

Insurance Times: Difficult Contractors Market Getting Even More Difficult

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Whether it's general liability or umbrella, workers comp or surety, the insurance market for contractors is continuing to harden

by Mark Hollmer
InsuranceTimes

The contractors market has entered its own perfect storm.

At least, that's how Kevin Spellacy describes it.

"The Perfect Storm" was a movie, of course, based on a fishing captain and his crew who perished at sea near Gloucester, Mass. during a storm so strong and damaging that all the right elements fueled it.

A contractors market "perfect storm" isn't much different, said Spellacy, an agent with R.C. Knox in Hartford, Conn.

As he describes it, insurers aren't making money on investments, reinsurance has become scarce, the Sept. 11 terrorist attack aftermath has increased insurer caution and companies are trying to recover from years of pricing their product too cheaply.

In other words, Knox said, he sees "a whole bunch of outside influences that are impacting what's going on and they've all come together."

Such is the state of the contractors insurance market in early 2002.

Six months ago, the market was already tightening with companies pulling back and prices on the rise, agents and industry observers told InsuranceTimes at the time.

Six months later, those same people say things have only gotten worse.

"It's become extremely difficult," said Kevin Daly, area vice president for Arthur J. Gallagher's construction services division in Braintree, Mass.

"Where we had 20 percent (increases) being the high side," he said, "some people are now seeing 100 percent to 200 percent (increases) for general liability."

General liability and umbrella coverage is particularly bad, he said, with the largest increases especially for contractors with poor track or safety records. Contractors with good track records, he said, are paying increases of up to 30 percent with long term carriers.

More Exclusions

Daly added that one of the biggest problems he sees agents facing is the trend of carriers increasingly resorting to exclusions for the contractors coverage they are offering.

As a result, he said, more contractors are entering the surplus lines markets or being placed in the assigned risk pool. Costs continue to rise, Daly said, because the market is in the process of "leveling itself off from prices that were way too low in the past."

Daly doesn't see Sept. 11 having affected the market that much, because it was hardening on its own anyway, he said.

For the foreseeable future, Daly said, insurance companies will continue to reassess their contractors business.

"They're going to cull out certain classifications of contractors (who are) gong to have more difficulties," he said, including mechanical and concrete contractors and some carpentry contractors.

Meanwhile, Daly says he has seen his own business shift a bit. To get new business, he said, "the business we're looking at right now is contractors of size and premium dollars that would attract insurance companies.

"We've got some small guys," he said, "and had a couple go, but at the end of the day it's going to be harder in a lot of areas to write the smaller contractor."

Melinda Malich, vice president of Cal E & S Brokers in Brightwaters, N.Y., said she's seen companies pull out of the standard markets and even non-admitted insurers are increasingly "taking a tougher stance, particularly in New York."

Roofers, scaffolding contractors and others into "really kind of tough stuff" are finding it particularly hard to get insurance, she said.

Six months ago, rate hikes of 25 percent were "awfully good quotes," she said. Today, 35-50 percent rate hikes are the norm.

Malich blames the rate hikes on companies still "just finding their rates are not adequate yet to handle those losses."

New York Law

New York is facing particular problems, she said, because of its absolute liability law, known as the "scaffolding law" by some in the industry.

Companies, she said, are pulling out of New York because of the law.

Maybe so, but the contractors market in the short term seems to be tightening dramatically.

"Things have gotten markedly worse from six months ago from the reports that we're getting," said Ellen Kiehl, a PIANY assistant executive director who handles government and industry affairs work.

Less than a year ago, the Professional Insurance Agents of New York surveyed 185 New York agencies to see how tough the general contractors market was and most said the specific coverage was tough to maintain.

"Availability is even more of an issue than it was last spring when we did the survey," Kiehl said.

"Pricing is just very high, to the point where it's starting to be unaffordable to a lot of contractors."

Like Daly, Kiehl has also noticed coverage exclusions increasing in the contractors market. She calls them "time bombs waiting to cause a problem" because "there are exclusions in general contractor liability possibilities that exclude coverages for actions brought by the employees of subcontractors."

The exclusions aren't new, and have existed before in response to New York's scaffolding law.

Now, she said, their number has increased so much to cause some alarm in the industry.

"We're hearing that it's very hard or almost impossible to find a policy that doesn't contain this type of exclusion," she said. "It's something we're very concerned about."

Kiehl added that "agents understand" the situation but she wasn't sure that contractors "fully appreciate the exposure that they have."

And the situation is dire in some parts of the market, Spellacy said.

"There's probably only three or four markets that will look at (general contractors)" right now, he said.

For a roofing contractor, he said, the market could be down to just two companies in some cases.

A year ago, up to 10 companies would be there for general contractors and maybe 6 for roofers, Spellacy said.

Workers Comp and Surety

Contractors aren't just facing a problem with contractors insurance, Kiel and some agents say.

Among the additional related problem markets: workers compensation and the surety market.

Many contractors classes are having problems getting workers compensation coverage, she said, particularly smaller classes like artisans and trade people.

"There are a lot of classes of artisans that really have only the residual market to look at," she said.

According to Daly, surety coverage is also tightening and rates are rising.

He said the surety rate increases, however, are justifiable, with pricing "going back to more reasonable rates."

Contractors who are looking at rate increases from bonding companies shouldn't be upset, he said, because the market is doing what it needs to, to restore profits.

"The surety market is revisiting itself," he said, "and I think it has to."

And in the end, the contractors market seems to be doing the same thing, insiders say.

The hard market, in the long run, shouldn't get worse, Spellacy said.

"The players in the market now are the ones who have been stable and in it for a while," he said.

And some good could come out of it, he said, helping both contractors and independent agents.

Buying Practices

The tighter, more expensive market has forced contractors to shift their insurance buying practices, too, Spellacy said, focusing on developing long-term agent/company relationships rather than "buying on price."

"It's something we've stressed over the years," he said. "You don't automatically go for the lowest price to save a dollar or two," he said.

"You should focus on the strength of the relationship and credibility It's what we've been trying to cultivate over the years (and it's) finally coming home to roost a little bit."

As Malich sees it, the market is still hardening nationally and the price correction will likely continue upward.

But "maybe there will be smaller, more normal increases," she said.

Not to be forgotten, Malich said, is the cyclical nature of the business – a soft market will return eventually.

"Insurance is cyclical," she said. "That's what it does."

Insurance Times: Mass. DOI Late With Assessments For Rating Bureau

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by Mark Hollmer
InsuranceTimes

BOSTON — Property casualty insurers in Massachusetts faced a bill last month that some apparently didn't expect: three years of State Rating Bureau assessments worth \$5.3 million.

The Division of Insurance notified insurers in a Feb. 20 letter, informing companies of their 2002 invoices and the chance that companies would also face 2000 and 2001 billings because invoices did not go out for those years.

"Invoices for these prior years may also be enclosed if applicable to your company," the letter reads.

Some companies aren't happy they're getting hit with a multiple-year assessment at once, said Frank O'Brien, regional manager and counsel of the Alliance of American Insurers.

"Generally speaking my companies are troubled by this," he said.

"Certainly they are obligated to pay assessments. But it is certainly troubling when certain of these assessments come out late... It does not give us a 'warm-all-over' glow when the Division does not send its bills out on time."

Chris Goetcheus, the DOI spokesman, blamed staff turnover and a busy MIS department working on a number of different improvements for contributing to the assessment delays.

"We've had ... key ... staff members leave the Division. As a result, new staff members have had to ... (be) trained to do the assessments," he said.

And the MIS department, which assists in assessments, has been busy focusing on technology upgrades, he said, both in-house and in the DOI's dealings with companies and the general public.

The law is also not specific about annual assessments, Goetcheus added.

"While we usually do assessments annually," he said. "The statute does not specify a timeline by which we have to assess the companies. It only speaks to the reasonableness of the assessment itself."

About 30 people work for the State Rating Bureau – the DOI's actuarial arm – not including lawyers or actuaries allowed by law to be retained, as needed, during rate case hearings.

DOI staff assessed 400 companies for this year's SRB assessments alone, Goetcheus said.

Assessed property casualty companies are charged based on their direct written premium and market share, and can range from "a few dollars to several thousand" dollars, O'Brien said.

Surplus lines, reinsurers and risk retention groups are excluded from assessments, as are companies under a court-ordered receivership or liquidation. Companies in rehabilitation at the time of their assessments are still billed.

SRB assessments are also conducted by the DOI for workers compensation and the DOI medical malpractice insurance fund.

The workers compensation SRB assessment is handled separately, Goetcheus said, through the Workers Compensation Rating and Inspection Bureau, by which member companies are assessed annually and pay the bill quarterly.

Rise in Costs

Late SRB property casualty assessments aside, the level of assessments has jumped compared to previous years, said Thomas Simon, vice president of operations for the Automobile Insurers Bureau of Massachusetts. The AIB monitors annual assessments to insurers relating to the auto industry – costs that eventually factor into automobile insurance rates.

The 2002 property casualty SRB assessment is \$1.9 million, Simon said, compared to a \$1.8 million assessment for 2001 and \$1.6 million for 2000. Insurers paid a \$1.2 million assessment in 1999. Companies, by contrast, paid an SRB property casualty assessment of \$778,000 in 1990.

The assessment costs increased, Goetcheus said, "because the cost of doing business goes up.

"Year to year," he said, "perhaps (we're) assessing more companies (or) companies are writing more lines that are assessable."

Assessments fund much of the SRB but statistics aren't available as to precise numbers.

That's because SRB assessments head to the state's General Fund first, and are then paid back to the Division of Insurance as part of its total budget, of which the SRB is a part.

According to the state House Ways and Means Committee, the 2002 fiscal year budget for the DOI is about \$9.5 million, versus \$9.08 million for 2001 (and a proposed \$9.43 million for the 2003 fiscal year beginning in July).

For each year, 33.39 percent of the DOI budget comes from the General Fund, 22.26 percent from the Highway Fund

and 44.35 percent from the Insurance Trust Fund.

Missed assessment years apparently aren't a problem because that money would replenish the General Fund in the long run anyway.

Peter Robertson, a former deputy DOI commissioner and general counsel – now an insurance regulatory attorney and consultant – says it isn't necessarily unusual for annual assessments to be missed.

"There are slipups," he said. "It's complicated because there a number of different assessments that have to be done against companies writing different lines.

"It's not an easy process and there are going to be mistakes," he said. "It looks like mistakes were made and I don't see the big deal."

Companies often "screw up" too, Robertson said, on their billing systems or premium calculations.

Two years without an assessment billing could also be a boon to companies, Robertson said, because they "had the benefit of using the money for a while."

Said Goetcheus: "A well-managed insurer would set aside at least the amount they were last assessed at, so interest would grow as investment income.

"I would imagine that that's what a vast majority of companies did."

Goetcheus added that the Division has been taking "a look at the assessment process in-house to ensure it will be done in a most streamlined and efficient way possible" in the future.

Insurance Times: NH, VT Governors Urge Congress To Close Loopholes In Drug Patent Law

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by Holly Ramer

Associated Press

CONCORD, N.H. — Gov. Jeanne Shaheen and several of her peers are urging Congress to make it easier for generic versions of prescription drugs to hit the market.

Shaheen and the governors of Alabama, Vermont and West Virginia made their pitch at the National Governors Association meeting in Washington, where a dominant topic has been how to stretch shrinking state revenues to cover the rising costs of safety-net programs such as Medicaid.

Shaheen said Medicaid could be saving money by replacing more expensive brand-name drugs with generic versions, but drug companies use loopholes in a federal law to extend their patents.

Senior citizens on fixed incomes are hurt the most by the lack of lower-cost alternatives, Shaheen said in a conference call from Washington. But she said the system also hurts businesses, who pass on higher health insurance costs on to workers, and taxpayers, who pay for Medicaid.

"This is a huge issue," she said.

West Virginia Gov. Bob Wise said, "We have limited health care dollars and generic drugs provide relief from the ever-increasing brand name costs."

In January Wise ordered the Public Employees Insurance Agency to waive the copayments for certain generic antibiotics used to treat upper respiratory tract infections. Preliminary results for the month show that the total generic antibiotic claims for the drugs increased by 7 percent while costs for that class of drugs decreased.

Wise said that while generic drugs represent 42 percent of all drugs dispensed under PEIA, they represent only 16 percent of the program's annual drug costs.

According to the Federal Trade Commission, generic drugs typically cost 25 percent less than brand-name drugs when they first enter the market. After two years, the price difference grows to 60 percent, Shaheen said.

