



May 25, 1993

BULLETIN #590

**RE: COMMERCIAL INDEMNITY ASSURANCE & CASUALTY COMPANY
(Tortola, 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 May 25, 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.

Assistant Manager

JSP/imb

Enclosure(s)

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 FREMONT STREET, 24th FLOOR
FRANCISCO, CA 94105
JOHN GARAMENDI; Insurance Commissioner

May 25, 1993

The Surplus Line Association of California
388 Market Street, Suite 1150
San Francisco, CA 94111

**Subject: COMMERCIAL INDEMNITY ASSURANCE & CASUALTY COMPANY
(Tortola, British Virgin Islands)
Order Pursuant to California Insurance Code Section 1765.1**

Dear Gentle People:

Please issue a bulletin to your members notifying them that Commercial Indemnity Assurance & Casualty Company (Tortola, British Virgin Islands) is unacceptable pursuant to CIC S 1765.1 for placement of new or renewal business.

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

Very truly yours,
Staff Counsel
(415) 904-5966

cc: Janice E. Kerr, CDI General Counsel
Victoria S. Sidbury, CDI Assistant Chief Counsel
Commercial Indemnity Assurance & Casualty Company

JOHN GARAMENDI, Insurance Commissioner
DEPARTMENT OF INSURANCE
45 FREMONT STREET, 24th FLOOR
SAN FRANCISCO, CA 941 05

May 25, 1993

Commercial Indemnity Assurance & Casualty Company
Road Town, Tortola
British Virgin Islands

Mr. Gerald A. Dobbins
1604 Babcock Avenue
Costa Mesa, CA 92627

**SUBJECT: Commercial Indemnity Assurance & Casualty Company
(Tortola, British Virgin Islands]
ORDER PURSUANT TO CIC Sea. 176S.1**

PLEASE TAKE NOTICE OF THE FOLLOWING:

Pursuant to California Insurance Code (CIC) S 1765.1, the California Department of Insurance has reviewed the submitted financial and other documentary information concerning Commercial Indemnity Assurance & Casualty Company (Tortola, British Virgin Islands] (Hereinafter "CIACC") . The Department's review is guided by legal and accounting standards as set forth in the California Insurance Code and other California laws, such as the California Corporations Code.

The Department has a number of concerns requiring the issuance of an Order and bulletin pursuant to CIC S 1765.1 ordering that no further business be placed with CIACC.

These concerns and the Department's intent to issue this Order pursuant to CIC S 1765.1 were previously forwarded to the company and its representatives on or about April 26, 1993 at the addresses noted thereon. SEE, Department of Insurance's Notice of Proposed Order Pursuant to CIC S 1765.1, attached hereto as Exhibit "A".

(I.) LACK OF LICENSURE IN DOMICILE

Information from the regulatory agency in the domiciliary state of CIACC indicates that this company is not now, nor has it ever been, licensed in the British Virgin Islands. This company is not registered as a corporation there; it does not now hold, nor has it ever held, a license to practice insurance there; and this carrier has no legally constituted offices in Tortola.

Not only does this lack of licensing in its domicile reflect poorly on CIACC's reputation and integrity, but the company's representations of itself as being incorporated and registered there, without adequate explanation, leaves the Department with the inference that a direct misrepresentation on the part of company principals or agents has been perpetuated on behalf of the company, a situation fatal to the company's reputation and integrity.

(II.) UNRELIABILITY OF FINANCIAL STATEMENTS

CIACC had provided prospective surplus line brokers in California with a purported financial statement said to be a report prepared by a BVI Advance Accounting Service, which report contained an unqualified opinion. However, information from the Insurance Supervisor of the British Virgin Islands states that such accounting firm does not exist in the BVI, and that a different accounting firm is housed at that address.

Thus, any representations made in such financial statements are inherently untrustworthy and unreliable. Moreover, the proffering of such a document on behalf of the company exhibits a cynical disregard for the protection of potential insureds which casts the integrity of this company in further disrepute.

