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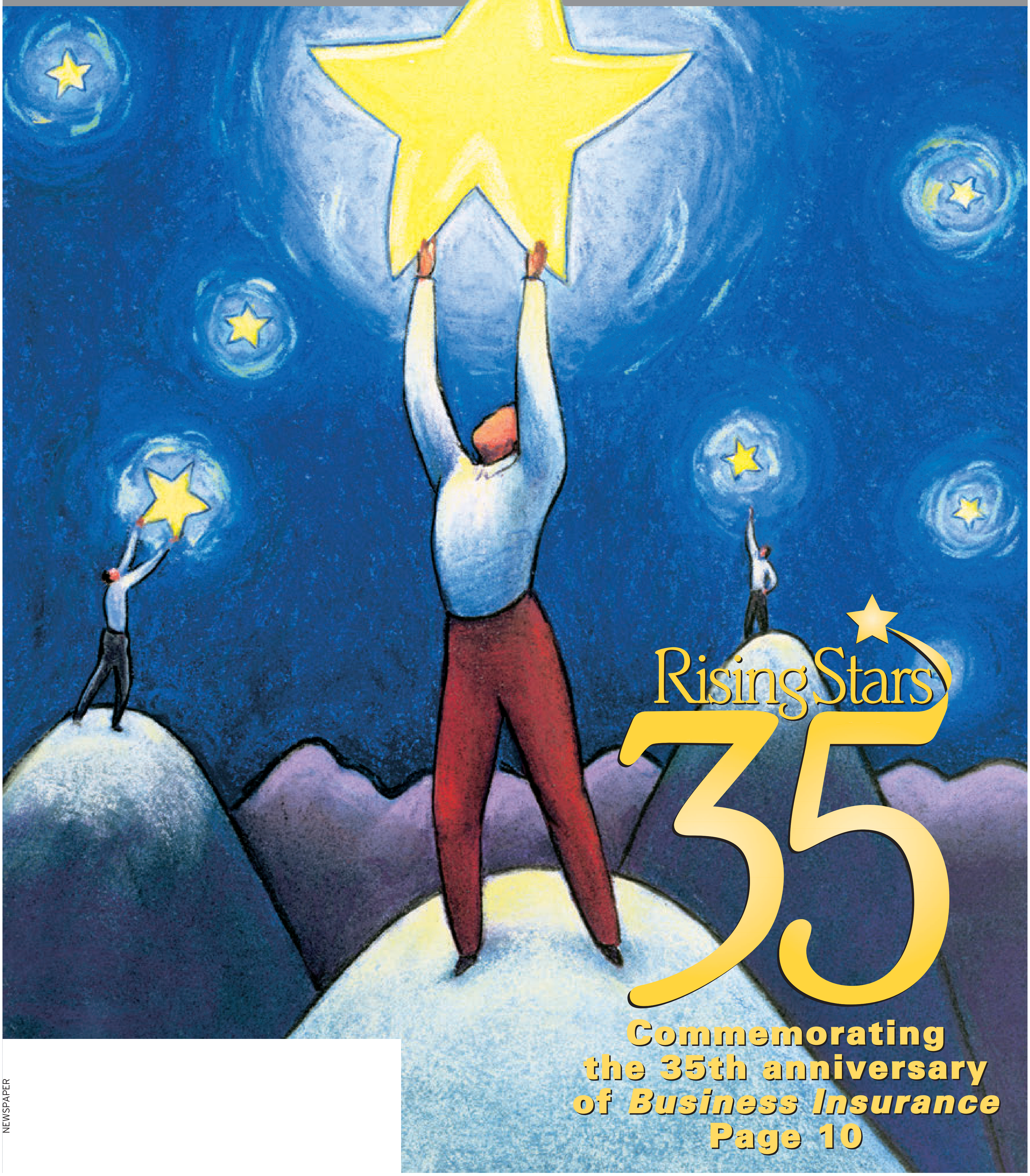

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Adelphia action may spell new trend, lawyers say

Insurers seek to void D&O cover

By DOUGLAS McLEOD

NEW YORK—The wave of corporate scandals brought new directors and officers liability coverage litigation last week as three insurers filed suit to rescind $50 million in D&O limits written for bankrupt Adelphia Communications Corp.

Associated Electric & Gas Insurance Services Ltd., Federal Insurance Co. and Greenwich Insurance Co. charge that Adelphia founder John J. Rigas and other company officials concealed a variety of schemes by which the Rigas family looted Adelphia of millions of dollars.

Adelphia, which went public in 1986 but apparently had no D&O insurance until year-end 2000, knew when it applied for the coverage that its financial statements were fraudulent, the insurers allege.

Mr. Rigas and four former Adelphia officials, including two of Mr. Rigas' sons, pleaded not guilty last Wednesday to federal securities fraud, bank fraud and conspiracy charges stemming from the cable giant's collapse.

The insurers' action follows a similar move earlier this year by excess D&O insurers of the bankrupt Enron Corp. More such litigation is likely in other cases of corporate wrongdoing, legal experts say.

"It depends very much on the policy language at issue and the facts of the claim," noted Michael Rossi, a lawyer with Insurance Law Group in Glendale, Calif. But D&O insurers "are losing their shirts" on prior years' policies and will likely take any steps they can to limit their losses, he said.

Insurers "will turn over every rock they can to get out of this stuff," said Edward M. Joyce, a partner with Heller Ehrman White & McAuliffe L.L.P. of New York. "It would not surprise me, given the current climate out there, to see more and more of this."

Underwriters issuing new D&O policies, meanwhile, are pushing for terms that will make policy recision and claim denials easier in the future,

See **D&O**/page 43

Overlooked tax change boosts 401(k) flexibility

By JERRY GEISEL

WASHINGTON—A little-known tax law change could enable lower-income employees to reap hundreds of dollars in new and additional tax savings through 401(k) salary deferrals and pretax contributions to other benefit programs, such as flexible spending accounts.

The potential tax savings are so great that employees, in some cases, could make a 401(k) salary deferral at essentially no cost to themselves.

And the tax break could, for the first time, make it more tax effective for lower-income employees to make pretax contributions to dependent care FSAs rather than pay providers with aftertax contributions and then claim on their tax returns the federal dependent care tax credit.

Despite the impact of the change, which involves what type of income is included to determine if lower-income employees are eligible for a tax break known as the earned in-

See **TAX CREDIT**/page 42

Industry's hopes rising for terror insurance bill

White House raises pressure on Congress to act

By MARK A. HOFMANN

WASHINGTON—Insurance observers remain optimistic that House and Senate conferees will be able to deliver a compromise terrorism insurance bill before this Congress adjourns for the final time.

By last Friday—the date by which President Bush had asked the members of a House-Senate conference committee to come up with a final agreement—a compromise on the contentious issue of what, if any, tort limitations the bill should contain appeared increasingly likely, though White House spokesman Ari Fleischer warned that they had not come to total agreement.

Even with an agreement on tort language, observers said negotiators would still need time—possibly a few days—to work out other, less controversial, issues.

Meanwhile, the White House began circulating its own plan concerning how much cost an individual insurer would have to assume under a federal terrorism insurance plan.

See **TERRORISM**/page 42

PHOTO: AP/WIDE WORLD

Lawmakers, from left, Rep. Michael Oxley, R-Ohio, and Sens. Paul Sarbanes, D-Md., and Charles Schumer, D-N.Y., speak about an Oct. 4 deadline for compromise that President Bush urged them to meet.

Late News

OECD members to share information

The 30 member countries of the Organization for Economic Cooperation and Development have adopted formal rules for sharing regulatory and financial information about reinsurance companies. OECD members agreed to provide public and nonpublic information requested by other OECD members on such subjects as fraudulent activities and reinsurer insolvency. In handling requests for nonpublic information, OECD members may still follow their own domestic confidentiality requirements and may consider the appropriateness of the requesting member's own confidentiality laws, the OECD said.

Pension plan ordered to pay participants

A federal judge has ordered Xerox Corp.'s pension plan to pay what plaintiffs estimate at $284 million to former workers and retirees to compensate plan participants for underpayment of benefits. The judge's ruling stems from a lawsuit filed by participants in Xerox's cash balance plan, who charged that Xerox used an incorrect methodology to calculate the amount of the lump-sum benefits that they were owed from the plan when they left the company. Stamford, Conn.-based Xerox said that its pension plan will appeal the ruling.

Aneco creditors to receive dividend

Creditors of defunct reinsurer Aneco Reinsurance Underwriting Ltd. will receive 70% of their claims in a dividend payment. The payment follows the end of protracted litigation between Aneco's liquidators and the former Johnson & Higgins insurance brokerage. That litigation ended last year when the House of Lords, the United Kingdom's highest court, ruled that J&H had negligently advised Aneco on the placement of a retrocession reinsurance contract. The court victory for Aneco's liquidators secured an extra $51 million to pay Aneco claims.

See **LATE NEWS**/next page

35 Rising Stars

INDUSTRY'S ACHIEVERS PROFILED

Begins on page 10

International

U.K. GROUPS PROPOSE NEW RISK MANAGEMENT STANDARD

Begins on page 37

Inside

Shifting responsibility for company stock

Another major employer, United Airlines parent UAL Corp., has named an independent fiduciary to manage the financially troubled airline's stock that is held by the company's 401(k) plans. **Page 4**

Some things never change

Editor Paul Winston reflects on how little has changed in the insurance industry over the past 35 years. **Page 6**

Reforms needed to end forum-shopping

A new report on judicial "hellholes" underscores the need for continuing efforts to eliminate bias and ensure balance in the civil justice system, one of this week's editorials says. **Page 8**

Court upholds suit over malicious prosecution

A California court has upheld a jury's finding that a former CIGNA Corp. unit maliciously prosecuted two lawsuits against a policyholder. **Page 36**

Medical errors targeted in Canadian health care

Sweeping changes to Canada's health care system are needed to reduce medical errors and improve patient safety, a report says. **Page 37**

FSA boosts scrutiny of U.K. insurers

U.K. insurers in are facing more regulatory scrutiny and greater senior management accountability, the Financial Services Authority says. **Page 37**

Departments

REPORTING WEEKLY ON CORPORATE RISK, EMPLOYEE BENEFIT AND MANAGED HEALTH CARE NEWS

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CONTINUED FROM PAGE ONE

AAHP, health plans create bioterror warning system

The American Assn. of Health Plans, several of its members and a health care software firm are spearheading an effort to create a bioterrorism early warning system. "America's health plans are strategically positioned to be able to look at real-time data based on calls to nurse help lines, physician and (emergency room) visits against the backdrop of large amounts of population-based data in order to identify possible hot spots that could denote a bioterror attack," AAHP President Karen Ignagni said.

Ms. Ignagni

WORLDCOM

Bankruptcy court OKs WorldCom bond deal

A U.S. bankruptcy court judge has approved a WorldCom Inc. plan to enter into a secured bond facility with a unit of American International Group Inc. In its request to the U.S. Bankruptcy Court in New York, WorldCom said it expects to tap the facility for up to $150 million in surety bonds per year. WorldCom earns approximately $2 billion annually from long-term performance contracts, the company said. But the inability to post performance bonds would shut WorldCom out of that market, the company noted, while the failure to maintain performance bonds on current business could constitute a default.

Late News

New PacifiCare HMO aims to lower premiums

PacifiCare Health Systems Inc. has unveiled a new health maintenance organization plan that aims to reduce premiums by offering fewer providers and hospitals. PacifiCare said it chose the physicians, medical groups and hospitals that are participating in its new Value Network plan based on their affordability and their scores on quality-of-care measures. The quality measures should ensure that patients receive better treatment, in addition to lower premiums, PacifiCare says. The new HMO will offer 50% fewer hospitals and doctors than PacifiCare's traditional HMO plans.

$28 billion awarded in tobacco lawsuit

Philip Morris Cos. Inc. must pay $28 billion to a California woman who blamed her lung cancer on the company's cigarettes, a jury has ruled. The state court jury in Los Angeles handed down the punitive damages award after last month awarding 64-year-old Betty Bullock $850,000 in compensatory damages. Ms. Bullock, who began smoking at age 17, charged Philip Morris with fraud, negligence and producing a defective product. Philip Morris said it will appeal the award.

PHOTO: AFP

A jury has awarded smoker Betty Bullock $28 billion in her suit against Philip Morris Cos. Inc.

Insurers expect price hikes to continue: KPMG

A survey of insurance executives by KPMG L.L.P. shows that most expect continued rate increases in the property/casualty insurance market. Of the 140 senior insurance company executives surveyed, 88% expect prices to continue to increase in the next year. In addition, 9% expect prices to stay the same, with the remainder expecting them to decrease. The survey also found that 38% of the executives regard underwriting as the most important area to their companies' growth.

HMOs planning further rate increases

Health maintenance organizations will raise renewal rates in 2003 by an average of 17.6% for employers with at least 50 employees, according to a Milliman USA survey. Milliman surveyed about 160 HMOs—or about 40% of the HMOs that serve the commercial market—in its 11th annual study of rate trends. According to the survey, the West South Central region, which includes Arkansas, Louisiana, Oklahoma and Texas, is expected to experience the largest premium increase.

Briefly noted

The London-based Institute of Risk Management has launched an educational foundation. XL Winterthur and Royal & SunAlliance Insurance Group P.L.C., both of London, have agreed to donate funds to the **IRM Foundation**, which will provide continuing-education opportunities in risk management....**Max Re Capital Ltd.** will report a net operating loss for the third quarter of 2002, the Hamilton, Bermuda-based reinsurer said Friday. The loss stems from low returns on the reinsurer's alternative investment portfolio, a Max Re statement said.

Check out Businessinsurance.com

To get breaking news as it occurs, visit *Business Insurance*'s free online Daily News, at *www.businessinsurance.com.* Sign up for your daily e-mail of breaking news. All the material in the Late News column, as well as other content in this week's issue, is generated from daily news postings that appeared on the *BI* Web site in the previous week.

Online this week:

- Vote in *BI*'s **Online Poll:** What happens next if Congress fails to pass a terrorism insurance bill?
- New **Commentary** from Paul Winston joins other regular columnists.
- Check the **Datebook** calendar for upcoming industry meetings and events or add your own.
- **Online forum** allows readers to exchange ideas and information on variety of topics.

Case offers rare guidance on 'insured vs. insured' exclusion

Judge rejects challenge to D&O exclusion

By DAVE LENCKUS

ORLANDO, Fla.—A rare judicial clarification of the insured vs. insured exclusion in directors and officers liability insurance is a victory for insurers that highlights potential coverage problems for policyholders in other types of D&O coverage disputes, insurer attorneys say.

The decision could also be beneficial, however, to some insurance buyers embroiled in D&O coverage disputes, according to one policyholder attorney.

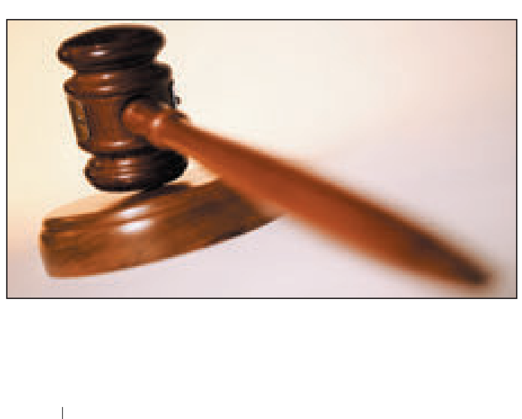
The Sept. 10 decision by U.S. District Court Judge Patricia C. Fawsett in Orlando, Fla., interprets two provisions of a typical D&O coverage exclusion that few—if any—other courts have previously addressed.

Judge Fawsett ruled that the insured vs. insured exclusion bars coverage when a policyholder faces a securities suit from a former director and officer. It is irrelevant, she ruled, that the former official allegedly attained his positions fraudulently, as long as he had been "duly elected or appointed" according to corporate governance procedures.

At the center of the coverage litigation are New York-based software developer Sphinx International Inc. and D&O insurer Genesis Indemnity Insurance Co., a subsidiary of Stamford, Conn.-based General Cologne Reinsurance Co.

Sphinx sought coverage under its D&O policy when George Taylor, a former Sphinx executive, and other individuals filed a securities class-action lawsuit against the company. But Genesis invoked an exclusion that bars coverage for claims made by a policyholder's current, former or future directors and officers who were "duly" elected or appointed.

Sphinx argued that Mr. Taylor was neither. Sphinx said that Mr. Taylor had misrepresented his professional qualifications and did not inform the company that he had a noncompete agreement with another company. When Sphinx discovered those problems, it terminated the executive, the company stated in court papers.



Judge Fawsett agreed with Genesis, though, that the only consideration should be whether Mr. Taylor had been elected or appointed "through regular and proper channels of corporate governance" at Sphinx. Because Mr. Taylor's appointment did not violate Sphinx's corporate governance, coverage for his claim is barred by the insured vs. insured exclusion, the judge ruled.

Judge Fawsett further noted that Sphinx informed the public, government regulators and Genesis after Mr. Taylor left the company that he was a former director and officer and that Sphinx told Genesis Mr. Taylor had resigned. Those representations implied that Mr. Taylor had been duly elected and appointed and would have qualified him for D&O liability coverage if a claim had been filed against him, the judge said.

Even if Mr. Taylor obtained his positions with Sphinx fraudulently, his employment contract

See **EXCLUSION**/page 41

Tort reform group identifies plaintiff-friendly venues

'JUDICIAL HELLHOLES'

The American Tort Reform Assn. identified 11 judicial venues as being particularly unfavorable to business

- Alameda County, Calif.
- Los Angeles County, Calif.
- San Francisco County, Calif.
- Madison County, Ill.
- Orleans Parish, La.
- Mississippi's 22nd Judicial District
- St. Louis
- Jefferson County, Texas
- Hidalgo County, Texas
- Nueces County, Texas
- Starr County, Texas

Source: ATRA

By MARK A. HOFMANN

Enhanced media scrutiny and litigation venue-selection reforms are needed to help protect businesses from falling victim to "judicial hellholes," according to the American Tort Reform Assn.

These and other recommendations are made in an ATRA report released last week at a Washington press conference. The report cited 11 "judicial hellholes"—jurisdictions that attract lawsuits from around the country because they are perceived as being biased toward plaintiffs.

The list of plaintiff-friendly jurisdictions was based on a survey of ATRA members, which include employers, public entities and trade associations.

Jefferson County, Miss., and Madison County, Ill., both of which have national reputations as venues favored by trial attorneys for bringing mass tort actions, were among the better-known names on the list. In Jefferson County, Miss.—which is part of Mississippi's 22nd Judicial Circuit—for example, more than 21,000 people were plaintiffs in various mass tort actions between 1995 and 2000, even though the county's population is less than half that number.

The other venues cited in ATRA's report are: the California counties of Alameda, Los Angeles and San Francisco; Orleans Parish in Louisiana; St. Louis; and the Texas counties of Jefferson, Hidalgo, Nueces and Starr.

"There is no single solution; there is not necessarily a single problem," said Sherman Joyce, president of Washington-based ATRA, at the press conference. He said that ATRA would continue to monitor developments in various venues.

ATRA General Counsel Victor Schwartz said that bringing public attention to jurisdictions perceived to be unfair is a first step in correcting the problem. He said that media

See VENUES/page 43

PHOTO: JOE RAEDLE/GETTY IMAGES

Abbeville, La., was among the areas struck by Hurricane Lili last week. Insured damage is expected to total at least $400 million, estimates cat modeling company AIR Worldwide.

Claims forecast to top $400 million

Hurricane Lili wallops Louisiana

By MICHAEL BRADFORD

LAFAYETTE, La.—Louisiana property owners are drying out and making repairs after Hurricane Lili roared through the state with heavy rains and high winds last week.

Insured damage is expected to total between $400 million and $600 million from the storm, according to projections by AIR Worldwide Corp., a Boston-based catastrophe modeling company. That figure does not include insured damage from flooding.

A weakening of the storm from a category 4 hurricane to a category 2 before it hit land last Thursday near New Iberia, La., likely spared property owners from greater damage.

The storm's 100 mph winds toppled trees onto homes and buildings, swept away signs and tipped over outbuildings around Lafayette, La., but "it's not one of those devastating types of events," said Paul Hulsebusch, vp of special operations with GAB Robins in Parsippany, N.J.

He said GAB Robins expects to adjust 1,200 to 1,600 claims from the storm, with around 65% of those coming from commercial policyholders.

Personal lines insurance claims will average around $3,500 each, Mr. Hulsebusch estimated. "It's hard to say on commercial lines," he added.

AIR modeled its damage estimate on factors such as the storm's wind speed and property values according to ZIP codes. "We total it up and make some assumptions on deductibles and limits," said Karen Clark, president and chief executive officer of AIR.

Flooding was heavy in areas along the Gulf Coast that already were soaked by rains the week before from Tropical Storm Isidore. Areas north of Louisiana's Lake Pontchartrain saw waters rise into homes, and low-lying areas south of New Orleans also experienced flooding. The city, though, escaped significant damage.

"It was a pretty small storm, and New Orleans was pretty well to the east of the radius of maximum winds," Ms. Clark said.

Former Near North employees also named in suit

Near North alleges conspiracy in lawsuit against Aon, USI

By RODD ZOLKOS

CHICAGO—Near North Insurance Brokerage Inc. and related entities last Wednesday sued Aon Corp., USI Insurance Corp. and several former Near North employees, leveling charges of theft of trade secrets, cybercrime and conspiring to destroy Near North.

