

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

**AMERICAN INVESTORS LIFE INSURANCE
COMPANY, INC.
Topeka, Kansas**

**AS OF
May 18, 2004**

COMMONWEALTH OF PENNSYLVANIA



**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: July 13, 2004

AMERICAN INVESTORS LIFE INSURANCE COMPANY, INC.

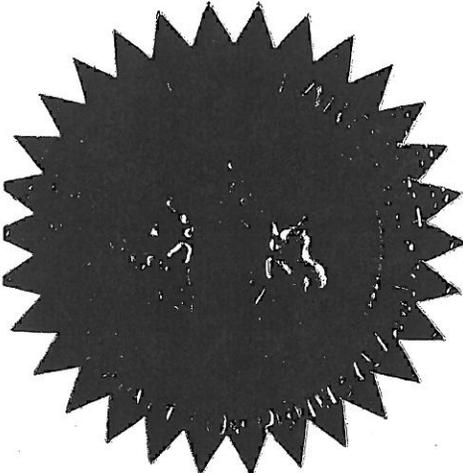
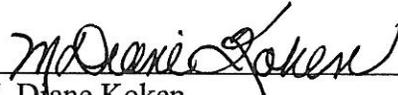
TABLE OF CONTENTS

Order	
I. Introduction	2
II. Scope of Examination	4
III. Company History and Licensing	5
IV. Advertising	6
V. Forms	7
VI. Agent Licensing	9
VII. Consumer Complaints	11
VIII. Underwriting	12
A. Underwriting Guidelines	13
B. Flexible Premium Deferred Annuities Issued	14
C. Single Premium Deferred Annuities Issued	16
D. Single Premium Immediate Annuities Issued	17
E. External Replacement Flexible Premium Deferred Annuities Issued	19
F. External Replacement Single Premium Deferred Annuities Issued	20
G. External Replacement Immediate Annuities Issued	21
H. Internal Replacement Annuities Issued	22
I. Annuity Contracts Not-Taken	22
IX. Internal Audit and Compliance Procedures	23
X. Claims	24
XI. Recommendations	25
XII. Company Response	27

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 29 day of April, 2002, in accordance with Section 905(c) of the Pennsylvania Insurance Department Act, Act of May 17, 1921, P.L. 789, as amended, P.S. § 323.5, I hereby designate Randolph L. Rohrbaugh, Deputy Insurance Commissioner, to consider and review all documents relating to the market conduct examination of any company and person who is the subject of a market conduct examination and to have all powers set forth in said statute including the power to enter an Order based on the review of said documents. This designation of authority shall continue in effect until otherwise terminated by a later Order of the Insurance Commissioner.

M. Diane Koken
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:
: :
AMERICAN INVESTORS LIFE : Section 605 of the Insurance
INSURANCE COMPANY : Department Act, Act of May 17, 1921,
555 South Kansas Avenue : P.L. 789, No. 285 (40 P.S. § 235)
Topeka, Kansas 66603 : :
: Sections 354, 404-A and 406-A of the
: Insurance Company Law, Act of May
: 17, 1921, P.L. 682, No. 284 (40 P.S.
: §§ 477b, 625-4 and 625-6)
: :
: Section 5(a)(1)(i) of the Unfair
: Insurance Practices Act, Act of July 22,
: 1974, P.L. 589, No. 205 (40 P.S.
: § 1171.5)
: :
: Title 31, Pennsylvania Code, Sections
: 51.5, 81.4(a)(1)(2), 81.5(b), 81.6(a)(1),
: 81.6(c) and 146.6
: :
: Title 18, Pennsylvania Consolidated
: Statutes, Section 4117(k)
: :
Respondent. : Docket No. MC04-06-097

CONSENT ORDER

AND NOW, this *13th* day of *July*, 2004, this Order is hereby
issued by the Deputy Insurance Commissioner of the Commonwealth of
Pennsylvania pursuant to the statutes cited above and in disposition of the matter
captioned above.

1. Respondent hereby admits and acknowledges that it has received proper notice of its rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. § 101, et seq., or other applicable law.

2. Respondent hereby waives all rights to a formal administrative hearing in this matter, and agrees that this Consent Order shall have the full force and effect of an order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra. or other applicable law.

FINDINGS OF FACT

3. The Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

- (a) Respondent is American Investors Life Insurance Company, and maintains its address at 555 South Kansas Avenue, Topeka, Kansas 66603.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2002 through December 31, 2002.
- (c) On May 18, 2004, the Insurance Department issued a Market Conduct Examination Report to Respondent.

