

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

**AMERICAN UNITED LIFE INSURANCE
COMPANY**

Indianapolis, Indiana

**AS OF
September 9, 2005**

COMMONWEALTH OF PENNSYLVANIA



**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: October 31, 2005

AMERICAN UNITED LIFE INSURANCE COMPANY

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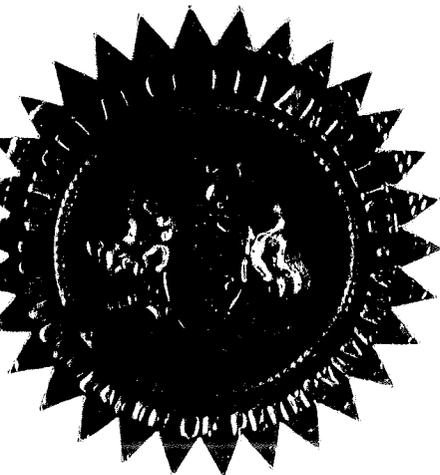
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

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
M. Diane Koken
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
AMERICAN UNITED LIFE	:	Section 903(a) of the Insurance
INSURANCE COMPANY	:	Department Act, Act of May 17, 1921,
One American Square	:	P.L. 789, No. 285 (40 P.S. § 323.3)
P.O. Box 368	:	
Indianapolis, IN 46206-0368	:	Section 671-A of Act 147 of 2002
	:	(40 P.S. § 310.71)
	:	
	:	Sections 354, 404-A, 408-A(e)(1)(i),
	:	408-A(e)(2)(i), 408-A(e)(3)(i) and (ii),
	:	409-A, 410-D(a)(2), 410-D(a)(3),
	:	410-D(b)(2), 410-E(a)(2), 410-E(a)(3)
	:	and 411B of the Insurance Company
	:	Law, Act of May 17, 1921, P.L. 682,
	:	No. 284 (40 P.S. §§ 477b, 625-4,
	:	625-8, 625-9, 510 and 511)
	:	
	:	Title 31, Pennsylvania Code, Sections
	:	51.4(a)(b)(c)(d), 51.5, 81.4(b)(1),
	:	81.6(a)(1), 81.6(a)(2)(ii), 81.6(c),
	:	83.3, 83.4a, 83.4b, 89b.11(b),
	:	89b.11(f)(3), 146.3, 146.5, 146.6,
	:	146.7
	:	
	:	Title 18, Pennsylvania Consolidated
	:	Statutes, Section 4117(k)
	:	
Respondent.	:	Docket No. MC05-10-016

CONSENT ORDER

AND NOW, this *31ST* day of *OCTOBER*, 2005, 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 United Life Insurance Company, and maintains its address at One American Square, Post Office Box 368, Indianapolis, Indiana 46206-0368.

(b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2004 to December 31, 2004.

- (c) On September 9, 2005, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on October 7, 2005.
- (e) The Examination Report notes violations of the following:
 - (i) Section 903(a) of the Insurance Department Act, No. 285 (40 P.S. § 323.3), which requires every company or person subject to examination must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the Department may require, in order that its representatives may ascertain whether the company has complied with the laws of the Commonwealth;
 - (ii) Section 671-A of Act 147 of 2002 (40 P.S. § 310.71), which prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act;
 - (iii) 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;

- (iv) 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 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;
- (v) Section 408-A(e)(1)(i) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which requires if the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this section, shall be submitted to the insurer no later than the time the policy application is sent to the insurer.

A copy shall also be provided to the applicant no later than the time the application is signed by the application;

- (vi) Section 408-A(e)(2)(i) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which applies if no illustration is used by a producer in the sale of a life insurance policy. If the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this section, shall be submitted to the insurer no later than the time the policy application is sent to the insurer. A copy shall also be provided to the applicant no later than the time the application is signed by the applicant;

- (vii) Section 408-A(e)(3)(i) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which requires a producer to certify in writing on a form provided by the insurer that the policy applied for is other than as illustrated. On the same form, the applicant shall acknowledge that the policy applied for is other than as illustrated and shall further acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. This form shall be submitted to the insurer as soon as practical after the application is signed by the applicant;

- (viii) Section 408-A(e)(3)(ii) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which requires a producer to certify in writing on a form provided by the insurer that the policy applied for is other than as illustrated. If the

policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed by the policy owner no later than the time the policy is delivered. A copy shall be provided to the policy owner no later than the time the policy is delivered and to the insured as soon as practical after the policy is delivered;

