

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 490 OF 2005

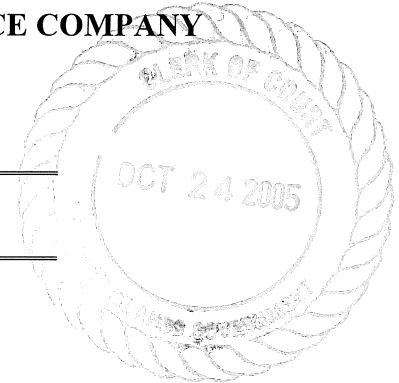


IN THE MATTER OF THE COMPANIES LAW (2004 REVISION)

AND IN THE MATTER OF THE INSURANCE LAW (2004 REVISION)

AND IN THE MATTER OF EMPLOYERS EQUITY INSURANCE COMPANY

PETITION



TO: HER MAJESTY'S GRAND COURT OF THE CAYMAN ISLANDS

The Humble Petition of THE CAYMAN ISLANDS MONETARY AUTHORITY (hereinafter called "the Authority" or "the Petitioner")

SHOWETH as follows:

1. Employers Equity Insurance Company ("EEIC" or the "Company") was incorporated on 11th September 1998 as an Exempted Cayman Islands company. The Authority granted the Company an Unrestricted Class "B" Insurer's Licence on 18th December 1998.
2. The Shareholders and Directors of EEIC are Mr Ronald D. Hamann (80%) and Mr Douglas L. Klear (20%), who together also own Resource Management Systems, Inc ("RMS").
3. RMS is a staff leasing company based in Colorado, U.S., which provides services relating to the professional management of workers' compensation insurance and personnel issues. At the time of licensing EEIC, RMS was the only staff leasing company in

Colorado to have demonstrated the financial strength and stability necessary to be granted a workers' compensation self-insurance permit from the State of Colorado.

4. EEIC was formed to provide reinsurance on the workers' compensation policies of RMS and select third party employers. These policies were underwritten by Legion Insurance Company ("Legion"), which at the time was an A.M. Best's "A" Rated Insurer. EEIC also provided deductible reimbursement insurance directly to RMS for its workers' compensation deductible liability and assumed the liabilities on a book of prior years losses by means of Loss Portfolio Transfer. Legion provided reinsurance coverage for losses in excess of US\$350,000 per occurrence and aggregate stop-loss at 100% of the program premiums.
5. Claims handling for EEIC is provided in part by RMS.
6. At the time of licensing, the insurance manager for the Company was Riskcap Cayman, Ltd. ("Riskcap" or the "Insurance Manager"). A subcontract agreement also existed between Riskcap and HSBC Financial Services (Cayman) Limited, which also holds an insurance manager's licence, to facilitate the maintenance of the books and records in Cayman. Riskcap resigned effective 18th April 2005 due to, among other things, the non-payment of its fees and non-receipt of information and documentation from EEIC that was critical and essential for Riskcap to fulfil its obligations as the Company's insurance manager.
7. The Auditors for the Company are KPMG Cayman, P.O. Box 493GT, Grand Cayman.
8. On 1st April 2002 the Pennsylvania State Insurance Commissioner placed Legion into rehabilitation. Following from this action, EEIC went into "run-off" on 10th April 2002. Effective 28th July 2003, the Pennsylvania State Insurance Commissioner placed Legion into liquidation.

9. On 15th April 2005 the Authority exercised its powers under Section 13(1)(vii) of the Law and resolved to appoint a person to assume control of the affairs of the Company. The regulatory considerations for the appointment included:

- a) The Company had not paid the annual licence fee for 2005 and was therefore in breach of Section 4(12) of the Law.
- b) The Insurance Manager's resignation was imminent and the Company had not submitted a plan to retain a replacement. Given the status of the Company and Legion, it was highly unlikely that the Company would be successful in retaining a new insurance manager. Failure to do so would place the Company in breach of Section 7(7)(a) of the law.
- c) In the audited financial statements for the year ended 31st December 2003, the auditors concluded that they were unable to satisfy themselves as to the recoverability of insurance balances receivable and claims escrow funds at 31st December 2003 and 2002 and any possible effect this would have on the ability of the Company to continue as a going concern. The recoverability of these assets was deemed uncertain and in the absence of the assets being recovered the Company would be insolvent.
- d) Based on information provided by the Insurance Manager on 18th March 2005 regarding actuarial information from Legion, total case reserves plus IBNR (Incurred But Not Reported) losses exceeded EEIC's total assets. Even if the outstanding premiums receivable were received, the Company would still be insolvent.
- e) Despite notifying the Company on numerous occasions of the contraventions of the Law and numerous requests by the Authority for the Company to take corrective action, EEIC remained in contravention of the Law.

10. On 21st April 2005 Messrs. G. James Cleaver and Gordon I. MacRae of Kroll (Cayman) Limited were appointed to assume control of the affairs of EEIC (“the Controllers”).
11. On 22nd April 2005 by order of the Grand Court (Cause No: 189 of 2005), the Controllers obtained the authority to exercise the powers of a receiver or manager appointed by the Grand Court under the Bankruptcy Law (1997 Revision).
12. In the Interim Report dated 10th May 2005 the Controllers reported that the principal contact for EEIC, Mr. Hamann, was notified of their appointment on 21st April 2005. As the Controllers did not have contact details for Mr. Klear, they requested that Mr. Hamann provide contact details for him and inform him of the Controllers’ appointment. The Controllers advised that Mr. Hamann had not acknowledged their appointment and had not communicated with them. The Controllers also made several attempts to set up a meeting in person with Mr. Hamann in Colorado. On 27th April 2005, a colleague of Mr. Hamann advised the Controllers that he was out of office and was un-contactable.
13. Also on 27th April 2005, after Mr. Hamann and US Bank (“USB”) were put on notice of the Controllers’ appointment, in excess of US\$1 million was transferred out of an account held in the name of the Company at USB. The Controllers understand from RiskCap that the signatories on the USB account are Mr. Hamann and Mr. Klear. The Controllers, through their attorneys, wrote to Mr. Hamaan putting him on notice of the implications of making the transfer. Mr. Hamann has ignored all requests for further information regarding the transaction and USB has refused to disclose any information in relation to the transaction to the Controllers. The transferee and the recoverability of these funds is therefore unknown. The Controllers advised they were seeking legal advice regarding the matter.
14. The Controllers subsequently obtained contact details for Mr. Klear and in a letter dated 10th May 2005, notified him directly of their appointment and put him on notice of the implications of the transfer from USB.

15. In their Interim Report, the Controllars advised that, based on the information available to them, EEIC is insolvent. Its single largest creditor is Legion, who has a current claim against EEIC of US\$6.4 million. EEIC is due US\$2.8 million in reinsurance premiums from Legion, however the amount due from Legion represents insurance premiums of US\$3.8 million that have been collected by RMS under the insurance program, but have not been remitted to Legion and therefore have not been paid by Legion (net of the premium retained by them) to EEIC. Legion has brought legal proceedings against RMS for recovery of these funds.
16. The Controllars further advised that under the circumstances and given the lack of cooperation from the directors, they would likely recommend that the Company be placed into liquidation. However, prior to taking a final decision in this regard, the Controllars would attempt to obtain a more accurate estimate of EEIC's financial position and determine whether there was any possibility for constructive negotiations with the stakeholders involved.
17. In their Second Report filed on 20th July 2005, the Controllars advised that despite numerous further attempts to contact Mr. Hamann, the Controllars have not had any response from him. The Controllars also attempted to contact Mr. Klear and were advised by an employee of RMS that Mr. Klear is deceased. However, this has not been conclusively verified by the Controllars and accordingly, it cannot be said with certainty that he has not been involved in the company's management and/or the events surrounding the transfer of funds from USB.
18. The Controllars reported that a conference call took place with Legion on 30th June 2005. Among the matters discussed was the US\$2.8 million in reinsurance premiums receivable from Legion and the possibility of setting those off against claims payments due from EEIC to Legion. Legion confirmed that these reinsurance premiums would only be offset against claims payments, to the extent that the US\$3.8 million due to Legion in insurance premiums from RMS was recovered by Legion.

