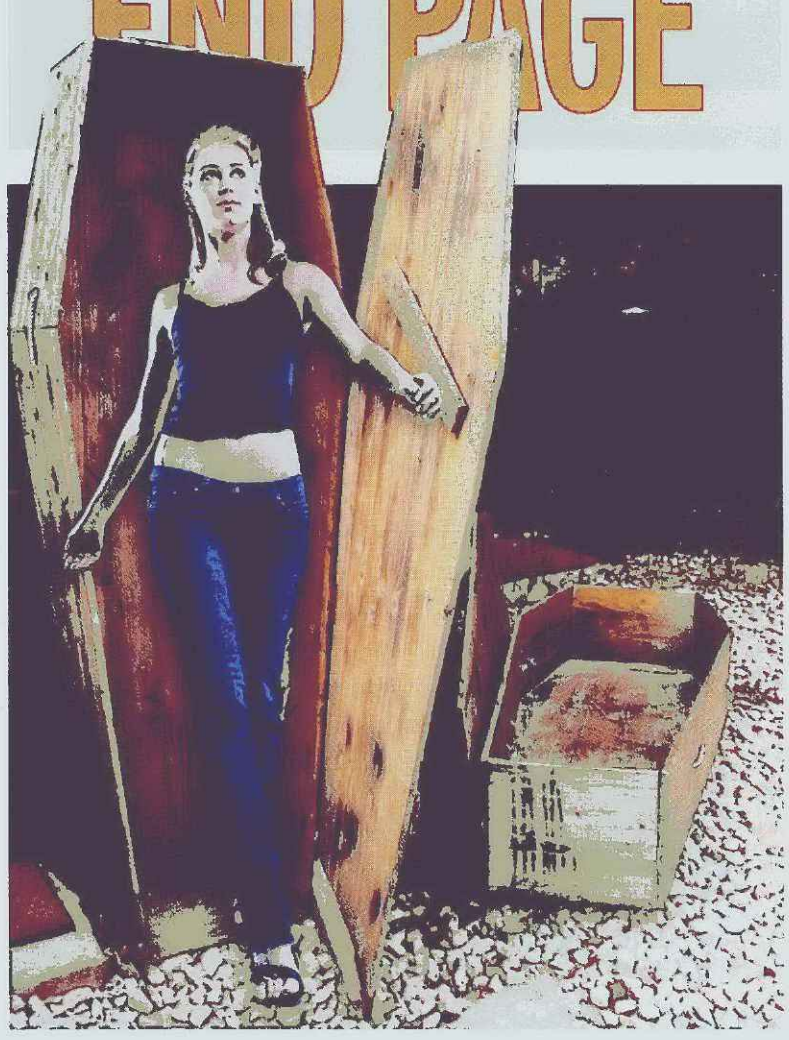
"It was an extra tool in fighting the drug problems in town," Chief Lyles said.

While the decision to eliminate the canine unit will not resolve the issues in the lawsuit, it will crack down on further expenses related to the case and to keeping the canine unit afloat, said Chief Lyles, who declined comment on those costs.

The suit, filed Sept. 20 in federal court in Muskogee, Okla., did not seek a dollar amount in damages. Rather, it requested a judgment against the city, liquidated damages, prejudgment interest, and attorney fees and costs.

In the meantime, Officer Busby has been returned to patrol duties and McAlester officials had yet to decide what to do with Bosco.





Ex-funeral director deceives the living

A former funeral home director said he reported live people as dead to try to save his ailing business.

Kent Kellogg, 51, pleaded guilty to four counts of insurance fraud for cashing in pre-needs insurance policies totaling an estimated $100,000 on 27 people who were still alive.

The former Monon, Ind., funeral home director pleaded guilty Sept. 24 in White County Superior Court following an agreement with prosecutors. In exchange for pleading guilty to four felony counts, more than two dozen other felony charges were dropped, said White County Prosecutor Robert Guy.

The fraudulent acts took place starting in 2002 when Mr. Kellogg would report funeral-arrangement policyholders had died to Homesteader's Life Co., which began its own investigation in August 2006 after an unusually high number of claims from Mr. Kellogg, Mr. Guy said.

Upon receiving Mr. Kellogg's claims, the insurer then would send him money for the funerals.

In a separate action, the State Board of Funeral and Cemetery Service revoked Mr. Kellogg's license in April.

"I didn't try to deceive anyone out of their money," Mr. Kellogg reportedly said during his court appearance. "I was just trying to maintain my business."

Sentencing has been set for November.



