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Updates

California court carves exception to malpractice damage cap

SAN FRANCISCO—In a defeat for California hospitals, a federal district court in California has ruled that the state's $250,000 damages cap for professional negligence does not apply to the federal emergency room "anti-dumping rule."

In her 42-page Oct. 6 decision in *Barbara Jackson vs. East Bay Hospital et al.*, Judge Marilyn Hall Patel concluded that damages under the federal Emergency Medical Treatment and Active Labor Act of 1986 should not be restricted by applying

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Clock running on Year 2000 programming

By JOANNE WOJCIK

Businesses that haven't yet begun Year 2000 conversion projects may find themselves behind the proverbial 8-ball if they don't get started soon, experts warn.

With the shortest conversion timetable set at 18 months, time is of the essence. In addition, resources—especially trained programmers—are becoming scarce as the Dec. 31, 1999, deadline approaches.

Yet a survey of 128 information technology officers at Fortune 500 companies this summer found that only a quarter of companies—24%—have a detailed conversion plan in place to achieve Year 2000 compliance.

Of the companies surveyed, only 16% have begun implementing a compliance strategy, according to the Year 2000 preparedness poll, released Oct. 7 by Cap Gemini America, a New York-based information technology consulting firm.

A similar poll of Fortune 500 companies, conducted last month by Rubin Systems Inc., a New York-based research firm, also found that a tight labor market for skilled personnel is hampering companies' ability to achieve Year 2000 compliance goals.

Year 2000 compatibility exposures exist in a lot more places than most would think, said Jim Woodward, Cap Gemini senior vp.

"All computer systems—like ATMs, those on airplanes, on satellites—anything that has a chip in it can have a Year 2000 failure," Mr. Woodward warned.

"If you have legacy systems—older mainframe-type systems—it's pretty much assured they're going to need some Year 2000 conversion," concurred Phil Overby, president of Synapse Computer Services Inc., an information technology consulting firm based in Branchburg, N.J.

"This is an insidious thing," agreed Bill Larsen, Year 2000 project manager at Frank Russell Co., an investment management firm based in Tacoma, Wash.

Indeed, the problem is more widespread than first thought.

One Midwest manufacturer that declined to be identified found that, even though it believed it had little or no exposure, as much as 70% of its systems were vulnerable after an assessment by an outside vendor.

Mr. Woodward pointed to the New Zealand Aluminum Smelters as an example of the harm likely if a computer system fails to recognize the Year 2000.

The New Zealand company had to spend more than $1 million to repair five pot cells that overheated when the computers shut down on New

See **Year 2000** *on page 6*

Deal strengthens Zurich

Merger with B.A.T unit to create financial services giant

By EDWIN UNSWORTH

LONDON—Zurich Insurance Group's drive to expand its financial services in the United States is seen as the catalyst for its merger with the British American Financial Services unit of B.A.T Industries P.L.C.

The new Zurich-based entity will be called Zurich Financial Services Group and will wholly own Zurich's existing insurance and reinsurance companies and asset management units, as well as B.A.T's insurance and financial services operations.

The ZF Group is not expected to conduct business as a consolidated entity before late 1998, though, because of the time needed to obtain approval from regulators, including the 29 state regulators where BAFS' principal U.S. insurance unit—Farmers Group Inc.—operates.

Zurich shareholders will own 55% of ZF Group and B.A.T will hold 45%, with ZF Group paying B.A.T £500 million ($811.7 million) in cash and assuming £800 million ($1.3 billion) of debt for the BAFS operation.

The two parties say that ZF Group will be one of the largest insurance and asset management companies in the world, with gross premium volume of $40 billion, including reinsurance, and $341.8 billion in assets under manage-

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Zurich Financial Services Group

The merger of Zurich Insurance Co. with British American Financial Services will create one of the world's largest insurance and asset management companies. (All dollar figures are in billions.)

	ZF Group	Zurich	BAFS
Gross premiums written	**$40**	$23.7	$16.3[1]
Total assets	**$165**	$97.5	$67.5
Assets under management	**$341.8**	$262.0[2]	$79.8
Shareholders' equity	**$18**	$9.9	$8.1
Employees	**66,000**	41,000	25,000

[1] Includes net written premiums of Farmers Exchanges. [2] Includes assets managed by Scudder, Stevens & Clark.
Source: Zurich Insurance Co. and B.A.T Industries P.L.C.

GRAPHIC BY JOHN HALL

California is cracking down on MTA safety bonuses

By ROBERTO CENICEROS

LOS ANGELES—Taking aim at construction safety bonuses paid out by the Los Angeles County Metropolitan Transportation Authority, a new state law will force the beleaguered agency to provide a broader picture of worker injuries.

But the new state law, which takes effect Jan. 1, may miss the mark completely, risk managers and insurers say.

Companies are moving away from safety bonuses because they detract from the message that safety is a basic requirement, not an extra effort to be rewarded, they say.

Instead, risk managers' loss prevention strategies include: maintaining strict control of safety programs, holding construction companies to contracts requiring specific safety performance, and even using a stick approach by penalizing contractors when they don't measure up.

Los Angeles County's MTA has faced a constant barrage of scrutiny and criticism for losses resulting from its $6.1 billion subway project (*BI*, Feb. 24).

California lawmakers have been perplexed by various newspaper accounts that reported subway contractors were earning millions of dollars in safety bonuses while the project was experiencing a rate of injury higher than the national average, when measured by OSHA 200 Case Rate, or OCR, reportable injury standards.

The agency, however, bases its safety bonus calculations on the project's Lost Time Case Rate. For the MTA, that LTCR rate has been lower than the national average.

A 1996 U.S. Congressional report found that the MTA did not differ from other transit agencies in having a discrepancy between OCR and LTCR rates. It also found that several other transit agencies assess bonuses and penalties by evaluating lost time injury rate.

Nonetheless, legislation authored by Sen. Tom Hayden, D-Los Angeles, and signed Oct. 6 by Gov. Pete Wilson will require the MTA to base contractors' bonuses entirely on OCR evaluations instead of using a formula based on lost

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Internet commerce slow to grow

Managing online risks seen as key to boosting transactions

By RODD ZOLKOS

With security concerns widely recognized as slowing the development of Internet commerce, some see finding ways to manage and insure the risks as the keys to unlocking the virtual marketplace's potential.

At the Risk & Insurance Management Society Inc.'s annual conference in Atlanta earlier this year, considerable effort was devoted to promoting and discussing new insurance products and risk management approaches designed for Internet commerce.

Thus far, however, the development of those products has been slow, and interest in them has remained limited. Part of the problem may be the current size of the Internet marketplace itself.

"Everybody talks about the product, but right now there's not enough commerce being done on the Internet to warrant any interest," said Mark Owens, executive vp of marketing at Reliance National Insurance Co. in New York.

"In terms of gross business dollars, it's pretty small potatoes," Mr. Owens said. "Everybody's trying to understand what the exposure is, what's the need."

Reliance was among those at RIMS touting its efforts to develop Internet commerce solutions, as part of a partnership with International Business Machines Corp.

Chubb Corp. and Danish insurer Codan Insurance Ltd. also are participants in the effort that IBM announced to develop risk management tools for Internet environments.

While Reliance continues to work on

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NEWSPAPER

Updates

Cases free from liability cap

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California's Medical Injury Compensation Reform Act of 1975, which she noted was passed in response to the medical malpractice "crisis" at the time.

EMTALA, also known as the "anti-patient-dumping rule," was created out of concern that hospitals were dumping patients who were unable to pay by refusing to provide emergency treatment or transferring them before they had stabilized, the decision noted.

The complex case was brought by the widow of Robert Jackson, who was sent from one hospital to another despite having gone into cardiac arrest after being given an antipsychotic medicine. He died 38 minutes later. Ms. Jackson said that medicine in combination with another he had been taking caused his death.

Commenting on the decision, Ms. Jackson's attorney, Richard Massa of Lakeport, Calif.-based Massa & Associates, said it will give patients without medical insurance who are forced to use emergency rooms "the opportunity to receive fair compensation for whatever happened."

A defense attorney in the case, John Gilmore of Sacramento-based Diepenbrock, Wulff, Plant & Hannegan, who represented Roseville, Calif.-based Adventist Health Inc., said he disagreed with the judge's analysis. He also noted that within three months, there will be more decisions on this or similar issues from cases now before state and federal courts that could have different outcomes.

OSHA drafts TB proposal

WASHINGTON—A proposed safety standard designed to protect health care workers from tuberculosis could save more than 130 lives a year at a cost of about $245 million annually, according to the Occupational Safety and Health Administration.

OSHA last week unveiled the proposed standard, which would cover about 5.3 million workers. If adopted, the standard would cover more than 100,000 facilities that fall into eight general categories: hospitals, long-term care facilities for the elderly, prisons, hospices, homeless shelters, drug abuse treatment centers, facilities where high-hazard procedures are conducted, and certain laboratories.

The proposal would require, among other things, that employers covered by the standard draft written exposure control plans, identify and isolate workers with TB and provide workers with respiratory protection devices under certain circumstances.

Public hearings on the proposed standard are scheduled to begin at the U.S. Labor Department in Washington on Feb. 3, 1998.

Nielsen retires at J&H/M&M

NEW YORK—With the Oct. 1 retirement of Richard A. Nielsen as a vice chairman of J&H Marsh & McLennan Inc., only two of the former five senior executives of Johnson & Higgins currently hold senior positions with the combined brokerage.

Mr. Nielsen joined J&H in 1965 and climbed the ranks at the brokerage to the position of vice chairman and chief operating officer.

He was due to retire from J&H at the end of 1997. While he assumed a position with the combined brokerage when Marsh & McLennan bought J&H in March, that did not change his plans to retire this year, a spokesman said.

The retirement of Mr. Nielsen means the only former senior J&H executives with senior positions at the combined brokerage are David A. Olsen, the former chairman and chief executive officer of J&H and now vice chairman of Marsh & McLennan Cos. Inc., and Norman Barham, the former president of J&H and now a vice chairman of J&H Marsh.

Two former executive vps at J&H, Joseph P. Platt and John W. Gussenhoven, were not given senior executive positions in the combined company, and brokerage officials would not confirm whether they remained on staff.

Meanwhile, a former J&H senior manager in Bermuda has left to join ACE Insurance Co. Ltd.

Roger Gillett will become senior vp-business development at ACE on Nov. 3. He formerly was senior vp of Johnson & Higgins (Bermuda) Ltd., where he managed the worldwide captive management operations.

Settlement not taxable: Court

ST. LOUIS—Money paid from a fund established to settle a class action suit is excluded from gross personal income, a federal court judge has ruled.

The case involved payments made to Michael Mayberry, a former employee of Continental Can Co. who became part of a class action charging that Continental Can had violated the Employee Retirement Income Security Act by laying off employees before they became eligible for early retirement benefits.

The case ultimately went to the 3rd U.S. Circuit Court of Appeals, which ruled against Continental Can, which in turn subsequently agreed to set up a $415 million settlement fund to compensate former employees. The amount of compensation was based on the former employee's age, length of service, and lost wages for periods of unemployment that followed the termination. Mr. Mayberry received more than $19,000, on which he paid personal income taxes and then sought a refund from the Internal Revenue Service. The IRS refused, and Mr. Mayberry sued.

*See **Updates** on page 34*

Errors & omissions

• Due to an editing error, an Oct. 6 article on Australia's insurance market listed incorrect contact information. For survey information, contact Shane Fitzgerald, Ord Minnett, L25, Grosvenor Place, 225 George St., Sydney, New South Wales, Australia 2000; 61-2-9220-1596; fax: 61-2-9220-1312.

Business groups mum on product liability bill

By MARK A. HOFMANN

WASHINGTON—Product liability reform proponents are waiting to see how Republicans recast a White House-backed product liability reform proposal before deciding whether to embrace it.

In fact, no major business group has endorsed the proposal, which became public earlier this month (*BI*, Oct. 13). The initial response of reform advocates was lukewarm at best.

The nation's largest organization of plaintiffs attorneys, meanwhile, has reiterated its opposition to the proposal, which was worked out after months of negotiations between the White House and Sen. John D. Rockefeller IV, D-W.Va., the most vocal Democratic product reform advocate and chief architect of several earlier bills.

Both houses of Congress approved product liability reform legislation last year, but President Clinton vetoed the measure, and backers lacked the votes necessary to override the veto (*BI*, May 6, 1996). When he vetoed the bill, the president expressed his willingness to sign "reasonable" product liability reform legislation.

But the "reasonable" proposal that arose from the White House negotiations fell short of what many reform proponents sought.

For example, the measure would limit punitive damages in product liability cases only in those awards made against very small businesses, those with 25 or fewer employees and annual revenues below $5 million. The proposal would limit punitive damages in such cases to the greater of $250,000 or twice compensatory

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Easing HMO comparisons

Foundation proposes new tool for employees to use

By ROBERT KAZEL

PORTLAND, Ore.—A new tool designed to enable the average employee to compare health maintenance organizations with ease has been proposed by the Foundation for Accountability, a consumer advocacy group.

The foundation's new "communication framework," formally approved by the group's board of directors in September, is intended to come to the consumer's rescue by simplifying huge amounts of HMO-related data that are expected to be flowing from many organizations in the near future. The framework organizes and sorts the data so a plan sponsor can present unified information to workers, said Christina Bethell, director of research for FACCT in Portland, Ore.

Corporate benefit managers have an enormous amount of information relating to the comparable quality of health plans and need "a way to talk to consumers" so that this information makes sense, said Ms. Bethell. This new way of sorting data is different from report cards, which have been used to sum up the quality of health plans with simple letter grades.

The framework, when used by employers or other groups, will help make the evaluation of HMOs more meaningful, said Alan Peres, manager of health care policy for Ameritech Corp. in Chicago and a member of the FACCT board. FACCT expects

*See **FACCT** on page 34*

Reinsurance not likely to be traded away: Panel

By RODD ZOLKOS

CHICAGO—Risk securitization will supplement—not replace—traditional reinsurance, according to a panel of top industry insiders.

Given the inevitability of the capital markets' role in risk transfer and the advantages risk securitization can offer, however, it's not a subject insurance executives can afford to overlook.

Underscoring the widely held view of risk securitization's inevitability was the inability to bring a contrarian perspective to the 7th Annual Insurance Executive Forum sponsored by the Katie Insurance School of Illinois State University in Normal.

"Believe it or not, we really couldn't find a panelist to take that contrarian point of view," according to Donna Galer, executive vp of Zurich-American Insurance Group in Schaumburg, Ill.

Ms. Galer moderated the Oct. 14 event in Chicago, which was titled, "Securitization of Insurance Risks: Myths and Realities."

"I think if it had been a year or a year-and-a-half ago, we'd have been sitting here saying, 'Except in a few very isolated instances this has been all talk and no action,' " said Scott A. Levine, president and CEO of Zurich Centre ReSource in New York.

Now, there are some significant examples of risk securitization, Mr. Levine said. He cited catastrophe bond deals this year by United Services Automobile Assn. and Swiss Reinsurance Co. "as probably the two most seminal deals that have been done."

Meanwhile, Richard L. Sandor, chairman of Hedge Financial Products Inc. in Chicago, pointed to Warren Buffett's decision to provide $1.5 billion in conventional reinsurance to the California Earthquake Authority last year as the most significant event to date for its role in changing investor perspectives.

"I think that was something

*See **Forum** on page 28*

BI's Ticker on Web

Business Insurance's World Wide Web site now features online stock information for all the commercial insurance companies in *BI*'s Industry Stock Report, with stock data continually updated during trading hours.

Weekly comparisons of the *BI* Index and major market indexes also are available. Information is supplied by Nordby International Inc. of Boulder, Colo.

In addition to current information on industry shares, *Business Insurance*'s site features an archive of lively and informative articles by columnist Myron Picoult. Mr. Picoult is vp and senior insurance analyst for Wasserstein Perella Securities Inc. in New York.

Both online features can be found on the World Wide Web at http://www.businessinsurance.com/ticker/index.html.

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Ruling limits claims of bias under ADA

Employer attorney calls ruling 'troubling'

By DAVE LENCKUS

NEW YORK—A federal judge in New York has limited the circumstances under which employees with disabilities can seek protection from job-related discrimination under the Americans with Disabilities Act.

But, at least one employer attorney said she will advise her clients not to follow the "troubling" guidelines the ruling establishes.

In his Sept. 16 summary judgment, U.S. District Judge John S. Martin Jr. ruled that a woman suffering from colitis and major depression is not protected by the ADA because her maladies did not limit her ability to work or other major life activities.

The woman charged that her former employer discriminated against her by changing her administrative duties to clerical and secretarial tasks after she took a short leave of absence to receive treatment.

The plaintiff last week had not decided whether to appeal, said her attorney, Lee Nuwesra of New York. Mr. Nuwesra would not comment further on the case.

Defense attorney Barbara E. Hoey of Kelley Drye & Warren L.L.P. could not be reached for comment.

But, employer attorney Shirley Lerner, who was not involved in the case, predicted the decision will be appealed and reversed.

She also does not foresee other courts ruling similarly.

"In many ways for employers, it's a fantastic decision," said Ms. Lerner, a partner with Meagher & Geer P.L.L.P. in Minneapolis.

"But if you rely on this, you're going to have problems," she warned. "I would be hesitant to let my clients act this way."

The plaintiff, Karin A. Johnson, had been employed at the New York Medical College for nearly 11 years and had received a couple promotions before she was

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Integrated disability programs are not growing: Study

By SALLY ROBERTS

Integrating workers compensation, short-term and long-term disability programs, while still on employers' minds, is not a growing trend, according to the preliminary findings of a new survey.

Only 35% of 349 companies recently surveyed said they had integrated disability programs in place or planned to have one in place within the next year. This remains unchanged from last year, when 35% of the 241 respondents answered accordingly (*BI*, Oct. 28, 1996).

Respondents site the lack of benchmarking data and lack of interdepartmental coordination as obstacles in coordinating and managing disability programs.

The results are included in preliminary findings of the second annual survey on disability management conducted by the Washington Business Group on Health and Watson Wyatt Worldwide. The full report will be available in December.

Integrated disability management coordinates workers compensation, short-term and long-term disability and related programs to reduce costs and simplify administration.

The approach emphasizes prevention, rehabilitation, education and return-to-work programs.

According to the findings, employers continue to work hard at managing their workers compensation programs but are less diligent when it comes to their non-occupational disability programs.

For example, 79% of the surveyed employers said they have transitional duty programs in place for on-the-job injured workers, while only 45% have such a program for workers hurt outside the workplace. Also, while 47% of the surveyed employers track return-to-work results from occupational injuries, only 19% do so for non-occupational injuries.

"People are just now starting to focus on the non-occupational side" of disabilities, said Karen Kissam, senior consultant for Watson Wyatt Worldwide in Washington. "They have spent so much time on the medical side, they are now only starting to focus on the disability side."

She said she expects it to take a couple more years before the trend really takes hold with employers.

"It is definitely on everyone's radar screen," she said.

Also in the report, surveyed employers identified several best practices that help manage occupational and non-occupational disability plans.

Those best practices tools—including performance standards for vendors, modified return-to-work programs and disability case management—lower disability costs, the survey said.

As a percentage of payroll, total direct disability costs for non-occupational incidents drops to 1.7% from 3.4% when more than seven tools are implemented, the survey said.

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For more information on the upcoming report, "Staying at Work: Improving Productivity through Integrated Disability Management," contact Andrew Sandor at Watson Wyatt Worldwide, 800-243-1349.

Integrated financing of risks gains ground

Honeywell using integrated program to cover currency risks

By GAVIN SOUTER

Corporate treasurers are increasingly turning to the insurance market to cover risks that traditionally were hedged in the capital markets, in an ironic twist to the highly touted efforts of investment bankers to securitize insurance risks.

In July, Minneapolis-based Honeywell Inc. cut its costs by buying insurance coverage under an integrated risk financing program that will cover the company's currency losses.

Other corporations also are now looking to integrated risk products to cover anything from hog futures to interest rate variations, said Scott M. Sanderson, vp at J&H Marsh & McLennan Inc. in Minneapolis, who placed the Honeywell coverage. Because of their volatility, financial risks are more efficiently covered under an integrated program where there is a greater spread of risk.

"Some people call it the 'insurance-ization of the capital markets,'" he said.

The coverage of financial risks contrasts with the sometimes successful and other times futile attempts by investment bankers and insurers over the past few years to access the capital markets to provide financing for insurance risks.

The currency insurance is just one advantage of the integrated risk programs, said other experts.

Since their emergence over the past two years, integrated risk products have provided broader coverage, stable capacity, more efficient use of insurance, and significant cost savings to policyholders, they say.

The Honeywell program was placed on July 1 and covers property, liability, directors and officers liability, and the currency translation risk on foreign profits, said Thomas P. Seuntjens, a member of the treasury management team at Honeywell.

American International Group Inc. underwrites the coverage. Mr. Seuntjens declined to provide any financial details of the program.

The foreign exchange risk is significant, because 36% of Honeywell's \$770 million in profits last year

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Integrated vs. traditional risk financing

Integrated risk financing provides broader and more uniform coverage than traditional insurance, proponents say.

Source: J&H Marsh & McLennan

GRAPHIC BY JOHN HALL

Global risks panel's priority

By SARAH GODDARD

MONTE CARLO, Monaco—Access to information about overseas exposures, variations in health and safety practices and international fraud are among the most pressing issues for risk managers of multinational companies.

That was the conclusion of a roundtable discussion on international risk management held as part of the recent Risk Management Forum in Monte Carlo, Monaco, co-sponsored by the Federation of European Risk Management Assns. and the Risk & Insurance Management Society Inc. of the United States and Canada.

More than a dozen risk managers from European companies outlined problems and came up with steps that might help in addressing them. Sharing information was a common denominator mentioned to help solve the problems.

Other "hot topics" they identified included international crisis management, business interruption, the Year 2000 computer problem, the establishment of a single European currency and the international risk management implications of mergers and acquisitions in the insurance industry.

Risk managers discussed the legal, risk and risk financing issues of health and safety variations, especially in Europe. One suggested a summary of the different practices across European countries be made available to multinational risk managers.

Cross-border fraud, with an emphasis on the problems that organizations face when they try to recover any assets, also worries risk managers of multinationals. Speaking from experience, one risk manager said that international law enforcement agencies such as Interpol "can't contribute to any of these

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Foundations pledge child care help

By ROBERT KAZEL

WASHINGTON—In an effort to improve the quality of day care and early child education across the country, 16 foundations have joined with large corporations to begin planning multimillion-dollar child care training programs.

The new effort, unveiled last week, includes commitments of \$2.4 million from the foundations. Their money will help develop director credentialing programs.

The program would complement separate, corporate-funded programs to boost the quality of day care that have been operating over the past five years.

The foundations that contributed to the new program include: the W.K. Kellogg Foundation, the Hasbro Children's Foundation, the Miriam & Peter Haas Fund, the Danforth Foundation, the Howard Heinz Endowment, the David and Lucile Packard Foundation, Rockefeller Brothers Fund, American Express, Citibank, Texas Instruments, the McCormick Tribune Foundation, the Moriah Fund, the Charles Stewart Mott Foundation, the William Penn Foundation, the Travelers Foundation, and the Ford Foundation.

The employers involved in the collaboration include: Aetna Insurance Inc., Amoco Corp., AT&T Corp., Bank of America Corp., Chevron Corp., Deloitte & Touche L.L.P., Eastman Kodak Co., Exxon Corp., GE Capital Services Corp., Hewlett-Packard Corp., Johnson & Johnson Corp., Lucent Technologies, Mobil Corp., NYNEX Corp., Price Waterhouse, Texaco Corp., and Xerox Corp.

The employers, which form the American Business Collaboration for Quality Dependent Care, have made long-range commitments to spend \$100 million on child and elder care (*BI*, Sept. 16, 1996). So far, they have spent \$9.4 million.

Those corporate efforts include a \$1.2 million program to provide onsite training for staff and directors at 185 child care centers over a 12- to 18-month period in Atlanta; Dallas; Washington, D.C.; Tampa, Fla.; New Jersey; and the mid-Hudson Valley in New York. BI

Online

Continued from page 1

the project, it hasn't developed any definite products yet, Mr. Owens said. "We're working on that. We've had a task force at work for the past several months and are in the process of putting together several forms."

"Part of what the task force is looking at is is there a need, and what is the need?" he said. "We keep continuing to make progress."

And Mr. Owens said he's not convinced that the lack of insurance products is preventing the development of online commerce.

For now, the most widely perceived risk has involved the security of online payments for purchases and the possibility that a customer's credit card information could be intercepted in transit by a third party.

But various encryption technologies might make the payment problems the easiest to solve, some experts believe, with the real issue for the future the security of information in an online company's computers.

"Big picture, our perspective on information security kind of runs like this: There's a lot of hype, a lot of confusion, a lot of chaos with information security," said Dave Muckley, a member of the board of directors of Trident Data Systems, a Los Angeles-based provider of information protection products and services.

"It's a huge issue of trust. With as much as technology does allow us to move information back and forth, the trust issue is huge out there," Mr. Muckley said.

And, he noted, many companies whose security is breached are reluctant to pursue legal recourse because of the possibility of a negative public relations impact.

In that context, it might not be surprising that online businesses questioned about the risks they perceive and steps they've taken to mitigate them generally chose not to respond.

A spokeswoman for one company that did answer questions, Seattle-based online bookseller Amazon.com Inc., limited its response to addressing the security of credit card payments.

"Statistically it's much safer to use your credit card on the Web than to use it in a restaurant or department store," she said. "We think that's good news, but we still take every possible precaution to protect the integrity of your card information."

Amazon.com offers consumers the choice of using the Netscape Secure Commerce Server, an encryption system that protects information during transmission. "You can safely enter your entire credit card number in the secure server, and it cannot be read in transit," the spokeswoman said.

But Steve Haase, president of Network Risk Management Services in Atlanta, a subsidiary of broker Hamilton Dorsey Alston Co., argues that the payment issue—while a driving concern in current efforts to find risk management solutions—is just part of the problem.

"The big issue that's going to drive a change in insurance is privacy of information," Mr. Haase said. "With computer connectivity risk, the issue isn't that I publish data about you but that some third party gets access to the data.

"Long-term, I don't think (credit card theft) will be the driving issue."

Better encryption technology will reduce that risk, and online commerce "will go from credit cards to private currencies, cybercash. . .encrypted financial transactions," he speculated.

Mr. Haase's company was another of those at RIMS that unveiled products aimed at Internet businesses. The product, a policy called InsureSite being underwritten by American International Group Inc. member companies and available through Network Risk Management Services, is linked to a Web site certification program offered by the National Computer Security Assn.

The insurance coverage,, with limits up to $5 million, includes customer funds security liability coverage, coverage for personal injury liability linked to electronic communication of information or unauthorized access of information at the site and coverage for direct physical damage to computer equipment and data stemming from vandalism, computer viruses or other perils.

So far, the number of actual policies issued has been limited. But Network Risk, which is acting as a wholesaler of the coverage, will start advertising it later this month, Mr. Haase said, which he expects to spark additional interest.

Thus far, there have been 15 actual submissions, of which "we have a few that we're writing. We're waiting on three," Mr. Haase said. "We've had to react a little to the marketplace."

The initial rates were essentially a "beta test," Mr. Haase said, "and we didn't want to price it too low." Those rates have been adjusted downward somewhat.

"We are under non-disclosure with about five companies right now," Mr. Haase said, describing those companies as being "involved in various Internet transactions."

More than 100 agents and brokers have indicated interest in representing the product, he said.

"At least we're off and running and writing business," he said. "From our budget perspective, we are on track. But whether this is a viable product we really won't know until our advertising really hits and we see how deep the waters are."

Mr. Haase said he expects some additions to the InsureSite coverage form in the near future, though he wouldn't disclose them for fear of tipping off competitors. "There are issues that are not covered that we want to address," he said. "And we expect to have our upgraded program out by the end of the year."

Mr. Owens said Reliance's coverage, which likely will provide some sort of errors and omissions and warranty coverages, probably will hit the market during the first half of 1998.

"I wish I was going to see it by the end of the year, but I don't think that's going to happen," he said.

While the online commerce market may remain small, Trident's Mr. Muckley contends the risks confronting those operating in the virtual marketplace are very real, though there's a lot of confusion about information security.

"Now what's happening is with the explosion of the Internet, our great technologists have made the transfer of information easier and easier, but at the same time, concerns for security have greatly increased," Mr. Muckley said.

Contrary to the views many have about the risks facing online businesses, Mr. Muckley said that while his company's experience "shows that the hype mostly has to do with outside threats," Trident believes the greatest risks are within an organization, such as from disgruntled employees.

"The key to it all is that security is really a process," he said. "Not just a bunch of point solutions."

His company has its clients start by examining their information assets and ranking them.

"You look at what are your vulnerabilities to the information assets and what are your potential threats," Mr. Muckley said. Once that is done, a company can develop possible solutions.

In trying to deal with liability stemming from system breaches, "it's important that you can show that you had policies and procedures and you had rules of engagement and those rules were violated," Mr. Muckley advised. BI

Year 2000

Continued from page 1

Year's Eve 1996 at the Tiwai Point aluminum smelter on South Island.

The main computer was not programmed to account for the extra day in the leap year.

As a result, each of the company's 660 process control computers hung up simultaneously at midnight on Dec. 31.

"Imagine that's a nuclear power plant," Mr. Woodward suggested.

After researching how conversion would affect one of its trucking industry clients, Lockton Cos., a Kansas City-based insurance brokerage and risk management consulting company, organized a Year 2000 task force to develop a strategy for all of its clients.

"We wanted to come up with a description, how it affects companies at different levels and insurance options," explained Joe DuCharme, Lockton's information manager.

For example, a client may have coverage under its general liability policies because the forms do not expressly exclude the Year 2000 exposure, according to the broker.

Realizing this, insurance companies are likely to start adding exclusions for Year 2000 exposures to policies that renew before the end of the millennium, Lockton warned.

So far, few insurers are writing coverage for Year 2000 risks, but Lockton expects the marketplace to expand.

New York-based American International Group Inc. already is offering one such policy, and Am-Re Managers Inc. announced last week in London it has launched a program in conjunction with Aon Risk Services.

