

**DEPARTMENT OF INSURANCE**

LEGAL DIVISION

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**NOTICE REGARDING RESTRICTIONS ON PUBLIC ADJUSTERS SOLICITATION OF BUSINESS****To: ALL ADMITTED INSURERS AND PUBLIC ADJUSTERS****Date: October 20, 2017****Subject: RESTRICTIONS ON PUBLIC ADJUSTERS SOLICITING BUSINESS IN THE STATE**

Pursuant to California Insurance Code section 14022.5, on October 13, 2017, California Insurance Commissioner Dave Jones declared an emergency situation in connection with the numerous wildfires in the state and authorized nonlicensed claims adjusters, working under the direction of licensed independent adjusters, to adjust claims in the fire areas as reasonably necessary to respond to the losses arising out of the wildfires.

The purpose of this Notice is to remind licensed public adjusters of the limitations on solicitation and compensation applicable to public adjusters under California law.

A public adjuster is a person who, for compensation, acts on behalf of or aids in any manner, an insured in negotiating for or effecting the settlement of a claim or claims for loss or damage under any policy of insurance or any person who advertises, solicits business, or holds himself or herself out to the public as an adjuster of those claims and any person who, for compensation, investigates, settles, adjusts, advises, or assists an insured with reference to claims for those losses on behalf of any public insurance adjuster. Cal. Ins. Code §15007.

In that regard, please be advised that a public insurance adjuster licensed in California is prohibited from soliciting or attempting to solicit a client for employment during a loss-producing occurrence. A "loss producing occurrence" continues to exist when any of the following conditions exist at the property that is the subject of the solicitation: (1) any of the circumstances that cause the loss are present at the property where the solicitation would otherwise take place, (2) emergency responders are present at the property where the solicitation would otherwise take place, or (3) an evacuation order is still in effect at the property where the solicitation would otherwise take place. Cal. Ins. Code §15027(d). Moreover, no public adjuster is permitted to solicit a policyholder for employment or initiate any contact with the policyholder between the hours of 6 p.m. and 8 a.m., unless requested by the policyholder. Cal. Ins. Code §15027(e).

In addition to the restrictions contained in California Insurance Code section 15027(e), a public adjuster may not solicit a contract of engagement for residential properties that are included in an area subject to a catastrophic disaster until seven calendar days have elapsed from the conclusion of the loss producing event unless the public adjuster is contacted directly by the insureds or the insured's representative. Cal. Ins. Code §15027.1(a) and (b). A licensed public adjuster is not, however, prohibited from providing a policyholder with accurate

written materials explaining services provided by public insurance adjusters only if the public adjuster does not make personal contact with the policyholder. Cal. Ins. Code §15027.1(c).

A public adjuster may not, directly or indirectly, act within this state as a public adjuster without having first entered into a contract, in writing, on a form approved by the Insurance Commissioner. Cal. Ins. Code §15027. Each contract between a public adjuster and an insured must disclose the public adjuster's full salary, adjuster's fee, commission, or other valuable consideration the public adjuster is to receive for services under the contract and a public adjuster's fee, commission, or other valuable consideration may not cause the insured to receive less than any amount paid to the insured by the insurer prior to the date the written contract between the insured and the public adjuster is signed. Cal. Ins. Code §15027.

Additionally, every advertisement, as defined in 10 CCR 2691.17, by a public adjuster soliciting or advertising business must contain his or her name, address, or license number as they appear in the records of the Insurance Commissioner. Cal. Ins. Code §15032.

Lastly, please take notice that public adjusters are "persons engaged in the business of insurance" and subject to the California Unfair Claims Practices Act that specifically prohibits, among other things, not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear, compelling insureds to commence litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in action brought by insureds, attempting to settle a claim by an insured for less than the amount which a reasonable person would have believed he or she was entitled by reference to written or printed advertising material accompanying or made art of an application and directly advising a claimant not to obtain the services of an attorney. Cal. Ins. Code §790.03.

Questions regarding this Notice should be directed to the Department of Insurance Licensing Hotline at (800) 967-9331.