

BULLETIN 1991-4

USE OF ASSOCIATIONS, ADVERTISING AGENCIES, GENERAL AGENTS AND OTHER RELATED ENTITIES IN THE MARKETING OF INSURANCE

January 15, 1991

The Department has encountered numerous complaints and become aware of too many instances where insurance companies and agents are utilizing associates, advertising agencies and other similar entities both real and fictitious to circumvent Kansas statutes and advertising regulations in the marketing of Accident and Health and Life insurance.

Most frequently, advertisements are distributed by these non-insurance related entities which fail to identify the name of the company(s) in the advertisement, and /or advise the consumer that an agent will call for the purpose of selling insurance. Less frequently but too often, the title or name of the organization purported to be disseminating the advertisements are typically designed to imply to the prospective insured that the organization in the advertisement is either a resource center to senior citizens or is a bona fide governmental or non-profit agency. All of these activities are clearly violations of the Kansas Unfair Trade Practices Act and advertising regulations. Accordingly, the Department has found the above practices to constitute unfair methods of competition or unfair or deceptive acts or practices in the business of insurance in violation of the Unfair Trade Practices Act. Cease and Desist Orders have been issued and appropriate monetary penalties have been assessed as a result of these violations.

The purpose of this bulletin is to remind all insurers authorized to transact life and/or health insurance in this state that Kansas advertising regulations, K.A.R. 40-9-100, Section 2-B and K.A.R. 40-9-118, Section III-2 provide:

“Every insurer shall establish and at all times maintain a system of control over the content, form, and method of dissemination of all advertisements of its policies. *All such advertisements, regardless of by whom written, created, designed, or provided, shall be the responsibility of the insurer...*” (Emphasis Added)

Unfair, deceptive or otherwise improper sales practices will simply not be tolerated and this includes misleading advertising for which an insurer attempts to disclaim responsibility. This Department will continue to pursue and take administrative action under the above cited statutes and regulations against any company or agent believed to be utilizing associations, advertising agencies and other similar entities in an attempt to circumvent Kansas statutes and advertising regulations pertaining to advertisements of Accident and Health and Life insurance.

Please acknowledge receipt and understanding of this Bulletin in writing and advise the Department that your agents and other appropriate personnel have been notified.