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Utah Court of Appeals

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IN THE UTAH COURT OF APPEALS

JAY L. WOOD, DARRELL K. TANNER, SCOTT A STOKES, and LEO SYPHUS, Appellants/ Plaintiffs vs. UTAH FARM BUREAU INSURANCE COMPANY, a Utah corporation, FARM BUREAU LIFE INSURANCE COMPANY, an Iowa corporation and FBL INSURANCE COMPANY, an Iowa corporation, Appellees/Defendants	Case No. 20000349-CA District Court No. 970906166CV Priority 15

OPENING BRIEF OF THE APPELLANTS/PLAINTIFFS

Appeal from the Ruling of the Second District Court, Weber County,
Honorable Michael D. Lyon, District Judge

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COURT OF APPEALS

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TABLE OF CONTENTS

Table of Authorities. ii

Statement of Jurisdiction v

Statement of the Issues and the Standard of Review v

Statement of the Case v

Statement of the Facts viii

Standard of Review xvii

Summary of Argument xvii

Argument 1

I. Questions of Fact Preclude Entry of Summary Judgment on the Wrongful Termination Claims 1

A. Questions of Fact Regarding the 1994 Career Agent Contracts Preclude Summary Judgment 1

B. Questions of Fact Regarding Leo Syphus's Implied In Fact Contract Preclude Summary Judgment 3

II. Summary Judgment was Improperly Granted as to the Ownership of the Agents' Books of Business 5

A. The Trial Court Failed to Recognize that the Agents, as Independent Contractors, Have an Ownership Right in Their Books of Business 5

B. There are Material Issues of Fact that Should Have Precluded the Trial Court from Granting Summary Judgment Regarding Ownership of the Books of Business 8

III. Material Questions of Fact Exist Precluding Summary Judgment on Plaintiffs' Breach of the Covenant of Good Faith and Fair Dealing Claim 10

IV. Summary Judgment was Inappropriate on the Unjust Enrichment Claim Because Farm Bureau has Took the Career Agents' Books of Business Unfairly and to Farm Bureau's Benefit 13

V. Material Questions of Fact Preclude Entry on Plaintiffs' Claim for Punitive Damages 14

Conclusion 15

Certificate Of Service 16

Appendix

TABLE OF AUTHORITIES

Cases

Andalex Resources Inc. v. Myers,
871 P.2d 1041, 1047-48 (Utah App. 1994) 10

Brown v. Weiss,
871 P.2d 552, 565 (Utah App. 1994) 10

Colonia Insurance Co. v. City National Bank,
13 F. Supp.2d 891, 901 (W.D. Ark. 1998) 6

Cook v. Zions First National Bank,
919 P.2d 56, 60 (Utah App. 1996) 10

Fox v. MCI Communications Corp.,
931 P.2d 857, 860 (Utah 1997) 2

Glass v. Minnesota Protective Life Ins. Co.,
314 N.W.2d 393, 397 (Iowa 1982) 13

Gotchis v. Allstate Insurance Co.,
1993 WL 795440 (D. Mass.) 5, 6

In Re Estate of Corning,
108 A.D.2d 96, 488 N.Y.S.2d 477 (N.Y. App. Div. 1985) 5, 6

In Re Dunham,
110 F.3d 286 (5th Cir. 1997) 5

Olympus Hills Shopping Ctr.Ltd. v. Smith's Food & Drug Centers, Inc.,
889 P.2d 445 (Utah App. 1994) 10

Preferred Marketing v. Hawkeye Nat. Life,
452 N.W.2d 389, 394 (Iowa 1990) 13

Ryan v. Dan's Food Stores, Inc.,
972 P.2d 395, 400 (Utah 1998) ..... xvii, 1, 3, 4

Sanderson v. First Sec. Leasing Co.,
844 P.2d 303, 306 (Utah 1992) 3

St. Benedict's Development v. St. Benedict's Hospital,
811 P.2d 194, 200 (Utah 1991) 10

State v. Vincent.
883 P.2d 278, 281 (Utah 1994) xvii

Trembly v. Mrs. Fields Cookies,
884 P.2d 1306, 1312 (Utah App. 1994) 4

Statutes

Utah Code Ann. §78-2-2(3)(j) v

Utah Code Ann. §78-2a-3(2)(j) v

Other Authorities

American Jurisprudence 2d, Vol. 43, *Insurance* §150 (1982) 6

Appleman, *Insurance Law and Practice*, §9026 (1991) 5

Couch on Insurance, Vol. 4, *Right to Clientele Under Agency System* §26A:261 ..... 5, 8

Couch On Insurance (Second), Vol. 4, *Rights to Expirations,* §26A:260 ..... 5, 6

STATEMENT OF JURISDICTION

This case was transferred from the Utah Supreme Court, which had original jurisdiction under §78-2-2(3)(j). Jurisdiction of the Utah Court of Appeals is conferred by Utah Code Ann. § 78-2a-3(2)(j).

STATEMENT OF ISSUES AND STANDARD OF REVIEW

The issues presented on appeal are:

I. Do disputed issues of material fact remain in the case, making the trial court's order of summary judgment premature and improper?

II. Did the trial court err by finding that the Career Agent Contracts, not the October 1993 and June 1994 letters, control the employment arrangement between the Agents and Farm Bureau?

III. Did the trial court err, as a matter of law, by finding that the plaintiffs had no ownership interest in the Books of Business confiscated by Farm Bureau?

IV. Did the trial court err, as a matter of law by finding that Farm Bureau did not commit anticipatory breach when it terminated Leo Syphus prior to September 30, 1994?

V. Did the trial court err, as a matter of law, by dismissing all remaining claims on the basis that Farm Bureau properly exercised its contractual rights?

STATEMENT OF THE CASE

This lawsuit seeks to redress the economic damaged caused by Farm Bureau when it terminated four insurance agents, confiscated their books of business, and informed their clients that the agents had either quit or retired. Darrell Tanner, Scott Stokes, Jay Wood and Leo Syphus

are former insurance agents of Farm Bureau. Each man devoted their careers to working for Farm Bureau—a combined 91 years of service—before they were summarily fired. During this time, these men accumulated policies in their books of business worth over $1.7 million dollars, which Farm Bureau confiscated upon termination.

Prior to the firings, Darrin Ivie, the Weber Agency manager, met separately with Messrs. Tanner, Stokes and Wood in October of 1993 to discuss their productivity and future relationship with Farm Bureau. These meetings were memorialized in letters, dated October 15, that set forth sales goals for life, property and casualty insurance. The letters plainly state that the agents would be retained if they met these sales goals by the end of the third quarter of 1994.

The agents later entered into "Career Agent Contracts" with Farm Bureau that stated that the agents can be terminated without cause and that all prior agreements are superceded by the new contract, which presumably includes the previous October 15 letters. However, Mr. Ivie held weekly meetings with Messrs. Stokes, Tanner and Woods after the contracts were signed and continually referred to the October 15 letters as the document that actually governed the agent's future employment. Specifically, Mr. Ivie told the agents that if they met the goals contained in their October 15 letters then they would be retained by Farm Bureau beyond the third quarter of 1994. By so doing, Mr. Ivie resurrected the October 15 letters and made the terms of those letters binding upon Farm Bureau.

Notwithstanding the weekly meetings regarding the goals set in the October 15 letters and the continued representations by Mr. Ivie, Farm Bureau terminated Messrs. Stokes, Wood and Tanner on March 23, 1994, before the end of the first quarter of 1994. No reason was given

for the terminations. After the terminations, Farm Bureau confiscated the agents' books of business, informed the agents' clients that they had quit selling insurance, and used accounts from their books of business to finance new agents in the Weber office.

Mr. Syphus worked in a separate office from Stokes, Tanner and Woods, but eventually suffered the same fate as the Weber agents. In June of 1994, Mr. Syphus met with his agency manager, Byron DeLair, regarding Mr. Syphus' future relationship with Farm Bureau. This conversation was memorialized in a letter from Mr. DeLair to Mr. Syphus dated June 30, 1994. The letter set forth minimum sales goals for life, property and casualty insurance and informed Mr. Syphus that if he met these minimum goals by September 30, 1994 he would remain a Farm Bureau agent. However, Farm Bureau terminated Mr. Syphus without reason by letter dated September 12, 1994, eighteen days prior to the date Mr. Syphus was given to reach his goals. At the time of termination, Mr. Syphus was on pace to meet the property and casualty minimums and had several leads to meet his life insurance minimum, which could be met with only one sale. Farm Bureau also confiscated Mr. Syphus's book of business, used it to finance new agents in Clearfield, Utah, and informed his clients that Mr. Syphus had retired.

The plaintiffs filed a Complaint against the Farm Bureau defendants alleging breach of contract (Claims 1 and 2), breach of the implied covenant of good faith and fair dealing (Claim 3), interference with existing and prospective business relations (Claim 4), unjust enrichment (Claim 5) and punitive damages (Claim 6). Farm Bureau moved for summary judgment on all six claims. Judge Lyon granted the motion and this appeal was filed.

STATEMENT OF THE FACTS

1. The appellants are all former insurance agents of Farm Bureau. Their years of service are as follows:

Name	Years as Career Agent
Leo Syphus	41
Jay Wood	28
Darrel Tanner	12
Scott Stokes	10

Exhibits 10, 7; Tanner Depo. at 10 (Ex. 1); Stokes Depo. at 7 (Ex. 2); Wood Depo. at 11 (Ex. 3); Syphus Depo. at 7 (Ex. 4). Their combined service as Farm Bureau agents is over 91 years.

2. During Career Agents' tenure at Farm Bureau, each executed several Career Agent Contracts with Farm Bureau, which designated them as independent contractors. The independent contractor provision remained constant and provides:

> 4. **INDEPENDENT CONTRACTOR.** It is the intent of the parties hereto that for all purposes and in all situations governed by the provisions of this agreement, Career Agent will be, and is hereby declared to be, an independent contractor and not an employee, and that the relationship between Career Agent and Companies created by this agreement, will be governed by those rules of law governing the status of and relationships with independent contractors and not those rules of law governing employer-employee relations. Accordingly, Career Agent has the right to control the activities and means by which the provisions of this agreement are carried out, the right to exercise independent judgment as to the persons from whom applications for insurance policies will be solicited, and the right to determine the time, place,

and manner of soliciting and servicing policyholders of the Companies.

If training courses, sales methods and material or similar aids and services are extended or made available to the Agent, it is agreed that the purpose and effect thereof will not be to give the Company control over the Agent's time or direction or control over the manner or means by which he will conduct his business, but only to assist the Agent in his business.

5. **CAREER AGENT'S RESPONSIBILITIES.** Career Agent agrees to comply with the Companies' rules and regulations pertaining to the policies and products covered by this Contract, provided, however, that such rules and regulations will not interfere with Career Agents' status as an independent contractor as described in paragraph 4 above.

Exhibit 5.

3. Farm Bureau referred to their agents as "Career Agents", suggesting a long-term relationship between Farm Bureau and such agents. Exhibit 5.

4. Farm Bureau treated each Career Agent's book of business[1] as the property of the Career Agent.

a. Each Career Agent was told at hiring that the book of business was his and that he could retire on it one day from either selling it or receiving the renewal commissions from it. Tanner Depo. at 26, 35 (Ex. 1); Stokes Depo. at 31, 42-43 (Ex. 2); Wood Depo. at 23, 31 (Ex. 3). Each Career Agent built their book of business under this

pretense by signing up friends, family and neighbors to Farm Bureau policies. The Career Agents' friends and families made up a significant portion of their book of business. Syphus Depo. at 64, 67 (Ex. 4); Stokes Depo. at 20; Wood Depo. at 22.

b. Farm Bureau could not remove accounts from a Career Agent's book of business. The only exception was if the agent failed to properly service the account. Tanner Depo. at 19, 21, 23, 43 (Ex. 1); Stokes Depo. at 43-46 (Ex. 2); Wood Depo. at 12, 52-55, 70 (Ex. 3); Syphus Depo. at 50, 53, 83 (Ex. 4); Exhibit 5, ¶8.

---

[1] As more fully explained in the argument, the "book of business" is a term of art in the insurance industry meaning the annual premiums generated by the Career Agent from selling insurance to his clients and providing them follow-up service. It also includes the good will generated by the agent and "expirations" and "renewals". Expirations are a copy of a record of the policy issued to the insured and generally includes the date of issuance, name of the insured, expiration, amount, premium and payments covered. Generally, there is a copy for the agent and a copy for the insurer. Renewals are defined as the Career Agent renewing his client's policy after the initial period expires.

c. The Career Agents were always compensated for voluntarily parting with accounts from their books of business. For example, Farm Bureau offered to purchase a portion of Mr. Syphus' book of business in exchange for reduced office expenses and decreased sales responsibilities. Syphus Depo. at 22-25, 45-47, 79 (Ex. 4), Exhibit 11. In addition, Mr. Syphus was given a new book of business when he transferred from St. George to Clearfield because he gave up his St. George book of business. Syphus Depo. at 11. Mr. Tanner was given accounts to compensate him for surrendering accounts upon becoming an agency manager. Tanner Depo. at 21 (Ex. 1).

d. Each Career Agent was made aware that other agents had sold their books of business upon retirement. Tanner Depo. at 41 (Ex. 1); Stokes Depo. at 41-43 (Ex. 2); Wood Depo. at 55 (Ex. 3); Syphus Depo. at 62 (Ex. 4).

e. In all correspondence regarding the book of business, Farm Bureau referred to it as owned by the Career Agents, which led the Career Agents to believe they owned the book of business. Tanner Depo. at 76 (Ex. 1); Stokes Depo. at 40 (Ex. 2); Exhibit 12 (underlined for emphasis).

f. The Career Agents' status as independent contractors led each Career Agent to believe that he owned his book of business. Stokes Depo. at 15, 24 (Ex. 2); Wood Depo. at 25, 30-31 (Ex. 3); Tanner Depo. at 32 (Ex. 1).

g. The Career Agents had to purchase all the account records and forms on which information concerning the book of business were kept. Syphus Depo. at 59-60 (Ex. 4); Wood Depo. at 25, 32-34 (Ex. 3); Stokes Depo. at 35 (Ex. 2).

5. When Farm Bureau terminated Career Agents, it confiscated their books of business worth over $1.7 million. Tanner Depo. at 27-32, 34, 59-60, 65 (Ex. 1); Stokes Depo. at 16-17, 20-22, 74-76 (Ex. 2); Wood Depo. at 37-41, 67-68, 73-74 (Ex. 3); Syphus Depo. at 50, 62-64 (Ex. 4). These Career Agents had spent over 91 years in building the $1.7 million books of business and establishing economic and contractual relationships with their clients.

FACTS REGARDING JAY WOOD, SCOTT STOKES AND DARREL TANNER

6. Jay Wood was born on November 11, 1941. Exhibit 13. He started selling policies for Farm Bureau in 1966 in the Weber office and was terminated on March 23, 1994. Wood Depo. at 11 (Ex. 3); Exhibit 10. He was 53 years old on the date of his termination.

7. Darrell Tanner was born on December 13, 1941. Exhibit 13. He started selling policies for Farm Bureau on April 15, 1982 in the Weber office and was terminated on March 23, 1994. Tanner Depo. at 10 (Ex. 1); Exhibit 10. He was 53 years old on the date of his termination.

8. Scott Stokes was born on May 2, 1961. Exhibit 13. He started selling policies for Farm Bureau in July of 1984 in the Weber office and was terminated on March 23, 1994. Stokes Depo. at 7 (Ex. 2); Exhibit 10. He was 32 years old on the date of his termination.

9. Mr. Wood was not assigned any accounts when he joined Farm Bureau and built his book of business to $380,000 by the time of his termination. Wood Depo. at 12 (Ex. 3); Affidavit of Jay Wood attached as Exhibit 14. Mr. Tanner was not assigned accounts when he joined Farm Bureau and built his book of business to $410,600 by the time of his termination. Tanner Depo. at 18, 47 (Ex. 1); Affidavit of Darrell Tanner attached as Exhibit 14. Mr. Stokes

was assigned some accounts when he joined Farm Bureau and built his book of business to $300,000 by the time of his termination. Stokes Depo. at 11 (Ex. 2); Affidavit of Scott Stokes attached as Exhibit 14.

10. Farm Bureau managers often told the Career Agents that they would not be fired except for cause, and that older agents are not terminated except for cause. Stokes Depo. at 47, 49, and 58 (Ex. 2).

11. In October of 1994, Darrin Ivie, the Weber Agency manager, met separately with Messrs. Tanner, Stokes and Wood regarding their future relationship with Farm Bureau. These meetings were memorialized in letters dated October 15, 1994. Exhibit 9. The letters set forth minimum sales goals for life, property and casualty insurance in order for the Career Agents to keep their relationship with Farm Bureau. *Id.* The letter to Mr. Tanner, which is representative, provides:

> I just wanted to follow up on our meeting, the goals we set and the commitments we made.
>
> . . .
>
> You are right in believing that your book of business is not only an asset to your current income, but also houses a great deal of potential for future services (sales).
>
> . . .
>
> The 1994 minimum production standards you have chosen for me to monitor are:
>
> | | |
> |---|---|
> | L/D/A | $14,400 |
> | Casualty | $17,400 |
> | Property | $7,800. |
>
> As discussed at the end of the first quarter of 1994 1/4 of these production standards must be written and transmitted to the home office. At the end of the second quarter 1/2 of these

> production standards must be issued (these numbers will be reflected on the 12 month rolling average production report). At that time if the numbers are less than expected I will begin recruiting to find your replacement. It will take me approximately 90-120 days to prepare someone to take your place. At the end of the third quarter I will once again revisit your results. At that time one of two things could happen:
>
> 1. I see that your numbers reach the expected result at that time I will simply hire the new agent and increase our compliment or
> 2. If after I look at the numbers the results are still not there the new agent will move into your office.
>
> Also we discussed the fact that this is a progressive expectation and that each year this minimum production standard will progress accordingly. . . .
>
> . . .
>
> It is my understanding that we have agreed upon these standards and that if the time comes and these expectations/results are not achieved you will simply resign.
>
> . . .
>
> As I see it, implementing these new programs and adapting to the changes now and in the future Darrell will be a Master Agent.

Exhibit 9.

12. Based on the meetings with Mr. Ivie and the October 15 letters, Messrs. Stokes, Tanner and Wood understood that if they met the minimum goals in the October 15 letters by the end of 1994 they would remain Career Agents. Tanner Depo. at 49-54 (Ex. 1); Stokes Depo. at 53-56, 86 (Ex. 2); Wood Depo. at 45-48, 68-69, 74 (Ex. 3); (Ex. 9).

13. In early 1994, Farm Bureau required Messrs. Stokes, Wood and Tanner to sign Career Agent Contracts effective January 1, 1994. (Ex. 5). These were the same agreements the Career Agents signed every year. The Career Agents were not allowed to alter or

question the Career Agent Contract; rather, the Career Agents were told to sign or be fired. Tanner Depo. at 56 (Ex. 1); Stokes Depo. at 32 (Ex. 2); Wood Depo. at 27-28, 49-51, 56-70 (Ex. 3); Syphus Depo. at 61 (Ex. 4).

14. Mr. Ivie continued to hold weekly "PEP" sessions with Messrs. Stokes, Tanner and Woods after the 1994 Career Agent Contracts were signed. Mr. Ivie referred to the October 15 letter during these sessions and told the Career Agents whether they were on track to meet their goals. Affidavits of Tanner, Stokes and Wood attached as Exhibit 14. Mr. Ivie affirmed that Messrs. Stokes, Tanner and Woods had to meet the minimum goals in the October 15 letter to retain their relationship with Farm Bureau. *Id.* Based on the October 15 letters, the weekly meetings regarding the goals in the October 15 letters and continued representations by Mr. Ivie, Messrs. Stokes, Tanner and Wood believed that the October 15 letters, and not the newly signed Career Agent Contracts, governed their employment relationship with Farm Bureau. *Id.*; Tanner Depo. at 49-54, 56 (Ex. 1); Stokes Depo. at 86 (Ex. 2); Wood Depo. at 45-49, 68-69, 74 (Ex. 3).

15. Farm Bureau terminated Messrs. Stokes, Wood and Tanner on March 23, 1994, before the end of the first quarter of 1994. (Ex. 10). No reason was given for the terminations. *Id.*; Tanner Depo. at 58 (Ex. 1); Stokes Depo. at 60 (Ex. 2).

16. After the terminations, Farm Bureau used accounts from Messrs. Stokes, Tanner and Wood's books of business to finance new agents in Weber, Utah. Affidavits of Stokes, Tanner and Wood attached as Exhibit 14; Stokes Depo. at 20-21 (Ex. 2).

17. After the terminations, Farm Bureau informed insureds from Messrs. Stokes, Tanner and Wood books of business that the Career Agents had quit, which was not true, thereby injuring the Career Agents' good will with their clients. Tanner Depo. at 36-38, 60-61, 71-72 (Ex. 1); Stokes Depo. at 16-17, 61-62, 73-74, 81 (Ex. 2); Wood Depo. at 38, 40, 56-58, 61-62 (Ex. 3).

18. Mr. Stokes' book of business was in force at the time Farm Bureau terminated him was $300,000 as reported to him by Farm Bureau. Mr. Tanner's book of business was in force at the time Farm Bureau terminated him was $410,600 as reported to him by Farm Bureau. Mr. Wood's book of business was in force at the time Farm Bureau terminated him was $380,000 as reported to him by Farm Bureau. Affidavit of Stokes, Tanner and Wood attached as Exhibit 14.

FACTS REGARDING LEO SYPHUS

19. Leo Syphus was born on March 3, 1924. Exhibit 13. He started selling policies for Farm Bureau in 1953 and was terminated on September 12, 1994. Syphus Depo. at 7 (Ex. 4); Exhibit 7. He was 70 years old on the date of his termination.

20. Mr. Syphus started without any accounts in St. George, Utah and was later transferred to Clearfield, Utah where he built his book of business to $680,000 by the time he was terminated. Affidavit of Leo Syphus attached as Exhibit 14; Syphus Dep. at 11 (Ex. 4).

21. In March of 1994, after Messrs. Stokes, Tanner and Wood were terminated from the Weber Agency, John Thigpen, the state manager, made a special trip to see Mr. Syphus

and informed him that he would not be terminated like those individuals in the Weber Agency. Syphus Depo. at 28 (Ex. 4).

22. In June of 1994, Mr. Syphus met with his agency manager, Byron DeLair regarding Mr. Syphus' future relationship with Farm Bureau. This conversation was memorialized in a letter from Mr. DeLair to Mr. Syphus dated June 30, 1994. Exhibit 6. The letter set forth minimum sales goals for life, property and casualty insurance. *Id.* Mr. Syphus understood that if he met these minimum goals by September 30, 1994 he would remain a Career Agent. Exhibit 6; Syphus Depo. at 27 (Ex. 4).

23. Farm Bureau terminated Mr. Syphus without reason by letter dated September 12, 1994, eighteen days prior to the date Mr. Syphus was given to reach his goals. Exhibit 7. At the time of termination, Mr. Syphus was on pace to meet the property and casualty minimums in the June 30 letter, and had several leads to meet his life minimum, which could be met with only one sale. Syphus Depo. at 33-36, 83-88 (Ex. 4). Farm Bureau used Mr. Syphus's book of business to finance new agents in Clearfield, Utah.

24. After Mr. Syphus's termination, Farm Bureau informed insureds from Mr. Syphus's book of business that he had retired, which was not true, thereby injuring his reputation. Syphus Depo. at 49, 71, 73 (Ex. 4).

25. Mr. Syphus's book of business in force at the time Farm Bureau terminated him was $680,000 as reported to him by Farm Bureau. Syphus Affidavit, Exhibit 14.

26. Mr. Syphus did not re-enter the insurance business after termination because of his age. Syphus Depo. at 72 (Ex. 4).

STANDARD OF REVIEW

In reviewing a grant of summary judgment, the appellate court determines whether the trial court erred in applying the governing law and whether the trial court correctly held that there were no disputed issues of material fact. *Ryan v. Dan's Food Stores, Inc.*, 972 P.2d 395, 400 (Utah 1998). Because summary judgment presents questions of law, the appellate court reviews the trial court's ruling for correctness, showing no deference to the trial court's decision. *State v. Vincent,* 883 P.2d 278, 281 (Utah 1994).

SUMMARY OF THE ARGUMENT

There are numerous questions of fact that prevent this case from being disposed of on summary judgment. First, a jury question arises as to whether Darrin Ivie's repeated reaffirmation of the October 15, 1993, letters with Messrs. Tanner, Stokes and Wood gave rise to an implied-in-fact contract that overcomes the terms of the 1994 Career Agent Contract. Leo Syphus had a similar arrangement, although his letter and promise of future employment came after he signed the 1994 contracts. Under Utah law, the agents can overcome the at-will conditions contained in the 1994 contracts by showing that an express or implied employment agreement existed that prohibited Farm Bureau from terminating them without satisfying the agreed-upon conditions. It is the exclusive province of the jury to decide whether Farm Bureau's actions constituted an express or implied-in-fact contract and the trial court erred by granting summary judgment.

Second, there are questions of law and fact concerning ownership of the agents' books of business. The agents are independent contractors, running independent businesses, under the

terms of the 1994 Career Agent Contracts. The Contract requires that the agents relinquish any documents pertaining to Farm Bureau's business, but is silent as to the agents' own books of business developed in their capacities as independent contractors. This silence has not prevented Farm Bureau from confiscating the agents' records pertaining to their private businesses, which has caused significant economic damage to the agents. The trial court found, erroneously, that the plain language of the 1994 contracts allows Farm Bureau to take such action. Even if this is true, Farm Bureau consistently treated the books of business as assets of the agents, which indicates how the contract terms should be interpreted. Farm Bureau's course of conduct may also serve as a waiver of any contractual right to access or own the agents' accounts and records.

The remaining claims—breach of the covenant of good faith and fair dealing, unjust enrichment, and punitive damages—were dismissed on summary judgment on the basis of the trial court's rulings made in the first two issues, reasoning that if Farm Bureau acted within its contractual rights it cannot be liable for bad faith, unjust enrichment or punitive damages. Because the trial court overlooked numerous questions of fact on the employment contracts and book of business issues—questions that should have been decided by a jury—these remaining three issues should be remanded back to the trial court for factual findings.

ARGUMENT

I. QUESTIONS OF FACT PRECLUDE ENTRY OF SUMMARY JUDGMENT ON THE WRONGFUL TERMINATION CLAIMS.

In the proceeding below, the trial court ruled that the 1994 Career Agent Contracts, which provided for termination without cause, controlled the employment arrangement between the Career Agents and Farm Bureau. This ruling ignores the fact that the 1994 contracts between the parties were modified by statements of Farm Bureau after the 1994 contracts were signed. These statements led the Career Agents to reasonably believe that they could not be fired unless they failed to meet the goals set forth in the October 14, 1993, letters. In its Order, the trial failed to state that no reasonable jury could find an implied in fact agreement existed based on these facts. Instead, the court merely stated that the 1994 agreements controlled, which is a question of fact that should have been sent to the jury. At the very least, a question of fact exists as to whether an implied-in-fact contract modified the 1994 Career Agent Contracts.

A. QUESTIONS OF FACT REGARDING THE 1994 CAREER AGENT CONTRACTS PRECLUDE SUMMARY JUDGMENT.

An at-will employment arrangement allows either the employer or the employee to terminate the employment for any reason, or no reason at all, at any time. However, an employee may overcome an at-will arrangement by showing that an express or implied employment agreement existed that prohibited an employer from terminating an employee without cause or without satisfying other agreed-upon conditions. *Ryan v. Dan's Food Stores*, 972 P.2d 395, 400-01 (Utah 1998). "A wrongful termination case based on a violation of an express or implied term of the employment agreement rests on a duty that an employer

voluntarily undertakes as a consequence of the employment agreement itself, whether express or implied." *Fox v. MCI Communications Corp.*, 931 P.2d 857, 860 (Utah 1997).

In October 1993, Darrin Ivie, the Farm Bureau Weber Agency manager, met separately with Messrs. Stokes, Tanner and Wood to discuss their productivity and future relationship with Farm Bureau. These meetings were memorialized in letters, dated October 15, which set forth sales goals for life, property and casualty insurance. The letters plainly state that the agents would be retained if they met these sales goals by the end of the third quarter of 1994.

In February 1994, the plaintiffs each signed the form Career Agent Contract, which they had signed every year as Career Agents. After signing the 1994 Career Agent Contracts, they continued to have weekly meetings with Mr. Ivie, wherein he re-affirmed the October 15 letters and let each agent know whether they were meeting the goals in the October 15 letters. By so doing, Mr. Ivie revived the October 15 letter as the document that specifically governed the future employment relationship of the parties. Messrs. Stokes, Tanner and Wood each believed the October 15 letters to govern their relationship despite the existence of the 1994 Career Agent Contracts. Even so, these agents were fired more than six months before the end of the third quarter of 1994.

Based on these facts, a reasonable jury could find that the 1994 Career Agent Contracts were modified by an implied-in-fact contract created by Mr. Ivie's re-affirmance of the October 15 letters and his meetings with the agents regarding their progress under the terms of the October 15 letters. The existence of an implied contract is a factual question, and the court

should not grant summary judgment if a reasonable jury could find that an implied contract exists. *See Sanderson v. First Sec. Leasing Co.*, 844 P.2d 303, 306 (Utah 1992).

Mr. Ivie clearly manifested his intent to operate under the October 15 letters after the 1994 Career Agent Contracts were signed, which was sufficiently definite to allow the Career Agents to believe that they would not be terminated unless they failed to meet the minimums. The trial court infringed on the exclusive province of the jury, which is to decide factual disputes, when it simply ruled that the 1994 contracts controlled the employment arrangement. At the very least, there is a question of fact as to whether Mr. Ivie's actions and statements created an implied in fact contract which modified the 1994 Career Agent Contracts precluding summary judgment. *Ryan v. Dan's Food Stores*, 972 P.2d 395, 401 (Utah 1998).

B. QUESTIONS OF FACT REGARDING LEO SYPHUS'S IMPLIED IN FACT CONTRACT PRECLUDE SUMMARY JUDGMENT.

The facts surrounding the termination of Leo Syphus are substantially similar to those of Stokes, Tanner and Wood, with the main difference being that Farm Bureau memorialized Mr. Syphus's sales goals and the promise of future employment in a letter dated June 30, 1994, well after he signed the 1994 contract. These representations constitute an express contract that supercedes the previous 1994 agreement. At minimum, Mr. Syphus, like the other plaintiffs, was operating under and implied-in-fact contract because there was "a manifestation of the employer's intent . . . communicated to the employee and sufficiently definite to operate as a contract provision [so that] the employee can reasonably believe that the employer is making an

offer of employment other than employment at will." *Trembly v. Mrs. Fields Cookies*, 884 P.2d 1306, 1312 (Utah Ct. App. 1994) (citations omitted).

It is beyond dispute that the June 30 letter was an implied-in-fact, if not express, contract that modified Mr. Syphus's at-will status. The June 30 letter sets forth minimum goals and provides that "[k]nowing these requirements and expectations to be necessary; if they are not met, retirement or career contract termination will be the alternative as of September 30, 1994." (Ex. 6). Based on this letter and the conversation with Mr. DeLair which precipitated it, Mr. Syphus reasonably believed that if he met the goals he would not be terminated. To attain the goals, Mr. Syphus hired additional office help. Mr. Syphus's belief that he could not be terminated unless he failed to meet the goals was affirmed by the statements of Mr. Thigpen, the state director, to Mr. Syphus that he would not be terminated like Messrs. Stokes, Tanner and Wood, which is precisely what happened. At the very least, there is a question of fact as to whether the June 30 letter and Mr. Thigpen's statements were implied contracts that modified Mr. Syphus's at-will status.

Again, because "the existence of an implied contract is a factual question" *Ryan,* 972 P.2d at 401, this issue should have been sent to the jury. The order granting summary judgment is inappropriate here, as before.

II. SUMMARY JUDGMENT WAS IMPROPERLY GRANTED AS TO THE OWNERSHIP OF THE AGENTS' BOOKS OF BUSINESS.

A. THE TRIAL COURT FAILED TO RECOGNIZE THAT THE AGENTS, AS INDEPENDENT CONTRACTORS, HAVE AN OWNERSHIP RIGHT IN THEIR BOOKS OF BUSINESS.

Within the insurance industry the term "book of business" has a precise, well-established meaning. "Book of business" refers to the list of policies issued, the names of the insureds, the expiration dates, and other vital information regarding the elements of the insurance contracts in force. *See In Re Dunham*, 110 F.3d 286 (5th Cir. 1997); *Gotchis v. Allstate Ins. Co.*, 1993 WL 795440 (D. Mass.); *In Re Estate of Corning*, 108 A.D.2d 96 (N.Y. App. Div. 1985). A book of business provides valuable leads to other agents for soliciting policies, making it a valuable asset that can be transferred or sold. *See Dunham*, 110 F.3d 286 (5th Cir. 1997); Appleman, *Insurance Law and Practice*, §9026 (1991); 4 Couch On Insurance (Second), *Rights to Expirations,* §26A:260.

In addition to the information contained within the book of business, the term also refers to the good will that the agent has built with his clients, and courts have recognized this good will as an asset. *Dunham,* 110 F.3d 289 at n.12. Commonly, the agent is the only connection a client has with the insurance company. The agent makes the initial contact, provides information about the product, makes the sale, services the account, and is often the first person that the insured calls when she has a claim or a question. The good will and customer loyalty that the agent establishes is a valuable asset and is recognized as part of the book of business. *See*

Gotchis, 1993 WL 795440 at *2; *In Re Estate of Corning*, 108 A.D.2d 96 (N.Y. App. Div. 1985); 4 Couch On Insurance (Second), *Rights to Expirations,* §26A:260 (1984).

Furthermore, it is the custom and practice in the insurance field that, in the absence of a contract to the contrary, the independent insurance agent owns his book of business at the termination of his agency. *See Colonia Ins. Co. v. City Nat'l Bank*, 13 F. Supp.2d 891, 901 (W.D. Ark. 1998). Accordingly, the agent, after the termination of the agency, treats the book of business as an asset. *See Id.*; 43 Am.Jur.2d, *Insurance* §150 (1982).

Farm Bureau was very careful to ensure that the plaintiff agents were considered independent contractors, instead of direct Farm Bureau employees, and Farm Bureau enjoyed the benefits associated with such a relationship. However, Farm Bureau is now treating the book of business, which is the principal asset of these independent contractors, like company property that was developed by a regular employee. This is akin to a homeowner hiring a plumber to fix a leaky faucet, allowing the plumber to perform the work, and then claiming that the plumber's tools belong to the homeowner upon termination. Farm Bureau cannot have it both ways. The agents were either regular employees with no right to the fruits of their labors or they were independent contractors with businesses, assets and interests separate from Farm Bureau. The Career Agent Contact and Farm Bureau's course of conduct establish that the agents were independent contractors with an ownership interest in their books of business. The Contract sets forth a separate paragraph that establishes the agents as independent contractors:

> **INDEPENDENT CONTRACTOR**. It is the intent of the parties hereto that for all purposes and in all situations governed by the provisions of this agreement, Career Agent will be, and is hereby declared to be, an independent contractor and

> not an employee, and that the relationship between Career Agent and Companies created by this agreement, will be governed by those rules of law governing the status and relations of independent contractors and not those rules of law governing employer-employee relations.

Career Agent Contract, at ¶4 (Ex. 5).

Because the Career Agents are independent contractors, there are actually two businesses involved: the agents' business and Farm Bureau's business. This idea is echoed in the "Accounts and Records" provision where Farm Bureau declares that "All accounts, account records, policyholder files, policyholder lists, rate books or manuals, applications and other forms and all other records in Career Agent's possession pertaining to Companies' business will be the property of Companies and will be returned to Companies upon demand." *See* Career Agent Contract ¶5(b) (Ex 5) (emphasis added). This language, which only requires the agents to return documents pertaining to Farm Bureau's business, is consistent with the notion that the Career Agents are independent contractors running a separate business.

Farm Bureau has admitted that it is familiar with the term "book of business" a common industry term. *See* Defendants' Reply Memo at 4. However, the "Accounts and Records" provision does not use the term book of business, which embodies much more than mere accounts and records. Instead, it lists accounts and documents "pertaining to the [Farm Bureau] Companies' business" only. It does not declare that Farm Bureau has exclusive right or control of the information demanded and it does not prohibit the Career Agents from making private copies of the documents for their private books of business. The language says nothing about returning records pertaining to the Career Agents' business. Notwithstanding these glaring

omissions, Farm Bureau believes that it has the contractual right to confiscate the agents' most valuable asset without any compensation to the agents. If Farm Bureau actually intended to draft such a draconian agreement, then it failed to include the clear language necessary to do so, probably because no agent would agree to forfeit his or her largest asset upon the at-will whims of Farm Bureau. With these omissions in mind, it is clear that the Career Agents are independent contractors with separate businesses and that Farm Bureau is entitled only to records that pertain to its business.

