SEPTEMBER 26, 1988

Business Insurance®

Reporting weekly for corporate risk, employee benefit and financial executives / $1.75 a copy; $68 a year

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Update

Construction company acquitted of charges in workman's death

CHICAGO—Kenny Construction Co. has been acquitted of criminal charges in the 1985 death of a workman who was asphyxiated after being lowered into an unventilated shaft.

While U.S. District Court Magistrate Joan B. Gottschall concluded that unsafe conditions at the LaGrange, Ill., site did cause the death of J.T. Smith, she ruled that Wheeling, Ill.-based Kenny did not "willfully" violate the federal Occupational Safety and Health Act of

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Higher and higher

1988 health costs exceed estimates; no relief seen in '89

By GLENN HUNTLEY

Employers should brace for continuing sharp increases in group health care costs next year on the heels of steep hikes during 1988.

In fact, group health insurance premium increases this year often have outpaced estimates, point out health insurers and employee benefit consultants.

Since last December, premiums for group health indemnity plans generally have increased by 20% to 30% and as much as 50% in extreme cases.

However, employers with managed care programs that include health maintenance organizations, preferred provider organizations, utilization review programs or a combination of these elements generally saw premium increases of 10% to 15% this year.

And, several employers that self-fund their group health care benefits report a wide range of cost increases in 1988—from a low of 10% to a high of 24%.

The outlook for next year does not look any better and could be worse.

At best, indemnity plan premiums will rise 20% next year, observers say, with some estimating that rates will jump up to 30%.

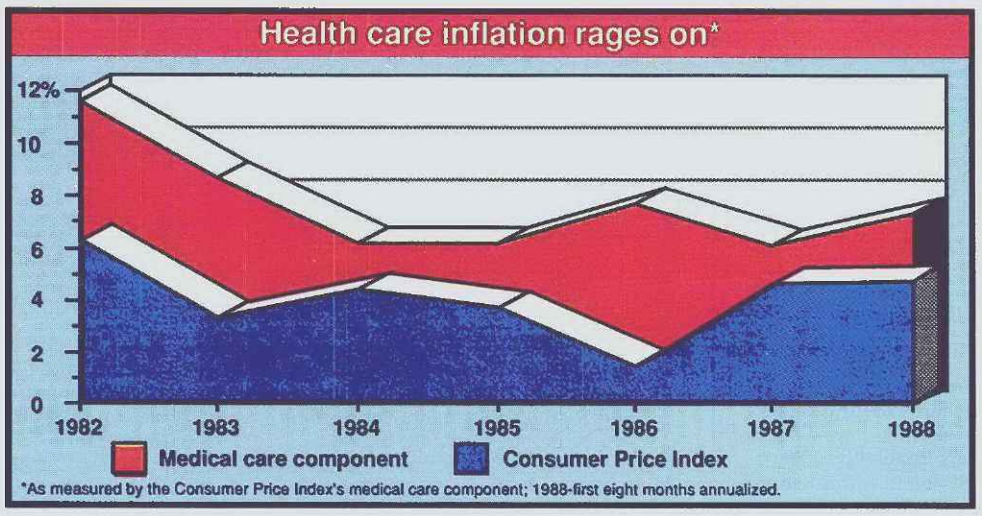
Employers that include managed care elements in their indemnity plans can expect about half the premium increase for traditional indemnity plan.

In addition, HMO rates likely will increase 12% to 20% next year.

Meanwhile, self-funded employers are expecting costs to increase by about the same percentage in 1989 as this year.

Experts cite a combination of factors for the continuing health care cost spiral: inflation, increased utilization, cost shifting and advances in medical technology.

The increase in group health premiums continues to exceed the overall inflation rate, and the rate of increase is on the rise again after a significant drop-off in 1987 (see chart).



The medical care component of the Consumer Price Index rose 7.3% in the first eight months of 1988, according to the U.S. Bureau of Labor Statistics. By contrast, the general inflation rate was 4.6% during the the first eight months of 1988.

In all of 1987, the CPI's medical care component increased 6.1%, a four-year low after a high of 7.7% in 1986. Meanwhile, the general inflation rate in 1987 climbed to 4.5%, up more than three percentage points from 1.4% in 1986.

In both 1985 and 1984, the CPI's medical care component rose 6.2%, while the general inflation rate was 3.6% in 1985 and 4.3% in 1984.

Group health insurance premium increases usually are several percentage points higher than trend lines, which are insurers' measure of average anticipated health care costs.

Health insurers predicted at year-end 1987 that group health care indemnity plan premiums would increase between 15% to 20% this year, with some employers seeing increases of 35% to 40% (*BI*, Dec. 21, 1987).

But the increase for large employers that have implemented few or ineffective cost-containment programs has been closer to 50%, insurers and consultants say.

For instance, CIGNA Corp. had projected

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NAIC approves broker disclosure, reporting model

By MEG FLETCHER

MACKINAC ISLAND, Mich.—At least one state already is considering a new model law that requires a broker to meet new consumer disclosure and reporting requirements when placing business with a licensed property/casualty insurer that the broker controls.

Additionally, under the model law adopted by the National Assn. of Insurance Commissioners at its fall meeting last week, a broker could be held liable if its business practices "substantially" contribute to the insolvency of an insurer controlled by the broker.

The model law also includes a companion provision that requires a broker controlled by an insurer to disclose that relationship prior to binding coverage with the insurer.

New York Insurance Superintendent James Corcoran, who spearheaded development of the model law, said his office not only is exploring whether he has the authority to implement the model through regulation, but also whether it will ask the Legislature to enact the model law next year.

"I'm very happy with the end product," which was unanimously approved by the NAIC in a special closed session Sept. 20, said Mr. Corcoran. It is "a very studied, balanced approach," and should not affect insurance capacity as critics have charged, he added.

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Insured losses from Gilbert could swell to $1.8 billion

By DOUGLAS McLEOD and CAROLYN ALDRED

Property/casualty insurers may face nearly $2 billion in claims from Hurricane Gilbert's trek across the Caribbean and into Mexico.

However, the industry is breathing a sigh of relief: Hurricane Gilbert, touted as the storm of the century, drove ashore into Mexico and missed most of the Texas coast and oil rigs in the Gulf of Mexico.

While damage estimates were hard to come by last week, some sources reported that insured property damage in Jamaica and the resort areas of the Yucatan Peninsula in Mexico could approach $1.8 billion, a larger figure than many industry observers may have expected given the storm's path.

Hurricane Gilbert, whose winds reached more than 200 mph at their peak, tore across the Caribbean and the Yucatan Peninsula before driving ashore on the northern coast of Mexico south of Brownsville, Texas. The storm later spawned dozens of tornadoes in Texas and heavy rains through the Midwest.

Loss adjusters were still sorting through the damage last week, and some insurers with significant exposures in those areas—including units of American International Group Inc. and CIGNA Corp.'s Insurance Co. of North America unit—were still compiling data on the losses.

Other insurers, including Continental Corp., reported losses that observers described as relatively slight.

"The industry got away with murder," said Myron Picoult, senior vp and senior analyst with Oppenheimer & Co. in New York.

"When it became clear that Gilbert was not going to hit the U.S., a lot of pressure was off insurance stocks here," added Michael Smith, a vp with Shearson Lehman Hutton Inc. in New York.

However, some observers point out that initial estimates of insured losses from hurricanes are often much smaller than the final tally.

For example, early estimates of insured damage caused by Hurricane Gloria—which ripped through the northeast United States in September 1985—totaled less than $100 million, while the storm actually caused $618.3 million in insured losses.

Likewise, observers initially estimated insured damage from last October's freak hurricane-force winds that battered England and other portions of Europe at about $850 million. Losses from the storm currently are estimated at $3 billion (*BI*, Sept. 19).

While the damage Hurricane Gilbert inflicted was not as severe as was anticipated before the massive storm came ashore, losses still may be heavy.

"This is going to be a big loss without any doubt. The

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Liability insurance available during market crunch, GAO says
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Group of Mentor creditors seek changes in liquidation strategy
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Federal court grants coverage for hazardous waste cleanup
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Update

Firm cleared in worker death

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1970 and did not intentionally cause Mr. Smith's death. Mr. Smith, a 48-year-old foreman, and another worker were lowered into a 20-foot deep unventilated shaft at an excavation site for a "deep tunnel" pollution control project. The other worker survived (*BI*, Jan. 26, 1987).

In her ruling, Magistrate Gottschall also criticized OSHA for what she called its "manifest failure" to communicate meaningful safety standards.

U.S. Attorney Anton K. Valukas said the acquittal will not deter his office from bringing worker safety suits against employers.

Circle K drops 'lifestyle' policy

PHOENIX, Ariz.—Circle K Corp. has dropped its policy denying health care benefits to employees with illnesses associated with "personal lifestyle" decisions because it was not clearly understood by the public or by employees, the company says.

"Once the press took hold of it, there was a lot of confusion" about the intent of the policy, said Senior Vp Charles Schoumaker.

Officials said the policy was designed to control health care costs under its self-insured program, not to discriminate against AIDS patients or those stricken by other serious illnesses.

However, the policy, which could have applied to claims related to alcohol and drug abuse and acquired immune deficiency syndrome, came under attack by gay rights activists and civil rights groups this summer when it was first publicized (*BI*, Aug. 15). The company last month suspended the policy pending further review. Circle K said last week that it would eliminate the policy.

No Circle K employees had been denied benefits since the lifestyle policy was announced to them late last year, according to the company. Circle K employs 26,000 people nationwide, of whom about 8,000 are eligible for the company's health care plan.

Platform insured for $50 million

ABERDEEN, Scotland—A semisubmersible oil exploration platform that exploded in the North Sea Thursday is insured for $50 million.

Gas ignited on the Ocean Odyssey, an 11,693-ton mobile drilling rig built in Japan in 1983, while the rig was drilling into the sea bed 130 miles east of Aberdeen, Scotland. The extent of damage was unknown last week.

The rig, operated by Arco British Ltd., a subsidiary of Atlantic Richfield Co. of Los Angeles, is owned by Ocean Drilling & Exploration Co. of New Orleans.

The rig's $50 million in property insurance was placed by Energy Insurance International of Houston and Lloyd's of London broker Jenner Fenton Slade Reinsurance Brokers Ltd.

U.S. companies wrote $19 million of the coverage, Lloyd's of London syndicates wrote $16 million, the London company market wrote $11 million and Norwegian insurers wrote $4 million, according to Tony Pickering, a director of Jenner Fenton Slade.

The rig is not insured for business interruption losses because it is an exploration platform rather than a production platform.

All but one of the rig's 67-person crew escaped unhurt from the blazing rig Thursday in a rescue operation involving more than 10 ships, a fleet of helicopters and a Nimrod aircraft. One person is missing and presumed dead.

"We do not know the cause of the fire, other than there was a gas release from the ocean floor," said an Arco spokeswoman.

Two members of Red Adair's fire-fighting team were sent from Houston to the rig last Friday to contain the fire and determine the cause of the blowout, she said.

Safeway enforces Prop 65

OAKLAND, Calif.—Safeway Stores Inc. has become the first California retailer to tell manufacturers to put health warning labels on their products under the state's controversial Proposition 65 anti-toxins law.

The grocery chain, which operates 230 stores in California, has notified manufacturers of tobacco products that it will pull cigars, pipe tobacco and other non-cigarette tobacco products that do not carry health warning labels from its shelves by Nov. 16.

"I read that as the first shoe dropping," said David Roe, counsel for the Environmental Defense Fund, one of the environmental groups that sponsored the ballot initiative.

With this action, Safeway is telling manufacturers to put health warning labels on products or "get out," Mr. Roe said.

Manufacturers contend that toll-free information telephone services advertised by signs in many stores are sufficient warning.

Proposition 65, approved by California voters in November 1986, requires public warnings when products contain substances that pose a significant risk of cancer or birth defects (*BI*, Feb. 29).

The Safeway spokesman said the company decided to push for warning labels on tobacco products when manufacturers declined to defend the retailer against lawsuits filed under Proposition 65.

The Tobacco Institute, an industry group based in Washington, D.C., last week was not aware of Safeway's policy announcement about tobacco product labels, a spokesman said.

Noe arrested for wire fraud

PHILADELPHIA—Clifford D. Noe, a convicted con man also known as "Dr. Noe," was being held without bail last week on charges that he tried to use phony certificates of deposit to purchase the now-defunct Integrity Insurance Co. in 1986.

Mr. Noe, arrested Sept. 14 in New Orleans after returning to the United States from Costa Rica, is charged with five counts of wire fraud in an indictment returned in August 1987 but kept sealed pending his arrest.

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Some Mentor creditors seek liquidation strategy changes

By CAROLYN ALDRED

LONDON—Creditors of Bermuda-based Mentor Insurance Ltd. may call a special creditors' meeting to vote for changes in the liquidators' strategy, a London attorney says.

Some creditors even are considering ousting Mentor's liquidators or appointing an additional liquidator if creditors' concerns are not appeased, says Francis Mackie of the London law firm Clyde & Co., who represents several Mentor creditors in London.

Representatives of several creditors, including Mr. Mackie, expect to meet with joint liquidators Charles Kempe and Michael Arnold of Arthur Young & Co. within the next two weeks to discuss concerns creditors raised at their annual general meeting on Sept. 13 in Hamilton, Bermuda.

If no progress is made at the informal meeting, creditors may call a special creditors' meeting to take further action, Mr. Mackie said.

Such a meeting can be called if approved by creditors who are owed at least 10% of Mentor's liabilities, or $65.3 million of Mentor's total $653.8 million in liabilities, he said.

The latest moves follow the defeat at the Sept. 13 meeting of a resolution expressing a lack of confidence in the Mentor liquidators' annual report (*BI*, Sept. 19). Although 20 creditors owed a total of $89.4 million by Mentor supported the resolution, 54 creditors that are owed a total of $9.9 million opposed it.

Passage of the resolution required approval both by a majority of all creditors voting and by creditors owed a majority of Mentor's total debt.

Twenty-one creditors owed a total of $3.4 million abstained from the vote, and many other creditors were either absent or unable to vote because their representatives at the meeting, not anticipating a vote, had not obtained proxies.

Mr. Mackie proposed the no-confidence resolution, which was seconded by Michael Adamson, an accountant with H.S. Weavers (Underwriting) Agencies Ltd.

The resolution 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."

Mentor owes a total of $653.8 million to about 2,700 creditors and currently has the cash equivalent of 24 cents on the dollar to pay creditors, according to the liquidators' report (*BI*, July 25).

In addition, Mr. Mackie distributed among creditors details of a second resolution that he planned to propose if the first resolution had succeeded.

The second resolution proposed "that the liquidators call a special general meeting to be held within three months to consider and vote upon" three issues:

- Any revised liquidation strategy by the liquidators.

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BI releases latest edition of directory

The sixth edition of the *Business Insurance* Directory of Corporate Buyers of Insurance, Benefit Plans and Risk Management Services now is available.

The 1988-89 edition has been updated to provide information on more than 2,200 U.S. corporations.

The directory is arranged alphabetically, including the company's address, phone number, 1987 sales or assets and number of employees. Listings include names and titles of the chief financial officer and executive in charge of risk management, employee benefits, personnel and pension/retirement plans.

Many companies also list additional personnel with related responsibilities, such as health care plans, property insurance, casualty insurance, workers compensation, benefit communications and international risk management and employee benefits.

Indices ranking companies by number of employees and 1987 sales are provided, as is a geographic index arranged by state.

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The directory also is available on computer tape. For information, call Sharon Huffman at 313-446-0476.

Prop 103 threatens solvency: Regulator

By GLENN HUNTLEY

LOS ANGELES—As many as 35 California property/casualty insurers could become insolvent within two years if voters approve Proposition 103, one of four major insurance reform initiatives on the state's Nov. 8 ballot, according to the state Insurance Department.

If insurers are forced to roll back rates to 20% below November 1987 levels, as Proposition 103 would require of all property/casualty insurers in the state, some companies would not have sufficient surplus to continue writing property/casualty business in the state, Insurance Commissioner Roxani Gillespie told a state legislative committee in Los Angeles.

Ms. Gillespie testified that Proposition 103 also would reduce surpluses for an additional 40 insurers to such low levels that she would have to order them to curtail their underwriting.

If rates are rolled back as specified under Proposition 103, at least 40% of the underwriting capacity in the state would be lost, she estimated.

Voter Revolt to Cut Insurance Rates, backers of Proposition 103, responded Thursday by saying Ms. Gillespie has "improperly utilized taxpayer resources to produce inaccurate and frequently false data" to criticize its initiative.

And, Harvey Rosenfield, the chairman of the Santa Monica-based consumer group, asked Gov. George Deukmejian in a letter last week to fire Ms. Gillespie immediately.

Gov. Deukmejian had not received the letter by late Thursday, but he would not consider dismissing the appointed insurance commissioner, according to the governor's top spokesman.

"Commissioner Gillespie enjoys the full confidence of the governor," the spokesman said.

Proposition 103 is one of four initiatives spurred by high auto insurance rates that will be presented to California voters. Proposition 100, supported by the California Trial Lawyers Assn., would institute "good driver" rates; Proposition 104, backed by the insurance industry, would institute a no-fault system for auto insurance; and Proposition 101, introduced by Assemblyman Richard Polanco, D-Los Angeles, would cut auto bodily injury insurance rates in half and limit attorneys' contingency fees.

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- Congress must reject an amendment that would increase the federal excise tax on asset reversions from pension plans, this week's editorial says. **PAGE 8**
- British life, health and disability insurers are beginning to take harsh underwriting measures to combat the threat of an onslaught of AIDS-related claims. **PAGE 14**
- Arguments raised by insurers in coverage litigation enrage policyholders and could scar the insurance industry, two attorneys contend in Perspective. **PAGE 27**
- The London market is facing serious questions regarding the quality and price of the service it provides, a prominent London broker told the annual Houston Marine Insurance Seminar. Coverage begins on **PAGE 30**
- The National Assn. of Insurance Commissioners has asked some states to delay action on changes to the commercial general liability policy forms. **PAGE 45**
- The property/casualty insurance business is on the verge of a major restructuring, says securities analyst Myron M. Picoult. **PAGE 47**

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Vol. 22, No. 39—*Business Insurance* (ISSN 0007-6864) is published weekly at 740 N. Rush St., Chicago, Ill. 60611-2590. Second-class postage is paid at Chicago, Ill., and at additional mailing offices. Postmaster: Send address changes to *Business Insurance*, Circulation department, 965 E. Jefferson Ave., Detroit, Mich. 48207; 800-992-9970 or 313-446-1611. Copyright 1988 by Crain Communications Inc.

Few denied coverage in mid-'80s: Study

By JERRY GEISEL

WASHINGTON—Despite many horror stories, the vast majority of businesses were able to purchase liability insurance during the market crunch of the mid-1980s, according to a new government survey.

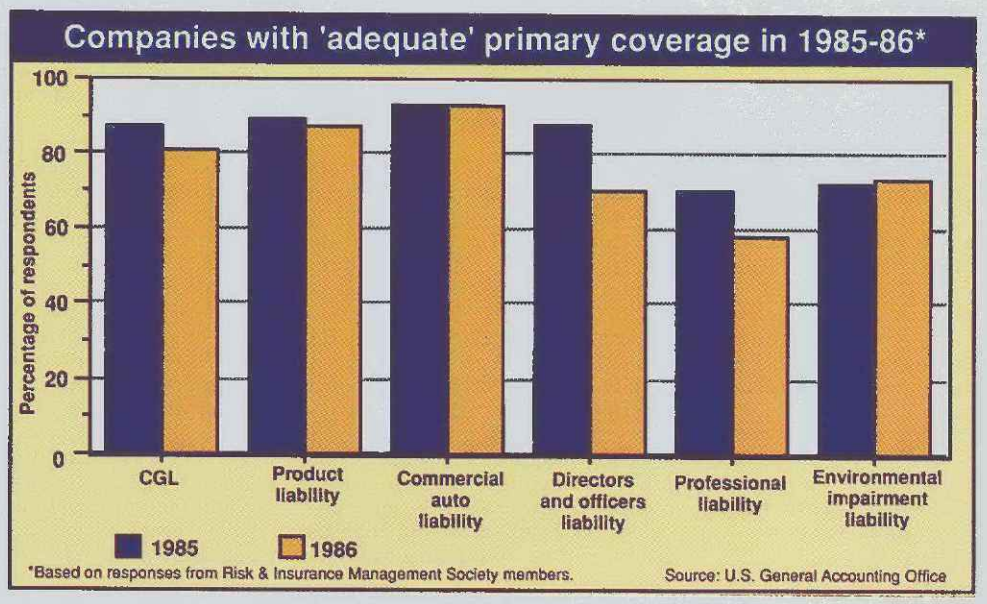
While commercial liability insurance rates rose sharply between 1985 and 1986—including a 343% average increase in the cost of excess general liability insurance for large employers—there was no widespread availability crisis, the General Accounting Office says.

"Nine of the 10 types of primary and excess coverage. . .were generally available. Substantial availability problems were mostly confined to environmental liability coverage," the GAO said.

In addition, except for primary professional liability insurance, at least 70% of surveyed large employers said they had adequate coverage for their major primary liability exposures between 1985 and 1986.

While premiums, as a percent of the respondents' gross receipts, doubled during this period to 0.6% from 0.3%, it is unlikely that this increase had a large effect on the costs of goods and services provided by the surveyed companies, the GAO said.

These findings are contained in the GAO report, "Liability Insurance: Effects of Recent 'Crisis' on Businesses and other Organizations." The report was requested by Rep. James Florio, D-N.J., chairman of the House Commerce, Consumer Protection and Competitiveness Subcommittee and Rep. Henry Waxman, D-Calif., chairman of the House Health and Environment Subcommittee.



The report is largely based on surveys conducted by the GAO late last year of members of the Risk & Insurance Management Society Inc. in New York and the National Federation of Independent Business in Washington, a trade organization composed primarily of small employer members. Some 200 RIMS members were surveyed, of which 53% filed responses, while 29% of the 250 surveyed NFIB members filed responses.

In addition, three broker and agent trade groups were surveyed: the National Assn. of Insurance Brokers, the Professional Insurance Agents of America and the National Assn. of Professional Surplus Lines Offices Ltd.

Some 42% of the 59 NAIB members responded, while 40% of 201 surveyed NAPSLO members and 22% of 243 PIA members responded.

Perhaps the most surprising survey result was the finding that even at the peak of the liability insurance crisis, most employers were able to obtain adequate liability insurance limits.

For example, at least 80% of the surveyed RIMS members reported that their primary comprehensive general liability, commercial auto liability and product liability insurance was "adequate" in 1985 and 1986.

"Overall, employers got coverage. In many cases, they had to pay substantially more, but availability was not generally a problem," said Mia Jones, the principal author of the GAO report.

"Even though the industry was still recovering from two of the worst years in its history, it still was able to insure the nation adequately in 1985 and 1986, though at a higher price," said Tom O'Day, associate vp in the Washington office of the Alliance of American Insurers.

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Antitrust suits filed because defendants broke law: Official

By DONNA DiBLASE

SAN FRANCISCO—Nineteen state attorneys general are pressing antitrust charges against 31 insurance industry defendants because the defendants broke the law, says one state official.

But, a spokesman for the property/casualty insurance industry told members of the National Assn. of Professional Surplus Lines Offices that it is consumers—not insurers—who will be punished if the attorneys general win the litigation and bar the insurers—through the Insurance Services Office Inc. —from drafting common policy forms.

"The essential point here is that firms in the business of insurance enjoy a special exemption from antitrust laws, but group boycotts do not fall under these laws. They constitute an unfair act of doing business, they are illegitimate and they are illegal under the Sherman Antitrust Act and the McCarran-Ferguson Act," said Jesse W. Markham Jr., a deputy attorney general for the state of California, one of the original states that filed suit against the insurance industry.

But, "where California Attorney General John Van De Kamp and his cohorts are heading not only is down the wrong path, but their action ill serves the people they claim to be representing: the consumers of this country who benefit from the McCarran-Ferguson

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CGL insurer must cover mandated cleanup: Judge

By STACY ADLER

SAN DIEGO—Comprehensive general liability insurance policies must indemnify policyholders for the costs of government-mandated hazardous waste cleanups because policyholders expect such coverage, a federal judge in California has ruled.

In the first ruling of its kind, U.S. District Judge Edward J. Schwartz for the Southern District of California ruled that CGL insurers must provide coverage for pollution cleanups on the basis that most policyholders would interpret their policies to provide such coverage.

Because Judge Schwartz's ruling marks the first time a district court judge has found coverage for government-mandated hazardous waste cleanup based solely on the standard language of the CGL form and on policyholders' expectations, the decision could have a widespread impact, according to some attorneys.

As a result of this unusual ruling, Boston-based Commercial Union Insurance Co. and subsidiary American Employers Insurance Co. must pay about $3 million to clean up a San Diego hazardous waste site.

Commercial Union wrote CGL coverage for the now-bankrupt Superior Plating Works Inc. of San Diego from 1974 through 1985 with annual per-occurrence limits of $300,000 for property damage and/or bodily injury. In many years, the policy had combined single limits.

The San Diego Department of Health and the California Regional Water Quality Control Board have ordered Superior Plating, a metal plating operator, to clean up a site contaminated by a variety of chemicals and solvents that leaked into the soil and groundwater. The chemicals were used to strip and refinish metal car bumpers.

In ruling that Commercial Union must indemnify Superior Plating for the cleanup, Judge Schwartz interpreted standard language found in most CGL policies that states the policy "will pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages because of bodily injury or property damage."

Insurers argued that the word "damages" referred to legal damages, such as those awarded in a court of law—not requests for equitable monetary relief. Government orders to clean up a polluted site are requests for equitable monetary relief and therefore not insurable, according to the insurers.

"Under a comprehensive general liability policy, the carrier is only liable for legal damages and not equitable monetary relief," Commercial Union attorney Holly Burgess told the court.

Ms. Burgess, who is with the Los Angeles firm of Smylie & Selman, also argued that government orders to clean up a polluted site "are restitutional or injunc-

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Marine insurers urged to hike rig rates

By STACY SHAPIRO

SYDNEY, Australia—The London offshore oil and gas insurance market is recommending that all marine underwriters increase rates and tighten conditions on rig insurance and reinsurance programs after two major platform losses that have cost insurers more than $1.7 billion this year.

Earlier this month, the Joint Rig and Associated Business Committee of Lloyd's of London and the Institute of London Underwriters released four pages of rig underwriting recommendations "for immediate implementation."

The recommendations were subsequently announced at the worldwide meeting of marine underwriters last week held during the annual International Union of Marine Insurance conference in Sydney, Australia.

The recommendations were issued "as a result of the recent major losses" that have hit the market, namely the $1.4 billion loss of the Piper Alpha drilling platform in the North Sea and the $330 million loss of the Enchova oil platform off the coast of Brazil (*BI*, July 11; May 30).

While the Joint Rig Committee is recommending that all underwriters raise rates for platforms around the world, it did not—as had been expected—recommend specific minimum rates for North Sea platforms (*BI*, Sept. 5).

The committee decided that specific rates could not be recommended, said Lloyd's underwriter Peter Wingett, chairman of the committee.

"I would hope rates would increase, but whatever percentage is decided upon is up to the leaders" of individual line slips, he said.

Many of the committee's other recommendations could restrict capacity if they are enforced.

For example, one recommendation suggests that London reinsurers require foreign ceding companies to keep a "realistic minimum retention."

The retention could be a minimum of 10%, though the exact minimum will vary with the size of the risk, said Mr. Wingett, adding that the ceding company "should stand to lose" if a loss occurs.

Brokers should only be able to place coverage on one line slip, instead of the three or more that some London brokers currently administer, another recommendation says.

"Some brokers have had several different leaders on several different slips, and this is unrealistic and should not be encouraged," Mr. Wingett said.

London underwriters also should restrict the use of package policies in writing both property and casualty risks of major oil companies, the committee says. "Underwriters should establish valid reasons for packaging and greater underwriting discipline is required," the committee said.

Package programs, which have been used by major U.S. oil companies in the London market for years, "have been abused," said Mr. Wingett.

"They are very attractive to the insureds, but they have been abused and the underwriters should consider using them carefully," he added.



Photo: Australian Tourist Commission

When not attending the International Union of Marine conference in Sydney, Australia, insurers visited many sites, including the Opera House on Bennelong Point.

Profit commissions and discounts also have been granted too easily to policyholders, he said, and the terms of programs have been too broad. "Profit commission maximum

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Cleanup ruling

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tive in nature," and therefore are not insured.

"The costs of cleanup are not synonymous with property damages. They're economic costs," Ms Burgess said.

Ms. Burgess later would not comment further.

Judge Schwartz, however, said most policyholders would not interpret their policies so technically. He said most policyholders would interpret the word "damages" to include coverage for pollution cleanups.

"It appears to this court that the reasonable expectations of an insured under the policy provisions at issue here is that the insured would be able to recover for all sums for which he became liable by reason of an occurrence, whether as damages in the technical sense or in the general sense, whether as cost of compliance with the law, as specifically with regard to cleanup costs," he ruled.

"If the insurer desires a more restrictive limitation of damages or of the term 'property damage,' it can so provide to specifically exclude cleanup costs, such as those claimed by the insured under the policies in this case."

In court, Judge Schwartz said: "An insurance company writes a policy, issues it to its insured, accepts premiums and promises honest, forthright consideration of claims made. It cannot be permitted to avoid its contractual responsibility by utilizing strained, hypertechnical, legalistic interpretations which an ordinary insured is in no way capable of understanding or should be expected to understand.'

In making his decision, Judge Schwartz closely followed the opinion of a fellow California federal judge who also recently found coverage for hazardous waste cleanups under CGL policies.

'The costs of cleanup are not synonymous with property damages,' argues Holly Burgess.

U.S. District Judge Robert P. Aguilar for the Northern District of California ruled April 26 that Hartford Accident & Indemnity Co. of Hartford, Conn., must indemnify Intel Corp. of Santa Clara, Calif., for government-mandated hazardous waste cleanup costs (*BI*, June 27).

Judge Aguilar on Aug. 4 denied Hartford's motion that he reconsider his decision. Hartford is seeking to appeal that case to the 9th U.S. Circuit Court of Appeals.

Judge Schwartz's decision "underscores Intel's position that its reading of the CGL policy was correct," said Intel attorney John A. Skelton Jr. of Williams, Kelly, Polverari & Skelton in Redwood City, Calif.

Both judges cited California case law that states insurance contracts "should be read in the light of the reasonable and normal expectations of the parties as to the extent of coverage."

In fact, the California Supreme Court has said policies should be interpreted "as a layman would read it, and not as it might be analyzed by an attorney or insurance expert."

Judge Schwartz also recognized the line of thinking that was voiced by members of the 8th U.S. Circuit Court of Appeals in their dissent to the famous *Continental Casualty vs. Northeastern Pharmaceutical & Chemical Co.* ruling (*BI*, March 7).

In that case, the dissent said: "Missouri courts do not necessarily accept the construction accord to policy terms by astute insurance specialists or perspicacious counsel but rather are concerned with the meaning which the ordinary insured of average intelligence and common understanding reasonably would give to the words or language under consideration."

