CHAPTER 45

1996
Bermuda Invests in Lloyd's

Bermudian Business Magazine

By 1996, Bermuda was unquestionably the world's leading captive insurance domicile, had the largest concentration of financial reinsurers, controlled more than 20 per cent of the world's property catastrophe reinsurance, and its excess liability carriers were giants. The international insurance industry had become such a major force in the Bermuda economy that in the spring of 1996 *The Bermudian* launched *Bermudian Business* magazine. The first issue was devoted to the international insurance industry, with a photo of Brian O'Hara, CEO of XL, on the cover. Introducing the new publication, Kevin Stevenson wrote as follows—

> '...The need for such a magazine became clear through *Bermudian Business'* former life as the *Focus on Business* section of *The Bermudian* magazine. Begun as a small section of the Island's oldest monthly magazine, *Focus on Business* quickly gained market acceptance, and by January this year had become unmanageable as a section.
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> 'The time had come to separate the two. Indeed, the support of an international business magazine reflects the tremendous growth in the Island's financial services sector. Nowhere is this growth more apparent than in the international insurance industry—the focus of this edition.
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> 'Bermuda today is considered by far and away the leading offshore jurisdiction for global insurance companies. This is evidenced by the *Bermudian Business*/Deloitte & Touche insurance survey carried in this premier issue of *Bermudian Business*. Collectively companies participating in the survey boast assets of approximately US $50 billion, indicating not only the strength of the market, but also the credibility of the survey. Total assets of Bermuda insurance and reinsurance companies topped US $76.1 billion at the end of 1994, including the huge captive insurance population, which does not participate in this survey.'[674]

Blizzards

It was a good thing that the Bermuda economy had a second pillar other than tourism upon which to uphold its fate. 1996 began with blizzards all across the northeastern United States, shutting down airports the length of the eastern seaboard. Unusually severe snowfall blanketed the East Coast from North Carolina to New England, making roads impassable, forcing government offices and businesses to close, and causing more than 100 deaths. The 'Blizzard of 1996' was therefore a serious blow to Bermuda's steadily declining tourism trade. Fortunately it did not impact the balance sheets of Bermuda's new property catastrophe reinsurers. Advance warning and careful preparations lessened the level of damage, most of which resulted from flooding in residential rather than commercial areas.

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[674] *Bermudian Business,* Premier issue, Spring 1996, 'Welcome, The New Voice of Bermudian Business', by Kevin Stevenson, p. 8

Bermuda insurers continue to respond to global industry issues

As a direct consequence of the unstable economy and of the catastrophes so prevalent during the 1990s, OIL was forced to make radical changes to its rating structure if it wanted to survive. After undergoing the most comprehensive study since its inception, OIL decided to make the following major changes— increase in the Basic Limits from US $200million to US $225 million; increase in the Aggregation Limit from US $500 million to US $562.5 million; elimination of the Joint Venture Limit with members being entitled to recover full limits subject only to the Per Occurrence and Aggregation Limit; introduction of Sector Weighting into the Rating & Premium Plan to recognise differences in risk between business sectors; introduction of options to purchase less-than-full limits and flexible limits/deductibles by business sector and the ability to utilise limits as part of an overall quota share programme.

According to K. Doyle Stephens, President and CEO of OIL Insurance Limited, the changes were necessary as a result of the following—

> 'The hardest change we brought about was the major revision to the basis of our rating philosophy which came into effect January 1, 1996.
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> 'Under this arrangement, different business segments are now rated on the basis of the amount of risk they bring to us. OIL operated for almost 25 years on the premise that everything in a petroleum company was equal in terms of risk. Now, of course, we know that this is not true but, as long as the members of OIL were all large, integrated oil companies, it didn't really make a lot of difference how you approached the question of rating.
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> 'However, during the last ten years we have seen the oil industry and our customer base undergo tremendous re-structuring so that it was no longer possible for OIL, as a servant of the industry, to justify treating all its clients and their risks in the same way.
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> 'Fully-integrated oil companies began to disintegrate, with the result that two, or three or maybe four companies were often created out of one large company. And these new companies all had totally different risk profiles. It was soon clear to us, as these developments in the industry became apparent, that at some point we would have some significant changes to make in the way we evaluate and rate risks.
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> 'We developed a new actuarial model, which weighted shareholder assets, depending on their participation, in different risk segments of the oil business. Inevitably, some shareholders were asked to pay more premium and there were others who paid less, though there was no change to the total amount of premium we collect. It was really a change in the overall allocation of that premium.
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> 'But we sat down with every one of our 44 shareholder companies to explain the rating changes, and to give them the opportunity to ask questions and generally get comfortable with the whole process.
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> 'We worked very hard to avoid dissension among the shareholders, to show them that what we were proposing was eminently fair compared to how we had done things in the past and to make sure that the changes were implemented smoothly.'[675]

As the global insurance industry underwent significant changes and shifted in terms of domicile dominance, likewise the Bermuda insurance industry underwent significant changes to its risk profile. Because the largest international insurance companies in Bermuda were publicly held companies, they found themselves under tremendous pressure to show diversity and growth across their books of business. They also could not be seen to be holding too much capital because some felt they would leave themselves in the vulnerable position of being taken over. It was as a result of these factors that Bermuda insurers continued to diversify geographically causing them to 'become the island's largest foreign exchanger earner'.[676]