The trial court should have ruled, as a matter of law, that the agents were independent contractors who had the right to preserve the good will of their business, and the business itself, as the property of the agent—not of the insurance company. *See* 4 Couch on Insurance, *Right to Clientele Under Agency System* §26A:261. The books of business belong to the agents and Farm Bureau overstepped its authority when it confiscated these books.

B. THERE ARE MATERIAL ISSUES OF FACT THAT SHOULD HAVE PRECLUDED THE TRIAL COURT FROM GRANTING SUMMARY JUDGMENT REGARDING OWNERSHIP OF THE BOOKS OF BUSINESS.

Even if the Court were to find that Farm Bureau had a contractual right under the language of the Career Agent Contract to confiscate the agents' books of business, the plaintiffs have raised questions of fact concerning Farm Bureau's representations and course of conduct that preclude summary judgment. The plaintiffs have testified that:

1. Each Career Agent was told at hiring that the book of business was his and that he could retire on it one day from either selling it or receiving the renewal commissions from it. Tanner Depo. at 26, 35 (Ex. 1); Stokes Depo. at 31, 42-43 (Ex. 2); Wood Depo. at 23, 31 (Ex. 3).

2. Farm Bureau could not remove accounts from a Career Agent's book of business. The only exception was if the agent failed to properly service the account. Tanner Depo. at 19, 21, 23, 43 (Ex. 1); Stokes Depo. at 43-46 (Ex. 2); Wood Depo. at 12, 52-55, 70 (Ex. 3); Syphus Depo. at 50, 53, 83 (Ex. 4); Exhibit 5, ¶8.

3. The Career Agents were always compensated for voluntarily parting with accounts from their books of business. For example, Farm Bureau offered to purchase a portion of Mr. Syphus' book of business in exchange for reduced office expenses and decreased sales responsibilities. Syphus Depo. at 22-25, 45-47, 79 (Ex. 4), Exhibit 11. In addition, Mr. Syphus was given a new book of business when he transferred from St. George to Clearfield because he gave up his St. George book of business. Syphus Depo. at 11. Mr. Tanner was given accounts to compensate him for surrendering accounts upon becoming an agency manager. Tanner Depo. at 21 (Ex. 1).

4. Each Career Agent was made aware that other agents had sold their books of business upon retirement. Tanner Depo. at 41 (Ex. 1); Stokes Depo. at 41-43 (Ex. 2); Wood Depo. at 55 (Ex. 3); Syphus Depo. at 62 (Ex. 4).

5. In all correspondence regarding the book of business, Farm Bureau referred to it as owned by the Career Agents. Tanner Depo. at 76 (Ex. 1); Stokes Depo. at 40 (Ex. 2); Exhibit 12 (underlined for emphasis).

6. The Career Agents had to purchase all the account records and forms on which information concerning the book of business were kept. Syphus Depo. at 59-60 (Ex. 4); Wood Depo. at 25, 32-34 (Ex. 3); Stokes Depo. at 35 (Ex. 2).

In short, Farm Bureau treated these books as property of the agents, even requiring the agents to buy the books and forms that Farm Bureau now claims to own. Notwithstanding the 1994 contract, a reasonable fact finder could find that the agents owned their books of business based upon Farm Bureau's course of conduct and representations as to ownership.

III. MATERIAL QUESTIONS OF FACT EXIST PRECLUDING SUMMARY JUDGMENT ON PLAINTIFFS' BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING CLAIM.

A constructive covenant of good faith and fair dealing inheres in every contract entered in Utah. *Cook v. Zions First Nat'l Bank*, 919 P.2d 56, 60 (Utah Ct. App. 1996). The covenant is breached when one party's actions are contrary to the agreed common purposes and justified expectations of the other party. *Olympus Hills Shopping Ctr., Ltd. v. Smith's Food & Drug Ctrs., Inc.*, 889 P.2d 445, 451 (Utah App. 1994). In determining whether a party acts in good faith, "[a]n examination of express contract terms alone is insufficient to determine whether there has been a breach of the implied covenant of good faith and fair dealing. . . The purpose, intentions, and expectations of the parties should be determined by considering the contract language and the course of dealings between and conduct of the parties." *St. Benedict's Dev. Co. v. St. Benedict's Hosp.*, 811 P.2d 194, 200 (Utah 1991). *See also Andalex Resources Inc. v. Myers*, 871 P.2d 1041, 1047-48 (Utah Ct. App. 1994). "This broad review required to determine

whether a breach has occurred is generally one of fact, not law, and thus is ordinarily left to the jury or finder of fact." *Brown v. Weiss*, 871 P.2d 552, 565 (Utah Ct. App. 1994).

A question of fact exists as to the purpose, intention and expectation of the parties with respect to the books of business. The Career Agents each testified that Farm Bureau could not terminate them and confiscate their books of business and that they owned the book of business based on the conduct and course of dealing by Farm Bureau. This belief was reasonable for several reasons. First, Farm Bureau never took a book of business from a Career Agent without compensation. For example, Farm Bureau did not take Mr. Syphus's book of business despite wanting it to start off new agents. Rather, it offered Mr. Syphus reduced goals and office expenses in exchange for a portion of his book of business. When the deal fell through, Farm Bureau did not simply take Mr. Syphus's book of business as it now alleges it had the right to do. It is reasonable to believe that Farm Bureau cannot take after termination that which it had no right to take pre-termination. Second, the Career Agents were labeled independent contractors, leading them to reasonably believe that they owned the fruits of their labor. Third, each Career Agent was told upon beginning employment with Farm Bureau that he could retire on his book of business and that it would always be his. Finally, Farm Bureau treated the books of business as owned by the Career Agents – it could not arbitrarily remove accounts from the books of business and it always paid agents when it took their books of business.

The Career Agents' belief that they owned the book of business is not contradicted by the provision in the Career Agent Contracts that Farm Bureau owned all forms and records and that renewal commissions ceased upon termination. Each Career Agent testified that these provisions

did not lead them to believe that Farm Bureau could take their book of business. They further testified that this provision did not lead them to believe Farm Bureau owned the records to the exclusion of the Career Agents, which is the foundation for the good faith and breach of contract claims. The provision is silent with respect to the book of business upon termination. Put simply, the Career Agents could have a reasonable belief and justified expectation of ownership of their books of business despite the Accounts and Records provision of their Career Agent Contracts. A question of fact clearly exists on this issue precluding summary judgment.

Farm Bureau also breached the agents' expectation of future employment, and acted in bad faith, by encouraging the agents to sell more insurance with the promise of future employment and then firing the agents as they started to produce. Particularly egregious is the firing of Leo Syphus, who was on track to meet and exceed his goals, but was fired more than two weeks before his deadline. Leo only needed to sell one life insurance policy in the remaining 19 days in order to meet the requirements of his June 1994 letter, and he had several leads in place, but was fired nonetheless. A reasonable jury could clearly find that Farm Bureau acted in bad faith with regards to Leo Syphus.

Because the trial court found that Farm Bureau had properly exercised its underlying contractual rights when it fired the plaintiffs and confiscated their books of business, the court also concluded that there could be no breach of the covenant of good faith and fair dealing. Thus, it similarly flows that if the trial court is reversed on the decision to grant summary judgment on the first two issues, then its decision to dismiss this claim should also be reversed since it is based on the reasoning that Farm Bureau properly exercised its contractual rights.

IV. SUMMARY JUDGMENT WAS INAPPROPRIATE ON THE UNJUST ENRICHMENT CLAIM BECAUSE FARM BUREAU HAS TOOK THE CAREER AGENTS' BOOKS OF BUSINESS UNFAIRLY AND TO FARM BUREAU'S BENEFIT.

As an alternative theory to breach of contract, the plaintiffs assert that it was unjust for Farm Bureau to confiscate the valuable books of business without giving commensurate value in return. By so doing, Farm Bureau is enjoying the benefits of an asset that the plaintiffs expected to retire on and have devoted their careers to building and maintaining.

An insurance agent may seek to recover the value of lost commissions under an unjust enrichment theory, as well as under a breach of express contract theory. *Preferred Marketing v. Hawkeye Nat. Life*, 452 N.W.2d 389, 394 (Iowa 1990); *Glass v. Minnesota Protective Life Ins. Co.*, 314 N.W.2d 393, 397 (Iowa 1982). It is only when the agent seeks to recover the commissions based on an express contract, that the express contract determines the rights of the parties as to those commissions. *Glass*, 314 N.W.2d at 397. The mere existence of an express contract which relates to commissions does not preclude a cause of action that is not based on contract. *Id.* at 397. As the court stated in *Preferred Marketing,*

> The right of an insurance agent to commissions, salary, or other compensation from the insurer, when based on a contract, is dependent on the terms of the contract. [] This rule applies to renewal commissions. [] It is also possible to state a cause of action for recovery of renewal commissions on a theory of unjust enrichment . . . .[]

452 N.W.2d at 394 (emphasis added, citations omitted). Thus, in the instant case, the Career Agents state a claim upon which relief can be granted when they seek both contractual and extra-contractual remedies for the Defendants' wrongful acts.

The trial court held that the 1994 contracts govern the entire relationship between the parties and therefore dismissed plaintiffs' claims of unjust enrichment. If this Court finds that no contract expressly governed the relationship between Farm Bureau and the Career Agents' books of business, then it is vital that the claim for unjust enrichment remain in the case. This order of summary judgment dismissing the plaintiffs' claims for unjust enrichment should be reversed to the extent that the trial court erred in reaching its decision on Farm Bureau's contractual rights.

V. MATERIAL QUESTIONS OF FACT PRECLUDE ENTRY ON PLAINTIFFS' CLAIM FOR PUNITIVE DAMAGES.

Farm Bureau argues that the Career Agents' claim for punitive damages must be dismissed because there is no underlying liability under the intentional interference with economic relations claim. As noted above, summary judgment was inappropriate on the Career Agents' claim of intentional interference with economic relations. The mere fact that the claims still survive summary judgment means that the award of punitive damages also survives.

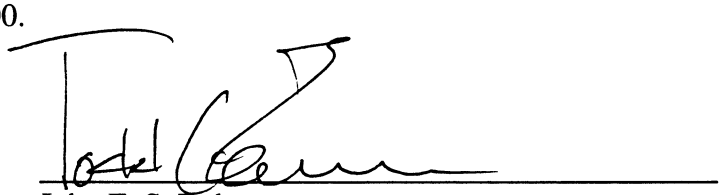
In addition, facts already exist in the record which establish that Farm Bureau likely acted in bad faith, with malice, or at least with reckless disregard to the Career Agents' rights. First, in regards to Leo Syphus, Farm Bureau terminated him on September 12th but had promised until September 30th to meet his goals. Farm Bureau acted in bad faith in this regard by sending him a letter on September 12th stating that he was not terminated until September 30th. As to the other agents, they were promised the full year of 1994 to meet their goals. They were terminated before even the first quarter of 1994 had expired. Finally, there is evidence that Farm Bureau terminated these agents and confiscated their books of business in order to finance new agents.

In sum, the Career Agents' claim for punitive damages based on intentional interference of economic relations must survive because the intentional interference of economic relation claim survives.

CONCLUSION

The Career Agents have demonstrated that material facts remain to be decided in this case making the Order granting summary judgment inappropriate. We ask this court to vacate the order granting summary judgment and remand the case to the Second District Court for further proceedings.

DATED this 19th day of July, 2000.



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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of July, 1999, I caused to be mailed, first-class, postage prepaid, a true and correct copy of Opening Brief of the Appellants/Plaintiffs to:

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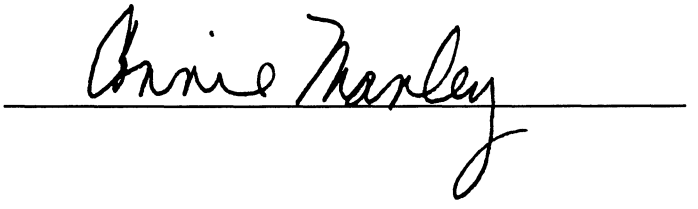

ADDENDUM

1. Deposition of Darrell K. Tanner, March 4, 1998
2. Deposition of Scott A. Stokes, March 4, 1998
3. Deposition of Jay L. Wood, March 5, 1998
4. Deposition of Leo Syphus, March 5, 1998
5. Career Agent Contract of Scott Stokes, Darrell Tanner, Leo Syphus and Jay Wood, January 1, 1994
6. Byron DeLair letter to Leo Syphus, June 30, 1994
7. Leo Syphus termination letter, September 12, 1994
8. Internal Farm Bureau memo confirming termination of Leo Syphus, September 12, 1994
9. Letters to Scott Stokes, Darrell Tanner and Jay Wood re production goals, October 15, 1993
10. Termination letters to Darrell Tanner and Jay Wood, March 23, 1994
11. Leo Syphus letter to Alan Schultz, January 26, 1993
12. Farm Bureau memo re "making yours a profitable business", September 22, 1993
13. Biographical information on Scott Stokes, Jay Wood and Darrell Tanner
14. Affidavits of Scott Stokes, Jay Wood, Darrell Tanner and Leo Syphus
15. Performance Review of Scott Stokes, Jay Wood and Darrell Tanner, February 1, 1994
16. Court Order, May 3, 1999
17. Court Ruling, February 8, 2000
18. Court Order, March 21, 2000

Tab 1

IN THE SECOND JUDICIAL DISTRICT COURT

IN AND FOR WEBER COUNTY, STATE OF UTAH

JAY L. WOOD, DARRELL K. TANNER, SCOTT A. STOKES and LEO SYPHUS, individuals,	CIVIL NO. 970906166CV
Plaintiffs,	DEPOSITION OF: DARRELL K. TANNER
vs.	Held March 4, 1998
UTAH FARM BUREAU INSURANCE COMPANY, a Utah corporation, FARM BUREAU LIFE INSURANCE COMPANY, an Iowa corporation, and FBL INSURANCE COMPANY, an Iowa corporation,	REPORTED BY: RENEE L. STACY, CSR, RPR
Defendants.	

COPY

Deposition of DARRELL K. TANNER, taken on behalf of the Defendants, at Eighth Floor, Kearns Building, 136 South Main Street, Salt Lake City, Utah, commencing at 9:05 a.m. on March 4, 1998, before RENEE L. STACY, Certified Shorthand Reporter, Registered Professional Reporter and Notary Public in and for the State of Utah, pursuant to Notice.

Depomax SM
REPORTING SERVICES, LLC
525 WELLS FARGO PLAZA
170 SOUTH MAIN STREET
SALT LAKE CITY, UTAH 84101
(801) 328-1188 / 1-800-DEPOMAX
Fax 328-1189

6 percent.

Q Now, when you joined Prudential, did they assign you any accounts that were not currently assigned to other agents?

A No.

Q Or unassigned.

A No.

Q So they didn't give you any policies for which you were getting renewal commissions?

A No.

Q When did you join Utah Farm Bureau?

A April 15th, 1982.

Q And how did you get an interest in Utah Farm Bureau or come to learn about them?

A The agency manager for Farm Bureau was referred to me by one of his clients. It was a neighbor of mine.

Q Okay. So your neighbor knew the agency manager?

A The agency manager was his agent.

Q Oh, okay.

A And he asked for referrals, and my name was given by that neighbor of mine.

Q For someone to become an agent?

A (Witness nods.)

for Farm Bureau, were there times where you were assigned either unassigned accounts or accounts that were assigned to other agents that were transferred to you to service?

A Yes.

Q Do you know the approximate annualized premiums of those accounts?

A No.

Q How many occasions did you get accounts transferred to you that have been either unassigned or with another agent?

A Three, as I recall.

Q Three? When was the first time?

A In my first year, within about three months.

Q Okay. Do you know approximately how many accounts you were assigned?

A If I recall, it was about $80,000 worth.

Q And did that encompass property/casualty and life accounts?

A Yes.

Q And what was the reason that they were transferred to you?

MR. GARDA: Objection. Foundation. Go ahead and answer.

THE WITNESS: From what I understand, an agent left the company.

Q (BY MR. MINNOCK) Do you know who that agent was?

A Yes.

Q Who?

A Kenneth White.

Q And so those accounts then were assigned to you for servicing?

A Yes.

Q What was involved in servicing those accounts?

A Handling any problems that the individuals had, meeting with them at least annually, collecting premiums, writing any new business. Being responsible for them.

Q You became their insurance agent?

A That's correct.

Q Do you know if those accounts that you received in your first year were ever transferred away from you?

A Not that I recall.

Q When was the second time that --

A December 1987.

Q Do you know approximately how many accounts?

ever transferred away from you again?

A No.

Q When was the third time?

A Around November or December 1987.

Q You mentioned the second one was about December of '87.

A Excuse me. That should be '82.

Q Oh, okay. So now the third one was November or December '87?

A That's correct.

Q *Okay. And do you know about the* approximate annualized premium for those accounts?

A About 10,000.

Q And do you know the reason why those accounts were transferred?

MR. GARDA: Objection. Foundation. Go ahead and answer.

THE WITNESS: I was told it was to replace the accounts that I had given up in anticipation of being a full-time agency manager.

Q *(BY MR. MINNOCK) Do you know where those* accounts were generated from?

MR. GARDA: Objection. Foundation. Go ahead and answer.

THE WITNESS: Just unassigned accounts. I

A Carl Gallup.

Q And was this at the point he became agency manager and you went back to being an agent?

A That's correct.

Q Okay. Did you ever have occasion to actually assign an account that had been with one agent in the Weber agency to another agent in the Weber agency?

A While both agents were still there?

Q Yeah.

A Only upon the request of a client.

Q Okay. And do you know about how many times that occurred?

A I don't. Infrequent.

Q Did you have occasion to reassign accounts when an agent left while you were agency manager?

A I don't recall.

Q Now, as I understand it, when these accounts were assigned to you on these three occasions, you received the renewal commissions?

A That's correct.

Q And was part of your responsibility to contact the Farm Bureau member who had these accounts to try to sell them new business relating to other risks?

agency?

A Yes.

Q Can you tell me any other specific conversations you had with him regarding the book of business or books of business?

A Not really.

Q Do you recall him ever telling you you owned your book of business?

A It was always told to us that, "This is your book of business." As far as recalling him exactly saying own it, I don't recall.

Q So it was referred to as your book of business?

A (Witness nods.)

Q Is that yes?

A Yes. Sorry.

Q Was anybody else present when you had that conversation with Mr. Williams at your initial interview?

A There was a regional director, but I don't recall his name. He had transferred from Idaho and went back to Idaho not too long after that, but I don't recall his name.

Q And what did you say his position was?

A Northern region sales director, Utah Farm

Bureau.

(Discussion between and Mr. Morgan and Mr. Minnock.)

Q Can you describe him for us in terms of his appearance?

A Approximately 45, dark complected, well dressed, medium height, medium build.

MR. MINNOCK: Why don't me mark this as Exhibit 1.

(Whereupon Deposition Exhibit No. 1 was marked for identification.)

Q Let me show you what's been marked as Exhibit 1 and ask you to review that.

A (Time lapse.)

Q Would you turn to the last page and indicate -- is that your signature on the last page?

A That is.

Q Do you recall reading this document before signing it?

A Not specifically.

Q Have you read through this contract before?

A Yes.

Q Now, when you talk about your book of business, what are you referring to?

A My clients, premiums that they pay,

commissions that it generates, accounts.

Q Well, just so I'm clear, are you -- I mean, are you claiming a right to the premiums that are generated off those accounts?

A At this point?

Q Yeah. I just want to know what you want in terms of a book of -- when you say you want your book of business.

A I want those individuals.

Q Well, what do you mean those individuals?

A That group of people that made up my income.

Q Well, what do you want with respect to them? Do you want their names and addresses or do you want their policies? What do you want?

A Names and addresses, policies.

Q Now, are you contending that you still have a right to the renewal commissions generated off those policies?

MR. GARDA: Objection. Asked and answered. Go ahead and answer, Darrell.

THE WITNESS: No.

Q (BY MR. MINNOCK) Okay. And you're not arguing that you're going to set yourself up as an insurance company, I take it, and collect the

premiums and pay the losses?

A That's correct.

Q So is it just the account folders that you want?

MR. GARDA: Objection. Asked and answered. Go ahead and answer, though, Darrell.

THE WITNESS: No. Account folders isn't the business. Account folders, in and of themselves, are nothing.

Q (BY MR. MINNOCK) Well, and that's what I'm wondering. What do you want to do with the book of business? Are you contending that you have a right to take those policies and sell them to another company, for example?

A At this point?

Q Yeah.

A At this point, I'm looking for reimbursement for the book of business.

Q Okay. What do you feel like you're entitled to in terms of reimbursement for the book of business?

A I don't have a figure for that.

Q Well, how would you calculate it?

A What was lost from the value of the book of business and the income potential.

Q So you want the future income stream off that book of business?

A That would be a consideration.

Q Well, I mean, I'm just trying to find out what it is that -- I mean, you're an insurance agent. You're familiar with insurance.

A Right.

Q I mean, an insurance company sells a policy and it has a premium stream.

A Right.

Q And the insurance company gets the premium stream, but it also has to pay off the losses if somebody gets in an accident, right?

A Right.

Q So now you seem to be telling me you want that premium stream, and I'm just trying to understand why it is you want that. What makes you feel you're entitled to that?

A I don't want the premium stream. I want to be reimbursed for losing the commission stream.

Q Okay. So when you say that the book of business was taken, you're claiming an entitlement to the future commissions off that business?

A Yes.

Q Now, where in your contract does it say

that you're entitled to that?

A I don't know.

Q Well, let me -- let's talk about a couple provisions. First of all, on page two, paragraph 5(b), it says, "Accounts and records. Career agent shall keep accurate accounts and records of all business transactions, including, without limitation, account service records, which will be open at all times to inspection and examination by authorized representatives of Companies. All accounts, account records, policyholder files, policyholder lists, rate books or manuals, applications and other forms, and all other records in career agent's possession pertaining to Companies' business will be the property of Companies and will be returned to Companies upon demand." Did I read that correctly?

A Yes.

Q Okay. Would you agree with me that that's what the provision says, that the policy lists and account records belong to Utah Farm Bureau?

MR. GARDA: Objection. The document speaks for itself.

Q (BY MR. MINNOCK) You can go ahead and answer.

MR. GARDA: Go ahead and answer, Darrell.

THE WITNESS: I believe that they were to be returned to the companies. I don't -- will be the property of the companies and will be returned, yes, I agree with that.

Q (BY MR. MINNOCK) Okay. So where is it in your contract that you believe you have a right, then, to those account folders, policyholder lists, the things you just indicated?

A In the contract, only as a designation of independent contractor.

Q So you're referring to paragraph four on page one where it talks about you being an independent contractor?

A Uh-huh.

Q Is there any other provision you're relying upon with respect to that?

A Not in the contract.

Q Okay. We'll talk about not in the contract. Now, let's talk about your claim that you should be entitled to the renewal commissions even after you're terminated, and down under paragraph 6(c) it says, "Renewal commissions." The second paragraph says, "Renewal commissions will be paid to the career agent who personally produced the policy until" -- well, actually, there's another -- that's

suggests that you are entitled to those?

A I come back to what I said before. I don't feel like I'm entitled to ongoing commissions. I feel like I'm entitled to -- for reimbursement for not receiving ongoing commissions when I was -- when I had the business.

Q So you want one lump sum now that would reflect the loss of those renewal commissions in the future?

A Yes.

Q Well, now, let's go back to what we talked about before. You, on three occasions, were given accounts that were unassigned or assigned to a prior agent. In one case it was Kay Williams and in another case it was Ken White, and you received the renewal commissions at that time?

A Yes.

Q Did you ever question as to why Kay Williams and Ken White weren't receiving the renewal commissions?

A No.

Q And it's your contention that you should be paid a lump sum reflecting the loss of those renewal commissions, and then whatever agent takes over those accounts should get the renewal commissions as well?

A Yes.

MR. GARDA: Objection. Asked and answered. Go ahead and answer.

THE WITNESS: Yes.

Q (BY MR. MINNOCK) Is there anything in the contract that reflects that?

A No.

Q Okay. Is there any -- what other basis do you have that that's what you're entitled to?

A When I went to work for Farm Bureau, it was indicated that you could build a business. This business would take care of you. It's future income, future security, future stability. I never anticipated a termination, so I didn't look that direction. I'm thinking if I live to work till I'm 65 and decide to retire, I wouldn't expect anything by turning the business back to the company. But that wasn't the case. The business -- this trust that I felt between me and the company was stopped at a certain part, and I lost.

Q Well, and I understand you feel that way and I'm just wondering -- I mean, you indicated that that was your belief, and I'm wondering, is there any basis for that belief, because you'll agree that what you're asking for is in contradiction to the contract

you signed?

A As far as ongoing commissions?

Q Yeah.

A You're correct.

Q I mean, is there any other basis? Anything anybody has told you to suggest that you're entitled to that lump sum payment for your future renewals?

A Not in the contract.

Q Well, aside from the contract.

A Just plain old fairness.

Q Okay.

A I felt like there were certain things expected of me as an agent of the company. I had certain expectations of the company. That was severed. I don't feel like they felt a great loss, but I felt like I had a tremendous loss.

Q Now, we talked about the account folders and the renewal stream or the lump sum. Is there anything else that you feel that you're entitled to from the book of business?

A I can only answer that by indicating what I felt I lost. I had a great number of friends and quite a large number of family members and people that I had, over 12 years, come to regard as quite close associates in that group of accounts that

trusted me as their agent, and I had made certain promises to them as far as service was concerned and that I'd be there to take care of their problems and direct them and give them advice. All of that I lost. In the contract there's nothing to indicate that I should be reimbursed for that. I feel like I should.

Q But you -- well, have you suffered any economic loss as a result of that?

A Yes.

Q What economic loss have you suffered as a result of that?

MR. GARDA: Objection. Asked and answered. Go ahead and answer.

THE WITNESS: Generally, not specifically, generally the loss of wages --

Q (BY MR. MINNOCK) Well, we're talking about -- you were saying that you felt an obligation to your policyholders to be their agent.

A Right.

Q And I'm saying what economic or pecuniary loss have you suffered by not become there for that?

MR. GARDA: Same objection. Go ahead and answer.

THE WITNESS: I don't think I understand

the question.

Q (BY MR. MINNOCK) You were just saying that one of your concerns was that you had developed relationships with these friends and these individuals and that they looked to you as your agent, and then you weren't there as their agent, and I'm saying why have you suffered an economic loss by not being there for them?

A I feel an economic loss for not having -- for not having that relationship that was generating income for me. The loss I felt from the responsibility I had, the trust they had in me, the friendships and all that, only contribute to economics by the fact that they were loyal to me, they were going to stay there, they were going to pay premiums.

Q Oh, okay. So it's similar to the renewal commission?

A Correct.

Q I mean, that would be reflected in your renewal commissions?

A Right.

Q Okay. Now, have you contacted any of your former policyholders at Utah Farm Bureau about joining you at Prudential?

A Kay Williams had told me of other agents, specifically one that I can recall, Reese Carter, who was in the process of purchasing his book of business from his grandfather. His grandfather had been a long-time agent with Farm Bureau and sold his book of business to Reese Carter, who is still with Farm Bureau.

Q And what did you understand that to mean in terms of selling the book of business?

A That he had the ownership. He owned the book of business and could transfer it to his grandson.

Q Any other agents you heard that happening with?

A Ken Cardon from Logan, another agent that I was acquainted with, told me he had made an offer for part of Jay Cardon's business up in Logan. After that, I don't know what transpired.

Q What year was this Reese Carter incident?

A We had talked about Reese Carter from the time I began, so that would be in 1982, those conversations. I don't know specific location.

Q Well, you're saying Reese Carter sold his business and --

A I don't know when he sold it. He was in

of business. Where is that direction found?

A That's what they had told us, that, as independent agents, that was our clients and there was no way that they could interfere with our relationship between us and the clients, unless -- there were a couple of exceptions. If you weren't servicing the client, if the client requested a transfer.

Q Who told you that?

A Specifically, I don't know.

Q And when were you told that?

A At various times. At various times that -- indicated in the contract somewhat concerning that that the company will not interfere -- let's see. Discussions over the contract at various times specific to number four. Let's see. "Career agent has the right to control the activities and means by which the provisions of this agreement are carried out, the right to exercise independent judgment as to the persons from whom applications for insurance policies will be solicited, and the right to determine the time, place and manner."

Q Let's look at number eight on page two.

A Okay.

Q Where it says assignment of accounts.

state that the value of the book of business that you reported in your complaint -- and I don't remember what your figure was, 410, or something like that -- was, "as reported by Farm Bureau at the time of termination." Okay? Who did you speak to and get that figure from?

A That came to us monthly on our commission reports.

Q Okay. So you didn't speak with anybody from Farm Bureau regarding that?

A No.

Q And what was your understanding -- did you answer that?

A I didn't speak to anyone. That's correct.

Q Now, what did you understand that that figure represented?

A That figure represents the premiums paid on that total block of business in a one-year period.

Q Okay. Now, is that the figure you're claiming in the lawsuit that you're entitled to?

A I'm not claiming any figure at this point.

Q Okay. Let's talk now about your termination from the company.

(Whereupon Deposition Exhibit No. 2 was marked for identification.)

I don't believe the contract, but I didn't feel like I could be terminated for no reason.

Q Why is that?

A Just didn't seem right.

Q Okay.

A In the position I have now, in the company I have now, I have the same clause in the contract. I just don't -- I just didn't feel any company would invoke that clause.

Q But had anybody told you that they would not invoke that clause?

A No.

Q Okay. Now, do you contend that that provision was modified after January of 1993?

A I felt like I was -- I felt like it was modified.

Q How was it modified?

A By our manager telling us that, in essence, we had a certain period of time to meet the goals, and if we met the goals, we wouldn't be terminated.

Q And when did that meeting take place?

A I'm not sure.

Q Who else was present at the meeting?

A Darrin Ivie.

Q Anybody else?

A That's all I recall.

Q What production goals minimums were established at that meeting?

A I don't have that off the top of my head.

Q Why don't we look under Exhibit C.

MR. GARDA: I think it's Exhibit B.

MR. MINNOCK: Oh, B?

Q Okay. Why don't we look at B, then. Yeah, B. Have you had a chance to review this letter?

A Yes.

Q After having looked at it, does it accurately reflect your meeting with Darrin Ivie in October of 1993?

MR. GARDA: Objection as to fact not in evidence yet, but go ahead and answer.

THE WITNESS: I don't know that it a hundred percent reflects our meeting. Generally speaking, yes.

Q (BY MR. MINNOCK) Well, is there anything that, looking through here, you felt was an omission?

A I'm not exactly clear when he says, "I just wanted to follow up on our meeting, the goals we set and the commitments we made." I'm not absolutely sure what goals were set and what commitments were made.

MR. MINNOCK: Okay. Why don't we actually take a break, for the reporter's benefit.

(Recess. Stephen Morgan leaves.)

Q Let's see. When we left off, you were answering that you weren't sure what he meant when he put in the letter "the goals we set and the commitments we made."

A Specifically, this item on the first page.

Q You're pointing to the part that's centered involving L/D/A, that starts with "L/D/A, 2,700 per month"?

A Yes.

Q You didn't discuss that?

A We could have. When he said, "We found there needs to be recommitment and focus on these goals as discussed," I believe these were some suggested goals that came from the home office, but I'm not sure.

Q Okay.

A That was the only question I had in this letter.

Q Okay. Why don't we turn to page two. It starts at the top with, "the 1994 minimum production standards you have chosen for me to monitor are," and then it lists L/D/A, casualty and property, and those

figures. Did he accurately reflect what you and he had talked about in terms of minimum production goals?

A Yes.

Q Okay. And were those figures that you gave to him?

A No. They were figures I agreed to.

Q Well, who suggested those, I should say?

A They were -- he indicated they were minimum goals that he would accept.

Q Okay. And would you agree that those are fairly minimum goals when compared with other Utah Farm Bureau agents?

MR. GARDA: Objection. Foundation. Go ahead and answer.

THE WITNESS: No. They were reachable goals, but they weren't fairly minimal goals.

Q (BY MR. MINNOCK) Do you know approximately what your annualized premium for life and disability and annuities, the L/D/A was in 1993?

A I don't.

Q Do you know what it would be for casualty?

A I don't.

Q Do you know what it would be for property?

A I don't.

Q Do you know whether you would have, in 1993, exceeded those amounts, or would your figures have been below these?

A Life, disability and annuities would probably be below. Casualty and property would have exceeded those.

Q What about property?

A Property and casualty I would have exceeded in '93.

Q Okay. Now, during the first three months prior to your termination in 1994, had you written any life and disability or annuity policies?

A I think so. Can't be absolutely sure. I think so.

Q Would you agree with me that if you had continued at the pace that you were on with respect to life, disability and annuity, you would not have gotten $14,400 in annualized premiums for 1994?

A At that pace, probably not.

Q What about with casualty and property? Were you on pace for those at the time you were terminated?

A As I recall, I was.

Q Do you know what your L/D/A was at the time of your termination for the year 1994?

A I don't.

Q So what is your contention in terms of how long you should have been able to stay with Utah Farm Bureau?

A In discussions with Darrin Ivie and regarding this letter, he told us we had six months and then another 90 to 120 days before we would be replaced.

Q And so at what point do you think -- are you saying October of 1994, December of 1994?

A Somewhere between September and December 1994.

Q Do you have any reason to believe you would have met the L/D/A goal for 1994 had you been allowed to stay that additional six months?

A I feel like I would. I felt like I would.

Q Why do you say that?

A I felt like it was an achievable goal, and at the beginning of each year you crank up a new -- there's very little life activity in most insurance companies during the month of December. Because of the holidays and everything, people look to the first of the year. January and February are generally quite slow, but you build a foundation for the rest of the year.

what you're contending now is contrary to that provision? You are now contending that there was either an express, or otherwise, agreement to continue the term for a definite period of time?

MR. GARDA: Objection. Argumentative. Go ahead and answer.

THE WITNESS: Yes, I felt there was.

Q (BY MR. MINNOCK) Okay. And so that is contrary to the contract you signed four months later?

A Apparently, yes.

Q Okay. And I'm just trying to -- I'm just trying to understand why it is you did not -- if you felt that that contract provision was not valid, why you did not raise that issue at the time.

A Didn't feel like there was any concern. The contract, as I mentioned, changed from years to years. The first contract we had didn't have a lot of things that this one has in it. We weren't, as individuals, able to make any changes. Either you agreed with it or you didn't agree with it, and so anything that came in conflict with that contract didn't concern me much because there wasn't anything I could do about it.

Q Okay. What did he tell you specifically at

Q Okay. Now, he had -- did you have your account files there in your office?

A Yes. I was going to say -- correct that a little bit. I did ask what the reason for termination was.

Q And did they tell you?

A His answer was that they didn't have to give us a reason. Didn't have to give me a reason. At that time I assumed I was the only one being terminated.

Q Was anybody else present in the meeting?

A Just the three of us.

Q Okay. Anything else you recall discussed at that time?

A No. He did indicate that I would be receiving a letter from Ron Palmer.

Q Okay. And did you receive that letter?

A I did.

Q Regarding your termination?

A That's correct.

Q Was that the same letter that he read to you?

A No.

Q Did you ever receive a copy of the letter he read to you?

A Not that I recall. I don't recall receiving that letter.

Q Now, did you have your account files there in your office?

A Yes. In the building.

Q In the building. Now, were you all at the same building on 12th Street?

A Yes.

Q Darrin was there as well?

A No. Darrin's office was in Roy.

Q In Roy. Okay. So it was just the three of you at that office out there?

A As I recall, it was just the three of us at that time.

Q Okay. Did you turn in your account files at that time?

A Yes.

Q How did you do that? Hand physical possession over or --

A Just left them in the file.

Q Okay.

A Our files were -- we had individual offices and our files were in a foyer area and they just remained there.

Q Did you take any client lists or accounts

with you?

A I took personal -- my personal belongings. Cleaned out my desk. I'd been there 12 years. And when I got home, I found I had one file.

Q Okay.

A A new file. I think the name on it was Kunz. I returned that file.

Q Just returned it to the office?

A Yes.

Q Now, you mentioned in your answers to interrogatories that Farm Bureau told people you had resigned rather than telling them that you'd been terminated.

A Yes.

Q Okay. I'm referring to number nine on page eight where you indicated that Farm Bureau led your clients to believe that you resigned. Who did you speak to that told you that?

A Family members; a few clients that I had had that I happened to run into. Some had called me.

Q I mean, do you know about how many total people we're talking about?

A The only people that I had conversation with about that that were previous clients, probably 20 or less.

Q And did they tell you -- well, what did they tell you?

A They had indicated that when they called to talk to me, that I was no longer with the company, that I had left to go to work for Petersen Motors.

Q Well, what about that troubled you? I mean, you had left and you had gone to work for Petersen Motors, right?

