



**June 16, 1993**

**BULLETIN #596**

**BULLETIN TO ALL MEMBERS:**

**RE: WESTERN STAR INSURANCE CO., LTD. (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 June 15, 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

Enclosures

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

JOHN GARAMENDI, Insurance Commissioner

June 15, 1993

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

**Subject: Western Star Insurance Co., Ltd. (Antigua & Barbuda)**  
**Order Pursuant to California Insurance Code Section 1765.1**

Dear Gentle People:

Please issue a bulletin to your members notifying them that Western Star Insurance Company, Ltd. (Antigua & Barbuda) is unacceptable pursuant to CIC 1765.1 for placement of new or renewal business.'

Attached please find the Department's Order sent to Western Star and its filing and placing surplus lines brokers.

Yours very truly,

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

cc: Janice E. Kerr  
Victoria S. Sidbury

STATE OF CALIFORNIA  
DEPARTMENT OF INSURANCE  
45 FREMONT STREET. 24TH FLOOR  
SAN FRANCISCO. CA 94105

JOHN GARAMENDI, Insurance Commissioner

June 15, 1993

Western Star Insurance Co., Ltd.(Antigua)  
1407 High Street  
St. Johns, Antigua

LRO Insurance Services  
P.O. Box 1748  
Studio City, CA 91604

Robert S. Shotwell, President  
Riding Insurance Services  
2801 West Pacific Coast HWY, Ste. 240  
Newport Beach, CA 92663

**Subject: Western Star Insurance Co. (Antigua)  
Order Pursuant to CIC 1765.1**

Dear Gentle People,

Pursuant to California Insurance Code (CIC) Section 1765.1, the Department has reviewed the submitted financial and other information including material filed pursuant to Regulation 2174 concerning Western Star Insurance Co.(Western Star). The Department's review is guided by legal and accounting standards as set forth in our California Insurance Code and other California laws including California Code of Regulations, Title 10, Chapter 5, Subchapter 1, Article 4, Sections 2174.1 through 2174.14 (Regulation 2174). The Department has the following concerns which require the issuance of an order and bulletin pursuant to CIC 1765.1 ordering that no further business be placed with western star.

### **REJECTED REGULATION 2174.5 FILING**

The Department has twice rejected the Filing made on behalf of Western by Riding Insur. Services pursuant to Regulation 2174. The latest rejection is dated June 11, 1993.(Rejection letter attached as exhibit A) Regulation 2174.1 et seq. details certain criteria and the required supporting documentation that must be met in order to comply with the financial stability and reputation and integrity requirements of CIC 1765.1. Repeated failures to substantially comply with the filing requirements of 2174.1 et seq. reflect poorly on Western's reputation and integrity. Additionally, the lack of a substantially complete filing prevents the Department from being able to determine whether Western is financially stable.

### **UNACCEPTABLE ASSETS**

\$5.4 Million NAIC Trust--The submitted NAIC Standard Form Trust Agreement states on the first page that, "the company has transferred to the Trustee cash in U.S. currency, letters of credit, Readily Marketable Securities, or any combination thereof, valued at a total of not less than the Trust fund Minimum Amount" which is stated in paragraph 2.8 as \$5.4 million. The agreement defines "trust" further in paragraph 1.5 to be "in the actual and sole possession of the Trustee."

However, the submitted supporting Certificate of Deposit proves that the trustee Ameritrust Texas National Association does NOT have the trust in its actual and sole possession. The Certificate of Deposit from First Asia Development Bank Limited, Port Vila, Republic of Vanuatu purports to certify that Ameritrust as trustee for Western has "lodged" a \$5.4 million deposit there in Vanuatu.

Not only is the trust asset not in Ameritrust's "actual and sole" possession, but there is absolutely no information given as to the nature of the purported deposit in Vanuatu, whether it is cash or other acceptable trust assets and whether Western is the true owner of the asset. Furthermore, no information has been provided about the Vanuatu bank, including its licensure status and its financial ability to pay the principal and interest on the certificate of deposit. It appears that First Asia Development Bank Ltd. is not registered under Vanuatu's federal banking laws. This means that the Bank can not do business in Vanuatu itself and does not have to comply with Vanuatu's minimum capital and surplus requirements nor financial reporting requirements. Thus, the Bank is virtually unregulated by any governmental authority. There is no official confirmation nor official information about the financial stability and

integrity of the Bank.

The Department is concerned about the security of this purported asset and notes that it does not comply with CIC 1182 as incorporated in Regulation 2174.9(a)5 requiring bank or savings accounts to be insured by the federal government. The trust also does not comply with Regulation 2174.9(a) (4) requiring alien insurers to maintain a \$5.4 million trust in the United States in a Federal Reserve System member bank.

