

Business Insurance

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Appeals court rules CGL policies do not cover cleanup costs

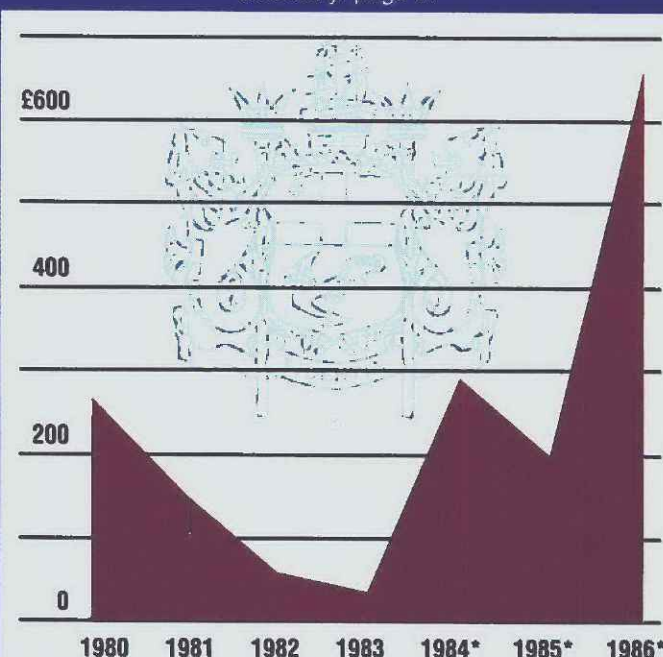
SAN JOSE, Calif.—Comprehensive general liability policies do not cover the costs of government-mandated hazardous waste cleanups, a California appellate court has ruled.

Interpreting standard CGL language in policies purchased by Chicago-based FMC Corp. that say insurers "will pay on behalf of the insured all costs which the insured shall become legally obligated to pay as damages," insurers "could not reasonably have expected

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Lloyd's banner year

Lloyd's of London's global profits zoomed to a record high in 1986, the year just closed under Lloyd's three-year accounting system. Figures are in millions of British pounds. See story, page 3.



*1986, 1985 and 1984 profits include profit commissions but exclude taxes. Earlier years exclude profit commissions but include taxes.

Source: Lloyd's of London

Ruling to encourage more bad-faith suits

California lawyers fear return to 'Royal Globe era'

By STACY ADLER

LOS ANGELES—A California appellate court decision opens the door for a new wave of bad-faith litigation to be launched against insurers in the state.

Almost one year to the day after the California Supreme Court dumped the famous *Royal Globe Insurance Co. vs. Superior Court* decision, which allowed plaintiffs in personal injury cases to sue a defendant's insurer for bad faith, the California Court of Appeal circumvented the Supreme Court by finding a new statutory method for bringing bad-faith suits.

The appellate court ruled Aug. 22, in a case that stemmed from a \$140 claim, that a plaintiff may sue a defendant's insurer for unfair business practices under the Business and Professions Code for improperly handling a claim.

Attorneys say the ruling marks the first time a California court has applied the consumer protection statute to an insurer's claims handling practices.

The California statute cited in the case is similar to consumer protection statutes in many other states, including Texas, Kentucky and Massachusetts, attorneys pointed out.

If the appellate ruling in *Beatty vs. State Farm Mutual Automobile Insurance Co.* is upheld by the California Supreme Court, insurers doing business in California will be deluged with a flood of new third-party bad-faith lawsuits and premiums will rise, insurer attorneys warn.

That, in turn, could increase costs for policyholders, they add.

"Thousands of third-party bad-faith lawsuits will be initiated under this new decision," predicted N. Douglas Martin Jr., vp and counsel for Fireman's Fund Insurance Cos. in

Novato, Calif.

"The decision reinstates the old system where third parties were free to sue insurers for bad faith," agreed attorney Royal Oakes of Barger & Wolen in Los Angeles.

"This decision will cause thousands of bad-faith lawsuits to be filed each year," added Mr. Oakes, who specializes in representing insurers in bad-faith litigation. "This is a big step toward returning to the Royal Globe era."

The 1979 Royal Globe decision created a statutory right for plaintiffs to sue a defendant's insurer for violations of Section 790.03 of the California Insurance Code, which dealt with unfair claims handling practices.

During the Royal Globe era, an estimated 4,000 to 5,000 bad-faith lawsuits were filed annually against insurers in California, costing insurers

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Benefit proposals high on Congress' agenda

By JERRY GEISEL

WASHINGTON—Congress is gearing up to decide the fate of several pieces of legislation that will affect virtually every type of employee benefit program.

Legislators, who returned to Capitol Hill last week from their August recess, will act this fall on proposals to simplify or repeal Section 89's non-discrimination rules for welfare plans.

In the coming months, legislators also will decide on proposals—only now just coming to light—that would double penalties for employer violations of COBRA's health care continuation provisions, as well as expand COBRA coverage for beneficiaries.

In addition, Congress will make decisions on whether to modify or scrap last year's expansion of the Federal Medicare program.

Momentous decisions also lie ahead on a variety of pension issues.

Congress is not expected to act on major risk management issues this year. Page 16.

Proposals now awaiting congressional action include banning employers from recovering surplus assets when they terminate overfunded pension plans, forcing employers to share control of their pension plan assets with their employees and slapping hefty filing fees on employers that file federally required pension and welfare plan reports.

Overall, "a lot will be at stake during the coming months," warns Howard Weizmann, executive director of the Assn. of Private Pension & Welfare Plans in Washington, D.C.

Benefit experts point out that high on the congressional priority list, with a good chance of passage before the end of the year, are proposals to simplify Section 89.

Already, the House Ways and Means Committee has given tentative approval to a Section 89 reform package proposed by Committee Chairman Daniel Rostenkowski, D-Ill., and now attached to a budget reconciliation bill the committee is considering.

Meanwhile, the Senate has approved Section 89 reform legislation proposed by Finance Committee Chairman Lloyd Bentsen, D-Texas, as part of a broader child care bill.

Benefit experts are optimistic that Section 89 reform can be enacted by year-end.

"Completion of Section 89 reform is not very far off. After years of waiting, we may be just two or three months away from enactment of simplified Section 89 rules," said Frank McArdle, a consultant in the Washington, D.C., office of Hewitt Associates.

Benefit experts say there is close to a congressional consensus that

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Pollution case haunts Hartford

By STACY ADLER

SAN FRANCISCO—Hartford Accident & Indemnity Co. is fighting to nullify a subsidiary's "regrettable" pro-policyholder position in a recent pollution coverage dispute so Hartford can use a conflicting argument in other coverage litigation.

However, Intel Corp. is attempting to invoke a legal doctrine in its multimillion-dollar pollution coverage dispute with Hartford Accident & Indemnity in the 9th U.S. Circuit Court of Appeals in San Francisco that would bar the insurer from arguing that government-mandated cleanup costs are not insurable under comprehensive general liability insurance policies.

Intel believes the Hartford Group Inc. subsidiary cannot legally present that argument because First State Insurance Co. of Boston, another Hartford subsidiary, successfully argued in the Michigan Court of Appeals earlier this year that the pollution exclusion in CGL policies does not bar coverage for gradual pollution incidents (*BI*, June 12). First State made its argument as a property insurer in pollution coverage litigation with the liability insurers of The Upjohn Co.

Under the judicial doctrine of estoppel, a party can be legally barred from arguing a position in court that conflicts with a position it—or an affiliate—has argued previously in court.

However, attorneys familiar with the Intel litigation and the Upjohn litigation, which is being appealed, say that while both courts most likely will not grant Hartford's motion, the First State arguments are not legally sufficient grounds for estoppel.

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Clarendon America files court motion for sanctions against Transit receiver

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Delta Air Lines will appeal court ruling citing crew error in 1985 Dallas crash

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FMC loses pollution cover suit

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that the 'liability for damages' provisions would cover costs under CERCLA," the appellate court said, referring to the Comprehensive Environmental Response, Compensation and Liability Act.

Furthermore, "a government action under CERCLA"—better known as the Superfund Act—"is an exercise of police power. . .there is no precedent for coverage of governmental exercise of the police power" the court said.

As a result of the Sept. 7 ruling, FMC cannot tap any of its 174 primary and excess liability insurance policies to pay for tens of millions of dollars in costs to clean up 46 polluted sites nationwide.

The trial court found FMC was entitled to coverage (BI, Jan. 9).

The appellate decision in FMC's case is "one of the most expansive decisions on the issue to date," said insurer attorney Roger Warin of Steptoe & Johnson in Washington, D.C. He predicted the decision, which "breaks the trend" of pro-policyholder decisions, would be influential nationwide.

A policyholder attorney criticized the ruling, saying the court "misunderstood the underlying claims and the nature of the relief sought."

The FMC decision directly conflicts with the ruling of another California appellate court earlier this year, which found that La Jolla, Calif.-based Aerojet-General Corp. was insured for the costs of a government-mandated hazardous waste cleanup (BI, May 1).

In denying coverage to FMC, the California Court of Appeal for the 6th District staunchly criticized the 1st District's Aerojet decision.

Because there is now a split in the California appellate courts, the California Supreme Court is likely to review the issue.

Missouri investigates METs

JEFFERSON CITY, Mo.—The Missouri Insurance Division is warning employers against buying group accident and health insurance from two entities purportedly operating as multiple employer trusts.

American Total Trust and The World Health Foundation Trust have been selling group accident and health plans in the state since 1987, mainly in the Kansas City area, the Insurance Division says.

Literature for American Total Trust—also known as American Plus Plan—claimed the trust's coverage was underwritten by Underwriters Life Insurance Co. of Dallas. However, Underwriters Life informed Insurance Division investigators that it has not provided any coverage for American Total Trust, the division says.

World Health Foundation purported to take over the business of American Total Trust and American Plus Plan in June 1988 and said it would pay existing claims of enrollees, the Insurance Division said. However, investigators have found no evidence of payments.

American Total Trust is a Louisiana-domiciled corporation, while World Health Foundation is based in Phoenix, Ariz., an Insurance Division spokeswoman said.

Missouri regulators' investigation of the two METs is continuing.

Consumer group sues Gillespie

SACRAMENTO, Calif.—Proponents of California's Proposition 103 are suing Insurance Commissioner Roxani Gillespie, charging that she has failed to implement premium rate rollbacks and other provisions of the voter-approved law.

The suit charges, among other things, that Ms. Gillespie has not justified the minimum 11.2% rate of return that the Insurance Department has set to determine whether insurers should be exempt from provisions of Proposition 103 that require insurers to roll back premiums for most types of property/casualty coverage to 20% below November 1987 levels (BI, Nov. 14, 1988).

The state Supreme Court ruled in May that insurers would be exempt from the rollbacks if they prove the rollbacks would prevent them from earning a "reasonable rate of return" (BI, May 8).

The suit also charges that Ms. Gillespie failed to set standards by which hearings will be held to determine which insurers are entitled to exemptions. She also failed to establish rules for determining how insurers can set auto insurance rates, the suit alleges.

"We are serious about enacting real insurance reform and the commissioner cannot legally continue to delay and ignore the reality of Proposition 103," said Conway Collis, chairman of the Prop. 103 Insurance Action Commission Intervention Team, which filed the suit.

The suit, filed in Sacramento Superior Court, asks that Ms. Gillespie be required to:

- Hold immediate hearings for more than 200 insurers that have filed for exemptions from the premium rollbacks.
- Establish a standard to determine profitability of companies for which hearings are now being conducted.
- Hold hearings for all insurers that currently have been exempted from rollbacks but for which hearings have not been set.
- Adopt regulations to establish rate-setting procedures and to prevent the use of territorial rating in determining rates.

In a statement issued last week, the Insurance Department maintains that it is enforcing Proposition 103. "Foolish lawsuits such as this one may generate headlines for proponents of Proposition 103 but will only prevent consumers from receiving rate reductions in a timely manner," the statement said.

New Jersey JUA under scrutiny

NEWARK, N.J.—The New Jersey automobile joint underwriting association is under fire from the federal government and a consumer group.

The House Committee on Energy and Commerce has subpoenaed internal audits of The Travelers Insurance Co. in connection with a federal investigation of the JUA.

Last month, Insurance Commissioner Kenneth D. Merin said an audit of the JUA found that errors and inefficiency cost it \$908 million between 1984 and 1988 (BI, Aug. 14). A total of \$100.2 million of this amount was attributed to Travelers.

The insurer's spokesman described this figure as "ludicrous."

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Insurer seeks sanctions against Transit receiver

By DOUGLAS McLEOD

LOS ANGELES—Clarendon America Insurance Co. is seeking court-imposed sanctions against Transit Casualty Co.'s receiver and the receiver's lawyers, charging that a "frivolous" and "indefensible" \$1 billion racketeering suit against Clarendon has severely damaged the insurer's reputation.

Meanwhile, the Los Angeles law firm that had represented the receiver has withdrawn from the case, and a new law firm has filed an amended complaint deleting the \$1 billion damage demand.

Lawrence E. Trent, now representing the receiver, denied that the amended complaint resulted from Clarendon America's motion for sanctions. However, Mr. Trent declined to say why the \$1 billion damage claim was dropped or why the receivership changed law firms.

Mr. Trent is with the Los Angeles firm of Buchalter, Nemer, Fields & Younger, which replaced Los Angeles-based Lillick & McHose as counsel for Transit's receiver.

Receivership officials and lawyers at Lillick & McHose could not be reached for comment.

Clarendon America says it still will pursue the motion for sanctions despite the change of law firms and withdrawal of the \$1 billion claim.

The receiver's original complaint, filed in U.S. District Court in Los Angeles in July, charged that Clarendon America and former affiliate Clarendon Insurance Co. (Bermuda) Ltd. wrote fraudulent reinsurance and surety bond coverages intended to artificially inflate Transit's surplus in the two years before the insurer was ordered liquidated in December 1985 (BI, Aug. 7).

Clarendon America is now a wholly owned subsidiary of Kansa Corp. Ltd. of Finland, while Clarendon (Bermuda) is controlled by a holding company that is owned by several shareholders, including Kansa.

In addition to the two Clarendon companies, the receiver's lawsuit named five former Transit officers, who were accused of conspiring with the Clarendon companies to conceal Transit's poor financial condition.

The five former officers are George P. Bowie, former Transit chairman and chief executive; William L. Gregory and Gerald S. DeGennaro, former Transit presidents; Alex Steinhorn, former associate general counsel; and Reginald L. Hsu, former executive vp.

According to the original complaint, Transit entered into an aggregate stop-loss reinsurance agreement with the Clarendon companies effective in November 1983. Under the agreement, Transit paid a premium of

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Delta liable for crash
Airline to appeal decision citing crew error

By LINDA J. COLLINS

FORT WORTH, Texas—Delta Air Lines says it will appeal a judge's ruling that crew error is to blame for an August 1985 jet crash at a Dallas airport during a thunderstorm.

While U.S. District Court Judge

David O. Belew Jr. did find that federal air traffic control and meteorology personnel breached their duties by failing to warn approaching aircraft of hazardous weather conditions or by failing to continuously monitor weather conditions, those breaches were not directly responsible for the

crash of Flight 191.

The Lockheed L-1011 jetliner touched down short of a runway while attempting a scheduled stop-over at Dallas/Fort Worth International Airport Aug. 2, 1985, killing 128 of 152 passengers, eight of 11 crew members and one person who was on the ground (BI, Aug. 12, 1985).

Authorities have determined that the crash was caused by wind shear resulting from a severe thunderstorm.

In an attempt to establish liability and recover damages, Delta and its insurers filed third-party claims against the U.S. government, alleging that the crash occurred because of the negligence of Federal Aviation Administration employees who worked as air traffic controllers and of National Weather Service employees.

However, in his 72-page decision, Judge Belew ruled on Sept. 1 that "the court considers the failure of governmental employees to pass on weather information to have been inconsequential to the fate of DL 191 in that there is no evidence that the crew would have acted differently with this confirmation of information already known" to them.

According to Judge Belew, "DFW Tower personnel breached a

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Lloyd's to pay more to cover PCW debts

By CAROLYN ALDRED

LONDON—Lloyd's of London is paying an additional 30 million pounds (\$46.2 million) from its Central Fund to cover liabilities owed by syndicates formerly managed by PCW Underwriting Agencies Ltd.

The Council of Lloyd's agreed at its monthly meeting last week to release the 30 million pounds to cover a shortfall in reserves held by Lioncover Insurance Co. Ltd., the company formed by Lloyd's in 1987 to assume PCW's liabilities, confirmed John Gaynor, head of finance at Lloyd's and a director of Lioncover.

As a result, Lloyd's total contribution to settle the PCW affair now stands at 74 million pounds (\$114 million at current exchange rates).

In addition, auditor Ernst & Whinney has qualified Lioncover's accounts for the year-ended Dec. 31, 1988, because of uncertainty surrounding recoveries from the PCW syndicates' reinsurers.

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✓ Instead of building on ERISA's achievements, some congressmen seem intent on destroying what the law has accomplished, says this week's editorial. **PAGE 8**

✓ Congress should set a national retirement income policy and stop passing laws that 'tinker' with pension and other employee benefit plans, speakers at a recent conference say. **PAGE 21**

✓ In Perspectives Dennis J. Nirtaut, benefits manager at Continental Bank Corp., reviews the bank's efforts to manage HMOs and control HMO costs. **PAGE 39**

✓ Transit Casualty Co.'s Texas receiver is suing Wal-Mart Stores Inc. for reimbursement of all work comp claims the receiver paid for workers in Texas. **PAGE 68**

✓ The large stake in Lloyd's of London broker PWS Holdings P.L.C. held by the family of ousted chairman Ronnie Ben-Zur has been sold, much to the delight of PWS officials. **PAGE 69.**

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Lloyd's profits shatter record

By CAROLYN ALDRED

LONDON—The huge rate hikes imposed by underwriters during the hard market of the mid-1980s are boosting Lloyd's of London's profits three years later to record levels.

However, the 1986 profits reported by Lloyd's last week under its three-year accounting system represent the high point of the insurance cycle, says Lloyd's Chairman Murray Lawrence, who predicts leaner profits in succeeding years for the 301-year-old insurance marketplace.

Profits for the entire Lloyd's market jumped to 649.5 million pounds (\$1.2 billion at applicable exchange rates) during the 1986 underwriting year, a 232% increase from a restated 195.6 million pounds (\$367.6 million) for the 1985 underwriting year.

Lloyd's for the first time this year reported profits before taxation but after profit commissions were paid to members' agents. As a result Lloyd's has restated the 1985 and 1984 results to incorporate the accounting change.

"Announcing a good result is always a pleasure and unveiling the 'best ever' is even more gratifying," said Mr. Lawrence.

"It was always expected that the 1986 account would produce exceptionally good results and, indeed, as a pure year it has been remarkable," he added.

Lloyd's pure underwriting result—premiums minus claims—for 1986 totaled 744.5 million pounds (\$1.3 billion), nearly four times greater than the 190.5 million pounds (\$358.1 million) recorded during the 1985 underwriting year.

"There can, however, be little doubt that this achievement will represent the high point of one of the market's cycles and, although the prospects for 1987 are generally encouraging, the results for the next three years as a whole will be less than spectacular," Mr. Lawrence warned last week.

Already, "the marine and aviation markets are indicating that the open years, particularly 1988 and 1989, are unlikely to produce satisfactory profits," the chairman noted.

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Lloyd's 1986 global profits

In millions of pounds¹

	Income ²		Expenditures ³		Profits	
	1986	1985 ⁴	1986	1985 ⁴	1986	1985 ⁴
General liability	£2,563,037	£2,269,429	£2,750,819	£2,490,917	-£187,782	-£221,488
Ships damage & liability	2,026,740	1,834,950	1,730,168	1,638,156	296,572	196,794
Property damage	1,257,621	1,027,585	730,651	738,948	526,970	288,637
Aircraft	765,732	577,478	499,458	496,298	266,274	81,180
U.K. motor	572,652	510,479	563,341	531,322	9,311	-20,834
Goods in transit	456,045	426,481	400,460	359,596	55,585	66,885
Accident & health	229,748	204,734	180,867	177,791	48,881	26,943
Overseas motor	49,289	49,863	53,035	49,948	-3,746	-85
Life	4,185	4,771	3,335	3,553	850	1,218
Pecuniary loss	1,062	1,132	652	869	410	263
Totals	7,926,111	6,906,902	7,276,654	7,099,561	1,103,325	419,504
Names' personal expenses ⁵					363,868	223,949
Names' pretax profits					649,457	195,555

¹ Exchange rates: British pound = \$1.81 (1986); \$1.88 (1985)

² Net premiums, reinsurance premiums from previous accounts, investment income, currency exchange.

³ Net claims, reinsurance premiums to close the account, syndicate expenses.

⁴ Restated

⁵ Subscriptions & levies, agents' fees, profit commissions.

Source: Lloyd's of London

Chart: Holly Seguire

Preventing insurer insolvencies

NAII pushes tougher regulations

By JUDY GREENWALD

DES PLAINES, Ill.—The National Assn. of Independent Insurers plans to mobilize support for nearly two dozen state statutory and regulatory changes involving insurance company solvency monitoring, liquidation procedures and guaranty funds to stave off federal regulation of the insurance industry.

Among the wide-ranging changes sought by the NAII, and which are contained in a report prepared by a special task force, are implementing flexible insurer examination schedules so regulators can focus on troubled insurers; setting time limits on both rehabilitation and liquidation periods; and excluding guaranty fund coverage for claimants with a net worth exceeding \$10 million.

"The task force's examination of solvency regulation comes at a time when critics of the industry are suggesting federal legislation to protect consumers from insurer insolvencies," the report states. "The great challenge facing the industry today is to improve state solvency regulation and thereby eliminate the need for federal action."

The report notes that more than 150 property/casualty insurers have become insolvent since 1969, with almost half of these insolvencies occurring during the past five years.

However, despite efforts by the National Assn. of Insurance Commissioners, "too few states have initiated improvements, leaving the current guaranty fund system to cope with increasingly frequent and complex insolvencies which are confounded

further by disparate state laws," according to the report.

The task force says its recommendations are intended to "fine-tune a system that has serviced the American public well for 130 years but is facing some changes that require new approaches."

The NAII is now awaiting responses from a broad range of insurance-related associations to which it sent the task force's report for comment, said John B. Crosby, NAII senior vp and general counsel.

The NAII then plans to hold a meeting of public officials and industry representatives to develop specific legislation and regulations to improve solvency regulation, Mr. Crosby pointed out.

He noted that the NAII also plans to work "much more closely" with its member companies and local NAII counsel to implement the recommendations contained in the report, "Insurer Insolvency: Public Policy Recommendations for Improvement."

NAIC President and Nevada Insurance Commissioner David Gates generally gave the report high marks. "On the whole, I think I would grade this as a very good report," he said.

Mr. Gates also said the NAIC would "very seriously" consider participating in the proposed meeting.

Other organizations that have been asked to comment on the report include: the Alliance of American Insurers, the American Assn. of Managing General Agents, American Insurance Assn., the Independent Insurance Agents of America, the National Assn. of Insurance Brokers, the National

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Require more capital, professor suggests

By MARK A. HOFMANN

DENVER—Many insurer insolvencies could be prevented by monitoring insurer growth more closely and making licensing requirements more strict, an insurer insolvency expert contends.

Higher capitalization requirements for new insurers and tough character tests of company officers also would help cut the number of insolvencies stemming from fraud, according to Dan R. Anderson, professor of risk management and insurance at the University of Wisconsin at Madison.

Mr. Anderson made his remarks during a panel discussion on insurer insolvency at the annual meeting of the American Risk & Insurance Assn. held Aug. 20-23 in Denver.

The meeting drew insurance and risk management scholars from around the nation.

Mr. Anderson contends that there are several factors common to many insurer insolvencies, including that the financially troubled insurers:

- Grew too rapidly because of what Mr. Anderson called "management by premium volume."
- Inadequately supervised their agents.
- Engaged in improper underwriting.
- Inadequately priced coverage they sold.
- Were granted licenses in multiple states without having to meet significant solvency tests.
- Inadequately reserved for losses.

"Not every single company has every one of these characteristics, but there's a surprising amount of overlap," he said.

Several measures, though, could help reduce the number of insurer insolvencies, he said.

The first step would be to set an annual limit on premium growth, he said, noting that an annual

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State sues Miro over Anglo-American failure

By DOUGLAS McLEOD

BATON ROUGE, La.—The Louisiana Insurance Department is suing Carlos I. Miro and several companies he purportedly controls to recover \$38.5 million owed to Anglo-American Insurance Co., a Louisiana-domiciled property/casualty insurer ordered into liquidation in March.

In three separate lawsuits filed Aug. 29 in U.S. District Court in Baton Rouge, the Louisiana department charges that Mr. Miro used a network of shell corporations to drain millions of dollars from Anglo-American after he established the insurer in August 1986.

The suits charge that Mr. Miro used several mechanisms—including management fees, reinsurance agreements and loans—to funnel large sums of cash to himself and to the affiliated companies named in the complaints.

The Louisiana-based Anglo-American is unrelated to Anglo-American Insurance Co. Ltd., a London insurer managed by H.S. Weavers (Underwriting) Agencies Ltd.

The Insurance Department's allegations mirror charges leveled against Mr. Miro earlier this year during a congressional hearing into the failures of Anglo-American and Transit Casualty Co. (BI, April 10).

Transit, ordered liquidated in 1985, suffered tremendous losses on business Mr. Miro produced as a managing general agent for the insurer.

Mr. Miro's errors and omissions insurer subsequently paid \$9 million to settle charges that he had defrauded Transit (BI, July 11, 1988).

In an April 5 hearing before the House Oversight and Investigations Subcommittee, a Louisiana Insurance Department examiner charged that after Transit's collapse, Mr. Miro set up and operated Anglo-American as a "cash cow," intended to "rake in as much cash as possible with a view toward siphoning off as much of that cash as

the owners could get away with before the books were examined."

Mr. Miro subsequently issued a written statement denying any wrongdoing related to either Transit or Anglo-American.

J. Albert Kroemer, Mr. Miro's Dallas-based attorney, said he does not "anticipate any ultimate finding of liability against Mr. Miro in any respect" in the Louisiana litigation.

Mr. Kroemer, who is with the law firm of Maloney & Smith, also denied that Mr. Miro controls all of the corporations named as defendants in the department's three suits. Mr. Miro does control some of the corporations, but Mr. Kroemer said he does not know

how many.

Mr. Miro could not be reached for comment.

Anglo-American, licensed in August 1986 with \$1.5 million in initial capital, was owned by Anglo-American Insurance Group Inc., a holding company. Anglo-American Group was 66% owned by Mr. Miro, and the remaining shares were divided between partners Sheldon H. Irion and David M. Vaughn.

Before it was ordered into rehabilitation on Jan. 25, Anglo-American had written gross premiums of \$56 million since its inception, consisting mainly of workers compensation coverage.

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PCW shortfall

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Reinsurers are questioning up to 42 million pounds (\$64.7 million) of claims already paid by the syndicates, and there is uncertainty surrounding nearly 192 million pounds (\$295.7 million) of further possible reinsurance recoverables, Lioncover's annual report shows.

Lioncover was established by Lloyd's two years ago to assume PCW's future liabilities for a premium of 134 million pounds (\$206.4 million) (BI, April 13, 1987).

Lloyd's contributed 44 million pounds (\$67.8 million) to the original settlement premium paid to Lioncover, while other organizations connected with the PCW syndicates—including 26 members' agencies, accounting firms, law firms and brokerages—contributed another 55 million pounds (\$84.7 million), leaving members of the

syndicates to pay the remaining 35 million pounds (\$53.9 million).

At the time, Lloyd's predicted that the settlement would be "sufficient to meet future liabilities as they arose," Lloyd's stated in the global accounts for the 1986 underwriting year published last week (see story, page 3).

However, "in the event that these funds prove to be inadequate, the shortfall is to be met from the Central Fund," it adds.

Although a shortfall of 25 million pounds (\$38.5 million) was identified by Lioncover's directors last year following an audit of the company's first year of operation in 1987, the money was not sought from Lloyd's because of uncertainties still surrounding the accounts, said Mr. Gaynor.

PCW managed more than 50 syndicates with a total of more than 500 separate underwriting years, complicating the effort to establish the syndicates' total liabilities, he explained.

During 1988 Lioncover agreed to cover the liabilities of an additional 14 syndicate members and agreed to run off some additional business written by two PCW syndicates between 1967 and 1969, the accounts show.

Lioncover's shortfall increased

fall of 30 million pounds from the Central Fund, he said.

Meanwhile, the PCW syndicates "had substantial reinsurance programs and the underwriting position of the syndicates is heavily dependent on the recoverability of claims under such programs," the

'Certain reinsurers indicate that they are not prepared to settle claims until they receive further information concerning the premium income of the syndicates in the period 1967 to 1983,' Ernst & Whinney's report explains.

during 1988 by 5 million pounds (\$7.7 million) to 30 million pounds.

Establishing the syndicates' gross liabilities has "now been substantially" completed, Mr. Gaynor said. Therefore, Lioncover directors and the Council of Lloyd's decided to meet the short-

accounts for 1988 state.

A comprehensive review of all past and future reinsurance recoveries now is in progress, the report adds.

"Until such time as that review is completed, there remains uncertainty as to whether the gross

amounts due from reinsurers of 42 million pounds (\$64.7 million) included in current assets and the further amounts of 192 million pounds (\$295.7 million) deducted from outstanding claims fairly represent the amounts recoverable," according to the report by Lioncover's auditor Ernst & Whinney.

"Certain reinsurers indicate that they are not prepared to settle claims until they receive further information concerning the premium income of the syndicates in the period 1967 to 1983," the auditor's report explains.

Reinsurers believe former PCW underwriter Peter Cameron-Webb understated the amount of premium volume he wrote when he purchased reinsurance for the syndicates, Mr. Gaynor said.

Until the controversy over reinsurance recoverables has been resolved, "we are unable to express an opinion as to the adequacy or otherwise of the insurance fund or whether the amount due under the Lloyd's bond (the 30 million pounds) is fairly stated," Ernst & Whinney states in a qualification to the Lioncover accounts.

According to the accounts, gross outstanding claims—including reserves for losses incurred but not reported—total 553.4 million pounds (\$852.2 million). Subtracting 191.9 million pounds (\$294.3 million) for reinsurance recoveries and 87.1 million pounds (\$134.1 million) for future interest credits, less management expenses, necessary reserves total 274.4 million pounds (\$422.6 million).

The insurance fund, or reserves, brought forward from 1987 to 1988 totalled 294.4 million pounds (\$453.4 million), including a 25 million pound (\$38.5 million) shortfall due to be met by Lloyd's.

During 1988, Lioncover received premiums of 12.9 million pounds (\$19.9 million) and paid claims of 46.2 million pounds (\$71.1 million). Other income, including investment income, totalled 15.3 million pounds (\$23.6 million), while expenditures totalled 7.1 million pounds (\$10.9 million), leaving a further shortfall of 5.1 million pounds (\$7.9 million) to be met by Lloyd's.

Payment of the 30 million pound shortfall will reduce Lloyd's Central Fund to 274 million pounds (\$422 million) from 304 million pounds (\$468.2 million), according to Lloyd's global accounts.

However, the Central Fund likely will be further reduced as dozens of Lloyd's members this year are expected to be unable or unwilling to meet their losses.

For example, up to 10 million pounds (\$1.54 million) may be needed to pay members' liabilities for syndicate 317/661 managed by R.H.M. Outhwaite (Underwriting Agencies) Ltd.

Underwriter Richard Outhwaite earlier this year asked syndicate members to pay 64.8 million pounds (\$99.8 million) to help cover liabilities totaling hundreds of millions of pounds stemming from runoff reinsurance policies he wrote in the early 1980s (BI, June 5).

So far, between 52 million pounds (\$80.1 million) and 55 million pounds (\$84.7 million) has been paid by the members, which an Outhwaite agency spokesman called very encouraging.

However, he could not predict how much more members will pay.

Meanwhile, the Council of Lloyd's last week agreed to postpone legal action against members who are willing to meet their underwriting losses but who are unable to do so.

"Lloyd's does not wish to bankrupt a member of Lloyd's who is unable to meet his underwriting losses where that member cooperates with the society over the arrangements for the settlement of the debt," said Lloyd's Chairman Murray Lawrence.

The council is setting up a special committee to review so-called "hardship cases."

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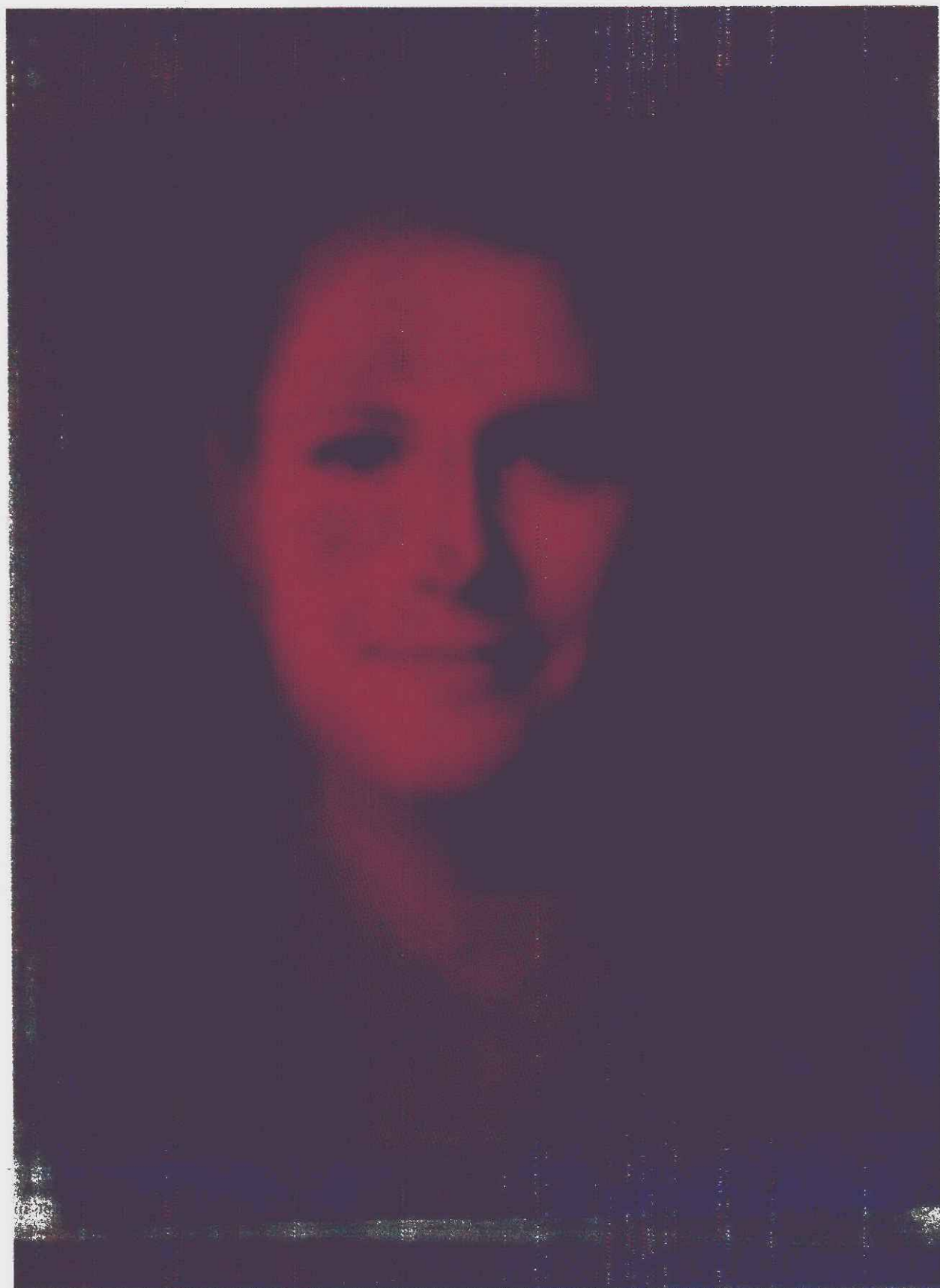


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Chrysler unit improves health benefits

By **DONNA DiBLASE**
and **MICHAEL SCHACHNER**

Benefit beat

HIGHLAND PARK, Mich.—Improved health care benefits are included in a new three-year contract covering 2,400 unionized production and maintenance employees of Chrysler Corp.'s Diamond Star Motors division, according to a spokesman for the United Auto Workers union in Detroit.

Under the new agreement, which was ratified late last month by 76.5% of Diamond Star Motors' rank-and-file employees, workers' out-of-pocket costs are reduced under both a traditional indemnity plan and a preferred provider organization.

The self-insured plans are administered by Blue Cross & Blue

Shield of Illinois and Blue Cross & Blue Shield of Michigan.

Beginning Nov. 1, the UAW members no longer will pay deductibles under the PPO and will pay only minimal copayments for physician office visits. Previously, employees in the PPO paid annual deductibles of \$100 per individual and \$300 per family, plus a 10% copayment up to a maximum out-of-pocket expense after the deductible of \$1,000 for single coverage and \$2,500 for family coverage.

Annual maximum out-of-pocket expenses also are reduced for employees who do not use PPO providers.

Beginning Nov. 1, these costs are limited to \$500 per individual and \$1,000 per family, down from \$2,000 per individual and \$6,000 per family.

There is an annual deductible of \$100 per individual and \$300 per family when non-PPO providers are used.

In addition, employees' copayment for prescription drugs is reduced to \$3 per prescription under the new contract from \$6.

And, beginning Sept. 1, 1991, an exclusive provider organization to be administered by Blue Cross & Blue Shield of Illinois will be implemented that will cover 100% of medical expenses if employees use

the network providers.

Dental benefits also are improved under the agreement so that coverage of restorative services will be increased to 90% from 60% beginning Sept. 1, 1990.

The annual limit on dental coverage under the plan will be increased to \$1,100 from \$1,000 on Jan. 1, 1991.

Spending accounts

Proposed health care flexible spending account regulations may force many employers to either cancel or curtail the benefit, according to a recent survey.

The regulations proposed by the Internal Revenue Service would require employers to reimburse employees for claims against their health care flexible spending ac-

counts, even if an employee has not yet accumulated sufficient funds in the account to cover the claims.

The regulations propose that employers assume an insurance risk in providing employees with health care spending accounts, which permit employees to set aside pre-tax dollars from their salaries in order to pay for medical expenses not covered by standard group insurance.

Employers would only be responsible for expenses up to the employee's annual FSA limit (BI, June 5, March 6, Jan. 30).

Forty-seven percent of the 321 companies that responded to a survey by New York consultant Williams, Thacher & Rand said they would eliminate health care spending accounts if the proposed regulations take effect in 1990 as planned, the survey reported.

In addition, 37% of respondents would reduce the amount an employee could defer to an account if the proposal is approved, the survey found.

Critics of the IRS proposal see it as a way to discourage employers from offering health care spending accounts, thus eliminating the pre-tax payroll deductions employees can take.

The survey also reported that among companies planning to establish health care spending accounts in the future, 72% said they would not offer the benefit if the IRS proposal goes into effect. Only 16% of those currently offering health care spending accounts said they would continue to offer the plan if the proposal is implemented.

The survey also found that among companies currently providing health care spending accounts, 69% said the accounts were effective in containing health care costs.

For more information on the survey, contact Diane Del Mastro; Williams, Thacher & Rand, 630 Third Ave., New York, N.Y. 10017; 212-949-1344.

BC/BS survey

The average cost of an outpatient medical visit increased 12.2% in 1988 to \$166 from \$148 in 1987, according to a survey of 73 Blue Cross & Blue Shield Assn. health insurers.

BC/BS also reported that the number of outpatient visits per 1,000 members increased 8% in 1988.

Meanwhile, inpatient admissions fell 3.4% in 1988 as BC/BS plans paid an average of \$611 per day for inpatient stays, an 11.7% increase from the \$547 average cost in 1987.

These results come as part of BC/BS's annual report of yearly and five-year inpatient and outpatient data.

Since 1983, hospital admissions decreased 21.3% and the average length of stay decreased 3.2% to 6.01 days in 1988 from 6.21 days in 1983.

Also, the number of outpatient visits since 1983 rose 35%.

During the five-year span, the average cost of an outpatient visit jumped 61.2% to \$166 in 1988 from \$103 in 1983.

The average cost per day for inpatient service climbed 62.5% from \$376 in 1983.

Patty Armocida, director of utilization management at Chicago-based BC/BS Assn., attributed the decline in the rate of hospital admissions to successful shifting of care to outpatient facilities and effective management of hospital services utilization.

The survey is not available to the public.



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Opinions

Preserve ERISA's legacy

THE 15th ANNIVERSARY of the signing of the Employee Retirement Income Security Act is a time to celebrate the law's accomplishments, but it also is a time of concern about the law's future.

Clearly, there is much to celebrate.

Fifteen years ago, when then-President Ford signed ERISA into law, the nation's pension system was in disarray. Inordinately long vesting requirements at many companies meant pension benefits often were promises that were unlikely to be delivered. And, if a company collapsed and hadn't properly funded its pension plan, retirees who had worked for decades for the company could—and often did—lose their pension benefits.

ERISA put an end to those problems. Liberalized vesting rules have meant that workers will collect pension benefits after a reasonable number of years on the job. And, the establishment of the Pension Benefit Guaranty Corp. has ensured that vested employees and retirees will receive the bulk of the benefits promised to them, even if their employers go out of business and fold their pension plans.

At the same time, new funding rules, later beefed up by a 1987 law, have helped ensure that most defined benefit pension plans have sufficient assets to honor their promises.

And, other changes in federal law since the enactment of ERISA also have strengthened the private pension plan system.