The dissent continued: "The CGL policy does not define 'damages.' If the insurer wished to use a technical meaning for that term which differed from the accepted dictionary definition, it should have explicitly done so. Thus, to the extent the word 'damages' is open to different constructions, it must be accorded the meaning ordinarily given it by the layperson."

The decision "could have a profound impact on other cases interpreting California law," said Richard A. Conn Jr., an attorney with Latham & Watkins in San Diego.

"It also could have a strong impact on how courts in other states interpret these policies," said Mr. Conn, who represented San Diego Trust & Savings, the trustee of a trust that owned land adjacent to the Superior Plating site.

However, Mr. Skelton, Intel's attorney, cautioned: "There is too much of a tendency to think each case is a carbon copy of other cases. Just because a policyholder prevails in one case, it does not mean policyholders will prevail in other similar cases."

Mr. Conn, however, maintained that Judge Schwartz's decision could affect Aerojet-General Corp. and Shell Oil Co. litigations.

Aerojet-General is appealing to the California Court of Appeals for the 1st Circuit a May 25 trial court decision that its 55 liability insurers do not have to pay the costs of cleaning up Aerojet's La Jolla, Calif., plant because government-mandated cleanups are not considered legal damages (*BI*, June 13).

Richard L. Seabolt, an attorney with Hancock, Rothert & Bunshoft in San Francisco, who represents London market insurers in the Aerojet litigation, said Judge Schwartz's decision would not affect this case.

"California state courts determine what state law is," Mr. Seabolt said. "Federal courts only predict or interpret what they think California state law is."

Attorneys for Aerojet could not be reached for comment.

In the Shell litigation, San Mateo County Superior Court Judge William Lanam ruled that the standard rules of insurance policy interpretation did not apply because Shell was a sophisticated policyholder. The oil producer is suing more than 260 of its liability insurers for the costs of cleaning up two hazardous waste sites (*BI*, May 30).

Shell Attorney William S. Boyd with Brobeck, Phleger & Harrison in San Francisco agreed that Judge Schwartz's decision could be helpful if the case is appealed.

"An appellate court will always look to other judges' opinions," he said.

But, Mr. Boyd pointed out that the Shell litigation is being heard in state court and is not bound by federal court decisions. ■

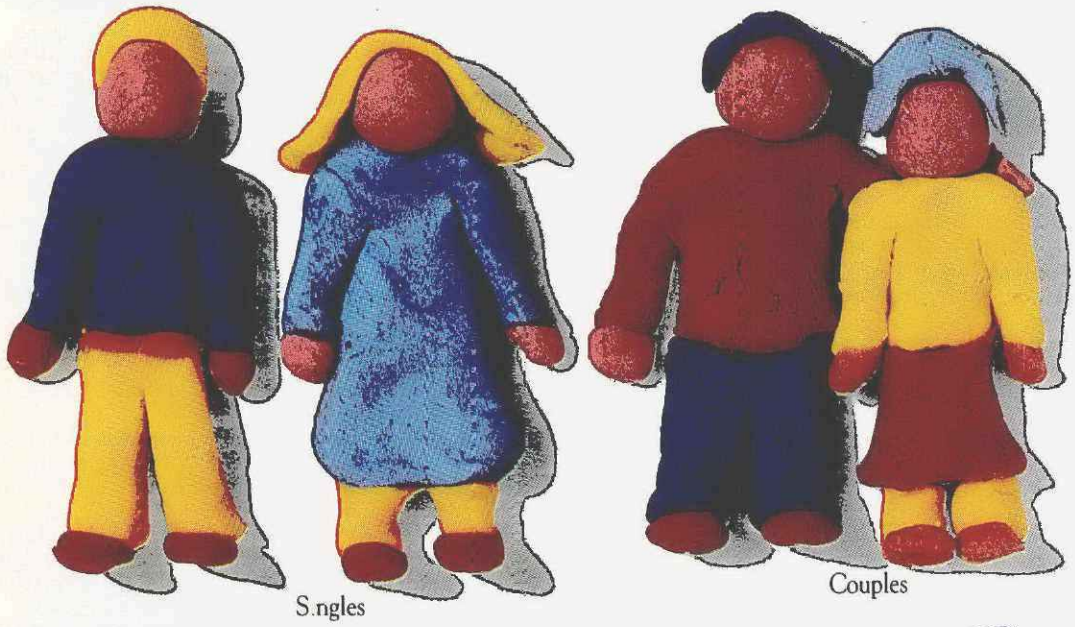
Gillespie

Continued from page 2

Proposition 100 also redefines the term "inadequate rates," which currently describes rates that are so low they threaten insurer solvency. The proposal would allow some companies to escape rate rollbacks if a rate fails "to earn a net aftertax return on equity" comparable to other insurers with similar risks. If voters approve Proposition 100, it could reduce competition between insurers, because they would "become a privileged industry that is guaranteed a profit," Ms. Gillespie said in her testimony.

Proposition 104 appears "actuarially justified" and would not cause solvency problems, Ms. Gillespie said. ■

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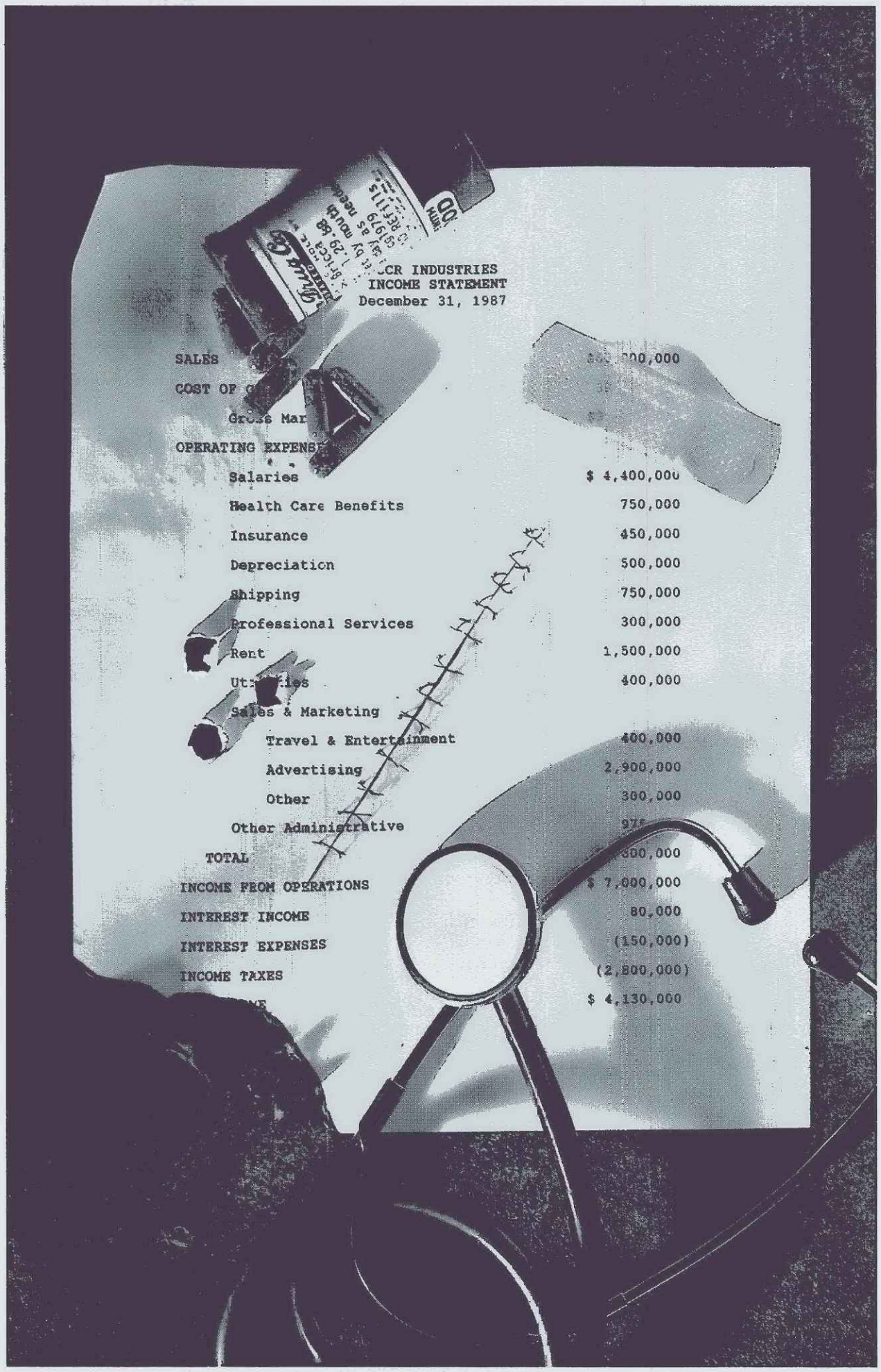
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Unisys employees exercise flex muscle

By GLENN HUNTLEY

Employee selections under Unisys Corp.'s new flexible benefits plan generally follow the Detroit-based computer manufacturer's expectations.

"We are very pleased with the diversity of employee elections The participation levels indicate that the options are priced properly to minimize adverse selection," said Tom Penhale, vp for benefit planning.

"The election results also indicate that our communications campaign was effective in helping employees understand the program and make informed choices," Mr. Penhale added.

The new flexible benefits plan, implemented April 1, replaced various plans available through Sperry Corp. and Burroughs Corp., two computer firms that merged in late 1986 to form Unisys.

Benefit beat

Under the flexible benefit plan, Unisys awards credits to employees based on their age, pay and number of covered dependents. Employees use the credits to pay for health care coverage, life insurance and other benefits.

They also can supplement the credits through salary deductions, or take any unused credits in the form of additional pay.

The company pays the premium for employee coverage at a "target" level, while employees can use credits and/or salary deductions to pay for more costly options, he said.

Unisys pays 85% of the premium for dependent coverage at the target level.

About 33% of the company's 60,000 eligible U.S. employees selected the "target" medical coverage, Mr. Penhale said. This coverage ties the deductible to income and sets maximum out-of-pocket expenses at $1,000 per individual and $1,500 per family. The annual deductible is 1% of pay up to a maximum of $250 per individual and 2% of pay up to a maximum of $500 for families.

Nearly the same number of employees selected a higher option that includes a flat deductible of $100 per individual and $200 per family and caps out-of-pocket expenses at $500 per individual and $750 per family.

Just 7% of Unisys employees opted for lower "catastrophic" medical coverage with deductibles of up to $1,000 per individual and $2,000 per family and out-of-pocket expenses up to $5,000 per individual and $7,500 per family.

The balance, about 29% of the workforce, selected one of about 110 health maintenance organizations available at the company's numerous U.S. locations.

Most Unisys employees, about 64%, chose the target life insurance coverage of two times pay. Another 18% selected life insurance of one times pay, and 18% took a flat amount of $50,000.

In addition to health and life benefits, employees can choose from options such as long-term disability coverage and day-care reimbursement accounts.

About 20% of employees contributed an average of $348 to a health care reimbursement account, while 3% contributed an average of $1,964 to a day-care reimbursement account. About 24% elected to take an average of $199 in cash.

Unisys communicated the features of the new plan to employees through an extensive program of mailings and meetings with human resources professionals. Nearly all returned the completed enrollment forms with an error rate of just 2%, the company reported.

Unisys' self-insured medical plan is administered by Alta Health Strategies Inc. in Salt Lake City, Utah.

Houston shares cost

The city of Houston is shifting costs to employees to help finance claims that far exceed the budget for the city's self-funded health insurance program.

City officials reported this summer that the health care fund was spending about $1 million per month more than projected and blamed the city's nearly $20 million deficit on those increased costs.

The city had budgeted $2.5 million to $3 million per month to fund the health plan, but claims actually averaged $4 million for the last year, explained Carol Palmer, Houston personnel director.

The City Council responded by raising premiums charged to employees and redesigning the plan to encourage employees to seek care from preferred providers, she said.

The plan revisions should help reduce the increasing claims cost, but the result may not be known soon, Ms. Palmer said.

"It's likely going to be the first of the year before we realize the savings," she said.

A major change that became effective in July doubled employee copayments for using non-preferred providers, Ms. Palmer said. For example, copayments for non-preferred provider office visits were boosted to $10 from $5 per visit.

Currently about 66% of the city's 12,000 employees are enrolled in an indemnity plan that includes a preferred provider option, she said. However, only about 30% actually receive care from preferred providers, Ms. Palmer added.

The rest of the employees are enrolled in several health maintenance organizations offered in the Houston area, she said.

In addition to increasing copayments, premiums paid by employees increased "significantly," Ms. Palmer said.

For example, the monthly premium for family coverage increased to $89 in July from the $13.33 employees had been paying since 1984, according to Chris Burns, business agent for Houston Police Patrolmen's Union Local 109.

And, the city has proposed another premium increase that would boost employees' contribution to family coverage to $128 effective Jan. 1, 1989, he added.

The higher premiums have angered city workers who had taken a 3% pay cut in 1986 to help the city through a budget crisis, Mr. Burns said.

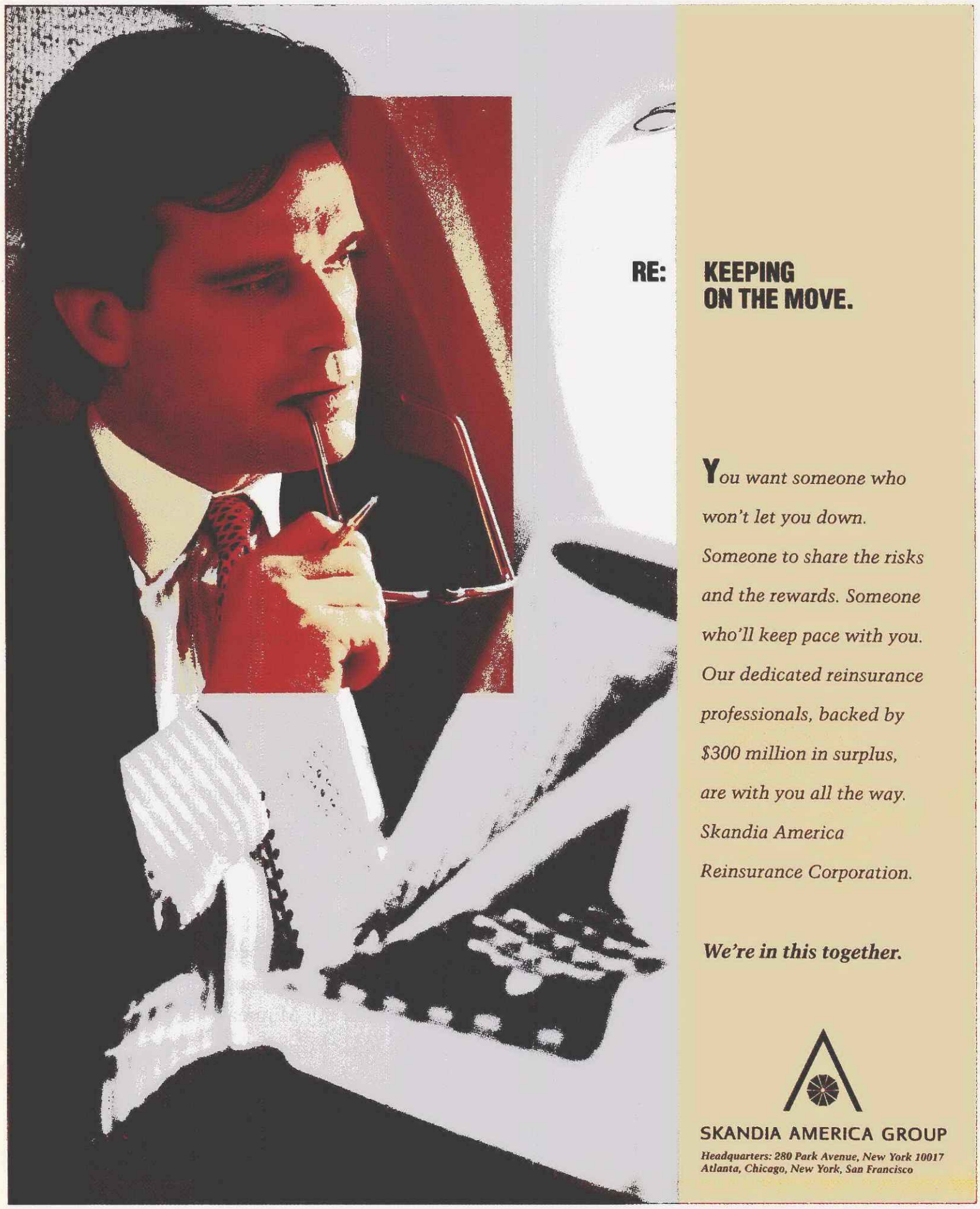
"Employee morale has never been worse. I've been here eight years and I've never seen it like this," he said.

Employees have staged two rallies in front of City Hall to protest the higher health care costs, he said.

Mr. Burns blamed the rising costs on "mismanagement" of the health care plan by city officials. "One of the best plans has generated into something that is less than desirable," he said.

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Opinions

Save asset reversions

CONGRESS MUST reject an amendment that would sharply increase the federal excise tax that employers pay on asset reversions from terminated overfunded defined benefit pension plans.

Under the amendment conceived by Sen. Howard Metzenbaum, D-Ohio, and awaiting action by the full Senate as part of a technical corrections bill, employers would pay a 60% excise tax on reversions received from July 26, 1988, to May 1, 1989. On May 1, the excise tax would drop down to the 10% rate that currently applies for most reversions (*BI*, Sept. 12).

There should be no doubt that the excise tax amendment, which would effectively halt all reversions until May, is really a way for reversion opponents to buy time to draft permanent legislation next year to prohibit or cripple the practice.

Indeed, an earlier version of the proposal describes the period of time in which the higher excise tax is in effect as a period during which Congress should craft legislation to address "important policy questions" raised by asset reversions.

It is clear that Sen. Metzenbaum already believes he has the answers to those questions. On the Senate floor recently, Sen. Metzenbaum referred to reversions as dollars being "ripped off" from pension plans.

Sen. Metzenbaum charges that asset reversions cause workers and retirees to lose retirement security and that Congress must act so that participants' retirement promises are not broken by companies seeking quick and easy cash.

We disagree. We don't see reversions as pension plan rip-offs. Perhaps Sen. Metzenbaum has forgotten, but accrued benefits become vested and must be paid when a company terminates an overfunded pension plan.

Aside from paying participants accrued benefits, employers terminating overfunded pension plans usually establish new retirement programs.

In short, if workers or retirees are hurt by reversions, we can't see it.

There is no question that the ability of companies to recover surplus pension assets has been crucial to some companies' survival. For example, Great Atlantic & Pacific Tea Co. used hundreds of



millions of dollars gleaned through an asset reversion in the mid-1980s to modernize its aging chain of food stores, which enabled the company to better compete.

A ban on reversions could preserve pension surpluses—at the expense of workers losing their jobs when companies go out of business because, in part, they couldn't make use of an important asset. And, Sen. Metzenbaum should remember that unemployed workers do not collect pension credits.

Stopping reversions or making them financially unattractive would be fundamentally unfair. If an employer has to kick in additional contributions when pension plan assets decrease in value, it should also be able to reap the fruits of a wise investment strategy.

Finally, a technical corrections bill, designed primarily to clear up drafting glitches in the Tax Reform Act of 1986 and other recently enacted federal laws, is no place for an amendment that would effectively ban reversions, even temporarily. A proposal like that should receive the kind of detailed scrutiny that is not possible as part of a larger bill.

Letters

Don't promote one group of individuals over another

To the editor: I read, with frustration, Mr. Glapion's letter concerning coverage of minority issues in *Business Insurance*. The frustration stems from my failure to understand how others view equality and integration.

Without disclosing my minority status, I may safely say that one of the more effective processes of American society is the slow-but-sure assimilation of people of many backgrounds into one society. Certainly, some groups take longer than others to join the mainstream of society but—in looking over the many various ethnic, religious and other groups of people who have joined the American society—the process works.

We must ask then if *Business Insurance* must take space to devote to minority issues if, in fact, it reports on insurance-related issues regardless of minority relationships. Has not *BI* achieved the goal of reporting fairly and with equality if it can report on any important news story without having to bring up the matter of race, religion, sex, etc.?

If the goal of American society is to promote one group above the other, to promote the separation of peoples of various backgrounds and to foster the continuation of clashes between those of different races, nationalities and religions, every story should carry proper identification of the people involved so that we do not omit proper treatment of any minority. Since *Business Insurance* is able to cover its beat without reflecting any minority/majority bias, it seems to have helped considerably in promoting equality of the sexes, races, ages, nationalities and whatever other criteria exists for determining minority status.

We readers do not care specifically if the makers of the news are white males, black females or any other minority/majority classification. We want to know the news, and we are pleased that *Business Insurance* can give us that news without promoting one group above another.

Stephen Michaels
Indianapolis

Business Insurance welcomes letters from its readers. Please keep your comments as brief as possible. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Send your comments to Letters to the Editor, Business Insurance, 740 N. Rush St., Chicago, Ill., 60611.

Defense lawyers cash in too

To the editor: In the Aug. 29 issue, James K. Archibald, president of the Maryland Assn. of Defense Trial Counsel, goes to some lengths to distance the defense trial lawyers from the plaintiffs' trial lawyers and to point out that defense lawyers support most tort reforms.

Not true! The defense lawyers are making just as much money out of this outrageously expensive tort/insurance system as are the plaintiffs' lawyers. Defense lawyers just charge for their time differently.

The defense trial lawyers do not want tort reform; they want a little "tort tinkering" so that a completely uneconomic and unjust system of compensating for injury can continue to be foisted off on the American public.

Eugene R. Anderson
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Published by Crain Communications Inc., Chicago

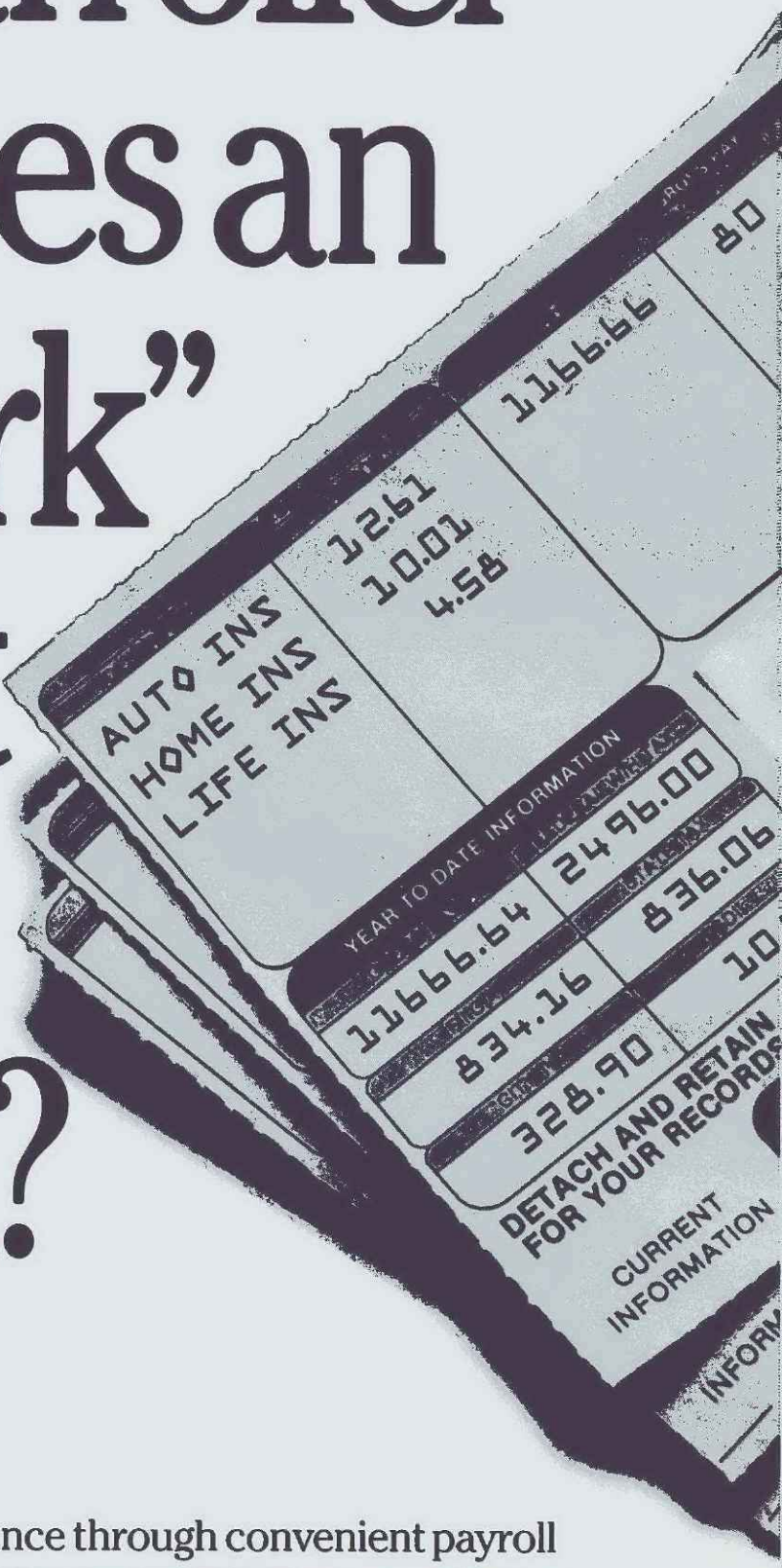
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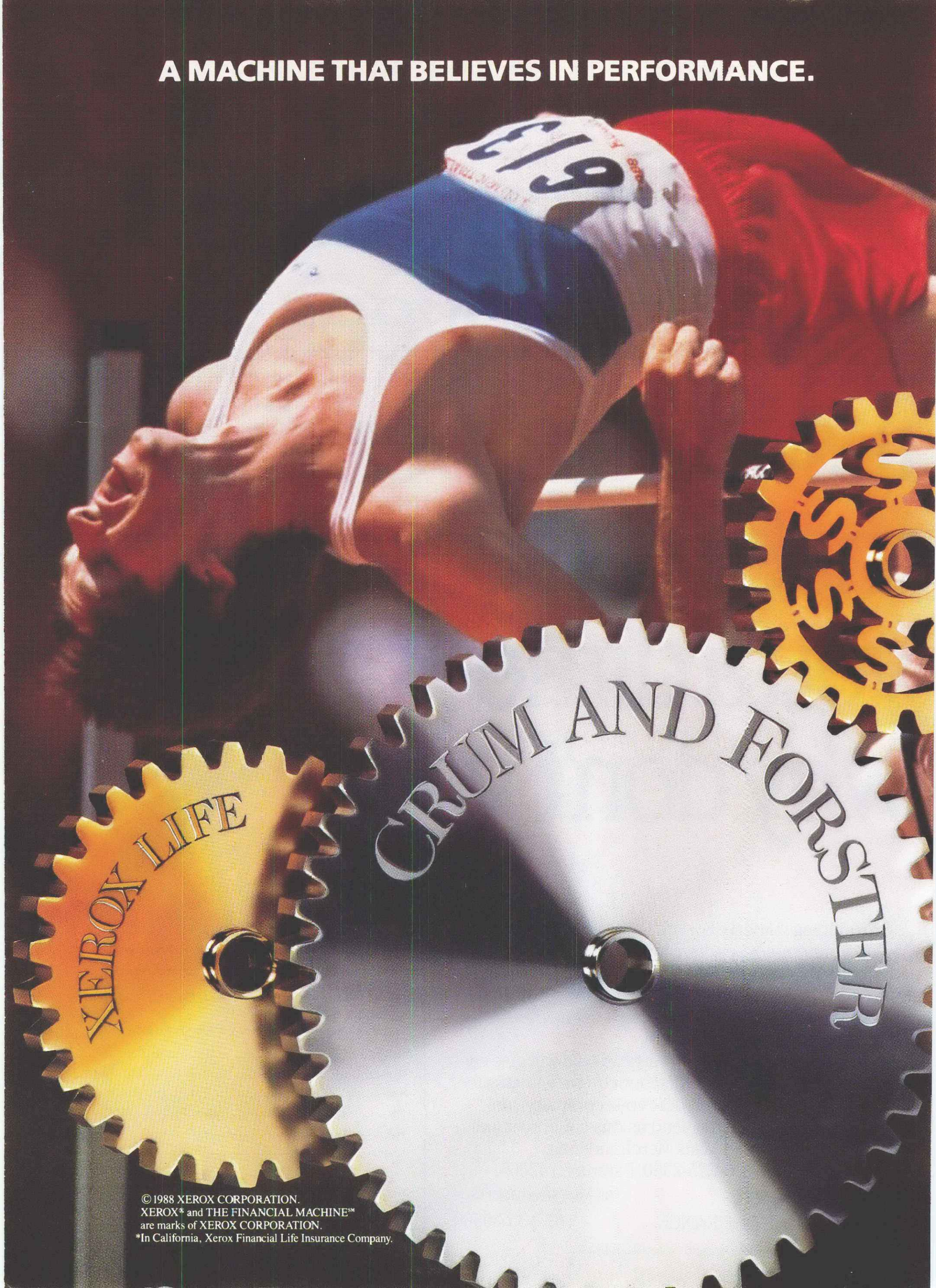
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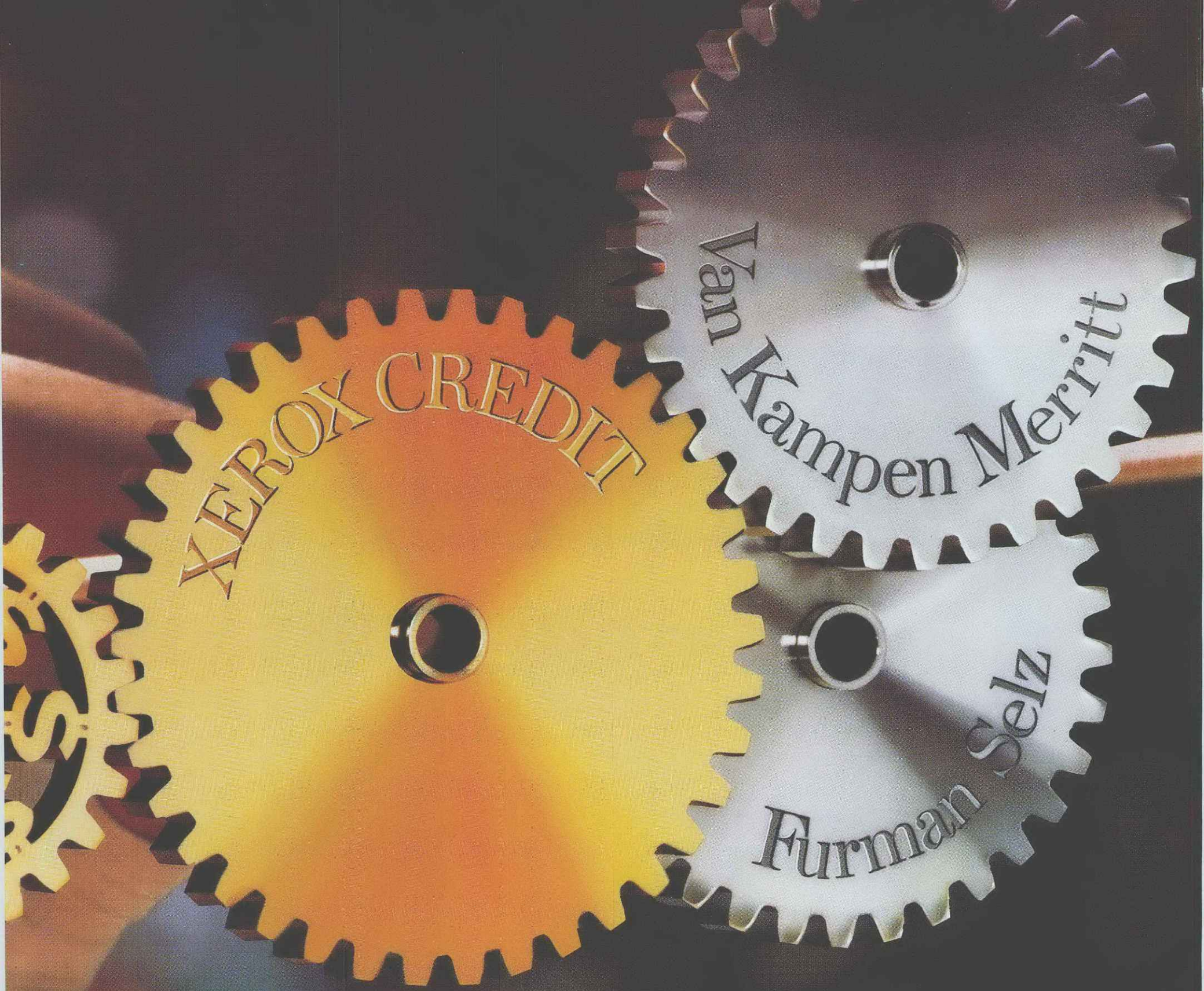
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Mentor

Continued from page 2

● The membership of the Committee of Inspection, a five-member council of creditor companies elected by creditors to represent their interests. The dissatisfied creditors want to either appoint additional representatives or reelect the committee.