(ix) Section 409-A of the Insurance Company Law, No. 284 (40 P.S. § 625-9), which states when there is solicitation for the replacement of an existing insurance policy or annuity with the same insurer or insurer group, the insurer shall, through its producers where appropriate, provide a “Notice Regarding Replacement of Life Insurance and Annuities” in the form set forth under Title 31, Pennsylvania Code, Chapter 81;

(x) Section 410-D(a)(2) of the Insurance Company Law, No. 284 (40 P.S. § 510c), which requires individual fixed dollar life insurance or endowment policies which are offered as replacements for an existing life insurance policy or annuity contract with the same insurer or insurer group shall not be delivered in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such policy or attached thereto, a notice stating in substance that the policyholder shall be permitted to return the policy within at least 45 days of its delivery;

- (xi) Section 410-D(a)(3) of the Insurance Company Law, No. 284 (40 P.S. § 510c), which requires individual fixed dollar life insurance policies or endowment insurance policies which are offered as replacements for existing life insurance policy or annuity contract with an insurer or insurer group other than the one which issued the original policy or contract shall not be delivered in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such policy or attached thereto a notice stating in substance that the policyholder shall be permitted to return the policy within at least 20 days of its delivery;
- (xii) Section 410-D(b)(2) of the Insurance Company Law, No. 284 (40 P.S. § 510), which states individual variable life insurance policies which are offered as replacements for an existing life insurance policy or annuity contract with the same insurer or insurer group shall not be delivered in the Commonwealth unless they have prominently printed on the first page of the policy or attached thereto, a notice stating that the policyholder shall be permitted to return the policy within at least 45 days of its delivery;
- (xiii) Section 410-E(a)(2) of the Insurance Company Law, No. 284 (40 P.S. § 510d), which states individual fixed dollar annuity contracts which are offered as replacements for an existing annuity contract or life insurance policy with the same insurer or insurer group shall not be entered into in the Commonwealth of Pennsylvania, unless they have prominently printed on the first page of

such contract or attached thereto, a notice stating in substance that the contractholder shall be permitted to return the contract within at least 45 days of its delivery;

(xiv) Section 410-E(a)(3) of the Insurance Company Law, No. 284 (40 P.S. § 510) which requires individual fixed dollar annuity contracts which are offered as replacements for an existing annuity contract or life insurance policy with an insurer or insurer group other than the one which issued the original contract shall not be entered into in Pennsylvania unless they have prominently printed on the first page of the contract or attached thereto, a notice stating that the contractholder shall be permitted to return the contract within 20 days of its delivery and to have the premium refunded if, after examination of the contract, the contractholder is not satisfied with it for any reason;

(xv) Section 411-B of the Insurance Company Law, No. 284 (40 P.S. §511b), which states life insurance death benefits not paid within thirty days after satisfactory proof of death was submitted to the insurer shall bear interest at the rate of interest payable on death benefits left on deposit by the beneficiary with the insurer. This interest shall accrue from the date of death of the insured to the date benefits are paid to the beneficiary. In cases where satisfactory proof of death is submitted more than 180 days after the death of the insured, and the death benefits are not paid within 30 days after the

satisfactory proof of death was submitted to the insurer, interest shall accrue from the date on which satisfactory proof was submitted to the date on which the benefits of the policy are paid;

(xvi) Title 31, Pennsylvania Code, Section 51.4(a)(b)(c)(d), which states:

(a) A company shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its individual contracts and typical printed, published or prepared advertisements of its blanket, franchise and group contracts hereafter disseminated in this or another state whether or not licensed in the other state;

(b) An advertisement included in this advertising file shall be annotated as to the manner and extent of distribution and the form number of the contract advertised;

(c) The advertising file kept in accordance with this section shall be subject to inspection by the Department; and

(d) Advertisements and related material shall be maintained in the file for a period of either 4 years or until the filing of the next regular report of examination of the company, whichever is the longer period;

(xvii) Title 31, Pennsylvania Code, Section 51.5, which states 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, 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;