The Retirement Equity Act of 1984, for example, liberalized minimum age participation requirements to give younger women, who often have to stop working to raise a family, a better chance to earn a pension benefit.

In addition, the Tax Reform Act of 1986 modified pension integration rules to prevent pension benefits from being excessively offset or reduced by the Social Security benefits received by retirees. And, the tax reform law further lowered vesting requirements to as little as five years, a recognition that ERISA's 10-year vesting standard had become obsolete among an increasingly mobile workforce.

While ERISA and laws that have since amended ERISA have created more stringent rules, those rules have not stunted the growth of the nation's private pension plan system.

Since ERISA's enactment, the number of both employer-sponsored defined benefit and defined contribution pension plans has more than doubled to about 900,000.

At the same time, the number of participants in those plans has, according to the Employee Benefit Research Institute, climbed by more than 30 million. In 1987, the last year complete information is available, employer-sponsored plans covered more than 76 million persons, compared with about 44 million in 1975.

Numbers aside, ERISA's crowning achievement is that it has boosted the public's confidence in its pension plans and thus quelled demands for a federal takeover of pension plans or costly expansions of the Social Security program.

But ERISA's 15th anniversary also is a time of concern. Instead of wanting to build on ERISA's achievements, a number of congressmen and their staffs seem intent on tearing down all that the law has accomplished.

The House Education and Labor Committee, for example, has passed a legislative package, which could be called "The Pension Destruction Act," which would require employers to share control of pension plan assets with participants, pay unprecedented and exorbitant pension filing fees and ban reversions of surplus assets when employers terminate overfunded pension plans.



The message the committee is delivering to employers is quite clear: Employers will have to give up control of their pension plans even though they still will have to pay all benefits; they will have to pay fees for filing federally required forms and reports that probably won't even be read; and if their defined benefit pension plan investments do poorly, they will have to make additional contributions, but if investments do better than expected and the plan then is terminated, they can't recover the surplus.

When employers hear that message, it won't be a surprise if they begin to abandon their pension programs.

If plans fold in large numbers, all of ERISA's many accomplishments could be lost. If pension plans shrink, what will there be left to protect?

The legislative process in which these destructive proposals are being considered also is cause for concern.

Instead of being debated as freestanding bills, these proposals have been attached to much broader pieces of legislation where the proposals get little scrutiny. Congressional staffers, pursuing their own private agendas, know that these proposals could not survive on their own and thus tack them onto larger measures where they become much harder to remove.

By contrast, ERISA was put together over the course of many years. Solutions were proposed only after specific problems had been identified. It is for that reason ERISA has stood the test of time.

We're also concerned about the total lack of congressional leadership on pension issues. While a group of dedicated congressmen—including the late Sen. Jacob Javits, R-N.Y., and former Sen. Harrison Williams, D-N.J., and Rep. John Erlenborn, R-Ill.—worked arduously to make ERISA a reality, one is struck by the virtual vacuum of influential and responsible congressional leadership today on pension issues.

ERISA and the private pension plan system it protects have proven resilient to numerous attacks. But even the strongest structure will topple if it is jolted by too many tremors.

That cannot be allowed to happen. Indeed, as the number of retirees grows explosively in the years ahead, the importance of private pension plans will become even greater.

With that challenge ahead, we hope ERISA's 15th anniversary will begin a new era in which legislators will look for new ways to encourage the growth of the private pension plan system rather than tear it down.

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Benefit proposals

Continued from page 1

Section 89 must be overhauled. And that consensus bodes well for imminent reform, they say.

"There is a wide belief among many members of Congress that Section 89—while well-intentioned—must be overhauled," said Stuart J. Brahs, vp-federal government relations in the Washington, D.C., office of The Principal Financial Group.

While there are differences in the Rostenkowski and Bentsen Section 89 reform bills, these differences are relatively minor and should be quickly worked out in a congressional conference committee, experts say.

"The two versions of Section 89 are very close. That should speed the deliberations of congressional conferees," said Eric Grossman, a consultant in the Stamford, Conn., office of The Wyatt Co.

Both the Rostenkowski and

Bentsen proposals adopt a "design-based" approach to discrimination testing. Under this approach, discrimination is tested by comparing health care benefits that are available to highly compensated and lower-paid employees.

to all employees can be found to be discriminatory simply because too many highly compensated employees sign up for coverage.

The Rostenkowski and Bentsen bills include similar non-discrimination tests. Those tests include:

- A 90% test. Under this test,

There is a possibility that Congress could repeal the current Section 89 statute. 'The undercurrent of repeal may be stronger than some have thought,' says Henry Saveth, a principal with A. Foster Higgins & Co. Inc. in New York.

Benefit experts say that method of testing is much easier and much fairer than the current Section 89 statute, which requires employers to determine which employees are participating in their plans. As a result, under the current statute, a health care plan that is available

"affordable" core health care coverage would have to be available to 90% of all employees.

Under the Bentsen bill, employee premium contributions could not exceed 40% of the total plan premium. However, if an employer limits employees' contributions for

individual coverage to less than 40% of the total cost, it could require employees to pay more than 40% of the total premium for family coverage.

Under the Rostenkowski bill, core health care coverage also would have to be offered to 90% of all employees, while generally the employee premium contribution for either individual or family coverage could not exceed 50% of the total premium (BI, July 17).

- A benefits test. Under this test in both bills, a plan that only is available to a limited class of employees would be considered non-discriminatory if the cost of coverage is no greater than 133% of the cost of a core health plan available to all employees.

Both bills contain special procedures for applying the 133% test to flexible benefit plans that are funded through salary reduction.

In addition, the two measures make it easier for employers with lots of part-time employees to pass

the non-discrimination tests, and both would delay much of Section 89 compliance until Jan. 1. The current Section 89 statute, under a notice the IRS issued earlier this month, is supposed to go into effect on Dec. 1 (BI, Sept. 4).

While the "smart money" may be betting on Section 89 reform, benefit experts say there is a possibility—albeit a slim one—that Congress could repeal the current Section 89 statute in the coming months.

"The undercurrent of repeal may be stronger than some have thought," said Henry Saveth, a principal with A. Foster Higgins & Co. Inc. in New York.

Already, Sen. Robert Kasten, R-Wis., is vowing to lead the battle for Section 89 repeal, while some business groups say repeal remains a distinct possibility.

"Repeal remains very much alive," said Sharon Canner, director of employee benefits at the National Assn. of Manufacturers in Washington, D.C.

Others, though, say congressmen voting for Section 89 repeal would incur the wrath of the powerful Rep. Rostenkowski of the Ways and Means Committee, a prospect that many members would shy away from.

"It would be hard for members to go up against Chairman Rostenkowski," said Mr. Saveth of Foster Higgins.

"Repeal of Section 89 is not something I would put in the likely bucket," added Wyatt's Mr. Grossman.

"While the likelihood of repeal may have gone up a notch, I still don't think it will happen," concurred Gerald Uslander, a principal in the Louisville, Ky., office of William M. Mercer Meidinger Hansen Inc.

While employers have been keenly following what has been a seemingly interminable drive to overhaul Section 89, they now also are closely watching a controversial new piece of benefit legislation. That bill would boost the penalties assessed against employers for violations of the health care continuation provisions contained in the Consolidated Omnibus Budget Reconciliation Act of 1985, as well as expand COBRA coverage.

Benefit experts during the August congressional recess discovered the new COBRA provisions, neatly tucked away in a budget reconciliation bill approved by the House Education and Labor Committee.

Under the current COBRA statute, the Internal Revenue Service generally can impose an excise tax of \$100 for each day an employer fails to properly extend COBRA coverage to each beneficiary. The Treasury Department has authority, in certain situations, to waive those penalties, while penalties are not imposed for inadvertent violations that are quickly corrected.

Under the Education and Labor Committee proposal, the Department of Labor also would be allowed to slap employers with COBRA penalties paralleling the IRS penalties.

For example, if the IRS imposed a \$10,000 fine on an employer because it failed to properly extend COBRA to 100 beneficiaries for 100 days, the Labor Department could impose a matching fine.

Benefit lobbying organizations are outraged by the proposal, which they say is unnecessary.

"We strongly oppose the imposition of an additional needless penalty, particularly by a bill which is not subject to public hearings. An additional penalty would simply be confiscatory and of no help to plan participants," the APPWP says in a draft position paper.

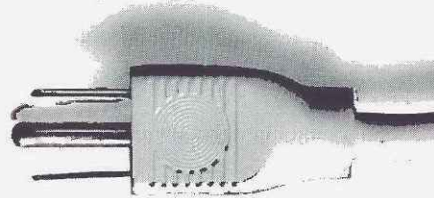
In addition, the House Education and Labor Committee is resurrecting an employer-assailed ex-

Continued on page 12

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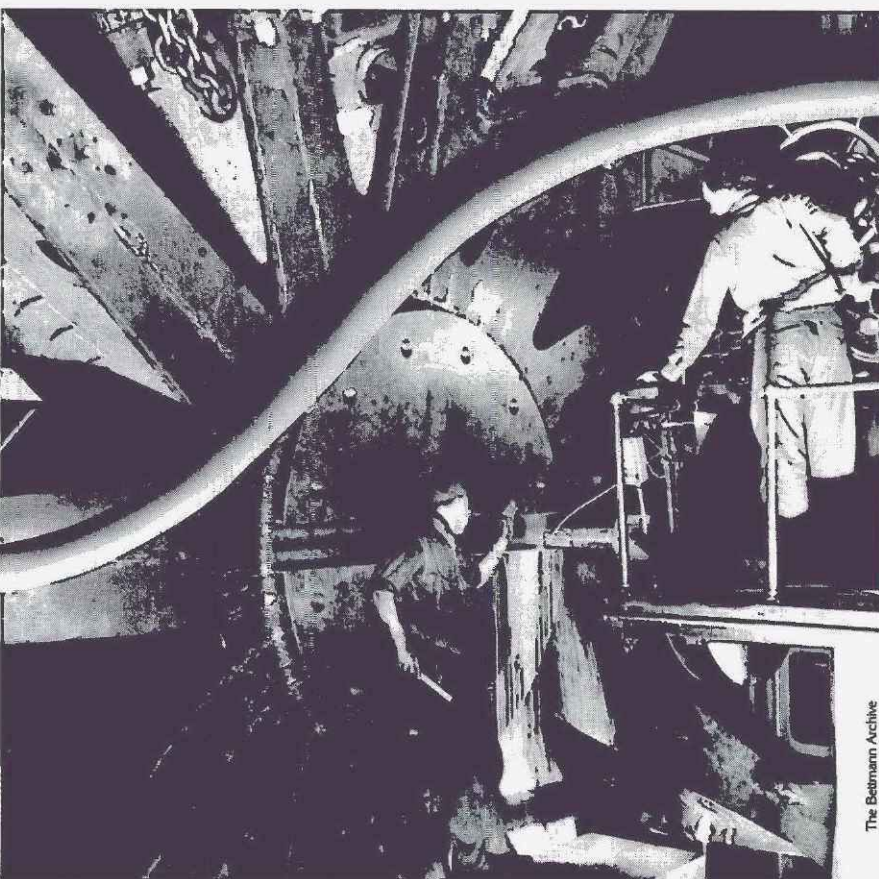
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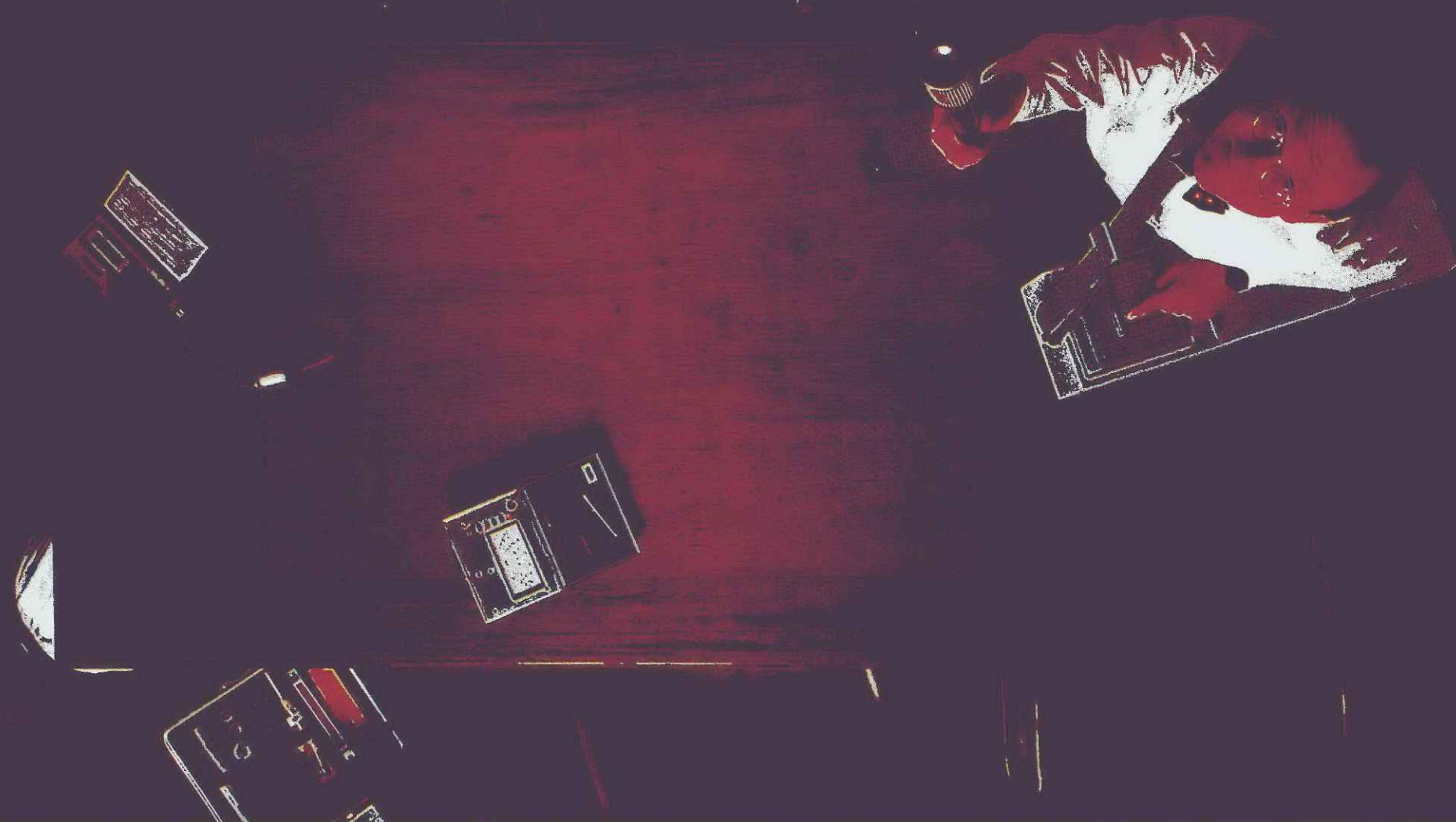
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Benefit proposals

Continued from page 10

pansion of COBRA that died during the previous congressional session.

Under the proposed Education and Labor Committee change, also squirreled away in its budget reconciliation bill, former employees could keep COBRA coverage offered through their old employer while also receiving coverage through a new employer's health care plan.

Under current law, employers can automatically cancel COBRA coverage for former employees when that person is covered under his or her new employer's health care plan.

This provision is much broader than a proposal tentatively approved by the Ways and Means Committee in that committee's budget reconciliation bill.

The Ways and Means Committee proposal only would allow benefi-

ciaries to keep their COBRA health care continuation coverage to pay for pre-existing medical conditions that are not covered under their new employers' health care plans (BI, July 10).

Benefit experts had warned last year that if employees become eligible to receive "double coverage" under COBRA, they would sock former employers with big medical bills.

For example, under one possible scenario, an employee who needs dental work could pay a COBRA premium to his or her former employer for only one month. By then, the employee could have tapped the entire dental plan limit offered by his or her former employer, even though he or she has become eligible for coverage from the new employer.

Essentially, through this double coverage, former employees opting for COBRA coverage would end up with better benefits than other employees.

Benefit lobbyists favor the Ways and Means Committee COBRA proposal, which is targeted to meet a specific problem: preventing former employees from losing their COBRA coverage for medical conditions that will not be covered by their new employer's health care plan.

On the retiree health care front, legislators, in response to a wave of lobbying by angry senior citizens, could act on proposals to shave benefits provided under last year's expansion of the federal Medicare program as well as reduce the big Medicare tax bite imposed on middle- and upper-income retirees.

Under last year's expansion, a retiree's expenses under Medicare Part A, which covers hospitalizations, are capped this year at \$560. Previously, because of Medicare's high deductible and coinsurance requirements, a retiree hospitalized for an extended period of time could have been responsible for thousands of dollars in hospital expenses.

In addition, in 1990, the maximum out-of-pocket expense for Medicare Part B, which covers physicians' services, will be capped at \$1,370; currently Part B pays 80% of covered services.

And, beginning in 1991, a rich new prescription drug benefit will be offered.

While the elderly like the new benefits, they don't like the cost. For example, some middle- and upper-income retirees will pay \$800 in additional taxes on their 1989 tax returns under the new Medicare surtax.

This new tax is especially objectionable to retirees who received similar coverage to that offered under the expanded Medicare pro-

Through double coverage, former employees opting for COBRA would get improved benefits.

gram—at little or no cost—from employer-provided employee health care plans.

Legislators already are responding to retiree pressure. The Ways and Means Committee, as part of its budget reconciliation bill, has tentatively approved a proposal by Chairman Rostenkowski to raise the out-of-pocket limit under Part B to \$1,500 from the scheduled \$1,370, while scaling back the prescription drug benefit.

At the same time, the proposal would reduce the new Medicare surtax the elderly must pay starting with their 1989 tax returns (BI, July 24).

The Senate Finance Committee last week was expected to unveil another proposal that would scale back the expanded Medicare benefits as well as reduce the tax bite on retirees.

Employers have a big stake in the outcome of the congressional debate on Medicare. To the extent that Medicare benefits are reduced, employer-provided retiree health care plans that are coordinated with Medicare to pick up costs not covered by the huge federal program will have to pay more.

Benefit experts expect Congress to reduce the expanded Medicare benefit package approved last year, but they say the cutbacks are likely to be concentrated on the expanded Medicare Part B benefits, which have not yet gone into effect.

They note that Medicare Part A already has been expanded and thus it will be difficult to take away a benefit that already is being offered.

"Because the expanded Part B benefits have not kicked in yet, you

Continued on page 14

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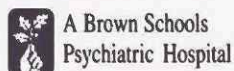
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Benefit proposals

Continued from page 12

don't have the perception that something is being taken away," said NAM's Ms. Canner.

Benefit experts, though, say they don't have an indication of whether there is strong congressional interest in a proposal by the United Auto Workers union to permanently extend the so-called maintenance-of-effort provision introduced in last year's Medicare expansion law.

Under that provision, employers this year must pass along savings generated by eliminating portions of their retiree health care plans that duplicate the expanded Medicare Part A, which covers hospital costs.

The maximum savings that must be refunded to retirees is \$65, according to a notice issued by the federal Health Care Financing Administration.

Next year, employers that reduce

benefits that duplicate the expanded Medicare Part B must pass those savings on for one year. The maximum savings that will have to be refunded is expected to be between \$90 and \$95, benefit experts have said.

While a pack of congressmen are

On the pension side, after years of wrangling, benefit experts are warning that Congress could severely restrict employers from recovering surplus assets when they terminate overfunded pension plans.

Already, the House Education

'There is a sense on Capitol Hill of let's deal with it—asset reversions—and be done with it. We are greatly concerned that some kind of restrictions could pass,' said Ed Gilroy, NAM's associate director of employee benefits and compensation.

expected to renew their drive to repeal the expanded Medicare program, employee benefit experts say the prospects for repeal aren't very bright.

"Repeal is simply something that is hard to believe," said Mr. Saveth of Foster Higgins.

and Labor Committee has approved, as part of its budget reconciliation bill, an asset reversion ban, while the Senate Labor and Human Resources Committee, also as part of a budget reconciliation bill, has approved provisions severely restricting such asset reversions.

While the twin congressional champions of restrictions on asset reversions—Sen. Howard Metzenbaum, D-Ohio, and Rep. William Clay, D-Mo.—have failed in previous efforts, this year could be different.

Benefit experts say that Congress is growing tired of the continuing debate over pension asset reversions and wants to resolve the issue.

"Quite possibly the winds may have changed. There is a sense on Capitol Hill of let's deal with it—asset reversions—and be done with it. We are greatly concerned that some kind of restrictions could pass," said Ed Gilroy, NAM's associate director of employee benefits and compensation.

"We could very well end up with a compromise on asset reversions," said Mr. Brahs.

Benefit experts, though, are fairly confident that a provision in the Education and Labor Committee budget reconciliation bill that would require employers to share control of defined benefit and defined contribution plan assets can be stripped from the final legislation.

They say the proposal is so irrational and is such a fundamental change in the Employee Retirement Income Security Act of 1974 that it cannot survive.

At the same time, employers will mount a major lobbying effort to kill the provision, which is sponsored by Rep. Peter Visclosky, D-Ind.

In fact, a coalition—which includes the APPWP, NAM, the U.S. Chamber of Commerce, the ERISA Industry Committee, and the Financial Executives Institute—has been put together with the express purpose of killing the so-called Visclosky amendment dealing with asset control.

"The business community will mount a formidable campaign to oppose the Visclosky amendment," said NAM's Mr. Gilroy.

"Members of Congress will understand that the Visclosky amendment goes too far," said Mr. Saveth.

"It will fall by the wayside," said Mercer's Mr. Uslander.

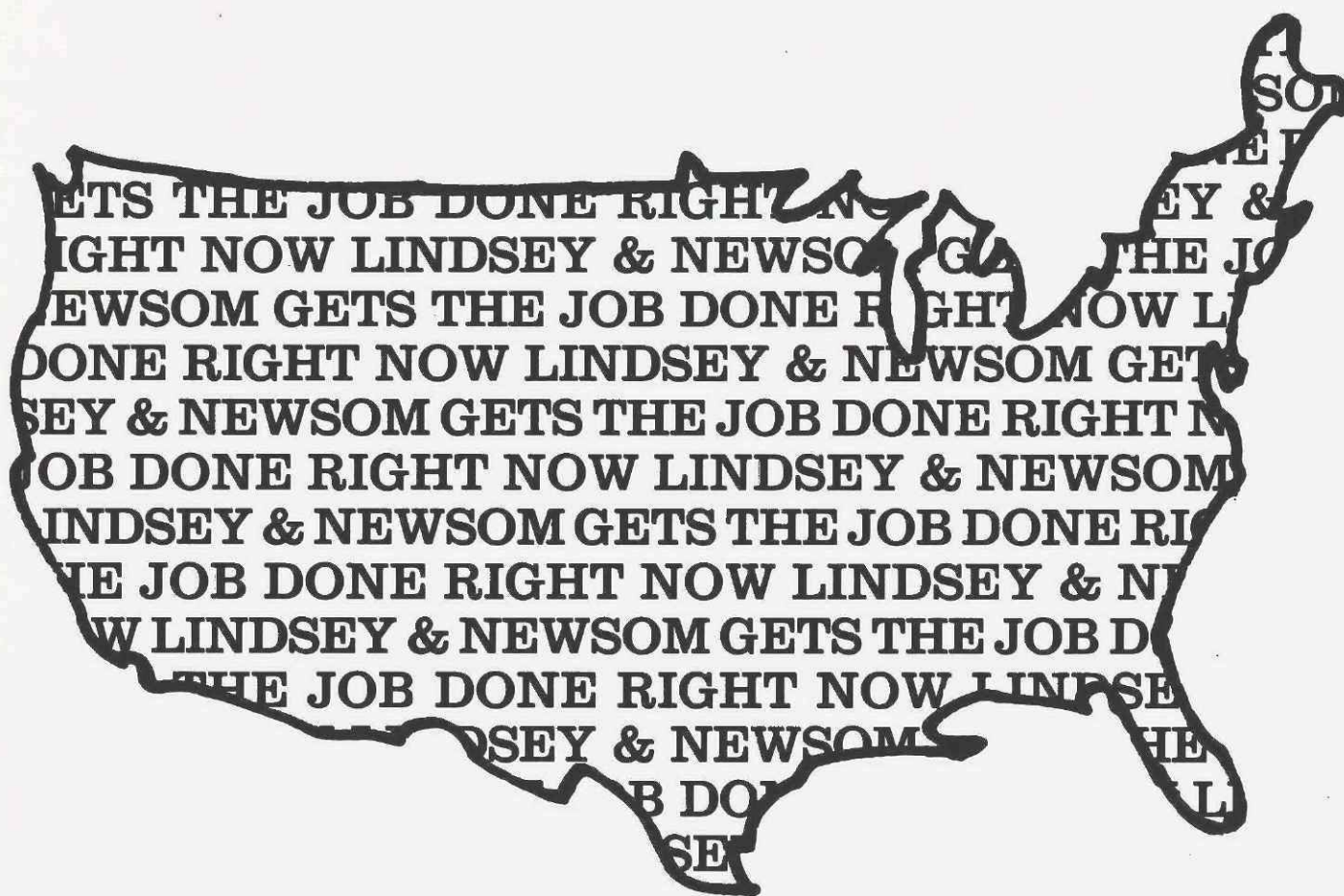
And, a battle lies ahead on provisions contained in bills passed by both the House Education and Labor and the Senate Labor and Human Resources Committee to impose stiff fees—ranging up to \$1,000 per form—on federally required pension and welfare plan reporting forms.

Benefit experts, while declining to predict whether the filing fee proposals will be enacted, say stiff opposition can be expected to come from the congressional tax committees.

Those committees likely will view the fees as a tax and not within the jurisdiction of the labor committees. ■

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Risk management issues not near top of agenda

By JERRY GEISEL

WASHINGTON—No congressional action is expected this year on three issues affecting risk managers and commercial property/casualty insurers: overhaul of the Risk Retention Act; federal product liability reform legislation; and amending the McCarran-Ferguson Act.

Possible changes to the Risk Retention Act are on hold until the U.S. Department of Commerce issues a federally required implementation report on 1986 amendments to the act.

That report is expected to be published in the next few weeks, said Commerce Department staffer Edward Barrett II.

Until the release of that report, which is supposed to examine what problems the Risk Retention Act has caused and suggest possible remedies, Congress will not be interested in discussing changes to the law.

"Everything is on hold until the Commerce Department report is released," said James Anderson, senior director of government relations at the National Assn. of Wholesaler-Distributors in Washington, D.C.

But when the report is published, it could become a guide to assist congressmen interested in resolving problems identified by the report, Mr. Anderson said.

While the recommendations contained in the soon-to-be-released report are not known, Commerce Department staffers last year suggested a number of changes to the Risk Retention Act in a widely circulated discussion draft (BI, Nov. 21, 1988).

Some of those changes include making it clear that only one state—the state that a risk purchasing group declares as its principal place of business—would have the power to regulate the rates and policy forms used by a purchasing group insurer.

Other changes would require an insurer to meet one of several objective standards, like minimum capital and surplus requirements, before it could underwrite coverages on behalf of a purchasing group.

Another change would require purchasing groups to be established and controlled by insurance buyers and not by insurers or brokers or agents, as is often currently the case.

On the product liability side, reform bills have been introduced in the House by Rep. Tom Luken, D-Ohio, and in the Senate by Sen. Robert Kasten, R-Wis., but no hearings on either proposal have yet been scheduled.

Business lobbyists hope that at least one hearing will be scheduled before the end of the year, but they acknowledge that they have received no firm commitment.

And, lobbyists concede that passage of either the Kasten bill or the Luken bill is an extreme long shot during the current congressional session.

"It will take a lot of work on everyone's part to get a bill," said Liberty Mahshagian, an attorney with the Washington, D.C., law firm of Crowell & Moring and co-counsel for The Product Liability Alliance, an organization that advocates federal product liability reform.

Business lobbyists, though, do believe that they have enough votes to gain Senate Commerce Committee approval of the Kasten bill, where 10 of the 20 committee members have signed on as co-sponsors.

On the McCarran-Ferguson front, the House Judiciary Committee has held one hearing on legislation introduced by Committee Chairman Jack Brooks, D-Texas, that would strip the limited immunity insurers now enjoy from federal antitrust law (BI, July 31).

But the committee does not intend to take any action on the legislation until it holds at least one more hearing, said Tom O'Day, associate vp in the Washington, D.C., office of the Alliance of American Insurers.

Insurance industry lobbyists aren't sure about the bill's prognosis.

"There are a lot of iffy votes out there that could go either way," Mr. O'Day said.

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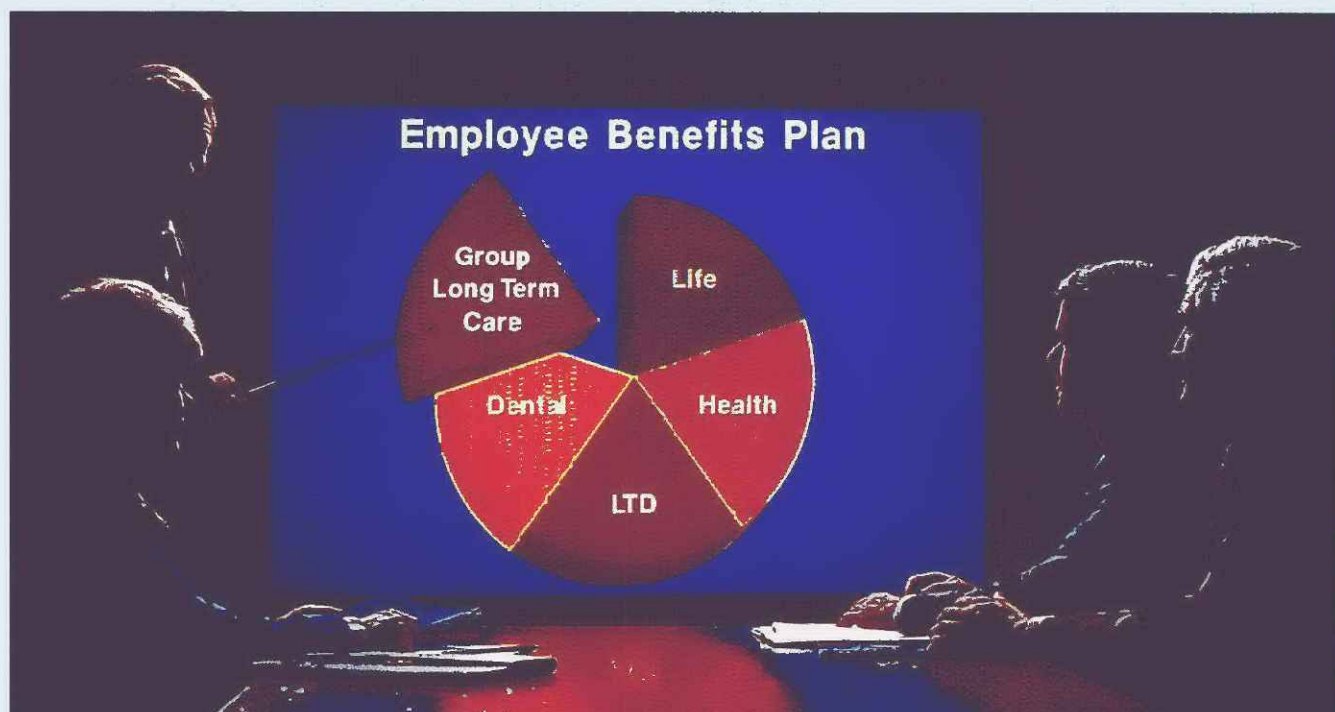
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Hartford dispute

Continued from page 1

Still, Hartford Accident & Indemnity, calling First State's arguments in the Upjohn litigation "an embarrassment," is now asking the federal appellate court and the Michigan Supreme Court, in effect, to ignore First State's arguments.

The Michigan appellate court decision is also haunting Hartford in other pollution coverage cases as policyholders cite First State's argument that the pollution exclusion clause in CGL policies does not bar coverage for gradual pollution incidents.

"This is an embarrassment for the Hartford group of companies," said Hartford Accident & Indemnity attorney Raoul D. Kennedy of Crosby, Heafey, Roach & May in Oakland, Calif.

The Upjohn case has become an industrywide "laugh at Hartford's expense," he lamented.

In the Intel case, the Santa Clara, Calif.-based company is seeking coverage for the cost of a government-mandated cleanup of a spill at its Mountain View, Calif., manufacturing plant.

The case is on appeal to the 9th U.S. Circuit Court of Appeals in San Francisco after a U.S. District Court ruled government-mandated hazardous waste cleanups are insurable under CGL policies (BI, Sept. 26, 1988; June 27, 1988).

The Intel case is being watched closely by both policyholders and insurers because the case marks the first time the 9th Circuit will rule in this type of pollution coverage litigation, attorneys say.

Insurers generally have argued in pollution coverage disputes that the pollution exclusion in CGL policies was intended to bar coverage for all types of gradual pollution, even those unintended by policyholders.

However, in an unusual pollution coverage dispute between Upjohn's property insurers and liability insurers, First State and other Upjohn property insurers advanced a pro-policyholder position on pollution coverage.

As Upjohn's property insurers, First State and several Lloyd's of London syndicates paid Kalamazoo Mich.-based Upjohn a portion of the \$7 million that the pharmaceutical and chemical manufacturer spent to clean up the pollution.

Then, because of their fiduciary duty to their reinsurers, the property insurers filed suit in state court in Detroit seeking reimbursement from Upjohn's liability insurers. In that litigation, the property insurers argued that the pollution exclusion in the CGL policy, which bars coverage for pollution that is not sudden and accidental, is a mere restatement of the definition of an occurrence, which bars coverage for expected or intended events.

The property insurers won their case in a state circuit court, and the Michigan Court of Appeals in May upheld the lower court ruling.

And, despite strenuous arguments from insurers, the Michigan Court of Appeals decided to publish its decision in the Upjohn case on July 24.

But, Hartford Accident & Indemnity is now attempting to renounce First State's arguments before the Michigan Supreme Court and the 9th Circuit.

"First State now wishes to acknowledge its error (and) renounce certain positions taken," Hartford says in court papers.

Hartford filed motions with the 9th Circuit on Aug. 17 asking the court, in effect, to disregard the First State arguments in the Upjohn case.

"The position taken by First State in Upjohn has been retracted and should be treated as a regrettable but inconsequential mistake," Hartford told the 9th Cir-

cuit.

On Aug. 10 Hartford filed a virtually identical motion with the Michigan Supreme Court, which is being asked to review the Upjohn decision.

"Unfortunately, in the course of this lawsuit, First State has taken certain positions at odds with its consistent corporate positions on these issues," Hartford told the Michigan Supreme Court.

"In its capacity as plaintiff and subrogee of Upjohn, First State allowed its name to be attached to Upjohn's arguments, to which it does not subscribe, in both the Circuit Court and the Court of Appeals," the insurer states.

"First State now wishes to ac-

knowledge its error, renounce certain positions taken in those briefs, and clarify before this court its actual position on the pollution-related insurance coverage issues raised by this case," Hartford said in the court papers.

Mr. Kennedy firmly maintains there is nothing in the Upjohn litigation that is relevant to the Intel litigation, or any other pollution coverage case involving Hartford Accident & Indemnity, that would prevent the insurer under the estoppel doctrine from arguing that government-mandated cleanup costs are not insurable under CGL policies.

"It is a false issue," Mr. Kennedy said. "I don't even think First State

would be bound by what happened in Upjohn," he added.

"This is a tempest in a teapot," said insurer attorney Thomas Brunner of Wiley Rein & Fielding in Washington, D.C.

"Some low-level functionary at First State didn't think through the effect of signing on to the Upjohn brief," he said.

A local Michigan law firm originally represented First State in the Upjohn case as a property insurer. However, a different Michigan firm is now representing the company in the case.

A policyholder attorney disagrees that Hartford should be able to reverse First State's position in the Upjohn case.

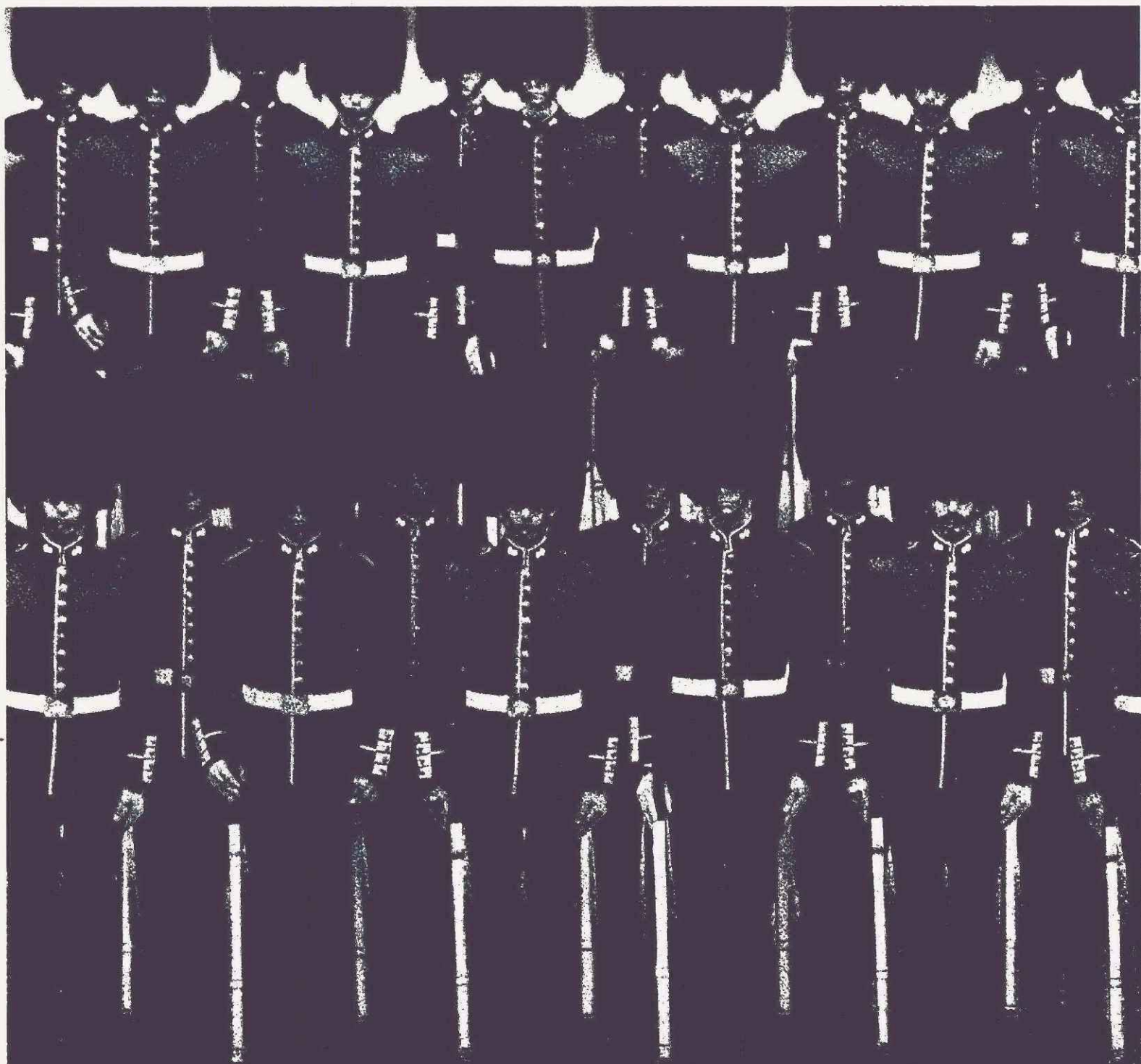
"Insurance companies cannot say one thing in one court and another in a different court," said policyholder attorney Eugene Anderson of Anderson, K.L. Olick & Oshinsky in New York.

Policyholders engaged in other pollution coverage disputes are widely citing the appellate court decision in the Upjohn case.

"You cannot be in a case involving Hartford without hearing about the Upjohn case," Mr. Kennedy said.

"It seems like twice a day, a policyholder cites Upjohn in pollution litigation," he added.

Mr. Anderson agrees: "The Upjohn case has been cited in about 25 cases," he said. ■



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Most agree to Piper Alpha settlement

By CAROLYN ALDRED

LONDON—Nearly all the families of the 167 people who died in the Piper Alpha North Sea oil platform explosion last year have agreed to compensation offered by the platform's operator, Occidental Petroleum International Oil Inc.

So far, 162 families have completed the procedures leading to exact settlement terms and another four families have formally accepted settlement offers, leaving just one family to agree, said an Occidental spokesman.

The total compensation payout to families of the disaster victims exceeds the 100 million pounds (\$154 million at current exchange rates) promised by Occidental last year, said the spokesman (*BI*, Dec. 5, 1988).

One of the first groups of families to finalize terms were the families of eight members of the British trade union, the Transport and General Workers' Union.

Compensation totaling just less than 4 million pounds (\$6.2 million) for dependents of the eight trade

London

union members who were killed in the accident in July 1988 was approved in late August by the Court of Sessions in Edinburgh, Scotland, said a TGWU spokesman.

Meanwhile, 59 of the 62 people who survived the explosion on the oil platform have agreed to compensation offers for injury and loss of earnings, said the Occidental spokesman.

Exact terms of the settlements still have to be reached, he added.

Only one lawsuit has been filed—by a former U.S. citizen who survived the blast—in connection with the explosion and subsequent fire that engulfed the platform, the spokesman said.

New syndicate

Bankside Syndicates Ltd. plans to form a new Lloyd's of London syndicate specializing in British, Irish and international liability insurance.

The new syndicate, subject to Lloyd's approval, will be underwritten by John Murphy, former deputy underwriter for Michael Payne at syndicate 386.

