

No. 3858

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF INSURANCE

Date: MAR 12 2015

Subjects Considered:

EVERGREEN INDEMNITY, LTD.
Chancery House, High Street
Bridgetown, St. Michael, Barbados, W.I.

LUCAS BAXTER HARTFORD
10 Falcon Rd.
Lewiston, ME 04240-5833

HARTFORD, INC. d/b/a EVERGREEN MGA
10 Falcon Rd.
Lewiston, ME 04240-5833

CONSENT ORDER
TDI ENFORCEMENT FILE NOS. 6766, 7212, and 8174

General remarks and official action taken:

The commissioner of insurance considers whether a cease and desist order should be issued against Evergreen Indemnity, Ltd. (EVI) and Hartford, Inc. d/b/a Evergreen MGA, and whether disciplinary action should be taken against Lucas Baxter Hartford (Lucas Hartford).

WAIVER

EVI, Lucas Hartford, and Hartford, Inc. d/b/a Evergreen MGA acknowledge that the Texas Insurance Code and other applicable law provide certain rights. EVI, Lucas Hartford, and Hartford, Inc. d/b/a Evergreen MGA waive all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order. Pursuant to TEX. INS. CODE § 82.055(b), EVI, Lucas Hartford, and Hartford, Inc. d/b/a Evergreen MGA agree to this consent order with the express reservation that they do not admit to a violation of the insurance laws of Texas, the existence of a violation is in dispute, and they have entered into this consent order in an attempt to settle all allegations against them and to avoid the expense and uncertainty of litigation.

FINDINGS OF FACT

1. EVI is an entity formed in Barbados and does not hold any license or authorization to transact the business of insurance in Texas.
2. Lucas Hartford, individual identification no. 345654, holds a general lines property and casualty license originally issued December 6, 1999.
3. Hartford, Inc. is a Maine corporation operating under the assumed name Evergreen MGA. Hartford, Inc. was initially formed in 1986 by Lucas Hartford's father, Richard Albert Hartford, individual identification no. 1061842. Richard Hartford died on October 5, 2013. Hartford, Inc. d/b/a Evergreen MGA does not hold any license or authorization to transact the business of insurance in Texas.
4. Prior to Richard Hartford's death, Lucas Hartford was a partial owner and shareholder of Hartford, Inc. Lucas Hartford has also been the president of Hartford, Inc. d/b/a Evergreen MGA since June 2008. Upon Richard Hartford's death, Lucas Hartford inherited additional shares of Hartford Inc. and became the sole owner and shareholder of Hartford, Inc.
5. EVI was also formed in 1986 by Lucas Hartford's father, Richard Hartford. Hartford, Inc. d/b/a Evergreen MGA holds a 24.9% share of ownership in EVI. There are 19 other EVI shareholders who are campground and RV park owners located throughout the United States.
6. Lucas Hartford has been on the EVI board of directors since 1996. He has held the office of vice president of EVI since 1998, and became president in 2013 after his father died.
7. Since 1989, EVI has been writing commercial property insurance policies for campgrounds and recreational vehicle (RV) parks in Texas. These property policies were sold alongside liability insurance offered and sold through Evergreen USA Risk Retention Group, Inc., a risk retention group registered with the department.
8. Hartford, Inc. d/b/a Evergreen MGA is and has been the managing general agent for the property coverage offered and written by EVI in Texas.
9. Lucas Hartford was one of three producing agents for the property coverage offered and written by EVI in Texas.
10. EVI policyholders were notified in writing that EVI is an offshore company that does not participate in any state insolvency fund. However, EVI policyholders in Texas were not specifically informed that EVI does not hold any license or certificate of authority in Texas, and is not authorized to transact the business of insurance in Texas.
11. EVI, Lucas Hartford, and Hartford, Inc. d/b/a Evergreen MGA performed the following acts of insurance in Texas without holding the appropriate licenses and authorizations to

do so: solicited and provided quotes for coverage, took and received applications, sold and negotiated coverage, issued and delivered insurance contracts, renewed insurance contracts, received and collected premiums and commissions, disseminated information relating to coverage and rates, adjusted and paid claims or losses, and otherwise transacted and engaged in the business of insurance in Texas.