A The thing that troubled me is going back to this relationship that I had built with my clients. They depended on me, as I depended on them. They depended on me, and when they called up and I was just gone, they felt like it was my decision, and that's -- you know, that's kind of injurious to a relationship to skip out with no explanation. Didn't feel it was my fault that we no longer had that relationship.

Q Okay. So you would have preferred that they tell them that you had been terminated?

A Taken the responsibility of my no longer having that relationship with them, yes.

Q Now, how is it that you've suffered economic losses as a result of that?

A You asked me that question. Immediately, there was no income. As a result of the termination,

A Yes.

Q Okay. So what is it that you contend that Utah Farm Bureau did wrong in contravention of the contract by assuming that they enforced that noncompete clause by doing so?

A In effect, by taking all of my records, lists, accounts of my clients, of the people, and then withholding a benefit if I went back to work with another company within two years, in effect, they put me out of business.

Q Okay. But we're just talking just about the career incentive plan. Okay?

A And what was the question again?

Q Well, I just want to know what you contend that they did wrong in violation of the contract or the provisions or your understanding of the way the career incentive plan works that was wrong.

A That's two questions. I don't think they violated the provisions, but I believe it was wrong.

Q Okay. You believe it was -- and why do you say that you think it was wrong?

A I believe it was wrong that they restricted me from continuing my profession.

Q Okay. But you don't contend they did anything wrong? I mean, they did what they were

know, as agents. But if I were asked if I ever discussed that, I'm sure I discussed it with some current agents or previous agents with Farm Bureau.

Q Now, have you spoken with anybody from Farm Bureau, whether they have control over the situation or not, regarding what policyholders were told as to why you left the company?

A Yes.

Q Who did you speak with?

A Galen Bills.

Q Okay. And what did you discuss?

A I was in Galen Bills' office in the course of my employment with Prudential -- or with Petersen Motors. He said, "Hold on a second. Let me try something here." And he called our Farm Bureau office and asked to speak to Scott Stokes, and he just related the conversation to me. No. He put it on speaker phone. He put it on speaker phone and he asked to speak to Scott Stokes. And the secretary -- I presume it was the secretary -- said, "He's no longer here. He quit to do something else."

He said, "Oh. Let me speak to Darrell Tanner." And she said, "He's no longer here, either." And he said, "Well, what happened to Darrell?" And she said, "Well, I guess he had some

problems."

Q And did she elaborate on what the problems were?

A She didn't.

Q Well, let me just ask you what you would want that secretary to say. You're no longer with the company. You're now with Petersen Motors. What would you like them so say?

A I'm not specifically criticizing what she said. I was just answering the question that you posed to me.

Q Well, I know, but I know you have some concerns.

A I had indicated earlier that I -- going through this kind of a trauma, it would -- it certainly would have helped me if the company would have taken the responsibility for my no longer being these people's agent, rather than assuming that I just abandoned them.

Q Do you think it would help your relationship with your clients if Utah Farm Bureau would have said, "We terminated Darrell. He's working at Petersen Motors now"? If they raised the suggestion that you had been fired?

A I think that would have been better. I

Now, these documents weren't numbered and so can you tell me what it is you're referring to in Exhibit C that relates to your claim for ownership of the book of business?

MR. GARDA: I may be able to help here, because there's a lot of documents. What we did is attached documents where Farm Bureau referred to the book of business as "your book of business," so there's a lot of documents where really the entire document is not important. It's just the one or two sentences that state "your book of business."

Q (BY MR. MINNOCK) Okay. And so, as I understand it, if I go through those documents, that's going to be what those documents will indicate?

A Yes. Each time you asked the question ownership, it's a little confusing with the term "your," because when I was hired, as I indicated there, Kay Williams said, "This will be your book of business. You're responsible. They're your clients." That doesn't say "ownership." That says "your." In my mind, that's ownership. Your house, your car.

Q (BY MR. MINNOCK) Well, let me give you another example. I mean, do you have a computer at

Tab 2

IN THE SECOND JUDICIAL DISTRICT COURT

IN AND FOR WEBER COUNTY, STATE OF UTAH

JAY L. WOOD, DARRELL K. TANNER, SCOTT A. STOKES and LEO SYPHUS, individuals, Plaintiffs, vs. UTAH FARM BUREAU INSURANCE COMPANY, a Utah corporation, FARM BUREAU LIFE INSURANCE COMPANY, an Iowa corporation, and FBL INSURANCE COMPANY, an Iowa corporation, Defendants.	CIVIL NO. 970906166CV DEPOSITION OF: SCOTT A. STOKES Held March 4, 1998 REPORTED BY: RENEE L. STACY, CSR, RPR

COPY

Deposition of SCOTT A. STOKES, taken on behalf of the Defendants, at Eighth Floor, Kearns Building, 136 South Main Street, Salt Lake City, Utah, commencing at 1:00 p.m. on March 4, 1998, before RENEE L. STACY, Certified Shorthand Reporter, Registered Professional Reporter and Notary Public in and for the State of Utah, pursuant to Notice.

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Q Okay. What did you do before you joined Utah Farm Bureau?

A I was going to school and working at a collection agency.

Q Was that while you were at Weber State?

A Uh-huh.

Q And when did you join Farm Bureau?

A I can't remember. I believe it was like July of '84.

Q Okay. I should have told you. If you don't remember, you don't remember. Just let me know. Okay?

And you were working at a collection agency prior to that. Do you remember who that was?

A Western Bonded Collection.

Q How did you find out about Utah Farm Bureau?

A A friend of mine, Rick Nelson, was an agent in the Weber County office.

Q And so what -- did he set you up with an interview or something?

A Yes, he did.

Q Who did you interview with?

A Kay Williams.

Q And what did you understand his position to be?

A I guess I misheard the question. Those were the agents when I left.

Q Oh. Who were the agents there when you started?

A Okay. Galen Bills, Rick Nelson, John Uscilka, Betty Armstrong, Jim Contos. I believe that's all.

Q Now, when you joined Utah Farm Bureau, were you assigned any accounts to service?

A When I first joined them, I was not.

Q During the period you were an agent for Utah Farm Bureau, were you assigned --

A I was assigned a small block of business from when Mike Stokes terminated. He's no relation to myself.

Q Oh, okay. Do you know when that was?

A I would say it was within the first year.

Q And do you know what the -- how many policies that was or what the approximate premium that was?

A I would guestimate the book value under 10,000.

Q Okay. Do you know of any other instances where you were assigned accounts that had been with other agents?

Q Did you ever hear anybody else say that to any agents?

A Not that I know of.

Q Now, let's talk about the book of business that's referred to in the complaint, and why don't we start off and make sure that we're talking about the same thing. Why don't you tell me what you consider to be contained within your book of business. When you're using that term, what do you mean, book of business?

A My people are my book of business.

Q What do you mean by that?

A My clients. All my clients, their families, you know. The commissions off of the policies that I write with those families.

Q Okay. Now, you've alleged in the complaint that you owned that book of business, and what is the basis for your contention that you own that book of business?

MR. GARDA: Objection. Asked and answered in interrogatories. Go ahead and answer, Scott.

THE WITNESS: I believe I was hired as an independent contractor, self-employed, therefore, I own my business.

Q (BY MR. MINNOCK) Okay. Well, let me ask

you this: Do you contend that you owned the client lists and policy lists for Utah Farm Bureau policies?

A I contend that I -- that my book of business was my people. That's where the commission is derived from.

Q Yeah, and I understand that. Let me tell you where I'm getting -- you say your people. I mean, you can't own people, so I want to know what you consider owning, as having owned.

MR. GARDA: Objection. Not in the form of a question.

Q (BY MR. MINNOCK) I'm asking you what it is that you contend that you own that Utah Farm Bureau has taken from you.

A I own my business.

Q Okay. And what are the elements of the business that you contend you own that Utah Farm Bureau took from you?

A I had clients, I had -- that's the basis of an insurance agency, is the sales and service of insurance products.

Q Well, how did Utah Farm Bureau take your clients?

A They came in and they said, "We are terminating your contract," and then they changed the

lock on the door, and then they tell them that I no longer work there because -- "He's working construction now. He no longer is here."

Q Okay. And so what is it that constitutes your book of business that you feel -- in other words, if I came in to you and said, "I'm giving you your book of business back," what is it that you want?

MR. GARDA: Objection. Asked and answered. Go ahead and answer the question.

THE WITNESS: All those people and their policies and the commissions that come from those policies.

Q (BY MR. MINNOCK) Now, when you say their policies, what is it about their policies that you want, other than the commissions? I mean, you say you want the commissions. The renewal commissions, right?

A Well, I had been there ten years. I've taken care of those people.

Q Well, I understand that. I'm just saying, what is it about the policies that you want and feel you own?

A The right to service my people.

Q Okay. Well, you would agree that Utah Farm

same question over and over again. It's just I want to understand what it is that you contend that Utah Farm Bureau has taken from you, because you say you have a right to the policies, and yet you agree you don't have a contract with the clients, with the insureds, right?

A As soon as they locked that door, they took away everything that I had built up in ten years, yes.

Q Well, and so is it the agent policy folders you want back?

A I want back the relationship that I had with my insureds, and my commission.

Q Okay. What is it that you feel -- why is it that you feel that you're entitled to a commission after you've been terminated by the company?

A It's not so much the termination. It's that I own that business. I should be entitled to be the owner and be --

Q Well, and that's where I'm missing it. You say you own that business. Are you contending that you have the right to take those policies that Utah Farm Bureau has written on Utah Farm Bureau paper -- here's your policy, Mrs. Jones, for automobile insurance. Are you contending that you own that

policy and are capable of taking it to any other company and selling it to them?

A Could you repeat that question?

(Last question read back by the reporter.)

A I'm contending that those people are my family, friends, relatives, neighbors that I recruited. All those people were my people.

Q Okay. Well, let me ask you this, then: Are you contending that once you sell a policy to an individual, that you're entitled to continue as a Utah Farm Bureau agent until that person decides to no longer be insured with Utah Farm Bureau?

A I think that's what this lawsuit is about.

Q Well, and that's what I'm trying to understand, is what this lawsuit is about. I want to understand what it is that you're contending that you think that Utah Farm Bureau has done that isn't right, and you've explained to me that they've taken away what you consider to be your clients. I understand that. But I'm wondering what it is you feel -- when you say you own these people and these policies, what powers and rights do you feel you're entitled to exercise?

A They have benefited from terminating me. They've still got most of those policies in force.

They hired new agents to come in. They can hire five agents to come in and take over my book of business. That's what this is about. They're taking care of my people.

Q Right. And -- okay. And so your complaint is you feel that you are entitled to the renewal commissions as if you would have remained a Utah Farm Bureau agent?

MR. GARDA: Objection. Asked and answered, but go ahead.

Q (BY MR. MINNOCK) Is that what you're contending?

A I guess to a point.

Q What else is it that you want?

A I want to be treated fairly.

Q Okay. And what is it that you want Utah Farm Bureau to do to treat you fairly?

A Well, obviously they didn't. You just don't come in and terminate somebody for no reason.

Q Well, I mean, I want to understand what it is you feel you have a legal right to do and what you feel that Utah Farm Bureau did that they did not have a right to do. What do you think they did that they did not have a right, under the contract you signed, to do?

MR. GARDA: Objection. Calls for a legal conclusion. Go ahead and answer.

THE WITNESS: I feel that I'm an independent contractor and I own my business, therefore, I should be able to take care of those people.

Q (BY MR. MINNOCK) Okay. Do you feel that you -- well, and what do you mean by -- I take it you're capable right now of contacting any of those people and, if they have a question, answering it, but that doesn't seem to be what you're asking for.

A I have people calling me for a year after I left asking me for insurance advice because they were my clients. They weren't going to call their agent at Farm Bureau because he was brand new, didn't really know what he was doing, so they'd call me and say, "Hey, what do you think I should do?"

Q Okay. Well -- okay. But you're saying you're not being allowed to service your clients. Okay? Is that what your contention is?

A And make the commissions off that service.

Q Okay. Well, and that's what -- I mean, that's what this really comes down to, is I want to know -- when you go before the jury when this case is tried, I want to know what you contend you're

signed it?

A I did not.

Q Have you ever read this contract before signing one?

A I have.

Q Which version of this contract did you read?

A The only thing that I have done from year to year is just -- I go over it to make sure if anything has changed.

Q If I understand what you're saying, you've read one of these before in full?

A Right. And it was about the first time that they whipped this in front of us.

Q Okay. And did you notice any changes in the one that's before you now as opposed to the one you read in full?

A I can't remember.

Q Okay. Now, what is it in this agreement that -- or where in this agreement does it provide that you own your book of business?

A I would say number four.

Q Okay. Dealing with independent contractor?

A (Witness nods.)

MR. MORGAN: Is that a yes?

MR. MINNOCK: You have to answer audibly.

with anybody at Utah Farm Bureau who told you that you would be entitled to renewal commissions after you terminated your contract?

A When I was hired on, Kay Williams told me that, hey, you own your book of business. You build up your book of business, you own it. When you're ready to retire, you sell it. And he gave me examples of people that had bought and sold their book of business at that time.

Q Okay. Let's -- now, when was this? Was this during your first interview?

A This was when I was being hired on.

Q Where did that conversation take place?

A In the 12th Street office in Ogden.

Q Was anybody else present when that conversation took place?

A I don't know.

Q What else did he tell you at that time during that conversation?

A I know we discussed that because he gave me examples.

Q Well, but I mean what else, other than this discussion about ownership of the policies?

A Just on how they hire and what your commissions are and what the rent would be and all

that.

Q Okay. Now, you've signed several of these contracts, and you indicated you read the first one, and you've reviewed all of them ever since then?

A Well, the first one went like this. We were in a meeting and they came up and they said, "Here's the new contract. Sign it."

Q And did you read it?

A And we go -- we read it and we say, "Wait a minute. We're going to take this and we're going to talk it over with an attorney," or whatever. And they said, "No. You either sign this right now and hand it in or you don't have a contract." So either sign it or you don't have a job. So everybody signed it, of course.

Q And you've read this contract?

A I have read -- I can't say that I have read this particular one.

Q But you've read versions of this contract?

A Yes.

Q Earlier versions. And you've signed several of these, correct?

A That's correct.

Q Okay. Now, if what you're telling me is true and Kay Williams told you you owned your

fill out an application for someone.

A Okay.

Q When you get a policy, Farm Bureau sends you a policy and you put that in the file. And then maybe you have some other documents and you put that in the file. Are you contending that you have an ownership interest in any of that, or would you agree that they own the paper pursuant to paragraph 5(b)?

A I think I should have some kind of ownership because that's how I serve my people. That was my work.

Q What is that based on, your belief that you own that paper?

MR. GARDA: Objection.

THE WITNESS: It's my work. Farm Bureau didn't do that. Farm Bureau didn't go out and write these clients.

Q (BY MR. MINNOCK) But is there anything in the contract that indicates that you own any of that stuff?

MR. GARDA: Objection. Asked and answered. Go ahead and answer.

THE WITNESS: I don't know.

Q (BY MR. MINNOCK) What's that?

A I said I don't know. I could sit here and

MR. MINNOCK: Is this the same as the last deposition, you think?

MR. GARDA: This is precisely the same, so these documents -- just to clear the record up, most of these documents have been included because they have the term "your book of business, your business," and they were produced because of those terms.

MR. MINNOCK: Okay. All right.

Q Now, you mentioned in your -- or let's go back to this conversation you had with Kay Williams. You mentioned he gave examples of other agents who had sold and bought their books of business. What examples did he give you?

A He gave me quite a few, but I can only remember a few at this time.

Q Okay. Who did he give you?

A Reese Carter bought his from his grandfather. He gave others that I don't remember, but he did give quite a few examples. And then while I was an agent, Ken Cardon was retiring up in Logan and he was going to sell his business and they were going to let him sell it to another agent, so I always assumed that I owned my own business, and I don't know what ever happened on that, but they said, "Yeah, you can sell it," because there were a couple

of guys that were going to go buy it.

Q What did you understand Ken Cardon to mean when he said he was selling his business?

A Everything to do with it. His accounts, his people and the commissions that come from those people, from those accounts.

Q So is it your contention that you have the right to sell your block of business and the right to receive renewal commissions to another person?

MR. GARDA: Objection. Ambiguous. Go ahead and answer if you understand the question.

THE WITNESS: I didn't. Repeat that.

Q (BY MR. MINNOCK) Okay. Is it your contention that you have the right to sell your right to receive renewal commissions to another person?

A I believe I do, yes.

Q What's that based on?

A That I --

MR. GARDA: Objection. Asked and answered in the interrogatories. Go ahead and answer.

THE WITNESS: That I own my business. I own that. If I wanted to retire, then I would sell that business.

Q (BY MR. MINNOCK) And you would sell your right to get renewal premiums to somebody else?

A That would be correct.

Q Okay. Why don't we go back to Exhibit 1. Why don't you look at paragraph 5(e), page two. It says Assignment of Commissions."

A 5(b)?

Q 5(e).

A (e). Okay.

Q "Career agent agrees not to assign this contract or any commission or other compensation payable under it without the prior written consent of Companies, and no such assignment will be effective without such consent."

A What I'm going by, Ken Cardon got the agreement from the company to sell his business.

Q He got an agreement from the company to do that, right?

A Right. He went through the company to sell. "I want to retire," you know, or whatever reason, and they said, "Yeah, you can sell that."

Q So you think you could get it, but you're saying that you would have to go through the company, though?

A No. I'm saying that he did.

Q Right. No, I'm not talking about Ken Cardon, though. I'm talking about you. Wouldn't you

agree that that provision says that you cannot transfer your right to receive renewal commissions or any commissions to somebody else?

A I guess that's what it reads, yes.

Q Okay. Now, is there any other basis for your belief that you can do that, notwithstanding this contract provision?

MR. GARDA: Objection. Asked and answered. Go ahead and answer, Scott.

THE WITNESS: In number four it just says I'm an independent contractor.

Q (BY MR. MINNOCK) What year did Ken Cardon sell his business?

A I don't recall.

Q You mention in your answers to interrogatories, "Other agents treated the book of business as their own and Farm Bureau never contested these actions." Is that Reese Carter and Ken Cardon again that you're referring to?

A That's some of them, yes.

Q Is there anybody else you know by name that has done that?

A Well, I know that, as an agent, they wouldn't take away people from me unless -- there's only a few reasons why they would, and managers have

assured me that that would never happen.

Q And who told you that?

A Any manager that I brought that up to.

Q Okay. And did they tell you whether or not -- as to why they wouldn't do that? What was the basis?

A They just said, in order to take any business from you, we have to have a good reason. Either the insured requests it or the insured moves somewhere else. Anything to better service those people, that is the reason.

Q Now, did they point to any provision in your contract that said they couldn't do that?

A No, but I pointed to parts in the contract when I talked to them.

Q What parts did you point to?

A I guess it would be this number eight.

Q Okay. Now, do you recall pointing that provision out to him when you spoke with him, your agency manager?

A We discussed the whole contract.

Q And who was this that you discussed it with?

A I discussed it with almost every manager that I had.

Q Okay. You discussed the whole contract

with every manager you had?

A The parts that bothered me.

Q Okay. All right. Well, let's talk first about this number eight, then. What bothered you about number eight?

A Well, this came up, the company reserves the right on the annual service records. We were discussing the fact finder.

Q What was troubling you about that?

A They just assured me that the only way that they would ever take business away from me is if the customer was not getting satisfactory service.

Q And the last sentence says, "If the Companies in their sole discretion determine that satisfactory service has not been given to an account, Companies reserve the right to withdraw the account from the career agent for purposes of renewal commissions and service responsibility," right?

A That's what it says.

Q And is that what you understood they could do, is if they determined you did not service an account properly, they could remove it and give it to somebody else?

A Yes.

Q Okay. Let's talk about -- well, let me ask

you this. You mentioned that you had discussed other provisions of the contract that were troubling to you, or were there other provisions of the contract that were troubling to you that you discussed with your agency manager?

A I don't know. I'd have to read over it. I don't know at this time.

Q Who did you discuss number eight with?

A I remember discussing the fact finder with -- I believe Carl Gallup was the manager at that time.

Q Now, you -- go ahead.

A The other part would be like this termination part where it says the company may terminate at any time. I remember sitting down with Walt Warneka when he was the manager. I said, "Look at this. They want us to sign this. This is like signing your career away." He said, "Hey, no. The manager is in charge. We would never terminate you."

Q Walt --

A "We'd have to have a perfectly good reason to do that."

Q Okay. When did he tell you this?

A Sometime between '84 and '94. I don't

Darrin Ivie?

A He had assured all of us older agents he would not terminate us.

Q Well, when was that?

A When he handed us out that letter.

Q Okay. Well, let's talk about -- we'll talk about that letter in a minute. I'm just saying, have you discussed with him at all this termination provision in the contract?

A I don't know. I don't remember.

Q Okay. All right. Let's talk then about your termination from the company. You've attached as Exhibit B this letter dated October the 15th, 1993. Do you recall when the meeting you had with him was?

A Roughly.

Q When was it, roughly?

A Pardon me?

Q When was it, roughly?

A The meeting on this? Well, it's dated October 15th, '93.

Q So it was before that a couple of days?

A He met with us on a -- almost a biweekly -- weekly or biweekly, and we discussed this letter every time.

and talked about this letter.

A Correct.

Q What was discussed during those meetings?

A Well, we would have went over the goals. I know the second paragraph said that I must pass my variable tests.

Q Right.

A And we were working on that at the time up until my termination.

Q Okay.

A Because I had taken the class, and he said, "Oh, don't worry about it. We'll get" -- you know, "Just hurry and pass it." And then he'd go over the goal. You know, he'd say, "Hey, you're making your casualty goal; you're making your property goal. Your life and disability goal is not being met. What are you going to do?" Well, it's the first quarter of the month. It's the slowest quarter. It's at tax time. After Christmas it will pick up. Plus we have spring campaign, and if you ask the company -- spring campaign is the life selling campaign, and the company will tell you that their agents write half of their business in that six-week period, so --

Q During this initial meeting or in subsequent meetings did he ever tell you that you

would not be terminated?

A Did he ever tell me that I would not be terminated?

Q Right.

MR. GARDA: Objection. Ambiguous. Ever? I guess --

Q (BY MR. MINNOCK) Well, I'm just interesting to know what was discussed with respect to your termination prior to your termination. Did he ever tell you, "I won't terminate you if you meet these goals"?

A Did he ever tell me that I would not?

Q Right.

A I assume, yeah. I guess he told me that, if I met those goals.

Q Did he? I mean, what do you mean you guess he told you that? I want to know what you remember him telling you with respect to that.

A I remember him reading this letter, and it says right here, "As discussed, at the end of the first quarter, one quarter of these production standards must be written and transmitted to the home office." Okay? And then he'd come in and monitor at the meetings how much you'd been doing. You know, this is the written part. It's got to be issued --

he says, "It's got to be issued by June." "Okay." You know, "We'll get it in there." And if it's not by June -- I mean, he flat told me, he said, "It's going to take me nine months to twelve months to even get around to hiring anybody to replace you," you know, "so you've got plenty of time to get out there and write your business." "Okay. I will. I'll get out there and do it."

Q Now, I mean, it looks like when you read through this letter -- tell me if I'm wrong, but this letter suggests to me that he is telling you, if you don't meet these goals, I'll terminate you. Isn't that what that letter says?

MR. GARDA: Objection. Document speaks for itself. Go ahead and answer.

Q (BY MR. MINNOCK) Well, was that your understanding, is that he was telling you, if you do not meet these goals, he would termination you?

A That's what it looks like.

Q Did he ever tell you, if you do meet the goals I'm not going to terminate you ever?

A If I meet these goals? No. He said I'd have goals every year.

Q But he never told you, I won't terminate you if you meet these goals? As long as you meet

these minimum goals, I won't terminate you? Did he ever tell you anything like that?

MR. GARDA: Objection. Document speaks for itself. Go ahead and answer.

Q (BY MR. MINNOCK) I'm not talking about the document. I'm just talking about, did he ever tell you, I'm not going to won't terminate you ever if you meet these goals?

A He told us all the time that he would not terminate us unless he had a good reason.

Q When did he tell you that?

A In meetings.

Q Can you tell me the substance of what's being said? I mean, what are the meetings about, when are they taking place, who else is present?

A We had a WAC meeting every Monday and we had individual conference settings with him.

Q How many times did he tell you this?

A Well, when he handed out this letter, everybody was asking that question. "What are you doing?" That's what we asked him. "What are you doing?"

Q And what did he tell you?

A He said, "Well, we're going to get our production quota up one way or the other." "Okay.

Fine."

Q Well, the reason I'm asking these questions is you've made the allegation that you were told you would not be terminated or that you needed cause for termination, and I want to know what that's based on.

A That I need cause?

Q That Farm Bureau could not terminate you without cause. That's what you're saying in your complaint.

A That's what the managers told me.

Q That's what I want to know. Who told you that and when?

A That's their exact words. "We're not going to terminate you unless we have just cause."

Q Who said that?

A The managers.

Q Well, I mean who of the managers?

A I'm sure that they all did. All of them probably said that to me.

Q Do you have a specific recollection of anyone saying that to you?

A Well, that's why I just said that, yeah.

Q Well, no. I mean, you're saying that you -- I asked you, do you recall them telling you that,

and you said, oh, I'm sure they all told me that, probably. I'm wondering which ones told you that.

A I'd have to think about it. I might be able to come up with it at a later time.

Q Okay.

A Specifics, if that's what you're after.

Q Well, yeah, I want to know specifically what you were told.

Now, based on this letter, how long did you think you had to make your goals?

A Almost a whole year.

Q Would you agree you weren't on pace with respect to life at the time that you were terminated, to make those goals?

A That I was not?

Q Yeah.

A I didn't even make it past the first quarter, so how could I not be on track?

Q That's what I'm saying. You know, the first quarter of the year you weren't on track?

A But the first quarter wasn't over yet.

Q Well, let's put it this way: If you continued to sell at the rate you were selling at the first two months, you wouldn't have made your goals?

A That's correct.

Q Now, are you contending then that Utah Farm Bureau told you you would not be fired without cause?

MR. GARDA: Objection. Asked and answered. Go ahead and answer.

THE WITNESS: I was under that understanding, yes.

Q (BY MR. MINNOCK) Okay. Let me go back to Exhibit 1 and let's talk about that termination clause.

MR. GARDA: That's the contract.

Q (BY MR. MINNOCK) Now, this is a contract you signed March the 7th of 1994, which is what, two weeks prior to your termination, approximately?

A Effective January 1st.

Q Well, you signed it March the 7th, right?

A Okay.

Q That's the date you signed it?

A March 7th.

Q Right. So it's about two weeks before you were terminated. And under "termination" it says, "Career agent acknowledges that Companies have not, either expressly or otherwise, agreed to continue the term of this contract for any definite period of time."

Did you raise with anybody when you signed

the 23rd?

A Yes. Well, no. On or about, yeah. It probably was a couple days after the 23rd.

Q Was anybody else present at the time?

A Three people.

Q Who? You and Darrin --

A And John Thigpen.

Q Did they tell you why you were being terminated?

A They did not.

Q Did you ask them why?

A I did.

Q Okay. What did they tell you?

A They said, "We do not have to give you a reason for termination."

Q Okay. What else was discussed at that meeting?

A And then I said, "Don't you have your own" -- I mean, "Are you" -- I just asked them, you know, "Do you just carry these things out from the company or are you going to tell me? Are you going to tell me why you're terminating me?" You know, "Why are you taking these people away from me?"

Q Have you talked to anybody since the day of that meeting about the reason for your termination?

A From Farm Bureau?

Q Yeah.

A I have not.

Q What else was discussed at that meeting?

A That was it. They read the letter and then they stood there and watched me clean out my desk and made sure I didn't take anything that they thought was theirs.

Q Okay. Now, you mentioned in your answers to interrogatories that Utah Farm Bureau told people that you had resigned rather than -- well, let's see what you said in your answers to interrogatories. That people were informing your clients that you quit as an insurance salesman to pursue construction. Okay. Who told you that Utah Farm Bureau was telling people that?

A I had a number of people tell me that.

Q Who?

A It was four years ago. I don't -- I had a lot of insureds.

Q Did they tell you how they found out that?

A They called in asking for me.

Q Okay. How have you been economically damaged if that happened?

A Economically? I don't know.

Q Have you suffered any damage from that?
A Oh, yeah.
Q Like what?
A I lost my job.
Q Well, I mean, this was after you lost your job.
A Are we talking about dollar amount? Are we talking --
Q Well, no. I'm talking about -- you've made the contention that Farm Bureau was telling people that you quit as an insurance salesman to pursue construction. I want to know if you were damaged at all as a result of that act, if it occurred.
A Oh, they all called me. "well, why did you do that? I thought you were going to take care of me for the rest of my life," you know.
Q Okay. Now, have you contacted any of your old insureds about leaving Utah Farm Bureau and joining another company?
A I have not.
Q Do you have any intentions to go back to the insurance industry?
A I still do. That's why I have my license.
Q Have you contacted any companies about being appointed?

you after we're done with this, or we can go off the record right now and discuss it, in fact.

MR. MINNOCK: Okay. Why don't we do that.

(Discussion off the record.)

Q (BY MR. MINNOCK) Have you spoken with anybody since your termination regarding your claim of ownership of the book of business?

A As far as who?

Q Anybody from Utah Farm Bureau.

A I have not.

Q Have you spoken with anybody from Utah Farm Bureau about what Utah Farm Bureau was telling people who were calling in, insureds?

A I called in one time and talked to the secretary and she said -- I told her who I was, and she said, "Oh. How is the construction business?" And I said, "Well, I didn't quit to go work construction. You know, you're telling everybody this." I just set her straight. But that was six or eight months or nine months, I don't know, after the fact.

Q Okay.

A And she said that she had -- what did she say? She said, "I'm just telling them exactly what Darrin Ivie has told me to tell the clients." I

said, "Okay."

MR. MINNOCK: Let's go off the record for a second.

(Discussion off the record.)

Q Your counsel has indicated that one of the damage elements that you're likely to be claiming damage for is the loss of the value or the relationship of the insured. Okay? Is that a fair statement, that that's one of the things you consider to be damaged, is the loss of the relationship with the insured?

A Okay.

Q Okay. And that you're damaged in your ability to take that insured and write a policy with another company, right? How has Utah Farm Bureau interfered with that relationship?

MR. GARDA: Objection. Asked and answered in the interrogatories, but go ahead and answer, Scott.

THE WITNESS: I was terminated, kicked out of my office, locks were changed.

Q (BY MR. MINNOCK) Well --

A They keep the secretary. They keep everything.

Q Well, but can't you just go and get a --

you can call any of these people on your own, can't you?

A I lost the location. I mean, I lost everything.

Q Well, but you're still appointed as of this day. You're not appointed, but you're licensed to sell life and casualty and property insurance, right?

A Sure.

Q Exactly the same lines that you did with Utah Farm Bureau, right?

A Right.

Q So what's preventing you from just simply calling up your former insureds, your clients, people you claim to have this relationship with, and saying, "I'm getting appointed the with USF&G. Come on over. I'll write your business and be your agent"?

A First of all, you have to remember your 500 clients' names, you know. You'd have to sit there and make a list of all them. Then you'd have to get appointed, which might take three months, six months, twelve months, find the right company and have them hire you. Then you have to sit down with those insureds and know the expiration dates on when the policies come due, and the whole time this is going on, my family starves to death, so that was --

Q Well, it sounds to me like the core of your suit is you're unhappy that you were terminated.

A Yeah, I was unhappy that I was terminated.

Q Okay. I mean, but, you know, Utah Farm Bureau -- I mean, if you get terminated from any job, you're facing similar types of things that you're talking about. Finding a new job, right?

A Yeah. But they don't take away your business. If I owned a McDonald's and McDonald's came and says, "Hey, we're going to fire you," they don't take the restaurant away from me. They can't take my location, my customers.

Q Well, but let's talk about some of the things that you've mentioned. I mean, nobody has taken your customers in the sense that you have the absolute right to contact any of them anytime you want, correct?

MR. GARDA: Objection. Calls for a legal conclusion. Answer the question.

Q (BY MR. MINNOCK) Well, is there anything that you know of that Utah Farm Bureau has sent you or any conversations you've had that you can't call up your relatives and say, "I'm getting a new insurance company. I'm prepared to compete for your business"?

Utah Farm Bureau and service their accounts anymore, did you?

A I guess I didn't.

Q So why would you want Utah Farm Bureau --

MR. GARDA: Objection. Argumentative.

THE WITNESS: They asked to talk to Scott Stokes. They didn't ask to talk to Darrin Ivie. They didn't ask to talk to the secretary. They said, "Is Scott there?" "No, he's no longer here. Do you want to talk to Darrin Ivie." They asked to talk to me. This was my business.

Q (BY MR. MINNOCK) And you wanted them to call --

A "He's terminated. Here's his phone number." They could call me and I could say, "Yeah, they terminated me. You're going to have to talk to your new agent." That's fine.

Q So you wanted all these people to call you, even though you couldn't report their claims, you couldn't get a new business, you couldn't --

A I would have liked to tell them that it wasn't me. "I didn't abandon you. If I get back in the business, I'll be in contact you."

Q Okay. But in terms of -- you haven't been back in the business at this point, right?

EXAMINATION

BY MR. GARDA:

Q After meeting with Darrin Ivie and getting his letter dated October 15th, 1993, did you think that Farm Bureau would fire you if you met the minimum goals in the letter?

A If I met the minimum goals, I would not be fired.

Q You would not be fired. That's the impression you had when you came out of the meeting with Darrin Ivie, that you would not be fired if you met the goals?

A Correct.

Q And is that the assumption you operated under for the next three months, that as long as I meet these goals, I will not be fired?

A That's right.

Q Okay. You were asked earlier what you wanted out of this lawsuit, and you said give me my job back and pay me for my time lost. Would you also like your book of business back?

A Yes, of course.

Q There was also a little bit of confusion about the temporary accounts you were assigned in 1991. Were these previously unassigned accounts or

Tab 3

IN THE SECOND JUDICIAL DISTRICT COURT

IN AND FOR WEBER COUNTY, STATE OF UTAH

JAY L. WOOD, DARRELL K. TANNER, SCOTT A. STOKES and LEO SYPHUS, individuals, Plaintiffs, vs. UTAH FARM BUREAU INSURANCE COMPANY, a Utah corporation, FARM BUREAU LIFE INSURANCE COMPANY, an Iowa corporation, and FBL INSURANCE COMPANY, an Iowa corporation, Defendants.	CIVIL NO. 970906166CV DEPOSITION OF: JAY L. WOOD Held March 5, 1998 REPORTED BY: RENEE L. STACY, CSR, RPR

COPY

Deposition of JAY L. WOOD, taken on behalf of the Defendants, at Eighth Floor, Kearns Building, 136 South Main Street, Salt Lake City, Utah, commencing at 9:00 a.m. on March 5, 1998, before RENEE L. STACY, Certified Shorthand Reporter, Registered Professional Reporter and Notary Public in and for the State of Utah, pursuant to Notice.

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A Yes. I was there two years, I believe it was, and my wife was the secretary for Junior Stewart, who was the manager for Farm Bureau in Ogden City, and every time I'd pick her up, he'd hustle me to get over where I could make some good money. So August 1st, 1966, I moved from Franklin life to Farm Bureau.

Q Okay. Had you ever been appointed by any other companies prior to joining Farm Bureau?

A Not prior, other than Franklin Life, as far as insurance. After I was with Farm Bureau, I was appointed with several companies in addition to Farm Bureau. We were considered independent agents. We all had companies like Guaranty National and, you know, whatever companies we needed to place our business.

Q Now, after joining Farm Bureau -- did you say 1966?

A Uh-huh. August 1st, I believe it was.

Q Okay. Have you ever held any positions with Utah Farm Bureau other than agent?

A They approached me about being an assistant manager under the condition that I would not give up my book of business, and I did that for six months and decided just to remain an agent.

Q When was that period?

A I'd have to get back to my contracts, but it was probably right after my employment. I had a very good track record, life production-wise, and they thought, you know, I could help them.

Q So that was back in the late '60s?

A Probably '66, '67, I would imagine.

Q Okay. So other than that --

A I never did give up my book of business. That was understood.

Q Well --

A Because I felt my book of business was my only security, you know.

Q Okay. Well, let me ask you this: Other than that assistant manager position, did you ever serve in any other capacities other than agent for Farm Bureau?

A No.

Q Okay.

A I'm kind of a people person. Kind of liked my clients and that's where I wanted to stay.

Q Okay. Now, you mentioned that when you originally joined Farm Bureau that you were appointed with other companies like Guaranty National.

A Uh-huh.

have his own book of business?

A I would assume that's correct.

Q You assume it's correct he did not have his own book of business?

A I don't know of him having a book of business, no.

Q Well, did he get an override commission on your work?

A I'm certain he did.

Q And on all the agents in the Weber office?

A Uh-huh. And then he had a Roy office eventually as well. He had both offices.

Q So his salary or his income would be directly tied to your production?

A I would imagine. I never saw any contract or understood exactly how it worked, but that's how it always seems to be.

