Answers to Frequently Asked Questions On Starting, Managing, and Protecting An Insurance Agency

Provided as a Member Benefit of
Independent Insurance Agents of Georgia, Inc.

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INTRODUCTION

This booklet is an updated version of one that I first prepared in 2012. Nine new questions have been added, five in the 2013 version and four in this version. In addition, some of the answers to previous questions have been revised to reflect new developments that have occurred since those answers first appeared in this booklet. This year's new questions address issues that have become more common as the ability to store and deliver documents electronically has become more generally available and other issues that have been the subject of calls to me under the IIAG's Free Legal Service Program over the past year.

This booklet was created for the purpose of providing brief answers to many of the questions that the owners of independent insurance agencies are confronted with in the operation of their agencies on a regular basis, as well as some fundamental questions that all such owners must answer when they initially decide to form an independent insurance agency.

I have sought input for this booklet from members of the Board of Directors of the Independent Insurance Agents of Georgia and other industry veterans that I have come to know and respect during the course of my over 15 year involvement as the attorney for the IIAG and for many of its members. I hope that you find it useful in running your agencies.

However, **please be aware that this booklet is not intended to provide legal advice on the questions addressed in it.** This booklet is only intended to provide general information about those questions, as the reader's particular factual situation may well result in answers that are different from those given. The reader should seek advice from an attorney who is knowledgeable in the relevant area of the law about their specific situation before acting.

If you have any questions about the content of this booklet or just want further background information on the subjects addressed in it, please contact me. Remember that as a member of the IIAG you are entitled to a free 30 minute telephone or e-mail consultation with me regarding business related legal issues every calendar quarter. I can be reached for such a consultation at 1-800-IIAG911, 404-638-5891, or mburnette@decatur-law.com. In addition, you may want to subscribe to my blog, Georgia Agency Resource, at https://decatur-law.com/blog, for regular postings about issues and developments that are relevant to the insurance industry and your agency business, or visit my website, www.decatur-law.com for articles of interest that I have written for various IIAG publications over the years.

Thank you.

Mark G. Burnette

I. BUSINESS FORMATION AND ORGANIZATION

A. What legal entity should I use for my insurance agency?

In most instances, the best type of legal entity to use to conduct a typical insurance agency business will be either a Subchapter S corporation or a limited liability company. If that business grows to include a significant number of employees and its owners want to accumulate capital for further business growth or participate in group benefits provided to those employees, it may be desirable to change to a Subchapter C corporation.

The owners of a corporation or limited liability company are only individually responsible for their own actions in connection with the conduct of the entity's business activities. Their liability with respect to all other aspects of the business' activities is limited to the amount they have invested in the business. The major difference between a corporation and limited liability company for purposes of this discussion is how they and their owners are taxed.

As noted above, there are two types of corporations, Subchapter C corporations and Subchapter S corporations. Again the major difference between them is in how they and their owners are taxed. The owners of a Subchapter C corporation pay two levels of tax. The corporation pays tax on its profits and then the owners pay taxes on the distribution of those profits to them at their individual income tax rates. A Subchapter S corporation does not pay any tax on its profits, as all profits and losses "pass through" the Subchapter S corporation to its owners who pay taxes on those profits and losses at their individual income tax rates. In addition, it is possible for the owners of a Subchapter S corporation to avoid paying FICA (Social Security and Medicare) tax on a portion of their share of the profits of the corporation. However, there are significant restrictions on who can be the owner of a Subchapter S corporation (only individuals who are citizens or legal residents of the United States and certain trusts up to a

maximum of 100) and on the ability of the owners of a Subchapter S corporation to participate in group employee benefit plans. Due to the fact that the owners of a Subchapter S corporation must pay income tax on their share of its profits even if those profits are not paid out to them, such corporations do not usually provide a good way to accumulate capital for future business expansion.

Limited liability companies also do not pay any tax on their profits. Like a Subchapter S corporation, all profits and losses of the company "pass through" to its owners who pay taxes on those profits and losses at their individual income tax rates. For this reason, limited liability companies also do not usually provide a good way to accumulate capital for future business expansion. Unlike Subchapter S corporations, it is not possible for the owners of a limited liability company to avoid paying FICA tax on a portion of their share of the profits of the company (unless they elect to be taxed as a Subchapter S corporation, in which event all the restrictions on ownership noted above will apply). In addition, unlike Subchapter S corporations, the owners of limited liability companies can vary how the profits and loses are shared among them. Those profits and losses are not required to be shared according to the ownership percentages of the members of the company, as they are among the owners of a Subchapter S corporation.

With respect to the eventual sale of a business, both Subchapter S corporations and limited liability companies are preferable business entities because the business entity will not pay any tax on the proceeds of the sale of its assets. Those sale proceeds will "pass through" to the owners of the business who will pay capital gains tax on them at their individual rates.

B. <u>Should An Insurance Agency Have a Buy-Sell Agreement</u>?

YES, if there is more than one owner of the agency, such an agreement should be created, regardless of the type of legal entity used to conduct its business. If that entity is a corporation, such an agreement would be known as a Shareholders Agreement and if a limited liability company, its provisions would be included in the Operating Agreement.

Without such an agreement, there would be, among other things, (i) no restrictions on the ability of an owner to compete with the business of the agency, other than any fiduciary duties they may have as an officer or director of a corporation or a member of a limited liability company, (ii) no restriction on the ability of an owner to sell all or a portion of his or her ownership interest to anyone they chose, (iii) no way to force the heirs of a deceased owner or one who is no longer associated with the agency or a divorced spouse who may acquire all or a portion of a such an ownership interest to sell that interest back to the agency or its other owners, (iv) no agreed upon method for determining the value of an ownership interest in the agency in the event it is to be sold back to the agency or its other owners, and (v) no agreed upon method of payment for the value of such an ownership interest.

All the above subjects, as well as whether and how new owners may be admitted and any other subjects that may be of importance to the owners of a particular agency, should be addressed in a Shareholders or Operating Agreement. Such agreements will by their nature indirectly address business perpetuation issues and can be drafted to more specifically address those issues.

