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FLASH REPORT!

Wisconsin Bans EquityComp & SolutionOne

Another state, this time, the State of Wisconsin has issued an order – what would be called in California, a cease - banning Applied Risk Services aka Applied Underwriters, as well as its subsidiary Continental Indemnity Company from “marketing, binding, issuing, and renewing SolutionOne and EquityComp policies.”

The Wisconsin Commissioner earlier forced - in an agreement signed by Applied - Applied to either mid-term cancel or non-renew all such policies in the state. When Applied failed to live up to the deal, the Commissioner fined the Berkshire Hathaway (NYSE: BRK.A) subsidiaries \$140,000 for violating it.

The Commission’s action follows its findings that Applied was: “using advertising, not in compliance with Wisconsin insurance law, misrepresenting information to [the Wisconsin Office of the Commissioner of Insurance], and consumers, utilizing the services of unlicensed and non-appointed producers, and selling insurance products, not in compliance with Wisconsin laws.”

Applied Risk Services, Continental Indemnity Company, California Insurance Company and Applied Underwriters Captive Risk Assurance Company (AUCRA) are affiliated entities under the Applied Underwriters umbrella. In California, California Insurance Company is used to provide statutory coverage frequently in conjunction with unfiled side or collateral agreements.

As in other states, the source of the dispute is the unfiled side or collateral agreements that Applied uses to modify the terms of the underlying guaranteed cost workers' comp policies. The side agreement is usually in the form of what it calls a “Reinsurance Participation Agreement,” or RPA.

Applied agreed last year to halt marketing and selling the two programs in Wisconsin and to the mid-term cancellation/nonrenewal requirement to settle the allegations. It also agreed to pay a \$20,000 fine. Subsequently, however, Wisconsin regulators later learned that Applied renewed seven SolutionOne and EquityComp policies after signing that agreement.

Wisconsin did allow Applied to offer a replacement workers' comp policy or a Wisconsin endorsement “so long as the replacement workers' compensation policy or endorsement is a [Wisconsin Compensation Rating Bureau] approved policy form, and uses the WCRB mandated rated (quoted, billed and collected separately) and is not subject to any unapproved side agreements including but not limited to a reinsurance agreement,” Wisconsin's Richard Wicka wrote in the June 2015 settlement agreement.

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Wicka is deputy chief counsel for the Wisconsin OCI. "Moreover, the replacement workers' compensation policy providing Wisconsin coverage cannot include any profit sharing or reinsurance arrangement or be conditioned on participating in a profit sharing, reinsurance agreement or other agreement unless and until such agreements or policy programs are approved by the WCRB."

As part of the latest settlement with Applied, Wisconsin is issuing fines of \$20,000 per policy that was renewed in violation of the earlier agreement. It is also reserving its right pursue enforcement actions if Applied "attempts to enforce provisions of their contracts that do not comply with Wisconsin law."

Note: Applied Underwriters' has sued Worker' Comp Executive, its executives and the lawyer Larry Lichtenegger for trademark violation asserting we can't use its name to describe a webcast specifically about them. A motion to dismiss is pending.

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