Q Okay. Let's talk about some of the contentions you've made in the complaint, because I want to make sure I understand what it is you're referring to. You mentioned a book of business in the complaint, and what is it that you consider constituting your book of business?

A Well, it's my clients, and, of course, our relationship, you know, and income from that, you

know.

Q Well, what is it that Utah Farm Bureau took that you consider having taken your book of business?

A Well, all I know is when they read me the letter, I just said to them, "I'll never understand how you can take my people away from me," you know, and, of course, with that, my income, and not only my income, but my occupation for two years because of this noncompete clause, you know.

Q Well, I mean, you referred to them as your clients or your people.

A Well, a lot of them were my family and friends, you know.

Q Sure. You know, you can't own people, and so what I'm wondering is -- obviously you didn't have an ownership interest in those people.

A If you'd ask them, I think they'd disagree with you because they all seem to call me, even after the termination, and wanted to know what to do.

Q Well, I'm just asking more in the lines of what is it that Utah Farm Bureau took that you considered confiscating your book of business?

A Well, 28 years of my life in building it, you know.

Q Well, and what is it that they took, though?

A They took income. They took my relationship with my clients and they took -- I mean, not to mention the social embarrassment or self-image that you run through on this, you know.

Q Okay. Well --

A And let me point this out. When I hired with Farm Bureau under Junior Stewart, after five years of burning night lights and everything else to make a decent living, I said to him, "Junior, I can't keep this up for another 35, 40 years," and he assured me that, as the years went on, I could back off, hire secretaries and, you know, kind of just -- there was nothing ever implied that anybody would take my book of business away from me, you know. Why did I work so hard if that was the case, you know.

Q What I'm wondering is what is your book of business?

MR. GARDA: Objection. Asked and answered. Go ahead and answer.

Q (BY MR. MINNOCK) Well, I mean, the 13th Amendment says you don't own people, or the 15th. One of the amendments. There's no slavery in this country. You cannot own people, so when you say Farm Bureau took your people, I don't understand what you mean. They cannot be your people, so what is it that

currently representing?

A No. As of today.

Q Okay. Was there anything that prevented you from doing that the day after you terminated?

A Yes.

Q What was it?

A Well, because if I did, I would lose whatever deferred compensation that Farm Bureau provided me if I did it within two years, and then I was implied to believe that there was a two-year noncompete, you know. And I had signed this contract, supposedly, which I definitely did not want to, but was told if I didn't, I had no contract. I mean, it wasn't a choice. I couldn't go through and scratch this or scratch that.

Q Okay. Well, let's break this down. Do you contend that you owned the account files and policyholder lists?

A As an independent agent, I'm led to believe that I do.

Q What is the basis for your belief you own those?

A Well, I acquired them. I serviced them, you know. I developed the relationships.

Q Do you contend that Utah Farm Bureau didn't

Q Okay. You're welcome to take an opportunity to review it right now if you'd like.

A Well, I've read it briefly here.

Q Okay. Did you read this prior to signing it?

A We had it put in front of us and we were told that we had to sign that before we left the room, you know. And, of course, we all got very concerned and upset when we read some of the aspects of it, and they simply said, "You either sign it or you have no contract."

Q Well, which provisions caused you concern?

A Well, just the simple fact that we were led to believe that there was a two-year noncompete in there and, you know, that we were signing our life away, basically, without having any input in it, because we did mention some aspects, if I remember at the time, and come to the discussion to where they just refused to discuss it any further and just said, "Either sign it or you don't have a contract," so all of us signed it before we left the room.

Q Now, was this during the time in February of 1994 or was this the first time you signed a contract?

A Well, we seemed to be getting contracts

rather consistently. Every year, every six months it seemed to just keep changing, and I don't know why we had to sign so many, but --

Q Well, and what I'm wondering is, you mentioned you had some conversations, you and the other agents, about some concerns in this agreement.

A Well, at the meeting, you know, we took some time and read through it and said this and this, and they just got kind of irritated and said, "Either sign it or you don't have a contract."

Q And which meeting was that at? Was that in 1994 or was that in a prior meeting?

A Well, I think it was -- if I remember, if this is the last one, it was that very day. I mean, they just handed them to us and said, "You sign them. We need these signed before you leave." So we brought up some concerns and they just said, "Well, it doesn't matter. They're not changing that contract, and you either sign it or you don't have one." That was it.

Q So you're talking about having that type of meeting on February 22nd, 1994?

A If that's the day I signed it, I would imagine, because -- I think it was that day.

Q Who else was present at that meeting?

A I think most of the agents in the Weber County office.

Q Darrell Tanner and Scott Stokes?

A I'm certain all of us were there.

Q Now, what specific provisions of this contract did you raise concerns with the company about?

A Well, I don't remember at this point, but -- of course, we reviewed all of it somewhat, but -- the biggest concern I think we had, if I remember in my mind, was that there was a two-year noncompete in there or something. That's all I can recall at this moment.

Q Okay. Now, talking about these policy folders and account files and whatnot, let's look on page two at paragraph 5(b) where it says, "Career agent shall keep accurate accounts and records of all business transactions including, without limitation, account service records which will be open at all times to inspection and examination by authorized representatives of Companies. All accounts, account records, policyholder files, policyholder lists, rate books or manuals, applications and other forms, and all other records in career agent's possession pertaining to Companies' business will be the

property of Companies and will be returned to Companies upon demand." Did I read that correctly?

A Uh-huh.

Q Okay. And that says that those account records and policyholder lists and files belong to Farm Bureau, right?

MR. GARDA: Objection. Document speaks for itself. Go ahead and answer.

THE WITNESS: Well, at the same time, like I say, these client folders, we had to buy them. We had to do the filing. We had to do all of the work in maintaining them, basically. I mean, that was our information source. I mean, why did they want those files? So that I wouldn't have them, you know, if I was to go into competition with them.

Q (BY MR. MINNOCK) Well, but would you agree with me that the contract you signed says that those account records and those documents that pertain to the Companies' business belong to Utah Farm Bureau?

A Well, it also says right here that we're --

MR. GARDA: Same objection. Sorry. Go ahead and answer. Give me a second to object. Go ahead.

THE WITNESS: Okay. Right here it says we're independent agents, you know. Now, it looks to

me like they want the best of both worlds. They want to say, hey, we don't want to contribute to your social security, but here we want to treat you as an employee and own you.

Q (BY MR. MINNOCK) Well, where does it say they want to own you?

A Well --

Q They simply say -- that provision simply says that the account records and policyholder lists belong to the company, right?

MR. GARDA: Objection. Document speaks for itself. Go ahead and answer.

(Stephen Morgan now present.)

THE WITNESS: You know, as an agent for 28 years, I tried, very honestly, to represent Farm Bureau and do it fairly and decently and all of those things, and I built those files and that book of business with the pretense that I would be able to service and maintain it until retirement, at least, you know, and I was never given any impression that would be contrary to that.

I was promised that I could even let off as the years went on and hire more help, you know, and it looks like an economical maneuver for them to take our books of business.

Q (BY MR. MINNOCK) Well, and I understand you feel that way, but I'm just trying to find out -- I mean, I'm looking at a contract that says Utah Farm Bureau owns the account records, policyholder files and all the documents, and yet you're alleging that you own those documents, and I just want to know why it is that you think that.

MR. GARDA: Objection. Asked and answered. Go ahead.

THE WITNESS: I paid for those files and everything else that went in them, basically, other than their paperwork, you know.

Q (BY MR. MINNOCK) Did you ever bring to Utah Farm Bureau's attention or anyone at Utah Farm Bureau's attention your belief that you owned those files?

A We were always led to believe that our book of business was --

Q No, no. I'm talking about the account files, policyholder lists. Did you ever talk to anybody at Utah Farm Bureau and say, "I'm not signing this contract because I own the account records, policyholder files, policyholder lists"?

A It wouldn't have done good any good. We tried some of this and they just simply said,

"Either sign it or you have no contract."

Q Let me try to get an answer to this question. Did you talk it with them at all -- have you ever told Utah Farm Bureau or anybody else at Utah Farm Bureau that you felt you owned the account records, policyholder files, policyholder lists and other documents?

A Well I had another office in a different location and they moved me to this Weber County office, and I think that was a maneuver on their part to get my documents.

Q I've got to keep asking you this question until you can answer it. Did you ever tell Utah Farm Bureau that you thought you owned the documents?

A I had to tell them, then, you're saying, huh?

Q I'm not saying anything. I'm just asking you a question. Did you tell them that?

A I just assumed that.

Q Okay.

A Which is only logical. I acquired the whole process that got them there, you know, the individuals, the applications, the client reviews, you know. I paid for the client reviews, you know.

Q Okay. So, as I understand it, you assumed

that? You never told anybody at Utah Farm Bureau that you thought you owned the records, the documents?

A I've never assumed that I didn't.

Q Well, I've got to --

A I'm not saying that I -- you know, I --

Q This is a simple question. Did you tell Utah Farm Bureau, "I think I own the documents"?

A I don't think the question ever come up, to tell you the truth. And as far as --

Q Is the answer no?

A No, I didn't tell them because I just assumed they were mine.

Q Okay. That's fine. That's what I wanted to know. Okay. Now, you mentioned that another aspect of what you consider your book of business is the relationship and the commissions or the income off of those policies, right?

A Right.

Q Are you contending that you're entitled to renewal commissions on the policies -- the accounts you were servicing after your termination with Utah Farm Bureau?

A I think I've been jeopardized, yes.

Q Well, do you believe you're entitled to

you're supposed to do, and then just have them walk off and say goodbye, you know.

Q Okay. Well, and I understand that that's your -- that that's the way you feel. Okay. I just -- I've got to find out what it is that -- when we go before a jury, what you're going to tell them you want.

A I'm going to tell them that I think I was wrongfully dealt with here and that monetary gain was made by Farm Bureau and the monetary loss was lost me by.

Q What is that monetary loss? What is it that you want?

A Oh, I was making income 30 to 50 thousand a year. I mean, you know, somewhere in that neighborhood.

Q And that was based on renewal commissions?

A Renewal and new business.

Q Okay. So am I correctly understanding you that the heart of what you're saying is that you don't feel you should have been terminated and that you want to be paid as though you'd never been terminated?

MR. GARDA: Objection. Misstates the testimony. Go ahead and answer, Jay.

THE WITNESS: All I know is I think I was done wrong. I'm going to leave it at that. I mean, why did they do it? I don't know why they did what they did. I think I was in a position, if I never wrote another policy, to make good money, if I just simply took care of them. Of course, I still had obligations to produce, which I did. What moral aspect do they have to just come in and yank income and occupation away from an individual?

Q Well, let's talk, then, about your termination.

MR. GARDA: Can we just take a break for a minute. I think -- I'd just like to talk to Jay about answering the specific questions. Is that okay?

MR. MINNOCK: That's fine.

(Discussion off the record.)

Q Your counsel has had an opportunity to talk with you about, you know, answering the questions, and I want to -- before I move on, I want to ask you two questions and I want you to try to answer them yes or no. I think I understand where you're coming from otherwise, but I need to know the answer to these two questions, yes or no, okay? So I understand where you're coming from.

Are you contending that you own the account folders, policyholder lists, files and other documents relating to Farm Bureau insureds?

A I'm going to say yes.

Q Are you claiming that you're entitled to renewal commissions on the business that you were servicing prior to your termination after your termination?

A I'm going to say yes.

Q Okay. Let's talk about your termination. Why don't we go ahead and mark this.

(Whereupon Deposition Exhibit No. 2 was marked for identification.)

Q Before we move on to this, is there anything else you are contending that constitutes your book of business other than those policyholder files and the renewal commissions?

MR. GARDA: Objection. Misstates facts in the record. Go ahead and answer.

THE WITNESS: I would say my relationship with my people. I mean --

Q (BY MR. MINNOCK) Okay. Now, aside from the fact -- well, what damages are you claiming for the loss of that relationship?

A Well, self image-wise, it makes you feel

real wonderful when you can't help your people when you have for 28 years.

Q Have you suffered any economic loss as a result of that?

A Oh, yes. Income.

Q Have you suffered any loss separate from the fact that you're not being paid renewal commissions?

A Well, there's social embarrassment. There's a lot of things that are in there, you know.

Q Well, you were terminated and you lost your renewal commissions, right?

A (Witness nods.)

Q Right? You have to say yes.

A Yes.

Q And what I want to know is: Is there any other economic loss that you feel you've suffered as a result of taking away that book of business other than that future income stream? And I'm talking about an economic loss.

MR. GARDA: Objection. Asked and answered in the interrogatories and here today. Go ahead and answer.

THE WITNESS: Well, I have to start over again, as far as an insurance agent, and I have to go

into the real estate business to keep -- you know, I've had to make a lot of adjustments in my life. Even get out there and lay sod. I mean, for a year. I mean, going from a desk job to laying sod and this type of thing -- a shovel and rake work is not really pleasant, you know.

Q (BY MR. MINNOCK) Now, had you continued with Utah Farm Bureau, you would have been entitled to those renewal commissions, correct?

A Yes.

Q And what I'm wondering is, is there some separate economic damage you're claiming with respect to the loss of the relationship of those clients, other than that income stream?

A Well, a whole career change. I mean, I started my life completely over financially. I mean, that's a loss. I mean, you know -- and if you want to get into the emotional, there's a lot there. I mean, I look at it from the standpoint of family, you know. They didn't only affect me; they affected my family, you know.

Q We'll talk about that part in a minute. Why don't you look at this. This is Exhibit 2 and it's your answers to interrogatories, and -- well, I thought I had your -- well, did you sign a similar

12,000, I think, if my figures are correct in my mind. But he was complimenting me on my efforts and how well I'd done and how I'd had a good year, and the next thing I know, I'm gone, you know.

Q Now when you said you had 12,000, in what?

A That LD&A, life, disability and annuities.

Q Okay. Were those goals under LDA, casualty and property, were those goals suggested by you?

A These weren't. These are ones that he had set for us, and I think he based it on the year before, because I had around 12,000 and I think he -- and, of course, I exceeded the casualty, so -- he's put those in there just based on his concept of what we should be doing.

Q Okay. Was it your understanding that if you didn't meet those goals, you would likely be terminated?

A At the end of the year.

Q Okay. At the time you were terminated, were you on pace to meet these goals?

A First quarter, no, because it's a bad time of year. You've got taxes, tithing and Christmas and all that, and people just aren't talking insurance a lot.

Q Well, were you on pace on your LDA?

A I don't know. At the time it occurred, I was so flustered I don't know where I was. I would say probably not.

Q Now, is there anything in this letter that indicates that -- where Mr. Ivie tells you that he's not going to terminate you?

A That he's not going to?

Q Yeah.

A Well, I haven't read it.

MR. GARDA: Go ahead and carefully read it, then.

Q (BY MR. MINNOCK) Go ahead and read it.

A How far do you want me to read?

Q I want you to read the entire letter.

A (Time lapse.) Okay.

Q Now, is there anywhere in that letter where he indicates that if you meet these goals, you won't be terminated?

A Right. There is.

Q Where?

A It says, "I see that your" -- let's see. I guess that's supposed to be -- "I see that your numbers meet the expected result, at that time I will simply hire the new agent and increase our compliment or," and it says, "If, after I look at the numbers,

the results are still not there, the new agent will move into your office." So that's not -- you know, the numbers had to be there, right?

Q Well, he's telling you that if you don't get the numbers, you'll be terminated?

A Right.

Q And what I'm saying is where are you getting -- your allegation seems to be the reverse of that, that if you met these figures --

A I was --

Q Let me finish my question. You seem to be telling me that if you met those numbers, that you'd be guaranteed a job, and that's what I want to know, is where in this letter or why you have that impression.

MR. GARDA: Objection. Asked and answered. Go ahead.

THE WITNESS: I don't think we'd even made the first quarter, had we, by the time we were terminated, the first 90 days?

Q (BY MR. MINNOCK) Well, are you contending that he guaranteed that you'd have a job for another year?

A That was the impression I was given. In fact, if you'll read that on there, I -- let's review

this a little bit. Okay. "It will take me approximately 90 to 120 days to prepare someone to take your place. At the end of that third quarter, I will once again revisit your results." Now, that's implying to me that I had some time, you know.

Q Okay. So you're saying that, based on that meeting, you felt that he was guaranteeing you a position at least through 1994?

A That's the impression I had. He didn't give me the impression he was trying to get me terminated.

Q Well, then let me ask you this: You signed this contract with Utah Farm Bureau on February the 22nd of 1994, and in paragraph 11 it says, "Career agent acknowledges that Companies have not, either expressly or otherwise, agreed to continue the term of this contract for any definite period of time," and yet you're telling me now that he had agreed to do that for a year, and I just want to know why you didn't tell Utah Farm Bureau when you signed this contract that that provision was an error.

MR. GARDA: Objection. Assumes facts not in the record. Go ahead and answer, Jay.

THE WITNESS: He was the manager and he put it in front of us. I was definitely given the

out that door or we did not have a contract. That's what we were told.

Q Well, and you would agree, then, that this is the contract between you and Farm Bureau?

A Right.

Q This governs your relationship, right?

A Right.

Q And you agreed to it?

A But I want you to know that we signed it under distress and everything else.

Q Well, you had the option, didn't you, of not signing it?

A We didn't have an option.

Q You didn't have to be a Farm Bureau agent, right?

A No. But if we wanted to be, we had to.

Q And if you wanted to be, you had to comply by the terms of the contract, correct?

MR. GARDA: Objection. Asked and answered. Go ahead and answer.

THE WITNESS: There was -- it was a no win situation for us. If we didn't, we lost. If we did, we lost.

Q (BY MR. MINNOCK) Well, let me tell you where I'm having problems, is you're telling me that

you signed this contract and that you agreed to live by it, and now you're basically saying you don't want to live by it.

A And I want it understood that we signed it in distress, because we did not feel comfortable with it. But what does that matter? They just simply said, "We're not changing it. You sign it."

Q Okay. Now, did you have any further conversations with Darrin Ivie regarding the subject of this letter?

A At a later date?

Q Yeah.

A We were in constant contact there, you know, and I had no impression that what was coming was coming. You know, I mean, up until -- well, in fact, I just completed a sale, 8,000 in commissions, and 30 seconds later they walked in and read me a letter.

Q Okay. Now, was anybody else present when they read you the letter?

A John Thigpen and Darrin Ivie.

Q Now, you've attached, I think, to Exhibit C here a copy of your termination letter. Or did you?

MR. GARDA: If we didn't, it was an oversight.

Q Prior to your termination and during 1994, had you written any life policies?

MR. GARDA: Objection. Ambiguous. For the year 1994?

MR. MINNOCK: Yeah.

Q You were under contract with Utah Farm Bureau from January the 1st through March -- we'll have the date in a minute. During that period of time, did you write any life insurance policies for Utah Farm Bureau?

A I do not know.

Q Well, we'll come back to that at a break. In one of your answers to interrogatories, you indicate that policies could not be removed from your book of business without your consent.

A Well, they had to establish that we had not serviced them, you know, this type of thing. That's the only way they could have been taken. But they were taken all the time.

Q Taken from you and transferred to other agents?

A (Witness nods.)

Q Is that a yes?

A Yes.

Q And were accounts taken from other agents

and given to you all the time?

A Only on a trade basis. Like I say, the prior -- you know, the theory that the other agent -- well, maybe there was a point where they were not compatible. If we agreed, we could trade. I didn't like that idea at all because I couldn't see giving my people away.

Q Okay. You would agree that, under the terms of the contract, Utah Farm Bureau had the right in its discretion to transfer accounts to other agents?

MR. GARDA: Objection. Document speaks for itself. Go ahead and answer, Jay.

THE WITNESS: Well, if there's a conflict of personality there, I can see that. There's probably some circumstances other than that, but if I -- you know, if an agent was taking care of them, I couldn't see, you know, Farm Bureau having the right to take them.

Q (BY MR. MINNOCK) Well, and what I'm wondering is, are you aware of any policy of Utah Farm Bureau -- were you ever given any written document or told that Utah Farm Bureau didn't have the right to remove accounts from your book of business?

A No, but I asked them a lot of times why they kept disappearing and nobody would ever give me an answer, so they know that I objected to it. And they had processes. Eventually, after two or three years, I got them to tell me that it was something to do with if they'd made a late payment and then cancelled out, they were in limbo, and then they could take them or something and assign them to new agents.

Q But are you contending they didn't have the right to take accounts from your book of business?

MR. GARDA: Objection. Asked and answered. Go ahead.

THE WITNESS: If I'm servicing them and doing a proper job, I don't see why they should have.

Q (BY MR. MINNOCK) Well, I mean, are you aware of any policy? I mean, I know your opinion is they shouldn't be allowed to do that. I'm wondering, do you know of any contract provision or other provision that says they don't have the right to do that?

MR. GARDA: Objection. Asked and answered in the interrogatories. Go ahead and answer.

THE WITNESS: No, I have nothing that says -- I'm looking at it from the point of view

that, you know, after working there 28 years that, you know, I've been dealt with honestly and I had tried to do the same with them, you know.

Q (BY MR. MINNOCK) Now, you mentioned in your answers to interrogatories that other agents had treated their books of business as their own and Farm Bureau had never contested those actions. What are you referring to there?

A I've seen where books of business were traded, bought and sold.

Q Who did that? What are the names of the agents?

A Well, Reese Carter, which is currently there -- I assume he is -- I believe purchased his grandfather's, Floyd Carter's, book of business. And then there's just -- and I don't remember the names, but an agent could be transferred from here to here if they'd give him this size of book to match this book and that type of thing. I saw that practice regularly.

Q Are you aware of anybody selling their book of business after the merger between Utah Farm Bureau and Idaho Farm Bureau?

A No, I don't think so.

Q Reese Carter was before that?

A It was before.

Q Now, you mentioned also in your complaint that you felt Utah Farm Bureau interfered with your economic relations by telling your clients -- giving them information as to why you left. What was it that Utah Farm Bureau told your clients after you left?

A Well, I don't know the exact number, but I'd say the majority of those that called me said that they were being told that I had quit to go to work with my son-in-law in Grass Plus Landscaping, just as if I had abandoned them. And then I've talked to some even since and that was the impression that they had given them, that I had just left.

Q Okay. Well, what is it that you would have preferred they tell your policyholders?

A I would have felt better if they said they terminated me, you know.

Q Okay.

A I didn't abandon them. And then to try to justify it, you know, that I had quit to go to work for my son-in-law, I don't think that's even ethical, you know.

Q Well, assuming that was done, you talked earlier about what you considered social

embarrassment after you left Utah Farm Bureau.

A Yeah.

Q You don't consider that there would be any embarrassment if Utah Farm Bureau told them that they had terminated you?

A It's the truth. Apparently they didn't want people to know they'd terminated us.

Q So you would prefer they told people that they fired you?

A I -- definitely.

Q Were you ever told the reason you were terminated?

A No.

Q Have you ever talked with anybody at Utah Farm Bureau as to the reasons you were terminated?

A No.

Q Any other agents as to the reason you were terminated?

A No.

Q Since you left the company, have you talked to anybody else at Farm Bureau about your claim that you own your book of business?

A I talked about, you know, my people. You know, my book of business, yes.

Q Well, and I'm wondering, did you talk with

anybody about your claim of ownership?

A No, not in that sense, no.

Q You just talked with them about particular policyholders?

A Not being able to service my people and, you know, that type of thing. And, in fact, I had to explain to them, you know, that I couldn't help them for two years.

Q How have you been damaged by people being told that you quit and went to the landscaping company?

A Well, I just run into a couple the other night with my wife at Wal-Mart, and they acknowledged to me right there that they'd wondered where I went, you know, and was led to believe that I'd just left Farm Bureau, you know.

Q Well, from an economic standpoint, how has that damaged you?

A Well, I don't like those people feeling bad that I just simply abandoned them, because I didn't do that.

Q Well, and I understand that. I'm just saying why -- how has that financially impacted you? Have any of those people told you they won't do insurance business with you anymore?

A No.

Q Has anybody suggested they're mad at you because they felt you abandoned them?

A Well, I don't know. I haven't interviewed every one of them, you know. I know they all called and asked me what to do, and I never discouraged one of them to leave Farm Bureau in any way, shape or form. I just told them I couldn't work with them for two years.

Q Have you contacted some of your old policyholders about joining you with your new agency?

A Yes.

Q And have some --

A Well, they've come to me and they've -- you know, and that's one of the main reasons I got back in the business, because they just continually call and say are, "You back in the business," you know.

Q And they want to buy insurance through you?

A Right. And some of the older ones I've discouraged because I don't want to put them in a jeopardy situation, you know, with their ages being 70 or older, you know.

Q But you have written policies on former Utah Farm Bureau policyholders?

A Right. They've come to me, mind you.

Q Have you contacted any of them?
A I've called some.
Q And asked them to come down and compare and --
A Right.
Q -- purchase insurance?
A Uh-huh.
Q About how many of those people have you contacted?
A I would imagine 30 or 40. I'm pretty much moving in the direction of commercial rather personal lines, and I will write those, you know, that approach me, yes, but I've pretty much gone the commercial lines.
Q Okay. So am I to understand that you -- do you have any evidence that you've suffered a financial loss -- okay? I'm talking financial loss --
A Well, my income disappeared.
Q Let me finish my question. A financial loss from the fact that Utah Farm Bureau may have told people that you quit rather than telling them that you were terminated?
A I'm not in a position to give you figures or anything, but I'm assuming, you know, there's

situations there where it's cost me, both monetarily and, you know, socially.

Q Well, how would it have cost you monetarily?

A Well, first of all, I couldn't service them for two years. I couldn't even write insurance for two years. I mean, it left them in a very awkward position, you know.

Q Well, they had a new agent with Utah Farm Bureau, right?

A Right.

Q So they were still being serviced, just not by you?

A Well, I'm not going to add to that, but I wonder sometimes from what they're telling me.

Q Okay. Well, but they do have an assigned agent?

A Most of them haven't, and they seem to get a constant change.

Q Well, what I'm wondering is why is it that you feel that Utah Farm Bureau telling people that you quit rather than were terminated, how that has financially impacted you. I mean, you've told me nobody has come up to you and said, "I'm not buying insurance anymore from you because they told me you quit and I'm mad at you because you quit."

A Let's assume it didn't. From the standpoint of monetary, it did for two years because my income, you know.

Q Well, we'll talk about that in a minute.

A But I'm certain it made them wonder. I mean, I -- I was loyal to Farm Bureau and I was loyal to them. All of a sudden, I mean, I'm removed from that situation. It can't help their self-image or mine, either, you know. They probably had lots of opportunities to wonder, you know, what in the world is going on, you know.

Q Now, with the career incentive plan, are you aware of any noncompete clause that simply prohibited you from working for another insurance company?

A Well, in there it simply points out that within 24 months they can take that deferred compensation away from us and then, of course, we talked to every manager about that concept and, you know, we all had the general consensus that you've got a two-year noncompete clause, you know.

Q Well, if you worked for another insurance company within two years of your termination, was there any penalty other than the loss of your pension proceeds?

A Well, the impression was there would be, but we weren't certain. I mean, nobody come right out and said there wouldn't.

Q Well, but are you aware of anything that would give you Utah Farm Bureau the right --

A Just the impression that we were given that there was.

Q And who gave you that impression?

A Every manager from -- I would say from Kay Williams down, you know. Or forward, I guess.

Q I mean, have you -- but in terms of seeing a contract that Utah Farm Bureau could say you can't work for somebody within two years, we can stop that, are you aware of anything like that?

A No.

Q Okay. So the only penalty was you lost your pension benefits, correct?

A But we had been given the impression that --

Q Well, but in terms of documents and what was in the binding contracts between you and Farm Bureau, the only penalty for you going to work for another insurance company within two years was the loss of your pension?

MR. GARDA: Objection. Documents speak for

themselves. Answer.

THE WITNESS: All I can say is consensus that we received from those over us, you know, that we better look at that very seriously, you know.

Q (BY MR. MINNOCK) Look at what?

A There could be a two-year noncompete clause in there and that was giving us the impression that there probably was.

Q Did you ever consult a lawyer as to whether or not there was a noncompete clause?

A No. Didn't plan on leaving.

Q After your termination, did you ever talk to anybody at Utah Farm Bureau about the two-year noncompete clause?

A No, I haven't.

Q How much was the total value of your insurance -- your pension career incentive plan?

A I think it was something like 35,000.

Q Have you received all those benefits?

A Right. 300 and something a month.

Q And have those payments --

A Continued.

Q -- terminated? Oh. They're continuing as of today?

A Right.

Q Okay. Now? As I understand it, you didn't have to contribute anything to the career incentive plan.

A They put it in, plus interest.

Q And your commissions did not go down as a consequence of them implementing the career incentive plan?

A No. Very honestly, it was a beautiful relationship. I enjoyed Farm Bureau. They've been good. I had no anticipation that any of this was going to happen.

(Stephen Morgan leaves.)

MR. GARDA: Is this a good time for a restroom break?

MR. MINNOCK: Yes.

(Recess.)

(Whereupon Deposition Exhibit No. 3 was marked for identification.)

Q Okay. Let me show you what's been marked as Exhibit No. 3. Is this a copy of the letter you received after your termination?

A Well, first we were read it, and I think two or three days later it come in the mail.

Q Is it what you were read?

A Well, I believe it is.

Q Okay.

A Four years kind of makes it a little vague.

Q Well, sure. I just wanted to know if it sounds like the right letter. Do you recall having any conversations with Darrin Ivie regarding your production goals and whatnot after you signed this contract, February the 22nd, 1994, before you received the termination letter?

A No, I don't.

Q Had you had any conversations with anybody at Utah Farm Bureau about what they were telling people as to the reason for your leaving?

A No.

Q In one of the allegations of your complaint, paragraph 39, the allegation is, "Plaintiff's insurance clients would not have abandoned their contractual relationships with plaintiffs but for the wrongful conduct of defendants." Do you know of any contractual relationships that the policyholders had with you?

MR. GARDA: Objection. Calls for a legal conclusion. Go ahead and answer.

THE WITNESS: Contractual paperwork, signed statements, this type of thing? No.

Q (BY MR. MINNOCK) Did they have any verbal or written agreement with you that they would only purchase their insurance with you?

A Other than the fact that they had.

Q I'm almost done.

(Discussion off the record.)

Q How long did you practice out of the 12th Street office?

A Gosh, I'm not certain. Probably two to three years. They moved me from my 542 Washington Boulevard office.

Q Were you always in the Weber agency?

A Always have been.

MR. MINNOCK: That's all the questions I have for you. Thank you.

MR. GARDA: I actually do have some.

EXAMINATION

BY MR. GARDA:

Q There's been a lot of talk about what your damages were and that you may have had no right to the future income stream. Is that what you're demanding out of this? Are you demanding the value of your book of business after termination?

A Yes.

Q Okay. So you're talking about the value of

your book of business?

A (Witness nods.)

Q Is your book of business more than just the mere income stream from premiums?

A It's client relationships. It's a number of things.

Q Let's now switch over to the letter from Darrin Ivie, the October 15th letter that we've been discussing. So it was your impression, after receiving this letter and after talking to Darrin Ivie, that you would not be terminated if you met those goals?

A No. I was given -- in fact, as you can see, he was rather complimentary there, but I was giving the impression we had a year and we would be checked quarterly.

Q But if you met those goals, you would not be terminated?

A Oh, by no means would we be terminated.

Q Did you feel that your talk with Darrin Ivie and this letter of October 15th modified the termination provision of your form contract that you signed every year?

A Well, this is what we were required to perform to, so I assume it was -- someone had the

authority to say that was the responsibilities, you know.

Q I guess my question is, though, your form contract says that the company could terminate you at any time; is that right?

A Right.

Q And Darrin Ivie tells you he's not going to terminate you if you meet your goals; is that right?

A Yes.

Q So did you think the letter and the conversations with Darrin Ivie modified or changed your contract? The termination provision, specifically.

A Well, if you argue those two theories, yes.

Q Yes, it --

A I would say that it extended it because he's giving me some time periods there.

Q Okay. When these contracts were put in front of you, that is, your form contracts, your most recent one being January of 1994, were you given the option to strike provisions you disagreed with?

A Absolutely not.

Q So you couldn't read it and say, "Oh, I disagree with paragraph 15. Can I cancel it? Can I

strike it out and sign it?"

A No. And we signed them under distress.

Q You said that your accounts were taken from you all the time. Did Farm Bureau always have a good reason to take your account, or did they always try to give you a reason to take your account?

A I could never get a reason until it come down to the point where they finally said if there were a late payment or a cancellation, they went into a kind of a limbo state and they could take them and place them with new agents, and that's all I ever could get out of them.

Q So it was Farm Bureau's pattern and practice to only take accounts from you if they thought you hadn't serviced it properly?

A And they always came to me if there was a situation like that.

Q I guess you didn't answer my question, which is: The pattern and practice of Farm Bureau was to only take accounts from you if you weren't servicing them properly?

A Right.

Q Did you have meetings with -- weekly meetings with Darrin regarding your production goals?

A Not weekly.

know.

Q (BY MR. MINNOCK) Well, whether or not they had a right to terminate you is a different issue than your contending that they took your book of business, and I need to know specifically what you contend that they did to take your book of business, because you're talking about things like relationships and I asked you earlier in this deposition and you said you can contact any of these people, so what is it that Utah Farm Bureau has done to interfere with those relationships?

MR. GARDA: Objection. Asked and answered. Go ahead and answer.

THE WITNESS: They terminated me and our relationship in that situation. And let's face it. I mean, 28 years of working with these people and building this book of business, just to have somebody take it away from you, in my mind, it's morally and legally incorrect. I mean, what gives them the right to just do these things? I mean, I don't have a piece of paper obligating them, I mean, where I can do that to them anytime, but they can do that to me anytime, apparently.

Q (BY MR. MINNOCK) Well, and so is your contention that the thing they did to interfere with

your relationship with these people is terminate you?

MR. GARDA: Objection. Asked and answered.

THE WITNESS: Yeah. I don't know how else to put it. I wished I could.

Q (BY MR. MINNOCK) That's fine. I just -- I'm having a hard time understanding what you consider to be the book of business, and you're not alone because I've had a hard time understanding with the others as well.

A Well, I honestly -- I mean, these were people I loved and took care of. I mean, those relationships were earned and honored, and incomes were earned and were intended to continue, and then all of a sudden they don't, you know.

Q Are you contending, based on your conversation with Darrin Ivie, that if you met the goals set forth in that letter that you would be retained for 1995?

A Yes.

Q And that you'd set new goals and be retained for 1996?

A That's what he's saying, you know.

Q Where is he saying that in the letter?

A Well, it points out there that -- I mean,

there's two options. I mean, if I meet my quotas, I stay and he's not going to replace me with another agent, you know. And I had every intention to meet his quotas. I mean, there was no -- I mean, there was just no reason to feel like I was going to be terminated at that point.

Q So you concede you weren't on pace at the time you were terminated, but you hoped to make it up in the later months?

A When you get into the second and third quarters, they're going to always be better than that first one.

MR. MINNOCK: All right. That's all the questions I have. Thanks.

(Whereupon the taking of the deposition was concluded at 10:30 a.m.)

* * * *

Tab 4

IN THE SECOND JUDICIAL DISTRICT COURT

IN AND FOR WEBER COUNTY, STATE OF UTAH

JAY L. WOOD, DARRELL K. TANNER, SCOTT A. STOKES and LEO SYPHUS, individuals, Plaintiffs, vs. UTAH FARM BUREAU INSURANCE COMPANY, a Utah corporation, FARM BUREAU LIFE INSURANCE COMPANY, an Iowa corporation, and FBL INSURANCE COMPANY, an Iowa corporation, Defendants.	CIVIL NO. 970906166CV DEPOSITION OF: LEO SYPHUS Held March 5, 1998 REPORTED BY: RENEE L. STACY, CSR, RPR

COPY

Deposition of LEO SYPHUS, taken on behalf of the Defendants, at 215 South State Street, 12th Floor, Salt Lake City, Utah, commencing at 2:05 p.m. on March 5, 1998, before RENEE L. STACY, Certified Shorthand Reporter, Registered Professional Reporter and Notary Public in and for the State of Utah, pursuant to Notice.

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veteran's benefit on the farm, training.

Q Was that also at Dixie?

A Yes.

Q Did that lead to a degree, or was that like extension training?

A Well, just -- I would think extension training.

Q Okay.

A I'm sorry. I got some new dentures and I'm having a hard time making words come out straight.

Q That's fine. Are you currently employed?

A No.

Q Have you been employed since you were terminated by Utah Farm Bureau?

A No.

Q When did you join Utah Farm Bureau?

A In February of 1953.

Q Okay. What did you do prior to joining the company?

A I had a dairy farm.

Q Prior to joining Utah Farm Bureau, did you have any other insurance experience?

A No.

Q How did you get together with Utah Farm Bureau?

minute ago, I was going through a divorce, so I asked them to -- I knew there would be openings all over the state and so I asked them to transfer me up here, and they said they'd give me about the same size or book of business as I'd had down there, but they didn't, for some reason. I got less. But, anyway, I --

Q What was the approximate size of your book of business when you left St. George?

