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Updates

Mass. judge denies request to turn over EMLICO papers

BOSTON—A Massachusetts appeals judge has denied a reinsurer's request for permission to turn over Electric Mutual Liability Insurance Co. documents sought in a federal grand jury subpoena.

Massachusetts Court of Appeals Justice Frederick L. Brown last week rejected Kemper Reinsurance Co.'s motion for permission to provide two documents subpoenaed by the U.S. Attorney's office in Boston. The documents—earlier sealed by the state court at EMLICO's request—are a 1994 memo by

See **Updates** *on next page*

Congressional wrap-up

Risk managers come up empty on most issues

By MARK A. HOFMANN

WASHINGTON—Last-minute congressional action on federally backed political risk insurance and limited Superfund liability reform will be welcome relief for some risk managers.

But most risk management-related issues that confronted the 104th Congress when it convened in January 1995 remain unresolved.

Matters like comprehensive overhaul of Superfund's liability system, reform of the Occupational Safety and Health Administration and product liability and tort reform could be dealt with by the 105th Congress. And how those issues fare will depend in large part on which political party controls the next Congress.

Nevertheless, some risk managers can savor victories, albeit small ones, won in the closing days of the 104th Congress.

One of those victories centered on the Overseas Private Investment Corp., an independent federal entity that underwrites political risk insurance with terms of up to 20 years for U.S. companies doing businesses in the developing world. Congress refused to reauthorize OPIC for five years in early September as critics of the agency blasted it as an egregious example of "corporate welfare" (*BI*, Sept. 16).

However, House-Senate

See **Risk** *on page 47*

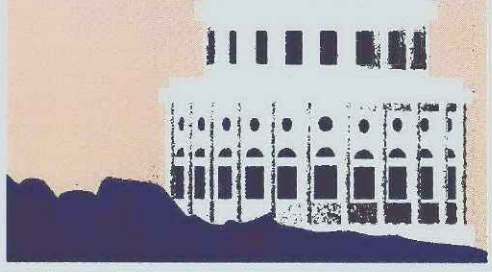
Scorecard for 104th Congress

What was accomplished

- Extended tax-favored status of educational assistance benefits
- Curbed tax breaks for certain offshore group captives
- Health care portability law
- Mental health care benefits parity
- Maternity length of stay law
- New tax breaks for medical savings accounts
- New tax breaks for adoption benefits
- Favorable tax status for long-term care benefits
- Limited expansion of COBRA benefits
- Medicare data bank repeal
- Pension simplification law
- Renewed OPIC's underwriting authority

What was left undone

- New tax-deductibility test for captive premiums
- Superfund reauthorization
- Product liability reform
- Medicare reform
- OSHA reform



GRAPHIC BY JOHN HALL

Gridlock ends on benefit issues as reforms pass

By JERRY GEISEL

WASHINGTON—Night and day.

As the 104th Congress was coming to an end last week, that would seem to best describe legislators' actions on employee benefit issues during the two-year session.

Gridlock was the order of the day during the first half of the session as the Clinton administration and the Republican-controlled Congress were in a virtual state of war.

A slew of Republican employee benefit proposals, most notably those to allow employers to siphon off surplus assets from overfunded pension plans and control the growth of Medicare spending, fell victim to a presidential veto late last year amid an impasse between the administration and Republican leaders.

At the same time, some employee benefits proposals with broad bipartisan support, such as pension simplification, were vetoed because they were part of broader legislation to which the administration objected, while other popular measures, like curbing pre-existing condition exclusions in health care plans, seemed stalemated.

But a new day began when the second half of the session began in January.

Health care portability legislation, which had been moribund, began to move after President

See **Benefits** *on page 47*

Foundation, HSI to merge operations

By JUDY GREENWALD

RANCHO CORDOVA, Calif.—The planned $3 billion merger between Rancho Cordova, Calif.-based Foundation Health Corp. and Woodland Hills, Calif.-based Health Systems International Inc. makes sound strategic sense for the two managed care companies but also raises some concern among employers as to how it will affect them.

The deal, which has been anticipated for several weeks (*BI*, Sept. 23), would create one of the country's largest managed care firms. Under its terms, Foundation will merge with and become an HSI subsidiary, and HSI will simultaneously change its name to Foundation Health Systems Inc.

Anthem Inc. proposes merger with Connecticut Blues ..... **Page 2**
WellPoint denies rumors it will be acquired ..... **Page 4**

The deal, described by company officials as a "merger of equals," calls for Foundation stockholders to emerge with 61% of the 124 million outstanding shares and HSI's shareholders with 39%. The new company, which would have had total annual revenues of $6.4 billion for the 12 months ended June 30, is expected to report more than $8 billion in 1997 revenues. The deal is expected to close by the end of January pending shareholder and regulatory approval.

The combined company will have a total of 4.9 million enrollees. Of those, 2.8 million enrollees will be in California, with the remaining number primarily in Arizona, Colorado, Connecticut, Florida, Idaho, Louisiana, New Mexico, Oklahoma, Oregon, Pennsylvania, Texas, Utah and Washington. All FHS' California HMO operations will be consolidated under HSI's Health Net plan after the merger.

The two companies have different focuses. Dr. Malik Hasan, chairman and chief executive officer of HSI, noted

See **Merger** *on page 49*

Premium financing sparks litigation

By DAVE LENCKUS

A premium financing company has settled its lawsuit against a trucking association over a $5.5 million loan but faces a $75 million lawsuit alleging that its efforts to recover the funds sabotaged a broker's plan to create a Vermont captive for the association.

Under the Sept. 27 settlement, which contains no admissions of wrongdoing by either party, Transamerica Insurance Finance Corp. is awarded the full amount of the loan plus prejudgment interest but agrees to accept only $1.7 million in relief from the North American Trucking Assn. and its president, W. Anthony Huff.

Louisville, Ky.-based NATA is required to pay the settlement by transferring $1 million from a bank account in the captive's name and a $750,000 certificate of deposit to TIFCO, a Towson, Md., subsidiary of Transamerica Corp. of San Francisco. The trucking association established the bank account and the CD to meet Vermont's capital and surplus requirements for captive insurers and to seal a captive fronting arrangement with Reliance National Insurance Co.

The captive—North American Bluegrass Insurance Co.—never became operational, and NATA has returned the captive's certificate of authority to the Vermont Department of Insurance, Banking, Securities and Health Care Administration, said Len Crouse, director of the department's captive division.

Reliance National also has pulled out of the fronting arrangement.

Both of those actions came after TIFCO representatives told Vermont regulators and Reliance National that NATA was meeting their financial requirements with funds that

See **NATA** *on page 36*

CIGNA financial exam unfinished

Critics question validity of reorganization plan's approval

By DAVE LENCKUS

HARRISBURG, Pa.—The Pennsylvania Insurance Department says it has not completed its financial examination of CIGNA Corp., which is prompting critics of the company's reorganization to question how the insurance commissioner could have approved CIGNA's split into an active operation and a runoff facility for its long-tail liabilities.

Critics of the plan also were incredulous to learn of a letter that actuarial consultant Tillinghast recently sent the Council of Lloyd's that notes the difficulty of estimating with certainty long-term liability claims and the proper loss reserves for those claims.

In seeking approval for its separately capitalized runoff operation, CIGNA officials months earlier said CIGNA was able to adequately protect the runoff facility with capital and other funding sources because Tillinghast had developed measures that enabled the actuary to estimate CIGNA's long-term liabilities with much greater certainty than was possible before.

Even after the department said last week that its financial examination will not be completed for a few months, attorneys for the critics of the plan suspected the department did not conduct an exam.

If no exam had been conducted, then the department would have had no basis for keeping confidential the Tillinghast actuarial report that underpinned the Pennsylvania commissioner's approval of the plan, the critics' attorneys said.

The attorneys questioned how strongly the Tillinghast report supports Insurance Commissioner Linda S. Kaiser's decision to allow CIGNA to reorganize, especially when considering two recent developments: the department's August court victory that allows it to shield the document and the Tillinghast letter to the Council of Lloyd's.

CIGNA officials have maintained that the insurer has fully funded its environmental and asbestos liabilities

See **CIGNA** *on page 50*

Updates

EMLICO documents denied

Continued from previous page

London law firm Clifford Chance & Co. weighing the pros and cons of running off EMLICO's business in Bermuda and a flow chart showing what would happen in a Massachusetts liquidation of EMLICO.

Reinsurers say the documents show EMLICO misled regulators about its solvency and intention to liquidate under creditor-friendly Bermuda laws. EMLICO filed for liquidation shortly after moving to Bermuda last year, declaring itself insolvent by about $500 million.

At the same time, Justice Brown granted the Massachusetts Insurance Division's request to copy the same documents for an examination of former EMLICO subsidiary Electric Insurance Co. Regulators also may use the documents for "any related administrative proceedings," though "if any party believes that further preclusion of dissemination in the public arena is necessary, it may submit a proposed amendment to the order," the judge ruled.

Assistant U.S. Attorney Paul G. Levenson, who obtained the grand jury subpoena, declined to comment. Kemper Re officials could not be reached.

Separately, the Insurance Division is asking a state court to force two consulting firms to turn over documents relating to EMLICO. The division in July issued summonses demanding documents from Tillinghast-Towers Perrin and Arthur D. Little Inc., which reviewed pollution liabilities of General Electric Co., EMLICO's sole policyholder. The consultants have refused to turn over some material "on instructions from (their) client," said the division, which has asked a state judge to order the consultants to produce the material. A hearing is scheduled Wednesday in Superior Court for Suffolk County in Boston.

Both summonses demand documents relating to EMLICO's reserves, solvency and surplus. The Little summons also seeks documents relating to former EMLICO President David St. Laurent's description of the causes of EMLICO's collapse.

In a sworn affidavit, Mr. St. Laurent said EMLICO failed soon after its redomestication because of a sudden increase in GE-related asbestos claims and a change in EMLICO's method of estimating GE pollution liabilities.

Tort reform passes in Ohio

COLUMBUS, Ohio—Ohio Gov. George Voinovich is expected to sign tort reform legislation that would limit significantly non-economic and punitive damages.

The bill, which already has been passed by both the House and the Senate, would abolish joint and several liability for non-economic damages. However, joint and several liability for economic damages would be maintained for defendants more than 50% responsible for a plaintiff's harm. Defendants less than 50% responsible for a plaintiff's harm would be severally liable for economic damages and only pay damages in proportion to their share of liability.

Non-economic damages would be limited to the greater of $250,000 or three times the amount of economic damages to a maximum of $500,000.

In cases involving severe injury—such as a substantial physical deformity or loss of limb, bodily function or the ability to live independently—non-economic damages would be limited to the greater of $1 million or $35,000 times the number of years the plaintiff is expected to live.

Punitive damages assessed to employers with more than 25 full-time workers would be limited to the greater of three times compensatory damages or $250,000; employers with 25 or fewer workers would not be required to pay punitive damages in excess of $100,000 or three times compensatory damages, whichever is less. Collateral benefits may be considered in judgments only if there is no right of subrogation or if the plaintiff has not paid a premium for the insurance.

The bill would limit statutes of repose to 15 years for product liability claims, except for those involving fraud or products causing latent harm. Statutes of repose are limited to six years for medical malpractice claims and 15 years for improvements to real property.

The bill also would allow the fault of non-parties to be considered by juries in apportioning liability, and comparative fault may be used in product liability actions.

Clothiers get pension help

WASHINGTON—A first-of-its-kind agreement involving a multiemployer pension plan will help guarantee the pensions of about 70,000 current and retired employees of the men's suit business.

The settlement, which must be formally approved by the companies participating in the apparel industry's Amalgamated Insurance Fund, requires that employers continue making annual contributions at the current rate of 10.33% of gross wages—or roughly $29 million per year—to the fund. The fund currently has about $172 million in assets and liabilities of about $425 million.

Under the agreement, the Pension Benefit Guaranty Corp. would make up any shortfall if the contribution rate fails to fund the plan adequately. Benefits would be ongoing to current and former employees.

Labor Secretary Robert Reich said the plan's underfunding stems from a contraction in the apparel industry. Two hundred employers now contribute to the fund, compared with 575 a decade ago.

See **Updates** *on page 50*

Errors & omissions

• B. Michael Schlenke, president of American Home Assurance Co., says he has no plans to retire in 1997, contrary to a report in the Sept. 30 Updates column. In addition, Allen Silverstein, who announced plans to leave American International Group Inc. in the same article, has reconsidered his decision and will remain as vp-marketing for American International Cos.

Anthem, Blue Cross agree to merge

Proposed deal promises benefits for multistate employers

By ROBERT KAZEL

NORTH HAVEN, Conn.—A proposed merger between Blue Cross & Blue Shield of Connecticut and Indianapolis-based Anthem Inc., which would absorb the New England insurer into Anthem's planned new network in the Northeast, will also benefit employers seeking multistate health coverage, analysts say.

Anthem and the Connecticut Blues plan announced last week they had signed a memo of agreement to merge, forging the next link in a chain of Blues plans that Anthem hopes to shape into a managed care operation serving the Eastern United States.

The deal offers to the Connecticut plan long-term survival in an intensely competitive market in which Blues have suffered a weak, late start in the race against competing HMOs, consultants said.

For employers, the consolidation offers the likelihood of more rational, unified pricing across state lines instead of a patchwork quilt of separate Blues contracts, according to the CEOs of the two plans.

The merger is an important step forward in Anthem's building of regional markets far from its home base and duplicating its success in managed care.

Anthem, however, is being careful to characterize its strategic moves as selective, not a wholesale search for partners in the Northeast. "They (Connecticut) are very clearly very, very important to us, and the only company we had serious discussions with in New England," said L. Ben Lytle, president and chief executive officer of Anthem. "They're a very good company."

Blue Cross of Connecticut, with revenues of $1.5 billion and a policyholder surplus of $250 million,

See **Anthem** *on page 51*

Crawford & Co. expanding globally

By MICHAEL BRADFORD

ATLANTA—Crawford & Co. is expanding its reach into international markets through a new venture with Swiss Reinsurance Co. to form a London-based claims services company.

In addition, Atlanta-based Crawford & Co. is acquiring Thomas Howell Group (Americas) Inc., Swiss Re's U.S. claims management unit, for $9 million. THG (Americas), also based in Atlanta, specializes in servicing large commercial property claims in the United States.

The arrangement, which will create a new international claims-servicing firm, calls for Crawford & Co. to merge its non-domestic operations with London-based Swiss Re unit Thomas Howell Group Ltd.

The new company will be named Crawford-THG Ltd. and is expected to be based in London, according to a Crawford & Co. spokesman.

The new company will be able to provide clients with claims management, loss adjusting, disability management, risk management and other services.

Crawford & Co. will own 60% of the new company and will be responsible for its management. Zurich-based Swiss Re will own the remaining 40%.

The combined enterprise is expected to generate annual revenues of around $200 million with offices in 50 countries.

The new international venture will give Crawford & Co. access to global markets where the company so far has not had a large presence, if any.

"It expands their markets in areas where they haven't neces-

See **Crawford** *on page 16*

NAIC approves model law regulating insurer investments

By MEG FLETCHER

ANCHORAGE, Alaska—A rancorous debate at last week's National Assn. of Insurance Commissioners meeting failed to sway regulators from adopting the NAIC's first model law regulating insurer investments.

While the measure is intended to provide greater uniformity in how states regulate insurer investments, debate among regulators attending the NAIC's fall meeting in Anchorage underscored a lack of consensus among state regulators.

Adding to the confusion, regulators still are expected to consider and adopt, perhaps as early as December, a significantly different alternative model law for regulating investments.

Then states interested in regulating insurance companies' investments could choose from two different approaches.

The model law approved last week takes the so-called "pigeonhole" approach, which sets defined limits on specific types of investments made by both property/casualty and life/health insurers.

See **Invest** *on page 48*

Buck may buy Willis Corroon benefit unit

By JERRY GEISEL

NEW YORK—Buck Consultants Inc. of New York is negotiating with Willis Corroon Group P.L.C. to purchase WF Corroon, the employee benefit consulting unit of the U.K.-based insurance broker.

If the purchase occurs, it would be substantially smaller than the last one Buck attempted. In 1994, Buck approached Towers Perrin, the nation's second-largest benefit consulting firm, with an offer to acquire all of its competitor's much larger operations.

Towers Perrin quickly rebuffed Buck's offer, and some in the consulting industry questioned whether Buck had the financial resources to buy a competitor four times its size (*BI*, April 11, 1994).

But a Buck purchase of WF Corroon would be one of a much smaller scale.

WF Corroon has about $50 million in consulting revenues and 550 employees, while last year privately held Buck, which has about 2,000 employees working out of 50 offices, estimated its 1995 benefit consulting revenues at $196 million,

See **Buck** *on page 16*

Inside

• Congress wisely listened to employers in repealing the Medicare data bank law, one of this week's editorials says. **PAGE 8**

• About three quarters of 403(b) plans for non-profit organizations now are employer-sponsored, a survey shows. **PAGE 18**

• Some think the insurance industry in the United Kingdom needs to improve its professionalism. **PAGE 43**

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AT&T spinoff faces battle to self-insure

By SALLY ROBERTS

CHICAGO—While the spinoff of Lucent Technologies Inc. from AT&T Corp. has been a high-profile project, one challenging aspect of this event is probably best known only to Lawrence J. Holt, manager-disability benefits for the Newark, N.J.-based telecommunications systems manufacturer.

As a result of the "trivestiture" that separated AT&T into Lucent Technologies, National Cash Register Corp. and AT&T Corp., effective in early 1996, Mr. Holt, the administrator of Lucent's workers compensation self-insurance program, has had the responsibility of applying for workers compensation self-insurance status in 22 states.

Even though Lucent operated under AT&T's self-insurance certificate for many years and is an established organization with demonstrable financial strength, the company's application for self-insurance has been denied by several states, Mr. Holt said.

Mr. Holt emphasized that despite the denied applications, most state insurance regulators have expressed a desire to help the company.

"Unfortunately, the rules and regulations behind many states' workers comp laws do not permit the regulators much leeway in making individual determinations," he said.

And in a world of corporate mergers, spinoffs and divestitures, the rules in some states "may not be appropriate for the environment and needs of today's corporation," Mr. Holt said during a National Council of Self-Insurers' meeting held during the International Assn. of Industrial Accident Boards & Commissions' annual convention in Chicago last week.

It is "critical" to Lucent's strategy of having a capital structure that best suits its operations and its employees to manage its workers comp risk on a self-insured basis, said Mr. Holt, who also is president of the NCSI.

See **Lucent** *on page 33*

For-profit moves questioned

NAIC regulators wonder about impact of plans

By MEG FLETCHER

ANCHORAGE, Alaska—Several state insurance regulators are asking probing questions about the motivation and potential public impact of having two major statistical rating and data organizations consider converting to for-profit stock corporations from non-profit entities.

The independent deliberations of the organizations, which both serve the property/casualty market, are in different stages:

- The board of directors of the Insurance Services Office Inc. in New York, the nation's largest provider of data, is awaiting the Nov. 18 outcome of a membership vote by mail on its proposal to create two classes of stock and an employee stock ownership plan, effective Jan. 1, 1997. Two-thirds of ISO's 248 members would need to support the plan (*BI*, Sept. 30).
- Meanwhile, the board of the National Council on Compensation Insurance in Boca Raton, Fla., which provides workers compensation data, will continue discussing issuing stock to its insurer members at a meeting Thursday, though it has not made any formal recommendation (*BI*, June 17; April 8).

"I think there are some major public policy questions that need to be addressed," especially since both organizations were founded to provide information to help regulators determine appropriate rates insurers could charge, said Brian Atchinson, superintendent of insurance for Maine and president of the National Assn. of Insurance Commissioners.

He and other regulators attending the NAIC's quarterly meeting last week in Anchorage, Alaska, quizzed representatives from ISO and the NCCI, both of which made presentations during the regulators' meeting.

The representatives of the organizations are keeping regulators informed with periodic presentations to answer questions and make them more comfortable with the issue, said Director Darla K. Lyon of South Dakota, who chairs both the NAIC's Workers Compensation Task Force and its Commercial Lines-Property/Casualty Committee. Presentations were made to both committees at the NAIC meeting.

"We don't have authority to approve or disapprove. But, no matter what their corporate structure, we have the authority to regulate," Ms. Lyon said. That includes states licensing an individual company to act as a statistical agent and gather loss data and other statistics, which some regulators use to help determine rates.

Regulators initially asked about the two rating agencies' motivations for conversions to for-profit entities and the proposed impact on the public of such a change.

The ISO board's proposal, which calls for converting to a Delaware-based stock company from a Delaware-based 501(c)6 corporation is simply another step in its evolution from being an insurer-dominated rating agency, a conversion that began 25 years ago, said ISO Executive Vp Carole Banfield. "Our primary reason for doing this is efficiency and customer focus," so ISO can have the flexibility to develop specialized products for segments of its membership, she said.

However, aspects of the proposal seem "strange," Linda Ruthardt, the Massachusetts insurance commissioner, said in an interview. For example, she noted that ISO's insurer members would hold 85% of its Class B common stock but elect only a minority of members to the 11-person board, which would not give them control.

The NCCI is considering a paper-only conversion to a Delaware-based stock company from a non-profit Florida corporation. The 75-year-old organization is motivated primarily by a desire to be able to borrow at least $10 million from outside lenders to fund a more efficient database so it can better compete in a growing field of data-collecting and consulting companies, said NCCI Senior Vp Everett Brookhart, who works in Agoura Hills, Calif. "It's a survival issue for the NCCI."

During the regulators' quizzing, Mr. Atchinson of Maine asked about the differences in the public documents that NCCI would file before and after a conversion, and if such a conversion ultimately were recommended by the NCCI's board.

Mr. Brookhart said in a later interview that he would be able to answer this and other questions once the board has concluded its deliberations.

See **ISO** *on page 37*

Kidder, Peabody may appeal

Court dismisses its suit over illegal trading

By JOANNE WOJCIK

NEW YORK—Kidder, Peabody & Co. is considering whether to appeal a New York Supreme Court decision dismissing its $55 million coverage suit over claims and legal fees arising from illegal trading activities by former Kidder director Martin A. Siegel.

While the New York-based brokerage declined to comment on whether it will appeal last month's decision, the firm's attorney said an appeal "is being discussed."

"There is now law on the issue other than at New York's lowest trial court level," pointed out Ellen Nadler, a partner with Kramer, Levin, Naftalis & Frankel in New York who represents Kidder.

Kidder has until Oct. 25 to file an appeal.

New York Supreme Court Judge Ira Gammerman on Sept. 23 dismissed Kidder's coverage lawsuit against Aetna Casualty & Surety Co. and other insurers that collectively underwrote five fidelity bonds providing a total of $50 million in coverage above a $5 million deductible.

Kidder filed a claim in March 1993 under the employee dishonesty portion of the fidelity bond program to pay losses from suits against the company over two insider trading schemes Mr. Siegel orchestrated between 1982 and 1986, court papers show.

In one incident, Mr. Siegel exchanged confidential client information with Ivan Boesky of Goldman, Sachs & Co. relating to certain tender offers and corporate acquisitions, according to court papers. In the other, Mr. Siegel exchanged inside information with Robert Freeman of Goldman, Sachs to help Kidder's Risk Arbitrage Department make profitable trades.

After Mr. Siegel pleaded guilty in 1987 to violating securities laws, Kidder was sued by the clients affected by the insider trading activities and paid out nearly $200 million to settle the litigation.

However, Aetna and the other underwriters denied Kidder's coverage claim

See **Kidder** *on page 18*

The risks of technology

By MICHAEL BRADFORD

HOUSTON—Speed-of-light technological advances are creating some headaches for risk managers, while insurers and brokers are struggling with global competition and consolidation, according to a panel assessing the changing business world.

Risk managers are finding that rapid technological changes—while making their jobs easier in some ways—are creating a host of new risks that have to be controlled.

"We have a tremendously enhanced ability to access, process, communicate, store and understand information," said Scott K. Lange, director of risk management at Microsoft Corp. in Redmond, Wash. But those abilities don't come without a downside, he added.

Mr. Lange spoke during a panel discussion at the 12th biennial I-Day sponsored by the Houston Chapter of the Risk & Insurance Management Society Inc. Speakers from industry and government gave their perceptions on the topic of "The Changing Face of Corporate America: Who's in Charge."

Mr. Lange explained that risk management is in some ways getting more complicated even as technological tools to help with the job are developed.

Some non-traditional risks are being created by technological advances, and those risks have to be recognized, he said.

An obvious example is the challenge to keep information secure and confidential, Mr. Lange said. "With all that information flying around," he noted, "people may try to access it."

At Microsoft, the company records about 1,000 attempts each hour by hackers trying to break into the software giant's computer system, Mr. Lange pointed out.

And with so much information available worldwide at the touch of a keyboard, protecting intellectual property rights becomes harder, Mr. Lange noted.

See **Technology** *on page 24*

Risk Manager of the Year nominations due

There is still time to nominate risk managers for *Business Insurance*'s 1997 Risk Manager of the Year award and Risk Management Honor Roll. The winner of the 1997 award, the 20th to be awarded, will be announced in April in conjunction with the annual Risk & Insurance Management Society conference.

For more information, see story on page 49.

AeroPeru disaster won't affect renewals

Claims estimated at less than $120 million

By STACY SHAPIRO

LONDON—The crash of an AeroPeru Boeing 757 bound for Chile last week, killing 70 people, will produce hull and liability claims of less than $120 million, according to speculation from London aviation underwriters and brokers.

But the disaster will hardly dent the soft airline renewal season, which is in full swing.

The AeroPeru 757 crashed into the Pacific Ocean approximately 50 miles north of Lima, Peru, where it had just taken off to continue its journey to Santiago from Miami.

A total of 61 passengers, including four Americans, and nine crew perished.

Peruvian government officials said they believe that the aircraft's computer system had failed.

However, aviation loss adjusters said that although there was a total failure of the electronic systems on the aircraft, the crew would have had access to mechanical backup systems to continue flying the plane.

This crash is the third air disaster ever involving a Boeing 757 jetliner. The other two losses also have occured in the past 12 months.

The two other disasters involved the crash of an American Airlines jetliner near Cali, Colombia, and an ALAS Nacionales Airline aircraft in the Dominican Republic (*BI*, Feb. 12; Dec. 25, 1995).



GRAPHIC BY JERRY PARKS

"It's an unfortunate coincidence because it is an excellent aircraft" with a superb loss record, according to Peter Woollard who works in the development and research department of Willis Corroon Aerospace.

See **Flight 603** *on page 51*

WellPoint denies rumored deal

By JOANNE WOJCIK

WOODLAND HILLS, Calif.—WellPoint Health Networks Inc. is denying news reports that the Woodland Hills, Calif.-based health care company is close to a deal to acquire Boston-based John Hancock Mutual Life Insurance Co.

"The story in The Wall Street Journal was speculative," a WellPoint spokeswoman said in response to queries about the rumored acquisition reported in the Journal and other sources.

A Hancock spokesman declined to comment.

However, the Wall Street Journal reported Thursday that discussions began several months ago when Hancock put its group health operations up for sale.

Those operations, which include group life, health and long-term care coverages as well as consulting and administrative services provided by subsidiary Cost Care Inc. of Newport Beach, Calif., generated $870 million last year, or 11%, of the company's $8.1 billion in statutory premium volume, according to A.M. Best Co.

Last year, WellPoint had been in merger talks with Rancho Cordova, Calif.-based Foundation Health Corp., but talks broke off because of personality clashes involving the two companies' top executives (*BI*, Dec. 18, 1995).

Since Blue Cross of California spun off WellPoint as a for-profit subsidiary in 1993, WellPoint President and Chief Executive Officer Leonard Schaeffer has said that he intends to grow the company outside of the hotly competitive California health care market (*BI*, March 4).

In addition, he has said WellPoint, primarily a managed care company, has been looking to buy traditional insurers so it could offer more choice in health care plans.

WellPoint acquired the group life and health business of Massachusetts Mutual Life Insurance Co. earlier this year (*BI*, Jan. 15).

At year-end 1995, WellPoint had 2.8 million enrollees and wrote $2.9 billion in premiums. Its 1995 net income was $214.5 million, or $2.16 per share.

Health plan enrollment figures were unavailable for Hancock. BI

For the Record

Premiums up 2.4% in federal health plan

WASHINGTON—Health insurance premiums for the Federal Employees Health Benefits Program—the nation's largest group health care program with 9 million participants—will increase an average of 2.4% next year, another sign that health care costs continue to be under control.

That 2.4% increase is considerably less than the average annual premium increase of 3.7% the program has experienced over the last eight years.

Sixty-four percent of plan participants will see their premiums fall or remain the same. The federal government pays about 72% of premiums charged.

In all, participants will be able to choose from 388 plans during the program's annual open season, which runs from Nov. 11 through Dec. 9.

California taps AIA for new labor lobbyist

SACRAMENTO, Calif.—A former assistant vp of the American Insurance Assn. will become the chief lobbyist for the California Department of Industrial Relations.

Gov. Pete Wilson named Terry Miller as the department's deputy director of legislative affairs, replacing Roberta Mendonca, who was named state labor commissioner. Mr. Miller had served as assistant vp of the AIA, a Washington-based organization of national and regional insurers that write mostly property/casualty and workers compensation insurance. After Mr. Miller left, the AIA eliminated the assistant vp position.

As deputy director of labor affairs, Mr. Miller will represent the Department of Industrial Relations before state legislative committees. He also will serve as the department's liaison with the business community and with representatives of workers, employers and labor unions.

60 arrested in Florida in comp fraud sweep

TALLAHASSEE, Fla.—Dawn raids in about two dozen Florida communities last month netted more than 60 arrests in the largest one-day sweep of insurance fraud suspects in the state.

The raids, dubbed "Operation Big Broom," rounded up insurance agents, lawyers, chiropractors, consumers and others, who were charged with filing fraudulent workers comp claims, soliciting patients to collect on bogus medical claims, stealing premiums and other crimes.

These arrests, made in various parts of the state, bring the total for the year to 450 as a result of investigations by the state's Division of Insurance Fraud.

"This is all part of a continuing crackdown that will not end until we see some relief for consumers," said Florida Treasurer and Insurance Commissioner Bill Nelson.

He also announced the formation of the Professional and Organized Fraud Investigative Team, or PROFIT, to combat medical insurance fraud. The unit initially will concentrate on cases in Dade, Broward and Palm Beach counties in south Florida.

Information in brief

Exxon Corp. plans to appeal to the 9th U.S. Circuit Court of Appeals the nearly $5.06 billion final judgment a federal district court judge in Alaska entered against the oil giant late last month in a civil trial stemming from the massive **Exxon Valdez supertanker oil spill**. The order formalizes 1994 jury verdicts of $5 billion of punitive damages and $19.6 million of net compensatory damages against the company and tacks on $38 million of prejudgment interest. Thousands of plaintiffs claimed their livelihood was damaged by the 11 million-gallon oil spill in March 1989 in Alaska's Prince William Sound. . . .California last month enacted the law creating a state-run earthquake insurance program with a $10.5 billion coverage fund. The **California Earthquake Authority** is expected to begin selling policies by Dec. 1. . . .Shareholders of **National Re Corp.** late last month approved General Re Corp.'s buyout offer of $940 million, or $53 per share (*BI*, July 8). The acquisition was expected to close by Oct. 3. BI

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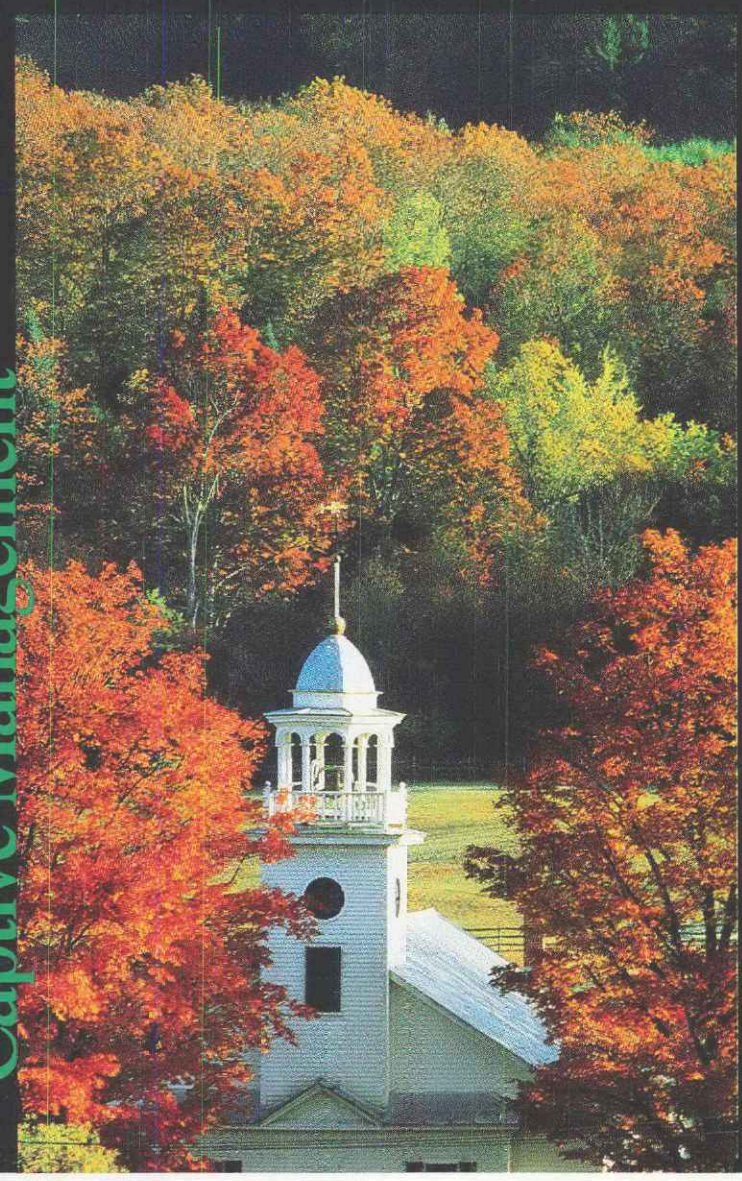
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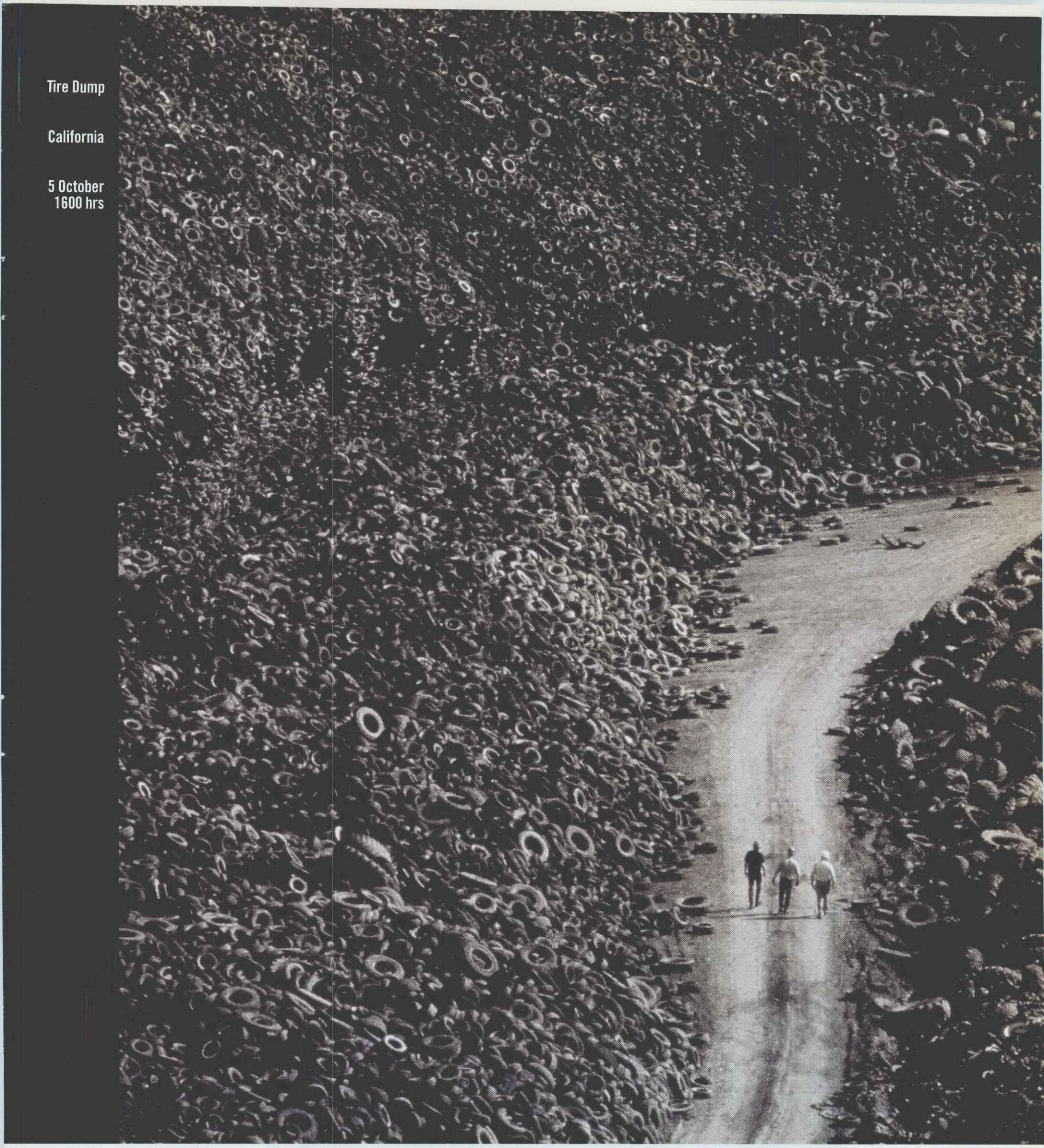
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Opinions

Regulators must be able to bend

INFLEXIBLE regulation can be stifling for business in general and risk managers in particular, especially when it is a case of regulators not keeping pace with changes in the environment they regulate.

Without the willingness to stray from rigid guidelines when appropriate, or to develop new rules to fit new situations, regulators are likely to hamper business growth and competitiveness.

The risk management community has seen plenty of examples of this as alternative risk financing options developed and matured. Many state regulators threw up obstacles to such arrangements because they didn't follow the usual pattern.

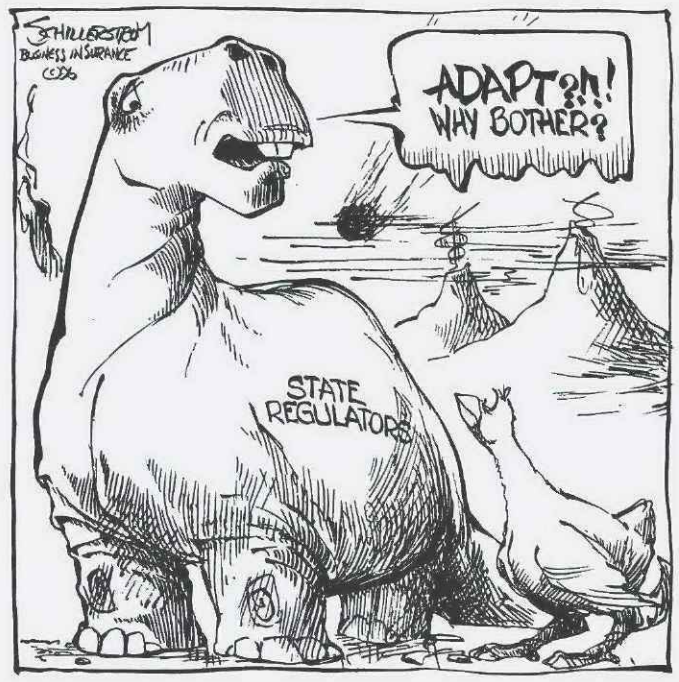
We report another example of such inflexibility on page 3 this week. Lucent Technologies Inc., a telephone systems manufacturer spun off from AT&T Corp., has run into several regulatory obstacles in its quest to self-insure its workers comp exposures in multiple states.

While some state self-insurance agencies have assessed Lucent's financial wherewithal and given their approval to self-insure, other states have denied its application because Lucent doesn't fit their predetermined guidelines.

Some of these states have denied Lucent's request because of a rigid adherence to a rule that a business must be in operation for four to five years before it can self-insure. No matter that Lucent effectively operated as an arm of AT&T for many years prior to its recent spinoff.

Other states have figured that, as a "new company," Lucent doesn't have the cash flow to support a self-insurance program. No matter that Lucent has shown them it has $20 billion in assets and $21 billion in 1995 revenues.

And, in a Catch-22, some state said that without five years' worth of audited financial statements they could not approve Lucent's request. No matter that it prepared financial statements for the Securities and Exchange Commission and Internal Revenue Service covering a five-year period for its initial public offering.



As a result of these unyielding regulatory stances, Lucent is self-insured in some states but has to buy workers comp coverage in others.

That's plain inefficient and adds unnecessary costs to doing business.

Lucent's situation is hardly unique, as much of U.S. business has undergone significant restructuring in recent years.

Mergers and acquisitions, spinoffs, start-ups and more have created plenty of new or unique entities that will run into the same problems as Lucent—that is, unless regulators adapt.

We're not calling for an end to all regulation, as some segments of the business community have sought in recent years. Rather, we'd like to see regulators take a more enlightened and flexible approach.

Clearly, as Lucent's situation shows, *some* state regulators get it; it's time for the other states to catch up.

No regrets on data bank repeal

WHILE THE CLOSING DAYS of a congressional session often are a time when legislators—in the rush for adjournment—make hasty decisions they come to regret later, there is at least one 11th-hour action by the 104th Congress that we heartily endorse.

We are referring to Senate action late last month to accept a House-passed bill that would repeal what we think could be fairly described as the infamous Medicare data bank law.

A brief history of the data bank law: The measure was included—with absolutely no discussion—as part of a budget bill Congress that passed in 1993. The data bank law would have required all employers to file health care plan enrollment information with the Health Care Financing Administration, the federal agency that administers Medicare. Specifically, employers would have been required to file the names and Social Security numbers of each enrolled employee and their dependents and also to specify the health care plans in which they were enrolled.

HCFA was supposed to compile this information into a massive data bank. Then, federal regulators would use the information to prevent Medicare from paying medical claims of beneficiaries, chiefly employees age 65 and older, who still were working and whose group plans still were the primary payers.

Through this data bank, the government was supposed to save a couple hundred million dollars a year in Medicare claims that otherwise would have been improperly paid to hospitals and physicians.

That was the theory. The reality was something else. There was no way federal regulators would have had the resources to comb through reports on roughly 165 million people each year to spot claims that Medicare shouldn't have paid.

What would have happened is that the reports—compiled at considerable expense by employers—would have been carted off to government warehouses, where they just would have collected dust.

To make matters even worse, 98% of the filings—health care coverage enrollment information for employees and their dependents under 65—would have been absolutely useless for regulators trying to prevent improper Medicare payments.

Fortunately, this scenario never developed. A big employer lobbying campaign—led by the ERISA Industry Committee—educated Congress on the lunacy of the data bank project and that the projected savings the data bank was supposed to produce for the federal government were illusionary. In the short term, legislators denied HCFA the money needed to enforce the data bank law. And, ultimately, legislators repealed the law.

The point is that legislators can and often do hatch very bad ideas—especially when they don't understand the intricacies involved—on employee benefit plan regulation. But when employers band together and lobby—and their cause is right—they can get those bad laws taken off the books.

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Court allows ADA lawsuit over benefit discrimination

Employee with mental disability ruled qualified under act

By SALLY ROBERTS

NEW YORK—An employer can be sued for benefit discrimination under the Americans with Disabilities Act even if the claimant is unable to perform the essential duties of his or her job, a federal court has ruled.

The ruling found that a employee with a mental disability who is unable to perform the essential functions of his job is a qualified individual under Title 1 of the ADA. As a result, his claim of benefit discrimination can be brought to trial if efforts to settle the dispute out of court fail.

Leonard F. filed a complaint in August 1995 in the U.S. District Court for the Southern District of New York, alleging that the Israel Discount Bank of New York's long-term disability policy discriminates in favor of people with physical ailments over those with psychiatric illnesses (*BI*, Sept. 4, 1995).

Israel Discount Bank alleged that only individuals capable of performing the essential functions of their jobs are protected under the 1990 law. Leonard F., who suffered a nervous breakdown in April 1994, has not been back to work since and is unable to perform the essential elements of his job as a bank vp.

In November 1995, the District Court, assuming Leonard F. would recover from his disability before his benefits ran out, ruled in favor of Israel Discount Bank and dismissed the suit on the ground that there was no "justifiable controversy," according to court papers.

On appeal, the case was remanded, and late last month the District Court reversed its earlier decision and denied the bank's motion to dismiss Leonard F.'s suit.

Judge Charles L. Brieant said he looked to the opinion given by the Equal Employment Opportunity Commission, which said Leonard F. met the definition of a qualified individual with a disability.

Judge Charles Brieant said he looked to the opinion of the Equal Employment Opportunity Commission, which said the plaintiff met the definition of a qualified individual.

"The relevant employment position in any case involving post-employment fringe benefits is the position actually occupied by the plaintiff—that of benefit recipient—and that as long as the plaintiff satisfied any non-discriminatory eligibility criteria for receipt of benefits, he is a qualified individual within the meaning of the ADA," the EEOC said in an amicus brief.

The District Court's decision comes on the heels of two other recent decisions involving similar issues.

Last month, a panel for the 11th U.S. Circuit Court of Appeals in Atlanta ruled that the ADA limits protection to either employees performing, or job applicants who apply and can perform, the essential functions of available jobs.

In another case, the U.S. District Court for the Southern District of New York ruled that because benefits are protected under the ADA and are typically meaningful only post-employment, it is "only logical" that former employees are covered under the law (*BI*, Sept. 30).

Cary LaCheen, an attorney with the New York Lawyers for the Public Interest Inc. who represents Leonard F. in the most recent case said, "It's obvious to us that the ADA prohibits discrimination of fringe benefits."

It would have been "a complete Catch-22 to say you are disabled enough for long-term disability insurance, but because of that, you're too disabled to challenge discrimination under the federal civil rights law," she said.

Attorneys for both sides will meet Oct. 24. If the case does not settle, a court date will be set.

At issue is whether Israel Discount Bank's LTD coverage is discriminatory.

The bank's benefit plan provides employees with physical disabilities LTD coverage without an aggregate limit until age 65, while employees suffering from mental, psycho-neurotic and personality disorders, alcoholism or drug abuse are limited to LTD coverage for only up to two years. Therefore, Leonard F. alleges, the bank's plan discriminates against those with mental illnesses.

In 1994, a psychiatrist with Metropolitan Life Insurance Co., the bank's long-term disability insurer, approved a claim for LTD coverage for Leonard F. starting in October 1994. Under the current plan terms, though, his coverage will cease this month. Leonard F.'s complaint alleges that without continued coverage, he will likely lose his ability to pay for housing, therapy and medical expenses.

