

BANKING AND INSURANCE BOARD OF DIRECTORS
MINUTES OF THE MEETING
August 18, 2016, Thursday, 2:00 P.M.
Director's Conference Room, Department of Revenue and Taxation
1240 Army Drive, Barrigada, Guam 96913

Attendance:

Present:

Artemio B. Ilagan, Chairman, and Insurance and Banking Commissioner

Edefrida A. Ada

Catherine Kakigi

David Silva III

Mark O. Fish

Danilo Rapadas

William West Cassidy

Also Present:

Alice P. Sebastian-Cruz, Regulatory Examiner Supervisor

Nemencio David E. Briones, Regulatory Examiner II

Call to Order:

Chairman Ilagan inquired if the publication requirements for the Board Meeting have been met. Nemencio D.E. Briones confirmed that the publication requirements were met. Chairman Ilagan acknowledged the presence of the six board members and called the Banking and Insurance Board Meeting to order at 2:10P.M.

Approval of Minutes:

The minutes of the prior board meeting held on January 14, 2016, was presented and opened for review and discussion. A motion to approve the minutes was made by Mr. Dave Silva and seconded by Ms. Del Ada. The minutes were unanimously approved.

Old Business

1. Resending of the letter to Attorney General asking for the opinion on funds deposit with eligible banks for GovGuam Agencies. The request was resent 2 times – one was February 5, 2016 and the latest was June 1, 2016 and they have not responded to that and it still pending. Chairman Ilagan stated that he and Ms. Alice Cruz will meet with them again and ask them personally.

New Business

1. Request for AG's opinion on the renewal of insurance license after the deadline of June 30th each year.

Chairman Ilagan explained that we got the opinion on that, if you are passed June 30th you are late you start all over again. That is the requirement to be an insurance sub-agent and general agent. Mr. Ilagan stated that you cannot come into our office January the following year to renew your license because you going to

get your commission and you need your license. Mr. Silva asked, if the sub-agent applicant is going to take the test again? Mr. Ilagan answered yes. Mr. Ilagan stated if you are an insurance company and you have general agent or sub-agent under that company and that person is not legally license the insurance company is liable for \$5,000. Mr. David Silva asked if the penalty is \$5,000 per incident. Mr. Ilagan and Ms. Cruz affirmed yes.

Mr. Cassidy asked if it doesn't have an effect in insurance transaction or if does not invalidate the policy. Ms. Cruz answered, it does not; however, if you are not licensed you should not be doing insurance transaction. Mr. Cassidy stated because of far reaching facts when you invalidating the transaction something like employee compensation or statutory auto liability, the insured is really the victim instead of the agent that sold the policy. Mr. Ilagan explained that what we would look at it is not the insured at fault, but the licensee because we are trying to penalize them, not unless there is something wrong with the policy. Mr. Rapadas stated that because the contract is not with the agent but with the carrier, it should be the carrier who should be penalized. Mr. Ilagan reiterated that the fine is with the carrier for allowing their agent to transact without the license.

Mr. David Silva mentioned that there is feeling in the market that agency license satisfies the agent's license, meaning the company has an agency license therefore, anyone that work for the company is licensed. Ms. Cruz replied that it is not true. Mr. Ilagan explained that the reason why we are doing this is because people that selling the insurance themselves need to know what they are doing, if they are not license by us they didn't pass the requirements to be an insurance agent.

Mr. Cassidy inquired if it is just the general policy to understand the insurance is still enforced even though it was place by non-compliant agent. Mr. Ilagan answered that we are going to look at it case by case basis because if the policy itself is flawed, then that one we will look at if it is not right. What we looking at are to penalize the carriers selling insurance without qualified agent. Mr. Cassidy also asked if the Carrier has a valid COA and its agent is not in compliance, what would be the ramifications. Ms. Cruz explained it has an effect on their COA they supposed to see their downline that they are licensed. Mr. Ilagan stated that we are not looking at that we are looking at fining the Carrier.

