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Liberty Mutual, Wausau Combine Forces

By Marcia Salazar

Ending a 13-year affiliation, Employers Insurance of Wausau has left Nationwide Insurance Enterprise to join Liberty Mutual Group. Wausau will continue to keep its independence despite its affiliation with Liberty Mutual.

Terms of the transaction, expected to close by the end of the year, were not disclosed pending regulatory approval. Nationwide invested \$400 million in surplus notes in Wausau, and that will have to be paid back as part of Nationwide's affiliation agreement.

Liberty Mutual has been the nation's top writer of workers' compensation insurance for the past 60 years, and the acquisition of Wausau only strengthens its place in the
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Lawsuit Centers Around Mountain of Tires

By Sky Barnhart

It all started with a big pile of old tires—actually, more like a monstrous mound of old tires, which has become the star of a recent lawsuit filed by Owens Financial Group against American International Group (AIG). The mountain of tires was featured in an advertisement run by AIG to promote its environmental insurance policies; consequently, Owens contends that AIG falsely advertised itself as an insurance solution for tire recyclers. Owens is suing AIG for fraud, breach of contract and negligent misrepresentation.

The story goes that used tire recycler Wenbury Environmental Ltd. was an AIG policyholder who took the "tire" ad literally, leaving behind about 10,000 tons of old tires after going bankrupt. The responsibility for the tires fell into the lap of the landlord, mortgage lender

Owens Financial, who then targeted AIG for the cleanup costs. AIG denied the claim, and Owens filed a lawsuit in California Superior Court in Contra Costa County.

"We have not heard from AIG so far, but we know the grounds on which they deny coverage because they have sent us various denial of coverage letters," said Owens' legal counsel Jordan Stanzler, in the San Francisco office of New York law firm Anderson Kill & Olick. "One basis for denial of coverage was that tires are not pollutants under their Pollution Legal Liability Select policy. Actually, there was a specific endorsement put in there for the benefit of Owens, which made sure—in so many words—that we have coverage in the event that Wenbury abandons the property and leaves a bunch of tires there."

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Nordstrom Fraud Sentencing Continued

By Pat Kramer

The sentencing hearing for San Diego insurance agency owner John "Jake" Nordstrom, who last June pleaded guilty to participating in one of the state's largest insurance fraud schemes in history, was continued on Oct. 2 with no new date set yet. Nordstrom was to be sentenced by U.S. District Judge Edward Rafeedie on Oct. 6 in Los Angeles. The sudden rescheduling of his sentencing date is just the latest in a series of strange and unprecedented events which surround the 60-year-old former La Jolla resident.

A notable and charismatic figure in Southern California's insurance circuit, Nordstrom was charged with and pled guilty to conspiracy to commit wire and mail fraud in the \$100 million insurance fraud case against former Seattle-based International Insurance Underwriters (IIU), a company which Nord-

strom co-owned and operated from 1989 to 1993. Nordstrom's guilty plea came after a lengthy investigation into IIU by the FBI, the U.S. Attorney's Office in Los Angeles and San Diego, and the California Department of Insurance.

According to records released by the U.S. Attorney's Office, IIU acted as an administrator for several offshore carriers which were later found to be unlicensed shell companies with exaggerated or non-existent assets. The firms marketed low cost auto insurance policies to high-risk drivers in South Central Los Angeles, ultimately
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HR 10 Considered Dead In 1998

By Marcia Salazar

After years of debate and months of compromise, all sectors of financial services reform are considered dead—at least until next session.

At press time HR 10 was not technically dead but chances for approval did not look good. "The fat lady is warming up," said Jeff Myers, assistant vice president of public affairs for Independent Insurance Agents of America. "Its [the bill] heart is beating and its lungs are breathing, but its brain is not functioning." The session has already been extended past the Oct. 9 deadline several times.

Senate Majority Leader Trent Lott, R-Miss., killed any hopes of the reform bill when he set the bill aside and added two measures to keep Sens. Phil

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1998 Package Program Directory Deadline Nears

Insurance Journal will publish its annual Package Program Directory in the Nov. 30 issue. Companies that write a package of coverages for a particular class of business are eligible to receive a listing. Each company must have two or more coverages for that specific class of business.

The directory will be cross-referenced by company name and program name. This is an issue agents will save for use as a reference guide year round. It will also appear on the IJ Web site, www.insurancejrn.com.

The deadline is Friday, Oct. 31, 5 p.m. For more information call Insurance Journal, (800) 897-9965, extension 113.

AIG

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AIG's Pollution Legal Liability Select policy is a specialized environmental policy intended to fill the gap left by the regular Comprehensive General Liability policy, which typically has an exclusion for pollution.

"Wenbury had to buy both policies from AIG, but neither ended up providing coverage," Stanzler said. "Under the general liability policy, coverage was denied partly on the basis that there's a pollution exclusion for tires because they are pollutants; and then under the pollution policy, coverage was denied because tires are not pollutants."

According to AIG, Owens was not a named insured under the Wenbury CGL policy; thus was not entitled to coverage. AIG said that under the PLLS policy, there were several reasons that the claims were denied, including "the existence or moving of stored tires is not considered a pollution condition," and "the policy is a claims-made policy, and the claim was not

reported until after the policy had expired."

