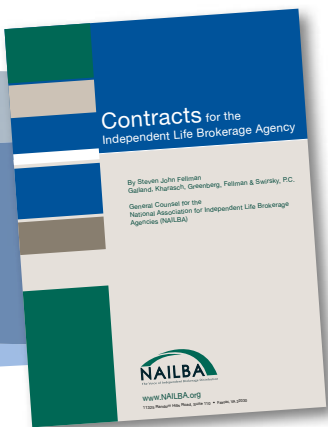


THE NAILBA BGA CONTRACTS MANUAL: Helping You Protect Your Business

BY BRAD GORDON, CLU, ChFC



BGA Contract language has become increasingly unfavorable toward the BGA. Increased scrutiny in the financial services industry in general, as well as an increasing number of regulatory challenges have led insurance carriers to look to put more of the responsibility (both financially and legally) on the BGA to be compliant, and be responsible for the compliance and actions of their agents. As the voice of independent distribution, it is NAILBA's responsibility to bring this challenging contractual language to light, and educate BGAs to make responsible choices when negotiating these contracts.

To address this very important need, NAILBA has developed a new member benefit, the BGA Contracts Manual. This valuable tool was published in installments via *NAILBA Now* and the NAILBA website beginning in August, and the complete manual will be available to all registrants at NAILBA 29 in November, as well as at www.NAILBA.org.

This valuable reference guide for NAILBA member agencies, written by Steven John Fellman, NAILBA's general counsel, provides concise explanations of the most confusing contract language to assist BGAs in negotiating and administering new carrier contracts.

Reviewed and vetted by your BGA colleagues, the BGA Contracts Manual will be a useful tool in

helping you manage the contracting process.

"Some of the newer contracts have some troubling language. Agency principals need to know what to look for when signing sales contracts," observed Raymond S. Phillips, CLU, LTCP, President of Brokers Source, Ltd in Pittsburgh and member of the NAILBA Board of Directors.

Phillips offered some examples of language we need to pay attention to because the carriers anticipate a career agent's level of association with the General Agency. "Look at the supervisory role," Ray suggests, adding that, "company hold-harmless laws often require the agency to indemnify the companies for actions not always in our control." He continued, "A carrier has the right to settle on our behalf and we are left with all the liability without any rights to defend. By providing this manual, NAILBA gives us a better chance to understand the process and gives agency owners some power to control the contracting."

Laurie Prevette, President of Equity Brokerage and Chair of the NAILBA Professional Development Committee, explains, "These are very complex issues and every company has their own preferred contract language. This manual will help BGAs understand the terminology and know the ramifications of what they are signing."

Larry Herman, another NAILBA member involved with this project,

is confident that providing easy access for NAILBA members to the new Contracts Manual will achieve laudable educational goals. Larry explains, "If agency owners understand the contracts they are signing in advance, they will be better prepared for the impact their agents' actions can cause."

The Contracts Manual will include chapters on an agent's authorization and responsibilities; the relationship between the agency and the insurer; indemnity and hold harmless; liens; property rights; termination and compensation thereafter; supervisory authority; training responsibilities; file ownership; personal liability upon cancellation; set-offs and our rights to residuals after termination.

NAILBA Board member Barbara Crowley has also put in many hours in support of this project. "Companies continue to add provisions asking agencies to do things we can't do." She elaborated, "Companies assume that BGAs take a supervisory role with suitability reviews which is really broker-dealer language. The NAILBA BGA Contracts Manual is a road-map to help guide agency owners toward a proper contracting process."

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