PROFESSIONAL
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WHOLESALERS
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Hearing Officers
Public Affairs Bureau
New York State Insurance Department
25 Beaver Street
New York, NY 10004

RE: Export List Hearings

My name is Gary Hollederer, ASLI. I hold the position of Executive Vice President with Russell Bond & Co., Inc, a wholesale broker located in Buffalo New York. I previously presented written testimony in my then capacity as President of the Professional Insurance Wholesalers Association of New York Inc, a/k/a PIWA. Today I would like to provide comments as a wholesale broker and in my capacity as Immediate Past President of PIWA interested in improving a process, which can be of help to the retail insurance broker as well as the public who has a need for insurance products not readily available through admitted markets.

As you consider my comments, please consider my background, which started 34 years ago. It includes extensive experience as a commercial underwriter with an admitted insurer, a retail broker for a national publicly traded broker as well as a large regional and a small family owned agency and for the last 15 years, a wholesale Broker.

I recently participated in a meeting with the Insurance Dept regarding the need for a hearing on the export list. I left with the impression that a major concern the Department had with expanding the export list is that it would allow retail brokers an easy way to circumvent the system. As explained at that meeting and in the written testimony I previously provided, economics prevent this from occurring. The E&S Market is considered the “market of last resort”. This is not unique to wholesalers operating in New York but nationwide. I refer you to the May 19, 2008 P&C edition of the National Underwater. There is an article titled “Forward-Looking Project Reveals Need to Redefine Value of MGAs”. The article discusses a project the American Association of Managing General Agents, a/k/a AAMGA, has undertaken about the future of the wholesale broker. This article focuses to some extent on the wholesale broker being looked as a “market of last resort” when they have much more to offer than a non-admitted proposal.

The economics of the retail broker's business demonstrates why wholesale distribution, whether the products sold be admitted products or excess line policies is a decision of last resort.

Retailers work on very thin margins. In fact, many operate by having commissions cover expenses and overhead relying completely on contingency commissions for any actual operating profit. Contingent commissions are generally tied to profitability of the business produced. The licensed insurers with whom the retail producer does business constantly pressures the retailer for growth and essentially tells the retailer that the relationship will be terminated if the retailer can not meet targeted premium growth. As a result, the number of licensed insurers the retailer will have access to becomes a function of their size and their ability to meet production expectations. The smaller the retailer the fewer licensed insurers they will represent and the less options they might have.

If that retailer has to place a risk through a wholesaler, it does nothing to help the retailer with his licensed insurer relationships and growth targets. The retailer must split his commission on an account that is tough to place. Moreover, the effort is labor intensive and therefore, more expensive to the retailer. If the wholesaler places the risk in the excess line market, it subjects the retailer to a greater degree of regulation and paperwork.

As such, it is adverse to the economic and other interests of a retailer to work through a wholesaler unless it is absolutely necessary. For all of these reasons, our staff has had retailers tell them that they will turn away potential customers in some instances rather than lose money placing an account where clerical errors can lead to fines or license suspension. Therefore, the "market of last resort" banner remains. When the retailer has only a small number of licensed insurers they can access, the problem is magnified for the classes that have been proposed to be added to the export list. As a wholesale broker, we also place risks in the licensed market regularly but it is a rarity that we find licensed insurers willing to write most risks proposed for addition to the export list or to offer coverage on terms and conditions most suitable for the insured

Given all this, there are a number of classes/coverages that have been proposed to be added to the export list. Adding them will make the transaction more cost effective to handle for the retailer without diminishing the protection the admitted market deserves.

Of the coverages/classes proposed to be added to this list, although they are available from the admitted market, the actual number offering coverage is limited. When looking at the distribution channels utilized by these insurers offering these coverages it is easy to see that the availability of these coverages/classes from the admitted market overall is very limited. Add to this the stringent underwriting guidelines licensed insurers use when qualifying these risks and the number drops further. In many instances, certain risk characteristics allow a broker to know immediately upon looking at the risk whether the licensed markets they have access to will write an account.

Regardless of the number of licensed insurers that have filings for these coverages, if you were to look at those who actually indicate an interest in writing the coverage, the number of agents/brokers through whom they distribute their products, the number of submissions they have seen and the number of risks actually written, I would be surprised if it was a large percentage compared to the number in the state needing or desiring the coverage.

Although I had planned to comment on four classes appearing on the list, out of respect for the time constraints under which this hearing is being held, I will limit my comments to Vacant Property and Employed lawyers. I refer you to previously written testimony furnished by our Company with respect to the other two – contractors and miscellaneous E&O.

My comments on vacant properties and employed lawyers are based on our companies experience working with 1,868 retail brokers from whom we will accept business. A little over 95% of them are small to medium size businesses and as such do not and cannot support a large number of direct relationships with licensed insurers.

Our company sees hundreds of vacant property opportunities during a calendar year and we write a large number of them Although there may be more, we are aware of only one small regional insurer who likes and regularly writes this type of risk however, their distribution network is limited and the number of accounts it writes is a small portion of the overall market. As part of our qualification process, we will ask where else our retailer has gone. In most cases, their admitted direct access markets either have declined or are not in a position to offer the scope of coverage desired.

With respect to Employed Lawyers, our research has shown that the majority of lawyer's larger companies, institutions and associations employ is not significant in relation to the total number of lawyers practicing in New York. The type and size of the organization employing them will usually dictate the type and extent of services they provide. Of the admitted markets who write lawyers, we are aware of only one that might consider this type of risk. I believe the uniqueness of the exposures they present and the number in need of this specialized coverage has significantly limited the availability from the admitted market.

In conclusion, I do not see the addition of these classes increasing the number of risks written by the non-admitted market, but it will accomplish the goal of making the process less cumbersome.

I thank you for the opportunity to provide my thoughts on this topic and welcome any questions.

Respectively submitted,

Gary A. Hollederer