

Business Insurance

www.businessinsurance.com

October 23, 2006

RIMS STILL FIRMLY COMMITTED TO NEW ORLEANS IN 2007 AS BIG EASY RECOVERS / PAGE 3

APPEALS COURT UPHOLDS WTC VERDICTS / PAGE 3



HRH SUED BY FORMER EXEC OVER ALLEGED DEFAMATION IN COMMISSIONS DEAL / PAGE 3

In Brief

Jury to hear Allstate age-discrimination suit

A federal judge ruled a that jury will decide whether Allstate Insurance Co.'s yearlong moratorium on rehiring its former sales agents disproportionately affected workers aged 40 years and older. The litigation stems from the insurer's efforts in 2000 to convert its 15,000-member agent workforce to independent contractors from regular employees.

Wal-Mart expands prescription program

Wal-Mart Stores Inc. is accelerating the planned expansion of its \$4 generic prescription drug program to 14 states. When Wal-Mart launched the program on Oct. 6 in the Tampa, Fla.-market, the Bentonville, Ark.-based retailer See **IN BRIEF** page 22

Berkshire makes Equitas offer

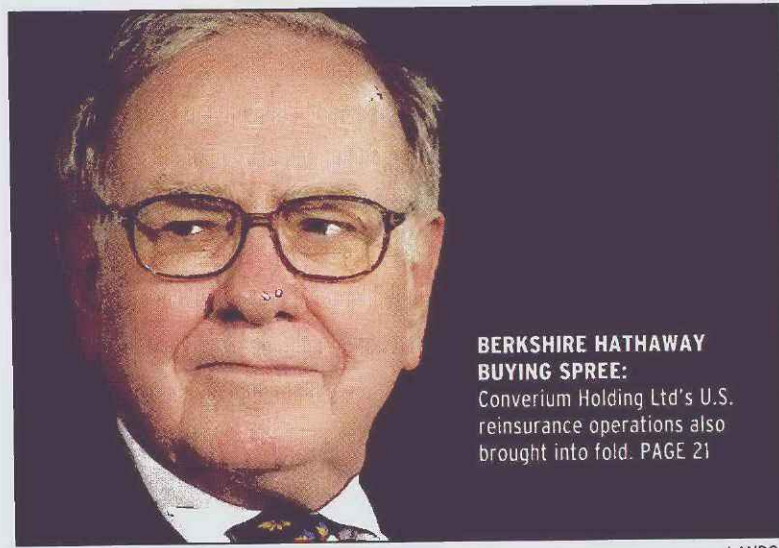
Unit would reinsure runoff liabilities and assume operations

By SARAH VEYSEY and GLORIA GONZALEZ

LONDON—A proposed multi-billion dollar deal by Berkshire Hathaway Inc. to reinsure and runoff the liabilities of Equitas Ltd. would mark an end to the long-tail liability of individuals reinsured by Equitas and eliminate any potential exposure of Lloyd's of London to the runoff vehicle.

Under the arrangement, announced last week, the liabilities of Equitas Ltd., the runoff reinsurer for the pre-1993 long-tail liabilities of Lloyd's syndicates, will be transferred to Berkshire Hathaway unit National Indemnity Co.

If the deal receives U.K. regulatory approval, National Indemnity



BERKSHIRE HATHAWAY BUYING SPREE: Converium Holding Ltd's U.S. reinsurance operations also brought into fold. PAGE 21

LANDOV

will reinsure all of Equitas' liabilities, provide up to \$7 billion of reinsurance coverage to Equitas, and assume current staff and operations of Equitas to conduct the runoff of its liabilities.

In the first phase of the program,

National Indemnity will provide reinsurance cover of \$5.7 billion to Equitas above the runoff reinsurer's reserves of \$8.7 billion as of March 31, 2006, with an adjustment for payment and recoveries since that date.

Equitas will transfer to National Indemnity its assets, less £172 million (\$319.2 million) for miscellaneous expenses, and Lloyd's will pay £72 million (\$133.6 million) to Berkshire Hathaway.

Under the second phase of the deal, Equitas will seek approval from the U.K. High Court to transfer all liabilities of reinsured individual investors—known as names—into Equitas or a subsidiary of Berkshire Hathaway. Currently, names are reinsured by Equitas, but they retain liability, said Scott Moser, chief executive officer of Equitas.

If such a transfer occurs before the end of 2009, National Indemnity will provide up to \$1.30 billion of additional reinsurance cover for a further premium of up to £40 million (\$74.2 million). At the time of any such transfer, or if a transfer has not occurred by the end of 2009,

See **BUYOUT** page 21

International NEWS

E.U. pollution directive creates difficult challenge as



insurers grapple with need to provide coverage; Benfield issues profits warning as defections

mount; investor group offers \$1.1 billion for South African brokerage; Swiss manufacturer's asbestos compensation fund is "not enough at all" say critics. PAGE 17

Marsh rejects surprise Willis bid

Many see more value if MMC rebuilds embattled operations

By SALLY ROBERTS

NEW YORK—The revelation that Willis Group Holdings Ltd. attempted to acquire its much larger rival Marsh & McLennan Cos. Inc. three months ago is generating mixed reaction from the insurance community.

While some say such a deal is possible, since it involved financing from private equity powerhouse Kohlberg Kravis Roberts & Co., others say regulators likely would not have approved such a merger considering that the combined broker-

age would control an estimated 40% of the marketplace.

At the same time, MMC's rejection of Willis' offer did not surprise many observers, who say there may be more shareholder value and incentive in MMC building itself back up rather than selling at this time.

At least one analyst noted, though, that MMC management will be under more pressure now to turn things around since there is a bid on the table.

MMC continues to face challenges following New York Attorney General Eliot Spitzer's 2004 fraud and bid-rigging lawsuit against the company and the resulting \$850 million settlement. While the company has instituted new management and a variety of business

reforms and restructuring efforts over the past two years, it continues to face client retention issues, mixed financial results and a stock price that has not recovered from its drop after the Spitzer investigation.

Shares of MMC closed at \$28.28 last Friday, compared with its 2004 high of \$49.69.

In an apparent move to capitalize on MMC's challenges, Willis extended an informal offer to acquire the New York-based brokerage, a source familiar with the offer confirmed last week. The source would not say how much was offered, but a Citigroup analyst estimated that MMC could garner \$33 a share in a takeover.

Based on that estimate and the more than 550 million outstanding shares of MMC common stock as of July 31, an all-cash deal could have been worth roughly \$18.2 billion. If the offer included Willis stock and the assumption of debt, though, the purchase price could have been significantly lower.

The deal included financing from KKR, with which Willis has a long-standing relationship, the source said.

KKR purchased Willis in 1998

See **WILLIS** page 20

Shakeup in UnitedHealth follows probe

By RUPAL PAREKH

MINNETONKA, Minn.—UnitedHealth Group Inc. last week made a slew of changes to its corporate governance and management—including the replacement of



AP PHOTOS

its top executive—in the wake of a stock options probe that found several stock option grants awarded to company executives were backdated.

While most observers agree the management overhaul is unlikely to have a major impact on Minnetonka, Minn.-based UnitedHealth's bottom line, many say outgoing Chairman and Chief Executive Officer Dr. William W. McGuire—and possibly the

See **UNITEDHEALTH** page 20

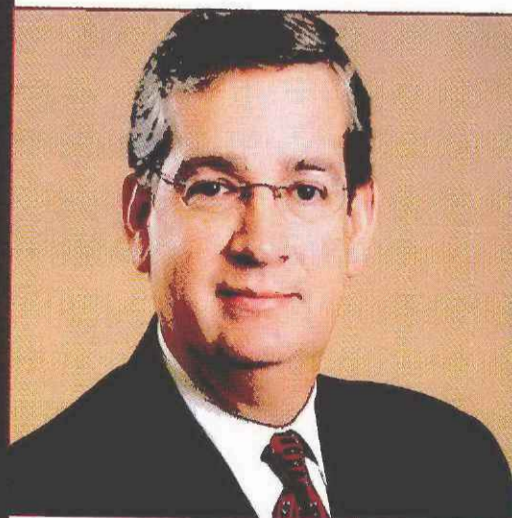
crain

INDEX	
Advertiser Index	21
Business Resources	16
Regis Coccia	6
End Page	23
International	17
Opinions	8
Perspective	18
Products & Services	14
Professional MarketPlace	16
Stocks	22

To Subscribe Call
1-888-446-1422 in the U.S. or
1-313-446-0450 outside the U.S. or
90 online to www.businessinsurance.com

What should you do with your offshore property program?

Ask Aon.



After the Gulf Coast region's devastating losses in 2004 and 2005, rates and deductibles are up and windstorm limits are down. In this challenging environment, it is critical to consider new program structures and every other financial tool in the box.

We recommend that you evaluate the most important aspects of your coverage, such as

control of well, offshore property damage, business interruption, and contingent business interruption. Overall, it is important to balance the components and test several different structures and pricing assumptions to make sure that when you enter the market you are purchasing coverage that is custom designed for your strategic needs. Visit www.aon.com/ask to learn more.

- Bruce Jefferis, *managing director of Aon's Natural Resources Group in the U.S.*

Download our full perspective
at www.aon.com/ask



AON

On the Web

BI ONLINE EXECUTIVE FORUM™

Discover new potential for cash balance plans

In the wake of the new pension reform law and a favorable court ruling for IBM Corp.'s plan, cash balance pension plans remain a viable plan design, according to last week's *Business Insurance* OnLine Executive Forum™, "Cash Balance Plans: Back on the Table." The webinar is ready for on-demand viewing. Register at www.BusinessInsurance.com/webinars.

THIS WEEK ON BIEUROPE.COM

BI Europe's interview with Madeleine Albright

Business Insurance Europe

features an interview with former U.S. Secretary of State Madeleine Albright, who spoke with *BI Europe*

Editor Adrian Ladbury about her concerns over the risks of doing business in Russia, with its "combination of corruption, arbitrariness and instant death." The full text of the interview is at www.BusinessInsurance.com/cgi-bin/article.pl?articleid=20084. A longer version will be published in *BI Europe* next month.



STEVE PHILIPS

RISK MANAGER OF THE YEAR® New nomination process for risk manager award

Nominations are now being accepted for the 2007 Risk Manager of the Year®. The process has been revamped to make it easier to nominate qualified risk managers. For a nomination form, visit www.BusinessInsurance.com/rmoy.

COMMUNITY FORUMS

Share ideas, opinions and information online

BI's online Community Forums let users exchange information, share opinions and solve problems. Topics include broker commissions, employee leasing and more. Visit www.forums.BusinessInsurance.com.

Business Insurance®

REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

Business Insurance (ISSN 0007-6864) Vol. 40, No. 43, is published weekly by Crain Communications Inc., 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to Business Insurance Circulation Department, 1155 Gratiot Ave. Detroit, Mich. 48207-2912. \$5 a copy and \$97 a year in the U.S. \$130 in Canada and Mexico (includes GST). All other countries, \$230 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 40012850, GST No. 136760444, Canadian return address: 4960-2 Walker Road, Windsor, ON N9A6J3. Printed in U.S.A. Copyright © 2006 by Crain Communications Inc.

Federal appeals court upholds WTC verdicts

By RUPAL PAREKH

NEW YORK—A federal appeals court has upheld a jury verdict that the Sept. 11, 2001, terrorist attack on the World Trade Center was a single occurrence under the terms of the Willis Group Holdings P.L.C. policy form agreed to by the lead insurer, Swiss Reinsurance Co.

WTC leaseholder Silverstein Properties Inc. had argued that destruction of the Twin Towers was caused by two aircraft, each was a separate occurrence under its coverage and, therefore, it was entitled to two policy limits of \$3.55 billion each.

In the first phase of the litigation in 2004, a jury found that nearly half of Silverstein's two dozen property insurers, including Swiss Re, were liable for only one occurrence limit. A separate jury in the second phase of the trial concluded that nine of the insurers could be held

liable for two occurrences.

The U.S. Court of Appeals for the 2nd Circuit in New York last week upheld both verdicts, including the one that Swiss Re was liable only for one occurrence limit.

"Silverstein's two-occurrence claim against Swiss Re gave rise to five years of protracted litigation," said Jacques Dubois, chief executive officer of Swiss Re America Holding Corp., in a statement. The decision "resolves Silverstein's two-occurrence claim once-and-for-all in Swiss Re's favor."

Under the ruling, Swiss Re's payment obligation is subject to the terms and conditions of the operative Willis policy form and cannot exceed Swiss Re's 25% share of the \$3.5 billion loss-limit Silverstein purchased, Swiss Re said.

Silverstein's insurance program for the WTC complex, which was placed through London-based bro-



FEMA

An appeals court has ruled that Swiss Re is liable for only one limit from the World Trade Center attack.

ker Willis, had not been finalized at the time of the terrorist attack.

While Silverstein had sought about \$7 billion from his insurers, it is entitled to approximately \$4.6 billion under the appeals court ruling.

Separately last week in Manhattan district court, U.S. District Court

Judge Alvin K. Hellerstein ruled that a consolidated class action lawsuit representing about 3,000 workers—who claim negligence by New York City and contractors in preventing health problems stemming from recovery and other efforts at Ground Zero—could move forward.

The judge allowed the case to proceed despite arguments by New York and its contractors that they should be given legal immunity to workers' suits.

The judge, however, did dismiss complaints against Consolidated Edison Co. and the Silverstein entities.

In an e-mailed statement, the WTC Captive Insurance Co. said: "The Captive continues to be mindful of our primary duty to our insureds. In fact, our sole obligation under our insurance policy is to those insureds."

Former exec sues HRH alleging defamation

Suit says brokerage sought scapegoat for commissions scandal

By DOUGLAS McLEOD

RICHMOND, Va.—Robert B. Lockhart, a former president of Hilb Rogal & Hobbs Co. who recently launched a new insurance brokerage, is suing HRH for allegedly defaming him in the course of settling regulatory charges over its contingent commission practices.

Mr. Lockhart, who was fired by HRH in May 2005 and who last month formed middle-market broker Kinloch Holdings Inc., filed the defamation complaint in a Virginia state court in August.

The suit charges that HRH improperly terminated him over alleged illegal rebate payments to an HRH client, then made him a scapegoat in its separate \$30 million settlement of contingent commission charges with Connecticut regulators in August 2005. Mr. Lockhart had no responsibility for HRH's contingent agreements with insurers, which predated his joining the broker, the suit says.

HRH "identified in Lockhart a convenient public relations target for the company and a substantial sacrifice for (Connecticut) investigators," the complaint charges.

The suit comes more than a year after HRH launched arbitration proceedings against Mr. Lockhart to cancel salary and benefit obligations under his employment contract, which expires in February 2007. That arbitration, stayed by HRH since its July 2005 filing, was pending when Mr. Lockhart filed

his defamation suit, court records say.

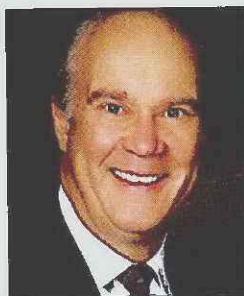
HRH is now asking a judge in Henrico County Circuit Court in Richmond to compel arbitration of the defamation claims as well. A hearing on the motion was scheduled for last Friday.

Mr. Lockhart, his lawyer and HRH all declined to comment on the dispute.

Mr. Lockhart and current HRH Chief Executive Officer Martin L. Vaughan III were both executives of broker American Phoenix Corp. when HRH acquired it in 1999. After the acquisition, Mr. Lockhart took over HRH's Hartford, Conn., office and later became the broker's Northeast regional director. In 2003, he was promoted to president and chief operating officer of HRH, taking over from Mr. Vaughan, who became HRH's chairman and CEO.

In the fall of 2004, Connecticut Attorney General Richard Blumenthal and the state's insurance department began investigating HRH's contingent commission practices, one of numerous investigations of insurance brokers by regulators in several states.

HRH also began a review of its own business practices, and in the course of that review, voluntarily notified Connecticut regulators of undisclosed commissions and potentially improper payments it had made related to Physicians for Women's Health, a Connecticut health care network, according to Mr. Lockhart's suit. PWH had been an American Phoenix client and remained with HRH after the acquisition.



Mr. Lockhart



NOCVB

While some conventions have decided not to visit New Orleans in 2007, RIMS has said it will meet in the city as planned.

Despite disaster, RIMS to meet in New Orleans

Organization says cancellation would be disservice to Big Easy

By DAVE LENCKUS

NEW ORLEANS—Despite one organization's cancellation of several conferences in New Orleans next spring due to airline service concerns, the Big Easy is prepared to accommodate risk managers and their 2007 conference, assert risk management and city convention representatives.

Risk managers and exhibitors planning to attend the Risk & Insurance Management Society Inc.'s annual conference, scheduled next April 29–May 3, should have no trouble arranging flights and hotel rooms, say officials with RIMS and the New Orleans Metropolitan Convention & Visitors Bureau.

And RIMS President Michael Liebowitz praised the city's efforts to safeguard conference attendees around the convention center, nearby hotels and the city's famed French Quarter.

But while the number of violent

criminal acts in New Orleans is lower than in previous years, the incident rates per resident continue to exceed national averages and have deteriorated this year, crime statistics show (see box, page 19).

Whole sections of New Orleans were destroyed when Hurricane Katrina, the most destructive hurricane in U.S. history, swept through the city in August 2005 and triggered massive flooding.

Mr. Liebowitz, director of risk management for Bridgeport Hospital & Healthcare Services Inc. in Bridgeport, Conn., stressed that RIMS "needs to reach out to the people of New Orleans" as they rebuild the city. "Abandoning them would do a disservice to the city and the people of New Orleans."

RIMS has strong conference ties to the city. In 1963, New Orleans hosted the first annual RIMS conference, which has returned there five times since then.

The city is trying to rebuild with a much smaller population—an estimated 200,000 now compared to 485,000 before the storm.