Timothy Butcher will assist Mr. Murphy as deputy underwriter. Mr. Butcher also formerly worked as an underwriter for Mr. Payne.

The new syndicate, which is expected to have a premium stamp capacity of 12 million pounds (\$18 million), will "write a substantial long-tail and non-dollar account," according to the syndicate's prospectus.

It will write worldwide business, except for U.S. and Canadian concerns, and will concentrate on the United Kingdom and Ireland, where about 80% of the syndicate's premiums are expected to be produced, according to the prospectus.

The percentage breakdown of business likely will be about 65% third-party and product liability; 20% employers' liability; 7.5% miscellaneous short-tail liability; 5% professional liability; and 2.5% miscellaneous long-tail liability business.

Time and distance

More and more Lloyd's of London syndicates are purchasing time and distance funding policies to cover future losses.

Currently, 77 syndicates have purchased time and distance policies, an increasing trend that should be of deep "concern" to syndicate members, according to independent Lloyd's analyst Chatset Ltd.

"A T&D or aggregate excess of loss policy is one by which a sum of money or premium is paid to an insurance company on the understanding that a specific amount is returned to the syndicate on predetermined dates," Chatset explains in its 1986 Lloyd's League Tables, published this month.

The sum that is returned is computed by compounding the rate of interest that can be obtained. The premium usually is charged to the year of account the syndicates are closing and the indemnity is deducted from reserves required for future liabilities.

However, the use of such funding policies is causing some controversy, with underwriters in the market taking very different views about the use of time and distance policies, Chatset points out.

"We strongly recommend that names should look carefully at all those syndicates which they are on that have purchased funding policies, and ask themselves if by the purchase of such policies the underwriter has weakened the earning capacity of his fund to the extent that future deterioration in the old years will not be covered by investment earnings," Chatset notes.

The comments are included in the introduction to Chatset's League Tables, which tabulates the results of Lloyd's syndicates for the 1986 underwriting year, the year just closing under Lloyd's three-year accounting system (see story, page 3).

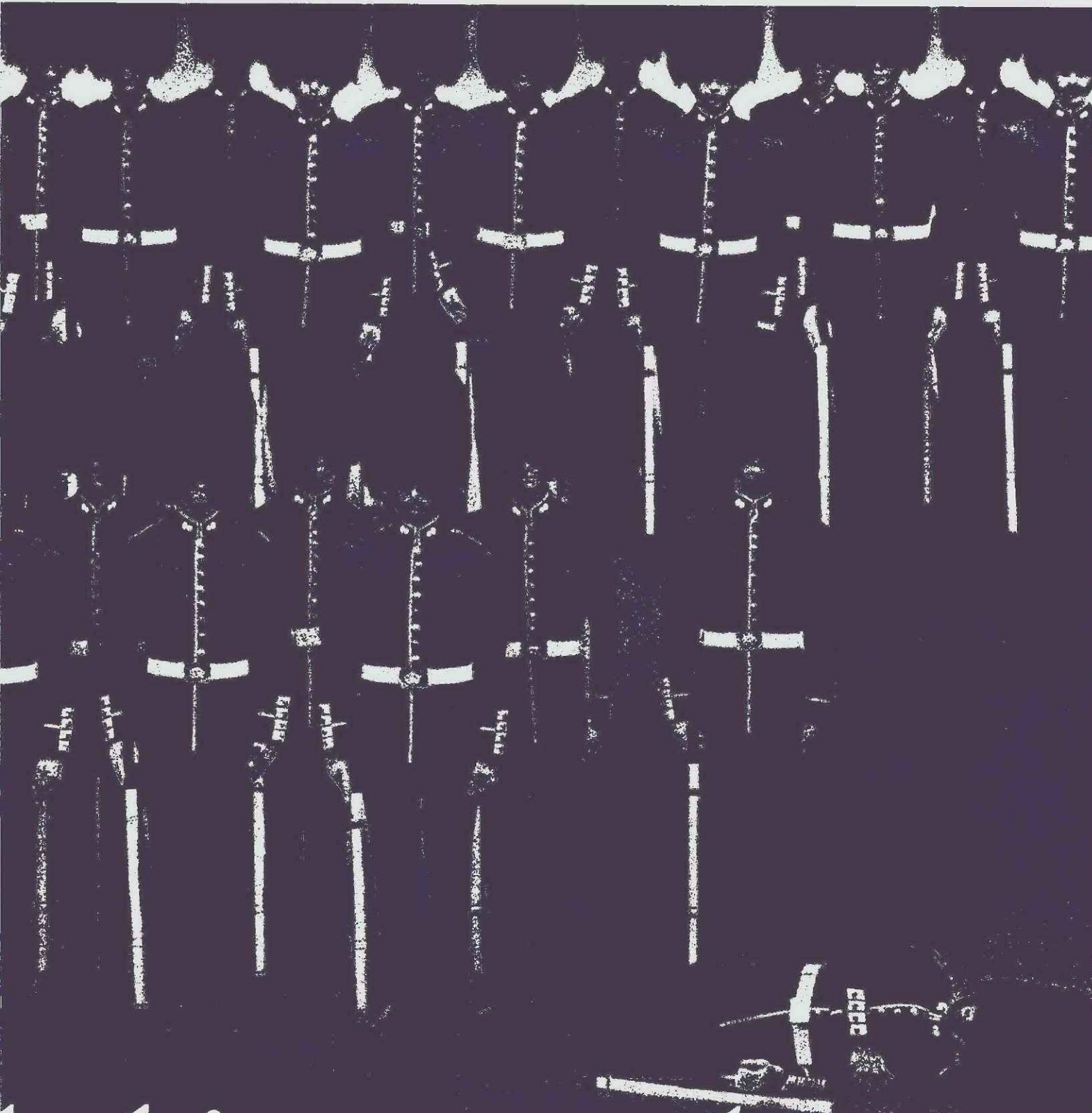
"It should be of concern to names that profits are being paid out now which will reduce future investment earnings and render it hard to meet the shortfalls in old year reserving," Chatset points out.

Copies of the League Tables are available from Chatset Ltd., P.O. Box 661, London, SW1 W8HY; telephone, London 823-6980. The tables cost 45 pounds for British and European residents and \$93 for non-European residents.

New D&O policy

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Continued from previous page
insurance policy for small British companies.

The Executive Protection Policy offers up to 500,000 pounds (\$770,000) of coverage for companies with annual revenues of less than 20 million pounds (\$30.8 million), said a spokesman from Robert Fraser.

Companies with any assets, securities or subsidiaries in North America are not eligible for the insurance coverage.

Recent legislation in the United Kingdom, including the Insolvency Act of 1986 and the 1985 Companies Act, have increased the potential liability of corporate directors and officers.

British directors and officers now can be held personally responsible for the debts of a company in liquidation.

The policy is being marketed by

Professional Risks Ltd., a company owned jointly by Robert Fraser and LUI in Bristol, England.

The policy covers lawsuits brought by or involving:

- An employee against a director or officer.
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Minimum premiums start at 265 pounds (\$408) for limits of 100,000 pounds (\$154,000); 525 pounds (\$809)

for limits of 250,000 pounds (\$385,000) and 1,575 pounds (\$2,426) for limits of 500,000 pounds (\$770,000), he noted.

The policies are underwritten 55% by Walbrook Insurance Co. Ltd. and 45% by Anglo American Insurance Co. Ltd., which are managed by LUI subsidiary H.S. Weavers (Underwriting) Agencies Ltd.

Sedgwick plans

Leading directors of international broker Sedgwick Group P.L.C. will meet early next month to review the Sedgwick's proposed restructuring, which is due to be completed by Jan. 1.

Sedgwick earlier this year announced plans to regroup to increase efficiency, reduce costs and better service clients. Under the new arrangement, administrative functions such as finance, communications, personnel and information technology are being centralized to avoid duplication among the company's

main organizational units (BI, March 6).

The company then will be split into the four main operating units of Sedgwick James Ltd.; Sedgwick Broking Services Ltd.; E.W. Payne Cos. Ltd.; and Sedgwick Lloyd's Underwriting Agents Ltd.

"Early in October the executive committee of the group will be spending three days reviewing our strategy and, in the course of these meetings, approving all the arrangements for the introduction of the new structure," Sedgwick Chairman David Rowland said in a letter to employees on Sept. 5.

Meanwhile, Sedgwick last week announced a slight increase in pretax profits for the six months ended June 30.

The 1989 half-year profit increased to 64.8 million pounds (\$100 million) from 61.9 million pounds (\$106 million at corresponding exchange rate) at June 30, 1988, helped by interest rates and the U.S.-British exchange rate.

However, pretax profit from the United States remained static at 12.6 million pounds (\$19.4 million).

Brokerage revenues including interest and investment income increased to 336.2 million pounds (\$517.7 million) from 319.7 million pounds (\$547.3 million at corresponding exchange rate) during the 1988 corresponding period.

Meanwhile, a further reduction in staff helped maintain expenses, noted Mr. Rowland.

Sedgwick employed 13,107 people in June 1989, down 3% from 13,526 in December 1988. The largest cuts were at the U.S.-based James Group, which included broker Fred S. James & Co. Inc., where a voluntary early retirement plan had helped reduce the workforce by 237 to 6,018 employees.

New GRE names

Guardian Royal Exchange Assurance P.L.C. is planning to add GRE to the names of its U.S. subsidiaries to give the companies a more cohesive image.

GRE currently operates five separate companies in the United States since the acquisitions of specialized, regional insurance companies over many years.

Under the new arrangement, each company will retain its own name, but that name will be prefixed by the letters GRE "so the corporate logo becomes associated with each company," said Nick Feldman, assistant general manager in London.

For example, Midwestern Indemnity Co., based in Cincinnati, will become GRE Midwestern Indemnity Co., he explained.

GRE has "quite ambitious plans" to boost premium revenues from the United States, said Mr. Feldman. However, the company will strive to continue to avoid the "extreme ups and downs" of the U.S. insurance cycle by writing business on a regional and specialist basis, Mr. Feldman added.

U.S. premiums in 1988 amounted to about 150 million pounds (\$271.5 million), less than 10% of GRE's total premium revenues, he said.

Model coverage

British lingerie model Susanne Mizzi has her body well covered—by insurance.

The 21-year-old model purchased a Lloyd's of London insurance policy providing up to 5 million pounds (\$7.7 million) worth of coverage if she is injured.

The personal accident policy, which provides insurance against loss of earnings, has different limits according to the type of injury sustained.

For example, if Ms. Mizzi's face should be scarred, the policy likely will pay the full limit of 5 million pounds, according to her intermediary David Wint Flint, a director and co-owner of London-based Mayfair Heritage Group P.L.C.

However, injuries to her breasts, arms or legs carry a maximum limit of 2 million pounds, said Mr. Flint, who says he specializes in "weird and wonderful" contingency risk insurance coverage.

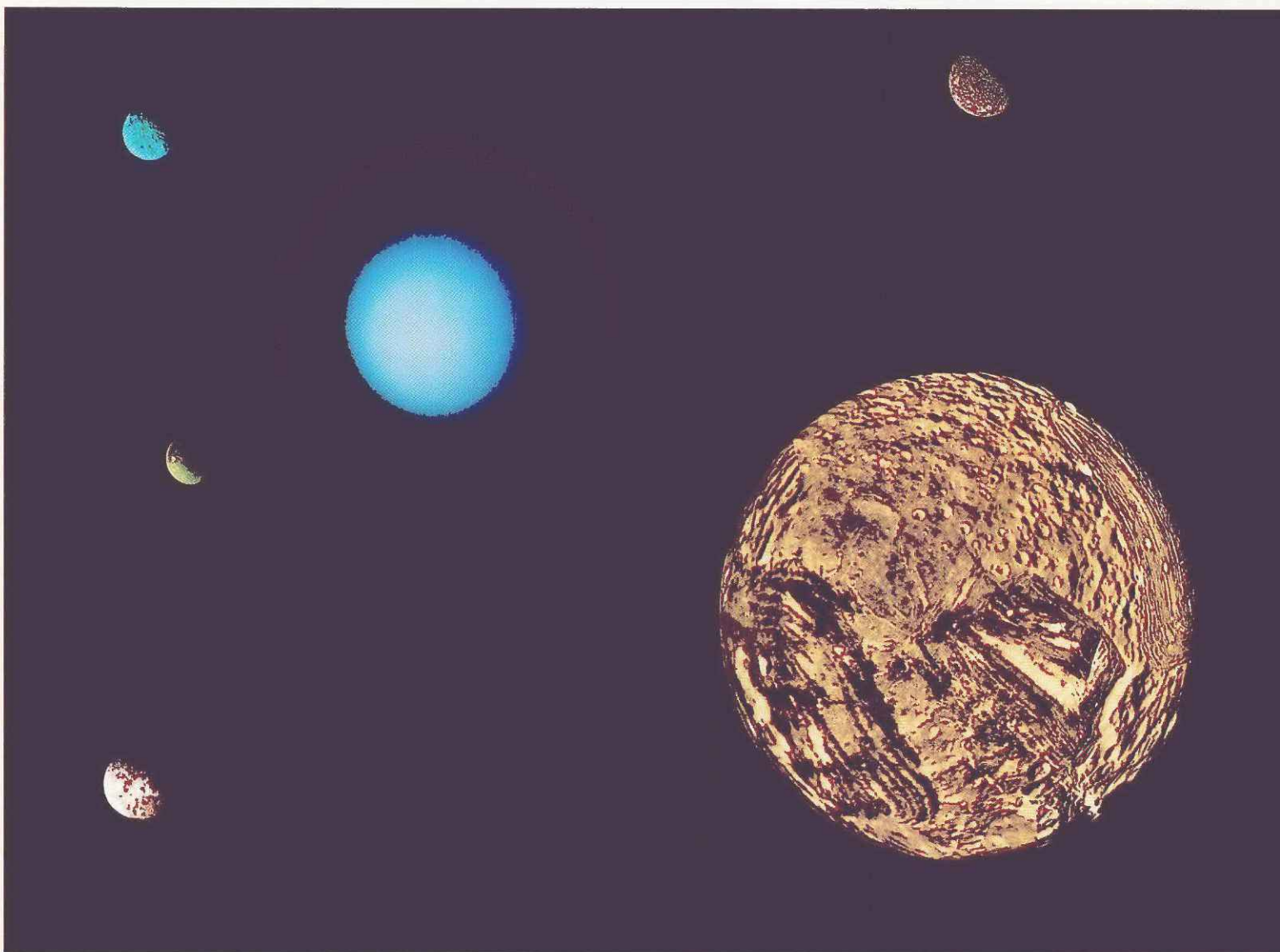
The policy was placed at Lloyd's through the special risks department of Lloyd's broker Halford Shead & Co. Ltd., a subsidiary of Alexander Howden Ltd., and is led by Lloyd's syndicate 782, underwritten by Burt Stratton and managed by Oxford Underwriting Agencies Ltd.

Comings & goings

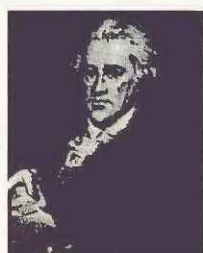
English & American Underwriting Agency Ltd. has promoted **Nigel Edwards** to international treaty underwriter.

Dominic Smyth has been appointed a director of the fine arts and jewelry division of J.H. Minet & Co. Ltd.

Jean-Louis Schembri has been appointed a director of American Re-Insurance Co. (UK) Ltd. ■



CELESTIAL VISIONS



What an awe-inspiring view of Uranus and five of its moons shot by Voyager II in 1986. What breathtaking scientific progress, considering that Uranus was only discovered in 1781. Who accomplished this remarkable feat? It was a son of

Hannover, Friedrich Wilhelm Herschel, who detected the 7th planet. Mankind's unquenchable thirst for knowledge propels us on. We endeavour to recapture his spirit of determination, ingenuity and professionalism in our worldly universe of Reinsurance. May your Reinsurance protection always be under a lucky star.



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Congress urged to set U.S. pension goal

By GLENN HUNTLEY

LAKE TAHOE, Nev.—Congress should set a national policy to assure the stability of pension plans and stop "tinkering" with retirement programs and other benefits through tax legislation, according to an actuary and a former congressman.

A national retirement income policy would prevent future legislation from removing tax breaks and otherwise jeopardizing retirement benefits for millions of Americans, said James A. Curtis, chairman and chief executive officer of Milliman & Robertson Inc., an actuarial consulting firm in Seattle.

"Very few people think an employee should pay taxes on his/her employer's contribution to a pension plan until they begin to receive the benefit," Mr. Curtis commented.

However, Congress seems headed

toward passing tax measures aimed at retirement plans, Mr. Curtis said during the first Corporate Benefits Management conference Aug.



28-29.

The conference was presented by the Brookfield, Wis.-based International Foundation of Employee Benefit Plans.

John N. Erlenborn, a former U.S. representative from Illinois and a partner in the Washington, D.C., law firm of Seyfarth, Shaw, Fairweather & Geraldson, also called for passage of a federal retirement income policy.

"If we could spend half the time we have spent on Section 89 convincing Congress and the president that we need a national retirement income policy, we would get one," Mr. Erlenborn said.

Mr. Curtis said that Internal Revenue Code Section 89, which requires employer-sponsored welfare-type benefit plans to meet non-discrimination standards (see story, page 1), is an example of "stupidity on the part of government."

As an example of a workable national retirement policy, Mr. Curtis cited the Retirement Income Policy Act of 1985, a bill sponsored by Sen. John Heinz, R-Pa., that failed to gain support that year.

The Heinz bill would have linked maximum annual pension benefits and contributions to the Social Security taxable wage base. In addition, the bill would have made it more difficult for employers to offset or reduce retirees' pension benefits by the amount of Social Security benefits received (BI, Oct. 28, 1985).

Recent federal legislation, such as the Tax Reform Act of 1986, was "not directed at maintaining sound pension plans," Mr. Curtis pointed out.

Instead, Congress has sought a multitude of ways to effectively reduce benefits or to tax them to reduce the federal budget deficit, he said.

And the Tax Reform Act of 1986, which limited contributions to 401(k) plans and reduced maximum annual defined benefits and took away other tax advantages, was "just the tip of the iceberg," Mr. Curtis predicted.

For example, proposed legislation, including proposals by the U.S. Treasury Department, threatens to repeal tax advantages for group term life insurance, death benefits, dependent care services and 401(k) plans, according to Mr. Curtis.

"Employers should be able to

plan programs which will not be subjected to frequent changes as we have had in the past few years," Mr. Curtis said.

Employers must convince federal lawmakers that stable employee benefits programs are a plus to society and that "tinkering with retirement programs" has less effect on federal revenue than estimated, he said.

Mr. Erlenborn blasted Congress for the casual manner in which it slips important language into budget reconciliation bills "under the dark of night."

For example, a pension management bill that would divide control of defined benefit and defined contribution pension plans between employer and employees was "considered for five to 10 minutes, then adopted" by the House Education

and Labor Committee, he said (BI, July 24).

Under that bill, sponsored by Rep. Peter Visclosky, D-Ind., and approved by the committee in July,

**Recent legislation
was 'not directed at
maintaining sound
pension plans,' says
Mr. Curtis.**

an employers' pension plan assets would be controlled by a new "joint board of trustees" composed of employer and employee representatives.

Mr. Erlenborn contrasted that to

the years of discussion and weeks of hearings that preceded passage of the Employee Retirement Income Security Act of 1974.

And, prior to ERISA's approval, hearing transcripts, committee reports and minority reports were widely available, Mr. Erlenborn continued.

But now employee benefit-related legislation is routinely added to "megabills" with only a few people aware of it and passed without a hearing on specific bills, Mr. Erlenborn said.

"Very often there's no debate, no hearings, no opportunity for discussion. I think this is a poor way to legislate," he said.

Because tax incentives for benefit programs represent \$60 billion to \$70 billion annually in lost federal tax revenue, Mr. Erlenborn

expects pension plans and other tax-preferred employee benefit programs to remain a target in Washington.

"It's an easy place for them to raise money," he said.

However, Mr. Curtis warned that further tax legislation affecting pension plans could trigger defined benefit pension plan terminations by employers.

Any deficiency in retirement income caused by these plan terminations eventually would be thrust upon the Social Security system, Mr. Curtis pointed out.

"I'd rather see us provide those benefits rather than the government," he said.

The session moderator was Thomas Wood, a retired partner with Lincolnshire, Ill.-based Hewitt Associates.

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Modify benefits for future goals: Experts

By GLENN HUNTLEY

LAKE TAHOE, Nev.—Employers planning to modify benefit programs in an effort to contain costs should plan for future—rather than current—corporate goals and employee needs, according to benefit experts.

And, benefit planning should go beyond such tactical considerations as health care medical cost control and delve into an employer's likely competitive position and workforce composition in the future, experts said at the first Corporate Benefits Management Conference presented Aug. 28-29 in Lake Tahoe, Nev., by the International Foundation of Employee Benefit Plans.

"We have to look for real ways to reduce costs, not just shift them to others," said Douglas Stegner, vice chairman of New York-based benefit consultant William M. Mercer Inc.

For instance, flexible benefit plans, which have become "an inevitable trend," may be an appropriate response to a mix of widely divergent employee needs, Mr. Stegner

commented.

In addition, wellness programs can promote good employee health and avoid health care costs among an aging workforce, Mr. Stegner said.

According to Mr. Stegner, to devise an effective benefit plan, employee benefit managers must prioritize benefit issues by:

- Examining the company's overall business plan.
- Determining the percentage of total compensation that benefits will represent.
- Evaluating emerging benefit issues, like the increased need for employee assistance programs.
- Evaluating employee cost sharing.
- Involving top management, including the chief executive officer, the human resource manager and the chief financial officer.
- Obtaining employee input.

However, a survey conducted during the IFEBP conference found that only 18 of 88 employers, or 20.5%, had a written plan on how they intend to modify their benefit plans over the next three to five years to deal with employee and company concerns.

"It's curious to me that they (strategic plans) don't exist in higher numbers," Mr. Stegner said.

But, another 32 employers, or 36.4%, indicated that they plan to prepare a benefits program strategy, he noted.

Two benefit managers explained the approaches their companies were taking to assess—and, if necessary, modify—their employee benefit programs.

Benefits professionals at Johnson Wax Co. of Racine, Wis., asked themselves: "Where does the company want to go?" said Paul A. Saffer, director of worldwide benefits strategic planning for the manufacturer.

"I think that has to be the foundation of anything we do in employee benefits strategic planning," Mr. Saffer said.

The company currently is studying benefit programs for its U.S. operations through a task force of senior managers, consultants and employee focus groups.

The goal of the strategic planning group is "to set the framework" for the company's benefit managers to follow in the future, he said.

But, "during this process, we're

not trying to get around Section 89 or trying to put in a health care plan that's cost-efficient. Those are tactical matters," Mr. Saffer noted.

The strategic planning group's study also has revealed that company management generally has not had enough information about employee benefits, Mr. Saffer said.

The strategic plan also will take into account the fact that Johnson Wax has little employee turnover and that the average age of a Johnson Wax employee is 40 years, significantly older than the national average employee age of about 34, he said.

As a result, management is considering implementing a variety of health promotion and wellness measures, he said. "When people are over 40, you have to be very

serious about this," Mr. Saffer said.

For example, the company may institute employee health assessments, he said.

And, Johnson Wax is considering

'We have to look for real ways to reduce costs, not just shift them to others,' says Mr. Stegner.

implementing a "gatekeeper" system to refer employees to appropriate medical care, he said.

Eventually, employees who follow recommended health care

practices, such as diet and exercise, may be offered rewards, such as a more generous medical insurance plan, Mr. Saffer said.

The benefits planning process initiated in 1987 at Los Angeles-based Hughes Aircraft Co. has led to serious consideration of a full flexible benefits plan and numerous potential modifications of its medical and retirement programs, said Robert G. Parke Jr., Hughes Aircraft's director of compensation and benefits.

Hughes Aircraft found it could expect to attract fewer young, skilled workers in coming years, while being left with a growing population of older workers. For example, it had no employees older than 65 a decade ago, but currently has about 1,000 such employees and expects to have 2,000 in an-

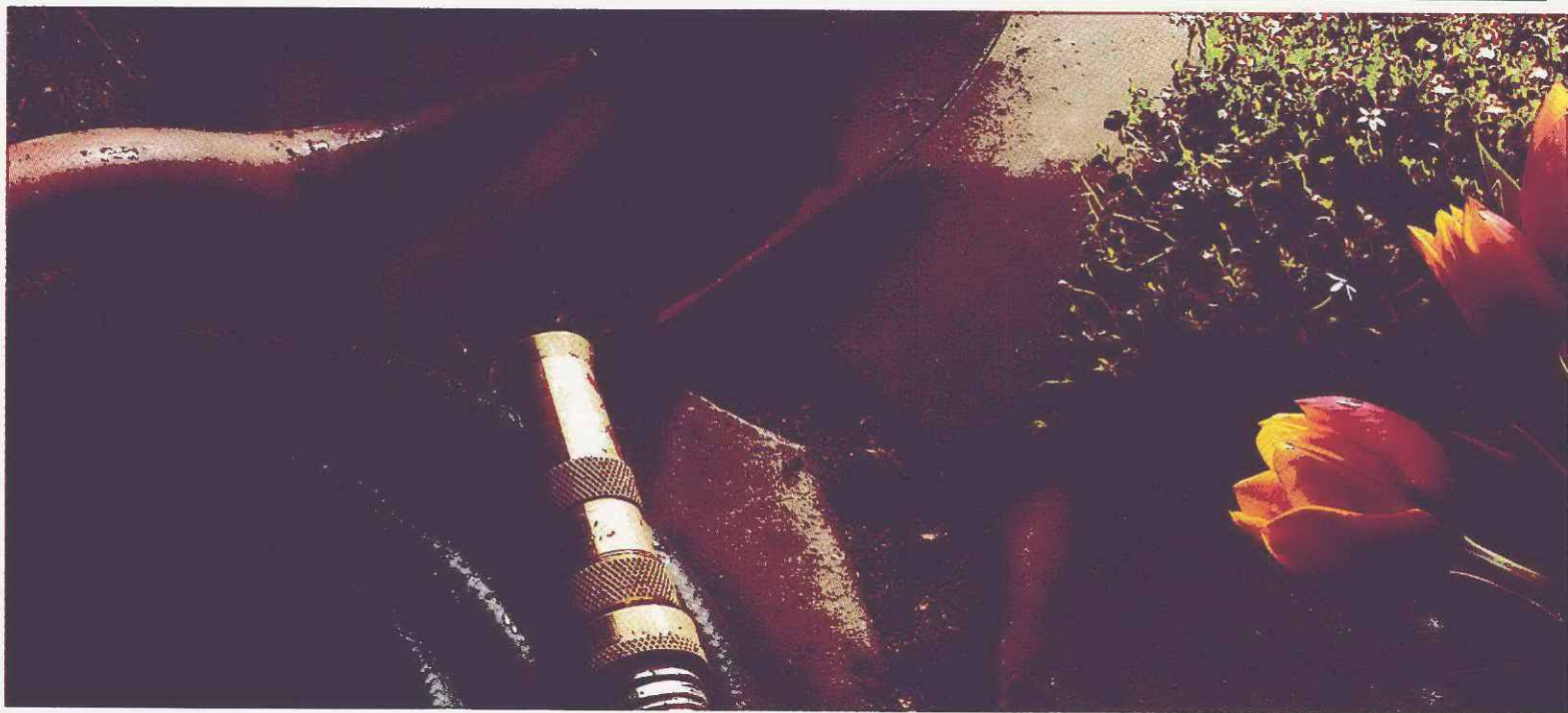
other decade.

As a result, the company determined it must mount an effort to retain workers as long as possible and keep them healthy, Mr. Parke said.

"We are looking at programs that will allow people to work longer—perhaps on a part-time basis—and at ways to accommodate the fact that the number of people who are at what used to be considered normal retirement age is growing," Mr. Parke pointed out.

"I'm not sure that we have found a way to make that work, but we know that we have to address it," he said.

Gary T. Hallenbeck, vp and a director of Towers, Perrin, Forster & Crosby Inc. in Valhalla, N.Y., moderated the session.



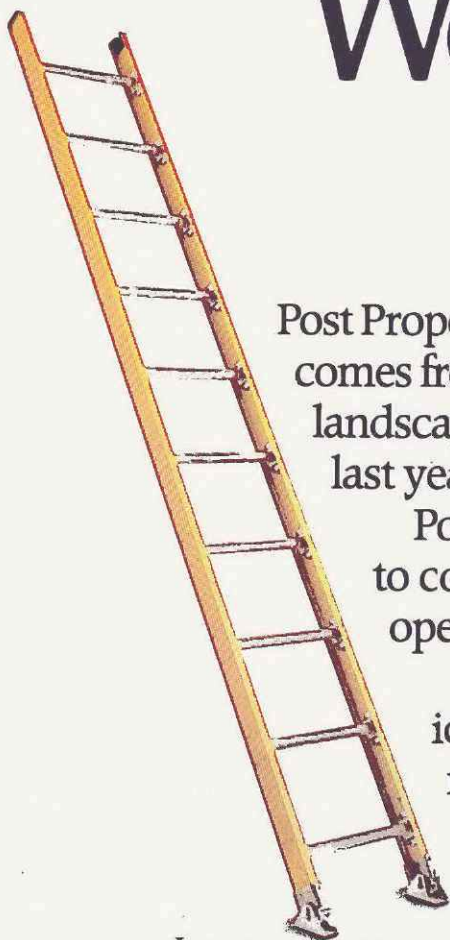
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Benefits to be tool to lure workers: Paine

By GLENN HUNTLEY

LAKE TAHOE, Nev.—Employers in the future will have to offer improved employee benefit programs as well as increased cash compensation to attract a shrinking number of workers with increasingly diverse needs away from their competitors, a benefit consultant points out.

Employee benefits are no longer an isolated part of American business practices, and benefits must dovetail with a corporation's total compensation strategies and overall business goals, explained Thomas H. Paine, a partner with consultant Hewitt Associates in Rowayton, Conn.

Competition for fewer well-educated young workers will spur improvements in employee benefit

programs, Mr. Paine predicted during the Corporate Benefits Management Conference.

The conference, held Aug. 28-29 in Lake Tahoe, Nev., was sponsored by the Brookfield, Wis.-based International Foundation of Employee Benefit Plans.

Mr. Paine noted that the average annual growth in the labor force peaked at 2.14% in the late 1960s

and has since steadily declined to an estimated 0.92% yearly increase as of 1985.

And, the major reason for that decline is "an alarmingly small

by 14.6% to 35 million in the year 2000 from 41 million in 1980, he said.

And, employees who enter the workforce today generally are not as well-educated and as well-trained as were new workers just a generation ago, according to Mr. Paine.

The consultant said the benefit improvements that employers most likely will offer in the future to attract the best of the decreasing lot of new workers are:

- Wellness and preventive health care programs.

While the results of companies' wellness efforts are difficult to quantify, employees increasingly will demand such programs, said Mr. Paine.

"What can we deliver to Americans that they would want more

than excellent health?" Mr. Paine asked.

Employers must emphasize that health care benefits show an interest in maintaining worker health, instead of identifying employees' health care as a burdensome expense, he said.

"I think we have a very powerful message that we haven't used much," he said.

- Improved benefits for part-time workers, who employers increasingly will rely on to fill the gap created by fewer new workers entering the workforce to replace retiring workers.

- Adoption of child care and elder care benefits. Mr. Paine noted the growing number of working couples with children in the workforce, the growing number of single parents in the workforce and because of the general aging of the U.S. population.

- More profit-sharing plans as the maturing workforce looks for new ways to save money for retirement.

- Allowing employees with increasingly diverse needs greater flexibility in selecting their benefits.

Aging workers also will demand defined benefit pension plans and greater flexibility in working hours, Mr. Paine predicted.

Employers also will be forced to increase the normal retirement age as workers live longer and healthier lives and the demand for older, highly skilled workers increases, he said.

However, Mr. Paine predicted that more employers will force employees to pay for a greater portion of their health care expenditures as employers' health care costs continue to climb.

And, he expects little change in life insurance and disability benefits.

Thomas Wood, a retired partner of Hewitt Associates, moderated the session.

Employers must emphasize that health care benefits show an interest in maintaining worker health, instead of identifying employees' health care as a burdensome expense, says Thomas H. Paine of Hewitt Associates.



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PBGC asks high court to review LTV ruling

By ADRIENNE C. LOCKE
and JERRY GEISEL

Washington

WASHINGTON—The Pension Benefit Guaranty Corp. is asking the U.S. Supreme Court to review a lower court ruling that, unless overturned, could force the PBGC to swallow more than \$2 billion in LTV Corp. pension liabilities.

At issue is whether companies, like Dallas-based LTV, can terminate underfunded pension plans, shift the liabilities to the PBGC, and then establish new, low-cost

"follow-on" pension programs.

In May, a three-judge panel of the 2nd U.S. Circuit Court of Appeals in New York upheld a lower court decision that the PBGC could not return to LTV three previously terminated pension plans with more than \$2 billion in unfunded liabilities. The appeals court described the PBGC's action as "arbitrary and capricious" (B.I., May

22).

The PBGC terminated the plans, which cover about 100,000 participants, in January 1987 after LTV, which filed for protection from its creditors in July 1986 under Chapter 11 of the Federal Bankruptcy Act, said it could no longer afford to fund the plans.

But, the PBGC attempted to force LTV to take back the termin-

ated plans in September 1987 after LTV, as part of a collective bargaining agreement with the United Steel Workers union, established a new pension program to provide certain non-PBGC-guaranteed benefits that were lost by plan participants when the original plans were terminated (B.I., Sept. 28, 1987).

The PBGC said it is asking the U.S. Supreme Court to review the appeals court's decision because it believes, among other things, that LTV's follow-on pension plans are

an abuse of the agency's insurance program.

The stakes in the LTV-PBGC controversy are enormous. Some observers believe that if the appeals court decision is allowed to stand or is upheld, other companies will follow in LTV's footsteps and terminate massively underfunded pension plans, stick the PBGC with the liabilities and then establish new follow-on pension plans.

If that scenario unfolds, the PBGC could be hit with billions of dollars in new liabilities. That would send PBGC termination insurance premiums skyrocketing once again.

The current annual PBGC termination insurance premium ranges from \$16 to \$50 per defined benefit plan participant. The amount of the premium is based on the funding level of an employer's pension plan.

PBGC goals

Reducing the Pension Benefit Guaranty Corp.'s deficit without increasing termination insurance premiums and encouraging the growth of defined benefit pension plans are the top priorities of the agency's new executive director.

James B. Lockhart III said he hopes to reduce the PBGC deficit "through continued effective legal actions, investment performance and financial management."

"My goal is to strengthen and ensure PBGC's future fiscal stability. And I want to accomplish this with no further increase in our premium fee," he told a recent meeting of the ERISA Industry Committee in Washington, D.C.

While the PBGC's cash flow has remained strong in 1989, unresolved problems, such as the agency's efforts to return to LTV Corp. \$2 billion in liabilities from three previously terminated pension plans (see related story) could double the agency's deficit.

The deficit, depending on the outcome of the PBGC's battle with LTV, is between about \$2 billion and \$4 billion.

Mr. Lockhart said he believes a greater effort will have to be made to encourage employers to establish or continue defined benefit pension plans.

He notes, for example, that the portion of pension plan participants whose primary pension came from a defined benefit plan slipped during the current year to about 70% from 80%.

"Among some employers there seems to be a growing concern that defined benefit plans no longer are the more suitable means of providing retirement income for their employees," he said.

Excess administrative burdens and frequent changes in pension and tax laws have made these plans less desirable. Most new pension plans are being set up as defined contribution plans, he added.

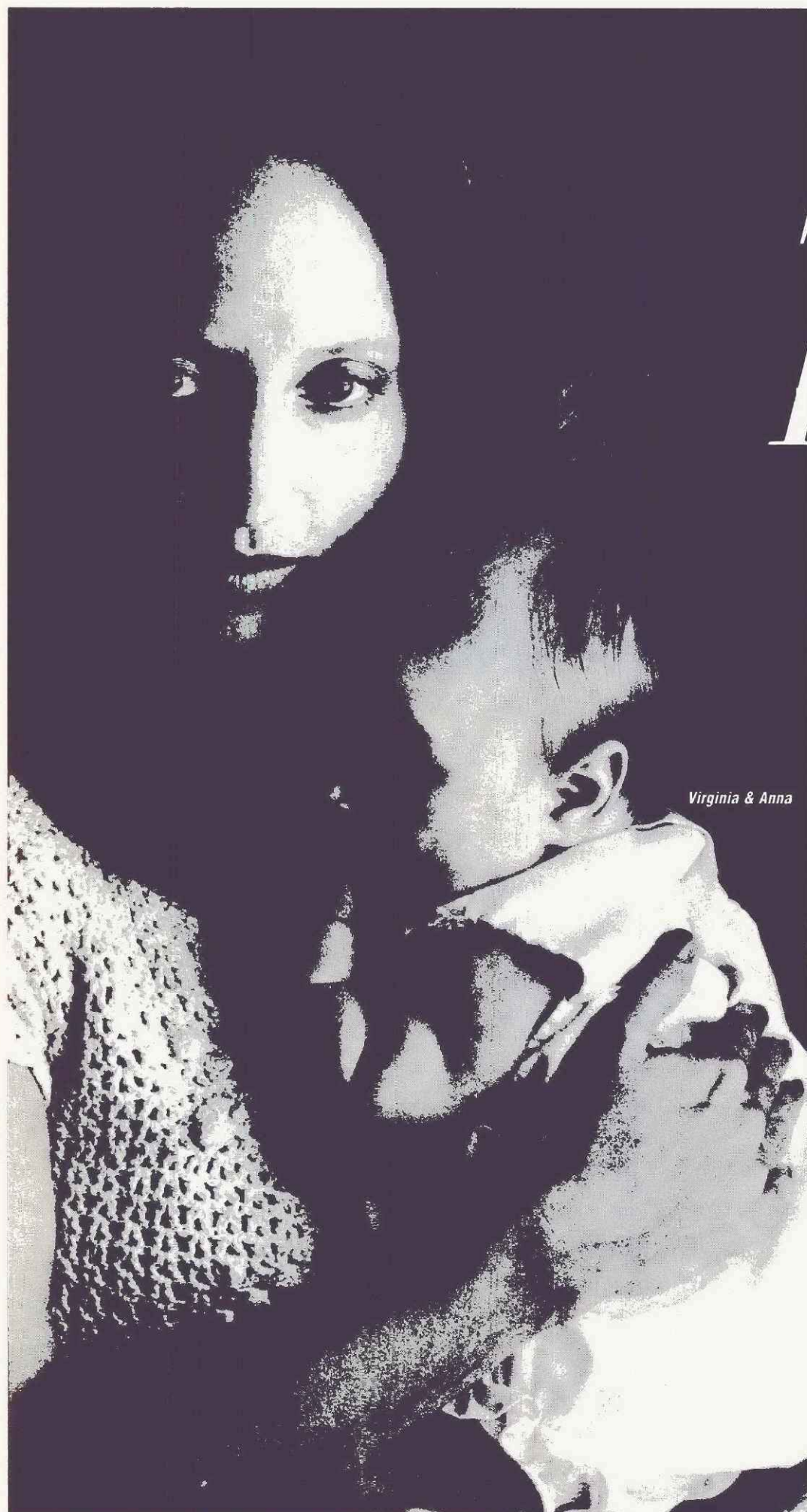
But Mr. Lockhart believes defined benefit plans offer considerable advantages over other types of retirement plans.

"Defined benefit plans provide employees with predictable retirement income, with protection against the uncertainty and volatility of investment risk associated with defined contribution plans, and they are the only retirement arrangement backed by the federal government," according to Mr. Lockhart.

Drug testing

The House has approved a bill that would require a broad range of drug and alcohol testing for rail-

Continued on page 26



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CIGNA

Washington

Continued from page 24
road workers.

The bill, H.R. 1208, was introduced by Rep. Tom Luken, D-Ohio, who believes that the legislation is needed to identify workers who abuse drugs and alcohol in the workplace.

"Drugs and alcohol have no place in the transportation workplace," Mr. Luken said, citing the January 1987 Amtrak-Conrail accident in Chase, Md., that killed 16 people (BI, Jan. 12, 1987). Both the engineer and brakeman tested positive for drugs after the incident (BI, Jan. 26, 1987).

Drug testing bills passed the House

and Senate during the last congressional session, but the term expired before a congressional conference committee could work out the differences. As a result, the bills died.

The Luken bill allows for:

- Random drug and alcohol testing.
- Testing based on reasonable suspicion.
- Testing after rail accidents.
- Testing as a part of regular physical examinations.

The bill also sets strict guidelines for the collecting, handling and storing of test samples and requires that

testing facilities be state-of-the-art.

The Senate version of the bill, S. 561, has been re-introduced this session by Commerce Committee Chairman Sen. Ernest F. Hollings, D-S.C., and Sen. John Danforth, R-Mo., and is pending before the Commerce Committee.

District can sue firms

The District of Columbia Court of Appeals last month cleared the way for the District of Columbia to proceed with its lawsuit against 37 asbestos producers for the costs of removing the substance from city buildings.

In reversing a trial court decision, the appellate court ruled that Wash-

ington is not barred by two statutes that limit the time in which a lawsuit can be filed. The court said that Washington has special immunity from the 10-year statute of repose and the 13-year statute of limitations because the city performs sovereign functions in the public's interest.

Among the asbestos producers named in the city's lawsuit are Owens-Corning Fiberglass Corp., Eagle-Picher Industries Inc., Fibreboard Corp., U.S. Gypsum Corp., Georgia-Pacific Corp. and Keene Corp.

Aviation liability

A product liability bill limiting lawsuits against general aviation

manufacturers has passed a House committee.

