

June 23, 2014

Ms. Tina Paez
City of Houston
Director of Administration & Regulatory Affairs
611 Walker, 13th Floor
Houston, TX 77002

Re: Use of Surplus Lines Insurance Companies

Dear Ms. Paez:

I have been provided a copy of an email from Martyn B. Hill referencing Uber/Lyft Insurance deficiencies. As the insurance broker of record to the City of Houston, I would like to provide you with input as respect insurance issues brought up in this email.

I do not have any personal interest in this issue except for my interest in seeing that the insurance issues are addressed accurately. In item 1 of the email, it indicates that Uber/Lyft rejected insurance models which covered more of their risk due to premium cost. As a broker, we explore a number of insurers in order to find the best fit for our clients based on coverage needs and competitive premium level. I do not have knowledge of the marketing efforts for this coverage but would assume that several options were considered. It should be noted that Underwriters at Lloyds operates as a non-admitted Surplus Lines Insurer in the State of Texas as well.

In paragraph 2 of the email it states that James River was chosen as the insurer so that the policy holder could control the insurer as they desire. In reality, Liability Insurance policies are designed to protect the policy holder from claims of negligence for their operations, in this case in the use of vehicles, which cause bodily injury or property damage and liability assumed under contract. The insurer assumes the responsibility to protect the policy holder including providing legal defense for claims from third parties.

At the bottom of paragraph 4 of the email from Mr. Hill, the last line quoted defines the purpose of using Surplus Lines insurers, "This gives Surplus Lines insurers maximum flexibility to provide a market for unusual, large or hard to place risk." The use of a Surplus Lines insurer is entirely appropriate for Uber/Lyft as their exposures are quite unique and would not fit filed rates or coverage forms for admitted insurers authorized to do business in the State of Texas.

J. Wortham, L.L.C., General Partner
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Houston • Austin • San Antonio • Fort Worth • Dallas


Under Paragraph 5 it implies that “Surplus Lines Companies allow the driver contract to trump and thereby circumvent the rules, regulations and claims handling procedures established by State Insurance Commissions, respectively”. The use of a Surplus Lines insurer allows for customization of coverage based on the driver contract but does not mean it circumvents the rules, the regulations or claims handling procedures established by the State Insurance Commissions. Surplus Lines insurers generally operate much like admitted insurers as respect following statutory rules, regulations and claims procedures. I would like to reiterate that policy holders purchase Liability Policies to protect them from third party liability claims. Regulators require third party liability to see that the regulated company meets financial responsibility in the event that they operate negligently causing bodily injury or property damage to others.

As respects Paragraph 6, I am not familiar with the provisions of the driver contracts for either Uber/Lyft. Under Paragraph 7, it is my understanding that the owner of the vehicle will have the same insurance requirements for the personal use of the vehicle as is currently required of taxis in Houston which is State Mandatory Auto Liability Coverage limits. The Surplus Lines insurer of a third party Liability Insurance Policy has the same obligations as an admitted insurer to protect and defend the insured from claims alleging third party liability.

The additional paragraphs in this email address many specific points in the contract between drivers and both Uber/Lyft. I claim limited knowledge and expertise as respects this contract and therefore cannot address issues such as “when the app is on” or whether the driver is on/off the job. I would have to assume that the insurance broker for these companies would be knowledgeable on these issues when they negotiate the insurance coverage to appropriately handle the exposures. The fact that the insurance policy is being revised several times to more appropriately address this liability coverage is not unexpected. In fact, further coverage improvements can be expected as the interpretation of legal responsibility is established as actual claims take place. Ultimately, if the Uber/Lyft model is successful and more companies duplicate it, it is likely some admitted insurers may file forms with state regulators to insure these types of companies. Until that happens, the use of Surplus Lines insurers will be the appropriate way to arrange customized insurance coverage.

If you have any questions concerning this matter, please give me a call.

Yours very truly,



Roger J. Schuler, Jr.

RJS/cm