That raises various service issues

See **LOCKHART** page 19

See **NEW ORLEANS** page 19

Index pegs quality of insurers

Mid-market insurers scored on various qualitative measures

By REGIS COCCIA

Middle-market businesses have a new tool by which to measure the quality of their insurers.

Greenwich Associates, a financial services research firm based in Greenwich, Conn., this week is releasing a Carrier Quality Index in response to client requests. The CQI is based on four qualitative measures: client loyalty, claims coordination, competitive pricing and coverage adequacy.

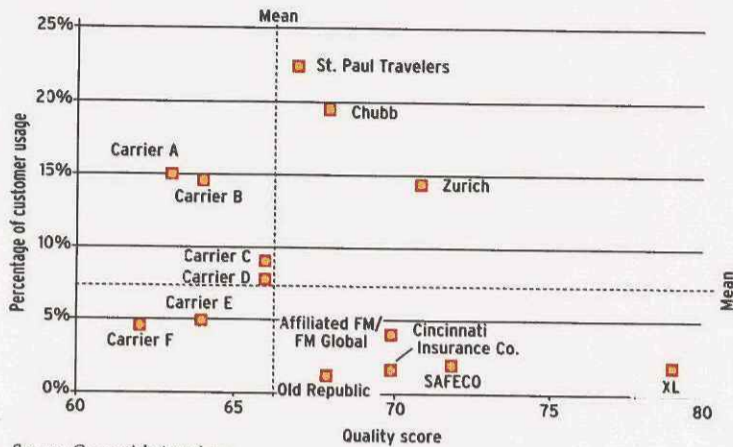
The CQI comprises responses from a survey of 873 companies with sales between \$10 million and \$500 million and was augmented with information from 14,000 additional middle-market companies, according to Greenwich Associates consultant David Fox. Research for the index began in 2005 and information was updated this year, he said.

The index plots specific insurers' quality scores ranging from 0 to 100 against the percentage of respondents using those insurers (see chart). For example, the 2006 CQI found that Bermuda-based XL Capital Ltd. had the highest quality score but was used by less than 5% of the middle-market companies interviewed. St. Paul, Minn.-based St. Paul Travelers Cos. Inc. was used the most, by nearly 25% of respondents, yet scored close to the middle of the quality score range.

Greenwich has worked with large financial institutions for 30 years,

QUALITY INDEX

Middle-market insurance carrier quality index vs. usage



Source: Greenwich Associates

providing research on a variety of topics, and insurance has become one of those topics, Mr. Fox said. To create the CQI, "we talked to a number of carriers and brokers, conducted core research and posed test questions to create a database," he said.

"Traditionally, we thought of middle-market insurance decision makers as not deeply involved in the purchasing of coverage, said Greenwich Associates Consultant Bill Bruno. "But the recent trend is that decision makers want a lot more information about insurance carriers, areas where carriers are challenged, pricing and claims servicing. If you went back five years ago and looked at the middle market, I don't think you'd see that as much," Mr. Bruno said.

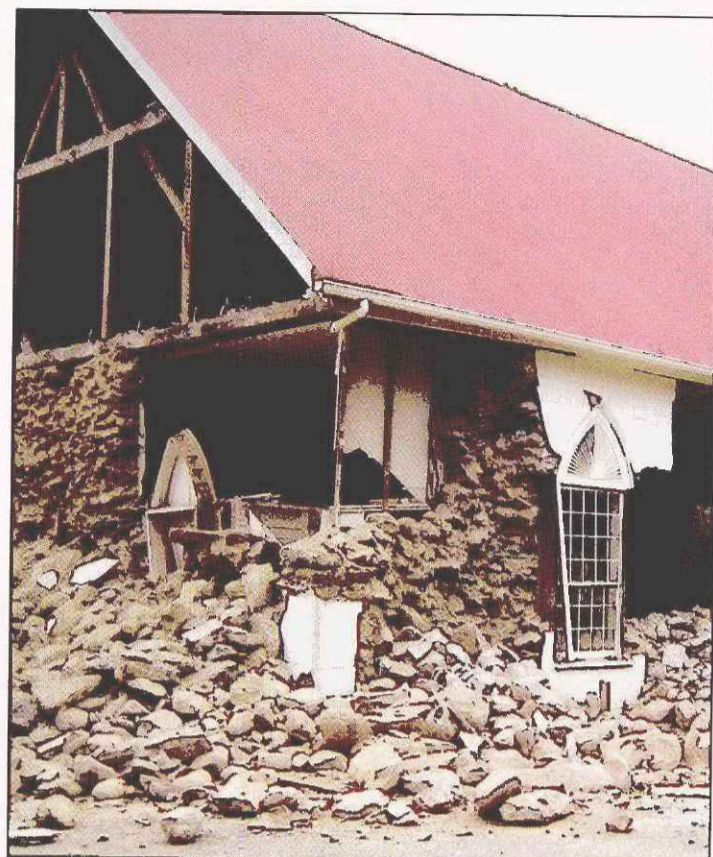
Greenwich plans to release an expanded CQI in early 2007 that will

add other measures, such as responsiveness on claims, willingness to pay claims, underwriting expertise and overall satisfaction and will break out measures by line of business, Messrs. Bruno and Fox said.

"The index both measures companies' ability to recommend (insurers) but also gives them pure information. Companies can combine the CQI with what their peers are saying and their brokers are telling them," Mr. Bruno said.

"We have had requests to do something similar in the future for brokers," and Greenwich does plan to develop a benchmark for broker quality, said Mr. Fox.

For more information on the Carrier Quality Index, contact Greenwich Associates at contactus@greenwich.com or call 800-704-1027, option 1.



AP PHOTOS

Insurers don't see big losses from quake that hit Hawaii

Last week's earthquake off the island of Hawaii is not expected to result in major insured losses.

The Oct. 15 earthquake caused power outages as far away as Honolulu, but did not cause major property damage. A spokesman for Jersey City, N.J.-based Insurance Services Office Inc. said that ISO's Property Claim Services unit did not think the quake caused \$25 million in insured property damage, the minimum required for PCS to declare an event a catastrophe. PCS does not include public buildings and infrastructure in its estimates.



LANDOV

The cruise ship Freedom of the Seas is the world's largest passenger ship. A recent maritime terrorism study suggests cruise ships may be easy targets.

Maritime risks extend beyond cargo ships

Expanding security efforts may reduce risk of attacks

By MARK A. HOFMANN

WASHINGTON—Protecting against maritime terrorism requires more than focusing solely on cargo container shipping, according to a new report by the Santa Monica, Calif.-based RAND Corp.

Instead, anti-terrorism efforts

need to take into account ferries and cruise ships as well, Henry H. Willis, a Pittsburgh-based RAND policy researcher who co-wrote "Maritime Terrorism: Risk and Liability," told a Capitol Hill briefing last week.

According to the report by the nonprofit policy think tank, doing so will mean focusing on improvements for screening passengers, crew and luggage, because cruise ships and ferries have to allow pas-

See **TERRORISM** page 18

Pension reform, landmark ruling may help cash balance plans: Panel

BI webinar explores latest developments for pensions

Thanks to congressional action and a landmark court ruling, cash balance pension plans once again are a viable plan design for employers to consider, according to a panel of experts during a recent *Business Insurance* OnLine Executive Forum™.

The Oct. 6 webinar, "Cash Balance Plans: Back on the Table," reviewed how and why the plans developed and became so popular, the controversies that later slowed plan growth, how federal legislators and courts have resolved those controversies, and why the plans once again may be poised for new growth.

The panelists discussing these and other issues were:

- Alan Glickstein, senior consultant in the Dallas office of Watson Wyatt Worldwide.

- Larry Sher, a principal and director of retirement policy at Buck Consultants L.L.C. in New York.

- Bill Sweetnam, a principal with The Groom Law Group in Washington.

Business Insurance Editor-at-Large Jerry Geisel moderated the panel.

The webinar is now archived and ready for on-demand viewing. Free registration is required to access the webinar.

As the panelists noted, cash balance plans proliferated during the 1980s and 1990s when more than 1,000 employers, including some of the biggest and best-known corporations, adopted them.

The plans grew rapidly because they combined the advantages of 401(k) plans—easy-to-understand benefit formulas, benefits expressed as lump sum, rapid buildup of benefits and benefit portability—with the chief advantage of defined benefit plans—shielding employees from investment risk.

But cash balance plan growth came to a halt a few years ago, chiefly because of a wave of lawsuits against employers charging that the plan design discriminates against older employees.

But now legal uncertainties have eased. A comprehensive pension

funding reform measure President Bush recently signed into law shields new cash balance plans from age discrimination suits and lays down a few basic standards that plans must meet.

Additionally, in a landmark ruling, a federal appeals court in Chicago found in a case involving IBM Corp. that the design of cash balance plans—in which employees receive benefit and interest credits—does not discriminate against older employees.

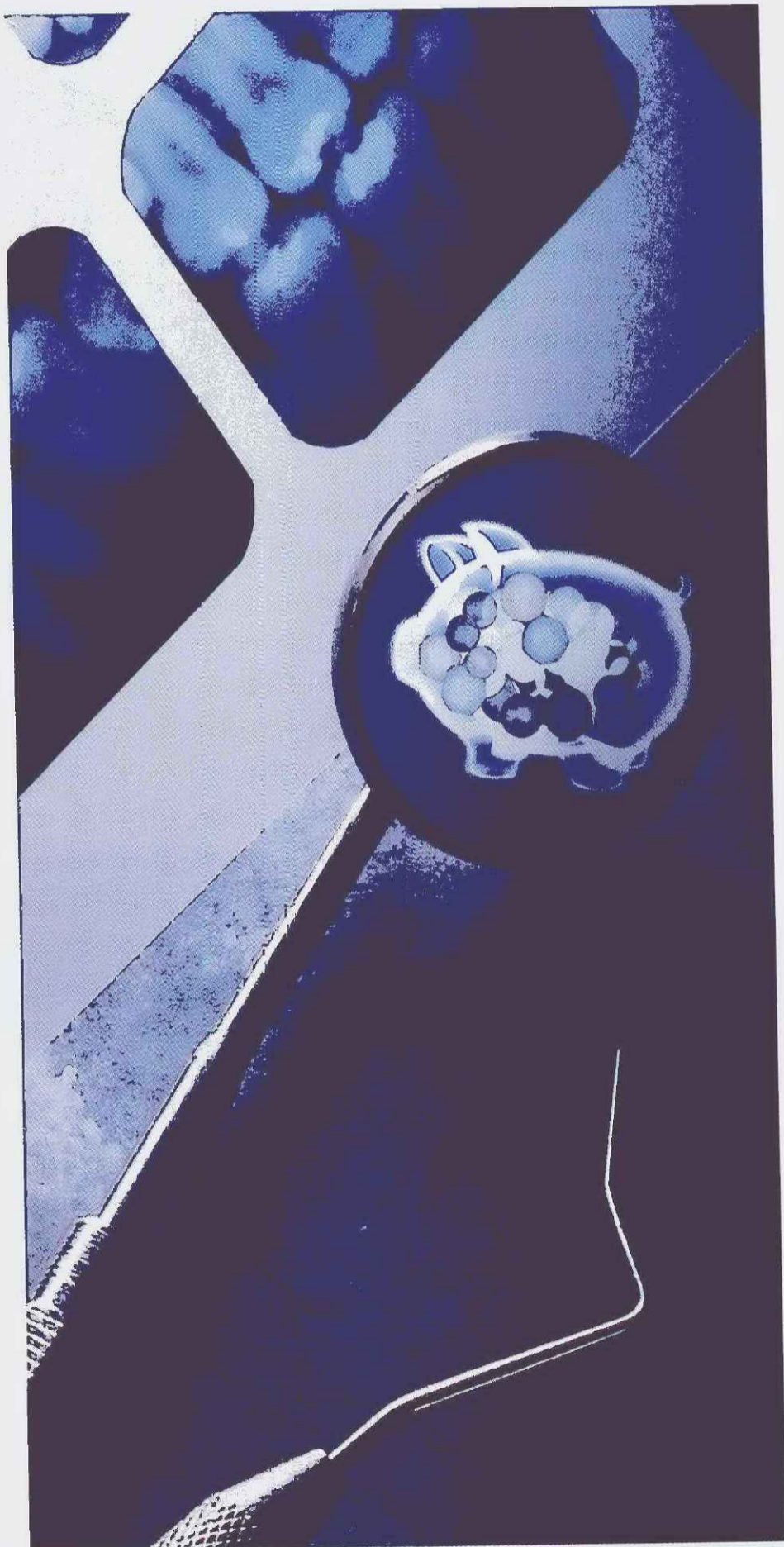
With the new legal certainty provided by Congress and by the appeals court, employers once again are actively considering converting traditional pension plans to cash balance arrangements, panelists said.

And in many cases, converting a traditional pension plan to a cash balance plan rather than switching to a defined contribution plan will be more advantageous to employers and employees, panelists said.

To view, "Cash Balance Plans: Back on the Table," or learn about other *Business Insurance* OnLine Executive Forums™, visit www.BusinessInsurance.com/webinars.

We
want
you to
know

The Value of Integration



Proof that integrating dental can help cut costs.

A joint study* conducted by Columbia University College of Dental Medicine and Aetna Dental found that earlier dental care can lead to real cost savings for Aetna members with integrated Dental and Medical benefits from Aetna. By integrating medical and dental data, we can keep our members well informed and help those with certain chronic diseases, like diabetes, better manage their conditions. To find out more, contact your broker or consultant, Aetna representative, or visit aetna.com.

We want you to know®



Health
Dental
Pharmacy
Behavioral Health
Long Term Care
Disability
Life

©2006 Aetna Inc. Plans are offered by Aetna Life Insurance Company. Health and dental insurance plans contain exclusions and limitations. Policy form numbers include GR-29 and GR-700-W. *Columbia University College of Dental Medicine, Aetna study (3/06) of 145K Aetna members covering two years of claims (2001/02). Savings for members with diabetes, coronary artery disease, and cerebrovascular disease or stroke.
2006156

Random drug testing can help reduce accidents for construction companies

Drug abuse blamed for heightened risk in the workplace

By SALLY ROBERTS

SAN DIEGO—While most construction companies require drug tests before hiring or after an accident, random drug tests need to be conducted in order to truly address the problem and create a safer work environment, experts say.

Furthermore, employers also should consider onsite oral fluid tests to detect drug abuse rather than the more common urine analysis method, which can be easily altered, they say.

Corporate America has a \$140 billion per year drug problem, said Joseph J. Poliafico, director of risk management and human resources for La Plata, Md.-based Facchina Group of Cos. L.L.C., a privately

held parent of several large construction companies.

Drug abuse in the workplace not only results in more on-the-job accidents, but also in more workers compensation claims, greater employee turnover and absenteeism, more health care utilization, more employee theft and greater workplace violence, Mr. Poliafico said.

COVERAGE: More stories from the IRMI Construction Risk Conference on page 12.

And the problem is prevalent in the construction industry, he said, citing a 2004 survey from the Substance Abuse and Mental Health Services Administration in which 20% to 25% of construction employees reported drug abuse within the prior year.

Most of the workplace drug testing in the United States is done pre-employment or post-accident, Mr. Poliafico said. "Random drug testing is key. It flat out validates your

entire drug program," he said during a session at the 26th annual Construction Risk Conference, held Oct. 9-12 in San Diego and sponsored by the International Risk Management Institute Inc.

"When I'm putting a guy on a front end loader or I'm putting a guy on a piece of equipment or in a vehicle driving down the road with my company's name on the side, I want to make sure I'm doing my due diligence and am protecting my assets, the company's assets and the public," Mr. Poliafico said.

"If you want to address the drug problem, you have to go all the way and we're not going far enough," he said. "We need random tests."

Steve Turko, a drug test consultant for Avitar Technologies Inc. in Canton, Mass., who also spoke during the session, noted that statistics show that pre-employment testing detects no more than 4.5% of those

See **DRUGS** page 10

Commentary

Great move, Mickey, but will the kids agree?

Many organizations are promoting healthy eating as part of wellness programs for their own employees, but the Walt Disney Co. is taking that message to its most important customers: kids.

Burbank, Calif.-based Disney last week unveiled a plan to associate its characters and brands with more nutritious foods and to phase out food choices that are high in calories, fat and sugar. That means Mickey, Minnie, Donald, Pluto and others will be seen more in marketing organic ravioli and fresh fruit than French fries and soda, and healthier menu choices will supplant less healthy ones at Disney's theme parks.

A variety of sources suggest that eating habits play a big role in childhood obesity, and any parent knows that many foods advertised to children tend to be sweet, fatty or both. Lifestyle habits ingrained early tend to stay that way. It's also true that obesity spawns a panoply of health problems that are costly to treat. That's why Disney's latest move is unusual—and smart.

Disney President and Chief Executive Officer Robert Iger said in a statement that "the Disney brand and characters are in a unique position to market food that kids will want and parents will feel good about giving them."

This not only is an example of good corporate citizenship but also a boost to Disney's reputational risk management.

Children the world over love Disney characters, and for many, a trip to Walt Disney World or Disneyland is a dream vacation. There is no denying the influence that Disney has over an impressionable demographic, and if this wellness initiative helps put kids on the path to healthy eating, many parents—including me—will be grateful.

I have been fortunate to visit Walt Disney World several times, both as a child and most recently with my own kids. Menu choices for adults are wonderfully varied, and the resort has some very good restaurants, but the options for kids have tended to be quite limited. I wouldn't call its kids' menu junk food, but I'm pleased to hear Disney is phasing in more and healthier entrees and snacks. Whether this succeeds is truly a question of whether the kids will eat it!

Marketing anything to youngsters is perilous business and, in our litigious culture, it's no surprise to learn about class-action lawsuits alleging harm to one group or another. Just ask tobac-



REGIS COCCIA

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

co companies. Cigarette makers agreed to pay billions of dollars to settle consolidated litigation that, among other charges, accused them of targeting children. Whether that was true is beside the point, though it's clear that many smokers started the habit early. In any case, it is no stretch to imagine some


Disney wants to use its influence to help kids make healthier food choices.

plaintiffs suing entertainment companies for marketing fatty foods: "You advertised products that put me in the hospital, so pay up!" or "I knew I should eat better and exercise, but I couldn't help myself, and somebody has to pay these doctor bills."

