

1982 WL 189523 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 20, 1982

***1 Re: South Carolina Reinsurance Facility—Designated Agents**

L. Kennedy Boggs, Esquire
General Counsel
South Carolina Department of Insurance
Post Office Box 4067
Columbia, South Carolina 29240

Dear Ken:

You have asked this office to review an opinion letter written by the attorney for the South Carolina Reinsurance Facility concerning the ability of designated carriers to terminate the authority of designated agents (producers) to write business for such carriers. For the sake of clarity and future utility of this opinion I have attached the above-referenced opinion letter hereto and incorporate it herein by reference. Your second question is whether a termination of the agency status of a designated agent would operate to revoke that agent's designation.

As to your first question, we have reviewed Mr. Salane's opinion, the Plan of Operation of the South Carolina Reinsurance Facility, the Rules of Operation of the South Carolina Reinsurance Facility, and Chapter 37 of Title 38, CODE. Based upon our independent research, we concur with Mr. Salane's conclusion that a designated carrier may terminate the agency relationship of a designated agent for acts of infidelity by the agent, business practices not within applicable guidelines, or other valid reasons for which the contractual relationship of a voluntary agent may be terminated.

All carriers of automobile insurance in this State are required by [Section 38-37-720, CODE](#), to be members of the Facility. The same Section makes such carriers subject to the Plan of Operation and the Rules of Operation. Rule Twelve requires the carrier to enter into an agency contract with the designated agent and to establish and enforce service standards comparable to those applied to voluntary agents. The duty to contract regarding standards and the duty to enforce those standards must carry with them by necessary implication the right to suspend the relationship for any reason consistent with the contract. A designated agent who feels that his termination is improper may appeal to the Governing Board pursuant to Article XII of the Plan of Operation.

We also concur with Mr. Salane's distinction between termination and 'de-designation' of designated agents. The designation of a producer is a function reserved for the Chief Insurance Commissioner after consultation with the Facility. It is not within the province of the carrier to affect the designation.

The basis for this distinction is found in Article II of the Plan of Operation, which defines 'Designated Carrier' as 'a member who . . . agrees to appoint a designated producer as its agent.' Therefore, the acts of designating a producer and appointing that producer as an agent are separate and distinct. It is therefore the opinion of this office that the termination of a designated agent affects only his agency status and does not affect his status as a designated producer. Upon termination, the designated producer would still be available for appointment by another designated carrier.

***2** I trust this has sufficiently answered your questions. If not, please feel free to call.

Sincerely,

Clifford O. Koon, Jr.
Assistant Attorney General

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