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Leonard F. vs. Israel Discount Bank of New York; United States District Court-Southern District of New York; 95 Cov. 6964 (CLB).



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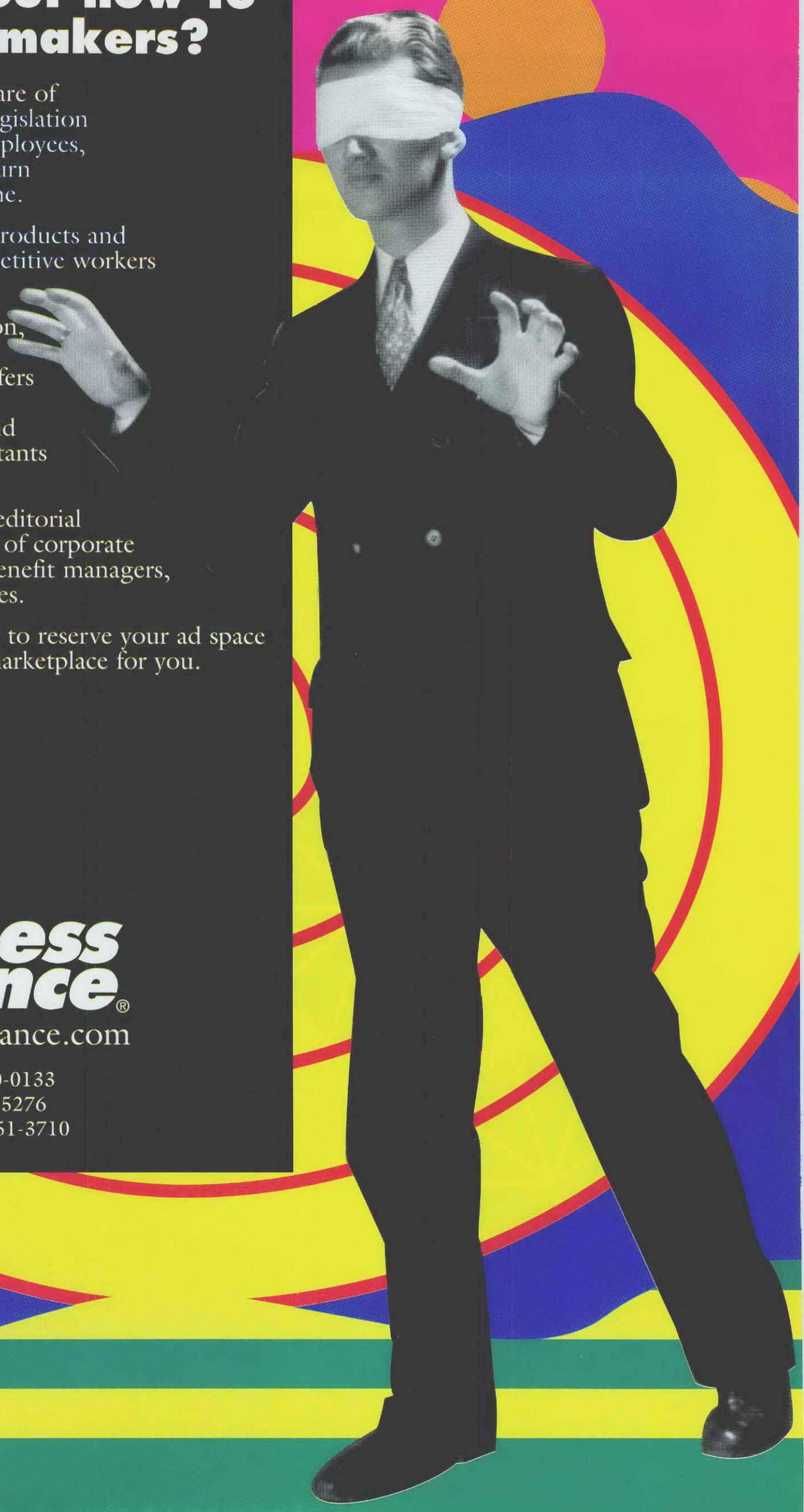
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Crawford

Continued from page 2

sarily been a force before," said Joanne Smith, an analyst with Fox-Pitt Kelton in New York. "I view it favorably," she said of the venture.

Thomas Howell's expertise is in large property claims, while Crawford & Co. traditionally has focused more on smaller liability claims, the Crawford & Co. spokesman pointed out. Crawford & Co. also brings experience in servicing claims for the oil and energy industries.

Both Crawford & Co. and Swiss Re expect the alliance to fill niches where each is lacking expertise.

"Crawford & Co. will benefit from this strategic alliance with Swiss Re in many ways," said Dennis A. Smith, chairman and CEO of Crawford & Co. "Obviously we strengthen our international operations by broadening our client base as well as the technical skills within our organization."

The venture gives Swiss Re a way to offer its clients wider claims handling services.

It "provides a worldwide industry solution to the claims services needs of our clients and our own organization," said Erwin Zimmerman, head of risk services at Swiss Re and chairman of Thomas Howell Group.

The new venture and acquisition signals a new direction for Crawford & Co., according to Thomas G. Rosencrants, an analyst with The Robinson-Humphrey Co. in Atlanta. "This is a clear signal that (Mr. Smith) is very interested in growth—both internal, which has been sluggish at this company for some time, and through acquisition."

Mr. Smith took over as chairman and CEO of Crawford & Co. following the retirement of Forrest L. Minix at the end of last year.

"I'd say on the surface of it that this would rate as a positive" for Crawford & Co., Mr. Rosencrants said, particularly because of the expanded access to international markets.

"Margins in this business are relatively low," said Ms. Smith of Fox-Pitt Kelton, and Crawford & Co. could see them rise through cost-cutting and economies of scale gained through the venture with Swiss Re.

Crawford & Co. recorded a $36 million profit on 1995 revenue of $607.5 million.

Thomas Howell Group recorded a 1995 loss of around $6 million on revenue of about $114 million.

The new venture and acquisition should be finalized by the end of this year and possibly as soon as early December, according to the Crawford & Co. spokesman.

'Crawford & Co. will benefit from this strategic alliance with Swiss Re in many ways,' says Dennis A. Smith.

A chief executive has not yet been named for Crawford-THG Ltd., which is expected to begin operating on Jan. 1. No management changes or announcements were made.

John V. Kavanagh, president of Thomas Howell Group (USA), a division of THG (Americas) has resigned his position and plans to open his own claims management firm in New York to provide services similar to those offered by THG.

"Crawford is in a different business segment than what we do," Mr Kavanagh said about his decision to leave. "I just felt it was time to move on."

His strong ties to THG clients may mean some will become clients of his new firm, Mr. Kavanagh said, if they "wish to deal with me."

After 22 years with Thomas Howell Group, including around seven in the U.S., Mr. Kavanagh said he plans to "maintain the relationships I have with the people at THG."

The move follows other changes at Swiss Re claims management units earlier this year.

Swiss Re and Thomas Howell Group sold their Gay & Taylor Inc. and Ward-THG Division claims management and adjusting entities to a new company Ward-THG Inc. (*BI,* April 8). BI

Buck

Continued from page 2

making it the eighth-largest U.S. benefit consulting company.

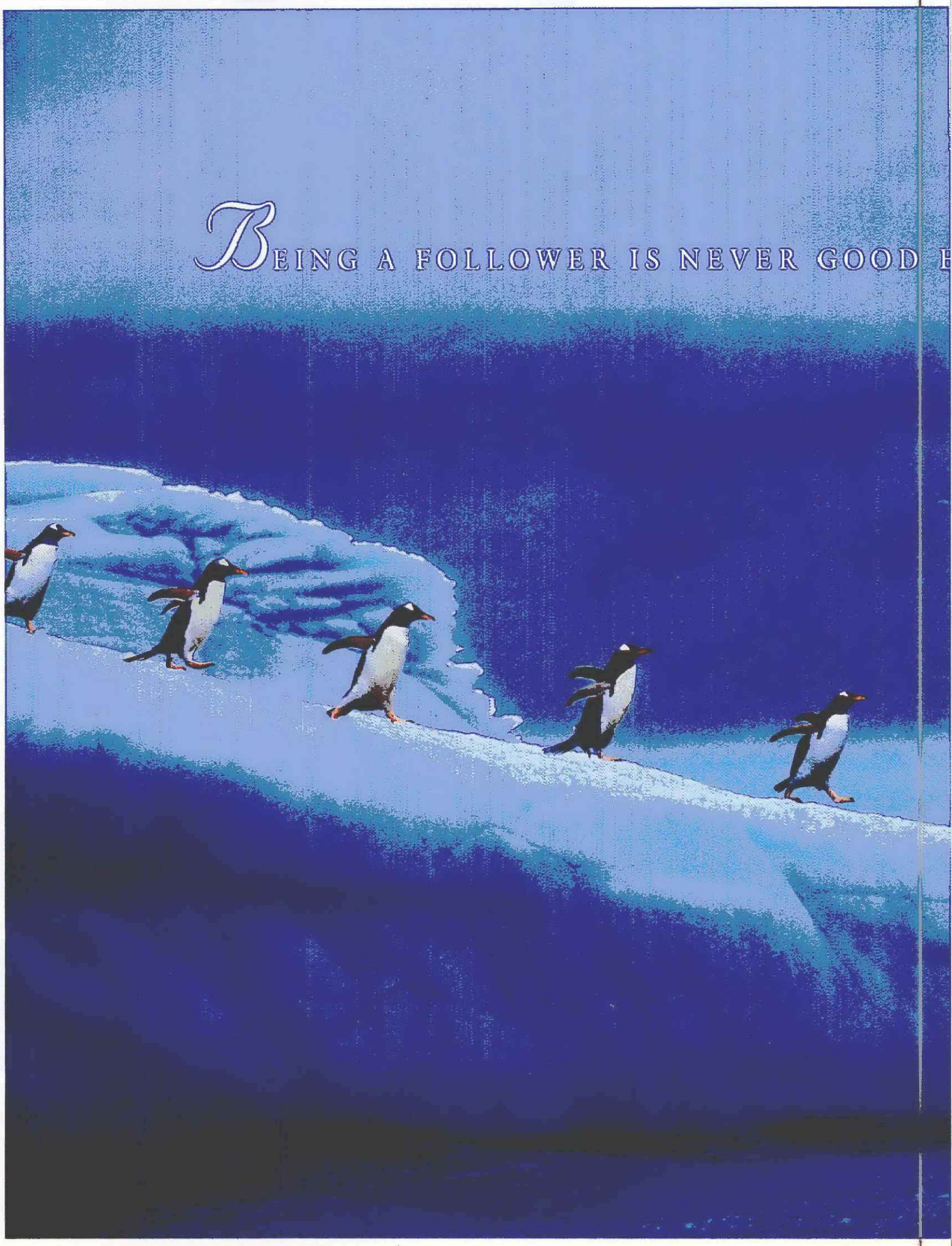
Aside from the obvious difference in size, the two companies generally operate in different markets. Historically, Buck's strength has been working with large companies—those with at least 5,000 employees. By contrast, WF Corroon, which has a dozen offices in both the United States and the United Kingdom, is more of a middle-market consultant, serving employers with 500 to 1,000 employees.

Neither Buck nor WF Corroon executives would comment beyond a short statement confirming that they are discussing a purchase.

But observers say its small scale makes it difficult for WF Corroon to have the critical mass of resources to effectively compete against much larger consulting firms.

Buck, in its statement confirming purchase discussions, says buying WF Corroon would be a strategic fit giving it new offices in the United States and United Kingdom.

Observers note that if Buck acquires WF Corroon, clients of both companies could benefit. For example, Buck clients would have greater access to Corroon Group's expertise in insurance and risk management services, while Corroon Group clients could tap into Buck's consulting resources. BI



Investment fund could aid reinsurers

By PAUL G. BARR
Crain News Service

CHICAGO—Sentinel Management Group Inc. is working to create an offshore fund that would provide capital to the reinsurance industry, which has been hit by recent disasters like Hurricane Fran.

Sentinel, a futures cash management company that is based in Chicago, is creating an offshore fund that will sell call options against catastrophes covered by the reinsurance industry.

Essentially, the fund would act as a reinsurance company, giving primary insurance companies another way to cover some of their risks, said Eric M. Bloom, president and chief executive officer of Sentinel.

But, because Sentinel will not structure itself as an insurance company, and therefore will not be subject to the insurance regulatory requirements, it can be more selective and diversified in the types of risks it takes on, Mr. Bloom said.

One thing that is holding up creation of the fund, though, is ensuring that regulators of the fund's chosen domicile do not rule the fund to be an insurance company, Mr. Bloom said. Executives are looking at Ireland and Bermuda as possible locations, according to Mr. Bloom.

A spate of natural disasters in recent years has hit the reinsurance market, leading reinsurers to look for innovative ways to raise capital, such as tapping capital markets. Notable disasters affecting the reinsurance industry have included the 1994 Northridge, Calif., earthquake and Hurricanes Andrew, Iniki and Fran.

The Chicago Board of Trade introduced catastrophe options last year. The options are tracked weekly by *Business Insurance*. Volume reached record levels shortly before Hurricane Fran's attack in early September on the East Coast of the United States.

But, at current liquidity levels, the Sentinel fund wouldn't use the options extensively, Mr. Bloom said.

In the over-the-counter market, Sentinel's fund managers could choose to take on property risks similar to those offered at the CBOT, or others such as reinsuring crops, ships and satellites.

Besides diversification in the types of risks against which it would insure, Sentinel also would diversify in terms of the dollar amount, Mr. Bloom said.

For example, Sentinel could sell a call option on $10 million worth of damage from a Florida hurricane in a given calendar quarter, for total claims between $4 billion and $5 billion, he said.

Sentinel would receive a premium, and if total hurricane damage in Florida hit $4 billion, as measured by an industry index, Sentinel would have to start covering claims on a pro rata basis up to $5 billion in damage.

Buying back options in the reinsurance market is not easy, says investment consultant Heinz Binggeli.

Unlike asbestos claims, for example, the risks will be time-specific, according to Mr. Bloom.

For at least the first two years, the fund will remain unleveraged, with assets backing the written call options being invested in Sentinel's short-term fixed-income style, he said.

Mr. Bloom said that Sentinel executives expect to achieve an annual investment return of about 15% from the strategy, with a historical return correlation to the stock and bond markets that is basically zero.

Sentinel got the reinsurance fund idea through a business associate who joined Centre Financial Products Ltd. in New York, a major participant in the reinsurance capital markets. Richard L. Sandor, Centre's chairman and chief executive officer, was instrumental in the creation of the Chicago Board of Trade's insurance futures.

Heinz Binggeli, an investment management and derivatives consultant who heads Global Investment & Risk Advisors L.L.C. in Larchmont, N.Y., said that while he's not an expert on the market, the reinsurance options sound like a reasonable contract, and premiums in the reinsurance market are "fairly high."

The question, he said, is how much risk does one take.

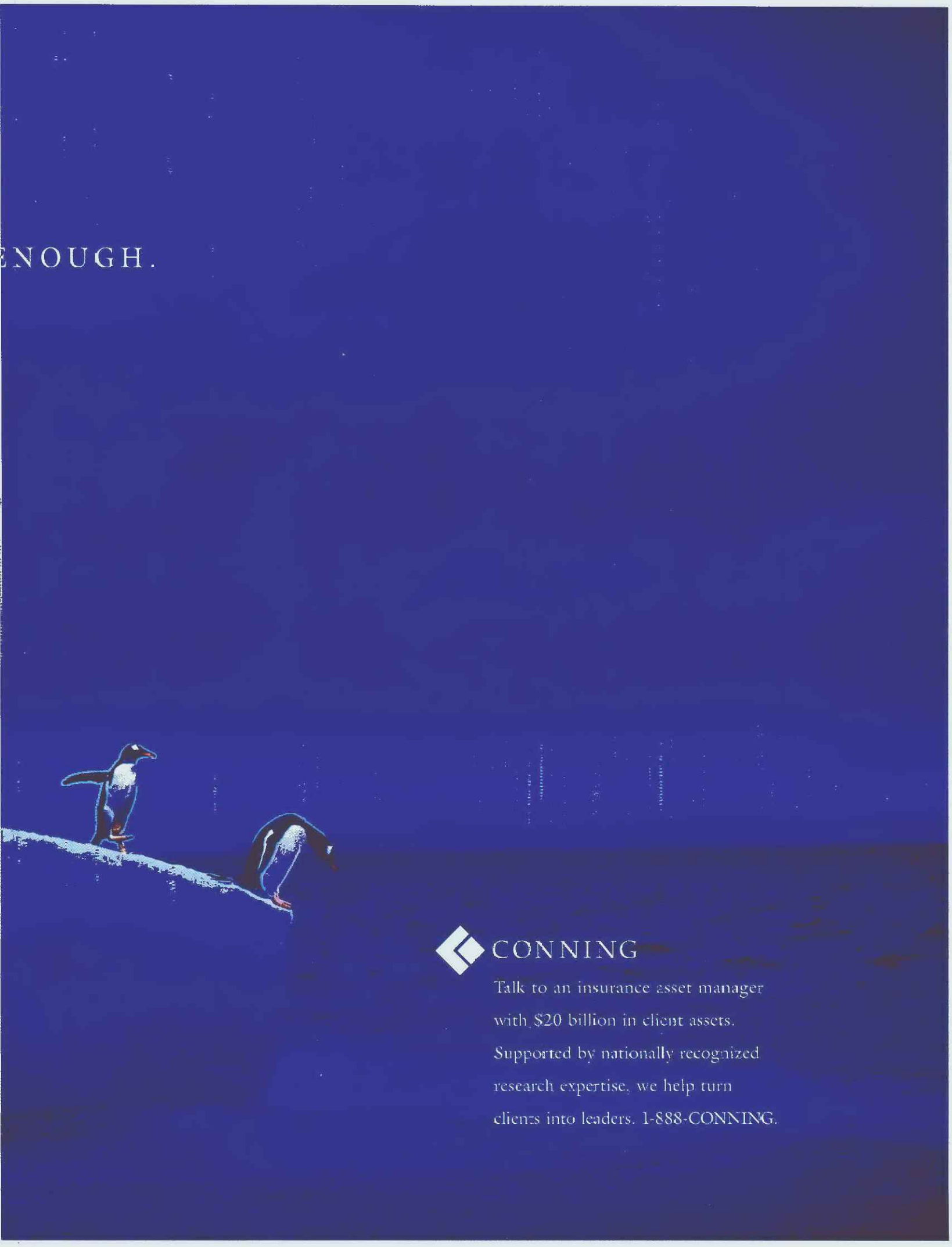
Mr. Binggeli noted that options in the reinsurance market are not very liquid, and buying them back is not easy. It's basically, sell the options, collect the premiums—"then you pray," he said.

Mr. Bloom acknowledges pension sponsors are unlikely to rush to invest in the fund initially, so Sentinel will focus on high-net-worth individuals for its first fund.

Later, funds that are available to U.S. pension clients can be created, if the demand is there, Mr. Bloom said.

Sentinel executives are seeking to raise at least $25 million but no more than $100 million for the initial fund.

Mr. Bloom said he hopes that once a track record for the fund is established, pension plans also will sign on. BI



403(b) plans gaining stature

By JUDY GREENWALD

Close to three-quarters of all 403(b) plans, the tax-deferred annuities offered by tax-exempt organizations, are now employer-sponsored and fall under provisions of the Employee Retirement Income Security Act of 1974, according to a survey by Buck Consultants Inc.

It is a positive trend, says Peter Gold, principal and benefit consultant in Buck's Stamford, Conn., office. "I think these things were neglected too long," he said.

It is time for employers to "step up and take responsibility" and see that these plans are handled correctly, said Mr. Gold, adding that employers take the blame if they are not handled properly anyway.

Buck conducted a survey of about 2,500 organizations nationwide on the plan design and administration of their 403(b) plans in December 1995. A total of 147 responses are summarized in its recently released report.

The 403(b) plans, which can be offered only by tax-exempt institutions such as public schools, hospitals, churches and charities, generally operate like 401(k) plans, in which a portion of employee salary is set aside on a tax-deferred basis. The annuity contracts are offered by insurers as well as by mutual funds.

Traditionally, unlike 401(k) plans, these plans have not fallen under ERISA's provisions. However if an employer does more than simply turn over employee funds to a vendor, the plan can come under ERISA, noted Mr. Gold. Typically this occurs when an employer decides to makes its own contribution.

403(b) plans are moving closer to their 401(k) counterparts and it is "only a matter of time" before the former are replaced by the latter altogether, he said.

For instance, the survey notes that under provisions of the Small Business Job Protection Act of 1996 signed into law by President Clinton, tax exempt organizations—though not governmental employers—will be permitted to set up and maintain 401(k) plans after Dec. 31.

In the Buck survey, 71% of the survey respondents said they treat their 403(b) plans as an employee benefit plan for purposes of ERISA, while 24% said they do not and 5% said they are not sure about the status of the plan.

Among other survey findings:

- A total of 59% of the respondents having a 403(b) plan offer at least one other plan, usually a defined benefit plan. While 60% of the educational institution respondents rely on 403(b) plans exclusively, only 36% of health care organizations do so.
- While 73% of survey respondents report their plans permit the use of contribution "catch-up" provisions for employees to make up for inadequate savings in their lower-paid years, they are not widely used. Only 4% of respondents cite the use of these provisions by more than 10% of plan participants.
- Adding or increasing the number of custodial account, mutual fund investment options is the most frequently reported change being considered for a plan by survey respondents. It was cited by 46% of respondents.

Other possibilities cited include adding or increasing an employer matching contribution, cited by 37%, adding or increasing annuity investment options, cited by 21%, and using kiosk technology, cited by nearly 20%.

- A total of 85% respondents said they are not considering using the IRS' Tax Sheltered Annuity Voluntary Correction Program, under which institutions concerned about possible problems in their 403(b) plans can approach the agency (*BI*, Feb. 5).

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Copies of the survey, "Section 403(b) Plans: Employer Policies and Plan Design," are available for $150 each from Buck's Survey Department, 201-902-2736.

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Kidder

Continued from page 3

pointing out that the fidelity bonds they wrote were to indemnify Kidder for its direct losses, not for its liability to third parties.

The insurers then filed a motion in the New York Supreme Court seeking to dismiss Kidder's insurance claim, and Kidder counter-sued.

The court found for the insurers, drawing from a similar 1993 case also before New York's Supreme Court in which Drexel Burnham Lambert Group Inc. sued Vigilant Insurance Co., a unit of Chubb Corp., for fidelity bond coverage to pay insider trading liabilities.

"In analyzing the coverage under the bonds," which were "essentially identical" to the Kidder bonds, "the court recognized that: The bonds are not liability policies," Judge Gammerman observed.

"The insurance policies here involved are fidelity blanket bonds not liability insurance policies. They do not purport to defend and indemnify the assured every time a claim is made against it because it may be responsible to others for the acts of its employees," the decision said.

Insurer attorneys said the decision is significant because it signals the end of insurance coverage battles stemming from the 1980s insider trading era.

The decision "brings to a close the claims brought by the securities industry against its insurers to recover for insider trading losses," said Robert B. Budelman Jr. of Sedgwick, Detert, Moran & Arnold, who represented various insurers in the case.

Mr. Budelman, the managing partner of Sedgwick, Detert's New York office, served as counsel to Lloyd's of London underwriters, Federal Insurance Co., Reliance Insurance Co., National Union Insurance Co. of Pittsburgh, Pa., and Assicurazioni Generali S.p.A.

However, Kidder attorney Ms. Nadler says the issue isn't yet resolved since no higher courts have ruled on the applicability of fidelity bond coverage in insider trading cases.

While the Drexel case was appealed, the appeal was dropped when the parties agreed to settle out of court, she recalled. Terms of the settlement were kept confidential. Other insurers named in the Kidder suit were: Aetna; Insurance Co. of North America; and Vigilant Insurance Co.

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Aetna Casualty & Surety Co., et. al. vs. Kidder Peabody & Co., New York State Supreme Court Index No. 128564/93, Sept. 23, 1996.

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Class action issues on docket for new Supreme Court term

By MARK A. HOFMANN

WASHINGTON—The Supreme Court has agreed to decide whether participants in a class-action suit can pursue individual actions if they are not satisfied with the award they receive as part of the class action.

Adams vs. Robertson is one of eight cases the court agreed to add to the docket for the term that begins today.

The docket left over from the court's last session is one of the lightest in recent history, containing relatively few cases of interest to risk and benefits managers (*BI*, Sept. 23).

That could change today, when the court traditionally agrees to review additional cases.

Adams vs. Robertson began in 1992, when a group of policyholders of Liberty National Life Insurance Co., a Birmingham, Ala.-based unit of Torchmark Corp., sued the insurer for alleged fraud.

The plaintiffs claimed Liberty National had tricked them into exchanging old cancer insurance policies for new ones in 1986 without telling them the new policies did not provide coverage as broad as the old ones.

The plaintiffs said about 200,000 people exchanged policies.

The docket left over from the court's last session is one of the lightest in recent history, containing relatively few cases of interest to risk and benefits managers.

Liberty National settled in 1994 for $55 million, more than $4 million of which went to legal fees. A group of about 400 of the plaintiffs said the settlement was inadequate and that they should have the right to pursue their own claims.

The Alabama Supreme Court said they could not opt out of the settlement, and the plaintiffs appealed to the U.S. Supreme Court.

The justices had previously agreed to hear several cases of interest to business during the new term.

None of the cases, however, appear to carry the potential impact of last year's landmark *Gore vs. BMW*, which held that punitive damage awards could be so disproportionate to economic damages as to be unconstitutional; and *Varity Corp. vs. Howe*, which expanded the definition of what constitutes a fiduciary under the Employee Retirement Income Security Act.

Among the cases the court has agreed to hear, *Robinson vs. Shell Oil Co.* could determine whether a former employee fits the definition of an "employee" covered by the anti-retaliatory protections provided by the Civil Rights Act of 1964.

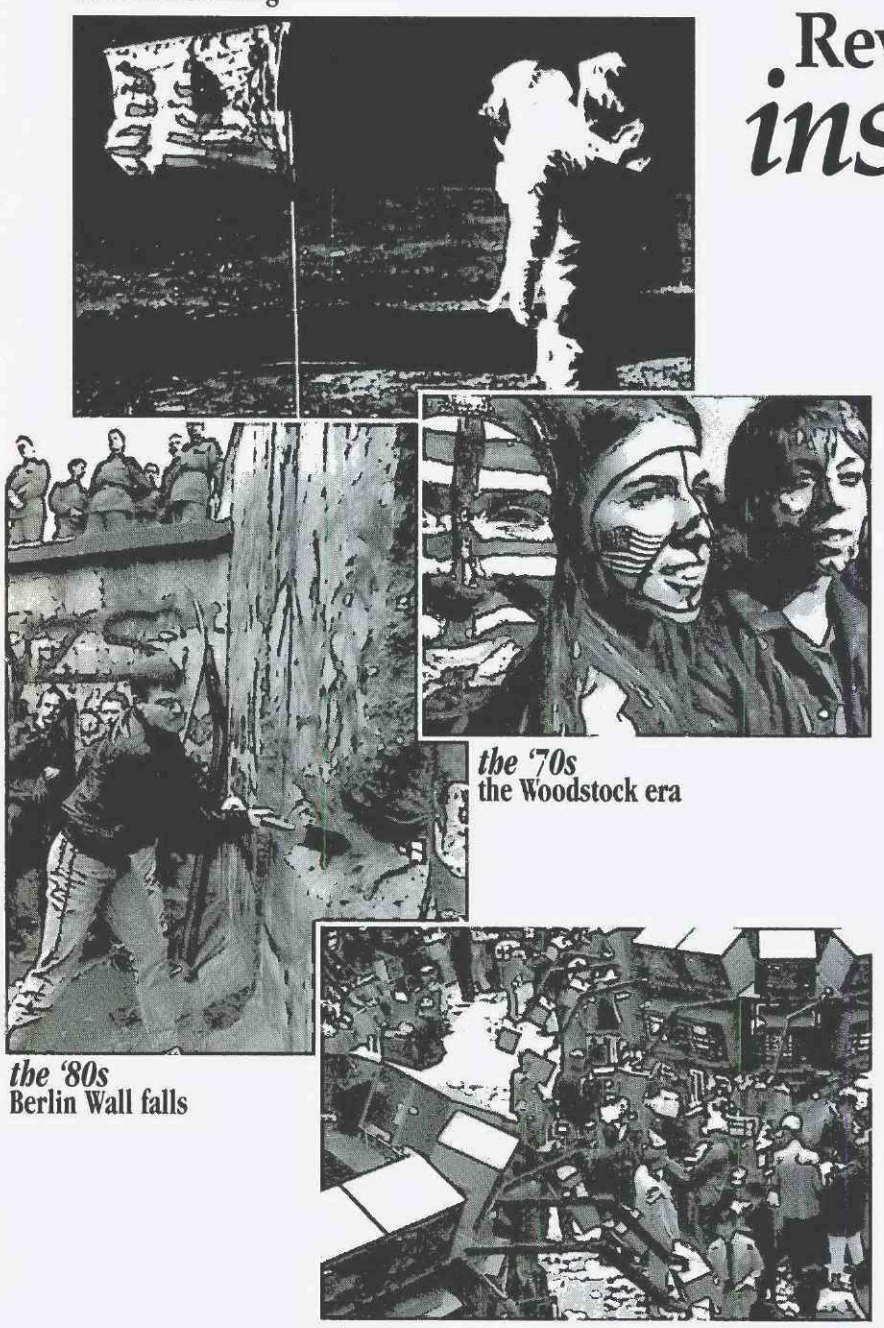
In that case, an employee of Shell Oil Co. filed a racial discrimination complaint with the Equal Employment Opportunity Commission when Shell terminated him. When he applied for a job with a new company, Shell gave him a bad reference. He then filed another complaint with the EEOC, holding that the bad reference was in retaliation for his first complaint.

The 4th U.S. Circuit Court of Appeals said a former employee was not the same as an employee, but other circuits have ruled otherwise, thus setting the stage for a Supreme Court ruling.

The court has also agreed to hear cases involving: whether the widow of a worker covered by the Longshore and Harbor Workers' Compensation Act is barred from pursuing a wrongful death claim against her husband's former employer because the couple failed to get the employer's approval of third-party settlements for asbestos-related injuries as required by the law; the tax treatment of punitive damages in wrongful death awards; when the right to sue under the Racketeer Influenced and Corrupt Organizations Act begins to accrue; and whether liability standards for the directors and officers of failed insured depository institutions are set by the Financial Institutions Reform, Recovery and Enforcement Act of 1989 or by federal common law.

The court may also agree to hear cases involving the vacating of civil court judgments; the right of the federal government to seize assets of one bank to offset losses stemming from the failure of another bank owned by the same bank holding company; and the right of employees to enter into class-action age discrimination suits.

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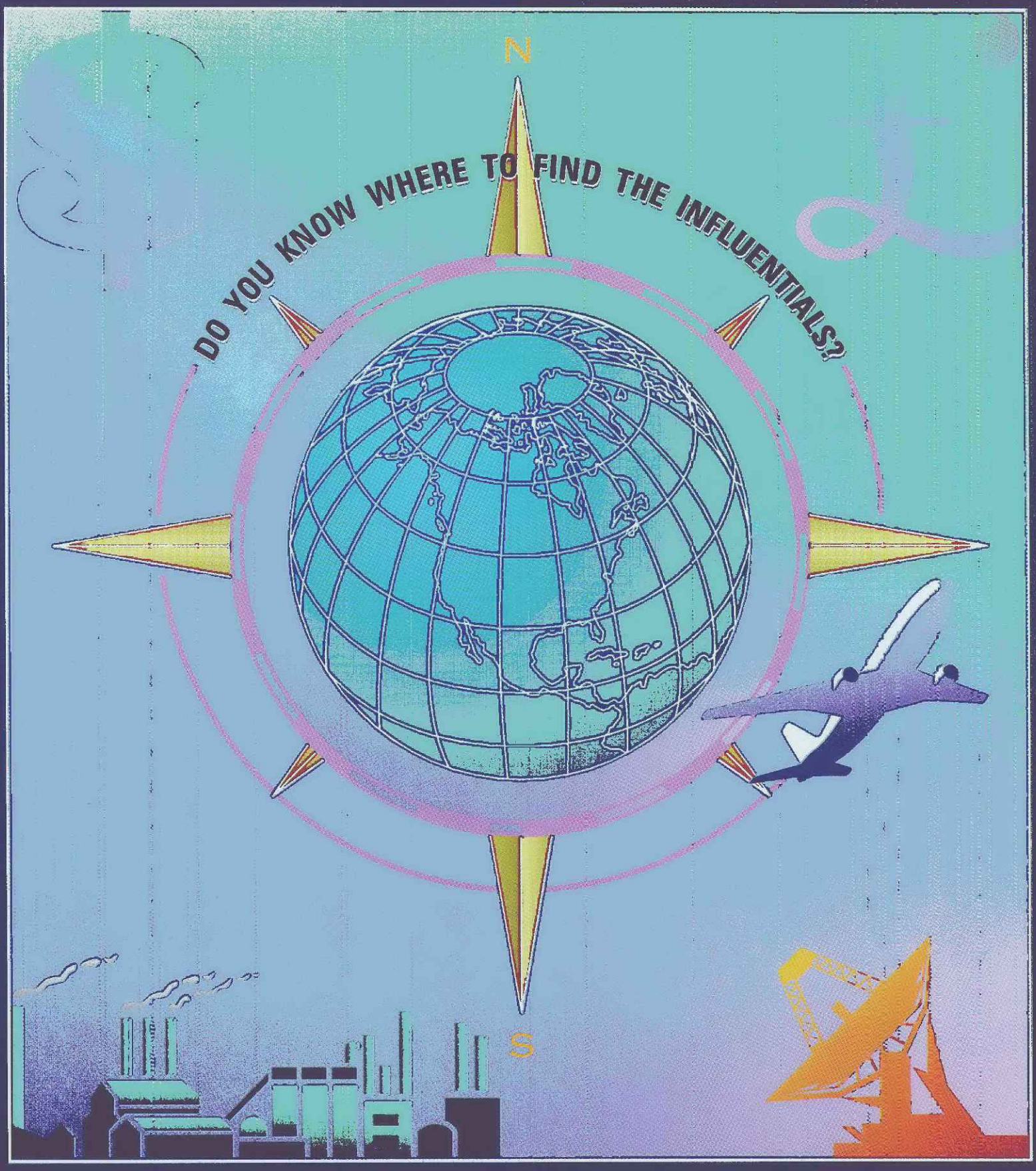
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OCTOBER

OCT. 14. Back to Basics Surety Bond Seminar in Schaumburg, Ill., sponsored by The INSCO/DICO Group; $75. **Also Oct. 29** in Pleasanton, Calif.; and **Nov. 19** in City of Industry, Calif. Karin Scarpone, INSCO/DICO Group, 17780 Fitch, Irvine, Calif. 92614. 800-782-1546, ext. 346.

OCT. 14-15. International Assn. of Insurance Supervisors Third Annual Conference in Paris, sponsored by IAIS; $400 for members, $800 for non-members. IAIS, c/o NAIC, Accounting Dept., 120 W. 12th St., Kansas City, Mo. 64105; 202-624-7790.

OCT. 14-15. Shared Horizons: The Illinois Public Health Forum in Chicago, sponsored by Lilly; $450. Open Minds, Professional Education Coordinator, 44 South Franklin St., Gettysburg, Pa. 17325; 717-334-1329.

OCT. 14-17. HMO Annual Statement Preparation Seminar in Kansas City, Mo., sponsored by the National Assn. of Insurance Commissioners; $275 for state insurance department staff, $475 for others. **Also Nov. 12-15** in Philadelphia. NAIC, Education and Training Department, 120 W. 12th Street, Suite 1100, Kansas City, Mo. 64105-1925; 816-374-7192.

OCT. 15. Interactive Teleconference on Flex Benefit Plans, sponsored by International Foundation of Employee Benefit Plans; $95. Registrations Department, IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6710.

OCT. 16. Manufacturers Output Policies-A Marine Twist on Property Underwriting seminar in Farmington, Conn., sponsored by the Inland Marine Underwriters Association; $90 prepaid. **Also Oct. 23** in New York City; $125 prepaid. Allan Fliss, Inland Marine Underwriters Association, 111 Broadway, New York, N.Y. 10006; 201-299-0070.

OCT. 16-18. 10th Annual National Disability Management Conference & Exhibit in Washington, sponsored by Washington Business Group on Health; Conference and exhibit, $925 for members, $1,025 for non-members. $975 for members, $1,075 for non-members after Aug. 15. Conference only, $675 for members, $775 for non-members. $725 for members, $825 for non-members after Aug. 15. Ann Makowski, WBGH, 777 N. Capitol Street N.E., Suite 800, Washington, D.C. 20002; 202-408-9320.

OCT. 16-18. National Ergonomics Exposition and Conference in Los Angeles, sponsored by Kotch & Poliak Inc.; $295 pre-registration, $350 onsite. Kotch & Poliak Inc., 645 Madison Ave., New York, N.Y. 10022-1000; 212-486-6186.

OCT. 16-18. Property and Casualty Product Management Skills and Techniques Seminar in Chicago, sponsored by Dorman Consulting Associates; $995. **Also Nov. 11-13** in Atlanta. Dorman Consulting Associates, 1 Haverhill Court, Beachwood, Ohio 44122; 216-464-5678.

OCT. 16-18. Strategic Crisis Management seminar in Seattle, sponsored by Marsh & McLennan Inc., Lane Powell Spears Lubersky, Hart Crowser Inc. and Soper & Associates LTD.; $875 before Aug. 14, $1,075 after. Executive Programs, University of Washington, Box 353200, Seattle, Wash. 98195-3200; 206-543-8560.

OCT. 16-18. 10th International Reinsurance Congress in Hamilton, Bermuda, sponsored by Coopers & Lybrand L.L.P. and Hawksmere P.L.C.; $1,445. Hawksmere P.L.C., 12-18 Grosvenor Gardens, London SWIW 0DH, United Kingdom; 44-0-171-824-8257.

OCT. 17-18. 17th Annual Pension Publications of Denver Inc. ERISA Workshop in Kansas City, Mo., sponsored by Pension Publications of Denver Inc., $455. **Also Oct. 24-25** in St. Louis. Pension Publications of Denver Inc., P.O. Box 24127, Denver, Colo. 80222, 303-759-1004.

OCT. 17-18. Managing the Mechanics of Managed Care conference in Phoenix, sponsored by CNA HealthPro Consulting Group, The Columbia University School of Public Health, Continental Casualty Company, The Accountants Professional Liability Group of the CNA Insurance Companies; $795 regular fee. Barbara C. Johnson. CNA HealthPro Consulting Group, CNA Plaza, 19 South, Chicago, Ill. 60685; 312-822-2516.

OCT. 17-18. Insurance Coverage for Environmental Claims Seminar in Boston, sponsored by Defense Research Institute Inc.; $495 for members, $595 for non-members. DRI, 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

OCT. 18-19. Annual State Meeting for Tennessee Council of NAIW in Cedar Bluff, Tenn., sponsored by National Assn. of Insurance Women; $95. Betty Hart, Hart Insurance Agency, P.O. Box 6773, Knoxville, Tenn. 37914; 423-523-1500.

OCT. 19-23. Pride in Independence—The Next 100 Years conference in Toronto, sponsored by Independent Insurance Agents of America; $375 $425 after July 15. IIAA, 127 S. Peyton St., Alexandria, Va. 22314; 800-221-7917.

OCT. 21. Risk Management goes HI-TECH seminar in Dallas, sponsored by Dallas-Fort Worth Chapter of Risk and Insurance Management Society Inc.; $100 for members, $125 for non-members. Joanne Walles, Pappas Restaurants Inc., 1304 Copeland Rd., Arlington, Texas 76011; 817-461-4700.

OCT. 21-22. ISO's Statistical Date Quality Conference in New York, sponsored by Insurance Services Office Inc.; $550 for participating customers, $800 for others. Maureen Karon, ISO, 7 World Trade Center, New York, N.Y. 10048, 212-898-6612.

OCT. 21-22. Property and Casualty Pricing and Rate Making in Plain English Seminar in Chicago, sponsored by Dorman Consulting Associates; $895. **Also Nov. 7-8** in Atlanta. Dorman Consulting Associates 1 Haverhill Court, Beachwood, Ohio 44122; 216-464-5678.

OCT. 21-22. Advanced Reinsurance seminar in New York, sponsored by The College of Insurance; $650. The College of Insurance Center for Professional Education, 101 Murray St., Room 436, New York, N.Y. 10007; 212-815-9201.

OCT. 21-23. Insurance Conference on Psychological Injury Claims in Colorado Springs, Colo., sponsored by The Program in Psychiatry and Law at Georgetown University School of Medicine; $385. Dr Pamela H. Silvain, Conference Director, 4984 Palm Coast Parkway, NW, Suite 5, Palm Coast, Fla. 32137; 904-446-4300.

OCT. 21-23. Performance Measurements for the Benefits Function in Chicago, sponsored by International Quality & Productivity Center; $1,995. International Quality & Productivity Center, 150 Clove Road, P.O. Box 401, Little Falls, N.J. 07424-0401; 800-882-8684.

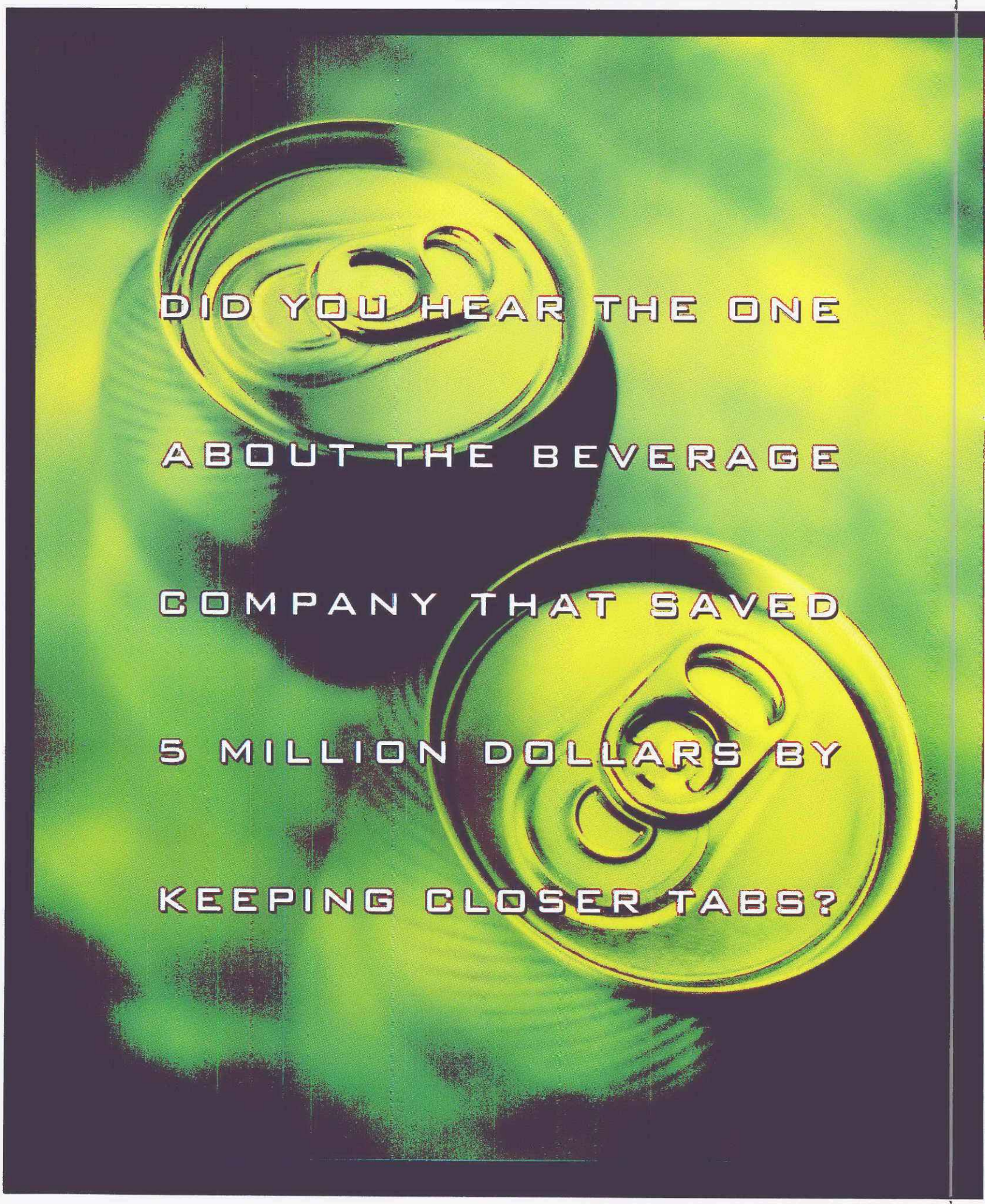
OCT. 23-25. Optimizing Non-Qualified Benefit Plans for Corporations conference in Washington, sponsored by International Quality & Productivity Center; $1,295. International Quality & Productivity Center, 150 Clove Road, P.O. Box 401, Little Falls, N.J. 07424-0401; 800-882-8684.

OCT. 23-25. Capitation & At-Risk Contracting conference in San Francisco, sponsored by Partnership for Behavioral Healthcare; $795. **Also Nov. 14-16** in San Francisco. Partnership for Behavioral Healthcare, CentraLink, 4370 Alpine Road, Suite 108, Portola Valley, Calif. 94028; 415-851-8411.

OCT. 23-25. Financial Analysis of Life/Health Insurance Operations Seminar in Philadelphia, sponsored by Michael Conn Associates; $1,250. **Also Nov. 20-22** in Philadelphia. Michael Conn Associates, 223 Bloomfield St. #104, Hoboken, N.J. 07030; 201-795-9333.

OCT. 23-25. 50th Anniversary Council on Employee Benefits Fall Conference in New Orleans, sponsored by Council on Employee Benefits; $600 for mem-

Continued on next page



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bers, $700 for non-members. C.S. Lazaroff, Secretary-Treasurer, c/o Goodyear Relief Assn., 1144 East Market St., Akron, Ohio 44316; 330-796-4008.

OCT. 24-25. Insurance Fraud and Suspicious Claims Seminar in Boston, sponsored by Defense Research Institute Inc., $495 for members, $595 for non-members. DRI, 750 North Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

OCT. 24-25. Insurance Electronomics: Commerce, Collaborating and Connecting on the Net conference in Chicago, sponsored by InsuranceUSA, ADVice Inc., Sun Microsystems and the Risk and Insurance Management Society Inc.; $650. ADVice Inc., 330 E. 39 St., New York, N.Y. 10016; 416-363-7355.

OCT. 28-29. Vermont Workers' Compensation Adjusters' Conference in Stratton, Vt., sponsored by Vermont Insurance Institute; $199. The Vermont Insurance Institute, Champlain College, Burlington, Vt. 05402-0670; 802-860-2726.