● The appointment of an additional joint liquidator or the replacement of the existing liquidators.

The only item listed on the agenda for the annual creditors' meeting earlier this month was "to receive the report of the joint liquidators." However, immediately after Mr. Kempe had reviewed the annual report Mr. Mackie surprised liquidators and attendees with his resolution.

Mr. Arnold said last week that he was surprised at the way Mr. Mackie raised the creditors' concerns in the unannounced resolution.

"We were given no prior warning or even a copy of the resolution just before the meeting. As a result, we were not prepared. I cannot imagine the motives behind it," Mr. Arnold said.

He added that the liquidators always have "been prepared to address any questions creditors have raised during the liquidation."

However, "The last thing one wants is dissident constituents," said Mr. Arnold.

"If they have grievances or doubts, let's sit down and talk them through. Because of the position of certain of Mentor's defendants also being creditors, it is not always helpful to debate in a public forum," Mr. Arnold said, referring to creditors, including Mentor parent company Ocean Drilling & Exploration Co. of New Orleans, that are being sued by the liquidators.

ODECO and five U.S. banks, representing $85.5 million of debt, voted for the resolution, according to Arthur Young partner Gareth Hughes. The banks are owed money from letters of credit drawn down by Mentor creditors in 1985 when the company went into liquidation. However, the letters of credit were guaranteed by ODECO and ODECO has agreed to pay Mentor's debts to the banks, Mr. Hughes said.

Four of those banks originally were on the committee of inspection but withdrew following ODECO's agreement with the banks, he added.

However, Mr. Mackie and Mr. Adamson claim other U.S. and London-based creditors are concerned about the progress of the liquidation.

"Great concern has been expressed, particularly in the London market, that after three years the liquidators have spent $21.5 million and not moved very far forward," said Mr. Adamson, who would not name the dissatisfied creditors.

So far, the liquidators have collected only $11 million of reinsurance collectibles, "representing a return of 50 cents on the dollar," Mr. Adamson claimed.

According to the liquidators' report, total liquidation expenditures for the year ended June 30, 1988, was $8.6 million, compared with net reinsurance recoveries of $6.16 million and investment income of $10.26 million. The expenditures include legal fees of $3.1 million, liquidators' fees of $2.28 million and administrative costs of $1 million.

Mr. Adamson predicted that further legal costs and liquidators' fees alone would "exceed $20 million" over the next three years.

Mr. Arnold said he could not estimate future legal costs, but he said the "level of legal costs is kept under constant review."

The total expenditure "demonstrates the size and complexity of the liquidation," the liquidators state in their report.

For example, Mentor has more than 2,700 creditors representing about 4,500 treaties and 10,500 underwriting years. Its 12 retrocessional programs were placed with more than 200 retrocessionaires, the report notes.

According to the liquidators' report, $157.7 million is "available to pay estimated unsecured creditors totaling $653.8 million."

"However, the uncertainties are such that the joint liquidators are not able to assess with precision the likely ultimate dividend available to creditors," the liquidators' report says.

The liquidators say in the report that they hope to "agree (to) sufficient claims to be able to make an interim distribution to creditors by 1992 (believing) that this objective is clearly preferable to delaying any distribution to creditors until all liabilities have matured, which will take more than 20 years."

However, creditors are concerned that there will be no earlier distribution of dividends, according to Mr. Mackie.

"We do not know why the liquidators are not trying to cap the situation in the same way as the Cambridge (Reinsurance Ltd.) liquidation," Mr. Mackie said.

Liquidators in that case plan to pay a dividend to Cambridge Re creditors by the end of this year, even though the reinsurer filed for liquidation in August 1985, several months after Mentor.

Cambridge Re's liquidators are using a provision in Bermuda's Bankruptcy Act of 1876 that allows the liquidators to estimate the insolvent company's contingent liabilities (*BI*, March 16).

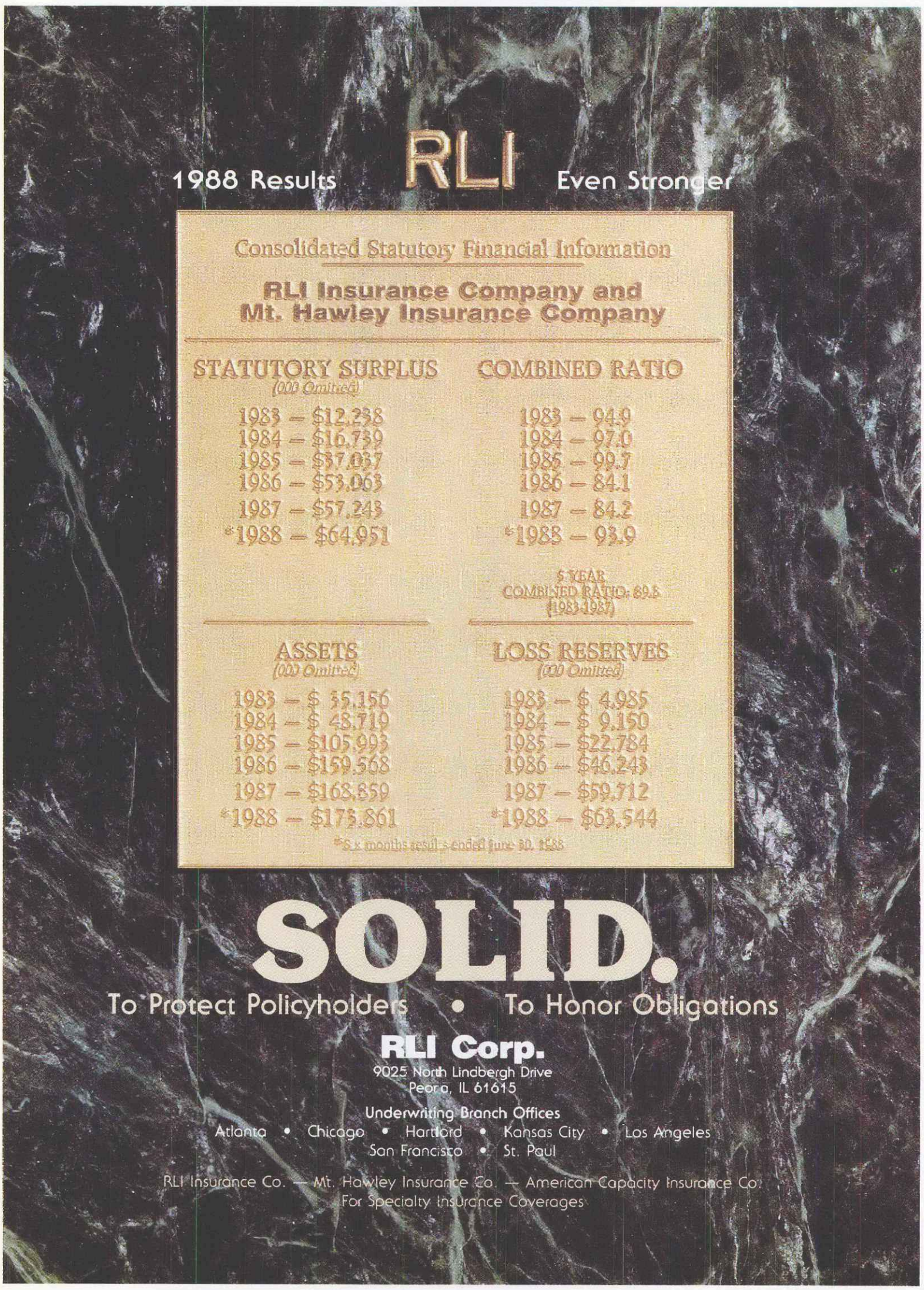
"We have looked at the method being used in the Cambridge Re liquidation and discussed it with Mr. Weiss, but we do not feel the method is appropriate" for Mentor, Mr. Arnold told *BI*.

"We are not trying to unseat the liquidators. We are trying to get the whole position (of the liquidation) reviewed," he said.

"The creditors meeting is the forum for raising these type of questions for the benefit of all the creditors," he added.

Litigation being pursued by the liquidators in another concern of creditors, said Mr. Mackie.

"Considerable time and effort is being devoted to a number of litigations, and it is not readily apparent what benefit will be derived by the creditors," he said. ■



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British insurers take stand against AIDS

By CAROLYN ALDRED

LONDON—British life, health and disability insurers are beginning to take harsh underwriting measures to combat the threat of an onslaught of AIDS-related claims.

The measures—which include excluding coverage, screening applicants and increasing premiums—contrast sharply with the approach adopted by U.S. insurers, some observers say.

Up until now, most U.S. health and life insurers have only required blood testing for individuals who are seeking high levels of coverage to minimize the insurers' exposure to AIDS claims (see story, page 15).

Indeed, at a conference this summer organized by the International Insurance Society Inc. in London, many U.S. representatives were surprised at the actions British insurers are taking to reduce their potential AIDS exposure.

Only about 4 million people, or 16% of the British working population of 25 million, are covered by employer-sponsored health care plans in addition to receiving health care through the National Health Service, Britain's national health insurance plan.

The employer plans—which include health, long-term disability and life insurance—are offered as a perk, usually to managerial employees, who sometimes contribute to the cost through premium sharing, copayments and/or deductibles.

Employees who have such private coverage usually receive faster service than those who only receive government-provided health care benefits.

British health insurers wrote estimated annual premiums of 700 million pounds (1.04 billion at the appropriate exchange rate) in 1986, according to industry sources.

Total 1986 premiums for group life insurance plans underwritten by U.K. life insurers was 4.88 billion pounds ($7.23 billion), according to the Assn. of British Insurers. These premiums covered total lump sum death-in-service payments of 14 billion pounds ($20.7 billion), according to the ABI statistics, which are the latest available.

U.K. disability insurers wrote total premiums of 172 million pounds ($254.6 million), in 1986, according to the ABI.

Concerned that AIDS claims will cut into their profits, many of the leading health, disability and life insurers in the United Kingdom already have introduced exclusions for AIDS and AIDS-related illnesses, said Hugh Jarvis, deputy general manager of The Mercantile & General Reinsurance Co. P.L.C. at a London AIDS conference earlier this year.

The British Institute of Actuaries also has proposed that disability insurers, also known in Britain as "permanent health" or PHI insurers," exclude enrollees with AIDS and the HIV virus from group policies.

But by excluding workers who test positive for the AIDS virus, some insurers have transferred the risk of paying sickness benefits to employers as well as to the National Health Service, according to a bulletin compiled by the institute's AIDS study group.

However, "since the alternative is likely to be unacceptably high premiums or no (disability) cover at all, employers may be prepared to acquiesce in this arrangement," the bulletin states.

All British employers are legally required to provide 28 weeks of wage replacement benefits to employees who are unable to work due to illness or a disability. The payments, which are financed by the government through employer reimbursement, currently are 34.25 pounds ($57.54) a week for employees earning less than 79.5 pounds ($133.56) a week, and 49.2 pounds ($82.66) a week for employees earning more.

In addition, many large employers and government offices continue sick pay for longer periods—ranging between six weeks and a year.

Such extended sick pay is either self-funded by the employer or underwritten by disability insurers.

The level of payment depends on the particular policy, and the payments usually continue until the employee returns to work, dies or reaches the agreed termination date, which usually is when the employee retires.

Although these disability policies can be purchased by individuals, most PHI coverage is provided under employer-sponsored group plans.

"Group PHI cover is often regarded by the employer as a convenient way of providing for employees who experience long-term sickness, either instead of, or complementary to, ill-health retirement provisions under a pension" plan, according to the Institute of Actuaries.

However, the institute suggests that a strict AIDS exclusion may have advantages from a wider perspective: Because the employer would be totally responsible for paying disability benefits to an AIDS victim, an employer may be more likely to keep the worker in his or her job for as long as possible.

"It removes the incentive for the employer to jettison someone with HIV infection from the workforce. . .and could, therefore, encourage rational personnel policies for dealing with HIV infection in the workplace," the bulletin points out.

"This approach appears to have met with general acceptance by the public as a reasonable means of protecting the level of premiums for insured persons in the light of uncertainty about the impact of AIDS and its possible heavy financial consequences in terms of medical treatment," according to the bulletin.

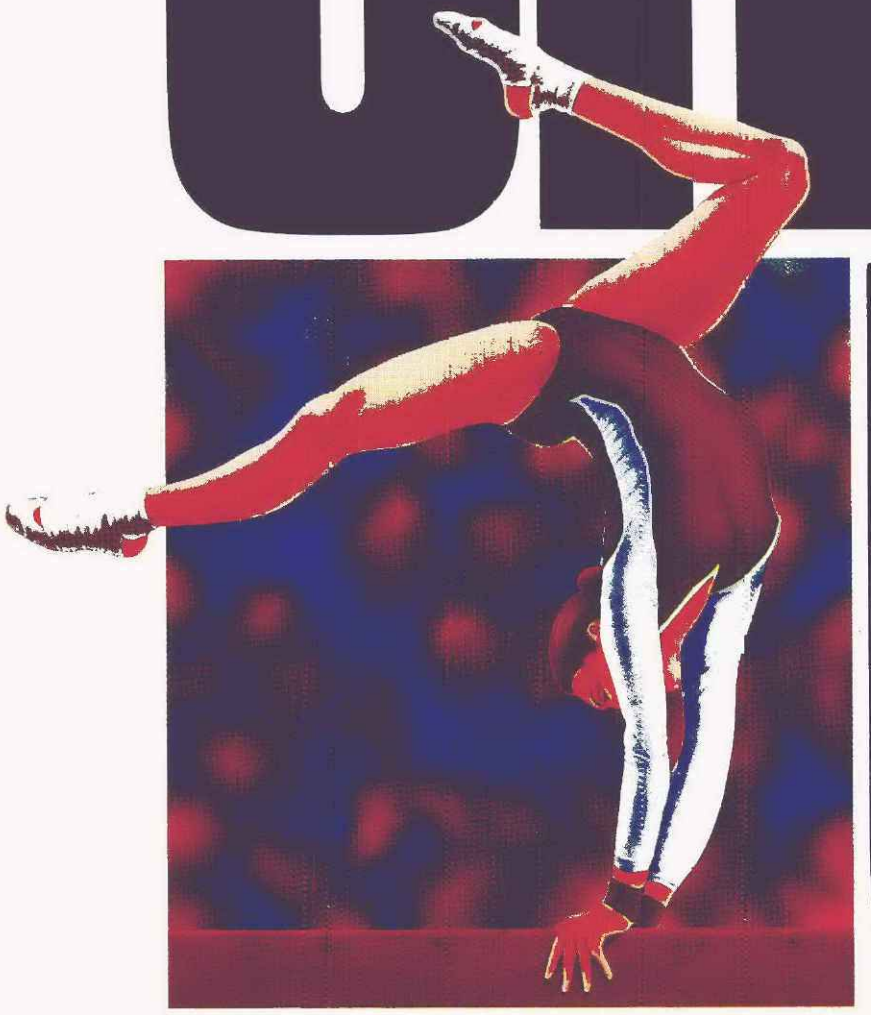
But, if AIDS exclusions are adopted for British group health insurance plans, employees who contract AIDS have a back-up: Britain's socialized health care system.

Unlike in the United States, where "it is not politically acceptable to exercise any form of underwriting selection for AIDS when writing group health contracts, we do have a National Health Service which, with all its faults, is gearing itself up to cope with the AIDS problem," observed Nicholas Rhodes of Victory Reinsurance Co. Ltd. in the United Kingdom.

However, "I appreciate that the wording of any such AIDS exclusion has to be considered very carefully because of the public relations considerations," said Mr. Rhodes in his speech during a recent conference on AIDS in Lon-

Continued on next page

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Continued from previous page
don organized by three British life reinsurers: Victory; Mercantile & General; and Swiss Reinsurance Co. (U.K.) Ltd.

In addition to specifically excluding coverage for AIDS, many U.K. insurers last year began including AIDS-related questions on all individual and group life insurance applications with a death benefit exceeding a certain amount.

In addition to asking applicants whether they have received any medical advice, treatment or blood tests in connection with an AIDS-related condition, many U.K. insurers also are asking "lifestyle" questions to assess whether applicants are at risk of contracting AIDS.

According to a statement from the Assn. of British Insurers, the AIDS-related questions are "a triggering mechanism to see whether further enquiry is necessary. . .further enquiries will always be made to assess the degree of risk and in some cases references may be made to the (applicant's) own doctor or a medical examination called for."

In addition, most British life insurers—like their U.S. counterparts—are demanding blood tests for applicants seeking more than about 150,000 pounds ($252,000) in coverage. This screening also is being adopted in continental Europe where insurers are reluctant to ask "lifestyle questions," pointed out Michael Eves, deputy manager of Swiss Reinsurance Co. (U.K.) Ltd.

Life and health insurers will "have to devote more attention in the future to screening new insurance applications for AIDS, since the costs of treating AIDS patients can represent a very considerable extra burden which the regular business may no longer be able to carry," according to a statement in the 1987 annual report of Munich Reinsurance Co. of Munich, West Germany.

"We have referred repeatedly in past years to the grave significance of the risk of change for insurance and reinsurance. The seriousness of this and the speed with which new developments relating to the risk of change can arise are clearly demonstrated by the example of AIDS, a disease that was totally unknown only a few years ago but now seems likely to have a very serious impact on the results of our business, especially in life and health but also in liability insurance," the annual report states.

U.K. insurers also are hiking premiums to spread the cost of treating AIDS patients among other policyholders.

Group life policy premiums can be expected to start increasing by 1990 when AIDS claims start making an impact, said Swiss Re's Mr. Eves.

For now, though, most of the premium increases are restricted to individual policies because group policies are usually renewed and reassessed annually.

The range of increases for individual term life policies vary according to the age group of the policyholder. Guardian Royal Exchange P.L.C., for instance raised its premiums for 30-year-old men by 150%.

Meanwhile, most British insurance companies also are increasing company reserves to prepare for increasing AIDS claims, said Mr. Eves.

All life insurance and reinsurance companies "are going to have to set up additional reserves because of AIDS mortality," he said.

How much a company increases its reserves will depend on its mix of business and how much is long-term business with a fixed premium rate, Mr. Eves said.

Several reinsurance companies already have increased reserves substantially.

For example, The Mercantile & General Reinsurance Co. P.L.C. has made a 45 million pound ($75.6 million) provision for future AIDS losses and will make further provisions in the future (*BI*, May 16). ■

AIDS poses a dilemma in the U.S.

By CAROLYN ALDRED

LONDON—Group health and life insurers in the United States are finding it difficult to limit AIDS-related losses under government regulations and statutes.

State and federal officials are trying to shift the future costs of treating patients with acquired immune deficiency syndrome increasingly onto the insurance industry and employers, said participants at the 1988 International Insurance Society Inc. conference in London this summer.

"Many politicians and consumer groups believe that insurance policies should be the primary source of the funds needed to treat the growing AIDS population. This prospect has caused life, accident and health insurers to exert considerable political pressure to permit blood testing for the AIDS virus as a precondition to issuing new or renewal policies," said attorney William E. Bailey, executive vp of Litigation Systems Inc. in Waltham, Mass.

However, "that effort has thus far achieved widely disparate success. Some state governments have authorized AIDS blood testing with certain limitations as to the total benefits and period of automatic cancellation. Others have completely banned blood tests for any life, accident and health insurance applicants, regardless of amount or pre-existing condition," he explained.

Some states also have passed legislation restricting insurers from taking other measures, according to James J. Chastain, professor of insurance at Howard University in Washington, D.C.

In a paper he presented at the conference, Mr. Chastain noted that the laws:

- Prohibit testing a policy applicant for AIDS.
- Prohibit using the results of AIDS tests taken prior to the application.
- Require that policy applicants who must undergo blood tests for other reasons must give prior consent for AIDS testing.
- Require pre- or post-testing counseling of policy applicants.
- Adopt guidelines devised by the National Assn. of Insurance Commissioners that prohibit underwriters from considering a policy applicant's sexual orientation and that prohibit insurers from asking certain medical and lifestyle questions to determine whether the applicant is a high AIDS risk.
- Prohibit coverage exclusions or limitations for AIDS or AIDS-related conditions.
- Mandates that health insurance policies pay for the anti-viral drug AZT, which prolongs the life of an AIDS sufferer by approximately 18 months.

As of January, 20 jurisdictions had adopted some combination of these laws and regulations, Mr. Chastain said.

However, at least two states allow insurers to take underwriting measures to assess the AIDS risk more accurately, he said.

"The state of Washington's regulation recognizes that AIDS and related conditions are diseases and must be considered as such under the insurance laws of the state. The regulation interpreted the state's Unfair Trade Practices Act 'to require grouping of insureds into classes of like risk exposure' and to 'charge a premium commensurate with the risk exposure.' The rule stresses that 'policies issued

Continued on page 18

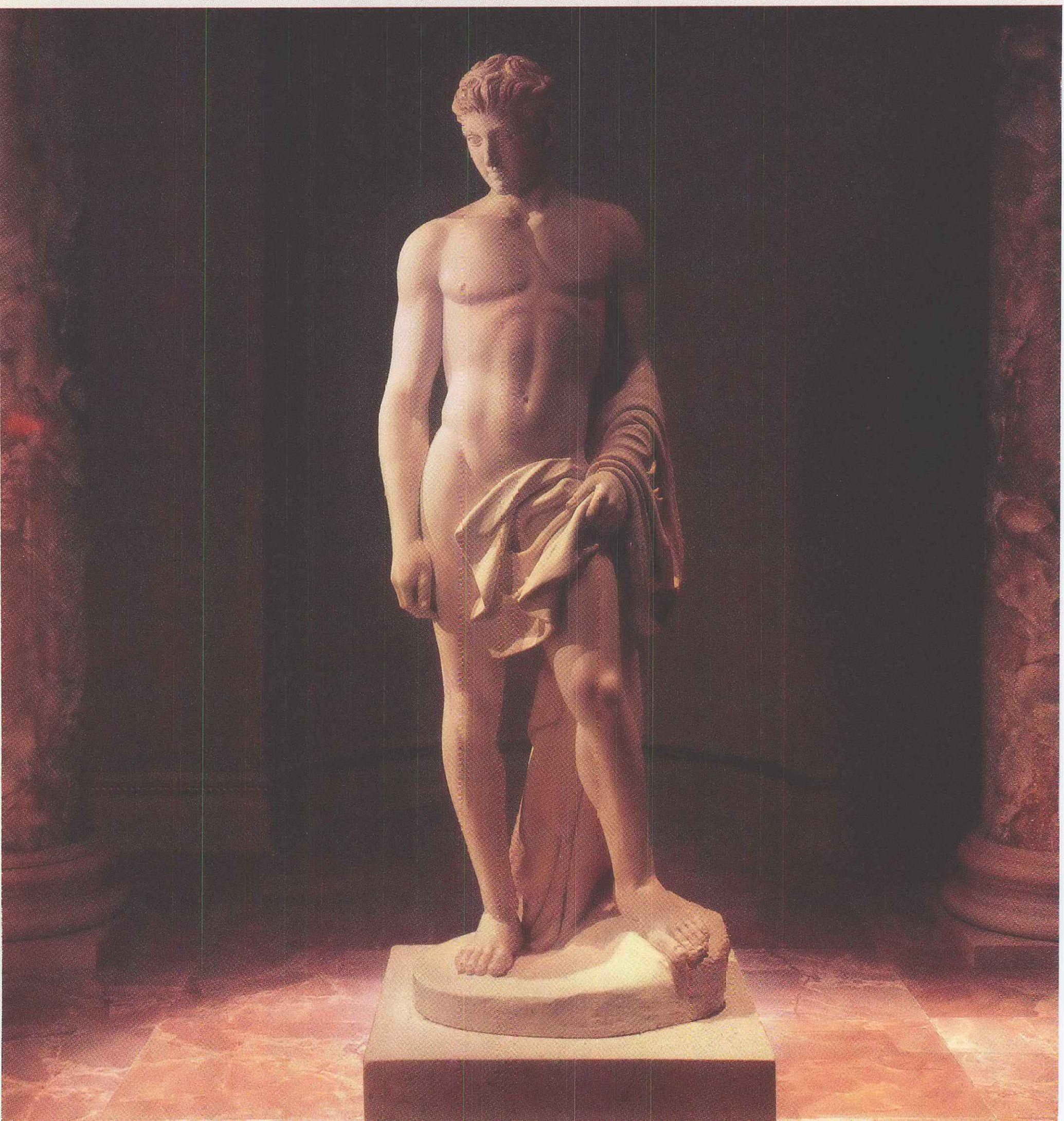
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U.S. regulations

Continued from page 15

on a standard basis should not be surcharged to support those issued to insureds suffering from an ailment,' " Mr. Chastain noted.

In addition, a Kansas Insurance Department regulation, which became effective in September 1987, "appears to produce the same result as the Washington regulation," he noted.

The District of Columbia enacted legislation in 1986 that prohibited insurers from performing blood tests on policy applicants. But the American Council of Life Insurance and the Health Insurance Assn. of America sued in U.S. District Court charging that the law violated the Fifth Amendment and the District of Colombia Home Rule Act.

'Life and health insurers are coming under increasingly serious financial jeopardy from the rising volume of claims against their policies from AIDS victims and their families,' says attorney William E. Bailey.

However, "when the (federal) district court upheld the act in September 1986, life insurers began to discontinue writing individual life insurance in the district," said Mr. Chastain.

The federal government also is trying to redistribute the costs of AIDS medical expenses, he said.

For example, under the Consolidated Omnibus Budget Reconciliation Act of 1985, AIDS sufferers who lose their jobs can elect to continue to purchase coverage from their former employers for 18 months. And the dependents and ex-spouses of former employees can elect to continue coverage from the employer for 36 months.

However, the employer can charge the person seeking coverage a premium of up to 102% of the cost of the coverage.

"Recommendations have been made that the 18-month period be extended and that financial assistance be provided by states to persons unable to pay the premiums. These actions and proposals are intended to shift medical costs from the government and public hospitals to insurers and insured businesses," Mr. Chastain said.

Also, 15 states have established risk pools for individuals without health insurance, and 13 other states are considering establishing such pools, shifting medical care cost away from the government to the pool funding sources, he noted.

"Pool deficits are typically assessed to group health insurers and ultimately fall on the small and medium-sized firms which are insured. The presidential commission on the HIV epidemic recommends a federally backed reinsurer of state risk pools," Mr. Chastain added.

"Life and health insurers are coming under increasingly serious financial jeopardy from the rising volume of claims against their policies from AIDS victims and their families," Mr. Bailey said.

"Total estimates of AIDS related liabilities range from $25 billion to $100 billion," he said.

However, he concluded that "on the basis of best possible projections regarding the severity of the HIV epidemic in the U.S., there appears to be little threat to the solvency of group life or health insurers."

AIDS-related deaths could cost the life insurance industry $70 billion in aggregate claims by the year 2000, about $50 billion of which will be paid on individual life insurance policies currently in force and $20 billion paid on existing group life insurance policies, said Mr. Chastain, quoting figures published by the Society of Actuaries (*BI*, Sept. 7, 1987). "These amounts are significant but not threatening to the solvency of the life insurance business."

However, "one factor causing great concern to insurers involves the spread of HIV to the general population through bisexuals in the 'at risk' population, the import of (different AIDS strains) from abroad and through new HIV strains," he said. "Insurers are responding through support of massive education programs, government initiatives and medical research."

Meanwhile, few U.S. employers are limiting health care coverage in response to AIDS, according to a survey conducted earlier this year by the Alexander & Alexander Consulting Group, a unit of Alexander & Alexander Services Inc. (*BI*, Feb. 8).

The survey revealed that only 8.9% of the 2008 employers surveyed have adopted some cost-containment measures for AIDS-related benefit costs and only 8% of those have capped or restricted coverage for employees with AIDS.

