COMMENTS SUBMITTED BY JACK CHASEKY OF THE NEW YORK STATE INSURANE DEPARTMENT

Business entities have contracts with insurance companies to sell solicit and negotiate. Business entities have bank accounts and assets that contain premium, return premium and sometimes claims. Therefore they should be licensed.

On a public safety note: Without entity licensing, there is no effective way to keep individuals who would otherwise be barred from entering the business of insurance. A revoked producer could continue to own and operate an insurance agency and merely hire or contract with licensed producers.

One of the reasons this state has maintained entity licensing. We had a individual-not licensed-- who owned a large agency and the agency had actually entered into a MGA contract and misappropriated premiums. Because the Entity had a designated responsible officer we were able to control the owner in a way that prevented him from directing and controlling the operations of the agency. Short of that we would have removed the DRO inactivating the entity. The individual owner needed to find another front person or remain on the sidelines. If we had no registration requirement this individual could have continued.

We have many experiences where consumers have complained about an entity only to find out it is not licensed. We then try to find the person who actually had the dealings with the consumer complainant. We have instances where there is no match up and the insured has effectively been swindled. Entity licensing minimizes such situations.

In addition to standards of trustworthiness the law provides for a standard of competency. The matching of the LOA of an entity to an underlying designated responsible officer that has the same LOA provides for that standard. Since not all affiliated sales people are separately designated and required to affiliate with that entity, it is not an onerous burden to demonstrate that at least one person has qualified on competency for the LOA that the entity or the insurance company products it advertises and solicits and sells. Many of the insurers that producers represent have products in each of the LOA's for which an individual must be qualified. And that is no different for the entity.

I would like to quote from my fellow regulators in West Virginia in response to a previous inquiry on this topic.

The insurance industry is a traditionally highly regulated industry. This is because there are large sums of money and serious harm to consumers at stake. The licensing of entities provide one level of screening of entry into the industry and helps filter out less than desirable persons desiring to profit from the monies available.

We can't look at the world through rose colored glasses. We have to look at the reality that the insurance profession is a target for fraudulent actors and schemes. We need to maintain a level of entry screening that helps alleviate this. This is not to say everyone in the insurance industry is fraudulent or a schemer. The current producers benefit from the licensing and regulation by the states. The public at large trusts the industry and the regulation. One must not lose sight of the long term effect of the removal of these protections.

If these protections are removed and more fraudulent or incompetent persons enter the insurance profession, this may result in general loss of confidence in the insurance delivery system by the general public. This will hurt all producers. Although, the licensing and registration are an inconvenience to producers, the benefits from a stable and trusted system far outweigh this inconvenience.

Producers may assign payments of commissions to licensed insurance agencies. Insurers may only pay commissions to licensed producers or licensed agencies. This provides that only regulated entities may engage in the business of insurance.