Disney's new program just might pre-empt such suits. At the very least, parents will have less reason to feel bad about caving in to their kids' pleadings to buy Disney products that promote good health.

Lest you think Disney is outlawing fun-to-eat foods, take heart. The company said it will continue to license "special-occasion sweets such as birthday cakes and seasonal candy" but will limit the number of "indulgence items." This sensible approach applies the time-honored principle of moderation. We all can benefit from that.

One of Disney's oldest characters, Jiminy Cricket, famously advised, "Let your conscience be your guide." It's refreshing, in this era of attention to corporate governance, to see a company take that advice. Perhaps Disney's example will inspire others to follow and help frustrated parents get their picky eaters to try healthier fare.



INSURANCE OVERLOAD STAFFING

Need Staff?

Call IOS.

Insurance Overload Staffing is the most experienced full-service insurance staffing service in North America.

IOS brings knowledge, professionalism and a proven track record to the art of recruiting / staffing capable personnel for:


- ▶ Temporary
- ▶ Temp to Hire
- ▶ Direct Hire

Claims Adjusters
Underwriters
Account Managers
Licensed CSR's
Risk Management

Insurance Skill Set Testing
Background Checks

Knowledge & Experience Since 1983.

52 Offices throughout North America



INSURANCEOVERLOAD.COM
800.262.0086

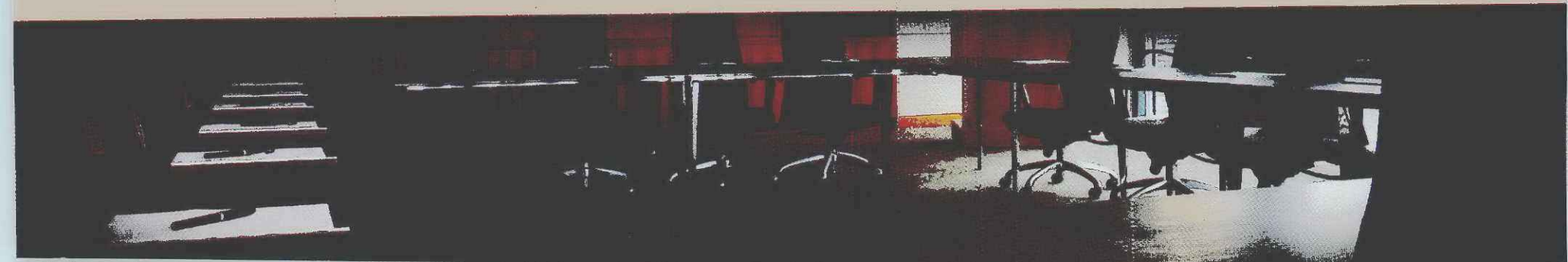


> **how did that raging tempest become so well contained?** Our depth, skill and experience in major reinsurance matters form a climate where trouble has little chance of brewing.

> **courting smarter solutions**

LORD BISSELL  BROOK LLP

www.lordbissell.com



Business Insurance OPINIONS

Are brokers heading for big changes?

THE BROKERAGE INDUSTRY may be in for a seismic shift. If Willis Group Holdings Ltd.'s so far unsuccessful bid to acquire Marsh & McLennan Cos. Inc. signals nothing else, it indicates the world's largest insurance brokerage may be in play.

What's startling is not just that Willis is a fraction of the size of MMC but that Marsh & McLennan is viewed as an acquisition target. Two years ago, few—if any—would have predicted that.

As we report on page 1, financing for the proposed acquisition of MMC would have been provided by Kohlberg Kravis Roberts & Co., the legendary buyout firm that purchased Willis in 1998. Whether or not KKR and Willis make another offer and succeed in buying MMC, it certainly is well within the realm of possibility that someone eventually will acquire all or pieces of the world's largest broker.

It doesn't take a Wall Street expert to see that MMC has not recovered financially from the punch landed by New York Attorney General

Eliot Spitzer in October 2004. To use only one measure, MMC's stock took a dive and shares remain well below their pre-Spitzer level. Make no mistake, MMC has a lot to offer a buyer: a global footprint, many talented employees and operations that, taken individually, are among the leaders in their markets.

Consolidation for consolidation's sake is not going to benefit insurance buyers, however. The acquisitions that made Marsh & McLennan and Aon Corp. megabrokers made them very powerful. But it was abuse of that power that, properly so, drew Mr. Spitzer's attention. Clout that works for brokers' clients is what's needed, and we hope any buyer of MMC makes that its top goal.

Consolidation for consolidation's sake is not going to benefit insurance buyers.

Insurer in hot water over stock options

WHEN LOOKING AT THE SCANDAL—and we don't think that is too strong a word—involving UnitedHealth Group Inc. and stock options granted to William McGuire, who is resigning his post as CEO—we can't help but ask, "Why?"

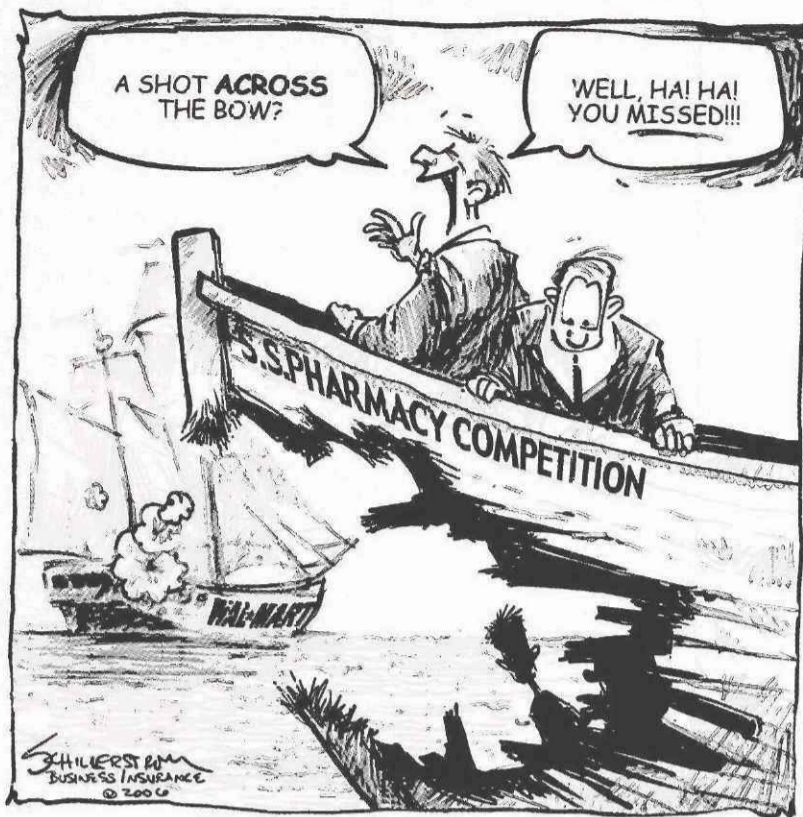
As reported, Dr. McGuire resigned after an investigation by an outside law firm found that certain stock option grants provided to him, as well as to other top UnitedHealth executives, were "likely-backdated" and set on days when UnitedHealth stock hit lows. That was a way, of course, for individuals like Dr. McGuire to maximize profits when the options were exercised.

Said another way, it would be as if an individual investor would be allowed to purchase—retroactively—shares during the period of time when the shares were at their low.

Our question is: Why was backdating allowed? Without backdating, Dr. McGuire still would have reaped a fortune—given the huge run-up in the price of UnitedHealth stock during his tenure—when he exercised those options. Wouldn't that have been enough?

Now UnitedHealth faces a public relations disaster, to say nothing of potential legal problems. Certainly, its customers will want to know if the premium increases they were hit with over the years were used to cover rising medical costs or to pay for lavish and perhaps improper CEO compensation.

UnitedHealth has a lot more explaining to do—most notably that it won't allow such action again—if it is to regain the trust of its customers.



Community Forums

A new feature allows risk and benefits management professionals to connect and exchange information at www.BusinessInsurance.com. The Community Forums is an easy-to-use discussion board that enables readers to ask questions, exchange ideas and voice opinions. Topic-focused categories include:

- **Risk Managers Forum** on various risk management issues.
- **Benefits Managers Forum** on general benefits management issues.
- **In the News** to express opinions and comments.
- **Industry Focus Forum** on issues from probes, to quality improvement.
- **The Lighter Side.** Share stories of success as well as blunders.
- **General Forum.** Discuss general insurance market issues and conditions, trends and other topics.

Please visit www.BusinessInsurance.com today and click on the Community Forums link. A simple free registration to create a user ID is all you need to join this online community and begin exchanging information, discussing ideas and commenting on the news of the day.

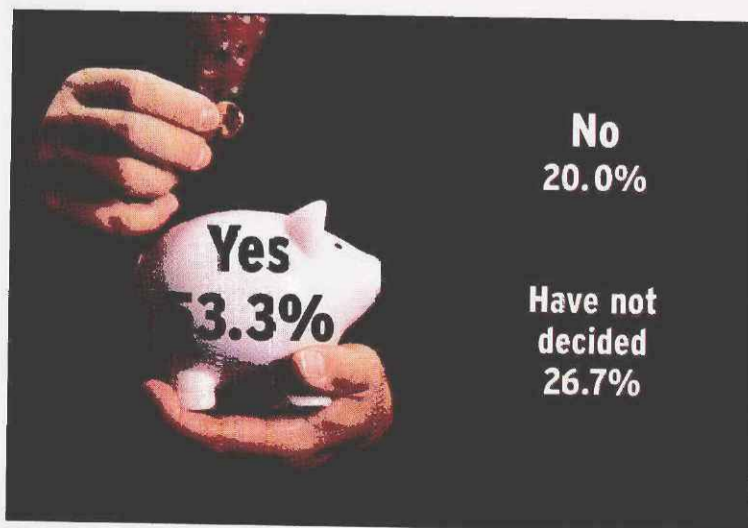
Write us

Business Insurance welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Please send your letters to: Letters to the Editor, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; fax: 312-280-3174; e-mail: rcocc.a@businessinsurance.com

Online Poll

at www.businessinsurance.com

Do you intend to add an automatic enrollment feature to your 401(k) plan next year?



Next poll: How would you view further consolidation of the brokerage industry?

Vice President/Publisher:
Martin J. Ross III (New York)

Associate Publisher/Editorial Director:
Paul D. Winston (Chicago)

Editor: Regis J. Coccia (Chicago)

Editor-at-Large: Jerry Geisel (Washington)

Managing Editor: Gavin Souter (Chicago)

Assistant Managing Editor - Graphics:
Kathy L. Barnes (Chicago)

News Editor: Matt Scroggins (Chicago)

Senior Editors: Roberto Cenicerros (Los Angeles)
Meg Fletcher, A.R.M. (Chicago); Judy Greenwald (San Jose); Mark A. Hofmann (Washington); Dave Lenckus (Tucson); Douglas McLeod (New York); Sally Roberts (Denver); Joanne Wojcik (Denver); Rodd Zolkos - Industry Focus (Chicago)

Associate Editors: Louise Esola (Chicago); Gloria Gonzalez (New York); Rupal Parekh (New York)

Correspondents: Elizabeth Fry (Australia)

Deputy Graphics Editor: William Murphy (Chicago)

Copy Editors: Charmain Benton (Chicago); Joe Walker (Chicago)

Assistant Copy Editor: Carrie A. Peinado (Chicago)

Directory Editor: Kevin P. Edison (Chicago)

Research Editor: Karen Brown Tucker (Chicago)

Online Editor: Kathy Downing (Chicago)

Online Producer: Amy R. Curtis (Olathe)

Editorial Cartoonist: Roger Schillerstrom (Chicago)

Director - Business Development:
Robert L. Miesse (Chicago)

District Managers: Ron Kolgraf (Boston); William J. McGuire (Chicago); Robert B. Murray (New York); John L. Phillips (Chicago)

Classified Advertising Manager:
Tina Vasiliakis (Chicago)

Assistant to the Publisher: Pat Ghazvini (New York)

Advertising Traffic: Monique Murray (New York)

Production Manager: J. Thomas Janka (Chicago)

Circulation Manager: John Azua (New York)

Circulation Coordinator: Craig Bowman (Detroit)

Director of Communications:
Ronnie L. Drachman (New York)

Promotion Manager: Michael Ambrosio (New York)

Promotion Coordinator:
Barbara O'Brien (New York)

EDITORIAL: Chicago: 312-649-5200; Denver: 303-282-4260; London: 44-207-457-1400; Los Angeles: 323-370-2455; New York: 212-210-0100; San Jose: 408-774-1500; Tucson: 520-579-1937; Washington: 202-662-7200

ADVERTISING: Boston: 617-292-4856; Chicago: 312-649-5276; Irvine CA: 949-255-5355; New York: 212-210-0133

SUBSCRIPTIONS: Detroit: 888-446-1422

Business Insurance is published by
Crain Communications Inc.

Chairman: Keith E. Crain
President: Rance Crain
Secretary: Merrilee Crain
Treasurer: Mary Kay Crain
Executive Vice President/Operations:
William A. Morrow
Senior Vice President/Group Publisher:
Gloria Scoby
Group Vice President/Technology, Circulation,
Manufacturing: Robert C. Adams
Vice President/Production & Manufacturing:
Dave Kamis
Crain's Corporate Circulation Director:
Patrick Sheposh

G.D. Crain Jr. Founder (1885-1973)
Mrs. G.D. Crain Jr. Chairman (1911-1996)
S.R. Bernstein Chairman-executive committee
(1907-1993)

Published weekly at 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Fax: 312-280-3174. bibe@crain.com. Offices: 711 Third Ave., New York, N.Y. 10017-5806. Fax: 212-210-0704. Suite 814, National Press Building, Washington, D.C. 20045-1801. Fax: 202-638-3155. 6500 Wilshire Blvd., Suite 2300, Los Angeles, Calif. 90048-4947. Fax: 323-655-8157. 967 Bermuda Court, Sunnyvale, Calif. 94086-6750. Fax: 408-774-1155. 21 St. Thomas St., London SE1 9RY, U.K. Fax: +44-(0)20-7457-1440. 7300 N. San Anna Drive, Tucson, Ariz. 85704. Fax: 520-579-3476. 1746 Cole Blvd., Suite 150, Golden, Colo. 80401. Fax: 303-733-9941. 12524 Acuff Court, Olathe, Kan. 66062. Fax: 312-280-3174. 77 Franklin St., Suite 809, Boston, Mass. 02110-1510. Fax: 212-210-0704. 4 Executive Circle, Suite 185, Irvine, Calif. 92614-6791. \$5 a copy and \$97 a year in the U.S., \$130 in Canada and Mexico (includes GST). All other countries, \$230 a year (includes expedited air delivery). John Azua, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, Business Insurance, 711 Third Avenue, New York, N.Y. 10017-5806. Microfilm copies available: University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48103. Microfiche copies: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For reprints or reprint permission: Reprint Management Services, 1808 Colonial Village Lane, Lancaster, PA 17601; 800-290-5460, ext. 160; BusinessInsurance@reprintbuyer.com.

To subscribe, Call 888-446-1422 or 312-446-0450 outside the U.S. www.businessinsurance.com

AMERICAN EXPRESS

HEALTHPAY PLUSSM



American Express HealthPay Plus is an innovative healthcare payment solution with features designed to create a simpler, more efficient Consumer-Directed Healthcare experience.

HealthPay Plus brings together an interest-bearing Health Savings Account, a healthcare payment card, and an optional Credit Line for eligible, approved applicants.

With its unique American Express SurePaySM feature*, HealthPay Plus integrates with a health plan's claims process for an efficient and accurate healthcare payment experience for providers and consumers alike. Consumers pay the appropriate amount for services based on their health insurance and the status of their deductible. And healthcare providers experience a streamlined process that can help them get paid for their services faster.

**For more information:
Visit the HealthPay Plus website at
americanexpress.com/healthpayplus and contact us at
1-800-330-9822 or HealthcarePayments@aexp.com**

*Restrictions may apply. Terms and conditions apply. ©2006 American Express



Drugs: Random testing faster, cheaper in avoiding on-the-job risks

CONTINUED FROM PAGE 6

workers who abuse drugs out of the 8% to 10% of U.S. workers who do so, according to estimates from the Department of Health and Human Services.

"Your drug testing program shouldn't be about catching people, busting them and getting rid of them; it should be about deterrence, creating a safe work environment and helping those who need help," Mr. Turko said. "And really, the best deterrent is through random testing."

Mr. Poliafico said that random

testing current employees is not illegal, but employers need to make sure they have a written drug policy in place saying they do so. And while most states support drug testing, there are certain states that may allow random tests only for safety sensitive positions.

Overall, risk managers "can't be afraid" of testing workers and firing them for using drugs, Mr. Poliafico said. "We have to be the champions in our organizations in doing that, and we can't waiver on this issue."

One of the biggest problems in drug programs today is the "exceptions to the rule," he said. Compa-

nies have a hard time letting go of a superintendent or a 25-year veteran who tests positive.

"You can't have a zero (tolerance) policy for drugs and then go make exceptions," he said. "That's when you get a knock on the door that you're being sued."

Companies can, though, put in their written drug policies that they will offer rehabilitation to those superintendents or company veterans that test positive, "but you have to write it down."

In addition to random drug tests, Messrs. Poliafico and Turko also advocate onsite oral fluid tests,

which swabs the inside of the mouth to detect the presence of marijuana, opiates, cocaine and methamphetamine.

Most employers today are most comfortable using an onsite or laboratory-tested urine analysis to detect drug use, but one of the issues with urine analysis is that there are a number of "urine adulterants" available to workers that can alter their screening, they said.