(III.) FINANCIAL INSTABILITY

The Department has reviewed certain financial documents submitted on behalf by or on behalf of CIAC. Specifically, the Department has analyzed the "Audited Financial Statement" as of June 1, 1992, said to be the work of BVI Advance Accounting Service (Creque Bldg., Upper Main Street, Road Town, Tortola). (But see, section II., above.)

As a result, the Department has the following questions, concerns, and requests for documentation and verification concerning the assets, listed therein:

(a.) Cash and Cash Equivalents -- \$330,629; and Short Term Investments -- \$1,104,456.

The "Financial Statement" of June 1, 1992 lists as assets "Cash" of \$330,629, as well as "Short Term INVESTMENTS" of \$ 1,104,456. Since the financial statement was not audited by a certified public accountant (see above), there is no verification that the funds exist, that the funds are held in the name of the carrier, or that the investments, if existing, are correctly valued. Hence, these amounts must be discounted, or non-admitted, in assessing the financial stability of the company.

(b.) Receivable from Reinsurance -- \$534,157.

The purported financial statement also lists as an asset "Receivable from Reinsurance" of \$534,157. However, there is no disclosure as to whether such receivable represents funds held by or deposited with reinsured companies or reinsurance recoverables on loss and loss adjustment expense payments. In either case, there is no identification of reinsurers). Therefore, it is impossible for the Department to assess the validity of these accounts, and such amounts must be non-admitted for purposes of assessing the financial stability of the company.

(c.) Premium Bills Receivable -- \$712,029; Premiums & Agent Balances in Collection -- \$366,589; and Premium Booked but Not Due -- \$203,783.

The alleged financial statement also enumerates the aforementioned amounts as assets. However, there is again inadequate disclosure as to the existence of these amounts, the ownership of such amounts by this company, and whether such amounts are capable of being collected. Hence, these amounts are likewise non-admitted.

(d.) Accrued Interest & Dividends -- \$18,216.

The so-called financial statement also lists ""Accrued Interest Dividends Receivable" of \$18,216. Again, the lack of verification as to existence of the amounts dictates that they be deemed non-admitted assets.

(e.) Bonds -- \$55,754,307; Preferred Stock \$272,502; Common Stock -- \$3,397,988; and "Other Investments" -- \$20,988,223.

None of these assets proffered as investments of this company on the alleged financial statement have any verification as to ownership, valuation, or proof of liquidity. In addition, note 2 accompanying the statement admits that these investments are encumbered: "Encumbrances pertain to the periodic hypothecation of certain investments to satisfy contractual obligations of policyholders other than normal statutory requirements. This balance may vary from period to period depending upon the type of policies written and maybe (sic) considered as a contingent (sic) in nature."

It is a mystery to the Department why a company which claims to have \$5 billion in other assets (see

below) would find it necessary or advisable to encumber these assets.

(f.) Real estate -- \$3,889,668.

The financial statement presented on behalf of the company likewise lists as an asset "Real Estate" of \$3,889,668. Note 10 to the financial describes such holdings as "1800 acres of undeveloped raw land and various income producing offices and rental spaces." However, neither the note, nor any other verifying documentation, points to any proof of valuation of such properties. And as above, there is no confirmation that the company holds title to such unspecified lands and properties. These assets, too, must be non-admitted.

(g.) Data Processing Equipment -- \$3,941.

This item is also listed as an asset of the company, but under statutory accounting principles, such items are non-admitted as lacking in liquidity.

(h.) Goodwill Purchased -- \$444,848.

Under "Other Assets", the company's financial statement lists "Long Term Insurance Assets" (among other entries) as "Goodwill Purchased" of \$444,848. There is no disclosure which would account for this so-called goodwill purchase which would allow for an evaluation of it. It must be deemed non-admitted for purposes of assessing the financial stability of CIACC.

(i.) Assets Assigned by Trust -- \$250,127,100; and Asset "Addendum All -- \$5,000,000,000.

Under "Long Term Insurance Assets" on the financial statement of CIACC, the listings-of "Assigned by Trust" of \$250,127,100, as well as "Asset 'addendum All' appear. The existence, ownership, and proper valuation of these assets have in no way been verified by CIACC. The classification of such assets under the heading "Other Assets" rather than current assets implies a lack of liquidity. Moreover, such assets, if in existence, would be likely to produce more income than the \$2,482,926 (a mere .05% of the \$5 billion) specified in CIACC's reported interest, dividends and rent income.

