

**MIKE RUSS**  
FINANCIAL TRAINING CENTERS, INC.

**Code Review**

# Understanding Important Terms

- **Insured** – Client (1<sup>st</sup> party)
  - Party who accepts the contract and receives the coverage
- **Insurer** – Insurance company (2<sup>nd</sup> party)
  - Party who makes the contract and provides the coverage
- **Consideration** – “exchanging something of value.” The client gives up “premium” and in exchange get a “contract” which is a “promise to pay” if the client files a claim.
- **Claimant** - A claimant is the person making a claim for payment from an insurance company. For dismemberment claims on an accidental death and dismemberment (AD&D) policy, it may be the insured person who makes the claim. Otherwise, the claimant is usually the beneficiary of a life insurance policy.
- **Contract** – Insurance policy
- **CIC** – Insurance law (written by the State Legislature)
- **CCR** – California Code of Regulations are the Insurance Rules (written by the commissioner, who can change/withdraw regulations)

# Insurance Distribution Systems

- Captive Agency – One company or a family of companies.
- Independent Agency – Is appointed by numerous companies and “shops” from numerous insurance companies.
- Direct Writer - Insurance Companies that advertise directly to the consumer by Radio, Television, and Internet. They don't have licensed agents **they have licensed employees.**

# Understanding Important Terms

- **Agent** – Represents the Insurance company
  - Exclusive (captive) agent – Represents 1 Company
  - Independent agent – can represent more than 1 company
- **Life Agent** Represents the insurer
- **Health Agent** Represents the insurer
- **Life & Health Agent** Represents the insurer
- **Broker – (PC only)** Represents Consumer
- **Insurance Agent (PC Only)** Represents insurer

# License Types

## Property & Casualty

- Agent = has an appointment, represents the company
- Broker = not appointment, represents the client and may charge a “Broker Fee” for shopping the coverage
- Solicitor – “Natural person” which means a human being that works for an Agent or Broker. **Cannot be a corporation!**

## Life & Health

- Life Agent
- Health Agent
- Life & Disability Analyst  
“Charges the client a **fee** for their unbiased opinion/analysis.”

# No Appointment Exception

A licensed life agent may present a proposal for insurance to a prospective policyholder on behalf of a life insurer for which the life agent is not specifically appointed, and may also transmit an application for insurance to that insurer. If a policy of insurance is issued pursuant to that application, the insurer is considered to have authorized the agent to act on its behalf, and the insurer is responsible for all actions of the agent that relate to the application and policy as if the agent had been duly appointed for the insurer. **Not more than 14 days after** the life agent submits an application for insurance to the insurer for which the insurer issues a policy, the insurer shall forward to the commissioner a notice of appointment of the life agent as the insurer's agent in accordance with the requirements of this article.

# Errors & Omissions Insurance

- Professional Liability Insurance for professionals such as Insurance Agents, Bookkeepers, Architects
- All insurance companies require agents to have E&O to get a contract/appointment
- E&O covers “NEGLIGENCE” and that is the main peril covered

# Understanding Important Terms

- **Express Authority** – An authority that's written in the contract **EXPRESS = IN WRITING – SPECIFICALLY GRANTED – AUTHORIZED!**
- **Implied Authority** – An authority you have that's not specifically written in the contract but is reasonable for the public to assume you have. **NOT IN WRITING = COMMON SENSE**
- **Apparent Authority** - Authority of an agent that is created when the agent oversteps actual authority, and when inaction by the insurer does nothing to counter the public impression that such authority exists.