(d) A response to the Examination Report was provided by Respondent on June 17, 2004.

(e) The Examination Report notes violations of the following:

(i) Section 605 of the Insurance Department Act, No. 285 (40 P.S.

§ 235), which requires that: (1) no agent shall do business on behalf of any entity without written appointment from that entity, (2) all appointments shall be obtained by procedures established by the Insurance Department's regulations, (3) insurance entities authorized by law to transact business in this Commonwealth shall, from time to time as determined by the Department, certify to the Department the names of all agents appointed by them, and (4) each appointment fee, both new and renewal, shall be paid in full by the entity appointing the agent;

(ii) Section 354 of the Insurance Company Law (40 P.S. § 477b), which prohibits issuing, selling, or disposing of any policy, contract or certificate until the forms have been submitted to, and formally approved by, the Insurance Commissioner;

(iii) Section 404-A of the Insurance Company Law, No. 284 (40 P.S. §625-4), which requires when the individual policy or annuity is delivered to the policyholder by the producer by hand, a delivery receipt shall be used. This

receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and producer sign the delivery receipt, and such date shall commence any applicable policy or annuity examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered to the policyholder by a means other than by hand delivery by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence;

- (iv) Section 406-A of the Insurance Company Law, No. 284 (40 P.S. §625-6), prohibits alteration of any written application for a life insurance policy or annuity shall be made by any person other than the applicant without the applicant's written consent;
- (v) Section 5(a)(1)(i) of the Unfair Insurance Practices Act (40 P.S. § 1171.5), prohibits misrepresentation of benefits, advantages, conditions or terms of any insurance policy;
- (vi) Title 31, Pennsylvania Code, Section 51.5, requires a company to file an Annual Statement, with a Certificate of Compliance executed by an

authorized officer of the company wherein it is stated that to the best of his knowledge, information and belief, the advertisements which were disseminated by the company during the preceding statement year complied or were made to comply in all respects with the provisions of the insurance laws and regulations of the Commonwealth;

- (vii) Title 31, Pennsylvania Code, Section 81.4(a)(1)(2), which requires the producer who initiates the application to submit to the insurer to which an application for life insurance or annuity is presented, with or as part of each application, (1) a statement signed by the applicant as part of each application as to whether replacement of existing life insurance or annuity is involved in the transaction, and (2) a signed statement as to whether the producer knows replacement is or may be involved in the transaction;
- (viii) Title 31, Pennsylvania Code, Section 81.5(b), which requires the insurer, as part of a completed application for life insurance or annuity, require a statement signed by the applicant regarding whether the proposed insurance or annuity will replace existing life insurance or annuity;
- (ix) Title 31, Pennsylvania Code, Section 81.6(a)(1), which requires an insurer that uses an agent or broker in a life insurance or annuity sale shall require with or as part of a completed application for life insurance or annuity, a

statement signed by the agent or broker regarding whether the broker knows replacement is or may be involved in the transaction;

- (x) Title 31, Pennsylvania Code, Section 81.6(c), which requires the replacing insurer to maintain evidence of the Notice Regarding Replacement of Life Insurance and Annuities;
- (xi) Title 31, Pennsylvania Code, Section 146.6 states that if an investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected; and
- (xii) Title 18, Pennsylvania Consolidated Statutes, Section 4117(k), which requires all applications for insurance and all claim forms shall contain or have attached thereto the following notice: “Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.”

CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Deputy Insurance Commissioner makes the following Conclusions of Law:

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Violations of Section 605 of the Insurance Department Act (40 P.S. § 235) are punishable by the following, under Section 639 of the Insurance Department Act (40 P.S. § 279):
 - (i) suspension, revocation or refusal to issue the certificate of qualification or license;
 - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act.
 - (iii) issue an order to cease and desist.
 - (iv) impose such other conditions as the department may deem appropriate.

(c) Respondent's violation of Section 354 of The Insurance Company Law is punishable by the following, under Section 354 of The Insurance Company Law (40 P.S. § 477b):

- (i) suspension or revocation of the license(s) of Respondent;
- (ii) refusal, for a period not to exceed one year thereafter, to issue a new license to Respondent;
- (iii) imposition of a fine of not more than one thousand dollars (\$1,000.00) for each act in violation of the Act.