A I honestly can't remember.

Q How much smaller was the one they gave you when you went to Clearfield?

A Oh, it was just -- I don't know how to say -- or judge it, but it was less. I know that.

Q Okay. Now, at the time that you moved from St. George to Clearfield, had the company implemented renewal commissions?

A Yes.

Q Okay.

A They started those in 1959.

Q All right. And so when you moved to Clearfield, did you receive the renewal commissions off the accounts you were servicing in Clearfield?

A Yes.

Q Did you get any renewal commissions off

name," which we did, and then she'd get the lease payment each month and then she'd just turn it over to me.

Q I see. Okay. Now, did there come a time where you were supposed to give up some business --

A Yes.

Q -- that had been assigned to you in exchange for what, not paying office expenses?

A Yes. And not having any quotas or any goals to meet or anything like that.

Q Who did you reach that agreement with?

A Well, the first one that come and approached me with it was Walt Warneka, which was our manager at the time. And he told me of a guy back in Iowa -- I think his name was Don Clay -- that he'd gone on a part-time basis. They had taken part of his business and reduced his office expense in exchange for it. And then they told me that he was making more money after he'd given up part of it than he was before.

And so I sat down right then and called him in Iowa and asked him if that was true and he said no, it wasn't true. He said he was making less money.

Q But he was only working part time?

A Yes.

Q Okay. Did you ever revert to part-time status?

A No. Never had the chance.

Q Okay. Why not?

A Because they reneged on their deal.

Q Why do you say that?

A Well, the idea was that I was going to give up three books of business, which would have been about half of my total business, and they termed a book of business at about 120,000, and they figured that would produce $1,000 a month income. And so they were going to take those three books of business and then I would not have any goals or anything to meet or pay any office expense or anything. I could just sort of work at my own speed, which I was eager to do.

And then Walt Warneka brought Al Schultz out, and he was our state manager, and I asked Walt, I said, "Was this idea yours or Al's?" And he said, "Well, it was really Al's." Al is the one that sent him out to work out this agreement with me.

And so we have some signed statements here signed by Al and Walt, both, as to what they'd do. And so then Walt come over one day and wanted me to

pick out 120,000, and I have that in some letter here. Instead of picking -- oh. Because some accounts are larger than others, he would pick out -- he didn't pick out. I picked out 120 something thousand, and -- oh. At first, I said, "Well, we haven't got anything in writing on," you know, "what we agreed on." And I said, "I'd like to have something in writing first. And Walt said, "Well, if you don't pick out 120, I'll do it."

And I didn't want him indiscriminately picking out who he wanted, and so I picked out 120,000. Then he added another account to it and made it 123,000. And then they were supposed to -- they told me they'd send out a letter to all these clients that I had given to this other agent, telling them that they'd have a new agent, and, anyway, they claimed that they sent that letter, but I have never been able to see one or find one.

Q And what is the letter supposed to say?

A It was supposed to say that they were assigning a new agent to part of my book of business.

Q Now, did you ever get another agent?

A No. The manager, Walt Warneka, hired Jonathan Lees, I think it was, and he took it over,

but he didn't a very poor job of servicing it, and it wasn't long till he quit.

Q Okay. Were you forced to still pay office expenses?

A Yes.

Q Did your office expenses go down?

A No.

Q Did you revert to a part-time basis?

A No. That still had me come around 600,000 in business to service.

Q This was after giving up the 124?

A Uh-huh.

Q Well, how was it resolved? I mean, where was it left?

A Well, then when I confronted them about not reducing my office expense, then they told me that, in order to get that reduction, I had to give up three books of business all at once. And so Walt wasn't able to hire any more agents, so they -- their argument was they weren't going to reduce my expenses till they got two more agents hired, and they didn't hire them, so I never ever had any reduction in office expense.

Q But you never had to give up the books of business, then?

A No.

Q Do you recall meeting at all with him?

A No. Well, he was my manager. I met with him on other things, but not pertaining to this.

Q You didn't meet with him to discuss your minimum goals?

A Yes.

Q Okay. Does this letter accurately reflect what you and he talked about in terms of minimum goals?

A Yes.

Q Okay. Now, was it your understanding after that meeting and after receiving this letter that if you didn't get $335 per week in life and $1,100 per week in property and casualty that you would be terminated effective September 30th, 1994?

A Yeah, that was the understanding I had, yes.

Q And the last sentence says, "Knowing these requirements and expectations to be necessary, if they are not met, retirement or career contract termination will be the alternative as of 9-30-94."

A Uh-huh.

Q So you understood if you didn't get these, on September 30th, 1994, your contract would be

terminated?

A But there was something that happened before that. After they fired these three agents in Weber County, why, I was a little concerned about myself, and so it was shortly after they'd fired those three guys, John Thigpen come into our office.

Q Okay.

A And he was the state manager. He worked under Al Schultz, and he come right in the office. The only reason he come in was just to see me. And he walked down through the group of desks and he come down to where my desk was and looked over the partition and he said, "Leo," he said, "I want you to know what happened over in Weber County doesn't apply to you," just as much as to say, "You don't need to worry about that. We're not going to fire you."

Q Anything else he told you?

A That's all.

Q Was that before you met with Byron?

A Yes.

Q Did you talk with anybody else after the termination -- agents were terminated in Weber County about your status?

A No.

Q So you had one conversation with John

why, if I'd see one of my insureds, I'd stop and say, "I've got to do this," and I'd say, "Just sign this and I'll take it back to the office and fill in the rest of the information on your insurance." And so I don't know what happened to it, but I figured I had around 85 or 90 of them. And that would be in 60 days.

Q (BY MR. MINNOCK) Well, and you needed 130, according to the letter?

A Yeah.

Q So you were still 40 short? Forty to 50 short?

A Yeah.

Q Okay. Would you agree with me that you were not on pace to make your life goal?

A Well, that one big life -- if I got that, that would have made a lot of it, but I don't even remember any of the details on that.

Q Do you know what the face amount of that was going to be?

A No.

Q Now, were you on track to make your property and casualty?

A Oh, I think I was always ahead on that.

Q Well, he says you still need 5,015 as of

9-16-94.

A I couldn't remember that. Oh. And then here's one that I worked with, too, on an annuity on Ruth Zito. I worked for quite some time on that. And that would have been a big one, but she decided against it.

Q Well, now, you're -- according to -- let's mark this next.

(Whereupon Deposition Exhibit No. 3 was marked for identification.)

Q Let me hand you what's been marked Exhibit No. 3 and ask you if that's the termination letter that you received from Utah Farm Bureau.

A And you can see it was dated a month before the three months was up.

Q Well, at the end of the first paragraph, it says, "Pursuant to the terms of said contracts, this cancellation is to be effective September 30th, 1994." Is that right?

A Yes.

Q So your contract was terminated on the very day that Byron told you your contract would be terminated if you didn't meet the goals, right?

A No.

Q Well, let's go back to the letter that he

sent you on June the 30th of 1994. "Knowing these requirements and expectations to be necessary, if they are not met, retirement or career contract termination will be the alternative as of 9-30-94."

A Yes.

Q And your contract was terminated as of September 30th, 1994?

A Yes.

Q Right?

A Yes. That letter was written three weeks before that.

Q Did you sell any insurance between September the 12th and September the 30th of 1994?

A I couldn't remember.

Q Did any of those life policies come in that you mentioned were possibles?

A I sold some life insurance during that period of time, but I couldn't name them without seeing the files or records.

Q Do you know whether you met your goal, which was set out in the June 30th, 1994 letter, of getting $330 per week in life?

A No.

Q Did you make it?

A No.

Q You didn't make it?

A No.

Q Okay. Did you make it on property and casualty?

A I can't remember.

Q Okay. Well, I mean, based on that, what is it that you contend Utah Farm Bureau did wrong in terminating you?

A Well, in addition to the income I lost and then that promised office expense I lost, and then I think the way it hurt me the worst is my reputation.

Q All right. Well, we'll talk about all that in a minute. I'm just asking, according to this -- why don't you turn to Exhibit A under No. 1, to this career agent contract. And on page three under Termination, it says, "This contract may be terminated by Companies or career agent at any time, with or without cause, by giving notice of termination in writing to the other party."

A Uh-huh.

Q "Notice of termination need not include the reason or reasons, if any, for such termination." Is that right?

A Yeah.

Q Now, you allege in your complaint and your

Q Let's return to this issue of the office expenses and you becoming a part-time or noncomplement agent, okay?

A Uh-huh.

Q Do you recall when that was originally discussed in October of 1991, part of the reason that -- or part of the agreement or discussion was that if you became a noncomplement agent and gave up three-quarters of your business, that you would have to sell $15,000 in life?

A No. No. I wouldn't have any quotas or anything.

Q They didn't tell you you had any quotas?

A No. I wouldn't have any quotas. I would work at my own pace.

Q You have attached in your Exhibit C to No. 1 a letter you received dated March the 4th, 1993 from -- it doesn't indicate who it is, but it's from Utah Farm Bureau Insurance Company, and it was in response to your letter. I assume that this letter was from Al Schultz because it's in response to your letter. You might want to look at this.

In the third paragraph, it indicates, "As we discussed in October of 1991, in order to make this work, you would need to sell at least $15,000 of

life insurance. You agreed." Now, you don't recall that agreement?

A No.

Q You don't recall telling Walt Warneka that if you had fewer accounts to service you would have more time to sell and life would be a lot better for you?

A Yes.

Q You did tell him that?

A Yes.

Q You said you were looking for a way to get rid of some of the service work which was causing you frustration?

A Yes.

Q And you said that?

A Yes.

Q Did you tell Walt that when the three new agents were aboard that you would not be charged any office expenses except your long distance phone calls?

A Yes.

Q Now, look down at the next paragraph, and why don't you read that next paragraph?

A "On November 20th, 19" --

Q No, no. You don't have to read it out

loud. I'm sorry. Just go ahead and read it to yourself.

A And that's where it says that letter was never sent.

MR. GARDA: Just read it and wait for his question.

THE WITNESS: Pardon me. (Time lapse.) Okay.

Q (BY MR. MINNOCK) Now do you recall telling Ron Price and Walt Warneka that you wanted to drop the noncomplement idea?

A No. It was their idea.

Q Did you agree to drop the noncomplement idea in order to keep your accounts?

A I didn't have any choice.

Q Why do you say that?

A Who ever had any choice with the Farm Bureau?

Q Well, did you discuss with them that you still wanted to go through with the noncomplement idea?

A Yes.

Q You didn't tell them you wanted to just leave it the way it was?

A No.

turned those over, with the exception of 120,000, right?

A Yeah.

Q And is that the block that went to Jonathan Lees?

A Yes.

Q And so you continued to receive the renewal commissions on that block of business?

A No.

Q The --

A The balance? Yes.

Q Right. Okay. So what -- other than the fact that you weren't able to go to being a noncomplement agent or a part-time agent, how were you damaged by the fact that this agreement didn't go through?

A The fact that they took that business and the renewals on it and they didn't send a letter and they lied to people that come into the office.

Q Why do you say they lied to people?

A They would come in and ask for me or call me on the phone and they'd say, "Oh, Leo retired."

Q Well, was that during this period or was that after your termination?

A Well, it was after termination, yeah.

Q Okay. We'll talk about that in a second. Do you contend that Utah Farm Bureau didn't have any right to transfer those accounts?

A I'd say no. Well, if they'd gone through with the agreement, they would have.

Q That's what I'm wondering. Do you think they had the power or don't you think they had the power?

A Yes, if they'd lived up to their part of the agreement, yes.

Q What was their part of the agreement?

A Well, they'd reduce my office expense and not have any quotas of me and I could just work at my own speed.

Q Well, let me ask this: It's true that Utah Farm Bureau can transfer an account from you to any other agent of the company anytime they want, right?

A Yes.

MR. GARDA: Objection. That misstates the contract. Go ahead and answer, though. Did you answer? I didn't hear.

THE WITNESS: Yes.

Q (BY MR. MINNOCK) Under the contract they can do that?

A Yeah.

Q Well, he was the assigned agent for service?

A He was the assigned agent, but he didn't do a good job of servicing them. And I had people complaining to me all the time about the service they were getting.

Q But they were under his control?

A Yeah.

Q Okay. And so Utah Farm Bureau had the right to do that? Wouldn't you agree with that?

A According to the contract.

Q Okay.

A But it says if they weren't getting satisfactory service.

Q You asked to be relieved of some of your service obligations, didn't you?

A Yeah.

Q And that's what they did?

A And they relieved me of some of my money, too.

Q Well, you agree that the service responsibilities and the renewal commission go to the same person, right?

MR. GARDA: Objection. I guess we're misstating the facts on the record. He asked to be

what constitutes your book of business?

A Yes.

Q Okay. Now, why do you think you own the client lists, client folders, policy records?

A I paid for most of them out of my own pocket.

Q But do they relate to Utah Farm Bureau insureds?

A Yeah.

Q Okay. Well, let's look at the contract, which is Exhibit A in this packet, and over on page two, Number 5(b), it reads, "Career agent shall keep accurate accounts and records of all business transactions including, without limitation, account service records, which will be open at all times to inspection and examination by authorized representatives of Companies. All accounts, account records, policyholder files, policyholder lists, rate books or manuals, applications and other forms and all other records in career agent's possession pertaining to Companies' business will be the property of Companies and will be returned to the Companies upon demand."

So would you agree with me that that says that they own the account records, accounts,

policyholder files and policyholder lists?

MR. GARDA: Objection. Documents speaks for itself. Go ahead and answer, Leo.

THE WITNESS: I'd say no.

Q (BY MR. MINNOCK) What is it in that that suggests that you own them and not the company?

A Because I bought them. I had folders on every policy that insured had, and I had every transaction they'd made for years. I had pictures of their homes which I had taken and paid for at my own expense, and that all was taken by the company.

Q But in terms of the account records and the policyholder lists, you would agree those belong to the company?

A No.

Q Why not?

A Because I was a so-called independent contractor and I don't think anybody working as an independent contractor would say that the business they had built up by themselves belonged to the people they were working for.

Q Well, when you signed this contract on February the 22nd of 1994, did you tell anybody that you didn't think that provision applied and that these were your records?

A No. To tell you the truth, I -- they come to us with this contract and asked us to sign it, stood right over us while we signed it, and I never read a contract before they -- before it was signed. They'd have us sign it and then the company would sign it. And I knew it was useless to read it and say, "Well, I object to this and I object to this," because all I'd have got was, "You're through. You're fired."

Q Well, so you understood if you wanted to continue with the company that this is the terms of the contract?

A Yeah. Well, even though -- right or wrong, it was the terms of the contract, yes.

Q Well, and the company is coming to you and saying, "If you want to work for us, this is how we're going to run the relationship," right?

A Yeah.

Q And you signed it and said, "I want to work for the company. I'm signing this"?

A Uh-huh.

Q Is that yes?

A Didn't have much other choice.

Q Okay. Now, you also mention that part of what you consider to be your book of business is the

commissions off the premiums.

A Uh-huh.

Q Do you contend that you're entitled to the renewal commissions, even after you were terminated?

A No.

Q Okay. What do you contend you're entitled to after you're terminated?

A If you're terminated, nothing. Except my good name.

Q Okay. We'll talk about that in a minute. Okay. So you understand that under the contract, once you're terminated, you don't get any more renewal commissions?

A Yeah. I'd seen that for years. Farm Bureau had such a big turnover of agents that they would give up their big book of business and go to work for another company and actually would lose their commissions.

Q Are you aware of any other agents that were ever compensated for their book of business by Utah Farm Bureau?

A Yes.

Q Who?

A Floyd Carter.

Q Did Utah Farm Bureau compensate him?

A No. His grandson did.

Q What did his grandson pay him for that?

A I don't know.

Q How long ago was that?

A It had to have been many years ago. Floyd was a real good friend of mine and he died just a few years ago, but I don't have any idea what was paid or how it was paid or anything.

Q Was it prior to the merger of Utah Farm Bureau and Iowa Farm Bureau?

A I think so.

Q Now, are you contending that you should be paid for your book of business?

A Yes.

Q And what do you want to be paid?

MR. GARDA: Objection. Asked and answered in interrogatories under damages, but go ahead and answer, Leo.

THE WITNESS: Well, the only thing, I'd liked to have stayed on a few more years where I would have been in a better financial position. That's about all I can say.

Q (BY MR. MINNOCK) I mean, you're asking for compensation for your book of business, and I want to know why you feel that you're entitled to that.

A Because I built it up, serviced it for many years.

Q Okay. Well, let's talk about your daughter. She had a book of business?

A Yeah.

Q About 100 grand, you said?

A That's a wild guess.

Q But she had a book of business?

A Yeah.

Q Were those accounts that she had written?

A Yes.

Q Contacted the insureds, built those policy accounts?

A Yes.

Q And then she left?

A Yeah.

Q And you took over those accounts?

A Yes.

Q Did you pay anything to her for her book of business?

A No.

Q Did Utah Farm Bureau pay anything to her for her book of business?

A No.

Q Did you feel like you owed her anything for

A Yes.

Q So when you say these presentations, these are presentations to try to get people to join Blue Cross?

A Yes.

Q Would you have been the writing agent had any of them accepted it?

A Yes.

Q When did you become appointed by Blue Cross/Blue Shield?

A Well, I've never been unappointed. I've always been appointed with them.

Q Oh, okay. Are you aware of any agents who sold their book of business after the Iowa Farm Bureau-Utah Farm Bureau merger?

A No.

Q So what is the basis for your contention that you own the book of business?

MR. GARDA: Objection. Asked and answered. Go ahead and answer, Leo.

THE WITNESS: The fact I built it up. Most agents in this company had -- in fact, one of the letters here states that the company depends on that unassigned business to hire new agents, and I'm probably the only one in the whole history of the

A I'd prefer they told them the truth.

Q Well, now, how have you been damaged as a consequence of that?

A Well, mainly my reputation.

Q Well, has anybody -- how do you know your reputation has been damaged?

A Because I think I've had one of the best.

Q Well, but, I mean, has anybody come up to you and said bad things to you?

A Well, they've said bad things about the Farm Bureau.

Q Well, I'm talking about you. You mentioned your reputation was damaged and I want to know what makes you think your reputation has been damaged?

A The fact they misrepresented my situation to hundreds of people.

Q Well, but I just want to know what information you have that those people think less of you.

A I don't think they think less of me, but I think they think less of the Farm Bureau.

Q Okay. Well, from your standpoint -- let's talk about you. What loss do you think you've suffered because people were told that you retired instead of were being terminated?

A I don't know. Just -- I don't really know how to answer that, but I just -- I honestly don't know how to answer that.

Q Okay. Well, now, did you -- after you were terminated, did you have any intention of getting back into the insurance field?

A No, because I didn't think it would do any good at my age to even approach the companies.

Q Okay. So none of your insureds have had the opportunity to buy insurance from you because you haven't been appointed with anybody?

A No. They were told that I'd retired, and then I guess they got a lot of complaints about telling people that, and so then I've heard there are just recent cases of where they've said, "Oh, he's no longer with the company."

Q Okay.

A But the thing is, where you're terminated, there's always a question in people's mind, well, what did he do wrong or --

Q Well, that's kind of what I'm wondering, is why -- if you're worried about your reputation, why would you want Utah Farm Bureau to tell people you were terminated and have them wonder as to why, rather than tell them that you retired?

A I'd prefer the truth, no matter what.

Q So you would prefer that they tell them you were terminated regardless of --

A Yes.

Q But you'd agree if they tell people that you're terminated that that could hurt your reputation as well?

MR. GARDA: Objection. Argumentative. Go ahead and answer.

THE WITNESS: Well, that's -- I started to answer. Now I can't remember what I was going to say.

MR. GARDA: Maybe he needs to repeat the question.

Q (BY MR. MINNOCK) Well, would you agree that if they told people that you were terminated, that those people would wonder why, and that may impact your reputation?

A Yeah, you're right.

Q So it's kind of a no win situation?

A Yeah. And then when I was in St. George, I talked to one of the old Farm Bureau agents and he had quit the Farm Bureau and gone to work for another company, and so he told me that he had talked to Bruce Wallentine, who is executive director of the

Q But you understood that if they were going to reduce your rent, you were going to have to get on the minimum program for life production?

A No, I didn't understand that.

Q Did you talk with him after you received this memo and say, "I didn't ever agree to go on the minimum program for life production"?

A No. I had written so many letters and got nothing from them, I figured it was useless.

Q So your understanding of that was that you were going to be made a part-time agent and that there would be nothing tied?

A Yes.

Q In terms of your sales?

A Yes.

Q And yet when you received these memos, you never contacted anybody and said, you know, "I'm not guaranteeing you anything in sales"?

A I don't remember the order these letters are in or when they were written or anything like that.

Q Now, this next memo is a memo from Walt to Al Schultz. Did you receive a copy of this?

A Yes.

Q Where did you get a copy?

Q It was kind of like an insurance update for everybody?

A Yeah. And then when I got my list back, why, there was about 20 accounts missing. I mean, they had taken away from me. So I checked every one of them in the book and I had a fact finder on every one of them, and I showed it to Walt Warneka, so he reassigned them to me.

MR. MINNOCK: Why don't we take a few minutes' break.

MR. GARDA: Sure.

(Recess.)

Q Do you know if you had any appointments set between September the 12th and September the 30th, 1994 to solicit insurance?

A 1994? No, I don't know.

Q Okay.

A I was -- I've worked long hours. Just got used to working on a dairy farm and getting up early, but I used to be in my office by 5:30 or 6:00 every morning and was still there at 7:00, 8:00 at night.

Q Well, we mentioned, when we were talking about your termination, that you had a couple of life policies that were possibilities, that people were thinking about. Do you know if those two people ever

A Yes.
Q -- September?
A Yes.
Q Who did you have other life prospects with?
A Well, I mentioned that one there. I mentioned her name, Ruth Zito, and she's worth a couple million dollars, I guess. But she didn't want to do anything about it. She's said there's plenty there for her kids.
Q Was anybody else contacting you about purchasing life insurance during that month?
A I couldn't say. I sold some policies there in those last two or three years and -- anyway, I'm not getting renewal on them now, and I asked Byron just a month or two ago -- I knew one policy in particular had been paid every year since they fired me, and I said, "Who's getting the renewals on that?" And he says, "Probably I am." And that's the only answer I got from him.
Q Do you know if you wrote any life policies during that last month?
A I don't know.
Q Okay. And do you know if you have any people who were considering buying life policies other than the two we talked about?

A There was some, but I wouldn't dare mention any names without having a file or something -- without having a list of my insureds to go over.

Q What I'm getting at is do you think you would have met your life requirement?

A I'd have sure tried.

Q Well, and did you have any prospects, though?

A Well, I told you those two. They were both well off and both of them could have --

Q Well, but they decided not to do it and I'm just asking you about other people.

A Not without seeing a list of my insureds, I couldn't tell you, no.

MR. MINNOCK: That's all the questions I have.

MR. GARDA: I have just a couple.

EXAMINATION

BY MR. GARDA:

Q Leo, let's first look at Exhibit 2, which is a stack of documents with, I guess, Byron's handwriting on it. What is the actual document -- it's called Agent Production. What is that document?

A That was just what I produced during the 22nd of September and -- it couldn't have been the

22nd of September.

Q It's the 12th, I think it says.

A Yeah.

Q Is this a document that Farm Bureau kept?

A Yes.

Q Is this a document they showed you every week?

A No.

Q Did they show you any of these agent production reports?

A I met with Byron once a week, but as far as him giving me anything like this, I don't recall ever seeing it.

Q Okay. Let's move to Exhibit 3. This is the termination letter dated September 12th of 1994 from a Ronald Palmer. There were a lot of questions earlier about what you thought was wrong about Farm Bureau's termination of you. I guess this letter is dated September 12th, 1994. Did they effectively terminate you before September 30th of 1994?

A Yes.

Q So --

A When they handed me this letter.

Q And that was before September 30th of 1994?

A Yes.

Q And you believed that you had until September 30th to get your goals?

A Yes.

Q And is it possible to get your goal of -- I think it was $4,000 on life -- with just one sale?

A Yes.

MR. GARDA: Okay. That's all I have.

FURTHER EXAMINATION

BY MR. MINNOCK:

Q Well, the letter says, "Pursuant to the terms of said contract, this cancellation is effective September the 30th, 1994," correct?

A Yeah.

Q Is that what that says?

A Uh-huh.

Q So you're still a Utah Farm Bureau agent until September the 30th, 1994, correct?

A No. As soon as I got this letter telling me I was terminated, I started moving my stuff out.

Q Well, but it says you're terminated September the 30th, 1994, right?

A Yeah. And I don't remember exactly what day we started moving stuff out.

Q Well, but according to the Utah insurance commissioner, you're still appointed with them until

September the 30th, 1994, right?

A Yes.

Q And you're still authorized to accept applications until September 30th, 1994, correct?

A Yes.

Q Okay. So until September 30th, 1994, there was nothing to prevent you from going out and getting applications and submitting them to the company, correct?

A No.

MR. MINNOCK: Okay. That's all the questions I have.

MR. GARDA: I've got to follow up after that.

FURTHER EXAMINATION

BY MR. GARDA:

Q The first sentence says, "This letter is to inform you that we are cancelling your contract as a career agent"; is that correct?

A Yes.

Q So did you think at the moment that you received this letter that you were terminated?

A I thought I was, yes.

Q Okay. So you saw no reason to go sell additional insurance after receipt of this letter?

Tab 5

UTAH FARM BUREAU INSURANCE COMPANY
FARM BUREAU LIFE INSURANCE COMPANY
FBL INSURANCE COMPANY

CAREER AGENT CONTRACT

THIS CONTRACT, made and entered into by and between Scott Stokes, of Ogden, UT; hereinafter referred to as "Career Agent," and UTAH FARM BUREAU INSURANCE COMPANY, a Utah corporation with its principal place of business at 5300 S 360 West, Salt Lake City, Salt Lake County, Utah; FARM BUREAU LIFE INSURANCE COMPANY, and FBL INSURANCE COMPANY, Iowa corporations with their principal place of business at 5400 University Avenue, West Des Moines, Polk County, Iowa, hereinafter collectively referred to as "Companies."

NOW, THEREFORE, in consideration of the mutual obligations, covenants and agreements contained herein, to be kept and performed by the parties hereto, it is agreed as follows:

1. **EFFECTIVE DATE OF CONTRACT.** This Contract will become effective on the 1 day of January, 1994 and will remain in full force and effect until cancelled or terminated as provided herein.

2. **AGENCY.** The Agency will be comprised of the Agency Manager, an Assistant Agency Manager, if one has been assigned, together with all Financed Career Agents and Career Agents for whom the Agency Manager has approved appointment as evidenced by Agency Manager's endorsement on the Financed Career Agent's and Career Agent's Contracts.

3. **CAREER AGENT'S AUTHORITY.** Companies hereby authorize Career Agent to solicit applications on behalf of Companies for ny and all insurance policies, insurance contracts, and annuities, written or sold by or through Companies, provided that Agent is at all times properly licensed as required by any federal or state law or governmental authority.

Career Agent shall not make, alter, or discharge any contracts for the Companies; waive any forfeitures; name special rates; guarantee dividends in excess of those provided for in a policy; waive payment in cash; extend the time of payment of any premium; accept payment of any past-due premium; extend any credit; or approve evidence of good health.

All applications for insurance and annuities are subject to acceptance or rejection by the Companies. Career Agent shall not incur any indebtedness or liability on behalf of the Companies in any manner whatsoever.

Career Agent may not bind the Companies on his own behalf. On an application for insurance written by Career Agent covering a risk on his own property or on property in which he has a vested interest, coverage will be in effect on the date the application is countersigned and dated by Agency Manager or in the event Career Agent has no Agency Manager, then coverage will be in effect on the date application is received in the company's Home Office or earlier if verbal approval is given by telephone by a company Home Office Underwriter responsible for the line of insurance being applied for.

Career Agent shall exercise the authority given him under this Contract within the territory of the Agency designated in paragraph 17. This territory is not assigned exclusively to Career Agent.

Applications for the purchase of flexible or fixed premium variable life insurance policies or annuities shall be solicited only within the territory in which such policies or annuities are qualified for sale and in which the Companies and the Career Agent are authorized to do business in accordance with licensing requirements and other applicable laws and regulations. Applications for the purchase of flexible or fixed premium variable life insurance policies or annuities will be accepted only by the Companies at their Home Office in West Des Moines, Iowa.

4. **INDEPENDENT CONTRACTOR.** It is the intent of the parties hereto that for all purposes and in all situations governed by the provisions of this agreement, Career Agent will be, and is hereby declared to be, an independent contractor and not an employee, and that the relationship between Career Agent and Companies created by this agreement, will be governed by those rules of law governing the status of and relationships with independent contractors and not those rules of law governing employer-employee relations. Accordingly, Career Agent has the right to control the activities and means by which the provisions of this agreement are carried out, the right to exercise independent judgment as to the persons from whom applications for insurance policies will be solicited, and the right to determine the time, place, and manner of soliciting and servicing policyholders of the Companies.

If training courses, sales methods and material or similar aids and services are extended or made available to the Agent, it is agreed that the purpose and effect thereof will not be to give the Company control over the Agent's time or direction or control over the manner or means by which he will conduct his business, but only to assist the Agent in his business.

5. **CAREER AGENT'S RESPONSIBILITIES.** Career Agent agrees to comply with the Companies' rules and regulations pertaining to the policies and products covered by this Contract, provided, however, that such rules and regulations will not interfere with Career Agent's status as an independent contractor as described in paragraph 4 above.

(a) **SERVICE.** Career Agent agrees to use Career Agent's best efforts to provide service to Companies' policyholders and Farm Bureau members consistent with Companies' "Service to members" philosophy and to maintain in force any business placed with Companies. Career Agent further agrees to become fully informed as to the provisions and benefits of each product offered by Companies for which Career Agent is authorized to solicit applications and to represent such products adequately and fairly to policyholders and prospective policyholders.

(b) **ACCOUNTS AND RECORDS.** Career Agent shall keep accurate accounts and records of all business transactions including, without limitation, account service records, which will be open at all times to inspection and examination by authorized representatives of Companies. All accounts, account records, policyholder files, policyholder lists, rate books or manuals, applications and other forms, and all other records in Career Agent's possession pertaining to Companies' business will be the property of Companies and will be returned to Companies upon demand.

(c) **PREMIUM TRANSMITTAL.** Career Agent agrees that all cash, checks, or funds in any form, received by Career Agent for or on behalf of Companies, will be held in trust for Companies, and Career Agent shall transmit to Companies immediately upon receipt all applications solicited and all monies received in connection therewith.

(d) **EXPENSES.** Career Agent agrees to pay all expenses incurred by Career Agent in the performance of this Contract including, but not limited to, expenses for office space, secretarial help, and telephone facilities.

(e) **ASSIGNMENT OF COMMISSIONS.** Career Agent agrees not to assign this Contract or any commission or other compensation payable under it without the prior written consent of Companies and no such assignment will be effective without such consent.

(f) **BOND.** Career Agent shall apply for and be accepted as a participant in the Blanket Position Bond furnished by the Companies.

6. **LIFE, DISABILITY INCOME, AND ANNUITY COMMISSIONS.**

(a) **LIFE, DISABILITY INCOME, AND ANNUITY COMMISSIONS.** First-year commissions will be paid to Career Agent on all first-year life insurance, disability income insurance, and annuity premium received and retained by the Companies on issued and paid-for business produced personally by the Career Agent in accordance with the Career Agent Life, Disability Income, and Annuity Commission Schedule in effect on the effective date of the policies to which they relate.

(b) **MINIMUM POLICY.** No first-year commissions will be paid or premium credit allowed on any new life insurance policy with a face amount of less than $5,000 except new life insurance on the Childrens Term Policy.

(c) **RENEWAL COMMISSIONS.** Renewal commissions on life insurance, disability income, and annuity premium (other than first-year premium) received and retained by the Companies will be paid according to the rules and at the rates set forth in the Career Agent Life, Disability Income, and Annuity Commission Schedule in effect on the effective date of the policies to which they relate.

Renewal commissions will be paid to the Career Agent who personally produced the policy until (1) that Career Agent's contract with the Companies is terminated, or (2) the policy on which the renewal commission is payable is assigned to another Career Agent, whichever occurs first.

(d) **PRODUCTIVITY/PERSISTENCY COMMISSION BONUS.** A monthly commission bonus will be paid to qualifying Career Agents in accordance with the terms of the Life Production and Persistency Bonus Schedule in effect on the effective date of this contract or as amended by Companies from time to time hereafter.

(e) **BENEFIT BONUS.** A monthly benefit bonus will be paid to qualifying Career Agents in accordance with the terms of the Benefit Bonus Schedule in effect in the month for which the bonus is payable.

(f) **COMMISSIONS.** Commissions on flexible or fixed premium variable life insurance policies or annuities can only be paid or credited to a Career Agent who is supervised by, and a registered representative of, a broker/dealer affiliated with Companies or a registered representative of a broker/dealer who has a sales agreement with a broker/dealer affiliated with Companies, and who holds any required state licenses when the sale is made and when each premium is paid.

(g) **LIFE PREMIUMS.** For the purpose of all commission payments, "Premiums" shall not include premiums collected for Temporary Flat Extra Premiums.

7. **PROPERTY AND CASUALTY COMMISSIONS.**

(a) **PROPERTY AND CASUALTY NEW BUSINESS COMMISSIONS.** New business commission will be paid to Career Agent on the first term premium on property and casualty issued and paid-for new business produced personally by the Career Agent in accordance with the Career Agent Property and Casualty Commission Schedule in effect on the date the premium on such policies is credited and recorded by the company in the appropriate premium account.

(b) **PROPERTY AND CASUALTY RENEWAL COMMISSIONS.** Renewal commissions will be paid to Career Agent while this agreement is in force, on property and casualty premiums received and retained after the first term of the policy on all accounts assigned to the Career Agent in accordance with the Career Agent Property and Casualty Commission Schedule in effect on the date the premium on such policies is credited and recorded by the company in the appropriate premium account.

(c) **LOSS RATIO ADJUSTMENT.** The commission rates otherwise payable under the Career Agent Property and Casualty Commission Schedule may be increased or decreased based on Career Agent's individual Loss Ratio in accordance with the Loss Ratio Schedule in effect at the time such commissions are payable.

(d) **ASSIGNED RISK PLANS.** Any policy issued by the company on the assigned risk plan or automobile insurance plan of any state will be excluded from all the terms and provisions of this agreement.

8. **ASSIGNMENT OF ACCOUNTS.** Upon cancellation of this Contract, or termination or transfer of the Career Agent to another agency, or in any case to better serve an account, credit for renewal commissions and the responsibility for servicing the account may be assigned to another agent. It will be the responsibility of the Career Agent to maintain service records as required by the Companies on each of Career Agent's assigned accounts. The Companies reserve the right to review at least annually the account service records maintained by the Career Agent. If the Companies in their sole discretion determine that satisfactory service has not been given to an account, Companies reserve the right to withdraw the account from the Career Agent for purposes of renewal commissions and service responsibility.

9. REFUNDS AND CREDITS. Commissions will be earned and production credit given when premium is received and retained by the Companies and when credited on Companies' books. Commissions will be recovered and production credit reversed should Companies for any reason fail to retain any premium or consideration on any policy or contract.

10. RESERVED RIGHT. Companies reserve the right to amend existing rules and procedures and to adopt new rules and cedures relating to the solicitation and sale by Career Agent of any of Companies' existing or future products or policies and to change production credit given and the commissions, bonuses, and other compensation payable to Career Agent with respect to any or all such products or policies.

11. TERMINATION. This Contract may be terminated by Companies or Career Agent at any time, with or without cause, by giving notice of termination, in writing, to the other party. Notice of Termination need not include the reason or reasons, if any, for such termination.

Career Agent acknowledges that Companies have not, either expressly or otherwise, agreed to continue the term of this Contract for any definite period of time.

This Contract will terminate automatically, without Notice of Termination, upon Career Agent's death.

12. LIEN PROVISION. Companies will be entitled to a first lien on any payment due or hereafter becoming due Career Agent under this Contract in an amount equal to any current or future indebtedness of Career Agent to Companies, their subsidiaries or affiliates. Career Agent authorizes Companies to deduct the amount of any such indebtedness from any payment otherwise due Career Agent and to pay such amount on behalf of Career Agent to the Company entitled thereto.

13. SOLE AGREEMENT. This Contract constitutes the sole agreement and supersedes all prior contracts between the parties hereto, but this Contract will not impair the Agent's right to commissions or fees, if any, earned under a prior contract or contracts with the Companies.

14. MODIFICATION OR AMENDMENT. Any modification or amendment of this Contract must be in writing and duly executed by the parties hereto; provided, however, that the Companies may by written notice unilaterally amend any Schedule or Supplement referred to in this Contract to affect policies to be issued or commissions earned after the date of the amendment.