# Structures of Insurance Companies

- Stock Insurance Company
- Mutual Insurance Company
- Reciprocal

# Stock Insurance Company

- **Stock company**

- Company owned by stockholder
- Stockholders receive dividends on their stock
- Dividends are not guaranteed
- Dividends to a stockholder are taxable
- Non-participating members
- No dividends paid to policy holder
- Has Board of Officers & Directors (CEO, CFO)



Market Summary > Allstate Corp

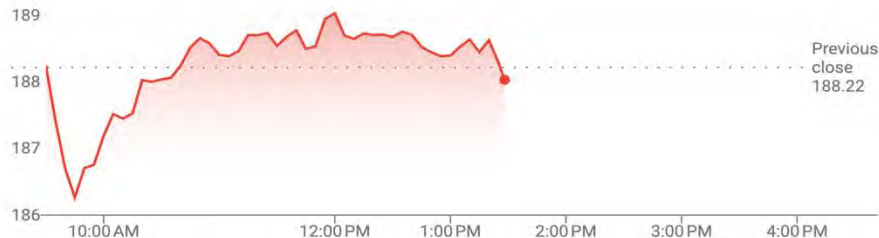
**188.04** USD

-0.18 (0.096%) ↓ today

Sep 30, 1:28 PM EDT • Disclaimer

+ Follow

1D 5D 1M 6M YTD 1Y 5Y Max



Open	189.00	Mkt cap	50.23B	QDP score	B
High	189.13	P/E ratio	17.09	52-wk high	193.97
Low	186.00	Div yield	1.96%		109.01

# Mutual Insurance Company



- **Mutual company**
  - Participating policies
  - Policyholder
  - Dividends not taxable
  - Dividends are not guaranteed



State Farm Insurance is a group of mutual insurance companies throughout the United States with corporate headquarters in Bloomington, Illinois. Founded in 1922, it is the largest property, casualty, and auto insurance provider in the United States. [Wikipedia](#)

# Reciprocal Insurers

- Owned by the company's policyholders (like a mutual company).
- In a reciprocal insurer, each policyholder insures the risk of the other policyholders.
- Reciprocal Insurers are managed by an **attorney in fact**.
  - An attorney in fact is a person who holds a power of attorney and the legal right to transact business and execute documents on behalf of another person. The attorney is an agent of the principal.

# Admitted vs. Non Admitted

**Admitted** – Licensed by the state of California to transact

- Regulated by the State of California
- Subject to the Financial Solvency regulations
  - **Solvency Requirements:** Money to cover liabilities, reinsurance, assets equivalent to paid in capital
  - **Insolvency:** Failure to meet solvency requirements
  - **Notice of Seizure:** Issued by court, gives commissioner right to seize books/assets/records. Failure to comply can result in \$1000 fine and/or imprisonment for up to 1 year
- Member of the **California Guarantee Association**

**Non-Admitted** – Not licensed by the state of California to transact

- Not subject to the financial solvency regulations
- Not member of the California Guarantee Association

# Guarantee Associations

**California Life & Health Insurance Guarantee Association (CLHIGA):** For Life, Health, Annuity Companies (Admitted companies only)

**California Insurance Guarantee Association (CIGA):** For Property & Casualty Companies (Admitted companies only)

**Purpose:** To protect policy holders & insureds when member insurers become insolvent (Subject to certain limitations)


**All admitted insurers must participate**

# Domicile of the Insurer (principal legal residence)

- **Domestic** – Insurer is one incorporated under the laws of California.
- **Foreign** - Insurer is one incorporated under the laws of any state, other than CA (Arizona)
- **Alien** - Insurer is one incorporated under the laws of any country outside the United States (Canada)

# Domicile of the Insurer (principal legal residence)

- **Domestic** – Insurer is one incorporated under the laws of California.

 **Mercury General Corporation**  
Insurance company

[mercuryinsurance.com](https://www.mercuryinsurance.com)

Mercury General Corporation is a multiple-line insurance organization that offers personal automobiles, homeowners, renters, and business insurance. Mercury's primary focus is automobiles and homeowners' insurance.  
[Wikipedia](#)

**Customer service:** 1 (800) 503-3724

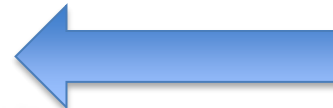
**Stock price:** MCY (NYSE) \$62.38 -0.85 (-1.34%)  
Sep 30, 1:30 PM EDT - Disclaimer