(d) Respondent's violations of Sections 404-A and 406-A of the Insurance Company Law, No. 284 (40 P.S. §§625-4 and 625-6) are punishable by the following, under 40 P.S. § 625-10: Upon determination by hearing that this act has been violated, the commissioner may issue a cease and desist order, suspend, revoke or refuse to renew the license, or impose a civil penalty of not more than \$5,000 per violation.

(e) Respondent's violations of Section 5(a)(1)(i) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171.5) are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. §1171.9):

- (i) cease and desist from engaging in the prohibited activity;
 - (ii) suspension or revocation of the license(s) of Respondent.

- (f) In addition to any penalties imposed by the Commissioner for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 - 1171.5), the Commissioner may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:
 - (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);
 - (ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars (\$1,000.00).

- (g) Respondent's violations of Title 31, Pennsylvania Code, Sections 81.4(a)(1)(2), 81.5, 81.6(a)(1) and 81.6(c) are punishable under Title 31, Pennsylvania Code, Section 81.8(b) and (c), which provide failure to comply, after a hearing, may subject a company to penalties provided in 40 P.S. § 475. Failure to comply shall be considered a separate violation and may not be

considered in lieu of a proceeding against the company for a violation of 40 P.S. §§472, 473 or 474. In addition, failure to make the disclosure may be considered a violation of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 to 1171.15);

- (h) Respondent's violations of Title 31, Pennsylvania Code, Sections 51.5 and 146.6 are punishable under Section 9 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9), as above.

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Deputy Insurance Commissioner orders and Respondent consents to the following:

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.

- (c) Respondent shall comply with all recommendations contained in the attached Report.
- (d) Respondent shall pay Twenty-Five Thousand Dollars (\$25,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.
- (e) Payment of this matter shall be made by check payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Harbert, Administrative Assistant, Bureau of Enforcement, 1311 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

6. In the event the Deputy Insurance Commissioner finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein may pursue any and all legal remedies available, including but not limited to the following: The Deputy Insurance Commissioner may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or the Deputy Insurance Commissioner may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

7. Alternatively, in the event the Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or a duly authorized Deputy Insurance Commissioner is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent

Order is not effective until executed by the Insurance Commissioner or a duly authorized Deputy Insurance Commissioner.

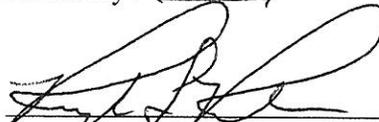
BY: AMERICAN INVESTORS LIFE
INSURANCE COMPANY, Respondent



President / ~~Vice President~~



Secretary / ~~Treasurer~~



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The Market Conduct Examination was conducted on American Investors Life Insurance Company, Inc., hereinafter referred to as “Company,” at their Administrative Office located at 555 South Kansas Avenue, Topeka, Kansas, from March 5, 2003, through May 9, 2003. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

Pennsylvania Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. A violation is any instance of Company activity that does not comply with an insurance statute or regulation. Violations contained in this Report may result in the imposition of penalties. Generally, practices, procedures, or files that were reviewed by the Department examiners during the course of an examination many not be referred to in the Report if no improprieties were noted. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was identified. This enables Company management to review these areas of concern in order to determine potential impact upon Company operations or future compliance issues.

Throughout the course of the examination, Company officials were provided status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company officials to discuss the various types of violations identified during the examination and review written summaries provided on the violations found.

The courtesy and cooperation extended by the Officers and Employees of the Company during the course of the examination is hereby acknowledged.

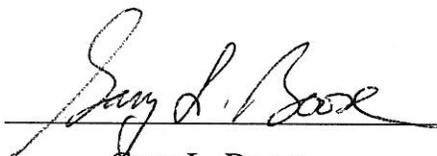
The undersigned participated in this Examination and in the preparation of this Report.



Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief



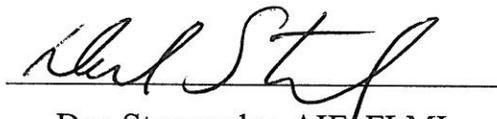
Lonnie L. Suggs
Market Conduct Examiner



Gary L. Boose
Market Conduct Examiner



Gerald O'Hara
Market Conduct Examiner



Dan Stemcosky, AIE, FLMI
Market Conduct Division Chief

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted pursuant to the authority granted by Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of January 1, 2002, through December 31, 2002, unless otherwise noted. The purpose of the examination was to determine the Company's compliance with Pennsylvania Insurance Laws and Regulations.

