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May 10, 2010

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ENTERTAINMENT SECTOR COULD BE HIT BY RULING ON ADA DUTIES / PAGE 3

ECONOMIC PROBLEMS TOP LIST OF INSURERS' CONCERNS / PAGE 4

In Brief

Amlin Bermuda unit to move to Switzerland

Amlin P.L.C. plans to move its Amlin Bermuda Ltd. unit to Switzerland to establish a base for European reinsurance operations. London-based Amlin said the new unit, Amlin A.G., will be based in Zurich and the existing operations of Amlin Bermuda will become a Bermuda-based branch of the Swiss unit. Amlin also has hired a "core" underwriting team from rival Swiss Reinsurance Co. and named Philippe Regazzoni as CEO of Amlin A.G. Four other former Swiss Re executives have joined Amlin, and the team is expected to grow to 25 employees by year-end.

Catlin seeks investors for reinsurance facility

Catlin Group Ltd. is seeking to secure $150 million in retrocessional capacity through a new sidecar-style special-purpose

See **IN BRIEF** page 30

RIMS CONFERENCE REPORT

Coverage from RIMS 2010 in Boston including: Brokers defend contingents; risk managers consider ethical business practices; solar storms pose threat to earth; and workers comp cost-cutting strategies. **PAGE 11**

SURPLUS LINES

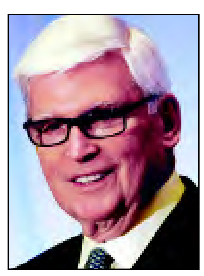
Ryan Specialty raids CRC staff

Big wholesaler loses about 100 employees to Pat Ryan venture

By SALLY ROBERTS

CHICAGO—CRC Insurance Services Inc. took a big hit last week when nearly 10% of its workforce resigned to join Patrick G. Ryan's new wholesaler venture, but the nation's largest wholesaler will likely survive the blow, according to market experts.

The raid—which experts say is unprecedented in its scope and scale—could be costly for Chicago-based Ryan Specialty Group, however, as both firms have filed lawsuits against each other in state courts in Illinois and Alabama. Compared with what it might have cost Ryan Specialty to acquire a firm of that size, though, it could end up being a good deal for the startup venture, they say.



Mr. Ryan

Tom Curtin, CEO and founder of Birmingham, Ala.-based CRC, reacted to the employee defections in a statement last week.

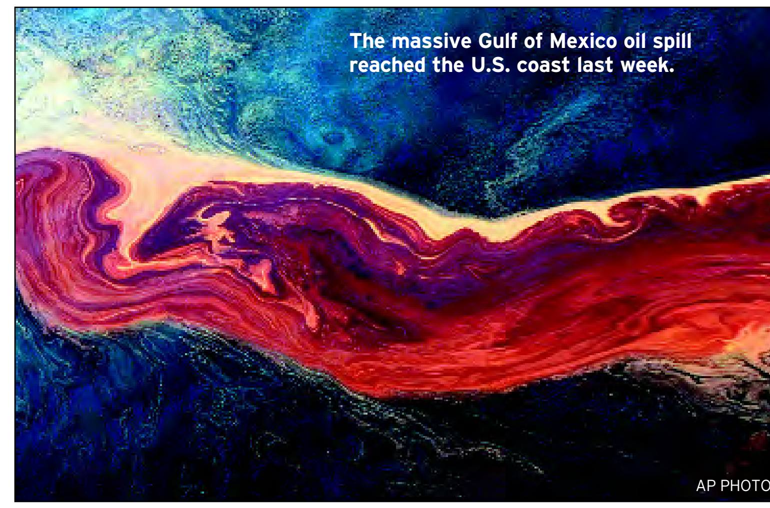
"In response to the recent departure of approximately 100 employees, including brokers and staff, we are reorganizing and appropriately restaffing to ensure that the business with which we have been entrusted continues to be handled in the highest quality, most professional manner," he said. "We will not be closing any offices or exiting any markets."

In an earlier e-mail to "valued business partners," Mr. Curtin said the departing staff resigned May 4 and worked in offices in Illinois, California and Pennsylvania.

He said CRC's counsel "is closely monitoring and evaluating the situation to ensure that CRC and its clients are protected."

It was Ryan Specialty, however, that struck first as 22 departing CRC

See **CRC** page 29



The massive Gulf of Mexico oil spill reached the U.S. coast last week.

AP PHOTO

LIABILITY & LITIGATION

Claims could get messy after huge, costly oil spill

By ZACK PHILLIPS

VENICE, La.—The total cost of the huge Gulf of Mexico oil spill is difficult to calculate and fraught with legal complexities, but experts agree it likely will be several billion dollars.

The Deepwater Horizon, a semisubmersible rig that BP P.L.C. was using to drill an oil well, sank April 22 after an explosion and fire two days earlier. The accident killed 11 workers and caused three leaks that could spew as much as 60,000 barrels a day into the Gulf of Mexico, according to BP.

As of May 6, London-based BP had sealed one leak and had begun lowering a 100-ton containment dome over another, although company and government officials acknowledged it could take several months to completely stop the leak.

BP will bear the cost of the cleanup, which could top $3 billion, experts say. In addition, at least 70 liability lawsuits have already been filed seeking damages from BP;

See **SPILL** page 28

FINDING FAULT: As cause of spill probed, questions raised about response to rig disaster. **PAGE 28**

HEALTH CARE BENEFITS

Plan to seek retiree care subsidy? Don't delay

By JERRY GEISEL

WASHINGTON—A $5 billion federal program to partially reimburse private and public employers for retirees' health care costs is about to begin, but employers who don't act on the offer quickly may come away empty-handed.

The Early Retiree Reinsurance Program, which is part of the federal health care reform law, will reimburse employers for a portion of health care claims incurred by retirees who are at least age 55 but not eligible for Medicare as well as retirees' covered dependents, regardless of age.

The reimbursement, following a plan sponsor's application and filing of claims information, will kick in after a participant in an early retiree plan incurs $15,000 in health care claims in a plan year. After that, the government will reimburse plan sponsors for 80% of a participant's claims up to $90,000 during a plan year.

Reimbursement will apply for claims incurred starting on June 1. The $5 billion fund is intended to reimburse employers for claims through the end of 2013, when the program expires. But experts say the money is likely to run out long before the Dec. 31, 2013, expiration date.

"How long will the funds last?

See **RETIREES** page 29

$5 BILLION PLAN

How the federal program to reimburse employers for early retiree health care claims will work

- Health care costs for retired employees age 55-64 and their dependents, regardless of age, enrolled in group plans are reimbursable for claims incurred June 1 or later.
- Once a participant incurs $15,000 in costs, the government will reimburse plan sponsors for 80% of claims up to a limit of $90,000.
- The reimbursement is tax-free.
- Reimbursements must be used to reduce plan sponsors' costs and/or enrollees' costs.

NEWSPAPER

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Business Insurance

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VIDEO: RIMS' HOT TOPIC

Leading risk managers and brokers share their views on contingent commissions from the Risk & Insurance Management Society Inc.'s conference in Boston. Click on the Multimedia tab.

ONLINE Q&A: CARL LEEMAN

Carl Leeman, president of the International Federation of Risk & Insurance Management Assns., discusses the group's plans in an expanded online Q&A under News & Opinions.

CONFERENCE COVERAGE

Business Insurance's 2010 conference coverage includes news, videos, daily publications and more. Find it on the home page.

STOCK INDEX

The *BI* Stock Index offers comprehensive stock and financial information on all companies within the index. Find it under the Research Center tab.

MOST POPULAR STORIES
Week of May 3, 2010

1. Wholesaler CRC loses 100 employees to Ryan Specialty
2. BP, Transocean lawsuits surge as oil spill spreads
3. Willis names head of large-account operation
4. Marsh agency unit acquires Bostonian Group
5. XL to move domicile to Ireland, change name
6. Troubled workers comp insurer considers options
7. HHS issues rules for retiree care reimbursements
8. Florida passes commercial lines regulatory reform
9. Workers comp insurers in 'precarious position': NCCI
10. Catlin seeks investors for new reinsurance facility

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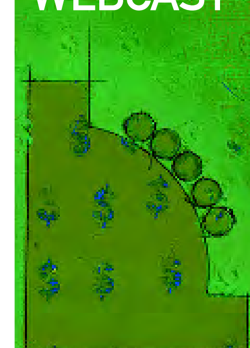

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RISK MANAGEMENT

Failed bombing shows need for terror risk vigilance

Car bomb exposure can't be eliminated, but changes can help

By MARK A. HOFMANN

NEW YORK—The failed terrorist attack on New York's Times Square underscores the continued need for vigilance by risk managers and others responsible for protecting people and property, security professionals say.

Some protective steps can be taken very quickly, while others have to be done well in advance, such as the design of buildings. But nothing in the power of risk managers or building owners can eliminate the possibility of an attack, professionals warn.

Brokers, however, say the incident is unlikely to have any impact on the stand-alone terrorism insurance market (see story, page 6).

"The government cannot protect everybody, everywhere all the time," said Yonah Alexander, director of the International Center for Terrorism Studies at the Potomac Institute for Policy Studies in Arlington, Va. "Businesses have a special obligation to protect personnel and assets."

The question is not whether there will be an attack, "but when and where and with what impact," said Mr. Alexander. "Basically, the worst is yet to come. It is inevitable in general."

"This was not a car bomb in New York—it was an incendiary device," said Neil C. Livingstone, chairman and CEO of ExecutiveAction L.L.C., a business consulting firm in Washington.

Had it detonated, there would have been "millions and millions of shards of glass, and they would have fallen on the public," he said.

That threat can be addressed in several ways, he said. For example, buildings such as hotels could have covered walkways so glass doesn't fall on people. Also, the use of shatter-proof glass in windows facing areas such as Times Square would help, he said. "That way, it doesn't

See **BOMB** page 6

AP PHOTO

New York police kept a strong presence in Times Square after a failed terrorist attack. Authorities evacuated the area again on Friday following a false alarm.

CATASTROPHES

AP PHOTO

The Gaylord Opryland Resort & Convention Center was one of many Nashville, Tenn., businesses hit by flooding caused by heavy rain.

Significant losses expected after floods soak Nashville

By JEFF CASALE

NASHVILLE, Tenn.—Music City USA is cleaning up from torrential rains that caused the Cumberland River to flood parts of downtown Nashville, Tenn., and nearby suburbs, damaging thousands of homes and businesses.

Flash flooding from storms that swept through Kentucky, Mississippi and Tennessee earlier this month caused significant damage in Nashville, where Mayor Karl Dean last week estimated damages in the city alone could top $1 billion, according to reports.

There have been 30 reported deaths in Tennessee, Mississippi and Kentucky due to the storm.

Gary Kerney, assistant vp of the Insurance Services Office Inc.'s Property Claim Services unit, said a catastrophe serial number, which is assigned when the estimated insured losses exceed $25 million, had been assigned for insured property damage caused by the severe weather and flooding, but said that "PCS has no information on the extent of insured damage nor information regarding uninsured losses."

Flooding extensively damaged the Gaylord Opryland Resort & Convention Center, which officials said resulted in more than $75 million in damage to the hotel and will close it for up to six months, according to reports. The Grand Ole Opry House as well as the Country Music Hall of Fame and Museum also were hit by the flooding.

"The Opryland area suffered massive devastation," said James H. Costner, Nashville-based senior vp of Willis Group Holdings P.L.C.'s national property practice. He said the city's banking and legal district was without power a majority of last week and that tens of thousands of trucks were submerged, as Nashville is a major transit hub for distributors.

In addition, one of two of Nashville's water treatment plants was disabled.

"The insured losses from this are going to be major," Mr. Costner said.

The National Flood Insurance Program, which is run by the Federal Emergency Management Agency, may cover some losses experienced by businesses and homeowners that purchased the coverage. However, Mr. Costner and other insurance experts said flooding reached areas that are not federally designated flood zones.

According to FEMA, Nashville and Davidson County, Tenn., had 4,100 NFIP policies in force as of March.

LIABILITY & LITIGATION

ADA suit could hit entertainment sector

Impaired patrons allowed to proceed in accommodation case

By JUDY GREENWALD

SAN FRANCISCO—An Americans with Disabilities Act appeals court decision that could require movie theaters to have special equipment for patrons with hearing and visual impairments may have far-reaching consequences for other entertainment and leisure venues, experts say.

While the April 30 decision by a three-judge panel of the 9th U.S. Circuit Court of Appeals in San Francisco in *State of Arizona vs. Harkins Amusement Enterprises Inc.* focuses on a movie theater operator, the ruling could be extended to apply to live theater, museums, amusement parks and other sites where there is public accommodation, they say.

The decision largely overturned a lower court's dismissal of the case brought by Frederick Lindstrom, who has severe hearing loss, and by Larry Wanger, who is blind in one eye and has poor vision in the other.

READ documents from this case and other public documents at **www.BusinessInsurance.com**

They filed suit alleging Scottsdale, Ariz.-based Harkins Amusement, which operates 21 theaters in Arizona, violated the ADA and state law when they could not see or hear a movie in 2005 because of their respective disabilities.

For those with hearing impairments, two of Harkins Amusement's 262 theaters have open captions on the screen, but it has no theaters with descriptive narration for the visually impaired. Another approach for the hearing impaired is closed captioning, which uses a device attached to a seat, according to court papers.

A district court held that neither the ADA nor the Arizonans with Disabilities Act requires movie theaters "to alter the content of their services."

However, said the appeals court, "Because closed captioning and audio descriptions are correctly classified as 'auxiliary aids and services' that a movie theater may be required to provide under the ADA, we conclude the district court erred in finding that these services are foreclosed as a matter of law."

The appeals court, however, did agree with the district court that open captioning is not required by

See **ADA** page 30

Symposium to address buyer, industry relations

CHICAGO—Insurance buyers, brokers and insurers rely on each other to address both difficult and everyday risks, but is the relationship today as collaborative as it should be? The 2010 Harold H. Hines Jr. Memorial Symposium on May 18 in Chicago will explore this relationship, its challenges and how it should work going forward.

"Partners in Risk: Collaboration Between Buyers, Brokers and Insurers" is a free panel discussion. It will take place from 3 to 4:30 p.m. CDT at the Union League Club of Chicago, 68 W. Jackson Blvd., with a reception to follow.

