

The Run on the Bank has apparently begun...

Flash Report: **No New or Renewals Permitted for Applied / CIC – Brokers Scramble**

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The California Department of Insurance has ordered that Applied Underwriters' California Insurance Company issue no new or renewal policies. The order applies to all new or renewal policies, including those in SolutionOne, JumboGC, and the controversial EquityComp.

Brokers are scrambling on many levels. Clients are being actively sniped at by brokers trying to take away the accounts of others who placed business in those programs. And brokers with clients in Applied / CIC programs are remarketing them whether or not the expiration date is in sight.

It appears as though the proverbial run on the bank has begun.

“It forces you into action,” says Jay Corbett, a broker at Hub International. “Sure, I’m going after all the business I can,” he says, and the competition is fun. “If you’re the holding broker, you’d better be remarketing and replacing to protect your client, mid-term or not,” Corbett says if he had any of those- and he emphasizes he does not – he’d be out there now giving all options to the client.

One broker tells Workers' Comp Executive, “We are merchants of discontent. We can go ask employers why their existing brokers have placed them in this position in the first place given all the bad press [and CDI actions] for all these years. It is the perfect opportunity to shake the relationship with the holding broker, especially on accounts we’ve been trying to get for some time.”

“Hell yes, I’d move them,” says Attorney Nick Roxborough of Roxborough, Pomerance, Nye & Andreani. “There are significant issues with a broker’s E & O Coverage and Compliance, not to mention the sniping by other brokers.”

PEOs tell Workers' Comp Executive they are mainly going after the SolutionOne clients because of the payroll option.

The CLO & Short Rate & Other Issues

The Conservation and Liquidation office has or will shortly be asked to waive short term cancellation fees (within its power) for insureds who want to leave Applied / California Insurance Company. Given the inability of CIC to renew or issue new business, many people presume is that the company is likely to move from Conservation to liquidation.

Brokers are moving business before that happens.

Financial Health & Conservation

The Conservation has nothing to do with the financial health of the carrier, although the veracity and verification of its statements remain to be confirmed by the California Department.

Instead, it is the result of the CDI declining to approve the purchase of the company from Berkshire Hathaway by Steve Menzies because, in the Department's words "the competence experience and integrity of the persons who would control California Insurance Company after the change is not in the best interests of its policyholders or the public.

Menzies attempted an end-run around the Department, says Attorney Lichtenegger, by forming a carrier in New Mexico in less than one day and, in order to complete the purchase from Berkshire, attempting to subsume the California carrier – without CDI's permission.

The Actual Law

In any event, the purchase from Berkshire went through without the required approval of the California Department – or maybe went through – and if it did by operation of law, CIC has no certificate of authority to operate, says CDI.

If the sale went through because of the merger into the New Mexico carrier, then the carrier has no certificate to operate by operation of law.

In the Verified Ex Parte Application For Order Appointing Insurance Commissioner As Conservator, filed under seal and obtained exclusively by *Workers' Comp Executive*, the Department explains its reasoning:

- Any attempt by a person to obtain control of an insurer without first obtaining approval of the Commissioner risk and jeopardizes the interests of its policyholders ... is a direct violation of Ins Code §1215.2. Paraphrased the Department wrote that Respondent CIC is in the midst of an attempt to merge with a New Mexico Company to transfer control without obtaining the Commissioner's approval. The story which WCE will tell in its paid edition is amazing.
- The effective of the unapproved and therefore illegal merger, if recognized, would be to terminate CIC's authority to transact business in California. The merger would extinguish CIC's Certificate of Authority by operation of law ...
- The Department argued successfully that the attempt to merge without approval is grounds for ConservationConservation.

“I agree with the Department’s assessment that the people behind Applied Underwriters’ and CIC have suspect integrity,” says attorney Larry Lichtenegger who represents employees in litigation against Applied and CIC. The Conservation order stayed all outstanding cases. “For that reason, anyone who is dealing with these people ought to get away from them as if they were a plague.”