

The

NAAFA Report

Spring 2009

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NAAFA encourages people to write to us. If you haven't visited our website, you should do so now. The Agents' Bulletin Board contains interesting letters and emails from agents, past and present. Our website (www.NAAFA.com) is updated with new articles each Saturday, so search around at least once a week for new information. The number of people using the website has greatly increased and the website is our fastest means of communication. Members need passwords so call if you have lost yours. 1-800-567-9668.

NAAFA DISCLAIMER

Articles, opinions, and viewpoints contained in The NAAFA Report are not necessarily the opinions and viewpoints of NAAFA. The opinions expressed herein, are not those of American Family Insurance Company or any of its subsidiaries. The NAAFA Report's express purpose is to provide a medium whereby people can express their opinions in written form for any interested parties to view. Therefore, NAAFA disclaims any liability for any harm that may be done as a result of these opinions being expressed herein. The NAAFA Report does not guarantee accuracy and correctness of such articles. No part of the NAAFA Report can be reproduced or copied **without prior written permission.**



The NAAFA Report.....

Who We Are

The National Association of American Family Agents (NAAFA) is a professional organization established to promote education and communication between American Family Agents and American Family Insurance Company, for whom the Agents supply the lifeline that enables American Family Insurance to exist. Our desire is to be a vital, active group who is interested in sharing our experiences and knowledge with other agents, always encouraging, listening, and growing in ways that not only profit the Agents, but the Company and Customer, as well.

Our Mission Statement

The Association shall strive to provide professional fellowship by dedicating its activities to furthering the highest degree of ethical service to the insuring public. The Association will support the strictest adherence to the integrity of its members as professional insurance agents. We will promote professional conduct and protect the legislative interests of our members through awareness and understanding of the issues facing the independent contractor insurance agent in the American society.

CHANGE OF ADDRESS: Call: 1-800-567-9668 Email: www.NAAFAwest@comcast.net
By mail: NAAFA, PO Box 578, Circle Pines, MN 55014

**FOR MEMBERS WHO PAY THEIR DUES THROUGH EFT WITHDRAWALS,
TO AVOID BANK CHARGES
BE SURE TO NOTIFY NAAFA IF YOU CHANGE BANKS**

THE COST TO OBTAIN A SECA KIT AFTER AN AGENT HAS RETIRED FROM AMERICAN FAMILY WILL BE \$160, OR TWO YEARS' MEMBERSHIP FEE. The NAAFA Board has had to make this change because many agents feel it's not necessary to support NAAFA till they find they need this kit. We encourage all agents to join NAAFA NOW!

**Defending the Trade Secret issue is still at the forefront by former State Farm agent, Rich Pyorre. If you would like to donate to his legal expense fund because this is an issue pertinent to all captive agents, go to our website
now.**

www.NAAFA.com

WHY IS THERE A “NAAFA?”

Although some of you weren't around then, many remember that NAAFA was founded in the mid-80's when agents began experiencing subtle negative changes in how they were being treated by American Family. Before the mid-80's, agents were considered an essential part of the company and they were made to feel they were the company's most valued asset. Agents were praised, known by their first names by corporate officers, rewarded, thanked, and always welcomed with open arms. Agents were proud to work for a company that had good rates, a company publicly known for outstanding claims service, a company respected by most, and a company they were proud to work for. With the gradual change of officers in the corporate office, agents soon saw themselves being treated more and more like employees as more control was being forced onto them. Agents no longer felt welcome at the home office as in the "olden" days where the CEO's door was always open. In 1993, a new agent's contract was introduced including new restrictions and tighter rules governing agents. For the first time in American Family's history, agents experienced a commission cut, a cut that district managers said would never happen.

It was in response to these fundamental changes that NAAFA was formed. The NAAFA board is made up of volunteer directors who are highly dedicated to the issues facing American Family agents. Some NAAFA officers fought for changes in state laws such as the law in Minnesota where they were responsible for passing a law which prohibits companies from putting life quotas on agents. Some officers tried to organize a proxy vote to enable one agent a position on the AmFam Board of Directors. Others worked diligently at educating and informing agents through nationwide NAAFA chapter meetings. Other officers wrote letters, trying to organize a meeting between AmFam officers and NAAFA members in an effort to work out a solution to the problems agents were facing.

During this time, the names of NAAFA's Board of Directors' were made public. NAAFA published a formal magazine called *The Agents' Voice*. Agents were proud to be a part of an organization that represented their interests and that appeared to be making a difference in how the company was treating them. However.....

In about 1995, AmFam unexpectedly terminated the contracts of a large number of NAAFA's Board members. The President and Secretary plus several other officers were terminated without notice for supposedly 'committing acts that were detrimental to the company.' In other words, these agents were terminated for complaining. To many agents, it appeared that American Family would rather terminate NAAFA board members in an effort to shut them up than ***work on the problems really facing the company***. Some allege that this attitude still exists today among American Family corporate officers. Through the years, the problems faced by agents seem to have only gotten worse and this realization weighs very heavily on the hearts of NAAFA's Board.