The examination focused on the Company's operation in areas such as: Advertising, Forms, Agent Licensing, Consumer Complaints, Underwriting Practices and Procedures, and Claim Handling Practices and Procedures.

The Company was requested to identify the universe of files for each area of review during the experience period identified. Based on the universe sizes identified, a random sampling was utilized to select the files to be reviewed for this examination.

During the course of the examination, for control purposes, some of the review segments identified in this Report may have been broken down into various sub-categories by line of insurance or Company administration. These specific sub-categories, if not reflected individually in the Report, would be included and grouped within the respective general categories of the Examination Report.

III. COMPANY HISTORY AND LICENSING

American Investors Life Insurance Company, Inc. was incorporated in the State of Kansas on March 16, 1965. The Company received its certificate of authority to write business in the Commonwealth of Pennsylvania on September 7, 1984. The Company is authorized to do business in 49 states and the District of Columbia.

American Investors Life Insurance Company, Inc. is a wholly-owned subsidiary of AmVestors Financial Corporation. In 1997, AmerUs Life Holdings, Inc., located in Des Moines, Iowa, purchased AmVestors Financial Corporation.

American Investors Life Insurance Company, Inc. primary focus is on single premium deferred annuities (SPDA). With 4,800 independent agents licensed in 49 states and the District of Columbia, American Investors Life is ranked in the top 15 of companies based on SPDA premiums received and has over 100,000 policies currently in force. Annuity sales have risen on average 13% per year since 1995 when the company wrote \$357 million in premiums. In 1999 sales reached \$784 million.

As of their December, 2002, annual statement for Pennsylvania, the Company reported direct premium for annuities in the amount of \$108,292,614.

IV. ADVERTISING

Title 31, Pennsylvania Code, Section 51.2(c) provides that “Any advertisements, whether or not actually filed or required to be filed with the Department under the provisions of these Regulations, may be reviewed at any time at the discretion of the Department.” The Department, in exercising its discretionary authority, requested the Company to provide copies of all advertising materials used for solicitation and sales during the experience period.

The Company identified and produced a total of 11 brochures utilized during the experience period. The material consisted of enrollment brochures for Individual Annuity Products. All advertising including the Company’s website at www.americaninvestors.com was reviewed to ascertain compliance with Act 205, Section 5 (40 P.S. §1171.5), Unfair Methods of Competition and Unfair or Deceptive Acts or Practices and Title 31, Pennsylvania Code, Chapter 51 and Chapter 89. The following violation was noted:

1 Violation – Title 31, Pennsylvania Code, Section 51.5

A company required to file an annual statement which is now or which hereafter becomes subject to this chapter shall file with the Department with its Annual Statement a Certificate of Compliance executed by an authorized officer of the company wherein it is stated that to the best of his knowledge, information and belief the advertisements which were disseminated by the company during the preceding statement year complied or were made to comply in all respects with the provisions of the insurance laws and regulations of this Commonwealth. The required Certification of Compliance was not reported in the Company’s 2002 annual statement.

V. FORMS

Throughout the course of the examination, all underwriting files were reviewed to identify the annuity contracts, riders, endorsements and applications used in order to determine compliance with requirements of Insurance Company Law, Chapter 2, Section 354 (40 P.S. §477b). Applications and claim forms were also reviewed to determine compliance with Title 18, Pa. C.S., Section 4117(k). The following violations were noted:

1 Violation - Insurance Company Law, Section 354 (40 P.S. §477b)

It shall be unlawful for any insurance company, doing business in Commonwealth of Pennsylvania, to issue, sell, or dispose of any policy, contract, or certificate, covering life insurance, or use applications, riders, or endorsements in connection therewith, until the forms have been submitted to, and formally approved by, the Insurance Commissioner. An unapproved individual annuity application form (APP3 P10-(2/96) NJ-2) was utilized in the file noted.

6 Violations - Title 18, Pa. C. S., Section 4117(k)

All applications for insurance and all claim forms shall contain or have attached thereto the following notice:

“Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance ace, which is a crime and subjects such person to criminal and civil penalties.”

The following application forms did not contain the required fraud statement.

The application form description and frequency of use is listed in the table below.