Panelists for this year's symposium are: Carol Arendall, vp of risk management at U.S. Foodservice Inc. in Rosemont, Ill.; Dave Glantz, chairman of insurance brokerage Hays Cos. of Illinois in Chicago; and Uwe Schoberth, senior vp and regional executive for the central region at XL Insurance, a unit of insurer and reinsurer XL Capital Ltd.

The Hines Symposium honors the memory of Harold H. Hines Jr., a former executive of brokerage Rollins Burdick Hunter, now part of Aon Corp., who was an advocate of risk management. The symposium is presented annually by the Chicago chapter of the Risk & Insurance Management Society Inc., *Business Insurance* and the Insurance School of Chicago.

To register for the free May 18 symposium and to pose questions for the panel, please send an e-mail to Mike Tsikoudakis at *mtsikoudakis@businessinsurance.com.*

P/C INSURERS

Economic woes head list of worries for insurers: Survey

Execs troubled by global conditions, interest rates, claims

By COLLEEN McCARTHY

The poor economy remains the main concern of insurance industry executives in 2010, but the recession is less of a worry than it was last year, according to a Munich Reinsurance America Inc. survey released last week.

But even as the economy improves, soft property/casualty pricing isn't likely to end anytime soon, according to the survey.

Of the 30 respondents to the survey, 69% cited poor economic conditions as their No. 1 worry this year, though that's down from 85% in last year's survey by the Princeton, N.J.-based reinsurer. Munich Re America has conducted the CEO Roundtable survey annually since 2003.

Concern over the economy "is perhaps tempered by the fact that companies are much better capitalized than they were last year at this time. Surplus is back, and that is very comforting to CEO's," said John Vasturia, president of regional clients at Munich Re America's reinsurance division. "But we are still in the early stages of trying to understand if the economy is moving in the right direction," he said.

CRITICAL ISSUES FACING INDIVIDUAL INSURERS

Respondents ranked the three most critical issues facing their individual company.

	2010	2009
Maintaining underwriting discipline/price adequacy	1st (66%)	1st (60%)
Developing your strategy	2nd (41%)	2nd (40%)
Managing your cost structure	3rd (38%)*	3rd (38%)
Attracting/retaining professional talent	3rd (38%)*	Not in top 3

**Tied for 3rd*
Source: Munich Reinsurance Co.

Ranking second as a critical issue facing the industry was "low interest rates and capital market returns," cited by 55% of the respondents. However, 52% of the respondents surveyed this year said claims cost inflation was a critical issue. Last year, the issue did not rank among the top three survey results.

Mr. Vasturia said concerns over claims cost inflation reflect the "assumptions we all have to make about when we thought we would pay out losses. If inflation goes too far, too fast, then those assumptions would be wrong, and we'd actually end up paying out those losses faster instead of holding onto the money and earning investment income on it."

The rebound in capital across much of the industry has resulted in a slightly more optimistic view of

See **ROUNDTABLE** page 30

Questions & Answers

Carl Leeman last month was named president of the International Federation of Risk & Insurance Management Assns. Mr. Leeman, who is also chief risk officer at Antwerp, Belgium-based Katoen Natie N.V., recently outlined IFRIMA's plans.

IFRIMA moves ahead

Q. Why has IFRIMA changed officers now?

In recent years IFRIMA has not appeared to be very active to the outside world, and a number of board members really wanted to see that change. The association has existed for 26 years, but the profile of the organization has been low and only a narrow circle of people have been aware of the work that has been done. There is a lot of potential in IFRIMA, and after a period of discussion it has been agreed that we will reinvigorate the organization, and my appointment is part of that plan.

Q: Is there a need for risk management associations to work together more closely?

Increasingly, risk managers face global issues such as climate change and regulatory developments. So yes, there is a need for a platform to exchange information. In the past, regional and national associations have not tended to exchange information, but that is changing. For instance, the Risk & Insurance Management Society Inc. and the Federation of European Risk Management Assns. have begun to cooperate more, and this has been facilitated by IFRIMA meetings.

Q: Does this mean IFRIMA's focus will be changing?

Historically IFRIMA has facilitated the exchange of information between national and regional trade associations. It has also acted as an independent alternative for the many countries that do not wish to join one of the regional member organizations. IFRIMA does not intend to change its position and has no intention of lobbying on behalf of its members. But we will look to further facilitate the exchange of information between members and external risk management associations. That is our main objective: to provide a platform for the exchange of risk and insurance management information.

Q: Which issues do you see IFRIMA possibly tackling in the future?

Areas such as changing environmental liability legislation, climate change, supply chain, electromagnetic wave pollution, Internet dependency and insurance regulations are worth consideration for (IFRIMA) white

See **LEEMAN** page 27

P/C INSURERS

AIG posts $1.45B profit for quarter

By COLLEEN McCARTHY

NEW YORK—American International Group Inc. recorded an investment-fueled quarterly profit, though its core property/casualty unit posted a modest decline in premiums amid continuing challenges.

AIG reported first-quarter net income of $1.45 billion compared with a loss of $4.35 billion during the same period last year. The quarterly profit is the third for the company since the third quarter of 2007.

New York-based AIG said Friday that recovering credit markets and ongoing efforts to streamline operations contributed to improved performance. In a statement, CEO Robert Benmosche said the company is "now on a path" to repaying loans to the federal government in the insurer's $182.3 billion bailout, following deals in March to sell two life divisions for about $51 billion.

For AIG's commercial property/casualty insurance operations under Chartis Inc., net premiums written totaled $7.64 billion, a 1.1% decline from the same period last year.

AIG said the decline is still a significant improvement over the previous four quarters, but expressed caution about generating new business and said "challenging economic conditions" still affect premiums.

Chartis' combined ratio worsened to 102.5%. Catastrophe losses, due mainly to the earthquake in Chile, totaled $481 million.

While the results were "encouraging," much of the improvement came from a "turnaround in certain investments," Cathy Seifert, an equity analyst with Standard & Poor's Corp. in New York, said in a research note.

John L. Ward, CEO of Cincinnatus Partners L.L.C. in Cincinnati, noted that nearly 80% of AIG's first-quarter profit was driven by "discontinued units" American Life Insurance Co. and American International Assurance Co. Ltd.

AIG said AIG Financial Products Corp., the unit at the center of AIG's problems, reduced the notional amount of its derivative portfolio by 20% to $755.4 billion as of March 31. The number of trade positions in its portfolio fell 11%.

For AIG, the amount of outstanding government assistance currently stands at $101.6 billion.

In March, AIG agreed to sell its ALICO unit for $15.5 billion to MetLife Inc. and its Asia-based AIA to Prudential P.L.C. for $35.5 billion.

However, the deal with Prudential hit a snag last week, after Prudential said it postponed the start of its rights issue to raise $21 billion to fund buying AIA. Prudential said it was in talks with the U.K. Financial Services Authority, but still expected to wrap the deal in the third quarter.

A spokesman for AIG declined to comment, except to say AIG is working with Prudential.

HEALTH CARE BENEFITS

Groups join value-based plan project

Employer coalitions participate in effort to address health risks

By JOANNE WOJCIK

WASHINGTON—Five members of the National Business Coalition on Health have been selected to participate in pilot project designed to help employers implement value-based insurance designs.

The American Health Strategy Project will assist employers in the participating coalitions in introducing employee health benefit offerings and incentives that aim to better align health promotion and prevention strategies with medical and pharmaceutical plans, as well as disability and workers compensation benefits.

Participating coalitions are the Dallas-Fort Worth Business Group on Health, Midwest Business Group on Health, Oregon Coalition of Health Care Purchasers, Pittsburgh Business Group on Health and Virginia Business Coalition on Health.

The American Health Strategy Project, launched in cooperation with pharmaceutical maker Pfizer Inc., is an expansion of the Kansas City Collaborative, which the Mid-America Coalition on Health Care initiated in 2008. That initiative, which involved 16 regional and national employers, identified benefit design strategies that offer high value, promote employee wellness and prevention, manage long-term health care costs, and improve the health of employees and their families.

"As health care costs continue to rise, more employers are recognizing the value of tailoring benefits to the health risks within their employee populations," Andrew Webber, president and CEO of the Washington-based National Business Coalition on Health, said in a statement.

"Employers often lack the tools and models needed to collect and interpret data across a broad range of activities to make better and more informed health benefit decisions for their workforce, and we hope to help overcome those barriers with this project," he said.

NOBODY WANTS TO TAKE THE FALL FOR A FICTITIOUS CLAIM.

When a patron claimed to take a bad fall outside the entrance of a major retail establishment, the manager first went to her aid, and then came to us. Risk management planning had ensured there were anti-slip mats at the entrance and a surveillance camera, which captured the staged accident. The fraudulent claim was then denied and referred to the local authorities, protecting the customer from unwarranted losses and potential litigation. Whether it's responding quickly, keeping you informed, or helping to mitigate potential losses, our general liability experts are committed to helping you protect your business. That's our policy. For more information, contact your broker or agent or visit libertymutualgroup.com/gl.

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Stand-alone terror cover still competitive

NEW YORK—Abundant capacity is available and premium rates are falling for stand-alone terrorism insurance coverage, despite the attention generated by the failed terrorist attack on Times Square earlier this month.

"Remarkably, there has not been a knee-jerk reaction to this occurrence," said Alexandra Glickman, a managing director and practice leader at Arthur J. Gallagher & Co. in Glendale, Calif. "There is a really plentiful supply of stand-alone terrorism insurance."

Before the Times Square incident, a client with a property exposure of about $4 billion in New York's Midtown had placed a program, including terrorism coverage, at double-digit rate decreases, she said. While some insurers may "step back" because of the failed attack, she said she thinks "there will be enough capacity available."

New York already is viewed as a "Tier 1" risk zone by terrorism underwriters, said Tarique Nageer, a vp at Marsh Inc. in New York. "This incident just highlights that. They look at every risk very closely. They continue to do so now."

But the stand-alone market is very competitive in pricing and capacity, and has become more so recently, Mr. Nageer said. "We have a vibrant market in terms of capacity."

"The market has matured a lot since the early days" following the Sept. 11, 2001, terrorist attacks, said Mark Steddon, director with Aon Ltd.'s crisis management practice in London. "There's not a knee-jerk reaction."

"There's a huge amount of capacity available now and the market has been softening considerably since the early days," he said.

—By Mark A. Hofmann

Bomb: Failed attack shows need for more vigilance

CONTINUED FROM PAGE 3

come out in millions of shards."

Heavy drapes over windows in lobby areas can also help mitigate the exposure, he said.

Training staff to recognize possible threats is crucial, he said. "Any time you can pull a vehicle up against a building, you better know the threatening signs," said Mr. Livingstone. He said panel trucks should be prohibited from the front of buildings and cars should be monitored.

He advised to be suspicious of vehicles with tinted windows. In addition, cars that are sagging on their springs could indicate a load of explosives, he said.

"The bigger the vehicle, the bigger the bomb," said Hank Chase, managing principal of Frederick, Md.-based Integrity Consulting, a security consulting firm. He advocated enforcing parking restrictions around buildings.

"Keep the big stuff away from your perimeter," he said. "The farther you can keep dangerous things away from your perimeter, the better."

Deliveries should also be screened, he said.

Mr. Chase called detecting incendiary devices a "perplexing problem."

"We're unable to remotely sense an incendiary device—we're decades from that," Mr. Chase said.

Mr. Chase advised risk managers to take advantage of InfraGard, a partnership between the FBI and the private sector. "It's kind of a chamber of commerce for anti-terrorism," he said, where law enforcement and business can share best practices. "There's no downside to InfraGard—it's just an investment of time," he said.

"Make sure you a have credible assessment of the threat, and do whatever is necessary," said Mr. Alexander. "Be up to the minute, up to date on the nature of the threat."

Commentary

Health reform presents solutions, challenges

REGIS COCCIA

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

Benefit managers don't have it easy these days.

The federal health care reform law creates a new set of challenges for employers even as it attempts to solve problems. Reducing the number of uninsured is positive. Doing so provides care to those who otherwise could not get care and will cut down on the amount of uncompensated health care, one driver of pass-along costs.

But the health care law does not address other, more significant cost drivers in the health care system. In fact, some provisions seem certain to increase costs, at least initially. Take the tax on pharmaceutical companies, which will be $2 billion in 2011 and go up from there. The law doesn't stop pharma companies from passing costs on to consumers, and only a fool would believe that won't happen. Ditto for the levy on health insurers beginning in 2014.

The law's health insurance market reforms make it hard to envision how private insurers can earn profits without radically changing their business models. The removal of annual and lifetime limits on benefits, coupled with minimum medical loss ratios and review of rate increases, will test insurers' underwriting. Many health insurers also are worried about adverse selection, which they say will force them to charge higher premiums.

> **Tort litigation is not necessarily an obvious cost driver, but it does contribute to higher costs.**

Tort litigation is not necessarily an obvious cost driver, but it does contribute to higher costs. Studies suggest that malpractice suits have been declining since the 1990s, which would suggest tort liability isn't such a big problem. But the threat of litigation is a big reason for the practice of "defensive medicine," in which tests and procedures may be ordered that aren't really medically necessary. Even seemingly simple tests can be costly. In addition, several states—including Illinois, where I live—have overturned caps on noneconomic damages in medical malpractice cases. With no real ceiling on damages, doctors have an incentive to continue practicing defensive medicine.

Employers that sponsor benefit programs are already struggling with cost increases. They're still trying to understand how the health care reform will affect them and what their benefit options may be. Smaller employers and those with lower-paid workers are weighing whether to stop offering health care benefits and send employees to the health care exchanges the new law will create.

Health care benefits up to now have been an important recruitment and retention tool for employers. Based on the results of a survey of 3,700 business executives by Crain Communications Inc., the publisher of *Business Insurance*, shortly after the law was signed, a majority of U.S. businesses indicated they view benefits a critical element of their recruiting and retention strategies. For now, most do not intend to drop benefits (see the full results at *www.BusinessInsurance.com/section/health-care-reform*). But if costs continue to rise, that view might well change—meaning some significant changes for professional benefit managers, too.

