

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF THE REQUEST FOR)
INFORMATION FROM CERTAIN DOMESTIC) ORDER
INSURERS REGARDING CERTAIN)
COMPENSATION AND FEE ARRANGEMENTS)

This matter has been opened by the Commissioner of the Department of Banking and Insurance (“Commissioner”) pursuant to N.J.S.A. 17:1-8.1, 17:1-15e, 17:22A-26 et seq., 17:23-20 et seq., and 17:29B-5, and all of the powers expressed or implied therein; and

IT APPEARING that the Department of Banking and Insurance (“Department”) has become aware of allegations in other states of certain fraudulent, anti-competitive and otherwise unlawful practices that have resulted in harm to consumers in the placement and issuance of insurance coverage; and

IT FURTHER APPEARING that various statutes and rules impose responsibilities and standards of conduct on producers regarding compensation and other arrangements between producers and insurers in their dealings with clients and insureds; and

IT FURTHER APPEARING that, on October 22, 2004, the Commissioner issued Bulletin No. 04-20, which emphasized to producers and insurers their responsibility to comply with various statutes and rules in this area, including, but not limited to, N.J.S.A. 17:22A-26 et seq. and N.J.A.C. 11:17 through 17D; and

IT FURTHER APPEARING that, on November 1, 2004, the Commissioner issued Order No. A04-151, which required certain producers to provide specified information regarding compensation and fee arrangements; and

IT FURTHER APPEARING that the domestic insurers listed in Exhibit A, attached hereto and made a part hereof, are nationally significant insurers as determined by the National Association of Insurance Commissioners (“NAIC”) based on various factors, including premium volume and licensing in different states; and

IT FURTHER APPEARING that in order for the Department to determine the extent of such practices and ensure compliance with applicable law, the Department believes it is necessary to require the entities listed in Exhibit A to provide information and documents as set forth in Exhibit B, attached hereto and made a part hereof, related to compensation and fee arrangements as set forth in Exhibit B; and

IT FURTHER APPEARING that the issues raised by such practices are national in nature and, in order to avoid duplicative reporting by insurers to the various state insurance departments and regulators, resulting in unnecessary time and expense to both insurers and insurance regulators, the Department, as well as other state insurance regulators, have been working through the NAIC to help ensure uniformity in the data requested; and

IT FURTHER APPEARING that in order to allow for proper evaluation of this issue by all state insurance regulators, the Department may share the information obtained pursuant to this Order with other regulators on a confidential basis in accordance with N.J.A.C. 11:1-1.2.

THEREFORE, IT IS on this 28th day of December, 2004

ORDERED that:

1. The entities listed in Exhibit A shall provide information and documents regarding compensation and fee arrangements as set forth in Exhibit B, attached hereto and made a part hereof. The information and documents required shall be provided no later than 60 days from the date of this Order and shall be mailed to:

Lee Barry
Assistant Commissioner
Office of Consumer Protection Services
New Jersey Department of Banking and Insurance
20 West State St.
P.O. Box 329
Trenton, NJ 08625-0329
(609) 292-5316 x50160;

2. Entities listed in Exhibit A that, since January 1, 1998, have marketed insurance solely through appointed producers exclusively selling that insurer's products shall file a certification to that effect by the due date set forth herein, in lieu of the information otherwise required.

3. The entities listed in Exhibit A shall provide the name of a person(s) familiar with the information and documents provided pursuant to this Order, who shall be available for follow-up interviews with the Department; and

4. Failure to comply with the terms of this Order shall result in penalties as authorized by law.

Holly C. Bakke
Commissioner

Exhibit A

Camden Fire Insurance Association
One Beacon Street
Boston, MA 02108 3100

Clarendon American Insurance Company
7 Times Square
New York, NY 10036

Clarendon National Insurance Company
7 Times Square
New York, NY 10036

Commercial Insurance Company of Newark NJ
CNA Center
Chicago, IL 60685

Converium Insurance North America, Inc.
One Chase Manhattan Plaza
New York, NY 10005

Firemens Insurance Company of Newark NJ
CNA Center
Chicago, IL 60685

Harbor Specialty Insurance Company
7 Times Square
New York, NY 10036

International Fidelity Insurance Company
One Newark Center
Newark, NJ 07102

Jefferson Pilot Lifeamerica Insurance Company
100 North Greene Street
Greensboro, NC 27401

Mapfre Reinsurance Corporation
100 Campus Drive
Florham Park, NJ 07932

New Jersey Manufacturers Insurance Company
301 Sullivan Way
West Trenton, NJ 08628

North River Insurance Company
305 Madison Avenue
Morristown, NJ 07962

Princeton Insurance Company
746 Alexander Road
Princeton, NJ 08540

Pruco Life Insurance Company of NJ
213 Washington Street, 9th Floor
Newark, NJ 07102

Prudential Insurance Company of America
213 Washington Street, 9th Floor
Newark, NJ 07102

Redland Insurance Company
7 Times Square
New York, NY 10036

Selective Insurance Company of America
40 Wantage Avenue
Branchville, NJ 07890

Selective Way Insurance Company
40 Wantage Avenue
Branchville, NJ 07890

Exhibit B**INSTRUCTIONS**

If, since January 1, 1998, your company has marketed insurance solely through appointed producers exclusively selling your company's products, please forward a letter to the Department attesting to that fact by the due date in the Order. Otherwise, please provide written answers to the following questions as well as the requested documents by the due date. Please forward your written response, certified by a corporate officer as true and correct, and any requested documents, to:

Lee Barry
Assistant Commissioner
Office of Consumer Protection Services
New Jersey Department of Banking and Insurance
20 West State St.
P.O. Box 329
Trenton, NJ 08625-0329
(609) 292-5316 x50160;

The questions below are not limited to conduct or activities in this state, but are intended to include all jurisdictions in which your company does business. In the event your responses and/or documents produced differ depending on the jurisdiction, please so indicate and segregate your responses for the appropriate jurisdictions.