While the Am-Re program, ARM 2000, provides up to $100 million in coverage limits, its primary focus is on managing and correcting the problem.

To meet this risk management objective, Am-Re and Aon have contracted with numerous information technology service vendors.

After evaluating the extent of its vulnerability to the millennium bug, the city of Chicago decided to scrap its existing management information systems and buy new ones, according to Elizabeth Boatman, chief information officer for the city.

Current cost estimates for converting the programs range from $1 to $1.25 per line of code. The city of Chicago's management information systems collectively have about 30 million lines of code, much of which is written in antiquated mainframe-based programming languages such as COBOL and UFO.

Furthermore, the city was using several different systems, some up to 30 years old.

"They were ready to be replaced anyway," Ms. Boatman pointed out.

While shopping the market, Ms. Boatman found that it would cost the city about half as much—about $15 million—to replace its existing systems with a newer and more centralized system.

For example, "we took some systems, like the animal control system used for licensing and tracking, and found out it would cost as much as $300,000 to fix. But an off-the-shelf system would cost just $30,000 or $40,000," she said.

Even after a new system is installed, the city also will have to pay for converting all of the data from the old system to the new system, testing and personnel retraining.

To meet the projected conversion costs, Ms. Boatman is asking the city to double the size of the budget allocated for MIS to $30 million for 1998.

In the meantime, a team of computer specialists is working on developing requests for proposal seeking bids on the city's Year 2000 project.

Testing is perhaps the single biggest cost for Year 2000 conversion projects, requiring many organizations to lease space on computers offsite, says Jim Woodward.

"All of this work will be outsourced," she said. "We don't have the manpower to do it ourselves."

Recognizing its potential exposures, San Francisco-based clothing manufacturer Levi Strauss & Co. has embarked on a Year 2000 conversion project. As have most publicly traded companies, Levi Strauss declined to provide details.

Security is tight for many corporate conversion projects because of the concern that their stock prices will fall when the word gets out about how much it will cost to bring their systems into compliance, explained William Fenwick, a partner in the Palo Alto, Calif., law firm of Fenwick & West, which is providing Year 2000 consulting services to clients.

"We have to report our conversion costs because the FCC requires us to report material expenses to shareholders," acknowledged Sandy Ball, project manager-Year 2000 at Puget Sound Energy Inc. in Bellevue, Wash.

Ms. Ball declined to reveal the utility's conversion costs until Puget Sound Energy's annual report is published.

Puget Sound Energy began its conversion project in early 1996, about a year before the company was created by the merger of Washington Natural Gas and Puget Power in February of this year, Ms. Ball said.

Because the two entities had delivered different types of energy, differences in their computer systems had to be reconciled even before Year 2000 compatibility was discussed.

The utility also faced a problem similar to that of the city of Chicago: "Most of our systems are quite old," Ms. Ball said.

After a thorough analysis of its varied systems, a decision was made to scrap some of the older components and reprogram others.

So, in effect, "we're not replacing the systems because of the Year 2000 issue," she pointed out. "What the Year 2000 really does is provide a deadline."

Because of its early start, Ms. Ball is hopeful Puget Sound Energy will meet that Dec. 31, 1999, deadline.

"We're going to be ready to test some applications soon," she said.

The utility has decided to test parts of the system in stages, she explained.

Testing is perhaps the single biggest cost for Year 2000 conversion projects, requiring many organizations to lease space on computers offsite so that both their old and new computer programs can run simultaneously, Cap Gemini's Mr. Woodward explained.

Fortunately, the number of vendors offering storage space for testing is growing, Mr. Woodward said.

For example, Cap Gemini has a storage facility in Tarrytown, N.Y., while Synapse's site is offshore in India.

In addition, numerous disaster recovery "hot sites" are being made available for Year 2000 conversion project testing.

But the space doesn't come cheap.

"If you went to IBM and said you wanted to replicate 50 gigabytes of MIT (millions of instructions per second) space for six months, it would cost $500,000," Mr. Overby estimated, using as an example the amount of space a midsize company might need.

"To lease it, the cost will be lower, but IBM will also want to sell you software," he said. "But if you only want to use it for testing, it may cost about $250,000.

Even though investment management company Frank Russell Co. started its formal Year 2000 conversion effort in late 1995, "we're still in the fray," said Mr. Larsen.

The target date for completion is mid-1999.

As did Puget Sound Energy and the city of Chicago, "we're going through all the areas of the company where there could be problems," and dividing systems into two categories—replace or reprogram, Mr. Larsen explained.

"Do you fix it, replace it, retire it or do you simply ignore it?" he asked.

In some cases, "if it doesn't impact operations, maybe you don't need to fix it," he suggested.

For example, "I've got a valid Washington State driver's license in my pocket that has '00' for its renewal date. But the state knows that it's good," Mr. Larsen observed.

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Sarah Goddard in London contributed to this report.

FACCT

Continued from page 2

members of large associations, such as the American Assn. of Retired Persons, the National Alliance for the Mentally Ill and state agencies to begin using the framework within a year, and it is to be used by the U.S. Health Care Financing Administration in the evaluation of Medicare risk HMOs next year.

Under the Balanced Budged Act of 1997, HCFA is required to provide comparisons of HMO quality to Medicare recipients by fall 1988. HCFA gave FACCT a $150,000 grant for the development of a framework.

The development of a framework was a "simple but very important step" toward supplying employees with information they sorely need, said Ellyn Spragins, author of an upcoming book, "Choosing and Using an HMO," and a researcher who has worked with FACCT to rank HMOs in the past.

Employees will be able to use the framework to pinpoint what kind of insurance will meet their needs in the next three to five years, she said.

FACCT's framework sorts data into five broad categories:

- The Basics: Access, skill, communication, coordination of care and follow-up.
- Staying Healthy: Helping people stay healthy.
- Getting Better: Helping people heal.
- Living with Illness: Helping the chronically ill.
- Changing Needs: Helping people when their health changes dramatically.

Information that can be fed into the FACCT mechanism includes Health Plan Employer Data & Information Set, or HEDIS, data from the National Committee for Quality Assurance, data from the Joint Commission on Accreditation of Health Care Organizations, and FACCT's own data sets.

The framework will help companies "make sense out of all the different statistics that are suddenly being dumped in benefit managers' laps," said Jon Newpol, a director in the national practice of the Medstat Group, based in Atlanta.

"I think that's great," Mr. Newpol said. "It will help people understand the big picture a little better."

The framework also addresses the problem of duplicity in data, Mr. Newpol said. Differing statistics on the same topics now are available from many different sources, leading many benefit managers to yearn for fewer and not more sources of information.

"People are longing for this (unity of) information," he said. "This is a long-overdue process."

FACCT officials did not know how much it would cost a company to license the HMO framework.

FACCT is a not-for-profit agency that creates measurement sets for use by other agencies and companies. Last year it endorsed measurement sets for asthma, breast cancer, diabetes, major depression, health risks, health status of people over 65, health status of people under 65 and consumer satisfaction. It is currently creating measures for alcohol abuse, coronary artery disease, HIV infection/AIDS and care at the end of life. BI

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Ruling

Continued from page 3

fired in September 1994.

She was hired as a clerk, secretary and administrative assistant in 1983.

In 1987, she was promoted to supervisor of the faculty practice for the college's new pediatrics department. Ms. Johnson later also helped establish new pediatric practices in two other locations.

In May 1993, the college promoted her to administrative coordinator of the pediatric department and boosted her salary nearly 17%. In her new job, Ms. Johnson worked in the office of the pediatric department's chairman. But, Maryann Wagner, the department's administrator, remained Ms. Johnson's direct supervisor.

Ms. Johnson was diagnosed with colitis in 1989. Medication alleviated but did not eliminate her symptoms, which included diarrhea, fatigue and nausea.

Ms. Johnson also suffers from depression, for which she began receiving treatment in 1993. She said colitis was one symptom of that condition.

'If that's the definition—you're able to work, therefore you're not protected—we won't have anyone protected, will we?' says employer attorney Shirley Lerner.

Other symptoms included poor concentration, sleep disruption, exhaustion and disinterest in sex.

In early 1994, Ms. Johnson took a two-week leave of absence to receive in-patient treatment at a psychiatric hospital for her mental and physical disabilities.

When Ms. Johnson returned to work, Ms. Wagner assigned her to a variety of clerk duties and to fill in for vacationing secretaries in the pediatrics department. The college also gave another secretary Ms. Johnson's desk and assigned the secretary some of Ms. Johnson previous duties.

The college, though, did not cut Ms. Johnson's salary or change her title.

The college in September 1994 fired Ms. Johnson after she refused a temporary assignment at another location. Ms. Johnson said she would have difficulty commuting to the location. Because of her colitis, she also rejected the college's offer for a male coworker to drive her.

Ms. Johnson argued that her conditions meet two of the ADA's three definitions of a disability: Her impairments limit two major life activities—work and sex—and the college, by changing her work duties, showed that it considered her impaired.

Judge Martin disagreed. Citing decisions by three other federal district courts in New York and Louisiana, he ruled that while colitis is a physical impairment "within the meaning of the ADA," it did not limit any of Ms. Johnson's major life activities.

Judge Martin noted that while Ms. Johnson said her colitis often forced her to make restroom stops while commuting to and from work, the condition neither harmed her job performance nor caused her to miss a substantial amount of work.

He also ruled that her disinterest in sex "is not a substantial limitation on a major life activity."

Similarly, Judge Martin ruled that Ms. Johnson's depression did not limit any of her major life activities. Aside from her hospital stay, her mental illness did not impair her ability to perform her job, he ruled.

He said courts have ruled depression interferes with major life activities only when the illness causes numerous hospitalizations, repeated absences from work and poor job performance.

The judge also rejected Ms. Johnson's argument that the college perceived her as disabled. He agreed with the college that Ms. Johnson's new duties after returning to work were no more than temporary assignments she was qualified to perform.

"The (employer's) perception must involve the belief that plaintiff's impairment is significant and limits more than her ability to perform a specific job, but that it hinders her ability to work generally," Judge Martin ruled.

Ms. Lerner, the employer attorney not involved in the case, said she sees "a lot of problems with this ruling and wouldn't rely on it."

The judge's reasoning that a worker with a disability is not protected under the ADA unless the disability is so detrimental that it affects the individual's work is unsound, she asserted.

"The law is supposed to protect those who have a disability that affects a major life function but who still can do a job," she said. "If that's the definition—you're able to work, therefore you're not protected—we won't have anyone protected, will we?"

The judge's ruling is especially surprising considering the recently issued Equal Employment Opportunity Commission guidelines on how employers should accommodate mentally ill workers under the ADA, Ms. Lerner said (*BI*, May 5). The federal agency said a mental illness substantially limited a major life activity if, for example, it causes sleeplessness or a loss of concentration over several months—symptoms Ms. Johnson claimed she had.

Ms. Lerner also emphasized that the ADA's definition of a disability does not require a disabled worker to seek an accommodation from his or her employer. "You still can't terminate them or change their duties based on their disability."

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Karin A. Johnson vs. New York Medical College and Maryann Wagner, U.S. District Court for Southern District of New York; 95 Civ. 8413.

Insurers may pay $50 million in fire

BRUSSELS, Belgium—A major fire in a hangar at Brussels' Zaventem airport used by Sabena airlines could cost insurers more than $50 million.

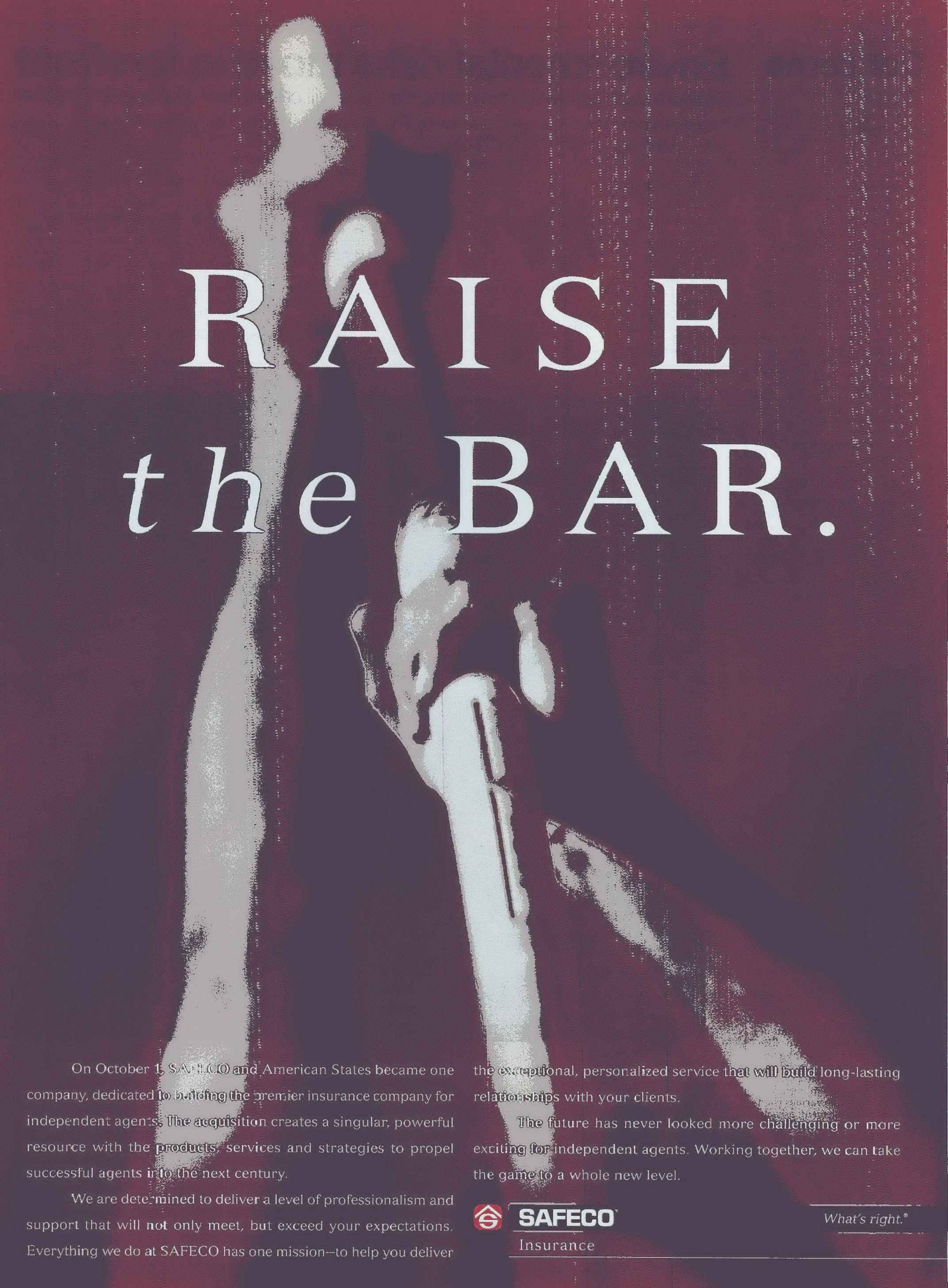
The Oct. 3 fire gutted the Sabena hangar, which stored spare parts for Boeing 737 and 747 aircraft as well as documents and archives. Although the hangar is insured for $5 million, the equipment loss could total between $40 million and $50 million, according to one underwriter on the risk.

Sabena's coverage is placed by J&H Marsh & McLennan Inc. in London.

Sabena is part of the KSSAF group of about 20 mainly European airlines that purchase their insurance coverage together.

The hangar loss will fall under KSSAF's "all-risks movables" insurance policy, which is led in Lloyd's of London by syndicate 625 managed by Hiscox Syndicates Ltd. It also is placed with KSSAF's captive insurer, Polygon Insurance Co. Ltd. in Guernsey. KSSAF renews its coverages Nov. 1.

—*By Stacy Shapiro*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Concerns

Continued from page 3

problems."

International crisis management also proved a headache to a number of the risk managers present. Crisis management in one's home country is not a problem, commented one, because the risk manager knows what to do and what services are available. But the situation can be different overseas, and often the risk manager has little knowledge of the crisis management resources in other territories.

Business interruption practices in different countries—and consequently the sums insured for such claims—vary widely, and the delegates said they need more information on the variations. Often local companies will have different meanings for reinstatement costs, risk managers at the session said, and this can compound problems for the organization.

Although Europe for a number of years has permitted companies to trade across borders without needing an office in each country, risk managers said the freedom of services regulations need to be clarified.

As in the United States, the Year 2000 problem, or "millennium bug," concerned the delegates attending the roundtable. Everybody recognizes countries are at different stages of reviewing their computer systems and hopes their decisions will prevent catastrophic collapses when the date changes to 2000, but the risk managers want more information on just what has been done.

In addition, if the fixes in place by the end of the century do not work, what are the contingency plans, asked a risk manager. Another questioned the availability of insurance coverage and the exclusions that may result in exposures.

Almost in the same breath, the issue of European Economic and Monetary Union arose. Cost expectations for implementing a single currency across European countries, the planning needs for successfully putting EMU into place and the contingency requirements should an organization not be prepared for EMU when it happens all concern risk managers, they said.

Plenty of information on all these subjects is available, pointed out a number of the risk managers present. It's more a case of being able to identify a source.

Roundtable moderator Paul Taylor, corporate risk manager with NFC P.L.C. in London and chairman of the special interests group on international committee at the U.K. Assn. of Insurance & Risk Managers, suggested that a formal or informal network be set up across Europe. Perhaps AIRMIC and its French equivalent, Assn. pour le Management des Risques et des Assurances de l'Entreprise, could hold joint meetings, said Mr. Taylor, a member of both organizations. However, his idea met with little enthusiasm.

Alternatively, the various countries' risk management associations could swap membership lists and expertise lists, or identify expert contacts in each country for risk managers to access for information on specific subjects.

Mr. Taylor's final suggestion was that the issues that had been identified by the roundtable audience should be raised in each of the national risk management organizations, with the resulting information collated and distributed to the other organizations. BI

Environmental risks move to forefront

Growing business while minimizing damage will create new challenges: Speaker

By EDWIN UNSWORTH

RISK MANAGEMENT FORUM

MONTE CARLO, Monaco—An increasing focus on sustainable development will make environmental risk management more important, an expert says.

The challenge of sustainable development, or achieving economic growth at as little cost as possible to the environment, creates new dimensions for the risk manager's function, said Bjorn Stigson, executive director of the Geneva-based World Business Council for Sustainable Development.

Mr. Stigson, who gave the keynote speech earlier this month at the biennial Risk Management Forum, is the head of an organization representing 125 international companies, including insurers, from more than 35 countries that share a commitment to economic growth while recognizing the need to protect the environment.

The fact that sustainable development was selected as the theme of the keynote speech for the forum "is itself an important sign of the change in how the environment is being perceived," Mr. Stigson said.

Regulatory authorities, investors and the public increasingly are pressuring businesses to protect the environment.

Mr. Stigson told conference delegates that the need to manage environmental risks "can only increase."

The challenge for risk managers includes the difficult one of knowing how to judge the long-term environmental vulnerability of their companies.

One way of addressing this problem is to use a scenario-planning approach, which is what the WBCSD is doing in a project it started seven months ago, Mr. Stigson said.

The two key parameters of these scenarios are:

- The uncertainty regarding both the resiliency of Earth's ecosystems and how much companies should spend to address environmental problems that may not manifest themselves for 20 to 30 years.
- Corporate governance—assessing whether individual governmental and international agreements will become stricter or more lenient regarding industry's responsibility for sustainable development.

Mr. Stigson warned that "we are just touching the tip of the iceberg" in terms of the changes on the way in regulation and sustainable development.

Continued on next page

Continued from previous page

In the future, a company's license to operate will depend on issues such as corporate social responsibility and the rate at which it uses up natural resources. In addition, companies that cause pollution likely will face higher taxes, he said.

"The risk manager will have to ask who in their company is qualified to address these ethical and social issues," added Mr. Stigson.

One of Mr. Stigson's concerns is that intergovernmental agreements may not set "realistic" targets for sustainable development.

Mr. Stigson cited the example of the carbon dioxide reduction targets agreed at the June 1992 Earth Summit in Rio de Janeiro, Brazil.

Those targets call for industrialized nations to reduce emissions of carbon dioxide and other gases to their 1990 levels by the year 2000.

However, with the world's coal-fired power stations on average 35 years old and expected to remain in use for another 20 to 25 years, it is inconceivable that carbon dioxide emissions could be cut within seven years to the targeted levels, Mr. Stigson said.

"What I'm worried about is that the governments will go to (the follow-up global environmental conference being held in Kyoto, Japan) in December and not form realistic solutions" to today's environmental problems.

Any agreement reached in Kyoto should take into account businesses' investment cycles, he added.

For example, it is unrealistic for a government to expect a company that has just constructed a coal-burning power plant to quickly meet a carbon dioxide reduction target.

Nevertheless, the WBCSD believes that in the five years since the Rio summit, there has been "great progress" toward finding ways of implementing the goal of sustainable development, Mr. Stigson said.

Key to this has been "a shift from a fractured view of environment and development issues to a holistic view of business and sustainable development," which includes businesses seeing sustainable development less as an extra expense and a hindrance and more as something that when handled correctly gives them a competitive advantage.

This is where the role of the risk manager is crucial.

"The quality of a company's environmental management provides the outside world with a good indication of the overall quality of its business management," he told delegates. BI

Client needs drive M&A moves: Execs

Globalization, price demands cited

By EDWIN UNSWORTH

MONTE CARLO, Monaco—The megamergers among brokers and insurers over the past year have been primarily client-driven rather than motivated strictly by a quest for market dominance, broker and insurance executives say.

Dick Verbeek, Rotterdam-based chairman of Aon Risk Services Worldwide, said Aon's expansion over the past year with its acquisitions of Alexander & Alexander Services Inc., Bain Hogg Group P.L.C. and Minet Group was "not done out of a megalomaniac need to be No. 1 or No. 2."

"It is happening because our clients are getting more international," added Mr. Verbeek.

He said Aon is "basically reacting to what is happening in the world" in terms of globalization and client demand for more competitive pricing. "We are ultimately changing to be much closer to what the client wants," Mr. Verbeek added.

Globalization among businesses requires that insurance brokers increase their "critical mass," giving them a global spread of resources, wide-ranging advisory skills, a wide range of services and negotiating strength for clients, Mr. Verbeek said at the Risk Management Forum in Monte Carlo, co-sponsored by the Federation of European Risk Management Assns. and the Risk & Insurance Management Society Inc. of the United States and Canada.

While the mergers and takeovers of the past years are reducing the number of top-flight brokers, they are strengthening those that remain.

Competition will intensify among these megabrokers, producing better answers for clients, Mr. Verbeek predicted. He also said this will produce polarization of brokers, with fewer megaplayers but an increase in the number of niche brokers.

Mr. Verbeek's viewpoint is shared by Rick Hudson, group executive-global brokers of London-based Royal & Sun Alliance Insurance Group P.L.C., who spoke in the forum's closing session on the consequences of globalization among brokers and insurers.

Mr. Hudson said the creation of his company through a July 1996 merger, forming the largest U.K. multiline insurance company, also was done to improve efficiency for clients.

"I applaud my group's attempt to become more efficient in this most inefficient and occasionally unprofessional business in which we operate," Mr. Hudson said.

While he acknowledged the merger also was completed in the interests of shareholders, Mr. Hudson said the real drive was for competitive size.

"We could not make the quantum leap necessary through organic growth, and we had to reach a critical mass in certain markets," he added.

Similarly, Philippe Carle, chairman of Paris-based broker CECAR, which was acquired earlier this year by Marsh & McLennan Cos. Inc., told the audience of risk managers "we will be merging and concentrating to give you more service."

Charles Walkenaer, chairman of Paris-based AXA Global Risks, said Mr. Verbeek's account of the expansion of Aon is an equally accurate description of what is happening at Group AXA, which has made acquisitions in Europe, the United States and Australia. By next spring, it plans to finalize its merger with Paris-based insurer Union des Assurances de Paris to

*See **Mergers** on next page*

Mergers

Continued from previous page

become Europe's largest insurance company.

From the customer's viewpoint, AXA's growth is creating "strong and solid" insurance units able to cope with any risk in terms of having the capacity to provide coverage and the ability to absorb a major loss, he said.

Rather than being damaging to clients, "size enables us to have international teams that can cope with international problems," said Mr. Walkenaer.

He, too, referred to the globalization of clients, which makes it all the more important that there are multinational and powerful insurers that "are better able to understand the incontrovertible trends in liability."

The reduction in the number of insurers through mergers and takeovers should be seen as an opportunity, not a problem, Mr. Walkenaer maintained.

"We satisfy your requirements even better than before. We'll continue to offer multirisk, multiline products," he said.

Megabrokers' advantages include lower prices, consistent worldwide services, access to all markets worldwide, and an unbundled range of services, Dick Verbeek of Aon says.

Mr. Verbeek said the advantages the growth of megabrokers provides to clients include lower prices, consistent worldwide services, access to all markets worldwide, buying power, better information and database access, an unbundled range of services, a wider and deeper skill base, and innovation from integrated operations.

The brokers denied a suggestion from a risk manager in the audience that their drive to achieve better terms for their clients might ultimately weaken insurers. Mr. Verbeek said Aon's objective is not lower prices but more efficient prices.

Aon's growth is aimed at improving efficiency, he said. "The client will no longer pay for our inefficiencies."

Mr. Carle agreed, saying that while the bigger merged entities ultimately will lower prices, it is through greater efficiency that the cost of providing the services linked with underwriting activities and of handling risks could be up to 15% lower.

However risk managers view the consolidation trend, FERMA President Hugh Loader urged them to "look for and embrace" the changes occurring globally in the insurance and brokering communities.

Risk managers should know that there's still room for improvement in insurance industry quality, and "life in the broking community is going to get tougher rather than easier," he said in his opening address.

Mr. Loader also said that despite the changes in the insurance and brokering industries, the risk manager still has to be the principal coordinator of a team bringing together all the traditional skills. The risk manager has "to think outside the box, to expect the unexpected."

The risk manager must have a contingency plans to respond to problems, such as the potential failure of a key supplier to meet the company's needs, and to be prepared for any natural disaster, warned Mr. Loader, managing director of Tetra Laval Insurance Services Ltd., part of The Tetra Laval Group of Saffron Waldon, England.

FERMA members have become more professional in all these areas, and their attendance at the Risk Management Forums helps, he said. BI

Planners to review meeting location

By SARAH GODDARD

MONTE CARLO, Monaco—Organizers of the biennial Risk Management Forum in Monte Carlo are exploring ways to boost future attendance among risk managers and insurance buyers.

Brokers, insurers and service providers dominate attendance at the Risk Management Forum, which is organized jointly by the Federation of European Risk Management Assns. and the Risk & Insurance Management Society Inc.

Nevertheless, risk managers still attend the biennial Monte Carlo conference in force, according to Hugh Loader, chairman of FERMA, who rated the conference a success.

Overall attendance was down slightly from the previous forum, which was held in 1995, said Mr. Loader, who is managing director of Tetra Laval Insurance Services Ltd. in Saffron Walden, England. Attendance for the 1995 conference reached about 950, compared with about 900 this time, he said. Registered delegates accounted for about 550 of the attendees, said Mr. Loader. Of those, risk managers numbered around 185, compared with about 220 two years ago, he said.

"Risk managers as a percentage of the total (delegates) have been pretty constant for the last three forums," said Brian Casey, co-chairman of the forum and director of risk management and loss prevention at Corning Inc. in Corning, N.Y. He hopes the percentage of risk managers at the conference will increase in the future; RIMS and FERMA are looking at ways of promoting the forum more to insurance buyers and risk managers.

One hurdle they face is the venue.

Monte Carlo—and its perceived qualities of luxury and expense—does not always encourage a trip authorization. Ironically, Mr. Loader pointed out that the forum started in Monte Carlo in 1981 precisely because it was the cheapest venue of the European options explored.

Also, many attendees have participated in the forum on several occasions and know the area well. Hotels are close to the conference center, and Monte Carlo has sufficient facilities for the many side meetings that people organize during their stay.

By holding the meeting in Monte Carlo, FERMA and RIMS—and other delegates—can ensure serious risk managers are attending the forum, rather than more junior members of the profession, Mr. Loader pointed out. "One of the things that exhibitors appreciate is that they may not get hundreds of risk managers, but the ones they do get are fairly senior," he said.

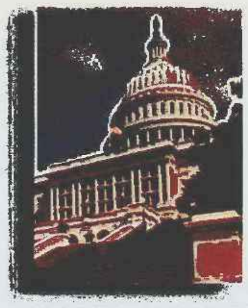
From both FERMA's and RIMS' points of view, the most important question about the venue is whether delegates will continue to attend the forum if the location is changed. Monte Carlo is particularly popular with French delegates, who numbered more than 100 for this meeting. Belgium, Germany, Switzerland, the Netherlands and the United Kingdom also were well-represented. Other European delegates traveled from Austria, Denmark, Finland, Ireland, Gibraltar, Guernsey, Italy, Luxembourg, Spain and Sweden.

Delegates also traveled from further afield: The United States, Bermuda, Canada, Mexico and Argentina all were featured on the delegate lists, as were Australia, South Africa and Morocco.

"I'm not sure whether changing the venue will attract more people or decrease the numbers," said Mr. Casey.

A number of suggestions for other locations have been proposed, for example rotating the forum so it visits every country represented at FERMA. But for now, the next Risk Management Forum will stay in Monte Carlo and will be held Oct. 10-13, 1999, at the Monte Carlo Convention Centre.

As for two years after that, FERMA will continue to examine the cost of holding the forum in other major European locations, comparing the available facilities, then decide whether the forum will move for the 21st century.



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WHO SHOULD ATTEND

Risk managers, loss prevention and safety managers, workers compensation administrators and analysts, employee benefit executives, plus insurers, brokers, consultants, representatives from HMOs and PPOs, state and local government representatives, association members, attorneys and providers from a broad range of companies and institutions.