According to the survey results, "case management" was the most prevalent measure adopted in response to AIDS with "virtually no benefit plan design changes excluding AIDS coverage or treatment," according to A&A. ■

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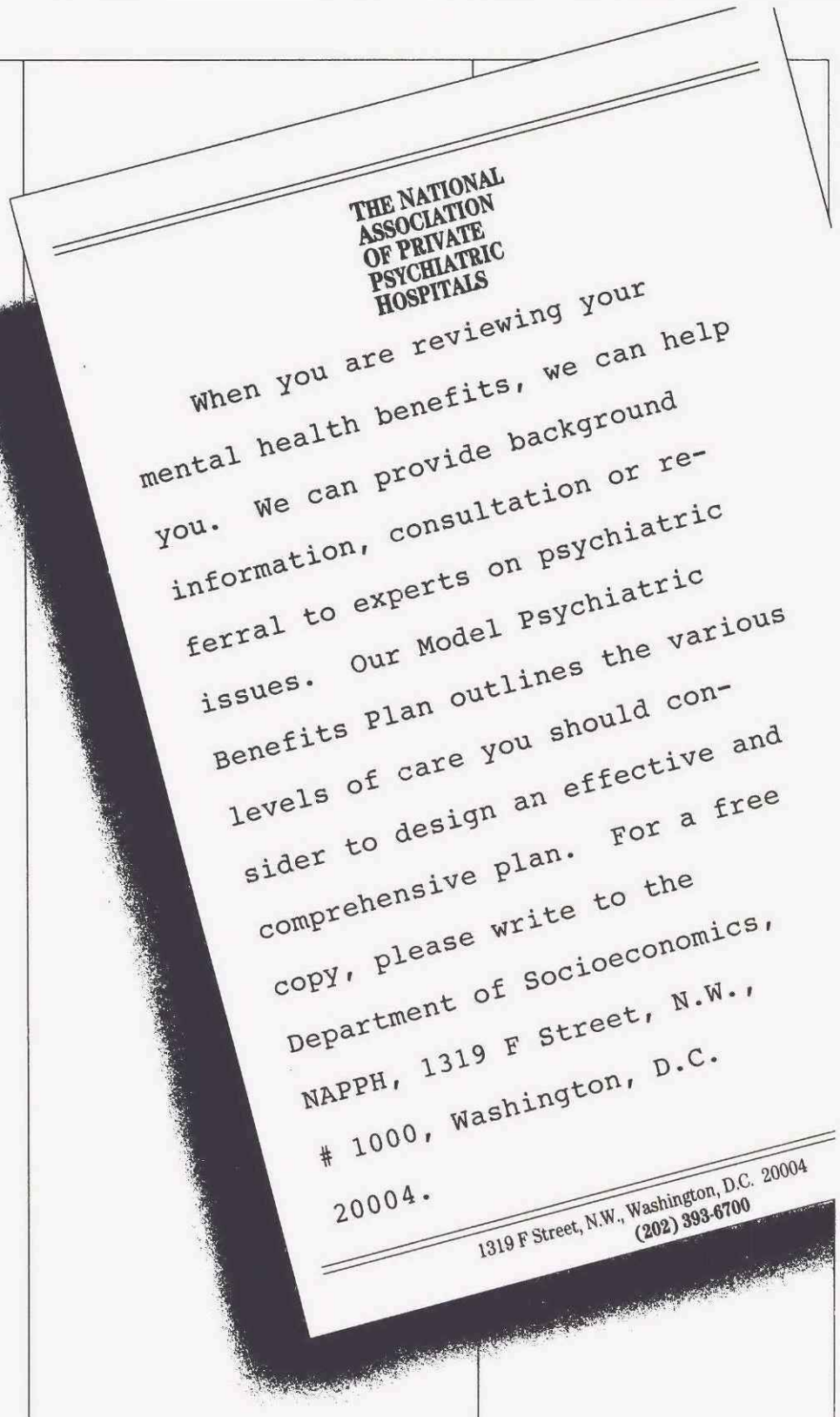
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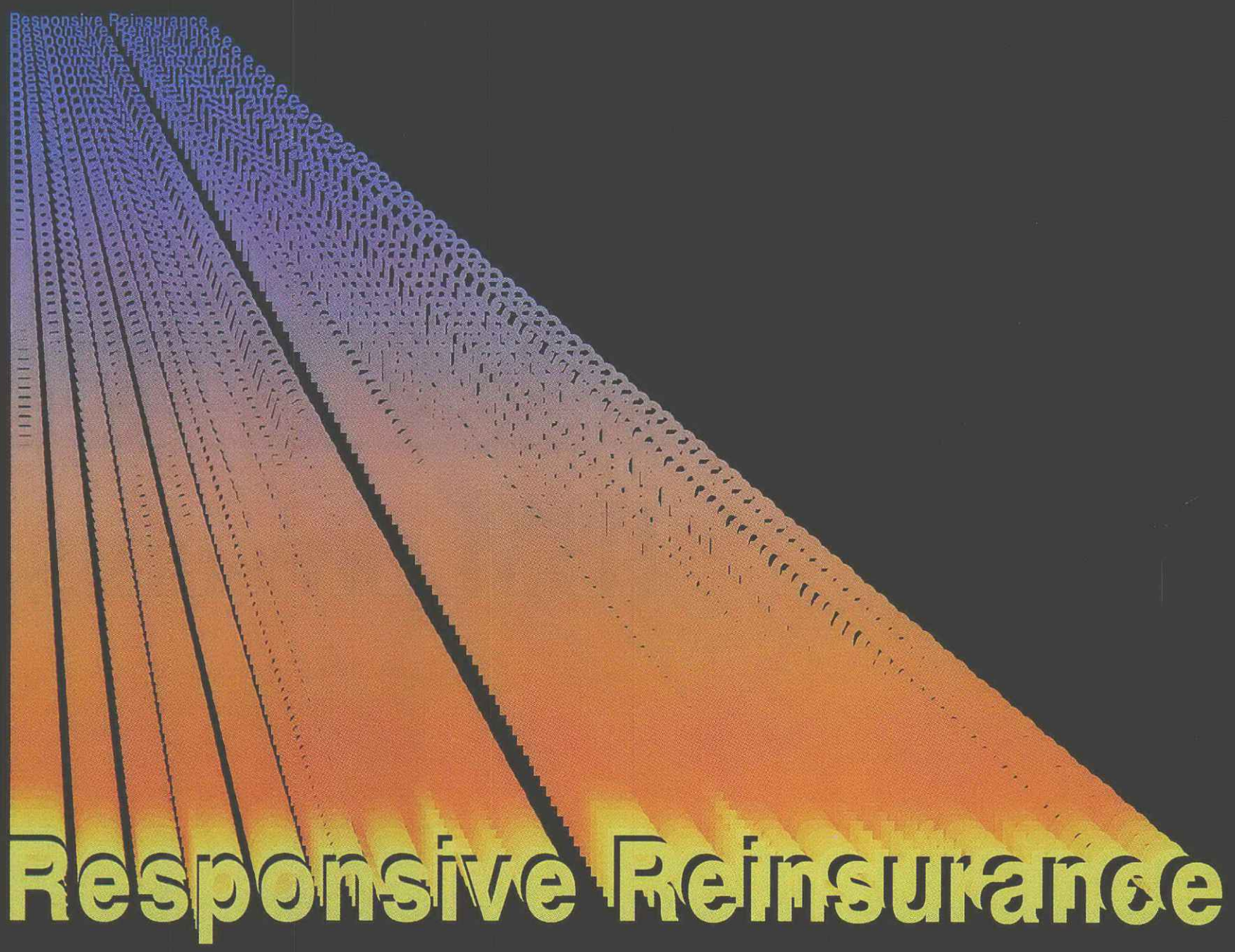
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* (Source: National Center for Health Statistics)
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Brokers offer stop-loss AIDS policies

By CAROLYN ALDRED

LONDON—At least three London-based reinsurance brokers currently are marketing specialty contracts to protect health insurers and self-insurers against catastrophic AIDS exposure.

Simon Johnson, managing director of Johnson Tucker Ltd., has put together a policy offering "abnormal mortality stop-loss insurance" for U.S.- and U.K.-based life insurance companies and self-insured employers for three- to six-year periods.

The policies will pay part of the difference between a life insurer's predicted mortality claims and those actually occurring each year during the policy period, according to Mr. Johnson. Limits are negotiable.

U.S. insurance companies are able to obtain three-year programs, while U.K. companies are currently able to obtain six-year contracts, he said.

The stop-loss policies primarily are written by European and London reinsurers, said Mr. Johnson, who would not specify the companies.

About five policies have been sold, four to U.K.-based policyholders and one to a U.S. policyholder, said Mr. Johnson.

Stop-loss policies also are being marketed by London broker Jardine Thompson Graham Ltd. via intermediaries, according to Stephen Gray.

However, the policies are only suitable for short-term life products such as group life and universal life accounts, he said.

The 24-month stop-loss policies, which are written by Lloyd's of London underwriters, "protect an account in the event that actual AIDS losses exceed expected AIDS losses," he explained. However, the policies would not "catch claimants who committed suicide or whose death was not diagnosed as due to AIDS," he added.

Meanwhile, broker Jardine Gray Ltd., which is 50% owned by Mr. Gray and 50% owned by Jardine Reinsurance Holdings Ltd., is marketing a runoff reinsurance policy to protect guaranteed-premium life business written at specified periods between 1980 and 1986.

Life insurance business written between 1980 and 1986 is "probably most prone to AIDS losses as during that time very little HIV testing was done and companies were not able to underwrite out AIDS," said Mr. Gray.

A catastrophe reinsurance protection plan for group and individual life insurers also is being marketed by London broker Rostron Hancock Reinsurance Brokers Ltd., a unit of Bain Clarkson Ltd.

The policy offers limits of up to 50 million pounds ($84 million) for a portfolio of group or individual life insurance policies against disease accumulations arising from an epidemic, like AIDS, and also against accident accumulations arising out of a particular catastrophic event.

An epidemic is defined when two or more deaths occur as a result of one disease during a policy year.

In addition, the ceding company can decide "what diseases are to be covered which will include AIDS, and the (cedant) will be the sole judge as to what constitutes an AIDS death," said Managing Director Chris Rostron.

A version of the policy is being marketed in the United States by New York reinsurance intermediaries Gill & Roeser Inc. and Lincoln National Intermediaries Inc. ■

Insurers settle with hemophiliacs

By CAROLYN ALDRED

COLOGNE, West Germany—West German liability insurers expect to compensate by the end of the year the approximately 1,000 hemophiliacs who contracted AIDS through blood transfusions, according to a reinsurance claims manager.

The average individual settlement to plasma recipients who contracted acquired immune deficiency syndrome is expected to be about 80,000 deutsche marks ($42,760), said Ulrich Jaeger, claims manager-casualty department of Cologne Reinsurance Co. in Cologne, West Germany.

"The liability insurers of the factor VIII and IX blood preparation manufacturers are actively trying to finalize lump-sum settlements with AIDS-infected hemophiliacs," Mr. Jaeger said.

Seven West German pharmaceutical companies were involved in the distribution of AIDS-contaminated plasma products to West German hemophiliacs before mid-1984 (*BI*, April 6, 1987).

More than 1,000 of West Germany's 6,000 hemophiliacs currently are suffering from acquired immune deficiency syndrome, and liability insurers expect to pay individual settlements in "the bulk of the cases" by year-end, said Mr. Jaeger.

According to Mr. Jaeger, the negotiations are based on the principle of strict liability, which was introduced in West Germany for pharmaceutical manufacturers in 1978 and holds the companies liable for any losses caused by their medical products, no matter who caused the loss.

Under the law, called Gesetz zur Neuordnung des Arzneimittelrechts of 1978, the pharmaceutical companies must buy insurance for each drug they manufacture with limits of 500,000 deutsche marks ($267,250) per person and 200 million deutsche marks ($106.9 million) per drug.

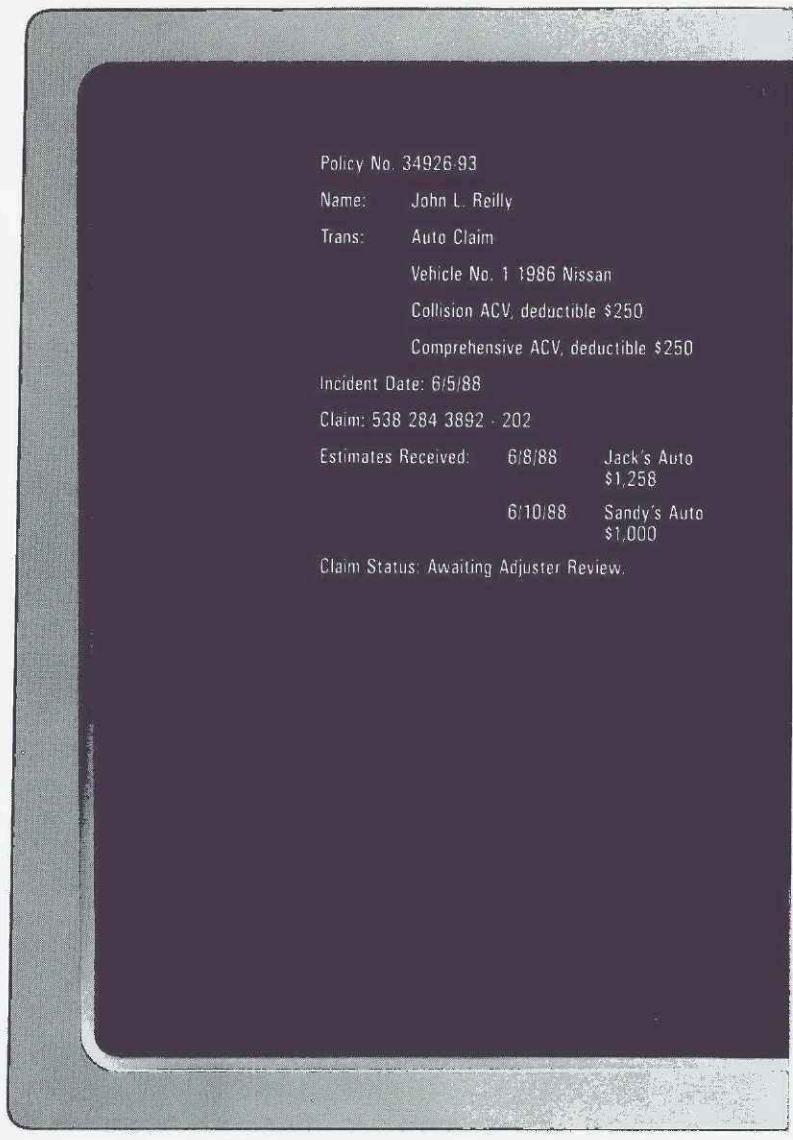
"The insurers have succeeded in creating a non-litigious atmosphere for processing the claims, and, hopefully, will be able to preserve it in the future.

"The victims who are advised by their associations accept the lump sum settlement offers rather than go to court and run the risk of dying before the final judgment is given," Mr. Jaeger said.

The seven pharmaceutical companies involved are Alphatherapeutic; Armour & Farmer; Behringwerke; Biothestfarmer; Immuno; Tavenol; and Troponwerka.

All of the pharmaceutical companies first 10 million deutsche marks of product liability insurance is written by West German insurers and the next 190 million deutsche marks ($101.6 million) of coverage is reinsured the Pharmapool, a group of West German reinsurers managed by Munich Reinsurance Co. in Munich.

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AIDS costs to hit various nations differently

By CAROLYN ALDRED

MUNICH, West Germany—The spread of the AIDS virus is likely to affect insurance markets around the world in different ways, a reinsurer reports.

While life and health insurers in some countries are better prepared to withstand claims related to acquired immune deficiency syndrome, insurers in other nations are restricted in the measures they can pursue.

"For example, in a number of European countries, in which the actuarial bases for life insurance calculations are conservative and contain substantial safety margins in view of the long-term guarantees given on premiums and benefits, additional claims will be more easily absorbed than in markets, such as North America and to some extent also Great Britain, in which such safety margins have largely been eroded in recent years," according to the 1987 annual report of Munich Reinsurance Co. in Munich, West Germany.

However, experts point out that the U.S. insurance industry is not reacting as quickly and aggressively to the AIDS threat as insurers in other nations for several reasons.

For example, U.S. health and life insurance policies are very different from policies in Britain and continental Europe and require less immediate underwriting changes, some observers say.

While most individual life insurance policies in the United Kingdom are written for a specified period of time at a fixed premium rate, premium rates for U.S. life insurance products are often changed annually,

AIDS is likely to be an issue of major proportions for U.S. insurers, Munich Re reports.

said Michael Eves, deputy manager of Swiss Reinsurance Co. (U.K.) Ltd.

Social and regulatory differences also explain the different attitudes adopted by insurers worldwide, experts note. For example, the U.S. insurance industry is often prevented by regulatory authorities and public opinion from "selective or discriminatory" underwriting, experts note.

"Indeed the state insurance commissioners seem to have been primarily particularly concerned to inhibit insurance companies from discriminatory underwriting and even, in some cases, from testing for HIV antibodies," according to the study report on AIDS published by the British Institute of Actuaries earlier this month.

In the United States, AIDS "is likely to be an issue of major proportions for the insurance industry, although up to now the discussion has focussed more on the rights of those who are infected than on the possible impact on everyone else if the full impact of AIDS is felt by the insurance companies," the report notes.

As a result "there has not, as yet, been pressure on (American) companies to charge higher premiums, to underwrite selectively or to set up reserves for AIDS mortality," the Institute of Actuaries says.

However, some U.S. insurers are considering limiting or eliminating marketing group life or medical insurance in some high-risk states (*BI*, Feb. 8).

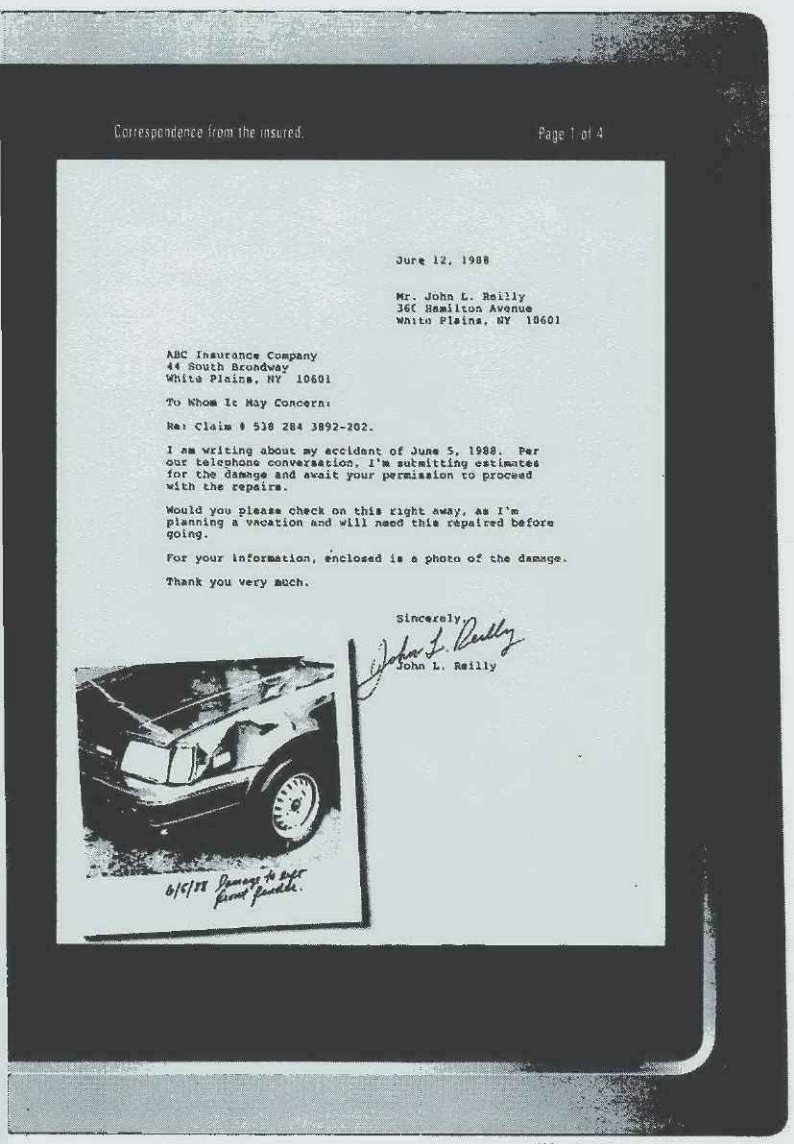
In addition, the U.S. public health care system is far more limited than in Britain, for example, where the majority of medical care is provided with public funds.

Meanwhile, other types of insurance also are likely to be affected by claims relating to AIDS, the institute's bulletin notes. These include:

- Employers' liability, "where claims could arise in all sorts of ways, either from infected people claiming discrimination or unfairness, or from uninfected people concerned about the employment of infected people."
- Medical malpractice or product liability. Hemophiliacs are already making claims against manufacturers of blood products infected with the AIDS virus (see story, page 20).
- Personal accident insurance. Insurance companies and Lloyd's of London syndicates could introduce an AIDS exclusion in personal accident policies. For example, a person injured in an accident could contract AIDS from a blood transfusion.
- Travel insurance. People may become infected as a result of a blood transfusion while traveling.
- Homeowners insurance. "Cases are arising in the U.S. of infected persons suing their spouse or partner for failing to inform them they were infected with HIV and seeking to collect damages under the defendant's householders policies," the bulletin states.

In addition, a claim has been made in the United Kingdom for the replacement of a bed and bedclothes that had to be destroyed after an intruder—possibly infected with HIV—had slept in them. ■

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NAM urges corporate AIDS strategies

By DEBORAH SHALOWITZ

WASHINGTON—Companies should adopt a corporate strategy on AIDS regardless of whether any of their employees have been diagnosed as having the deadly disease, urges the National Assn. of Manufacturers.

Employee education should be the cornerstone of that strategy, stated William Edwards, chairman of NAM's task force on AIDS and director of employee benefits and services for West Point-Pepperell Inc. in West Point, Georgia.

"There are many companies that have chosen to put their heads in the sand," noted Sharon Canner, assistant vp of industrial relations for NAM.

However, a better approach is to educate employees about the disease before they may have to confront it, advised Thomas E. Fitzsimmonds, director of employee relations for Dayton, Ohio-based Mead Corp.

Mr. Edwards, Ms. Canner and Mr. Fitzsimmonds made their remarks late last month during a briefing on acquired immune deficiency syndrome hosted by the NAM in Washington.

The NAM has adopted a public policy statement on AIDS that addresses several concerns, including:

- Corporate strategy. The policy recommends that corporations appoint a broad-based group of representatives of the company's legal, human resources, public affairs, communications and medical experts to develop guidelines on AIDS and the workplace.

The policy also states that the highest levels of management and labor unions should endorse nondiscriminatory employment policies and educational programs about AIDS.

- Legal protection. "People with AIDS are entitled to the same rights and opportunities as people with other serious or life-threatening illnesses," the NAM states. Also, "corporate action and guidelines should recognize existing federal, state and local laws that acknowledge AIDS as a handicapping condition protected from discrimination."
- Human resources. "A host of issues should be considered, including confidentiality of medical information, proper interview techniques to avoid discrimination, employee rumors/fears, transfer requests, workplace safety concerns and consideration of job modifications such as restructuring, use of flex-time, reduction of workloads, provision of more rest breaks and allowing an employee to work at home," according to the statement.
- AIDS testing. "Decisions based on AIDS test results risk discrimination suits and cause much negative reaction," warns the NAM. "Thus, AIDS testing of current or potential employees may not be productive."
- Employee education. "Efforts should aim to explain how AIDS is contracted and spread, prevent transmission of the disease, minimize fear among co-workers and define the risk in the workplace," the NAM advises.

"Useful techniques include printed materials, audio-visuals, small group discussions during work hours and repeated updates of the information. The corporate medical department or medical community should take a lead role in all communications."

- Insurance issues. "Assess company health and disability plans to determine how catastrophic illnesses are generally handled," the statement recommended.

"As with other potentially costly illnesses, employers should consider case management, outpatient treatment and hospice benefits as appropriate to minimize cost and assure effective treatment."

The most important thing for employers to address is "fear of contagion," said Mr. Fitzsimmonds.

Mead "tries to dispel the fear element before it appears" in one of the manufacturer's plants, he said, by showing a 24-minute videotape about AIDS to all employees.

The tape reviews exactly what AIDS is, how it is transferred and the stages of the disease. The tape also includes speeches from both Mead's president and Mead's medical director about resources within the company for those with the disease and those with questions about the disease.

'There are many companies that have chosen to put their heads in the sand,' says Sharon Canner.

"AIDS should be dealt with as any other life-threatening disease" such as cancer, Mr. Fitzsimmonds recommended. "Try to keep people working as long as possible." Also, treat them with compassion and sympathy and make counseling available, he added.

Mead does not "encourage nor do we condone any sort of AIDS testing," he said.

West Point-Pepperell developed its own set of corporate guidelines on AIDS in February 1988, Mr. Edwards said.

The company's guidelines prohibit screening new job applicants for AIDS, guarantee the strict confidentiality of all employees' medical conditions and allow AIDS-infected employees to work as long as their medical condition permits, he explained.

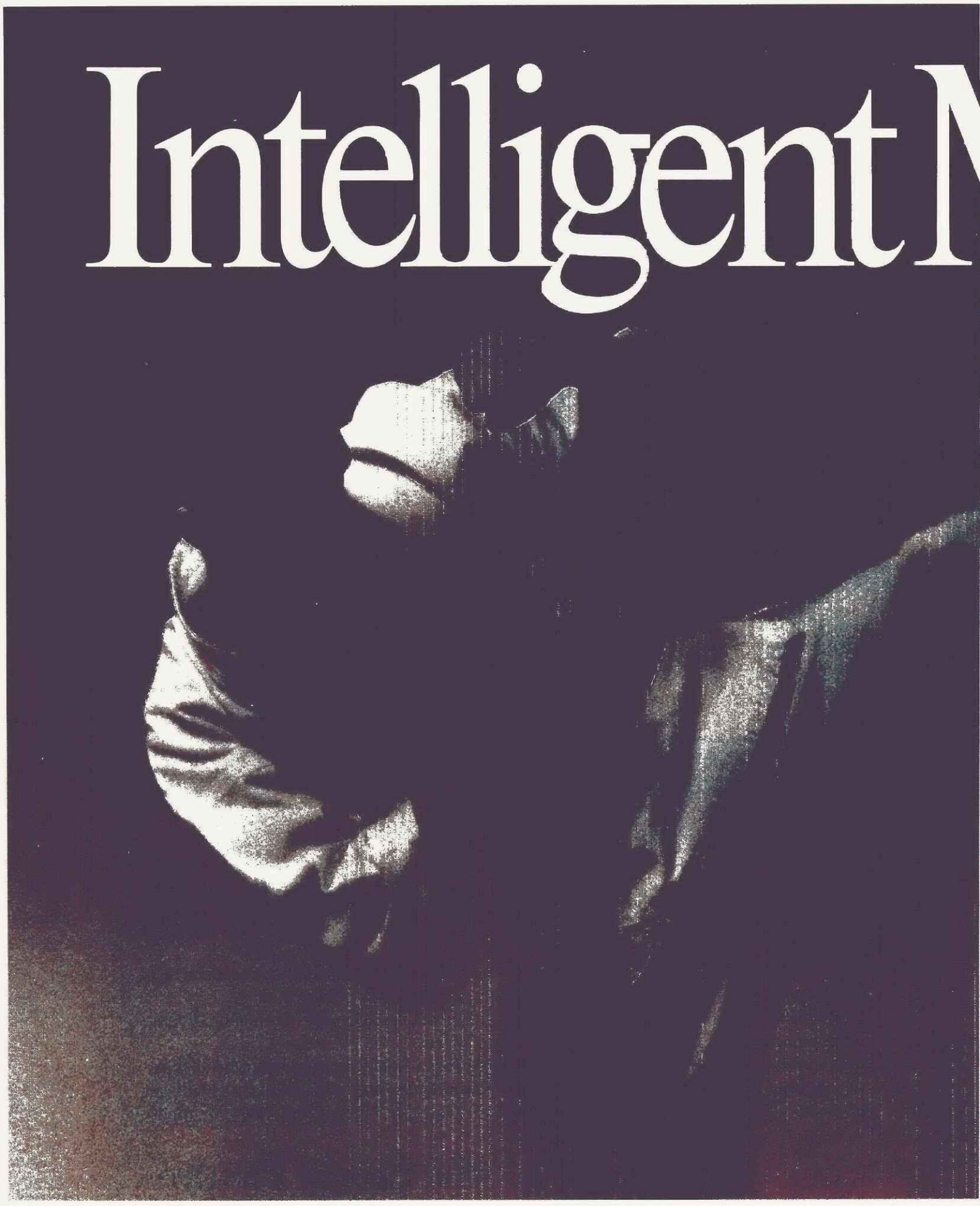
The company also assures that the health care costs of employees with AIDS will be covered by the company's group health insurance, provided qualifications for participation—such as a waiting period for eligibility—have been met.

"All of our guidelines are designed to promote understanding and to provide factual information to our employees," Mr. Edwards said.

He also noted that using case management, hospice care and home health care have been helpful in controlling the costs of caring for employees with AIDS.

Mr. Fitzsimmonds agreed that "the hospice/outpatient approach is the way to go" to limit care costs for AIDS patients.

The NAM, in association with the Washington Business Group on Health, has developed a 20-minute videotape called "Corporate Response to AIDS" that employers can buy for $45, including postage and handling, from the Washington Business Group on Health, 229½ Pennsylvania Ave. S.E., Washington, D.C. 20003, Attention: Video Sales. The phone number is 202-547-6644. ■



Capacity cut would help Lloyd's: Kiln chief

By CAROLYN ALDRED

LONDON—Members of Lloyd's of London who are worried that the risk may outweigh the rewards of investing at Lloyd's should resign or reduce their capacity, says the chairman of a Lloyd's underwriting agency.

Lloyd's results would improve if capacity was reduced by 20%, said Colin Murray, chairman of R.J. Kiln & Co. Ltd., in a newsletter published by the Assn. of Lloyd's Members.

Much of the competition within the Lloyd's market currently comes from Lloyd's itself, he noted.

"We are over-capitalized. Lloyd's is different from other parts of the insurance world. (Members), as the providers of capital, chase us for business, whereas an insurance company goes for capital only when it needs it," he said.

London

As a result, members join or increase their participation in syndicates "whose sole function is to cut the rates of the syndicates that are already there," Mr. Murray said.

Lloyd's currently "is experiencing difficult conditions in the market and a downturn in profits will inevitably occur. There is bound to be a wider margin between the more successful syndicates. . .and those who are ever optimistic in a difficult market," he said.

However, Mr. Kiln predicted an end to the current down cycle in 1990 or 1991.

"The effects of the hurricane" that hit Britain and other European nations last October "will work their way through the insurance world over the next two or three years as the reinsurers and the reinsurers of reinsurers feel its effects," he said. "This could well lead to losses among the least well-organized operators and, in turn, to a tightening of the market, possibly by the end of this year," said Mr. Kiln.

Meanwhile, "an increasingly strict commercial climate will focus attention on the management of insurance companies and syndicates which make losses," he said, adding that "what corrected the down cycle in the early '80s was the sacking of the chief operating officers of some of the American companies."

This time "the sackings could come a little earlier and, being optimistic, I can see an end to the downturn in perhaps 1990 or 1991," he said.

Piper Alpha

Occidental Petroleum (Caledonia) Ltd. is preparing to stabilize the Piper Alpha oil platform, which exploded in the North Sea in July, by removing the top of the structure.

Proposals for the wreck removal operation are being sent to the British Department of Energy, which has stated that it will enforce requirements set out by the International Maritime Organization for the abandonment of rigs at sea.

Occidental's proposals comply with the minimum standard set by the IMO, and the company hopes it will receive permission from the Department of Energy to start work on the platform soon. Otherwise it will "gradually collapse during the coming winter months making it more hazardous to work on," said a spokesman.

Occidental is fully insured for wreck removal, said the spokesman, who refused to comment on the likely cost of the operation (*BI*, July 11). Insurers likely will receive a much smaller bill than if the rig had to be removed completely, sources agree.

Meanwhile, Occidental has postponed a meeting with lawyers representing injured survivors and relatives of many of the 167 workers killed in the disaster to prepare detailed compensation proposals for individual cases, said the spokesman.

U.S. market

European underwriters will bide their time before re-entering the U.S. property/casualty marketplace given the current market conditions, says the chairman of London United Investments P.L.C.

"Unfortunately the underwriting cycle once again has turned, premium rates have been cut materially and U.S. market competition has increased despite the rate cutting," said C.R. Driver in a statement accompanying the LUI's six-month results.

"It is possible that the present downturn may be of short duration because underwriters must respond quickly to rectify any imbalances in today's economic climate," he said.

