

August 1, 1977

SUBJECT: INSURANCE

CIRCULAR LETTER NO. 9

August 1, 1977

TO: ALL LIFE INSURANCE COMPANIES

SUBJECT: GROUP CREDIT LIFE AND ACCIDENT AND HEALTH INSURANCE COMMISSIONS PAID TO AGENTS

This Department has reviewed the practice of various insurers writing policies of group credit life and group credit accident and health insurance in connection with loans and/or purchases on a financed basis and paying commissions thereon to policyholders or employees, stockholders, officers, directors, subsidiaries and affiliates of such policyholders, who are licensed as insurance agents of such insurers.

The Department has determined that the above practice constitutes a violation of Section 209 and/or Section 114 of the Insurance Law, with certain exceptions as described hereinafter.

Sections 209 (1) and 209 (2) of the Insurance Law provides, inter alia, that no insurance company or agent thereof shall pay, allow or give, directly or indirectly, as an inducement to any person to insure, or shall give, sell or purchase, or offer to give, sell or purchase, as such inducement, or in connection with any policy of life insurance and/or accident or health insurance, any valuable consideration or inducement whatever not specified in the insurance contract or policy. It further provides that no person in this state shall knowingly receive as such inducement, any rebate of premium or any special favor or knowingly receive any paid employment or contract for services of any kind, or any valuable consideration or inducement whatever which is not specified in such policy or contract.

A group policyholder, although licensed as an insurance agent, may not be properly paid commissions on the business in question since, within the meaning and intent of Section 209, said policyholder/agent would be receiving commissions on its own risks.

The Department has also ruled that an employee, officer or director of the group policyholder may not properly collect commissions on the business in question in view of the provisions of Section 209 (1).

Section 114 (4) provides, inter alia, that the Superintendent of Insurance may refuse to issue, or suspend or revoke a license, as the case may be, to or of any applicant for an insurance agent's license, if he finds that more than ten percent of the aggregate set commissions received during the twelve month period immediately preceeding, if any, or to be received during the coming twelve months, by the applicant, resulted or will result from insurance on the property and risks of certain specified persons, including the spouse of an individual applicant, and of any corporation of which such individual or his or her spouse or both own more than fifty percent of the stock, and of affiliated or subsidiary corporations of such corporation. Therefore, if the group policyholder's relationship with the insurance agent [ILLEGIBLE WORDS] within the purview of Section 114 (4), commissions on the business in question may not aggregate more than 10% of said agent's total aggregate not commissions.

The foregoing is effective immediately and any future violations will result in appropriate disciplinary action by the Department.

Please advise all agents of the foregoing and acknowledge receipt of this circular letter to Ms. Irene Alpart, State Insurance Department, Life Bureau, Number Two World Trade Center, New York, New York 10047.

[SIGNATURE]

JOHN F. LENNON

Acting Superintendent of Insurance