CONFERENCE PROGRAM

MONDAY, OCTOBER 27, 1997

- GOLF TOURNAMENT, MALIBU COUNTRY CLUB: ***Hosted by Deloitte & Touche and SAC3***
- EARLY REGISTRATION AND WELCOME RECEPTION: ***Hosted by Liberty Mutual***
- EMPLOYER'S PRIVATE ROUNDTABLE

TUESDAY, OCTOBER 28, 1997

- REGISTRATION AND CONTINENTAL BREAKFAST: ***Hosted by Kemper***
- THE CASE FOR INTEGRATION: SORTING OUT THE MYTHS AND REALITIES OF DISABILITY INTEGRATION MANAGEMENT
- ERGONOMICS: EFFECTIVE WORKPLACE PRACTICES AND PROGRAMS
- REFRESHMENTS IN EXHIBIT HALL: ***Hosted by Commonwealth Risk***
- COMBATING FRAUD IN THE WORKERS COMPENSATION SYSTEM
- LUNCHEON: ***Hosted by INTRACORP***
- RETURNING EMPLOYEES TO WORK
- THE TRENDS OF WORKERS COMPENSATION IN CALIFORNIA TODAY: WHERE IS REFORM GOING?
- CREATIVE INCENTIVES AND PAY-FOR-PERFORMANCE METHODOLOGIES
- IDENTIFYING FACTORS THAT DRIVE WORKERS COMPENSATION COSTS
- COCKTAIL RECEPTION

WEDNESDAY, OCTOBER 29, 1997

- CONTINENTAL BREAKFAST: ***Hosted by GENEX Services, Inc.***
- OUTCOMES MEASUREMENTS: MANAGED CARE VS. MANAGED COSTS
- REFRESHMENTS IN EXHIBIT HALL: ***Hosted by Wausau Insurance Companies***
- ALTERNATIVE RISK FINANCING
- NEW MEDICAL APPROACHES TO OLD PROBLEMS
- RISK MANAGEMENT INFORMATION SYSTEMS
- LUNCHEON: ***Hosted by AIG Claim Services, Inc.***
- INNOVATIVE PRINCIPLES FOR REDUCING WORKERS COMPENSATION COSTS
- SCREENING OUT YOUR PROBLEMS—HOW FAR CAN YOU GO?
- BUILDING A LABOR/MANAGEMENT TEAM TO WORK TOGETHER IN REDUCING WORKERS COMPENSATION COSTS

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IBF • International Business Forum has applied with the California Insurance Board as a course provider for 11 CEU credits.

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☐ **Please forward information about sponsorship opportunities.**

WCBIFP

Datebook

OCTOBER

OCT. 24-28. 1997 Pharmaceutical Care Management Assn. Annual Membership Meeting & Conference in La Jolla, Calif., sponsored by the PCMA; $995 for members, $1,650 for non-members. PCMA, 2300 Ninth St. S., Suite 210, Arlington, Va. 22204-2320; 703-920-8480.

OCT. 24-29. 43rd Annual Employee Benefits Conference in Vancouver, British Columbia, sponsored by the International Foundation of Employee Benefit Plans; $695. For members only. IFEBP, Registrations Department, P.O. Box 69, Brookfield, Wis. 53008-0069; 888-334-3327, option 2 or 414-786-6710, ext. 8257.

OCT. 26-29. American Society for Healthcare Risk Management 19th annual conference and exhibition in Atlanta, sponsored by the ASHRM; $495 for members, $650 for non-members. ASHRM, 1 N. Franklin, Chicago, Ill. 60606; 312-422-3980.

OCT. 27. "Violent Crime" Seminar in San Francisco, sponsored by Employers Reinsurance Corp. Susan Newburger, Employers Reinsurance Corp., 5200 Metcalf, P.O. Box 2991, Overland Park, Kan. 66201-1391; 913-676-5070.

OCT. 27-28. 27th International Insurance and Risk Management Conference in Brussels, Belgium, sponsored by the Management Centre Europe and International Risk Management; 75,000 Belgian francs ($2,074) for corporate risk and insurance managers, 95,000 Belgian francs ($2,627) for others. Management Centre Europe, rue de l'Aqueduc 118, 1050 Brussels, Belgium; 32-2-543-2100.

OCT. 27-28. Statistical/Data Quality Conference in New York, sponsored by Insurance Services Office Inc.; $550 for employees of ISO-participating companies, $800 for others. Sal Aurora, ISO, 7 World Trade Center, New York, N.Y. 10048-1199; 212-898-5977.

OCT. 27-29. The Second Insuring Mega Projects in Asia '97 conference in Manila, Philippines, sponsored by IBC Asia Ltd. Jeannie Chong, IBC Asia Ltd., 268 Orchard Road, Suite 18-02, Singapore 238856; 65-732-1970.

OCT. 27-29. Fifth Annual Business Insurance Workers Compensation Conference in Santa Monica, Calif., sponsored by *Business Insurance*; $995 with discounts to $595 for risk managers registering early and $895 for other early registrants. International Business Forum, 7 Penn Plaza, Suite 901, New York, N.Y. 10001; 212-279-2525.

OCT. 27-31. Baden-Baden Reinsurance Meeting in Baden-Baden, Germany, sponsored by Colonia Konzern A.G., Auf dem Hunnenrucken 3, 50668 Koln; 49-221-148-32641.

OCT. 28-29. How to Gain A Competitive Advantage Through Work/Life Programs conference in Chicago, sponsored by the International Quality & Productivity Center; $1,295 for conference only, $1,695 for conference plus one workshop, $1,995 for conference plus two workshops, $2,195 for conference plus three workshops. IQPC, 150 Clove Road, P.O. Box 401, Little Falls, N.J. 07424-0401; 800-882-8684 or 973-256-0211.

OCT. 28-30. Designing & Managing Specialty-Niche Insurance Programs conference in Atlanta, sponsored by the International Quality and Productivity Center; $1,295 for conference only, $1,695 for conference plus one workshop, $1,995 for conference plus two workshops. IQPC, 150 Clove Road, P.O. Box 401, Little Falls, N.J. 07424-0401; 800-882-8684 or 973-256-0211.

OCT. 28-30. Customer Retention in the Insurance Industry conference, sponsored by International Quality & Productivity Center; $1,295. International Quality & Productivity Center, 420 Lexington Ave., Suite 2533, New York, N.Y. 10017; 800-882-8684 or 201-256-0211.

OCT. 29-31. Outcomes Management Skills for Children's Service Agencies in Pittsburgh, sponsored by the Institute for Behavioral Healthcare and CentraLink, 1110 Mar West St., Suite E, Tiburon, Calif. 94920; 415-435-9321.

OCT. 30. Litigation Strategies & Risk Management seminar in Atlanta, sponsored by Litigation Risk Management Institute; $695, $995 for two-day seminars. **Also Nov. 4** in Dallas, **Nov. 6** in Chicago, **Nov. 18-19** in New York, **Dec. 4** in Los Angeles, **Dec. 11-12** in San Francisco. Seminar Coordinator, Litigation Risk Management Institute, 145 Forest Ave., Palo Alto Calif. 94301; 650-327-3372.

NOVEMBER

NOV. 2-5. The Insurance Technology Conference in Orlando, Fla. sponsored by American Insurance Services Group Inc.; $485 for the full program, $240 for one day only. Susan Black, AISG, 85 John St. New York, N.Y. 10038; 212-669-0400.

NOV. 2-7. Leadership in Evolving Health Care Systems seminar in Boston, sponsored by the Harvard School of Public Health Center for Continuing Professional Education; $2,095. Harvard School of Public Health, Center for Continuing Professional Education, 677 Huntington Ave., LL-23, Dept. B, Boston, Mass. 02115-6096; 617-432-1171.

NOV. 3-4. Online Liability: Innovative Insurance Solutions to Emerging Cyberspace Exposures conference in New York, sponsored by American Conference Institute; $1,299. ACI, 175 Fifth Ave. Suite 2182, New York, N.Y. 10010; 416-927-7936.

NOV. 3-6. The NMHCC—Fall conference in Los Angeles, sponsored by the National Managed Health Care Congress. Beth Calkins, NMHCC, 71 Second Ave., Third Floor, Waltham, Mass. 02154-1107; 617-663-6518.

NOV. 3-6. The Clean Water Compliance Institute in Arlington, Va., sponsored by Government Institutes; $1,599. Government Institutes, 4 Research Place, Suite 200, Rockville, Md. 20850; 301-921-2345.

NOV. 4. Title Insurance: Critical Issues Facing the Buyer, Seller and Lender conference in New York, sponsored by the Practising Law Institute; $595. **Also Nov. 18** in San Francisco, **Nov. 21** in Chicago. PLI, 810 Seventh Ave., New York, N.Y. 10019-5818; 800-260-4754.

NOV. 5. Illinois Assn. of HMOs Fall Conference 1997 in Rosemont, Ill. sponsored by IAHMO; $260 for members, $315 for non-members. IAHMO Spring Symposium, 500 N. Dearborn, Suite 1128, Chicago, Ill. 60610; 312-321-0714.

NOV. 5. Atlanta Insurance Day 1997 seminar in Atlanta, sponsored by I-Day $75. I-Day, 4514 Chamblee Dunwoody Road, Suite 274, Atlanta, Ga. 30338-6202; 770-698-0082.

NOV. 5-7. Employment Practices Liability: Recognizing, Preventing and Insuring Your Exposure conference in Chicago, sponsored by the IBC Group P.L.C.; $1,295 for conference only, $595 for each workshop only, $1,695 for conference plus one workshop, $1,995 for conference plus both workshops. IBC USA Conferences Inc., 225 Turnpike Road, Southborough, Mass. 01772-1749; 508-481-6400.

NOV. 5-7. Technology: How It Is Changing The Insurance Industry conference in Lake Buena Vista, Fla., sponsored by the Society of Insurance Research; $495 for members, $545 for non-members. SIR, 691 Crossfire Ridge, Marietta, Ga. 30064; 770-426-9270.

NOV. 6-7. ACE: Annual Claims Exposi-

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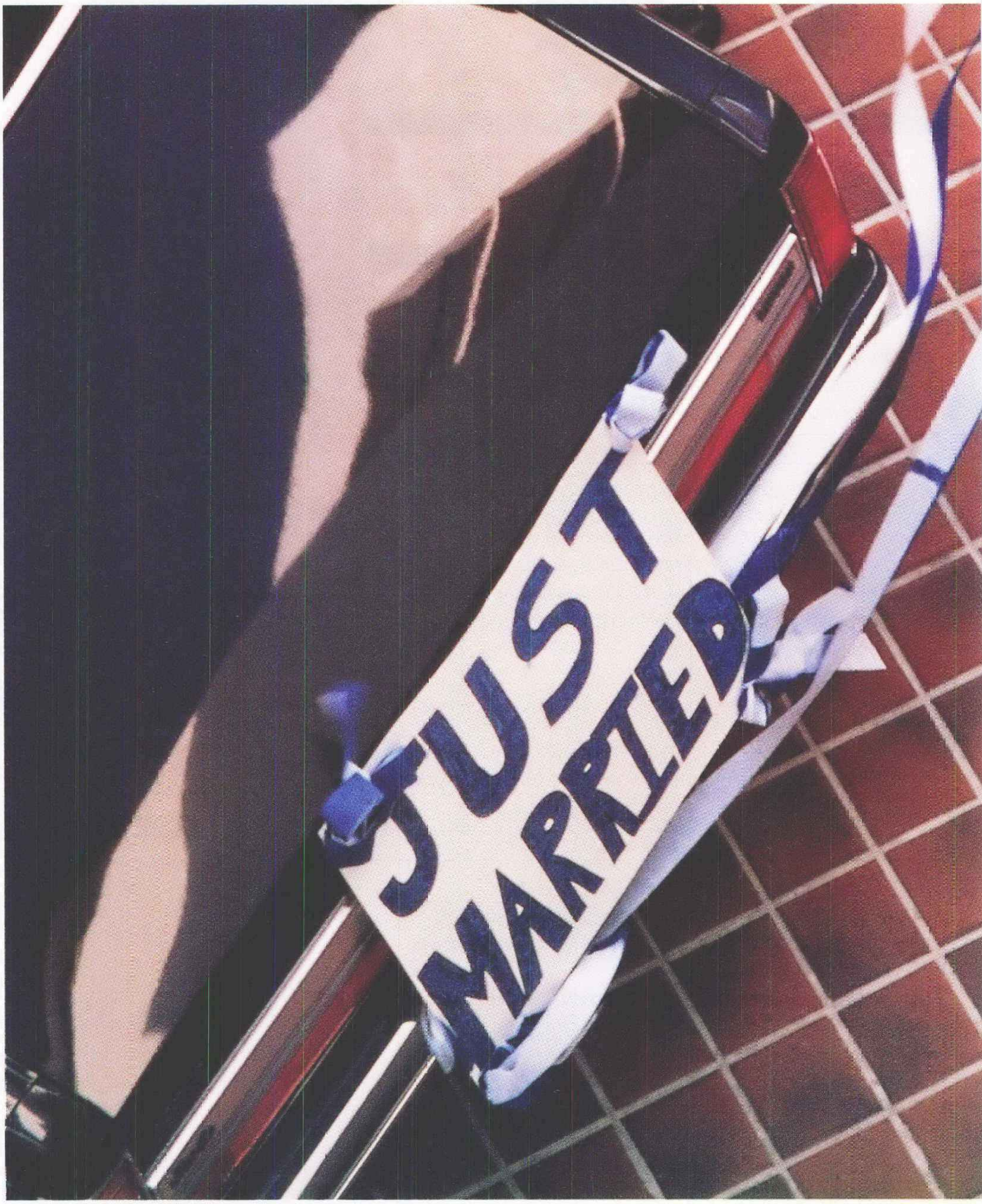

Continued from previous page

tion & Conference in Las Vegas, sponsored by Claims; $345; $395 onsite. Claims, 1001 Fourth Ave., Suite 3320, Seattle, Wash. 98154; 800-638-6190 or 206-624-6965.

NOV. 6-7. Measuring Total Outcomes to Manage Employee Lost-Time conference in Scottsdale, Ariz., sponsored by the IBC Group P.L.C.; $1,345 for conference only, $695 for workshop only, $1,745 for both. IBC USA Conferences Inc., 225 Turnpike Road, Southborough, Mass. 01772-1749; 508-481-6400.

NOV. 6-7. Property and Casualty Loss Reserves Workshop in Orlando, Fla., sponsored by Deloitte & Touche L.L.P.; $675, $700 if registration is made less than two weeks before the workshop. Shelly Fowler, Workshop Coordinator, 2 Prudential Plaza, 180 N. Stetson Ave., Chicago, Ill. 60601-6710; 312-946-2958.

NOV. 6-7. Reinsurance for Property/Casualty Insurance in Philadelphia, sponsored by Fells Road Group Inc./Michael Conn Associates Inc.; $1,195. Fells Road Group Inc./Michael Conn Associates Inc., 271 Route 46 West, Suite D-207, Fairfield, N.J. 07004; 201-227-5955.

NOV. 8-12. 16th Annual ISCEBS Employee Benefits Symposium in New Orleans, sponsored by the International Society of Certified Employee Benefit Specialists; $675 for members, $775 for CEBS graduate non-members and CEBS students. ISCEBS, P.O. Box 209, Brookfield, Wis. 53008-0209; 414-786-8771.

NOV. 9-10. Provider-Sponsored Networks in Behavioral Healthcare conference in Chicago, sponsored by the Institute for Behavioral Healthcare and CentraLink, 1110 Mar West St., Suite E, Tiburon, Calif. 94920; 415-435-9821.

NOV. 9-12. National Assn. of Independent Insurers 52nd annual meeting in San Antonio, sponsored by the NAII; $400 for members, $500 for non-members. NAII, 2600 River Road, Des Plaines, Ill. 60018-3286; 847-550-9353 or 847-297-7800.

NOV. 9-12. International Society of Certified Employee Benefit Specialists 16th annual employee benefits symposium in New Orleans, sponsored by the ISCEBS; $625 for members, $725 for non-member CEBS graduates and CEBS students with five or more courses completed. Members or CEBS students only. ISCEBS, P.O. Box 209, Brookfield, Wis. 53008-0209; 414-786-6700.

NOV. 9-12. The Assn. of Risk & Insurance Managers of Australasia Ltd. 21st national conference in Sydney, Australia, sponsored by ARIMA; $790 Australian ($602) for members, $990 Australian ($754) for non-members. Intermedia Convention & Event Management, P.O. Box 1280, Milton QLD 4064, Australia; 617-3369-0477.

NOV. 10-11. Ninth Annual Insurance Industry Conference in Boston, sponsored by KPMG Peat Marwick L.L.P.; $995. **Also Dec. 3-4** in Dallas. Executive Education, P.O. Box 14093, Church St. Station, New York, NY 10249; 201-334-4111.

NOV. 10-12. The Collection Procedures Institute in Palm Springs, Calif., sponsored by the International Foundation of Employee Benefit Plans; $750 for members, $900 for non-members. IFEBP, Registrations Department, P.O. Box 69, Brookfield, Wis. 53008-0069; 888-334-3327, option 2 or 414-786-6710, ext. 8257.

NOV. 10-12. The Primary Care/Behavioral Healthcare Summit in Chicago, sponsored by the Institute for Behavioral Healthcare and CentraLink, 1110 Mar West St., Suite E, Tiburon, Calif. 94920; 415-435-9821.

NOV. 10-12. Property and Casualty Insurance Product Management Skills and Techniques seminar in Chicago, sponsored by Dorman Consulting Associates; $995 per person, $895 per person if two or more attend from one company. Richard W. Dorman, Dorman Consulting Associates, 1 Haverhill Court, Beachwood, Ohio 44122; 216-464-5678.

NOV. 12-14. Professional Liability Underwriting Society 10th Annual International Conference in Chicago, sponsored by PLUS; before Nov. 1: $640 for members, $780 for non-members; after Nov. 1: $690 for members, $840 for non-members. PLUS, 4248 Park Glen Road, Minneapolis, Minn. 55416-4758; 800-845-0778 or 612-928-4644.

NOV. 13-14. EPCRA Compliance Course: Reporting Revisions and Expansions in Arlington, Va., sponsored by Government Institutes; $999. Government Institutes, 4 Research Place, Suite 200, Rockville, Md. 20850; 301-921-2345.

NOV. 13-14. Mealey's Drug & Medical Device Litigation Conference in West Palm Beach, Fla., sponsored by Mealey Publications Inc.; $795 for the first attendee, $525 for each attendee thereafter from the same group. Sharon Boothe, Mealey Publications Inc., P.O. Box 446, Wayne, Pa. 19003; 610-688-6566.

NOV. 14-16. The Seventh Annual Renfrew Foundation Conference in Philadelphia, sponsored by The Renfrew Foundation; $335; $195 for students. Wendy Pester, The Renfrew Foundation, 475 Spring Lane, Philadelphia, Pa. 19128; 800-736-3739.

NOV. 16-19. Seventh World Captive and Alternative Risk Financing Forum in Aventura, Fla., sponsored by Business Insurance, Skandia International Risk Management/SINSER and Tillinghast-Towers Perrin; $1,200 with discounts to $975 for risk managers and second and subsequent registrations from the same company. Judith Harrington, Conference Director, World Captive Forum, 4248 Park Glen Road, Minneapolis, Minn. 55416, 612-928-4659.

NOV. 17-18. Mealey's Environmental Reinsurance Conference in West Palm Beach, Fla., sponsored by Mealey Publications Inc.; $795 for the first attendee, $525 for each attendee thereafter from the same group. Sharon Boothe, Mealey Publications Inc., P.O. Box 446, Wayne, Pa. 19003; 610-688-6566.

NOV. 17-19. The 6th Annual National Workers' Compensation & Disability Conference and Exhibit in Chicago, sponsored by Risk & Insurance magazine, Human Resource Executive magazine, Jury Verdict Research and LRP Publications; $675. National Workers' Compensation & Disability Conference & Exhibit, 1555 King St., Suite 200, Alexandria, Va. 22314; 703-684-0510 or 800-727-1227.

NOV. 18. Assn. of Professional Insurance Women Inc.'s Luncheon in Chicago, sponsored by APIW; $30 for members, $35 for non-members. Karen Tucker, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590; 312-649-5319.

NOV. 19. Secondary Market Research on the Insurance Industry workshop in New York, sponsored by Saporito & Associates; $350. Patricia L. Saporito, Managing Principal, Saporito & Associates, 120 Broadway, Suite 1117, New York, N.Y. 10271; 212-227-8575.

NOV. 20. The CPCU Conferment Luncheon & Seminar in Chicago, sponsored by the Chicago Chapter CPCU Society; $50. Insurance School of Chicago, 175 W. Jackson Blvd., Suite 2200, Chicago, Ill. 60604-2803; 312-427-2520.

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The Datebook is compiled from notices sent to Business Insurance. Notices should be sent at least eight weeks in advance to Datebook, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. Please include the cost, if any, to attend the meeting and information on registration. Business Insurance reserves the right to select meetings of most interest to its readers and cannot guarantee that notices will be printed. A full-year list of the Datebook can be found on the World Wide Web at www.businessinsurance.com.

Illinois to pay $250,000 in religious bias case

By DAVE LENCKUS

CHICAGO—A nursing home owned and operated by an Orthodox Jew has accepted a $250,000 offer of judgment from the state of Illinois and six public health employees who seriously criticized the facility in a report that the facility charged was motivated by anti-Semitic sentiment.

But, while the facility's owner obtained the victory-in-principle he sought, his attorney complained that the Department of Public Health employees got off too lightly, because the state will pay the full judgment.

About $150,000 of the judgment will be paid from a special pool the state funds to indemnify employees. The Department of Public Health will pay the remainder out of its operating budget, said the facility's attorney, Howard M. Hoffmann, a partner with Holleb & Coff in Chicago.

The state said it will pay the damages, approved by U.S. District Judge Ann C. Williams on Sept. 17, only because going to trial would be more costly.

Although Illinois is not insured for the judgment, other public entities might be protected against such damages under the personal injury provisions of their general liability insurance, said Joel Cavaness, president, and Dietmar Faust, product development manager, of International Special Risk Services Inc., a division of broker Arthur J. Gallagher & Co. of Itasca, Ill.

Sherwin Manor Nursing Center Inc. of Chicago said the defendants in the case trumped up numerous violations against it during a December 1991 licensing and certification survey at the facility.

Training can help biased employees 'leave that bias at their door' before coming to work, says Howard M. Hoffmann.

The cited violations seriously threatened the facility's ability to continue operating, according to court papers.

The facility bypassed the usual appeal process and, in a more costly procedure, appealed directly to Illinois Department of Public Health supervisors.

In March 1992, the supervisors rescinded all of the allegations of serious violations against the facility.

Despite the department's reversal, the facility still sued in October 1992. In its two-count complaint, it charged the defendants violated a federal law that prohibits discrimination by government employees during the course of their official duties. The facility sought $150,000 of compensatory damages and unspecified punitive damages under each count.

Sherwin Manor claimed that the public health employees made numerous derogatory remarks about Jews during their survey. The employees then fabricated many serious violations against the facility and would not consider rebuttal evidence the facility attempted to provide, the suit charged.

In March 1993, Judge Williams ruled for the defendants. She said the facility failed to state a claim, because its only tangible injury was the cost of defending itself. That cost was not a compensable injury, she ruled.

Overturning that decision, the 7th U.S. Circuit Court of Appeals in October 1994 ruled that if Sherwin Manor's claims are true, the facility's equal protection rights were violated. The 7th Circuit remanded the case to Judge Williams.

Mr. Hoffmann said the state "saw the handwriting on the wall."

A state public health department spokesman and the department's attorney disagreed.

Taking the case to trial would have cost the state $500,000, the spokesman said. The state also did not accede to other demands by the facility, including that the state implement a special sensitivity training program for its employees, the spokesman said. He pointed out, though, that employees receive cultural sensitivity training as part of their overall training.

Regardless of the judgment, the facility's case was weak, said defense attorney Brian Scher, a partner with Ross & Hardies in Chicago. Mr. Scher noted the facility accepted the offer before its major witnesses were deposed.

Mr. Hoffmann said the facility's owner, who was trained as a rabbi, pressed the case on principle and not for the money. The offer of judgment satisfied the owner, Mr. Hoffmann said.

In addition, an offer of judgment differs from a settlement offer in an important respect for plaintiffs. A plaintiff who rejects an offer of judgment risks bearing some court costs and attorney fees it would not otherwise face if it wins an award that is less than the offer.

Mr. Scher and the public health department's spokesman maintain the employees did not engage in any anti-Semitic behavior.

Mr. Scher acknowledged that the state withdrew the most serious findings against the facility because evidence did not sufficiently support them and because of pressure from the nursing home. The department spokesman said violations are added and dropped routinely during the department's review process.

Mr. Hoffmann said the lack of evidence shows that the cited violations were motivated by anti-Semitic sentiment. For example, because the facility does not serve pork, it was cited for not providing a varied diet. The facility runs a kosher kitchen for its residents, 80% of whom are Jewish and do not eat pork, he said.

Mr. Hoffmann said other public entities should take a cue from this case and implement cultural sensitivity training programs to help biased employees "leave that bias at their door" before coming to work.

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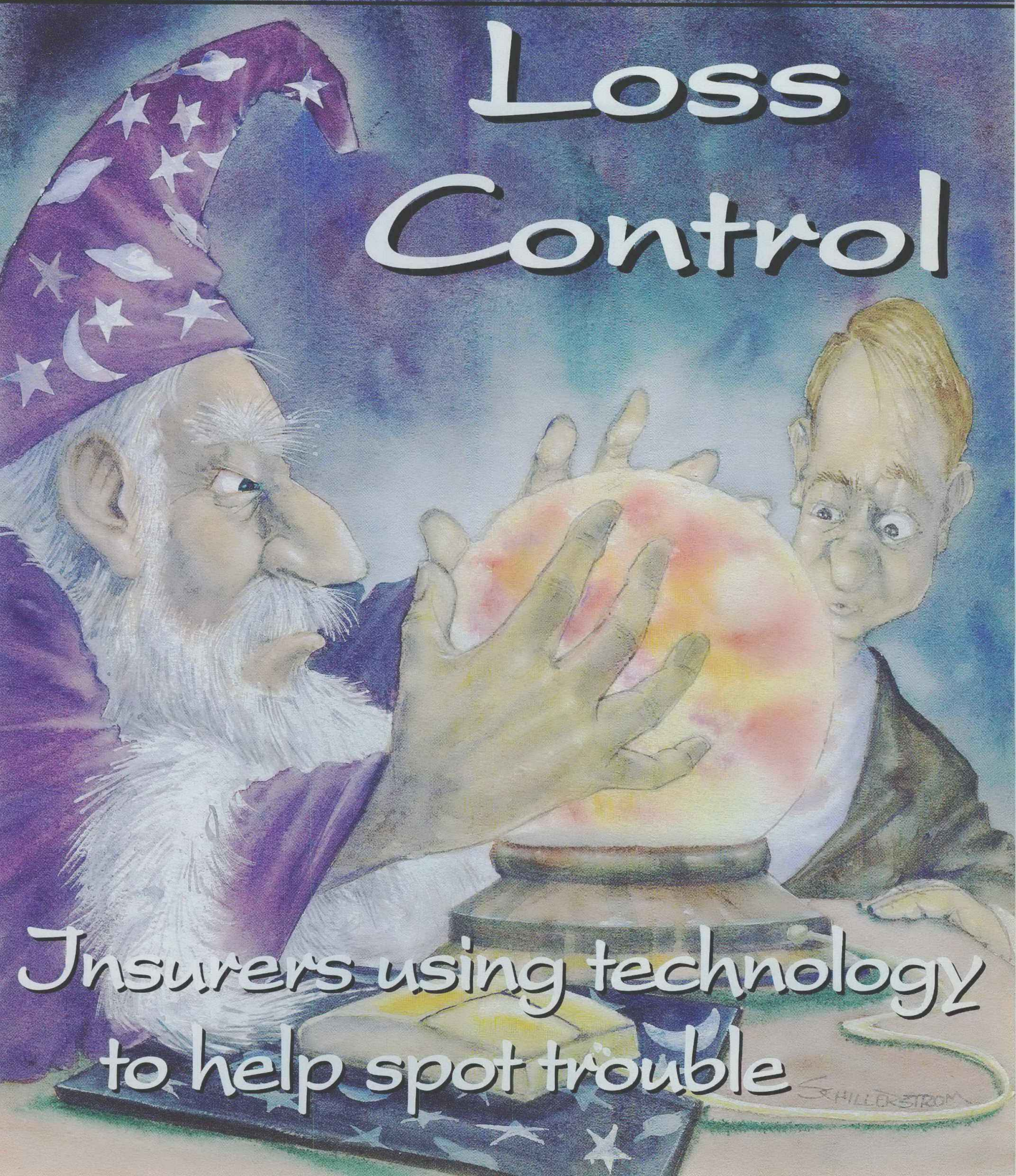
Sherwin Manor Nursing Center Inc. and Abe Osina vs. Judith McAuliffe et al., U.S. District Court for the Northern District of Illinois—Eastern Division; No. 92 C 6659.

Insurer Topics

A special editorial section sent exclusively to insurers and reinsurers

Loss Control



Insurers using technology to help spot trouble

Insurer Topics

Internet technology pushes loss control

Insurers, brokers can deliver customized loss and safety information to clients

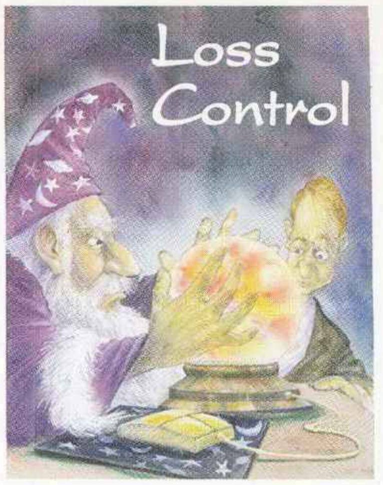
By MICHAEL BRADFORD

Internet technology is making loss control more efficient.

A quickly developing Internet use involves "push technology," which allows users to receive customized information, making it easier for risk managers to get tailored loss information from insurers, agents and other sources.

Push technology allows Internet users to customize requests for personalized information, such as weather reports for specific areas, sports scores, information on particular types of businesses, stock reports or other specific requests. The information is compiled daily and is available when the user logs on. Internet users need only download or buy a program that will push the information to them and make their choices.