C. What Type of Insurance Coverages Should an Agency Have?

All insurance agencies in Georgia should have, at a minimum, general liability, property loss or damage, and errors and omissions coverages. If they have employees, such agencies should also have workers compensation coverage, and if there are 15 or more employees, it would be wise to have Employment Practices Liability Insurance to protect against any claims that may be made against the agency under the federal employment discrimination laws. To further protect the officers and directors of a corporation against other types of claims, consideration should be given to obtaining Director and Officers liability coverage. If the agency's employees will have access to significant funds belonging to either the agency or a third party, it would be wise to have employee dishonesty coverage.

D. What Factors Should be Considered in Choosing an E&O Policy?

Some factors to consider in choosing an E&O policy are the following:

- Does the policy cover insurance placed with all the insurance companies and other insurance providers with which the agency does and potentially wants to do business?
- How far back will the policy's prior acts coverage extend?
- What type, if any, tail coverage is provided upon the termination of the policy?
- Does the policy exclude from coverage anything that is likely to be of importance to the agency?
- Is there a grace period for payment of the premium?
- Are there any reinstatement rights if the policy lapses for any reason?

II. CONTRACTS WITH INSURANCE PROVIDERS

A. What Factors Should be Considered in Choosing Insurance Companies and other Insurance Providers?

With respect to insurance companies, its AM Best or other rating should be high enough to be covered by the agency's E&O policy. Other factors to consider are:

- How the relationship can be terminated (should have a minimum of 30-60 days prior notice)
- Ownership of the expirations and information regarding them upon the termination of the relationship (should be the agency with no disclosure or use of information by company if no money is owed the company)
- How the existing insurance policies are to be handled upon such a termination (ideally should have one year runoff period)
- Payment of commissions during the runoff period (ideally should be same as before)
- Access to company website and other service tools during the runoff period (ideally should be same as before)
- Handling of accounts current and process for resolving any disputes that may develop (ideally should be sufficient time to review necessary records before payment due and notice of any problems before adverse action taken by company)
- Indemnification for liability arising from acts of other party (should be mutual)
- How claims are to be handled (should permit agency participation if desired)
- How company fits with other companies and providers that agency has (should be complementary, with minimum of overlap in markets).

When evaluating other insurance providers (e.g., E&S lines, MGA's) the above factors will also be relevant and the agreement should require the other provider to have an

acceptable minimum level of E&O coverage for the agency's protection.

It never hurts to negotiate for better terms in agreements with insurance companies and other insurance providers, as long as such negotiations are conducted in a businesslike manner, but an agency needs to realize that unless it is bringing a potentially large volume of business to the provider, they are not likely to significantly change their standard agreements.

III. COMPENSATION FOR SERVICES PROVIDED

A. Can a Referral Fee be Paid to Unlicensed Persons for Insurance Business?

YES, if the same amount of monetary compensation is paid to the referral source regardless of whether an insurance policy is sold to the person referred. The payment of commissions to unlicensed persons is prohibited by the Georgia Insurance Code. If monetary compensation (cash, gift cards, or other items that are easily converted to cash) is paid only for referrals that result in the sale of an insurance policy or greater compensation is paid for such a referral, there is a clear sharing of the commission earned on the sale of the insurance policy with the referral source. If the consideration paid to a referral source is not of a monetary nature (e.g., tickets to cultural or sporting events), it becomes less clear whether limiting such consideration to only those referrals that result in the sale of an insurance policy would constitute the sharing of commissions, but the author believes that the Georgia Insurance Commissioner's Office would consider such an arrangement to be prohibited.

However, it is probably acceptable to pay referral fees for only those referrals that result in the writing of a quote for an insurance policy, as long as such fees are still paid even if the quote is not accepted. It may well even be acceptable to pay

the potential insured compensation for having a quote written, again as long as such compensation is paid even if the quote is not accepted. This is a much closer question in light of the anti-rebating statute that prohibits the payment of any "valuable consideration" as an inducement to enter into an insurance contract. If either of these payment arrangements result in close to 100% acceptance of the quotes given, the Insurance Commissioner's Office would likely consider such an arrangement to be prohibited.

Please note that the sharing of commissions with a licensed agent is only permissible if the agent has a license that permits him or her to sell the type of insurance coverage for which the commission was paid.

B. <u>Can an Insurance Agent be Paid Both a Commission and a Fee for Placing Insurance Business</u>?

YES, if:

i. the agent also has a counselor's license

ii. the insurance business is a commercial risk

iii. the Agent performs "additional ancillary services" (as defined in O.C.G.A. §33-23-1.1) in connection with the placing of that business which services are disclosed in writing to, and approved by, the customer in advance of the performance of them, and

iv. before the initial issuance of the insurance coverage, the agent discloses to, and obtains the written consent of, the customer that --

    a) the agent may receive compensation from an insurer or other third party as a result of the customer's purchase of that insurance coverage, and

    b) the amount of such compensation or if that amount is not known, the method for

calculating it in "readable language" and "if possible, a reasonable estimate" of that amount.

Although the Georgia Insurance Code does not require that the amount of the fee to be charged the customer by the agent be disclosed and agreed to before the "additional ancillary services" are performed, it would be a good idea to do so in writing to avoid any later dispute over the amount of that fee.

The requirements stated in (iv) above do not apply if:

a) the compensation paid by the customer to the Agent "does not exceed an amount established" by the Insurance Commissioner (no such amount has been established by the Insurance Commissioner yet)

b) the customers in question are "participants or beneficiaries of an employee benefit plan" or are "covered by a group or blanket insurance policy or group annuity contract", or

c) the insurance coverage in question is a "renewal or any other continuation" of an already existing policy.

They also do not apply to (i) persons who act "only as an intermediary between an insurer and the [agent], such as a managing general agent, a sales manager, or wholesale broker", (ii) a "reinsurance intermediary," or (iii) agents who do not receive any compensation from the customer for the placement of insurance coverage.

C. Can an Insurance Agent be Paid Only a Fee for the Placing of Insurance Business?

YES, if the agent also has a counselor's license and the insurance coverage in question can be issued net of a commission in accordance with "an applicable rate filing, rating plan, or rating system filed with and approved by the Commissioner" or where the coverage in question can only be

obtained net of commission. In this situation, it does not matter what type of insurance business is being placed (personal or commercial lines or life or health).