15. WAIVERS. No act of forbearance on the part of the Companies to enforce any of the provisions of this Contract will be construed as a modification of this Contract, nor will the failure of either party to exercise any right or privilege herein granted be considered as a waiver of such right or privilege.

16. GENDER AND NUMBER. Any reference in this Contract to the masculine gender will include the feminine gender as ıllicable. References to the singular will include the plural where appropriate, and vice versa.

17. AGENCY WILL BE DESIGNATED AS Weber Agency

IN WITNESS WHEREOF, the parties hereto have affixed their signatures on the date set opposite their signatures.

Date of Signing 3-17-94 By _____
Authorized Representative of Companies

Utah Farm Bureau Insurance Company
Farm Bureau Life Insurance Company
FBL Insurance Company

Date of Signing 3-7-94 _____ 373
Signature of Career Agent Agent No.

The undersigned, as Agency Manager, hereby approves the appointment of Career Agent and subscribes to the provisions of the foregoing agreement affecting the undersigned.

Date 3-7-94 _____
Agency Manager

UTAH FARM BUREAU INSURANCE COMPANY
FARM BUREAU LIFE INSURANCE COMPANY
FBL INSURANCE COMPANY

CAREER AGENT CONTRACT

:S CONTRACT, made and entered into by and between Darrell K Tanner
Ogden, UT ; hereinafter referred
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3. CAREER AGENT'S AUTHORITY. Companies hereby authorize Career Agent to solicit applications on behalf of Companies for
ıy and all insurance policies, insurance contracts, and annuities, written or sold by or through Companies, provided that Agent is at all
nes properly licensed as required by any federal or state law or governmental authority.

Career Agent shall not make, alter, or discharge any contracts for the Companies; waive any forfeitures; name special rates;
ıarantee dividends in excess of those provided for in a policy; waive payment in cash; extend the time of payment of any premium;
ɔcept payment of any past-due premium; extend any credit; or approve evidence of good health.

All applications for insurance and annuities are subject to acceptance or rejection by the Companies. Career Agent shall not incur
ıy indebtedness or liability on behalf of the Companies in any manner whatsoever.

Career Agent may not bind the Companies on his own behalf. On an application for insurance written by Career Agent covering a
sk on his own property or on property in which he has a vested interest, coverage will be in effect on the date the application is
ountersigned and dated by Agency Manager or in the event Career Agent has no Agency Manager, then coverage will be in effect on
ıe date application is received in the company's Home Office or earlier if verbal approval is given by telephone by a company Home
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Career Agent shall exercise the authority given him under this Contract within the territory of the Agency designated in paragraph
7. This territory is not assigned exclusively to Career Agent.

Applications for the purchase of flexible or fixed premium variable life insurance policies or annuities shall be solicited only within
ıe territory in which such policies or annuities are qualified for sale and in which the Companies and the Career Agent are authorized
ɔ do business in accordance with licensing requirements and other applicable laws and regulations. Applications for the purchase of
lexible or fixed premium variable life insurance policies or annuities will be accepted only by the Companies at their Home Office in West
)es Moines, Iowa.

4. INDEPENDENT CONTRACTOR. It is the intent of the parties hereto that for all purposes and in all situations governed by the
ɔrovisions of this agreement, Career Agent will be, and is hereby declared to be, an independent contractor and not an employee, and
.hat the relationship between Career Agent and Companies created by this agreement, will be governed by those rules of law governing
:he status of and relationships with independent contractors and not those rules of law governing employer-employee relations.
Accordingly, Career Agent has the right to control the activities and means by which the provisions of this agreement are carried out, the
right to exercise independent judgment as to the persons from whom applications for insurance policies will be solicited, and the right to
determine the time, place, and manner of soliciting and servicing policyholders of the Companies.

" training courses, sales methods and material or similar aids and services are extended or made available to the Agent, it is agreed
purpose and effect thereof will not be to give the Company control over the Agent's time or direction or control over the manner
means by which he will conduct his business, but only to assist the Agent in his business.

5. **CAREER AGENT'S RESPONSIBILITIES.** Career Agent agrees to comply with the Companies' rules and regulations pertaining to the policies and products covered by this Contract, provided, however, that such rules and regulations will not interfere with Career Agent's status as an independent contractor as described in paragraph 4 above.

(a) **SERVICE.** Career Agent agrees to use Career Agent's best efforts to provide service to Companies' policyholders and Farm Bureau members consistent with Companies' "Service to members" philosophy and to maintain in force any business placed with Companies. Career Agent further agrees to become fully informed as to the provisions and benefits of each product offered by Companies for which Career Agent is authorized to solicit applications and to represent such products adequately and fairly to policyholders and prospective policyholders.

(b) **ACCOUNTS AND RECORDS.** Career Agent shall keep accurate accounts and records of all business transactions including, without limitation, account service records, which will be open at all times to inspection and examination by authorized representatives of Companies. All accounts, account records, policyholder files, policyholder lists, rate books or manuals, applications and other forms, and all other records in Career Agent's possession pertaining to Companies' business will be the property of Companies and will be returned to Companies upon demand.

(c) **PREMIUM TRANSMITTAL.** Career Agent agrees that all cash, checks, or funds in any form, received by Career Agent for or on behalf of Companies, will be held in trust for Companies, and Career Agent shall transmit to Companies immediately upon receipt all applications solicited and all monies received in connection therewith.

(d) **EXPENSES.** Career Agent agrees to pay all expenses incurred by Career Agent in the performance of this Contract including, but not limited to, expenses for office space, secretarial help, and telephone facilities.

(e) **ASSIGNMENT OF COMMISSIONS.** Career Agent agrees not to assign this Contract or any commission or other compensation payable under it without the prior written consent of Companies and no such assignment will be effective without such consent.

(f) **BOND.** Career Agent shall apply for and be accepted as a participant in the Blanket Position Bond furnished by the Companies.

6. **LIFE, DISABILITY INCOME, AND ANNUITY COMMISSIONS.**

(a) **LIFE, DISABILITY INCOME, AND ANNUITY COMMISSIONS.** First-year commissions will be paid to Career Agent on all first-year life insurance, disability income insurance, and annuity premium received and retained by the Companies on issued and paid-for business produced personally by the Career Agent in accordance with the Career Agent Life, Disability Income, and Annuity Commission Schedule in effect on the effective date of the policies to which they relate.

(b) **MINIMUM POLICY.** No first-year commissions will be paid or premium credit allowed on any new life insurance policy with a face amount of less than $5,000 except new life insurance on the Childrens Term Policy.

(c) **RENEWAL COMMISSIONS.** Renewal commissions on life insurance, disability income, and annuity premium (other than first-year premium) received and retained by the Companies will be paid according to the rules and at the rates set forth in the Career Agent Life, Disability Income, and Annuity Commission Schedule in effect on the effective date of the policies to which they relate.

Renewal commissions will be paid to the Career Agent who personally produced the policy until (1) that Career Agent's contract with the Companies is terminated, or (2) the policy on which the renewal commission is payable is assigned to another Career Agent, whichever occurs first.

(d) **PRODUCTIVITY/PERSISTENCY COMMISSION BONUS.** A monthly commission bonus will be paid to qualifying Career Agents in accordance with the terms of the Life Production and Persistency Bonus Schedule in effect on the effective date of this contract or as amended by Companies from time to time hereafter.

(e) **BENEFIT BONUS.** A monthly benefit bonus will be paid to qualifying Career Agents in accordance with the terms of the Benefit Bonus Schedule in effect in the month for which the bonus is payable.

(f) **COMMISSIONS.** Commissions on flexible or fixed premium variable life insurance policies or annuities can only be paid or credited to a Career Agent who is supervised by, and a registered representative of, a broker/dealer affiliated with Companies or a registered representative of a broker/dealer who has a sales agreement with a broker/dealer affiliated with Companies, and who holds any required state licenses when the sale is made and when each premium is paid.

(g) **LIFE PREMIUMS.** For the purpose of all commission payments, "Premiums" shall not include premiums collected for Temporary Flat Extra Premiums.

7. **PROPERTY AND CASUALTY COMMISSIONS.**

(a) **PROPERTY AND CASUALTY NEW BUSINESS COMMISSIONS.** New business commission will be paid to Career Agent on the first term premium on property and casualty issued and paid-for new business produced personally by the Career Agent in accordance with the Career Agent Property and Casualty Commission Schedule in effect on the date the premium on such policies is credited and recorded by the company in the appropriate premium account.

(b) **PROPERTY AND CASUALTY RENEWAL COMMISSIONS.** Renewal commissions will be paid to Career Agent while this agreement is in force, on property and casualty premiums received and retained after the first term of the policy on all accounts assigned to the Career Agent in accordance with the Career Agent Property and Casualty Commission Schedule in effect on the date the premium on such policies is credited and recorded by the company in the appropriate premium account.

(c) **LOSS RATIO ADJUSTMENT.** The commission rates otherwise payable under the Career Agent Property and Casualty Commission Schedule may be increased or decreased based on Career Agent's individual Loss Ratio in accordance with the Loss Ratio Schedule in effect at the time such commissions are payable.

(d) **ASSIGNED RISK PLANS.** Any policy issued by the company on the assigned risk plan or automobile insurance plan of any state will be excluded from all the terms and provisions of this agreement.

8. **ASSIGNMENT OF ACCOUNTS.** Upon cancellation of this Contract, or termination or transfer of the Career Agent to another agency, or in any case to better serve an account, credit for renewal commissions and the responsibility for servicing the account may be assigned to another agent. It will be the responsibility of the Career Agent to maintain service records as required by the Companies on each of Career Agent's assigned accounts. The Companies reserve the right to review at least annually the account service records maintained by the Career Agent. If the Companies in their sole discretion determine that satisfactory service has not been given to an account, Companies reserve the right to withdraw the account from the Career Agent for purposes of renewal commissions and service responsibility.

9. REFUNDS AND CREDITS. Commissions will be earned and production credit given when premium is received and retained by the Companies and when credited on Companies' books. Commissions will be recovered and production credit reversed should Companies for any reason fail to retain any premium or consideration on any policy or contract.

10. RESERVED RIGHT. Companies reserve the right to amend existing rules and procedures and to adopt new rules and procedures relating to the solicitation and sale by Career Agent of any of Companies' existing or future products or policies and to change the production credit given and the commissions, bonuses, and other compensation payable to Career Agent with respect to any or all such products or policies.

11. TERMINATION. This Contract may be terminated by Companies or Career Agent at any time, with or without cause, by giving notice of termination, in writing, to the other party. Notice of Termination need not include the reason or reasons, if any, for such termination.

Career Agent acknowledges that Companies have not, either expressly or otherwise, agreed to continue the term of this Contract for any definite period of time.

This Contract will terminate automatically, without Notice of Termination, upon Career Agent's death.

12. LIEN PROVISION. Companies will be entitled to a first lien on any payment due or hereafter becoming due Career Agent under this Contract in an amount equal to any current or future indebtedness of Career Agent to Companies, their subsidiaries or affiliates. Career Agent authorizes Companies to deduct the amount of any such indebtedness from any payment otherwise due Career Agent and to pay such amount on behalf of Career Agent to the Company entitled thereto.

13. SOLE AGREEMENT. This Contract constitutes the sole agreement and supersedes all prior contracts between the parties hereto, but this Contract will not impair the Agent's right to commissions or fees, if any, earned under a prior contract or contracts with the Companies.

14. MODIFICATION OR AMENDMENT. Any modification or amendment of this Contract must be in writing and duly executed by the parties hereto; provided, however, that the Companies may by written notice unilaterally amend any Schedule or Supplement referred to in this Contract to affect policies to be issued or commissions earned after the date of the amendment.

15. WAIVERS. No act of forbearance on the part of the Companies to enforce any of the provisions of this Contract will be construed as a modification of this Contract, nor will the failure of either party to exercise any right or privilege herein granted be considered as a waiver of such right or privilege.

16. GENDER AND NUMBER. Any reference in this Contract to the masculine gender will include the feminine gender as applicable. References to the singular will include the plural where appropriate, and vice versa.

17. AGENCY WILL BE DESIGNATED AS Weber Agency

IN WITNESS WHEREOF, the parties hereto have affixed their signatures on the date set opposite their signatures.

Date of Signing 3-17-94 By Ronald R. Palmer
Authorized Representative of Companies

Utah Farm Bureau Insurance Company
Farm Bureau Life Insurance Company
FBL Insurance Company

Date of Signing FEB. 9, 1994 Darwin K Larsen 318
Signature of Career Agent Agent No.

The undersigned, as Agency Manager, hereby approves the appointment of Career Agent and subscribes to the provisions of the foregoing agreement affecting the undersigned.

Date 3-7-94 Darwin L Jensen
Agency Manager

UTAH FARM BUREAU INSURANCE COMPANY
FARM BUREAU LIFE INSURANCE COMPANY
FBL INSURANCE COMPANY

CAREER AGENT CONTRACT

THIS CONTRACT, made and entered into by and between Leo T Syphus- of Clearfield, UT hereinafter referred to as "Career Agent," and UTAH FARM BUREAU INSURANCE COMPANY, a Utah corporation with its principal place of business at 5300 S 360 West, Salt Lake City, Salt Lake County, Utah, FARM BUREAU LIFE INSURANCE COMPANY, and FBL INSURANCE COMPANY, Iowa corporations with their principal place of business at 5400 University Avenue, West Des Moines Polk County Iowa hereinafter collectively referred to as "Companies."

NOW, THEREFORE, in consideration of the mutual obligations, covenants and agreements contained herein, to be kept and performed by the parties hereto, it is agreed as follows:

1. **EFFECTIVE DATE OF CONTRACT.** This Contract will become effective on the 1 day of April, 19 93 and will remain in full force and effect until cancelled or terminated as provided herein.

2. **AGENCY.** The Agency will be comprised of the Agency Manager, an Assistant Agency Manager, if one has been assigned, together with all Financed Career Agents and Career Agents for whom the Agency Manager has approved appointment as evidenced by Agency Manager's endorsement on the Financed Career Agent's and Career Agent's Contracts.

3. **CAREER AGENT'S AUTHORITY.** Companies hereby authorize Career Agent to solicit applications on behalf of Companies for any and all insurance policies, insurance contracts, and annuities, written or sold by or through Companies, provided that Agent is at all times properly licensed as required by any federal or state law or governmental authority.

Career Agent shall not make, alter, or discharge any contracts for the Companies; waive any forfeitures, name special rates, guarantee dividends in excess of those provided for in a policy, waive payment in cash; extend the time of payment of any premium, accept payment of any past-due premium, extend any credit; or approve evidence of good health.

All applications for insurance and annuities are subject to acceptance or rejection by the Companies. Career Agent shall not incur any indebtedness or liability on behalf of the Companies in any manner whatsoever.

Career Agent may not bind the Companies on his own behalf. On an application for insurance written by Career Agent covering a risk on his own property or on property in which he has a vested interest, coverage will be in effect on the date the application is countersigned and dated by Agency Manager or in the event Career Agent has no Agency Manager, then coverage will be in effect on the date application is received in the company's Home Office or earlier if verbal approval is given by telephone by a company Home Office Underwriter responsible for the line of insurance being applied for.

Career Agent shall exercise the authority given him under this Contract within the territory of the Agency designated in paragraph 17. This territory is not assigned exclusively to Career Agent.

Applications for the purchase of flexible or fixed premium variable life insurance policies or annuities shall be solicited only within the territory in which such policies or annuities are qualified for sale and in which the Companies and the Career Agent are authorized to do business in accordance with licensing requirements and other applicable laws and regulations. Applications for the purchase of flexible or fixed premium variable life insurance policies or annuities will be accepted only by the Companies at their Home Office in West Des Moines, Iowa.

4. **INDEPENDENT CONTRACTOR.** It is the intent of the parties hereto that for all purposes and in all situations governed by the provisions of this agreement, Career Agent will be, and is hereby declared to be, an independent contractor and not an employee, and that the relationship between Career Agent and Companies created by this agreement, will be governed by those rules of law governing the status of and relationships with independent contractors and not those rules of law governing employer-employee relations. Accordingly, Career Agent has the right to control the activities and means by which the provisions of this agreement are carried out, the right to exercise independent judgment as to the persons from whom applications for insurance policies will be solicited, and the right to determine the time, place, and manner of soliciting and servicing policyholders of the Companies.

If training courses, sales methods and material or similar aids and services are extended or made available to the Agent, it is agreed that the purpose and effect thereof will not be to give the Company control over the Agent's time or direction or control over the manner or means by which he will conduct his business, but only to assist the Agent in his business.

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5. **CAREER AGENT'S RESPONSIBILITIES.** Career Agent agrees to comply with the Companies' rules and regulations pertaining to the policies and products covered by this Contract, provided, however, that such rules and regulations will not interfere with Career Agent's status as an independent contractor as described in paragraph 4 above.

(a) **SERVICE.** Career Agent agrees to use Career Agent's best efforts to provide service to Companies' policyholders and Farm Bureau members consistent with Companies' "Service to members" philosophy and to maintain in force any business placed with Companies. Career Agent further agrees to become fully informed as to the provisions and benefits of each product offered by Companies for which Career Agent is authorized to solicit applications and to represent such products adequately and fairly to policyholders and prospective policyholders.

(b) **ACCOUNTS AND RECORDS.** Career Agent shall keep accurate accounts and records of all business transactions including, without limitation, account service records, which will be open at all times to inspection and examination by authorized representatives of Companies. All accounts, account records, policyholder files, policyholder lists, rate books or manuals, applications and other forms, and all other records in Career Agent's possession pertaining to Companies' business will be the property of Companies and will be returned to Companies upon demand.

(c) **PREMIUM TRANSMITTAL.** Career Agent agrees that all cash, checks, or funds in any form, received by Career Agent for or on behalf of Companies will be held in trust for Companies, and Career Agent shall transmit to Companies immediately upon receipt all applications solicited and all monies received in connection therewith.

(d) **EXPENSES.** Career Agent agrees to pay all expenses incurred by Career Agent in the performance of this Contract including, but not limited to, expenses for office space, secretarial help, and telephone facilities.

(e) **ASSIGNMENT OF COMMISSIONS.** Career Agent agrees not to assign this Contract or any commission or other compensation payable under it without the prior written consent of Companies and no such assignment will be effective without such consent.

(f) **BOND.** Career Agent shall apply for and be accepted as a participant in the Blanket Position Bond furnished by the Companies.

6. **LIFE, DISABILITY INCOME, AND ANNUITY COMMISSIONS.**

(a) **LIFE, DISABILITY INCOME, AND ANNUITY COMMISSIONS.** First-year commissions will be paid to Career Agent on all first-year life insurance, disability income insurance, and annuity premium received and retained by the Companies on issued and paid-for business produced personally by the Career Agent in accordance with the Career Agent Life, Disability Income, and Annuity Commission Schedule in effect on the effective date of the policies to which they relate.

(b) **MINIMUM POLICY.** No first-year commissions will be paid or premium credit allowed on any new life insurance policy with a face amount of less than $5,000 except new life insurance on the Childrens Term Policy.

(c) **RENEWAL COMMISSIONS.** Renewal commissions on life insurance, disability income, and annuity premium (other than first-year premium) received and retained by the Companies will be paid according to the rules and at the rates set forth in the Career Agent Life, Disability Income, and Annuity Commission Schedule in effect on the effective date of the policies to which they relate.

Renewal commissions will be paid to the Career Agent who personally produced the policy until (1) that Career Agent's contract with the Companies is terminated, or (2) the policy on which the renewal commission is payable is assigned to another Career Agent, whichever occurs first.

(d) **PRODUCTIVITY/PERSISTENCY COMMISSION BONUS.** A monthly commission bonus will be paid to qualifying Career Agents in accordance with the terms of the Life Production and Persistency Bonus Schedule in effect on the effective date of this contract or as amended by Companies from time to time hereafter.

(e) **BENEFIT BONUS.** A monthly benefit bonus will be paid to qualifying Career Agents in accordance with the terms of the Benefit Bonus Schedule in effect in the month for which the bonus is payable.

(f) **COMMISSIONS.** Commissions on flexible or fixed premium variable life insurance policies or annuities can only be paid or credited to a Career Agent who is supervised by, and a registered representative of, a broker/dealer affiliated with Companies or a registered representative of a broker/dealer who has a sales agreement with a broker/dealer affiliated with Companies, and who holds any required state licenses when the sale is made and when each premium is paid.

(g) **LIFE PREMIUMS.** For the purpose of all commission payments, "Premiums" shall not include premiums collected for Temporary Flat Extra Premiums.

7. **PROPERTY AND CASUALTY COMMISSIONS.**

(a) **PROPERTY AND CASUALTY NEW BUSINESS COMMISSIONS.** New business commission will be paid to Career Agent on the first term premium on property and casualty issued and paid-for new business produced personally by the Career Agent in accordance with the Career Agent Property and Casualty Commission Schedule in effect on the date the premium on such policies is credited and recorded by the company in the appropriate premium account.

(b) **PROPERTY AND CASUALTY RENEWAL COMMISSIONS.** Renewal commissions will be paid to Career Agent while this agreement is in force, on property and casualty premiums received and retained after the first term of the policy on all accounts assigned to the Career Agent in accordance with the Career Agent Property and Casualty Commission Schedule in effect on the date the premium on such policies is credited and recorded by the company in the appropriate premium account.

(c) **LOSS RATIO ADJUSTMENT.** The commission rates otherwise payable under the Career Agent Property and Casualty Commission Schedule may be increased or decreased based on Career Agent's Individual Loss Ratio in accordance with the Loss Ratio Schedule in effect at the time such commissions are payable.

(d) **ASSIGNED RISK PLANS.** Any policy issued by the company on the assigned risk plan or automobile insurance plan of any state will be excluded from all the terms and provisions of this agreement.

8. **ASSIGNMENT OF ACCOUNTS.** Upon cancellation of this Contract, or termination or transfer of the Career Agent to another agency, or in any case to better serve an account, credit for renewal commissions and the responsibility for servicing the account may be assigned to another agent. It will be the responsibility of the Career Agent to maintain service records as required by the Companies on each of Career Agent's assigned accounts. The Companies reserve the right to review at least annually the account service records maintained by the Career Agent. If the Companies in their sole discretion determine that satisfactory service has not been given to an account, Companies reserve the right to withdraw the account from the Career Agent for purposes of renewal commissions and service responsibility.

by the Companies and when credited [illegible] Companies' books. Commissions will be re[illegible]red and production credit reversed should Companies for any reason fail to reta[illegible] any premium or consideration on any policy or contract

10. RESERVED RIGHT. Companies reserve the right to amend existing rules and procedures and to adopt new rules and procedures relating to the solicitation and sale by Career Agent of any of Companies' existing or future products or policies and to change the production credit given and the commissions, bonuses, and other compensation payable to Career Agent with respect to any or all such products or policies

11. TERMINATION. This Contract may be terminated by Companies or Career Agent at any time with or without cause by giving notice of termination, in writing, to the other party Notice of Termination need not include the reason or reasons if any for such termination

Career Agent acknowledges that Companies have not, either expressly or otherwise, agreed to continue the term of this Contract for any definite period of time

This Contract will terminate automatically, without Notice of Termination, upon Career Agent's death

12. LIEN PROVISION Companies will be entitled to a first lien on any payment due or hereafter becoming due Career Agent under this Contract in an amount equal to any current or future indebtedness of Career Agent to Companies their subsidiaries or affiliates Career Agent authorizes Companies to deduct the amount of any such indebtedness from any payment otherwise due Career Agent and to pay such amount on behalf of Career Agent to the Company entitled thereto

13. SOLE AGREEMENT. This Contract constitutes the sole agreement and supersedes all prior contracts between the parties hereto but this Contract will not impair the Agent's right to commissions or fees, if any, earned under a prior contract or contracts with the Companies

14. MODIFICATION OR AMENDMENT. Any modification or amendment of this Contract must be in writing and duly executed by the parties hereto provided, however that the Companies may by written notice unilaterally amend any Schedule or Supplement referred to in this Contract to affect policies to be issued or commissions earned after the date of the amendment.

15. WAIVERS. No act of forbearance on the part of the Companies to enforce any of the provisions of this Contract will be construed as a modification of this Contract, nor will the failure of either party to exercise any right or privilege herein granted be considered as a waiver of such right or privilege

16. GENDER AND NUMBER. Any reference in this Contract to the masculine gender will include the feminine gender as applicable References to the singular will include the plural where appropriate, and vice versa.

17. AGENCY WILL BE DESIGNATED AS Wasatch Front

IN WITNESS WHEREOF, the parties hereto have affixed their signatures on the date set opposite their signatures.

Date of Signing 6-18-93 By Ronald L. Palmer
Authorized Representative of Companies

Utah Farm Bureau Insurance Company
Farm Bureau Life Insurance Company
FBL Insurance Company

Date of Signing 6-4-1993 Leo T. Hyphus 114
Signature of Career Agent Agent No.

The undersigned as Agency Manager, hereby approves the appointment of Career Agent and subscribes to the provisions of the foregoing agreement affecting the undersigned.

Date 6-17-93 Joseph K. Nielsen
Agency Manager

UTAH FARM BUREAU INSURANCE COMPANY
FARM BUREAU LIFE INSURANCE COMPANY
FBL INSURANCE COMPANY

CAREER AGENT CONTRACT

THIS CONTRACT, made and entered into by and between Jay L Wood, of Ogden, UT; hereinafter referred to as "Career Agent," and UTAH FARM BUREAU INSURANCE COMPANY, a Utah corporation with its principal place of business at 5300 S 360 West, Salt Lake City, Salt Lake County, Utah; FARM BUREAU LIFE INSURANCE COMPANY, and FBL INSURANCE COMPANY, Iowa corporations with their principal place of business at 5400 University Avenue, West Des Moines, Polk County, Iowa, hereinafter collectively referred to as "Companies."

NOW, THEREFORE, in consideration of the mutual obligations, covenants and agreements contained herein, to be kept and performed by the parties hereto, it is agreed as follows:

1. ***EFFECTIVE DATE OF CONTRACT.*** This Contract will become effective on the 1 day of January, 19 94 and will remain in full force and effect until cancelled or terminated as provided herein.

2. **AGENCY.** The Agency will be comprised of the Agency Manager, an Assistant Agency Manager, if one has been assigned, together with all Financed Career Agents and Career Agents for whom the Agency Manager has approved appointment as evidenced by Agency Manager's endorsement on the Financed Career Agent's and Career Agent's Contracts.

3. **CAREER AGENT'S AUTHORITY.** Companies hereby authorize Career Agent to solicit applications on behalf of Companies for / and all insurance policies, insurance contracts, and annuities, written or sold by or through Companies, provided that Agent is at all times properly licensed as required by any federal or state law or governmental authority.

Career Agent shall not make, alter, or discharge any contracts for the Companies; waive any forfeitures; name special rates; guarantee dividends in excess of those provided for in a policy; waive payment in cash; extend the time of payment of any premium; accept payment of any past-due premium; extend any credit; or approve evidence of good health.

All applications for insurance and annuities are subject to acceptance or rejection by the Companies. Career Agent shall not incur any indebtedness or liability on behalf of the Companies in any manner whatsoever.

Career Agent may not bind the Companies on his own behalf. On an application for insurance written by Career Agent covering a risk on his own property or on property in which he has a vested interest, coverage will be in effect on the date the application is countersigned and dated by Agency Manager or in the event Career Agent has no Agency Manager, then coverage will be in effect on the date application is received in the company's Home Office or earlier if verbal approval is given by telephone by a company Home Office Underwriter responsible for the line of insurance being applied for.

Career Agent shall exercise the authority given him under this Contract within the territory of the Agency designated in paragraph 17. This territory is not assigned exclusively to Career Agent.

Applications for the purchase of flexible or fixed premium variable life insurance policies or annuities shall be solicited only within the territory in which such policies or annuities are qualified for sale and in which the Companies and the Career Agent are authorized to do business in accordance with licensing requirements and other applicable laws and regulations. Applications for the purchase of flexible or fixed premium variable life insurance policies or annuities will be accepted only by the Companies at their Home Office in West Des Moines, Iowa.

4. ***INDEPENDENT CONTRACTOR.*** It is the intent of the parties hereto that for all purposes and in all situations governed by the provisions of this agreement, Career Agent will be, and is hereby declared to be, an independent contractor and not an employee; and that the relationship between Career Agent and Companies created by this agreement, will be governed by those rules of law governing the status of and relationships with independent contractors and not those rules of law governing employer-employee relations. Accordingly, Career Agent has the right to control the activities and means by which the provisions of this agreement are carried out, the right to exercise independent judgment as to the persons from whom applications for insurance policies will be solicited, and the right to determine the time, place, and manner of soliciting and servicing policyholders of the Companies.

If training courses, sales methods and material or similar aids and services are extended or made available to the Agent, it is agreed that the purpose and effect thereof will not be to give the Company control over the Agent's time or direction or control over the manner or means by which he will conduct his business, but only to assist the Agent in his business.

5. **CAREER AGENT'S RESPONSIBILITIES.** Career Agent agrees to comply with the Companies' rules and regulations pertaining to the policies and products covered by this Contract, provided, however, that such rules and regulations will not interfere with Career Agent's status as an independent contractor as described in paragraph 4 above.

(a) **SERVICE.** Career Agent agrees to use Career Agent's best efforts to provide service to Companies' policyholders and Fa Bureau members consistent with Companies' "Service to members" philosophy and to maintain in force any business placed wit Companies. Career Agent further agrees to become fully informed as to the provisions and benefits of each product offered by Companies for which Career Agent is authorized to solicit applications and to represent such products adequately and fairly to policyholders and prospective policyholders.

(b) **ACCOUNTS AND RECORDS.** Career Agent shall keep accurate accounts and records of all business transactions including, without limitation, account service records, which will be open at all times to inspection and examination by authorized representatives of Companies. All accounts, account records, policyholder files, policyholder lists, rate books or manuals, applications and other forms, and all other records in Career Agent's possession pertaining to Companies' business will be the property of Companies and will be returned to Companies upon demand.

(c) **PREMIUM TRANSMITTAL.** Career Agent agrees that all cash, checks, or funds in any form, received by Career Agent for or on behalf of Companies will be held in trust for Companies, and Career Agent shall transmit to Companies immediately upon receipt all applications solicited and all monies received in connection therewith.

(d) **EXPENSES.** Career Agent agrees to pay all expenses incurred by Career Agent in the performance of this Contract including, but not limited to, expenses for office space, secretarial help, and telephone facilities.

(e) **ASSIGNMENT OF COMMISSIONS.** Career Agent agrees not to assign this Contract or any commission or other compensation payable under it without the prior written consent of Companies and no such assignment will be effective without such consent.

(f) **BOND.** Career Agent shall apply for and be accepted as a participant in the Blanket Position Bond furnished by the Companies.

6. **LIFE, DISABILITY INCOME, AND ANNUITY COMMISSIONS.**

(a) **LIFE, DISABILITY INCOME, AND ANNUITY COMMISSIONS.** First-year commissions will be paid to Career Agent on all first-year life insurance, disability income insurance, and annuity premium received and retained by the Companies on issued and paid-for business produced personally by the Career Agent in accordance with the Career Agent Life, Disability Income, and Annuity Commission Schedule in effect on the effective date of the policies to which they relate.

(b) **MINIMUM POLICY.** No first-year commissions will be paid or premium credit allowed on any new life insurance policy with a face amount of less than $5,000 except new life insurance on the Childrens Term Policy.

(c) **RENEWAL COMMISSIONS.** Renewal commissions on life insurance, disability income, and annuity premium (other than first-year premium) received and retained by the Companies will be paid according to the rules and at the rates set forth in the Career Agent Life, Disability Income, and Annuity Commission Schedule in effect on the effective date of the policies to which they relate.

Renewal commissions will be paid to the Career Agent who personally produced the policy until (1) that Career Agent's contract w the Companies is terminated, or (2) the policy on which the renewal commission is payable is assigned to another Career Agent, whichever occurs first.

(d) **PRODUCTIVITY/PERSISTENCY COMMISSION BONUS.** A monthly commission bonus will be paid to qualifying Career Agents in accordance with the terms of the Life Production and Persistency Bonus Schedule in effect on the effective date of this contract or as amended by Companies from time to time hereafter.

(e) **BENEFIT BONUS.** A monthly benefit bonus will be paid to qualifying Career Agents in accordance with the terms of the Benefit Bonus Schedule in effect in the month for which the bonus is payable.

(f) **COMMISSIONS.** Commissions on flexible or fixed premium variable life insurance policies or annuities can only be paid or credited to a Career Agent who is supervised by, and a registered representative of, a broker/dealer affiliated with Companies or a registered representative of a broker/dealer who has a sales agreement with a broker/dealer affiliated with Companies, and who holds any required state licenses when the sale is made and when each premium is paid.

(g) **LIFE PREMIUMS.** For the purpose of all commission payments, "Premiums" shall not include premiums collected for Temporary Flat Extra Premiums.

7. **PROPERTY AND CASUALTY COMMISSIONS.**

(a) **PROPERTY AND CASUALTY NEW BUSINESS COMMISSIONS.** New business commission will be paid to Career Agent on the first term premium on property and casualty issued and paid-for new business produced personally by the Career Agent in accordance with the Career Agent Property and Casualty Commission Schedule in effect on the date the premium on such policies is credited and recorded by the company in the appropriate premium account.

(b) **PROPERTY AND CASUALTY RENEWAL COMMISSIONS.** Renewal commissions will be paid to Career Agent while this agreement is in force, on property and casualty premiums received and retained after the first term of the policy on all accounts assigned to the Career Agent in accordance with the Career Agent Property and Casualty Commission Schedule in effect on the date the premium on such policies is credited and recorded by the company in the appropriate premium account.

(c) **LOSS RATIO ADJUSTMENT.** The commission rates otherwise payable under the Career Agent Property and Casualty Commission Schedule may be increased or decreased based on Career Agent's individual Loss Ratio in accordance with the Loss Ratio Schedule in effect at the time such commissions are payable.

(d) **ASSIGNED RISK PLANS.** Any policy issued by the company on the assigned risk plan or automobile insurance plan of any state will be excluded from all the terms and provisions of this agreement.

8. **ASSIGNMENT OF ACCOUNTS.** Upon cancellation of this Contract, or termination or transfer of the Career Agent to another agency, or in any case to better serve an account, credit for renewal commissions and the responsibility for servicing the account may be assigned to another agent. It will be the responsibility of the Career Agent to maintain service records as required by the Companies on each of Career Agent's assigned accounts. The Companies reserve the right to review at least annually the account service records maintained by the Career Agent. If the Companies in their sole discretion determine that satisfactory service has not been given to an account, Companies reserve the right to withdraw the account from the Career Agent for purposes of renewal commissions and service responsibility.

9. **REFUNDS AND CREDITS.** Commissions will be earned and production credit given when premium is received and retained by the Companies and when credited on Companies' books. Commissions will be recovered and production credit reversed should Companies for any reason fail to retain any premium or consideration on any policy or contract.

10. **RESERVED RIGHT.** Companies reserve the right to amend existing rules and procedures and to adopt new rules and procedures relating to the solicitation and sale by Career Agent of any of Companies' existing or future products or policies and to change the production credit given and the commissions, bonuses, and other compensation payable to Career Agent with respect to any or all such products or policies.

11. **TERMINATION.** This Contract may be terminated by Companies or Career Agent at any time, with or without cause, by giving notice of termination, in writing, to the other party. Notice of Termination need not include the reason or reasons, if any, for such termination.

Career Agent acknowledges that Companies have not, either expressly or otherwise, agreed to continue the term of this Contract for any definite period of time.

This Contract will terminate automatically, without Notice of Termination, upon Career Agent's death.

12. **LIEN PROVISION.** Companies will be entitled to a first lien on any payment due or hereafter becoming due Career Agent under this Contract in an amount equal to any current or future indebtedness of Career Agent to Companies, their subsidiaries or affiliates. Career Agent authorizes Companies to deduct the amount of any such indebtedness from any payment otherwise due Career Agent and to pay such amount on behalf of Career Agent to the Company entitled thereto.

13. **SOLE AGREEMENT.** This Contract constitutes the sole agreement and supersedes all prior contracts between the parties hereto, but this Contract will not impair the Agent's right to commissions or fees, if any, earned under a prior contract or contracts with the Companies.

14. **MODIFICATION OR AMENDMENT.** Any modification or amendment of this Contract must be in writing and duly executed by the parties hereto; provided, however, that the Companies may by written notice unilaterally amend any Schedule or Supplement referred to in this Contract to affect policies to be issued or commissions earned after the date of the amendment.

15. **WAIVERS.** No act of forbearance on the part of the Companies to enforce any of the provisions of this Contract will be construed as a modification of this Contract, nor will the failure of either party to exercise any right or privilege herein granted be considered as a waiver of such right or privilege.

16. **GENDER AND NUMBER.** Any reference in this Contract to the masculine gender will include the feminine gender as applicable. References to the singular will include the plural where appropriate, and vice versa.