Form Description	Number	Comments
Application Form APP3 P10 (2/96) NJ-2	1	Incorrect Fraud Statement
Application Form NA (9/96) APP	2	No Fraud Statement
Application Form APP3 P10 (2/96)	2	No Fraud Statement
Application Form SPIA (5/00) APP	1	No Fraud Statement

VI. AGENT LICENSING

The Company was requested to provide a list of all agents active and terminated during the experience period. Section 606 (40 P.S. §236) of the Insurance Department Act requires all entities to report all appointments and terminations to the Insurance Department. Section 605 (40 P.S. §235) of the Insurance Department Act prohibits agents from doing business on behalf of any entity without a written appointment from that entity. Section 623 (40 P.S. §253) of the Insurance Department Act prohibits a company from accepting insurance applications or securing any insurance business through anyone acting without a license. The Company provided a list of 576 active and terminated agents during the experience period. Agents identified in the underwriting files during the examination were compared to the Company's list of agents and Insurance Department licensing records to verify compliance with Section 605, Section 606 and Section 623 of the Insurance Department Act. The following violations were noted:

9 Violations – Insurance Department Act, Section 605(c)(d), (40 P.S. §235)

- (a) No agent shall do business on behalf of any entity without a written appointment from that entity.
- (b) All appointments shall be obtained by procedures established by the Insurance Department's regulations.
- (c) Insurance entities authorized to do business in this Commonwealth shall, from time to time as determined by the Insurance Department, certify to the Insurance Department the names of all agents appointed by them.
- (d) Each appointment fee, both new and renewal, shall be paid in full by the entity appointing the agent.

The Company failed to certify and submit appointment fees to the Insurance Department for the following 9 agents listed on applications reviewed in the underwriting sections of the exam.

AGENTS NAME
STRZYKALSKI
WESSELT, RICHARD
SMALL, JOANN
MARKS, JOEL
DELGRECO, PAUL
THORNE, RICHARD
JARAIEDI, JAVID
WIGHT, JOHN
WADDING THOMAS E

VII. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for 1998, 1999, 2000, and 2001. The Company identified 14 written consumer complaints received during the experience period and provided complaint logs for 1998, 1999, 2000, and 2001. All 14 complaint files were requested, received and reviewed. The Department's list of written consumer complaints that were forwarded to the Company during the experience period was compared to the Company's complaint log. The complaint files and the 4 years of complaint logs were reviewed for compliance with the Unfair Insurance Practices Act, No 205 (40 P.S. §1171). Section 5 (a)(11) of the Act requires maintenance of a complete record of all complaints received during the preceding four (4) years. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaint and the time it took to process each complaint. Written complaint files involving claims were also reviewed for compliance with Title 31, Pennsylvania Code, Section 146.5(b) and 146.5(c), Unfair Claims Settlement Practices. The following violation was noted:

1 Violation - Unfair Insurance Practices Act, No. 205, Section 5 (40 P.S. §1171.5)

Unfair methods of competition and "unfair or deceptive acts or practices" in the business of insurance defined:

(1) Making, publishing, issuing or circulating any estimate, illustration, circular, statement, sales presentation, omission comparison which:

(i) Misrepresents the benefits, advantages, conditions or terms of any insurance policy. In the complaint file noted, the agent was found in violation for misrepresenting the terms and benefits of annuity policies.

VIII. UNDERWRITING

The Underwriting review was sorted and conducted in 9 general segments.

- A. Underwriting Guidelines
- B. Flexible Premium Deferred Annuities Issued
- C. Single Premium Deferred Annuities Issued
- D. Single Premium Immediate Annuities Issued
- E. External Replacement Flexible Premium Deferred Annuities
- F. External Replacement Single Premium Deferred Annuities
- G. External Replacement Immediate Annuities
- H. Internal Replacement Annuities
- I. Annuities Not-Taken

Each segment was reviewed for compliance with underwriting practices and verification of premium rates, forms identification and agent identification. Issues relating to forms and agent licensing appear in those respective sections of the Report and are not duplicated in the Underwriting portion of the Report.

A. Underwriting Guidelines

The Company was requested to provide copies of all established written underwriting guidelines in use during the experience period. The Company provided a booklet identified as "Procedures and Guidelines" and a single page data sheet of guidelines and procedures for agent solicitation and compliance by States. Underwriting guidelines were reviewed to ensure guidelines were in place and being followed in a uniform and consistent manner and no underwriting practices or procedures were in place which could possibly be considered discriminatory in nature, or specifically prohibited by statute or regulation. No violations were noted, however, the Department did list the following Concern.

CONCERN: The Department is concerned with the solicitation and placement of certain annuity products, whereby the agent and the Company may be misrepresenting the benefits, advantages, or conditions of the purchase of certain annuity products being marketed to senior citizens. Annuitants are being solicited certain annuity products outside the Company recommended age guidelines.