D. Can an Insurance Agent Charge a Service Fee?

YES, if the fee in question is not for a service that is integral to the obtaining or servicing of a particular insurance policy. Charging a separate fee for preparing an application for insurance coverage or obtaining loss runs would be prohibited by the Georgia Insurance Code as such a service is necessary in order for insurance coverage to be obtained in the first place. It is the author's understanding that the Insurance Commissioner's Office considers the issuance of insurance certificates to be an integral service for which a separate fee can not be charged. However, charging a service fee for accepting monthly installment payments from an insured when the insured has the option of paying those installments directly to the insurance company and has been notified ahead of time that such a fee will be charged would be acceptable, as would charging an insured a fee for accepting any payments by credit card when the insured has the option to pay by check or in cash, again provided that advance notice that such a fee will be charged is given to the insured.

E. Can an Insurance Agent Charge Interest on a Past Due Balance of the Insured?

YES, an agent or agency can charge interest in the amount of 15 cents per $10.00 on all amounts owed it by an insured for premiums that are past due for 30 days or more. If any such amount is 30 days or more past due, the Agent or agency can charge at least $1.00 in interest. This interest or service charge, in the minimum amount of $1.00, can be collected for each month that the amount owed remains unpaid. However, the assessment of this charge against the insured does not affect

any right the agent or agency may otherwise have to cancel the insurance policy in question for nonpayment of premium.

IV. EMPLOYMENT RELATED ISSUES

A. Should an Agency Have an Employee Manual?

YES, if the agency has 15 or more employees of any kind (full-time, part-time, seasonal), because all such agencies are subject to the federal employment discrimination laws and those laws contain provisions that, as a practical matter, give employers with properly written employee manuals greater protection against claims made by employees under those laws than those employers without such manuals.

In light of the application of the National Labor Relations Act (see question K below) and the Federal Trade Commission Act to internet based activity by employees, it is also a good idea for agencies with less than 15 employees to have such manuals if for no other reason than to clearly define what their employees can and can not do online during the time they are working and what they can and can not say about the agency, fellow employees, and the agency's customers at any time. For articles on the application of these statutes to the business activities of agencies, please visit the Articles page of the author's website at www.decatur-law.com.

All employee manuals should clearly state in bold letters in the beginning and in an acknowledgment of receipt signed and dated by the employee that they are not be to construed as creating a contract of employment between the agency and its employees. Instead, they are merely for the purpose of informing the employees of the agency's practices and policies with respect to the subjects addressed in them, which practices and policies can be changed at any time for any reason by the agency. In the absence of such disclaimer language, a court may construe one or more provisions of an employee manual

(e.g., payment for unused vacation time or other severance pay) as creating a binding obligation on the agency.

If an agency chooses to have an employee manual, it should be reviewed and updated regularly to make sure that its contents are still consistent with how the agency is actually operating and the applicable law. *If the agency is not following the practices and policies contained in its employee manual, that fact can be used against it by a disgruntled employee who makes a claim against the agency under the federal employment discrimination laws.*

B. <u>Should an Agency's Employees Have Written Employment Agreements</u>?

YES. At a minimum, the agency should have restrictive covenant (commonly known as non-compete) agreements with all its employees who have customer contact or access to confidential information about customers or the agency in general. The existence of such agreements increases the value of the agency's book of business to a potential buyer, who does not have to worry about the agency's employees going after the book of business if it is purchased by the buyer.

Under the new restrictive covenant law that became effective in 2011, employers have much more leeway in drafting agreements that restrict competitive activity by their employees after they leave the agency's employ. The enforcement of such agreements is now much easier than under the old law, as judges have been given the authority to modify such agreements that do not comply with the new law to make them comply and then enforce them as modified.

A restrictive covenant agreement should contain at least non-solicitation, non-disclosure, and non-piracy of employees covenants. Such an agreement can also contain a non-compete covenant for those employees (i) who "customarily and regularly solicit for the employer customers or prospective customers" or (ii) who "customarily and regularly engage in making sales or obtaining orders or contracts for products or

services to be performed by others". These employees would include all the agency's producers, as well as CSR's or account managers who actively sell insurance products on behalf of the agency.

Beyond restrictive covenant agreements, the agency should seriously consider having full blown employment agreements with its producers and any other employees who actively sell insurance products on its behalf in order to ensure that the agency will own the business produced by such employees and to specify the compensation to be received by such employees for the sale of such business, among other things. If a producer is to be given a vested interest in his or her book of business, an employment agreement specifying all the relevant terms and conditions applicable to that interest should be drafted and executed.

C. <u>What Should be in a Producer Employment Agreement</u>?

As noted above, a producer employment agreement should contain a statement that all insurance business produced for the agency belongs to the agency, require the producer to bring such business to the agency first, and to refrain from performing similar services on behalf of anyone else while employed by the agency. In addition, the amount of compensation to be paid the producer, when that compensation is earned by the producer, when it is to be paid to the producer, and what happens with respect to that compensation in the event the producer's employment with the agency is terminated should be addressed.

Other subjects that are normally found in producer employment agreements include how the agreement can be terminated, the producer's binding authority on behalf of the agency, which party will be responsible for paying the expenses associated with the producer's obtaining and maintaining the licenses and any other government permits or approvals required for the producer to properly perform his or

her duties, whether the producer is to be reimbursed for business related expenses and if so, how, and the producer's responsibility, if any, for E&O claims made against the agency due to his or her actions or failures to act or for bad debt associated with his or her book of business.

D. How Can Producers be Compensated?

Agencies are free to compensate their producers in any manner that can be mutually agreed on with the producer in question, with one exception discussed below. For those agencies that are not subject to the federal employment discrimination laws, there is no legal requirement that producers performing similar duties be paid the same compensation, but as a practical matter, to preserve office harmony and morale, there should be a legitimate business reason for paying such producers differently. The overriding goal for the agency should be to devise a compensation system that gives producers an incentive to continue to bring new business to the agency and allows the agency's owners to make a reasonable profit on all the producer's business.

Traditionally, producers have been paid, at least in part, by giving them a share of the commissions earned on the business they produce. To give the producer an incentive to continue to bring new business to the agency, the producer's share of the commission for new business is usually greater than the share for renewal business. However, many agencies are now questioning the use of such an arrangement as holding onto existing business is increasingly seen as just as important as bringing in new business. In any event, what the percentage breakdown of those shares should be varies from agency to agency, as it should be determined by looking at what the agency can afford to pay the producer and still have enough of the commission left over to pay for overhead and other operating expenses and provide a reasonable profit.