■ ■ ■

Speaking of employee benefits, *Business Insurance* is proud to announce this year's Benefit Manager of the Year as well as the inaugural Benefits Management Honor Roll.

The 2010 members of the first Benefits Management Honor Roll are: Gary Eastes, risk and benefits manager of the City of Knoxville, Tenn., representing governmental entities; and Joseph Molloy, corporate director of benefits at North Shore-LIJ Health Systems in Lake Success, N.Y., representing nonprofit entities. The 2010 Benefit Manager of the Year is Marianne McManus, director of global health benefits strategy and design at IBM Corp. in Somers, N.Y.

Profiles of the honorees will appear in the June 28 issue of the magazine.

Business Insurance OPINIONS

Risk management fails in Gulf oil spill disaster

WHILE IT'S TOO EARLY to determine the ultimate cause of the explosion that resulted in the massive oil slick fouling the Gulf of Mexico, it's not too early to label the incident a risk management failure.

The explosion, which killed 11 rig workers and left a well gushing hundreds of thousands of gallons of oil a day into the Gulf, will have far-reaching consequences for the oil industry and the way it manages its risks.

If all the 'what ifs' had been asked prior to the explosion, speedier answers to the problems would have been available.

The early prognosis by engineering experts is that blowout preventers on the well failed to shut off the flow of oil when the Deepwater Horizon rig collapsed April 22. The preventers are seen as the final step in a process designed to stop oil wells from being left open if everything else fails. Clearly, the preventers were not enough.

It also would seem that plans to respond in the event of a total breakdown of the disaster prevention processes were at best inadequate. With oil licking the Gulf Coast and threatening to devastate the region, private and government responders worked desperately last week to limit the spread of the slick.

Finally last Thursday, BP P.L.C., which owns the operating license for the rig, had transported a newly constructed containment dome to the disaster area to try and limit the flow oil. Given the size of the dome, it might seem that the more than two weeks it took to get it in place was a relatively short period. However, it also would seem that if all the "what ifs" had been asked prior to the explosion, speedier answers to the problems would have been available.

The Deepwater Horizon disaster may or may not have been preventable, but a better contingency plan surely should have been in place to deal with the disaster.

Anti-terrorism plans can't be left to chance

WE GOT LUCKY when a would-be terrorist's attempt to turn an SUV into an incendiary device in New York's Time Square failed.

And we got lucky that the alleged perpetrator was quickly apprehended. But as we report on page 3, there's no guarantee that we'll be anywhere near as lucky the next time, and there is sure to be a next time.

Fortunately, security professionals say some relatively simple steps can help diminish the likelihood that a terrorist car bomb or other device will result in destruction of property or loss of life.

Securing perimeters is crucial to minimizing this risk. Actions such as restricting the access of unknown panel trucks to facilities and training personnel to be on the lookout for such things as cars riding low on their springs can enhance security. When possible, building resistance into new buildings—such as using shatterproof glass where appropriate—also can bolster the lines of defense.

No security system is foolproof, but taking reasonable precautions cannot help but mitigate the effects of a small-scale terrorist attack under many circumstances.

Luck alone, welcome as it was in the Times Square case, won't suffice by itself. Only preparedness can respond effectively the next time, and that next time may happen sooner than anyone would like to think.

WRITE

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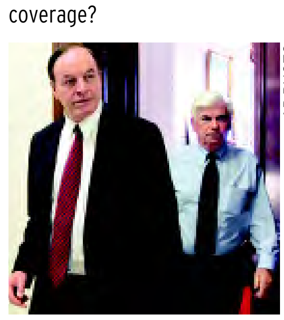
THIS WEEK'S RESULTS

Q Will financial services regulatory reform raise the cost of insurance coverage?



AP PHOTO

Sens. Richard Shelby, left, and Chris Dodd are leading efforts to pass financial services regulatory reform.

YES 43%

NO 56%

NEXT WEEK'S QUESTION

Q: Will the Gulf oil spill lead to tighter safety regulations of the energy industry anytime soon?

PERSPECTIVES

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Business Insurance

Risk Manager OF THE YEAR® 2010 & Risk Management HONOR ROLL® 2010

Mary Roth, RIMS; Terry Fleming, RIMS; Paul Winston, *Business Insurance*; 2010 Risk Management Honor Roll honoree Scott Borup Johnson & Johnson; Regis Coccia, *Business Insurance*

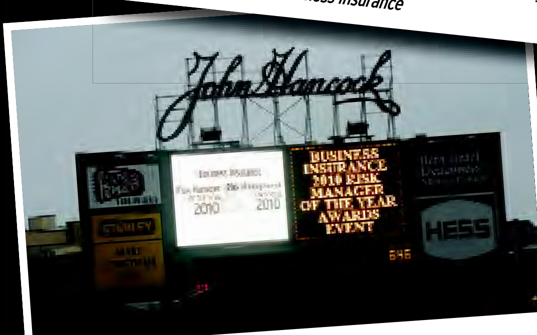
Mary Roth, RIMS; Terry Fleming, RIMS; Paul Winston, *Business Insurance*; 2010 Risk Manager of the Year honoree Debbie Rodgers, ARAMARK; Regis Coccia, *Business Insurance*

The 2010 Risk Manager of the Year and Risk Management Honor Roll members with *Business Insurance* management team before the awards breakfast, hosted April 27th in Boston

Mary Roth, RIMS; Terry Fleming, RIMS; Paul Winston, *Business Insurance*; Christine Eick, Auburn University member of the 2010 Risk Management Honor Roll; Regis Coccia, *Business Insurance*

Scott Borup, Johnson & Johnson; Terry Fleming, RIMS; Debbie Rodgers, ARAMARK; Pat Ryan, Ryan Specialty Group; Marty Ross, *Business Insurance*; Paul Winston, *Business Insurance*;; Regis Coccia, *Business Insurance*; Christine Eick, Auburn University; Mary Roth, RIMS

Mary Roth, RIMS; Terry Fleming, RIMS; Paul Winston, *Business Insurance*; 2010 Risk Management Honor Roll honoree Scott Borup, Johnson & Johnson; Regis Coccia, *Business Insurance*

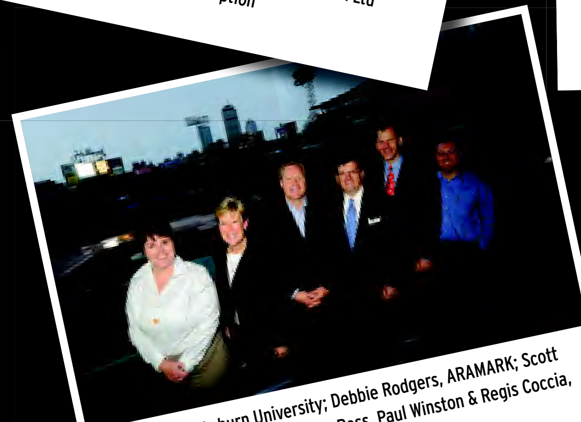


Business Insurance congratulates the 2010 Risk Manager of the Year & Honor Roll winners on the score board during the reception at Fenway Park.

Debbie Rodgers, ARAMARK and Kenneth Krenicky, Core Risk Ltd during the Risk Manager of the Year Reception

Attendees during the Business Insurance 2010 Risk Manager of the Year Awards Breakfast

Pat Ryan, Chairman & CEO, Ryan Specialty Group during the 2010 Risk Manager of the Year Awards Breakfast



Christine Eick, Auburn University; Debbie Rodgers, ARAMARK; Scott Borup, Johnson & Johnson; Marty Ross, Paul Winston & Regis Coccia, *Business Insurance*

Guests enjoy the awards reception, held at Fenway Park

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Brokers defend their stance on contingents

Views diverge on insurers' bonus payments to brokers

By SALLY ROBERTS

Top executives of four of the world's largest insurance brokers defended their positions on contingent commissions during a panel discussion at RIMS' Annual Conference & Exhibition.

MICHAEL MARCOTTE

BOSTON—With the recent lifting of contingent commission bans on their firms, executives from the world's four largest insurance brokers were on hand at the Risk & Insurance Management Society Inc.'s annual conference to defend their positions on the controversial incentive payments.

Risk managers attending the April 25-29 conference in Boston varied widely in their opinions on contingents, with some urging other risk managers not to use brokers that accept contingents, while others viewed the commissions as an acceptable business practice.

London-based broker Willis Group Holdings P.L.C. set the mood early in the week by holding a news conference to condemn contingents, which it views as a conflict of interest. It also touted its new Internet-based public awareness campaign dubbed "Clients Before Contingents." The campaign aims to inform buyers about the extra income, which insurers pay brokers typically based on the volume and profitability of business placed, with the ultimate goal of eliminating contingents from the industry.

"There's a lot of apathy, frankly, in the community about this topic and it's our premise that the apathy is borne out of the fact that people just don't really understand how these contingents work; that when they become 15%, 20% of your revenue base and a much bigger percentage of your profit as a broker or an agent, it drives behavior and it drives behavior in a way that is adverse to what your clients are paying you to do," Don Bailey, chairman and CEO of Willis North America, said at the news conference.

"It makes no sense to me to be able to give volumes of business to an insurer just because you get paid for it and it may not be in the best interest of the client," added Willis Chairman and CEO Joe Plumeri.

Contingent commissions were at the forefront during an executive panel session a few hours later, where leaders from some of the world's largest brokers defended their positions on the issue.

For example, J. Patrick Gallagher Jr., chairman, president and CEO of Arthur J. Gallagher & Co., said that when it comes to his firm's acceptance of contingents, it's all about client choice.

"We disclose…contingents. We disclose supplementals, and if you as a buyer do not want us to participate in contingents or supplements, we make sure that your account is excluded from that. It's just that simple," Mr. Gallagher said.

Dan Glaser, chairman and CEO of Marsh Inc., said he doesn't view contingent commissions as "the litmus test for whether the broker has a conflict of interest or not. All insurance carrier revenue streams…have the potential of creating a conflict of interest," he said.

"The way we address conflicts of interest is with full transparency and disclosure, systems and controls around the management of conflicts, and having an open dialogue with the client about the potential conflicts," Mr. Glaser said.

In March, Marsh said it would not resume collecting contingents on its U.S. and Canadian-based core brokerage business per its recent settlement amendment, but would either accept or remain open to accepting contingents on the rest of its business.

After a five-year ban, New York and other state authorities lifted the ban on contingents in the world's three largest brokers' 2005 settlement agreements, which resolved allegations and concerns that the brokerages steered business to insurers that paid the highest contingent commissions. The move followed the July 2009 decision by Illinois authorities to similarly lift Gallagher's ban.

Not addressing contingents specifically, Greg Case, president and CEO of Aon Corp., said the issue really revolves around the value that Aon provides its clients and the price they pay for that value.

"We live and die on that," Mr. Case said, but "that equation only works with great transparency. Clients have to understand in every way, shape and form exactly what we charge and the way we charge."

MICHAEL MARCOTTE

Willis North America's Don Bailey (left) and Arthur J. Gallagher & Co.'s James S. Gault debated the issue of contingent commissions at a RIMS' hot topic session.

During a hot topic session titled "Insurance Purchasers Unite! Know Your Rights on Contingent Commissions," Willis' Mr. Bailey and James S. Gault, president and CEO of Gallagher's brokerage services division, again debated the issue.

Mr. Bailey took issue with Gallagher's "opt-out" contingent strategy, saying he doesn't understand how the broker can segregate a single company's premiums and loss history from a "portfolio that sometimes is hundreds of millions of dollars of premiums."

He noted that when the large brokers had to return millions of dollars in contingents to clients as part of their 2005 settlement agreements, "the math associated with figuring that out…was a crazy, complicated, incredibly inexact science."

So while risk managers may "take comfort" in opting out of contingent arrangements, "the fact of the matter is, your premiums are going to be inflated because the entire group is not going to opt out, so you'll be paying higher premiums anyway," Mr. Bailey said.

Mr. Gault, who later noted that he didn't view the math as being that complicated, said he disagreed with Willis' premise that risk managers don't understand how contingents work.

"I don't think there's a risk manager here who isn't aware…of how they work. I think the risk management community is pretty well-educated on the topic," Mr. Gault said.

Risk managers attending RIMS had various reactions to all the talk.

During a RIMS leadership news conference, Scott Clark, RIMS secretary and risk and benefits officer for the Miami-Dade County, Fla., Public Schools, reiterated RIMS' position that contingent commissions should be banned from the industry, or at least automatically disclosed to clients.

"Most sophisticated risk managers manage (contingent arrangements) very well," Mr. Clark said, but they need "to walk the talk" and choose brokers that don't accept contingent payments from insurers or go with insurers that don't pay the incentives.

Chuck Magazine, risk manager for the city of Boynton Beach, Fla., agreed.

If all the risk managers who work with a particular broker reject contingents, like he does with his broker, "guess what's going to happen? (The broker) is going to have one or two choices—either they're going to lose a lot of business and make a little on contingency fees, or they're going to keep the business and make no money on contingency fees. But that's where the risk managers have to step up and a lot of them don't," he said.

Michael E. Harrington, senior risk manager for EMC Corp. in Hopkinton, Mass., said he doesn't "have a major issue" with contingents.

"So long as I have adequate disclosures that are complete and comprehensive, and as long as I understand the financial picture" as to how much EMC's premiums factor into the contingent calculation and what percent that figure is compared with the broker's total revenue, "as long as my placing broker…doesn't have any incentive to direct business either directly or indirectly, then I don't have a particular problem with them," Mr. Harrington said.

Mona Leung, a senior vp and chief financial officer of Alliant Credit Union in Chicago, also does not object to her company's broker accepting contingents as long as they are disclosed. "It's part of doing business," she said of the extra fees.

RIMS Conference Report

SPOTLIGHT

ONTHEWEB

READ more coverage from the Risk & Insurance Management Society Inc.'s Annual Conference & Exhibition online at: **www.BusinessInsurance.com**

AP PHOTO

The Long Island Express blew through South Boston in 1938, a hurricane that would result in an estimated $33 billion in damage if it hit New England today.

Complacency saps preparation

While rare, hurricanes remain a major threat in the Northeast

By MARK A. HOFMANN

BOSTON—Complacency about a major hurricane striking the Northeastern United States could contribute significantly to final loss tally of such a storm, risk management experts say.