- (xviii) Title 31, Pennsylvania Code, Section 81.4(b)(1), which states that if replacement is involved, the agent or broker shall present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities;
- (xix) 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;
- (xx) Title 31, Pennsylvania Code, Section 81.6(a)(2)(ii), which states an insurer that uses an agent or broker in a life insurance or annuity sale shall, if replacement is involved: Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under subparagraph (I) and in the case of life insurance, the disclosure statement as required by Section 83.3,

or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 5 working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner;

- (xxi) 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;
- (xxii) Title 31, Pennsylvania Code, Section 83.3, which requires written disclosure. A life insurance agent, broker or insurer soliciting the type of business to which this subchapter applies shall provide a prospective purchaser with a written disclosure statement clearly labeled as such;
- (xxiii) Title 31, Pennsylvania Code, Section 83.4a, which states the agent shall submit to the insurer with or as a part of the application for life insurance a statement, signed by him, certifying that the written disclosure statement was given no later than the time that the application was signed by the applicant;
- (xxiv) Title 31, Pennsylvania Code, Section 83.4b, which requires the insurer to maintain the agent's certification of disclosure statement delivery in its

appropriate files for at least three years. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no disclosure statement was provided to the prospective purchaser of life insurance;

- (xxv) Title 31, Pennsylvania Code, Section 89b.11(b), which requires each form to contain a form number consisting of numbers, letters or both. The form number shall be adequate to distinguish the form from all others used by the insurer. The form number may be the same as that of a form to be replaced. However, if the form to be replaced was approved by or filed with the Department, it may not have been issued in this Commonwealth;
- (xxvi) Title 31, Pennsylvania Code, Section 89b.11(f)(3), which prohibits a form from containing inconsistent or contradictory language or provisions;
- (xxvii) Title 31, Pennsylvania Code, Section 146.3, which requires the claim files of the insurer shall be subject to examination by the Commissioner or by his appointed designees. The files shall contain notes and work papers pertaining to the claim in the detail that pertinent events and the dates of the events can be reconstructed;
- (xxviii) Title 31, Pennsylvania Code, Section 146.5, which requires every insurer, upon receiving notification of a claim, shall within 10 working days,

acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgement is made by means other than writing, an appropriate notation of such acknowledgement shall be made in the claim file of the insurer and dated;

- (xxix) 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;
- (xxx) Title 31, Pennsylvania Code, Section 146.7, which requires within 15 working days after receipt by the insurer of properly executed proof of loss, the first party claimant shall be advised of the acceptance or denial of the claim by the insurer;
- (xxxi) Title 31, Pennsylvania Code, Section 146.7(a)(1) requires that within 15 working days after receipt by the insurer of properly executed proofs of loss, the first party claimant shall be advised of the acceptance or denial of the claim by the insurer. The denial shall be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial;
and

(xxxii) 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) Respondent’s violations of Section 671.1-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):
 - (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) an order to cease and desist; and
- (iv) any other conditions as the Commissioner deems 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, 408-A, 409-A, 410-D, 410-E and 411-B of the Insurance Company Law, No. 284 (40 P.S. §§625-4, 625-8, 625-9, 510 and 511) 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 Title 31, Pennsylvania Code, Sections 81.4 and 81.6 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);

- (f) Respondent's violations of Title 31, Pennsylvania Code, Sections 83.3 and 83.4 are punishable under Title 31, Pennsylvania Code, Section 83.6:
 - (i) For failing to insure adequate disclosure of basic information, after a hearing, a company may be subject to the penalties provided under 40 P.S. § 475, for violations of 40 P.S. §§ 472 through 474. In addition, failure to make the disclosure outlined in this subchapter may be considered a violation of 40 P.S. §§ 1171.1 through 1171.15.

- (g) Respondent's violations of Title 31, Pennsylvania Code, Sections 89b.11(b) and 89b.11(f)(3), are punishable under Section 354 of the Insurance Company Law (40 P.S. § 477b) by suspension or revocation of the license(s) of Respondent; refusal, for a period not to exceed one year thereafter, to issue a

new license to Respondent; or imposition of a fine of not more than one \$1,000.00 for each act in violation of the Act.

(h) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.3, 146.5, 146.6 and 146.7 are punishable 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.

(i) 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).

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 Fifteen Thousand Dollars (\$15,000.00) 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, 1227 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.