She and the other governors belong to Business for Affordable Medicine, which wants to stop manufacturers from postponing the expiration of their patents or obtaining new patents for minor changes. Louisiana also is a member.

In an analysis of 46 states, the group found that Medicaid programs are paying \$1.2 billion a year for 17 brand-name drugs. Those costs could be cut in half if generics are allowed when the patents expire in three years, the group said.

New Hampshire — whose Medicaid spending for prescription drugs has more than doubled in recent years — could save nearly \$2.5 million, Shaheen said.

The seven business members of the coalition, including General Motors and Wal-Mart, spent \$132 million last year on

the 17 drugs, Shaheen said.

Shaheen and some other governors want Congress to hold hearings on the patent law, the Hatch-Waxman Act of 1984.

Insurance Times: Rep. Pomeroy Turns Down ACLI Top Post

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BISMARCK, N.D. (AP) — Rep. Earl Pomeroy, D-N.D., does not plan to give up a re-election bid to take a job for an insurance trade group, a spokeswoman said.

The American Council of Life Insurers approached Pomeroy, who is a former North Dakota insurance commissioner, about whether he was interested in being president of the organization, spokeswoman Julianne Fisher said.

Pomeroy, 49, is expected to seek his sixth House term. He already has one declared Republican opponent, Tax Commissioner Rick Clayburgh.

Pomeroy "has the job he wants," Fisher said. "He's running."

The council's former president, Carroll Campbell, 61, resigned from the job after announcing last October that he has Alzheimer's disease. Campbell is a former South Carolina Republican congressman and governor.

The council represents more than 400 life insurance companies.

Pomeroy's brother, Glenn, is also a former state insurance commissioner. He lost a race for attorney general in 2000, and now works for Employers Reinsurance Corp. in Kansas City. p

Phico failure leaves 1 in 4 Vermont doctors scrambling for insurance

MONTPELIER (AP) — Vermont doctors are scrambling to replace malpractice insurance a quarter of them had been getting from a company that has failed.

The failure of Phico Insurance Co. of Mechanicsburg, Pa., means fewer choices and higher prices for doctors seeking malpractice insurance.

It also could mean patients with claims against the company will receive much less money and doctors will have to pay parts of claims out of their own pockets.

Phico wrote policies for one in four doctors in Vermont as well as four small hospitals and clinics, said Ken McGuckin, director of insurance company licensing and examinations for the state. Premiums totaled \$2.2 million in Vermont in 2000, 30 percent of the state total of \$7.3 million, he said.

Vermont has 1,400 doctors in the state, the Vermont Medical Society said.

The Pennsylvania Insurance Department said it shut down Phico on Feb. 1, giving doctors covered by the company 30 days to find another insurer. The regulators had taken over Phico in August after a sudden collapse of the company's finances.

Pennsylvania regulators said in August that Phico could no longer issue new policies or renew existing ones until the company was financially secure. Fifty-one doctors here, 2,400 nationally, were still looking for an alternative to Phico as of Feb. 1, said Rosanne Placey, spokeswoman for the Pennsylvania department.

The regulators asked that lawsuits against Phico, including the 47 pending in Vermont, be placed on hold. Some people who had lawsuits pending against the company said they settled much faster than they would have, to beat Phico's failure.

A Marshfield guitarist who lost her arm in a medical error said she lost several hundreds of thousands of dollars because of Phico's imminent demise.

"It became a crap shoot at whether we would ever get any resolution to this, and I was over a barrel," Diana Winn Levine said. She said she received a check eight days before Phico folded.

Insurance Times: Hanover Broadens Its Challenge To CAR's Rule 14 Governing Erps

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by Mark Hollmer
InsuranceTimes

BOSTON — First, Massachusetts-based Hanover Insurance accused rival auto insurer Arbella Mutual of secretly paying a Hanover ERP to take over some of its higher-loss ratio books of business.

Recently, Hanover's battle over exclusive representative producers grew larger.

Now that it's officially oversubscribed, Hanover is trying to prevent its rivals from "cherry picking" its good ERPs to help reduce the overflow.

Hanover initially appealed to the Governing Committee of the Commonwealth Automobile Reinsurers – the state's high risk auto-insurer – to grant it relief from two party agreements, which allows other companies to take ERPs away from a rival whose ERP numbers have gotten too high (known as two-party agreements). But CAR declined the request.

On appeal, the Division of Insurance granted Hanover's request and granted a temporary stay, at least until a March 14 pre-hearing conference that was intended to consider the matter.

Specifically, Hanover was to be heard on its request from relief of CAR rule 14E, which governs two party agreements. In addition, DOI hearing officers were to look at possibly consolidating Hanover's complaint against Arbella with the new complaint over two party agreements.

Hanover claims that beginning in April 2000 and through much of 2001, Hanover ERP Rapo & Jepsen started purchasing large books of high loss ratio business from ERPs including those with Arbella.

Arbella denies any wrongdoing. Hanover claims the cost in extra losses could reach at least \$3 million.

In March 6 papers filed with the DOI, Hanover attorney Owen Gallagher claims the transaction, which switched 13,000 ERP risks from Arbella Mutual, "has pushed The Hanover into a potential Rule 14 disaster."

In a related ERP matter, the DOI has scheduled a March 20 hearing, 10 a.m. at its Boston office, to consider proposed amendments to Rule 14 that would establish how ERP offices could relocate.

Insurance Times: Mass. Hmos Have Good Financial News To Report

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by Mark Hollmer

InsuranceTimes

After multi-million-dollar deficits, temporary receivership and a pullback from multiple states, Harvard Pilgrim Health Care has reached a light at the end of the tunnel.

In other words, the Massachusetts health maintenance organization made money last year, and is starting to grow again. "Our future is very bright," said Vincent Capozzi, Harvard Pilgrim's senior vice president of sales and marketing. "I am very positive about where we are and where we're going."

Harvard Pilgrim's turnaround is perhaps the most dramatic change among Massachusetts' four top health insurers, also including Blue Cross Blue Shield of Massachusetts, Tufts Health Plan and Fallon Health Plan.

All four insurers recently cited a successfully 2001 in their annual earnings listing.

Harvard Pilgrim listed a combined statutory net income of \$26.5 million for 2001, on operating revenues of \$1.7 billion.

Compare that to 1999's \$227.4 million net loss. In 2000, when the Division of Insurance placed Harvard Pilgrim in state receivership, its net loss was \$9.7 million (lessened, in part by the company's departure from the Rhode Island market).

Harvard Pilgrim, having departed from Rhode Island, has seen its membership drop from about 1.2 million in 1999 to 730,000 today.

But membership levels have stabilized, Capozzi said, and membership levels "are in the process of starting to grow again."

Harvard Pilgrim turned around by streamlining administration and operations, Capozzi said "and really just trying to provide top quality customer service."

Capozzi added that the insurer has also tried to broaden distribution channels and expand products. In addition, premium increases have helped, rising this past year between 8 and 15 percent.

"Harvard Pilgrim has long-term viability now," he said.

"We do intend to grow but ... it's going to be very strategic with a focus on the bottom line."

Over at Blue Cross Blue Shield of Massachusetts, the state's largest insurer, the company earned a \$104 million net income on insured premiums of \$3.6 billion in 2001 (\$88.8 million came from its book of business – the rest from investment income).

HMO Blue earned after tax net income of \$45.4 million on \$2.4 billion of insured premiums, with an operating income

of \$18 million.

For Blue Cross Blue Shield, that compares to a \$109 million overall net income in 2000 – essentially unchanged.

The insurer's membership is now at 2.4 million versus 1.6 million in 1997, a large growth following a tougher period in the early 1990s.

That includes HMO Blue's membership, which was 938,000 at the end of 2001 versus 873,000 in 2000.

Blue Cross Blue Shield has held steady because of its continued focus on both member and provider satisfaction, plus technology improvements, said Allen Maltz, the insurer's chief financial officer.

"The marketplace has begun to notice the difference and is willing to stay with us and maintain that loyalty," he said.

"While others have lost membership over this period we were actually able to grow our membership."

In 1996, Blue Cross Blue Shield spent 14 percent of its premium on expenses. That number has since dropped to 9.5 percent in 2001, Maltz said.

Tufts Health Plan reported a net profit of \$54.9 million in 2001 including investment income, with a \$41.8 million operation profit from its book of business included in that number – based on \$2.1 billion in revenue.

Two years ago, Tufts reported a \$24.5 million net profit for its Massachusetts business but a \$41.8 million net loss for its New Hampshire, Maine and Rhode Island business, which Tufts has since exited.

Tufts reached better financial figures by cutting costs, raising premiums between 9 and 12 percent the last two years and also working to better predict loss costs and risk, said Catherine Grant, a spokesperson for the insurer.

In addition, she said, Tufts has worked on customer service and adding "innovative programs" to help keep costs managed and affordable for its members, such as a disease management program for end stage renal disease.

Tufts membership had reached 910,000 members by the end of 2000 but dropped to 883,000 members by March 2001.

"It's a very competitive environment," Grant said. "All of that being said, we have done a number of things to improve."

So far, membership levels have increased again, up to 905,665 as of early March, Grant said.

Fallon ended 2001 with an operating gain of \$19.3 million on revenue of \$585.9 million. The insurer saw a net financial gain of \$26.7 million including investment income, and ended the year with \$64.4 million in reserves.

That's a stark contrast to just two years ago, when Fallon ended 1999 with a \$23.4 million operating loss and just \$32.3 million in reserves.

The improvement, said Fallon spokesman Richard Burke, is "very good news."

Like the other insurers, Burke said Fallon focused on controlling administrative costs, growing only as necessary and improving customer service.

In addition, he said, Fallon renegotiated provider contracts "wherever possible" and ended some that weren't working out.

What's more, Burke said, Fallon left the Medicare+ Choice market in Suffolk, Essex and parts of Middlesex County, choosing to focus the program where most of its members were in Worcester County and western Middlesex.

Fallon also raised premiums by 8 to 10 percent last year and similar numbers before that.

At the end of 2001, Fallon had 191,000 members, down from 225,000 two years before.

The drop included some of the Medicare+ business Fallon left, Burke said.

"We're very pleased with the results," Burke said.

"We believe the strategy we adopted was the correct one and we think we're on a firm financial footing."

Insurance Times: Opinion Exchange

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The insurance industry trusts tradition. This fact works to the disadvantage of the industry and its customers at times, especially when the industry is slow to embrace new efforts to more clearly define the role of independent agents in the insurance process.

The Independent Insurance Agents of America is currently testing its new branding effort, Trusted Choice. The piloting includes TV spots which IIAA hopes will encourage more agents and companies to get involved with the program.

IIAA worked with a San Francisco-based communications firm to come up with the Trusted Choice logo and branding campaign.

The advertising test is part of a number of things IIAA is planning as it rolls out its new brand name, initially scheduled to debut in late 2001.

More than \$1 million has been raised to date to help fund the program, from both companies and agents.

Among the insurers that have signed up so far are Safeco, Encompass, MetLife Auto and Home, Ohio Casualty, Progressive, MSA Group, Cascade, Summit, The Hartford and Selective.

About 900 agencies from across the country have also signed up.

After the nationwide pilot program, IIAA will adjust the campaign as needed in time for the final rollout at the end of 2002.

It is hoped that by that time more agencies and companies will have accepted the new branding campaign and climbed on board.

Trusted Choice won't displace all other company and agency advertising and communication programs.

It will not by itself guarantee increased market share for independent agencies and their companies. Nor will it assure increased public understanding of the role independent agents play.

What Trusted Choice will do is make all of the other communications efforts by agencies and their companies more effective by joining them with a common theme.

Trusted Choice is insurance for the agency system and its communications efforts. Agencies and companies owe it to themselves to trust IIAA and protect their own efforts by adding Trusted Choice to their portfolios.

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Among the many lessons to be gleaned from the Enron debacle where Arthur Anderson apparently confused its roles as both auditor and consultant concerns the value of avoiding conflicts of interest.

Anderson was supposed to make sure Enron's financial reporting was up to snuff. Instead, Anderson allowed its hefty consulting contracts with Enron to blind it to chief responsibilities as independent auditor.

Anderson is now poised to settle all the Enron-related claims against it for a reported \$750 million.

USA Today recently noted that Anderson has made a habit of settling claims against it. According to the newspaper: In 1998, Anderson paid \$95 million to settle allegations that it helped Waste Management mislead investors.