More workers get the e-boot as employers downsize

Employees have a lot more to worry about than just spam when opening their work e-mail, according to a survey.

About 10% of U.S. workers say their company has used e-mail as a virtual pink slip to fire or lay off employees, and 17% say their boss has used e-mail to avoid other types of difficult face-to-face conversations.

That is according to a national survey of 752 U.S. workers conducted in May and June by Rochester, N.Y.-based Harris Interactive on behalf of Marlin Co., a North Haven, Conn., consultant on workplace communications.

Last year, Fort Worth, Texas-based electronics retailer RadioShack Corp. used e-mail to inform 400 workers that their positions had been eliminated as part of a workforce reduction.

"The last thing you want to do is use (e-mail) for something as sensitive as layoffs," Frank Kenna III, Marlin Co. president, said in a statement.

Among other survey results: 23% of workers have received a "politically incorrect" e-mail, 15% have been the recipients of an e-mail sent in anger, 13% have received flirtatious e-mails and 5% reported receiving a personally humiliating e-mail that was copied to other individuals.

"E-mail etiquette is still in the Middle Ages, and for too many employees anything goes is the rule," Mr. Kenna said.

Wendy's finger food scammer tries to get sentence reduced

The woman who claimed she bit into a fingertip while eating a bowl of chili has received a largely thumbs-down ruling from a California appellate court.

Anna Ayala gained "national notoriety," the Sixth District Court of Appeal stated, for her March 2005 claim that she bit into the digit at a Wendy's in San Jose, Calif.

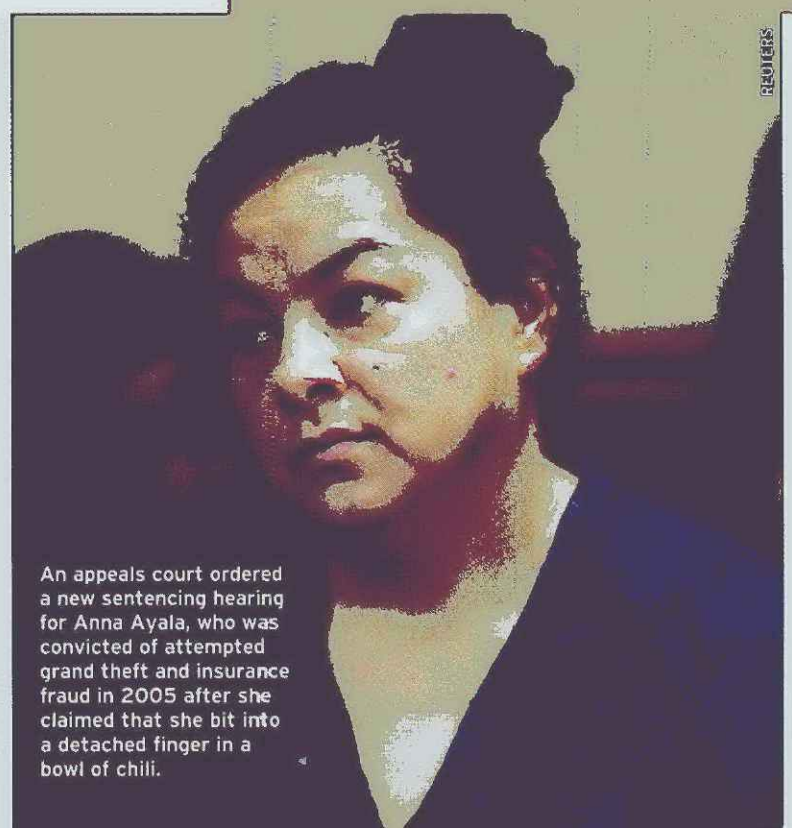
However, the claim turned out to be a scam. Among other considerations, according to court documents, the condition of the finger "found" in the woman's chili was inconsistent with it being cooked at 170 degrees for three hours, which was the method Wendy's International Corp. used to prepare the food item.

Ms. Ayala later pleaded guilty to filing a fraudulent insurance claim and attempted grand theft. She was sentenced to five years in prison plus four more years for "lost profits and goodwill" caused to Wendy's and its employees.

In addition, she was ordered to pay restitution of more than $21 million to Wendy's; nearly $500,000 to the restaurant owner, Jem Management; and more than $170,000 to a group of 186 restaurant franchise employees.

While the appellate court last month rejected nearly all of Ms. Ayala's arguments to overturn the sentence and restitution, it did agree that the Santa Clara County, Calif., court erred in imposing the maximum five-year sentence on the false insurance claim charge.