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[675] *Oil Insurance Limited, 25th Anniversary 1971–1995*, pp. 41–42

[676] *Bermudian Business*, Premier Issue, Insurance Special, 'Bermuda sets the pace, Lloyd's moves point island insurers into new business lines', by Kevin Stevenson pp. 16–18, 22 & 24

The first news of diversification came when Exel Ltd. entered into a joint arrangement with US based CIGNA Corporation to sell property and casualty insurance. The *Bermuda Sun* reported on the agreement as follows—

'Senior Vice-President Gavin Arton said the two companies had an overlapping customer base and the new cooperation was a natural outcome. Each company will form its own "risk facility", he said. The facilities will sell a variety of coverage designed to help client companies protect their balance sheets from large losses. The coverage will have combined limits of US $400 million and term limits of up to US $1 billion for programmes of three to five years.

'...The announcement comes after Philadelphia-based CIGNA cleared hurdles last month to split its US property and casualty business so that one unit of the company will keep profitable policies, while another will wind down coverage on policies with the largest claims—those with businesses forced to clean up asbestos and tainted soil.

'The insurer had won approval from various state insurance regulators over the past year to do the restructuring over the protests of its competitors. A group of companies insured by CIGNA are also opposed to CIGNA's plans.

'Exel's Mr Arton said that while the company was aware of CIGNA's restructuring plan, any court actions brought against the US insurer would not affect the joint agreement between the two.'[677]

XL followed up with news that it was introducing a new coverage to the global insurance marketplace in light of the soaring employee claims. The *Bermuda Sun* reported on the announcement as follows—

'Two Bermuda-based companies have developed the first stand-alone programme offering companies up to US $100 million protection from claims resulting from employees' lawsuits. Marsh & McLennan Global Broking (Bermuda) Ltd. and XL Insurance Co. announced yesterday a plan to offer coverage resulting from job discrimination, sexual harassment and wrongful dismissal. Marsh & McLennan developed the programme with XL and US-based Zurich American Insurance Group. XL will write the policy while Zurich and Bermuda-based Ace Insurance Co. Ltd. will provide the reinsurance. "Besides high limits, the programme offers employers one-stop shopping, permits them to conduct their own defence, and covers punitive damages, which are excluded under similar insurance policies," a press release stated.

'Previously such coverage was available in a piecemeal approach through a variety of policies. Existing policies cover only about US $25 million in legal bills. The new policy will cost between US $250,000 and US $750,000. The programme is a response to soaring costs of employee claims. The US Equal Employment Opportunity Commission said that about 14,400 women and 1,427 men claimed in 1994 that they were sexually harassed at work, double the number of claims in 1991.'[678]

Investing in Lloyd's

Just two years after the first corporate members commenced underwriting in Lloyd's, the Bermuda international insurance industry began investing in that troubled marketplace, as reported by *Bermudian Business* magazine.

'...The acquisitions of four Lloyd's managing agents by Bermuda-based companies also signify the Island's growing ability and willingness to assist in the implementation of the Lloyd's reconstruction and renewal plan. "What you are seeing is a market evolution of the substantial companies based in Bermuda into worldwide organisations that will have implants in the key markets around the world," says Michael Butt, President and chief executive of Mid Ocean Limited.

'Significant moves by Bermuda companies in recent months include—

[677] *Bermuda Sun*, 23 February 1996, 'Exel links with CIGNA'

[678] ibid. 22 March 2003, 'Insurers offer protection from employee suits'

'Bermuda-based Trident Partnership LP has acquired Lloyd's managing agency Venton Underwriting Agencies Ltd. Venton currently has four syndicates under management, and beginning this month will add a fourth *(sic)*—a non-marine syndicate set up by Trident with capacity of US $30 million. The Venton syndicates have a total capacity of almost US $300 million, of which 46 per cent comes from corporate capital sources. "We believe the future of Lloyd's is best secured by the presence of strong independent managing agencies under common ownership with significant dedicated capital," says Robert Clements, retiring Chairman of Marsh & McLennan Risk Capital Corp. Trident was established in 1994 by Marsh & McLennan group as a partnership which included Mid Ocean to invest in the global insurance and reinsurance industry.

'...ACE acquires majority stake in Lloyd's managing agency Methuen...ACE said the Methuen acquisition represented a major step in the company's strategy to reach more markets and diversify its product base. Methuen's six syndicates write primarily non-marine, marine and aviation insurance. ACE also offers excess liability and directors & officers coverage.

'Terra Nova (Bermuda) Holdings has completed the purchase of the ongoing business of Octavian Syndicate Management Ltd., which manages five Lloyd's active syndicates. The purchase price was US $8.3 million and 126,269 shares of Terra Nova. Terra Nova Chairman William Bailey says the acquisition provided the company the opportunity to participate in the world's oldest insurance market. Octavian syndicates have about US $350 million in aggregate underwriting capacity.

'... The same day Terra Nova announced its acquisition of Octavian, property catastrophe reinsurer Mid Ocean announced it was buying controlling interest in the Brockbank managing agency, and investing US $77 million in two new Lloyd's-dedicated syndicates underwritten by Brockbank.

