COMMONWEALTH OF PUERTO RICO

OFFICE OF THE COMMISSIONER OF INSURANCE

April 2, 1990

Ruling No. N-AD-3-37-90

TO ALL INSURERS, AUTHORIZED TO TRANSACT
INSURANCE BUSINESS IN PUERTO RICO

Subject: Unclaimed Funds

Dear sirs:

Section 26.040 of the Insurance Code of Puerto Rico, 26 LPRA sec. 2604, compels every insurer, general agent and manager to submit a written report to this Office on all unclaimed funds which they have withheld and are indebted as of December 31, immediately preceding. The aforesaid section specifically orders in its subsection (1), the following:

> "(1) Every insurer and every general agent, manager, or agent shall, on or before May 1 of each year, submit a written report to the Commissioner of all unclaimed funds, as defined in section 26.030(b) of this code withheld and indebted by the latter as of the immediately preceding December 31; but the report shall not be required to include quantities of less than five dollars or quantities which have been paid to another state or jurisdiction prior to the date of effectiveness of this act. In cases where the insurer has transmitted or credited the funds to his general agent, manager, or agent to be returned to the person entitled thereto, he shall be exempted from filing the report required in this section."

In addition, section 26.030(1)(b) of said Code, 26 LPRA sec. 2603(1)(b), defines unclaimed funds as:

> "...the money withheld and indebted including unearned premiums, by any insurer who is carrying out business in Puerto Rico and which have not been claimed or paid within a term of seven (7) years or more, after having been established from the records of the insurer, or his general agent, manager or agent, that such moneys became due and payable under any insurance policy."

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The wording of section 26.040(1) is clear: the obligations which are required from each one of those persons must be complied by each one of them separately and independently. The fact that the insurer may have complied with its obligation to submit the report on unclaimed funds does not exempt the manager or the general agent from compliance with their own obligation.

The legislator placed such obligations separate and independently from the others inasmuch as several investigations conducted by this Office disclosed the existence of unclaimed funds transmitted by the insurer to its general agents or managers which were being used by the latter, with no intention of returning such funds to the persons entitled to them and without being obligated to submit a report on that matter.

Nevertheless, in spite that in those cases in which the insurer has transmitted or credited such funds to its general agent, manager or agent for its remittance, the former is not obligated to submit said report, pursuant to Section 2.030 of the Insurance Code of Puerto Rico, 26 LPRA sec. 203, we are hereby requiring the submission by the insurer of a certification on that matter. This requirement is made, inasmuch as this Office, pursuant to its legal duties to verify the compliance with the provisions of the Insurance Code of Puerto Rico, and for the purpose of securing information useful in the lawful administration of such provisions, needs to be informed whether or not insurers have remitted those funds to the general agent, manager or agent, so as to be able to determine if compliance is being given to the provisions of the aforesaid provisions of chapter 26.

To that effect, and pursuant to the powers and authority vested on us by Section 2.030, supra, we hereby require from the insurers who have remitted or credited unclaimed funds to their general agents, managers, or agents for their reimbursement, or from the insurers who do not have unclaimed funds, the submission to this Office of a certification attesting such facts. We enclose a blank copy of the certification form.

In the case of insurers, unclaimed funds are not generated until the insurer has been licensed for at least seven years in this jurisdiction. For such reason, during the first six years after the insurer has been licensed for the first time, the insurer is not obligated to render the Unclaimed Funds Report required by Chapter 26.

We have modified the format formerly used to render these reports. Enclosed, please find the new format to which the corresponding modifications have been incorporated. The same must be notarized and remitted to this Office on or before May 1, of each year.

Finally, it should be clear that an insurer is not exempted from its obligation to return to the persons entitled to indebted and unclaimed funds, just on account of having remitted said funds to its general agent or manager for their reimbursement.

Strict compliance with the aforementioned legal provisions as well as with the guidelines herein established, is hereby required. Non compliance with said provisions and directives shall entail the imposition of the sanctions provided by the Insurance Code of Puerto Rico for such purposes.

Cordially yours,

Miguel A. Villafañe Neriz
Commissioner of Insurance

Enclosure

COMMONWEALTH OF PUERTO RICO

OFFICE OF THE COMMISSIONER OF INSURANCE

N-AD-3-37-90

C E R T I F I C A T I O N

I, _____, _____
(Name of the Official) (Title of the Official)

of _____, after a
(Name of the Insurer)

thorough and careful search in the files of 1989 said insurer, hereby CERTIFY:

That _____, does not
(Name of the Insurer)

have unclaimed funds for the year of 1989 which are due and payable and which have not been claimed by nor been paid to the persons entitled to them.

In San Juan,

_____
(Signature of an Official of the Insurer)

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C E R T I F I C A T I O N

I, _____, _____
(Name of the Official) (Title of the Official)

of _____, after a
(Name of the Insurer)

thorough and careful search in the files of 1989 said insurer, hereby CERTIFY:

That _____, has remited
(Name of the Insurer)

or credited to _____
(Name of the General Agent, Manager or Agent)

unclaimed funds which are due and payable and which have not been claimed by nor been paid to the persons entitled to them.

In San Juan,

_____
(Signature of Official of the Insurer)

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STATEMENT OF UNCLAIMED FUNDS DUE AS OF DECEMBER 31, 19__

Name of the person or entity in possession of the Unclaimed Funds _____

Address _____

Name of persons entitled to or interested in funds unclaimed 7 or more years after becoming due	Last Known Address	Policy or Claim No.	Due Date	Amount (if less than $5 omit)

I hereby certify that after a diligent inquiry, the information included in this statement is true and correct to the best of my knowledge and belief.

Subscribed and sworn before me, this ____ day of _____ 19___.

_____
Signature of Authorized Officer

_____
Notary Public