That's despite the fact that a repeat of the 1938 Long Island Express, which devastated much of New England, would result in about $33 billion in property damage today, according to Boston-based modeler AIR Worldwide Corp. (see story, page 14)

Observers at the recent Risk & Insurance Management Society Inc.'s Annual Conference & Exhibition in Boston said the Northeast may be overdue for a large hurricane—the most recent being Hurricane Bob in 1991, which caused about $2.5 billion in damage, according to the Massachusetts Executive Office of Public Safety and Security.

"In 2004 and 2005, hurricanes were on the tip of everyone's tongue" because of the high number and destructive nature of hurricanes those years, said Alfred Tobin, managing director and national property leader for Aon Risk Services in New York.

"We've been overdue for one now," said William Holland, vp and managing director-global technical services in Atlanta-based Crawford & Co.'s New York office. He noted that the concentration of property values in the Northeast could magnify losses from a major hurricane.

"It's quite a major exposure," said Charles Bauroth, technical operations manager for Liberty Mutual Insurance Co.'s Liberty Mutual Property unit in Weston, Mass. But the biggest exposure is public complacency, he said in noting that there has been considerable building on Long Island and around Cape Cod since the one-two punch of Hurricanes Carol and Edna in 1954.

"We like to take the approach that we have a plan in place before the storm hits," Crawford's Mr. Holland said.

For Montgomery County, Md., having a plan in place meant conducting an exercise drill to simulate how the county government would respond to a Category 3 hurricane, said Terry Fleming, director-division of risk management for the county in Rockville, Md., and president of RIMS.

"We take it very seriously," he said, noting that the county suffered extensive damage and power outages as a result of 2003's Hurricane Isabel.

The county conducted the exercise a few weeks ago, said Mr. Fleming. Its emergency management group, which includes risk management, practiced moving schoolchildren to evacuation centers and what he described as a "reverse 911" line to advise residents about dealing with such as storm.

The possibility of a hurricane striking the Northeast is a concern for Scott Borup, director of corporate risk management at New Brunswick, N.J.-based Johnson & Johnson, even though the company does not have many production facilities in the area.

"All of our operations have continuity plans" to deal with such an exposure, Mr. Borup said. He said he also makes sure that key suppliers also have business continuity plans in place.

For Johnson & Johnson, the worst-case scenario would be a hurricane that struck its operations in Puerto Rico and Florida before heading north and hitting the company's headquarters, he said.

Liberty Mutual's Mr. Bauroth said contingency plans should take into account some of the lessons of Hurricane Katrina and apply them to a storm in the Northeast. With wind velocity that could be higher than Hurricane Katrina in 2005 and storm surge up to 20 feet, as it was in the Long Island Express, New

See **HURRICANES** page 14

Hurricanes: Complacency the enemy of being prepared

CONTINUED FROM PAGE 12

York would experience a "very high level of water" where it normally does not occur, he said.

"It all starts with keeping the building intact," said Jonathan W. Hall, executive vp at Johnston, R.I.-based Factory Mutual Insurance Co., which does business as FM Global.

First-tier counties in New England could expect 100 mph winds, he said. He noted that Katrina was barely a Category 3 hurricane when it hit New Orleans and added that as hurricanes move up the East Coast, "they're always picking up steam."

"New York would be a devastating, devastating event," he said.

Dealing with hurricanes "comes down to maintenance," said Mr. Hall. "A lot of people don't have the flashing tied down" on roofs, and loose objects or equipment outside a building should be tied down or moved inside. Signs need to be secured and roof drains need to be checked, he said.

"Do a full review of the envelope of the building," Mr. Hall said.

A Northeastern hurricane would cause similar damage to an ice storm but over a much wider area, said Liberty Mutual's Mr. Bauroth. Trees and power lines would be downed, making emergency generators essential for certain operations.

In addition, hurricanes typically accelerate in the Northeast, meaning there would be limited time to evacuate people. That means a facility might need a shelter plan in place, including emergency generators as well as adequate food and water for employees.

Still, it's a "tough message to say you have to continue to improve your property in possibly the worst economy in our lifetime," said Aon's Mr. Tobin.

Crawford's Mr. Holland also stressed that risk managers should prepare for a hurricane by pulling together information about properties before a storm strikes so losses can be adjusted efficiently.

For example, a large account with a lot of properties in an area should prepare a spreadsheet with insured values as well as contact information that includes cell phone numbers.

In addition, "the biggest challenge is the infrastructure" in the aftermath of a hurricane, Mr. Holland said. Being able to know the approximate location of an affected property is helpful to adjusters, he said.

Hurricane Bob the most recent in New England

BOSTON—Hurricanes may strike the Northeast far less frequently than they do Florida and Gulf Coast states, but they can leave considerable destruction when they do hit New England and the Middle Atlantic states.

Peter Dailey, assistant vp and director of atmospheric science at AIR Worldwide Corp. in Boston, noted that a repeat of what is known as the Long Island Express hurricane of 1938—killing about 600 people and causing $400 million in damage to parts of Long Island, Connecticut, Massachusetts and Rhode Island—would cause about $33 billion in insured damage if it happened today.

During an interview at the Risk & Insurance Management Society Inc.'s annual conference in Boston last month, Mr. Dailey said reliable records about hurricanes, which go back about a century, show that hurricanes of all categories make landfall in the Northeast every five to 10 years, with New England having to cope with a hurricane about once every decade.

"The risk is significant; and just because there hasn't been one in the past 10 years does not mean the risk has gone away," Mr. Dailey said. "More importantly, the fact that time elapsed since a hurricane landfall in the Northeast, it's sort of human nature to discount the risk."

According to a history of New England hurricanes on the website of the Massachusetts Executive Office of Public Safety and Security, the Long Island Express, which is also called the Great New England Hurricane of 1938, was the most destructive New England storm dating back to 1635, when a hurricane left more than 40 people dead between Boston and Plymouth.

Hurricane Carol, which struck in 1954, killed 68 and caused an estimated $461 million in damage, according to the state public safety office. Hurricane Edna followed less than two weeks later, killing 29 and adding $40 million to the hurricane damage for the year.

The last major hurricane to strike New England was Hurricane Bob in August 1991. The storm killed 18 people and caused $2.5 billion in damage, $1 billion of which was in southern New England.

The names Carol, Edna and Bob have been dropped from the list of names bestowed on hurricanes because of the destruction the storms caused.

—By Mark A. Hofmann

Risk managers more likely to skip free dinners, other gifts

By **JOANNE WOJCIK** and **ZACK PHILLIPS**

BOSTON—Risk managers have become more circumspect in their interactions with brokers, consultants, underwriters and other providers since an investigation by former New York Attorney General Eliot Spitzer found potential conflicts of interest in the insurance placement process.

That and other highly publicized scandals involving the financial services industry have prompted some companies to strengthen their business codes of conduct, risk managers say.

As a result, risk managers at this year's Risk & Insurance Management Society Inc. Annual Conference & Exhibition were much less likely to be wined and dined than in the past, when brokers and insurers hosted luxurious events intended to capture risk managers' business.

Some risk managers went as far as taking the subway or picking up their own dinner checks to avoid even the suggestion of questionable behavior.

"You come to RIMS and are invited to a host of things. I'm glad that they've toned it down a bit," said Sheila Small, assistant treasurer in charge of risk management and insurance at Basking Ridge, N.J.-based Verizon Communications Inc.

In past years, Ms. Small said she attended meetings "where we were going to eat and what we were doing afterwards was more important than the business" being discussed. She has heard tales of risk managers not just expecting but demanding that entertainment sponsors provide autographed photos, or even a chance to be photographed with the celebrities involved.

Ms. Small said she once was offered a trip to the Masters Tournament, but she declined the offer of the marquee golf event. "We have a code of conduct. I cannot accept an offer to go somewhere when there is a clear indication that they're trying to get my business."

To avoid any appearance of impropriety, Ms. Small even turned down offers of paid transportation around Boston during the RIMS gathering. Instead, she took the "T"—Boston's subway—as often as possible.

Valerie Walters, a Silver Spring, Md.-based consultant with Eagle Consulting L.L.C. who has worked as a risk manager at several organizations, said she once knew a risk management official at a private company who asked his broker for a round of golf and new clothes for his birthday.

Ms. Walters said she learned the value of neither seeking nor taking favors from providers while working for a public entity.

"You realize it's more than toys," Ms. Walters said. "You're in business relationships with these people. How much can you trust someone just because they give you stuff?"

Ms. Walters said she applies a simple rule when a business associate offers her a gift: "If you don't want your boss to be upset with you, if you think he or someone else in the organization might be upset, then don't do it," she said. "It's just not worth it."

Since implementation of the Sarbanes-Oxley Act, the Spitzer investigation and increased oversight by the Securities and Exchange Commission, risk managers at financial services firms have become especially sensitive to broker and insurer gifts, said Earl Varney, corporate financial services director at Vanguard Group Inc. in Valley Forge, Pa., who said his company recently revamped its code of ethics to make it stricter.

"The things I might have done years ago, I can't do anymore," Mr. Varney said. "We have a very tight policy at our company. We don't set a dollar limit. It's intentionally broad so that anything that's a gift has to have management's blessing."

Mr. Varney said this has been difficult to convey to some providers and even some risk managers when it comes to gifts, such as tickets to watch the Red Sox play in Boston's historic Fenway Park during the RIMS conference.

"The Boston (RIMS) Chapter people offered me tickets to Fenway, but I couldn't accept them," he said, adding that he was told he would be sitting in one company's suite, which made it impossible to calculate the value of the ticket. "The insurance brokers all make it sound like there is no cost," Mr. Varney said.

When he is invited to dinner, "I go Dutch," especially if it's an expensive restaurant. "I will pay my share. It totally freaks them out," Mr. Varney said.

Patrick Walker, risk manager at Rio Tinto P.L.C., an international mining company with offices in Greenwood Village, Colo., said when business associates invite him to dinner, he picks up the tab every other time "just to keep things even."

He explained that it's his personal policy, dating back to when he worked for a defense contractor years ago. "Everything over $25, I had to return," Mr. Walker said.

As for whether he can accept tickets to sporting events, it depends on the value, he said. "If somebody asks me to go to a football game, I

See **ETHICS** page 18

Conventional wisdom often wrong: Ryan

By ZACK PHILLIPS

BOSTON—Contrarian thinking can help companies find opportunities for growth, according to insurance industry titan Patrick G. Ryan.

During his keynote address at the *Business Insurance* 2010 Risk Manager of the Year and Risk Management Honor Roll Awards Breakfast in Boston, Mr. Ryan said that some of his most successful business decisions were the result of ignoring conventional wisdom.

"Conventional wisdom is often wrong, and contrarian thinking can, in fact, make a difference," said Mr. Ryan, who is chairman and CEO of Ryan Specialty Group. His firm, a Chicago-based holding company of managing general underwriters and managing general agencies, launched in February.

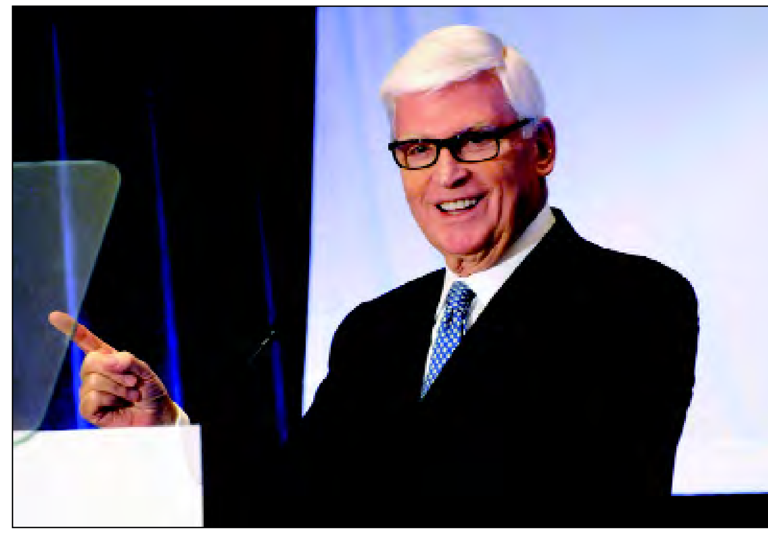
Mr. Ryan said many observers believed it was an unfavorable time to enter the MGA and MGU sector because of the soft market and other factors.

"Why would you be looking to set up new lines of business for MGUs and MGAs when there's so much competition right now?" he said. "The real answer is, in fact, we think there's tremendous opportunity for a…debt-free company that is very well-capitalized and that can attract high-quality talent for the designing and placing of very complex, hazardous risks."

Mr. Ryan said he thought risk managers would benefit from new products from new wholesale business.

"We think there will be a lot of capital that will become available for new lines of business through the

See **RYAN** page 20



MICHAEL MARCOTTE

Contrarian thinking can be the path to opportunity and growth, said insurance industry veteran Patrick G. Ryan.

Ethics: Gifts pose risks

CONTINUED FROM PAGE 16

say, 'No,'" because of the price of the tickets. "But a baseball game's OK, especially if it's a Rockpile seat at Coors Field" in Denver, where the Colorado Rockies play.

"We're careful what we do so that it can't be misconstrued by employees, by peers or other directors in the administration, or by the party you're going out to dinner with," said Janet Stein, director of risk management and insurance at the University of Calgary.

"Going out to dinner is good for business, but there should be balance so there's not a perception that one is in debt to another because it's a business relationship," Ms. Stein said. "You never want a situation where (the relationship feels) uneven. That's not good for risk management. Risk management is all about building relationships."

Ms. Stein added that loose standards on accepting gifts can make a risk manager seem untrustworthy and harm his or her organization's reputation, an exposure that risk managers are supposed to avoid.

"All those (parts of risk management) where people give you information, all that could be lost if you can't be trusted," Ms. Stein said. "Where does that leave the rest of your organization?"

Frank McGuinness, associate risk manager at the Diocese of Rockville Centre in New York, said his department in the Roman Catholic organization doesn't accept gifts, except business lunches and those always are at inexpensive restaurants.