Some of you have asked, "Why don't you unionize or have legal experts or human resource experts who would address some of the egregious situations facing NAAFA members." Well, it's very simple. Agents are still vulnerable to being fired when they take a stand against the company. As one agent said, "I'd rather stand against the Mafia and take a dirt nap than continue the torture at the hands of American Family." NAAFA cannot ask agents

to risk everything they have by publicly exposing that they are on the NAAFA Board. NAAFA is made up of independent contractors and therefore, we cannot organize a labor union. (Note: only employees can organize a union and legally be recognized by the company.) As far as hiring legal experts, NAAFA sometimes does that, but certainly you realize how costly that can be. NAAFA is frequently asked to hire legal representation for agents involved in a legal suit. In many cases these agents are not even members of NAAFA. NAAFA was not established to provide legal fees for agents. Our goal is to work for better relations with AmFam so agents won't have a need for legal fees in the first place. Agents who are complaining need to do everything they can to help increase membership and make contributions. If you want a voice on the NAAFA board, you could contact NAAFA headquarters to volunteer your time. Fresh ideas are always welcome.

If agents really want an effective organization, then you must do your part. Numbers represent power. If agents really want to fight an issue, there are certain reasonable steps that should be taken. First of all, issues should be presented to the AmFam upper management. This should be done respectfully. Agents must remember that the 1993 agent contract says you agree to "refrain from any practices competitive with or *prejudicial* to the Company." Some have argued the unfairness of this contract and yes, it is a very one-sided contract, but you signed it!

So how are your alleged inequities going to be dealt with? That's a big question and one that NAAFA cannot answer. NAAFA does not make recommendations. We are here to provide a sounding board for agents. Agents must remember that in America you should be free to express your opinion. We are here to share and pass on information as it comes to us. We are also here to educate you regarding laws and regulations that are possibly being violated. Everyone should agree that when that happens, the proper authorities should be made aware of it. But agents should be prepared for repercussions of any action by you that the company interprets as detrimental or prejudicial to them. If you are legally accused, it will be up to you to legally defend your position and you'll probably find you are guilty till proven innocent. Are you willing to take a chance? Would you risk being fired? Would you risk being sued? These are very difficult questions each of you needs to ask yourself.

You will probably come to the same conclusion the NAAFA Board has come to. And that is, we can **safely** accomplish the most by keeping you informed. Knowledge is power, as the saying goes. Many, many troubled agents call NAAFA Headquarters and their questions are passed on to other more experienced members or they are referred to professionals who can help them. What happens between AmFam and the agents is only true if it is documented in writing. Otherwise, it's hearsay. Keep records of these inequities you feel you are experiencing. Some day you may need this proof.

There is nothing NAAFA would like better than to be able to dissolve this organization which, of course, can only be done if the relationship between agents and American Family became amicable. We ask ourselves daily, "Why does this company do so many things that seem so detrimental to the people who are bringing in the cash?" It just doesn't make sense. Agents would never quit if rates were such that they could sell. The company gets upset when its income decreases. Well, agents do, too. Agents would never quit if they were treated as the independent business owners they are. When agents are forced to submit endless production reports, attend mandatory meetings, told who they can and cannot hire, or told their domain name www.johndoe.com will be owned by the company even though the agents

pay for it, or told they don't own their own telephone number.....this is when agents should and do become disgruntled. It is degrading to be told they are independent contractors and yet be forced to accept treatments and requirements that employees would be subject to. Yet agents who try to get out from under such persecution are unable to do so. Even though the company claims they are losing tons of money when agents go independent, they don't hesitate to spend millions more suing these agents. **It's a sorry situation and certainly an indication of a poorly run company when it can't realize that setting marketable rates would allow more sales, which would allow more revenue, which would allow a more prosperous company and, therefore, would produce happy agents who would wholeheartedly support this company 'till the cows come home!' Is this so hard to understand??**

[Submitted by the NAAFA Board]

(End)

Winston Churchill summed it up when he observed,
"The inherent vice of capitalism is the unequal sharing of blessings.
The inherent virtue of socialism is the equal sharing of miseries."

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 they can and 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 in February, 2009, written by several members who are asking to remain anonymous.]

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SOME THOUGHTS ON THE 2008 CORPORATE SALARIES

(Submitted by an agent wishing to remain anonymous.)

Other writers in this edition have commented on how corporate leaders at AmFam may have a lot in common with corporate leaders at other large insurance companies, namely AIG, who selfishly take huge salaries/bonuses when the companies they are running are losing money. Now that the 2008 AmFam Corporate Salaries have become available to the public, we can now make a good case for this comparison. In the opinion of this writer, **the increases taken by AmFam corporate officers are scandalous**, to say the least.

Dave Anderson, CEO, has upped his income by \$599,169 since 2007. That's an increase of 37%. President Jack Salzwedel's income increased by \$285,201 or about 29%. Then there's Thomas King, Investments Vice President whose income went up a whopping \$428,829 or 72.6%!!!!

If you look at most of the executive officers' incomes, they saw great increases in their salaries. Why? How can they justify this when AmFam's ratings with Bests and Fitch aren't the least bit good? Yes, AmFam tries to rationalize these negative ratings, but the facts speak for themselves. Perhaps Bests explains it best:

“Best explained that the negative outlook of AMFAM reflects its trend of weak operating results, the recent decline in its risk-adjusted capitalization, continued exposure to catastrophic losses and the ongoing competitive market conditions in the personal and commercial marketplace. The group's negative operating performance over the past several years was largely due to severe wind/hail and winter storm losses as a result of AMFAM's geographic concentration in the Midwest. Competitive personal lines market conditions prevailed during this period, which also contributed to the group's weak underwriting profitability. Additionally, the group reported realized and unrealized capital losses resulting from unprecedented capital market volatility, which contributed to its reduction in capitalization. In an effort to reduce its exposure to Midwest catastrophic losses, AMFAM continued its geographic expansion into additional states, implemented new rating zones, changed policy language and enhanced its catastrophic reinsurance program.”

