

# Business Insurance

**Hurricane inflicts heavy damage; adjusters rush to Texas coast**

CANCUN, Mexico—The resort areas of Cancun and Cozumel on Mexico's Yucatan Peninsula sustained heavy insured damages last week from Hurricane Gilbert as adjusters prepared for the mighty storm's anticipated collision with the Texas coast.

However, Cayman captive managers looked into calmer skies late last week after being spared the brunt of the storm.

And, a Houston broker that places  
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## Managed care may hike liability for employers

By DONNA DiBLASE

Employers that channel their employees into managed health care programs may be exposing themselves to third-party medical malpractice liability, legal and health care experts say.

However, case law establishing the liability of third-party payers for medical malpractice is limited. And, some legal experts doubt whether employers will become the targets of suits brought by employees who received substandard treatment in managed care programs.

Employers can protect themselves from this exposure—as well as ensure that their employees receive quality, cost-effective care—by documenting how they screen and select managed care firms, including hold-harmless agreements in contracts and involving risk managers in the selection process, experts say.

"Unfortunately for employers, a byproduct of being more involved health care purchasers is this risk of liability for the care received by their employees," explained Glenn Meister, a vp in the Los Angeles office of A. Foster Higgins & Co. Inc.

"But, companies absorb a certain amount of risk in the normal course of business every day, and this is just another risk they need to be aware of and prepared for," he added.

One major case tried so far has established that the ultimate liability for the care delivered to the patient rests with the attending physician, and not with the third-party payer.

In the 1986 case, *Wickline vs. the State of California*, a patient covered by California's Medicaid program, known as "Medi-Cal," consulted a physician for treatment of circulatory problems in her legs. The attending  
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## Fraud triggered demise of Mission, panel told

By JERRY GEISEL

WASHINGTON—Flagrant and irrefutable fraud caused the collapse of Mission Insurance Co., a House panel was told last week.

"I have no hesitation in stating at the outset that clear and irrefutable evidence exists that a fraud was perpetuated on the reinsurers of Mission Insurance Co.," said Ivor Kiverstein, a managing director with Chilington Intermediaries Ltd. in London.

Mr. Kiverstein, who has extensively investigated Mission on behalf of six reinsurers that belonged to a reinsurance pool managed by a Mission affiliate, testified Thursday before the House Oversight and Investigations Subcommittee.

The underwriters that belonged to the pool, which reinsured direct and reinsurance business written by Mission, are refusing to pay claims, which drove Mission into insolvency.

According to Mr. Kiverstein, fraudulent acts by the pool manager include establishing massively inadequate reserves, miscoding business written by the pool and writing business that should not have been written, he said.

The reinsurers and Mission's liquidator, California Insurance Commissioner Roxani M. Gillespie, are involved in several lawsuits over business written by the pool. In addition, some of the reinsurers are in arbitration to determine how much they owe Mission (*BI*, July 18; May 2; June 22, 1987).

However, the attorney heading Mission's liquidation denied that there was evidence of fraud at Mission and blamed its collapse totally on the reinsurers for not honoring their agreements with Mission.

Based on the evidence to date, "I don't believe Mission generated fraud," said Karl Rubinstein, an attorney retained by the California Insurance Department as a special deputy insurance commissioner to handle the Mission liquidation.

If Mission's reinsurers had stood by their commitments, "I don't believe Mission would have to be liquidated," he said.

Mr. Rubinstein likened the collapse of Mission to someone  
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Photo: Ken Heinen

Ivor Kiverstein testified before the House subcommittee that Mission and its affiliates defrauded reinsurers.

## Reinsurers prepare for continued slump

By CAROLYN ALDRED and KATHRYN J. McINTYRE

MONTE CARLO, Monaco—Reinsurance companies worldwide are bracing themselves for at least two more years of flat or falling premiums.

They are resigned to continuing competition driving down primary property/casualty insurance rates because reinsurers are helpless, they say, to curb the competition. The primary insurers have large retentions, and therefore primary insurance pricing is not reliant on reinsurance capacity.

Nor do reinsurers intend to compete fiercely for the reduced amount of reinsurance business available to them, leaving most with no hope of growth in the next few years.

Reinsurance rates already are drifting down under competitive pressure in a market where the supply of reinsurance exceeds demand.

This is the overall assessment of the state of the reinsurance market gleaned from discussions at the 32nd Rendez-Vous de Septembre in Monte Carlo, Monaco, the largest annual meeting of the

world's reinsurers.

This year's meeting, officially held Sept. 5-10, attracted 2,200 registrants from 80 countries, 200 more registrants than last year.

"1989 will be flat—a lot like 1988," predicted Ward Gordon, chairman of Intere Intermediaries Inc. in New York.

Many reinsurance companies expect worse: reduced premium volume.

Reinsurers are concerned about continuing rate competition among primary insurers and the fact that primary insurance companies are buying less reinsurance.

Primary property/casualty insurance rates, although dramatically lower than in 1985 and 1986, currently contain a margin of profit, reinsurers say.

But rate reductions, pegged in the coming year at an average of 10% to 20%, could change that.

"If the primary market goes sour, so does reinsurance," said Theodor Dielmann, executive vp of Hannover Reinsurance Co. and Eisen & Stahl Reinsurance Co. in Hannover, West Germany.

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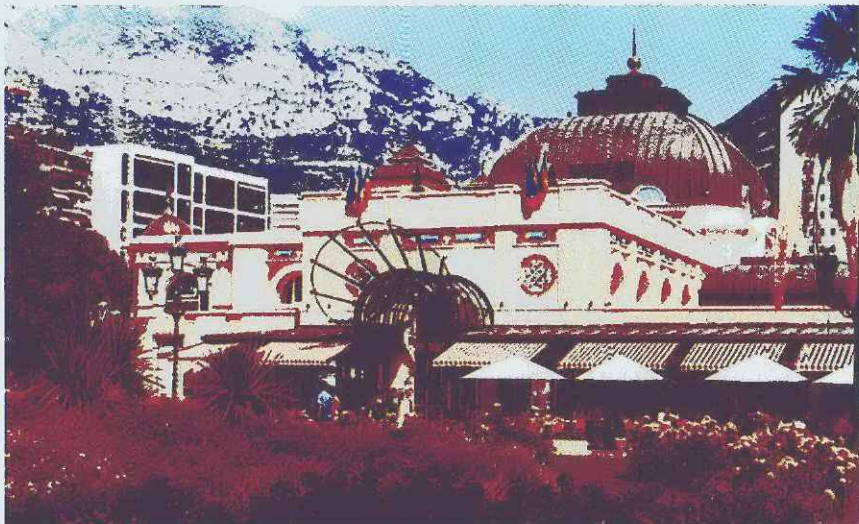


Photo: Kathryn J. McIntyre

The rebuilt Cafe de Paris was a popular Rendez-Vous meeting place.

**Searle loss may trigger more IUD lawsuits**  
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**Court ruling to determine caps on Denver crash awards**  
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**Risk management expands among public entities: Study**  
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**Update**

## Gilbert blasts Mexican resorts

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coverage for energy risks expected that the storm would spare most oil rigs in the Gulf of Mexico.

Luxury hotels in touristy Cancun were heavily damaged, and many homes on nearby Cozumel island have been destroyed, according to reports. Brokers estimated that the storm caused billions of dollars in damage to the Mexican resort area and Jamaica, which the storm hit earlier in the week. However, they did not know last week how much of the damage was insured.

The storm—packing winds gusting up to as high as 200 mph—missed hitting the Caymans directly and left its business center in George Town virtually unscathed, said captive managers. No casualties were reported from Grand Cayman, but the storm felled some trees and caused severe flooding on parts of the island.

"The business center was spared," said a spokesman for New York-based Marsh & McLennan Inc., the parent of captive manager Marsh & McLennan (Cayman Islands) Ltd.

Cayman captive managers already were returning to their offices late last week, said Ian Kilpatrick, managing director of Johnson & Higgins (Cayman) Ltd.

Fred C. Burns, managing partner of Houston-based broker John L. Wortham & Sons, said he expected the storm would spare oil rigs in the gulf. "I doubt there will be much damage unless it turns more northerly," he said Friday. "I don't think there are that many rigs in the southern part of the gulf."

There are 26 rigs in the gulf, said a spokesman for the International Assn. of Drilling Contractors in Houston. He could not establish a value for the rigs, but said the cost of new rigs range from \$2 million to \$100 million.

Insurers had sent about 1,000 adjusters to the Texas' gulf coast by Friday, according to Steve Hacker, executive vp of the Professional Insurance Agents of Texas.

The Texas Catastrophe Property Insurance Assn. sent 150 adjusters to the coast. The pool, which is supported by Texas insurers, has written about \$400 million in windstorm coverage for commercial and personal property in four counties expected to be hit by the storm, Mr. Hacker said. "That will probably be the lion's share of the insured values because companies don't usually voluntarily write that coverage in those areas."

## GTE insured for satellite launch

STAMFORD, Conn.—GTE Corp. has \$60 million in first-dollar satellite launch insurance for the loss of its GSTAR III communications satellite, which failed to reach proper orbit this month.

If the satellite is a total loss, it could halt the recent slight slide in satellite launch rates, according to two London brokers.

About 15% to 20% of GTE's insurance is placed in London, some is placed in continental Europe and a "substantial part in the U.S.," said W.L. Hyland, GTE's vp-insurance.

The brokers on the risk include Marsh & McLennan Cos. Inc. and London subsidiary C.T. Bowring & Co. Ltd., which would not comment about details of the coverage. It is not sure yet whether the satellite will be a total loss, according to Bowring.

Satellite launch insurance rates now are about 20% to 25% of insured value and are falling gradually as some underwriters re-enter the market after huge losses earlier this decade, brokers say.

## U.S. court takes coverage case

PITTSBURGH—The U.S. District Court for the Western District of Pennsylvania has agreed to hear the entire Westinghouse Electric Corp. hazardous waste insurance coverage litigation.

Westinghouse is suing more than 140 of its comprehensive general liability insurers to cover the cleanup of 80 hazardous waste sites nationwide as well as thousands of personal injury claims.

The court ruled it had jurisdiction in the case through the Foreign Sovereign Immunities Act, which gives federal courts authority over all disputes involving foreign nations. One of Westinghouse's high-level excess insurers, Insurance Corp. of Ireland Ltd., is 51% owned by the Republic of Ireland.

Westinghouse urged the court to dismiss the case because ICI wrote less than 2% of a very high layer of Westinghouse's coverage. ICI's maximum liability is only 0.55% of the total risk.

The court conceded that "this is truly a case of the 'cart pulling the horse' into federal court."

Westinghouse argued that a state court in New Jersey has already agreed to hear the portion of the case involving New Jersey sites (*BI*, April 4, March 28).

It remains unclear whether the Westinghouse litigation will be heard on a site-by-site basis or in one forum until appeals of various rulings are complete. It is possible several courts will hear duplicate litigation and issue conflicting rulings.

## Mentor creditors voice dismay

HAMILTON, Bermuda—A resolution expressing "a lack of confidence" in a report by Mentor Insurance Ltd.'s liquidators failed last week, despite the backing of creditors holding most of the debt represented at the general creditors meeting.

Although some 20 creditors owed a total of \$89.4 million from Bermuda-based Mentor supported the resolution, 54 creditors owed a total of \$9.9 million opposed it. Meanwhile, 21 creditors owed a total of \$3.4 million abstained. Passage of the resolution required both approval by a majority of all creditors voting and approval by creditors owed a majority of Mentor's total debt.

Mentor parent Ocean Drilling & Exploration Co. and five U.S. banks, representing \$85.5 million of debt, voted for the resolution, said Gareth Hughes, a partner of the Arthur Young & Co. accounting firm, which is handling the liquidation.

Mentor's liquidators are suing ODECO for \$700 million.  
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# Suits against Searle may rise following \$8.75 million award

By MARK A. HOFMANN

ST. PAUL, Minn.—G.D. Searle & Co. will be hit with more product liability suits after a Minnesota jury awarded \$8.75 million in damages to a woman allegedly injured by Searle's CU-7 intrauterine device, plaintiffs' attorneys say.

But Searle and a product liability expert say several factors will limit the impact of the verdict. And, they add that Searle will not be forced to pay the massive amounts that forced fellow IUD maker A.H. Robins Co. into bankruptcy.

Those factors include:

- Minnesota courts rule in favor of plaintiffs more often than courts in some states.

- Statutes of limitations in other states would prevent many potential claimants from filing suit.

Meanwhile, St. Louis-based Monsanto Corp., Searle's parent company, says a ruling by the judge in the Minnesota case that another CU-7 claimant can sue Monsanto as well as Searle for damages applies only to cases heard in Minnesota.

A Monsanto spokesman said that even if Monsanto is found liable for CU-7 damages, its liability would be limited to the value of its investment in Searle, which was listed in its 1987 annual report as \$1.48 billion. Monsanto bought Skokie, Ill.-based Searle in October 1985, a few months before Searle stopped selling the CU-7 in the United States.

The Monsanto spokesman said Searle has adequate liability insurance and reserves to cover CU-7 claims. However, "We don't give out information about insurance or reserves," he said.

In the first two full days of trading on the New York Stock Exchange following the Sept. 9 verdict and rul-

ing, the value of Monsanto stock dropped to \$74.63 per share from \$85.75. However, the stock gained \$1.75 per share to close at \$76.38 on Sept. 14.

"We believe we're adequately reserved" to cover claims, a Searle spokeswoman said. She explained that the company established a reserve several years ago to cover CU-7 claims.

"The motivating factor was a lack of product liability insurance of any kind," she said. However, she refused to disclose the size of the reserve.

Searle had purchased product liability insurance for the CU-7 from its introduction in 1974 until the beginning of 1986, when it no longer could find coverage (*BI*, Feb. 15; Feb. 10, 1986). Searle has consistently refused to comment further on its insurance.

However, the pharmaceutical company "will absolutely appeal" the verdict, the spokeswoman said, without specifying the grounds on which the appeal would be based.

In the Minnesota case, Esther Kociemba of Elk River, Minn., charged that a CU-7 caused a pelvic inflammation that led to sterility.

For the first time in any IUD-related lawsuit against Searle, hundreds of thousands of pages of internal documents were introduced as evidence, causing many observers to label the Minnesota litigation a "test case."

After 10 days of deliberation, the five-woman, three-man jury found Searle liable for misrepresenting the IUD and failing to adequately test it.

The jury awarded Ms. Kociemba \$750,000 for pain and suffering, \$1 million for emotional distress and \$7 million in punitive damages. Judge Renner later reduced the emotional distress award to \$400,000.

Although this was not the first IUD-related case  
*Continued on page 12*

## BI will list reinsurance brokerages

*Business Insurance* will publish its annual directory of reinsurance intermediaries in the Oct. 31 issue, which will include a spotlight report focusing on reinsurance topics.

The directory includes both U.S. and Bermuda-based reinsurance intermediaries and is a resource subscribers can refer to throughout the year.

There is no charge to be included in the directory; however, companies that wish to be listed must fill out and return a questionnaire provided by *Business Insurance*.

If you have not yet received a questionnaire, please request one by calling Marilou Jones at 312-649-5279.

The deadline for returning completed questionnaires to *Business Insurance* is Oct. 3.

## More banks seek role in GIC market

By JUDY GREENWALD

NEW YORK—Banks could play as large a role in the guaranteed investment contract market in four or five years as insurance companies do today, one expert says.

Banks' role in marketing GICs will increase partly because insurers may not be able to keep pace with the increasing demand for the contracts, predicts Michael Boyen, a consultant with The Wyatt Co.

For example, a recent study by A. Foster Higgins & Co. of insurers that offer GICs found demand for the product is growing faster than supply.

However, while banks' participation in the GIC market is a positive development, they may have some hard lessons to learn about the GIC business, warns another consultant.

Mr. Boyen, who heads Wyatt's Portland, Ore., office, spoke on the growing importance of bank investment contracts, the banking industry's equivalent of GICs, at a briefing co-sponsored by Wyatt and Manufacturers Hanover Trust Co.

Guaranteed investment contracts are contracts that guarantee investors a specific rate of return on their invested capital over the life of the contract. They account for the bulk of funds invested in defined contribution plans.

The insurance company takes all the credit and interest rate risks on the investment portfolio, though it can also profit if investment returns exceed the guaranteed rate of return (*BI*, May 30).

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## Inside

✓ The initial actions of the three major players in the brewing controversy over modifications to the commercial general liability insurance forms are acting sensibly, this week's editorial says. **PAGE 8**

✓ The Financial Accounting Standards Board's proposed accounting rule for post-retirement health benefits is worrying corporate benefit managers. **PAGE 32**

✓ Auto insurers in California have not properly explained the problem of controlling costs to consumers, says William M. McCormick, chairman of Fireman's Fund Insurance Cos., in Speaking Out. **PAGE 47**

✓ Britain's highest court will decide whether an insurer can be ordered to pay damages to a policyholder if it fails to disclose important insurance contract information. **PAGE 59**

✓ Employers with flexible benefit plans are more likely to use the most effective benefit communication methods, says a new survey. **PAGE 76**

✓ Quick action allowed a Detroit-area advertising agency to resume operations after a blast leveled its offices. **PAGE 80**

✓ Property/casualty insurance premium growth has sur-

passed the increase in gross national product over the last two decades despite the insurance cycle, says analyst Leonard M. Wilson. **PAGE 87**

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# IRIS statistics' value is limited, observers say

By MEG FLETCHER

KANSAS CITY, Mo.—The statistical analysis of insurer finances released by the National Assn. of Insurance Commissioners will not readily identify troubled companies, observers say.

However, the information—voluntarily released for the first time last week—may help policyholders assess some insurers' financial strength.

"These ratios will assist a conscientious buyer in attempting to determine the strength of any particular insurance company," said Phillip Schwartz, vp-financial reporting and associate general counsel of the American Insurance Assn.

"They will be helpful; they will not be foolproof," Mr. Schwartz said. "A company in financial difficulty will not necessarily be revealed by these ratios."

And, "certain corrective actions taken by insurers may cause an 'unusual' ratio result, even though the insurer is not in financial difficulty," the NAIC says.

The NAIC last week voluntarily made available to the public a 222-page report containing financial ratios for property/casualty and life/health insurers analyzed under the NAIC's Insurance Regulatory Information System.

The 1987 information used by the NAIC to develop the IRIS ratios were provided in separate mandatory filings by about 5,000 insurers—nearly all that operate in the United States on any basis.

"We think that this IRIS data may be useful consumer information," said John Washburn, NAIC president and Illinois director of insurance. "However, it should not be used as the only measure of an insurance company's financial health. Combined with other data, the IRIS information will allow consumers to view insurance companies from a new vantage point."

The usefulness of the data is questionable because of the limited comparative information the NAIC provides in its report, observers say.

The NAIC report divides insurance companies into four categories: individual property/casualty companies, property/casualty insurer groups, individual life/health companies and insurers owned by fraternal organizations.

The report contains 11 ratios for property/casualty insurers and 12 for life/health insurers.

Also included is an extensive explanation of how the ratios are calculated.

Missing from the report, however, is an analysis of the ratios by NAIC's financial examiners that previously resulted in companies being categorized in the NAIC's reports to state insurance departments as requiring "immediate regulatory attention," "targeted regulatory attention" or "no regulatory attention."

Those classifications were changed earlier this summer to four numerical classifications (BI, June 27).

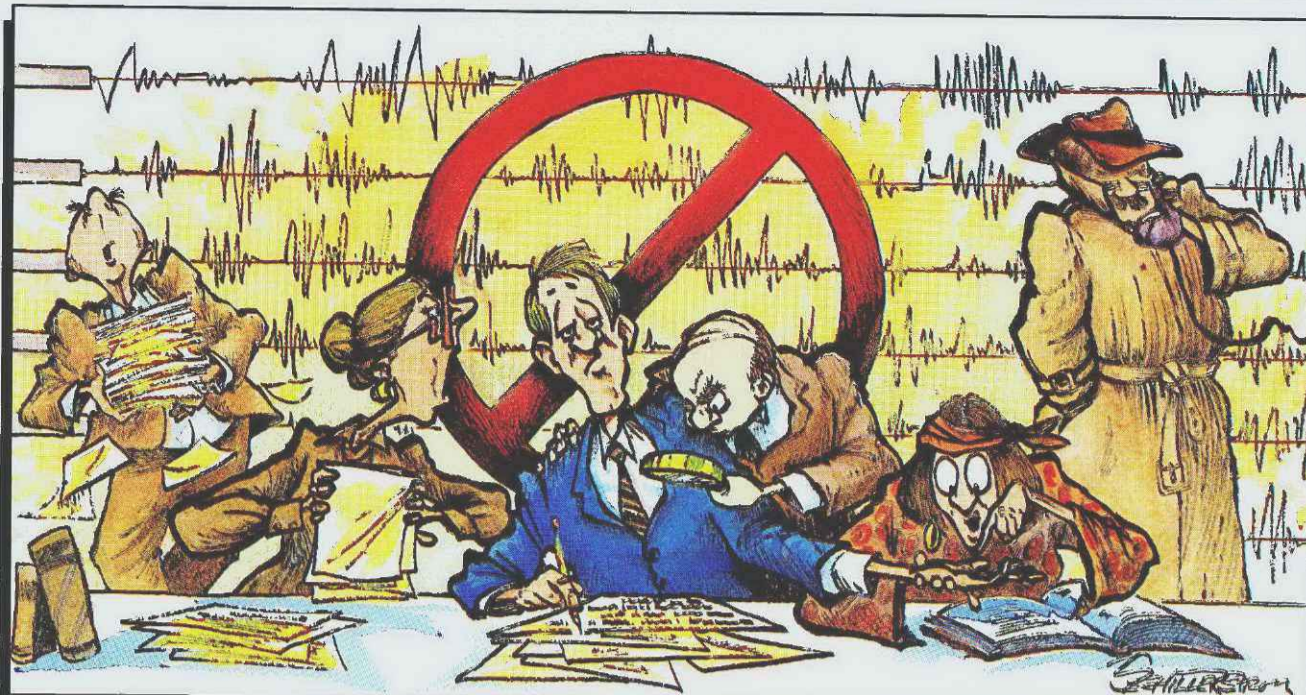
The only analytical tool offered in the new report is two sets of industry means and medians for each insurer category.

The mean "is equal to the sum of the individual company ratio values divided by the number of companies." The median value "represents the midpoint of the distribution of individual ratio results or a value such that about half of the companies have a ratio result below that number and about half have a results greater than that number," the reports explain.

However, the usefulness of those basic statistical calculations is limited because the NAIC did not identify what it considers acceptable ratios. And, previously released information about ranges of acceptable ratios may no longer be accurate, according to an NAIC spokesman.

In addition, the NAIC points out that some ratios for some insurers cannot be calculated and that the means and me-

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# Employee honesty tests move to new frontiers

By LAUREN SINAI

Employers whose success hinges on workers who believe that honesty is the best policy still have an arsenal of methods to test employee fidelity, despite a new law banning polygraph tests for most employees.

Among the options remaining for employers are professional reference and background checks, pencil-and-paper psychological tests, structured interviews and even handwriting analysis.

In addition, "structured integrity" interviewing may become more popular among employers following a U.S. Supreme Court ruling that plaintiffs can use disparate impact analysis—which examines employment practices that are unintentionally discriminatory—as a basis for discrimination lawsuits (see story, page 16).

Experts agree that employers that test employees for honesty should use a combination of tests to develop a

sense of an employee's productivity.

"Companies should see the Employee Polygraph Protection Act as a blessing in disguise," said Jack Jones, vp of research and development for London House Inc., a test design, developing and marketing company in Park Ridge, Ill.

"The bottom line is that it will call for the use of more objective screening tools, such as psychological testing. And it is quite easy to shift to these objective systems."

However, labor law experts and others are leery of how effective results of these tests actually are (see story, page 19).

Use of the polygraph, or lie detector, by most employers will be banned beginning Dec. 27.

The Employee Polygraph Protection Act, signed by President Reagan earlier this summer, forbids many employers from requiring potential or current employees to

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# Court to rule on air crash damages

By MICHAEL BRADFORD

DENVER—Continental Airlines and parent Texas Air Corp. may face increased punitive damage awards from claims stemming from the November 1987 crash of a Continental jetliner in Denver if a judge rules Texas law should apply.

While plaintiffs' attorneys argue in court filings that Texas law should apply to the claims because that state is the domicile of Houston-based Texas Air, lawyers for the defendants claim Colorado law is applicable because the state was the site of the accident.

Under a Colorado tort reform law passed in 1986, punitive damages are limited to the amount of compensatory damages awarded. Texas law allows

punitive damages up to four times the amount of the compensatory award or \$200,000, whichever is greater.

"It would severely limit damages" awarded to plaintiffs if the suits are decided under Colorado law, remarked Richard Schaden, a plaintiffs' attorney with the Denver firm of Schaden, Heldman & Lampert.

U.S. District Court Judge Sherman G. Finesilver has set a Dec. 5 trial date for a case considered representative of the crash-related lawsuits remaining against Continental and Texas Air, but he first must decide which state's laws will apply in that trial.

In a pretrial conference earlier this month, the judge ordered attorneys for both sides to present on Oct. 18 their arguments regarding which state's laws

are more applicable in determining liability and punitive damages relating to the crash.

An Idaho-bound Continental DC-9 jetliner, with 77 passengers and five crew members aboard, crashed on take-off at Denver's Stapleton International Airport during a snowstorm, killing 28 and injuring 54 (BI, Nov. 23, 1987).

Mr. Schaden said about 18 lawsuits are pending in the case.

"About half of those are relatively minor injuries," he said, speculating that the defendants may attempt to settle those cases before they actually go to trial.

"A number of cases have already been settled," said plaintiffs' attorney Donald W. Madole of the Washington, D.C.,

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# Public entity risk management blossoms

By ALISON KITRELL

WASHINGTON—Fueled by rising insurance costs and increasing liability exposures, the risk management profession has rocketed to a prominent place in state and local governments, according to a recent survey.

"In the past decade, risk management has been one of the high-growth fields in state and local government administration," says "Public Risk Management: State of the Profession 1987-88," a study by the Washington-based Public Risk Management Assn.

Natalie Wasserman, executive director of PRIMA, says two major factors have contributed to the growth of risk management in the public sector.

"If you look back over the past 10 years... public agencies have become much more aware of their exposures," especially their exposure to lawsuits, Ms. Wasserman says. "There is a much greater realization of the fact that governments are at risk," she says.

Secondly, "Risk management in public agencies in

the last four years has probably seen accelerated growth because of the hard market" of the mid-1980s. As commercial property/casualty insurance became less affordable and available, public entities began to realize the need for professionals to handle the search for alternatives.

And indeed, the survey of 426 public entities nationwide reveals that formal risk management departments and procedures are much more common among government entities now than several years ago.

Almost two-thirds—66%—of the respondents said their entity currently has at least one full-time risk management position. A 1985 PRIMA study showed that only 53% of public entities had a full-time risk management position. And, a 1981 survey by the International City Management Assn. identified only 23.5% of the respondents as full-time risk managers.

The fact that risk management is relatively new to public entities means that many of those risk managers are fairly new to the profession (see story, page 26).

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# Retiree health plan tax breaks sought

By DEBORAH SHALOWITZ

**When the FASB rule takes effect, 'many employers will be under tremendous pressure to reduce their liabilities by reducing or eliminating the retiree benefits they now offer,' says Mark Ugoretz of the ERISA Industry Committee in Washington.**

WASHINGTON—Employers are warning Congress that they may be forced to cut back on retiree health benefits if tax incentives to prefund retiree health care costs are not granted.

Two new estimates released last week before the House Ways and Means Oversight Subcommittee place employers' liability for unfunded retiree health care commitments at between \$221 billion and \$247 billion.

And, the governing organization that sets accounting rules for businesses said a proposal it will release this fall will require almost all U.S. businesses to recognize this unfunded liability on their balance sheets beginning in 1992

(see story, page 32).

Meanwhile, Rep. Rod Chandler, R-Wash., introduced a bill Thursday that would respond—at least in part—to employers' concerns.

The Financial Accounting Standards Board expects to issue a final standard "as early in 1990 as possible," according to James J. Leisenring, vice chairman.

The FASB rule will not require

employers to list on their balance sheets liabilities for retiree health care that current workers have not earned yet.

However, business representatives told the House subcommittee that the FASB rule may prompt some companies to cut back on retiree health care programs unless Congress passes tax incentives to prefund retiree health care.

When the FASB rule takes effect, "many employers will be under tremendous pressure to reduce their liabilities by reducing or eliminating the retiree benefits they now offer," said Mark Ugoretz, executive director of the ERISA Industry Committee in Washington.

He suggested that "companies might not offer the benefit to new hires, they may terminate or substantially restrict the benefits for active employees, or they may install substantial cost-sharing and copays for active and retired employees."

"If employers are to respond to post-employment health care needs, including the mounting concern over long-term care, employers will need—and frankly deserve—deductibility for prefund-

ing these obligations," said Edward J. Davey, a principal in the New York office of A. Foster Higgins & Co. Inc., in testimony before the House panel as a representative for the Assn. of Private Pension & Welfare Plans.

"In the absence of these tax code revisions and faced with the financial implications of the FASB requirements, employers will have little choice but to limit their promises to future retirees to the extent the law or contractual obligations permit," Mr. Davey said.

Lawrence A. Cavanaugh, director of employee benefits for United Technologies Corp. in Hartford, Conn., representing the National Assn. of Manufacturers, noted that many employers are considering alternatives to reduce "the burgeoning liability associated with retiree health plans."

Although employers are using cost management techniques to save money, "more common is the growing tendency of employers to cut back on retiree benefits—to the extent the courts will allow—or to increase the cost to retirees of receiving these benefits," Mr. Cavanaugh said.

"Less common, but of equal concern, are employer decisions not to offer retiree health benefits of any kind," he added. And "given the lack of fiscal or legislative incentives, more employers are likely to consider this option in the future."

The U.S. General Accounting Office, the research unit of Congress, estimates that corporations' unfunded retiree health care liability is about \$221 billion, including \$93 billion for current retirees' health care costs and \$128 billion for retiree health care current workers already are entitled to when they retire.

Corporate America's liability for current workers' unaccrued retiree health care benefits could be an additional \$181 billion, according to Lawrence H. Thompson, assistant comptroller general for the GAO.

The Employee Benefit Research Institute, a Washington-based employee benefits think tank, estimated that employers' liability for unfunded retiree health care commitments is about \$247 billion, including \$98 billion for current retirees' health care costs and \$149 billion for current workers' retiree health care.

However, if anticipated savings from the recent expansion of Medicare to cover the costs of catastrophic illness are included in the estimate, employers' liability for unfunded retiree health care commitments would be reduced to \$169 billion, according to EBRI.

Deborah Chollet, a senior researcher at EBRI, told the subcommittee that as the new Medicare coverage is phased in, it could reduce employers' costs by 10% in 1990, 40% in 1991, 45% in 1992 and 50% in subsequent years. The savings are due primarily to Medicare's expansion to cover some of the costs of prescription drugs, Ms. Chollet said.

Under Rep. Chandler's bill, employers with defined benefit or defined contribution pension plans could make tax-deductible contributions toward future retiree health care or long-term care costs.

In addition, the proposal would allow employers to transfer excess assets from overfunded pension plans into a fund to finance retiree health care costs or long-term care coverage costs (BI, Aug. 8).

However, the proposal would bar companies from recovering excess assets when they terminate overfunded defined benefit pension plans.

## EMPLOYEE BENEFITS BULLETIN:

### GROUP LONG TERM CARE FROM CNA COMPLETES YOUR BENEFITS PACKAGE

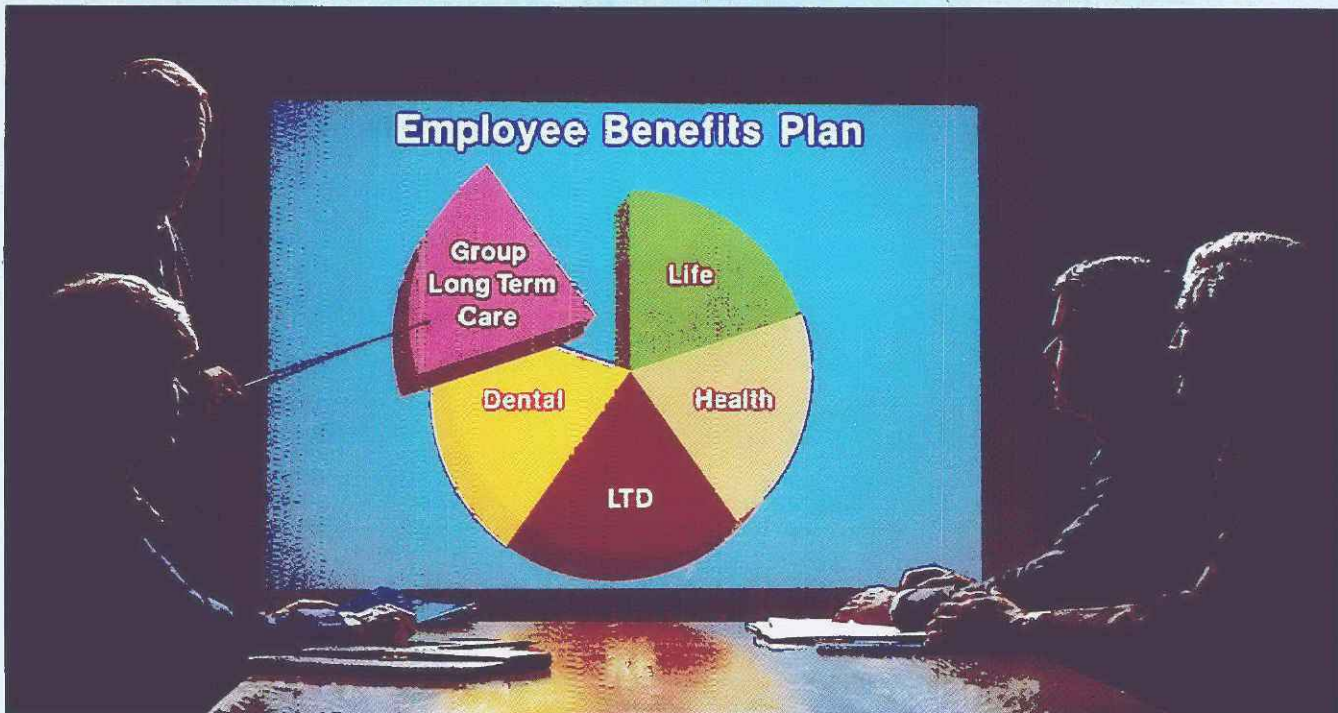
# Give your employees the benefits they want today and will need tomorrow.

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# Aetna sponsors day-care referral service

By GLENN HUNTLEY

Aetna Life & Casualty Co. of Hartford, Conn., is offering a program that allows its 40,000 employees nationwide to more easily find day care for their children and support services for elderly dependents.

The referral service, accessible by a toll-free telephone call, is available to all full- and part-time employees and their spouses.

The service is provided at no cost to employees, but Aetna is paying a "substantial" amount to a referral agency to make it available, a company spokesman said. "We think it's (money) very well-spent."

According to a spokesman for the referral agency, Aetna pays an annual fee based on the size of its employee population.

## Benefit beat

Referrals are made by Work/Family Directions Inc. and Work/Family Elder Directions Inc., consulting firms based in Waverlytown, Mass., that have connections with 200 community-based organizations familiar with providers across the country.

The program is part of Aetna's effort to accommodate a workforce that includes an increasing number of working parents and employees that are responsible for dependent elderly relatives' care.

"Many Aetna employees are concerned about finding quality care for both their children and their elderly parents," said Richard McAloon, vp of human resources.

The spokesman said Aetna was not "just being good guys" by offering the service. "There are sound business reasons to do this."

In addition to referrals to providers, the service provides consumer education and telephone consultations with trained specialists in each locality.

Work/Family Directions offers referrals for child care within the community where a particular employee lives, and Work/Family Elder Directions can provide information about elder care services available wherever the dependent relative lives, the spokesman said.

The spokesman also said the program will seek expansion of child

care and elder care services in cities where shortages exist.

## Medical cost shifting

About 14,000 union employees of Pittsburgh-based Westinghouse Electric Corp. would pay part of their health care costs for the first time under a new three-year contract currently being considered by members of several unions.

The national contract was reached during bargaining between Westinghouse and union representatives late last month, but local unions will continue to vote on its ratification through late September, a union spokesman said.

Prior to the tentative contract agreement, Westinghouse paid all costs for major medical and hospi-

talization insurance for its union employees. But, under the new agreement, workers would contribute to hospitalization costs on a sliding scale that reflects their pay, a Westinghouse spokesman said.

For example, an employee who makes between \$15,000 and \$30,000 annually would pay up to \$50 per day for inpatient care for the employee and up to \$150 a day for dependent care, he said.

In addition, union employees will contribute 0.5% of their base pay toward health insurance premiums, up to a maximum of \$500 annually.

Because the contributions are tied to the workers' salaries, the plan is likely to be "more palatable" to most employees, the spokesman said.

In addition to the copayments, an annual deductible for major medical coverage also would be implemented, the spokesman said. The deductible would be \$125 per employee and \$300 for families.

Officials declined to discuss any other specifics of the pending contract agreement.

Under the new contract, Westinghouse employee's major medical coverage would continue to be underwritten by The Equitable Life Assurance Society of the United States in New York. Hospitalization coverage would still be written by Blue Cross of Western Pennsylvania, the spokesman said.

Westinghouse spends about \$280 million annually for its 80,000 union and non-union employees' health care coverage. However, company officials would not say how much it spent for coverage for the union members included under the new contract.

Unions that would be covered by the contract are the Federation of Westinghouse Independent Salaried Unions; the International Union of Electronic, Electrical, Salaried, Machine & Furniture Workers; the United Electrical, Radio & Machine Workers of America; and the International Brotherhood of Electrical Workers.

## Workplace rights

Transamerica Life Cos. has become the second Los Angeles-area employer to adopt the workplace "bill of rights" for AIDS-afflicted employees.

The Times Mirror Co., publisher of the Los Angeles Times, was the first Los Angeles-area company to endorse the rights statement originated by the Citizens Commission on AIDS in New York.

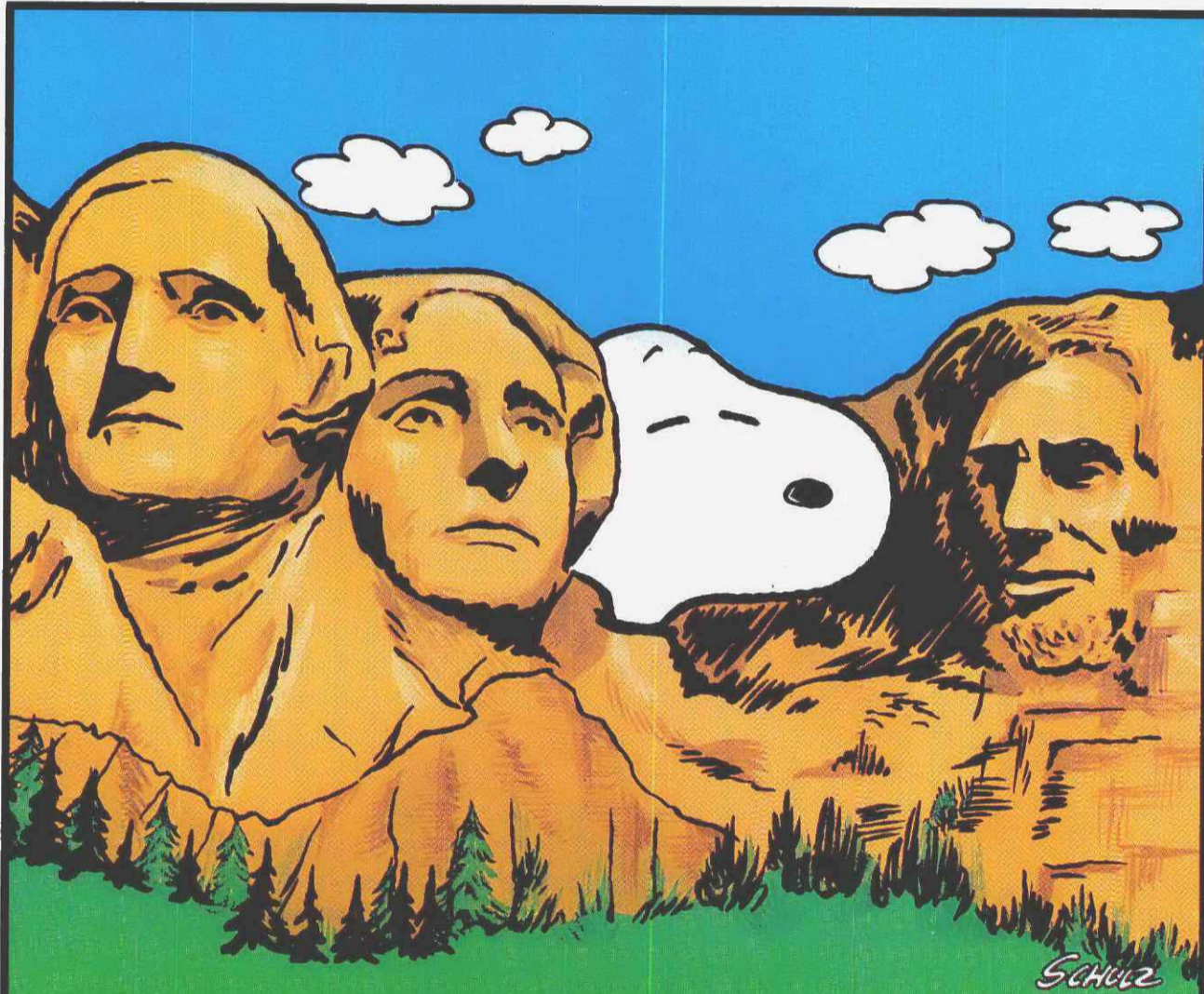
The policy guidelines, "Responding to AIDS: Principles for the Workplace," state that AIDS cannot be transmitted through ordinary workplace contact and call for clearly stated non-discrimination policies toward employees infected by the AIDS virus.

Transamerica's adoption of the Citizens Commission on AIDS principles was a follow-up to the insurer's previous policy, according to a spokesman for the insurer. In 1985, Transamerica was among the first employers in the United States to adopt a non-discrimination workplace policy toward AIDS patients.

The Los Angeles-based life insurer also is encouraging other California employers to adopt the AIDS principles, the spokesman said.

So far, most of the 50 businesses, unions, government and non-profit groups that have adopted the workplace principles are located in New York and New Jersey, he said.

Made any benefit changes? Write Glenn Huntley, Business Insurance, 6404 Wilshire Blvd., Los Angeles, Calif. 90048; 213-651-3710.



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## Opinions

# CGL debate is necessary

WE'RE PLEASED that risk managers and state insurance regulators want to review—and possibly modify—the Insurance Services Office Inc.'s proposed modifications to its commercial general liability policy forms, especially in light of the bitter, year-long debate over implementation of the 1986 CGL forms.

The initial actions of the three major players in the controversy—ISO, the Risk & Insurance Management Society Inc. and state regulators—have been sensible.

Although we do not agree with changes that will narrow coverage and increase corporate insurance costs, ISO should be allowed to modify its policy forms if drafting glitches exist. Insurance coverage litigation over the past decade has made it painfully clear that policy forms can be interpreted many different ways. It's far better to work out ambiguities now than to leave it to the courts to do later.

However, we congratulate RIMS for speaking out loud and clear against what it perceives to be an attempt by ISO to unbundle coverage offered under the basic CGL policy, which would increase companies' insurance costs. Insurance consumers

—like all consumers—deserve a forceful advocate.

Finally, we applaud Arkansas Insurance Commissioner Robert M. Eubanks III, chairman of the National Assn. of Insurance Commissioners' Commercial Lines Committee, who is asking regulators in states in which ISO policy form filings can be approved automatically to suspend those policies while the NAIC studies the ISO proposals and is promising that the NAIC will take a close look at the modifications.

Since formation of a broad-based working group is essential to discuss ISO's proposals, we also heartily endorse RIMS' suggestion that a public forum on the proposals be held at the December NAIC meeting.

Although Mr. Eubanks and ISO question the value of such a forum, we believe such a gathering would, in fact, be invaluable by allowing risk managers—those who must live with whatever changes finally are negotiated—to assess each side's arguments for themselves.

In fact, ISO—which is a defendant in antitrust lawsuits that allege a conspiracy to force adoption of policy form changes—should welcome a chance to explain its motives in an open arena.

## Wanted: Retiree health policy

HIGH ON THE congressional agenda next year should be the development of a national retiree health policy.

The Financial Accounting Standards Board is expected to propose next month that employers recognize retiree health care obligations on their balance sheets, which could put a big dent in corporate net worth.

In addition, FASB is likely to propose that the cost of retiree health care liabilities be accrued as an annual expense over the working lives of covered employees. This annual charge could drastically reduce the net incomes of major companies, the Employee Benefit Research Institute reported last year (*BI*, Nov. 23, 1987).

At the same time, employers have been buffeted by conflicting court decisions over whether they can require retirees to pick up a greater share of health care costs. As a result, employers have little guidance on how they can and cannot revamp retiree health care programs.

And, while the accounting profession and the courts exert their pressures, employers' obligations to retiree health care programs only will increase as the workforce ages.

With all those pressures building, it is high time Congress does something.

For example, if employers are forced to recognize retiree health care obligations as balance sheet liabilities, it seems only fair that employers should be given tax-effective ways to pre-fund those liabilities.

This could be done if Congress were, for example, to allow the creation of special trusts in which contributed assets could accumulate tax-free interest. To prevent any potential for abuse, the trust assets would have to be used only to pay retiree health care benefits.

Congressional guidance on what is and what is not permissible when amending a retiree health care plan also is needed. Conflicting court decisions, which are inevitable in the absence of federal rules, serve only to confuse the matter.

It is the role of legislators, not the courts, to establish rules on when a retiree's health care benefits become vested and inviolable.

No doubt there are some employers that would prefer that there be no federal vesting rules governing retiree health care benefits. But a pragmatic majority undoubtedly will recognize that vesting standards, aside from providing a measure of certainty, will be a needed trade-off to win congressional approval of tax incentives to pre-fund retiree health care plans' mounting liabilities.

## Letters

### 'Bashing' insurers appears a lucrative occupation

To the editor: Over the past several months *Business Insurance* has given a great deal of exposure to the "Insurance Industry Bashers," namely: J. Robert Hunter and William Shernoff.

I probably could side with Mr. Hunter if he would straighten out a few things that puzzle me. It might be interesting

and important if he would divulge federal income tax statements showing his income prior to assuming the role of the protector of the public and afterwards. Mr. Hunter also permits himself to be described and aggrandized as the "adviser to presidents," implying that he has given advice to presidents of the United States. Maybe he can get some living presidents

to testify on his value to the nation.

When and if I ever retire, I may go into the business of "bashing" those terrible insurers, for it seems to be a lucrative occupation. Perhaps Mr. Hunter can give me pointers on starting my own "bashing" business.

Hermann Paul Schlander  
Palm Desert, Calif.

### Photo offends another reader

To the editor: Regarding the cover photo of a right-to-life billboard in the Aug. 15 issue, I agree with Doug Palmer's letter to the editor (*BI*, Aug. 29). Your note of explanation is a weak excuse for what appears to have been either a blatant attempt to favor one side of a con-

troversial issue or a serious editorial oversight.

I am sure that there were many other photographs of the convention site that could have been used.

Deborah R. Wities  
Novato, Calif.

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## Searle ruling

Continued from page 2

Searle has lost, it was the first in which punitive damages were awarded.

The Searle spokeswoman said the company had won 14 out of 17 previous trials involving the CU-7 and had paid a total of about \$300,000 in jury verdicts, one of which currently is under appeal.

Many previous cases have been thrown out without any award to the plaintiffs, she said.

Currently, there are roughly 500 CU-7 suits pending against Searle, she said, predicting that "the pattern of disposition will not change."

Roger P. Brosnahan, a partner in the Minneapolis law firm of Robins, Kaplan, Miller & Ciresi, who repre-

sented the plaintiff, predicted that there might be "thousands" of plaintiffs with legitimate claims against Searle.

Mr. Brosnahan also said that Searle now "ought to see to the adequate compensation of the victims who have meritorious claims."

"We hope that at this time Searle will stop treating this as a legal issue and start treating it as the public health issue that it is," he said.

Michael L. Williams, a partner in the Portland, Ore., law firm of Williams & Troutwine, which represents six plaintiffs that have sued Searle over the CU-7, agreed with Mr. Brosnahan's view.

"I think it will encourage other plaintiffs' lawyers to pursue other cases more aggressively," he said, adding that an increase in the number

of CU-7-related lawsuits will "be one of the results" of the verdict.

"I think it makes it more likely that cases will go to trial and, more likely, that other cases will surface," Mr. Williams said.

"I think there will be many more cases. I think it establishes that there's a good cause of action against Searle," said Roger L. Pardieck, a partner in the Seymour, Ind., firm of Pardieck & Gill, which currently has 21 CU-7 cases on file and more than 200 others under review.

Mr. Pardieck said the internal Searle documents and the testimony of past and present Searle employees gave plaintiffs an advantage they did not have in earlier trials.

The trial showed Searle did not "share with the medical community" information that would have made

physicians less likely to fit certain women with the CU-7, he said.

Marshall S. Shapo, professor of law at Northwestern University's School of Law in Chicago, agreed that the decision would lead to more CU-7 suits.

"The jury apparently found, among other things, misrepresentation. It seems to me that that's the type of finding that will be magnetic to plaintiffs' attorneys," he said.

But the Searle spokeswoman noted that the Minnesota jury did not find Searle negligently designed or manufactured the device. "The medical facts about this product simply do not support allegations being made by plaintiffs," she said.

Victor E. Schwartz, a partner in the Washington, D.C., law firm of Crowell & Moring and a specialist

in product liability law, also disagreed with the plaintiffs' attorneys' assessment of the decision.

"At this point, I don't see that this is going to bring about an avalanche of successful cases," he said.

"I think it certainly is going to bring about additional cases. But I want to balance that with the old maxim that one swallow does not a summer make," he said.

Mr. Schwartz said that a similar case must be won "by another attorney in another state" before the floodgates of successful litigation would open.

He also pointed out that Minnesota courts have a reputation as being favorable to plaintiffs in product liability cases and said that the lead plaintiff's attorney—Michael Ciresi of Robins, Kaplan—is a lawyer of extraordinary talent, knowledge and experience.

Another factor that could work to block an avalanche of suits is the statute of limitations in many states for filing product liability suits, said the Searle spokeswoman.

Although the statutes vary from state to state, "it has been a good, strong bona fide defense," she said. "We've probably had four or five cases dismissed as a result of the statute of limitations during the past few weeks."

Mr. Schwartz also said that drawing parallels between Searle and Richmond, Va.-based A.H. Robins could be misleading.

Robins, which manufactured the Dalkon Shield intrauterine device, was forced to seek protection under Chapter 11 of the Federal Bankruptcy Act as the result of product liability litigation filed by thousands of women allegedly injured by the IUD. Under the plan, Robins will be acquired by American Home Products Corp. and Dalkon Shield victims will receive either a single payment of \$2.375 billion on the plan's effective date following the resolution of appeals to the plan or \$2.475 billion within one year of that date.

"Searle has better defenses than the maker of the Dalkon shield. The CU-7 was approved by the Food and Drug Administration and never ordered withdrawn by the FDA," Mr. Schwartz said.

In a related development, U.S. District Judge Robert G. Renner, in whose court the \$8.75 million verdict against Searle was delivered, last week ruled that another Minnesota woman could sue both Searle and Monsanto for damages in a CU-7 case. But, Judge Renner said that plaintiff would have to spell out the instances of alleged fraud against Monsanto.

The plaintiff, Julie Daher, used the CU-7 between 1984 and 1987, both before and after Monsanto acquired Searle, according to Mr. Brosnahan, whose firm also represents Ms. Daher.

"It's our position that based on what Monsanto learned when they were acquiring Searle, they had an obligation to warn consumers and stop the fraudulent advertising of the CU-7," Mr. Brosnahan said.

He noted that the complaint was being revised to include specific allegations of fraud against Monsanto.

A Monsanto spokesman played down the importance of Judge Renner's ruling, saying that it applied only to Minnesota. "It's a very narrow procedural ruling that says the court has jurisdiction over Monsanto in Minnesota law," he said.

The spokesman said Monsanto has been named as a defendant in 24 other CU-7 suits. He said all of those suits have been either dismissed by courts or withdrawn by the plaintiffs.

"We don't see any reason to think this would be any different," the spokesman said.

Mr. Schwartz said the combination of the Kociemba verdict and the Daher ruling could encourage other manufacturers of birth control devices to drop their products and discourage other manufacturers from entering the market.

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## Polygraphs

Continued from page 3  
submit to a lie detector test (BI, July 4).

The law exempts pharmaceutical companies; security services; federal, state or local government agencies; and private sector firms under contract to the U.S. Defense Department or the Energy Department in connection with atomic energy defense activities.

Most experts say many employers in the past few years have moved away from polygraph testing. For example, a Bureau of National Affairs survey published in May reported that only 7% of 245 manufacturing, retail, financial and service organizations that responded to the survey use the polygraph test for pre-employment screening.

However, many experts point out that banks, stockbrokers, small retailers, jewelry stores and pest control companies have relied on the polygraph to screen prospective employees.

For example, 77.8% of the 130 banks that responded to a nationwide Banking Administration Institute survey in spring 1987 used lie detectors to screen for honest employees, according to a spokesman for the Rolling Meadows, Ill.-based BAI.

More than 43% of retail shrinkage can be attributed to internal theft, according to a 1987 report by Arthur Young & Associates, a New York-based accounting firm.

But, screening experts agree that employers can combat against losses by preventing dishonest employees from slipping through cracks in hiring procedures.

The best defense against hiring dishonest workers lies in a multi-directional testing approach, many experts advise.

"A business is misinformed if it bases any hiring decisions solely on one test, whether it be a psychological test or a polygraph," said Wayne Camara, testing officer for the American Psychological Assn. "An employer should screen the applicant not just for honesty, but also for the wider scope of employee productivity, which would include honesty."

An employer can begin to curb company losses through careful reference checks, a component of the hiring procedure many employers overlook, according to Michael A. Rodman, vp of risk management consultants J.H. Albert International Insurance Advisors Inc. in Needham, Mass.

Professional reference checking—either by companies or trained in-house personnel—weeds out dishonest employees and has turned up fraudulent records, including falsified university degrees and prior jobs and employers, Mr. Rodman said.

"A lot of companies don't use professional checking procedures for sensitive jobs," he pointed out. "Some of our clients in such businesses as those dealing in precious metals go through a minimum screening procedure."

"Reference or background checking is simple and safe," said Robert Duston, a management labor lawyer with the law firm of Schmeltzer, Aptaker & Sheppard in Washington, D.C.

"This includes verification of every piece of information on an applicant's resume, including college degrees and previous employers. If you've got a thief coming into your company, he's liable to lie about something on his resume," he said.

Mr. Duston recommends that employers train in-house personnel "in the legal limits and know exactly what your legal liabilities are. And make sure no one crosses that line. Train personnel not only in questions they should ask but also in questions they should not ask.

"The Equal Employment Opportunity Commission and a large number of state agencies have each developed pre-employment inquiry guides that have established conservative guidelines on what can or cannot be asked," Mr. Duston explained.

"This is an area that is truly diverse, depending upon the state, and an area full of caveats," he said.

"Generally, these guidelines say that it is permissible to ask about criminal records and that it is not permissible to ask about arrest records.

"In terms of criminal records, an employer cannot rely solely on excluding anyone from a job on the

basis of one crime. The fact that a prospective employee may have one conviction for marijuana use 15 years ago does not mean he should not get the job. The employer must take into account the crime, when it occurred and its relevance to the job," Mr. Duston advised.

"The best advice in dealing with this extremely sensitive area is to consult a lawyer and determine why you want to ask these questions and what type of conviction information you really want to know. If you are a company that operates in many states, obviously there will be many laws to consult."

He added that human resource

consultants can train personnel in interview techniques under the limits contained in Title VII of the Civil Rights Act of 1964.

When an employer uses a professional reference company it puts the liability into the hands of a third party, experts point out.

