



**ARKANSAS INSURANCE DEPARTMENT
LEGAL DIVISION**

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January 16, 2001

JOINT BULLETIN NO. 1-2001

TO: ALL LICENSED INSURANCE AGENTS, AGENT ASSOCIATIONS, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, TRADE ASSOCIATIONS AND OTHER INTERESTED PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT and ARKANSAS SECURITIES DEPARTMENT

The Arkansas Insurance Department is aware that some insurance agents sell securities products in addition to insurance. These securities products may include customer owned coin operated telephones (COCOTS), Prime Bank notes, promissory notes, nine-month notes, commercial paper, and various other investment vehicles which are defined as a "security" under the Arkansas Securities Act (the "Act"). Some insurance agents sell these securities products without being properly licensed to do so by the Arkansas Securities Department. Under Ark. Code Ann. 23-42-301(a), no one may transact business as a securities broker-dealer or securities agent unless registered with the Securities Commissioner. Pursuant to Ark. Code Ann. 23-64-216(a)(2), the Insurance Commissioner intends to take action against insurance agents who improperly engage in transaction involving securities. The Securities Commissioner also has the authority to penalize insurance agents who act in violation of the securities laws of this state.

You should not rely on any representations that an investment product is not subject to securities regulation. We understand that issuers and others frequently approach insurance agents to sell their product, but any opinion given by these issuers or their counsel could be incorrect or even fraudulent. We encourage you to contact the Securities Department with any questions regarding investment products you are solicited to sell.

Please also take note of the additional restrictions placed on agents that are registered with the Securities Commissioner. The Act prohibits any registered broker-dealer agent from selling any security that is not specifically approved by the broker-dealer. The NASD recommends the appropriate penalty for this practice (commonly referred to as "selling away") may be an Order and a fine of \$5,000. Selling away is also grounds for suspension or revocation of the broker-dealer agent's license and will likely result in disciplinary action from the broker-dealer. Additionally, the Act prohibits a broker-dealer agent from guaranteeing a customer against loss. Finally, the Act prohibits the charging of excessive fees. While there is no absolute guideline, broker-dealer agents should be wary of any product offering an agent's commission higher than 5% or where the total expenses of the offering, including commissions, exceed 15%.

This bulletin is intended to notify you of some potential pitfalls that could subject you to civil litigation by investors and action by the Insurance Commissioner and Securities Commissioner, including criminal prosecution. Please protect yourself and your clients.

Mac Dodson
Securities Commissioner

Mike Pickens
Insurance Commissioner