Exemplifying the issue, Mr. Turko said that typing in the words "beat a drug test" on the Internet search engine Google will produce millions of hits.

Not only do onsite oral drug screens reduce the likelihood of adulteration, they also take about five minutes, allowing rapid hiring of new employees while minimizing time away from work for current employees, Mr. Poliafico said.

At the same time, it's much cheaper than a urine analysis, he said. "We reduced our drug testing costs by 60%" by implementing onsite oral fluid testing, he said, noting that each oral fluid test costs about \$15 to \$20 vs. \$65 to \$75 for a urine test.

While most states have no restrictions to onsite oral fluid tests, employers should check with individual states as some require that positive screens be confirmed in a laboratory and others permit them for pre-employment purposes only, according to information handed out at the session.

A healthier workforce. A healthier bottom line.



Introducing Disease Management paired with Disability Coverage.

The kind of innovative approach you'd expect from two industry leaders. It can help keep healthcare costs down and productivity up. And that makes everyone feel better. Call your UnumProvident representative today.



©2006 UnumProvident Corporation. All rights reserved. UnumProvident is the marketing brand of UnumProvident Corporation's insuring subsidiaries. Insurance products are underwritten and sold, and services provided, by the subsidiaries of UnumProvident Corporation. Not all companies do business in all jurisdictions. EB-994 (8-06)

1,500 meet at IRMI

SAN DIEGO—About 1,500 risk managers, brokers, attorneys and insurers specializing in the construction industry attended the 26th annual International Risk Management Institute Inc.'s Construction Risk Conference in San Diego Oct. 9-12.

The conference featured a full-day seminar, a general session and 27 workshops covering a variety of topics from analyzing construction defect claims, to safeguarding construction equipment, to navigating merger and acquisition risks.

Joe Plumeri, chairman and chief executive officer of Willis Group Holdings Ltd. in New York, and Luther P. Cochrane, chairman and CEO of BE&K Building Group Inc. in Charlotte, N.C., were the keynote speakers for the general session.

Alan J. Ruben, chief financial officer of California roofing contractor DRI Cos., was awarded the Gary E. Bird Horizon Award, which is presented annually by IRMI to recognize a demonstrated commitment to improving construction risk management through the implementation of innovative, cost-effective and efficient risk management techniques. Mr. Ruben received the award for completely restructuring the loss prevention and control techniques and processes pertaining to DRI Cos.' workers compensation program.

The 27th IRMI Construction Risk Conference will be held Oct. 29-Nov. 1, 2007, in Orlando, Fla. For more information, visit www.irmi.com or contact IRMI in Dallas at 972-960-7693.

—By Sally Roberts



● What if your insurer helped keep your M&A on course?

For further information,
please call
866-860-7292

We help you mitigate your risk.

Zurich offers insurance designed for the risks associated with an M&A transaction. Our coverages help protect you during the transition and keep your transaction moving forward. Because we help companies prepare, our customers are better protected. D&O • employment practices • fiduciary • crime • environmental • political risk • trade credit • accident & health

www.zurichna.com

Because change happenz.SM


ZURICH[®]

Language barriers increase hazards on construction sites

Bilingual workforce requires effective communication

By SALLY ROBERTS

SAN DIEGO—While there are many hazards on a construction site, employers cannot overlook the hazard associated with a bilingual workforce, according to a health and safety expert.

Hispanic workers die at a greater rate each year in U.S. workplace construction accidents than African-Americans and Caucasians, and within the next five years or so, Hispanics could represent nearly half of the construction workforce, said Tim Carter, vp-health, safety, security and environmental for Trammell Crow Co., an Irvine, Calif.-based commercial real estate services company.

Lack of effective communication within a bilingual workforce raises a number of safety issues, but implementing an English-only workplace policy is not the answer. Instead, he said, the focus should be on effective communication and training.

The bilingual workforce is "an issue we need to deal with because it's a hazard. That's not unkind, it's

the truth...and it needs to be dealt with effectively," Mr. Carter said.

According to the U.S. Bureau of Labor Statistics, total workplace fatal injuries in 2005 fell 1.2%. But the number of fatal injuries among Hispanic workers rose 2% last year to 917, Mr. Carter noted. And in 2004, while the overall number of workplace fatal injuries was up 2%, fatal workplace injuries among Hispanic workers rose 11%.

In the construction industry, the Hispanic fatality rate is 5.2 per 100,000 workers compared to a 4.5 per 100,000 workers rate among African-Americans and Caucasians, he said.

Mr. Carter noted that 12% of serious injuries among Hispanic workers occur during the first day on the job.

"Something's dreadfully wrong and there is something that needs to be done," he said during a session at the 26th Construction Risk Conference, held Oct. 9-12 in San Diego and sponsored by the International Risk Management Institute Inc.

"We can't communicate with each other as effectively as we need to," he said.

Of the more than 28 million Spanish speaking people in the United States, 5.1 million do not speak English well and nearly 3 mil-



lion do not speak English at all, Mr. Carter said, referring to 2000 U.S. Census statistics.

Not only are effective communication skills lacking in the construction industry, but in some cases, there is little or no safety training and great exposure to high-hazard work, he said.

Many Spanish-speaking immi-

KEEPING WORKERS SAFE

Tim Carter, of Trammell Crow Co., recommends that construction companies:

- Identify those who cannot speak and understand English.
- Embrace a bilingual safety process.
- Analyze language needs and challenges, especially when it involves high-hazard work.
- Use training aids and programs that are available in languages other than English.
- Be careful with translations. Sometimes the message can be lost or changed.
- Don't put supervisors in charge of people with whom they cannot effectively communicate.
- Stay flexible. The solution for one project or site may not be the solution for another.

grants are young and have minimal or no skills, but are "willing to do anything to keep the job... because they have to have a job." At the same time, safety questions sometimes go unasked and unanswered, Mr. Carter said. One of the cultural differences with the immigrant population is they don't necessarily feel comfortable in raising

questions because it could be perceived as challenging authority, he noted.

Employers have the "responsibility to provide a workplace that is free from hazards," according to the Occupational Safety and Health Administration, Mr. Carter said. OSHA does not give construction companies an escape clause for workers that do not understand English, he said.

If the inability to effectively communicate with employees could be hazardous, "then you better take care of it," Mr. Carter said.

Enacting workplace policies requiring employees to speak only English is not the solution, Mr. Carter said.

Federal appeals courts have upheld "English only" rules in the workplace, but there must be a "business necessity" for it, Mr. Carter said. If employers cannot prove the workplace policy is a business necessity, they may be in violation of Title VII of the Civil Rights Act of 1964, he said.

Rather than instituting an English-only workplace policy, employers should consider grouping workers according to language skills, mixing bilingual workers with non-English speaking workers and requiring supervisors to become bilingual, he said.

When you need it...

We're here to

Opt-in now for BI's e-mail News Alerts ...
go to BusinessInsurance.com/Register

BI Daily News Alert

This Week in BI

Risk Management News Alert

Benefits Management News Alert

Industry Focus News Alert

Custom News Alert

New In 2006 Directory Alert

www.BusinessInsurance.com

Attract more attention.

Attract
more
business.

MARKET
SOURCEBOOK
2007

Business Insurance

Business Insurance's Market SourceBook is a business development magnet that will pull corporate decision-makers in your direction.

This indispensable resource is the most comprehensive directory available on services and providers in the commercial insurance industry. No one else offers anything like it. So when your customers and prospects are ready to purchase the products and services they need, *BI's* Market SourceBook will draw them in, all year long.

And with a wide range of special opportunities, advertising in *BI's* Market SourceBook should be at the center of your marketing strategy.

Let *Business Insurance* point you toward some compelling ways to take advantage of this unique opportunity to execute an effective, year-long marketing strategy for 2007 – by advertising in *BI's* Market SourceBook 2007.

Contact Bob Niese at 312-649-5276 or e-mail bniese@BusinessInsurance.com.

Publishing Date: December 2006 • Ad Close: November 6

NEW YORK: 212-210-0133
CHICAGO: 312-649-5276

IRVINE: 949-255-5355
BOSTON: 617-292-4856

Business Insurance www.BusinessInsurance.com

Products & Services

CIGNA enhances online disability claims reporting

PHILADELPHIA—CIGNA Group Insurance has enhanced its disability claims reporting platform by providing customers with more self-service capabilities via the Web, the Philadelphia company said.

Through its secure site, employers now have access to critical operational claims information such as advice-to-pay reports; individual claims status and new claim notifications; and analytical information, such as year-over-year trending data and health care reports for customers who also have medical coverage with CIGNA HealthCare, helping them better manage disability-related absences.

The reporting capabilities are available to all self-insured and fully insured disability customers who purchase CIGNA's short- or long-term disability products.

In addition, the reporting platform allows multiple users to access the site simultaneously, viewing reports jointly or independently.

The sort and filter functions help users create custom report views that can be reapplied to future reports. Employer administrators can also delegate and manage access to the reports by benefits managers, payroll personnel, supervisors, brokers and others who need to see aggregate claims information, while ensuring the protection of employees' privacy.

For more information, contact Diane Russell, marketing product director, at 215-761-4747 or by e-mail at diane.russell@cigna.com.

Legal expense coverage for elder care facilities

DALLAS—U.S. Risk Underwriters, a specialty lines underwriting manager and wholesale broker, has introduced its ElderCare Legal Expense Reimbursement policy for long-term care facilities, including skilled care, assisted living and continuing care retirement communities.

The policy reimburses these facilities for certain legal expenses that may be incurred in defense of a professional or general liability claim caused by a medical incident, event or offense. There is a deductible of \$5,000 with limits up to \$250,000.

Coverage is available in all states except Alaska, Florida and Mississippi, and is written with an A-rated carrier on a claims-made basis. No

coverage is provided for loss or indemnity.

Agents and brokers looking for more information should contact U.S. Risk Underwriters in Dallas at 800-952-7738, in Houston at 800-833-8803 or in Washington at 800-948-5800.

Best's aggregates products available online

OLDWICK, N.J.—A.M. Best Co. Inc. has released Web-based versions of both the property/casualty and life/health editions of "Best's Aggregates & Averages—United States & Canada," presenting all exhibits in Excel spreadsheet format. "Best's Aggregates & Averages—Online" contains the same information as the print property/casualty and life/health editions.

The 2006 publication includes data drawn from Best's Statement File and can be used to benchmark a company's performance against the rest of the insurance industry or a group of its peers. The exhibits contained in "Best's Aggregates & Averages" can also be used for studying industrywide trends in balance sheets, expenses, investments and more.

To order Oldwick, N.J.-based "Best's Aggregates & Averages—United States & Canada," or for more information, visit www.ambest.com/sales/aggavg or call 908-439-2200, ext. 5742.

AIR model estimates potential wildfire losses

BOSTON—AIR Worldwide Corp. has released a U.S. Wildfire Model, a probabilistic model designed to help insurers better understand the location of their exposures relative to high-risk areas and to estimate potential losses from wildfires.

The model will help insurers, reinsurers and intermediaries manage wildfire risk both for individual policies and entire portfolios of properties in California.

AIR's probabilistic wildfire model is based on a stochastic catalog of potential events that provides insurers with probability distributions of loss and the ability to generate loss costs. The model is available for AIR's CLASIC/2, CATStation and CATRADER catastrophe risk management systems to analyze exposures in California. Future releases of the model will expand its coverage to other Western states.

For more information, visit Boston-based AIR's Web site at www.air-worldwide.com.

Liberty Mutual updates workers comp service

BOSTON—Workers compensation customers can get faster service and better outcomes thanks to an

enhancement to the way Liberty Mutual Insurance Co. manages workers comp claims.

The Boston-based insurer said it provides those responsible for managing a claim with online access to all related documents, while fully protecting the privacy of confidential medical information.

Liberty Mutual has reduced the time required for documents from outside resources, such as medical reports, bills and digital photos, to be available in the system. Electronic versions of reports become part of the system as soon as they are received, and paper documents are scanned into the system within a day of being received.

Customers can pull up these documents through RISKTRAC, Liberty Mutual's online risk information system.

Its general liability policyholders will receive similar benefits next year, as the enhancement becomes part of the company's approach to managing liability claims.

For more information, visit www.libertymutual.com.

We'd like to report on new risk management and employee benefit products and services offered by your company. Please send information about your new offerings to: Joe Walker, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; telephone: 312-649-5283; fax: 312-649-7801; e-mail: jwalker@businessinsurance.com.

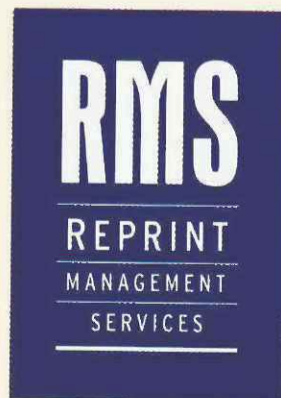


Are you making the most of your editorial coverage?

Editorial coverage is like money in the bank ... when you take advantage of it. RMS can help you get the most impact out of your coverage in *Business Insurance* through cost effective, mass distribution of Reprints, Eprints and NXTprints.

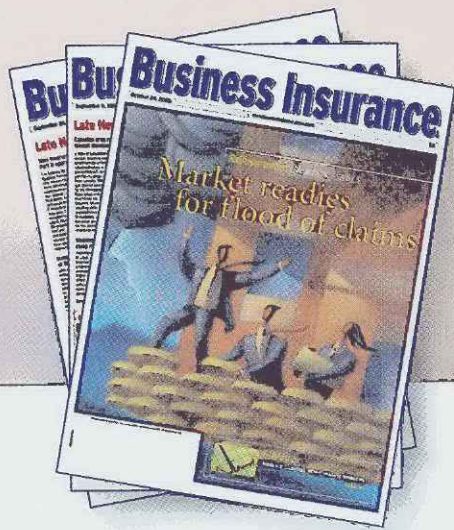
The uses for Reprints, Eprints, and NXTprints are endless:
Trade Show Collateral • Seminars • eNewsletters • Media Kits
Web Content • Direct Mail • PR Tools • Recruiting • Sales Handouts

For more information, call RMS:
800.290.5460 - Ext. 160
 or e-mail: BusinessInsurance@reprintbuyer.com





SUPER REINSURANCE COVERAGE.



Reinsurance: Trends & Issues

Issue Date: November 6 • Ad Close: October 25

Watch for *Business Insurance's*
Market SourceBook 2007:

December
BI's Market SourceBook 2007
Ad Close: November 6

Business Insurance's heroic coverage of the reinsurance market and amazing audience reach continues in the last of three special issues this year. On November 6, our Trends & Issues special report will unmask the state of the reinsurance market and reveal potential developments to watch for in 2007. And with the added force of bonus distribution at the PCI, PLUS and RMIA conferences, your message will be protected within the most compelling editorial environment.

Make your marketing efforts soar – advertise in the final issue of *BI's* reinsurance series.
Call 212-210-0133 or e-mail Advertising@BusinessInsurance.com.

New York: 212-210-0133 | Chicago: 312-649-5275 | Boston: 617-292-4856 | Los Angeles: 323-370-2405

Business Insurance www.BusinessInsurance.com

PROFESSIONAL MARKETPLACE

To place your ad, contact **Tina Vasilakis** at (312) 649-5340 / fax: (312) 649-7937 / E-mail: tvasilakis@BusinessInsurance.com
Business Insurance, Classified Department, 360 N. Michigan Ave., Chicago, IL 60601-3806. Call for details on blind box and internet advertising

EDUCATION

Florida State University



offers an online master's degree in Risk Management and Insurance. This affordable and flexible program can be completed via Internet access from any location. For more information on the May 2007 sequence, visit www.cob.fsu.edu/grad

HELP WANTED

Insurance Underwriting/Marketing Executive

Financially strong, well rated, N/E regional P/C Company recruiting for seasoned professional to help build and manage existing operation. Producer, technical and people skills key assets of candidate. Degree and industry continuing education plusses. Attractive compensation pkg.

Reply in confidence to:
Business Insurance, Box 3253
360 N. Michigan Avenue, Chicago, IL 60601
Or bibox3253@BusinessInsurance.com

HELP WANTED

Manager of Claims

Adjusting Co., specializing in trucking Monmouth Cty., NJ.

Strong administrative, computer, written & verbal skills. Experience in Auto, General Liability, Cargo, Physical Damage claims. Some travel for service and sales. No outside investigation. Competitive salary and benefits. Equity sharing potential to the right candidate. Fax resume to: 732-431-8108.

HELP WANTED

HELP WANTED



Director of Risk & Insurance Management Position

The University of Missouri invites applications for the position of Director, Risk & Insurance Management. The Director is responsible for the coordination and management of the self-insured and commercial insurance coverage for the four-campus University of Missouri System, and reports to the Associate Vice President for Management Services.

The University's major insurance programs include: medical professional liability, workers compensation, automobile and general liability property and other commercially insured exposures. Additionally, the Director coordinates claims activity and is in close contact with the Office of General Counsel including regular participation in the mediation process.

The individual must have extensive experience in the insurance industry, be able to effectively communicate with executive management, and be able to provide dynamic leadership for the Risk & Insurance Management staff. A Bachelors degree in Business or Public Administration is required. Salary is commensurate with qualifications and experience.

Interested applicants should send a letter of interest, resume and list of three professional references by October 26th, 2006 to: Mr. Bill Payton, Office of Risk & Insurance Management, University of Missouri System, 6 Clark Hall, Columbia, MO, 65211.

The University of Missouri is an Equal Opportunity Employer.

YOUR TARGET AUDIENCE IS HERE ...



Where is your ad?

Call (312) 649-5340 to reserve your space.

Business Insurance
www.BusinessInsurance.com

LEGAL NOTICE

LEGAL NOTICE

ENGLISH & AMERICAN INSURANCE COMPANY LIMITED NOTICE OF ANNUAL MEETING OF SCHEME CREDITORS

A meeting of the Scheme Creditors of the Company has been convened by the Scheme Administrators, pursuant to Clause 8.1 of the Scheme of Arrangement between the Company and the Scheme Creditors for the purposes set out below.