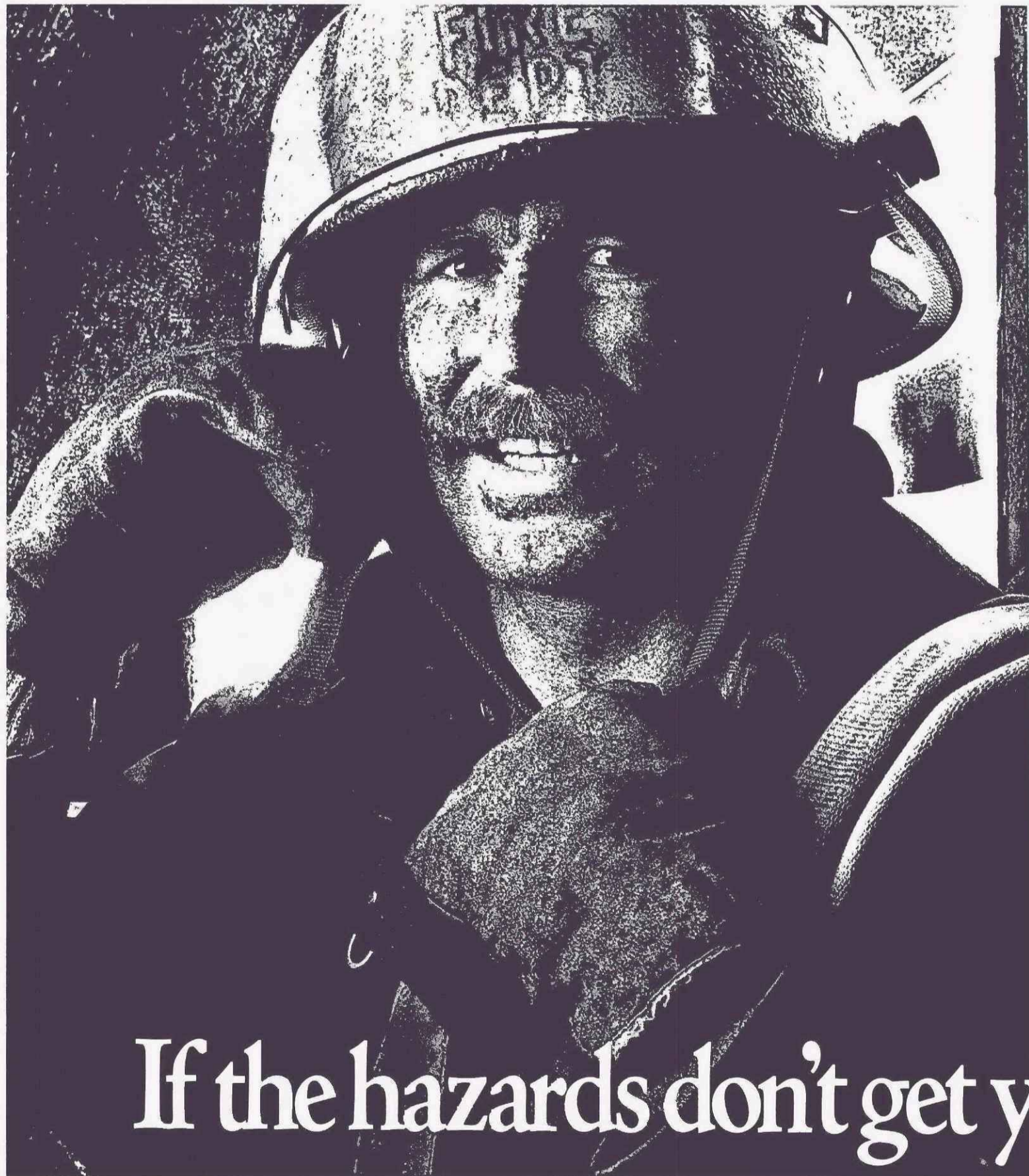
But Robert Fitzpatrick, a labor and employee law attorney and partner with the law firm of Versteiger & Cashdan in Washington, D.C., contends that reference checking often unmasks only superficial information. "Anyone out there in the real world knows that references will often only give name, rank and serial number because of defamation concerns," he said.

And, many experts cite the expense of professional reference-checking services as a barrier for small businesses. An extensive investigation can range from \$250 to \$1,500 for one check, they say.

But comprehensive reference checking—as well as pencil and paper psychological tests—may be the solution for large financial and investment companies, many of which currently rely on the polygraph to screen employees and prospective hires, according to some experts.

Psychological pencil and paper tests measure either an applicant's attitudes or behavior tendencies. The format of the tests typically

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Continued from previous page  
are multiple choice questions, yes-and-no questions or a combination of each type, experts say.

"The first two choices for financial institutions will be the paper-and-pencil test and beefing up the personnel department to be more thorough in background checks," said Kevin Murray, president of Kevin D. Murray Associates, an information security consulting company in Clinton, N.J.

"An organization such as a bank should create a job analysis and then develop employee-screening methods to determine if the applicant has the characteristics to do the job," suggested Mr. Camara of the APA.

Between 10,000 and 20,000 parent companies now use pencil-and-paper tests, according to Mr. Jones of London House.

Psychological tests take less than an hour to complete, cost an employer between \$6 to \$16 to administer and score per applicant, provide instant results, are non-discriminatory and are less offensive to the applicant than the polygraph, according to test experts.

"The scores are based on a whole host of psychologically based items, not just (on the answers to) one or two questions," Mr. Jones said.

"In our test, there are 10 different types of attitudes assessed, including rationalization and temp-

eramentation: how often is one tempted to steal," Mr. Jones said.

For example, the test may ask if the test taker would return a lost wallet found in a store. "Dishonest people may reply 'probably yes' rather than 'definitely yes,'" Mr. Jones said.

"You have to make a distinction between honesty and truthfulness," he said. "Honesty is a set of attitudes or behavior while truthfulness is an approach to taking the test. We assess both how honest you are and how truthfully you have answered the questionnaire."

Most psychological tests measure other character traits as well as honesty, according to Jim Walls, senior vp-marketing for the Stan-

ton Corp. in Charlotte, N.C., a subsidiary of Business Risks International of Nashville, Tenn.

Those who score well on the test have a lower turnover and absenteeism rate and are more willing to perform and be productive than the low-scoring employee, he said.

Stanton's research shows that the psychological tests are 87% accurate in identifying trustworthy individuals, according to Mr. Walls.

Another form of the paper-and-pencil test measures an applicant's present behavior tendencies rather than his attitudes, according to Erica Harrison, manager-AIMS ED3 at Management Safeguards Inc., a New York security firm that

administers and distributes the AIMS ED3 test.

"I don't care what you did when you were 5 years old, but I do care if your present behavior can hurt my company," Ms. Harrison explained.

"The test screens current behavior without condemning someone for his or her past behavior, and it won't knock someone out of the job based upon where he or she comes from," she said.

"It is not a pointing-finger type of test," Ms. Harrison emphasized.

"There are some tests that will query you about what percentage of the people you know steal. Now for instance, if you grow up in a ghetto situation where many—perhaps 75%—of the people you know steal, in some tests that could be a flag saying that you are a high risk for theft," Ms. Harrison said.

"Our test is dealing not with an attitudinal scope or whether you live in a nice suburban setting," but with the specific activities in which the individual is currently involved, she explained.

The AIMS ED3 test contains 93 multiple-choice questions that attempt to create a comfortable atmosphere for making admissions, Ms. Harrison explained.

"It's always amazing that people will tell you what they do," she said.

According to Ms. Harrison, the test correlates 92% of the time with the results of polygraph tests when the results reject applicants.

London House and Stanton Corp. each distribute about 1 million tests annually to employers, many of whom also have used polygraph tests to screen employees and hires, according to company spokesmen.

Reid Psychological Systems of Chicago also administers psychological tests.

Graphology, or handwriting analysis, also is being touted by practitioners as a quick, inexpensive alternative to polygraph testing.

"It's not a test, per se, but an assessment of how a person is functioning currently," explained Judith Ettinger, director of client services for Handwriting Resource Corp. in Phoenix, Ariz.

Graphology, or handwriting analysis, is based on the premise that the strokes of a person's handwriting are subconscious expressions of the writer's personality.

Handwriting analysts say 300 character traits—including mental, social, motivation and emotional tendencies—can be determined by analyzing a person's penmanship.

And, some of the behavioral categories that graphologists purport to measure are highly sensitive. For example, HRC offers a \$50 computerized risk assessment analysis for applicants for security work. This one-page summary scores the applicant from "very low" to "very high" on honesty, emotional stability, judgment and substance abuse risk.

In evaluating a subject, analysts study how a subject's handwriting sample is positioned on the page; the size of the writing; the slant of letters; spacing between letters, words and lines; and the pressure exerted by the writer.

However, graphologists stress that such analyses should be used only in conjunction with other forms of assessment, such as psychological paper-and-pencil testing and traditional interviewing procedures.

Despite the fact that graphology has not been formally validated under the Equal Employment Opportunity Commission uniform guidelines, interest in graphology as an employment screening method is on the rise, particularly with small to medium-sized businesses attempting to fill sales positions, according to Mr. Duston.

An estimated 2,000 to 2,500 em-

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## Polygraphs

Continued from previous page

employers in the United States currently use graphology as part of their pre-employment screening process, according to a spokesman for the International Graphoanalysis Society.

"Businesses are more interested in handwriting (analyses) because they are a less expensive testing tool" than costly personality profiles, said Kathy Sackheim, president of KKS Graphoconsultants in Highland Park, Ill.

The analysis is relatively inexpensive: A graphology analysis can cost from \$25 to \$350 per sample, depending on the depth requested.

The client list of Handwriting Resource Corp., for example, includes banks, sales, both personal and asset security firms, law firms, manufacturers and construction firms, said Ms. Ettinger.

But not all employees use graphology for sim-

ple pre-employment screening: One risk manager used graphology to sniff out suspects when there was a cash theft. Since polygraph testing is against the corporation's policy, the manager wanted to rule out suspects, rather than specifically link one with the crime.

Although the case was never solved, the manager ruled out several suspects on the basis of circumstantial evidence and graphological profiles.

Employers also can use screening to monitor employee honesty on an ongoing basis.

According to Mr. Rodman of APA, slipshod auditing systems may even facilitate incidents of employee theft. "One of the things that we find ourselves saying is that corporations seem to think that their internal audit and external audit procedures are sufficient to detect white collar crime at its early stages."

But history often proves otherwise, Mr. Rodman said. "We had a situation where a control-

ler was presenting checks to an employer for his signature. The employer was being told that the checks were payments for monthly loans when really the controller was depositing the money into separate accounts in which he was the signatory. He wasn't caught for over a year and we're talking an amount of over \$1 million.

"There have been other schemes with fictitious people on payrolls," he added. "We had one that went for three years before it was discovered. It was discovered because the employee who created the fictitious account forgot to pay union dues and the union decided to do an audit."

Every organization should have specific and separate auditing procedures dealing with the subject of dishonesty, including spot checks, which serve as psychological deterrents, Mr. Rodman suggested.

Also contributing to this story was Associate Editor Laura Mazzucco in Chicago.

## Subjectivity may trigger bias suits

By LAUREN SINAI

WASHINGTON—Employers that base employee hiring or promotion decisions on subjective interviews and evaluations rather than on standardized tests may increasingly find themselves defendants in discrimination lawsuits, following a U.S. Supreme Court decision.

The Supreme Court has decided to allow plaintiffs to use "disparate impact analysis" as a basis for employment discrimination lawsuits involving subjective employment or promotional practices.

Disparate impact analysis is an analysis of employment practices that are not intentionally discriminatory but that effectively discriminate against women and minority groups.

Federal law has long held that statistical evidence of discrimination can be used in judging "objective" employment decisions—for example, those based on standardized tests.

But, the Supreme Court's 4-3 ruling on June 29 extends this concept for the first time to subjective employment decisions, labor lawyers and other attorneys say.

In the case, *Watson vs. Fort Worth Bank & Trust*, Clara Watson, a black employee of Fort Worth Bank & Trust in Fort Worth, Texas, applied for four different promotions to supervisory positions.

After the vacancies were filled by white men and women, Ms. Watson filed discrimination charges with the Equal Employment Opportunity Commission.

The bank had no formal evaluating criteria and based promotions on the opinions of supervisors, according to the court opinion.

A U.S. District Court in Fort Worth dismissed Ms. Watson's case in November 1984, ruling that she had not met evidentiary standards for proving discrimination.

Ms. Watson appealed, and the 5th U.S. Circuit Court of Appeals in New Orleans affirmed the lower court ruling in August 1986, rejecting Ms. Watson's argument that the lower court erred by failing to apply disparate impact analysis to her discrimination claim.

But, the Supreme Court reversed the appellate court's decision. "Simply because no inference of discriminatory intent can be drawn from the customary and reasonable practice in some businesses of leaving promotion decisions to the unchecked discretion of the lower-level supervisors most familiar with the jobs and the candidates, it does not follow that these supervisors always act without discriminatory intent," the court ruled.

"To be justified as a business necessity, a practice must directly relate to a prospective employee's ability to perform the job effectively; i.e., it must be necessary to fulfill legitimate business requirements," the court said.

"This case is precedential because all other plaintiffs claiming discrimination can now use this theory to argue their cases" against employers, said attorney Art Brender of Brender, Casey & Colosi in Fort Worth, who represented Ms. Watson.

"An employer must show that his employment criteria is job-related. The interview process will have to ensure no built-in bias," Mr. Brender explained.

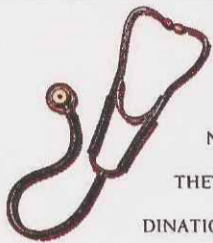
In reversing the appellate court's ruling, "the Supreme Court confirmed that if a hiring practice excludes a disproportionate number of people in a protected class, then

Continued on page 18

## A V I A T I O N S A F E T Y S E R I E S N O . 1



### IN A COCKPIT AT 41,000 FEET, AN ANTIHISTAMINE MAY DO MORE HARM THAN GOOD.



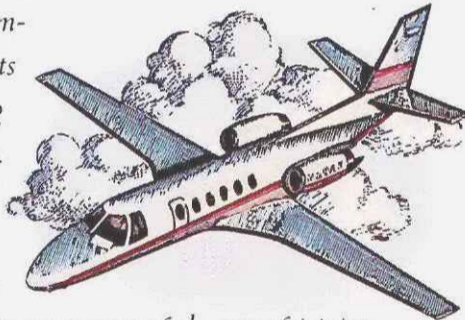
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# Subjectivity

Continued from page 16

it is subject to be challenged under disparate impact analysis solely on statistical disparity," said Robert Duston, a management labor lawyer for Schmeltzer, Aptaker & Sheppard in Washington, D.C.

"For example, if you have a relevant labor pool of qualified electricians consisting of 7% blacks and only hire 2%, this is a significant enough disparity for a possible lawsuit," he said.

Employers should review their hiring procedures and make certain that all are defensible against claims of discrimination, Mr. Duston advised.

"Ignorance is not an excuse," he said.

"Employers should ask themselves who is doing the selecting of employees," suggested Barry Goldstein, attorney and director of the Washington office of the National Assn. for the Advancement of Colored People.

"Are the selectors all male or all of one race? Is there a review process for selecting employees? Employers must also be careful as to what type of questions they ask. If the questions are the same for men and women, are they evaluating the answers in the same way?" Mr. Goldstein said.

For example, Mr. Goldstein said, consider the case of an employer that has to choose between hiring a male and a female job candidate. The employer may ask both the size of their families. In this example, both candidates have large families.

The employer would run into danger of unintentionally but effectively discriminating against the female candidate if he assumes that the male candidate would work harder to support his family than the female candidate would, whom the employer further assumes would put her family obligations ahead of her obligations to the employer.

Because most employers rely on subjective interviewing practices—such as unstructured interviews, personal recommendations and employee evaluations—"there should be training and discretion as to the interviewing procedure," Mr. Goldstein said.

"What is new about this case is that companies will have to focus on the need of objective measuring tools that truly and solely measure job-related attitudes," said Jack Jones, vp-research and development for London House Inc., a test design, developing and marketing company in Park Ridge, Ill.

"Companies will have to keep records of their employment practices and be able to document the validity of these practices," he said.

Although the court did not intend its decision to induce employers to "adopt surreptitious numerical goals and quotas" to provide defensible statistical evidence against possible discrimination charges, some experts say the Watson case will only make employers more conscious of quota hiring.

"There is nothing wrong with an employer saying, 'Well, I hired a black today so I will hire a white tomorrow and a black the next day,'" said attorney Bruce McGee of Gandy, Michener, Swindle, Whitaker & Pratt in Fort Worth, who represented Fort Worth Bank & Trust. "But adopting formal quotas would be illegal."

"Employers will look at the numbers of employees and then see what the racial makeup is of the applicant flow that comes in," he predicted.

"Quotas are an easy and illegal way out," said Frank Colosi, of Brender, Casey & Colosi. "Interviews should be somewhat structured to get needed information. I realize that subjective judgments will enter into this but the judg-

**'Companies will have to keep records of their employment practices and be able to document the validity of these practices,' says Jack Jones, vp-research and development for London House Inc. in Park Ridge, Ill.**

ments should be focused on improving the enterprise."

However, an employer may hire a workforce that represents the racial makeup of the surrounding

community, thus making it easier to provide statistical proof against claims of disparate impact, Mr. McGee said.

"And I don't see structured in-

terviewing happening among small employers. It is too difficult for the majority of employers in the country who do not have the finance, opportunity or ability to maintain a staff to ask questions that are racially neutral," Mr. McGee said.

"This case may have more of an affect on smaller companies because any (larger) company with an EEO official reviews hiring procedures all the time," agreed Mr. Duston, referring to an official who ensures the company is in compliance with state and federal Equal Employment Opportunity

Commission regulations.

While the Supreme Court ruled that employers sued for discriminatory practices may be required to provide evidence of the objectivity of their hiring and promotion practices, it did not resolve whether the plaintiff or the defendant ultimately bears the burden of proof in such cases.

The Supreme Court remanded the Watson case to the 5th Circuit to determine, using disparate impact analysis, whether Forth Worth Bank & Trust did discriminate against Ms. Watson. ■

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# Written tests not always valid: Lawyers

By LAUREN SINAI  
and LAURA MAZZUCA

Employers that use various paper-and-pencil psychological tests and handwriting analyses to weed out dishonest job applicants may be only substituting one set of problems for another, say labor lawyers and others.

Some psychological tests may

give rise to discrimination lawsuits, attorneys warn. And, some test subjects are capable of deceiving test analysts, attorneys believe.

In addition, some experts say that neither psychological tests nor handwriting analysis have been scientifically validated.

"Our advice is that employers look very carefully at psychological tests," said Robert Duston, a

management labor lawyer with the law firm of Schmeltzer, Aptaker & Sheppard in Washington, D.C.

"They have not yet been subject to a lot of independent research—most of the validated research comes from in-house," he said.

One problem with the psychological evaluations is that the test distributors will not tell employers how much they weigh certain

questions, according to Mr. Duston.

As a result, these "standardized" tests may be discriminatory in certain situations, he explained.

"It is a possibility that some of these tests could have a disparate impact when applied to a company," Mr. Duston explained.

Disparate impact occurs when employment practices that are not

intentionally discriminatory effectively discriminate against women and minority groups.

"Certain questions, if considered apart from one another, could have a disparate impact—which you won't know until you check your labor pool. There hasn't been any such challenge yet. I advise employers to be cautious and to look carefully at the questions on the test and make sure they are each defensible," Mr. Duston said.

"As a hypothetical example, take the question, 'Have you ever used marijuana?' Now, if government statistics show that a higher percentage of minorities have tried marijuana at some time in their life than whites, and if the employer relied on that response, this might have a disparate impact," Mr. Duston said.

"Although the paper-and-pencil tests are not as physically intrusive as the lie detector test, I have serious reservations about their validity," said Robert Fitzpatrick, a labor and employee law attorney and partner with the firm of Fitzpatrick, Verstegen & Cashdan in Washington, D.C.

"I've seen figures in the Stanton Research Report where approxi-

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What Counts in Reinsurance is Knowing the Score.

**'Our advice is that employers look very carefully at psychological tests,' says Mr. Duston.**

mately 40% of applicants were found to be high or marginal risks for theft. Intuitively, I have problems with the idea that this high a percentage of the American population is not trustworthy," Mr. Fitzpatrick said, referring to reports published by the Stanton Corp. of Charlotte, N.C., a subsidiary of Business Risks International of Nashville, Tenn.

"I think that the pencil-and-paper tests will be a device that employers will opt for to make hiring judgments, but I wonder if we are going from the frying pan to the fire in terms of the number of people who lose job opportunities," he said.

But Jack Jones, vp of research and development for London House Inc., a test design, developing and marketing company in Park Ridge, Ill., disagrees.

He explained that based on London House research, the tests have rejected 30% of 1,000 employment applicants as high-risk individuals.

Of those rejected applicants, 92% have been counterproductive in previous jobs, according to background checks run by London House or the applicants' own admissions to prospective employers or in polygraph tests administered by trained polygraphers.

And the attitude of those other 8% are more like the applicants with a high risk of being counterproductive. "Given the need and opportunity, they are more than likely to engage in counterproductivity," Mr. Jones said.

Although psychological tests include questions designed to trip up "test smart" individuals, even some test administrators admit that some individuals can deceive analysts.

"The one advantage polygraph testing has over psychological testing is as a psychological deterrent" to answering questions dishonestly, acknowledged Jim Walls, senior vp-marketing for the Stanton Corp.

Continued on next page

## Test alternatives

Continued from previous page

"While the paper-pencil written tests portray present attitudes, they do not provide the same psychological deterrent," he said.

Psychological tests will not foil any "street-smart" individuals, admitted John Eberhardt, senior investigator and polygraph administrator for Management Safeguards Inc. of New York.

"A fellow was once brought to me for a polygraph test. He had passed a psychological test and had been employed," Mr. Eberhardt recalled.

But, "by the end of the 45 minutes, I found that he had committed robbery and spent five years in (prison in) Attica, and here was a person who was already working and who had passed the psychological test," Mr. Eberhardt said.

"Here in New York City there are an awful lot of retail entrepreneurs who employ the use of the

**'Here in New York City there are an awful lot of retail entrepreneurs who use the polygraph as a pre-employment honesty test,' says John Eberhardt. '...proprietors are going to be left open to the wolves' after the tests are banned.**

polygraph as a pre-employment honesty test," he added. "My own opinion is that proprietors are going to be left open to the wolves" after the use of polygraph screening is largely banned.

Several states have banned or monitored the administration of psychological tests: Massachusetts prohibits usage of the tests altogether, while Rhode Island forbids written tests to be the sole basis for a hiring decision.

Graphologists, or handwriting analysts, maintain that their trade is more objective than polygraphic tests, since subjects are unaware

that their handwriting samples are being examined and that there is no chance that a subject will be intimidated by an analyst.

But, some experts caution that graphology has never been scientifically validated and that it is more comparable with tarot card reading or phrenology—the method of relating personality traits to bumps on the head.

"Graphology has the same relationship to science as astrology does to astronomy," said David Crown, a forensic document examiner based in Fairfax, Va. "It belongs as a parlor amusement."

The method is very popular in Western Europe, where 85% of the companies use the method to evaluate and understand workers' individual traits, according to a spokesman from the International Graphoanalysis Society in Chicago, which holds the patent on the method of graphology developed by Milton Bunker in 1929.

The society has about 10,000 active members and about 2,000 current "student members," said Joseph Holbroch, director of membership relations for the society.

However, he notes there are many other practicing handwriting analysts who have not undertaken the IGS's coursework, and there is no governing body or licensing procedure for graphologists.

Erica Harrison, a manager at MSI, predicts "a lot of hocus-pocus" over the next four to five years while employers look for substitutes to polygraph examinations.

Although MSI is always scouting for new testing techniques, Ms. Harrison's preliminary investigation of graphology left her unconvinced of its merits, especially as a substitute for polygraph testing.

"I am surprised that there is not any litigation yet against companies" that use graphology for employee screening, said labor attorney Mr. Fitzpatrick.

If any such cases arise, they are likely to resemble those filed against polygraphers and employers, with charges such as improper administration of the test, racial discrimination, sexual harassment, invasion of privacy and emotional distress, he said.

However, Mr. Duston pointed out that most such litigation stems from charges of discriminatory firing rather than hiring procedures.

Critics contend that graphology's main problem is its variability; since there is no standardized method, practitioners can interpret samples in any number of ways.

Even graphologists agree that analyses can vary from practitioner to practitioner.

"With any type of projective test, the surgeon is as important as the surgery," said Kathy Sackheim, president of KKS Graphoconsultants in Highland Park, Ill.

"We're not trying to screen people in or out," but rather trying to alert management to potential problems, said Judith Ettinger, director of client services for Handwriting Resource Corp. in Phoenix, Ariz. "We never advocate that our product be a decision-making implement."

Like the time-honored psychological Rorschach inkblot test, graphology is categorized as a "projective" technique, in which the subject is involved in an interpretative test rather than one in which he answers objective questions, said Wayne Camara, testing officer with the American Psychological Association in Washington, D.C.

However, although projective techniques are recognized by the APA "in a clinical and therapeutic environment," they are not recognized in the job testing area, he added.

And, unlike integrity or honesty testing, studies have not proven that graphology can predict an employment applicant's future behavior in the workplace, Mr. Camara said.

Even though graphologists constantly remind clients that such tests are not to be used alone in judging a potential employee, the odds are good that an applicant judged "very high" in the substance abuse risk category could be disqualified in spite of good recommendations and work history, said Mr. Crown.

"I would never base any personal or business decision on the results given by a graphologist or have it used against me. If it was, I would sue for every penny I could get," he said.

Like many laymen, corporate risk managers frequently confuse graphology with questioned document forensics, which is the science of authenticating documents, Mr. Crown explained.

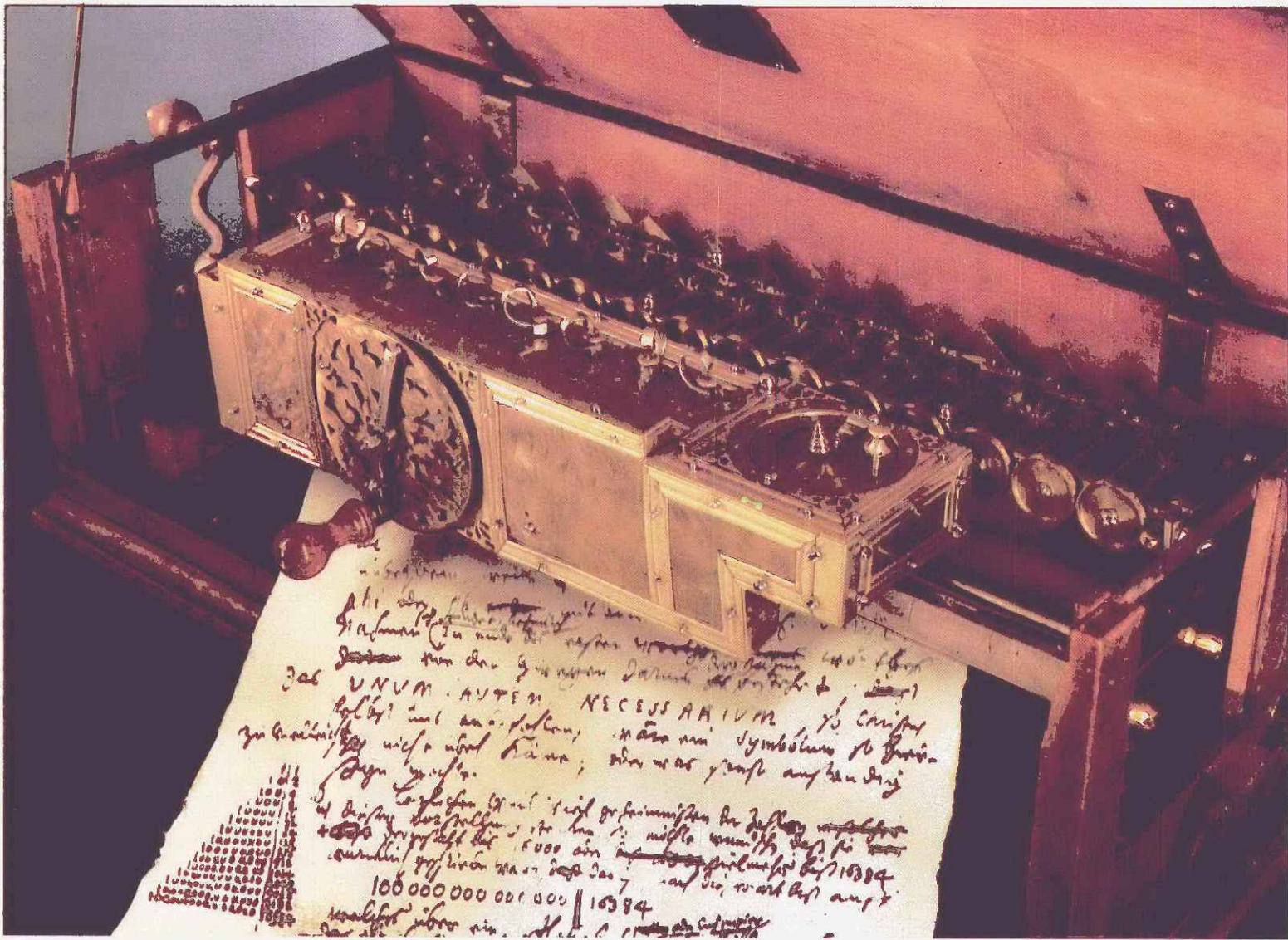
Graphologists, though, are not trained in criminology as are forensics experts, although they may testify in court in handwriting identification, said John F. McCarthy, president of the American Society of Questioned Document Examiners in Tallahassee, Fla.

"I'm an agnostic on the subject" of graphology, Mr. McCarthy said. "If anything has been done in graphology, it's escaped our attention."

"I have a feeling it was a more powerful tool in another time and culture than at this time in this country," Ms. Harrison said.

In an era when even preschoolers

Continued on page 22



## WHAT HAS REINSURANCE IN COMMON WITH GOTTFRIED W. LEIBNIZ?



Gottfried W. Leibniz – the famous philosopher and mathematical genius (1646 – 1716) lived most of his life in Hannover.

Many epoch-making ideas, like the world's first viable calculator, are connected with his name. This calculator was the first to incorporate the four basic modes of mathematics.

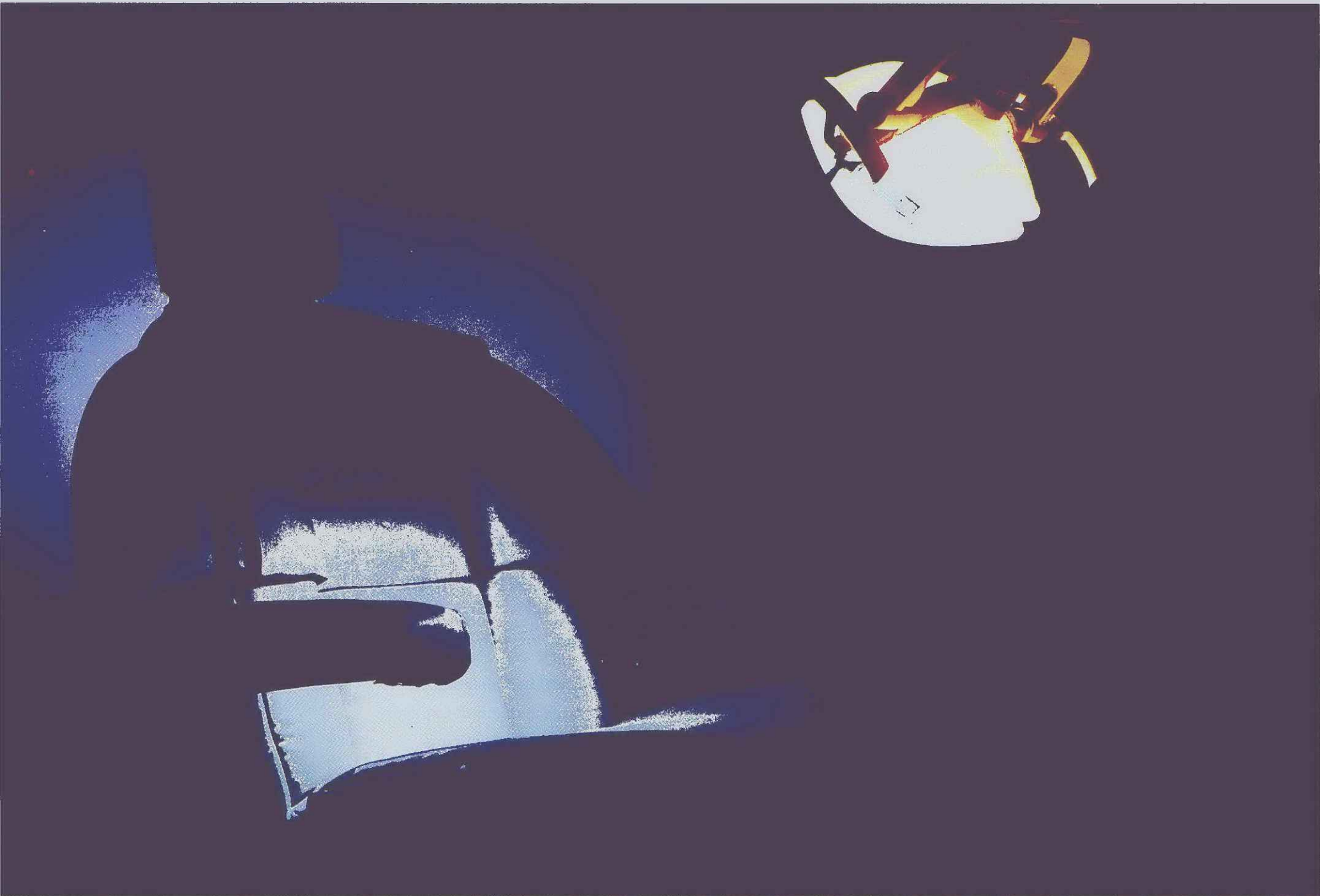
He also pioneered the binary system, reducing calculations to 0 and 1. His logic is an indispensable part of today's computer technology. We are dedicated to this legacy of innovation and excellence.

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If there's one thing we've learned in over 20 years in the dental business, it's that you don't get to be an industry leader by sitting down on the job.

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## Written tests

Continued from page 20  
are being trained on computer usage, and handwriting in school and the workplace is rapidly being superseded by the keyboard, penmanship is being used less and, thus, is harder to evaluate, she said.

However, she noted that the eclipse of polygraphic testing—and the subjectivity of other forms of testing, like graphology—may ultimately bring about better interview techniques, with more open-ended questions borrowed from psychology.

"Man has always sought some magic way to look into someone's heart and say, 'I know what you're like,'" Mr. Crown pointed out. "But if you can't quantify it, you don't have it."

# Employers use a variety of tests

By LAUREN SINAI

No single pre-employment honesty screening method is tried-and-true for every business, employers say.

As a result, employers that screen prospective employees for honesty use several methods.

The risk manager for a prestigious New York-based jewelry company says his prospective employees are required to pass both the polygraph and the pencil-and-paper psychological test distributed by Reid Psychological Systems of Chicago.

"Ninety-five percent of the time, if someone has a problem with the polygraph test, he also has a problem passing the Reid test," he said.

Any employee in senior management or a sensitive area who would

be handling jewelry also is asked to submit to a background check conducted by a professional outside company. The background check corroborates information on past employment, salary, financial background and criminal history, the risk manager said.

But after Dec. 27—when the Employee Polygraph Protection Act, which forbids most employers from requiring prospective employees to undergo a polygraph test, goes into effect—the company must alter its hiring practices.

The lie detector will be a great loss, the risk manager said, but the company will continue to screen employees using the paper-and-pencil psychological test and is currently considering other tests, such as drug testing.

George Haskell, director of cor-

**Graphology is as accurate or more accurate than psychological tests, says Mr. Kirschbaum.**

porate security for Popular Services Inc., a catalog and showroom distributor in Passaic, N.J., said he began to use the AIMS-ED3 paper-and-pencil psychological test distributed by Management Safeguards Inc. of New York in 1986 to screen all prospective employees who would come in contact with the merchandise.

New Jersey forbids polygraph testing of employees.

Mr. Haskell said that using the test on prospective employees led to a \$100,000 savings in retail shrinkage in the first year.

The company never had used any form of prospective employee honesty testing before 1986. But after one of management's periodic reviews of the company's hiring procedures, it decided to try to improve screening methods to find the "finest possible candidate for employment," Mr. Haskell said.

"It's an extremely cost-effective tool that enhances our interviewing and helps to reduce our turnover, improve employee productivity and reduce lost time on the job," he said.

Mr. Haskell said that after reviewing other psychological paper and pencil tests he chose the AIMS ED3 partially because "it is very direct and to the point, and the first section of the test measures vocabulary skills. For the work our employees do, it is very important that they be able to read and write in English."

The test concludes a three-part hiring procedure, according to Mr. Haskell. After an interview with the personnel director and the department manager, a prospective employee then take the test.

However, International Business Machines of Armonk, N.Y., believes the polygraph and paper-and-pencil psychological tests are an invasion of privacy, a spokesman said.

Instead, IBM hires an outside company to conduct a professional reference check and verify the resumes of all applicants, the spokesman said.

Dave Krevda, the loss control manager for Gra-Bell Trucking Line in Holland, Mich., explained that his company first used the London House Inc. pencil-and-paper psychological test as a pilot program three years ago to screen prospective employees, mostly truck drivers.

In addition to helping the company cut down on theft, the test has "helped us pick safer employees," which chops overall costs, Mr. Krevda said.

The psychological test is the final step in Gra-Bell's hiring procedure, according to Mr. Krevda. Trained in-house personnel conduct a background check—which includes contacting a previous employer and checking the applicant's motor vehicle report—and an interview before the applicant takes the psychological test.

Many of the risk, security and loss prevention managers and others who use graphology, or handwriting analysis, to test for prospective employee honesty claim the method is uncannily accurate.

"From what we've seen, it's as accurate or more accurate than a battery of psychological tests," said Les Kirschbaum, president of Mid-Continent Agencies Inc. of Glenview, Ill. "We rely on it maybe too heavily because it's highly accurate."

Mid-Continent, a commercial credit and collection company, began using graphology in conjunction with paper-and-pencil psychological testing about four years ago for sales applicants, said Mr. Kirschbaum. Since then, the company's turnover rate for entry-level sales positions went from 50% down to 25%, "and the quality of salespeople has gone up, too," he added.

In fact, in three cases when management hired an applicant in spite of the graphologist's advice, none worked out, he said.

Also contributing to this story was Associate Editor Laura Mazzuca in Chicago.

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# Chandler forms Barbados subsidiary

Chandler Insurance Co. Ltd. of the Cayman Islands is forming a wholly owned subsidiary in Barbados to take advantage of the U.S.-Barbados tax treaty.

Under the treaty, U.S. insurance companies are exempt from paying the 1% excise tax on reinsurance premiums and 4% tax on direct premiums paid to foreign underwriters (*BI*, Sept. 5; April 14, 1986).

By forming a wholly owned subsidiary in Barbados and transferring all of its assets there, publicly traded Chandler will enjoy the benefits of the treaty.

Chandler Barbados, which has been capitalized at \$19 million, primarily serves as the reinsurer of National American Insurance Co., of which Chandler owns 52.5%.

Chandler, Okla.-based National American, which is licensed to do business in 43 states, primarily writes trucking risks and surety bonds.

Chandler purchased a controlling interest in National American when it lost its former fronting company, Argonaut Insurance Co., after Argonaut was divested from Teledyne Industries Inc. (*BI*, Oct. 13, 1987).

As of June 30, Chandler reported net income of \$2.5 million, up 126% from \$1.1 million in the first half of 1987. Revenues in the first half of 1988 soared 455% to a record \$26.3 million, up from \$4.7 million in the first half of 1987.

## Blue Shield HMO

Blue Shield of California has launched a new health maintenance organization in Sacramento.

The new HMO initially will be composed of four local hospitals and 400 physicians who are members of the Sacramento Sierra Medical Group and the Sacramento Physicians Medical Group Network.

Contracting hospitals include American River Hospital, Methodist Hospital and Sutter General and Sutter Memorial Hospitals.

Eventually, Blue Shield of California plans to expand the HMO network statewide.

Blue Shield of California already has a preferred provider network that serves 880,000 Californians.

"With the introduction of the Blue Shield HMO, employee groups of 10 or more now have the convenience and flexibility of choosing a complete range of health care options—from Blue Shield fee-for-service to PPO and HMO alternatives," said Blue Shield Chairman and Chief Executive Officer Thomas C. Paton.

In addition to a full range of health care services, the Blue Shield HMO includes the Personal Health Management Program, a wellness program.

For more information, contact Gary Smith, Manager of HMO Sales-Sacramento, 1860 Howe Ave., Suite 320, Sacramento, Calif. 95825; 916-923-5077.

## Travelers expands

Travelers Corp. of Hartford, Conn., has expanded its preferred provider network to Dallas/Fort Worth; Pittsburgh/Southwestern Pennsylvania; Hampton Roads, Va.; and Minneapolis-St. Paul.

Travelers Preferred-Dallas/Fort Worth has 19 hospitals and more than 450 physicians in its provider network.

Travelers Preferred-Pittsburgh/Southwestern Pennsylvania has 13 hospitals and more than 650 physicians in its provider network.

Travelers Preferred-Hampton Roads has seven hospitals and more than 400 physicians in its provider network.

## Markets

Travelers Preferred-Twin Cities in the Minneapolis/St. Paul region has 12 hospitals and more than 900 physicians in its provider network.

All of the Travelers PPOs include the Patient Advocate utilization review program and the Taking Care wellness program.

For more information about Travelers Preferred-Dallas/Fort Worth, contact Bill Phelps, 433 E. Lascolines Blvd., Suite 750, Irving, Texas 75039-9990; 214-506-0000.

For more information about Travelers Preferred-Pittsburgh/Southwestern Pennsylvania, contact Marilyn Nixon, 1 Chatham Center Office Building, Pittsburgh, Pa. 15219; 412-456-4750.

For more information about Travelers Preferred-Hampton Roads, contact Dr. Claude A. Smith, 100 W. Plume St., Norfolk, Va. 23510; 804-622-6711.

For more information about Travelers Preferred-Twin Cities, contact Margaret Foster, Associate Director, Travelers Health Network, 2600 Michelson Drive, Suite 600, Irvine, Calif. 92715-1507; 714-553-9444.

## Prudential expands

Prudential Insurance Co. of America has introduced its Prudential Plus managed health care plan to Akron, Ohio.

The plan has three hospitals and 167 physicians in its provider network.

The Prudential Plus is a hybrid managed care plan that includes elements of a health maintenance organization, preferred provider network and an indemnity plan.

For more information, contact Richard Chelko, Regional Group Manager, 1300 E. Ninth St., Suite 1615, Bond Court Building, Cleveland, Ohio 44114; 216-241-5623.

## PPO gets Mayo clinic

The Mutual of Omaha Cos. of Omaha, Neb., has added the Mayo Clinic in Scottsdale, Ariz., to its preferred provider network.

The Mutually Preferred PPO is one of the nation's largest PPOs with more than 320 hospitals and

27,000 physicians in its provider network.

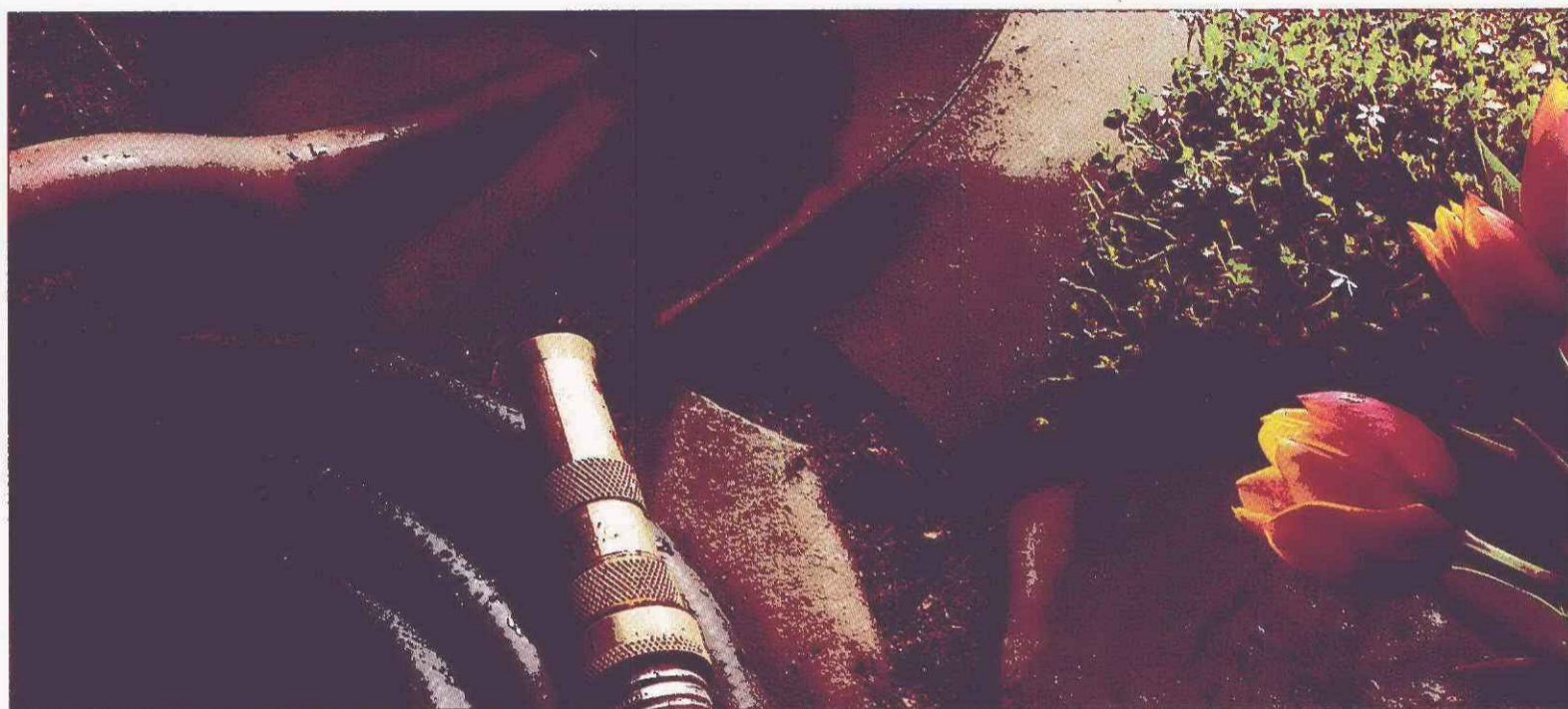
For more information, contact your local Mutual of Omaha office.

## International office

Hartford, Conn.-based Travelers Corp. has opened a new international employee benefits department in New York City that will serve the eastern United States.

Paul W. Shimer, who has been named regional manager of the office, will be in charge of marketing and service for the 18-state eastern region. Mr. Shimer has 23 years of insurance experience with Travelers, 13 of which he spent serving as assistant secretary for marketing in the international department.

*Continued on next page*



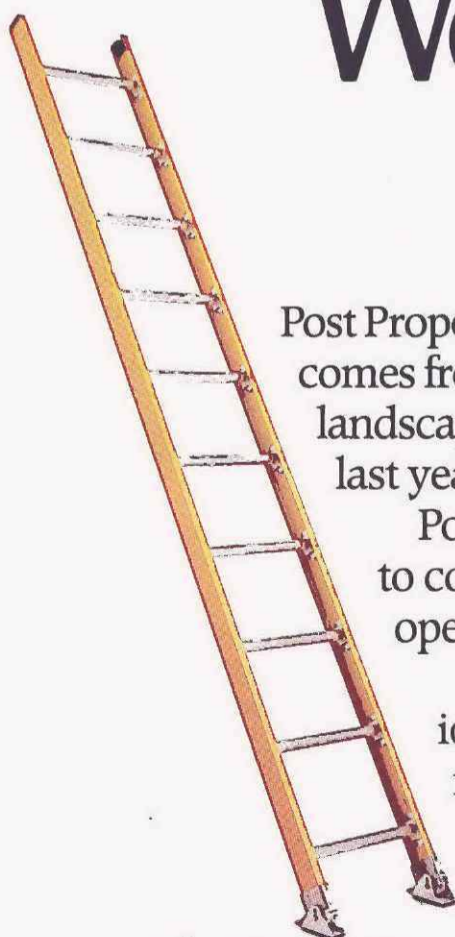
# We Helped Post Properties, Inc. Develop A Few Good Ideas

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Continued from previous page

In addition to New York City, Travelers has international offices in San Francisco and Chicago.

The New York international benefits office is located at 220 E. 42nd St., Fifth Floor, New York, N.Y. 10017; 212-574-2560.

### New phone number

The Alliance of American Insurers has changed its main phone number to 312-330-8500. Individual staff extension numbers will remain the same, as will regional office numbers.

### Mergers/acquisitions

**Metropolitan Life Insurance Co.** of New York has acquired **Texas Life Insurance Co.**, a Waco, Texas-based insurer with \$228.8 million in assets and \$3.3 billion of in-force life insurance.

**Partners National Health Plans**, an Irving, Texas-based managed health care company, has acquired 60% of **Physicians Health Plan of Pennsylvania**, which owns Physicians Health Plan of Western Pennsylvania, a Pittsburgh-

based health maintenance organization.

**Associated Agencies Inc.** of Chicago acquired the Orange County, Calif.-based business of **Zillgitt & Wright**, a general insurance agency.

**Insurex Inc.**, a Paramus, N.J.-based wholesale insurance broker has acquired **Agency Intermediaries of New Jersey**, another wholesale insurance broker of Dover, N.J.

Kansas City, Mo.-based **Financial Guardian Inc.** has merged its Kansas City, Kan., office with **Hussey Insurance Agency Inc.** of Topeka, Kan.

**Michigan Claim Service Inc.** of Lansing, Mich., has purchased **North Star Adjustment Co. Inc.** of St. Paul, Minn.

**Corroon & Black Consulting Group**, a unit of New York-based Corroon & Black Corp., has merged with **Herget & Co.**, an actuarial, benefits and compensation consulting firm based in Baltimore.

### New offices

**Bertholon-Rowland Corp.**, the New York-based brokerage, has opened two new offices at 125 E. Lake St., Bloomingdale, Ill. 60108; 312-307-1400, and in Manhattan at 16 Jay St., New

York, N.Y. 10013; 212-966-9400.

**O'Connor Associates Ltd.** has opened a new branch office at 2600 Douglas Road, Suite 1105, Coral Gables, Fla. 33134; 305-447-0204.

**The Wyatt Co.** has opened three new international offices in Switzerland, Norway and South America. The Switzerland office is located at 22 Rue du Mont Blanc, 1211 Geneva 1, Switzerland. The Norway office is located at Fridtjof Nansensvei 12, 0369 Oslo 3, Norway. The South America office is located at Avda. Belgrano 615, (6° D.), Buenos Aires, Argentina.

**Hewitt Associates** has opened a new office in South America. Known as Organizacion Intergamma Argentina S.A., the new office is located at Viamonte 640, Piso 3° 1053, Buenos Aires, Argentina; 54-1-322-1716.

**Creative Risk Concepts International** has moved its offices to 6114 La Salle Ave., Suite 355, Oakland, Calif. 94611; 415-531-9150.

**Crump E&S Illinois Inc.** has moved its offices to 101 N. Wacker Drive, Suite 705, Chicago, Ill. 60606; 312-899-1480.

**National Claims Service Inc.** has opened a new office at Hudson Road Office Park, 6043 Hudson Road, Suite 285, Woodbury, Minn. 55125; 612-731-7800. ■

## PRIMA study

Continued from page 3

But, these new professionals, like many of their more-seasoned counterparts in private industry, are turning more often to less-traditional ways of handling their risk (see story, page 28).

"The whole area (of risk management) is expanding," Ms. Wasserman says. "There's no doubt that this is a profession that is certainly being noticed and coming of age in government."

But, risk management is still a relatively new field among the entities surveyed, which included state, county, city and village governments, school districts and other governing bodies: The respondents have had formal risk management programs for only an average of 5½ years.

In fact, according to the survey, 42% of the risk management operations are 3 years old or less. And, a whopping 69% are 7 years old or less.

The survey authors note: "The tremendous growth in risk management over the last 10 years has resulted in divergent responsibilities for risk managers, along with different theories and styles of administrative structure for the risk management function."

For example, only about one-third of the respondents said their entity has a separate risk management department; 67.5% said risk management functions are handled within a larger department. However, in the 1981 ICMA survey, only 5.6% of the cities and 18.4% of the counties had a separate risk management department.

Obviously, larger government entities are more likely than their smaller counterparts to have a separate risk management department. The average operating budget for the entities with a separate department was about \$356 million, compared with an average budget of only \$78 million for the entities without a separate risk management department.

Of the respondents without a risk management department, 30.6% said risk management functions were handled by the finance department, 18.5% listed the department of administration, and 16.4% listed the human resources department.

Other areas listed as having responsibility for risk management were the city manager, 11%; city clerk, 3.2%; legal department, 2.8%; budget department, 1.4%; and some other department, 11.7%.

"Contradicting the view of risk management as merely a purchasing function, only 4.3% of the respondents placed risk management in the purchasing department," the survey authors say.

The risk management budgets reported by the respondents averaged \$418,000, although 100 respondents did not disclose their budgets.

The largest number of respondents—31.6%—said their risk management budget was in the range of \$100,000 to \$500,000. But, 17.2% said their risk management budget was less than \$25,000, and 1.8% said they had no money budgeted for risk management.

Other budget ranges reported were: \$25,000-\$50,000, reported by 16.3% of the respondents; \$50,000-\$100,000, reported by 16.9%; and more than \$500,000, reported by 16.3%.

Although 66% of the respondents said their entity has at least one full-time risk management professional, the survey authors note that "a full one-third of respondents are assumed to be handling risk management on a part-time basis, or as one of several 'hats.'"

The larger entities, as might be expected, were more likely to have a full-time risk manager. For example, among entities with operat-

Continued on next page



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## PRIMA survey

*Continued from previous page*

ing budgets of between \$100 million and \$250 million, 92.9% have at least one full-time risk manager, while only 57.9% of those entities with operating budgets of less than \$10 million have a full-time position in risk management.

Overall, the responding public entities have an average of 2.34 full-time risk management positions. Some 31% of the respondents have only one full-time risk management position, while 15.1% have two positions, 7.2% have three positions, and 13.6% have four or more full-time positions.

And, 62.3% of the respondents have no professionals handling risk management on a part-time basis.

Some 21.1% have one part-time position, 10% have two, 3.7% have three and 2.7% have four or more.

A majority of the respondents are responsible for insurance procurement and management: Some 66.6% said they have general authority over this function, and an additional 15.1% said they have shared authority.

Other functions handled by a majority of the respondents were claims management, with

62.5% reporting general authority and 24.8% reporting shared authority; self-insurance, 59.9% with general authority and 19.2% with shared authority; workers compensation, 58.2% with general authority and 19.8% with shared authority; and safety and loss control programs, 57.6% with general authority and 28.1% with shared authority.

In addition, 26.8% said they had general authority for employee benefits, while 25.9% said they had shared authority; 28.1% had general authority for public safety, and 31.8% had shared authority; 17.3% had general authority for litigation management, and 42.2% had shared authority; and 10.1% had general authority for disaster planning, and 31.3% had shared authority.

In other survey findings:

- Only 9.7% of the respondents said they handled all claims in-house, but about 53% said they handle at least some claims in-house. About 43% of the respondents use a combination of in-house claims-handling and the services of an insurer and/or a third-party administrator.

In fact, the survey shows, 21.1% use a third-party administrator exclusively for claims-handling, and 75.3% use a TPA for at least some aspect of handling claims.

- Nearly all respondents feel they get support for risk management activities from upper management. In fact, 36.4% termed the level of support as excellent, while 35% said it was good, and 23% said it was moderate.

Only 2.6% said they got poor support from upper management, and an almost-negligible 0.7% said they got no support.

- A variety of policies and practices—from police pursuit rules to hazardous waste programs—come under the domain of the risk management department.

Risk managers said their departments have policies in the following specific areas: a loss-control program, 75.4%; police pursuit, 70.2%; safety manuals, 63.4%; a risk management policy statement, 60.8%; health care cost-containment, 53.5%; an employee assistance program, 53.3%; hazardous waste programs, 46.6%; a risk management information system, 41.1%; a wellness program, 40.8%; drug testing, 23.2%; and an education program on acquired immune deficiency syndrome, 12%.

Copies of "Public Risk Management: State of the Profession 1987-88," are \$25 for PRIMA members and \$40 for non-members from PRIMA, 1120 G. St. N.W., Suite 400, Washington, D.C. 20005.

## Public entity risk managers new to field

By ALISON KITRELL

WASHINGTON—A significant number of public entity risk management professionals are new to the field, according to a recent survey.

"Public Risk Management: State of the Profession 1987-88," conducted by the Public Risk Management Assn., shows that risk management is a fairly new phenomenon in the public sector.

"Rapid growth in the risk management profession suggests that many of those currently handling risk management duties are new to the profession," the survey authors note. The 426 public entity employers responding to the PRIMA survey bear this out: Some 48.2% of the respondents have five years or less experience in risk management.

The average among all the respondents was 6.9 years of experience. But, 24.3% had only one to two years, 23.9% had three to five years, 24.6% had six to 10 years, and 17.8% had 11 or more years of risk management experience.

Male risk managers had more experience than women in the field: an average of 7.4 years for men, compared with only 5.2 years for women.

The respondents—both men and women—have spent an average of 5.1 years in their current position. But, 63.8% have spent five years or less, 22.1% have spent six to 10 years, and 10.8% have been in their current job for 11 or more years.

Most of the respondents have at least a bachelor's degree, but few of them had any risk management education, according to the survey: "Only 8% of those with bachelor's degrees as their highest education level reported undergraduate training in risk management, insurance or safety."

Almost half—46.7%—of the respondents said a bachelor's was their highest degree attained. Some 46% of these earned that degree in business administration, while 39.6% earned a social science degree. Five percent studied public administration, and 1.5% studied education.

Only 4% majored in insurance, 3.5% majored in safety, and a mere 0.5% majored in risk management.

Among the 33.8% of the respondents with a master's degree, 44.9% majored in public administration and 36.8% majored in business administration. Some 9.6% majored in social science and 3.7% majored in education.

And, 1.5% received their master's degree in risk management, while 3.7% earned it in safety.

In addition, 1.3% of the total respondents have a Ph.D., 4.5% have a law degree and 12.7% have only a high school diploma.