The suit, filed in Cook County Circuit Court in Chicago by Near North, its parent—Near North National Group Inc.—and other subsidiary companies, consolidates and amends complaints that Near North filed earlier this year. It seeks various compensatory damages for the impact of the alleged activities on Near North's business, as well as

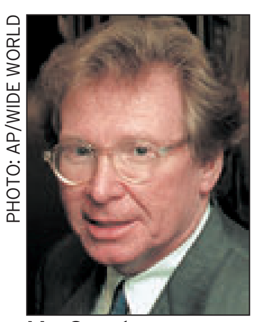


PHOTO: AP/WIDE WORLD

Mr. Segal

hundreds of millions of dollars in punitive damages against the various defendants.

The suit expands on Near North's allegations that a group of former employees conspired to seize control of the ownership of the broker from then-Chairman and Chief Executive Officer Michael Segal, charging that those individuals threatened to accuse Mr. Segal of violating Illinois insurance statutes and financial reporting requirements if he refused to comply with their plan.

After failing in their plan to take ownership of Near North, some of the former employees "changed tactics and attempted to destroy Near North's corporate value in order to purchase Near North or steal key clients," according to the suit. Those efforts involved employees who subsequently went to work for Aon and USI, violating confidentiality/nonsolicitation agreements and using Near North proprietary information and information from e-mail stolen from Near North's computer network to take accounts from Near North to their new firms,

See NEAR NORTH/page 43

27th Canadian Risk Management Conference

Enterprise risk management grows in popularity

By JOANNE WOJCIK

SASKATOON, Saskatchewan—The increased focus on corporate governance in response to recent accounting scandals in the United States and stock market fluctuations worldwide is fueling interest in enterprise risk management in Canada, risk management educators say.

Growth of the derivatives market and the convergence of financial services also are helping to provide the integrated risk financing solutions integral to enterprise risk management, said Anne E. Kleffner, associate professor of risk management and insurance in the Haskayne School of Business at the University of Calgary in Alberta, Canada.

The concept of enterprise risk management, in which all of an organization's risks—both operational and financial—are managed collectively, is becoming increasingly popular in Canada, perhaps in part because of corporate governance guidelines issued by the Toronto Stock Exchange, she suggested.

The best-practices guidelines, adopted in 1995, hold that corporate boards should assume responsibility for "the identification of the principal risks of the corporation's business, ensuring implementation of appropriate systems to manage these risks."

"When the TSE adopted that, they weren't necessarily calling it 'enterprise risk management,' but that really is what it's saying," she said. "It's telling companies, 'You have to take this overall aggregate view of risk and report back to shareholders how you are managing those risks.' "

To determine the extent to which enterprise risk management was being practiced in Canada, Ms. Kleffner and a colleague, Ryan B. Lee, assistant professor of finance, risk management and insurance at the Haskayne School of Business, surveyed 118 members of the Canadian Risk & Insurance Management Society Inc. and conducted phone interviews with several of the respondents.

They found that nearly one-third of the respondents were using enterprise risk management, and nearly as many said they were considering adopting the practice, Mr. Lee reported during a session titled, "Enterprise Risk Management: The

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Connections 2002 SASKATOON

Conference coverage continues on page 40

Airline taps fiduciary for company stock in 401(k)

By JERRY GEISEL

ELK GROVE TOWNSHIP, Ill.—Another major employer, United Airlines parent UAL Corp., has named an independent fiduciary to manage the financially troubled airline's common stock that is held by the company's 401(k) plans.

In a statement, UAL said the appointment of Aon Fiduciary Counselors Inc. as an independent fiduciary ensures that the stock "is managed with solid, independent guidance that protects the interests of participating employees….We feel this avoids any real or perceived conflict of interest in connection with management of the UAL stock fund."

As independent fiduciary, the Aon Corp. unit will have authority to continue, restrict or terminate the investment of 401(k) assets in UAL stock and to determine the amount of cash to be held in the fund.

"There can be real conflicts of interest, potential for conflicts of interest or perceived conflicts of interest if corporate insiders involved in restructuring also have responsibility for 401(k) plans," said Nell Hennessy, president of Aon Fiduciary Counselors in Washington.

By selecting an independent

fiduciary for the 401(k) plans, UAL and other employers are trying to avoid possible problems in the event that corporate insiders, who also have a fiduciary duty to shareholders, have knowledge of nonpublic information, Ms. Hennessy said.

The move by Elk Grove Township, Ill.-based UAL, the nation's second-largest airline, follows a similar action that US Airways Inc., the nation's No. 6 airline, took in June. US Airways also selected Aon Fiduciary as independent fiduciary for its defined contribution plans.

The two financially troubled airlines' voluntary moves stand in direct contrast to Enron Corp., which selected an independent fiduciary for several of its pension and savings plans only after pressure from the U.S. Department of Labor. In March, State Street Bank & Trust replaced an Enron administrative committee that had served as the plans' fiduciaries.

The Enron move came after numerous lawsuits were filed by its 401(k) participants, charging that the company had breached its fiduciary duties by misleading "participants and beneficiaries of the savings plan about the company's earning prospects and business conditions," which encouraged participants to continue to make investments in Enron shares. Collectively, Enron defined contribution plan participants lost more than $1 billion as the value of Enron shares plummeted from a peak of $80 to less than $1.

UAL's defined contribution plan participants also have seen the value of their investments in UAL stock decline drastically as the company's stock price has fallen.

At the beginning of September 2001, just before the terrorist attacks led to a big falloff in air travel and huge losses for the nation's airlines, UAL stock was trading at just over $32, compared with just over $2 last week. In all, the 12.7 million shares of UAL stock for which Aon will act as an independent fiduciary have a market value of about $26 million, a fraction of what the shares were worth a little more than a year ago.

Paul Winston

Will some things never change?

1967 was a time of tumult and innovation.

Thirty-five years ago, the computer mouse was invented, and the countertop microwave oven was introduced.

The United States increased its troop levels in Vietnam, and casualties on both sides in the war led to more frequent and vociferous anti-war protests, including marches by hundreds of thousands of protesters on Washington, D.C.

That year also saw the Green Bay Packers beat the Kansas City Chiefs in Super Bowl I, while Argentina's Roberto de Vicenzo was the British Open champion.

"The Andy Griffith Show" was one of the most popular programs on television in 1967, while others of note that year included "Get Smart," "The Prisoner," "Star Trek," and "The Carol Burnett Show."

The Beatles broke new musical ground with "Sgt. Pepper's Lonely Hearts Club Band," while Aretha Franklin demanded some "Respect" and Jimi Hendrix asked, "Are You Experienced?"

Warren Buffett that year bought his first insurance company, National Indemnity, with proceeds generated from a textile business, while Reliance Insurance Co. was celebrating its 150th year in business.

1967 also saw the launch of *Business Insurance*. While there were other insurance magazines at the time, *BI* broke new ground with a dramatically different editorial focus: Write for the buyer of insurance, not the seller of insurance. That mission remains unchanged today.

As I look back at our first issue, which I did not have a chance to read when first published but have had occasion to revisit over the years, I am struck by how little has changed.

As we commemorate our 35th anniversary with this issue's feature on 35 Rising Stars, let me share with you some of the stories that made headlines in October 1967. I think you'll agree that the more things change, the more they stay the same.

• One story trumpeted on page 1: "Insurers Debate Whether to Pay Detroit Business Interruption Claims." The issue was whether business interruption coverage should also cover contingent business interruption claims. The Detroit riots spurred the governor to impose a five-county curfew for several nights, which a variety of businesses argued drove away customers, reduced sales and hurt their income.

• Another page 1 story: "NAIC Approves Reserve Fund" described the regulatory group's endorsement of a proposed change in federal tax law to allow insurers to set up tax-deferred funds to cover losses from urban riots, as well as other catastrophe losses. The NAIC's then-president noted that the U.S. insurance industry had to find its own solution to the problem of covering riot-related risks. "They have enough problems in Washington, and prefer to let the industry find its own solutions."

• The Golden Gate Bridge in San Francisco was able to obtain coverage for only one-third of its total value because underwriters were leery of accepting the risk. Not only did they fear its proximity to the San Andreas fault, but they also were unwilling to allocate capacity to cat-exposed properties. This was because the bridge's insurers, led by underwriters at Lloyd's of London, were still reeling from 1965's Hurricane Betsy, one of the costliest hurricanes ever.

Paul Winston

• A U.S. government official warned that state laws were inadequate to protect the pension funds of employees. He argued that tougher federal laws were needed to punish violations of fiduciary obligations to benefit plan participants. While ERISA emerged several years later with that very goal in mind, today the transgressions of corporate managements and accountants are again causing pension plan participants to question whether their funds are safe.

• The then-risk manager for Inland Steel Co., in a speech at the American Society of Insurance Managers' annual meeting, argued in favor of fee-based compensation of brokers over commissions. "No broker can earn 20% commission on premiums of more than $250,000. There just isn't that much service to give," he said.

• And *Business Insurance's* first letters column contained some evergreen points of view. The Wyoming insurance commissioner wrote: "I note that several articles and editorial comments are critical of the state regulators."

And from the then-director of insurance at American Bakeries Co. in Chicago: "We thank you for the pilot issue of *Business Insurance*....The size of the magazine is to me a bit cumbersome, but of course it can be folded."

Editor Paul Winston can be reached at pwinston@crain.com

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Vice President/Publisher: Martin J. Ross III (New York)
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Editorial

Giving customers a starring role

DIVERSE AS THE 35 insurance industry professionals profiled in this week's issue are, they have some common characteristics.

Each of them has demonstrated talent and drive to improve not only their organizations but also the overall industry. And each has made an impact in ways that help the corporate buyers of insurance, risk management and employee benefit products and services.

Selecting only 35 people for *Business Insurance*'s 35 Rising Stars feature, which begins on page 10, was a tough task. The pool of worthy candidates was large.

While narrowing down the choices was difficult, we were heartened to learn about the many young industry professionals who are making a difference. This bodes well for the future of the commercial insurance market and for the readers of *Business Insurance*.

Many different facets of the industry are represented in the Rising Stars report, including insurance and reinsurance companies, brokerages, consulting firms and other organizations. The stars hail from entities based in the United States and elsewhere.

The 35 Rising Stars report was compiled as a way to commemorate the newsmagazine's 35th anniversary. While we don't plan to update this list every year, *Business Insurance* will continue to keep an eye on up-and-coming industry professionals.

And as these 35 professionals continue in their careers, we would offer them one piece of advice: Never lose sight of your customers. It is your commitment to them and fairly balancing their needs with those of other constituents, such as shareholders, that will set you and your organizations apart from the field.

Reforms needed to avoid rise of 'judicial hellholes'

HELLHOLE IS AN UGLY word, but it accurately describes what corporate defendants see when they look at a handful of judicial jurisdictions across the country.

As we report on page 3, a new survey by the American Tort Reform Assn. pinpointed those jurisdictions that have become plaintiffs attorneys' dreamlands because of their overly pro-plaintiff tilt.

Trial lawyers work long and hard to make sure that mass torts get heard in these venues, even though in many cases the suits filed have little or nothing to do with the citizens of those jurisdictions. The result is a system of justice so unbalanced that it merits being called a hellhole.

The report makes sobering reading, though one can take comfort that the ATRA members surveyed only cited 11 jurisdictions as true hellholes.

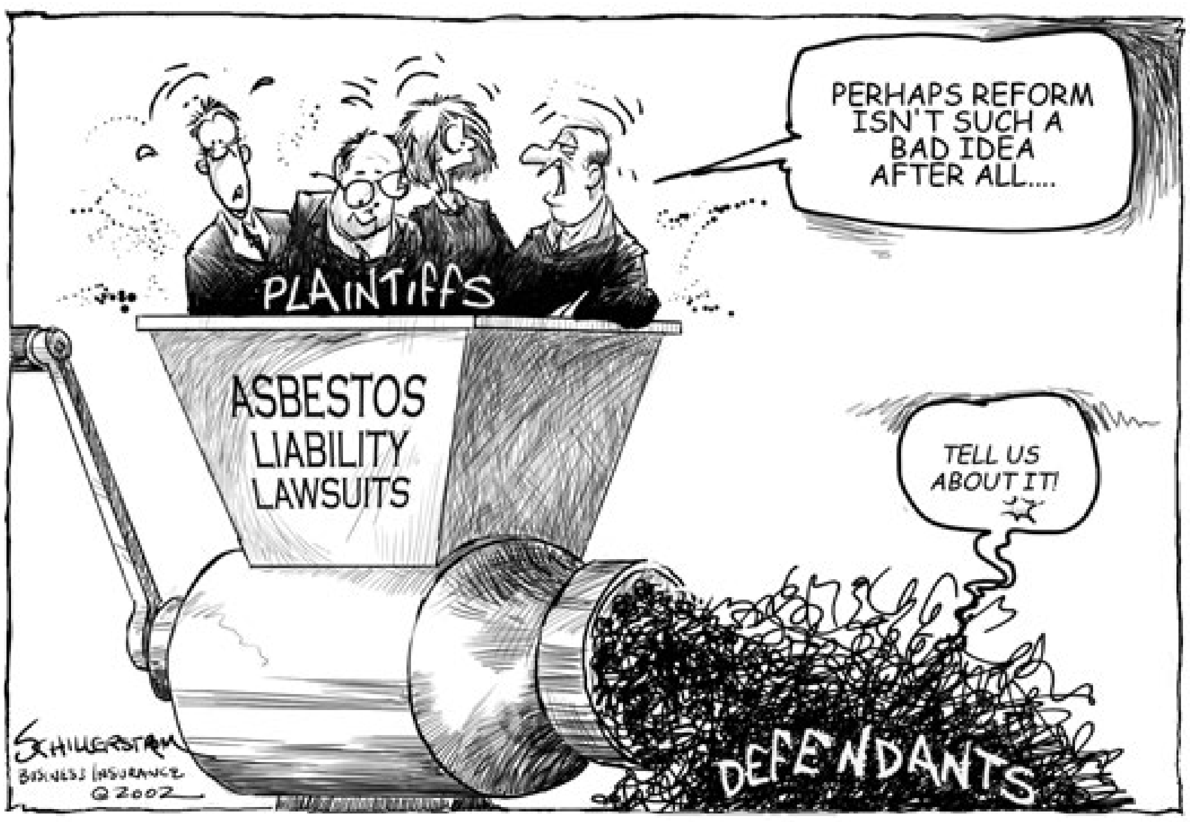
We'd like to think the relative paucity of really bad jurisdictions reflects the success of efforts—spearheaded in many cases by ATRA—to restore balance to the civil justice system.

Yet the report makes clear that much more needs to be done. Risk managers and others interested in blind rather than biased justice need to keep pushing legislatures for reforms where needed. We're not talking legal changes that shift the bias from pro-plaintiff to pro-defendant, we're talking reforms that remove bias of any form altogether.

Pushing for venue reform at the state level—making certain that trials take place in jurisdictions that have a relevant connection with either defendant or plaintiff—is probably the most important step right now. It's too late in this Congress to expect any chance at meaningful reform at the federal level, though November's elections could bring in a Congress more amenable to such needed change.

The ATRA report underscores the need for continued judicial reform efforts, and continued vigilance to protect the reforms that have restored a balance to the civil justice systems of so many states. Hellhole's an ugly word, but if reform efforts continue, it should have a smaller and smaller place in the vocabulary used to describe the civil justice system.

Schillerstrom



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Rising stars shine brightly in industry's constellation

Business Insurance presents this special report to recognize the outstanding achievements of 35 professionals in the commercial insurance industry and to bring these individuals wider attention among our readers, the buyers of risk and benefits management services.

Paul D. Winston

The people on this unique list were selected by the editors of *Business Insurance* in recognition of their achievements in the industry at a relatively young age, and with the expectation that they will remain people our readers should keep an eye on in the future.

Nominations were invited from the industry, though these were not the sole source from which the Rising Stars were selected. The main criterion for selection was that the individual be someone we felt should be on our readers' radar screens. Honorees also had to be younger than 50 and work within the commercial insurance or risk/benefits management services industry.

The number of honorees—35—was chosen in commemoration of B*usiness Insurance*'s 35th anniversary this month.

We realized from the start that this editorial feature would overlook many qualified people—of all ages—who make significant contributions to the commercial insurance industry. Those not listed should not regard their exclusion from this group of 35 as an indication that their stars are falling, or that their achievements are any less worthy. By its nature, this is a subjective and finite list, meaning we could honor only a few.

We saw many worthy nominations and regret that we had to limit the number and types of selections made. This process showed us there are many more stars in the industry, working to lead their companies in new ways to better serve the commercial insurance buyer, as well as to make their own organizations better through internal excellence.

We hope you will agree with us that the 35 Rising Stars presented here are notable and bear watching in the years to come.

Similarly, as *BI* marks its 35th year and continues to deliver news and information for the buyers of risk and benefit management services, we hope you will continue to keep an eye on us.

COVER ILLUSTRATION: LAURA TEDESCHI

35 Rising Stars Index

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Peter A. Appel
President and Chief Executive Officer
Arch Capital Group Ltd.
Greenwich, Conn.

Age: 40
Achievements: Peter Appel obtained a law degree from Harvard University in 1987 and joined New York law firm Willkie Farr & Gallagher, where he was named a partner in 1994. He joined Risk Capital Holdings the next year as general counsel and managing director in charge of overseeing and building the reinsurer's private equities portfolio.

In 1999, he was named chief operating officer and executive vp, with responsibility for helping transform the company—renamed Arch Capital Group Ltd.—into a fee-based operation with an underwriting platform. He was named president and CEO in May 2000, and in October 2001 he began helping transform Arch Capital into a "full-blown" insurance and reinsurance operation. Mr. Appel also is member of both the board of overseers and the executive committee of the School of Risk Management, Insurance & Actuarial Science at St. John's University in New York.

Next challenge: "We are close to completing the transformation of Arch into a significant participant in the global insurance and reinsurance marketplace. When the transformation is complete, I'm sure I'll be thinking about other challenges."

Joseph P. Brandon
Chairman and Chief Executive Officer
General Re Corp.
Stamford, Conn.

Age: 43
Achievements: Joseph Brandon, who joined General Re in 1989 as a treaty account executive, began a nine-year period as its chief financial officer in 1991. As CFO, he was responsible for managing finance, investment, treasury, accounting, tax, internal audit and investor relations functions at General Re, an operating unit of Berkshire Hathaway Inc. He then served as vice chairman and CEO of General Reinsurance Corp., the reinsurance company's principal operating entity in North America, before being named CEO in October 2001 and chairman in June of this year.

Reasons for entering industry: "I was working for an accounting firm and worked both in the high-technology as well as the property/casualty insurance practice, and I just found insurance to be very intellectually engaging and challenging. And as someone from a financial background, it seemed like financial skills were at the heart of property/casualty commercial insurance," Mr. Brandon said. "It seemed like if you were really good and you could make a contribution, there would be lots of opportunity."

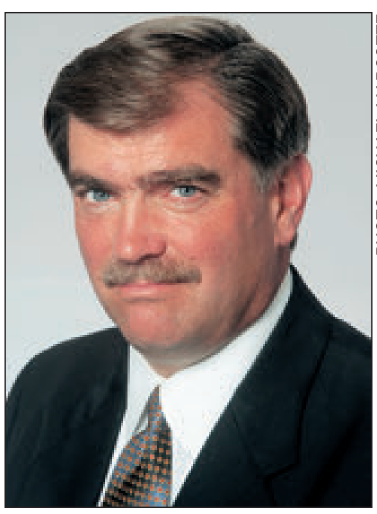

PHOTO: MICHAEL MARCOTTE

Michael G. Bungert
President and Chief Executive Officer
Aon Re Worldwide
Chicago

Age: 47
Achievements: Michael Bungert entered the reinsurance business in 1977, working for the reinsurance division of Continental Casualty Co. From 1979 to 1982, he underwrote the North American and professional liability treaty account in London for CNA Re, a unit of Chicago-based CNA Financial Corp. Mr. Bungert joined intermediary Thomas A. Greene Inc. in Chicago in 1984 and became a senior vp. Five years later, he joined Aon Re Worldwide, a unit of Chicago-based Aon Corp., and was promoted to president and CEO of the intermediary in 1996.

Secrets for success: "As the environment has changed, we've changed the way we've done business. We've taken broader views on what we need to do to service clients. It's really being proactive rather than reactive to where the environment's going so we can guide our clients.

"I think the reinsurance community is going to go through more changes, and there's going to be more consolidation. Going forward the challenge in the industry is going to be that capital always outstrips talent."

Kevin R. Callahan
Chief Executive Officer
Allianz Insurance Co.
Burbank, Calif.

Age: 41
Achievements: Kevin Callahan spent 11 years at Goldman, Sachs & Co., specializing in insurance products, the financial services industry and the derivatives business. At Goldman Sachs, he founded and headed the insurance products group and was president of its insurance and reinsurance intermediary, GS RiskAdvisors. In 1996, Mr. Callahan joined Chicago-based Aon Corp., where he formed Aon Capital Markets. He led Aon Securities Corp., was a member of the management committee of Aon Risk Services of the Americas and was an executive vp of Aon Re Worldwide. Mr. Callahan left to assume the role of CEO of Allianz Insurance Co. in May 2002.

Thoughts on career: "I would look at myself and my career over the last six, seven, eight years as one very much focused on the convergence of the financial services sector. I would certainly say that convergence has not moved forward as fast as I would have expected it to, but it continues to move forward. Allianz is committed to continuing to focus on that convergence and continuing to drive it forward."

Maureen E. Cotter
Global Practice Director-Group & Health Care Benefits
Watson Wyatt Worldwide
Southfield, Mich.