The fact of the matter is all agents have seen reductions in their earnings because AmFam's rates are so outrageously non-competitive. And as the 2008 Corporate Salary Report shows, district managers also suffered losses in their incomes. Is it any wonder the attitudes of agents and district managers show such discouragement?

An officer who *truly feels an obligation to the people in the organization he is running* should **never** consider taking such increases while those working for him are losing so much money. What is the justification for this? We wish Dave would explain it to us so we could begin to understand. Is it downright selfishness? Is it a lack of ethics? Is it a lack of a conscience? Why would the Board of Directors

allow such increases when a company is losing money and there is so much discontent?

But this brings up another question, **why did the Board of Directors give themselves such large salary increases?** Eleven people on the AmFam Board of directors had salary increases as high as 48.9% (Ted Kellner) and some as low as 14.4% (Richard Renk), but 6 out of 11 took over 25% increases. Why? Is the Board doing such a great job that these increases are justified? Explain!

Has everyone in Madison forgotten what great leadership is? Leaders should inspire trust. They should lead by example and always show honesty and integrity. They should listen. They should nurture. They should constantly be trying to align systems within the company that recognize agents and employees as assets rather than expenses. Great leaders should encourage others to be independent, not try to take their independence away such as leaders often do when they feel threatened. And lastly, great leaders should have a clearly proposed plan that involves *all* people working under them, not just a few. Great leaders should encourage others to become great leaders. When this happens, the result should be the creation of a great company which has ultimately fallen into place.

**AMFAM CORPORATE OFFICERS AND BOARD OF DIRECTORS,
DO YOU HEAR US????**

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**WE'VE HEARD A R U M O R.....**