'The Brockbank syndicates write primarily marine, property, and aviation insurance, while Mid Ocean is a leading provider of property catastrophe, property risk excess of loss, property pro rata, marine, energy, aviation, and satellite reinsurance. Brockbank reported that 1995 pre-tax profits had more than doubled at US $5.9 million.

'Mid Ocean said the deal—which could eventually result in Mid Ocean acquiring Brockbank outright—underscored its strategy of developing a spread of business both geographically and by product line. Once completed, the Lloyd's managing agency deals could result in an infusion of significant capital in a market that is threatened with the loss of its traditional source of capacity—individual Names.

'"It's not surprising that it's Bermuda making these investments," says Brian Duperreault, Chairman, President and chief executive of ACE. "The Bermuda market has the most forward-thinking capital in the world. It has the highest concentration of financial and intellectual capital, and it can be utilized to look for opportunities where other markets are caught up in the past."'[679]

Lee Copack of *Bermudian Business* magazine continued with the following comments about Bermuda insurers investing in Lloyd's—

'...Naturally aware that Lloyd's still has problems to solve, the Bermuda companies have built safeguards into their investments. Mid Ocean's deal with Brockbank can be unwound; Terra Nova's interest begins only with the current underwriting year. In another deal, CNA Reinsurance Group, one of LaSalle Re's major investors has set up CNA Corporate Capital which is providing US $38.25 million to three Lloyd's managing agencies.

'...A London presence makes logical sense for Bermuda companies in terms of their business spread, and investment in Lloyd's and its managing agencies is widely predicted to produce a good long-term return. Having decided they want to be in Lloyd's, potential buyers needed to act promptly to avoid losing the best opportunities—and the Bermuda companies have done so.'[680]

[679] *Bermudian Business*, Premier Issue, Insurance Special, Spring 1996, 'Bermuda sets the pace, Lloyd's moves point island insurers into new business lines', by Kevin Stevenson pp. 16–18, 22 & 24

[680] ibid. 'Reaching new markets, Fears of the Bermuda Triangle prove unfounded', by Lee Coppack in London, pp. 20 & 22

Brian Duperreault, Chairman and CEO of ACE, said that his company decided to invest in Lloyd's in order to diversify the company's portfolio. At the time, ACE was still very narrowly focused and he had begun to broaden the lines of business written to include property and aviation. He was also looking at Tempest Re with a view to entering the property cat market. Notwithstanding all this, he knew that for ACE to become a truly global company he must look beyond Bermuda in order to grow.

His timing could not have been better because Lloyd's was going through its own problems of survival. As a means of attracting capital, it had made the corporate decision to expand its capital base by allowing corporate investment for the first time, instead of just individual 'Names'. Duperreault realised that once he had a significant presence in Lloyd's he would gain instant geographical diversification. He also felt comfortable with investing in Lloyd's because of the reconstruction and renewal process Lloyd's had just undertaken, whereby all old liabilities were rolled into Equitas and all new liabilities were to go to the corporate investors. For Duperreault to enter Lloyd's at that point was like entering a start up company, as his capital would only be committed to new business. Therefore to him it was a good use of capital. Over time, ACE acquired positions in Lloyd's to the extent of sole ownership, on the assumption that this was the first and foremost way to diversify itself.[681]

With such massive infusion of capital into the Lloyd's marketplace, Bermuda was finally beginning to get some positive feedback from its long-standing rival. Leslie Goodman, Chief Executive of Methuen Limited, made his first visit to Bermuda after ACE acquired a majority stake in his company. Commenting about the Bermuda market to *Bermudian Business*, Goodman said, 'I think the London market is starting to see Bermuda as increasingly a centre for expertise in this industry…There is a substantial and growing pool of talent here, and a lot of surplus capital.' Goodman conceded this view was not always so. For years, beginning in the late 1970s, the traditional insurance markets had looked down their noses at 'upstart' Bermuda, which had the temerity to call itself a market… If there is a residual element of it (scorn), it will be gone in short order because people see now it's not just a function of Johnny-come-latelys setting up to take advantage of one peak in the insurance cycle,' said Goodman. 'It's a serious pool of expertise and a genuine centre of activity. I don't find, as I did a few years ago, that sort of attitude towards Bermuda.'[682]

To invest again in Lloyd's, so as to help Lloyd's through a difficult time of transition, was something of a *déjà vu* experience for Bermuda. In the late 1960s Bermuda Fire and Marine had unwittingly begun to underwrite for the Weavers Group, only to see that agency collapse and leave the insurer in dire straits some thirty years later with lawsuits still pending as a consequence of the poor results that ultimately brought about the liquidation of Bermuda Fire and Marine. This time the capital put into Lloyd's was much larger and with a significantly larger risk involved for the whole Bermuda market. Many of the new companies in Bermuda were eager to acquire ownership in Lloyd's because they believed that investing in Lloyd's would allow them to gain more credibility in the global insurance arena. Accordingly, much bigger stakes were taken up in the Lloyd's market by supposedly shrewd and well informed underwriters and management. Will these investments come back to haunt the Bermuda market as did their predecessors of so long ago? Only time will tell.

