

**RE: IMPERMISSIBLE GROUP COVERAGE**

The New York Department of Financial Services (DFS) has consistently objected to the placement of unaffiliated insured parties in a master or group policy. The DFS considers these as “impermissible groups” unless the group fits into an exception expressed in a statute such as risk purchasing groups or employee sponsored group excess insurance. See the definition of “group” in NY [Regulation 135](#) (11 NYCRR 153). Impermissible groups have been a focal point for fines by the DFS in recent years.

In the recent past two brokers were fined for issuing “impermissible” commercial property group policies made up of unrelated property owners. One of those brokers was then sued by an insured in California. That matter resolved quickly. There are **NO** group insurance policy exceptions for “property programs” under New York law.

Following are some of the major objections related to the issuance of group commercial property policies:

- In many instances policy limits are **not** separate and specific to each insured which would mean that one or more insureds could exhaust the policy coverage limits for other unrelated insureds. In one case an insured within a group sued the excess line producer seeking class action status over this very issue.
- The filing of a master policy in a different state clearly does not comply with the “home state of insured” law requirements when some of those insureds are New York based. Not only are there violations from a compliance standpoint, but taxes are not being paid to each insured’s “home state”.
- Also issues with disclosure notices, cancellation rights and rules for misrepresentations apply to each individual insured under New York law.

DFS pursues these matters due to complaints from insureds, claimants and other brokers that cannot compete for accounts which share policy limits. Given DFS’s focus on such violations and concomitant fines ELANY continues and consistently urges brokers to file individual policies in New York where New York is the home state of the insured.

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