Datebook

OCT. 28-29. Reinsurance for Property/Casualty Insurance Operations seminar in Philadelphia, sponsored by Michael Conn Associates; $1,195. Michael Conn Associates, 223 Bloomfield St. #104, Hoboken, N.J. 07030; 201-795-9333.

OCT. 28-NOV. 1. The National Managed Worker's Compensation Institute Workshop Series in Orlando, sponsored by the National Managed Worker's Compensation Institute; $3,195 for all five workshops, $895 for one workshop. National Managed Workers' Compensation Institute, 151 West 19th St., 8th Floor, New York, N.Y. 10011; 212-366-3242.

OCT. 29. Reinsurance Accounting and Auditing seminar in New York, sponsored by The College of Insurance; $325. The College of Insurance Center for Professional Education, 101 Murray St., Room 436, New York, N.Y. 10007; 212-815-9201.

OCT. 29. Solving the Additional Insured Issue workshop in Dallas, sponsored by the CPCU Society; $75 for members, $85 for non-members. **Also Nov. 12** in North Miami, Fla. CPCU Society, 720 Providence Rd., P.O. Box 3009, Malvern, Pa. 19355-0709; 610-251-CPCU.

OCT. 29. Workers Compensation Issues: Exposures & Solutions in 1996 workshop in West Reading, Pa., sponsored by the CPCU Society; $75 for members, $85 for non-members. CPCU Society, 720 Providence Rd., P.O. Box 3009, Malvern, Pa. 19355-0709; 610-251-CPCU.

OCT. 30. The Marine Insurance Marketplace seminar in Ft. Lauderdale, Fla., sponsored by Ft. Lauderdale Mariners Club; $159. Ft. Lauderdale Mariners Club, P.O. Box 9861, Ft. Lauderdale, Fla. 33310-9861; 954-797-5315.

OCT. 30. The Retirement Revolution—What Is It? How Are Employers Responding? conference in Boston, sponsored by New England Employee Benefits Council; $175 for members, $250 for non-members. 617-239-1767.

OCT. 30-NOV. 1. Public/Private Regional Symposia in Portland, Ore. sponsored by the Public/Private Behavioral Healthcare Partnership and CentraLink; $895 or $595 for government employees. CentraLink 4370 Alpine road, Suite 108, Portola Valley, Calif. 94208; 415-851-8411.

OCT. 31-NOV. 1. Demand Management in Action Conference on Consumer Focused Solution to Improve Health Status and Member Satisfaction in San Diego, sponsored by Partnership for Healthcare Excellence; $895 if before Oct. 16, $1,095 after. CentraLink, 4370 Alpine Road, Suite 108, Portola Valley, Calif. 94028; 415-851-8411.

OCT. 31-NOV. 1. Managed Care Liability and Risk Avoidance '96 conference in Washington, sponsored by The Healthcare Institute; $1,295. Conference Administrator, Institute for International Research, 708 Third Ave., 4th Floor, New York, N.Y. 10017; 212-661-8740.

OCT. 31-NOV. 1. PIMA Health Insurance Seminar in Dallas, sponsored by Professional Insurance Mass-Marketing Assn.; $295 for members, $395 non-members. PIMA, Suite 330, 4733 Bethesda Ave., Bethesda, Md. 20814-5228; 301-951-1260.

NOVEMBER

NOV. 3-6. Moving to the Millennium symposium in Houston, sponsored by the USA Institute for Managed Care; $450 before September 20 and $650 after. Robert Thurner, The Institute for Managed Care, 916 S. Capital of Texas Highway, Austin, Texas 78746; 800-872-0820.

NOV. 5-6. REBEX '96 Risk and Insurance Management Society Inc. conference in Chicago, sponsored by the Chicago, Northeastern Illinois and Wisconsin Chapters of RIMS; $250. REBEX '96, 60 Revere Drive, Suite 500, Northbrook, Ill. 60062; 847-480-9712.

NOV. 5-9. SIAA Sixteenth Annual National Educational Conference & Expo in Dallas, sponsored by Self-Insurance Institute of America Inc.; $895 members, $995 for non-members. SIIA, P.O. Box 15466, Santa Ana, Calif. 92735; 800-851-7789. 800-851-7789.

NOV. 6. Managed Care: The Vision, The Challenge, The Future conference in Oakbrook, Ill., sponsored by the Illinois Association of HMOs; $225 non-members. Douglas Carlson, IAHMO Symposium, 500 N. Dearborn, Suite 1128, Chicago, Ill. 60610; 312-321-6124.

NOV. 6 & 13. Personal Lines Seminar for Insurance Producers in Chicago, sponsored by the Insurance School of Chicago; $275. The Insurance School of Chicago, 175 W. Jackson, Suite 2200, Chicago, Ill. 60604; 312-427-2520.

NOV. 6-7. The Seminar for Non-Insurance Professionals seminar in New York, sponsored by The College of Insurance; $595. The College of Insurance Center for Professional Education, 101 Murray St., Room 436, New York, N.Y. 10007; 212-815-9201.

NOV. 6-8. The Primary Care Behavioral Healthcare Summit in Orlando, Fla., sponsored by The Institute for Behavioral Healthcare; $795 before Oct. 15, $995 after. CentraLink-P, 4370 Alpine Road, Suite 108, Portola Valley, Calif. 94028; 415-851-8411.

NOV. 6-8. Total Outcomes to Manage Employee Loss-Time conference in Boca Raton, Fla., sponsored by Infoline and William M. Mercer Inc., $1,295. IBC USA Conferences Inc., 225 Turnpike Road, Southborough, Mass. 01772-1749; 508-481-6400.

NOV. 6-8. The Fourth Annual *Business Insurance* Workers Compensation Conference in Pasadena, Calif., sponsored by *Business Insurance*; $595 for risk managers, benefit managers and safety managers; $895 for service providers. $100 group discount per person for two or more employees of the same company. International Business Forum, 7 Penn Plaza, Suite 901, New York, N.Y. 10001; 212-279-2525; fax: 212-279-9307.

NOV. 7-8. The 9th Environmental Corporate Counsel Institute: Instilling Top-down Environmental Excellence conference in New York, sponsored by Corporate Counsel Institutes; $995. BDA Inc., 8601 Georgia Ave., Suite 205, Silver Spring, Md. 20910; 800-394-9390.

NOV. 7-8. Capturing, Analyzing & Utilizing Data for Disease Management Programs conference in San Francisco; sponsored by The National Managed Health Care Congress; $1,595. NMHCC Executive Briefing Series, 70 Blanchard Road, Suite 4000, Burlington, Mass. 01803; 800-872-0094.

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Technology

Continued from page 3

In some cases, the pace of technology has overrun companies, bogging them down with too much work.

"We're all under the same stress over what to do with the information to which we are subjected," said R. Gerald Bennett, president and chief executive officer of Equitable Resources Inc.'s Supply and Logistics Division in Houston. Part of the problem is that technology has made business executives easier to access, he said, and faxes, e-mail and telephone messages all beg for attention.

"It's become a full-time job to balance the demands of everyone else. It's almost impossible to be proactive" at work because so much time is spent reacting to others' requests, Mr. Bennett said. "I haven't seen too many companies handle this problem very well."

Other risks are becoming apparent as companies farm out to subcontractors some of the services they provide to customers, he added.

As companies make more contractual agreements with outside companies, there is a danger that information can fall into the wrong hands, Mr. Lange said. "You've got to think about the risks that are inherent in that."

Like risk managers, brokers also are feeling the heat to stay abreast technologically.

"We are investing over $100 million in information technology around the world," said Robert J. Murphy, senior vp with Alexander & Alexander Inc. in New York.

Mr. Murphy pointed out that the increasingly competitive global marketplace is creating new demands on risk managers. Those demands mean the risk manager has to have more sophisticated and state-of-the-art services from brokers.

He acknowledged that brokers must work harder to understand risk managers' needs and respond by "delivering actual value to the clients."

Mr. Lange agreed, adding that insurance buyers are looking for the most efficient ways to purchase insurance and risk management products and services. Technological changes may someday provide a way around the broker, he added.

"Brokers, listen very closely to this," he said. "When we see another way to the market, there is going to be a stampede."

A&A, while fighting to stay competitive partly through technology, also is participating in one of the trends many brokers have been caught up in during recent years: consolidation.

While the attention to broker mergers and acquisitions may have been somewhat overblown, the trend continues, Mr. Murphy conceded.

"Although it's been widely spoken about," he said of consolidation among brokers, "it's gone a lot slower than a lot of pundits expected."

Major brokers "remain deeply independent," he said, and many brokers have contingencies on their books that act as "shark repellent" to acquiring companies.

In addition, brokers looking to sell often have too-high expectations of the price they could get, according to Mr. Murphy.

Still, he noted, "The industry faces inevitable consolidation."

A&A is a good example of the trend. This year A&A has acquired three Australian brokers, two in Sweden and others in South Korea and Indonesia. More than half of A&A's offices and employees now are outside the United States, according to Mr. Murphy.

'We're all under the same stress over what to do with the information to which we are subjected,' says R. Gerald Bennett of Equitable Resources.

The trend toward mergers and acquisitions also is seen among insurance companies, which are joining in some cases to form global networks, Mr. Murphy pointed out.

An insurer on the panel pointed out that these mergers aren't always in the best interest of the insurance consumer.

"Clearly, buyers have less choice," said Dennis Kane, president of CIGNA Property & Casualty Special Risk Facilities in Philadelphia.

Although two merged companies should be able to offer more capacity to buyers, sometimes they have less to give. Property capacity in particular may be dealt a blow in a merger, Mr. Kane said.

He explained that "reinsurers have philosophical guidelines" and provide only a certain amount of reinsurance to each single insurer. Just because two companies become one, that doesn't mean the merged company can access reinsurance capacity equal to the amount both insurers once had available, he explained.

Also participating in the panel discussion were Anita Ward, senior vp of management consulting at Texas Commerce Bank in Houston and Leslie Loble, counselor to U.S. Secretary of Labor Robert Reich.

The discussion moderator was P. Richard Hackenburg, president of Advanced Risk Management Services Inc., a unit of Willis Corroon Corp. in Nashville, Tenn. BI



Michigan bills target patient rights

By AMY LANE
Crain News Service

LANSING, Mich.—Michigan employers would have new and more detailed information to share with employees about their health-insurance plans and a new complaint process, under a package of bills passed last month by the state House of Representatives.

The "Patient Bill of Rights" requires that additional information be made available at sign-up and on request, including what the insurer covers, preauthorization requirements and the appeal process if a claim is denied. It should help employers and employees, said Nancy McKeague, vp of human resources and administration for the Michigan Chamber of Commerce.

"In a company large enough to have a personnel manager, they often act as a liaison or ombudsman between the employee and the health plan," Ms. McKeague said. "This legislation would require that the appeals process and the coverage standards be in a form that is easier to understand. It should make it easier to intercede on behalf of the employees, or for the employee to handle the complaint by his or herself."

The sponsor of the legislation, Rep. John Jamian, R-Bloomfield Hills, said the bills provide "a direct mechanism between the employee and the health plan. So when there are problems with claims or appeals or grievances ...they can go directly to the insurance source. It really takes the employer off the hook in terms of having their employees complain to them in terms of their health plan."

Some health insurers protest that a key provision preventing them from denying coverage for pre-existing conditions will increase the cost of insurance and drive some insurers out of the market.

"We take into account pre-existing conditions. Because we do that, we can offer lower premiums," said Frank Venuto, a lobbyist for the Indianapolis-based Golden Rule Insurance Co. He is president of Venuto & Associates in Lansing, Mich. "It will reduce the pool of people insured to a sicker pool, and the premiums are going to have to go up."

But Rep. Jamian said insurance costs will decrease for most people. He said 85% of the market already accepts people with pre-existing conditions, after a six-month waiting period. By spreading that risk throughout the entire population, most prices will drop, Rep. Jamian said.

The bills require a person with a pre-existing condition and no health insurance to wait six months to enter a plan. That's less than the 12 months required in the recently passed federal Kennedy-Kassebaum bill, and the Chamber would like Rep. Jamian's legislation amended to conform with federal law.

House Bills 5570-5574 passed the House unanimously. The Senate Health Policy and Senate Financial Services committees plan joint hearings Oct. 15 and Oct. 22. BI

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Managed care scores high in survey

By JONATHAN GARDNER
Crain News Service

Most Medicare managed-care enrollees find health care accessible and are relatively satisfied with their plans, according to the preliminary results of a survey conducted for a congressional advisory panel.

The telephone survey of 3,080 Medicare managed-care enrollees and former enrollees found that only 8% reported trouble seeing physicians. The survey was conducted in February for the Physician Payment Review Commission, which advises Congress on Medicare payment issues.

Only 6% said they had not been referred to specialists when they wanted specialty care, and 6% said they thought they had been discharged from the hospital too soon, according to the survey, which was conducted for PPRC by Mathematica Policy Research.

The survey also found that 96% of the enrollees were able to see the same physician for most scheduled visits and that 43% rated their plans' overall health care coverage as "excellent," while only 4% said their care was "fair" or "poor."

And of those beneficiaries who had a primary-care physician before enrolling in a risk HMO, 52% were able to retain that doctor.

But 17% of enrollees receiving home health services wanted more of such services. That mirrors demand in the Medicare fee-for-service sector, in which home health services represent some of the fastest-growing expenditures.

Medicare HMOs also scored well on preventive services. The survey found that 66% of Medicare managed-care enrollees received flu shots and 59% of female enrollees received mammograms in the previous year. Comparable figures for beneficiaries covered by fee-for-service payments were 57% for flu shots and 37% for mammograms.

Few beneficiaries left managed-care plans and returned to fee-for-service coverage, the survey found. The sample of Medicare beneficiaries that Mathematica surveyed included 2.8% who had done so.

Enrollees also scored their plans highly for giving them adequate information. Among new enrollees surveyed, 96% said they received a booklet explaining how the plan works and an equal percentage said they received a list of participating doctors and providers. But of those who wanted more information than that, 21% said they did not succeed or had trouble getting the information. BI

Plaintiff requirement ruled unconstitutional

Illinois judge strikes down burden of filing expert affidavits

By SALLY ROBERTS

CHICAGO—A section of Illinois' 18-month-old Civil Justice Reform Act creates an extraordinary burden for plaintiffs and is unconstitutional, a Cook County Circuit Court judge has ruled.

The section, struck down Sept. 17, required plaintiffs bringing product liability suits to file, with the complaint, a sworn affidavit from an expert affirming the validity of the claim.

While the Illinois Supreme Court has found that the same requirement in medical malpractice cases serves the legitimate purpose of discouraging frivolous suits, Circuit Court Judge Joseph N. Casciato said the statute imposes a greater burden on product liability litigants.

"Access to information in medical malpractice cases is easily had because the patient has a statutory right to his or her medical records," Judge Casciato said in his opinion. "In a product liability case, the plaintiff will most likely face numerous obstacles in finding information concerning the defective product, or for that matter, having the product available for inspection by their required expert."

Because of this, the statute "creates an extraordinary burden for a plaintiff to even get his or her case to the court house," the judge wrote.

Indeed, Joseph Power, an attorney with Power, Rogers & Smith in Chicago who represented the plaintiff in *Esperanza Varon vs. A.G. Precision Inc. and Cincinnati Milacron Inc.*, said such lack of access prevented the plaintiff from filing an affidavit with the underlying complaint.

"It's a fatally flawed piece of legislation," he said.

However, in another product liability case in May, Cook County Circuit Judge Kenneth Gillis rejected portions of a suit making similar allegations with regard to providing an affidavit, without ruling on the constitutionality of that statute.

The law 'creates an extraordinary burden' for a plaintiff to get a case to the courthouse, Judge Joseph Casciato wrote.

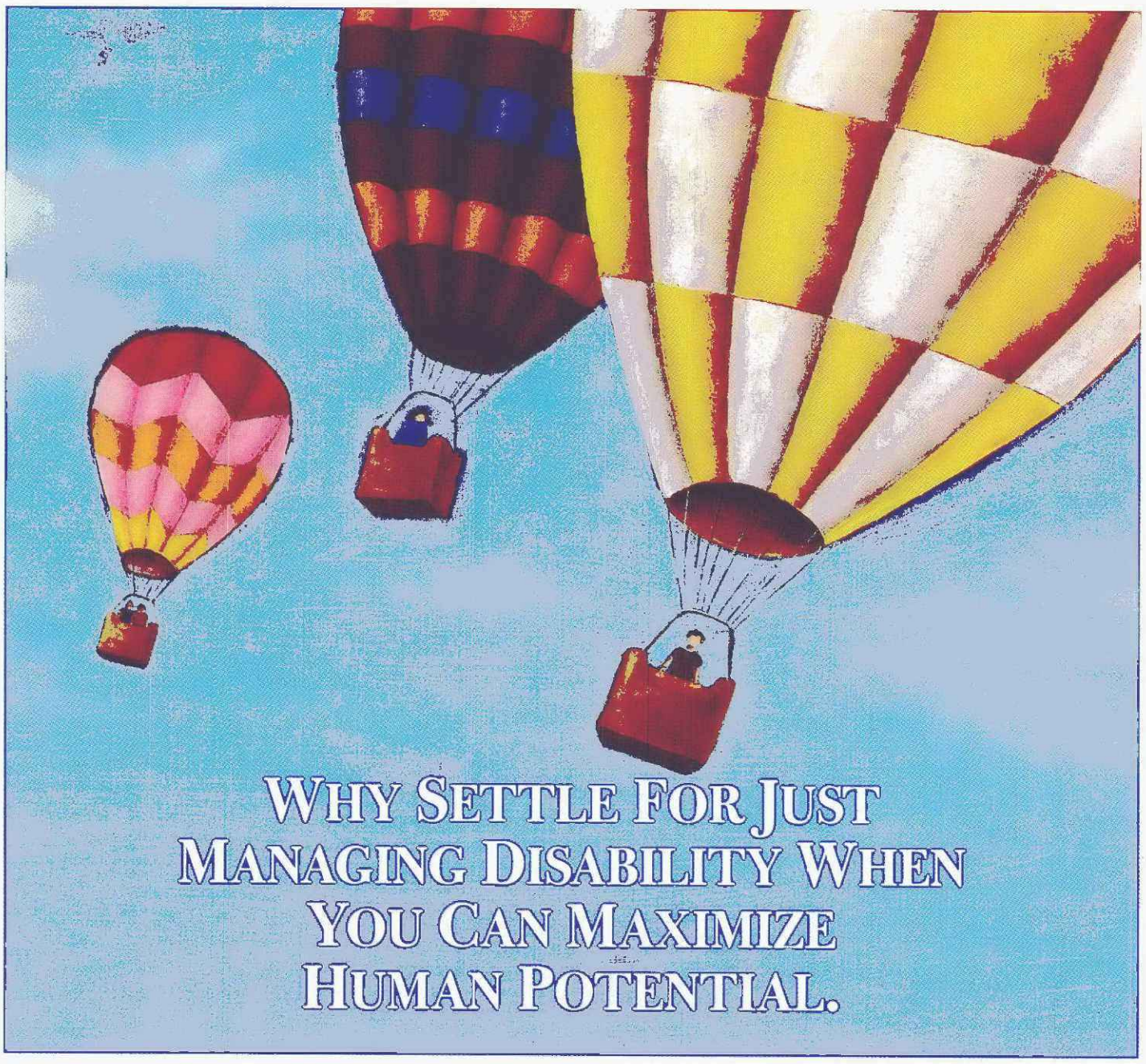
He did find that another, separate portion of the tort reform law was unconstitutional.

The two decisions raise concerns among some attorneys, as well as increase the likelihood the Illinois Supreme Court will make the final decision on the constitutionality of the statute.

Jeff Kubes, an attorney with Quinlan & Crisham in Chicago and former chairman of the tort litigation committee of the Chicago Bar Assn., said he is concerned that the recent decision "conflicts with" Judge Gillis' May ruling.

As a result, "the ultimate decision will be resolved by the (Illinois) Supreme Court," Mr. Kubes said.

Other sections of the state's Civil Justice Reform Act also have been found unconstitutional and will most likely end up in the Supreme Court, attorneys say. Earlier this year, Judge Gillis found unconstitutional the $500,000 cap on non-economic damages, such as pain and suffering. BI



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Agent/Broker Topics

A monthly editorial section sent exclusively to agents and brokers

Back at the foot of the Hill

Agents and brokers prepare for another round on the legislative front

Republican Congress left expectations of agents and brokers unrealized

By MICHAEL PRINCE

Looking back, it seemed like a dream.

After decades of Democratic control of Congress, the 1994 elections swept the Republicans into power. The insurance industry read with anticipation the Republicans' Contract with America, which called for pro-insurance industry measures, such as tort reform. The years spent fighting passage of laws the industry opposed seemed over and a new era of pro-reform Congress was just beginning.

"There was enthusiasm and there was optimism," said Jeff Keeler, federal affairs representative for the National Assn. of Professional Insurance Agents in Alexandria, Va.

Two years later, the enthusiasm of those early days has given way to frustration and wondering if pro-industry reforms ever will be enacted, said lobbyists for insurance agents and brokers.

"From the overall industry standpoint, a huge amount of time and energy was spent for no avail," said Barbara Haugen, director of federal affairs of the National Assn. of Insurance Brokers in Washington.

"This was the best shot in two decades and they blew it," she said.

"It's been frustrating because we weren't particularly successful in getting to the finish line in many of our legislative priorities," said Joel Wood, vp of government affairs for the Council of Insurance Agents & Brokers in Washington.

Over the past two years, the biggest issues for the insurance agents' lobby were tort reform, Superfund liability reform and extending insurance regulation to cover banks.

On each of these points, Congress failed to enact any legislation that became law.

Tort reform seemed most promising, as it played a prominent role in the Republicans' Contract With America and was high on the incoming leadership's list of priorities.

At first, tort reform appeared likely to become law. Within two months of taking control, the Republican-led House of Representatives passed a sweeping bill that called for capping punitive damages in all civil action at $250,000 or three times the economic damages, whatever is greater, replacing joint liability with proportional liability, and other reforms the industry wanted (*BI*, March 13, 1995).

It wasn't until the next March, however, that both the House and Senate passed identical versions of a less sweeping bill (*BI*, March 25). President Clinton vetoed this bill, and attempts to override the veto failed.

Opinions were divided on why the bill failed to become law.

Part of the failure of tort reform, one lobbyist said, is that the original bill went too far.

"We were overreaching early in the Congress," Ms. Haugen said.

It was expected that the Senate would tone down the House version of the bill and make it acceptable for President Clinton, or for enough Democrats to override his veto, she said.

The Council's Mr. Wood puts the blame on the president, who he says kept "moving the goal posts back," after Congress compromised to accommodate his concerns.

Another major issue was Superfund liability reform. House leaders, backed by the insurance industry, proposed legislation that would end retroactive liability for Superfund cleanup and also replace joint and several liability with proportional liability. As with tort reform, however,

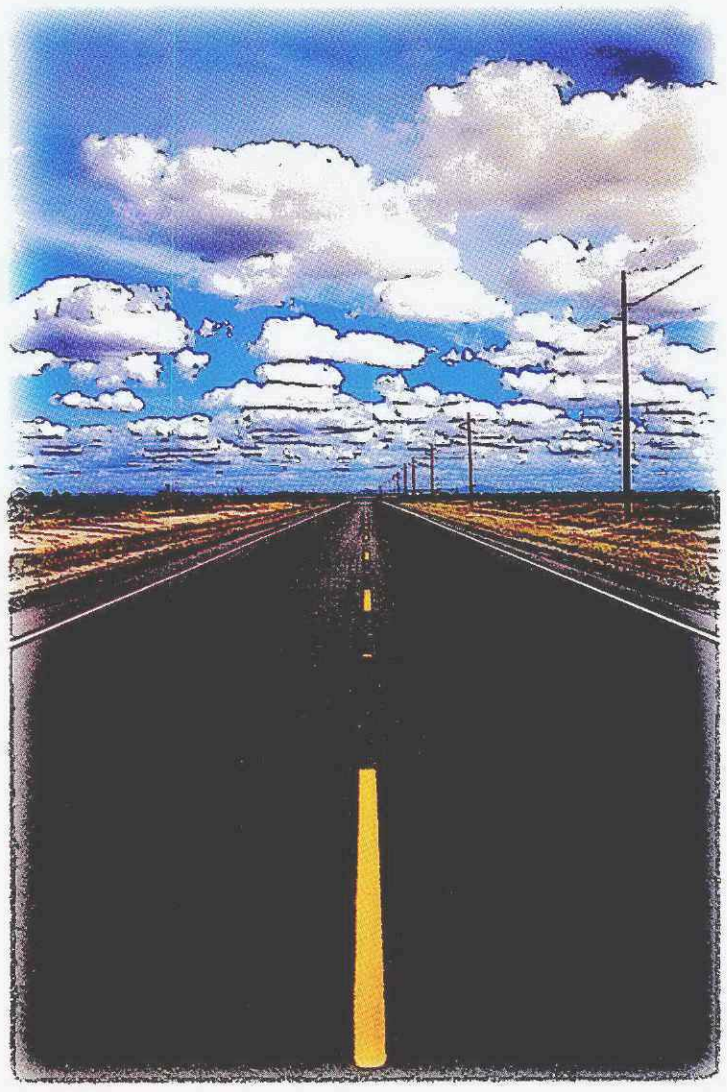
See **Congress** *on page 26D*

How agents and brokers fared in the 104th Congress

Agents and brokers had more disappointments than successes in achieving legislative reforms in the past congressional session.

Issue	Result
Financial services	Reform excluded from budget bill
Superfund reform	Died in committee
Tort reform	Vetoed by President Clinton
Repeal of punitive tax code provision affecting brokers	Achieved in Small Business Job Protection Act of 1996

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Congress

Continued from page 26B

these efforts did not succeed, as no Superfund bill made it out of committee.

"It's disappointing on being unable to achieve comprehensive reform of Superfund, which we thought was possible two years ago under a Republican Congress," said Mr. Wood.

"I'm disappointed that the Republicans couldn't put together a better Superfund package," Mr. Keeler said.

One explanation for the failure of Superfund reform was that the insurance industry and business groups opposed each other on the nature of the reforms, the lobbyists said, with each one trying to pin cleanup costs on the other.

"Had the business community been more cohesive in 1995, not taken a year to get its act together, we could have done much better," Mr. Wood said.

"Whenever we stick together we are generally successful. When we are divided we always lose," he added.

Despite the setback, there is optimism that momentum has been made toward reform of Superfund that will continue into next year. Underlying this optimism is the fact that Congress must reauthorize the Superfund law, forcing both parties to address the issue.

"There is ample incentive for Congress to pass reform," Mr. Wood said.

This same optimism is not shared for tort reform, as one lobbyist thinks that issue may be dead.

"Bottom line is I can't help but wonder if it's ever doable," Ms. Haugen said. "You reach a point where you feel the issue is just not going to make it."

But Messrs. Wood and Keeler disagreed. "Ultimately we are going to see some tort reform," Mr. Wood predicted.

He attributes that optimism to the fact that insurance and business groups are united in their goal of reform. Also, Mr. Wood said, they have just started their lobbying efforts and are building support for the issue.

"We learned the lesson we probably won't get these reforms right now, but we remain confident that eventually these reforms will get done if we have the same reform-minded leaders in place," said Mr. Keeler of the PIA.

Another defeat was in the ongoing attempt at financial services reform.

Insurance agents pressed Congress to pass legislation that would subject national banks that sell insurance to the same state insurance regulation that governs insurance agents.

This is in response to the actions of the U.S. Comptroller of the Currency, which for years has issued regulations that have allowed national banks to slowly enter the insurance industry by selling insurance products.

Although last-minute efforts to include the legislation as part of the budget bill failed, the House leadership gave insurance lobbyists a commitment that the measure will be taken up early in the next session.

"We'll live again to fight the issue next year," Mr. Wood said.

The lobbyists learned that passing legislation is much harder than blocking it.

'Bottom line is I can't help but wonder if (tort reform) is ever doable. You reach a point where you feel the issue is just not going to make it,' says Barbara Haugen.

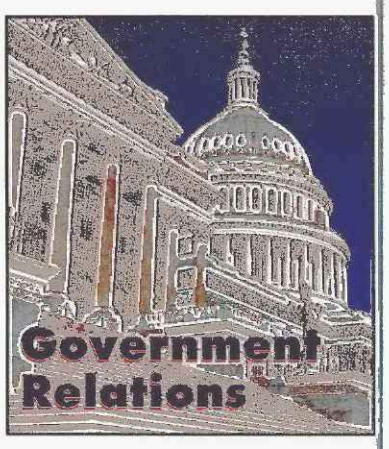
For years, the insurance industry was focused on preventing legislation, such as President Clinton's health care reform bill, from passing. The transformation from the defensive to a more offensive role of advancing favorable legislation was more difficult than expected.

"It's a total role reversal," Ms. Haugen said.

In the early, heady days, it was assumed that the bills would roll out of Congress with such overwhelming support the President would be required to sign them. One lesson learned was that "nothing happens quickly in Washington," the PIA's Mr. Keeler said.

"You have to have a little bit of a long-term commitment to the issue for anything to get done," he said.

"None of the reforms is going to come about overnight. You realize you cannot strong-arm anything through," Mr. Keeler added.



Another point of agreement is

Continued on next page

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Continued from previous page

that a victory in November for Republican challenger Bob Dole would be a big benefit to reform efforts.

If Mr. Dole is elected, "the fabric of the public policy would change," Mr. Keeler said. "It would be a lot easier for these guys to push things through."

"A Dole presidency would definitely mean some form of tort reform or product liability legislation," he added, provided there is no change in control of Congress.

All was not lost, as there were some successes.

One legislative victory was the repeal of part of the 1993 tax bill that changes the tax status for brokers with overseas operations.

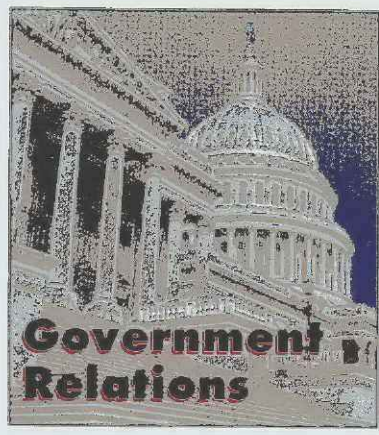
'There is frustration in that the momentum with which the Republicans seized control slipped badly and violently in 1995 and some of the issues we care about were victims,' Joel Wood says.

"It was a big deal for all U.S. brokers who do business on the international level," Ms. Haugen said.

In May, the House Ways and Means Committee inserted language in the Small Business Job Protection Act of 1996 language that rescinded a tax code provision that had been part of the 1993 law. That provision required U.S.-owned foreign brokers to calculate goodwill and other intangible assets as "passive," effectively making the brokers' unrepatriated foreign earnings subject to U.S. tax. By rescinding that provision, Congress gave multinational insurance brokers a break.

"It was an effort we had lobbied for three years. It was a major coup," said Ms. Haugen, who credited tax counsel Matt Dolan of Washington law firm Baker & Hostetler with helping the NAIB win repeal of the provision.

"We were persistent. And the cause was just. We weren't selling snake oil," Ms. Haugen said. "(The tax provision) was going to cost our members an awful lot of money, and it was patently unfair."



However, the lone victory on the tax issue does not make up for the larger defeats and the frustration of what started out so promising ending up so poorly, lobbyists said.

"There is frustration in that the momentum with which the Republicans seized control slipped badly and violently in 1995 and some of the issues we care about were victims of that slippage and loss of momentum," Mr. Wood said. BI



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Agent/Broker Topics

Industry uses large toolbox to bring its concerns to politicians' attention

By REGIS COCCIA

Legislative battles at the state and federal levels often are lengthy and exhausting, but agents and brokers are well represented on the front lines.

On issues ranging from banks selling insurance to tax treatment of broker assets, lobbyists from organizations like the Council of Insurance Agents & Brokers, the Independent Insurance Agents of America and the National Assn. of Insurance Brokers strive to communicate agents' and brokers' interests to lawmakers.

While phone, fax and personal meetings are important weapons in lobbyists' arsenals, agent/broker associations also turn to grass-roots efforts to help influence legislation that would affect their members.

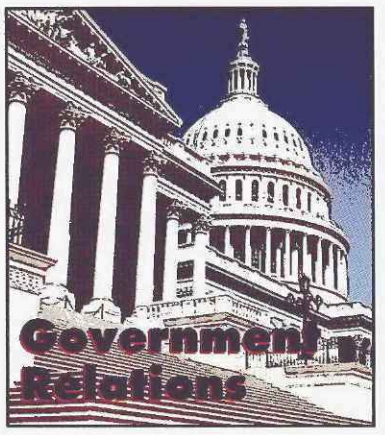
"Here in Washington, you use every tool available to you," said a Washington-based spokesman for the IIAA. "You resort to whatever means are at your disposal"—phone, fax and even the Internet, he said.

"Obviously, face-to-face meetings are preferential" with members of Congress, he said. "You can look into a member's eyes and see if they're interested in what you're saying or just playing politics with you."

"You need face-to-face meetings with members," said Barbara Haugen, director of federal affairs for the NAIB in Washington. But, "most of the day-to-day work is done with (congressional) staffers," she added.

Of course, simply meeting with members of Congress or their staffs to state one's case isn't enough. "It's hard to have their support if you don't ask for it," she noted.

Personal meetings with legislative staffs are vital, said Joel Wood, vp-government affairs at the Council of Insurance Agents & Brokers in Washington. "Developing personal relationships where you can be a trustworthy source of information is a crucial part of being able to get the job done," he said.



Like most lobbying organizations, the NAIB uses phone and fax frequently. They're good for communicating and setting up meetings with Hill staffers, Ms. Haugen said. "You work the phones quite a bit."

With 535 elected members of Congress, each with full-time staffs, establishing contacts on the Hill can take some doing.

"You always have to look for key committees, like Ways and Means," Ms. Haugen said. "You make those calls based on committee assignments and where your members are (in their congressional districts)."

And "you take quite a different approach depending on who's in power," she said.

Lobbying on behalf of insurance producers can require different strategies, depending on the legislative objective.

"It's one thing to stop legislation. It's quite another to get something enacted," said Ms. Haugen.

"If you want to enact something, you do it one by one by one. You do it over and over and member to member. With each subtle change, you go and renegotiate and you compromise," she explained.

"It's a dogged process. There are points where serious pressure has to be applied," Ms. Haugen said. "It's part art and part mechanics."

But, no matter what the objective, "the single most important thing is that you pursue methodically your goals. And you set your goals based on what is possible," she said.

Being close to where the legislative action is taking place also helps.

For example, the IIAA's Washington office is on First Street, only a few blocks from the Capitol, the spokesman said. "If a (congressional) staffer calls and says, 'Can we meet in 15 minutes?' our guys will grab their coats and go," he said.

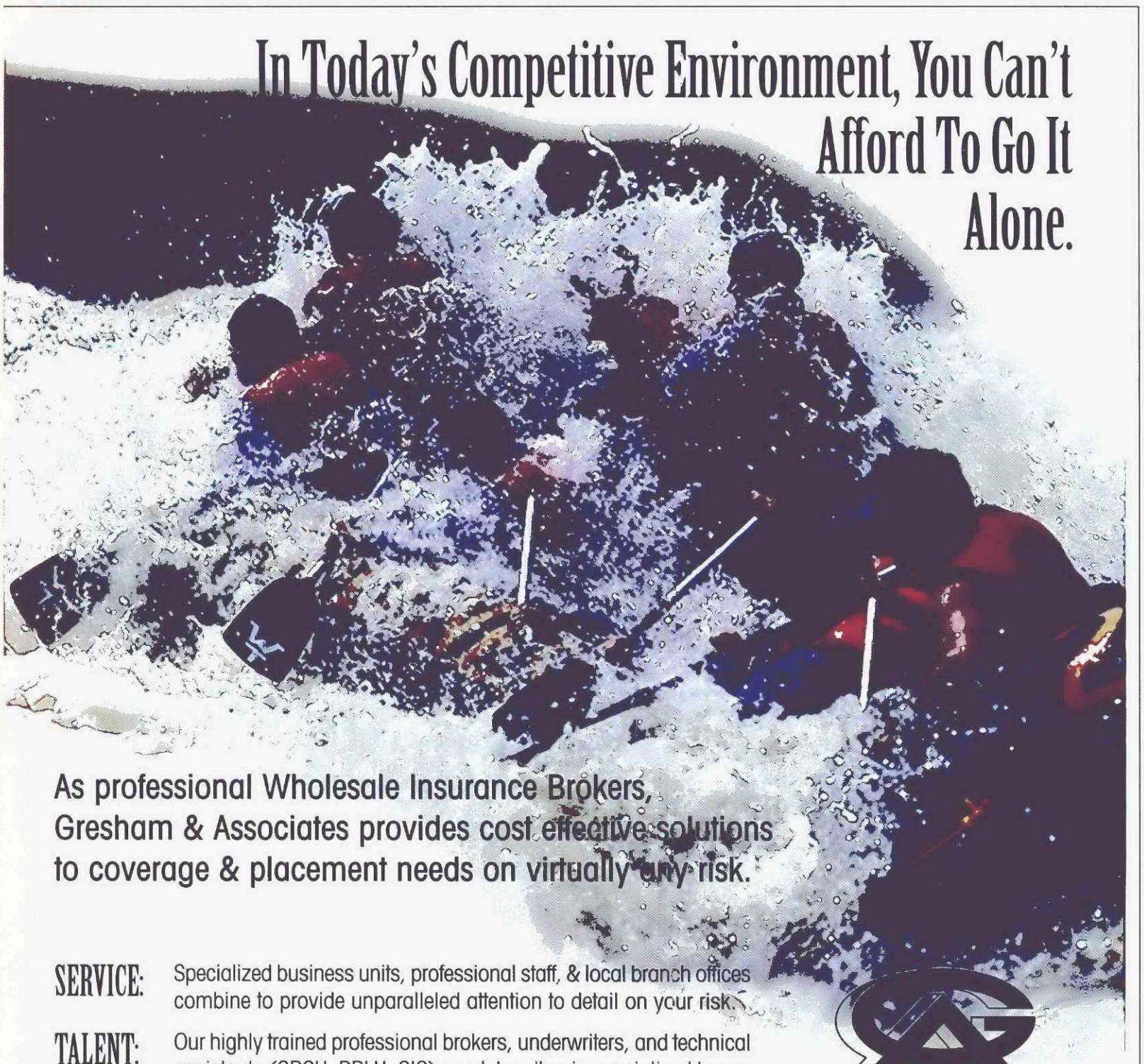
Similarly, the NAIB is on I Street, several blocks north of Capitol Hill.

And the Council is just down from the White House on Pennsylvania Avenue. "I'm a three- to five-minute cab ride from any of the House or Senate office buildings or a 20-minute walk," said Mr. Wood.

"This has been a very, very busy Congress. If you're not on the Hill, you're not doing your job," the IIAA spokesman said.

How many trips will a lobbyist make to the Hill during a typical

Continued on next page



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Continued from previous page
congressional session? "If it's not in the 10,000 range, it's probably very, very close," he said.

"Ideally, I like to spend 35% to 40% of my time visiting (contacts) on Capitol Hill," Mr. Wood said.

While all of the national producer trade associations have operations in the District of Columbia, each with its own list of concerns, they get together on important issues that affect their business.

"We certainly work with other producer groups. We absolutely do," Ms. Haugen said. "Most of the big alphabet houses belong to both the NAIB and the Council."

When legislation arises that could affect members of both organizations, the NAIB doesn't hesitate to team up with the Council. "There's a lot of coalition work within the industry," she said.

Mr. Wood agreed. "We work cooperatively on a number of issues. We share information on an ongoing basis" with the NAIB and other industry groups on both the company and producer side, he said.

"Whenever our industry speaks with one voice, we do pretty well. When we start sending up divided messages to Capitol Hill, we do miserably," Mr. Wood said.

Items on the agenda

Among the goals for independent agents at the moment are ensuring that banks selling coverage meet the same regulatory requirements as insurance agents.

"Right now, we're burning up the phone and fax lines on the banks-in-insurance issue," the IIAA spokesman said.

The IIAA fears that state oversight of insurance could be substantially weakened if the U.S. Comptroller of the Currency—instead of state insurance departments—is permitted to regulate the practices of national banks selling insurance (*A/BT*, Feb. 2).

"The OCC is saying banks shouldn't have to follow state regulation," the spokesman said. "This is going to force Congress' hand. There's a very real chance that Congress will have to" enact federal oversight legislation, he said.

"The biggest concern for independent agents is whether state regulation will be in existence in the future," he said. "We are a longtime supporter of state regulation."

"We want to make sure the OCC does not overturn state laws and we want to ensure that state regulation is going to remain for the next 10 years or however long," he said.

Over the past several years, there have been repeated attempts to pass legislation that would create federal oversight of insurance. One of the main proponents of such legislation is Rep. John D. Dingell, D-Mich., who will be seeking a 21st term in next month's general election.

"This Congress, while sympathetic with our concerns, has effectively had their hands tied by the banks on this issue," according to the IIAA spokesman.

'Whenever our industry speaks with one voice, we do pretty well,' says Joel Wood of the Council in Washington.

A second priority for the IIAA is natural disaster legislation, the spokesman said. Many of the IIAA's members operate in coastal states, where adequate, affordable property coverage for individuals and businesses can be hard to find, he noted. "Unless these problems are addressed by Congress, these areas are going to continue to have market problems," he said.

While independent agents are concerned about the need for state regulation, brokers by and large worry about legislation that can make the cost of doing business very expensive, said a spokesman for the NAIB in Washington.

Lobbying by brokers on the federal level "usually deals with tax issues. The cost of being regulated is *the* issue on the state level," he said.

"Banks in insurance is not a big issue for brokers," the NAIB spokesman said. "You will always need the expertise (in placing insurance coverage)." For that reason, banks' involvement in selling insurance is not a threat to brokers, he explained. "It's just an issue of who owns the company" or agency.

Other topics that do concern brokers include issues that affect their clients namely tort reform, Superfund reform and integration of workers compensation in the health care system, the NAIB's Ms. Haugen said.

"We have to support the interests of the marketplace or we won't have any place to take our clients' business," she said.

Grass-roots lobbying

Not everything can be done on Capitol Hill or in the statehouses, lobbyists say. As a result, grass-roots efforts by association members can be very effective in influencing legislation.

"We have an extensive list of agents around the country who are key contacts with their members of Congress. We call on them from time to time" to meet with their congressional representatives," the IIAA spokesman said.

See **Lobby** *on next page*

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Continued from previous page

"This is very, very effective, when a constituent talks to a member," he explained. "What really opens their eyes up is a constituent telling them" about a given issue.

The IIAA members are "a very, very, very integral part of our government affairs operation," he said. "Activist members (of the agents' association) have a high level of impact on members of Congress."

Similarly, members of the Council carry a considerable amount of clout, Mr. Wood said. "For almost every member of Congress, I can find someone in my organization who is a close, personal friend," he said. But, "that's not to suggest that we always get our way."

In 1994, the IIAA established a grass-roots telephone hotline to provide up-to-date legislative information to agents. By dialing in, IIAA members could listen to recorded messages about pending legislative issues affecting them and their business.

Although the hotline was in operation for a few months, it did not generate sufficient interest to maintain it long-term and was disconnected, the spokesman said.

Currently, the association is developing an Intranet for communicating with its members. This will enable the IIAA to communicate directly with grass-roots members in a secure fashion, with access limited to the organization's members. Implementation of the Intranet is expected in the near future, the spokesman said.

It represents a logical step, he said, as more and more agents are tapping into technology like the Internet and the growing popularity of Intranets. "The Intranet is today what fax machines were 14 or 15 years ago," he said. "You take these steps as they come."

However, "all the grass roots in the world won't help you" if the constituency isn't supporting the issue," the NAIB's Ms. Haugen said. "No congressman is going to sell out his people for a (political action committee) contribution."

Although agent/broker organizations are unlikely to sway members of Congress through generous campaign contributions, PACs are useful for supporting legislators who share agents' philosophy, Ms. Haugen explained. "It's real simple: You support your friends, and that's the way it should be," she said.

"We don't have a large grass-roots capability. We have a targeted grass-roots capability," Ms. Haugen said of the NAIB.

"We can bring CEOs to the table at a given time. We can't bring in thousands of people (to a Congress member's office), like the independent agents can," she said.

Even though agent/broker trade associations employ full-time professionals to lobby government, individual producers are helpful as well.

"We're competing for the attention and time of members of Congress," Ms. Haugen said. "One of the best ways you can get a member's attention is to bring home the fact that it (the issue) affects the constituents in their district."

One way that individual agents or brokers can help influence legislation is by approaching their representatives as constituents, lobbyists agree.

An individual broker has to be responsive, Ms. Haugen said. "The broker must, first of all, ask for the Congress member's support as a constituent and say 'thank you' when they do," she said.

"In the insurance industry generally, it's very difficult to convince rank-and-file employees in a brokerage that there's a tie between government and the bottom line," said Ms. Haugen.

"Brokers are entrepreneurs of the first rank. They figure out how to solve problems" for their clients, she explained. "Their first instinct is to solve the problem, regardless of what the government has done."

"The insurance business is a very heavily regulated business. There's a lot more (regulation) coming out of Washington than you would think at first blush," Ms. Haugen said.

"The challenge we have is convincing employees in our member firms that what happens in Washington and the state capitals affects their day-to-day business. It's a long-term educational process," she said.

