The Arizona Voice A publication of Chapter 43

"Family Rights" sale denied by Okla. State Office

Agents go to Court

Field Bulletin 07-0756 09.18.07 is referred to as the Bilby Bulletin.

Bilby vs. Farmers Insurance was filed in 2006 concerning younger son, Mickey Bilby, attempting to sell his Farmers Agency interest to his dad, Agent Harold Bilby. Both agents are long time UFAA Members.

This Tulsa District Court case has continued for nearly two years as the Bilby's charged Farmers with two counts of Breach of Contract, two counts of Fraud, and two counts of Tortuous Breach of Contract in Violation of Public Policy. They sought a Temporary Restraining Order and Injunctive Relief

According to the Bilby's, it all started in late 2005 following Farmers' action to terminate Mickey under the company's DARG Program. Farmers transferred Mickey's policies to the control of the DM, while advising the Bilby's in writing that Mickey's attempt to sell to Harold was denied. Harold had been a Farmers Agent for over 45 years.

The Bilby's were successful in obtaining a court ordered Temporary Restraining Order (TRO) against Farmers on January 26, 2006. Following the TRO, Farmers seemed to be more agreeable with the agents and paperwork was signed to complete the agency sale.

In court action on March 1, 2006, the Bilby's agreed to withdraw the TRO following agreements with Farmers to allow the son to transfer his policies to the dad's agency at full commission rate, pay the son commissions through March 31st and allow the son to become an agency producer in his father's agency. Harold was required to satisfy his son's loan at the Farmers Federal Credit Union as part of the purchase amount.

Another issue arose 28 days after the completion of the sale. Farmers presented Harold Bilby an Inequities Agreement requiring his signature. Bilby refused to sign.

The Inequities Agreement is a binding amendment to the buying agent's contract and is in force from the date of the sale and extending up to five years. Here is an excerpt from the Agreement (32-0471 02/06):

[The buying] "agency PIF will be calculated based on the then current PIF less the (number of) policies acquired in the consolidation of the agencies."

"Any Underwriting Contract Value Bonus for the consolidated agency will be based on the contract value less the amount of the seller's contract value. During the effective period of this amendment, as noted above, Contract Value will not be displayed on official company reports and manually calculated at the request of the agent."

In a recent decision, Tulsa District Court Judge Mary Fitzgerald admonished Farmers for presenting an Inequities Agreement to the buying agent after-the-fact of the completed sale.

The Judge ruled in Billy's' favor that an Inequities Agreement would not apply to the sale, awarding the Bilby's $4,856.00 in attorney fees and costs on this particular issue of the suit.

Harold Bilby stated, "The court, not Farmers, allowed me to buy my son's policies, but I questioned the purchased contract value for retirement and ownership seemed questionable for five years.

Farmers own AAA states in paragraph K, *"No change, alteration or modification of this Agreement may be made unless it is in writing and signed by the agent and an authorized representative of the Companies."*

"Thank heaven the judge saw the inequities in Farmers' own Inequities Agreement forcing Farmers to reveal all conditions of an agency sale up front, not after-the-fact."

Mickey Bilby noted that, of the policies transferred to the control of the DM during the suit, the number of policies returned was about 140 short. Farmers has not paid the Bilby's the attorney fees and costs awarded by the judge.

You may view the public record on line at: www.oscn.net

Select Court Dockets at top of page then, enter case# CJ-2006-552 and select Tulsa County from the pull down menu and hit the "go" button.

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