ACE and Tempest Re

A year before, in August of 1995, a simple lunch between two Bermuda insurance industry executives led to a showdown in the global insurance market. Don Kramer, Chairman of Tempest Re and Walter Scott, ACE's Chairman, President and CEO, met to discuss their companies and diversification strategies. Writing for *Bermudian Business*, Kevin Stevenson reported that—

[681] Interview with Brian Duperreault, 2 December 2002

[682] *Bermudian Business*, op. cit. 'The view from London. Lloyd's starts to see Bermuda as a centre for expertise', p. 24

'...later that month the possibility of combining both companies was raised. But separately, and on behalf of Tempest, Kramer was pursuing opportunities in London. "I spent a month there visiting every underwriting agency of size, just trying to understand what was happening to Lloyd's and searching for a business venture," says Kramer.. "And when I came back I said, 'Wow, there just might be some real value here—Lloyd's is going to survive—and I think we could find a lot more interesting business available as the Names exit Lloyd's and are replaced with corporate capital."

'Kramer found an opportunity in Methuen and was looking to take majority control of the agency. However there was a major hiccup. Gen Re was one of Tempest Re's major sponsors and had always had a disdain for the London market. After letting Tempest go all the way to nearly signing the deal, Gen Re decided to pull out. They did not want the Gen Re name in Lloyd's.

'In describing his problems with Gen Re, Kramer recites a medieval European fable that tells of an attempt to arrange a marriage between a very beautiful but poor young maiden, and a very old but very wealthy man. As a precondition to signing the marriage contract the old man insists that he view the beautiful maiden completely nude. Despite many protests, sheer necessity forces the poor girl's family reluctantly to agree. After completely viewing his prospective bride the old man informs everyone that the match is off. "I'm sorry," he says, "her nose is too big."

'..."Gen Re could have told me all along that they didn't want to do the deal," complained Kramer. "But they didn't do it until after we had thoroughly undressed Methuen. It was crazy. Here we were headed for a closing when they told me Methuen's nose was too big."

' Recalling his lunch with Scott, Kramer went back to ACE and presented them with the Methuen deal on top of ACE possibly taking over Tempest. "When I couldn't do it, I talked to Brian (Duperreault) and Walter (Scott), and to Brian's credit he literally walked out of his office, packed his overnight bag, boarded the next plane for London and kick-started the deal."

'Adds Duperreault: "We were already looking at situations within Lloyd's and knew about Methuen specifically, but held off because we knew that Tempest was pursuing it. From my perspective Methuen was an interesting possible acquisition, which could bring an additional dimension to ACE. In fact the strategic combination of ACE, Methuen and Tempest was intriguing. The real question was which one could we acquire first?"

'It turned out to be Methuen, which Duperreault feels was a great buy...By the spring (of 1996), a deal had been struck whereby ACE would issue approximately 13.3 million shares for Tempest which would strip down to US $500 million in capital. Simple transaction, one would think; but no, there was a real tempest roaring in the winds.

'Within weeks of the accord being announced, AIG Chairman Greenberg hit out at the terms of the deal in a letter to Tempest shareholders. He complained about the valuation put on Tempest, the lack of liquidity resulting from a "lock-up" arrangement on the new shares, and the lack of information then available on the sale agreement. "Unless AIG receives fair value, we will oppose the proposed sale to ACE," warned Greenberg. "Be assured that AIG is not willing to be made party to any transaction that short-changes investors who took the start-up risk." ACE, concerned about the Greenberg menace, eased the terms of the deal by removing the lock up. The deal seemed well on track for a smooth closing when IPC struck with a hostile takeover bid for Tempest involving a combination of cash and stock tentatively valued at US $943 million. What had begun as a quiet merger between two Bermuda companies became a high profile battle that made headlines in the financial press on both sides of the Atlantic.

'If ACE, Tempest and IPC were previously unknown, they were now household names..."From Greenberg's perspective, I'm sure the deal went beyond money," muses Kramer. "If IPC acquired Tempest then there would be one less competitor in the Bermuda cat market, whereas a Tempest-ACE combination would make Tempest a stronger competitive factor. Further by denying ACE the opportunity to acquire Tempest, AIG would be striking out at a competitor in the liability business." ACE countered by raising its bid for Tempest by US $50 million...Following several marathon sessions with financial advisors the board of Tempest agreed and recommended the transaction to shareholders who overwhelmingly approved the deal. By forcing ACE to pay somewhat more for Tempest (and about US $2.5 million of that went directly into the coffers of AIG) Greenberg got most of what he wanted. But so did his former star executive, Duperreault who is now eager to get on with the job at hand…In the end everyone seems to have made out. Gen Re received a total of US $216 million for its stake in Tempest, more than double its original US $103 million investment. Tempest shareholders received several dollars per share in cash for their shares and ACE got the company it wanted.'[683]

Consolidations

As rates continued to soften, so the Bermuda property cat reinsurers came under pressure from their investors. The acquisition of Tempest Re by ACE signalled that the Bermuda property cat marketplace was going to be reduced as it was likely that there would be more consolidations because of overcapacity and reduced yields to the original shareholders. Gavin Souter of *Business Insurance* had predicted a trend to consolidation back in 1994, when the market first showed signs of softening—

'…When the eight reinsurers set up in 1992 and 1993, they had hundreds of millions of dollars in pristine capital that enticed many clients seeking secure reinsurers. Behind that capital were many sophisticated investors hoping for large returns; those hopes were fulfilled, thanks to the high premiums and few losses the market enjoyed for the next three years. The Bermuda catastrophe reinsurers wrote about US $1.7 billion in combined gross premiums in 1995. They also had low combined ratios. For example, Mid Ocean Reinsurance Co., Ltd., which has a longer history than the other companies, still only posted a combined ratio of 80.8% and Partner Reinsurance Co. Ltd., had a combined ratio of 39.7%.

