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EXHIBIT "JS-4"

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# Conyers Dill & Pearman

4:25  
R

BY HAND

28<sup>th</sup> March 2014

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The Attorney General's Chambers  
Global House, 4<sup>th</sup> Floor  
43 Church Street  
Hamilton HM 12  
Bermuda  
Attn: The Hon. Mark J. Pettingill, JP, MP

Dear Attorney General,

**Re: Bentley Friendly Societies / Bentley Mutual Insurance Company**

We act on behalf of the Motor Insurers' Fund, established by agreement with the Minister of Transport and the insurers of Bermuda to provide an indemnity for victims of uninsured drivers.

Recent stories in the Royal Gazette concerning the existence of a Friendly Society which has been issuing policies of insurance is of great concern to our client.

As you are no doubt aware, Bentley Mutual Insurance Company appears to have been formed under the umbrella of the Bentley Friendly Society and is presently acting as an insurer of motor vehicles.

Firstly, under the Motor Car Insurance (Third Party Risks) Act 1943 it is the government who authorises a body to undertake insurance business in Bermuda. Any person who undertakes insurance business, except under that authority, commits an offence under the Motor Car Insurance (Third Party Risks) Act 1943 – section 2(4) refers.

The position taken by the Bermuda Monetary Authority is that, on the basis of section 57 of the Insurance Act 1978 which provides that "*insurance business carried on by a friendly society registered under the Friendly Societies Act 1868 ... being business in which risks of members of the Friendly Societies ... are insured ... shall be deemed not to be insurance business within the meaning of this Act*" they have no regulatory function.

When one looks at the Friendly Societies Act 1968, it sets out the objects that a society can have and it is clearly all those well-intentioned objects that one would expect i.e. relief and maintenance for members and their family in infancy, old age, sickness, infirmity of mind or body. The objects of a Friendly Society are very clearly specified in section 1 of the Act and there is no reference to acting as insurers. However, there is a proviso that the Friendly Societies may have additional objects for any other purpose which is certified to be legal by the Attorney General and which is allowed by the Registrar General as a purpose to which the powers and protection of the Act ought to be extended.

It is our view that there has to be a clear expression by either the Attorney General or Registrar General that the Friendly Societies is entitled to act as an insurer. On that basis, we would inquire of the Attorney General whether such permission has ever been given by his office and, on the presumption that it was not, whether such was ever given by the Registrar General.




The matter is most urgent as, without exaggeration, every person in Bermuda is at risk whilst insurance policies are being issued by this unregulated body.

We look forward to hearing from you at your convenience.

Warm personal regards,

Yours sincerely,  
**Conyers Dill & Pearman Limited**



Jeffrey Elkinson,  
Director

cc: Clients

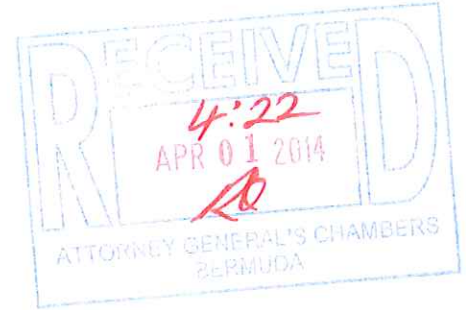


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# Conyers Dill & Pearman



BY HAND

1 April 2014

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The Minister of Transport  
 Global House  
 43 Church Street  
 Hamilton HM 12

Attn: The Hon. Shawn Crockwell

Dear Minister,

**Re: Motor Insurers' Fund**

We write as the attorneys for the Motor Insurers' Fund ("MIF") which operates through its directors under the Memorandum of Agreement entered into between you and the MIF.

We write in connection with the recent disclosure in the media that there is a friendly society, Bentley Friendly Society, incorporated under the Friendly Societies Act 1868, that has been issuing policies of motor insurance to its members.

The Bentley Friendly Society takes the view that they have been established under the Friendly Societies Act 1868 and that they are entitled to issue these policies of insurance.



Having discussed the matter with the legal representative of the Registrar General, it appears that in their application for incorporation they sought to amend the objects for which their friendly society could be established by including the word "motor car" in Section 1(b).

Section 1(b) states:-

*"(b) the making good any loss sustained by the members by fire, lightning, tempest or shipwreck, or by any contingency whereby they sustain any loss or damage of their live or dead stock, boats, goods, or stock-in-trade, or of the tools or implements of their trade or calling;"*

We understand that the word "motor vehicle" was inserted in the vicinity of "boats, goods".

The BMA takes the position that this is a matter that has nothing to do with them as under Section 57 of the Insurance Act 1978, insurance business carried on by a friendly society registered under the Friendly Societies Act 1968 is deemed not to be insurance business within the meaning of the Insurance Act 1978.

However, several issues arise which militate against any interpretation that would allow Bentley Friendly Society to operate as an insurance company for motor vehicles.

Firstly, in order to make any change to the objects for which the Friendly Society may be established, there has to be a certification that it is legal by the Attorney General – Section 1(d) of the Friendly Societies Act refers.