The bill, H.R. 1307, introduced earlier this year by Rep. Dan Glickman, D-Kan., and approved by the House Public Works and Transportation Committee in July, applies to aircraft that seat fewer than 21 passengers and do not engage in scheduled passenger operations.

Under the bill:

- Punitive damages only could be awarded in cases of clear and conscious negligence.

- Product liability lawsuits would have to be filed within two years after an accident.

- Manufacturers would be shielded from liability if they can show that the accident was avoidable through compliance with a Federal Aviation Administration airworthiness directive—a statement that dictates repairs on aircraft.

- The restrictions on manufacturers' liability would extend for 12 years after a plane is built.

The House Judiciary Committee and Energy and Commerce Committee must consider the bill before it reaches the full House.

A similar bill, S. 640, was introduced in the Senate this year by Sen. Nancy Kassebaum, R-Kan.

Equipment locks

The Labor Department has issued new safety rules requiring employers to lock or identify by tags machinery that is being repaired or serviced so it cannot be accidentally turned on.

The "lockout/tagout" rule, which goes into effect Oct. 31 and will cover general industry, calls for a uniform lockout/tagout procedure to be established by employers, and training for all affected employees.

The rule generally will require that energy sources for equipment be turned off or disconnected and the power switch either be locked or labeled with a warning tag during servicing.

The Occupational Safety and Health Administration will require that equipment that can accept a lock be locked out, but tags will be permitted for equipment that cannot be locked, or where employers can demonstrate that tagging will provide as much safety as a lock.

Equipment also must have any stored energy released and it must be properly verified that any stored energy has dissipated.

The lockout/tagout rule also requires employers to:

- Ensure that new equipment or overhauled equipment can accommodate locks.

- Employ additional means to ensure safety when tags are used instead of locks.

- Identify and implement specific procedures (generally in writing) for the control of hazardous energy including shutdown, the preparation for shutdown, equipment isolation, release of stored energy and verification of isolation.

- Conduct inspections of energy control procedures at least once a year.

- Train employees in the specific energy control procedures with training reminders as part of the annual inspections.

States and territories with their own occupational safety and health plans must adopt a comparable standard within six months. They include Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming.

New York and Connecticut plans, which cover public employees only, must adopt a comparable standard.

OSHA estimates that compliance with the rule will prevent 120 deaths and 28,000 serious and 32,000 minor injuries each year. Up to 10% of all serious injuries in some major manufacturing industries involve the control of hazardous energy sources, according to OSHA. ■

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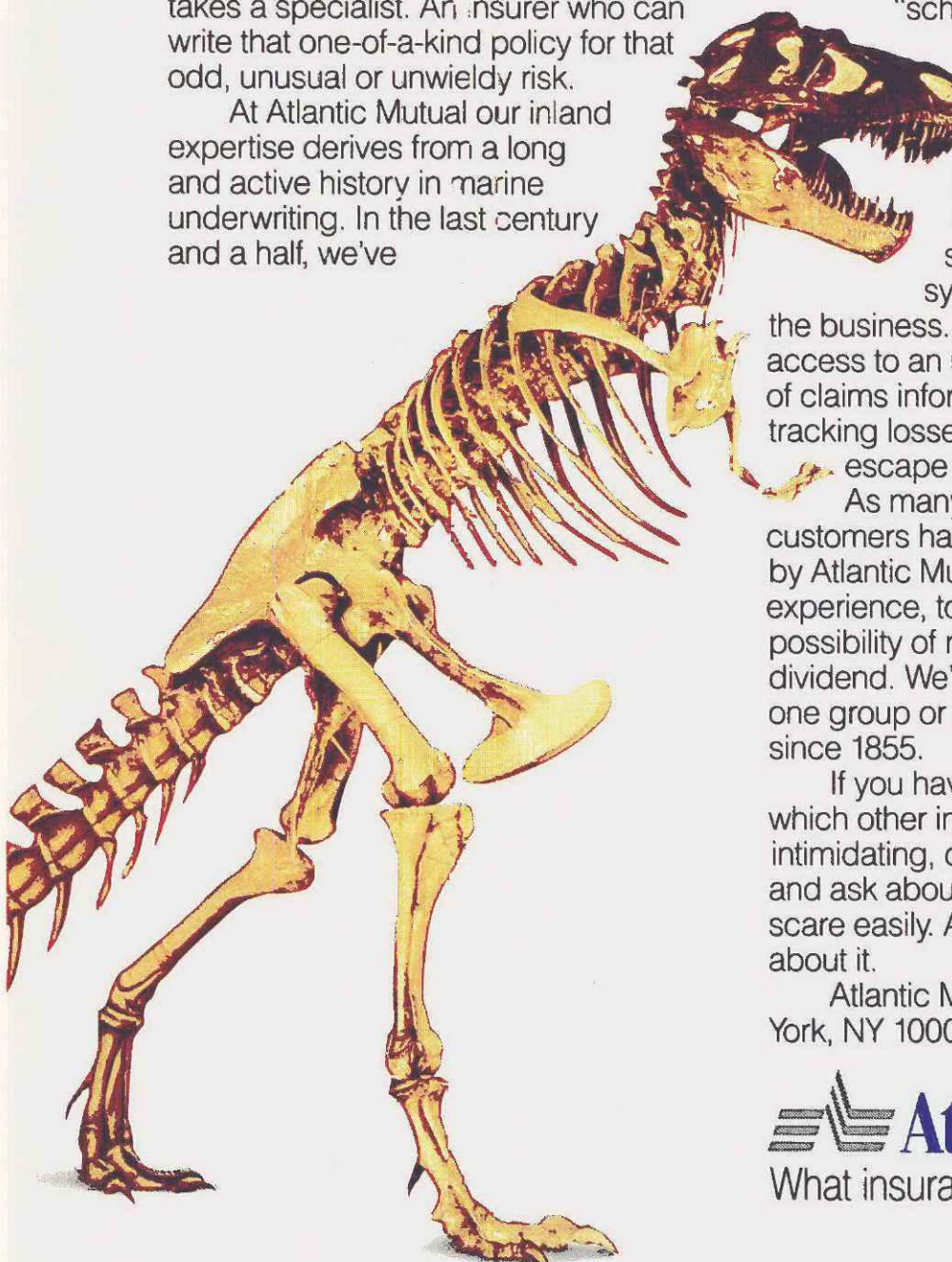
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But ultimately, we want Domino's Pizza to be synonymous with *safe* 30 minute pizza delivery. And we're doing everything possible to reach our goal.

Over the past three decades, we've designed a system that allows us to make and bake a pizza in 12 minutes or less. This leaves about 18 minutes to deliver to our customers who, with our limited delivery areas, live within an average of two miles from our stores.

To ensure that we have qualified drivers with good driving records, we have an established policy to check driver motor vehicle records. This allows us to select the best delivery professionals for Domino's Pizza. Additionally, we monitor our drivers' records on a regular basis.

Before they take to the road for us, our drivers attend specialized driver training programs, designed especially for Domino's by safety professionals. The bottom line: Our drivers must know our driving policies and strictly adhere to them.

We further extend our safety philosophy and standards to our franchisees and encourage them to apply them in their own operations.

At Domino's Pizza, we want people everywhere to recognize the sign of safe pizza delivery.



Annual informational literature section

Automation for agents & brokers

• Leader Systems offers a brochure detailing Independent Leader, the company's **automated agency management system** for agents and brokers. For a free copy, write 101 in the box on the reader service coupon.

• The Insurance Institute of America's describes its **Associate in Automation Management course**, designed specifically for insurance professionals, in a flier. For a free copy, write 102 in the box on the reader service coupon.

• The products and services available from Leader Systems, including those dealing with **insurance agency automation**, are detailed in a brochure available from the company. For a free copy, write 103 in the box on the reader service coupon.

• A brochure describes insurance agency automation software products and services for the **financial services** industry available from International Financial Data Systems Inc. For a free copy, write 104 in the box on the reader service coupon.

• A selection of fact sheets available from Leader Systems details Leader Systems/MVP, an automated insurance agency manage-

ment system designed for **multiple users**. For a free copy, write 105 in the box on the reader service coupon.

• A booklet designed to help insurance agents determine which type of **automation system** best suits their needs is available from Redshaw Inc. For a free copy, write 106 in the box on the reader service coupon.

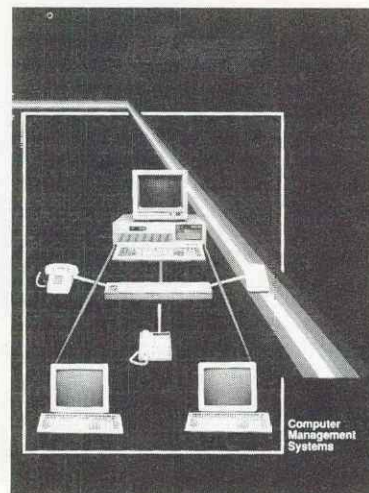
• Leader Systems offers a flier detailing the features of Leader Systems/Menu Generator, an **automated agency management program**. For a free copy, write 107 in the box on the reader service coupon.

• A brochure available from Hi-

Tek Computer Products Corp. describes the company's automated **sales/prospecting/marketing system** designed for use by insurance agents. For a free copy, write 108 in the box on the reader service coupon.

• A flier describing Leader Systems/Forms Generator, a software program that is designed to produce more than 40 **insurance-related forms**, is available from the company. For a free copy, write 109 in the box on the reader service coupon.

• A copy of The Agency Automation Report is available from Delphi Information Systems Inc.; it contains information on the **agency automation products**



and services offered by the com-

pany. For a free copy, write 110 in the box on the reader service coupon.

• A kit from Marshall & Swift offers demonstration disks for the company's commercial and residential Estimator software package, designed to **determine building costs for more than 100 types of properties**. For a free copy, write 111 in the box on the reader service coupon.

• A biannual newsletter available from the NADA Official Used Car Guide provides topical articles on **automotive appraisal issues**. For a free copy, write 112 in the box on the reader service coupon.

Continued on next page

Guide to section

The annual special Info section is an editorial compilation of current informational and educational materials on topics of interest to risk, employee benefits, financial and insurance executives.

The listings are published as an editorial service by *Business Insurance*; there is no charge to list informational material in the section.

The materials, all of which may be obtained free of charge by *Business Insurance* readers, are organized under these headings: automated systems and software for agents and brokers; automated systems and software for insurers; captives; commercial property/casualty insurance; employee benefits; employee benefit information systems; fidelity and surety; financial services; international; loss control/people; loss control/property; marine; reinsurance; risk management, risk management information systems; self-insurance services; and workers compensation.

To receive any of the free brochures, booklets, pamphlets, fliers or article reprints listed in this special section, please write the key numbers of the items you want on the reader service coupons that can be found throughout the section. Fill out the remainder of the coupon and mail it to: *Business Insurance*, P.O. Box 1649, Riverton, N.J. 08077-9649.

All requests for free Info material must be received before Nov. 10 in order to be processed.

Our Financial Statement.

It's really quite simple.

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knew, when they needed us, we'd be there.

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Automation for insurers

• A flier and demonstration disk available from Benefit Plan Systems Corp. offer information on **COBRA EAS Administrator** software, designed for insurance companies and third-party claims administrators. For a free copy, write 201 in the box on the reader service coupon.

• A copy of McDonnell Douglas Insurance Lines Newsletter, which includes information on **automation products** for insurers offered by McDonnell Douglas Information Systems Co., is available from the company. For a free copy, write 202 in the box on the reader service coupon.

• A booklet available from Ad-

vanced System Applications Inc. highlights the company's **ASA/CAS II Claims Administration System** designed for use by insurance companies and self-insured employers. For a free copy, write 203 in the box on the reader service coupon.

• "Automated Correspondence and Documentation. Applications for Insurance Companies: Executive Overview" is a 24-page publication offered by Napersoft Inc. It describes how **automated correspondence and documentation** may be used by insurance companies to reduce costs and improve services. For a free copy, write 204 in the box on the reader service coupon.

• Group Marketing System, a software package designed to **calculate and print group insurance proposals** for a variety of coverages, is described in a booklet available from Continental Soft-

ware Inc. For a free copy, write 205 in the box on the reader service coupon.

• A flier available from Computations/Dyer Wells describes Computations Life Office Administration System, a software system designed for **life insurance** companies. For a free copy, write 206 in the box on the reader service coupon.

• The software products and services offered by SBPA Systems Inc. are described in a booklet currently available from the company. The company provides **benefit administration and claims processing systems** to insurance companies, third-party claims administrators and self-insured companies. For a free copy, write 207 in the box on the reader service coupon.

• McDonnell Douglas offers a brochure describing its Automated

Reinsurance System (AR₂). The system is designed to help property/casualty insurers **standardize reinsurance processing and management**. For a free copy, write 208 in the box on the reader service coupon.

• A brochure offered by Stellar-Net Inc. describes the company's Electronic Reporting System, an **interface between medical service providers and users**, including claims payers, bill reviewers, cost containment companies and employers. For a free copy, write 209 in the box on the reader service coupon.

• Minolta Corp. offers a folder detailing the company's optical disk system. The software product can support a variety of **imaging and data functions** at up to four keyboard/display computer workstations. For a free copy, write 210 in the box on the reader service coupon.

Captives

• A brochure available from Commonwealth Risk Services Inc. explains the features of **The Funding Application**, a captive insurance program where the insured funds his policy aggregate limit with a combination of premium collateral, usually in the form of a letter of credit. For a free copy, write 301 in the box on the reader service coupon.

• A package from Skandia International Risk Management Ltd. describes the company's **captive management and alternative risk transfer services**. For a free copy, write 302 in the box on the reader service coupon.

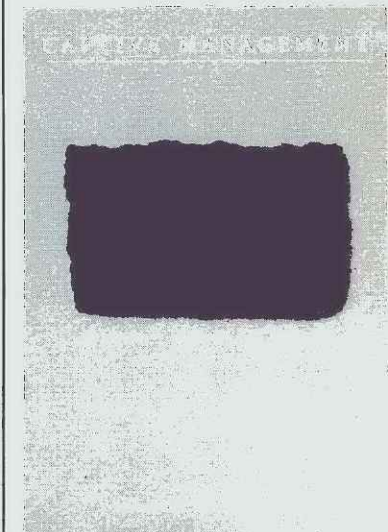
• A brochure available from William R. Storie & Co. Ltd. contains information on the company's services for **international insurance, reinsurance and captive insurance companies**. For a free copy, write 303 in the box on the reader service coupon.

• An overview of **forms and procedures used to form a captive insurance company in Vermont** is offered by Northern States Management Inc. For a free copy, write 304 in the box on the reader service coupon.

• Commonwealth Risk Services Inc. publishes a pamphlet describing the company's **offshore funding programs**. For a free copy, write 305 in the box on the reader service coupon.

• Skandia International Risk Management offers a pamphlet describing **The Risk Exchange Assn.**, a vehicle through which captives seeking capacity may place their parent companies' exposures with other captives or may accept controlled non-related risks. For a free copy, write 306 in the box on the reader service coupon.

• Commonwealth Risk Services Inc. offers a pamphlet containing a discussion of **captive products and services**, including The Insurance Profit Center, available to associations, groups, insurance agencies and managing general agents.



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• A pamphlet describing **investment management services for captive insurance companies** is offered by Schroder Capital Management International. For a free copy, write 308 in the box on the reader service coupon.

• A kit discussing the company's captive arrangements available in **Bermuda, Cayman Islands and Barbados** is available from Commonwealth Risk Services Inc. For a free copy, write 309 in the box on the reader service coupon.

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Commercial property/ casualty insurance

Continued from previous page

• A brochure available from Ulico Casualty Co. describes the insurance company's **commercial insurance coverages for organized labor and related organizations**, including commercial property and liability insurance policies. For a free copy, write 401 in the box on the reader service coupon.

• A brochure available from Swett & Crawford Group outlines features of the wholesale brokerage's **errors and omissions insurance policies** for real estate agents, insurance agents, architects and engineers. For a free copy, write 402 in the box on the reader service coupon.

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Union Commercial Lines Insurance

• A liability insurance program for swimming pool management companies available from Swett & Crawford Group is detailed in a four-page brochure. For a free copy, write 403 in the box on the reader service coupon.

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• Liability insurance coverages available for **labor unions and related organizations** from Ulico Casualty Co. is described in a brochure. For a free copy, write 404 in the box on the reader service coupon.

• "Professional Liability Insurance Program for Radon Testers and Laboratories" is the title of a four-page pamphlet offered by Swett & Crawford Group. For a free copy, write 405 in the box on the reader service coupon.

• Surplus lines wholesaler Avreco Inc. offers a copy of "Avreco Advisor," a quarterly four-page newsletter. The publication contains information on current insurance **market conditions** as well as products and services available from the company. For a free copy, write 406 in the box on the reader service coupon.

• A pamphlet available from Swett & Crawford Group outlines **trends in directors and officers liability insurance**. For a free copy, write 407 in the box on the reader service coupon.

• TCO Insurance Services offers a copy of "The Cornerstone," a bi-monthly publication for design and building professionals and their risk managers. It contains advice on **loss prevention and recent trends in tort law**. For a free copy, write 408 in the box on the reader service coupon.

• Swett & Crawford Group offers a brochure detailing 134 **potential liabilities facing directors and officers**. The brochure is designed to help retail agents better understand D&O coverage issues. For a free copy, write 409 in the box on the reader service coupon.

• Swett & Crawford Group offers a pamphlet titled "**How to Choose the Best Wholesaler Broker for Your Business**." For a free copy, write 410 in the box on the reader service coupon.

• A pamphlet available from Ulico Casualty Co. describes the company's **fiduciary liability insurance products**. For a free copy, write 411 in the box on the reader service coupon.

• Product liability insurance for the **medical device and in vitro diagnostic products industries** is the subject of a 35-page book available from Medmarc Corp./Hamilton Resources Corp. Also included is information on other services the company offers. For a free copy, write 412 in the box on the reader service coupon.

• Information on **liability insurance programs for utilities** offered by Swett & Crawford Group is detailed in a four-page brochure. For a free copy, write 413 on the reader service coupon.

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- Information on the professional liability coverage for libel, slander, errors and omissions and real estate offered by Media/Professional Insurance Inc. is discussed in the quarterly newsletter "Media Ink." For a free copy, write 414 in the box on the reader service coupon.

- A listing of excess/surplus line and specialty coverages available through Market Finders Insurance Corp. is offered by the company. For a free copy, write 415 in the box on the reader service coupon.

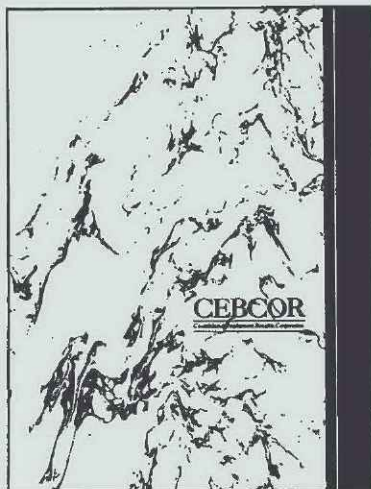
- A packet of information offered by American Arbitration Assn. contains information about the association's services, including dispute resolution procedures for insurance claims. For a free copy, write 416 in the box on the reader service coupon.

- NILS Publishing Co. offers copies of INSight/INStatus, a monthly newsletter service that tracks proposed insurance laws and regulations. For a free copy, write 417 in the box on the reader service coupon.

- "Agents' Checklist to Evaluate their Insurance Companies," a brochure available from Access Research, contains 61 items in 11 categories that can be used to conducting a review of property/casualty insurers. For a free copy, write 418 in the box on the reader service coupon.

Employee benefits

- CEBCOR's "Guide to Employee Leasing," discusses the cost containment possibilities created by company's employee leasing programs, which provides off-site personnel/payroll/pension administration services. For a free copy, write 501 in the box on the reader service coupon.



- "LTD in the 1990s," a collection of articles available from UNUM Life Insurance Co., discusses long-term disability from the various perspectives of legislators, consultants, doctors and brokers. For a free copy, write 502 in the box on the reader service coupon.

- A booklet discussing points to consider when deciding on a preferred provider network is available from American International Healthcare. For a free copy, write 503 in the box on the reader service coupon.

- "1990 Women's Health Calendar," available from American Custom Publishing Corp., is a customized calendar containing tips to encourage good health habits. For a free copy, write 504 in the box on the reader service coupon.

- The "Annual ClaimFacts Survey," offered by Erisco Inc., reports on a comprehensive study of

health care costs, plan administration, utilization control methods and other benefit topics reported by users of a benefits claims automation system. For a free copy, write 505 in the box on the reader service coupon.

- A brochure describing the Illinois Vision Service Plan's group vision care plan, including information on plan administration, exclusions and benefit reimbursement, is available from the company. For a free copy, write 506 in the box on the reader service coupon.

- A leaflet available from the International Foundation of Employee Benefit Plans examines the results of a survey of respondents polled on current issues impacting employer-sponsored long-term care insurance. For a free copy, write 507 in the box on the reader service coupon.

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Other Important Regulatory Information*

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Alabama Selected Attorney General Opinions
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Arizona Circular Letters
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Arkansas Rules of Practice and Procedure
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● "Health Benefits Solutions for the '90s," an eight-page brochure available from Admar Corp., addresses **health care cost control and management strategies**. For a free copy, write 509 in the box on the reader service coupon.



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• Kwasha Lipton offers a 40-page handbook, **"How to Comply with Section 89,"** which includes an explanation of the law, case studies and a description of the employee data required to perform Section 89's compliance tests. For a free copy, write 511 in the box on the reader service coupon.

● The Wyatt Co. offers a 15-page brochure detailing **requirements, compliance and notification issues for Section 89**. For a free copy, write 513 in the box on the reader service coupon.

● A flier available from Health Economics Corp. contains a list of **cost containment vocabulary words, along with definitions and explanations.** For a free copy, write 514 in the box on the reader service coupon.

● The Principal Financial Group offers a workbook discussing **advantages of flexible benefit plans**. Also included is a kit addressing cafeteria plans geared to employers with 100 or more employees. For a free copy, write 515 in the box on the reader service coupon.

● “Medicare Quick Reference Guide,” available from American Custom Publishing Corp. is a slide-chart, published annually, that provides an **explanation of Medicare benefits** to older workers or retirees. For a free copy, write 516 in the box on the reader service coupon.

• J.P. Kennedy Publishing Co. offers a four-page brochure describing a medical/disability claims handbook designed to help the user **speed up claims handling**. For a free copy, write 517 in the box on the reader service cou-

pon.

• A flier available from Health Economics Corp. discusses **how reasonable and customary limits** for benefit plans are developed. Also addressed are problems arising from application of reasonable and customary limits. For a free copy, write 518 in the box on the reader service coupon.

● The Principal Financial Group discusses an **alternative approach for small employers to fund health benefits** in a flier. The company addresses employer needs and cash-flow techniques. For a free copy, write 519 in the box on the reader service coupon.

● A brochure highlights the **actuarial, consulting and administrative history, and products and services** offered by Hazlehurst & Associates Inc. For a free copy, write 520 in the box on the

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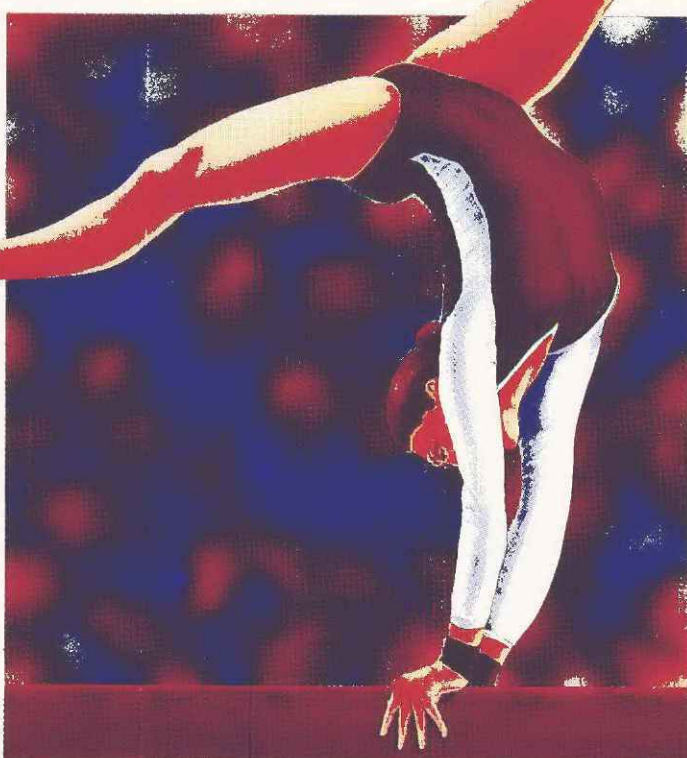
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NOVEMBER 10, 1989

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A high jumper in mid-air, performing a Fosbury Flop over a bar. The athlete is wearing a red and white uniform. The background is a blurred crowd of spectators.

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Life & Health Benefits Management

Continued from previous page
reader service coupon.

- A Kwasha Lipton newsletter describes and compares two main **funding vehicles for supplemental executive retirement plans**: rabbi trusts and taxable trusts. For a free copy, write 543 on the reader service coupon.

- A semi-annual publication offered by the International Foundation of Employee Benefit Plans reports on results of a **nationwide survey on managed health care**. Benefits professionals belonging to the foundation were surveyed. For a free copy, write 544 on the reader service coupon.

- Buck Consultants Inc. offers an article discussing the **use of corporate-owned life insurance to meet post-retirement medical and health benefit costs**. For a free copy, write 545 on the reader service coupon.

- A folder contains information on Time Insurance Co.'s **medical plan, disability and life insurance programs for groups with two to 50 employees**. For a free copy, write 546 on the reader service coupon.

- A transcript of a Kwasha Lipton seminar discussing **cash balance pension plan design** is available from the company. The handbook includes charts, graphs and text. For a free copy, write 547 on the reader service coupon.

- "The New Medicare Catastrophic Coverage Law—A Whole New Look," an article offered by Buck Consultants Inc., examines **Medicare program changes and their effect on employers and retiree health care plans**. For a free copy, write 548 on the reader service coupon.

- A newsletter of the American Institute of Stress is offered by Stresscare Systems Inc. Topics include re-

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- The International Foundation of Employee Benefit Plans offers a quarterly publication that concentrates on a single benefits topic of current concern. The issue available discusses often **overlooked issues of state and local government retirement plans**. For a free copy, write 550 on the reader service coupon.

- A brochure describing StayWell Health Management Systems Inc.'s **health promotion and employee assistance programs** is available from the company. For a free copy, write 551 on the reader service coupon.

- An article offered by Buck Consultants Inc. discusses **proposed Internal Revenues Service regulations on the minimum coverage rules under the Tax Reform Act of**

1986. For a free copy, write 552 on the reader service coupon.

- The International Foundation of Employee Benefit Plans' "I.F. Interns Brochure" describes the **two-year internship program** the foundation offers to college sophomores. For a free copy, write 553 on the reader service coupon.

- "Benefits Briefing," published quarterly by Coopers & Lybrand, addresses **benefits and compensation issues** like retiree health benefits, FASB proposals and other legislative developments. For a free copy, write 554 on the reader service coupon.

- Buck Consultants Inc. offers an article discussing final regulations under ERISA concerning **loans to pension plan participants and beneficiaries**. For a free copy, write 555 on the reader service coupon.

- "Employee Benefits Basics," a quarterly newsletter published by

International Foundation of Employee Benefit Plans, discusses benefit topics. This issue offered examines some differences between **defined benefit and defined contribution retirement plans**. For a free copy, write 556 on the reader service coupon.

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- Coopers & Lybrand offers the Social Security Benefits Wheel, a moveable wheel—the size of a floppy disk—that gives **quick estimates of Social Security benefits** based on the user's current salary and retirement ages of 62 and 65. For a free copy, write 561 on the reader service coupon.

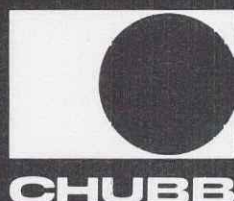
- A five-page article from Buck Consultants Inc. discusses the **provisions of the FASB exposure draft** on employers' accounting for post-retirement benefits other than pensions. For a free copy, write 562 on the reader service coupon.

- Softouch Software Inc. offers an article, **"Implementing Cost-Effective Medical Cost Containment Systems,"** which describes the planning and implementation of a medical bill auditing and reviewing system. For a free copy, write 563 on the reader service coupon.

- The provisions contained in Rep. Dan Rostenkowski's **proposal to simplify Section 89 rules** are discussed in an article available from Buck Consultants Inc. For a free copy, write 564 on the reader service coupon.

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• An article offered by Buck Consultants Inc. discusses the Internal Revenue Services' private letter ruling that allows **401(h) contributions under fully funded pension plans** to finance retiree health care benefits. For a free copy, write 566 in the box on the reader service coupon.

• An Ameritas Life Insurance Corp. leaflet describes **dental insurance options available** to all sizes of groups seeking dental coverages and claims services. For a free copy, write 567 in the box on the reader service coupon.

• A reprint is available from Kwasha Lipton that details the **rules for identifying highly compensated employees** in connection with the 401(k) and 401(m) non-discrimination tests of the Internal Revenue Code. For a free copy, write 568 in the box on the reader service coupon.

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• "Managing Mental Health Benefits," offered by The Mental Group, is a 20-page discussion of **mental health and substance abuse benefit costs** and strategies to identify problem areas in those services. For a free copy, write 570 in the box on the reader service coupon.

• A booklet published by Northwestern National Life Insurance Co. offers seven steps to help employee benefit professionals **manage dependent health care costs** through plan design change, case management etc. For a free copy, write 571 in the box on the reader service coupon.

• A Kwasha Lipton bulletin examines the implications of the **excise tax on excess distributions from qualified plans**, tax-sheltered annuities and individual retirement accounts under the Tax Reform Act of 1986. For a free copy, write 572 in the box on the reader service coupon.

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• A catalog offered by International Foundation of Employee Benefit Plans contains information

and forms to enroll in the foundation's **Certified Employee Benefit Specialist (CEBS) program**. For a free copy, write 575 in the box on the reader service coupon.

• "Employee Benefits in the Year 2000," a brochure offered by Northwestern National Life Insurance Co., details a survey of 400 human resource executives and their thoughts on **future changes in employee benefits**. For a free copy, write 576 in the box on the reader service coupon.

• Buck Consultants Inc. offers a review of three key elements of the

Financial Accounting Standards Board's proposed standards on **accounting for post-retirement health care benefits**, including a discussion of explicit claim costs, explicit actuarial assumptions and the stochastic method. For a free copy, write 577 in the box on the reader service coupon.

• A pamphlet available from Coopers & Lybrand includes steps an employer might take to perform **Section 89 non-discrimination tests** and suggests alternative courses of action for companies that do not meet the requirements. For a free copy, write 578 in the

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• A Kwasha Lipton bulletin explores **proposed regulations concerning Sections 89 and 125 of the Internal Revenue Code**, including qualification regulations and non-discrimination tests. For a free copy, write 579 in the box on the reader service coupon.

• A listing of more than 400 cassettes and videotapes on **expert speakers and panelists in the employee benefits field** is offered by International Foundation of Employee Benefit Plans. For a free copy, write 580 in the box on the

reader service coupon.

• A Joint Commission on Accreditation of Healthcare Organizations brochure describes several of its publications that address **evaluating the quality of care provided in managed care organizations**. For a free copy, write 581 in the box on the reader service coupon.

• A reprint available from Medirisk Inc. discusses **physician payment alternatives for health insurers and employers** to attempt to control costs. For a free copy, write 582 in the box on the

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Costs force changes in mental health plans

Q

Why are employers changing their mental health and substance abuse programs? What changes are employers making and which companies are providing these services?

A

Mental health and substance abuse costs are increasing nationwide at twice the rate of other medical costs. Some employers have reported cost increases for these benefits of 30% to 60% from 1987 to 1988.

There are also concerns regarding the care and quality that is being provided for the money being spent.

Companies are looking to manage these costs more effectively, and at the same time assuring themselves that the proper treatment is provided based on recognized patterns of treatment.

In order to determine if mental health and substance abuse costs are a problem in your program, you should determine if mental health and substance abuse costs represent 10% or more of your overall health care costs.

In addition, you should determine if the annual cost trend is increasing significantly—15% or more.

If those two factors exist, I recommend the following review:

- Are the plan design provisions rewarding costly and inappropriate inpatient care and penalizing outpatient treatment with limited reimbursement?
- Does utilization review apply to mental health and substance abuse?
- Do referrals to an employee assistance program generate higher costs?
- Compare patterns of your claims experience

with those of companies with similar plans. This should assist in determining problems, such as excess inpatient utilization, based on admissions per 1,000 covered employees. Average length of stay and dollars spent on inpatient treatment also must be examined.

- Examine patterns of outpatient care—such as visits per 1,000 covered employees or dollars spent on outpatient services.

If you determine, based on such a review, that your cost for mental health and substance abuse care is out of control, you should consider the two approaches being implemented by a number of corporations.

Carve-out plans treat this benefit separately from the medical plan benefit. This arrangement can be extended to indemnity plan and health maintenance organization participants, as well as early retirees and dependents.

The "carve-out" components can include utilization review, networks of providers, claim review and administration and some form of risk sharing with the company selected.

Another method would involve revising plan benefits to provide financial incentives, through better coverage, for employees and dependents to use a managed care network of providers. An employer also could establish better annual/lifetime limits for network provider users than for those that do not use the selected providers.

The purpose of this arrangement is to eliminate unnecessary and higher-cost treatment or inappropriate care. The managed care approach generally includes a national network of psychiatric providers and facilities.

This network of psychiatric providers and facilities could be provided by the same company that provides managed medical care programs or could be a regional or local network with which you contract locally or which can be subcontracted.

There are a growing number of companies providing these types of services. Some of the major providers are insurance companies, including Aetna Casualty & Surety Co., CIGNA Corp., Metropolitan

Casualty Insurance Co., Prudential Insurance Co. of America and Travelers Corp.

Other major providers are psychiatric utilization review firms including American PsychManagement Inc., Advanced PsychSystems, Preferred Health Care Ltd., TAO Inc., Managed Health Network, U.S. Behavioral Health and American Biodyne.

Employers should carefully study all the arrangements available and their potential for success before deciding on the best way to better control and slow down the increases in their mental health and substance abuse costs.

A successful program must recognize the special characteristics of mental health and substance abuse and meet both your financial and human resources objectives.

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

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



Mr. Duva

This month's column on employee benefits issues is written by Joseph W. Duva, director of employee benefits at Allied-Signal Inc. in Morristown, N.J. Susan M. Werner, director of risk management at Hardee's Food Systems Inc. in Rocky Mount, N.C., answers risk management questions. William J. Miner, an actuary with The Wyatt Co. in Chicago, answers actuarial questions on benefits issues. Richard E. Sherman, a principal with Coopers & Lybrand in San Francisco, answers actuarial questions in the casualty field. Mr. Duva's and Ms. Werner's columns appear alternately on the second Monday of each month. Mr. Miner's and Mr. Sherman's columns appear alternately on the first Monday of each month. Mr. Duva's next column will appear in November.

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

HMOs

Continued from previous page

In this example, the employee contribution would have been \$20 if the employer was merely paying 80% of the HMO rate. Using this benefit differential method, the employer reduces its monthly contribution by \$6.06.

The benefit differential approach will save the company approximately \$300,000 during 1989. When the approaches taken by Continental Bank during 1988 and 1989 are combined, those changes will save the bank approximately \$1 million during 1989. This \$1 million savings includes the \$300,000 from the benefit differential and \$700,000 from paying HMOs 80% of the HMO cost. The \$1 million savings is approximately a 20% reduction in HMO costs.

As was mentioned earlier, one of the HMOs was not offered to employees in 1989 due to financial problems. The bank was concerned with employees' reaction to the bankruptcy of an HMO. Anticipating their requests, employees were provided with financial information on the remaining HMOs. The financial information showed that two of the four HMOs had losses during the prior fiscal year. Despite this one failing HMO and the fact that two of the other four HMOs had a net loss in the prior year, 82% of

employees in the eliminated HMO opted to remain in the other HMOs, while 2% waived their coverage and 16% chose the indemnity plan.

The overall results of the change in employee contribution rates regarding employees' choice of the medical plan or the HMO is that there was minimal movement. The increase in the employee contribution rate in the medical plan was 28%, while the increases to employees in the HMOs ranged from 39% to 67%. The significant increases in the HMO rates plus the elimination of an HMO due to financial reasons and the fact that two of the four remaining HMOs recorded financial losses in the prior fiscal year appeared to set the stage for the movement of employees from the HMOs to the bank's medical plan. The net result was a 0.8% increase in the number of enrollees in the plan.

Although Continental Bank over the last three years has attempted to equalize the benefit in contributions between the medical plan and the HMOs, at this point the impact of the movement of employees from the HMO to the medical plan is unknown. To determine its impact, the bank will be conducting a migration study in which employees who have switched from the HMOs to the medical plan will be identified. The cost of the medical

plan claims paid for these employees will be determined. To determine the ultimate impact of this movement, these medical plan claim costs will be compared to the cost of the HMO premiums the company would have paid. This analysis will be performed over a period of years so that the bank can better understand and determine the ultimate impact of such movements.

Some additional actions being taken by the bank include the collection of data from the HMOs. We now are working with an HMO and our data provider to collect data from the HMOs. This data collection project will be coordinated by Medstat Systems Inc. of Ann Arbor, Mich., with participation by General Motors Corp., Ford Motor Co., Continental Bank and other companies. Many of the HMOs are not very good at data collection, and they do not provide users with much data. We are working very closely with our HMOs to have them provide this information.

Within the bank, we are focusing on a communication program to our employees. Employees need to know and understand what is happening today in the area of health care and how this health care impacts cost. Employees must become better educated regarding health care cost.

It is anticipated there will be future changes in the design of our health care plans for our employees and possibly how health care will be delivered. Future changes will be much easier if employees know prior to implementation of changes how and why such changes are being made.

One final action that is being considered is an employee survey regarding employees' health care needs and preferences. It is anticipated that the survey will provide additional information that will assist in plan design regarding the health care area.

If companies are to control health care costs in the long term, benefits professionals must take a pro-active approach to these costs. How we deal with HMOs is one area of the health care spectrum that benefit professionals must examine. We must take an active role in examining our practices and taking steps to control costs. Now that most of the legislative protection and advantages provided to the HMOs are gone, we must learn to deal with HMOs like any other provider in the business community. The HMOs are providing a service that we are purchasing. We must be satisfied with the product, the service and the quality of service being provided for the price being charged.

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Continued from page 35
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• Kwasha Lipton offers a bulletin discussing key issues of the Financial Accounting Standards Board's proposed standards on **accounting for post-retirement health care benefits**, including recommendations to employers and examples on how the proposal works. For a free copy, write 584 in the box on the reader service coupon.

• "Benefit Spotlight," a newsletter published by Meeker Sharkey Financial Group Inc., deals with **employee benefits and re-**

lated topics, including current laws and pending legislation. For a free copy, write 585 in the box on the reader service coupon.

• A pamphlet offered by EOI Service Co. Inc. examines the company's **voluntary, employee-pay-all benefit programs** and offers suggestions on how such plans can be successfully integrated into existing employee benefit packages. For a free copy, write 586 in the box on the reader service coupon.

• A 20-page booklet offered by Coopers & Lybrand summarizes key aspects of the Financial Accounting Standards Board's proposal on **accounting for retiree health care benefits** and how companies would be affected if the new accounting standards are adopted. For a free copy, write 587 in the box on the reader service coupon.

• A 24-page guide available from The Principal Financial Group examines ten approaches to **alternative benefit funding for employers with 100 or more employees**. For a free copy, write 588 in the box on the reader service coupon.

• A quarterly newsletter published by Aetna Life Insurance Co. contains information on **benefit plan design, Section 89 testing, benefit communications, health care data analysis, legislation and retiree issues**. For a free copy, write 589 in the box on the reader service coupon.

• National Health Services Inc. offers a leaflet describing CareReview, the company's **in-house utilization review system**. For a free copy, write 590 in the box on the reader service coupon.

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• Aetna Life Insurance Co. offers "At Issue," a quarterly newsletter examining issues and legislation currently under public debate that can impact **employee benefits**. For a free copy, write 592 in the box on the reader service coupon.

• The Principal Financial Group offers an "Executive Guide to Cafeteria Plans," a 20-page brochure **describing procedures employers should follow when establishing an flexible employee benefit plan**. For a free copy, write 593 in the box on the reader service coupon.

