

AIPBA

ASSOCIATION OF INDEPENDENT PROPERTY BROKERS & AGENTS

April 10, 2011

Via Facsimile, Email & US Mail

Avelino Gutierrez, Chair
UCR Board of Directors
c/o New Mexico Public Regulation Commission
Transportation Division
P.O. Box 1269
Santa Fe, NM 87504-1269

Re: CEASE AND DESIST LETTER

Dear Mr. Gutierrez:

The Association of Independent Property Brokers & Agents ("AIPBA") is in receipt of your letter dated March 3, 2011, a copy of which is enclosed, along with copies of my original November 3, 2010 letter to the Federal Motor Carrier Safety Administration ("FMCSA") and my November 16, 2010 letter to the Unified Carrier Registration ("UCR") Board.

In response to your letter, we ask the UCR Board & FMCSA to take notice of 49 U.S.C. 14504a(c)(1)(A) of the Unified Carrier Registration Act ("UCR Act"), which states:

*(c) Unreasonable Burden.- For purposes of this section, **it shall be considered an unreasonable burden upon interstate commerce for any State or any political subdivision of a State, or any political authority of two or more States-***
*(1) **to enact, impose, or enforce any requirement or standards with respect to, or levy any fee or charge on, any motor carrier or motor private carrier providing transportation or service subject to jurisdiction under subchapter I of chapter 135 (in this section referred to as an "interstate motor carrier" and an "interstate motor private carrier", respectively) in connection with-***
(A) the registration with the State of the interstate operations of the motor carrier or motor private carrier; (emphasis added).

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Accordingly, please be advised that it is the position of the AIPBA that any and all fees imposed by the state of Indiana under a 'Memorandum of Understanding' with the UCR Board of Directors and any "rule" or "regulation" that is issued by the UCR Board --regardless of whether or not the public has been afforded due process in the form of a public notice and comment period required by the Administrative Procedure Act -- above and beyond the UCR fee schedule duly promulgated and codified at 49 C.F.R. 367.20 & 367.30 in direct conflict with the enabling legislation are unlawful under the UCR Act.

Accordingly, the AIPBA hereby demands that the UCR Board IMMEDIATELY CEASE AND DESIST from collecting said unlawful fees and advise within 10 business days: (1) the UCR Board's agreement to stop collecting and/or enabling the collection of said unlawful fees without legal statutory authority; and (2) the UCR Board's and/or the State of Indiana's agreement and intent to refund any and all fees collected in violation of Federal Law.

In the event the AIPBA does not receive written confirmation from the UCR Board with 10 business days, we reserve the right to immediately seek legal recourse without further notice to protect the rights of property brokers, motor carriers and independent owner-operators.

By copy of this letter to the FMCSA (via facsimile and US Mail), we respectfully advise that we did not receive a response to our enclosed November 3, 2010 Petition for Determination to FMCSA and wish to advise the FMCSA that our mailing address has changed to PO Box 14, Morris Plains, NJ 07950 in the event a response letter was previously sent or it wishes to acknowledge this communication.

The state of Indiana's Department of Revenue is also hereby copied via facsimile and US Mail.

Sincerely,

JAMES P. LAMB
President

cc: The Honorable Anne Ferro, FMCSA Administrator
State of Indiana, Department of Revenue