

STATE OF ALABAMA
DEPARTMENT OF INSURANCE

****DEPARTMENTAL MEMORANDUM****

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Report filed
6/13/91

TO: Commissioner Weaver
General Counsel Bowries

FROM: Paul Raadt. } & {

SUBJECT: Examination of American Trust Life Insurance Co.

DATE: May 31, 1991

Our examiner has recessed subject examination for two weeks to provide company president Earl Hilliard time to obtain a real estate appraisal. However, because of the serious nature of the examtner's findings, I requested a preliminary draft of the Report which will be finalized in a couple of weeks.

This company has been operated in such a manner that, in my opinion, its present condition warrants immediate regulatory attention. This memo is to brlefly highlight some of the findings. I will also attach a copy of Jim Hattaway's memo which accompanied the report draft I received yesterday.

A summary of violations and deficiencies follows:

1. Section 27-30-30-(a): In spite of previous recommendations, company directors still do not own stock as is required by law. All outstanding stock is owned by Hilliards and Company.
2. Chapter 29: No holding company filings have been made. A Form B registration statement was finally filed this past week.
3. Section 27-27-37 (dividends): Monies were paid by the Company to Hilliards and Company without any support, loan document, etc. Such payments could be construed as illegal dividends.
4. Section 27-8-27: Commissions totaling \$326.51 were paid to an unlicensed agent in 1988.
5. Section 27-30-21: Repeated violation of requirement to keep company records in home office.
6. Section 27-27-29(b): \$15,000 in bonds were held by brokerage firms located outside of Alabama.
7. Section 27-27-30 (a)(b): Disbursements totaling \$18,650 from 1988-1990 were made to family members without supporting documentation. No payroll tax was withheld for payments classified as "Office help" and "Professional Services".

One situation which indicates a very serious problem, perhaps embezzlement, has to do with a cash receipts journal entry on May 29, 1989 which indicated a deposit of \$105,650 for "withdrawal from CD-AmSouth"(apparently part of a \$120,000 CD acquired from AmSouth in June of 1988). On the same day, the disbursements journal listed a check payable to Hilliards and Company, Inc. for \$105,650 for "home office improvements". This check was then endorsed to the Company and the Company desposited it as a "withdrawal from CD". Thus, the check and its deposit "wash". However, there is no evidence of actual receipt of any of the proceeds from the AmSouth CD.

Earl Hilliard and/or Hilliards and Company borrowed money from SouthTrust Bank in 1987, secured by real estate which he contributed to American Trust a few months later. American Trust has disbursed \$34,305 in payments on this personal loan. On 12/29/89 American Trust paid Hilliards and Company \$109,000 for the cost of renovations which as of today have still not been completed.

A company official admitted delaying claims due to a "cash flow" problem. Company consistently ignores recommendations made by our examiners.

MEMORANDUM

DATE: May 28, 1991
TO: Mr. Paul Raadt
FROM: Jim Hattaway
RE: American Trust Life Insurance Company



Enclosed you will find a draft copy of the examination report for American Trust.

The financial statements have not been completely adjusted pending appraisals and reserve verification. Unless appraisals are higher than what I am anticipating, the report will show an insolvent company.

My major concerns in this report are not necessarily related to the current financial solvency of the company. The areas which I would like to bring to your immediate attention are as follows:

1.) disregard to previous examination recommendations. The accounts and records appear to have deteriorated, rather than improved, since the last examination. There is very little documentation for transactions unless they involve the Company's checking account, as no general ledger is maintained. Other areas of non-compliance include reserves, bonds, mortgage loans, investment property, and home office property.

2.) receivable from parent. The Company's transactions with the parent have not been fair and reasonable. Three separate transactions totalling \$291,500 have been established as a receivable from Hilliards and Company. Financial statements for the parent company were not available for review (see Form B filing enclosed). It appears that the Company is being drained by the parent company and the Hilliard family (see "Cash" commentary in report).

3.) claims payments. By the Company's own admission and the limited records available, the Company is delaying payment on claims up to three months because they do not have the liquid assets to pay claims.

4.) protection of assets. It appears that the Company has transferred properties among the affiliated and parent companies at sporadic intervals in order to improve the financial status of individual companies when needed. The Company had one parcel of real estate foreclosed upon due to non-payment of debts.

5.) management of Company. During my visit to the Company, the receptionist was the only person consistently present. Mrs. Hilliard arrived at work 11:00 or after each day. Mr. Hilliard was

only available half-days on Mondays and Fridays. Mr. Hilliard is the only person with detailed knowledge of real estate transactions which account for the vast majority of the Company's assets.

Mr. and Mrs. Hilliard understand that they have two weeks from today to supply me with the needed information to complete this report. Per our phone conversation today, if the documents are not available for review at that time, I believe that the report should be completed and filed.

If any of the above areas need clarification, please advise me. Your input is appreciated.