The appellate court said the lower court's ruling that aggravating factors of callousness, sophistication and planning "were not ones for which an upper-term sentence could constitutionally be imposed." It ordered a new hearing, which could reduce Ms. Ayala's sentence by two years.

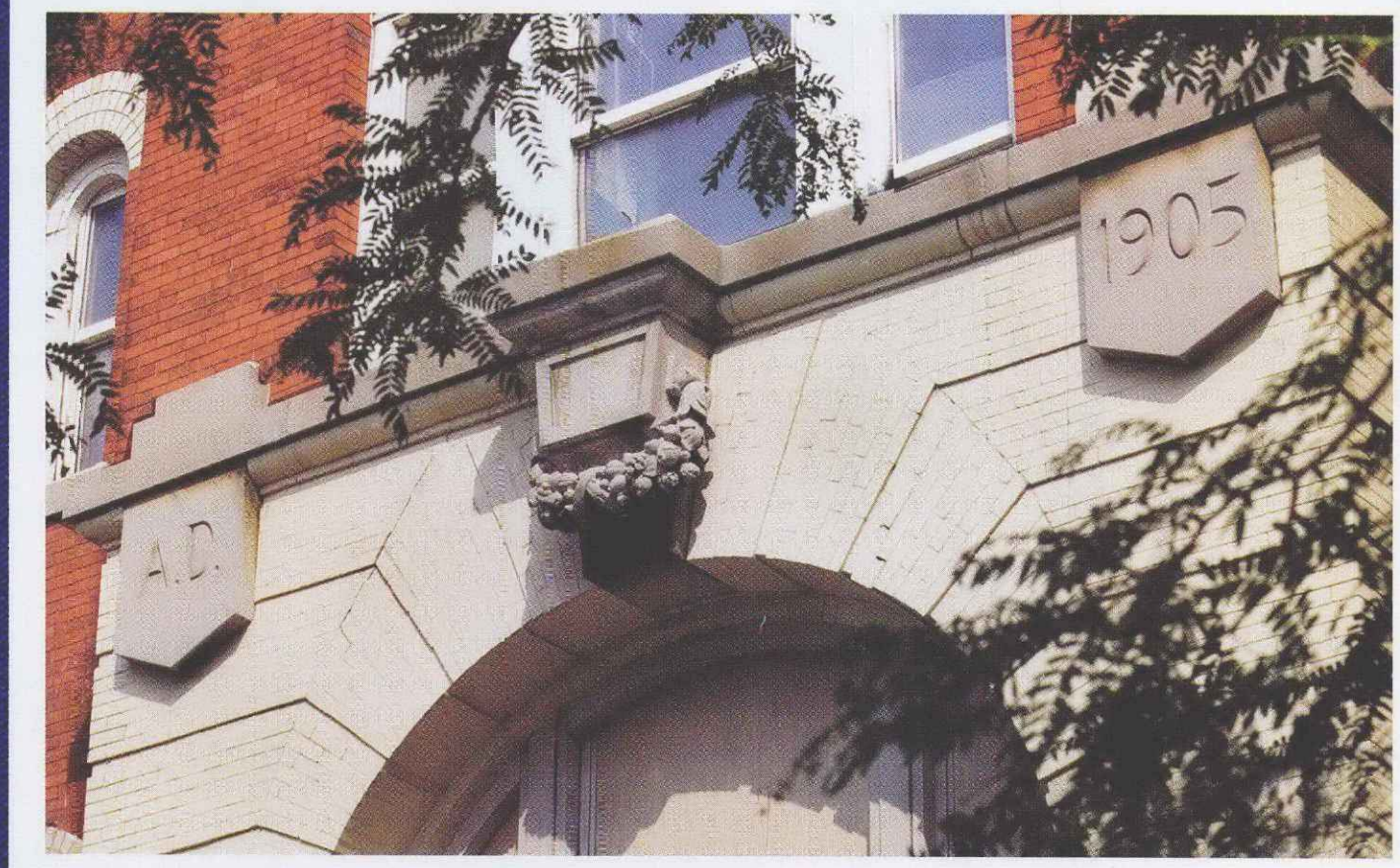


REUTERS

An appeals court ordered a new sentencing hearing for Anna Ayala, who was convicted of attempted grand theft and insurance fraud in 2005 after she claimed that she bit into a detached finger in a bowl of chili.

IN THEIR OWN WORDS

Ron Hale, Risk Manager, Newark Public Schools



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