

U.S. blows the whistle on Lloyd's of London scam

by John Hoefle

Lawsuits filed against Lloyd's of London by the U.S. Securities and Exchange Commission, along with a number of state commissions, are blowing the whistle on a multibillion-dollar fraud scheme perpetrated by the crumbling insurance flagship of the British Empire. In the first week in May, the SEC filed an *amicus* brief in Los Angeles, in the case of *Richards v. Lloyd's of London*, which is one of the suits that have been brought against Lloyd's. All told, 11 states have filed civil actions against the company, on behalf of a large group of Americans who were swindled by Lloyd's out of billions of dollars. The counterattack against Lloyd's could develop into a serious political challenge to the British oligarchy, and it is seen that way by some of those involved.

In its brief to the Ninth Circuit Court of Appeals in Los Angeles, which is hearing the appeal of the case, the SEC contended that lower courts have erred in ruling that suits by investors against Lloyd's must be adjudicated in England. U.S. law, wrote SEC General Counsel Richard Walker, does not permit U.S. citizens to waive their rights to be protected against fraud and other violations of securities law.

The issue revolves around a "forum selection" clause in the contracts that U.S. investors, called "Names" in Lloyd's parlance, signed when joining Lloyd's. Hundreds of American Names have joined suits against the company, claiming that the insurance firm and its agents defrauded them, in violation of U.S. law. Several courts, including three other courts of appeal, have ruled that the Names waived their rights to sue in the United States, by signing contracts which stipulated that all suits against Lloyd's must be filed in English courts, under English law (which, it must be noted, gives Lloyd's virtual immunity from suit under the Lloyd's Act of 1982). Should the appeals court agree with the SEC's position and overturn the lower court's ruling, it would be a victory for the

Names, as well as a victory for U.S. national sovereignty.

The decision by the SEC to intervene in the case is "an awesome development," said Jeffrey C. Peterson, the executive director of the American Names Association. "On this *amicus* will pivot the destiny of the Names and the destiny of their legal actions against Lloyd's. Lloyd's has tried to stop this for 20 years. . . . This is a very, very significant event."

The Names are not the only ones charging Lloyd's with illegal action. Eleven states—Arizona, California, Colorado, Illinois, Missouri, Ohio, Pennsylvania, Tennessee, Utah, Virginia, and West Virginia—have filed suits charging Lloyd's with securities fraud and selling unregistered securities, and more suits are expected; an attorney familiar with the cases says an additional 20 states are actively pursuing actions against Lloyd's.

"Lloyd's of London knowingly and consistently ignored Illinois securities law," Illinois Secretary of State George Ryan declared on Oct. 2, 1995, in announcing the suit filed by the state's Department of Securities. The suit charged that Lloyd's sold investments without registering them as securities and without registering to sell securities in the state; that Lloyd's representatives knew of, but failed to disclose, the extremely high risks of those securities, and failed to disclose to investors that these extremely high risks had been knowingly concentrated in certain syndicates within Lloyd's.

"This large and prestigious company clearly took advantage of Missouri investors by leading them to believe that it was on sound financial footing and that over a period of time sustained losses could never occur," charged Missouri Secretary of State Rebecca Cook on Feb. 28, 1996, in announcing that a cease and desist order had been issued to Lloyd's for possible securities fraud. Cook said that Lloyd's had engaged in the process of "conning Missourians out of their money"

to make up for losses that were expected in asbestos and pollution cases.

Peterson characterizes Lloyd's actions as "the largest fraud in world history," and suggests that some day, college textbooks might refer to such pyramid schemes as "Lloyd's schemes" instead of "Ponzi schemes."

A vital part of the British Empire

What is Lloyd's of London, and what has it done to elicit such strong charges?

Founded in 1688 as a coffee house where merchants, bankers, and seafarers gathered to make deals, Lloyd's sits at the heart of the British Empire. In the days when Britannia ruled the waves, Lloyd's insured the ships and their cargoes. In the mid-1800s, for example, Lloyd's insured the shipment of slave-grown Confederate cotton to the mills in England, where women and children working in sweatshops spun it into textile products. Lloyd's insured the shipment of large quantities of those textiles to Britain's colonies, including to India, where textiles were exchanged for slave-grown opium, which was then shipped, insured by Lloyd's, to China, where it was imposed upon the population at gunpoint, and exchanged for tea, which was then shipped across the Empire.