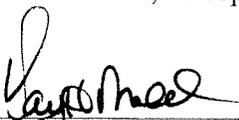
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

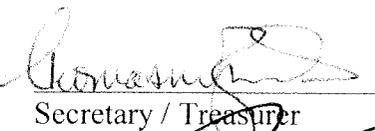
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

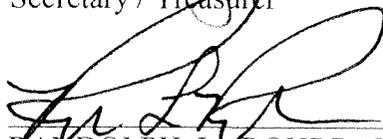
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

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 UNITED 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 United Life Insurance Company, hereafter referred to as “Company,” at the Company’s offices located in Indianapolis, Indiana, March 14, 2005, through May 20, 2005. 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 the Report may result in imposition of penalties. Generally, practices, procedures, or files that were reviewed by Department examiners during the course of an examination may 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 the potential impact upon Company operations or future compliance.

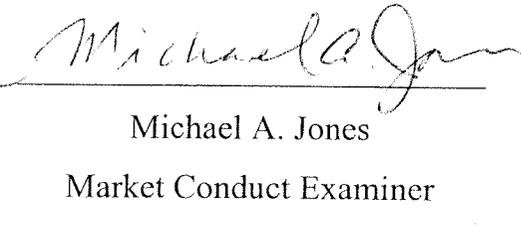
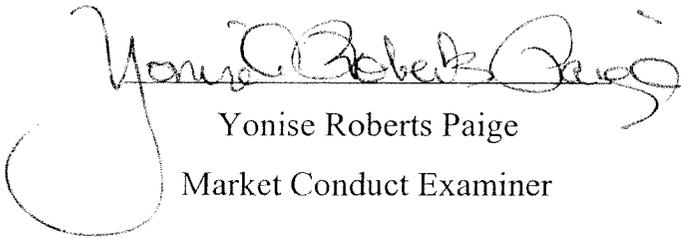
Throughout the course of the examination, Company officials were provided status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company officials 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 acknowledged.

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

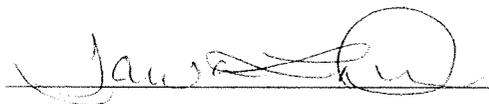


Daniel Stemcosky, AIE, FLMI
Market Conduct Division Chief

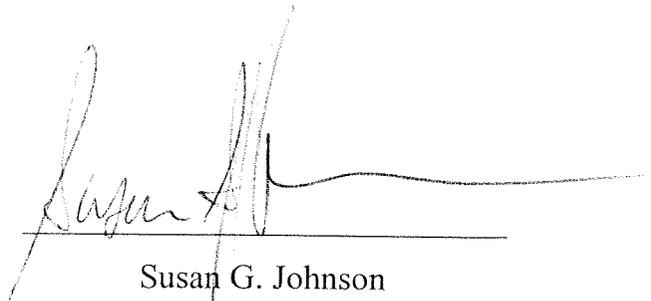


Yonise Roberts Paige
Market Conduct Examiner

Michael A. Jones
Market Conduct Examiner



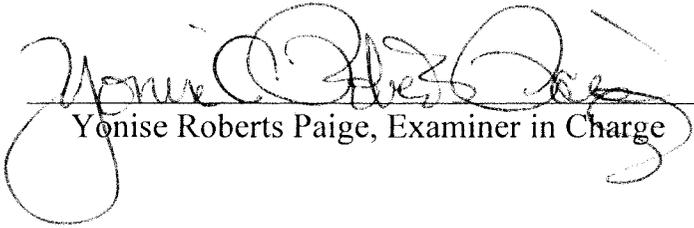
Tawana L. Dean
Market Conduct Examiner



Susan G. Johnson
Market Conduct Examiner

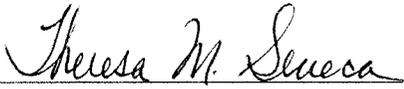
Verification

Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).

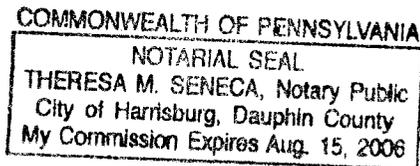

Yonise Roberts Paige, Examiner in Charge

Sworn to and Subscribed Before me

This 9 Day of *September*, 2005



Notary Public



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, 2004, through December 31, 2004, unless otherwise noted. The purpose of the examination was to determine compliance by the Company with Pennsylvania insurance laws and regulations.

