

SPITZER FALLOUT

Producer Comp Rules Dead On Arrival?

Agents unlikely to face any legal bans on contingency fees, regulator says

BY MATT BRADY AND ARTHUR D. POSTAL
WASHINGTON

FURTHER RULE CHANGES on agent and broker compensation, including an end to contingency commissions, appear unlikely, a key regulator and insurance industry leaders agreed here.

In remarks echoed by insurance representatives, North Dakota Insurance Commissioner Jim Poolman said last week he did not believe the movement to extend changes in producer compensation rules "has shelf life," adding later that "the issue will fade away."

William Anderson, vice president and associate general counsel of the National Association of Insurance and Financial Advisers, made the same assessment. Their comments came during a panel discussion here at the annual conference of the American Council of Life Insurers.

While the issues addressed by the panel dealt with the life and health industry, the discussion about producer compensation was also relevant to the property-casualty side of the business because Mr. Poolman chairs the Producer Licensing Working Group of the National Association of Insurance Commissioners.

Mr. Poolman noted that he did not support recent changes in compensation disclosure regulations in the Producer Licensing Model Act approved by NAIC. One reason he didn't support the amendments, he said, was that some carriers and producer trade groups had agreed that agents and brokers should voluntarily disclose details of their compensation.

He also said he did not support the changes because commercial insurance bid-rigging by major brokers uncovered by New York Attorney General Eliot Spitzer is already illegal.

Mr. Poolman, a Republican, also appeared to suggest that Mr. Spitzer's activities were politically motivated. "AG also stands for aspiring governor," he said—a



Calls to limit producer compensation will likely "fade away," said North Dakota Insurance Commissioner Jim Poolman.

reference to the fact that Mr. Spitzer is a Democratic gubernatorial candidate.

Comments from members of the panel indicated a belief that Mr. Spitzer's investigations, in which he has been joined by state officials in California and Connecticut, would not bring

about major changes in compensation practices for average agents. (Mr. Spitzer did reach legal agreements calling for changes in disclosure and other practices by large brokers. His legal actions prompted megabrokers Marsh, Aon and the Willis Group to eliminate contingent commissions.)

"The issue is fading away into the sunset," said one of the panel members.

J. Bruce Ferguson, senior vice president of state relations at the ACLI, conceded that changes to the NAIC model act were a result of the Spitzer investigation, and were "designed to bring transparency to the broker compensation process." However, he added that "some of the dire predictions" associated with the Spitzer probe, including claims of "widespread corruption" by insurance producers, "have not come true."

Legal action prohibiting contingency commissions altogether could do more harm than good, suggested Mr. Poolman. He said that in his state, "if you start banning contingency commissions, some of the smaller rural agencies will go out of business, and the existing producer distribution system will dry up." ■

MARKET BAROMETER

Hurricane Losses Put Damper On Soft Market

WHILE MASSIVE HURRICANE claims have not yet had a major effect on insurance pricing, property-casualty rate cuts on average slowed down to 5 percent last month, compared to 6 percent in August, according to a survey by MarketScout.com

"Hurricanes Katrina and Rita did not dramatically impact the p-c market in September. However, we do expect a significant impact on coastal property and offshore energy rates from October 2005 forward," said Richard Kerr, CEO of the Dallas-based online insurance exchange.

"In fact, we project an increase of 50 percent on offshore energy accounts with operations in the Gulf of

Mexico, and 20 percent on U.S. coastal property located within 25 miles of the Gulf of Mexico or Atlantic Ocean," he said.

These hikes, he added, "will impact the total p-c composite rate. However, those offshore energy and coastal property classes account for a relatively small percentage of the total market. Thus, the overall rate change will be somewhat mitigated because we do not expect the hurricanes to significantly impact the rating structure of non-coastal properties or other classes of business. We expect no impact to liability rates." ■