"You don't have to do anything," explained Gary A. Nesbit, director of loss control services with St. Paul Major Markets, a St. Paul Fire & Marine Insurance Co. unit in Eagan, Minn. The service "finds that information that you requested and pushes it back onto your computer," he said.



Speaking during a seminar at the CPCU Society's annual meeting in Dallas last month, Mr. Nesbit was part of a panel that discussed how the technology can be used to help control losses.

It means insurers, brokers and others can "push" customized loss and safety information to clients on a schedule, he said.

"Say that you're working in loss control, and you're working with a number of clients," Mr. Nesbit suggested. "You can use this technology to customize the loss and safety information that you want to provide to your individual customers."

With a few quick selections to establish the service, risk managers can choose what safety information will be routinely delivered to their desktops.

Users can select from a "menu of safety services that are out there, whether they are material safety data sheets, regulatory updates, product liability information," or other choices, he explained.

Risk managers can know instantly when a site they have selected to push information changes, said Jim Kroviak, managing director of Market Connections, a San Diego company that helps insurers take advantage of electronic commerce technology.

"When the owner of the site goes in and makes updates or adds contents, it will notify you," he pointed out. In some cases, the changes will be automatically downloaded, or the user will be alerted that there are new options to choose from.

Along with safety information, the technology is being developed to provide "loss information from the insurance company to the individual agent, broker or client," Mr. Nesbit said.

Specific information on a policyholder's losses could be sent to users, such as policyholders or brokers, by the same method as frequently as the user requests, he added. The requests are processed over the Internet and tap the insurer's database for information that is sent back to the user, Mr. Nesbit said. Processes allowing retrieval of that kind of information would require passwords.

Electronic mail, the most frequently used feature of the Internet, also offers a loss control

See Loss on page 18F

SERVICE

[US]

[THEM]

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SCUDDER

Insurer Topics

Officials don't want cat models to dictate rates

South Carolina official suggests using models in combination with loss mitigation

By MICHAEL BRADFORD

Insurance regulators support catastrophe modeling but would like to see underwriters exercise some restraint when using the models to set rates.

The controversial catastrophe models, which insurers and reinsurers are increasingly using to help determine rates, drew criticism and praise during a half-day seminar at the CPCU Society's annual meeting in Dallas last month.

Regulators from South Carolina and Florida made it clear that while catastrophe models have a place in ratemaking, they won't allow the models to be the last word in how much is charged for property coverage.

If they did, rates would skyrocket, said Lee P. Jedziniak, director of insurance at the South Carolina Department of Insurance.

He said insurers are using models to justify charging property rates that some policyholders should have been paying long ago.

During a 30-year period from the 1950s to the 1980s, "there was a lull in catastrophes," Mr. Jedziniak pointed out. "Simply put, there was nothing going on anyplace."

During the same period, affluent retirees began to settle along the coastal areas of Southern states. In a rush to meet the need in the undeveloped areas, builders hastily constructed homes and took advantage of lax building codes.

Insurers fought for the increasing business, and many charged premiums too low for poorly constructed homes.

The lull ended with Hurricane Hugo, he said. "And before the industry could even begin to recover from that, we had Andrew and Iniki and the earthquake in California. We had tsunamis and volcanoes in the Far East. The whole world just seemed to erupt."

As a result, insurance companies "not only jacked up the rates," Mr. Jedziniak said, but they also instructed agents to reclassify the risks so they were rated as they should have been before the disasters. "So consumers got not only the natural rate increase that came from the fear of future disasters, they were also brought up to where they should have been all along."

The backlash from consumers led legislators and regulators to dampen rates, Mr. Jedziniak said. As a result, insurers left South Carolina and other states. "And that's how we got to the situation we're in

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Loss

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tool, the panelists pointed out.

A Gallup poll conducted last year found that 90% of the large companies surveyed used Internet e-mail, said Thaddeus A. Nosal, manager-environmental hazards at American Insurance Services Group Inc. in New York.

The study found that 64% of midsize companies and 42% of small businesses use e-mail, he pointed out.

That translates into about 3 billion messages sent each month, Mr. Nosal said.

Risk managers, agents and brokers are using e-mail for much more than saying hello.

"One of the things that we're looking at with the use of Internet e-mail is the capability to do attachments," Mr. Nesbit said.

"What that would mean is, loss control reps would go out and fill out their reports on their laptops. Using a digital camera, they could take pictures of either the hazards or the operations, save those on the hard drive" and send it all to the underwriter, Mr. Nesbit said.

Mr. Kroviak emphasized that Internet technology allows the attachment of "virtually anything" to an e-mail message, whether it is text, video or still images.

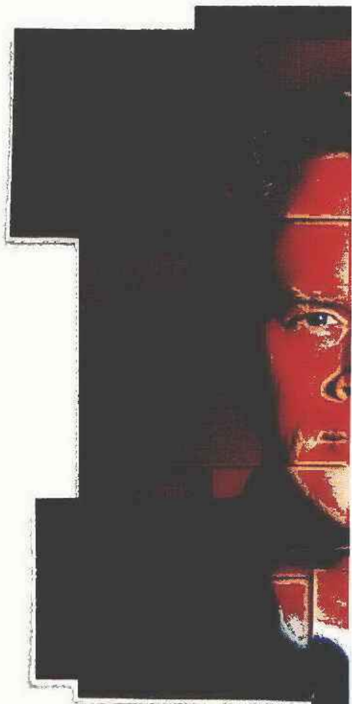
Internet technology also is providing training applications, he noted.

Whereas audio tapes with training information routinely have been mailed to users, those tapes can be transferred to an Internet site where they are available for downloading.

And the Occupational Health and Safety Administration offers video on some of the ergonomic case studies it has placed on the World Wide Web, Mr. Nesbit noted. Related text detailing violations and remedial actions is placed at another site.

As the technology improves and users become more familiar with what's available, such information increasingly will be used in the loss control arena, Mr. Nesbit pointed out.

Warren L. Farrar, assistant vp-property claims at State Farm Fire & Casualty Co. in Bloomington, Ill., moderated the panel. BI



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now. How do we fix the affordability and availability problem?"

Catastrophe modeling is one answer from insurers, he noted. It allows underwriters to simulate exactly where a hurricane or earthquake could hit, determine the extent of damage that would result and set rates to account for that potential.

"If you do it without phasing it in, if you do it just like that, rates are going to skyrocket again," Mr. Jedziniak said. "Rates have to skyrocket when you do modeling."

A better way would be to use catastrophe modeling with catastrophe loss mitigation, he suggested. That means building well-constructed homes or "if you've got a home that's about to fall apart. . .fix it now," he suggested.

"Mitigation doesn't have to be complex," he said, urging insurers to work with policyholders to have them do simple things such as putting away lawn furniture that can become projectiles in high winds, trimming trees and spending about $200 to tie down roofs.

More complex methods of mitigation would include states implementing stricter building codes and offering tax or premium incentives for retrofitting structures to withstand the storms, Mr. Jedziniak said.

South Carolina allows insurers to use catastrophe models in rate-making, but the underwriter must show how any increases would be phased in with incentives, he said. "If you want to catastrophe model, that's OK. If you want to raise the rates to reflect the risk, that's OK. But in the same manner, reduce the rate when people mitigate."

A Florida regulator on the panel hoped to put to rest the notion that his state has no faith in catastrophe modeling in light of the state's challenge to the models' reliability.

"There is a myth out there that Florida does not acknowledge catastrophe modeling for hurricanes," said Kevin M. McCarty, assistant director of insurer services at the Florida Department of Insurance. "That is simply not true."

In fact, Florida regulators rely on modeling to derive rates for the state's own hurricane catastrophe fund, he pointed out.

But regulators in the state have been critical of modeling, challenging one method in Florida's Division of Administrative Hearings earlier this year. The suit charged that a model approved by the Florida Commission on Hurricane Loss Projection Methodology would undercut the department's authority in approving or rejecting rates. An administrative law judge dismissed the challenge in September.

That doesn't stop Florida regulators from looking closely at each individual filing, whether or not the insurer submitting it used modeling to come up with rates, Mr. McCarty said.

Florida regulators have charged that rates in the state could skyrocket if some models are approved for insurers to use in justifying increases. That criticism is shortsighted, according to Geraldine Del Prete, vp with American Re-Insurance Co.'s DICO Division in Princeton, N.J.

The higher rates insurers calculate using models may not be high enough, she said. Scientists have indicated that climatic changes as a result of global warming will result in more hurricanes, she said.

And, Ms. Del Prete added, some scientists claim that fact is not adequately reflected in catastrophe models. "So here we have the science community telling us these cat models are great" but at the same time saying the outlook for catastrophes could be worse than the models are projecting.

An insurer suggested that while catastrophe modeling is not a perfect science, it's better than the alternative.

"They are far more scientific and accurate than the alternative," said Rade T. Musulin, vp and actuary for Florida Farm Bureau Insurance Cos. in Gainesville, Fla.

Before modeling, insurers' rate-setting methods did not incorporate factors such as variations of losses by geographic area, demographic shifts and changes in weather patterns, he noted.

Consumers benefit from the use of models because the technology encourages insurers to write more business, solving part of the coverage availability problem, Mr. Musulin said. "It should allow consumers to comprehend their prices better because models allow insurers to price their products in much more specific ways than they could years ago."

More accurate pricing results in solvent insurers with greater claims-paying ability, he added.

Other speakers at the seminar were: Ronald T. Kozlowski, consulting actuary with Tillinghast-Towers Perrin in Atlanta; Karen Clark, president of Applied Insurance Research in Boston; Robert M. Peduto, second vp with Employers Reinsurance Corp. in New York; John Tedeschi, vp at EQECAT Inc. in New York; Sean F. Mooney, senior vp and economist with the Insurance Information Institute in New York; and Selwyn Whitehead, president of The Economic Empowerment Foundation in Oakland, Calif. BI

Insurers team up with intermediaries on programs

Insurance companies seeking to develop niche markets and relationships with agents

By MICHAEL BRADFORD

Agents and brokers are pairing up with insurers to offer specialty program business as a way to distinguish themselves in a crowded and competitive marketplace.

"It gives you the differentiation and the edge you really need to compete in the marketplace," said Robert Cohen, senior vp with United National Insurance Co. in Bala Cynwyd, Pa.

Speaking as a panelist at the CPCU Society's annual meeting in Dallas last month, Mr. Cohen pointed out that United National looks at specialty programs "as a strategic alliance," or essentially a joint venture between the insurer and the agent.

He explained that under such an arrangement, the insurer bears the risk but looks to the intermediary to handle other duties, including product development, marketing, policy administration and underwriting.

"It's been our success to partner with people we know, we trust and have confidence in," Mr. Cohen remarked. "We're different from a lot of program companies because we are going to give you complete autonomy to drive the ship," he said. "But at the same time, make sure that you're staying within a pre-agreed underwriting box" established by United National and its reinsurers, he said.

Many agents are eager to establish niche markets and relationships with insurers that will underwrite the programs.

"We realized that if we are going to choose to pursue being generalists. . .that frequently the only differential between products is price," said Nicholas D. Cortezi, executive vp with All Risks Ltd., a Towson, Md.-based wholesaler and managing general agent. "And as far as I'm concerned, if the only basis on which you can compete is price" in the soft market "you've got a losing proposition."

Since All Risks began offering specialty programs about six years ago, the MGA has grown steadily each year, Mr. Cortezi noted. "And more importantly, our carriers have been making money on the programs, so we believe it's going to be a long-term source of success for the agency."

Reinsurance brokers are getting into the specialty program business for many of the same reasons as intermediaries that serve primary underwriters.

"Right now we have about $450 million that is generated by program business," said panelist William L. Hillman, vp with Guy Carpenter & Co. in New York. "And that is expected to grow dramatically because of the pressures in the other areas of traditional reinsurance that are depressing our revenues."

Reinsurers are operating in a marketplace in which many ceding companies are retaining more risk in order to increase their net premiums, Mr. Hillman pointed out.

CPCU SOCIETY

"So reinsurers have focused on trying to identify segments of the market where they can support an underwriter that has developed an expertise in that area," he said. "The attraction is that the segment will have fewer competitors in it because there is a need for expertise to underwrite the business. That should enhance the profit potential."

Reinsurers in some cases are so eager for the business they are forming ceding companies that will pursue specialty niches.

Mr. Hillman said about 15 reinsurers have established their own ceding companies to work with MGAs to develop specialties, a move that doesn't sit well with some other primary insurers.

"You can just imagine how we feel about being a ceding company ceding business to what in essence is our competition," Mr. Cohen said.

The situation leaves specialty insurers between a rock and a hard place, he added. "We need these reinsurers to support our deals, yet at the same time they're sending us a pretty clear message that they don't need us. So ultimately we're trying to sort out who are our

friends and who are our foes."

Mr. Cohen also pointed out that a

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lot of primary insurers are "reinventing themselves" to focus on specialty programs as their market share erodes in the current competitive environment.

One good thing about the soft market is that with so many competitors scrambling for market share, it's a time when a lot of new business is being written, and new opportunities are appearing for insurers, reinsurers and intermediaries, Mr. Cohen said.

He said it is "just amazing what you can get done in the soft market."

Mr. Cortezi said intermediaries can design programs where there are coverage inadequacies or in cases where coverage exists but pricing is out of line.

As an example, he pointed to a program All Risks designed to provide spectator liability insurance for race car teams. NASCAR teams were having problems locating the coverage that would pay, for example, if a wheel flew into the crowd and injured race fans, Mr. Cortezi said.

After studying the risk, fan injuries were found not to be a major exposure, Mr. Cortezi explained, and a program was developed to meet the coverage need.

All Risks met a pricing need in developing a liability program that covered security guards when the MGA's research determined such coverage was too expensive for companies with superior training, lower turnover and more motivated workers.

Mr. Cortezi acknowledged that lower pricing isn't always warranted when writing such group programs. "Just because you can gather together a large number of risks doesn't necessarily mean that they are a better group of risks together than they are individually."

A program priced solely on group numbers is "really doomed to fail, because in this soft market, pricing is not the key to success," Mr. Cortezi stressed.

Kurt C. Bingeman, president of Russell Bond & Co. in Buffalo, N.Y., moderated the panel. BI

Seeking balance on complex exposures

By Mindy Pollack

IT Perspective

ONE OF THE GREATEST challenges for insurers is finding a new approach to solving a well-known exposure. We know about the potential enormity of pollution and sexual abuse claims, for example, but we also appreciate the critical need for protection against any unexpected losses. Whether driven by a soft market, innovative spirit or both, insurers are developing new policies and endorsements to address these coverage needs while containing total exposure.

Insurance underwriters are turning to their claim departments, and often their reinsurers' claim departments, for insights and assistance in drafting new forms. Ironically, the same reinsurance claim experts handling abuse and pollution claims on old programs are applying their expertise and loss lessons to writing today's forms for the same type of risks.

What ultimately emerges are policy approaches trying to balance the desire to provide needed coverage and avoid unlimited exposures to catastrophic losses.

Will sublimits and modified exclusions work? It may be years before the courts interpret new wordings. For now, it is well worth the time for insurers and policyholders to examine the liabilities, claim experience and coverage issues, and make the most educated guess.

We offer our reinsurance claim perspective on the complexity of the task for just two exposures and coverages: sexual misconduct sublimits and time element pollution exclusions—to illustrate the need for careful analysis and drafting of any so-called "solutions" to old problems:

Sublimits and sexual misconduct

Sexual misconduct claims have arisen for many policyholders, including schools, hospitals, nursing homes, private homes, medical professionals, camps and, quite visibly in the 1980s and 1990s, churches and day care centers.

Sharply improved regulations and greater risk awareness have reduced losses on newer coverages, but the exposure to large indemnity and defense costs remains. Insurers and policyholders still might face this claim scenario, for example: a single individual identified as the perpetrator; several alleged victims; an employer with hiring, oversight and reporting duties; and actions spanning more than one policy period.

Many insurers use targeted or more general policy exclusions to exclude losses and expenses arising out of such sexual misconduct allegations, and the courts increasingly have enforced such coverage denials. While the law develops on the

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Pollack

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exclusionary approaches, an increasing number of companies are considering and introducing sublimits as a way to offer policyholders some protection while controlling exposure.

However, there is no one standard sublimit clause, and the variations can have a significant impact on an insurer's exposures. Consider this sampling of wording issues gleaned from our claim experience:

• Consistent sublimit and exclusion. To avoid stacked limits, the policy should clearly exclude what it is partly giving back through a sublimit. The exclusion would be at least as broad as the sublimit coverage grant, yet we often receive draft sublimit endorsements for review without any accompanying CGL or errors and omissions form to make that determination. The insurer must line up both the basic coverage form and its exclusions with any newly drafted endorsement to avoid any differences, or it may find itself paying two limits. The comparison should encompass the entire form but particularly all exclusionary language, including any lead-in phrases.

• Coordinating primary and excess forms. Implicit in any layered program is the question of how an excess insurer will respond when the primary sublimit is paid out and the duty to defend has been terminated. Has the excess insurer reviewed the underlying treatment and considered any drop-down potential? In contrast, the excess insurer might be willing to pick up some exposure to higher-dollar, and therefore more remote, settlements and judgments, even if there is no primary coverage. Decisions will hinge on the level of desired exposure by the insurer in each layer, but the outcome should match the language.

• Direct and vicarious liability. The insurer must consider the direct liability of the perpetrator and the vicarious, or indirect, liability of the employer for negligent hiring, supervision, retention and reporting. Will both be covered? Many of the newer sublimit endorsements are designed to cover just the vicarious exposure, which means it should be carved out of the full policy. Most forms contain exclusions referencing these negligence claims, though some recent decisions suggest that general assault and abuse exclusions encompass the vicarious negligence exposures or else they would be meaningless.

• Number of claims and policy periods. Two of the most important and interrelated issues are how many limits, and which limits, will be triggered by a sexual abuse claim. Whether claims-made or occurrence, as state regulations permit, the policy can still answer these questions. All acts of misconduct by one person can be considered a single claim or occurrence, regardless of the number of victims, incidents and negligent third parties; in contrast, each victim can be a separate claim. There are just as many permutations for selecting which policies are triggered, which is usually when the claim is made or the misconduct takes place. To contain the loss and avoid multiple limits, an insurer could define the occurrence as taking place in the year the misconduct began or was discovered. Whatever combination of claims and policy periods is chosen, the result will have a major impact on the amount of insurance available.

Pollution exclusions

Perhaps nowhere is it more challenging to accommodate the needs of buyer and seller than in pollution coverage. The policy language may not be difficult to draft, but the ramifications of a mistake are great. Insurers and policyholders alike are still struggling with decades of exposure, now the subject of increasing disclosure to regulators and rating agencies. Just as much as the policyholder wishes to comply with environmental laws to avoid additional liabilities, the insurer wishes to enforce the language of any new exclusions and conditions.

Again, the softening market and demand for protection have moved some insurers off the absolute pollution exclusion for more remote exposures. Insurers might differ over a precise definition of "Main Street" or "remote" exposures, but the reality is that new exclusions are appearing for this class of risks. As with sexual abuse, the wording considerations have a significant impact on the coverage; also there simply is no case law as yet to guide policyholders or insurers on how that language ultimately will be interpreted and applied.

Just a few important wording issues are:

• Coordinating coverages. The same need to review primary and

excess forms, and mesh new pollution endorsements to the general policy, arises here. One additional twist is the market offers tailored environmental impairment policies. Has the policyholder purchased any such specialized pollution coverage that will affect duties under the more standard policy? The better question is whether the policyholder is better served by the environmental protection than the more limited pollution coverage offered under the standard general liability forms. At the very least, the total insurance picture should be understood.

• Time limits. Timing is everything, at least under many of the newer endorsements trying to place an objective definition of "sudden" pollution into the policies. Typical time limits are imposed for the length of the discharge and the time for discovering and reporting that event. The insurer's willingness to provide coverage may be predicated on these timing conditions, which directly affect the insurer's ability to mitigate and adjust the claim for the benefit of insurer and policyholder. The wording of time limits warrants close consideration. For example, the time limits might begin running at the commencement of the discharge. While this language reinforces the sudden or abrupt scope of the coverage, both parties should understand that pollution reported months later—even if reported promptly after discovery of damage—may be excluded.

• Treatment of expenses. Many kinds of expenses are associated with environmental losses, and they can be staggering. In fact, the cost to investigate and study remediation options may exceed the cleanup cost itself. Does the insurer intend to cover the cost of remediation studies? More basically, the forms should be clear if there is any variation between treatment of loss and expense for the pollution event.

• Definition of pollutant. As indoor air concerns rise, the scope of the pollution exclusion and definition of pollutants becomes more important. Do the parties expect coverage for injury caused by carpet fumes or inadequately circulated air? What about lead paint and asbestos released in the building?

The judicial results are mixed on whether such substances released indoors meet the pollutant

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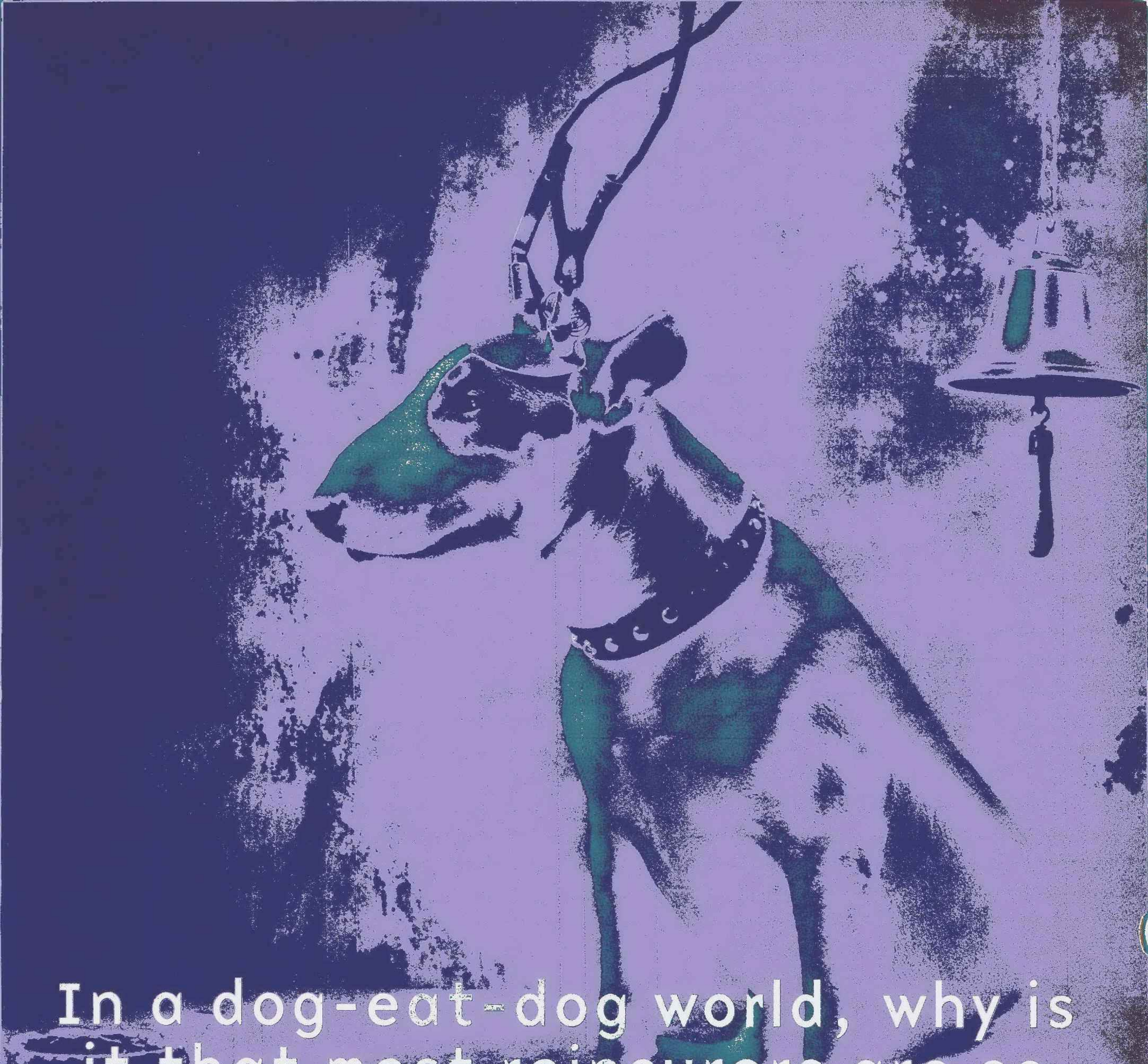

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Pollack

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definition, and we understand that newer Insurance Services Office Inc. policy wordings will answer some questions when indoor heating systems are involved.

To date, we have seen only a few significant claims involving indoor air; ironically, they come from courthouses and other government buildings. There are also solutions outside the policy for managing the risk, such as hold-harmless agreements from contractors and high-volume air conditioning maintenance firms.

Even before these few coverage issues are addressed, the parties need to know if exclusions and sublimits will be enforceable in the first place. Jurisdictions like Washington and California may not uphold sexual abuse sublimits in the manner insurers intend, where the limited conduct is intertwined with fully covered conduct subject to financial responsibility laws.

The existence and language of pollution exclusions similarly may be controlled by state law, not to mention court decisions affecting their application. When these legal variations are layered upon policy form issues, it is no wonder that the balance between protection and containment is so hard to achieve.

A reinsurer's insights

Pollution and sexual abuse are only two of a long list of complex exposures being addressed by new policy language. Construction defects, the Year 2000 bug and employment practices liabilities also are generating endorsements and policies on an almost daily basis. The need for expertise and care is greater then ever, and these skills will be crucial in our fast-changing legal environment.

A reinsurer shares at least one goal with policyholder and insurer: to give and get what is paid for. Unexpected kinds of losses or greater frequency of losses may be typical surprises within the insurance relationship and underwriting process. When anticipated losses are addressed in the policy but a divergent coverage ruling is rendered, one party is handed a different and unwelcome kind of surprise.

Reinsurers have no monopoly on evaluating exposures or crafting policy language to avoid surprises. Insurers with years of experience in the product line are well able to package protection for emerging coverage needs. However, a reinsurer can complement that expertise by virtue of the breadth of its writings, both in product lines and policy language. A reinsurer may learn a policy or claim lesson in one geographic region and help a client expanding into that area.

Often we find that insurers just want to bounce a new product or wording off the reinsurer's claim or legal staff, just for some insights. NAC Re's responses typically are combined with those from other reinsurers and the client's own expert staff, eventually funneling into a final guideline or wording determined by the insurance company. Just one or two perceptive questions from a reinsurer can at least highlight a new issue that the policyholder or insurer may not have considered.

It will take years before the pollution, sexual abuse and other policy language carefully drafted today ultimately is tested in claims and the courts. There will be new liabilities and wordings in the interim. Policyholders, insurers and reinsurers may not always find today's best intentions matched by a future court interpretation, but they can at least make the initial effort to review exposures and policy language. Only then do they have any chance of achieving the balance between protection and containment so crucial for covering complex new and old liabilities. BI

Mindy Pollack is vp-claims for NAC Reinsurance Corp. in Greenwich, Conn.

Lead-handling systems give marketing efforts best chance to succeed

By Kimberly Paterson

IT Perspective

WAS YOUR COMPANY'S last marketing program a success? Was it worth the time and money your company invested? For years, insurers have asked these questions about their advertising and marketing efforts. But, because few put systems in place to handle leads and track the results their programs generate, answers are rarely more than a guesstimate.

Whether an insurer is planning an advertising campaign, direct-mail program, trade show exhibition, public relations initiative or any other marketing endeavor, it's essential to have a system in place to handle and track leads from the moment they arrive until the deal is closed.

Without a system to manage inquiries, there's a good chance valuable leads may end up filed in the bottom of producers' in-bins. By the time they're discovered, the opportunity has been lost and the damage to your company's image has been done.

The following are keys to constructing and implementing a lead management system that fosters the buying process and gives prospects a good impression of the organization from the start.

Response options

Today's prospects want convenient options that suit the way they do business.

While traditional choices, such as giving a phone number and including a business reply card, still can be very effective in certain situations, there are a host of new considerations that may be more appropriate for a particular audience.

Careful analysis of the recipients helps determine the options that

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Paterson

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will maximize a program's response rate.

For example, a direct-mail campaign to an industry that relies heavily on computers and the Internet would benefit from offering the Internet as a response option. Programs that target young, two-income families draw greater response when options include a way for prospects to contact the marketer on evenings and weekends.

Regardless of the characteristics and preferences of the audience, it's important to offer options that are cost-free to respondents, whether 800/888 numbers, postage-paid response envelopes or other methods.

Inquiry handling

How inquiries are handled can have a tremendous effect on a marketing program's success. For example, results drop noticeably when phone respondents encounter voice mail or multilevel, computer-driven phone systems that feature menus and submenus. That's because today's time-pressed insurance buyers simply don't have the patience to wait for a return call or plod through an automated answering system.

In fact, whenever prospects respond via phone, it's best to have a knowledgeable person taking the call directly. No voice mail. No answering system. Prospects want someone who can help them immediately by answering their questions, setting up appointments and generally making it easy to get the needed information.

It's also important that the person responsible for processing have sufficient time to do the job effectively.

Whether inquiries come via the phone, mail, Internet or some other source, having a specific individual coordinate the processing is paramount to the program's success.

It's also important that the person responsible for processing have sufficient time to do the job effectively. When handling leads is one more responsibility on someone's already overloaded schedule, prospects rarely receive the attention they deserve.

What's more, when one person is coordinating the process, it's much easier to track the program's results, which is critical when it comes time to quantify the program's value and effectiveness down the road.

Finally, programs that target a large number of prospects and therefore may generate a high volume of leads may be best served by outsourcing the inquiry processing and response. The up-front investment pays off in new business in the long run.

Qualifying the leads

There may be nothing worse than sending a salesperson out on a call that is doomed from the start because the prospect wasn't qualified. Not only is it a waste of time and money, it will probably sour the producers on all the leads the marketing program generates. For these reasons alone, it's important to qualify all the leads before they're turned over to producers.

