

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re :
Petition of Anthony James McMahon : In a Proceeding Under
and Philip Wedgwood Wallace, as Joint Provisional : Section 304 of the
Liquidators of SOVEREIGN MARINE & GENERAL : Bankruptcy Code
INSURANCE COMPANY LIMITED, :
* :
Debtor in Foreign Proceedings. : Case No. 97-B-_____

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PETITION PURSUANT TO SECTION 304 OF
THE BANKRUPTCY CODE TO COMMENCE A
CASE ANCILLARY TO FOREIGN PROCEEDINGS

Anthony James McMahon and Philip Wedgwood Wallace (the "Petitioners"), appointed by the High Court of Justice of England and Wales in London, England (the "High Court") as Joint Provisional Liquidators of Sovereign Marine & General Insurance Company Limited (the "Company"), by their United States counsel, Cadwalader, Wickersham & Taft, file this petition (the "Petition") pursuant to section 304 of title 11 of the United States Code (the "Bankruptcy Code"). In support of their petition, the Petitioners allege as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157 and the "Standing Order of Referral of Cases to Bankruptcy

Judges" of the United States District Court for the Southern District of New York (Ward, Acting C.J.), dated July 10, 1984. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).

2. Venue is properly located in this District pursuant to 28 U.S.C. § 1410.

BACKGROUND

3. The Company was incorporated on March 8, 1880 under the Companies Act 1862 as a private company limited by shares under the name of The British and Irish Plate Glass Insurance Company Limited. On December 13, 1928, the name of the Company was changed to The British and Irish Insurance Company Limited. On March 24, 1939, the name of the Company was changed to Lombard Insurance Company Limited. On July 15, 1939, the name of the Company was changed to Lombard Marine & General Insurance Company Limited. On February 8, 1954, the name of the Company was changed to Sovereign Marine & General Insurance Company Limited.

4. The Company's registered office is at Ten Trinity Square, London, EC3P 3AX, England, and its principal place of business is in London, England.

5. The Company is an insurance company authorized to carry on general business within the meaning of the Insurance Companies Act 1982 and is a

wholly-owned subsidiary of Willis Corroon Group plc (“Willis Corroon”). Prior to ceasing underwriting effective as of December 31, 1991, the Company underwrote insurance and reinsurance business (principally marine, aviation and non-marine business) in the London insurance market (the “London Market”). In addition, the Company wrote a large amount of marine and non-marine excess of loss business in the London Market (“LMX business”). In 1983, the Company began writing a U.K. account outside the London Market. Approximately 10% of the Company’s business derived from this provincial account, approximately 10% from foreign agents in Belgium, Canada, Denmark, France, Germany, Greece, Hong Kong, The Netherlands, Norway, Portugal, Spain and the United States, with the balance written in the London Market.

6. A significant proportion of the Company’s business has been underwritten on its behalf by underwriting agents, most significantly Willis Faber (Underwriting Management) Limited (“WFUM”), which is also a subsidiary of Willis Corroon. WFUM administered four insurance and reinsurance pools (Marine, Aviation, Non-Marine and Casualty), in which the Company participated as co-insurer. Each pool bought a certain amount of reinsurance for the benefit of all participants in the pool, and the Company obtained its own additional reinsurance protection where appropriate. In addition to the business underwritten by WFUM on behalf of the Company, the Company also underwrote insurance and reinsurance business for its own account.

7. The Company's underwriting results for the calendar years 1988, 1989 and 1990 worsened due to a steady increase in product-related hazard claims (in particular pollution, asbestosis and workers' compensation claims) and, more significantly, a series of catastrophes which severely affected the Company's marine and non-marine LMX business. These difficulties caused a strain on the Company's cash flow which was further exacerbated by delays in the collection of the reinsurance recoverables with respect to these losses. Further claims were asserted against the Company in 1990 in respect of wind storms and floods.