- That there's a district manager near Hutchinson, MN who charges \$5.00 to every agent who misses a district meeting and \$1.00 if an agent makes a negative comment. Wonder what happens with the "pitty-pot?"
- That district managers are told to get rid of senior agents.
- That rates are extremely high all over the company's sales states.
- That there is a new, completely free telephone system soon to be offered to agents, but it can trace who you talk to, the duration of the call, and what was said. Plus the company would own your phone number. This is NOT Access Direct!
- Assets dropped, equity dropped, revenue dropped, outlook dropped to 'negative' .....but AmFam remains strong??

~~~~~  
ACCUSE, DELAY, APPEAL!

American Family is appealing the December 17, 2008 court decision which awarded \$1.6 Million to wrongfully terminated American Family Agent Dan Samp of Wisconsin. This case certainly appears to exemplify the scenario of *accusing, delaying, and appealing*. It is totally amazing how American Family can, apparently in good conscience, continue to waste policyholders' money to fight

court decisions such as this even when they must know they are wrong. One must remember that American Family is charged interest against the \$1.6 million for each day the award is unpaid. Some feel that Corporate American Family is showing a selfish and arrogant attitude paralleled only by other American corporations such as Enron, AIG, and, of course, the big automakers that all seem to feel it is not a disgrace to spend millions on corporate bonuses and other extravagances while policyholders and shareholders lose, big time.

The insurance industry is at the present time almost totally unregulated. No federal regulation exists probably because of the lobbying of the insurance companies, but that possibility might change with the new administration. As far as state regulation is concerned, there doesn't seem to be an insurance department in America that has the authority to sue an insurance company on the part of a claimant. And although most states have "unfair insurance practice" laws, these laws seem essentially unenforced. The worst that ever happens to an insurance company is the insurance commissioner imposes a fine on the company. Big deal.....these fines are a drop in the bucket to the insurance companies. Often insurance companies appear to weigh the pros and cons of purposefully violating the laws by figuring in the cost of the fine against what the company has to gain by violating the law. Some people feel insurance commissioners are pro-industry hacks appointed or elected with the help of campaign contributions from insurance companies and as a result, these commissioners make very poor watchdogs.

What's the answer? Obviously, policyholders don't realize (aren't informed) how much the wasteful spending of the insurance companies actually affects them. It is because of this unwise and unethical spending that the policyholders' insurance premiums have skyrocketed. How can one get this word out? Policyholders need to write to both their local and federal representatives and explain their concerns to them.

The wasteful spending that causes skyrocketing premiums directly affects our ability to sell. When we can't sell, the company tends to fire us for lack of production. There seems to be a purposeful attempt to encourage agents at retirement age (65 and older) to quit and to do so NOW. We agents have contacted NAAFA to explain the threats we have received. Some district managers are even telling senior agents to "get out now or it will get very rough on you." The company is once again targeting agents for termination who are *close* to qualifying for Termination Benefits. Usually these are older agents who find it very hard to start over. No matter to the company, it appears, as all they seem to see is the profit they will receive when the policies of terminated agents are transferred to other agents and the company pays NO commission to the new agents for at least one year. Total profit for the company at the agent's expense is not only unethical; it's unfair and should be exposed.

[NAAFA appreciates all writers who take time to express their opinions such as you see in the article above. All contributors, who wish, may remain anonymous as this writer has. If you wish to tell us how you feel, either call the NAAFA Headquarters at 1/800/567/9668 or write to NAAFA at NAAFAwest@comcast.net .

(End)

THE SCANDAL OF FLIPPING OR CHURNING POLICIES

[The writer(s) of this article have asked us to honor their anonymity.]

FLIPPING OR CHURNING: A STRAGEDY USED BY CAPTIVE INSURANCE COMPANIES TO STEAL AN AGENT'S BOOK OF BUSINESS THUS PROVIDING A GREAT PROFIT TO THE INSURANCE COMPANY, BUT CAUSING COMPLETE FINANCIAL RUIN TO THE AGENT WHO HAS SPENT YEARS ESTABLISHING A BUSINESS HE THOUGHT WAS HIS.

When a captive insurance company wants to lower its expenses, the first place it looks is at the cost of their agency force. By terminating long time agents, the company profits in two ways:

1. Companies pay little or no commission on policies transferred to other agents. Some companies reduce renewal commission permanently. Others pay no commissions at all for a period of one year. At the end of that year, the commission is reduced to 6% (rather than 9%) and remains at 6% till that agent has held that policy for 10 years. Often the inexperienced agent who received transfer policies doesn't make it as an agent so these same transferred policies are transferred again to another agent and the one year-no commission period starts all over again. Customers get very angry when their policies are transferred sometimes 2, 3, or 4 times.

2. Often the insurance company terminates an agent just before that agent (because of longevity) qualifies for Termination Benefits. (Dollars paid to the agent not-to-compete) Agents usually qualify, according to their contract, at 12 years. Termination benefits are a big expense to the companies and not having to pay them out is a huge savings to the companies and a huge loss to the agent.

WHY DO CAPTIVE COMPANIES WANT TO GET RID OF AGENTS?

1. To lower expenses by churning policies so as not to pay commissions on them.
2. To lower expenses by avoiding paying Termination Benefits.
3. To provide agencies for District Managers (the companies always take care of their own!) who are being demoted or who want to step down.

HOW DO CAPTIVE COMPANIES GET RID OF AGENTS?

1. By setting impossible sales quotas. (It has been reported that some captive's rates are sometimes as much as 100% higher than the competition in the independent world.)
2. By "manufacturing" compliance violations against the agent. If the agent has a securities license, it is very easy to terminate immediately by filing a U5 complaint with FINRA. Zip! The agent is gone regardless of the fact that the agent's contract calls for a 6-month notice. Most often the compliance issue is erroneous and unfounded, but once the agent is terminated, the agent is considered guilty till he can prove his innocence (in a court of law) at a great expense to him.
3. By setting rates so high that agents must quit or risk losing their retirement (Termination Benefits) because these benefits are based on a percentage of the renewals which are dropping as customers leave for

cheaper rates elsewhere.

IF AN AGENT QUILTS OR IS FIRED, AND IF THAT AGENT DECIDES TO START AN INDEPENDENT AGENCY (SELLS FOR MORE THAN ONE COMPANY) HE FACES THE FOLLOWING CHALLENGES:

1. The Captive Company will stop his Termination Benefits (if he has qualified) and then sue him for:
 - a. Violation of non-compete
 - b. Violation of Trade Secrets
 - c. Computer Fraud
 - d. Breach of Contract
 - e. Intentional interference with contractual relations and prospective contractual relations.
 - f. And the company will undoubtedly file for a temporary restraining order.
2. The insurance company's attorneys will purposefully *delay* the suit as much as possible in an effort to not only pad their own pockets (which doesn't matter to the company because, after all, it's policyholder money) but break the agent both financially and mentally.
3. In the last two wrongful termination court cases where one of the captive companies lost, awards were given to the agents, but the insurance company appealed these decisions at a great cost to policyholders. In the past year, a \$1M decision in Missouri where the company appealed, the company ended up having to pay 9% interest on the award for nearly a year. The second case was in Wisconsin where the agent was awarded \$1.6M and it, too, is being appealed. The interest on that award is 12% if the company loses the appeal. Is this a good use of policyholders' money?

Through all this, the captive companies continue to treat agents (who by contract are independent contractors) as employees. For instance:

1. Agents are told how to market.
2. Agents are often required to attend meetings.
3. Agents are often told what hours their agencies must be open.
4. Agents are told who they can and cannot hire.
5. The companies often provide the agents with computers.
6. The companies often provide certain phone systems to agents which enable the companies to have access to anyone who calls the agents' agency and leaves a message, plus this system forwards calls to certain company departments.
7. Agents are given sales quotas they must meet or face termination
8. Agents are told they must provide certain marketing reports and these must be turned in by certain dates.

This list can go on and on.....

Most important to mention is how a lawsuit in Illinois has been used by a captive company as a "model" for suing other agents. This case has been ongoing for over 4 ½ years at a great expense to two small captive agents who believe they have been *falsely accused*. The judges in this Federal Court case seem to listen only to the insurance company because they have never allowed this case to get in court before a jury. Isn't the main purpose and goal to secure

the just, speedy, and inexpensive determination of every action? It is assumed that the insurance company does not want to face a Trade Secret decision by a jury because they know they'd lose. These two agents have been accused but have never been able to present their evidence in a court of law due to the alleged flawed judicial process. This is very un-American, to say the least. If these two agents were allowed their day-in-court, they would be able to present their evidence which they are certain would convince a jury of their innocence. As it is, these two agents are being treated worse than hardened criminals. A criminal would, in America, have had his trial 4 years ago. Is there really justice in America?

Some would say that judges tend to side with the big insurance companies. Are they being given certain perks, being bought off?? No one can say for sure, but we do know that unless these captive agent cases can get before a jury, they don't stand a chance of winning against these insurance companies with deep pockets.

Right now former captive agents are facing lawsuits in Arizona (approximately 10 agents), California, Colorado, Iowa, Kansas, Ohio, Wisconsin, and Illinois that we know of. We've heard rumors of pending lawsuits in many more states. These lawsuits represent a lot of attorney hours that captive companies are paying for with policyholder dollars. Is this justified?

Life as a captive agent is reaching a critical point. Captive agents are backed into the corner, nearly unable to make a living, being falsely accused on compliance issues, and find that there is little or no help for them. They are suffering because:

1. They can only sell for one company. If that company's rates are high, the agents starve.
2. They can't form a union because captive agents aren't employees and would not have to be recognized by the insurance companies.
3. If an agent tries to file a discrimination complaint with any state or federal agency (ie.EEOC) the agent is usually turned away because such organizations deal with employee issues, not issues of discrimination against business owners.
4. The courts look at agents as criminals because they seem to be enamored by large law firms hired by large insurance companies who *certainly must be right!* Right?
5. The captive agent can't quit and start an independent agency because the captive companies claim the names, addresses and phone numbers of the agent's customers as their "Trade Secret." If that same agent had gathered the same list of names while he worked for a non-captive company, the agent would **own** this same list of names, addresses, and phone numbers. Would someone please tell the judges that these names, addresses, and phone numbers, (and even other personal information such as date of birth, insurance company and coverages) are readily available? Ask any independent agent to do a quote on a perfect stranger and with only the stranger's name and address, all personal info can be brought up. **So as a result of the captive companies' claim that they own our customer lists, the one-year non-compete becomes null and void because a Trade Secret lasts forever. That's right, after one year agents still can't possess a list of their former customers unless, of course, this list is NOT a Trade Secret!!**

It is very important that the general public become informed of what is happening to the captive agent. It is important that policyholders of captive insurance companies

become informed about how their money is being wasted, how they are being exposed to rates that may be totally out of line with the non-captive companies, that they realize that in the process of trying to “control” the captive agents, the captive companies will probably switch agents on them any number of times. The whole scenario for the captive agent and captive policyholder needs to be exposed. Expenses are getting out of hand and the cause does NOT lie entirely with the agents or claims of the policyholders. It might just lie with the CEO’s of the captive companies who refuse to cut their own extravagant perks, but think nothing about cutting the life blood of agents and policyholders.

(End)

**What one person receives without working for,
another person must work for without receiving.**
-Adrian Rogers

Judges! Why should you care about them?

[NAAFA does not endorse the following article. We are passing it on to you as it was sent to us. The sender requests that you peruse and decide for yourselves how serious corruption in the courts really is. Will this corruption affect you if you find yourself involved in a lawsuit? This article may help you decide. Please note that at the sender’s request, the editor has highlighted or underlined certain sentences.]