'However, with catastrophe reinsurance rates falling, those same investors will be pressing the reinsurers to find other ways of shoring up a dwindling return on equity…One way of doing that would be for one catastrophe reinsurer to buy another…But with many of the catastrophe reinsurers already writing similar and often the same accounts, there could be little incentive to take over a competitor…Alternatively, reinsurers could diversify, or increase stock buyback plans or other capital return methods already implemented by some of the companies…But at least one of the reinsurers on the island will likely acquire or merge with another in Bermuda, several analysts say.'[684]

Bermuda 'prop cat' reinsurers invest in California Earthquake Authority

Just after its acquisition of Alexander & Alexander had catapulted Aon Group to the top spot as the world's largest broker, and when it was predicted that the prop cat market in Bermuda would be looking to diversify in order to meet investor's expectations, Renaissance Re made a huge announcement. Jim Stanard, Chairman, President, and CEO of Ren Re had been approached about investing in the California Earthquake Authority (CEA) and thought it a sound structure and contract. When he learned of the difficulties the CEA was having in finding a company to lead the contract with earthquake coverage, he immediately stepped in and said his own company would become the lead underwriter because this was a great opportunity to help a potential client out of a desperate situation. Thus Ren Re supported the CEA concept early on and indeed is still involved with it at the present time.[685]

Bermudian Business provided the following details—

[683] *Bermudian Business*, Summer 1996, 'How ACE won the war and took Tempest for its own', by Kevin Stevenson, pp. 40–42

[684] *Business Insurance*, 14 October 1996, 'Plentiful capital may drive cat consolidation in Bermuda', by Gavin Souter, pp. 78 & 80

[685] Interview with James Stanard, 4 December 2002

'It was a Friday night dinner at the Royal Bermuda Yacht Club that helped set the ball rolling in the largest reinsurance placement in history—US $2 billion in capacity committed to the US $10.5 billion privately-financed California Earthquake Authority (CEA). The dinner was hosted by Bermuda-based Renaissance Reinsurance executives, and their guests were the CEA team, led by California Insurance Commissioner Charles (Chuck) Quackenbush.

'The topic of the discussion that night last spring was the reinsurance layer of the proposed plan to bring back homeowners' insurance to California. Insurance for private homes virtually evaporated in the wake of the devastating losses from the January 1994 Northridge Earthquake. "We talked about how we wanted to support the CEA programme and that we would respond quickly," says RenRe Chairman, President and Chief Executive James Stanard, sitting in the boardroom of the reinsurer's new headquarters on East Broadway, Hamilton. "We didn't want to lose even a day, so we had some people get up in the middle of dinner to telephone California to get data that we needed sent out right away...We agreed that the sooner we were able to provide a firm quote, the sooner it would help start the ball rolling. So we made sure we got the data quickly so we could provide the quote," he recalls. "Our basic approach to our business had been very client-focused and responsive. We try to be the first ones back on any quote—that's just a part of our company policy. With regard to the CEA, we believed it was an important programme in the sense that it was a private-sector solution to a significant capacity problem. It was good for the reinsurance industry, and it was also an opportunity for us to quote an economically appropriate price. It simply became a top priority."

'By interrupting dinner that Friday night to request specific underwriting information, "we were able to have a quote on their desk by Wednesday," says William Riker, RenRe Senior VP. "The final terms of the reinsurance package were within about five per cent of our original quote," adds Stanard. "The final terms were based on market consensus pricing and required worldwide support to complete. However, I believe the Bermuda market's early and strong support was important to the ultimate success of the programme."

'RenRe executives are the first to say other companies played a larger role in the CEA reinsurance placement—for example, Partner Re and Zurich Insurance, led by Centre Re group of companies, each committed US $150 million to the CEA, compared to RenRe's US $40 million. But it was the timing of RenRe's price submission that played such an important role in the 16-month struggle to set the CEA in place. "Renaissance Re was the first one on board, and when that happened it was like opening the floodgates. Everyone wanted to follow Renaissance's lead," says Quackenbush.

