

CAPTIVE AGENTS, THE FORGOTTEN PEOPLE

What if you decided to start your own business? You find a product you feel you can really market. You invest thousands of dollars and years of hard work into establishing a successful business which includes scores of faithful returning customers. Things begin to look like maybe you are finally making it as a successful business owner. You are established and respected in the community. You own the building your business is in. Things are really looking up. But suddenly, with one fell swoop, it is all taken away from you. Someone bigger and more powerful than yourself decided your business was theirs. You are out with essentially nothing, including your reputation. Sound familiar?

This is the plight of the captive insurance agent today. Captive agents are controlled like employees but claimed by captive insurance companies as independent contractors. Captive agents are often told how to sell, what hours they must be open, when and when they cannot take a vacation. They are required to attend meetings of questionable importance. They're given sales quotas that are often beyond the realm of possibility because the captive insurance company controls the rates. They are asked to submit endless progress reports and are reprimanded and threatened if these reports are not submitted in a timely manner. Agents are told who they can and cannot hire. Often captive insurance companies provide phone systems and computer systems to the agent in an effort to control and monitor the agent. Captive agents often find that even though they pay the monthly phone bill, the company has forced them to sign an agreement that their phone number belongs to the company. Advertising is often forcefully shared in order to control the agent. Agents are blamed and often find their contracts terminated for too many losses, too few 100/300 liability coverages, too low a retention rate, too low an application count, or any other of a list of about 20 "indicators" upon which agents are judged. The list of controls goes on and on.

Captive insurance companies seem to take the word *captive* literally. The dictionary defines captive as a "prisoner, unable to escape, forced to use or accept something." If a captive agent tries to leave a captive company to sell as a true independent agent, he is often sued and restricted by claims that the names, addresses, phone numbers, coverages and renewal dates of all his clients are "trade secrets" that belong to the insurance company. In the truly independent world, agents are truly independent. Independents own the names, addresses, and client data that they themselves brought into their agency. What exactly is the difference here? Nearly all data collected by both types of agents is readily available for public viewing. Why this same information is considered a trade secret by captive insurance companies and NOT by independent companies is very unclear and unfair.

Captive agents' contracts are often terminated because the company wants that agent's policies to give to a new agent-in-training. Or perhaps a district manager is being asked to step down, so the company simply figures out how to fire the agent and take his agency away from him and give it to the district manager. Terminating an agent's contract is quite easy because the district manager can place any production requirement he wants on the agent regardless of whether the company's rates allow an agent to sell or not. Often excuses for terminating are "manufactured." Agents have been falsely accused, defamed, and 'used as examples' in an attempt to intimidate other agents. The agent is guilty till he can prove in court that he is innocent and usually this is at a great financial cost to him...one from which he may never recover.

We believe it is time the world, including the courts and government departments such as the IRS and the EEOC begin to recognize there is a serious and unfair inconsistency evident here that is causing a great deal of stress and monetary loss to the “forgotten people,” the captive agents.

Captive agents are unable to form unions to negotiate these issues (with the company) because they are not employees. Captive agents are unable to influence judges because captive insurance companies with extra deep pockets (provided by policyholder money, incidentally.) are able to influence them with various perks that are way beyond the capabilities of the average individual captive agent. Politicians heed the highly paid lobbyists hired by insurance companies. The news media seem influenced by the “credible” large corporations rather than the “small guy” because these ‘generous’ companies are donating hospitals and parks and other wonderful gifts to humanity.

Captive agents are a totally unrepresented, unfairly treated, forgotten segment of the American workforce. Every other group of workers in America is represented by some government entity, some union, or some trade association, but not the captive agents. If captive agents were able to quit working for the captive company that is abusing them, they could start over. Many agents are willing to make this sacrifice even late in life, but captive companies won’t allow them to do this. The companies sue the agents who have gone independent for violation of non-compete (without proper proof), for computer fraud (even without realizing that the lists they’ve accused the agent of “stealing” off their computers were lists that the agent was required by the district manager to run for marketing purposes), for violation of trade secrets (even though what the company is calling trade secrets is data that is publicly available to anyone in the insurance business and data collected by the agent himself...not an internal employee.)

We are going to make every attempt to expose the plight of captive agents. We believe that agents must be treated as the true independent contractors the IRS have labeled them. We believe the companies have misrepresented to the courts and to the IRS exactly how they treat captive agents.

We suggest agents write to your representatives both in Washington and in your state. Perhaps we *are* ready for federal regulation of the insurance industry as proposed by the present administration. Contact public media such as John Stossel of ABC’s 20/20, Oprah, Sixty Minutes, or your local newspaper. If the public knew how our businesses are being taken away from us, there would be an outcry demanding fairness to a group of sincere agents who are trying to do an outstanding job of servicing our clients, but who are hampered by the deadly threats and controls of the captive insurance companies. This is America and our voices must be heard!

[This letter was received from agents who are asking to remain anonymous. It is being submitted to you by the Board of the National Association of American Family Agents. (NAAFA) www.NAAFA.com]

February 26, 2009