In order to smooth out the ups and downs of commission based income, some agencies pay their producers a monthly

draw, or advance, against their expected commission income for the year. At periodic intervals, the amount of commissions earned is compared to the amount of advances made and if the commissions are in excess of the advances, the difference is paid to the producer and if the other way around, the deficit is either paid by the producer or taken out of future advances. The use of advances or draws is a good way to compensate new producers who do not already have an established book of business to support them.

E. Can a Producer be an Independent Contractor?

YES, but only if the actual working arrangements between the agency and the producer satisfy the IRS balancing test. That test focuses on three main areas: Behavioral Control, Financial Control, and Structure of the Relationship. Please visit the Articles page of the author's website, www.decatur-law.com, for an in depth discussion of how these guidelines would be applied to the typical agency/producer relationship. Although every situation is somewhat different and the test is applied to the particular circumstances of the relationship in question, in the author's opinion, as long as an agency wants to (i) keep the producer from working for anyone else while he or she works for the agency, (ii) own the business produced by the producer, (iii) require regular reporting by the producer on his or her activities, (iv) train the producer in agency sales and other techniques and require the producer to follow them, and (v) pay expenses or benefits for the producer, then the producer would probably be classified as an employee by the IRS.

The IRS has developed rules that, if applicable to a particular employment situation, will absolve an employer of any liability for the misclassification of a worker as independent contractor. These rules are explained in detail on the Articles page of the author's website. Currently, the IRS has what amounts to an amnesty program for employers that want to change the classification of an independent contractor to an employee. That program, information about which can be found on the

IRS website at http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Voluntary-Classification-Settlement-Program, significantly reduces what could otherwise be very substantial tax payments and penalties for misclassifying an employee as an independent contractor. Those potential penalties are made even more significant by the fact that all "responsible persons" (e.g., directors and officers) of the agency could be held individually liable for 100% of any such penalties.

Unfortunately, the IRS test for determining whether a worker is an employee or independent contractor is not the only one an employer must be concerned about. For purposes of the Fair Labor Standards Act ("FLSA"), the U.S. Department of Labor ("USDOL") has its own test, which is similar to, but not the same as, the IRS test. A fact sheet discussing that test and potential problem areas can be found at https://www.dol.gov/whd/regs/compliance/whdfs13.htm. The factors used by the USDOL focus on the economic reality of the particular relationship between a worker and the employer. No one of those factors is more important than the other and they are not to be mechanically applied (i.e., a majority of them one way or the other will not necessarily answer the question). Instead, the focus will stay on whether the worker in question is "dependent" on their employer. Given the factors used by the USDOL, if a worker performs services for only one employer, those services are an integral part of the employer's business, and the worker does not incur significant expenses in doing so for which there is no reimbursement from the employer, the USDOL will consider that worker to be an employee for purposes of the FLSA and thus, entitled to overtime pay for any hours worked in excess of 40 in any one work week, unless they qualify for an exemption. That situation covers almost every producer of an insurance agency. In addition, as part of its misclassification initiative, the USDOL would report its finding to the IRS and the taxing authorities of those states with which it has

memorandums of understanding for action by them. Fortunately for Georgia employers, the USDOL does not have a memorandum of understanding with the Georgia Department of Revenue, at least not yet.

Under Georgia law, if a worker is misclassified as an independent contractor, the agency would be subject to claims that the worker was entitled to receive health, retirement, and other fringe benefits provided to its employees and could end up having to pay such benefits out of its own revenues. If such a worker was injured on the job and not otherwise covered by worker's compensation insurance, the agency would be liable for at least the amount of compensation and other benefits the worker would have received if he or she had been covered by worker's compensation insurance and may be subject to greater liability for pain and suffering and punitive damages, plus penalties for failing to provide worker's compensation coverage for the worker.

F. Which Employees Have to be Paid Overtime?

The FLSA requires an employer to pay all employees who are not exempt from its requirements (known as "non-exempt employees") overtime pay for any time worked in excess of 40 hours during any one work week. Employees who are exempt from the requirements of the FLSA (known as "exempt employees") do not have to be paid such overtime pay. Contrary to popular belief, the fact that an employee is paid a salary instead of by the hour does not alone make that employee an exempt employee. Such an employee must also perform certain duties in addition to being paid a specified minimum amount of salary. For the typical insurance agency, there are two possible categories of exempt employees, administrative and executive employees.

Unless there is a legal challenge filed before January 1, 2020, the new overtime rule announced by the USDOL in September 2019 (see https://decatur-law.com/2019/10/new-overtime-rule-

effective-date-announced/ for information on that rule), will be effective on that date. At that time, to satisfy both the administrative and executive employee exemptions from the overtime pay requirements of the FLSA, the employee will have to be paid a salary that is equal to at least $684 a week, or $35,568 a year and meet the duties tests for those exemptions. An administrative employee's primary duty must be the performance of "office or non-manual work directly related to the management or general business operations of the employer or the employer's customers" and must include the "exercise of discretion and independent judgment with respect to matters of significance" to the employer's business. In addition, the USDOL has ruled that an employee whose primary duty is the selling of a product or service cannot qualify for that exemption. Thus, that exemption will not apply to producers or to any CSR or account manager whose primary focus is on the sale (including renewal) of insurance polices with respect to the agency's customers, not the management or general business operations of the agency. Even if that is not the primary focus of a CSR or account manager, the degree to which they can exercise "discretion and independent judgment with respect to matters of significance" to the agency's business is usually very limited outside of the sale or renewal of insurance policies. In 2018, the USDOL released an opinion letter that sets out what duties a CSR or account manager must perform to qualify for this exemption (see https://decatur-law.com/2018/05/customer-service-representatives-the-law-has-been-clarified/ for a discussion of that letter.)

An executive employee's primary duty must be "managing the [business] enterprise" or a "customarily recognized department or subdivision of the business] enterprise" and must include "customarily and regularly" directing the work of at least two other full-time employees or their equivalent. In addition, executive employees must have the authority to hire or fire other employees or their suggestions and

recommendations regarding hiring and firing or other changes in status of other employees must be given "particular weight" by the employer. If the agency has three or more employees, one of whom is an office manager who has the above duties and authority, the office manager may be an exempt employee. The same is true for agencies with personal and commercial lines or other departments where there are at least three employees in a department, one of whom has the above duties and authority.