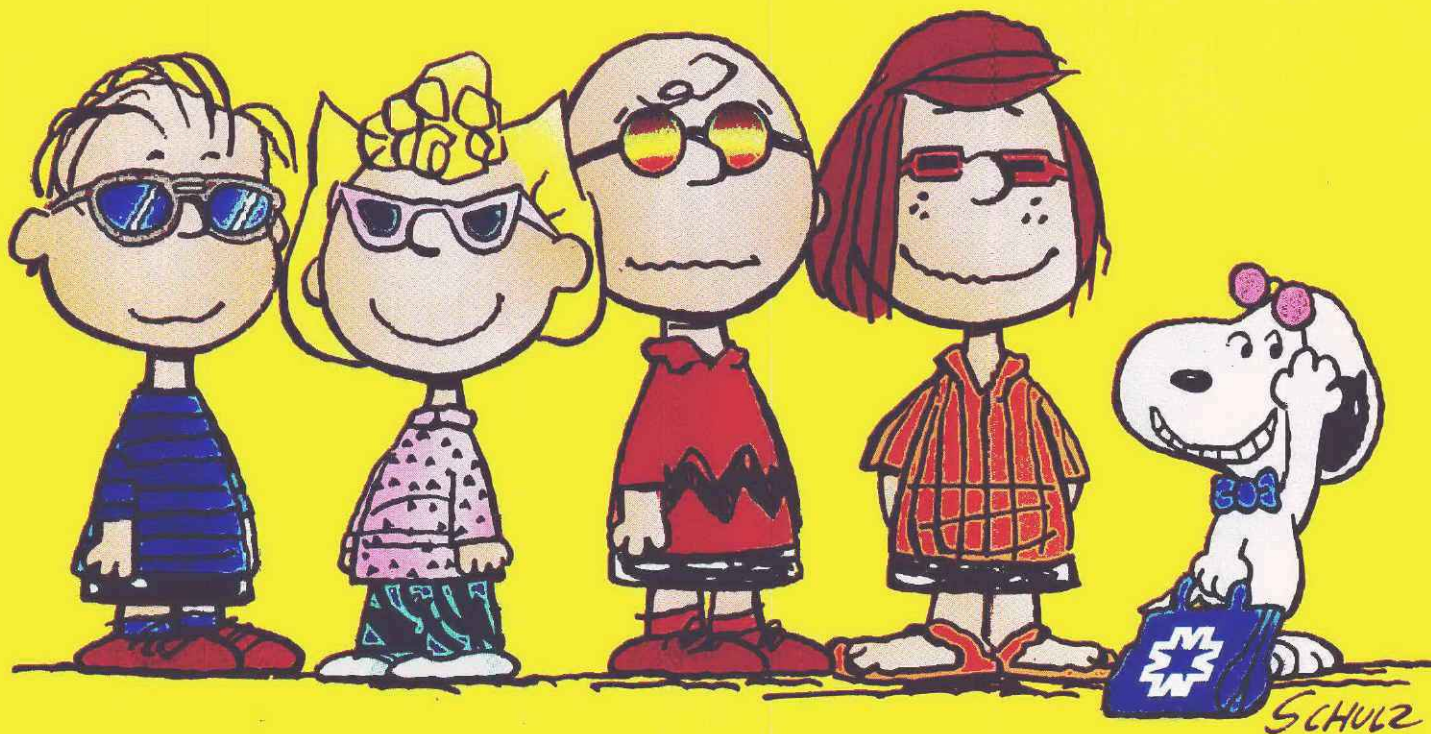
• EQUICOR offers a monthly newsletter containing reports on **federal legislation, court decisions and trends of interest to employee benefit administrators**. For a free copy, write 594 in the box on the reader service coupon.

• "Finding your way through Section 89," a reprint of an article that provides an overview of the **key requirements of Section 89**, is offered by The Hay Group. For a free copy, write 595 in the box on the reader service coupon.

• A 38-page brochure detailing **retirement plans design**, including the different types of plans and their costs, is available from The Principal Financial Group. For a free copy, write 596 in the box on the reader service coupon.

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• Hay/Huggins Co. Inc. offers a folder describing the use of computerized statements to keep employees informed of the actual value of their benefits and to generate management analysis of benefits programs. For a free copy, write 598 in the box on the reader service coupon.

• A 40-page booklet offered by KPMG Peat Marwick provides an overview of the history of post-retirement benefit plans and a summary of the major provisions of the Financial Accounting Standards Board's proposed standards on accounting for post-retirement health care benefits. For a free copy, write 599 in the box on the reader service coupon.

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• Multi-Risk Management publishes a series of monthly newsletter composed of articles on current issues in the health care field, including workers compensation and employee benefit concerns. For a free copy, write 604 in the box on the reader service coupon.

• A flier available from Parkside Health Management Corp. details the company's Technology & Outpatient Review product, designed to reduce unnecessary high-tech medical care procedures without reducing the quality of care. For a free copy, write 605 in the box on the reader service coupon.

• A sample issue of EQUICOR HealthChoice, a monthly publication which provides health care, medical information and lifestyle tips designed to promote healthier lifestyles, is available from the company. For a free copy, write 606 in the box on the reader service coupon.

• Mutual of Omaha Insurance Co. offers a leaflet describing current health care cost containment trends and how they may cause increased costs in other areas. For a free copy, write 607 in the box on the reader service coupon.

• A pamphlet offered by The Principal Financial Group details benefits packages for firms with between two and nine employees. For a free copy, write 608 in the box on the reader service coupon.

• A folder discussing the phenomena of experiencing rising benefits costs after contracting with a health maintenance organization is offered by Mutual of Omaha Insurance Co. For a free copy, write 609 in the box on the reader service coupon.

• Blue Cross of Western Pennsylvania offers a brochure containing several examples of the company's health care cost containment trends and how they may cause increased costs in other areas. For a free copy, write 610 in the box on the reader service coupon.

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- ☐ RETIREE PREMIUM BILLING MANAGER
- ☐ SMALL GROUP BILLING MANAGER
- ☐ TRAVIS/HR HRIS SYSTEM

Continued from previous page
pany's **health care utilization and payment analysis reports** for employers. For a free copy, write 610 in the box on the reader service coupon.

- A flier offered by Systematic Automation Inc. describes the company's **personalized employee benefit statements**. For a free copy, write 611 in the box on the reader service coupon.

- The Principal Financial Group offers a pamphlet examining the reason **group health insurance premiums** continue to rise. For a free copy, write 612 in the box on the reader service coupon.

- A 42-page booklet from Mutual of Omaha Insurance Co., updated annually, offers **data and analysis of health care expenditures** by region, including average hospital charges, room rates, inflation, disability causes, etc. For a free copy, write 613 in the box on the reader service coupon.

- EQUICOR offers "Health-Choice Health Promotion and Medical Guide," a compilation of four books prepared by the American Medical Assn., including topics on **emergency care, women and health and reference guides**. For a free copy, write 614 in the box on the reader service coupon.

- An overview of the **managed care** concept, including what employers are doing, benefit modifications and alternative delivery systems, is discussed in a brochure available from Mutual of Omaha Insurance Co. For a free copy, write 615 in the box on the reader service coupon.

- EQUICOR Products & Services Guide contains product reviews of the company's **indemnity, managed care, cost-containment and utilization review products**. For a free copy, write 616 in the box on the reader service coupon.

- A reprint of an article discussing the impact of the expansion of **catastrophic coverage under the Medicare program** is offered by Aetna Life Insurance Co. For a free copy, write 617 in the box on the reader service coupon.

- A booklet describing Libra Information Networks' **electronic claims submission service** is available from the company. For a free copy, write 618 in the box on the reader service coupon.

- An "HMO Glossary," available from Auburn Systems Corp., contains a **glossary of HMO, insurance and related computer terms**. For a free copy, write 619 in the box on the reader service coupon.

- Kemper Financial Services offers a booklet detailing the company's alternatives for managing **retirement plan assets**, including a discussion on the advantages and disadvantages of lump-sum distributions, pension distributions and the tax consequences of each. For a free copy, write 620 in the box on the reader service coupon.

Employee benefit information systems

- Resource Information Management Systems Inc. offers a brochure detailing its QicClaim and QicClaim/2 **employee benefit administration systems**. For a free copy, write 651 in the box on the reader service coupon.

- FLX Corp. has published a guide that is designed to help ben-

efit plan administrators and plan sponsors in choosing an appropriate **flexible benefit administration system**. For a free copy, write 652 in the box on the reader service coupon.

- A brochure available from Hazlehurst & Associates Inc. details the company's **Section 89 Testing System software**. For a free copy, write 653 in the box on the reader service coupon.

- The features of Fastrak PC, a **health claims administration system** available from Computations/Dyer Wells, are noted in a booklet available from the company. For a free copy, write 654 in the box on the reader service coupon.

coupon.

- A brochure available from Republic-RS3 Cos. Inc. contains information on the company's **data base used to calculate usual, reasonable and customary charges**. Also included in the brochure is information on additional products and services offered by the company. For a free copy, write 655 in the box on the reader service coupon.

- The features of Capital Accumulation Language, an **employee benefits administration system for defined contribution plans**, are discussed in a folder available from Hay/Huggins Co. Inc. For a free copy, write 656 in the box on the reader service coupon.

- Information on Flexclaims **Flexible Benefit Administration System**, as well as other products and services offered by WLT Software of Florida Inc., are contained in a booklet available from the company. For a free copy, write 657 in the box on the reader service coupon.

- EBG & Associates offers a free subscription to a quarterly newsletter detailing current issues and trends in **employee benefit administration and software development**. For a free copy, write 658 in the box on the reader service coupon.

- A flier describing FLEXTRAK, a **flexible benefits administration system**, is available from

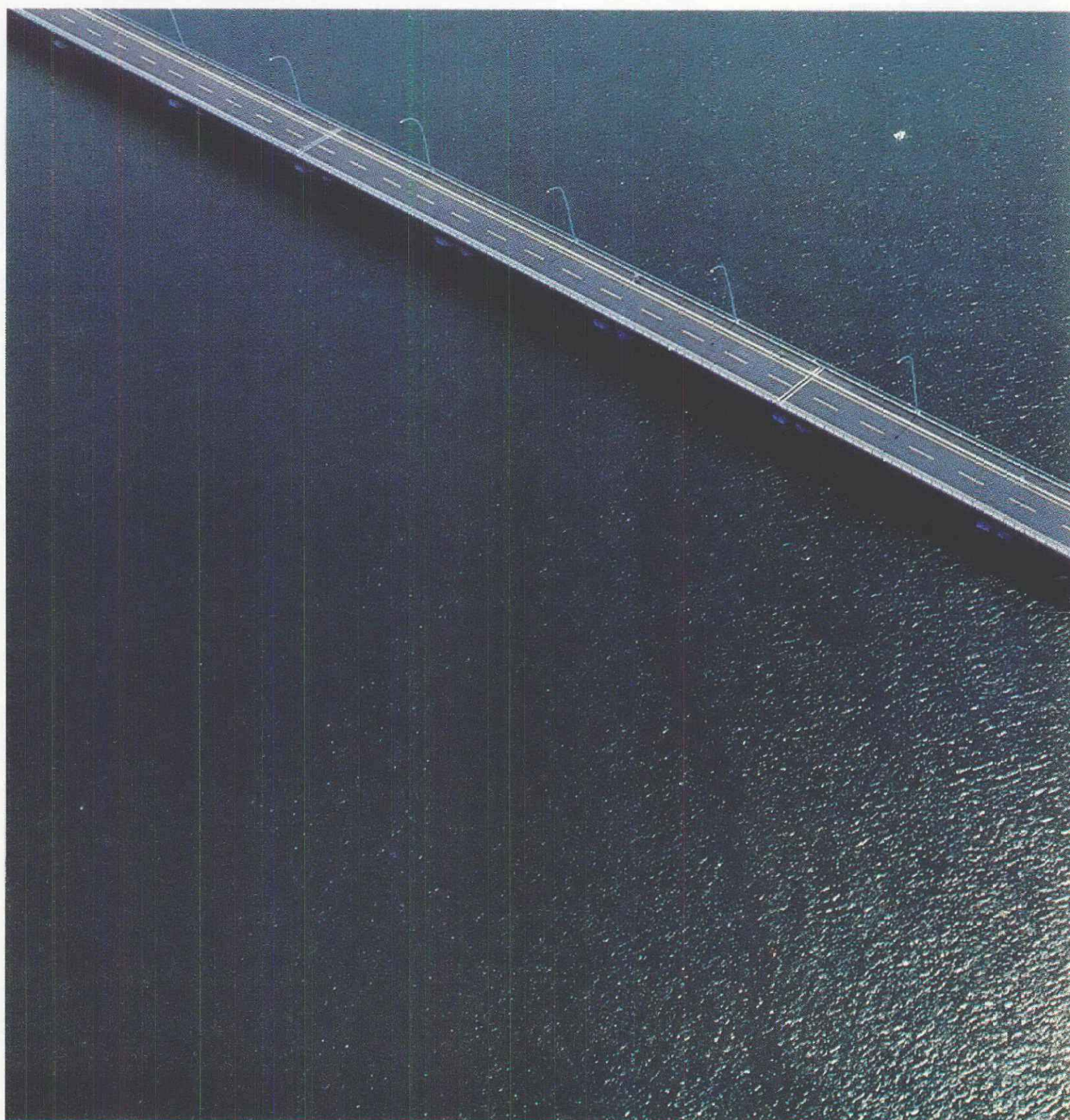
Computations/Dyer Wells. For a free copy, write 659 in the box on the reader service coupon.

- Geneleo Inc. offers a booklet detailing the features of its **health claims administration system**, designed for use by self-insured employers, unions, insurance companies or third-party claims administrators. For a free copy, write 660 in the box on the reader service coupon.

- Parkside Data Services offers a flier describing The Parkside Health Data Profile. The **profiles are designed to help employers, insurers and claims administrators to identify medical utilization trends** and apply cost man-

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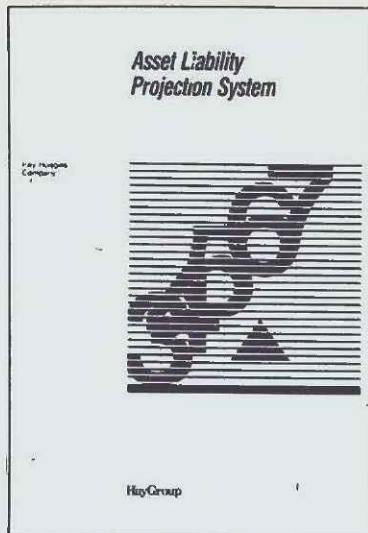
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agement techniques. For a free copy, write 661 in the box on the reader service coupon.

- A brochure available from Benefit Plan Systems Corp. details the company's COBRA EAS software, designed for use in **administering claims under COBRA**. For a free copy, write 662 in the box on the reader service coupon.

- Hay/Huggins Co. Inc. offers a brochure describing its Asset Liability Projection System, designed to **calculate pension plan contribution levels** to prevent companies from overfunding such plans. For a free copy, write 663 in the box on the reader service coupon.



- The Coopers & Lybrand Information Line, a **computerized voice-response system** designed to help employers communicate employee benefits and other information to employees, is featured in a pamphlet available from Coopers & Lybrand. For a free copy, write 664 in the box on the reader service coupon.

- A booklet available from WLT Software of Florida Inc. offers information on the company's Medi-claims **Health Claims Administration System** and other products and services available from the company. For a free copy, write 665 in the box on the reader service coupon.

- A flier available from Insur-

ance Software Packages Inc. contains information on COBRA EAS, a software package designed to **administer claims under COBRA**. For a free copy, write 666 in the box on the reader service coupon.

- Computations/Dyer Wells offers a packet describing RE-SPONSEplus, the company's **health claims adjudication and administration system**. For a free copy, write 667 in the box on the reader service coupon.

- A flier available from Health Economics Corp. discusses the use of **analytical data to understand utilization patterns** and determine benefit plan changes. Other products and services of the company are also described. For a free

copy, write 668 in the box on the reader service coupon.

- Benefit Plan Systems Corp. offers two fliers detailing the company's **Retiree/Non-COBRA Billing Software**. Samples of program screens are included. For a free copy, write 669 in the box on the reader service coupon.

- A brochure offered by Hay/Huggins Co. Inc. describes the company's software designed to **calculate pension valuations**. For a free copy, write 670 in the box on the reader service coupon.

- Benefactor, an employee benefits information system designed to administer **defined contribution plans, defined benefit plans, conduct enrollment and non-discrimination testing** and perform additional functions, is featured in a folder available from Coopers & Lybrand. For a free copy, write 671 in the box on the reader service coupon.

- WLT Software of Florida Inc. offers a booklet describing its software system designed to **administer claims under COBRA**. For a free copy, write 672 in the box on the reader service coupon.

- Cyborg Systems Inc. offers a folder discussing the company's on-line software, functions of which include **human resource management, payroll processing and recordkeeping**. For a free copy, write 673 in the box on the reader service coupon.

- A packet of product literature available from Travis Software Corp., includes information on the company's Corporate Cobra Manager, Travis Flex, Retiree Premium Billing Manager and Section 89 Testing **employee benefit automation systems**. For a free copy, write 674 in the box on the reader service coupon.

- Insurance Software Packages Inc. offers a pamphlet describing its **health benefits management system**, which administers employee health benefits for self-insureds, insurance companies and third party administrators. For a free copy, write 675 in the box on the reader service coupon.

- Genelco Inc.'s **employee benefit software and support services** are detailed in a brochure available from the company. For a free copy, write 676 in the box on the reader service coupon.

Fidelity & surety

- A brochure available from Rollins Financial Services highlights **insurance products available to financial institutions**, including blanket bonds, directors and officers liability, employee benefits and credit insurance. For a free copy, write 701 in the box on the reader service coupon.

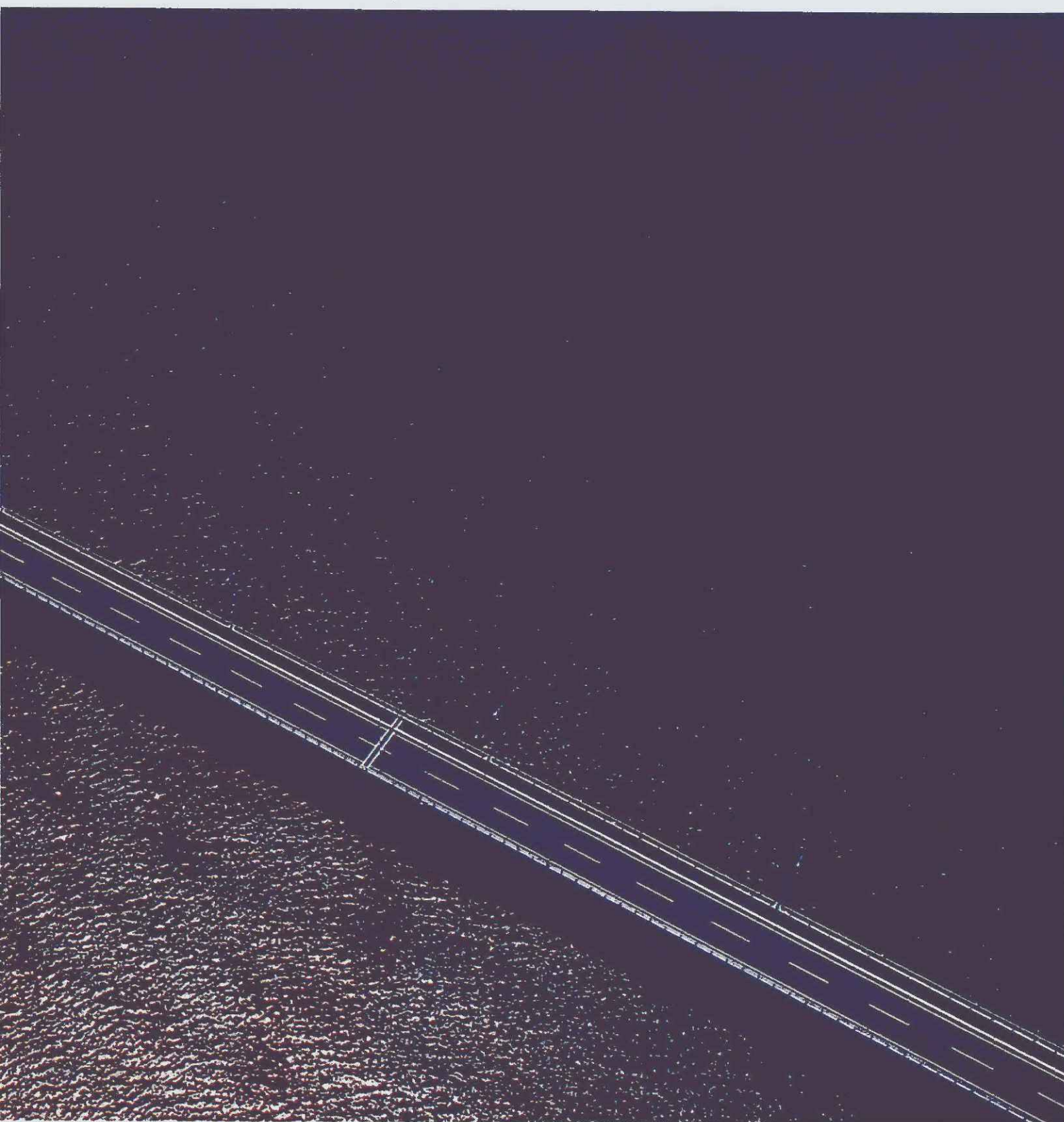
Financial services

- A discussion of the **features of structured settlements**, as well as services offered by the company, are contained in a booklet from PaineWebber Structured Settlements. For a free copy, write 801 in the box on the reader service coupon.

- "Investment Insight," a quarterly newsletter published by Wyatt Asset Services Inc., contains articles on **investment issues, pension and profit-sharing plans and market updates**. For a free copy, write 802 in the box on the reader service coupon.

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Inc. For a free copy, write 1003 in the box on the reader service coupon.

• A sample of "Corporate Stress Profile," a publication of Stresscare Systems Inc., identifies **personal and on-the-job stress factors** that are associated with health risk symptoms and organizational functions that are related to stress related absenteeism, morale and productivity. For a free copy, write 1004 in the box on the reader service coupon.

• A pamphlet available from Darrell Heppner Risk Management Services Inc. is designed to provide ideas for the **prevention of back injuries**. For a free copy, write 1005 in the box on the reader service coupon.

• Health Economics Corp. offers a brochure citing case studies that indicate decreases in injury incidence and cost due to **pre-employment back strength testing**. For a free copy, write 1006 in the box on the reader service coupon.

• SmithKline Bio-Science Laboratories offers a folder describing the company's **drug testing program**. For a free copy, write 1007 in the box on the reader service coupon.

• A two-page flier available from NATLSCO addresses Sick Building Syndrome, including information on methods to investigate **indoor air quality problems**. For a free copy, write 1008 in the box on the reader service coupon.

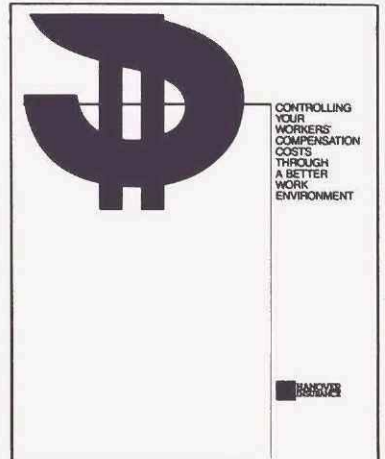
• Working Solutions Inc. offers outlines for **safety training classes** designed to increase accident awareness. The fliers include procedures for hazard identification and the value of an effective safety committee. For a free copy, write 1009 in the box on the reader service coupon.

• A brochure describing Crawford & Co.'s risk improvements services details the company's technical and educational services designed to help create a successful **risk control program**. For a free copy, write 1010 in the box on the reader service coupon.

• NATLSCO offers a four-page folder detailing the company's **ergonomics consulting services**, which include methods that may reduce injuries through workplace and job modification. For a free copy, write 1011 in the box on the reader service coupon.

• A brochure available from Clayton Environmental Consultants Inc. details the company's services designed to **improve indoor air quality**. For a free copy, write 1012 in the box on the reader service coupon.

• A package available from Hanover Insurance contains information on loss control techniques, including **job instruction training, accident investigation and back-to-work programs**. For a free copy, write 1013 in the box on the reader service coupon.



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• A pamphlet offered by Stresscare Systems Inc., contains excerpted data on stress activity from a national survey on **worksites health promotion** conducted by the U.S. Department of Health and Human Services. For a free copy, write 1014 in the box on the reader service coupon.

• Darrell Heppner Risk Management Services Inc. offers a flier describing the company's ProFlex Wrist Support, designed to prevent **industrial injuries** and give added strength to injured employees during rehabilitation. For a free copy, write 1015 in the box on the reader service coupon.

• A catalog available from International Loss Control Institute lists **safety and loss control management training services, public courses, program audits and educational services** offered by the company. For a free copy, write 1016 in the box on the reader service coupon.

• A six-page brochure lists eight courses on **safety management, industrial hygiene, ergonomics and fire protection engineering** available from NATLSCO. For a free copy, write 1017 in the box on the reader service coupon.

• **Loss prevention training material** is available from Working Solutions Inc. The company offers fliers discussing supervisor involvement and effective enforcement of safety rules as methods to

Continued on next page

and recreation industry, is available from The Center for Sports Law & Risk Management

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control accidents. For a free copy, write 1018 in the box on the reader service coupon.

- **Industrial hygiene services** offered by Clayton Environmental Consultants Inc., including surveys, expert testimony, compliance audits, noise surveys, contamination control and asbestos abatement, are detailed in a pamphlet. For a free copy, write 1019 in the box on the reader service coupon.

- A brochure available from Hall-Kimbrell Environmental Services describes the company's **environmental management program for the commercial real estate and property management industries**. For a free copy, write 1020 in the box on the reader service coupon.

- **"How Deep is Stress Cutting into Your Earnings?"** is the title of a pamphlet available from Stresscare Systems Inc. For a free copy, write 1021 in the box on the reader service coupon.

Loss control/ property

- The Insurance Institute of America offers a flier detailing the institute's five-course **Associate in Loss Control Management program**. For a free copy, write 1101 in the box on the reader service coupon.

- "The Sentinel," a quarterly magazine published by Industrial Risk Insurers, provides information on **fire protection, loss control, waste disposal, storing flammable and combustible liquids and related loss control topics**. For a free subscription, write 1102 in the box on the reader service coupon.

- A booklet published annually by Trailer Research is a professional reference manual to assist in **determining fair market value for 13 types of semi-trailers in case of loss**. The booklet also provides information on state and federal regulations. For a free copy, write 1103 in the box on the reader service coupon.

- A report available from ENSR Operations explores **options for eliminating PCB transformers**, thereby reducing financial risks to their owners. For a free copy, write 1104 in the box on the reader service coupon.

- Marshall & Swift offers samples of its **replacement cost estimating services for commercial and residential properties**. For a free sample, write 1105 in the box on the reader service coupon.

- The concerns of **PCB equipment in industrial facilities** is discussed in a booklet from ENSR Operations. Topics considered include litigation, cleanup costs, management involvement and risk reduction. For a free copy, write 1106 in the box on the reader service coupon.

- Publications available from Marshall & Swift are described in a brochure. The publications deal with building contract awards and the **cost of repair and renovation of buildings**. For a free copy, write 1107 in the box on the reader service coupon.

- **Preventing and reducing losses after an earthquake**, which includes fires, floods, data loss and system damage, is the subject of a booklet that is now available from Earthquake Safety

Systems Inc. For a free copy, write 1108 in the box on the reader service coupon.

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Notice - Volkswagen Discovery Abuse

Our client was granted a new trial in a crashworthiness case against Volkswagen of America and Volkswagen A.G. as a consequence of a court finding of defense discovery abuses, including "non-disclosure of the crash tests films and misrepresentations by key witnesses." *Martin v. Volkswagen of America, et al.*, C.A. No. M-83-5168, USDC, So. District Texas, Houston Division.

We are interested in accumulating information concerning discovery abuses in other "Volkswagen" cases. If you know of such discovery abuses in cases now pending or concluded, please contact the undersigned.

If you contribute to our pool of information, we will share our information with you.

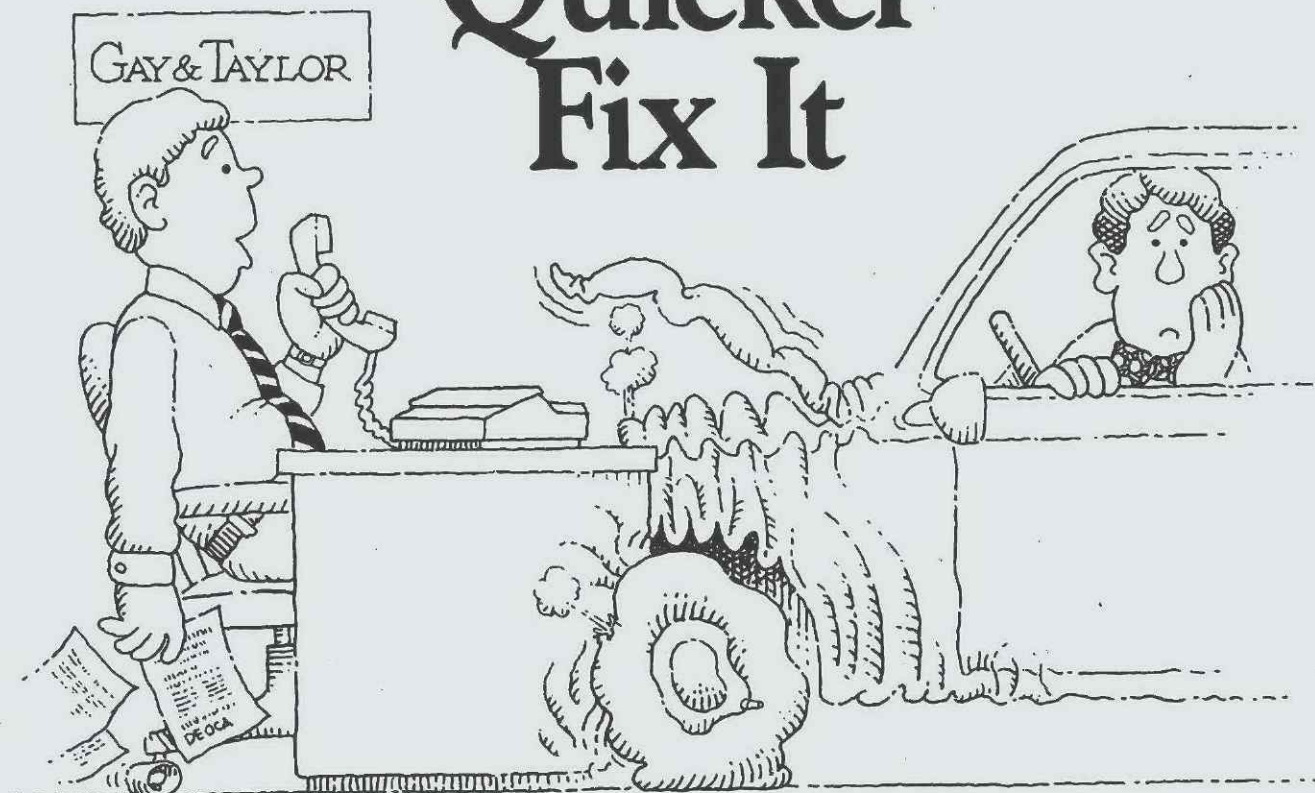
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• **Eliminating PCBs from mineral oil-filled equipment** is discussed in a booklet available from ENSR Operations. For a free copy, write 1109 in the box on the reader service coupon.

• A guide designed to aid selecting **asbestos abatement contractors** is offered by The Brand Cos. For a free copy, write 1110 in the box on the reader service coupon.

pon.

• A brochure available from Crawford & Co. describes the company's **environmental pollution claims services**. For a free copy, write 1111 in the box on the reader service coupon.

• Clayton Environmental Consultants Inc. offers a brochure detailing its **environmental engineering services**, including hazardous waste management, risk assessments for property transactions and regulatory compliance. For a free copy, write 1112 in the box on the reader service coupon.

• A case study of an **asbestos abatement project** in an occupied high-rise building is available from The Brand Cos. Inc. For a free copy, write 1113 in the box on the reader service coupon.

Marine

• The Insurance Institute of America is offering a flier that describes the institute's **Associate in Marine Management program**. For a free copy, write 1201 in the box on the reader service coupon.

Reinsurance

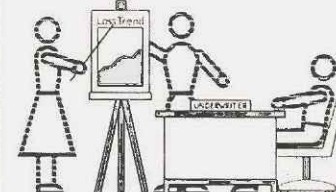
• "Topics in Individual Health," the title of a collection of articles from Lincoln National Reinsurance Co.'s Reinsurance Reporter,

contain **articles of interest to health insurers**. The articles are presented in a brochure available from Lincoln National Reinsurance. For a free copy, write 1301 in the box on the reader service coupon.

Risk management

• The Insurance Institute of America is offering a flier that details the organization's **Associate in Risk Management program**. The program is designed to teach risk management problem-solving techniques. For a free copy, write 1401 in the box on the reader service coupon.

Crawford Underwriting Risk Analysis



Crawford

• A brochure is available from Crawford & Co. that describes the company's underwriting risk analysis program, which is designed to analyze **complex risks and risks involving serious exposures**. For a free copy, write 1402 in the box on the reader service coupon.

• A list of articles published in "BankRisk, The Bank Risk Management Quarterly," is available from the Tillinghast division of Towers, Perrin, Forster & Crosby Inc. For a free copy, write 1403 in the box on the reader service coupon.

• The **corporate vehicle claims service standards** of Crawford & Co. are detailed in a brochure available from the company. For a free copy, write 1404 in the box on the reader service coupon.

• The **property appraisal services** of American Appraisal Associates are described in a brochure available from the company. For a free copy, write 1405 in the box on the reader service coupon.

• Crawford & Co. offers a directory of **heavy equipment ap-**
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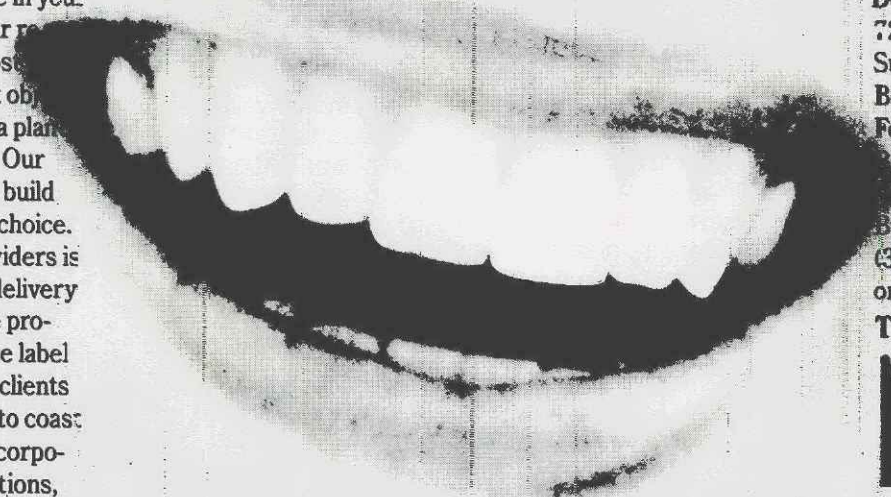
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praisers certified by the company in the United States and Canada. For a free copy, write 1406 in the box on the reader service coupon.

- A quarterly publication of Risk Management Referral Service describes the company's free service designed to help buyers **locate vendors of risk management services** for their property/casualty or group insurance programs. For a free copy, write 1407 in the box on the reader service coupon.

- "Crawford & Co. 1989 Office Directory" includes locations providing a variety of **risk management-related services** in the United States and Canada. For a free copy, write 1408 in the box on the reader service coupon.

- A list of **past issues of "Risk Management Reports,"** a quarterly publication of the Tillinghast division of Towers, Perrin, Forster & Crosby Inc., is available in a flier. For a free copy, write 1409 in the box on the reader service coupon.

- **Corporate quality control standards for property claims services** used by Crawford & Co. are detailed in a brochure. For a free copy, write 1410 in the box on the reader service coupon.

- "Determining Insurance Values" is the title of a study commissioned by American Appraisal Associates; the study offers information on **evaluating outside appraisal companies**. For a free copy, write 1411 in the box on the reader service coupon.

- "Advanced Appraisal Technology," a brochure available from Crawford & Co., contains information on the company's **automobile appraisal service**. For a free copy, write 1412 in the box on the reader service coupon.

- "Risky Business," a quarterly newsletter published by Professional Risk Management Services Inc., contains **articles on trends and strategies in risk management** and related fields. For a free copy, write 1413 in the box on the reader service coupon.

- The Crawford & Co. Trucking Directory lists locations of the company's **trucking claims adjusters** in the United States and Canada. For a free copy, write 1414 in the box on the reader service coupon.

- The **Associate in Insurance Accounting and Finance designation** awarded by the Insurance Institute of America is described in a flier. For a free copy, write 1415 in the box on the reader service coupon.

- "Crawford Risk Review," published quarterly by Crawford & Co., is a 20-page newsletter discussing **developments in risk management and claims handling**. For a free copy, write 1416 in the box on the reader service coupon.

- "Utility Insurance Update," a monthly publication of Stone & Webster Management Consultants Inc., contains articles on **risk management topics** for utilities. For a free copy, write 1417 in the box on the reader service coupon.

- Crawford & Co. offers a directory of **casualty general adjusters**, which lists office locations of the company's casualty adjusters in the United States and Canada. For a free copy, write 1418 in the box on the reader service coupon.

- A reprint available from Stone & Webster Management Consul-

tants Inc. discusses the possible **benefits of a risk management audit**, including methods that can be used to locate a consultant to perform the audit. For a free copy, write 1419 in the box on the reader service coupon.

- A sample copy of "Betterley Risk Management Commentary," a quarterly publication discussing **current issues affecting risk managers**, is available from Betterley Risk Consultants Inc. For a free copy, write 1420 in the box on the reader service coupon.

- A 12-page booklet available from Crawford & Co. details the company's corporate standards for **casualty claims services**. For a free copy, write 1421 in the box on the reader service coupon.

- A brochure available from International SOS Assistance Inc. describes the company's services. *Continued on next page*

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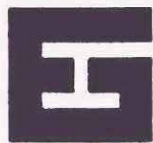
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• A discussion of **boiler and machinery insurance**, including how to determine need, types of policies, risks covered and selection of limits and deductibles, is the subject of a reprint from "The Risk Report" published by International Risk Management Institute Inc. For a free copy, write 1423 in the box on the reader service coupon.

• The **damage appraisal services for automobiles, trucks and heavy equipment** available from Crawford & Co. are detailed in an 8-page brochure. For a free copy, write 1424 in the box on the reader service coupon.

• A description of all **property**

and casualty insurance courses offered by The American Institute for Property & Liability Underwriters and the Insurance Institute of America is provided in a booklet available from the institutes. For a free copy, write 1425 in the box on the reader service coupon.

• Crawford & Co. offers the Property General Adjuster Directory, which lists office locations of the company's **property claims adjusters** in the U.S. and Canada. For a free copy, write 1426 in the box on the reader service coupon.

Risk management information systems

• "Computer Assisted Loss Forecasting" a brochure available from Crawford & Co., describes the
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company's **software program designed to forecast future years' property/casualty losses.** For a free copy, write 1501 in the box on the reader service coupon.

• An information kit available from DAVID Corp. highlights features of the company's **automated risk management, claims administration and workers compensation products.** Sample input screens, sample reports and a demonstration diskette are also included. For a free kit, write 1502 in the box on the reader service coupon.

• SIGMA System, a risk management information system, provides **processing information on current loss data, control of litigation, loss forecasting and other risk management-related areas.** The information packet is available from Risk Sciences Group. For a free copy, write 1503 in the box on the reader service coupon.

• A brochure available from Tillinghast describes RiskMaster Software, a **series of 14 software programs designed to aid in risk and claims management.** Sample reports and video screens are also provided. For a free copy, write 1504 in the box on the reader service coupon.

• A flier available from Coopers & Lybrand describes the features of Exhibitmaker 5, the company's **loss reserving software system designed for property, casualty, accident and health insurance programs.** For a free copy, write 1505 in the box on the reader service coupon.

• Crawford & Co. offers a pamphlet describing Comp-U-Claims, its **automated property claims estimating system.** For a free copy, write 1506 in the box on the reader service coupon.

• Triangle Analysis, an automated program designed to **forecast losses based on those incurred but not reported,** is detailed in a flier available from Insurance Software Packages Inc. For a free copy, write 1507 in the box on the reader service coupon.

Self-insurance

• Multi-Line Claims Management System, designed to administer **self-insured commercial automobile, general liability, professional liability** and other types of claims, is detailed in a flier available from Insurance Software Packages Inc. For a free copy, write 1601 in the box on the reader service coupon.

• A booklet details the **loss control, claims management, automation** and other services Self-Insurers Service Inc. offers to risk managers of self-insured companies. For a free copy, write 1602 in the box on the reader service coupon.

• The **litigation management services** available to self-insured

companies from Lititech Inc. are discussed in the company's brochure, "Management's Alternative to Corporate Litigation." For a free copy, write 1603 in the box on the reader service coupon.

• A pamphlet available from INSCOR Inc. describes the company's **third-party claims administration services for self-funded group health plans.** For a free copy, write 1604 in the box on the reader service coupon.



• Associated Claims Enterprises Inc. offers a booklet detailing the company's **customized information systems designed for self-insured companies** and other companies using alternative risk-financing techniques. For a free copy, write 1605 in the box on the reader service coupon.

• An article reprint from *Business Insurance* is available from Coopers & Lybrand, discussing the possible **benefits of self-insurance** for companies. For a free copy, write 1606 in the box on the reader service coupon.

• Genelco Inc. offers a pamphlet describing its **third-party claims administration services** for insurance companies and employers that self-fund their health benefits.

For a free copy, write 1607 in the box on the reader service coupon.

• A flier available from Computations/Dyer Wells describes Inte*link, the company's electronic interface product that can enable users to successfully **interface claims into an in-house system without re-programming.** For a free copy, write 1608 in the box on the reader service coupon.

Workers compensation

• Insurance Software Packages Inc. offers a flier detailing its Medical Fee Schedule Validation System, which automates the **adjudication of workers compensation claims.** For a free copy, write 1701 in the box on the reader service coupon.

• A brochure available from Crawford & Co. describes the company's computerized **program designed to reduce and control workers compensation medical expenses.** For a free copy, write 1702 in the box on the reader service coupon.

• The use of computer documentation in **determining the level of disability and assisting in rehabilitation of workers with low-back injuries** is explained in a pamphlet available from Isotechnologies Inc. For a free copy, write 1703 in the box on the reader service coupon.

