COMMONWEALTH OF PUERTO RICO

OFFICE OF THE COMMISSIONER OF INSURANCE

August 21, 1998
Ruling No. N-A-7-1514-98

TO ALL FOREIGN 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 L.P.R.A. sec. 2604, compels every insurer, general agent and manager to submit a written report to this Office regarding 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 (5) 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."

Section 26.030(1)(b) of said Code, 26 L.P.R.A. sec. 2603(1)(b), defines unclaimed funds as:

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"...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."

The directive contained in section 26.040(1) is clear: the obligations to be complied by each one of the persons therein named must be complied by each one of them separately and independently. The fact that the manager or general agent may have complied with its obligation to submit the report on unclaimed funds does not exempt the insurer from complying with its own obligation.

The legislator placed such obligations separate and independtly upon each of said persons 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.

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 L.P.R.A. sec. 203, we are hereby requiring the submission by the insurer of a certification to that effect. 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 in order to secure information useful in the lawful administration of such provisions, needs to know 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 by the latter 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 either fact, as the case may be. 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 (7) years in this jurisdiction. For such reason, during the first six (6) 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 enclose a blank copy of the unclaimed funds report which must be notarized and remitted to this Office on or before September 11, 1998.

Finally, it should be clear that an insurer is not exempted from its obligation to return to indebted and unclaimed funds to the persons entitled to them, 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 guideliness 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,

Juan Antonio García
Commissioner of Insurance

Enclosures

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COMMONWEALTH OF PUERTO RICO

OFFICE OF THE COMMISSIONER OF INSURANCE

CERTIFICATION

After a thorough and careful search in the files of _____
(Name of the Insurer)
_____. If hereby CERTIFY that said insurer has no unclaimed funds, as defined in Section 26.030 (1) (b) of the Insurance Code of Puerto Rico, which are due and payable by December 31, 1997, and which have not been claimed by, nor have been paid to the persons entitle to them.

In,_____, _____, _____, 1998.
(City) (State) (Date)

_____
(Signature of the Official issuing the certification)

_____ _____
(Printed name of the Official) (Title of the Official)

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COMMONWEALTH OF PUERTO RICO

OFFICE OF THE COMMISSIONER OF INSURANCE

CERTIFICATION

After a thorough and careful search in the files of _____
(Name of the Insurer)
_____, I hereby CERTIFY that said insurer has remitted or credited to _____ unclaimed funds which are due and
(Name of the General Agent, Manager or Agent)
payable by December 31, 1997, and which have not been claimed by, nor have been paid to the persons entitled to them.

In _____, _____,1998.

_____
(Signature of an Official of the Insurer)

_____
(Name of said Official)

P.O. Box 8330 — Fernández Juncos Station — Santurce, Puerto Rico 00910 - 8330

Government of Puerto Rico
OFFICE OF THE COMMISSIONER OF INSURANCE

STATEMENT OF UNCLAIMED FUNDS DUE AS OF DECEMBER 31, 199___

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.

_____
Signature of Authorized Officer

Subscribed and sworn before me, this _____ day of _____ 199___.

_____
Notary Public