



Agency Law: Insurance Applications

Educational Objectives

After learning the content of this assignment, you should be able to:

1. Describe the agency relationship that exists between insurers and each classification of producers:
 - Agents
 - Brokers
2. Distinguish a producer's actual authority, both express and implied, from apparent authority.
3. Explain how the extent of a producer's authority is affected by these factors:
 - Producers' status as general agents, special agents, or brokers
 - Producers' notice and knowledge
 - Producers' authority to bind coverage
 - Appointment of subagents
4. Explain how producers' authority can be terminated.
5. Describe producers' duties and liabilities to insurance customers, third parties, and insurers.



Outline

- ▶ **Insurance Producer Classifications**
 - A. Agents
 - B. Brokers
- ▶ **Producers' Authority**
 - A. Actual Authority
 - B. Apparent Authority
- ▶ **Extent of Producers' Authority**
 - A. Producers' Status as General Agents, Special Agents, or Brokers
 - B. Producers' Notice and Knowledge
 - C. Producers' Authority to Bind Coverage
 - D. Appointment of Subagents
- ▶ **Termination of Producer Authority**
- ▶ **Producers' Duties and Liabilities**
 - A. Producers' Duties and Liability to Insurance Customers
 - 1. Producer's Duty to Follow Instructions
 - 2. Producer's Duty to Procure Insurance
 - 3. Producer's Duty to Maintain Coverage
 - 4. Producer's Duty to Place Insurance With a Solvent Insurer
 - 5. Producer's Duty to Advise
 - B. Producers' Defenses to Liability
 - 1. Producer Assumed No Duty to Customer
 - 2. Producer Did Not Breach Duty to Customer
 - 3. Insurance Customer Was Partly at Fault
 - 4. Insurance Customer Failed to Read Policy
 - 5. Insurance Was Not Available to the Customer
 - C. Producers' Duties and Liabilities to Third Parties
 - D. Producers' Duties and Liability to Insurer
 - 1. Duty to Disclose Risks
 - 2. Duty to Follow Instructions
 - 3. Duties of Loyalty and Accounting
 - 4. Duty to Transmit Information Properly



Plan to take one week to complete each assignment in your course.



For each assignment, you should define or describe each of the Key Words and Phrases and answer each of the Review and Application Questions.

Educational Objective 1

Describe the agency relationship that exists between insurers and each classification of producers:

- Agents
- Brokers

Key Words and Phrases

Insurance producer

Insurance agent

General agent

Special agent

Soliciting agent

Broker



Review Questions

1-1. Compare the degree of discretion the three categories of agents—general agent, special agent, and soliciting agent—have in carrying out their functions.

1-2. Contrast the roles of insurance agent and insurance broker.

1-3. Describe the roles of insurance brokers.

Educational Objective 2

Distinguish a producer's actual authority, both express and implied, from apparent authority.

Review Questions

2-1. Describe actual authority in regard to insurance producers.



2-2. Compare an insurance producer's express authority with implied authority.

2-3. Describe apparent authority of insurance producers.

2-4. Describe the two types of circumstances that usually give rise to apparent authority for insurance producers.



Application Question

- 2-5. Wanda owns a busy insurance agency in a small rural town and represents several insurers, one of which is InsureCo. Two clients, Manny and Jill, recently purchased a small farm with an area for producing honey, and Wanda arranged insurance coverage with InsureCo for the farm. InsureCo is an independent filer and uses its own forms, which appear to Wanda to be similar to the standard forms. There is nothing stated on InsureCo's forms regarding agent authority. Jill asks Wanda whether her bees will be covered. Wanda, who is familiar with the ISO Farm Personal Property Coverage Form, assures her that her bees will be covered for any covered cause of loss. A few months after the policy is issued, there is a severe storm that results in a total loss of Jill's beehives and bees, along with other property damage on the farm. InsureCo covers the other damage, but refuses to cover the loss of the bees because there is an exclusion in its policy for bees. Did Wanda have authority to tell Jill that her bees would be covered by her InsureCo policy?

Educational Objective 3

Explain how the extent of a producer's authority is affected by these factors:

- Producers' status as general agents, special agents, or brokers
- Producers' notice and knowledge
- Producers' authority to bind coverage
- Appointment of subagents

Review Questions

- 3-1. Compare the extent of authority for the different types of insurance producers—general agents, special agents, and brokers.



- 3-2. Compare the typical insurance duties of a general agent and a broker.
- 3-3. Describe the two instances in which a broker can be both an agent and insured's representative.
- 3-4. Describe imputed knowledge in the agent-insurer relationship.
- a. Is there imputed knowledge in the broker-insurer relationship?
 - b. Is there imputed knowledge if an agent is aware that information provided by an insured was false?



- c. Is there imputed knowledge if an insured provides false information without the agent being aware that the information is false?

3-5. Describe the typical authority of insurance producers to issue temporary oral or written policies.

3-6. Explain whether apparent authority applies to an insurance producer's sub-agents.



Application Question

- 3-7. While Julio, a general insurance agent for InsureCo, is out of the office, his assistant binds auto coverage for Limo, a small limousine company. Julio has authority to bind coverage for InsureCo but has not given his assistant this authority. However, the assistant knows the agency is struggling to meet its sales goal for the month and believes that this business will help the agency reach its goal. The assistant is not aware of a memo Julio received from InsureCo that it prefers not to write any additional limousine business. The day after Julio's assistant binds coverage, there is a serious accident involving one of Limo's vehicles. Explain whether InsureCo is liable for this loss.

Educational Objective 4

Explain how producers' authority can be terminated.

Review Questions

- 4-1. How does an insurance producer/insurer agency relationship terminate?
- 4-2. Describe the typical termination procedures that end a producer's authority.



- 4-3. Explain how apparent authority can arise after termination of a producer/insurer agency relationship.

- 4-4. Describe methods an insurer can use to prevent a producer's exercise of apparent authority after termination of the producer/insurer agency relationship.

Application Question

- 4-5. InsureCo's contract with the Small Agency expires on June 30, and InsureCo elects not to renew the contract because of dissatisfaction with the book of business produced by Small. InsureCo sends written notice to Small of the contract expiration and the termination of the contract's express authority to bind coverage. However, InsureCo does not notify any of Small's customers. High Risk, a customer of Small and InsureCo, has coverage expire on July 15. Small tells High Risk that Small will get its coverage renewed and submits the renewal to InsureCo. Explain whether InsureCo is bound to provide coverage to High Risk.



Educational Objective 5

Describe producers' duties and liabilities to insurance customers, third parties, and insurers.

Review Questions

- 5-1. Describe the standard of care and skill that is required of insurance producers and the five duties that producers owe their customers.

- 5-2. Describe liabilities that could result from a producer's failure to follow instructions.

- 5-3. Contrast a producer's duty to procure insurance with the duty to follow instructions.

- 5-4. Describe the extent of an agent's duty to determine an insurer's solvency.



- 5-5. Explain why an insured's failure to read the policy is not always an adequate producer defense against liability.
- 5-6. Describe the liability of an insurance producer to an insurer for failing to fully disclose information regarding a prospective insured.
- a. Describe the producer's liability if the insurer would not have issued a policy to the insured if the producer had fully disclosed the risks and hazards.
 - b. Describe the producer's liability if the insurer would have issued the policy but with a higher premium.



a. Is the insurer responsible to pay the loss?

b. Is Paul, the producer, liable for the loss?

c. Can Paul use the defense that Dan failed to read the policy?

d. Does the injured employee have a right of action against Paul?