Meanwhile, LUI, which owns London-based underwriting manager H.S. Weavers (Underwriting) Agencies Ltd., reported pretax profits of 4.17 million pounds ($7.4 million at applicable exchange rates) for the fist six months of 1988, down 21.3% from 5.3 million pounds ($8.9 million) for the same period last year.

Revenues also fell 11% to 6.5 million pounds ($11.6 million) from 7.3 million pounds ($12.3 million).

Several factors hurt LUI's results, Mr. Driver said, including:

- Increased interest rates on a bank loan used to capitalize The First Reinsurance Co. of Hartford, which LUI acquired last year.
- Exchange rate fluctuations resulting in decreased commission revenues.
- The reduction of brokerage revenues at subsidiary R.L. Jarrett (Holdings) Inc. due to the defection of production staff members, who have since been replaced.

Meanwhile, LUI recently acquired three insurance companies: Louisville Insurance Co. Ltd., Kraft Insurance Co. Ltd. and Mutual Reinsurance Co. Ltd. for 150,000 pounds ($252,000). All three companies stopped underwriting earlier this year after being removed from the Weavers underwriting slip (*BI*, April 18, Jan. 11).

"The purpose of these acquisitions is solely to enable these companies, previously managed by H.S. Weavers (Underwriting) Ltd., to be run off in an orderly manner and will benefit both the London United Group and the London insurance market," said Mr. Driver.

The three companies have total assets of 10.5 million pounds ($17.6 million). Any future income the three earn will be used "to provide additional insurance reserves and reinsurance protection until a reassessment in five years time," according to a statement released by Weavers earlier this month.

"It is anticipated that any adverse development during this period will be sheltered by the existing surplus and reinsurance arrangements entered into.

"However, should this not be so, there is no commitment for London United or any of the vendors to give any support nor is it the current intention of London United to give any such support," the statement also says. ■



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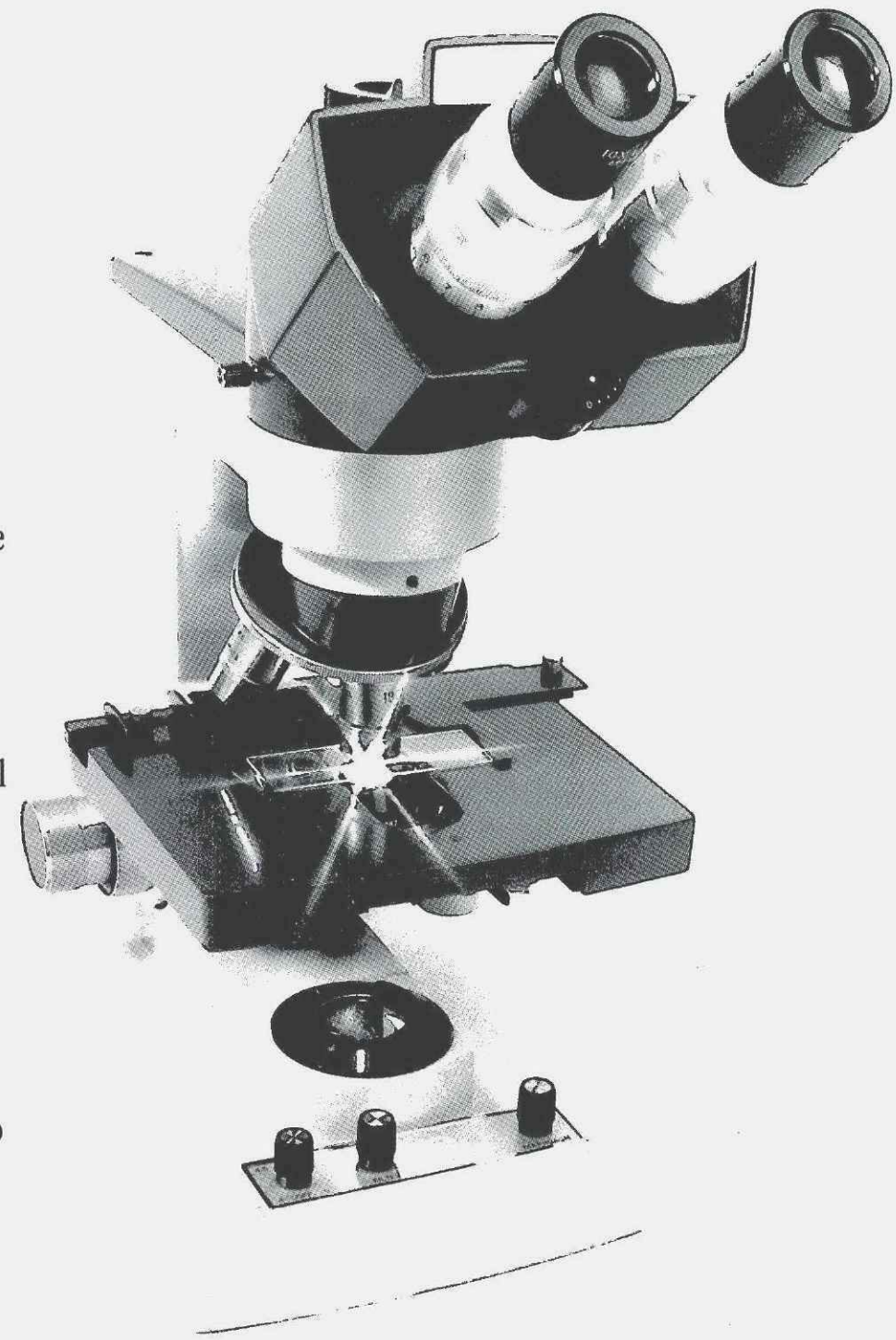
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Professional Liability and Specialty Insurance

CATCH-22

Insurers' argument would make coverage worthless

By Robert N. Sayler and Robert D. Fram

There will come a time when the lion lays down in the field with the lamb; of course, the lamb won't get much sleep.
—Woody Allen

THE TRADITIONALLY fraternal relationship between a policyholder and its insurers has been severely frayed by often-bitter coverage litigation. As participants in various aspects of this litigation, we have seen the frequently irreparable damage done to this relationship under the banner of "legal advocacy." Each side no doubt can point to offenses by the other.

In the past few months, however, lawyers for several prominent insurers have opened new theaters of conflict, action likely to enrage policyholders and scar the insurance industry at day's end.

In the coordinated asbestos coverage litigation in San Francisco, the insurers' litigators recently unveiled a host of novel legal arguments—apparently without considering the terrible consequences these arguments will have on the industry as a whole. Although the latest phase of the San Francisco case only concerned damage for asbestos-related property damage, the positions taken by counsel for leading insurers will reverberate in coverage disputes and underlying tort suits throughout the industry.

While these positions were rejected last month by California Superior Court Judge Ira A. Brown Jr., risk managers and others must be aware of the arguments. In particular, the lawyers for the insurance industry, in briefs and closing arguments, advanced the following amazing positions:

- To obtain insurance coverage, the policyholder must first prove—step by step—that its products are every bit as pernicious as alleged by the tort claimants in the underlying case.

No matter that if the policyholder does what these lawyers for the insurance industry command it to do, it will establish its own liability in all pending cases while inviting a tidal wave of serial complaints and perhaps liability for punitive damages. According to the insurers' lawyers, once a reservation of rights letter has been issued, the price of securing coverage is proof that the policyholder's products indeed cause injury or damage.

The consequences of this approach are most starkly illuminated in the usual case where the insurer exercises its right to control the defense of the underlying tort suit. According to the insurance industry's lawyers, before an insurer will provide indemnity coverage it has the right to litigate the issues of causation and damage in two successive lawsuits. And, the insurer must lose both times before coverage is provided.

First, the insurer must lose the underlying case against the tort plaintiff who has sought to prove the policyholder's products cause injury or damage. Before the insurer pays, however, it has the right—the insurers' lawyers say—to retry all of the issues of causation and damage again, this time in the coverage action. If the insurer failed to convince the jury in the tort case, it gets a second bite: It can try to convince the judge in the coverage action that the tort jury was wrong and that the policyholder's products are benign after all.

If the coverage court is persuaded, no insurance need be provided, although the policyholder is stuck with the liability imposed by the tort jury under the insurer's reservation-of-rights defense. And, in the second case—the coverage action—the policyholder must prove that its products cause damage.

- The insurer and the policyholder are—and must always be—antagonists in the underlying tort action, enmeshed in an intractable conflict of interest.

Under this theory, it is argued that an insurer can never be bound by any factual determination in an underlying tort action. The lawyers for the industry have dressed this contention in the elaborate garb of the "collateral estoppel" doctrine.

But, at bottom, this point is a simple one: In any underlying tort action, the insurers and the policyholders often will seek contradictory results and litigate at cross-purposes. So, the decision imposing liability in the first place doesn't count.

This point is not just implicit in the arguments advanced by the insurers in San Francisco; it was expressly stated in a brief subscribed to by attorneys for more than a dozen insurers.

- If a policyholder ever argues that its products do not cause injury or damage, it forsakes insurance coverage.

Until this unprecedented theory (called "judicial estoppel" on the brief) was publicly unwrapped in San Francisco, policyholders had always assumed that they had an obligation, pursuant to the "duty to cooperate" and to "mitigate"—to work with their insurers and to defend themselves vigorously in underlying suits. Yet, we are now told that this duty to cooperate carries a secret protocol: the loss of insurance coverage.

Once a policyholder denies that it has caused bodily injury or property damage in the underlying case, there forevermore goes coverage, the argument states.

- The price of bringing a declaratory judgment coverage action before the resolution of the underlying tort suit means the loss of both indemnity and defense in that underlying suit.

Speaking out

The lawyers for the insurers argue that if the policyholder brings a declaratory judgment coverage action before the resolution of the underlying case, it is probably too early to determine whether there is indemnity coverage. If so, the consequence is not the deferral of an indemnity coverage decision, but rather the denial of indemnity coverage. The lawyers for the industry then go the next step and argue that if indemnity coverage is denied on that basis all defense obligations cease immediately as well.

- Coverage should be denied because insurance judgments favorable to the policyholder will only encourage suits in the underlying cases.

At some point—and these arguments bring us to that point—no insurance is preferable to this kind of 'protection'—an illusory contract that forces a policyholder to establish that its products are pernicious, thereby courting punitive damages in underlying tort suits.

We did not make this up; it was advanced with some gusto in a serious effort to defeat coverage. Of course, the juries in the underlying tort actions will only find that a coverage decision spells tort liability for the policyholder if the insurance industry succeeds in its present demand that the policyholder prove in each and every coverage action that its own products are injurious.

As dubious as these arguments seem when described one by one, it is worth considering the new world of insurance if *all* of these principles would be applied:

- In any coverage dispute, the policyholder would have to prove that its products cause injury and damage, but it would be forbidden from doing so if it ever tried to defend itself in an underlying tort action.
- The policyholder's duty to cooperate would require it, in an underlying tort action, to deny that its products cause injury or damage. But if it did so, it would be forever barred from obtaining coverage.
- Although insurance companies have the right to bring declaratory judgment coverage actions before an underlying case is resolved, a policyholder that tries to bring such an action would face the loss of both indemnity and defense coverage.
- The policyholder would have to share all of its files with its insurer on the theory that the two have an identity of interest in the underlying tort suit, but the moment the insurer wants to walk away from the result or proof in the underlying case, it could do so and the policyholder would discover that its insurer had been its bitter foe all along.
- Even if the policyholder were successfully to clear all of the hurdles set before it by the lawyers for the insurance industry, it would still be denied coverage because findings of coverage under the industry's policies are said to serve only one purpose: the spawning of tort cases by the carload.

Most actions breed reactions. These will. The argument of the insurers' litigators in San Francisco can be expected to be replayed in attorney-client privilege disputes, duty-to-cooperate conflicts and coverage actions. The basic principle that an insurer is guilty of bad faith if it neglects the interests of the policyholder in favor of its own conflicting interests will surely be laid alongside the industry's San Francisco confession that there is a raging conflict of interest between insurer and policyholder in every underlying tort case. Nor are the industry's new legal positions designed to inspire the confidence of risk managers as they consider their options.

At some point—and these arguments bring us to that point—no insurance is preferable to this kind of "protection"—an illusory contract that forces a policyholder to establish that its products are pernicious, thereby courting punitive damages in underlying tort suits.

Although the policyholder falls between two stools, the insurers, if successful, would hardly escape from this exercise unblemished. No doubt Congress and various state legislatures will be intrigued as to why an industry that fought so hard—and so rightly—for tort reform under the banner of "reducing excessive transaction costs" now demands the right to litigate every tort suit twice.

Finally, arguments of this character are not likely to inspire judicial confidence in the credibility or justice of the insurers' coverage positions. Indeed, Judge Brown firmly rejected them as misperceiving the "contractual nature of the insurance policies," as placing "absurd," "unfair" and "impossible" burdens on the policyholder and creating a "disingenuous, Catch-22 world."

This article is not a call for unilateral coverage disarmament by the insurance industry. Despite wishes on both sides that the coverage wars would fade, it is certain that disputes

Continued on next page

Robert N. Sayler is a partner and Robert D. Fram is an associate at Covington & Burling in Washington, D.C. They represent Armstrong World Industries Inc. in the coordinated asbestos coverage litigation in San Francisco.

Health care workers and AIDS

Education, monitoring essential to combat risk

By Jane Auman

AIDS-RELATED RISK management issues are an ongoing concern for the health care industry. All levels of health care workers can be exposed to AIDS: physicians, dentists, medical laboratory specialists, nurses, even laundry workers and custodians. Management and supervisory staff also are at risk.

Health care industry employers thus must take action before AIDS becomes a workplace issue, determine and control the extent of the AIDS risk, provide good employee education and monitor and address complex employer-employee issues.

With proper infection control techniques, the risk of transmission of AIDS to employees is minimal. An extensive study by the Centers for Disease Control in Atlanta reported that in one surveillance project, "40% of the exposures could probably have been prevented if the workers had followed recommended precautions. Despite the low incidence of documented transmission of HTLV-III/LAV infection from patients to health care workers, these precautions remain valid because they emphasize infection-control practices that may reduce the risk of acquiring other infections, such as hepatitis B virus."

In formulating an AIDS/risk management program, hospitals are advised to establish a centralized information and policy base that includes representatives from departments including maintenance and laundry as well as administrators and professional staffers. In addition, an infectious disease consultant should be hired if such a specialist is not available on staff.

In the preliminary planning stages it is essential that the employer put in place a policy on AIDS, both concerning the care of AIDS patients and the protection of health care workers who provide this care. Policies also will need to be developed concerning health care workers that do contract acquired immune deficiency syndrome.

The people formulating policy should ensure that the following questions are addressed:

- Is there a basic, written policy statement that has been communicated to appropriate administrators, managers and employees about these areas of concern?
- Is that policy statement written in clear, unambiguous language? Does the policy provide directives and authority of procedures, mechanisms for monitoring processes and other safeguards to assist the risk management effort?
- Has there been solicitation of support for the policies from all staff?
- Are the lines of accountability for the implementation and evaluation of these policies clearly defined?

Risk managers and others in the health care industry concerned with AIDS and related issues need to be continually updated and to receive current, accurate information and guidelines. Issues that should be addressed in health care settings regarding AIDS care and care-givers include:

- Identification of areas of exposure and risks involved.
- Measurement, analysis and evaluation of risk.
- Handling of identified risks.
- Control of risk.
- Proactive risk management.

All committee work and the day-to-day processing of these risk management activities must be carefully documented and filed for future reference and/or potential liability problems. This information needs to be translated into policies and procedures that will positively affect the workplace.

Notwithstanding the low risk of accidental transmission of AIDS, it is important that the employer install proper infection control procedures in the workplace. This is necessary not only to reduce the chance that the employer might be found negligent in not providing safe working conditions in the care of AIDS patients but also to protect the worker and other patients from secondary infectious diseases that the AIDS patients may acquire, like hepatitis B.

CDC guidelines recommend: "Airborne spread and interpersonal spread through casual contact do not seem likely. These patterns resemble the distribution of disease and modes of spread of hepatitis B virus, and hepatitis B virus infection occur very frequently among AIDS cases. . . .

It is essential that the employer put in place a policy on AIDS, both concerning the care of AIDS patients and the protection of health care workers who provide this care.

"At present, it appears prudent for hospital personnel to use the same precaution when caring for patients with AIDS as those used for patients with hepatitis B virus infection, in which blood and body fluids likely to have been contaminated with blood are considered infective."

Good risk management in this area will stand on two foundations: Education and monitoring.

Education and monitoring of infection control measures are essential. The first step is to provide health care workers with basic educational information and the specific procedural techniques they will require to practice infection control. Once the health care worker has been adequately trained, the ongoing evaluation and monitoring of safe practice should proceed.

Studies have shown that knowledge about infection control does not always ensure compliance.

The Journal of the American Dental Assn. reported that a large percentage of a random sample of 541 dentists in California did not use infection control measures as advocated by the CDC. A study of 270 health care workers at a San Francisco hospital reported that 56% of the workers use inadequate precautions in relation to those recommended by the CDC.

In a health care setting, a dynamic, proactive approach to education and procedure training is essential. In addition to the general education and procedure training required for infection control, the program should include information and assistance in developing empathy and understanding for co-workers who may be persons with AIDS. The program needs to include specific protocols for AIDS patient care and clearly defined, well-communicated policy statements to anchor the processes.

Those responsible for the oversight of education and procedure training should pay special attention to the following guidelines:

- Health care workers assigned to AIDS patient care must be trained, evaluated and monitored for safe practice. Workers who are not adequately trained, evaluated and monitored should be considered as potential risks for the organization.
- Educational material must be appropriate for the educational level and language abilities of the worker. It also may be necessary to simplify complex infection control teaching methods and, wherever necessary, translate them into the first language of the worker.
- Health care workers assigned to any aspect of AIDS patient care must be given the proper equipment for infection control procedures and allotted adequate time for care giving. Careful attention to infectious disease control techniques requires adequate time and planning. Assignments for the health care worker should allow for enough time to perform these tasks properly.
- Overall, there needs to be adequate time for patient care, including psychological support and understanding of those receiving care.
- The personal health of the health care worker needs to be as optimal as possible, both to protect the AIDS patient from additional illness and to help protect the worker from certain illnesses that frequently accompany AIDS.

Good lines of communication and special assistance to health care workers involved in AIDS patient care also are recommended. Special assistance may include benefits like employee assistance programs, peer counseling and additional rest breaks for primary care AIDS health care providers.

It is important to recognize and deal with the unique stress levels that health care workers may face. Levels of stress not routinely evident in other categories of patient care assignments may now appear. These concerns may affect not only the normal routine assignments and task completion of patient care, but also the job satisfaction and productivity level of the health care worker.

The AIDS epidemic is creating unique employee-employer relations troubles for the health care industry. Hospitals magazine reported in August 1987 that employees, rather than patients, may be the main source of AIDS-related lawsuits against hospitals. The article cites a suit against a hospital by an operating room technician who was suspended following refusal to care for a patient whom the employee thought had AIDS. In addition, a nurse was awarded workers compensation benefits for developing ulcers based on the stress of treating AIDS patients.

Given the complexity of this situation, there are no easy, quick-fix solutions to these problems.

AIDS is an issue that will continue to pervade the workplace for many years. The management of AIDS-related concerns for the health care industry, in particular, will require the vigilance and commitment of all concerned.

Jane Auman is a health care and risk management consultant for The Wyatt Co. in Vancouver, British Columbia.

Asbestos coverage

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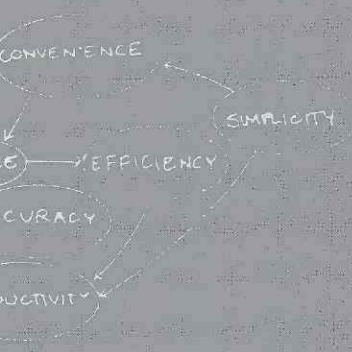
between policyholder and insurer will continue for many years to come. Vigorous advocacy will characterize those disputes on both sides, often appropriately.

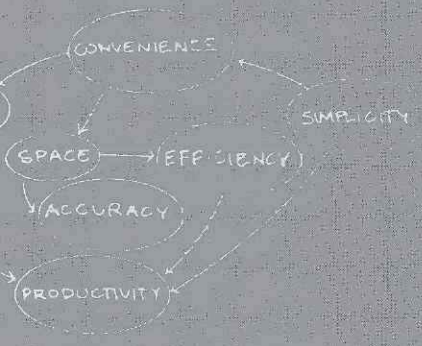
But those at the center of the coverage litigation need to pull back and take stock of the collateral damage that these disputes—and especially arguments of this character—inflict on the insurance relationship as a whole. There can be no fair question that the new arguments deployed by lawyers for the insurance industry—the boasting about "conflicts of interest," the requirement that the policyholder prove that its products are pernicious, the insoluble Catch-22 of simultaneously requiring the policyholder to defend its products and then turning around and denying coverage because it mounted such a defense—mark a qualitatively new and needlessly destructive escalation of hostilities.

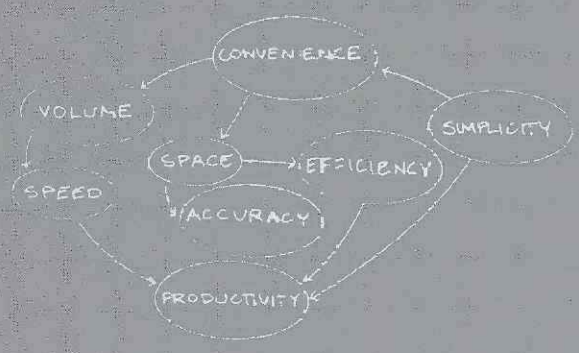
The escalation is not inevitable. There is time for rethinking before the industry decides that its only choice is to hunker down, to brace itself for retaliatory strikes in the marketplace, courtroom and legislature, and to learn how to live with this fallout. The current course is unlikely to produce many victories worth having.

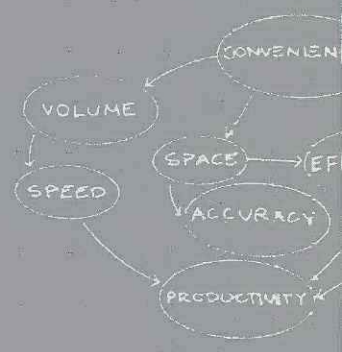
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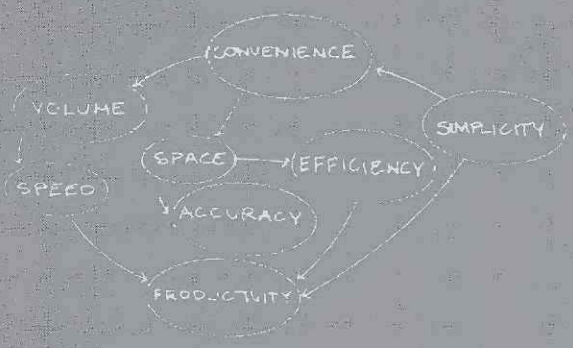
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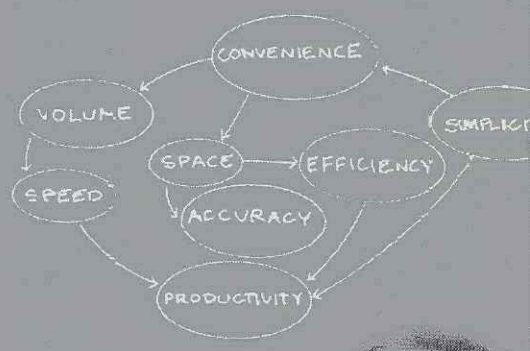


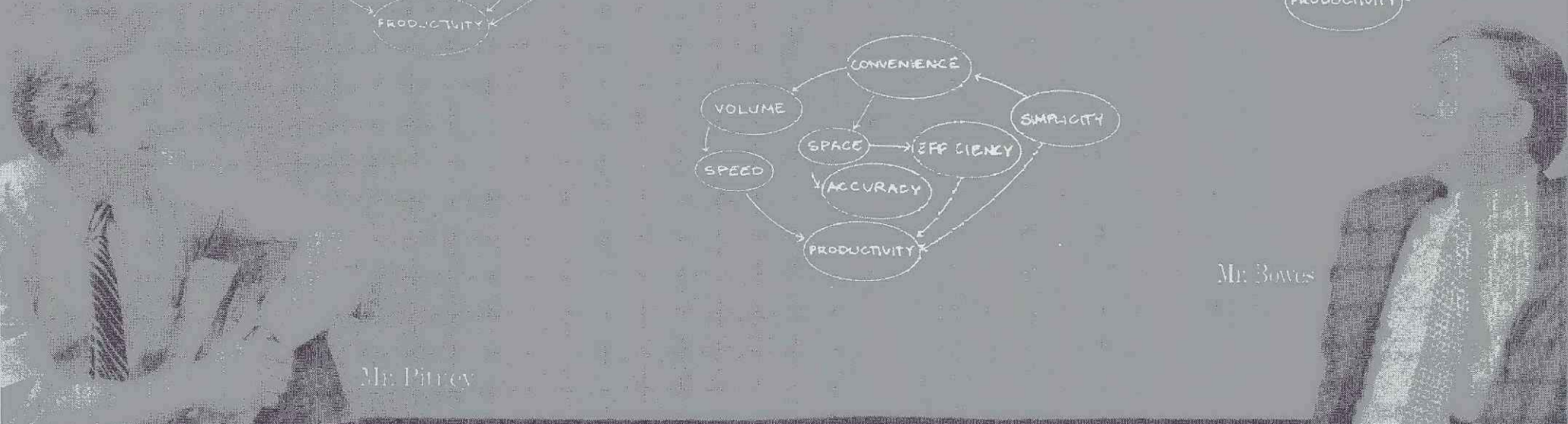












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Houston Marine Insurance Seminar

London market quality, price questioned

By MICHAEL BRADFORD

HOUSTON—The London insurance market is facing serious questions regarding the quality and price of the service it provides, according to the chairman of a London-based brokerage.

"Looking at the problems that surround us today, I view as most serious those issues that can best be described as the cost of doing business," said Dennis L. Mahoney, chairman of Alexander Howden Ltd. in London, a subsidiary of Alexander & Alexander Services Inc.

Mr. Mahoney, speaking to a group at the 23rd annual Houston Marine Insurance Seminar last week, said a colleague pointed out recently that London brokers and underwriters have been successful "precisely because they have offered outstanding security combined with competitive pricing. In other words, it has simply been the best product at the lowest price."

However, Mr. Mahoney said that the hallmark of London service is "facing very serious issues with regard to both quality and price." Recent debate has focused on whether Lloyd's can continue with its "much prized and unique jewel of unlimited liability since it is this that has provided the outstanding quality of our product in most people's minds," commented Mr. Mahoney (*BI,* Aug. 29).

He suggested that "questions may arise as to whether (unlimited liability) is more of a concept than a reality."

Currently, all Lloyd's members must pledge all of their assets to pay losses sustained by syndicates in which they invest.

However, in recent years Lloyd's members have balked at paying huge losses. Lloyd's twice this decade has bailed out members who have refused to meet their unlimited liability responsibilities.

Turning to the service provided to policyholders by London brokers and underwriters, Mr. Mahoney pointed out that "nobody can argue that indeed we have problems, and substantial problems, in the way claims are handled."

London service is facing serious issues on both quality and price, says Mr. Mahoney.

Currently, three different claims settlement offices serve the marine, non-marine and aviation markets. Each works differently and pays claims at a different pace.

While some large claims are handled quickly and efficiently, others have been known to take months of wrangling to process and pay, said Mr. Mahoney.

"Looking back over recent years, and indeed recent months, Lloyd's and the London market have time and again paid major losses with the speed and efficiency that we should all be justifiably proud of," he remarked.

"Underwriters, reinsurers, brokers, attorneys and adjusters have on these occasions worked with the spirit of tremendous cooperation in a coordinated effort that demonstrates just what can be done," he continued.

However, most claims are not "major, well-publicized events," Mr. Mahoney observed. "Our reputation for handling the vast majority of these claims is in my personal view, appalling."

It is impossible to measure the cost of such inefficiency, he noted, but added: "Measuring the cost of continuing to handle claims in this antiquated fashion that we do is much easier."

Brokers and underwriters are involved in a time-consuming and costly process of moving huge amounts of paper among themselves to settle claims, said Mr. Mahoney.

"In my view, much of this effort and expense is totally unnecessary. In many cases, the broker may simply be showing the underwriter a 'status-unchanged' letter of no more than two sentences from underwriters, adjusters or attorneys," he continued.

Brokers in most cases are required to show all paperwork related to a claim to every underwriter on a risk, Mr. Mahoney pointed out. "Think of the cost to a broker on a slip that may involve no less than 200 individual participants finding his way around the London community with this single piece of paper.

"This situation is greatly aggravated by the fact that some Lloyd's syndicates, and indeed some London insurance companies, are no longer actively underwriting and are therefore simply running off all business. What incentive can they possibly have to provide a reasonable service to the broker and thus offer it to the client?" he asked.

Such problems lead clients to complain that claims service from Lloyd's and London insurers is "bad or worse," Mr. Mahoney remarked.

He pointed out that deep-rooted tradition in the London insurance market "that has proven such a strength in the past could well strangle our marketplace in the future."

Although Lloyd's and the London market have in recent years tried to improve their claims handling services, more work is needed, according to Mr. Mahoney.

Hundreds of millions of dollars of coverage can be bound in the London market quickly and competitively, he noted. "How sad then when we have to handle a claim, which is the real test of how well the product we have sold works, we cannot do so with equal speed, efficiency and competitiveness."

Mr. Mahoney proposed that "in an ideal world," a single London claims bureau should be established and staffed with claims experts and adjusters "in all areas of the business."

One Lloyd's committee chaired by former Lloyd's Chairman Peter Miller is examining a unified claims system for the entire market (*BI,* Aug. 29).

Claims services of such a bureau would be available to all insurers and reinsurers operating in the London market, Mr. Mahoney suggested.

"This concept of concentrating all claims expertise under one roof is surely no different from the concept of concentrating underwriters themselves under one roof and should, I believe, dramatically reduce the cost of handling claims and at the same time enhance the London market's claims handling reputation."

Although Mr. Mahoney said he suspects the concept may remain a dream for many years, "in the meantime it would certainly be a great step forward if Lloyd's were able to deliver one Lloyd's claims bureau and if the London companies—marine, non-marine and aviation—could do something similar."

While establishing such bureaus would be expensive, the cost would have to be borne only once, Mr. Mahoney noted. "And I'm convinced it would turn out to be a great investment for all concerned."

Electronic connections between the bureaus and insurers would eliminate most paperwork in the claims process, he explained. ■

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Unwanted guest fails to show at seminar

HOUSTON—Attendees at the 23rd annual Houston Marine Insurance Seminar were glad to see that one guest failed to register.

"Someone named Gilbert canceled," said Stanley N. Bayless, chairman of the seminar committee and a vp with Johnson & Higgins of Texas Inc. in Houston.

Although the hurricane was a no-show in Houston, about 900 participants did make the trip to the Adam's Mark Hotel for the Sept. 18-20 gathering of underwriters, brokers, risk managers, attorneys and other marine insurance industry professionals.

Registrants got a good look into the London marine market during the three-day gathering, as the seminar featured its annual lineup of London-based speakers along with those from the United States.

