

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF BUSINESS REGULATION  
233 RICHMOND STREET  
PROVIDENCE, RHODE ISLAND 02903**

_____	:	
IN THE MATTER OF:	:	
	:	
AXIS SURPLUS INSURANCE COMPANY	:	DBR No. 06-1-0 116
	:	
RESPONDENT.	:	
_____	:	

CONSENT AGREEMENT

It is hereby agreed between the Department of Business Regulation (“Department”) and Axis Surplus Insurance Company (“Respondent”) as follows:

1. Respondent is a surplus lines insurance company that, prior to the date of this consent agreement, was not on the Department’s list of approved surplus lines insurers.
2. R.I.G.L. §§27-3-40 requires that licensed surplus lines brokers place surplus lines insurance only with those insurers who have been placed on the “... list of approved surplus lines insurers...” by the Department.
3. During calendar years 2003 through the date of this consent agreement Respondent issued surplus lines insurance policies to insureds, some of which policies covered risks located in Rhode Island.
4. It is the position of the Department that Respondent is required to be on the Department’s list of approved surplus lines insurers in order to issue insurance policies covering risks located in Rhode Island.

5. It is the position of Respondent that if the insured resides out of the state and the insurance policy was negotiated, entered and paid out of state, Respondent was not required to be on the Rhode Island approved list at the time the policy was issued.
6. The Department and Respondent have decided to resolve their differences without reaching the issue as to whether or not Respondent's conduct violated R.I.G.L. §27-3-40 prior to the date of this consent agreement.

WHEREFORE, based on the foregoing, Respondent and the Department have decided to resolve this matter without further administrative proceedings and hereby agree to the following resolution:

1. Based upon review of financial data provided by Respondent in its application for authorization to be an approved surplus lines carrier, the Department has determined that Respondent is in sufficient financial condition to be placed on the approved surplus lines insurer list. Respondent has, therefore, been placed on such list and agrees to pay all taxes pursuant to the laws of the State of Rhode Island on risks within the state.
2. Respondent agrees to pay to the Rhode Island Division of Taxation the sum of \$32,308.77 which represents the premium tax which would have been due either by brokers under R.I.G.L. § 27-3-38 or by the insured under R.I.G.L. §27-3-38.1 on Rhode Island locations for policies written between calendar years 2003 through September 30, 2006 plus 3% of the Rhode Island premium written in the fourth quarter of 2006. Respondent further agrees to pay this entire amount without seeking to offset any amounts that may have been paid as taxes either by brokers under R.I.G.L. § 27-3-38 or by the insured under R.I.G.L. § 27-3-38.1.

3. This settlement is based on the specific facts and unique equities of this matter, the fact that this insurance dispute was settled and any statements made relative thereto cannot be used as an estoppel, statement against interest, waiver, or admission with regards to either party in a future insurance matter. This settlement does not abrogate, amend or alter the rights of either party with regards to other disputed insurance regulatory or disputed insurance tax matters that are unrelated to the policies at issue in this matter and that may arise in the future. This settlement should not be relied upon by third parties nor presented to third parties as a precedent or a binding statement of DBR policy. In particular, this agreement does not affect the potential tax liability of any other person or entities, including but not limited to surplus line brokers or insureds, under R.I.G.L. § 27-3-38 and/or R.I.G.L. § 27-3-38.1.
4. No portion of the amount set forth in paragraph 2 above shall be considered an administrative fine or penalty.

Counsel for the Department and Respondent hereby consent and agree to the foregoing on behalf of their respective clients the 21<sup>st</sup> day of February, 2007.

Department of Business Regulation  
By it's Legal Counsel,

Respondent  
By its attorney,

Original Signature on File  
Elizabeth Kelleher Dwyer, Esq.

Original Signature on File  
Daniel H. Wright, Esq.  
Stephen M. Prignano, Esq.  
Edwards Angell Palmer & Dodge  
2800 Financial Plaza  
Providence, RI 02903  
(401) 274-9200

Assented to by the Division of Taxation;

By: David M. Sullivan, Tax Administrator,

By his Attorney,

Original Signature on File  
Marcia McGair Ippolitio, Esq.  
Chief of Legal Services  
Department of Administration  
Division of Legal Services  
One Capitol Hill  
Providence, RI 02908  
Tel.: (401) 222-8880

Dated: February 21, 2007