"The only thing we can do is have lunch," Mr. McGuinness said. "We like to work in straight lines. Everything's got to be aboveboard."

Tim Wander, a risk manager at GEICO Corp. in Washington, said allowing a business associate to pay for a meal is one thing, but he advised against accepting gifts.

"If he's going to give you a gift card to whatever, no, don't take it," he said. "Then you don't have to worry about it if it's ethical or not."

One risk manager attending RIMS who asked not to be identified put it more succinctly: "That's easy. We're not allowed to accept any gifts at all."

Apple iPad winner selected

The winner of a *Business Insurance* drawing for an Apple iPad during the Risk & Insurance Management Society Inc.'s Annual Conference & Exhibition in Boston last month has been selected.

In a random drawing, Shari F. Natovitz was chosen to receive the new tablet computer. Ms. Natovitz is the vp of risk management for New York-based Silverstein Properties Inc.

During RIMS 2010, *Business Insurance* held a promotional drawing for a 32-gigabyte iPad with Wi-Fi Internet capability, drawn from business cards collected from conference attendees.

Ryan: Contrarian strategy breeds success

CONTINUED FROM PAGE 18

MGU and MGA markets," he said.

Mr. Ryan, the architect and former CEO of Aon Corp., said contrarian thinking also was behind Aon's successful expansion in the early and mid-1990s.

At the time, Aon was the only large brokerage making acquisitions, he said. Investors and insurance buyers had little interest in large brokers, Mr. Ryan recalled, noting that a Risk & Insurance Management Society Inc. survey at the time reported that many risk managers anticipated using brokers less in the subsequent five years.

"We thought a contrarian strategy made sense—we thought the value would be there for the role of adviser," he said. "We seized on a point in time when there really was no competition to make acquisitions. In fact, I think it did work."

Mr. Ryan also said that Aon's expansion of its reinsurance brokerage business contravened conventional wisdom. Many observers thought that reinsurance brokers would be replaced by the direct market and the Internet, he said.

"People were looking at the reinsurance brokerage business saying, It's done,'" he said. "They were wrong."

Aon had $10 million in reinsurance brokerage revenue in 1988 and by 1998 was the largest reinsurance broker in the world, he said.

After leaving Aon in August 2008, Mr. Ryan led Chicago's failed bid to host the 2016 Summer Olympic Games. He said he returned to the insurance industry for several reasons.

"I missed the insurance industry because of the intellectual challenge we all get in risk management, because of the…really socially valuable work that risk managers and those of us involved in risk management provide to our society. And, frankly, I missed the people," Mr. Ryan said.

Buyers urged to prepare now for market turn

By ROBERTO CENICEROS

BOSTON—Now is the time for insurance purchasers to strengthen their insurer relationships in preparation for a hard market, experts contend.

Pricing for commercial lines is likely to remain "moderate to stable" for the rest of 2010 with no indication of a hard market on the horizon, said Juan Andrade, president and chief operating officer of property/casualty operations at Hartford Financial Services Group Inc.

But emerging forces could change the purchasing landscape, members of a panel said during the Risk & Insurance Management Society Inc.'s annual conference.

An improving economy, for example, could drive increases in workers compensation loss frequency as reforms in key states simultaneously lose their effectiveness, the panelists said.

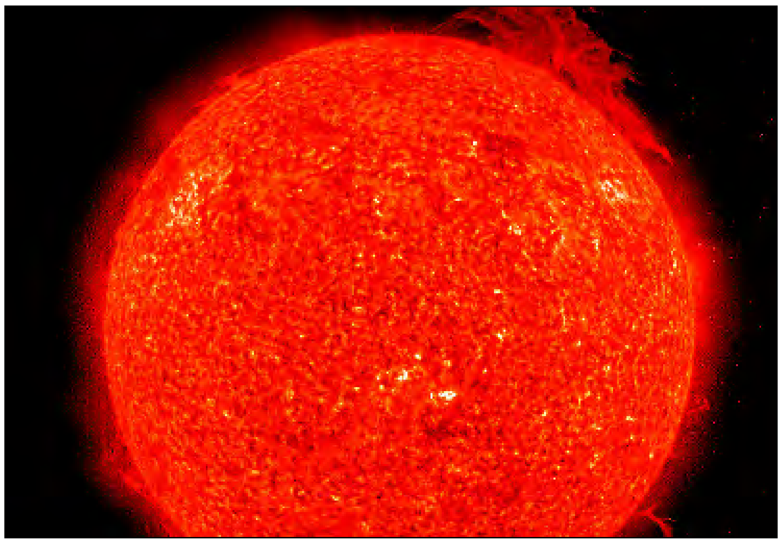
Managing risk in a hard market is similar to managing risk in a soft market, said Debra L. Rodgers, vp of global risk management for ARAMARK Corp. So risk managers should be working to establish and maintain relationships with their underwriters, which can be done through annual meetings.

"You need to know the people who are underwriting your risk and they need to know you," Ms. Rodgers said. "They really need to understand your company, and they need to understand your risk and they need to have faith that what you are saying is valid and that you have a lot of integrity."

Yet not all insurance buyers regularly meet with their underwriters, Ms. Rodgers said. Especially in the midst of a soft market, some purchasers think traveling to London, Bermuda or Zurich is not worth the cost.

But risk managers that make the effort will not see the same level of cost increases in a hard market as those buyers who do not meet with their insurers, Ms. Rodgers said.

Risk managers also need to prepare for a hard market by constantly evaluating the financial strength of their insurers, the panelists said.



Recovering from a major solar storm could take years and vulnerabilities need to be addressed, experts told attendees at RIMS' annual conference.

Solar storm risks could top $1 trillion and cause long recovery: Experts

By MARK A. HOFMANN

BOSTON—Major explosions emanating 93 million miles away have the potential to cause more than $1 trillion in economic and societal costs here on earth, according to a space weather expert.

And total recovery from a geomagnetic or solar storm, caused by a large solar flare, could take four to 10 years, John Kappenman, principal and owner of Duluth, Minn.-based Storm Analysis Consultants, said during a session on solar storms at the Risk & Insurance Management Society Inc.'s annual conference.

Solar storms, which result when explosions in the sun's atmosphere release a burst of electrically charged particles, have the potential to be a global event, said Mr. Kappenman.

A severe storm could shut down large parts of the electrical grid as large high-voltage generators suffer extensive damage, he said. Recovery would be lengthy because such specialized equipment can't be replaced quickly, according to Mr. Kappenman.

Such a storm could be a one-in-30-year to a one-in-100-year event, yet current design practices of electric grids "have unknowingly and greatly escalated the risks and potential impacts," according to Mr. Kappenman. That's led to what he called "unrecognized system risk," with no design code to mitigate the threat.

In addition, the space weather community has failed to communicate the real risk of a severe solar storm to the power industry, he said. The result has been "a false sense of security and complacency" by power grid operators.

"We have not had a yearlong outage" in the United States that would affect large areas, he said.

He said the United States is used to dealing with the impact of bad terrestrial storms, but no terrestrial storm has the ability to become a continentwide event within minutes the way a solar storm can. He noted that a "superstorm" in March 1989 blacked out much of Quebec less than two minutes after it struck.

"The risks we have right now are simply intolerable," he said.

Mr. Kappenman said that the major emphasis of risk mitigation efforts should be focused on preventing geomagnetic storm-related catastrophic failures. For example, some design measures for electric grids are already available, he said. The federal government could require the power industry to follow a mandatory design code, he said.

He also said that there is little awareness among the power industry's customers about the vulnerability of the grid to a major solar storm.

"Space weather is complicated," said Sten Odenwald, an astronomer at Catholic University in Washington, who also spoke at the session. While the scientific community has made progress in understanding how space weather works, much remains unknown.

Mr. Odenwald said a major solar storm could cause massive rerouting of air traffic. And a repeat of the solar storm of 1859—one of the largest on record—could result in major disruptions.

Satellites would also be affected, said Mr. Odenwald. The "good news" is that satellites are very robust, with plenty of reserve transponders and large solar panel power margins, said Mr. Odenwald.

"But the bad news is that the sun is also very robust," he said.

Armand Fernandez, chief risk engineering officer at Zurich Services Corp. in Schaumburg, Ill., moderated the discussion.

Innovative workers comp programs help cut costs, improve productivity

By ROBERTO CENICEROS

BOSTON—Revitalizing its safety program helped Starwood Hotels & Resorts Worldwide Inc. reverse workers compensation losses that had drawn negative attention from Wall Street, a risk manager said.

Meanwhile, INTEGRIS Health Inc.'s safety efforts helped the Oklahoma City-based hospital and health system ease a nursing shortage while Snap-on Inc.'s focus on safety includes providing injured workers with a DVD explaining their rights, two other risk managers said.

The three shared a dais at the Risk & Insurance Management Society Inc.'s Annual Conference & Exhibition to deliver a presentation titled "Excellence in Workers Compensation Risk Management."

Starwood owns or manages about 1,000 hotels in 100 countries with about 145,000 employees, including about 50,000 in the United States. It operates under several brands including Sheraton, W Hotels and Westin.

An actuarial projection for 2004 showed that Starwood would incur $43 million in workers comp costs for the year, said Stephen Truono, Starwood's vp of global risk management.

Ongoing workers comp losses forced Starwood to move $21 million from its main balance sheet to the company's captive, he added.

"Needless to say, it got everyone's attention, including our shareholders and Wall Street," Mr. Truono said. "Not a good place to be," with stock analysts asking upper management how the company planned to reduce its workers comp costs.

So in 2004, Starwood revamped its claims management and safety programs to reduce accident frequency and severity. Among other measures, Starwood put hotel managers and regional executives in competition with each other by setting up a report system that tracks and compares accidents and costs generated by the properties they oversee.

Injury frequency targets are established annually and manager bonuses now are tied to their safety performance. "That, my friends, gets people really focused," Mr. Truono said.

Starwood, which uses its captive to fund a high-deductible program, also introduced a $50,000 per claim deductible in 2004 that each hotel must pay. Hotel managers also received safety training and tools to reduce those losses, he said.

The measures, which Mr. Truono described as "safety 101," still helped reduce losses from the $43 million projected for 2004 to $18 million in actual spending in 2009.

On a separate front, INTEGRIS' safety focus improved a "very bad" loss scenario among its nurses, said William R. Wandel, system vp for risk management for the 14-hospital system with 9,000 employees.

"We were using our employees basically as forklifts" to move patients, a practice that regularly led to worker disabilities, he said.

Injuries and the physical demands of the job forced nurses out of the profession at an early age. That contributed to an employee shortage for which temporary agencies charged double the cost of nursing salaries, Mr. Wandel said.

Nurses, who tend to be caring people, often sacrifice themselves and suffer back injuries to help patients. To reduce those injuries, INTEGRIS recruited an injured nurse to help teach peers to protect themselves from injury.

'We were using our employees basically as forklifts' to move patients.

William R. Wandel,
INTEGRIS Health Inc.

The company also purchased automated patient lifts costing about $5,000 each. The equipment reduced injuries and improved productivity because it now takes fewer nurses to move a patient.

Those changes along with improving return-to-work measures, introducing safety incentive prizes and allocating costs to specific departments have helped create a safety culture, Mr. Wandel said.

But implementing a safety culture requires employee buy-in to succeed, added Daniel H. Kugler, assistant treasurer-risk management at Kenosha, Wis.-based Snap-on, a manufacturer and marketer of tools and equipment.

Among measures similar to those used by Starwood and INTEGRIS, Snap-on treats workers comp as an employee benefit that is explained clearly, Mr. Kugler said.

Instead of treating injured workers as malingerers, they are handed a DVD explaining their rights and responsibilities and the responsibilities of doctors, claims administrators and other system participants.

The DVD includes testimonials from injured employees who have returned to work.

"We say workers comp is the security on the road to recovery," Mr. Kugler said. "We all have to work together."

Corporate transparency puts reputational risk in full view

By RODD ZOLKOS

BOSTON—Brand represents a tremendous portion of companies' value, so they must guard against risks to their reputations, according to panelists on managing reputational risks at the Risk & Insurance Management Society Inc.'s Annual Conference & Exhibition in Boston.

The challenge of managing reputational risks is growing, the panelists said, as the public's emphasis on corporate trust and transparency grows while communications technology and social media enable reputation-damaging information to spread worldwide in an instant.

"Every one of us in the jobs we're in today sees this on a day-to-day basis," said Robert J. Peterson, executive vp, national client development at Memphis, Tenn.-based Sedgwick Claims Management Services Inc. But managing reputational risks goes beyond issuing public relations statements, he said.

David W. Jewell, director of risk management at Phoenix-based PetSmart Inc., noted that reputational risk can result from events a company controls directly or indirectly. The key to managing reputational risk is prevention; when prevention isn't enough, it's necessary to have an immediate contingency plan, he said.

"Reputational risk is a lot about the culture that you create within the company," Mr. Jewell said. And without buy-in from the company's top management, it can be tough to manage reputational risk.

The biggest threats to a company's reputation include failure to comply with regulatory obligations, failure to deliver quality products or services, the exposure of unethical practices in the company, an unhappy labor force or environmental breaches, Mr. Jewell said.

The CEO is critical in providing an ethical identity for the company, he said, and should coordinate executive managers' responses. The risk manager has a more technical role, quantifying threats and ensuring that systems to manage reputational risks are enforced.

Among steps in identifying reputational risks are interviewing key players in the company, from board members and senior management to front-line employees, analyzing media such as blogs and message boards, and researching various company stakeholders, he said.

"In terms of managing reputation, we try to connect the dots internally," said David E. Arick, assistant treasurer, global risk management at International Paper Co. in Memphis and another member of the panel. Risk management works with the company's crisis management team and business continuity planning committee, and meets regularly with the company's various businesses and facilities to control exposures to International Paper's reputation.

Risk management's key in-house relationships in that effort include finance; legal; business continuity planning; engineering/manufacturing management; communications; facility management; and environment, health and safety, Mr. Arick said. "It's important to continuously reach out to these parts of the organization," he said.

"I kind of see risk management being the conscience of the firm," Mr. Arick said. As part of that role, he recommended that risk managers offer to speak at internal seminars and staff meetings, get involved in cross-functional teams and "just ask questions."

