

THE SURPLUS LINE ASSOCIATION
OF CALIFORNIA

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BULLETIN TO ALL MEMBERS:

Re: Issuance in California of Policies of Non-Admitted Insurers Under "Managing General Agency" Agreements or their Equivalent

Recently the Commissioner's office expressed "grave concerns" to the Association over the apparent practice of some surplus line brokers, acting under contract authority with non-admitted insurers that are the equivalent of "managing general agency" agreements, of actually executing and issuing in California policies of insurance in the names of such non-admitted insurers, thereby effectuating in California complete contracts of insurance on their behalf.

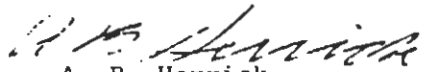
In a written communication to the Association, the Commissioner's office points out (1) that Section 700 of the California Insurance Code provides that a person shall not transact any class of insurance in this state without being admitted as an insurer for such class, and (2) that the transaction of insurance in California is defined to include, among other things, the execution of a contract of insurance. The same written communication concludes with an expression of "grave concerns" over indications that "licensed brokers are acting in the capacity of managing general agents for non-admitted insurers, underwriting risks, issuing policies, settling claims, and related activities in this State, all under the aura of the surplus line license."

There have been some discussions with the Commissioner and his staff concerning the points raised but they are inconclusive to date. There is no indication of a relaxation by the Commissioner's office of its hereinabove-quoted views under the surplus line law as it presently exists and absent any legislative clarification thereof. We understand that some members presently engaging in the type of activities about which concerns are now expressed may have been subjects of investigation or examination touching upon their relationships with non-admitted insurers. It would be inappropriate, premature and entirely speculative at this time to attempt to predict the ultimate disposition by the Department of any such investigation or examination of particular members and their subjective activities.

How widespread among members and of what duration are the practices questioned by the Commissioner's office is not known to the Association. Nevertheless, the Association believes it to be to the best interests of its members that they be

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discreetly informed by means of this Bulletin of the position stated by the Commissioner's office so that they may consider whatever changes (if any) in their practices they may deem appropriate under all the circumstances and after consultation with their own legal counsel.


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