12. As of February 2014, there were 50 existing EVI policyholders in Texas whose contracts were scheduled to expire between February 22, 2014, and May 27, 2015.
13. At the department's request, EVI, Lucas Hartford, and Hartford, Inc. d/b/a Evergreen MGA ceased soliciting and writing new business in Texas on February 26, 2014.
14. On February 27, 2014, Hartford, Inc. d/b/a Evergreen MGA sent an initial letter to each of the existing EVI policyholders in Texas. The letter informed each policyholder that EVI would no longer be providing insurance in Texas and stated the date that each policyholder's contract would expire. In spite of this letter, EVI, Lucas Hartford, and Hartford, Inc. d/b/a Evergreen MGA continued to renew EVI insurance contracts.
15. Beginning in March 2014, Hartford, Inc. d/b/a Evergreen MGA started the process of sending uniform notices of non-renewal to individual policyholders as each policyholder's contract fell within approximately 60 - 120 days from its expiration.
16. On April 16, 2014, Hartford, Inc. d/b/a Evergreen Liability Insurance Agency Corporation filed an application for a general lines property and casualty license with the department.
17. On May 9, 2014, EVI, Lucas Hartford, and Hartford, Inc. d/b/a Evergreen MGA finally ceased renewing EVI policies in Texas.
18. As of October 1, 2014, there were 26 remaining policyholders in Texas whose contracts had not yet expired, and 16 of those policyholders had not received the uniform notice of non-renewal.
19. On November 7, 2014, Hartford, Inc. d/b/a Evergreen Liability Insurance Agency Corporation voluntarily withdrew its application for a general lines property and casualty license with the department.
20. The EVI insurance transactions in Texas were not reported to the Texas Comptroller of Public Accounts from 1989 to 2014, and no unauthorized insurance premium tax or independently procured insurance premium tax was paid to the comptroller.
21. As of October 20, 2014, EVI, Lucas Hartford, and Hartford, Inc. d/b/a Evergreen MGA represented that there were no open claims for policyholders in Texas.
22. There appears to be no evidence of consumer harm to Texans or owners of Texas risks at this time related to the unauthorized insurance sold by EVI, Lucas Hartford, and Hartford, Inc. d/b/a Evergreen MGA. The department has no evidence of complaints

from EVI policyholders in Texas related to the unauthorized insurance sold by EVI, Lucas Hartford, and Hartford, Inc. d/b/a Evergreen MGA.

23. EVI represents it is in run-off, and is attempting to transfer all claim liabilities to a third party as soon as possible. Accordingly, EVI, Lucas Hartford, and Hartford, Inc. d/b/a Evergreen MGA, represent that they are no longer delivering, issuing for delivery, or renewing any EVI policies in Texas.
24. Lucas Hartford agrees to voluntarily surrender his general lines property and casualty license. Lucas Hartford also permanently waives any right to apply or re-apply either individually or as an officer, director, shareholder, or person with the power to direct or cause the direction of the management and policies of a license holder, whether directly or indirectly, for the issuance of any permit, license, or other authorization issued or existing under the authority of the commissioner and the department.

CONCLUSIONS OF LAW

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051 – 82.055, 101.101 – 101.156, 4005.101, and 4005.102.
2. The commissioner has the authority to informally dispose of this matter as set forth in TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 36.104 and 82.055; and 28 TEX. ADMIN. CODE § 1.47.
3. EVI does not hold an insurer's certificate of authority to engage in the business of insurance, as contemplated by TEX. INS. CODE § 801.052.
4. EVI is not a captive insurance company, as that term is defined in TEX. INS. CODE § 964.001(a)(2).
5. EVI is not an eligible surplus lines insurer, as that term is defined TEX. INS. CODE § 981.002(4).
6. The EVI insurance contracts sold to Texans and owners of Texas risks were not independently procured transactions, as contemplated in TEX. INS. CODE § 101.053(b)(4).
7. EVI violated TEX. INS. CODE § 101.102(a) by performing acts that constitute the business of insurance, as that term is defined in TEX. INS. CODE § 101.051.
8. Lucas Hartford violated TEX. INS. CODE § 101.102(a) by performing acts that constitute the business of insurance, as that term is defined in TEX. INS. CODE § 101.051.
9. Lucas Hartford violated TEX. INS. CODE § 4053.051(a) by performing the acts of a managing general agent without holding a license or authorization to do so.