19. The Controllers explained to Legion that although EEIC could not currently offer any payment for claims payments due, it might have potential litigation claims, with a value of approximately US\$1 million, against Mr. Hamann and / or USB. Legion indicated it may be interested, in principle, in funding pursuit of the claim, subject to a more detailed legal analysis of the claim and Legion being the only party beneficially entitled to the proceeds. The report also disclosed that contrary to the Controllers initial understanding, and representations previously made to the Authority, commutation negotiations had not taken place between EEIC and Legion in October 2004.
20. Despite requesting further details from USB on the post-controllership transfer of approximately US\$1 million from EEIC's account, the Controllers have not yet been advised of the recipient of the funds. USB's position remained unchanged in that it would not release any information on the account, or accept any further instructions, without the mutual consent of the Controllers and the directors, or an appropriate United States court order. The Controllers understand that the remaining balance on the account is approximately US\$44,000.
21. Although they were not able to make a more accurate assessment of EEIC's financial position since the Interim Report, the Controllers are of the view that even if the US\$2.8 million due from Legion is set off against the amount due to Legion and the US\$1 million paid out of the Company's account with USB is returned, EEIC would still be insolvent with a net deficit of approximately US\$2 million. In addition, as matters currently stand, EEIC is unable to pay its debts as they fall due.
22. The Controllers concluded that EEIC is insolvent and furthermore, the sole purpose of the Company, which was to provide reinsurance to Legion, no longer exists. Additionally, the lack of cooperation from Mr. Hamann and his apparent disregard for the authority of the Controllers and the Authority, demonstrates that it may not be appropriate to allow Mr. Hamann to resume control of EEIC. Accordingly, the Controllers recommended that EEIC be placed into Official Liquidation as soon as possible.

23. Once in liquidation, the liquidators can continue to negotiate a potential commutation with Legion and discuss the potential claims against Mr. Hamann and / or USB. The Controllers are of the view that Court appointed liquidators will be better placed than the Controllers to be recognised and pursue litigation in the United States.
24. On 23rd August 2005 the Authority resolved, pursuant to Section 13(4)(d) of the Law, to revoke the licence of the Company and apply to the Grand Court for an Order that the licensee be forthwith wound up by that Court.
25. Pursuant to Section 13(4)(d) of the Law, the Petitioner applies under Section 94 of the Companies Law (2004 Revision) for the Company to be wound up by the Court on the grounds that it is just and equitable for the following reasons:
 - (i) Based on the information available to the Authority, the Company is insolvent and is unable to pay its debts as and when they fall due; and
 - (ii) It is in the public interest that the Company be wound up expediently.

YOUR PETITIONER THEREFORE HUMBLY PRAYS as follows: -

- (a) That Employers Equity Insurance Company be wound up by the Court subject to the provisions of the Companies Law (2004 Revision);
- (b) That Messrs. G. James Cleaver and Gordon I. MacRae of Kroll (Cayman) Limited, be appointed as Joint Official Liquidators of the Company, and that the Joint Official Liquidators be authorised to do any acts or things jointly and severally considered by them to be necessary or desirable in connection with the liquidation of the Company and the winding up of its affairs;

- (c) That the Joint Official Liquidators shall not be required to give security for their appointment;
- (d) That the Petitioner be at liberty to apply to the Court at any time, *inter alia*, for the removal of the Joint Official Liquidators;
- (e) That the Joint Official Liquidators be authorised:
 - (i) to bring or defend any action, suit, prosecution or other legal proceedings, whether criminal or civil, by way of court process or arbitration, in the name and on behalf of the Company.
 - (ii) to take possession of, collect and get in all property or assets (of whatever nature) to which the Company is or appears to be entitled;
 - (iii) to do all things as may be necessary or expedient for the protection of the Company's assets;
 - (iv) to do all things (including the carrying on of the business of the Company) as may be necessary or expedient for the beneficial realisation of the property or assets of the Company (including power to borrow money);
 - (v) to appoint attorneys, solicitors and other professional qualified persons both in the Cayman Islands and elsewhere to assist them in the performance of their duties;
 - (vi) to appoint agents both in the Cayman Islands and elsewhere to do any business which they are unable to do themselves or which can more conveniently be done by an agent and power to employ and dismiss officers and employees of the Company;