Corruption seems to be showing its ugly head more and more often today. Many former American Family agents are finding themselves in court before what appears to be some very unethical judges. Some find judges reluctant to allow agents to have their day in court. If the large insurance companies sense they might be losing a case, they often try to “settle on the court house steps.” Agents, whose pockets are not nearly as deep as the insurance company’s pockets, usually find they are forced to settle, and thus, the dirty tricks of the company are never divulged. In the following article, you will read of one man’s (Charles Heckman) opinion about judges. Whether or not Mr. Heckman is correct, some would argue he hits the nail right on the head. Here is his article to U.N.I.O.N.

U.N.I.O.N.

United for No Injustice, Oppression or Neglect

<http://www.geocities.com/CapitolHill/Parliament/2398/home.html>

Judges

From the AMOJ (Acronym for “A Matter of Justice”) list:

Jacob,

To bring the attention of the general public to judicial abuse, I have prepared this list of questions and answers. You might want to edit or add to it and then make it into a pamphlet or flyer. I hope that it will be useful in gaining the attention of and educating the public.

Sincerely,

Charles Heckman

**So you think you know about the courts!
Questions and answers about how our
judicial system *really* functions.**

Q: Does the United States Constitution grant you rights?

A: No. The founding fathers believed that the Creator grants you rights, and the Constitution, mainly the Bill of Rights and other amendments, enumerates and guarantees certain rights. However, the Constitution is a sheet of parchment, and in reality, your rights are only upheld if you can find a court willing to do so.

Q: If any of your rights are violated, will a court take action to provide redress?

A: At the present time, probably not. **Unless you have a large organization behind you, extensive press coverage of your problem, or the backing of a government agency, your complaint is not worth the judge's time.**

Q: What can you do to compel a judge to give attention to your complaint?

A: Nothing.

Q: Can the judge be called to account for failure to do his job?

A. A dissatisfied litigant can file a complaint against a judge with an independent oversight committee. However, less than 1 in 1000 such complaints actually result in a finding that the judge did anything wrong, and even for the most serious misconduct, a judge can expect no more than a mild reprimand.

Q: What will be the most likely result of a justified complaint filed against a judge?

A: The judge will be exonerated and then find a way of taking reprisal against whoever filed the complaint. If the complainant is a lawyer, he will probably be suspended or disbarred, and if it is an ordinary citizen, the judge will find a way to get revenge.

Q: Can a judge be found liable for blatantly malicious actions against litigants or for corrupt decisions?

A: No.

Q: What Constitutional provisions or laws passed by Congress guarantee judges immunity for all of their official actions?

A: None.

Q: Why then are judges immune?

A: Judges have granted themselves immunity.

Q: Do judges have the right to make laws?

A: No.

Q: How then can judges grant themselves immunity?

A: Judges develop what is called “case law,” making a decision that is theoretically binding for all future decisions. It is in case law that judges are immune for all their actions, even those that are malicious and corrupt.

Q: What is to prevent a judge from simply demanding a bribe for any favorable decision?

A: In practice, nothing. In theory, a judge could be charged with a crime for soliciting bribes. However, **prosecutors work together with judges and are unlikely to charge a friendly judge with a crime. They also know that it is very hard to get a judge convicted because it is difficult to obtain evidence that other judges will not prohibit the jury from seeing.**

Q: If a judge makes an adverse ruling in a lawsuit, can anything be done about it?

A: An appeal can be filed with an appeals’ court. However, it is possible or probable (“not unlikely”...makes this a bit unclear) that the appeals court judges will simply uphold the bad decision without even reading the submissions from the aggrieved party.

Q: What can be done to force the appeals court judges to do their jobs?

A: Nothing. Appeals court judges have immunity, too.

Q: Will the Supreme Court rectify faulty lower court decisions?

A: Yes, but in less than 1 in 1000 cases. The United States Supreme Court and the supreme courts of most states are not obligated to hear appeals, and they do so only in the rarest cases, **usually those that will gain them maximum publicity or permit them to create “case law.”**

Q: Will a supreme court actually overrule an appeals court?

A: In those rare appeals that supreme courts agree to hear, they actually overturn appeals courts in the majority of cases. Some United States appeals courts have been overturned in every appeal of their decisions that the U.S. Supreme Court agreed to hear during an entire year. This is an indication of the poor job that appeals courts do to monitor the lower courts.

Q: Will the rights of a person who cannot afford a lawyer be respected by the court?

A: In theory, courts are supposed to give special consideration to litigants who cannot afford lawyers. In practice, the judge will simply dismiss the lawsuit of a litigant without a lawyer to reduce the number of cases on his docket.

Q: Don’t litigants complain about the courts simply because they do not agree with the decisions of the judges?

A: No. Most complaints against courts **concern disregard of the rules of evidence, false application of the law, and lack of due process.**

Q: Aren’t judges usually required to reach difficult decisions because the facts do not support just one side in the case?

A: No. Our Bill of Rights enumerates trial by a jury of peers in criminal cases and civil disputes involving a sum of money in excess of \$20 as a **fundamental civil right. When a judge decides an issue of fact at all, without the permission of both parties, he is violating a fundamental civil right.**

Q: Aren’t judges the lawyers who are most qualified to interpret the law for all of us?

A: No. As a leading lawyer has pointed out, judges are usually the least talented lawyers. A competent trial lawyer, corporate lawyer, or senior member of a major law firm can expect to make over a million dollars per year without any special effort. A judge earns a salary up to \$200,000 to \$300,000 per year. Even mediocre practicing attorneys can earn more than judges on the higher courts. It is suspicious when a lawyer with a degree from a respected law school seeks to become a judge. The lawyer may not be skilled enough in the courtroom to earn a reasonable living. He may be lazy. He may have sought to go into politics but been unsuccessful at it. **Or he may be supplementing his salary considerably through corrupt practices.** In any case, judges are not the cream of the crop within the legal profession.

Q: If the courts are so bad, why is litigation increasing?

A: **Bad courts make bad decisions. This makes it more likely that evildoers will prosper. Bad courts are less likely to weed out frivolous lawsuits, and cheats can make millions by suing large corporations. At the same time, criminals are less likely to be punished; government agencies find it easy to violate the fundamental rights of citizens; employees are more likely to be mistreated by employers; ordinary people are frequently impoverished through fraud. This increases the number of lawsuits, in spite of the fact that most of the lawsuits will not result in justice being done.**

Q: Haven't recent decisions been on the side of civil rights?