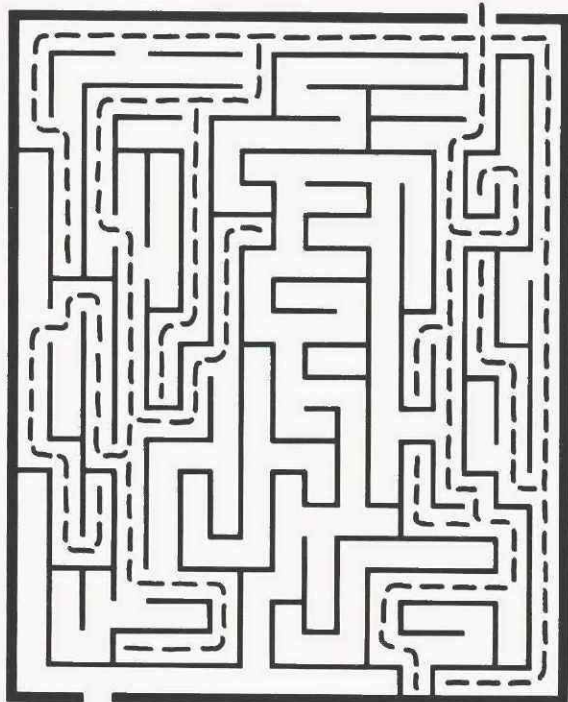
Most of the risk managers in the public sector came from other public-sector jobs: Some 57.7% said their previous position was with a public entity. An additional 20.2% came from an insurance company, 13.1% came from an insurance brokerage firm, 12.4% came from a private-sector risk management position and 20% held some other type of position.

However, the authors say, "Although many respondents have little or no previous education or experience in public sector risk management, there seems to be a good deal of job satisfaction." A full 78.6% of the respondents said they plan to remain in the risk management profession, while only 13.1% said they plan to leave.

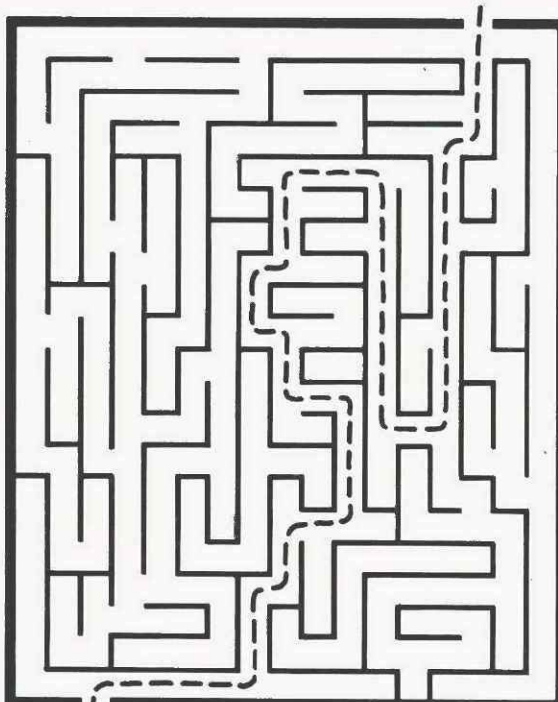
The average age of the respondents was slightly older than 42,

*Continued on page 28*

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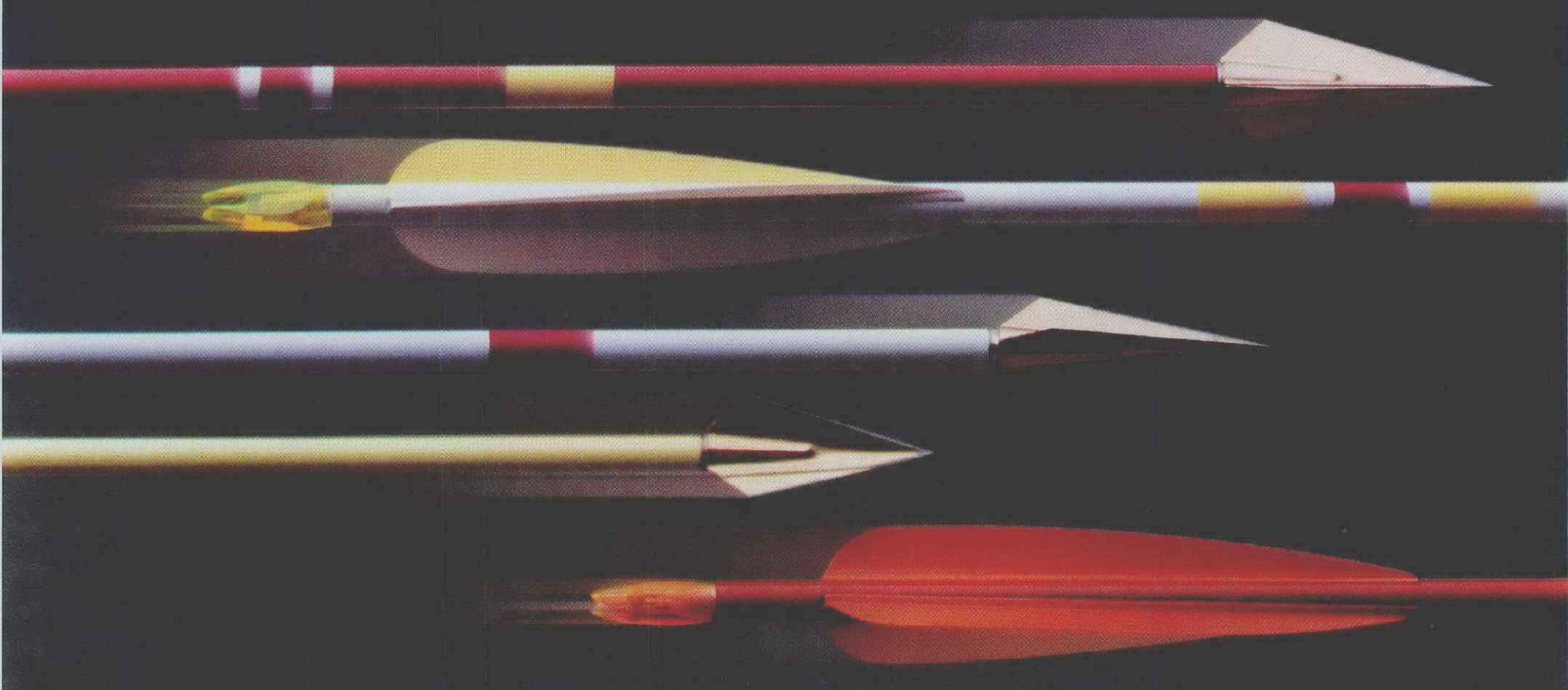
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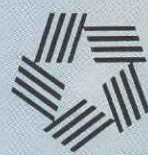
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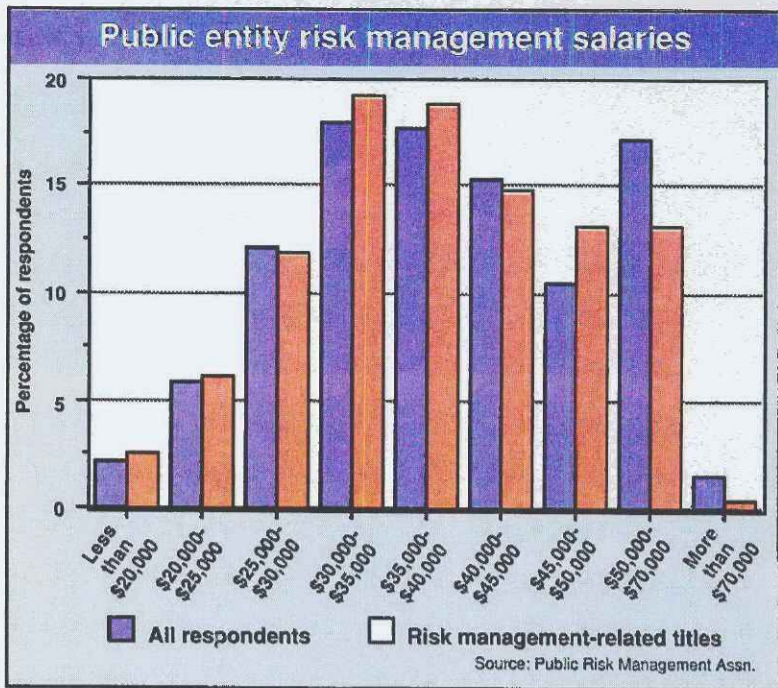


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## Public entity survey

Continued from page 26  
and most fall into the age ranges of 30 to 39 (33.5%) and 40-49 (28.7%). Only 7.9% are younger than 30, and only 5.5% are 60 or older.

And, 24.9% of the respondents are women. "Survey results also showed that women currently comprise one-quarter of the public risk management profession. There was, however, a noticeable 'gender gap' in average salary figures," the survey noted.

The average salary for male respondents was \$40,503, compared with \$35,382 for females, but the survey authors also note, "Some of this may be due to differences in age and experience. Women average 39 years of age and five years experience in risk management. Men average 43 years of age and have on average 2.5 more years in risk management."

The survey also breaks out salary figures for officials whose primary duties are risk management. These officials—who represented 55% of the total—listed their title as "risk manager," "employee benefits manager," "safety/loss control manager," "insurance coordinator" or "claims manager."

Those respondents who listed such titles as "finance director," "budget director," "personnel director" or "assistant city manager," perform some risk management duties but also have other functions.

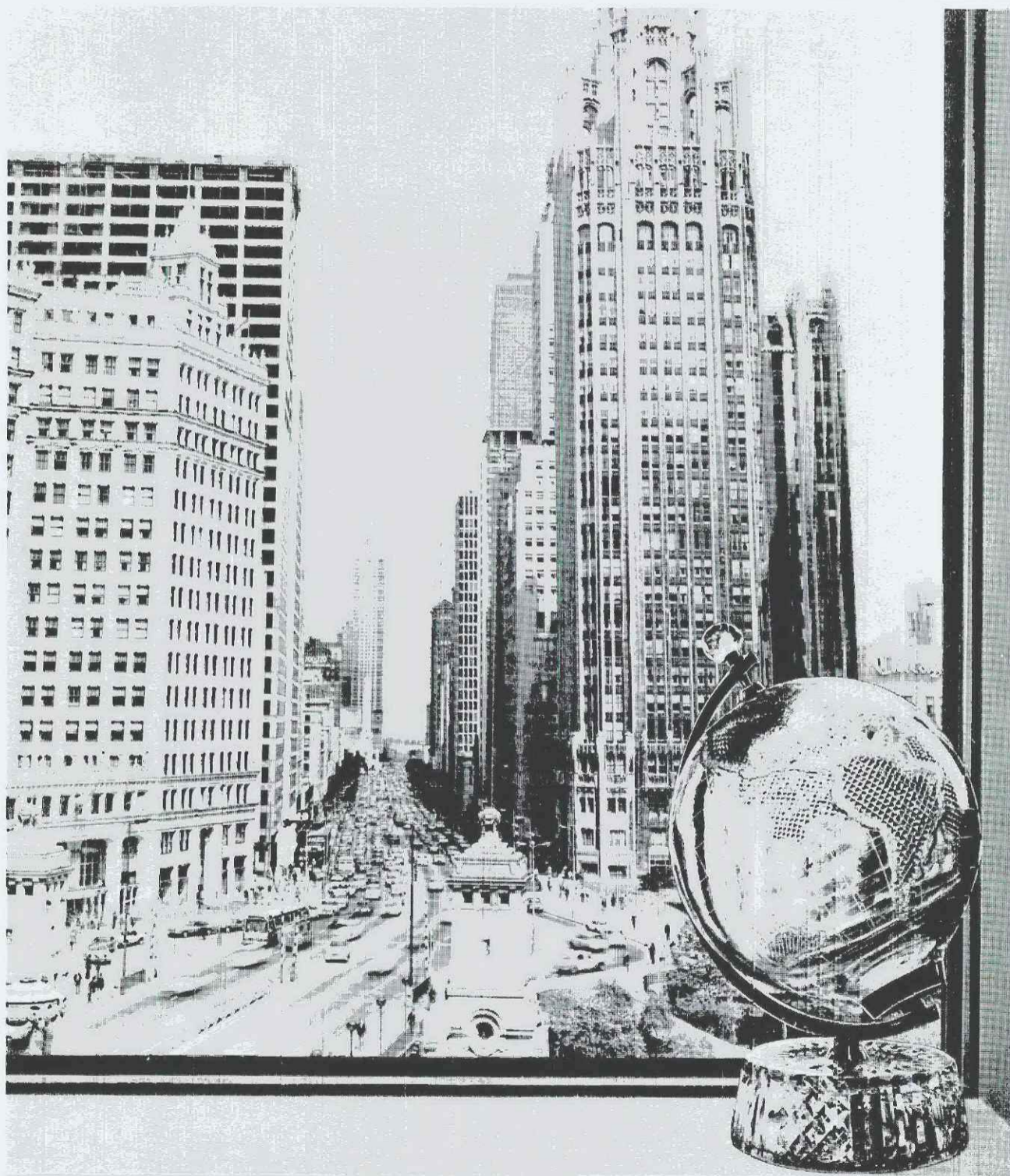
The average salary for "risk management" positions was \$38,103, which was less than the \$40,627 average for the other officials. But, the authors said, "In examining risk management-related positions only, the difference between the salaries of men and women closed somewhat. The 165 male risk managers reported average salaries of \$38,917, while the 62 female risk managers average \$36,132."

Among all the respondents—including those with non-risk management titles—the average salary was \$39,227. Most of the respondents reported salaries in the range of \$30,000 to \$50,000, with about 20% having salaries of less than \$30,000 and about 18% having salaries of more than \$50,000 a year.

The region reporting the highest salary was the Northeast, where pay averaged \$43,597. The lowest pay was in the South, with an average of \$36,354. Public entity risk managers in the West earned an average of \$41,838, while those in the North Central states earned an average of \$36,980 per year.

Finally, fewer than half of the public-entity risk managers surveyed hold a professional designation. Only 12% have the Associate in Risk Management designation, and only 4.5% are Chartered Property & Casualty Underwriters.

However, 13.9% said they hold some other professional designation, such as Certified Safety Professional or Certified Employee Benefit Specialist.



## Self-insurance popular with public entities

By ALISON KITRELL

WASHINGTON—A strong majority of public entities are self-insured for at least some exposures, and almost half also participate in intergovernmental risk pools, according to a recent survey.

The survey of public entity risk management departments, conducted by the Public Risk Management Assn. in Washington, showed that there has been an explosion in public sector risk management during the last decade (see story, page 3), and that many public sector risk managers are new to the field (see story, page 26).

Despite this, most public sector risk managers appear to be joining their private sector counterparts in seeking out alternatives to commercial insurance.

Public entities were pushed toward alternative risk financing by the two main factors that have fostered the growth of the movement in the public sector: increasing exposure and the hard commercial property/casualty insurance market of the mid 1980s, according to PRIMA Executive Director Natalie Wasserman.

Particularly significant factors, she says, were "the lack of availability and affordability (in the commercial market) and the feeling among many public agencies that they can assume more and more risk."

Some 79.5% of the 426 public risk managers surveyed in "Public Risk Management: State of the Profession, 1987-88" reported that their entity has no primary commercial insurance for at least one of the following types of coverages: general liability, public official liability, police professional liability, automobile, property, workers compensation or employee benefits.

The survey did not distinguish between entities with a formal self-insurance program and those that simply had no commercial insurance.

Only 20.5% of the respondents said they are fully insured through the commercial market.

More than half of the respondents were self-insured for work comp (58.4%), general liability (55.4%), or auto (53.7%) risks. In addition, 47% were self-insured for public official liability, 40.6% for police professional liability, and 37.9% for employee benefits exposures.

Smaller percentages were self-insured for property risks—28.9%—and other risks—16.7%.

Continued on page 30

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## Self-insurance

Continued from page 28

Larger entities were much more likely to be self-insured than were their smaller counterparts. For example, the average budget for entities that self-insured some exposure was \$195.2 million, compared with \$47.8 million for entities without self-insurance.

And, the average population for those entities with self-insurance was 223,260, compared with only 55,761 for those that were not self-insured.

States were the most likely entities to self-insure: The survey showed that 92.3% of the states represented in the survey self-insured at least some risk. Some 50.4% of the counties represented also self-insured at least some risks.

Self-insurance was used by 81% of the school districts, 77% of the cities and 71.4% of the villages covered in the survey.

The entities least likely to self-insure, according to the survey, were special-purpose districts, where only 56.3% incorporate some self-insurance into their risk management program.

PRIMA's Ms. Wasserman also predicted that the popularity self-insurance would continue among public entities.

"A lot were drawn into self-insurance by the hard market, and they have found they like it, and they're going to keep doing it," she said.

In addition to retaining their own risks, a growing number of public entities are participating in intergovernmental risk-sharing pools, according to the survey.

Some 39.8% of the respondents to the PRIMA study said they have purchased coverage for some exposures through intergovernmental pools.

In contrast, only 25.1% of the respondents to a 1981 survey conducted by the International City Management Assn. said they belonged to a pool.

"I think we've seen a large number of pools come into existence

**'I think we've seen a large number of pools come into existence since the insurance crisis,' PRIMA's Executive Director Natalie Wasserman says. 'And we've seen a lot of pools that did not write general liability coverage begin to write it.'**

since the insurance crisis," Ms. Wasserman says.

"And we've seen a lot of pools that did not write general liability coverage begin to write it... basically because there wasn't any coverage available."

In the 1987 PRIMA study, 52.3% of the respondents said they pool their general liability risks, while 46% said they belong to a workers compensation pool. In a 1985 PRIMA survey, only 8.2% of the respondents pooled general liability risks, and an equal percentage pooled their workers compensation risks.

Other pooled risks reported by the 1987 survey respondents included property, pooled by 27.3%; public official liability, pooled by 21%; and employee benefits, pooled by 9.7%.

The average budget for the public entities involved in pools was slightly higher than for those that did not pool: \$186.3 million for pooling entities, compared with \$156.7 million for non-pooling.

But, the survey authors note, "Despite this data on average operating budget levels, (the survey data) supports the belief that intergovernmental pools are par-

ticularly popular among smaller entities."

For example, 58.3% of entities with annual budgets of less than \$10 million participate in pools.

In contrast, though, pooling is reported by only 27.1% of entities with budgets of between \$100 million and \$250 million, and only 22.5% of those with budgets of more than \$250 million.

And, the authors say, "When comparing the population size of pooling and non-pooling entities, it is evident that pooling is used heavily by smaller entities." The average population of entities that pool some risks is 146,400, compared with an average population of 226,404 for those that do not pool.

Ms. Wasserman says that smaller entities are more attracted to pooling because "they don't have the same resources a larger entity might have, so by coming together, they can raise the premium volume

they need."

In addition, she said, most pools provide risk management expertise and guidance that smaller governments might not be able to afford on their own.

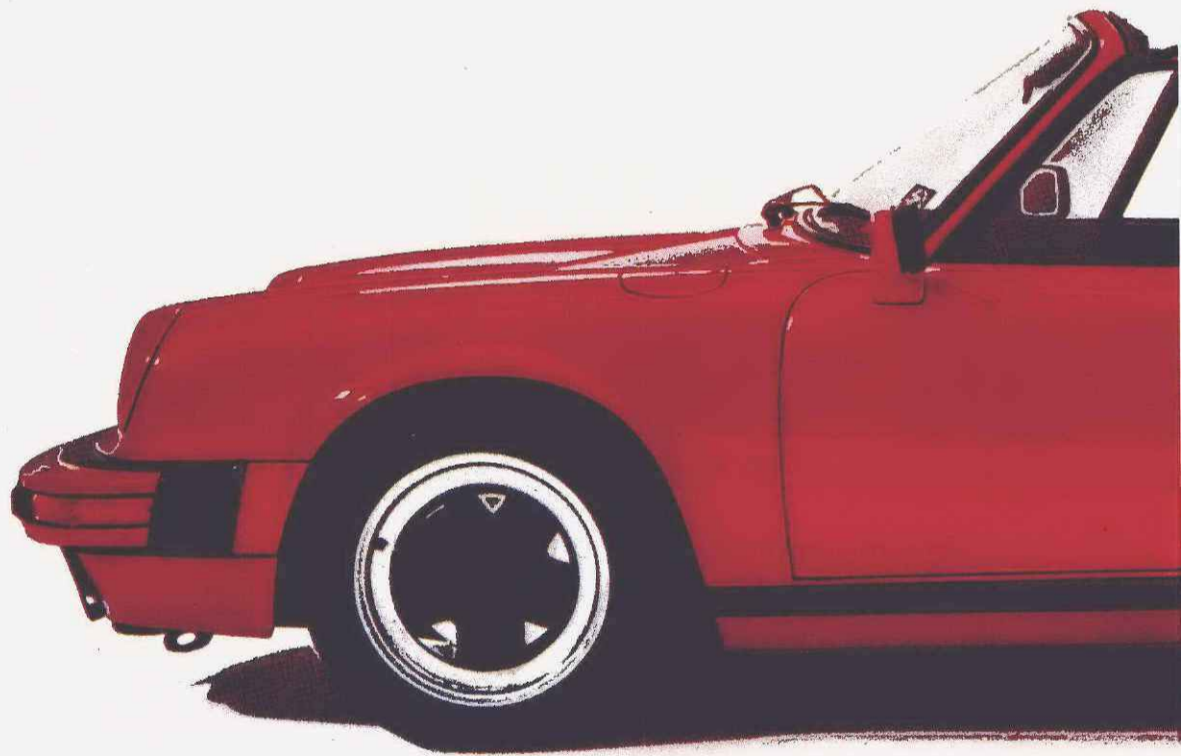
Cities are most likely to participate in intergovernmental pools: Some 56.1% of the cities covered in the survey pool some risks. In addition, 20.1% of the counties and 10.4% of the school districts are involved in pooling.

But, pooling is reported by only 6.1% of the villages, 1.2% of the states and 1.2% of the special-purpose districts.

Finally, pooling is most popular in the West, where 44.2% of the respondents pool certain risks. Pooling was reported by 30.3% of the respondents in the South and 21.1% of the respondents in the North Central states.

However, only 4.2% of the surveyed respondents in the Northeast participated in pooling arrangements. ■

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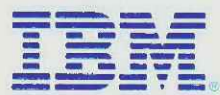


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The Bigger Picture

# FASB rule to cut corporate earnings

The Financial Accounting Standards Board's proposed accounting rule for post-retirement health benefits is worrying corporate benefit managers because of the multibillion-dollar magnitude of the liabilities, the near absence of tax-advantaged funding vehicles and case law that restricts cost-containment measures.

Because most post-retirement health plans are not prefunded, the proposed accounting rule—to be released next month—will result in lower corporate earnings and larger liabilities.

The Department of Labor estimates the health care liabilities for current retirees at \$85 billion, while the liability for future retirees, with increases in health costs factored in, stands at \$2 tril-

**By switching to accrual from cash accounting for post-retirement benefits, FASB is forcing employers to recognize a liability that already exists, which will be painful because very few corporations prefund retiree health care benefits.**

lion, according to a report by TPF&C, the benefits and actuarial consulting division of Towers, Perrin, Forster & Crosby Inc. of New York.

The rule now being considered by FASB, however, is not the root cause of corporate America's medical benefit malaise.

Galloping medical care inflation and ill-designed plans that saddle

employers with an open-end liability also contribute to the coming crisis in post-retirement health care.

By requiring a switch to accrual from cash accounting for post-retirement welfare benefits, FASB is forcing employers to recognize a liability that already exists. Recognition of that liability will be painful because very few corporations

prefund post-retirement benefits other than pensions.

Still, representatives of Moody's Investors Service Inc. and Standard & Poor's Co. said they do not expect the new accounting rule to have much effect on credit quality because the liabilities already are factored into companies' debt ratings.

While contributions to a pension plan are a tax-deductible expense and the investment income earned by the pension trust is tax exempt, post-retirement medical plans typically enjoy neither advantage.

Tax-advantaged prefunding of post-retirement medical benefits is allowed through a welfare plan trust established under Section 501(c)(9) of the Internal Revenue Code or through a pension plan

under Section 401(h), but stiff restrictions make both options unappealing.

The 501(c)(9) trust, or Voluntary Employee Beneficiary Assn., lost much of its appeal as a vehicle with which to prefund retiree health benefits when the Deficit Reduction Act of 1984 limited the amount deductible to the current cost of the benefits. This tax legislation eliminated tax advantages for prefunding cost increases resulting from higher medical costs and greater use of medical services.

And, investment income earned by VEBAs and used to fund retiree health care costs is taxable.

Tax-advantaged contributions under section 401(h) are less attractive because of a provision that limits contributions to no more than 25% of pension plan contributions.

Sponsors of well-funded pension plans would not be able to use 401(h) plans because of that rule.

Using surplus pension plan assets from a terminated plan to fund post-retirement medical benefits is discouraged because a pension reversion would be subject to income tax and a special 10% excise tax.

Employers "understand there is a liability and that it's a real liability that should be recognized," said William B. Madden, a senior vp at SEI Corp. in Chicago.

"But they are saying, 'If I have to recognize this liability then I better have a means of funding it,' and they don't see a means coming down the pike," Mr. Madden said.

For a company with 2,000 retirees and 10,000 employees, post-retirement medical liabilities for current and future retirees would total approximately \$300 million or more, according to the TPF&C report.

Recognition of post-retirement benefit costs on an accrual basis could reduce earnings per share at some companies by as much as 35 cents to 45 cents, according to a report prepared by consultant William M. Mercer-Meindinger-Hansen Inc.

The new accounting rule, which is expected to be released next month, is based on the assumption that post-retirement health care is deferred compensation and the resulting obligation should be recognized as service is rendered. Measurement of the obligation would have to be based on explicit assumptions about the timing and amount of future benefits, health care cost trends, Medicare reimbursement and several other factors.

The rule would require balance sheet disclosure of the employer's unfunded minimum liability and accrual of expense from the date of hire to expected retirement date in cases in which benefits are not defined in terms of years of service.

A public hearing on the FASB exposure draft is planned for mid-1989; issuance of the final standard is expected later next year.

Provisions of the final standard generally would be effective for fiscal years beginning after Dec. 15, 1991.

Recognition of the minimum liability—the unfunded present value of the accumulated benefit obligation for retirees—would be delayed to fiscal years beginning after Dec. 15, 1993.

FASB already has made two changes that make the reporting requirements less onerous, but additional calls for concessions likely will face the board before the draft is made final.

In August, FASB extended the expense accrual period to the em-

Continued on page 34

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## FASB proposal

*Continued from page 32*  
ployee's expected retirement date rather than the earliest eligible retirement date.

An expensing period that starts at the date of hire and ends with the expected retirement date would benefit employers because this approach would spread out the accrual of these costs.

The board also concluded the minimum liability would reflect the obligation for retirees only, rather than retirees and those eligible for retirement.

Additional concessions by FASB are unlikely, said Diana J. Scott, FASB's project manager for post-retirement benefits. "We've gone as far as we are going to go. There's not much more to give up, quite honestly."

Employers, however, support a change that would delay recognition of the minimum liability, said D. Gerald Searfoss, director of ac-

counting standards at Touche Ross & Co. in New York. "Companies that face the minimum obligation would certainly desire some way of bringing it in on a piecemeal basis."

In the longer term, employers will try to cope with the FASB proposal by reducing or eliminating post-retirement health care benefits. That approach, however, runs the risk of legal challenges by retirees.

Retirees who receive health insurance from a company that has filed for bankruptcy under Chapter 11 of the Federal Bankruptcy Act enjoy an added measure of protection as a result of legislation enacted in June.

The Retiree Benefits Bankruptcy Protection Act bars companies under Chapter 11 from modifying retiree health care benefits unless they can show the measure is necessary to avoid liquidation (*BI*, June 4).

Although the Employee Retirement Income Security Act of 1974 specifically exempts welfare plans from the vesting requirements that apply to pension plans, retirees have won court rulings that state that retirees have a right to health care benefits.

Employers have been vulnerable to these legal challenges because the federal courts have looked beyond ambiguously worded plan

**'We've gone as far as we are going to go. There's not much more to give up,' says Ms. Scott.**

documents and collective bargaining agreements to determine whether employee benefit booklets, oral communications and patterns of conduct establish a contractual promise of lifetime medical benefits.

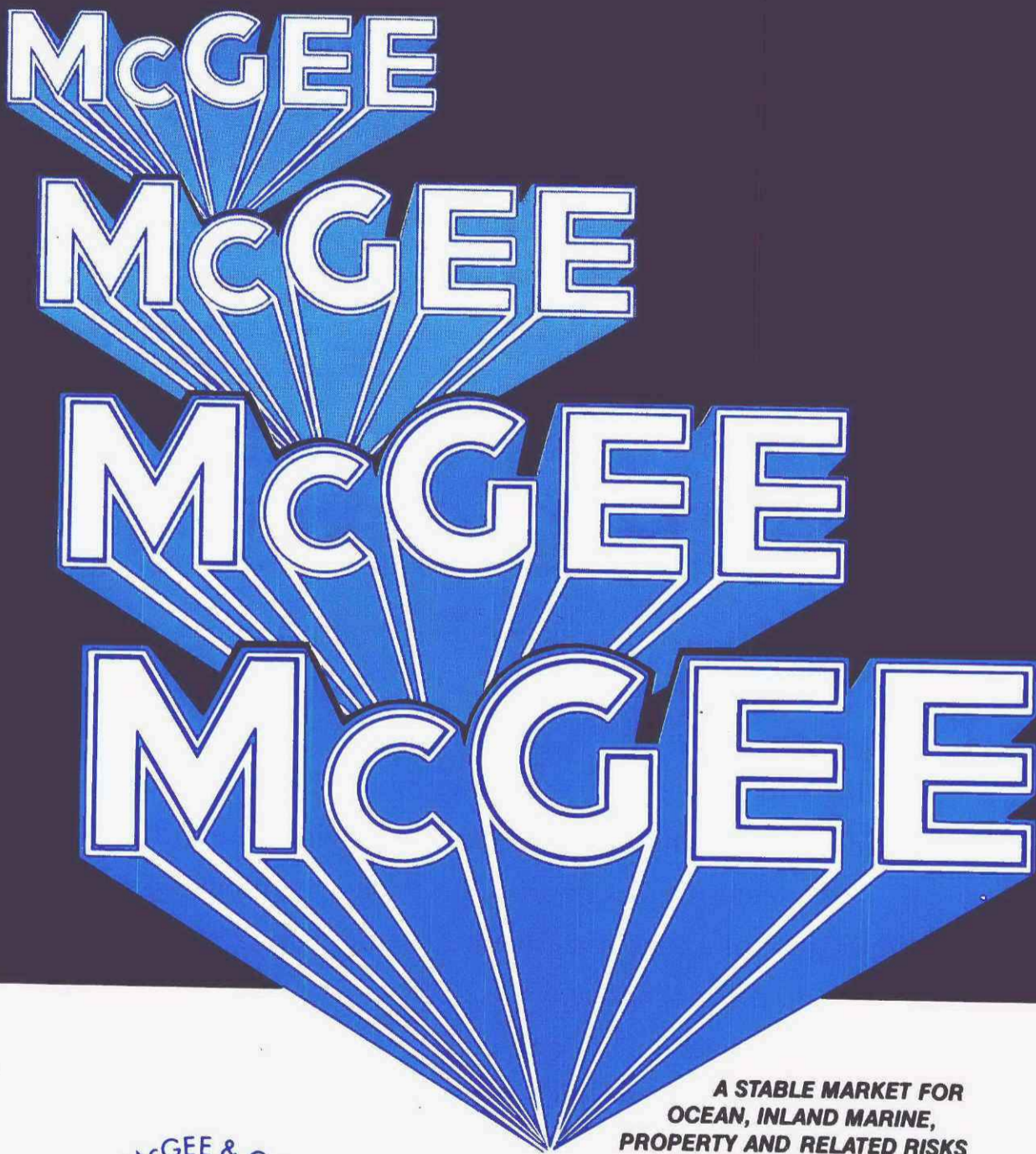
For example, in a 1984 case involving Bethlehem Steel Corp., a federal court in New York state considered exit interviews and company-issued retirement pamphlets (*BI*, March 18, 1985). Ruling in favor of the retirees, the court found Bethlehem did create "non-terminable" post-retirement medical benefits, although retirees were liable for copayments and deductibles.

In a 1985 case involving American General Corp., a federal court in Tennessee found the employer could not rely on an escape clause that allowed modification of benefits if that step became "necessary." The court concluded the promise to provide lifetime benefits could be avoided only if the financial base of the corporation were threatened. The company's financial performance over two quarters suggested there had been insufficient cause to amend the plan, the court concluded.

The 6th U.S. Circuit Court of Appeals, ruling for retirees in a 1984 case involving Yard-Man Inc., which the Supreme Court declined to review, said post-retirement benefits carry with them an inference that they continue so long as the beneficiary of the health care coverage retains his or her status as a retiree. That inference, however, could be overcome by other evidence about the understanding between the employer and employees, the court said.

Other cases give employers greater flexibility in deciding whether to modify or terminate retiree benefits. In the White Farm Equipment Co. case (*BI*, May 12, 1986), the 6th Circuit in 1986 overruled a decision that ERISA barred an employer from terminating the welfare benefits of retired employees.

—Crain News Service



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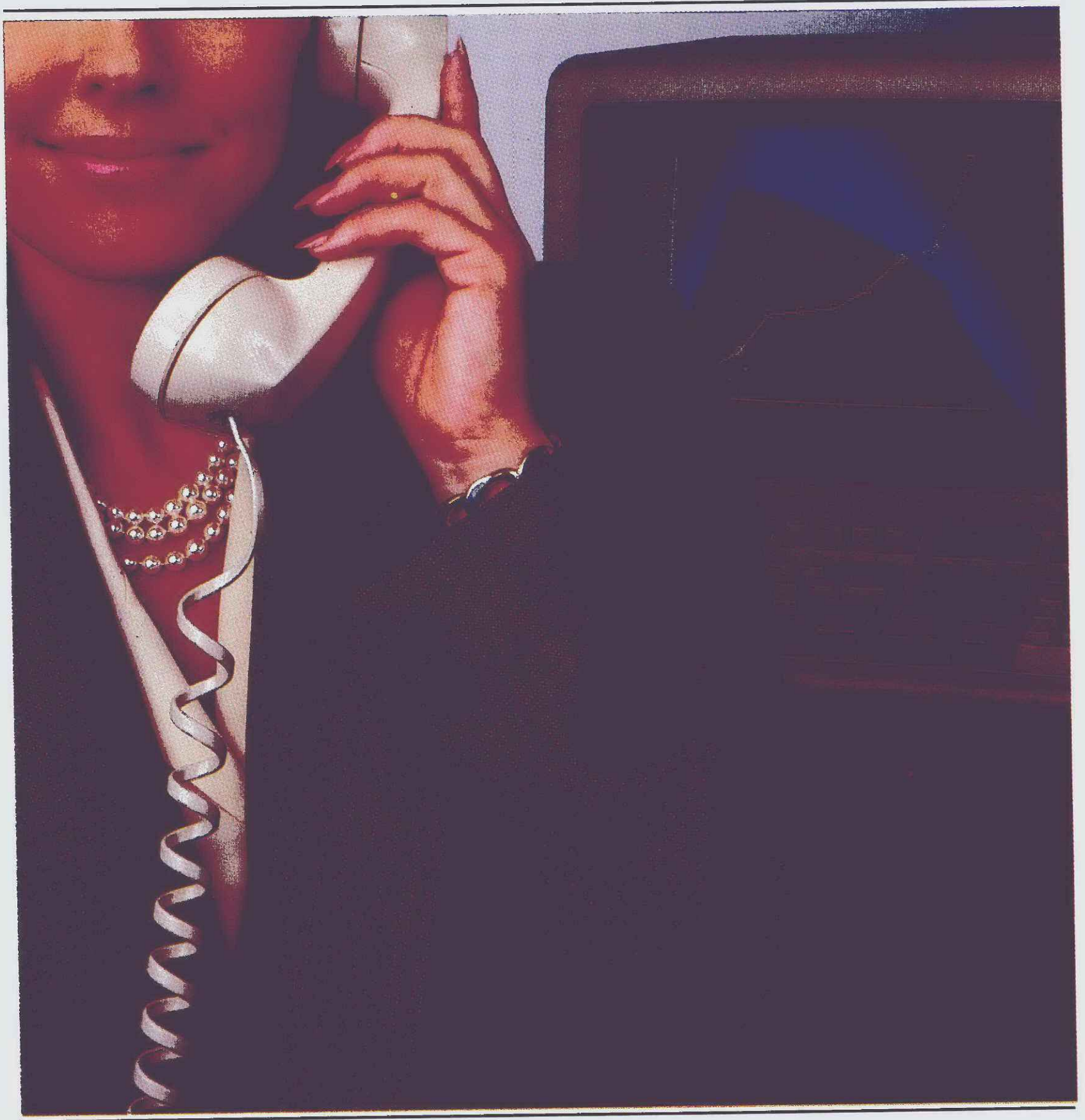
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# FASB puts employers' actuaries to work

Legions of actuaries and benefits specialists are working to assess the impact of a controversial accounting proposal that would require companies each year to account for the millions of dollars they potentially will owe for retiree health care and life insurance benefits.

More than two-thirds of large U.S. employers provide post-employment benefits. That is why the Financial Accounting Standards Board's proposal has elevated retiree benefits to the national agenda (see story, page 32).

"This is a societal problem, not just a corporate problem," said Lonnie Arnett, vp at Bethlehem Steel Corp. of Bethlehem, Pa.

Some companies never have offered their retirees such benefits. Many others do, but operate on a pay-as-you-go basis.

Companies that do provide retiree health care benefits are trying to assess the size of their potential liability and the impact of the FASB proposal on their balance sheets and reported earnings.

Some companies are also trying to reduce that liability by introducing cost-containment measures into their retiree health care plans.

A recent survey of Fortune 1,000 companies by TPF&C, the benefits and actuarial consulting division of Towers, Perrin, Forster & Crosby Inc., found that 38% of respondents recently had raised deductibles and copayments in retiree health care plans; 28% had implemented mandatory second surgical opinions or hospital pre-certification; and 16% had increased employee contributions to the cost of the plans.

A minority of companies—such as New York-based The Equitable Life Assurance Society of the United States—have redesigned their retiree benefit plans by scaling back or eliminating benefits. And, some companies have started to prefund future retiree benefits obligations, although there are few tax incentives to do so.

The Equitable last year studied its post-retirement benefits obligations and made significant changes in its retiree health program effective Jan. 1, 1988, according to Bob Sjogren, vp.

He said the insurance and financial services concern calculated a more than \$500 million unfunded liability based on the present value of future retiree benefits.

Among changes instituted to address this liability, the percentage of a retiree's health care benefits paid by the Equitable now depends on years of service, with the company picking up 100% of the cost for employees with 30 or more years of service.

In addition, Equitable decided to prefund some of the benefits by buying corporate-owned life insurance.

"We are exploring ways of advance funding where we can get tax deductions," Mr. Sjogren said. "Our approach to the problem has been to reduce liabilities by relating costs to years of service, to look at life insurance and offer employees universal life, and later to redesign benefits packages."

Many companies—including Avon Products Inc., Texaco Inc., American Express Corp. and Ford Motor Co.—still are evaluating the impact of the FASB proposal and reviewing their benefits packages.

"We are clearly in the group of companies doing analysis. But it's difficult to assess the cost. It's a moving target," said Dan Coulson, accounting director for Ford in Dearborn, Mich.

Philadelphia-based CIGNA Corp. is doing "some rough sizing of the problem," according to Paul Lukens, vp and controller. "By

November, we anticipate having numbers to work with. There's a huge range depending on the assumptions you use on health care cost inflation, which makes it hard to assess."

Michael Monaco, corporate controller at American Express in New York, said his company's actuaries are estimating the financial services company's liability under the FASB proposal.

"It could be 5% to 10% of our equity. It's a significant number. We have a fairly young work force, but as our work force matures the liability will become greater and greater," Mr. Monaco said.

Aside from taking steps to contain costs and assess the impact of the proposal, companies also are preparing comment papers to submit to the FASB when the expo-

sure draft is released next month.

Benefits executives are concerned about several aspects of the proposal, especially the transition rules, how to measure the unfunded liability and the proposal's significant balance sheet impact.

Most would like to see the transition period stretched out over 20 to 30 years instead of 15 years. They compare FASB's proposed changes to the significant pension accounting revisions that have been enacted in the past 20 years.

"One overall concern is that too fundamental and major an accounting change is being considered in too rapid a way," Ford's Mr. Coulson said. "It appears that FASB is trying to get to the same conceptual stage as it did with pensions but without the evolutionary fashion."

While company executives don't argue with recording the liability, they are wrestling with the assumptions about health care inflation rates that will be used to help calculate that liability.

Mr. Coulson and other executives would like to spread the effect of the accounting changes over many years, which not only would cushion its impact on the balance sheet but give companies time to develop better cost data.

"I don't think it makes sense to develop costs based on today's health care inflation rates (and) then discount it back to present value. That would have the tendency to front-load costs and may pull the inflation rate up," Mr. Coulson said. "We don't think the health care inflation rate of today—12% to 15%—will continue at

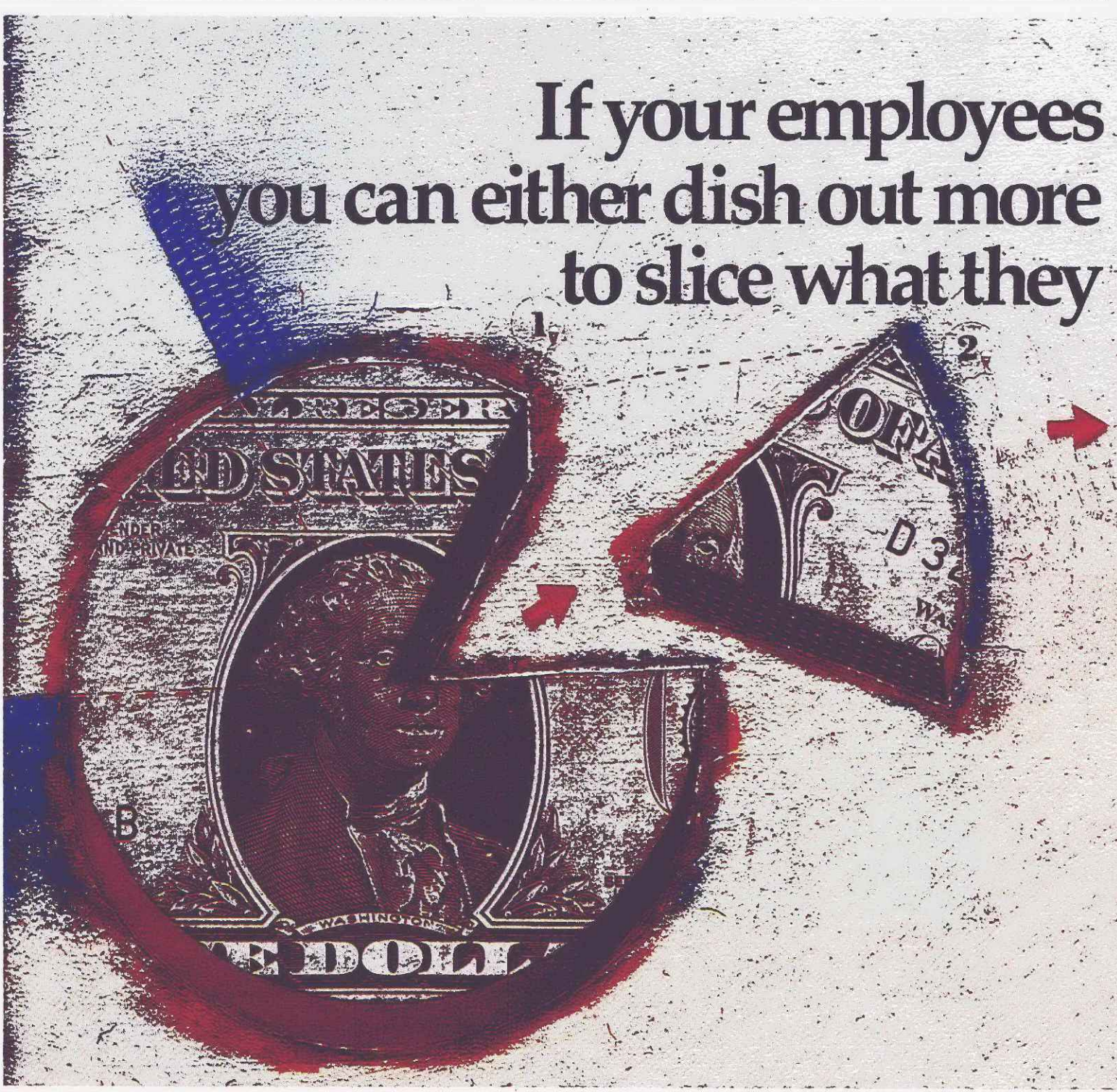
that rate."

"The issue of measurability is a concern. Is it measurable? Reliable? Does it belong on the balance sheet?" asked William Ihlanfeldt, assistant controller at Shell Oil Co. in Houston. "A lot of promises have been made that haven't been priced."

While companies are reluctant to release figures on the balance sheet impact of the FASB proposal, all agreed the numbers would be large for many companies.

"It would be a significant impact on the balance sheet. We measured our unrealized obligation. It is a very significant number. We'd still have a very positive surplus, nevertheless it would be a big part of our surplus," The Equitable's Mr. Sjogren said.

—Crain News Service



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**SEPT. 20. CAOHC Approved Recertification Course in Occupational Hearing Conservation** in San Antonio, Texas, sponsored by Impact Hearing Conservation Inc.; \$150. Also Oct. 4 in Ogden, Utah; Nov. 1 in Milwaukee; Dec. 1 in Kansas City, Mo. Impact Hearing Conservation Inc., 406 W. 34th St., Suite 400, Kansas City, Mo. 64111; 800-346-2139; 816-531-4848.

**SEPT. 20-21. Ergonomics and Job Modifications** course in Long Grove, Ill., sponsored by the National Loss Control Service Corp.; \$350. National Loss Control Service Corp., K-3, Long Grove, Ill. 60049-0075.

**SEPT. 20-22. Fundamentals of Reinsurance** seminar in Dallas, sponsored by the University of Dallas Graduate School of Management; \$545. Bruce Evans, Executive Director, University of Dallas, Reinsurance Management Institute, Irving, Texas 75062; 214-721-5360.

**SEPT. 21-23. Occupational Health Nursing: Basic Theory and Update** course in Los Angeles, sponsored by the University of Southern California, Institute of Safety and Systems Management; \$405. Institute of Safety and Systems Management, Professional Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

**SEPT. 21-23. CAOHC Approved Training Course in Hearing Conservation** in San Antonio, Texas, sponsored by Impact Hearing Conservation Inc.; \$325. Also Oct. 5-7 in Ogden, Utah; Nov. 2-4 in Milwaukee. Impact Hearing Conservation Inc., 406 W. 34th St., Suite 400, Kansas City, Mo. 64111; 800-346-2139; 816-531-4848.

**SEPT. 21-23. Designing a Flexible Benefit Program: a Workshop** in Chicago, sponsored by the American Management Assn. Human Resources Division; \$745 for AMA members; \$635 for three or more people from the same organization; \$850 for non-members; \$725 for three or more people from the same organization. Also Oct. 10-12 in New York City. American Management Assn., P.O. Box 319, Saranac Lake, N.Y. 12983; 518-891-0065.

**SEPT. 22. Questions on the CGL and CP Policies? Ask the Claims Department** workshop in New Cumberland, Pa., sponsored by The Society of Chartered Property & Casualty Underwriters; \$130 for Society of CPCU members; \$160 for non-members. Also Oct. 27 in Elmhurst, Ill. Mari Jennings, Professional Services Coordinator, Society of Chartered Property & Casualty Underwriters, Kahler Hall, 720 Providence Road, CB#, Malvern, Pa. 19355; 215-251-2741.

**SEPT. 22-23. 1988 Washington Conference on Risk Assessment** in Alexandria, Va., sponsored by the Center for Energy & Environmental Management; \$595. Center for Energy & Environmental Management, P.O. Box 200, Fairfax Station, Va. 22039; 703-250-5900.

**SEPT. 26. Employer Solutions to Child Care and Elder Care Issues** conference in New York City, sponsored by the International Foundation of Employee Benefit Plans; \$185 for IFEBP members; \$210 for non-members. Registration Department, International Foundation of Employee Benefit Plans, P.O. Box 59, Brookfield, Wis. 53008-0069; 414-786-6700.

**SEPT. 26-28. Techniques of Loss Control** course in Chicago, sponsored by the Risk & Insurance Management Society Inc.; \$540 for RIMS members; \$640 for non-members. Risk & Insurance Management Society, 205 E. 42nd St., Suite 1504, New York, N.Y. 10017; 212-286-9292.

**SEPT. 26-28. Fundamentals of Insurance** course in New York City, sponsored by the Risk & Insurance Management Society Inc.; \$540 for RIMS members; \$640 for non-members. Also Dec. 5-7 in Charlotte. Risk & Insurance Management Society, 205 E. 42nd St., Suite 1504, New York, N.Y. 10017; 212-286-9292.

**SEPT. 26-28. Managing Program Implementation** course in Valley Forge, Pa., sponsored by the International Loss Control Institute; \$513

for ILCI members; \$570 for non-members. Pat Bennett, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

**SEPT. 26-30. Modern Safety Management** course in Atlanta, sponsored by the International Loss Control Institute; \$675 for ILCI members; \$750 for non-members. Pat Bennett, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

**SEPT. 26-30. Fundamentals of Industrial Hygiene Monitoring** course in Long Grove, Ill., sponsored by National Loss Control Service Corp.; \$500. Also Nov. 14-18. National Loss Control Service Corp., K-3, Long Grove, Ill. 60049-0075.

**SEPT. 27-30. Self-Insurance Institute of America's Eighth Annual Educational Conference** in Phoenix, Ariz.; \$595 for SIIA members; \$695 for non-members. Conference registrar, Self-Insurance Institute of America, 714-261-2553.

**SEPT. 28. Section 89: Non-Discrimination Employee Benefit Plans** seminar in Chicago, sponsored by the Illinois State Chamber of Commerce; \$50 for ISCC members; \$75 for non-members. ISCC Center for Business Management, 20 N. Wacker Drive, Chicago, Ill. 60606; 312-372-7373.

**SEPT. 28-30. Vermont Captive Conference: The State of the Art** in Warren, Vt., sponsored

by the Tillinghast Division of Towers, Perrin, Forster & Crosby Inc.; \$50 for basic course; \$600 for captive conference. Conference Director, Tillinghast/TPF&C, 722 Post Road, Darien, Conn. 06280; 203-655-9791.

**SEPT. 28-30. Claims Management** course in Boston, sponsored by the Risk & Insurance Management Society Inc.; \$595 for RIMS members; \$695 for non-members. Also Nov. 16-18 in Atlanta. Risk & Insurance Management Society, 205 E. 42nd St., Suite 1504, New York, N.Y. 10017; 212-286-9292.

**SEPT. 29-30. Problem Solving Team Leadership** course in Valley Forge, Pa., sponsored by the International Loss Control Institute; \$342 for ILCI members; \$380 for non-members. Pat Bennett, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

**SEPT. 29-30. Managed Health Care: Legal and Operational Issues** seminar in New York City, sponsored by the Practising Law Institute; \$425; \$45 for coursebook only. Practising Law Institute, Department 8A-105, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700, extension 271.

**SEPT. 29-30. Lloyd's, the ILU and the London Insurance Market** seminar in New York City, co-sponsored by the Practising Law Institute and Hawkswere Ltd.; \$450; \$45 for coursebook only. Practising Law Institute, Department 8A-105, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700, extension 271.

**OCT. 2-6. Advanced Reinsurance** course in Westchester, N.Y., sponsored by The College of Insurance; \$1,095 for college sponsors; \$1,195 for non-sponsors. The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

**OCT. 3. Insurance Buying-A Strategy for 1989** seminar in London, sponsored by Insurance & Reinsurance Research Group Ltd.; 125 pounds (\$210) plus VAT. Caroline Atkinson, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

**OCT. 3-4 Handling the Hurricane: A Time of Transitions in Health Insurance** seminar in Las Vegas, Nev., sponsored by the Professional Mass-Marketing Assn.; by Sept. 23: \$250 for PIMA members; \$350 for non-members (\$100 applied to PIMA membership dues); after Sept. 23: \$300 for PIMA members; \$400 for non-members (\$100 applied to PIMA membership dues). Professional Insurance Mass-Marketing Assn., 4733 Bethesda Ave., Suite 330, Bethesda, Md. 20814-5228; 301-951-1260.

**OCT. 3-5. Environmental Regulation** course in Washington, D.C., sponsored by Executive Enterprises Inc.; \$995 for first registrant; \$895 for each additional registrant from the same organization. Also Nov. 14-16. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880 within New York.

**OCT. 3-5. 1988 Computerized Plan Administration Institute** in Baltimore, sponsored by the International Foundation of Employee Benefit Plans; \$480 for IFEBP members; \$555 for non-members. International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

**OCT. 3-6. Loss Control Management** course in Atlanta, sponsored by the International Loss Control Institute; \$625.50 for ILCI members; \$695 for non-members. Pat Bennett, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

**OCT. 4. Section 89 Non-discrimination Rules for Welfare Plans** seminar in Baltimore, sponsored by Yaffe & Co.; no charge. Also Oct. 7 in Washington, D.C. Yaffe & Co., 800 N. Charles St., Baltimore, Md. 21201; 301-332-1166, extension 323.

**OCT. 4. 1989 London Insurance Market Non-Marine Prospects** seminar in London, sponsored by Insurance & Reinsurance Research Group Ltd.; 190 pounds (\$319) plus VAT. Caroline Atkinson, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

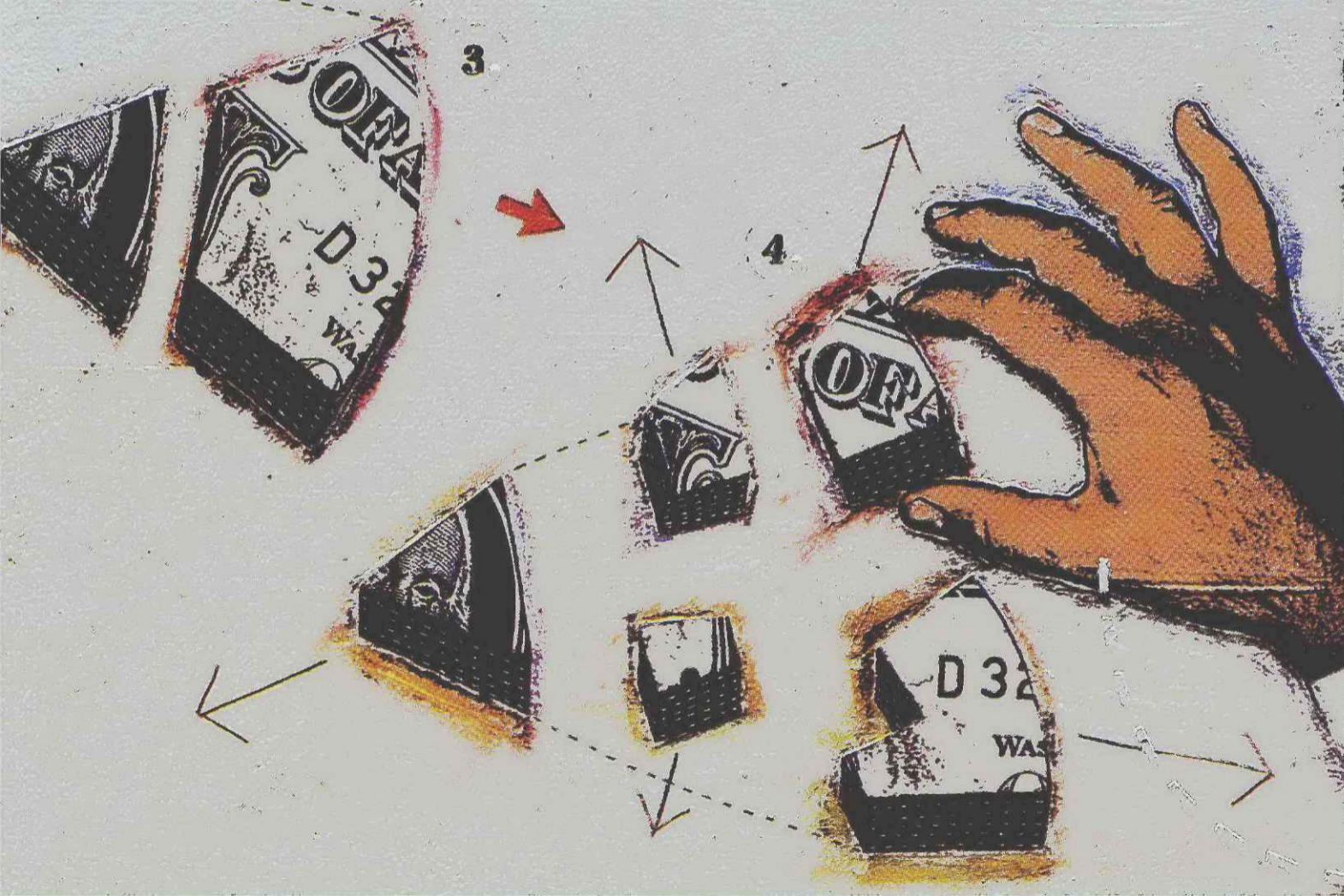
**OCT. 4-6. Contract Works & Contractors Liabilities** seminar in London, sponsored by Insurance & Reinsurance Research Group Ltd.; 460 pounds (\$773) plus VAT. Caroline Atkinson, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

**OCT. 5. Risk Management and Safety Techniques for Public Agency Recreation Programs, School Playgrounds, Parks and Facilities** seminar in Oxnard, Calif., sponsored by Risk Management Seminars; \$150. Also Oct. 11 in Ontario, Calif., Oct. 12 in Irvine, Calif., Oct. 25 in Sacramento, Calif., and Oct. 26 in Pleasanton, Calif. Risk Management Seminars, P.O. Box 1601, Sonoma, Calif. 95476-1601; 415-943-1556.