B. Flexible Premium Deferred Annuities Issued

The Company identified 1,712 flexible premium deferred annuities (FPDA) issued during the experience period. A random sample of 200 policy files was requested, received, and reviewed. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations.

The following violations were noted:

1 Violation - Title 31, Pennsylvania Code, Section 81.5 (b)

The insurer shall require as part of a completed application for life insurance or annuity a statement signed by the applicant as to whether the proposed insurance or annuity will replace existing life insurance or annuity. The insured's replacement question was not completed in the application noted.

3 Violations - Title 31, Pennsylvania Code, Section 81.6 (a)(1)

An insurer that uses an agent or broker in a life insurance or annuity sale shall: Require with or as part of a completed application for life insurance or annuity a statement signed by the agent or broker as to whether the broker knows replacement is or may be involved in the transaction. The agent's replacement question was not completed in the 3 applications noted.

1 Violation - Title 31, Pennsylvania Code, Section 81.6(c)

The replacing insurer shall maintain evidence of the Notice Regarding Replacement of Life Insurance and Annuities.

The file noted did not contain a copy of the required replacement notice.

138 Violations – Insurance Company Law, Section 404-A (40 P.S. §625-4)

When the individual policy or annuity is delivered to the policyholder by the producer by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and producer sign the delivery receipt, and such date shall commence any applicable policy or annuity examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence. The 138 files noted did not contain a signed policy delivery receipt by the insured and agent.

3 Violations - Insurance Company Law, Section 406-A (40 P.S. §625-6)

No alteration of any written application for a life insurance policy or annuity shall be made by any person other than the applicant without the applicant's written permission. The applications in the 3 files noted contained alterations that were not initialed by the applicant.

C. Single Premium Deferred Annuities Issued

The Company identified a universe of 124 single premium deferred annuities (SPDA) issued during the experience period. All 124 files were requested, received, and reviewed. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

1 Violation - Title 31, Pennsylvania Code, Section 81.6 (a)(1)

An insurer that uses an agent or broker in a life insurance or annuity sale shall: Require with or as part of a completed application for life insurance or annuity a statement signed by the agent or broker as to whether the broker knows replacement is or may be involved in the transaction. The agent's replacement question was not completed in the application noted.

2 Violations - Title 31, Pennsylvania Code, Section 81.6(c)

The replacing insurer shall maintain evidence of the Notice Regarding Replacement of Life Insurance and Annuities.

The 2 files noted did not contain a copy of the required replacement notice.

47 Violations – Insurance Company Law, Section 404-A (40 P.S. §625-4)

When the individual policy or annuity is delivered to the policyholder by the producer by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and producer sign the delivery receipt, and such date shall commence any applicable policy or annuity examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered by the

producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence.

The 47 files noted did not contain a policy delivery receipt signed by both the insured and agent.

16 Violations - Insurance Company Law, Section 406-A (40 P.S. §625-6)

No alteration of any written application for a life insurance policy or annuity shall be made by any person other than the applicant without the applicant's written permission. The applications in the 16 files noted contained alterations that were not initialed by the applicant.

D. Single Premium Immediate Annuities Issued

The Company identified a universe of 23 single premium immediate annuities (SPIA) issued during the experience period. All 23 files were requested, received, and reviewed. Review was conducted to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

1 Violation - Title 31, Pennsylvania Code, Section 81.5(b)

The insurer shall require as part of a completed application for life insurance or annuity a statement signed by the applicant as to whether the proposed insurance or annuity will replace existing life insurance or annuity. The insured's replacement question was not completed in the application noted.

2 Violations - Title 31, Pennsylvania Code, Section 81.6(a)(1)

An insurer that uses an agent or broker in a life insurance or annuity sale shall: Require with or as part of a completed application for life insurance or annuity a statement signed by the agent or broker as to whether the broker knows replacement is or may be involved in the transaction. The agent's replacement question was not completed in the 2 applications noted.

2 Violations - Title 31, Pennsylvania Code, Section 81.6(c)

The replacing insurer shall maintain evidence of the Notice Regarding Replacement of Life Insurance and Annuities.

The 2 files noted did not contain a copy of the required replacement notice.

15 Violations – Insurance Company Law, Section 404-A (40 P.S. §625-4)

When the individual policy or annuity is delivered to the policyholder by the producer by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and producer sign the delivery receipt, and such date shall commence any applicable policy or annuity examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence. The 15 files noted did not contain a policy delivery receipt signed by both the insured and agent.

