

May 9, 1924

SUBJECT: INSURANCE

WITHDRAWN

TO ALL AUTHORIZED LIFE INSURANCE COMPANIES:

Re: Bonuses, Prizes, Rewards, etc., Based Upon the Volume of New or Renewed Business

On Feb. 14, 1921, this Department addressed letters to all authorized life insurance companies containing a warning against high pressure methods. The cooperation of the companies in improving the conditions in the field of life insurance underwriting has been most encouraging. However, there has come to my attention from time to time a number of isolated instances in which it appears that the provisions of § 97, New York Insurance Law, were either misunderstood or were ignored. Accordingly, it seems desirable again to call to the attention of companies and agents that part of § 97, New York Insurance Law, which reads as follows:

"4. Except as hereinafter provided all bonuses, prizes and rewards, and all increased or additional commissions or compensation of any sort based upon the volume of any new or renewed business or the aggregate of policies written or paid for, are prohibited. Nothing herein contained is to be construed as prohibiting the institution of contests or competitions among agents, and the recognition of success in such competitions by the awarding of ribbon decorations, medals, pins, buttons or other tokens of small intrinsic value, given not as compensation but as a bona fide recognition of merit."

Under the above statutory provision no company, nor any general agent, manager, or other supervising official can give any reward, bonus, prize or compensation of any sort based upon the volume of new or renewed business or to the winner of a contest where such reward or compensation is of more than small intrinsic value. A general agent or manager is not permitted to give any such reward or compensation from his own private funds or from the funds contributed by his or any other agents.

This Department has ruled repeatedly in the past that in order to come within the provisions of § 97, New York Insurance Law, the reward must comply with each or the following conditions:

1. The reward must come within the classification of "ribbon decorations, medals, pins, buttons, or other tokens" in order to be excepted under the provisions contained in § 97.
2. The reward must not be of more than "small intrinsic value".
3. The reward must comply with the condition that it is given "not as compensation but as a bona fide recognition of merit".

On a number of different occasions this Department has ruled that valuable fountain pens, Eversharp pencils, umbrellas, brief cases, stick pins, watches, silver tea services, etc., could not lawfully be given as prizes in agency contests under the present provisions of § 97, New York Insurance Law.

However, I am of the opinion that the phrase in § 97 "small intrinsic value" should not be given a narrow interpretation in view of present day conditions. Accordingly in cases where a token is of such small value that it cannot

reasonably be construed by anyone as compensation and where the conditions of the contest make it entirely clear that the token is offered as a bona fide recognition of merit, this Department will not raise any objection. Whether or not a token in any particular case is prohibited by the provisions of § 97, will therefore depend to some extent at least on the scope of the contest, the amount of premiums involved, the frequency of contests, and the relative value of the token as compared to the commissions which in any event would be earned. It must therefore be evident that a token which is entirely unobjectionable and permissible in one contest may be far too valuable in another contest and consequently prohibited by the provisions of § 97.

Money awards of any amount are clearly prohibited by the provisions of § 97.

The Department has ruled in a number of cases that loving cups and medals of small intrinsic value which cannot be converted readily into money were not intended to be prohibited by the provisions of § 97,

This Department has also ruled that the payment of an agent's expenses to an agency convention is not in violation of the provisions of § 97, New York Insurance Law. The payment of such expenses does not constitute compensation. It is considered as a temporary enjoyment of a reward of efficiency which brings no pecuniary returns to the agent. He is simply reimbursed for expenses.

There are some indications that abuses are beginning to be practiced under the foregoing ruling of this Department. Some recent tendencies have been noted toward making conventions more and more pleasure outings and less of business conventions. Accordingly the companies and agents are warned at this time that a company, general agent, manager or supervising official cannot offer pleasure outings as a reward based on the volume of any new or renewed business.

Under the provisions of § 97, a company is permitted to pay only the actual expenses of agents to conventions which are conducted primarily for business purposes. Conventions must be held at places where it is apparent that the object is to attend to the business of the company and not to subordinate such business to pleasure outings. A company is not permitted to pay expenses in connection with pleasure side trips which interfere with the business of the convention. Such side trips must be purely incidental. Nor is a company permitted to pay the expenses of agents' wives or other members of their families.

A company is not permitted to pay or offer to pay the expenses of any except its own bona fide agents to an agency convention. The conditions under which agents may qualify to attend an agency convention must be such as to make it entirely clear that there is no attempt to "twist" agents of other companies.

The above matters are brought to your attention in view of the fact that this Department will hold responsible the management of any company which permits a violation of any of the provisions of § 97, New York Insurance Law. You have control over your employees and agents and that control must be exercised. This Department expects you to have full knowledge of the acts committed by your officials and agents throughout the country.

A violation of any of the provisions of the New York Insurance Law makes any foreign or domestic company, or any person guilty of such violation subject to prosecution. Attention is also called to the following provisions of § 97, New York Insurance Law:

"7. A foreign life insurance corporation which shall not conduct its business within the limitations and in accordance with the requirements imposed by this section upon domestic corporations shall not be permitted to do business within the state."

In order that your agents may be fully informed regarding the matters discussed in this letter, I hereby request you to forward complete copies of this letter to each of your general agents, managers or other supervising officials, and to advise this office as soon as such action has been taken.

Please acknowledge receipt of this letter.

Yours very truly,

(Signed) FRANCIS R. STODDARD, JR.

Superintendent