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

The Company was requested to identify the universe of files for each segment of the review. Based on the universe sizes identified, random sampling was utilized to select the files 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 United Life Insurance Company was formed in a merger between American Central Life Insurance Company and United Mutual Life Insurance Company. Articles of merger were signed on December 17, 1936, and the Indiana Secretary of State issued a Certificate of merger on December 31, 1936. American United Life Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2005. The Company is authorized to do business in 49 states and the District of Columbia.

Effective on December 17, 2000, American United Life Insurance Company was reorganized into a mutual insurance holding company structure and is now a wholly owned subsidiary of OneAmerica Financial Partners, Inc., which is a wholly owned subsidiary of American United Mutual Insurance Holding Company.

The Company offers a variety of insurance coverage including Individual and Group accident, health, life, annuity, disability and 401(k) products.

As of its 2004 annual statement for Pennsylvania, the Company reported direct premium for individual and group life insurance in the amount of \$7,277,747; and direct premium for accident and health insurance in the amount of \$9,128,649.

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 this Regulation may be reviewed at any time at the discretion of the Department.” The Department, in exercising its discretionary authority for reviewing advertising, requested the Company to provide copies of all advertising materials used for solicitation and sales during the experience period.

The Company provided a list of 117 pieces of advertising utilized in the Commonwealth during the experience period. The advertising consisted of: Direct Mailers, Brochures, Envelopes, Folders, Cards, Illustrations, Product Guides, Product Manuals and the Company’s web page. A sample of 40 pieces of advertising was requested, received and reviewed. The 40 advertising materials and the Company’s web site were 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 violations were noted.

1 Violation - Title 31, Pennsylvania Code, Section 51.4(a)(b)(c)(d)

(a) A company shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its individual contracts and typical printed, published or prepared advertisements of its blanket, franchise and group contracts hereafter disseminated in this or another state whether or not licensed in the other state.

(b) An advertisement included in this advertising file shall be annotated as to the manner and extent of distribution and the form number of the contract advertised.

(c) The advertising file kept in accordance with this section shall be subject to inspection by the department.

(d) Advertisements and related material shall be maintained in the file for a period of either 4 years or until the filing of the next regular report of examination of the company, whichever is the longer period. The advertising file was not annotated as to the manner and extent of distribution and a combined list was created during the Examination.

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 Certificate of Compliance was not filed with the 2003 Annual Statement.

V. FORMS

Throughout the course of the examination, all underwriting files were reviewed to identify the policy 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), as well as provisions for various mandated benefits. Applications and claim forms were also reviewed to determine compliance with Title 18, Pa. C.S., Section 4117(k). The following violations were noted:

106 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 applications and claim forms did not contain the required fraud statement or was not written verbatim. The form type, number, the section of the exam where the violation was noted and frequency of use is listed in the table below.

TYPE	FORM#	Section	Frequency of Use
IVA Application	IV A2002	Annuity Contracts Issued	23
Fixed Annuity Application	LA 25R	Annuity Contracts Issued	41
Fixed Annuity Application	LA-31 AC	Annuity Contracts Issued	1
SPIA Application	LA-21	Annuity Contracts Issued	2
DVT Application	G14087A	Group Policies Issued	1
VLF Application	G14087H	Group Policies Issued	1
VTL Application	G14087D	Group Policies Issued	2
VTL Application	G14087B	Group Policies Issued	1

ADD Application	None	Group Cert. Holders Enroll.	1
VLD Application	None	Group Cert. Holders Enroll.	1
VSD Application	G-13282B	Group Cert. Holders Enroll	2
Application	EG-14112F	Group Policies Declined	1
Application	G-14113G	Group Policies Declined	1
Application	G-14113F Rev.6/02	Group Policies Declined	1
Application	G-14163	Group Policies Declined	1
Application	7-14635A	Annuity Cont. Iss. As Repl.	1
Application	IVA APP03	Annuity Cont. Iss. As Repl.	1
Application	None	Life Policies Issued	6
Application	7-8788.1	Life Policies Issued	1
Application	7-8788.1 Rev. 2/02	Life Policies Issued	2
Application	None	Life Policies Term Conv.	1
Application	None	Ind. Life Conv. From Group	4
Application	G5492Q	Forms	
Claim Form	G-629M	Forms	
Claim Form	G-5491J	Forms	
Claim Form	G-5490S	Forms	
Claim Form	G-15109B	Forms	
Claim Form	G-11363K	Forms	
Supp. Application	G-15110A	Forms	
Supp. Application	G-10968G	Forms	
Application	7-1(PA)	Forms	
Application	7-6986.1M(PA)	Forms	

10 Violations - Title 31, Pennsylvania Code, Section 89b.11(b)

Each form shall contain a form number consisting of numbers, letters, or both. The form number shall be adequate to distinguish the form from all others used by the insurer. The form number may be the same as that of a form to be replaced.