A year later, it paid \$90 million to settle charges over questionable forecasts for a Connecticut commercial real estate firm whose collapse cost investors \$300 million.

Last year, Anderson paid \$110 million to settle cases charging that it helped Sunbeam mislead investors.

And earlier this year, Anderson agreed to pay more than \$200 million for its work with the Baptist Foundation of Arizona, which allegedly duped investors out of about \$570 million.

Meanwhile, the firm's business was going great guns. Revenues climbed 50 percent between 1998 and 2001, according to USA Today.

Anderson is not alone. Other big accounting firms have also paid millions to settle claims, apparently believing that settling claims, rather than changing their ways, is good for business.

After all, insurance picks up some of the tab.

Anderson, having already run, has now determined it must also hide. It is pursuing a merger with a competing accounting house, a move which would give it cover to continue its business practices under a new name.

In an environment where there is pressure for bankers to sell insurance, insurance professionals to offer loans, and accountants to serve as consultants, potential conflicts of interest are everywhere.

A truly independent financial professional must steer clear. Because if you sell out, you may be forced to sell.

Insurance Times: Insurance Dispute Over Enron Set For Trial

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by Brad Foss

Associated Press

NEW YORK (AP) — A dispute pitting J.P. Morgan Chase against 11 insurance companies that refuse to pay the bank about \$1 billion worth of guarantees backing energy trades with Enron is headed to trial.

A federal judge in New York last week rejected J.P. Morgan's request for an immediate ruling on the matter, setting a Dec. 2 trial date.

U.S. District Judge Jed S. Rakoff said the defendants in the case provided "a reasonable justification" for further evidence-gathering and gave both parties until Sept. 16 to complete the process.

While the insurers face several legal hurdles to nullify their obligations, Rakoff said the evidence they presented so far "inferentially but materially supports" their defense.

Doug Baird, a professor and former dean at the University of Chicago law school, said the ruling shows the judge doesn't find the insurers' claim to be frivolous. "But that's a far cry from saying the judge will rule in the insurers' favor once all the evidence is in," Baird said.

The dispute between the insurers and J.P. Morgan centers on whether the New York-based investment bank misled the insurers about the types of contracts it signed with Enron.

Surety Bonds

The insurers say the guarantees, or surety bonds, provided to J.P. Morgan were intended to back Enron's delivery of natural gas and oil to two Channel Islands-based affiliates of the bank, Mahonia Ltd. and Mahonia Natural Gas Ltd.

They allege, however, that the contracts between Mahonia and Enron turned out to be nothing more than loans disguised as energy transactions, enabling Enron to book their value as revenues instead of liabilities. For its part, J.P. Morgan was trying to insure the loans it made to Enron via Mahonia, the defendants argue.

Shortly after Enron filed for Chapter 11 bankruptcy protection and defaulted on its obligations to Mahonia, J.P. Morgan sought payment on the surety bonds. The insurers refused to pay, saying the transactions were not covered under the terms of the surety bonds, and J.P. Morgan filed its lawsuit on Dec. 7.

Last week, Judge Rakoff said, based on the evidence presented by the insurers, "these arrangements now appear to be nothing but a disguised loan."

Good Faith

In response to the judge's ruling, a J.P. Morgan spokesman said: "The good faith of the insurance companies will be on trial. Every client or counterparty to them will now need to question their ability or willingness to honor plain vanilla contracts."

A lawyer representing the insurers did not immediately return a call seeking comment.

The insurers named as defendants in the lawsuit are Liberty Mutual Insurance Co., Travelers Casualty & Surety Co., St. Paul Fire and Marine Insurance Co., Continental Casualty Co., National Fire Insurance Co. of Hartford, Fireman's Fund Insurance Co., Safeco Insurance Co. of America, The Travelers Indemnity Co., Federal Insurance Co., Hartford Fire Insurance Co. and Lumbermens Mutual Casualty Co.

Insurance Times: WTC Probe Questions Safety Of Skyscrapers

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Congress attempts to learn lessons about safety and building standards from the deadly collapse

by Shannon McCaffrey

Associated Press

WASHINGTON — The inquiry into the collapse of the World Trade Center was plagued by early missteps — from not getting immediate access to the site and building blueprints, to losing the chance to inspect tons of steel.

Officials testifying at last week's House Science Committee described an investigation of unprecedented proportions that was slow to get under way, with members uncertain of how they should proceed and what authority they had.

Robert Shea, FEMA's acting administrator of federal insurance and mitigation, testified "there are many things that in hindsight we would have done differently."

"There are no clear lines of authority as to who in the federal government is to conduct an investigation of a building failure," said Committee Chairman Rep. Sherwood Boehlert, R-N.Y.

"No one is in charge, no one is sure what powers the federal government can exercise, no one is sure of the scope of an investigation. That has to be fixed right away."

The team of investigators — composed of officials from the Federal Emergency Management Agency and the American Society of Civil Engineers — said they never asked the city of New York not to recycle tons of steel that some experts say held clues as to why the twin towers fell.

The team, which has no subpoena power, did not get access to the trade center blueprints from the Port Authority of New York and New Jersey until four months after the collapse and only then after being forced to sign a form agreeing

not to testify against the Port Authority.

There was obvious confusion about who is in charge. When Rep. Anthony Weiner, D-N.Y., asked who was leading the investigation, three people raised their hands

Arden Bement, director of the National Institute of Standards and Technology, said his organization had taken control. "We're operating as if we're in charge," Bement said.

But Gene Corley, chairman of the building assessment team of FEMA and civil engineers, said he was in charge until his group's final report is issued in April.

"It does strike me that six months after the fact there shouldn't even be any doubt," said Rep. Christopher Shays, R-Conn.

Officials told the lawmakers they need a rapid response team for building failures — modeled on the teams used by the National Transportation Safety Board in airplane crashes — with authority, subpoena power and funding.

The full study, complete with recommendations, could take two years and cost \$40 million.

Lawmakers pressed for more speed.

"There are buildings going up right now that can use the benefit of the knowledge that is coming out," Rep. Felix Grucci, R-N.Y., said.

Bement said scientists, had they conducted analyses before Sept. 11, could have predicted how long the trade center would have stood and possibly have prevented the loss of life.

"Do you believe that if we had this information before Sept. 11 some of those people sitting behind you would not have lost loved ones?" Weiner asked referring to dozens of victims families at the hearing.

"Perhaps, yes," Bement said.

One lawmaker questioned whether building more skyscrapers was in the national security interest.

"Help me understand why it's a good idea to build more skyscrapers that are targets for terrorists?" asked Rep. Roscoe Bartlett, R-Md.

"We can't simply flatten Manhattan," Crowley said.

Bement said that much can be learned about catastrophic building collapse and the need for fire standards from the deadly collapse. He said it was unclear what form such changes could take until more is known about why the twin towers fell.

Glenn Corbett, a fire science professor at John Jay College, was critical of New York City's decision to melt down and recycle tons of charred and twisted steel from the trade center.

Engineering and government called for a reevaluation and possible strengthening of building codes to prevent such catastrophic collapses in the future. Similar changes have been adopted in the wake of the Northridge earthquake in California and the bombing of the federal building in Oklahoma City.

Additionally fire ratings for building materials date from the 1920s and do not take into account new kinds of fuel and accelerants. Experts were to testify they also need new study.

Structural Engineering

The National Institute of Standards and Technology Building and Fire Research Laboratory believes the collapse raises questions about current codes governing concrete design and structural integrity and is redirecting federal dollars to augment research in those areas.

Boehlert said more research dollars would be needed to fully investigate and analyze needed improvements.

Experts were also expected to complain about the delay in obtaining blueprints, design drawings and maintenance records from the building owners and insurers worried about liability. Such resistance has slowed down the investigation, they said.

The investigation into the trade center collapse is being conducted by the Federal Emergency Management Agency and the American Society of Civil Engineers. FEMA's Building Performance Assessment Team is expected to release a report of its findings in April.

The team has been examining frame-by-frame footage of the 110-story collapse. Such details could allow them to prove or disprove whether the core columns fell first, dragging each floor with them as they fell. Another theory suggests that the exterior columns pulled inward, giving in to floor joists weakened by raging fires.

Some victims' relatives has called for a broader federal probe of the collapse that would investigate factors in addition to structural failures, such as evacuation procedures. And even some engineering experts have raised questions over whether the lightweight steel trusses that supported individual floors and possible fireproofing flaws may have made the twin towers vulnerable to collapse.

Insurance Times: Hijacking Victims Sue Airlines

March 19, 2002, Vol. XXI No. 6

by Larry Neumeister
Associated Press

NEW YORK — The families of two passengers who died on planes hijacked by terrorists on Sept. 11, including the family of a Massachusetts man, have sued United Airlines and two airport security companies, in part to highlight the need to strengthen air safety, their lawyer says.

"These families are suing because they want answers," attorney Mary Schiavo said in a statement Wednesday, a day after the lawsuits were filed in U.S. District Court in Manhattan against United, Argenbright Security Inc. and Huntleigh USA Corp.

"These families hope their actions will expose the failures by these defendants and thereby improve security and spare others from a similar fate."

Messages left with Atlanta-based Argenbright and St. Louis-based Huntleigh USA were not immediately returned.

There was no answer at United's corporate headquarters in Chicago Wednesday evening.

The lawsuits were among seven wrongful-death lawsuits believed to have been brought so far as a result of the hijackings of the three planes that struck the World Trade Center and the Pentagon and a fourth that crashed in a field in Pennsylvania. Some lawsuits earlier contained anonymous plaintiffs.

The lawsuits were brought by Julie Sweeney, of Barnstable, Mass., who lost her husband, Brian Sweeney, and by Catherine Stefani and David Miller, of California, who lost their daughter Nicole Miller.

Brian Sweeney, 38, was a staff instructor at the Navy's Top Gun Fighter Weapons School in Miramar, Calif.

He had left a telephone message for his wife from United Flight 175, which left Boston and crashed into the trade center's south tower, according to a release from the law firm of Baum, Hedlund, Aristei, Guilford & Schiavo.

"Hey, Jules. It's Brian. I'm on an airplane that's been hijacked," the firm quoted the message as saying. "If things don't go well, and it's not looking good, I want you to know that I absolutely love you. I want you to do good, go have good times — the same to my family and everybody — and I just totally love you, and I'll see you when you get there. Bye, Babe."

Nicole Miller, who lived with her mother in San Jose, Calif., was on United Flight 93, which left Newark (N.J.)

International Airport and crashed near Shanksville, Pa. She was a sophomore on the dean's list at West Valley College, in Saratoga, Calif.

The plaintiffs filed the lawsuits knowing that litigation could injure their ability to recover money from a government fund set up to compensate families of those killed on Sept. 11, Schiavo said.

Julie Sweeney said in the release that she believed "this country has been let down by the aviation industry."

"Accepting the government buy-out is the same as releasing all blame to those responsible for allowing these murders to happen," she said. "We need to set some sort of precedent so this never happens again."

Stefani and David Miller said in a joint statement that they believe they will only get the answers they seek through the courts.

"We want justice to be served so no one else has to suffer what we're going through," they said.

Insurance Times: Plymouth Rock Offers New Door-To-Door Service

March 19, 2002, Vol. XXI No. 6

BOSTON — Plymouth Rock Assurance Corp.'s new Door-to-Door Service delivers the damaged car to the shop, provides a rental car, pays the bill and returns the repaired car to the customer faster.

Policyholders pay only for the cost of the rental car if it isn't covered fully by their policy. Rental cars can be delivered to a customer's home, workplace or wherever it's most convenient.

Door-to-Door is now available throughout Massachusetts, with rentals provided by Alamo Rent A Car.

"This really takes the hassle out of the whole repair process and advances our claims service a significant step forward," said Plymouth Rock President Hal Belodoff. "And the extra service to policyholders gives our independent agencies a unique way to provide greater customer value."

Choosing Door-to-Door service can shave days off the claims and repair process. Once the customer selects a body shop, the damaged car is picked up within four hours of claim notification, parts are ordered immediately, and the auto

body work is given priority status.

When the car is ready, customers can either drop off the rental car at the body shop and drive away in their own car or have the shop deliver their car and pick up the rental.

Door-to-Door was piloted about two months before being rolled out statewide. "Every one of our customers has been surprised and delighted that we do this," said Frank Arment, Plymouth Rock's vice president of claims. "The savings on rental-car coverage will at least offset the cost of providing the service because customers will get their own cars back faster."