Two other exemptions that may apply to producers are the outside sales person and highly compensated employee exemptions. To be an outside sales person, a producer must operate as door to door sales persons who have no office and meet with their customers only at the customers' home or place of business. That is not how most producers perform their duties. As of January 1, 2020, a highly compensated employee must earn at least $107,432 a year, of which at least $35,568 is paid as a salary, and must regularly perform at least one of the duties of an administrative or executive employee.

Whether a particular employee is an exempt or non-exempt employee is a question of fact, so it is possible one producer, CSR, or account manager may satisfy one of the above exemptions while the others do not. Given the current focus on the misclassification of employees as exempt by the U.S. Department of Labor, it would be wise to err on the side of classifying an employee as non-exempt given the significant penalties that can be imposed for misclassifying an employee as an exempt employee. Those penalties include loss of exempt status for all similarly situated employees, the payment of back pay for all overtime worked during the preceding two years (three years if the violation is willful), FICA and other withholding taxes due on such back pay, penalties and interest on those back taxes, liquidated damages equal to twice the amount of back pay awarded, and attorney fees. Even more important, these penalties can be imposed on any person

individually if that person exercised supervisory control over the misclassified employee.

G. Is Overtime Pay Required for Work Done Without Permission?

YES, if the employer knew or should have known that the employee would be performing the work in question. The FLSA requires payment for all work that an employee is "suffered or permitted" to perform by the employer. Thus, if an employee voluntarily stays after work to finish a particular project or takes that project home to complete and the employer is aware or should have been aware of what the employee was doing, the time spent by the employee in performing such work is counted toward the 40 hour work week limit. Such "off the clock" work for which compensation is owed would also include making or taking work related telephone calls or writing or receiving work related e-mails while outside the office.

Practically speaking, all an employee has to do is state that they worked more than 40 hours in any one work week and the burden will then shift to the employer to refute that assertion. Mere statements by the employer that the employee is not telling the truth without supporting evidence of some kind will not be sufficient.

To protect itself from such claims, the agency should have a written policy on overtime work. That policy should require that the employee obtain permission from management before doing any work in excess of 40 hours in any one work week and that all time worked in or out of the office should be recorded in some fashion and submitted to management on a regular basis. Ideally, each non-exempt employee should keep a time card which is handed in each week after being signed by the employee beneath a statement that the time card accurately reflects all the hours worked by the employee during the time period specified on the card. As with other policies, just

having one in writing will do the agency no good if it is not regularly and consistently enforced.

H. Can an Employee's Pay be Reduced for Failure to Come to Work?

YES, if the employee is a non-exempt employee, or if an exempt employee misses a full day of work for any personal reason except illness or disability and even then, if the agency has a paid sick leave plan and the employee has exhausted their allotted sick pay days for the year.

The FLSA only requires that a non-exempt employee be paid for the time they actually perform work for the employer. Thus, such an employee's pay can be reduced for failure to come to work when the office was open or when it was closed for inclement weather or any other reason and for any part of the normal work day that the employee was not present at the office or otherwise performing work for the agency. However, as noted above, such an employee must be paid for any work done at home or anywhere else when the agency's office is open or closed.

An exempt employee, on the other hand, must be paid a full week's salary if they perform any services for the agency during a particular work week no matter how short the time spent doing so. The USDOL has ruled that if an exempt employee is ready willing and able to work, such employee's salary can not be reduced for reasons that have nothing to do with the conduct of the employee, such as the closure of a business by the owner due to severe weather or for any other reason. However, if the agency has a paid vacation or other paid time off policy that is applicable to such an employee, they may be required to use any available portion of such paid time off for any day that the business is closed unless the employee does not have enough such time off to cover all the days the business is closed during any one work week. In that event, the employee is entitled to be paid their full salary for

any time less than a full work week that the business is closed. As with the non-exempt employee, if an exempt employee performs any services for the agency at home or anywhere else when the business is open or closed, they are entitled to be paid and in this case, it would their full salary for the work week in which the services were performed.

I. Can an Agency Hire an Unpaid Intern?

YES, but only if the intern is the "primary beneficiary" of the relationship. In making that determination, the USDOL will consider seven factors, most of which focus on how much of what the intern does is educational in nature and not primarily beneficial to the employer (see https://decatur-law.com/2019/05/do-interns-have-to-be-paid/ for a discussion of these factors.) Thus, if the intern is studying insurance or risk management in high school or college, it is more likely they would derive educational benefit from working in an insurance agency.

The USDOL presumes that all "interns" working for a for profit business are, in fact, employees entitled to compensation and if an intern ever complained to the USDOL about not having been paid for their services to an agency, the burden of proving the intern was not entitled to receive any such compensation would be on the agency. If it fails to meet that burden, the agency and all "responsible persons" in it would be liable for the payment of at least the minimum wage for all time spent by the intern in performing services for the agency, plus matching FICA taxes and probably penalties for late payment of such taxes. In addition, as noted above, if the intern claims to have worked more than 40 hours in any one work week, there would be liability for the payment of overtime and matching FICA contributions for those excess hours if the agency can not disprove the intern's claim.

J. Can an Employee Who is Receiving Workers Compensation Benefits be Fired?

YES, Georgia law does not prohibit an employer from firing an employee who has filed a workers compensation claim. However, if the agency has 15 or more employees of any kind, it will be subject to the Americans With Disabilities Act, which may well protect such an employee from being terminated, at least without the agency having to jump through a lot of hoops. If that is the situation, legal advice from an attorney who is knowledgeable about federal employment discrimination law should be sought.

K. Can an Employee Who Complains About Their Treatment by the Agency on a Social Media Site be Fired?

NO, if the complaint concerns the terms or conditions of the employee's employment and is supported by other employees or the employee is speaking on behalf of other employees. Section 7 of the National Labor Relations Act (the "NLRA") makes it illegal for any employer subject to its provisions to do anything that interferes with or restrains an employee's participation in "other concerted activities. . . for mutual aid or protection." Under the interpretation of this statute by the National Labor Relations Board, which is charged with enforcing the NLRA, and the federal courts, an employee is permitted to use impolite and what many would consider inappropriate language in connection with the exercise of their rights. The fact that the conduct in question may violate an employment policy of the agency is irrelevant, as any such policy would be illegal under the NLRA.

The NLRA does not protect independent contractors or supervisors (any individual having authority, on behalf of the employer, to direct employees in the conduct of their activities or take action or recommend that action be taken that will

affect their employment), and it does not apply to employers engaged in retail businesses (which includes insurance agencies) that have less than $500,000 in gross annual revenue. An employer who wrongfully terminates an employee for their exercise of protected rights under the NLRA can be required to reinstate the employee and pay them wages for the time they were not working due to being wrongfully terminated.