• GAB Business Services Inc. offers a 108-page book, "Workers Compensation Self-Insurance Requirements by State." Included is information on regulating bodies, qualifying standards, application procedures, excess in-

surance requirements and reporting. For a free copy, write 1704 in the box on the reader service coupon.

• A pamphlet discussing the **use of medical screening** to place injured workers in appropriate jobs and comply with federal, state and local laws and regulations is available from Darrell Heppner Risk Management Services Inc. For a free copy, write 1705 in the box on the reader service coupon.

• Utilizing **case management to reduce disability costs** is the subject of "Second Chance: Rehabilitating the American Worker," a booklet available from Northwestern National Life Insurance Co. For a free copy, write 1706 in the box on the reader service coupon.

• A diagram describing components necessary for an effective **workers compensation management system** is available from Working Solutions Inc. For a free copy, write 1707 in the box on the reader service coupon.

• **Guidelines for legal video surveillance of bodily injury claimants** are presented in a pamphlet available from InPhoto Sur-

veillance. For a free copy, write 1708 in the box on the reader service coupon.

• A listing of locations of Crawford & Co.'s **health and rehabilitation offices** throughout the United States and Canada is available. For a free copy, write 1709 in the box on the reader service coupon.

• A flier available from McDonnell Douglas provides information on the company's **automated system for internal review of workers compensation medical bills** and payment calculation. For a free copy, write 1710 in the box on the reader service coupon.

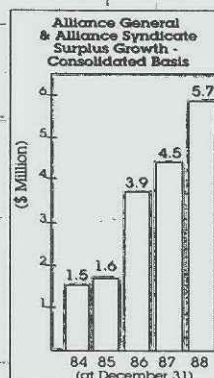
• A 19-page book available from FOCUS Healthcare Management Inc. presents thoughts on the inadequacy of the **workers compensation system** as originally conceived, resulting in compromised quality of care for injured workers. For a free copy, write 1711 in the box on the reader service coupon.

• Twelve indicators of **bodily injury malingering** and the investigative procedures used to verify them are presented in a pamphlet available from InPhoto Sur-

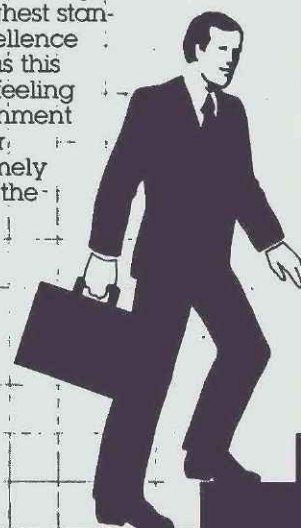
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 ify the behavior are the subjects of a pamphlet available from InPhoto Surveillance. For a free copy, write 1712 in the box on the reader service coupon.

• A brochure describes Crawford & Co.'s **case management services designed to reduce medical costs for workers compensation claims**. For a free copy, write 1713 in the box on the reader service coupon.

• Crawford & Co. offers a brochure detailing its approach to **reducing workers compensation medical and indemnity costs through utilization review, case management, bill audits and return-to-work programs**. For a free copy, write 1714 in the box on the reader service coupon.

• The use of **surveillance videotapes as evidence** when negotiating with workers compensation claimants is detailed in a flier available from InPhoto Surveillance. For a free copy, write 1715 in the box on the reader service coupon.

• A flier comparing the **features of workers compensation programs** managed by employers to those managed by insurance companies and third-party claims administrators is available from Working Solutions Inc. For a free copy, write 1716 in the box on the reader service coupon.

• The **interdependency of workers compensation and group health insurance plans**, including management of benefits and cost containment, is the subject of a booklet available from FOCUS Healthcare Management Inc. For a free copy, write 1717 in the box on the reader service coupon.

• The **workers compensation cost control services** of MED-TRAC Inc., including medical screening, patient review and case management, are highlighted in a booklet. For a free copy, write 1718 in the box on the reader service coupon.

• Insurance Software Packages Inc. offers a flier describing its **automated workers compensation claims administration system**. For a free copy, write 1719 in the box on the reader service coupon.

• A pamphlet describes an aspect of Crawford & Co.'s **return-to-work program**. The service is designed to match employers with employees returning to the workplace after an injury. For a free copy, write 1720 in the box on the reader service coupon.

• The features of **COM-CLAIMS**, an **automated workers compensation claims administration system** available from WLT Software of Florida Inc., are detailed in a booklet. For a free copy, write 1721 in the box on the reader service coupon.

• The **corporate quality control measures** used by Crawford & Co. in its workers comp claims services are listed in a pamphlet available from the company. For a free copy, write 1722 in the box on the reader service coupon.

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Auerbach named president of New York Life Worldwide

Ernest Auerbach has been appointed to the newly created positions of president and chief operating officer of New York Life Worldwide Holding Inc. of New York, a subsidiary of New York Life Insurance Co.

In this position, Mr. Auerbach will be responsible for planning and implementing strategies to expand New York Life's global presence.

Mr. Auerbach, 52, most recently was president of the international life and group operations of Philadelphia-based CIGNA Corp.

He entered the insurance business in 1977 as corporate assistant general counsel of INA Corp. After holding several other positions there, he became senior vp of INA Service Co. In 1982, INA and Connecticut General merged to form CIGNA.

In other insurer changes:

Dan D. McLean appointed senior vp of SAFECO Insurance Co. of America in Seattle.

Thomas A. Crosswell named corporate vp of The Prudential Insurance Co. of America in Newark, N.J.

Agents/brokers

Veit-Thomas E. Metzroth named senior vp of Alexander & Alexander of California Inc. in San Francisco. Most recently, Mr. Metzroth was president of Great Eastern Associates Inc., a division of Toronto-based Reed Stenhouse Ltd. Both Reed Stenhouse and A&A of California are subsidiaries of Alexander & Alexander Services Inc. of New York.

Mark W. Edlund and **James L. Helm** appointed vps of Marsh & McLennan Inc. in Seattle.

Dennis H. O'Hara joined Camden Insurance Brokers in Los Angeles as executive vp. Previously Mr. O'Hara was a vp with Frank B. Hall & Co. Inc.

Steven D. Davis joined Corroon & Black Corp. in San Francisco as vp-construction division. Most recently, Mr. Davis was a vp with Artex Insurance Agency of Dallas.

Anthony J. Nowakowski appointed vp of Walter Kaye Associates Inc. in Stamford, Conn.

Stanford F. Hartman joined Frank B. Hall & Co. of California in San Diego as executive vp and

Comings & goings: industry

director-new business development. Most recently, Mr. Hartman was vp and commercial insurance department profit center manager for John Burnham & Co. in San Diego.

Reinsurance

Erich F. Schweikert joined Reliance Reinsurance Management Inc. in Philadelphia as senior vp. Previously, he was senior vp-property facultative reinsurance at Munich American Reinsurance Co. in New York.

William R. Page promoted to vp-Western regional program manager/facultative casualty at American Reinsurance Co. in Los Angeles.

Other suppliers

James L. Herter joined Robert W. Lazarus & Associates Inc. in Plano, Texas, as senior employee benefits consultant. Previously, Mr. Herter was vp/manager of the employee benefits practice of Pollins Burdick Hunter Co. in Dallas. Lazarus & Associates is a risk management and employee benefit consulting firm.

J. Kenneth Cundey named vpsales, Southern region of Republic-BSB Cos. Inc. in Naperville, Ill.

Garry W. Coulter joined Hewitt, Coleman & Associates Inc. of Greenville, S.C., as vp-excess and reinsurance. Previously he was chairman and president of Circle Financial Group Ltd. Hewitt, Coleman is a self-insurance consultant.

Also at Hewitt, Coleman, **Sandra S. Stone** promoted to vp of the firm's Birmingham, Ala., office.

Paul Angelo, Krystyna H. Upstill and **Drew James** promoted to vps of C&B Consulting Group in San Francisco.

Ronald F. Mulberry joined Rodriguez Consulting Group Inc. in Jacksonville, Fla., as a risk management consultant. Prior to his appointment, he was risk manager for Centurion Auto Transport Inc.

Paul Polchert joined benefit consultant William M. Mercer Meidinger

Hansen Inc. in Chicago as a principal. Most recently, he was managing director of Noble Lowndes in Chicago.

Michael S. Bost, Carolanne Dorer Bost, Robert V. Gage, Paul Goldbeck, Jerry L. Knight, Ann W. Lynch, Suzanne G. Mallard, Sallie E. Serosky, Marvin L. Stokes, Renee E. Whitley and Kimberly H. Wilson promoted to vps at benefit consultant Booke & Co. of Winston-Salem, N.C.

Also at Booke, **Dwight S. Bell** joined as vp and actuary, and **Jeffrey M. Harlow** joined as vp and consultant-group benefits. Most recently, Mr. Bell was an actuarial director for John Hancock Mutual Life Insurance Co., and Mr. Harlow was sales director for the Chesapeake region of CIGNA Corp.

Gilbert J. Weiner joined Buck Consultants Inc. in New York as a benefit consultant. Previously, he was a senior manager and director of Employee Benefit Services Group in the Northeast region for Price Waterhouse.

Also in the Atlanta office of Buck Consultants, **Mary A. Garneau** joined as a communication consultant and **Margaret Wood-Duggan** joined as associate consulting actuary. Ms. Garneau previously was an associate at William M. Mercer Meidinger Hansen Inc. Ms. Wood-Duggan previously was vp and consulting actuary with Alexander & Alexander Consulting Group Inc.

In Buck's Denver office, **Margaret L. Sandbak** joined as associate benefit consultant. Previously she was a senior consultant with Coopers & Lybrand.

In Buck's Boston office, **Holly Garner** joined as associate benefit consultant. Previously, she was a managing consultant with William M. Mercer Meidinger Hansen Inc.

Alan Burns appointed president of DAVID Corp. of San Francisco, a claims administrator. Mr. Burns continues in his position as senior vp-information systems for Beaver Insurance Co., a sister company.

Case Study

The Olin Corporation wanted a more efficient way to administer over 68 different medical plans for its 13,000 employees and 3,000 retirees. Their goals were to better service their employees and control costs by self-administering their health care benefits. Olin decided on ClaimFacts – the health claims management system from Erisco. Olin's philosophy of "Olin people looking after Olin people" was achieved by managing their claims administration in-house. Employees were happy since claim payment was cut from over 4 weeks to an average of 10 days. Olin gained control of costs by knowing exactly where their health care dollars were going. Plus, valuable insight for future plan design.

Judge us by the companies we keep. Besides ClaimFacts, Olin Corporation also benefits from using Erisco's ImpleFacts, the defined contribution record-keeping system.

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Kemper, UAP venture offers HPR cover

A new joint venture company formed by Kemper Property & Casualty Cos. and UAP Group of France is marketing and servicing highly protected risk insurance in Europe.

UAP Kemper HPR Co. hopes to greatly expand the HPR insurance market in Europe, which today is estimated at \$100 million to \$175 million in premium volume.

The formation of UAP Kemper HPR was announced at the Rendez-Vous de Septembre last week in Monte Carlo by UAP Chairman Jean Peyrelevade and Kemper P&C Cos. President Gerald Maatman.

UAP, with premiums of \$8.7 billion, is the largest insurer in France, while Kemper is the third-largest HPR insurer in the world.

The joint venture will benefit from UAP's marketing network and Kemper's HPR expertise. Kemper expects to eventually have 50 to 60 HPR engineers working in Europe, where it currently has seven.

Kemper writes only about \$2 million in HPR premiums in Europe now, compared with \$110 million in HPR premiums in the United States. It also writes HPR insurance in Japan—where it holds an exclusive license—as well as the Pacific Rim and Australia.

UAP was the first European insurer to offer HPR coverage. While the joint venture will market the coverage to and service HPR clients, UAP and Kemper will individually underwrite the insurance.

UAP and Kemper predict that the demand for HPR insurance, which promotes extensive loss prevention and control, will increase with the creation of a single European market in 1992. Companies no longer protected by trade barriers will not be able to afford a property loss that puts them out of business for an extended period of time.

UAP Kemper HPR will first concentrate on insuring jumbo risks, commented Wayne Halvorsen, general manager of Kemper's European operations. Noting that the minimum insurable values for HPR insurance in Europe will be less than in the United States, Mr. Halvorsen said the minimum premium in Europe generally will be \$25,000 to \$50,000.

Although conventional property insurance rates are extremely low in Europe now, Mr. Halvorsen expects "a growing place for HPR" in Europe.

HPR insurance produces consistently low rates, broad coverage and large capacity, he pointed out at a press conference.

Kemper has invested about \$500,000 in the joint venture and expects that investment to increase to about \$2 million, said Mr. Maatman. Kemper also has contributed \$5.5 million to Kemper S.A., its European affiliate, to bring its policyholder surplus to \$8 million in anticipation of increased business.

Kemper has HPR capacity of \$150 million, while UAP's HPR capacity is \$100 million to \$125 million. Combining capacity will permit Kemper and UAP to compete for some of the largest HPR accounts, said Mr. Maatman, adding that will become more important when the market has less capacity.

This is Kemper's first joint venture in Europe, where it has underwritten insurance since 1969. Kemper writes about \$15 million to \$17 million in premiums in Europe, about 75% of which is related to industrial property insurance.

Kemper is currently strongest in France, the United Kingdom and The Netherlands.

For more information on the program, contact Robert L. Smialek, HPR Officer with Kemper, at 312-540-3317.

Markets

Rhulen sale

Markel Corp., an insurance holding company, will complete its purchase of the Rhulen Agency Inc. of Monticello, N.Y., on Oct. 1 for an undisclosed price.

Rhulen reported 1988 gross revenues of \$25.8 million, making it the 23rd-largest U.S. insurance agency in *Business Insurance's* annual brokerage ranking (BI, June 26).

Markel's subsidiary, Markel Service Inc.—the Richmond, Va.-based group's wholesale brokerage arm—reported gross revenues of \$12 million (BI, Aug. 14).

The merger will not include Evanston, Ill.-based Shand, Morahan & Co. Inc., which is partially owned by Markel Corp., said Walter Rhulen, chairman of Rhulen.

Peter Rhulen will remain president of Rhulen and Jesse Farrow will remain its chief executive officer, the Rhulens confirmed.

Merger talks began in May, but the sale won't be completed until next month because the parties have been awaiting capital gains tax changes, said Walter Rhulen.

The sale of the Rhulen agency does not include the publicly traded Frontier Insurance Group Inc., of which the Rhulen brothers are major shareholders. Instead, the brothers plan to build up Frontier, said Walter Rhulen, who is chairman and chief executive officer of Frontier.

Frontier Insurance Co., Monticello, N.Y.-based Frontier Insurance Group's operating company, last year wrote \$43 million in net premiums.

Frontier, which writes primarily specialty lines, will maintain its underwriting agreements with Rhulen Agency.

"Our long-range goal was to get out of the brokerage business and expand our underwriting operations," said Walter Rhulen.

Hilb acquisitions

Hilb, Rogal & Hamilton Co., the 12th-largest U.S. insurance broker, has completed acquisitions in Pittsburgh; Dallas; Richmond, Va.; and Birmingham, Ala., and plans to acquire an agency in Phoenix, Ariz.

The Frankel Co., among the largest independent agencies in the Pittsburgh area, will merge into Hilb, Rogal & Hamilton Co. of Pittsburgh Inc., a subsidiary of Richmond, Va.-based Hilb, Rogal & Hamilton. Alvin Rogal will continue as chairman of the merged companies and Robert M. Frankel, formerly president of Frankel, will be vice chairman.

In addition, William K. Lieberman & Co. Inc., an agency specializing in group benefits, has also merged with Hilb's Pittsburgh office. William K. Lieberman, formerly president of his agency, now is executive vp of Hilb, Rogal & Hamilton Co. of Pittsburgh.

Also, the Stagg Renz Insurance Agency of Dallas was acquired on a purchase basis and will merge into Hilb, Rogal's Dallas office.

Grinnar, Harris, Tabb & Co. of Richmond, Va., will merge into the Richmond office of Hilb, Rogal & Hamilton. Thomas B. Leitch will continue as president of the merged

companies and former executive officers Theodore Kuester, John D. McDaniel and W.E. Alexander Jr. will serve as vps.

Cohen Insurance Agency in Birmingham, Ala., will merge into Hilb, Rogal & Hamilton's existing Birmingham office.

Cost management firm

Parkside Health Management Corp. of Park Ridge, Ill., has created a Chicago-based subsidiary to provide health care cost management information to clients nationwide.

In addition to consulting on health management strategies, Parkside Data Services will offer a new product called Parkside Health Data Profiles. The new reports will provide clients with detailed information, summaries and analysis of their insurance claims.

For more information, contact Edward L. Wristen, president, Parkside Data Services; 800-843-1978.

Parkside also has formed Parkside Occupational Health Services Corp., which will combine the efforts of Parkside's occupational health

clinics, wellness services and employee health centers.

Among the services offered by the new unit are pre-employment work fitness evaluations, Occupational Safety and Health Administration compliance examinations, executive physicals, worksite visits, health risk screenings, stress management, nutrition and weight control services and on-site medical programs.

For more information, contact Parkside Occupational Health Services Corp., 312-647-0355.

New offices

Corroon & Black Co. of New York Inc. has moved its offices to 7 Hanover Square, New York, N.Y. 10004-2594; 212-344-8888.

South Pasadena, Calif.-based broker **Bolton & Co.** has opened an office at 44-267 Monterey Ave., Palm Desert, Calif. 92260; 619-773-2337.

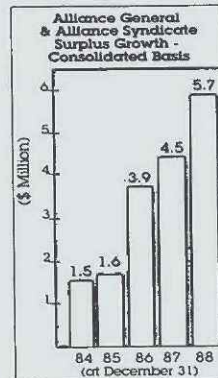
General Reinsurance Corp. of Stamford, Conn., has moved its St. Paul, Minn., offices to Minnesota World Trade Center, 30 E. 7th St., Suite 1890, St. Paul, Minn. 55101; 612-293-0075.

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Mentor liquidators turn to high court

By ROGER SCOTTON

HAMILTON, Bermuda—Mentor Insurance Ltd.'s liquidators are asking the U.S. Supreme Court to review rulings that dismiss the liquidators' massive fraud and racketeering lawsuit filed in federal court in New Orleans against Mentor's parent and other defendants (BI, July 24).

The suit, filed in March 1986, was dismissed by a U.S. District Court judge last year after all 11 defendants, including Mentor parent Ocean Drilling & Exploration Co. of New Orleans, had petitioned for dismissal on the grounds of forum non conveniens.

U.S. District Judge Marcel Li-vaudais Jr. ruled that a U.S. court

Bermuda

would be an "inconvenient" forum for the Mentor litigation and ruled that it should be tried in the company's domicile of Bermuda (BI, April 25, 1988).

A three-judge appellate panel of the 5th U.S. Circuit Court of Appeals let the lower court decision stand, and the liquidators were later refused permission to plead before a full hearing of the 5th Circuit's 15 judges.

In a 13-page writ of certiorari filed Aug. 18 with the U.S. Supreme Court, the liquidators' attorney, Michael Murphy of the New York law firm of Lord Day & Lord, says the case raises important federal jurisdictional and procedural issues "warranting an exercise of this court's federal judicial supervisory role."

"It presents in sharp focus the issue of the extent of a district court's procedural powers under the Constitution to destroy federal substantive rights created by Congress, as well as the constitutional right to a jury trial," the petition states.

The petition was filed just one week after London-based solicitor Francis Mackie, who represents several of Mentor's dissident creditors including Lloyd's syndicates 391 and 947, H.S. Weavers (Underwriting) Agencies Ltd. and several CIGNA Corp. units, attacked statements made by the Mentor liquidators in their latest annual report as being misleading

and incorrect.

In a letter to liquidators Charles Kempe and Michael Arnold, dated Aug. 11, Mr. Mackie of the London firm of Clyde & Co. says the liquidators' report complains of "numerous requests for information" that have inevitably resulted in additional costs to the Mentor estate (BI, Aug. 21).

"We agree we have put a number of requests to you for information concerning the winding up of this company, all of which are legitimate requests that any creditor is entitled to put to you," Mr. Mackie wrote.

However, Mr. Mackie then pointed out: "Not all of them have been dealt with adequately if at all and some have been ignored. It is difficult, therefore, to accept the assertion that additional costs have been borne by the estate as a result of the receipt of such requests."

The solicitor's letter also takes issue with the statement in the liquidators' report that they have experienced difficulty dealing with Clyde & Co. because they have no "assurance or comfort whatsoever" as to the motives or rationale of the parties that Mr. Mackie represents.

However, Mr. Mackie states in his letter: "In October last year, you asked this firm for an assurance that we are not acting on behalf of or as representatives of the banks, ODECO, or Pinnacle (Insurance Ltd., another of the defendants in the liquidators' fraud lawsuit). That assurance has been given. It remains true to this day. 'The simple position, however difficult it may be to accept, is that a number of the creditors in the London market, in (the United States) and elsewhere feel strongly that the present liquidation strategy needs to be substantially reviewed and altered in the interest of the general body of creditors.'"

Mr. Mackie also rejects the claim in the liquidators' report that he and his clients have been interfer-

ing with the liquidation from behind the scenes.

"This firm acts on behalf of various creditors and therefore any steps that we take are pursuant to our instructions and in the interest of our clients," the letter says. "It must be left to those instructing us to determine whether or not our actions are, in fact, detrimental to the best interests of the general body of creditors. You will, of course, appreciate that our clients are part of that general body of creditors."

The solicitor's letter then refers to an affidavit sworn on June 30 by Mr. Kempe in support of an application for a Bermuda Supreme Court order governing creditors' voting rights and limiting the resolutions that can be introduced and voted on at the creditors' meetings. The letter says the affidavit refers to votes cast at the Mentor annual meeting last year, when Mr. Mackie unsuccessfully introduced a surprise resolution of no confidence in the liquidators' 1988 annual report.

"You omit to mention (in the affidavit) that of the 44 votes cast against the resolution, 17 were exercised by the liquidators as proxy holders."

"We have previously drawn your attention to Rule 108 of the (Bermuda) Winding-up Rules concerning the presence of a financial interest in the outcome of the resolution. We have never received a response to this particular inquiry," Mr. Mackie wrote.

The solicitor's letter finishes by pointing out that, contrary to assertions in the Mentor liquidators' report, "we act for a number of creditors who are seriously concerned about the progress, direction and strategy of this liquidation."

Mr. Mackie says in the letter that creditors are "entitled to express such views and criticism and, if appropriate take steps to put into effect their wishes."

In addition, he observes: "After all, the winding up of this estate ultimately involves the distribution of assets amongst its creditors. Creditors are entitled to have a say as to how and when that is

achieved."

New brokerage

Atlantic Security Ltd., a Bermuda-based captive management and brokerage group, is joining forces with Bermuda insurance broker Paul Scope to operate a new broker known as Park International Ltd.

Mr. Scope previously served as insurance manager with Harnett & Richardson Ltd., where he was responsible for Gibbs Harnett & Richardson International Ltd., the company's joint brokerage venture with Lloyd's of London broker Gibbs Hartley Cooper Ltd.

Mr. Scope has a 60% shareholding in Park International, which formerly was a licensed but inactive subsidiary of Atlantic Security known as Risk Treatment Services Ltd. Atlantic Security is retaining a 40% interest in Park International.

Mr. Scope says he will use his expertise in directors and officers liability insurance for financial institutions and utilities to develop Park International, concentrating on insurers like A.C.E. Insurance Ltd., X.L. Insurance Co. Ltd., Corporate Officers & Directors Assurance Ltd. and Bermuda's burgeoning financial reinsurance market.

Mr. Scope says he already is acting for three major clients with 14 policies.

"Park will be a completely independent broker, whereas most of Bermuda's brokers are either subsidiaries of major U.S. national groups or are so-called independents with ties to big broking houses elsewhere," according to Mr. Scope.

"This independence will appeal to those U.S. clients who do not want to use a company owned by a national brokerage which would normally be in competition with them," he said.

Mr. Scope's former position at Harnett & Richardson has been filled by Nick Cochrane, who Mr. Scope replaced in 1985 when Mr. Cochrane was made a director of Gibbs Hartley Cooper in London.

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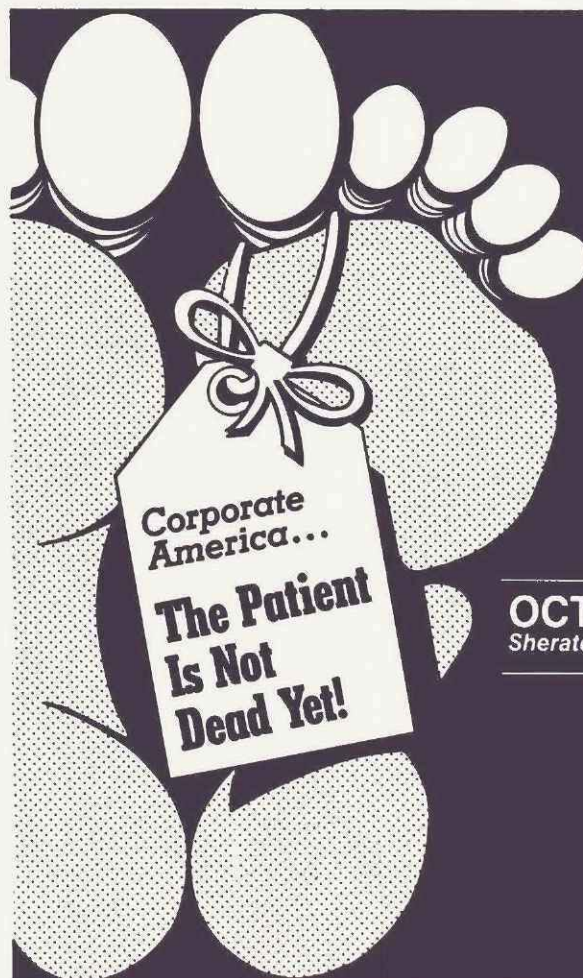
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Datebook

SEPT. 17-19. Consumer Affairs at the Crossroads conference in Cincinnati, sponsored by the Insurance Consumer Affairs Exchange; \$225 for member company participants; \$275 for non-members. Mary Rose McArdle, Corporate Communications, The Travelers Cos., 1 Tower Square, 6 SHS, Hartford, Conn. 06183-1060; 814-891-8305.

SEPT. 17-20. 75th International Assn. of Industrial Accident Boards & Commissions Convention in Baltimore; \$250 for IAIABC members; \$300 for non-members; \$100 for spouses. Robert S. Redding, P.O. Box 5191, Baltimore, Md.; 301-547-1802.

SEPT. 17-22. Advanced Reinsurance Course in White Plains, N.Y., sponsored by The College of Insurance; \$1,230 for College sponsors; \$1,330 for non-sponsors. The College of Insurance, Professional Programs, 101 Murray St., New York, N.Y. 10007-2132; 212-962-4111, ext. 201.

SEPT. 18. The National Assn. of Insurance Commissioners' 90 Day Rule: A New Financial Awakening breakfast briefing in New York City, sponsored by Peterson, Ross, Schloerb & Seidel; no charge. Ann E. Meredith, Peterson, Ross, Schloerb & Seidel, 200 E. Randolph Drive, Suite 7300, Chicago, Ill. 60601-6969; 312-861-1400.

SEPT. 18-19. The Fundamentals of Statutory Insurance Accounting course in Cambridge, Mass., sponsored by Executive Enterprises Inc.; \$990. Also Oct. 16-17 in Chicago. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

SEPT. 18-19. Casualty Loss Reserve seminar in Chicago, co-sponsored by the American Academy of Actuaries and the Casualty Actuarial Society; \$450. Mildred Prioleau, AAA, 1720 I St. N.W., Seventh Floor, Washington, D.C. 20006; 202-223-8196.

SEPT. 18-22. Fundamentals of Employee Benefits Management course in Brookfield, Wis., sponsored by the International Foundation of Employee Benefit Plans; \$1,000 for the five-day Fundamentals Course, \$600 for the three-day Intermediate Course. Also Oct. 2-6. Registration Department, IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

SEPT. 19. Post-retirement Medical Benefits seminar in New York City, sponsored by Kwasha Lipton Inc.; \$25. Barbara Hubert, Kwasha Lipton Inc., 2100 N. Central Road, Fort Lee, N.J. 07024-1400; 201-592-1300, ext. 563.

SEPT. 19. The New Age Benefits Manager conference in Boston, sponsored by the New England Employee Benefits Council; \$80 for NEEBC members; \$110 for non-members. NEEBC, 45 William St., Suite 225, Wellesley, Mass. 02181; 617-239-1767.

SEPT. 19-20. Reinsurance Claims Management Course in Chicago, sponsored by The College of Insurance; \$595 for College sponsors; \$695 for non-sponsors. Professional Programs, The College of Insurance, 101 Murray St., New York, N.Y. 10007-2132; 212-962-4111, ext. 201.

SEPT. 19-20. Crisis Communication Management seminar in San Francisco, sponsored by E.I. du Pont de Nemours & Co. Management Services; \$1,045 including seminar materials, luncheon and refreshments. Also Oct. 24-25 in Washington, D.C. and Nov. 14-15 in Atlanta. Du Pont, Attn. CAK, 1300 First State Blvd., Suite A, Wilmington, Del. 19804; 800-248-7020.

SEPT. 19-21. Fundamentals of Reinsurance Seminar in Irving, Texas, sponsored by the University of Dallas Graduate School of Management; \$545. Bruce D. Evans, Associate Professor of Management; 214-721-5360.

SEPT. 19-22. 16th Annual Safety, Health & Compensation Seminar in Palm Springs, Calif., sponsored by the Public Agency Safety Management Assn.; \$195. PASMA, P.O. Box 6218, Fullerton, Calif. 92634; 213-421-9929.

SEPT. 20. OSHA Hazard Communication Standard and Superfund Title III workshop in Chicago, sponsored by the Illinois State Chamber of Commerce; \$120 for ISCC members; \$180 for non-members. Illinois State Chamber of Commerce, 20 N. Wacker Drive, Chicago, Ill. 60606-3083; 312-372-7373.

SEPT. 20. 10th Annual Compensation Conference: Practical Approaches to Compensation Issues of the '90s in Cincinnati, sponsored by The Hay Group; \$375 for the first participant from an organization; \$275 for each additional participant from the same organization. Also Sept. 21 in Chicago, Sept. 21-22 in New York City, Sept. 22 in St. Louis, Sept. 25 in Seattle, Sept. 26 in Philadelphia and San Francisco, and Sept. 27 in Long Beach, Calif. The Hay Group Seminar Center; 215-875-2338.

SEPT. 20-21. Eighth Annual Hazardous Substances Insurance Conference in New York City, sponsored by Executive Enterprises Inc.; \$990. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

SEPT. 20-22. Property/Casualty Statutory Financial Statements course in Cambridge, Mass., sponsored by Executive Enterprises Inc.; \$895 plus \$95 non-refundable registration fee per organization. Also Oct. 18-20 in Chicago, Nov. 13-15 in New York City, Nov. 29-Dec. 1 in Los Angeles and Dec. 11-13 in Orlando, Fla. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 212-645-8689; 800-831-8333.

SEPT. 20-22. Claims Management course in Washington, D.C., sponsored by the Risk & Insurance Management Society Inc.; \$595 for

RIMS members; \$645 for non-members. Also Nov. 15-17 in Orlando, Fla. RIMS, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

SEPT. 20-24. 1989 National Assn. of Professional Surplus Lines Offices Ltd.'s Annual Convention in New York City; \$350. Mark Graham, NAPSLO, P.O. Box 28660, Kansas City, Mo. 64119; 816-455-3210.

SEPT. 21. Europe 1992: Impact on Insurance seminar in New York City, sponsored by The College of Insurance; \$95. The College of Insurance, Professional Programs, 101 Murray St., New York, N.Y. 10007-2132; 212-962-4111, ext. 201.

SEPT. 21. Insurance Claims Dispute Resolution seminar in Southfield, Md., sponsored by the American Arbitration Assn.; \$150 for AAA members; \$180 for non-members. Also Oct. 11 in St. Paul, Minn.; Oct. 30 in Cleveland; and Nov. 16 in Long Island, N.Y. Allen Silberman, Director of Education and Training, AAA, 140 W. 51st St., New York, N.Y. 10020; 212-484-3233.

SEPT. 21-22. Health Care Risk and Insurance Management: Constructing the Comprehensive Program seminar in Boston, sponsored by the American Society for Healthcare Risk Management; \$345 for ASHRM members; \$465 for non-members. Trudy Goldman, ASHRM, 840 N. Lake Shore Drive, Chicago, Ill. 60611; 312-280-6430.

SEPT. 21-22. First Party Policy Environmental Claims and Litigation conference in New York City, sponsored by Executive Enterprises Inc.; \$990. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

SEPT. 21-23. 38th Annual Professional Insurance Agents Convention in Springfield, Ill., sponsored by the Illinois Assn. of PIA; \$195 for agents; \$140 for PIA members and spouses. Illinois Assn. of Professional Insurance Agents, 955 Durkin Drive, Springfield, Ill. 62704; 217-546-7700.

SEPT. 23-24. Behavioral Healthcare Tomorrow conference in Washington, D.C., sponsored by the Institute for Behavioral Healthcare; \$295. IBH, P.O. Box 7226, Stanford, Calif. 94309; 415-851-8411.

SEPT. 25-26. The Employee Benefits Course in Newark, N.J., sponsored by Personnel Research Associates; \$375. Also Oct. 4-5 in Stamford, Conn. Personnel Research Associates, 49

Oakridge Road, Verona, N.J. 07044; 201-239-6154.

SEPT. 25-26. The Insurance Arbitration Institute: Resolving Insurance and Reinsurance Disputes conference in New York City, sponsored by Executive Enterprises Inc.; \$990. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

SEPT. 25-26. How to Audit Your Insurance Program: Getting Your Money's Worth course in Minneapolis, sponsored by the American Management Assn.; \$750 for AMA members; \$850 for non-members. Also Oct. 12-13 in Chicago, Oct. 16-17 in East Hanover, N.J., Oct. 23-24 in Boston and Oct. 30-31 in Atlanta. AMA, P.O. Box 319, Saranac Lake, N.Y. 12983; 518-891-0065.

SEPT. 25-26. Employee Welfare Benefit seminar in Chicago, sponsored by the Practising Law Institute; \$475. Also Oct. 19-20 in San Francisco. Ann Tracy, PLI, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700, Ext. 232.

SEPT. 25-26. How to Audit and Check Insurance Policy Costs and Coverages meeting in Minneapolis, sponsored by the American Management Assn.; \$750 for AMA members; \$850 for non-members. Stewart Veale, AMA, 135 W. 50th St., New York, N.Y. 10020; 212-903-8214.

SEPT. 25-27. Reinsurance Accounting & Auditing Course in Chicago, sponsored by The College of Insurance; \$795 for College sponsors; \$895 for non-sponsors. Also Nov. 1-3 in San Francisco. Professional Programs, The College of Insurance, 101 Murray St., New York, N.Y. 10007-2132; 212-962-4111, ext. 201.

SEPT. 26-27. 1989 Washington Conference on Risk Assessment in Arlington, Va., sponsored by the Center for Energy and Environmental Management; \$650. CEEM, Box 200, Fairfax Station, Va. 22039; 703-250-5900.

SEPT. 27-28. Fourth Annual Commitment to Wellness conference in Cleveland, sponsored by the Northeastern Ohio Wellness Committee; \$275 for full conference; \$175 for one day; \$25 per day for students. SCHCC-Wellness, 220 Market Ave. S., Suite 1190, Canton, Ohio 44702; 216-430-3508.

SEPT. 27-28. Designing and Marketing Long-Term Care Insurance conference in New York City, sponsored by Executive Enterprises Inc.; \$990. Also Oct. 23-24 in San Francisco. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

SEPT. 27-29. Fundamentals of Risk Financing course in Denver, sponsored by the Risk & Insurance Management Society Inc.; \$540 for

RIMS members; \$640 for non-members. RIMS, 205 E. 42nd St., Suite 1504, New York, N.Y. 10017; 212-286-9292.

SEPT. 28. Anatomy of Art Insurance seminar in New York City, sponsored by The College of Insurance; \$95. The College of Insurance, Professional Programs, 101 Murray St., New York, N.Y. 10007-2132; 212-962-4111, ext. 201.

SEPT. 28. Workers' Compensation—Issues Into The '90s seminar in New Cumberland, Pa., co-sponsored by The Society of Chartered Property & Casualty Underwriters and the Central Pennsylvania Chapter of the Society of CPCL; \$125 for Society of CPCU members; \$185 for non-members. Mari Jennings, Continuing Education Coordinator, The Society of CPCU, 729 Providence Road, CB#9, Malvern, Pa. 19355-0709; 215-251-2741.

OCT. 2. Insurance Coverage and Bad Faith Claims conference in Boston, sponsored by the American Arbitration Assn.; \$150 for AAA members; \$180 for non-members. Also Dec. 2 in New York City. Allen Silberman, Director of Education and Training, AAA, 140 W. 51st St., New York, N.Y. 10020; 212-484-3233.

OCT. 2-3. Management of Claims in Clinical High-Risk Areas seminar in Philadelphia, sponsored by the American Society for Healthcare Risk Management; \$345 for ASHRM members; \$465 for non-members. Trudy Goldman, ASHRM, 840 N. Lake Shore Drive, Chicago, Ill. 60611; 312-280-6430.

OCT. 2-5. 18th Annual Managed Care Conference and Exhibition in San Antonio, Texas, sponsored by the American Medical Care & Review Assn.; \$475 for AMCR members; \$600 for non-members. American Medical Care & Review Assn., 5410 Grosvenor Lane, Suite 210, Bethesda, Md. 20814.

OCT. 2-5. Insurer Solvency Assessment conference in London, sponsored by the Insurance

& Reinsurance Research Group Ltd.; 630 pounds (\$999.18). Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

OCT. 3. 10th Annual Compensation Conference in Washington, D.C., sponsored by The Hay Group; \$375; \$275 for each additional attendee from the same organization. Also Oct. 4 in Greenwich, Conn.; Oct. 5 in Atlanta and Boston; Oct. 6 in Dallas; Oct. 11 in Minneapolis; Oct. 12 in Kansas City, Mo.; and Oct. 13 in Pittsburgh. The Hay Seminar Center, 215-875-2338.

OCT. 3. Claims—The Critical Service conference in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; 240 pounds (\$380.64). Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

OCT. 3-5. National Risk Retention Assn.'s Second Annual Conference in Washington, D.C.; \$350 for NRRA members; \$450 for non-members. Nick Garnett, National Risk Retention Assn., P.O. Box 32257, Washington, D.C. 20007; 800-999-4505.

OCT. 4-5. Understanding Property/Casualty Loss Reserving course in Boston, sponsored by Executive Enterprises Inc.; \$990. Also Nov. 9-10 in Chicago. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

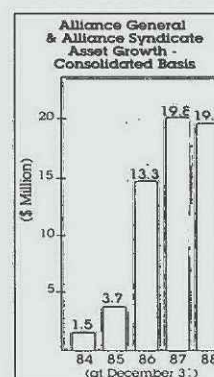
OCT. 5. Employers Council on Flexible Compensation Conference in Newton, Mass.; \$185 for ECFC members; \$195 for non-members. Also Oct. 10 Oct. 12 Oct. 24 Nov. 1 Nov. 7 in Whippany, N.J. Employers Council on Flexible Benefits, 927 15th St. N.W., Suite 1000, Washington, D.C. 20005; 202-659-4300.

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New EC insurance laws will help risk managers

By MARK A. HOFMANN

DENVER—The European Community's plan to homogenize the insurance laws of most Western European countries will create some problems for European risk managers but ultimately will benefit them, predict executives of a U.S. broker and a U.S. insurer.

In addition, the plan will present challenges and opportunities for U.S. brokers and insurers, the executives said during a panel discussion on the impact of the Single European Act of 1985 on the insurance market held during the American Risk & Insurance Assn. annual meeting in Denver late last month.

The act, enabling legislation whose objectives are scheduled to be fully effective in 1992, will allow risk managers at companies in Common Market nations to buy coverage from insurers in other EC nations with far fewer national restrictions (BI, May 16, 1988).

An EC directive to remove trade barriers of non-life insurance services is intended to be implemented by the majority of member nations by July 1, 1990. However, Greece, Ireland, Spain and Portugal have until 1999 to comply with the directive.

But, there likely will be some confusion among insurance buyers, insurers and brokers initially, said Roger L. Torneden, senior vp-world-

wide marketing for New York-based American International Underwriters, a unit of American International Group Inc., and J. Kenneth Seward, senior vp and director of broker Johnson & Higgins in New York.

For example, they predicted that there will be disputes over policy language and terms between insurers in one EC nation and insurance buyers in others, they said.

Mr. Seward also predicted that some European insurers, not accustomed to a competitive market, could be whipsawed by market swings.

However, the act will definitely work to the benefit of European commercial insurance buyers, Mr. Seward stressed.

"Competition and the demise of tariffs should lead to lower rates and broader insuring conditions," Mr. Seward said.

"With the ability to consolidate insurance programs, clients will be able to take advantage of many risk management techniques used in the U.S.," he said.

"Among these are greater use of self-insured retentions and deductibles, captives and self-insurance," he said.

There will be other changes in risk management as well, Mr. Seward predicted.

For example, "industries will centralize production facilities," which will become possible as a result of the elimination of trade barriers.

As a result, there will be "an increased need for loss control and protection techniques," he explained.

Meanwhile, large brokers and insurers that want to become conti-

mental powers will have to acquire local firms to pursue business effectively in new markets, Mr. Seward predicted.

"We'll end up with major players and niche players," he said.

And, brokers that want to make the most of European integration will have to offer a wide variety of services in a wide variety of locations, Mr. Seward said.

"The broker must have access to the entire market. This may be done through the local offices of major underwriters or through its own network," he said.