**Founder:** [George Joseph](#)

**Founded:** 1960

**Headquarters:** [Los Angeles, CA](#)

**Owner:** [George Joseph](#) and family (35.3%)



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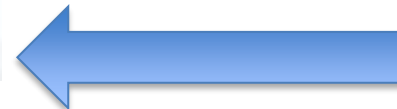
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**Allianz** 



Headquarters in Munich

<b>Company type</b>	Public
<b>Traded as</b>	<a href="#">FWB: ALV</a>  DAX component
<b>Industry</b>	<a href="#">Financial services</a>
<b>Founded</b>	05 February 1890; 134 years ago
<b>Founders</b>	<a href="#">Carl von Thieme</a> <a href="#">Wilhelm von Finck</a>
<b>Headquarters</b>	<a href="#">Munich, Germany</a>



# Reinsurance

- **Reinsurance:** The process where one insurer transfers loss exposures from policies written for its insureds to another insurer.
- **Retention Limit:** The maximum amount of risk retained by an insurer for its insurance policies.
- **Reinsurer:** Insurer that accepts the excess risk and provides additional financial protection.
- **Ceding Company:** Original Insurer that purchases reinsurance.

# Surplus Lines Broker

- **Surplus line broker** - A broker who is licensed to place coverage with non-admitted insurers (insurers not licensed to do business in a given state)
- **Surplus disclosure** – Every non-admitted insurer must obtain signature of the applicant on a disclosure statement at the time an application for a policy is accepted
  - The disclosure statement shall be in **boldface 16-point type** on a freestanding document.
  - Every policy issued by a non-admitted insurer and every certificate evidencing the placement of insurance shall contain, or have affixed to it by the insurer or surplus line broker, the disclosure statement in boldface **16-point type** on the front page of the policy.
  - In the case where the applicant has not received and completed the signed disclosure form, he/she may cancel the insurance so placed.

# Transacting Without a License

- A person cannot conduct any activities of an agent, broker, or solicitor unless he holds a valid insurance license issued by the commissioner.
- Anyone who acts, offers to act, or assumes to act in a capacity for which a license is required, without holding a valid license, is guilty of a **misdemeanor**.

# Transacting includes

- Solicitation
- Negotiation
- Execution
- Transaction of matters subsequent to and arising out of a contract of insurance

**S.N.E.T.**

# Reasons for Denial of License Application

- The applicant is not of good business reputation
- **The applicant has been refused a professional, occupational, or vocational license, or has had such a license suspended or revoked for a reason that should preclude the granting of an insurance license in the last 5 years (Can deny application without hearing).**
- Applicant lacks integrity
- Applicant is not properly qualified to perform

# License Renewal

- **License Term:** Once issued, a license is only valid for 2 years, and must be renewed every 2 years to remain active
- To renew a license, the licensee must submit the renewal application, pay the renewal fees, and complete **24 hours of Continuing Education (Including 3 hours on ethics)**
- The license must be renewed on or before the last day of the period for which the previous licensed was issued
- A renewal application, accompanied by the renewal fee, submitted on or before the license expiration date shall entitle the applicant to continue operating under the existing license for **60** days after its specified expiration date or until notified by the Department of Insurance

# Termination of license

- The licensee may surrender their license by providing written notice to the commissioner of the licensee's desire to surrender the license
- Note: A license automatically terminates upon death of the licensee

## Change of Address (CIC 1729)

- Every licensee and applicant for a license must ***immediately*** notify the commissioner in writing of any change in his residence address, business address or mailing address [\(Includes email address\)](#)

# License Number Disclosure Requirements

- Every Licensee shall prominently print his license number on business cards, written price quotation and printed advertisements for insurance products. **The license number must be printed in the same size type as any telephone number, address, or fax number.**

*(For violation of this code, first offense is a fine of \$200.00, second is \$500.00 and third is \$1,000.00)*

