

**BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF ARKANSAS**

**IN THE MATTER OF SINCLAIR  
INSURANCE COMPANY, LTD., AN  
UNAUTHORIZED ALIEN INSURER;  
AND N.M. SIM MANAGEMENT,  
LTD., UNLICENSED IN ARKANSAS,  
RESPONDENTS**

**A.I.D. ORDER 2006- 033**

**CEASE AND DESIST ORDER**

Now on this day the above emergency matter of unlicensed entities as captioned above, Sinclair Insurance Company, Ltd. ("Company" or "Sinclair"), Respondent, and N.M. Sim Management Ltd. ("MGA"), Respondent, allegedly operating as insurers or insurance producers or managing general agents in the State of Arkansas or transacting insurance business for Arkansas risks without advance licensure, is taken under consideration by Julie Benafield Bowman, Insurance Commissioner, for the State of Arkansas ("Commissioner"), with the Arkansas Insurance Department (the "Department") represented by Ms. Jean Langford, Chief Counsel – Legal Division.

From the facts and evidence before the Insurance Commissioner, she finds as follows:

1. The Commissioner has jurisdiction over the parties and subject matter pursuant to Ark. Code Ann. §23-61-103, 23-63-201, §§23-64-501 et seq., and §23-65-101, and the authority to issue summary cease and desist orders under Ark. Code Ann. §23-65-101, §§23-66-205 and §23-66-209 and §23-66-210, and under the Arkansas Administrative Procedure Act at Ark. Code Ann. §§25-15-201, et seq., among other laws. The Insurance Commissioner may require any person to show cause why a cease and desist order should not be entered to prohibit unlicensed insurance transactions or insurance business in the State of Arkansas.

2. According to records of the Department, Respondent Sinclair has no insurance Certificate of Authority to act as an insurance company in the State of Arkansas; nor does it hold any registration to act as a surplus line insurer, reinsurer or risk retention group, or other insuring entity, or to act in any insurance capacity under state laws. Respondent Sinclair does not appear

on any listing of alien surplus line or excess insurers, according to Department research with the NAIC and also according to Respondent Sinclair's own Internet website, at [www.sinclairpremium.com](http://www.sinclairpremium.com). According to records of the Department, Respondent MGA has no insurance license as an insurance agency or producer, managing general agency, third party administrator, surplus line broker, resident or non-resident, or in any insurance capacity under state laws.

3. According to the Department, Respondents together issued or assisted Respondent Sinclair to issue an electronic insurance policy or contract of insurance from Respondent Sinclair's Internet website, for Mr. Bob L. Bartow ("Bartow"), d/b/a BBC Pools (BBC), of Mena, Arkansas. The insurance was requested and then issued to BBC in order for it to operate an amusement ride or attraction in the State of Arkansas. Mr. Bartow received an electronic Certificate of Insurance, for coverage for a term of February 2006 to February, 2007, for commercial general liability and employer's liability exposures of BBC, under Sinclair Policy #AR 060228082551, issued by Respondent Sinclair to Bartow dba BBC, and signed on February 28, 2006, by a representative of Respondent (signature somewhat illegible). In the Department's contact with the owner and operator of BBC Pools, Mr. Bartow confirmed that he was unaware that Respondents were not licensed in this state, that he bought the coverages and received the Certificate of Insurance off the Internet, and that he was immediately going to get replacement insurance from a licensed casualty insurer, and that he would also promptly contact the Arkansas Department of Labor about this matter. The Department repeated these tips and suggestions to Mr. Bartow in a later letter to him on May 2, 2006.

4. According to Ark. Code Ann. §23-89-505, owners and operators of amusement rides or amusement attractions ("rides or attractions") must obtain and file with each fair board or sponsoring organization written proof of its insurance coverages for liability for personal injury or property damage arising out of use or operation of the ride or attraction. This law requires the insurer to be authorized to transact insurance in Arkansas or be a surplus line insurer approved

(but not admitted) in Arkansas. The Insurance Code requires an insurance agency or MGA to have an insurance broker or agent license as a producer or MGA license under Ark. Code Ann. §§23-64-501, et seq., or 23-64-401, et seq., respectively if it acts for Sinclair as a producer or MGA, before issuing insurance certificates as proof of insurance and soliciting or selling insurance to personal or commercial risks in this state.

5. The Department has possession of supporting documents from the Arkansas Department of Labor, Inspections Division, and from Arkansas business, BBC, which reflect these unlicensed insurance transactions by Respondents.

6. The Department alleges that these enumerated actions violate Arkansas laws, and that Respondent Sinclair has thus violated Ark. Code Ann. §23-63-201, §23-65-101, and §23-66-206(6), among other laws; and that Respondent MGA has violated Ark. Code Ann. §§23-64-503, 23-65-101, 23-65-308, among other laws.

7. Due to the gravity of these allegations of the Arkansas Department of Labor, as well as the 2006 investigation of this Department against Respondents, the Insurance Commissioner states that a public emergency exists, and this Order should be issued out of appropriate concerns for BBC. BBC formerly was operating pools as an attraction for Arkansas residents and children with insurance issued by or with the assistance of the unlicensed Respondents. The Order should also be issued immediately to prevent Respondents from the further transaction of insurance in this state without proper licenses and with due respect for Arkansas laws and rules, pending any requested administrative hearing on this matter.

THEREFORE, based upon the foregoing allegations and statements, the Insurance Commissioner finds that a public emergency exists for the immediate issuance of a formal CEASE AND DESIST ORDER as to Respondents; and she so orders and directs Respondents to CEASE AND DESIST immediately any further unlicensed insurance activities in this state. Respondents, under the Commissioner's authority pursuant to Ark. Code Ann. §23-65-101 and §23-66-210, and other applicable laws, are hereby ordered and directed to Cease and Desist any

further transaction of insurance in this state, with the possible exceptions of adjusting, settlement and payment of legitimate and compensable Arkansas insurance policy claims.

Under Ark. Code Ann. §23-66-209 and §23-66-210, or other Arkansas laws, Respondents have the right to request a prompt administrative hearing on this matter before the Arkansas Insurance Commissioner, in order to show cause why the provisions of her Order are not correct, or why it is permissible for the Respondents to transact insurance in this state in their various capacities without prior licensure from the Arkansas Insurance Commissioner and without proof of proper resident insurance licensure by the supervisory insurance officials of their respective states or countries of domicile.

IT IS SO ORDERED THIS 10<sup>th</sup> DAY OF JULY, 2006.

  
JULIE BENAFIELD BOWMAN  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS