

January 20, 1981

SUBJECT: INSURANCE

WITHDRAWN

Circular Letter No. 4(1981)

TO: ALL INSURERS LICENSED TO WRITE LIFE AND/OR ACCIDENT AND HEALTH INSURANCE AND ALL INSURANCE AGENTS AND BROKERS

RE: AMENDED REGULATION 27A, EFFECTIVE JUNE 1, 1980 (CREDIT LIFE INSURANCE AND CREDIT ACCIDENT AND HEALTH INSURANCE)

It has come to the Department's attention that officials and representatives of insurance companies and insurance producers may have misunderstood the effect of a recent decision rendered in the Supreme Court, New York County, relative to the above.

On December 4, 1980, Justice Oliver Sutton's decision and opinion in the matter of *Mazgulski v. Lewis* appeared in the *New York Law Journal*, which stated, in part, "[t]he provisions of Regulation 27A shall be stayed until hearings on withdrawal of approval are held and determinations are rendered. Settle judgment."

This Department confirmed with the Assistant Attorney General handling the court proceeding on behalf of the Department that the judgment of the court implementing its decision and opinion has not been signed or entered. Thus, in the opinion of the Department and the Attorney General's Office, the stay referred to in Judge Sutton's opinion is not in effect. It is only after an appropriate order or judgment is signed by Judge Sutton and entered in court records would the stay become effective.

It is the intention of the Department in the event such order or judgment is signed by Judge Sutton and entered, that an appeal will be taken to the Appellate Division, First Department. The taking of such appeal will act as an automatic stay of Judge Sutton's order or judgment pursuant to the provisions of CPLR Section 5519. In addition, the Department contemplates making an application in the New York Supreme Court for reargument.

Accordingly, it is the position of this Department that Regulation 27A as amended effective June 1, 1980 remains in full force and effect at this time.

Very truly yours,

[SIGNATURE]

Donald D. Gabay

First Deputy Superintendent