Insurance Times: CNA Partners With Subcontractors Association

March 19, 2002, Vol. XXI No. 6

The Commercial Affiliation Marketing unit of CNA has inked a strategic partnership with the American Subcontractors Association, Inc. (AS A) to address contractual transfer of risk issues. AS A is a nonprofit trade association representing subcontractors and specialty contractors in the construction industry.

Contracts frequently shift risks of loss down to subcontractors regardless of who best controls those risks through the use of indemnity clauses, additional insured (AI) requirements, and waivers of subrogation for workers' compensation and general liability insurance. CNA estimated that in the past 10 years one third of the dollars it paid for construction general liability losses resulted from indemnification provisions in contracts and additional insured endorsements.

In March 2001, ASA adopted policies that identify several common risk-shifting techniques, such as additional insured requirements, as creating financial risks for subcontractors.

As part of the partnership, a representative from CNA will serve on ASA's Task Force on Risk Management. Solutions tested with AS A members will be used to develop customized "risk transfer best practices" to assist CNA clients in managing this exposure.

Insurance Times: Bigger Firms Hike Liability Limits While Smaller Reduce Coverage

March 19, 2002, Vol. XXI No. 6

NEW YORK — In light of escalating insurance prices and rising exposures, company size has become a significant factor in how businesses perceive their need for liability insurance protection. Larger firms are increasing their levels of insurance protection, while smaller companies are reducing their levels.

A study of 2,400 companies by Marsh Inc. found businesses with more than \$5 billion in annual revenues raised their liability insurance limits by an average of 5.4 percent. Those with revenues of \$500 million - \$5 billion maintained their insurance limits. However, businesses with under \$500 million in revenues reduced their liability limits by an average of 8.8 percent.

The Marsh study examined primary liability insurance, such as automobile and general liability, as well as umbrella and excess liability. The information for the study was gathered prior to the World Trade Center tragedy. However, the exposures of a business and escalating court awards remain the key factors influencing the amounts of liability insurance coverage needed by an organization.

"Any time you have a concentration of people, you have the potential for a catastrophic loss," said Timothy Brady, a managing director of Marsh. "There are dozens of accidents every year involving multiple deaths or serious injuries that can lead to lawsuits. Any organization, no matter what size, may be hit with a large jury verdict.

"Exposures and losses are trending upward," he added. "While rising costs across all lines of insurance are leaving businesses with difficult choices about how they manage their liability exposures, it should be noted that these risks can be substantial. Fortunately, excess liability insurance is still relatively inexpensive compared to what it was 10 years ago, but insurers are beginning to look more closely at their liability underwriting practices."

Explaining the divergence in the insurance-buying decisions of larger and smaller firms, Brady said that the incremental costs for additional amounts of excess liability coverage for smaller companies is significantly higher than for larger companies, which typically purchase much higher levels of protection.

Loss experience has a dramatic effect on the amount of excess liability insurance that companies purchase - regardless of company size. Businesses in the Marsh study that had experienced a liability loss of \$5 million or more in the past five years purchased an average of \$193 million of excess liability insurance limits; those without such a loss bought an

average of \$93 million of coverage.

The level of excess liability insurance protection varied dramatically by industry. Chemical and pharmaceutical companies, which had the highest amounts of coverage, had average limits of \$274 million. Next were transportation equipment firms with average limits of \$185 million; mining and energy companies, \$151 million; and non-nuclear utilities, \$141 million.

Insurance Times: Training Seen Key To Preventing Heavy Crane Operator Accidents

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New York -- Attendees at Inland Marine Underwriters Association's (IMUA) recent annual meeting Colorado learned about crane operator certification, management practices and unique exposures.

As a Gillette, heavy equipment specialist with Global Heavy Equipment Claims Service, set the stage for the discussion with an overview of crane losses due to lack of proper training as well as equipment failures. According to Gillette, the majority of crane losses occur due to: boom or crane contact with energized power lines; overturning; dropped loads; boom collapse; lack of computer knowledge to run the machine; and rigging failures.

He discussed the implications of the increased use of German hydraulic construction cranes. Sales of German cranes have increased dramatically in the US because there are no hydraulic cranes over 100 tons being manufactured.

However, if there is loss or damage, replacement components may take as much as six to 10 months for delivery. As a result of such a delay, losses may exceed \$100,000 if a policy includes rental and loss of use or downtime.

"We should not have to underwrite downtime because it is not our fault that parts cannot be obtained from manufacturers," Gillette stated. "The majority of insurance companies do not offer rental or down time provisions, which is a money losing proposition for the insurance companies should a loss occur."

According to Dale Daul, Risk Control Consultant for St. Paul Insurance Co., cranes are a critical piece of equipment on the job site, yet crane operators may not have the necessary qualifications to operate each piece of equipment safely.

"Crane accidents happen because of poor managers who do not require the necessary training. Unfortunately, crane operators are not required to be licensed or certified in most states."

Daul explained that crane inspection/certification and operator qualification and certification needs to be further examined. He noted that the majority of cranes are not maintained properly or inspected regularly to insure safe operation.

"OSHA (Occupational Safety and Health Administration) has not updated its requirements for crane operators since 1968," Daul stated. "Operators need to read load charts, and statistics show that only one out of 500 can pass a simple load chart test."

Daul recommends that underwriters who offer insurance on cranes need to require that all operators complete a voluntary program offered by the National Commission for the Certification of Crane Operators.

Insurance Times: WANTED: NEW IDEAS: Against the backdrop of rising insurance prices, a panel of construction experts ponders new ways to address the construction industry's lingering safety problems

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Not long ago, Thomas A. Broderick read a summary of a meeting of contractors held in New York City in 1950 on the subject of safety. As president of the Chicago-based Construction Safety Council and a member of Engineering News-Record's (ENR) safety panel, Broderick found the history lesson disturbing.

"The issues that we are discussing today and trying to find solutions for, such as authority to stop a job and why workers won't wear personal protective equipment, are frighteningly similar to the issues being waded through back then," he said.

The sense that construction's lingering safety problems have been around for too long and that new solutions are needed permeated the safety panel's discussion. To break through and dramatically cut injuries and deaths, a number of new ideas were proposed:

- Make a legal standard of the popular 10-hour minimum safety training favored by the Occupational Safety and Health Administration and expand it to include longer sections for supervisors and managers on communication and creating a safety culture.

- Augment traditional methods of training with simplified, nonverbal symbols and methods of communication.
- Direct the safety "message" to the fast-growing population of Hispanic workers and construction owners and managers.
- Require and motivate architects and engineers to become involved in safety considerations so that safety can be "designed in" to a project.

Rising Insurance Prices

The proposals were made against a backdrop of rapidly rising insurance prices that have added new financial motivation to the existing humanitarian reasons to operate safely. Loss-rates had been deteriorating in the last year as younger project managers ran into trouble on their projects. Then the stock market dropped and Sept. 11 hit, driving up insurance costs even for companies with good safety records.

"We were seeing before Sept. 11th good customers that had good loss ratios getting price increases of up to 30 and 40%," said Keith Johnson, risk engineering manager for Zurich Services Corp., Minnetonka, Minn. "For smaller companies the increase was 50 to 80%." But normalcy still prevailed in reinsurance markets and major insurers such as Zurich and St. Paul and American International Group could obtain reinsurance without negotiation at a flat rate in amounts of \$100 million or \$150 million.

After Sept. 11, the reinsurers "called up and said your prices are going up 30 to 40%, and by the way, you only have \$30 million of coverage," said Johnson. "So the capacity drastically dropped overnight and prices went up." Now, to reinsure the risk for a customer with \$100 million worth of coverage, carriers must shop around.

Contractors shouldn't just throw up their hands over the rising prices because safety records still matter a lot. When the market for insurance went hard last year, the insurer for EMCOR Group Inc., Norwalk, Conn., "was unable to hit us with a rate increase for one reason," said Joe Spirito, loss control director. The big specialty contractor's loss history included no "shock losses."

"In other words," said Spirito, "the deaths or major losses that incur several hundreds of thousands of dollars had not occurred." Safety and loss control are even more important now. "Every time you have an incident," he said, "whether it's from the health and safety side or the liability side, it's going to have a material effect on your renewal going forward."

Down the road, companies will pay much more for insurance if they don't have a top-notch health and safety program and accountability for results, he said.

"There are still a lot of large contractors that don't pay attention to what I call the housekeeping side of it," Spirito said.

This pessimistic note was echoed by others.

"Far be it from me to present the harbinger of doom position, and I won't," says Broderick. "But I think I get very discouraged sometimes at the slow progress we're making."

The heart of any safety program is training. But just what kind of training should be done is less clear. To Scott P. Schneider, occupational safety and health director of the Laborers' Health and Safety Fund of North America, the standard 10-hour safety training program that is approved by OSHA has become an industry standard. The 10-hour program should become a legal standard with additional features that include training for supervisors, said Schneider.

Safety Training

Supervisor training shouldn't focus on safety basics but on "how important safety is on the jobsite, how they can communicate that message to the workers and how upper-level managers should create a culture of safety," added Schneider.

Superintendents at contractor Batson-Cook Co., West Point, Ga., receive 40 hours of safety training, said the company's safety director, David Adsit. The rest of the employees get 10 hours of training. The program for both includes topics such as fall protection, excavation safety, crisis management, first aid and CPR.

"I think if all construction workers had the 10-hour safety training, that would go a long way to reducing injuries," said Adsit.

Quantifying the level of training needed is very difficult for federal regulators, said H. Berrien Zettler, deputy director of OSHA's construction directorate.

"In construction, most of the industry is covered by a general training requirement" and OSHA encourages employers to provide the 10-hour training as a minimal step, said Zettler. But it doesn't say how often, how much or anything else about it.

Contractors complain to OSHA that they are dealing with transient people and that training is too expensive, especially for smaller employers. But OSHA keeps it as a priority.

"My gut feeling is that we issue a training citation for almost every egregious case, every significant case with a high penalty that we run into," said Zettler.

To enforce its safety citations in court, OSHA must be able to prove that a worker was not trained. "Most of the time what we are dealing with is the employer's word that they've given adequate training," said Zettler. "A toolbox talk might be all somebody has, but that might be all that the employer needs to be able to establish that he's trained his employees."

Measuring the amount of training may be a self-defeating exercise anyway, said Tara Jean Hart, president of the Compliance Alliance, a Houston-based safety consultant. The work force is random and transient and "yet, as Tom Broderick says, we're still trying to solve the same problems we had since the 1950s with the same solutions," said Hart. Standardization of safety rules and practices would go a long way to solving the problem. "Just like we agree we don't want to go past 70 mph in a 55 mph zone, and that you don't want to pass four-way stop signs and run into people. You agree fundamentally on those rules," said Hart.

"If we had as lax a traffic safety system of expression as we have in construction safety, everyone would be on a constant learning curve the minute they passed every county line because the signs would look different, the stop lights would be different, and all the training in the world would not make the process easier because they'd be constantly crossing over into a random environment."

Hart's system has three main components: a sticker and color-based system for visually identifying the competence level of the workers on every job; showing who had been trained for particular tasks and environments; a simplified method for tracking and monitoring safety performance; and universal safety standards that are used at all of a company's jobsites. So far, these principals have succeeded where they have been applied, said Hart.

If there is one group of workers out there that standardization would benefit, it is the immigrant and Hispanic construction workers, said Felipe Devora, a safety director and project manager for Fretz Construction Co., Houston. Reaching Hispanic immigrants is one of the biggest challenges facing the industry.

"Given their median age is 24 to 26, let me tell you those are some construction working folks there. So I think it's incumbent on us not to set our goals too loftily as to start talking about visions so that we lose track of the immigrant workers coming into this country.

"How do we get through to them?" asked Devora. "We include them in the process, we engage them and we quit thinking of them as day laborers."

While successful safety programs are much more likely to take hold at big companies such as Bovis and Bechtel, an entirely different kind of challenge exists among smaller companies.

"At the Rodriguez Roofing and the Chavez Concrete Finishers, mom and pop operations that are just bootstrapping themselves up as immigrants, they may have a six-person operation," said Devora. "Those companies may bid a job so tightly that if they shut down or lose that day or two of production because of a safety consideration, that lost production is going to quite frankly put them out of business."

Design Involvement

Another kind of breakthrough would be possible if designers became involved in safety planning, agreed several panelists. The relationship between the owner, designer and contractor is critical to attacking the obstacles to safety, said Broderick.