The meeting will be held at KPMG's offices, 1-2 Dorset Rise, London EC4Y 8EN on Thursday 7 December 2006 at 10.00am. A report concerning the progress made in implementing the Scheme and the conduct of the Company's affairs generally since the last such report was prepared will be laid before the meeting pursuant to Clause 8.1.2. Scheme Creditors will have the opportunity to address questions to the Scheme Administrators concerning the report at the meeting. In addition the meeting will consider and if thought fit ratify the appointment by the Creditors' Committee of Michael S. Walker as joint Scheme Administrator.

A copy of the report is being sent to the last known addresses of all known creditors, potential creditors and brokers of the Company. Any person entitled to attend the meeting who has not received the report by 24 November 2006 can obtain a copy free of charge from the Scheme Administrators of the Company at KPMG LLP, 8 Salisbury Square, London EC4Y 8BB.

Queries regarding Scheme Creditors' claims should be directed to the helpline on +44 (0) 1452 782 600.

T. A. Riddell, Joint Scheme Administrator

LEGAL NOTICE

LEGAL NOTICE

IN THE HIGH COURT OF JUSTICE (CHANCERY DIVISION) COMPANIES COURT NO: 7143 OF 2006 IN THE MATTER OF SOMPO JAPAN INSURANCE INC. And IN THE MATTER OF TRANSFERCOM LIMITED And IN THE MATTER OF THE FINANCIAL SERVICES AND MARKETS ACT 2000

NOTICE IS HEREBY GIVEN that on 5 October 2006 Sampo Japan Insurance Inc. (formed from the merger in 2002 of The Yasuda Fire & Marine Insurance Co Ltd and Nissan Fire & Marine Insurance Company Ltd) ("Sampo") applied to the High Court of Justice for:

1. an Order under Part VII of the Financial Services and Markets Act 2000 (the "Act") sanctioning a scheme (the "Scheme") providing for the transfer to Transfercom Limited ("Transfercom") of certain insurance and reinsurance business of the UK branch of Sampo; and
2. an Order making ancillary provision in connection with the implementation of the Scheme under Section 112 of the Act.

The proposed transfer will result in almost all of the insurance and reinsurance business formerly carried on by Sampo in the UK being carried on by Transfercom. The proposed transfer will secure the continuation of or against Transfercom of any legal proceedings by or against Sampo that relate to rights and obligations in respect of the transferred business. All claims being dealt with before the transfer by Sampo will following the transfer be dealt with by Transfercom; all claims arising after the transfer will be dealt with by Transfercom.

The application is directed to be heard before the Companies Court Judge at the Royal Courts of Justice, Strand, London WC2A 2LL on 14 December 2006 and any person (including any employee of Sampo or Transfercom) who alleges that he or she would be adversely affected by the carrying out of the Scheme may appear at the time of that hearing in person or by Counsel. Any person who intends so to appear, and any policyholder or reinsured of Sampo or Transfercom who dissents from the Scheme but does not intend so to appear, is requested to give not less than two clear days' prior notice in writing of such intention or dissent, and the reasons therefor, to the solicitors named below.

Copies of a report on the terms of the Scheme prepared pursuant to Section 109 of the Act (the "Independent Expert's Report") and a statement setting out the terms of the Scheme and containing a summary of the Independent Expert's Report can be accessed at: <http://www.sampo-japan.co.jp/english/transfer.html>

and will be provided free of charge by the solicitors named below.
Lovells (Ref: C4/TJG), Atlantic House, Holborn Viaduct, London, EC1A 2FG
Tel: +44 (0) 20 7296 2000, Fax: +44 (0) 20 7296 2001
Solicitors for Sampo Japan Insurance Inc.
23 October 2006

BUSINESS RESOURCES

EDUCATION & TRAINING

CPCU® AIC, ARM, IIA, CLU/ChFC, and CIC candidates

Executive Summaries so good, you'll pass the first time, every time or your money back!

Call 1-888-BURNHAM Now!
www.BurnhamSystem.com

ENVIRONMENTAL



A full service environmental management firm for over 20 years.
Corporate Environmental Advisors, Inc.
Hartwell Business Park
127 Hartwell Street
West Boylston, MA 01583
Contact Joseph A. Landyn, PG, LSP
800-358-7960
jalandyn@cea-inc.com
www.cea-inc.com



Some things just work better in color.

Like your BUSINESS RESOURCES ad in *Business Insurance*. Contact Tina Vasilakis at 312-649-5340.

small ads...
BIG RESULTS!
Trust Business Insurance to reach your target audience.
Call Tina at 312-649-5340 for details.

Mark your
Calendar...

November 6
Reinsurance: Trends & Issues
Bonus Distribution at PCI,
PLUS & RMIA
Ad Closing: Oct. 31

November 13
Workers Compensation & Disability Management
Bonus Distribution at WCF
Ad Closing: Nov. 7

Contact
Tina Vasilakis
at 649-5340
For Details

International NEWS

Benfield's profit warning comes after departures

Facultative team loses 20 members; broker starts legal proceedings

By SARAH VEYSEY

LONDON—Benfield Group Ltd. has issued a profit warning in the wake of the resignation of several senior members of its facultative reinsurance team.

The reinsurance broker said that profit for the year would be approximately £10 million (\$13.6 million) lower than previously expected. In September, the company said it expects this year's profit to be at least equal to the £86 million (\$119.6 million) achieved in 2004.

London-based Benfield said that although facultative business makes up less than 6% of its revenues, the departure of several senior members of its facultative team had meant that it had "found it necessary to commence a legal process in order to protect its business interests."

The leader of Benfield's facultative team, Elliot Richardson, recently left the broker to join Aon Ltd. as head of its global cedent facultative reinsurance team.

A spokesman for Aon said the broker could not comment further than its announcement last month of Mr. Richardson's appointment.

A spokesman for Benfield said there had been 20 resignations from its facultative team, from a global team of about 110.

He said the broker had commenced legal proceedings to protect its business interests and had been advised that it had a strong case.

London-based investment bank Keefe, Bruyette & Woods Ltd. said the profit warning highlighted its concern that the growth strategy embarked on by Benfield last year "is not without risks."

The bank said in a note that it has now reduced its expectation of a profit for Benfield to £80 million (\$148.5 million) for 2006 and to £108 million (\$200.4 million) for 2007—an 11% reduction from the bank's previous estimate.

"We sense that what was initially expected to be a friendly departure by a small number of senior facultative managers has turned into a more widespread attempt by a competitor to poach the whole team," the bank said.

"With matters now more acrimonious, we expect that a proportion of the £10 million relates to legal fees and higher costs for retaining the 80 or so staff who have not yet walked with the key 20," it added.

In addition, KBW said that while there is no direct link between the facultative staff defections and the creation last year of Benfield's primary broking arm, Benfield Corporate Risks, it had "long warned that Benfield's expansion strategy was not without risks," and that the strategy might be "tougher and higher risk" than "superficially seemed the case last year."

E.U. environmental directive poses challenge for insurers

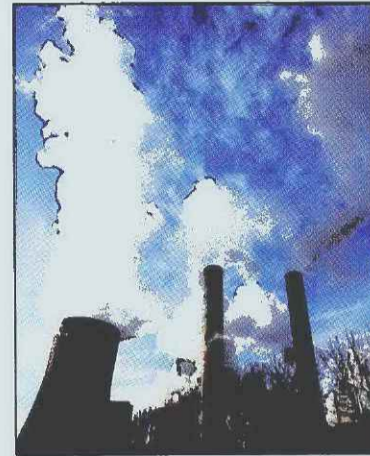
Industry group says coverage may take years to develop

By RICHARD MILLER

Some members of an insurance industry group laying the groundwork for environmental coverage under the new European Union environmental liability directive say it could be years before such products are widely available.

"I would be surprised if there was a competitive market in most member states by 2010," said Phil Bell, group casualty director for Royal & SunAlliance Insurance Group P.L.C. in London, and a member of the Paris-based Comité Européen des Assurances' environmental expert working group.

E.U. member countries are required to transpose the Environmental Liability Directive into national law by next April. The directive aims to make businesses



LANDOV

The E.U. Environmental Liability Directive will make companies legally and financially accountable for environmental damages.

that damage the environment legally and financially accountable for the damage.

Under the directive, member states must encourage development of insurance or financial security products for environmental damage

and report back to the European Commission by 2010.

To assist in the process, the CEA independently formed the environmental expert working group two years ago. The 11-member group—which includes environmental experts, insurers, and a risk manager—is expected to release its report by the year-end.

"We won't solve everything by the end of the year, so I have to lower a little bit the expectation," said Bernard Tettamanti, a member of the CEA group who also is deputy head casualty Americas and member of senior management at Swiss Reinsurance Co.

"It is not our task, for obvious reasons, to develop insurance products, but to develop cornerstones; to give some guidance on how to cope with the challenges the directive poses," he said.

Mr. Tettamanti said the group hopes its work can assist insurers in developing "sustainable products

See **ENVIRONMENT** next page

Offer made to buy Alexander Forbes

Consortium makes \$1.11 billion bid for South African broker

JOHANNESBURG, South Africa—Alexander Forbes Group Ltd. announced that a consortium of private equity investors has made an offer to its board to buy the brokerage.

Alexander Forbes said last week it had received an approach from a consortium led by Actis Africa Fund 2, acting through Cleansheets Investments (Proprietary) Ltd. The consortium had submitted a proposal to acquire the entire issued share capital of the Jo-

hannesburg, South Africa-based broker for 8.3 billion rand (\$1.11 billion).

Alexander Forbes announced earlier this year that it was considering a possible sale of the company to private equity investors. And in August the company announced the sale of its London-based International Financial Risk Services arm to U.S. broker Lockton Cos. Inc. (BI, Aug. 28).

If the proposed deal goes ahead, Alexander Forbes' listings on the

Johannesburg, Namibia and Botswana stock exchanges would be terminated.

In addition, it is intended that management and staff of Alexander Forbes, as well as two black economic empowerment entities, would collectively own at least 30% of the equity in the company.

Alexander Forbes was ranked the world's ninth-largest broker in *Business Insurance's* 2006 global broker ranking.

—By Sarah Veysey

Swiss manufacturer's asbestos compensation fund draws fire

Critics claim amount is insufficient to meet all claims

By MICHAEL BRADFORD

NIEDERURNEN, Switzerland—A Swiss building products company has established a 1.25 million Swiss francs (\$983,750) fund to provide aid to former employees and residents near its factories who suffer from asbestos-related illnesses, a move that is drawing fire from legal advocates for the victims.

Eternit A.G. is developing guidelines for distribution of the funds that will go to claimants according to the degree of their financial need, a spokesman for the Niederurnen, Switzerland-based company said.

For decades, the company produced roofing and building facade products that contained asbestos, which it stopped using in 1994.

The size of the Eternit fund is attracting some criticism.

"In my eyes, 1.25 million (Swiss francs) is ridiculous," said Massimo Aliotta, president of the Winterthur, Switzerland-based Asbestos Victims Association, a group that provides legal services to those affected by asbestos. "It's not enough at all," he said.

It's unknown how many former workers and others will need compensation from the fund out of hundreds that could apply for the payments, Mr. Aliotta said.

Claimants will have to show that they suffer from an asbestos-related illness and need the money, the Eternit spokesman said. No

timetable has been developed as to when payments will begin.

Apart from former employees, people who live or once lived near Eternit's two plants, in Niederurnen and Payerne, Switzerland, are eligible for payments if they are sick because of asbestos and can demonstrate to the company that financial need has arisen because of the illness. Relatives of deceased workers and residents also may be eligible for recoveries under the fund.

Decisions on who gets the money will be made by Eternit and not the courts, the company spokesman said. Payments are funded by the company and no insurance coverage is in place to provide the compensation, he said.

Eternit employees made ill by asbestos already are eligible for pay-

ments from the Swiss Accident Insurance Fund, commonly called SUVA, which writes obligatory accident insurance for manufacturers and other policyholders.

SUVA is making payments to 70 Eternit claimants, the spokesman noted. Eternit, in turn, is required to pay SUVA about 500,000 Swiss francs (\$393,500) per year to help fund those payments, he pointed out.

Eternit did not produce products with brittle asbestos and, as long as buildings made with the company's materials are undisturbed, the asbestos is harmless, the spokesman said. "If you have it in a house, it is no problem," he said. "It is fixed in the material."

The only way the asbestos can be released from Eternit materials is by machinery that grinds the material

into dust, an unlikely scenario given regulations addressing the removal and disposal of asbestos, the spokesman said.

Eternit established the fund shortly after a judge earlier this month completed an investigation as to whether the company should be held responsible for workers' asbestos-related illnesses.

In response to a suit filed a year ago by the Asbestos Victims Assn., the judge decided that the prescriptive period for hearing an action related to the ill workers and residents had lapsed, Mr. Aliotta said.

The association plans to pursue its case in a higher court, Mr. Aliotta said.

The Eternit spokesman said he expects the company to prevail in that action as well.

Business Insurance PERSPECTIVE

Policy clauses that limit lawsuits create pitfalls

By Michael T. Sharkey
and Barry J. Fleishman



Mr. Sharkey

Policyholders should be aware of the potential pitfalls of clauses that limit their right to bring a lawsuit.

First-party property insurance policies generally include so-called "suit limitations" clauses, which cap the time that a policyholder may bring a lawsuit against an insurance company for coverage disputes, and are generally shorter time periods than allowed by the otherwise applicable statute of limitations. Thus, a policyholder facing a first-party loss is well advised to examine its policies and the applicable state laws to determine whether a deadline is looming with respect to its coverage.

There is considerable variation among states' laws on the treatment of suit limitations clauses. For example, Mississippi prohibits contractual clauses purporting to shorten the state's regular three-year statute of limitations for contract claim lawsuits.

Similarly, Louisiana's Legislature, spurred by the anniversaries of Hurricanes Katrina and Rita—whose Louisiana landfalls took place on Aug. 29, 2005, and Sept. 24, 2005, respectively—passed statutes extending the one-year suit limitations periods from the two hurricanes for an additional year. The Louisiana Supreme Court has upheld the constitutionality of these statutes, though the time for the unsuccessful insurance company litigants to seek review of this decision from the U.S. Supreme Court will not expire until late November.

Another area of variation among states, and a source of confusion for policyholders, is the effect that continuing negotiations with an insurance company has on the limitations period. For example, under California law, a one-year suit provision runs from the date of "inception of the loss," but is delayed from the time an insured gives notice of the damage to his insurer, pursuant to applicable policy notice provisions, until coverage is denied, according to a 1990 California Supreme Court ruling in *Prudential-LMI Commercial Insurance vs. Superior Court*.

In other states, where the limitations period is not automatically delayed until denial, policyholders frequently assert that the negotiations lulled them into believing that the insurance company would pay without a lawsuit, and argue that the insurance company thus has waived or should be estopped from asserting the suit limitations clause.

Many courts have accepted such argu-

ments under the proper facts: "The insurer cannot hold out the hope of an amicable adjustment of the loss, and thus delay the action of the insured, and then plead the delay, caused by his own conduct, as a defense to the action when brought," from the 1973 Louisiana Court of Appeals ruling in *Weinberg Inc. vs. Aetna Casualty & Surety Co.*, which relied on the 1951 Louisiana court decision in *Brocato vs. Sun Underwriters Insurance Co.*

In the *Weinberg* case, the court reversed a ruling in favor of the insurance company on a suit limitations clause in a policy covering theft of goods, when there was evidence that the insurance company had requested additional supporting documentation on the claim and told the policyholder that the time needed to obtain the documentation would not be a problem.

In other cases, however, policyholders have been unable to establish that their insurance companies' conduct supported such a finding.

In the case of *North American Foreign Trading Corp. vs. Mitsui Sumitomo Insurance USA Inc.*, for example, the Southern District Court of New York addressed insurance coverage for the policyholder's loss of cordless telephones from a warehouse. The court held in 2006 that under New York law, investigation, communication or settlement negotiations do not waive the limitations period, and there is no duty even to advise the policyholder of the suit limitations clause. The court held that the policyholder would need to show it had been misled or lulled into failing to bring suit in order to avoid the limitations period, and found no such evidence in that case.

Thus, policyholders should be vigilant about any suit limitations deadlines on its claims under the policy language and applicable law. Furthermore, rather than relying after the fact on arguments that continued negotiations lulled it into overlooking the suit limitations clause, a much better course for a policyholder, in jurisdictions that so allow, is to request that the insurance company sign an agreement expressly delaying the limitations period to permit the negotiations to proceed.

This should remove any uncertainty associated with implying waiver by conduct under varying standards in different states. If the insurance company refuses to grant an extension, this may well be an indication that the policyholder should reassess how well it believes the negotiations are going. Of course, the filing of a lawsuit prior to the expiration of the period also avoids any suit limitations problems.

Terrorism: Recognizing foreseen maritime attacks

CONTINUED FROM PAGE 4

sengers to move freely.

Mr. Willis pointed out, however, that terrorism involving maritime targets has been relatively rare in the past 30 years. In fact, seaborne strikes have accounted for only about 2% of all international terrorist incidents during that period.

That's because operating at sea requires more resources than attacking targets on land, he said. Terrorists must be able to sail ships, mount an attack from the water and possess certain specialist abilities such as knowing how to set up underwater explosives.

But according to the report, maritime attacks could become more attractive. For example, heightened security measures on land could make terrorists view waterborne operations in a more favorable light. In addition, given that 80% of global freight moves by sea, seaborne attacks have the potential for considerable economic disruption.

While the report notes that an event such as the detonation of a nuclear bomb smuggled into a harbor via a container ship would result in a huge maritime disaster, the likelihood of such an attack is far lower than the occurrence of a less catastrophic but still damaging attack on a cruise ship or ferry. Both would be vulnerable to attacks via such methods as bombs or contamination of food supplies, noted Mr. Willis. Cruise ships resemble hotels in that they are soft targets and are associated with leisure, he added.

