

November 17, 2009

All Saskatchewan licensed insurers

Dear Sir/Madam:

Re: Activities pursuant to *The Saskatchewan Insurance Act* (the “Act”)

It appears that some insurers may be marketing insurance and administering insurance contracts in Saskatchewan with the assistance of unlicensed third party entities. This activity contravenes provisions of the Act and we, therefore, request that non-compliant insurers remedy this situation as soon as possible. (For your reference we have attached the analysis that formed our conclusion.)

To ensure compliance with the Act when using third parties, insurers are advised to contract with insurance agents who are licensed in Saskatchewan pursuant to the Act.

Please be advised that the Superintendent of Insurance intends to follow up in situations where it becomes aware that an insurer is marketing and administering insurance in this manner.

We also understand that some insurers may be taking the position that they will wait for a proposed restricted agent licensing regime to come into effect in Saskatchewan before requiring licensing from third parties that are marketing insurance or administering insurance contracts on their behalf. This position is not tenable, as the restricted licensing regime does not contemplate licensing for third parties marketing insurance or administering insurance contracts directly on behalf of an insurer.

The general principle behind the restricted licensing regime is to allow restricted licensing for entities selling insurance that is incidental to the sale of another primary product. Examples of this type of activity include equipment dealers or car dealers selling warranty insurance respecting the vehicles that are their primary sales product; or, mortgage brokers marketing creditor insurance in conjunction with mortgage financing products.

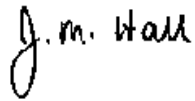
On the basis of this principle, only those entities that market insurance that is incidental to a primary product would be eligible for the proposed restricted licensing regime.

However, please note that the only way to comply with the Act today is to ensure that all individuals marketing insurance are licensed as an insurance agent, as this restricted licensing regime is only in the proposal stages and is not in effect today.

For more information on the licensing requirements of insurance agents in Saskatchewan, please contact:

Insurance Councils of Saskatchewan
310 - 2631 - 28th Avenue
Regina SK S4S 6X3
Phone: (306) 347-0862
Fax: (306) 569-3018

Sincerely,

A handwritten signature in black ink that reads "J. M. Hall". The signature is written in a cursive style with a large, looped initial "J".

J. M. Hall
Superintendent of Insurance

Cc: John Waugh, Director of Compliance
Insurance Councils of Saskatchewan

Analysis determining Non-Compliance

Section 418 of the Act prohibits insurers from authorizing, permitting or appointing an unlicensed person from doing things in respect of which a licence is required, as follows:

No insurer or agent shall appoint, permit or authorize any person to do any of the things in respect of which a licence is required unless the person is the holder of a subsisting licence.

Section 416 of the Act prohibits a person from acting as an insurance agent without a licence, as follows:

No person shall act as an insurance agent unless he is the holder of a subsisting licence under this Act as an agent or as a salesman of a licensed agent.

Clause 2(1)(d) of the Act defines an insurance agent as follows:

“agent” or **“insurance agent”** means a person who:

- (i) solicits, negotiates or effects for or on behalf of any insurer a contract of insurance;
- (ii) for compensation, acts in the solicitation or negotiation of insurance;
- (iii) transmits, for compensation, for a person other than himself, an application for or a policy of insurance to or from an insurer; or
- (iv) retains as compensation any portion of a premium received by him;

Based on our understanding of insurance marketing activities and insurance contract administration activities taking place in this province, we have concluded that unlicensed third party entities are carrying on business as insurance agents, within the definition of agent set out in subsection 2(1)(d), above.

It is our view that an insurer that uses an unlicensed third party entity comes within the prohibition against “permitting, authorizing or appointing a person to do things in respect of which a licence is required” and is, therefore, in contravention of section 418.