'Stanard says lead quotes from all the major Bermuda cat markets are considered supportable on a worldwide basis. "I think that is a key development to the entire Bermuda cat market, which is practically the global centre at this point in terms of cat business," he says.'[686]

The *National Underwriter* added the following to Bermuda's response to California's homeowner's crisis—

'As a result of that Friday night dinner, "Bermuda, whose reinsurers have committed almost US $700 million in capacity for the US $10.5 billion California Earthquake Authority, has the potential to become the centre of catastrophe reinsurance in the world if it chooses to move in that direction," (said) California Commissioner Charles Quackenbush (who) confirmed that all eight of Bermuda's property-catastrophe reinsurers had committed capacity to the CEA, noting Renaissance Reinsurance was the first reinsurer to quote a price when the initiative was first launched..."Once Bermuda had so much momentum behind it, Europe came on, and the London markets came on board rather quickly. The fact that Bermuda came on so quickly motivated the rest of the markets to come on board." A total of 13 Bermuda companies committed some US $690 million in capacity to the CEA, subject to the sign down. They are—

Partner Re—US $150 million;
Zurich Insurance Group, led by Centre Re—US $150 million;
CAT Ltd.—US $100 million;

[686] *Bermudian Business*, Winter 1997, 'Renaissance plays key role in CEA', by Kevin Stevenson, pp. 42–46

Mid Ocean Reinsurance—US $90 million;
Global Capital Reinsurance—US $45 million;
Renaissance Reinsurance—US $40 million;
ACE Ltd—US $25 million;
Tempest Reinsurance—US $25 million;
International Property Catastrophe (IPC Re)—US $20 million;
LaSalle Re—US $20 million;
Stockton Reinsurance—US $12.5 million;
Terra Nova (Bermuda) Insurance—US $7.5 million;
Scandinavian Reinsurance—US $5 million.

'Mr Quackenbush said he believed participants were motivated by more than the fact the CEA is "a good financial deal…I think what really motivated them is that this is the first time that the private sector has been asked to step up to the plate and solve a major problem…Normally the government just mandates a solution and come(s) up with an unworkable solution. Here, we said to the private sector, 'Design us a solution that we can implant.' I think that appealed to them, got their creative energies going, and they helped us put this together…" he said.'[687]

Providing assistance to the state of California so that its inhabitants could purchase homeowner's insurance is another example of how the Bermuda insurance marketplace leads the way in creating innovative solutions to global issues. Had Ren Re not stepped up to lead the programme, the rest of the global insurance industry may have been reluctant the state of California to resolve its earthquake problem. And that spoke volumes for the young cat market in Bermuda.

XL celebrates ten years in Bermuda

What had once been a small excess liability carrier, created to fill a void in the excess liability marketplace, celebrated its tenth anniversary in Bermuda a vastly different company from that which began operations in 1986. Speaking of the success of XL, which now boasted shareholder's equity of over US $2 billion, gross premiums written US $698 million, net income US $300 million and balance sheet assets of US $4.7 billion, President and CEO Brian O'Hara said, 'right time, right place, right products, right people.'[688]

Scandals and resolutions

Further documents came to light that caused the EMLICO affair to heat up again. An anonymous whistleblower made public some notes that allegedly indicated a questionable intent behind EMLICO's move to Bermuda. *The Royal Gazette* reported as follows—

'Bermuda's insurance regulatory environment may come under a microscope during a high stakes battle involving a local insurer that has filed for insolvency. A Massachusetts Appeals Court has this week allowed the state's insurance regulators access to documents sent from British law firm Clifford Chance to Electric Mutual Liability Insurance Company that may show that the Bermuda insurer domiciled here in June 1995 with the intent of being liquidated…Reinsurers in lawsuits both in Bermuda and in the US, are arguing that the move offshore was a plot to put EMLICO in a jurisdiction "where the laws would make it easier" to pass GE claims into its reinsurers… Reinsurers who have sued EMLICO claim that the company misrepresented its financial condition and its intent to liquidate once it got to Bermuda "where it could manage the default in its favour."

[687] *National Underwriter*, 4 November 1996, 'Bermuda writes US $700 million for California Quake Facility', by Kevin Stevenson

[688] *Bermudian Business*. Premier issue, Spring 1996, 'EXEL a textbook example of corporate success, XL's risk pays off', by Roger Crombie, pp. 30–32, 34 & 36

'The *Boston Globe* also reports EMLICO's position that reinsurers are simply trying to avoid paying what could be US $100 million in claims they owe. In papers filed by EMLICO this week, it said regulators in both jurisdictions were informed exactly of the company's position, and the move was in the best interests of the policyholders.

'On Monday, Massachusetts Insurance Commissioner, Linda Ruthardt, reopens the EMLICO case to investigate allegations that there had been deliberate misrepresentations. Bermuda officials have been asked to delay the EMLICO liquidation.'[689]

Bermuda Fire and Marine seeks a settlement

Defendants in the action brought by the liquidators of Bermuda Fire and Marine included, as well as BF&M itself, certain of its subsidiaries (although not all), also certain groups of BF&M shareholders (although not all), five former directors of Bermuda Fire and Marine (but not directors of BF&M Limited), Cooper & Lines, chartered accountants, and Conyers Dill & Pearman lawyers. Each of these individual defendants had individual representation. The shareholders could not have separate collective representation unless they combined themselves into some form of 'association'. Therefore, with the encouragement of Bermuda Fire and Marine, certain of the shareholders who were parties to the action formed an Association and appointed a managing committee and legal counsel, so that they could indeed be represented as an independent and separate but collective entity. The *Bermuda Sun* reported on the fate of the shareholders as follows—