8. As of December 31, 1990, the Company had suffered in all classes of its business from a combination of inadequate premium rates and a high frequency of large losses. As a consequence, the Company ceased underwriting non-marine, non-proportional treaties in mid-1990 and as of December 31, 1990, stopped writing U.K. property business in the London Market. Despite funding of £5 million provided by Willis Corroon in March 1991 to maintain the Company's solvency margin (as established by the Department of Trade and Industry pursuant to the Insurance Companies Act 1982), the Company ceased underwriting business effective as of December 31, 1991. WFUM currently administers the run-off of the Company's business. Willis Corroon provided further cash injections in 1992 and 1993 to assist an orderly run-off of the Company's business. Since going into run-off, the Company has suffered further losses.

9. The last audited accounts and financial statements of the Company for the period ending December 31, 1996 show that the Company has a net worth of £5,682,000, valued on a going concern basis, with total estimated liabilities of £241,964,000 and reinsurance recoverables totaling £190,620,000 (of which £17,185,000 was shown as then due and payable by reinsurers). The Company's auditors have indicated that the preparation of the accounts on a going concern basis "could be invalidated if the resources of the Company were exhausted by adverse adjustments arising from resolution of [a number of] uncertainties."

10. One uncertainty specifically referred to by the auditors was an arbitration involving the Company and AXA Reassurance SA ("AXA"), one of the Company's reinsurers. AXA has disputed a gross liability to the Company of approximately £10.2 million as of December 31, 1996. The dispute between AXA and the Company arises out of AXA's participation between 1981 and 1985 on two one-line surplus treaties reinsuring the Company in connection with one of the WFUM pools and AXA's attempts to avoid the surplus treaties *ab initio* in August 1994.

11. On July 10, 1997, the arbitrators found that AXA was not liable in part to the Company and the Company has been advised that it should no longer rely on reinsurance recoveries calculated to be in excess of £10 million. It is also possible that other reinsurers of the Company may attempt to use the ruling in AXA's favor to deny their own liability to the Company, which would further worsen the Company's financial position.

12. On July 10, 1997, Willis Corroon informed the Company that no future funding will be made available to the Company. Without such funding, the Company will be unable to meet the claims of its policyholders and other creditors as they become due.

13. The Company's directors have determined, based on the Company's financial statements and the unfavorable outcome of the arbitration, that the Company is insolvent and unable to pay its debts because the value of the Company's assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities. As a result, the Board of Directors of the Company resolved on July 10, 1997 to petition for the winding up of the Company.

14. On July 11, 1997, a petition seeking the compulsory winding up of the Company (the "Winding Up Petition") was presented in the High Court pursuant to the Insolvency Act 1986 of England, Scotland and Wales. A copy of the Winding Up Petition is annexed as Exhibit A to the Declaration of Anthony James McMahon dated July 11, 1997 (the "McMahon Declaration"), filed contemporaneously herewith).

15. In connection with the proceedings commenced by the presentation of the Winding Up Petition, on July 11, 1997, the High Court appointed the Petitioners as Joint Provisional Liquidators of the Company. A copy of the Order so appointing the Petitioners is annexed as Exhibit B to the McMahon Declaration.

16. The Company has substantial assets in the United States comprised primarily of reinsurance recoverables. In addition, pursuant to a Trust

Agreement between the Company and Chemical Bank dated December 27, 1989, the Company established a trust fund in this District in the principal amount of approximately \$2.5 million for the benefit of certain insureds in the United States (the "Trust"). Furthermore, the Company purchased letters of credit from Citibank, which is located in this District, to support reinsurance obligations to the Company's United States cedents, some of whom are located in New York. The outstanding balances of these letters of credit have not yet been ascertained, but there may be residual value in the assets securing the Company's reimbursement obligations under the letters of credit.

17. Attached hereto as Exhibit A is a list of the presently known creditors of the Company in the United States,* which includes parties to litigations involving the Company and the beneficiaries of letters of credit established by, on behalf or at the request of, the Company. Such list was compiled on the basis of information provided to the Petitioners to date.

* As used herein, "United States" is defined to include the United States and its territories and possessions.

18. The Petitioners believe that additional claims, actions, arbitrations or other proceedings may be commenced or become known to the Petitioners, and additional beneficiaries of letters of credit established by, on behalf or at the request of, the Company, and parties to trust or escrow agreements or similar arrangements in which the Company has an interest, may be identified by the Petitioners in the future (each a "Subsequent Claim").

RELIEF SOUGHT

19. The Petitioners seek an order of this Court pursuant to sections 304 and 105 of the Bankruptcy Code:

(A) enjoining all persons and entities from transferring, relinquishing or disposing of any property of the Company in the United States, or the proceeds of such property, to third parties;

(B) enjoining all persons and entities from commencing or continuing any action or other legal proceeding (including, without limitation, arbitration or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever) involving the Company, or any property in the United States that is involved in the foreign proceeding, or any proceeds thereof, or from seeking discovery of any nature against the Company;

(C) enjoining all persons and entities from enforcing any judicial, quasi-judicial, administrative or regulatory judgment, assessment, order or arbitration

award against the Company, and commencing or continuing any act or action or other legal proceeding (including, without limitation, arbitration, or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever) to create, perfect or enforce any lien, setoff or other claim against the Company, or any of its property in the United States, or any proceeds thereof, including, without limitation, rights under reinsurance or retrocession contracts;

(D) enjoining all persons and entities from drawing down any letter of credit established by, on behalf or at the request of, the Company, or withdrawing from, setting off against, or otherwise applying property that is the subject of any trust or escrow agreement or similar arrangement in which the Company has an interest, in excess of amounts expressly authorized by the terms of the contract and any related trust or other agreement pursuant to which such letter of credit, trust, escrow, or similar arrangement has been established; except, however, no drawing against any letter of credit shall be made in connection with any commutation unless the amount has been agreed in writing with the Petitioners or permitted by further Order of this Court;

(E) requiring all persons and entities in possession, custody or control of property of the Company in the United States, or the proceeds thereof, to turn over and account for such property or its proceeds to the Petitioners;

(F) requiring all persons and entities that are beneficiaries of letters of credit established by, on behalf or at the request of, the Company or parties to any trust, escrow or similar arrangement in which the Company has an interest, to:

- (i) provide notice to the Petitioners' United States counsel of any drawdown on any letter of credit established by, on behalf or at the request of, the Company, or any withdrawal from, setoff against, or other application of property that is the subject of any trust or escrow agreement or similar arrangement in which the Company has an interest, together with information sufficient to permit the Petitioners to assess the propriety of such drawdown, withdrawal, setoff or other application, including, without limitation, the date and amount of such drawdown, withdrawal, setoff or other application and a copy of any agreement pursuant to which such drawdown, withdrawal, setoff, or other application was made and provide such notice and other information contemporaneously therewith; and
- (ii) turn over and account to the Petitioners for all funds resulting from such drawdown, withdrawal, setoff, or other application in excess of amounts expressly authorized by the terms of the contract, any related trust or other agreement pursuant to which such letter of credit, trust, escrow or similar arrangement has been established;

(G) requiring every person and entity that has a claim of any nature or source against the Company and that is a party to any action or other legal proceeding (including, without limitation, arbitration, or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever) in which the Company is or was named as a party, or as a result of which a liability of the Company may be established, to place the Petitioners' United States counsel on the master service list of any such action or other legal proceeding and to take such other steps as may be necessary to ensure that such counsel receives (a) copies of any and all documents served by the parties to such action or other legal proceeding or issued by the court, arbitrator, administrator, regulator or similar official having jurisdiction over such action or legal proceeding, and (b) any and all correspondence, or other documents circulated to parties listed on the master service list;

(H) providing with respect to any claim, action, arbitration or other proceeding that may be commenced or become known to the Petitioners in the future, or the entitlement or alleged entitlement of any beneficiary of any letter of credit established by, on behalf or at the request of, the Company, or of a party to any trust or escrow agreement or similar arrangement in which the Company has an interest that is identified by the Petitioners in the future (each a "Subsequent Claim"), that:

- (i) when informed of a Subsequent Claim, counsel for the Petitioners shall serve upon the holder of such claim a copy of the Summons and Petition, and the most recent injunction order entered by the Court;
 - (ii) the holder of a Subsequent Claim will have twenty (20) days from service of the Summons in which to file an answer or motion with respect to the Petition; and
 - (iii) on not less than two (2) days notice to counsel for the Petitioners, the holder of a Subsequent Claim may file a motion seeking an order of the Court vacating or modifying the injunction entered in this proceeding with respect to such Subsequent Claim. Such request shall be the subject matter of a hearing as scheduled by the Court. Otherwise, the holder of a Subsequent Claim may file objections and be heard by the Court in accordance with the terms of any order of the Court providing for a hearing in the future on the relief sought by the Petitioners in this proceeding; and
- (I) awarding the Petitioners such other and further relief as this Court may deem just and proper.