Eyes on the election

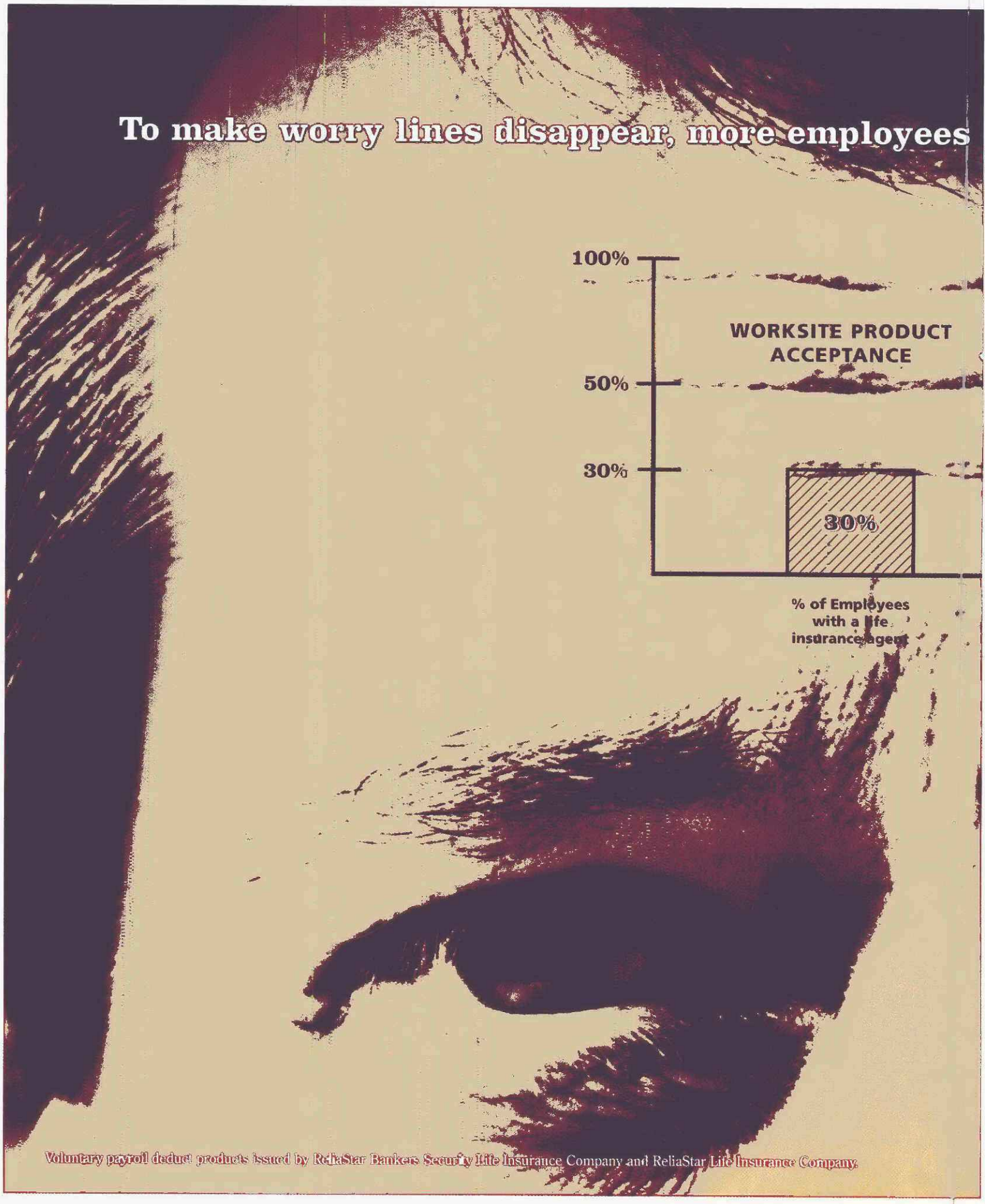
"It's too early to know who's going to be in the majority now. Either way, we're not going to be sitting on our hands," the IIAA spokesman said.

"If it's a Republican-dominated Congress, we'll see some of the issues we've seen in the past," he said. If the Democrats should regain control of the House and Senate, the association expects to have some new legislative issues to confront.

The agenda for the 105th Congress will set by whoever's in control, according to Ms. Haugen. But, "odds are that the Republicans will still hold the House and Senate."

"No matter who's in control next year, we'll be busy," according to the IIAA spokesman. "There's no free time in this business."

"There will always be plenty of work to do, regardless of who's sitting in Congress," the Council's Mr. Wood said. BI



Database to keep eye on regulatory status and licensing of agents and brokers

Online network expected to be operational by year's end

By REGIS COCCIA

A proposed online database that would list licensing and other regulatory information on U.S. insurance agents and brokers is expected to become a reality by the end of this year.

The Producer Information Network, a concept introduced about three years ago but made part of a detailed proposal last year by the National Assn. of Insurance Commissioners, is intended not only to help regulators and insurers exchange information on agents and brokers but also to facilitate the licensing and company appointments of producers.

Last month, it appeared PIN would not get off the ground after advocates of the project failed to achieve their funding goal by a Sept. 1 deadline.

At last week's fall meeting of the NAIC in Anchorage, Alaska, however, regulators approved a motion to permit PIN to proceed with a lesser amount of capital.

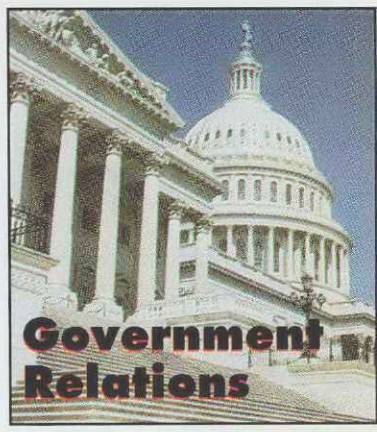
"It's a project whose time has come," said Glenn Pomeroy, North Dakota insurance commissioner and chairman of the NAIC working group overseeing PIN.

"PIN is a vital project not only for regulators and the insurance industry but for consumers as well. PIN will give regulators and companies alike greater access to information on who is seeking to sell insurance," he said.

Members of the NAIC endorsed the Producer Information Network concept at a meeting in June, Mr. Pomeroy said.

At that time, regulators approved a plan to implement the producer database by creating a non-profit company that would be funded by insurance industry organizations, including insurers and trade associations.

The concept has drawn support from a variety of industry organizations, including the Council of Insurance Agents & Brokers, Independent Insurance Agents of America, the National Assn. of Insurance Brokers, the National Assn. of Professional Insurance Agents, the National Assn. of Life Underwriters, the American Insurance Assn. and the American Council of Life Insurance, according to Mr. Pomeroy.



Under the plan approved in June, the industry needed to raise $3.5 million to support the Insurance Regulatory Information Network, the organization that would operate the database. If that amount were not reached by the Sept. 1 deadline, IRIN would be dissolved.

Although more than 300 companies, including the Council and the NAIB, pledged a total of $3.1 million to fund IRIN, the funding goal was not met. With the NAIC's vote last week, however, IRIN can proceed.

"We did need to go back and sharpen our pencils to ensure the program would fit within the $3.1 million committed by the insurance industry," Mr. Pomeroy said. "The result will be a slightly leaner yet still top-notch program."

Members of the NAIC working group, including Mr. Pomeroy, met Sept. 3 to discuss the project's status, among other matters. The working group confirmed regulatory and industry support for the Producer Information Network and suggested continuing efforts to raise money to implement it. In an interview before the recent NAIC meeting, Mr. Pomeroy was optimistic about advancing the project.

Bruce Ferguson, legislative director at the Washington-based ACLI, which is leading efforts to raise funds for IRIN, said the first board meeting of IRIN will take place this month.

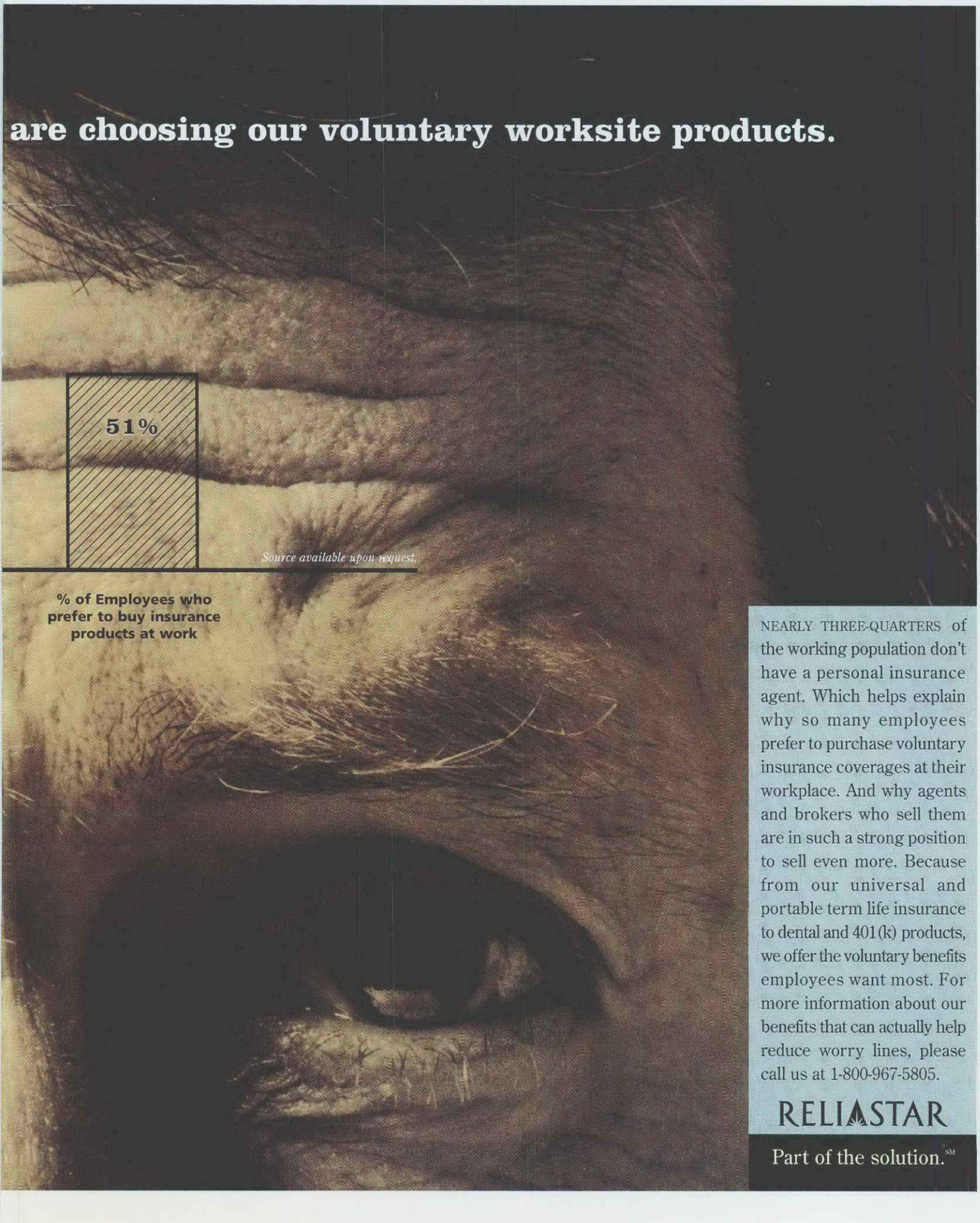
While the database will be built up within the next year, it likely would take three or four years to gather information from all 50 states, according to Mr. Ferguson.

The idea of a nationwide database of producers "has been around for decades," Mr. Ferguson said. "Now is an appropriate time to use the technology that lets us all operate more efficiently and effectively."

Mr. Pomeroy agreed. "With the year 2000 staring us in the face, we need to be utilizing technology better and interfacing with each other," he said.

The producer database "is great for the regulators; it's great for the companies. And it has obviously got to be good for the

See **Database** *on next page*



Database

Continued from previous page

consumer," the North Dakota insurance commissioner said. "That's why I like to call it win-win-win."

Among the reasons regulators and the industry alike support PIN are greater efficiency in sharing information on agents and brokers and the opportunity to streamline the producer licensing process.

Currently, no single system exists that ties the licensing function of individual states with each other, Mr. Pomeroy noted.

"There's no sharing of this information in any efficient way," he said. With PIN, "states can make better decisions about whether to license someone or not."

One area where state regulators are making efficient use of such technology is the securities industry, Messrs. Ferguson and Pomeroy said. State securities administrators maintain a database of securities dealers, a system similar to PIN.

"If you want to sell securities in all 50 states, you can do that by completing one (license) application. Not so in the insurance world," Mr. Pomeroy said, explaining that agents and brokers that want to do business in multiple states must submit applications with each state.

"We think PIN will lay the groundwork for better, more efficient licensing in the future," Mr. Pomeroy said.

'Quality producers are supporting this because it makes it easier for them to do business in an expedited way,' according to the ACLI's Bruce Ferguson.

"Agents and brokers have been pushing streamlining the licensing process for many years," Mr. Ferguson noted.

One of the benefits of a database like PIN is it would make life "harder for rogue agents," he said. "The quality producers are supporting this because it makes it easier for them to do business in an expedited way. And it makes it harder for those who give our industry a bad rap."

"We think it's something that has to be done. The cost of licensing is astronomical, running into millions and millions of dollars," said Coletta Kemper, director of industry affairs for the Council of Insurance Agents & Brokers in Washington.

She said the Council has supported the Producer Information Network concept since the idea came up three years ago and has played a part in helping develop the project.

Information in the producer database would include data "that is in the possession of the states"—for example, licensing information, appointment history and any disciplinary actions taken against the producer, Mr. Ferguson said. Typically, such information is reported to state regulators by insurance companies and agents and brokers themselves, he said.

Although such information currently is available for free from the state insurance departments, putting the data online is not. Details remain to be worked out, but access to the database likely will be on a subscriber basis for a fee, said Ms. Kemper. If the database were available for free, "it would be too costly to run."

State insurance departments will determine what information will be released, but most of the data is public information that already is available from the insurance departments, Ms. Kemper said.

"Regulators are interested in a nationwide database of producers. Companies are also interested in that, in doing due diligence in hiring and bringing producers on board," Mr. Ferguson explained.

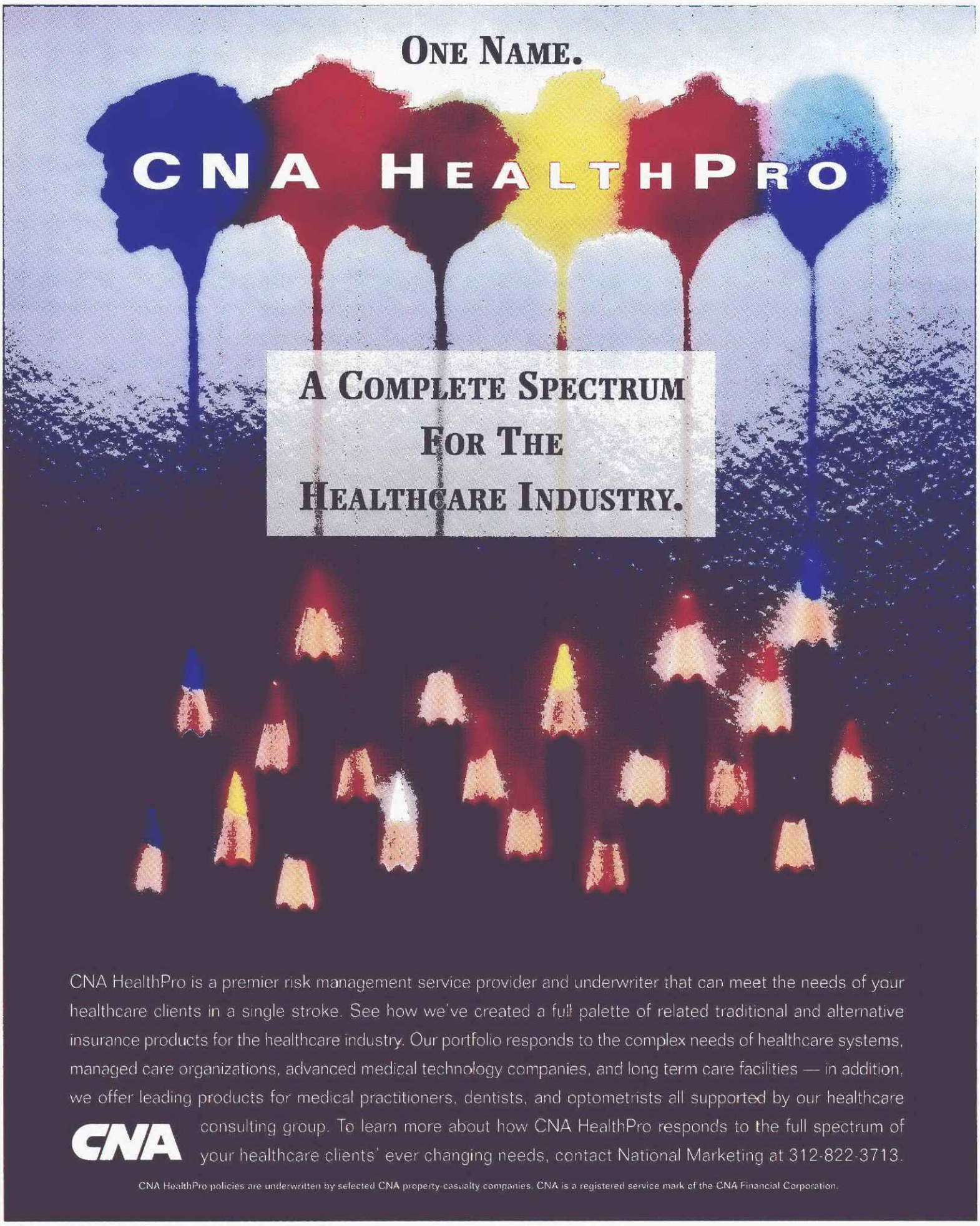
Ms. Kemper said agents and brokers themselves would find the database useful in conducting background checks on prospective employees.

"The NAIC has been at the heart of development of these projects, and various segments of the industry have supported it," Mr. Ferguson said. "It really shows an interest in making sure we operate efficiently and effectively."

Now that the National Assn. of Insurance Commissioners has agreed to let the producer database project proceed, IRIN will be created.

Plans call for IRIN to have a nine-member board of directors that would include four regulators appointed by the NAIC, four industry representatives and the NAIC's executive vp. The industry seats will be filled at the discretion of the various property/casualty and health trade associations.

Of the four industry seats, one would rotate among the producer organizations, two would rotate among the trade associations and the ACLI would have a permanent membership, according to Mr. Ferguson. Although the details have not yet been worked out, ACLI likely would appoint a life insurance company executive to sit on the board, Mr. Ferguson said. BI



NAIB video explains brokers' role to state insurance regulators

By REGIS COCCIA

Educating state regulators about the role insurance brokers play in the market can be a difficult process to orchestrate, but a new tool may help.

Insurance regulators in all 50 states can see for themselves how insurance brokering works and its impact on state and local economies, thanks to a new video produced by the National Assn. of Insurance Brokers.

The Washington-based NAIB, whose members include some of the world's largest brokerages, created a 12-minute video earlier this year that it sent to state insurance regulators to help them better understand some of the differences between brokers and agents and the need for less restrictive regulation.

"It put everything in simple terms," said Rick Pullen, a communications consultant in Washington who served as the video's executive producer. "A lot of people don't know what a broker does."

The NAIB video also lets state regulators and their staff members know how regulation affects brokers, he said. "There are always outdated regulations. Regulators don't always keep up with that," Mr. Pullen said.

Titled "Risky Business: the Dynamics of Insurance Brokerage and the Need for Regulatory Change," the video explains that brokers, unlike insurance agents, represent the insurance buyer and are not tied contractually to an insurer.

The narrator of the video goes on to state that while agents typically help buyers with coverages like life, auto, homeowners and other property and liability insurance, brokers often are called on to help locate coverage for very large and sometimes unusual risks.

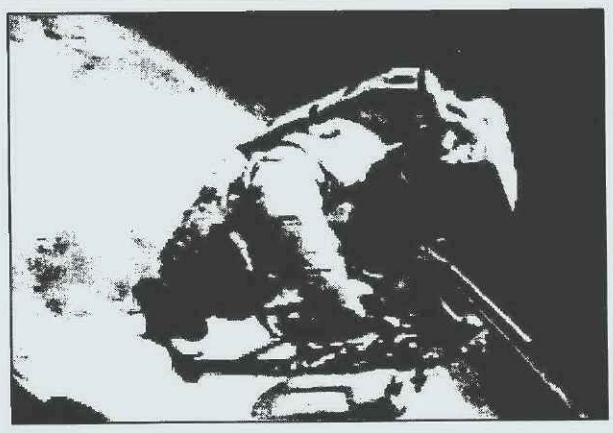
"Commercial insurance brokers represent the insurance buyer, not the insurance company. Brokers analyze potential risks the buyer faces and put together portfolios of policies to meet the buyer's risk protection strategies," the NAIB video points out.

As a variety of images parade across the screen, each presented as a risk needing insurance, the narrator explains: "Brokers arrange insurance protection for everything from space exploration to the Golden Gate Bridge. Without their unique services, life would be a very risky business."

Also speaking on brokers' role in helping protect U.S. business are several brokers, including: Lucien Laborde, a senior vp at Willis Corroon Americas in Nashville, Tenn., and a former president of the NAIB; Teresa Pahl, executive vp-international at Chicago-based Aon Risk Services Cos. Inc.; William Wilkerson, chairman and chief executive officer of Haas & Wilkerson Inc. in Shawnee Mission, Kan.; Denise Lloyd, president of Washington-based D.H. Lloyd & Associates; and Stan Loar, CEO of San Francisco-based Woodruff-Sawyer & Co.

For example, Mr. Laborde tells how during his career he has helped place coverage for diverse

See **Video** *on next page*



The NAIB's video explains to insurance regulators that brokers help place coverage for a wide variety of risks, including even space exploration.



Video

Continued from previous page

risks ranging from acts in the Ringling Bros. & Barnum & Bailey Circus to offshore oil rigs.

As scenes flash from a Rolling Stones concert, Mr. Wilkerson says that brokers find various forms of coverage for the entertainment industry. That includes coverage for the more than 60 venues on the Rolling Stones' latest tour. He notes that "the role of the insurance broker helps them have their event."

After highlighting the basic function of brokers and the types of risks for which they place insurance, the NAIB video delves into the impact state regulations can have on brokers' ability to do business.

For example, state laws that restrict availability of certain kinds of coverage can lead buyers to seek insurance elsewhere, often in markets outside the United States, according to the NAIB.

More consistency is needed in state regulation, according to the NAIB. Among the association's goals for state regulatory reform are:

- Elimination of insurance market barriers.
- Elimination of rate and form restrictions.
- Creation of a multistate licensing process.
- Establishing uniform continuing education requirements.

"One of the aspects of our industry that's important—particularly the international—is going abroad and being competitive abroad," said Aon's Ms. Pahl, who is chairman of the NAIB's International Committee.

"As we've been seeking to do that, we've been talking to other countries about making sure there's only one law we have to abide by in their country," she said. "Confusion, though, comes into play when they come here to review our current laws and find out that we have 50 laws in our one country governing the role of the broker."



The NAIB video illustrates brokers' roles in risks both big and small, including the circus.

Response to the video from insurance regulators so far "has been very, very positive," said NAIB President Carl Modecki. "It has crystallized the importance of the issue (of deregulation) not only to insurance commissioners but our clients as well."

The video "graphically shows that some changes need to be made" in state insurance regulation, he said.

While the NAIB sent at least one copy of the video to every state insurance regulator, the association is willing to send copies to other regulators around the world, Mr. Modecki said.

Mr. Modecki added that deregulation was discussed not only at last week's meeting of the National Assn. of Insurance Commissioners in Anchorage, Alaska, but also will be on the table in December at a meeting of the National Conference of Insurance Legislators. BI

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Working with IVANS and its technology partners, N&D began its interface development early in 1995. It rolled out its SEMCI download program in August, 1995, with five agency management systems: Applied, AMS, Agency One, Agena and Delphi/ Redshaw.

Within months, 50 of their 350 independent agents were reaping the benefits of downloading. Their upload program was up

Downsizing taking a toll on ability to pursue professional education, executive says

In an industry like insurance, which relies heavily on information, knowledge is an important asset. One of the ways employees of insurance industry organizations can increase their knowledge and develop skills needed for their business is through courses and programs such as those offered by the American Institute for Chartered Property & Casualty Underwriters, Insurance Institute of America and the Insurance Institute for Applied Ethics.



Mr. Brandon

Lawrence G. Brandon, president and chief operating officer of the Malvern, Pa.-based institutes, spoke recently with Assistant Managing Editor Regis Coccia about insurance education and professional development. Mr. Brandon holds the Chartered Property & Casualty Underwriter, Associate in Risk Management and Associate in Management designations.

What are some of the changes you've seen in companies' approach to educating their employees over the past four or five years?

I have seen no real diminution of support for insurance education over the past few years. Companies encourage employees to learn more and study.

The downsizing that has gone on in almost all organizations has affected the amount of time that people have to devote to extracurricular activities such as professional study programs.

It's not just the number of people that have been released by the insurance industry, but those that stay behind are having to do far more than they did in the past.

I think virtually everyone's working longer hours, working harder while they're at work, and this takes its toll in terms of energy. It's harder for people to find the time to devote to study. They really have to be motivated.

I think folks are trying to adapt and find out how can they do the things that are necessary to maintain their employability and still keep their job, how can they study and work. And I believe that's an adaptation that will be made in the next year or two, so that we'll be back to a more normal workload for folks and allowing them time to grow professionally through education.

How do you foresee that happening? Will some companies be willing to give employees more time for professional development?

They may give their employees more time or they'll recognize that for the past several years they have not given adequate time, and then they will do something to back up the encouraging words they deliver for insurance education by making it possible for people to have time to study.

I also think that education providers, be it ourselves or others, are trying to make it more convenient for people to study. We are working on a number of computer-based products that will help people to learn, making it more convenient, something they can do at home or perhaps even during the day right at their own desk, as opposed to the older way of having formal classes at a given time on a given date, where you'd either get there or there was nothing available. Now we're just trying to find ways of making it easier for people to obtain education and prepare for examinations that give them the credentials that are recognized in the industry.

I think it's a combination of employers recognizing that education is an investment rather than an expense and that the education providers are doing all that they can to make it easier for people who are working (to study and learn).

Can enrolling in a professional designation program such as the Chartered Property & Casualty Underwriter replace or limit the need for a company to conduct in-house training?

I don't think it replaces it at all. The institutes are not in competition with the departments of training. We're a supplemental organization providing an insurance education aid. I think that training has to go on in every organization. You are teaching people how to do their day-to-day job.

The education that we provide prepares someone more broadly for things that perhaps they're not doing on the job today but should be thinking about or may very well encounter in the foreseeable future. There is sort of a difference between education

See **Learning** *on next page*

d/download lty insurers

F. Timothy Hegarty, Jr., CPCU (c.), President and CEO of The Norfolk & Dedham Group, discusses upload/download issues with Robert J. Stanton, President of Stanton Insurance Agency, Inc., Waltham, MA, and Rita Waters, Senior Vice President in charge of Interface Services, IVANS, Inc.



and running by year's end, supporting any agency with APT upload capability. N&D's goal is to have all of its agents uploading with them within two or three years.

As Tim Hegarty, N&D President, puts it: "We see SEMCI successfully catapulting the independent agency system into the 21st century."

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Learning

Continued from previous page
and training. Training is immediately applicable. A lot of what we do has training aspects to it. You analyze a policy in one of our programs, it's sort of the same thing. We like to feel we go beyond that and try to give a broader context in which that policy is used or could be used.

Our efforts are supplemental to what's being done or should be done in organizations. The value that we add to the process is that ours is a national endeavor, as opposed to an individual organization's endeavor.

If you're looking at someone who has a CPCU, you could be assured that they have met the educational requirements set by national standards and national examinations.

For companies considering a prospective employee, are designations such as the CPCU a kind of calling card in the industry?

I would think so. I think it would give someone credibility with whomever they're dealing, be it a prospective employer, a customer or other person they come in contact with. It should give them credibility, but it's no guarantee. It's like a college education. If you hear somebody has a college education, that opens the door, but not everybody gets the same out of a college education or even puts the same amount into it.

'It's harder for people to find the time to devote to study. They really have to be motivated,' Lawrence Brandon says.

I think it's fair to say that a CPCU, like a college education, would improve the individual. Every individual that goes through the program learns something.

I believe this is the age where obtaining knowledge and being able to demonstrate that you have it has become increasingly important. If insurance organizations are going to get the job done with fewer people working smarter, then they'd better have knowledgeable people on their staffs.

Are companies today encouraging or even requiring employees to take courses leading to professional designations such as the CPCU, ARM, etc.?

There's a wide range of what insurers are doing, but some are requiring certain credentials for certain positions. For example, in order to be a senior underwriter you have to have completed maybe the underwriting program or a higher-level program in the CPCU. I don't really know of any organization that is discouraging professional study. But some of the things that the industry has done, such as the downsizing, have inadvertently discouraged some people from (pursuing professional study programs).

Last year, the AICPCU awarded a record number of CPCUs, and the past few years have seemed to indicate a steady growth in interest in that designation. What are some of the institutes' most popular courses or programs?

A couple of our programs and subjects have a broad knowledge associated with them. The CPCU is one such example. With 10 parts to the CPCU, five relate directly to insurance, the other five to related disciplines, such as economics. So, a person going through that program has both an in-depth knowledge of insurance and a broad knowledge of the environment in which insurance functions. The same is somewhat true of our program in general insurance. The other programs I could define as being less broad, less comprehensive, but in fact have more depth. Those types of programs are very popular. The claims program, for example, takes someone who is a specialist in claims and tries to give them a depth of knowledge about their functional area that is really needed. Ideally, a well-educated claims professional would have both the in-depth knowledge that they could gain through the Associate in Claims program and the comprehensive knowledge of a CPCU. The CPCU program does not go into as much depth about claims as the Associate in Claims program. The Associate in Risk Management program is very popular because risk management is a function that's growing in importance. Each one of these goes in depth in each of those areas.

Recently the institutes established an Associate in Surplus Lines Insurance program. How did that program come about?

It was through the national association, the National Assn. of Professional Surplus Lines Offices. They came to us and said that they would like a designation for their function and help in putting together a body of knowledge for people who specialize in surplus lines to study. We will develop the examinations and set the standards so that for their field that designation will have meaning.

What changes do you foresee in insurance education in the next five to 10 years? Do you think more companies will require professional study?

I think there will be a greater recognition of the need for employees to have more education. I wouldn't like to see it mandated in any organization, really. I think it's the type of thing that people should, by being encouraged by their organizations, be willing to undertake. I see that in the next five to 10 years as growing in importance. We should become learning organizations since this is the age of learning and information. The advantage will belong to those organizations that share their learning with one another. . . .I really think that will be the competitive advantage in the 21st century. BI

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Ohio regulator denies a conflict with agency

Turnpike Commission chairman rebuts charges of favors for clients

By BOB COOK
Crain News Service

Ohio Turnpike Commission Chairman Umberto Fedeli, under investigation by the state Ethics Commission because of conflict-of-interest allegations in awarding turnpike construction contracts, says he may step down before his term ends in 1999.

Mr. Fedeli said he is confident the Ethics Commission will find clients of his Fedeli Group insurance agency received no preference in turnpike construction bids. But Mr. Fedeli added that even if his name is cleared, he would consider resigning to remove himself from public scrutiny. "At some point, you think the price is too big of a price to pay."

Mr. Fedeli has served as the Turnpike Commission's chairman since 1993, one year after his appointment as a commission board member by Gov. George Voinovich. He is paid $5,000 a year to serve on the commission.

"Would I serve on a board in the future? I would be unbelievably reluctant," Mr. Fedeli said. "No matter how honest you are or how ethical you are, because you're in business, there are always people willing to question you."

Some legislators have questioned whether contractors bought insurance from Mr. Fedeli's agency in return for construction work on the turnpike. The Ethics Commission has begun an investigation into Mr. Fedeli based on those complaints.

"We are examining this very carefully," said Ethics Commission Executive Director Dennis Freel. He would not comment on the progress of the investigation.

Mr. Fedeli said he invited the commission's examination because he believes he has followed all its rules. He said only eight of his 3,000 clients are performing construction work for the turnpike, and seven of those companies bought insurance from him long before they bid for turnpike contracts.

'No matter how honest you are or how ethical you are, because you're in business, there are always people willing to question you,' says Umberto Fedeli.

Mr. Fedeli said he doesn't find out who's bidding for turnpike work until the commission meets. He said he then abstains from voting if he knows a client is involved.

Mr. Fedeli said he has abstained from "five or six" votes. He said he doesn't tell fellow commissioners why he abstains from voting so that he doesn't appear to be influencing their votes. Mr. Freel confirmed that Mr. Fedeli isn't required to give a reason for abstention.

"I don't need to be unethical or break laws to do business," Mr. Fedeli said.

If the Ethics Commission determines Mr. Fedeli is violating state conflict-of-interest laws, it may negotiate with him to decide whether he should resign from the Turnpike Commission, Mr. Freel said. It also can recommend the case for prosecution, Mr. Freel said. However, the commission cannot unilaterally impose a sanction, he said.

Mr. Fedeli isn't using the Ethics Commission alone to attempt to clear his name. Last month, he called an impromptu press conference, unbeknownst to the Turnpike Commission, to lobby reporters on his behalf.

He also called state Rep. Sam Bateman and persuaded him to retract critical comments he had made about Mr. Fedeli. BI

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Agent/Broker Topics

Outsourcing creates insurance needs

By Nanci E. Bryant and Phil Williams

BACK-TO-BACK CALLS come in from two clients. The first asks: "I am an independent contractor and work for myself. How do I keep from losing my shirt if I get hurt?" The second asks: "I use independent contractors in my business. How do I keep from losing my shirt if one of them is injured?" So now, as their insurance agent, you're asking, "Will any of my markets really cover this unique occupational exposure?"

A/BT Perspective

Independent contractor segment niches like owner/operator truck drivers, loggers, cable installers, couriers and even real estate agents represent a larger portion of the workforce each year.

But the growth of programs that provide protection for these people and the companies that use them has seriously lagged behind. Standard workers compensation coverage is available to these independents, but the cost out of pocket is typically unaffordable. For example, an independently contracting lumber harvester can pay as much as $11,000 a year for an individual workers comp policy. This could represent nearly half the worker's annual net earnings. And many programs now available, which independent contractors are buying up quickly as the answer to their needs, are proving they fall seriously short of truly protecting not only the contractor's exposures but also the company employing the contractor.

Despite the fact that this market is growing, numerous "Catch-22" situations plague a company's use of independent contractors. If a company utilizes employees, it may face a large financial burden from federal taxes, state taxes and high workers compensation costs. But, if a company uses independent contractors, if the independent relationship is not properly maintained and a contractor is injured, the company could find itself under a heavy financial debt.

For example, examine a trucking company that uses independent drivers. One of these owner/operator drivers has been injured in an accident, and the driver's attorney has suggested the driver sue for employee status to gain access to the company's workers comp coverage. The courts find in favor of the driver, so the workers compensation insurer has to pick up the tab on this injury.

But, seeing that this one driver has set the precedent of employee status, the workers comp insurer decides to audit the trucking company and require it to cover all of the owner/operator drivers going as far back as three years.

The Internal Revenue Service learns of the court decision, so it jumps on the audit bandwagon. Because the trucking company is listing the owner/operator drivers as employees to the workers compensation insurer, the IRS also calls them employees and requires its share, which includes back payroll taxes, FICA and additional funds for any pension or 401(k) plans the company makes available to employees. And right behind the IRS is the state Unemployment Board, waiting to claim its portion of the unpaid unemployment taxes on all the trucking company's drivers since the company opened.

The obvious result? The trucking company declares bankruptcy. Was the accident that began this domino effect preventable? Probably not. But was the bankruptcy preventable? Definitely.

The situation is complicated due to the independent nature of the relationship between the contractor and the company. The contractor, with independent status, is exempt from workers compensation in most states. However, if a contractor is seriously injured and is not covered under any other insurance, he or she is likely to have only one recourse: Sue the company in an effort to win employee status and gain access to the company's workers compensation coverage.

There are few loopholes lawyers have found that can lead courts to decide in favor of a contractor's employee status, and awards of this kind are becoming all too frequent. If this happens, it could mean financial ruin for the company.

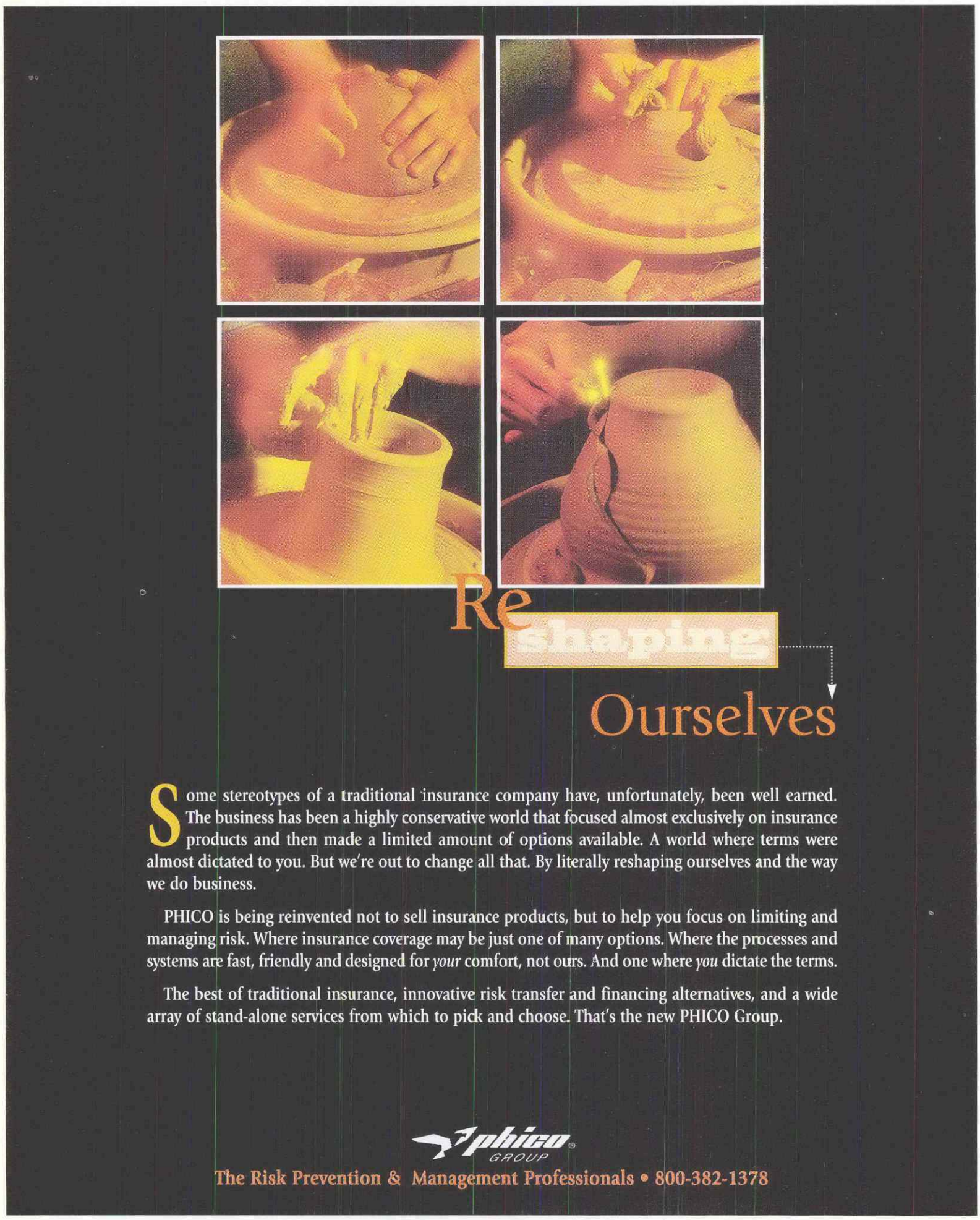
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Carving out niche opportunities

Agents can get involved in a variety of independent contractor occupational accident programs. Examples of independent contractors include, but are not limited to, the following:

- Appliance repair technicians
- Barbers/Beauticians
- Cable installers
- Carpet/Wallpaper installers
- Charter boat operators
- Charter bus drivers
- Civic/Social volunteer groups
- Farm laborers
- Forest products haulers
- Hospital volunteer groups
- Interior designers
- Massage therapists
- Movers
- Newspaper delivery personnel
- Painters
- Real estate agents
- Taxi/Limousine drivers
- Travel agents

Source: THOMCO Insurance Inc.



Continued from previous page

The solution is for the company to get quality legal and tax advice and to follow that advice as closely as possible to maintain the "arm's length" relationship and preserve the independent contractor status.

The companies can mandate through their lease agreement that the contractors carry their own individual workers compensation policy—which typically is quite expensive—or an alternative occupational accident policy.

By allowing the choice of coverage, the company is not mandating any certain product, an issue that could be used to help establish employee status if incorrectly handled. However, the company should make sure that the alternative program made available is one that will not only provide broad occupational accident coverage for the contractor, but will also provide contingent liability coverage for the company in case a lawsuit does arise.

From an agent's perspective, the overwhelming need for this type of coverage represents a huge opportunity. At a conservative estimate, the trucking niche alone is a $1 billion premium market. However, the total market for the whole independent contractor niche could reach $7 billion to $10 billion, based on the current niches available and their workers compensation premiums.

It's up to the agent to educate the client on the dangers of underinsured independent contractors and to emphasize that a company's future could be in jeopardy if not protected with contingent liability.

Almost all occupational accident programs offer accident medical and disability coverage at a wide range of limits. The medical limits can go from $50,000 to $1 million, and the allowed period of payout of claims can range from only 52 weeks to 156 weeks. Some policies provide no accident dental coverage, while others contain broad coverage.

Other differences include the disability payouts, which can go as low as only 66.7% of wages up to 75% of wages, and some programs are actually excess over any other insurance, instead of being primary coverage. And coverage exclusions, such as pre-existing conditions, hernia, cumulative trauma and occupational disease, and eligible classes covered, such as subcontractors or spouses, vary widely among insurers.

Our recommendation is that a rich plan be offered: that is, an occupational accident program with high limits and broad coverage terms so as to discourage litigation by the contractor to achieve employee status.

The span of differences among programs is even greater with contingent liability. Some insurers require notice of a claim to be submitted within 20 days; others take an "as soon as possible" approach.

And while the contingent liability coverage usually is designed to provide legal defense coverage if an injured contractor sues for employee status, most programs do not offer employer's liability. And some will leave the company hanging should the contractor win the lawsuit, because their policy has no provision for how to cover this independent who has won employee status and protect the company from being hit by the audit bandwagon.

The best news of all is that occupational accident coverage, even when combined with contingent liability protection, is much less expensive than standard workers comp coverage, though premiums vary widely among niches, coverages and insurers.

If the right product at the right price is made available, the company can realize a major advantage in recruiting and retaining quality contractors by advertising an affordable and comprehensive coverage package to these typically bottom-line, price-driven individuals.

But agents should become educated about the differences in these markets and make sure they compare apples to apples when finding quotes for company clients. Foremost, agents should understand the problems that the lack of this coverage could cause and educate their clients as to their real exposures, their options and the importance of maintaining the integrity of the independent contractor relationship while protecting themselves. This niche insurance represents a segment of our economy growing daily but that for the most part remains untapped by agents and insurers, primarily due to a lack of understanding and availability of quality alternatives.

Find these alternatives for your clients, then look in your existing files for the many independent contractors already there, and you will find a whole new world of opportunity within this niche that is awaiting your assistance. BI



Ms. Bryant



Mr. Williams

Nanci Bryant is assistant manager of THOMCO, an Atlanta-based managing general agent, where she is involved in marketing, product development and retail agency relations. Phil Williams, manager of THOMCO's workers compensation alternatives division, has been developing occupational accident programs for more than 10 years.



Agent/Broker Topics

Surety writer aims to expand niche

By KRISTEN BAIRD
Crain News Service

Armed with an aggressive acquisition strategy, Century Surety Group is pursuing more deals to expand its presence in the specialty insurance business.

"In all likelihood, we will see more acquisition activity this calendar year," said Edward F. Feighan, chief executive of the Valley View, Ohio, company's parent, Alliance Holding Co.

From insurance and surety bond sales to companies ranging from construction concerns to tanning salons, Century Surety Group has carved out a niche selling hard-to-place lines of insurance and bonds. Century Surety's insurer subsidiaries are Century Surety Co., an excess and surplus lines writer, and its affiliates Evergreen National Indemnity Co. and Continental Heritage Co.

Century Surety's growth strategy is exemplified by two pending deals, including an agreement to merge with the publicly traded Republic Environmental Systems Inc. of Blue Bell, Pa. Under the plan, Century Surety will become a division of a newly formed, publicly traded insurer called International Alliance Services Inc., Mr. Feighan said.

Alliance Holding's existing management team will operate the newly formed company. Craig Stout, executive vp of Alliance Holding, will serve as chief operating officer of the merged company. Roz Ellis will remain president of Century Surety.

Mr. Feighan said Republic Environmental's expertise in the hazardous waste industry, coupled with Century Surety's specialty insurance niche, will lead for the first time to the sale by Century Surety of insurance coverage for the hazardous waste industry. The merged company also will provide remediation services for clients with pending environmental claims.

The merger with Century Surety will serve as a vehicle for Republic Environmental to expand its presence in the hazardous waste industry.

The deal will add specialty insurance policies to its list of services, which include waste transportation, treatment and recycling.

Plans for continued growth of the new company will be fueled by a capital infusion of $10.5 million by MGD Holdings Inc. of Bermuda and investor Wayne Huizenga. MGD is controlled by Republic Environmental's chairman, Michael G. DeGroote.

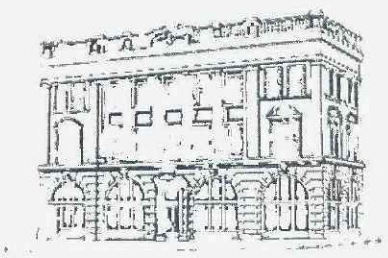
Under its other pending deal, Century Surety Group has signed an option to buy Midwest Indemnity Corp. in Skokie, Ill.

As part of the transaction, Midwest has been named by Century Surety as the national manager for its contract surety business, pending approval of its merger with Republic Environmental.

Century Surety has agreed to buy Midwest Indemnity's net assets for $10.25 million in cash, notes and guarantees over a four-year period, Mr. Feighan said. BI

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Two strategies help Michigan agency grow

By MATT ROUSH
Crain News Service

Ten years ago, a Time magazine headline screamed, "Sorry, America—your insurance has been canceled."

These days—indeed, for the past two years—the headline would be far different.

Like maybe, "Buy my insurance, please!" And underneath, in smaller type: "I'll even sell it below cost and hope I can make up the difference managing your money."

Detroit-area insurance agents and risk managers say it remains a great time to be a buyer of business insurance in southeast Michigan.

The insurance industry is still flush with cash from a series of stock sales and good investment performance. Prices remain low and availability high, and even markets that had been a bit tight, such as workers compensation, are showing increased competition, which is better for buyers.

"We're renewing policies for less and less (money), and there's always somebody out there, it seems, who wants to be a little bit cheaper," said Kenneth Hale, president of Livonia, Mich.-based Cambridge Underwriters Inc. "The surplus that insurance companies have in their banks right now is apparently at all-time historic high levels, and that's made it very competitive."

That competitiveness is also a tough climate in which to expand an insurance agency. Insurance renewals at less cost mean less commission for local agencies.

One agency that has managed strong growth in the competitive market is Detroit-based Bosquett & Co.

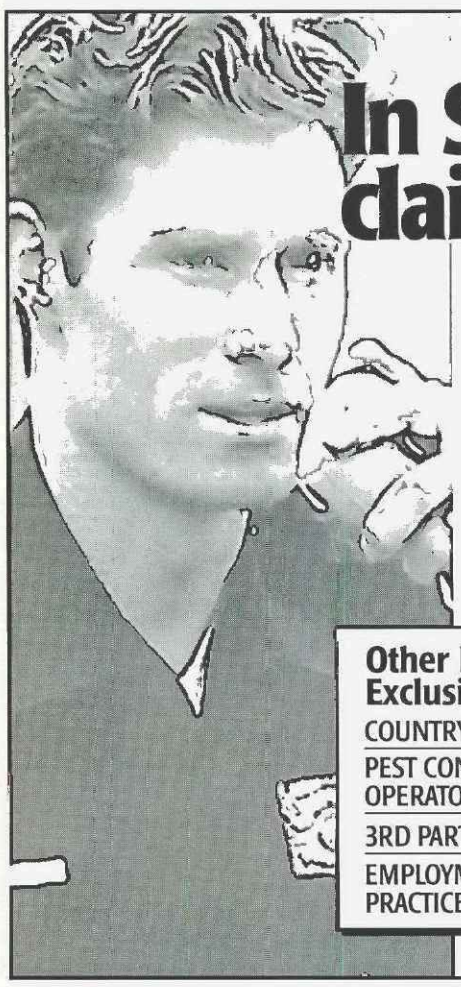
President Gordon St. John says revenue has more than doubled in four years, to more than $30 million this year.