**OCT. 5. 1989 London Insurance Market Marine and Aviation Prospects** seminar in London, sponsored by Insurance & Reinsurance Research Group Ltd.; 190 pounds (\$319) plus VAT. Caroline Atkinson, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

**OCT. 5-7. Fundamentals of Risk Financing** course in Orlando, Fla., sponsored by the Risk & Insurance Management Society Inc.; \$540 for RIMS members; \$640 for non-members. Risk & Insurance Management Society Inc., 205 E. 42nd

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Continued from previous page

St., Suite 1504, New York, N.Y. 10017; 212-286-9292.

**OCT. 6-7. Reinsurance Disputes and Arbitration** course in Chicago, sponsored by The College of Insurance; \$595 for college sponsors; \$695 for non-sponsors; less \$100 for subsequent registrants from the same organization. **Also Nov. 3-4** in San Francisco. The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

**OCT. 7. 1988 Annual Seminar: Legal Trends Affecting Workers Compensation** in New York City, sponsored by the National Council on Compensation Insurance; \$185 for NCCI members; \$225 for non-members. David Knoblock, National Council on Compensation Insurance, 1 Penn Plaza, New York, N.Y. 10119; 212-560-1846.

**OCT. 9-12. Annual Society of Chartered Property & Casualty Underwriters Meeting: Responding to Need, Helping You Lead in Cincinnati**, \$275 for Society of CPCU members; \$170 for guests. Society of Chartered Property & Casualty Underwriters, Kahler Hall, 720 Providence Road, CB#, Malvern, Pa. 19355-0709; 215-251-2728.

**OCT. 10-12. Managing Program Implementation** course in Atlanta, sponsored by the International Loss Control Institute; \$513 for ILCI members; \$570 for non-members. Pat Bennett, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

**OCT. 10-12. Reinsurance Auditing and Accounting** course in Chicago, sponsored by The College of Insurance; \$795 for college sponsors; \$895 for non-sponsors; less \$100 for subsequent registrants from the same organization. The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

**OCT. 10-14. Modern Safety Management (Spanish)** course in Orlando, Fla., sponsored by the International Loss Control Institute; \$675 for ILCI members; \$750 for non-members. Pat Bennett, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

**OCT. 10-14. Advanced Reinsurance Practice** seminar in London, sponsored by Insurance & Reinsurance Research Group Ltd.; 725 pounds (\$1,218) plus VAT. Caroline Atkinson, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England

EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

**OCT. 11-12. Loss Commutations: Planning, Preparation, Negotiation and Agreement** seminar in New York City, sponsored by Executive Enterprises Inc.; \$895 per person plus \$95 registration fee per organization. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880 within New York.

**OCT. 12. Professional Indemnity** seminar in London, sponsored by Insurance & Reinsurance Research Group Ltd.; 190 pounds (\$319) plus VAT. Caroline Atkinson, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

**OCT. 12-13. Transportation of Hazardous Materials/Waste** course in Los Angeles, sponsored by the University of Southern California, Institute of Safety and Systems Management; \$300. Institute of Safety and Systems Management, Professional Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

**OCT. 12-14. Understanding Property-Casualty Statutory Financial Statements** seminar in Chicago, sponsored by Executive Enterprises Inc.; \$995; \$895 for each additional registrant from the same organization. **Also Nov. 30-Dec. 2** in New York City. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y.

10010-6904; 800-831-8333; 212-645-7880 within New York.

**OCT. 12-14. Fundamentals of Property and Casualty Reinsurance** seminar in New York City, sponsored by Executive Enterprises Inc.; \$990; \$895 for additional registrants from same organization. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880 within New York.

**OCT. 12-14. Reinsurance Claims** course in New York City, sponsored by The College of Insurance; \$595 for college sponsors; \$695 for non-sponsors; less \$100 for subsequent registrants from the same organization. The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

**OCT. 13-14. Financial Analysis For Risk Management** seminar in Chicago, sponsored by The College of Insurance; \$595 for College of Insurance sponsors and Insurance Services Office Inc. members; \$695 for non-sponsors and non-members of ISO. **Also Nov. 3-4** in Atlanta and **Dec. 8-9** in San Francisco. The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111, extension 201.

**OCT. 13-14. Problem Solving Team Leadership** course in Atlanta, sponsored by the International Loss Control Institute; \$342 for ILCI members; \$380 for non-members. Pat Bennett, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

**OCT. 13-14. Insurance Mergers and Acquisitions Update** seminar in New York City, sponsored by Executive Enterprises, Inc.; \$895 per person plus \$95 registration fee per organization. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880 within New York.

**OCT. 13-15. The American Medical Care and Health Care Assn.'s 17th Annual Managed Health Care Conference and Exhibition** in Boston; \$475 for AMCR members; \$575 for non-members; \$125 for spouses/guests; \$125 for students; \$475 for government employees. AMCR Annual Conference, 5410 Grosvenor Lane, Suite 210, Bethesda, Md. 20894; 301-493-9552.

**OCT. 13-15. Pension, Profit-Sharing and Other Deferred Compensation Plans** seminar in Washington, D.C., sponsored by the American Law Institute-American Bar Assn. Committee on Continuing Professional Education; \$500; \$25 for coursebook only. Registrar, ALI-ABA, 4025 Chestnut St., Philadelphia, Pa. 19104; 800-253-6397; 215-243-1661 within Pennsylvania.

**OCT. 13-15. 60th Annual American Society of Chartered Life Underwriters and Chartered Financial Consultants Forum** in Nashville, Tenn., sponsored by the American Society of CLU & ChFC; \$285 for members; \$310 for non-members; \$495 for members attending forum and clinic; \$580 for non-members. Annual Forum Information, American Society of CLU & ChFC, 270 Bryn Mawr Ave., Bryn Mawr, Pa. 19010; 215-526-2500; 800-392-6900.

**OCT. 14. Managing and Controlling Asbestos Contamination/Exposure** course in Los Angeles, sponsored by the University of Southern California, Institute of Safety and Systems Management; \$160. Institute of Safety and Systems Management, Professional Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

**OCT. 17. Health Care Cost Management** seminar in Long Beach, Calif., sponsored by the Government Finance Officers Assn.; \$150 for GFOA members; \$200 for non-members. Rosemary Buckley, Government Finance Officers Assn., 180 N. Michigan Ave., Suite 800, Chicago, Ill. 60601; 312-977-9700.

**OCT. 17. Confronting the Complexities of Section 89 Non-discrimination Rules for Welfare Plans** seminar in New York City, sponsored by the International Foundation of Employee Benefit Plans; \$185 for IFEBP members; \$210 for non-members. **Also Oct. 18** in Chicago and **Oct. 19** in Los Angeles. International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-8700.

**OCT. 17-18. Second Annual National Disability Management Conference: Strategies for Effective Cost Control** in Washington, co-sponsored by the Washington Business Group on Health's Institute for Rehabilitation & Disability Management and Thomas L. Jacobs & Associates; \$300 for WBGH members; \$300 for non-members. Susan Dickinson, Institute for Rehabilitation & Disability Management, 102 Irving St. N.W., Washington, D.C. 20010; 202-877-1196.

**OCT. 17-18. Annual Statistical/Data Quality Conference** in Chicago, sponsored by the Insurance Services Office Inc.; \$390 for ISO members; \$500 for non-members. **Also Oct. 31-Nov. 1** in New York City. Sal Aurora, Manager-Statistical Division, Insurance Services Office Inc., 160 Water St., New York, N.Y. 10038; 212-487-5150.

**OCT. 19. Ocean Marine Insurance** course in New York City, sponsored by The College of Insurance; \$195 for college sponsors; \$245 for non-sponsors. The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

**OCT. 20-21. Advanced Safety Management** seminar in Salt Lake City, sponsored by Organizational Safety Services; \$285; \$260 each for three or more attendees from the same organization. **Also Nov. 21-22** in Herndon, Va. Organizational Safety Service, 11831 Rothbury Drive, Richmond, Va. 23236; 804-794-0691.

**OCT. 20-21. Hospital Law: A Program for Attorneys, Physicians, Insurers and Risk Managers** in Chicago, sponsored by the Defense Research Institute; \$370 for DRI members; \$395 for non-members. Defense Research Institute, Hospital Law Seminar, 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

**OCT. 20-21. Managing Intergovernmental Pools** seminar in San Diego, sponsored by the Public Risk Management Assn.; \$175 for PRIMA members; \$275 for non-members. Public Risk Management Assn., 1120 G St. N.W., Suite 400, Washington, D.C. 20005; 202-626-4650.

**OCT. 23-28. First World Congress on Risk and Insurance Management** in Brisbane, Australia, co-sponsored by the International Federation of Risk & Insurance Management Associations and the Australian Risk & Insurance Management Assn.; \$700 Australian (\$560) for IFRIMA members; \$750 Australian (\$600) for non-members; \$420 Australian (\$336) for spouse/guest. Risk & Insurance Management Congress Secretariat, P.O. Box 731, Toowong QLD 4066 Australia; phone: 07-371-7900; fax: 07-371-4876.

**OCT. 24-25. Annual American Assn. of Insurance Services** conference in St. Louis, \$290 for first registrant; \$175 for each additional registrant from the same organization; \$130 for spouses. American Assn. of Insurance Services, 1035 S. York Road, Bensenville, Ill. 60106; 312-595-3225.

**OCT. 24-26. Industrial Hygiene Sampling**

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Continued on page 40

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## REINSURANCE AND THE LONG VIEW

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- Facultative Reinsurance Written Directly

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## Datebook

Continued from page 38

**OCT. 24-27. Strategies** course in Los Angeles, sponsored by the University of Southern California Institute of Safety and Systems Management; \$460. Institute of Safety and Systems Management, Professional Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-43-6523.

**OCT. 24-27. Loss Control Management** course in Calgary, Alberta, sponsored by the International Loss Control Institute; \$625.50 for ILCI members; \$695 for non-members. Pat Bennett, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 404-466-2238.

**OCT. 24-27. Insurer Solvency Assessment** seminar in London, sponsored by Insurance & Reinsurance Research Group Ltd.; 595 pounds (\$1,000) plus VAT. Caroline Atkinson, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

**OCT. 24-28. Accredited Safety Auditor** course in Atlanta, sponsored by the International Loss Control Institute; \$750 for ILCI members; \$950 for non-members. Pat Bennett, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 404-466-2208.

**OCT. 24-28. Developing and Managing a Basic Safety and Health Program** course in Long Grove, Ill., sponsored by the National Loss Control Service Corp.; \$750. National Loss Control Service Corp., K-3, Long Grove, Ill. 60049-0075.

**OCT. 25. Making Your EAP More Effective** seminar in Richmond, Va., sponsored by Health Management Corp.; \$35. Health Management Corp., P.O. Box 26016, Richmond, Va. 23260; 804-342-4084.

**OCT. 25-26. Quantitative Techniques for Risk Management** seminar in Washington, D.C., sponsored by Tillinghast, a division of Towers, Perrin, Forster & Crosby; \$750. Also **Nov. 16-17** in Marina Del Rey, Calif. Conference Director, Tillinghast/TPF&C, 722 Post Road, Darien, Conn. 06820; 203-655-9791.

**OCT. 25-26. Inside Superfund** conference in Arlington, Va., co-sponsored by Ins.de EPA's Superfund Report and Risk Management Technologies Inc. before Oct. 1: \$595, after Oct. 1: \$650. Inside EPA Weekly Report, P.O. Box 7167, Ben Franklin Station, Washington, D.C. 20044; 703-892-8504; 800-424-9068.

**OCT. 26-27. Accounting for Income Taxes:**

**Insurance Company Implementation** seminar in New York City, sponsored by Executive Enterprises Inc.; \$895 per person plus \$95 registration fee per organization. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880 within New York

**OCT. 27. Around the World of Risk Management in One Day** workshop in Northbrook, Ill., co-sponsored by the Chicago, Northeastern Illinois and Wisconsin chapters of the Risk & Insurance Management Society \$65 for RIMS members and prospective RIMS members. Douglas Nyhus, Navistar International, 401 N. Michigan Ave., Chicago, Ill. 60611; 312-836-2455.

**OCT. 27-28. Developing and Managing a Medical Surveillance Program** course in Los Angeles sponsored by the University of Southern California, Institute of Safety and Systems Management; \$300. Institute of Safety and Systems Management, Professional Programs, 3500 S. Figueroa St., Suite 202, Los Angeles, Calif. 90007; 213-743-6523.

**OCT. 30-Nov. 3. 43rd Annual National Assn. of Independent Insurers Meeting** in Boston; \$250 for NAI members; \$350 for subscribers and guests; \$100 for spouses. National Assn. of Independent Insurers, 333 N. Michigan Ave., Suite 1600 Chicago, Ill. 60611; 312-782-2958.

**OCT. 31. Reinsurance Practice** seminar in London, sponsored by Insurance & Reinsurance

Research Group Ltd.; 725 pounds (\$1,218) plus VAT. Caroline Atkinson, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

**OCT. 31-NOV. 1. Environmental Insurance Litigation Institute** in Chicago, sponsored by Executive Enterprises Inc.; \$895. Also **Dec. 12-13** in New York City. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880 within New York.

**OCT. 31-NOV. 2. Intermediate Employee Benefits Management** course in Brookfield, Wis., sponsored by the International Foundation of Employee Benefit Plans; \$540. Registration Department, International Foundation of Employee Benefit Plans, 18700 W. Bluemound Road, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

**NOV. 2-4. Public Risk Management Assn. Government Risk Management Seminar** in Washington, D.C.; \$350 for PRIMA members; \$295 for additional PRIMA member from same organization; \$400 for non-members; \$345 for additional non-member from same organization. Public Risk Management Assn., 1120 G. St. N.W., Suite 401, Washington, D.C. 20005; 202-626-4350.

**NOV. 3. Designing and Administering Pension Plans to Meet the New Regulatory Requirements** satellite conference nationwide, sponsored by the American Law Institute-

American Bar Assn. Committee on Continuing Professional Education; \$135; \$200 for videotape of conference. For locations and registration information contact: Registrar, ALI-ABA, 4025 Chestnut St., Philadelphia, Pa. 19104; 800-253-6397; 215-243-1661 within Pennsylvania.

**NOV. 4. FOJP Service Corp.'s Sixth Annual Conference on Medical Malpractice Insurance Issues** in New York City; \$215 for non-FOJP members. FOJP Service Corp., 130 E. 59th St., New York, N.Y. 10022; 212-891-0700.

**NOV. 5. How to Handle Workers Compensation Medical Bills and Liens** seminar in Universal City, Calif., sponsored by The Workers Compensation Co.; \$225; 10% discount for two or more persons from the same organization. Workers Compensation Institute, P.O. Box 11448, Glendale, Calif. 91206; 818-247-8224.

**NOV. 8-10. 1988 Casualty Actuarial Society Fall Meeting** in Montreal; \$250 for members of the American Academy of Actuaries; \$300 for non-members of the AAA. Kathy Spicer, Casualty Actuarial Society, 1 Penn Plaza, 250 W. 34th St., New York, N.Y. 10019; 212-560-1901.

**NOV. 9. Electronic Networks in Insurance** seminar in London, sponsored by Insurance & Reinsurance Research Group Ltd.; \$190 pounds (\$319) plus VAT. Caroline Atkinson, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

**NOV. 10. Expert Systems** seminar in London, sponsored by Insurance & Reinsurance Research Group Ltd.; \$190 pounds (\$319) plus VAT. Caroline Atkinson, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

**NOV. 11-12. Non-profit Sector Risk & Insurance Forum** in Chicago, sponsored by the Non-profit Sector Risk & Insurance Task Force; \$70. Mari Crispin, University of Nebraska College of Law, 402-472-1258.

**NOV. 14-17. Eighth Annual Construction Insurance Conference** in Dallas, sponsored by the International Risk Management Institute Inc.; \$630; \$235 for Nov. 14 only; \$498 for Nov. 15-17 only. International Risk Management Institute, 12222 Merit Drive, Suite 1660, Dallas, Texas 75251-2217; 214-960-7693.

**NOV. 15. The Second Annual International Reinsurance Forum: Reinsurance Security, Solvency and Insolvency** in Hamilton, Bermuda, co-sponsored by Hawksmere Ltd. and Coopers & Lybrand; \$600 for Bermuda residents; \$650 for non-Bermuda residents; 360 pounds (\$604) for U.K. residents. Hawksmere Ltd., 12-18 Grosvenor Gardens, London, England SW1W 0DH; 01-824-8257.

**NOV. 21-22. Reinsurance Accounting Workshop** in London, sponsored by Insurance & Reinsurance Research Group Ltd.; \$380 pounds (\$638) plus VAT. Joy Bambrough, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

**NOV. 24. Strategic Planning in the Insurance Industry: Toward 1992** conference in London, sponsored by Insurance & Reinsurance Research Group Ltd.; \$190 pounds (\$319) plus VAT. Caroline Atkinson, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

**DEC. 1. Directors and Officers Liability** seminar in London, sponsored by Insurance & Reinsurance Research Group Ltd.; 190 pounds (\$319) plus VAT. Caroline Atkinson, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

**DEC. 1-3. Fundamentals of Bankruptcy Law** seminar in Scottsdale, Ariz., sponsored by the American Law Institute-American Bar Assn. Committee on Continuing Professional Education; \$400. Registrar, ALI-ABA, 4025 Chestnut St., Philadelphia, Pa. 19104; 800-253-6397; 215-243-1661 within Pennsylvania.

**DEC. 7. Investment Strategy for Lloyd's Syndicates** seminar in London, sponsored by Insurance & Reinsurance Research Group Ltd.; 190 pounds (\$319) plus VAT. Caroline Atkinson, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

**DEC. 7-9. Techniques of Risk Management** course in Atlanta, sponsored by the Risk & Insurance Management Society Inc.; \$540 for RIMS members; \$640 for non-members. Risk & Insurance Management Society, 205 E. 42nd St., Suite 1504, New York, N.Y. 10017; 212-286-9292.

**DEC. 8. Update of Future of Lloyd's Underwriting Agencies** seminar in London, sponsored by Insurance & Reinsurance Research Group Ltd.; 190 pounds (\$319) plus VAT. Caroline Atkinson, Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

The Datebook is compiled from notices sent to Business Insurance. Notices should be sent at least eight weeks in advance to Datebook, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. Please include the price, if any, of the meeting and information on registration for interested readers. Business Insurance reserves the right to select meetings of most interest to its readers and cannot guarantee that notices will be printed.

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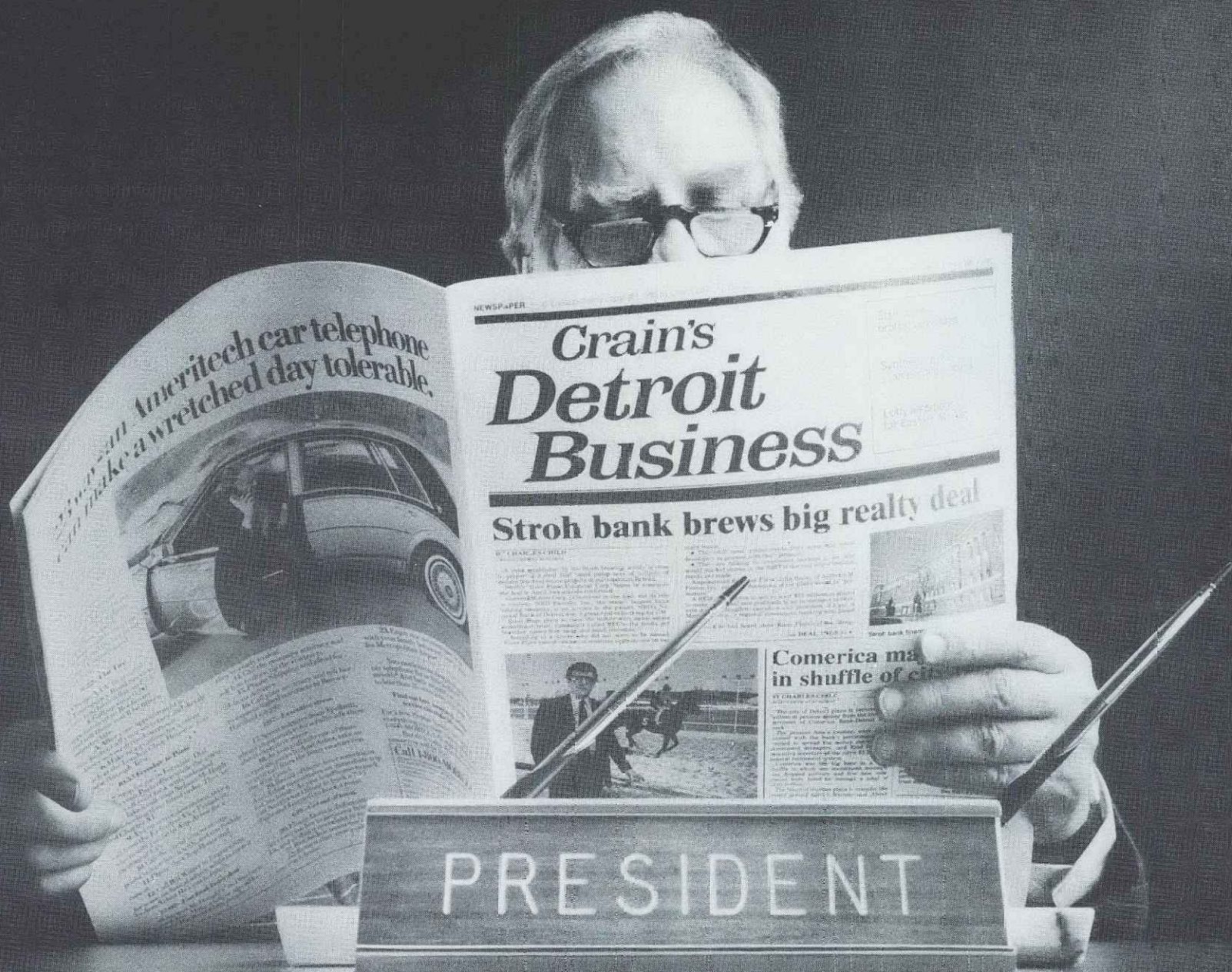


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## Comings & goings: industry

# Reliance Special Risk names Giordano chief

**Joseph A. Giordano** has been named president of Reliance Special Risk Inc. in Philadelphia, a unit of Reliance Insurance Co. that writes coverage for large and non-standard risks.

Mr. Giordano had been vp-reinsurance of Travelers Insurance Co. in Hartford, Conn. He joined Travelers in 1971.



Mr. Brakora

### In other insurer changes:

**James M. Brakora** promoted to vp-workers compensation claims at Amerisure Cos. in Detroit.

**Marlow Kirk** appointed regional vp of The Hartford Steam Boiler Inspection & Insurance Co. of Hartford, Conn.

**James M. Cooper Jr.** named to senior vp-special underwriting operations at Selective Insurance Group Inc. in Branchville, N.J.

**Thomas W. Ungashick** named vp-disability income insurance for Connecticut Mutual Life Insurance Co. in Hartford, Conn.

**Dennis A. Riley** joined DPIC Cos. in Monterey, Calif., as senior vp-underwriting operations. Previously, he was an independent insurance consultant.

**Richard W. Daley** joined the Ohio Hospital Insurance Co. in Columbus as executive vp. Previously, Mr. Daley was chairman and chief executive officer of Frank B. Hall & Co. of Texas.

AMBAC Indemnity Corp. in New York announced the following promotions to first vp: **Elizabeth R. Hill**, **Narayan Nair**, **Gayle F. Robinson** and **Phyllis A. Santry**; and to vp: **Michael A. Braganca**, **Kristina Kiernan**, **Donald H. Paston** and **Judith A. Tirakis**.

**John S. Flemma Jr.** appointed vp-joint ventures and special operations of Providence Washington Insurance Co. in Providence, R.I.

**Thomas B. Wheeler** named chief executive officer of Massachusetts Mutual Life Insurance Co., effective Oct. 1. He will continue as president and a member of the board.

**Larry D. Hollen** named vp of Orion Capital Corp. in New York. Mr. Hollen will continue as president of the Eastern division of EBI Cos., the workers compensation unit of Orion Group.



Mr. Riley

### Agents/brokers

**Pierre C. Ruette** promoted to vp of New York-based Corroon & Black Corp.'s international division.

Also, **Ron O'Nan** promoted to senior vp of Corroon & Black/Research & Development, a division of the brokerage's Advanced Risk Management Services division.

**William J. Baird Jr.** promoted to executive vp at Corroon & Black/Stump Harvey & Cook Inc., the Baltimore subsidiary of Corroon & Black Corp.

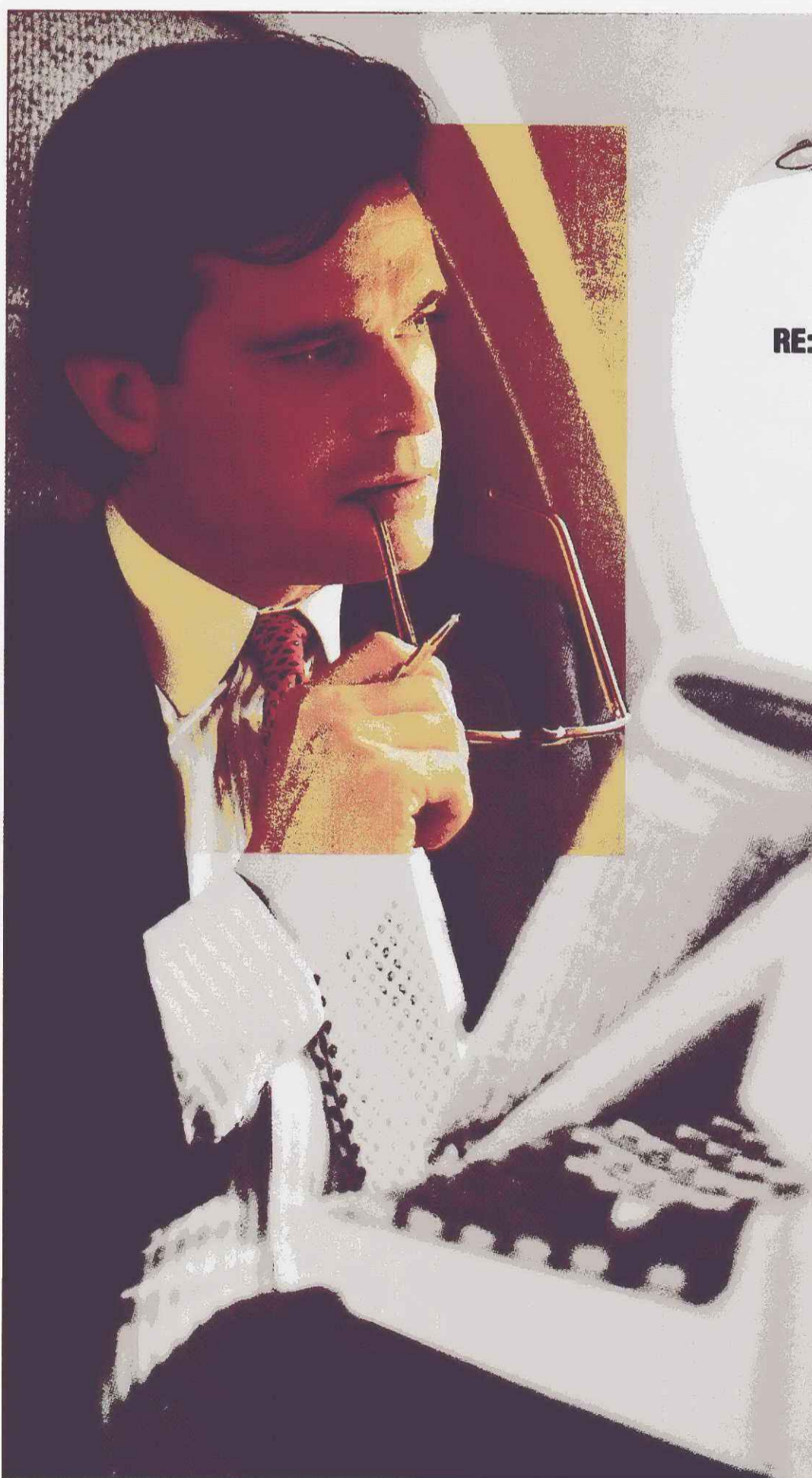
**Patrick C. Luby** named senior vp of Frank B. Hall & Co. of Ohio Inc. in Cleveland, a subsidiary of Frank B. Hall & Co. Inc.

At Frank B. Hall & Co. of Illinois in Chicago, **David F. Romaine** named vp, and **Donald D. Urbanciz** joined as senior vp and **Mary Lou Hayes** joined as vp. Previously, Mr. Urbanciz was corporate senior vp of Rollins Burdick Hunter Co. and Ms. Hayes was vp-special services of Alexander & Alexander Inc.

At Frank B. Hall & Co. Financial Services Inc. in Briarcliff Manor, N.Y., **Joseph E. Morahan III** joined as president and **Michael E. Schwander** joined as vp. Most recently, both men were vps of Alexander & Alexander Services Inc. in Denver.

**Thomas Hutchison** promoted to executive vp-casualty opera-

*Continued on next page*



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Continued from previous page  
tions at Western Network Insurance Services Inc. in San Francisco. Also, **William Cuellar** joined the company as vp-specialty programs. Previously, Mr. Cuellar was with Sam Chapin Insurance Inc.



Mr. Cuellar

**Donald J. Price** named senior vp of Johnson & Higgins of Illinois in Chicago.

**Phillip P. Levine** and **Charles P. Colburn** appointed vps of J&H in New York.



Mr. Hutchison

In Marsh & McLennan Inc.'s Seattle office, **Kenneth D. Houtz** and **Dorothy M. Sullivan** appointed vps.



Mr. Price

**John R. Tomassi** appointed president of Lawrence United Corp. in Schenectady, N.Y., responsible for all of Lawrence Group Inc.'s agencies outside the Albany, N.Y., area and for identifying and acquiring additional agencies.

**Donald E. Sprague** named president of Jardine Emmett & Chandler Portland Inc. Previously, Mr. Sprague was a vp with Fred S. James & Co. of Oregon.

**Ronald L. Spicer** appointed executive vp of Atlanta-based Powell & Co.'s property/casualty insurance operations.

**Arthur Varela** named a principal of Akasaka, Ortiz & Varela Insurance Associates Inc. in Orange, Calif.

neapolis, a provider of mental health/substance abuse delivery systems.

**Gary P. Kuckel** joined Yeager & Co. Inc. in Grand Rapids, Mich., as vp/public-client relations. Previously, Mr. Kuckel was city manager of Coldwater, Mich.

**Thomas J. Krzys** named a partner and board member of Insurance Buyers' Council Inc., an independent risk management and

insurance consulting firm based in Towson, Md.

**William A. Giamarino** appointed executive vp of Insurance Alternatives in Irvine, Calif., a managed health care brokerage/consulting firm.

**James P. McLaughlin** joined Progressive Plan Administrators in New York as senior vp. Previously, Mr. McLaughlin was senior vp-New York benefits at Fred S.

James Co. Inc. of New York.

**Randall K. Hindman** joined Arthur Young's actuarial/risk management services group in Louisville, Ky., as manager and risk management consultant. Previously, he was manager of risk financing for Batus Inc. in Louisville.

**James A. Finkelstein** appointed president and chief executive officer of Coates, Herfurth &

England Inc., a consulting division of Corroon & Black Corp. in San Francisco.

**Richard D. Losson** appointed president-employee benefits division of Powell & Co. in Atlanta.

**Neil A. Burger** joined Coopers & Lybrand in Detroit as a partner and the director of business development for the firm's New York metro region actuarial, benefits and compensation group.



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New York, New York

**Boynton Brothers & Company**  
Perth Amboy, New Jersey

**Brandow Howard Kohler & Rosenbloom, Inc.**  
Bloomington, Minnesota

**Chamberlaine & Flowers, Inc.**  
Clarksburg, West Virginia

**Fred C. Church, Inc.**  
Lowell, Massachusetts

**Clair Insurance Agency, Inc.**  
Plymouth Meeting, Pennsylvania

**Cohen-Seltzer, Inc.**  
Ft. Washington, Pennsylvania

**The Daniel & Henry Company**  
St. Louis, Missouri

**Dean S. Davidson Insurance Agency, Inc.**  
Phoenix, Arizona

**Curtis Day and Co.**  
San Francisco, California

**Day, Webb & Taylor, Inc.**  
Aurora, Colorado

**The Dilks Agency, Inc.**  
Mt. Laurel, New Jersey

**The Dunlap Corporation**  
Auburn, Maine

**James Econ & Company**  
Los Angeles, California

**Energy Insurance International**  
Houston, Texas

**Evans, Conger, Broussard & McCrea**  
Bala Cynwyd, Pennsylvania

**The Feitelberg Company**  
Fall River, Massachusetts

**Foa & Son Corporation**  
Mitchel Field, New York

**Fox and Fox Insurance Agency**  
Indianapolis, Indiana

**Hatch-Leonard/Markin-Shaw, Inc.**  
Rochester, New York

**Henderson & Phillips, Inc.**  
Norfolk, Virginia

**Homestate Insurance Brokers of Alaska, Inc.**  
Anchorage, Alaska

**Insurance Management Associates, Inc.**  
Wichita, Kansas

**Jewett, Barton, Leavy & Kern, Inc.**  
Portland, Oregon

**Sander A. Kessler & Associates**  
Los Angeles, California

**Kinney, Pike, Bell & Conner, Inc.**  
Rutland, Vermont

**H. C. Knight & Company**  
Philadelphia, Pennsylvania

**Lupfer-Frakes, Inc.**  
Kissimmee, Florida

**Maryland Insurance Management Services, Inc.**  
Timonium, Maryland

**The McElroy-Minister Company**  
Columbus, Ohio

**Fred A. Moreton & Company**  
Salt Lake City, Utah

**Morse, Payson & Noyes Insurance**  
Portland, Maine

**Noyes Services**  
Media, Pennsylvania

**O'Rourke, Andrews & Maroney, Inc.**  
Ft. Wayne, Indiana

**Palmer & Cay/Carswell, Inc.**  
Savannah, Georgia

**Poor, Bowen, Bartlett & Kennedy, Inc.**  
Baltimore, Maryland

**Putnam, Knudsen & Wieking, Inc.**  
Oakland, California

**Frederick Rauh & Company**  
Cincinnati, Ohio

**Riedman Corporation**  
Rochester, New York

**Riggs, Counselman, Michaels & Downes, Inc.**  
Baltimore, Maryland

**Sacramento Valley Insurance**  
Sacramento, California

**Serres, Visone & Rice, Inc.**  
New York, New York

**Sobel Affiliates, Inc.**  
Garden City, New York

**Speare & Company**  
Santa Monica, California

**Starkweather & Shepley, Inc.**  
Providence, Rhode Island

**Trinder & Norwood, Inc.**  
White Plains, New York

**The Valley National Company**  
Phoenix, Arizona

**Wharton/Lyon & Lyon**  
Livingston, New Jersey

**Woodruff-Sawyer & Co.**  
San Francisco, California

**The Woodsmall Companies**  
Kansas City, Missouri

### Reinsurance

**James A. Norris** and **Richard A. Ryan** promoted to senior vps, and **Steven L. Cochran** to vp of National Reinsurance Corp. in Stamford, Conn.

### Excess/surplus

**John M. Voelker** joined Geo. F. Brown & Sons Inc. in Chicago as vp and manager of the Atlanta regional office.

**James S. Swearingen** promoted to senior vp of Professional Liability Underwriting Managers in New York, a subsidiary of Corroon & Black Corp.

**Arthur J. Pagnini** joined Francis Special Risk Inc. in Cherry Hill, N.J., as executive vp. Mr. Pagnini previously was a senior vp with Markel Service Corp. in Richmond, Va.

### HMOs/PPOs

**Dr. Conrad S. Fischer** joined HealthChicago in Chicago as vp-medical management. Most recently, Dr. Fischer was medical director of LaGrange Health Services Inc.

### Other suppliers

**Richard T. Klein**, **Stephen J. Perren** and **Ronald R. Williams** named vps-casualty loss control of J&H Loss Control Services, a New York-based unit of Johnson & Higgins in Parsippany, N.J.

**Gregory A. Yates** joined Group Benefit Services Inc. in Baltimore as vp-administration. Most recently, Mr. Yates was director of enrollment and billing at Blue Cross & Blue Shield of Maryland.

**Randy Cox** promoted to vp-operations at MCC Cos. Inc. in Min-

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# CALIFORNIA VOTE

## Insurers must explain auto problems to gain public's trust

By William M. McCormick

CALIFORNIA, HOME of Proposition 13 and other citizen-driven reform, is in the throes of another revolution. The cause this time is auto insurance premiums, which have skyrocketed more than 60% in the last five years, making California's rates the third-highest in the nation.

A two-car policy now costs the average family in Los Angeles more than \$4,000 a year. Many families, already hard-pressed to meet the costs of food and shelter, now find the price of financially responsible driving undermining their standard of living. The hardship has grown so acute that almost any proposal, however flawed, that holds out the promise of lower rates will quickly gain public attention if not approval. This is especially true if it hurts the perceived perpetrators, the insurance companies.

It now appears as if Californians will have quite an array of proposals from which to choose this November. The menu may include everything from a 30%-50% across-the-board rate rollback to the establishment of a universal rate of \$300 a year, with insurance companies to divide up the "profits" at the end of the year. Such proposals are, of course, economically ludicrous. But they have a chance of passing, in part because we in the industry have not communicated well enough with our customers. Simply put, we have not properly explained the problem of controlling costs.

This failure has cost us much in public trust. If we are to regain that trust, we must begin to change the way we look at the problem. We must acknowledge that, first, the financial pressure Californians are feeling is neither imaginary nor transient and, second, that our special knowledge carries with it an implied trust and stewardship and an obligation to help reform the system.

Most of those involved in the current California debate concede that the costs driving up insurance rates are real. California leads the nation in hospital costs; an average stay (excluding physician costs) cost \$5,100 in 1986, 33% above the national average. Total medical costs are as much as 70% higher than in other tort states. And with reported wage loss and related costs also notably higher than in other states, it's no wonder that bodily injury claims costs in California have increased 250% in 10 years to approximately \$9,000 per claim in 1986 from \$3,500 in 1977.

Another portion of the considerable financial burden supported by Californians stems from illegal activity. Auto theft remains a persistent problem, with more than 235,000 vehicles stolen last year alone. Fraud, however, is an even greater problem, particularly in Southern California. The Insurance Crime Prevention Institute estimates that as many as 40% of all auto accident claims in Southern California may involve some element of fraud. And in a recent speech, Los Angeles County District Attorney Ira Reiner noted that of the 9,650 cases handled by the Insurance Department's Fraud Bureau, 8,000 originated in Los Angeles County. The cost to policyholders amounts to an estimated half a billion dollars a year.

The other side of the legal fence is no less discouraging. The number of court filings has grown at an appalling rate in recent years. In 1982, 50,000 cases involving bodily injury were filed in California. By 1986, the number had ballooned to more than 80,000. The size of awards has grown as well. But

### Speaking out

it's not the victims who benefit. California's Dickensian legal system produces much for lawyers but little for litigants. Fifty-two cents of every dollar paid out in contested insurance awards is consumed by legal and administrative costs. Even more disturbing is the recent revelation that most auto bodily injury victims recoup more of their economic losses without a lawyer than with a lawyer.

According to a study by the All-Industry Research Advisory Council, Californians with more than \$200 in economic losses in cases not involving death or permanent disability end up with more money if they are not represented by an attorney.

For example, according to the AIRAC survey, if a Californian suffers an economic loss of from \$1 to \$100, an insurer would pay the claimant \$6.37 per dollar of economic loss if represented by an attorney, and \$6.23 per dollar if not represented by an attorney.

However, if the size of the economic loss exceeds \$200—for example, \$201-\$500—the Californian receives \$2.51 per dollar of loss if represented by an attorney, and \$2.90 per dollar if not represented by an attorney. And, when the size of the economic loss rises to \$10,000 or more, the Californian receives 79 cents per dollar of loss if represented by an attorney, and \$1.42 per dollar of loss if not represented.

The key factor to this disparity is attorney contingency fees, which average 40% in California.

The figures are even more startling when you consider the fact that Californians are 50% more likely to turn to an attorney than residents of other tort states. In contrast to the above data, the percent of auto bodily injury cases where the injured party is represented by a lawyer has risen from 50% to 93% in the past five years. For comparison, legal costs per dollar of paid claims are twice as high in California as the other 49 states.

We in the industry are students of the problem. We know facts behind rate increases. But whether out of a sense of helplessness or complacency (and I suspect it's a little of both), most of us have neglected our responsibility to educate the public.

When challenged, we argue, with some justification, that the complicated nature of our business makes it difficult to explain the ratemaking process. But at a time when high school students are being taught facts about genetic engineering that only a few years ago were beyond the grasp of all but Nobel laureates, the excuse of complexity is unacceptable. It also carries too high a price. A cursory glance at some recent California headlines reveals that our failure to explain ourselves clearly and simply has produced what failure to communicate always produces: mistrust, misunderstanding and ultimately foolish reaction.

Not surprisingly, our policyholders have turned to the Legislature for relief. What they have found instead is a legislative impasse. Between 1985 and 1987, the number of auto insurance reforms bills introduced in the California Assembly quadrupled. What happened to those bills? They died. All of

them. Not one single bill was enacted.

The public's anger and frustration have now found an outlet in the California initiative process, which allows ordinary citizens to bypass the Legislature. The key question now becomes what kind of reform? Will it be one aimed at eliminating the root cause of the insurance crisis? Or will it be a kind of opiate that temporarily masks the pain while permitting the cause to fester and grow worse?

No fault—true no fault that balances the additional costs of guaranteed benefits with savings from fewer lawsuits—is the best solution to the California auto crisis. It is realistic; it attacks rising costs—the root cause of higher rates—and it is, above all, fair.

The proposed California no-fault law would:

- Mandate a two-year, 20% rollback of the statewide average rate for bodily injury automobile liability and uninsured motorist insurance.

- Limit lawyer contingency fees on auto accident cases to 33.3% of the first \$50,000, and 15% on amounts greater than \$100,000.

- Prohibit any insurance company from raising premiums, canceling or non-renewing any auto policy based solely on claims made for no-fault benefits.

- Require drivers to buy coverage of at least \$10,000 for medical expenses and \$15,000 for lost wages.

- Guarantee payments of all valid claims within 30 days of a request. Later payments would include an 18% interest penalty.

- Eliminate unnecessary lawsuits by limiting cause of action to serious permanent injuries or injuries caused by certain classes of drivers (e.g., those convicted of drunk driving).

If adopted, these proposals will do much to alleviate the hardship our jerrybuilt auto insurance system has imposed. But they are only the beginning. The insurance industry must also address a number of other public policy issues that have contributed to the auto insurance crisis. High on the list is the continuing devastation of the cycle, which causes anguish for our customers and anguish for us as industry participants.

We also must confront issues such as geographic cost anomalies that produce the perception of unfairness. For example, rates are a great deal higher in urban areas where average incomes are lower. This can be justified actuarially and mathematically by higher insurance risks endemic to urban areas. But as someone once observed in another context, we are confronted with a condition, not a theory.

The condition constitutes a public policy question with implications beyond the traditional bounds of the insurance industry.

The same is true of the problem of uninsurable classes of motorists. Our industry has a responsibility to help restore reason to the dialogue. What's needed is a thoughtful discussion between

*Continued on next page*

**Even more disturbing is the recent revelation that most auto bodily injury victims recoup more of their economic losses without a lawyer than with a lawyer.**

**No fault—true no fault that balances the additional costs of guaranteed benefits with savings from fewer lawsuits—is the best solution to the California auto crisis.**

William M. McCormick is chairman and chief executive officer of Fireman's Fund Insurance Cos. in Novato, Calif.



# Acquisitions can strain RMIS

**M**ERGERS, acquisitions, divestitures. The acronym these words create—MAD—may describe the mental state of some risk managers when they find out their company is about to participate in one of these activities without his or her knowledge. At the very least, a merger, acquisition or divestiture requires careful planning for the certain shock it will cause to an existing risk management program.

The risk management implications, let alone the overall business ones, are beyond the scope of this article.

However, what are the implications to the risk manager with a risk management information system? Whether that risk manager is part of the acquiring company or divesting a division, or is risk manager of a division being divested, there are major risk management and, thereby, RMIS implications to be considered.

Because merger mania has continued unabated despite last October's stock market crash, the topic is an appropriate one. To properly address the subject, I will discuss mergers, acquisitions and divestitures from the perspective of a risk manager whose firm is:

- Merging with or acquiring another firm.
- Divesting a division or subsidiary.
- Being acquired.
- Being divested.

This month, I will address only the first situation.

First, some definitions and ground rules are necessary. For the most part, a merger and acquisition will be treated as equivalent business transactions although I recognize there are differences and variations with each term.

For example, the merger/acquisition could be horizontal, in which the two operations mesh and there is some uncertainty as to which risk management department is in control. Or, it could be vertical, in which the acquired company would be absorbed. Control in this case is not the question. The merged/acquired company may or may not have autonomy for its risk management operations.

Divestiture is simply defined as the spin-off of a subsidiary or company to an acquiring organization or through a leveraged buyout in which the divested entity becomes totally autonomous.

The major assumption I will make is that the risk manager is not aware of the corporate change and therefore must deal with these problems as they occur.

Imagine yourself as the risk manager of a small retail company who suddenly receives news that the company has acquired a competing retail chain, doubling the number of stores, sales volume and employees in one act. Among the flurry of questions that come to mind, one of them has to be: "Can my RMIS handle this change?"

Some of the problems you are likely to encounter are:

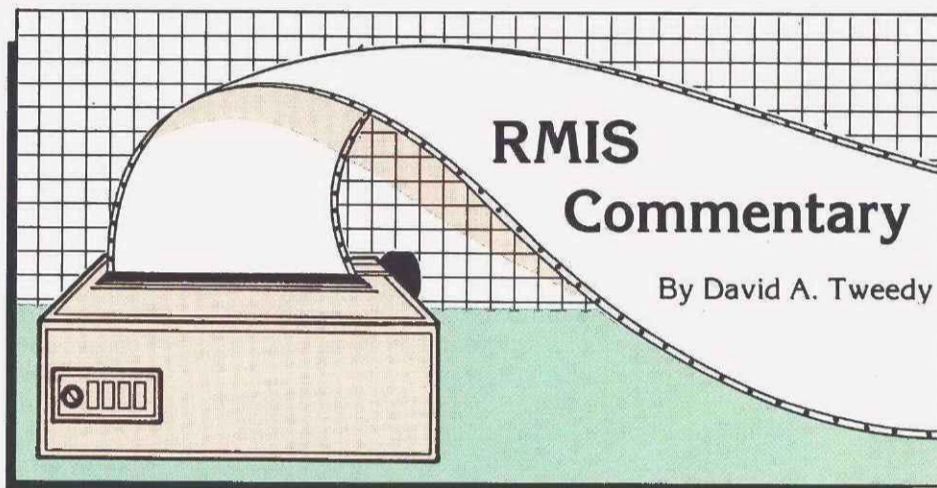
- Data base compatibility and comprehensiveness. Assuming the acquired company has a RMIS—which may be a big assumption—the risk manager must determine how difficult it will be to absorb the new data base. This includes its claims, store locations, sales volume, employee count, vehicle schedule, certificates of insurance schedule and other items of program administration.

If there are two separate systems, can one data base be converted into the existing one? What kind of conversion problems exist? What kind of data integrity exists within this new data base? Are all the exposures identified and contained somewhere within the

acquiring firm's system must either be able to incorporate this function within its system architecture or some quick conversion routines must be created.

- No system. There is the very real possibility that the risk manager may find no RMIS—or any risk management effort at all, in a textbook sense—in the acquired company. In this case, he must pursue the logical progression of risk and exposure identification and quantification, selection of appropriate risk control and risk financing activities and the like. This then must lead to the construction of a data base to incorporate into his own RMIS structure. That, though, is beyond the scope of this article.

- Better system. On the flip side, the



acquired firm's data base? Unknown underground oil tanks or joint ventures with asbestos removal contractors, for example.

- Communication and coordination. One of the chief uses of a risk management information system is for communication, whether reporting on losses, projecting costs of risk, maintaining schedules of certificates of insurance or providing quantitative input on retention levels, claims reserve analysis, etc. The RMIS output is useful to a wide variety of staff and line managers within an organization as well as to brokers, insurers, third-party administrators and the like.

In an acquisition, a risk manager must plan for a wider reporting loop because of the change in the size of the organization. Care must be taken not only to include the data from the newly acquired organization but also to make it available to any new staff or line managers responsible for any new division or subsidiary that is formed as a result of the acquisition. Service providers of the acquired company—if retained—must also be included within the reporting loop.

Another area is the addition of new RMIS functions. Suppose the acquired firm had a self-insured, self-administered workers compensation program that cut its own checks. The

acquiring firm may discover a better system in the acquired company. The risk manager should take advantage of this by evaluating the most cost efficient way of combining both RMIS and merging the data base.

- Risk control challenges. The acquiring firm's risk manager must evaluate the risk control efforts of the acquired firm and incorporate related safety data or exposure data within the data base of the existing RMIS. Necessary data such as store locations, square footage, type of construction, incident frequency, special loss control programs in place and other related data must be evaluated for accuracy and inclusion within the risk manager's own system. If it is not, the acquiring firm's risk manager may be surprised by a sudden spate of workers compensation claims originating from new locations that had little or no safety attention.

Another important area is claims handling philosophy. The acquiring firm may use a third-party administrator that reserves casualty claims for its ultimate probable loss. From these aggregate values an estimated projected loss amount, actuarially reviewed, is provided. The acquired firm, however, uses a "stepladdering" claims management approach—claim reserve changes far more frequently as necessary—and may not budget for

expected losses. These clashing claims philosophies and methods for reserving must be accounted for when combining the claims data bases.

- Risk financing challenges. The final, and one of the most important elements affected by a merger/acquisition is the risk financing philosophy of the acquired firm. Philosophy variations—the acquiring firm may be self-insured or may be totally insured—will require some adjustments.

For example, what impact on your self-insured retention level will a new program generating 3,000 general liability and workers compensation claims have?

Another obvious impact is what does the acquisition do to the acquiring firm's cost of risk? In a merger or acquisition, liabilities are purchased as well as assets, which therefore affects the cost of risk. Is the RMIS able to calculate this change?

For a firm acquiring an unrelated business, these problems can be exacerbated. With one retail operation absorbing another, there is a commonality of risks and the risk manager is more likely to be aware of the kinds of things to look for in the acquired company. But, if a retail company is absorbing a chemical manufacturer, a whole new set of risk evaluation techniques must be used. Also, the calculation of cost-of-risk will be affected, depending on the variables; i.e., cost per store per payroll dollar vs. cost per unit of sales. It is more likely that the risk management information system is not, at least initially, prepared to receive such new exposure basis.

If the acquiring firm does not have a claims intensive program, but the acquired firm does, the risk manager should look to amend his RMIS to not only include claims monitoring but also analytical capabilities. These include loss development and forecasting, reserve analysis and financial modeling analysis, to name a few.

Next month, I will continue my discussion of mergers, acquisitions and divestitures, as well as describe how a risk manager can amend or select a risk management information system to handle these changes.

*David A. Tweedy is a senior consultant for D.A. Betterley Risk Consultants Inc. in Worcester, Mass. He is the editor of Betterley Risk Management Commentary and the author of RMIS Update, a yearly publication analyzing major risk management information systems and vendors. Mr. Tweedy's column on risk management information systems appears the third Monday of the month.*



## California auto insurance

*Continued from previous page*  
insurers and the policyholders, and the government and the courts. At present, we're simply taking potshots at each other.

Insurance is an essential protection that makes a major contribution to our quality of life. It is also a public trust. As stewards of this trust, we in

the industry must contain threats to the public interest.

We in California bear a special responsibility because, in matters of social reform and legislation, California frequently sets the standard and the pace for the rest of the nation. If we move wisely, those states where similar painful problems are appearing

will benefit from our example. But certainly, the time to move is now.

No-fault is the only initiative that truly lowers costs, and is therefore the only proposal that will lead to lower prices and greater availability. It works in New York and Florida; it will work in California.

# Section 404(c) clarifications developing

By DEBORAH SHALOWITZ

## Washington

WASHINGTON—The Labor Department may issue a final regulation by the end of the year to satisfy some employers' concerns about proposed regulations that detail how employers can avoid fiduciary liability for employees' investment decisions in defined contribution plans.

In developing the final regulation, the Labor Department is considering the numerous comments employers and other interested parties have filed on the proposed regulation, according to Seth Tievsky, an attorney in The Wyatt Co.'s Research and Information Center in Washington.

Employers have complained that the proposed regulation—which would shield employers or other plan sponsors from liability for losses from a participant's investment decisions—is too costly and too restrictive (*BI*, Feb. 22).

The voluntary regulation is an attempt to clarify Section 404(c) of the Employee Retirement Income Security Act of 1974, which shields a pension plan sponsor from fiduciary responsibility if participants can exercise sufficient control over their accounts to diversify investments (*BI*, Nov. 9, 1987).

Before the Labor Department issued the proposed regulation, no guidelines outlined what constituted sufficient participant control and how diversified the investment options must be for plan sponsors to be shielded from fiduciary responsibility.

Employer groups have urged the Labor Department to specify that the proposed regulation is intended to clarify only how plan sponsors should structure their participant-directed defined contribution plans to be assured of Section 404(c) protection and does not mandate that all plans be structured in this manner.

Employers also suggested that the regulation allow plan sponsors to purchase guaranteed investment contracts—known as GICs—from insurance companies to satisfy the requirement that plans offer at least one "relatively safe investment" among their investment choices.

It is likely that the final regulation will allow GICs to satisfy this investment requirement, according to Mr. Tievsky.

The Labor Department also probably will heed the suggestion of employers and others to clarify how often plan participants must be allowed to change their investment choices, according to Mr. Tievsky.

He said that plans probably would have to allow transfers at least quarterly for the three or four investment options required by the regulation.

### Safety guidelines

The Occupational Safety and Health Administration is seeking comments on how to design comprehensive safety and health guidelines for employers.

OSHA suggests that those commenting address several questions, including:

- What kinds of and how many risks are employees exposed to that employers have not systematically attempted to identify?
- Is data available to document the costs and benefits of a comprehensive safety and health program?
- What are the most appropriate methods for educating employers about safety and health programs?
- What specific elements should be included in a comprehensive safety and health program?
- Are there incentives that

would encourage employers to establish comprehensive safety and health programs?

Comments should be submitted in quadruplicate by Sept. 28 to the OSHA Docket Officer, Docket No. C-02, 200 Constitution Ave. N.W., Room N2439, Washington, D.C. 20210.

OSHA also will hold a public meeting on the proposal on Oct. 8 at 9 a.m. at OSHA's National Training Institute, 1555 Times Drive, Des Plaines, Ill. 60018; 312-297-4810.

Notices of intention to appear at the meeting should be sent by Sept. 30 to Tom Hall, Occupational Safety and Health Administration,

Division of Consumer Affairs, Room N-3647, 200 Constitution Ave. N.W., Washington, D.C. 20210.

### Cleanup settlement

Time Oil Co. of Tacoma, Wash., will pay three government entities \$8.5 million for cleanup costs stemming from the contamination of the company's property and a well that supplies drinking water to the city of Tacoma.

Under the consent decree filed by the Justice Department last month, which must be approved by the U.S. District Court in Tacoma, the funds will be divided among

plaintiffs in the lawsuit in proportion to the amount each has spent or will spend in performing the cleanup.

The federal government will receive 88%, or \$7.48 million, of the funds; the state of Washington will receive 9%, or \$765,000, of the funds; and Tacoma will receive 3%, or \$255,000, of the funds.

If approved by the court, the consent decree would settle a suit filed in December 1986 by the Justice Department on behalf of the Environmental Protection Agency. A 1985 lawsuit filed by Washington against Time Oil was consolidated with the Justice Department's suit.

The lawsuits allege that contamination of the well's aquifer originated in the Time Oil property.

The company denies the allega-

tion.

### Working mothers

After expanding steadily for many years, the number of mothers of pre-school-age children in the labor force has remained virtually the same for two years, according to the Labor Department's Bureau of Labor Statistics.

Of the 15.8 million mothers with children younger than 6 years old, 56.1% were working or looking for work for the period ending March 1988, compared with 56.7% during the same period the previous year.

However, for the year ended March 1983, 50.5% of mothers with children younger than 6 years old were working or looking for work, compared with 43.7% during the year ended March 1978. ■

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# 'Quiet' year for work comp changes

Workers compensation systems in 44 states and two jurisdictions are operating under a total of 144 new laws, which Legislatures enacted during the last half of 1987 and the first six months of 1988.

"The year (1987-88) was a relatively quiet one from the standpoint of legislative changes in the area of workers compensation," according to a recent report of the International Assn. of Industrial Accident Boards & Commissions' Legislative Committee.

While state-level changes—including those in the District of Columbia and Puerto Rico—were minor, the proposed federal High Risk Occupational Disease Notification and Prevention Act of 1987 could have caused some major workers compensation-related developments.

The bill would have established a new federal bureaucracy—the Risk Assessment Board, part of the National Institute for Occupational Safety and Health—that would have notified workers who are or have been at high risk of contracting an occupational disease because of workplace exposure to certain hazardous materials.

Under the Senate version of the legislation, former employees going back 30 years would have to be notified, while the House bill would have required notification of all former employees exposed to certain substances.