## Internet Advertisement

- When Advertising on the internet you must include the following information:
  - Your name as it appears on your insurance license
  - State of domicile and principal place of business
  - License number
  - Use the word “insurance”

# Free Insurance

- In the state of California free insurance is **not legal**

# Records

- Agents/Brokers must maintain records for all transactions for **5 years**, and have records available if Commissioner requests access
- Records must be stored at the Primary/Principal place of business
- Failure to produce records, or denying access to records is a **misdemeanor** on the first offense (Any additional instances may result in **termination of license**)

# Code Section 770 - Financing

- States that no one engaged in the business of financing real or personal property can make such financing agreement contingent upon the placing of insurance business with a specified agent or broker

# Representation

- A representation is a statement to the best knowledge and belief of the party making the statement (representations also may be considered an implied warranty)

# Misrepresentation

- (a) A person shall not make any statement that is known, or should have been known, to be a misrepresentation (1) to any other person for the **purpose of inducing, or tending to induce, such other person either to take out a policy of insurance, or to refuse to accept a policy issued upon an application therefor and instead take out any policy in another insurer, or (2) to a policyholder in any insurer for the purpose of inducing or tending to induce him or her to lapse, forfeit or surrender his or her insurance therein.**
- (b) A person shall not make any representation or comparison of insurers or policies to an insured which is **misleading**, for the purpose of inducing or tending to induce him or her to lapse, forfeit, change or surrender his or her insurance, whether on a temporary or permanent plan.
- Any person who violates the provisions of Section 780 or 781 is punishable by a fine not exceeding twenty-five thousand dollars **(\$25,000), or in a case in which the loss of the victim exceeds ten thousand dollars (\$10,000), by a fine not exceeding three times the amount of the loss suffered by the victim, by imprisonment in a county jail for a period not to exceed one year, or by both a fine and imprisonment.** Restitution to the victim ordered pursuant to Section 1202.4 of the Penal Code shall be satisfied before any fine imposed by this section is collected.
- Whenever any insurance agent, broker, or solicitor knowingly violates any provisions of Sections 780 or 781, the commissioner, after a hearing in accordance with the procedure provided in Article 13 of Chapter 5 of this part, **may suspend the license of any such person for not exceeding three years.**

# Concealment

- Concealment is defined as the neglect to communicate that which a party knows and ought to communicate.

## Concealment is not:

- **Information the other party already knows**
- **Those which, in the exercise of ordinary care, the ought to know, and of which the party has no reason to suppose him ignorant**
- **Those of which the other party waive communication**
- **Those of which prove or tend to prove the existence of a risk**
- **Those which relate to a risk excepted from insurance, and which are not otherwise material.**

# Twisting

- A person shall not make any representation or comparison of insurers or policies to an insured which is misleading for the purpose of getting the insured to lapse, forfeit, change or surrender their current policy

# Replacement

- If replacement is involved, the agent must obtain two copies of a Notice Regarding Replacement of life insurance signed by both the agent and the applicant. One copy stays with the applicant and second copy goes to the Replacing Insurer

# Recission

- Definitions of recission. (law) the act of rescinding; **the cancellation of a contract and the return of the parties to the positions they would have had if the contract had not been made.**
- Insurers may rescind a contract :
  - An intentional and fraudulent omission, on the part of one insured, to communicate information of matters proving or tending to prove the falsity of a warranty, entitles the insurer to rescind.
  - If a representation is false in a material point, whether affirmative or promissory, the injured party is entitled to rescind the contract from the time the representation becomes false.
  - The violation of a material warranty or other material provision of a policy, on the part of either party thereto, entitles the other to rescind.

# Theft

- If an Agent diverts or appropriates fiduciary funds for his own use is guilty of theft, which is punishable under criminal law

# Fraud

- Submitting fraudulent claims is considered a felony
- Every Insurer is required to have a sub-division to investigate possible fraud from their insured's
- Insurer's Claim form must carry the following statement (Or similar wording)
  - A person who knowingly presents a false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison

# Warranty

- A warranty in an insurance policy is a statement attesting that something the insured person says is true. For example, if you are applying for life insurance, you must make a warranty that you are not terminally ill. If the insurer discovers that one of your warranties is untrue, it generally has the power to void the contract and not honor any claims you make.

