



COMMONWEALTH OF PUERTO RICO
OFFICE OF THE COMMISSIONER OF INSURANCE

March 9, 1988

Circular Letter: N-Q-12-10-87

A TO ALL DOMESTIC INSURERS, HEALTH SERVICES
ORGANIZATIONS, GENERAL AGENTS, MANAGERS,
ADJUSTERS AND BROKERS

Re: Fees for investigation
expenses incurred in processing
complaints filed with the Office
of the Commissioner of
Insurance

Dear Sirs:

Section 2.030(3) of the Puerto Rico Insurance Code, 26 LPRA sec. 203(3), provides the following:

"(3) The Commissioner may carry out such investigations and inspections as the Commissioner may deem advisable with a view to determining whether a person has violated any provision of this code or to obtain information that may be useful for the administration of any of its provisions."

Furthermore, Sections 2.140(1) and 2.150(1) of the Code, 26 LPRA secs. 214(1) and 215(1), provide the following:

Section 2.140(1)

"Investigation of insurers

(1) The Commissioner may investigate the operations, transactions, accounts, files, documents and capital of any authorized insurer with the frequency the Commissioner may deem prudent. Likewise, the Commissioner will investigate every domestic insurer at least once every three years. The investigation of foreign insurers may be limited to their insurance operations in Puerto Rico."

Section 2.150(1)

"Investigation of agents, managers, and solicitors

For the purpose of determining their situation or verify their contributions, as required by law, or determine compliance with this Code, the Commissioner may, as frequently as the Commissioner may deem advisable, inspect the accounts, files, documents, business, and operations related to insurance of:

(1) Any insurance agent, general agent, broker, surplus line broker, adjuster or solicitor."

Based on these sections the Commissioner of Insurance has the duty and the power to carry out such investigations as the Commissioner may deem advisable, whether to (1) determine whether any of the persons mentioned in said sections has violated the Puerto Rico Insurance Code and its Regulations or (2) to obtain information that will be useful in the administration thereof.

For this purpose the Commissioner of Insurance has established the Complaints Division, a division that is principally responsible for carrying out the investigations of complaints and consultations submitted to this Office by the general public and individuals in the insurance industry.

During recent years the Complaints Division has experienced such an increase in volume that the Office of the Commissioner of Insurance has been forced to assign more staff, so that the investigations can be carried out in the shortest possible length of time. This, in turn, has meant that the operation expenses of the Complaints Division are an increasingly larger share of the budget of this Office.

Although Section 2.170(2) of the Code provides in part that:

"Any insurer or other individual who is the subject of such an investigation shall reimburse reasonable and appropriate disbursements, and expenses actually incurred in the investigation, upon submission by the Commissioner, of an itemized accounting of such disbursements and expenses..."

this Office has never collected from any person who has been the subject of investigations carried out by the Complaints Division, the fees that we are empowered by law to collect, since initially the volume of investigations did not warrant such collection.

Unfortunately, the accumulation of investigations due to the complaints and consultations that have been submitted is now so considerable that we are forced to modify our policy in this regard.

In view of the situation set forth above, and under the above Provisions, effective April 1, 1987, the Office of the Commissioner of Insurance will invoice the person that is a subject of an investigation carried out by the Complaints Division, for the reasonable and appropriate disbursements and the expenses actually incurred in the investigation, according to the rates established in Rule 20 of the Puerto Rico Insurance Code. Thus, our Office will have sufficient resources to perform its duties.

However, it should be noted that we will not be invoicing for all kinds of investigations carried out by the Complaints Division. We will only invoice for those investigations that reveal

facts that constitute possible violations to the Puerto Rico Insurance Code and its Regulations. At present about 40% of the investigations carried out by the Complaints Division are within that category.

We urge you to provide your timely and full cooperation with regard to the investigations of the complaints and/to consultations referred to us. Your diligence will not only allow us to perform our duties, but it will also reduce the expenses of the investigation, which will be to your benefit. On the other hand, any delay or failure to act on your part will not only affect the expenses of the investigations but will also entail the application of sanctions and/or penalties.

We are at your service.

Very truly yours,

SIGNED

Juan Antonio García
Commissioner of Insurance

The effective date of the first paragraph of this page should read April 1, 1988.

May 19, 1988