THEREFORE, PLEASE TAKE NOTE AS FOLLOWS:

COMMERCIAL INDEMNITY ASSURANCE & CASUALTY COMPANY is unacceptable for placement of further new or renewal business pursuant to CIC S 1765.1 for all the foregoing reasons, including

- 1) its questionable reputation and integrity concerning its licensure in its domicile;
- 2) the unreliability of its presented financial statements as above described; and
- 3) its financial instability as described above.

PLEASE TAKE FURTHER NOTE THAT you may make a written request or a hearing within thirty (30) days after service of this order. if such request is made by counsel, the request should include a letter from the client verifying counsel's-authority to represent the carrier. Should you so request, the Department will set, a hearing within twenty (20) to thirty (30) days of-its receipt of your written request and will notify you of such hearing date.

Staff Counsel
(415) 904-5966

cc: Janice E. Kerr, General Counsel
Victoria Sidbury, Chief, Corporate Affairs Bureau

April 26, 1993

Commercial Indemnity Assurance & Casualty Company
Road Town, Tortola
British Virgin Islands

Mr. Gerald A. Dobbins
1604 Babcock Avenue
Costa Mesa, CA 92627

**SUBJECT:Commercial Indemnity Assurance ~& Casualty Company
(Tortola, British Virgin Islands)
NOTICE OF PROPOSED ORDER PURSUANT TO CIC Sec. 1765.1**

Dear Gentle People:

Pursuant to California Insurance Code (CIC) Section **1765.1** the Department of Insurance has reviewed the submitted financial and other information concerning commercial Indemnity Assurance & Casualty Company (Tortola, British Virgin Islands) (hereinafter "CIACC".) The Department's review is guided by **legal** and accounting standards as set forth in the California Insurance Code and other California laws. The Department has a number **of** concerns which,**if**not satisfactorily answered, will require the issuance of an Order and Bulletin pursuant to CIC 1765.1 ordering that no business be placed with CIACC.

EXHIBIT A1

I. LACK OF LICENSURE IN DOMICILEM

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carrier has no legally constituted offices in Tortola.

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II. UNRELIABILITY OF FINANCIAL STATEMENTS

CIACC had provided prospective surplus line brokers in California with a purported financial statement said to be a report prepared by a BVI Advance Accounting Service, which report contained an unqualified opinion. However, information from the Insurance Supervisor of the British Virgin Islands states that such accounting firm does not exist in the BVI, and that a different accounting firm is housed at that address.

Thus, any representations made in such financial statements are inherently untrustworthy and unreliable. Moreover, the proffering of such a document on behalf of the company exhibits a cynical disregard for the protection of potential insureds which casts the integrity of this company in further disrepute.

III. FINANCIAL INSTABILITY

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As a result, the Department has the following questions, concerns, and requests for documentation and verification concerning the assets listed therein.

EXHIBIT A2

(a.) **Cash and Cash Equivalents -- \$330,629; and Short Term Investments -- \$1,104,456.** The "Financial Statement" of June 1, 1992 lists as assets "Cash" of \$330,629, as well as "Short Term INVESTMENTS" of \$ 1,104,456. Since the financial statement was not audited by a certified public accountant (see above) , there is no verification that the funds exist, that the funds are held in the name of the carrier, or that the investments, if existing, are correctly valued. Hence, these amounts must be discounted, or non-admitted, in assessing the financial stability of the company.

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In addition, note 2 accompanying the statement admits that these investments are encumbered: "Encumbrances pertain to the periodic hypothecation of certain investments to satisfy contractual obligations of policyholders other than normal statutory requirements. This balance may vary from period to period depending upon the type of policies written and maybe (sic) considered as a contingent (sic) in nature.*"

EXHIBIT A3

It is a mystery to the Department why a company which claims to have \$5 billion in other assets (see below) would find it necessary or advisable to encumber these assets.