17. **AGENCY WILL BE DESIGNATED AS** Weber Agency

IN WITNESS WHEREOF, the parties hereto have affixed their signatures on the date set opposite their signatures.

Date of Signing 3-17-94 By _____
Authorized Representative of Companies

Utah Farm Bureau Insurance Company
Farm Bureau Life Insurance Company
FBL Insurance Company

Date of Signing 2/22/94 _____ 133
Signature of Career Agent Agent No.

The undersigned, as Agency Manager, hereby approves the appointment of Career Agent and subscribes to the provisions of the foregoing agreement affecting the undersigned.

Date 2/22/94 _____
Agency Manager

Tab 6

Farm Bureau
FAMILY OF FINANCIAL PLANNING SERVICES

Leo T. Syphus
Career Agent
Farm Bureau Ins.
Wasatch Front Agency
Davis Office

June 30,1994

Dear Leo:

As per our meeting, the following has been determined as a action plan to both bring your loss ratio under control and bring your production to necessary levels to meet standards.

We will have a regular P.E.P. session every Friday starting 7/8/94.

Ten client reviews per week for the next 3 months; 130 total with Review Forms filled out and signed by the client.

Production levels on Life & F&C need to be maintained at $335 per week for life and $1107 per week for P&C. This will be $13,280 in P&C production.

Knowing these requirements and expectations to be necessary; if they are not met, retirement or career contract termination will be the alternative as of 9/30/94.

Regards,

Byron L. DeLair
Associate Manager
Wasatch Front Agency
Farm Bureau Insurance

cc: Joseph R. Andrews CLU,CHFC

Tab 7

FARM BUREAU MUTUAL INSURANCE CO[illegible]NY
FARM BUREAU LIFE INSURANCE COMP.
FBL INSURANCE COMPANY
FARM BUREAU MUTUAL FUNDS
FBL INSURANCE BROKERAGE, INC
WEST DES MOINES IOWA

SOUTH DAKOTA FARM BUREAU MUTUAL
INSURANCE COMPANY
HURON SOUTH DAKOTA

UTAH FARM BUREAU INSURANCE COMPANY
SALT LAKE CITY UTAH

September 12, 1994

Leo Syphus
1580 S State Street
Clearfield, Utah 84015

Dear Leo:

This letter is to inform you that we are cancelling your contracts as a career agent in the Wasatch Front Agency for the Utah Farm Bureau Insurance Company, Farm Bureau Life Insurance Company, and the FBL Insurance Company. Pursuant to the terms of said contracts, this cancellation is to be effective September 30, 1994.

Please turn in your rate books, policy records and supplies to the agency office in order that both you and the companies will be in compliance with Utah State Insurance Department directives.

While under contract with the Companies, you were covered under a group Error & Omission policy in force with National Union Fire Insurance Company of Pittsburgh, Pennsylvania. You may purchase, within ninety days of contract termination, a one year extended reporting period for an additional premium of $360 or a three year extended reporting period, additional premium of $720. Should you desire this additional protection, please give me a call at (515) 225-5780 and I will be happy to discuss this program in further detail.

Your contribution to the Utah Farm Bureau Federation and its Affiliated Companies is appreciated. We wish you much success in your future endeavors.

Sincerely,

Ronald L. Palmer
Agency Services Vice President

cc: Ronald C. Price, Al Schultz, John Thigpen, Joe Andrews, Byron DeLair
Claude Hicken, President, Wasatch County Farm Bureau

Tab 8

September 12, 1994

TO BYRON DELAIR

FROM Priscilla Myers

FORMER AGENT LEO SYPHUS

As Leo Syphus is no longer a Farm Bureau Insurance agent, please forward materials in his file which originated in your office to my attention. This file will be combined with the agent file already in existence in the West Des Moines office. Please submit the file within one week from receipt of this request.

If you should have any questions, please give me a call.

/pm

Tab 9

UTAH FARM BUREAU INSURANCE COMPANY

Weber Agency
Darrin Ivie, LUTCF, Agency Manager
1915 West 5200 South, Suite 2, Roy, Utah 84067
Roy Office: (801) 773-2696 Fax: (801) 773-2697
Ogden Office: (801) 399-5868

October 15, 1993

TO: Darrell K. Tanner

FROM: Darrin S. Ivie

Re: Annual Check Up Meeting

I just wanted to follow up on our meeting, the goals we set and the commitments we made.

I believe the course of action of having Eilene keep you busy with 10 pre-set appointme weekly will greatly improve your results. You are right in believing that your book of business is not only an asset to your current income, but also houses a great deal of potential for future service (sales).

Mastering the Multi-Line Sales System, implementing the agency sales system will prove to be the process you will need to use to increase your productivity, strengthen your book of business and develop greater security. Implementing the agency sales system will cause you to exert more effort and activity, but I am positive that you are up to the task. It is critical that you utilize your production assistant's activity and have her do what she should be doing thus freeing you up TO SEE THE PEOPLE.

Since November of 1992 I have repeatedly emphazied the importance of the goals you set that they must be met. As we found there needs to be recommitment and focus on these goals. As discussed

L/D/A	$2,700	per month
Memberships	8	per month
Country Squire	3	In October
	2	In November
	1	In December
Group Health	1	per month for the remainder of the year
Commercial (CPP)		An additional premium of $3,000

Enroll in the LUTC Business Course starting the last week of October
Maintain membership in the Road Runners Club and
Increase persistency to 1.20

Please send to me your Action Plan with deadlines on how and when Eilene will have her licenses. It would also be wise for you and I to revisit the situation with Eilene within the next month or so. I want to be kept informed as to the progress of her getting licensed and trained.

The 1994 minimum production standards you have chosen for me to monitor are:

L/D/A	$14,400
Casualty	$17,400
Property	$ 7,800

As discussed at the end of the first quarter of 1994 1/4 of these production standards must be written and transmitted to the home office. At the end of the second quarter 1/2 of these production standards must be issued (these numbers will be reflected on the 12 month rolling average production report). At that time if the numbers are less than expected I will begin recruiting to find your replacement. It will take me approximately 90-120 days to prepare someone to take your place. At the end of the third quarter I will once again revisit your results. At that time one of two things could happen:

1. I see that your numbers meet the expected result at that time I will simply hire the new agent and increase our compliment or
2. If after I look at the numbers the results are still not there the new agent will move into your office.

Also we discussed the fact that this is a progressive expectation and that each year this minimum production standard will progress accordingly. I also indicated in our visit I will not manage to minimums. Our visit and this correspondence will be the only time that I will discuss with you these minimum expectations. As you requested I will visit with you monthly to review the goals that you have set for yourself for 1994.

It is my understanding that we have agreed upon these standards and that if the time comes and these expectations/results are not achieved you will simply resign. It is exciting for me to see the growth and the progress of our companies. This method of keeping score in my eyes is seen to be a great opportunity for future progress. You are definitely an asset to our agency, state and company and I look forward to assisting you build your business.

Your time with the company is valuable in the sense that as you embark on this new phase of your career you have available 11 + years of experience, knowledge and relationships to position you for true success. As I see it, implementing these new programs and adapting to the changes now and in the future Darrell will be a Master Agent.

Sincerely,

Darrin S. Ivie
Agency Manager

DSI:jn

cc: John Thigpen

Utah Farm Bureau Insurance Company

Weber Agency
Darrin Ivie, LUTCF, Agency Manager
1915 West 5200 South, Suite 2, Roy, Utah 84067
Roy Office: (801) 773-2696 Fax: (801) 773-2697
Ogden Office: (801) 399-5868

October 15, 1993

TO: Jay L. Wood

FROM: Darrin S. Ivie

Re: Annual Check Up Meeting

As a follow up to our visit I wanted to give you in written form a recap of our discussion.

I compliment you on where you stand issued verses your goal. During our visit I recognized that what Jay told him he would produce is as good as his word. Thank you for your efforts and hard work in achieving these goals.

I also appreciate your good attitude towards adopting the new Profit Improvement Program. I firmly believe that adhering to the requirements and implementing the recommendations you will see immediate increases in production, higher quality clientele and improve profitability for both you and our companies. I am sure you would agree that being given the opportunity to participate in this program is a compliment in that the company is willing to put forth a great deal of time, effort and money on helping you improve your business. Please have to me in written form your Action Plan no later than the 27th of October.

We discussed the importance of setting minimum guideline production standards for 1994 and the years to come. In our discussion I would hope that your understanding is that these are progressive expectations and will increase accordingly each year. The production standards you have chosen for 1994 are:

L/D/A	$14,400
Casualty	$17,400
Property	$ 7,800

As discussed at the end of the first quarter of 1994 1/4 of these production standards must be written and transmitted to the home office. At the end of the second quarter 1/2 of these production standards must be issued (these numbers will be reflected on th 12 month rolling average production report). At that time if the numbers are less than expected I will begin recruiting to find your replacement. It will take me approximately 90-120 days to prepare someone to take your place. At the end of the third quarter I will once again revisit your results. At that time one of two things could happen:

1. I see that your numbers meet the expected result, at that time I will simply hire the new agent and increase our compliment or
2. If after I look at the numbers the results are still not there the new agent will move into your office.

As you have read in our agency philosophy and have heard me say many many times, supporting the NALU is critical to an agent's success. I am sure you will find time to review seriously the importance of joining the association. You asked that I would visit with you and review your results quarterly. It is important for you to know and understand that during these visits I will be managing your goals extablished in our November 1993 for 1994 goals session and not the minimums you have set. I have promised these minimums will not be discussed between us any further outside of our visit and this correspondence. It is simply agreed to that if the results are not there You will resign.

Your 27 + years of experience is indeed an asset to our agency, state and company. I can think of nothing greater in this business than to watch Farm Bureau acknowledge and admire their newest Master Agent. You have what it takes to become one of our best--don't sell yourself short by not adjusting to positive progressive change.

I can understand and appreciate your income goals and dreams and look forward to assisting you reach them. Thank you for being a member of our agency.

Sincerely,

Darrin S. Ivie
Agency Manager

DSI:jn

cc: John Thigpen

UTAH FARM BUREAU INSURANCE COMPANY

Weber Agency
Darrin Ivie, LUTCF, Agency Manager
1915 West 5200 South, Suite 2, Roy, Utah 84067
Roy Office: (801) 773-2696 Fax: (801) 773-2697
Ogden Office: (801) 399-5868

October 15, 1993

TO: Scott A. Stokes

FROM: Darrin S. Ivie

Re: Annual Check Up Meeting

I appreciate the opportunity to visit with our agency's most talented agent even though it was an inconvenience to come to Roy. I just wanted to put in writing what we had discussed so there was no chance of miscommunication.

Scott Stokes must have passed the tests and completed the necessary activities to enable him to market Farm Bureau Variable Universal Life and Mutual Funds by January 1, 1994.

We discussed the importance of [redacted] establishing minimum guideline production standards for 1994 and in the future. During our visit you chose the following minimums for 1994:

L/D/A	$14,400
Casualty	$17,400
Property	$ 7,800

As discussed at the end of the first quarter of 1994 1/4 of these production standards must be written and transmitted to the home office. At the end of the second quarter 1/2 of these production standards must be issued (these numbers will be reflected on the 12 month rolling average production report). At that time if the numbers are less than expected I will begin recruiting to find your replacement. It will take me approximately 90-120 days to prepare someone to take your place. At the end of the third quarter I will once again revisit your results. At that time one of two things could happen:

1. I see that your numbers meet the expected result at that time I will simply hire the new agent and increase our compliment or
2. If after I look at the numbers the results are still not there the new agent will move into your office.

Also we discussed the fact that this is a progressive expectation and that each year this minimum production standard will progress accordingly. I also indicated in our visit I will not manage to minimums. Our visit and this correspondence will be the only time that I will discuss with you these minimum expectations. I will manage and will visit with you monthly at your request the goals that you have set for yourself in 1994.

So it should be clearly understood that if the production standards are not met you will resign from the company. Your 9 + years of experience in addition to your talent will prove to be a tremendous asset as you recommit to your business in the future.

It is crucial, critical, a must, imperative that your persistancy increase in the next 6 months to no lower than 80%. As we planned, the best way to improve persistancy is to increase LD Production. As we discussed and I repeatedly emphazied the goals you set for 1993 will be monitored, measured and expected. In reviewing the numbers we identified several areas of needed improvement. I am sure that you have already planned on how to make these reality.

Scott, you are an asset to our agency and I am positive that if you utilize your abilities, adapt to these changes, refocus and recommit you will experience not only an increase in production but increase security in your business. You are fortunate in the sense that you understand that we get paid for results not for staying busy. I look forward to watching Scott continually grow and build his business.

Sincerely,

Darrin S. Ivie
Agency Manager

DSI:jn

cc: John Thigpen

Tab 10

FARM BUREAU MUTUAL INSURANCE COMPANY
FARM BUREAU LIFE INSURANCE COMPANY
FBL INSURANCE COMPANY
FARM BUREAU MUTUAL FUNDS
FBL INSURANCE BROKERAGE, INC
WEST DES MOINES IOWA

SOUTH DAKOTA FARM BUREAU MUTUAL
INSURANCE COMPANY
HURON, SOUTH DAKOTA

UTAH FARM BUREAU INSURANCE COMPANY
SALT LAKE CITY UTAH

Farm Bureau
FAMILY OF FINANCIAL PLANNING SERVICES

March 23, 1994

Darrell Tanner
1973 North 500 East
Ogden, Utah 84404-6822273

Dear Darrell:

This letter is to inform you that we are cancelling your contracts as a career agent in the Weber Agency for the Utah Farm Bureau Insurance Company, Farm Bureau Life Insurance Company, the FBL Insurance Company, and as a registered representative of the FBL Marketing Services, Inc. Pursuant to the terms of said contracts, this cancellation is to be effective March 25, 1994.

Please turn in your rate books, policy records and supplies to the agency office in order that both you and the companies will be in compliance with Utah State Insurance Department directives.

While under contract with the Companies, you were covered under a group Error & Omission policy in force with National Union Fire Insurance Company of Pittsburgh, Pennsylvania. You may purchase, within ninety days of contract termination, a one year extended reporting period for an additional premium of $360 or a three year extended reporting period, additional premium of $720. Should you desire this additional protection, please give me a call at (515) 225-5780 and I will be happy to discuss this program in further detail.

Your contribution to the Utah Farm Bureau Federation and its Affiliated Companies is appreciated. We wish you much success in your future endeavors.

Sincerely,

Ronald L. Palmer
Director of Agency Services

cc: Ronald C. Price, Al Schultz, John Thigpen, Darrin Ivie
Vern Taylor, President, Weber County Farm Bureau

FARM BUREAU MUTUAL INSURANCE COMPANY
FARM BUREAU LIFE INSURANCE COMPANY
FBL INSURANCE COMPANY
FARM BUREAU MUTUAL FUNDS
FBL INSURANCE BROKERAGE, INC.
WEST DES MOINES, IOWA

SOUTH DAKOTA FARM BUREAU MUTUAL
INSURANCE COMPANY
HURON, SOUTH DAKOTA

UTAH FARM BUREAU INSURANCE COMPANY
SALT LAKE CITY, UTAH

March 23, 1994

Jay Wood
477 East 2050 North
Ogden, Utah 84404-6822273

Dear Jay:

This letter is to inform you that we are cancelling your contracts as a career agent in the Weber Agency for the Utah Farm Bureau Insurance Company, Farm Bureau Life Insurance Company, the FBL Insurance Company, and as a registered representative of the FBL Marketing Services, Inc. Pursuant to the terms of said contracts, this cancellation is to be effective March 25, 1994.

Please turn in your rate books, policy records and supplies to the agency office in order that both you and the companies will be in compliance with Utah State Insurance Department directives.

While under contract with the Companies, you were covered under a group Error & Omission policy in force with National Union Fire Insurance Company of Pittsburgh, Pennsylvania. You may purchase, within ninety days of contract termination, a one year extended reporting period for an additional premium of $360 or a three year extended reporting period, additional premium of $720. Should you desire this additional protection, please give me a call at (515) 225-5780 and I will be happy to discuss this program in further detail.

Your contribution to the Utah Farm Bureau Federation and its Affiliated Companies is appreciated. We wish you much success in your future endeavors.

Sincerely,

Ronald L. Palmer
Director of Agency Services

cc: Ronald C. Price, Al Schultz, John Thigpen, Darrin Ivie
Vern Taylor, President, Weber County Farm Bureau

Tab 11

Am - 574

FEB 01 1993

Attach #1

January 26, 1993

Alan R. Schultz, C.L.U.
Utah Agency Vice President
360 West 5300 South
Salt Lake City, Utah 84111

Dear Alan,

I don't know exactly how to start this out, but I feel that I have been done a great injustice, which I feel the Company should rectify. I am on the verge of bankruptcy so I don't have much choice as to what I do.

When I was approached 15 months ago about giving up part of my business, I was told of an agent, Don Clay in Iowa, who had given up part of his business and didn't have to pay any office expense and was making more money than before he gave up the business. In checking with Mr. Clay, I found out this was not true. He told me he was making much less money and he was still paying $150.00 monthly office expense.

I don't know all the details, but it was my understanding that because of his age he wanted to slow down somewhat and was told that he could work at his own pace and would have no production quota's or wouldn't have any meetings to go to if he didn't want to.

I was told essentially the same thing. I was told that if I agreed to give up approximately 3/4 of my business, or so called (3 books of business) I would pay no office expense, and all business given up would remain in the Clearfield Office at 270 East 200 South, Clearfield, Utah.

When they hired a new agent last March to work in the Clearfield Office, they asked me to pick out $120,000 worth of business to give him. I reminded Mr. Walt Warneka that we didn't have anything in writing to stipulate or control what I was to get in return for giving up the business. He then told me that if I didn't pick out the business, then he would do so and would pick out whoever he wanted.

At that time I still felt we could work out the details, so with this threat, I went ahead and picked out $121,354.00 and then Mr. Warneka picked out another account for $3,210.00 making a total of $124,564.00. I tried to get him to correct this amount, but he wouldn't do it.

Instead of my office expense going down, it was increased. I assume it was because the Company purchased most of the equipment in my office, however, they did not purchase my desk, typewriters, copy machine, file cabinets, and chair. I was told by Mr. Warneka that he would call and explain that I was not to pay any share of office equipment expense being that I was furnishing all my own equipment and supplies. Apparently this was not done.

Also a letter was to be sent to all the insureds that I was coerced into giving up, explaining that they would have a new agent. This was never done and as a result most of them still think I am their agent and I am doing much of the service on them.

The Company did not want to buy the copy machine because I asked $850.00 for it (about one-third of what I paid for it) but yet you continued to use it for 8 months with no cost to you.

Inasmuch as the Company has not done one single thing, they led me to believe they would do, I would like the book of business returned to me or that I be reimbursed something of equal value.

This has been going on for fifteen months now and I feel that something should be settled immediately. If you do not have authority to settle this, then I request that someone be sent out from the home office to get it settled once and for all.

In our last WAC Meeting it was emphasized 7 or 8 times that we were independent contractor. If we are independent contractors, how can you take business from me without any compensation, or is there some age limit that we have to retire or give up our business.

Between the loss of office rent through Karen Cowling and the loss of the book of business,s it amounts to over $2,000.00 per month. I don't think any of you could stands that much of a decrease in your pay. Also I have been depending a lot on my Social Security check to keep me going and then just last week I get notice it is going to be cut off for several months.

I would appreciate anything you can do to get this settled.

Thank you very much.

Very truly yours,

Leo T. Syphus

LTS:ss
cc: Tom Gibson

L:Syphus.26

DATE: July 28, 1992

TO: Leo Syphus and Walt Warneka

FROM: Al Schultz

OFFICE EXPENSES

I visited with Ron Palmer. Ron's firm belief is that reducing office expenses was directly tied to Leo's giving up books of business. Since Leo is still receiving renewals on the books of business, Ron is totally opposed to reducing office rent. If Leo is willing to give up those books now, Ron will reduce office rents to zero now. I totally support Ron's thinking on this issue.

However, since Walt has not recruited as expected, Ron is willing to do the following:

1) Effective August 1, 1992, Leo's rent will be reduced from the current 37.5% to 25%. Also, Leo will join the rest of Davis County on the minimum program for life production.

2) When the next person comes on board, Leo's rent will be reduced to 18.75%.

3) When the third person comes on board, Leo's rent will be reduced to zero.

Both Ron and I are in total agreement that the major problem is directly related to production. From January 1, 1992 through June 30, 1992, Leo has produced $202 of life insurance with $24,313 of property-casualty. While the property-casualty looks good, the fact remains that if Leo had 90% renewal which is commendable, he would have lost $21,000 of existing business, which would mean he had a net gain of $3,000. The life is obviously way below expectations. In fact, there is none lower in the entire state.

While I can certainly understand Leo's frustrations, the fact is, reducing expenses is not the ultimate answer to solving Leo's financial problems. The ultimate answer is clearly increasing sales. I can't believe that a $1,000 a month rent reduction is going to solve Leo's financial problems. According to Leo, he needs a lot more than $1,000 a month increase in income.

JUL 29 19

I completely agree with Leo's request that Walt train Pat to handle more of the office things so Leo can spend 4-5 hours per day in the field selling.

I encourage both of you to stop arguing on expenses and get down to the real meat of this business ... servicing members by making sure they have right coverage for their total needs when they need the coverage. Pour your energies into increased production and recruiting. Both of you will do a lot better in these two areas.

AS/cs
FB1665
cc: Ron Palmer

January 3, 1992

Note for the File:

Talked with Al Schultz today's date. When the first agent is contracted for the Clearfield office and Leo Syphus gives up $120,000 of renewals, there will be no change to Leo's office expenses. When the second new agent is hired and Leo gives up the second $120,000, office expenses will be reduced. When the third new agent is hired and Leo gives up the third $120,000 increment, we will place Leo on non-complement status and he will not be charged further office expenses.

DATE: October 10, 1991

TO: Ron Palmer

FROM: Al Schultz

RECOMMENDATION TO MAKE LEO SYPHUS
PART TIME ON JANUARY 1, 1992

CURRENT SITUATION

Leo started with Farm Bureau of Utah in 1953. He has been a loyal member of the insurance sales force. Currently, he has a book of business of nearly $500,000 which has not grown over the past few years. Leo has a real desire to make the 40 year mark with Farm Bureau. We have a real need to increase the business written from the $500,000 and to get Davis County to a compliment 9.

The part time agent contract would allow both of us to get what we wanted and needed.

Walt and I have visited with Leo on this issue and he is willing to give up all except $120,000 of his book which would allow us to start three new agents in the Clearfield office with assigned books of $120,000 each.

In exchange for giving up $360,000 plus of business, Leo wants to be relieved of all office expenses. Leo agrees to move his office downstairs in the current building which makes room for three agents in the upstairs of the building. The current expenses could then be divided between the three active agents in the Clearfield office. Also, Leo has agreed to introduce the new agents to his current book of business to assist in making a smooth transition. Leo also would continue to provide snow removal from the parking lot and driveway.

Leo would like FBL Leasing to purchase the office equipment including phone the system in the office. Currently we are paying a flat $1,200 a month which includes a turn-key operation for rent, utilities, office equipment and furniture. Obviously the lease agreement would have to be renegotiated to reflect the fact FBL Leasing would own office equipment and furniture and would no longer need to pay "rent" on the use of these items.

MKTG

OCT 11 1991

ALTERNATIVES:

1) Leave everything as it is and continue to struggle with Leo to sell more business from his existing book of business. This also means three Davis County agents would start under the scratch agent contract.

2) Exercise our right of simply pulling those accounts that have no verifiable client folder for annual review. This would cause hard feelings and given the climate of past veterans of Utah, could open up unknown avenues down the road. This also would not reflect well with our existing clients that Leo services.

3) Make Leo a part-time agent and implement the program as outlined above.

RECOMMENDATION

We make Leo Syphus a part-time agent effective January 1, 1992. In return, Leo would give up all of his book of business except $120,000. Also, Leo would no longer pay office rent. FBL Leasing would purchase the office equipment and furniture and a new lease would be negotiated to reflect the fact FBL leasing now owned the equipment and furniture. I also recommend we replace the old Farm Bureau sign of the shield with a new sign with the Farm Bureau logo.

FINANCIAL IMPACT

We would need to up-front the money for purchase of equipment and furniture (currently putting together an inventory with prices to begin negotiation if and when needed). We need to replace the existing out of date sign. We would receive $150,000-$200,000 of Property-Casualty production instead of $50,000, and $60,000-$100,000 of life and health production instead of $1,000. We would realize a savings of $36,000 in the first year by starting three new agents with books of business rather than scratch. That savings would continue at a decreasing amount over a four year period.

AS/cs
FB1348
cc: Ron Price

Tab 12

September 22, 1993

To All agents, agency managers and assistant agency managers

From Tom Gibson

Making yours a profitable business

Profitability is the key to long-term success for both our companies and agents. Serving our members into the future requires profitability.

As independent contractors, you, too, are responsible for the profitability of your business by selecting quality risks, properly classifying business and utilizing risk management techniques to reduce claims frequency.

Because we wish to help those agents who do not have a profitable book of business -- or those whose profitability may be declining -- we've established the Profitability Improvement Program Committee. Members of this committee are: Dick Pope (chairman), Russ Dent, Curt Lankford and Cy Winters.

The purpose of this new committee is to identify ways to help agents and agencies in developing strategies to put them back on track toward improvement of their book of business. Agents, agency managers, AVPs and committee members will work together to implement these strategies. And the committee will assist agents in meeting their profitability objective by providing continued support and technical services.

Because profitability affects agents, agency managers, and management, it's important that we work together to address this key issue. This will continue to be a major concern in our industry and increasing emphasis will be placed on individual accountability.

Our strong financial base is the result of many years of adherence to sound business practices. And in today's competitive environment, that financial strength is vitally important to all of us. By working together, we can assure the continued success of our companies ... and the financial security of our clients.

/gw
copy Insurance Management Team
Field Management

June 10, 1991

To: Scott Stokes

From: Bob Tatge

LOSS RATIO'S

Tom Gibson has referred your memo regarding your loss ratio inquiry to me for response. Your "TOTAL" loss ratio of 62% is your total reported loss ratio. This is, as you call it, a pure loss ratio, however we make a number of adjustments to arrive at your adjusted loss ratio of 69% and your commission adjustment loss ratio of 72%. In addition to the other modifications made to arrive at your adjusted loss ratio of 69% (deducting claim and storm capping dollars plus adding back in the statewide factors for spreading back all agents' pooled claim and storm capped dollars), we also add an amount for unreported losses, losses that have occurred but have not been reported by the time the data is summarized for these reports. These Incurred But Not Reported (IBNR) losses vary by state, line of business and accident year. As the Fiscal Years mature, the IBNR factors/adjustments become smaller as unreported claims become reported. For example, the IBNR factor (which is expressed as a percentage of your written premium) for the most recent Auto fiscal year shown on your report is 9.11%, the next year's factor is 4.40 % with the oldest year's factor being zero.

The purpose of the IBNR factors is to accurately match ultimate loss costs to premiums for each fiscal year. These factors are based on company-wide historical reporting patterns of losses and are updated each year when our actuaries develop them for annual statement reporting purposes. IBNR factors are the same for all agents within a state. The loss experience (profitability) of your book of P&C business would be less accurate if we did not anticipate the late reporting of claims that, based on past experience, will ultimately be charged against each fiscal year's profitability.

Your commission adjustment loss ratio of 72% is determined by throwing out your worst fiscal year's total adjusted loss ratio of 85% (1987), averaging the remaining fiscal years' losses/premiums and adding back the statewide "offset" charge which is the average "betterment" qualifying agents experienced by throwing out their worst year. This throwing out the worst year and charging an offset, on average, helps one-half of the agents whose individual betterment exceeds the average offset charge. Your situation is that you did not benefit from deleting your worst year and being charged the offset. The alternative to not charging the offset would be to not throw out worst years. This had been considered but not adopted at this time.

Scott, I hope this explains what happens in determining your adjusted and commission adjustment loss ratios. If you still have any questions please call me (515-225-5744) and I'll try and clarify things a bit more.

Bob

rlt

cc: Tom Gibson

UTAH FARM BUREAU INSURANCE COMPANY

WEBER AGENCY
Darrin S. Ivie, LUTCF Agency Manager
1235 West 12th Street, Ogden, Utah 84404
(801) 399-5868

July 7, 1993

TO: WEBER COUNTY AGENCY FORCE

FROM: DARRIN IVIE

RE: THE LACK OF LIFE PRODUCTION

FRANKLY!!! I AM CONCERNED!!

We are responsible for sales and service of Farm Bureau Companies products. Attached please review production for June. Unfortunately we do not have a "Score" category for hours logged in at the office. I do not believe the lack of life production is a lack of hours put in, in most cases, I do believe it is a result of a lack in focus. Are we proactive in finding ways to help the people in our area? Are we scheduling our valuable time or letting people chop off an hour here or 10 minutes there? As we are all aware "Results are the final and most important Judge". Our independent business's cannot function without capital. YOU ARE IN CONTROL! I need to know your specific plans for achieving your life insurance/pc/membership/health goals. We will review each of these plans in your PEP session FRIDAY. It's time to Focus! Our business's need to be run like a successful business. We are the chosen group to do the job in Weber County.

"R E S U L T S"

JUNE

	L-H-A	P/C	GH	M	
JAY	3-918	12-1,547	0	2	
DARRELL	0-0	23-3,522	0	6	
SCOTT	0-0	19-3,933	0	2	
MARK	0-0	14-2,487	0	5	
MARIA	1-375	32-8,325	0	8	
TIME	11-5,556	16-7,610	0	3	
	15-6,849	116-27,424	0	26	
MIN/ EXPECTATIONS	4-2,000	20-5,000	1	8	
COMM	$1,300	$440	$192		=$1,932

(0's are NOT Acceptable Results)

Oct. 24, 1983

Leo Syphus
272 South State
Clearfield, Utah 84015

Leo Syphus,

As per our conversation on September 27, 1983, the following actions have been taken or we have agreed to regarding your position with the company.

First, Allen Stephens will be put on a A Contract effective Oct. 1. 1983, and you relinquish all rights to his book of business; (ie., should Allen Stephens ever resign or terminate his contract with Utah Farm Bureau Mutual Insurance Companies, the company reserves the right as to the disposition of his book of business).

Secondly, Karen Cowling's book of business will be transferred to you effective November 1, 1983 upon acceptance of her resignation.

Thirdly, we will allow you to license your wife as an agent and you will submit her business under your agent number #114. If you have any questions or discussion on these matters please feel free to call or write, otherwise, we will assume you agree to these matters.

We greatly appreciate your cooperation in these matters and look forward to a long relationship with you in this new direction.

Sincerely,

Carl Gallup

Carl Gallup
Regional Director of Sales
CDG/vp

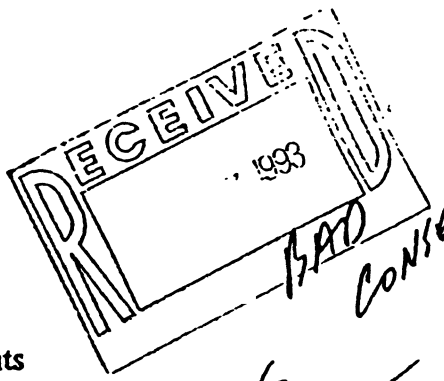
FARM BUREAU MUTUAL INSURANCE COMPANY
FARM BUREAU LIFE INSURANCE COMPANY
FBL INSURANCE COMPANY
FARM BUREAU MUTUAL FUNDS
FBL INSURANCE BROKERAGE, INC.
WEST DES MOINES, IOWA

SOUTH DAKOTA FARM BUREAU MUTUAL
INSURANCE COMPANY
HURON, SOUTH DAKOTA

UTAH FARM BUREAU INSURANCE COMPANY
SALT LAKE CITY, UTAH

Farm Bureau
FAMILY OF FINANCIAL PLANNING SERVICES

Keith



September 2, 1993

To All Agency Managers and Agency Vice Presidents

From Dick Pope

BAD choices NOT SMART

CASE IN POINT

On more than one occasion you have probably heard me state my concern that cleaning up an agent's in force book of business is not worthwhile without an equal effort to control the quality of new business being written, by requiring full prospecting evaluations and limit writing of any non prospected business.

Today another case came across my desk which strongly reinforces the above commentary. An agent who has been an agent three years, writes a single automobile policy account effective March 19, 1993, for a 25 year old single male laborer, on ABP, covering a 1972 GMC utility. Client had a chargeable accident in 1992, was walk in business and the agent argued with the underwriter when we insisted on standard rates.

NOT SO HOT

DO NOT DO THIS.

It should be no surprise to anyone that the risk advice I received today shows this client had a serious accident August 14, 1993 at 1:00 a.m. and was arrested for reckless driving, hit and run and open bottle.

Dick

RWP:maf

P.S. I hold the Underwriter equally culpable.

How do you think this underwriter will act next time

WEBER COUNTY AGENTS:

ONLY WRITE QUALITY BUSINESS! DO N

BE TALKED INTO A BAD RISK. THE ABOV

... will MAKE RATES GO UP.

UTAH FARM BUREAU INSURANCE COMPANY
UTAH FARM BUREAU LIFE INSURANCE COMPANY
FBL INSURANCE COMPANY

Farm Bureau
FAMILY OF FINANCIAL PLANNING SERVICES

Weber Agency
1235 West 12th Street
Ogden, Utah 84404
(801) 399-5868

Pat

TO: All Agents and Office Assistants

FROM: Scott Maughan, Agency Manager

SUBJECT: Trading for Unassigned Accounts - Effective October 1, 1988

DATE: Septmber 30, 1988

The purpose of unassigned accounts is to have business available to start new agents, however, unassigned accounts still need to be serviced, and at times only an agent can meet this need.

Because of this, a formal policy will now be put into force. I encourage all agents to be involved in servicing unassigned accounts. There will be no more trades for unassigned accounts that are not accompanied by a current fact finder. The fact finder is evidence that the account has been serviced and is now elgible for trade. Please notify the office assistants ~~if you~~ are servicing an unassigned account so that the account can be marked accordingly.

I hope this will clarify and prevent any additional misunderstandings.

Scott Maughan

December 21, 1993

To: All Agents

From: Gary D. Harms, Agency Compensation Supervisor

Re: Agent Loss Ratio Incentive Program

The Agent Loss Ratio Incentive Program is designed to reward agents who are doing the best job of building a quality book of business. The loss experience (ratio) of an agent's book of business is used to develop factors that are applied to commissions as incentive for good quality business.

We believe that you have more control over the quality of your book of business than anyone else. There are many factors, which are not in your control, which impact your individual loss experience, i.e; book of business assigned, underwriting, rating, claim adjusting, court decisions, catastrophes and luck. However, we know that you, by knowing your insureds, selecting clients who are quality risks and good drivers, through proper classification of risks and the recommendation of appropriate coverage and limits for each risk, have the most dominant and positive impact upon your individual loss experience. Your decisions will have a positive impact on your long term loss experience despite an occasional bad loss or bad year.

The challenge in developing an agent loss ratio program is to develop data that will provide the best evaluation of your efforts in developing a sound book of business that exhibits an acceptable level of losses. This means that we need to adjust your raw loss experience by removing distortions and random fluctuations in the data. Our goal is to continually do a better job of determining which agents write the soundest quality, responsible risks so that proper rewards may be administered.

In addition to the non-controllable factors which all agents are subject to, even the largest book of business for an individual agent will reflect random fluctuations in its loss experience. We minimize the impact of these factors by reducing the impact of large losses, wind and hail losses and one particularly bad year. Most years this "loss sharing" of the unusual will create a slightly higher adjusted loss ratio, but when a major loss occurs it will significantly improve an individual's loss ratio. In addition, it is necessary to use several years of data to reduce the impact of random fluctuations..

Attached is your agent loss ratio information for 1994 and an updated explanation of the calculation of the report. We will be updating these reports quarterly in 1994.

January 8, 1993

To: All Agents

From: Gary D. Harms, Agency Compensation Supervisor

Re: Agent Loss Ratio Incentive Program

The Agent Loss Ratio Incentive Program is designed to reward agents who are doing the best job of building a quality book of business. The loss experience (ratio) of an agent's book of business is used to develop factors that are applied to both commissions and production credit as incentives for good quality business.

We believe that you have more control over the quality of your book of business than anyone else. There are many factors, which are not in your control, which impact your individual loss experience, i.e; book of business assigned, underwriting, rating, claim adjusting, court decisions, catastrophes and luck. However, we know that you, by knowing your insureds, selecting clients who are quality risks and good drivers, through proper classification of risks and the recommendation of appropriate coverage and limits for each risk, have the most dominant and positive impact upon your individual loss experience. Your decisions will have a positive impact on your long term loss experience despite an occasional bad loss or year.