In many cases, a few simple questions can be enough to arrive at the information needed. For example, when prospects respond via mail, two or three multiple-choice questions can uncover the prospect's general needs and whether they coincide with the products and services being marketed. With phone inquiries, a few quick screening questions from individuals who have had time to practice with a carefully prepared script is usually enough to qualify prospects initially.

When incoming calls are handled by a telemarketing organization, it's important to screen the company carefully and monitor its performance throughout the project. Quality varies greatly from one telemarketing firm to the next.

However respondents are qualified, the overall results of the marketing program improve when the screening is quick, easy and barely noticeable from the prospects' perspective.

Follow-up materials

For many prospects, gathering information is the first step in the decision-making process. In many cases, they want something they can put their hands on before they'll even consider speaking to a salesperson. In fact, companies that don't have material to send respondents may not even be considered when final decision time arrives.

As far as quality is concerned, insurers tend to fare much better when the material they send to prospects is polished and professionally designed. That's understandable, because follow-up material often helps prospects make judgments that have significant bearing on their ultimate decision.

Another factor that weighs heavily on the outcome of marketing programs is the follow-up material's content. It must be valuable to the prospect. When arranging a sales call is the ultimate goal of the program, the most effective material piques prospects' interest and makes them want to learn more. When sales can be generated directly from the material sent, contents that include all the information relevant to the sale in an easily read and understood format have the best chance at success.

When it comes to distributing follow-up materials, time is of the essence. In recent years, the definition of "quick" delivery has changed as dramatically as technology. Because many people no longer have the patience to wait for information sent in the mail, the most successful marketing programs are those that include options enabling prospects to get information instantly.

Making employees aware

Have you ever called a company in response to an advertisement only to find that the person you

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Insurer Topics

Paterson

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spoke with had no idea what you were talking about? This not only makes the company look bad, it virtually eliminates the chances of making a sale. What's more, it takes all credibility away from the individual employee.

When companies roll out new marketing campaigns to their entire staff prior to the public, respondents always reach an informed employee. Aside from this sales benefit, sharing information with the entire staff also makes everyone feel like an appreciated member of the team.

Time well spent

Devising and using a system that provides effective follow-up can create a significant advantage. While the competition lets inquiries pile up, prepared organizations can be converting leads to sales—and there's no better way to grow a book or solidify a return on a marketing investment BI

Kimberly Paterson is president of Creative Insurance Marketing Co., a consulting company based in Red Bank, N.J.

Insurance industry's lobbyists needn't worry about losing their jobs

Battles over legislation won't cease, Rep. Earl Pomeroy says

By MARK A. HOFMANN

Insurance industry lobbyists will always have work, a member of Congress says.

Speaking at a recent conference, Rep. Earl Pomeroy, D-N.D., offered a list of reasons backing his assertion that the insurance industry's representatives do not have to worry about becoming unemployed.

Blocking congressional initiatives—not the least of those reasons, as Rep. Pomeroy and other participants in the discussion warned their audience—is far easier than getting a bill passed and signed into law.

As one veteran industry lobbyist noted, that fact of political life can make the lobbyist's lot a frustrating one.

The discussion—"The Lobbying Game: Insurers in the Political Arena"—was held as part of Oldwick, N.J.-based A.M. Best Co.'s 10th annual insurance information services conference in Washington last month.

"Large multiline insurers can never rest easy," said Rep. Pomeroy, a former president of the National Assn. of Insurance Commissioners. Issues of concern to large insurance companies always will pop up in Congress, he said.

"No one is safe. Never, ever rest easy," Rep. Pomeroy admonished.

Another political rule is that the question of state vs. federal regulation of insurance always will be under discussion in some form or another, he said.

Rep. Pomeroy pointed out that the McCarran-Ferguson Act, which upheld the primacy of state insurance regulation, was passed more than a half-century ago. "To have a 50-year delegation of authority intact" is quite remarkable, said Rep. Pomeroy, who was North Dakota's insurance commissioner before winning election to Congress in 1992.

Rep. Pomeroy

Now, however, that primacy of state regulation is being subjected to "death by 1,000 cuts" rather than a frontal attack, such as the effort made earlier this decade to repeal the McCarran-Ferguson Act, according to Rep. Pomeroy.

'Large multiline insurers can never rest easy,' says ex-insurance commissioner Rep. Earl Pomeroy, D-N.D.

"While I miss the Democratic majority, I don't miss Jack Brooks as Judiciary chairman at all," Rep. Pomeroy remarked. The congressman was referring to former House Judiciary Committee chairman, Rep. Jack Brooks, D-Texas, who tried—and failed—repeatedly to scrub the McCarran-Ferguson Act from the nation's law books.

Instead, Congress is nibbling at state regulation by passing laws dealing with particular facets of insurance, such as re-

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Lobbying

Continued from page 18N

quiring that insurers cover a specified minimum maternity hospital stay.

Insurance companies must also "never underestimate the power of congressional inertia," said Rep. Pomeroy.

That inertia helped stymie comprehensive health care reform and efforts to create federal insurance solvency oversight, Rep. Pomeroy said.

He reminded his audience that "Congress is the arena of the generalist," in the sense that individual members have to know a little bit about a great many subjects.

"We are a mile wide and an inch deep. We have to respond to questions from A to Z," he said. That makes Congress an inappropriate arena for resolving technical questions.

Finally, Rep. Pomeroy warned his listeners that "civil war is fatal." An industry should "resolve these fights elsewhere, not on the floor of the House."

"Always play it straight. Pick your fights carefully. Never confuse interest group politics with partisan politics," concluded Rep. Pomeroy.

Peter A. Lefkin, senior vp-federal affairs in Washington for Fireman's Fund Insurance Co., agreed with Rep. Pomeroy that insurers should not confuse interest group politics with partisan politics.

Mr. Lefkin, himself a former House Republican staffer, predicted there will be no permanent majority in Congress for the next decade and that regardless of which side dominates, it will do so by a narrow margin. Insurers will need to have good relations with both parties, he said.

"Washington is an extremely interesting place for the insurance industry, but it's also a very frustrating place," Mr. Lefkin said.

Insurers are "only marginally effective in Washington," said Mr. Lefkin. One of the reasons that insurance companies lack as much clout as might be expected is that they don't have an outside advocate as banks do, for example.

Federal banking regulators are sympathetic to the industry they oversee and can speak with authority about banks when they appear before Congress.

"We have nobody here who speaks with authority" on behalf of insurers the way the federal banking regulators do, according to Mr. Lefkin.

In addition, "we are disunified as an industry," said Mr. Lefkin.

Congress 'is a mile wide and an inch deep. We have to respond to questions from A to Z,' says Rep. Pomeroy.

Insurance industry representatives spend much of their time in internal industry meetings. As a result, there is less time for contacts with Capitol Hill staffers and other important players.

"I'm not tremendously optimistic about our getting anything done this year," Mr. Lefkin said.

A third panelist emphasized that the congressional system was designed to stop things from happening.

"The founding fathers were very smart," said Doyle Bartlett, chief of staff to Rep. Bill McCollum, R-Fla.

Mr. Bartlett said he agreed with Rep. Pomeroy that it is easier to kill a piece of legislation than to get one passed. Given that, an industry must determine whether it wants to play offense or defense, to be active or reactive, he said.

Mr. Bartlett offered some advice on how to make contacts. It's critical to actually see or touch people to establish direct contact, he said. People can make indirect contact as well, such as through their trade associations, he said.

An even less direct contact, yet one that is common in Washington, is using the media to make a point, he said. During the 11 o'clock news, "every other ad is an advocacy ad," said Mr. Bartlett.

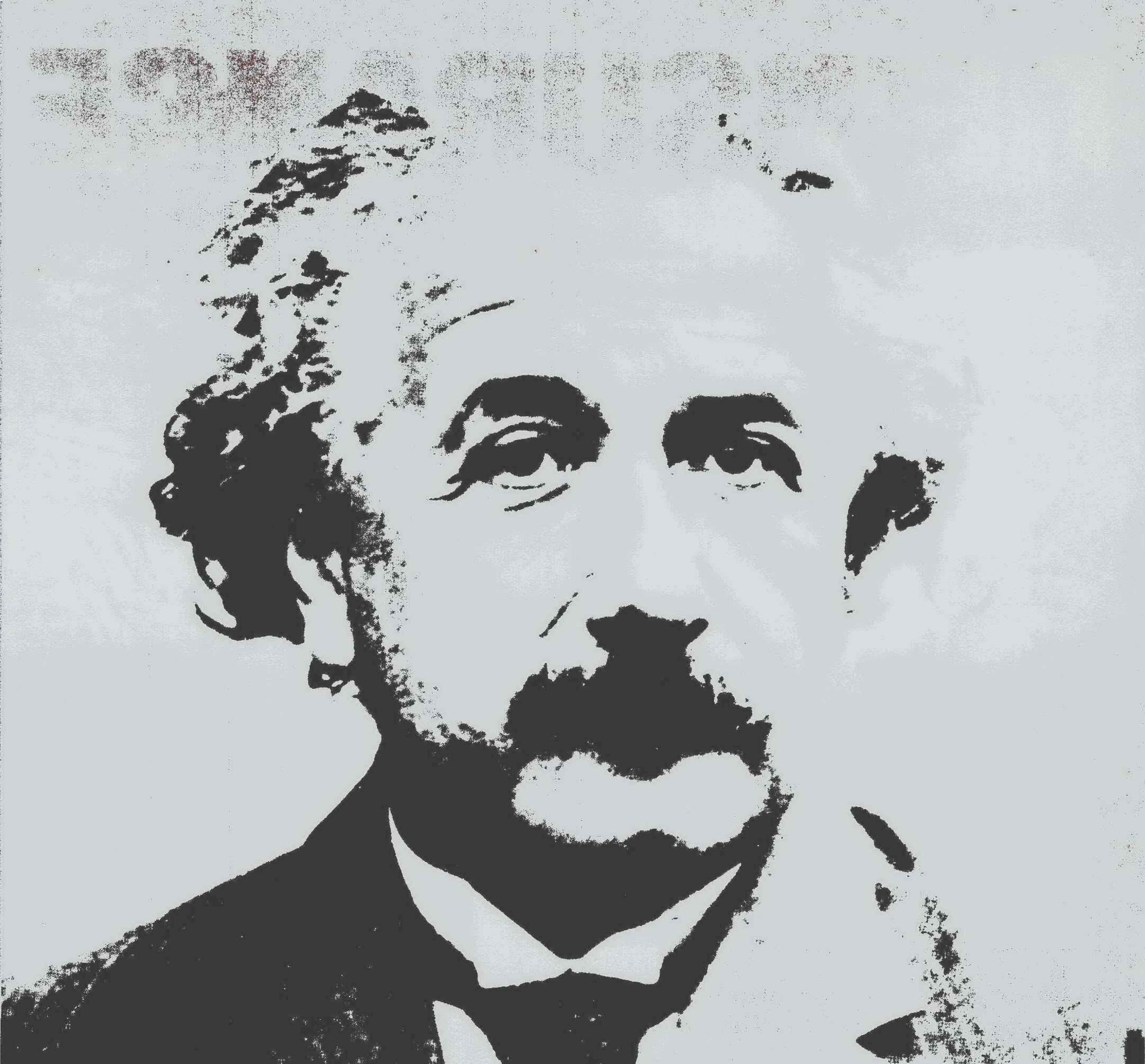
During a question-and-answer period, Mr. Bartlett was asked which he paid more attention to: lobbying by a single company or by a trade association.

He replied that it varies. Trade associations deal with broader issues, he said. Individual companies concentrate on issues of significance to them, which is particularly attention-grabbing if the company happens to be located in the congressman or congresswoman's home district, he said.

Robert H. Gettlin, Washington editor for A.M. Best's publications, moderated the session. BI

Insurer Topics ADVERTISER INDEX

Issue of October 20



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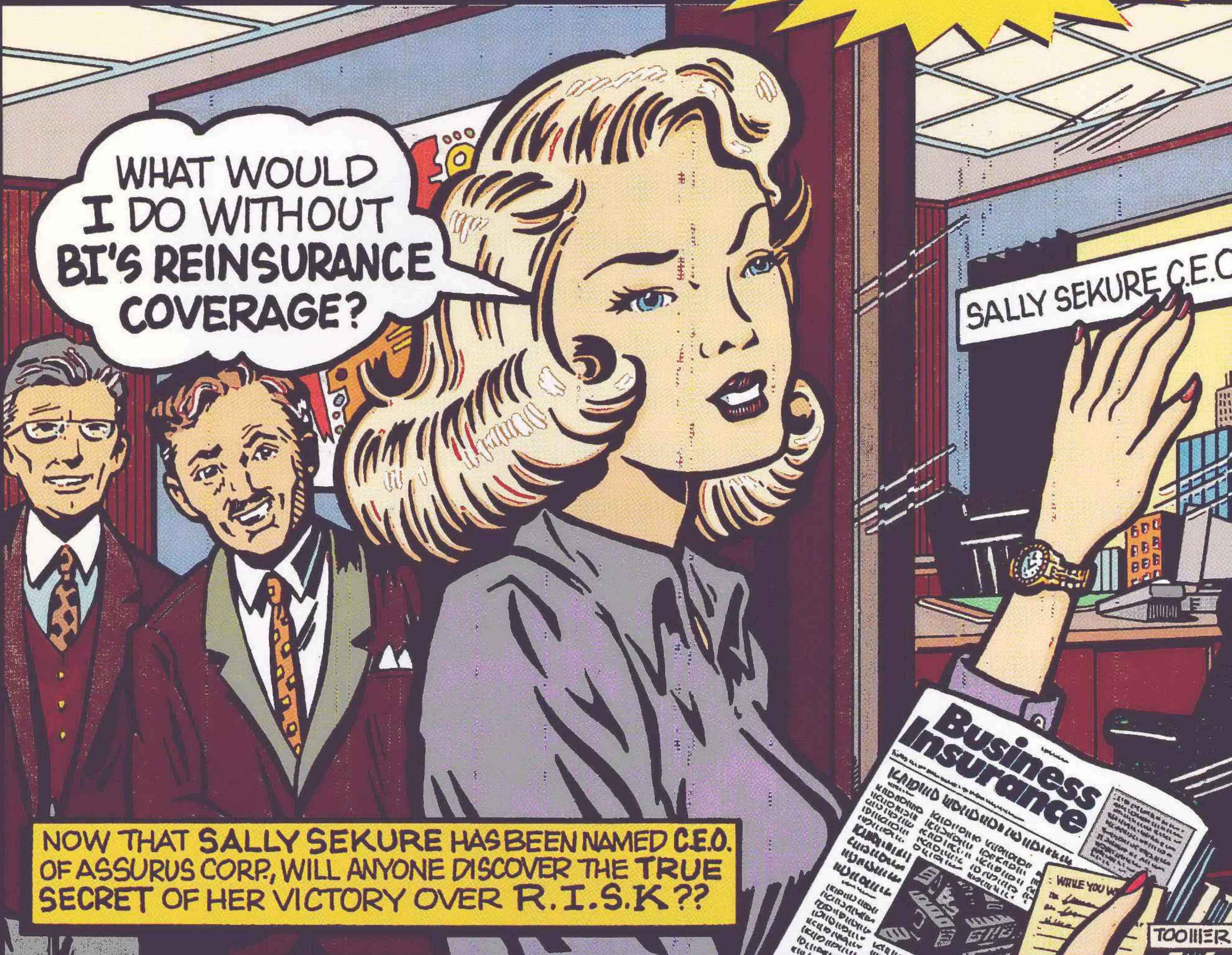

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Environmental claims messier to handle

Picking remediator, hammering out contract important

By Randall E. Hobbs

NOT ALL ENVIRONMENTAL claims are complex or involve significant financial exposure, but even minor environmental claims differ from the traditional claims insurers and risk managers handle.

Take, for example, an oil spill in the Houston ship channel last year. A barge buckled in rough seas off Galveston, Texas, spilling nearly 200,000 gallons of heavy oil. In the weeks after the accident, the oil came ashore over more than 300 miles of shoreline from Galveston to the Mexican border, contaminating shorebird rookeries, turtle nesting areas, recreational areas and a large section of national seashore. Response operations continued for a month, with more than 300 workers laboring to contain and recover the oil at the height of the cleanup. Final costs of the operation totaled more than $18 million. Once response operations were completed, the task of assessing the damages to the affected natural resources began. The task of assigning a monetary value to the natural resource damages continues to this day, with potential exposures well into the millions.

Unlike traditional claims, environmental claims tend to have significant involvement of multiple federal, state and local agencies charged with the oversight of environmental affairs. As such, one may have to serve multiple masters in an attempt to evaluate and satisfy both the demands of the claimant and the sometimes stringent regulatory framework imposed by these agencies.

A notorious component of agency involvement is a quagmire of ever-changing and often conflicting regulations. In addition, the demands of the claimant may differ from or even conflict with these regulatory requirements.

The assessment and verification of property damage claims asserted as the result of an environmental incident is a much more complicated matter than, for example, the adjustment of storm damage. Even a general assessment of the nature and extent of contamination on a claimant's property can take months to complete. The results of any subsurface assessment then are subject to wide variations in interpretation by expert geologists, hydrogeologists, chemists, toxicologists, engineers et al. Assigning a reliable monetary value to this damage is a field arguably still in its infancy. Similarly, property damage claims are enhanced as a consequence of stigma and diminution in property value allegations.

In the event that bodily injuries are presented, they are oftentimes complicated by unique exposure injuries. These incidents require the involvement of liability experts, such as indoor air quality experts or toxicological experts with knowledge of specific materials, e.g., lead and mercury. Furthermore, a host of medical experts to consider both causation and damages is required.

Perhaps the greatest complicating factor is the actual remediation of a contaminated site. The selection, retention and supervision of a remediation contractor can have a significant impact on the cost associated with an environmental claim. Unlike many other types of claims, such as construction or medical claims, where there are designated degrees, there is no established level of professional competency for environmental remediation contractors.

In a typical claim, a risk manager may look for an individual with a particular credential, such as a professional engineering designation, board certification for a doctor or a certified public accountant. While some states have begun licensing or certification for certain tasks, such as subsurface assessment, a risk manager has no such option available for an environmental claim. In fact, numerous "mail-order" credentials have been developed in the environmental field over the past several years, and that can foster a false sense of security on the part of a client while demonstrating no verified competence on the part of the "professional."

The remediation business, now a large segment of the traditional construction and engineering sectors, has seen tremendous growth in the past 20 years. Many large companies have appeared virtually overnight, all of which have areas of specialization as well as limitations.

First, it is critical to verify the experience and reputation of a remediation contractor for the job at hand. Has the company performed the type of work required for the particular loss, e.g., emergency response or underground storage tank removal? What are the contractor's geographical, technical and equipment/labor limitations?

Second, investigate the potential remediation contractor's reputation by acquiring references from colleagues or even state regulatory agencies. While most state representatives are unable to formally recommend a single remediation contractor, many will provide a list of remediation contractors they consider to be qualified.

The choice of remediation technologies and the negotiation of cleanup endpoints with claimants and agencies can have enormous impacts on the time frame and ultimate cost of a claim.

Even after a competent contractor has been obtained, many other issues still exist with regard to philosophies surrounding the staffing of a project, remediation strategies and disposal alternatives. As anyone who has handled a large environmental claim will attest, the choice of remediation technologies and the negotiation of cleanup endpoints with claimants and agencies can have enormous impacts on the time frame and ultimate cost of a claim.

In the wide range of technical choices available today for ground water treatment, for example, capital costs may differ by several orders of magnitude, while cleanup duration may range from months to years. Claims handlers' range of cleanup choices may be limited due to constraints placed by third-party property holders, including the threat of litigation.

Therefore, once a qualified remediation contractor has been found, a written contract must be executed to address some of these additional concerns. For instance, the contract should make clear that any significant deviations from the scope must be approved in writing by the retaining party. Further, additional non-emergency activities such as disposal or long-term remediation also must be broken out in this fashion.

Quite predictably, form contracts, which are typically used by remediation contractors, can range between one and a dozen pages in length, depending on the nature and duration of services rendered. All the contract provisions should be carefully explored. While much of the language may be boilerplate, such as terms of payment, termination, force majeure, ownership of documents, assignment, etc., a number of provisions should be investigated so as not to expose your company to additional liability in the event a remediation effort fails.

Almost all contracts prepared by remediation contractors contain two provisions that are important to understand: indemnification and limitation of liability. Typically, a limitation of liability clause will limit liability to the dollar amount of the contract. A handful of state courts have examined the issue of the legality of limitation of liability clauses and, in some instances, have found them to be enforceable, particularly where the fees involved were significantly disproportionate to the liability that would otherwise attach.

Take, for example, an environmental consultant who performed a non-intrusive site investigation costing only a few thousand dollars. The consultant's failure to discover an underground storage tank or other existing contamination from the routine document search during a first-phase assessment could lead to hundreds of thousands of dollars in liability to the company.

Remediation contractors also have sought to shield themselves from liability by including an indemnity provision with their standard contract. A typical indemnification clause would provide that the hiring company agrees to indemnify the environmental professional for any liability arising out of a claim brought by a third party with respect to the site at which the environmental professionals are performing work.

While limitation of liability and indemnification provisions are designed to limit the remediation contractor's exposure, risk managers are wise to ensure a remediation contract requires that the hired consultant maintain appropriate insurance, including general liability and professional liability.

A company may also wish to consider, depending on the size and scope of the remediation project, requiring that it be named as an additional insured on the remediation contractor's policies. At a minimum, the coverage should seek a certificate of insurance proving coverage is in place.

Notwithstanding the availability of very diverse and competitively priced environmental insurance in the marketplace, companies all too frequently do not have appropriate coverage in place. In addition, most insurers' claims departments are overburdened dealing with issues arising out of old historical policies rather than the liability and damage issues presented by a covered claim. Many insurers that do offer environmental coverages persist in using traditional claims handlers and adjusters to handle even complex technical matters.

Effective management of an environmental incident by a risk manager or insurance company claims department requires specialized legal and technical expertise. Legal expertise is clearly needed with regard to issues such as liability, interpretation of statutes and regulations and negotiations with agencies involved in a loss. Technical expertise is needed to support these efforts as well as all aspects of remediating the subject site.

It is important to distinguish between long-term incidents of gradual pollution and sudden losses. In the case of a long-term contamination, a risk manager has time, at least to some extent, to evaluate both liability and a remedial strategy. Unfortunately, in the case of a catastrophic loss, a risk manager does not have the luxury of time to respond. However, in either case, planning is clearly the linchpin of an effective claims management program. Whether an incident involves gradual contamination, as from a leaking tank or a "shock loss" such as a train derailment, all parts of an organization, from the risk manager to the public relations chief to senior management, should know exactly the steps to take in responding to an incident. In addition, available outside resources, such as those available from the insurance companies or from contractors, should be identified and their roles clearly understood.

Understanding the unique nature of environmental claims is only the first step toward more effective management of such claims. Developing a comprehensive, focused environmental claims management program, often in conjunction with a company that specializes in managing such incidents, is the most effective means of minimizing the impact of these claims. BI

Randall E. Hobbs is vp of ECS Claims Administrators in Exton, Pa.

ASK A BENEFIT ACTUARY

Q **What is comprehensive income?**

A This question comes from the controller of a company that sponsors an underfunded defined benefit pension plan.

She has heard of the new Statement of Financial Accounting Standards No. 130, Reporting Comprehensive Income. She is uncertain what this new standard has to do with her employer's underfunded plan.

In order to understand the new rules recently adopted by the Financial Accounting Standards Board, we need to first review the current rules for accounting for underfunded pension plans.

At the end of the fiscal year, the current rules require a comparison of the liability on the company's balance sheet for pensions—called the accrued pension cost—to the unfunded accumulated benefit obligation. The unfunded accumulated benefit obligation is the accumulated obligation less pension assets. The accumulated benefit obligation is the value of benefits that have been earned to date by current pension plan participants.

If the accrued pension cost is less than the unfunded accumulated benefit obligation—in other words, if the unfunded pension liabilities are more than the liability on the company's books for pensions—then the accrued pension cost must be increased to make it equal to the unfunded accumulated benefit obligation. This increased pension liability is called the additional minimum pension liability.

Current accounting rules allow the increase in accrued pension cost to be offset on the company's balance sheet by an intangible asset.

However, the amount of the intangible asset that can be placed on the balance sheet is limited. If the increase in accrued pension cost is greater than the intangible asset, the difference reduces shareholder equity in the business.

The new accounting rules change how this equity reduction is reported on financial statements. A shareholder equity reduction is still shown on the balance sheet, but it now also is included in calculating "comprehensive income."

Under Statement of Financial Accounting Standards No. 130, businesses must, in addition to net income reported, report a new comprehensive income figure. Comprehensive income is net income plus all changes to the business's shareholder equity. These changes in shareholder equity can be caused by year-to-year changes, such as foreign currency translation adjustments, or unrealized gains or losses from holding debt securities.

The year-to-year changes in the equity account attributable to the change in the additional minimum pension liability can be drastic. For example, once a pension plan has an equity adjustment due to the pension plan, market decreases during the year in pension assets serve to reduce that year's comprehensive income dollar for dollar.

So what does this new standard mean for the controller?

First, Statement of Financial Accounting Standards No. 130 has created a second and more volatile earnings measure that security analysts and shareholders must study. Companies with stable, predictable net income growth tend to be rewarded by the securities markets with higher stock prices when compared with companies that have less stable and less predictable net income. To the extent that a company has less predictable comprehensive income, the company's stock price may suffer.

Second, this new requirement also offers the controller a planning opportunity in terms of the timing of compliance.

Statement of Financial Accounting Standards No. 130 is effective for fiscal years beginning after Dec. 15, but early compliance is permitted. For a company with a calendar fiscal year, that means a choice between complying for 1997 or 1998. This might be a good year to comply.

Pension assets in many defined benefit plans have risen dramatically due to the rising stock market, and this may create income to be shown in comprehensive income. However, the timing decision needs to be made by looking not only at the pension impact on comprehensive income, but as a result of considering all items reflected in comprehensive income. BI

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

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

This month's column on actuarial issues in the benefits field is written by William J. Miner, an actuary with Watson Wyatt Worldwide in Chicago.

Richard E. Sherman, president of Richard E. Sherman & Associates Inc. in Ashland, Ore., answers actuarial questions in the casualty field. Christopher E. Mandel, director-risk management at PepsiCo Restaurant Services in Louisville, Ky., answers questions on risk management. Dennis J. Nirtaut, managing director of compensation and benefits for Andersen Worldwide S.C. in Chicago, answers questions on employee benefit plans.

Mr. Miner

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

Book criticizes use of psychological testimony

"Whores of the Court: The Fraud of Psychiatric Testimony and the Rape of American Justice"
By Margaret A. Hagen, Ph.D.
Published by Harper Collins, Regan Books, 10 E. 53rd St., New York, N.Y. 10022-5299
212-207-7250.
$25

By Kevin M. Quinley

Pain and suffering. Hedonic damages. Damages for fear of AIDS. What these all have in common is the proof for them offered in court by psychological experts. A new book decries this trend and takes dead aim at the realm of psychiatric and psychological testimony.

The title, "Whores of the Court," says it all. This is a book with an attitude, though it will likely find a receptive audience among risk and insurance professionals. The book's core message is that, over the past 25 years, America's legal landscape has become littered with a proliferation of psycho-legal cases.

Today, psycho-experts—psychologists, psychiatrists, counselors and social workers—testify with scientific certainty on almost every conceivable civil, criminal, judicial and legislative issue that touches on human behavior and mental functioning.

They testify about product liability, trademark infringement, fraudulent advertising and an almost endless variety of personal injuries. While the demand for such experts is great and the supply is huge, according to a new book by psychologist Margaret A. Hagen, the science behind it all is non-existent.

In "Whores of the Court," the author, a psychology professor at Boston University, delivers a scathing expose of the unrestrained excesses of psycho-experts in today's courtrooms and legislative chambers.

"The problems are not new," she writes. "What is new is the depth and extent of its acceptance by the older institutions of our society—by courts and police, judges and juries, legislators and policymakers. By people who should know better but don't."

She notes that in the United States in the mid-1970s, there was just one $1 million personal injury award per week on average. By 1990, though, there were 735 million-dollar awards and 750 in 1991. Nearly each of those verdicts included a component for psychic injury. Most risk managers know this all too well.

Citing many examples of fraudulent psycho-expertise, Ms. Hagen discusses:

- Psycho-expertise as a big-money business in this era of multimillion-dollar personal injury awards.
- How to protect against psycho-expert "hired guns."
- Why courtroom psycho-expertise is often junk science.

Ms. Hagen believes the psycho-expert service industry generates more than $1 billion a year, giving some perspective as to why it's so entrenched.

In today's frenzied tort climate, Ms. Hagen's insights and views make for provocative reading by risk and insurance professionals. As is often the case with polemical tracts, however, Ms. Hagen is much stronger in her critique of the existing system than she is in proposing realistic solutions.

What is to be done about psycho-experts? She believes courtroom victories often are won by a battle of the experts, where the person with the most money wins. The only solution, she believes, "is to make sure your attorney understands the weaknesses of psycho-expert testimony and knows how to attack it. Don't go to court without this book!"

Say what? Most defense attorneys already are aware of the problem. Trouble is, many judges lack the guts to throw out tenuous cases at an early stage. They cop out by pronouncing matters "a question for the jury" or are afraid of being reversed on appeal. Only a few dismiss cases at a preliminary stage.

Perhaps Ms. Hagen hopes judges and legislators will read her book and be inspired to implement judicial reform. Some of this is already under way via the U.S. Supreme Court's decision in *Daubert vs. Merrell Dow Pharmaceuticals* in 1993. Clearly this decision—empowering judges to test the scientific validity of plaintiff theories—does not go far enough for Ms. Hagen.

Risk managers likely will respond, "Right on" to Ms. Hagen's arguments, but they likely will be unfulfilled by her murky plan for thwarting junk psychology in the courtroom. BI

Kevin M. Quinley is senior vp-risk services for MEDMARC Insurance Group and Hamilton Resources Corp. in Fairfax, Va.