Age: 42
Achievements: Maureen Cotter began her career with Blue Cross & Blue Shield of Michigan in 1983 and eventually became a team leader in national accounts for the health insurer. Ms. Cotter joined Watson Wyatt Worldwide in 1996 and has specialized in developing cost management strategies for health care plans for large employers. In October 2001, Ms. Cotter became the first member of Watson Wyatt's group health care practice to be named to the benefit consultant's board of directors.

Secrets for success: "In growing up, I always was encouraged to believe that nothing was unattainable or outside my reach. Believe in your dreams, and if you work hard, your dreams will come true," she said.

"I have a great job and love what I do. I get to work directly with clients on some of the most challenging benefits and human resources issues and to find solutions to the health care crisis we are facing."

James Delaplane
Vp of Retirement Policy
American Benefits Council
Washington

Age: 35
Achievements: James Delaplane joined the staff of U.S. Rep. Earl Pomeroy, D-N.D., in 1996, one year after graduating from Harvard Law School, and Mr. Delaplane became Rep. Pomeroy's chief staffer on pension, health and tax issues.

Mr. Delaplane also was a member of the transition team in 1997 that assisted David Strauss, incoming director of the Pension Benefit Guaranty Corp. Mr. Delaplane in 1999 joined the American Benefits Council, which was then known as the Assn. of Private Pension & Welfare Plans, and played a key role in building support on Capitol Hill for the pension reform provisions that became part of the Economic Growth and Tax Relief Reconciliation Act of 2001. Mr. Delaplane also helped to defuse support for proposals that would have restricted cash balance pension plans and 401(k) plan investments.

Secrets for success: "One of the skills that has helped me professionally is being able to translate technical employee benefit issues in terms and language that can be easily understood by those who don't work in the field. That has helped when drafting memos as a Hill staffer and in dealing with the media."

Gregory T. Doyle
Executive Vp of Strategic Planning
Guy Carpenter & Co. Inc.
New York

Age: 42
Achievements: After deciding against a career in law, Gregory Doyle joined reinsurance broker G.L. Hodson & Son Inc. as a contract draftsman. He moved to Princeton, N.J.-based American Re-Insurance Co. two years later, eventually rising to executive vp and president of American Re's U.S. reinsurance operations. Mr. Doyle joined Guy Carpenter, part of New York-based Marsh & McLennan Cos. Inc., in December 2000. He now oversees marketing and client management, global business processes and operational effectiveness for the reinsurance intermediary.

Secrets for success: Mr. Doyle

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said he has remained open to opportunities to learn, even if a particular subject did not relate directly to his work. Time as head of American Re's U.S. operations also "gave me broad exposure to all aspects of the business," from lower-level, day-to-day tasks to corporate boardroom-level concerns.

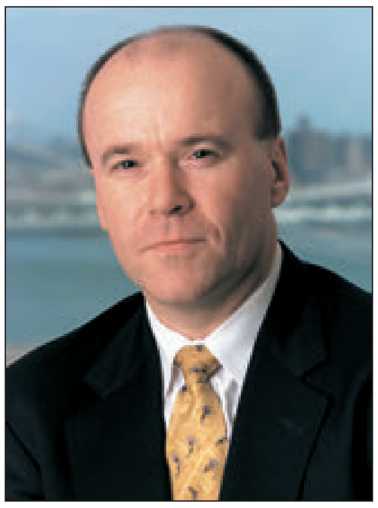
David L. Eslick
Chairman, President and Chief Executive Officer
USI Holdings Corp.
San Francisco

Age: 43

Achievements: David Eslick joined USI in January 1997 as senior vp-sales and marketing. He was promoted to chief operating officer in 1998 and added president to his title in 1999. In January 2002, he became chairman, president and CEO when USI founder Bernard H. Mizel retired. Based on 2000 brokerage revenues of $359.7 million, USI was the world's ninth-largest insurance broker last year.

Before joining USI, Mr. Eslick was instrumental in Cincinnati-based broker Frederick Rauh & Co.'s shift from a strictly property/casualty focus to a position where revenues were equally derived from employee benefits and financial services. Rauh was later acquired by American Business Insurance Inc., which in turn was bought by Acordia Inc. in 1993. When ABI was sold to Acordia, Mr. Eslick became president and CEO of Acordia of Cincinnati Inc., a post he held until he joined USI.

Secrets for success: "I would say four things: passion for what I do; motivation I derive from the great people I work with; a thirst for improving every single day; and probably the most important out of all of those is I've had the benefit of a great number of mentors throughout my career—people I could look up to, who would challenge me and give me great opportunities."



Jerome Faure
President and Chief Executive Officer
SCOR U.S.
New York

Age: 44

Achievements: With a master's degree in nuclear engineering from the University of Illinois and having worked in nuclear fuel reprocessing in France, Jerome Faure was hired by SCOR S.A. in 1988 as part of the reinsurer's ongoing engineer recruitment program. After spending a year in Paris as a property facultative underwriter, he was appointed to head SCOR's Japanese and Korean markets out of the company's Tokyo office. He was appointed chief underwriting officer for SCOR U.K. Co. Ltd. in London in 1993 and was named a managing director the next year. In 1997, he was named executive vp of SCOR U.S. He was named president and CEO in July 2000 and became a member of the group executive committee Jan. 1.

Secrets for success: "Luck had a lot to do with it. I was determined to move around and see different things. SCOR allowed that."

Rodney C. Fisher
Vp and Operations Manager
Factory Mutual Insurance Co.
Woodland Hills, Calif.

Age: 44

Achievements: Rodney Fisher joined Factory Mutual Engineering, a part of the Factory Mutual System, in 1985 as a loss control engineer. He moved up through the adjusting, underwriting and sales operations and was named vp in 1997. With a focus on using technology to enhance customer service, he was instrumental in developing a new Client Servicing Process that Johnston, R.I.-based Factory Mutual Insurance Co., which does business as FM Global, is rolling out in all of its operations worldwide. The process is designed to help FM Global identify and underwrite risks and strengthen links with clients. He was also a key player in developing the information technology system that supports that process.

Role in helping customers: "We're trying to use Web technology to share data and information with customers in very efficient manner, giving them access via an extranet to as much data and content as we possibly can….We've had risk manager after risk manager say, 'We're a one- or two-man shop servicing an internal customer base. If you can help us get this data out to our internal customer bases, that would really help us get our job done.'"

Jay S. Fishman
Chairman and Chief Executive Officer
The St. Paul Cos. Inc.
St. Paul, Minn.

Age: 49

Achievements: Jay Fishman has been chairman and chief executive officer of The St. Paul Cos. Inc. since October 2001. He has overseen efforts to restructure the insurer—including a withdrawal from medical malpractice liability business and reinsurance—to improve profitability.

Before joining The St. Paul, Mr. Fishman was chief operating officer of finance and risk for Citigroup Inc., where he was responsible for coordinating all risk and financial functions throughout the financial services conglomerate. He also served as chairman, president and CEO of Travelers Property Casualty Corp. and as head of Citigroup's global insurance business, as well as its consumer business in Japan and Western Europe.

His other positions have included principal in a private investment and leveraged buyout firm, director of mergers and acquisitions at American Can Co. and senior vp of merchant banking at Shearson Lehman Bros.

Joseph P. Flanagan
President and Chief Executive Officer
Mack & Parker Inc.
Chicago

Age: 38

Achievements: Joseph Flanagan was recruited as a college graduate by Patrick G. Ryan, chairman and CEO of Chicago-based Aon Corp., to participate in a new sales management training program at the broker in 1986. After selling professional liability products for five years at Aon, Mr. Flanagan left in 1992 to start his own retail insurance agency—J.P. Flanagan Corp.—specializing in professional liability. In June 2001, he sold the agency to Toronto-based broker Hub International Ltd. In January 2002, J.P. Flanagan Corp. merged with and assumed the name of Mack & Parker Inc., Hub's Chicago-based retail brokerage unit, and Mr. Flanagan was named president and CEO of the operation.

Secrets for success: "I've been blessed with a lot of energy and I really won't be outworked and I really do enjoy the business. You know how some people are made for a certain business? Well, I was made to sell insurance."

Rodman R. Fox
Chief Executive Officer
Benfield Blanch Inc.
Westport, Conn.

Age: 39

Achievements: After graduating from Middlebury College in Middlebury, Vermont, Rodman Fox decided against a football coaching job at the school to join reinsurance broker E.W. Blanch & Co. in Minneapolis. After Blanch went public in 1993, he was named senior vp of its brokerage unit, where he rose to the become president and chief operating officer in 1997. He resigned in 2000 to join London-based Benfield Greig Group P.L.C. When Benfield acquired Blanch a year later, he was named chief executive officer of its North American unit, Benfield Blanch.

Secrets for success: "I had great mentoring" from former Blanch Chairman Ted Blanch Jr., former president Michael W. Cashman Sr. and others. "Total immersion" in the business and "just hard work" were also crucial. "The business became my life."

Joseph A. Gilles
President and Chief Operating Officer
Wausau Insurance Cos.
Wausau, Wis.

Age: 46

Achievements: Joseph Gilles in April was tapped to become the president and chief operating officer of Wausau Insurance Cos., which is a commercial lines subsidiary of Liberty Mutual Insurance Co.

Mr. Gilles previously had held several positions at Liberty Mutual, most recently serving as executive vp in the commercial market insurance operations. In that role, he oversaw the actuarial, financial, marketing, environmental and reinsurance departments for the Boston-based insurer. In addition, he was part of the executive team that managed the integration of Wausau into Liberty Mutual.

Before joining Liberty Mutual, Mr. Gilles was vp at American International Group Inc.'s New Hampshire Insurance Co.

Secrets for success: "My claim to fame is that I really, really care about my customers, and I will never stop trying new things and asking questions to better meet their needs. Also, I don't like the status quo and I have no sacred cows, either."

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Rael Gordon
Chief Executive
Alexander Forbes Ltd.
London

Age: 34
Achievements: Rael Gordon, who will become group chief executive of Alexander Forbes Ltd. on Jan. 1, 2003, is looking forward to continuing the growth of the world's eighth-largest insurance broker. Mr. Gordon, an actuary, joined Alexander Forbes in 1995 and was appointed head of Johannesburg-based Alexander Forbes' South African operations in

July 2002. In August, Mr. Gordon and his family moved to London, where he will direct Alexander Forbes' worldwide operations.

Before joining the broker, Mr. Gordon was a bond trader at Standard Corporate & Merchant Bank. He founded Alexander Forbes' Investment Solutions subsidiary, which is now traded on the JSE Securities Exchange in South Africa. Mr. Gordon also has led Alexander Forbes' strategic alliances with Frank Russell Co. and Stanlib Ltd., one of South Africa's largest banks.

Secrets for success: "A very positive and balanced outlook on life. I enjoy work but have many interests outside of work, including my family," Mr. Gordon said. "I have always had a positive outlook, even as a child. People complain that I talk too fast, but it is only because I am passionate about the business."

Evan G. Greenberg
Vice Chairman
ACE Ltd.
Hamilton, Bermuda

Age: 47
Achievements: Evan Greenberg rose through a number of underwriting and management jobs in a 25-year career at New York-based American International Group Inc., leading AIG units in Japan and Korea, heading AIG's foreign general insurance operations and, ultimately, becoming president and chief operating officer of AIG itself.

He was widely considered the likely successor to his father, AIG Chairman and Chief Executive Officer Maurice R. Greenberg, but he quit AIG in 2000.

The younger Mr. Greenberg joined Hamilton, Bermuda-based ACE Ltd. in 2001 as vice chairman in charge of reinsurance operations. He assumed responsibility earlier this year for ACE's international business and holds the additional titles of CEO of ACE International and ACE Tempest Re.

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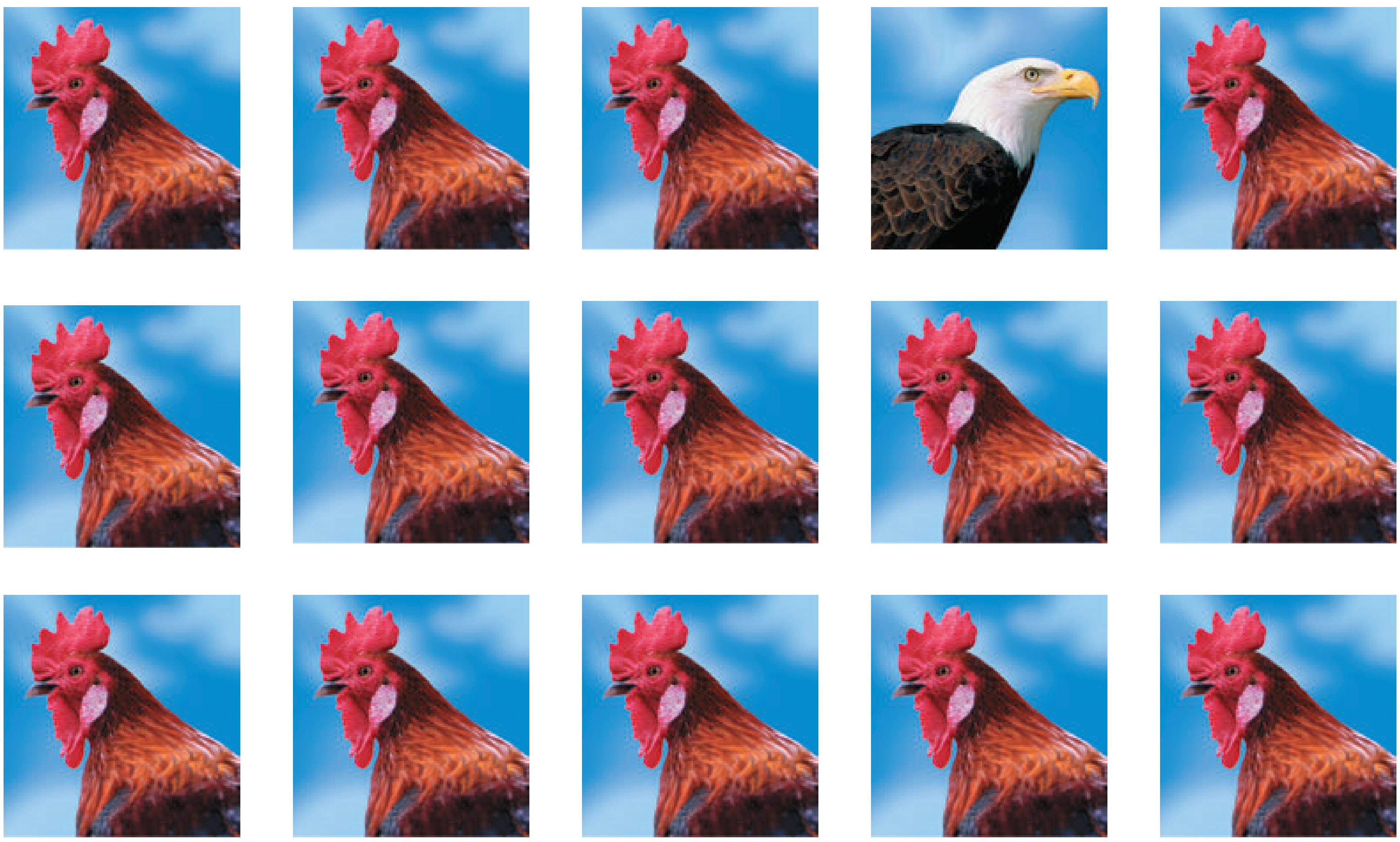
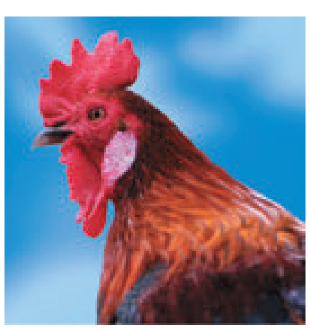
The pecking order has changed.





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Julian James

Director of Worldwide Markets
Lloyd's of London
London

Age: 39

Achievements: Julian James entered the insurance industry when hired by broker Sedgwick P.L.C. in London in 1981. He moved to Sedgwick Energy & Marine in 1989, which brought him to the United States three years later. In 1995, he was promoted to managing director for Sedgwick Energy & Marine North America. Mr. James joined Lloyd's of London

in 1997 as head of its North American Business Unit, charged with managing Lloyd's relationships and supporting its growth in that market. In December 2000, he assumed a similar role but with broader scale when promoted to director of worldwide markets.

While with Sedgwick in London, Mr. James obtained a master of business administration degree from the Cranfield School of Management in 1991. In 2000, he graduated from the senior executive program at the London Business School.

Secrets for success: "I'm often asked, 'What makes a successful person?' And in my view the key to success is never, ever to stop learning. My strong advice to anyone entering the insurance industry for the first time is keep in mind that you never stop learning and that you can achieve extraordinary things if you put the time in and the effort in."

PHOTO: DOUG GOODMAN

Andrew J. Kaiser

Managing Director and Head of Risk Markets Group
Goldman, Sachs & Co.
New York

Age: 40

Achievements: Andrew Kaiser joined Goldman Sachs in 1986 in the mortgage securities department and entered the investment banking division in 1989. He was named head of the Risk Markets Group in 1997, where he is responsible for addressing the insurance/operational risks of corporate, insurance and reinsurance clients, including advising earlier this year on the formation of European terrorism risk insurer Special Risk Insurance & Reinsurance Luxembourg S.A

On solving problems: "The Risk Markets Group is a business that we built with very talented people, so something that stands out is probably leading a team of very talented people who built a business within Goldman Sachs....We're kind of bringing a combination of understanding of insurance with our investment banking skills and helping our clients meet their objectives....And everything we do...is bringing a new solution to a problem where a solution didn't exist before. And we're finding, in many of these cases, the solutions we've created are replicable."

John A. Kuhn

President
Kemper Financial Insurance Solutions
Berkeley Heights, N.J.

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Age: 38

Achievements: John Kuhn was recruited out of college by Chubb Corp. in 1986 to underwrite executive protection coverage. He later became chief underwriting officer at Chubb Executive Risk, where he led financial lines product development.

Mr. Kuhn joined Kemper Insurance Cos. in 1999 as chief underwriting officer to create and build Kemper Financial Insurance Solutions. The division writes several lines—including directors and officers liability, employment practices liability, fiduciary liability, and kidnap and ransom insurance—that Kemper had not offered previously.

Gross written premium volume at Kemper Financial Insurance Solutions has grown by 109% since its inception, and the company expects an increase of at least 55% this year. Mr. Kuhn was named president of Kemper Financial Insurance Solutions in 2000.

Reasons for entering industry: Having been recruited for an insurer's executive protection area, "meeting with executives and CEOs of Fortune companies seemed pretty exciting to a 22-year-old kid coming out of college."

Gerald F. Ladner
Regional Vp-Corporate Marketing
Zurich North America
Dallas

Age: 43

Achievements: Gerald Ladner joined Zurich North America, a unit of Switzerland-based Zurich Financial Services Group, in 1992, as manager of agency business development. He took his current position, regional vp-corporate marketing, in 1999. In this role, he works with customers, producers and underwriters to help solve customer needs. He is responsible for enterprise relationship management, distribution development, corporate marketing and regional financial results.

Mr. Ladner is credited with orchestrating the first true "solution" at Zurich, bringing together more than 10 lines of business to solve a customer's needs in the mid-1990s. Known as a problem solver, he is helping organizations such as the Texas Medical Liability Joint Underwriting Assn. to solve complex public policy and coverage issues related to medical malpractice insurance. He also is a committee member of the endowed chair in insurance at the University of North Texas. Before joining Zurich, he worked at broker Alexander & Co. and insurers CIGNA Corp. and CG/Aetna Insurance Co.

Greatest challenge: "Converting cynics and those who are timid within the industry. Our operating environments have changed and will continue to change, and change is frightening to many. Businesses that need to adapt sometimes will have cynicism wreak havoc on the best-laid plans. Customers need well-thought-out solutions vs. doomsday commentaries or ineffectual advice. When I face folks who are cynics or who are timid, I encourage them to take their roles very seriously in everything that they do."

Dirk Lohmann
Group Chief Executive
Converium Holding A.G.
Zurich, Switzerland

Age: 43

Achievements: After graduating from college in the United States, Dirk Lohmann in 1980 joined Hannover Reinsurance Co. of Hannover, Germany, and rose through the reinsurer's ranks to hold a variety of management positions, culminating in his role as a member of the executive board of management.

In 1997, Mr. Lohmann left Hannover Re to become CEO of Zurich Financial Services Group's reinsurance operations. The following year, he was named a member of the group executive board of Zurich. In 2001, Mr. Lohmann led Zurich Re's spinoff and its subsequent initial public offering as Converium, which he

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SPINACH

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calls "my biggest achievement to date."

Secrets for success: Mr. Lohmann credits his German heritage with helping to bridge two cultures during his professional career. His parents emigrated from Germany to the United States when he was 2 years old. After graduating from the University of Michigan with a degree in political science and economics, a job opportunity arose with Hannover Re.

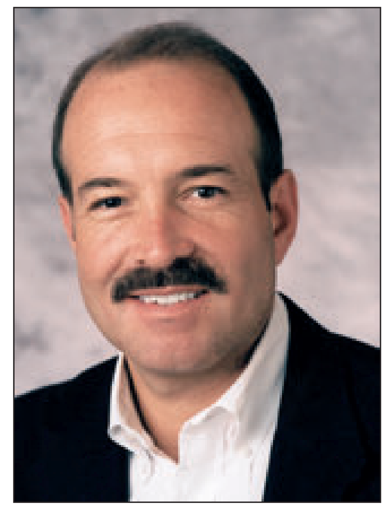
"I saw it as a great opportunity to brush up my German, live and work in the country of my birth and go skiing in the Alps," he recalled. Today, he believes his background allowed him to help Hannover establish itself as an important player in the U.S. casualty market during the 1980s hard market. He also hopes that his multicultural approach will help him build Converium into a "truly global reinsurer."