E. External Replacement Flexible Premium Deferred Annuities Issued

The Company identified a universe of 435 external replacement annuities (FPDA) issued during the experience period. A random sample of 75 external replacement files was requested, received and reviewed. The files were reviewed to determine compliance to issuance, underwriting, replacement statutes and regulations. The following violations were noted:

1 Violation - Title 31, Pennsylvania Code, Section 81.4(a)

The agent or broker who initiates the application shall submit to the insurer to which an application for life insurance or annuity is presented, with or as part of each application:

- (1) A statement signed by the applicant as part of each application as to whether replacement of existing life insurance or annuity is involved in the transaction.
- (2) A signed statement as to whether the agent or broker knows replacement is or may be involved in the transaction. The application noted was missing the agent's signature on the replacement statement.

1 Violation - Title 31, Pennsylvania Code, Section 81.6(a)(1)

An insurer that uses an agent or broker in a life insurance or annuity sale shall: Require with or as part of a completed application for life insurance or annuity a statement signed by the agent or broker as to whether the broker knows replacement is or may be involved in the transaction. The agent's replacement question was not completed in the application noted.

1 Violation - Title 31, Pennsylvania Code, Section 81.6(c)

The replacing insurer shall maintain evidence of the Notice Regarding Replacement of Life Insurance and Annuities.

The file noted did not contain a copy of the required replacement notice.

53 Violations - Insurance Company Law, Section 404-A (40 P.S. §625-4)

When the individual policy or annuity is delivered to the policyholder by the producer by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and producer sign the delivery receipt, and such date shall commence any applicable policy or annuity examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence. A certificate of mailing is adequate proof of mailing. The delivery receipt was not signed by the agent in 52 of the 53 noted files and the delivery receipt was not dated in the other file.

F. External Replacement Single Premium Deferred Annuities Issued

The Company identified a universe of 36 external replacement single premium deferred annuities (SPDA) issued during the experience period. All 36 files were requested received and reviewed. The files were reviewed to determine compliance to issuance, underwriting, replacement statutes and regulations. The following violations were noted:

20 Violations – Insurance Company Law, Section 404-A (40 P.S. §625-4)

When the individual policy or annuity is delivered to the policyholder by the producer by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and

producer sign the delivery receipt, and such date shall commence any applicable policy or annuity examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence. The 20 files noted did not contain a policy delivery receipt signed by both the insured and the agent.

G. External Replacement Immediate Annuities Issued

The Company identified a universe of 5 external replacement immediate annuities (SPIA) issued during the experience period. All 5 files were requested, received and reviewed. The files were reviewed to determine compliance to issuance, underwriting, replacement statutes and regulations. The following violations were noted:

2 Violations – Insurance Company Law, Section 406-A (40 P.S. §625-6)

No alteration of any written application for a life insurance policy or annuity shall be made by any person other than the applicant without the applicant's written consent. The applications in the 2 files noted contained alterations that were not initialed by the applicant.

H. Internal Replacement Annuities Issued

The Company was requested to provide a list of all internal replacement annuities issued during the experience period. An internal replacement annuity is defined as an annuity contract that replaces an existing annuity contract in-force with the same company. The Company identified a universe of 5 internal replacement annuities issued during the experience period. All 5 policy files were requested, received and reviewed to determine compliance to issuance underwriting, and replacement statutes and regulations. No violations were noted.

I. Annuity Contracts Not-Taken

The Company identified a universe of 74 annuities not taken during the experience period. All 74 files were requested, received and reviewed. A not-taken annuity is a contract that was issued by the Company, but the annuitant decides to decline the contract. Annuity not-taken files were reviewed to ensure compliance with the free look provisions of the contract. No violations were noted.

IX. INTERNAL AUDIT AND COMPLIANCE PROCEDURES

The Company was requested to provide copies of their internal audit and compliance procedures. The audits and procedures were reviewed to ensure compliance with Insurance Company Law, Section 405-A (40 P.S. §625-5). Section 405-A provides for the establishment and maintenance of internal audit and compliance procedures, which provides for the evaluation of compliance with all statutes and regulations dealing with sales methods, advertising, and filing and approval requirements for life insurance and annuities. The procedures shall also provide for the following:

- (1) Periodic reviews of consumer complaints in order to determine patterns of improper practices.
- (2) Regular reporting to senior officers and the board of directors or an appropriate committee thereof with respect to any significant findings.
- (3) The establishment of lines of communication, control and responsibility over the dissemination of advertising and promotional materials, including illustrations and illustration explanations, with the requirement that such materials shall not be used without the approval by company employees whose compensation, other than generally applicable company bonus or incentive plans, is not directly linked to marketing or sales.

