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STATE OF ALASKA

DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

In the Matter of:)
)
Sunderland Marine Mutual Insurance Co.,)
Ltd., US Branch,)
)
Insurer.)
_____)

Case No. D 01-14

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER

Background

An Accusation, signed by the Director of the Division of Insurance, Robert A. Lohr, on June 21, 2001 was served on Christopher D. Walwyn-James, Treasurer of Sunderland Marine Mutual Insurance Co., Ltd., US Branch (SMMI-US), by registered mail. Accompanying the Accusation were a letter from the director, a Notice of Rights, a Request for Hearing and Notice of Defense, copies of the Alaska statutes pertinent to such a hearing, and a certificate of mailing. Mr. Walwyn-James formally acknowledged receipt of the accusation by a Fax that was sent to the director on June 28, 2001.

The Notice of Rights accompanying the accusation informed the insurer: "If you do not request a hearing within 15 days after receipt of the accusation, the allegations in the accusation will be deemed admitted and an order may be issued imposing penalties." SMMI-US has not requested a hearing. Mr. Walwyn-James sent a letter to the director by Fax on July 6, 2001, in

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1 which he stated that he thought it impractical to request a hearing on the matter. He did,
2 however, express his objection to the accusation and requested reconsideration of the
3 accusation. On October 2, 2001, the director responded to Mr. Walwyn-James' request for
4 reconsideration. In that letter, the director denied reconsideration of the accusation and stated
5 that a \$2,500 civil penalty would be imposed.

6
7 Since hearing was not requested in this matter, the director makes the following
8 Findings of Fact and Conclusions of Law based on the division's file regarding the insurer in
9 this matter.

10 Findings of Fact

11 1. Sunderland Marine Mutual Insurance Co.,Ltd., US Branch is licensed in Alaska
12 as a US Branch of an alien insurer under AS 21.09.310, under Certificate of Authority No.
13 8440, which was first issued February 23, 1996.

14
15 2. AS 21.09.310(g) requires SMMI-US to maintain a trust account in an amount
16 that is not less than the US branch's reserves and other liabilities (as calculated in AS
17 21.09.310(o)), plus the greater of (1) minimum basic capital or basic guaranteed surplus and
18 additional maintained surplus required under AS 21.09.070; or (2) the authorized control level
19 risk based capital under AS 21.14.

20
21 3. The minimum basic capital or basic guaranteed surplus and additional
22 maintained surplus required under AS 21.09.070 for SMMI-US, which is licensed to write
23 marine insurance, is \$1,000,000 in basic capital or surplus and \$750,000 in additional
24 maintained surplus. This amount is greater than the authorized control level risk based capital
25 under AS 21.14.
26

1 4. AS 21.09.070(f), however, requires a domestic property or casualty insurer to
2 maintain policyholder surplus of at least \$20,000,000 if it assumes reinsurance, in the absence
3 of prior written approval from the director to do otherwise.

4 5. The division informed SMMI-US on August 18, 2000 and January 18, 2001 that,
5 since they were assuming United States business under reinsurance contracts, the minimum
6 trust account excess they would need to carry would be \$20,000,000.

7
8 6. SMMI-US has maintained the following trustee surplus in its trust account as
9 reported on the Trustee Surplus Statements filed quarterly with the division:

Financial Statement Date	Trustee Surplus
12/31/99	\$ 5,223,216
3/31/00	6,026,774
6/30/00	6,576,020
9/30/00	5,862,466
12/31/00	6,574,682

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15 These amounts satisfy the basic excess requirement of \$1,750,000.

16 7. SMMI-US began to report small amounts of assumed premiums in the fourth
17 quarter of 1999 on the quarterly financial statement filings with the division. The amount of the
18 assumption has been small in relation to the total net premiums written (6.4 percent by year end
19 2000). The assumed business results in claim liabilities that will be figured into the amount of
20 the trust each quarter.

21
22 8. As applied to SMMI-US, AS 21.09.070(f) requires a minimum of \$1,750,000 as
23 the additional amount in the trust account above liabilities if no reinsurance is assumed or, if
24 reinsurance is assumed, the minimum amount increases to \$20,000,000 unless the director
25 gives prior written approval.
26

1 9. SMMI-US did not obtain prior written approval from the director to maintain
2 less than \$20,000,000 when they began to report assumption of reinsurance.

3 10. The division informed SMMI-US during 2000 that, since they were assuming
4 reinsurance without prior written approval from the director, the minimum excess they would
5 need to carry would be \$20,000,000.

6 11. Quarterly financial statements filed with the division since December 31, 1999
7 continue to show assumed premiums and the policyholder surplus has not been increased to
8 \$20,000,000, which constitutes a violation of AS 21.09.310(g) for not meeting the requirements
9 of AS 21.09.070.
10

11 Conclusions of Law

12 Based on the foregoing Findings of Fact, the Director makes the following Conclusions
13 of Law.

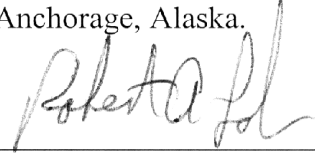
14 1. SMMI-US's failure to carry a minimum excess of \$20,000,000 in its trust
15 account without prior written approval of the director is a violation of AS 21.09.310(g) for not
16 meeting the requirements of AS 21.09.070.