Fiona Luck
Executive Vp of Group Operations
XL Capital Ltd.
Hamilton, Bermuda

Age: 45

Achievements: After training as a chartered accountant in London, Fiona Luck decided to forgo that occupation and instead work for Marsh & McLennan Cos. Inc. Ms. Luck spent 14 years in a variety of management positions with the brokerage and was elected one of Marsh's youngest managing directors in 1992. She ran Marsh's global brokerage office in Bermuda from 1992 to 1997, when she joined ACE Ltd. as senior vp of financial lines. She was promoted to executive vp at ACE the following year, and she joined XL Capital Ltd. as executive vp of group operations in 1999, making her second in command of the insurer.

Secrets for success: Ms. Luck credits working in Bermuda at a time when the domicile became known as a center of innovation. "Timing played a big part in where my career has gone. You hear the phrase that Bermuda has become an incubator; I can attest to that fact."



J. Robinson Lynch
Principal and Senior Managing Director
Buck Consultants Inc.
San Francisco

Age: 47

Achievements: J. Robinson Lynch is one of Buck's most senior consultants. As head of Buck's health and welfare and communications practices, Mr. Lynch has overseen the growth of these practices into the second- and third-largest businesses, respectively, in the consulting organization.

Mr. Lynch, who is a member of the firm's board of directors as well as Buck's Executive Management Team, also helps lead Buck's acquisition strategy. He participated in Buck's 1997 sale to Mellon Financial Corp. and was involved in Mellon's 2001 acquisition of the Unifi Network, the former employee benefit consulting unit of PricewaterhouseCoopers L.L.P.

Early in his career, Mr. Lynch worked at two health insurance companies, but he became a consultant when "I realized I really wanted to get more involved with the strategy" of employee benefits and not simply developing products, he said.

Next challenge: Mr. Lynch said his next challenge is to help extend Buck's presence overseas. After growing in the United States through acquisitions, "we want to take that globally," he said.

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An index of *Business Insurance*'s 35 Rising Stars in the commercial insurance industry appears on page 10.

AGENT/BROKER TOPICS

A MONTHLY EDITORIAL SECTION SENT EXCLUSIVELY TO AGENTS, BROKERS AND CONSULTANTS

Leaders in Productivity

Most productive agents and brokers

Intermediaries* ranked by 2001 brokerage revenues per employee

Rank	Company	Revenues/employee 2001	2000	% change	Brokerage revenues 2001	2000	% change	Employees 2001	2000	% change
1	Mid American Group Inc.	$337,501	$291,200	15.9%	$3,712,512	$2,912,000	27.5%	11	10	10.0%
2	AirSure Ltd.	336,248	296,624	13.4	9,078,688	7,415,598	22.4	27	25	8.0
3	The Sklover Group Inc.	280,000	231,250	21.1	1,960,000	1,850,000	5.9	7	8	-12.5
4	Frank Crystal & Co. Inc.	274,858	250,423	9.8	71,463,000	62,105,000	15.1	260	248	4.8
5	Capacity Group of Cos.	265,528	220,214	20.6	22,835,380	15,855,410	44.0	86	72	19.4
6	Aviation Insurance Services [1]	252,933	219,517	15.2	11,382,000	6,366,000	78.8	45	29	55.2
7	SullivanCurtisMonroe Insurance Brokers	246,045	122,859	100.3	29,771,395	20,271,750	46.9	121	165	-26.7
8	Calco Insurance Brokers & Agents Inc.	225,544	129,517	74.1	31,576,109	29,270,756	7.9	140	226	-38.1
9	Hobbs Group L.L.C.	224,936	219,440	2.5	94,248,000	86,240,000	9.3	419	393	6.6
10	Thesco Benefits L.L.C.	222,017	200,882	10.5	7,992,628	6,830,000	17.0	36	34	5.9
11	The Graham Co.	221,575	205,183	8.0	33,014,700	27,699,766	19.2	149	135	10.4
12	Bollinger Inc.	218,932	204,828	6.9	53,638,365	39,122,076	37.1	245	191	28.3
13	MLW Services Inc.	208,828	195,082	7.0	13,365,000	11,900,000	12.3	64	61	4.9
14	William Gallagher Associates Insurance Brokers Inc.	205,920	202,041	1.9	25,740,000	19,800,000	30.0	125	98	27.6
15	Vidal & Rodriguez Inc. [1]	198,077	165,630	19.6	5,150,000	4,472,000	15.2	26	27	-3.7
16	Mesirow Insurance Services Inc. -A RiskProNet Partner [2]	196,957	181,259	8.7	32,694,935	29,545,150	10.7	166	163	1.8
17	Woodruff-Sawyer & Co. -An Assurex Global Partner	179,365	167,689	7.0	33,900,000	24,985,600	35.7	189	149	26.8
18	Federal Hill Risk Management L.L.C.	179,250	138,000	29.9	3,585,000	2,760,000	29.9	20	20	NA
19	Fleet Insurance Services L.L.C.	179,079	164,698	8.7	60,528,732	55,503,080	9.1	338	337	0.3
20	Frenkel & Co. Inc. -An Assurex Global Partner	178,311	156,749	13.8	37,980,257	36,209,130	4.9	213	231	-7.8
	Averages	**$231,595**	**$198,154**	**16.9%**	**$29,180,835**	**$24,555,666**	**18.8%**	**134**	**131**	**2.3%**

* Reflects U.S. agents and brokers deriving a majority of revenues from commercial retail brokerage 1 Fiscal years ending 6/30 2 Fiscal years ending 3/31

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Planning needed to ensure growth/ 22F

Gen X marks the spot for new business / 22D

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AGENT/BROKER TOPICS

Hardening market boosts agent, broker productivity

Average brokerage revenue per employee rises 16.9% among most productive firms

By MICHAEL PRINCE

The hardening commercial insurance market in 2001 helped the most productive agents and brokers become even more productive.

Productivity, measured by brokerage revenues per employee, increased 16.9% overall, to an average of $231,595 in 2001, among the 20 most productive insurance intermediaries, according to *Business Insurance's* annual ranking. That marked the highest year-over-year increase since 1990, when the 20 most productive agents and brokers posted a 19.8% increase over the year-earlier total. For 1999-2000, the 20 most productive intermediaries saw revenues per employee increase by 10.4% on average.

Growth in brokerage revenues helped fuel the increased productivity: The average revenue growth among the Top 20 was 18.8% last year, compared with 15.0% in the prior year. And while revenues increased, headcount growth remained low. The top 20 firms saw their staff increase by 2.3% on average between 2000 and 2001, compared with 3.8% the prior year and a whopping 10.5% from 1998 to 1999.

As was the case in past years, specialization was the key to success at most of the most productive intermediaries. Indeed, many of the top 20 focus on niche business, and some—including the most productive broker in 2001—work only in employee benefits brokerage.

Topping this year's ranking—up one spot from last year—is Mid American Group Inc. The Westmont, Ill.-based agency saw its revenues per employee grow by 15.9%, to $337,501 in 2001.

Dropping to No. 2 was Golden, Colo.-based AirSure Ltd., with revenues per employee of $336,248 in 2001, up 13.4%.

Moving up to third place from seventh is The Sklover Group Inc. of Westbury, N.Y. Sklover's revenues per employee figure rose 21.1%, to $280,000, in part due to a decrease in employees to seven from eight.

New York-based Frank Crystal & Co. Inc. moved up one spot to No. 4 in 2001, with revenues per employee of $274,858, up 9.8%.

Rounding out the top five is Capacity Group of Cos., with revenues per employee of $265,528. The Upper Saddle River, N.J.-based broker's productivity increase of 20.6% helped it jump three positions from its 2000 ranking.

'If you could figure it out in the soft market, boy, you would look good in the hard market.'

Robert Lull
Capacity Group of Cos.

BI ranks the 20 most productive agents and brokers each year based on information submitted for the magazine's annual Agent/Broker Profiles issue. To be listed in that issue's directory, a company must generate at least $500,000 in gross revenues from commercial retail brokerage. To qualify for the productivity ranking, at least 50% of a company's brokerage revenues must come from commercial retail business.

For all of the top-20 intermediaries, the hard market pushed up revenue in 2001 and improved productivity.

The hard market was a big factor in productivity growth at Capacity Group, said President Robert Lull. Rising prices helped increase Capacity Group's revenues by 44.0%, while the broker's staff increased by 19.4%.

"You are not increasing staffing just because the price of the account went up," he said.

The prolonged soft market forced Capacity Group to control its staff costs, and now that the market has hardened, the company is reaping the benefits of those moves.

"If you could figure it out in the soft market, boy, you would look good in the hard market," Mr. Lull said.

But there is a flip side to such an approach, said Carol Hammes, president of The Middleton Group Inc., a Pine, Colo.-based management consultant firm specializing in insurance agents and brokers. A hard market requires brokers to work harder to place business, particularly those employees who have never worked in such a market.

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Productivity: Hardening market gives a producers a boost

Continued from page 22B

"The problem is, if a company does not have people that are familiar with this kind of market, they might have to hire more people," she said.

At 12th-ranked Bollinger Inc., the hard market has not dramatically affected productivity, said Lou Lefevre, Bollinger's executive vp in Short Hills, N.J. While revenues have increased, the firm has added staff "to make sure they were providing the right services," he said.

He noted that, due to the hard market, the brokerage needs to spend more time shopping its accounts. Bollinger's brokerage revenues rose 37.1%, to $53.6 million in 2001, while its staff rose 28.3% to 245. As a result, revenues per employee rose 6.9%, to $218,932.

But for most of the top 20 firms, the hard market has been a boon to productivity, said Timothy Cunningham, partner with OPTIS Partners L.L.C., an agency and brokerage consulting firm in Chicago.

While he agrees that the hard market does require more work by brokers and agents, if a renewal comes in with a 25% increase, "I don't think you're necessarily spending 25% more time on that."

> **'The problem is, if a company does not have people familiar with (a hard) market, they might have to hire more people.'**
>
> *Carol Hammes*
> *The Middleton Group Inc.*

Jim Lill, president of top-ranked Mid American, said, "the hard market has made us work harder, but our retention has not been hurt at all." He attributed that retention to the broker's attention to customer service.

As in past years, this year's top intermediaries generally focus on a specific area of business, rather than trying to be all things to all clients.

Generalists "are not going to be in a position to generate the level of productivity of those that specialize," said Bobby Reagan, president and chief executive officer at Reagan Consulting Inc. in Atlanta.

For example, Mid American derives all its revenue from employee benefit business.

Benefits brokers "just don't get the same amount of customer demand," compared with firms in the property/casualty field, said Mr. Cunningham.

In addition, Ms. Hammes noted that employee benefits brokering requires less work than does property/casualty business and, therefore, fewer employees.

Capacity Group derives about 40% of its revenues comes from niche business, "and productivity on that business is probably double" the broker's overall productivity, Mr. Lull said. Capacity Group specializes in coverage for limousines, school buses, couriers and motor coaches.

And Bollinger specializes in program business for amateur sports leagues, golf clubs and student coverage for public schools and universities, said Mr. Lefevre. Such program business can be placed a little more quickly than many other lines, he said, as "people are not reinventing the wheel every year."

In addition, Mr. Reagan noted, a specialty firm that delivers superior performance "can negotiate a better commission rate" than can a general agency.

But no strategy to boost productivity will succeed without strong management and dedicated employees that strive to increase business, some intermediaries say.

"We have not stayed in the top five by accident," said Bill Behan, president of AirSure, which specialized in aviation placements. "The whole culture of our company has been built around the ethic that you have to be better today than you were yesterday."

IIABA InfoXchange

Agents should look to Gen X for pool of potential customers

By MICHAEL BRADFORD

Agents who passed over grunge rockers as potential customers should start paying attention, a consultant advises.

Generation X was for years considered the Seattle music crowd and their peers across the country, said Chris Amrhein, president of Amrhein & Associates Inc. in Lorton, Va. Now, some of the mosh pit crowd is nearing 40, and "That means there's a market out there," he said. "They have money, they have families, they are running businesses, and we are still treating them like kids."

During a presentation at the Independent Insurance Agents & Brokers Assn. InfoXchange in New Orleans last month, Mr. Amrhein told his audience that "if you want to perpetuate your agency, you need to start thinking about the Xers."

The Generation X crowd is roughly made up of Americans born between 1965 and 1979, Mr. Amrhein said. They are the next great marketing opportunity to follow baby boomers, he said, those born between roughly 1946 to 1964. Seniors make up the oldest generation, with birthdates roughly between 1922 and 1945 and millennials are the youngest, born after 1980.

Xers are a prime target because seniors are into retirement and baby boomers are "moving out of the picture as the prime marketing group," Mr. Amrhein said. "Millennials are coming, but the Xers are here now."

One way to approach Xers is to appeal to a sense of conservatism that most of the generation has developed. "They tend to be environmentalists," Mr. Amrhein said. "From an insurance standpoint, conservation of resources is very popular with them–not losing what you have. Insurance is all about protection" and trying to sell it as an investment to Generation Xers probably won't work, he added.

Producers should expect Xers to have an attitude of, "Show me how to take care of myself and not lose what I've busted my butt for, and I'm in," Mr. Amrhein said.

And, he advised agency owners to hire Xers to sell to their peers because they relate to each other well. "They intuitively react to other Xers," Mr. Amrhein pointed out.

> **'If you want to perpetuate your agency, you need to start thinking about the Xers.'**
>
> *Chris Amrhein*
> *Amrhein & Associates Inc.*

"The best accounts I had as an agent were the people I grew up with," he said. While many of those friends didn't have a lot of assets to protect when the business was written, over time, some of the business grew into significant accounts, Mr. Amrhein said.

Xers are comfortable with technology and are in many cases tied to friends across the country through the Internet. As producers, that gives them a large range of potential customers, Mr. Amrhein noted. "They are closer to people 1,000 miles away than I am to the guy next door."

Marketing is no longer restricted by the old agency definition of "how far you can drive in an hour and a half," Mr. Amrhein said. And after hiring an Xer as a producer, owners would do well to listen to the marketing ideas that the new hire brings to the table, he said. "Let them dictate how far they want to go."

The home life of many Xers has prepared them for the insurance business, Mr. Amrhein suggested. Often members of extended families, many of these independent latchkey kids grew up handling negotiations between more than one set of parents.

"Generation Xers can be powerful negotiators because they grew up wheeling and dealing," Mr. Amrhein said. His observation was confirmed by some audience members who related stories of how their children skillfully manipulated Christmas lists between two sets of parents. Their stockings bulged with an impressive array of goods, they said.

"If you sell insurance, you've got to know negotiation," Mr. Amrhein noted. "These people know negotiation."

And, they can bring networking skills to the agency, a tactic that has long been touted as a way to increase business, he said. Most have scores of friends and move easily among several relationships, Mr. Amrhein said. "Xers are natural networkers."

Xers tend to stick with things they enjoy and that will improve their lives, he said, as evidenced by the fact that many are fitness buffs. That stick-to-it trait is good news for agency owners looking to hire Xers, Mr. Amrhein added, because "if you hook them with a good job, they're hooked."

IIABA InfoXchange

Planning necessary for continued agency growth

By MICHAEL BRADFORD

Even though the average agency is producing twice as much revenue compared with a decade ago, careful planning is necessary to make sure the business continues to grow, an industry consultant warns.

Agencies have raised revenues as consolidation has thinned their ranks, said Sharon D. Cunningham, president of Business Management Group in Hartford, Conn. There were 70,000 agencies in 1991 averaging $250,000 in annual revenue with six or seven staffers, she said, compared to 37,000 in 2001 generating revenues of $600,000 with the same number of employees.

"It's a very interesting time to be in the business, a very challenging time," Ms. Cunningham said during a presentation at the Independent Insurance Agents & Brokers Assn. Inc.'s InfoXchange in New Orleans last month.

Ms. Cunningham said that as consolidation continues, by 2006 there could be fewer than 20,000 agencies averaging annual revenues of $1.5 million with 10 to 11 staffers.

To make the *Business Insurance* list of top 100 brokers, which is based on U.S. brokerage revenues, an intermediary may need at least $25 million in revenue in 2006, she predicted. The 100th-largest broker on this year's list had $16.3 million in revenues.

"The question for many people is, 'How am I going to grow this business?'" Ms. Cunningham said. Growth rates today are 10% annually for many agencies because of rising premiums, compared to 3% to 5% in the soft market, she said, and agency owners are looking for ways to use the increased income to grow.

Ms. Cunningham suggested agency owners consider using profits to hire producers, develop new products, make acquisitions or "maybe even merging if you think that's the best thing to do to have a better future."

Producers are moving around as the marketplace consolidates and diligent owners may be able to find good ones who are looking for new places to work, she said.

Among the challenges agencies face in their efforts to increase productivity has to do with how they compensate employees, Ms. Cunningham said. "You need to look at what you're paying," she said, and make sure employees are producing enough to justify their compensation. She said owners need to make sure producers are generating new business and not merely servicing existing accounts.

It is important to keep up with how much new business each producer brings in, according to Ms. Cunningham. "That is a critical number," she emphasized, and "some agencies are not looking at it. You need to set some minimal numbers that people have to meet to be a producer. If you're not producing, you're not a producer; you're a retainer."

'You need to look at what you're paying' and make sure employees are producing enough to justify their compensation.

Sharon D. Cunningham
Business Management Group

Ms. Cunningham pointed out that "high-performing agencies have a sales focus; they are focused on producing new accounts. That doesn't mean that we don't want to retain accounts, but the reality is that you are not going to do well if you are not consistently bringing in new customers."

Agencies that showed the greatest growth in the soft market did so partly because their producers knew their job was to "go out and get new business," Ms. Cunningham said. Those companies grew as much as 12% to 14% in the soft market and with the current premium increases, are growing at a 20% to 25% clip, she said.

Good producers aren't the only employees that are important, according to some members of Ms. Cunningham's audience.

Agency owners at the session said that finding and retaining customer service representatives has become difficult. Often, they said, those employees jump from job to job to take sweetened offers of compensation and perquisites.

Agencies are "really feeling the pressure to be competitive," Ms. Cunningham said, but often they can't afford to pay enough to guarantee that CSRs won't leave.

Some owners have paid signing bonuses to CSRs, "something you never used to see," she said, while others are offering perks such as paid parking to entice and retain those workers.

In order to stay on track toward improving productivity, agencies need to have a business plan, Ms. Cunningham advised. But it doesn't have to be as complicated or formal as most believe. "I think a lot of times people think they have to have something that looks like it came out of the Harvard Business School."

The basics are fine, she said, and those should include the agency's top five strengths, weaknesses, opportunities and threats in the marketplace.

"Poll your staff," she suggested, as a way to help identify and address those areas.

Ms. Cunningham said owners must plan revenue growth for at least one year and preferably for three years. That means figuring how much existing business will be retained, which accounts are vulnerable and projected growth rates considering market conditions, she said. "You want to set a revenue goal and a profit goal for each of those years."

Setting a strategy also is part of a business plan, Ms. Cunningham said. "What are you going to focus on? Are you going to focus on larger accounts than you have? Are you going to add new lines of business?" she asked. "Are you going to build a more employee-friendly office" as a way to make workers feel good about working at the agency?

"What I've found out," Ms. Cunningham said, "is that if you write all this down, you do it."

IIABA InfoXchange

Agents urged to seek younger producers

By MICHAEL BRADFORD

Independent agents and brokers need to attract young talent to their ranks and support a branding initiative to make sure the distribution system thrives in the age of the Internet and other challenges, industry executives pointed out at an annual conference.

"If you look back just about 20 months ago, people thought the Internet was going to be pushing the demise of the independent agency system," particularly as personal lines policyholders found an easier way to buy coverage, said Ernie Lausier, president of Encompass Insurance, a Chicago-based personal lines division of Allstate Corp. But in fact, independent agents have seen their market share grow, he noted.

Even as the distribution system has proved its viability, though, intermediaries have more to do, including revitalizing an aging workforce, Mr. Lausier emphasized.

"I think we need to bring younger talent into the independent agency system," he suggested, as agents and brokers strive to reach policyholders in their 20s and 30s and introduce fresh perspectives on selling insurance.

His call to recruit younger producers came during a panel discussion at the Independent Insurance Agents & Brokers of America Inc.'s New Orleans InfoXchange last month and it was reinforced by other efforts aimed at youth during the conference. Students from a New Orleans-area high school were invited to the conference, and an educational session titled "Targeting Generation X" emphasized the importance of hiring and selling to youth.

Mike McGavick, president and chief executive officer of Seattle-based SAFECO Corp., agreed that a fresh perspective is needed as independent agents deal with such challenges as a younger and more culturally diverse population of insurance buyers. "The buying public is changing," he stated, "and if we don't match that public, we'll fail together."

'I think we need to bring younger talent into the independent agency business.'

Ernie Lausier
Encompass Insurance

As the industry seeks younger producers, it must also make sure consumers are aware of the value that independent agents and brokers bring to the insurance transaction, Mr. Lausier said.

He urged members of the IIABA to support the group's Trusted Choice branding initiative as a way to educate policyholders about the services that members provide. Trusted Choice is a marketing effort now in full swing by the association to help consumers

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Producers: Attracting youth

Continued from previous page

understand the benefits of product customization and choice and the claims advocacy that independent agents and brokers offer.