No violations were noted, however, the Department noted the following Concern.

CONCERN: In review of the minutes from the board of directors meeting, the Company did not address all the requirements of Section 405A, Insurance Company Law, (40 P.S. §625-5). To ensure full compliance, Management should review all compliance procedures and standards.

X. CLAIMS

The claims review consisted of a review of the Company's claim manuals and a review of the claim files. The Company was requested to provide copies of all procedural guidelines including all manuals, memorandums, directives and any correspondence or instructions used for processing claims during the experience period. The Company provided Exhibit 258, Death Claim Procedures, dated 04/12/2002. The procedures were reviewed for any inconsistencies, which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature. No violations were noted.

As part of the claim file review, the company was requested to provide a list of all claims received during the experience period. The Company identified a universe of 179 individual annuity claims received. A random sample of 100 claims was requested, received and reviewed. The claims were reviewed to determine compliance with Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices. The following violations were noted:

2 Violations - Title 31, Pennsylvania Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company failed to provide status letters in the 2 claims noted.

XI. RECOMMENDATIONS

The recommendations made below identify corrective measures the Department finds necessary as a result of the number of some violations, or the nature and severity of other violations, noted in the Report.

1. The Company must review and revise Licensing procedures to ensure compliance with Insurance Department Act, Section 605 (40 P.S. §235).
2. The Company must implement procedures to ensure compliance with the requirements of Title 18, Pa. C. S., §4117(k) whereby all applications for insurance and all claim forms shall contain or have attached thereto a required fraud notice.
3. The Company must review and revise internal control procedures to ensure agents are not misrepresenting terms or benefits of contracts and are in compliance with Unfair Insurance Practices Act, No. 205 (40 P.S. §1171.5)
4. The Company must review and revise internal control procedures to ensure compliance with requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices.
5. The Company must review and revise internal control procedures to ensure compliance with application filing requirements of Insurance Company Law, Section 354 (40 P.S. §477b).
6. The Company must implement procedures to ensure compliance with the policy delivery receipt requirements of Insurance Company Law, Section 404-A (40 P.S. §625-4).

7. The Company must review internal control procedures to ensure compliance with application alteration requirements of Insurance Company Law, Section 406-A (40 P.S. §625-6).
8. The Company must review and revise internal control procedures to ensure compliance with the requirements of Title 31, Pennsylvania Code, Section 81, regarding replacement.
9. The Company must implement procedures to ensure advertising certification requirements of Title 31, Pennsylvania Code, Chapter 51.

XII. COMPANY RESPONSE

AmerUs Annuity Group Co.
555 South Kansas Ave
Topeka, KS 66603
1-800-ANNUITY

June 17, 2004

AMERUS
Annuity Group

Mr. Daniel A. Stemcosky, AIE, FLMI
Market Conduct Division Chief
Pennsylvania Insurance Department
Bureau of Enforcement
1321 Strawberry Square
Harrisburg, PA 17120

RE: Market Conduct Examination
Examination Warrant Number: 02-M11-298

Dear Mr. Stemcosky:

We are in receipt of the Department's final report on the Market Conduct Examination of our Company. In this regard, we wish to inform you that the Company accepts such report as the final report for the above referenced Examination.

The Company agrees to review and revise, if necessary, any and all internal procedures associated with the provisions cited in the Department's Recommendations, as contained in the final report, to ensure compliance therewith.

Please contact me if you have any questions by phone at 800.255.2405, extension 332 or e-mail me at randym@amerusannuity.com.

Sincerely,



Randy Matzke, FLMI
Vice President, Compliance
American Investors Life Insurance Company
Topeka, KS 66603

PA Market Conduct Exam 2003_Response to final report

cc: Mike Miller
Executive Vice President and General Counsel

Keith Hawkins
Vice President and Assistant General Counsel

AMERICAN INVESTORS LIFE
An AMERUS Company

1-888-ANNUITY
(CUSTOMER SERVICE)

AMERUS
Life

1-888-252-5530
(CUSTOMER SERVICE)

FINANCIAL BENEFIT LIFE
An AMERUS Company

1-888-ANNUITY
(CUSTOMER SERVICE)