

INSURANCE: A corporation may not be a licensed insurance
INSURANCE AGENTS: agent. Therefore, an insurance company cannot
CORPORATIONS: pay agent's commission to a corporate insurance
LICENSES: agency.

OPINION NO. 145

September 15, 1966

Honorable Robert D. Scharz
Superintendent
Division of Insurance
Jefferson Building
Jefferson City, Missouri



Dear Mr. Scharz:

Reference is made to your letter requesting a formal opinion of this office as follows:

"We hereby request your formal opinion interpreting Section 375.014 (2) RSMo. 1959 as amended, which was a portion of Senate Bill 94, as to whether an insurance company can legally pay commissions to an 'insurance agency' for whom the agent selling the insurance was working rather than paying the commission directly to the selling agent.

"This question arises due to the fact that this Division does not have any jurisdiction over 'insurance agencies' as such. Agencies are not licensed by this Division. Some agencies are individually owned businesses, some are partnerships, some are corporations. Agents working with these agencies may be on a commission basis or may be on a salary or both. Actually in this situation the agents are employees of the agency."

The licensing of insurance agents is provided for by Sections 375.012 through 375.028, RSMo Cum. Supp. 1965. These statutory provisions refer to the licensing of "persons" repeatedly and at no time is there any reference in the statutes to the licensing of corporations to act as insurance agents.

Section 375.018 sets forth the specific requirements for the licensing of an insurance agent. These requirements include a written application by the prospective licensee which includes personal data such as date of birth, sex, criminal convictions for crimes involving moral turpitude, etc. It is provided that the company for whom the

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licensee will act as an agent shall file a certificate stating that the company has satisfied itself that the applicant is trustworthy and competent to act as an insurance agent. It is further provided that an applicant shall be required to take and pass to the satisfaction of the Superintendent a written examination to determine the competency of the applicant to act as an insurance agent. All of these statutory provisions are personal and can have no application to the licensing of a corporation to act as an insurance agent.

If the Legislature intended for corporations to act in a licensed capacity, specific provisions for the licensing of such corporations can be made. For example, the statutes provide that a corporation may be licensed as a real estate broker. The Missouri Real Estate Commission requires an applicant for a real estate broker's license to take and pass a written examination designed to determine the applicant's competency to act as a licensed real estate broker. Section 339.030, RSMo 1959, provides that a corporation may be granted a real estate broker's license when individual licenses have been issued to the officers of such corporation and to every person who acts as a salesman for such corporation.

In the absence of statutory provisions for the licensing of corporations as insurance agents this office concludes that a corporation may not be licensed as an insurance agent.

Section 375.014 (2) provides in part as follows:

"2. No insurance company doing business in this state shall pay any commission or other compensation to any person for any services, as agent, in obtaining in this state any contract of insurance except to a licensed agent of the company; * * * "

It has been concluded above that corporations may not be licensed insurance agents. Therefore, an insurance company may not pay any commission or compensation to a corporate insurance agency for services as an agent. The commission or compensation must be paid to a licensed agent.

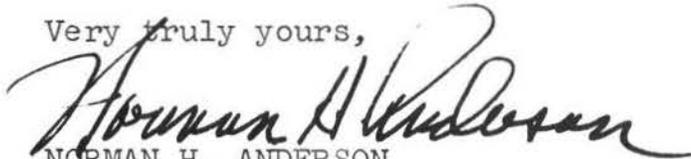
CONCLUSION

A corporation may not be licensed as an insurance agent by the Superintendent of Insurance. An insurance company may not pay any commission or compensation to a corporate insurance agency for services as an insurance agent.

Honorable Robert D. Scharz

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Thomas J. Downey.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Norman H. Anderson". The signature is written in black ink and is positioned above the printed name.

NORMAN H. ANDERSON
Attorney General