Insurers also will have to be extremely flexible to meet the needs of their policyholders in a competitive market, said AIU's Mr. Torneden, emphasizing that insurers should already be planning for July 1990.

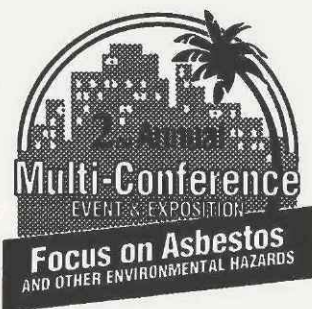
"Insurers that are not now in an implementation process are seriously compromising their future," he said.

The elimination of the insurance trade barriers in Europe also presents a challenge to insurance educators as well as those engaged in the business of insurance, according to Brant W. Free, vp-international insurance department for Prudential Insurance Co. of America in Newark, N.J.

Insurance educators will have to place more emphasis on training insurance professionals to handle the demands of international competition, he said.

"Americans are a rather parochial people," he said.

The panel was moderated by John J. Hampton, provost of the New York-based College of Insurance. ■

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Ratemaking panels boost competition, educator says

By MARK A. HOFMANN

DENVER—Advisory rates issued by insurance ratemaking organizations do not encourage price fixing, but instead lead to a more competitive insurance marketplace, a leading industry educator says.

In fact, steps taken to eliminate advisory rates in the name of protecting consumers could ultimately harm them, said Scott E. Harrington, professor of insurance at the University of South Carolina at Columbia.

Mr. Harrington offered his assessment during a panel discussion on antitrust issues at the American Risk & Insurance Assn. annual meeting in Denver late last month.

"I consider myself a consumer advocate," said Mr. Harrington, who has testified on antitrust questions before several state legislative panels, often on behalf of insurance industry groups.

And, he believes that a competitive marketplace, rather than a highly regulated marketplace, is in consumers' best interest.

Mr. Harrington explained that the relatively low financial requirements companies must meet to enter the property/casualty insurance business, combined with the large number of companies already in the marketplace, effectively eliminate the possibility of price fixing.

And, advisory rates issued by ratemaking bureaus help keep down ratemaking costs for insurers, which reduces the financial burden of entering and remaining in the insurance business, Mr. Harrington said.

If the advisory rating system is eliminated, and if Insurance Services

Office Inc. eventually is prohibited from developing prospective loss costs, insurers will not use as much information in setting rates as the cost of developing that information increases, Mr. Harrington said.

"The result would be greater risk of forecast errors, less stability and an increase in the risk of insolvency," he predicted.

And, "you'll get less competition," which ultimately would result in higher rates and fewer consumer choices, he said.

Mr. Harrington also dismissed notions that ratemaking bureaus lead to anti-competitive rate-setting practices.

Rather than an "insurer conspiracy," increased claims costs are to blame for rising insurance premiums, Mr. Harrington asserted.

In addition, many commercial lines insurers do not use or deviate significantly from rates promulgated by ISO, Mr. Harrington said.

"We don't have monolithic companies fixing prices," Mr. Harrington said. If ISO rates seem high, companies deviate from them, he said.

"The insurance industry is competitively structured with no evidence of excess profits," Mr. Harrington said.

Yet, allegations of insurer price-fixing "plays well in Peoria and in Columbia, S.C.," Mr. Harrington pointed out.

"In the real world, I really think these charges of price-fixing have no merit," the professor said.

Consumers also may be hurt if attacks on insurers from consumer activists and politicians are successful, Mr. Harrington said.

For example, Mr. Harrington questioned the reasons for efforts to modify or repeal the limited antitrust exemption granted the insurance industry under the McCarran-Ferguson Act, Mr. Harrington said. He asserted that some critics' complaints appear to be grounded more in ideology than the critics admit.

"Consumer advocates who oppose the antitrust exemption will not be satisfied with anything short of a system that only allows dissemination of historical data on paid claims. While they will argue that such changes are necessary to make insurers compete, their agenda also includes a system of rate regulation that makes price competition impossible."

"I am convinced this agenda reflects strong pessimism toward the ability of any important real-world market—whether for insurance or for other goods and services—to meet the needs of consumers," Mr. Harrington said.

The professor added that such an agenda also reflects "unjustified optimism over the ability of 'experts,' whether from government academia or consumer organizations, to improve on the market."

For consumers, "the combination of these effects is all bad news," he said.

Other panelists were Charles Howe, chief deputy attorney general of Colorado, and Craig Berrington, general counsel for the American Insurance Assn. in Washington, D.C.

Robert C. Witt, a professor of insurance at the University of Texas in Austin and a former ARIA president, moderated the panel. ■

ARIA leader vows to forge new bonds

By MARK A. HOFMANN

DENVER—College insurance professors should place more emphasis on risk management to improve the standing of insurance education in business curriculums, says the new president of the American Risk & Insurance Assn.

In addition, ARIA members should build relationships with other insurance professionals as well as with their academic colleagues to increase support for collegiate insurance education, said Jerry D. Todd, professor of risk management at St. Mary's University in San Antonio, Texas.

Mr. Todd, who succeeded John H. Thornton, professor of insurance at the University of North Texas in Denton, made his remarks in his inaugural address during the association's annual meeting, held in Denver late last month.

"We must take a serious look at both the content of our courses and how our programs are being perceived and then make appropriate adjustments in both content and communications," Mr. Todd explained.

The new ARIA president urged his colleagues to move away from courses that traditionally empha-

size personal lines insurance policy questions and stress risk management topics instead.

"To justify a more robust role in the business curriculum, we must concentrate more on risk management concepts," Mr. Todd pointed out.

Professors of insurance and risk management also should stress the integration of risk management and financial management, he said.

In addition, texts must be revised to reflect this new direction, he said.

Mr. Todd pointed out that insurance academics cannot rely on finance texts, because "most finance texts ignore insurance and risk management."

Mr. Todd also said he intends to keep pushing for inclusion of insurance and risk management in the "core curriculum" recommended for collegiate business schools accredited by the American Assembly of Collegiate Schools of Business.

This has long been an ARIA goal and is supported by the New York-based Risk & Insurance Management Society Inc. (BI, Sept. 5, 1988; Aug. 29, 1988).

However, Mr. Todd admitted that he has "little expectation" of persuading the AACSB to require accredited schools to include insurance and risk management courses in their core curriculums in the near future.

But as ARIA continues to seek this recognition for insurance

courses on college campuses, the organization's members should attempt to reach out to anyone who could aid in the effort, Mr. Todd said.

"The theme of this presidency

tween insurance academics and insurance professionals would lead to greater support by the professionals for insurance education and would enhance the standing of collegiate insurance programs, he

ARIA could serve as one of the avenues for such improved communications with the public, Mr. Todd suggested.

To bolster communications among association members, Mr. Todd plans to launch a newsletter. He said he hopes the first issue of the publication will be ready to distribute sometime later this year.

ARIA has approximately 800 members, according to David H. Klock, executive director of the Orlando, Fla.-based organization.

The association's membership is about evenly divided between academic members, who teach risk management and insurance at accredited colleges, and regular members, who include insurance industry professionals.

'We must take a serious look at both the content of our courses and how our programs are being perceived and then make appropriate adjustments in both content and communications,' says ARIA's Jerry Todd.

will be to build bridges," Mr. Todd noted.

ARIA members can "foster interest in risk management and insurance" by reaching out to academic colleagues in other disciplines, for example, he said.

Mr. Todd urged ARIA members to introduce fellow college professors to the topics that are being taught in risk management and insurance courses and encourage the inclusion of such subject matter in finance textbooks.

ARIA members also should work to foster increased communication between their own organization and the AACSB, according to Mr. Todd.

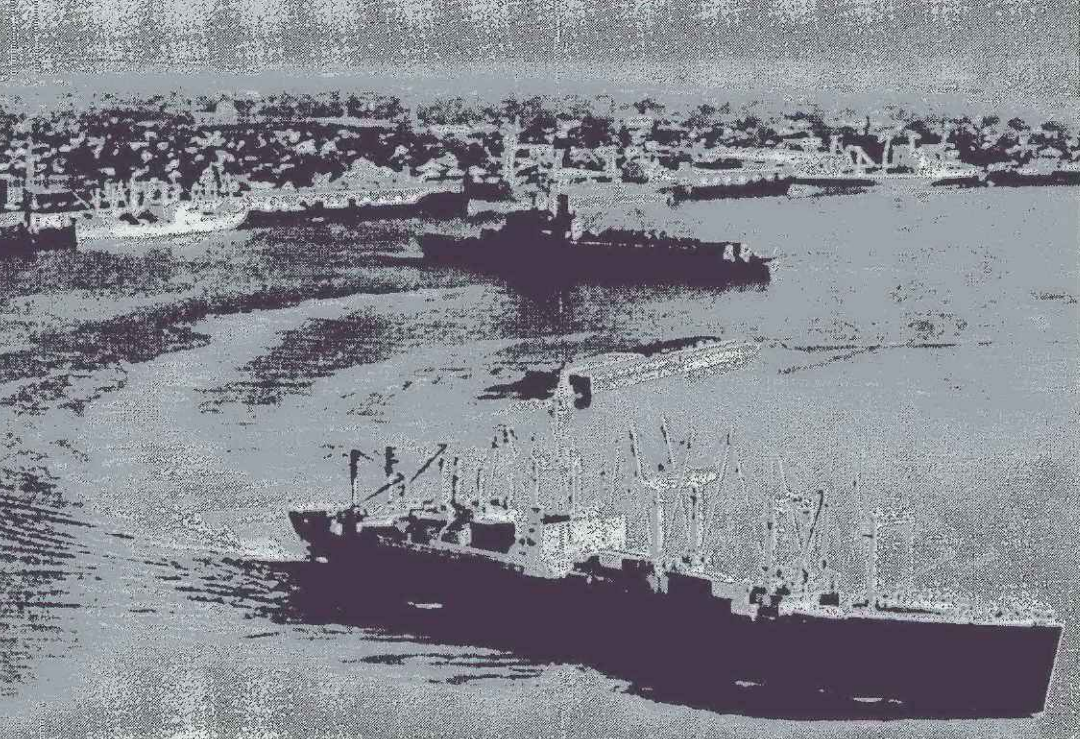
In addition, ARIA members should reach out to others in the insurance profession, such as insurers, brokers and risk managers, he emphasized.

Improved communications be-

said.

"The insurance industry has learned it needs to communicate better with the public," Mr. Todd said.

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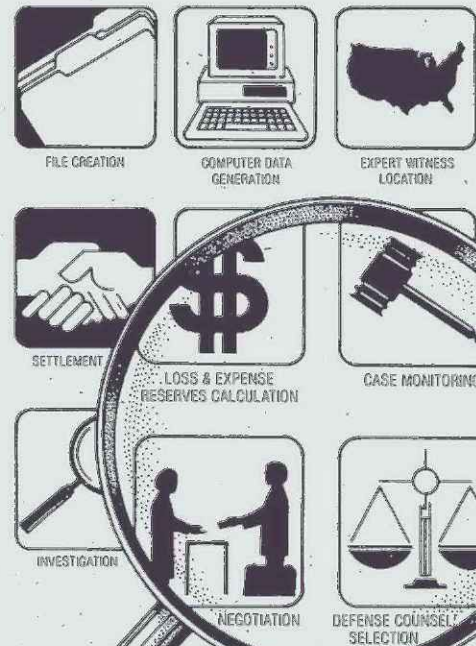
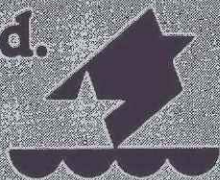
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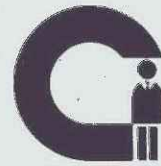
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Policy covers pollution cleanup costs

A new insurance program that indemnifies hazardous waste processors for first-party property pollution cleanup costs is available from Environmental Compliance Services Inc.

ECS also can design the property pollution cleanup policy to protect financial and lending institutions as well as real estate developers, said David Rosenberg, executive vp of the Downingtown, Pa.-based pollution liability insurer.

Unlike environmental impairment liability policies that indemnify against third-party cleanup costs, ECS' program covers the costs of cleaning up the policyholder's property.

Before underwriting the policy, ECS conducts a risk assessment of the prospective policyholder's claims history and facility, said Mr. Rosenberg.

Available on a site-specific basis with limits up to \$1 million, the claims-made policy requires a minimum self-insured retention of \$25,000. Premiums start at \$10,000. Pollution from underground storage tanks and radioactive materials are excluded.

The policy is available nationwide through licensed agents and brokers.

Products & services

ECS is managing general agent for Reliance National Insurance Co., a subsidiary of the New York-based Reliance Group Holdings.

For more information, contact Joanne Fitzgerald, marketing director, ECS, 721 E. Lancaster Ave., Downingtown, Pa. 19335; 215-269-6731.

Asbestos bonds

A surety bond program that guarantees the work of asbestos abatement contractors for up to \$750,000 is now available from The Talbert Corp., a Denver-based managing general agent.

Because of the health hazards and "extensive negative publicity associated with the asbestos industry, many major insurers and surety companies are reluctant" to underwrite surety coverage, said Jack Houser, a vp with TTC.

The TTC surety program is available exclusively to contractors with occurrence-based comprehensive general liability policies underwritten by Environmental Risk Insurance Co.,

a Denver-based risk retention group.

Underwritten by Evanston, Ill.-based Evanston Insurance Co., the surety bonds range in size from \$10,000 to \$750,000, with premiums based on each contractor's net worth.

For example, a contractor with net worth of more than \$1 million would pay \$30 per \$1,000 for the first \$250,000 of the contract, \$25 per \$1,000 for the second \$250,000 of the contract and \$20 per \$1,000 for the final \$250,000 of the contract.

For more information, contact Jack Houser, The Talbert Corp., P.O. Box 9364, Denver, Colo., 80209; 303-839-1773.

Provider directory

A directory of alternate-site health care providers to help case managers and others make appropriate referrals will soon be available from the Center for Consumer Healthcare Information.

The three-volume "1989 Case Management & Discharge Plan-

ning Resource Guide," scheduled for publication in early November, will include home health, hospice, nursing home, rehabilitation, intravenous therapy, dialysis, psychiatric and substance abuse treatment providers, said a spokeswoman for CCHI.

Separated into three geographic regions—Western, Eastern and Central/South—the guide will be available in printed soft-cover as well as computerized data base formats.

The CCHI spokeswoman declined to elaborate on the details of the data base format except to say that it will be compatible with personal computers and mainframe hardware.

The 1,900 pages will contain detailed information about providers' capabilities and credentials, as well as social service organizations and public agencies serving patients with serious or chronic illnesses, the spokeswoman said.

The guide, which will be published annually, will cost \$195 for the three-volume set, or \$80 for each volume, prior to the publication date. Post-publication prices are \$245 for the set and \$95 per volume.

For more information, contact Laura Marusin, Center for Consumer Healthcare Information, P.O. Box 16067, Irvine, Calif. 92713; 714-752-2335.

Regulation data base

Risk managers, property/casualty insurers, agents and brokers can now access current statutory insurance rules and regulations for all 50 states and the District of Columbia through an information data base from Oden Insurance Services Inc.

Available in diskette format, the information library contains 19 entries including: an alphabetical listing of approved, non-admitted insurers; a brief summary of tort reforms by state; workers compensation posting and filing requirements; and workers compensation self-insurance requirements.

The topics are presented on either 3½-inch or 5¼-inch IBM PC

compatible diskettes, which are updated every four months.

The diskettes, which can be downloaded onto hard disk drives, also can be adapted to run on mainframes. In addition, users can edit the data base to include information tailored to specific underwriting situations, such as instructions regarding the use of certain forms.

The cost of the service varies depending on the number of users and their needs. A single-user site license is currently \$495 for one year. A license for central purchasing of multiple sets of diskettes or local area network applications also are available.

For more information, contact Helen Oden, Oden Insurance Services Inc., 3725 E. 64th Place, Tulsa, Okla. 74136; 918-492-7701.

Casino cover

A policy that insures gambling facilities against employee theft and embezzlement is now available from United Network of Insurance Services Inc.

The dishonesty, disappearance and destruction policy "provides comprehensive fidelity protection" for gambling casinos, card clubs, race tracks and jai alai matches, said UNI Marketing Manager Connie Cameron.

Although she declined to name the insurer, Ms. Cameron said that each account is underwritten according to the size, type and exposure of the gambling establishment.

The DD&D policy, which among other things excludes fraudulent acts by policyholders and partners, is written on a claims-made form with flexible limits, depending on the risk, Ms. Cameron said.

Premiums, deductibles and limits vary based on the types of risks covered, she added.

UNI, a Torrance, Calif.-based excess and surplus lines broker, is offering the policy to gambling establishments in the United States and its territories but also will include international administrative subsidiaries, Ms. Cameron said.

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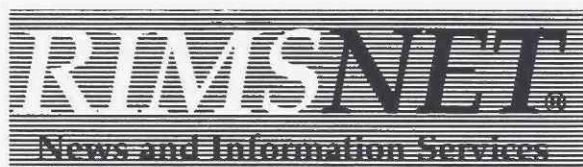
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Continued from page 62

For more information about the coverage, contact Connie Cameron, UNI, 2790 Skypark Drive, Suite 215, Torrance, Calif. 90505; 213-326-6138.

Output policy

A manufacturers output policy that offers flexible coverage for real and personal property as well as inland marine exposures is now available from Atlantic Mutual Insurance Co.

Designed for manufacturers, processors, wholesalers and distributors, the coverage, among other things, "responds to the needs of insureds whose exposures are not static," said Ben Hedrick, the New York-based insurers' inland marine manager.

Atlantic Mutual's manufacturers output policy "covers transportation worldwide," Mr. Hedrick said, pointing to flexibility as a crucial component of the program.

In addition to covering real and personal property, including raw stock, stock in process and finished stock, the policy can be written to cover a broad spectrum of commercial risks, he said. These include loss of earnings due to business interruption, extra expense, accounts receivable and other inland marine exposures such as property in transit and contractors' equipment, Mr. Hedrick said.

The policy, which is available in all states but Texas, also may be tailored to include limited or broad earthquake (excluding California) and flood coverage. The policy also covers contamination from named perils such as fire, lightning and sprinkler leakage.

Policy exclusions include damages from exposure to fumes and vapors from agricultural and industrial operations, costs to correct design errors and gradual deterioration.

Premiums for the policy—which is rated according to building contents, site location and transit rates—start at \$1,000. Up to \$25 million in limits are available.

For more information, contact Alan K. Crater, Assistant Vp-Marine, Atlantic Mutual Insurance Co., 430 Mountain Ave., Murray Hill, N.J. 07974; 201-771-0660.

Pool rating guide

A service that evaluates self-insured pools' ability to meet future financial obligations is available from Demotech Inc.

The Demotech Financial Stability Management Audit and Rating Brochure will enable a pool "to differentiate itself from other pools that are not rated" by establishing credibility, according to the Columbus, Ohio-based firm.

The audit examines, among other things:

- Loss reserves adequacy for each line of business as well as the entire pool.
- The pool's overall financial stability, including investment strategies and the operation's efficiency.
- Overall quality of administration, including marketing, underwriting, claims management and communications to constituents.
- Total current assets, liabilities and expenses.

Insurance agents and brokers also can use a Demotech pool audit to quickly review an entity's financial stability, said President Joseph Petrelli.

A favorable rating "gives everyone a comfort level," said Mr. Petrelli.

To conduct the on-site analysis, Demotech's team meets with the entity's investors, claims managers and others to gather the pertinent information.

Within 30 days, Demotech rates the pool in categories ranging from AAA (excellent) to A (above average), and produces an audit report summarizing a list of recommendations for future implementation as well as a customized brochure containing an overview of the pool and an explanation of the rating.

Depending on the size of the pool, costs for the service range from \$10,000 to \$15,000.

For more information, contact Patrick J. Donadio, Vp-Consulting Services, Demotech Inc., 2941 Donnylane Blvd., Columbus, Ohio 43235-1764; 614-761-8602.

The data base contains more than 3 million records from 11 states: Arkansas; Colorado; Florida; Illinois; Indiana; Kansas;

Maine; Nebraska; New Mexico; North Dakota; and Oregon, said Doe Lockwood, DAC's assistant to the president.

While local statutes prevent discrimination against employees with previous workers compensation claims, employers can benefit from a Workers Comp Report in several ways, Ms. Lockwood explained.

For example, employers can verify an applicants' employment information regarding past work-related injuries.

Furthermore, in light of pervasive "bad back claims," particularly in the commercial transportation industry, the WCR becomes a crucial tool in helping company physicians determine if a job applicant is physically qualified for a position.

To become a subscriber, all potential clients—except insurance companies—must first pay a membership fee of \$300 and sign the Fair Trade Act agreement that prohibits prospective employers from conducting a work comp search without employees' authorization.

After receiving authorization, a subscriber simply gives DAC—via phone or computer—the applicant's name, Social Security number and date of birth. DAC will then immediately provide for a \$5 fee, an 11-state WCR with a follow-up hard copy by mail.

Employers with their own computers can conduct on-line searches at a cost of \$4 per applicant.

For more information about the service contact DAC Services, Marketing Department, 4110 S. 100th E. Ave., Tulsa, Okla. 74146; 800-331-9175.

Bank loss control

The American Bankers Assn.-

sponsored loss control program has been expanded to offer board members guidance in minimizing their personal liability.

Previously, the SAFE loss control program, designed to help banks reduce their exposure to potential risks, consisted of only "A Managers' Guide," a workbook designed to help bank managers "analyze and assess internal controls," explained Charlie Boucherle, assistant vp for Progressive Casualty Insurance Co., which underwrites the ABA-sponsored property/casualty insurance program.

But now, in addition to the workbook, the SAFE program also includes "A Directors' Guide" to help board members minimize their personal liability while exercising their duties as a director for the bank, he said.

Using a questionnaire, "A Managers' Guide" helps bankers identify potential exposures in internal procedures such as wire transfers, cash control systems and general ledger and accounting procedures.

"A Directors' Guide," on the other hand, consists of three 20-minute videos and a companion text containing suggestions and "insight on how to make informed decisions," said Mr. Sills.

SAFE is available free to banks insured through the ABA-sponsored insurance program. Coverages offered through the program includes financial institution bond, directors and officers liability, and trust department errors and omissions.

Other ABA member banks can purchase SAFE for \$295. Costs to non-member banks is \$395.

Beachwood, Ohio-based Progressive Casualty also has a consulting staff on hand to answer questions.

For more information, contact

Charlie Boucherle, Assistant Vp, Progressive Casualty Insurance Co., 3401 Enterprise Parkway, Beachwood, Ohio 44022; 800-274-5222.

Books/videos

The International Foundation of Employee Benefit Plans has published the third edition of "The Annotated Fiduciary: **Materials on Fiduciary Responsibility and Prohibited Transaction Under ERISA**" as a reference tool for attorneys, actuaries, accountants, administrators and trustees of employee benefit plans. Copies are available for \$36 for members and \$45 for non-members from the Publications Department, IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

"Public Official Liability: Decisions in Federal Court," a new publication service from the Public Risk Management Assn., offers a detailed **summary of closed cases brought under federal law.** Each quarterly issue contains findings and statistics on a wealth of topics, as well as an analysis of selected cases affecting public agencies. Subscriptions are \$50 for PRIMA members and \$75 for non-members. Contact PRIMA, 1117 N. 19th St., Suite 900, Arlington, Va. 22209.

The 1989 **Captive Insurance Company Directory** is available from the Tillinghast division of Towers, Perrin, Forster & Crosby Inc. of Stamford, Conn. This year's list includes approximately 2,750 single-owner and group or association captive insurance companies and 173 captive management firms in 20 domiciles. Copies are available for \$125 each in the United States, \$135 outside the United States. Contact Tillinghast Publications, Financial Centre, Suite 600, 695 E. Main St., Stamford, Conn. 06901.

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Open accounts taint Lloyd's '86 results

LONDON—Liabilities from past underwriting years are souring the rich bouquet of Lloyd's of London's long-awaited "vintage" results for 1986, observers say.

In 1987, former Lloyd's Chairman Peter Miller said the 1986 underwriting year was being "spoken of, almost reverently, as a vintage year" (*BI*, Sept. 7, 1987).

Indeed, Lloyd's 1986 profits, which were officially uncorked last week under Lloyd's three-year accounting system, are the highest in the market's 301-year history (see story, page 3).

But massive increases in reserves to cover some syndicates' past liabilities have taken the sparkle off Mr. Miller's forecast.

Underwriting year 1986 produced nearly four times the pure underwriting profit of 1985, "but the result to names was a disappointment. In short, 1986 was like 1985, but more so: excellent pure year, but open year losses and needs for increased reserves as well," observed Chatset Ltd., an independent analyst of Lloyd's syndicates.

Up to 344 million pounds (\$622.6 million at applicable

exchange rates, was put aside by Lloyd's syndicates to "bolster old year reserves," Chatset estimates in its 1986 Lloyd's League Tables, published Sept. 1.

Chatset noted that the 1987 calendar year "was considered a disaster for any syndicate that had participated in policies covering risks that were related to asbestos or environmental hazards," with syndicates having to increase reserves for the 1985 underwriting year by more than 160 million pounds (\$300.8 million).

However, "if calendar year 1987 (the 1985 account) was considered a disaster, it was nothing compared with 1988, Chatset said, referring to the 1986 account.

Meanwhile, "the outstanding problem which the 1986 year has highlighted is the way in which syndicates have left years open," Chatset said.

Dozens of syndicates in the last few years have been unable to close their accounts at the end of normal three years because of uncertainties over U.S. liability claims, particularly pollu-

tion claims (*BI*, March 14, 1988).

However, Lloyd's Chairman Murray Lawrence last week pointed to "an encouraging reduction" in the number of underwriting accounts left open. Some 115 accounts were left open at the end of 1988, down from 120 in 1987.

But he stressed his "concern" about the number of years of account that were left open and added that underwriting agents should leave open an account "solely as a last resort."

Lloyd's is considering several measures to discourage agents from leaving accounts open (*BI*, Aug. 28).

In addition, the Council of Lloyd's has approved further investigation "into the feasibility of establishing an insurance vehicle which could, on an arm's-length basis, quote for the reinsurance to close for an open syndicate year," Mr. Lawrence added in a statement accompanying the release of Lloyd's global results last week. "Work on these proposals is being pursued vigorously," he noted.

—By Carolyn Aldred

Lloyd's results

Continued from page 3

Lloyd's global results are a compilation of results for the 1986 accounting year from all Lloyd's syndicates.

The accounts were closed Dec. 31, 1988, under Lloyd's three-year accounting system.

In 1986, 28,597 Lloyd's members belonged to 374 syndicates with a total gross market capacity of 8.5 billion pounds (\$15.4 billion), up 26.9% from 6.7 billion pounds (\$12.6 billion) in 1985.

Lloyd's gross premium volume in 1986 increased to 5.2 billion pounds (\$9.5 billion), up 19.5% from 4.4 billion pounds (\$8.2 billion) in 1985. Net premiums increased 21.4% to 3.7 billion pounds (\$6.7 billion) in 1986 from 3.1 billion pounds (\$5.7 billion) in 1985.

Reinsurance premiums paid into the 1986 account to close previous

years' accounts—a practice called "reinsurance to close"—increased 8.8% to 3.7 billion pounds (\$6.6 billion) from 3.4 billion pounds (\$6.4 billion) in reinsurance to close paid into the 1985 account, resulting in total premium revenue of 7.4 billion pounds (\$13.4 billion) in 1986, up 14.3% from 6.5 billion pounds (\$12.1 billion) in 1985.

Meanwhile, net claims remained virtually flat in 1986 compared with 1985 at 2.3 billion pounds (\$4.2 billion), though reinsurance premiums paid to close the 1986 account rose to 4.3 billion pounds (\$8 billion) from the 4 billion pounds (\$7.4 billion) in reinsurance premiums paid to close the 1985 account.

Lloyd's syndicate expenses increased 26% to 279.3 million pounds (\$505.5 million) in 1986 from 221.7 million pounds (\$416.8 million) the previous year. Members' personal expenses—including subscriptions, agents' fees and profit commissions—

increased 62.4% to 363.9 million pounds (\$658.7 million) in 1986 from 224 million pounds (\$421.1 million) the previous year.

Return on investment and currency exchange produced income of 548.1 million pounds (\$992.1 million) in 1986, up 21.6% from 450.8 million pounds (\$847.5 million) in 1985.

In presenting the 1986 results from its individual markets, Lloyd's this year excluded personal expenses charged to syndicate members and accordingly restated the 1985 results.

All of the markets at Lloyd's reported increases in profits in 1986 except:

- The insurance of goods in transit, where profits dropped 16.9% to 55.6 million pounds (\$100.6 million) in 1986 from 66.9 million pounds (\$125.7 million) in 1985.

- Overseas motor vehicle business, where the year-end loss increased to 3.7 million pounds (\$6.8 million) from a loss of 85,000 pounds (\$159,800) in 1985.

- Life insurance, where profits fell 25.2% to 850,000 pounds (\$1.5 million) in 1986 from 1.2 million pounds (\$2.3 million) in 1985.

However, results from all other areas of Lloyd's business improved in 1986, including:

- General liability insurance, where losses for 1986 totaled 187.8 million pounds (\$339.9 million), compared with losses for 1985 of 221.5 million pounds (\$416.4 million).

- Property damage insurance, where profits soared 82.6% to 527 million pounds (\$953.8 million) in

1986 from 288.6 million pounds (\$542.6 million) in 1985.

- Ships' hull and liability insurance, where profits increased more than 50% to 296.6 million pounds (\$536.8 million) in 1986 from 196.8 million pounds (\$370 million).

- Aircraft hull and liability insurance, where profits more than tripled to 266.3 million pounds (\$482 million) from 81.2 million pounds (\$152.7 million) in 1985.

Overall, non-marine syndicates at Lloyd's posted a profit of 385 million pounds (\$696.9 million) in 1986 on a net premium income of 1.6 billion pounds (\$2.9 billion), according to Tim Holloway, chairman of the Lloyd's Underwriters' Non-Marine Assn.

This represents a 24% rate of return before members' personal expenses, compared with a 7% return in 1985, he added.

"The 1986 year of account has shown a very good result for the non-marine market, both in absolute terms and in comparison with the past few years," he said.

However, while Mr. Holloway predicts that non-marine results for the 1987 and 1988 underwriting years will be "acceptable," the current state of the non-marine market remains bleak in his view.

"Good results have generated too much capacity in our market, leading to keener competition and depressed rates," he said.

Meanwhile, "underutilization of capacity will produce exaggerated expense ratios... at a time when syn-

dicant expenses are spiraling," he further warned.

Already, the "non-marine market's expenses of 119 million pounds (\$215.4 million) in 1986 are some 55% higher than two years before, due in part to the implications of increased regulation," Mr. Holloway added.

The Lloyd's marine market's profits in subsequent year accounts also will pale in comparison with the 1986 account, said Derek Willis, chairman of the Lloyd's Underwriters' Assn.

"The immediate future for the marine account is not as promising (as 1986), as excessive capacity and worsening claims experience combine to produce unfavorable trading conditions," he explained.

While the 1987 account "should produce mediocre results, there is concern regarding 1988 and 1989," said Mr. Willis.

Lloyd's marine market wrote total net premiums of 1.3 billion pounds (\$2.4 billion) in 1986 and produced profits totaling 352.2 million pounds (\$637.5 million), according to Lloyd's accounts.

Like the marine and non-marine markets, successful underwriting in the aviation market, particularly for 1986, has led to a surge in capacity and slump in rates in subsequent years, said Robin Eliot, chairman of Lloyd's Aviation Underwriters' Assn.

The Lloyd's aviation market's "1986 account saw the lowest loss frequency that the aviation market has experienced and, as a consequence, the 1986 underwriting result is a profit of 229 million pounds (\$414.5 million), the highest yet achieved by the aviation market," he said.

However, "the anticipated result has brought with it an increased interest in the aviation market, together with a surge in capacity that has now flooded all sections of the aviation account," he explained.

The 1987 underwriting year had "one of the worst civil aviation records for losses" and, combined with rate reductions during that year, the outcome of the 1987 account "is likely to be variable," he said.

Meanwhile, the 1988 underwriting account "was notable for a continued slide in rates and fierce competition for the business from all parts of the world," while hull and liability losses in 1988 exceeding \$600 million "will make profitability difficult to achieve for either the 1988 or 1989 account," he predicted.

Mr. Lawrence, Lloyd's chairman, also admitted that severe overcapacity and fluctuation in exchange rates—which has resulted in underwriters at Lloyd's "writing well below capacity—has highlighted the problem of rising expenses."

"The market is increasingly aware of the importance of controlling our expenses rigorously, centrally and at agency and syndicate level, and reducing these wherever possible," he said.

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NAII task force

Continued from page 3

Assn. of Professional Insurance Agents, the Nation Assn. of Professional Surplus Lines Offices Ltd. and the Reinsurance Assn. of America.

The RAA supports the task force recommendations that relate to reinsurance, noted RAA President Andre Maisonnier.

Other associations have said they are still circulating it among their members, Mr. Crosby said.

The 25-member task force of insurer executives, which was created in July 1988, includes chief executive officers, actuaries, lawyers and other industry experts. It was chaired by John R. Graham, executive vp of Farm Bureau Mutual Insurance Co. in Manhattan, Kan.

The task force's recommendations are divided into three categories: early detection, liquidations and guaranty funds.

The task force's recommendations for early detection of financially troubled insurers include that:

- States be encouraged to adopt the flexible examination scheduling program proposed by an NAIC committee in 1982 but never adopted. A flexible system would allow regulators to focus on insurers most likely to become insolvent.

Insurers now are examined triannually.

- All property/casualty insurance companies be required to have an annual audit by an independent certified public accountant, as recommended in the 1980 NAIC Model Rule (Regulation) Requiring Annual Audited Financial Reports.

- Loss reserves "in critical areas" be certified by a member of the Casualty Actuarial Society who is either on the company's staff or retained to perform such exams.

- Value reinsurance recoverables based on age. Balances not paid after 90 days should not be considered as an asset by the ceding company.

- States should adopt the NAIC's 1988 model regulation on producer-controlled insurers as well as its 1985 model regulation on managing general agencies.

- States should adopt the NAIC Insurer Supervision, Rehabilitation and Liquidation Model Act, which was last amended in 1987.

However, the NAII recommended some changes to the act related to supervision of troubled companies by outside insurance professionals.

The task force's recommendations for liquidations include that:

- The NAIC model act and state liquidation laws be changed to disallow reinsurance balance offsets among affiliated companies and to limit reinsurance balance offsets if accounts are not kept current.

- The federal government no longer be given priority in the asset distribution of insolvent insurers.

- Liquidators be required to give notice to parties involved in litigation with policyholders of the insolvent insurer when there is no guaranty fund involvement in the litigation.

- Incentives be created for completing liquidations, such as transferring unsettled claims to solvent insurers or reinsurers and limiting the liquidation process, subject to extension by a court.

- Rehabilitation plans be limited to 90 days, subject to extension after court review and approval.

The task force's recommendations for guaranty funds include that:

- The National Committee on Insurance Guaranty Funds be restructured to create a corporation that will aid guaranty fund responses to multistate insurer insolvencies.

- The NAIC's guaranty fund model law as well as state regulations be changed to exclude coverage for claimants with a net worth over \$10 million and exclude coverage for professional liability claims.

- The NAIC's model guaranty fund law, which limits claimants' recoveries from guaranty funds to \$300,000, and state regulations be changed so that any cap "reflects

the relative needs and public policy goals of each individual state," the report says.

- Guaranty fund coverage be triggered by the final order of liquidation and that guaranty funds be given priority access to an insolvent insurer's assets.

- A post-assessment funding system be used in all states, including New York, where a pre-assessment system is used. There also should be a 2% cap on annual fund assessments.

- Premium tax credits be allowed for insurers to recover guaranty fund assessments.

The NAII also said it supported uniform enactment of the NAIC's holding company model act, amended to require prior approval of all transactions among affiliates of companies defined by the NAIC as "financially troubled."

The organization also said it continues to oppose the reduction or elimination of the deductible on unearned premium claims against guaranty funds. ■

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Transit suit

Continued from page 2

\$16.6 million for total coverage of \$25.3 million, effectively boosting Transit's net income in 1983 by \$4.6 million.

Both Transit and the Clarendon companies knew that without the reinsurance, Transit would lose its A rating from A.M. Best Co. and would lose business as a result, the suit charged.

In addition, despite knowing in October 1985 that Transit was insolvent, Transit's board of directors voted to commute the agreement, accepting the return of the \$16.6 million premium plus \$2.9 million in interest and relieving the Clarendon companies of further liabilities.

The commutation "had no purpose other than to benefit Clarendon at the expense of the receiver," the suit charged.

In March 1985, Transit also entered into a surety bond agreement with Clarendon America, paying an \$8 million premium in return for Clarendon America assuming the liability for a \$23.8 million shortfall in collateral held by Transit for unauthorized reinsurance.

The bond produced a \$19.5 million boost in Transit's surplus for year-end 1984, including a \$3.7 million tax credit, the complaint said.

However, the bond was structured in such a way that Clarendon America actually assumed no risk, and the agreement was back-dated to November 1984 to circumvent a New York Insurance Department regulation forbidding such agreements as of Jan. 1, 1985, the lawsuit alleged.

Transit's board also terminated the surety agreement just before the insurer was declared insolvent.

Charging violations of the Racketeer Influenced and Corrupt Organizations act, the receiver's lawsuit sought \$1 billion in actual damages, which stood to be trebled to \$3 billion under the RICO law.

Clarendon America vigorously denied the allegations in the lawsuit and on Aug. 23 informed Lillick & McHose, then the receiver's counsel, that it would seek sanctions under federal procedural rules requiring plaintiffs to have plausible factual basis for bringing a claim.

In court papers supporting its motion for sanctions, Clarendon America charges that Transit's receiver had no basis for claiming the reinsurance and surety agreements were fraudulent and offered no support for the "bald and irresponsible allegation of \$1 billion in damages."

"As a result of this one mindless pleading, compounded by the publicity which the plaintiffs then purposefully attached to it, Clarendon, in the eyes of many, has lost its credibility as an insurer and, without reason, has had its very existence threatened," Clarendon court filings allege.

Regarding Transit's two agreements with the Clarendon companies, Clarendon America's court filings note that:

- The aggregate stop-loss agreement—which was "entirely typical in the industry"—had an aftertax impact on Transit's surplus of at most \$4.6 million in 1983.

- Since Transit reported \$43.7 million in policyholder surplus at the end of 1983, the effect of the agreement on the insurance company's financials was immaterial.

- The Missouri and California insurance departments reviewed the stop-loss agreement at the time it was entered into and registered no objections.

- The commutation of the stop-loss agreement benefited Transit rather than harming it, because

Transit, "only two months before it was placed in receivership, obviously needed cash and presumably exercised the commutation provision for that perceived benefit."

- The surety bond was not back-dated. While the agreement was not executed until April 1985, Clarendon America had issued a binder for the bond on Dec. 31, 1984.

- A surety bond is not intended to transfer risk to the surety; the surety issues a bond only on receipt of premium and collateral intended to secure the principal's obligation to repay the surety in case of a loss.

The fact that Transit took credit in its 1984 financial statement for the full limit of the bond "may raise questions as to Transit's conduct, but there is nothing to suggest that Clarendon anticipated Transit would overstate its reserve credit or that Clarendon acted with anything other than good faith,"

'As a result of this one mindless pleading, compounded by the publicity which the plaintiffs then purposefully attached to it, Clarendon, in the eyes of many, has lost its credibility as an insurer,' Clarendon's court filings allege.

Clarendon America's court filings argue.

Clarendon America also argues that the full amount of Transit's net insolvency is less than \$1 billion, and that the receiver's lawsuit therefore appeared to be an attempt to attribute the entire insolvency to the Clarendon companies.

Calling this claim "absurd," Clarendon notes that in congressional testimony earlier this year, Transit Special Deputy Receiver J. Burleigh Arnold attributed Transit's failure to uncontrolled managing general agency programs (BI,

April 10).

Mr. Arnold has estimated Transit's net insolvency after reinsurance and other recoveries at \$2 billion to \$2.5 billion.

After notifying Lillick & McHose on Aug. 23 of its intention to seek sanctions, Clarendon America's law firm—Fulbright, Jaworski & Reavis McGrath in Los Angeles—received an Aug. 25 reply in which Lillick & McHose called Clarendon's threatened motion "frivolous."

However, on Aug. 30—two days before Clarendon's motion for sanctions was actually filed in

court—Lillick & McHose told Clarendon's lawyers that it was withdrawing from the case and would be replaced by Buchalter, Nemer.

The same day, Buchalter, Nemer's Mr. Trent says he informed Clarendon's lawyers that he would be filing an amended complaint dropping the \$1 billion damage claim.

A hearing on the motion for sanctions is scheduled for Sept. 25. But, Mr. Trent said he has asked for a continuance on behalf of Transit's receiver and Lillick & McHose.

The amended complaint against the Clarendon companies and the five former Transit officers is pending.

The receiver's amended complaint, while dropping a specific damage demand, contains essentially the same allegations and levels charges of RICO violations and a conspiracy to defraud Transit Casualty.

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Business Insurance

a publication of Crain Communications Inc

Receiver sues to recoup comp payments

By MICHAEL BRADFORD

AUSTIN, Texas—The Texas receiver of insolvent Transit Casualty Co. is suing Wal-Mart Stores Inc. for reimbursement of all workers compensation claims the receiver has paid on behalf of the stores in Texas.

As an alternative to recouping the cost of claims the Texas guaranty fund has paid, the lawsuit may seek to charge Wal-Mart for additional work comp premiums that would more accurately reflect Wal-Mart's exposure in Texas.

