The Agent and Authority

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1. The Agent & Authority

1.1 Introduction

By the end of this chapter, you will be able to:

- List the three main responsibilities of the agent
- Distinguish the three types of authority granted to the agent

Now that we've introduced you to the basic concepts of insurance and how it works, we will spend the next several chapters discussing the employment aspects of the insurance business.

By the end of this chapter you will be able to explain the process of becoming a licensed agent. You will also be able to list the three main responsibilities of agents, and distinguish the three types of authority granted to them.

Let's begin with a simple definition of an agent.

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1.2 The Agent: Definition

Agent

One who receives the authority to act on behalf of someone else

- Sales Agent: receives authority to sell
- Insurance Adjuster: receives authority to settle claims brought against the insurer

An agent is someone who has received the authority to act on behalf of someone else. There are different types of agents and different types of authority.

The two basic types of insurance agent are the sales agent and the adjuster.

The sales agent receives the authority to sell and service insurance policies for an insurer. The adjuster is an agent who receives the authority to make decisions regarding different claims brought against the insurer.

1.3 The Agent: Authority

Agents receive authority by written contract.

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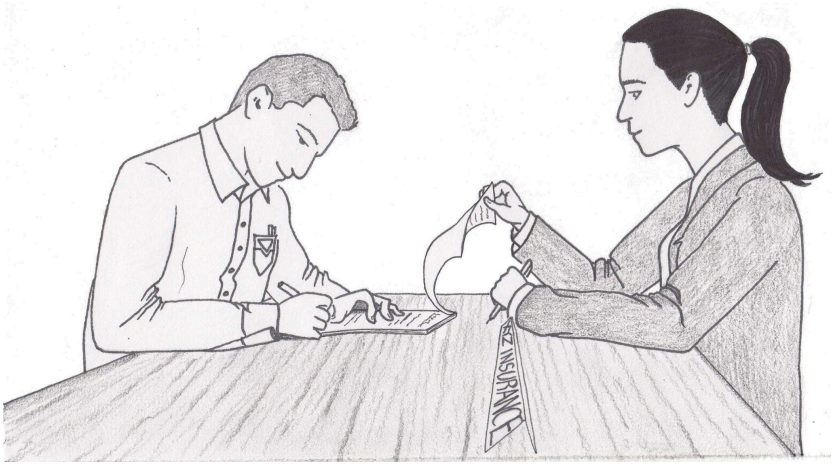
Sales agents: *contracted to sell and service insurance policies on behalf of the insurer*

Adjusters: *contracted to settle claims that arise against the insurer*

Now let's go over how authority is given to the agent.

An insurer gives authority to an agent by way of a contract which spells out the agent's specific duties, guidelines, and responsibilities in conducting business on behalf of an insurer.

Insurance sales agents are contracted to sell and service insurance policies on behalf of insurers.



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Insurance adjusters also act as agents when they are contracted to settle claims on an insurer's behalf. However, adjusters in this position usually don't have as much authority as regular agents.

1.4 The Agent: Power to Bind

An agent's authority can bind.

- What the agent says or does can bind the insurer
- Agents should take the utmost care in what they say and do
- Even if the agent makes mistakes, the insurer may have to accept them

What the agent says or does on behalf of the insurer can bind the insurer.

That means the agent should take the utmost care with his words and actions because the insurer may have to live with the agent's decisions and mistakes.

1.5 The Agent: Responsibilities

Three major responsibilities of contracted agents:

1. Adhere to or follow the contract
2. Use reasonable judgment and care at all times
3. Provide all necessary information and documentation to the insurer

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All contracted agents have three major responsibilities.

First, once the agent signs the contract she must also adhere to, or follow, the contract. She must always do what is in the best interest of the insurer.

Second, the agent must use reasonable care and judgment during all insurance transactions.

And third, she must provide complete documentation and any other necessary information about her clients to the insurer.

1.6 Types of Authority

- Express Authority
- Implied Authority
- Apparent Authority

When an agent is contracted to work for an insurer, he has the authority to conduct business on behalf of that insurer. There are three types of authority granted in agency relationships. These are:

Express Authority, Implied Authority, and Apparent Authority.

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1.7 Types of Agent Authority: Express

Express Authority

Authority that is directly granted to the agent in writing via the agent's contract

Agents usually have express authority to:

- Sell policies
- Collect premiums
- Issue binders
- Offer discounts (such as multi-policy discounts)
- Cancel insurance

Express authority refers to the actions specifically granted in writing within the contract.

An agent might have express authority to write policies on behalf of the insurer, to collect premiums, and to cancel insurance policies.

For example…

Let's say Sarah decides to visit her local XYZ Insurance office. She meets with Jack, who sells her a new automobile insurance policy.