BASES FOR SUCH RELIEF

20. The ultimate goal of the Petitioners is to, under the auspices of the High Court and with the aid of this Court, maximize the value of the assets of the

Company and effect an equitable distribution thereof among all creditors of the Company. In the interim, the Petitioners require a stay of litigation involving the Company and a prohibition against acts that would deplete the Company's assets to the detriment of the Company's creditors generally while the Petitioners determine how the interests of all creditors can best be served. The Petitioners also require (a) a prohibition against any and all drawdowns of letters of credit and withdrawals from trusts and escrows in excess of amounts expressly authorized by the terms of contracts pursuant to which such letters of credit, trusts and escrows were established, (b) an accounting and other information with respect to such drawdowns or withdrawals, and (c) a turnover of such drawdowns or withdrawals in excess of amounts expressly authorized by the relevant agreements. The Petitioners must also ensure that holders of Subsequent Claims are bound by the injunction so that the Petitioners are not forced to seek relief each time they become aware of a Subsequent Claim. Finally, as part of the effort to most efficiently protect reinsurance recoverables, the largest asset of the Company's estate, the Petitioners require information regarding litigations or other legal proceedings in which the Company is or was named as a party, or as a result of which a liability of the Company may be established.

21. The Petitioners intend to determine whether a scheme of arrangement, which would address the manner of resolution of all claims against the Company, can be developed that could provide a substantially higher and/or more expedient return to creditors than would occur if the Company were liquidated. If a

scheme of arrangement can be proposed, approved by the creditors and sanctioned by the High Court, the Petitioners will request that the relief sought herein be made permanent and that such scheme of arrangement be given full force and effect, and be binding on and enforceable against all of the Company's creditors in the United States. Alternatively, if a scheme of arrangement cannot be proposed or approved, the Petitioners will request that the relief requested herein be made permanent and that the Orders of the High Court in connection with the insolvency proceeding be given full force and effect, and be binding and enforceable against all of the Company's creditors in the United States.

22. The Petitioners are informed and believe that granting the relief sought herein will best assure an economical and expeditious administration of the Company's estate, consistent with:

- (A) just treatment of all holders of claims against or interests in the Company's estate;
- (B) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in the foreign proceeding;
- (C) prevention of preferential or fraudulent dispositions of property of the Company's estate;

- (D) distribution of proceeds of the Company's estate substantially in accordance with the order prescribed by the Bankruptcy Code; and
- (E) comity.

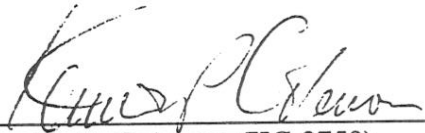
CONCLUSION

WHEREFORE, the Petitioners respectfully request that this Court grant the relief requested herein.

Dated: July 11, 1997

CADWALADER, WICKERSHAM & TAFT

By


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A Member of the Firm

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re :

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and Philip Wedgwood Wallace, as Joint Provisional : Section 304 of the
Liquidators of SOVEREIGN MARINE & GENERAL : Bankruptcy Code
INSURANCE COMPANY LIMITED, :


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Anthony James McMahon, pursuant to 28 U.S.C. §1746, hereby declares under penalty of perjury as follows:

1. I am one of the Joint Provisional Liquidators of Sovereign Marine & General Insurance Company Limited and one of the Petitioners herein.
2. I have read the foregoing petition and I am informed and believe that the factual allegations contained therein are true and accurate.
3. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 11 day of July, 1997
in London, England



Anthony James McMahon
One of the Joint Provisional
Liquidators Appointed by the High
Court of Justice of England and
Wales, London, England