Secondly, on any interpretation of Section 1(b) of the Friendly Societies Act 1868, the mere insertion of the word "motor vehicle" does not make the indemnity provided by the mutual society to its member the same as having as its object "*an insurer*".

Thirdly, and more relevantly for your office, under the Motor Car Insurance (Third-Party Risks) Act 1943, it is only the Minister who may authorise insurers for the purposes of that Act.

Section 1 of the Motor Car Insurance (Third-Party Risks) Act 1943 ("the 1943 Act"), makes clear that an insurer under that Act means any insurance company or underwriter authorised by the Minister under Section 2 to undertake insurance business for the purposes of the 1943 Act. Section 2 requires that a person may apply to the Governor [Minister] for authority to undertake insurance business and what must be taken into account in order for the Governor to be satisfied that the applicant is a fit and proper person so that the applicant may be authorised to undertake the insurance business.

Under Section 2(4), any person who undertakes insurance business, except under the authority of the Governor, commits an offence under the 1943 Act punishable on indictment.

Section 3 of the 1943 Act establishes the mandatory nature of having motor car insurance in Bermuda and that it is unlawful for any person to use, or to cause or permit any other person to use, a motor car on the highway or on an estate road unless there is in force in relation to the use of the motor car a policy of insurance in respect of third party risks as complies with the requirements of the 1943 Act.

Section 4 of the 1943 Act is clear also in expressing that in order to comply with the requirements of the 1943 Act, a policy of insurance must be a policy which is issued by a person who is an insurer.

We attach for your information an extract from The Royal Gazette of 27 March 2014 which shows a motor vehicle licence for a vehicle BU360, being a black motor cycle, which has as its insurer Bentley Friendly Society. We understand from the directors of the MIF that there are other vehicles on the Bermuda roads which have also been purportedly insured by the Bentley Friendly Society.

The directors of the MIF are most concerned with this state of affairs. As the Minister will be aware, leaving aside the issue of the requirement to have third party motor insurance and the legal consequences for not doing so, the human cost can be tragic. Any individual who is injured by an uninsured driver can have recourse to the MIF but as the Minister will be aware, this indemnity only extends to \$375,000. There is no indemnity in respect of property damage by an uninsured driver and further, in those tragic instances of serious personal injury, \$375,000 is simply not enough and thereafter the victim of the uninsured driver is left with no recourse.

We attach the relevant materials for your review, but if the Minister should consider that there is force in our position, we would urge the Minister to consider revocation of any motor vehicle licences that have been issued to persons who claim to be insured by the Bentley Friendly Society.

We are taking the liberty of copying this letter to the Attorney General, so that he too may be appraised of our client's position.

Warm personal regards,

Yours sincerely,  
**Conyers Dill & Pearman Limited**



Jeffrey Elkinson,  
Director

Encl.

cc: Attorney General  
Clients



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# Conyers Dill & Pearman

By Email: [mjpettingill@gov.bm](mailto:mjpettingill@gov.bm)

2<sup>nd</sup> April, 2014

The Attorney General's Chambers  
Global House, 4<sup>th</sup> Floor  
43 Church Street  
Hamilton HM 12  
**Attn: The Hon. Mark J. Pettingill, JP, MP**

Dear Attorney General,

**Re: Bentley Friendly Society ("Bentley")**

We write further to previous correspondence to you and to Minister Crockwell.

The situation appears to be as follows. Bentley Friendly Society registered on the 4<sup>th</sup> September 2013 which registration was entered in the Register of Friendly Societies on the 30<sup>th</sup> October 2013 by Mr. Pennyman, the Registrar General.

In relation to the issue of Bentley having the power to issue policies of indemnity for motor cycles and motor cars as required under the Motor Car Insurance (Third Party Risks) Act 1943, the relevant power is stated to be as follows:-

*"For making good any loss sustained by members by fire, collision, tempest or shipwreck, or by any contingency whereby they sustain any loss or damage of their motor bikes, autos, real estate of boats."*

3:15  
APR 09 2014  
JEFFREY ELKINSON

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It would appear it is this object which Bentley relies upon as enabling them to discharge the requirements of the Motor Car Insurance (Third Party Risks) Act 1943 and to seek to say that they would not be governed by the Insurance Act 1978.

It is very clear from the object that the only insurance that they have sought to put in place is for loss or damage of their motor bikes, autos, real estate or boats.

Leaving aside the statutory requirements, this object in any event does not give Bentley the right to offer up insurance for motor bikes or motor cars in relation to third party liability.

We would urge the Minister of Transport to consider the position of the Transport Control Department when it has accepted purported Certificates of Insurance from Bentley which purport to provide third party indemnity. We would state that the legal position is clear - Bentley Friendly Society does not have the permission of the Minister to be a motor car insurer under the 1943 Act (section 2) and further their own objects do not even give them the ability to be insurers of third party liability.

We would be most grateful if the Attorney General could consider our legal views expressed in this letter and advise the Minister of Transport of the legal position.

Yours sincerely,  
Conyers Dill & Pearman Limited

  
Jeffrey Elkinson,  
Director

cc: Client