10. Lucas Hartford through Hartford, Inc. d/b/a Evergreen MGA, sold the insurance products of a company not authorized to do the business of insurance in Texas, in violation of TEX. INS. CODE §§ 101.051, 101.102(a), 4001.051, and 4001.101.
11. Hartford, Inc. d/b/a Evergreen MGA violated TEX. INS. CODE § 101.102(a) by performing acts that constitute the business of insurance, as that term is defined in TEX. INS. CODE § 101.051.
12. Hartford, Inc. d/b/a Evergreen MGA violated TEX. INS. CODE §§ 4001.101(a), 4051.051, and 4053.051(a) by performing the acts of an agent and managing general agent without holding a license or authorization to do so.
13. Pursuant to TEX. INS. CODE § 101.201(a), EVI, Lucas Hartford, and Hartford, Inc. d/b/a Evergreen MGA, remain contractually liable to Texans and owners of Texas risks with EVI contracts for the full amount of a claim or loss under the terms of the EVI contracts if EVI fails to pay the claim or loss.

The commissioner orders that EVI, Lucas Hartford, and Hartford, Inc. d/b/a Evergreen MGA comply with the following run-off plan:

- a. On or before February 1, 2015 (the "Notice Date"), EVI, Lucas Hartford, and Hartford, Inc. d/b/a Evergreen MGA must send all remaining EVI policyholders in Texas a uniform notice of cancellation or non-renewal of their contract, as appropriate to the policyholder. All remaining EVI contracts in Texas must be canceled or non-renewed no later than 63 days from the Notice Date, allowing at least 60 days notice to the policyholder, plus three additional days for delivery by mail. For contracts naturally expiring less than 63 days from the Notice Date, a uniform notice of non-renewal must be sent on or before entry of this order. For contracts which naturally expire more than 63 days from the Notice Date, a uniform notice of cancellation must be sent on or before entry of this order advising the insured that the contract will expire 63 days from its mailing.
- b. For any policyholder whose coverage will be canceled before their contract's natural expiration date, EVI, Lucas Hartford, and Hartford, Inc. d/b/a Evergreen MGA, jointly and severally, must make pro rata refunds to those policyholders for the difference in premium paid for the term after the cancellation date to the expiration date in the policyholder's contract. The pro rata refund must be sent to the policyholder together with the uniform notice of cancellation.
- c. A letter of explanation of this run-off plan must also be sent together with the uniform notices of cancellation or non-renewal and the pro rata refund payments. The letter of explanation must be in the form shown in Exhibit A or Exhibit B, as appropriate to the policyholder.

- d. EVI, Lucas Hartford, and Hartford, Inc. d/b/a Evergreen MGA shall immediately cease and desist from any collection efforts related to premium due under EVI contracts sold to Texans or owners of Texas risks.
- e. For any claims incurred under EVI contracts sold to Texans or owners of Texas risks, EVI, Lucas Hartford, and Hartford, Inc. d/b/a Evergreen MGA must engage the services of licensed and authorized persons or entities to handle and adjust any such claims for which they remain liable.
- f. Not later than 10 days after entry of this order, EVI, Lucas Hartford, and Hartford, Inc. d/b/a Evergreen MGA must send to the department electronic copies of all documents sent pursuant to this run-off plan, including: the uniform notices of cancellation or non-renewal; the letters of explanation; and, copies of the pro rata refund checks. Electronic copies shall be sent in portable document format (*.pdf) by e-mail to both: rachel.cloyd@tdi.texas.gov and catherine.bell@tdi.texas.gov.

Lucas Hartford surrenders, and the commissioner cancels Lucas Hartford's general lines property and casualty license. The commissioner of insurance further orders that Lucas Hartford is permanently barred from applying or re-applying either individually or as an officer, director, shareholder, or person with the power to direct or cause the direction of the management and policies of a license holder, whether directly or indirectly, for the issuance of any permit, license, or other authorization issued or existing under the authority of the commissioner and the Texas Department of Insurance after the date of this order.

The commissioner further orders Hartford, Inc. d/b/a Evergreen MGA to pay an administrative penalty of \$5,000 within 30 days from the date of this order. The payment must be paid by cashier's check or money order made payable to the "State of Texas" and transmitted to the Texas Department of Insurance, Attn: Enforcement Section, Division 40111, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.

The commissioner further orders EVI, Lucas Hartford, and Hartford, Inc. d/b/a Evergreen MGA to immediately cease and desist from engaging in acts that constitute the business of insurance in Texas, except as is contemplated by TEX. INS. CODE § 101.201(a) to service and fulfill any remaining obligations for which they may be liable under the EVI contracts in Texas. EVI, Lucas Hartford, and Hartford, Inc. d/b/a Evergreen MGA are each subject to all applicable statutory penalties and relief should they continue to otherwise engage in acts that constitute the business of insurance in Texas.



