



DEPARTMENT OF LAW  
OFFICE OF THE  
**Attorney General**  
STATE CAPITOL  
Phoenix, Arizona 85007

March 18, 1976

R75-780  
BRUCE E. BABBITT  
ATTORNEY GENERAL

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Mr. Arthur L. Erra, Deputy Director  
Department of Insurance  
1601 West Jefferson  
Phoenix, Arizona 85007

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RE: Equifax (formerly Retail Credit)  
Tom L. Preston Complaint

Dear Mr. Erra:

You inquired as to whether under the Insurance Code a person who investigates and negotiates a settlement of claims arising under an insurance contract should be licensed as an independent adjuster. Clearly the answer is yes.

A.R.S. § 20-281 states that:

An "adjuster" is any person who, for compensation as an independent contractor or as the employee of such an independent contractor..., investigates and negotiates settlement of claims arising under insurance contracts, on behalf of either the insurer or the insured. (emphasis added)

A.R.S. § 20-107(A) requires that no person shall transact a business of insurance in this state without complying with the applicable ... provisions of the insurance code. A.R.S. 20-321(A) states that "No person shall in this state act as or hold himself out to be an adjuster unless then licensed as such under this section."

It is our understanding that correspondence received from Equifax discloses that their personnel both investigate and make offers of settlement (negotiate), albeit on rare occasions. This indicates that their personnel are properly classified as "adjusters" under the insurance code. All personnel who investigate and negotiate settlements of claims must be licensed. This is not to say that every secretary, office manager, etc., must be licensed, but the intent of the insurance code cannot be



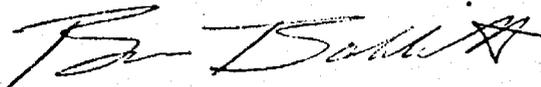
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bypassed by bringing in a licensed "closer" to formally put forth an offer of settlement that has in fact been investigated, recommended and advanced (negotiated) on behalf of or to an insurance company by a non-licensed person.

The Company makes much of the conjunction joining "investigate and negotiate" in A.R.S. § 20-281. I would agree that both activities would be required before an individual must be licensed as an adjuster, but this does not mean that an individual can avoid the license requirement because he investigates only on the largest portion of his workload and negotiates only a few settlements per year. Any negotiation in addition to investigation will require the individual to be licensed as an adjuster.

Finally, even if the "investigators" investigate only, and thereby do not have to be licensed under the insurance code, they still must be licensed by the Department of Public Safety pursuant to A.R.S. § 32-2401 et seq., so that they might carry on private investigation services. Op. Att'y Gen. No. 74-24-L. Failure to become licensed would subject the violator to punishment by fine and/or imprisonment. A.R.S. § 34-2428.

Sincerely,



BRUCE E. BABBITT  
Attorney General

BEB:TMR:jpr