The current legal atmosphere doesn't encourage it, however. Said Broderick: "I think that right now, the legal system and the insurance system has caused architects to be uninterested up to the point of being afraid of getting involved in safety."

But transcending the legal obstacles sometimes can be as simple as tweaking an American Institute of Architects standard contract document. One attorney who represents architects told Broderick that only a few adjustments are needed to the basic contract agreement. Once made, the changes would allow the lawyer to recommend that his clients get involved in pre-job planning, constructibility reviews and the logistics of the means and methods. "I see this as a giant step," said Broderick.

Design also can help overcome some of the ergonomic hazards associated with a task. According to Schneider, one study showed that it was "crazy for a mason to bend down to his ankles to pick up a 4-lb brick. So someone invented a two-level scaffold to ease the task," said Schneider. A modern miracle? The scaffold patent was obtained in 1891, said Schneider. Again, safety history repeating itself.

All the panelists agreed that commitment from management made the biggest difference between a safe and unsafe company and between one that sought only to be OSHA compliant and one that strove for zero losses. The chief executive of New York City-based Bovis Lend Lease, Charles A. Bacon III, said his company is changing to a culture of safety and that the process began shortly after a very safety-minded prospective client awarded a project to a competitor. At that point Bovis Lend Lease was interested mainly in OSHA compliance, said Bacon. Now, he added, the company is making a cultural "step-change" so safety comes first.

The change is timely because "clients are demanding it," said Bacon. To other clients who aren't as committed to safety,

Bacon said he and his company have become leaders in the cause. Bacon asks those companies if they really want to risk a potential fatality. "Take the step-change with us and go forward," he tells them.

Out in the field is where the real test occurs. Bacon said he has recently called a project executive to find out why he overruled a safety manager who wanted to stop work. Adsit said his safety managers have authority to stop work but planning to avoid hazards is better and saves money.

Devora said that he was struck by the number of masks rather than respirators that he saw being used at the World Trade Center site, and noted that the difficulties of using proper equipment is nothing like the cost of not using it.

"Wearing life-support equipment during advanced silicosis or asbestos is a whole heck of a lot more inconvenient," he says.

Hart said she worries that many times a lack of accountability leads to hazards and injuries. On one fatality she learned about, a city official gave a contractor digging a trench a right of way to work close to power lines. The permission saved money but cost the life of a worker who was electrocuted.

That's the kind of incident that drives Broderick crazy. Inadvertent power line electrocutions are among the most preventable types of accidents with well-known methods to prevent them, he said.

"It isn't rocket science," he concluded. "It's just basic management principles."

Insurance Times: What's In Store For Insurance Pacs?

March 19, 2002, Vol. XXI No. 6

If federal campaign finance reform survives, how will it affect the industry's lobbying groups?

by Mark Hollmer

InsuranceTimes

With federal campaign finance reform as close to passage as it has ever been, large unlimited political party donations are likely to be banned.

Enter an opportunity for Maria Berthoud, the Independent Insurance Agents of America's senior vice president for government affairs.

As soft money contributions end, hard money campaign contribution limits would likely be expanded under the new rules. Berthoud said this creates opportunities for influence among groups or political action committees such as the one her association runs.

"Associations such as mine with significant (political action committees) will be pursued more aggressively by the members of Congress for contributions, to try and fill the vacancy created by the ... (proposed) law.

"This drives up the importance of our PAC to 10 on the Richter scale," she said, putting the Big "I" "on equal par with any type of Fortune 500 company."

View Not Shared

Berthoud's perspective on how the insurance industry could benefit from campaign finance reform isn't shared by all of the industry's trade associations.

Some, like Berthoud see the proposed law giving the industry more clout on Capitol Hill through trade association political action committees, or PACs, which donate money to political campaigns under hard money rules.

But other trade association lobbyists, particularly those representing companies rather than agents, don't see the campaign finance reform law – as proposed in the recently approved House bill – making much of a difference or changing their lobbying role nationally.

"I don't see any of the reforms as revolutionary," said David M. Farmer, the Alliance of American Insurers' senior vice president for federal affairs.

Still others say they oppose the bill because of its soft dollar limits, and add they hesitate to consider the impact of the campaign finance reform bill until it passes, is signed and survives any court challenges -- if it even reaches that point.

"For us we're very concerned when you talk about the soft dollar limits, as far as not being able to do issue ads" close to an election, said Monte Ward, the National Association of Mutual Insurance Companies' vice president of federal affairs.

But "this bill has a long way to go," he said, "before it reaches the President's desk to be signed. Obviously right now we're not too supportive of the bill as it's written."

Even Berthoud said that IIAA officials aren't sure "if this law will survive...court challenges that I believe will be forthcoming."

Many insurance industry lobbyists said they stayed out of the campaign finance reform battle and didn't take a position with Congress either way while the debate went on.

"We did not get engaged in this because we realized this was a battle being fought between two political parties as to who was going to get hurt more or less," Berthoud said.

Added Chris Bowlin, senior vice president of federal and public affairs for the Health Insurance Association of America:

"We haven't taken a specific position ... but think being involved in the political process is important.

"Our industry is one of the most regulated industries in America and we feel it's critical to make sure, through whatever political means, we have to make our voices and our members' voices heard among policymakers, at both the state and federal level, frankly."

Keeping Close Eye

That being said, industry lobbyists are keeping a close eye on the progress of campaign reform and considering its potential impact.

Berthoud said she expects the campaign finance reform bill, which would end soft money contributions to national parties and expand hard money donations, to help groups like the IIAA who have large PACs.

But the law would hurt "Fortune 500-types of companies that have always been able to (give) millions of dollars in soft money" and have limited PACs because they don't have a "grass roots base."

The IIAA PAC – InsurPac – is almost a \$1 million PAC, she said, with more than 300 members – agents and small business owners who donate \$50 or \$100 to the fund.

In addition, Berthoud said she expects "some of our company brethren" to be possibly hurt by campaign finance reform "in their ability to use soft money and raise hard money."

Carl Parks, the National Association of Independent Insurers' senior vice president for government relations, said his association is "pleased that there's nothing in the current campaign finance reform legislation that attempts to diminish the role of PACS."

Addressing this potential benefit indirectly, Parks said that NAII – with nearly 700 insurance companies – is "very grass roots oriented" so "anything to an extent that puts a premium on direct and individual participation enhances the ability of NAII and our member companies to effectively participate in the political process..."

"We are very effective in terms of participating through the PACs." NAII's PAC is called NAIIIPAC, which reaches \$400,000 with a two-year election cycle.

Overall, Parks said, he sees campaign finance reform as "diminishing the role of the two national political parties," but added it was too early to see how lobbying and other political activities would be affected.

That being said, Parks said he expects a resurgence of individual participation in the election process because the end of soft money means groups can't just write a check for a candidate – leaving room for PACs and their collection of individual donations.

Farmer, of AAI, said he expects the final campaign finance reform to be modest, though he stressed "we're a long way from getting this completed" because of deep party differences.

Hard Money

He acknowledged that PACs would possibly become more significant because their money is considered "hard money," which wins out in reforms.

But he sees interest groups as continuing on regardless, and simply adapting to whatever new laws are ultimately approved.

ALPAC is the AAI political action committee. Farmer called the group "relatively modest" as it raises up to \$60,000 in an election cycle.

The American Insurance Association is one trade group that will take a "look and see" attitude about campaign finance reform, said Michael Moran, the group's director of public affairs.

"Very few, if any of our companies have gotten involved in soft money," he explained.

Moran also said it was too early to tell what the final bill will look like in order to evaluate its effects.

AIA actually has three PACs, at the federal, individual and corporate level.

The federal PAC, which would be affected by the legislation, is "very small," Moran said at about \$50,000.

"We're trying to grow it and get more companies involved in it," Moran said.

Over at the American Council of Life Insurers, the trade association has taken a neutral position on both the House and

Senate campaign finance reform bills, said ACLI spokesman Jack Dolan. Dolan acknowledged the proposed law would change “some things” but pointed out those changes will likely take some time even if the law passes both House and Senate and President George W. Bush signs it. “There are likely to be constitutional challenges,” he said.

Likely Adapt

The ACLI has made soft money contributions in the past, he said, but the association would likely adapt if that’s no longer possible.

“The potential response would be to increase hard money contributions,” he said. (ACLI does have a PAC, called LifePac.)

“But ... it is really not clear what’s being considered in Congress will ultimately be the law of the land. Whatever (changes) there are we will play by the rules.”

Bowlin, of the Health Insurance Association of America, said he doesn’t see campaign finance reform changing politics, and expected Washington to adapt to any law that does get approved.

He said he sees support for passage of some sort of campaign finance reform law, but expects lawmakers to hash out “procedural questions” about how it will work first.

HIAA has a PAC – the Health Insurance Political Action Committee – which raised under \$200,000 in the last election cycle, Bowlin said.

Always a Challenge

HIAA officials are trying to grow the PAC so they can “be more active” in the process, he said, “given that some of the groups we are at odds with on some policy matters ... have millions of dollars at their disposal.”

Bowlin said his group “always has a challenge of being heard in Washington” and he didn’t expect that to change with campaign finance reform.

“Policymakers,” he said, “seem often times at the state and federal level to have little regard (or they add) new mandates on new health care (requirements) that drive premiums up.

“I don’t see that changing,” he said.

Ward, of NAMIC, said he expects campaign finance reform to shift money from the federal level to state campaigns instead.

“You won’t have national parties as strong as they are right now,” he said.

NAMIC’s PAC, called NAMICPAC, is “medium sized” compared to others, he said.

New campaign finance reform laws will probably bring the PAC more money, he said, but added he expects its influence will “be about the same.”

Insurance Times: Pru’s 2-Ton Rock Found Behind Shubbery

March 19, 2002, Vol. XXI No. 6

JACKSONVILLE, Fla. (AP) — A two-ton slab from the Rock of Gibraltar brought here in 1954 by Prudential Insurance Co. has been found outside a downtown building and brought back to prominence.

The company's slogan is “Get a piece of the Rock” and has the Rock of Gibraltar as its company logo.

In 1998, when Prudential sold the building, it didn't take the rock with it. No one knew where it was.

Recently, the building's new owner, Ocwen Asset Investment Corp., discovered the rock, hidden by some shrubbery.

They dug it up, moved it to a riverfront location, and decided to rededicate it because it represented an important part of the city's past.

The rock was spruced up and will likely never be neglected again, officials said.

“When they told me about this I was dumbfounded and thrilled,” said William Nash Jr., a retired Prudential official, who lives in Jacksonville.

Nash said the rock became the symbol for the company after an executive said Prudential had the strength of Gibraltar. So, company officials made arrangements to have a piece of the rock flown to its headquarters in Jacksonville.

Insurance Times: For Fifth Month, Life App Activity Increased

March 19, 2002, Vol. XXI No. 6

WESTWOOD, Mass. — Consumer applications for life insurance in the U.S. and Canada registered their fifth consecutive month of increased activity, according to The MIB Life Index for February 2002. This is the longest period of continuous growth since October 1999, when there was a sustained increase attributable to Regulation XXX. Activity among U.S. insurers was up 5.3 percent from the levels of February 2001, while activity among Canadian insurers showed a phenomenal increase of 24.4 percent. For the two months of January and February 2002, North American insurers experienced a 7.1 percent increase compared to the same period a year earlier. Stacy Gill, vice president and chief knowledge officer at the MIB Group's e-Services Corporation commented, "Despite some marked differences between the U.S. and Canada -- the U.S. activity continues to be driven by older applicants, the Canadian activity by younger -- the continuous growth in both markets underscores the viability and ongoing attractiveness of life insurance as a key element of consumer's financial portfolio."

Insurance Times: LIMRA: 2001 Was Year Of Ups And Downs In Life Sales

March 19, 2002, Vol. XXI No. 6

A volatile stock market, uncertainty over estate taxes and a cataclysmic assault on the national centers of power all played a role in sales of individual life insurance during 2001.

The year ended with total premiums down slightly from the prior year, but with some fresh interest in previously declining products, according to LIMRA International.

"The first year of the 21st Century has come to a close and what a year it has been for individual life insurance sales," said Elaine Tumicki, assistant vice president, product and distribution research, who produces LIMRA's quarterly industry survey.

"Recent hot sellers have cooled off and products that were in a state of decline are showing new signs of life. There has been some evidence of a surge in individual life activity after the events of September 11 and there's substantial interest in whether the increases in applications are translating into increases in paid-for policies."