Mr. Silva gave an example, if Joe Cruz shows up in the office November 1st for whatever reason his license expired on the 30th of June and he shows up in November 1st will the license be retro in June 30th or the license will starts on November 1st. Mr. Ilagan replied that he got to take the test again. Mr. Cassidy asked is that mean the carrier is not in compliance. He also stated, let say carrier has more than one agent is the carrier not in compliance if one of its agents is not in compliance. Mr. Ilagan explained that the carrier is not incompliance because he has somebody selling insurance without a license. Mr. David stated it is going to effects someone QC and that would raise some feathers. In QC, if you are not in compliance for one month you are not in compliance for the whole year. Mr. Fish asked if that is not unique to Guam. Mr. Cassidy stated that it is not necessarily tied to carrier. Because if you are talking about insurance company like All States with 30 thousands agents across the United States chances are one of those agents somewhere is not in compliance that doesn't mean that All States is liable to fine. Mr. Cassidy said that liable to fine is one thing, whether All States is compliance and their Certificate of Authorities is valid and they can write insurance in all of different jurisdiction. Mr. Ilagan explained that does not mean All States is not liable to one agent that is not license. Mr. Cassidy reiterated if the policy is valid and enforceable.

Mr. Fish asked if an agent is not license and wrote some policies, is the agent will be penalized \$5,000 for every policy that he sold. Mr. Ilagan explained that not the agent we are going to go after, it's his insurance

company for selling insurance without valid insurance license and the fine is for every policy he sold, \$5,000 each. Mr. Rapadas asked if that is everywhere or it is just local provision or local law. Mr. Ilagan replied that it is a local law. Mr. Rapadas asked if someone from the insurance industry can go to the legislature and ask to pass the law and say they just have to pay a fine. He asked if that can be done. Mr. Ilagan replied that can be done. Mr. Cassidy stated that enforcement is the key issue here, ensuring that the professionalism is enforce and continuing education and he understand how that play.

The commissioner is clear that if the policy that was issued by unlicensed agent is correct, there should be no issue on the policy. Mr. Silva recommended to the commissioner must be clear about invalidating the policy that was sold by unlicensed agent, because if the commissioner will invalidate the policy there would be bad faith issues and lawsuit issues. Mr. Cassidy added that we can't look at the possibility off the invalidation of insurance contract because of non-compliance of licensing. Mr. Ilagan reiterated that we are not looking at that, we are looking at the compliance of the license.

2. NMLS issues on licenses being offered by Guam – Michael Carlson to help out in looking for a Senator that will author the amendments to SAFE Act and to introduce as a Bill.

Mr. Ilagan explained that we have an issue on NMLS that was passed in 2012. When that law was passed it was just for the mortgage loan originators when we passed the regulations we got regulations sent back to us because laws does not include lender, servicer, and lender and servicer. We had those before the laws were passed. We licensed the applicants but we need to change the law to legally license these lenders, servicers and lender & servicer. We requested to senator to look at that law and amend the law to include servicer and lender. Ms. Cruz mentioned that we asked for the help of Mr. Michael Carlson and he is willing to help us to have Senator James V. Espaldon to author this bill to amend before renewal dates on November and December 2016.

3. On-line renewal process with the National Insurance Producer Registry ("NIPR")

Ms. Cruz explained that the purpose of NIPR that all Sub-Agents/Producers, Brokers, Surplus Lines Brokers, and Adjusters licenses renewal could be done on line. This year we were able to do the renewals of Brokers, Surplus Lines Brokers, and adjusters. Because of the peculiarity of Guam for having Form I-12 or Appointment of Sub-Agent requirement NIPR people were not able to accommodate us on on-line renewals of Sub-Agent/Producer. We are hoping that will be come next year. Mr. Ilagan stated there would be changes in the structure of issuing licenses there won't be any more sub-agent they will be called producer, the expiration of insurance license for individual will be their birthday, and for the business entity it would be the admission date, and the CE would be 24 hours every 2 years and 3 hours will be for ethics.

4. Creation of Task Force to streamline the Licensing and Continuing Education on Insurance.

Ms. Cruz discussed that Monique Baysingar is in-charge for the group of P&C and she is in-charge over all, Jeff Larsen and Ray Schnabel for Life, and Zeny Reneses for adjuster. They are doing the necessary language to incorporate with the old statutes and they will need to present it at the legislature. They meet at the Department with the commissioner every 3rd Tuesday of the month. After they are done they will present it to

the commissioner. Once the review of the commissioner is done, they will present it to Mr. Carlos Taitano at UOG. There will be two locations UOG and GCC.

Other Matters:

Banking and Insurance Board Members will be paid \$50 for their attendance of the board meeting starting from January 14, 2016 meeting.

Next board meeting will be on October 20, 2016. A motion to adjourn the Meeting was made by Ms. Del Ada; the motion was seconded by Mr. Silva. The Banking and Insurance Board meeting was adjourned at 2:50 P.M.

Prepared and submitted by:

Confirmed by:



NEMENCIO DAVID E. BRIONES
Regulatory Examiner II



ARTEMIO B. ILAGAN
Insurance and Banking Commissioner

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