Mr. St. John said he attributes the increase to two major strategies. "We've been able to upgrade our underwriting department, and that makes a huge difference because they are capable of looking at an existing insurance program and pointing out areas where coverage needs to be improved," he said.

"The other thing we've done is put a big effort into educating our customers," Mr. St. John said. "Many companies used to have risk-management departments, but more and more we've found accounting departments, bookkeepers—people not specifically trained as risk managers—now handling the insurance. If you can help these people become more knowledgeable about insurance, you get a good stable, business and some loyalty, but it's not easy. None of them like it. You have to haul them screaming and yelling."

Like most insurance executives, Mr. St. John said he's given up trying to predict when the

See **Michigan** *on next page*



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Michigan

Continued from page 26s

current 10-year soft market stretch will end.

Most insurance executives say sooner or later, underwriters will suffer big losses on today's cheap policies and the market will harden—with a vengeance.

"It's just getting silly," said Merton Segal, chairman and chief executive officer of Southfield, Mich.-based Meadowbrook Insurance Group Inc., the area's largest broker. "There seems to be no bottom. Almost anyone can get a lower quote on almost anything if they're willing to look. It's good for the individual (buyer) in the short term, but in the longer term, it's not good for the individual or the industry."

Some, however, say they think the industry has changed so much that today's competitive climate might be able to continue.

"The entire commercial property/casualty industry has gone to great lengths to reduce its expenses," said Paul Van Der Hoeven, president of agency The Allied Cos in Warren, Mich. "Another big change has come in workers' compensation, where changes in the tort-liability laws and a careful managed-care approach to claims has increased loss control and made it a good, competitive marketplace."

Mr. Van Der Hoeven said that for agencies to boost their business in the current climate—where commissions on policies have shrunk from 25% to 30% of premium in the 1960s to perhaps 12% today—they must show "a strong interest in rounding out all insurance services for a client, not just basic business insurance. So you try to win business in employee benefits, pensions, financial services."

Thomas Proctor, president of the Troy, Mich.-based agency Proctor Homer Warren Inc., said he also sees no change in the insurance climate in the near future.

"The insurance companies still seem to be making money and have plenty of capital, so I don't see anything that'll turn it around," Mr. Proctor said.

A change at the company level, he said, is the development of insurance technology. "It used to be you would not recognize that you'd written a bad piece of business until it was past the point of no return," he said. "Now you can spot patterns of claims earlier and address them."

Another factor leading to continuing stable prices, Mr. Proctor and others said, is the recent settlement of major losses at Lloyd's of London, caused by the large number of insured losses from hurricanes and earthquakes in recent years, as well as what Mr. Segal called sloppy underwriting.

And a problem with Lloyd's could have impacted U.S. insurance markets.

"People tend to think of Lloyd's as something just over in London, but its impact on American business is significant," he said. "In fact, Lloyd's writes about half the financial-institution professional liability (coverage) in the U.S."

Catastrophe coverage is the only blip on an otherwise serene insurance horizon, Mr. Proctor said. "Allstate just announced a 24% price increase for consumer insurance in Florida," he said. "That will probably spill over into a tightening for companies with some sort of coastal exposures." BI

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A/BT Briefs

Industry Web sites

Three more industry organizations have joined the growing list of insurance industry sites on the World Wide Web.

The National Assn. of Insurance Women, the American Institute for Chartered Property & Casualty Underwriters/Insurance Institute of America and The National Alliance for Insurance Education & Research recently launched home pages on the World Wide Web sites to offer information and other services.

The NAIW, based in Tulsa, Okla., created its site at http://www.naiw.org to offer information about the organization, where local meetings are to be held, stories from the bimonthly Today's Insurance Woman publication and features from the NAIW's five focus group newsletters.

The site also announces upcoming events, details on awards and designations and how to become part of NAIW leadership on local, state, regional and national levels.

The NAIW has 14,000 members representing about 400 local associations in the United States, Puerto Rico and Canada.

For more information on the National Assn. of Insurance Women, call 800-766-6249 or send e-mail to naiw@aol.com.

The Malvern, Pa.-based AICPCU/IIA's site is intended as an online resource primarily for current and prospective students of the institute's educational and professional designation programs.

The site—at http://www.insweb.com/educator/aicpcu-iia—provides information on institute programs, textbooks and examinations.

A section called "What Is Institute Study Like?" explains the nature of educational programs and national examinations offered by the American Institute for Property & Liability Underwriters and the Insurance Institute of America.

The "What's New?" section describes the institutes' newest classes and programs and describes supplementary study materials, such as computer disks, videotapes and audio cassettes, available to help students learn course material. Other sections deal with exams, free material and a section on how to get started.

The site will be updated to offer students and others the most current information available, and it will be expanded as the institutes find more information and communication needs it can meet efficiently via the Internet.

For information not available on the site, or to request free items, order study materials or register for an exam, call an institute customer service representative at 800-644-2101; fax: 610-640-9576; e-mail: cserv@cpcuiia.org.

The Austin, Texas-based NAIER, the nation's largest provider of insurance education and research, has an Internet site at http://www.scic.com/alliance.

The company says it created the site to make its information and services readily available to insurance professionals.

Visitors to the site now have immediate access to information about continuing education programs and schedules and can register for thousands of institutes, courses and seminars the NAIER conducts nationwide.

Users also can print out articles from the National Alliance's quarterly magazine, Resources, nominate someone for the "Outstanding CSR of the Year" competition, participate in national surveys, receive scholarship information and get a list of publications for sale.

Home pages will be available for each of the four major organizations in the Alliance: the Society of Certified Insurance Counselors; the Society of Certified Insurance Service Representatives, Certified Risk Managers International, and The Academy of Producer Insurance Studies.

Information buttons also are offered for newcomers and other information.

For more information, contact Lisa Joy DeAngelo, director of marketing and promotions, at the National Alliance home page, or call 800-633-2165; e-mail: alliance @scic.com.

EDI for agents

CHICAGO—Agents and companies must work together to establish a system of electronic data exchange to ensure the success of the independent agency system, according to George R. Shaffer, immediate past president of the Independent Insurance Agents of America Inc.

"The industry player no longer can seek proprietary technologies or solutions to give them a competitive edge," Mr. Shaffer said as the featured speaker at a recent "Insurance EDI Forum" in Chicago.

"The competitive edge belongs with those who can communicate and exchange information with multiple trading partners, making it easy for any party to be part of the team," he said.

Agents also should explore the marketing potential of the Internet, Mr. Shaffer said.

"Consumers are now players in the world of insurance automation, and this development could dramatically change the way insurance is sold," Mr. Shaffer said.

Also, companies that team with agents with sales expertise, customer relationships "and a desire to be more than passive information collectors" are the ones that will have a competitive advantage, he said.

"Internet technology provides us with the ability to have a virtual distribution system where none of the participants need to be cut out of the loop," he said.

PIA honorees

SAN DIEGO—A New Mexico agency founder and president has been named 1996 Professional Agent of the Year by the Alexandria, Va.-based National Assn. of Professional Insurance Agents at the PIA's recent annual conference in San Diego.

Carl J. Frilling was presented with the PIA's highest member award during the group's 65th annual convention in September. Mr. Frilling is founder and president of the Insurance Exchange in Albuquerque, N.M., which he founded in 1975, and is the immediate past national president of PIA.

Mr. Frilling is on the national board of the PIA and has served on several committees. He has conducted numerous seminars and educational courses during his 35 years in the insurance industry.

In other PIA news, Kenneth Bessette was named Executive of the Year by the National Society of PIA Executives. Mr. Bessette runs the Glenmont, N.Y., offices of the Professional Insurance Agents of New York, New Jersey and Connecticut and is on the board of directors of PIA Services Inc. He has been active in the PIA for 12 years and is a board member and treasurer of the National Society of PIA Executives.

Also, Gary N. Baumann of Lincoln, Neb., was named the 1996 Company Representative of the Year. Baumann is a vp of Farmers Mutual Insurance Co. of Nebraska. He joined the insurer in March 1969.

Claims centers

BLOOMINGTON, Ill.—State Farm Mutual Automobile Insurance Co. will open customer response centers next year in Illinois and Minnesota to ensure policyholders can get claims help 24 hours a day, seven days a week.

One center will be in an existing building at State Farm's corporate headquarters in Bloomington.

The other will be in the St. Paul, Minn., suburb of Woodbury in State Farm's North Central Regional office building, which is nearing completion.

Both centers are scheduled to open in the second half of 1997. Each will occupy about 40,000 square feet, and together the two centers will serve the entire United States, handling as many as 8 million calls a year, State Farm says. Each will employ about 400 people, many part-time.

Several factors, including space considerations and available telephone and data communication technology, went into selecting locations for the centers, State Farm said.

State Farm policyholders in Canada will be served by an after-hours facility to be established later. BI

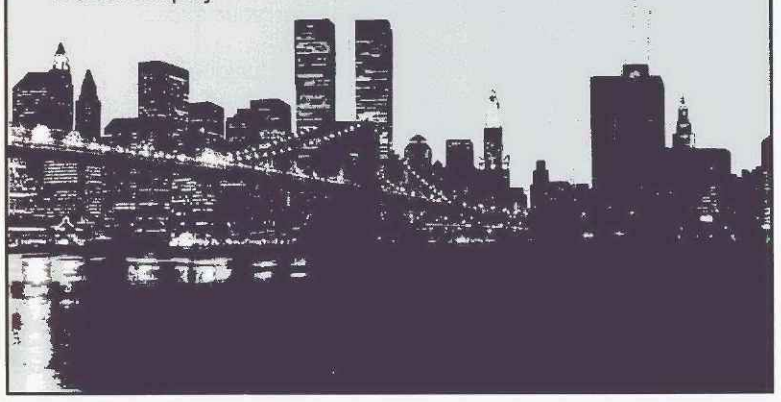
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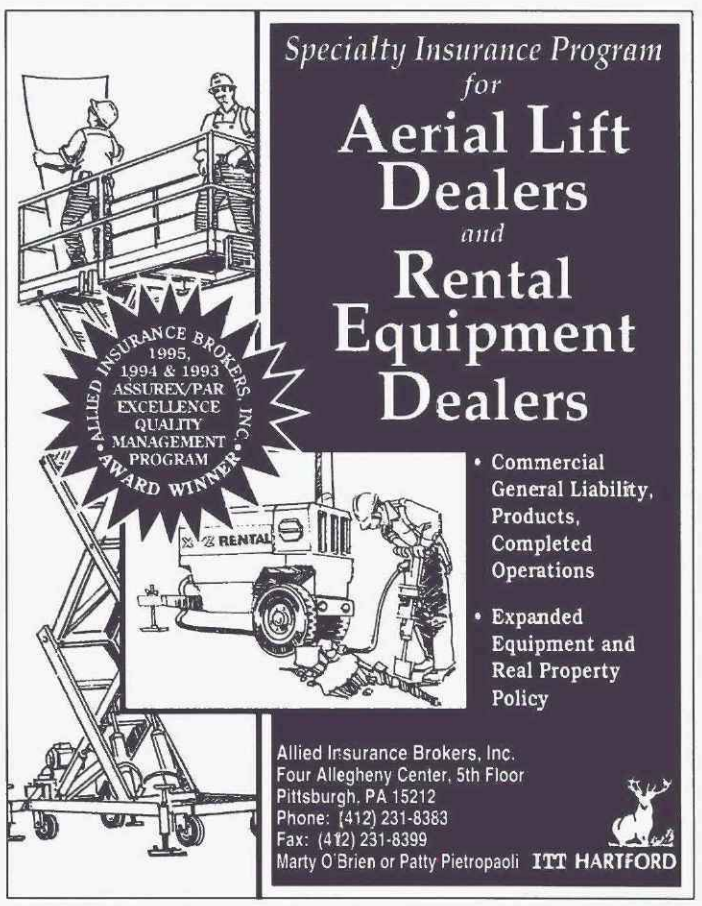
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Products & Services

Association guide

NEW YORK—The Insurance Information Institute and the Insurers Public Relations Council jointly have published a guide that insurance companies, agents and brokers can use to evaluate state insurance associations.

"Guidelines for Evaluating State Insurance Assns." is intended to help insurance organizations gauge the effectiveness of state associations and includes an evaluation checklist.

"State associations differ widely in their missions, structures and programs," according to the III and IPRC. "However, there are a number of common attributes that should be considered when evaluating state associations."

For instance, the guide provides examples of a successful mission statement, job description and media plan.

Copies of "Guidelines for Evaluating State Insurance Assns." are available free by contacting Cary Schneider at the Insurance Information Institute, 212-669-9218.

Online risk services

PHILADELPHIA—RSI Inc., a CIGNA Property & Casualty company, has acquired Coordinated Services Network technology and its capabilities.

CSN will provide online integrated workers compensation risk management services on behalf of Philadelphia-based CIGNA and will be available to selected CIGNA agents and brokers.

CSN technology offers a localized, integrated process that helps an agent or broker act as the coordinating entity for the management of a client's workers comp risks and medical care. CSN uses real-time communication technology to give the employer, health care provider, agent and CIGNA Property & Casualty continuous claim updates, as permitted by law.

"Coordinated Services Network allows producers to act as loss cost containment risk managers for their clients," said Joan Pollack, senior vp and general manager-workers comp for CIGNA Property & Casualty.

"It allows us to recommend proactive loss cost containment strategies to our clients. We can quickly identify industry trends and define a loss containment program to help the employer prevent similar injuries from occurring," said Jay Moniello, president of Mathog & Moniello Cos. Inc., and a CIGNA CSN agent affiliate.

For more information, contact CIGNA Property & Casualty, 2 Liberty Place, 1601 Chestnut St., P.O. Box 7716, Philadelphia, Pa. 19192-1550; 215-761-1000.

AICPCU/IIA texts

MALVERN, Pa.—Three new publications to help those in the property and liability insurance business select educational programs and courses and get started are available free from the Malvern, Pa.-based American Institute for Chartered Property & Casualty Underwriters and the Insurance Institute of America.

The publications are:

- The AICPCU/IIA Catalog, which offers a comprehensive description of the institutes and their course offerings, procedures and policies.
- The 1996-97 Key Information booklet, which is aimed primarily at students actively involved in institute programs.

It includes an order form for institute study materials and a continuing-education chart that presents a concise listing of the institute's courses and the CE credits that can be earned in many states by passing CPCU and IIA examinations.

It also provides descriptions of courses and exam information.

- The Welcome to CPCU and IIA folder, which targets people who know little about the institutes. It informs potential students about the institutes and programs and gives them information they need to get started in a course.

To request copies of any of these publications, contact customer service at the institutes at 720 Providence Road, P.O. Box 3016, Malvern, Pa., 19355-0716; 800-644-2101; e-mail: cserv@cpcuiia.org.

Group program

PEABODY, Mass.—Consumer Insurance Services of America Inc. is making its group insurance products and licensing program available through independent agents nationwide.

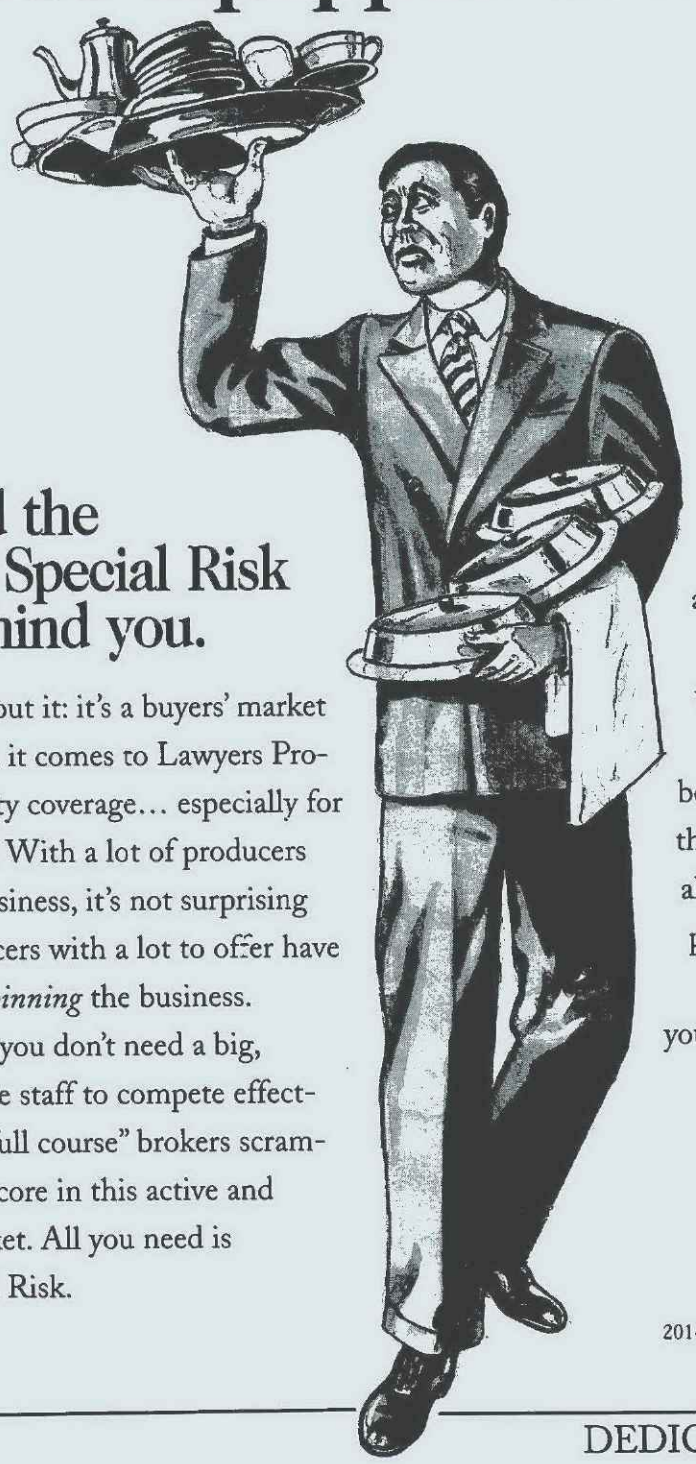
GROUPadvantage, developed by CISA, a Peabody, Mass.-based organization formed last year by the B.K. McCarthy Insurance Agency Inc., is a program that offers auto, home, marine, life, accident, health and financial services products to groups of employees.

Developed in Massachusetts, the multiline program is marketed by agents to their employer clients.

For more information on the GROUPadvantage program, contact Consumer Insurance Services of America, 2 Corporation Way, Peabody, Mass. 01960; 800-370-5446; fax: 508-532-2217. BI

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Book on future of insurance industry offers compelling observations

"Let the Trumpet Resound: the Insurance Industry in the 21st Century"
By Lawrence G. Brandon
Published by the CPCU-Harry J. Loman Foundation, P.O. Box 3009, 720 Providence Road, Malvern, Pa. 19355-0709; 610-644-2100
$29.95

By Regis Coccia

Books & Ideas

WHAT WILL the insurance industry look like in the next century? What steps can insurers, reinsurers, agents and brokers take to be competitive in the future?

The answers to these and many other questions can be found in a book by Lawrence G. Brandon called "Let the Trumpet Resound: the Insurance Industry in the 21st Century."

Mr. Brandon, president and chief operating officer of the Malvern, Pa.-based American Institute for Chartered Property Casualty Underwriters and the Insurance Institute of America and who also holds the CPCU designation himself, presents some very compelling observations on the industry and where it is heading.

It's not the first time Mr. Brandon has addressed that topic. In 1984, he wrote a book called "Sound a Clear Call," also about the future of the insurance industry.

Mr. Brandon outlines his reasons—all of them valid—for returning to that subject in 1996 in the introduction of "Let the Trumpet Resound." The year 2000 is almost in sight, and people everywhere are looking to the future. Many changes have taken place in the insurance industry since the author's previous book on the future was published. As a leader of a respected industry organization, Mr. Brandon has had access to many of the insurance industry's executives. And, not least, in a career spanning nearly 40 years, he has developed insights he considers worth sharing.

Indeed, in researching "Let the Trumpet Resound," Mr. Brandon sent questionnaires to members of the AICPCU/IIA's advisory board. The questionnaire contained 11 questions, ranging from what major issues the property/casualty industry will face in the next 10 years to what skills employees will need to have to how organizational structures will change.

"Let the Trumpet Resound" devotes a chapter to each of those questions and includes insights from insurance and reinsurance executives, agents, brokers and academics.

The book begins with a performance evaluation of the property/casualty business, highlighting the strengths and weaknesses of the industry, and concludes with chapters on creating the industry for the 21st century, including how insurance organizations can be successful in the future. Along the way, Mr. Brandon dives into a host of issues, from distribution systems, to automation and technology, to the economic, political and cultural forces for change.

In discussing the future of insurance distribution systems, Mr. Brandon notes that there are four main channels: independent agents, exclusive agents, direct-writing insurance companies and a direct-access system, which consists of insurance sales via phone, direct mail or other methods.

Increasing competition for business and the need for greater operating efficiency will result in agency mergers, acquisitions and, in some instances, closures. At any rate, the near future will see many changes: "The next 10 years should be defining ones for the independent agents. The whole system is undergoing analysis and reviews by all the stakeholders—insurance companies, agents and customers. Those agencies that survive this period should be stronger, more knowledgeable, more professional and more respected."

Despite the pending changes, no one distribution system is likely to supersede the others, Mr. Brandon says. The reason for this is that the market segments—personal lines and small, midsize and large commercial lines—are simply too varied to be served best by one system.

Exclusive agents and direct-writing insurers already dominate personal lines, and agency executives predict that small commercial lines will fall to those same channels, according to Mr. Brandon. Large commercial lines clients are served primarily by brokers. That leaves midsize commercial lines business as an area of intense competition. To succeed in this area, agents and brokers will need to differentiate themselves based on service, expertise and price, Mr. Brandon says.

Experienced personnel are unlikely to encounter anything in the book they don't already know about the workings of insurance and reinsurance. What they will find, however, is a clear statement of how the world is changing and how the insurance industry can respond to those changes.

For example, as customers become more sophisticated, they are demanding greater service and want to play an active role in protecting their assets, whether through traditional forms of insurance or alternative solutions. Insurers, agents and brokers will have to become more responsive to these demands, providing increased levels of expertise on the customer's business and offering a variety of products—not necessarily involving a traditional insurance policy.

Mr. Brandon predicts that, as the life insurance industry has done, the property/casualty industry will become involved much more deeply in financial services products. In a limited way, this is already being done through derivatives and futures contracts in the capital markets. Agents and brokers more than ever will need to become risk financing consultants.

As executives quoted in the book point out, insurance is a "knowledge business." Technology, particularly for agents and brokers, will be an important tool for delivering information to the customer. Yet technology and automation systems will not replace the need for personal interaction and professionalism. As a result, industry employees will need to enhance existing skills as well as develop new ones as reliance on technology grows.

Successful insurance companies, agencies and brokerage houses, according to Mr. Brandon, will be those that: concentrate on fundamentals, e.g., pricing, claims handling, sales, marketing and customer service; know what they do well and stick to it; know their competition; remain close to their customers; become proficient at using technology; and attract, develop and retain quality people.

Conversely, the losers will: try to be all things to all people; operate with high expense ratios; lack information on their customers; fail to distinguish themselves from their competitors; move slowly and inefficiently; and lack skilled personnel.

The book's title, which at first glance seems an odd choice for a book about the future, actually is apt. It comes from the Bible in Leviticus 25, verse 9: The Lord tells Moses on Mount Sinai that it's good to renew oneself every so often and that every 50 years a jubilee should be celebrated to refocus efforts to do what is right and good—"let the trumpet resound. . .the trumpet blast shall re-echo throughout your land." It's a message the industry should take to heart.

Written plainly and in clear language, "Let the Trumpet Resound" is very readable. For the depth of its insights alone, it deserves a place in the library of everyone who has an interest in the industry's future. BI

Points to build on

The insurance industry has some notable strong points and other areas where it can improve.

Strengths	Weaknesses
Has noble purpose in protecting people and organizations	Lacks leadership and sense of long-term direction
Plays important role in the economy and free enterprise	Fails to communicate adequately with customers
Contributes significantly to gross domestic product	Does not have strong customer focus
Advocates public safety and health	Is too bureaucratic and inefficient
Improves social and economic conditions	Fosters unhealthy competition in setting prices

Source: Lawrence G. Brandon, "Let the Trumpet Resound"

Agent/Broker Topics

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NAMIC honors former Illinois regulator

Former commissioner of the Illinois Deparment of Insurance James Schacht recently received the Chairman's Award from the National Assn. of Mutual Insurance Cos.

The association presented the honor to Mr. Schacht last month in recognition of Mr. Schacht's service to the insurance industry during his career of 30 years as a regulator.

Mr. Schacht served as acting insurance commissioner at the Illinois Insurance Department until last year, when he left the department to become director of the insurance regulatory practice at Coopers & Lybrand L.L.P. in Chicago.

During his tenure as a regulator, Mr. Schacht led efforts to reform the Kansas City, Mo.-based National Assn. of Insurance Commissioners.

He was a member of various NAIC task forces and played a key role in developing the NAIC financial regulation standards and accreditation program.

"He has dedicated many years of service to the regulatory community and is deeply committed to reform and improvement of state-based regulation of insurance," said NAMIC Chairman James I. Taylor.

"The NAMIC Chairman's Award was designed to recognize leadership, accomplishment and outstanding service to the insurance industry," Mr. Taylor said. "Its recipients are role models, and this year's winner epitomizes that."

Indianapolis-based NAMIC represents nearly 1,200 property/casualty insurance companies.

The wheels of progress are turning... take a ride with BI on the Internet.



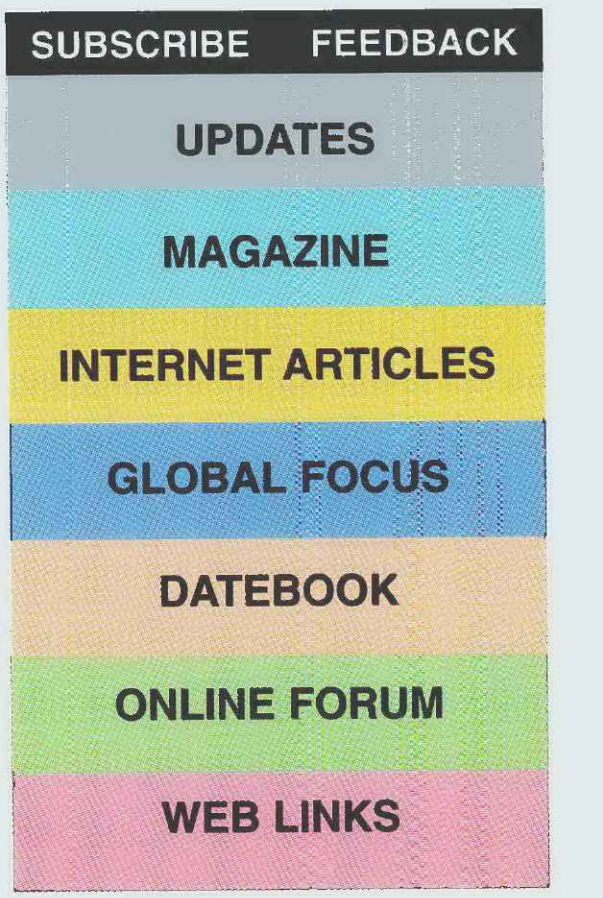
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Convention offers demos

Agents attending the Independent Insurance Agents of America's annual convention this month will be able to see demonstrations of agency management system products that can make "best practices" a reality, the IIAA says.

The demonstrations, called Short Circuits and each lasting about 15 minutes, will be conducted by insurance industry vendors.

They will be part of the IIAA's annual convention, "Pride in Independence—The Next 100 Years" to be held Oct. 19-23 at the Sheraton Centre in Toronto.

The tours demonstrate there are products available that can help agents achieve the same success as the nation's best agencies, said Shirley Lukens, vp-agency management and technology for the Alexandria, Va.-based IIAA.

The tours also will show that "best practices" is an industry initiative, rather than just an agent initiative, Ms. Lukens said.

Participating organizations include: the Agency-Company Organization for Research & Development, Applied Systems Inc., the Alliance for Productive Technology, Agency Management Services Inc., Delphi Information Systems Inc., Insurance Marketing Management Services, SunAmerica Financial Resources, Insurance Services Offices Inc. and Insurance Value Added Network Services Inc.

For more information, or to obtain a registration form for the IIAA's annual convention, contact the IIAA convention department at 800-221-7917 or use IIAA's "quick facts" service at 800-296-0578.

Select item 2501 for a convention registration form and schedule of events, and item 2502 for a hotel registration form. BI

Acquisition aimed at helping brokers manage information

A company that provides integrated business solutions to the property/casualty industry has acquired a New Zealand company in a deal intended to respond to the needs of brokerage customers.

Rolling Meadows, Ill.-based Delphi Information Systems Inc. acquired privately held Complete Broking Systems of Auckland earlier this year. Terms of the deal were not disclosed.

Delphi assists insurance companies gather and manage Agency-Company Organization for Research & Development-based information involved in insurance distribution. CBS technology will add the ability to handle non-ACORD information needed in the placement and servicing of large commercial risk, Delphi said.

CBS develops and installs software for large, multinational insurance brokerages, Delphi said, adding that CBS has relationships with international offices of some of the world's largest brokers.

"The acquisition of CBS enables Delphi to respond to what our brokerage customers have told us they need to handle complex, commercial risks," Delphi President and Chief Executive M. Dennis Connaghan said in a statement. "It enables us to meet a need that exists in information management systems deployed in North America today, providing new opportunities for expanded business both here and abroad." BI

Exec cited for efforts in education

A Chicago-area executive has been cited by the American Institute for Chartered Property & Casualty Underwriters and the Insurance Institute of America for 25 years of educational leadership in insurance.

Ronald J. Kalish, executive vp of Park PM Corp. in Park Ridge, Ill., was recently awarded a Scroll of Appreciation and a crystal bowl from the Malvern, Pa.-based institutes.

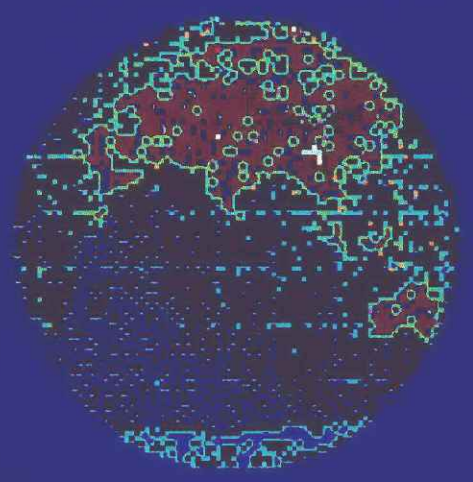
Mr. Kalish, a past president of the Chicago chapter of the CPCU Society, also served as national director from 1990 to 1993. He has been a member of the CPCU Society Ethics Committee and Agent & Broker Committee and was Agent & Broker section chairman from 1994 to 1995.

He has been a Continuing Professional Development qualifier since 1984. He also was an instructor at the Institute of Financial Education from 1976 to 1981.

Scroll recipients must have taught or organized and administered courses developed by the institutes, such as IIA courses in areas such as claims adjusting, underwriting, risk management or loss control.

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Mr. Kalish earned the CPCU designation from the American Institute in 1971. BI



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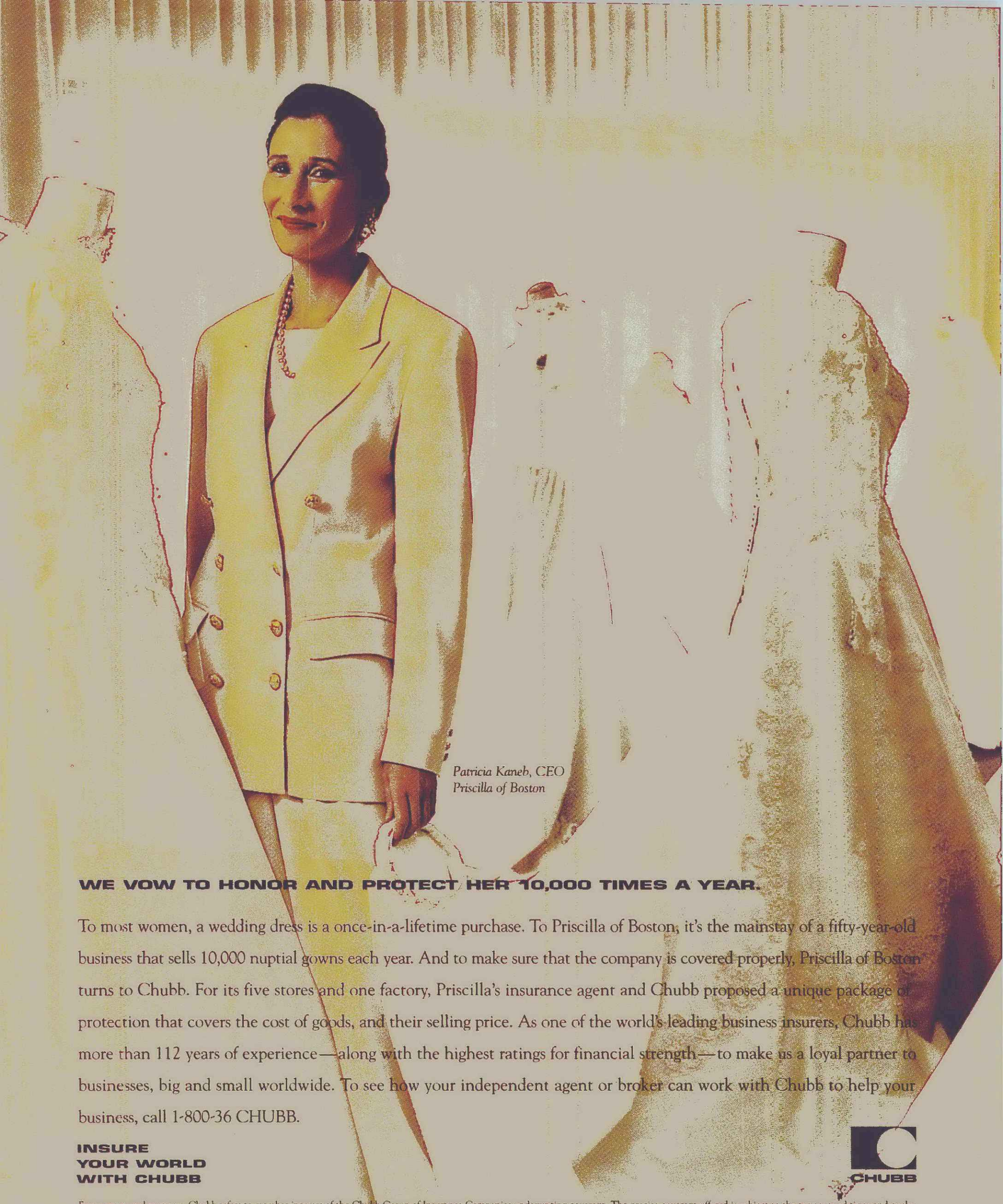
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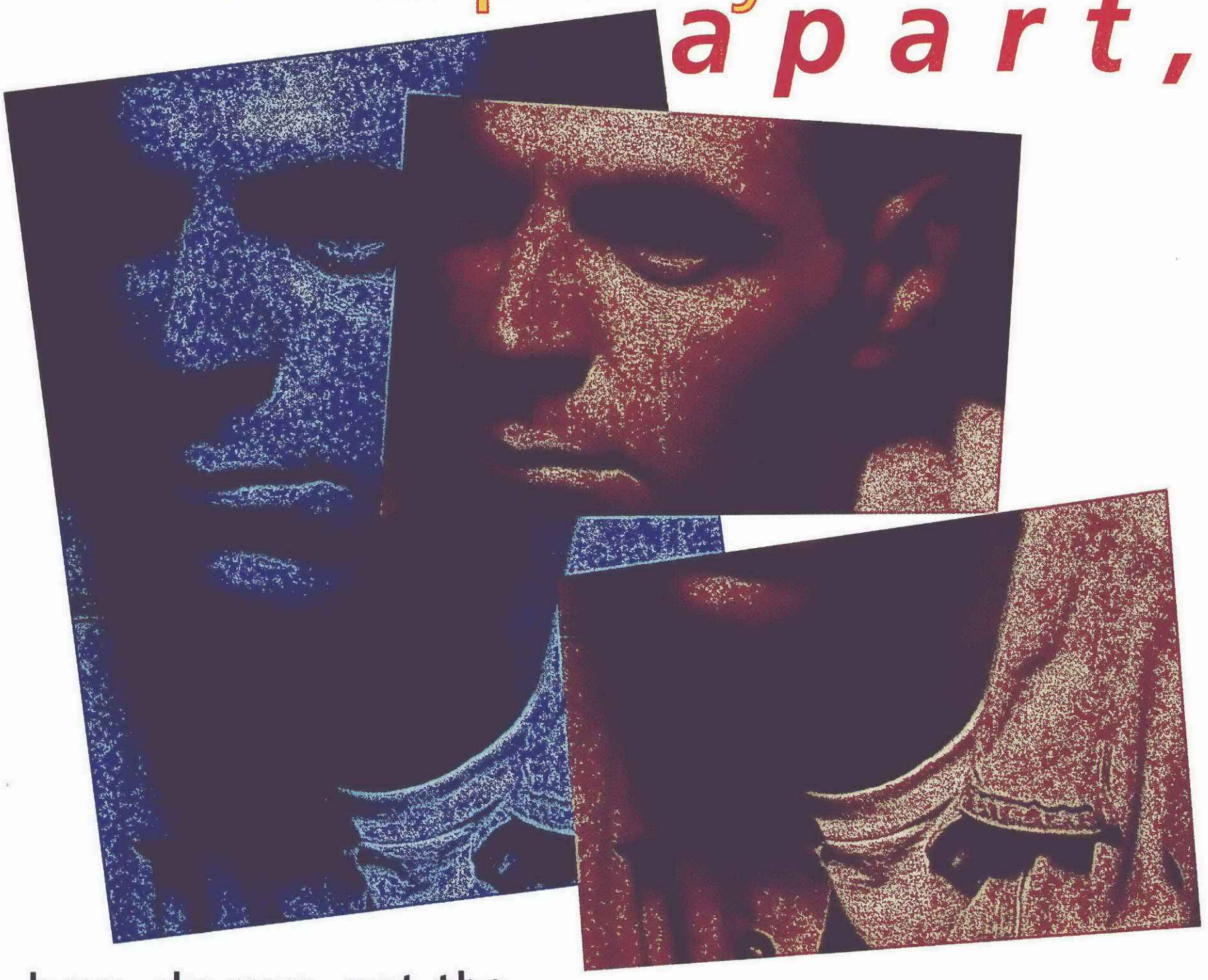
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'Subjective' disabilities a unique challenge

By Susan C. Sendra

Managing employee disabilities presents a unique challenge to employers and insurers alike. Too often, employers underestimate the true costs and incidence of disability. In fact, according to the U.S. Census Bureau, more than 6.8 million people in the United States have a "mental or emotional disability." All disability costs exceeded $170 billion in 1991 and are expected to double by the year 2000.

Effectively managing disabilities is becoming more challenging as the nature of disability is evolving. Today, employees are filing claims for subjective conditions that were unheard of only a few years ago. New conditions are continually emerging, many of which are subjective diagnoses reflecting societal trends, changes affecting employer/employee relationships and life stresses.

The lack of a standard diagnosis may open up an employee suffering from a subjective disability to questions.

These "self-reported" conditions are still a small portion of disability claims reported but are particularly difficult to manage. As a result, employers and insurers now are faced with learning how the once well-understood parameters of disability are changing and how to accommodate these new situations.

A "subjective" disability is a condition with little or no objective medical foundation to support the conclusion that it has a disabling effect. These conditions are self-reported, meaning they can be described but not verified. They are often characterized by chronic pain, fatigue or a psychiatric disorder.

There are no medical test results to support them. This presents a unique challenge for the disability manager, because these conditions are not actually identified. Rather, they are diagnosed by eliminating other possibilities.

Subjective disabilities have a significant emotional cost to employees. Because the condition is not verifiable, it is subject to question by employers, co-workers and family. The lack of diagnosis may result in a lack of sympathy and support for an employee who is not feeling well.

Studies cite subjective or "self-reported" conditions to be among the fastest-growing cause of disability in the United States. CNA experience has shown the incidence of claims reported for the listed conditions has increased by astronomical proportions over the past five years:

- Chronic fatigue syndrome claims have increased more than 900%.
- Fibromyalgia, or soft tissue pain claims, have increased 254%.
- Psychiatric-related claims have increased 195%.
- Chronic pain claims have increased 100%.

These claims are more difficult to diagnose and conclude than "traditional" disability claims. There are numerous issues associated with managing subjective or self-reported disabilities and developing effective return-to-work programs.

Accurately diagnosing conditions and determining appropriate treatment is confusing, because subjective conditions or symptoms aren't verifiable by standard medical tests. Rather, the person is exposed to various tests to rule out all other diseases.

For example, to properly diagnose chronic fatigue syndrome, all other causes of fatigue, including psychological components, must first be ruled out, based on criteria from the Centers for Disease Control.

Employers must address the physical and emotional aspects of the conditions

Many of these conditions also have a psychological component that needs to be identified and treated in addition to the other conditions or symptoms.

As a result, employees are subject to increased doctor visits and multiple tests.

Determining functional capacity becomes more difficult because of the nature of the illness. Self-reported conditions are based on a patient's feelings or perceptions, and most have a psychological component.

This means these claims lack the evaluative framework and knowledge about the course and outcome of treatment that exists for other, "traditional" medical conditions.

Standardized guidelines or normatives alone are not appropriate tools for making disability decisions. Specific resources and expertise are needed to properly diagnose and manage these cases.

Developing "stay-at-work" and "return-to-work" programs is more demanding and complicated. Many disability insurers do not have claims expertise with these newer conditions. As a result, they haven't developed reliable return-to-work guidelines.

If the degree and severity of a condition cannot be verified, compliance with the Americans With Disabilities Act can become difficult.

A process that emphasizes ongoing communication among the disability manager, employee, physician and employer can help to facilitate the management of subjective disabilities. Communication is critical to understanding employee capabilities and developing appropriate return-to-work programs.

Rehabilitation and compliance with the Americans with Disabilities Act can become difficult, because the condition's severity and degree of functional loss cannot be objectively measured.

Some examples of reasonable accommodations may be the creation of flexible work hours or modified job duties to reduce work-related stress or the provision of new job training. The solution is not as simple as deciding to install a wheelchair ramp for someone with a physical impairment.

Learning how to obtain accurate diagnoses and establishing treatment and rehabilitation plans to meet an employee's abilities are just part of the overall process of managing subjective disabilities. It is necessary to address both the physical and emotional aspects of a disability. As mentioned previously, teamwork and open communication among the disabled employee, employer, physician and disability manager are essential to the success of managing disabilities and returning employees to work.

An integrated program effectively responds to the changing nature of disability-related costs and returns disabled employees to productive work as soon as possible. A successful program must incorporate these components:

- Prevention—the first and most important step. Prevention programs can reduce the number of disability claims incurred by managing a disability before it occurs. Stress-related and substance abuse problems can be dealt with before they become disabling by encouraging employees to use employee assistance and counseling programs.
- Early intervention—a key to effectively managing subjective disabilities. Protocols can be established to flag conditions that will benefit from rehabilitation or special handling before the claim reaches long-term status. Early identification of cases with subjective disabilities also can minimize non-essential medical treatment and costs.
- Case management—Coordination of all of the experts involved in the case to ensure that the disability is properly identified and an appropriate course of treatment has been implemented and integrated with an early return-to-work program.
- Disability assistance—Assistance through the complex Social Security filing process for employees who are totally disabled. This reduces employer disability costs and provides the employee with access to important personal and family benefits.
- Specialized claims handling—through dedicated resources and expertise to properly manage subjective disability claims.

Important factors in reviewing subjective disability claims include:

- Past and current medical history (medical reports, test results).
- Proper diagnosis (for example, a psychological component may have been overlooked when determining a diagnosis that would hamper the ability to provide proper treatment).
- Proper medications.
- Treatment plans.
- Current job requirements.
- Accommodation requirements and availability of reasonable accommodations.

A thorough evaluation of these factors is necessary to fully understand the severity of the condition and determine if it truly disables an employee from his or her occupation.

To properly manage subjective disabilities, keep up to date on the latest medical research concerning subjective disability causes, conditions and treatments. New techniques are continuously being developed to help diagnose these conditions and steer the disabled individual into an appropriate course of treatment.

Employers can assist in the process of returning employees to work by developing and maintaining clear, specific descriptions of the physical and emotional components of each job. These descriptions should be kept current. When everyone has a clear sense of the physical and intellectual requirements of the job, it is easier to assess a worker's remaining capabilities and determine the accommodations necessary to return to either their original or an alternative occupation.

To properly manage subjective disabilities, keep up with the latest medical research in causes, conditions and treatments.

In addition, employers need to be willing to make accommodations that will allow employees to remain at or return to work during treatment. Again, flexibility is the key to successfully accommodating disabilities.

The future will bring even more challenges. It is important for the disability insurance industry to work more closely than ever with employers and the medical community to remain on the cutting edge of disability management. BI

Susan C. Sendra is a senior vp and chief claims officer of disability accounts at Chicago-based CNA Insurance Cos. She is based in Orlando, Fla., and is responsible for national disability accounts.

What can go wrong when science meets a jury

"Science on Trial: The Clash of Medical Evidence and the Law in the Breast Implant Case"
By Marcia Angell, M.D.
Published by W.W. Norton & Co. Inc.
500 Fifth Ave., New York, N.Y., 10110
$27.50

By Kevin M. Quinley

ARE BREAST IMPLANTS really dangerous? Most of the public considers this an open-and-shut issue.

When the U.S. Food and Drug Administration banned silicone gel-filled breast implants four years ago, it responded to rising concerns that they caused autoimmune and connective tissue disease. The ban unleashed a tsunami of litigation, as thousands of women sued breast implant makers. Sympathetic juries awarded gargantuan damages, ultimately leading to a $4.25 billion class-action settlement that, incredibly, was still insufficient to pay all claims.

Nevertheless, rigorous scientific studies of breast implants show there is no significant link between breast implants and disease.