Fourth quarter results were mixed. Annualized premium was down one percent compared to the same quarter of 2000 while face amount and policy count increased 8 and 5 percent, respectively. Policy growth, however, was affected by one company that had unusually high sales in the fourth quarter of 2001. Excluding that company from both years, policy count would have been up by only two percent.

"Although any increase in the number of policies sold is a positive sign for the industry, it's important to keep it in perspective," Tumicki said.

The fourth quarter of 2000 was a particularly weak quarter in terms of policies sold, registering a decline of 12 percent compared with the fourth quarter of 1999. Even though the fourth quarter of 2001 is up compared with a year ago, it's down 8 percent compared with 1999 and 9 percent compared with 1998.

"While policy sales are headed in the right direction, there's still a way to go to achieve the levels of just a few years ago," Tumicki noted. "Perhaps the increase in applications means there are more policies in the underwriting pipeline which will lead to a strong first quarter 2002."

The latest survey, for fourth quarter and year-end 2001, tracks new individual life insurance sales for 84 companies and their 73 subsidiaries.

Overall, sales are down across the board for the year, Tumicki said. Annualized premium is down 3 percent, face amount is down 7 percent and the number of policies sold is down 5 percent.

"But there were some bright spots," she added. "With a premium increase of 18 percent compared to last year, universal life (UL) had its best year in terms of growth rates since the mid-1980s, although it's still far below its mid-1980s market share. Whole life stemmed a decade-long series of declines with an increase of 5 percent in premium. Perhaps consumers or, more likely, producers are more comfortable with the guarantees of whole life and UL during the current volatility of the stock market."

Term insurance has rebounded from the post-XXX rise and fall in sales, the survey reports. Although the year ended at minus 9 percent for premium, the fourth quarter recorded an increase compared to same quarter prior year.

Variable universal life (VUL) and variable life (VL) posted a yearly decline in new premiums for the first time since 1995 and only the second time in the last decade. The year-plus of declines in the stock market has taken a toll on variable life products, Tumicki said. Although there may be good buys in a down market, it appears many negative-return weary consumers and producers are staying away for now.

Survivorship life has not yet recovered from the "alleged" repeal of the estate tax. Premium, face amount and policy count were all down more than 25 percent compared with 2000. Survivorship VUL was particularly hard hit at the close of the year, with a decline of 39 percent in premium compared with fourth quarter 2000.

"But there may be light at the end of the tunnel for survivorship," Tumicki said. "Those who have followed the estate tax issue closely know that the estate tax repeal is in reality a temporary repeal - estate taxes disappear for the year 2010 and that year only. A recent effort to permanently repeal the estate tax as part of an economic stimulus package broke down before it got anywhere.

"As consumers and advisors recognize the prospects for a permanent repeal of the estate tax are very dim, survivorship life sales should begin to recover," she said.

Insurance Times: Healing Comes Slowly For Conn. Sept. 11 Victims

March 19, 2002, Vol. XXI No. 6

by Kathryn Masterson
Associated Press

STAMFORD, Conn. — Sean Rooney loved to entertain his family and friends, cooking them gourmet meals in his Connecticut home. He was a carpenter, too — an ace at repairs who could do anything from tiling floors to making kitchen cabinets.

Rooney and his wife, Beverly Eckert, met when they were 16. They had been together for 34 years when he was killed on Sept. 11. Rooney, a vice president for an insurance broker, was in the south tower when it collapsed.

He was not only her husband, he was her best friend. When he was gone, Eckert said she felt herself "at the edge of an abyss," unsure why or how to go on without him.

Eckert filled her days with advocacy work — meeting with other victims' families, helping them with issues ranging from insurance benefits to grief counseling to applying for charity funds.

But it was on Feb. 15 — when Rooney would have turned 51 — that Eckert says she began to grasp the answers to why and how. That night she returned to Buffalo, N.Y., where the couple had met at a high school dance. Rooney's high school held a tribute in his honor.

The program featured a movie by Emmy -winning producer Tom Fontana, a Canisius High School classmate. It also included the presentation of the first Sean Rooney Memorial Scholarship, awarded to a man who fled Rwanda with his family in 1995.

Both Rooney and the scholarship recipient loved to read. Both were victims of blind hatred.

"There was so much love and support from everyone who attended the event," Eckert said. "That night, I began to heal."

She planned to be among the more than 200 people who lost a family member expected to attend a six-month memorial at a Stamford church.

The clergy at the service were from southwestern Connecticut. The region, especially Fairfield County, bore the brunt of the attacks' effects on the state. Many commuters who died lived in the area. In the weeks after Sept. 11, police directed traffic around churches and synagogues holding back-to-back memorials for the missing and the dead.

The exact number of people Connecticut lost has been difficult to determine. According to a state database, 130 families in the state were directly affected by the attacks. Some of those families include parents of adult children and divorced spouses who may have lost someone who lived in another state.

At the Red Cross chapter in Greenwich, the organization is working with 90 survivor beneficiaries and 155 cases, which include people hurt financially by the attacks. The Greenwich chapter is heading the statewide effort because that is where the attacks were most felt. Twenty residents of the wealthy New York suburb died on Sept. 11.

The Red Cross has gone through two phases of financial assistance already. A total of \$4.5 million has been raised in the state.

The organization also offers planning assistance for the families, many of which lost the primary wage earner.

Director of Disaster Services Lee Franklin said that as the shock wore off and people began to accept what happened, she began sitting down with widows to help plan their financial future.

"The kids go to school, the bills are coming in," Franklin said. "I think the families are more clear about what their needs are."

Some of the widows whose husbands had always done the budget were unsure of what their expenses and income

would be. Franklin helped them determine their needs — legal expenses, tuition, whether they would be able to afford to stay in their homes.

Other groups are helping the families rebuild emotionally. The Den for Grieving Kids in Greenwich is working with 21 families, and the Center for Hope — a professional counseling and support center in Darien — has helped 81 families. The Center for Hope holds six bereavement groups for Sept. 11 families, including groups for spouses, parents, extended families and children who lost a parent. Twenty-one children who lost a parent come to the Center for Hope. Thirty-three come to the Den for Grieving Kids.

Family members of Sept. 11 victims have a complicated and intense grief because of the events, said Penny Pearlman, Center for Hope executive director. There is anger at the taking of innocent lives, and pain caused by the absence of remains.

Recently, one of the widows in the spousal group got a wedding ring back. For others in the group, it was a painful reminder that they have not recovered anything from that day.

"It puts them back," Pearlman said. "It generates hope — they want something tangible."

For Beverly Eckert, one tangible reminder of Sean is the home they shared. Rooney built their kitchen cabinets, laid both marble and wood floors, built their fireplace mantle, installed French doors and poured the cement steps that lead to their front door.

Recently Eckert took out Rooney's power tools and went to work on a maple buffet top he was making for their dining room.

"I think Sean would expect me to tackle finishing this," Eckert said. "Part of the legacy is stepping in and doing the things he would have done, the way he would have done them."

She's also learning to cook. In February she cooked chicken for her neighbors on Rooney's beloved Weber grill.

"I really want to preserve the warmth that Sean created in our home, that everyone was welcome, and had great food."

Insurance Times: MEMIC Plans 'Careful' Entry Into Mass. WC Market

March 19, 2002, Vol. XXI No. 6

by Mark Hollmer

InsuranceTimes

Less than a year after Massachusetts' third largest workers compensation insurer pulled out of the market citing a hostile business climate, Russ Shackelford sees opportunity.

Shackelford is chief operating officer of MEMIC Indemnity Co. in Manchester, N.H., which is now seeking a license to write workers comp in the Bay State.

And officials at MEMIC, a division of Maine Employers Mutual Insurance Co., are confident about their chances for success.

"Our strategy for growth in Massachusetts is very careful," Shackelford said in a recent InsuranceTimes interview.

"We will be looking more to individual accounts that we can carefully underwrite, for our growth opportunities."

The Maine legislature established the seed money that launched MEMIC in 1993, in the hopes of solving a state workers compensation availability crisis.

MEMIC funded itself by collecting a surcharge of up to 15 percent from policyholders. The company discontinued the surcharge after three years and has since returned the \$47 million it collected to Maine employers, after the state's Bureau of Insurance determined the company had adequate capital.

The private company became successful and is now Maine's largest workers compensation insurer, writing \$100 million in annual premium in Maine alone.

Also Entering Vermont

MEMIC Indemnity, which writes in New Hampshire and most recently gained approval to write in Vermont, handles just over \$10 million in premium.

And as MEMIC grows, Shackelford said, Massachusetts — as New England's largest workers compensation market — represents a logical place in which to expand.

The state, he added, is "part of our plan that we set in place to become a regional workers compensation layer."

MEMIC appears to be the first workers compensation insurer to enter the Massachusetts market since Eastern Casualty announced last fall that it would leave because it said the regulatory environment kept it from making enough money.

Shackelford said the company planned to expand into Massachusetts before Eastern announced its decision to leave. He added he wasn't worried about MEMIC's chances of making money in Massachusetts.

"If you're coming into the state with no prior liability ... you can make money with careful selection and knowing the accounts that you're going to write."

MEMIC is "pretty close" to completing its agency appointments for Massachusetts, Shackelford said, and hopes to start writing business by July 1.

The company, he said, "will have a limited number of agency appointments," and hopes to work with "selected producers" and agents "who understand our business model."

That plan in Maine, New Hampshire, and Vermont, Shackelford said, has been "to grow with business owners ... who have an interest in working with us, mostly in their loss control efforts and their safety prevention."

Insurance Times: Trust Insurance Continues Fight Against CAR Formula

March 19, 2002, Vol. XXI No. 6

BOSTON— Trust Insurance is continuing its fight against CAR's residual market reimbursement formula, even though the company is in liquidation.

Last October, the Massachusetts Division of Insurance ruled that CAR's method to calculate what insurers owe the pool is fair. Deputy Commissioner Julie Bowler and Presiding Officer Susan Anderson ruled in the case. But Trust's attorneys have filed an appeal of that decision with Suffolk Superior Court.

The DOI decision in October concluded that Trust's proposal was "unfair, contrary to public policy and administratively burdensome."

When an insurer pulled out of the market, Trust wanted to distribute settlement funds based on the redistribution of the withdrawing company's business.

But the CAR system requires that a company withdrawing from the market pay CAR its share of the deficit contribution over three years or in a lump sum.

The money then goes to remaining members based on the most recently calculated deficit share for each remaining member.

Trust, in its appeal, said that the CAR method of disbursement "gives no consideration to the share of the withdrawing insurer's business which each remaining insurer acquires, (or) the increased share of the CAR deficit an insurer who acquires the withdrawing company's business becomes obligated to pay to CAR."

As a result, Trust argues, insurers who have not absorbed a withdrawing company's business get some of the withdrawing company's settlement funds.

But companies that pick up the extra business only get a share of the funds based on their involuntary and voluntary private passenger auto market share excluding the extra business they had to pick up, Trust said.

Trust, which has been in liquidation since 2000, has pursued its fight against CAR's distribution formula since 1992.

Insurance Times: Vermont Mutual May Leave Montpelier

March 19, 2002, Vol. XXI No. 6

MONTPELIER, Vt. (AP)— A deal to find Vermont Mutual Insurance Co. a new home and keep it in Montpelier has failed, officials said.

But the state is moving forward with plans to buy the insurance company's downtown headquarters. A vote is expected in the Legislature this week on \$200,000 to negotiate the sale, reportedly for \$3.2 million.

The situation leaves some doubt whether the insurance company will remain in Montpelier. Talks continue to try to find an alternative site for the company, which has run out of space at its current location.

City officials are concerned that the company may decide to move to Berlin, where it owns land, and build a new facility.

In an arrangement being brokered by state Commissioner of Buildings and General Services Tom Torti and Sen.

Vincent Illuzzi, R-Essex-Orleans, the insurance company had been talking to Green Mountain Power about acquiring its property on Memorial Drive.

In the exchange, GMP would have moved into the nearby state liquor control warehouse.

But GMP spokeswoman Dorothy Schnure said last week that the liquor control warehouse would not meet the power company's needs as a service center because of a lack of space and parking.

"I think it doesn't look like it's going to happen," said Schnure.

Vermont Mutual vice president Brian Eagan said the company was considering its options, including a move to Berlin, but that no decision had been made.

In the meantime, the company will lease additional space in the adjacent federal building, he added.