The heap of tires in the lawsuit is located in Merced, Calif., not too far from the heap of tires pictured in the ad in Oxford, Calif.; and in fact, Owens claims that many are the same tires. In 1997, Wenbury acquired about 90,000 tires from the Oxford site as part of its plan to sell them for fuel or other purposes.

But the tires mounted out of control, causing the California Integrated Waste Management Board, a pollution-prevention agency, to revoke Wenbury's permit, and in June 1997, to issue a cleanup and abatement order. Wenbury was unable to comply and soon after, the recycler closed its doors. Stanzler estimates the cost of hauling the tires to a landfill at about \$70 to \$90 a ton, totaling approximately \$900,000 for cleanup of the property.

The unsightly sea of tires made an eye-catching ad that ran full-page in many industry publications and continues to appear on AIG's web site. The bold caption beneath the picture states, "Dump Them,

You Break The Law. Recycle Improperly, You Break The Law. Meanwhile, More Tires Just Came In."

"The 'tire' ad was well known within the tire industry—it's been widely publicized, and it certainly gave people involved some comfort that they would have coverage when they needed it for claims on tires," Stanzler said.

AIG responded in a written statement: "Advertising and marketing materials do not determine coverage; the language of the policy does. The 'tire' advertisement does not specifically target tire recyclers and in no way addresses specific coverage provisions. An advertisement is an advertisement, while a policy is a contract between the insurer and the insured."

Stanzler said he still does not understand why tires are not pollutants, and as he has found no similar cases, there is opportunity for new ground to be broken as far as the definition of pollutants. In the meantime, there's an awful lot of old tires out there that eventually, someone's going to have to clean up. ■

Nordstrom Insurance Fraud

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failing to pay claims when they arose. The IIU-affiliated carriers included American Trust, Winston Hill, Kingham Atlantic, United States and Continental, Trelawney, and Commercial Indemnity Assurance Limited. Each lasted about 18 months before failing or being shut down by the CDI.

In addition to co-owning IIU, Nordstrom marketed IIU's personal auto insurance program through his Marina Del Rey agency Toma Surplus Lines Insurance Brokers Inc. During the investigation of IIU, the CDI seized Toma and shut it down in 1993. Under the state's "bad actor" law, Nordstrom was prohibited from conducting business in California as an insurer or a production agency. He was also restricted from retaining management or control of a production agency.

However, Nordstrom began doing business again early in 1994 while staving off legal proceedings related to IIU. Just before filing a temporary restraining order to stop CDI from investigating him, Nordstrom's San Diego agency Specialty Insurance Brokers (SIB), was hired by longtime friend Don Young, president and CEO of Citation Insurance Company as the MGA for its new personal auto venture. Problems immediately ensued and by 1996, Citation had lost \$100 million in premiums after SIB failed to remit payments leading to the CDI revoking SIB's license.

In June 1998, as part of a plea bargain with the U.S. Attorney's Office, Nordstrom pleaded guilty to conspiracy in the insurance fraud scheme admitting that he acted as organizer, principal shareholder and ultimate beneficiary for IIU. He admitted that he was aware that one of IIU's carriers was not licensed to sell insurance but failed to reveal this fact to consumers, the CDI or the SLA. He also stated that he conceived of, participated in and aided and abetted the scheme by IIU to defraud policyholders, the CDI, and the SLA by misappropriating funds. This included \$2.5 million which Nordstrom personally diverted into his own bank account to fund a \$500,000 personal loan for a family acquaintance and for \$7,000 in luxury suites at San Diego Chargers football games.

Nordstrom's guilty plea makes him the fifth person charged in connection with this major insurance fraud scheme. Three previous co-conspirators include Washington state resident Lawrence Hoehne, 57, IIU co-owner; Washington resident Robert Thul, 58, IIU president; and 34-year-old IIU Manager of Finance Kelly Moore of Alabama.

Two others, Alan Teale, 63, and his wife Charlotte Rentz, 53, were convicted of multiple insurance fraud counts in connection with running several of the unlicensed carriers. Rentz received a sentence of 13 years in prison while Teale was sentenced to 17. Teal died in jail in 1995,

two years into his sentence.

Nordstrom faces a maximum sentence of five years incarceration in federal prison, a three-year period of supervised release and a fine of \$250,000 in exchange for his plea. While his agreement bars the U.S. Attorney's Office from filing any additional charges against him, he is liable for tax violations and could be forced to pay restitution to policyholders. Since entering his guilty plea, Nordstrom has been released on his own personal recognizance. ■

HR 10

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Gramm (R-Texas) and Richard Shelby (R-Ala.) from tying up all other Senate business. Gramm and Shelby seemed determined to tie up the bill in parliamentary knots until adjournment unless their concerns over Community Reinvestment Act provisions were addressed.

Concerns regarding Citigroup, which was formed from the merger of Citicorp and Travelers, have been brought up. Under current law, Citigroup has two years along with three one-year extensions to sell its Travelers insurance business. Citigroup really has five years for HR 10 to become a bill before it has to consider selling, Myers said.

So its back to the drawing board for HR 10—at least from the looks of it. ■