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STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE

In the Matter of:)
)
EVERGREEN INDEMNITY, LTD.)
)
Respondent.)
_____)
Case No. D94-23

STIPULATED AGREEMENT AND ORDER

The State of Alaska, Department of Commerce and Economic Development, Division of Insurance (the "Division"), and Respondent Evergreen Indemnity, Ltd. ("Evergreen") stipulate and agree that the violations of AS 21 identified in the Cease and Desist Order issued to Evergreen on or about September 2, 1994 and in subsequent discovery during the administrative process are resolved by agreement as follows:

1. Evergreen agrees that the Division's investigation in 1994 and discovery during the administrative process revealed that Evergreen violated AS 21.09.010 by transacting insurance in Alaska without a certificate of authority, which included solicitation of prospective insureds through direct mailings. The parties agree that Evergreen would have asserted a constitutional defense to such violation of AS 21.09.010 if this matter had proceeded to hearing.
2. Evergreen agrees to pay premium tax on all policies written on Alaska risks since the first year through 1994 plus late fees, interest, and penalties as provided under AS 21.33.055 and AS 21.33.061. The total premium tax due on premiums reported by Evergreen is \$3,551.88. This amount plus late fees of \$2,000, interest of \$453.72, and penalties of

DEPARTMENT OF LAW
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ANCHORAGE BRANCH
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ANCHORAGE, ALASKA 99501
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1 \$11,450 equals a total assessment of \$17,455.60 to be paid by Evergreen. Evergreen further
2 agrees that it will continue to pay tax on all premiums written on Alaska risks pursuant to AS
3 21.33.051 that requires tax to be paid on or before March 1 following the calendar year in
4 which the insurance was effectuated, continued, or renewed.
5

6 3. Evergreen agrees not to solicit prospective Alaska insureds through direct
7 mailings or otherwise until it obtains a certificate of authority or becomes an approved surplus
8 lines insurer under AS 21.34. Evergreen, however, will continue to service the existing policies
9 written on Alaska risks, to include renewals.
10

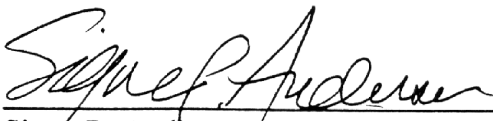
11 4. Evergreen agrees to keep any and all transactions any Alaska policyholders
12 separate and distinct from Evergreen USA Risk Retention Group. Evergreen will continue to
13 maintain a separate contact number for its insureds alone.
14

15 5. Evergreen Indemnity agrees to disclose in writing to any Alaska insureds that
16 it does not hold a certificate of authority to transact insurance in this state and, therefore, is not
17 subject to the state's supervision, and to further disclose in writing that, in the event of
18 Evergreen's insolvency, any insured losses will not be covered by the Alaska Guaranty
19 Association.
20

21 6. Evergreen acknowledges that it has been represented by legal counsel with
22 respect to this matter and that it has been advised by such counsel regarding the nature and
23 purpose of this agreement.
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26

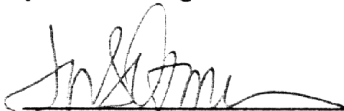
1 DATED: 4/29/95

BRUCE M. BOTELHO
ATTORNEY GENERAL

2
3 By: 
4 Sigge P. Andersen
5 Assistant Attorney General


6 DATED: 6/9/95

LINNELL CHOATE & WEBBER
Attorneys for Evergreen Indemnity, Ltd.

7
8 By: 
9 Jon Oxman

10 DATED: 6/9/95

EVERGREEN INDEMNITY, LTD.

11
12 By: 
13 Richard Hartford, President

14 **RECOMMEND FOR APPROVAL**

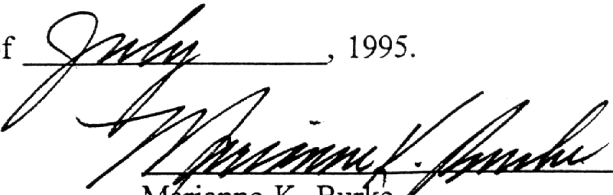
15 This Stipulated Agreement and Order is recommended for approval by the
16 Director of Insurance this 30th day of June, 1995.

17
18 
Elizabeth Johnson, Hearing Officer

19 **ORDER**

20 IT IS ORDERED that this Stipulated Agreement and Order is adopted in full
21 resolution of the issues in this case, and shall constitute the final order in this matter.

22
23 DATED this 5th day of July, 1995.

24
25 
26 Marianne K. Burke
Director of Insurance
State of Alaska

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1 STATE OF ALASKA
2 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
3 DIVISION OF INSURANCE

4 CEASE AND DESIST ORDER D94-23

5 TO: Evergreen Indemnity, Ltd.
6 c/o International Insurance Management, Ltd.
7 C.G.M. Building
8 Collymore Rock
9 Bridgetown, Barbados, W.I.

10 It has been determined by the Division of Insurance that you have engaged in transacting a
11 business of insurance in Alaska, or relative to a subject resident, located or to be
12 performed in Alaska. The transaction of a business of insurance in Alaska is defined in
13 AS 21.90.900(39), which states:

14 "transact" with respect to insurance includes:

- 15 (A) solicitation and inducement;
16 (B) preliminary negotiations;
17 (C) effectuation of a contract of insurance;
18 (D) transaction of matters subsequent to effectuation of the contract of
19 insurance and arising out of it.

20 In order to act as an insurer in Alaska, a person must hold an appropriate certificate of
21 authority. This is required by AS 21.09.010(a), which states:

22 A person may not act as an insurer and a [sic] insurer may not transact
23 insurance in this state except as authorized by a subsisting certificate of
24 authority issued to it by the director, except as to transactions which are
25 expressly otherwise provided for in this title.

26 AS 21.90.020 states:

A person determined by the director, following an appropriate hearing as
provided in AS 21.06.170 - 21.06.230, to have violated a provision of this
title or a regulation adopted under it, for which violation a greater penalty is
not provided in this title, is subject to a civil penalty of not more than \$2,500.

Since you do not hold the appropriate certificate of authority and have been acting as an
insurer and transacting the business of insurance in this state, you are hereby ordered to
cease and desist from further violation of Alaska law. Continued transaction of insurance in
Alaska will be considered a gross and willful violation and will be subject to appropriate
administrative action, as well as possible criminal remedies.

This order is effective immediately.

Dated at Anchorage, Alaska this 2nd of September, 1994.

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE
800 E. DIMOND BLVD., SUITE 560
ANCHORAGE, ALASKA 99515
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DAVID J. WALSH
Director
Division of Insurance

By *Thelma Snow Walker*
Thelma Snow Walker
Deputy Director

C&DEILTD.PBK