

This letter is to the management of a law firm. Multiple attorneys act as trustees for clients. There has been no program of management regarding these policies and I was called in to suggest a plan. I was also able to look at redacted policy information and could see at a glance that many policies are underperforming and headed towards failure. A decision was made that the attorneys deal with it on a case by case basis as they see fit. I see this as a grave mistake.

Dear Firm Management:

It's been a while since we've talked and the last time we did you mentioned the attorneys who are acting as trustees will be deciding independently on how to proceed.

I understand this but as we discussed earlier, if things go wrong (which they have and will) and result in a lawsuit, case law has shown that an independent third party is critical to a successful defense. I am currently involved in four litigation support and expert witness cases, some going after trustees and some defending trustees.

Based on what I have seen that you have provided, having the attorneys go back to the agents simply isn't going to cut it. If any of them are tempted to hide their head in the sand, they'd better think twice. This might make for some strained relationships between the attorneys and the agents but it will be much better to deal with this now than later.



Unfortunately, many of the agents will believe I'm going to criticize them but it is my goal to protect everyone. I will not throw anyone under the bus except in the most extreme circumstances. What I have seen far too often is that the agents hide their head in the sand because they don't want to explain to the trustees (and their source of business) that the policies aren't performing as expected. However, what is critical to understand is that the agents have no fiduciary duty and have no formal obligation to manage the policies. The agents got paid but the trustees bear all the risk. In fact, agents can disappear into thin air once the policies are in force with no legal consequences as long as there was no misrepresentation. This is one of the reasons it is so important to work with a third party.

I'd love to find a way to help. Again, I believe this is too big of a liability for the firm to take on by letting the attorneys make their own decisions on how to deal with things. Individual relationships between agents and attorney trustees cannot be depended on and should not supersede a formal plan of policy management on a firm wide basis. I already see instances of liability on your books so this should be handled as quickly as possible.

I look forward to hearing from you.

Bill

Letters of Explanation