As used throughout this information request, the term “**Inappropriate Solicitation Activities**” shall mean any activity whereby an insurance producer:

- (a) seeks, requests or obtains any insurance quote, bid or illustration that is: (i) intentionally higher, changed or revised upward or otherwise intentionally less favorable to the client/consumer or prospective client/consumer, than those provided by other insurance companies; (ii) designed or intended not to be selected by a client/consumer or prospective client/consumer; (iii) designed or intended to present to the client/consumer or prospective client/consumer a false appearance of competition by insurance companies;
- (b) withholds or limits the receipt or presentation of insurance quotes, bids or illustrations sought on behalf of a client/consumer in a manner which is contrary to the interests of the client/consumer; or
- (c) engages in activity that otherwise may be known as or understood to be “bid-rigging” or inappropriate steering of business which is contrary to the interests of the client/consumer.

QUESTIONS

Please provide written responses to the following questions:

1. Provide a detailed explanation of the types of compensation arrangements between your company and producers, from January 1, 1998 to present, including, but not limited to, arrangements covering bonuses, commissions, “contingent commissions”, “placement service agreements”, “market service agreements,” profit sharing arrangements, and or any other form of compensation, whether contracted for, or not. For each such arrangement, explain what event(s) each component of the compensation was contingent on and whether the producer was acting under a company appointment or consumer agreements. For each type of arrangement, provide the amount of compensation paid by your company for each year since January 1, 1998.

2. For each of the compensation arrangements identified in No. 1 above, identify the producers to whom your company has paid compensation over the past twelve (12) months. (Note that in responding to all questions and/or document requests, the term “producer(s)” shall include all licensees regardless of whether they have acted under a company appointment, an agreement with a consumer or both).

3. Identify the relationship between your company and any related entities involved in the processing and payment of the compensation discussed in Question No. 1, including the relationship between the producer(s) with whom your company has submitted bids and the producer entity arranging and/or receiving such compensation.

4. Have you started an internal process of reviewing your company’s payment arrangements with producers?

5. What specific steps have you taken and what additional steps do you plan to take to investigate your company’s practices with respect to compensation or fees paid to producers, including, but not limited to, the payment of bonuses, commissions, “contingent commissions”, “placement service agreements”, “market service agreements,” and/or profit sharing arrangements? If your company has hired any outside investigators, auditors, legal counsel or other consultants in connection with such an investigation, please identify the vendor and describe the scope of the assignment.

6. What specific steps have you taken and what additional steps do you plan to take to investigate whether any of your employees directly or indirectly participated in **Inappropriate Solicitation Practices** by a producer? If your company has hired any outside investigators, auditors, legal counsel or other consultants in connection with such an investigation, please identify the vendor and describe the scope of the assignment.

7. Have you or any of your employees received any subpoenas, written requests for information or other inquiries from any governmental entity or litigant seeking information related to producer compensation arrangements within the last two years? Please specify the particulars of all such requests.

8. Is your company or are any of your employees a party in any civil, or the subject of any other regulatory action or inquiry, alleging use of or involvement with improper producer compensation arrangements or **Inappropriate Solicitation Practices**? If so, please identify the case caption, jurisdiction and status for all such litigation and/or other regulatory action or inquiry.

9. Are you or any of your employees the subject of an investigation or under any indictment that may allege or be related to issues involving improper broker compensation arrangements or **Inappropriate Solicitation Practices**?

10. Has your company at any time been asked by a producer to provide a bid, quote or illustration under circumstances that may be characterized as **Inappropriate Solicitation Practices**. If so, please provide details of all such requests.

11. Has your company at any time been asked by a producer to provide a bid, quote, or illustration at a specific price or within a specific range? If so, please provide details of all such requests.

12. Is your company aware of any specific transactions in which a producer has engaged in activity that might be characterized as **Inappropriate Solicitation Practices**? If so, please provide details of all such transactions.

13. Is your company aware of any transactions in which a producer has demanded that your company purchase reinsurance or any other insurance product through that producer as a condition for placing coverage with your company?

14. How do your representatives determine whether a bid, quote or illustration provided to a producer was ever presented to a potential insured entity?

15. Have you reviewed your internal controls relating to your underwriting and new business processes to determine whether **Inappropriate Solicitation Practices** would have been detected? If not, why? If so, please provide the results of your review.

16. Have you reviewed your policies on ethics and conflicts of interest to determine if they are adequate in light of the current allegations in New York concerning **Inappropriate Solicitation Practices**? If not, why? If so, please provide the results of your review.

17. What is your company's record retention policy with respect to bids, quotes, and/or illustrations, and any related correspondence, that were provided to or received from producers?

Please be advised, the Department may conduct more targeted enforcement initiatives regarding these issues.

CERTIFICATION

I hereby certify that I have reviewed the attached documents and information submitted, that they are true and accurate copies of original documents, and I have obtained information from all necessary personnel as required to confirm the accuracy of the information filed for and on behalf of _____; and

(Name of Company)

that I am the _____ of such company and that I am
(Title)

authorized to execute and file such certification. I also certify that I relied on the individuals named below who participated in the information gathering, review and submission process (LIST NAME, TITLE and PHONE NUMBER for each individual listed). I further certify that I am familiar with the information filed and the contents thereof, and that the documents and information submitted are true to the best of my knowledge, information and belief.

(Signature) _____

(Type or print name beneath) _____

(Business Address) _____

(Phone number) _____

The following persons participated in the process of gathering, reviewing and/or submitting the attached information:

(attach additional page(s), if necessary)