L. Does an Agency Have to Sign Up For and Use the E-Verify System?

YES, if on January 1 of any year an agency has more than 10 workers to whom a W-2 form will be issued at the end of the year and each of those workers is expected to work at least 35 hours a week. As of July 1, 2013, if an agency satisfies the above criteria, in order to obtain a business license or other governmental permit needed to conduct its business activities, the agency must submit an affidavit to the government office that issues the required license or other permit stating that its uses the "federal work authorization program" (commonly known as E-Verify) and providing its user identification number and date it was first authorized to use the program. Even if an agency does not satisfy the criteria, it must submit an affidavit stating that to be the case in order to obtain a business license or other governmental permit. The affidavits used must be approved by the Attorney General's office. They can be found online at http://law.ga.gov/documents. Information on the E-verify system can be found online at http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=75bce2e261405110VgnVCM1000004718190aRCRD&vgnextchannel=75bce2e261405110VgnVCM1000004718190aRCRD&gclid=CPWUiOn317YCFYRM4Aod2H0AsQ.

The affidavits are signed under penalty of perjury, and the Attorney General's Office is charged with investigating and

prosecuting any violations of this law. The knowing submission of a false or misleading affidavit is a felony punishable by a fine of up to $1,000 and/or imprisonment from one to five years.

M. Do Employees Have to be Given Time Off to Vote?

YES, but only if the employee's normal working hours begin less than two hours after the polls open or end less than two hours before the polls close. Thus, if the employee's normal working hours are 9 am to 5 pm, they are not entitled to receive time off to vote, if the polls open at 7 am or earlier and close at 7 pm or later, which is the case in most elections held in Georgia. This rule applies regardless of the type of election being held, i.e., primary, run off, or general, or local, state , or national.

If an employee is eligible to be given time off to vote, the employee is required to give the employer "reasonable notice" of their desire to take such time off, and the employer can specify the hours during which the employee can take time off to vote. The employee can request up to two hours off to vote. If the employee is nonexempt (i.e., must be paid overtime for any hours worked in excess of 40 during any one work week), the employer does not have to pay the employee for the time taken off to vote. If the employee is exempt, the employer cannot reduce their pay for the time taken off to vote, but may require the employee to use any paid time off available to the employee, if that paid time off is normally accounted for in increments equal to or lesser than the time given off to vote.

N. Do CSR's Have to be Licensed?

YES, if the tasks being performed by a CSR involve the sale, solicitation, or negotiation of an insurance policy or other coverage or the CSR is being paid all or part of a commission

received for the placing of such coverage. The Insurance Code helps answer the question of what tasks can be done by an agency employee who does not have a license by specifically exempting from its licensing requirements the performance of the following tasks:

(i) executive, administrative, managerial, clerical, or a combination of these, that are only indirectly related to the sale, solicitation, or negotiation of insurance;

(ii) underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or

(iii) acting in the capacity of a special agent or agency supervisor assisting insurance agents where the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance.

For help in determining what tasks can be done without a license, the National Association of Insurance Commissioners ("NAIC") issued some guidance in connection with the Producer Licensing Model Act that had been adopted by that organization in 2000. The guidance is in the form of a matrix that characterizes various actions by persons in an insurance agency as requiring or not requiring an insurance agent's license to perform. It goes into some detail about what particular actions associated with the solicitation, sale, and negotiation of an insurance purchase and the servicing of an existing insurance policy can be performed by a person who does not have an agent's license and which actions require such a license. While the guidance is only informal and not intended to be a definitive statement, the provisions of the Model Act that are relevant to that subject are almost identical to the corresponding provisions in the Georgia Insurance

Code. The guidelines have been posted in the Articles section of the author's website at www.decatur-law.com.

To avoid any potential problems with the Insurance Commissioner's Office, those agencies whose CSR's are expected to be the primary point of contact with a customer regarding the renewal of an existing insurance policy or who want to provide an incentive to their CSR's by giving them a bonus based on the amount of commissions received by the agency on business handled by the CSR should have their CSR's obtain the appropriate license from the Insurance Commissioner's Office.

V. AGENCY OPERATIONS

A. Can an Insurance Policy be Delivered Electronically?

YES, if all the requirements imposed by the applicable federal and state statutes are satisfied. The federal Electronic Signatures in Global and National Commerce Act applies to the electronic delivery of insurance policies to consumers and the Georgia Uniform Electronic Transactions Act applies to the electronic delivery of insurance policies to all others. The basic requirement under both Acts is that the prior consent of the insured to such a delivery of their insurance policy must be obtained. Both acts permit such consent to be obtained electronically, but as might be suspected, the federal act requires that a number of specific disclosures must be made to a consumer in connection with obtaining their consent to the electronic delivery of their insurance policy. A detailed discussion of these required disclosures can be found on the Articles page of the author's website, www.decatur-law.com.

The Georgia Act does not require that any specific disclosures be made to non-consumers before their consent to the electronic delivery of their insurance policy is obtained.

However, given the way that the Georgia Act defines when such a policy will be deemed to have been delivered electronically, the author recommends that the insured's consent to such delivery contain (i) the e-mail address to which the insurance policy is to be sent or other method of electronic delivery to be used (ii) the format (e.g., pdf, tif) in which the policy will be sent or otherwise delivered and (iii) an acknowledgment that the specified e-mail address or other method of electronic delivery and agreed on format for the policy are accessible by the insured.

Since the Georgia Act allows the parties to an electronic transaction to agree on when delivery of a document involved in the transaction will be deemed to have occurred, consideration should be given to including in the consent given by the insured an acknowledgement that the insurance policy will be deemed to have been delivered if it is sent to the specified e-mail address or via another method of delivery in the specified format regardless of whether it is actually received by the insured. In addition, all e-mail deliveries of insurance policies should be accompanied by a request for acknowledgment of the receipt of the e-mail by the insured's e-mail system.

In 2014, the Georgia General Assembly amended the Insurance Code to specifically permit the electronic delivery of insurance policies if the requirements described above are satisfied. Effective July 1, 2014, insurers and presumably agents will be permitted to electronically deliver notices of cancellation and nonrenewal for most insurance policies, as well. A detailed discussion of the requirements that must be met for the electronic delivery of such notices can be found on the Articles page of the author's website, www.decatur-law.com.