Turning to another aspect of maritime terrorism, Mr. Willis played down the possibility that modern-

day pirates and terrorists are working together.

"There's no empirical evidence" that there is cooperation between the two criminal groups, he said. In fact, their motivations and objectives often conflict, he said.

'The potential net of defendants could be quite large.'

Henry H. Willis, Rand Corp.

In his remarks, Mr. Willis also said current tort law offers poor guidance on how companies that are terrorist targets can avoid negligence. There's ambiguity regarding whether specific attacks are foreseeable, according to the report.

"The potential net of defendants could be quite large," Mr. Willis told his audience.

The report itself urges policymakers to take a close look at civil liability questions associated with terrorism. They "should carefully review the scope and rationale of third-party liability for terrorist attacks, both in regard to providing reasonable compensation to victims and in setting appropriate incentives for prevention and mitigation efforts by private firms. More broadly, policymakers should consider the pros and cons of liability as a method of dealing with terrorism risks and injuries."

"Maritime Terrorism: Risk and Liability" is available at www.rand.org.

Environment: Remediation requirements challenging

CONTINUED FROM PREVIOUS PAGE

which will have a fair chance to be offered in the next couple of years."

The E.U. directive calls for restoring a polluted area to its "base line condition" prior to the damage.

However, other remediation requirements are posing a challenge for insurers. For instance, how insurers would quantify and underwrite so-called "complementary remediation," which is supporting habitat or wildlife in a new area when a damaged site cannot be restored, "is very tricky," said Pierre Sonigo, general secretary of the Brussels-based Federation of European Risk Management Assns. and a member of CEA's working group. "If a species has been completely destroyed, how can you replace it? So we are talking about other ways of compensating for that."

Also difficult is providing "compensatory remediation" in which a polluter must compensate for interim losses while damaged natural resources return to their

baseline condition.

"None of the member states have come up with their defined formulas...for compensatory remediation; how they would actually look for that to be calculated," said David Simpson, vp, environmental insurance, in London for XL Insurance. "From an insurance perspective, it just provides uncertainty and a challenge for us to be able to calculate what the ultimate losses would be arising from that."

Currently in Europe, corporate property and casualty policies cover environmental damage, but only for sudden and accidental damage, experts said. Those policies do not cover past pollution, gradual pollution or first party clean-up.

For such coverage, companies need to turn to specialty environmental insurers such as XL Capital Ltd., American International Group Inc. and ACE Ltd.

"Typical insurance has a significant gap in coverage associated with the environmental liability, and the market to fill that gap is developing," said Karl Russek, senior vp, environmental risk, for the ACE European Group in London.

Michael T. Sharkey and Barry J. Fleishman are partners with the law firm of Dickstein Shapiro L.L.P. in Washington. The opinions expressed in this article are those of the authors and not necessarily those of any of their clients.



Mr. Fleishman

Lockhart: Suit accuses HRH of improper termination, defamation

CONTINUED FROM PAGE 3

According to the lawsuit Mr. Blumenthal later filed against HRH, the brokerage not only took undisclosed overrides on professional liability placements for PWH, but also agreed to pay allegedly illegal rebates ranging from \$30,000 to \$78,000 to Women's Health USA Inc., an Avon, Conn., administrator that handled PWH policy renewals.

HRH fired Mr. Lockhart in May 2005, citing his involvement with PWH. Mr. Lockhart signed a resignation letter under protest and denied that the brokerage had the proper cause required under his employment contract to terminate him, the suit says.

In an 8-K report filed the day of the termination with the Securities and Exchange Commission and in an internal memo to employees, HRH reported that the resignation stemmed from potentially improper payments to three organizations. The 8-K and internal memo, which do not name the organizations, also reported the firing of another HRH employee who handled the three accounts at the time Mr. Lockhart headed the Hartford office and the Northeast region.

In August 2005, HRH agreed to pay \$30 million to settle Mr. Blumenthal's allegations that it had

steered clients starting in 1998 to insurers paying it the highest contingent commissions. The settlement incorporated a separate consent order with the state's insurance department in which HRH agreed to pay a \$250,000 fine to head off charges that it had—among other things—paid illegal rebates to WHUSA.

Mr. Lockhart now alleges in his defamation suit that his firing amounted to an effort by HRH to blame him not only for the PWH situation—a “narrow tangential issue” in the overall Connecticut investigation—but for the larger contingent commission settlement.

HRH's 8-K filing and internal memo mischaracterized Mr. Lockhart's termination, falsely painting him as a “culpable individual and a target of the investigation who stepped down voluntarily because of his involvement,” the suit says.

HRH's 8-K filing and employee memo, and public comments by Mr. Vaughan and other HRH officials after Mr. Lockhart's termination, also created the impression that Mr. Lockhart was responsible for HRH actions that led to the \$30 million settlement, his suit charges.

An internal HRH media question-and-answer document prepared for

discussing the settlement included the following question, according to the suit: “Does the agreement resolve all the past questions relating to the state of Connecticut, including those surrounding former president and COO Robert Lockhart?”

The answer, the suit says, was “From our view, there are no further questions relating to past issues of broker and agent compensation. The situation referred to, we voluntarily reported to state regulators.”

Several news media accounts incorrectly stated that Mr. Lockhart had resigned in connection with the client-steering investigation, the suit says.

“HRH's silence in the face of these mischaracterizations demonstrates its intent that Lockhart serve as a scapegoat for the investigation and settlement,” the complaint charges.

Furthermore, HRH's voluntary disclosure of the PWH payments to Connecticut regulators—while it failed to disclose what the suit contends were similar payments to other HRH clients—allowed the broker to use Mr. Lockhart's firing as a bargaining chip in its settlement talks with Mr. Blumenthal, the suit contends.

“Lockhart's termination was presented to Connecticut law enforce-

CONTINGENT COMPENSATION

Major developments in the recent history of Hilb Rogal & Hobbs Co.

1997-1998: Former Hilb Rogal & Hobbs Co. Chief Executive Officer Andrew Rogal oversees contingent compensation agreements with several insurers.

May 1999: HRH acquires American Phoenix Corp.; Robert Lockhart appointed head of HRH's Hartford office and Northeast regional director; Martin L. Vaughan III named HRH's chief operating officer.

2003: Mr. Vaughan promoted to chairman and CEO of HRH; Mr. Lockhart named president and COO.

November 2004: Connecticut Attorney General Richard Blumenthal subpoenas HRH for information about its contingent compensation practices.

May 24, 2005: HRH provides information in response to Connecticut AG's subpoena and voluntarily discloses alleged improper payments to Physicians for Women's

Health.

Health.

May 25, 2005: HRH terminates Mr. Lockhart, citing his involvement with the PWH account.

July 1, 2005: HRH files arbitration complaint to void Mr. Lockhart's employment contract.

Aug. 31, 2005: Mr. Blumenthal simultaneously sues and settles with HRH over compensation and other alleged abuses; HRH agrees to pay \$30 million in client restitution and a \$250,000 fine for allegedly illegal rebates to PWH.

May-August 2005: HRH issues documents and makes public comments that Mr. Lockhart says create the false impression that his actions were responsible for HRH's \$30 million settlement.

August 2006: Mr. Lockhart sues HRH for defamation.

ment and regulatory officials as a pre-emptive measure to forestall the investigation and to absolve HRH from any sanction by shifting the blame to a convenient target,” the complaint charges.

The defamation action seeks \$30

million in damages.

HRH has continued to pay Mr. Lockhart's \$365,000 annual base salary since his termination, but has not provided the 401(k), health insurance and other benefits called for in his contract, court papers say.

New Orleans: RIMS confident Big Easy will be ready for conference

CONTINUED FROM PAGE 3

for conference planners.

A key concern is airline service.

With 108 daily flights between New Orleans and 32 cities, airline service is at 70% of its pre-Katrina level, a convention bureau spokeswoman said.

But that was insufficient for conference planners at Microsoft Corp. of Redmond, Wash. Microsoft has canceled three conferences it had planned to hold in New Orleans within weeks of each other, starting in May 2007. The events were expected to draw all together 30,000 attendees, a Microsoft spokesman said.

Although the groups would not have converged on the city simultaneously, Microsoft was concerned whether airline service for overseas travelers would be adequate, the spokesman said. While he could not say exactly how many international travelers were expected, he said it was “a significant number” but less than half of the expected attendees.

The 17,000 attendees, including exhibitors, who participated in the American Library Assn.'s annual conference in New Orleans June 22-28 had no problems arranging flights, said Deidre Irwin Ross, director of conference services for the Chicago-based association.

For the 25,000 to 30,000 atten-

dees expected at the National Assn. of Realtors conference in New Orleans Nov. 10-13., arranging air travel “hasn't seemed to be the problem we thought it might be,” said Doug Orr, director of convention marketing and communications for the Chicago-based organization.

Mr. Liebowitz said airlines have assured RIMS that they will be able to handle the air travel volume generated by RIMS conference attendees. The conference is expected to draw between 10,000 and 13,000 attendees, including exhibitors, he said.

If it does, conference attendance next spring would at least equal the event's 2004 and 2005 attendance and could double the weak 2006 draw (BI, May 8).

The convention bureau also is working with airlines to tailor their service to accommodate travelers for specific conferences, the spokeswoman said.

The Microsoft spokesman said no other issues, such as hotel room availability, played into the company's decision to pull out of New Orleans.

New Orleans has about 28,000 hotel rooms, 10,000 fewer than before Hurricane Katrina, the convention bureau spokeswoman said.

But hotel room availability was no problem during the ALA conference, Ms. Ross said. For its peak night, the organization was able to block the 7,600 rooms it needed, she said.

The NAR reserved the 8,500 rooms it requested for its anticipated peak night next month and has added more since then with “no

trouble,” Mr. Orr said.

RIMS already has blocked the 6,620 rooms it needs for its peak night, Mr. Liebowitz said.

As New Orleans has tried to rebuild over the past 14 months, Mr. Liebowitz and RIMS personnel have visited the city to gauge its progress. Mr. Liebowitz said he has felt safe around the convention center, the nearby hotels and the French Quarter.

During a visit in January, “I walked the streets late at night and felt very secure,” he said.

Since Katrina, the number of violent crimes in the city has fallen, but the rate of violent crimes per 100,000 inhabitants has deteriorated significantly from levels that already had exceeded national averages, according to figures from the U.S. Department of Justice and the New Orleans Police Department.

But Mr. Liebowitz said, “There are no problems” in the areas where conference attendees will be concentrated. He said the city has assured him that the French Quarter police precinct, which includes the convention center and nearby hotels, is fully staffed and the number of police personnel per resident far exceeds the pre-Katrina ratio because of the city's smaller population.

A convention bureau spokes-



‘New Orleans is as safe now as it was pre-Katrina for conference attendees’

Michael Liebowitz, Risk & Insurance Management Society Inc.

woman agreed with that assessment, but she and the police department could not provide figures on police staffing.

The June deployment of National Guard and state police troops to patrol the neighborhoods devastated by the hurricane has allowed the city police department to beef up its patrols elsewhere, including crime “hot spots” outside of the business district, the convention bureau spokeswoman said.

The city and RIMS also have developed separate disaster management plans for the show.

“New Orleans is as safe now as it was pre-Katrina for conference attendees,” Mr. Liebowitz said.

Ms. Ross said that conference attendees reported “no incidents at all” during the ALA conference.

Meanwhile, \$60 million of renovations at the RIMS show site—the Ernest N. Morial Convention Center—should be completed next month, a convention bureau spokeswoman said. Every surface of the “brand new” center has been replaced with no loss of floor space, she said.

The center was heavily damaged when thousands of New Orleans residents took refuge there after Katrina struck.

Crime down in New Orleans but still worse than average

The nationwide murder rate in 2005 was 5.6 per 100,000 inhabitants. In New Orleans, the 2005 rate was 41.6, using the city's pre-Katrina population of 485,000. Through Oct. 17 this year, there have been 121 murders in the city, compared with 202 for all of 2005. But because of New Orleans' smaller population of 200,000, the city's 2006 murder rate to date is 60.5 per 100,000, and it is on pace to exceed 76 per 100,000 for the full year, according to crime statistics.

Reports of violent crime of all types in the city fell early this

year, according to the latest data.

There were 364 reported incidents during the first quarter this year, compared with 1,008 for the year-earlier period. Those figures translate into violent crime rates of 182 per 100,000 for the first quarter of 2006 and 207 for the year-earlier period.

But if the number of violent crimes remains consistent throughout each quarter this year, the full-year violent crime rate for New Orleans would be more than 1.5 times the 2005 nationwide violent crime rate of 469.2.

—By Dave Lenckus

UnitedHealth: Stock-options probe prompts changes at health insurer

CONTINUED FROM PAGE 1

health insurer itself—could face civil and criminal charges by regulators.

Dr. McGuire, who has led UnitedHealth since 1991 and helped grow revenues to \$70 billion from \$600 million in that time, stepped down last week as chairman and as a UnitedHealth director amid allegations of improper options practices.

Dr. McGuire will continue in his CEO post until his departure from the company on or before Dec. 1, in order to "assist in an orderly transition to new leadership," UnitedHealth said in a statement.

Stephen J. Hemsley, UnitedHealth's president and chief operating officer since 1999, was selected by the company's board of directors to succeed Dr. McGuire as CEO.

Richard T. Burke, the founding CEO of UnitedHealth, replaced Dr. McGuire as nonexecutive chairman.

Also, William G. Spears, a member of the board, and David J. Lubben, general counsel and secretary, have resigned, UnitedHealth said.

The departure of more company executives remains a possibility, UnitedHealth noted. UnitedHealth's board has instructed Mr. Hemsley to "review the conduct of senior executives in the legal, human capital and accounting functions of the company and recommend any additional personnel actions to the board should they be necessary," the insurer said in its statement.

At the same time UnitedHealth announced its sweeping management changes, it released findings of

an independent review of the company's stock option grant program, which concluded that many option grants awarded to executives between 1994 and 2002 were backdated (see related story). In one 1999 instance, grants of 1 million options and 500,000 options to Messrs. McGuire and Hemsley, respectively, were "likely backdated," though the report notes Mr. Hemsley "had little or no role in the negotiation of, or the process leading up to, the option award in his contract."

In a conference call with analysts and investors last week, UnitedHealth's Mr. Hemsley said, "We are deeply disappointed by, and apologize to you, for the shortcomings in the stock option program."

UnitedHealth announced additional reforms to bolster the company's corporate governance, following steps taken by the board earlier this year (see box).

Also last week, UnitedHealth posted earnings of \$2.97 billion for the first nine months of 2006—up from \$2.31 billion in 2005—but said its filing of financial reports for the past two quarters with the Securities and Exchange Commission will be delayed due to the options probe and company changes.

New York-based Moody's Investors Service cut the company's debt ratings a notch, and downgraded its UnitedHealthcare Insurance Co. unit's financial strength rating to A1 from Aa3, following the announcements. Other rating agencies placed the company under review.

"It is only a few people that have

GOVERNANCE CHANGES

UnitedHealth Group Inc. announced several changes to bolster its governance procedures.

■ Five board seats will be filled by new independent directors over the next three years in order to bring "new experiences, expertise and perspectives into its membership."

■ A new senior executive position, "chief legal officer," will be established.

■ The current "chief ethics officer" and "chief administrative officer" positions will be made into senior executive positions.

■ A separate position of "secretary to the board," will be established to ensure the board's "activities and recordkeeping are in line with best corporate practices."

left and it's not a wholesale change in management—that's the good news," said J. Paul Newsome, vp and senior equities analyst with A.G. Edwards & Sons Inc. in St. Louis. Dr. McGuire's departure represents "a clear loss" to the company, "but companies like UnitedHealth are vast companies, and the ability of one man or woman to really change the prospects is remarkably limited."

"The bad news," Mr. Newsome said, "is the special report is a pretty harsh read, with pretty clear evidence of backdating, or having backdating as a policy at the firm in some cases."

UnitedHealth may face financial penalties from the SEC as a result of its previous stock options policy, said some observers.

"A resolution of the options investigation will likely result in the payment of a fine to the SEC (in the range of several million dollars), but the bigger monetary risk could be the payment of additional taxes, interest and penalties to the IRS for the underpayment of taxes over a multiyear period," said Carl McDonald, an analyst with CIBC World Markets, in a research note.

In regulatory filings, UnitedHealth has said it faces inquiries into its options practices from federal authorities that include the SEC, Internal Revenue Service and the U.S. Attorney for the Southern District of New York.

Additionally, Minnesota Attorney General Mike Hatch earlier this month won the right to conduct a separate investigation into UnitedHealth's executive compensation practices—a ruling UnitedHealth said it would appeal.

"The dollars involved, the profile of this CEO in the industry, as well as the industry placement of the company, are what make this investigation significant," said Jacob S. Frenkel a former SEC enforcement lawyer who is now a partner at Shulman, Rogers, Gandal, Pordy & Ecker P.A. in Rockville, Md.

"The allegations that already are public suggest that SEC charges are more likely than not," said Mr. Frenkel. "I would be shocked to see criminal charges against (UnitedHealth), but it's much too early to tell how this will play out with the individuals."

"The number of incidents and the nature of the backdating allegations are such that joining the ranks of Converse and Brocade is not out of

the question," Mr. Frenkel said. Executives at Brocade Communications Systems Inc. and Converse Technology Inc. have been charged by federal authorities with securities fraud as part of a broad regulatory probe into stock-option practices.

"On balance, that report does not cast Mr. McGuire in a good light," said Michael L. Koenig, a former federal prosecutor and now a defense attorney with the firm of Dewey Ballantine L.L.P. in Washington.

Mr. Koenig predicted that the outside report will intensify investigations of UnitedHealth, as it "provides a roadmap" for prosecutors and regulators. Also, it "contains information that can only be viewed as...helping the plaintiffs," bringing shareholder securities lawsuits against UnitedHealth, he said.