Jack helps Sarah select all the coverages available with her new policy, collects a check from Sarah for her premium payment, and issues Sarah a binder.

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Jack then explains that he can offer her a discount on her homeowners' policy, because XYZ Insurance discounts premiums for consumers who package all their insurance needs with XYZ Insurance.

These are all examples of Jack's express authority. Jack's contract specifically grants, in writing, that he can sell policies, establish premiums within certain limits, and offer discounts for purchasing multiple insurance policies.

1.8 Types of Agent Authority: Implied

Implied Authority

The authority that the public reasonably believes the agent to have, based on the agent's representations

These representations include:

- Portraying oneself as a representative
- Wearing a name tag with company logo
- Handing out company business cards
- Words and actions that go "hand-in-hand" with express authority and are usual in order to perform an agent's duties

Implied authority is a form of indirect authority. It is what the public reasonably believes to be the agent's authority, even though it is not directly written in the contract. Because an agent portrays himself as a

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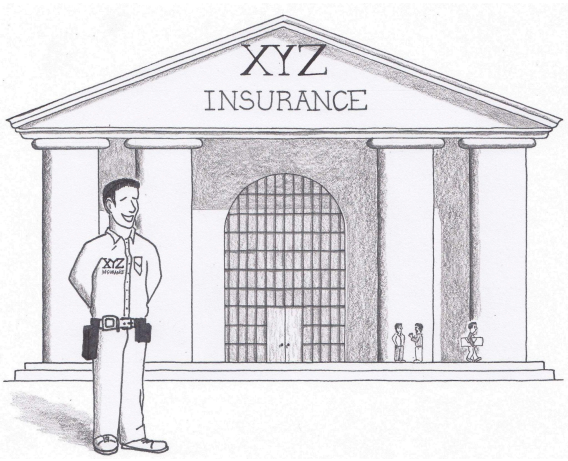
representative of the insurer, anything the agent says or does is implied to be the action of the insurer.



For example…

If you're wearing a name tag bearing the XYZ insurer logo, a member of the public assumes you are acting as a representative of XYZ Insurance. As a contracted agent of XYZ Insurance, your words and actions represent those of XYZ Insurance. When an agent of insurer XYZ says he can write you an insurance contract for $500, any member of the public will believe the agent because he acts as a representative of the company.

The agent has the implied authority to write that contract whether or not he has the express authority to do so, and his actions bind the insurer to his decision.

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1.9 Types of Agent Authority: Apparent

Apparent Authority

Indirect authority that is granted when the insurer does not correct its agent, even though the agent may be acting in error

- Granted when the insurer does not act
- By not correcting the agent, the insurer implies consent

Apparent authority is another form of indirect authority granted by the insurer. Apparent authority is when an agent leads a third party to believe that he has the authority to do something, and the insurer goes along with it. This means that, even if the agent does something he wasn't supposed to do, the insurer will still be accountable for his actions if they don't say or do anything about it. In other words, it is by NOT saying or doing anything that the principal grants apparent authority to an agent.

Let's consider a few examples:

1.10 Example – Agent's Apparent Authority

For example…

- Agent's contract forbids the agent from selling insurance on exotic cars
- Agent sells insurance for exotic car anyway
- Insurer ignores the mistake and cashes the check

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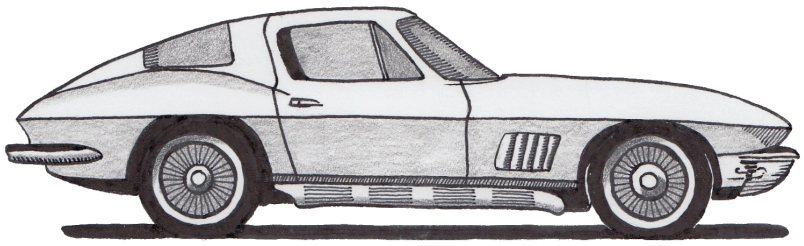
- Apparent Authority is granted

Let’s say an agent writes an insurance policy for automobile coverage on a Ferrari and takes a premium payment from the consumer.



However, in the agent’s contract with the insurer, he was expressly not allowed to write insurance contracts on exotic cars such as a Ferrari.

The insurer temporarily overlooks this fact, and cashes the premium check the client wrote for coverage on his Ferrari.

When the insurer cashes the premium check, it automatically grants apparent authority to the agent. And by cashing the premium check, the insurer has become complicit in the authority of the agent to grant an insurance contract for the Ferrari owner.

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1.11 Example – Adjuster's Apparent Authority

For example…

- Adjuster pays the claimant too much for the loss amount
- Insurer ignores the mistake and issues check
- Apparent authority is granted
- Claimant typically will not be required to pay back

Now, let's look at an example of apparent authority for the adjuster.