Furthermore certain terms of the "Standard Form NAIC Trust Agreement" have been changed. Notably paragraph 2.14(b) provides as required that "Trustee shall promptly certify the existence and value of the Trust Fund" but omits the standard form language "on the effective date of this Instrument." This crucial omission leads the Department to question whether the Trustee has properly certified the trust asset in Vanuatu. Also, the Trust Agreement as altered is not "in a form acceptable to the commissioner" pursuant to Regulation 2174.9(a)(4).

As stated in Regulation 2174.3, Regulation 2174.9 sets forth "certain minimum standards of insurer financial stability, reputation and integrity to guide licensees in their selection of insurers for placements." 2174.9. Western's NAIC trust fails to meet these minimum standards and an order pursuant to CIC 1765.1 is warranted.

Moreover, since material terms of the agreement concerning possession and trustee certification have not been complied with, the Department has grave doubts concerning the ownership, existence, value, and the availability to pay claims of the purported trust.

Western's purported NAIC Trust is not acceptable in that it violates its own terms, does not meet the Department's minimum standards described above, and the Department cannot determine that the purported asset meets the Department's criteria on liquidity (CIC 706.5), quality and legality of investment (CIC 717b), investments held in company's own name (CIC 1100), income production (CIC 1195), and sound investment CIC 1196a).

\$15 million Harris Trust--The submitted Audited Financial Statement as of December 31, 1992 describes in Note # 5, a subsequent event of a \$15 million contribution held at the Harris Bank and Trust Company in Chicago, Illinois. The Department questions the nature, source, and terms of the contribution as well as its security.

Moreover, the submitted xerox copy of a Certificate of Deposit shows that the purported \$15 million is deposited in the same First Asia Development Bank Ltd. as above in Vila, Vanuatu. Again, it is obvious that the purported trustee, this time the Harris Bank and Trust Co., is not holding the trust asset.

Again, as above, the Department cannot determine the existence, ownership, value, and availability to pay claims of the purported \$15 million trust because of the lack of certification of the asset by the purported trustee and the lack of official regulation and information about the Bank. Also as explained

above, the Department cannot determine the ability of the Bank to pay the principal and interest on the purported \$15 million deposit.

Therefore the \$15 million Harris trust is unacceptable because insufficient documentation was submitted as required by Regulation 2174.9(a)5 to document the quality of the asset and the Department cannot determine that the purported asset meets the Department's criteria on liquidity (CIC 706.5), quality and legality of investment (CIC 717b), investments held in company's own name (CIC 1100), income production (CIC 1195), and sound investment CIC 1196a).

Greenway Environmental Services, Inc. \$6 million debenture--Note # 4 of the submitted audited Financial Statements as of December 31, 1993, lists as a marketable security, Greenway Environmental Services, Inc., Series A, Debenture at a cost and market value of \$6 million.

The filing broker and Company have not responded to the Department's 5/12/93 questions concerning the terms, interests, and collateralization of the note.

Greenway's Form 10-Q as of March 31, 1993 filed with the Securities Exchange Commission does not list the debenture leading the Department to further question Western's ownership of such a debenture. Moreover, Greenway's 10-Q reports no cash on its balance sheet as of March 31, 1992 indicating that no interest could be paid even if the debenture is legitimate. Finally, no investment income is reported by Western on the Greenway debenture confirming that the debenture if it exists, is not income producing and is in default.

The Department also questions the value of the purported 3,500,000 shares of Creative Classics International stock that Western allegedly traded for the Greenway debenture. Again, Western's financial statements as of December 31, 1991, do not show any income from these stocks although they comprised Western's largest asset at that time.

Moreover, on May 12, 1992, the Wisconsin Department of Insurance issued an order to another surplus lines company, Redwood Insurance Co., Ltd. (Vanuatu) ordering it to cancel all policies on Wisconsin residents. The Wisconsin Commissioner found that the Creative Classics International stock held as a major asset of Redwood was not a liquid asset and that Redwood had no sufficient basis to value its 320,000 shares of Creative at \$1,760,000 under GAAP or statutory accounting.

Given the questionable value of the Creative Classics stock, the Department further questions the \$,6 million value assigned to the Greenway debenture that it was traded for.

The Greenway debenture is not acceptable in that insufficient documentation was submitted as requested pursuant to CIC 1765.1 and as required by Regulation 2174.9 (a) (5) to confirm the quality of the asset and it does not meet the Departments criteria on liquidity (CIC 706.5), quality and legality of investment (CIC 717b) , investments held in company Is own name (CIC 1100) , income production (CIC 1195), sound investment CIC 1196a) and security of investment (CIC 1250 and 1251).

## **INSOLVENCY--Negative \$2.2 Million Surplus**

When the above unacceptable amounts are deducted, First Assurance has a negative surplus of more than \$2.2 million. First Assurance is insolvent under the Department's standards (see CIC 36a and CIC 985). An order pursuant to CIC 1765.1 is warranted based on this demonstrated financial instability.