"I know you're disappointed because you missed Gilbert, so we brought you some hot air from London," joked Dennis Mahoney, chairman of Alexander Howden Ltd. Mr. Mahoney discussed some of the issues regarding the price and quality of London market products and services.

Peter Portman of Lloyd's of London managing agency R.W. Sturge & Co. asked "What Shall We Do With the Drunken Sailors?" —the title of his presentation.

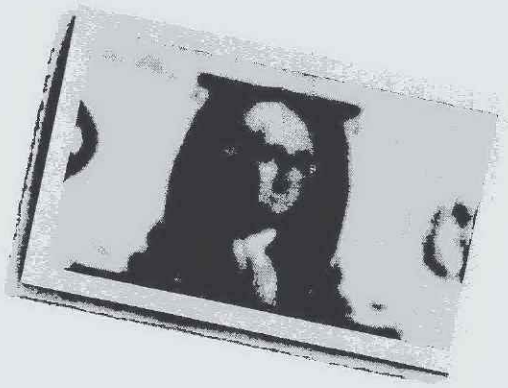
The drunken sailors, he explained, represent his colleagues in the London marine insurance business. They were so-named by a non-marine underwriter who wondered why marine insurers appeared to be writing "anything that is put in front of them."

Indeed, Mr. Portman pointed out, London marine insurers are watching their marketplace change.

Mr. Portman also offered his views on what far-reaching effects the loss of the Piper Alpha oil platform in the North Sea will have on the London marine market (see story, page 34).

Information on next year's seminar is available from Mr. Bayless at 713-651-1900.

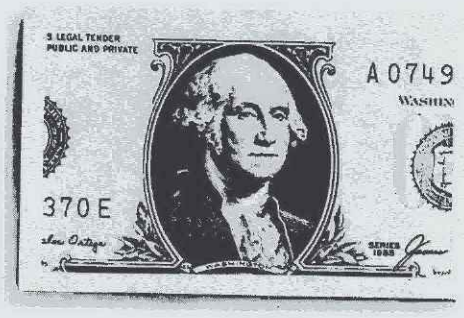
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Loyalty key to relationship between buyers, suppliers

By MICHAEL BRADFORD

HOUSTON—Loyalty is a major component of a successful relationship among risk managers, insurers and brokers, says the risk manager of a large West Coast company.

However, not all insurance buyers value loyalty in their relationship with insurers and brokers, pointed out Marge Layne, risk manager at California & Hawaii Sugar Co. in Concord, Calif.

"There is an unfortunate element of the buying public that considers underwriters to be in an adversarial position to the insured," she said at the 23rd annual Houston Marine Insurance Seminar last week. "I don't take that view."

Insurance buyers, insurers and brokers "should be working together for a common cause," Ms. Layne said. "And if we take an adversarial view, we deserve all that we get."

Loyalty "must involve people. I am a people person. I consider my insurers to be animate and not inanimate," Ms. Layne said.

"To demonstrate this, I must tell you that the insurers and the brokers in America and London have remained consistent individually over the years" in their handling of California & Hawaii's account, Ms. Layne said.

Although key members of a brokerage or insurance company handling C&H Sugar's account may retire or leave for other jobs, truly loyal companies leave the account in the hands of a qualified and well-informed replacement, she said.

"Nothing frustrates me more than to contact a supplier. . .to find that the individual I am talking to is new to the department and has no knowledge of my account or risk, either current or historic, and I have to educate that supplier to the subtleties of the project that the supplier is providing for me," she said.

Ms. Layne commented that members of C&H Sugar's current lineup of suppliers are proving their loyalty.

"I have visited London on many times, and on each occasion I have met with my brokers and leading underwriters, and much of our discussion has evolved around general matters specifically related to C&H Sugar. I always find this fascinating and hope they find it of interest also," Ms. Layne continued.

"My American broker does not bug me but keeps in touch, and I know that when I need him, he's there. My London brokers visit with the American broker at least once a year, and if there are specific problems or matters to consider, then they have always made themselves immediately available," she said.

"I certainly appreciate the loyalty and the care, help and, to a very large extent, passion of my insurers for my account when I am discussing the situation with them and when my brokers renegotiate with them," Ms. Layne added.

While Ms. Layne said she has been fortunate in her relationships with London insurers and brokers, she does have concerns about the marine insurance market.

"One of my concerns at the present time is capacity, not only in the London marine market but also in the world market," Ms. Layne said.

"However, I believe it to be the case that London marine syndicates are not writing to their capacity or anywhere near it," she added.

The security of Lloyd's, however, is a source of comfort to those who buy marine insurance from that market, Ms. Layne said.

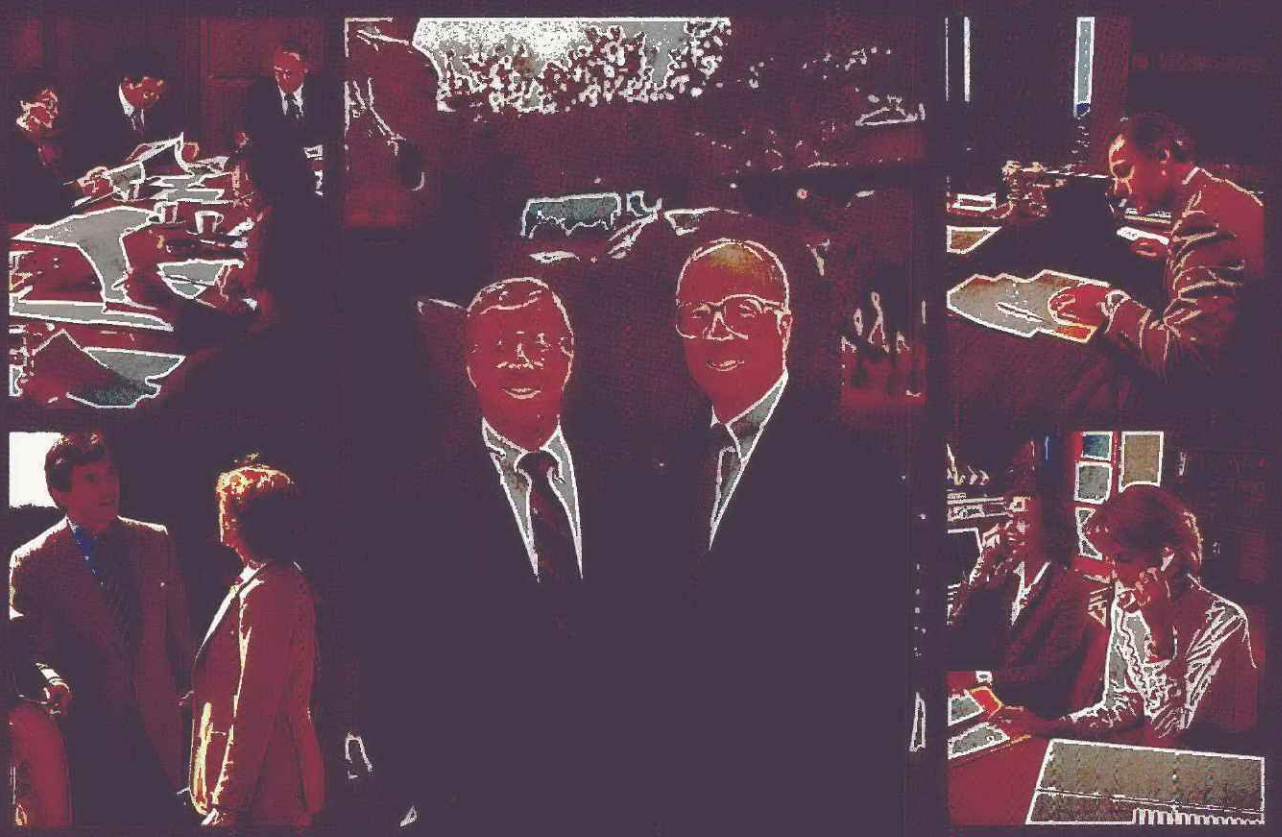
"Without a doubt, the security of Lloyd's, given the present structure, is first class," she said. No bona fide claim has ever been denied by Lloyd's underwriters or not paid because of lack of funds, she reminded her audience.

Ms. Layne said she feels the address by Lloyd's Chairman Murray Lawrence to Lloyd's members in June indicates that the marketplace is aware of the challenges it faces (*BI*, June 27). She pointed out that Mr. Lawrence indicated that Lloyd's is evolving into a "streamlined, more efficient operation.

"As we are all aware in the United States, the majority of companies, in order to be more effective and efficient, have downsized their operations and have brought in the new technologies," Ms. Layne said. "As much as I love the traditions of Lloyd's in the London marine market, they too must bring their operations to the present day to provide services in an efficient and economic manner."

Ms. Layne said that if Lloyd's syndicates overall "were to cut expenses one or two percent, it would make a tremendous difference in the cost of premiums and reducing expenses in the London marine market." ■

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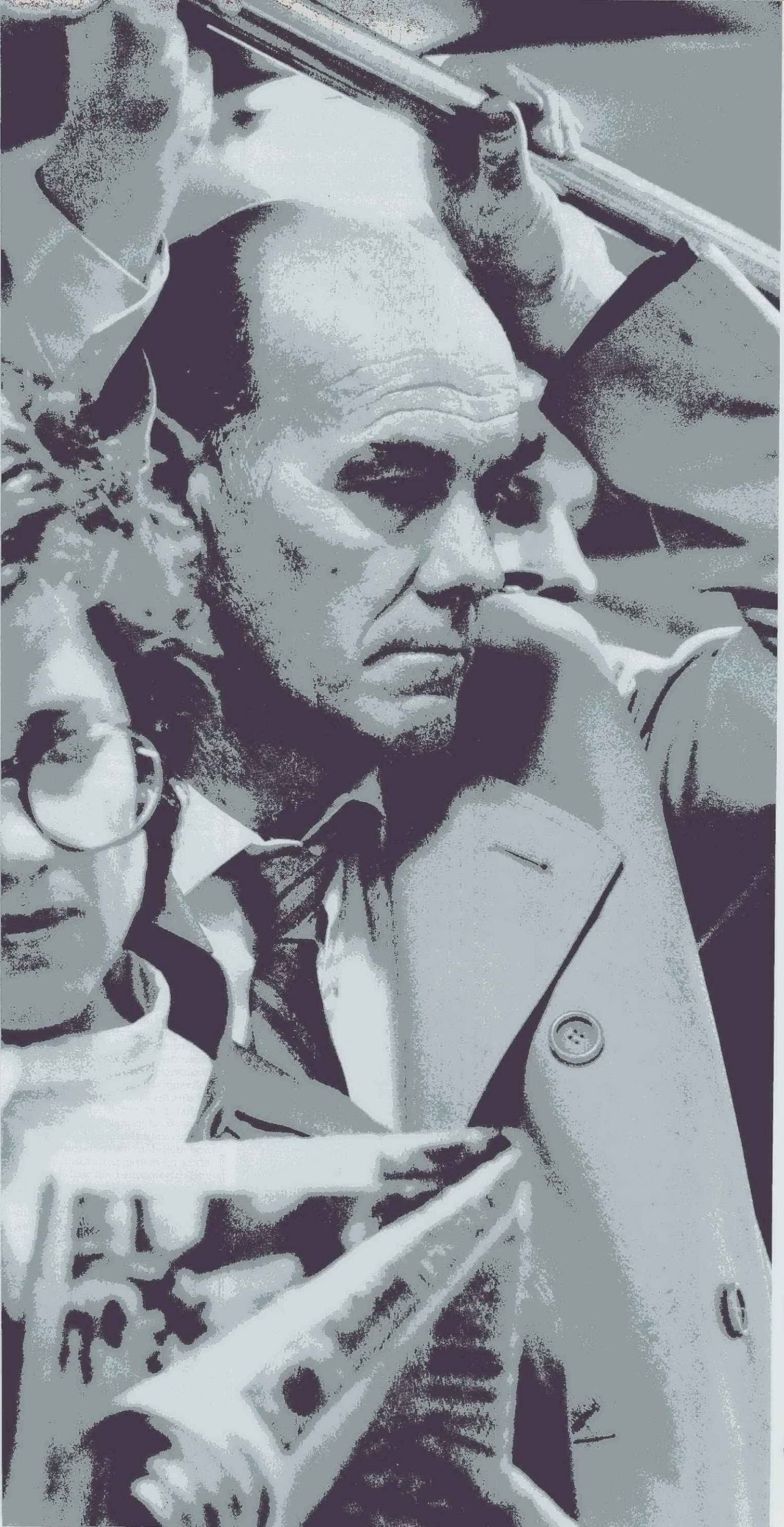


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are two cases here. There's the case in court that makes a number of allegations about 31 named defendants. And, then there's the case that's being tried in the media by your bosses and other attorneys general in front of the cameras. That second case alleged a conspiracy that affected the entire industry. It's inconceivable for me to stand here and recognize. . .that 31 defendants could even presume to tell us how to conduct our business. And, that we would suddenly, by the sheer hint of their size, agree to go along in what would ultimately be perceived as an illegal act," he said.

"I would think it's inconceivable with 3,500 companies and 2.2 million employees in this nation involved in the business of insurance, that nobody would blow the whistle that we were breaking the law and having secret meetings in London," as the suit alleges, Mr. Bailey argued.

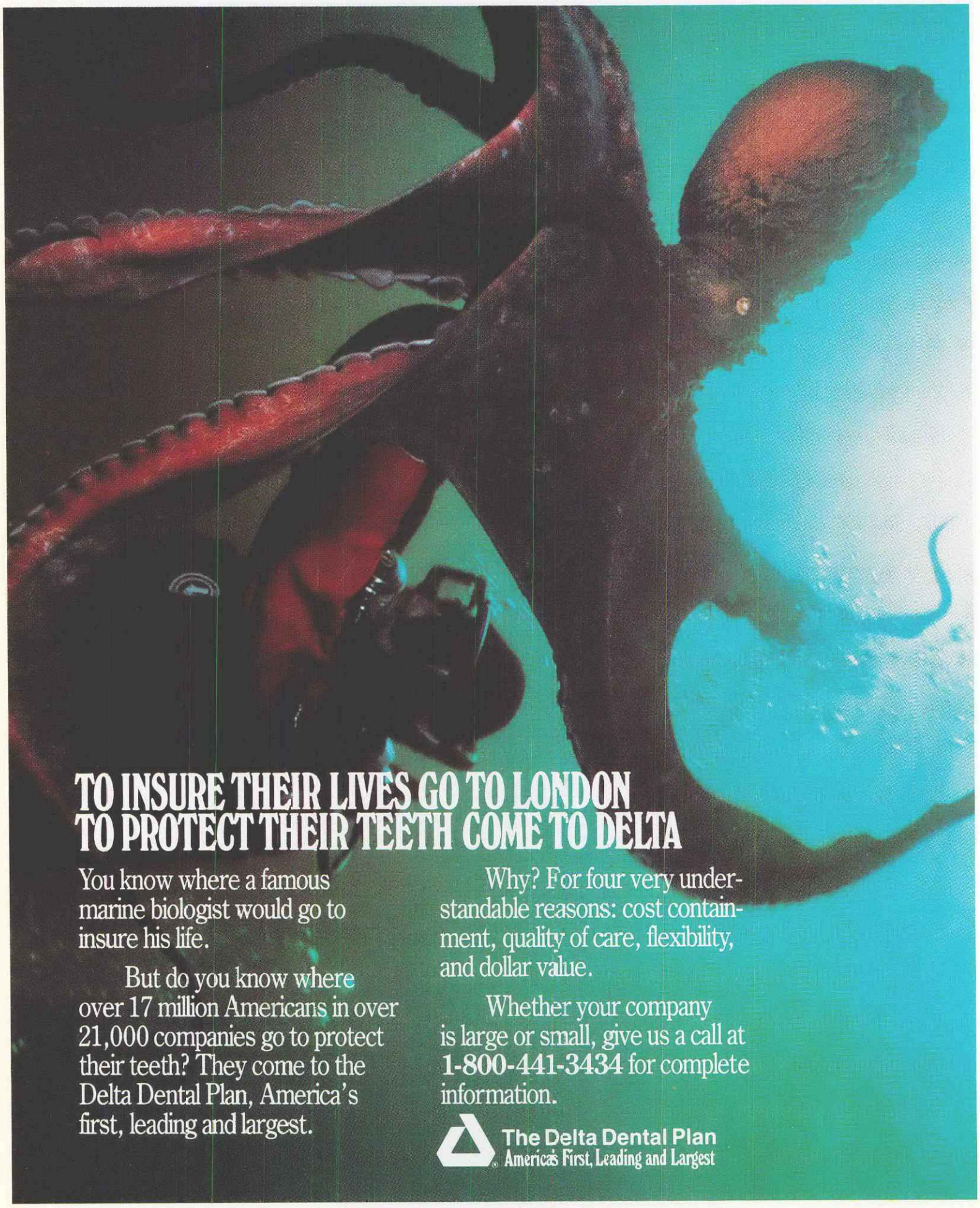
He added that "we are big risk takers and are very competitive. Our diversity and fragmentation make it impossible for 31 companies to tell us what to do."

However, Mr. Markham countered that "the insurance industry frequently characterizes itself as being cutthroat competitive. We like that and endorse that, but we frequently hear this defense from any industry against which we are bringing an antitrust action."

"We're here to enforce the law," he responded to a question from an audience member wondering what the attorneys general ultimately hope to achieve.

"Do I need to justify the actions of the enforcers of antitrust laws? Our job is to carry out the legislative intent of the laws as they were drafted," Mr. Markham asserted.

The panel was moderated by Joseph M. Walsh, president of American Empire Surplus Lines Insurance Co. of Cincinnati, Ohio. ■



Cooperation on regulation advocated

By DONNA DiBLASE

SAN FRANCISCO—Insurance regulators and risk managers must work together to douse burning issues over risk retention and purchasing group regulation or face a wildfire of problems in the future, warns an insurance commissioner.

"As the problems start to unfold in this area, the results of a 'let it burn' policy will be ours to bear together," said Colorado Insurance Commissioner John Kezer, comparing the situation to the policy the government adopted earlier this summer in managing the forest fires in Yellowstone National Park.


Mr. Kezer

Some regulators are concerned about the risk the alternative risk financing mechanisms pose because of the absence of guaranty funds to cover insolvencies and the lack of states' regulatory authority over the groups.

However, the New York-based Risk & Insurance Management Society Inc. argues that the mechanisms are valuable because they are subject to only limited regulation.

"While RIMS supports state regulation, we also think that each state can't operate like a feudal lord" in regulating risk retention groups and purchasing groups, said Jon Harkavy, general counsel and director of government affairs for RIMS.


Mr. Harkavy

The advantages and problems of risk retention groups and purchasing groups were explored during a panel discussion at the annual meeting of the National Assn. of Professional Surplus Lines Offices Ltd., held Sept. 14-18 in San Francisco.

In 1986, Congress amended the Risk Retention Act of 1981 to allow special, multiowner captives, called risk retention groups, to provide all casualty coverages, except workers compensation, to member-owners.

The amendments permit a risk retention group chartered in one state to operate nationwide without having to obtain prior rate and policy form approval from every state in which it does business. Risk retention groups also are not required to

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use licensed, commercial insurers as fronts.

The amendments also pre-empt state laws that made it nearly impossible for employers to band together to purchase liability insurance on a group basis.

Two state regulators expressed concerns during the NAPSLO panel discussion about the solvency and regulation of risk retention groups.

For example, William D. Hager, Iowa's insurance commissioner, is concerned that "there are no guaranty funds specifically provided for risk retention groups by the federal Risk Retention Act."



Mr. Hager

However, he pointed out, the lack of guaranty funds to respond to risk retention group insolvencies is "not a problem to the extent that the insureds aren't sophisticated. Obviously, the Risk Retention Act requires that the owners also be insureds, so by definition we're dealing with sophisticated insureds who understand there is no guaranty fund," he said.

"A potential problem is the insolvency of risk retention groups and purchasing groups," agreed Mr. Kezer of Colorado.

"Why should you be concerned?" he asked surplus lines officials. "Because you will be tarred and feathered right along with the state regulators when this stuff starts to blow."

Mr. Kezer pointed out that because many risk purchasing groups buy coverage from non-admitted insurers, purchasing group problems could call unwanted attention to the surplus lines market.

But, Mr. Harkavy of RIMS noted that "it's clearly written in the Risk Retention Act that guaranty funds are almost a lottery system for large companies, anyway. There's going to be good and bad risk retention and purchasing groups."

In addition to the guaranty funds issue, Mr. Hager of Iowa foresees other problems with the licensing procedure for risk retention groups.

"In Iowa, no insurance company can be organized nor can any company sell insurance in my state unless they have a minimum of $2 million in capital and surplus. But, the point is that a risk retention group organized in a state with minimum capital requirements of $250,000 can sell insurance nationwide," even though it would not meet Iowa's minimum capital requirements that were established to protect consumers, he said.

"Traditional insurers get the regulatory eyes of not only their domicile states, but also from every other state in which they are admitted. Risk retention groups simply do not and will not have that kind of scrutiny," Mr. Hager remarked.

Another concern is the "pragmatic problem that you have with any captive: that the same folks that buy the insurance are the ones that price the insurance. That's the regulatory challenge, and we've seen that challenge unfold in a disastrous way with many joint underwriting authorities and medical malpractice pools in which the temptation is to underprice the product," Mr. Hager said.

But Mr. Harkavy disagrees. "As far as this concern goes, this can be likened to an 'Animal Farm' syndrome," he said, referring to the George Orwell novel in which animals took over management of a farm and proved they could run it as well or better than humans.

"Risk managers are pretty strict once they get into a captive, especially after dealing with the pricing and underwriting practices of the traditional markets," he said.

Mr. Hager of Iowa noted he has even "a lot greater concern with purchasing groups."

Those concerns include the solvency of the insurers that contract to provide liability coverage to the members of the purchasing groups.

Citing estimates that many of these insurance companies lack a rating, or have a low rating, from A.M. Best Co., Mr. Hager quipped that "nobody needs a hand calculator to figure out what's going to happen with these groups in the early 1990s."

But perhaps the biggest problem some state regulators see is their lack of authority over groups licensed and domiciled in another state.

However, in April, the U.S. District Court for the Southern District of Iowa ruled in *Frontier Insurance Co. vs. William D. Hager* that the Iowa Department can require an insurer writing coverage for Iowa members of a purchasing group domiciled in another state to be admitted or authorized in Iowa (*BI*, May 9).

Regulators are not the only ones concerned about their authority over the groups.

"I personally think the current regulation is inadequate. The purpose of insurance regulation has always been to protect the consumer," said Charles McAlear, founder of wholesaler McAlear Associates Inc. in Grand Rapids, Mich.

"My concern is that the Risk Retention Act can and is doing a lot more harm than good for the consumer. The consumer really is being ignored," he said.



Mr. McAlear

But, Mr. Harkavy said, "the bottom line is that risk managers want out of the cycle of the traditional market. Insureds don't trust the traditional markets."

He also said that "it's not easy to start a risk retention group, so there's a lot of thought and planning that goes into this."

And, even though risk managers may turn to alternative risk financing mechanisms such as risk retention groups, surplus lines insurers and brokers still have a valuable customer in these groups, he said.

"We as risk managers perceive the surplus lines market as the buccaneers of the industry: They're the ones who'll get us coverage when we need it. But, risk retention groups and purchasing groups aren't a zero-sum game for you. These groups need reinsurance and services and the surplus lines agent can play a key role," Mr. Harkavy said.

Lew M. Corson, president of Corson Special Risks Inc. in Houston, moderated the panel. ■

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GAO survey

Continued from page 3

However, respondents said they had more problems locating other types of primary liability insurance. For example, only 58% of the RIMS respondents said their primary professional liability insurance was adequate in 1986, down from 70% in 1985. while 70% said primary D&O liability was adequate in 1986, down from 88% in 1985.

However, 73% said primary environmental impairment liability coverage was adequate in 1986, up slightly from 72% in 1985.

In addition, survey respondents reported that it was much more difficult to obtain adequate excess liability insurance in 1986 compared with the prior year.

For example, 59% of the RIMS respondents said excess product liability insurance was adequate in 1986, down from 89% in 1985, while 64% said excess general liability coverage was adequate in 1986, down from 89% in 1985.

In addition, 78% reported that excess commercial auto liability insurance was adequate in 1986, down from 95% in 1985. And, 80% said excess D&O coverage was adequate in 1986, a decline from 90% in 1985.

Yet, only a few of the RIMS respondents said they did not buy liability coverage because they could not find it. For example, fewer than 10% of the RIMS respondents cited unavailability of coverage as the reason they did not buy primary CGL, product, commercial auto or D&O insurance in 1985 and 1986.

Thirteen percent of the respondents didn't buy needed professional liability coverage because they could not find it in 1986, up from 7% the previous year. Meanwhile, 56% of the RIMS respondents did not buy needed primary EIL insurance in 1986 because it was not available, up from 32% in 1985.

In addition, 13% of the RIMS respondents in 1986 and 14% in 1985 said they didn't buy primary professional liability insurance because it was too expensive, while 16% in 1986 and 20% in 1985 cited the high cost of EIL coverage.

Among four types of excess liability insurance surveyed—general liability, product liability, commercial auto and D&O—3% or fewer of the RIMS respondents said they could not find needed coverage in 1985 and 1986, while 2% or fewer said they did not buy coverage that they needed because the price was too high.

While liability coverage generally was available during the hard market, rates did skyrocket, according to the GAO survey.

Among the RIMS respondents, the average cost of excess general liability insurance climbed 343% between 1985 and 1986, while the median increase reported by RIMS members was 214%.

Primary D&O costs among the RIMS respondents rose an average of 273% between 1985 and 1986, with a median increase of 43%, while primary CGL costs climbed an average of 162%, with a median hike of 54%.

Primary commercial auto liability costs jumped an average of 82%, while the median increase was 43%.

While the rate increases were large, the GAO notes that insurance costs for RIMS respondents still amounted to 0.6% of gross receipts in 1986, making it unlikely that added insurance expenses had a large effect on the costs of goods and services.

While insurance premiums as a percent of sales may have been small, those increases still hurt employers.

"When a premium goes to $1 million from $500,000, it wreaks havoc on the planning process. Risk managers can't operate very well on a roller coaster," said Jon Harkavy, general counsel and director of governmental affairs for RIMS.

The GAO does point out, however, that certain organizations may have faced a crisis as a result of high insurance costs.

"Anecdotal evidence from nurse-midwives and day-care centers, for example, seems to indicate that there were at least some situations in which operations were closed because of insurance problems," the GAO said.

While coverage generally was available between 1985 and 1986, surveyed brokers and agents reported that available policies often carried new exclusions and limits.

For example, 71% of NAIB members said that CGL policies in 1986 contained new exclusions and restrictions, up from 67% in 1985. Some 60% of both PIA and NAPSLO members reported new exclusions and restrictions in CGL policies in 1986, up from 53% in 1985.

In addition, 75% of NAIB members said there were new exclusions and restrictions in product liability coverage in 1986, down from 79% in 1985, compared with 68% of NAPSLO members in 1986 and 63% in 1985. In addition, 64% of PIA members said there were new exclusions and limitations on product liability coverage in 1986, up from 52% in 1985.

Because of the small number of responses, the GAO survey reports little information from small employers. However, some 33 out of 57 small employer respondents, or 58%, said their liability insurance costs increased between 1985 and 1986. Despite the premium increases, small employers' liability insurance costs remained at about 1% of gross revenues, the GAO said.

In addition, more than 91% of small employers said their primary product liability, CGL and commercial auto liability insurance needs were met by the coverage they purchased.

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Free single copies of "Liability Insurance: Effects of Recent 'Crisis' on Business and Other Organizations," are available from the U.S. General Accounting Office, P.O. Box 6015, Gaithersburg, Md. 20877; 202-275-6241.Specify report No. GAO/HRD-88-64.

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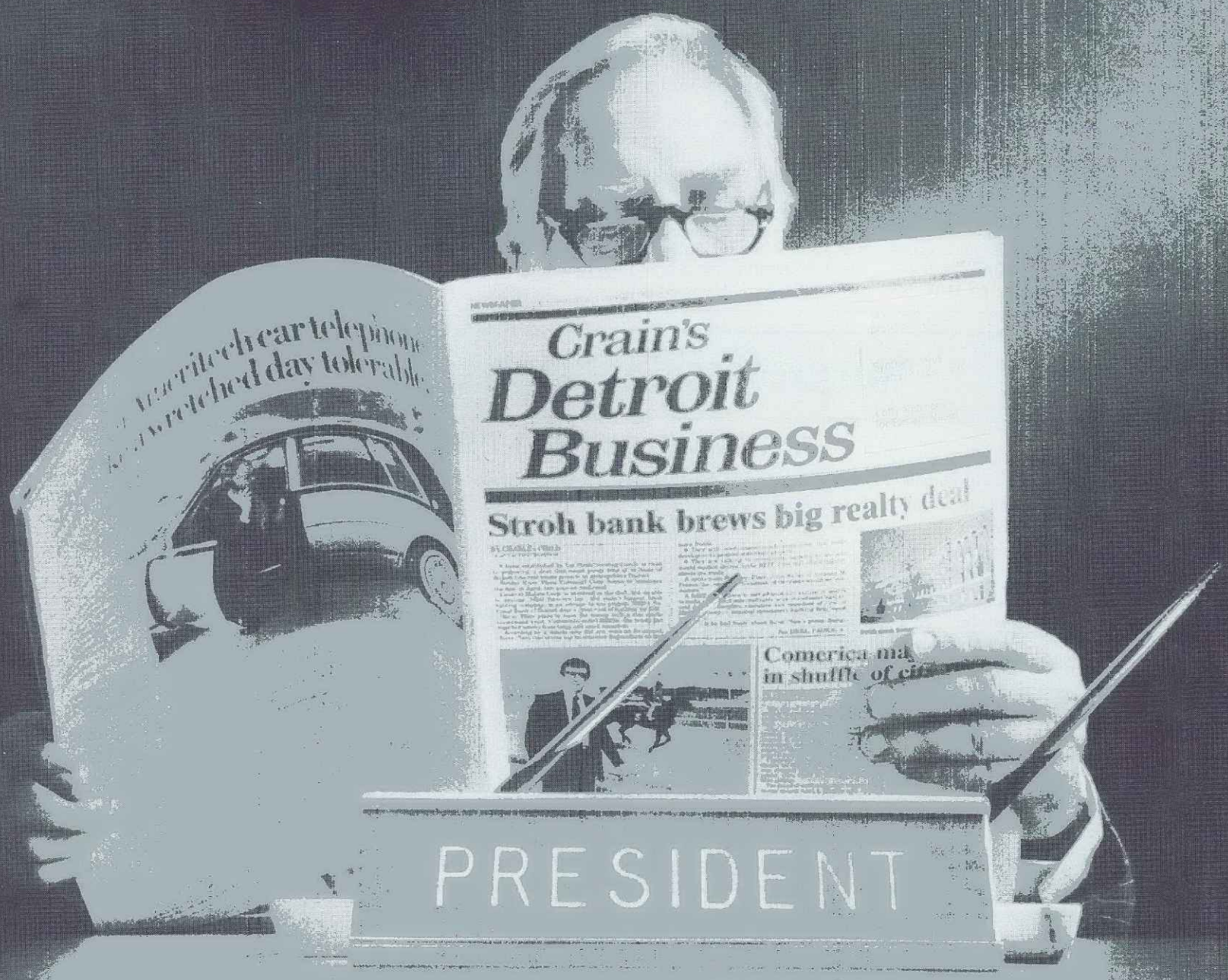


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*Source—Erdos and Morgan, Inc. Subscriber Survey, 1988.