"Be prepared in case prevention fails. The best-laid plans sometimes go awry," Mr. Arick said. "Know your insurance programs."

Risk managers also must be aware of how rapidly information can spread through social media and respond accordingly in their loss control programs, the panelists said.

"Sensitive information is shared almost immediately. We need to recognize this as risk professionals," Mr. Peterson said.

Mr. Jewell said PetSmart's loss prevention department routinely monitors social media in managing reputational exposures. "You would be amazed if you Google your own company or look on YouTube what you'll find," he said. "Monitoring is the only way to really control this."

RIMS draws 9,000 attendees to Boston

BOSTON—Attendance at the 2010 Risk & Insurance Management Society Inc.'s Annual Conference & Exhibition in Boston reached about 9,000, according to RIMS. About 5,000 of the attendees were registrants and the remainder were exhibitors, RIMS said.

RIMS expects final attendance numbers to be tallied after May 15.

Next year's conference will be held in Vancouver, British Columbia, May 1-5. The 2012 conference is slated to take place in Philadelphia, April 15-19.

For more information visit *www.rims.org*.

Professional MarketPlace

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE PETITION OF ROLF ABJORNSSON,
AS OFFICIAL RECEIVER OF
ATERFORSAKRING AB LUAP,
DEBTOR IN A FOREIGN PROCEEDING
CASE NO. 03-10945 (SCC)

NOTICE IS HEREBY GIVEN THAT ON APRIL 28, 2010, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. §304 ORIGINALLY ENTERED IN THIS CASE ON MARCH 4, 2003. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING SCHEDULED FOR OCTOBER 26, 2010 AT 10:00 A.M. (THE "RETURN DATE") BEFORE THE HONORABLE SHELLEY C. CHAPMAN, UNITED STATES BANKRUPTCY JUDGE, IN THE UNITED STATES BANKRUPTCY COURT LOCATED AT ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING THE CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE SHELLEY C. CHAPMAN AND SERVED ON COUNSEL FOR THE OFFICIAL RECEIVER LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE OFFICIAL RECEIVER.

CHADBOURNE & PARKE LLP
ATTORNEYS FOR THE OFFICIAL RECEIVER
30 ROCKEFELLER PLAZA
NEW YORK, NEW YORK 10112
(212) 408-5100
ATTN: HOWARD SEIFF, ESQ.
FRANCISCO VAZQUEZ, ESQ.

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE PETITION OF DAN YORAM SCHWARZMANN,
AS ADMINISTRATOR OF
FOLKSAM INTERNATIONAL INSURANCE COMPANY (UK) LIMITED,
DEBTOR IN A FOREIGN PROCEEDING
CASE NO. 02-14070 (SCC)

NOTICE IS HEREBY GIVEN THAT ON APRIL 28, 2010, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. §304 ORIGINALLY ENTERED IN THIS CASE ON SEPTEMBER 9, 2002. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING SCHEDULED FOR OCTOBER 26, 2010 AT 10:00 A.M. (THE "RETURN DATE") BEFORE THE HONORABLE SHELLEY C. CHAPMAN, UNITED STATES BANKRUPTCY JUDGE, IN THE UNITED STATES BANKRUPTCY COURT LOCATED AT ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING THE CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE SHELLEY C. CHAPMAN AND SERVED ON COUNSEL FOR THE ADMINISTRATOR LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE ADMINISTRATOR.

CHADBOURNE & PARKE LLP
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FRANCISCO VAZQUEZ, ESQ.

Business Resources

INSURANCE & REINSURANCE MANAGEMENT

UP CLOSE Comings & Goings

WAYNE PATERNOSTER

NEW JOB TITLE: London-based joint managing director of the specialty division for Markel International Ltd.

PREVIOUS POSITION: London-based senior underwriter with Markel International.

GOALS FOR NEW POSITION: My goals are quite simple: I want to carry on what we achieved last year. Last year was our most successful year in the division. Basically, we want to increase our profile in the London market. It's very easy to take over a division when you are coming off a great year. You can't have too many ambitious targets. Really, I want to continue to see success.

INDUSTRY OUTLOOK: I think the outlook is decent. I personally believe there are going to be casualties on the underwriting side. That capacity is not going to last forever. The overstretched capacity in the market is going to correct itself.

FIRST MARKET EXPERIENCE: I was an underwriting assistant on a marine energy account at (Colonia Baltica Insurance Ltd.). I never wanted to work in insurance. I wanted to be a television cameraman. I did an apprenticeship with a company (in that field) and that company went under. Then I started working for an insurance company as a temp. I was only going to be there for a few months. Here we are 20 years later and (the industry) hasn't done me any harm.

OUTSIDE THE INDUSTRY, A DREAM JOB: I would love to be a football manager. That's soccer, by the way, not American football.

MOST PASSIONATE ABOUT: At the moment, I am most passionate about reducing my golf handicap. I used to play football as a boy at a pretty high level and suffered an injury. So 18 months ago I took up golf. I am very competitive, so I expect to be good right away.

E-MAIL OR PHONE, AND WHY: I have to be honest. I prefer e-mail. It's terrible, I know. It makes me laugh how you can sit next to someone and send them an e-mail asking, "What are you doing for lunch?" I see how ridiculous that can be. But in business, e-mail shows there is always a record of communication.

Comings & Goings ONLINE

VISIT *www.businessinsurance.com/ComingsandGoings* for a full list of this week's personnel moves and promotions. Check our Web site daily for additional postings and sign up for the weekly e-mail.

TO SUBMIT ITEMS

Business Insurance would like to report on senior-level changes at commercial insurance companies and service providers. Please send news and photos of recently promoted, hired or appointed senior-level executives to:

Mike Tsikoudakis
Business Insurance
360 N. Michigan Ave.
Chicago, Ill. 60601-3806

mtsikoudakis@businessinsurance.com

POSTING THIS WEEK

AGENTS:
- American Rental Assn. Insurance Services

BROKERS:
- USI Southwest
- Willis Risk Solutions

INSURERS:
- Verus Underwriting Managers L.L.C.
- XL Capital Ltd.

OTHER PROVIDERS:
- Aon Consulting
- Towers Watson & Co.
- White and Williams L.L.P.

REINSURANCE:
- Ariel Reinsurance Co. Ltd.

Market Moves

Zurich expands in U.S., South America

SCHAUMBURG, Ill.—Zurich North America Commercial has expanded its global energy operations with new offices in the United States and South America.

The new offices are in Glendale, Calif.; Buenos Aires, Argentina; and Sao Paulo.

The expansion of the Schaumburg, Ill.-based insurer's global energy underwriting and risk engineering operations aims to support onshore property practices in these regions, said the unit of Zurich Financial Services Group.

To support the expansions, Zurich named Margo Williams as onshore property manager for western North America, based in Glendale; Juan Pablo Gatica as regional head of energy for Zurich in Latin America, based in Buenos Aires; and Jairo Cardoso as senior power generation risk engineer for Zurich Latin America, based in Sao Paulo.

The Glendale office is at 801 N. Brand Blvd., Glendale, Calif., 91203. The phone number is 818-500-4700.

The Buenos Aires office is at Cerrito 1010, C1010AAV, Buenos Aires, Argentina. The phone number is +54-11-4329-0461.

The Sao Paulo office is at Rua Dr. Geraldo Campos Moreira, 240-12, andar Sao Paulo, Brazil. The phone number is +55-11-5504-8588.

Unitedhealthcare to cover Colo. state employees

CENTENNIAL, Colo.—UnitedHealthcare Services Inc. has been selected to administer self-funded health insurance plans for Colorado state employees and their families.

In a statement, the insurer said Colorado state employees covered by the plans will have access to 13,000 physicians and nearly 90 hospitals.

"The health and well-being of state employees is so important for the future of Colorado," Colorado Gov. Bill Ritter said in a statement. "We are pleased to partner with UnitedHealthcare to provide medical benefits to Colorado state employees."

The state's five-year contract with UnitedHealthcare, a unit of UnitedHealth Group Inc., is effective July 1.

The health plans, which are offered to approximately 32,000 state employees and their families, include Connected Care, a program that enables patients to see their primary and specialty care physicians via high-definition video technology.

UnitedHealthcare said the program is the first step in its effort "to build a national telehealth network."

RLA chooses Boston for headquarters

BOSTON—RLA Insurance Intermediaries L.L.C. has opened its corporate headquarters in Boston.

Formed in April, RLA focuses on casualty and professional risk insurance products and services for retail agents and brokers, the company said in a statement.

"The opening will enable RLA Insurance Intermediaries to market its services throughout the regional, national and international insurance markets," the company said.

Its headquarters is located at 50 Federal St., Suite 208, Boston, Mass., 02110. The phone number 617-419-2600.

Leeman: IFRIMA's strategy

CONTINUED FROM PAGE 4

papers. For example, European moves to change insurance rules under Solvency II could quickly become a global issue if international insurers with operations in Europe want to align themselves with the new regime and apply it to the rest of their business.

Q: What actions is IFRIMA taking to raise its profile?

We are in the process of recruiting a part-time secretary to sort out the administrative tasks and begin the process of collecting and exchanging information. IFRIMA is also looking to provide added value by circulating our white papers directly to the risk managers that are members of national associations and to the media. Last year we developed our website, and we will continue to

READ an unabridged version of this interview online at **www.BusinessInsurance.com**

update it. And we are also looking at the possibility of facilitating a network of risk managers around the globe. So a risk manager in one country can get information from a colleague on the other side of the world via IFRIMA.

ADVERTISER INDEX

Issue of May 10

Investigators focus on safety system

By MICHAEL BRADFORD

VENICE, La.—As crews battled last week to prevent an environmental disaster in the Gulf of Mexico, investigators focused on the cause of last month's deadly explosion that sank the Deepwater Horizon oil drilling rig.

The accident killed 11 workers and left an uncapped well gushing hundreds of thousands of gallons of oil a day into the Gulf. Insurance market sources say insured losses are expected to total well over $1 billion. Swiss Reinsurance Co. said in a statement last week that the losses could range from $1.5 billion to $3.5 billion.

Investigators from the U.S. Minerals Management Service and Department of Homeland Security want to know why safety systems that should have prevented the explosion failed. Companies responsible for stopping the flow of oil and cleaning up the spill also want answers, as they could help determine financial responsibility in the disaster and help prevent future accidents.

BP P.L.C., the London-based energy company, holds the operating license on the project where the oil rig owned by Transocean Ltd., a Swiss company, was drilling an exploration well. BP has accepted responsibility for the cleanup and legitimate damage claims. But that hasn't stopped BP from asserting that, while it is responsible for the aftermath, the accident was not its fault.

"The drilling rig was a Transocean drilling rig," BP CEO Tony Hayward said during an interview with NBC. "It was their rig and their equipment that failed, run by their people and their processes."

A Transocean spokesman in Houston did not directly address Mr. Hayward's remarks, but did say, "We're going to await all the facts and we're not going to speculate" about the cause of the accident.

Criticism also has been aimed at U.S. government agencies, which scrambled in the days following the accident to find fire booms, oil-containment equipment that can withstand fire used to burn off the oil.

U.S. Coast Guard Rear Adm. Mary Landry deflected blame during a Mobile, Ala., news conference last week, saying deployment of fire booms was BP's responsibility. "The responsible party is absolutely supposed to have all resources at his disposal commercially," she said.

Regardless of where the fault lies, an obvious safety failure occurred when blowout preventers failed to shut off the flow of oil that began gushing from the well when the rig collapsed into the Gulf.

"Normally the blowout preventers are very reliable and able to close in the well," said Per Holand, a senior consultant with ExproSoft A.S., a Trondheim, Norway-based energy risk consulting firm. "Here, they obviously had problems."

BP's Mr. Hayward said in the NBC interview that "what failed here is the ultimate safety device on a drilling rig. There are many barriers of protection that you have to go through before you get to this; it is not designed to fail."

"I don't know what happened with the blowout preventers on the Deepwater Horizon," said Mr. Holand. "But one possibility is that they had serious problems with the control systems. The blowout preventer has redundancies in the system and maybe there were serious failures" that kept it from working properly, he suggested.

"Another possibility is that there was a mechanical obstruction that made it unable to close," Mr. Holand said of the equipment.

Stefan M. Luthi, head of the department of geotechnology at Delft University of Technology in Delft, Netherlands, and a former geologist with Schlumberger Oilfield Services, said the destruction of the Deepwater Horizon and subsequent oil spill never should have happened.

"It's just inexcusable, not acceptable at all," Mr. Luthi said.

Drilling operations in the Gulf of Mexico generally are done with fewer safety systems than drillers use in North Sea operations, Mr. Luthi said.

North Sea drillers are required to use an additional safety valve on blowout preventers that is not required for drilling in U.S. waters, Mr. Luthi said.

Mr. Holand of ExproSoft said that the additional valve works on an acoustic signal that can be sent remotely to blowout preventers in the event that they do not function properly. The extra valve is not required in the Gulf of Mexico, but it's not clear whether one was used on the Deepwater Horizon.

Cameron International Corp. in Houston provided the blowout prevention equipment used on the Deepwater Horizon, said Jack B. Moore, Cameron's president and CEO, said in an April 29 earnings call.

"Everyone has questions as to what may have caused the accident to occur," Mr. Moore said, refusing to speculate on why the blowout preventers failed to work. "There will be a full investigation."

Cameron has $500 million in liability coverage to respond to "any claims related to this matter," Mr. Moore said during the call.

As a massive oil slick moved slowly last week toward the U.S. mainland, attempts to stifle the flow of oil at the site continued. Work began on lowering a 100-ton containment dome to the seabed late last week to try to capture the oil and pump it to the surface.

Also last week, drilling began on a relief well that could stem the flow of oil, BP said in a statement. The oil company said it would take around three months to complete the well.

BP can tap captive for $700M in loss of rig

ST. PETER PORT, Guernsey—BP P.L.C. can look to its captive insurer, Jupiter Insurance Ltd., for up to $700 million in coverage of losses from the sinking of the Deepwater Horizon drilling rig in the Gulf of Mexico.

The London-based energy company holds the operating license for the rig owned by Swiss company Transocean Ltd. Eleven workers were killed in an April 20 explosion on the rig, which sank two days later.