## **QUESTIONABLE REPUTATION & INTEGRITY**

Western's 1992 Annual Statement lists Richard Adeline as Western's Secretary, Treasurer and a Director. Mr. Adeline also appears to be the Treasurer and Secretary of Parke Investment Corp. which is shown as Western's 100% shareholder on the company chart. This Department has previously ordered Mr. Adeline to Cease and Desist from illegally transacting insurance without a license in this State concerning Central Insur. Co., Ltd.(Order to Cease and Desist, File No. LA 14410-B, August 24, 1990.) Mr. Adeline also improperly performed auditing services without being a licensed public accountant for another surplus line carrier, United States and Continental Reinsurance Co. This latter company also was objected to pursuant to CIC 1765.1 by the Department on July 9, 1991. This Department's adverse regulatory actions concerning Mr. Adeline and the companies he has been associated with reflect poorly on the reputation and integrity of both Mr. Adeline and Western.

Therefore, pursuant to CIC 1765.1 Western Star Insurance Company, Ltd. (Antigua and Barbuda) is unacceptable for placement of further new or renewal business. This order is based on the above described: 1. financial instability due to the failure to substantially comply with the filing requirements of Regulation 2174.1 et sec.; the failure to meet the minimum standards of Regulation 2174.9; and unacceptable assets; and 2. poor reputation and integrity due to the failure to substantially comply with the filing and minimum standards of Regulation 2174.1 et seq., lack of response to Department's questions concerning investments, poor investment practices, and the Department's past regulatory actions against Mr. Adeline and companies he has been associated with.

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

Yours very truly,

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

cc: Janice E. Kerr, General Counsel  
Victoria S. Sidbury, Bureau Chief of Corporate Affairs  
Patricia K. Staggs, Bureau Chief of Compliance

Surplus Lines Association  
NAIC c/o Maximiliane Moody, NAIIO  
Raymond A. Greenberg, Attorney for Riding Insur. Services  
and Western Star

DEPARTMENT OF INSURANCE  
June 11, 1993 CERTIFIED MAIL

Robert S. Shotwell  
Riding Insurance Services  
2801 W. Coast Highway, Suite 240 Newport Beach, CA 92663

Subject Western Star Insurance Company, Ltd.

Dear Mr. Shotwell:

This letter is to inform you that the submission you made on behalf of Western Star Insurance Company, Ltd. is hereby rejected and the company cannot be used for the placement of California business.

In review of the submission of the subject company received in this office on Tuesday, June 1, 1993, we have determined that it must be rejected for the following reasons:

**1) Reporting Standards**

CCR 2174.5 (a)(5) requires financial documents to be certified or verified. The documents submitted are only photocopies that are not in compliance with this requirement. This is the second time this discrepancy has been noted.

**2) Capital and Surplus**

CCR 2174.9 (a)(3) requires that the documents submitted demonstrate that the insurer's capital and surplus is at least \$15.0 million. The submitted Financial Statement of December 31, 1992, as prepared by John L. Gibson, show a capital and surplus of only \$9.2 million.

Note 5 of the Financial Statement speaks of a subsequent event that took place in April, 1993. Your most recent submission contains a photocopy of a faxed document which states that a certain Certificate of Deposit and the "assertions made in this document are true". At the time of submission this office was told that the original of these documents would be sent to our office as soon as possible. As of this date no such documentation has been received.

EXHIBIT A

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

Additionally, there is no confirmation from the Harris Bank and Trust company that such a Certificate of Deposit in the amount of \$15 million is being held by them and that the existence and value of the Certificate of Deposit has been certified by them.

### 3) **Trust Account**

CCR 2174.9 (a)(4) requires that an alien insurer maintain a trust account "in the United States, in a Federal Reserve System member bank" of not less than \$5.4 million. The submitted copy of the certificate of deposit shows that the \$5.4 million is not so held but rather the purported trust remains in the Republic of Vanuatu.

Any of the above listed deficiencies, taken alone, would be sufficient to require a rejection of this submission. There may be other deficiencies in this submission not listed herein and/or not apparent without further investigation by the Department. Therefore, the submitting company may not rely on this rejection letter as an exhaustive exposition of all deficiencies and defects in this submission. In other words, the insurer's correction of the above listed defects may not necessarily result in a submission which is in compliance with the regulations.

As of this date, you are hereby notified to immediately cease doing business with the subject insurer and make no further placements of insurance with Western Star Insurance Company, Ltd.

Very truly yours,

CHARLES P. WISCAVAGE  
Assistant Chief Investigator (415) 904-5715

CPW:dw

cc: Leon J. Gladstone  
Berger, Kahn, Shafton, Moss,  
Figler, Simon & Gladstone  
4215 Glencoe Avenue, 2nd Floor  
Marina Del Rey, CA 90292

June 10, 1993



**RE: SUPPLEMENT TO BULLETIN No. 595**

The California Department of Insurance has reissued certain pages of the enclosed June 9, 1993 "Submission List" and "Listing of Filings". Please replace the original with the attached reissued pages.