However, if the form to be replaced was approved by or filed with the Department, it may not have been issued in this Commonwealth and shall be withdrawn from any issuance in this Commonwealth. Six applications noted in the life issued section of the examination and 4 applications noted in the group life conversion section of the examination did not contain a distinguishing form number.

1 Violation- Title 31, Pennsylvania Code, Section 89b.11(f)(3)

Readability. A form: (3) May not contain inconsistent or contradictory language or provisions. The annuity application noted and identified below contains language that is inconsistent with the issued contract.

Form Type	Form Number	Description
Application	7-17123	1 Year Flexible Deferred Annuity

**2 Violations - Insurance Company Law, Chapter 2, Section 354
(40 P.S. §477b)**

It shall be unlawful for any insurance company, doing business in the Commonwealth of Pennsylvania, to issue, sell, or dispose of any policy, contract, or certificate, covering life insurance, or use application, riders, or endorsements, in connection therewith, until the forms have been submitted to, and formally approved by, the Insurance Commissioner. Evidence of Department approval could not be established for the 2 forms noted.

Type	Form Number	Description
Application	3-14253C	Variable Universal Life
Application	7-6986.1M(PA)	Life Policy (L-52)

VI. PRODUCER LICENSING

The Company was requested to provide a list of all producers active and terminated during the experience period. Section 671-A (40 P.S. §310.71) of the Insurance Department Act prohibits producers from doing business on behalf of or as a representative of any entity without a written appointment from that entity. Section 641.1-A (40 P.S. §310.41a) of the Insurance Department Act prohibits a company from accepting insurance applications or securing any insurance business through anyone acting without a license. Section 671.1-A (40 P.S. §310.71a) of the Insurance Department Act requires the Company to report all producer terminations to the Department.

The Company provided a list of 2,142 active and terminated producers. A random sample of 200 producers was selected for review. Of the 200 producers selected, 192 were listed as active producers and 8 were listed as terminated producers. The 200 producers were compared to departmental records of producers to verify appointments, terminations and licensing. In addition, a comparison was made on the individuals identified as producers on applications reviewed in the policy issued sections of the exam. The following violations were noted:

4 Violations – Insurance Department Act, No. 147, Section 671-A (40 P.S. §310.71)

- (a) Representative of the insurer. – An insurance producer shall not act on behalf of or as a representative of the insurer unless the insurance producer is appointed by the insurer. An insurance producer not acting as a representative of an insurer is not required to be appointed.

- (b) Representative of the consumer. – An insurance producer acting on behalf of or representing an insurance consumer shall execute a written agreement with the insurance consumer prior to representing or acting on their behalf that:
 - (1) Delineates the services to be provided; and
 - (2) Provides full and complete disclosure of the fee to be paid to the insurance producer by the insurance consumer.
- (c) Notification to department. – An insurer that appoints an insurance producer shall file with the department a notice of appointment. The notice shall state for which companies within the insurer’s holding company system or group the appointment is made.
- (d) Termination of appointment. – Once appointed, an insurance producer shall remain appointed by an insurer until such time as the insurer terminates the appointment in writing to the insurance producer or until the insurance producer’s license is suspended, revoked or otherwise terminated.
- (e) Appointment fee. – An appointment fee of \$12.50 will be billed annually to the insurer for each producer appointed by the insurer during the preceding calendar year regardless of the length of time the producer held the appointment with the insurer. The appointment fee may be modified by regulation.
- (f) Reporting. – An insurer shall, upon request, certify to the department the names of all licensees appointed by the insurer.

The Company failed to file a notice of appointment and submit appointment fees to the Insurance Department for the following 4 producers, or agencies identified as producers on applications reviewed in the underwriting sections of the examination.

Issue Date	Producer/Agency	Application Date	Department Appointment Date
20040901	Kelly, Timothy	8/15/04	09/14/04
20041001	Bus. Benefits	9/21/04	10/11/04
20041001	Bus. Benefits	9/21/04	10/11/04
20040901	Fennell Holdings	8/31/04	09/08/04

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 2001, 2002, 2003 and 2004. The Company identified 8 written consumer complaints and provided complaints logs for 2001, 2002, 2003 and 2004. All 8 consumer 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. No violations were noted.