An attorney for the receiver estimated that the claims reimbursement could total more than \$2.3 million.

Transit, which was ordered liquidated in 1985, wrote workers compensation insurance for the discount store chain in Texas in 1983 and 1984.

In a suit scheduled to be heard in January, the receiver charges that Wal-Mart's payroll figures used to calculate its workers compensation premiums were "knowingly misrepresented," and "Wal-Mart did not resolve and correct the misrepresentations." As a result, the suit alleges, "the policies were deceptive as written and violated Texas law."

The suit brought in Travis County District Court in Austin also names Wal-Mart's broker, Alexander & Alexander Inc.

Late last month a judge dismissed a request by Wal-Mart and A&A for a summary judgment in the case.

A federal court ruled last year that Wal-Mart had knowingly underreported its payroll upon which

its workers compensation premium was based.

The 8th U.S. Circuit Court of Appeals decision in 1988 said that Wal-Mart would be responsible for "a significant amount" of future claims (BI, Oct. 3, 1988).

Steven F. Welch, an attorney representing Texas ancillary receiver Stephen S. Durish, said: "The goal of the lawsuit is to get paid back for all those claims here in Texas" and have Wal-Mart pay future claims.

"We haven't necessarily decided if we're going for the premiums or the claims... of course we will narrow it down before the trial," said Mr. Welch, who is with the Austin firm of Davis, Welch, Ewbank & Otto.

Although "the amount of the claims changes every day, it is in excess of \$2.3 million," he said.

Claims are being paid by the receiver from Texas Property & Casualty Insurance Guaranty Assn. funds.

Mr. Welch was unable to estimate the amount of unpaid premiums on the Texas portion of Wal-Mart's coverage during the two policy periods because of disputed figures regarding the amount of its payroll.

"We don't know what the exact Texas payroll was, or is," he said.

Mr. Welch said he may also seek an undetermined amount of exemplary damages.

Robert Neblett of the Austin firm of Smal, Craig & Werkenthin, representing Wal-Mart, declined to comment on the case.

Wal-Mart and A&A contend in court filings that the questions of claims payments and additional

premium payments were settled last year when the 8th Circuit Court of Appeals in St. Louis overruled an Arkansas federal court's decision that called for Wal-Mart to pay premiums of \$16.8 million to Transit's liquidator in Missouri.

Wal-Mart originally sued Transit in U.S. District Court in Fayetteville, Ark., in 1985, seeking a declaratory judgment that it was covered under the two policies written in 1983 and 1984 and a retroactive general liability insurance contract bound by former Transit managing general agent Carlos I. Miro.

Transit counterclaimed, seeking additional premiums, and the lower court in 1987 awarded the \$16.8 million to the liquidator (BI, July 13, 1987).

Mr. Miro wrote the workers comp coverage for Wal-Mart for a flat premium of \$3.5 million per year, a figure the lower court said was "pulled out of the air" and based on Wal-Mart payrolls that were intentionally depressed.

In overturning the lower court's decision, the appeals court ruled that Wal-Mart should not be required to pay the additional premiums and Transit should not be liable for future claims under the policies.

The court ruled that because both Wal-Mart and Transit knew the terms of Wal-Mart's workers comp coverage were illegal, neither side should be granted relief.

Mr. Welch said the 8th Circuit Court of Appeals decision "doesn't say it's all over; it says 'Hey Wal-Mart, you've got to pay these claims.'"

Mr. Welch also argues that the

Texas Insurance Code states that judgments in jurisdictions outside of Texas are not binding upon the Texas receiver unless the receiver was a party to the litigation.

In the Texas case, the receiver charges that A&A coordinated the efforts of Wal-Mart, Miro & Associates and Alexander & Alexander of Texas to obtain Wal-Mart's workers comp coverage in 1983 and 1984.

The suit charges that A&A was aware that the premium arrangement was illegal and that Wal-Mart payroll figures were misre-

presented.

Court papers allege that "A&A and Wal-Mart engaged in a civil conspiracy to avoid and disregard the Workers' Compensation Law and Insurance Code of the state of Texas and to transfer Wal-Mart's obligations under those laws to the Texas Ancillary Receiver, directly and, ultimately, to the Texas public."

Although A&A is listed as a defendant in the Texas case, Mr. Welch said the premium and claim payments are "the responsibility of Wal-Mart."

N.J. guaranty fund to pay \$27.7 million

TRENTON, N.J.—The New Jersey Surplus Lines Guaranty Fund will pay \$27.7 million in outstanding claims to some 2,850 policyholders of the insolvent Ambassador Insurance Co. and Northeastern Fire Insurance Co., the Department of Insurance recently announced.

Ambassador, a Vermont-domiciled insurer, was placed in rehabilitation in 1983 and declared insolvent in 1984. At that time, the insurer, which primarily wrote liquor law liability, long-haul trucking and municipal and school board lines, had an estimated \$50 million in outstanding New Jersey claims.

Since then, about 80%, or 2,280, of the insurer's estimated 2,850 claimants have received 40%, or \$17.2 million, of their outstanding \$42.7 million in claims. The new infusion of cash from the guaranty fund will pay

"in full" the remaining 60%, or \$25.5 million, in claims, an Insurance Department statement said.

Meanwhile, the remaining 20%, or 570, of claimants, whom to date have not been paid any funds "because their claims have not been settled, are owed an additional estimated \$5.5 million," the statement said.

The guaranty fund will immediately pay these claimants 40%, or \$2.2 million, and will pay the remaining \$3.3 million "as funds become available," the statement said.

In the case of Pennsylvania-based Northeastern Fire Insurance Co., which was declared insolvent in 1984, Insurance Commissioner Kenneth D. Merin has authorized the guaranty fund to pay 40% of the company's 142 outstanding claims, estimated at \$2 million.

—By Collin Nash

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PWS celebrates sale of Ben-Zur's shares

By STACY SHAPIRO and CAROLYN ALDRED

MONTE CARLO, Monaco—The large stake in Lloyd's of London broker PWS Holdings P.L.C. held by the family of ousted chairman Ronnie Ben-Zur has been sold, much to the delight of PWS officials.

The stock had been on the market for more than a year following Mr. Ben-Zur's ousting as PWS chairman on Aug. 4, 1988.

PWS announced the stock sale at the Rendez-Vous de Septembre in Monte Carlo last week.

Mr. Ben-Zur resigned as PWS chairman after it was discovered that the brokerage's acquisition of San Francisco-based broker Glenn Nyhan & Associates Inc., which Mr. Ben-Zur negotiated, was going to lead to a 4.4 million pound (\$7.4 million at the applicable exchange rate) write-off on PWS's annual results (BI, Sept. 12, 1988).

At that time, about 40% of PWS' shares were held by Opticford Ltd., an investment trust owned by the Ben-Zur family. As relations between the remaining directors of PWS and Mr. Ben-Zur further soured in September 1988, Mr. Ben-Zur agreed to sell his family's controlling interest in PWS for the right price.

At the time Mr. Ben-Zur was wi-

dely reported to be asking more than 200 pence per share (\$3.63 at the appropriate exchange rate) (BI, Sept. 19, 1988).

However, since the discovery of the Glenn Nyhan fiasco, PWS' share price has slumped drastically to about 57 pence (87.8 cents) per share.

A London Stock Exchange announcement on Sept. 4 by PWS disclosed that 9.2 million shares, representing 38.2% of the ordinary share capital of PWS, previously held by Opticford, had been bought by a "small number of institutional investors."

The sale price was not disclosed, but stock analysts estimate the price paid was between 52 pence (80 cents) and 56 pence (86.2 cents) per share.

Mr. Ben-Zur declined to discuss the sale.

Allied Irish Bank P.L.C., which arranged the stock sale, also refused to discuss the sale.

An Allied Irish spokesman would only say: "There was an anomaly in the situation. The controller of Opticford had resigned from PWS" and the fact that Opticford still had a large shareholding "was overhanging the marketplace for 13 months."

Meanwhile, at the PWS annual cocktail bash on the opening Sunday of the 33rd Rendez-Vous,

directors of the London-based brokerage expressed delight in the sale.

PWS Chairman Malcolm Pearson noted that it had been three years, two months and 17 days since Mr. Ben-Zur's family had taken a controlling share in PWS, and all that time had been "bloody difficult."

For example, he said that PWS regretted the Glenn Nyhan acquisition. "But merger is like a marriage. It's easier to get into than out of," he observed.

The announcement of the sale of Mr. Ben-Zur's family's stock, therefore, was "good news for both our clients and ourselves in the future," Mr. Pearson said.

The sale of Mr. Ben-Zur's shareholdings as PWS prepares to celebrate its 25th anniversary on Oct. 1 is "the most fabulous birthday present," PWS Deputy Chairman David Springbett told his guests at the PWS party in Monte Carlo.

Mr. Pearson, Mr. Springbett and retired executive John Webb had left C.T. Bowring & Co. Ltd. in 1964 to start up PWS Holdings.

"So for PWS it's happy birthday, good-bye Ronnie, and we look forward to the next 25 years," Mr. Pearson concluded to a warm round of applause. ■

Delta ruling

Continued from page 2

duty in failing to provide incoming aircraft of the existence of extreme and hazardous weather north of the airport.

"Although the weather was observable by incoming flights, the controllers did not know this to be a fact and were not justified in assuming it. The controllers should have sought confirmation of incoming crews' awareness of the hazardous weather," the judge said.

However, "any failure of the air traffic controllers to warn a pilot of the presence of a storm in his path cannot be regarded as a continuing proximate cause after the pilot himself discovered its presence, appreciated the danger and decided to fly ahead into it," Judge Belew ruled.

The judge also ruled that the Central Weather Service Unit meteorologist on duty at the Dallas/Fort Worth Airport breached his duty when he took a lengthy dinner break without arranging to have someone monitor weather conditions in his absence.

In addition, the airport weather coordinator breached his duty when he failed to disseminate pertinent weather information or maintain a continuous weather watch during the meteorologist's absence.

But, the judge ruled, "the crew of DL 191 possessed substantially all of the weather information potentially available from government sources. In fact, the crew was aware of additional conditions unknown by government sources, e.g., wind shear and lightning" emanating from the storm center into which the jet was descending when the crash occurred.

A total of 182 claims and 115 lawsuits have been filed against Delta relating to the crash. Delta has estimated the total value of paid and pending crash-related claims at between \$150 million and \$200 million, of which \$24.7 million represents claim Delta filed to recover the value of the hull.

Delta carried a maximum of \$50 million in property coverage per hull for its \$4.1 billion fleet and \$750 million in aviation liability coverage at the time of the crash. The liability coverage was arranged in two layers, with a \$600 million primary layer and a \$150 million layer excess of \$600 million.

The hull and primary liability coverages were placed in world insurance markets, with about 70% written by U.S. insurers. The \$150 million excess liability layer was written solely by London underwriters.

New York-based United States

Delta says the ruling is 'contrary to the evidence' and a 'major disservice to the aviation community.'

Aircraft Insurance Group wrote 30% of the hull and liability coverage and was the lead insurer on Delta's primary liability coverage, according to industry sources.

New York-based Associated Aviation Underwriters, the lead hull insurer, wrote about 10% of the combined coverage.

Other U.S. insurers included Aviation Office of America Inc., a Dallas-based unit of Crum & Forster Inc.; New York-based Mutual Marine Office Inc.; and New York-based American International Group Inc.

Another 20% of the hull and primary liability coverage was written in the London market, with the remainder placed in other markets.

In a statement released immediately after Judge Belew's decision, Delta expressed its "shock and disappointment."

"Delta has maintained since shortly after this accident that the tragedy would have been avoided if the crew of Delta 191 had received adequate and timely infor-

mation concerning the rapidly developing storm that they could not fully see," the airline's statement said.

Delta called the decision "contrary to the evidence in this case and... a major disservice to the aviation community as it negates and degrades from the critical necessity for mutual cooperation between pilots, (air traffic) controllers and meteorologists to assure the safe operation of airlines."

Delta said it intends to appeal Judge Belew's decision.

Attorneys for Delta could not be reached for further comment.

USAIG officials also could not be reached for comment.

Associated Aviation Underwriters declined to comment on the ruling.

The "absolution" of the FAA and the National Weather Service employees of responsibility for the crash "was very gratifying—to have the judge say that they did not contribute to the crash," said Kathlynn Fadely, assistant director for aviation in the Torts Branch, Civil Division of the U.S. Department of Justice in Washington, D.C.

Judge Belew's decision parallels the findings of the National Transportation Safety Board, which were not admissible as evidence during the trial.

In its Aug. 15, 1986, report on the crash, the NTSB determined "that the probable causes of the accident were the flight crew's decision to initiate and continue the approach into a cumulonimbus cloud which they observed to contain visible lightning; the lack of specific guidelines, procedures, and training for avoiding and escaping from low-altitude wind shear; and the lack of definitive, real-time wind shear hazard information."

"This resulted in the aircraft's encounter at low altitude with a microburst-induced, severe wind shear from a rapidly developing thunderstorm located on the final approach course," the NTSB concluded. ■

Update

New Jersey JUA under scrutiny

Continued from page 2

A Travelers spokesman said it plans to obey the subpoena. But, the New York Appellate Court judge who last month barred the New Jersey Insurance Department from releasing Travelers' and eight other insurers' internal audits to the U.S. General Accounting Office, plans to schedule a hearing in the case, a department spokesman noted.

The Travelers spokesman said the insurer is now talking with the GAO, which is investigating the JUA on behalf of the House panel, about keeping at least some of the audit information confidential.

Meanwhile, a hearing in the appellate division of the New Jersey Superior Court is scheduled for Wednesday in connection with consumer group Citizens Auto Revolt's effort to place a Proposition 103-type referendum on the Nov. 7 ballot in Mercer County.

The CAR referendum calls for rolling back by 20% all auto insurance rates, abolishing the JUA and repealing the insurance industry's exemption from state antitrust law, among other things.

The referendum, which would be advisory only, is already on 20 other county ballots, according to CAR attorney Anne McHugh.

However, if the insurance industry is successful in keeping the referendum off the Mercer County ballot, it will seek to remove the initiative from the other county ballots as well, said Robert Gaines, vp of the American Insurance Assn. in Washington, D.C.

Senate studies Medicare cuts

WASHINGTON—The Senate Finance Committee last week began considering new ways to reduce benefits and taxes increased by last year's expansion of the federal Medicare program.

Options now being considered by the committee include raising next year's cap on out-of-pocket physician expenses under Medicare's Part B to \$1,600 from the scheduled cap of \$1,370 and reducing the new prescription drug benefit, which takes effect in 1991, so that Medicare only would pay 50% of out-of-pocket expenses exceeding about \$900 rather than \$600.

Other options include raising the out-of-pocket Part B physician expense cap to \$1,700 and dropping the prescription drug benefit.

On the financing side, the committee is considering a staff option to limit—through 1994—the maximum Medicare surtax paid by middle- and upper-income retirees to \$585. Under Medicare's current financing structure, retirees, starting on their 1989 tax returns, can be liable for up to \$800 in additional taxes.

The Finance Committee will take up the matter again this week.

Cost shift OK'd in Bell contract

NEWARK, N.J.—About 9,200 union employees at Bell Atlantic Corp. subsidiary New Jersey Bell will pick up more of their health care costs under a three-year contract ratified last week.

Under the expired contract, members of the International Brotherhood of Electrical Workers were required to pay a deductible of \$150 per individual, up to a \$450 maximum per household, for non-hospitalization costs like hospice care and prescription drugs. There was no deductible for hospitalization under the self-insured indemnity plan.

But, under the new three-year contract, the deductible will also apply to hospitalization.

Beginning in 1991, employees that seek health care through a preferred provider network will receive full coverage above the deductible. Employees who receive health care from providers outside the network would be required to pay a 20% copayment after meeting the deductible up to a maximum out-of-pocket expense of \$1,500.

Like many of the other agreements reached between union employees and regional phone companies, the New Jersey Bell contract calls for some benefit improvements, including a 13% increase in pension benefits effective Jan. 1, 1990, for those who retired after Aug. 6, 1989; the establishment of a profit-sharing plan payable in an annual lump sum of up to \$600, depending on company profits; and eight family care initiatives to help workers care for children or elderly dependents, including unpaid leaves of up to six months during which employees would retain their health care benefits.

Meanwhile, about 60,000 unions workers are still striking at NYNEX Corp. in New York.

Army fined in arsenal cleanup

DENVER—The Colorado Department of Health has fined the U.S. Army \$1.6 million for failing to properly clean up the Rocky Mountain Arsenal near Denver.

The state charges that the Army has committed 42 violations of Colorado's toxic-waste laws in its initial cleanup of the site. For example, the state contends that the tanks the Army used to store the wastes it has drained from the site allegedly are leaking.

The Army has not decided whether it will appeal the fine. However, a spokesman for the U.S. Justice Department says the federal government is exempt under sovereign immunity from these types of fines.

The pollution at the Rocky Mountain Arsenal was the subject of massive insurance litigation between Houston-based Shell Oil Co. and more than 260 of its comprehensive general liability insurers. A jury in December found Shell had no coverage because it knew it was polluting the environment (BI, Dec. 26, 1988).

Briefly noted

Some 1,760 Lloyd's of London members have resigned so far this year compared with 1,350 members that resigned in the same period last year, Lloyd's said last week. . . . **Quantas Airways** of Sydney, Australia, moved its aviation insurance programs to broker C.E. Heath P.L.C. of London at midterm on Aug. 24 from Alexander Howden Group Ltd. and Sedgwick Group P.L.C. Quantas' airline hull and liability programs are due to be renewed Nov. 1. . . . **Liabilities** stemming from the Sept. 4 crash of a Cuban airliner, in which 139 people were killed, are insured by Seguros Internacionales de Cuba, Cuba's state-owned insurer, and reinsured in the London aviation market through broker Leslie & Godwin Ltd.

Bad-faith suits

Continued from page 1
millions of dollars in legal expenses alone.

The California Supreme Court curbed the filing of these lawsuits on Aug. 18, 1988, when it issued its ruling in *Parvaneh Moradi-Shalal vs. Fireman's Fund Insurance Cos.* (BI, Aug. 22, 1988).

In that decision, the California Supreme Court dumped the Royal Globe doctrine, saying it resulted in "escalating insurance costs to the general public resulting from increased expenditures to fund coerced settlements, excessive jury awards and increased attorney fees."

While the Moradi-Shalal decision barred third-party bad-faith lawsuits brought under the California Insurance Code, a creative plaintiffs' attorney discovered a new method of bringing bad-faith claims against insurers in California.

In *Beatty vs. State Farm Mutual Automobile Insurance Co.*, attorney Richard S. MacNaughton of Beverly Hills, Calif., filed suit against State Farm for violations

of Section 17200 of the California Business and Professions Code, which bars unfair business practices.

In a class-action lawsuit, Mr. MacNaughton argued that while State Farm agreed to pay the cost of rental cars for drivers whose cars were damaged by State Farm policyholders, the insurer consistently refused to cover the cost of collision damage waivers for the rental cars.

Mr. MacNaughton alleged that State Farm's refusal to cover the cost of CDWs was an unfair business practice under the business code.

"It was my belief that this was a clear violation of the Business and Professions Code," said Mr. MacNaughton, who explained that he did not intend to circumvent the Moradi-Shalal decision.

The trial court dismissed the case.

On appeal, State Farm vigorously argued that the Business and Professions Code should not apply to insurers.

But the appellate panel rejected the insurer's argument: "The unfair competition statute is a broad

act, the purpose of which is to ferret out unfair business practices wherever they may occur and in whatever guise human ingenuity can devise.

"Absent explicit authority exempting a particular industry from the statute's provisions, it would be totally inconsistent with past judicial decisions expansively in-

'The plaintiffs' bar simply never capitalized' on the existing code, says N. Douglas Martin.

terpreting the act, to imply such an exemption or to fabricate one out of whole cloth," the court continued.

Any damages to be levied against State Farm will be assessed at a later date.

State Farm late last week asked the appellate court to rehear the case.

The insurer also said it will ap-

peal the case to the California Supreme Court if necessary.

Attorneys for State Farm would not comment on the case.

The *Beatty vs. State Farm* ruling marks the first time the California Business and Professions Code was applied to insurers, according to attorneys.

"The Business and Professions Code has never been used against insurers because it was easier and more focused to sue under" the California Insurance Code, explained plaintiffs' attorney William Shernoff of Shernoff, Scott & Bidart in Claremont, Calif.

"When Moradi-Shalal came down, everyone predicted plaintiffs' attorneys would become more creative in finding ways to file bad-faith claims," said insurer attorney Mr. Oakes. "This is an example of their creativity."

"The plaintiffs' bar simply never capitalized on the Business and Professions Code," agreed Mr. Martin of Fireman's Fund.

"This is a significant new development in the law of insurance bad-faith," he said. "The decision revives the right of third-party claimants to sue carriers for any-

thing they think is unfair or unreasonable."

As a result, Mr. Martin predicted that insurers in California often will be hit simultaneously with two lawsuits—one from the policyholder and one from the third party—if the insurer contests a claim.

"The effect of this decision is to create the threat of a third-party lawsuit for every underlying action," he said. "Even negotiating a settlement could be considered unfair" under this ruling, Mr. Martin added.

As a result, Mr. Martin predicted "claims adjusters will either grossly overpay claims to avoid the threat of bad-faith litigation or refuse to negotiate to avoid creating evidence of bad faith."

"The decision will have a chilling effect on negotiations, investigations and settlements," he said. Furthermore, "the inflationary effect of this decision on the cost of claims will be passed on to consumers."

Mr. Oakes agreed: "Insurers have traditionally been forced to pass on legal costs to consumers."

Mr. Oakes characterized the recent appellate court ruling as "an improper attempt to circumvent the Moradi-Shalal decision."

"You've got the alleged violation of the Business and Professions Code being used as a thinly veiled end run around the statutory scheme of regulating insurance companies," said Mr. Oakes.

"When the Supreme Court has specifically held that individuals cannot sue someone else's insurer for statutory violations of the (Insurance Code), it seems unfair to allow plaintiffs to avoid the effect of that decision by allowing them to construe a claims practice as an unfair business practice," he maintained.

Attorney John A. Skelton Jr. of Williams, Kelly, Polverari & Skelton in Redwood City, Calif., predicted insurers will be worse off under the Beatty decision than they were under the Royal Globe decision.

"This decision is potentially more pernicious than the Royal Globe decision because the Business and Professions Code is a broad, catch-all consumer protection statute," explained Mr. Skelton, who represents both policyholders and insurers.

In contrast, the California Insurance Code specifically enumerated what constitutes unfair claims handling practices, he said.

"This decision opens the door for plaintiffs' attorneys to fashion their own laundry list of what constitutes unfair business practices," said Mr. Skelton. "It is anybody's guess how far this ruling will be taken."

Some insurers noted last week that they are angry that such an important decision stemmed from a dispute over a claim amounting to \$140.

"State Farm and other insurance carriers must be sensitive to making bad law," said Fireman's Fund attorney Mr. Martin. "Carriers often select cases for appeal where they have technical arguments and create vast new areas of law which cost the industry millions of dollars," he pointed out.

"Carriers must be more sensitive to the cases they appeal. This is a \$140 case!" Mr. Martin complained.

A spokesman for State Farm said the company recognizes the vulnerability of litigating a third-party lawsuit, "but we cannot start second-guessing our claims-handling strategy just because a plaintiff might attempt to circumvent the law."

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Anglo-American

Continued from page 3

The insurer was ordered into liquidation on March 20 after being found insolvent by \$19 million.

The Louisiana Insurance Department's three lawsuits each focus on different sets of transactions in which money was allegedly siphoned out of Anglo-American. All three suits name Mr. Miro as a defendant, but each suit also targets different corporations he allegedly controlled.

Louisiana regulators decided three lawsuits targeting different transactions would be easier to manage in court than a single comprehensive complaint covering all the allegations, according to an Insurance Department spokeswoman.

One of the suits names Mr. Miro, Anglo-American International Reinsurance Co. Ltd. of Dublin, Ireland, and Anglo-American Trust P.L.C. of London.

On Oct. 1, 1987, Anglo-American entered into a reinsurance agreement with Anglo-American International and over the next several months paid premiums to the reinsurer totaling \$3.9 million, according to the complaint.

Anglo-American also paid \$1.1 million to Anglo-American Trust, accounting for the payment as reinsurance premium ceded.

But, examiners were later unable to find any contractual support for the payment to Anglo-American Trust.

Anglo-American International has since

failed to pay any claims under the reinsurance agreement. Reinsurance claims to date total \$4.2 million, the complaint charges.

The lawsuit seeks payment of the \$4.2 million in claims or the return of the \$5 million paid to Anglo-American International and Anglo-American Trust.

Arguing that the two companies were merely shell corporations used by Mr. Miro as "a conduit for his personal gain," the suit also seeks to hold Mr. Miro personally liable for repaying the \$5 million in reinsurance premiums ceded.

A second complaint names Mr. Miro, Anglo-American Trust and Miro Irion Ventures Inc. of Dallas. The complaint charges that on Jan. 19, 1988, Anglo-American wired \$1.6 million to the London bank account of Anglo-American.

Anglo-American first accounted for this transfer as reinsurance premium ceded, the suit says. But, the insurer later recharacterized the transfer as funds spent for the purchase of preferred stock, and then recharacterized it again as an unsecured advance to Anglo-American Trust.

In October 1988, after the Louisiana department had begun examining Anglo-American, the insurer again revised its accounting for the transaction. At that time, Anglo-American described the transaction as a loan to Miro Irion Ventures intended to allow MIV to acquire Anglo-American Group stock from Anglo-American Trust, the suit says.

In return for the loan, MIV gave Anglo-American an unsecured promissory note for \$1.6 million, dated Jan. 19, 1988, but actually

signed Oct. 12, 1988. MIV has since failed to make any payments on the promissory note, the lawsuit says.

The complaint, charging that Anglo-American Trust and MIV conspired to misappropriate the \$1.6 million, seeks to recover the funds from the two companies.

Again charging that Anglo-American Trust and MIV were shell companies used by Mr. Miro for his personal gain, the suit also seeks to hold Mr. Miro liable for the repayment.

The third suit, naming Mr. Miro and Anglo-American Group, seeks to recover several million dollars in loans and alleged management fee overpayments. It also seeks to hold Mr. Miro personally liable for million of dollars in losses sustained by Anglo-American.

The insurer entered into a management agreement with Anglo-American Group in August 1986 under which the holding company would receive a fee equal to 15% of gross premiums in exchange for underwriting, claims management and administrative services.

However, company records show a \$565,040 overpayment to Anglo-American Group, which the suit seeks to recover from the holding company or Mr. Miro.

The insurance company also loaned Anglo-American Group a total of \$9.9 million before it became insolvent, and the holding company or Mr. Miro are liable to repay these funds, the suit says.

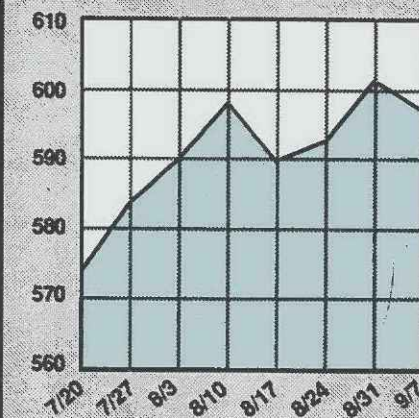
The loans and the alleged management fee overpayments—along with the reinsurance transactions and payments to Anglo-American Trust covered in the other suits—"were unjustified by any legitimate business purpose and...resulted in the funneling of significant sums of cash from (Anglo-American) to Miro or affiliated companies," the complaint alleges.

"By allowing the transactions described in this petition to occur for no legitimate business purpose, defendant Miro breached his fiduciary duties to (Anglo-American), its policyholders and creditors," the lawsuit charges. "Miro caused (Anglo-American) to enter into these transactions without security and for the sole purpose of funneling funds out of (Anglo-American) and into the hands of Miro and/or other corporations controlled by him."

The alleged breaches of duty and mismanagement by Mr. Miro produced losses totaling \$21.4 million for Anglo-American, and the suit seeks to hold Mr. Miro personally liable for these losses.

Responding to the allegations in the third complaint, Mr. Kroemer said that the \$9.9 million in "loans" to Anglo-American Group were actually repayments of loans from the holding company to Anglo-American and that "Carlos Miro did not personally benefit from any of that."

BI Insurance Index



Base = 100 on Dec. 29, 1978

Source: Nordby International Inc.

Insurance industry stocks declined last week, as the *Business Insurance Index* fell 4.0 points to 597.4 on Sept. 7, from 601.4 on Aug. 31. Advancing issues were led by Chandler Insurance Co., up 11.8%; FHP International, up 7.2%; Harleysville Group, up 4.9%; and Frank B. Hall & Co. Inc., up 4.0%. Decliners followed Western Health Plans, down 48.0%; Selective Insurance Group, down 30.1%; Nobel Insurance Ltd., down 10.0%; and U.S. Healthcare, down 8.3%. The most active issue was Sears, Roebuck & Co. (Allstate), 2.1 million shares traded. The *BI Index* was down 0.7% for the period; the Dow Jones 30 Industrials fell 1.1%; the Standard & Poor's 500 dropped 0.9%; and the New York Stock Exchange Composite lost 0.8%.

British Issues

Sept. 7 Companies	Price	P/E	Div.	Yield	1 Week High-Low
Comm Union	429	17.9	29.3	6.8	429-421
Genl Accident	1057	10.5	68.0	6.4	1057-1038
Gdn Royal Exch	222	14.1	15.7	7.1	223-217
Royal	467	14.3	34.0	7.3	467-455
Sun Alliance	313	9.1	17.0	5.4	322-307

Brokers

Brokers	Price	P/E	Div.	Yield	1 Week High-Low
Bradstock	187	12.8	10.0	5.3	187-185
CE Heath	471	13.5	34.5	7.3	476-470
Hogg Robinson	154	12.8	9.3	6.1	157-154
Lloyd Thompson	228	17.5	8.0	3.5	228-221
PWS Holdings	56	14.0	3.3	6.0	59-56
Sedgwick Grp	262	18.5	16.7	6.4	270-262
Steel Brl Jones	237	15.8	15.3	6.5	237-234
Willis Faber	224	16.6	15.3	6.8	229-224

Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kitcat & Aitken Stockbrokers, London

Texas comp insurer to leave market

DALLAS—Assessments by the Texas Workers Compensation Assigned Risk Pool is forcing Texas Employers' Insurance Assn., a mutual insurer, to withdraw from the market.

TEIA, which only writes only Texas workers comp insurance, has ceased writing new coverage and will not renew existing policies beginning Oct. 1, the spokesman said. The insurer had expected to write about 6%—or \$180 million—of Texas work comp premiums in 1989.

The assigned risk pool's deficit, which was about \$399 million at year-end 1988, is financed by an assessment on voluntary market work comp insurers based on market share.

Last year—when TEIA wrote \$270.2 million in Texas workers compensation premiums, or about 10% of the work comp premium written in the state—it was assessed about \$40 million by the pool. TEIA reported a net underwriting loss of \$39.4 million in 1988, according to the Texas State Board of Insurance.

Including pool assessments, the insurer has reported a total of \$221 million in statutory un-

derwriting losses from 1984 to 1988, and surplus has shrunk 65% to \$44 million at year-end 1988 from \$122.1 million at year-end 1984, according to A.M. Best Co.

"The losses we could have taken, because our expenses are low. And, the workers comp business we write now is probably the cream of the workers comp risks in Texas. But, the pool deficits and our share of the assessments are just too large. It's a pretty tough decision," the spokesman said.

TEIA, a subsidiary of Dallas-based Employers Casualty Co., was created under the Employers' Liability Act of Texas in 1913 and began underwriting workers comp insurance in May 1914.

TEIA has about 1,800 workers comp policies currently in force.

Another Employers Casualty Co. unit, Employers Casualty Corp., may absorb some of TEIA's workers comp business in the future, the spokesman said.

—By Donna DiBlase

BI Industry Stock Report

SEPT. 7, 1989

9/1/89 THRU 9/7/89

BROKERS

		Weekly Price	% change	Year to Date % change	Annual High	Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value
Alexander & Alexander	NYS	28.63	1.35	23.14	29.75	22.63	175	1.00	3.49	18	2.9C	9.87
Corroon & Black	NYS	35.88	-1.02	13.01	37.38	29.13	97	1.24	3.46	15	7.62	4.71
Gallagher Arthur J. & Co.	NYS	21.50	-3.93	26.47	24.75	15.88	50	0.52	2.42	15	5.33	4.03
Frank B. Hall	NYS	3.38	4.00	12.67	4.63	2.50	50	0.00	0.00	-1	N/A	N/A
Hib, Rogal & Hamilton	OTC	20.13	0.65	45.22	20.13	10.25	39	0.20	0.99	18	4.60	4.38
Marsh & McLennan	NYS	68.50	-0.72	23.42	72.13	55.00	240	2.50	3.65	17	6.48	10.57
Poe & Associates	NYS	8.25	0.00	-5.71	9.75	8.00	63	0.40	4.85	10	1.43	5.77
BROKERS AVERAGE			0.0	19.7					2.7	13		

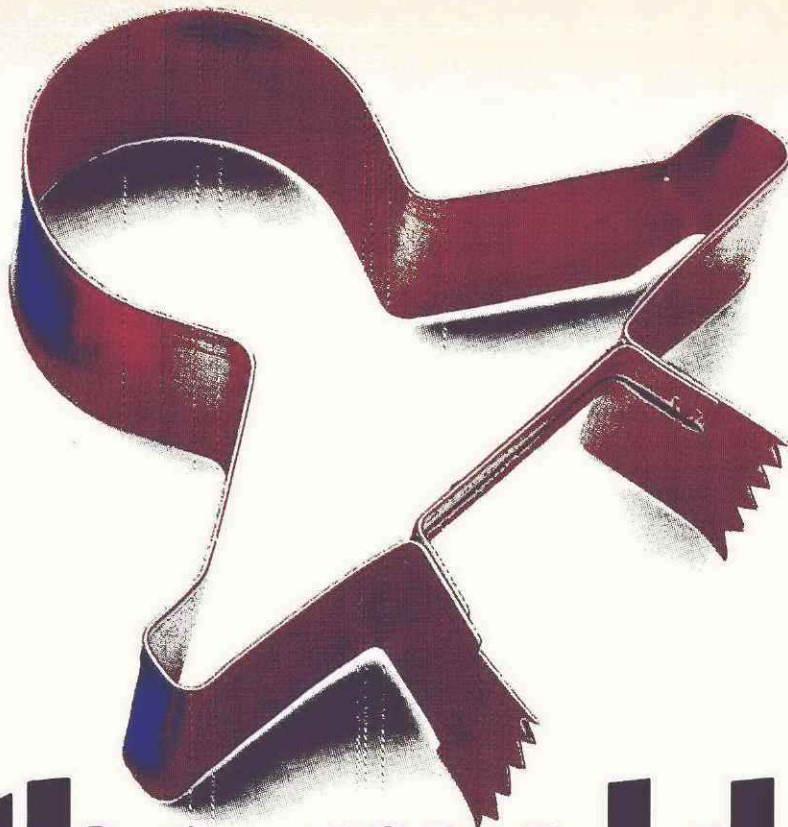
CONGLOMERATES & HOLDING COMPANIES

		Weekly Price	% change	Year to Date % change	Annual High	Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value
Berkley W.R. Corp.	OTC	40.38	3.54	36.30	40.75	27.25	526	0.40	0.99	9	21.28	1.90
Berkshire Hathaway Inc.	NYS	8125.0	1.88	74.73	8175.00	4275.00	1	0.00	0.00	2	2468.63	3.29
ITT (Hartford Group)	NYS	61.63	-1.99	22.95	64.50	47.75	926	1.48	2.40	10	56.33	1.09
Sears (Allstate)	NYS	45.00	-0.84	11.46	48.13	35.63	2073	2.00	4.44	15	36.09	1.25
CONGLOMERATES AVERAGE			0.6	36.4					2.0	9		

INSURERS/REINSURERS

		Weekly Price	% change	Year to Date % change	Annual High	Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value
Aetna Life & Casualty	NYS	57.50	-0.86	22.67	60.13	46.00	509	2.76	4.80	8	58.11	0.99
Ambase Corp.	NYS	15.63	-0.76	40.49	16.38	10.50	183	0.20	1.28	6	18.66	0.84
American General	NYS	35.63	-2.38	18.77	38.50	29.50	1035	1.50	4.21	9	28.04	1.27
American Heritage	NYS	28.00	-1.75	9.80	28.50	25.00	3	1.20	4.29	11	22.47	1.25
American Indemnity/Finl	OTC	10.00	-6.98	-4.76	13.00	9.50	2	0.56	5.60	-12	17.38	0.58
American International	NYS	93.50	-1.32	40.34	97.00	61.75	724	0.48	0.51	12	33.55	2.79
Aon Corp.	NYS	\$35.50	1.43	28.51	38.00	26.00	411	1.40	3.94	12	16.67	2.13
Argonaut Group	OTC	66.00	2.72	51.720	66.75	40.75	110	1.00	1.52	9	36.83	1.79
AVEMCO Corp.	NYS	27.00	2.35	5.37	27.50	22.63	5	0.40	1.48	15	9.20	2.93
Baldwin & Lyons Inc.	OTC	20.50	1.23	41.38	20.50	14.38	19	0.20	0.98	7	17.57	1.17
Belvedere Corp.	ASE	4.50	-5.26	0.00	6.50	4.25	72	0.04	0.89	7	8.43	0.53
Chandler Insurance	OTC	11.88	11.76	58.40	12.25	5.80	113	0.00	0.00	7	9.53	1.25
Chubb Corp.	NYS	78.13	0.49	35.29	78.88	53.75	315	2.32	2.97	9	53.50	1.46
CIGNA Corp.	NYS	62.75	0.80	35.68	63.88	45.75	735	2.96	4.72	11	53.08	1.18
CNA Financial Corp.	NYS	8.38	-1.41	6.41	9.50	6.63	32	1.30	15.51	47	54.52	0.15
Continental Corp.	NYS	37.25	0.68	16.41	45.00	31.50	350	2.60	6.98	-78	42.10	0.88
Durham Corp.	OTC	31.75	-2.70	-0.78	36.75	30.00	46	0.92	2.90	28	26.32	1.21
Fireman's Fund	NYS	38.25	-1.92	31.33	39.13	28.38	315	0.60	1.57	10	32.74	1.17
Fremont General Corp.	OTC	15.63	-2.31	25.04	18.25	10.00	83	0.80	5.12	223	17.61	0.89
Frontier Insurance Group	NYS	19.75	-3.66	77.37	21.75	9.50	9	0.00	0.00	10	7.53	2.62
General RE Corp.	NYS	77.38	-0.79	40.69	79.50	53.13	526	1.36	1.76	13	29.04	2.66
Hanover Insurance Co.	OTC	28.63	0.46	8.04	30.25	25.50	242	0.44	1.54	6	31.47	0.91
Harleysville Group	OTC	24.00	4.90	35.21	24.00	14.88	28	0.60	2.50	8	18.94	1.27
Hartford Steam Boiler	OTC	49.75	-4.78	34.46	55.75	29.75	175	1.60	3.22	13	13.04	3.82
Kansas City Life Ins.	OTC	35.75	0.70	4.38	41.00	29.25	2	1.04	2.91	12	39.22	0.91

		Weekly Price	% change	Year to Date % change	Annual High	Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value
Kemper Corp.	NYS	44.00	0.57	87.23	47.25	22.75	155	0.84	1.91	8	28.91	1.52
Lawrence Insurance Group	ASE	7.63	-3.17	-4.63	11.25	6.63	1	0.24	3.15	16	3.19	2.39
Liberty Corp.	NYS	36.38	2.10	0.01	40.50	32.50	37	0.80	2.20	21	21.17	1.72
Lincoln National	NYS	54.13	-0.68	25.16	56.88	42.75	90	2.48	4.58	14	39.21	1.38
NAC Re Corp.	OTC	34.25	-1.44	65.74	35.75	19.00	52	0.20	0.58	16	22.81	1.50
Navigators Group	OTC	27.00	-0.92	31.71	27.25	17.25	2	0.00	0.00	10	15.22	1.77
Nobel Insurance LTD	OTC	2.25	-10.00	-51.35	6.50	1.50	76	0.37	16.44	-2	7.76	0.29
NWNL Companies	OTC	36.25	-3.67	17.89	40.63	26.88	98	1.20	3.31	12	37.50	0.97
Ohio Casualty Corp.	OTC	49.00	0.00	37.06	50.75	33.25	76	2.08	4.24	7	33.30	1.47
Old Republic Int'l	OTC	28.00	0.00	23.15	28.50	22.75	54	0.74	2.64	13	26.60	1.05
Orion Capital Corp.	NYS	27.88	1.83	74.25	28.25	13.88	71	0.84	3.01	7	12.93	2.16
Phoenix RE Corp.	OTC	9.75	-4.88	0.00	11.00	8.50	34	0.00	0.00	6	12.99	0.75
Protective Life Corp.	OTC	15.38	1.65	16.08	16.25	12.88	41	0.70	4.55	38	14.54	1.06
Provident Life	OTC	28.00	3.70	44.52	28.50	17.75	146	0.88	2.43	9	12.60	2.22
Re Capital Corp.	ASE	11.75	-5.09	27.03	12.88	7.88	2	0.00	0.00	10	10.71	1.10
RLI Corp.	NYS	8.75	1.39	14.75	9.38	7.13	13	0.40	4.57	8	23.24	0.38
St. Paul Companies	OTC	59.00	-1.26	37.21	60.25	40.50	1041	2.20	3.73	8	32.00	1.84
SAFECO Corp.	OTC	33.75	1.11	44.39	34.75	23.13	294	1.20	3.56	8	24.88	1.36</



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