'About 150 people have so far joined the BF&M Limited Shareholders Association—the organization set up to represent 1,001 common shareholders of BF&M who are being sued for the return of their shares by the liquidators of Bermuda Fire and Marine Ltd. Two staff at law firm Marshall & Co., which is representing the Association, are working full-time to take calls from shareholders and the number of BLSA members was growing daily, lawyer Tim Marshall said yesterday… Bermuda had never seen a case where so many people have been sued. "There are some parallels with the Lloyd's of London cases…The main function of the Association is to ensure the shareholders receive good advice," Mr Marshall said.'[690]

International Insurance companies invest in Bermuda's infrastructure

Bermuda received some welcome news from two large international insurance companies on the island when they announced they would invest in local real estate. The first news came from Renaissance Re. After earning in 1995 a record 43.3 per cent return on equity for its investors, as compared to an industry standard of between 15 to 25 per cent, RenRe had reason to want to establish a proper location for itself in Bermuda. It was there to stay. *Bermudian Business* reported on Ren Re's investment in Bermuda—

'…"It was a challenging project, but once we got Renaissance Re on board—and they wanted both Lane House and the Waterfront—we were able to do the project," says (Tony) Smith (Bermudian owner of Lane House). "The total revitalisation of the three buildings on the property commenced in February 1996, and in nine months we transformed it into a 20,000-square-foot facility of prime office space." Neil Currie, senior VP at RenRe, says the company had been looking at several new potential office buildings for some time, but with internal growth and the advent of Glencoe Insurance, "we needed something sooner rather than later, and a project we knew would actually pass Planning and be financed…Tony Smith and I had a meeting on another matter one day and, in passing, I asked how this project was going. By chance, a major potential tenant had just changed their mind…the timing was ideal, and we had a chance to influence the interior design of Lane House and the Waterfront. With a name like Renaissance

[689] *The Royal Gazette*, Business, 21 June 1996, 'Island's insurance regulations could face scrutiny', by David Fox, p. 33

[690] *Bermuda Sun*, c. 1998/99, 'BF&M shareholders join association' by David Marchant, 1996

it seemed fitting to have a 'rebirth' of Lane House, combined with the new building housing state of the art computer systems." Currie says the resulting development of both Lane House and the Waterfront are the result of Smith's "vision and persistence." He also brought together for the project Richard Klein of Hamma Galleries and Steve Lake of architects Barker Lindberg. "They made a good team—Richard with his truly gifted artistic creativity, and Steve for his functional design background," says Currie.'[691]

Centre Re was the next company to make a major real estate commitment to the island when it signed a 22-year lease on a new building to be built on the Hamilton waterfront. This was a major boost to the island because the waterfront to the west of Hamilton had been in a state of deterioration. *Bermudian Business* reported on the Centre Re alliance with Bermudian partners—

'Centre Re will sign a 22-year lease on a brand new headquarters being built as part of a US $60 million redevelopment scheme of Hamilton's' Pitts Bay waterfront. Developers broke ground late last year on the 4.08-acre venture, which teams Pearman Watlington & Co., subsidiary Waterloo Properties, Princess Hotels and Centre Reinsurance Holdings Ltd. With six floors and 120,000 square feet of office space, the new "Zurich Centre" will house the world headquarters of Zurich Insurance subsidiary Centre Re. The centre—slated to open in 1999—will also have a plaza and two levels of retail space.'[692]

Bermuda Foundation for Insurance Studies (BFIS)

Brian Hall, Chairman of Johnson & Higgins (Bermuda) Ltd., decided it was time to give something back to the community by launching the Bermuda Foundation for Insurance Studies (BFIS). This would offer scholarships and educational programmes to young people interested in embarking on a career in insurance. Hall recalled in a speech to the Lions' Club his reasons for starting BFIS—

'I have a strong ambition to help create an environment enabling our people to be well qualified to find a satisfying job in our Island Economy. Regarding BFIS, it became progressively clear in the '90s that the employment needs of the insurance industry were fast outpacing available resources here on the Island and by 1996 a conservative prediction was made that approximately 40 new jobs would be created by this industry every year. My sense is that the growth exceeds that today.

'Not enough Bermudians were training academically and professionally to meet this need, and it was essential that we assist in focusing the training and development of our young people to meaningfully participate in our industry. As a result of much discussion, in July 1996 the chief executives of some of the top insurance companies in Bermuda launched the Bermuda Foundation for Insurance Studies. The purpose of the Foundation is to develop, co-ordinate and generally oversee the availability, direction and funding of training and education facilities specializing in insurance-orientated academic and professional designations.

'The Foundation is active in developing and offering four separate programmes: The first is a scholarship programme for Bermudian students taking an Associate in Business Administration at the Bermuda College, with an Insurance major from the New York College of Insurance. A key part of the Bermuda scholarship programme is our Mentor Programme, which pairs off a student with a young professional already in the insurance industry.

'The second part of our responsibility is supporting and working with the Bermuda Insurance Institute to ensure that a broad range of professional development programmes are delivered to those seeking professional designations. These include the Bermuda Insurance Diploma, the Chartered Insurance Institute designation, the Chartered Property and Casualty Underwriters and Associates in Risk Management and Reinsurance.

'The third part is the partial funding and support we provide to the MBA (Risk Management) graduate study programme taught by the New York College of Insurance here at the Bermuda Insurance Institute.