(f.) **Real estate -- \$3,889,668.**

The financial statement presented on behalf of the company likewise lists as an asset "Real Estate" of \$3,889,668. Note 10 to the financial describes such holdings as "800 acres of undeveloped raw land and various income producing offices and rental spaces."

However, neither the note, nor any other verifying documentation, points to any proof of valuation of such properties. And as above, there is no confirmation that the company holds title to such unspecified lands and properties. These assets, too, must be non-admitted.

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The existence, ownership, and proper valuation of these assets have in no way been verified by CIACC. The classification of such assets under the heading "Other Assets" rather than current assets implies a lack of liquidity. Moreover, such assets, if in existence, would be likely to produce more income than the \$2,482,926 (a mere .05% of the \$5 billion) specified in CIACC's reported interest, dividends and rent income.

[When the above non-admitted assets are deducted from this company's balance sheet, a negative capital and surplus results. Consequently, absent convincing proof as to why such assets should be considered verifiable and admissible, CIACC's financial status is far too precarious to allow the continued placement of policies with California insureds.]

EXHIBIT A4

(j.) Accounts Payable & Accrued Expense

In CIACC's financial statement,- under "Liabilities, Reserves, and Stockholders Equity", the company lists "Accounts Payable & Accrued Expenses" of \$272,858. However, given the general lack of credibility of the entire financial statement (see above) the likelihood exists that this amount is understated.

(k.) Taxes and Licenses Payable --\$13,6609.

Also listed under liabilities on the financial statement is this amount. The Department questions this amount as rather.. minimal given the reported net income of \$2,395,001.

(U.) Claims Payable -- \$776,180; and Unearned Premiums -- \$1,695,516.

These entries also appear under the liabilities listed on the company's financial statement. Since there is no loss reserve certification by an actuary, the adequacy of the reserves must remain in question. Any under-reserving practices would have a further negative impact on CIACC's surplus.' It is to be observed that in note 8 accompanying the financial statement, reserves for unpaid losses and loss adjustment expenses are discussed, despite the fact that these accounts are not found in the balance sheet or the income statement. This adds to the implausibility of the company's presentation of its financial condition.

(M.) Encumbrances -- \$30,711,188.

This item also appears under "Other Liabilities" in the financial statement. As discussed above in (e.), the concept of such assets being encumbered, when the \$5 billion asset is supposedly extant, lacks plausibility.

In summary, the financial stability of Commercial Indemnity and Casualty Company is far too suspect to allow the placement-of any business with this carrier in the future.

ORDER PUSUANT TO CIC 1765.1 WILL ISSUE May 25, 1993

You are hereby notified that unless substantiated convincing counter-arguments and evidence are timely received by the Department, an order will issue on may 25, 1993pursuant to CIC 1765.1, advising California surplus lines brokers that Commercial Indemnity Assurance & Casualty Company (Tortola, British Virgin Islands) is unacceptable for placement of new or renewal business.

EXHIBIT A5

This order will be based on the questionable financial stability, reputation, and integrity of CIACC due to its lack of license in its domiciliary, its unreliable financial statements, its unsubstantiated and unacceptable assets, and its financial instability, as set forth above.

You must of offer any counter-argument and evidence on the above issues in writing. In order to be considered by the Department, any and all such written counter-argument and evidence together with all supporting documentation must be received by the Department on or by May 18, 1993, five working days before the date set for the proposed order.

Please note that if new information is offered, you **MUST** show how that new information meets the Department's standards. For example, if new assets are shown, you are required to substantiate ownership and value of the asset.

You may also request a meeting with Department representatives to discuss a resolution of the issues. However, any such meeting will not extend the time for nor in any way diminish the need for written counter argument and/or evidence with supporting documentation.

Additionally, upon issuance of the Order, you may make a written request for a hearing within 30 days of such Order. The Department Aft will set a hearing within 20 to 30 days of its receipt of your written request.

Yours very truly,

Carol A. Harmon
Staff Counsel
(415) 904-5966

cc: Janice E. Kerr, General Counsel
Victoria S. Sidbury, Assistant Chief Counsel

(courtesy copy only)
Mr. Dale A. Trudeau.
Browning & Trudeau Insurance Associates, Inc.

EXHIBIT A6