"People don't know who independent agents are," Mr. Lausier said, referring to research that proves that point. "But they do know value and that's what Trusted Choice is trying to do—bring value to your customers."

Independent agents have a big chunk of the commercial insurance market and are slowly gaining personal lines market share, said Tom Van Berkel, CEO of Keene, N.H.-based insurance holding company Main Street America Group. He said the Trusted Choice effort can help commercial producers sell more personal lines coverages.

'I'm optimistic that we will get a (terrorism backstop) bill. I would say it's at a 50-50 possibility.'

Ramani Ayer
The Hartford Financial Service Group Inc.

"I think, with the turmoil that we have in the market today, we have an opportunity with Trusted Choice to differentiate ourselves in the marketplace," said Mr. Van Berkel. "If you think about what the consumer wants...we've got a great opportunity to brand ourselves."

And, Mr. Van Berkel asked, "what other sales force, in any business, has a sales force with a distributor in every single town in the United States? The independent agency does. It's time for us to use Trusted Choice, to get serious about personal lines and use the disruption in the marketplace" to show the value independent agents can provide, he remarked.

It is "absolutely critical" that independent agents differentiate themselves in the marketplace, agreed Gregory E. Murphy, president and CEO of Branchville, N.J.-based Selective Insurance Group Inc. Whether the competition is a direct writer, a professional employer organization or another distribution channel, "you need to know what your competitive advantages are" and how to stand out in the marketplace, he emphasized.

On another topic, an insurance company executive discussed the need for some type of federal coverage for terrorism risks.

The lack of reinsurance available for nuclear, chemical and biological risks makes it imperative that a federal backstop be developed, said Ramani Ayer, chairman and CEO of The Hartford Financial Services Group Inc. in Hartford, Conn.

Lawmakers appear to be close to agreeing on a version of a bill that would establish an insurance backstop, Mr. Ayer stated. Republicans and democrats, however, still seem to be far apart on establishing some type of tort reform that addresses litigation related to terrorist events, he added.

"I'm optimistic that we will get a bill," Mr. Ayer noted. "I would say it's at a 50-50 possibility."

The discussion was moderated by Robert A. Rusbuldt, CEO of the IIABA.

IIABA InfoXchange

IIABA honors leader

William B. Greenwood is this year's recipient of the Woodworth Memorial Award, the highest honor bestowed by the Independent Insurance Agents & Brokers Assn. of America.

The award was presented during the opening session of the group's annual InfoXchange, held Sept. 21-24 in New Orleans.

Mr. Greenwood, president of Lawton Insurance in Central City, Ky., and a past president of IIABA in 1998, was honored for his long commitment to the independent agency system and his work to help create the Agents Council for Technology and the group's Trusted Choice branding program.

The annual award, established in 1925 in memory of C.H. Woodworth, the second president of the association, is presented to a member who demonstrates outstanding service benefiting independent insurance agents and the insurance industry.

Also during the conference, W. Cloyce Anders took over as president of the association at the closing session. Mr. Anders is president of VFIS of North Carolina and Anders, Ireland & Marshall Inc., both based in Raleigh, N.C. He replaces outgoing president, Thomas B. Ahart, who is president of Ahart, Frinzi & Smith in Phillipsburg, N.J.

The annual conference featured a panel of insurance industry chief executive officers, who discussed market conditions; and several educational sessions on topics that included increasing productivity, targeting young insurance buyers, insuring maritime exposures and improving claims handling.

Next year's InfoXchange is scheduled for Oct. 13-17 in Las Vegas. Information on the 2003 gathering is available from the IIABA at 127 S. Peyton St., Alexandria, Va. 22314; 800-221-7917 or 703-683-4422; fax 703-683-7556.

AB/T briefs

Web-based services for workers comp policies

WAYNE, N.J.—Agency Resources, a Wayne, N.J.-based property/casualty wholesaler, recently introduced a new Web-based workers compensation system that automatically bills clients for premiums based on actual reported payroll data.

Agents and brokers who access the system can establish a seamless link from their own sites or direct clients to an Agency Resources-affiliated Web site. The system provides 24-hour online policy management, so agents and their clients can check the status of payments, cancellations, reinstatements and endorsement requests.

"Our Web site is 100% agent-friendly, created exclusively to help agents and brokers access top carriers and use e-commerce more effectively—thereby gaining a tremendous edge in an increasingly hard and competitive market," said Ralph Lee, president of Agency Resources, in a statement.

More information is available at *www.agencyresources.com.*

Network helps agencies with prospecting, sales

SAN DIEGO—Direct121, a marketing automation and relationship management provider to the insurance industry, recently introduced a new program designed to help producers and insurers target prospects, generate and distribute qualified leads, manage sales activities and track sales results.

San Diego-based Direct121's network of call centers acts as a virtual sales force supporting insurance agents by handling the first two phases of the sales cycle, freeing producers to deliver proposals and close sales, the company said in a statement.

"The secret of the Direct121 platform is that it enables insurance agents, brokers, wholesalers, program managers and carriers to close the loop, reducing both the length and cost of the sales cycle," said Direct121 Chief Executive Officer Barth Meyers, in a statement. "Direct121's solution tracks, monitors and manages the entire sales cycle from end to end, as well as the customer life cycle."

For more information, visit *www.direct121.com.*

ACORD revamps Web site services

PEARL RIVER, N.Y.—The Assn. for Cooperative Operations Research & Development recently redesigned its Web site, *www.acord.org*, which will allow for easier downloads of ACORD forms and standards by its members.

The new user-friendly navigation provides streamlined access to fully updated content. Access to ACORD forms, standards and the benchmark calculator also has been made easier with a single sign-in process, the company said in a statement.

Nonmembers also are able to access ACORD case studies, updated information on ACORD standards and various global initiatives and information about ACORD events.

New site features include the ACORD Presentation Center, which features multimedia presentations on the company. ACORD TV is another new feature, which provides streaming videos featuring ACORD staff and members on various issues relating to standards and technology.

Internet product for benefit brokers

UNIONDALE, N.Y.—OnlineBenefits Inc., a Uniondale, N.Y.-based Internet company, is adding a new Internet application for benefit brokers to its Benergy Advisor product.

The application, Client Community, lets benefit brokers and consultants create and manage an Internet portal exclusively targeted to their clients. Clients can research benefit topics, receive messages and news and explore the broker's services via the portal.

One of the portal's prominent built-in resources is "AnswerSource," which taps into content published by the Bureau of National Affairs, the company said in a statement. Through AnswerSource, clients can obtain answers to benefits-related questions and conduct detailed research on federal and state regulations.

The graphics on Client Community can be matched to the broker's corporate image to ensure consistent branding.

More information can be found at *www.onlinebenefits.com.*

Free online course on tech exposures

HARTFORD, Conn.—The Hartford Financial Services Group Inc. is offering insurance agents a free online course to help their business customers understand and protect their technology-related exposures.

The course, which defines e-business risk broadly as "any process a business organization conducts using technology," helps identify and address key coverage questions that have emerged as a result of the surge in Internet use. It also discusses many of the most common e-business exposures, The Hartford said in a statement.

"As a major distribution force, independent agents can play a critical role in educating business clients about their Internet and other technology or network-related risks," said Tom Harzell, director of the commercial eLearning team for The Hartford, in a statement. "This is a new and evolving area of exposure, so it's important to provide agents and brokers with the information they need to properly advise their customers."

The free course can be accessed at The Hartford's agent education Web site at *www.hsie-campus.com.*

Trusted Choice adds two more insurers

ALEXANDRIA, Va.—Kemper Insurance Cos. and National Security Fire & Casualty Co. are the latest insurers to join Trusted Choice, the Independent Insurance Agents & Brokers of America Inc.'s consumer branding initiative.

Launched in February, Trusted Choice highlights the benefits independent agents and brokers offer, including choice, customization and advocacy.

Kemper and National Security are the 17th and 18th insurer partners, respectively, to support the branding initiative. Their support includes a financial commitment based on a percentage of the companies' property/casualty premium written through independent agencies.

"Securing company partners and extending our agent base remains a key priority," said Ronald A. Smith, chairman of the IIABA's communications/branding task force, in a statement. "A solid base of agents and breadth of companies will better position Trusted Choice to reach consumers with our messages through integrated public relations, marketing and advertising."

William D. Smith, president and chief operating officer of Kemper, added in the statement: "Independent agents and brokers play a vital role with in Kemper. The Trusted Choice program allows Kemper to convey the importance of the service and benefits independent agents provide insurance consumers."

Jack E. Brunson, National Security's president, said in a separate statement, "If we can work together to create a recognizable brand and increase consumer visibility for independent agencies, it should be a win-win situation for all."

Briefly noted

Rocky Hill, N.J.-based The Alfred H. Merritt Agency has merged its operations with Short Hills, N.J.-based **Bollinger Inc.** The Merritt Agency will relocate to Bollinger's Princeton, N.J., location….Dublin, Ohio-based **Haughn & Associates Insurance Agency Inc.** has established SIAA of Central Ohio as a Strategic Master Agency, the Strategic Independent Agents Alliance recently announced….John W. Schaefer, former chief technology officer for startup publishing company Paperloop, has joined **ABD Insurance & Financial Services** as a vp-enterprise risk management services in Redwood City, Calif.…Insurance consultant William Jenkins has been named executive director of **Applied Systems Client Network Inc.**, the user group for Applied Systems' agency technology.

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Bronek Masojada

Chief Executive
Hiscox P.L.C.
London

Age: 40

Achievements: Bronek Masojada, a civil engineer by training, was named chief executive of Lloyd's of London underwriting agency Hiscox P.L.C. in 2000 and in 2001 was appointed deputy chairman of Lloyd's.

His ties to Lloyd's date back more than a decade, when Mr. Masojada was a member of the McKinsey & Co. management consulting team that advised Lloyd's on plans to reorganize the marketplace. He advised the task force that was created by then-Lloyd's Chairman Sir David Rowland in 1991 and advised the Council of Lloyd's on its reconstruction and renewal plan in 1993.

Mr. Masojada was appointed as managing director of Hiscox Holdings in 1993, and in 1996, he was promoted to managing director of Hiscox P.L.C.

From 1998 to 2001, Mr. Masojada served as chairman of Lloyd's Underwriting Agents Assn. and was a committee member of the Lloyd's Market Assn.

Secrets for success: "I am an engineer, and engineers like to make and build things. The thing I am most proud of is growing the business and the recruitment of good people. I know it's a cliche, but it's true…It is very satisfying to grow things organically."

Tony Miller

Chief Executive Officer
Definity Health Corp.
Minneapolis

Age: 35

Achievements: Tony Miller was a co-founder of Definity Health Corp. in 1998 and remains chief executive officer of the pioneering company, which develops consumer-driven health plans. As health care costs accelerate, employers are increasingly interested in the consumer-driven approach, which shifts health care purchasing responsibility to the individual.

Definity Health in 2000 introduced a benefit program that features personal health care accounts, health insurance and resources to help plan participants evaluate health care services.

One of the inspirations for Definity Health's consumer-driven model was Mr. Miller's experience working in managed health care. Before co-founding Definity Health, he was a consultant for Deloitte Consulting and worked at Minneapolis-based United HealthCare Corp.

Reasons for entering industry: Mr. Miller said he and his co-founders believe that managed care was due for an overhaul. "We as consumers can't evaluate any kind of price, quality, service tradeoffs" with health care, he said. "We needed to reconstruct the entire health benefit landscape," he said. "We felt that we had an inefficient health benefit system."

Kristian P. Moor

Executive Vp-Domestic General Insurance
American International Group Inc.
New York

Age: 43

Achievements: After graduating from college with a finance degree, Kristian Moor was

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drawn to National Union Fire Insurance Co. of Pittsburgh, Pa., because of his interest in directors and officers liability coverage, a product that the American International Group Inc. unit pioneered. He was named president of National Union's management liability division in 1992 and three years later became the insurer's president in one of a series of management changes that followed Jeffrey W. Greenberg's resignation from AIG.

Mr. Moor assumed the added posts of senior vp and later executive vp of domestic general

insurance for AIG, and this year was named to AIG's seven-person office of the chairman, from which a successor to Chairman Maurice R. Greenberg may be chosen.

Secrets for success: "Hard work, honesty, a passion for the business and surrounding myself with the smartest people in the industry."

David A. North
President and Chief Executive Officer
Sedgwick Claims Management Services Inc.
Memphis, Tenn.

Age: 46

Achievements: David North began his insurance industry career in 1978 as a fire protection engineer at Atlantic Mutual Insurance Co. in Chicago. He joined Gallagher Bassett Services, a unit of Arthur J. Gallagher & Co., in 1979 and over the next 10 years moved up the ranks in a variety of loss prevention, client management and senior executive roles until he was named executive vp. Mr. North had a brief stint as chief operating officer of Adjustco in 1989, and then went to Johnson & Higgins to run the broker's worldwide risk consulting services. He joined Sedgwick CMS as president and chief executive officer in 1995.

In addition to his role at Sedgwick CMS, Mr. North also serves as chairman of the Integrated Benefits Institute, a nonprofit organization that aims to foster greater coordination of benefits across health care, disability and absence management programs.

Secrets for success: "The secret is just being engaged. I've found that if we just take time to listen to our customers, they will tell us what they really want and need. And if you go out and hire great people and listen to them, they'll tell you what they need to do a good job for those customers. Then, as the CEO, the job is to put those customers with needs and those great colleagues together and then get out of the way."

Robert A. Parisi Jr.
Senior Vp and Chief Underwriting Officer
eBusiness Risk Solutions
New York

Age: 39

Achievements: Robert Parisi began his career in 1989 as a coverage attorney for a law firm representing Lloyd's of London underwriters and other insurers. Following a stint as a professional liability underwriter for Tamarack Insurance Co., he joined American International Group in 1997, holding several executive and legal positions, including chief underwriting officer for technology and professional liability. In that position, he led the development team for NetAdvantage, an e-business insurance program for all types of businesses. In June 2002, he was promoted to senior vp and chief underwriting officer of eBusiness Risk Solutions, an AIG division created earlier that year to focus on Internet-related exposures.

Secrets for success: "The timing, loving what I'm doing, being willing to put in the time, and, frankly, I can't discount the environment. I work with a lot of

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very bright people, and I have the assets and reputation of AIG standing behind me. It's been a pretty good ride at AIG. I came with the right tool set at the right time for what they wanted to do."

Trindl Reeves
Managing Director and Office Head
Marsh Inc.
San Diego

Age: 34

Achievements: Trindl Reeves began her career in insurance as a part-time insurance telemarketer while attending college. After she received her bachelor's degree in psychology, Ms. Reeves was selected one of 10 graduates to participate in a three-year training program sponsored by The St. Paul Cos. Inc., focusing on technology. She later joined broker Johnson & Higgins Inc. in Orange County, Calif., in a sales position, moving up the ranks to senior vp after J&H merged with Marsh & McLennan Cos. Inc.

In 2001, at age 33, Ms. Reeves was named managing director and head of Marsh's San Diego office. The San Diego office was considered to be Marsh's top-performing office for middle-market business in the country based on growth, profitability and client satisfaction.

Secrets for success: "One of the foundations I had for the success I had being young and female in the property/casualty industry was the fact that I had very strong technical ability. So I may not be golfing with the guys, although I do golf, but I could certainly show the clients the technical differentiator." She also credits "the early mentors that I've had, and now the great management team that I work with."

Susan Rivera
President
ACE INA Holdings Inc.
Philadelphia

Age: 37

Achievements: Susan Rivera is leading a major U.S. property/casualty insurance company for the second time. In March 2002, Ms. Rivera was named president of ACE INA's U.S.-based commercial retail insurance operations. ACE INA comprises the U.S.-based property/casualty operations of Hamilton, Bermuda-based ACE Ltd.

Before joining ACE INA, Ms. Rivera was president of American Home Assurance Co., a unit of New York-based American International Group Inc. She began her career in the insurance industry at AIG in 1987 as an actuarial assistant and was promoted to senior actuarial analyst in 1991. She moved in 1993 to AIG unit National Union Fire Insurance Co. of Pittsburgh, Pa., where she rose through the ranks before joining AIG Risk Finance in 1996.

Ms. Rivera became executive vp and chief operating officer of American Home Assurance in 1998, and the following year was named president of the insurance company.

Next challenge: Ms. Rivera's goal is to bring ACE INA "to the next level" among leading insurers. "We want to be a premier underwriting and premier insurer organization."

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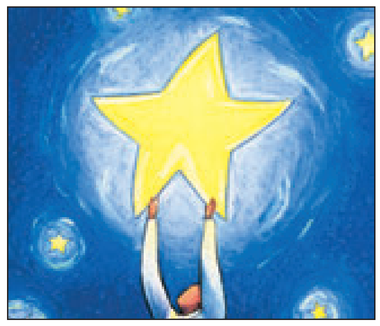
PHOTO:KENNETH CHEN

Alice D. Schroeder
Insurance Analyst and Managing Director
Morgan Stanley
New York

Age: 45

Achievements: Alice Schroeder, who joined Morgan Stanley in 2000, has become one of the most influential analysts covering the property/casualty insurance industry. In addition, she has emerged as one of the leading experts on the impact of the Sept. 11, 2001, terrorist attacks on the insurance industry.

Ms. Schroeder served as a certified public accountant at what



is now Ernst & Young L.L.P. from 1980 to 1991. She was project manager with the Financial Accounting Standards Board until 1993 and worked at several broker-dealer firms before joining Morgan Stanley.

Advice to industry executives: "The piece of advice that I would give insurance company executives is that just because they're making the decisions, it's not their company, it belongs to the shareholders or policyholders. They should consider themselves trustees and fiduciaries, and act accordingly. They should give the same information to the shareholders that they would want to know themselves. They should manage the company's capital and assume risks with it as if it were their own money."

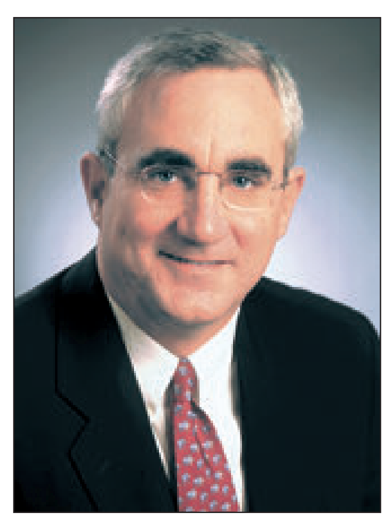
Hemant H. Shah
President and Chief Executive Officer
Risk Management Solutions Inc.
Newark, Calif.

Age: 36

Achievements: Hemant Shah co-founded catastrophe modeling company Risk Management Solutions Inc. in 1988 while a graduate student at Stanford University in Palo Alto, Calif. RMS began modeling earthquake risks but has expanded into other areas, including the introduction in September of modeling for terrorism risks and the development of other models for manmade exposures.

Mr. Shah also serves as chairman of OYO RMS, a joint venture risk assessment business in Japan, and serves on the board of enterprise risk modeling company ERisk Inc. In addition, Mr. Shah is a member of the advisory board of Institutional Investors' Journal of Risk Finance.

On innovation: "In our business, the challenge is to continue to innovate over a long period of time, to continue to be relevant as the challenges of the insurance industry have evolved over the past decade....In order to continue to be able to innovate and meet the challenges the insurance industry continues to face, you need to build a very talented, flexible organization."



James H. Veghte
President, Chief Operating Officer

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Continued from page 30

and Underwriting Officer
XL Re Ltd.
Bermuda

Age: 46

Achievements: James Veghte began his career with Reinsurance Corp. of New York in 1978, fulfilling his goal to "get to New York City in the financial services industry" after graduating from college in rural Virginia.

He joined Winterthur Reinsurance Corp. of America in 1981, leaving in 1984 as a senior vp of treaty underwriting to join Mid Ocean Reinsurance Ltd. in Bermuda. After XL Capital Ltd. acquired Mid Ocean in 1998, Mr. Veghte transferred to London, where he held joint duties as chief operating officer of XL's Le Mans Re and general manager of XL Re Ltd.'s London branch.

Mr. Veghte relocated to Bermuda in August 2002 in his current position with XL Re.

Secrets for success: "I'm an underwriter by background and have always had the pleasure of working for companies with an underwriting focus. An underwriting background gives me an advantage in managing the company because I'm always focused on the activity that matters."

Maggie Westdale

Senior Vp and Senior Financial Officer for Property/Casualty Operations
CNA Financial Corp.
Chicago

Age: 35

Achievements: Maggie Westdale joined CNA Financial Corp. as a senior analyst at age 28, advancing to senior vp in just over five years. She now leads planning and analysis and has oversight of all financial results for the company's $7.2 billion property/casualty operations. She played a key role in restructuring and centralizing operations into standard and specialty lines, as well as establishing common reporting and planning practices. She also led a project to improve the company's management information system.

Ms. Westdale also has served senior vp and senior financial officer of CNA's Technology Solutions Group, where she consolidated seven technology financial organizations into one, cutting staff and saving the company more than $2 million annually. In addition, she was vp of mergers and acquisitions and industry analysis in the company's Capital Management Division, where she helped close 30 acquisitions and divestitures.

Secrets for success: "I am driven and results-oriented. I am always looking for ways to enhance CNA's goals and objectives."

Joel Wood

Senior Vp-Government Affairs
Council of Insurance Agents & Brokers
Washington, D.C.

Age: 43

Achievements: After a brief career in journalism, Joel Wood began his work in government affairs in 1983, serving first as press secretary and then as legislative director for then-Rep. Don Sundquist, R-Tenn. He joined the National Assn. of Professional Insurance Agents two years later as assistant vp-federal relations. In 1992 joined what is now the Council of Insurance Agents & Brokers as vp-government affairs. He was promoted to senior vp in 1999.

