



**March 23, 1993**

**BULLETIN #569**

**BULLETIN TO ALL MEMBERS:**

**RE: PENDLETON INSURANCE COMPANY, LTD. (British Virgin Islands)**

We have been requested by the California Insurance Department, acting in accordance with and pursuant to Section 1765. 1 of the Insurance Code, to advise all Surplus Line brokers and Special Lines Surplus Line brokers that effective March 23, 1993, unless and until notified by the Department to the contrary, the above insurer should not be employed for placements of California business. No further new or renewal business may be placed with the company.

Please see attached documentation for further information.

A.D. Freeman, Jr.  
Manager

ADF/imb

Attachments

DEPARTMENT OF INSURANCE  
45 FREMONT STREET, 24TH FLOOR  
SAN FRANCISCO, CA 94105

March 23, 1993

The Surplus Lines Association of California  
388 Market Street  
San Francisco, CA 94111

**Subject: Pendleton Insurance Company, Ltd**  
**Order Pursuant to California Insurance Code section 1765.1**

Dear Gentle People:

Please issue a bulletin to your members notifying them that **Pendleton Insurance company** is

unacceptable pursuant to CIC 1765.1 for placement of new or renewal business.

Attached please find a copy of the Department's letter to Pendleton and its representatives.

Cordially,  
Jill Jacobi  
Sr. Staff Counsel  
(415) 904-53 62

encl.

cc: Janice E. Kerr, Victoria Sidbury

DEPARTMENT OF INSURANCE  
45 FREMONT STREET, 24TH FLOOR  
SAN FRANCISCO, CA 94105

March 23, 1993

Mr. Neil Smith, President  
Pendleton Insurance Co., Ltd. (BVI)  
Craigmuir Chambers, P.O. Box 71  
Road Town, Tortola  
British Virgin Islands

Pendelton Insurance Co., Ltd  
Jean Fournier & Assocs.  
1375 Trans-Canada Hwy., Suite 350 Dorval, Quebec Canada  
H9P 2W8

Mr. Raymond S. Cowan, Chairman  
Cowan Surplus Line Insurance Services 13743 Ventura Blvd.  
Sherman ,Oaks, CA 91423

Richter Robb Pacific  
Insurance Services, Inc.  
500 Sansome Street #505  
San Francisco, CA 94111

KD Excess & Surplus Insurance Services  
10 Corporate Park  
Irvine, CA 92714

Re: Pendleton Insurance Company, Ltd. (BVI)

**Order Pursuant to California Insurance Code Section 1765.1**

Dear Gentle People,

Pursuant to California Insurance Code (CIC) Section 1765.1, the Department has reviewed the submitted financial and other information concerning Pendleton Insurance Company, Ltd. ("Pendleton"). The Department's review is guided by legal and accounting standards as set forth in our California Insurance Code and other California laws. The Department has a number of concerns which require the issuance of an order and bulletin pursuant to CIC 1765.1 ordering that no further business be placed with Pendleton. These concerns and the Department's intent to issue an order pursuant to CIC 1765.1 were previously forwarded to Pendleton and its surplus lines brokers Mr. Raymond S. Cowan, Cowan Surplus Line Insurance Services, Richter Robb Pacific Insurance Services, Inc., and KD Excess & Surplus Insurance Services on February 26, 1993.

There having been no counter argument nor counter evidence submitted in response to the Department's February 26, 1993 Notice of Proposed Order Pursuant to CIC 1765.1, the Department therefore orders that Pendleton is unacceptable for placement of further new or renewal business pursuant to CIC Section 1765.1. The basis for the CIC 1765.1 order is as follows:

**LACK OF REPUTATION & INTEGRITY**

The Department finds that Pendleton lacks sufficient reputation and integrity to be an acceptable surplus lines carrier. -As set forth in greater detail below, Pendleton is not a licensed insurer, and its president has been indicted on federal racketeering charges.

**Lack of License in Domiciliary-Illegal Transaction of Insurance**

In July, 1992, Pendleton's domicile, the British Virgin Islands, denied its application for a license as an insurance company and struck it from the register of companies there. This action was based on-the submission of falsified accounts. Any continued business after that time has been without a license.

The illegal transaction of insurance substantiates its poor reputation and integrity, making Pendleton unacceptable as a surplus lines carrier.

**Neil Smith-Federal Indictment**

Neil Smith is the identified president of Pendleton. Mr. Smith has been indicted on federal wire fraud and racketeering charges and is awaiting trial. Such criminal charges are an indication of poor reputation and integrity.

## **FINANCIAL INSTABILITY**

The Department has not received requested explanations, updates, and further verifications to the financial statement of Pendleton. Absent the requested information, the Department is unable to determine that Pendleton is financially stable.

In addition, and to the contrary, the Department has received information indicating that Pendleton is insolvent and has misrepresented its financial worth.

### **Contributed Capital Surplus \$25 million**

The bulk of Pendleton's assets consists of a collateralized debenture from the Sterling Trust listed as \$25 million. The payee is American Hemisphere Inv. Co. Ltd and not Pendleton. The signature for American Hemisphere is that of Neil Smith described above, who is also Pendleton's president. Again, there is no acceptable proof of the value of this note. In addition, other surplus lines carriers claim the same Sterling Trust as their asset. Finally, Freedom Insurance Co. Ltd. is suing the Sterling Trust for breach of contract, fraud and conversion.

The ownership and value of the trust are questionable. Therefore, Pendleton's \$25 million capital is not acceptable because it does not meet the Department's standards on liquidity (CIC 706.5), quality and legality of investment (CIC 717b), investments held in company's own name (CIC 100), income production (CIC 1195), and sound investment (CIC 1196a).

### **Unreliable Financial Report**

In addition to the failure to respond to the Department's requests for financial information, the Department questions the validity of the financial reports prepared by the "Chartered Accountant" who prepared the report. Furthermore, the British Virgin Islands took regulatory action against Pendleton for submitting financial reports purportedly done by Coopers & Lybrand, when in fact the reports were not prepared by that firm. Therefore, the Department finds the Pendleton financial reports of dubious validity. Similarly, the "actuarial opinion" submitted simply relies upon information given by the company rather than an examination of the company's books and records.

**Therefore**, the Department has determined that Pendleton has misrepresented its financial worth and appears to be insolvent.

**NOTE:**Because of the ostensible relationship through their management and assets between Atlas and Pendelton Insurance Co., Ltd. (BVI), the Department is issuing simultaneous CIC 1765.1 orders as to these two entities. The Department reserves the right to issue additional 1765.1 orders regarding other related persons and entities as appropriate.

**Therefore**, Pendleton Insurance Company, Ltd. is unacceptable for placement of further new or renewal

business pursuant to CIC 1765.1 because of: 1) the above described financial instability due to questionable assets of dubious value and the lack of credible financial and actuarial reports; and 2) the above described questionable reputation and integrity due its nonresponsiveness ' to the Department's inquiries, lack of licensure, and the indictment of Neil Smith on federal racketeering charges.

**You may make a written request for a hearing within thirty (30) days of the date of this order. The Department will set a hearing within twenty (20) days of its receipt of your written request.**

Sincerely,

Nancy A. Ayooob  
Sr. Staff Counsel  
(415) 904-5666

JAJ:NAA

cc: Surplus Lines Association  
NAIC c/o Maximiliane Moody, NAIIO  
Robis International Insurance  
Richard G. Del La Mora, Barger & Wolen  
Janice E. Kerr, General Counsel  
Victoria S. Sidbury, Assistant Chief Counsel & Corporate  
Affairs Bureau Chief