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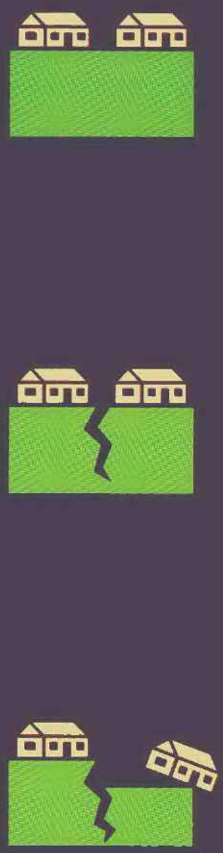

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Court upholds denial of mental injury benefits

Wyoming's workers compensation law excludes benefits for mental injuries that are not the result of physical injuries, the state Supreme Court ruled.

Merta Frantz worked for Campbell County Memorial Hospital from April 1991 until June 1995. She filed a workers compensation report of injury in July 1995, alleging continuous, unrelenting fear of job security. She also claimed extreme and unbearable stress related to work environment, relationship to and treatment by senior management leading to emotional collapse. Her claim for benefits was denied. She filed a petition in the trial court for review. The trial court certified the case directly to the state Supreme Court for resolution.

On appeal, Ms. Frantz argued that denial of benefits violated her constitutional equal protection rights under the federal and state constitutions. According to her argument, when the Legislature defined "injury" to exclude mental injuries not caused by a physical injury while allowing recovery of benefits for physical injuries, it created two classes. This violated the equal protection clauses of the federal and state constitutions because the classifications did not serve a legitimate state interest, she maintained.

But the Wyoming Supreme Court disagreed, concluding that the Legislature's decision to exclude mental injuries unless accompanied by a physical injury was rationally related to legitimate governmental objectives of controlling costs and protecting viability of the workers compensation program. The denial of benefits was affirmed.

Frantz vs. Campbell County Memorial Hospital, Supreme Court of Wyoming, Feb. 21, 1997 (*BI*/01/N.-$10).

Plan covers scalp prosthesis

A group health insurance plan must provide benefits to a beneficiary for a scalp hair prosthesis that a physician had prescribed for a severe disease resulting in the loss of all body hair, according to the Court of Appeals of South Carolina.

Janet C. Hendley was covered under her husband's group state health plan. she suffers from a severe case of alopecia, which results in the loss of all scalp and body hair, including eyebrows and eyelashes. Her physician prescribed a scalp hair prosthesis for her condition. The prosthesis, costing $3,290, was custom-fitted. The Hendleys' claim for benefits under the group plan was denied because the reviewing physician stated the scalp hair prosthesis was a cosmetic device and that it did not replace lost function. The Division of Insurance Services for the state also denied benefits on the basis that the prosthesis was not medically necessary. A trial court master upheld the denial of benefits.

However, the appellate court concluded that the definition of "prosthetic appliance" in the state plan was broad enough to encompass a scalp hair prosthesis used to replace a part of the body that has been lost from disease. The appeals court said the scalp prosthesis is no different from breast prostheses, prosthetic eyes or artificial limbs. The court also said the prosthesis was a necessary medical expense because it was appropriate for Ms. Hendley's condition. The decision denying coverage was reversed.

Hendley vs. State Budget and Control Board, Court of Appeals of South Carolina, Dec. 23, 1996. Rehearing denied Feb. 21, 1997 (*BI*/02/N.-$10).

Fiduciary duties upheld

A contract exonerating a fiduciary of an Employee Retirement Income Security Act plan from fiduciary responsibilities is void as a matter of law, according to the 9th U.S. Circuit Court of Appeals.

IT Corp. hired General American Life Insurance Co. to administer IT Corp.'s ERISA plan. The insurer had IT sign an administrative agreement under which IT was to establish a bank account and keep enough money in it to cover checks. The insurer had check-writing authority, processed all claims and paid or denied them.

The agreement included a number of clauses designed

Legal Briefs

to limit the insurer's liability in the event of error or misjudgment, except for gross negligence. A further clause provided that under no circumstances shall the insurer be considered the named fiduciary. In this suit, IT and a plan participant sued the insurer, alleging breach of fiduciary duty by paying more than $600,000 of the plan's money for medical expenses relating to an IT Corp. employee's dependent child who was ineligible for benefits. The trial court dismissed the suit, ruling in favor of the insurer.

The appellate court said that though the insurer did much to exonerate itself from responsibility by means of the contract it had IT sign, the contractual exoneration could not do it much good in this case.

According to the court, a contract exonerating an ERISA fiduciary from fiduciary responsibilities is void. Also, the court said a fiduciary's contract with an employer cannot get it off the hook with the employees who participate in the ERISA plan as they did not sign a contract exonerating the fiduciary. Furthermore, the court said a contract providing that a party is not a named fiduciary does not mean it is an unnamed fiduciary. The trial court decision was reversed, and the case was sent back for further proceedings.

IT Corp. vs. General American Life Insurance Co., 9th U.S. Circuit Court of Appeals, March 3, 1997 (*BI*/03/N.-$10).

Time-card losses not covered

An employee dishonesty insurance policy does not cover losses sustained when workers manipulate a time-card system to receive payment for hours they did not work, according to a Texas appellate court.

Dr. Efrain Dickson was covered under a special business owners' insurance policy issued by Dallas-based State Farm Lloyds. The policy covered losses resulting from dishonest acts committed by employees with the intent to obtain financial benefit for any employee. The policy excluded coverage for salaries, commissions, fees, bonuses, promotion awards, profit-sharing pensions or other employee benefits earned in the normal course of employment.

Dr. Dickson filed a claim against his insurer based on two employees who were manipulating the time-card system to obtain extra salary. The insurer denied his claim. Dr. Dickson sued but lost in the trial court.

The appellate court said an insurance policy or fidelity bond of this type protects the employer against such dishonest actions of his employees as embezzling the employer's funds or selling the employer's property for personal gain. The court said Dr. Dickson's claim was based on employee dishonesty aimed only at obtaining additional wages by lying about the amount of time they had worked. "This loss was clearly outside the coverage of the present policy," the court said. The trial court decision was affirmed.

Dickson vs. State Farm Lloyds, Court of Appeals of Texas, Feb. 27, 1997 (*BI*/04/N.-$10).

Worker photosensitivity

An employee's sensitivity to light is a non-compensable, gradually incurring injury and not an industrial "disease" within the meaning of the Workers' Compensation Act, according to the Court of Appeals of Virginia.

Helme Walter worked as a reservation agent for United Airlines for about six years. In 1995, Ms. Walter moved to a new workstation equipped with bright fluorescent lighting. At that time, her eyes began to burn. Within a week, she noticed darkening of a mole on her arm, developed speckles and coloration on her arms and experienced joint pains and visual difficulty. She was diagnosed as suffering from photosensitivity, defined as an "abnormal reactivity of the skin to sunlight." Ms. Walter applied for workers compensation medical benefits. The compensation commission awarded her benefits, and the employer appealed.

The appellate court said that, in Virginia, cumulative trauma conditions resulting from exposure to radiation by fluorescent lights is a gradually incurred injury and not an industrial disease. Thus, the court said Ms. Walter's photosensitivity was not compensable. The award of benefits was reversed.

United Airlines Inc. vs. Walter, Court of Appeals of Virginia, March 18, 1997 (*BI*/05/N.-$10).

No benefits for injury after union meeting

Is an employee who during an unpaid lunch break sustained an injury while walking to work from a union meeting entitled to workers compensation benefits? The Supreme Court of Connecticut decided benefits were not appropriate.

Rosemarie Spatafore, a clerical employee of Yale University, was a union representative for Local 34 of a university employees' union. In 1992, Ms. Spatafore was returning to work after having attended a weekly union meeting, during her unpaid lunch break, when she fell on a sidewalk owned by Yale-New Haven Hospital Inc. and injured her arm. The employer was not permitted to attend the meeting, and Ms. Spatafore's attendance was voluntary. She submitted a claim for workers comp benefits. The commissioner granted benefits; however, the compensation board reversed, denying her benefits.

The appellate court concluded that attendance at a union meeting was not mutual benefit to an employer and employee so as to bring Ms. Spatafore's injury within the compensation act. "The general desire to increase productivity and enhance employer-employee relations does not create a mutual benefit at every union meeting whenever and wherever held. . . ." the court said. The decision of the board was affirmed.

Spatafore vs. Yale University, Supreme Court of Connecticut, Dec. 3, 1996 (*BI*/01/Ju.-$10).

Court says fiduciaries did not fulfill duties

The 9th U.S. Circuit Court of Appeals held that fiduciaries of an Employee Retirement Income Security Act plan failed to carry their burden of proving that they fulfilled their duties of care and loyalty to participants.

The plaintiffs here are participants in an employee stock ownership plan that was created for the benefit of employees of Pacific Architects & Engineers Inc. In 1974, the plan purchased about 40% of Pacific's stock from Edward Shay for $4.2 million, or $10.67 per share. Mr. Shay was president and chairman of Pacific and one of the plan's fiduciaries. Prior to the sale, Mr. Shay owned 100% of Pacific's stock. In 1988, Mr. Shay's co-fiduciaries, both of whom worked for Mr. Shay, caused the plan to sell its Pacific stock back to Mr. Shay for $14.40 per share, a price determined by Arthur Young Inc., the plan's evaluator. The plan participants sued Mr. Shay and the co-fiduciaries under ERISA for breach of their fiduciary duties. The trial court ruled against the participants.

The appellate court concluded that the fiduciaries had not fulfilled their duties of care and loyalty to the participants. The court noted that the fiduciaries completed the transaction without negotiation, relying on the Arthur Young valuation without questioning it or retaining a second firm to review it. The court emphasized that an independent appraisal is not a "magic wand that fiduciaries may simply wave over a transaction to ensure that their responsibilities are fulfilled." Adopting a rule that an independent appraisal is a complete defense to a charge of imprudence would be foolish, the court said, especially in cases in which there is a strong possibility in self-dealing. The trial court decision was reversed.

Howard vs. Shay, 9th U.S. Circuit Court of Appeals, Nov. 23, 1996 (*BI*/02/Ju.-$10). BI

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

"General Re's actions went far beyond the contract."

Robert Caldwell, left, with John Seibert, General Re

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MTA

Continued from page 1

time rates. That mandate came as an amendment to legislation imposing a $10 limit on campaign contributions to MTA board members, because it was found that the agency's policy-making and award process are heavily influenced by lobbyists, according to legislative findings.

Ironically, in the third fatality of the year related to MTA construction, a subway construction worker was killed at an MTA site Oct. 8, just two days after Gov. Wilson signed the legislation.

Commenting on the trend away from using safety bonuses, a spokesman for Sen. Hayden said the law is not aimed at improving safety conditions as much as it is intended to stop bonus payments when accidents are still occurring on MTA job sites.

An MTA spokesman said the agency had not yet reviewed the legislation's implications, and officials did not respond to a letter containing several questions.

According to the congressional report and safety experts, OCR does provide a broader basis for assessing potential safety problems on a job site than does LTCR.

However, when it comes to paying safety bonuses, relying on the frequency of claims captured by OCR may be flawed, because frequency may not be as important as the severity of injuries, which may be reflected in LTCR rates. Experts point out that a few high-dollar losses can be more devastating than numerous minor injuries.

"If you are using incidence rates, whether for all accidents or lost-time accidents, you are not talking dollars and cents," said Larry Pippin, vp of construction insurance for Argonaut Insurance Co. in Menlo Park, Calif. "If you don't talk dollars—which contractors don't want to do, they would much rather talk incidence rates—

'Personally, I believe we get the best results when we don't use incentives,' says Tracy Pluff of MARTA.

there is always going to be a good possibility that they will get a reward for poor performance whether you are looking at lost-time cases or overall cases."

There have always been differing philosophies on the issue, said Mr. Pippin. It usually comes down to management style, and Argonaut, which insures numerous large construction projects nationwide, designs its programs according to customer preferences.

But more often today, owners of wrap-up insurance programs are saying they should not pay construction companies additional money just to get contractors to do their jobs without excessive injuries.

Paying out safety bonuses is "kind of foolish," because the policyholder is paying for the program and, ultimately, all the claims, said Tracy Pluff, chief safety officer for the Metropolitan Atlanta Rapid Transit Authority.

"Personally, I believe we get the best results when we don't do incentives, because once you do incentives, it becomes the safety program," according to Mr. Pippin.

"Incentives are considered to be short-term solutions. But they become ingrained, and if you ever pull those things away, or there is not enough money to continue them, then all of a sudden your program lacks emphasis," he noted.

Increasingly, contracts with construction companies are treating accountability for safety similar to productivity and cost expectations. Just as contractors must have projects completed by certain dates at certain costs and meet certain construction standards, they also must meet specific safety standards.

More parties are "holding the contractor to a standard" spelled out in the contract. "Then if they don't do what is in the contract, find them in violation of their contract and proceed against them accordingly," Mr. Pippin said.

In some instances, such as under retro plans, policyholders will share with their contractors savings resulting from adherence to safety standards, Mr. Pippin said. But in the same contracts, risk managers are also obligating contractors to forfeit some pay if their safety records do not measure up. Loss ratios or incidence rates can be used to set those standards.

"We are seeing that more and more," Mr. Pippin said. "It offers them the carrot and the penalty."

Risk managers also are loading their contracts with other safety demands out of a feeling that they really have to push construction companies to live up to safety requirements.

In Atlanta, MARTA requires every individual contractor to have either a full-time safety engineer or a part-time safety supervisor on the job, depending on various factors, such as contract dollar amount and the type of project, Mr. Pluff said. If MARTA does not approve of the job performance by the contractor's safety staff, MARTA can have the contractor replaced.

"The contractors know we stay on top of them," Mr. Pluff said. "We control safety, and that has worked for us so far."

Contractors also must agree to weekly construction progress meetings that include safety discussions. If MARTA's own safety personnel witness an extremely hazardous situation, they can immediately shut down a project.

"Contractors always say: 'Fine, shut us down. We are going to put a claim in to you for lost time,' " Mr. Pluff said. "Well, our contract is worded so you can't do that."

When the Port of Los Angeles in 1994 began the $585 million construction of container facilities and railroad lines, Risk Manager Samuel Williams had to obtain an exception to state law prohibiting some public agencies from using a wrap-up insurance program. Once he got the go-ahead, the port decided not to pay safety bonuses to construction companies. Instead it reached out to the contractors' workers directly by providing them with lunch-time barbecues and safety awards, such as lunch boxes.

Contracts are also strict, Mr. Williams said. Contractors are required to employ safety staff and comply with safety standards the port sets.

The project is now about two months from completion, and Mr. Williams measures his program's success by the amount of workers compensation premium that has gone to pay for claims. So far 37% of premium paid to American International Group Inc. has gone to that end. His goal when he started the project was to keep that level at 40% or less. BI

Honeywell

Continued from page 3

is derived from overseas operations, he said.

Previously, Honeywell bought separate foreign exchange hedges to cover the different currencies it worked with, Mr. Seuntjens said.

Now, by buying insurance for the risk, Honeywell has simpler, cheaper and more predictable coverage. Mr. Seuntjens would not disclose a percentage of savings attained through the integrated program, and noted that an exact direct cost comparison is difficult.

With currency hedges, "you had to look for opportune times to buy them, and that leaves it to chance or luck and somebody's judgment. This is much more systematic," Mr. Seuntjens said.

The inclusion of currency risks also helps broaden the risk base for the integrated insurance program, which helps to reduce the overall volatility of risks to Honeywell, he said.

Like most integrated coverages, Honeywell's has a single combined aggregate for all of the lines. Honeywell also has a reinstatement option should the aggregate limit be exhausted over the course of the 2½-year term of the program. The program has a 2½-year term to bring it into line with the company's financial year, Mr. Seuntjens said.

Although there is a dilution of coverage under a single aggregate program, the chances of the Honeywell's program being exhausted is a one in 10,000-year event, said Mr. Sanderson of J&H Marsh & McLennan.

"Yes, there is a loss of coverage under these programs, but you have to look at the probabilities," he said.

Also, Honeywell has additional catastrophe insurance programs purchased annually to back up the individual coverages under the integrated program, Mr. Sanderson said.

Honeywell has started off by covering currency risks under the program, but it is already considering including other risks that are not normally insured when it renews the coverage, said Mr. Seuntjens.

"There is no reason why we can't use it to cover interest rate swaps or commodity risks," he said.

Huntsman Corp. is considering including interest rate risks, price fluctuations and foreign exchange risks in its integrated risk program, said Lee Skidmore, assistant treasurer at the Salt Lake City-based chemical manufacturer with revenues in excess of $5 billion.

But already it is enjoying lower premiums and simplified coverage for its traditional risks through its integrated program, he said.

Huntsman has had an integrated program in place for 18 months to cover property, liability, mechanical breakdown, gradual pollution and employment practices liability, Mr. Skidmore said at a seminar sponsored by the Financial Executives Institute and J&H Marsh & McLennan in New York earlier this month.

Mr. Skidmore estimates that Huntsman has saved 30% in premiums over its previous program. And the number of insurers involved has been reduced to 15 from 40.

Also, the program makes it simpler to manage claims. Under Huntsman's previous program, for example, it had a claim after a power outage. The property insurer denied the claim, saying that it should be covered by the mechanical breakdown insurer, and the mechanical breakdown insurer said it should be covered by the property insurer.

"The claim has been delayed, and we are currently involved in litigation," he said.

Huntsman's new integrated policy eliminates that infighting among insurers, Mr. Skidmore said.

The policy also locks in capacity for the three-year term of the program, he said.

"We are a capacity buyer of property/casualty insurance. . . .We need to lock into capacity because of our insurance exposures, and if you are in a soft cycle why not lock in at the bottom of the cycle?" Mr. Skidmore said.

The integrated risk programs reduce premium costs in part because of the leverage that buyers achieve by approaching one or a few insurers with all of their exposures, said Bayard Dodge, vp at J&H Marsh & McLennan.

Under a traditional insurance program, "the individual underwriters price their individual products, and if the underwriters are in different companies, you can't gain any leverage through your premium volume," he said.

Also, integrated programs are more efficient because they make better use of the limits by covering all of the risks with an aggregate limit, Mr. Dodge said.

"It is very unlikely that you will use all of the limits that you buy" under a traditional program, he said.

So while one buys less coverage, one does not buy less coverage than is needed, Mr. Dodge said.

"Integrated risk financing contemplates a well-thought-out plan to buy less insurance," he said.

There also are savings on administrative costs because there are fewer insurers to deal with and, because the programs are usually purchased on a multiyear basis, many of the renewal costs are eliminated, Mr. Dodge said.

Integrated programs can cut 30% of the transfer costs of a traditional insurance program, he said.

Insurers also see some benefits from the programs, despite the reduction in premiums, said Dennis Kane, president of CIGNA Special Risk Facilities, a unit of CIGNA Corp.

"It provides for stronger relationships and it creates efficiencies in an inefficient business," Mr. Kane said. BI

Forum

Continued from page 2

that traders and investors all of a sudden said, 'Well, if Warren Buffett thinks it's a great deal, why don't I?' " Mr. Sandor said.

Kevin R. Callahan, president and CEO of Aon Capital Markets Inc. in Chicago, noted that while the capital markets might not be more economical than traditional reinsurance at the moment, they do offer access to capital, the prospect of lower-priced capital in the future, and flexibility.

Flexibility, he suggested, is the key.

"I think the issuers that have utilized these markets to date have had very different objectives," he said. "And these transactions have been structured to meet those objectives."

In addition to flexibility, the vast capacity of the capital markets is another factor driving the move, particularly when coupled with such economic changes as increased property values in high-risk areas, panelists noted.

Also, in an industry where rates are being squeezed, the opportunity to do a 10-year deal in the capital markets for 100 basis points as opposed to paying a broker 1,000 basis points every year "has not gone unnoticed," Mr. Sandor said, citing the opportunity risk securitization provides to reduce frictional costs.

"In terms of change, what's happened, I think, financial engineering has made the change from equity to fixed-income type instruments more affordable for people who were purchasing that capacity," said Andrew J. Kaiser, a vp at Goldman Sachs & Co. in New York who heads the investment bank's insurance product group.

And from an investor perspective, catastrophe bonds and other risk securities are proving attractive, offering them the yield, performance and portfolio diversification they seek, Mr. Kaiser said.

Jonathan E. Michael, president and chief operating officer of Peoria, Ill.-based RLI and Mount Hawley Insurance Cos. and executive vp of RLI Corp., discussed his company's experience in 1996 securing an extra layer of reinsurance coverage through a catastrophe equity put, or CatEPut.

"We were looking for a cost effective way to put something on top of (RLI's existing reinsurance) program," Mr. Michael said. "Our Aon broker brought Aon Capital Markets into the equation."

The CatEPut will provide RLI with standby capital in the event of a California earthquake through a deal in which Centre Reinsurance Co. of New York agrees to purchase $50 million in preferred securities from RLI, which RLI would ultimately repurchase.

"Compared to traditional reinsurance, it was very affordable," Mr. Michael said. "Three- to four-year payback on a security is not unreasonable, and it was a real good rate."

"If (an earthquake) were to have happened, we would have owned a security that we had full confidence would be a good security," said Mr. Levine of Zurich Centre ReSource.

"From our point of view, it gave us additional diversity from some of the normal cat business that we were in," he said.

From a reinsurer's perspective, Mr. Levine said he sees the capital markets as "the repository for taking generic, uncomplicated risk cheaply long-term."

"As a reinsurer. . .we want to solve our clients' problems," Mr. Levine said, noting the reinsurer wants those problems to be "complicated, ugly," adding, "I want to get very well-paid for serving our client."

But, after solving those problems, he'd prefer to take the simpler portion of those risks and pass them to the capital markets.

"The markets don't want to take ugliness," Mr. Levine said. "The markets are really good at the straightforward, simple, big risks."

That approach leads to what Mr. Sandor suggests could be a model for the 21st Century, in which all of an insurer's liability risks should be looked at as dynamic, with the entire book of business available to the capital markets every day for a price.

"Now that's very common in the mortgage market," Mr. Sandor said. "This may be the same sort of thing in years to come."

While the panelists noted that those attending the forum need to examine capital markets opportunities, particularly with an eye toward helping customers hedge their companies' entire exposure to risk and protect shareholder value, Mr. Levine noted that it's important to find appropriate opportunities.

"I think the worst thing that anybody can do is walk out of here and say, 'I've got to do a securitization today,' " he said. "The game is not finding solutions in search of problems. The game here is serving clients' needs."

In addition to the Katie School, *Business Insurance*, Zurich-American Insurance Group, KPMG Peat Marwick L.L.P., Kemper Insurance Cos. and CNA Insurance Cos. cosponsored the forum. BI

Global Briefs

Marsh & McLennan Cos. Inc. is buying **Brockman & Schuh Group** in Mexico City for an undisclosed sum. Brockman & Schuh was a member of the Johnson & Higgins-led UNISON network. It has revenues of nearly $50 million and 15 offices in Mexico as well as Colombia, Guatemala and Miami . . . .**Munich Reinsurance Co.** has opened representative offices in Beijing and Shanghai, China. Having conducted reinsurance business in China for 25 years from its Hong Kong office, Munich Re said that it now anticipates "further dynamic growth and a continuing process of liberalization in the Chinese insurance industry." . . .**Lloyd's of London** has carried out a recommendation made in May by its Regulatory Review Group to set up a Market Risk Unit to monitor and control the aggregate risks faced by syndicates in the Lloyd's market. The Market Risk Unit, led by Roger Sellek, former head of Lloyd's commercial policy unit, will identify areas of systemic risk within the market, assess aggregate exposures and develop approaches to evaluate and limit these risks and exposures. . . .**Swire Blanch International (Holdings) Ltd.**, a joint venture of Minneapolis-based E.W. Blanch Holdings Inc. and Hong Kong-based Swire Group, is acquiring Buenos Aires, Argentina-based Walbaum Americana S.A. and its related businesses in Paraguay and Uruguay. Walbaum Americana provides insurance and reinsurance intermediary services. Swire Blanch said the deal, expected to be completed by mid-November, "provides a significant international expansion vehicle" for it into the Latin American mar-kets. . . .**Creditors of Orion Insurance Co. P.L.C.** and **London & Overseas Insurance Co. P.L.C.** will receive an initial payment of 15% of what they are owed, according to Paul Evans, the scheme administrator from Price Waterhouse. At the end of 1996, the two insurers' liabilities exceed assets by $772 mil-lion. . . .**Angerstein Underwriting Trust P.L.C.**, one of the leading corporate capital vehicles in the Lloyd's market, is concentrating its 1998 underwriting capacity on fewer syndicates. Its total capacity for 1998 will be about £200 million ($320 million) on 54 syndicates, compared with £197 million ($336.9 million) on 67 syndicates for 1997. "It is vitally important to be on the right syndicates in a down cycle," said Angerstein Chief Executive John Stace. . . .**Sedgwick Reinsurance Brokers** has become the first on-line subscriber outside the United States to the Catastrophe Risk Exchange system. CATEX is the largest interconnected electronic insurance market, with clients representing 10% of global property and casualty premiums.

U.K. bias award sets record

Court orders public entity to pay £358,288 in racial discrimination lawsuit

By CAROLYN ALDRED

LONDON—A record U.K. award of £358,288 ($581,600) in a racial discrimination case highlights the importance of developing and adhering to an equal opportunity policy, an employer attorney said.

The award against London municipal authority Lambeth Council by an appeal tribunal is the United Kingdom's largest since the £12,500 ($20,300) ceiling on discrimination cases was lifted in a 1994 amendment to the Race Relations Act 1976.

Lambeth Council, which has no insurance to cover the award, is considering whether to appeal the amount, a spokeswoman said.

A spokeswoman for the Commission for Racial Equality, a government-funded agency that backed the case, noted that awareness of racial equality has improved markedly in recent years, resulting in better practices generally.

The chairman of the CRE, Herman Ouseley, welcomed the tribunal's decision.

"Employers must actively seek to eliminate discrimination from their employment practices, ensure that they are providing equality of opportunity and run effective and fair disciplinary procedures which do not penalize employees simply because they have complained of racial discrimination," Mr. Ouseley said a written statement.

Attorney Matt Dean, a senior assistant in the employment department of London-based Simmonds & Simmonds, one of the leading U.K. employment law firms, agreed that companies are more aware of the need to take racial discrimination seriously. Companies should have in place an equal opportunities policy to which they adhere, he said, noting the amounts of awards and settlements are increasing significantly.

The award came in a case first brought before an Industrial Tribunal in 1992, two years after computer operator Donald D'Souza was dismissed and two

*See **Award** on page 33*

AGF rejects Generali takeover bid

By MARIA KIELMAS

LONDON—Assurances Generales de France's days as an independent entity may be numbered in the face of a hostile takeover bid by Italy's Assicurazioni Generali S.p.A.

Although the success of Generali's unsolicited bid is uncertain—especially because the AGF board rejected it last week—observers expect AGF will be taken over or ally with another bank or insurer.

Generali's 55 billion French franc ($9.35 billion) offer comes amid a series of bids and counterbids by AGF and other entities in the last month for French financial/industrial conglomerate Worms & Cie.

The takeover offer for AGF did not come as a great surprise to stock analysts.

Michael Lindsay, insurance analyst at Lehman Brothers in London, had earlier this month predicted an attempted takeover of AGF, though he didn't offer a precise date (*BI*, Oct. 13). "Perhaps we should have been more aggressive," he mused last week.

Whatever the outcome, AGF's independence is likely to be over.

"AGF will lose its independence whatever happens. Either Generali wins or AGF finds help (from a white knight), but this will have strings attached," said Ronald Andreasson, insurance analyst at London stockbrokers Barclay de Zoete Wedd. If

*See **AGF** on page 31*

German reform cuts pension costs

By DON LEWIS KIRK

BONN, Germany—German employers hope a new law aimed at reforming the national pension system will stabilize their ballooning contributions.

Earlier this month, the Bundestag, or lower house of Parliament, approved cuts in pensions to reduce the financial burden on employers created by an aging population. The legislation, which does not need approval by the upper house of Parliament, or Bundestrat, becomes effective in 1999.

The law effectively will cut average benefits to 64% of final salary by the year 2030 from the current level of 70% of final salary.

The law also will lower disability benefits, beginning in 2000. Previously, those who could not work in their occupations got pensions, but now, only those with general disability will get pensions.

However, those payments, too, will be cut back. Full pensions will go to those with general disability who can work fewer than three hours a day, but someone able to work three to six hours will get a 10% cut in pension payments. Those with general disability able to work six hours a day or more will get no pension until they are 65.

Demographic changes are burdening Germany's pay-as-you-go pension system as lower birth rates and longer life expectancies leave a smaller base of workers to pay for a growing number of retirees. Record unemployment in Germany is aggravating the problem.

Employers hope for long-term

*See **Pensions** on page 33*

The big picture

More risk managers taking holistic view

By STACY SHAPIRO

LONDON—Risk managers must think about the protection of shareholder value in addition to protection of asset values these days.

That's why "holistic risk management" is becoming fashionable and important to understand, according to speakers at a seminar on corporate risk management Aon Risk Services held in London last week.

Holistic risk management "is the process by which an organization first identifies and quantifies all of the threats to its objectives and, having done so, manages those threats within, or by adapting, its existing management structure," said David Davies, director of Aon Worldwide Resources in London, part of Aon Corp.

Holistic risk management differs from conventional risk management in two key ways, he said:

- The range of risks is not limited to those that are insurable or fortuitous.
- The process of minimizing risk and the impact of risk must be a mainstream management function, with the risk manager acting as a catalyst to spread the control of risk throughout the company.

The uninsurable risks Mr. Davies referred to can include the loss of the reputation of a company and the tarnishing of its brand name; the theft of intellectual property; or the risks that arise from the organization's reliance on information technology, he said.

Other such risks can include financial risks, such as interest rate fluctuations, or declines in equity and commodity prices, according to Tony Clifford, a partner in Ernst & Young's

*See **Holistic** on page 33*

PHOTO: AFP

The recent crash of an Austral Airlines DC-9 in Uruguay killed 74 people.

Airline insured for jet crash

LONDON—Aviation underwriters have set up a $10 million liability reserve for the crash last week in Uruguay of an Austral Airlines DC-9 that killed all 74 people on board.

