

No. 06-1154

OFFICIAL ORDER
of the
COMMISSIONER OF INSURANCE
of the
STATE OF TEXAS
AUSTIN, TEXAS

Date: NOV 06 2006

Subjects Considered:

PROVIDENT CAPITAL INDEMNITY, LTD.
Dessarrollos Comerciales Ronim, S.A.
San Rafael-Heredia, Costa Rica

EMERGENCY CEASE AND DESIST ORDER

General remarks and official action taken:

On this day the Texas Department of Insurance (“TDI/Department”), through staff counsel for TDI, Alyssa J. Long, Staff presented to the Commissioner of Insurance a verified application for an ex parte Emergency Cease and Desist Order against Respondent, Provident Capital Indemnity, Ltd. TDI alleges that Respondent has been committing unfair or deceptive acts or practices by selling, issuing, or administering fraudulent, false, or misleading insurance and/or engaging in the unauthorized business of insurance in violation of TEX. INS. CODE ANN. arts. 7.19-1, 7.20, TEX. INS. CODE ANN. §§ 101.051, 101.102, 541.003, 541.051, 541.061, and 28 TEX. ADMIN. CODE §§ 21.3-21.4 and 21.112. Respondent has not filed any notice with the Commissioner of any claim for exemption from TEX. INS. CODE ANN. § 101.102 with documents supporting such claim prior to commencing operations, as required by TEX. INS. CODE ANN. §101.004(b).

The Department further alleges that unless Respondent is immediately ordered to cease and desist from selling and/or issuing fraudulent, false, or suspect insurance and/or engaging in the business of insurance in an unauthorized manner in the State of Texas in violation of TEX. INS. CODE ANN. §§ 101.051 and 101.102 and 28 TEX. ADMIN. CODE §§ 21.3 and 21.112, Respondent will continue to commit such unfair or deceptive acts or practices and/or engage in the business of insurance in Texas in an unauthorized manner.

Under TEX. INS. CODE ANN. § 83.051, the Commissioner of Insurance may issue an ex parte emergency cease and desist order if an authorized person engaging in the business of insurance is committing an unfair act or is in a hazardous condition or if an unauthorized person is engaging in the business of insurance in violation of Chapter 101, if such conduct is fraudulent, hazardous, creates an immediate danger to public safety, or is causing or can be reasonably expected to cause

public injury that is likely to occur at any moment, is incapable of being repaired or rectified, and has or is likely to have influence or effect.

Citizens of this State hold surety bonds issued by or through Respondent. Because Respondent is not authorized to do insurance business in this State nor qualified as an eligible surplus lines carrier, Texas citizens who have purchased surety bonds from Respondent face serious risk of loss. Further, the Respondent may continue or is continuing to collect premiums from unsuspecting enrollees, who have not been advised that Provident Capital Indemnity, Ltd. is not authorized to do insurance business in this State nor is it qualified as an eligible surplus lines carrier.

The Commissioner believes that Staff's Application meets the requirements of the TEX. INS. CODE ANN. § 83.051 for the issuance of an emergency cease and desist order. Accordingly, the Commissioner finds as follows:

1. The Respondent does not hold a certificate of authority to act as an insurer or surety and has not filed any notice with the Commissioner of any claim for exemption from TEX. INS. CODE ANN. §§ 101.102 or 801.051–801.053, with documents supporting such claim prior to commencing operations, as required by TEX. INS. CODE ANN. § 101.004.
2. Citizens of this State are currently insured by or through the Respondent. Because the Respondent is not authorized to do the business of insuring risks in this State, those who have purchased insurance or surety bonds from or through the Respondent face serious risk of loss.
3. The Respondent is engaging in the unauthorized business of insurance in violation of TEX. INS. CODE ANN. arts. 7.19-1, 7.20, TEX. INS. CODE ANN. §§ 101.051, 101.102, 541.003, 541.051, 541.061, and 28 TEX. ADMIN. CODE §§ 21.3-21.4 and 21.112. Such conduct by the Respondent is fraudulent, illegal, hazardous, creates an immediate danger to public safety, and is causing or can be reasonably expected to cause public injury that is likely to occur at any moment, is incapable of being repaired or rectified, and has or is likely to have influence or effect. Further, such conduct, designed to evade the insurance laws of the State of Texas, should immediately be stopped and enjoined.
4. Unless the Respondent is immediately ordered to cease and desist, it will continue to commit such unfair or deceptive acts or practices and engage in the business of insurance in and from Texas in an unauthorized, illegal, and hazardous manner.
5. The Commissioner of Insurance has authority and jurisdiction over this matter pursuant to TEX. INS. CODE ANN. arts. 5.13, 5.13-2, 7.19-1, 7.20, TEX. INS. CODE ANN. §§ 83.051, 101.001-101.156, 541.003, 541.051, 541.061, 801.051-801.053, 28 TEX. ADMIN. CODE § 1.901 *et seq.*, 21.3-21.4, 21.112, and TEX. GOV'T CODE ANN. §§ 2001.051 - 2001.178.