[691] *Bermudian Business*, Winter 1997, 'Lane House reborn with RenRe commitment', by Kevin Stevenson, pp. 47 & 48
[692] op. cit., Winter 1997, 'Business Briefs, Bermuda companies put down roots', p. 84

'The fourth part of our programme is the Bermuda Scholars Programme where, in 1997, we hosted ten top overseas insurance students, nine from the US and one from the UK, for six weeks during the summer.'[693]

1996, another banner year

Despite a continued soft market globally, 1996 ended as a banner year for Bermuda incorporations. *The Royal Gazette* reported on Bermuda's success during 1996—

'Chairman of the insurance industry's marketing committee, Roger Gillett, said Bermuda... increased its share of the world's new insurance incorporations to its highest level since 1990. The Island...attracted 35 per cent of the 279 new insurers formed in captive insurance domiciles. During the 1996 calendar year, 97 new insurance companies were incorporated on the Island, second only to the record 1986 year, when 125 new companies were formed. As of December 31, there were 1,470 international insurers on the Bermuda register. Mr Gillett said, "Bermuda now has more than 40 per cent of the world's 3,543 captive insurance companies on its register, along with some of the leading commercial insurers and reinsurers in the industry." Mr Gillett said the marketing committee, which reports to the statutory government body, the Insurance Advisory Committee, was gearing up for increased competition from other insurance centres. The committee is using the Bermuda Insurance Symposium to unveil its new Internet site, Bermuda Insurance Market (BIM)...He (Gillett) said, "The worldwide insurance industry is constantly seeking information about the Bermuda market and one way that we could consider satisfying that demand is by putting on generic briefings for clients and potential client groups overseas. This is another way of reaching buyers and could be used in addition to our current efforts which focus on establishing a presence at various industry conferences"...'[694]

By the end of 1996, that number had increased to 1444 insurance companies and 232 insurance brokers/managers registered in Bermuda.[695] However John Jennings of the *National Underwriter* foresaw a possibility that Bermuda's emergence as a dominant player in the global insurance marketplace might be coming to an end—

'Over the last decade, Bermuda's emergence as a world insurance centre has long since eclipsed its reputation as the leading domicile for captive insurance companies. But with negative conditions now at work in most world insurance markets, there is some thought that Bermuda's attraction to future insurance investment may have peaked.

'Most of the Bermuda companies were born out of necessity: the Bermuda casualty insurers like Mid Ocean, Ace, and Exel, in response to severe withdrawal of liability capacity in the United States during the mid-1980s, and the recently formed property-catastrophe companies in reaction to a property insurance crisis resulting from a string of huge losses associated with natural disasters.

'As a result, the new Bermuda companies were able to command pricing schedules, policy terms and conditions, and selective underwriting strategies that were very favourable to them. For most companies, profits were good and returns on equity were as advertised, market sources agree.

'However, over time the casualty markets have softened considerably and the property markets, even catastrophe excess of loss sector, can be categorized as competitive, industry observers note. Are the good times over for Bermuda?'[696]

[693] Brian Hall, speech at RBYC to the Paget Lions Club, 4 February 1998

[694] *The Royal Gazette*, Special Supplement, 18 February 1997, 'Bermuda insurance sector keeps growing', by David Fox, p. 13

[695] *International Companies 1997 their Direct Impact on the Economy of Bermuda* by Brian Archer, Report of an independent study carried out by the Ministry of Finance, Government of Bermuda

[696] *National Underwriter*, 1 July 1996, 'Good Times not over for Bermuda, by John Jennings, pp. 3 & 18

While others predicted that Bermuda was to become a market leader in financial products in the next ten years Norman L. Rosenthal, director of Morgan Stanley & Co Inc. and Norman L. Rosenthal & Associates, was quoted by David Fox in *The Royal Gazette* as saying—

> 'In the next ten years there will be a flourishing insurance capital market with Bermuda underwriters playing a key role as originators, purchasers, traders and price validators of these innovative securities. It isn't surprising that the Bermuda Stock Exchange is working to develop a catastrophe index for trading Cat derivative securities.
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> 'I believe it is a credit to the creativeness and professionalism of this market that so many of its participants are taking an active role in the development of insurance securities rather than viewing these products as something to fear and oppose.
>
> 'The growth of this new capital market should further spur the expansion of Bermuda as an international financial centre, a trend that I believe will gain significant momentum during the next several years.'[697]

Socially the year had been a trying time. The political community mourned the death of Fredrick Wade, leader of the PLP, while the UBP was embarrassed by the controversy that swirled up around the proposal for a MacDonald's franchise, put forward by former Premier Sir John Swan. Public sentiment was aghast at the drowning of five year old Lynae Brown by her own father, while an island so rightfully proud of its reputation as a peaceful and law abiding place of welcome was outraged and appalled by the brutal rape and murder of a young Canadian visitor, Rebecca Middleton. *The Royal Gazette* commented that '1996 will go down as a year of turmoil and transition. Crime dominated many of the headlines and Government, fixated on fast food franchises, lurched ahead controversy by controversy.'[698]

[697] *The Royal Gazette*, 4 December 1996, 'Insurers set for more expansion', by David Fox

[698] op. cit., 31 December 1996, Year in Review, 'Bermuda saw it all in 1996 from McDonald's to brutal murders', by Neil Ward, p. 4