VIII. UNDERWRITING

The Underwriting review was sorted and conducted in 17 general segments.

- A. Underwriting Guidelines
- B. Group Policies Issued
- C. Group Certificate Holders Enrolled
- D. Group Policies Declined
- E. Group Life Policies Terminated
- F. Annuity Contracts Issued
- G. Annuity Contracts Issued As Replacements
- H. Individual Annuities Terminated
- I. Individual Annuity Contracts Not-Taken
- J. Life Policies Issued
- K. Life Policies Issued As Replacements
- L. Life Policies Terminated
- M. Life Policies Declined
- N. Individual Life Policies Not-Taken
- O. Term Life Conversion Policies
- P. Individual Accident and Health Policies Terminated
- Q. Group Life Conversions

Each segment was reviewed for compliance with underwriting practices and included forms identification and agent identification. Issues relating to forms or agent/broker 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. 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.

The following manuals and guides were provided and reviewed:

1. Traditional Group Life Insurance
2. Voluntary Term Life Insurance
3. Long Term Disability Insurance
4. Short Term Disability Insurance
5. Voluntary Disability Insurance
6. Professional Long Term Disability Insurance
7. Coreplus Long Term Disability Insurance
8. Coreplus Short Term Disability Insurance
9. 2+ Protector (Group Term Life, AD&D, STD and LTD)
10. Rating Guidelines
11. Medical Underwriting Guidelines

B. Group Policies Issued

The Company identified a universe of 770 group policies issued during the experience period. A random sample of 50 files was requested, received and

reviewed. The policy files were reviewed to determine compliance to issuance statutes and regulations. The following violation was noted.

1 Violation - Insurance Department Act, Section 903 (40 P.S. § 323.3)

(a) Every company or person subject to examination in accordance with this act must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the department, in its discretion, may require in order that its authorized representatives may readily verify and ascertain whether the company or person has complied with the laws of this Commonwealth. The file noted was missing pertinent data.

C. Group Certificate Holders Enrolled

The Company was requested to provide a list of all certificate holders enrolled during the experience period. The Company provided a list of 4,467 certificate holders enrolled. A random sample of 100 certificate holders files was requested, received and reviewed. The files were reviewed to ensure compliance with Pennsylvania Consolidated Statutes, Section 4117(k). No violations were noted.

D. Group Policies Declined

The Company was requested to provide a list of all group policies declined during the experience period. The company identified 46 group policies declined coverage. A random sample of 25 files was requested, received and reviewed.

The policy files were reviewed to determine compliance to issuance statutes and regulations and to ensure declinations were not the result of any discriminatory underwriting practice. No violations were noted.

E. Group Life Policies Terminated

The Company was requested to provide a list of all group policies terminated during the experience. The Company identified a universe of 141 group insurance policies terminated. A random sample of 25 files was requested. Of the 25 files requested, 22 were received and reviewed. The life policies terminated due to death were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. The life policies terminated due to surrender were reviewed to ensure compliance with contract provisions, termination laws and regulations, and proper return of any unearned premium. The following violations were noted:

5 Violations – Insurance Department Act, Section 903 (40 P.S. §323.3)

Every Company or person subject to examination in accordance with this act must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the department at its discretion, may require in order that its authorized representatives may ascertain whether the Company or person has complied with the laws of this Commonwealth. Of the 5 claim files noted, 3 were missing and 2 were missing pertinent data.

F. Annuity Contracts Issued

The Company identified a universe of 150 annuity contracts issued during the experience period. A random sample of 100 files was requested, received and reviewed. The files were reviewed for compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

5 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 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. Verification of policy delivery could not be established in the 5 files noted.

7 Violations – Insurance Company Law, Section 410D(b)(2) (40 P.S. §510c)

Individual variable life insurance policies which are offered as replacements for an existing life insurance policy or annuity contract with the same insurer or insurer group shall not be delivered in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such policy or attached thereto a notice stating in substance that the policyholder shall be permitted to return the

policy within at least forty-five (45) days of its delivery. Verification of the attachment of the required 45 day "free look" statement could not be established in the 7 files noted.