A: No. Recent decisions have had the effect of **closing off the courts to ordinary citizens and providing due process only to those acting in behalf of large organizations, which have political agendas and the money to pursue their ends.** Many recent court decisions have provided case law that supports controversial political goals of these organizations, which would be impossible to achieve by the legislative process. Without effective courts to fairly adjudicate day-to-day disputes with government agencies and large corporations, the ordinary citizen finds that he has no civil rights at all.

Q: Will the courts reform themselves?

A: History teaches that corrupt organizations do not reform themselves. They only become more corrupt.

Q: Can Congress pass a law to improve the courts?

A: Short of a complete judicial reorganization, it is unlikely that any law passed by Congress would improve the courts because the courts would simply ignore the law or declare it to be unconstitutional.

Q: Will the newspapers or television networks help to bring attention to the problems in the courts?

A: **Because the owners of the news media want to have courts that can be made to rule in their favor through unfair means, they are not interested seeing a restoration of fairness or impartiality.**

Q: If you have a just case, what are your chances of winning in court?

A: It depends on who is your opponent (is). If you sue a government agency, the court will always support the agency. **If you sue a powerful organization, your chances are slight.** If you sue another citizen who lacks money and political influences, your chances to win will be substantially better.

Q: How important should good representation by a lawyer be?

A: The outcome of a lawsuit should be based (on...delete) only on the law and facts of the case. The competence of the lawyer should be of minimal importance.

Q: Why is it so important to have a good lawyer?

A: Things are not as they should be. In most cases, **the competence of your lawyer and of the lawyer retained by your opponent is much more important than either the law or the facts of the case.**

Q: Should the judge play a role in the outcome of a lawsuit?

A: No. The outcome should depend upon the presentation of the law and facts to a jury.

Q: Do lawyers think that judges will influence the outcome of a lawsuit?

A: Most lawyers are convinced that the outcome of a lawsuit will largely depend upon which judge is assigned to the case. Some lawyers try to influence the assignment of their more important cases.

Q: If the case is decided by a jury, how can a judge influence the outcome?

A: **A judge may not allow a lawsuit to be heard by a jury. He may issue a summary judgment, which seems to be unconstitutional but is tolerated. He may withhold vital evidence so that the jury does not know all of the circumstances of the case. In some cases, judges tell the jury how it is supposed to decide the case. Finally, if the jury reaches a verdict that the judge does not agree with, he may throw the jury verdict out.**

Q: What law gives a judge the right to do these things?

A: There is no law that gives a judge these rights.

Q: Why does he do it if it is not legal?

A: He does it because nobody can stop him and because he has complete immunity for everything he does on the bench.

<http://www.1union1.com/Judges.html>

(End)

***Don't miss the Allstate Agents' Association's (NAPAA) article
(Now posted on our www.NAAFA.com website,
"Deliberately Misclassified? What Allstate has in Common with FedEx."
This is a must read!***

ON SELLING YOUR DOMAIN NAME.....

[Observations by one of the agents]

Recently, American Family notified the District Managers that the "Agents will have a decision to make about their personalized Web addresses."

The notice said that "because of service issues and conflicts over ownership rights with their current vendor, agents with domain names that expire between now and July, 2010 will have two choices. They can choose Option 1 for \$136.57 for 3 years or Option 2 for \$22.47 for 3 years.

Well, that's a no brainer. Who wouldn't choose Option 2? But is this really the issue here? We think not.

What is at stake here is whether or not you want American Family to own your name. You are the person paying for your domain name. www.johndoe.com is your personal trade mark and you may want to think twice before selling your name. If you avail yourself of their 'fine' offer, you will be *permanently giving American Family ownership of your name.*

It seems this is another step in the direction of controlling agents. Why shouldn't agents be controlled? Because you are, according to your contract, independent contractors who should be in control of your own businesses. **Your name belongs to you.** Keep it! **Just so you'll know what being an independent contractor means, read, "The Twenty Common Law Factors of a Perfect Independent Contractor Relationship" at www.NAAFA.com, Home Page under Agent/Company Issues.**

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IS IT TIME FOR THE CAPTAIN OF THE SHIP TO GO?

Over the years it has been the feeling among a vast majority of agents that the Board of Directors for American Family consisted primarily of cronies appointed by American Family management. For years this may have been true, but recently we have noticed the board taking a more active and concerned role in the success of American Family. It was duly noted that American Family's investments were not in line with the investment returns of our peers. This resulted in the V.P. of Investments being replaced. It is also noteworthy, in reading the board minutes, to see a change in attitude among members of the board. It appears they are looking for accountability from American Family management which, in the days of the "good old buddy board," would have been unheard of.

NAAFA hopes the Board's dedication to improving American Family's status among its peers continues. NAAFA also hopes the Board considers the accountability of CEO Dave Anderson for the lack luster performance the company has experienced under his command.

As in any naval or aeronautic accident, the ultimate blame always comes down to the Captain of the ship or plane. What caused the problem and what could the Captain have done to avoid the accident? You never hear that the problem rested with the second in command, the co-pilot, stewardess or first mate. No, it is always the responsibility of the one in command. Why should the lack of American Family's performance, sales, growth, retention, technology and losses be blamed on anyone else other the one in command, CEO Dave Anderson?

At a time when the government and the public are asking for accountability, company presidents and CEOs are dropping like flies. Perhaps they are finding themselves in these precarious positions because of greed or perhaps it is because of the fact that they can only manage when times are good. But now when times are bad, they find they do not have a clue about what to do.

As agents we have seen more and more accountability required of us. Much of that accountability is reflected in PIR reports, sales production reports, growth

reports, profitability reports and retention reports. Agents and district managers are not the ones who make all the rules and requirements for all the reporting that has to be done. These requirements came from the top of the American Family ‘food chain’ in an effort to “monitor and control” agents and also to use this data as ammunition for terminating agents.