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In addition to the non-controllable factors which all agents are subject to, even the largest book of business for an individual agent will reflect random fluctuations in its loss experience. We minimize the impact of these factors by reducing the impact of large losses, storm losses and one particularly bad year. Most years this "loss sharing" of the unusual will create a slightly higher adjusted loss ratio, but when a major loss occurs it will significantly improve an individual's loss ratio. In addition, it is necessary to use several years of data. This is similar to applying the basic principles of insurance to an individual agent's loss experience.

Agents who would like a listing of those claims which make up their loss ratio should contact either Gary Harms, Agency Compensation Supervisor (515-225-5961), or Dale

August 14, 1991

TO: All Agency Managers, Agents and Office Assistants

FROM: AL Schultz

RE: MEMBERSHIP

We need your assistance desperately. A negative trend writing new members developed in January and has continued every month through July. We have written 400 fewer new members from January through July in 1991 than we did in 1990 . This summer the trend has declined with a net drop of 112 for two months.

We need your help in correcting this trend. As you well know we were started by ***Farm Bureau*** and are owned by ***Farm Bureau***. Part of our mission is to write new members and service those members.

Last year at Fall Round-Up we averaged 11 members per agent in the six weeks leading up to the Fall Round-Up. This year, I am requesting you attempt to do 15. The membership award has been coming to Utah for the past three years straight...let's make it four in a row!

After Fall Round-Up please continue to write seven new members per month, per agent. In return for doing these things you will:

1) Qualify for membership drawings
2) Win Federation Membership Contests
3) Answering a call to our mission to write new members
4) Receive our undying gratitude
5) Increase your book of business

Along with writing new Life-Di, please move membership high in your green time.

P.S. Enclosed please find copies of the necessary reporting forms.
Please note the application comes in three parts...
always *WHITE* GOES TO SALT LAKES WITH WEEKLY SHEET
always *YELLOW* IS MAILED TO DES MOINES STAPLED TO THE APP.
always *PINK* GOES EITHER TO THE CLIENT OR OFFICE FILE.

(ALWAYS SEND memberships paid in full up front directly to SALT LAKE...never, never,never, never, never send a check for $45 full year membership to Des Moines.)

The second form is to be mailed WEEKLY, EVERY WEEK to Salt Lake by your office assistant. This is to be submitted EVERY FRIDAY (52 TIMES A YEAR) whether full or not!

Please review these forms with all agents and office assistants so we are all playing out of the same rule book!

KEEP IT GREEN AND THE GREEN WILL KEEP COMING!

December 8, 1993

TO John Thigpen

FROM Ron Palmer

WEBER COUNTY - ROY OFFICE

John, we have reviewed all past memos, including the memos which are a part of our Agency Office Review Committee file as they relate to the opening of the Roy office.

In the Agency Office Review Committee file, one of the original memos requested that when the new office in Roy opened, that both the Roy and Ogden office be combined with respect to office expense allocation. At the time the office actually opened, we failed to put the two offices together for office expense calculation; we have now done so and we will go back to August 1 and make any appropriate adjustments for all affected agents.

While reviewing the Agency Office Review Committee file, I was reminded of the fact that the committee, in approving the Roy office location, did not approve movement of the agency location from Ogden to Roy. In fact, we specifically determined that Darrin's office was to remain in Ogden even though Jackie Neal's transfer to Roy was approved. We, of course, have since been informed that Darrin moved to Roy.

We have reviewed the Maria LeCain account assignment situation and find the following:

- Maria started 1/01/93.
- It was determined that a P/C book of business of $143,000 was appropriate from an office expense perspective. The point you make in your November 17 memo is that while the numbers used in our calculations were correct, the actual office expense for Maria's first six months in the business averaged $435 in Ogden. Had the first six months of 1993 office expense been known, on January 1, 1993, we would have allowed Maria a P/C book of business of $154,000 instead of $143,000.
- This would have allowed Maria to have another $92 of potential income per month.

John, one statement in your memo of November 17 concerns me and that statement is, "Is our basic intent to cover all office expense except the $150 and if so, will we correct any errors we made in the process? The answer to my question was answered in the affirmative and I was totally satisfied that we would do the right thing should the need arise".

What you are really asking for us to do not only in Maria's case but in the case of all new agents, is to re-calculate all new agents, renewal assignments after they have experienced six months of actual office expense charges. There are many reasons that we would not want to and should not go through this exercise. While I do not wish to put those reasons in memo form, I would be happy to discuss them with you verbally.

When selling our compensation program to candidates, the candidate should never hear of a formula that is used to determine the book of business to be assigned. The candidate should simply be informed that should he or she meet production standards, there would then be more than adequate renewal compensation to handle office expenses.

Again, John, had we made an error in the original calculation in the book of business to be assigned to Maria, we would have gone back and corrected that error.

Before arriving at a final decision on the subject of assigning additional renewal compensation, maximum potential value of $2,815 to Maria, please inform me as to what Maria was led to believe when she was contracted. When informed of what she was told, we will then determine whether we have any type of obligation to assign additional accounts.

/pm

cc: Ron Price
Al Schultz
Darrin Ivie

Remedial Action Plan

Date 9-30-97
Agent Name Jay Wood # 0133 St UT Cty 29

Based on your loss ratios and an analysis of the various profiles, and other documents contained in the report, the following recommendations and requirements are established to improve the profitability of your book of business.

I. Life and Health - Remedial Action

1. Adjust non-medical limits: Published medical limits appear in the life and health rate manual. Applications for amounts exceeding the non-medical limits require examinations of varying degree, as well as, other medical tests. For agents in unprofitable status, adjustments would be made so that a higher percentage of cases would be examined.

Recommended	Required

2. Inspections are required for application exceeding amounts specified in the rate manual. The type of inspections will vary, dependent on the amount applied for. For unprofitable agents, inspection amounts will be adjusted accordingly.

Recommended	Required

3. Close application reviews: For unprofitable agents the Underwriter would pay closer attention to history and other information appearing on the application. More detailed information may be required.

Recommended	Required
I'm always listed w/ they're [illegible]. Check them apt to the list of [illegible] ability	

4. Suspend jet privileges: Applications falling into certain parameters are processed with minimum underwriting. For unprofitable agents such privileges would be suspended.

Recommended	Required

II. Property - Casualty Remedial Actions

1. Binding authority revoked. Trial applications only.

A. All PC business

Recommended	Required

B. Specified Lines_____

Recommended	Required

2. New Business Restrictions

A. New autos only with in force HO or Squire eligible for package discount. Does not apply to additional vehicles on existing accounts when no new drivers are involved.

Recommended	Required
I'll write no new ensure autos without they Hom owners.	✓

AGENT ACTION PLAN REPORT
PROFIT IMPROVEMENT PROGRAM

Date: October 27, 1993

To: Underwriter Review Committee

From: Jay L. Wood

The following actions have been taken to improve the profitability of my business.

Named Insured	Policy Number	Effective Date	Date sent To Home Office	Action taken

I've always tried to list whoever they have told me is driving,which vehicle.

Check them out to the best of your ability. You have access to more legal inf

than I do. I just get to talk to the client.

I'll write no new insured's autos without their homeowner policy also.

I will obtain proof of prior insurance or an offer of renewal from the prior

carrier on all new clients.

I will write Preferred Plus autos only with their homeowner policy also.

I will write only homes that are a Class A or better.

In regards to question #3 under underwriting/reunderwriting actions #a--give i

your best shot. If they lie to me I don't want them.

On Account Reviews I'll let our O/A, Sandy, set appointments for reviews and s

give to ten a week.

I will also encourage current insureds and new clients to take larger deductab

PLEASE SEND OUT CLAIMS FREQUENCY REPORT FOR THIS BOOK OF BUSINESS.

Agent Signature_____ AM Initial JLW AVP Initials_____

AGENT ACTION PLAN REPORT
PROFIT IMPROVEMENT PROGRAM

Date: October 27, 1993

To: Underwriter Review Committee

From: Jay L. Wood

The following actions have been taken to improve the profitability of my business.

Named Insured	Policy Number	Effective Date	Date sent To Home Office	Action taken

I've always tried to list whoever they have told me is driving which vehicle.

Check them out to the best of your ability. You have access to more legal info than I do. I just get to talk to the client.

I'll write no new insured's autos without their homeowner policy also.

I will obtain proof of prior insurance or an offer of renewal from the prior carrier on all new clients.

I will write Preferred Plus autos only with their homeowner policy also.

I will write only homes that are a Class A or better.

In regards to question #3 under underwriting/reunderwriting actions #a--give it your best shot. If they lie to me I don't want them.

On Account Reviews I'll let our O/A, Sandy, set appointments for reviews and se give to ten a week.

I will also encourage current insureds and new clients to take larger deductabl

PLEASE SEND OUT CLAIMS FREQUENCY REPORT FOR THIS BOOK OF BUSINESS.

Agent Signature Jay L. Wood AM Initial JLW AVP Initials _____

Tab 13

YOUR FULL NAME Scot. (First) A. (Middle) - TOKES (Last) (Nickname)

SPOUSE'S FULL NAME Ruth Ann (First) (Middle) STOKES (Last) (Nickname)

HOME ADDRESS 724 (Street or Box #) Cook Ogden (Town) Utah (State) 84404 (Zip)

HOME PHONE (801) 394-7124 (a/c) (Town)

CHILDREN... Names / Birthdates

Names	Birthdates
BRANDON Scott STOKES	5-8-81

BIRTHDATE 5-2-61 (mo./day/yr.) BIRTHPLACE Ogden (Town) weber (County) UTAH (State)

EDUCATION Weber High (High School (Full Name)) Pleasant View, Ut. (Location) 1979 (Yr. Graduated)

3.0 GPA, Letted in Golf, Tennis (Both 3 years)
Activities/Honors

Weber STATE (College (Full Name)) Ogden (Location) 2 years no degree (Degree & Date Attained)

Activities/Honors

Electronic technician
Specialized Training (other than college)

MILITARY-Active Duty (Branch) NONE (Dates) (Rank)

Active Reserve (Branch) (Dates) (Rank)

FARMING BACKGROUND/EXPERIENCE

EMPLOYMENT (Employer) (Location)

(Title) (Job Description)

Other Previous Employment

COMMUNITY ACTIVITIES, Incl. Clubs (Show full names of organizations) L.D.S. church

HOBBIES, SPORTS, OTHER INTERESTS All sports

KTG.

950-499 (1/85)

MAY 08 1985

BIOGRAPHICAL INFORMATION

(Print or Type) Date 4-17-85

YOUR FULL NAME JAY (First) LYNN (Middle) WOOD (Last) (Nickname)

SPOUSE'S FULL NAME JOAN (First) T. (Middle) WOOD (Last) (Nickname)

HOME ADDRESS 477 E. 2050 N. (Street or Box #) NO. OGDEN (Town) UTAH (State) 84404 (Zip)

HOME PHONE (801) 782-8319 (a/c) NO. OGDEN. (Town)

CHILDREN... Names / Birthdates

Names	Birthdates
DON J. WOOD	4-25-66
BRENT J WOOD	6-9-68
CHRISTINE	3-21-70
MELANEY	7-14-71

BIRTHDATE 11 11 41 (mo./day/yr.) BIRTHPLACE OGDEN (Town) WB (County) UTAH (State)

EDUCATION BENLOMOND HIGH (High School (Full Name)) Ogden (Location) 1960 (Yr. Graduated)

Eagle Scout.
Activities/Honors

WEBER STATE (College (Full Name)) OGDEN (Location) OVER 2 yrs. (Degree & Date Attained)

President of Institutes Council, 2nd Counselor in Web
Activities/Honors

State College Ward Bishopric
Specialized Training (other than college)

MILITARY-Active Duty Branch Dates Rank

completed with 6 yrs. with honorable discharge.

Active Reserve Branch Dates Rank

FARMING BACKGROUND/EXPERIENCE 1 yrs as agent with farm Bureau Ins. Father in law is a dairyman.

EMPLOYMENT Employer Location

Title Job Description

Clerk in Sport Good Store Shoe Shine Boy

Other Previous Employment

missionary for LDS Church for two yrs.

COMMUNITY ACTIVITIES, Incl. Clubs (Show full names of organizations)

HOBBIES, SPORTS, OTHER INTERESTS Hunting, Fishing, Trapping ETC.

BIOGRAPHICAL INFORMATION

(Print or Type) Date APRIL 30, 1985

YOUR FULL NAME DARRELL (First) K (Middle) TANNER (Last) (Nickname)

SPOUSE'S FULL NAME LAURA (First) LEE (Middle) TANNER (Last) (Nickname)

HOME ADDRESS 1973 N 500 E. (Street or Box #) NO. OGDEN (Town) UTAH (State) 8440 (Zip)

HOME PHONE (801) 782-4963 (a/c) NORTH OGDEN (Town)

CHILDREN... Names / Birthdates

Names	Birthdates
KRISTIN	10/29/196
TERRI LYN	2/24/1973
BROOKE	10/27/1974
MATTHEW ALLEN	4/20/1976

BIRTHDATE 12/13/31 (mo./day/yr.) BIRTHPLACE BRIGHAM CITY (Town) BOX ELDER (County) UTAH (State)

EDUCATION BOX ELDER HIGH SCHOOL (High School (Full Name)) BRIGHAM CITY UT. (Location) 1960 (Yr. Graduated)

LETTERED TRACK TEAM
Activities/Honors

WEBER STATE - OGDEN (College (Full Name)) BYU - PROVO (Location) (Degree & Date Attained)

LEATTERED TRACK TEAM.
Activities/Honors

Specialized Training (other than college)

MILITARY-Active Duty NONE (Branch) (Dates) (Rank)

Active Reserve NONE (Branch) (Dates) Rank (I STILL

FARMING BACKGROUND/EXPERIENCE LIVED ON A RANCH UNTIL AGE 19 INTERES

EMPLOYMENT UTAH FARM BUREAU INSURANCE CO. (Employer) SALT LAKE C (Location) OF OFF. OGDEN

AGENCY MANAGER (Title) MULTI-LINE SALES & MANAGEM (Job Description)

ACCOUNTANT 12 YEARS
Other Previous Employment

COMMUNITY ACTIVITIES, Incl. Clubs (Show full names of organizations)

HOBBIES, SPORTS, OTHER INTERESTS HUNTING, HORSES, & RANCHING

Tab 14

John E. S. Robson, A4130
Robert A. Garda, A7055
FABIAN & CLENDENIN,
A Professional Corporation
Twelfth Floor
215 South State Street
P.O. Box 510210
Salt Lake City, Utah 84151
Telephone: (801) 531-8900

Attorneys for Plaintiffs

IN THE SECOND DISTRICT COURT, WEBER COUNTY

STATE OF UTAH

JAY L. WOOD, DARRELL K. TANNER, SCOTT A. STOKES and LEO SYPHUS, individuals, Plaintiffs, vs. UTAH FARM BUREAU INSURANCE COMPANY, a Utah corporation, FARM BUREAU LIFE INSURANCE COMPANY, an Iowa corporation and FBL INSURANCE COMPANY, an Iowa corporation, Defendants.	**AFFIDAVIT OF SCOTT A. STOKES** Case No. 970906166CV Judge Michael D. Lyon

STATE OF UTAH)
: ss.
COUNTY OF WEBER)

I, SCOTT A. STOKES, being first duly sworn, upon oath, hereby deposes and states as follows:

1. I make the statements herein based on personal knowledge.

2. The value of my book of business at the time I was terminated from Farm Bureau was $300,000 as reported to me by Farm Bureau.

3. Farm Bureau used my book of business after my termination to finance several new agents in the Weber agency.

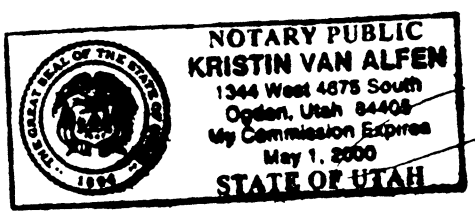
4. I signed my 1994 Career Agent Contract, which was effective January 1, 1994, on March 7, 1994. After signing the 1994 Career Agent Contract, I continued to have weekly meetings with Darrin Ivie regarding whether I was meeting the goals set forth in the letter he gave me dated October 15, 1993. Mr. Ivie, in our weekly review sessions after I signed the 1994 Career Agent Contract, affirmed to me that I would not be terminated unless I failed to meet the goals in the October 15, 1993, letter.

5. I believed that I could not be terminated from Farm Bureau even after signing the 1994 Career Agent Contract unless I failed to meet the stated minimums in the October 15, 1993, letter.

DATED this 28 day of January, 1999.

Scott A. Stokes

SUBSCRIBED AND SWORN to before me, a Notary Public, this 28th day of January, 1999.



Notary Public

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of January, 1999, I caused to be mailed, via first-class mail, postage prepaid, a copy of the foregoing AFFIDAVIT OF SCOTT A. STOKES, to:

Stephen G. Morgan, Esq.
Joseph E. Minnock, Esq.
Morgan, Meyer & Rice
136 South Main Street, Suite 800
Salt Lake City, Utah 84101

John E. S. Robson, A4130
Robert A. Garda, A7055
FABIAN & CLENDENIN,
A Professional Corporation
Twelfth Floor
215 South State Street
P.O. Box 510210
Salt Lake City, Utah 84151
Telephone: (801) 531-8900

Attorneys for Plaintiffs

IN THE SECOND DISTRICT COURT, WEBER COUNTY

STATE OF UTAH

JAY L. WOOD, DARRELL K. TANNER, SCOTT A. STOKES and LEO SYPHUS, individuals, Plaintiffs, vs. UTAH FARM BUREAU INSURANCE COMPANY, a Utah corporation, FARM BUREAU LIFE INSURANCE COMPANY, an Iowa corporation and FBL INSURANCE COMPANY, an Iowa corporation, Defendants.	**AFFIDAVIT OF JAY L. WOOD** Case No. 970906166CV Judge Michael D. Lyon

STATE OF UTAH)
: ss.
COUNTY OF WEBER)

I, JAY L. WOOD, being first duly sworn, upon oath, hereby deposes and states as follows:

1. I make the statements herein based on personal knowledge.

2. The value of my book of business at the time I was terminated from Farm Bureau was $380,000 as reported to me by Farm Bureau.

3. Farm Bureau used my book of business after my termination to finance several new agents in the Weber agency.

4. I signed my 1994 Career Agent Contract, which was effective January 1, 1994, on February 22, 1994. After signing the 1994 Career Agent Contract, I continued to have weekly meetings with Darrin Ivie. I was under the impression that the October 15 letter continued to govern our relationship.

5. Based on the meetings with Darrin Ivie, I believed that I could not be terminated from Farm Bureau even after signing the 1994 Career Agent Contract unless I failed to meet the stated minimums in the October 15, 1993, letter.

DATED this 1 day of ~~January~~ Feb, 1999.

NOTARY PUBLIC
SPENCER HEWARD
215 So State St.
Salt Lake City, Utah 84111
My Commission Expires
April 20, 2000
STATE OF UTAH

Jay L. Wood

SUBSCRIBED AND SWORN to before me, a Notary Public, this 1st day of ~~January~~ FEB, 1999.

NOTARY PUBLIC
SPENCER HEWARD
215 So State St.
Salt Lake City, Utah 84111
My Commission Expires
April 20, 2000
STATE OF UTAH

Notary Public

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of January, 1999, I caused to be mailed, via first-class mail, postage prepaid, a copy of the foregoing AFFIDAVIT OF JAY L. WOOD, to:

Stephen G. Morgan, Esq.
Joseph E. Minnock, Esq.
Morgan, Meyer & Rice
136 South Main Street, Suite 800
Salt Lake City, Utah 84101

John E. S. Robson, A4130
Robert A. Garda, A7055
FABIAN & CLENDENIN,
A Professional Corporation
Twelfth Floor
215 South State Street
P.O. Box 510210
Salt Lake City, Utah 84151
Telephone: (801) 531-8900

Attorneys for Plaintiffs

IN THE SECOND DISTRICT COURT, WEBER COUNTY

STATE OF UTAH

JAY L. WOOD, DARRELL K. TANNER, SCOTT A. STOKES and LEO SYPHUS, individuals, Plaintiffs, vs. UTAH FARM BUREAU INSURANCE COMPANY, a Utah corporation, FARM BUREAU LIFE INSURANCE COMPANY, an Iowa corporation and FBL INSURANCE COMPANY, an Iowa corporation, Defendants.	**AFFIDAVIT OF DARRELL K. TANNER** Case No. 970906166CV Judge Michael D. Lyon

STATE OF UTAH)
: ss.
COUNTY OF WEBER)

I, DARRELL K. TANNER, being first duly sworn, upon oath, hereby deposes and states as follows:

1. I make the statements herein based on personal knowledge.

2. The value of my book of business at the time I was terminated from Farm Bureau was $410,600 as reported to me by Farm Bureau.

3. After my termination, I heard John Thigpen state that with the books of business from myself, Scott Stokes and Jay Wood, Farm Bureau could finance eight new agents.

4. I signed my 1994 Career Agent Contract, which was effective January 1, 1994, on February 9, 1994. After signing the 1994 Career Agent Contract, I continued to have weekly meetings with Darrin Ivie. I was given reports indicating whether I was meeting the goals set forth in the letter he gave me dated October 15, 1993.

5. I believed that I could not be terminated from Farm Bureau even after signing the 1994 Career Agent Contract unless I failed to meet the stated minimums in the October 15, 1993, letter.

DATED this 29 day of January, 1999.

Darrell K. Tanner

SUBSCRIBED AND SWORN to before me, a Notary Public, this 29th day of January, 1999.

Cynthia Estes
Notary Public

NOTARY PUBLIC
CYNTHIA ESTES
215 So. State, 12th Floor
Salt Lake City, Utah 84151
My Commission Expires
November 3, 2002
STATE OF UTAH

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of January, 1999, I caused to be mailed, via first-class mail, postage prepaid, a copy of the foregoing AFFIDAVIT OF DARRELL K. TANNER, to:

Stephen G. Morgan, Esq.
Joseph E. Minnock, Esq.
Morgan, Meyer & Rice
136 South Main Street, Suite 800
Salt Lake City, Utah 84101

John E. S. Robson, A4130
Robert A. Garda, A7055
FABIAN & CLENDENIN,
A Professional Corporation
Twelfth Floor
215 South State Street
P.O. Box 510210
Salt Lake City, Utah 84151
Telephone: (801) 531-8900

Attorneys for Plaintiffs

IN THE SECOND DISTRICT COURT, WEBER COUNTY

STATE OF UTAH

JAY L. WOOD, DARRELL K. TANNER, SCOTT A. STOKES and LEO SYPHUS, individuals, Plaintiffs, vs. UTAH FARM BUREAU INSURANCE COMPANY, a Utah corporation, FARM BUREAU LIFE INSURANCE COMPANY, an Iowa corporation and FBL INSURANCE COMPANY, an Iowa corporation, Defendants.	**AFFIDAVIT OF LEO SYPHUS** Case No. 970906166CV Judge Michael D. Lyon

STATE OF UTAH)
: ss.
COUNTY OF WASHINGTON)

I, LEO SYPHUS, being first duly sworn, upon oath, hereby deposes and states as follows:

1. I make the statements herein based on personal knowledge.

2. The value of my book of business at the time I was terminated from Farm Bureau was $680,000 as reported to me by Farm Bureau.

DATED this 27th day of January, 1999.

Leo Syphus

SUBSCRIBED AND SWORN to before me, a Notary Public, this 27th day of January, 1999.

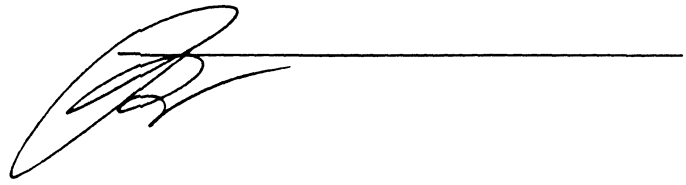
NOTARY PUBLIC
PAT L. STAHELI
40 East St. George Blvd.
St. George, Utah 84770
My Commission Expires
August 31, 2002
STATE OF UTAH

Notary Public

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of January, 1999, I caused to be mailed, via first-class mail, postage prepaid, a copy of the foregoing AFFIDAVIT OF LEO SYPHUS, to:

Stephen G. Morgan, Esq.
Joseph E. Minnock, Esq.
Morgan, Meyer & Rice
136 South Main Street, Suite 800
Salt Lake City, Utah 84101



Tab 15

AGENT Scott Stokes 2-1-94

LIFE * DISABILITY * ANNUITY		MEETING EXPECTATION?	
JAN. EXPECTATION WRITTEN	1,200		
JAN. ACTUAL WRITTEN	-0-	Y	(N)
PROPERTY			
JAN. EXPECTATION WRITTEN	650		
JAN. ACTUAL WRITTEN	1,458	(Y)	N
CASUALTY			
JAN. EXPECTATION WRITTEN	1,450		
JAN. ACTUAL WRITTEN	2,800	(Y)	N

CC: FILE
JOHN THIGPEN, CLU, CHFC

AGENT JAY WOOD 2-1-94

LIFE * DISABILITY * ANNUITY		MEETING EXPECTATION?	
JAN. EXPECTATION WRITTEN	1,200		
JAN. ACTUAL WRITTEN	-0-	Y	(N)
PROPERTY			
JAN. EXPECTATION WRITTEN	650		
JAN. ACTUAL WRITTEN	932	(Y)	N
CASUALTY			
JAN. EXPECTATION WRITTEN	1,450		
JAN. ACTUAL WRITTEN	812	Y	(N)

CC: FILE
JOHN THIGPEN, CLU, CHFC

2-1-94

AGENT DARRELL TANNER

LIFE * DISABILITY * ANNUITY		MEETING EXPECTATION?	
JAN. EXPECTATION WRITTEN	1,200		
JAN. ACTUAL WRITTEN	798	Y	(N)
PROPERTY			
JAN. EXPECTATION WRITTEN	650		
JAN. ACTUAL WRITTEN	217	Y	(N)
CASUALTY			
JAN. EXPECTATION WRITTEN	1,450		
JAN. ACTUAL WRITTEN	3,216	(Y)	N

C: FILE
JOHN THIGPEN, CLU, CHFC

Tab 16

COPY

STEPHEN G. MORGAN, No. 2315
JOSEPH E. MINNOCK, No. 6281
MORGAN, MEYER & RICE
Attorneys for Defendants
Eighth Floor, Kearns Building
136 South Main Street
Salt Lake City, Utah 84101
Telephone: (801) 531-7888

MAY 3 1999

IN THE SECOND JUDICIAL DISTRICT COURT IN AND FOR

WEBER COUNTY, STATE OF UTAH

JAY L. WOOD, DARRELL K. TANNER, SCOTT A. STOKES and LEO SYPHUS, individuals,	:	ORDER
Plaintiffs,	:	
vs.	:	
UTAH FARM BUREAU INSURANCE COMPANY, a Utah Corporation, FARM BUREAU LIFE INSURANCE COMPANY; an Iowa Corporation and FBL INSURANCE COMPANY, an Iowa corporation,	:	Civil No. 970906166CV Honorable Michael D. Lyon
Defendants.	:	

On April 5, 1999, the Court heard additional oral argument on Defendants' motion for summary judgment. After considering the memoranda filed by the parties, and the arguments of counsel, it is hereby ORDERED as follows:

1. With respect to the Plaintiffs' First Cause of Action for Confiscation of the Book of Business, the Court finds that paragraph 5(b) of the Utah Farm Bureau Career Agent Contract entitled "Accounts and Records," and paragraph 6(c) of the Contract regarding Renewal Commissions address all elements of the "Book of Business" that Plaintiffs allege have been confiscated. The Court further finds that the language and intent of these provisions is clear and permits the Defendants to protect the records which are vital to their business. Because the Court concludes that the Plaintiffs had no right or ownership interest in these items, the Court grants Defendants' Motion for Summary Judgment on the First Cause of Action against all Plaintiffs.

2. With respect to the Plaintiffs' Second Cause of Action, for Breach of Contract regarding the termination of the agents, the Court finds that the Career Agent Contracts signed by each agent in 1994 governed the relationship between the parties and that these agreements superseded any prior agreements, understandings, or conditions which may have existed prior to the 1994 contracts.

A. With respect to Plaintiffs Darrell Tanner, Jay Wood, and Scott Stokes, the Court finds that the 1994 Career Agent Contract clearly and unambiguously grants Defendants the right to terminate the agreement at any time, with or without cause.

Therefore, the Court grants Defendants' Motion for Summary Judgment with respect to the Second Cause of Action against Jay Wood, Darrell Tanner, and Scott Stokes.

B. With respect to Leo Syphus, the Court takes under advisement the issue of whether the June 30, 1994, letter modified his 1994 Career Agent Contract, and has invited the parties to submit additional briefing on the issue of whether the September 12, 1994, letter to Mr. Syphus constituted an anticipatory breach by Defendants. Upon receipt of these memoranda, the Court will issue a final ruling with respect to Mr. Syphus.

3. With respect to the Third Cause of Action for Breach of the Implied Covenant of Good Faith and Fair Dealing, Defendants are granted summary judgment against all Plaintiffs for the reasons stated in paragraph one of this Order.

4. With respect to the Fourth Cause of Action for Intentional Interference with Economic Relations, the Court concludes that Defendants are entitled to summary judgment as against all Plaintiffs for any claim of intentional interference based upon a contractual right properly asserted by Defendants as stated above. However, the Plaintiffs will be permitted to present evidence that the allegedly false statements made after Plaintiffs were terminated as to the reasons for the termination actually and proximately caused them damage. After receiving said evidence, the Court will issue a final ruling.

5. With respect to the Fifth Cause of Action for Unjust Enrichment, the Court grants Defendants' Motion for Summary Judgment as against all Plaintiffs on the grounds that the Career Agent Contract governs the relationship between the parties.

6. With respect to the Sixth Cause of Action for alleged punitive damages, the Court will take under advisement the Defendants' Motion for Summary Judgment until the Court has reviewed the evidence contemplated by paragraph four of this Order.

DATED this 29 day of April, 1999.

BY THE COURT:

/s/ MICHAEL D. LYON
HONORABLE MICHAEL LYON
DISTRICT COURT JUDGE

APPROVED AS TO FORM:

Robert A. Garda
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was mailed, postage prepaid, on this 26 day of April, 1999, to the following:

Robert A. Garda
FABIAN & CLENDENIN
Twelfth Floor
215 South State Street
P.O. Box 510210
Salt Lake City, UT 84151

Melanie Morgan

Tab 17

IN THE SECOND JUDICIAL DISTRICT OF WEBER COUNTY

OGDEN DEPARTMENT, STATE OF UTAH

JAY L. WOOD, DARRELL K. TANNER, SCOTT A. STOKES and LEO SYPHUS, individuals, Plaintiffs, vs. UTAH FARM BUREAU INSURANCE COMPANY, a Utah corporation, FARM BUREAU LIFE INSURANCE COMPANY, an Iowa corporation and FBL INSURANCE CORPORATION, an Iowa corporation, Defendants.	RULING Case No. 970906166

Defendants move the court for summary judgment. Oral arguments were held on April 5, 1999. At that time the court granted part of the motion, reserving for additional briefing three issues. The parties have now filed additional memorandum and the remaining issues are now before the court.

The first issue deals with whether defendants modified Plaintiff Syphus' at-will employment by the letter dated June 30, 1994. The letter communicated to plaintiff that if he met certain performance criteria by September 30, 1994, he would not be terminated. Plaintiff argues that this created an implied contract changing the at-will employment contract. Notwithstanding the June 30th letter, Farm Bureau terminated plaintiff's employment in a letter dated September 12, 1994, with termination to be effective September 30, 1994. Plaintiff contends that such action constituted

a breach of the employment contract. Defendants counter that such action on their part was at most an anticipatory breach and that plaintiff must have been able and willing to perform his part of the agreement.

Summary judgment is appropriate when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Rule 56, *Utah Rules of Civil Procedure*. Assuming that the June 30th letter did modify the employment contract and that the September 12th letter constituted an anticipatory breach, plaintiff has not withstood the motion for summary judgment.

An anticipatory breach requires a manifestation of a positive and unequivocal intent not to render performance. *Kasco Servs. Corp. v. Benson*, 831 P.2d 86, 89 (Utah 1992)(citation omitted). It is undisputed that plaintiff did not receive the termination letter until September 27, 1994, three days before the performance deadline. Accordingly, the manifestation did not occur until September 27, 1994.

Next, in order to collect damages for an anticipatory breach, plaintiff must also present admissible evidence that he had the ability to perform his side of the contract. *Petersen v. Intermountain Capital Corp.* 508 P.2d 536 (Utah 1973)(citations omitted). In other words, plaintiff must present some admissible evidence that he had the ability on September 27, 1994, to meet the performance requirements in the next three days. Plaintiff's deposition testimony reveals that he was substantially short of the performance requirements and that he may have obtained more

contacts during the three remaining days to meet part of the performance requirements. Plaintiff fails to provide any admissible evidence, however, that plaintiff had the ability to actually or substantially meet the performance criteria in the next three days. Accordingly, summary judgment is properly granted as to the breach of contract claim.

Furthermore, at worse, defendants may be exposed to damages stemming from the three days between the anticipatory breach and the date the letter agreement required performance. Plaintiff fails to provide any evidence of any damages.

Although not raised by plaintiff and not bearing on this decision, the court thinks it appropriate to point out that defendants, nevertheless, may not have had their argued unlimited authority to terminate plaintiff after September 30, 1994. Contracts (arguably including employment contracts) have an implied covenant of good faith and fair dealing. *See, e.g., Cook v. Zions First Nat'l Bank*, 919 P.2d 56 (Ut. Ct. App. 1996). Assuming again a modification of the employment agreement, defendants would have arguably violated this covenant if plaintiff had met the performance requirements. To threaten termination of an employee through performance requirements and then terminate the employee the day after those requirements are satisfied would raise serious concerns.

The second issue left open from the original hearing concerns any damages related to intentional interference with economic relations based on allegedly false statements made after plaintiffs were terminated. Plaintiffs were given time to present evidence of

any damages. Plaintiffs fail to provide any evidence or any argument of such and summary judgment is properly granted.

The third and final issue concerns the imposition of punitive damages against defendants. Because no cause of action remains as to which general damages may be awarded, summary judgment is also granted as to this issue. Mr. Morgan will prepare, please, an appropriate order.

Dated this 8 day of February, 2000.

Michael D. Lyon, Judge

CERTIFICATE OF MAILING

I hereby certify that on the 8 day of February, 2000, I sent a true and correct copy of the foregoing ruling to counsel as follows:

John E. S. Robson
FABIAN & CLENDENIN
Twelfth Floor
215 South State Street
P.O. Box 510210
Salt Lake City, UT 84151

Stephen G. Morgan
MORGAN, MEYER & RICE
Eighth Floor, Kearns Building
136 South Main Street
Salt Lake City, UT 84101

~~Deputy~~ Court Clerk

Tab 18

STEPHEN G. MORGAN, No. 2315
JOSEPH E. MINNOCK, No. 6281
MORGAN, MEYER & RICE
Attorneys for Defendants
Eighth Floor, Kearns Building
136 South Main Street
Salt Lake City, Utah 84101
Telephone: (801) 531-7888

IN THE SECOND JUDICIAL DISTRICT COURT IN AND FOR

WEBER COUNTY, STATE OF UTAH

JAY L. WOOD, DARRELL K. TANNER, SCOTT A. STOKES and LEO SYPHUS, individuals,	:	ORDER
Plaintiffs,	:	
vs.	:	MAR 2 : 2000
UTAH FARM BUREAU INSURANCE COMPANY, a Utah Corporation, FARM BUREAU LIFE INSURANCE COMPANY; an Iowa Corporation and FBL INSURANCE COMPANY, an Iowa corporation,	:	Civil No. 970906166CV Honorable Michael D. Lyon
Defendants.	:	

After hearing oral arguments on April 5, 1999, the Court took under advisement three issues. After considering the supplemental memoranda filed by the parties, and the arguments of counsel, it is hereby ORDERED as follows:

1. Summary judgment is granted against Leo Syphus and in favor of Defendants on the Second Cause of Action alleging wrongful termination for the reasons stated in the Ruling dated February 8, 2000.

2. Summary judgment is granted against all Plaintiffs and in favor of Defendants on the Fourth Cause of Action alleging Intentional Interference with Economic Relations for the reasons set forth in the Ruling dated February 8, 2000.

3. Summary judgment is granted against all Plaintiffs and in favor of Defendants on the Sixth Cause of Action alleging punitive damages for the reasons set forth in the Ruling dated February 8, 2000.

In conjunction with the original Order on the motion for summary judgment, this Order resolves all claims between the parties and constitutes the final Order of this Court.

DATED this 20 day of February, 2000.

BY THE COURT:

MICHAEL D. LYON

HONORABLE MICHAEL LYON
DISTRICT COURT JUDGE

APPROVED AS TO FORM:

Todd C. Emerson
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was mailed, postage prepaid, on this 10th day of March, 2000, to the following:

Todd C. Emerson
FABIAN & CLENDENIN
Twelfth Floor
215 South State Street
P.O. Box 510210
Salt Lake City, UT 84151

Melanie Mor