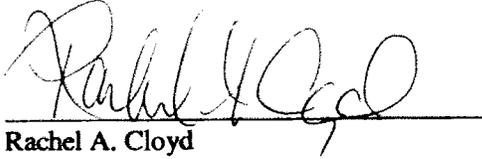
David C. Mattax
Commissioner of Insurance

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COMMISSIONER'S ORDER

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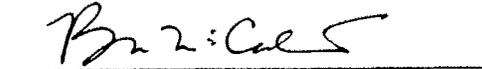
APPROVED AS TO FORM AND CONTENT:



Rachel A. Cloyd
Staff Attorney, Enforcement Section
Texas Department of Insurance

COUNSEL FOR RESPONDENTS

HARTFORD, INC. d/b/a EVERGREEN MGA and LUCAS BAXTER HARTFORD



Bruce McCandless, III
Mitchell Williams

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COMMISSIONER'S ORDER

Evergreen Indemnity, Ltd., Lucas Baxter Hartford, and Hartford, Inc. d/b/a Evergreen MGA

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AFFIDAVIT

^{PARISH}
STATE OF ST. MICHAEL §
COUNTRY §
^MCOUNTY OF BARBADOS §

Before me, the undersigned authority, personally appeared SIR TREVOR CARMICHAEL who being by me duly sworn, deposed as follows:

"My name is Sir Trevor Carmichael. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

I hold the office of Director, and am the authorized representative of Evergreen Indemnity, Ltd. I am duly authorized by said organization to execute this statement.

Evergreen Indemnity, Ltd. has knowingly and voluntarily entered into the foregoing consent order and agrees with and consents to the issuance and service of the same by the commissioner of insurance of the state of Texas."

[Handwritten Signature]

Affiant

SWORN TO AND SUBSCRIBED before me on 2nd March, 2015.

(NOTARY SEAL)

STAMP DUTY: \$10.00
AMOUNT PAID: \$10.00
RECEIPT NO: 502640
DATE: 2015-03-02
SIGNATURE: [Handwritten Signature]

[Handwritten Signature]
Signature of Notary Public
(99) ASST. REGISTRAR AND AS SUCH A NOTARY PUBLIC IN AND FOR BARBADOS



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COMMISSIONER'S ORDER

Evergreen Indemnity, Ltd., Lucas Baxter Hartford, and Hartford, Inc. d/b/a Evergreen MGA

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EXHIBIT A

[For use with contracts expiring in less than 63 days after the Notice Date.]

The Texas Department of Insurance has determined that Evergreen Indemnity, Ltd. of Barbados is not licensed or authorized to engage in the business of insurance in Texas. Your commercial property insurance policy with Evergreen Indemnity, Ltd. will be non-renewed and expire on _____, 2015 at __:__ a.m./p.m.

Evergreen Indemnity, Ltd. intends to fulfill its remaining obligations and liabilities under the terms of its contracts. You may wish to consult your own legal counsel if you incur an unpaid claim or loss.

Should you wish to obtain replacement coverage after your policy expires, you should immediately consult a licensed insurance agent. Please make sure your agent or company is properly licensed or registered to sell insurance in Texas. You can learn an agent or company's license status by calling the TDI Consumer Help Line at 1-800-252-3439 or by viewing company profiles on the department's website at www.tdi.texas.gov .

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COMPLAINTS ORDER

Evergreen Indemnity, Ltd., Lucas Baxter Hartford, and Hartford, Inc. d/b/a Evergreen MGA

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EXHIBIT B

[For use with contracts expiring more than 63 days after the Notice Date.]

The Texas Department of Insurance has determined that Evergreen Indemnity, Ltd. of Barbados is not licensed or authorized to engage in the business of insurance in Texas. As a result, your commercial property insurance policy with Evergreen Indemnity, Ltd. will be terminated earlier than its contract expiration date. It will be canceled effective _____, 2015, at __:__ a.m/p.m.

The enclosed refund of \$ _____ represents a pro rata refund of the premium you paid for the term after the above cancellation date to the expiration date stated in your contract.

Evergreen Indemnity, Ltd. intends to fulfill its remaining obligations and liabilities under the terms of its contracts. You may wish to consult your own legal counsel if you incur an unpaid claim or loss.

Should you wish to obtain replacement coverage after your policy is canceled, you should immediately consult a licensed insurance agent. Please make sure your agent or company is properly licensed or registered to sell insurance in Texas. You can learn an agent or company's license status by calling the TDI Consumer Help Line at 1-800-252-3439 or by viewing company profiles on the department's website at www.tdi.texas.gov.