IT IS THEREFORE ORDERED that Provident Capital Indemnity, Ltd., its agents, employees, or other representatives, shall immediately cease and desist from doing the following:

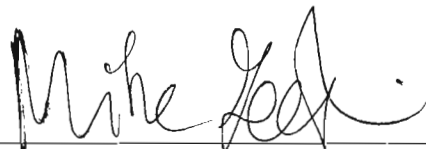
1. Taking any actions concerning funds which have been directly or indirectly collected, received or derived from Texas residents, or which have been commingled with funds collected, received, or derived from Texas residents, except as directed by the Texas Department of Insurance;
2. Permitting any third party to take any actions concerning funds which have been directly or indirectly collected, received or derived from Texas residents, or which have been commingled with funds collected, received, or derived from Texas residents, and which are contained in any account on which Provident Capital Indemnity, Ltd., or any of its officers or employees have signature authority in Provident Capital Indemnity, Ltd.'s name, except as directed by the Texas Department of Insurance;
3. The making of or proposing to make, as an insurer or surety, an insurance or surety contract without having first obtained a certificate of authority from the Texas Department of Insurance to conduct business as an insurer or surety;
4. The taking or receiving of any application for insurance or surety bond, other than by a licensed insurance agent acting on behalf of an insurer or surety possessing a certificate of authority to do the business of insurance in Texas in compliance with all applicable statutes and regulations;
5. The receiving or collection of any premium, commission, membership fees, assessments, dues or other consideration for any insurance or surety bond or any part thereof, without first complying fully with the statutes and regulations of the State of Texas and the Texas Department of Insurance;
6. The issuance or delivery of contracts of insurance or surety bonds to residents of this State or to persons authorized to do business in this State, without first complying fully with the statutes and regulations of the State of Texas and the Texas Department of Insurance;
7. Directly or indirectly acting as an agent for or otherwise representing or aiding on behalf of any person or insurer in the solicitation, negotiation, procurement or effectuation of insurance or surety bonds or renewals thereof or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or in any other manner representing or assisting a person or insurer in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this State, without first complying fully with the statutes and regulations of the State of Texas and the Texas Department of Insurance;
8. Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or

- statement with respect to the business of insurance or surety or with respect to any person in the conduct of his insurance or surety business, which is untrue, deceptive, or misleading;
9. The doing of any kind of business specifically recognized as constituting the doing of an insurance business within the meaning of the statutes relating to insurance, without first complying fully with the statutes and regulations of the State of Texas and the Texas Department of Insurance; and
 10. The doing or proposing to do any insurance business in substance equivalent to any of the acts defined in TEX. INS. CODE ANN. § 101.051 as doing an insurance business, in a manner designed to evade the provisions of the statutes.

IT IS FURTHER ORDERED that this Order is effective immediately and shall continue in force and effect until further order of the Commissioner of Insurance. This Order is binding on the Respondent, its agents, employees, or other representatives.

PURSUANT TO TEX. INS. CODE ANN. § 83.053, ANY PERSON AFFECTED BY THIS ORDER AND WHO SEEKS TO CONTEST IT HAS THE RIGHT TO REQUEST A HEARING BEFORE THE COMMISSIONER, OR HIS DULY APPOINTED REPRESENTATIVE, TO SHOW CAUSE WHY THIS ORDER SHOULD NOT BE AFFIRMED. THE PERSON AFFECTED MUST MAKE THE REQUEST NOT LATER THAN THE 30TH DAY AFTER THE DATE ON WHICH THE PERSON RECEIVES THIS ORDER. THE REQUEST MUST BE IN WRITING DIRECTED TO THE COMMISSIONER AND MUST STATE THE GROUNDS FOR THE REQUEST TO SET ASIDE OR MODIFY THE ORDER. Pending hearing, this Order shall continue in full force and effect unless stayed by the Commissioner. Any such hearing shall be conducted according to the procedures for contested cases under TEX. GOV'T CODE ANN. §§ 2001.051- 2001.062.

IN THE EVENT THIS ORDER IS VIOLATED, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY OF \$25,000 FOR EACH ACT OF VIOLATION, OR DIRECT THE PERSON AGAINST WHOM THE ORDER IS ISSUED TO MAKE COMPLETE RESTITUTION, IN THE FORM AND AMOUNT AND WITHIN THE PERIOD DETERMINED BY THE COMMISSIONER, TO ALL TEXAS RESIDENTS, TEXAS INSURERS, AND ENTITIES OPERATING IN TEXAS HARMED BY THE VIOLATION OR FAILURE TO COMPLY, OR THE COMMISSIONER MAY IMPOSE BOTH THE PENALTY AND ORDER RESTITUTION.


MIKE GEESLIN
COMMISSIONER OF INSURANCE