The news of the failure to find Vermont Mutual a new home in the city is likely to cause city officials some concern about the loss of another downtown building off the tax rolls, at a cost of about \$70,000 a year.

Insurance Times: 'Trusted Choice' Being Tested On TV

March 19, 2002, Vol. XXI No. 6

by Mark Hollmer
InsuranceTimes

Hoping to get a preview of IIAA's new "Trusted Choice" campaign? Check the local listings for Chris Matthew's "Hardball" in mid-March.

The Independent Insurance Agents of America purchased national advertising time during the CNBC show from March 11-15 as part of a pilot-rollout of the ad campaign.

"It's basically so that agents and company people nationwide can see the spots and get more involved in the program," said Maureen Wall, IIAA's vice president of corporate communications.

The advertising test is part of a number of things IIAA has either planned or developed over the last year to roll out its new "Trusted Choice" brand name, initially scheduled to debut in late 2001.

In addition, IIAA has purchased television ad time from Feb. 25 to March 24 in the Seattle and Louisville markets to test the ads in regional areas. Those spots will air during "West Wing," "60 Minutes," "Law and Order," "CSI," "Dateline NBC" and other programs.

Full-scale national print, television and radio advertising won't begin in earnest until early 2003, Wall said, following additional recruitment of agents and companies to help fund the campaign.

IIAA is hoping to develop television, print and radio ads that agents and companies both can attach their names to, Wall said.

"It's really important that the advertising simply not happen through the national association," she said, "but that agents also promote "Trusted Choice" locally. On top of that we're working with insurance companies supporting "Trusted Choice" to have them co-brand with us, to have the "Trusted Choice" mark in their advertising."

The "Trusted Choice logo will be a soaring eagle with a stylistic "swoosh" in place of its tail, along with a "we serve you first" tagline – all initially announced in early 2001 after months of development and more than 1,200 suggestions.

Wall also discussed with InsuranceTimes a number of other developments in the "Trusted Choice" brand project.

Among them:

- More than \$1 million has been raised to date to help fund the program, from both companies and agents for the first year of the program, Wall said.
- Ten insurance companies have signed up for "Trusted Choice" so far: Safeco, Encompass, MetLife Auto and Home, Ohio Casualty, Progressive, MSA Group, Cascade, Summit, The Hartford and Selective. They are asked to invest "a certain dollar amount based on the premium dollar they write with independent agents," Wall said.
- About 900 agencies have signed up nationally for the program to date. Wall said IIAA officials like the numbers. Agencies with 9 or less employees pay \$250 to join; \$499 if they have 10-plus employees.

After the nationwide pilot program, IIAA officials will revisit their campaign and tinker with it for the final rollout at the end of the year and early 2003, Wall said.

She said they'll communicate to agents what they learn, and they expect they'll get their message across.

"We find that once agents understand what branding is, and how important (it is) and how it can help their business, "Trusted Choice" becomes a no-brainer for them," she said.

IIAA officials, working with Addison – a San Francisco-based branding and communications firm – picked their brand message after several months of research and focus groups.

Insurance Times: Subcontractors Balk At Risk Transfers

March 19, 2002, Vol. XXI No. 6

The American Subcontractors Association (ASA) is challenging leaders in the construction industry and public policy makers to renounce business practices and public policies that shift virtually all insurable risks down to subcontractors. Subcontractors maintain that they are increasingly being made liable, by contracts and through insurance policies, for risks that they cannot control.

ASA is asking legislators and groups developing model construction contracts to review and appropriately revise legal and contract language.

"Subcontractors should accept liabilities for risks that they control, but not for risks controlled by others," said ASA President Richard Kohls, vice president of finance, The Fenton Rigging Co., Cincinnati. "It's not enough just to acknowledge that the problem exists. ASA is telling leaders why the problem exists and what they can do about it.

ASA has a campaign underway to educate subcontractors about common problems, such as broad-form indemnity clauses in contracts, and possible solutions, such as Owners and Contractors Protective Liability (OCP) insurance and Project Management Protective Liability (PMPL) insurance.

In spite of these solutions, risk transfer continues to be widespread in the construction industry.

ASA says it does not seek to insulate subcontractors from liabilities for risks that they can control, such as employee safety in areas controlled by the subcontractor or the quality of the subcontractor's work.

But subcontractors are seeking changes that will address what they consider misallocation of risk in contracts and insurance policies.

'Additional Insured' Endorsements

"'Additional insured' is a prime example," said Kohls. "Subcontractors take on enormous liabilities when they obtain this endorsement to their commercial general liability policies.

"Over the past 20 years, subcontractors have been asked to take continually more responsibility for risks unrelated to their work, to the point now where subcontractors are suffering financially.

An 'additional insured' endorsement gives a third party, usually a general contractor, the right to make claims under the subcontractor's insurance policy. The typical result is that the subcontractor's policy will have to respond to any loss that is insurable under the policy that is caused by either the 'additional insured' or the subcontractor, regardless of who is at fault. The subcontractor may be forced to pay higher premiums, or be unable to find insurance, because of losses caused by others.

ASA has explained in numerous articles and reports, and in a new Risk Transfer Management Kit, how insurance alternatives such as OCP and PMPL offer solutions that allocate the general contractor's risk to the general contractor and leave the subcontractor's risk to the subcontractor. The American Institute of Architects' (AIA) A201-1997

"General Conditions of the Contract for Construction" suggests PMPL as an insurance option that general contractors should consider and prohibits "additional insured" requirements altogether.

Insurance Times: Sears Retirees Win Restoration Of Benefits

March 19, 2002, Vol. XXI No. 6

CHICAGO (AP) -- U.S. District Court Judge James Morane has approved a settlement granting about \$28 million in life insurance benefits to 56,000 Sears, Roebuck and Co. retirees whose benefits were cut in 1997.

The money is to be split among the retirees based on the previous value of their company life insurance plan.

Peter Wasylyk, a Providence, R.I., attorney representing the retirees, said Sears didn't restore all the benefits that the plaintiffs were requesting, but he called the settlement fair nevertheless.

Wasylyk credited the retirees with organizing and fighting for years to get the money restored.

"The Sears retirees worked together as a true group and refused to go away until they got a reasonable settlement," Wasylyk said.

The Hoffman Estates-based company quit granting life insurance as a retirement benefit in 1997 and announced it would reduce the plans for retired employees to \$5,000 over 10 years. That meant the loss of only a few thousand dollars in benefits to some employees, but Wasylyk said others had policies worth up to \$100,000.

Wasylyk said the employees sued because they believed the company had promised them the benefit during their employment. There were 84,000 affected retirees, but some might have died and others opted not to participate in the lawsuit.

Sears spokeswoman Peggy Palter said the company was pleased with the settlement.

Insurance Times: Drug Maker Wants Claritin Sold Over-The-Counter

March 19, 2002, Vol. XXI No. 6

NEW YORK (AP) -- Schering-Plough Corp. announced plans to switch its blockbuster allergy prescription medicine Claritin to an over-the-counter drug, caving in to regulatory and competitive pressures.

The switch means the company's top selling drug will see its sales shrivel, and marketing Claritin's recently introduced successor will be more challenging. Schering-Plough's stock fell more than 5 percent on the news.

Last year, Claritin had worldwide sales of \$3.1 billion but analysts said that could sink to \$400 million next year if the switch is approved as expected. Over-the-counter drugs can cost as much as 50 percent less than prescription medicines.

Analysts said Schering-Plough jumped before it was pushed, hoping to gain some control of a very difficult situation. Last May an FDA advisory panel said Claritin and two competing products -- Pfizer's Zyrtec and Aventis' Allegra -- were safe enough to be sold over-the-counter.

The FDA, which has said it agrees with the panel's finding, is expected to make a formal ruling in a few weeks. What remains unclear is whether the FDA would force the companies to switch the products over-the-counter, and if it has the power to do so.

Schering-Plough is under more pressure than Pfizer or Aventis because Claritin accounted for about 31 percent of the company's sales and it is expected to lose patent protection in December.

The Kenilworth, N.J.-based company has already filed numerous suits against generic firms seeking to bring a cheaper version of Claritin to market.

Even more threatening, analysts said, are applications filed with the FDA by rivals Johnson & Johnson and American Home Products to bring generic over-the-counter versions of Claritin to market, which could have frozen Schering out of the market if it didn't act.

Insurance Times: Businesses Cite Drugs As Main Driver Of U.S. Healthcare Costs

March 19, 2002, Vol. XXI No. 6

CHICAGO — Results from a new Blue Cross and Blue Shield Association survey reveal that 64 percent of healthcare benefits purchasers cite prescription drugs as the main driver of U.S. healthcare costs. Of that group, 62 percent said that increased direct-to-consumer advertising is the main cause for the dramatic rise in pharmaceutical costs.

"These results are very significant," said Scott P. Serota, president and chief executive officer of the Blue Cross and Blue Shield Association.

"The healthcare purchasers represented in this survey are on the frontline of America's healthcare cost battle.

Everyday, they are trying to find ways to keep quality healthcare affordable for their workers. When asked what they believe to be the key drivers of healthcare cost, U.S. business leaders pointed overwhelmingly to pharmaceuticals."

More than 500 business decision-makers were asked what they believe are the key drivers behind rapidly accelerating healthcare costs. Double-digit healthcare cost increases have returned after nearly a decade of slower growth.

Beyond the impact of pharmaceutical costs, benefits managers said that consumers (33 percent) and hospitals (30 percent) were the next key drivers of healthcare cost increases.

Reasons given for the consumer impact on costs were the aging of the baby-boomer population, demand for drugs and treatment as well as growing overall usage of the healthcare system.

Costs associated with the uninsured, technology advances and facilities expansion were the top considerations given to increased hospital costs.

"Nearly 40 million Americans may lack the healthcare services they need because they can't afford health insurance," continued Serota. "Rising hospital and pharmaceutical costs, new technology, increased utilization and government regulations are stretching healthcare affordability to its limits."

Insurance Times: Mass. Health Insurance For Fishermen Model For Maine

March 19, 2002, Vol. XXI No. 6

ROCKPORT, Maine (AP) — Maine's self-employed fishermen are turning to their counterparts in Massachusetts for advice on how to get collective health insurance.

David Bergeron, coordinator of the Massachusetts Fishermen's Partnership, explained his state's program at the Maine Fishermen's Forum.

Bergeron described how the Massachusetts coalition successfully created a health insurance program for fishermen who previously endured high premiums, high deductibles and poor coverage.

The insurance program, which became available in 1997, is comparable to a health maintenance organization. A sliding scale is used, with premiums based on income, and the cost of coverage is about half what it would be in the marketplace, Bergeron said. About 1,700 people are covered.

The Massachusetts plan relies on federal and state subsidies, and Bergeron said both are seeing cost savings from early preventive care and reduced emergency room visits.

The U.S. Department of Commerce dedicated \$2 million to the program, and the state agreed to contribute \$10 million over five years.

Since then, Massachusetts has determined that it saves \$2 for every \$1 it pays into the system, according to Bergeron.

After a contentious budget approval process, Massachusetts lawmakers agreed to dedicate another \$6 million to the program last year.

The Roman Catholic archdiocese of Boston, which operates a network of eight hospitals, is another partner in the plan.

The connection makes sense because many of the fishermen in Massachusetts are Catholic, Bergeron said.

The Massachusetts plan took off after a survey found that about 40 percent of the state's fishermen had no health insurance and that they earned annual wages below the federal poverty line, yet households often were paying \$3,000 to \$6,000 annually for health insurance.

Insurance Times: WTC Victims Fund Increases Aid For Families

March 19, 2002, Vol. XXI No. 6

WASHINGTON (AP) — Families of people killed in the September terrorists attacks can expect more money from a government fund under new guidelines, says an administration official.

The special master of the victims fund, Georgetown law professor Kenneth Feinberg, has been under fire from some victims groups to increase funds gong to victims.

Feinberg has said previously the average award would be \$1.6 million but some family members argue they would get far less than that once deductions like pensions and life insurance are taken into account.

The fund was set up as part of the \$15 billion airline bailout bill passed in the weeks after the attacks. To receive an award from the fund a family must agree not to sue the airlines or other entities.

Under the new rules, victims' spouses and children would receive \$100,000, up from the original \$50,000, for "non-economic" damages, said an administration official.

Early versions of the rules limited eligibility to civilians who were injured within 12 hours of the attack. New rules would extend that to 72 hours for those who worked at the World Trade Center and would remove the time limit for rescue workers who responded.