The notified employees also would have been advised to seek medical testing—which would have been financed by the employer—to determine whether their exposure could result in illness.

Most employers and insurers had vehemently opposed the proposal, contending that notifying employees of the mere potential of contracting occupational disease would have dramatically increased workers compensation and tort claims filed by workers and former employees (*BI*, April 4).

Proponents of the bill, S. 79, withdrew the measure in late March following a filibuster, but the bill is expected to be introduced again next year.

Concern about occupational disease also is reflected in the fact that several states—Missouri, Indiana, Minnesota, Nevada and Oregon—adopted laws related to occupational disease claims, according to the committee report that was presented at the IAABC's annual convention, held Aug. 28-31 in Seattle.

In addition, maximum weekly compensation levels for disability and death were increased in 43 states and the District of Columbia, between August 1987 and July 1988. And, burial allowances increased in several states.

Some states—including Maryland, Kansas and Virginia—extended work comp benefits to some volunteer emergency service personnel.

However, other states took steps that may reduce benefits, including the use of offsets or other deductions.

For example, New Mexico reduced the percentage of the state average weekly wage upon which maximum weekly benefits are determined for total disability to 85% from 100%, though it increased the compensable period for some total disability cases to 700 weeks from 600 weeks.

A Colorado law provides for an offset of temporary disability benefits by unemployment compensation insurance.

And, Alaska now reduces benefits if an employee is entitled to receive benefits under a pension or profit sharing plan.

In addition, Kentucky passed a resolution asking the Congress to

prohibit the reduction of private pension benefits covered by the Employee Retirement Income Security Act of 1974 by disability benefits paid under state workers compensation programs.

And, Indiana now permits up to one-half of a workers compensation award to be designated for child support payments.

Self-insuring employers benefited from a few measures.

Alabama and Colorado give self-insuring employers greater opportunities to pool their risks.

And, self-insurers and workers compensation insurers in Missouri are enjoying a decrease in premium tax assessment to 2% from 3%, which they are required to pay in lieu of all other taxes on net deposits, net premiums and net assessments. However, every self-insurer and insured policyholder is liable for an annual surcharge to fund the state's Second Injury Fund.

In addition, Virginia modified the exclusive remedy provision in its workers compensation law. The Legislature passed a bill that gives

an employee who was sexually assaulted by an employer or fellow employee the option of pursuing a tort claim in lieu of pursuing workers compensation benefits.

Following is a summary of legislative changes enacted from Aug. 1, 1987, through June 30, 1988. It was prepared by the U.S. Labor Department's Division of State Workers' Compensation Programs, Office of Liaison and Legislative Analysis, Employment Standards Administration.

The following state legislatures

either did not pass workers compensation-related legislation during this time frame or were not in session: Alabama, Arkansas, Illinois, Iowa, Montana, North Dakota, Ohio, Texas and Wyoming.

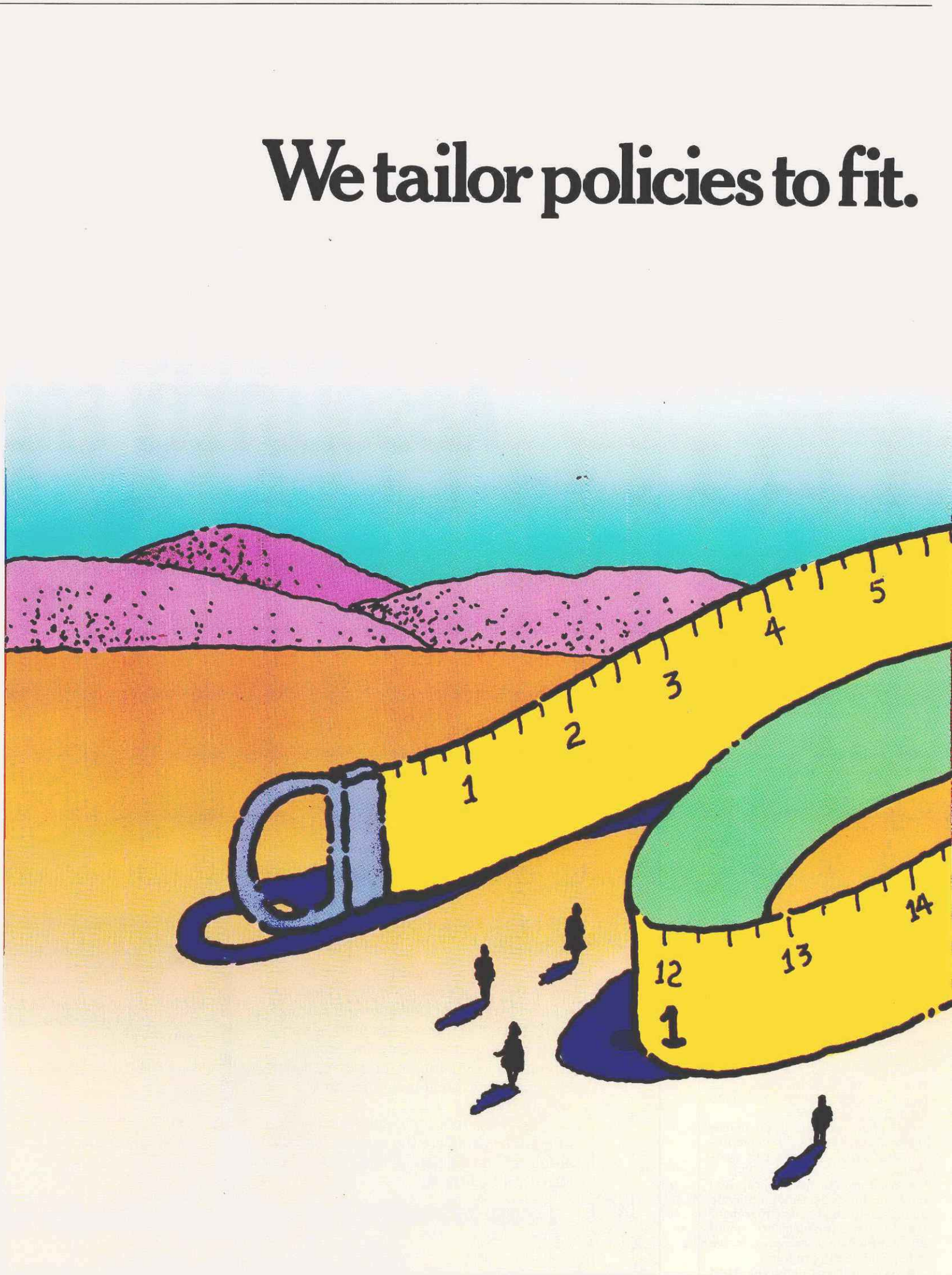
## Alabama

### • H. 143 (1987):

□ Permits two or more self-insured employer groups to pool their liabilities to establish reinsurance coverage.

*Continued on next page*

# We tailor policies to fit.



Continued from previous page

**Alaska**

- **S. 322 (1988):**
  - Broadens coverage to include volunteers while performing civil defense and disaster relief duties.
  - Reduces benefits received under the workers compensation law if an employee is receiving or may be entitled to receive benefits under an employer pension or profit-sharing plan.
  - Amends provisions concerning hearings on workers compensation discrimination in the hiring of a person who has filed a compensation claim in good faith.
  - Redefines "injury" to exclude mental injuries caused by stress

- under certain conditions.
  - Allows insurers to impose a surcharge, up to 25% of the premium for assigned risk pool insurance; however, the surcharge is not applicable to the first \$3,000 premium in any policy year.
  - Authorizes the Workers Compensation Board to employ a re-employment benefits administrator in lieu of a rehabilitation administrator and describes the authority and functions of the new administrator.
  - Provides for the appointment of a medical services review committee to advise and assist the board on matters relative to medical care. Establishes standard requirement for a re-employment

- plan to become effective.
  - Requires workers compensation insurers to establish and maintain a workplace safety rate reduction program.
  - Increases the fine to \$10,000 from \$1,000 that will be assessed against an employer that fails to provide workers compensation coverage.
  - Increases the penalty to 25% from 20% for compensation payments not made within seven days of the due date.
  - Reduces permanent total disability awards by the amount of any permanent partial disability benefits received before an award of permanent total disability has been determined.

- Specifies that no temporary total disability or temporary partial disability benefits may be received after the date of reaching medical stability.
  - Provides that compensation for permanent impairment will now be determined by multiplying the employee's percentage of permanent impairment of the whole person by \$135,000; previously compensation was equal to 80% of the employee's spendable weekly wages, in addition to temporary total or temporary partial disability.
  - States that American Medical Assn. Guides to Evaluation of Permanent Impairment will be applied in determining the existence and

- degree of permanent impairment.
- Arizona**
- **S. 1273 (1988):**
  - Eliminates certain restrictive language regarding corporations or mutual associations doing workers compensation business in the state.
- **H. 2001 (1987):**
  - Limits lump-sum compensation requests made before July 1, 1987, to \$25,000 and requests made from and after June 30, 1987, to \$50,000.
  - Limits the amount of excess wages that may be considered as average monthly wages when compensation for injury or death is determined.
  - Defines "loss of use" of a scheduled permanent partial disability as a "loss of physical function of the affected member, sight or hearing."
  - Requires the Industrial Commission to employ an ombudsman to assist workers compensation recipients with rules governing proceedings and methods used in determining benefits.
  - Requires employers to post workers compensation information in English and Spanish only. Previously, information was posted in languages spoken by all the employer's employees.
  - Gives the Industrial Commission authority to order that additional compensation in the form of a penalty of 25% be added where it finds that unfair or bad faith has occurred in the processing or handling of any workers compensation claim.
  - Adds a formula for determining cost-of-living adjustments in benefits of recipients of total disability and death awards from Dec. 31, 1919, through Jan. 1, 1950. Benefits will be paid from the Industrial Commission's Special Fund.

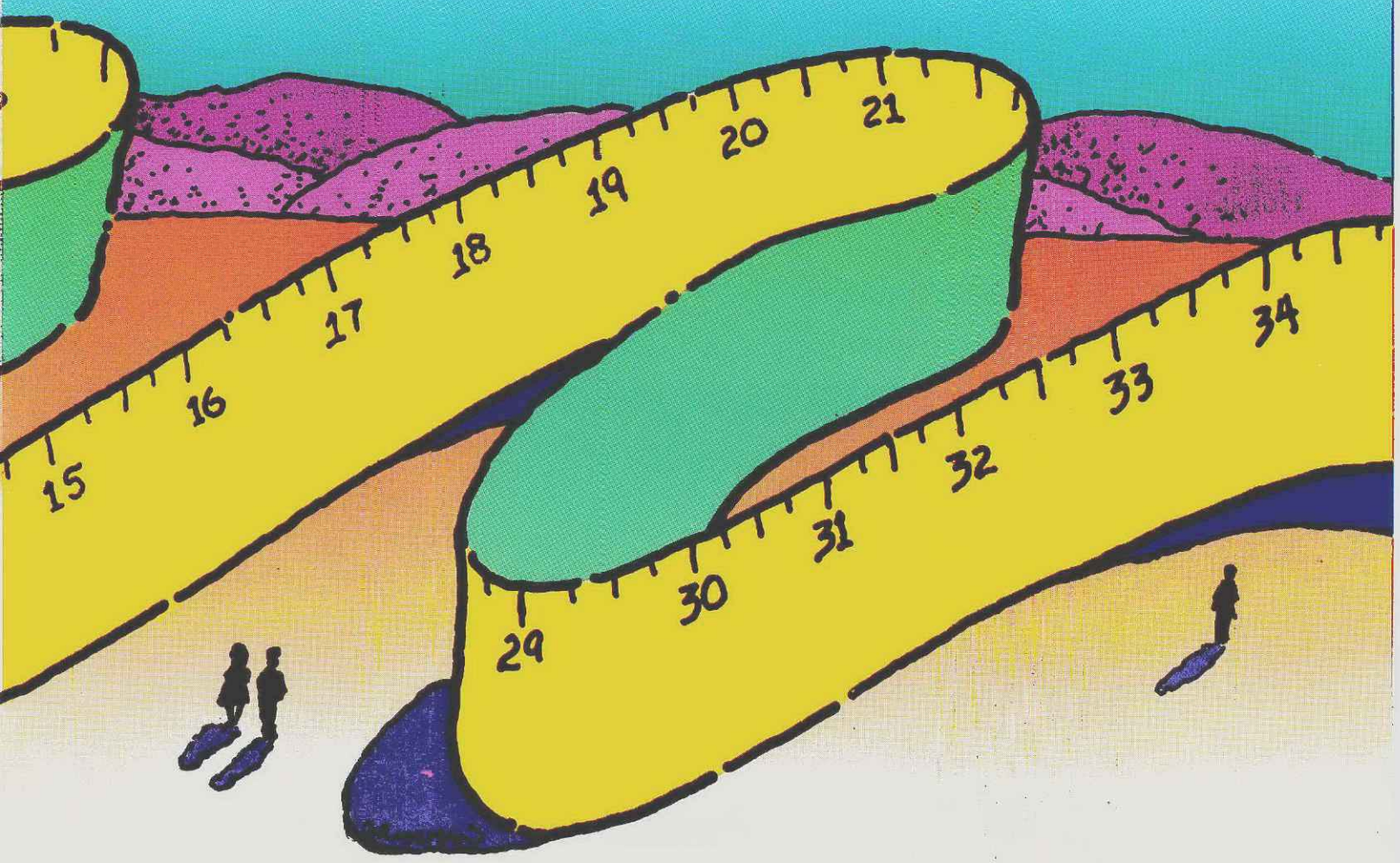
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**California**

- **A. 2532 (1988):**
  - Reduces the time period, to 15 from 20 days, within which an employer must file a written request for a hearing to contest a penalty assessment order.
- **S. 656 (1987):**
  - Changes the time for filing a report of injury, from within five days after injury is reported to the employer, to within five days after the employer obtains knowledge of the injury.
  - Requires the workers compensation administrative director to prescribe notification of employee rights and employer obligations under the workers compensation law and oversee the preparation and publishing of guides containing information on workers compensation for distribution to all labor and employee organizations and any other persons, upon request.
  - Requires all physicians, the same as for employers, to comply with certain reporting and record-keeping requirements pertaining to occupational injuries and illnesses or be subject to civil penalty for a violation.
- **A. 1053 (1987):**
  - Allows the director of industrial relations to resolve any claims by compromise and release or stipulated findings and awards, as long as the Workers Compensation Appeals Board has acquired jurisdiction over the employer and the employer has been given notice to object.
  - Increases the minimum security deposit required of private employers for self-insurance to \$220,000 from \$200,000.

- **A. 1704 (1987):**
  - Permits two persons from the public to serve on the managing or governing committee of the workers compensation insurance rating

*Continued on next page*

## Work comp laws

Continued from previous page organization.

- **A. 2639 (1987):**
  - Allows recovery of expenses paid for medical and legal services from a lien placed against compensation payments due.

### Colorado

- **S. 55 (1988):**
  - Establishes a workers compensation self-insurance program for the Department of Institutions; previously a self-insurance pilot program was established for this agency.
- **S. 84 (1988):**
  - Provides a set tax rate on workers compensation insurance premiums for financing the Major Medical Fund.
- **S. 106 (1988):**
  - Permits an insurer, self-in-

sured employer or claimant to request a review of services rendered by a health care provider. Allows an employee to request utilization review if the employee's request to have his or her own physician or chiropractor provide medical services at his or her expense has been denied.

- Provides that if vocational rehabilitation is offered and accepted, termination may be made by insurer, self-insured employer or claimant upon 14 days of written notification to the workers compensation director and to the other parties involved.

- Adds a penalty to be charged to every employer or insurer of an employer, at a rate of 8% per annum for making untimely compensation payments.

- **S. 141 (1988):**
  - Exempts private homeowners from coverage for work contracted out to be done to or about a private home; includes renovations, addi-

tions, remodeling or repair.

- **S. 200 (1988):**
  - Offsets compensation for temporary disability by the amount of unemployment insurance benefits payable to an employee, unless the unemployment insurance benefit has already been reduced by the temporary disability benefit amount and except that temporary total disability shall not be reduced by unemployment insurance benefits.

- **H. 1186 (1987):**
  - Authorizes employers engaged in the same or a similar field of business to form self-insurance pools for purposes of workers compensation.

- **H. 1215 (1987):**
  - Specifies that any employer, corporate officer or working partner, with or without employees, who does not obtain coverage for himself may not file a claim for

compensation under the law.

### Connecticut

- **S. 79 (1988):**
  - Adds interest on employer assessments to the Second Injury Fund for non-payment until the date payment is made.

- **S. 80 (1988):**
  - Provides that all charges for hospital services resulting from employment-related injuries or diseases are the sole responsibility of the employer or insurer and must not be billed to the injured employee.

- **H. 5038 (1988):**
  - Increases the burial allowance to \$4,000 from \$3,000.

- **H. 5041 (1988):**
  - States that a principal employer who hires a contractor or subcontractor is not immune from civil actions brought by an injured employee of the contractor or sub-

contractor, or the dependents in case of death, for recovery of damages resulting from injury or death.

- **H. 5057 (1988):**
  - Entitles injured employees to compensation from the Second Injury Fund in cases where the employer goes out of business or moves all or most business operations out of the state and fails to continue accident and health insurance coverage payments for employees who are receiving workers compensation benefit payments.

- **H. 5088 (1988):**
  - Extends the terms of workers compensation commissioners expiring on Dec. 31 to continue to serve until the next succeeding March 31.

### Delaware

- **S. 191 (1987):**
  - Authorizes a Realtor to elect coverage for licensed real estate salespeople and brokers who are employed as independent contractors during all or part of their affiliation with the company.

### Florida

- **S. 821 (1987):**
  - Raises to \$5,000 from \$1,000 the maximum compensation payable for death to dependents of non-resident aliens.

- Reduces supplemental compensation for permanent total disability when the employee receives a lump sum settlement.

- Changes the time period during which compensation may be received by the employee in a lump sum from six months to three months after maximum medical improvement.

- Limits the types of catastrophic injuries for which temporary total disability compensation may be received. Provides a uniform method for calculating the discount factor in wage loss cases. Broadens the definition of "wages."

- Amends medical provisions by clarifying that an injured employee is not responsible for his or her own medical treatment or services. Gives authority to the Division of Workers Compensation to contract with a non-profit organization for peer review or utilization review services.

- Extends the statute of limitations, to two years from 60 days, for filing claims against the Special Disability Fund.

- Provides that the Division of Workers Compensation may by rule, establish an alternative electronic reporting system that may be used by an employer or insurer to report required information to the division electronically rather than by filing forms or reports.

### Georgia

- **S. 473 (1988):**
  - Provides coverage for employees of the Department of Corrections who are engaged in farm and live-stock operations.

- **S. 495 (1988):**
  - Penalizes the employer for an amount not exceeding \$20,000, which will be added to the compensation benefits, in cases where injury is caused by an intentional act of the employer and results in the death of the employee.

- **H. 1437 (1988):**
  - Changes references of "Deputy Director" to "Administrative Law Judge."

- Transfers the State Board of Workers Compensation from the State Department of Labor to function as a separate entity under the executive branch of government.

### Hawaii

- **S. 2823 (1988):**
    - Increases the various fines for
- Continued on next page*

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Continued from previous page  
several violations under the law.

**Idaho**

● **H. 609 (1988):**  
□ Establishes criteria for determining whether an employer willfully violated the requirement to secure payment of compensation, and if any penalty should be assessed or collected in such cases.

**Indiana**

● **S. 402 (1988):**  
□ Raises maximum weekly benefits for total disability to \$256 from \$190, effective July 1, 1988; on July 1, 1989, benefits will increase to \$274; and on July 1, 1990, the amount will increase to \$294. Similarly, total maximum compensation for disability, exclusive of medical benefits, will increase to \$128,000 from \$95,000 on July 1, 1988; to \$137,000 on July 1, 1989; and on July 1, 1990, the payment will increase to \$147,000. Although the law does not specifically mention compensation for death, those benefits will likewise be raised.  
□ Escalates maximum weekly benefit payments for permanent partial disability to \$99.60 from \$75, effective July 1, 1988; on July 1, 1989, to \$109.80; and will increase to \$120 on July 1, 1990. Extends the compensable period of temporary total disability benefits to 78 weeks from 52 weeks, in addition to permanent partial disability benefits.  
□ Increases the burial allowance to \$4,000 from \$2,000.  
□ Requires the employer to provide replacements for artificial members when medically prescribed, excluding normal wear and tear.  
□ Provides that compensation is not permitted in cases of occupational disease caused by the inhalation of asbestos dust in which the last date of exposure occurred on or after July 1, 1988, unless disablement occurs within 35 years of the last date of exposure; formerly 20 years.  
□ Permits up to one-half of a compensation award to be withheld for child support income and other remedies available for the enforcement of a child support order.  
□ Newly requires that all records of insurance coverage must now be maintained for 45 years, instead of 30 years.  
□ Provides a method for determining death benefits for the dependents when the worker dies before receiving all benefits from the Residual Asbestos Injury Fund.  
□ Appropriates \$95,000 from the State General Fund to the Workers Compensation Board for administration of the workers compensation law, beginning July 1, 1988, through June 30, 1989.

● **H. 1069 (1988):**  
□ Changes the name of the "Industrial Board of Indiana" to the "Workers' Compensation Board of Indiana."  
□ Extends to 30 days from 10 days the time period prior to a scheduled hearing that an employee or employer must furnish the other a copy of the employee's medical examination report, where a physician representing the other party was not present. A medical report not furnished on time may not be submitted as evidence and the physician may not testify concerning the examination at the hearing.

**Kansas**

● **H. 2700 (1988):**  
□ Broadens coverage to include volunteers of the newly formed Kansas Department of Civil Air Patrol.  
● **H. 2832 (1988):**  
□ Increases the number of administrative law judges to 10 from seven that may be appointed by the Director of the Division of Work-

ers Compensation to serve in the division.

● **H. 2998 (1988):**  
□ Changes interest assessed against employers or insurers for failure to pay compensation prior to an award from 8% to an amount equal to four percentage points above the change on loans to depository institutions with the New York Federal Reserve Bank as of July 1, preceding the date a judgment is rendered.  
□ Replaces "workmen's" with "workers" compensation.

● **H. 3061 (1988):**  
□ Permits the workers compensation fund subrogation rights or credits against future compensation payments authorized for the employer.

**Kentucky**

● **H.C.R. 92 (1988):**  
□ Petitions the U.S. Congress to  
*Continued on next page*

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## Work comp laws

*Continued from previous page*

prohibit the reduction of private pension benefits covered by the Employee Retirement Income Security Act of 1974 by disability benefits under state workers compensation programs.

### Louisiana

- **S. 486** (1987):
  - Limits costs for non-emergency medical care to \$1,000, without mutual consent of the employee, employer or insurer; however, prior consent from any party is not mandatory for emergency treatment to be rendered.

### Maine

- **S. 238** (1988):
  - Exempts design professionals from civil liability for injuries on construction projects.
- **S. 953** (1988):
  - Extends coverage to prisoners in a county jail serving under a final sentence of 72 hours or less and who are assigned to work outside of the county jail; to prisoners employed by a private employer; and to those participating in a work release program; or to certain prisoners who are sentenced to imprisonment under intensive supervision.
- **H. 1915** (1988):
  - Clarifies that rehabilitation is for the purpose of restoration of the injured employee to suitable employment, in lieu of return to gainful employment to the maximum extent practicable. Authorizes the administrator of the Office of Employment Rehabilitation to collect data on re-employment trends for injured workers. Requires employers that provide rehabilitation ser-

vices to injured workers to report to the Workers Compensation Commission on their rehabilitation efforts. Places retraining as a priority under rehabilitation.

- Gives authority to the legislative council to establish a seven-member subcommittee on rehabilitation to study vocational rehabilitation and retraining under workers compensation.

- **H. 1962** (1988):
  - Amends the law to provide that no claim for compensation may be assignable or subject to attachment in any way for debts, except for the enforcement of a current support obligation or support in arrears.
  - Eliminates the provision on sheltered workshops stating that the \$25 weekly minimum compensation for death does not apply to a handicapped individual who is employed by a sheltered workshop and who claims compensation benefits.

- **S. 690-X** (1987):
  - Enacts a resolution urging Gov. John R. McKernan Jr. to take certain action to prevent the loss of workers compensation coverage in Maine.

### Maryland

- **S. 454** (1988):
  - Allows elective coverage for members of volunteer fire departments and rescue squads in Charles, St. Mary's, and Worcester counties at the discretion of the respective county commissioners or county council.
- **S. 787** (1988):
  - Provides that both auxiliary police officers and members of volunteer fire companies in Baltimore County are covered for workers compensation while actually on duty.

- **H. 766** (1988):
  - Increases the fine assessed upon an insurer to \$300 from \$150 for failure to meet insurance certification requirements. Proceeds from such fines are for financing the Uninsured Employers Fund.

- **H. 888** (1988):
  - Modifies and clarifies procedures relating to vocational rehabilitation. Extends to 15 days from 10 days from the day of notification by the commission of the contents of the vocational rehabilitation plan, that any party in interest may request a hearing to controvert the plan.

### Massachusetts

- **H. 5263** (1988):
  - Changes the waiting period to five or more calendar days from five or more days.
  - Penalizes an employer for non-compliance with insurance or self-insurance requirements by serving a stop work order on the employer to cease all business operations at the place of employment or job site.
  - Extends to 20 days the 60-day time period during which benefit payments may be made without prejudice after agreement of all parties. Increases the membership of the Industrial Accident Board to 21 from 16 persons.

### Michigan

- **H.C.R. 569** (1988):
  - Provides that members of the Michigan Legislature approve the certification of the "Report on the State of Competition in the Workers Compensation Insurance Market," issued by the Michigan commissioner of insurance.

### Minnesota

- **S. 994** (1988):
  - Establishes a rebuttable presumption that

when certain individuals, while providing emergency medical care, contract any infectious or communicable disease to which they were exposed in the course of their employment outside of a hospital, the disease is an occupational disease and is presumed to have been due to the nature of the employment.

- **S. 1710** (1988):
  - Empowers State Fund Mutual Insurance Co., formerly named the "State Compensation Insurance Fund," to pledge or mortgage property in its own name, issue guaranty fund certificates, notes or debentures payable out of surplus, borrow money, and agree to pay any note of return.

- **S. 2452** (1988):
  - Covers for workers compensation purposes bomb disposal workers serving as state employees when disposing of bombs outside of the jurisdiction of their municipal employer but within the state.
  - Establishes a presumption that a firefighter unable to perform duties with an organized fire department because of disabling cancer caused by certain types of exposure in the employment has an occupational disease. Provides that in a specified situation, the presumption would not apply.

- **S. 2473** (1988):
  - Creates a Self-Insurer Guaranty Fund and provides for regulation of self-insurance.

### Mississippi

- **S. 2401** (1988):
  - Changes maximum weekly compensation for disability and death to 66% of the state average weekly wage (presently, \$198) from a statutory amount of \$140; and total

*Continued on next page*

# Protection . . .

Continued from previous page  
maximum compensation to 450 weeks times 66 2/3% of the state average weekly wage (\$89,100) from \$63,000.

- **S. 2477** (1988):
  - Newly permits the state to elect to self-insure, after notification has been given to the Workers Compensation Commission. Provides that two or more political subdivisions are permitted to group self-insure for workers compensation purposes.

- Repeals language that excludes coverage for handicapped employees in sheltered workshops. Provides that employers that are exempt from coverage may now assume liability for coverage of employees with the State Fund.

- **H. 467** (1988):
  - Creates the Mississippi Workers' Compensation Self-Insurer Guaranty Assn. to provide for payment of workers compensation claims without excessive delays, avoid financial losses to claimants resulting from insolvency of a self-insurer, and assist in the detection and prevention of self-insurer insolvency. Requires all self-insurers to become members of the association as a condition of their self-insurer status.

- **H. 983** (1988):
  - Allows two or more employers engaged in a common type of business to pool their liabilities to qualify for group self-insurance.

#### Missouri

- **H. 1244** (1988):
  - Decreases to 2% from 3% the premium tax assessment insurers and self-insurers are required to pay in lieu of all other taxes on net deposits, net premiums and net assessments. Provides that every self-insurer and

insured policyholder is liable for an annual surcharge to provide revenue for the Second Injury Fund.

- **H. 564** (1987):
  - Specifies that direct compensation payments will be used in compensating claimants for temporary total disability.
  - Establishes criteria for occupational disease compensation from exposure and for the contracting of a contagious or communicable disease arising out of and in the course of employment.

#### Nebraska

- **L. 868** (1988):
  - Increases to seven from six the number of judges serving on the Nebraska Workers Compensation Court.

- **L. 1034** (1988):
  - Gives the presiding judge of the Workers Compensation Court the responsibility to conserve the assets of the Second Injury Fund and Vocational Rehabilitation Fund.

- **L. 1146** (1988):
  - Authorizes a self-insurer to obtain a trust as proof of financial ability to provide for workers compensation benefits.

#### Nevada

- **H. 117** (1987):
  - Requires that American Medical Assn. guides used in determining percentage of disability be in the form most recently published and supplemented before Jan. 1, 1985, in lieu of guides in existence on the date most recently specified by regulations of the Department of Industrial Relations.

- **A. 253** (1987):
  - Allows a self-insured employer elective coverage for his or her employees who are

normally not protected for compensation when an occupational disease occurs.

#### New Hampshire

- **H. 12** (1988):
  - Recodifies the workers compensation law.

- **H. 789** (1988):
  - Authorizes the labor commissioner to assess civil penalties upon employers that fail to secure payment of compensation without sufficient cause.

#### New Jersey

- **A. 1784** (1988):
  - Makes numerous changes involving administration and payment of compensation awards against defaulting employers under the Uninsured Employer's Fund.

- **A. 2210** (1988):
  - Eliminates the annual assessment on insurers and self-insurers for financing the Second Injury Fund. Sets up an annual surcharge to be levied upon certain policyholders and self-insured employers. Makes other revisions concerning the fund.

- **A. 3374** (1988):
  - Enacts a rebuttable presumption that any cardiovascular or cerebral vascular injury or death occurring to certain volunteer and professional public safety and law enforcement personnel is compensable if the injury or death occurs while responding to an emergency.

- **S. 508** (1987):
  - Broadens coverage to include individuals working as public employees under the general supervision of the Palisades Interstate Park Commission and who work in that part of the Palisades Interstate Park

that is located in New Jersey.

#### New Mexico

- **S. 146** (1988):
  - Modifies procedures and regulations regarding payments and claims against the Subsequent Injury Fund.

- **H. 157** (1988):
  - Creates a Joint Interim Legislative Committee on workers compensation. The committee is reviewing the feasibility of a state-administered insurance fund and its impact on public self-insured programs, ways to control health care and legal costs, the insurance rate filing system and reserve requirements and costs to insurers and availability of data on those costs.

- **H. 210** (1988):
  - Changes the date of the annual assessment for funding of the administration of the workers compensation laws to June 30 from July 1.

- **H. 347 and 715** (1987):
  - Reduces the percentage of the state average weekly wage upon which maximum weekly benefits are determined for total disability to 85% from 100% of the state average weekly wage. Increases the compensable period for total disability from 600 weeks to 700 weeks, excluding specified cases of primary and secondary mental impairment.

- Provides that the maximum period for payment of unscheduled permanent partial disability is reduced to 500 weeks from 600 weeks, except for cases resulting from certain forms of primary and secondary mental impairment. Increases the compensation period for scheduled permanent partial disability, plus temporary total disability, to 700 weeks from 600 weeks. Authorizes a

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## Work comp laws

*Continued from previous page*  
hearing officer to order additional compensation payments for amputation of an arm or leg in some instances.

□ Eliminates the requirement that American Medical Assn. Guides to the Evaluation of Permanent Impairment be used in determining partial loss of use of a body member or physical function.

□ Raises the allowance for funeral expenses to \$3,000 from \$1,500.

□ Requires the employer to furnish psychiatric and psychological services to an injured employee.

□ Specifically limits the liability of an employer who has made provisions for medical treatment of the employee, based on the malpractice of the medical providers.

□ Provides for new and more detailed procedures regarding vocational rehabilitation services. Restricts payment by an employer for

vocational evaluation and counseling services to a maximum of \$2,500.

□ Removes the \$3,000 ceiling on expenses for board, lodging, tuition, travel and other expenses during vocational rehabilitation training; however, training must begin within two years.

□ Enacts new procedures regarding attorneys' fees with special reference to the new workers compensation administration. Establishes a \$12,500 maximum on attorneys' fees, which may be exceeded only if the employer has acted in bad faith.

□ Establishes an offset of unemployment compensation benefits against total disability benefits.

□ Adds physical therapy and dental optometry services among others that an employer is required to furnish the employee under the occupational disease law.

### New York

● S. 7620-A (1988):

□ Raises the allowance for funeral expenses to \$3,000 from \$1,500.

● S. 7623 (1988):

□ Amends the law to provide that physicians, podiatrists or chiropractors who practice as partners in groups or as a professional corporation are permitted to pool fees and moneys received, either by the partnership, professional corporation or group by the individual members, for any professional services furnished.

● S. 7625 (1988):

□ Provides that compensation for permanent partial loss or loss of use of an eye is awarded based on uncorrected loss of vision or corrected loss of vision resulting from injury, whichever is greater. Previously, corrected loss of vision was not mentioned.

● S. 7641 (1988):

□ Extends coverage to executive

officers of a corporation who at all times during the period involved between them own all of the issued and outstanding stock of the corporation and hold all of the offices.

● A. 8515-B (1988):

□ Broadens coverage to include volunteer ambulance workers, paid ambulance district employees and ambulance district officers.

● S. 541 (1987):

□ Authorizes reimbursement for employers or insurers from the Special Disability Fund for benefit payments made, in second injury cases regardless of the employer's knowledge of a pre-existing permanent physical impairment.

### North Carolina

● S. 172 (1987):

□ Amends coverage to require a private employer of three, formerly four or more, employees to be covered under workers compensation.

□ Authorizes compensation for hernia injuries that are the direct result of a specific traumatic incident in the workplace.

□ Reduces the period of disability that must pass before retroactive benefits may be received to 21 days from 28 days from the date of disability.

□ Increases to \$20,000 from \$10,000 the maximum compensation payable for serious facial or head disfigurement.

□ Raises the burial allowance to \$2,000 from \$1,000.

□ Newly provides that in evaluating occupational hearing loss, the frequency of 3,000 cycles per second, among others, may now be considered.

□ Extends the statute of limitations in certain cases of occupational disease to two years from one year.

□ Authorizes various fines against an employer that refuses or neglects to secure payment of compensation.

### Oklahoma

● H. 1655 (1988):

□ Expands the definition of "employee" to include a participant in a sheltered workshop program certified by the U.S. Department of Labor.

● H. 1457 (1987):

□ Requires a physician to use only the latest Guides to Evaluation of Permanent Impairment, adopted and published by the American Medical Assn., in evaluating deafness or hearing impairment.

### Oregon

● H. 2199 (1987):

□ Directs the Workers Compensation Department to refer claims against non-complying employers to the State Accident Insurance Fund within 60 days.

● H. 2271 (1987):

□ Places the burden of proof on the employee for obtaining compensation for an injury or occupational disease and for proving the nature and extent of disability under the workers compensation law. Modifies the definition of occupational disease.

□ Narrows coverage by removing injuries resulting from recreation or social activities in which the employee engaged solely for his or her personal pleasure.

□ Changes the statute of limitations for filing claims for occupational disease to one year under certain conditions; previously, the time limit was five years after last exposure and within 180 days after claimant became disabled or was informed of the occupational disease by a physician. Previously, silicosis, asbestosis, asbestos-related diseases and radiation injury were treated separately.

● H. 2816 (1987):

□ Authorizes certain districts, political subdivisions and school districts to form group self-insurance pools. Deletes the requirement that amateur sports officials carry health insurance. Exempts from coverage persons 19 years of age or older who deliver newspapers.

● H. 2824 (1987):

□ Requires an employer to continue the payment of a group health insurance policy for a permanent worker who incurs injury or illness for which a claim is filed until certain requirements are met.

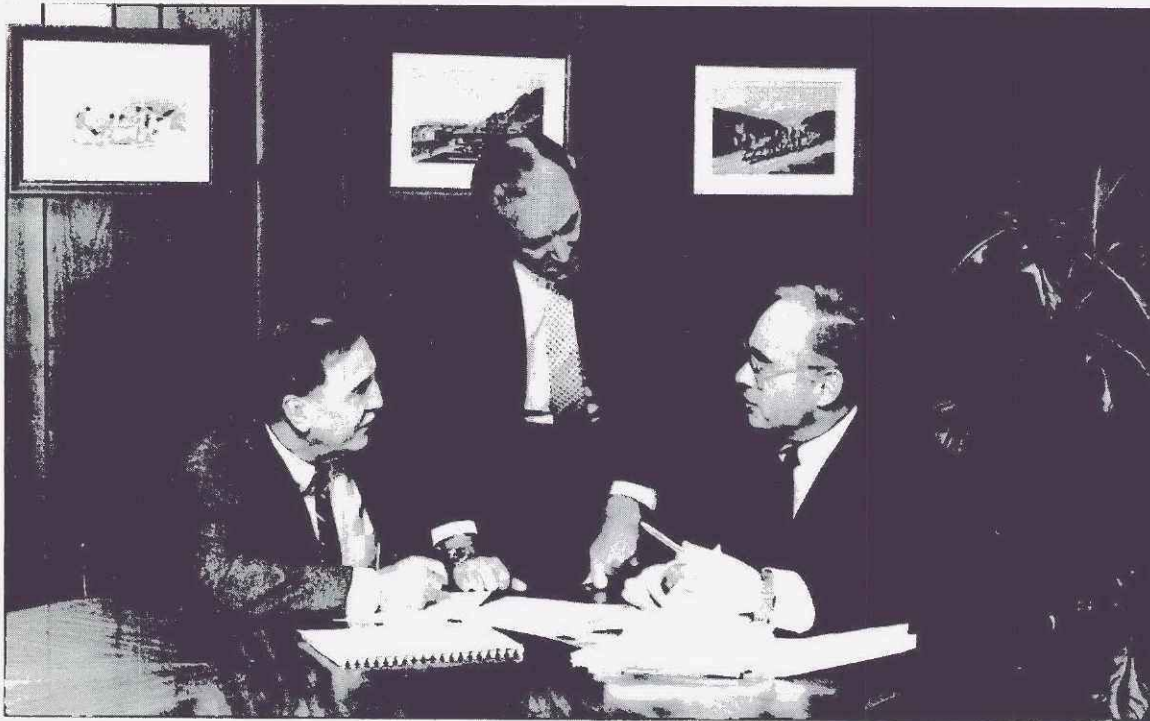
□ Requires insurers and self-insured employers to audit bills for all medical and hospital services. Insurers also are required to maintain a premium audit program to aid in achieving equitable premium charges to employers and for the collection of creditable statewide data for ratemaking.

□ Clarifies criteria for determining

*Continued on next page*

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Continued from previous page  
ing an employee's eligibility for vocational rehabilitation.

States that a worker actively engaged in rehabilitation training is entitled to receive temporary disability benefits for a maximum of 15 months; however, benefits may be extended by the director of the workers compensation department when good cause is shown.

□ Establishes a medical panel to handle issues dealing with medical treatment, including claims for excessive care, inappropriate or ineffective treatment or treatment in violation of rules.

□ Adds new penalties relating to medical reporting requirements, failure to comply with rules governing medical services, revocation or suspension of health care licenses, malpractice and for failure to continue the medical education program. The bill imposes penalties on an insurer or self-insured employer for initiating a hearing for the purpose of delay or vexation or without reasonable grounds. Makes numerous other changes.

□ Revises the procedure and allotment for payment of attorneys' fees.

### Pennsylvania

● **S. 1143** (1988):

□ Makes provisions regarding the insolvency of an insurer applicable to certain insurers under the Longshore and Harbor Workers Compensation Act. Specifies that payment of compensation pursuant to the Longshore Act will be made by the workers compensation security fund at the federal benefit level or at the state's maximum weekly benefit level, whichever is lower.

### Rhode Island

● **S. 3244** (1988):

□ Raises the annual allotment for data collection relative to the Second Injury Fund.

● **S. 8194** (1988):

□ Extends the term of the Special Legislative Commission studying appellate procedures to June 1, 1989,

from June 1, 1988.

● **H. 8464 and H. 8468** (1988):

□ Extends to Feb. 10, 1989, the existence of the Special Legislative Commission that was originally established to identify occupational diseases that pose a major health threat to workers in the state of Rhode Island.

● **H. 9081** (1988):

□ Amends the law by adding an additional frequency level of 3,000 cycles per second for use in determining workers compensation benefits for occupational hearing loss; formerly, only levels of 500, 1,000 and 2,000 cycles per second were considered.

● **H. 9560** (1988):

□ Requires employers to file a memorandum of agreement with the workers compensation department within 10 days of the initial payment for all injuries on or before Feb. 28, 1986. Requires the employer to comply with the early pay system for injuries occurring on or after March 1, 1986, as the filing time for the memorandum of agreement. Adds a new provision regarding procedures that must be followed when filing a suspension agreement.

● **H. 9566** (1988):

□ Increases from to \$450,000 from \$300,000 the amount which the workers compensation director is authorized to use for data collecting regarding second injuries.

● **H. 9569** (1988):

□ Authorizes a fine of \$100, formerly \$50, per offense against any employer for referring or neglecting to report every personal injury sustained by the employer's employees. Fines will also be charged to any insurance carrier or self-insurer that refuses or neglects to give notice of issuance, cancellation or failure to renew policies. Provides that all fines collected for any violation will be paid into the Second Injury Indemnity Fund.

Continued on next page

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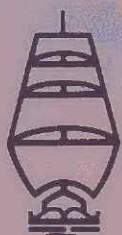
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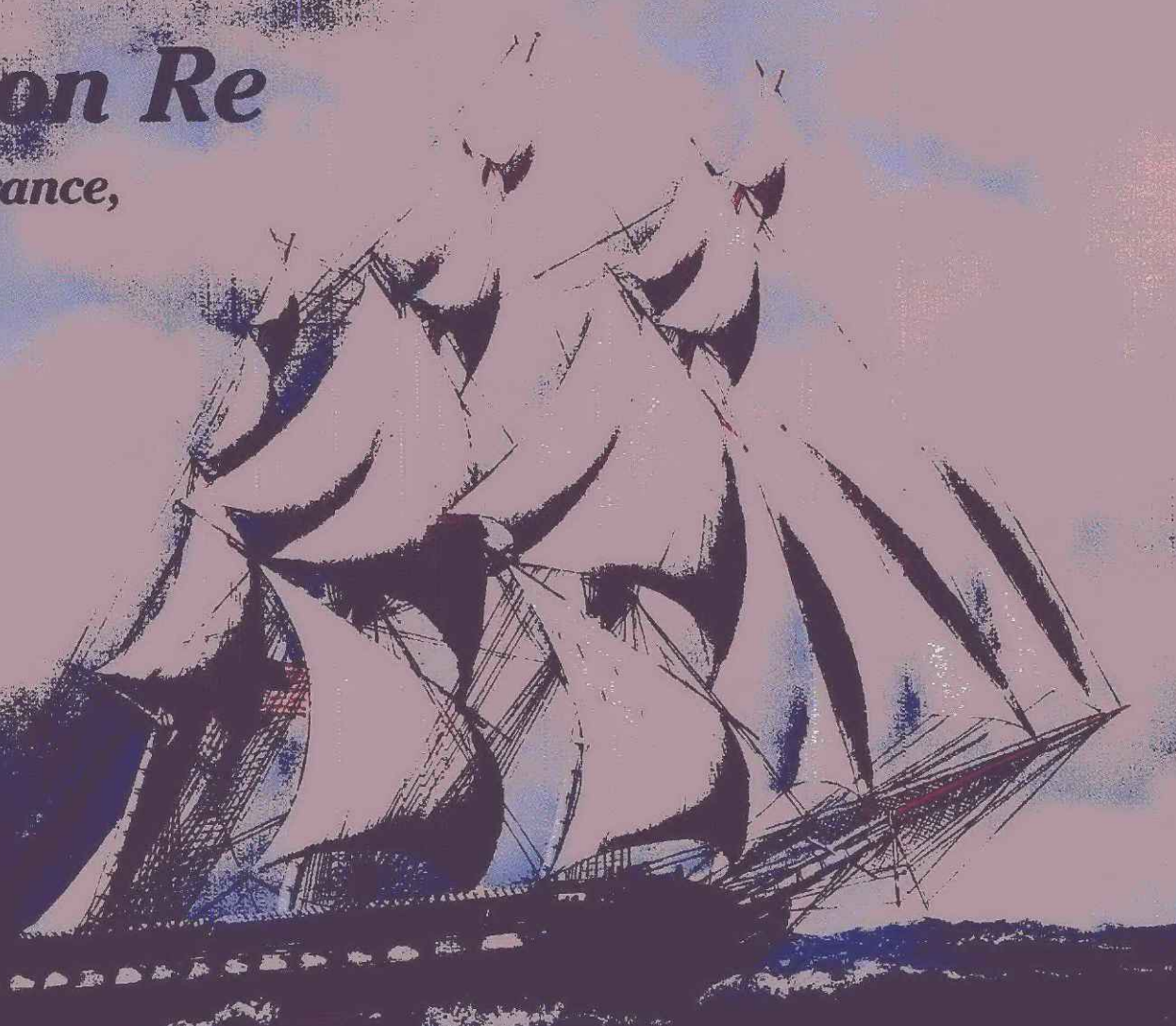


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## Work comp laws

Continued from previous page

### South Carolina

- **S. 421** (1988):
  - Permits an employer who elects to be covered to withdraw from coverage by notifying the Industrial Commission or the insurer in writing of an intention to withdraw. Penalizes the insurer \$1,000 if notification is not given to the commission.
- **S. 747** (1988):
  - Provides that the 25% penalty imposed on an employer or insurer for improperly terminating or suspending benefits to an employee must be paid to the employee based on the amount of the benefits withheld, in addition to those benefits withheld.
- **S. 922** (1988):
  - Increases the period of disability for the loss of an eye to 140 weeks from 110 weeks.
- **S. 972** (1988):
  - Raises the burial allowance to \$2,500 from \$400. Provides that compensation for the surviving spouse only in death cases where there are two or more dependent children is now based on 50%, formerly 66⅔%, of the deceased employee's average weekly wage.
- **S. 321** (1987):
  - Changes references of "Industrial Commission" to "South Carolina Workers Compensation Commission."

### South Dakota

- **H. 1163** (1988):
  - Provides for annual cost-of-living increases for individuals receiving permanent total disability benefits for specific bodily injuries.

### Tennessee

- **S. 1836** (1988):
  - Newly provides that fees charged to a claimant by a physician or specialist for giving testimony by oral deposition concerning a claim are considered part of the case and charged against the employer when the employee is the prevailing party.
- **H. 1438** (1988):
  - Makes employers liable for additional compensation for temporary total disability, in an amount not exceeding 25% of a temporary total disability claim, for an employer's failure to pay benefits, unless it can be proven that the refusal to pay was not in good faith and inflicted additional expense, loss or injury to the employee.
- **H. 1500** (1988):
  - Requires insurers to offer medical benefits coverage for paid-on-call and volunteer firefighters. Further requires insurers to cover members of rescue squads on similar terms and conditions as coverage is available to full-time paid firefighters or emergency services personnel.
- **H. 1981** (1988):
  - Allows elective coverage for subcontractors and a leased operator, and a leased owner-operator of a motor vehicle, upon filing of proper notification.

### Utah

- **S. 19** (1988):
  - Creates the "Workers Compensation Fund of Utah" as an independent State agency established to provide compensation insurance at the lowest actuarially sound price as determined by its board of directors.
- **H. 133** (1988):
  - Modifies and clarifies the definitions of "employer" and "employee." The bill also amends re-

sponsibility of the Uninsured Employers' Fund.

- **H. 205** (1988):
  - Specifies that community service workers are employees of state and local governmental entities for workers compensation purposes.
- **H. 218** (1988):
  - Clarifies that permanent partial disability compensation entitlements are based on physical impairment caused by an industrial accident.
  - Establishes a statute of limitations on permanent total disability claims and provides for an offset based on certain other income.
  - Modifies provisions regarding awards from the Second Injury Fund. The bill also amends the premium tax in support of the Second Injury Fund.
  - Clarifies the Industrial Commission's authority to control medical care of injured employees. Provides an alternative method for

evaluating medical aspects of accidents and amends the statutes of limitations.

- Renames the "Second Injury Fund" as the "Employers' Reinsurance Fund."

### Vermont

- **H. 567** (1988):
  - Allows elective coverage for a sole proprietor or partner upon submission of proper notification of such election.

### Virginia

- **S. 26 & H. 740** (1988):
  - Redefines injury of the brain as a severe injury that causes the victim or employee to be permanently unemployable in gainful employment; previously, defined as an injury that resulted in incurable imbecility or insanity.
- **H. 79** (1988):
  - Newly provides elective coverage by any county, city, town or any political subdivision for its

volunteers or to any officers and employees of any commission or board of any authority created or controlled by the local governing body, or any local agency or public service corporation owned, operated or controlled by such local governing body.

- **H. 137** (1988):
  - Adds that any employee who is sexually assaulted and who can identify the attacker may elect to pursue an action at law against the attacker, even if the attacker is the employee's employer or co-employee, in lieu of pursuing workers compensation benefits.

### Washington

- **S. 6396** (1988):
  - Computes compensation payments for registered apprentices or trainees by using the actual wage rate during employment.
- **H. 1170** (1988):
  - Designates the Department of

Labor and Industry to develop standards for conducting medical examinations to determine the extent or percent of permanent disability. Requires the Department to investigate the level of compliance by self-insurers with insurance reporting requirements and monitor the quality and objectivity of examinations and reports.

- **H. 1592** (1988):
  - Requires the department to furnish benefits to any worker or beneficiary who may have a right or claim for benefits under the U.S. maritime laws resulting from asbestosis-related disease under certain conditions.

- **S. 5801** (1987):
  - Declares that respiratory and heart disease is presumed to be occupationally related for firefighters; however, this presumption is rebutted by controversial evidence that may include the use

Continued on next page



# WHEN A REINSURER PLAYS FOLLOW THE LEADER,

Continued from previous page of tobacco products, physical fitness, hereditary factors and exposure from other employment or non-employment activities.

#### West Virginia

● **S. 591** (1988):

□ Provides that any health care provider who fraudulently secures or attempts to secure payment from the Workers Compensation Fund is guilty of a misdemeanor and subject to a fine of not more than \$10,000, or imprisonment of not more than 12 months, or both. Defines a health care provider.

● **H. 4027** (1988):

□ Adds chiropractors, osteopaths, podiatrists, optometrists, vocational rehabilitation specialists, pharmacists, ophthalmologists and others who practice medicine and surgery to the list of those persons who render medical treatment and services to injured employees for which the workers compensa-

tion commissioner sets a fee schedule for services.

#### Wisconsin

● **S. 457** (1988):

□ Increases the maximum average weekly wage for determining compensation for scheduled permanent partial disability to \$181.50 from \$175.50, resulting in a maximum weekly benefit of \$121 effective April 1, 1988. On Jan. 1, 1988, the average weekly wage will increase to \$187.50, resulting in a maximum weekly benefit of \$125.

□ Amends the definition of "injury" by deleting an injury that includes mental harm or emotional stress or strain without physical trauma, if it arises from exposure to conditions or circumstances beyond those common to occupational or non-occupational life.

□ Includes dental services or care among the types of medical treatment that an employer is required to furnish an injured worker. ■

# U.K. appeals court says insurers do not owe damages to banks

By STACY SHAPIRO

LONDON—Britain's highest court will decide whether an insurer can be ordered to pay damages to a policyholder if it fails to disclose important insurance contract information.

The case involves a landmark September 1986 decision by the British High Court. The court ordered insurers that wrote credit insurance for a group of banks to pay the banks damages because an underwriter who worked for the insurers failed to disclose to the banks that cover notes were inaccurately prepared by a broker.

The insurers—Skandia (U.K.) Insurance Co. Ltd. and Westgate In-

urance Co. Ltd., formerly Hodge Mercantile & General Insurance Co. Ltd.—were held liable for as much as 53.8 million Swiss francs (\$34.6 million at current exchange rates) (*BI*, Oct. 13, 1986).

The credit insurance policies at issue in the case were written to guarantee loans on which the bor-

rower later defaulted.

However, a U.K. Court of Appeal in July overturned the High Court decision, ruling that non-disclosure by an underwriter can lead to the rescission of an insurance contract and the return of premiums, but under English law cannot lead to the payment of damages.

The Court of Appeal decision allows plaintiff Banque Financiere de Late Cite S.A., formerly Banque Keyser Ullman, to appeal the ruling to the House of Lords, Britain's highest court.

Banque Financiere's attorney, Hopkins & Wood of London, currently is preparing the appeal, said Barry Holding-Parsons, a partner in the firm.

If the underwriter had informed the banks the insurance was not as it was represented and that it excluded coverage for losses resulting from fraud, the insurers would not owe the banks any money, High Court Justice Johan Steyn ruled.

The judge also concluded that had the underwriter performed his duty as required, the banks would not have granted the loans.

Justice Steyn held Skandia U.K. and Hodge responsible for damages equal to the value of four of five loans.

"In principle, an insured can claim damages from an insurer arising from loss suffered by the insured as a result of a breach of the obligation of the utmost good (faith) by the insurer," Justice Steyn ruled.

The judge's decision marked the first time a British court ruled that insurers are liable for damage for failing to give information to a policyholder that was relevant to an insurance contract.

Skandia and Hodge appealed Justice Steyn's decision to the British Court of Appeal, which heard the case in May.

However, three days before the end of the 24-day hearing, Skandia withdrew from the proceedings, announcing it had reached a settlement totaling about 10 million pounds (\$18.6 million at the appropriate exchange rates) with several of the banks. The value of the settlement was roughly half of the 53.8 million Swiss francs the banks had sought.

The Court of Appeal decision does not affect the settlement with Skandia, said Tony Armstrong, managing director of Skandia (U.K.).

Hodge, from which the banks were seeking damages of up to 10.75 million Swiss Francs (\$6.9 million), refused to settle with the banks (*BI*, May 30).

On July 27, three Court of Appeal justices agreed with Justice Steyn on the facts in the case, which dates back to 1979 when South American financier Jaime Ballesteros persuaded syndicates of banks to enter into the first of five separate loan agreements with four companies he owned or controlled. The value of the loans totaled 80 million Swiss francs (\$51.5 million at current exchange rates).

The banks involved included Banque Keyser Ullman in Switzerland, which changed its name after

Continued on next page



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## British ruling

Continued from previous page  
Justice Steyn's decision to La Banque Financiere de Late Cite S.A.

Other banks originally involved in the case before the Skandia U.K. settlement included two U.S. Banks: Chemical Bank of New York and American Fletcher National Bank of Indianapolis.

Mr. Ballestero used as collateral for each loan gems allegedly valued at 198 million Swiss francs (\$127.4 million at current exchange rates) and credit insurance policies with total limits of 98.3 million Swiss francs (\$63.2 million at current exchange rates).

The policies were brokered by Roy Lee, who was manager of the Cardiff, Wales, office of Lloyd's of London broker Ernest Notcutt & Co. Ltd. Mr. Lee left the brokerage in 1980.

The broker settled with the banks for 10.5 million pounds before the original trial (\$15.2 mil-

**Had Mr. Dungate been accused of being deceitful or fraudulent, then there would be recourse to sue his companies for damages, the judges said. However, a more passive non-disclosure, such as Mr. Dungate's, 'does not amount to deceit in law.'**

lion at the appropriate exchange rates).

Mr. Lee allegedly placed the insurance for the loans with both Hodge and Skandia U.K. through Cyril Dungate, who prior to November 1980 was senior underwriter for Hodge and subsequently worked as an underwriter for Skandia U.K.

Mr. Lee allegedly issued cover notes showing that the credit insurance for the first loan was 100% placed, with Mr. Dungate writing the primary layer, when in fact it was not fully placed. The Court of Appeal agreed with Justice Steyn

that Mr. Dungate knew about Mr. Lee's deceit and did not tell the banks that the cover notes were fraudulent.

The coverage specifically excluded losses due to fraud. The banks, however, also were not told of the exclusion.

Because the banks believed they were fully covered for all subsequent loans, they granted four more loans to Mr. Ballestero.

By 1981, the banks rejected Mr. Ballestero's request for further loans.

Later that year, Mr. Ballestero's companies defaulted on the loans

previously granted.

The gems offered as collateral subsequently turned out to be worth only 5 million Swiss francs (\$3.2 million at current exchange rates) rather than the 198 million Swiss francs that Mr. Ballestero had claimed they were worth.

"The story, as the learned judge (Steyn) said, is one of fraud on a massive scale," agreed the Court of Appeal.

The appeal judges agreed with Justice Steyn that although Mr. Dungate and his companies are not accused of fraud, he failed to tell the banks about the fraudulent cover notes or of the fraud exclusion in the policies.

However, the courts differ on whether damages can be paid by the insurers to the banks because of Mr. Dungate's non-disclosure of fact.

Justice Steyn awarded damages to the banks because there was a clear duty on Mr. Dungate to inform the banks of relevant facts.

The banks would not have sought more credit insurance nor would they have suffered damages had they been apprised of Mr. Lee's actions, the judge ruled.

However, the Court of Appeals ruled Justice Steyn's decision on damages "is a novel claim as yet entirely unsupported by any decision of the courts of this country beyond the judgment of the learned judge. And indeed we have been told that after research no authority of any common law court has been discovered which supports it."

