

Bank-agency scrambles in Mass. auto

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by Pat Healy
Insurance Times

BOSTON — It seems insurance agents are laughing all the way to the bank, or rather at the bank.

At a recent meeting of the Governing Committee of Commonwealth Automobile Reinsurers (CAR), a small bank's insurance company argued for the right to be appointed as an Exclusive Representative Producer (ERP), as the company that has been its voluntary carrier, Casco Indemnity, leaves the state in 2004.

TSB Thibodeau Insurance Agency is a subsidiary of The Savings Bank, which has offices in Wakefield, Lynnfield and Andover. Thibodeau has approached at least nine different voluntary carriers to take Casco's place, but has been formally rejected by six of those carriers, and rejected informally by the other three, said David Bakst, an attorney for Thibodeau from the law firm Morrison, Mahoney & Miller.

Thibodeau also has a beef with CAR, and believes it is CAR's responsibility to appoint a servicing carrier for Thibodeau before Nov. 15.

"The Thibodeau application was in order and all of the necessary documentation had been filed," said Bakst of the previous meeting of CAR's ad hoc Legal Committee. "It would appear from that, the only reason for CAR not assigning a servicing carrier would be the fact that the Thibodeau Agency is owned by a bank."

Nov. 15 is the target date because as Casco gears up for departure it will send out notices of non-renewal 45 days before the expiration of its policies. Bakst reasoned that if the agent notifies the carrier that he or she has made arrangements to replace the insurance coverage with another carrier, Casco would be permitted to send the non-renewal notice to the agent rather than the insured, which would prevent a lot of panicked customers from seeking other coverage.

Frank Mancini, executive vice president of the Massachusetts Association of Insurance Agents, said Thibodeau really has until Dec. 1, in that non-renewal notices are only sent to agents 45 days before expiration, and sent to insureds 30 days prior.

Bakst said were Thibodeau not affiliated with a bank it would be more likely that the ERP appointment would be made, but he argued that The Savings Bank is a small operation.

Mancini countered that the implications of CAR being required to appoint a servicing carrier could be catastrophic to the industry.

"What we're dealing with here is a small insurance agency and a small bank, but if there is a precedent set here, then that would apply to any bank that may lose a voluntary market coming to the Governing Committee looking for another carrier, and that bank could have hundreds and hundreds of branches," he said.

Bakst said that this was not the issue at hand.

"While there might be in the minds of some of the committee members a feeling that they don't want a bank-owned insurance agency to have a servicing carrier, that it's a bad idea for the industry or the residual market, which perhaps it is, that's not the issue," he said.

"We don't want to be an adversary," he said. "Frankly I can't imagine for the life of me, what counsel is going to come up with that could possibly justify not appointing a servicing carrier, but I don't have an objection to waiting to see what is said, the problem is we can't wait until Nov. 15."

Ed Donahue, an attorney with Boston law firm Ferriter Scobbo & Rodophele, who represents Casco, explained his view of the situation.

"It's our position that it's not Casco's problem," he said.

The Governing Committee didn't appear to think it was its problem either, as it refused to decide on the matter and decided to wait until recommendation from CAR's ad hoc Legal Committee.

Donahue said the tensions between banks and the insurance industry is high enough to ensure that this issue will not go away.

"It's not going to be over no matter what CAR decides," said Donahue. "There's an administrative remedy that will be sought no matter what happens." □