Other changes are expected that would provide protections for the families of illegal immigrants who come forward.

Social Security benefits and workers compensation benefits would also not be counted against an award from the fund under the new regulations.

Just over 350 people have applied for an award from the fund so far, according to the Department of Justice.

Insurance Times: Godfrey Joins S.H. Smith; Delta Dental Names 2; Jaramillo Joins NY Life's Agency

Department

March 19, 2002, Vol. XXI No. 6

S.H. Smith

Dennis Godfrey is a new vice president at S. H. Smith & Co. in Boston. He'll handle multi-line brokerage of property, general liability and umbrella risks.

Godfrey has more than 20 years of experience in the property casualty business.

Delta Dental

Elizabeth Ann Boisvert was promoted recently to account executive for large groups. She's a 20-year veteran of the healthcare insurance industry and most recently was an account executive in charge of southeast territory at Delta. Nina M. Conroy recently joined Delta Dental Plan of Massachusetts as an account executive in the southeast territory. She's a 15-year healthcare insurance industry veteran who was most recently client service manager for Koster Insurance Agency in Quincy.

Fulbright & Jaworski

The law firm Fulbright & Jaworski recently added three new attorneys to expand its insurance practice.

Robert Ansel is the firm's newest New York partner and head of the Insurance Regulatory and Corporate Practice Group; Michael Giordano joined the firm's New York office as an attorney; Claudia Morehead was also hired recently as an attorney in the firm's Los Angeles office.

Zurich

Zurich North America recently announced two promotions.

John McCartney is the company's new chief financial officer. He most recently served as chief executive officer of Zurich unit Empire Fire and Marine.

Steve Rand has been promoted to chief executive officer of Empire Fire and Marine. Previously, he served as senior vice president and general manager of Empire's Special Operations Division.

NAIC

The National Association of Insurance Commissioners has named this year's batch of funded consumer liaison representatives for 2002.

Two are from New England, Brendan Bridgeland, Center for Insurance Research in Cambridge, Mass. and Andrea Caliz Luquetta, director of housing and community reinvestment for the Massachusetts Association of Community Development Corporations in Boston.

NCCI Holdings, Inc.

Dennis Mealy has been appointed chief actuary at NCCI. Most recently, Mealy was at Wausau Insurance Companies of Wisconsin, where he spent a 20-year career, working up to the position of vice president and chief actuary.

He'll lead the NCCI actuarial and economic services division.

New York Life

New York Life's Jonathan Jaramillo has been named senior vice president of the Northeastern Agencies in the agency department.

Jaramillo is an 18-year New York Life veteran, having joined the company as an agent and sales manager at its New Mexico General Office.

Zurich Financial Services

Rolf Hueppi, chief executive of Zurich Financial Service, plans to step down from his post later in 2002. He plans, however, to keep his position of chairman.

NYID

Kevin Rampe was appointed executive vice president and general counsel to The Lower Manhattan Development Corp., which is in charge of revitalizing the area around the World Trade Center. He will resign as first deputy superintendent of the New York Insurance Department to accept the new position.

Insurance Times: New Mass. Registrar Hinden Has Insurance Agency Ties

March 19, 2002, Vol. XXI No. 6

by Mark Hollmer
InsuranceTimes

BOSTON — Massachusetts has a new had of the Registrar of Motor Vehicles uniquely qualified to know about independent agents' concerns.

She grew up with them.

Kim Hinden -- appointed Acting Registrar in February -- has a father who is in the business. So are her sister and mom. "I come from a family of agents who all have different issues at any given time," Hinden said.

Hinden has also dealt with insurance issues in a previous state job. She was deputy director of the Office of Consumer Affairs from 1995 to 1999 and oversaw the divisions of insurance, banks, registration and the board of medicine.

Daniel Grabauskas was consumer affairs director during that time. When he moved over to head the RMV in 1999, Hinden took the job of deputy registrar, and both worked to implement a number of reforms and changes to help improve service.

With Grabauskas now running for state treasurer, Hinden has taken over the RMV top spot. She said she'll "continue with all the excellent work he implemented here ... and we're going to hold ourselves to the same high standards."

A major RMV initiative under Grabauskas' tenure was to reduce wait times from over 90 minutes to less than a third of that.

The importance of independent agents to RMV efficiency also grew in the late 90s. That's because an increasing number of agents signed on to work with the department to register clients online and give them license plates right from their offices.

Nearly 400 agents are online now, Hinden said, and the RMV is continuing to recruit more agents.

"It benefits all of us," she said.

Hinden's father, Peter Hinden, is an agent with Marketing Associates Insurance Agency in Newton. Her sister, Michele Gillen is a personal lines agent with DeWolfe Insurance in Lexington. Her mother, Delores Hinden, is a vice president of the Boston Insurance Group in Quincy, and handles life insurance and benefits programs.

Insurance Times: Stanovich Risk Managers launched

March 19, 2002, Vol. XXI No. 6

A new risk management and insurance consulting firm has opened for business in Holden, Mass.

Called Stanovich Risk Managers, the business is a consulting firm that focuses on helping businesses and organizations control insurance costs by identifying and managing their risks.

Owner Craig Stanovich, a 24-year veteran of the business, says his company provides solutions "for our clients by finding more efficient ways to protect our clients against financial loss."

For questions, call 508-829-0959.

Insurance Times: NH Agencies Merge

March 19, 2002, Vol. XXI No. 6

Another insurance agency has acquired its rival.

This time, Aspen Insurance has purchased the Steven Grenier Insurance Agency -- both are in New Hampshire.

"This acquisition was a crucial step in becoming the full service agency we envision for our existing and prospective clients," said William Infantine, president of Aspen Insurance in Manchester, N.H.

Insurance Times: Employment & Classifieds: POSITIONS AVAILABLE: Commercial and Personal Lines
CSR

March 19, 2002, Vol. XXI No. 6

We are seeking 2 CSR's (personal lines and commercial lines) each with 5+ years experience in an agency environment. Must be able to handle all facets of the job including claims, renewals, customer satisfaction, marketing, communications relationship building, organization, and problem solving. We offer excellent compensation and benefits. Knowledge of Applied Systems is very helpful. Please fax or mail resumes to:

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Insurance Times: Employment & Classifieds: POSITIONS AVAILABLE: Commercial Lines CSR

March 19, 2002, Vol. XXI No. 6

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Insurance Times: Directory of Employment Agencies and Placement Firms

March 19, 2002, Vol. XXI No. 6

AMINEX Corp.
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Insurance Times: Employment & Classifieds: POSITIONS AVAILABLE: Associate Broker Position

March 19, 2002, Vol. XXI No. 6

Swett & Crawford • Boston Office

Ideal candidate will have 3 years experience in a wholesale surplus lines brokerage setting with a strong position in the specialty market.

A minimum of 2 years as a production assistant is required.

Candidate should have solid people skills and a strong desire to work in a fast paced/deadline oriented production environment.

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Candidate will have an opportunity to work closely with and learn from a seasoned and highly successful specialty lines insurance professional.

Swett & Crawford offers a competitive salary, bonus and comprehensive benefits package.

Interested candidates should forward resume to:

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Attn: Gary Joyal, Personal & Confidential

Insurance Times: Employment & Classifieds: POSITIONS AVAILABLE: Commercial Lines Account
Manager/Customer Service
March 19, 2002, Vol. XXI No. 6

As a result of continued growth we currently have an opening for an experienced C/L Account manager. This position provides service to a C/L book of business along with support to our C/L producers. A successful candidate will have at least 5 years C/L experience in a medium to large sized accounts. Must be a detail- oriented self starter who can function effectively and independently in a fast paced environment. Applied experience a plus.
Salary open depending on experience. We offer a full benefits program including profit sharing and flex time.

To arrange a confidential interview, please contact:

Newton S Johnson
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50 Prospect Street • Waltham, MA 02453
(781) 642 9000 • Fax (781) 647-3670
E- mail: newton-johnson@esia.com

Insurance Times: Employment & Classifieds: POSITIONS WANTED: Fred C. Church, Inc.
March 19, 2002, Vol. XXI No. 6

Because it's not just the policy.
It's the people.

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We are currently seeking experienced candidates for the following positions:

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If you are interested in joining a growing organization and furthering your career in insurance, we'd like to hear from you. Send resume with cover letter and salary requirements to:

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Attn.: C. Savard
P.O. Box 1865, Lowell, MA 01853
email: csavard@fredchurch.com

Insurance Times: Employment & Classifieds: POSITIONS WANTED: AGENCY MANAGER
March 19, 2002, Vol. XXI No. 6

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Insurance Times: Employment & Classifieds: POSITIONS AVAILABLE: Commercial Lines Assistant
March 19, 2002, Vol. XXI No. 6

Role: Provides service and customer support for producers and account executives within a wholesale environment. May occasionally communicate directly with brokers and/ or carriers to provide information and support specific account needs as assigned.

ACCOUNTS RECEIVABLES CLERK

Skills and experience: 1 to 2 years' business experience, preferably in an insurance agency or company working directly within an underwriting or producer function. Working knowledge of M/S Word, Excel, Outlook "Contacts management" Communications, Organization and Problem Solving skills required. Knowledge of Workers Compensation, insurance wholesaler operations or experience with commercial lines preferred.

Role: One or two years handling accounts receivables. Experience in an insurance agency or company handling premium receivables preferred. Working knowledge of M/S Word, Excel, Outlook required. Knowledge of insurance agency operation systems a plus.

Fax Resume to:
FREDERICK E. PENN INSURANCE AGENCY
(718) 444-8147 or mail to:
General Manager
PO Box 920444
Needham, MA 02492 EOE/MF

Insurance Times:

March 19, 2002, Vol. XXI No. 6

Employment & Classifieds: POSITIONS AVAILABLE: underwriting jobs.com

WC Claims Adjusters 40s to mid-50s possibly 60K depending on experience, for insurance companies and self insureds. Current locations Boston; Rhode Island; Southeastern, Southern, and Northern Mass.

PL Exp. needed outskirts of Boston, Applied Systems, C/L a plus, 9 to 5 or 8 to 4, \$35K plus benefits. Need to be open to learning sales, a team player!

C/Lines CSR South Shore, 8 to 4:30, all lines, must rate WC. Medium to lg accts, Min. about 3 yrs prefer 5, AMS System, lots of Excel spreadsheets.

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PL CSR Some CL exp, helpful. Requires exc communication and computer skills. Knowledge of RMV procedures and required documents a plus. Exp. issuing binders, certificates and required forms to place insurance required.

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Execusource

Insurance Times: Hanover Broadens Its Challenge To CAR's Rule 14 Governing Erps

March 19, 2002, Vol. XXI No. 6

by Mark Hollmer
InsuranceTimes

BOSTON — First, Massachusetts-based Hanover Insurance accused rival auto insurer Arbella Mutual of secretly paying a Hanover ERP to take over some of its higher-loss ratio books of business.

Recently, Hanover's battle over exclusive representative producers grew larger.

Now that it's officially oversubscribed, Hanover is trying to prevent its rivals from "cherry picking" its good ERPs to help reduce the overflow.

Hanover initially appealed to the Governing Committee of the Commonwealth Automobile Reinsurers – the state's high risk auto-insurer – to grant it relief from two party agreements, which allows other companies to take ERPs away from a rival whose ERP numbers have gotten too high (known as two-party agreements). But CAR declined the request.

On appeal, the Division of Insurance granted Hanover's request and granted a temporary stay, at least until a March 14 pre-hearing conference that was intended to consider the matter.

Specifically, Hanover was to be heard on its request from relief of CAR rule 14E, which governs two party agreements. In addition, DOI hearing officers were to look at possibly consolidating Hanover's complaint against Arbella with the new complaint over two party agreements.

Hanover claims that beginning in April 2000 and through much of 2001, Hanover ERP Rapo & Jepsen started purchasing large books of high loss ration business from ERPs including those with Arbella.

Arbella denies any wrongdoing. Hanover claims the cost in extra losses could reach at least \$3 million.

In March 6 papers filed with the DOI, Hanover attorney Owen Gallagher claims the transaction, which switched 13,000 ERP risks from Arbella Mutual, "has pushed The Hanover into a potential Rule 14 disaster."

In a related ERP matter, the DOI has scheduled a March 20 hearing, 10 a.m. at its Boston office, to consider proposed amendments to Rule 14 that would establish how ERP offices could relocate.