



# ISSUES

## Insurance Broker Compensation Disclosures

Updated 2005

### Position

**PIA National supports state law as the primary mechanism for ensuring proper disclosure and investigating any fraudulent activities under both insurance and general commercial laws of the states, as is the law today. This state law process already recognizes if, and where, applicable statutes engage current federal laws and their authorities that respond.**

- The National Conference of Insurance Legislators (NCOIL) has developed an appropriate legislative response to the issue of broker compensation disclosure. Congress need not develop any federal legislation on this issue.
- PIA National supports states clearly articulating what practices will be prohibited, permitted and/or required by all insurance parties as respects possible fees that may be charged to insurance customers that are in addition to the cost of insurance charged by the insurer.
- PIA National supports and defends the current professional independent insurance agency-carrier compensation method that has been designed, evaluated and put into use by our members' insurers, including that portion of compensation that insurers elect to pay their independent insurance agencies in the retail admitted insurance marketplace in the form of possible year-end contingency earnings.
- PIA National condemns any statements suggesting that earned contingency compensation should be banned for the entire insurance industry.

### Current Situation

In October 2004, New York State Attorney General Eliot Spitzer publicly announced details about his ongoing investigations into the fee-compensation-disclosure practices of some insurance broker and insurer operations. Understandably, questions arose as to where these were the selected activities of a small group of individuals, or a wider insurance sector practice issue. Recent comments by Mr. Spitzer clearly indicate that it is his belief now is that these misdeeds are those of a select few and do not reflect a wider practice problem throughout the insurance sector.

Therefore, PIA National's efforts are to educate decision makers on the legal, compliant practices of the insurance sector, and how wrongdoers have been and are being prosecuted and penalized for these wrongful actions.

### **Background**

All insurance jurisdictions currently boast specific insurance laws prohibiting fraud and misrepresentations in insurance transactions. These laws adequately address the concerns raised by New York Attorney General Eliot Spitzer's investigations into the actions of a few large insurance brokers. A restatement of current law or enactment of new laws by each state's insurance department, coupled with the public exposure of this issue, will prevent the reoccurrence of the bid rigging and fraudulent practices uncovered in the Spitzer investigations.

Investigations conducted by individual state insurance departments following the Spitzer investigations failed to uncover evidence of wrongdoing by the vast majority of the insurance producer community. Independent insurance agencies in particular were found to be without fault. As only a few "megabrokers" were found to have rigged bids, this should be viewed as an isolated incident restricted to those few producers that control such a large portion of the market that they have, in fact, the power to rig bids. This is not an industry-wide concern and does not merit industry-wide penalties and burdensome legislation.

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