An SEC spokeswoman declined to comment on whether the office plans to pursue charges against UnitedHealth Group Inc., Mr. McGuire or other executives. A spokeswoman for the U.S. Attorney's Office for the Southern District of New York said the office "cannot confirm or deny the existence of an investigation."

In May, UnitedHealth said it might be forced to restate several years of financial results stemming from improper oversight of options grants, cutting earnings by as much as \$286 million.

However, it has since withdrawn that May estimate. Last week, a company spokesman said UnitedHealth "does not have an estimate of the maximum potential impact and probably won't until it files its late second-quarter and third-quarter 10Qs, for which there is no pronounced timing."

Controls 'inadequate:' Review

UnitedHealth Group Inc. at times backdated stock options, according to an outside review of the company's executive compensation practices.

Released last week, the review—commissioned shortly after the Minnetonka, Minn.-based health insurer learned that it was the subject of a Securities and Exchange Commission inquiry into the company's stock option granting process—was conducted by a special committee of UnitedHealth's board of directors and its independent counsel, Wilmer Cutler Pickering Hale & Dorr L.L.P.

The WilmerHale team, led by William R. McLucas, former SEC director of enforcement, culled documents from officers and employees of UnitedHealth, amounting to more than 26 million pages. They also interviewed more than 80 current and former employees, current and former directors and former auditors.

The report focused on 29 distinct option grants made by the company from 1994 through 2006, which comprised nearly 85% of the options UnitedHealth issued in that period.

The report said that the measurement dates used by the company for most of the 29 options grants "were not correct, and

many of these grants were likely backdated," and option grants made to newly hired employees and employees receiving promotions "were backdated as a matter of policy."

The report said UnitedHealth's internal controls related to option grants were "inadequate," and senior management "failed to ensure that option granting practices were appropriate."

The report also said disclosures made to federal regulators about stock option granting practices and related accounting were "not accurate in certain respects."

Copies of the report have been provided to the SEC and the Department of Justice, UnitedHealth said.

Additionally, UnitedHealth said in a statement the company's outgoing chief executive, William W. McGuire, and his successor, Steven J. Hemsley, have voluntarily agreed to reprice all options awarded through 2002 to the annual high share price for each year and to take any other appropriate action to eliminate any possible financial benefit from options-related issues identified in the report.

Similar actions are expected from other UnitedHealth senior executives, the company said.

—By Rupal Parekh

Willis: Offer for MMC turned down

CONTINUED FROM PAGE 1

and took it private before raising \$270 million in an initial public offering in 2001. KKR eventually sold its shares in Willis, although it still has a seat on Willis' board. Compared with its IPO share price of \$13.50, Willis' shares have soared, closing at \$37.55 on Friday.

After an exchange of letters between the companies, MMC rejected Willis' offer, the source said.

A spokesman for Willis said the brokerage does not comment on market speculation. An MMC spokeswoman declined to comment. A spokesman for KKR did not return phone calls.

More than five times larger than Willis, MMC reported \$11.65 billion in total 2005 revenues and is the world's largest insurance brokerage with brokerage revenues of \$10 billion. Willis, on the other hand, reported \$2.27 billion in total revenues in 2005 and is the world's third-largest broker with \$2.19 billion in brokerage revenues.

Despite the size difference, many observers say such a deal is credible.

"It is credible in the sense that Willis' management and KKR have a long history and a very successful history working together," said John L. Ward, chief executive offi-

cer of Cincinnati-based Cincinnati Partners L.L.C., an advisory firm that specializes in the insurance industry. "I fully believe that KKR would have an interest in backing Willis and that Willis would have an interest in making an informal offer for Marsh," he said, noting that a potential MMC acquisition is not that large of a transaction for KKR.

"KKR is experienced in identifying and acquiring undervalued and/or troubled companies, fixing and flipping them," said Timothy J. Cunningham, a principal in the insurance brokerage advisory firm OPTIS Partners L.L.C. in Chicago. "Given KKR's prior history with Willis, its turnaround expertise and deep capital resources, and given Willis' skills on the distribution side, such a deal is very believable."

Cross-selling opportunities

The source close to the offer said that part of the motivation behind the bid was Willis' desire to capitalize on cross-selling opportunities it saw within MMC's various operating units, including Putnam Investments and Mercer Human Resource Consulting. Cross-selling is a key feature of Willis' sales culture that Chairman and Chief Executive Officer Joe Plumeri implemented when he joined the brokerage six years

ago.

While MMC's turnaround plan under its new management also calls for a more integrated and seamless structure within the organization, analysts have questioned whether MMC's operating units would perform better and be worth more as stand-alone companies.

Michael G. Cherkasky, president and CEO of MMC, rejected such an idea during MMC's second-quarter analysts call in August, saying "it's too early in the recovery process for us to discount what we think are the substantial advantages of being one company."

MMC announced a month later that it was exploring alternatives for Boston-based Putnam (BI, Sept. 25). That move followed earlier divestitures of other noncore units within MMC, including its wholesale unit Crump Group Inc. and its majority interest in claims management firm Sedgwick CMS.

Observers said they were not surprised that MMC rejected Willis' offer.

"Marsh has been through a lot in the last couple of years. But their problems are largely behind them at this point, although challenges remain," Mr. Ward said. "From Marsh's point of view, there's a lot

Continued on next page

Berkshire: Makes proposal to take on Equitas from Lloyd's of London

CONTINUED FROM PAGE 1

Lloyd's will pay a further £18.0 million (\$33.4 million).

Hugh Stevenson, chairman of Equitas, said that on completion of phase one of the deal, a small return premium will be paid to names. While the deal does not require approval from names, it does need approval from the trustees of Equitas, and a series of meetings with names will be held between now and March next year, he said.

The Financial Services Authority, which regulates insurance in the United Kingdom, also must approve the transaction before March if it is to proceed.

Mr. Moser said he believed the deal represented a "win" for all parties involved, and validated Equitas' strategy of striking settlement deals and commutations in order to shrink its liabilities.

In a statement, Warren Buffet, chairman of Berkshire Hathaway, said that when Equitas was launched "skeptics were many and vocal."

But, he said, the management of the runoff enabled the proposed deal to be struck.

"Much, however, remains to be done," he said. "Putting Berkshire Hathaway's Gibraltar-like strength behind the remaining problems—which will take many decades to resolve—eliminates any remaining worries for all concerned."

In the wake of the announcement, Standard & Poor's Corp.

revised its A rating of Lloyd's to Positive from stable, and said that the deal likely would "remove any realistic potential for reserve inadequacy at Equitas Ltd. to undermine confidence in Lloyd's."

Lloyd's, which would make a total contribution of about £90 million (\$167.0 million) to National Indemnity as part of the transaction, described the deal as "a significant milestone" that will "close a chapter" in its history.

For Berkshire Hathaway, the Equitas deal is a continuation of a theme of acquiring and managing runoff businesses, albeit on a much larger scale than the Converium transaction announced earlier in the week (see related story).

"Its size is probably the most

notable aspect," said Donald Thorpe, senior director of Fitch Ratings in Chicago. "This one is pretty big and it will probably take a while to digest, even for a company the size of Berkshire Hathaway."

The strategy involved in both the Equitas and Converium deals is to generate enough investment income to offset any potential increase in liabilities, he said. "That's what I think the economic play is," Mr. Thorpe said.

Even if the Equitas liabilities rise to their full limit and Berkshire Hathaway has to pay all claims before generating enough investment income to cover the losses, the company has more than enough income to weather the losses, Mr. Thorpe said. Berkshire Hath-

away's liability is capped at \$5.7 billion during the first phase of the Equitas transaction; the company's 2006 first half pre-tax profits were \$7.2 billion, he noted. "If you think about the worst-case scenario, it's still less than half of one year of Berkshire Hathaway's earnings," Mr. Thorpe said.

The Equitas deal, though, is evidence that Berkshire Hathaway has a strong opinion on the direction of asbestos liability, he said. "It does seem Berkshire Hathaway is rather bullish on asbestos liability," Mr. Thorpe said. "Of course, the risk is what comes out of the woodwork that we don't know about."

Fitch has affirmed its ratings on Berkshire Hathaway and National Indemnity, he said.

Converium hopes sale of U.S. operations will boost rating

Berkshire to pay \$295 million for unit in run off

By SARAH VEYSEY and GLORIA GONZALEZ

ZUG, Switzerland—The \$295 million sale of Converium Holding Ltd.'s North American reinsurance operations to a unit of Berkshire Hathaway Inc. is likely to pave the way for the Swiss company to achieve its stated aim of regaining an A-range financial strength rating, and the deal is good value for Berkshire Hathaway, experts say.

Zug, Switzerland-based Converium announced last week that it

would sell its U.S. operations, which are in runoff, to National Indemnity Co. for \$95 million in cash and \$200 million debt. Converium will not provide any indemnity or guarantee of the reserves of the operations.

Converium said in a statement that the deal would significantly reduce its exposures, as National Indemnity will assume all of Converium's North American operations' reinsurance liabilities—which stood at \$1.06 billion at June 30, 2006—as well as \$200 million of debt issued by Converium Holdings (North America) Inc.

Converium said it expected the transaction would reduce its shareholders' equity by \$135 million to \$1.66 billion.

"With this transaction, we have successfully delivered on our promise to achieve finality regarding Converium's U.S. operations through a clean-cut sale," Inga Beale, Converium's chief executive officer said in a statement.

Converium placed its North American reinsurance operations into runoff after it was downgraded by rating agencies following large losses in 2004. That loss was caused largely by reserve increases for U.S. casualty business written between 1997 and 2001.

Standard & Poor's Corp. said it had placed its BBB+ ratings of Converium on positive credit watch after the announcement of the proposed sale.

Moody's Investors Service Inc. also announced it had placed its

Baa1 financial strength rating of Converium "on review for possible upgrade" in the wake of the reinsurer's announcement.

Fitch Ratings Ltd. said it placed its BBB- rating of Converium on a positive watch and said that on completion of the deal, the rating is likely to be affirmed or upgraded by two notches.

"I think it's a positive for Converium," said Donald Thorpe, senior director of Fitch Ratings in Chicago. "It removes the overhang from Converium. There was concern the liabilities would grow and that there would be further losses from the U.S. operations. Now Converium has insured against that."

A.M. Best Co. Inc. said its B++ rating of Converium remained

unchanged after the proposed sale announcement, but said the deal could have a positive impact on the group's risk-adjusted capitalization.

The deal also is a good one for Berkshire Hathaway, experts said.

Berkshire Hathaway has extensive experience managing runoff operations, which bodes well for its ability to manage the Converium assets, analysts say.

"Berkshire's skills will be helpful in extracting value here," said Bruce Ballentine, lead analyst on Berkshire Hathaway for New York-based Moody's.

Even if the liabilities grow, Berkshire Hathaway hopes they will take long enough to pay to overcome the losses in investment income, said Fitch's Mr. Thorpe.

CONTINUED FROM PREVIOUS PAGE

of upside to continuing to tackle the problems and build the franchise back up."

MMC divesting some of its non-core operations "is a much more likely outcome from this than a re-up of the Willis/Marsh discussion," he said.

Keith F. Walsh, an analyst with Citigroup Research in New York, noted in a report last week that while he deems such a merger as "credible," he does not believe MMC's management "is interested

in a near-term combination, as they view margin issues as fixable."

"From MMC's point of view, my guess is that the approach was viewed as neither timely nor appropriate," said John Wicher of San Francisco-based John Wicher & Associates Inc., which provides consulting and investment banking advisory services to the insurance industry. "MMC has spent its time in the penalty box, dusted itself off, seems focused on executing its plan for a proper value proposition with its customers and markets, while selling assets that are not strategic

priorities. There's never any certainty, but the shareholder may be better served by staying on the MMC pony as compared to selling as full value might not be realized for another six to eight quarters."

Other observers point out that a combined firm would hold an estimated 40% market share and, even if the deal were made, it likely would have found an unfavorable reaction from regulators and the marketplace.

"You put that much power in terms of market share in the hands of one brokerage firm, I think it's just going to raise regulatory eyebrows...especially in the wake of the Spitzer investigations," said a spokesman for the Property Casualty Insurers Assn. of America in Des Plaines, Ill.

"We believe the Federal Trade Commission, customers and property casualty companies would have a problem with this proposed merger," Credit Suisse analysts wrote in a report last week.

"It would have been a difficult transaction to have sold to the marketplace and the regulatory community," said Mr. Ward.

Other analysts, citing MMC's current position, did not rule out an acquisition in the future.

"I don't think it's unlikely," said Gretchen Roetzer, a credit analyst with Fitch Ratings in Chicago. "One thing we know for sure it that Marsh has been looking for options, including Putnam and whatever else is on their list," she said. "Things need to be improved upon (at Marsh). How do you get there? This may be a reasonable way to do it—maybe not the best way, but it is one way."

MMC's board could change its view on selling the firm, noted Cliff Gallant, an equity analyst with Keefe, Bruyette & Woods in New York, who issued a report last week discussing the potential for a combined brokerage he called "The Marsh Willis Cos." "The benefit to selling is that you'd realize some immediate value" while giving up some of the long-term potential, he said.

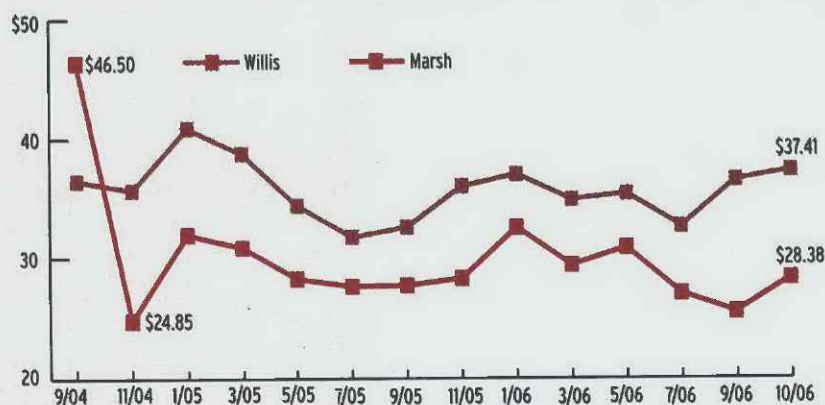
"It depends on how things go over the next year," Mr. Gallant said. If management cannot realize value, the board might feel like it needs to go in another direction.

"Knowing there's a bid out there,

I think it does put pressure on the current team to do something," he said.

In his report, Mr. Gallant envisioned a deal scenario where MMC shareholders would receive 0.47 shares of Marsh Willis stock for each MMC share, plus \$12.50 in cash, while Willis shareholders would receive 1.0 share of the combined brokerage's stock for each Willis share. KKR would pay \$4 billion in cash for 19% ownership of Marsh Willis, which would assume all debt.

MARSH & McLENNAN, WILLIS SHARES COMPARED



Source: New York Stock Exchange

ADVERTISER

INDEX

Issue of October 23

ADVERTISER	PAGE #
Aetna Corporate	5
AIG Corporate	24
American Express	9
Anthem	13R
Aon Corporation	2
Burnham Systems	16
Business Insurance	12, 13, 14, 15
Corporate Environmental Advisors	16
Insurance Overload	6
Lord, Bissell & Brook, LLP	7
UnumProvident	10
Zurich North America	11

News In Brief

CONTINUED FROM PAGE 1

said it planned to offer \$4 generics in several other states next year but customer demand led the company to move up the expansion, the company said in a statement. The 14 states where Wal-Mart's generics program will be available are: Alaska, Arizona, Arkansas, Delaware, Illinois, Indiana, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Texas and Vermont. Rival discount chain Target Corp. said it would match the \$4 price in 12 of the 14 states.

N.Y. contraception coverage law upheld

New York's Court of Appeals has ruled that social service organizations operated by the Roman Catholic Church and other religious groups must provide birth control coverage to their employees, even if they consider contraception a sin. The 6-0 decision resolves a lawsuit filed by Catholic Charities and nine other church-affiliated groups that claimed to be exempt from a 2002 state law that expanded health care coverage for women to include contraception, among other things, starting Jan. 1, 2003.

Plumeri recognized as insurance leader

Joe Plumeri, chairman and chief executive officer of Willis Group Holdings Ltd., has been named the 2006 Insurance Leader of the Year by the School of Risk Management division of the Peter J. Tobin College of Business of St. John's University in New York. The annual award recognizes leadership in the insurance industry either over several years or during the year of the award. The award will be presented at a dinner in New York on Jan. 17, 2007.

FM Global to disburse \$355M membership credit

Policyholders of Factory Mutual Insurance Co., which does business as FM Global, will receive a collective \$355 million membership credit beginning Jan. 1, 2007. The one-time distribution will be in the form of an insurance premium reduction and will

be disbursed to FM Global clients that renew their policies in 2007 and had policies in effect as of Sept. 30, 2006. This is the third membership credit the Johnston, R.I.-based insurer will have distributed to policyholders since 2001, the most recent occurring in 2004. Collectively, the three credits will be worth nearly \$1 billion, according to the insurer.

Softening trend in P/C market continues: CIAB

An analysis of Council of Insurance Agents & Brokers survey data by Lehman Brothers found that the commercial property/casualty market is continuing to soften. The average premium rates for all commercial accounts decreased 5.3% during the third quarter of 2006, compared with the same period a year earlier. But not all lines of coverage are softening; coastal property coverage, particularly in the Southeast, remained difficult to place.

R.I. grand jury indicts Beacon Mutual exec

A state grand jury has indicted David R. Clark, a former vp of loss prevention and underwriting for Beacon Mutual Insurance Co., according to Rhode Island Attorney General Patrick C. Lynch. The charges against Mr. Clark include insurance fraud, conspiracy to commit insurance fraud and intentionally accessing a computer to alter or destroy data, the attorney general said in a statement.