B. Can a Copy of a Motor Vehicle Report on an Employee of the Insured be Given to the Insured?

NO, unless the insured has obtained the signed consent of the employee in question to the disclosure of their driving record to the insured. Such consent must specifically name the person or other entity to which the driving record can be disclosed. The employee's general consent to the obtaining of his or her driving record is not sufficient.

In addition to the above, if the insured is an "employer or prospective employer" who "owns or leases a commercial motor vehicle or assigns persons to drive a commercial motor vehicle on its behalf," they have the right to obtain the driving record of any employee who is or will be driving such a motor vehicle for the insured. What constitutes such a motor vehicle is specifically defined in O.C.G.A. § 40-5-142.

Unless one of the above two exceptions applies, Georgia law prohibits an insurance agent from disclosing driving records that he or she has obtained to any other person and prohibits the agent's use of those records for any purpose other than "in connection with claims investigation activities, antifraud activities, rating, or underwriting involving the" subject driver. The agent must have on file an application for insurance or for the renewal or amendment of an existing policy involving the subject driver before he or she can legally request a copy of that person's driving record.

C. How Should Changes to Insurance Policies Requested by the Insured be Documented?

All changes requested by an insured to their insurance policy should be confirmed in a writing signed by the insured, if at all possible. Such a writing will provide the best defense possible to any later claim by the insured that no such change was requested. If that is not possible, a letter confirming the change

requested and asking the insured to contact the agent immediately if no such change is desired should be sent by mail or overnight delivery in a form that requires acknowledgment of receipt by the insured. Sending an e-mail to this effect to the insured is not as good as regular mail, because proving receipt of such an e-mail by the insured is more difficult, especially if the requirements of the federal and Georgia Acts governing electronic transactions that are discussed above have not been previously satisfied. In any event, the agent should make a contemporaneous notation in his or her file or agency management system regarding the date and time the request was made and the substance of the request. In the event of a later dispute, such a notation will at least provide support for the agent's version of events.

D. What Can an Agent be Required to do with Respect to the Issuance of an Insurance Certificate?

A statute that became effective in 2011, O.C.G.A. § 33-24-19.1, specifically forbids any person to "prepare, issue, or request the issuance of a certificate of insurance unless the form has been filed with and approved by the Commissioner of Insurance." It goes on to provide that "no person . . . may alter or modify an approved certificate of insurance form." The author has been informed that the Insurance Commissioner has approved some specific forms for insurance certificates, but those approved forms are generally company specific and essentially the same as the forms mentioned in the new statute. That statute states that "standard certificate of insurance forms promulgated by the Association for Cooperative Operations Research and Development or the Insurance Services Office are deemed approved", as long as they otherwise comply with the statute's requirements. However, agents must be sure to use the most current form of such certificates, as the use of an outdated form is prohibited.

The statute's main requirement is that all insurance certificates contain a statement that "this certificate of insurance is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage, terms, exclusions, and conditions afforded by the policies referenced herein."

The statute forbids the preparation or issuance of "a certificate of insurance that contains any false or misleading information or that purports to affirmatively or negatively alter, amend, or extend the coverage provided by the policy of insurance to which the certificate makes reference." It specifically states that "no certificate of insurance shall contain references to contracts, including construction or service contracts, other than the referenced contract of insurance", and with respect to notice of cancellation of such a contract of insurance, the statutes provides, "a certificate holder shall have a legal right to notice of cancellation, nonrenewal, or any material change, or any similar notice concerning a policy of insurance only if the person is named within the policy or any endorsement and the policy or endorsement requires notice to be provided. The terms and conditions of the notice, including the required timing of the notice, are governed by the policy of insurance and cannot be altered by a certificate of insurance."

The statute applies to "all certificate holders, policyholders, insurers, insurance producers, and certificate of insurance forms issued as evidence of insurance coverages on property, operations, or risks located in [Georgia], regardless of where the certificate holder, policyholder, insurer, or insurance producer is located." If an agent is asked to issue a certificate of insurance that does not comply with the above requirements, he or she should point out that such a request can not be honored as it would be a violation of the law to issue such a certificate. The agent should also point out that it is a violation of the law for a person to "demand or request the issuance of a certificate of insurance from an insurer, insurance

producer, or policyholder that contains any false or misleading information concerning the policy of insurance to which the certificate makes reference." A violation of this statute can result in the imposition of a fine of up to $5,000 by the Insurance Commissioner.

What can and cannot be put in the Description of Operations section of the ACORD form 25 is currently the subject of some debate. For updates on that issue, please see the author's blog at https://decatur-law.com/blog.

E. Should an Agent Review Construction or other Contracts to Determine What Type of Insurance Coverages are Required by Such Contracts?

NO, unless the agent is willing to assume liability for not obtaining all the required insurance coverages. If an agent feels compelled to do so for competitive or other reasons, to protect against such liability, the agent should provide the insured with a written disclaimer stating that his or her review is only a preliminary one, the agent is not an attorney or otherwise an expert in the review of legal documents, and the insured should seek legal advice to make sure that the agent's opinion on what insurance coverages are required is, in fact, correct.

F. How Long Must Business Records be Kept?

For records involving the issuance of insurance policies and other insurance related transactions in which an agent is involved, five (5) years after the completion of the insurance transaction in question or the term of any contract involved in the transaction, whichever is greater. Other types of business records (e.g., tax returns, employee personnel files) should be kept for differing periods of time. Please see the Articles page of the author's website, www.decatur-law.com, for an explanation of those other time periods.

The records required to be kept under the Georgia Insurance Code must be kept at the address shown on the agent's license or at the Georgia regional or home office of any insurance company that may be involved in such a transaction. This requirement can also be satisfied if the insurance agency for which the transaction in question was undertaken keeps the required records. Those records must consist of at least the policy number of each insurance contract procured or issued by or through the agent or subagent, along with the names of the insurer and insured under each contract, the amount of premium paid or to be paid for each contract, and a description of the subject of each contract. Agents and subagents are also required to maintain a record of the names of any other licensees under the Insurance Code from whom they accept business and of those persons to whom they pay or promise to pay "commissions or allowances of any kind."