Health care premiums

Continued from page 1

indemnity plan premium hikes of 15% to 20% for large groups in 1988. The actual increases have been 20% to 30%, said Marc Preminger, vp and group actuary for CIGNA in Hartford, Conn.

"The increases continue to exceed our trend projections," he said.

"We, as an industry, were wrong in 1987" about future increases, Mr. Preminger said. "It may be foolish to predict what will happen next."

CIGNA's current trend figures show increases of 20% or possibly slightly less for 1989, he said.

But other insurers say indemnity plan premiums in 1989 may increase as much as they did in 1988—if not more.

"Not a bad figure in the ballpark is 20% to 25%," said Leonard E. Wood III, senior vp in the national marketing division of Blue Cross & Blue Shield Assn. in Chicago.

That estimate will apply only to indemnity plans with concerted programs to control costs; premium increases for other plans will far exceed those levels, he said.

Premiums charged this year by Newark, N.J.-based Prudential Insurance Co. of America have been in the 30% range and sometimes in the 40% range for employers with aggressive cost containment programs, according to Joseph Maginnis, vp-group marketing.

"We've seen stabilization of claims costs in just the past quarter," Mr. Maginnis noted. "But, one quarter does not a trend make," he said, explaining why he could not predict premium increases for 1989.

Premiums charged by Aetna Life & Casualty Co., also based in Hartford, exceeded expectations this year, especially during the first quarter, said Vp Charles Bell.

Aetna had assumed a trend line of about 20% this year, but first-quarter increases, especially for smaller groups, were slightly higher, he said.

'The best we are able to tell, nobody is seeing any magical turns' toward moderating the rate of premium increases, says John D. Moynahan Jr. of Metropolitan Life Insurance Co.

During the second quarter, increases came close to projections and in the last three months, "things haven't gotten any worse," Mr. Bell said.

"It appears that the rate of health care inflation that we have to price to has stabilized," he said. Considering recent rate increases, "mere stabilization" must be considered progress, Mr. Bell said.

Health care inflation has "not gotten any better" since late last year, said John D. Moynahan Jr., executive vp of Metropolitan Life Insurance Co. in New York.

"We don't see any turn (in premium rates) in our book of business," he said.

Recent premium hikes have been about 20% to 30% for large groups, Mr. Moynahan said.

"We're hopeful it will improve in 1989, but we don't think it will improve to the depths it has in other cycles," he continued.

Metropolitan's recent premium increases are typical of those offered by other major insurers, he said. "The best we are able to tell, nobody is seeing any magical turns" toward moderating the rate of premium increases, Mr. Moynahan said.

Health insurers still are trying to recover from several years of severe competition, as well as from aggressive marketing by health maintenance organizations, he explained. "It's a question of bringing premiums in line with actual claims costs."

Hartford, Conn.-based Travelers Corp. has increased indemnity premium rates by 25% to 30% this year and projects indemnity rates will increase "roughly in the 20% range" in 1989, said James Gutterman, actuary in the Travelers employee benefits department.

"Nobody's happy with it, but it is industrywide," he said. "Hopefully now the worst is over."

Eventually health care inflation will come down, Mr. Gutterman predicted. "It can't go on forever. At some point it has to come down to the regular CPI."

Prudential's Mr. Maginnis said managed care plans will fare far better in 1989 than traditional indemnity plans.

"The gap between claims cost in managed and unmanaged care plans will widen," he said, predicting premium hikes for managed care plans will be half or less than the premium hikes for unmanaged care plans.

A Metropolitan spokesman also predicted that managed care plans will face smaller premium hikes than unmanaged care plans.

"You don't want to be the last company with a managed care plan," he said, explaining that unmanaged care plans will bear the brunt of cost shifting from managed care plans. "They're going to have to make that up somewhere else."

But some consultants disagree that managed care plans like PPOs will generate that large of a savings.

Employers that have a PPO option as part of their indemnity plan may see "some marginal savings," but not as much as may be expected from HMOs, said Laird Post,

Continued on next page

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NOTICES

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT, CHANCERY DIVISION
NO. 88 CH 1595

PEOPLE OF THE STATE OF ILLINOIS, ex rel., JOHN E. WASHBURN, DIRECTOR OF INSURANCE OF THE STATE OF ILLINOIS, Plaintiffs, v. AMERICAN MUTUAL REINSURANCE COMPANY, an Illinois domestic mutual property, casualty and fire company, Defendant. NOTICE OF APPROVAL OF AMENDED PLAN OF REHABILITATION FOR AMERICAN MUTUAL REINSURANCE COMPANY. TO: ALL INSURANCE COMPANIES WHICH HAVE CEDED REINSURANCE LIABILITIES (CEDANTS) TO AMERICAN MUTUAL REINSURANCE COMPANY ("AMRECO"); ALL INSURANCE COMPANIES TO WHICH AMRECO HAS CEDED LIABILITIES (REINSURERS); AND ALL OTHER INTERESTED PARTIES. PLEASE TAKE NOTICE that on September 6, 1988, the Honorable Harold Siegan, the Judge of the Circuit Court of Cook County, Illinois, having jurisdiction of the rehabilitation proceedings of Amreco, approved the Amended Plan prepared and submitted by John E. Washburn, Director of Insurance of the State of Illinois (the "Director"), acting in and only in his capacity as the Domiciliary Rehabilitator of Amreco. TAKE FURTHER NOTICE that any and all claims by Cedants, Reinsurers and Creditors against Amreco arising on or prior to April 30, 1988 must be submitted in writing pursuant to the provisions of the Amended Plan on or before October 21, 1988. TAKE FURTHER NOTICE that claims which are submitted pursuant to the provisions of the Amended Plan on or before November 25, 1988, shall, if approved, be paid during or before the week of February 15, 1989. TAKE FURTHER NOTICE that henceforth any and all claims by Cedants, Reinsurers and Creditors arising on or after September 6, 1988, must be submitted in writing within 90 days of occurrence pursuant to the provisions of the Amended Plan. TAKE FURTHER NOTICE that any claim submitted after the aforementioned dates or in a manner contrary to the provisions of the Amended Plan may be deemed waived or abandoned and may not be paid. TAKE FURTHER NOTICE that forms and requirements for submitting claims pursuant to the Amended Plan, as well as a copy of the Amended Plan, may be obtained from AMRECO or counsel for the Rehabilitator from: American Mutual Reinsurance Company in Rehabilitation, c/o Counsel for the Rehabilitator, 446 East Ontario St., Suite 700, Chicago, Illinois 60611, (312) 915-4700. JOHN E. WASHBURN, Director of Insurance of the State of Illinois as Rehabilitator of American Mutual Reinsurance Company. By: Frank J. Csar, Special Deputy Rehabilitator, 446 E. Ontario St., Suite 700, Chicago, IL 60611. (313) 915-4700.

Business Insurance

Circulation Breakdown*

Commercial Consumers

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.

Continued from previous page

Southern California group and flexible benefits leader with The Wyatt Co. in Los Angeles.

"It doesn't hurt to have a well-designed PPO, but in many cases it doesn't help a heck of a lot, either," Mr. Post said.

PPOs offer "favorable-looking discounts" but little control over total costs that may be incurred, said Susan Brown, manager of health care cost containment for Touche Ross & Co. in Chicago.

"It seems like a complete 'no-brainer' " to apply discounts without also providing controls on total costs, Ms. Brown said.

BC/BS has found that PPO experience "appears to be comparable" to other managed health care plans and HMOs, Mr. Wood said. Because employers usually combine PPOs with other health care alternatives, it's not clear what influence cost savings from preferred providers are having on costs, however, he added.

Like indemnity plan costs, HMO premiums also have surged in 1988. And, while HMO hikes have trailed behind those for indemnity plans, they have far exceeded HMO premium increases in previous years: Rate increases among HMOs generally have ranged between 10% and 15%, and more in some cases, far greater than the 2% to 8% rise in premiums in 1986 and 1987.

Next year, HMO premiums are likely to rise 12% to 20%, observers say.

HMOs whose premium increases are at the low end of the range will be those that have maintained reasonable rates in the face of intense competition in recent years, said Lawrence B. Leisure, group practice leader for TPF&C, the benefit consulting unit of Towers, Perrin, Forster & Crosby Inc.

However, other HMOs that in the past have underpriced their products may have to make up what they have lost, he explained.

Oakland, Calif.-based Kaiser Permanente Health Plans Inc., the nation's oldest and largest HMO, projects premium increases of 10.7% in 1989, compared with an average 1988 increase of 5.2%, according to Dick Anderson, vp-medical economics and statistics.

Kaiser's premium hikes for the last five years have averaged a compound rate of 6.7%, or "awfully close to the general inflation rate," Mr. Anderson said.

HMO rates probably will increase between 10% and 20% for the foreseeable future,

'It doesn't hurt to have a well-designed PPO, but in many cases it doesn't help a heck of a lot, either,' says The Wyatt Co.'s Mr. Post in Los Angeles. PPOs offer 'favorable-looking discounts' but little control over total costs that may be incurred, adds Susan Brown of Touche Ross & Co. in Chicago.

CIGNA's Mr. Preminger said. "That's not acceptable to employers."

As part of its restructuring plan, Maxicare Health Plans Inc. previously announced it would raise rates an average of 15% across the country (*BI*, Sept. 5).

A Maxicare spokeswoman would say only that the HMO's rate increases have been "substantial" in some locations and that rates were raised to reflect inflation.

The Blue Cross & Blue Shield Assn., whose 77 independent plans sponsor 95 HMOs, increased premiums as little as 5% in some instances and by an overall average of 10% in 1988, Mr. Wood said.

The difference in typical rate inflation between indemnity plans and HMOs bodes well for "the well-managed HMOs," Mr. Wood said. "It's a good future for them."

Health care cost increases in 1988 among self-funded employers contacted by *Business Insurance* varied widely.

For example, Lockheed Corp., the major aerospace company based in Calabasas, Calif., saw its health care costs rise by 10% to 12% this year, said Earl G. Mink, manager of group insurance.

About 30,000 of Lockheed's 98,000 employees are covered under its self-insured plan, he said. Employees also are offered HMO options.

Lockheed doesn't expect much improvement next year, Mr. Mink said. The company expects its costs to rise by 12% to 15% during 1989, he said.

Ford Motor Co., one of the nation's largest private employers, reported it will spend more than $1 billion this year on its self-funded indemnity plan, or close to 10% more than the $920 million it spent in 1987, said a spokeswoman.

The 1987 expenditure represented a 6% increase over 1986 costs.

Ford officials are still examining the factors that have contributed to the cost increases, she said.

McKesson Corp., a San Francisco-based wholesale and retail pharmaceutical firm, has seen health care costs under its self-insured program jump by 19% to 24% this year, said Caroline Weir, McKesson's employee benefits manager.

The company had hoped cost increases would top off near 12%, she said. "We certainly didn't even come close and we don't see any let-up" in further inflation, she said.

McKesson probably will budget 19% to 23% for health care cost increases next year, Ms. Weir said, based on current claims experience.

Medical inflation continues to rank as the largest contributor to higher health plan premiums, according to a recent analysis by Hewitt Associates.

The cost of health care services increase accounted for 7% of the 21.5% trend line estimated by Hewitt, said Tim Borchert, a Hewitt consultant. Cost shifting ranked second at 6.4% and greater utilization third at 3.5%.

The other factors contributing to higher health care costs were technological advances, 2.4%; catastrophic illness, 1.9%; and malpractice costs, 0.3%, Mr. Borchert said.

Consultants agreed that cost shifting caused by restricted Medicare reimbursement, provider discounts to some groups and adverse selection have put more pressure on indemnity plans.

"You are either a shifter or a shiftee," TPF&C's Mr. Leisure said. In many cases the indemnity plans have become the "shiftees."

A variety of sources are shifting costs onto indemnity plans, consultants said.

For example, hospitals squeezed by government caps on Medicare reimbursement are passing the expenses onto private payers, consultants say.

America's aging population further compounds the cuts in Medicare reimbursement, said Wyatt's Mr. Post.

In addition, hospital and physicians participating in preferred provider arrangements are shifting costs from PPO patients to patients covered by traditional indemnity plans, experts say.

Experts point out that the utilization of certain benefits, like treatment for drug and alcohol abuse and outpatient care, continue to climb, and that charges for those services are increasing even faster than prices for other types of health care.

The shift to more outpatient care has actually increased costs in some cases because providers have raised their charges and unbundled outpatient services, said Touche Ross' Ms. Brown.

For some outpatient procedures, separate bills for laboratory testing, post-operative care and various physician services can easily top the costs of the same procedure performed on an inpatient basis, she said.

"By the time you add up all the costs, it's more expensive than inpatient care," Ms. Brown said.

Meanwhile, the potential for further savings through utilization controls has diminished because so many utilization review programs were implemented during the last few years and already have had their influence on rates, Mr. Post said.

"A lot of those programs have run their course. The fat has been cut from the system," he said.

Other than controlling physician charges, there seem to be few options to put a lid on the current health care cost spiral, Mr. Post said. "It's disturbing, but that's the way it is right now."

High health care costs also can affect an employer's business operations: They can kill mergers if the firm has a large numbers of older employees, who represent a health care liability, Ms. Brown said. "It can be a deal-breaker."

"What we're now seeing is that the problems are not over," said Christopher Wadley, manager for group services at Buck Consultants Inc. in Los Angeles.

Employers must take "a real hard look" at how health care benefits fit into their compensation programs, he said.

Employers need to determine what levels of benefits are required for the company to remain competitive in its industry, Mr. Wadley advised." ■

Museum claim paid before deductible is met

By MICHAEL BRADFORD

NEW ORLEANS—The fire-damaged Cabildo, the historic site of the signing of documents related to the Louisiana Purchase of 1803, has received an early insurance payment with the expectation that restoration will exceed its $1 million deductible.

Vincent Forte, Aetna Life & Casualty Co.'s general manager in New Orleans, presented Louisiana Gov. Buddy Roemer and James Sefcik, the Louisiana Museum director, with a $1 million check in a ceremony in Baton Rouge late last month.

The payment was made even though the $1 million deductible on the policy covering the museum in New Orleans' French Quarter and its contents had not been met, explained Dan Helgeson, supervisor of Aetna's claims department in Metairie, La.

Mr. Sefcik of the Louisiana Museum, which operates the Cabildo and other museums throughout Louisiana, stated that the final claim is expected to total around $5 million.

The insurance will pay any amount greater than $1 million to restore the building and cover the value of the artifacts destroyed in the May fire, according to Mr. Helgeson.

"It is a blanket policy covering all the (Louisiana Museum) buildings in the state," he said.

Broker Alexander & Alexander Inc. in Alexandria, La., placed the coverage for the state, he said.

However, the Aetna policy did not cover the exhibit cases that were lost in the blaze, nor will it cover the cost of research needed to provide information to accompany artifacts, Mr. Sefcik pointed out.

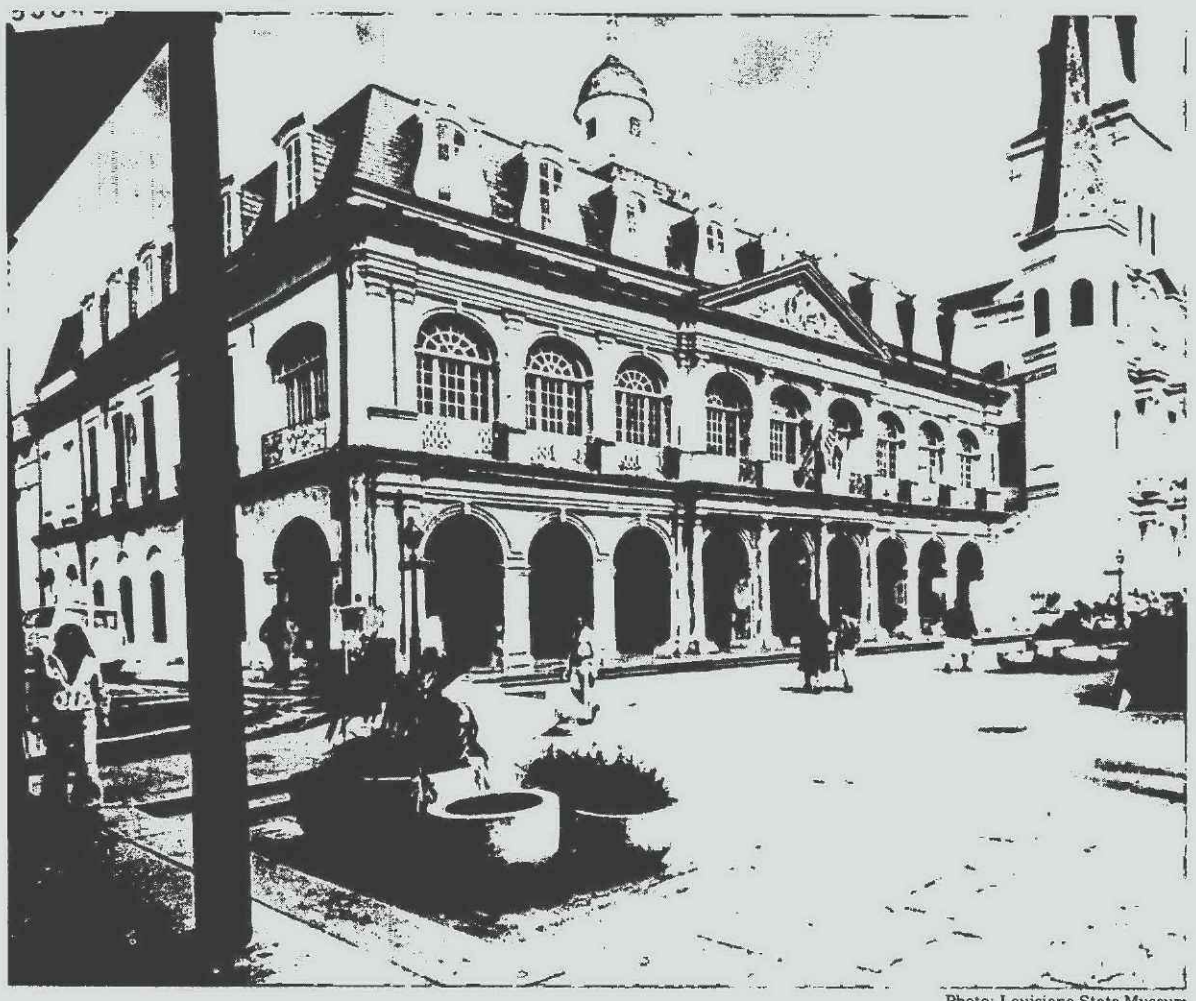


Photo: Louisiana State Museum

The early claims payment will help to restore the historic Cabildo to its condition before the May fire.

"We are holding private fundraisers to raise $2 million so we will have something inside the building" to house and explain the museum pieces, according to Mr. Sefcik.

About $200,000 was donated even before the Louisiana Museum began soliciting contributions, he added.

Restoration work is expected to start at the beginning of 1989 and should be completed near the end of 1990, according to Mr. Sefcik. In the meantime, a temporary roof has been installed on the building and the rubble has been cleared from the site.

Speculation on the cause of the blaze has centered around remodeling work that was under way when the fire broke out. Fire officials in New Orleans have indicated that a workman's torch may have started the fire that destroyed the third floor of the historic building.

Other parts of the Cabildo sustained smoke and water damage.

The building was not equipped with a sprinkler system at the time of the fire, but plans call for installing a system during the restoration, Mr. Sefcik said.

He pointed out that much of the history connected to the museum at Jackson Square in the French Quarter is often inaccurately reported.

Although many believe the Louisiana Purchase was signed by Napoleon at the Cabildo, that document was actually signed in France, he noted.

But before the Louisiana Purchase was signed, Napoleon had to take the territory away from his brother, Mr. Sefcik remarked.

"When Napoleon agreed to sell Louisiana, he didn't own it," Mr. Sefcik explained. "He had given it to his brother, who he had made emperor of Spain, and had to get it back."

Documents had to be signed to cede Louisiana back to France and then to the United States, said Mr. Sefcik. "Those two treaties were signed at the Cabildo. But Napoleon never signed them." ■

NAIC model law

Continued from page 1

"It represents a great deal of give-and-take and very constructive dialogue with the industry," said Earl R. Pomeroy, North Dakota's insurance commissioner.

The model law is designed to promote consumer awareness of the insurers with which their coverage is placed and the solvency of insurers.

However, some brokers and other observers still are worried that capacity could be reduced if states enact the model law. While they differ over whether the model will have any impact on capacity in the current soft market, the critics agree that the measure could dampen the development by brokers of alternative capacity in a hard market.

The final version of the Business Transacted with Producer Controlled Property/Casualty Insurer Act is more narrowly drawn than some earlier versions that would have banned brokers from placing coverage with insurers they control (*BI*, March 28).

The newest version limits the ability of "producers"—which include brokers but not independent or exclusive agents—from placing business with some types of licensed property/casualty insurers they control through contract.

Insurer operations exempt from the act include: non-admitted insurers; risk retention groups; residual market pools; joint underwriting authorities; and captive insurers that exclusively insure the risks of the parent organization and affiliated companies.

However, the final version of the bill applies to "boutique" insurers, which write hard-to-place lines of insurance. These insurers had been excluded from some earlier versions.

Producers would be prohibited from placing business with a controlled insurer unless:

- The producer discloses that relationship in writing to the policyholder before the policy is effective.

Under a last-minute amendment, a wholesale broker that controls an insurer and uses a subproducer can meet the requirement by obtaining a signed commitment from the subproducer that he will notify the policyholder of the relationship.

- The producer pay all funds owed the insurer at least quarterly.
- The controlled insurer reports annually on the amount of commissions paid to the producer, the percentage such amounts represent of net written premium volume and comparable amounts and percentages paid to non-controlling producers for placement of the same kind of insurance.

In addition, a controlled insurer's loss reserves must by certified annually as acceptable by an independent casualty actuary and reviewed by an audit committee of the controlled insurer's board.

The model law also would prohibit a reinsurance intermediary from directly or indirectly placing business with an assuming reinsurer it controls unless it discloses the relationship in writing to the parties involved prior to the completion of the transaction.

The model law defines "control" as "the possession—direct or indirect—of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a contract for goods or non-management services or otherwise. Control shall be presumed to exist if a person—directly or indirectly—owns, controls, holds with the power to vote or holds proxies representing the majority of the outstanding voting securities of any other person."

Dennis Connolly, vp with broker Johnson & Higgins in New York, protested the elimination in the final version of a "safe harbor," in which "control" was not presumed to exist in cases where a broker owned less than 10% of an insurer unless an insurance commissioner ruled otherwise.

'Brokers in the future will be much more careful about the kinds of alternative market mechanisms they will try to establish to expand capacity,' says Charles McCrann of Marsh & McLennan.

However, the model contains a new optional clause that allows a commissioner to prospectively determine if an arrangement between a broker and insurer constitutes "control."

The trade-off was "half a loaf," said Charles McCrann, senior vp with broker Marsh & McLennan Cos. Inc. in New York.

If the model law is enacted by states, industry observers say it could be at least psychologically limiting and may have a significant effect during the next hard market.

The model law will have little or no impact on capacity now, though it may hamper creation of new alternatives in a hard market, said Howard Greene, associate director of governmental affairs for the Risk & Insurance Management Society Inc.

"RIMS' major concern is what happens in the next hard market," especially to medium-sized and small companies that may not be able to establish their own captives, he said.

Contrastingly, J&H's Mr. Connolly said, "It will make it more difficult to use some options now." He cited as an example a broker-controlled insurer that writes environmental impairment liability insurance.

Elimination of the exclusion for "boutique" insurers that write hard-to-place coverage for policyholders like government entities is "a social engineering decision" that will direct developers of capacity vehicles toward risk retention and purchasing groups and away from the admitted market, said James I. Bliss, president of Bliss-McKnight in Bloomington, Ill.

"Brokers in the future will be much more careful about the kinds of alternative market mechanisms they will try to establish to expand capacity," said M&M's Mr. McCrann. M&M "resignedly accepted" this version, which is a "lot" better than it was a few months ago, he added.

However, David Grubb, special deputy commissioner with the New Jersey Insurance Department, pointed out that nearly all alternative coverage mechanisms are excluded from the model law.

While the new model "may have a psychological impact on capacity," it is essential to weigh that against the problems that could ensue without proper disclosure and penalties for a broker that milks an insurer to its detriment or vice-versa, said NAIC President John Washburn, the Illinois insurance director.

The 1985 insolvency of Union Indemnity Insurance Co. of New York, a unit of broker Frank B. Hall & Co. Inc., "was the genesis of the bill," said Mr. Washburn.

Mr. Corcoran, the New York superintendent, is suing Hall, its auditor, several Hall affiliates, and current and former directors and officers, alleging that the defendants were responsible for Union Indemnity's insolvency.

The problems stemming from the Union Indemnity insolvency outweigh prospective capacity problems, Mr. Washburn pointed out. "I think we are on the right side of the balance sheet."

In addition, development of this model law should put the industry on notice that it needs to be more focused in airing its views or industry representatives will not be allowed to participate in NAIC discussions, Mr. Corcoran said.

In fact, the NAIC only delayed action on a June 1988 version of the proposed model after personal pleading by top-level brokerage executives, who agreed to participate in subsequent discussions about the proposal (*BI,* June 20).

"This demonstrates to the industry not to take lightly the concerns of the NAIC," said Mr. Corcoran, who is vying with Mr. Pomeroy to be elected NAIC vp at the group's December meeting in New Orleans. The winner of the vice presidential contest is the most likely to ascend to the presidency in December 1989.

The measure also is significant because the NAIC held a special formal plenary session to vote on it at the fall zone meeting. Such session usually are held only at the larger summer and winter meetings. ■

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NAIC asks states to delay action on CGL modifications

By MEG FLETCHER

MACKINAC ISLAND, Mich.—The National Assn. of Insurance Commissioners is strongly urging about half the states to delay action on several coverage-limiting modifications to the Insurance Services Office Inc.'s commercial general liability insurance forms.

The request is designed to give the NAIC time to research the proposals, most of which would go into effect Feb. 1, and disseminate the information to state insurance departments.

The modifications proposed by ISO, among other things, would exclude all pollution related losses from the CGL form; exclude coverage for employment-related practices; deny additional named policyholders on a claims-made policy the right to purchase supplemental extended reporting—or tail—coverage; and limit liquor/host liability coverage.

The Risk & Insurance Management Society Inc. has criticized the proposals, contending they will narrow the scope of coverage and increase policyholders' costs by forcing buyers to add, through endorsements, coverage that is now included in the standard CGL form (*BI*, Sept. 12).

However, ISO contends that most of the proposals are clarifications of the coverage ISO intended to provide (*BI*, Sept. 12).

The NAIC's request that action be delayed was directed to insurance commissioners in states that have not already taken action, said Arkansas Insurance Commissioner Robert M. Eubanks III, chairman of the NAIC's Commercial Lines-Property & Casualty Insurance Committee.

If that recommendation is followed, commissioners in 20 states will delay consideration of the proposal on the pollution-related measures, according to ISO data.

Those states are: Alabama, Arizona, Arkansas, Colorado, Georgia, Hawaii, Illinois, Kansas, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, North Carolina, Oklahoma, South Carolina, Texas, Vermont, Virginia and Washington.

The pollution-related filings have been reviewed and approved in about two dozen states and are able to be implemented automatically in six additional states.

In addition, if the NAIC recommendation is followed, commissioners in 29 states and the District of Columbia will delay consideration of most of the other ISO proposals, which are considered miscellaneous form changes, according to ISO data.

Those states are: Alaska, Arizona, Arkansas, Colorado, Connecticut, Florida, Georgia, Hawaii, Illinois, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, Texas, Vermont, Virginia and Washington.

Miscellaneous filings have been reviewed and approved in more than one dozen states and are able to be implemented automatically in six additional states.

In light of the NAIC's current review of ISO's proposals, even those states that have approved the modifications may seek to review the proposals, even though that could require that hearings be held, Mr. Eubanks said.

The NAIC also approved forming a four-member working group—with representatives from state insurance departments in New York, Texas, Virginia and Arkansas—to research the ISO proposals, Mr. Eubanks said.

In addition, the NAIC has appointed an advisory panel of industry representatives to provide information about the proposals and to air their views during a forum at the NAIC's winter meeting Dec. 11-16 in New Orleans. Those asked to participate on the panel include representatives of ISO, RIMS, and agents and brokers.

The NAIC also passed a resolution last week asking ISO to give it "sufficient" prior notice of future policy form changes so the NAIC could research the matter and advise states of the ramifications of the changes.

Mr. Eubanks said he would prefer six months notice of any modification, with a minimum of three months' notice.

ISO Senior Vp Carol Banfield said that the proposed CGL modification had been previously mentioned to NAIC officials in keeping with ISO's policy of discussing controversial proposals with the NAIC before introducing them in the states.

ISO is seeking to clarify some portions of the CGL forms because courts have interpreted the policies more broadly than ISO had intended, Ms. Banfield said.

She added that besides proposing to eliminate all pollution coverage from the CGL forms, ISO has proposed an endorsement that would extend pollution coverage to on-site exposures and ongoing operations under a separate aggregate limit. This will give policyholders more flexibility, she explained.

And, ISO is proposing to expand coverage under commercial automobile insurance policies by providing coverage for leased automobiles at no additional charge. That proposal, which was originally slated to go into effect Dec. 1, may be delayed as a result of the NAIC's review of the CGL proposals, Ms. Banfield said. ■

Hurricane Gilbert

Continued from page 1

total insured loss is expected to be about $1 billion," said Jim Payne, chairman of E.W. Payne & Cos. Ltd., the London-based reinsurance brokerage unit of Sedgwick Group P.L.C.

In Jamaica, estimates of total insured property losses were still sketchy last week, and opinions about the extent of the damage varied.

Some estimates put total damage in Jamaica between $1.45 billion and $1.82 billion, with insured losses representing only a fraction of that. Others estimated insured damages as high as $1.45 billion.

"Jamaica was devastated, although insured values there will not be enormous," said Michael Williams, chairman of the Non-Marine Underwriters' Assn. at Lloyd's of London. "However, a lot of commercial, industrial and modern buildings, such as hotels, were damaged," he noted.

"The loss will be substantial, many times Jamaica's annual premium income, but not as enormous as it could have been" if the hurricane had hit the United States as feared, Mr. Williams said.

Although some initial estimates of insured losses in Jamaica were as low as $300 million, one group of loss adjusters last week estimated total insured losses of about $1.45 billion, of which 60% to 70% may be commercial losses, according to Paul A. Bitter, executive chairman of Allied Insurance Brokers Ltd. in Kingston.

"I was becoming very very optimistic" initially, Mr. Bitter said. "But I think the numbers are going to be worse than we had thought."

Mr. Bitter said that commercial losses are widespread and include damage to manufacturing plants, hotels and agricultural enterprises such as poultry farms and coffee plantations.