Had Mr. Dungate been accused of being deceitful or fraudulent, then there would be recourse to sue his companies for damages, the judges said. However, a more passive non-disclosure, such as Mr. Dungate's, "does not amount to deceit in law," said the Court of Appeal.

The banks, on discovery of non-disclosure, had the right "to rescind the further contract of insurance... and to demand the return of the further premiums paid by them," the Court of Appeal said in its decision.

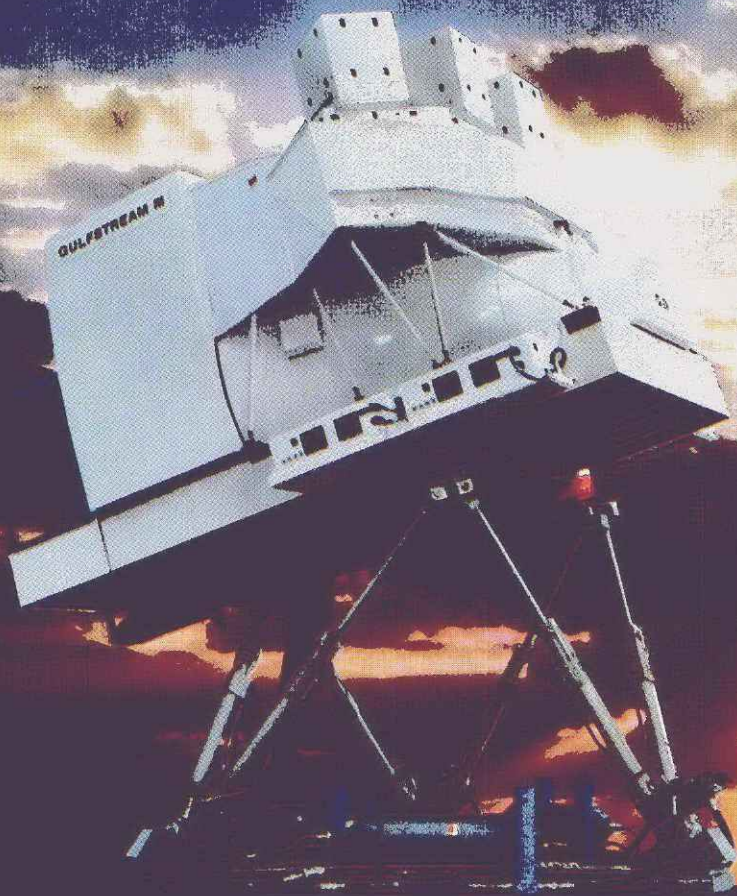
However, "if the banks' right to full disclosure of material facts is founded neither on tort nor on contract nor on the existence of a fiduciary duty nor on statute, we find it difficult to see how as a matter of legal analysis it can be said to found a claim for damages."

The Court of Appeal said it realizes that its order for the insurers to return the banks' premiums for the credit insurance seems "inadequate" compensation. "This is unfortunate for the banks," the court said.

However, the Court of Appeal noted that the banks had recourse against the broker for negligence. The court said Notcutt was "vicariously liable for the actions of Mr. Lee."

The banks also have recourse against Mr. Ballestero "and his fraudulent associates (who) were also liable for the loss which they directly caused to the banks," the court said. ■

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## Rendez-Vous

Continued from page 1

"Reinsurers can make things worse, but we can't make them better," Mr. Dielmann said, referring to the rating influence of reinsurers in a competitive market.

Obtaining and maintaining reinsurance business also is a problem for reinsurers. U.S. insurers already have assumed large retentions, thus draining premiums from reinsurers in addition to any pricing control.

"By and large rates are still pretty good. The disappointment is in buying," said Mr. Gordon, referring to ceding companies' continued commitment to high retentions.

And, the reinsurance market continues to write more excess-of-loss reinsurance than pro-rata reinsurance, which reduces premium volume for reinsurers while creating larger loss potential, Mr. Gordon points out.

Reinsurers generally admit their premium volumes will be down in 1989: for some as much as 35% on a facultative basis, although less erosion is expected on a treaty basis.

And, European insurers are expected to increase their retentions after merging for strength in anticipation of freer competition among insurers in the European Community beginning in 1992 (see story, page 64).

Except in the London excess-of-loss reinsurance market, not even the largest losses in history—which occurred in the past year—are expected to change these trends.

The \$3 billion windstorm losses in Europe in October 1987—known as 87-J—and the \$1 billion loss of the Piper Alpha platform in the North Sea in July are hitting the London market hardest and are not anticipated to spread significantly to reinsurers in Europe or the United States.

Although large losses, they are not expected to curb competition for general property business. But fears of the U.S. tort system are keeping European reinsurers from seeking new U.S. liability business.

Despite predictions of a continuing down cycle, reinsurers are reasonably confident that their marketplace will not compete itself into near-destruction as in the earlier part of this decade, permitting reinsurers to enter the next hard market in better financial shape.

"The reinsurance market now is relaxed, not soft," said Arthur Deters, president and chief executive officer of International Risk Management Group Ltd. in Bermuda, which negotiates reinsurance for its captive clients, including the giant Hopewell pool.

"I don't see reinsurers doing stupid things. I've seen slightly larger lines, or reinsurers writing in areas they had withdrawn from," he said.

Reinsurers are looking for new reinsurance opportunities, such as reinsuring captive insurance companies and financial reinsurance, he added.

The mood throughout the week of the 32nd Rendez-Vous was low-key, reflecting flat market conditions. With rates neither skyrocketing nor plummeting, there was little for reinsurers to get excited about.

"There is concern among reinsurers but not doom and gloom for those who have managed their affairs wisely. They are facing an inevitable return to lower rates," said

Mr. Dielmann of Hannover Re.

"The atmosphere is not one of doom and gloom but equally not one of euphoria," said Victor Blake, chairman of CNA Reinsurance of London Ltd.

"Compared with the past, I don't feel that people have a lot of resolve one way or the other," observed LeRoy J. Simon, executive consultant for Coopers & Lybrand and retired senior vp of Prudential Reinsurance Co. in Newark, N.J.

Reinsurers are not committed to stopping the "inexorable downslide," but neither are brokers committed to beating down prices, he said.

"We're observing the industry going from not-so-bad to not-so-good," Mr. Simon continued. "1988 was not as great as 1987. On the other hand, we're not looking for next year to be a disaster," he added.

Instead, the current market is in transition. "It's a slow drift down with no guarantee that it will ac-

celerate and no real promise that it is going to change," he said.

Jonathan Crawley, president of Aneco Reinsurance Underwriting Ltd. in Bermuda, suggested that "the atmosphere is like 1981 and 1982, which were the first years of that worst-ever down cycle, but people didn't know what was going on."

This year, "the industry is not crashing all over the place. It's a normal conference. And it's a good thing that you don't have anything to get excited about—except these losses that the industry will absorbing," he said, referring to the October 1987 storm and the Piper Alpha loss.

Mr. Simon attributed the current apathy in part to reinsurers' belief that they have properly strength-

ened reserves and they will not need to do so again this year. As a result, their earnings will improve, "which leads to the temptation to write some more good business," he explained.



Mr. Simon

Mr. Crawley

with small rate reductions."

Many reinsurers, however, say there is not enough good business to write and they will reduce their premium volume.

"Less and less good business is available," said Pierre Croizat, chief executive officer of Scor U.S. Corp. in New York. Good business already

is placed with reinsurers and is not being moved, while primary insurers are keeping more business net, he said.

SCOR U.S. expects its premium volume in 1989 to be at best stable and perhaps decline, said Mr. Croizat. Scor U.S. wrote net premiums of \$103 million in 1987 and expects to write about the same in 1988.

Premium volume in 1989 will "depend on what happens in the next few months," Mr. Croizat said. Recently, he has detected a leveling off in rate decreases by primary insurers. "Whether that will last is too difficult to say at this time," he said, adding "it can go one way or the other."

Skandia America Group in New York expects its facultative premium volume to be down 15% and its treaty premium volume to be down 5% to 10% next year, said John Engstrom, senior vp.

However, he said, "We are looking for other types of reinsurance solu-

Continued on next page



Mr. Gordon



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# Rendez-Vous

Continued from previous page  
tions such as alternative risk transfer methods to make up for that shortfall and maybe even exceed it."

(Mr. Engestrom, who has been with Skandia America for four years, will return to Skandia International in Stockholm next year. Under a restructuring effective Jan. 1, Mr. Engestrom will be responsible for all non-life reinsurance outside North America and all worldwide life reinsurance.)

"Our volume has to go down because of the cycle," Mr. Engestrom said, pointing to three factors:

- Increased retentions by ceding companies.

Primary companies increased their retentions in 1987 and 1988, but Mr. Engestrom does not expect them to increase retentions by much more in 1989.

- Primary rates are down. Decreased rates mean either

reinsurers refuse to renew business or accept less premium.

However, Mr. Engestrom expects to see less rate reduction in the coming renewals because insurers are paying higher taxes, the stock market is flat and investment results are lower.

Mr. Engestrom pegs primary property rate reductions at 5% to 10% and casualty rate reductions perhaps somewhat deeper at 10% to 15%.

"Next year is the third year of erosion" in primary rates, he pointed out.

- Opportunities to write certain business at good rates in a hard market disappear in a soft market.

For example, Skandia America writes certain retrocessional covers when the rates are good in a hard market.

Skandia America wrote \$380.3 million in net premiums in 1987 and \$109.9 million in net premiums in the first six months of 1988. Hannover Re, meanwhile, may

**'I don't see quite the same degree of competition as five years ago,' says Mr. Blake of CNA Re.**

reduce its U.S. business by as much as 20% this renewal season, said Mr. Dielmann. Hannover Re wrote \$300 million in premiums in the United States, about one-third of its business.

"We are going to cut back right across the board in the U.S. That's the only way to survive and remain a credible market, but we will do it selectively and give brokers plenty of warning."

"I am particularly concerned about E&O business, property and umbrella business," said Mr. Dielmann, citing the lines Hannover Re is most likely to reduce.

However, Mr. Dielmann stressed that Hannover Re still is committed to the U.S. market and will attempt to broaden its base of business by obtaining more mainstream business and by strengthening its ties with brokers to "lay the ground for the next upswing."

Terra-Nova Insurance Co. Ltd. in London also expects its premiums to fall 10% next year as they have this year and in 1987, said Chris Burbidge, director of non-marine underwriting.

Terra-Nova wrote 160 million pounds (\$300.8 million at year-end 1987 exchange rates) in gross premiums in 1987, about 60% to 65% related to U.S. and Canadian risks. About half is long-tail liability business, which is mostly medical mal-



Mr. Burbidge

practice and other professional liability business, as well as clash covers.

"There is a lot of pressure to take out sunset clauses, but we are not prepared to go back to an unlimited tail, although other markets in the U.S. and Canada are prepared to do it," Mr. Burbidge said.

Gamma Reinsurance Co. in New York, a unit of AXA International in Paris, already expects to write less business this year, down to \$50 million to \$60 million in gross premiums compared with \$65 million last year, said AXA International General Manager Luc Brossier.

Tighter underwriting conditions, lower rates charged by cedants and somewhat lower reinsurance rates are all factors driving down volume, he said.

Gamma Re continues to write about half liability and half property insurance, mostly on an excess-of-loss basis.

While some reinsurers are emphasizing property risks, Gamma Re's strategy is to write difficult risks at the proper rate rather than write the less risky business at the lower rates prevailing, because all reinsurers are seeking the less risky business, Mr. Brossier said.

As they said last year, reinsurers again said they would not compete to maintain volume, though there are slightly different perceptions of current rate competition and varying predictions for future rate cutting.

"The rate structure is loosening up a bit," reported Mr. Gordon of Intere. "The rates held better than a lot thought they would."

And while "everyone has an example of rates falling through the floor in the primary market," Mr. Gordon said, many ceding companies have not reached their premium volume goals because they did not compete for volume.

"I don't see quite the same degree of competition as five years ago," said Mr. Blake of CNA Re in London. "'82, '83, '84 were so bad people got scared. '88 and '89 will be bad again, but people don't seem to be repeating the mistakes of the early '80s. We are seeing more responsible underwriting this time."

"I don't think rate cutting is out of control when one considers the degree of rate rises in '85 and '86. This is just a correction of an over-correction," he added.

"I don't see reinsurers chasing premiums down as much," said Mr. Engestrom of Skandia America. "There is less competition on price and more on clauses."

"U.S. reinsurers are giving away earthquake, and there are fewer caps" on reinstatements of coverage, he said. "We've canceled a few covers because of increased exposure," he added.

Current liability insurance rates and property insurance rates for industrial risks generally are adequate, Scor's Mr. Croizat said. However, rates for smaller commercial risks are on the low side, he said.

Overall, Mr. Croizat says, the insurance and reinsurance industries now "are normally competitive but not crazy."

"Fortunately people are not ready to kill each other" in competition, he said.

However, if rates are too low, Scor U.S. will not write the business, Mr. Croizat said. Already, Scor U.S. has refused to renew or accept some facultative business because it was under-rated or the coverage was too extensive, he said.

While another reinsurer obviously did write the business that Scor has refused, Mr. Croizat said there is no single company trying to increase its market share by dropping prices.

Mr. Dielmann of Hannover Re is concerned that property reinsurance "will slip into the red in 1989."

Mr. Burbidge of Terra-Nova agrees. "Property treaties will go into a deficit in 1988-89. We will look at (combined) ratios of 105%  
*Continued on next page*

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# Rendez-Vous remains integral: Reinsurers

MONTE CARLO, Monaco—Reinsurers from around the world gather in Monte Carlo each September to touch base with their colleagues and to take the temperature of global insurance and reinsurance market conditions.

Officially, the 32nd Rendez-Vous de Septembre began on Monday, Sept. 5, and ended Saturday, Sept. 10. But this tiny principality on the Mediterranean Sea began filling up with reinsurance executives on Thursday, Sept. 1, and began emptying out on Thursday, Sept. 8.

Reinsurance underwriters and brokers met throughout each day in hotel lobbies, restaurants and on the beach. Their meetings can be as short as 15 minutes.

Holding a table in the Loew's lobby lounge or Hotel de Paris bar becomes a challenge, with friends entrusted with a table for short periods upon the promise to return it.

The lobby of the Loew's hotel, the largest and most modern of Monte Carlo's hotels, echoes with American and British accents. The hum in the Hotel de Paris lobby, the setting of the first Rendez-Vous in 1956, is distinctly different, dominated by French and German dialogue.

The rebuilt Cafe de Paris, which was in temporary quarters last year, was again a popular meeting place for registrants of all nationalities. Located across the street from the Hotel

de Paris and on the path to Loew's, the Cafe de Paris is an ideal spot to stop and catch an unscheduled appointment as well as pre-arranged meetings.

The topics of conversation at the Rendez-Vous range from specific business opportunities to general assessments of the reinsurance market.



Mr. Chaloub

"In the balmy atmosphere of Monte Carlo, one can often solve problems that are unsolvable elsewhere," said Theodor Dielmann, executive vp of Hannover Reinsurance Co. and Eisen & Stahl Reinsurance Co. "I always have at least two or three meetings which alone make the whole time worthwhile."

But unlike Rendez-Vous of earlier years, less contract negotiation is conducted now. The actual negotiations generally are left for the October meeting of reinsurers in Baden Baden, West Germany.

Callum Stewart, chairman of Heath North American Reinsurance Broking Ltd., a subsidiary of C.E. Heath P.L.C. in London, agreed that less negotiation on renewals occurs at the Rendez-Vous.

"Four or five years ago people used to do most of the nego-

tiation for renewal here. But, as the renewal seasons have gotten later and later... less detailed negotiation is done," he said. But the Rendez-Vous is still important, Mr. Stewart said. From a broker's point of view, the Rendez-Vous "is the one place where you can meet many of your clients in one place at one time," he said. "I have seven or eight meetings a day."

The Rendez-Vous has changed in another way, according to Henri Chaloub, chairman of MEPA Group. "There are more and more young people coming to Monte Carlo. I remember being told by one employer that I couldn't attend Monte Carlo because I was under 35."

With everyone trying to meet as many people as possible for short or long discussions, the formal speeches are sparsely attended. Conference organizers this year conceded to a low turnout of only a couple of hundred people and moved the site of the Tuesday morning addresses from the cavernous auditorium of the Monte Carlo Convention Centre and Auditorium to the much smaller International Congress Centre.

For information on registering for the 33rd Rendez-Vous de Septembre, to be held Sept. 4-9, 1989, contact Rendez-Vous de Septembre, Direction du Tourisme et des Congres, 2a Boulevard des Moulins, 98030 Monaco Cedex.

—By Kathryn J. McIntyre

## Rendez-Vous

Continued from previous page to 107%."

Mr. Dielmann said that although "casualty is somewhat better, rates are slipping fast even in some heavy classes."

Mr. Dielmann predicts that both property and casualty rates will fall about 15% in the U.S. market.

"London will have to reduce rates," said Callum Stewart, chairman of Heath North America Reinsurance Broking Ltd., a subsidiary of C.E. Heath P.L.C. in London. "There is more competition in the U.S., which will probably lead to property/casualty reductions of about 10% to 15%."

Mr. Burbidge of Terra-Nova expects to see reinsurance rates for medical malpractice and other professional liability lines to weaken because U.S. reinsurers are interested in the lines again.

Outside the U.S. market, property rates are falling 15% across the board, and casualty rates also are falling, according to David Springbett, deputy chairman of PWS Group P.L.C. in London.

"Nobody is going to slash rates and nobody is going to rocket rates through the sky," said Mr. Crawley of Aneco Underwriting. "It might have been different without 87-J and Piper Alpha," he added.

When will the reinsurance market harden?

"I am not holding out a lot of hope that competition will abate," said Mr. Dielmann of Hannover Re. "By the end of next year we will reach the point of no return. It will be a loss maker. Currently, I don't see anything which gives me hope that it will work out differently."

"The only slight hope that it may be better this time is that primary companies are keeping higher retentions. As they have a greater vested interest, they will have to behave more responsibly," he said.

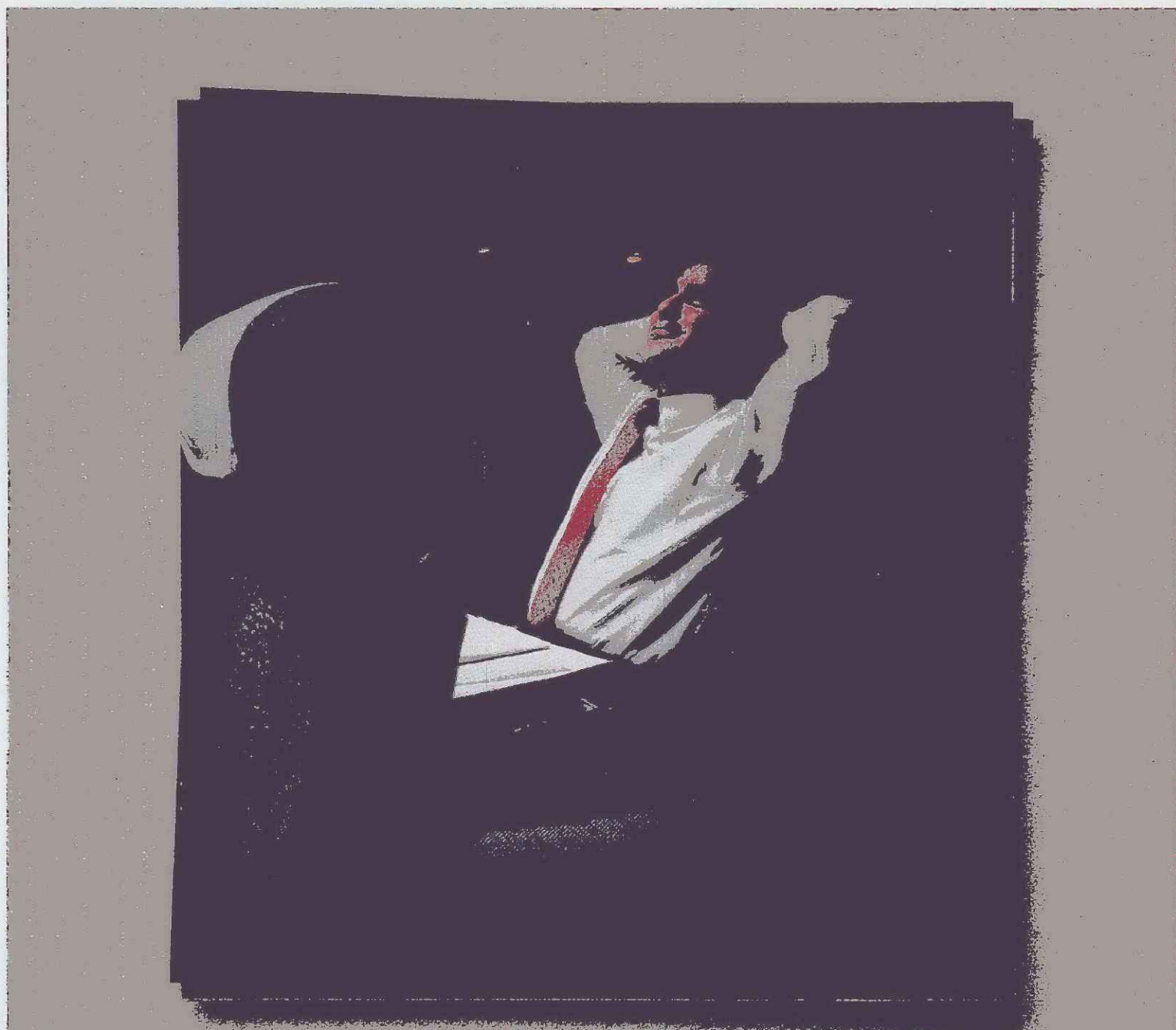
Mr. Dielmann predicts the competitive cycle will end in 1991.

Others are more optimistic. "'88 and '89 will not be good," said Mr. Engstrom of Skandia America about the market in general. "Hopefully, '90 will be good."

"A lot depends on how the buying goes," said Mr. Gordon of Intere. "When will buyers feel uncomfortable with their higher retentions? There hasn't been a serious U.S. loss for three years," he noted, commenting that insurance company managements have taken "a real gamble" with the higher retentions.

"If the market will quote more realistically, they may consider coming back," Mr. Gordon said of ceding companies' reinsurance buying.

"I'll believe the market will turn when I hear people put a lid on the amount of business they will do. Then they are serious," said Mr. Simon of Coopers & Lybrand. ■



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# Reinsurers fear trade barrier removal

MONTE CARLO, Monaco—Reinsurers are concerned that more freedom of trade among European Economic Community countries will cost them business.

Insurance companies in EC countries are expected to merge for strength to better compete in 1992 and thereafter, when EC countries will allow open competition among their insurance companies (*BI*, May 16).

And the larger the insurance company, the larger the retention it is likely to maintain, reducing its need for reinsurance.

This is the general assessment of business after 1992 for reinsurance companies, according to reinsurance experts attending the 32nd Rendez-Vous de Septembre earlier this month in Monte Carlo.

"The changing structure of the direct insurance industry may have an effect on cedants' reinsurance purchasing," said John Lock, general manager of The Mercantile & General Reinsurance Co. P.L.C. in London.

Small and medium-sized companies—both

insurers and reinsurers—will "find life more difficult," he said. "I'd be surprised to find new reinsurance companies formed."

As more insurers in Europe merge, creating larger and fewer companies, there likely will be less reinsurance placed because companies can afford to retain more risk, said Ronald Isles, chairman of Alexander Howden Reinsurance Brokers Ltd in London.

John Engestrom, senior vp of Skandia America Group in New York, predicts "it will be a number of years beyond 1993 before we know the full impact" of open competition in insurance and reinsurance in the EC.

"People are scrambling for position," he observed, predicting "more concentration, bigger companies and less reinsurance."

In addition, Mr. Engestrom foresees more excess-of-loss reinsurance purchased and less proportional reinsurance. "Small reinsurers will have a hard time," he said.

David Springbett, deputy chairman of PWS Group in London, agrees that changes

in the market will not be immediate in 1992. In itself, 1992 is "likely to be the biggest non-event in history. It will take a few more years to achieve what 1992 is about," he said.

Patrick Peugeot, chairman of Societe Commerciale de Reassurance in Paris, says that the freer market will not directly affect reinsurers, though he agrees the client base will be different due to mergers and acquisitions.

"The French reinsurers are concerned about the market after 1992, he said, "but they feel a united Europe is a good thing. It will strengthen the European market and give us an opportunity to compete for better business," he said.

The larger ceding companies seeking reinsurance will want larger reinsurance programs, according to Patrick Martin, vp of Paris-based reinsurance broker V.A.P. d'Entreprises & Co. S.P.A.

"It will be necessary for reinsurers to in-

crease their capacity on individual lines," he said. But, Mr. Martin also expects Europeans to look beyond EC countries for new business opportunities.

"I think more European people will be looking for U.S. business. People are looking for premium and it is easier to find premium in the United States than anywhere else because it is such a large market," Mr. Martin said.

Mr. Martin's role at V.A.P., which he joined in August from La Licorne S.A. Compagnie de Reassurances where he was a U.S. property insurance underwriter, is to attract more business from the United States to French reinsurers.

Currently, French reinsurers generally are offered U.S. business when a reinsurance program cannot be completed in London. Mr. Martin hopes to obtain U.S. business directly from the United States rather than through London.

—By Kathryn J. McIntyre

## Ben-Zur family may divest stake in PWS

MONTE CARLO, Monaco—A "For Sale" sign was publicly nailed to Lloyd's of London broker PWS Holdings P.L.C. on the eve of the 32nd Rendez-Vous de Septembre.

PWS released to the London Stock Exchange on Friday, Sept. 2, a letter to shareholders concerning "constructive discussions" with former Chairman and Chief Executive Ronnie Ben-Zur regarding the future of his family's 43% ownership in the broker.

Mr. Ben-Zur, who resigned Aug. 4, indicated that he was willing to sell the stake at the right price, according to PWS (*BI*, Sept. 12).

On Sunday evening in the Loews Hotel in Monte Carlo, all appeared well in the PWS camp at the Rendez-Vous as Deputy Chairman David Springbett cheerfully welcomed guests to the PWS cocktail party, traditionally the opening party of the gathering.

Meanwhile, scattered among the champagne and hors d'oeuvres were copies of the letter, written by Malcolm Pearson, PWS's newly appointed chairman, outlining the events that have unfolded since PWS's acquisition of San Francisco-based Glenn, Nyhan & Associates Inc. in February.

The acquisition, which was spearheaded by Mr. Ben-Zur, likely will lead to a 4.4 million pound (\$7.5 million) write-off, PWS announced in the letter. Mr. Ben-Zur "took primary responsibility" and resigned as chairman and chief executive, the letter stated.

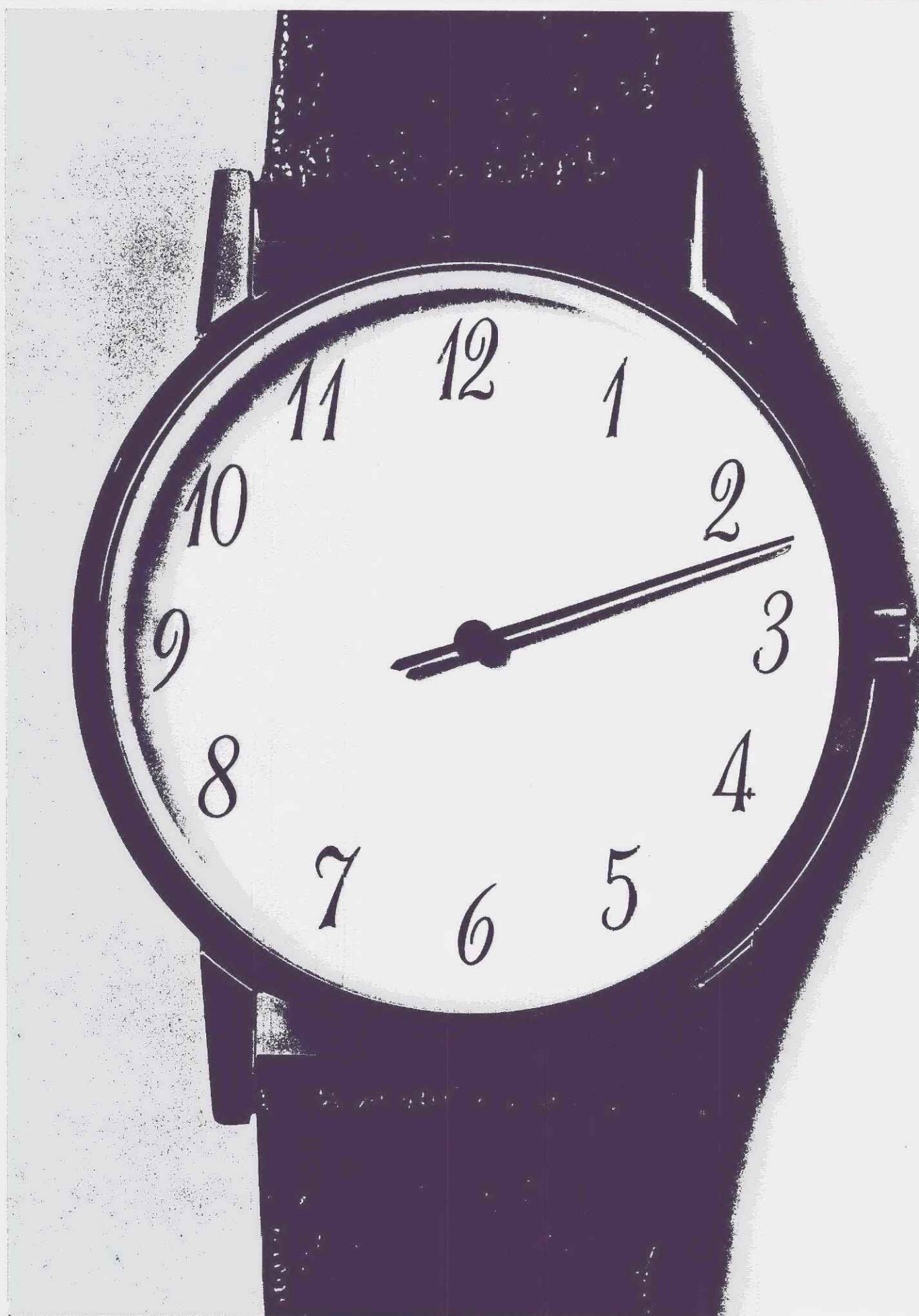
His successor, former Deputy Chairman Ron Peet, said he resigned Aug. 30 because other directors had leaked information about the GNA deal to two British publications and he feared a "bitter personal battle taking place in public between Mr. Ben-Zur and certain members of the PWS board."

As a result of the resignations, which included Brian Soules stepping down as acting chief executive to deputy chairman for health reasons, the PWS board has been restructured with Mr. Pearson as chairman; John Farmer and Mr. Springbett as deputy chairmen; and Peter English as chairman of the PWS International and managing director of the group. Stephen Dalton-Morris also has been appointed as a director.

Now the directors must sit and wait.

After all, "the future of the company depends on who the (Ben-Zur) stake goes to," mused Mr. Springbett in Monte Carlo. He added that morale at the company has not suffered and business has not been lost.

—By Carolyn Aldred



# Technology may alter insurance markets

By CAROLYN ALDRED

MONTE CARLO, Monaco—The introduction of high technology in the London and continental European insurance markets could radically change the way business is placed and processed, two reinsurers agree.

A computerized claims facility for more than 130 London insurance companies will go on line Nov. 7 in an effort to speed claims handling in the London market, said Victor Blake, chairman of CNA Reinsurance of London Ltd., at the 32nd Rendez-Vous de Septembre in Monte Carlo, Monaco, earlier this month.

Mr. Blake also is chairman of the Policy Signing & Accounting Centre Ltd., which was formed in 1977 to provide a policy signing

and accounting bureau for London insurance companies.

PSAC—together with the Institute of London Underwriters, Lloyd's of London and a committee of Lloyd's brokers—is implementing an IBM computer network to provide electronic transmission of data throughout the London market.

PSAC's part of the network will start operation in November, said Mr. Blake, who said he hopes Lloyd's will announce similar progress soon.

When the network is fully operational, all claims in the London market will be handled and processed by computers once the lead underwriters approve the claim, said Mr. Blake. Claims will no longer be passed manually to and from each underwriter on the risk,

which increases claim collection times dramatically, he explained.

"Claims will be dealt with in days rather than weeks or months. It is not going to happen immediately, but when it does it should make a dramatic difference," he said.

And, once the claims operation is running successfully, PSAC will consider introducing some form of risk placement using the same network, he said. "The potential of using the same technique in the placement of business is now on the drawing board."

Although the details are yet to be drawn up, the proposed changes will mean brokers will only have to see the lead underwriters before placing the rest of the risk via the computer, according to Mr. Blake.

"The placement of risks by tech-

nology has the support of the market at large. Leaders in the market recognize that business has to change and the London market needs to be more streamlined," he said.

More importantly, the brokerage community is not opposed to the idea, he said.

"Brokers are extremely favorably inclined, which is interesting because people at first thought it would be a threat. They now realize that without these cost-saving techniques their very existence is threatened," Mr. Blake explained.

The changes that Mr. Blake foresees will lead to less face-to-face contact in the London market, which will give many insurers the option of moving out of London's expensive financial district. And, with this partly in mind, Mr. Blake

is proposing the establishment of a reinsurance center to house up to 30 London reinsurers (*BI*, Sept. 5).

The underwriting center will allow reinsurance companies to maintain an underwriting presence in the center of London while moving administrative staff outside of London. The centralized facility also will increase brokers' access to London's reinsurance company market, which currently is scattered throughout London's financial district.

The center will provide reinsurers with more options, Mr. Blake said, explaining the lead underwriters will need to retain a base in London while underwriters that follow others' leads will have the choice of moving out of town or maintaining some presence in London.

More than 20 reinsurers—including The Mercantile & General Reinsurance Co. P.L.C., Excess Insurance Group Ltd., and Victory Reinsurance Co. Ltd.—have expressed interest in the underwriting center, Mr. Blake confirmed.

Mr. Blake hopes to find a suitable building by the end of next year. He also expects to be able to offer a pilot computerized risk placement program within a year.

"It is not a challenge from the technological point of view and, given the support of brokers and Lloyd's, I can see it happening within a year," he said.

In addition, as the freedom of trade directive is implemented within the European Community by 1992, "there would be no reason from the technical point of view why business couldn't be offered throughout Europe with a broker putting the risk on screen simultaneously in Europe and London," said Mr. Blake.

"A lot of people now recognize the need to improve the market mechanisms in the London market," agreed John Lock, general manager of Mercantile & General.

"Many of the problems now in dispute and run-off in the London market were caused by inefficient market mechanisms," he said.

"By the year 2000 the way business is transacted will probably have changed," he added.

Meanwhile, an electronic network linking European reinsurers, known as RINET, is expected to be operational sometime next year, said Mr. Lock. The network will provide an administrative and accounting function, facilitating the flow of money between Europe's reinsurers (*BI*, Nov. 16, 1987).

Among RINET's founding members are M&G, Munich Reinsurance Co. of Munich, West Germany; Skandia International Insurance Corp. of Stockholm, Sweden; Nederlandse Reassurantie Groep N.V. of Amsterdam, Netherlands; Societe Commerciale de Reassurance of Paris; and Swiss Reinsurance Co. of Zurich, Switzerland.

The mechanism "by which accounting and balances will be handled with the direct transmission of data poses some questions for brokers," said Mr. Lock, who expects most of Europe's reinsurance industry to join the network. "If the network is started successfully, any company not part of it will be at a disadvantage," he said.

Although the system currently is not "designed to be more than an accounting system, clearly the concept of transmitting data could be used in an underwriting function," Mr. Lock said.



Mr. Lock

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# Catastrophe exposures are growing: Experts

By CAROLYN ALDRED

MONTE CARLO, Monaco—Man-kind's technological and economic progress creates ever larger risks for the insurance industry to protect, according to an engineer, an economist and an underwriter.

"The higher the level of technology, the lower the margin of failure that can be allowed," said Professor Orio Giarini, secretary general and director of the International Assn. for the Study of Insurance Economics in Geneva, Switzerland.



Mr. Giarini

cident is likely to be much more damaging than several horse and carriage accidents, he explained in a panel discussion on catastrophe risks during the 32nd Rendez Vous de Septembre in Monte Carlo earlier this month.

"The general human tendency to think the future will be identical to the past is a great mistake," said Herbert Tiedemann, engineering consultant for the Swiss Reinsurance Co. in Zurich, Switzerland, explaining that natural and technological catastrophes are increasing in magnitude.

"It is a fact that cover for catastrophe risks occupies an increasingly important role in the activity of insurers and reinsurers and that this tendency will continue in years to come," said Herve Cachin, assistant director general of the Societe

Anonyme Francaise de Reassurance. Modern technological errors and malfunctions will produce greater and greater economic and human losses, all three panelists agreed.



Mr. Tiedemann

For example, a repetition of the 1906 San Francisco earthquake today would cause losses of between \$50 billion and \$100 billion, and a repeat of the 1923 Tokyo earthquake would probably cost about

\$250 billion, Mr. Giarini said.

And, Hurricane Betsy, which cost \$715 million in 1965, would cost more than \$10 billion today, due to the increased value of property in the areas of the United States hit by Betsy, Mr. Cachin pointed out.

Indeed, in the last 12 months alone, the insurance industry has witnessed several major catastrophic losses, including the destruction of the Piper Alpha oil drilling platform in the North Sea, the October 1987 windstorm in Europe, the November 1987 explosion of the Hoechst Celanese Corp. chemical plant in Pampa, Texas, and severe flooding in Natal and Sudan, said panel chairman John Lock, general manager of The Mercantile & General Insurance Co. P.L.C. in London.

However, the insurance industry still is ignorant of the potential exposures it is insuring, Mr. Tiedemann warned.

Using an analogy depicting the insurance industry as an automobile driver, Mr. Tiedemann pointed out that the industry was relying on its rear view mirror only, was not wearing seat belts and was oblivious to the possibility of being involved in a multiple collision.

Mr. Tiedemann continued with a graphic collection of photographic slides to illustrate floods, fires, explosions, earthquakes and other natural and man-made disasters that have occurred throughout the world in the last few decades.

As pictures of destruction followed one another on the screen, Mr. Tiedemann explained that the scenario likely will get worse.

"We are going through the worst climatic changes for the past few years. In addition, man's tampering with the environment, for example, in the form of land use has increased the likely losses due to, say, flooding," he explained.

For example, cutting down forests to make room for agriculture increases flood risk five to 10 times because of the decreased absorption level of the soil. Moreover, the application of concrete reduces water infiltration to zero, he added.

Insurers and reinsurers should be "prepared for an increase in catastrophes," he warned.

In addition, safety engineering

frequently underestimates the true extent of vulnerability, he said.

For example, designers of the River Thames Flood Barrier—erected at a cost of several hundred million pounds in the early 1980s to prevent flooding in London—overlooked recent changes in the world's climatology.

Similarly, most of the North Sea oil rigs were designed to withstand a 30-meter wave, or more than 98 feet, considered by experts at the time of their design to be the largest possible wave. However, a 60-meter wave has been measured since.

"The Piper Alpha was only an advertiser," said Mr. Tiedemann, referring to July's destruction of the North Sea oil platform, which likely will produce insured losses of about \$1.4 billion (*BI*, Sept. 12, July 18, July 11).

"A king-sized storm in the North Sea would bring down quite a few (rigs the size of) Piper Alpha as well as flood the U.K. and Scandinavia," he warned.

"Now I know why insurers never meet in places renowned for their scientific learning but flock to gamblers' paradises like Monte Carlo," Mr. Tiedemann concluded.

Mr. Giarini emphasized the insurance industry's increased involvement in the area of unpredictability.

In addition, as scientific and technological development has increased the element of risk rather than reduced it, the social and economic role of insurance has increased, he said.

For example, if a manufacturing plant blows up, the business interruption loss is often far greater than the total property loss, he said.

This has caused a "very important cultural transition" for the insurance industry, he explained.

The Geneva Assn., which works with international organizations such as the United Nations Disaster Relief Organization, is trying to encourage the economic and insurance understanding of risk management among engineers in Europe.

Meanwhile, as the industry's exposure to catastrophe risks rises, awareness and monitoring of the industry's maximum loss becomes more important, Mr. Cachin noted.

"Progress has been made in this area in recent years, but the situation is far from satisfactory in certain markets and for certain types of risk," he explained.

In the 1950s the Japanese market recognized the value of zoning risks according to geographic area when offering earthquake coverage for industrial risks.

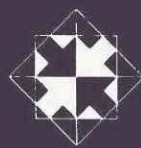
The Japanese "insurance companies got together to evaluate and to communicate to their reinsurers their exposures in each of the 12 zones covering the country. They also agreed to fix a maximum limit for sums insured in each zone, for each proportional reinsurance treaty," Mr. Cachin explained.

Similar zoning systems that allow insurers and reinsurers to control their maximum loss from any catastrophe in any one area have since been adopted in Latin America and California, Mr. Cachin noted.

"As far as storms and hurricanes are concerned, progress made over the last 10 years in the evaluation of accumulations by direct insurers and reinsurers has been much more disappointing. Outside the U.S.A. and Canada, accumulation information in the possession of insurance companies—and therefore their reinsurers—remains largely insufficient," he said.

"French, German and British insurers, and their reinsurers, currently have only a very imprecise idea of the maximum loss they are exposed to on a catastrophic storm affecting one or more of their markets," he added.

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# Piper Alpha loss dominates Rendez-Vous

By KATHRYN McINTYRE  
and CAROLYN ALDRED

MONTE CARLO, Monaco—London and marine market representatives at the 32nd Rendez-Vous de Septembre could talk of little else than the July loss of the Piper Alpha drilling platform and its effect on the London excess-of-loss reinsurance market.

In addition to forecasting higher LMX rates, several accurately predicted that the loss would encourage higher coinsurance in the LMX market.

Many representatives from outside London were disinterested in the estimated \$1.4 billion loss, 90% of which will be paid by the London market.

Still, speculation surfaced that while the bulk of the loss will be paid by the London market, other reinsurance markets eventually will be affected. Not only will they help pay the loss, but also reinsurance renewals could be delayed as London underwriters take longer to set excess-of-loss rates. And, excess-of-loss reinsurance rates for other markets could be higher.

Critics of the LMX market also took the opportunity to point out the weaknesses of the system (see story, page 68).

The \$3 billion loss from the October 1987 windstorm, dubbed 87-J, that struck Southwestern England and Northern Europe also was mentioned in some conversations, but not with the tones of anxiety one might expect such a large loss to evoke.

Large losses in London spiral through the LMX market because Lloyd's syndicates and London companies reinsure each other. Any one syndicate or insurer can end up paying the same loss several times on different layers of reinsurance protection for other syndicates and companies.

In addition to the Piper Alpha and October windstorm losses, losses from 1983's Hurricane Alicia and the 1985 crash of the Japan Air Lines jumbo jet continue to spiral through the LMX market.

The Piper Alpha loss, however, was the straw that broke the camel's back.

LMX rates quoted since the loss have increased, especially for XL on XL, said Ronald Iles, chairman of Alexander Howden Reinsurance Brokers Ltd. in London. "For top layers, rates have gone up from 2% on line to 5% on line," he said. (That means the reinsurer wants 5% of the limit of coverage as premium.)

Callum Stewart, chairman of Heath North American Reinsurance Broking Ltd.,

agreed: "Rates already are going up dramatically in the marine XL market with some top layers in the rig XL market rising two to three times what they were."

Mr. Stewart added that "a lot of people think the Piper Alpha loss will be much larger than \$1 billion. You keep hearing of a lot of people who are going to run out of cover and I think a lot of people are very worried about it. My understanding is that a lot of people are unsure what cover they will get and renewals are going to be very late."

"We may find coinsurance in-

creasing," Mr. Iles added.

Increasing coinsurance to a minimum of 10% from 5% was discussed at an informal meeting of leading excess-of-loss underwriters in the Lloyd's non-marine market on Sept. 12, the Monday after the Rendez-Vous, sources say.

"I personally will be looking for 10% co-insurance this renewal season and I expect many excess-of-loss underwriters in the non-marine market will do the same," said Derek Walker, underwriter for syndicate 290, managed by Gooda Walker Ltd.

"The time has come to raise coinsurance" following the October windstorm and the Piper Alpha losses, Mr. Walker said, noting that 5% coinsurance has been accepted as a minimum at Lloyd's for sev-

eral years.

Mr. Iles also predicted that the Piper Alpha loss could increase rates for oil and gas risks, but that it would not affect marine hull and cargo rates.

"London will certainly hold rates because of Piper Alpha and 87-J," said Brian Johnson, underwriter for Northgate Underwriters Ltd., a unit of English & American Group P.L.C. in London.

"But the German, Italian and French reinsurers aren't talking about Piper Alpha even though they are going to be thumped too," Mr. Johnson added.

Robert Woodthorpe Browne, a consultant with Citicorp Insurance Brokers Ltd. in London, predicted that the higher rates prompted by the Piper Alpha loss will be short-

lived.

"I believe Piper Alpha will push up marine XL rates because the XL underwriters need more additional premium," Mr. Woodthorpe Browne said.

"But this could create more capacity as others might come into the market because rates are hardening. I don't think the up-cycle will last beyond the renewal season," he added.

To those outside London, the Piper Alpha loss so far has been a non-event.

"So far, the effect has been zero, which is very surprising considering the size of the losses. It is not a talking point in Monte Carlo," said Theodor Dielmann, executive vp of Hannover Reinsurance Co. and Eisen & Stahl Reinsurance Co., both based in Hannover, West

Germany.

Rates also have gone up in France and Norway in some areas as a result of the loss, he said, but not elsewhere.

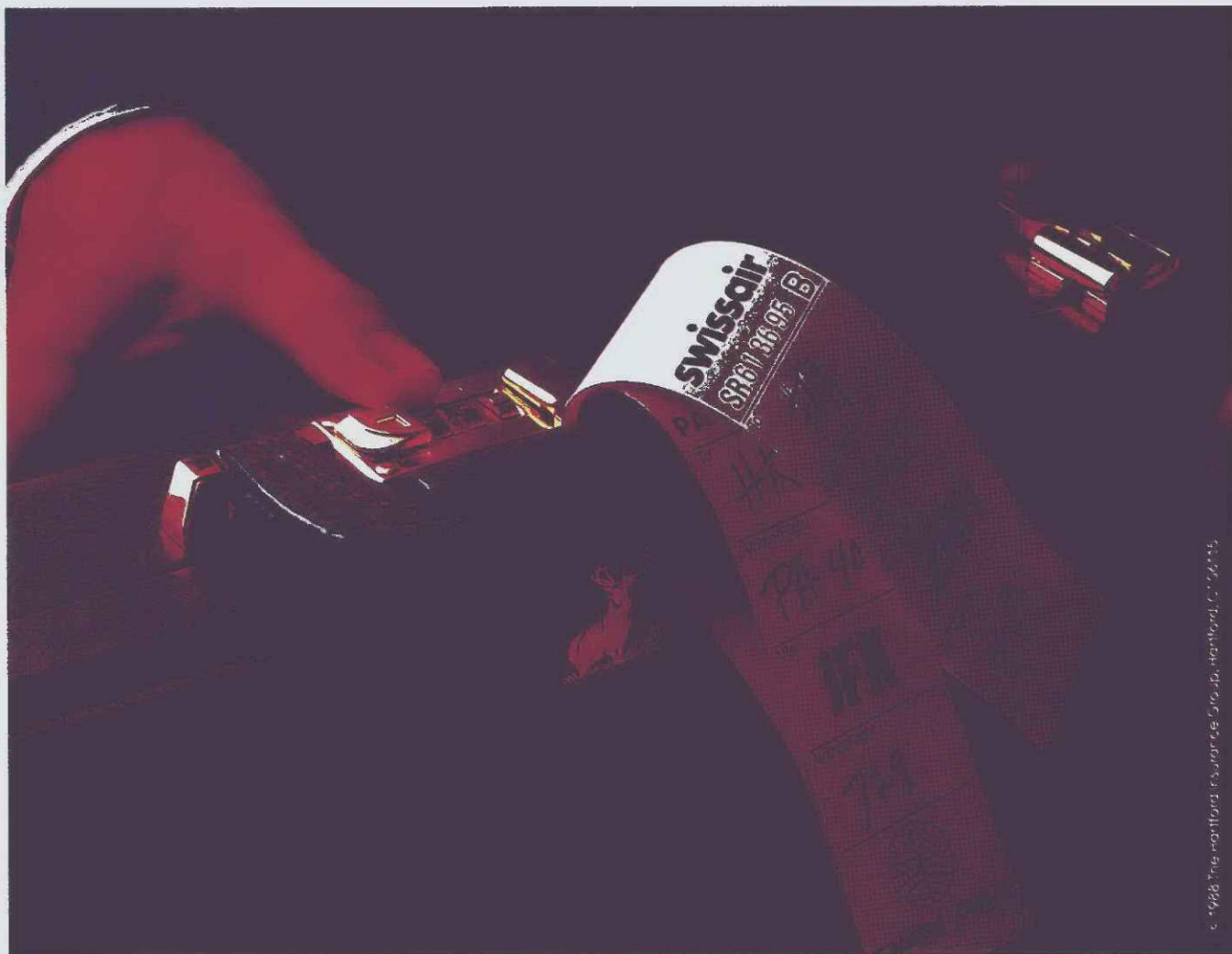
However, Mr. Dielmann also predicted that "all reinsurance companies will end up paying some of the loss because of the huge capacity required for drilling rigs."

Ward Gordon, chairman of Intere Intermediaries Inc. in New York, already has seen fallout from the Piper Alpha loss in other markets.

"We're seeing some side effects of it. Some speciality reinsurance arrangements written as incidental non-marine are up 20% to 25% in rates," he said.

"The U.S. market will pay some-

Continued on next page



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## Piper Alpha loss

*Continued from previous page*  
how. Either syndicates won't be in business or they will want more money," Mr. Gordon predicted.

But Chris Burbidge, director of non-marine underwriting at Terra-Nova Insurance Co. Ltd. in London, predicted: "There will be great resistance in making the U.S. market pay for the losses" from Piper Alpha and 87-J. "The U.S. has had an extremely good run on catastrophes since 1983," he explained, adding that "there will be some rate reductions in lower levels of U.S. catastrophe programs."

Mr. Stewart of Heath also expects U.S. clients to continue to look for rate reductions, which will "squeeze" Lloyd's underwriters in the middle, since they will be paying higher XL rates.

London and Europe "will want to keep rates but they won't be able to" for U.S. business, said Patrick Martin, vp of Paris-based reinsurance broker V.A.P. d'Entrevres & Co. S.P.A.

"Rates in the U.S. market are down, particularly in property business because there have been no big losses in the United States since 1983," he said.

Patrick Peugeot, chairman of Societe Commerciale de Reassurance in Paris, predicted the reinsurance renewals will be completed late this year because of the Piper Alpha loss and 87-J.

"London is being very silent at the moment and is more concerned about paying the losses than preparing for the renewal season," he said.

Since London leads the XL market, London's charges at renewal will have to be known before other reinsurance will be written, he explained.

But Lloyd's cannot afford to raise rates too much, or else it will lose business, he advised.

Mr. Iles of Alexander Howden pointed out: "Clients have a lot of other places to go. There is a substantial European market as well as London."

John Engstrom, senior vp of Skandia America

**'There is a growing concern of the spiraling of some claims. It's a bit like passing the parcel—someone will end up holding it,' says John Lock.**

Group in New York, speculated that as a result of the Piper Alpha loss, "marine syndicates might reduce their non-marine business," thereby reducing competition for non-marine reinsurance.

The Piper Alpha loss also could reduce the popularity of XL protection, some say.

"More traditional European reinsurers are saying that they are going to be relying much more on long-term proportional cover," said Mr. Stewart of Heath. "Proportional cover recently has become unfashionable but is now coming back to reduce fears of LMX cover burning out. One of our major U.S. clients will only buy proportional cover."

As so many losses wind through the LMX market, the age-old issue of whether the LMX reinsurance system offers illusory capacity is being raised again.

John Lock, general manager of The Mercantile & General Reinsurance Co. P.L.C. in London, commented: "We don't think it's a sensible market and we write hardly any LMX business. There is a growing concern of the spiraling of some claims. It's a bit like passing the parcel—someone will end up holding it."

However, other London reinsurers and brokers argued that the LMX market provides important capacity to the world's reinsurance industry.

"The LMX market is an effective way of distributing risk," said Jim Payne, chairman of E.W. Payne Cos. Ltd.

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## Excess-of-loss market creates instability in industry: Reinsurer

By CAROLYN ALDRED

MONTE CARLO, Monaco—Increasing use of excess-of-loss reinsurance is producing an unstable reinsurance industry, according to a French reinsurer.

"Even when direct insurers have developed a good accumulation control system, the quality of available information deteriorates as it passes along the chain of cover, from insurer to reinsurer, from reinsurer to retrocessionaire, etc.," said Herve Cachin, assistant general director of Paris-based reinsurer Societe Anonyme Francaise de Reassurance.

"Extreme cases are when reinsurers come in on the fourth or fifth rung, notably when they cover portfolios of excess-of-loss treaties on an excess-of-loss basis," he pointed out in a panel discussion at the 32nd Rendez-Vous de Septembre earlier this month in Monte Carlo, Monaco.

"It then becomes almost impossible to know the accumulations. In this case, many reinsurers have no other choice than to rely on their own retrocession protections, without being sure, in the majority of cases, that these will be sufficient," he added.

"It is in this manner that artificial capacity may arise, risking collapse like a house of cards the day a major catastrophe happens," he said.

Mr. Cachin demonstrated that five reinsurance companies each with a net capacity of \$10 million can—by way of mutual reinsurance—develop a capacity of \$150 million, though their real capacity is only \$50 million.

For example, company A can produce a gross capacity of \$30 million with a net capacity of \$10 million and by retroceding \$20 million of business excess of \$10 million to companies B and C.

*Continued on next page*

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# Lost market share worries intermediaries

By CAROLYN ALDRED

MONTE CARLO, Monaco—The reinsurance industry is going to have to adopt fundamental changes during the next few years, say several London reinsurance brokers.

The reinsurance industry has been losing market share for the last six or seven years as the emphasis on standard reinsurance products has decreased, pointed out Jim Payne, chairman of E.W. Payne Cos. Ltd. in London, at the 32nd Rendez-Vous de Septembre earlier this month.

Reinsurers are "concerned about trends toward higher retentions by ceding companies and more sophisticated buying, together with a movement away from proportional reinsurance. The professionals are wondering what products to come up with in the future," agreed Ronald Iles, chairman of Alexander Howden Reinsurance Brokers Ltd. in London.

"Professional reinsurers are more worried about the next five years than the current renewal season," he noted.

The major direct insurance companies "are getting stronger financially and better at running their own business. Reinsurance is a cost. Insurers will protect their assets internally, if they can, rather than buy reinsurance," said Mr. Iles.

**'Alternative methods (of insurance) have become a very intimidating fact in the lives of reinsurers and reinsurance brokers,' says Jim Payne, chairman of E.W. Payne Cos. Ltd. in London.**

"Alternative methods (of insurance) have become a very intimidating fact in the lives of reinsurers and reinsurance brokers," according to Mr. Payne.

Meanwhile, as the reinsurance industry's share of industry revenues has declined, its cost base has consistently gone up, he said. "Reducing income is leading to fierce pressure on pricing, resulting in some fairly anxious (Rendez-Vous) participants," said Mr. Payne.

However, "there is now a really solid core of industry people who recognize the issues and are doing a lot to resolve them, although I would love to see more collective thought" among reinsurers, said Mr. Payne.

"We have got to win back the confidence of our customers and we have got to deliver the products and services better than we have done before," he explained.

The reinsurance industry "has made too many assumptions about its indestructibility. We are in the business of being the ultimate security of the insurance industry and as such we should protect our clients," he said.

Instead, "the integrity (of the reinsurance industry) has become bruised," as more and more reinsurers have disputed contract wordings, paid claims slowly or refused to pay claims at all, he said.

"There will be a fundamental change in reinsurance. I would be very surprised if we have not gone a long way by the beginning of 1990 in establishing new structures, new agreements and new entities," he concluded.

"The reinsurance broking of today will be unrecognizable in 10 years' time," said another leading London reinsurance broker.

"Brokers will operate on a fee basis as a true professional working for a client," rather than on a commission basis, the broker said. In addition, the majority reinsurance for any risk will be placed via a computer terminal, leaving a few "brilliant brokers to produce the good ideas," he said. ■

## Excess-of-loss

Continued from previous page

Similarly, company B can generate a total capacity of \$30 million by retaining \$10 million of risk and retroceding \$20 million of business excess of \$10 million to companies C and D.

In this way, if loss advices to a total of five companies reach \$150 million, each company will have a net loss of \$30 million, even though their theoretical capacity is only \$10 million.

"These complex, circuitous arrangements, whereby each is a reinsurer of the others, lead to very late advices in the event of a major loss, and make it very difficult for each company to estimate its definitive loss cost. It is obvious this position is very dangerous," said Mr. Cachin.

Such was the case in the London excess-of-loss market after 1983's Hurricane Alicia, losses from which are still spiraling in 1988, he explained.

Similarly, the October 1987 windstorm loss in Europe and July's loss of the Piper Alpha drilling platform are likely to similarly spiral in the LMX market, he said.

"I am sure that the progress which will be made on this subject will probably show that the capacity available today for the cover of catastrophe risks is an artificial and innocent one, linked to the opacity of the system of information on accumulations," he said.

Meanwhile, as direct insurers increase their retentions on ordinary risks, while decreasing their proportional reinsurance and increasing their non-proportional reinsurance, coverage for catastrophe risks is becoming an increasingly important part of business accepted by professional reinsurers.