A provocative new book, "Science on Trial," addresses the awkward question to which many risk and insurance professionals can relate: If the science is so heavily on the side of breast implants not causing injury, why are juries and personal injury lawyers successful in recovering millions of dollars in damages?

Answering this question is Marcia Angell, executive editor of the prestigious "New England Journal of Medicine." As a scientist, physician, woman and editor of a peer-reviewed journal, Ms. Angell seems eminently qualified to explore the wide chasm between scientific knowledge and legal trends.

Ms. Angell's core idea is that courtroom standards of proof are much different—and much more relaxed—than scientific rigor requires. To attain scientific support, a study must be peer-reviewed and vetted over a period of time. For breast implants, this would require the existence of epidemiological studies demonstrating a strong correlation (inferring causation) between implants and autoimmune disease. In fact, such epidemiological studies are lacking.

By contrast, courtroom admissibility rules are relatively loose. A plaintiff's expert can get up in front of a jury and, based on anecdotal evidence or unpublished "personal studies," opine that silicone breast implants cause lupus or other autoimmune maladies.

All of this the jury hears, while seeing a pitifully injured person vs. a Large Corporation. In the end, alchemy and sympathy often outweigh the defendant's dry, technical arguments. Somebody ought to pay, so why not the breast implant manufacturers?

"Science on Trial" is a bracing reminder to risk and insurance professionals as to how the legal system operates. It underscores the reality that claim defenses that seem compelling and invulnerable in a boardroom can become quite porous inside the courtroom.

While it is tempting to think this book is an interesting but distant paradigm of how another industry got a raw deal, any smug satisfaction might be misplaced. What readers see in the breast implant controversy may simply be a dress rehearsal for future claims impacting broad industry sectors: cancer from cellular phones, repetitive stress injuries from computer keyboards and health ills from electromagnetic fields. Doubtlessly before long, other enterprising attorneys will be mining the tort landscape for the Next Big Thing.

Not surprisingly, different professions view science differently. Lay people are often distrustful of science. Scientists revel in the rigors of the scientific method, raising high standards for proving hypotheses. Attorneys view science as somewhat elastic, bendable to support or undermine this or that theory. Jurors are often baffled by the crossfire emerging in litigation.

Confronted by an injured person, not exactly sure what caused the problem but looking across the courtroom to a corporate representative (who more likely than not has insurance), the money spigot cranks up. As Ms. Angell points out in her closing chapter, "The breast implant story shows how courtroom procedure can ignore or misinterpret science." To which risk and insurance professionals can say, "Amen!"

Ms. Angell is on stronger footing, however, in critiquing the present legal system than in proposing alternatives. She advocates having judges appoint expert witnesses and curbs on class-action lawsuits. How this is to be done is less clear, but these are implementation challenges.

The notion that billions of dollars are tossed around because of junk science is hardly a novel conclusion. "Science on Trial" is no apologia for breast implant manufacturers, but it does contain the politically incorrect message that these companies received unfair treatment, based on scientific evidence. With risk managers as her audience, Ms. Angell may be preaching to the choir, but her message comes through persuasively in three-part harmony. BI



Kevin M. Quinley is senior vp of risk services for MEDMARC Insurance Co. Inc. and subsidiary Hamilton Resources Corp., both of Fairfax, Va. He holds the Chartered Property & Casualty Underwriter and Associate in Risk Management designations.

ERISA protects pension plans from false waivers

The Employee Retirement Income Security Act protects pension plans from large, unexpected liabilities that could arise when plan administrators reasonably rely on waivers of spousal benefits that turn out to be invalid, according to the 9th U.S. Court of Appeals.

James Hearn was covered under a Teamster Pension Plan. In 1991, upon retirement, he obtained a single life annuity by falsely informing the plan's administrator that he was single. Relying on this representation and its own records, the trust fund paid benefits under a single life annuity until Mr. Hearn's death nine months later. Two months later, Brenda Hearn applied for benefits claiming she was Mr. Hearn's widow and hadn't consented to his waiver of the joint and survivor annuity. This turned out to be true: James and Brenda were married in 1982 and separated in 1990, but they never divorced.

The trust fund denied her benefits on the ground that Mr. Hearn's election had become final when his annuity payments began. Ms. Hearn sued and lost in the trial court.

The appellate court said that the trust fund's good faith determination is treated as conclusive, but only to the extent the fund has already made payments. The court said that this means the trust fund will be liable to Ms. Hearn only if its debt to her exceeds its overpayments to her husband. The court emphasized that Congress, in reconciling the interests of pension plans and surviving spouses—both injured parties—made each give up something. The trial court decision was reversed and Ms. Hearn was awarded $78 per month commencing with July 1993 when the overpayment to Mr. Hearn was offset.

Hearn vs. Western Conference of the Teamsters Pension Fund, 9th U.S. Circuit Court of Appeals, Oct. 6, 1995 (*BI*/01/My.-$10).

Legal Briefs

Court defines stepchild

A stepchild is deemed a "child" of a decedent entitled to death benefits under the workers compensation law if the stepchild looked to the deceased for support and maintenance, according to the Supreme Court of South Carolina.

William Adams died in an airplane crash and was survived by his wife, an adopted daughter and a stepdaughter. His widow, daughter and stepchild all sought benefits under the state workers compensation law. The commissioner awarded the widow 50% of the death benefits and 25% to each of the adopted child and stepdaughter. However, an appellate panel amended these findings and awarded the widow and adopted child each 50% and stepchild nothing. The trial court affirmed the panel's decision that the stepchild was not entitled to the statutory presumption of being wholly dependent upon the deceased. The Court of Appeals affirmed the trial court.

The state supreme court said that, if a stepchild was "dependent" upon the deceased, he will be deemed to be "wholly dependent" under the compensation law. But, the court noted that the word "dependent" was not defined by the compensation statute. Looking to other jurisdictions for guidance, the court concluded that the definition for determining the degree of dependency required in order for stepchildren to be deemed dependent should be that a dependent is one who looks to another for the reasonable necessities of life. Thus, the court returned the case to the compensation commission for an adjudication in light of this standard.

Adams vs. Texfi Industries, Supreme Court of South Carolina, Nov. 6, 1995 (*BI*/02/My.-$10).

Obligation to defend limited

A commercial general liability insurers' obligation to defend a policyholder against "advertising injury" does not extend to an injury caused by patent infringement, according to the Court of Appeals of Minnesota.

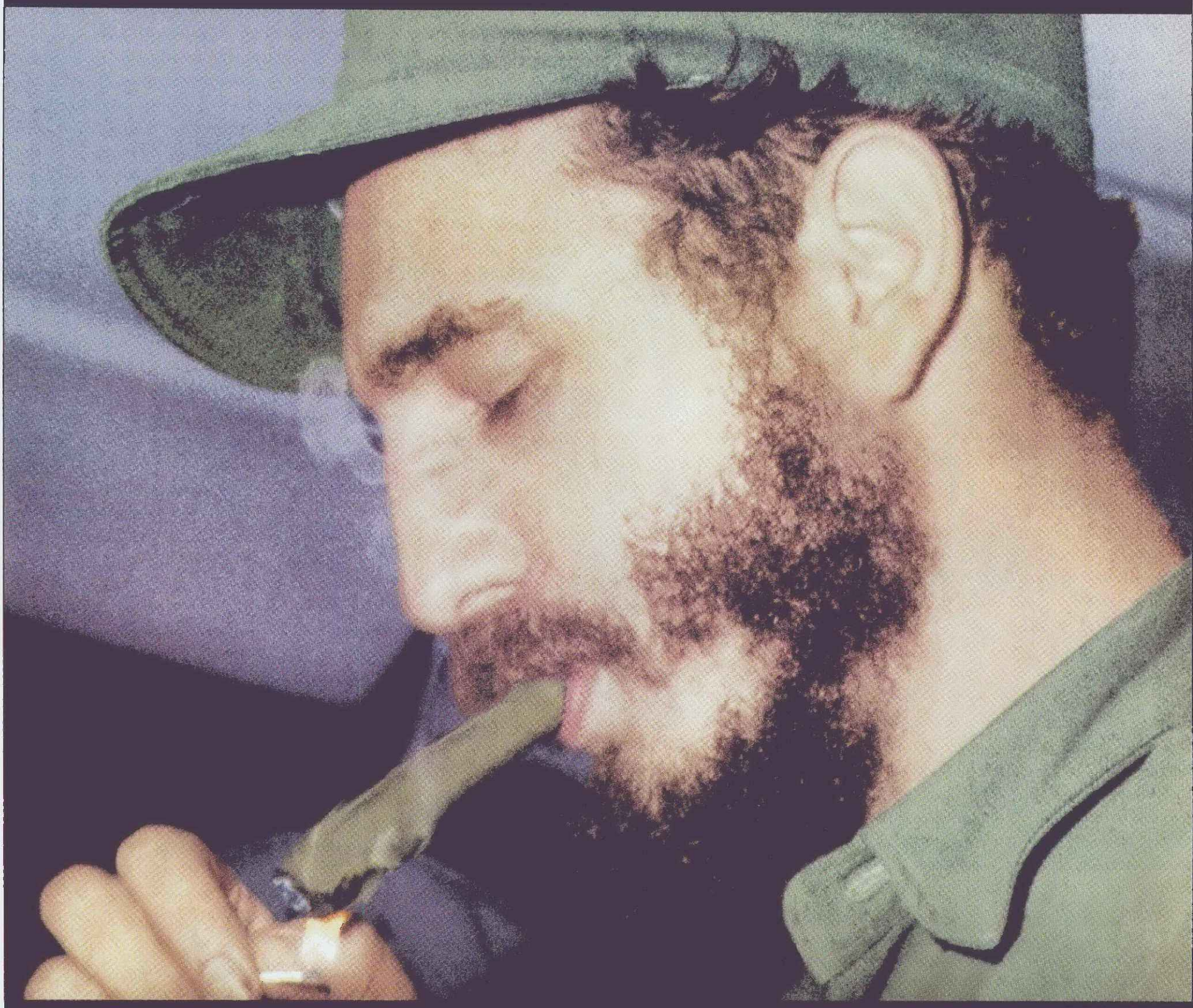
Fluorware Inc. sought defense coverage for a dispute over the manufacturing and selling of plastic disk packages that allegedly infringed on a patent owned by Empak Inc. In 1993, Empak sued Fluorware for commercially exploiting Empak's patented invention. Fluorware was covered under several CGL policies that provided coverage for "advertising injury" claims. The insurers denied coverage. Fluorware asked the trial court to find that the insurers had a duty to defend and indemnify Fluorware in Empak's patent infringement suit. The trial court ruled for Fluorware.

The appellate court said that advertising liability coverage does not result inevitably from infringement claims merely because a product is advertised. Here the court said, the patent infringement alleged by Empak was not committed in the course of advertising and did not arise out of Fluorware's advertising activity. Thus the court said there was no liability coverage and no corresponding duty to defend.The trial court decision was reversed.

Fluorware vs. Chubb Group of Insurance Cos., Court of Appeals of Minnesota, April 2, 1996 (*BI*/03/0-$10). BI

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

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Lucent

Continued from page 3

As a result of being denied self-insurance status in some states and approved in others, Lucent has bought a workers comp policy with a large deductible to cover the company's workers comp liabilities during the interim period.

Lucent's applications for self-insurance have been denied or challenged for basically three reasons, Mr. Holt said.

The self-insurance regulations generally require a company to be in business for four to five years before being considered for self-insurance. Some states, therefore, view Lucent as a brand new company since it became a separate subsidiary of AT&T in February and separated completely from AT&T only last Tuesday, Mr. Holt said.

"While we understand the suitability of these rules for startup companies, we do not think they apply to companies that were created in the manner (of Lucent) nor have the history of Lucent," he said.

In addition, some states have concluded that Lucent does not have the financial strength to be self-insured, specifically citing losses in 1995 and 1993, Mr. Holt said.

These losses were due to one-time charges and special business decisions, and "have no effect on Lucent's ability to meet its workers comp obligations," he said.

The 1995 loss is attributable to the costs associated with the restructuring of AT&T, Mr. Holt explained. The costs associated with Lucent included the voluntary and involuntary layoffs of nearly 22,000 employees, early termination of building leases and asset write-downs.

"Without these charges, Lucent would have shown a net profit of $980 million," he said.

And the 1993 loss is attributable to the company adopting Financial Accounting Standards 112 and 106.

"This legally required change in accounting method did not have any effect on Lucent's cash flow. We simply recognized on our books the promises that we have made to our employees and retirees," explained Mr. Holt, adding he finds it ironic "how Lucent can be viewed as a brand new company and also have significant obligations toward its retirees."

Without the special charges, Lucent would have reported a $430 million profit in 1993, Mr. Holt said.

Furthermore, Lucent has $20 billion in assets, 125,000 employees and $21 billion in 1995 revenues, he said. And since April, when Lucent made its initial public offering, stock prices have jumped 40% to $45 per share from $27 per share.

The stock growth "represents the broadest opinion of Lucent's positive future as a stand-alone entity," he said.

The third reason that Lucent has been denied or challenged in its application relates to providing audited financial data.

Mr. Holt told attendees of one state that denied its application because it did not have a five-year audit. He did not reveal the particular state.

Prior to its IPO, Lucent prepared financial statements for 1991 through 1995 for all the AT&T operations that eventually became a part of Lucent. For the years of 1993 through 1995, an independent auditor certified the statements. While this process met the requirements of the Securities and Exchange Commission and the Internal Revenue Service, the state's self-insurance office required five years of audited financial statements with the application for self-insurance, Mr. Holt said.

'While we understand the suitability of these rules for startup companies, we do not think they apply to companies that were created in the manner (of Lucent),' Lawrence Holt says.

Lucent told state regulators that an audit for 1991 and 1992 would be very expensive, that the three-year audited statement satisfied the requirements for the company's IPO, and that it would be open to provide alternatives to the audit. But the self-insurance office said that workers compensation rules which have been approved by the state legislature must be followed exactly, according to Mr. Holt.

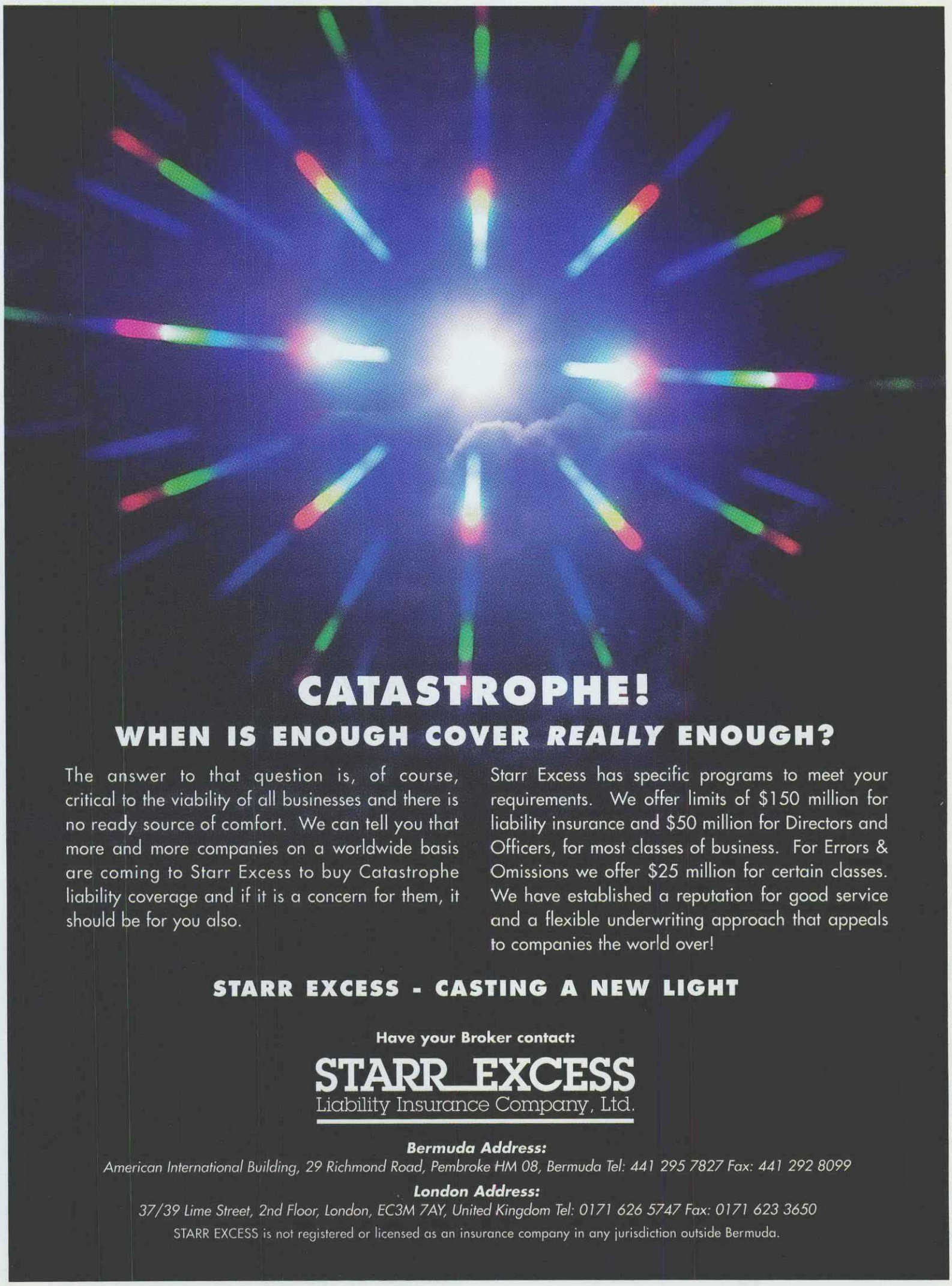
Consequently, Lucent must buy commercial insurance to cover its workers comp liability in that state, he said.

Mr. Holt offered some suggestions to "enhance" the self-insurance application process and to make the procedures more compatible with today's trend of corporate reorganizations, while still meeting the requirements of the workers compensation boards and commissions.

"I suggest that the burden of evaluating the financial strength and stability of a company applying for self-insurance be placed with organizations specializing in financial analysis, such as Dun & Bradstreet or Moody's," Mr. Holt said.

Such practices exists in several states, but they should be adopted by more—if not all states,

See **Lucent** *on next page*



Unions reject managed care in comp, saying employers could abuse system

By ROBERT KAZEL

CHICAGO—Labor unions, traditionally no booster of managed care in health insurance, will stand even more adamantly opposed to attempts to fuse managed care with workers compensation programs.

IAIABC

That was the warning from a union leader last week who, speaking in a panel discussion at the yearly meeting of the International Assn. of Industrial Accident Boards & Commissions, insisted that managed care has no place in the workers comp arena. The two systems are fundamentally separate and irreconcilable, she said.

Roberta Lynch, deputy director of Chicago-based American Federation of State, County and Municipal Employees Council 31, said that mandating restrictive lists of physicians from which workers comp doctors must be selected is an unfair denial of physician choice. That lack of choice would lead to the equivalent of old-style "company doctors," who would side with the employers in disputes between workers and management.

"We have seen that kind of system abused over and over," she said. "The weight of that history hangs heavy over today in any discussion of workers comp."

While workers comp always has been an adversarial system, either between labor unions versus state legislators or individual workers against their employers, she said, imposition of managed care rules over the workers comp system may give the company power to part with health maintenance organizations that are not making favorable decisions regarding employee health and injury. Despite employers' insistence that they are interested foremost in workers' well-being, experience has shown many companies are strongly motivated by cost, she said.

The danger of abuse by employers is greatest where no union is present, she said. But even in a union shop, a managed care workers comp system threatens to bring many current, widely publicized problems of managed care into the workers comp realm, including employees being forced out of the hospital prematurely, so-called gag clauses that may prevent doctors from speaking freely to patients while in HMO networks, and the forcing out of doctors who aren't meeting HMO cost expectations, she said.

Further, HMO doctors bound to an employer by a workers comp contract may be unable to offer impartial testimony if summoned to trial, Ms. Lynch said.

"We ask quite simply, 'Why should the labor union support any form of managed care?' " she said, arguing that such programs merely divert savings to corporate profits instead of to employee benefits. "We don't see any reason to bring managed care into the system."

Several other speakers did see reasons, however, and came out in favor of integrating managed care with workers comp on a more widespread basis than has so far occurred in the United States. Bob Steggert, vp-casualty claims for Bethesda, Md.-based Marriott International Inc., said the wedding of managed care and workers comp "is a reality and should be encouraged under law." The economic enemy of employers, he said, is "unfettered free choice" in the selection of workers comp doctors.

Mr. Steggert said managed care would cut down on litigation, frictional costs and "dueling doctors" who face off once cases go to trial, and that employers have the right to take advantage of managed care's advantages. Employees should have some say in the selection of the network, he said.

Richard Victor, executive director of the Cambridge, Mass.-based Workers' Compensation Research Institute, said 14 states clearly permit use of managed care in workers comp, while eight states allow it because it is not regulated.

Twenty-one states currently limit the ability to introduce managed care into workers compensation: Either the workers may choose or they may opt out after enrolling. In the other states, managed care is not permitted for workers comp.

This week, WCRI will announce plans for an extensive study of managed care and workers comp that will analyze cost savings, quality of care, protections for workers, state regulations and other issues, Mr. Victor said. The study will begin in January. BI

Lucent

Continued from previous page

he contends.

While the financial evaluation would recommend acceptance or denial, the state department of self-insurance must maintain the right to make the final decision, he added.

"The cost of the evaluation could reasonably be part of the self-insurance application fee," Mr. Holt said.

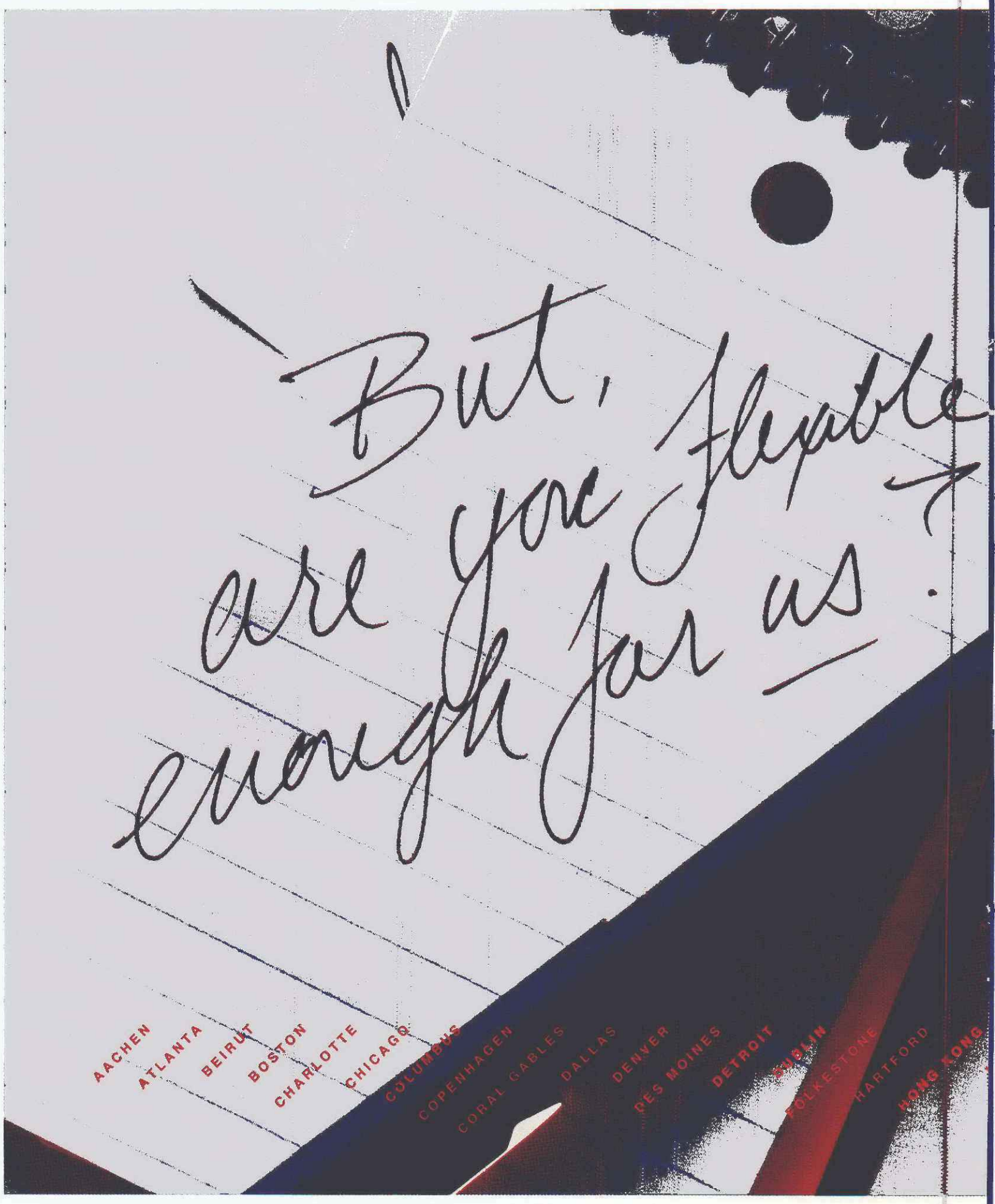
Secondly, Mr. Holt suggested the rule requiring a company to be in business for a certain amount of time before receiving self-insurance status, needs to be amended to say "that a divested company that has been in business for less than four years as a new entity, may be considered for self-insurance, if, as a prior entity, it has four years of operating experience."

Mr. Holt added that the new company still must demonstrate current financial strength and liquidity to ensure it is able to meet all of its workers comp obligations.

He recommended that new entities should be required to explain clearly the nature of exceptional costs caused by a corporate reorganization. He also suggests state directors of self-insurance should be "given more discretion to make individual decisions."

Additionally, Mr. Holt reiterated a previous suggestion by the NCSI that recommends a study of reciprocal self-insurance status agreements between states for multistate companies.

"This would avoid a company which goes through the full qualification process in State A from having to go through the entire process in States B, C, D, E and F," Mr. Holt said. BI



Company's center helps workers remain productive while recovering

By ROBERT KAZEL

CHICAGO—Most attendees of the International Assn. of Industrial Boards & Commissioners probably didn't realize that the brightly colored cloth bags supplied by the staff had special symbolism.

The bags, stuffed with conference materials, were produced by disabled workers forced out of their usual jobs by onsite accidents. Instead of leaving work altogether to collect workers compensation, these laborers—employees of Grand Rapids, Mich.-based furniture maker Steelcase Corp.—made the bags within a special company unit created specifically to ease injured workers back into normal plant operations.

Steelcase has operated a workshop for injured workers for about seven years, originally offering spots in a modest glove reprocessing plant in which injured workers could do light duty.

Only relatively recently has the company turned it into a modern facility where injured employees can continue to produce quality, useful products and maintain work discipline, said Jim Walters, production supervisor of what has been renamed the Steelcase Redirected Work Center.

"We do maintain a return-to-work expectation," said Mr. Walters, speaking at the association's annual conference last week in Chicago.

"They have a tendency to come in here and believe they're going to be dumped. We don't want that."

Through one-on-one counseling integrated with workday operations, Steelcase staff try to impress on workers that they must be on time, keep quality high and learn all skills necessary to rejoin the mainstream work force once more, perhaps in different jobs than the ones in which they were injured, he said.

'They have a tendency to come in here and believe they're going to be dumped. We don't want that,' Jim Walters of Steelcase Corp. says.

Before workers are reassigned to the Redirected Work Center, Steelcase tries to return the person to his or her original job, or at least the same department, division or plant, said Ed Keeter, a rehabilitation counselor at Steelcase. But if an injury dictates transfer to the center, it is always classified as a temporary move pending the eventual return to normal labor, he said.

"The long-term solution to the problem is getting the person healthy and back to work," Mr. Keeter said.

About 35 employees work in the center at a time, with varying tasks that may include making tote bags, gym bags, beanbag chairs and refurbished wood chairs. The company did not make those products before establishing the center.

Workers also stop to do stretching and physical therapy, under the guidance of nurses.

In the past 18 months, the center has placed 14 of its workers into other jobs within the company, saving Steelcase $1.5 million it otherwise would have spent by using outside employment agencies, Mr. Keeter said.

The most common problem encountered in rehabilitating the injured workers has been overcoming so-called "secondary barriers," such as conflicts with supervisors, trouble at home and substance abuse, Mr. Keeter said.

For these, early assessment of problems and social service referrals have often proved helpful.

The only other big barrier has been overcoming employees' own negative stereotypes about being sent to an "easier" alternative work site and the prospect of ever returning to normal work.

The center tries to combat this, Mr. Keeter said, by setting clear work goals and time lines within the Redirected Work Center so workers there feel like they still are a productive part of company life. BI



Nearly 600 attend convention

CHICAGO—About 570 workers comp regulators, insurers and employers traveled to the Windy City to attend the 82nd annual International Assn. of Industrial Accident Boards & Commissions convention held Sept. 28 through Oct. 3 at the Palmer House Hilton.

Conference-goers attended a variety of sessions on such topics as workplace violence and workers compensation; the Americans with Disabilities Act and the Family Medical Leave Act; success stories of self-insurers; benchmarking; alternative dispute resolution; electronic data interchange and other topics.

Next year's IAIABC convention will be held Oct. 18-22 in Newport, R.I.

For more information about the 1997 conference contact the IAIABC at 913-541-1131.

NATA

Continued from page 1

could not be used for that purpose, according to court papers. TIFCO told regulators and Reliance National that the funds were a portion of the amount it loaned the association to pay an Illinois Insurance Exchange syndicate to underwrite a master vehicle physical damage insurance program for its members, according to court papers.

As a result of the captive's demise, New York-based broker Nausch, Hogan & Murray Inc. will lose $1.1 million annually on its investment in the captive plus fees it would have earned from Reliance National as a program administrator, the broker charges in a complaint filed against TIFCO in New York federal district court.

The broker, which argues that NATA's Vermont captive deal had no relation to TIFCO's premium financing dispute with NATA, seeks $50 million of punitive damages and $25 million of compensatory damages from TIFCO.

NATA contends TIFCO created the controversy to back out of the premium-financing deal because its attorneys learned individuals with whom TIFCO had crossed paths in at least one other premium financing dispute were involved in placing NATA's master physical damage coverage with the IIE syndicate, Britamco Underwriters Inc.

TIFCO closed the premium financing deal in January with NATA, which court papers describe as a 20-year old trucking association that provides various services to about 20,000 members.

Under terms of the deal, TIFCO loaned NATA nearly $5.5 million and NATA had to repay it over 10 months at an 8% annual percentage rate. Premium financing companies typically do not disburse funds directly to insurers on borrowers' behalf.

Within a few weeks of the disbursement of the funds, though, a dispute arose over how NATA was using the money.

TIFCO charges in a federal lawsuit that NATA used more than $4.6 million for purposes that violated the agreement.

TIFCO argues that the agreement allowed NATA to use the funds only to pay 80% of the $6.8 million Britamco premium for the master truck physical damage program. The Britamco program would have provided about $253 million of limits, according to a source.

NATA was responsible for paying the remaining portion of the premium, or nearly $1.4 million, according to TIFCO.

When Britamco had received only $300,000 of the $5.5 million by early February, two weeks after TIFCO said it was due, Britamco canceled the program, and TIFCO rescinded its agreement with NATA, court papers say. TIFCO demanded that NATA repay the loan, but NATA and Mr. Huff, a Kentucky-licensed insurance agent, did not return the funds, did not account for the funds' whereabouts or assure TIFCO that the funds had not been improperly used, TIFCO argues.

In TIFCO's suit, filed July 24 in federal district court in Louisville, the premium financing company charges that NATA used more than $4.6 million of the funds for purposes that violated terms of the agreement.

It said NATA used:

- $600,000 to pay Southeast Programs. That company brokered the Britamco physical damage coverage for NATA, said Gregg Hovious, a partner with Tachau Maddox & Hovious P.L.C. in Louisville, who represents NATA and Mr. Huff.
- More than $220,000 to pay Liberty Mutual Insurance Co., which had sued the association to recover premiums for a previous physical damage program it wrote for NATA members.
- More than $2 million to repay another premium finance company, Imperial Premium Finance, for a loan to pay for another physical damage program.
- $750,000 to Nausch, Hogan & Murray to establish a letter of credit on NATA's behalf to help secure a fronting arrangement for the Vermont captive.
- $1 million to North American Bluegrass, the captive NATA was forming.

TIFCO sought unspecified punitive damages as well as compensatory damages. And, it asked the court to freeze the $1.7 million portion of the loan that NATA still controlled.

NATA argued that the premium financing agreement did not spell out its actual deal with TIFCO. In a counterclaim accusing TIFCO of breach of contract and fraud, among other things, NATA and Mr. Huff argue that an oral agreement with TIFCO placed no restrictions on NATA's use of the $5.5 million loan.

In addition, Mr. Hovious said, the written agreement provided that NATA could use up to $5.5 million of the TIFCO loan to pay the Britamco premium. He also said there was "no way" NATA could have sent those funds to Britamco between the time the deal closed in mid-January and the time TIFCO attempted to rescind the loan in early February.

He contends that TIFCO's true motive for trying to rescind its agreement with NATA was that TIFCO attorneys became upset when they learned an insurance consultant and broker with whom TIFCO previously had crossed paths were involved in putting together the Britamco program.

Both Mr. Hovious and William J. Murray, president of Nausch, Hogan & Murray, said TIFCO did not conduct due diligence before extending the loan to NATA. They say that is demonstrated by documents showing that two TIFCO salesmen had spoken with both individuals about their roles in the deal before TIFCO closed its deal with NATA.

One of the individuals, Mark Kletter, president of insurance consulting company Capital Programs Inc. of New York, said his minimal role in the dispute was referring NATA to Southeast Programs, a broker that he said NATA previously had used. Mr. Kletter said he is not involved in any business dealings with NATA or Southeast Programs.

TIFCO attorneys also were upset when they learned Jeff Feldman of Southeast Programs was involved in arranging the Britamco coverage, Mr. Hovious said.

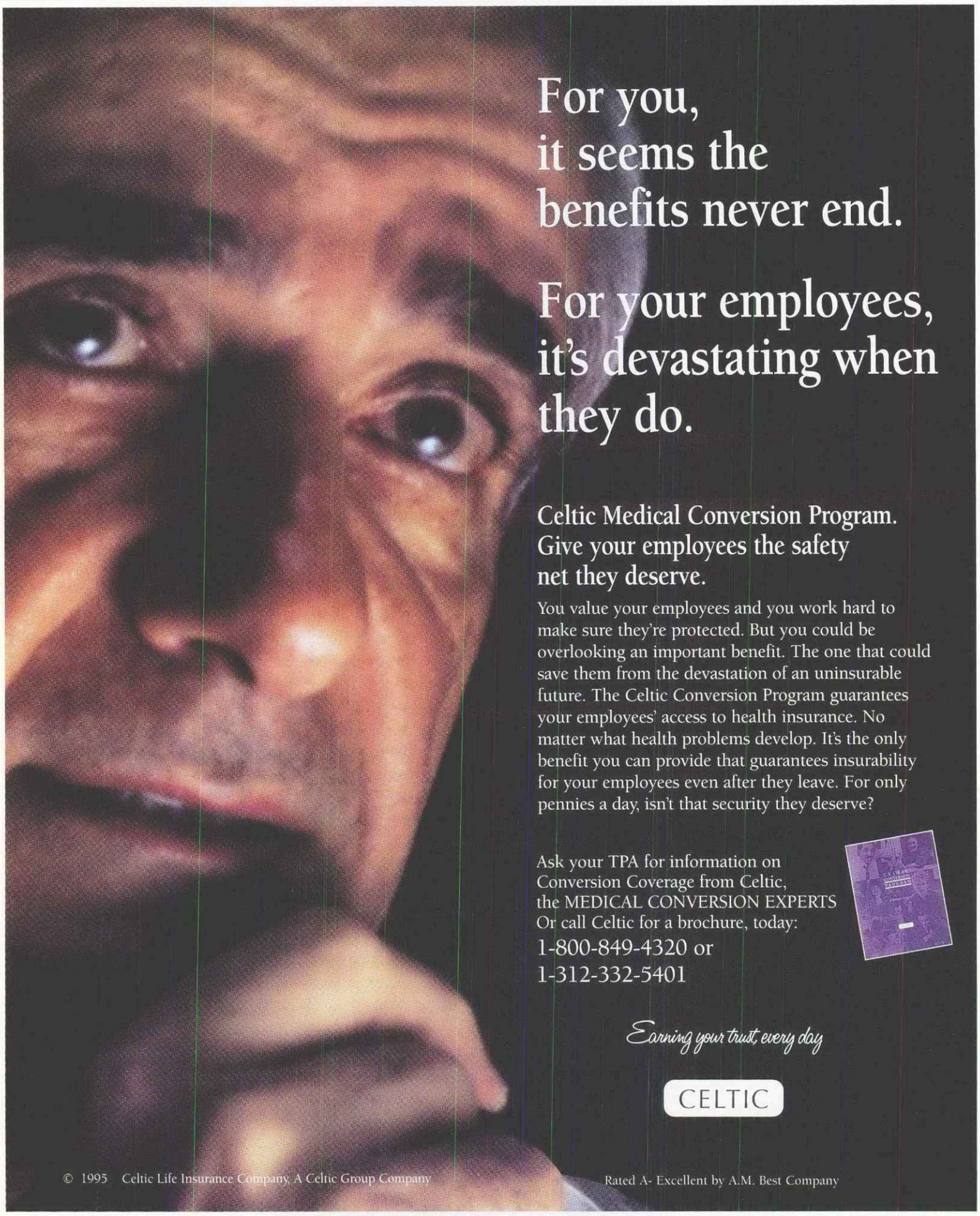
Southeast and Mr. Feldman could not be reached.

Both Mr. Kletter and Mr. Feldman were released earlier from the TIFCO litigation.

Why TIFCO does not want any business dealings with Messrs. Kletter and Feldman is unclear. Neither Mr. Kletter nor TIFCO would comment.

TIFCO is not embroiled in any other litigation with either individ-

See **NATA** *on next page*



NATA

Continued from previous page

ual, according to a source.

But, at least TIFCO and Mr. Kletter were linked indirectly in a separate series of premium financing disputes that have spawned several lawsuits against hotel company Best Western International. Mr. Kletter last year settled out of one of the cases, which did not involve TIFCO.

On Sept. 20, a week before NATA's settlement with TIFCO, District Court Judge John G. Heyburn II criticized NATA's arguments. He made those remarks in a ruling that extended an earlier preliminary injunction that barred NATA from using the $1.7 million it had set aside to form its Vermont captive. NATA had consented to the earlier preliminary injunction.

Judge Heyburn said the terms of NATA's written premium financing agreement with TIFCO clearly obligated NATA to disburse the funds to Britamco. He said NATA could not repay TIFCO after Britamco canceled the coverage because NATA had "misappropriated the loan."

"There is no doubt that NATA's conduct constituted a total and complete breach of the agreement and that TIFCO has suffered substantial damage," the judge said.

If the preliminary injunction is not extended, "there is little doubt that the remainder of the loan proceeds will quickly disappear, and there is little hope that any of the proceeds will be available to TIFCO at final judgment," the judge said.

TIFCO was heartened by the decision, said Debra Lee Allen, senior counsel-litigation. "TIFCO is pleased with the result in that it received virtually all of the money that was subject to the preliminary injunction, which was all of the money advanced per the January premium finance agreement that had not yet been spent by NATA," she said.

Nausch, Hogan & Murray, though, charged in the lawsuit it filed against TIFCO in federal district court in New York on July 26 that TIFCO's dispute with NATA was "totally unrelated" to the broker's efforts to form the Vermont captive for the association.

Still, TIFCO, "which was not content to confine its activities to the legal arena," set out to curb the captive as part of its "determined efforts to destroy NATA," the broker argues.

It explains that it spent 14 months crafting the captive program, which would have provided $1 million of liability coverage to truckers belonging to NATA. Reliance National would have fronted the program and then ceded the first $200,000 of exposure to the captive. Reliance National would have retained the $800,000 exposure excess of $200,000, explained Mr. Murray of Nausch, Hogan & Murray.

In addition, the broker had arranged an aggregate stop-loss reinsurance arrangement with a unit of GIO Australia Holdings Ltd. that in combination with a loss fund provided the captive with protection that "far exceeded the worse possible loss picture," Mr. Murray said. Actuarial reports by Milliman & Robertson Inc. and Tillinghast concur, he said.

Rather than scaring Vermont regulators and Reliance National away from the captive program, TIFCO should have focused on recovering the $1.7 million from the banks that held the funds, he argued.

If TIFCO had succeeded in recovering the funds by taking that course, the captive would not have collapsed, Mr. Murray said. "We would have taken a large position (in the program), which we wanted to do anyway," he said.

Nausch, Hogan & Murray already stood to earn 30% of the captive's profits annually, which it estimated at $1.1 million, because it posted half of the $1.5 million LOC that Reliance National required to guarantee claims payments.

TIFCO would not comment on the Nausch, Hogan & Murray case, because the case is pending.

Britamco Chief Operating Officer Scott Weicholtz in Fort Lauderdale would not comment.

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Transamerica Insurance Finance Corp. vs. North American Trucking Assn. Inc. et al., U.S. District Court for the Western District of Kentucky at Louisville; No. 3:96-CV-107-H.

ISO

Continued from page 3

In addition, Oregon Insurance Director Kerry Barnett asked for details about how a new insurer would become a member.

The NCCI's Mr. Brookhart responded that the NCCI fee is based on an insurer's premium volume and a nominal charge would be made based on estimated future premium volume.

Mr. Barnett then wondered if the NCCI was not creating a barrier to entry into the marketplace which possibly could create some antitrust concerns, because new workers comp insurers in future years may not be able to afford the stock purchase price.

Regulators also pressed for answers about preserving needed public access to information and the fees that would be charged for it, especially in workers compensation.

Mr. Brookhart said a conversion would be expected to increase efficiency, thereby reducing its fees.

But, this issue is a concern because the NCCI, which previously provided many publications free of charge, has gradually increased fees as part of its efforts to generate revenues.

For example, the American Federation of Labor recently complained in a letter to Ms. Lyon about the NCCI's price for a complete copy of claim characteristics data, which is a random sample of lost-time claims in 41 states. Confusion over the NCCI's price included quotes of a $25,000 charge for a non-member, $7,500 for an entity that contributed to the data or $125 to $250 per computerized table available through the NCCI's electronic delivery system.

Mr. Brookhart said that the information is available on an individual state basis via the InsNet system, and is not meant to be purchased in the aggregate.

Mr. Barnett said he was concerned that a for-profit NCCI might tend to maximize its profits, especially in states where it had a monopoly.

He wondered whether some sort of "public utility regulatory model" might be needed.

In the same vein, Arkansas Insurance Commissioner Lee Douglass wondered whether the NAIC should approve fees that a for-profit NCCI could charge.

Regulators did not emphasize ISO's fees, perhaps because ISO charges all users the same fee for publications, whether they are members or not, Ms. Banfield said in an interview.

While regulators participating in those two committees were concerned about the conversions, others are not.

For example, Louisiana Insurance Commissioner Jim Brown said, "Whether profit or not-for-profit, I don't think it makes much difference."

BI

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CEO says insurers still good investments

By MICHAEL PRINCE

Although premium prices have been falling for years and the stocks of insurance companies have performed relatively poorly, one insurance executive thinks investing in insurance companies makes sense.

It is exactly because of their low stock prices that insurance companies can be successfully purchased and made profitable, Robert I. Lipp, chairman and chief executive officer of Travelers/Aetna Property Casualty Corp., said at a speech at The College of Insurance in New York.

Before Primerica Corp. bought Travelers and took its name in 1993, Mr. Lipp said the investors saw two opportunities in the insurance industry: low prices for insurance companies and poor management (*BI*, Sept. 27, 1993). This combination of circumstances allows investors to buy a large insurance company and implement management strategies that could vastly increase its value.

Travelers completed the $4 billion cash purchase of Aetna Life & Casualty Co.'s property/casualty division earlier this year (*BI*, Dec. 4, 1995). According to Mr. Lipp, the value of the investment in Travelers, including Travelers' purchase of Aetna, has increased to $13.3 billion today from the approximately $9 billion spent buying the two companies. The turnaround at Travelers was the result of a successful management plan, he said. In its first full quarter of operations, Travelers/Aetna Property Casualty Corp. reported core operating earnings of $213 million, exceeding company officials' and analysts' earlier estimates by more than 10%, though it reported a $118.2 million loss in net income for first-half 1996 (*BI*, Aug. 26, July 22).

The first step in the plan is to focus the company on its core businesses. "You clearly want to prioritize your business and get out of hobbies," Mr. Lipp said. That prioritizing at Travelers meant eliminating multiple lines, not striving to be all things to all people, and focusing on core property/casualty business.

The problem with hobbies is that they consume the same amount of time as core business units without producing the same returns, he said. If you have a successful hobby, sell it, he added.

Next, the company must "aggressively recognize and resolve problem areas," and put aside sufficient reserves to cover them, allowing the company to focus on good business.

In the case of Travelers, the company had losses from bad real estate investments in the 1980s. In 1992, Travelers reported a $485 million aftertax charge resulting from the addition of $735 million in mortgage loans and real estate reserves.

Losses related to real estate have been reduced to a fraction of their previous levels, according to Mr. Lipp.

Cutting expenses is a very important element in a successful management plan, Mr. Lipp said. And cost-cutting is "a requirement in the insurance business today," he said.

When Mr. Lipp took over at Travelers, he attacked expenses with vigor, cutting them to $689 million in 1995 from $1.07 billion in 1992. This cost-cutting was accomplished by shrinking the office space used by the home office, trimming staff and adopting the philosophy that "no expense is too small to question," he said. The underlying idea to the cost-cutting was common sense, Mr. Lipp said.

An example was eliminating company subscriptions to newspapers and magazines, saving $185,000, and reducing by half the number of cars leased by the company.

In exchange for fewer perks, Mr. Lipp has introduced a new culture that allows employees to share in the company's good fortune with performance-based bonuses, more stock options and profit sharing. The change is designed to focus employees on their own performance and to align their interests with that of the company.

The final part of the plan calls for expanding distribution channels he said, allowing business to grow.

As for the future, Mr. Lipp does not rule out further purchases by Travelers, and he foresees further consolidation by the rest of the industry as the soft market forces weak companies to find partners BI



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Black & Decker drills results into 401(k) service contract

By BARRY B. BURR
Crain News Service

TOWSON, Md.—Black & Decker Corp. is setting novel performance benchmarks for T. Rowe Price Associates Inc.—its new bundled 401(k) service provider—to enhance participation in its $325 million retirement savings plan.

Black & Decker will give T. Rowe Price incentive payments for boosting participation rates and improving asset allocation diversification.

In turn, T. Rowe Price faces penalties if participation rates fall or asset allocation becomes more concentrated in more conservative investment options.

"They looked funny at us when we first mentioned the idea of incentives," said Ray Brusca, Black & Decker's vp-benefits in Towson, Md.