In his role with the CIAB, Mr. Wood succeeded in getting the National Assn. of Registered Agents Brokers provision included in the Gramm-Leach-Bliley Act of 1999, encouraging state licensing reciprocity. He also has been involved in the push for a federal terrorism insurance backstop.

Major accomplishment: "A year and a half ago, no one would have imagined that a commercial property/casualty insurance issue was going to be one of the president's top three domestic economic priorities. I'm very proud of the role of our organization in providing accurate information to Congress on the state of the marketplace and urgency for action on federal terrorism insurance legislation."

Life insurer association overhauls retirement plans

ACLI replaces defined benefit pension with cash balance plan, sweetens company 401(k) contributions

By VINEETA ANAND

WASHINGTON—The American Council of Life Insurers is terminating its defined benefit plan, starting a cash balance plan and sweetening the employer contribution to its 401(k) plan.

The sweeping changes were made by a group that has for years supported efforts toward strengthening employer-sponsored private pension and retirement systems. During the overhaul of its retirement programs, the trade association recognized it would have to put its money where its mouth is as far as its own employee benefit programs were concerned.

"We are keenly aware of our responsibility as the national trade association that represents life insurance and annuity providers to 'walk the talk,'" said Joanne Daly, vp of benefits. Ms. Daly said ACLI executives wanted a retirement program "that was attractive for retirement, easy to understand and value, with more flexibility and benefits that accrue more evenly over an employee's career."

"We shifted more of the ACLI expense to the 401(k) plan, where the employee can supplement the employer contributions to his retirement savings, can have control over investment decisions and can choose between a lump-sum payout or annuity at retirement," she said. As a result of the changes, the defined benefit plan now costs 52% of the association's employee benefit dollars, down from 62%, and the 401(k) plan costs 40%, up from 29%. Retiree welfare costs take up the remaining 8%, down from 9%.

The Washington-based ACLI expects to receive approval soon from the Internal Revenue Service to shutter its approximately $60 million defined benefit pension plan, effective Dec. 31, 2001, as well as IRS approval for the new cash balance plan, which was available to employees Jan. 1, 2002.

"Terminating a pension plan is hard work, and it should be. This is not a step that should be taken without very careful consideration," Ms. Daly said.

Participants in the terminated plan could take an annuity, now or at retirement age, or take their retirement benefit as a lump sum that could be rolled over either into the 401(k) plan or into individual retirement accounts.

The new cash balance plan will credit the hypothetical individual accounts of most employees with 8% of pay every year. These accounts will earn interest linked to the 30-year Treasury bond.

Employees aged 50 or older who switch to the cash balance plan will be credited with 10% of pay. Workers in their mid- to late 40s will receive 9% of pay until they hit 50, when they will also be credited with 10% of pay.

Employees who are age 50 or older and have 15 years' tenure could also elect to receive the traditional pension benefits. Because the old pension plan has been shuttered, these benefits will be paid out of the new plan.

The trade association hopes to finance the new cash balance plan using part of an approximately $9 million pension surplus it will receive after terminating its current defined benefit plan. Because the ACLI is a nonprofit organization, it won't face a steep tax hit on the surplus pension assets it uses.

> **'We are keenly aware of our responsibility as the national trade association that represents life insurance and annuity providers to "walk the talk." '**
>
> *Joanne Daly*
> *American Council of Life Insurers*

Prudential Investments in Newark, N.J., managed all the assets of the old defined benefit pension plan, which had a 50-50 allocation to stocks and bonds. ACLI officials are considering farming out some of the assets of the new plan to other managers, but no decisions have been made yet.

Concurrently, the association is sweetening its $35 million 401(k) plan by contributing an additional 3% of pay to all employees who participate in the cash balance plan, regardless of whether they make a 401(k) contribution themselves. Older employees who elect to take the traditional pension benefits will not be eligible for the additional 401(k) plan contributions, Ms. Daly explained.

Employee contributions already are matched dollar for dollar for the first 3% of pay, and 50 cents on the dollar for the next 2% of pay, for a total 4% contribution. As a result of the changes, employees who contribute 5% of their own money will receive 7% of pay as an employer contribution.

The ACLI now offers 12 investment options, which will be retained. Prudential is the record keeper and investment adviser for half of the options. The other investment managers include New York-based Dreyfus and Pacific Investment Management Co. of Newport Beach, Calif.

The trade association's moves to a cash balance plan and a more high-powered 401(k) plan also helped remove the golden handcuffs from long-term employees, Ms. Daly said.

The old defined benefit plan is complicated, and "no one really understood it" or appreciated it, she said. Moreover, the plan offered long-term employees a generous early retirement subsidy that allowed them to collect an unreduced pension if they were 60 years old and had worked at the association for 20 years, or to collect 85% of the pension if they were 55 years old and had worked 25 years at ACLI. This subsidy tended to force employees to stay on even when they would rather leave.

ACLI officials, working with consultant Towers Perrin, decided a cash balance plan, which creates individual accounts on paper and looks like a 401(k) plan, would allow employees to earn a more even retirement benefit over their working lives and be better appreciated. This change would make the pension plan less of a factor in influencing employees' decisions to stay or go, Ms. Daly said.

Vineeta Anand is a reporter for Pensions & Investments, a sister publication of Business Insurance.

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Where healthcare spreads its wings.

Statistics derived from 2001 data.

Comings & Goings: Industry

Insurers:

Charles G. Berg has been named chief executive officer of Oxford Health Plans Inc., replacing **Norman C. Payson**, who will retire at year-end. In addition, **Kent J. Thiry** was named chairman. Dr. Payson currently holds both positions. Mr. Berg previously was president and chief operating officer of the Trumbull, Conn.-based health maintenance organization, while Mr. Thiry was chairman and CEO of DaVita Inc., a dialysis service provider based in Torrance, Calif.


Mr. Berg

Horizon Blue Cross & Blue Shield of New Jersey in Newark named **Margaret M. Johnson** executive director of pharmacy services. Ms. Johnson previously served as vp of pharmacy services at Univera Healthcare in Buffalo, N.Y.

Reinsurance:

GE Employers Reinsurance of Overland Park, Kan., has named **James Grieve** and **Marc Poliquin** leaders of reinsurance underwriting teams for the Caribbean and Latin America, respectively. Both previously held the title of second vp.

Milan M. Radonich was named chief financial officer of Westport, Conn.-based reinsurance intermediary Benfield Blanch Inc. He previously served as CFO of Allied North America in Jericho, N.Y.

Brokers:

Gregory A. Field has been named chief operating officer of T.J. Adams Group L.L.C. of Lombard, Ill., the Illinois partner of the Asurex Global network. Mr. Field previously was vp at R.N. Crawford & Co. in Chicago.

Other suppliers:

Jack Clanton was named chief executive officer of the Insurance Education Foundation, an Indianapolis-based entity that seeks to improve the understanding of insurance and its role in society through the education of high school teachers and students. Mr. Clanton is the retired vp and general manager of Farm Bureau Insurance Co. of Manhattan, Kan. He also served as the chairman of the National Assn. of Mutual Insurance Companies, from 1999-2000.


Mr. Clanton

Ren Nardoni was named senior vp of business development of Pilat NAI, a Lebanon, N.J.-based custom human resources application software firm. Mr. Nardoni, who sold his HR consulting firm, Nardoni Associates Inc., to Pilat in 1996, had served as a part-time member of the Pilat NAI business development team.

Nancy Scola Lombaer has joined benefit consultant FST Associates Inc. as a principal in the Chicago office. Ms. Scola Lombaer formerly was a principal at Towers Perrin.

Steven J. Konsin was named chief operating officer at HealthExtras Inc., a Rockville, Md.-based pharmacy benefit manager. Mr. Konsin most recently was president of RX Partners, a prescription management and distribution organization owned by The University of Pittsburgh Health System.

Also at HealthExtras, **Lorraine A. Morrison** joined as director of sales. She previously was a regional marketing director for Express Scripts/ValueRx.

Business Insurance would like to report on senior-level changes at commercial insurance companies and service providers. Please send news of recently promoted, hired or appointed senior-level executives to: Joanne Wojcik, Business Insurance, 777 E. Speer Blvd., Denver, Colo. 80203-4212; jwojcik@crain.com.

Photos should be sent to: Kathy Barnes, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; kbarnes@crain.com.

'Malicious' lawsuit decision upheld

By JUDY GREENWALD

SACRAMENTO, Calif.—A California appeals court has upheld a jury's finding that a former CIGNA Corp. unit maliciously prosecuted two lawsuits against a policyholder and affirmed a $3 million punitive award against the insurer.

In its Sept. 27 decision, *Hillenbrand Inc. vs. Insurance Co. of North America*, California's 3rd District Court of Appeal in Sacramento held that the insurer for more than 15 years had pursued two lawsuits against a policyholder over the issues of its duty to defend and defense costs, despite knowing it may have been obligated to provide coverage.

No decision has been made yet on whether to appeal the decision, said defense attorney Robert J. Romero of Hinshaw & Culbertson in San Francisco. "We are considering all our options," he said.

In 1998, a jury found the CIGNA Corp. unit guilty of malicious prosecution and awarded plaintiff George F. Hillenbrand $1.4 million in compensatory and $14 million in punitive damages, but the trial judge lowered the punitive damages portion of the award to $3 million.

The insurer "denies that its conduct was despicable," states the appellate decision. "However, the jury was free to conclude…that the protracted degradation of an honest and hard-working businessman and the conscious indifference to his suffering was despicable."

Mr. Hillenbrand, a construction framer, and his company, George F. Hillenbrand Inc., filed a claim in 1982 in connection with his role as subcontractor in a condominium project. The project's general contractor, which was being sued by the homeowners association, demanded he defend and indemnify it for any damages resulting from the services he had performed on the project. Evidence indicated Mr. Hillenbrand may not have been responsible for the damage, court papers show.

Mr. Hillenbrand was insured by CIGNA unit Aetna Insurance Co., though INA handled the claim. In 1999, ACE Ltd. bought the property/casualty operations of CIGNA.

Mr. Hillenbrand's insurer agreed to defend him, but only under a full reservation of rights. The insurer then launched its own litigation against him while the underlying case was still being decided.

"The insurer insists it had the right to determine the coverage issue while the underlying case was still pending, thereby placing its insured in the untenable position of fighting the third-party claim assisted by the insurer, while simultaneously fighting the insurer on issues that would compromise its position in the third-party litigation," notes the appellate decision. "The insurer maintained this position in the trial court even though it was aware of case law to the contrary, hoping that the trial court or Hillenbrand's lawyer would not find it."

The underlying litigation brought by the homeowners association was eventually settled.

In upholding the jury's decision, the appellate court held that the jury "was free to infer that the insurer hoped to extract a settlement bearing no relation to the merits of the claim by unleashing an avalanche of litigation against a small framing contractor unprepared to withstand the onslaught of insurance defense maneuvering."

The jurors "apparently did not have the same appetite for litigation as did the insurer," according to the appellate court. "They must have been persuaded by the considerable evidence that Hillenbrand was devastated and debilitated by the lawsuits waged by his own insurer.

"Doctors, friends and family members attested to the severe depression and emotional distress Hillenbrand suffered during more than a decade of fighting his insurer. He was depressed, with no remission of symptoms for years, believing he was losing everything as a result of the legal actions against him," the decision found.

Hillenbrand Inc. vs. Insurance Co. of North America, California Court of Appeals, 3rd District; 02 C.D.O.S. 10017.

U.K. groups hoping practices will be widely adopted

Risk management standard proposed

By SARAH VEYSEY

LONDON—Three risk management organizations in the United Kingdom hope a new risk management standard they have developed will be adopted by companies across the country and eventually around the world.

The three London-based associations—the Assn. of Insurance & Risk Managers, the Assn. of Local Authority Risk Managers and the Institute of Risk Management—introduced the standard, which has taken more than two years to develop, last week in London.

The standard establishes best practices, structure and terminology for risk management and should be used by organizations as "the essential framework to create an appropriate risk culture," said David

The standard should be used as 'the essential framework to create an appropriate risk culture.'

David Gamble
Assn. of Insurance & Risk Managers

Gamble, executive director of AIRMIC in London.

Steve Fowler, executive director for the IRM, said that the new standard uses risk terminology developed by the International Organization for Standardization.

The ISO is a Geneva, Switzerland-based body that develops standards for business, government and society. Among its more well-known standards is ISO 9000, which is an international standard for management systems.

The new risk management standard calls on risk managers to, among other things:

- Build a risk-aware culture within their organizations.
- Develop a risk-response process, including contingency plans and business continuity programs.
- Prepare reports on risk for their organizations' board and stakeholders.

"There are many ways of achieving the objectives of risk management, so it was never intended that the standard should be prescriptive or a box-ticking exercise," said Sheila Boyce, chief executive of ALARM. "By meeting the various

See STANDARD/page 39

FSA increases scrutiny of U.K. insurers

Regulatory authority shifting to risk-based approach

By CAROLYN ALDRED

LONDON—Insurers in the United Kingdom are facing increased regulatory scrutiny and greater senior management accountability under a new regulatory framework for the insurance industry, the country's top financial regulator announced in a report.

Released Oct. 1, "The Future Regulation of Insurance: A Progress Report" outlines the Financial Services Authority's overhaul of insurance supervision and its move to a risk-based approach that places greater responsibility on senior management to ensure that insurers' systems and controls are adequate. The overhaul, which began last year, also helps make sure that insurers are treating their customers fairly.

Insurers also are subject to closer contact with regulators and external auditors and actuaries to test management controls.

"Under the FSA's regime, insurance firms are facing a fundamental change in the way that they are regulated, including a more proactive and challenging regulatory relationship," the report says.

The FSA currently is carrying out risk assessments on the largest 200 insurance organizations in the United Kingdom.

"The insurance industry, in both life and the general sectors, is currently facing significant challenges," not only market pressures, which include falling equity markets and the World Trade Center loss, but also the changing regulatory environment, the report said.

"It's the responsibility of insurance firms to monitor their own capital to ensure they satisfy regulatory requirements, so they can meet policyholder liabilities in the short- and long-term," said John Tiner, FSA's managing director for consumer, investment and insurance, in the report.

The FSA intends to make the calculation and reporting of solvency margins more transparent, he said.

"In anticipation of this, and for prudential monitoring purposes, we have asked the largest life insurance firms to prepare an assessment of their liabilities on what actuaries term a realistic basis," said Mr. Tiner.

Insurers in the United Kingdom already face legislative and regulatory changes, including:

- New solvency margins likely to be introduced by the European Union.
- New international regulatory standards for insurance that are be-

See REGULATIONS/page 39

Changes to health care system sought to improve patient safety

Canadian report aims at medical errors

By MICHAEL BRADFORD

OTTAWA—Sweeping changes to Canada's health care system are needed to reduce medical errors and improve patient safety, a recently released report says.

Such changes also could result in lower rates for medical malpractice insurance, one insurer says.

The National Steering Committee on Patient Safety, which grew out of a forum held a year ago by the Royal College of Physicians and Surgeons of Canada, recommends in the report released Sept. 28 that a number of changes are needed to the legal, regulatory and educational processes that affect patient safety.

The country's health insurance and legal systems are among the committee's targets for reform.

A call for "further discussions regarding the tort and health care insurance systems and their effects on patient safety, with the aim of making recommendations that would contribute to a culture of safety in Canadian health care," is among the 19 recommendations in the report.

Also within the report is a call for formation of a nonprofit Canadian Patient Safety Institute composed of clinical, academic and administrative experts in safety and health care. The institute, charged with establishing a strategy for improving patient safety, would, among other things, recommend new practices, technologies and programs for reducing adverse events that are caused by systemic failures and human error.

See CANADA/page 39

World Updates

Tort reform proposals include damages cap

Damages for personal injury claims would be capped at $250,000 Australian ($135,875), under proposals published last week by a panel appointed by the Australian government. The tort reform recommendations were made in response to public liability insurance availability problems in Australia, where rates are rising sharply and damages awards are increasing. Among the recommendations are that: Defendants not be held responsible for "far-fetched or fanciful risks," and courts be allowed to hold 100% responsible a plaintiff who contributed to his or her own injury. The Insurance Council of Australia welcomed the report.

Winterthur gets capital infusion

Falling equity prices have forced another European insurer to increase its capital base. Credit Suisse Group said last week that it will boost the capital of its insurance unit, Winterthur Insurance Co., by 2.0 billion Swiss francs ($1.34 billion). In June, Credit Suisse added 1.1 billion Swiss francs ($737 million) to the Winterthur, Switzerland-based insurer, which had 7.9 billion Swiss francs ($5.29 billion) in capital as of June 30. Zurich-based Credit Suisse said the boost was needed after stock market declines eroded Winterthur's assets.

Munich Re boosts American Re capital

Munich Reinsurance Co. said it has increased the capital of its U.S. subsidiary, American Re-Insurance Co., by about $1.4 billion. Plans for the injection were announced in July when American Re disclosed it had strengthened its underwriting provisions by $2 billion in the second quarter of 2002. Munich Re said in July that the reserve addition was for claim development in general liability and workers compensation as well as losses from the Sept. 11, 2001, terrorist attacks.

SCOR planning share offering

SCOR S.A. plans to raise 400 million euros ($404 million) in capital to boost its capacity for 2003. The Paris-based reinsurer said it plans to raise the capital through a share issue, with preferential subscription rights given to existing shareholders. The added capital will let SCOR "pursue its strategy of selective growth in what is a very positive environment for the reinsurance industry, in particular for property

See WORLD UPDATES/page 39

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Standard: Common practices proposed

Continued from page 39

component parts of this standard, albeit in different ways, organizations will be in a position to report that they are in compliance, and assess their performance."

The standard is not intended to be "prescriptive," explained David Ovenden, one of its authors, but rather a "living document" that will evolve over time. No certification will be offered to organizations complying with the standard, added Mr. Ovenden who is an independent risk management consultant and a London-based director of IRM.

'Most people have some sort of risk management in their organization. We can't tell them how to do it in detail, so we created a framework.'

David Ovenden
Institute of Risk Management

The three risk management organizations said they hope their members would adopt the standard and that, in time, it would be officially recognized by the British Standards Institute.

In developing the standard, the associations consulted with several other organizations, including the Assn. of British Insurers, the U.K. Health and Safety Executive, the Institute of Occupational Safety & Health and Lloyd's of London, Mr. Ovenden explained.

"There are, of course, already a lot of (risk management) standards around–consultants and accountants have them, as well as national standards (used) in New Zealand and Australia," Mr. Ovenden pointed out.

But, he said, the IRM, AIRMIC and ALARM believe that none of these standards comprehensively covers all aspects of risk management.

The standard will be a "a useful backdrop to what we do," said Mark Butterworth, group insurance risk manager at Prudential P.L.C. and chairman IRM.

Mr. Butterworth said that the standard would enable risk managers to better communicate with upper management the impact of risk on the business. It will help risk managers illustrate to different sectors in their organizations the way to treat risks, the management of compliance, as well as how risks are financed, he said.

The timing of the launch of the standard is "pretty good," according to Mr. Ovenden.

"Risk management is gathering momentum, what with the recent corporate problems" that have received considerable public attention, he said. "Corporate governance has been a big issue, and we need to think about how we relate to stakeholders."

The standard, Mr. Ovenden said, is intended to give both companies and public sector organizations a framework for what the risk management process involves.

"Most people have some sort of risk management in their organization. We can't tell them how to do it in detail, so we created a framework to set out the key elements in the process," he said.

"We believe, at the end of the day, that organizations that adopt this standard will be protected and have added value," said Mr. Ovenden.

AIRMIC's Mr. Gamble said he thought it likely that the development of a U.K. standard would influence any European Union-wide standardization of risk management.

World Updates

Continued from page 37

and casualty reinsurance and large corporate accounts," SCOR said in a statement. A shareholder vote on the proposal is slated for Nov. 5.

TUC seeking rule on ergonomics

U.K. labor federation The Trades Union Congress is joining a push by the European Parliament for an E.U. directive on repetitive strain injuries. The TUC said a directive on ergonomics should require employers to ensure that workstations and equipment are suited to workers' abilities. The TUC also called for amendments to an existing directive to include the use of computer mouse devices, laptops and personal digital assistants.

Rail crash claimants reject settlement

A group of U.K. claimants pursuing damages over the May 2001 Potters Bar rail crash have rejected a £12 million ($18.7 million) offer by U.K. rail operator Railtrack P.L.C. and are planning legal action against Railtrack, the government's Health and Safety Executive and maintenance firm Jarvis Rail. No party has admitted liability for the crash, in which seven people were killed and more than 70 were injured.

Briefly noted

Standard & Poor's Corp. has cut its rating of **Swiss Reinsurance Co.** to AA+ from AAA. S&P said the downgrade reflects Swiss Re's recent "marginal" nonlife underwriting performance and a decline in its capital....A.M. Best Co. has downgraded Bermuda-based life reinsurer **Annuity & Life Re (Holdings) Ltd.** operating units to B++ from A-. Best cited several reasons for the downgrade, including unsatisfactory operating performance and concerns about the Securities and Exchange Commission's review of Annuity & Life Re's financial statements.

Regulations: FSA shifting focus

Continued from page 37

ing developed by the International Assn. of Insurance Supervisors.

- The U.K. Financial Reporting Standards to be adopted by all publicly listed E.U. companies by 2005.

The U.K. Financial Services and Markets Act 2000, which includes a greater focus on senior management responsibilities, the report notes.