"On such risks, reinsurers are faced with an increasing imbalance between the reducing volume of premiums ceded and heavier and heavier potential liabilities," said Mr. Cachin.

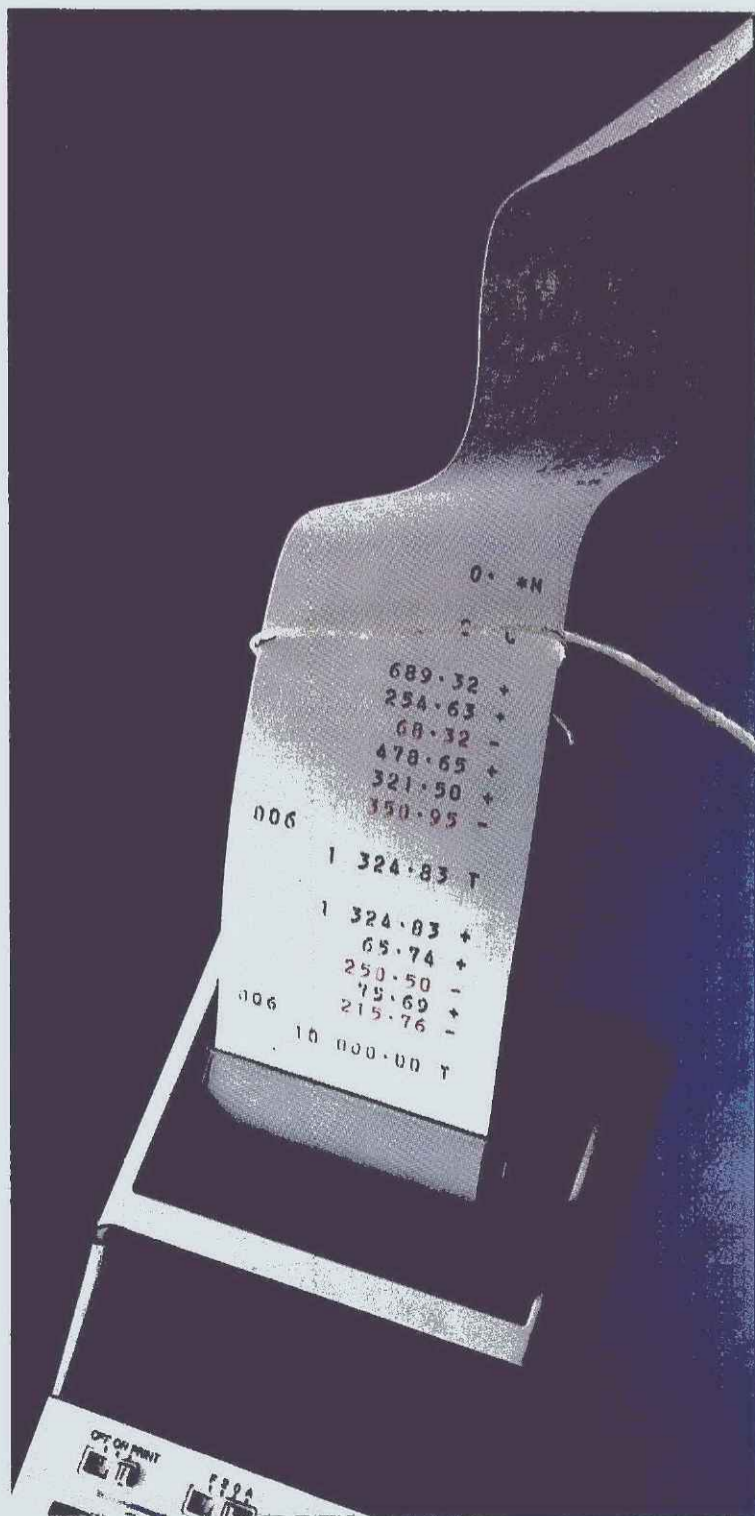
For example, reinsurers paid about 50% of insured damages in England as a result of last October's windstorm and nearly 70% of the insured damages in France, he explained.

"This imbalance is all the more worrying in that reinsurers on catastrophe layers have no guarantee of continuity given the instability of the non-proportional reinsurance market today," Mr. Cachin continued.

Mr. Cachin noted after the program that several European reinsurers are wary of ceding business to or accepting business from the London excess-of-loss market.

Patrick Martin, vp of Paris-based reinsurance broker V.A.P. d'Entreves & Co. S.P.A., also confirmed that many European reinsurers are not willing to write LMX business. ■

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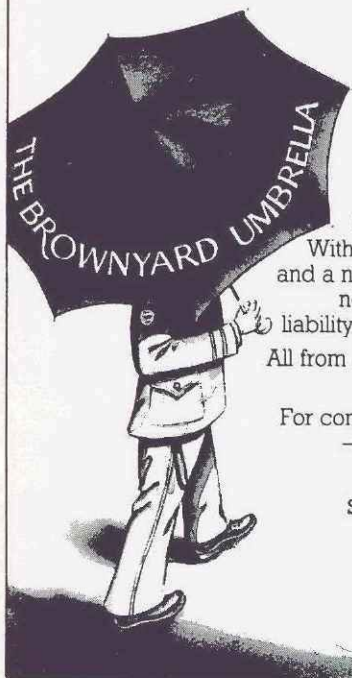


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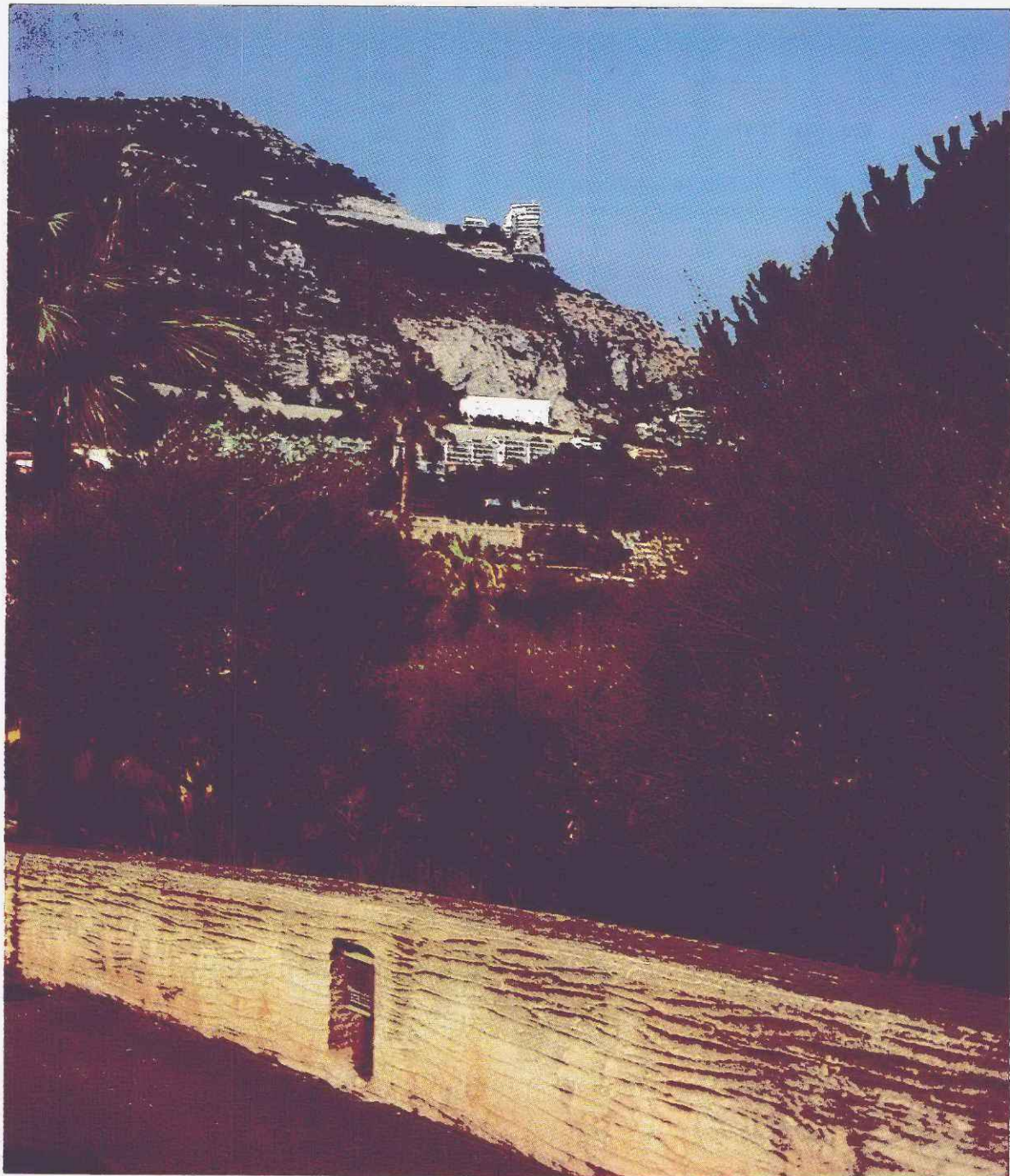


Photo: Kathryn J. McIntyre

The Vista Palace Hotel, perched on the side of a hill, overlooks the Principality of Monaco.

# World's reinsurers respond to \$350 million Hopewell loss

By KATHRYN J. MCINTYRE

MONTE CARLO, Monaco—The reinsurance industry's response to the \$350 million property loss faced by Hopewell International Insurance Ltd. proves that the reinsurance market can work smoothly and promptly.

All 200 reinsurers of the Bermuda-based pool have paid claims filed to date on time, and renewing reinsurance was easy—the coverage was oversubscribed.

"This shows that a lot of the condemnation of the reinsurance market over the last five or six years was not really accurate," said Arthur H. Deters, president and chief executive officer of International Risk Management Group Ltd., which manages Hopewell.

The oldest and largest property captive reinsurance program for U.S. industrial risks suffered its largest loss last November when a vapor cloud explosion destroyed a Hoechst Celanese Corp. chemical plant in Pampa, Texas. The combined property and business interruption loss is estimated at \$350 million (*BI*, Dec. 28, 1987).

The claim is not expected to be fully adjusted until six months after the plant's projected year-end rebuilding.

"We've been paid on the basis of expenditures to rebuild the plant," Mr. Deters said, which totaled \$130 million through the first seven months of 1988.

Every reinsurer has paid so far—\$10 million in December, \$55 million in February and \$65 million that was billed in May to be paid in July.

Hopewell, which provides unlimited property reinsurance coverage to its members, maintained a total of \$130 million in treaty and facultative reinsurance on the plant.

Under Hopewell's reinsurance system, the loss exceeding \$130 million reverted to the pool's \$25 million basic treaty underwritten by about 100 professional and 37 captive reinsurers (*BI*, April 18).

Following the catastrophic loss, International Risk Management analyzed all of its reinsurers to determine if any were in financial jeopardy due to the loss. None were.

International Risk Management then set up a series of meetings with its reinsurers to make sure they had all the current information on the loss.

And, International Risk Management began to ana-

lyze what Mr. Deters describes as a former "structural weakness" in the Hopewell program that required reinsurers to pay "in excess of what was anticipated."

The fact that Hopewell had inadequate facultative reinsurance for the freak loss was "an embarrassment to us," Mr. Deters said, and prompted Hopewell to redefine its loss estimates on specific locations under vapor cloud explosions and other highly improbable situations.

Hopewell then structured an expanded reinsurance program so that if a loss of this magnitude occurred again, it would be spread among reinsurers "in a much more efficient way," Mr. Deters said.

Hopewell has purchased additional excess facultative or pro rata reinsurance on 100 to 150 of its 15,000 insured locations, with maximum coverage on one location now up to \$1 billion.

Though Hopewell had expected its July 1 reinsurance renewals to be the most difficult in its 15-year history, the renewal process "turned out to be one of the best in the last five or six years," said Mr. Deters.

"Every treaty was oversubscribed by June 30," he reported. "We didn't lose a significant reinsurer to our program."

While Hopewell's reinsurance costs increased on average about 20%, some treaties did not require a rate hike.

"The key to this renewal," Mr. Deters said, "was if a loss of this type occurred again, it would be fractionalized in a more efficient way."

"This is a market loss," Mr. Deters said, observing that if the loss had not been insured by Hopewell, it would have been insured by one of the major industrial property insurers and spread similarly throughout the world's reinsurance markets.

Mr. Deters commented that this large a property loss is easier for the reinsurance market to swallow than a much smaller liability insurance loss because "You can touch it, feel it and see it."

Nor are Hopewell participants, who paid a share of the loss, abandoning ship. After eight months of "intensive discussions with all clients impacted by the loss, we don't see any dramatic or significant fallout from this," Mr. Deters said. "No one went broke," he emphasized. ■

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# Rendez-Vous provides business venue

By **KATHRYN J. McINTYRE**  
and **CAROLYN ALDRED**

MONTE CARLO, Monaco—The largest annual gathering of the world's reinsurers is an ideal venue for announcing a new company and seeking new business contacts.

The annual Rendez-Vous de Septembre also is a convenient time to meet with existing or former reinsurers and retrocessionaires to discuss business and iron out problems.

Following is a sampling of the new ventures, specialized programs and specific issues discussed at the 32nd Rendez-Vous de Septembre held earlier this month:

• LCF Edmond De Rothschild Insurance Services Ltd. in Bermuda was announced as a new financial reinsurance broker and consultant.

Graham C. Pewter, formerly general manager of Cologne Reinsurance Co. (Bermuda) Ltd., is president of the new company, which is part of the Edmond de Rothschild Group, a European-based organization with large banking interests.

The new company also intends to manage captive insurance companies in both Bermuda and Luxembourg, place reinsurance for captives and manage captives' assets.

Mr. Pewter had been underwriting financial reinsurance in Bermuda for Cologne Re since 1983, making Cologne Re one of the first reinsurers in Bermuda to specialize in financial reinsurance products.

"The quality of submissions I saw from brokers was not good," Mr. Pewter said, noting a few exceptions from the half-dozen brokers in the world who have the expertise to place financial reinsurance programs.

As a result, there is a need for a good financial reinsurance broker and consultant, he said.

Captive management is an important aspect of the new venture, also, Mr. Pewter said. Rothschild's banking clients include companies that have yet to take advantage of financing their risks through a captive insurance company.

The new firm will hire someone with captive management expertise in Bermuda and contract for management support services in Bermuda from an existing Bermuda captive manager, Mr. Graham said, declining to name the manager at this time.

In Luxembourg, where Rothschild already has a bank, the firm will hire a captive manager and utilize the bank's existing support services.

"We will promote Bermuda, but if Luxembourg is the right domicile, we will accommodate the client," Mr. Pewter said.

Mr. Pewter, 35, has a minority interest in the new firm.

• Capital Reinsurance Co. President Michael E. Satz met with reinsurance company executives to discuss opportunities in reinsuring financial guarantee insurance.

Capital Reinsurance is a monoline financial guarantee reinsurance company domiciled in Maryland and a subsidiary of Capital Re Corp. in New York. The company was formed in January in response to a perceived shortage of capacity in the financial guarantee insurance market.

Capital Re has \$150 million in capital provided by institutional investors including United States Fidelity & Guaranty Co., Constellation Investments Inc., Minnesota Power & Light Co., SIBAG Finance Corp., Capital Assurance Co. Inc., Alex. Brown & Sons Inc. and McDonnell Douglas Finance Corp.

This year, Capital Re has rein-

sured primarily financial guarantee insurance written for municipal obligations, said Mr. Satz. The company wrote \$35 million in premiums in the first six months of 1988 and hopes to end the year with \$50 million to \$60 million in premiums.

While reinsuring the monoline financial guarantee insurers in the United States, Capital Re also wants to do more business with large multiline insurers and reinsurers.

Capital Re wants to provide "expertise and credibility to enhance the willingness of reinsurers to participate in the financial guarantee market," Mr. Satz said.

While focusing on the municipal bond market, Capital Re has participated in non-municipal transactions, such as structured collateral-

ized securities, he said.

"We are seeing a globalization of these concepts," Mr. Satz said, noting, for example, mortgage pools in the United Kingdom insured by U.K. insurers.

Mr. Satz also suggested that there are more companies in the financial guarantee insurance business than realize it, if it is broadly defined.

The global definition of financial guarantee insurance is a "guarantee through an insurance intermediary of a third-party payment obligation," according to Mr. Satz.

This definition would encompass surety business and political risk insurance, he noted.

Mr. Satz also stressed that Capital Re is "not taking on demonstrable risk of loss. We are looking to areas with a track record—an op-

portunity to enhance credit rather than substitute credit."

Financial guarantee insurers need reinsurance for several reasons, he noted: to manage their portfolios; for capacity; to maximize use of their own capacity under constraints from regulators, rating agencies and the market; and to manage their surplus and earnings.

In talking to both U.S. and non-U.S. reinsurers, Mr. Satz found "quite a few are interested in talking" about financial guarantees.

However, it is "an educational process," Mr. Satz said, stressing "this is a long-term business."

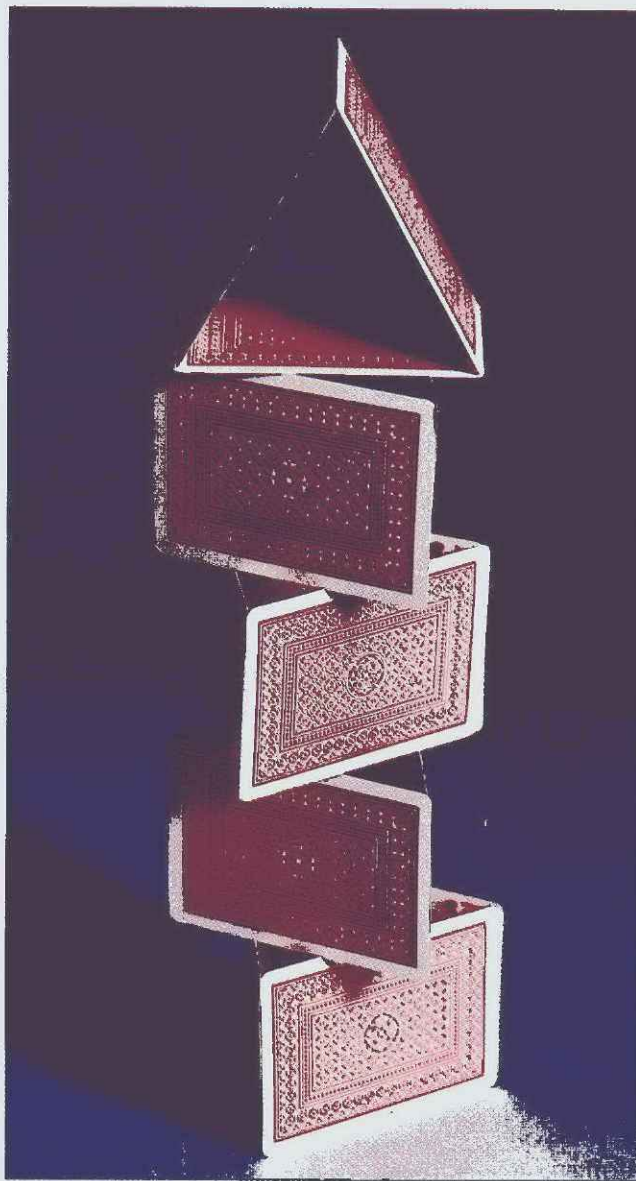
"I don't expect to explode my business over the next 18 months. I have a strategy for five years. I am trying to elicit companies with an interest in that long-term vision."

Mr. Satz acknowledged that interest in financial guarantee reinsurance is higher this year because the traditional reinsurance market has excess capacity and is looking for new opportunities.

• The co-reinsurance agreement between Hannover Reinsurance Co. and Eisen & Stahl Reinsurance Co., announced at last year's Rendez-Vous, has made the combined companies the second-largest West German professional reinsurer in terms of gross premium volume, said Theodor Dielmann, executive vp of Hannover Re (*BI*, Sept. 7, 1987).

Under the agreement, which took effect at the beginning of 1988, all business written outside of West Germany is allocated 80% to Hannover Re and 20% to Eisen & Stahl.

*Continued on next page*



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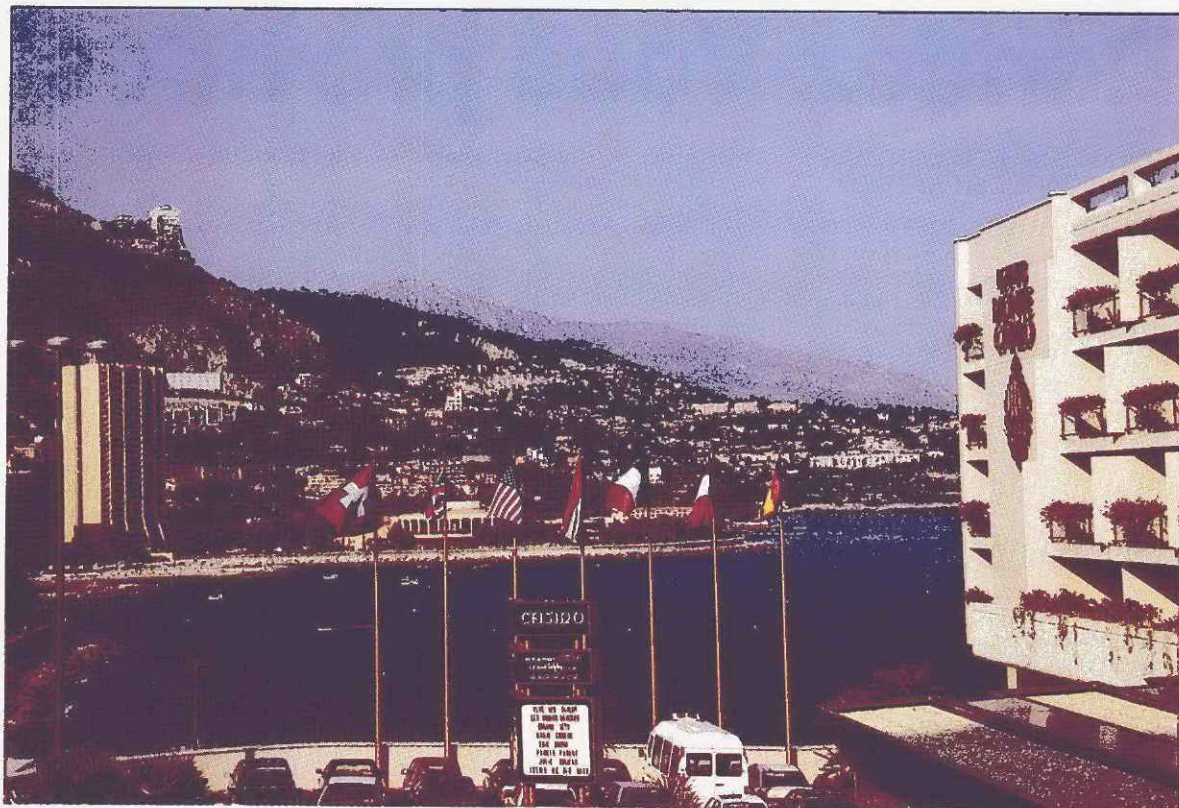


Photo: Kathryn J. McIntyre

The Loews hotel, a popular site for Rendez-Vous meetings, boasts a spectacular view of Monaco.

## Reinsurance developments

*Continued from previous page*

Within Germany, 70% of business is underwritten by Hannover and 30% by Eisen & Stahl, said Mr. Dielmann.

The combined gross premium volume for Hannover Re and Eisen & Stahl in 1986-87 totaled 2.2 billion deutsche marks (\$1.39 billion)—more than the 1.86 billion deutsche marks (\$1.18 billion) in premiums written by Gerling Global Reinsurance Co., but trailing the 11.95 billion deutsche marks (\$7.71 billion) in premiums written by Munich Reinsurance Co.

Hannover Re, which obtains about one-third of its business from West Germany, one-third from the United States and the other third elsewhere, plans to increase its representation worldwide by developing business in the Pacific Basin. Hannover Re already has representatives or branch offices in London, South Africa, Italy, Canada and Australia.

In addition, Hannover Re has expanded in Bermuda (BI, Sept. 12).

Hannover Re is underwriting financial reinsurance products with Belvedere Insurance Co. Ltd. in Bermuda, a subsidiary of New York-based Belvedere Corp.

Hannover Re and Belvedere both have written financial reinsurance products, "but jointly we feel we can make a greater impact on this market," Mr. Dielmann said.

"We are excited about this venture as in our view financially oriented covers have a lot of prospects in the years ahead," he said.

Underwriting will be several, unless one partner fronts for the other, Mr. Dielmann noted.

In addition, Hannover Re joined the captive line slip in Bermuda organized by Belvedere, Brittany Insurance Co. Ltd. and Hudson Reinsurance Co. Ltd.

Hannover Re already reinsures captive insurance companies, but joined the line slip to "broaden our business base," Mr. Dielmann explained.

Belvedere President Colin O'Connor noted that the line slip's capacity of \$1.5 million generally will be provided as the first layer of protection purchased by the captive. The attachment point will depend on the individual captive, he added.

● Coopers & Lybrand's 11 representatives at the Rendez-Vous were easy to spot: Instead of the official name badges, they sported badges depicting not only their name but also an ice cream cone of varying flavors.

The badges promoted the Coopers & Lybrand theme that the firm offers more than "just vanilla accountancy."

Coopers & Lybrand's brochure developed for the Rendez-Vous described its expertise in strategic planning, financial consulting, actuarial consulting, reinsurance operations, management information, information systems and legal and business support.

Coopers & Lybrand is the largest consultant to insurers of the Big Eight accounting firms.

● Insurance Corp. of Ireland Chief Executive Andrew J.G. Banks met with reinsurers in Monte Carlo primarily to discuss ICI's continuing business but also to negotiate collections of reinsurance on its discontinued business.

ICI is the Irish insurance company that was bailed out of a 240 million Irish pounds deficit (\$348 million) in 1985 by the Irish government, which purchased the company from its former bank owner and arranged a 100 million Irish pound (\$145 million) loan at a preferential interest rate.

Mr. Banks stressed the difference between ICI's continuing and discontinued business.

On its continuing business, ICI is the third-largest insurer in Ireland writing 60 million Irish pounds (\$87 million) in net insurance premiums, about half commercial and half personal lines. It is the largest marine insurer in Ireland and writes the government's export credit insurance program.

Also on a continuing basis, the London branch of ICI writes about 6 million British pounds (\$10.1 million) in net reinsurance premiums, about 50% for U.K. risks and 50% international.

ICI's continuing business has been profitable for the last two years, Mr. Banks noted, including a 12 million Irish pound profit (\$17.4 million) in 1987 when accounted for on an ongoing basis.

The discontinued business involves property/liability business written in London in the early 1980s, which produced large losses. The business was written on both a direct and reinsurance basis.

Since that business was discontinued in 1985, ICI has been trying to run off the business promptly, explained Mr. Banks, who joined ICI 18 months ago.

ICI reinsured the business with financially sound reinsurers in the United Kingdom and worldwide, "so there is less bad debt than one might expect," Mr. Banks commented.

Most of the large retrocessional contracts have been commuted or are in the final stages of settlement, he said.

Soon ICI will begin focusing its efforts on collecting from reinsurers that say they can't pay. ICI has a department that does nothing else but collect reinsurance, Mr. Banks said. "They don't give up."

At the end of 1987, ICI had collected more than half of the net estimated recoverables on all retrocessional programs on discontinued business. "Recoveries so far in 1988 have been on target," Mr. Banks said.

ICI also is turning its attention to business assumed and settling those accounts. ICI is offering discounts for early settlements of its liabilities.

ICI does not separate its discontinued business from its continuing business in reporting outstanding liabilities.

"ICI may be seen to take a harder line on claims than those with continuing business in the market," Mr. Banks commented.

ICI also takes a hard line on litigation. It has successfully invoked the Foreign Sovereign Immunities Act of 1976 in the United States when it believes a plaintiff seeking coverage for pollution liability claims has shopped for the best forum for its coverage litigation.

ICI can invoke the act because it is government-owned. Invoking the act allows it to request that the litigation be moved to a U.S. federal court from a state court.

"We are not using it to get out of liability but to adjust the jurisdiction if it is prejudicial to us," Mr. Banks said.

Mr. Banks noted that his week in Monte Carlo was spent about two-thirds on ICI's continuing business and one-third on reinsurance collection negotiations.

Another ICI employee was in Monte Carlo to "dive-bomb those who don't answer their telephone" about reinsurance collections, Mr. Bank said.

The Irish government is expected to sell ICI, but no timetable has been set.

● A letter distributed to brokers at the Rendez-Vous announced a change in ownership at London underwriting agency Ridgwell, Fox & Partners (Underwriting Management) Ltd.

According to a letter dated Sept. 5, Allstate Reinsurance Co. Ltd. will acquire New Zealand Reinsurance Co. (U.K.) Ltd.'s stake in the underwriting agency,

*Continued on next page*

Continued from previous page  
giving Allstate a 93.2% ownership  
in Ridgwell.

Effective Dec. 31, David White and John Condon, directors of New Zealand Re, will resign as directors of Ridgwell Fox. They will be succeeded by Ridgwell casualty underwriter Paul Commerford and property underwriter Robert Illius.

Donald Fox will remain chairman of Ridgwell until the end of 1989, according to the letter signed by Managing Director Cliff Ridgwell.

Meanwhile, both New Zealand Re and Pohjola Insurance Co. (U.K.) Ltd. will withdraw from the agency's 1989 underwriting stamp. After Jan. 1, business written by Ridgwell will be 77.5% insured by Allstate, 15% by Assurances Generales de France and 7.5% by GAN Incendie Accidents of France.

• Directors of English & American Group P.L.C. discussed how E&A raised an additional 5.75 million pounds (\$9.7 million) by issuing 100,000 new shares to existing shareholder Credit Suisse of Zurich, Switzerland.

As a result of the Aug. 4 issue, Credit Suisse now holds an 11.35% stake in E&A.

The additional capital has allowed E&A to "pay off a substantial part of (its) borrowing," leaving it in a good position for expansion, according to Managing Director Tony Taylor.

In February English & American formed Tower Training Ltd., a financial and management training company based in Gloucester, England, to add to its runoff, captive management and underwriting agency services.

"It is our policy to expand into any activity which is related to the insurance and reinsurance industry," said Mr. Taylor, adding that because most of E&A's revenues

are fee-based, it is partially insulated from the underwriting cycle.

Among the clients for which E&A currently provides management services are John Hancock (U.K.) Insurance Co. Ltd., Kemper Reinsurance London Ltd., Crombie Insurance Co. (U.K.) Ltd. and City Insurance Co. (U.K.) Ltd.

Mr. Taylor expects other U.S. companies will seek management and underwriting services from E&A as they seek to gain a foothold in the European Community in anticipation of freedom of trade within Europe by 1992.

• Robert Woodthorpe Browne, a consultant with London based Citicorp Insurance Brokers Ltd., said he is developing Citicorp's activities in Africa and the Middle East where the broker hopes to offer agricultural crop insurance.

CIB, which recruited more than 60 staff members, including four divisional heads, from rival broker C.E. Heath P.L.C. early last year, doubled its brokerage revenues in 1987 and plans to sustain its growth rate, said Mr. Browne.

• John Swain, manager of corporate banking at the Bank of Bermuda Ltd., announced that the bank has opened operations in two more European captive domiciles.

The bank opened Bank of Bermuda (Isle of Man) Ltd. in June with 20 employees after acquiring a 100% shareholding in Arawak Trust Co. (Cayman) Ltd. and its subsidiaries in the Isle of Man in Gibraltar. Arawak currently focuses on personal trust and private banking services, but the Bank of Bermuda plans to develop banking services for the captive industry in the Isle of Man, said Mr. Swain.

In February, the bank, which has had an operation in Guernsey since 1974, also established an office in Luxembourg under the name Bank of Bermuda (Luxembourg) Ltd. ■

# YEARS VS EXPERIENCE

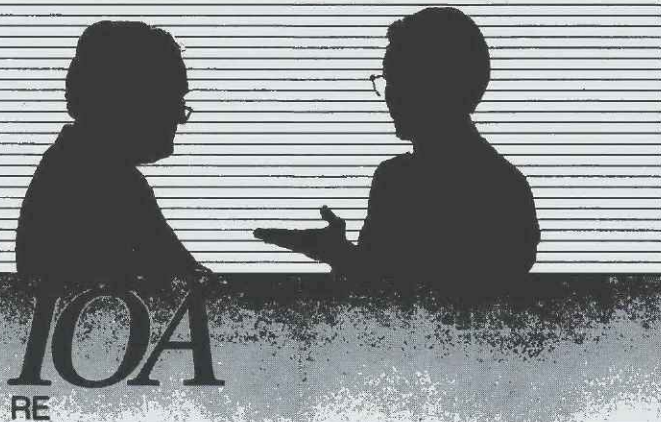
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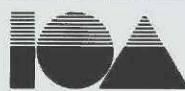
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# Business and pleasure mix at receptions

MONTE CARLO, Monaco—Receptions at the Rendez-Vous de Septembre are an essential opportunity to meet old friends and make new business contacts.

And, of course, the hosts are always interested in promoting their place in the reinsurance market.

Among the first and largest of the 32nd Rendez-Vous events were two Sunday evening receptions attended by several hundred people: one given by PWS Holdings P.L.C. of London, held in the foyer of the Grand Salon at Loews, and another given by the New York law firm of Kroll & Tract, held on the terrace of the Hermitage hotel.

U.S. reinsurance broker William Delaney hosted his traditional Monday noon-time reception in the Churchill Room of the Hotel de Paris. A much smaller affair by design, it also is distinguished by the invitation's description as for "gentlemen only." Mr. Delaney's intention is to keep the reception business-only, he explains.

Monday evening the Principality of Monaco hosted a dinner dance at the Monte Carlo Beach Club attended by 1,100 people. They dined outdoors at tables surrounding the pool and danced to two alternating bands.

French agency and brokerage MEPA

**The Bermuda reinsurance community's traditional afternoon reception added four sponsors this year, bring the total number of sponsors to 20, while attendance broke a record at 437, making it one of the largest industry receptions at the Rendez-Vous de Septembre.**

Group Holding S.A. invited more than 300 guests to a brunch around the Sea Club pool on Tuesday. The guests, who dined on barbecued lamb and a selection of pasta dishes, were entertained by a spectacular multilingual display by Swiss ventriloquist Daniel Remy. Mr. Remy, who lives in Geneva, Switzerland, and frequently performs in Las Vegas, conducted his act in at least five different languages, hardly pausing for breath.

Arthur Young International hosted its first formal reception at a Rendez-Vous this year, held Tuesday evening in the Hermitage.

The Bermuda reinsurance community hosted its traditional afternoon reception on Wednesday at the Monte Carlo Sporting Club. The sponsorship grew to 20 this year from 16 last year and attendance broke a record at 437, making it one of the largest

industry receptions.

As usual, the hosts sported Bermuda shorts, which several changed into at the club last they be seen walking the streets of Monte Carlo in the British colony's garb.

The 13 reinsurance company hosts were: Aneco Reinsurance Underwriting Ltd., Belvedere Insurance Co. Ltd., Centre Reinsurance Holdings Ltd., Clarendon Insurance Co. (Bermuda) Ltd., Forum Reinsurance Co. Ltd., G.T.E. Reinsurance Co. Ltd., Hudson Reinsurance Co. Ltd., Independence Insurance Co. Ltd., National Underwriters (Reinsurance) Ltd., Paumanock Insurance Co. Ltd., Pinnacle Reinsurance Co. Ltd., Tate & Lyle Reinsurance Ltd. and Victory Reinsurance International Ltd.

Bermuda reinsurance broker hosts were: Amberco Brokers Ltd.; H&H Reinsurance

Brokers Ltd. and Intere (Bermuda) Ltd.

Bermuda bank hosts were: Bank of Bermuda Ltd.; Bank of N.T. Butterfield & Son Ltd. and Bermuda Commercial Bank Ltd.

Also hosting the Bermuda party was Coopers & Lybrand Associates Ltd.

Wednesday evening, London broker C.E. Heath P.L.C. took over the foyer of the Grand Salon in Loews for its reception, also a large affair of several hundred guests.

In the Monte Carlo harbor, Lloyd's broker Kinimonth Lambert Ltd. entertained guests on several nights aboard the M.Y. Moonmaiden II, a 128-foot motor yacht. The largest party on the yacht, held Wednesday evening, was attended by more than 200 people.

Smaller parties were held throughout the week by reinsurers and brokers in hotels and restaurants in and around Monte Carlo.

For many, the entertainment highlight of the week is the Gala Dinner, always on Thursday night at the Monte Carlo Sporting Club and requiring black tie for men and evening dress for women.

And yes, the weather was exceptionally sunny and warm all week, providing ideal conditions for those who could slip away to the pool or the beach.

—By Kathryn J. McIntyre  
and Carolyn Aldred

## Captives now developing in Europe

By KATHRYN J. MCINTYRE

MONTE CARLO, Monaco—Captive insurance companies are just now developing as risk financing devices in Europe as they did in the United States 20 years ago.

That was the assessment of captive managers and reinsurers who attended the 32nd Rendez-Vous de Septembre earlier this month in Monte Carlo.

"Captives will be a growth area" in Europe, predicted

John Engstrom, senior vp of Skandia America Corp. in New York, who will return to Stockholm next year to manage all property/casualty reinsurance outside North America for Skandia International Group as well as the group's worldwide life reinsurance operations.

Professional reinsurers are interested in reinsuring captives, Mr. Engstrom added.

Skandia America manages captives through its Skandia International Risk Management Ltd./Hudson Under-

writing Ltd. subsidiary in Bermuda, and is opening a unit in Vermont, to be headed by George A. Chaffee, a former Vermont commissioner of banking and insurance.

Skandia Insurance Co. manages more than 25 captives in Luxembourg through subsidiary Sinser (Luxembourg) S.A.R.L. (BI, April 18).

International Risk Management Group Ltd.—whose founder, Fred Reiss, pioneered U.S. captive insurers—

Continued on next page

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Continued from previous page

forecasts growth in European captives, said Chief Executive Officer and President Arthur H. Deters.

European Economic Community freedom of trade, beginning in 1992 and including insurance, will allow "people who thought about captives before now to see solutions in practice available," Mr. Deters said (BI, May 16).

"Clients will have a freer hand," he said.

"Europe is where the United States was 20 years ago," Mr. Deters said.

The acquisition of International Risk Management by Swiss Reinsurance Co. has expanded the captive manager's opportunities to serve clients internationally, Mr. Deters said (BI, June 13; March 14).

The image of continuity presented by Swiss Re is "very important to Europeans," Mr. Deters noted.

While Luxembourg is the most popular captive domicile in Europe now, Mr. Deters predicted that new European captive domiciles will emerge, such as Denmark, which is considering modifications to its laws.

Optimum Risk Research (Bermuda) Ltd., a consulting firm, also plans to "export the captive concept to Europe," says Jean-Francois Gelot, who is partner in the company with his wife, Francoise Gelot.

Bermuda has the most technical expertise in forming and managing captives, but Luxembourg is emerging as a captive domicile, Mr. Gelot said.

Optimum currently is negotiating with potential partners to open a company in Luxembourg, he said.

Mr. Gelot previously was a director of the Overseas Group of E.W. Payne Cos. Ltd., appointed to develop brokering operations in Europe.

However, his contract was not renewed at the end of July because the company decided not to pursue European business development, Mr. Gelot said.

Optimum also is continuing to consult on reinsurance collections and runoff strategies, noted Mrs. Gelot.

Phillip Hancock, director of Rostron Hancock Reinsurance Brokers Ltd. in London, also is promoting captive insurance companies and rent-a-captives to businesses in the United Kingdom and Europe.

"Most U.K. and European companies don't understand captives," Mr. Hancock said.

Rostron Hancock is talking to banks to contact potential clients, he said, because "brokers won't help. U.K. brokers aren't pro-captive."

Professional reinsurers, Mr. Hancock said, "are very interested in captives. The problem they have is getting in on it."

Captive insurers will develop in Europe, Mr. Hancock predicted, because any corporation with more than 500,000 pounds (\$850,000) in premiums will demand captive feasibility studies.

"Wherever you go in Europe, people want to talk about captives," he said. "What happened in the States in the last 20 years is just happening here," Mr. Hancock said.

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# Employers stress flex plan communication

By ALISON KITRELL

Employers with flexible benefits take a more proactive approach toward benefit communication and are more likely to use the most effective communication methods, according to a recent survey.

In addition, employers with flex plans are more likely to assess how well their communications programs work.

However, many employers—whether or not they have flexible benefits—are using a wide variety of communication methods to inform employees about the composition and value of their benefits.

In its survey, "Corporate Benefit Communication... Today and Tomorrow," TPF&C, the benefit consulting subsidiary of Towers, Perrin, Forster & Crosby Inc., queried 269 employers nationwide about their employee benefit communication programs.

About one-third of these respondents had somewhat flexible or fully flexible benefit programs, meaning that employees have a choice of health care options, a spending account option or other benefit options.

Some 61% of the employers with flexible benefits said their benefit communication efforts were more proactive than reactive, compared with only 39% of the employers that offer traditional benefits, in

**'Are communication efforts paying off? It's hard to tell because. . . Three-fifths of the entire group make no attempt to find out what employees think about benefits and benefit communication,' say the TPF&C survey authors.**

which employees have few, if any, benefit choices.

"Flex respondents, by a wide margin, see themselves as in charge of the benefit communication process," the survey authors pointed out.

And, those companies with flex plans are more likely to perceive their benefit communications programs as successful. For example, 73% of the employers with flexible benefits said most employees understand the benefit program offered by their company, compared with only 59% of employers with traditional benefits.

And, 49% of employers with flex plans said most supervisors understand the benefit plan, compared with only 37% of employers with traditional benefits.

Employers with flexible plans also more often see their benefit communication efforts as adequate: Fifty-four percent said the company's expenditure on benefit communication was sufficient con-

sidering the amount spent on benefits, while only 44% of employers with traditional benefits said their communications spending was adequate.

And, employers with flex plans are more likely to see the computer as the benefits communication tool of the future. Sixty percent of the flex employers said the future of benefit communication lies with computerization, compared with only 45% of employers with traditional benefit plans. However, half the employers overall agree that computers will be an essential benefit communications tool in years to come.

"Perhaps the most telling sign of communication sophistication among flex respondents is the fact that they do a better job than the traditionalists of evaluating their communication efforts," the survey authors say.

Fifty-three percent of the companies with flexible benefits—compared with only 34% of the re-

spondents with traditional benefits—periodically survey employees about their benefits and/or their benefit communication efforts.

And, the survey authors say, that general lack of effort to measure the communications program is a major problem.

"Are communication efforts paying off? It's hard to tell because only two-fifths of the (total) respondents do anything to determine the impact and effectiveness of communication programs. Three-fifths of the entire group make no attempt to find out what employees think about benefits and benefit communication," the survey authors said.

However, most employers know what they want to accomplish with their benefit communication programs.

Eighty-two percent said communications efforts should increase employee understanding of their benefit plan provisions, and 81% said their communication efforts should increase employee appreciation of the benefit program.

The survey authors add, "Surprisingly, though, less than half of the group (just 41%) focus primarily on telling employees how much the company spends on benefits—even though such dollars-and-cents information may help underscore the value of benefits."

"Also surprisingly, given corporate interest in health care cost control, is the fact that only 36% said a primary communication objective is to gain employee support in controlling benefit costs."

Sixteen percent of the respondents said a major benefit communication objective was to encourage employees to take responsibility for their own financial security, and an equal number said a main objective was to maintain the company's commitment to open employee communication.

Whatever their primary objectives, employers use a variety of media in their benefit communication efforts.

Virtually all use memos (94%) and special brochures (91%). Some 88% use employee handbooks, 86% use small group meetings, 84% use personalized benefit statements,

83% use letters to employees' homes and 80% use companywide publications.

Other media used by a majority of the total respondents are live slide shows or overhead projection presentations, 77%; large group meetings, 76%; bulletin boards, 76%; videotapes, 74%; summary plan descriptions that are not part of employee handbooks, 69%; employee annual reports, 58%; slides and audio tapes, 57%; supervisory training sessions, 56%; and individual discussions with supervisors, 55%.

Other methods, used by fewer than half of the respondents, were benefit newsletters, 38%; telephone hot lines, 35%; electronic communication, 11%; and films, 10%.

However, the authors note, "The media that companies consider the most effective are not the most prevalent."

The three most effective communication media, according to survey respondents, were personalized benefit statements, small group meetings and videotapes.

Again, employers with flexible benefits were more likely than their more traditional counterparts to use the communication methods believed to be most effective. For example, 91% of the flex companies used personalized benefit statements, compared with 80% of the companies with traditional benefits; and 84% of the employers with flexible benefits used videotape presentations, compared with 68% of the traditional employers.

"Overall, the flex companies seem to have greater communication savvy than the traditionalists. But is this savvy the product of experience with flexible benefits? Or did having first-rate communication programs in place make it easier for these companies to adopt flexible benefits in the first place?" the survey authors ask.

"Although there's no way to be sure, the flex factor clearly has a major impact on communication practices and philosophy," the authors conclude.

Copies of the survey, "Corporate Benefit Communication... Today and Tomorrow," are not available to the public.



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## GIC market

Continued from page 2

BICs, which are technically a time deposit open account, claimed an estimated \$150 million out of the total of \$21 billion invested in GICs in 1987, according to Wyatt.

"I think they're going to grow significantly," said Mr. Boyen, referring to BICs. He estimates about 20 banks now offer BICs, compared with the roughly 50 to 60 insurance companies in the GIC market.

Mr. Boyen said that while insurance companies have been dominant in the GIC market since the mid-1970s, their ability to satisfy the increasing demand for GICs is "questionable," because:

- Surplus requirements limit the amount of business that insurance companies can write.

- The availability of investments that insurers can tap is becoming limited. "The decline of the private placement market has hurt insurance companies somewhat in the GIC area," Mr. Boyen said.

- Some insurers also cite difficulties measuring the profits that can be earned by issuing GICs.

"The result of all this is that the demand for GICs/BICs is beginning to exceed the supply," said Mr. Boyen, which is forcing down the GIC yields that a defined contribution plan sponsor can obtain.

"The spread between GICs and BICs and (Treasury securities) of a comparable maturity has narrowed considerably in the last five years," he explained.

Five years ago, the interest rate on a GIC exceeded Treasury bills' by an average of 150-200 basis points, or about 1.5 to 2 percentage points, Mr. Boyen said. Today, the spread is only 50-75 basis points.

Among the reasons banks are becoming more active in the market, according to Mr. Boyen, are:

- "Narrowing spreads allow the banks to be more competitive." With greater spreads, "the banks were not as competitive with the insurance companies as they can be now."

- Plan sponsors want to diversify their investments beyond the insurance industry. "As a general policy, diversification is good," Mr. Boyen said.

- The banks offer additional protection via coverage offered by the Federal Deposit Insurance Corp. "It's very attractive to plan sponsors," because it enhances their ability to communicate the security of BICs to plan participants, he said.

The FDIC guarantees funds on deposit in member banks up to a maximum of \$100,000 per depositor. Banks interpret this to mean that each defined contribution plan participant is entitled to \$100,000 of FDIC coverage, said Stacy Bowman, a Manufacturers Hanover vp who also spoke at the briefing.

- Banks have a tendency to deal with shorter maturities, which are very popular in the GIC market.

"A bank by its very nature has short-term liabilities," Mr. Boyen said. Insurers, however, tend to deal with long-term liabilities. As a result, banks can offer better rates in the one-to-four-year maturity range, Mr. Boyen said.

In addition, many defined contribution plans now are purchasing GICs that use floating rates in an effort to keep abreast with the overall market. Participants become dissatisfied when interest rates go up while their plans are still paying older, lower rates.

By their very nature, "banks are more familiar with floating rate-type agreements," Mr. Boyen said.

"As banks become more comfortable with this marketplace, I think they'll see it as a valuable source of funds," he said.

Manufacturers Hanover's Ms. Bowman said the bank began bidding on GIC deals early this year and expects it to write between

\$100 million and \$200 million in contracts by year-end.

While the bank is looking at contracts with a length of one to seven years, most of the contracts it has written have maturities of five years or less, she said.

The minimum size of a contract the bank will write is about \$1 million to \$5 million, with a maximum size of \$200 million.

Among the issues raised concerning banks' growing involvement in the GIC market is credit quality, Ms. Bowman pointed out.

Observers have noted that while many insurers have triple-A ratings from credit agencies, few

banks do. While Manufacturers Hanover's BIC product per se is not rated, the bank has an A-minus rating from Standard & Poor's Corp. for its senior long-term debt, and a Baa1 rating from Moody's Investor Service, she said.

While banks' ratings overall are lower than insurers', some question whether the ratings are "truly comparable" because of the differences in their businesses, said Ms. Bowman at the briefing.

Overall, said Ms. Bowman, the decision whether to purchase a GIC from an insurer or a bank "must come down to whether the company is comfortable with the

institution." Also important is the size, expertise and commitment, as well as the "general trend" of the particular institution, Ms. Bowman said. For instance, "Is it getting stronger?" she asked.

Banks and insurers can work well together in the GIC/BIC market, according to Ms. Bowman. Pointing to banks' strength in short-term contracts, Ms. Bowman said each type of institution offers a competitive advantage within a certain segment of the yield curve. At different times, one or the other can be more aggressive, she said.

As time goes on, it could develop that each institution is more suited

to one particular type of GIC contract than another, she said.

Another GIC observer, Brian Ternoey, who heads A. Foster Higgins' investment services practices in Princeton, N.J., said that while he is glad banks are entering the GIC market, he is "somewhat concerned that the banks don't know how to underwrite these things."

"Right now, I'd have to say the banks are weaker" than the insurance industry in underwriting, Mr. Ternoey said. Among the factors that must be taken into consideration in writing GICs are limits on the defined contribution plans'

Continued on next page

1988 Results

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#### STATUTORY SURPLUS (000 Omitted)

1983 - \$12,238  
1984 - \$16,739  
1985 - \$37,037  
1986 - \$53,063  
1987 - \$57,243  
\*1988 - \$64,951

#### COMBINED RATIO

1983 - 94.9  
1984 - 97.0  
1985 - 99.7  
1986 - 84.1  
1987 - 84.2  
\*1988 - 93.9

5 YEAR  
COMBINED RATIO: 89.8  
(1983-1987)

#### ASSETS (000 Omitted)

1983 - \$ 35,156  
1984 - \$ 48,719  
1985 - \$105,993  
1986 - \$159,563  
1987 - \$168,859  
\*1988 - \$173,861

#### LOSS RESERVES (000 Omitted)

1983 - \$ 4,985  
1984 - \$ 9,150  
1985 - \$22,784  
1986 - \$46,243  
1987 - \$59,712  
\*1988 - \$63,544

\*Six months results ended June 30, 1988

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## GIC market

Continued from previous page  
ability to move funds from the GIC to other investment instruments and caps on the amount of money the plan can invest in the GIC.

"The FDIC is very nice, but nobody wants to use it," Mr. Ternoey said, noting that FDIC involvement would be a last-resort scenario that all parties want to avoid.

High credit ratings are important to plan sponsors, he said. Some want a minimum triple-A rating, while others want a double-A, he said, "and a lot of them won't go down to an A-rating at this point."

And, while the concept of diversification is valid, plan sponsors also can diversify among insurance companies rather than among lower-rated banks.

In general, Mr. Ternoey added, he would advise his clients to diversify if the industry ratings were "more equal." But while individual banks may have higher ratings than specific insurance companies, on an industrywide basis "the insurance industry still looks on average better than the banks."

But more employers with defined contribution plans may turn to banks because GIC demand is growing quicker than supply.

According to a Foster Higgins survey of 31 insurers that represent more than 80% of 1987 GIC sales, the insurance industry's capacity for GICs in 1988 is 12% to 15% higher than in 1987. But at the same time, plan sponsor requirements for GICs will increase an estimated 16% to 22% this year. This means relative capacity may decrease by 1% to 10% in 1988.

This will lead to "tight" capacity for maturities of 3½ years or less, Mr. Ternoey said.

Supply and demand will be about equally balanced for GICs with maturities ranging from 3½ years to 6½ years, while there will be adequate supply for maturities of greater than 6½ years, according to the survey.

The imbalance between supply and demand for short-term maturities also will mean a bigger year-end rush to place GIC business.

Demand is increasing for GICs even though creation of new 401(k) plans and 1988 401(k) payroll deductions has slowed, Mr. Ternoey said. However, he noted that many contracts initiated in the early 1980s have matured, and these funds must now be reinvested.

Among other factors fueling demand was the Oct. 19 stock crash, which increased the flow of funds into GICs, "though it wasn't any kind of stampede," Mr. Ternoey said.

Of the insurers surveyed by Foster Higgins, 10 said they feel a greater need to allocate or ration their GIC capacity this year compared with 1987, while 18 said they were not planning to ration capacity and two were not sure.

Of those that plan to allocate capacity, seven said they would tighten underwriting requirements, while six cited they would aim for higher profit margins.

To obtain a copy of the Foster Higgins survey, contact Tamara Bey, Investment Services, A. Foster Higgins & Co. Inc., 212 Carnegie Center, Princeton, N.J. 08543; 609-520-2616.

## Managed care liability

Continued from page 1

physician suggested surgical treatment, and Medi-Cal's utilization review program authorized the surgery and a 10-day post-operative inpatient stay.

Just prior to the patient's scheduled discharge from the hospital, the attending physician requested an eight-day extension, but Medi-Cal's physician reviewer approved only a four-day extension.

Several days after she was discharged, the patient required emergency amputation of her right leg.

The patient, Lois Wickline, sued Medi-Cal, alleging that it was negligent in refusing to grant the eight-day hospitalization extension, which caused a premature discharge and the resulting amputation.

A trial court ordered Medi-Cal to pay a judgment of \$500,000. But that decision was later reversed by a California state appellate court, which ruled that the decision to discharge a patient from a hospital is the ultimate responsibility of the attending physician, not that of a third-party payer like Medi-Cal.

However, the court stressed that a third-party payer could be liable for injuries resulting from an arbitrary or unreasonable decision to deny medical care.

"This has made everyone realize that the real responsibility for a patient's care rests with the physician. The decisions made by utilization review companies or in managed care settings are not over whether or not a person should go to the hospital, but how—once they need treatment—we can maximize their benefits," explained Dr. Robert J. Becker, president of Niles, Ill.-based HealthCare COMPARE Inc., one of the nation's oldest utilization review firms.

But while the Wickline decision is considered a victory for third-party payers, experts warn employers of the potential for liability in the event an employee is harmed by a provider in a managed care program.

"There is definitely the potential of liability for employers if they channel patients from one physician to another," such as by offering employees financial incentives like waived or reduced deductibles to use doctors in a preferred provider organization, said Douglas L. Elden, an attorney with the Chicago-based firm of Alzheimer & Gray. Mr. Elden also is president of the American Assn. of PPOs in Washington, D.C.

"Employers could be held liable for negligent care delivered to employees in managed care programs

under the legal theory known as corporate negligence. That theory says that if you have a credentialing system for choosing vendors—or in this case health care providers—and you do not follow or enforce that system, then you could be liable if an employee is harmed by a provider," he explained.

A credentialing system should include provisions mandating that PPOs: require providers be board-certified, require that providers carry their own medical malpractice insurance, not contract with providers with a history of malpractice or use other safeguards.

The employer's PPO selection or credentialing system should require that the PPO monitor its participating providers and enforce compliance with these credentials, Mr. Elden said.

"The fact that you as an employer encouraged the employee to select a particular provider does not create the liability. It's the fact that a provider does not follow the credentialing system and that you or the PPO does not enforce the system that creates the liability," Mr. Elden said.

"In a well-run operation, the liability issue is not a problem. And, to stay out of managed care because of the risk of third-party malpractice liability is not the answer," because managed care programs often arrange appropriate, quality care, he said.

"I see a lot of potential risk, but nothing that can't be managed," said Langdon Collins, deputy general counsel for the Blue Cross & Blue Shield Assn. in Chicago.

"A lot of managed care programs are very responsibly operated. However, employers and managed care programs must make it clear to employees that the administrator of the program—whether it be the insurer or the employer—is not actually providing health care, but is providing benefits to cover that care," leaving the ultimate decision about the care to the employee and his or her physician, Ms. Collins said.

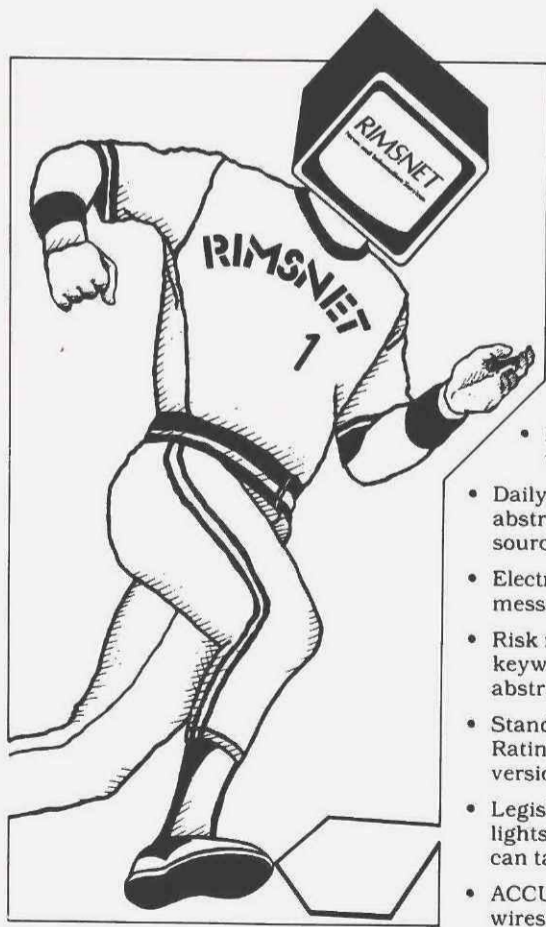
Some legal experts say that employers' liability for the care delivered in managed care programs is extremely limited.