Keith W. Lewis, vp of national account sales for Baltimore-based T. Rowe Price, called the performance-based incentives innovative. He said this is the first time he has encountered them.

"It takes communications a step further" by placing a performance measurement on it, he said.

Black & Decker created the incentives as a way to spur the effectiveness of the educational program, Mr. Brusca said.

At Black & Decker, about 57%, or 10,000, of its employees participate in the 401(k) plan. Of the participants, 70% of their assets on average are in a guaranteed fixed-income fund.

A survey of 262 companies by William M. Mercer Inc. of New York, found the average participation rate at 75.5%. A survey by Pensions & Investments, a sister publication of *Business Insurance*, found that 41% of assets on average were in guaranteed investment contracts, fixed income and cash equivalents.

T. Rowe Price will develop and handle Black & Decker's communications and investment program.

"Black & Decker is blazing a trail here—as well as T. Rowe Price," said Brian E. Schaefer, president of 401(k) Ventures of Palo Alto, Calif., an educational consulting firm that was not involved in the plan's restructuring.

"Our goal is not to receive penalty payments," said Mr. Brusca of Black & Decker. "We'd rather pay the bonus payments. We want T. Rowe Price to increase the participation rate and the asset allocation diversification."

In addition to participation and diversification incentives, T. Rowe Price will give Black & Decker performance guarantees for record-keeping and administrative services.

Like the other incentive programs, T. Rowe Price will be penalized if record-keeping performance declines below expectations.

Record-keeping performance will include providing prompt participant statements, 401(k) payments and telephone service.

Unlike the other incentives, the record-keeping and administrative bonuses are something that could be offered by a few other 401(k) sponsors.

"We're seeing some type of record-keeping performance requirements in some" requests for proposal, Mr. Lewis said.

But no one interviewed had seen anyone offer or suggest the incentives on participation and diversification.

Under the restructuring, the plan will offer participants eight investment options, all managed by T. Rowe Price. They include the New Horizons Fund, an aggressive-growth equity fund; a value fund; the International Stock Fund; an income fund; and the Equity Index Trust. Also included will be three lifestyle funds—income, balanced and growth portfolios—of low, moderate and aggressive levels of risk and potential return.

T. Rowe Price will start providing services on April 1. The plan has some $15 million annually in total contributions.

The Pittsburgh consulting office of Wilshire Associates Inc. assisted Black & Decker. Officials there were unavailable for comment.

But Howard Yata, vp and senior consultant in Wilshire's Santa Monica, Calif., headquarters, said he didn't know of any other 401(k) sponsor or service provider having such incentives.

See **Incentives** *on page 42*

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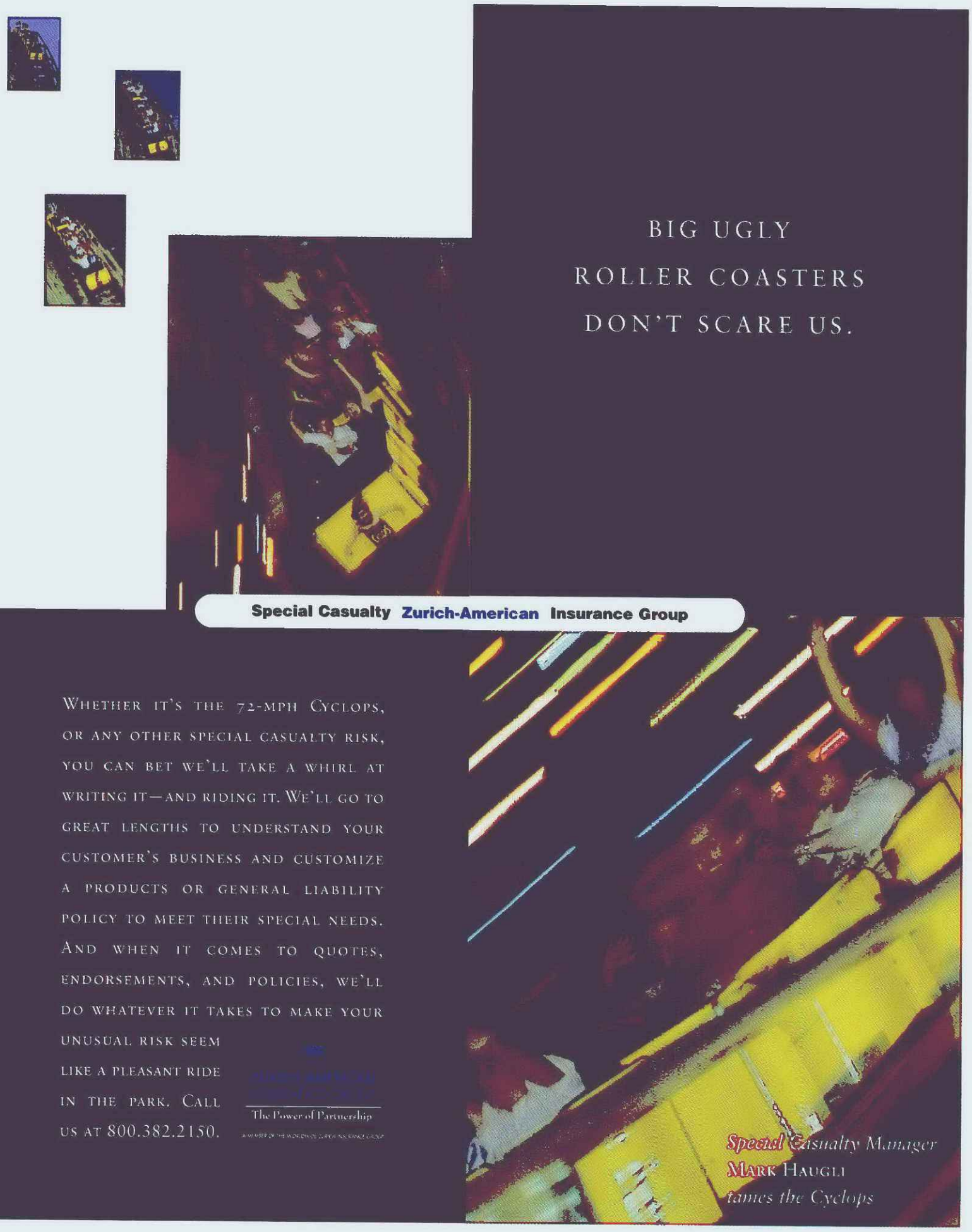
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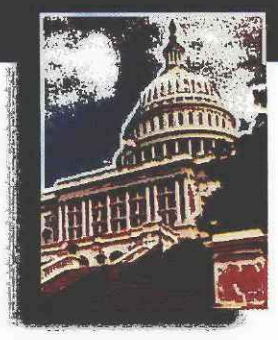
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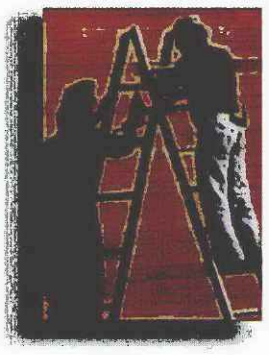




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- SPECIAL WORKSHOP: RISK FINANCING & THE CAPITAL MARKETS
  Presented by Marsh & McLennan, Incorporated and Centre Reinsurance
- EMPLOYER'S PRIVATE ROUNDTABLE
- EARLY REGISTRATION AND WELCOME RECEPTION

THURSDAY, NOVEMBER 7, 1996

- REGISTRATION AND CONTINENTAL BREAKFAST
  Hosted by Kemper National Insurance Companies
- OPENING REMARKS FROM THE CHAIR
- CONFRONTING WORKPLACE VIOLENCE AS A WORKERS COMPENSATION ISSUE
- REFRESHMENT BREAK AND TABLETOP EXHIBITS
  Hosted by Commonwealth Risk Services, Inc.
- POINT/COUNTERPOINT SESSION: INTEGRATING MANAGED CARE APPROACHES INTO WORKERS COMPENSATION
- ELECTRONIC DATA INTERCHANGE
- LUNCHEON: WHY SOME EMPLOYERS DO SO MUCH BETTER THAN OTHERS AT WORKERS COMPENSATION
  Hosted by Intracorp
- CASE STUDIES:
  - U.S. Air, Inc. Case Study: Alternative Collateral Raises $70 Million
  - Creative Safety Incentive Programs
  - Return to Work
  - Reducing & Managing Repetitive Stress Injuries
- RECEPTION

FRIDAY, NOVEMBER 8, 1996

- BREAKFAST
  Hosted by GENEX Services, Inc.
- OPENING REMARKS FROM THE CHAIR
- COST CONTAINMENT PERFORMANCE MEASUREMENT
- REFRESHMENT BREAK AND TABLETOP EXHIBITS
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BIWCFPS

Incentives

Continued from page 39

"That is a first, at least that I've heard of," Mr. Yata said. "It's an innovative approach."

Mr. Schaefer of 401(k) Ventures called the incentive program "an excellent idea." Both he and Mr. Yata said it's a win-win situation for everyone involved.

"Employees will have more money when they retire, because more will be inclined to participate and to invest in more long-term risk assets" with a higher potential for return, Mr. Schaefer noted.

"T. Rowe Price will have incentive to try to get (participants) into the funds with the best long-term returns, because that's where the highest investment management fees are. And Black & Decker may more easily pass discrimination tests," allowing participants to contribute more to the plan, he said.

"These (educational and communications) programs are quantifiable," Mr. Schaefer added. "You can measure where you are at today and where you are at after, say, three workshops."

'These (educational and communications) programs are quantifiable,' says Brian E. Schaefer.

Mr. Lewis said T. Rowe Price and Black & Decker are still working on the structure of the performance incentives. "But we reached an agreement in principle on the concept of the thing," he said.

The company hired T. Rowe Price after considering four other mutual fund companies to provide fully bundled investment management, record-keeping and communications and educational services for the plan. The candidates were Fidelity Institutional Retirement Services Co. and State Street Global Advisors, both of Boston; Dreyfus Corp. of New York; and Vanguard Group of Valley Forge, Pa.

The company narrowed the field to Vanguard and T. Rowe Price.

The two were very close competitively, Mr. Brusca said, based on several criteria, including investment return, stability of portfolio managers, administration technology and communications. But T. Rowe Price had a slight edge in performance and manager stability, he added. Also, T. Rowe Price scored points because it manages its own portfolios rather than using outside sub-advisers as Vanguard does for some of its non-indexed funds.

"T. Rowe Price was not the lowest cost," he said. But the overall criterion was value of service, not lowest price, he added.

Officials at Vanguard, State Street and Dreyfus didn't return calls for comment. A spokesman for Fidelity said it never has been involved in such an incentive program but couldn't comment on the plan.

Black & Decker's new 401(k) structure will replace existing services State Street is the current record keeper and manages two of the plan's three current investment options, a Standard & Poor's 500 index fund and a global balanced index fund. T. Rowe Price manages the other existing option, which is a GIC fund that will be retained in the plan as the income fund. BI

Pension simplification just the beginning

By PATRICIA B. LIMBACHER
Crain News Service

WASHINGTON—Even with the passage this summer of pension simplification legislation, the Clinton administration's pension reform package is not complete, an administration official says.

PBGC Executive Director Martin Slate, speaking at a National Employee Benefits Institute conference in Washington last month, cited several pension initiatives not included in the simplification package that the administration supports. Those include tightening pension fund monitoring through full-scope audits; and doubling benefit levels guaranteed by the PBGC in multiemployer plans.

"These represent just some of the unfinished business we still have to attend to, and there is more," said Mr. Slate, adding that only about half of the private sector workforce participates in a pension plan.

'These represent just some of the unfinished business we still have to attend to, and there is more,' says Martin Slate.

Mr. Slate stressed the need to find creative ways to provide pensions to all workers, while not losing sight of the importance of defined benefit plans. The number of defined benefit plans has decreased, but people need to know the advantages that federally-backed defined benefit plans offer, he said.

The number of single-employer defined benefit plans insured by the agency declined 53% to 53,000 in 1996 from 112,000 plans in 1985, Mr. Slate said, noting the drop reflects the large number of sufficiently funded terminations of pension plans by small employers. Meanwhile, the number of larger plans—those with with more than 1,000 participants—increased 28% to 4,600 from 3,600 in 1980.

Today the agency protects pensions for 32.6 million workers and retirees in single-employer plans, the highest ever.

Although he did not offer examples of incentives that might be used to encourage the growth of defined benefit plans, he said he hoped midsized companies would take another look at the advantages defined benefit pension plans offer.

"As baby boomers are finding out, a predictable retirement income, backed by federal insurance is very attractive," Mr. Slate said. "While defined benefit plans may not be practical for smaller companies, they certainly could be for midsized firms that need some stability in their workforce.

"I fear that the value of defined benefit plans in areas of employee motivation, productivity and retention is being overlooked. We need to find ways to combine the stability and protection offered by a defined benefit plan and the portability offered by a defined contribution plan," he said. BI

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INTERNATIONAL

Professionalism a concern for industry in United Kingdom

By SARAH GODDARD

NEWCASTLE UPON TYNE, England—Professionalism in the insurance industry, which has suffered public difficulties and a drought of educated new talent and research, is a concern both inside and outside the profession.

At this year's annual Chartered Insurance Institute conference, held Sept. 25-27 in Newcastle upon Tyne, the theme "Turning on the Power of Professionalism" provoked substantial discussion.

Where agreement seemed unanimous was that whatever the state of professionalism within the industry, the perception of it leaves a lot to be desired.

High-profile news coverage of the 1994 pension scandal resulting from agents giving pensioners bad advice (*BI*, Oct 31, 1994) and Lloyd's of London's troubles have highlighted serious inadequacies within the industry, and though many of the causes have been treated, it will take time for the symptoms to be forgotten.

'I think all of us can see areas in which the industry could perform even better,' says Keith Long of the DTI.

Meanwhile, successfully recruiting college graduates to the insurance profession may be at an all-time low.

The need for professionalism within the insurance industry is at its most pressing now, suggested Keith Long, director of the international sponsorship policy division, insurance directorate, Department of Trade and Industry, in the conference keynote speech. "We have entered an age of fierce competitiveness," he said.

Although the U.K. insurance industry has outperformed its international competitors, it cannot complacently expect to stay there, Mr. Long said.

"Moreover, I think all of us can see areas in which the industry could perform even better and, indeed, areas in which the industry has performed relatively poorly in recent years."

Much of the change will need to

See **Industry** *on next page*

Insurers can't cover costs of global warming, exec says

By SARAH GODDARD

NEWCASTLE UPON TYNE, England—The insurance industry will not be able to pick up the bill for global warming, warned a senior insurance executive and environment expert at the Chartered Insurance Institute annual conference.

Although insurers can help risk managers and authorities identify extreme-weather risks and improve their response to them, the industry as a whole just does not have the funds to cover the potential post-disaster reconstruction costs, said Andrew Dlugolecki, group assistant general manager-underwriting at General Accident P.L.C. in Pitheavlis, Scotland.

There is little doubt that weather patterns are changing, said Mr. Dlugolecki. Last year's report from the Intergovernmental Panel on Climate Change replicated its earlier findings, he said. There is a "discernible influence on weather patterns because of changes in temperature. . . .Rainfall patterns are altering significantly."

The U.K. climate model predicts that droughts will increase from a one-in-200 year occurrence to one in 10 years by 2020 and one in three years by 2050.

Mr. Dlugolecki expressed his reservations over these figures. "Other models say the U.K. will be drier and hotter," he explained. Wind speeds will increase significantly with the warmer, drier conditions, he predicted, and there is no guarantee that the Gulf Stream, which gives northwestern Europe its moderate climate, will always be "switched on."

Insurers and risk managers may find themselves faced with new and different threats.

See **Warming** *on next page*

Global Briefs

The Norwich Union Life Insurance Society will become the first major mutual life insurer in the United Kingdom to convert to a stock company when it floats shares next year on the London Stock Exchange. The company—one of the U.K.'s largest insurance groups with £40 billion ($62.6 billion) of funds under management and 1995 gross premium volume of £4.7 billion ($7.36 billion)—is making the stock offering to separate and develop its general non-life insurance operations from its life insurance business. Norwich Union executives would not say how much capital they hope to raise by the offering, though market sources estimate it would be at least £2 billion ($3.13 billion). . . .Lloyd's of London brokerage **Lloyd Thompson Group P.L.C** has posted a 6% increase in pretax profits of £21.6 million ($33.52 million) at its fiscal year-end June 30, and a 9% increase in gross revenues to £55.8 million ($86.6 million). However, post-tax profits of less than £1 million ($1.6 million)—compared with £13.3 million ($21.2 million) last year—were marred by exceptional items totaling £16.2 million ($25.1 million). The exceptional items included a provision of £4 million ($6.2 million) for the anticipated broker community contribution over four years to Lloyd's rescue plan. . . .**Sedgwick Group P.L.C.'s** subsidiary Ceska Sedgwick Risk Services A.S. has reached an agreement with **Minet Group** to acquire the assets and employees of Minet A.S. in the Czech Republic. Sedgwick also has agreed to purchase Minet's 80% shareholding in Minet Slovakia A.S. The net value of the assets acquired is less than £50,000 ($78,245), according to Sedgwick. . . .**Mid Ocean Ltd.** has received formal approval from the Monetary Authority of Singapore to establish a branch office in Singapore. The branch will be responsible for marketing and underwriting Mid Ocean's business in East Asia excluding Japan. . . .Oslo-based **Uni Storebrand ASA**, Norway's largest insurer, has shortened its name to Storebrand ASA . . . .140,000 German metal workers staged a walkout last week to protest cuts in their **sick-pay benefits**, allowed under a new German law that trims the country's generous mandated social benefits. Several corporations, led by Daimler-Benz A.G., have cut their sick pay by 20%. Siemens A.G. and Opel, a subsidiary of General Motors Corp., also have enacted cuts despite existing labor contracts. . . .**Chubb Insurance Co. of Europe S.A.** in London has elected its chief underwriting officer, Ralph E. Jones III, to an additional position as president. Mr. Jones also is a managing director of Chubb & Son Inc. . . .**Guardian Royal Exchange P.L.C.** has launched three new medical insurance policies in Malta for both individual and group buyers following the construction of the country's first non-state funded private hospital. The policies offer coverage for clinic care, hospital care and international medical coverage of Maltese nationals. . . .**Zurich Insurance Group** plans to buy for 505 million Norwegian kroners ($77.7 million) the Norwegian insurance company Protector Forsikring ASA, Zurich announced late last month. Non-life insurer Protector, with a gross premium volume of 660 million kroners ($101.5 million) last year, specializes in international marine and energy insurance. . . .Some **Lloyd's of London** syndicates are finding new homes and others are not. Last week, the boards of Masthead Insurance Underwriting P.L.C. and Murray Lawrence Holdings Ltd. announced that they were unable to agree on a merger. Meanwhile, Cox Insurance Holdings P.L.C. agreed to acquire for £38.7 million ($60.6 million) managing agent Christopherson Heath Group Ltd. If the deal goes through, Cox would manage seven syndicates next year with capacity totalling £470 million ($735.5 million).

European distribution changing slowly: Study

By EDWIN UNSWORTH

In the majority of Western European countries today, insurance distribution channels are undergoing a careful analysis that is likely to lead some to change over the next few years, according to a report issued last week by strategic management consultant Datamonitor.

However, the report, "European General Insurance Distribution," also indicates that alternative channels of insurance marketing, particularly through such means as banks and telephone sales, are not making inroads nearly as fast or dramatically as some observers expected.

In 1995, the traditional channels for selling insurance, such as agents, brokers and insurance company employees, accounted for more than 90% of total general insurance gross written premiums in 10 of the 16 European markets examined in the report. Those 10 countries are Austria, Italy, Switzerland, Finland, Belgium, Portugal, France, Spain, Norway and Germany.

In only four of the remaining markets—Ireland, the Netherlands, Sweden and the United Kingdom—did new distribution channels really have any significant impact, said Datamonitor.

Datamonitor attributes this to "mature multichannel markets" that have fostered growth in insurance sales by banks and telemarketers.

In the two remaining countries, Denmark and Greece, a displacement of traditional insurance distribution channels has occurred due to the growth of "bankassurance." The growth of insurance sales through banks is attributed largely to the substantial ownership of ordinary insurance companies by local banks, the study said.

Datamonitor's study also shows that despite all the publicity given to prospects for the increased sale of insurance products through banks and telemarketing firms, traditional channels still are forecast to account for the vast majority of projected premiums. By the year 2000, traditional channels are expected to generate $316 billion, or about 82%, of a total of $384.5 billion in European general insurance premiums. Telephone sales and direct mail are forecast to generate $35.4 billion, or 9.2%, of those premiums, while banking channels are expected to generate $33.1 billion, or 8.6%. Overall premiums in 1995 were $301.6 billion. Of that, $273.5 billion was generated from traditional sources and $28.1 million came from non-traditional sources.

Riyaz Jivanjee, senior analyst with Datamonitor in London, said of the findings: "For many companies, the need to develop alternative distribution structures is perhaps less pressing than has been suggested. . .Reinforcing tried and tested distribution strategies may prove, for many insurers, to be not only the safer option but also the wiser option."

She advised insurers to concentrate on their existing distribution infrastructures, with a particular aim to modernize and develop them in such a way that they remain competitive in what will be an increasingly tough trading environment.

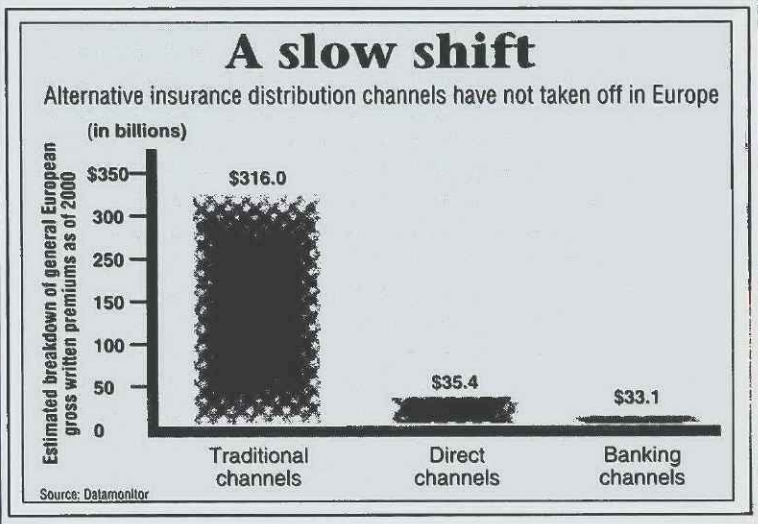
The study found that insurance distribution remains an issue actively under consideration even in those 10 countries where traditional channels of selling insurance remain dominant.

"The majority of companies are striving to rationalize, energize and renovate these existing distribution networks, fearful of increasing competition from other intermediary-focused insurers as well as alternative channels," according to the report.

As a result, most European countries will see some change by the year 2000, it adds. The report said the United Kingdom, Sweden and Denmark are the three countries in which traditional insurance marketing channels will remain increasingly in jeopardy over the next three years, although the countries expected to see the greatest shifts in distribution patterns are Germany, Denmark, Belgium and Portugal, as the share of traditional insurance marketing channels falls to less than 85% in those countries from its level now of more than 95%.

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A copy of the report, "European General Insurance Distribution," is available for $3,995. Contact Datamonitor, 106 Baker St., London W1M 1LA, United Kingdom; 44-171-625-8548; fax: 44-171-625-5080.



Industry

Continued from previous page
be taken at the individual company level, but the government and DTI will step in where they can, promised Mr. Long. "What we are trying to do is to establish what it is the industry can do and what the government can do," he said.

So far, the DTI has worked with the Assn. of British Insurers to launch the Insurance Industry Benchmarking Initiative and is currently finalizing a report identifying the main factors contributing to sustained competitive advantage.

"We hope it will provide focus for the benchmarking initiative," said Mr. Long. "And we hope that it will continue to fuel the debate about competitiveness and professionalism within the insurance industry."

But a major stumbling block in the path of the insurance industry gaining greater credibility is the lack of university graduates joining it. "Insurers, in comparison with other professions, have had a poor track record in recruiting and retaining good graduates," Mr. Long said.

And recent figures compiled by the DTI point to a further decline in the number of graduates entering the industry.

"The industry seems to have an image problem among undergraduates," said Mr. Long. "Too few of our best graduates are considering insurance as a career. Even amongst those who do join the industry, the retention rate is quite poor."

'Further training has to be provided to enable staff to achieve their full potential and provide a high level of service,' says John Carter.

The insurance industry is not "a prime career choice for graduates." And yet the insurance industry has increased its importance to the U.K. economy over the past 30 years, noted John Carter, chairman of the ABI. "Perceptions do, in fact, differ from reality," he said.

As far as Ian Ritchie, chairman of the Insurance Brokers Registration Council, is concerned, as the brokering world increasingly sets its sights on attracting graduate-level entrants it will improve its image.

What's more, as of January 1997, all new brokers will have to pass a professional exam to be accepted by the IBRC, though there is some worry that a number are being pushed through the registration process now in order to escape the exams.

Mr. Ritchie welcomed the stiffened entry regulations as a dramatic step toward brokering becoming a true profession. But he noted the resistance of "some senior members of the profession" to certain proposals, "who had not taken the time to read even the plain English version of the rules," and was disappointed that trade bodies had "failed to grasp fully the opportunity to advance the standing of the insurance broker."

As for insurers, the DTI is concerned "about what was being done to develop the qualities needed in the leaders of tomorrow." Those management development programs in place are still new, and "most seem to us to be stronger on identifying required competencies than on providing the means through which to acquire or develop them," Mr. Long said.

In this respect, the insurance industry has fallen behind a number of sectors—including the Civil Service—at a time when its future leaders will face increasingly tough challenges. "How can you position your business through the insurance underwriting cycle? Can you control and influence the cycle itself?" These are the sorts of issues the next generation of senior managers will be dealing with, Mr. Long said.

The ABI's Mr. Carter, though commending the number of insurance practitioners gaining professional qualifications, recognized that they are not enough on their own. "Further training has to be provided to enable staff to achieve their full potential and provide a high level of service," he said. And training budgets can be the first to be attacked when cost-cutting exercises come along.

Academia could prove to be a rich—and as yet barely touched—vein of management information for the insurance industry. There is a "paucity" of insurance-based research being undertaken in universities and scientific institutions. And the lack of scientific information lowers insurers' ability to analyze issues and trends at a time when the business itself is getting increasingly complicated.

"We wish to. . .stimulate insurers in getting the best out of this country's academic and scientific base," said Mr. Long. But, "there is a clear need for cooperation among companies to coordinate the necessary research." BI

True global presence at annual CII conference

NEWCASTLE UPON TYNE, England—More than 500 delegates attended this year's annual Chartered Insurance Institute conference, which is hosted by the Insurance Institute of Newcastle.

Delegates arrived from all over the world: Australia, Austria, Canada, Cyprus, Egypt, France, Ghana, Ireland, Kenya, Malta, Nigeria, Singapore, South Africa, Sweden, Switzerland, Uganda and Zambia, as well as all corners of the United Kingdom.

Next year's conference will be held Sept. 24-26 in Manchester.

For more information, contact The Chartered Insurance Institute, 20 Aldermanbury, London EC2V 7HY; 011-44-181-989-8464.

Warming

Continued from previous page
Health issues may be affected by changing weather conditions like increased risks from more serious flood threats; properties may be more exposed to subsidence; storm frequency and severity increases with warm winters; and a greater propensity to brush fires. At the same time, low-lying coastal areas may become more susceptible to flooding, if not at risk of becoming permanently submerged.

The insurance sector should be assisting research on weather patterns, said Mr. Dlugolecki, as well as identifying key hazards, educating property owners and cooperating with governments and other professions to improve the risks, controlling exposures, building up reserves and providing essential coverage.

Traditional energy industries are privately investigating alternative power resources, says Andrew Dlugolecki.

Also, the insurance industry should be lobbying on emission controls, though he conceded that investment policies also must take into consideration returns on capital. Environmental lobbyists have suggested that insurance companies take hard-line investment policies, refusing to place their funds with corporations whose activities exacerbate climate change, such as the oil and gas industries.

Traditional energy industries are privately investigating alternative power resources like wind and wave power, said Mr. Dlugolecki, but for the short term at least, energy from coal and oil will be needed—and investment policies need to be balanced by "decent security." BI

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Japan, United States near final trade agreement

TOKYO—An interim agreement has been reached between the United States and Japan in implementing a 1994 insurance deregulation agreement between the two countries.

Negotiations will continue in an effort to reach a permanent agreement by a self-imposed Dec. 15 deadline.

The agreement 'advances the interests of the U.S. insurance industry in Japan,' says Maurice Greenberg.

The interim agreement bars subsidiaries of Japanese insurance companies from entering Japan's so-called Third Sector—which consists mainly of specialty coverages and is dominated by foreign insurance companies—until the end of the year.

By that time it is anticipated that a permanent agreement will be reached.

In August, the Japanese government licensed several subsidiaries of Japanese insurance companies with an eye toward allowing them to also operate withiin the Third Sector.

Although the subsidiaries began operations on Oct. 1, they are not yet underwriting Third Sector business.

The 1994 trade agreement with the United States called for the deregulation of the Japan's life and non-life sectors—the First and Second Sectors—to assist the entry of non-Japanese insurance companies into the market before beginning deregulation of the Third Sector (*BI*, Sept. 9).

The interim agreement also somewhat deregulated the primary sector by allowing automobile insurance in Japan to be purchased by mail or telephone, a move that was designed to help non-Japanese companies.

The interim agreement was welcomed by U.S. insurance companies.

"The steps announced today, while modest and only first steps toward eventual full implementation of the agreement, are nonetheless important," said Maurice Greenberg, chairman of American International Group Inc. in New York

"Today's understanding should be strongly supported as it advances the interests of the United States insurance industry in Japan on the whole, while also providing Japanese consumers with a broader array of insurance products carrying pricing alternatives," said Kingsley Schubert, president of Philadelphia-based CIGNA International.

—By Michael Prince

Labour Party tackles occupational health issue

BLACKPOOL, England—Britain's opposition Labour Party announced a major new initiative to tackle occupational health problems last week.

The Labour Party last week held its last national conference before the next general election in the United Kingdom, due to be called next year.

The conference is typically used to spell out the party's policies.

The Labour Party wants to improve health at work, said Labour's Chris Smith, the Shadow Secretary of State for Health.

The conservative government has done very little with occupational health, says Chris Smith.

Should the Labour party come into power in the next election, Mr. Smith would become Secretary of State for Health.

The Conservative government has done "very little in an area of growing concern and importance—that of occupational health. Health at work and in the workplace is something ignored up to now by the (government). . . .We want to put that deficiency right," according to Mr. Smith.

As a result, he said the party is "initiating a round of discussions with employers' organizations and with trade unions, to map out an agreed plan for improving health at work, for tackling stress and exhaustion and tension and repetitive strain and back injury and the many other problems that beset modern workers in a modern world."

Health at work "is an issue that has lain unnoticed for far too long. It's high time the government woke up to it," Mr. Smith concluded in a speech at the conference.

—By Carolyn Aldred

Lloyd's plan not without hardship

By EDWIN UNSWORTH

LONDON—The increase of confidence in Lloyd's of London and the business won back after the success of the insurance market's recovery plan are being threatened by the "bureaucratization" of overregulation, Lloyd's former deputy chairman Robert Hiscox has warned.

He said Lloyd's is going through a climate of rapid change in its capital structure after the endorsement of its £3.2 billion ($5.01 billion) reconstruction plan.

The reconstruction plan is leading to the rapid formation of new rules "sometimes in a knee-jerk reaction to some minority complaint" without considering the consequences. The cost to groups underwriting business of complying with these regulations is "substantial," according to Mr. Hiscox.

This creates a major challenge for Lloyd's in the need for a controlled evolution of regulation that does not result in any loss of what has been a key feature of the market, its "entrepreneurial, low-cost underwriting."

Lloyd's capital structure is rapidly changing after the endorsement of its reconstruction plan, says Robert Hiscox.

Mr. Hiscox said if the changes now under way within Lloyd's are supported by improvements in costs and efficiency, they will bring "real opportunities" for the market.

The fact that Lloyd's has continued to pay all claims during the turmoil of the past few years "demonstrates the strength of the system and reinforces the good will engendered by its creative underwriting and flexibility," he added.

Mr. Hiscox noted two other challenges that are currently facing Lloyd's.

The first is the need to simplify its capital base, primarily by enabling names, the private individuals who invest in Lloyd's on an unlimited liability basis, to operate within corporate structures with limited liability.

The existing system of names operating alongside corporate members is "incredibly expensive" compared with competitors, said Mr. Hiscox.

The second challenge is whether or not Lloyd's should retain its unique feature of mutualization, whereby each syndicate pays into the Central Fund that will meet any insurance claims a syndicate cannot pay.

Mr. Hiscox said he is in favor of retaining this feature because it unites the market by tying together disparate groups of powerful underwriting bodies.

Mr. Hiscox spoke as Hiscox P.L.C., the insurance group of which he is chairman, unveiled a surge in pretax profit for the first half of 1996 to £2.90 million ($4.5 million) from £1.06 million ($1.7 million) in the first six months of 1995.

Hiscox P.L.C.'s strong growth in interim results came from the improved performances of the Lloyd's syndicates it manages and from its 25% interest, increased in July to 100%, in the Lloyd's managing agency, Hiscox Holdings Ltd.

Mr. Hiscox said prospects for the group in the second half looked good considering the favorable outlook for Lloyd's, the increase in the group's stake in Hiscox Holdings and the acquisition in July of Economic Insurance Co. BI

Lloyd's capacity rises fivefold

LONDON—Lloyd's of London's disclosed last month that six auctions of syndicate capacity so far this year have raised £1.27 billion ($1.99 billion) of capacity for the 1997 underwriting year.

This represents a roughly fivefold increase over the £246 million ($385 million) of capacity raised in auctions in 1995, the year Lloyd's first introduced an auction system for capacity allocation.

The sixth auction this year, held Sept. 16-19, raised £38 million ($59.5 million) of capacity. Three final auctions in October and November are expected to show similar results.

The six auctions held up to the end of last month have raised £27.2 million ($42.6 million) for those selling capacity on a total of 124 Lloyd's syndicates.

The syndicate capacity auction process allows members to buy and sell syndicate participations. It was introduced in 1995 as a means to give individual members a value for their membership, though it created controversy by giving members, rather than agents, ownership of syndicate participations.

The introduction of the auctions also prompted Lloyd's to stop accepting North American residents as unlimited liability members for fear of running afoul of securities regulators in the United States and Canada (*BI*, July 24, 1995), though they can still participate via limited liability means.

Although Lloyd's is reluctant to reveal the identity of buyers and sellers in the auctions, agents involved in the process have confirmed that a number of corporate investors are snapping up prime syndicate capacity this year.

Agents also have been trying to control their own destiny by making cash offers to syndicate members.

Gammell Kershaw & Co. Ltd., Hardy Underwriting Group P.L.C. and Cox Insurance P.L.C. all went direct to members with cash offers to buy back capacity on their syndicates, circumventing the auction process (*BI*, Sept. 2).

—By Sarah Goddard

Cayman islands gets tough on proceeds of serious crime

CAYMAN ISLANDS—The Cayman Islands last month became the first offshore finance center in the Caribbean to pass legislation allowing all proceeds of serious crime to be seized by the government.

The Proceeds of Criminal Conduct bill also makes it a criminal offense for a financial services provider to fail to report any suspicions he may have that a client is benefiting from crime.

"None of our captives have been involved in anything like that," said John Mantz, acting deputy inspector of insurance in the Caymans. "But the law will have a positive effect overall" on the captive market.

Meanwhile, Mr. Mantz is leaving at the end of December to pursue other interests.

He will be replaced by William McCullough, currently employed in Bahrain. Mr. Mantz had no further details.

—By Stacy Shapiro

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Ford to adjust pensions for its union retirees

By BARRY B. BURR
Crain News Service

DEARBORN, Mich.—Ford Motor Co.'s union retirees will receive for the first time an inflation-indexed adjustment to their pension benefits under a new labor agreement with the United Auto Workers.

Ford's UAW members voted on the contract through Sept. 29; the agreement was ratified Sept. 30.

The three-year contract will pay an inflation adjustment each year, based on the actual inflation rate scenarios, according to a summary of the agreement distributed by the UAW.

The inflation payment will be paid from the pension fund.

"This is unusual for all the plans I've ever seen," said Tim Marnell, a principal at Towers Perrin in Chicago, who doesn't work on the Ford plan.

"Most companies have rejected the need to do an inflation increase."

The proposed contract also will raise the maximum amount of wages employees can contribute to their 401(k) plans to 25% from 16%.

The inflation adjustment to pension benefits will be paid to retirees in a lump sum annually through the three-year term of the contract. The adjustment will range from $480 a year for inflation rates of 2% or less to a maximum of $960 a year for inflation rates of 6% or more.

The contract also will provide inflation adjustments for surviving spouses ranging from $288 a year for an inflation rate of 2% or less to $576 a year for an inflation rate of 6% or more.

Under the old contract, UAW members received a supplemental lump-sum payment of about $600 a year. The amount is fixed and doesn't vary with inflation; it will be replaced by the new inflation adjustment.

"This (new contract) is the first time there is an inflation relationship placed on the pension benefit," said a UAW spokesman in Detroit.

At Ford headquarters in Dearborn, Mich., a spokesman said the payment will "have the effect of protecting retirees from what inflation would be."

Towers Perrin's Mr. Marnell said: "I haven't seen—apart from the government sector—a movement toward inflation adjustment" among corporate plans. In fact, he said, "in the last few years, companies haven't seen the need for an inflation-type adjustment" because the inflation rate has been low and because Social Security benefits are indexed to inflation, insulating retirees from price rises to some extent.

For the 401(k) plan, the new contract will raise the maximum employee contribution rate to 20% of wages effective Jan. 1, 1997, and 25% effective Jan. 1, 1998. According to Mr. Marnell, 25% is the maximum allowed by federal regulations.

Neither Ford nor the UAW could provide any estimate on how much the increase will raise annual contributions to the 401(k) plan, nor how much is now contributed.

Ford does not make contributions to the plan and will not make any under the new contract.

Fidelity Institutional Retirement Services Co. of Boston, manages the assets for the plan. BI

Louisiana seeks permanence for class-action comp cases

BATON ROUGE, La.—The director of Louisiana's state workers compensation system is taking steps to make permanent a recent emergency ban on class-action claims.

"A class-action lawsuit is very inappropriate in workers compensation, which deals with known disputes between individual employees and their employers," said Ronald Menville, an assistant secretary with the state's Department of Labor who also serves as director of the state's office of workers compensation.

He issued an emergency rule banning class-action lawsuits in August after an attorney representing a former employee of Southern Scrap & Material Co. tried to get class-action status for a case involving allegations of toxic poisoning.

Mr. Menville said staff members' research found that no state allows workers comp claims to be filed on a class-action basis. Such an approach would impede the efficient administration of the system, he added.

In addition, he has taken steps to make the emergency ban a permanent part of the department's administrative rules. He'd also like to see the state's Legislature reinforce that position by passing similar legislation when it resumes in April.

Allowing class-action workers comp claims would impede efficient administration, says Ronald Menville.

The courts will be asked to rule on the issue, too, Mr. Menville added.

The claimant's attorney could not be reached for comment.

—By Michael Bradford

The Professional Marketplace

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Benefits

Continued from page 1

Clinton pledged to work with Republicans on reaching a compromise. Pension simplification legislation found new life as part of a broader, bipartisan small business tax bill, which the administration and Republicans jointly took credit for.

And in the closing weeks of the session, legislators accelerated their action on employee benefits legislation, quickly passing measures employers opposed—such as bills that will require health care plans to offer minimum hospital coverage stays for mothers and their newborns and greater parity in group health plans for mental health care benefits.

While perhaps not recognized at the time, the turning point for benefits legislation came late last year when the federal government shut down for three weeks after Congress and the administration couldn't reach an agreement on funding legislation to keep government operating.

The negative public reaction to that fiasco was such that members of both parties largely abandoned the no-cooperation approach that characterized the first half of the session.

"The negative public reaction was so strong (to the government shutdown) that it forced members to work together so they would have something to show for the two-year session," said Frank McArdle, a consultant with Hewitt Associates L.L.C. in Washington.

"Compromise became the order of the day. The administration and the Republican Congress wanted to show a record of accomplishment," concurred Henry Saveth, a principal with A. Foster Higgins & Co. Inc. in New York.

The early beneficiaries of the new cooperative attitude between Democrats and Republicans came this spring and involved health care portability and pension simplification.

Health care portability legislation began to move when five unnamed Republican senators removed "holds" on the bill, a parliamentary technique that can stall legislation.

At the same time, Sens. Nancy Kassebaum, R-Kan., chairman of the Labor and Human Resources Committee, and Edward Kennedy, D-Mass., the committee's ranking minority member, pledged that they would work together to keep the measure free of controversial amendments that could sink it.

It was a pledge that was largely kept, a key to the measure's eventual passage.

"Sen. Kassebaum held her people and Kennedy kept his word. They helped to keep the bill to what everyone wanted and did not let the bill become a Christmas tree," said Mark Ugoretz, president of the ERISA Industry Committee in Washington.

"The moderates controlled this one," Mr. Ugoretz added.

Congressional Republicans and the administration also worked together to defuse a potential mine—tax-favored medical savings accounts—that threatened at the 11th hour to scuttle the health care portability bill.

Republicans eventually agreed to water down an MSA provision in the House-passed portability bill that would have allowed any employer to establish MSAs, while the White House retreated from an earlier position of refusing to accept MSAs in a portability bill.

The compromise they struck allows MSAs, but only on a trial basis and only for employers with fewer than 50 employees.

On pension simplification, Congress on three different occasions passed pension simplification legislation. But those pension provisions in the past had been attached to highly controversial budget and tax bills that were vetoed by Presidents Bush and Clinton.

This time, though, pension simplification and other employee benefit-related provisions, including a retroactive extension of the tax-favored status of educational assistance benefits and new tax breaks for adoption benefits, were included in a politically popular small business tax bill, which Republicans and Democrats alike embraced and President Clinton enthusiastically signed.

While benefit groups welcomed the passage of pension simplification legislation—something they had been lobbying for since 1990—they are disturbed at the way Congress passed benefits legislation during the closing weeks of the session.

Legislation that requires group health care plans to offer the same annual and lifetime limits—if any—for mental disorders as they provide for physical illnesses as well as 48 hours of inpatient coverage after a normal vaginal delivery and 96 hours of coverage after a Caesarean section—became part of a broader appropriations bill.

While, as earlier reported (*BI*, Sept. 30; Sept. 23) neither benefit mandate will have a significant cost impact on group plans, some benefit lobbyists worry that the action could set the stage next year for more benefits legislation being added to appropriations bills, reducing the likelihood of meaningful congressional consideration of those proposals.

"It is a terrible way to do policy. And maternity and mental health won't be the end of it," predicted James Klein, president of the Assn. of Private Pension and Welfare Plans in Washington.

But other lobbyists say every issue is different and that there is no certainty that a precedent has been set for consideration of benefit proposals as part of appropriations bills. BI

Risk

Continued from page 1

conferees granted the agency a one-year extension in the omnibus budget bill approved last week to keep the government operating.

Under the terms of the compromise, OPIC's insurance and finance liability capacity are held at their existing levels of $13.5 billion and $9 billion, respectively. But the temporary reauthorization can use the aggregate amount as the ceiling for both programs, so it could shift funds from the finance program to the insurance program if deemed necessary, and vice versa.

The other victory for risk managers—primarily those at banks and lending institutions—came when congressional conferees agreed to limit the Superfund liability of lenders.

"Essentially, it says if the lender didn't participate in the management of the facility in which they have an interest, they would be relieved of Superfund liability," observed Julie Rochman, assistant vp of the Alliance of American Insurers in Washington.

"Our preference would have been not to see any carve-outs; in other words, to see comprehensive reform move forward," she said.

Ms. Rochman noted, however, that the conferees did not consider other, more sweeping carve-out proposals for municipalities and small businesses floated by Sen. Frank Lautenberg, D-N.J.

David Pratt, senior vp of the American Insurance Assn. in Washington, said he is not sure if the lender liability carve out "portends much of anything" regarding future Superfund reform efforts. Lawmakers didn't view it as part of comprehensive Superfund reform, but rather as a "sort of sweetener" for banks hit with new, unrelated financial burdens, he said.

Mr. Pratt predicted that comprehensive Superfund reform will be a priority for the next Congress, particularly if Republicans remain in control. He noted that House GOP leaders have made no secret of their belief that the administration did not cooperate in attempting to work out a mutually acceptable Superfund reauthorization bill.

OSHA reform, which died after the Clinton administration refused to support even mild legislation that would have given statutory standing to reform initiatives already made by OSHA, also appears likely to be on the agenda if the next Congress remains in Republican hands.

'We're clearly better off under the current majorities. I think if one or both houses change, I think we'd see at least some elements of the old attack agenda back,' says David Pratt.

"The whole issue of OSHA and their involvement with the employer community in such things as the ergonomics standard is clearly a business and insurance issue for the next Congress," predicted David Farmer, senior vp with the Alliance in Washington.

The AIA's Mr. Pratt said he also thinks product liability reform will re-emerge as an issue for federal lawmakers. President Clinton vetoed a product liability bill earlier this year (*BI*, May 6.)

Because it will not be part of a new "Contract with America," such as the one that spelled out the House GOP leadership's legislative program, product liability reform might be "a little easier to deal with" on a standalone basis, he said.

Although Congress failed to override the presidential veto of the product liability bill, reformers were more successful in the area of securities litigation. A bill limiting frivolous lawsuits involving securities won congressional approval but was vetoed by President Clinton despite earlier indications that he would support it. Congress responded by dealing the president the first veto override of his administration, and the bill became law.

Mr. Pratt stressed that the question of which party controls Congress is critical to what sorts of issues lawmakers will deal with come next January. Previous Democrat-controlled Congresses have considered legislation to subject insurers to various degrees of federal regulation and to industry-specific antitrust strictures.

"We're clearly better off under the current majorities. I think if one or both houses change, I think we'd see at least some of the elements of the old attack agenda back" said Mr. Pratt, who added that he couldn't predict exactly what form such an agenda would take.

But regardless of which party controls Congress and who is in the White House, certain issues—such as taxation of captive insurance companies, are bound to return, observers say. Captive taxation, for example, is an issue that is non-partisan and is handled at the staff level.

During the current session, Congress did curb tax breaks for group offshore captives owned by tax-exempt entities, but excluded universities and hospitals from the provision (*BI*, Aug. 5).

However, legislators declined to act on a Clinton administration proposal that would have set a new outside business test for captive owners to be able to take tax deductions for premiums paid to their insurance subsidiaries.