BP has taken responsibility for the cleanup of hundreds of thousands of gallons of oil that has gushed from an underwater well and caused a massive slick that threatened to foul the Gulf Coast, affecting fisheries and other wildlife in the region as well as a variety of commerce.

BP's Guernsey-based captive funds the oil giant's property damage and business interruption exposures on a per-event basis, confirmed Timothy Prince, an analyst with rating agency A.M. Best Co. Inc. in London, which provides ratings on the captive.

About 75% of the premiums paid to Jupiter are for those exposures, while the rest fund various other nonlife risks, according to Best.

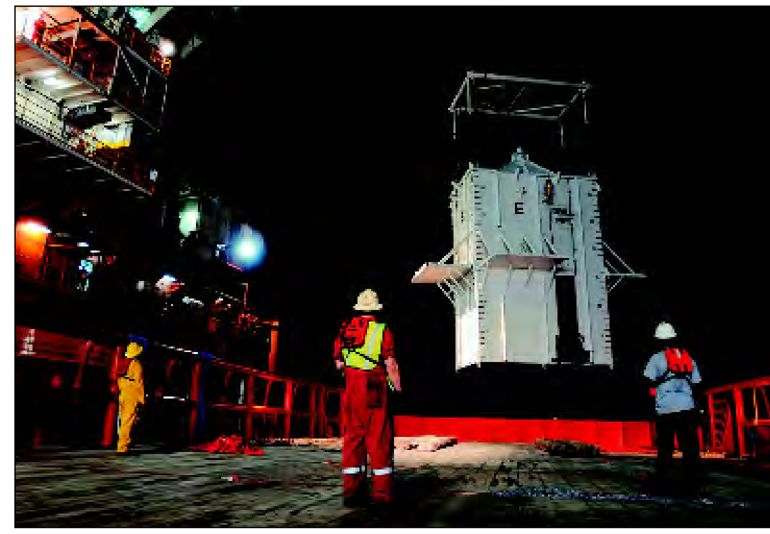
The captive does not have reinsurance protection, Mr. Prince said, but it does have a significant capital base, which was about $6 billion at the end of 2009.

In a January ratings statement, Best affirmed Jupiter's financial strength rating of A+, but also said the nature of the insurer's risks and its lack of reinsurance left it "exposed to a great deal of potential earnings volatility. Despite efforts to improve safety, risk management and loss prevention within the BP group, natural catastrophe risks remain ever present. Potential large losses cannot be disregarded, and Jupiter's risk retention per occurrence is significant at $700 million," Best said.

Jupiter wrote $1.05 billion in 2009 gross premiums, according to Best. The captive insurer was very profitable over the past two years with a loss ratio below 20% and about $500 million in profit in 2009, the rating agency said.

In a separate report, though, Best noted that Jupiter's lack of reinsurance means that "one catastrophic event could potentially devastate underwriting profits."

—By Michael Bradford



UPI/LANDOV

Crew members looked on last week as a 100-ton containment chamber was lowered to try to halt oil gushing from an uncapped well into the Gulf of Mexico.

Spill: Claims to get messy after huge, costly disaster

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Zug, Switzerland-based Transocean Ltd., which owns the rig; Houston-based Halliburton Co., which cemented the oil well; and Houston-based Cameron International Corp., which manufactured the wellhead equipment.

Of those firms, legal experts said BP likely would foot much of the bill. But it's also possible that a government fund, financed through taxes on energy companies, could pay some of those damages, because U.S. law currently limits energy companies' liability to $75 million per spill.

Companies exposed in the accident are insured for $1.4 billion in losses under business interruption, general liability, pollution liability, control-of-well, property and workers compensation coverage, according to the New York-based Insurance Information Institute.

The spill likely will generate extensive claims from downstream entities affected by the pollution, including fishing and tourism operations. In addition to damages sought in litigation, many also may file claims under their own business interruption, contingent business interruption and similar policies, legal experts said.

Generally, claimants are entitled to liability damages only if pollution touches their property, said Richard Hobbie III, president of New York-based underwriter Water Quality Insurance Syndicate. Business interruption claims might not have such a restriction and could arise further downstream, such as a New England restaurant that imports seafood from the Gulf Coast, he said.

The Gulf of Mexico produces more seafood than the entire East Coast from Maine to Florida, according to the Corpus Christi, Texas-based Harte Research Institute for Gulf of Mexico Studies. The institute estimated conservatively that the oil spill endangers $1.6 billion of tourism, recreational and commercial fishing, and economic benefits from coastal wetlands.

Business interruption policies typically appear within a commercial property policy, so such claims will depend on the definition of property, which often excludes land, such as a beach at a coastal hotel, said Marshall Gilinsky, a New York-based attorney and shareholder at Anderson Kill & Olick L.L.P.

"If the only thing damaged at the resort is the waterfront, I won't be surprised if the insurance company argues, 'We don't insure the water offshore of your property and therefore…your property insurance policy is not triggered, including business interruption,'" Mr. Gilinsky said.

Randy J. Maniloff, a Philadelphia-based partner with White and Williams L.L.P., said few downstream entities such as seafood restaurants likely have contingent business interruption coverage that would apply in this case.

Lorelie S. Masters, a Washington-based partner in Jenner & Block L.L.P., said she was certain that insurers would use pollution exclusions, which appear in most policies, to deny coverage. Florida courts have interpreted pollution exclusions broadly and Louisiana courts have viewed them in a more policyholder-friendly light, she said.

Mr. Maniloff said many pollution exclusions have exceptions for pollution caused by fires or explosions, the apparent cause of the Deepwater accident.

White House and congressional leaders were working last week on proposals to raise the $75 million cap on liability damage that BP would have to pay.

Under the Oil Pollution Act of 1990, damages in excess of that cap are paid by the Oil Spill Liability Trust Fund, which is financed primarily through a fee on imported oil. The fund also pays for pollution cleanup in cases where the spiller can't or where the spiller can't be identified.

"$75 million in 1990 seemed like a pretty reasonable figure," Mr. Hobbie said. "Since 1990…there hasn't been an offshore spill, so no one has ever thought to revise upward the $75 million."

James E. Mercante, an admiralty attorney at New York-based Rubin, Fiorella & Friedman L.L.P. who has

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worked on Oil Pollution Act cases, said BP likely could seek reimbursement from the liability trust fund for payments above the current liability limit.

BP CEO Tony Hayward said publicly that the company expected to pay liability damages above $75 million and would honor all "legitimate claims." Some observers expressed doubts that applied to liability damages.

A Senate measure introduced last week would raise the liability trust fund limit to $10 billion. Mr. Hobbie said that limit would not be a problem for the largest oil companies.

"My question—and it's just a question, I don't have the answer—is: What is the long-term effect on smaller operators? Could this bill possibly drive all the small operators out of the offshore market in the U.S.?"

The Obama administration last week announced a three-week moratorium on new offshore drilling permits until an investigation into the Deepwater incident has been completed.

In an earnings conference call late last week, Transocean executives said the company's contract provides for "broad" indemnity from BP, which Transocean expects the oil company to honor.

'My question is: What is the long-term effect on smaller operators? Could this bill possibly drive all the small operators out of the offshore market in the U.S.?'

Richard Hobbie III,
Water Quality Insurance Syndicate

"Under our drilling contract for Horizon, BP has agreed to assume full responsibility for pollution and contamination," Transocean CEO Steven L. Newman said during the call.

Underwriters declared the rig a total loss and Transocean already has received $481 million of the $560 million insured value, executives said.

Transocean carried $950 million in excess liability coverage, but did not have insurance for loss of revenue, according to records filed with the Securities and Exchange Commission.

Transocean's insurance policies expired May 1, but its underwriters granted a one-month extension in light of the accident, according to the records.

In the conference call, Transocean executives said a preliminary estimate suggests that the company will incur about $200 million in higher insurance premiums, deductible payments and additional legal expenses this year as a result of the accident. Transocean also said it is considering increasing its retentions.

Retiree: Don't delay plans on health care subsidy

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That's a great question. No one has a firm answer," said Michael Morfe, a senior vp with Aon Consulting in Somerset, N.J.

While no one can predict how long the federal funds will last, some benefit experts say they could be exhausted in as little as 18 months.

And under rules published last week by the Department of Health and Human Services, the agency that will administer the program, the program could close even before some employers get their applications in.

Under the HHS rules, employers will be required to project reimbursement amounts during a two-year period. HHS will use those projections to determine "if and when we should stop accepting funding applications," the agency said in the rules.

"It is very much first come, first serve," said Dave Osterndorf, chief health actuary at Towers Watson & Co. in Milwaukee.

"There is a great incentive to file quickly," said John Grosso, a consultant in the Norwalk, Conn., office of Hewitt Associates Inc.

But just filing quickly is no guarantee an employer will receive reimbursement of retiree health care claims. The applications, which have not yet been published, also have to be filled out correctly. If not, the new application would be pushed behind already accepted applications.

"You have to be fast and correct," said Rich Stover, a principal with Buck Consultants L.L.C. in Secaucus, N.J.

"Get in early and be correct, or you will get bounced to the back of the line," said Andy Anderson, a partner with Morgan, Lewis & Bockius L.L.P. in Chicago.

Ultimately, the bulk of the reimbursements may go to a small number of sponsors with very large plans, Mr. Stover said.

The design of some early retiree health care plans—and the rules attached to the federal program—may result in some employers not even trying to get reimbursed.

Under the HHS rules, employers must maintain "the level of effort in contributing to support" the plans. The rules don't specify how long this maintenance of effort must be applied. In addition, employers must apply the reimbursement to reduce their own costs, the costs of plan participants or a combination of the two. An employer could not simply pocket the reimbursement, said Fran Bruno, a consultant with Mercer L.L.C. in Washington.

Many employers have plan designs in which they cap how much they will spend annually on coverage for early retiree health care plan participants, with cost increases absorbed by participants. In that type of design, any reimbursement would have to go exclusively to reduce plan participants' costs.

That could result in some employers deciding against seeking reimbursement, as they won't derive any economic benefit, some experts say.

Still, the economic benefits for some employers and their early retirees could be considerable. Buck Consultants, for example, estimates that between 10% and 20% of early retiree health care plan participants would pierce the $15,000 claims threshold, setting the stage for 80% reimbursement of claims above that amount.

Employers get claims credits

WASHINGTON—While a new federal early retiree health reinsurance pool will reimburse employers only for claims incurred on or after June 1, 2010, Department of Health and Human Services rules published last week will allow employers with plan years that start before June 1 to get credit for earlier claims.

That transition rule increases the likelihood that employers will receive reimbursement during the first year of the program.

The federal program is designed to reimburse employers for 80% of retiree health care claims during a 12-month plan year beyond a $15,000 per participant cost threshold.

Under the transition rule, claims incurred in a plan year that started prior to June 1 and ended after June 1 would not be eligible for federal reimbursement, but they would be counted against the $15,000 threshold.

An example provided in the HHS regulations details how the transition rule would work: A retiree with a plan year that began July 1, 2009, and ended June 30, 2010, incurred $120,000 in claims prior to June 1, 2010, and $30,000 in claims between June 1 and June 30, 2010.

In that case, the employer would receive credit for $15,000 in claims incurred before June 1, 2010, and reimbursement of 80% of the $30,000 in claims incurred after June 1, or $24,000.

Without the transition rule that allows pre-June 1, 2010, claims to be counted toward the $15,000 cost threshold, the employer would have received only $12,000 in reimbursement.

In the rules, HHS says this approach is reasonable "because it provides as much relief as soon as possible to sponsors, while giving meaning to the effective date of the program."

—By Jerry Geisel

CRC: Ryan Specialty raids staff of rival wholesale broker

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of Illinois employees and R-T Specialty of Illinois, a new unit of Ryan Specialty, filed suit against CRC in Cook County Circuit Court in Chicago May 4 seeking a declaration that restrictions in their employment agreements are unlawful and contrary to public policy.

The employees allege that CRC is preventing them from joining R-T Specialty by threatening to enforce restrictive covenants, which would bar them from working in the wholesale business for the next two years.

The complaint goes on to say the CRC employees wish to leave the wholesaler because CRC and its parent, Winston-Salem, N.C.-based BB&T Corp., have "for the past several years, embarked on a business plan that creates direct conflicts of interest between CRC's retail insurance broker clients and BB&T's own retail insurance brokers." That business plan, they allege, has led to "significant problems" with clients.

In addition to CRC, BB&T Corp. owns Raleigh, N.C.-based BB&T Insurance Services Inc., the world's eighth-largest retail broker.

CRC has since filed a motion in circuit court in Alabama against Ed McCormack—a managing director of Ryan Specialty and former outside counsel to CRC—Ryan Specialty, Mr. Ryan and R-T Specialty, seeking a temporary restraining order and preliminary injunction.

CRC accuses the defendants of soliciting CRC employees, stealing customer relationships and causing CRC employees to violate their employment contracts. CRC says these actions resulted in "a mass exodus resignation" that was part of a concerted effort on the part of the defendants "to attempt to raid and destroy CRC's business."

According to court papers, most of the CRC employees are working out their 30-day notice period and an injunction would maintain their "status quo" pending expedited discovery and an injunction hearing.

In the same court, CRC filed another suit against the defendants, accusing them of breach of fiduciary duty, intentional interference with contracts, unjust enrichment and conspiracy.

Both CRC and Ryan Specialty declined to comment due to the pending litigation.

Wholesale insurance market experts say the raid is unprecedented. However, CRC, which recorded written premiums of more than $2.4 billion in 2009 and had more than 1,050 employees, will likely survive, they say.

"I've seen and dealt with raids of 25 or 30 employees, but never 100 employees," said Gary B. Eidelman, a labor attorney with Saul Ewing L.L.P. in Baltimore. "I think more significant is the percent this is of the (total workforce). "I mean if it was 100 employees and the company had 100,000 employees, it would be one thing, but the sheer number of people and geographic scope…it's somewhat remarkable."

'For CRC it's certainly not a happy event, but given their size and scale, they'll be able to work through it.'

Timothy J. Cunningham,
OPTIS Partners L.L.C.