IRS sets pension contribution limits

The Internal Revenue Service is increasing the limits on contributions to defined contribution plans and the amount of benefits that can be funded through defined benefit pension plans in 2007. Among the increases, the maximum employee salary deferral to a 401(k) plan will rise to \$15,500 in 2007, up from \$15,000 in 2006 and the maximum total contribution, including employer contributions, to defined contribution plans will rise to \$45,000 per participant from \$44,000.

JLT wins London Olympic contract

The Olympic Delivery Authority announced that JLT Risk Solutions Ltd. has won the contract to act as insurance broker for the 2012 Olympic and Paralympic Games to be held in London and for the conversion of venues after the games.

Gen Re not targeted in federal ROA probe

Reinsurer to cooperate with investigation

By RUPAL PAREKH

OMAHA, Neb.—General Reinsurance Corp. is no longer a target in a federal prosecutor's probe of Reciprocal of America, Gen Re parent Berkshire Hathaway Inc. reported last week in a regulatory filing.

Omaha, Neb.-based Berkshire—whose Gen Re unit had served as the main reinsurer for ROA, a reciprocal insurer of physician, hospital and lawyer's professional liability risks that collapsed in 2003—said it learned of its exemption from the ongoing probe through a letter it received from the U.S. Attorney for the Eastern District of Virginia, Richmond Division.

Gen Re in March 2005 disclosed that it and four of its current or former employees, including a former president, had been subpoenaed in connection with the U.S. attorney's office investigation into Glen Allen,

Va.-based ROA, which is now in liquidation.

Several current and former Gen Re employees had been interviewed by the U.S. attorney's office and the Department of Justice in relation to the probe, Gen Re said.

In addition, one of the individuals originally subpoenaed had been informed by the U.S. attorney's office in Virginia that the individual was a central subject of the probe. But the U.S. attorney's office as part of its letter last week "confirmed that neither this individual, nor any current or former employee of General Reinsurance, is currently a target" of the investigation, Berkshire said.

Berkshire noted in its filing with the Securities and Exchange Commission that its Gen Re unit will "continue to cooperate fully" with the U.S. attorney's probe of ROA.

In June, a federal judge threw out civil racketeering charges filed against Gen Re by Virginia and Tennessee regulators that are liquidating ROA and its affiliates (E, June 26).

Wells Fargo to fund benefits via captive

Company receives tentative OK to fund employee benefit risks

By JERRY GEISEL

WASHINGTON—Financial services industry giant Wells Fargo & Co. has received tentative approval from the Labor Department to fund employee benefit risks through its Vermont captive.

San Francisco-based Wells Fargo wants to use its 16-year-old Vermont captive—Superior Guaranty Insurance Co.—to reinsure group life and long-term disability policies. The group life policies would be written by Minnesota Life Co.; while the LTD policies would be written by Metropolitan Life Insurance Co. Each insurer would retain 10% of the risk.

Wells Fargo, which has more than \$500 billion in assets, now uses Superior Guaranty to fund a wide variety of corporate proper-

ty/casualty risks. Last year, according to a filing with the Labor Department, Superior Guaranty generated more than \$57 million in premiums, making it one of Vermont's larger single-parent captives.

Final Labor Department approval of the application, which is considered likely, is expected in early November.

Last month, the Labor Department gave final approval to the proposal of consumer food products manufacturer H.J. Heinz Co. of Pittsburgh to fund group term insurance policies through its Vermont captive.

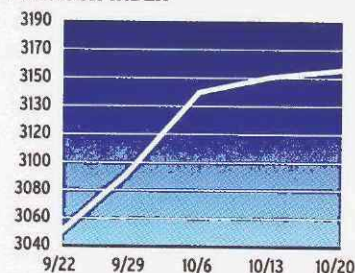
Additionally, the Labor Department earlier this year gave final approval to the U.S. affiliates of U.K. pharmaceutical manufacturer AstraZeneca P.L.C. to fund benefits through AstraZeneca's Vermont captive; and to AGL Resources Inc., an Atlanta-based natural gas distributor, to use the Hawaii branch of its British Virgin Islands captive to reinsure certain benefit risks.

Stock Index

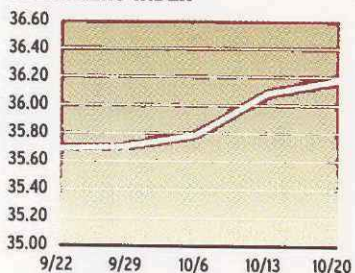
[10/16 - 10/20]

Up-to-the-minute data for all 85 companies that comprise the BI Stock Index can be found at www.businessinsurance.com.

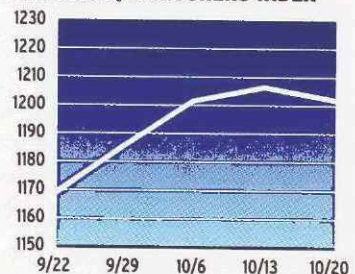
BI STOCK INDEX



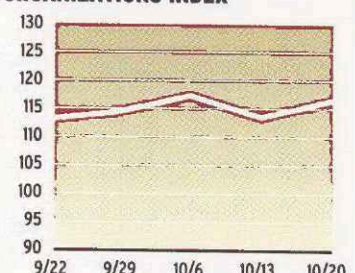
BI BROKERS INDEX



BI INSURER/REINSURERS INDEX



BI MANAGED CARE ORGANIZATIONS INDEX



Percentage change of BI Stock Index vs. key indicators

Indicator	Value	Change
BI STOCK INDEX	3153.51	0.10
DOW JONES	12002.37	0.35
S&P 500	1368.60	0.22

LARGEST GAINS

Fairfax Financial	9.49%
Sierra Health Services	4.49%
Humana Inc.	4.23%
UnitedHealth Group	4.00%
MMC	3.44%

LARGEST LOSSES

CNA Surety Corp.	-7.37%
UnumProvident	-5.06%
Markel Corp.	-4.66%
Axis Capital Holdings	-3.58%
Berkley Corp.	-3.40%

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

Purchase BI's online directories

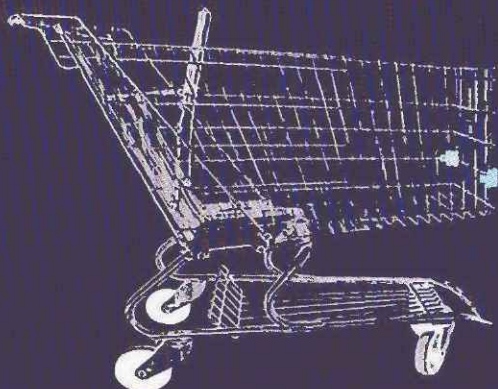
Business Insurance's online directories are now available for purchase as Excel files or as PDFs in the directories area of www.businessinsurance.com.

The Excel spreadsheets will allow you to sort the information and provide reports and contacts

that will be valuable to your sales and marketing staff.

The information that you have depended on for years is now available in a format that allows you to adapt it to your company's needs.

Business Insurance.com



Business Insurance END PAGE

Hollywood

Contributors: Louise Esola, Roberto Cenicerros, Regis Coccia, Dave Lenckus.

Safety rules stunt Chan

Hollywood can be such a stodgy place to work—with its frustrating overemphasis on safety, according to action film hero Jackie Chan.

Hollywood moviemakers go overboard in attempting to safeguard actors and stunt personnel, says Mr. Chan, who performs many of his own stunts and is involved in choreographing them. Fortunately for him, his creative juices are allowed to flow freely in Hong Kong, the moviemaking mecca for Asian audiences, Mr. Chan explains on his Web site, www.jackiechan.com/scrapbook.

"In Hollywood, I am restricted when it comes to action and stunts," Mr. Chan explains. "There are so many safety and insurance rules to follow! I know that they want to make sure that I'm safe when I do my stunts, but sometimes they insist that I use protective gear for even simple things, and that is frustrating. It takes so much time!"

But when filmmaking in Hong Kong, "we just go ahead and do what needs to be done," Mr. Chan notes. "There is no safety captain on the set; I use my own stunt team because they have experience and I trust them to make the action and stunts safe."

ZUMA PRESS

Spitzer seeing green despite probe

Despite his far-reaching investigations into the insurance industry, New York Attorney General Eliot Spitzer clearly has not estranged everyone in the market.

In his campaign to become the next governor of New York, Mr. Spitzer has had contributions from several individuals and organizations with ties to the industry.

Mr. Spitzer has vowed not to accept money from people his office is investigating, but that stipulation has not prevented him from receiving contributors from the following: the Independent Insurance Agents & Brokers of New York, which gave \$1,500; the Professional Insurance Agents of New York Political Action Committee, which contributed \$5,000; the Life Insurance Council of New York PAC, which gave \$13,200; and the Medical Liability Mutual Insurance Co. PAC, which gave \$17,000, according to the New York State Board of Elections.

Other major contributors are the law firm Boies, Schiller & Flexner and its high-profile partner, David Boies. The firm gave Mr. Spitzer \$10,000, while David and Mary Boies together contributed \$27,000 in donations during 2004 and early 2005.

That would not be so surprising but for one fact: Mr. Boies and his firm are defending Maurice R. Greenberg, the former head of American International Group Inc., against fraud charges leveled by Mr. Spitzer.

By the way, Mr. Greenberg and his wife, Corinne, did not support the attorney general's campaign; they each donated \$2,000 to Mr. Spitzer's Republican rival, John Faso.



CONNECTICUT CRUSH

Corynthia D. Smith, No. 44, makes a tackle for the Connecticut Crush of the National Women's Football Assn.

Authorities throw flag at injured ballplayer's comp claim

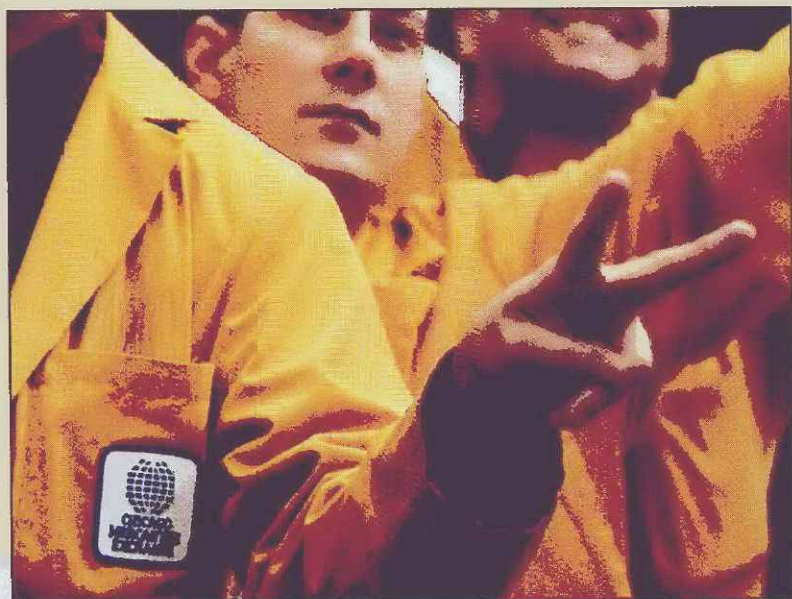
While alleged injuries kept away a workers compensation claimant from her job as a youth services officer at Connecticut's Juvenile Training School in Middletown, they apparently weren't severe enough to keep her off the football field for the National Women's Football Assn.

Inspectors from Connecticut's Chief State's Attorney's Office arrested 34-year-old Corynthia D. Smith last week for fraud and forgery.

Ms. Simpson claims she injured her neck, back, and knee when she broke up a fight between juveniles, an affidavit states. But the inspectors found that Ms. Simpson, who played as defensive and offensive lineman for the Connecticut Crush, was making a number of tackles instead of recuperating from work injuries.

In addition to collecting benefits while playing football, the warrant alleges that Ms. Simpson altered her expected return-to-work date on a workers comp form. After her arrest she was released on a promise to appear for arraignment on Oct. 30.

The charges against her carry a combined 25 years incarceration. But a press release from Connecticut's Division of Criminal Justice points out that the charges against her are merely accusations and she is presumed innocent until and unless proven guilty.



Concentrated risk of merger

One of the benefits touted as springing from the merger of the Chicago Board of Trade and the Chicago Mercantile Exchange is lower costs, but in one area, the combined operations could see costs rise: terrorism insurance.

The \$8 billion merger will ensure Chicago's place as a major player in worldwide trading, exchange officials said. "They used to call us the hog butchers of the world. We are now the risk managers of the world," Jack Sandner, retired chairman of the Merc, reportedly said. However, the managers of risk may be increasing their risk—by combining the financial institutions at the CBOT's longtime home, according to the broker for both exchanges.

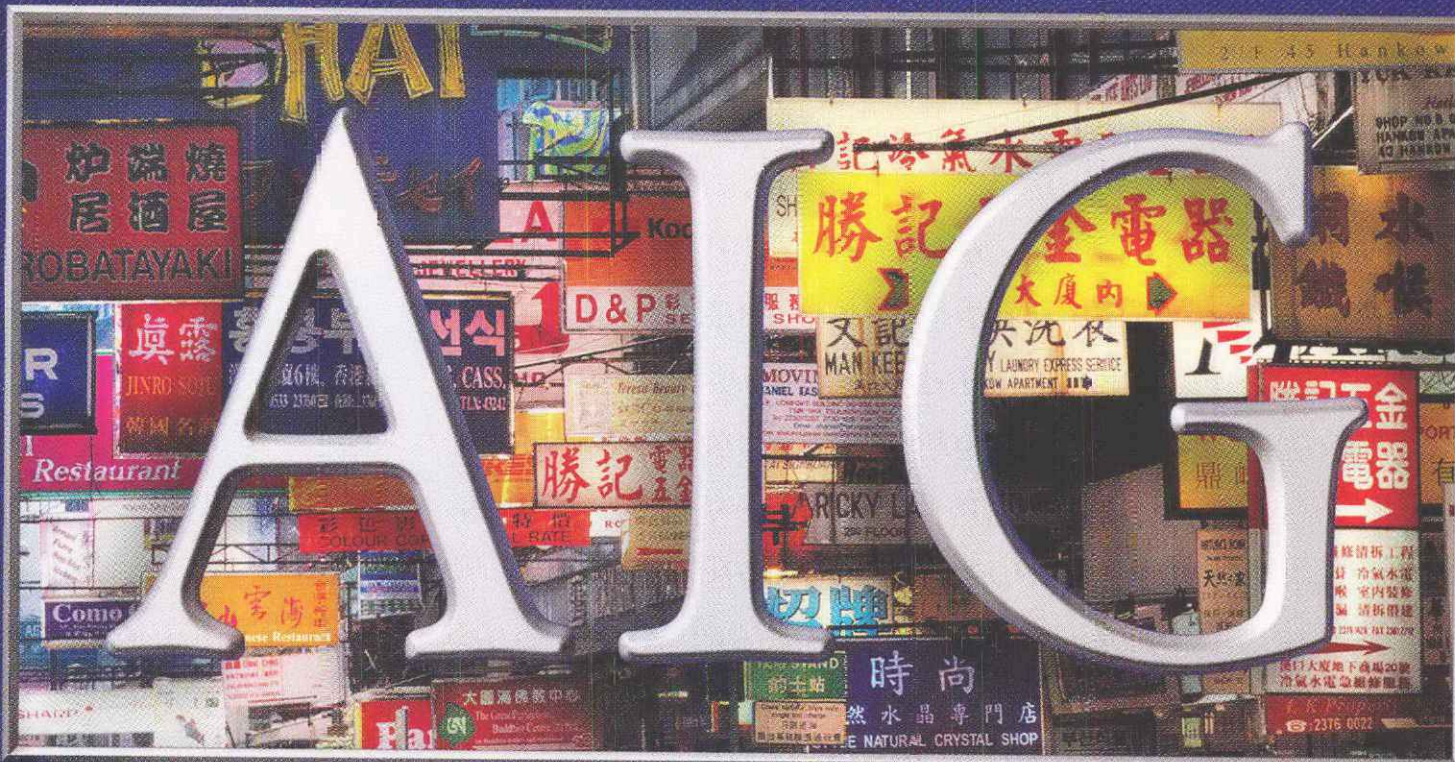
"Insurers are managing their exposure to (terrorism) based on a geographic exposure, and the concentrating of operations to one geographic (location) diminishes the spread of risk and will concentrate the pricing issues to one given

location," said Aaron Davis, director with Aon Corp.'s national terrorism and property practice in New York. "You are going to have higher values in a single area and that is going to drive the ability to secure terrorism insurance and will drive the prices of the coverage that is available."

"When a financial exchange is looking at its risk exposure, the main thing that will drive its pricing is terrorism," he said. The merger "concentrates the risks to one location."

As for directors and officers and business continuity, however, the exchanges likely will need less coverage as a combined entity, said Dan Wasik, Aon's Chicago-based relationship manager for both exchanges.

In most business mergers, companies tend to save money on these types of insurance because the combined coverage limits tend to be more than necessary, Mr. Wasik said, adding that such savings are often seen as advantages to mergers.



WITH AIG PASSPORT,SM YOUR D&O PROTECTION WON'T GET LOST IN TRANSLATION.

Today's global economy means increased risk for directors and officers of multinational companies. Compliance requirements and regulatory scrutiny are more rigorous. Your existing global D&O policy may not provide enough protection.

Protect your international operations and subsidiaries with AIG Passport,SM a global program with locally crafted Directors & Officers policies in local languages, consistent with local regulations, with local claims support. Most insurers simply aren't able to do this.

Fortunately, the AIG companies can. No D&O insurers cover the world like the AIG companies. With operations in more than 130 countries and jurisdictions around the world, no one has greater knowledge of local laws, regulations and customs than AIG. In fact, the AIG companies have offered locally admitted D&O policies for more than 30 years, longer than many other insurers have been in business.

Why take a chance with your international D&O coverage? The AIG companies' global network and financial strength means your executive liability protection won't get lost in translation.

Call your insurance broker or contact us
at managementliability@aig.com

AIG THE STRENGTH
TO BE THERE.SM