New Brunswick, N.J.-based Johnson & Johnson suffered a loss estimated at $2 million at a Jamaica facility that was looted after the storm, sources report.

A J&J spokesman declined to comment on the report.

Jamaica's National Housing Trust, which maintains low-income housing, also suffered losses estimated at about $18 million, Mr. Bitter said.

A spokesman for CIGNA confirmed that Philadelphia-based Insurance Co. of North America insures the Housing Trust, though the spokesman said he could not confirm the extent of losses.

Hotels in Montego Bay and Kingston also were damaged.

And, in one case, a hotel's rooftop restaurant was destroyed, according to Joseph A. Gaudio, vp-international with Johnson & Higgins in New York, which maintains a correspondent relationship with Allied Insurance Brokers.

Six Jamaican insurance companies, representing about 40% of the island's insurance market, reported establishing gross reserves of about $330 million for the hurricane loss, suggesting an estimated total insured loss in Jamaica of up to $820 million, said Tony Dodd, treaty underwriting manager for British & European Reinsurance Co. Ltd., a unit of Commercial Union Assurance Co. P.L.C.

Mr. Dodd added that reports from the six insurers indicate that industrial and commercial property losses may average 12.5% of the risks' insured values, while business interruption losses may average 37.5% of available limits.

Noting that Jamaica's banana and sugar crops "have been devastated," Mr. Payne predicted that the hurricane's destruction "will have a pretty significant impact on the insurance market.

"It will slow down price cutting on worldwide property excess-of-loss reinsurance covers as the full scale of the loss begins to be felt during the next month," he said.

In addition to Jamaican companies, insurers with significant exposures on the island include CIGNA and AIG units.

CIGNA and AIG were still compiling loss data last week and expected to have estimates of their exposure available this week, spokesmen for the insurers said.

Reinsurance on Jamaican property risks was placed with numerous U.S. and European reinsurers, though London markets are the largest participants and will probably absorb between 50% and 70% of the total insured losses, London sources predict.

The heaviest insured losses in Mexico are in the Yucatan resort communities of Cancun and Cozumel.

Adjusters from Seguros La Comercial, a large Mexican insurer, are estimating total insured damages to the more than 80 hotels in the area at about $300 million, according to J.D. Dawson, senior vp with the insurer in Mexico City.

Roughly $200 million of this will stem from consequential losses, including loss of use of hotel rooms during repairs, he explained.

"I would think that consequential loss will be the big hit for most of the hotels," Mr. Dawson said.

Continued on next page

Update

Noe arrested in wire fraud case

Continued from page 2

The indictment, filed in U.S. District Court in Philadelphia, mirrors a 1986 complaint that charged Mr. Noe with trying to buy $10 million in bogus CDs from an undercover FBI agent (*BI*, Sept. 29, 1986). The 1986 complaint was dismissed because prosecutors were unable to present a case to a grand jury within the 30 days required by the speedy trial rule, according to Assistant U.S. Attorney Seth Weber.

The indictment also names Mr. Noe's nephew, Paul Noe II, who has surrendered and has been released on $2,500 cash bail. A bail hearing for Clifford Noe was scheduled for this morning.

Integrity of Paramus, N.J., was ordered liquidated in March 1987.

Stockbrokers sue over new law

BOSTON—The Securities Industry Assn. and nine major brokers are suing the Massachusetts secretary of state charging that a new state regulation that would allow all stock investors to sue their brokers is unconstitutional.

The regulation states stockbrokers no longer can refuse to do business with clients who will not sign an advance agreement stating they will bring all disputes with their brokers to binding arbitration, according to Barry Guthary, director of the secretary of state's securities division.

Under the regulation, effective Jan. 1, brokers must propose arbitration agreement alternatives.

Brokers have required most clients who open margin or options accounts and many who open cash accounts to sign these agreements, said Mr. Guthary, citing a recent Securities and Exchange Commission survey.

The regulation also requires any broker who asks a customer to sign an arbitration agreement to fully explain the consequences.

Fifteen other states are considering similar regulations.

Besides the securities association, the plaintiffs in the suit, filed last week in U.S. District Court in Boston, are Dean Witter Reynolds Inc.; Donaldson Lufkin & Jenrette Securities Corp; Drexel Burnham Lambert Group Inc.; Kidder Peabody & Co. Inc.; Merrill Lynch, Pierce, Fenner & Smith Inc.; PaineWebber Inc.; Prudential-Bache Securities Inc.; Shearson Lehman Hutton Inc. and Smith Barney, Harris Upham & Co. Inc.

House panels pass bank bill

WASHINGTON—Most national banks and state-chartered bank holding company subsidiaries located outside their parent company's principal state of business would not be allowed to sell insurance under a bill passed by two House committees last week.

National banks serving towns of 5,000 or less would be exempt.

Also under the bill, national banks and state-chartered bank holding company subsidiaries would not be allowed to underwrite insurance unless they already are doing so.

The House Energy and Commerce Committee and the House Judiciary Committee each passed similar versions of the bill last Thursday following referral from the House Banking Committee, which passed a similar version of the bill this summer (*BI*, Aug. 1).

The bill, H.R. 5094, now goes to the House floor. If the House approves the bill, differences between it and the Senate financial deregulation bill, S. 1886, which was passed earlier this year (*BI*, April 4), would have to be ironed out by a conference committee.

Judge halts attack on Raymark

READING, Pa.—A U.S. Bankruptcy Court judge late last week blocked an attempt by three asbestos plaintiffs to force Raymark Industries Inc. into involuntary bankruptcy.

The plaintiffs, three former E.I. du Pont de Nemours & Co. employees who were exposed to asbestos in a Delaware plant, had previously won a $75 million judgment against Raymark when a jury found Raymark guilty of conspiring to hide the dangers of asbestos (*BI*, Nov. 16, 1987).

Because execution of this earlier award has been stayed, the bankruptcy judge found that the plaintiffs did not have the proper standing to force Raymark into bankruptcy.

Briefly noted

Warren S. Stanley was appointed president and chief executive officer of Los Angeles-based **Swett & Crawford Group**, the nation's largest surplus lines broker. Mr. Stanley succeeds Joseph L. Fox, who will retire Oct. 1. . . .**Northwestern National Life Insurance Co.'s** board of directors will vote Oct. 5 on its plan to demutualize and reorganize following tentative regulatory approval earlier this month. The Minneapolis-based life and health insurer wants to convert from combined stock and mutual ownership to all stock ownership as well as form a holding company that would operate as NWNL's parent. . . .Zurich Insurance Co. of Switzerland is buying the Canadian business of **Travelers Corp.** of Hartford, Conn., for an undisclosed amount. Travcan, the Canadian holding company of Travelers' property/casualty and life insurance subsidiaries in Canada, reported gross premiums of Canadian $336 million ($275.7 million U.S.) in 1987. Zurich's gross premiums in Canada last year totaled 776 million Swiss Francs ($489.6 million), according to Zurich. . . .**FAI Insurance Ltd.**, Australia's second-largest insurance company with Australian $2.27 billion ($1.5 billion U.S.) in assets, will be listed on the New York Stock Exchange beginning Wednesday. . . .American Centennial Insurance Co. of Wilmington, Del., has agreed to pay Denver-based **Manville Corp.** $3.4 million to settle a coverage dispute. American Centennial insured Manville from July 1980 to July 1981 and from July 1982 to July 1983. A fairness hearing on this and other asbestos-related insurance settlements will be held Wednesday in the U.S. Bankruptcy Court in New York.

Hurricane Gilbert

Continued from previous page

Most of the property damage represents windows blown out by Gilbert's 170-mph winds and resulting water damage to contents, he said. However, there was little structural damage to most of the hotels, he said.

Hyatt Corp. announced last week that it is closing two hotels it manages, the Hyatt Regency Cancun and the Hyatt Cancun Caribe, until Nov. 15 for individuals and Dec. 15 for groups. The storm shattered the glass atrium dome of the Hyatt Regency, and both hotels suffered severe water damage, a Hyatt spokeswoman said. She said that no dollar estimate of the damages was available.

Repairs at many hotels were already under way last week, and most operators are hoping hotels will be fully restored by the time the tourist season reaches it peak in mid-December.

Mexican law requires companies doing business in the country to be insured by Mexican underwriters, and much of the resort hotel business was written by the largest Mexican companies, including Seguros La Comercial, Seguros de Mexico and Seguros America, according to Mr. Dawson.

Most of the hotels buy all of their property insurance limits from Mexican insurers, without buying excess limits from non-Mexican companies, Mr. Dawson said.

In addition, many—but not all—hotels buy consequential damage coverage from Mexican insurers. And, some hotels—mainly those operated by U.S. corporations—may buy additional consequential damage insurance from non-Mexican underwriters, he said.

The Mexican insurers retain only a small amount of risk, Mexican insurance sources say, noting that Munich Reinsurance Co. is one of the largest of the Mexican insurance industry's reinsurers. Additional reinsurance is ceded to other U.S. and European reinsurers and Lloyd's syndicates, the sources say.

'We were very lucky that the hurricane turned left (into Mexico), where Lloyd's is not a licensed insurer and where the insured values are much lower than in the U.S.,' says Mr. Williams.

Officials of Munich Re could not be reached for comment on the company's exposure.

Mexican insurers and brokers agree that relatively little commercial damage was sustained in Monterrey, which experienced severe flooding after Gilbert drove ashore after battering the Yucatan peninsula.

Continental Corp. confirmed last week that its pretax losses from the hurricane will total $10 million to $15 million. Most of the losses are from reinsurance written for Caribbean and Mexican risks.

Other insurers, including American Re-Insurance Co. and Kemper Corp., reported minimal exposure to hurricane losses.

Fireman's Fund Insurance Cos. preliminarily estimated its commercial losses at a total of $2.25 million, about 80% of which will come from the Brownsville area and the remainder from losses in Corpus Christi and San Antonio, Texas.

Losses to oil rigs in the Gulf of Mexico, however, are expected to be minimal.

"We were very lucky that the hurricane turned left (into Mexico), where Lloyd's is not a licensed insurer and where the insured values are much lower than in the U.S. Also, the (offshore oil) rigs were not damaged, although there may be loss of production claims," said Mr. Williams of Lloyd's Non-Marine Underwriters Assn.

Had Gilbert hit the Texas and Louisiana coast and the major oil rig fields in the northern Gulf, the hurricane "could have been a $10 billion loss," said David Lowen, marine underwriter and director of Orion Insurance Co. P.L.C. and past chairman of the Institute of London Underwriters.

Major rig losses in the gulf, following the $1.5 billion Piper Alpha loss and the $325 million Enchova platform loss in Brazil, could have "blown" many London underwriters out of the market he added.

Marine underwriters still are waiting to hear whether any damage to underwater pipelines was caused by underwater swells that Gilbert may have created. Such underwater damage caused by Hurricane Camille in 1969 led to millions of dollars in losses. However, marine underwriters have heard of no serious marine losses, sources report.

U.S. losses also were relatively slight.

Insured property damage in Texas caused by wind and more than 40 tornadoes spawned by Gilbert amounts to an estimated $40 million, said C.E. Hermanson, vp-Property Claims Service division of American Insurance Services Group Inc. in New York. ■

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OCT. 5. Risk Management and Safety Techniques for Public Agency Recreation Programs, School Playgrounds, Parks & Facilities 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.; **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 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 Review Assn.'s 17th Annual Managed Health Care Conference and Exhibition in Boston; $475 for AMCRA members; $575 for non-members; $125 for spouses/guests; $125 for students; $475 for government employees. AMCRA 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; 414-786-6700.

OCT. 17-18. Second Annual National Disability Management Conference: Strategies for Effective Cost Control in Washington, cosponsored by the Washington Business Group on Health's Institute for Rehabilitation & Disability Management and Thomas L. Jacobs & Associates; $300 for WBGH members; $300 for nonmembers. 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 to be held 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.

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Tax reform will trigger restructuring of industry

By MYRON M. PICOULT

Special to Business Insurance

IT SEEMS TO US THAT the domestic property/casualty insurance business is on the verge of some major restructuring over the next few years.

The key impetus is likely to come from the aftereffects of the Tax Reform Act of 1986, which should inhibit the accretion of statutory capital. However, changes in the way that buyers of both personal and commercial coverages obtain their insurance will also have an impact.



Mr. Picoult

The 1986 Tax Reform Act basically redefined taxable income for the property/casualty insurance industry. The onset of real tax payments will reduce cash flows and statutory capital accretion. The capital situation could be further exacerbated by write-offs or write-downs of questionable assets and uncollectible reinsurance balances.

The property/casualty industry's relatively paltry return-on-equity and need to get to an underwriting profit would seem to argue for slower and more disciplined premium growth in the years ahead for most insurers.

On top of these financial pressures, the primary industry continues to lose market share in the personal lines area to the direct writers due to the direct writers' lower expense factors. In essence, some portion of the traditional market is becoming a residual market, accepting risks turned down by direct writers.

In the commercial area, more policyholders are seeking out risk retention groups, captives or other alternative risk financing mechanisms to obtain difficult-to-place types of coverage and/or to reduce their insurance costs.

On average, the industry's expense ratio approximates 30%. This must be reduced! It is unlikely that the major players in the industry have the intestinal fortitude to lop off one-third of their home office staffs and make the appropriate field adjustments, too. We suspect insurers will attempt to emulate the direct writers by developing captive agency plants.

There are likely to be opportunities with smaller companies that have specific geographic and/or product niches.

This is a tricky situation in that the initial costs associated with such a move may not be as streamlined as some perceive. Some insurers may try to develop wholesaling capabilities, while others may attempt to make more effective use of group distribution facilities. The latter would apply to personal lines coverages, where the ability to rate individually would be retained.

Traditional property/casualty insurance companies seem to be caught between the proverbial rock and hard place. Cash flows are slowing, unbridled growth without attention to underwriting only exacerbates the situation and underwriting costs are out of whack. Some insurers may try to make some of the aforementioned changes. Others may attempt to cope with the changing environment by buying smaller companies that have some defined niches and good growth prospects. Others will simply muddle around.

What investors should recognize is that dinosaurs die slowly!

There obviously has to be consolidation within the industry to develop more efficient operations. The problem is that most property/casualty insurers do not currently have a multiple on their stock that would permit effective acquisition leverage.

In those instances where insurers could gain access to cash, major acquisitions would appear to be precluded by possible antitrust violations. This is unfortunate for it perpetuates inefficiency. Hence, the buyers may prove to be foreigners seeking initial or greater access to the U.S. domestic market.

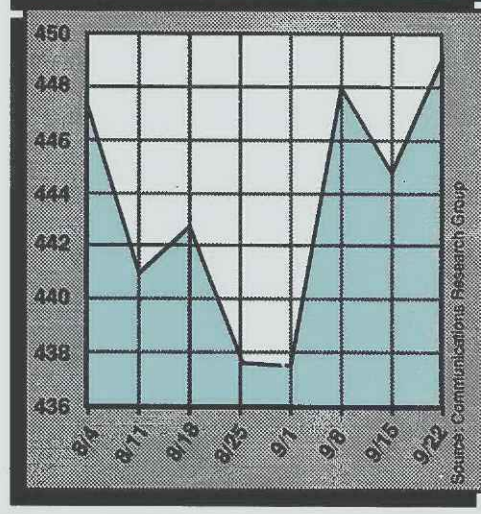
There are likely to be opportunities with smaller companies that have specific geographic and/or product niches. Normally, larger insurers do not have the ability to ferret out and nurture such situations. Indeed the outright purchase of some smaller entities might be the most efficient manner to pursue such a cause. However, the retention of key management personnel with both an earnings and a stock interest is a must in most instances.

Demand for reinsurance coverage will not change whether the insurance is provided by a traditional insurer or some type of clone. The disruptions in the primary market should ultimately play into the hands of those reinsurance entities that have exemplary balance sheets and strong underwriting capabilities.

In the primary area, it is our belief that those insurance companies with exceptionally strong balance sheets, existing niche capabilities and meaningful management ownership have a leg up on the stragglers. ■

Myron M. Picoult is senior vp and senior insurance analyst with Oppenheimer & Co. in New York. He is the past president of the Assn. of Insurance & Financial Analysts and a member of the New York Society of Security Analysts.

BI Insurance Index



Insurance industry stocks gained ground last week as the *Business Insurance* stock index closed at 449.43 on Sept. 22, up 4.44 points from 445.0 on Sept. 15. The largest gains were reported by American Indemnity Financial Corp., up 10%; Statesman Group Inc., up 9.7%; Fremont General Corp., up 9.4%; Berkshire Hathaway Inc., up 8.3%; Durham Corp., up 6.7%; and Frank B. Hall & Co. Inc., up 6.7%. The biggest losses were suffered by Tokio Marine & Fire Insurance Co., down 5.5%; Kansas City Life Insurance Co., down 4.7%; BMA Corp., down 3.2%; Belvedere Corp., down 2.7%; Protective Life Corp., down 2.6%; and Hilb, Rogal & Hamilton Co., down 2.0%. The most active industry stocks were Farmers Group Inc., with 2.93 million shares traded, followed by Sears Roebuck & Co. (Allstate) with 2.77 million shares traded. The *Business Insurance* index climbed 1% last week, while the Dow Jones 30 industrials closed down 0.6%; the Standard & Poor's 500 average rose 0.4%; and the NYSE Composite rose 0.3%.

British Issues

Sept. 21 Companies	Price pence	P/E	Div. pence	Yield %	1 Week High—Low pence	pence
Commi Union	338	12.54	25.3	7.5	339	324
Gen Accident	871	7.9	58.0	6.7	871	862
Gdn Royal Exch	188	10.1	13.1	6.9	188	183
Royal	374	7.7	30.0	8.0	374	366
Sun Alliance	986	7.4	54.7	5.5	987	971
Brokers						
Bradstock	235	12.1	8.0	3.4	235	233
CE Heath	405	13.1	34.5	8.5	405	405
Hogg Robinson	144	10.7	10.7	7.4	144	144
Lloyd Thompson	186	16.2	6.7	3.6	186	186
PWS Holdings	142	20.0	6.0	4.0	146	142
Sedgwick Grp	227	18.9	16.0	7.0	227	226
Steel Brri Jones	210	17.2	13.3	6.3	213	210
Willis Faber	230	12.8	16.0	7.0	230	227

Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kitcat & Aitken Stockbrokers, London

Tokio Re gets capital infusion

ZURICH, Switzerland—Japan's largest insurance company, Tokio Marine & Fire Insurance Co. of Tokyo, has strengthened the capital base of its European reinsurance subsidiary, Tokio Reinsurance Co. Ltd.

Tokio Marine & Fire earlier this summer increased Tokio Re's capital by 25 million Swiss francs ($15.8 million) to a total of 43 million Swiss francs ($27.2 million).

As a result, "the company will have greater flexibility as regards acceptance limits and retention policy, enabling it to take advantage of future opportunities for expansion as and when they occur," the company said.

Tokio Re, which will write gross premiums of about 68 million Swiss francs ($43 million) this year, was established in 1983 and is based in Zurich, although its administration and underwriting operations are handled in London, said Harley Patrick, general manager of Tokio Re in London.

—By Stacy Shaprio

BI Industry Stock Report

SEPTEMBER 22, 1988 — 9/16/88 THRU 9/22/88

		Price	Weekly % change	Year to Date % change	Annual High	Annual Low	Vol.(000)	$ Div.	% Yield	P/E	Book value	Mkt/Bk. value
BROKERS												
Alexander & Alexander Svcs	NYSE	25.25	5.2	42.3	25.75	17.75	501	1.00	4.0	18.0	3.71	6.81
Baldwin & Lyons Inc.	OTC	17.00	3.0	41.7	17.50	12.00	1	0.20	1.2	6.7	18.31	0.93
Corroon & Black Corp.	NYSE	31.25	2.9	10.6	34.75	28.00	97	1.08	3.5	4.7	5.43	5.76
Gallagher Arthur J. & Co.	NYSE	17.00	1.5	6.3	18.88	13.88	7	0.48	2.8	12.2	5.16	3.29
Hall Frank B. & Co.	NYSE	4.00	6.7	38.9	5.50	2.88	50	0.00	0.0	12.2	0.00	N/A
Hilb, Rogal & Hamilton	OTC	12.00	-2.0	23.1	12.75	9.75	7	0.00	0.0	12.2	0.00	N/A
Marsh & McLennan Cos. Inc.	NYSE	55.63	-0.7	12.4	58.50	45.25	378	2.50	4.5	13.6	6.74	8.25
Poe & Assoc. Inc.	OTC	8.50	0.0	21.4	9.25	6.75	0	0.40	4.7	13.1	0.27	31.48
BROKERS	AVERAGE		2.1	24.6					2.6	11.3		
CONGLOMERATES & HOLDING COMPANIES												
Berkley W.R. Corp.	OTC	28.00	0.9	16.7	29.00	23.50	75	0.36	1.3	6.3	17.63	1.59
Berkshire Hathaway Inc. DEL	OTC	4900.00	8.3	66.1	5000.00	2755.00	682	0.00	0.0	21.7	69.38	13.27
ITT (Hartford Group)	NYSE	48.63	0.5	8.1	53.38	43.25	930	1.25	2.6	6.7	52.23	0.93
Sears Roebuck & Co. (Allstate)	NYSE	37.38	2.4	11.2	39.88	32.25	2772	2.00	5.4	9.3	34.74	1.08
CONGLOMERATES	AVERAGE		3.0	25.5					2.3	11.0		
INSURERS/REINSURERS												
Aetna Life & Cas Co.	NYSE	51.50	-.7	13.8	52.50	39.50	893	2.76	5.4	8.0	53.56	0.96
American General Corp.	NYSE	34.00	0.7	7.1	36.38	27.50	555	1.40	4.1	9.1	28.04	1.21
Amer Heritage Life Invt	NYSE	25.38	1.0	4.7	26.00	24.00	3	1.08	4.3	11.1	20.98	1.21
Amer Indty Fin'l Corp.	OTC	11.00	10.0	22.2	12.00	8.25	4	0.56	5.1	42.3	15.26	0.72
American Int'l Group	NYSE	64.88	2.4	8.1	65.50	49.00	871	0.40	0.6	10.1	33.56	1.93
Aon Corp.	NYSE	27.00	-0.9	18.0	28.25	21.88	85	1.28	4.7	9.2	15.13	1.78
Argonaut Group	OTC	40.75	-1.8	37.0	49.00	29.50	58	0.00	0.0	6.7	29.19	1.40
AVEMCO Corp.	NYSE	24.00	0.0	22.3	28.75	17.88	20	0.34	1.4	11.7	7.74	3.10
Belvedere Corp.	AMEX	4.38	-2.7	0.0	6.00	4.00	6	0.04	0.9	6.1	7.87	0.56
BMA Corp.	OTC	30.00	-3.2	12.1	36.75	25.50	33	1.20	4.0	27.8	24.45	1.23
Chubb Corp.	NYSE	58.00	1.8	3.8	63.38	51.25	738	2.16	3.7	6.7	46.13	1.26
CIGNA Corp.	NYSE	54.63	3.6	24.5	54.88	42.75	792	2.96	5.4	8.8	49.19	1.11
CNA Fin'l Corp.	NYSE	59.00	4.6	6.1	64.25	51.00	550	0.00	0.0	8.8	46.40	1.27
Continental Corp.	NYSE	38.88	1.0	0.3	41.63	34.75	293	2.60	6.7	8.0	42.10	0.92
Durham Corp.	OTC	36.00	6.7	67.4	36.25	21.50	39	0.92	2.6	34.0	26.00	1.38
Farmers Group Inc.	OTC	71.50	1.8	77.6	71.50	40.50	2925	1.44	2.0	17.0	22.02	3.25
Fireman's Fund Corp.	NYSE	33.00	0.8	26.9	33.50	25.75	172	0.50	1.5	11.6	26.17	1.26
Forum Re Group	OTC	0.69	0.0	-24.2	1.19	0.63	0	0.00	0.0	-1.2	0.51	1.35
Fremont Gen Corp.	OTC	11.63	9.4	20.8	13.50	8.75	203	0.60	5.2	-1.2	16.24	0.72
General Re Corp.	NYSE	55.00	0.5	-1.6	57.38	45.50	645	1.20	2.2	11.8	26.21	2.10
Home Group Inc.	NYSE	12.00	4.3	1.0	14.38	11.25	278	0.20	1.7	2.9	17.75	0.68
Hanover Ins Co.	OTC	27.25	0.0	17.2	27.75	20.50	18	0.36	1.3	5.7	25.10	1.09
Harleysville Group Inc.	OTC	15.50	-0.8	18.1	16.38	13.38	15	0.48	3.1	6.6	16.65	0.93
Hartford Steam Boiler	OTC	30.25	0.8	31.5	32.75	22.50	47	1.20	4.0	10.9	10.65	2.84
Kans City Life Ins	OTC	30.50	-4.7	16.2	32.00	25.25	0	0.00	0.0	10.9	29.60	1.03
Kemper Corp.	OTC	25.75	1.0	25.6	27.50	20.75	252	0.72	2.8	8.0	26.50	0.97
Lawrence Ins. Group	AMEX	10.75	-1.2	138.9	11.63	4.50	2	0.21	2.0	17.6	2.90	3.71
Liberty Corp. S.C.	NYSE	39.38	0.3	10.9	47.25	34.50	9	0.80	2.0	14.0	17.40	2.26
Lincoln Nat'l Corp.	NYSE	52.00	1.0	29.6	53.50	40.25	232	2.36	4.5	10.1	36.62	1.42
NAC Re Corp.	OTC	30.25	0.4	70.4	30.88	18.50	98	0.00	0.0	15.4	19.92	1.52
Nobel Ins Ltd.	OTC	5.50	0.0	-37.1	9.50	4.50	3	0.44	8.0	26.2	9.37	0.59
Northwestern Nat'l Life	OTC	31.50	0.4	37.7	31.88	22.63	240	1.12	3.6	7.4	35.05	0.90
Ohio Cas Corp.	OTC	36.00	1.4	-0.7	38.25	32.25	109	1.88	5.2	7.2	27.86	1.29
Old Rep Int'l Corp.	OTC	24.13	0.5	20.7	25.88	19.13	171	0.74	3.1	5.7	27.82	0.87
Orion Cap Corp.	NYSE	15.00	0.0	11.1	17.63	13.13	24	0.76	5.1	4.8	9.34	1.61
Phoenix Re Corp.	OTC	9.00	0.0	38.5	9.50	6.75	72	0.00	0.0	5.3	11.08	0.81
Protective Life Corp.	OTC	13.63	-2.6	11.3	15.13	12.25	125	0.70	5.1	14.8	17.25	0.79
Re Capital Corp.	AMEX	9.25	1.3	-11.9	11.75	9.13	0	0.00	0.0	28.9	11.49	0.81
Provident Life & Acc Ins Co.	OTC	24.63	0.5	57.6	25.00	15.63	161	0.84	3.4	53.5	27.45	0.90
St. Paul Cos. Inc.	OTC	43.50	3.0	-5.4	51.00	38.25	337	2.00	4.6	6.2	35.83	1.21
SAFECO Corp.	OTC	27.13	3.4	-2.2	30.00	22.75	666	1.08	4.0	8.4	21.39	1.27
SCOR US Corp.	NYSE	7.75	-1.6	-16.2	9.50	6.63	33	0.10	1.3	5.4	9.39	0.83
Seibels Bruce Group Inc.	OTC	12.75	-1.9	13.3	14.25	11.00	10	0.80	6.3	8.5	12.51	1.02
Selective Ins Group Inc.	OTC	24.13	0.5	27.0	26.25	19.25	21	1.24	5.1	5.4	19.52	1.24
Statesman Group Inc.	OTC	3.63	9.7	-22.6	2.75	1.56	111	0.05	1.4	5.4	3.48	1.04
Tokio Marine & Fire Ins	OTC	66.38	-5.5	0.8	85.88	63.25	24	0.22	0.3	59.3	0.00	N/A
Torchmark Corp.	NYSE	31.50	0.0	28.6	33.50	24.50	116	1.20	3.8	10.0	12.24	2.57
Transamerica Corp.	NYSE	35.63	1.1	19.8	36.75	29.75	384	1.88	5.3	7.4	24.94	1.43
Travelers Corp.	NYSE	34.63	1.5	-1.4	40.00	33.00	938	2.40	6.9	11.9	45.28	0.76
Trenwick Group Inc.	OTC	13.25	0.0	29.3	13.50	9.75	8	0.16	1.2	10.3	15.41	0.86
United Fire & Cas Co.	OTC	26.25	-1.9	1.0	27.00	24.00	2	1.08	4.1	4.7	22.56	1.16
United States Fid & Gty	NYSE	30.38	-1.2	6.6	34.38	28.88	2155	2.64	8.7	7.6	19.53	1.56
UNUM Corp.	NYSE	24.63	-1.5	33.1	25.50	17.88	208	0.48	1.9	11.2	28.53	0.86
USLIFE Corp.	NYSE	38.00	-0.3	33.3	40.13	28.00	93	1.28	3.4	9.8	46.77	0.81
Washington Nat'l Corp.	NYSE	26.13	0.5	9.4	28.75	24.00	34	1.08	4.1	12.2	32.33	0.81
Zenith Nat'l Ins Corp.	NYSE	18.38	0.0	22.5	23.88	15.00	61	0.80	4.4	8.8	12.53	1.47
INSURERS/REINSURERS	AVERAGE		0.8	18.0					3.2	12.8		
ALL COMPANIES	AVERAGE		1.1	19.3					3.1	12.6		

System design: Communications Research Group



Frank Sullivan, model father, loving husband, successful manager, and prime candidate for suicide.

"Frank Sullivan" is a fictitious name. But his case is real, and it's a story that concerns companies of all sizes.

One out of five Americans will experience mental health problems this year. And with the many counseling options available to an employee seeking help, the most appropriate and effective form of treatment isn't always the one chosen.

If that isn't enough to scare you, the costs will. Especially when you consider that mental health costs are growing at twice the rate of other healthcare costs.

Working with the American Psychiatric Association, Intracorp has developed an innovative outpatient mental health and substance abuse review program. We see that employees with problems are directed to the treatment they need—psychiatric care, family counseling or something in between. We monitor treatment plans on an ongoing basis to control expenses and ensure the quality and appropriateness of care.

And, if necessary, our mental health advisors work with treating clinicians to develop alternative plans which can better serve the patient's needs.

Intracorp's dedicated mental health review specialists make this unique system work. They take steps to see that patients get the care they need from the appropriate professionals—psychiatrists, psychologists, family counselors, or other mental health clinicians. And they do this with an eye towards the quality of the care rendered as well as your company's bottom line.

So people like Frank won't continue to slip through the net.

For more information on the comprehensive inpatient and outpatient review services Intracorp can offer your company, call 1-800-345-1075 (In PA, HI and AK call collect, 1-215-687-9450).

But please, call soon. Because you may be saving your company more than just money.

Intracorp, Greg Riedi, Director of Marketing BI-FS
701 Lee Road, Wayne, PA 19087

Please send me more information on Intracorp's Medical Review Services including Outpatient Mental Health and Substance Abuse Review.

Name/Title: _____

Company: _____

Street: _____

City: _____ State: _____ Zip: _____

Phone: _____ Ext. _____

Intracorp