Austral Airlines, owned by Aerolineas Argentinas, places its hull and liability coverage in London through Willis Corroon Aerospace, part of Willis Corroon Group P.L.C. British Aviation Insurance Group leads the coverage, which renews Nov. 1. The jet, built in 1969, is insured for $3 million.

Willis Corroon would not comment on the loss or how it would affect the upcoming renewal.

The Austral flight was en route from the Argentine city of Posada to Buenos Aires when it plummeted while in mid-air in a storm near Nuevo Berlin, about 190 miles north of Uruguay's capital of Montevideo and 280 miles north of Buenos Aires. News reports say the plane disintegrated on impact.

News reports also say the pilot told the Buenos Aires airport that he was changing course to avoid a heavy rain and hailstorm.

The loss Oct. 10 came exactly a week after a major fire in a hangar at Brussels' Zaventem airport, used by Sabena airlines. The fire could cost insurers more than $50 million, underwriters say (see story, page 10).

Airlines are in the midst of their heaviest insurance renewal season, which occurs in the fourth quarter.

Willis Corroon Aerospace estimates hull and liability rate reductions are similar during October renewals to September, when hull rates on average dropped 18% from last year and liability rates fell 11%. A London aviation underwriter thinks hull and liability rates have dropped as much as 40% for major airlines with good loss records that renew this month.

Meanwhile, Willis Corroon Aerospace says aviation hull war risk is plunging worldwide. This year it is unlikely that hull war risk premium worldwide will be much above $60 million, down from $110 million last year.

Aviation product liability premium also has halved between 1986 and 1996, the broker said in its recent aerospace newsletter.

—By Stacy Shapiro

The Professional Marketplace

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LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
IN THE PETITION OF ANTHONY JAMES MCMAHON AND PHILIP WEDGWOOD WALLACE, AS JOINT PROVISIONAL LIQUIDATORS OF ANGLO AMERICAN INSURANCE COMPANY LIMITED, Case No. 97-B-41556 (PCB)

NOTICE IS HEREBY GIVEN that on October 14, 1997, an order was entered by the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") in connection with the case filed with respect to Anglo American Insurance Company Limited (the "Company") pursuant to section 304 of the Bankruptcy Code (the "Order"):

1. Enjoining all persons and entities from (a) transferring, relinquishing or disposing of any property of the Company in the United States,* or the proceeds of such property, to third parties; (b) commencing or continuing any action or other legal proceeding (including, without limitation, arbitration or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever and any discovery in connection therewith) against the Company or any of its representatives or agents, including run-off agents, or any of their property in the United States, or any proceeds thereof; (c) enforcing any judicial, quasi-judicial, administrative or regulatory judgment, assessment or order or arbitration award, and commencing or continuing any act or action or other legal proceeding (including, without limitation, arbitration, or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever) to create, perfect or enforce any lien, setoff or other claim against the Company, or any of its representatives or agents, including run-off agents, or any of their property in the United States, or any proceeds thereof, including, without limitation, rights under reinsurance or retrocession contracts; and (d) drawing down any letter of credit established by, on behalf or at the request of, the Company, or withdrawing from, setting off against, or otherwise applying property that is the subject of any escrow agreement or similar arrangement in which the Company has an interest, in excess of amounts expressly authorized by the terms of the contract and any related trust or other agreement pursuant to which such letter of credit, escrow, or similar arrangement has been established; except; however, no drawing against any letter of credit shall be made in connection with any commutation unless the amount has been agreed in writing with the Petitioners or permitted by further Order of the Court;

2. Requiring all persons and entities that are beneficiaries of letters of credit established by, on behalf or at the request of, the Company or parties to any escrow or similar arrangement in which the Company has an interest, are required to (a) provide notice to the Petitioners' United States counsel of any drawdown on any letter of credit established by, on behalf or at the request of, the Company, or any withdrawal from, setoff against, or other application of property that is the subject of any escrow agreement or similar arrangement in which the Company has an interest, together with information sufficient to permit the Petitioners to assess the propriety of such drawdown, withdrawal, setoff or other application, including, without limitation, the date and amount of such drawdown, withdrawal, setoff or other application and a copy of any agreement pursuant to which such drawdown, withdrawal, setoff, or other application was made and provide such notice and other information contemporaneously therewith; and (b) turn over and account to the Petitioners for all funds resulting from such drawdown, withdrawal, setoff, or other application in excess of amounts expressly authorized by the terms of the contract, any related trust or other agreement pursuant to which such letter of credit, escrow or similar arrangement has been established;

3. Requiring that every person and entity that has a claim against the Company arising under a contract of insurance, reinsurance, retrocession or otherwise, written or entered into by the Company and that is a party to any action or other legal proceeding (including, without limitation, arbitration, or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever) in which the Company is or was named as a party, or as a result of which a liability of the Company may be established, is required to place the Petitioners' United States counsel on the master service list of any such action or other legal proceeding and to take such other steps as may be necessary to ensure (a) that such counsel receives copies of any and all documents served by the parties to such act on or other legal proceeding or issued by the court, arbitrator, administrator, regulator or similar official having jurisdiction over such action or legal proceeding, and any and all correspondence, or other documents circulated to parties named in the master service list and (b) that copies of the foregoing are provided to Chadbourne & Parke LLP, 601 South Figueroa Street, Los Angeles, California 90017-5704 (Attention: Jonathan Bank, Esq.); and

4. Providing that, with respect to any action, arbitration or other proceeding that may be commenced or become known to the Petitioners in the future, or the entitlement or alleged entitlement of any beneficiary of any letter of credit established by, on behalf or at the request of, the Company, or of a party to any escrow agreement or similar arrangement in which the Company has an interest that is identified by the Petitioners in the future (each a "Subsequent Claim"):

(a) when informed of a Subsequent Claim, counsel for the Petitioners shall serve upon the holder of such claim a copy of the Summons and Petition, and the most recent injunction order entered by the Court;

(b) the holder of a Subsequent Claim will have twenty (20) days from service of the Summons in which to submit a motion or answer to the Petition; and

(c) on such notice to counsel for the Petitioners as the Court may require, the holder of a Subsequent Claim may file a motion seeking an order of the Court vacating or modifying the injunction entered in this proceeding with respect to such Subsequent Claim. Such request shall be the subject matter of a hearing as scheduled by the Court. Otherwise, the holder of a Subsequent Claim may file objections and be heard by the Court in accordance with the terms of any order of the Court providing for a hearing in the future on the relief sought by the Petitioners in this proceeding.

The Order shall remain in effect pending a hearing scheduled to be held on February 19, 1998 at 2:30 p.m. (the "Return Date") before the Honorable Prudence Carter Beatty, United States Bankruptcy Judge, in Room 617 of the Alexander Hamilton Custom House, One Bowling Green, New York, New York. All papers submitted for the purpose of opposing continuation of the Order after the Return Date shall be filed with the Court, with a copy to the Chambers of the Honorable Prudence Carter Beatty, and served on Cadwalader. Wickersham & Taft, so as to be received at least fourteen (14) days prior to the Return Date. Any party-in-interest that has not received a copy of the Petition and Supporting Papers and/or the Order should contact counsel for the Joint Provisional Liquidators in writing at the address below:

CADWALADER, WICKERSHAM & TAFT
100 Maiden Lane
New York, New York 10038
Tel: (212) 504 - 6000 • Fax: (212) 504 - 6666
Attention: Kenneth P. Coleman, Esq.
Lisa C. Dorr, Esq.

** As used herein, United States is defined to include the United States and its territories and possessions*

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
IN THE PETITION OF COLIN GRAHAM BIRD AND PAUL ANTHONY BRERETON EVANS, AS JOINT PROVISIONAL LIQUIDATORS OF NORTH ATLANTIC INSURANCE COMPANY LIMITED, Case No. 97-B-41602 (TLB)

NOTICE IS HEREBY GIVEN that on October 9, 1997, an order was entered by the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") in connection with the case filed with respect to North Atlantic Insurance Company Limited (f/k/a British National Insurance Company and British National Life Insurance Company) ("North Atlantic") pursuant to section 304 of the Bankruptcy Code (the "Order"):

1. Enjoining all persons from transferring, relinquishing or disposing of property of North Atlantic in the United States, or the proceeds of such property, to third parties;

2. Insofar as it relates to North Atlantic, enjoining all persons from commencing or continuing any arbitration, or any judicial, quasi-judicial, administrative or regulatory action or process whatsoever (including any discovery in connection therewith) involving North Atlantic or any of its property in the United States, or any proceeds thereof;

3. Enjoining all persons from enforcing any judicial, quasi-judicial, administrative, regulatory judgment, assessment, or order, or arbitration award, and commencing or continuing any arbitration, or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process to create, perfect or enforce any lien, set-off or other claim against North Atlantic or any of its property in the United States or proceeds thereof, including, without limitation, rights under reinsurance or retrocession contracts;

4. Requiring all persons in possession, custody or control of property of North Atlantic in the United States, or the proceeds thereof, to turn over and account for such property or its proceeds to the Petitioners;

5. Enjoining all persons from drawing down any letter of credit established by, on behalf or at the request of, North Atlantic, or withdrawing from, setting off against or otherwise applying property that is the subject of any escrow or trust agreement or similar arrangement in which North Atlantic has an interest, in excess of what is expressly authorized by the terms of the contract and any related trust or other agreement pursuant to which such letter of credit, escrow, trust or other similar arrangement has been established; except, however, no drawing against any letter of credit shall be made in connection with any commutation unless the amount has been agreed in writing with the Petitioners or permitted by further Order of this Court;

6. Requiring all persons that are beneficiaries of letters of credit established by, on behalf or at the request of North Atlantic, or parties to any trust or escrow agreement or similar arrangement in which North Atlantic has an interest to (i) provide notice to the Petitioners and their United States counsel of any drawdown on any letter of credit established by, on behalf or at the request of, North Atlantic, or any withdrawal from, setoff against, or other application of property that is the subject of any escrow or trust agreement or similar arrangement in which North Atlantic has an interest, together with information sufficient to permit the Petitioners to assess the propriety of such action, including, without limitation, the date and amount of such drawdown, withdrawal, setoff or other application and a copy of any agreement pursuant to which such drawdown, withdrawal, setoff or other application was made and provide such notice and other information contemporaneously therewith, and (ii) turn over and account to the Petitioners for all funds resulting from the drawdown of any letter of credit or the application of funds subject to any trust, escrow or similar arrangement in excess of the amount expressly authorized by the terms of the contract, trust or other agreement to which such letter of credit, trust, escrow or similar arrangement was established;

7. Requiring every person that has a claim of any nature or source against North Atlantic and that is a party to any action or proceeding in which North Atlantic is or was a party or in which a liability of North Atlantic may be established, to place the Petitioners and their United States counsel on the master service list of any such action or other legal proceeding and to take such other steps as may be necessary to ensure that such counsel receives (i) copies of all documents served by the parties to such action or proceeding or issued by the court, arbitrator, administrator, regulatory or other official having jurisdiction over such action or proceeding and (ii) any and all correspondence or other documents circulated to parties named on any service list; and

8. Providing that when the Petitioners are informed of claims, suits, actions and proceedings of whatever nature involving North Atlantic or its property in the United States, or the entitlement or alleged entitlement of any beneficiary of any letter of credit established by, on behalf or at the request of, North Atlantic, or of a party to any trust or escrow agreement or similar arrangement in which North Atlantic has an interest, subsequent to the date of this Order ("Subsequent Claims"), counsel for the Petitioners shall provide a copy of the Summons, Petition and the most recent Preliminary Injunction order to the person or his representative who asserts such claims ("Subsequent Claimant"); that a Subsequent Claimant shall have twenty (20) days from service of the Summons within which to file an answer or motion with respect to the Petition; that on not less than two days notice to counsel for the Petitioners, any Subsequent Claimant may request, in writing, that the Court vacate or modify the Order or any order entered in this proceeding enjoining the prosecution of any Subsequent Claim; that such request shall be the subject matter of a hearing or other proceeding as scheduled by the Court; and that otherwise Subsequent Claimants may file objections and be heard by this Court in accordance with the terms of any order of the Court providing for a hearing in the future on the relief sought by the Petitioners in this proceeding.

The Order shall remain in effect pending a hearing scheduled to be held on April 15, 1998 at 10:00 a.m. before the Honorable Tina L. Brozman, Chief Bankruptcy Judge, in Room 723 of the Alexander Hamilton Custom House, One Bowling Green, New York, New York. All papers submitted for the purpose of opposing continuation of the Order shall be filed with the Court, with a copy delivered directly to the Chambers of the Honorable Tina L. Brozman and served on counsel for the Petitioners at the address below, so as to be received on or before April 1, 1998 at 5:00 o'clock p.m. New York time. Any party in interest that has not received a copy of the section 304 petition, the supporting papers filed therewith, and/or the Order should contact counsel for the Joint Provisional Liquidators in writing at the address below:

CADWALADER, WICKERSHAM & TAFT
100 Maiden Lane
New York, New York 10038
Tel: (212) 504 - 6000 • Fax: (212) 504 - 6666
Attention: Kenneth P. Coleman, Esq.
Lisa C. Dorr, Esq.

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LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

In re
LAWRENCE AGENCY CORPORATION,
Debtor.

Chapter 11
Case No. 97-11302

NOTICE OF MOTION OF LAWRENCE AGENCY CORPORATION PURSUANT TO 11 U.S.C. §363 FOR AUTHORIZATION TO SELL CERTAIN ASSETS FREE AND CLEAR OF LIENS AND OTHER INTERESTS

PLEASE TAKE NOTICE, that Lawrence Agency Corporation, the debtor in possession herein, (the "Debtor"), by and through its attorneys, Cooper, Erving, Savage, Nolan & Heller, LLP, will move this court at the James T. Foley Courthouse, 445 Broadway, Suite 327, Albany, New York on the 30th day of October, 1997 at 10:30 in the forenoon of that day, or as soon thereafter as Counsel can be heard, for an Order pursuant to 11 U.S.C. §363(b) authorizing the sale of certain assets pursuant to the terms and conditions of a written purchase offer dated October 9, 1997 submitted by Tracy & Holland, LLP, and free and clear of all liens and other interests, together with such other and further relief as to this Court may seem just and proper.

PLEASE TAKE FURTHER NOTICE, that the assets to be sold are all the issued and outstanding shares of Centralia Insurance Agency Managers of Texas, Inc. ("Centralia")(an indirect subsidiary of the Debtor). Upon information and belief, Centralia's only asset is a Texas "grandfathered" general managing agent's license.

PLEASE TAKE FURTHER NOTICE, that the terms of sale are as follows:

The purchase price for such sale shall be a non-refundable fixed sum of $85,000 to be paid at closing.

The sale is "as is" without any representations or warranties.

The sale is conditioned on:

a. purchaser being satisfied that Centralia has been dormant for a period of at least four years prior to the date of closing;
b. purchaser having the opportunity to submit supplemental bids in the event of competitive bidding; and
c. purchaser having the opportunity to review the contents of Centralia's corporate minute book prior to the closing and being satisfied with the status thereof.

PLEASE TAKE FURTHER NOTICE, that at the Hearing the Bankruptcy Court will consider any higher and better offers for the assets to be sold.

Dated: Albany, New York
October 10, 1997

COOPER, ERVING, SAVAGE, NOLAN & HELLER, LLP
Justin A. Heller, Esq. • 39 North Pearl Street • Albany, New York 12207 • (518) 449-3100
FOR MORE INFORMATION CALL MR. JAMES FAUGHNAN AT (518) 370 - 4900

AGF

Continued from page 29

Generali succeeds in acquiring AGF, the Italian insurer will achieve its long-stated ambition of becoming a significant player in the French market as well as the No. 1 insurance company in Spain.

"This would cause a very big change to the Spanish market," Mr. Andreasson said.

Generali launched its bid for AGF during the weekend of Oct. 11-12 as a result of the Oct. 6 bid by AGF and Italy's Ifil for Paris-based Worms & Cie., a spokesman for Generali confirmed. Ifil is the holding company for the interests of the Agnelli family, Italy's leading industrial family, which controls the Fiat automobile company.

The AGF/Ifil bid for Worms & Cie. itself was made in response to a hostile offer by French industrialist Francois Pinault for Worms & Cie.

If the AGF bid were to succeed, AGF would gain control of Worms subsidiary Athena Assurances, one of France's 20 largest insurers. An AGF spokesman in Paris said its bid for the Worms conglomerate is still on the table, despite Generali's move.

AGF also is interested in acquiring troubled French insurer Groupe des Assurances de Paris when the French government decides to privatize it. The insurer's push for new acquisitions triggered a feeling in the market that AGF itself might be vulnerable.

"When you look at all of the companies in this bidding, AGF is the weakest player," said Ugo Pastori, insurance analyst at Robert Fleming Securities in London.

"There are just three companies on offer in the French market, AGF, Athena and GAN," said Mr. Lindsay. "Two big insurers want to be part of the French market. So Generali probably felt it had to make a move."

Generali's bid for AGF includes offering 300 French francs ($51) for each AGF share and 305 French francs ($52) for AGF convertible bonds.

The Generali offer also would acquire shares to be issued by AGF to finance its effort to gain control of Athena, Generali statement said.

The board of AGF last week rejected the offer as "unacceptable" and too low.

A Generali spokesman said the offer is not too low because it offered a premium and is in cash.

Even before AGF responded, some analysts speculated Generali would have to make a second offer to succeed.

"I don't think they (Generali) will get it at this price," said Mr. Pastori. But he said he thinks Generali ultimately will prevail.

"I'm pretty confident that Generali will win in the end. Another company would be crazy to start a bidding war with Generali," he said.

Two other companies seen as possible bidders or white knights for AGF are Germany's Allianz Versicherungs A.G. and the U.K.'s Commercial Union P.L.C.

Allianz has a small operation in France, while Commercial Union controls Victoire Assurances.

"The company always has been interested in GAN and will do a due

'When you look at all the companies in this bidding, AGF is the weakest player,' says Ugo Pastori.

diligence, but we were more selective with AGF since the French government's attitude is not very favorable to hostile takeover bids," an Allianz spokesman said.

A Commercial Union spokesman was not available for comment.

AGF has appointed three investment banks as advisers in its defense, an AGF spokesman confirmed. They are Goldman Sachs, which leads the team, Credit Suisse First Boston and Societe Generale.

Generali recently has been expected to make a substantial acquisition. France was seen as a likely target because of Generali's failed attempt to take over mutual insurer Companie du Midi in 1989; the try was thwarted by a rival offer from AXA S.A. Last year, AXA bought out Generali's remaining holding in Midi.

The Generali spokesman confirmed France is a principal target. "It is a strategic market, like Spain and Austria. In these markets you need to be of a certain size," he said.

Generali currently has between 3% and 3.5% of the French market. In Italy, it is the largest insurer, though only 30% of its earnings comes from the Italian market. The majority of its earnings is from foreign interests, including: 21% from France, and 12% from Austria. Over the past year it has bought control of Tel Aviv-based Migdal Insurance Co., which controls 24% of the Israeli market, and created a new company in Brazil, Sudameris Generali.

In 1996, Generali registered a net profit of 519.7 billion lire ($304.3 million), a 7.6% increase from the prior year. Total gross premiums written were 11,394 billion lire ($6.67 billion), an 8.6% increase from the prior year.

If the bid for AGF is successful, Generali would gain an 11% market share in France and become the second-largest insurer in the French market behind AXA-UAP, which controls 14% of the French market.

In Spain, the merged group would control 10% of the market. Generali, with a 5.7% stake, is the leading shareholder in Spain's Banco Central Hispanoamericanao, which controls three insurers: Vitalicio Seguros, Cia. de Seguros La Estrella and Cia. de Seguros Vasco Navarra.

AGF also has a presence in Spain, controlling AGF Union Fenix, the result of a merger between AGF Espana and La Union y El Fenix Espanol. AGF bought UFE from Banco Espanol de Credito after the Spanish insurance authorities intervened into Banesto following a corruption scandal.

The combination of Generali and AGF interest would become the largest Spanish insurer, analysts predict, though the Generali spokesman said it would be just equal in size to the Spanish market's current leader, Mapfre Mutualidad.

Generali Chairman Antoine Bernheim and Mr. Pinault—who is AGF's rival in bidding for Worms & Cie.—met just days before Generali's bid.

This prompted rumors in the French and Italian stock markets and press that the two had reached an agreement on bidding strategies for AGF and Worms & Cie. The Generali spokesman confirmed the meeting took place but would not comment further.

Generali's Mr. Bernheim is regarded as both the driving force behind the bid for AGF and the glue that keeps together the various Italian companies participating directly or indirectly in the bidding for the French insurer.

"He is a real strategic thinker," said Mr. Pastori of Robert Fleming Securities.

Mr. Bernheim, who was born in France, became Generali's chairman two years ago. Prior to that, he was a senior partner at investment bank Lazard Freres in Paris. Lazard is advising Generali on the bid and also holds 6% of the Italian insurer's shares.

In addition, Mr. Bernheim is deputy chairman of Milan-based commercial bank, Mediobanca, which has cross-shareholdings in most of Italy's major companies and has been at the center of most important mergers and acquisitions in Italy for many decades. Mediobanca owns 5.9% of Generali, while Generali owns 12.5% of Mediobanca.

The Generali bid also sets two sides of the Agnelli family against each other. Generali owns 2.3% of the Fiat auto group, whose chief executive is Cesare Romiti, who took over after the retirement of Giovanni Agnelli.

The Ifil holding company, which teamed with AGF to bid for Worms & Cie., is headed by Giovanni Agnelli's brother, Umberto.

But analysts are dismissing notions of a fight in the Agnelli family.

"All those rumors are a bit of a fiction. I think Ifil bid this time without reference to Fiat. Sometimes Fiat, Ifil, Generali and Mediobanca have bid together, but (this time) Ifil started things on its own," Mr. Pastori said.

The three Italian financial institutions—Generali, Mediobanca and Ifil—belong to the so-called "sallotto buono," or smart parlor, of Italian high finance.

Mr. Pastori thinks the only way for AGF to avoid an acquisition would be to create a French group or perhaps some form of management buyout. But this could be difficult, he added. "I don't see French banks interested. They are interested in creating shareholder value now," he said.

Allianz as a potential white knight could also face a problem.

AGF owns 33% of German insurer Aachener Munchener Beteiligung, while AMB owns 5% of AGF. Should Allianz acquire the AMB shares, it could face problems with German authorities that might see that move as anti-competitive, one analyst said.

"So I don't think that Allianz will be making a counter-bid. Or of it did, it could sell off AMB later to finance it," said Mr. Andreasson of BZW.

The entrance of a U.S. company into the bidding game, meanwhile, is not a strong possibility, analysts say.

"If a U.S. company bought AGF, it would not create any synergy. It would not be able to transfer business into AGF. The only logic would be if the acquisition gave a high return on equity. But the European market is not like that at all," said Mr. Andreasson. BI

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Pensions

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stabilization of joint employer/employee contributions, despite shifts in the age pyramid.

"Without reform, average employer/employee contributions would reach 25.5% of wages by 2030," said Volker Hansen, a social insurance expert with the German Employers Assn., which represents employers. "We hope now contributions stay under 22.3%."

Current annual contributions—at a rate of 20.3% of wages, split evenly by the employer and employee—amount to 304.5 billion deutsche marks ($174.2 billion).

Under the reforms, financially troubled companies no longer need to adjust pension funding every three years to fully track the rate of German inflation, which averages 3% annually. The law reduces the adjustments to a 1% increase for newly hired employees after 1999.

Despite such improvements, employers fault the legislation for failing to address immediate problems.

"The reform was urgently needed in 1998 and cannot wait until 1999," said Dieter Hundt, president of the German Employers Federation, which represents Germany's businesses.

High unemployment already has reduced the number of people paying into Germany's pension system and resulted in a 1% rise in employer/employee pension contributions last year and this year. The Ministry of Labor determines the contribution rate, which is adjusted depending on economic development and reserves.

"As labor costs rise, it leads to more corporate rationalization," warns Mr. Hundt, meaning higher labor costs mean increased production costs and reduced competitiveness—thereby prompting layoffs.

"Higher pensions or health care contributions are an additional mortgage on the job market," said Assn. of German Chambers of Industry & Commerce President Hans Peter Stihl.

Higher pension contributions threaten to destroy the beneficial effect on employers of upcoming tax reductions and moderate wage settlements with worker unions.

"We are in a vicious circle," Labor Minister Norbert Bluem told the Bundestag. "Higher contributions mean more unemployed, and more unemployed mean fewer people to pay contributions, which means higher contributions."

Efforts to break the cycle have focused attention on alternative pension arrangements.

Norbert Walter, chief economist at Deutsche Bank, thinks the current system will have to make way for a funded system, in which working people pay into their own accounts.

"It's the only equitable solution," he said.

Meinhard Miegel, director of the Bonn, Germany-based Institute for Economy and Society, contends that "by the year 2025, pensioners will receive less from the system than they paid in over their working careers."

Mr. Hansen thinks the government is hindering pension reform alternatives, such as employer-sponsored pension plans, by rejecting certain business-backed initiatives. One of the initiatives employers pushed for unsuccessfully is a reduction in the tax on pension reserves.

"German tax authorities are restrictive when it comes to building reserves. Pension reserves are taxed at 6% interest, regardless of whether a reserve earns that kind of interest or not. We believe the tax should be lowered," Mr. Hansen said.

With such a tax incentive, Mr. Hansen believes companies would take up some of the slack left by the government pension system. "If the current system must be replaced, then it's time alternatives were given the attention they need," he said. BI

Award

Continued from page 29

years before the scrapping of a ceiling on discrimination awards.

Indian-born Donald D'Souza had complained of constant racial discrimination and being denied promotions after complaining while working for Lambeth Council before being fired from his £28,000 ($45,500)-a-year post in January 1990.

A 1992 Tribunal awarded him £16,000 ($26,000) compensation for injury to feelings and ordered that he be reinstated.

After the Council's refusal to reinstate him, a 1995 Tribunal ruled it could not review the Tribunal's earlier award but assessed additional compensation for unfair dismissal under the Employment Protection (Consolidation) Act 1978.

Although the Tribunal assessed Mr. D'Souza's losses, including lost earnings and pension, as £377,546 ($613,000), the statutory maximum award for this Act was limited to £8,925 ($14,500).

Mr. D'Souza appealed, claiming the award should have been made under the amended Race Relations Act, which now has no ceiling on awards.

Lambeth Council claimed the 1995 Tribunal had no power to review the 1992 decision and that the Race Relations (Remedies) Act 1994 did not remove the cap before July 1994.

However, Mr. Justice Morison ruled at the Appeal Tribunal that the 1992 Industrial Tribunal had not completed its task, as the award had depended on Mr. D'Souza being reinstated, and that it was open to the 1995 Tribunal to have made an uncapped award of compensation.

This follows a 1995 ruling, *Harvey vs. The Institute of the Motor Industry*, which held that the lifting of the cap in sex discrimination cases applied to awards made after the date when the cap was removed, regardless of the date of the dismissal.

Although most companies in Europe do not carry insurance coverage for discrimination cases, insurers such as X.L. Insurance Co. Ltd. and AIG Europe (U.K.) Ltd. now are marketing standalone employment practices liability policies in Europe. Other insurers also provide extensions to directors and officers liability insurance policies to cover discrimination (*BI*, June 2). BI

Holistic

Continued from page 29

International Capital Markets Group in London.

Also, operational risks can burn financial institutions more than financial losses, said Mr. Clifford, referring to financial traders who have lost millions for their organizations because managers didn't supervise their transactions.

"Behind every financial disaster is an unsupervised genius," such as Nicholas Leeson, whose allegedly fraudulent trades brought down British investment bank Barings P.L.C. in 1995, according to Mr. Clifford. Barings' £864 million ($1.4 billion) loss was not insured (*BI*, Oct. 13, 1995).

One way to identify these risks within a company is through a "collective management brainstorm" among key employees, said Mr. Davies of Aon. Such a group should identify "intangible" risks within the company and prioritize them. Managers should make sure controls are in place to protect the company from these risks, and procedures should be reviewed regularly.

Only then should risk managers look at financing these high-priority risks, such as through integrated risk financing mechanisms that include insurance, said Mr. Davies. "It has been estimated that by the year 2000, less than 50% of risk financing for large organizations will be by conventional insurance," he said.

Risk financing to protect shareholder value rather than asset value is a recent phenomena, according to Kevin R. Callahan, president and chief executive of Aon Capital Markets Inc. in Chicago. The idea of tapping capital markets to finance risks resulted from the $65 billion to $70 billion of catastrophe losses in the United States in the 1990s, said Mr. Callahan. These losses accounted for about 15% to 20% of the insurance industry's combined capital of between $400 billion and $500 billion, he said.

Insurers and reinsurers have been the first to tap the financial capital markets—which in the United States alone totals more than $20 trillion—to boost their catastrophe capacity, said Mr. Callahan.

But if risk managers think of the financial capital markets and insurance market as interchangeable, "then you can think of all kinds of new products" to protect risks, he said.

It is still early in holistic risk management, Mr. Callahan admitted. "Largely more people are still interested in the topic and want to know about the topic."

Only the top 15 or 20 corporations in the United States are starting to act, "but beyond those companies, most are still at the exploratory stage," he said. In those top companies that have embraced holistic risk management, however, the move has come from risk managers and not from other managers, added Mr. Callahan. "The hard part is not understanding the capital market piece of the puzzle. Bonds are very simple. Most securities are straightforward. . .the much tougher piece of the puzzle is understanding the risks of a company and understanding how insurance and reinsurance companies dealt with those risks." BI

Liability

Continued from page 2

damages. The bill vetoed last year would have applied that same punitive damages formula to all product liability awards.

The new proposal also says nothing about limiting the joint and several liability of multiple parties for non-economic damages in product liability cases. Last year's bill would have made defendants responsible only for paying their portion of non-economic damages under most circumstances.

The measure also would set an 18-year statute of repose on workplace durable goods provided that injured workers were covered by workers compensation; limit the liability of sellers of products subject to product liability suits; and provide some protection for manufacturers of products deliberately misused or used by people under the influence of alcohol or drugs.