"It is important that firms recognize that these regulatory developments require the modernization of their governance and risk management frameworks and their systems and controls," the report states.

The areas of concern the FSA has identified include:

- Outsourcing, including controls imposed on outsourcing agreements and the management of outsourced processes.
- Risk management, including the processes used to identify, assess, mitigate and report risks.
- Documentation of procedures and controls, computer systems and reporting the operation of key controls.
- Responsibilities for documentation and control of limits and authorities delegated to subsidiary companies.

'It is important that firms recognize that these regulatory developments require the modernization of their governance and risk management frameworks and their systems and controls.'

Financial Services Authority

- Business continuity plans.
- Testing of the companies' controls, solvency margins, and procedures in different situations.

In addition to insurance companies, the FSA also will apply its risk-based regulation to Lloyd's of London and Lloyd's companies. Lloyd's, which previously was self-regulated, became subject to the FSA's regulation on Dec. 1, 2001.

"We are committed to maintaining a regime for Lloyd's equivalent to that for insurance companies. As with the regulation of all insurers, a key concern is the protection of policyholders against the risk that valid claims are not paid," the FSA report notes.

Beginning Jan. 1, 2003, syndicates and agents at Lloyd's will receive onsite inspections and monitoring by the FSA, the report states.

Lloyd's welcomes the FSA's proposals and is working closely with the FSA, a Lloyd's spokesman said.

Mary Francis, Director General of the Association of British Insurers, also welcomes the FSA's approach, believing that it "should lead to a more flexible and sensitive regulatory regime."

Canada: Report calls for health care system changes

Continued from page 37

If changes suggested by the report are implemented, one of the results could be lower medical malpractice insurance rates for some doctors, according to a spokeswoman for the Canadian Medical Protective Assn., an Ottawa-based physician-owned fund that provides its members with malpractice coverage.

"If errors were reduced, then, naturally, patients would be better off and fees for doctors in terms of medical malpractice protection, which we offer, would likely come down, depending on the type of work the doctors are doing," the spokeswoman noted. "The less risk there is, the less need there is to protect for a certain eventuality."

The steering committee's recommendations also seek changes regarding privacy rules that apply to personal health information.

Canada's health care personnel are "increasingly aware of the frequency and significance of these largely preventable adverse events," an executive summary of the report stated. It went on to state that "Canada is significantly behind the United States, the United Kingdom and Australasia in accepting that patients are at significant risk, in wanting to learn about the relevant issues, and in investing in the creation of a safety culture."

The steering committee that drafted the report is made up of eight members and a chairman who represent academicians, health care providers and a member of the public. The committee is calling for a budget of up to $50 million Canadian ($31.7 million) over five years funded by federal, provincial and territorial governments to be used to address patient safety issues.

The report's issuance marked the disbanding of the steering committee, which was established solely to produce the recommendations. Now, an administrative group will work on the "advocacy/strategy side," said Pierrette Leonard, project officer with the committee.

"What they are trying to do now is drum up political will" to get the changes made, said Ms. Leonard.

Among the recommendations is one that calls for improvements in measuring and evaluating patient safety. Ms. Leonard said no hard figures exist on the number of medical errors in Canada.

The report calls for an analysis that would recommend ways to detect and report errors and suggests funding for such systems be provided by federal and local governments.

Regarding privacy issues, the report suggests that privacy and confidentiality rules on personal health information be standardized across Canada as a way to make it easier for federal and provincial governments to collect and share patient-safety data on a consistent, nationwide basis.

A review and possible changes to provincial Evidence Acts and related legislation also are recommended. The committee wants to ensure that the legislative changes would make opinions and information gathered solely for purposes of improving patient safety protected from disclosure in legal proceedings. While a provincial Evidence Act generally provides that protection, the report says that such legislation is often "outdated" and "inconsistent."

And, the committee would like to see a greater focus by legal and regulatory authorities on improving the system through education and remediation, rather than punishment and blame on health care workers.

While incompetence still would, in some cases, result in restrictions or removal of a health care provider, the report says that, when possible, "underlying problems that affect performance should be identified and remedied, and remain the primary objective when addressing performance problems."

In a statement announcing the release of the report, Dr. John Wade, chairman of the committee, said: "We have to move from a culture of blame and shame to a culture of openness and collaboration in health care that enhances patient safety. Only then can we learn from adverse events and explore solutions in an atmosphere of trust and partnership between patients, providers, regulators and funding agencies."

The report, "Building a Safer System: A National Integrated Strategy for Improving Patient Safety in Canadian Health Care" is available at www.rcpsc.medical.org.

27th Canadian Risk Management Conference

Risk managers can predict and prevent workplace violence

By JOANNE WOJCIK

SASKATOON, Saskatchewan—If an employee comes into your office and threatens to sue you, be relieved that he or she is not likely to shoot you.

That was advice for risk managers from workplace violence expert Heather Gray during a session titled "Rage, Rage and More Rage: Violence in the Workplace," held during the 27th Canadian Risk Management Conference in Saskatoon, Saskatchewan.

People generally resort to violence only when they feel all other avenues of recourse have been eliminated, so if they're thinking about suing you, "it should be music to your ears," said Ms. Gray, a former policewoman who now operates a consulting business in Edmonton, Alberta.

But risk managers still must be prepared in case the employee's response changes and he or she becomes violent, she warned.

"Whenever there's a stated threat by an adult, that is a very significant warning sign," she said, because "adults tend to hold their cards close to their chests."

Risk managers must objectively assess the threat, Ms. Gray advised. The first step in threat assessment is to examine the context, or the life situation, of the individual, she said.

If one employee "says to a coworker, 'I'm going to come in with a gun tomorrow and kill my boss, because I'm really sick of the way he's treating me.' And the other fellow says, 'That's nothing! Tomorrow I'm going to bring a bomb and blow up the whole building!' Is one threat worse that the other? At that point we don't know, because what we don't know is the context in the lives of those people," Ms. Gray said.

In examining context, the risk manager should determine potential contributors to a violent act. One consideration is whether the individual is under a restraining order as part of a contentious divorce, she said. The risk manager also should consider likely inhibitors that might deter the individual from resorting to violence, such as whether he or she has children living at home.

Another consideration is whether the threat is made against someone who is closely involved with the individual or one who is a more neutral co-worker, she said. She noted that the more intimate the relationship is, the more likely it is that the threat will be carried out.

Ms. Gray suggested risk managers apply a violence predication scale developed by Gavin de Becker, a security consultant in Los Angeles who has authored several books and has advised on many celebrity stalking cases. She said Mr. De Becker's so-called JACA scale represents:

- Justification, which assesses whether a person feels he or she could justify hurting someone.
- Alternatives, which views whether a person has options other than violence.
- Consequences, which considers whether a person would care about the likely repercussions of resorting to violence.
- Ability, which looks at whether a person has the ability to carry out a threat.

Risk managers can use the JACA scale to determine whether the potential perpetrator might be formulating a plan of violence and, if so, how close he or she is to carrying it out, Ms. Gray said. Armed with this information, it may be possible for the risk manager to intervene, she added.

For example, "we probably can't change the mindset, the justification, but we may be able to work with alternatives," such as suggesting other avenues for venting anger, she said.

"Threats of harm are usually an attempt to regain lost power," Ms. Gray explained. "Think of the threatener as a very vulnerable individual, not as someone who should be feared, but who needs intervention."

Sometimes, attackers might actually be seeking to commit suicide, but because they are afraid to do it themselves, they put themselves in a situation where they will be killed by someone else, such as law enforcement.

"It's the desire to be killed. We call it 'suicide by cop,' " she said.

Risk managers can also use the MOSAIC Threat Assessment Tool, an extensive software database developed by Mr. De Becker of more than 24,000 cases, to compare a current situation with that of other similar scenarios.

By knowing the probable outcome of the threat of violence, it may be possible to prevent it, Ms. Gray suggested.

Also speaking during the session was Kim Hunton, risk manager for the city of Ottawa. The session was moderated by Doug Brown, risk management coordinator for the city of Regina, Saskatchewan.

Enterprise: Interest growing

Continued from page 3

Times They are A-Changing" at the 27th Canadian Risk Management Conference last week in Saskatoon, Saskatchewan. Ms. Kleffner and Mr. Lee are conducting a similar survey of U.S. risk managers.

A company's size had little influence over whether it uses enterprise risk management, Mr. Lee said. The survey found that nearly 34% of risk managers from firms with less than $500 million Canadian ($315.1 million) in revenues were using ERM, compared with 32% of those at firms with between $500 million and $2.5 billion ($1.58 billion) in revenues and 34% of those at firms with more than $2.5 billion.

Despite the TSE guidelines, publicly traded firms were no more likely to use enterprise risk management than those that were privately held, the survey also found. In fact, only 37% of respondents said they adopted ERM because of the new TSE guidelines, Mr. Lee said.

Among the reasons for adopting enterprise risk management, "influence of the risk manager" was the most common, reported by 61% of respondents. Fifty-one percent said they were encouraged to adopt ERM by the board of directors; 28% cited concerns about directors and officers liability; 23% identified product innovation in managing risk; and 20% said fear of the hard market had prompted the move.

> **'You've got to believe that risk is risk is risk. Everybody's got to understand that a dollar lost doesn't matter where it's coming from.'**
>
> *Ryan B. Lee*
> *Haskayne School of Business*

Drawing from responses to other questions, such as organizational structure, risk managers' education and industry type, the researchers found the risk managers most likely to be practicing enterprise risk management were those who:

- Are in the energy industry.
- Report to the vp of finance.
- Rely more on outside resources.
- Have greater responsibility for nonoperational risks.
- Have more interaction with other departments and the board of directors.
- Use blended risk products, multitrigger contracts and plan on using securitization, finite risk and pooling contracts.

"This issue of buy-in is very important to getting enterprise risk management off the ground," Mr. Lee said. "You've got to believe that risk is risk is risk. Everybody's got to understand that a dollar lost doesn't matter where it's coming from, it's important to the firm."

The session was moderated by William McGannon, a retired risk manager and principal of Risky Business, a consulting firm based in Calgary, who also teaches at the University of Calgary.

Exclusion: Court rejects effort to win D&O cover

Continued from page 2

with the company "at most" was voidable, Judge Fawsett ruled. That means Mr. Taylor was a valid director and officer "until the company removed him."

The judge also rejected Sphinx's argument that the exclusion bars coverage for only the portion of the lawsuit attributable to Mr. Taylor's securities claim but not the other plaintiffs' claims.

Judge Fawsett noted that Mr. Taylor played a lead role in recruiting other plaintiffs.

The ruling is important, according to Genesis attorney Lewis K. Loss.

"The issue of who qualifies as a duly elected director or officer can come up in a variety of different contexts, and for that reason it's instructive to have the thoughts of at least one federal district court," said Mr. Loss, a partner with Ross, Dixon & Bell L.L.P. in Washington, D.C.

Insurer attorney Dan A. Bailey, who was not involved in the Sphinx case, said the litigation highlights an issue about which insurance buyers should be more concerned: "Are all the people a company expect to have covered duly elected and appointed?"

"I suspect that at an awful lot of companies, the answer is 'No,'" said Mr. Bailey, a partner with Arter & Hadden L.L.P. in Columbus, Ohio. He noted that many executives come on board at companies as a favor to friends in management who do not formalize the appointment.

> **'The issue of who qualifies as a duly elected director or officer can come up in a variety of different contexts, and for that reason it's instructive to have the thoughts of at least one federal district court.'**
>
> *Lewis K. Loss*
> *Ross, Dixon & Bell L.L.P*

To protect its executives, a company should ensure that all have been duly elected and appointed, Mr. Bailey advised.

Policyholder attorney Edward M. Joyce, a partner with Heller Ehrman White & McAuliffe L.L.P. of New York, said the case was too fact-specific to have much bearing on future litigation.

But, if insurers attempt to reduce their indemnification by arguing that only duly elected or appointed executives are covered, policyholders may be able to benefit from the portion of Judge Fawsett's ruling that gives weight to companies' public statements about their executives' status, according to Mr. Joyce.

Another D&O insurer, National Union Fire Insurance Co. of Pittsburgh, Pa., also was a named defendant in the coverage dispute but did not participate in the case after invoking a policy provision calling for alternative dispute resolution. After Judge Fawsett issued her ruling, however, National Union filed a motion requesting that the ruling also cover its dispute with Sphinx, according to Mr. Loss.

National Union would not comment.

Sphinx's attorneys at Drage, de Beaubien, Knight, Simmons, Mantzaris & Neal L.L.P. in Orlando did not return calls.

Sphinx International Inc. et al. vs. National Union Fire Insurance Co. of Pittsburgh, Pa., and Genesis Indemnity Insurance Co., U.S. District Court for the Middle District of Florida, Orlando Division; No. 6:01-CV-1462-ORL-19KRS.

27th Canadian Risk Management Conference

Different risks call for different approach: Speaker

By JOANNE WOJCIK

SASKATOON, Saskatchewan—The changing nature of risk due to the emergence of such threats as terrorism, corporate greed and other intentional misdeeds requires risk managers to take a more aggressive and intuitive approach to crisis management, an expert asserts.

In the past, the main risks companies faced were either "natural," such as hurricanes and earthquakes, or "normal," such as accidents and equipment failures—the kinds of things that can be predicted by using the rules of probability and outcome.

But today, companies must contend with unpredictable "abnormal" crises, such as intentional acts, observed Ian Mitroff, professor of business policy at the University of Southern California in Los Angeles.

Because of the change in the nature of risk, a scientific approach to risk management won't work, Mr. Mitroff told those attending a session titled "Crisis Management is Dead, Long Live Crisis Leadership" at the 27th Canadian Risk Management Conference Sept. 22-25 in Saskatoon, Saskatchewan.

> **'New problems require new solutions. Traditional crisis management is ineffective. It's fragmented and reactive. It doesn't work.'**
>
> *Ian Mitroff*
> *University of Southern California*

Instead of preparing only for likely crises, risk managers should take a more intuitive approach and expect even the most outlandish possibilities, then prepare a crisis management plan that not only provides a physical response but also addresses the emotional and psychological impact, he said.

"New problems require new solutions," Mr. Mitroff said. "Traditional crisis management is ineffective. It's fragmented and reactive. It doesn't work," he said. And because it is probability-focused, it stresses mitigation rather than prevention, he added.

For example, when corporate misdeeds are revealed, "it is tried in the court of public opinion, where they are guilty until proven innocent," he said. As a result, "the company response is almost always too late, and the statements are also almost always contradicted immediately."

"The media are better at explaining difficult and complex subjects than companies' technical people are," he explained. "As a result, the company's credibility plummets even further. You almost always do the right things too late."

Instead of trying to do damage control after an incident, Mr. Mitroff suggested that companies hire people with a background in investigative reporting to conduct internal probes. An internal investigation like the kind that might be conducted by the media after a debacle could enable companies to discover early signals of an impending crisis, he said.

"Early warning signals are often ignored. This fact becomes one of the major aspects of an unfolding crisis," he said, adding that "after an initial failure, all other failures, however minor, become 'major' in the media."

"Make crisis leadership into a competitive advantage," he suggested. "If you do crisis management right, you combine it with total quality management, you combine it with insurance management, you combine it with strategic planning, you get synergy, and you show that you have a function which adds to the strategic capability of your organization."

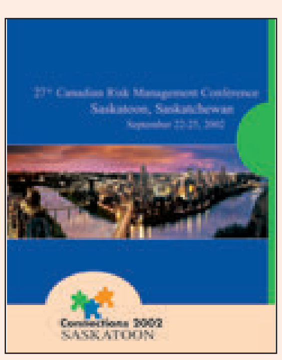
He also advised risk managers to "study how crises can set off chain reactions."

"Most organizations are prepared for the crises of 80 years ago, not today," he asserted. "We can't do crisis management effectively with old mechanisms."

27th Canadian Risk Management Conference

Several debuts made at Canadian RIMS

SASKATOON, Saskatchewan—A new name, logo and scholarship fund were unveiled at the 27th Canadian Risk Management Conference, held Sept. 22-25 in Saskatoon.



Formerly known as the Canadian Risk Management Council, the organization formally changed its name to the RIMS Canada Council this year to better reflect its affiliation with the New York-based Risk & Insurance Management Society Inc.

And, as part of its mission to bring new educational opportunities to Canadian risk managers, the RIMS Canada Council also established a scholarship fund to help up-and-coming risk managers pursue advanced educational opportunities. The William H. McGannon Foundation for Advanced Risk Management will provide research grants, academic awards and scholarships to working risk managers seeking to further their education.

More than 800 risk managers and exhibitors attended this year's Canadian RIMS conference. In addition to numerous breakout seminars on various risk management and insurance topics, the conference also featured sessions on lessons learned from Sept. 11, the state of the insurance market and future trends, as well as crisis management.

Next year's conference will be held in Victoria, British Columbia, Oct. 19-22.

For further information or to register, contact Kelly Singleton at Sinfonia Travel Ltd., 2160 Victoria Ave. E., Regina, Saskatchewan S4N789 Canada, 306-584-9220. Or visit RIMS Canada Council's Web site at *www.crmc.rims.org* or via the international RIMS web site at *www.rims.org* under the heading "RIMS in Canada."

—By Joanne Wojcik

Tax credit: Change gives 401(k) plans new flexibility

Continued from page 1

come credit, few employers or employees are aware of it, experts say.

"Few people have thought to look at this," said Joe Lineberry, a senior vp in the Winston-Salem, N.C., office of Aon Consulting.

But given the amount of money that may be at stake for their lower-income employees, employers may, at a minimum, want to inform employees of the change in law and its potential for tax savings, Mr. Lineberry said.

There is good reason why the change in law is little known. It comprises just one paragraph in last year's Economic Growth and Tax Relief Reconciliation Act. And for employers with relatively well-paid workforces, understanding of the EIC is irrelevant.

The tax break is available only to lower-income employees: a married employee with two children could earn only up to just under $34,000 in order to be eligible for the EIC. But for lower-income employees, the EIC is a huge tax break.

Enacted years ago by Congress to reduce the burden of higher Social Security payroll taxes on lower-income employees, the EIC is a tax credit with the amount of the credit directly offsetting income taxes owed by the employee.

If the employee does not owe any taxes, the EIC is refundable, meaning the employee would receive the amount in cash.

The amount of the EIC is based on employees' earned income. The maximum credit is $4,140 for employees with at least two children and $2,506 for just one child.

Except for extremely low-paid employees—those earning less than about $15,000—the lower the employees' income, the higher the tax credit will be.

The relevance of the EIC to benefit pretax contributions involves a change in tax law Congress made last year in the EGTTRA legislation. Prior to EGTTRA, employees' benefit pretax contributions, which include 401(k) salary deferrals, FSA contributions and health insurance premium contributions made through salary reduction, were counted as income in EIC calculations.

If an employee, for example, earning $25,000 made a $3,000 contribution to his or her 401(k) plan, the employee would be considered, to determine the amount of the EIC to which he or she was entitled, to have earned $25,000. That was true even though for income tax purposes the individual earned $22,000.

But in the interest of what a legislative report described as "significant simplification," Congress changed the definition of earned income for the EIC so that employees could exclude amounts, like benefit pretax contributions, that are excludable as gross income for income tax purposes.

'Given the amount of money that may be at stake for their lower-income employees, employers may, at a minimum, want to inform employees of the change in law and its potential for tax savings.'

Joe Lineberry
Aon Consulting

Since, generally, the lower the employees' income, the greater the EIC will be, the greater an employees' pretax contributions, the higher the EIC will be.

An example provided by benefit consultant Hewitt Associates Inc. illustrates how this change in treatment of pretax contributions can dramatically affect the amount of the EITC to which an employee is entitled.

Take the case of a married employee with two children earning $30,000, who contributes $3,000 to a dependent care FSA. In 2001, when pretax contributions were included as income to determine the amount of the EIC, the employee would have received a tax credit of $880. In 2002, due to the EGTRRA change, the employee's income would be considered to be $27,000 and the amount of the EIC, through the reduction of earned income, would be $1,512, or $632 more than in 2001.

The EGTTRA change has a special relevance for employees with dependent care expenses.

Under federal law, employees with such expenses have two tax breaks available: They can receive dependent care tax credit, which depends of employees' incomes. The credit currently ranges from 20% to 30%, for up to $3,000 of dependent care expenses for one child and $6,000 of annual expenses for two or more children. Next year, the maximum credit rises to 35% of expenses and employees will be able to earn higher incomes and still qualify for the maximum credit.

Alternatively, employees can finance up to $5,000 in dependent care expenses through pretax contributions to FSAs, assuming their employers offer the tax-saving arrangement. The FSA and tax credit cannot be applied on the same expenses.

Generally, the dependent care tax credit generated the biggest tax savings for lower-income employees. But with pretax dependent care contributions now excluded from earned income for the EIC, employees may be better off, due to the amount of the EIC they may receive, by contributing instead to a dependent care FSA.

"This is something employees really have to take a look at," said Denise George, a Hewitt research consultant in Lincolnshire, Ill.

And for many employees, the time to make such calculations is at hand. That is because the next two months is when millions of employees in flexible benefit plans have to decide for the coming year which benefit plans offered by their employees they will choose and how much they will make in pretax contributions to the plans.

Terrorism: White House raises pressure

Continued from page 1

After setting the deadline, the president repeated his contention in several forums that the lack of terrorism insurance had killed or delayed more than $15 billion in construction projects and thousands of jobs.

But the White House and Democratic members of the conference committee remained divided over the issue of tort reform as the president's deadline approached.