Lloyd's is now hemorrhaging money. Between 1988 and 1992, the latest year for which figures are available, Lloyd's has lost, officially, either \$13.2 billion or \$14.9 billion (the lower figure supposedly eliminates the double-counting of some losses due to stop-loss and excess of loss policies), but the true losses are probably much higher—higher, perhaps, than Lloyd's ability to pay. But these losses are not being borne equally by all the Names, thanks to a series of deceptive and illegal acts.

After World War II, Lloyd's took steps to strengthen its foothold in the U.S. market. To attract business, it sold insurance policies at a discount, and wrote policies on a "claims incurred" rather than a "claims made" basis. There is a crucial distinction between the two: when a "claims made" policy expires, the insurance company is liable only for those claims already made against the policy; whereas, with a "claims incurred" policy, the exposure continues long after the policy expires. For example, a person exposed to sufficient quantities of certain types of asbestos for a sufficiently long period, might develop asbestosis decades later. A claims incurred policy in effect at the time of the exposure, would still be liable for the claim, decades later. Lloyd's syndicates wrote a lot of claims incurred policies, many of them covering asbestos and petrochemical companies which would later be hit with huge lawsuits.

While Lloyd's was busy writing these "long-tailed" insurance exposures, elements of the same British Empire apparatus were organizing an environmentalist movement as a weapon against the United States and emerging economies globally. One effect of the phony "scare" campaigns, was a rapid rise in lawsuits against real and supposed polluters,

many of whom were insured by Lloyd's.

Faced with the certainty of huge, mostly self-induced losses in coming years, the British oligarchy took steps to shift those losses to the "common people."

Luring in the suckers

In 1969, Lord Cromer issued a secret report, which called for a dramatic increase in the number of Lloyd's Names. Cromer, head of the Barings clan, bankers to the Queen, and a governor of the Bank of England, was reorganizing Lloyd's to adapt to the shift in imperial policy. The Empire was preparing to lure in the suckers.

The Cromer report, while hiding the geopolitical reasons for the shift, also called for dramatic reductions of the financial standards a prospective Name must meet to qualify for membership, coupled with similar reductions in the amounts of money Names must have on deposit with Lloyd's—all to make it easier to recruit new Names.

Under the Lloyd's market system, numerous syndicates of Names function as insurance companies which underwrite the policies. In return for membership in this club, the Names pledge the entirety of their worldly assets, if necessary, to pay off the claims on the policies they underwrite. The syndicates are formed on a yearly basis, and close by passing off their liabilities to successor syndicates through reinsurance. As the new Names came in, many of the old Names quietly stepped aside, leaving the new Names stuck with their liabilities.

At the time Cromer issued his report, there were just over 6,000 Names. Then, Lloyd's began actively recruiting Names in the United States, Canada, Britain, and elsewhere, with promises of easy money and—even more important for many Anglophiles—the honor of being a Lloyd's Name. The number of Names rose rapidly throughout the 1970s and 1980s, peaking at over 32,000 in 1988, the year the losses began to surface. Naturally, these new Names, and their unlimited liability, wound up in the syndicates in which the extremely high risks had been concentrated.

Once the losses began and the new Names began to realize how badly they had been swindled, they demanded redress. Lloyd's denied any responsibility whatsoever. Said Lloyd's Deputy Chairman Robert Hiscox: "I have no sympathy for Names who regularly get lousy returns from their syndicates. . . . If God had not meant them to be sheared he would not have made them sheep."

The American Names turned to the U.S. courts for help, but their suits were rejected, under the forum selection clauses in their contracts. Now that the SEC has finally taken action, perhaps the courts will recognize the validity of their claims.

Meanwhile, Lloyd's continues to demand money from the Names. The British Department of Trade has prepared legislation to classify the Names' outstanding insurance liabilities as statutory liabilities, to outflank legal defenses. As Jeffrey Peterson puts it, the bill would make Lloyd's "judge, jury, and executioner by statute."