"A tremendous legal obstacle to an employee suing the employer as a third party for harmful care delivered in an HMO sponsored by the employer is the independent contractor doctrine," said Peter Senuty, a partner and leader of the insurance practice of the Los Angeles law firm Knapp, Petersen & Clarke.

Continued on next page

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## Continental crash

Continued from page 3

firm of Speiser, Krause & Madole. Settlement amounts were sealed by the court, he added.

The jury trial in December will decide who is liable for the crash and whether punitive damages can be awarded. When that trial ends, all the lawsuits will be sent back to U.S. District Courts in the states where they were filed. Those courts will determine compensatory damages—including economic and non-economic damages—according to their state laws.

However, punitive damages will be determined according to either Texas or Colorado law, depending on the outcome of the trial.

At the pretrial conference earlier this month, Judge Finesilver said consolidating the cases into a single jury trial to determine liability and whether punitive damages can be assessed "will streamline proceedings" and "avoid unnecessary costs and delay and prevent inconsistent results."

Attorneys also point out that compensatory damages could also be higher in the cases to be tried in Texas than in Colorado since defendants in Texas can be held joint and severally liable while those in Colorado cannot.

Under another Colorado law enacted in 1986, a defendant is not liable for a larger share of any award than his or her percentage of responsibility if other defendants are not financially able to pay their share of damages.

However, Texas law says a defendant is liable for payment of an entire award if its percentage of responsibility is greater than 20% of the total damages and greater than the responsibility of the plaintiff. A defendant also may be ordered to pay an entire award if the plaintiff has no responsibility for the damages and the defendant is more than 10% responsible.

Brokers and underwriters have estimated that liability costs from the crash could exceed \$50 million.

At the time of the crash, Texas Air had up to \$600 million of liability insurance covering its \$8.8

billion fleet. In addition, Texas Air hulls were insured for a maximum of \$60 million each.

The fleet was insured under one aviation hull and liability insurance package placed in the United States by Frank B. Hall & Co. Inc. and in London by Hall affiliate Leslie & Godwin P.L.C.

About 20% of the coverage was placed in the London market, led by Lloyd's of London's Ariel syndicate. In the domestic market, about 25% was placed with U.S. Aircraft Insurance Group in New York; 15% with Associated Aviation Underwriters in Short Hills, N.J.; and 5% with Aviation Office of America in Dallas.

French insurers, including La Reunion Aérienne and CAMAT, also are believed to have participated in the coverage.

Continental and Texas Air denied in papers filed at the pretrial conference that they were negligent or guilty of any wrongdoing that could have caused the crash.

Instead, the defendants said, plaintiffs' "injuries, damages and losses, if any, were caused by the acts, omissions and/or fault of third parties over whom Continental and TAC had no control or right to control."

Those third parties were named by the defendants in the papers as the city and county of Denver, the Federal Aviation Administration and any others "to whom the trier of fact attributes a percentage of comparative responsibility."

City and county employees failed to properly monitor runway snow conditions or clear or close the runway when conditions warranted, the defendants charged.

They say the FAA, among other things, failed to delay takeoffs on the runway until it could be inspected, plowed or treated and did not accurately report wind direction information to the crew of the doomed flight.

Continental attorney Robert Harris of the Denver firm Hall & Evans said the city, county and the FAA have not been named as defendants in any of the suits. ■

Continued from previous page

"Under this doctrine, when someone renders service to you and there is a harmful effect, you can't go after the organization that directed you to the provider or vendor," Mr. Senuty said.

"I think that the likelihood of employers being held liable in these cases would be very remote for the reason that it would have to be shown that the employer acted negligently in selecting and offering the HMO," said Mark Joffe, associate counsel for the Group Health Assn. of America, a Washington-based trade group for health maintenance organizations.

However remote the possibility of third-party malpractice liability, attorneys, benefit consultants and some insurers and utilization review vendors advise employers to act cautiously, especially given today's litigious environment.

"Certainly, we think the potential exists for employers to be held liable in malpractice cases arising from managed care situations, but we're confident that there are things employers can do to protect themselves," said Pat Richter, a consultant in the Lincolnshire, Ill., office of Hewitt Associates.

"One of the major things an employer must do is to go through a very well-documented selection process to show that they have exercised conscientious selection of providers or vendors," she said.

"The important thing about having a documented selection process is so that the employer will be able to demonstrate in court that you went through some due diligence in this process," said Mr. Meister of Foster Higgins.

"And, if you are actually putting financial performance requirements on the managed care provider," such as requiring the vendor to keep costs below a certain cost level, "I think an attorney could have a field day with that should he or she have access to the plan proposals, etc.," Mr. Meister said.

He explained that as employers work to create cost-effective benefit plans, they also must demonstrate that they are acting in the best interests of employees by carefully selecting vendors and monitoring their performance.

Other experts also stressed the importance of careful selection of vendors.

"We are trying to convince our clients to research any managed health care vendor carefully and are encouraging them to select the more established and competent firms," said Ronald Summerville, a consultant in the Washington office of The Wyatt Co.

"The most important thing an employer has to do is to make sure that they work with reputable vendors and make sure that those organizations take the right steps to weed out the negligent providers," suggested Frank Choromanskis, vp-group corporate for the Prudential Insurance Co. of America in Roseland, N.J.

In addition to traditional group health indemnity products, Prudential also offers HMOs, PPOs and utilization review programs. The insurer is voluntarily undergoing the managed care program credentialing process now being conducted by the Chicago-based Joint Commission on Accreditation of Health Care Organizations, Mr. Choromanskis said.

"Look at the credentialing process and make sure the providers have malpractice insurance and board certification. Also, make sure the organization has a quality assurance program in place," Mr. Choromanskis said.

Contracting with HMOs, PPOs and utilization review vendors is "just like any other part of your business. Someone will find a liability somewhere, and you just have to be diligent about the vendors you do business with," he

added.

Another step employers can take to limit their liability exposure is to institute a hold-harmless agreement with the managed care vendor or be named as an insured on the vendor's liability insurance policy, some experts said.

However, while employers may feel more comfortable with their malpractice exposure through the execution of a hold-harmless agreement with managed care vendors—especially utilization review vendors—some experts warn that employers should not depend only on these agreements as protection.

"There are two different strategies to approaching the problem of third-party liability," pointed out Hugh M. Cone, a senior vp with Cost Care Inc., a utilization review firm in Huntington Beach, Calif.

"The first strategy is for the vendor to have indemnification and for us to provide a hold-harmless agreement so that we would hold the employer harmless in the event

of a lawsuit," he explained.

However, Mr. Cone stressed that Cost Care and its employer clients are best protected from lawsuits by the fact that physician consultants contact attending physicians "100% of the time in the review process."

Utilization reviews offered by some vendors are handled by registered nurses who have access to physician consultants should they need a physician's opinion.

While HealthCare COMPARE believes the integrity of the review process is the best protection against liability exposures for the firm and its employer clients, "when an employer asks that we name them as an insured, we will do that," Dr. Becker said.

Prudential, as well as major national HMOs like United Health Care Corp. in Blue Bell, Pa., and U.S. Health Care Corp. in Minnetonka, Minn., do not include hold-harmless agreements in their contracts with employers.

"We don't have these agreements because we really don't feel comfortable assuming anyone else's risk," Mr. Choromanskis said.

Some consultants say that hold-harmless agreements often are not very meaningful in protecting an employer.

"We attempt to get as broad an indemnification from managed care vendors as is possible. The problem is that some utilization review firms and PPOs are so small and have so little in assets, that a hold-harmless agreement really is meaningless," said Mr. Summerville of Wyatt. A plaintiff looking for deep pockets will turn elsewhere—such as to the employer—if the recovery from the vendor is not great enough to cover damages.

"Hold-harmless agreements are only as good as the organizations that give them, so it really depends on who you are doing business with," Mr. Elden said.

"Check the creditworthiness of the vendor, and if you can get a

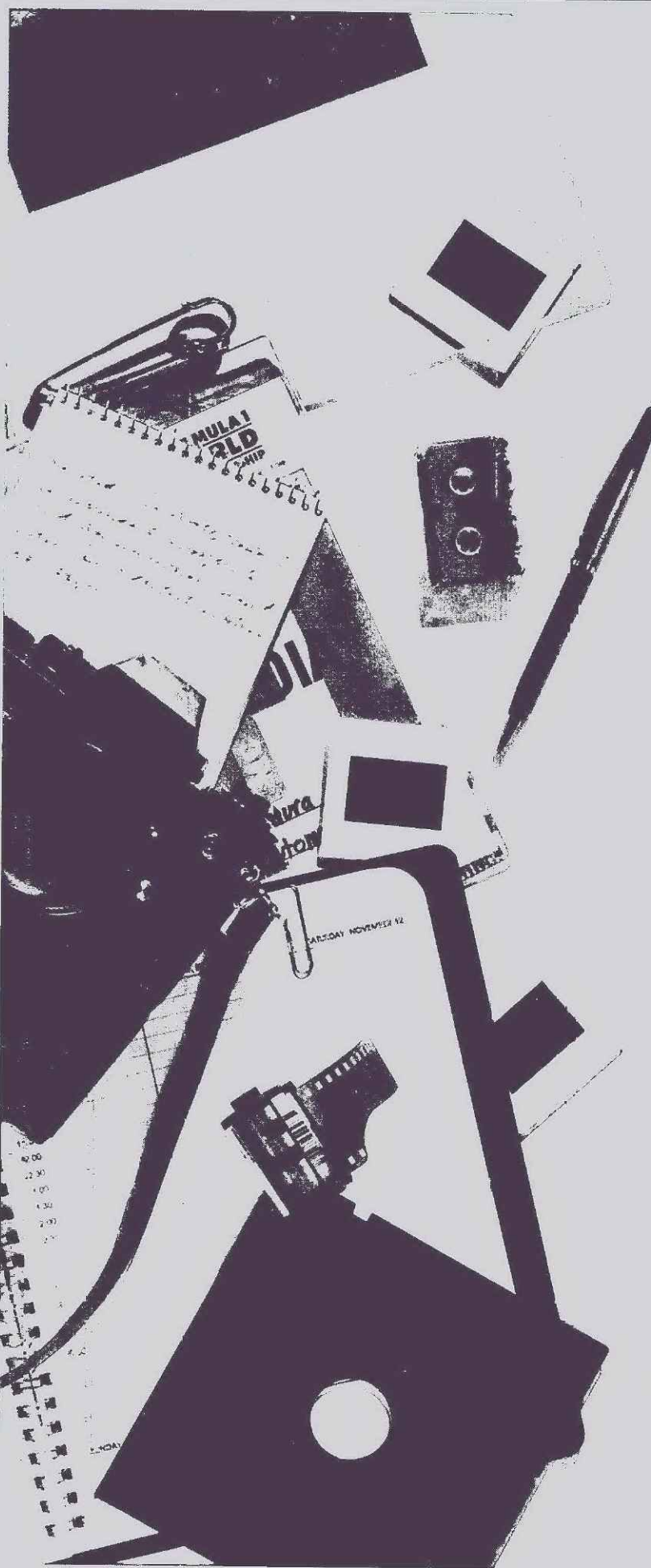
certificate of insurance, that's great," he added.

Both Mr. Elden and Ms. Collins of BC/BS pointed out that professional liability insurance for HMOs, PPOs and utilization review firms can be difficult to find, since this is a relatively new area of liability.

Some consultants suggest that an employer involve its risk manager when selecting and contracting with managed care vendors.

"The people who are knowledgeable in liability exposures, like risk managers, need to be more involved in this process," said Wyatt's Mr. Summerville. However, he said he does not know of a case in which a risk manager has been involved.

"I haven't seen any involvement by risk managers in contracting. But, it's a good idea for employers to look at the effects of managed care programs on their overall liability program," said Mr. Meister of Foster Higgins.



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# Ad agency rises from the ashes

Crain News Service

**BLOOMFIELD HILLS, Mich.**—On Saturday mornings, advertising agency owner Joe Kidd likes to stop by his office for a few hours to pick up mail and clear his desk of paperwork.

On Saturday, Aug. 6, that routine suffered a disruption: A gas explosion leveled part of the Bloomfield Centre building in Bloomfield Hills, a Detroit suburb, causing at least \$400,000 of damage. The blast reduced the offices of Mr. Kidd's agency, J.K. Kidd & Co., to a smoldering pile of rubble.

Mr. Kidd arrived in time to watch smoke and flames engulf what had not already been blown to bits. Artwork, tapes, awards, furniture, machines, supplies, personal belongings—almost all of the material compiled in the agency's 11-year-history—were destroyed.

In the aftermath of the six-hour blaze, Mr. Kidd's media buyer and office manager, Susan Sweetman, salvaged enough singed paperwork to fill two small cardboard boxes.

Ms. Sweetman's find was the first step in the small ad agency's struggle to get itself up and running by Monday morning. Two days later, those boxes stood in the corner of a small conference room at WKBD-TV/Channel 50, where the agency had set up temporary quarters, and Mr. Kidd's staff members were busy calling clients, writing scripts and buying media.

It appeared to be a routine workday despite the cramped, makeshift setting.

Mr. Kidd recalled the initial shock of his near-miss: "I could have easily been putting my key in the door when it happened," he said. "The building was not there anymore. I just stared at the hole for a while, thinking: 'What is this? Why is this? And why me? It felt like I was watching a scene on the 11 o'clock news happening to somebody else in some other city.'"

J.K. Kidd & Co. is a full-service advertising agency that specializes in producing and placing broadcast advertising. The agency—whose major clients include J.C. Penney Co.—had been headquartered in the Bloomfield Centre building for six years.

Soon after Mr. Kidd arrived at the scene of the explosion, he ran into Thomas Ronayne, the agency's vp. Mr. Kidd's wife had called Mr. Ronayne. She was confident that her husband had not been injured—he hadn't had time to reach the office when she received a phone call from the police about the explosion—but she wanted Mr. Ron-

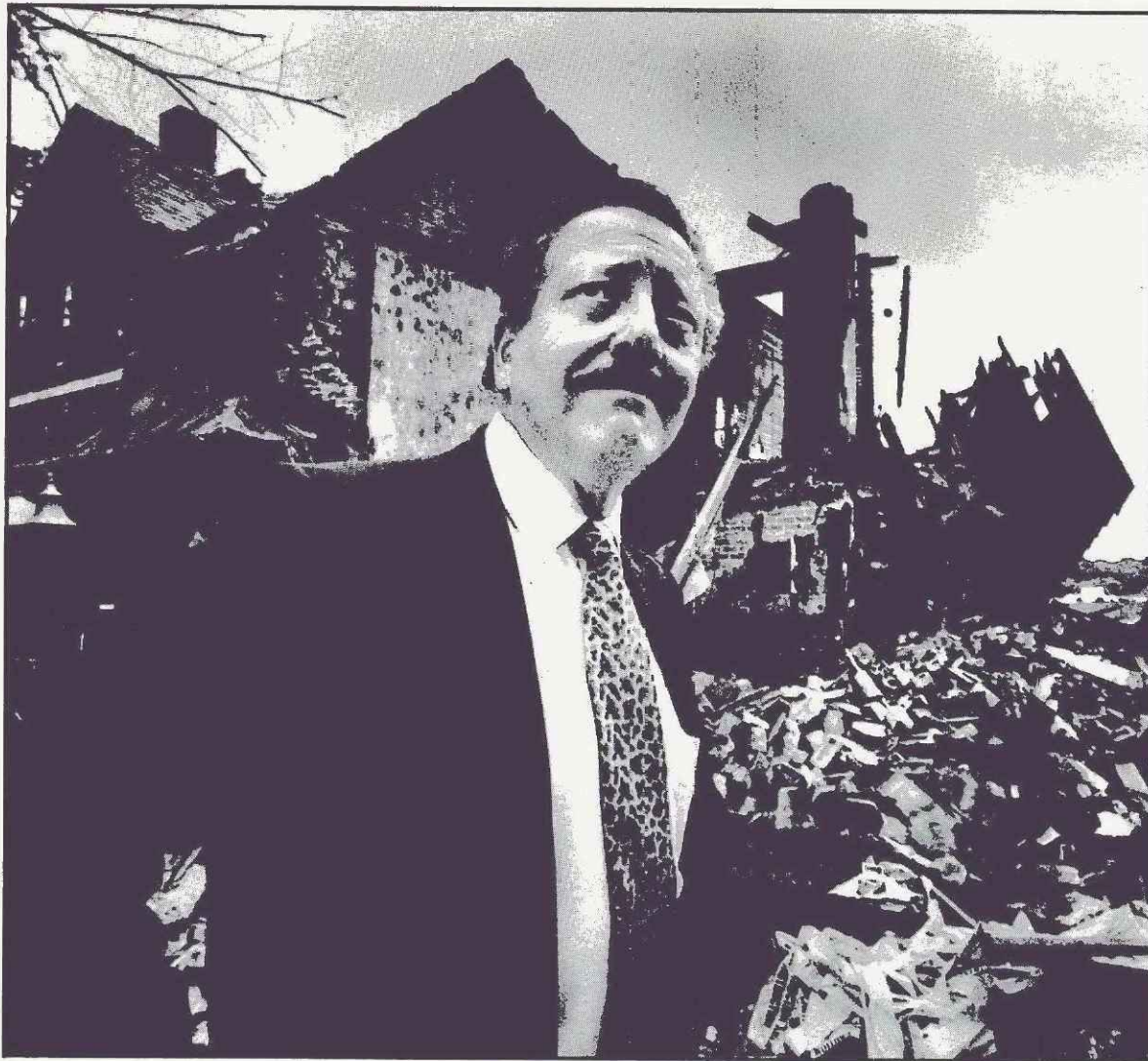


Photo: Dwight Cendrowski

Joe Kidd surveys the ruins of the former site of his advertising agency in a Detroit suburb.

ayne there when Mr. Kidd did arrive.

"She was worried he might have a heart attack when he saw it," Mr. Ronayne said.

Mr. Kidd was only dazed for a short time. He was consoled by the fact that there were no injuries, which Bloomfield Hills police say was amazing considering the magnitude of the blast and the building's proximity to Woodward Avenue one of the busiest streets in the Detroit area.

Mr. Kidd soon became resigned to the fact that there was little remaining of the material portion of an advertising agency with \$3 million in annual billings.

That the agency's six employees were safe mattered most to him. "Only people are irreplaceable," Mr. Kidd said.

Then the disaster recovery began. Mr. Kidd and Mr. Ronayne went back to Mr. Kidd's house to

begin drawing up the things that needed to be done.

Topping that list were making calls to the agency's insurer, staff members, the agency's bank, the telephone company, the post office and, most importantly, clients like J.C. Penney and Church's Lumber Yard.

But calling big clients proved to be unnecessary. Advertising representatives from Church's and Penney had heard about the blaze from media reports and called Mr. Kidd and Mr. Ronayne at home.

"No one asked, 'Where's my tape,'" Mr. Kidd said. "They just wanted to be sure everyone was all right."

On Sunday morning, Mr. Kidd and several agency staffers met at the site for what he called a "post-mortem look-see."

"We'd been there for six years," he explained. "You just don't walk away and forget it."

It was then that Ms. Sweetman spied two blackened file cabinets that workers from Consumers Power Co., the Detroit-area electric utility, had pulled from the rubble after the blast. The still-hot cabinets contained active client files, the agency's checkbook and its accounts receivable/payable ledger—all singed but readable. It was a heartening find.

The agency's financial reports and tax information were computerized and kept at the accountant's office, another plus.

A search of the parking lot turned up one of Mr. Ronayne's pipes, pipe cleaner still intact, and a coffee mug—the only personal effects that had blown free of the explosion.

Mr. Kidd said that Hartford, Conn.-based Hartford Casualty Insurance Co. wrote a commercial property policy for the agency that included contents insurance with a limit of \$10,000.

"I probably should have been more heavily insured," said Mr. Kidd, noting that the policy covered only such items as office furniture, file cabinets and desk calculators.

A major problem was solved on Sunday afternoon when a sales representative from WKBD offered the ad agency temporary housing in the station's building in the nearby suburb of Southfield.

"That was the first of the turnaround good news," Mr. Kidd said, adding that representatives from all Detroit television stations made the same offer, but Channel 50 made it first.

"This town has a lot of sensitive people. Everybody's been great," said Mr. Kidd, a native of North Carolina who moved to Detroit in 1953 and started his own agency in 1977.

On Monday morning, Mr. Kidd met with his staff at Channel 50.

"We shook our heads, looked at each other, then shook hands all around," said Mr. Kidd. "The

shock had kind of worn off. Everybody was just happy to be there."

He then had the staff make lists of everything they remembered being in the office before the explosion.

"They added to the long list that I had already made," Mr. Kidd said shortly after the blast. "We won't really know for sure everything that's missing until a client calls up and says, 'Dig out all the transparencies you have for such-and-such a project.' Then we'll have to say, 'Sorry, they were destroyed.'"

"But you can't sit around in the doldrums worrying about any of this. Business goes on. I'm making ads, producing commercials. I've got layouts to make, storyboards to draw."

Master tapes for commercials are kept at production studios, so Mr. Kidd and his staff had most of the components they needed to make the radio and television ads that had been scheduled for production at the time of the explosion.

Copywriter Bob Monement had taken home a slew of scripts, including what was the agency's next big project: television ads for Church's Lumber Yard to be run on a local station as part of the lumber yard's sponsorship of the Summer Olympics coverage.

By Monday afternoon, in fact, Mr. Kidd and his employees were in full swing, conducting business from Channel 50's offices.

Mr. Ronayne, the agency's vp, had called all clients and prospective clients to assure them that the agency's operations would continue without skipping a beat. And, he said he doubted the agency's temporary displacement would hurt its chances with prospective clients.

Kidd & Co. staffers were writing, producing, buying—in short, everything that they normally would have been doing had their offices not been leveled two days earlier.

"It is kind of like when we started the business," Mr. Kidd said. "We were all at a little round table that somebody had loaned us—only now we have clients and we're in a very directed position. We know where we are."

Ms. Sweetman, the media buyer and office manager, said the most bothersome details following the explosion concerned the telephone company and the post office.

The phone company insisted that the agency maintain a phone line at the site. "I try to explain that we've been blown up," she said the week after the explosion. "It doesn't sink in."

In addition, the post office wanted the agency to declare a change of address, even though it didn't have a new address.

Mr. Kidd is looking for new office space, most likely in Birmingham, another Detroit suburb just south of Bloomfield Hills, while still operating from Channel 50's building. He had been planning to move the business in October anyway, because Jonna Realty Ventures, Kidd's landlord, was slated to demolish the Bloomfield Centre building to make way for a new office building.

Mr. Kidd said he doesn't plan any extra precautions against fire or another catastrophe. If his brush with disaster has changed his work or lifestyle at all, he's not owning up to it.

"I'm not the philosophical type," Mr. Kidd commented. "If I do anything different, it'll probably be to take more work home from the office."

*Business Insurance Associate Editor Mark A. Hofmann contributed to this story.*

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# Lloyd's may appeal Oakeley Vaughan ruling

By STACY SHAPIRO

LONDON—Lloyd's of London is considering whether to appeal a British High Court decision that orders the market to release a disciplinary report that led to the suspension of three former executives of Oakeley Vaughan (Underwriting) Ltd. in 1981, said Lloyd's Chief Executive Alan Lord.

During a preliminary hearing last month, the High Court ruled that more than 40 members of syndicates formerly managed by Oakeley Vaughan could read the 1981 report prepared by Lloyd's underwriter Henry Chester.

The members are suing Lloyd's for breach of duty, claiming Lloyd's "failed to take any satisfactory steps to protect" the members (BI, Sept. 5; Feb. 15).

The members claim that had Lloyd's released the report, they would not have remained on the syndicates and thus would have avoided heavy losses incurred by the syndicates in the 1982 and 1983 underwriting years.

Lloyd's had to file a "leave to appeal" in the High Court to reserve its right to appeal, which the market has done, Mr. Lord explained.

Meanwhile, the Council of Lloyd's has enacted the Member's Agents (Information) Bylaw and has approved the code of practice booklet "Know Your Principal—Guidelines for Members' Agents at Lloyd's."

The bylaw and code of practice satisfy five of the 70 recommendations made by the quasi-government committee headed by Sir Patrick Neill that investigated self-regulation at Lloyd's.

## Willis Faber profits

Willis Faber P.L.C., which was rocked by its turbulent merger with fellow Lloyd's of London broker Stewart Wrightson Holdings P.L.C., reported a flat pretax profit for the first six months of 1988 ended June 30, the company announced last week.

Pretax profits for the first six months totaled 45.2 million pounds (\$77.2 million at the appropriate exchange rate), down only slightly from 45.5 million pounds (\$73.6 million) for the six-month period ended June 30, 1987.

However, the figures are not directly comparable because the 1988 numbers include Stewart Wrightson results, while the 1987 do not. Stewart Wrightson's results were consolidated with Willis Faber's from Sept. 1 last year.

First-half revenues jumped 87.2% to 144.5 million pounds (\$246.8 million) from 77.2 million pounds (\$124.8 million) in the first half of 1987, reflecting the acquisition.

Also at Willis Faber, Chairman David Palmer, 62, will retire at the end of next month, as previously announced. Mr. Palmer was named Willis Faber's chief executive in 1978 and chairman in 1982.

Mr. Palmer's last day as chairman will be Oct. 31, when he gives a speech in Brisbane, Australia, to the National Insurance Brokers Assn. of Australia conference.

Mr. Palmer will be succeeded at Willis Faber by Chairman-elect Roger Elliott.

"It's been an eventful few years" as chairman of Willis Faber, Mr. Palmer said last week.

His highlights as chairman were the merger with Stewart Wrightson, which he has always favored; the divestment of the company's Lloyd's underwriting agencies, which he termed as difficult; and the 1982 acquisition of Lloyd's reinsurance broker Carter, Wilkes & Fane (Holding) Ltd.

## London

Mr. Palmer emphasized that the merger with Stewart Wrightson—which was considered volatile and led to numerous defections by key Stewart Wrightson executives—has at last settled down. More than 600 employees have been cut from the merged company, and 30,000 square feet of office space has been vacated, which helped save the company 11.5 million pounds (19.6 million) this year, Mr. Palmer said (BI, June 20).

## Legal reform

Improved public access to the English legal system is being urged by prominent British lawyers in a

new independent report.

The Marre Report, named after Lady Marre, who chaired the committee, examines the future of the legal profession in England and Wales.

Among its proposals, the report recommends further research into the possibility of introducing contingency fees for lawyers, which currently are prohibited in England.

There have been calls recently from consumer activists and some lawyers in the United Kingdom to introduce some form of contingency fee system (BI, June 27).

"We recommend that contingency fees should not be intro-

duced at present, but that they should form the subject of further research and discussion," the Marre report says.

Meanwhile, both the Law Society and the Bar Council, the association for British trial lawyers, have set up working parties to examine contingency fees.

The Marre report also recommends further study of the "possible advantages of a government-funded investigation to establish liability where there is a multiplicity of plaintiffs involved."

According to the report, "recent disasters and medical negligence cases have highlighted the difficulty of determining fault or liability in a disaster or any other case where there is a multiplicity of plaintiffs," partly because of the high litigation costs.

## Boardman suspended

Ian Michael William Boardman, former director of Lloyd's underwriting agency R.J. Bromley (Underwriting Agencies) P.L.C., has been suspended from Lloyd's of London for 12 months.

The action prohibits Mr. Boardman from conducting any business with Lloyd's and from entering the market.

Mr. Boardman has been disciplined by Lloyd's Council for falsely overstating his basic salary on a mortgage application form and forging the signature of R.J. Bromley, chairman of the underwriting agency.

Lloyd's had sought a two-year suspension for Mr. Boardman, but the Lloyd's Appeal Tribunal reduced the suspension to a year. ■

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# AMRECO rehabilitation plan approved

CHICAGO—American Mutual Reinsurance Co. is being rehabilitated according to a plan approved Sept. 9 by a Cook County Circuit Court in Chicago.

The innovative plan calls for the Lisle, Ill.-based reinsurer to pay an annually determined percentage of all outstanding liabilities in cash and the remainder with the use of a new, interest-bearing financial instrument that is similar to a note, said Debra Anderson, general counsel with the Illinois Insurance Department's Office of Special Deputy Receiver.

Cedants have until Oct. 21 to report to the rehabilitator claims due through April 30, 1988.

While the reinsurer has not been formally declared insolvent, actuaries have estimated that AMRECO has a \$74 million reserve deficiency.

The rehabilitation plan calls for progressive redemption of the instruments so that, ultimately, obligations may be paid in cash.

"As AMRECO's assets accumulate and future losses become more predictable, the plan projects periodic future increases in the percentage of cash payment of all losses," according to an Insurance Department statement.

"Based on current projections, AMRECO should be able to pay the initially determined percentage to all cedants as claims are presented. The plan provides that along with the increase in the percentage of cash payments in future years, additional cash payments will be made on previously settled claims," the statement says.

## Around the states

While there is no guarantee that all cedants will be compensated in full, it is possible under the plan, Ms. Anderson said.

The plan stipulates that all interest-bearing instruments mature by the end of 2041.

AMRECO operated primarily as a mutual reinsurer and was owned and managed by its reinsured members, many of which were also retrocessionaires of the AMRECO pool.

It ceased accepting new or renewal business Feb. 28, 1985, and was placed in rehabilitation in February 1988.

AMRECO wrote net premiums of \$14.5 million in 1985, according to A.M. Best Co.

—By Meg Fletcher

## Illinois HMO seized

CHICAGO—The Illinois Insurance Department is analyzing about 14,000 claims against Cooperative Health Plan Inc., a health maintenance organization seized by regulators last month because of complaints about unpaid claims.

The claims review was launched after a Cook County Circuit Court judge approved a department request to declare the Northbrook-based HMO insolvent and place it in conservation, according to Edward Hahn, chief administrative officer in the Insurance Department's Office of

the Special Deputy.

Cooperative may face about \$2.6 million in unpaid claims, although up to half of that amount may be inflated due to duplicate claims, Mr. Hahn added.

The court order also restrains health care providers from bringing or prosecuting an action or claim against the 10,000 to 11,000 enrollees of Cooperative, except for applicable co-payments or deductibles or fees for health care not covered by the plan.

All Cooperative members were enrolled in the MultiCare Inc. HMO in Chicago on May 1. The move was not ordered by the Insurance Department.

Cooperative remains responsible for covered health services provided to these enrollees prior to May 1.

—By Meg Fletcher

## South Carolina pool

COLUMBIA, S.C.—The South Carolina Insurance Commission will seek creation of a health insurance pool for high-risk uninsureds during next year's General Assembly session.

The health care proposal was one of several legislative initiatives approved by the commission earlier this month. Other actions included adoption of the National Assn. of In-

urance Commissioners' model law on rental car collision damage waivers and technical amendments to state insurance regulations.

Joe P. Barnett, assistant to Chief Commissioner John G. Richards, said that both houses of the state Assembly have passed legislation creating a high-risk health insurance pool in the past. However, such legislation has never passed both houses in the same year.

"The cost got in the way," Mr. Barnett said of past efforts.

However, the most recent program is expected to cost less than \$2 million during its first two years and probably less than that later, he said. Under the proposed plan, insurance companies would pay the losses incurred by the pool according to their share of the state's health care market and will be able to deduct them from their premium taxes and other tax liabilities, Mr. Barnett said.

Participation in the plan would be limited to those who can pay for health insurance—Medicaid and Medicare recipients are specifically excluded—but who are either considered uninsurable by health insurers or who cannot be insured for what Chief Commissioner Richards called an "affordable price."

The plan would aid diabetics, heart disease patients and others with chronic illnesses who have difficulty buying coverage, but it would not be aimed at providing coverage for illnesses related to acquired immune deficiency syndrome, said Mr. Barnett.

—By Mark A. Hofmann

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**Administrative:**  
CEO's Presidents and Owners ..... 2,621  
Vice-Presidents, General Managers and Other Administrative Personnel ..... 3,657

**Financial:**  
Chief Financial Officers and Vice-presidents of Finance ..... 2,993  
Secretaries, Treasurers, controllers and other Financial Personnel ..... 4,454

**Risk/Employee Benefits:**  
Vice-presidents, directors, managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations ..... 10,994  
**Sub-total** ..... **24,719**

Associations ..... 477  
Government, Unions and Educational Institutions ..... 979  
**Commercial Consumers Sub-total** ..... **26,175**

Insurance Agents and Brokers ..... 10,557  
Insurance Companies ..... 7,380  
Actuaries, Attorneys, Adjusters, Appraisers and Consultants ..... 3,843  
Others Allied to the Field ..... 2,991  
**TOTAL** ..... **50,946**

\* Source Business/Occupational breakdown of qualified circulation, May 30, 1988 issue, as submitted to BPA for June 1988 BPA Publisher's Statement.

# Managed care tailored to work comp field

## Products & services

### Lifestyle costs

Employers can assess the health and lifestyles of employees nearing retirement with a new health risk profile introduced by Northwestern National Life Insurance Co.

The profile, developed to help employees in the 50-to-64 age group understand the relationship between lifestyle and health, provides employees a computerized, confidential report detailing health risks. Employers also receive a report on the health risks their employee populations face as a whole.

The profile also suggests steps an employer can take to manage potential risks that could lead to trau-

matic illness as well as financial ruin from inadequate health care coverage after retirement.

"The LifeScope Profile I program is an excellent snapshot of a person's health habits and preparation for retirement," said Mike Conley, senior vp of NWNL's employee benefit division.

The program "also gives the employer information that can be critical to managing a company's retiree health care costs," Mr. Conley said. "That's important at a time when health care benefits for retired workers may equal as much as 12% of a company's payroll."

To create the profile, employees complete a 180-part questionnaire

and optional blood analysis, the results of which are issued in a confidential, computer-scored and evaluated report.

The questionnaire covers a variety of topics, including nutrition, exercise, stress, knowledge of Medicare and retirement planning.

The program, designed by Johnson & Johnson Health Management Inc. in Santa Monica, Calif., was developed with the aid of health industry experts throughout the United States.

The health risk profile is part of NWNL's program of LifeScope products and services designed to help employees prepare for health and financial needs during their working and retirement years.

Employers also can purchase the profiles separately on a per-employee basis.

For more information, contact Susan Jepson, Manager of Health Information Consulting Services, Northwestern National Life Insurance Co., P.O. Box 20, Minneapolis, Minn. 55440; 612-372-1138.

### Stress reduction

A new stress-reduction system that employs vibration and music therapy has been developed by Profit Technology of New York.

The Genesis system, which is designed to help employees learn to relax their muscles, release tension and strengthen their stress tolerance levels, consists of an aluminum-titanium space frame with a horizontal body rest equipped with audio speakers and specially designed biosensors.

*Continued on next page*

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**Insurer Topics**  
Reaching a target audience of 36,752\* insurance and reinsurance company executives, Insurer Topics reports on issues of special interest to insurance and reinsurance company executives. This section covers specific issues such as commercial underwriting techniques, reserving practice, relationships with insurance distribution systems and policyholders, and techniques used by other companies.

\*Includes pass-along

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Cost Care Inc. is introducing a totally managed care program for workers compensation claims in California that company officials say will contain medical and indemnity costs as well as reduce litigation.

The program, called TriNet, offers employers an exclusive provider organization, inpatient and outpatient utilization review and case management.

In addition to treating patients, providers also coordinate return-to-work programs and treatment plans with employers and Cost Care, helping to speed the patients' return to productivity.

Comp-Eval, Cost Care's workers comp case assessment system, reviews all claims at the beginning of treatment and provides the client with a description of the injury or illness, screens for medical compensability and appropriateness of treatment, and projects frequency and duration of treatment along with the duration of disability.

TriNet's case managers work with employers, physicians, claims payers and injured workers to coordinate all aspects of treatment. For example, through TriNet's preadmission review, catastrophic cases are identified at the time of admission, ensuring the case manager's early intervention.

The program initially will be offered in California, where employers have the legal right "to determine the place of care for injured employees within the first 30 days of an injury," according to Dr. Lester Sacks, Cost Care's medical director for workers compensation.

Cost Care plans to expand the program nationwide. In those states where employers cannot dictate the choice of providers, the company will offer UR, bill auditing and second opinion services.

For more information contact Hugh M. Cone, Cost Care Inc., 17011 Beach Blvd., Suite 400, P.O. Box 2738, Huntington Beach, Calif. 92647; 714-848-4120.

### Care use assessor

The National Center for Health Promotion has introduced a new way for employers to assess and control health care costs.

Using a sophisticated computer model, the Lifestyle Cost Index interprets information about a company's employee health care utilization and provides a detailed analysis of costs related to smoking, hypertension, non-seat belt use, alcohol use, diet and mental health problems.

"With LCI, companies can take a proactive rather than reactive approach to controlling their health care costs," said Michael H. Samuelson, president of the health promotion center.

For example, if a company discovers that a major portion of its claims dollars are spent on smoking-related diseases, the addition of a smoking cessation program may be needed and financed as part of the benefit plan design, Mr. Samuelson said.

"LCI is a mapping tool that allows companies to direct attention to specific problem areas rather than using a shotgun approach," Mr. Samuelson said.

The program also gives companies a tool to measure the effectiveness of health promotion programs by using financial data, he said.

LCI is designed for companies with more than 250 employees to provide an adequate statistical base, according to the center.

For information contact the National Center for Health Promotion, 3920 Varsity Drive, Ann Arbor, Mich. 48108; 800-843-6247.

## Business Insurance

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## Products & services

Continued from previous page

Genesis also includes a biosensor control console that "reads" vibrational frequencies the employee's body emits, while a computer measures the body's reaction to the music, adjusting the volume, density, frequencies and equalization.

The more the employee relaxes, the more spacious and full the music's tonal quality music becomes. A graphic display screen shows the relaxation and interaction levels, and an optional printer produces a readout.

After repeated use, a participant can learn to reach his or her maximum state of relaxation without being on the machine by recalling the Genesis experience, according to the company.

"Genesis represents the most significant breakthrough in the history of stress management and re-

laxation therapy," said Profit Technology President Orest Bedrij.

"It is the ultimate manifestation of our aim to improve human conditions, whether in or out of the workplace," he said.

The system has been endorsed by Dr. Clancy D. McKenzie, director of the Philadelphia Psychiatric Consultation Service.

Profit Technology provides a three-day Genesis training course for qualified personnel as well as field support, on-site preparation, installation, music composition, and sales and marketing advice.

The system, which is available on a purchase or lease basis, can be installed in workplace wellness and fitness centers, as well as in health clubs, hospitals, resorts/hotels and even in private homes.

Profit Technology was founded in 1983 to develop, assemble and

market high-technology products and software aimed at increasing employee productivity, effectiveness and health.

For more information on Genesis, contact Profit Technology, 17 Battery Place, New York, N.Y. 10004; 212-809-3500; 800-223-4628.

### Blood bank cover

Up to \$1 million in general liability insurance—with optional coverage for AIDS-related risks—is available to blood banks and pheresis laboratories from Classic Syndicate Inc. on the Illinois Insurance Exchange.

"Unfortunately, the nation's blood supply is not yet AIDS-proof, despite significant advances in tests to detect" the presence of the virus, said Charles Podczerwinski, a Classic underwriter.

Although 48 states have passed laws protecting blood banks from liability for tainted products in

cases where blood diseases cannot be detected or eliminated, the laws do not bar lawsuits on grounds of negligence by a blood supplier, Mr. Podczerwinski said.

To minimize the possibilities of such lawsuits, "we ask detailed questions about the blood processor's practices, including its testing programs, number of donors, storage and delivery methods and training and experience of personnel," he said.

Policies cover such risks as infection from hepatitis and other blood-borne diseases and some on-premise injury. They do not cover professional liability or errors and omissions, Mr. Podczerwinski said.

In addition to blood banks, the policies are available to pheresis labs, which specialize in the extraction of blood platelets.

Maximum coverage is \$1 million, and premiums start at \$25,000, Mr. Podczerwinski noted.

AIDS-risk coverage is available by endorsement with a sub-limit of

\$250,000.

All policies require self-insured retention and are written on a modified ISO claims-made form, Mr. Podczerwinski said.

For more information contact Chuck Podczerwinski, the Illinois Insurance Exchange, 175 W. Jackson Blvd., Suite 1234, Chicago, Ill. 60604; 312-922-7966.

### Loss reserve data

A new personal computer software system that converts raw loss and claims data into loss reserve information is available to insurance professionals.

EXHIBITMAKER 5 replaces manual calculations and lengthy programming with streamlined loss reserving procedures, according to Tom Johnson, an actuarial assistant with Coopers & Lybrand of Seattle, Wash.

The system contains 48 actuarial methods designed to assist users with accurately estimating loss reserves, Mr. Johnson said.

EXHIBITMAKER 5 also allows users to produce management reports and graphs to present concise results of loss reserves, according to Mr. Johnson. He said the system is user-friendly, menu-driven and requires no computer programming knowledge.

The software's applications include:

- General liability.
- Automobile liability.
- Workers compensation.
- Professional liability.
- Surety and fidelity.
- Property lines.

The system, which is in its fifth generation, is the product of Coopers & Lybrand's Casualty Actuaries & Insurance Consulting Group, Mr. Johnson said.

For more information contact Tom Johnson, Coopers & Lybrand, Suite 1800/First Interstate Center, 999 Third Ave., Seattle, Wash. 98104-4098; 206-622-8700.

### Retirees sue Singer, CEO

NEW HAVEN, Conn.—A suit filed earlier this month in federal court in New Haven against Singer Co. and its chief executive officer demands that the company set aside assets to assure that retirees continue to receive free lifetime health and life insurance benefits.

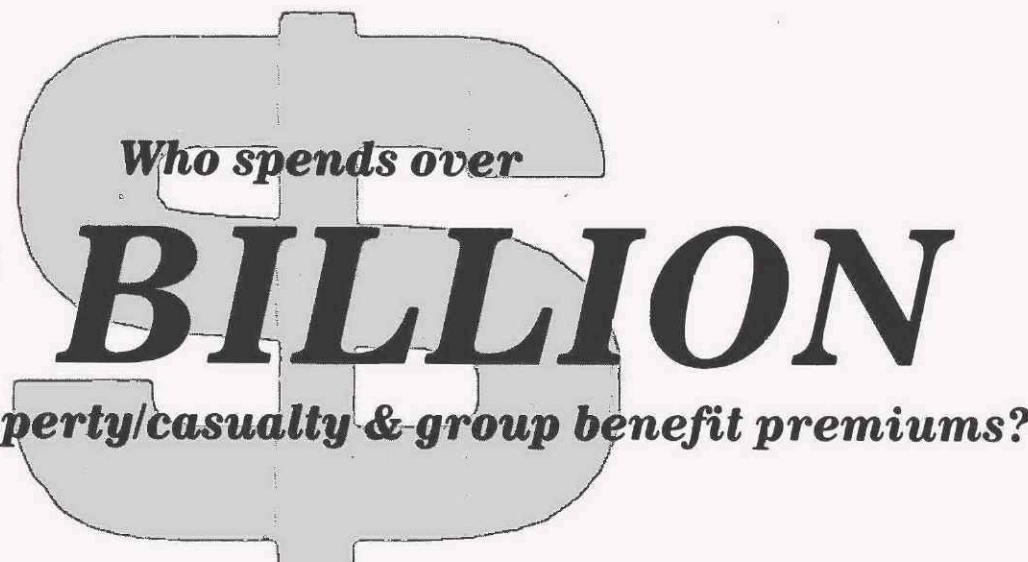
The suit, filed by a Singer retiree on behalf of the 9,000 Singer retirees and their dependents, says that Singer promised retirees free lifetime health and life insurance benefits.

However, Singer eliminated free coverage on Jan. 1 for employees under 65 retiring after that date, the suit alleges. In addition, Singer now is selling "most or substantially all" of its assets, which is the funding source of its retirement health and life insurance benefits, according to the suit filed by the New York law firm of Sipser, Weinstock, Harper & Dorn.

"Upon the sale of such assets... there will not be sufficient operating revenues nor Singer assets to fund these benefits," the suit said.

The suit seeks, among other things, restoration of free benefits for all retirees and the attachment of assets that would be actuarially necessary to guarantee lifetime health and life insurance coverage to Singer retirees.

A spokeswoman for Stamford, Conn.-based Singer said the company had not received a copy of the suit and would not comment.



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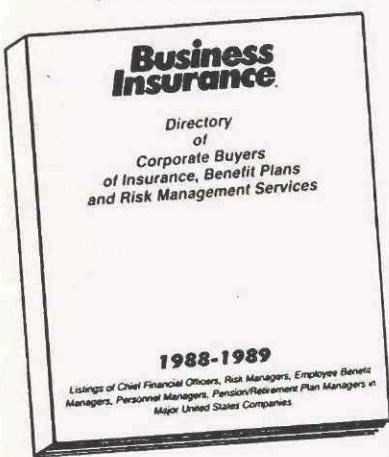
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# Business Insurance

## Mission hearing

Continued from page 1

who is shot by a bullet in each temple. In Mission's case, one bullet was the failure of Mission's reinsurers to honor their commitments, while the other was the huge losses produced by business written by Mission.

These sharply opposing views were aired at 11 hours of hearings held last week by the investigations subcommittee, chaired by Rep. John Dingell, D-Mich. While the hearings focused on the collapse of Mission, they also dealt with the insolvency of Integrity Insurance Co.

Mission was ordered liquidated by a California court in February 1987 after being placed in conservation in October 1985 (BI, Feb. 9, 1987; March 9, 1987).

The latest estimate of the Mission insolvency now is put at more than \$1.5 billion, making it the largest insolvency of a commercial property/casualty insurer (see related story).

Paramus, N.J.-based Integrity Insurance Co. was placed in liquidation in March 1987. At that time, an Integrity official said the biggest problem facing the insurer was reinsurance recoverables from Mission (BI, March 2, 1987).

The Integrity insolvency is estimated by the subcommittee's staff at \$300 million.

In both the Mission and Integrity insolvencies, the subcommittee found evidence of intentional deception,

conflicts of interest and abusive management practices, Rep. Dingell said without elaboration.

Citing the financial wrongdoings uncovered in the savings and loan industry, Rep. Dingell said that a "relatively few scoundrels and incompetents can cause immense harm to an important industry if they are not stopped by honest people in the industry and by appropriate regulation."

Indeed, subcommittee member Rep. Michael Oxley, R-Ohio, asked if the Mission case is the insurance industry's equivalent of the insider trading scandals that have rocked Wall Street.

Rep. Ron Wyden, D-Ore., said after reviewing the evidence that the principal goal of Mission appeared to be "line your pockets first. . . . It is a 'Mission Impossible' case."

However, former Mission officials denied any wrongdoing or responsibility for the collapse of Mission.

"I performed my job adequately, within industry's standards," said Robert L. Marsh, a former chief underwriter for Pacific Reinsurance Management Corp., the Mission unit that managed the reinsurance pool that accepted risks that Mission wrote.

Ronald Bengsten, the former president of PRMC, described the Mission collapse as "unfortunate" but not something he was embarrassed about.

E. Richard DeRosa, who retired in November 1983 as

Continued on next page

# House panel warns insurers about contracts with MGAs

By JERRY GEISEL

WASHINGTON—Indiscriminate use of managing general agencies may be "dangerous" to insurers' financial health, the House Oversight and Investigations Subcommittee says.

"The use of MGAs by insurance companies to write business on their behalf is an industry practice that can be exceedingly dangerous," the subcommittee staff said in a memorandum released at a hearing last week (see story, page 1).

"In effect, the insurance company hands over responsibility for its business to the MGA, granting the agent power to underwrite business, obligate the company, handle claims and even arrange for reinsuring the business written by the MGA in the company's name," the memo said.

In addition, that fact that MGAs are compensated by commissions on the amount of business they produce results in "an inherent conflict for MGAs between writing quality business and earning commissions on the volume of business written," the memo said.

The business practices of Mission MGA Sayre & Toso Inc. and Pacific Reinsurance Management Corp., a Mission affiliate that acted as an

MGA for a reinsurance pool to which Mission retroceded risks, as well as the 80 MGAs used by the now-insolvent Integrity Insurance Co. led to the demise of Mission and Integrity, according to the memo.

"Underpricing and minimal or poor underwriting by their MGAs were leading contributors to the failure of both companies," the memo said.

A spokesman for the American Assn. of Managing General Agents could not comment on the committee staff's memo. Representatives of the National Assn. of Professional Surplus Lines Offices Ltd. could not be reached.

The memo also notes that the reinsurance system was abused in the Mission and Integrity cases.

"Both companies abused the system by using complex arrangements involving hundreds of reinsurers around the world to transfer most of the risk on the extremely unprofitable business they were writing to other companies.

"When huge losses started to accrue, Mission and Integrity were required to pay the entire amounts because their reinsurers refused to pay their shares. The reinsurers have alleged fraud and misrepresentation as justification for not paying, but the ultimate result was

to force Mission and Integrity into bankruptcy because of their inability to collect reinsurance proceeds," the memo said.

The memo acknowledges that the concept of reinsurance is a sound one, but adds that there is no formal system to regulate the solvency of reinsurance companies or the system of letters of credit and trust funds intended to secure the performance of reinsurers.

The memo also noted that reserves established by Mission and Integrity were inadequate.

"The IBNR (incurred but not reported) reserves have proven to be deficient by several hundred percent. The result of this massive under-reserving was to falsely and materially inflate their reported profits, while extending the time these companies operated, even though they were actually insolvent," according to the memo.

Other common causes of the Mission and Integrity failures, according to the subcommittee staff memo, are:

- Rapid growth and expanding market share during a competitive, soft market.
- Excessive underpricing and minimal or poor underwriting.
- Reckless, incompetent management and inadequate operating controls.

## Mission insolvency increases

WASHINGTON—The size of the Mission Insurance Co. insolvency keeps growing and may make it the largest property/casualty insurer collapse in U.S. history, a California Insurance Department official says.

The Mission insolvency now is estimated at more than \$1.5 billion, up from the \$900 million estimate made as recently as May and \$520 million made in February 1987 when the California Insurance Department decided to liquidate it (BI, May 16; Feb. 9, 1987).

But the insolvency could become even larger if Mission liquidators are unsuccessful in collecting reinsurance recoverables owed to Mission, according to a paper submitted to the House Oversight and Investigations Subcommittee.

That paper, prepared by William S. Price, a special deputy insurance commissioner appointed to oversee the Mission liquidation by the Los Angeles Superior Court at the request of California Insurance Commissioner Roxani Gillespie, warns that losses to former Mission policyholders and other claimants could soar depending on the outcome of legal battles.

"Unfortunately, the legal maneuvering being employed by many reinsurers to avoid paying their obligations at all, and certainly not on a timely basis, makes the losses to policyholders, claimants and other creditors immediate and potentially greater," Mr. Price said in his paper.

Mission's consolidated Liquidation Balance Sheet, dated June 30 and presented to the subcommittee, shows that reinsurance recoverables equal \$2.26

billion. When a "doubtful debt reserve" of \$498.8 million is subtracted, the remaining \$1.76 billion in reinsurance recoverables still dwarfs Mission's cash and cash equivalents.

Referring to this huge amount of reinsurance recoverables, Mr. Price noted: "The success of the Mission liquidation, therefore, hinges on the success of collecting from the reinsurers."

"The commissioner, as liquidator, and her special deputies and their staff are committed to accomplishing our objective of maximizing the assets so as to minimize the losses to policyholders and to other creditors," Mr. Price added.

Mission's total liabilities of \$3.5 billion exceed its assets by \$1.56 billion, according to the consolidated liquidation balance sheet.

The lion's share of Mission's liabilities is direct policyholders' claims: \$2.1 billion. The second-biggest liability is the \$1.2 billion payable to ceding reinsurers.

Other liabilities include claims settlement expenses, deposits from ceding companies and amounts owed to state guaranty funds.

Mr. Price noted that even if Mission collects all the reinsurance recoverables, the assets still will fall about \$261 million short of paying direct policyholders' claims.

As a result, ceding insurance—which have a lower creditor priority than direct policyholders—may recover nothing from the liquidation, according to Mr. Price.

—By Jerry Geisel

## Update

### Mentor creditors record dismay

Continued from page 2

Joint liquidators Charles Kempe and Michael Arnold, also of Arthur Young, were unavailable for comment.

The resolution, which stated "that the creditors lack confidence in the proposals and views set out in the liquidators' report of July 20, 1988, and that the report should not be implemented," was proposed by attorney Francis Mackie of the London law firm of Clyde & Co., who represents several London-based creditors (BI, July 25).

It was seconded by Michael Adamson, an accountant with H.S. Weavers (Underwriting) Agencies Ltd., also representing several London creditors.

Several creditors are unhappy with the length of the liquidation and the lack of progress made so far in recovering assets, said Mr. Mackie. In addition, there is growing concern over the amount of money being spent in legal fees and liquidation costs, he said.

### Asbestos makers to revamp

PRINCETON, N.J.—Members of the recently dissolved Asbestos Claims Facility will vote this week on the formation of a new claims handling organization that will not include insurers.

The new facility will include 22 to 26 asbestos producers and will be operated similarly to the Asbestos Claims Facility, which was officially dissolved Sept. 1 (BI, Sept. 1; Aug. 1).

Insurers will not be involved in the day-to-day operations of the claims handling organization but will fund it. The new facility will negotiate settlements on behalf of its members and then bill insurers according to a predetermined liability share allocation formula.

Insurers will retain a significant amount of control over the new facility: They will be represented on the board of directors and will audit the new facility, according to Lawrence Fitzpatrick, acting chief executive officer of the former Asbestos Claims Facility.

Formation of the new facility became a virtual certainty after New York-based Keene Corp. and GAF Corp. of Wayne, N.J.—two of the Asbestos Claims Facility's largest producers—agreed to join earlier this month.

### Suit names Delta, pilot

DALLAS—The first lawsuit stemming from the crash of a Delta Air Lines jet last month charges that the airline failed to inspect and repair the plane and that the pilot improperly reacted to pre-flight warnings.

The suit was filed on behalf of survivor Alicia G. Hayes of Dallas and seeks an unspecified amount of damages from Delta and Capt. Larry Lon Davis, the pilot of Flight 1141. The jet crashed Aug. 31 on takeoff at Dallas/Fort Worth International Airport, killing 14 and injuring more than 30 others. Some 94 survived (BI, Sept. 5).

Ms. Hayes sustained neck and back injuries and "emotional ramifications" from the accident, said independent Dallas plaintiff's attorney Frank L. Branson.

The suit charges that Delta and Capt. Davis failed to exercise the care a reasonable airline and a pilot would under the same or similar circumstances regarding inspection, maintenance and repair of the aircraft, and preflight checks. The suit charges the pilot failed to "timely and appropriately react to indications and warnings that the aircraft was unsafe for takeoff and flight."

Delta would not comment on the case.

### Nicolet to omit property claims

PHILADELPHIA—Asbestos producer Nicolet Inc. has amended its liquidation plan so that none of the company's assets can be used to pay asbestos property damage claims.

Nicolet originally planned to pay both asbestos property damage claims and bodily injury claims with its assets. However, Nicolet now says there is not enough money to pay both types of claims.

Ambler, Pa.-based Nicolet faces more than 200 asbestos property damage claims seeking more than \$2 billion and more than 61,000 asbestos personal injury claims seeking an estimated \$133 million. Nicolet has only \$15 million in liability insurance remaining to pay all of these claims. The company estimates that its assets following liquidation will not exceed \$1.5 million.

In its amended plan of reorganization, filed on Aug. 26., Nicolet asks the bankruptcy court to lift the automatic stay of litigation imposed by the court to allow the property damage claimants to sue Nicolet's insurers. Nicolet said this was "the only viable means for treating these claims."

In addition, Nicolet says the property damage claimants can look to other asbestos manufacturers for satisfaction of their claims.

Two-thirds of both sets of claimants must approve the plan before it can be confirmed by the bankruptcy court.

### Briefly noted

The U.S. Environmental Protection Agency last week issued regulations that establish construction guidelines for new **underground storage tanks** and requires some owners and operators to shore up existing tanks. The law, which becomes effective in mid-December, also mandates that all tanks be monitored for leaks and that local EPA authorities be notified if a leak occurs. . . . **The Pension Benefit Guaranty Corp.** reaffirmed last week that it will not accept an LTV Corp. proposal to give the agency \$700 million in stock and \$300 million in debt offerings in exchange for taking over LTV's \$2 billion in pension liabilities as part of a reorganization plan. . . . **Ashland Oil Co.** could be fined up to double the monetary loss suffered as a result of last January's oil tank spill if the company is convicted of violating federal environmental laws as charged in an indictment issued last week (BI, Jan. 11). . . . Premiums paid by U.S. companies to **Bermuda-based insurers and reinsurers** would be exempt from federal excise taxes until Jan. 1, 1990, under a tax treaty approved last week by the Senate Foreign Relations Committee.

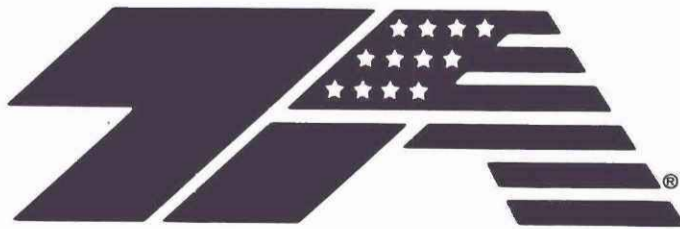
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Mr. Smith's assistant.  
I'd like to assist you, but..."*



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