Last week, two of the conferees—Sens. Christopher Dodd, D-Conn., and Charles Schumer, D-N.Y., accused the White House of failing to show leadership on the issue and instead favoring media events over substance. The two lawmakers said that the Democrats had made a final offer on tort issues on Oct. 2, offering to insert language from the so-called "No Child Left Behind" act, which gives federal money to disadvantaged schools. In the context of terrorism-related liability, the language would consolidate damage claims against property owners in a single federal court as well as providing some other safeguards.

"Looks like we're still finger-pointing," Ken Schloman, Washington counsel for the Alliance of American Insurers, said on Friday morning. "But we're still encouraged they're talking. That's the key thing," he said.

"We're still optimistic, although the deadline was a very optimistic deadline, it got people moving, and it jumpstarted the negotiations," said Julie Gackenbach, assistant vp-government relations in the National Assn. of Independent Insurers' Washington office. "It has provided the impetus that will get us over the goal line by adjournment."

"We may actually have something for the conferees to act upon on Monday," said Julie Rochman, a senior vp with the American Insurance Assn. Ms. Rochman said that observers expected a deal on tort reform first and that the insurance provisions would be worked out thereafter.

'Never before has the business insurance community—insurers, reinsurers, brokers, risk managers—had so much at stake in a single act of Congress.'

Joel Wood
Council of Insurance Agents & Brokers

Joel Wood, senior vp-government affairs for the Council of Insurance Agents & Brokers in Washington, said that as of late last week, the issue could still go either way. "We're either on the precipice of a long-awaited victory or a miserable defeat," he said.

"Congress seems to only have two speeds—'now' and 'not now.' Up until the president's stern admonitions as Congress stared down adjournment before the elections, the tempo has been 'not now,' " Mr. Wood said.

He said that there is "every reason" for the White House and Congress to complete action on the issue, adding that there was room for compromise on both the tort and structural issues involved.

"There is far more agreement than disagreement about what should be done. This is the president's top domestic economic issue facing the Congress at this time. Never before has the business insurance community—insurers, reinsurers, brokers, risk managers—had so much at stake in a single act of Congress. Despite some political tensions, there is enough goodwill and substantive similarity between the House and Senate bills. The enemy is the clock," he said.

As the Bush administration and its congressional supporters sparred with Democratic lawmakers over the legal aspects of the bills, it has offered its own plan for determining how much cost individual insurers would bear in under a federal terrorism insurance program.

According to an undated memorandum obtained by *Business Insurance*, an insurer's deductible would be set at a fixed percentage of direct written rather than net premiums, at 9% in the first year of the program, 12% in the second and 15%, if the program extended into a third year.

The base for the deductible would be calculated using a measure of direct written premium income, such as an annualized measure of an insurer's most recent quarter of earned written income, that "captures contemporaneous premium income," according to the memo. That would avoid potential distortions that could arise from the use of purely historical data.

The government would bear 90% of losses above the deductible.

The Senate passed a bill that would base deductibles on market share, with the federal government picking up a larger share of the losses if industry aggregate losses exceeded $10 billion. A competing House bill passed late last year calls for a double-trigger mechanism involving individual company deductibles that would change if an industrywide loss trigger were met. The House measure would also require that insurers repay government payouts.

Insurers expressed some concern about the details of the White House plan.

"We had CEOs in town Thursday that met with the administration and Hill leaders to tell them that amount of per-company retention is critical. If the dollar number is too high, companies will flee the marketplace even more and (lawmakers) will accomplish exactly the opposite of what they set out to do, which to draw companies into the marketplace," said AIA's Ms. Rochman.

"We're pleased to see that the White House is trying to make an offer to resolve this issue," said NAII's Ms. Gackenbach. "The formulary approach in and of itself we're comfortable with—the actual numbers may be a little high—but we look forward to working with the administration and Congress on that structure."

In yet another development, the Fraternal Order of Police and International Assn. of Firefighters called on Congress last week to extend any federal terrorism insurance program to group life insurance as well as property/casualty insurance.

Near North: Lawsuit alleges conspiracy

Continued from page 3

the suit charges.

Mr. Segal resigned as Near North's chairman and CEO earlier this year but still owns the firm. He was indicted in February by a federal grand jury for allegedly causing his firm to misstate information about Near North premium trust funds in applying for renewal of an Illinois insurance producer license. Mr. Segal has denied any wrongdoing, and Near North maintains that when it learned of the trust fund deficiency, it was reported to Illinois regulators.

The new suit addresses accounting problems in Near North's Chicago division, saying the brokerage began experiencing problems prior to March 1997 "due to difficulty in coding Near North accounts and obtaining professional accounting staff." Implementation of an accounting software program purchased in 1998 proved problematic, according to the suit, creating additional difficulties.

Some former employees 'attempted to destroy Near North's corporate value in order to purchase Near North or steal key clients.'

Near North Insurance Brokerage Inc.

The suit cites e-mail sent from Mr. Segal to the head of Near North's accounting department in November 1999 expressing concerns over the accounting problems. Other e-mails Mr. Segal sent through 2000 and into 2001, including some to individuals named in the complaint, continued to stress his concerns with the accounting problems, according to the suit.

Spokespeople for Aon and USI said Thursday that though they were aware of the suit, their companies had not yet seen it, so they could not comment. Attempts to contact attorneys for the former employees were unsuccessful.

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Issue of October 7

D&O: Insurers seek rescission

Continued from page 1

Mr. Rossi warned.

Some insurers, for example, are trying to limit or remove "severability" clauses, which prevent wrongful acts of one executive from being imputed to others. By removing severability from policy exclusions for fraudulent or dishonest acts, an insurer might deny coverage to all directors and officers for fraud committed by just one, Mr. Rossi observed.

Policy language on severability and other terms differs from insurer to insurer, and can even differ within a single D&O program, he added.

In Adelphia's case, AEGIS—which wrote a $25 million primary limit—included severability language in its policy and is thus trying to rescind coverage for only seven Adelphia officials whom it has identified as having committed personal wrongdoing, according to the insurers' complaint.

Excess policies issued by Federal, a Chubb Corp. unit, and Greenwich, an XL Capital Ltd. unit, contain no severability language, and the two insurers are seeking to void their entire policies from inception, according to the suit, filed last week in U.S. District Court in Philadelphia.

Federal wrote a $15 million excess limit and Greenwich provided a $10 million limit excess of Federal's layer.

All three insurers, meanwhile, have asked a U.S. bankruptcy judge in New York for permission to add Adelphia itself as a defendant in the recision lawsuit, which now names directors and officers only.

Adelphia filed for Chapter 11 protection in June, three months after it jolted investors by revealing $2.3 billion in previously undisclosed off-balance-sheet debt.

The disclosure prompted several investigations and led, among other things, to federal criminal charges against Mr. Rigas, Adelphia's former chairman; his sons Timothy and Michael, former executive vps; James R. Brown, former vp-finance; and Michael Mulcahey, former assistant treasurer.

In July, Adelphia itself sued its own former management for what it described as "one of the largest cases of corporate looting and self-dealing in American corporate history."

The company's three D&O insurers cite both the civil and criminal cases in their own lawsuit to rescind their Adelphia policies.

Three insurers allege that Adelphia founder John J. Rigas falsely asserted that Adelphia officials knew of no circumstances that would give rise to a claim.

In addition to Mr. Rigas and the four others charged in the criminal case, the insurers' suit names James P. Rigas, another of Mr. Rigas' sons and a former Adelphia executive vp; Peter L. Venetis, John Rigas' son-in-law and a former director; Erland E. Kailbourne, the company's current chairman and interim chief executive officer; and five other current or former directors and officers.

The insurers charge that the Rigas family used Adelphia as "a personal piggy bank" and that its management knew its financial statements were fraudulent when John Rigas signed applications for the D&O coverage in January 2001. The three-year policies run from Dec. 31, 2000, to year-end 2003.

Among other alleged wrongdoing, the insurers charge that:

- Rigas family members made Adelphia a co-borrower on credit facilities used by Rigas-controlled entities unrelated to Adelphia. In one 1999 deal, for example, a Rigas partnership borrowed $640 million under a credit facility on which six Adelphia subsidiaries—which received no benefit from the loan—were made co-borrowers, the suit says.

By April 2002, various Rigas entities had borrowed $3.1 billion under such arrangements, using the money to buy cable assets and Adelphia stock, according to the suit.

Adelphia did not report these debts in its financial statements and their disclosure this year led to the company's bankruptcy, the suit says.

- Rigas family members and related entities routinely borrowed millions of dollars in cash directly from Adelphia and owed the company $311 million as of year-end 2000.
- Adelphia management approved millions of dollars of improper loans to the Rigas-owned Buffalo Sabres hockey team, which owed the company $130 million at year-end 2001.
- Rigas family members used $13 million of Adelphia's money to build a golf course on Pennsylvania land they owned.
- John Rigas bought 3,656 acres of land and caused Adelphia to pay virtually all of the $27 million purchase price in exchange for timber rights on the property. Adelphia never cut any timber, and the rights were to revert to Mr. Rigas if he ever lost control of Adelphia, the suit says.

Mr. Rigas has denied wrongdoing in his dealings with Adelphia.

In applying for the D&O coverage, Mr. Rigas falsely asserted that Adelphia officials knew of no circumstances that would give rise to a claim, and submitted fraudulent Adelphia financial reports, the suit alleges.

For these reasons, among others, the coverage should be voided, the insurers argue.

While Federal and Greenwich seek to rescind their entire policies, AEGIS is seeking recision only against Mr. Rigas, his three sons and Messrs. Venetis, Brown and Mulcahey.

Venues: Tort reforms sought

Continued from page 3

attention in Mississippi, for example, has led to improvements in some jurisdictions in that state.

Mr. Schwartz, who is a partner at Shook Hardy & Bacon in Washington, also cited a pair of venue reforms he sees as key to making the tort system fairer. First, he said, plaintiffs should be required to bring cases in jurisdictions where they live, where they suffered injury or where the defendant's principal place of business is located.

In addition, a related reform would require that a case have some "meaningful connection" with the jurisdiction in which it is heard. If it does not, the case should be removed to the appropriate court, Mr. Schwartz said.

In addition to venue reform, the ATRA counsel also called for class-action reform.

The House of Representatives earlier this year passed its version of class-action reform legislation, but the Senate has not taken similar action on the issue (*BI*, Aug, 5). That bill includes a provision designed to curb forum-shopping by plaintiffs' attorneys.

'These corporate giants simply want to be above the law and the judgment of the American people.'

Mary E. Alexander
Assn. of Trial Lawyers of America

Both Messrs. Joyce and Schwartz stressed that ATRA is not seeking to create overly defendant-friendly jurisdictions, but rather a fairer, more-balanced tort system.

The Washington-based Assn. of Trial Lawyers of America found the ATRA report less than compelling. In a statement issued within hours of the report's release, ATLA President Mary E. Alexander blasted the study.

"The tobacco, insurance, drug and chemical industries that pay for ATRA's anti-consumer propaganda don't trust America's judges and juries that hold them accountable for their misconduct, which injures and kills and robs citizens of their retirements. These corporate giants simply want to be above the law and the judgment of the American people," said Ms. Alexander, who is a founding partner of the San Francisco law firm Mary Alexander & Associates P.C.

The report, "Bringing Justice to Judicial Hellholes," is available online at www.atra.org.

For the Record

This roundup of news from the previous week is generated by *BI*'s daily news reporting. To get breaking news as it occurs, log on to *www.businessinsurance.com*, or sign up online for free *BI* Daily News by e-mail.

USI seeks to raise up to $171 million in IPO

USI Holdings Corp. plans to raise between $148 million and $171 million in an initial public offering, according to documents filed with the Securities and Exchange Commission. USI and other investors will offer 11.4 million shares at $13 to $15 per share, the filing states. The insurance broker will offer 7.9 million shares in the IPO, with other investors in the privately held brokerage offering the remaining shares. Merrill Lynch & Co. Inc. is underwriting the offering.

PHOTO: AFP

Flooding from Tropical Storm Isidore, which drenched Louisiana late last month, is giving rise to property claims.

Isidore damage expected to hit $100 million

Insured damage in Louisiana from Tropical Storm Isidore is expected to reach $100 million, according to the state's insurance department. Automobile claims will total around $50 million in Louisiana, while homeowners and commercial claims each are expected to reach $25 million, according to the Louisiana Department of Insurance's estimate. The figures include claims on coverage issued by insurers for the National Flood Insurance Program.

LLOYD'S

Lloyd's to return to profit in 2002, says Moody's

Lloyd's of London will likely record a marketwide profit of more than £1 billion ($1.56 billion) for 2002, which would be the market's first profit in six years, according to a report by Moody's Investors Service. But the outlook is bleak for 2000 and 2001, Moody's says. Moody's predicts a £2.4 billion marketwide loss ($3.75 billion) for 2000 and a £2.6 billion loss ($4.06 million) for 2001.

Census data show increase in uninsured

The number of uninsured individuals rose to about 41.2 million in 2001 from 39.8 million a year earlier, according to the U.S. Census Bureau. But the number of insured also grew by 1.2 million in 2001, to 240.9 million. The growth, however, reflects an increase in the number of people covered by government insurance programs, notably Medicaid. The report notes that the percentage of people covered by employment-based insurance dropped to 62.6% from 63.6% a year earlier.

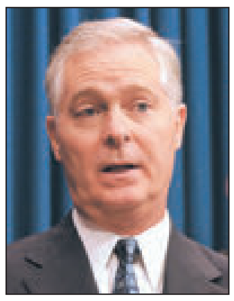
Marsh names successor to retiring Sinnott

John T. Sinnott, Marsh Inc.'s chairman and chief executive officer, will retire in July 2003 and will be replaced by Ray J. Groves, parent Marsh & McLennan Cos. Inc. said. Mr. Sinnott, 63, joined Marsh in 1963. Mr. Groves, 66, an MMC director since 1994, was named senior adviser to MMC in August 2001 and president and chief operating officer of Marsh Inc. two months later. Mr. Groves retired in 1994 as chairman and CEO of Ernst & Young.

Mr. Groves

North Carolina enacts law to permit catch-ups

Gov. Mike Easley has signed legislation that amends North Carolina law to conform with federal legislation that allows employees 50 and older to make catch-up contributions to their 401(k) plans. The enactment of the legislation brings to an end a successful drive to conform state laws to the 401(k) catch-up provision in the Economic Growth and Tax Relief Reconciliation Act. In all, more than a dozen states amended their laws. Two states, Arkansas and Pennsylvania, have not amended their laws.



Gov. Easley

Judge blocks Missouri workers comp rule

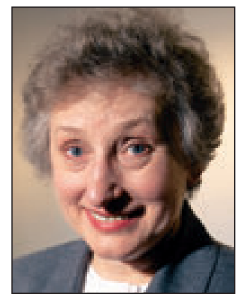
Insurers have won a temporary injunction on a Missouri Department of Insurance regulation that workers comp insurers say will result in duplicate services and unnecessary costs. Cole County Circuit Judge Thomas Brown will consider making that injunction permanent at an Oct. 7 hearing. The regulation would allow an employer to contract with a managed care organization to provide workers comp benefits without first notifying the employer's workers comp insurer.

High court to determine meaning of 'employee'

The U.S. Supreme Court agreed Tuesday to decide who fits the definition of "employee" at small firms under the Americans with Disabilities Act. The specific question in *Clackamas Gastroenterology Associates vs. Wells* is whether the four physician shareholders of a small Oregon medical clinic are employees, because the clinic is organized as a corporation rather than a partnership. ADA does not require firms with 15 or fewer employees to meet all of its accessibility standards. Clackamas regularly employs 12 to 15 other people, and if the shareholders are employees, then the firm would be subject to the ADA

Comerica risk manager McDonald dies

Judith McDonald, vp of corporate risk management at Comerica Inc. in Detroit, died last week after suffering a cerebral hemorrhage. Ms. McDonald, 62, began working at Comerica in 1992 and previously held various risk management positions with Manufacturers National Corp. and Blue Cross & Blue Shield of Michigan. She was a graduate of Wayne State University in Detroit, where she received a bachelor of science from the university's school of business and a master of business administration. In 1994, Ms. McDonald was named to the *Business Insurance* Risk Management Honor Roll. She is survived by her husband, Bob.



Ms. McDonald

Briefly noted

A federal judge in New York is allowing a lawsuit over several **Holocaust-era insurance claims** to proceed through U.S. courts. Judge Michael B. Mukasey rejected the argument that the International Commission on Holocaust Era Insurance Claims is the only mechanism for adjudicating such cases....Hamilton, Bermuda-based Stirling Cooke Brown Holdings Ltd. has changed its name to **AlphaStar Insurance Holdings Ltd.** The property/casualty insurance holding company, which trades on the Nasdaq exchange, also changed its stock symbol to ASIG....**Standard Insurance Co.** of Portland, Ore., has completed its acquisition of the group life and disability insurance business of Teachers Insurance & Annuity Assn. of America for $75 million. The deal was announced in May....Moody's Investors Service has **downgraded Combined Insurance Co. of America** to Baa1 from A2. The downgrade reflects concerns about the continued financial weakness of Combined and uncertainty over the potential sale of the insurer by its parent, Chicago-based Aon Corp.

Online Poll [9/30 - 10/4]

Should asbestos liability reform proposals bar compensation to people who are not ill but fear they will become so because of asbestos exposure?

Yes	No
60.3%	39.7%

Take part in our weekly poll at *www.businessinsurance.com*

BI Stock Index [9/30 - 10/4]

Up-to-the-minute data for all 87 companies that comprise the *BI* Stock Index can be found at *www.businessinsurance.com*

Percentage change of *BI* Stock Index vs. key indicators

BI Stock Index	Dow Jones	S&P 500
-3.18	-2.25	-3.24
1631.44	7528.40	800.58

Largest gains

Gainsco Inc.	66.67%
SCPIE Holdings Inc.	7.83%
Travelers P/C	5.45%
Hub International	5.37%
Wellpoint Health Network	4.52%

Largest losses

Allmerica Financial Co.	-31.10%
SCOR	-26.00%
Trenwick Group Ltd.	-20.29%
Unico American Corp.	-17.18%
Marsh & McLennan	-16.08%

Weekly change by market segment

Brokers	-2.71%
Insurers/Reinsurers	-2.66%
Managed Care Organizations	-1.28%

Source: CNET Investor (investor.cnet.com)

PwC agrees to boost funding of pension plan by $264 million

By JERRY GEISEL

WASHINGTON—Accounting and auditing giant PricewaterhouseCoopers L.L.P. will pump an additional $264 million into its underfunded pension plan as part of an agreement with the Pension Benefit Guaranty Corp.

Under the agreement, New York-based PwC by Oct. 9 will transfer $200 million into the plan, which has 47,000 participants. In addition, PwC will contribute an additional $64 million to the plan by March 15, 2003, and will make annual contributions to the plan in amounts greater than is required by law. The agreement will remain in effect for at least five years.

The deal stems from the PBGC's early warning program, in which the agency monitors companies and negotiates arrangements—such as funding boosts—after transactions occur that could jeopardize a company's pension plan.

In this case, the PBGC action was triggered by PwC's announcement that it would sell its a portion of its consulting business to International Business Machines Corp. for $3.5 billion. That deal closed Oct. 2.

The PBGC declined to disclose the funding level of PwC's plan. PwC declined to comment.

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THESE DAYS YOUR D&O POLICY COULD EASILY WIND UP D.O.A.

[QUITE FRANKLY, IT MAY NOT BE WORTH THE PAPER IT'S PRINTED ON]

If you think all insurance companies are alike, just ask the directors and officers who were insured by providers that did not have the financial capacity to protect them at claim time.

In one recent case, a leading D&O provider went from an A- rating to insolvent in a year and a half. Sometimes, financial ratings that sound solid really aren't.

So who covers your personal assets, if your insurance company can't?

Go ahead, gulp. You should. Now directors and officers are more vulnerable than ever.

In 2001, class action shareholder lawsuits against public companies increased 60%. An average of one new lawsuit is filed every business day. Increasingly, the courts are holding top officers personally responsible for the financial missteps of their organizations. And the size of awards and settlements has crept into the hundreds of millions.

Which creates another problem.

The wrong D&O policy might leave either the company or its directors and officers with inadequate protection.

It's important to have coverage that aligns the interests of directors and officers and the corporation, while making certain there's adequate protection for all.

Today, more than ever, you need dependable, carefully structured D&O coverage from an experienced, financially stable insurance organization that understands all the risks that directors and officers face these days.

Which is why you should choose AIG. The AIG companies are the only large D&O providers with Triple-A ratings from the principal ratings services.

We defend customers' interests with the strongest and most experienced legal counsel and claims handling team in the business. Last year, we handled one-third of all securities-related lawsuits in the country. We're the people who first introduced D&O coverage in the United States, nearly thirty years ago.

And our long-term commitment to U.S. business continues. We're the only D&O provider endorsed by the United States Chamber of Commerce for its members.

Fact is, we are the leading provider of D&O coverage in the United States. Which should really come as no surprise, given that we're one of the largest insurance organizations in the world.

Bottom line—as a director or officer, you are the one to make difficult, and sometimes risky, decisions to grow your business.

You need a partner to stand by you, with rock-solid financial resources and unparalleled experience in managing risk, to protect you as you lead. That partner is AIG.

With the AIG companies, you know that you are protected by a D&O policy that gives you the confidence you need to act boldly. Like we say, the greatest risk is not taking one.

We've developed a white paper that explains the inherent risks to board members in today's business environment. To get your copy of "Understanding Board Member Risk," contact us at www.aig.com/boardmember.

INSURANCE, FINANCIAL SERVICES AND THE FREEDOM TO DARE. AIG