If the provisions of the Georgia electronic transactions law referred to above are satisfied, the required records may be kept in electronic format. That law essentially requires the records to be kept in a format that can be accessed at any point in the future, if necessary. The failure to keep the required records can result in the taking of disciplinary action by the Insurance Commissioner up to and including the revocation of the offending agent's license.

G. <u>Can Business Records be Stored Electronically</u>?

YES, if the requirements imposed by Georgia's Uniform Electronic Transactions Act (the "Act"), which applies to all transactions that occurred on and after July 1, 2009, and any electronic records first created on or after that date, are satisfied. Unlike the electronic delivery of insurance policies, the rules for the electronic storage of consumer related business records are the same as for non-consumer related records.

The Act permits the electronic retention of any record required by law to be retained if the electronic record "(1) accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and (2) remains accessible for the retention period required by law." In this situation, "remains accessible" means that you are able to create a hard copy from the electronic record that is identical to the original hard copy document at all times during the required time period. This would include any signatures on the original document. The Act permits the Georgia Insurance Commissioner to adopt regulations that impose additional requirements on the electronic storage of records subject to his jurisdiction, but to date, no such regulations have been adopted.

Given the length of the above time periods and the fast changing nature of the electronic storage of documents (it was not that long ago that floppy disks were used for this purpose), agencies and agents should make sure that the storage process used will allow the documents to be "readily accessible" for those time periods. The Act permits the use of third party services (e.g., in "the cloud") to electronically store documents. However, if an agency or agent intends to store their records "in the cloud", there are security considerations that will need to be addressed in order to satisfy the responsibility to keep confidential personally identifiable information of an agency's or agent's customers.

H. <u>Can an Agency Get in Trouble if its Employees Use Their Mobile Phones While Driving?</u>

YES, if:

- as a result of the employee's use of a mobile phone for a business purpose they cause an accident,

- the agency was aware or reasonably should have been aware that the employee used their mobile phone for such purposes while driving, and
- the agency did nothing to discourage such use.

Under the legal doctrine of vicarious liability, sometimes known as respondeat superior, an employer is responsible for the acts of its employees if those acts are performed during the scope and course of the employee's performance of duties for the employer.

Although the use of a mobile phone while driving is not illegal in Georgia (but texting while driving is now illegal), a jury may still decide that such use was negligent under the circumstances. The appellate courts of Georgia have held that such verdicts are permissible, even when the employee was not actually at work when the accident happened. It was enough that the employee was using their mobile phone for a business purpose. In one case in late 2012, an employer settled a lawsuit against it based on its employee rear ending another car "while rummaging for her mobile phone" for $2 million.

To protect itself against such liability, an agency must adopt a policy prohibiting the use of mobile phones by its employees while driving and must enforce that policy consistently when it is violated. A policy that is not enforced is worse than having no policy at all, as it is evidence of the agency's awareness of such use and its apparent acceptance of it. By adopting and consistently enforcing a policy prohibiting its employees from using mobile phones while driving, the employee will not be acting within the scope of their employment if they use a mobile phone for any purpose while driving.

I. <u>Does an Insured Have the Right to Avoid the Cancellation of a Policy by Paying a Past Due Premium Before The Policy's Specified Cancellation Date?</u>

NO, unless the language of the policy itself gives the insured this right, but the answer is YES, if the cancellation notice sent

to the insured says that will happen if the premium owed is paid by that date. For agencies that give their insureds the option to avoid the cancellation of a policy if the premium owed is paid before the cancellation date specified in the cancellation notice sent to the insured, there is a trap for the unwary. The inclusion of such language in a cancellation notice that is sent on or before the due date for the premium renders the notice ineffective to cancel the policy if payment of the premium is not made by the specified date. In order to avoid this result and the E&O exposure that comes with it, if an agency wants to give an insured the option to avoid the cancellation of a policy by paying the past due premium on or before the cancellation date, it should wait to send the cancellation notice until after the premium due date has passed.

J. Can a Telefax or Scanned Document be Notarized?

NO. Only an original signature can be notarized. In addition, the person signing the document must be in the presence of the notary and either sign the document or acknowledge to the notary that the original signature on the document is theirs. A document that is required to be notarized and has not been properly notarized has no legal effect. A notary who improperly notarizes a document is guilty of a misdemeanor, which can be punished by up to a year in jail and/or a fine of up to $1,000.00.

K. Does An Agent Have a Duty to Report Wrongdoing?

YES, if the conduct in question constitutes a "fraudulent insurance act" under O.C.G.A. 33-1-16. Paragraph (f) of that statute requires "Any insurer, agent, or other person licensed under this title, or an employee thereof, having knowledge of or who believes that a fraudulent insurance act is being or has been committed" to send to the Commissioner "a report or information pertinent to such knowledge or belief and such additional information relative thereto as the Commissioner or

his employees or agents may require." The statute defines "fraudulent insurance act" to include "knowingly and willfully" transacting "any contract, agreement, or instrument which violates" the Georgia Insurance Code, as well as the providing of "materially false information" in writing in connection with the issuance or rating of an insurance policy or the making of a claim under one or the concealment of " information concerning any fact material thereto."

The existence of this duty is important for insurance agents for keep in mind, because the Georgia Insurance Code allows the Insurance Commission to suspend or revoke an agent's license for violating any provision of that Code or of any other law or regulation relating to insurance. In the Commissioner's January 2011 directive on insurance certificates, the statement was made that the issuance of a fraudulent certificate of insurance was covered by this statutory mandate.. It seems clear that the Insurance Commissioner would regard the failure to report the issuance of an insurance certificate in violation of the new law to be a breach of the duty set forth in O.C.G.A. Section 33-1-16. The Department of Insurance has created an online portal for agents and others to use to report suspected violations of the law on insurance certificates. It can be found at http://www.oci.ga.gov/Agents/CertificatesOfInsurance.aspx. All other reports of a "fraudulent insurance act" should be directed to the Department's Fraud Unit at 708 West Tower, Floyd Building, 2 Martin Luther King, Jr. Drive, Atlanta, Georgia, 30334. If you have any questions about a particular situation, the telephone number there is 404-656-2060. Any such report should be made in writing so that the agent would be able to show that they had fulfilled their duty under the above statute.

Free Consultation

Mark Burnette is a business attorney in Decatur, Georgia specializing in support of insurance agents and agencies. As a benefit of IIAG membership, members are entitled to a 30-minute consultation with him on any business related subject every calendar quarter.

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