- (vii) to exercise any power which is necessary or incidental to the performance of their duties;
- (viii) to open and maintain bank accounts in the name of the Company or themselves anywhere in the world as may be necessary for the better performance of their duties;
- (ix) to exercise and execute all the powers set out in Section 109 of the Companies Law (2004 Revision) without sanction or intervention of the Court and unprejudiced by the generality hereof;
- (x) to compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims whether present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the Company and any contributory or alleged contributory or other debtor or person apprehending liability to the Company, upon receipt of such sums payable at such times and generally on such terms as may be agreed upon, with power to take securities for the discharge of such debts or liabilities and to give complete discharges in respect of all or such calls, debts, or liabilities; and
- (xi) to do and execute all such other things as may be necessary for winding-up the affairs of the Company and distributing its assets;

and for the avoidance of doubt the powers bestowed on the Official Liquidators may be exercised by them within and outside the Cayman Islands.

- (f) That the Joint Official Liquidators do file with the Clerk of the Court a report in writing of the position of and the progress made with the winding up of the Company and with the realisation of the assets thereof and as to any other matters

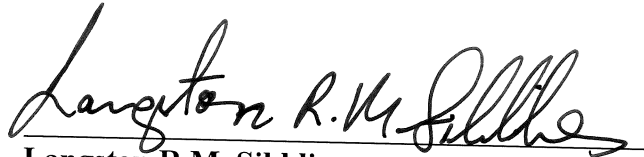
connected to the winding up of the Company, every six calendar months or as the Court may from time to time direct;

- (g) That the Joint Official Liquidators engage attorneys in the Cayman Islands satisfactory to the Petitioner to assist with the winding up of the Company;
- (h) That, save as aforesaid, the Joint Official Liquidators be at liberty to employ attorneys, counsel and professional advisors whether in the Cayman Islands or elsewhere as they may consider necessary to advise and assist them in performance of their duties and on such terms as they may think fit;
- (i) That the Joint Official Liquidators be at liberty to and do pay themselves, their agents, employees, attorneys, solicitors and whomsoever else they may employ or instruct, remuneration and costs in priority to all other debts of the Company pursuant to Section 123 of the Companies Law (2004 Revision), and:
 - (i) The Joint Official Liquidators shall be entitled to receive remuneration for their services by reference to the time properly given by them and their staff in attending to matters arising in the winding-up and the hourly rates and the amount of remuneration shall be determined in accordance with Rules 4.127 – 131;
 - (ii) The Joint Official Liquidators be at liberty to pay their agents, employees, attorneys, solicitors and whomsoever else they employ or instruct either weekly or monthly or at such intervals as they consider appropriate;
 - (iii) The Joint Official Liquidators be at liberty to meet all disbursements reasonably incurred in connection with the performance of their duties;
- (j) The Joint Official Liquidators shall provide to the Petitioner copies of all reports filed with this Court and/or sent to creditors or contributories of the Company;

- (k) The Joint Official Liquidators shall serve on the Petitioner copies of all applications made to this Court for directions or other relief and any evidence in support thereof, such service to be within a reasonable time of date of the hearing of any such applications;
- (l) That the costs of this petition be paid out of the assets of the Company as an expense of the liquidation;
- (m) Such other orders and directions may be made as the Court thinks fit.

AND YOUR PETITIONER will ever pray etc.

DATED this 24th day of OCTOBER 2005.


Langston R.M. Sibblies
General Counsel for the
Cayman Islands Monetary Authority

INDORSEMENT

This Petition having been presented to the Grand Court of the Cayman Islands on the _____ day of _____ 2005 will be heard by the Grand Court of the Cayman Islands:

DATE:

TIME:

(or as soon thereafter as the amended petition can be heard).

This Petition is filed by the Legal Division of the Cayman Islands Monetary Authority, whose address for service is 80e Shedden Road, Elizabethan Square, PO Box 10052 APO, Grand Cayman, Cayman Islands.