The proposal is now being examined by Senate Republican leaders, notably Sen. Slade Gorton, R-Wash.

Pat Rowland, executive director of the Arlington, Va.-based Product Liability Coordinating Committee, said Sen. Gorton could respond with a proposal of his own as early as this week.

"We're really waiting for the Gorton redraft. I understand they hope to have it done when both senators return," said Mr. Rowland.

The PLCC's members read like a "Who's Who" of trade associations promoting product liability reform. They include the National Assn. of Manufacturers, the National Federation of Independent Business and the U.S. Chamber of Commerce. None has independently endorsed the proposal.

The Risk & Insurance Management Society Inc., which is not a member of the PLCC, also is reserving judgment on the reform proposal until it can be studied more, said Paul Brown, director of government affairs for the New York-based organization.

Mr. Rowland made clear that PLCC wants the measure to go further.

"We still would like to see a multiple punitive damage proposal—to limit punitive damages for the same cause—and to have the statute of repose cover all products," he said.

Mr. Rowland added that even proponents inclined to support the White House-backed measure would wait to do so until they saw final legislative language.

"There could be time bombs" buried in the wording, he said.

Nonetheless, Mr. Rowland said he remains "optimistic something can be done in this Congress," though not necessarily this year.

But if business groups think that the proposal does not go far enough, the Assn. of Trial Lawyers in America believes that even the compromise draft goes too far in tilting the playing field in favor of business.

"The latest proposal by Sen. Rockefeller to shield corporations from liability for producing dangerous products that injure and kill consumers is just another chapter in the same old story," said Richard D. Hailey, president of the ATLA in Washington.

"The American people believe in personal and corporate responsibility. This proposal—like its predecessors of the past 20 years, written and paid for by tobacco, insurance and manufacturing giants—would allow corporations, at the expense of consumers, to evade responsibility for their wrongdoing," said Mr. Hailey, who is a partner in the Indianapolis law firm Hailey & Ramey.

"The bill arbitrarily limits punitive damages, undermining their purpose—to punish and deter egregious misconduct. It violates states rights and throws out state laws more favorable to injured consumers, while retaining laws more favorable to manufacturers. And it grants immunity from liability to manufacturers of many products more than 18 years old—like elevators and farm equipment—no matter how dangerous or how long they were intended to last," he said.

"This proposal limits the legal rights of injured consumers, but not those of businesses that suffer economic losses—even as a result of the same incident. This is the same old story—unfair to consumers and far too generous to corporations," he said. BI

Zurich

Continued from page 1

ment, based on a pro forma combination of the two companies' 1996 figures.

But the primary motivation behind the merger is not to become larger but for Zurich to achieve greater U.S. market penetration for its financial services business, analysts say.

For B.A.T, the deal provides an opportunity to separate its diverse tobacco and financial services operations, which the company says should provide greater returns for B.A.T and its shareholders.

In the United States, ZF Group's main insurance units will be: Farmers Group Inc.; Zurich Kemper Life Insurance; Universal Underwriters Group, a Zurich unit that specializes in insuring auto dealers and marketing coverages via dealerships; and all companies that currently comprise Zurich Insurance Co.-U.S., including Zurich-American Insurance Group, Maryland Insurance Group and Fidelity & Deposit Group.

In the United Kingdom, ZF Group's insurance holdings will comprise: Allied Dunbar Assurance P.L.C., one of the largest U.K. life insurance and pension companies; Eagle Star Holdings P.L.C., a leading U.K. multiline insurer; Zurich Municipal, a leading insurer of municipal authorities; and existing U.K. units of Zurich Insurance.

All Zurich Insurance subsidiaries based in Switzerland and elsewhere in the world also fall under the ZF Group umbrella.

ZF Group will also include all members of Zurich Re—one of the largest reinsurance groups in the world, including Centre Reinsurance Holdings Ltd., Zurich Reinsurance Centre among others—and Eagle Star Reinsurance Co. Ltd.

The asset management units of ZF Group will be: Chicago-based Zurich Kemper Investments Inc.; New York-based asset manager Scudder, Stevens & Clark Inc., which is being acquired by Zurich; and B.A.T's London-based Threadneedle Asset Management unit.

Zurich already has a significant presence in the U.S. commercial insurance market, so the merger initially will have little effect in the U.S. commercial market because of Farmers' concentration on personal lines, according to Rob Jones, an insurance analyst with Standard & Poor's Corp. in London.

However, Mr. Jones said the merger will significantly enhance Zurich's position in the U.K. commercial insurance market.

Allied Dunbar is "pretty strong" in personal and commercial life insurance, while Eagle Star has a "very strong" commercial lines portfolio, and is a market leader in U.K. employers liability business, Mr. Jones said.

The deal not only gives Zurich a better-balanced insurance portfolio—with Farmers' personal lines market business complementing Zurich's existing commercial and industrial business—but also provides a better geographic spread, with Farmers West Coast presence complementing Zurich's Midwest and East Coast presence, analysts say.

Trevor Petch, European insurance analyst at Robert Fleming Securities in London, said that ZF Group will be well positioned to offer integrated financial services in the United States.

Between Zurich Kemper, which specializes in bonds and money market funds for individual investors, and Scudder, which is a highly skilled designer of equity funds distributed to institutions, "there's a lot of possible opportunities."

Mutual funds are a real growth area in the United States, for which Los Angeles-based Farmers Insurance Co. would "offer an excellent distribution channel," Mr. Petch said.

ZF Group's asset management business will provide a buffer to the traditionally more volatile insurance operations, he added.

Mr. Petch noted that the U.K. fund management operations of Threadneedle could be significantly expanded throughout Europe as a result of the deal.

The merger is "definitely" U.S.-led, however, said Mr. Petch.

Farmers Insurance, with a network of 14,000 captive agents, would make an "excellent mechanism" for Zurich to distribute its savings and mutual fund products.

This could prove especially important for Zurich, which last year acquired Chicago-based asset manager Kemper Corp., and is acquiring New York-based Scudder, Stevens & Clark.

Trevor May, an insurance analyst for Salomon Brothers Inc. in London, agreed that "Farmers is very much a Zurich-type company." Attractions include its agency network, cross-selling opportunities and growth potential, he added.

The merger partners maintain that ZF Group will have leading market positions in the United Kingdom, continental Europe and the United states and will operate in more than 50 countries.

But Mr. May contends that "Europe doesn't figure highly" when it comes to the rationale for the merger. "For Zurich ,it is a growth move," and this means primarily B.A.T's financial interests in the United States and Britain, he said.

John Russell, insurance analyst at Hoare Govett Securities Ltd. in London, said that while Zurich is paying "quite a significant premium" for the B.A.T operations, the acquisition will give ZF Group a better balanced global portfolio and help Zurich better spread its risks both geographically and by product line.

Mr. Russell also said Zurich will provide the "more dedicated and tougher management" that British American Financial Ser-

See **Zurich** *on next page*

Updates

Settlement not taxable: Court

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U.S. Magistrate Judge David Noce of the U.S. District Court for the Eastern District of Missouri ruled last month that Mr. Mayberry was due the refund plus interest. Judge Noce said such payments are compensation for personal injury, not remuneration for income and therefore are not subject to income taxes or other employment taxes.

Exchange opening set

HAMILTON, Bermuda—The Bermuda Commodities Exchange plans to begin trading catastrophe insurance risk on Nov. 12, following a ribbon-cutting ceremony for the market last week.

The exchange, whose opening has been twice delayed for a variety of reasons, now has 20 members that are primarily participants in the insurance industry (*BI*, Aug. 4; March 17). More members who are not necessarily directly involved in the insurance industry will be sought, said President Thomas C. Heise.

The exchange, authorized by the Bermuda Parliament last year and which is under the supervision of the Bermuda Monetary Authority, will offer members the opportunity to conduct trading in option contracts based on an index of insured homeowner losses due to atmospheric perils in particular regions of the United States over specified periods.

To start, the exchange will offer options in $5,000 units covering six-month periods, January through June and July through December, for these regions: Florida, Northeast, Southeast, Gulf Area, Mid/West and National. Contracts will cover damages from a single event, aggregate damage or second event over the covered period.

The initial members of the Exchange are: AIG Insurance Commodities Trading Ltd.; Aon Re (Bermuda) Ltd.; Bankers Trust International; CAT Ltd.; Chase Manhattan International Finance Ltd.; former Guy Carpenter executives Clement S. Dwyer Jr. and Aaron B. Stern; E.W. Blanch Holdings Inc.; General Re Underwriting Services Ltd.; Goldman Sachs International and Griffin Trading Co., a trading and clearing operation.

Also, Guy Carpenter Advisors Inc., IPC Reinsurance Co. Ltd.; Mid Ocean Reinsurance Co. Ltd.; Morgan Stanley & Co. Inc.; Partner Reinsurance Co. Ltd.; Renaissance Reinsurance Ltd.; Sedgwick Lane Financial L.L.C.; Stockton Reinsurance Investments Ltd.; Tempest Reinsurance Co. Ltd. and Transatlantic Holdings Inc.

Settlement rejection sought

MIAMI—An American Airlines Inc. flight attendant is asking a Miami Circuit Court judge to reject the $300 million settlement the tobacco industry has reached with a class of flight attendants to end a secondhand smoke liability lawsuit.

The objection was filed last week on behalf of Juanita V. Ramos, who has been an American Airlines flight attendant for about 15 years.

In the motion to Dade County Circuit Court Judge Robert P. Kaye, Ms. Ramos' attorney, Eric G. Olsen of Jensen Beach, Fla., listed several criticisms of the settlement:

- The defendants did not admit to allegations that secondhand smoke is deadly and that they have long concealed this danger.
- The use of the settlement proceeds to establish a foundation to research smoking-related diseases is unnecessary and will not benefit class members, because they already were ready to prove the harmful health effects of secondhand smoke.
- No proceeds from the settlement—which is 6% of the $5 billion originally sought—will go to individual class members.
- While the settlement allows class members to file individual personal injury claims against the industry, most plaintiffs will not be financially capable of pressing individual claims. That was a major reason a Florida appellate court supported creating the class in the first place.
- The settlement prohibits class members who file individual suits from seeking punitive damages, the most effective weapon that plaintiffs have to force reasonable settlements.

Attorneys for the tobacco defendants and the class-action plaintiffs could not be reached for comment.

401(k) information hearing set

WASHINGTON—The Labor Department will hold a hearing next month to help it decide whether employers are giving 401(k) plan participants enough information to determine if fees and other charges associated with the investment options they select are reasonable.

The Nov. 12 hearing in Washington also will focus on whether 401(k) plan participants are receiving information on plan fees and expenses that can be easily understood.

In addition, the department wants to know what action, if any, it should take to improve disclosure of fee information to participants.

Briefly noted

Sacramento Superior Court Judge James Ford disclosed earlier this month his new ruling expanding California's ground-breaking **ergonomics standards** so that they apply to all employers, not just those with 10 or more employees (*BI*, June 16). . . .The monthly **Medicare Part B premium rate** will remain at $43.80 next year, the first time in eight years it has not increased, the Health Care Financing Administration says. Roughly 5% to 10% of employers pay all or a part of the premium for their retired workers. Part B covers physician services. . . .A federal judge on Friday decertified a class of up to 2 million smokers who were suing the **tobacco industry** for the cost of medically monitoring smokers in Pennsylvania. . . . **Continental Airlines Inc.** is "vigorously appealing" an $875,000 jury award to a female pilot who alleged she was sexually harassed as a result of pornographic photos strewn about a cockpit. A Newark, N.J., jury found that the Houston-based airline did not retaliate or discriminate against the pilot and awarded no punitive damages. The award covers lost pay and emotional suffering.

Zurich

Continued from previous page

vices has been lacking.

He said that with its concentration in tobacco, B.A.T was generally "too slack" in giving direction to its financial services side.

Rolf Hueppi, chairman and chief executive officer of Zurich Group, will hold the same titles in ZF Group.

"The businesses to be combined are high quality, have significant prospects for growth and are highly complementary," Mr. Hueppi said.

He said ZF Group's concentration in key segments of personal, commercial and corporate risk and investment management should enable it "to deliver consistent earnings growth, building upon Zurich's financial strength and market strategies and BAFS' strong market positions in the U.S. and the U.K."

Mr. Hueppi said at a London press briefing that ZF Group would focus on specific types of customers that have been profitable. Past examples in the United States have included automobile dealerships, home builders and car rental agencies.

He added that tax benefits and cost savings, including some elimination of redundancies as a result of the merger, are expected to be worth some $250 million annually within three years. While Mr. Hueppi declined to elaborate on how these savings would be achieved, he did say there would be job losses through natural attrition.

Lord Cairn, chairman of B.A.T Industries, said that the business fit between BAFS and Zurich "will create an outstanding worldwide business positioned for rapid growth."

It will also improve the prospects for capital and income growth as a result of the separation of B.A.T's diverse tobacco and financial services interests, he added.

Analysts say that details so far released about the merger do not make clear whether Zurich will be exposed to the tobacco liabilities of B.A.T.

Mr. Jones at S&P said that if not resolved it is a matter over which the two parties will have to haggle before the deal is consummated.

Both S&P and Moody's Investors Service Inc. said that in merging with BAFS, Zurich Insurance is taking on a weaker partner.

S&P last week placed its AA+ rating of Zurich Insurance on CreditWatch with negative implications because of a potentially weakening effect of its merger with BASF, which has an A+ rating. However, while S&P has kept its rating of Farmers Group on CreditWatch, it has amended it to be a rating with developing implications, meaning it could be raised if the merger is completed or lowered if it is not.

Moody's said that through its merger with BAFS, Zurich Insurance "is becoming affiliated with comparatively weaker companies."

It also contends that Zurich's move in recent years to establish its position in reinsurance, life insurance and fund management—areas requiring substantial capital and management resources—could mean a decline in resources available to support its other core businesses. Accordingly, Moody's last week placed its Aa1 insurance financial strength rating of Zurich Insurance Co., and the debt and financial strength ratings of most of its subsidiaries, under review for a possible downgrade. Since June 30, Moody's has had the ratings on negative outlook because of what it sees as "the increasingly aggressive capital structure" of Zurich Insurance and the expectation it would make further acquisitions.

Eight years ago, B.A.T was in discussions with the late Sir James Goldsmith, a London businessman who had wanted to acquire B.A.T and break up its diversified holdings. Not long afterward, it engaged in talks to possibly merge its financial service interests with London-based insurer Commercial Union P.L.C. Neither of those possibilities came to fruition.

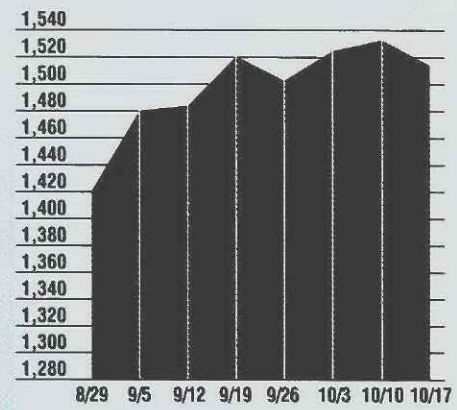
Martin D. Feinstein, Farmers' president and chief executive officer, expressed enthusiasm for the merger and the opportunity it provides Farmers.

"This will provide Farmers with the opportunity to access an expanded menu of new products and services. This joins us with a truly global organization dedicated to insurance, and one which will enhance our future growth plans," he said in a statement.

Mr. Feinstein said that Farmers will bring to this merger its financial strength and distribution network of 14,000 agents.

In return. will gain: the opportunity to accelerate its future strategies, alignment with a global organization dedicated to insurance, an expanded ability to spread risk in the United States and abroad, potential access for agents and customers to new products and services in commercial lines and especially in financial services through Scudder and Kemper, and a partnership with a company with one of the most respected reinsurance operations in the world. BI

BI Insurance Index



Base=100 on Dec. 29, 1978
Source: Nordby International Inc.

PCS catastrophe options

As of Oct. 17

Call spread	Price bid/ask	Call spread	Price bid/ask
National Annual 1997		**National Annual 1998**	
60/80	—/2.0	40/60	9.5/12.0
80/100	—/1.5	80/100	6.0/7.0
National December 1997		**Eastern September 1998**	
5/250	2.7/6.2	40/60	3.2/4.2
10/30	1.0/3.0		
Eastern September 1997		**California Annual 1998**	
30/50	—/.2	40/60	1.7/2.3
40/60	—/.1		
Southeastern September 1997		**Western Annual 1998**	
30/50	—/.2	40/60	2.0/2.5
40/60	—/.1		

Total volume: 1402 Total open interest: 15,753

For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.

Source: Chicago Board of Trade

FBI sting nets health care fraud ring

SAN DIEGO—Several Mexican doctors and San Diego-area residents were arrested Oct. 14 for allegedly carrying out fraudulent medical insurance billing schemes that included charging insurers for procedures that supposedly occurred in Tijuana, Mexico.

Federal Bureau of Investigation agents posed as administrators for a non-existent health maintenance organization to arrest members of an alleged ring that included 17 Tijuana doctors and one assistant, two U.S. bankers, one U.S. billing service owner and two U.S. medical equipment suppliers, said Assistant U.S. Attorney Ed Allard.

The sting followed a 30-month investigation and marks the first prosecution of foreign doctors accused of fraudulently tapping into U.S. health insurance funds, FBI and federal prosecutors said.

The investigation came amid growing insurance company concerns that unscrupulous foreign doctors were submitting claims that are either inflated charges or were for services that never took place. Additionally, some U.S. billing services located in southwest border towns encourage foreign-based physicians to utilize their services for fraudulent activities, according to a federal press release.

"As an example of these deals patients have plastic surgery and the procedure is billed to the insurance company as emergency medical service," the press release stated.

Officials said that so far they have documented 82 fraudulent claims worth $800,000 that are tied to the alleged ring.

But they suspect that million of dollars more may be involved. Investigators were still reviewing confiscated documents to determine if group health plans were being bilked, Mr. Allard said.

—By Roberto Ceniceros

British Issues

	Price	P/E	Div.	Yield	52-week
Companies	pence		pence	%	high—low
Comml Union	878	13.4	35.8	4.1	878—630
Genl Accident	1143	7.7	35.4	4.0	1158—686
Gdn Royal Exch	332	4.8	12.2	3.6	350—248
Independent	1230	13.0	14.2	1.4	1230—658
Royal & Sun	620	17.5	19.7	3.9	651—414
Brokers					
Bradstock	83	12.0	6.4	9.8	90—54
Lmbrt Fenchurch	136	9.1	8.4	7.7	136—101
Lloyd Thmpson	185	15.4	10.8	7.3	206—163
Sedgwick Grp	128	10.3	7.4	5.8	144—115
Steel Brl Jones	23	NA	1.5	7.8	36—22
Willis Corroon	127	13.0	6.6	6.5	165—117

Note: Prices are Oct. 17 closings; other figures from Oct. 16.

Source: Nordby International Inc.

BI Industry Stock Report OCT. 13, 1997, THROUGH OCT. 17, 1997

BROKERS

		Price	Weekly % change	Year to date % change	Year to date High	Low	Vol.(000)
Aon Corp.	NYS	55.13	-2.33	33.10	58.44	36.38	856
E.W. Blanch Holdings Inc.	NYS	30.00	-9.09	49.07	34.00	18.00	159
Gallagher Arthur J. & Co.	NYS	36.81	-2.81	18.75	38.25	29.13	199
Hilb, Rogal & Hamilton	NYS	17.75	-4.70	33.96	19.63	12.13	87
Kaye Group Inc.	NDQ	8.38	-5.63	59.52	9.00	4.38	10
Marsh & McLennan	NYS	73.75	-1.58	41.83	80.00	49.75	1320
Poe & Brown	NDQ	41.00	-2.38	54.72	42.75	24.88	33
Sedgwick Group PLC	NYS	10.56	2.42	1.81	10.88	9.38	154
Willis Corroon Corp.	NYS	10.50	-2.33	-8.70	13.50	9.38	258
BROKERS	AVERAGE		-3.26	31.37			

INSURERS/REINSURERS

		Price	Weekly % change	Year to date % change	Year to date High	Low	Vol.(000)
ACE Ltd.	NYS	95.13	-3.79	58.21	101.06	51.50	244
Acceptance Insurance Cos.	NYS	27.31	-1.80	38.29	28.63	17.75	79
AEGON N.V.	NYS	81.50	-0.31	28.85	87.13	51.13	252
Aetna Life & Casualty	NYS	74.81	-4.77	-6.48	118.13	60.13	6204
AFLAC Inc.	NYS	51.56	-4.62	20.61	57.88	35.75	709
Allied Group Inc.	NYS	45.63	-3.31	39.85	53.63	26.25	99
Allstate Corp.	NYS	81.19	-2.62	40.28	84.25	50.75	2916
AMBAC Indemnity Corp.	NYS	44.00	-0.85	32.58	47.56	29.88	368
American Bankers Ins.	NDQ	37.06	-5.42	44.99	40.00	22.88	181
American Financial Group	NYS	41.81	-7.08	10.76	49.25	32.38	173
American General	NYS	53.81	1.41	31.65	56.06	35.75	1523
American Heritage Life Ins.	NYS	37.94	0.00	44.52	40.50	19.75	22
American Indemnity/Fin'l	NDQ	14.25	-1.72	39.02	15.50	9.50	6
American International	NYS	107.75	1.11	49.31	112.56	68.13	3992
Argonaut Group	NDQ	35.00	-3.45	13.82	38.13	26.75	105
Baldwin & Lyons Inc.	NDQ	21.00	0.00	14.29	22.63	17.38	1
Berkley W.R. Corp.	NDQ	41.19	-1.20	21.74	46.38	28.88	779
Berkshire Hathaway Inc.	NYS	44700.00	-0.67	31.09	48600.00	30000.00	0
Capital RE Corporation	NYS	59.06	-1.46	26.68	62.63	38.25	87
Capitol Transamerica Corp.	NAS	26.75	-4.46	30.49	28.13	16.13	26
CapMac Holdings Ltd.	NYS	31.31	-3.09	-5.47	36.88	22.50	209
Capsure Holdings Corp.	NYS	15.00	0.00	30.43	15.38	8.13	0
Centris Group Inc.	NYS	22.81	-0.82	16.24	23.56	17.13	155
Chartwell Re	NYS	34.88	-1.59	30.37	36.25	24.50	122
Chubb Corp.	NYS	69.25	-3.82	28.84	76.31	45.50	1900
CIGNA Corp.	NYS	168.13	-3.93	23.06	200.75	122.00	2288
CNA Financial Corp.	NYS	127.38	-0.05	19.04	132.25	95.88	159
CNA Surety	NYS	15.00	-6.25	0.00	16.50	12.88	82
EMC Insurance Group Inc.	NDQ	13.75	2.80	14.58	15.00	10.75	100
Enhance Financial Services	NYS	52.00	-4.81	42.47	56.25	32.75	99
Everest Reinsurance	NYS	40.00	-5.33	39.13	43.00	24.63	380
Executive Risk Inc.	NYS	71.00	3.74	91.89	72.75	33.88	114
EXEL Ltd.	NYS	62.00	-1.59	63.70	64.19	36.50	204
Fremont General Corp.	NYS	48.13	0.00	55.24	49.38	26.38	196
Frontier Insurance Group	NYS	34.00	1.87	77.78	39.25	18.13	1016
Gainsco Inc.	NYS	9.44	-6.21	-1.95	10.75	8.13	155
General RE Corp.	NYS	200.56	-2.67	27.14	208.88	142.75	592
Gryphon Holdings	NDQ	17.25	2.22	22.12	17.75	12.50	70
Guaranty National Corp.	NYS	34.31	0.92	104.85	35.25	15.38	47
Harleysville Group	NDQ	22.69	-8.79	48.77	27.00	13.25	264
Hartford Steam Boiler	NYS	53.13	0.47	14.56	56.69	42.75	122
HCC Insurance Holdings	NYS	27.25	-6.03	13.54	32.69	21.50	198
IPC Holdings Ltd.	NDQ	30.00	0.21	34.08	30.50	20.25	554
Hartford Financial Services	NYS	82.63	-2.51	22.41	90.31	60.63	1801
LaSalle Re Ltd.	NDQ	34.81	-1.24	19.02	36.13	24.50	130
Life Re Corp.	NYS	54.69	-0.68	41.59	56.13	33.75	73
Lincoln National	NYS	69.00	-3.16	31.43	73.63	45.75	852
MAIC Holdings Inc.	NYS	27.19	-5.84	60.52	30.50	15.13	29
Markel Corp.	NYS	152.00	-5.00	68.89	161.13	83.00	8
MBIA Insurance Group	NYS	124.56	-2.88	23.02	134.50	88.38	293
Meadowbrook Insur. Group	NYS	24.19	-2.52	15.18	27.75	15.25	80
Mid Ocean Ltd.	NYS	62.50	-2.34	19.05	64.75	44.13	200
MMI Cos. Inc.	NYS	25.44	-5.13	-21.12	32.75	20.75	83
Mutual Risk Mgmt. Ltd.	NYS	28.94	10.50	56.42	29.75	15.00	714
NAC Re Corp.	NYS	48.06	-5.64	41.88	52.88	32.63	174
Navigators Group	NDQ	19.75	-3.66	8.22	22.50	15.75	18
Nobel Insurance Ltd.	NDQ	14.75	1.72	17.41	15.38	11.38	33
NYMagic Inc.	NYS	28.50	3.17	58.33	29.81	17.13	31
Ohio Casualty Corp.	NDQ	46.38	-4.38	30.63	51.00	31.75	315
Old Republic Int'l	NYS	38.00	-3.95	42.06	40.19	24.50	707
Orion Capital Corp.	NYS	47.56	-5.11	55.62	51.00	25.13	102
Partner Re Ltd.	NYS	41.38	-3.78	21.69	44.94	28.00	168
Penn-America Group Inc.	NDQ	20.75	0.00	93.02	21.38	10.38	456
Philadelphia Cons. Holding	NDQ	42.25	-7.14	81.72	46.50	21.75	54
PXRE Corp.	NYS	32.63	-2.43	31.82	33.63	23.25	54
Reliance Group Holdings	NYS	13.94	-3.46	52.74	15.13	8.13	720
Reliastar Financial Corp.	NYS	37.81	-4.87	30.95	40.75	25.25	661
RenaissanceRe Holdings Ltd.	NYS	48.75	8.33	47.73	48.75	28.50	174
Risk Capital Holdings	NDQ	23.38	0.00	20.65	23.38	15.88	29
RLI Corp.	NYS	44.38	-1.11	32.96	46.25	26.75	61
St. Paul Companies	NYS	83.50	-0.07	42.43	85.06	53.50	643
SCOR	NYS	44.75	5.29	30.18	44.88	34.00	31
SAFECO Corp.	NDQ	49.38	-1.99	25.20	55.38	36.38	15136
Seibels Bruce Group	NDQ	7.94	2.42	-3.79	10.75	5.88	148
Selective Ins. Group	NDQ	52.69	-3.33	38.65	55.38	33.25	89
Sphere Drake Holdings	NYS	8.75	0.72	-1.41	10.50	8.50	184
TIG Holdings	NYS	36.00	1.95	6.27	38.00	26.38	576
Titan Holdings, Inc.	NYS	21.31	-1.45	29.17	25.00	13.50	81
Tokio Marine & Fire	NDQ	58.25	-2.71	24.93	66.00	42.00	75
Torchmark Corp.	NYS	38.69	-3.88	53.22	41.63	23.75	1050
Transatlantic Holdings	NYS	74.00	-0.25	37.89	76.56	46.13	72
Travelers Property	NYS	38.06	-4.40	7.60	43.56	28.38	819
Travelers Corp.	NYS	72.88	-2.18	60.61	76.25	38.88	9497
Trenwick Group Inc.	NDQ	37.00	-0.67	20.00	39.63	30.75	142
Unico American Corp.	NDQ	12.25	3.16	12.64	12.38	8.13	8
Unionamerica Holdings	NYS	20.56	-4.91	15.85	22.75	14.75	80
United Fire & Casualty	NDQ	41.25	2.48	17.02	43.50	29.75	6
Unitrin	NDQ	63.88	-3.58	14.57	67.38	48.50	354
UNUM Corp.	NYS	47.13	-1.95	30.45	50.88	30.50	1055
USF&G Corp.	NYS	20.19	-9.52	-3.29	25.50	17.75	1543
Vesta Insurance Co.	NYS	60.94	-0.20	94.22	63.13	24.50	107
Washington National	NYS	32.75	0.00	19.09	33.13	27.13	97
Zenith National Ins.	NYS	27.81	-1.33	1.60	28.75	24.63	32
INSURERS/REINSURERS	AVERAGE		-1.78	31.16			

HEALTH MAINTENANCE ORGANIZATIONS

		Price	Weekly % change	Year to date % change	Year to date High	Low	Vol.(000)
Humana Inc.	NYS	23.69	0.53	24.67	25.31	17.38	2167
Oxford Health Plans	NDQ	70.44	-4.49	20.28	89.00	41.00	5606
Pacificare Health Sys.	NDQ	67.69	-0.28	-16.69	86.25	55.50	110
Safeguard Health Enter.	NDQ	14.50	0.00	-17.14	20.75	9.63	108
Sierra Health Services	NYS	39.50	0.16	60.41	41.63	22.38	168
United Healthcare Corp.	NYS	51.88	0.12	15.28	60.13	35.13	3127
Wellpoint Health Networks	NYS	56.56	-2.48	64.55	61.13	28.25	479
HMOs	AVERAGE		-0.92	21.62			
ALL COMPANIES	AVERAGE		-1.99	28.05			

Top advancing issues: Mutual Risk Mgmt. Ltd., RenaissanceRe Holdings Ltd., SCOR. Leading decliners: USF&G Corp., E.W. Blanch Holdings Inc., Harleysville Group. Most active issue: SAFECO Corp. The *BI* Index dropped 1.2%; the Dow Jones 30 Industrials dropped 2.5%; the S&P 500 decreased 2.4% and the NYSE Composite lost 2.0%. Average P/E: Brokers, 19.6; Insurers/reinsurers, 39.0; HMOs, 27.4.

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➢ *There's more information we'd like to share. So please call John Ryan at (617) 574-5842.*

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