

# Investors beware of Lloyd's of London

## United Kingdom court on wrong side of street.

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Just a month ago, Richard A. Tropp, an investor who had been "taken to the cleaners" by Lloyd's of London, filed a petition on his behalf and others that were in the same predicament for a writ of certiorari with the Supreme Court of the United States, after having been denied redress by lower US courts and also having exhausted all legal venues in the United Kingdom.

In a petition for a writ of certiorari, an appellant asks a higher court to review the decision of a lower court if the lower court, for example, had not based its decision on all relevant facts or refused to take all facts under consideration. Should the higher court agree to accept the case, it permits the writ of certiorari to be heard.

Tropp contends in the petition that a decision was rendered under a foreign court system, in this case the United Kingdom, "which does not provide impartial tribunals or procedures compatible with the requirements of due process of law," and that the decision should be rescinded because "the cause of action on which the judgment is based is repugnant to the public policy of this state." On a side note, the petition is published on the Institutional Risk Analytics (IRA) website.

In summary, Richard Tropp's appeal to the United States Court of Appeals for the Second Circuit, demanding redress for gross injustice, was dismissed on grounds that he failed to make a valid case almost a year ago on July 19, 2010.

"Finding no merit in Tropp's remaining arguments, we hereby AFFIRM the district court's judgment," concluded the court in the last paragraph when rendering its decision.

Experts suggest that it would have been in Tropp's best interest to file for bankruptcy, given that he did not have the wherewithal to pay Lloyd's bill, which was also handed down by a UK court decision.



A branch of Lloyds Banking Group is pictured on Oxford street in central London.

But that is beside the point, as he continues to seek redress through legal venues.

This man, and the many others who lost the shirts off their backs, consider themselves a quarry who had been duped into becoming a member of the Lloyd's of London group. Lloyd's went into a frenetic membership drive in 1974, expecting significant losses from claims of exposure to asbestos in US buildings. Needless to say, Lloyd's didn't tell the world about this pending disaster.

All available documentation indicates that Lloyd's committed fraud knowingly by hauling in new members without advising of probable events that conceivably could be its death knell.

Trying to cover all bases, in 1986, Lloyd's required all members to sign

on the dotted line of an agreement indicating that they could not file a case against Lloyd's in a foreign court, as it was well aware that the UK courts would not hear a fraud case.

"The case of Tropp v. the Corporation of Lloyd's is troubling not only because it implies that thousands of investors in the Lloyd's insurance market have no contractual rights enforceable at law in the courts of England and Wales, but also because of what it says more broadly about the state of the law in Britain," according to the article "UK Country Risk: Is Lloyd's of London Too Big to Sue?" by the IRA team on the Advisor Perspective website.

#### CAUTIONING INVESTORS

"We see the true risk to Lloyd's as winning this US litigation. Then

every American investor and fiduciary will be on notice that they may have no effective legal protection for any investment made in the Corporation of Lloyd's," states the IRA article.

In 1993, Lloyd's became a self-regulatory agency, which is similar to that of a sovereign state. It developed a new business plan that addressed regulatory issues after members who had lost a great deal of wealth from claims they had to cover during the 1980s criticised Lloyd's lax environment, which had only minimal oversight.

The Tropp petition details the litigation processes in the UK when it comes to Lloyd's of London.

The UK court decreed that Lloyd's regulations were unassailable and pre-empt any existing English law, and has acted upon this assumption

since the early 1990s.

"The UK courts held that under a provision of the Lloyd's Act of 1982, Lloyd's was immune from all damages claims, absent proof that it had acted in bad faith amounting to fraud," accused the petition.

In effect, anyone unlucky enough to have invested in Lloyd's was legally responsible for claims occurring during their lifetime and up to 80 years.

The IRA article called it "a 1600s-style colonial-era vestigial 'debt' indenture".

Lloyd's literally, with the consent of the UK courts, pushed in a unilateral manner a number of new requirements that would mean bankruptcy to many down the throats of investors.

For example, the investors, also called "Names", had to pay a

reinsurance, the amount of which was determined by Lloyd's without due recourse, although investors could contest it if they could prove outright fraud.

Having been denied due process and any recourse against Lloyd's in UK courts, Tropp and others are turning to the US court, but so far have not made any headway. For litigation to be successful in the United States, the plaintiff must demonstrate that the UK courts are biased and unable to provide a fair and impartial process for an aggrieved Lloyd's investor.

The authors of the IRA article censure the UK legal system and state that the "Lloyd's litigation suggests that American courts need to question whether the judiciary in England and Wales is comprised of tribunals of competent jurisdiction".

Using strong language, the IRA team condemns the UK courts, arguing that "an investor in Lloyd's would be better off seeking redress in a kangaroo court sitting in, say, Caracas or Mogadishu than in a UK courtroom".

To bypass the UK legal quagmire, the authors of the IRA article recommend that the US Congress, Securities and Exchange Commission, and other relevant federal agencies address the Lloyd's issue.

#### POLITICS INTERFERE WITH DUE PROCESS

An Internet search uncovered a wealth of information about people who had lost all their wealth because of Lloyd's of London's machinations and the inability to find redress either in English or US courts.

The Lloyd's of London Litigation Database is a most comprehensive database and provides a wealth of information. Much information has been archived since the real issues are no longer actively addressed, with the latest issues centring on enforceability.

"The most startling conclusion ... is the politicisation. ... The failure of most Lloyd's investors to have their cases heard on the merits in the United States is an accident of history and politics. "Defendant-

friendly judges, judicial appointees of the Reagan-Bush era ... have made the federal courts more friendly to Lloyd's and other corporate interests: this is a political choice," according to an archived 2005 entry on the Litigation Database.

The archived commentary also concluded that "the failure of the 'System' to offer any remedy to more than 20,000 others [investors] is the inevitable result of the lobbyist spoils system of American and British politics today".

#### GETTING THE HANG OF THE LLOYD'S INSURANCE MARKET

"Lloyd's Corporation organises and regulates insurance underwriting in London. ... Lloyd's does not itself issue insurance," explains a section in the recent petition for a writ of certiorari, filed by Richard Tropp with the United States Supreme Court.

Lloyd's actually is a market place where corporations and individuals (called Names) pool and insure risks in one of Lloyd's 85 syndicates. The syndicate underwrites the cases, while the Names provide the funds in case of a claim.

Lloyd's institutes the standards, lobbies governments and regulators, sets capital requirements, monitors compliance to its standards, and manages the licences.

One or more syndicates are run by a managing agent for the members who provide the funds.

That agent "is responsible for overseeing the syndicate's underwriting, employing the underwriters and handling the day-to-day running of the syndicate's infrastructure and operations," according to Lloyd's 2010 annual report.

Until 1994, wealthy individuals called "Names" invested their wealth in the insurance policies underwritten by syndicates and had to agree to unlimited liability in case of losses. After dramatic losses, bankrupting many of the Names, Lloyd's advanced Names with limited liabilities. Names with unlimited liabilities have not been stopped, but no new such Names are allowed to enter.

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