"I'm not aware of a raid of this magnitude; certainly wholesalers are prone, as retailers are, to poaching talent particularly when business is hard to come by as it is now, but nothing of this scale before," said John Butler, managing director and head of investment bank Piper Jaffray & Co.'s insurance practice in New York.

"I'm sure Pat Ryan and his team put a lot of thought into how they did this, when they did it and where they did it," he said. "It will be interesting to see whether this causes (BB&T and CRC) to pause and rethink insurance distribution. My gut tells me they're not going to retreat from the space."

"I see it as a rather bold step and possibly a costly step" for Ryan Specialty, said Timothy J. Cunningham, a principal with OPTIS Partners L.L.C. in Chicago. There are still a lot of unknowns, not the least of which is whether the former CRC employees will be able to convince the retail brokers to move their business, he said.

"For CRC it's certainly not a happy event, but given their size and scale, they'll be able to work through it," Mr. Cunningham said.

"I would imagine that CRC will survive," agreed Kevin P. Donoghue, managing director of Mystic Capital Advisors Group L.L.C. in New York. However, "they've got to wonder if they're vulnerable to another hit" and the strength of their employment agreements.

It likely will turn out to be a good deal for Ryan Specialty, he noted. Assuming Ryan Specialty's attorneys are confident in their positions, "the acquisition cost of this team should be a lot less than a comparable deal," he said. "Certainly 100 employees, that's a significant team and infrastructure that they just picked up."

News In Brief

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vehicle, sources said. The facility, Long Bay Re Ltd., is a Bermuda-based Class 3 reinsurer designed to provide fully collateralized reinsurance capacity for a portion of Bermuda-based Catlin's catastrophe risk portfolio, sources said. Unlike traditional sidecars, there is no expiration date on the vehicle. Long Bay plans to raise the capital in an initial public offering on the London Stock Exchange's alternative investment market. Deutsche Bank A.G.'s London branch is arranging Long Bay Re, according to an investor presentation. If successful, it would be the first transaction under Deutsche Bank's recently established evergreen shelf program, which is an equity-based insurance-linked securities instrument that seeks to provide insurers and reinsurers with an alternative to catastrophe bonds and traditional sidecars, sources said.

NCCI: Times tough for comp insurers

The state of the U.S. workers compensation insurance industry is in a "precarious position" following a trying 2009, while economic uncertainties remain ahead, said NCCI Holdings Inc. The pace of economic recovery and unknown factors related to health care reform and financial regulation are among uncertainties facing the U.S. industry, NCCI said in its annual "State of the Line" market analysis. Meanwhile, workers comp insurers' 2009 combined ratio rose to 110% from 101% the previous year—the largest single-year increase since the mid-1980s. Three percentage points of that combined ratio, however, stem from a single, unnamed insurer adding $1 billion to its reserves.

Troubled comp company exploring its options

CRM Holdings Ltd. is exploring "strategic alternatives" that could include a sale, merger or shedding operations, the troubled workers compensation management firm said. In 2008, Bermuda-based CRM surrendered its third-party administrator license in New York when regulators took over several of its self-insurance trusts. Then last month, reports surfaced that CRM had shut down a California self-insured group, Contractors Access Program of California, because it could not cover its liabilities. In the earnings release, CRM said it earned $16.7 million in revenue for the first quarter of 2010 compared with $26 million during the same quarter of 2009. CRM, which said it had a net loss of $7.7 million during the first quarter, attributed the revenue drop in part to a ratings downgrade at one of its units.

N.M. insurance regulator resigns

New Mexico Insurance Superintendent Morris J. Chavez has resigned his position, according to the New Mexico Public Regulation Commission. In a statement, the commission said Mr. Chavez indicated in his letter of resignation that he had reached the decision after deliberating with his family, but did not cite any specific reason for leaving. Deputy Superintendent Thomas Rushton has been named interim superintendent.

Torus acquires Glacier Insurance

Torus Insurance Holdings Ltd. said last week that it is expanding its European operations by acquiring Glacier Insurance A.G. Glacier is a Vaduz, Liechtenstein, unit of Glacier Group based in Pfäffikon, Switzerland. It writes aviation, space, energy, war risk, terrorism and marine coverages and has branch offices in London, Zurich and Cologne, Germany. Glacier Insurance CEO Richard Etridge will join Torus as chief operating officer for continental Europe and global head of aviation. Terms were not disclosed.

Noted

PartnerRe Ltd. President and CEO Patrick Thiele will retire and step down from the board of directors at the end of the year. The Bermuda reinsurer said it will name a successor following its May 12 board meeting....**XL Capital Ltd.** has named Irene M. Esteves as executive vp and chief financial officer. She previously was with Regions Financial Corp....**Willis Group Holdings P.L.C.** has named George J. Haitsch practice leader of Willis Risk Solutions. Mr. Haitsch previously was vp of global risk management at SAP A.G....Joshua Gotbaum, President Obama's nominee for director of the **Pension Benefit Guaranty Corp.**, was unanimously approved last week by the Senate Health, Education, Labor and Pension Committee.

ADA: Theater ruling could affect entertainment sector

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the ADA.

However, "Our holding doesn't necessarily mean that plaintiffs will be entitled to closed captioning and description narration in Harkins theaters," the appeals court panel ruled unanimously.

"Harkins may still be able to avail itself of several defenses, such as the contention that the devices would fundamentally alter the nature of its services or constitute an undue burden," the court said in remanding the case to the district court for further action.

In a statement, Arizona Attorney General Terry Goddard said the decision is groundbreaking because this is the first time an appeals court has ruled on this issue.

Steven John Fellman, a partner with GKG Law P.C., who submitted an amicus brief in the case on behalf of the Washington-based National Assn. of Theatre Owners Inc., said it costs movie operators about $15,000 per auditorium to install hearing and visual aid equipment. He said he did not know how many theaters now have this equipment.

John Fithian, president of the association, said in a statement, "While litigation is unavoidable and, based on the efforts of the industry, unnecessary, we continue to focus our efforts and resources in ways to increase access."

An attorney for Harkins could not be reached for comment.

Observers say the decision could

> **'It doesn't take a leap of logic to say this case can be used by the plaintiff lawyers to litigate a theory' that this case would be applicable to other situations.**
>
> Gerald L. Maatman,
> Seyfarth Shaw L.L.P.

be applicable to other businesses as well. "It doesn't take a leap of logic to say this case can be used by the plaintiff lawyers to litigate a theory" that this case would be applicable to other situations, where "people with visual impairments or hearing impairments need assistance," to access goods or services, said Gerald L. Maatman, a partner with law firm Seyfarth Shaw L.L.P. in Chicago.

Mr. Maatman pointed to the decision's conclusion that exceptions to providing these services can be based on whether or not doing so is an undue burden and if it represents a fundamental alteration in the services provided.

Because every situation and business is different, this will depend on the facts and circumstances, he said. But it makes ADA suits filed against businesses more likely and those suits would be costly to defend, because the courts "have to drill down into these individual facts and circumstances," said Mr. Maatman.

Wendy Lazerson, a partner with law firm Bingham McCutchen L.L.P. in East Palo Alto, Calif. agreed. "It's going to have to go to a trial. There won't be a quick disposition through a motion," she said.

Mr. Fellman said one approach adopted elsewhere has been to require theater owners to install the equipment in a limited number, but not necessarily all, of their theaters.

However Jan K. Buddingh, senior counsel with law firm Gordon & Rees L.L.P. in San Diego, said the ADA is designed to provide "full and equal access," and people with disabilities may argue this means they would have to be installed in every location.

It would be "up to the discretion of the court to determine whether or not that's an undue burden," Mr. Buddingh said.

Roundtable: Economy tops insurance industry concerns

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financial prospects for insurers, with 38% describing their company's two-year financial outlook as better or slightly better compared with the two-year outlook last year. Only 15% of insurance executives predicted a better two-year financial outlook last year.

This year's survey also revealed a major shift in the way executives view market conditions. More than half of the participants said they expect commercial lines prices to remain flat or decline over the next six months; and only 4% said they thought rates would firm slightly. Last year, 55% respondents said they believed the market was hardening.

"Again, this is driven by the fact that the surplus has really come back, and people just don't see rates hardening anytime soon," Mr. Vasturia said.

Looking at the issues facing their own companies, 66% of participants ranked maintaining underwriting discipline and price adequacy as the most critical issue facing their company, up from 60% in last year's survey. "The fundamentals are very important, and it reflects the competitiveness of the marketplace. Executives know that, given the current environment, the actual underwriting and claims handling really has a lot to do with driving results going forward," he said.

Ranking second, 41% cited "developing your strategy" as the most critical issue, while 38% cited "managing your cost structure."

In addition, 38% of participants cited "attraction and retention of professional talent" as the most critical issue facing their company—a revealing result, Mr. Vasturia said, because it's the first time that the issue has ranked among the top three in results for that section of the survey.

Multiple responses were permitted in the survey.

"It tells us people are starting to understand the demographics of the industry and they are starting to take steps to address" the potential talent crunch facing the industry, he said.

On areas of improvement, 43% of participants ranked marketing as the top area, while 36% cited strategic focus, and 29% cited policy processing. "The marketplace is so competitive that companies are doing everything they can to retain market share," he said.

Copies of the survey are available at Munich Re America's website at *www.munichreamerica.com*.

Business Insurance END PAGE

Contributing: Jeff Casale, Roberto Ceniceros, Mike Tsikoudakis

FUN AND GAMES HAVE REHAB ROLE, SAYS LAWMAKER

A Nintendo Wii is more than just a video game—it's a rehabilitation aid, at least according to one Australian lawmaker.

Assistant Opposition Treasurer and Liberal Member of Parliament Gordon Rich-Phillips made a plea to the upper house Legislative Council that a Coburg, Australia, resident be given a Wii Fit game and console by Victoria's WorkCover Authority to help with rehabilitation from a work-related injury, according to reports.

WorkCover Minister Tim Holding reportedly said Victorian workers and employers who funded the program would be angered by Mr. Rich-Phillips' suggestion of using a Wii Fit as a rehabilitation option.

"Gordon Rich-Phillips is saying we should spend WorkCover money on video games when the claim has already been assessed and knocked back," Mr. Holding told reporters.

Mr. Rich-Phillips argued that the injured man's case was "complicated" and told reporters that WorkCover has "not taken the matter seriously."

SCOTT GRIES/PICTURE GROUP/MTV

'Jersey Shore' cast member Ronnie Magro, far left, is at the center of a lawsuit against the show's producer.

'Jersey Shore' team in legal situation

Victims of a "Jersey Shore" beat down are seeking revenge by filing a lawsuit against the reality television show's producers, alleging the show profited from the fights that cast members provoked.

The lawsuit filed in New Jersey Superior Court against the MTV show "Jersey Shore" reportedly argues that the show's producer, 495 Productions Inc., engaged in a "criminal enterprise" when they profited from showing fights provoked by cast member Ronnie Magro.

Judge Joseph L. Foster recently denied a motion to dismiss the suit that alleges the defendants' conduct violated New Jersey's racketeering statute, according to the Associated Press.

The suit, filed in March, asserts that Italian beefcake Mr. Magro picked fights with Stephen Izzo Jr. and Joshua Thomas. Mr. Thomas told the Asbury Park Press that he was fired from his job at the Monmouth Beach, N.J., police department after the fight between Mr. Magro and him aired.

The complaint seeks unspecified monetary damages. A request for comment from MTV was not returned.

"Jersey Shore" chronicles the exploits of "eight young adults as they move into a summer home to indulge in everything Seaside Heights, N.J.," according to MTV. The second season of the show is scheduled to air this summer.

WORKERS COMP BENEFITS CASE TAKES EXOTIC TURN

Performing an exotic dance could land a Pennsylvania woman in prison for workers compensation fraud.

Christina Gamble, 43, is accused of filing a bogus workers comp claim for a 2007 slip-and-fall accident she said happened while working as a waitress, according to the Pennsylvania Attorney General's office.

Immediately following the alleged accident, the Quakertown woman quit the job she had held for about a week.

The restaurant at which she was working submitted an accident report to Highmark Casualty Insurance Co., which paid her nearly $23,000 in disability benefits and $4,100 in medical expenses for the back-injury claim.

Christina Gamble faces workers comp fraud charges after being taped dancing at a strip club.

Prosecutors allege that Ms. Gamble told her doctor she could not work and that standing and changing positions was problematic. But just eight days after her doctor appointment, a former restaurant co-worker tipped off the insurer that Ms. Gamble was working as a stripper, according to news reports.

Highmark investigated and obtained surveillance video of Ms. Gamble dancing in a gentlemen's club. Now she is charged with workers comp fraud and theft by deception, which are third-degree felonies that carry a maximum penalty of seven years in prison and fines if convicted.

Perhaps the defense could argue that gyrating around a pole provided physical therapy to enhance the ability to stand and change positions.

Lawsuit against comic laughed out of court

A lampooned family wasn't laughing after a federal judge tossed out their case against their daughter-in-law who joked about them during stand-up routines.

Their daughter-in-law happens to be veteran stand-up comic Sunda Croonquist, who describes herself as a half-black, half-Swedish woman married into a Jewish family.

According to reports, Ruth Zafrin said her daughter-in-law defamed her with racist lies on stage and on television.

Ms. Croonquist, who relies heavily on poking fun at her family for her routines, particularly targeting her Jewish in-laws, also said her sister-in-law's voice sounds like a cat in heat.

Remarks like that landed her a lawsuit filed in federal court in Trenton, N.J., two years ago by her mother-in-law, sister-in-law and brother-in-law, who argued they were held up to public ridicule.

But U.S. District Judge Mary L. Cooper ruled that the jokes are protected First Amendment speech because they were statements of opinion and not fact.

Quoting from a previous court decision, the judge said the jokes were "colorful, figurative rhetoric that reasonable minds would not take to be factual."

Ms. Croonquist said a statement that the family fodder will remain part of her act.

"In honor of Henny Youngman, why would I stop?" she said, citing the comedian known best for his one-liner, "Take my wife—please."

AP PHOTO

Stand-up comic Sunda Croonquist


The child is fine.
It was the hospital's future that was iffy.
Insurance costs rose tenfold—for the hospital. See how this medical drama resolves: Milliman.com/hospital.
Milliman