Under that proposed test, at least 50% of a captive's business would have to unrelated to its owner in order for the parent to deduct premiums paid to the captive as a business expense. While there is no statutory law on the issue, courts have set a 30% threshold in captive tax-deductibility cases in which they have ruled. BI

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Sub-total	**29,775**
Associations	301
Government, Unions and Educational Institutions	969
Commercial Consumers	
Sub-total	**31,045**
Insurance Agents and Brokers	8,664
Insurance Companies	7,831
Accountants, Actuaries, Attorneys & Consultants	3,148
Adjusters, Appraisers, TPAs, Captive Managers & Health Care Providers	1,880
Others Allied to the Field	680
Total Qualified	**53,248**
Non-qualified	12
Single Copy Sales	40
TOTAL CIRCULATION	**53,300**

★ *Source Business/Occupational breakdown of qualified circulation, May 27,1996 Issue, as submitted to BPA for June 1996 BPA Publisher's Statement*

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Invest

Continued from page 2

The final 38-8 vote approving the defined-limits model fails to reflect the contentiousness of discussions that preceded voting at both the NAIC's Executive Committee and plenary voting sessions, which briefly deteriorated into a squabble over parliamentary procedure.

Part of the controversy stemmed from Michigan Commissioner D. Joseph Olson's efforts to delay passage of the measure until the NAIC's December meeting, which he argued would allow time to resolve some minor disagreements.

The delay would also provide more time for regulators to consider the alternative model investment law—which proposes a "prudent person" approach to regulating insurer investments—and for it to move through the NAIC's committee structure so it could be adopted at the same time as the model law with defined limits.

Michigan is among the handful of states—which includes Connecticut, Maine and Pennsylvania—that determine which insurer assets will be admitted based on the "prudent person" approach, which calls for standards a prudent person would apply, rather than following pre-defined limits.

Those states generally favor NAIC adoption of the so-called defined-standard model "because they want to be sure their domestic companies are never discriminated against or required to comply with investment laws that take a defined-limits approach," Mr. Olson explained in an interview.

He said he fears the NAIC majority's defined-limits approach conceivably could be imposed on insurers by examiners from other states. Additionally, he said some of the model act's definitions are being incorporated into new accounting rules that could still apply to insurers even in states that do not adopt the model act.

"The NAIC is the last bastion of state regulation of the business of insurance," Mr. Olson said. "It would be ironic for the NAIC to become like the federal government in imposing one-size-fits-all regulation," which the NAIC has successfully fought to date, he said.

'It would be ironic for the NAIC to become like the federal government in imposing one-size-fits-all regulation,' D. Joseph Olson says.

Although he failed to delay the vote, Mr. Olson was successful in getting the NAIC to add a statement of principles to the defined-limit model law. The statement emphasizes that each state will retain the autonomy to decide which approach, if any, it will use to regulate insurer investments.

The most vocal opponent to Mr. Olson's request for delay and further study was Arkansas Insurance Commissioner Lee Douglass, who is vice chairman of the NAIC's Executive Committee and past president of the organization.The NAIC had been drafting a model investment law for about five years, and it was time to to either approve or reject the measure, he said.

Adopting the defined-limit measure—which he noted is not expected to become an accreditation standard—provides an impetus for finalizing the drafting of the defined-standards model, Mr. Douglass said. Otherwise, he added, there might not be any model law on insurer investments.

While Arkansas' current law is more similar to the adopted model, Mr. Douglass said he may well vote for the defined-standards version when that is presented.

The defined-limits model law, which contains provisions for both life/health and property/casualty insurers, defines and sets guidelines for permissible amounts of various investments, including: equity interests; rated credit instruments; derivatives transactions; foreign investments; insurer investment pools; as well as mortgage loans and real estate.

It includes standards designed to provide a balanced investment strategy by helping insurers preserve their principal and allocate their investments wisely while achieving an adequate rate of return, according to the NAIC.

The eight jurisdictions opposing

See **Invest** *on next page*

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Invest

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adoption of the proposed model law last week were: Alaska, Connecticut District of Columbia, Georgia, Michigan, New York, Oklahoma and Tennessee.

Public and regulator comment into the defined-standards version will continue in December, later in the meeting, the Financial Condition Subcommittee, voted unanimously to allow more input from actuaries and others. Plans are to schedule a meeting early enough during the next NAIC meeting so that if no major problems surface, the measure could be voted on by the membership during that meeting. However, it is also possible that the measure will be held until March, said Iowa Insurance Commissioner Terri Vaughan.

The added time should help build support among regulators, Mr. Olson said.

In other action, the NAIC:

The producer database will list licensing and other regulatory information on U.S. agents and brokers.

• Approved implementation of the Producer Information Network, which will give regulators and insurers better computerized information about persons selling insurance.

It will be funded with $3.1 million in loans from insurer and broker trade associations—just under the $3.5 million originally sought—and supervised by the Insurance Regulatory Information Network, a non-profit company governed by a joint NAIC-industry board.

PIN will feature an online database that will list licensing and other regulatory information on U.S. agents and brokers. The system is intended not only to help regulators and insurers exchange data on agents and brokers but also to facilitate the licensing and company appointments of producers.

"It's a project whose time has come," said Glenn Pomeroy, North Dakota insurance commissioner and chairman of the NAIC working group overseeing PIN. "PIN is a vital project not only for regulators and the insurance industry but for consumers as well. PIN will give regulators and companies alike greater access to information on who is seeking to sell insurance," he said.

• Accredited Hawaii as its 49th jurisdiction to meet solvency regulation standards.

The remaining jurisdictions that lack NAIC accreditation are the District of Columbia, Nevada and New York. The New York Insurance Department lost its accreditation after state legislators refused to adopt additional model law requirements (*BI*, March 14, 1994).

• Approved three new managed care model acts. The measure on network adequacy establishes standards for health insurers that create and maintain provider networks; the health insurer grievance procedure model act outlines procedures for filing and resolving consumer grievances about health plans, and the utilization review model act provides standards for structure and use of utilization review services.

• Released a preliminary 1997 $40.9 million budget in which revenues exceed expenses by $1.38 million. The budget does not call for any increases in insurer data base fees or state assessments. A hearing on the budget will be held in Chicago Nov. 13, in keeping with by-law adopted last year BI

Merger

Continued from page 1

that while his company is strong among large companies, Foundation is strong among small and medium-size companies.

While HSI, with 1.8 million enrollees, has focused primarily on its HMO business, Foundation has also focused on specialty operations, including behavioral health and prescription benefit management. Both companies have workers comp operations.

In addition, 1.5 million of Foundation's 3.1 million enrollees fall under the program for military families, the Civilian Health and Medical Program of the Uniformed Services, or CHAMPUS.

While Foundation has 260,000 Medicaid enrollees and 87,000 Medicare enrollees, HSI has 141,000 Medicare enrollees and 62,000 Medicaid enrollees.

"We believe we will add up as one plus being 11, not two," said Dr. Hasan.

Company officials anticipate $110 million in savings the first year as a result of the merger and about $150 million in the second. The combined company would have 15,000 employees. Officials would not discuss possible layoffs.

One of the questions surrounding the planned merger before its announcement was who would run the company, given the strong personalities of both Dr. Hasan and Dan Crowley, Foundation's chairman, president and CEO. A proposed merger with WellPoint Health Networks Inc. fell apart because of a personality clash between Dr. Hasan and WellPoint's Chairman and CEO Leonard D. Schaeffer (*BI*, Dec. 18, 1995).

Under the plan unveiled last week, Mr. Crowley will serve as the new company's chairman for the year after completion of the transaction, when he will resign though continue as a director.

Dr. Hasan will be FHS' president and CEO and become chairman after Mr. Crowley resigns. Jay M. Gellert, now president and chief operating officer of HSI, will become FHS' executive vp and chief operating officer.

While some think this issue is now resolved, concern lingers as to whether Dr. Hasan and Mr. Crowley will be able to work together.

"We've yet to see" how that will play out, said Mark W. Agnew, a principal with Buck Consultants Inc. in San Francisco.

The deal itself, though, makes sense, observers say.

"It obviously sharply increases their bargaining power with doctors and hospitals in Southern California," said Doug Sherlock, an analyst with Sherlock Co. in Gwynedd, Pa.

"Conversely, it increases their bargaining power with employers in that market as well, so it's a transaction that has the potential to sharply increase the potential profitability of the combined operation vs. its predecessors," said Mr. Sherlock, who expects a reasonably smooth integration.

"California is a mature market where companies are jockeying for stronger position," said Larry Mayewski, senior vp at A.M. Best Co. in Oldwick, N.J.

In addition to the Foundation/HSI deal, he said, PacifiCare Health System's planned $2.1 billion acquisition of FHP International Corp. (*BI*, Aug. 12) "clearly, I think, sets the tone for what it's going to be like to compete in California."

This merger will enhance Foundation's and HSI's clout with providers and hospitals and give them a platform to expand outside California, he said.

John Penshorn, an analyst with Piper, Jaffray in New York, also praised the deal. "There's a lot of economic value added to shareholders due to the cost savings and synergies that this transaction will unlock," he said.

Suzanne Mercure, manager of benefits administration, for Southern California Edison Co. in Rosemead, Calif., which contracts with HSI, said, "It seems to me strategically this is really the right kind of move for HSI because they gain market share in areas where I think they had less market," including CHAMPUS and Medicaid.

"Ultimately for employers, if they keep on the quality agenda, that will actually help to improve what happens in health care because they'll have a larger base that they're working with of members that will cross all the kinds of conditions that will possibly come up."

For instance, an employer may have relatively few disabled employees, but there will be larger numbers in the Medicare or Medicaid populations. Incorporating this business will result in greater focus on employees with these problems, said Ms. Mercure.

But there is a possible problem as well, said Ms. Mercure. "One potential negative with any of these acquisitions or mergers is, does everyone get so involved in the activity that they forget about their current base customers and serve them less well because all of their energies are devoted to making the merger come to fruition?"

That did occur with the failed merger agreement between HSI and WellPoint, she said.

"It's too soon to know what the impact will be. It could be positive or negative," said Margaret Stanley, assistant executive officer-health benefits services for the California Public Employees Retirement System in Sacramento.

"The positives we would look for is they would have economies of scale which would hold down premium costs, and because of their greater size, will be able to invest in needed information systems and technology and in quality of care and disease management programs.

"The part that worries us is that we currently have 80% of our enrollees in HMOs and 80% of those members would be in three plans, Kaiser, PacifiCare and this Foundation Health Systems plan, so that we would worry about any attempt by the large HMOs to try to consolidate their leverage on purchases for the purposes of increasing premiums. We hope it will make them more competitive rather than less competitive."

"I think employers are taking a wait-and-see attitude," said Jim Foreman, manager-health and welfare practices on the West Coast for Towers Perrin.

While both are respectable organizations, they also have shareholders, "and that in itself forces employers to scrutinize more carefully the financial arrangements they have with these organizations. The emphasis that these two organizations are going to put on running their business vs. managing their customers does cause us some concern."

"There's going to be some serious downsizing; that's natural, and we don't want our customers to be affected by it." The focus should be not only on doing the right things necessary to manage the business, but to not lose the customer focus as well, he said. "If that happens, you'll have a very upset population out there," he said.

Stirling Somers, a health care consultant with Alexander & Alexander Consulting Group in San Francisco, said the mid-sized employers she works with "are just going to have to wait and see what shakes out" as the new company gears itself toward more of a national HMO model and away from a regional emphasis.

"There is going to be a shakeout," said Barbara Wachsman, western regional practice manager for Towers Perrin Integrated Health Systems Consulting in San Francisco, who works with providers.

"There is going to be some chaos for members as a result of providers renegotiating their contracts with the new combined entity." It will take some time for a common system of medical management to be developed and for providers to become clear on the benchmarks and standards the new entity expects them to use, said Ms. Wachsman.

CALPERS' Ms. Stanley said she would also be concerned about the potential disruption to the provider network. "No information indicates that this is going to happen, but it's a major issue for us in general," she said.

"Employers are going to have to put up with the fact that their health plans are going to change names and there will be further confusion in the marketplace for participants," said Buck's Mr. Agnew.

"But I think most employers who are committed to managed care have jumped into managed care with the understanding that the marketplace is not going to be static."

"I think the unknown is when are well-coordinated provider-supported alternatives going to spring up in to the marketplace" once the swing towards consolidation, which has already gone very far, moves back, "bringing the pendulum back into equilibrium." BI

Deadline nears for award nominations

The deadline for nominating candidates for the 1997 Risk Manager of the Year is approaching.

Business Insurance created the Risk Manager of the Year award in 1977 to recognize outstanding efforts and to promote risk management. The 1997 honoree, to be named in April, will be the 20th risk manager to receive this award. In addition, a 1997 Risk Management Honor Roll will be named at the judges' discretion.



Candidates can be nominated now. Forms are available from *BI*'s Chicago office.

Nominations must be submitted by Nov. 19.

Ten independent judges from all sectors of the risk management profession and insurance industry will select the Risk Manager of the Year and the Risk Management Honor Roll (*BI*, Sept. 9).

Winners are selected based on assessments of the risk managers' accomplishments as detailed in their nominations. Judges score each candidate on a scale of 1 to 10 according to how well he or she:

• Established and implemented a risk management program within the organization.

• Tackled and solved one or more major problems for his or her organization.

• Innovatively applies the diverse tools of risk management and insurance.

• Creatively and effectively uses the insurance markets to structure an insurance program that serves the needs of the organization—specifically addressing the types of policies purchased and manuscripted policies, if any.

• Established a workable intelligence system inside and outside the organization, culminating in a flow of information about events and activities that affect the organization's risk management and insurance. How the risk manager secures data from other departments and the use of risk management information systems are addressed in this criterion.

• Skillfully performs the functions of management in the overall organization and within the risk management/insurance department, including planning, organizing and directing.

• Achieves the most effective program at the optimum cost over the long term.

• Developed technical expertise in any or all of the broad categories included within risk management, leading to a better managerial grasp of the operational aspects of the job.

• Exhibits an attitude and performs activities advancing the risk management profession, such as professional activities, speaking engagements, teaching and related activities.

• Develops in his or her career, as exhibited by job history, including current job description, education, honors and memberships.

The candidate with the highest score after the judging is completed is named Risk Manager of the Year. The remaining nominees are separated by employment category: Corporations with sales exceeding $300 million; corporations with sales of less than $300 million; government entities; tax-exempt or non-profit institutions; financial institutions; and self-insurance funds and pools.

The highest-scoring candidate in each of the categories not represented by the Risk Manager of the Year is named to the Risk Management Honor Roll, at the judges' discretion. Honorees will be announced in the April 14, 1997, issue of *Business Insurance*, which will coincide with the Risk & Insurance Management Society Inc. conference.

A candidate need not handle risk management functions full time, but he or she must be a full-time employee of the organization for which he or she directs the risk management program. Candidates are not limited to U.S. risk managers. A candidate may be nominated by anyone familiar with the candidate's work. For example, any employee or group of employees may nominate the organization's risk manager. A broker, insurer or other service supplier may nominate a client. A risk manager may nominate a colleague.

Each nomination also must include a letter from the sponsor nominating the candidate and a letter of endorsement by an executive of the candidate's organization, who may be the candidate's superior or any higher officer. The letter must certify the accuracy of the information submitted in the nomination. All nominations will be kept in the strictest confidence, with only the honored candidates' names announced.

To request a nomination form, contact Karen Tucker, Assistant to the Publisher, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611-2590; 312-649-5319.

CIGNA

Continued from page 1

three times over by backing the runoff operation with a sizable addition to reserves, capital contributions and reinsurance protection written by the active operation.

CIGNA had to reorganize to obtain an A- rating from A.M. Best Co. for its ongoing operation, its officials have said. That rating was crucial for the active operation to attract quality risks and remain a viable company, they said.

The reorganization has touched off a series of departmental hearings and the appeal of the commissioner's approval order in a Pennsylvania appellate court. Several corporate policyholders and rival insurers with business ties to CIGNA seek to overturn Commissioner Kaiser's Feb. 7 approval of the reorganization because they fear the runoff operation is inadequately capitalized.

CIGNA has said its critics oppose its plan because either they are fighting the insurer in various coverage disputes or CIGNA emerges as a stronger competitor against its rivals.

In preparing for a possible appellate court victory that would allow the plan's critics to again challenge CIGNA's reorganization, the plan's critics have been searching for a way to win release of the Tillinghast material.

The Insurance Department in August won the right to keep the report confidential if the department no longer relies on it to support Ms. Kaiser's approval of the transaction.

To that end, critics' attorneys began questioning whether the department conducted a financial examination of CIGNA before it reorganized. The department has said the Tillinghast report is among the working papers that are part of the exam.

With certain exceptions, state law shields such papers from public scrutiny.

"If there never was an exam, then that argument is unfounded," said CIGNA policyholder attorney John N. Ellison, a partner with Anderson Kill & Olick P.C. in Philadelphia.

He and other attorneys raised that question because the department has not released financial examination documents that typically are publicly available.

Those documents are not available because the financial examination has not been completed, the department said last week.

Stephen Johnson, manager of the Insurance Department's bureau of financial examinations, said the department still is collecting some documentation, which he characterized as "cleanup items." He said the examination should be completed within a few months.

He said that Tillinghast prepared three reports as part of the examination, which the department then relied on in its separate study of CIGNA's reorganization plan.

"Once it's used for something else, everyone is entitled to see it," said Lawrence T. Hoyle Jr. of Hoyle, Morris & Kerr of Philadelphia, which represents several CIGNA policyholders and rival insurers in the case.

Mr. Johnson said the department considers all of the Tillinghast material part of the financial examination because the reorganization was a subsequent event to the examination that "all came based out of the financial exam."

"How could they have approved the reorganization if they haven't completed the examination?" asked attorney Floyd Abrams of Cahill Gordon & Reindel of New York, which represents American International Group Inc. in the litigation opposing CIGNA's reorganization.

An Insurance Department spokeswoman would not comment, citing the ongoing litigation.

Mr. Ellison asked why the department has not released an examination warrant that verifies an examination is underway but provides no details about the exam.

A department spokeswoman said that document is considered part of the exam's working papers and, therefore, is confidential.

"I think the public is entitled to know a company is under examination," Mr. Ellison said.

He said he found "a fair degree of inconsistency" in the department's stand that the Tillinghast material was adequate to approve CIGNA's reorganization but insufficient to complete the financial examination.

"It just shows that the smoke screen of the exam to protect the records is just that," Mr. Ellison said.

'How could they have approved the reorganization if they haven't completed the examination?' asks attorney Floyd Abrams of Cahill Gordon & Reindel.

The critics of the reorganization are pining for the Tillinghast material because they suspect it contains caveats on the ability to accurately set loss reserves on long-tail liabilities like those that CIGNA has moved into its separately capitalized runoff operation.

They have questioned how CIGNA could claim last fall, when it announced its reorganization, that it had a handle on reserving adequately for its long-tail liabilities. Just a few months earlier in its securities filings, CIGNA stated that it could not estimate those liabilities.

Robert Irvan, chief financial officer for CIGNA Property & Casualty Insurance Co., the CIGNA unit that led the reorganization effort, has compared the situation to an entertainer "who becomes an overnight success—after 20 years of working at it" (*BI*, Jan. 1).

However, a July 25 letter that Tillinghast sent to the Council of Lloyd's contains caveats about the ability to accurately estimate long-tail liability claims and claims expense reserves.

Noting that the letter was dated long after Tillinghast's review of CIGNA's reserves, critics' attorneys say it raises questions about CIGNA's claims that Tillinghast has devised a method that mitigates much of the uncertainty in establishing reserves for long-tail liabilities, especially those arising from asbestos and pollution claims.

"It's astounding to me that in another forum of a similar nature that they would take the opposite position of what they've taken here" in the CIGNA reorganization dispute, Mr. Ellison said.

A Tillinghast spokesman would not comment and referred all questions to the Pennsylvania department. The department spokeswoman said she could not comment because of the ongoing litigation.

The critics' attorneys are looking at other ways to unearth the Tillinghast report. They hope to find some answers in 45 other documents that the commissioner relied on in approving the reorganization. Pennsylvania Commonwealth Court President Judge James Gardner Colins on Sept. 26 ordered CIGNA to release those documents.

The critics' main hope is that the material contains information that at least suggests that the reorganization was not in policyholders' best interest. The full court is scheduled to hold a Dec. 11 hearing in Harrisburg, Pa., on the critics' appeal of Commissioner Kaiser's ruling.

The critics want an adversarial hearing, which would provide them an opportunity to cross-examine CIGNA officials and expert witnesses based on the material Judge Colins just ordered CIGNA to release.

Commissioner Kaiser held three hearings at which CIGNA and its witnesses provided prepared testimony but were not cross-examined. Critics of the plan testified at the hearings without having had access to the just-released material. CIGNA officials said much other information about its restructuring already was publicly available at that time.

In his latest order, Judge Colins allowed CIGNA to continue to classify portions of the just-released material as confidential, but those portions still will be available to the critics and their expert witnesses. Although the confidential portions will not be publicly available, the remainder of the documents will be available for public inspection.

Among the documents the critics have been clamoring to review and now will be able to see for the first time are:

- The final revisions to the restructuring plan, which CIGNA's attorney filed with the Pennsylvania Insurance Department on the same day Commissioner Kaiser approved the reorganization. Besides the inability to review the information on which Commissioner Kaiser relied, critics of the transaction have been frustrated by not being able to see exactly what the restructured CIGNA looks like.
- An actuarial report on the restructuring that Milliman & Robertson Inc. prepared for CIGNA.
- A report by investment banker Houlihan Lokey Howard & Zukin that concluded CIGNA's new active and runoff operations are adequately capitalized and will be able to pay their debts.
- A report by investment banker J.P. Morgan that the reorganization is fair to CIGNA policyholders as well as the company's shareholders.

If those reports relied heavily on the Tillinghast report, the critics could seek to remove them from the case. That could strengthen the critics' appeal of Commissioner Kaiser's ruling.

At the Dec. 11 hearing, "We'll just argue simply, rather simply, that with all of those blanks, there is no evidence to support what she did," Mr. Ellison said.

If the documents survive but the Commonwealth Court overrules the commissioner's approval of the plan and remands the case back to the commissioner or someone else to conduct further hearings, the critics' attorneys could use the documents as a springboard to obtain the Tillinghast report, they said.

"If other reports rely on it, I think we'd be entitled to it," Mr. Hoyle said.

Meanwhile, regulators in two more states—North Carolina and Arizona—are expressing concerns about the reorganization.

North Carolina plans to conduct its own hearing on the transaction in Raleigh on Dec. 16.

Arizona is considering voicing its objections if the Commonwealth Court sends the matter back to the Insurance Department. BI

Updates

Clothiers get pension help

Continued from page 2

"As more and more employers go out of business or move overseas, the employers who remain are fearful of being left to pay the entire industry's retirement costs, which they cannot afford to do. Without this agreement, remaining employers could be forced into a mass withdrawal from the industry's retirement plan, which would be disastrous for everyone associated with the industry," said Homi Patel, president of the Clothing Manufacturers Assn. of the United States of America and president and CEO of Hartmarx Corp., a participant in the plan.

Employers that agree to continue in the pension plan will be protected against increased liability if the plan runs into future troubles, said Mr. Reich. Companies that want to withdraw would have to pay 150% of their proportion of the unfunded liability, he said.

Mr. Reich and other officials said this is not the beginning of an onslaught of other multiemployer plan rescues, saying Amalgamated's situation was unique because of the men's apparel industry's troubles.

In addition to Hartmarx, other major companies participating in the Amalgamated Insurance Fund include Brooks Brothers, Barney's, Lord West, Pincus Co. and Shepard Clothing.

Golden Eagle hearing ordered

SAN FRANCISCO—Golden Eagle Insurance Co., the San Diego-based multiline insurer that has been battling with the California Insurance Dept., will get its day in court.

San Francisco Superior Court Judge William Cahill last month ordered a hearing to decide the insurer's claim that California regulators violated its constitutional rights by ordering it to boost its reserves by $138.5 million without holding a hearing on the issue.

However, the court did not grant Golden Eagle a stay of the Nov. 15 deadline for the increase. Instead, Judge Cahill said, "the parties can negotiate any reasonable continuances."

Meanwhile, IBA West, the state's San Francisco-based agent and broker association, is providing its members with a letter to inform current policyholders of the Insurance Department's actions against Golden Eagle and its possible consequences. The letter, drafted by IBA West General Counsel Steve Young, intends to eliminate or reduce any potential liability to the producers in the event the insurer later becomes unable to pay claims.

Bain Hogg links operations

LONDON—Just one month before Bain Hogg Group P.L.C. is divested by its parent company Inchcape P.L.C., the London broker has combined its U.K. retail and international operations.

As a result, Bain Hogg International Ltd. has been absorbed into Bain Hogg Ltd. under chief executive John Kavanaugh. Mr. Kavanaugh previously was chief executive of Bain Hogg International and now heads Bain Hogg Group's U.K. wholesale, retail and reinsurance activities, in addition to the worldwide retail operations.

Chris Burgess, the former chief executive of Bain Hogg Ltd., has left the company along with three executive directors: Nick Tiley, David Holder and Andrew Hicks.

A Bain Hogg spokesman said the reorganization would lend the company the "benefit of increased synergy," and was "just a step" in the Concept 21+ initiative aimed at reducing the cost ratios of the U.K. operations.

In a statement, Mr. Kavanaugh said: "It had become clear we were not gaining the full benefits of the scale of our business through our previous structure. Bringing all our broking operations together will give us a more streamlined and productive structure, which will allow for greater synergy and more efficiency in handling clients' needs."

Insurance analysts found the timing strange so close to the divestment date (*BI*, Sept. 30).

Briefly noted

Ten members of **Industrial Risk Insurers** have asked to increase their participation in the property insurance underwriting pool. ITT Hartford Group Inc., Hartford Steam Boiler Inspection & Insurance Co. and Zurich Insurance Co. have each increased their interest to 23.5% or collectively 70.5% CNA Insurance Cos., previously IRI's largest participant, has asked to reduce its participation. . . .President Clinton last week signed legislation that repeals a 1993 law—never enforced— that would have required employers to file health care coverage information reports for all their employees and their dependents with the federal government as part of a massive **Medicare Data Bank** project. Earlier, President Clinton signed an appropriations bill that includes amendments that will require—starting on Jan. 1, 1998—group health care plans to offer at least **48 hours of inpatient coverage** for mothers and their newborns after a normal, vaginal delivery and 96 hours of coverage after a Caesarean section as well as requiring the plans to offer the same annual and lifetime limits for **mental disorders** as they do for physical ailments. . . .Under legislation signed Sept. 27 by Gov. Pete Wilson, terminally ill patients in California will be **guaranteed independent medical review** if their health plans deny them experimental or other special treatment. . . .A.M. Best Co. has downgraded **Prudential Property & Casualty Group** of Holmdel, N.J., to B++ from A-. The downgrade reflects PRUPAC's continued poor results and its above-average catastrophe exposures, the rating agency said. . . .The Florida Supreme Court has effectively allowed a **class-action suit against tobacco companies** to proceed. Last week, the court voted 4-to-1 that it did not have jurisdiction to hear an appeal on the class-action status of a suit seeking damages brought by thousands of people who claim to have smoking-related illnesses. . . .X.L. Europe Insurance, the Dublin, Ireland-based subsidiary of Bermuda reinsurer EXEL Ltd., has been approved for **listing as an alien excess and surplus lines insurer** by the National Assn. of Insurance Commissioners.

Anthem

Continued from page 2

has achieved an attractive 70% membership rate in managed care plans, with 35% of those members in health maintenance organizations and 35% in other types of managed care plans, Mr. Lytle said. The plan has about 850,000 members.

But despite Anthem's confidence, the Connecticut Blue's willingness to merge is clearly related to its difficulty in thriving in a fierce managed care battle. Mr. Lytle's praise notwithstanding, the Connecticut Blue could not without deeper pockets continue to face rivals such as Aetna Health Plans and several others, said John F. Croweak, chairman and CEO of the Connecticut plan.

"They're all in our market," he said. "It seems like we have a new HMO license approved every month these days. It's very competitive."

The merger will give the Connecticut Blues plan more access to leveraged capital and allow it to standardize best practices and operations, such as technology, with other Blues within the Anthem system, he said.

The deal with the Connecticut plan is subject to approval by insurance officials in Connecticut and by policyholders of each company. The merger is expected to be complete in six to 12 months, Mr. Lytle said.

Growth in managed care is still possible in the Northeast despite tough competition, because the population base is large and employers are searching for ways to beat exceptionally high health care costs, he said.

"While there are some excellent companies in the East, with Aetna (Health Plans) and Oxford (Health Plans), there is still plenty of opportunity for growth," Mr. Lytle said. Anthem is primarily concentrating on marketing managed care products, although 30% of its revenues come from indemnity plans such as Medicare supplement coverage.

The newly expanded Anthem would include its original franchises in Indiana, Ohio, and Kentucky, which cover 4 million people; Connecticut, with its 850,000 insured; and New Jersey, after a planned merger with Blue Cross & Blue Shield of New Jersey announced in May (*BI*, June 3). The New Jersey plan covers more than 1.9 million people. In addition, the New Jersey Blues plan is planning to acquire the assets of Blue Cross & Blue Shield of Delaware, with its 200,000 covered lives. When all deals are complete, Anthem expects to have annual revenues of $11.5 billion.

Together, the three Blues plans in the East will form a holding company, Anthem East, which will coordinate administration. Mr. Croweak will become vice chair of Anthem East and sit on the national Anthem board along with another Connecticut Blue Cross representative. William Marino, president and CEO of the New Jersey plan, will be chairman and CEO of Anthem East.

The physical distance between the plans in the Northeast and those farther west will not hamper Anthem from functioning as a cohesive company, Messrs. Lytle and Croweak said. For the Blues to compete on regional and national levels, they said, plans can no longer search out contiguous partners only. The move follows an announced merger by Blue Cross & Blue Shield companies of Texas and Illinois (*BI*, Feb. 5), the first proposed union by two geographically distant Blues.

Some industry watchers foresee Anthem's continued expansion coming mainly through combination with other Blues plans that aren't competing effectively in managed care.

"Connecticut is one of the weakest Blue Cross players, and Anthem is obviously out there bidding on the weak sisters of the Blues," said Bob Eicher, a principal with A. Foster Higgins & Co. Inc. in New York.

Despite Anthem's positive public assessment of its new, planned partner, it is evident that it was the Connecticut plan's weak market share, poor capitalization and sluggish innovation in managed care that made it an attractive and obvious merger candidate, Mr. Eicher said.

Another benefit consultant agreed that the Connecticut plan found itself "outgunned by highly capitalized deep pockets."

"The market is in its infancy," said Tom Ferguson, a principal at William M. Mercer Inc. in New York. "The market is carved out and Blue Cross has gotten a small share of that growth."

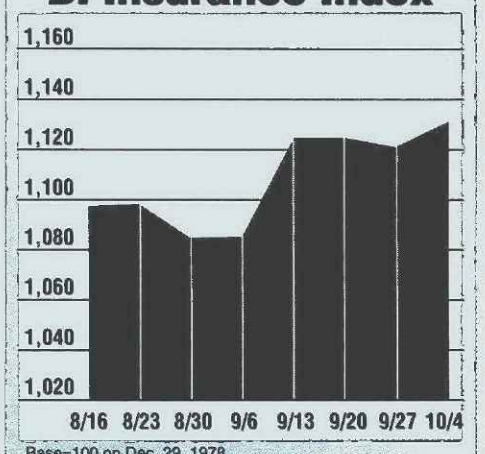
The budding connections between Anthem and the Blues of the Northeast are unlikely to stir much controversy in the way that a planned merger between Louisville, Ky.-based Columbia/HCA Healthcare Corp. and Blue Cross & Blue Shield of Ohio did. The Blue Cross and Blue Shield Assn. has accused the Ohio plan of violating its licensing agreement by teaming with the mammoth health care conglomerate and may seek to remove its trademark (*BI*, June 17).

"This is a merger of mutuals," said Mr. Croweak. "This is a very different situation."

Indeed, a national spokeswoman for Blue Cross/Blue Shield called Anthem's move a perfectly acceptable way for players within the Blues family to capitalize on managed care know-how and take advantage of multistate marketing opportunities.

"This is a strategic game plan for Anthem," she said. "We applaud these types of partnerships and alliances." BI

BI Insurance Index



Base=100 on Dec. 29, 1978
Source: Nordby International Inc.

PCS catastrophe options

As of Oct. 4

Call spread	Price bid/ask
Eastern December 1996	
40/60	.4/1
10/30	.5/3.5
80/100	—/1
Southeast Dec. 1996	
10/30	—/3
National Annual 1997	
40/60	5/—
120/140	3.5/5.5
California Annual 1996	
40/60	.5/1.3
80/100	.3/1.1
West Annual 1997	
40/60	2.2/3.7
80/100	1.9/2.1
Northeast Sept. 1996	
20/40	—/1

Total volume: 98 Total open interest: 6,827

For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.
Source: Chicago Board of Trade

Flight 603

Continued from page 3

AeroPeru insures its hull and liability risks through its parent, CINTRA S.A., which also is the holding company for the airlines Aerovias de Mexico, Compania de Mexicana and SIAT, according to London sources. The Boeing 757 plus a spare engine was insured for $61.5 million, and the airline carries $1 billion of liability coverage. But underwriters do not expect the liability losses to reach $50 million, because liability losses tend to be lower for crashes in South America.

AeroPeru's broker Willis Corroon would not comment on the airline's liability loss. Richard Maylam, lead underwriter for aviation syndicate 270, managed by Archer Managing Agents Ltd., is the claims lead for the airline. Mr. Maylam could not be reached for comment.

This latest disaster happened amid peak time for airline hull and liability insurance renewals. But so far it looks like airlines will enjoy a soft market this autumn, a trend that began last year.

"It is a soft market at the moment and the losses have been low as they were last year," said Mr. Woollard of Willis Corroon. Major airline hull and liability losses, combined with the attritional or miscellaneous liability losses below $10 million, so far this year only total about $650 million to $700 million. That total excludes the Trans World Airlines disaster off Long Island in July, which so far has no liability reserve.

With average hull and liability rates decreasing 25% to 30%, it's unlikely total gross airline hull and liability premiums would reach $1.8 billion this year, compared with $2.2 billion last year, Mr. Woollard estimated.

"There's a good 25% coming off hull rates and 10% off liability rates," said one aviation broker.

"Rates are decreasing 10% to 15% on many placements," added an aviation underwriter. "The market is softening. There is no doubt about it."

"It is softening to a degree, whatever softening means," said Graham Nichols, chief executive/chief underwriter of the Westminster Aviation Insurance Group. Mr. Nichols said he is concerned however, about the talk of the market softening because some rate reductions are being argued on technical grounds while others are not being argued technically. He also said any talk of the worldwide airline premium reduction would be inaccurate.

Officials of Boeing Co., Pratt & Whitney, the U.S Federal Aviation Administration and the National Transportation Safety Board were heading to Lima last week to assist Peruvian investigators in the crash investigation, confirmed an AeroPeru spokeswoman in Miami. BI

British Issues

Oct. 3	Price	P/E	Div.	Yield	1 week
Companies	pence		pence	%	high—low
Comml Union	605	11.6	35.3	5.8	607—601
Genl Accident	695	10.5	38.8	5.6	695—681
Gdn Royal Exch	255	9.4	11.3	4.4	259—255
Independent	595	11.1	14.1	2.4	595—565
Royal & Sun	418	10.0	21.6	5.2	418—406
Brokers					
Bradstock	69	11.5	7.1	10.3	69—67
Fenchurch	94	6.3	10.6	11.3	95—94
CE Heath	77	9.1	6.3	8.2	79—77
JIB Group	111	11.0	9.4	8.5	111—111
Lloyd Thmpson	182	10.6	12.5	6.9	183—170
Lowndes Lmbrt	112	7.3	10.5	9.4	113—113
Nelson Hurst	190	11.6	9.8	5.2	190—190
Sedgwick Grp	123	9.6	8.1	6.6	123—119
Steel Brl Jones	34	N/M	2.8	8.2*	34—34
Willis Corroon	129	11.6	8.3	6.4	129—126

Source: Philip Olsen, London *Estimated

BI Industry Stock Report SEPT. 30, 1996, THROUGH OCT. 4, 1996

BROKERS		Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)
Acordia Inc.	NYS	30.5	1.24	2.52	33.75	23.50	13
Alexander & Alexander	NYS	16.25	2.36	-14.47	24.38	15.38	324
E.W. Blanch Holdings Inc.	NYS	19.5	-1.27	-16.58	25.50	17.75	41
Gallagher Arthur J. & Co.	NYS	34.375	-0.36	-7.72	39.50	30.00	61
Hilb, Rogal & Hamilton	NYS	13.125	-1.87	-1.87	14.38	11.38	36
Kaye Group Inc.	NDQ	6.25	-10.71	-21.88	8.75	4.63	38
Marsh & McLennan	NYS	100.125	2.17	12.82	101.63	80.50	1057
Poe & Brown	NDQ	24.25	-2.51	-2.51	25.50	22.75	18
BROKERS	AVERAGE		-1.4	-6.2			
INSURERS/REINSURERS							
ACE Ltd.	NYS	56.25	8.17	41.51	56.25	32.75	1535
Acceptance Insurance Cos.	NYS	19.125	1.52	28.57	19.13	13.13	38
AEGON N.V.	NYS	50.875	2.52	15.63	51.50	35.75	42
Aetna Life & Casualty	NYS	70.125	0.00	1.26	78.75	55.38	2430
AFLAC Inc.	NYS	37.75	3.42	30.17	37.75	26.38	961
Allied Group Inc.	NDQ	39.5	3.95	9.72	44.25	31.50	73
Allmerica Prop. & Casualty	NYS	29.5	-3.28	9.26	30.50	21.88	443
Allstate Corp.	NYS	50.5	3.59	22.80	50.50	33.63	5909
AMBAC Indemnity Corp.	NYS	59.125	4.65	26.13	59.13	42.00	355
American Bankers Ins.	NDQ	50.75	1.00	30.13	50.75	32.50	685
American Financial Group	NYS	33.25	2.31	8.57	34.50	27.75	388
American General	NYS	38.625	1.98	10.75	39.13	31.00	1540
American Heritage Life Ins.	NYS	20.5	-0.61	-10.38	24.25	19.00	28
American Indemnity/Fin'l	NDQ	10.25	5.13	2.50	13.38	9.25	6
American International	NYS	104.75	4.49	13.24	104.75	81.88	2548
American Re Corp.	NYS	63.5	0.00	55.35	63.63	36.25	520
Aon Corp.	NYS	55.25	4.00	10.78	56.00	40.50	500
Argonaut Group	NDQ	32	7.11	-1.54	35.00	28.75	105
AVEMCO Corp.	NYS	15.625	0.00	-2.34	17.50	11.75	10
Baldwin & Lyons Inc.	NDQ	18.375	0.00	13.08	20.75	14.25	2
Berkley W.R. Corp.	NDQ	48.5	8.99	-9.77	55.50	40.25	341
Berkshire Hathaway Inc.	NYS	32200	0.00	0.31	38000.00	28850.00	1
Capital RE Corporation	NYS	40.875	6.86	32.93	40.88	28.00	55
CapMac Holdings Ltd.	NYS	33.625	4.67	NA	33.63	21.13	86
Capsure Holdings Corp.	NYS	18	-0.69	2.13	18.88	13.13	183
Chartwell Re	NYS	26	3.48	NA	26.00	10.00	65
Chubb Corp.	NYS	49.125	6.22	1.55	52.25	40.88	3247
CIGNA Corp.	NYS	126	4.67	22.03	126.00	95.25	837
CNA Financial Corp.	NYS	99.125	2.59	-12.67	123.25	95.75	97
EMC Insurance Group Inc.	NDQ	10.75	-2.27	-21.82	14.50	10.13	16
Everest Reinsurance	NYS	25.625	3.54	9.63	26.50	18.50	499
Executive Risk Inc.	NYS	41.25	8.91	42.24	41.25	22.00	115
EXEL Ltd.	NYS	36.875	7.66	21.15	36.88	26.50	1141
Fremont General Corp.	NYS	29.75	3.03	21.43	30.25	17.75	381
Frontier Insurance Group	NYS	39.875	1.59	24.61	41.13	27.50	87
Gainsco Inc.	NYS	10.375	1.22	-8.79	12.38	8.31	67
GCE Holding Ltd.	NDQ	25.1875	3.33	NA	27.25	19.75	335
General RE Corp.	NYS	147.75	3.59	-4.68	158.25	138.75	1563
Gryphon Holdings	NDQ	14.5	3.57	-24.68	20.25	12.00	201
Guaranty National Corp.	NYS	15.75	-0.79	2.44	18.00	13.38	83
Harleysville Group	NDQ	26.75	1.42	-17.37	33.00	24.50	39
Hartford Steam Boiler	NYS	44.625	0.28	-10.75	52.50	43.25	158
HCC Insurance Holdings	NYS	28	-0.88	51.35	32.75	12.38	714
IPC Holdings Ltd.	NDQ	19.9375	0.95	NA	22.25	19.00	571
ITT Hartford Group	NYS	61.5	3.14	27.13	61.50	44.50	1419
LaSalle Re Ltd.	NDQ	23	-1.60	NA	25.50	19.50	550
Lincoln National	NYS	46.75	4.76	-13.02	57.00	40.75	702
Markel Corp.	NDQ	89	0.00	17.88	94.50	67.50	6
MBIA Insurance Group	NYS	89.875	3.90	19.83	89.88	69.25	672
Meadowbrook Insur. Group	NYS	27.875	0.90	-16.79	34.13	24.00	31
Mid Ocean Ltd.	NYS	45.25	12.42	21.89	45.50	32.63	349
MMI Cos. Inc.	NYS	30	-0.41	25.00	33.38	22.00	234
Mutual Risk Mgmt. Ltd.	NYS	31	7.36	-9.65	34.88	26.88	267
NAC Re Corp.	NYS	36.375	-0.34	1.04	40.63	28.50	277
National Re Corp.	NYS	53	0.00	39.47	54.75	30.00	165
Navigators Group	NDQ	18.5	0.00	4.96	20.25	15.63	76
Nobel Insurance Ltd.	NDQ	11.25	-1.10	-1.10	12.75	10.88	2
NYMagic Inc.	NYS	17.625	2.17	3.68	22.00	15.38	12
Ohio Casualty Corp.	NDQ	33.75	-1.82	-12.90	40.00	30.00	340
Old Republic Int'l	NYS	25.875	4.55	9.33	25.88	18.00	416
Orion Capital Corp.	NYS	52.25	1.21	20.46	52.25	39.88	64
Partner Re Ltd.	NDQ	28.5625	2.24	3.86	31.88	23.75	1357
Penn-America Group Inc.	NDQ	15.625	-0.79	9.65	16.75	10.50	10
Philadelphia Cons. Holding	NDQ	23.25	9.41	43.08	23.25	16.25	56
PXRE Corp.	NDQ	23.5	2.73	-11.32	28.00	22.25	1150
Reliance Group Holdings	NYS	8.625	11.29	0.00	9.25	6.50	2464
Reliastar Financial Corp.	NYS	48.5	1.31	9.30	51.63	39.88	313
RenaissanceRe Holdings Ltd.	NYS	28	0.00	-7.82	33.13	22.88	101
Risk Capital Holdings	NDQ	17.375	-8.55	-25.67	23.38	16.50	28
RLI Corp.	NYS	26.625	4.41	6.50	27.13	21.75	43
St. Paul Companies	NYS	56.5	2.49	1.57	60.50	50.00	893
SAFECO Corp.	NDQ	36.5	4.66	5.80	39.75	30.88	1615
Seibels Bruce Group	NDQ	2.6875	4.88	79.17	4.25	0.44	176
Selective Ins. Group	NDQ	34	2.64	-4.23	38.75	31.00	104
Sphere Drake Holdings	NYS	8.875	-4.05	-36.61	15.13	8.13	326
TIG Holdings	NYS	30	0.42	5.26	34.25	24.94	876
Titan Holdings, Inc.	NYS	14.75	-0.84	2.61	16.63	12.50	88
Tokio Marine & Fire	NDQ	57.5	-2.54	-12.88	69.25	50.88	12
Torchmark Corp.	NYS	46.25	0.82	2.21	49.88	40.25	588
Transatlantic Holdings	NYS	70.5	4.44	-3.92	75.25	62.38	379
Transnational Re Corp.	NDQ	24.375	0.26	-0.51	27.25	20.88	12
Travelers Aetna Property	NYS	29.75	4.39	NA	29.75	23.13	1110
Travelers Corp.	NYS	53.125	8.70	27.25	53.13	32.63	5715
Trenwick Group Inc.	NDQ	51.5	-2.37	-8.44	57.50	46.00	12
Unico American Corp.	NDQ	8.125	-7.14	30.00	8.75	5.63	128
Unionamerica Holdings	NYS	18.75	-1.32	NA	19.50	14.75	20
United Fire & Casualty	NDQ	31.75	0.00	13.39	40.00	23.25	30
Unitrin	NDQ	51.5	5.10	7.29	51.75	44.25	244
UNUM Corp.	NYS	64.5	-0.96	17.27	66.00	50.50	1166
US Facilities Corp.	NDQ	18.25	0.00	-14.62	23.38	14.88	0
USF&G Corp.	NYS	18.375	-0.68	8.89	19.38	14.25	1818
USLIFE Corp.	NYS	30.5	0.00	2.09	33.25	26.88	448
Washington National	NYS	29.75	1.28	7.69	30.75	21.88	123
Zenith National Ins.	NYS	27.5	2.33	28.65	28.88	20.00	77
Zurich Reinsurance Centr.	NYS	31.125	1.22	2.47	32.63	28.13	65
INSURERS/REINSURERS	AVERAGE		2.1	7.6			
HEALTH MAINTENANCE ORGANIZATIONS							
FHP International	NDQ	36.75	-1.01	28.95	37.75	21.75	1276
Healthsource Inc.	NYS	13.875	-6.72	-61.46	40.88	9.75	2274
Humana Inc.	NYS	20.5	1.23	-25.11	28.88	15.00	2175
Oxford Health Plans	NDQ	47.875	-2.54	29.61	55.25	27.69	6721
Pacificare Health Sys.	NDQ	80.375	-2.87	-7.61	98.75	59.63	338
Safeguard Health Enter.	NDQ	17.75	-7.79	52.69	22.50	11.25	5
Sierra Health Services	NYS	34.125	-2.15	7.48	36.00	24.13	183
United Healthcare Corp.	NYS	40.875	-0.30	-37.48	69.00	30.00	4385
Wellpoint Health Networks	NYS	31.125	-2.73	-3.11	39.13	23.38	173
HMOs	AVERAGE		-2.8	-1.8			
ALL COMPANIES	AVERAGE		-0.7	-0.1			

Top advancing issues: Mid Ocean Ltd., Reliance Group Holdings, Philadelphia Cons. Holding. Leading decliners: Kaye Group Inc., Risk Capital Holdings, Safeguard Health Enter. Most active issue: Oxford Health Plans. The BI Index rose 0.9%; the Dow Jones 30 Industrials rose 2.0%; the S&P 500 increased 2.2% and the NYSE Composite gained 2.2%. Average P/E: Brokers, 15.4; Insurers/reinsurers, 37.9; HMOs, 34.6.

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