



**March 23, 1993**

**BULLETIN #568**

**RE: ATLAS INDEMNITY AND INSURANCE COMPANY (Antigua & Barbuda)**

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: Atlas Indemnity and Insurance Company**  
**Order Pursuant to California Insurance Code section 1765.1**

Dear Gentle People:

Please issue a bulletin to your members notifying them that **Atlas Indemnity and 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 Atlas and its representatives.

Cordially,  
Jill Jacobi  
Sr. Staff Counsel  
(4 15) 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. Denis St. Gelas, President  
Atlas Indemnity and Insurance Co. (Antigua and Barbuda)  
Administrative office: Jean Fournier & Assocs. Insurance Broker  
1375 Trans-Canada Hwy., Suite 350  
Dorval, Quebec  
Canada H9P 2WS

Mark Robis, President  
Robis International Insurance Brokers, Inc. 220 Montgomery, #420  
San Francisco, CA 94104

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

Mr. Robert S. Shotwell  
Riding Insurance Services, Inc.  
7280 Blue Hill Drive, Suite #8  
San Jose, CA 95129

**Re: Atlas Indemnity and Insurance Company (Antigua & Barbuda)  
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 Atlas Indemnity and Insurance Company ("Atlas"). 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 Atlas. These concerns and the Department's intent to issue an order pursuant to CIC 1765.1 were previously forwarded to Atlas and its surplus lines brokers Mr. Robert S. Shotwell, Riding Insurance Services, Inc., Mr. Mark Robis, Robis International Insurance Brokers, Inc., and Richter Robb Pacific 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 Atlas 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 Atlas lacks sufficient reputation and integrity to be an acceptable surplus lines carrier. As set forth in greater detail below, Atlas is not a licensed insurer, has been the subject of regulatory actions in a number of other states and its reported president has been indicted in Texas on charges of criminal fraud.

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

Atlas is not licensed as an insurer anywhere in the world. In particular, Atlas is not licensed in its domiciliary, Antigua and Barbuda. The Director of International Business Corporations of the Antigua and Barbuda Ministry of Finance states:

In fact, they may be considered as fraudulently taking deposits, knowing that the company no longer exists as it has been struck off the register. For all intent and purposes the company is dead.

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

### **Denis St. Gelais-Fugitive**

Denis St. Gelais is identified as Atlas' president on its financial report. Mr. St. Gelais, indicted on fraud charges in the US District Court, Southern District of Texas, has been arrested in Canada and is awaiting an extradition hearing. Criminal fraud charges are an indication of poor reputation and integrity.

### **Other Regulatory Enforcement Actions Against Atlas**

Several states, including Vermont, Minnesota, and Kentucky have issued Cease and Desist Orders against Atlas for conducting business in those states without a license. Atlas' business practices are further impugned by these regulatory actions.

## **FINANCIAL INSTABILITY**

The Department has not received requested explanations, updates, and further verifications to the financial statement as of 12/31/90. Absent the requested information, the Department is unable to determine that Atlas is financially stable.

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

## **Trust Fund--Confused Ownership w/ Aecris & Questionable Value--**

The financial information submitted by Atlas is identical to an asset listed in the financial information submitted by another surplus lines insurer. Atlas and the other carrier both identify as their asset the same NAIC Trust Agreement account purportedly held at Fulton Bank in Fulton Kentucky. Further, the Insurance Commissioner of the State of Kentucky has taken possession of this NAIC trust, and has determined that it is of dubious financial value.

The trust fund is not an acceptable asset because of the confused ownership, its dubious value, and the seizure by Kentucky which limits its availability to pay California policy holders. The trust fund 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, a 12/31/90 financial statement and accompanying 6/15/91 audit report which was submitted is of questionable reliability. The report fails to note the discrepancies between the ownership of the NAIC trust, despite the fact that the "Chartered Accountant" who prepared the report also prepared a similar report for the other surplus lines carrier. Also, the same chartered accountant prepared the financial report for Pendleton Insurance Co., Ltd. All three companies appeared to claim as an asset the Sterling Trust, but the report does not reflect the questionable ownership and value of that asset. Therefore, the Department finds the Atlas and Pendleton financial reports of questionable validity.

*NOTE: Because of the ostensible relationship through their management and assets between Atlas and Pendleton 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**, Atlas Indemnity and Insurance company 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 2) the above described questionable reputation and integrity due its non-responsiveness to the Department's inquiries, lack of licensure, the indictment of Denis St. Gelais on charges of fraud, and sister state administrative cease and desist orders.

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. Ayoob  
Sr. Staff Counsel  
(415) 904-5666

JAJ:NAA

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