# Unfair Trade Practices

- **Unfair** discrimination: It is prohibited to make or allow unfair discrimination between persons of the same class and life expectancy in the rates charged or the terms, conditions, benefits, or dividends of a life insurance policy or an annuity. Differences based on sex are permitted if they can be substantiated by mortality data and other statistical information
- Misrepresentation
- Advertising membership in the State's Guarantee Association (CIGA, CLHIGA)

# Unfair Claims Practices

- Directly advising a claimant not to obtain the services of an attorney
- Misrepresenting to claimants any pertinent facts or policy provisions which relate to coverage at issue
- Failing to acknowledge and act reasonably promptly on communications relative to policy claims
- Failing to affirm or deny coverage within a reasonable time after proof of loss statements have been completed and submitted

# Shine the Light Law

- The California "Shine the Light" law (Cal. Civ. Code § 1798.83) **permits California residents to request annually, at no cost, a list of personal information categories shared by a business with third parties for direct marketing purposes, including the names/addresses of those parties. It applies to businesses with 20+ employees that share data. Key Details:**
  - **What it Covers:** Information shared in the preceding calendar year, covering both online and offline data.
  - **Customer Right:** Residents can request what data was shared and with whom.
  - **Business Response Time:** Businesses must respond within **30 days** of receiving a request.
  - **Exemptions:** Companies with strict, free opt-in/opt-out policies for sharing data are exempt from providing the detailed list. Penalties: Violations can lead to civil suits with damages ranging from \$500 - \$3,000 per violation.

**Insurance:** Written contract that indemnifies one party against loss, damage or liability from a contingent or unknown event (risk)

- Contract must have mutual assent, valid legal purpose, consideration, and competent parties

**Risk:** Uncertainty or chance of loss

- Two Types of Risk
  - **Pure Risk:** chance of loss or no loss (insurable)
  - **Speculative Risk:** chance of loss or gain (not insurable)

# STARR is an acronym for:

Share

Transfer

Avoid

Retain

Reduce



**What is a “Peril”:** A cause of loss

**Hazard:** Anything that increases the chance of loss

- **Physical:** Anything that you can see, hear, touch or smell that increases the chance of a loss
- **Moral:** A condition of morals/habits that increases the chance of a loss (Ex: Lying on an application)
- **Morale:** Condition arising out of one’s carelessness or indifference to a situation

**What is “Insurable Interest”:** Financial interest an individual has in the life of an insured continuing, or in property being insured.

- **For Life Insurance:** must exist at the time of the application and when the insurance takes effect, but not at the time of loss
- **For Property Insurance:** must exist at the time of application, and at the time of loss

# Basic Elements of an Insurance Contract

- **Adhesion:** If there is any ambiguous language in the contract, court would decide a dispute in favor of the insured. The customer is “adhering” to the contract.
- **Unilateral Contract:** Only the insurer is bound by the terms of the contract (premium/consideration is exchanged for a promise of protection) and is the one that needs to perform. The insured already lived up to their obligation when they paid the premium.
- **Utmost Good Faith:** Each party to a contract needs to be able to rely on representations of the other parties (must exist between Applicant, Insurer, and Agent)
- **Aleatory:** There **may** be an unequal exchange of money. The outcome will depend on an uncertain future event (Ex: car accident, death)

**Tort:** A wrongful act other than a crime or breach of contract

**Tort Law:** Used to determine responsibility for damages when a tort has been committed

**Tortfeasor:** person committing the tort

### **3 Basis of Legal Liability Under Tort Law**

- **Absolute Liability** (inherently dangerous)
- **Intentional Tort** (deliberate/intentional act)
- **Negligence** (failure to do what a reasonable/prudent person would do under normal circumstances)