NAAFA suggests it is time for the Board of Directors to look at the “reports” and determine exactly where accountability lies for the situation American Family is in. As we asked earlier, “Is it time for the Captain of the ship to go?”

(End)

**Join the hundreds of agents who endorse NAAFA by joining,
by making a donation, by writing articles, or by telling others about us.**

REFLECTIONS OF A WOUNDED AGENT

I have worked so hard to be the best I can,
But that didn’t matter to the Big Judge Man.
I’ve done no wrong and I have proof of that,
But it makes no difference if they’re blind as a bat!

You took my money and I sold my ride,
But you can’t take my soul, and you can’t take my pride.
How can you do this without any remorse?
You call yourselves Christians, but you’re not, of course.

And Mr. DM, how can you look in the mirror
After saying that in the future we’d meet for a beer?
You were scheming and planning from the very first day
To cause me much harm because I dared go away.

What kind of joy do you get out of all this?
You put me through hell when I was looking for bliss.
All that I can hope for and all that I can pray
Is that you will someday see the result of your actions today.

You think you’re a leader because you threaten and lie,
But someday you’ll answer to the Real Leader up high.
We all make choices in life, sometimes with regret,
But if you’re true to yourself, you learn and forget.

But I’ll always remember the day the papers came.
The company that I loved, I will now always disdain.
I had no fight with people I knew from my past.
I thought we were friends, and the friendships would last.

But I learned I was wrong in early September
When I received that letter I’ll always remember.
The company I worked so hard for, exceeding 26 years
Was now threatening me with words that brought me to tears.

They threatened to take away all the benefits we earned.
We did nothing wrong, so we weren’t really concerned.
Then late in November the dreaded courier came

To deliver the suit papers that nearly drove us insane.

“We did nothing wrong,” we said with disgust,
“And we will never again give anyone our trust.”
We soon met with lawyers to defend our good name,
But we still lost in court, though their charges were lame.

We don't have much money now; we sold our cars and bikes.
We now buy ASIC shoes instead of Reeboks and Nikes.
But no matter what the future shall bring,
We'll go to our grave remembering one thing...

We did nothing wrong, and we treated people right.
We didn't throw away our ethics to try and win the fight.
We didn't induce anyone, although we always knew we could,
They came to us of their own free will because they knew that we're good.

We didn't lie, we didn't cheat, and we tried to act professional.
We can only hope that the other side will be summoned to God's confessional.
Then the truth will be forever known, and the angels will all rejoice
And everyone will realize going after me was not a good choice.

-A Broke but not Broken Survivor

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ON NEGATIVITY: If you have decided that The NAAFA Report is negative, you should know that we agree with you. NAAFA tries to bring you the thoughts and opinions of the people who contact us. Very seldom do we get contacted about something positive, especially when not only the environment at American Family is bad, but the whole world seems to be in a 'negative' trend. Listen to the news media. Are they reporting positive, happy things? Hardly! So if this newsletter depresses you, we're sorry. If you can figure out a way to only surround yourself with happiness, that's great, but believe us when we say, "that's not the way the world is today." NAAFA tries to keep you informed about *reality* here at American Family and this is how we hear it. (End)

The American Legal System must be brought in Line with the Rights of Humans for Decency

[Our efforts have one goal-comprehensive legal reform].

<http://www.amatterofjustice.org/amoj/11goals.cfm>

1. Seek to educate the public as to the contrast between the realities of the American justice system and the demands of the US Constitution.
2. We pursue elimination of all roadblocks to judicial accountability; Absolute judicial immunity from suits for monetary damages must go.
3. We demand legislation providing citizens with a right to have independent observers at trials without jury, empowered to refer judges to disciplinary boards for violations of the litigants' due process rights.
4. We call for elimination of any rules and regulations that unjustifiably diminish citizens' incentives to pursue justice through the legal system. The expression "Justice delayed is justice denied" must be a guiding principle in this regard.
5. We demand that the general standards of malpractice liability apply to lawyers no less than to other professionals.
6. We call for such simplifications in the body of law and legal procedure that will enable the average citizen to represent himself/herself in court on the majority of non-criminal legal issues without a counsel.
7. We demand that the courts be respectful of the citizens' right to self-representation and treat pro se litigants with respect accorded to them by law.

8. We call for mandatory penalties of citizens assaulting others with fraudulent suits and perjury.
9. We call for a provision that will enable review of past cases of judicial and attorney abuse and compensation of its victims.

=====

We were just wondering.....

Have you ever stopped to think about the one-year non-compete clause in your contract and how it works? You cannot contact or entice any of your former customers in any way until the end of your one-year non-compete. But at the end of that time, you are free to contact them with, of course, some kind of a list.

But American Family says all lists are their Trade Secrets forever, so how can you actually contact them at the end of one year without a list to know who your former customers are?

The Trade Secret concept actually makes the one-year part of your non-compete null and void because a Trade Secret is FOREVER.

Can the Judges and court systems actually take away your right to solicit your insureds after one year? Well, they're trying it.

And think about the citizen's right to pick the agent of his choice. Judges are trying to take away a person's "right to choose" by enforcing as a Trade Secret a list of your customers' names.

Just some food for thought!!

The National Association of American Family Agents
PO Box 578
Circle Pines, MN 55014



The NAAFA Report

(Spring 2009)

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NAAFA MEMBERSHIP/ DONATION APPLICATION**

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MEMBERSHIPS: *Annual \$240
(Circle one) Semi-Annual 130

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ACP Annual 120
ACP Semi-Ann 70
ACP (EFT) 10

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Please send this application along with your check (made payable to NAAFA) to:

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PO Box 578
Circle Pines, MN 55014**

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Please send a check for two months (\$40) with the application. ACP please send (\$20). Mail to above address.

CREDIT CARD:

Please go to www.NAAFA.com and enter your credit card information by clicking on the PayPal icon under the "Enroll Now" tab.

**Membership and contribution records are kept strictly confidential. Dues and contributions are not deductible as a charitable contribution. Annual dues may be deductible as a business expense. Questions: 1-800-567-9668