17 2. AS 21.90.020 provides for a civil penalty of not more than \$2,500 for a violation
18 of the Alaska insurance code (AS 21) for which no greater penalty is provided.
19

20 Final Order

21 Based on the foregoing Findings of Fact and Conclusions of Law, the director hereby
22 orders that, pursuant to AS 21.90.020, Sunderland Marine Mutual Insurance Co., Ltd., US
23 Branch, shall pay a civil penalty of \$2,500 no later than November 30, 2001.
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DATED this 26th day of October, 2001 at Anchorage, Alaska.



Robert A. Lohr
Director

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In the Matter of:)
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Insurer.)
_____)

Case No. D 01-14

ACCUSATION

Robert A. Lohr, Director, Division of Insurance, Department of Community and Economic Development, states and alleges as follows:

1. This is a proceeding under the Alaska Insurance Code (Alaska Statutes Title 21) to adjudicate and impose penalties for statutory violations.

2. Sunderland Marine Mutual Insurance Co.,Ltd., US Branch (SMMI-US) is licensed in Alaska as a US Branch of an alien insurer under AS 21.09.310, under Certificate of Authority No. 8440, which was first issued February 22, 1996.

3. AS 21.09.310(g) requires SMMI-US to maintain a trust account in an amount that is not less than the US branch's reserves and other liabilities (as calculated in AS 21.09.310(o)), plus the greater of (1) minimum basic capital or basic guaranteed surplus and additional maintained surplus required under AS 21.09.070; or (2) the authorized control level risk based capital under AS 21.14.

4. The minimum basic capital or basic guaranteed surplus and additional maintained surplus required under AS 21.09.070 for SMMI-US, which is licensed to write

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1 marine insurance, is \$1,000,000 in basic capital or surplus and \$750,000 in additional
2 maintained surplus. This amount is greater than the authorized control level risk based capital
3 under AS 21.14.

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5 5. AS 21.09.070(f), however, requires a domestic property or casualty insurer to
6 maintain policyholder surplus of at least \$20,000,000 if it assumes reinsurance, in the absence
7 of prior written approval from the director to do otherwise.

8 6. The division informed SMMI-US on August 18, 2000 and January 18, 2001
9 that, since they were assuming United States business under reinsurance contracts, the
10 minimum trust account excess they would need to carry would be \$20,000,000.

11 7. SMMI-US has maintained the following trustee surplus in its trust account as
12 reported on the Trustee Surplus Statements filed quarterly with the division:
13

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18 These amounts satisfy the basic excess requirement of \$1,750,000.

19 8. SMMI-US began to report small amounts of assumed premiums in the fourth
20 quarter of 1999 on the quarterly financial statement filings with the division. The amount of the
21 assumption has been small in relation to the total net premiums written (6.4 percent by year end
22 2000). The assumed business results in claim liabilities that will be figured into the amount of
23 the trust each quarter.
24

25 9. As applied to SMMI-US, AS 21.09.070(f) requires a minimum of \$1,750,000 as
26 the additional amount in the trust account above liabilities if no reinsurance is assumed or, if

1 reinsurance is assumed, the minimum amount increases to \$20,000,000 unless the director
2 gives prior written approval.

3 10. SMMI-US did not obtain prior written approval from the director to maintain
4 less than \$20,000,000 when they began to report assumption of reinsurance.
5

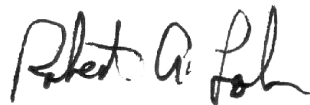
6 11. The division informed SMMI-US during 2000 that, since they were assuming
7 reinsurance without prior written approval from the director, the minimum excess they would
8 need to carry would be \$20,000,000.

9 12. Quarterly financial statements filed with the division since December 31, 1999
10 continue to show assumed premiums and the policyholder surplus has not been increased to
11 \$20,000,000, which constitutes a violation of AS 21.09.310(g) for not meeting the requirements
12 of AS 21.09.070.
13

14 13. Pursuant to AS 21.90.020, a person to be determined by the director, following
15 an appropriate hearing, to have violated a provision of Alaska insurance law, for which
16 violation a greater penalty is not provided, is subject to a civil penalty of not more than \$2,500.

17 WHEREFORE, the Division of Insurance is seeking to adjudicate SMMI-US as having
18 violated the Alaska Insurance Code by their failure to comply with the statutory requirements
19 for minimum excess trust deposits, and to impose a civil penalty of \$2,500.
20

21 Dated this 21st day of June, 2001 in Anchorage, Alaska.

22 

23 _____
24 Robert A. Lohr
25 Director
26