If an adjuster issues payment to a claimant for more than the claimant actually lost—such as classifying something of greater value when in reality it was of lesser value—the insurer still issues the check for the consumer.

The adjuster appears to have the authority because the check was issued.

This was a mistake but the insurer typically won't make the consumer pay back the money simply because of an agent's mistake.

1.12 Review: Authority

Three types of authority:

Express Authority

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Given in writing within the agent's contract

Implied Authority

Reasonable for public to believe, not expressly granted in writing

Apparent Authority

Granted when the insurer does not stop the agent from acting in a certain way, even when those actions do not adhere to the authority granted in the contract

Remember, authority is given to agents both directly and indirectly. The three types of Authority are: express authority, implied authority, and apparent authority.

The insurer directly or indirectly gives its agents authority to act on its behalf.

Express authority is specifically granted in writing within the agents contract where the agent receives the authority to act on its behalf.

Implied authority is authority granted to do the usual and proper activities that are reasonable for the public to believe the agent has, even if it is not expressly granted in writing.

Apparent authority refers to when the insurer is bound by the agent's actions and judgment, even when the agent has made a mistake.

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2. Types of Sales Agents

2.1 Types of Sales Agents

The Four Types of Sales Agents:

1. Independent Insurance Sales Agent
2. Exclusive Agent
3. General Agent
4. Direct Writer

Insurers employ four types of sales agents.

They are: the Independent Insurance Sales Agent, the Exclusive Agent, the General Agent, and the Direct Writer.

Each sales agent plays a different role in the company.

2.2 Independent

Independent Insurance Sales Agent:

- Self-employed
- Offer insurance from more than one company at the same time

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- They can compare and give rate quotes from different companies
- Find a policy that best suits the customer

The Independent Sales Agent is self-employed and able to represent and offer insurance products from more than one company at the same time.

She can also compare and contrast rate quotes and policies that best fit each customer.

2.3 Exclusive

Exclusive Agent:

- Also called Captive Agent
- Commissioned
- Represents only one insurer and only their policies

The Exclusive Agent is also called a “Captive Agent.” He is paid on a commissioned basis. He represents one insurer at a time and provides quotes and policies from only that company.

2.4 General

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General Agent:

- Works for one insurance company
- Supervises other exclusive agents
- Trains other agents

The General Agent also works for only one company. He trains and supervises the Exclusive Agents for that company.

2.5 Direct Writer

Direct Writer:

- Salaried Employee
- Works for only one company

The Direct Writer is similar to an Exclusive Agent in that she works for only one company, selling insurance directly to customers.

But unlike Exclusive Agents, who work mainly for commission, Direct Writers are salaried employees.

2.6 Summary of Agents

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Independent Agent	Works for many insurers at once	Sells insurance products from many insurers	Commission
Exclusive Agent/ Captive Agent	Works for one insurer	Mainly sells employer's insurance products	Commission
General Agent	Works for one insurer	Trains agents for employer	Salary
Direct Writer	Works for one insurer	Sells employer's insurance products	Salary

Here is a summary of the four types of sales agent: the Independent Agent, the Exclusive (or Captive) Agent, the General Agent, and the Direct Writer.

Now that you have an idea of the different roles that sales agents can fill, let's go over their typical activities and responsibilities.

2.7 Sales Agent's Activities

Sales Agent's Day to Day Activities:

- Sell insurance policies
- Service policyholders' contracts
- Collect the premiums
- Represent the insurer

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On any given day, the sales agent may perform four important duties. These include: selling insurance policies, servicing policyholders' contracts, collecting premiums, and representing the insurer to the public.

2.8 Review: Agents

Agent

Receives the authority to act on behalf of another

Responsibilities of an Agent

1. Adhere to contract at all times
2. Use reasonable judgment
3. Supply all pertinent information to the insurer

Independent Agent

Self-employed; sells insurance from many insurers

Exclusive Agent (Captive Agent)

Commissioned; offers products from only one insurer

General Agent

Trains and supervises exclusive agents for an insurer

Direct Writer

Salaried employee; works for one company

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Let’s review the different types of insurance agent. Recall that an agent is one who receives the authority to act on behalf of another. Insurance companies employ sales agents and adjusters.

An agent has three major responsibilities. First, he must adhere to his contract at all times. Second, he must utilize reasonable judgment when conducting insurance transactions. And, third, he must supply all pertinent information regarding a potential client or case to the insurer.

There are four kinds of insurance agents. These are: Independent Insurance Sales Agent, Exclusive Agent, General Agent, and Direct Writer.

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