15 Violations – Insurance Company Law, Section 410E(a)(2) (40 P.S. §510d)

Individual fixed dollar annuity contracts which are offered as replacements for an existing annuity contract or life insurance policy with the same insurer or insurer group shall not be entered into in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such contract or attached thereto a notice stating in substance that the contract holder shall be permitted to return the contract within at least forty-five (45) days of its delivery. Verification of the attachment of the required 45 day "free look" statement could not be established in the 15 files noted.

9 Violations – Insurance Company Law, Section 410E(a)(3)(40 P.S. §510d)

Individual fixed dollar annuity contracts which are offered as replacements for an existing annuity contract or life insurance policy with an insurer or insurer group other than the one which issued the original contract shall not be entered into in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such contract or attached thereto a notice stating in substance that the contractholder shall be permitted to return the contract within at least twenty (20) days of its delivery and to have the premium refunded if after examination of the contract the contractholder is not satisfied with it for any reason. Verification of the attachment of the required 20 day "free look" statement could not be established in the 9 files noted.

G. Annuity Contracts Issued As Replacements

The Company was requested to provide a list of all annuity contracts issued as replacements during the experience period. The Company identified a universe of 2 annuity contracts issued as replacements during the experience period. Both annuity contracts were requested, received and reviewed. The files were reviewed to determine compliance to issuance, underwriting and replacement statutes and regulations. The following violation was noted.

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

An insurer that uses an agent or broker in a life insurance or annuity sale shall, if replacement is involved: Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under subparagraph (I) and in the case of life insurance, the disclosure statement as required by § 83.3 (relating to disclosure statement) or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 5 working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner. The replacement letter to the replaced company did not contain the required disclosure statement or ledger statement for life insurance replacement.

H. Individual Annuities Terminated

The Company was requested to provide a list of annuities terminated during the experience period. The Company identified 88 individual annuities terminated. All 88 annuity terminated files were requested, received and reviewed. The

annuities terminated due to death were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. The annuities terminated due to surrender were reviewed to ensure compliance with contract provisions, termination laws and regulations, and proper return of contract funds. No violations were noted.

I. Individual Annuity Contracts Not-Taken

The Company was requested to provide a list of all annuity contracts not-taken during the experience period. The Company identified 3 individual annuity contracts not-taken. All 3 files were requested, received and reviewed. A not-taken annuity contract by definition is a contract that is issued and the annuitant decides to decline the contract. The files were reviewed to ensure compliance with the free look provisions of the contract. No violations were noted.

J. Life Policies Issued

The Company identified a universe of 139 life policies issued during the experience period. All 139 files were requested, received and reviewed. Of the 139 files requested, 4 were out-of-state, 3 were outside of the experience period and 2 files were duplicates. The remaining 130 life issued files were reviewed to determine compliance with issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

2 Violations - Title 31, Pennsylvania Code, Section 81.4(b)(1)

If replacement is involved, the agent or broker shall: present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities. The replacement form was either missing or post-dated the application in the 2 files 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 signed statement by the agent could not be established in the file 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 notice of replacement.

12 Violations – Title 31, Pennsylvania Code, Section 83.3 Disclosure Statement

(a) Required written disclosure. A life insurance agent, broker or insurer soliciting the type of business to which this subchapter applies shall provide a prospective purchaser with a written disclosure statement clearly labeled as such. An acceptable disclosure statement is attached as Appendix A. The 12 files noted did not contain a disclosure form.

12 Violations - Title 31, Pennsylvania Code, Section 83.4a and Section 83.4b

(a) The agent shall submit to the insurer with or as a part of the application for life insurance a statement, signed by him, certifying that the written disclosure statement was given no later than the time that the application was signed by the applicant.

(b) The insurer shall maintain the agent's certification of disclosure statement delivery in its appropriate files for at least three years. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no disclosure statement was provided to the prospective purchaser of life insurance. The 12 files noted did not contain a copy of the required agent's certification of disclosure.

16 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 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. The 16 files noted did not have a policy delivery or the delivery receipt post-dates the onset of the exam.

8 Violations – Insurance Company Law, Section 408-A(e)(1)(i)

(40 P.S. §625-8)

The following applies if a basic illustration is used by a producer in the sale of a life insurance policy. If the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this section, shall be submitted to the insurer no later than the time the policy application is sent to the insurer. A copy shall also be provided to the applicant no later than the time the application is signed by the applicant. The 8 files noted contained a signed illustration which post-dates the application.

12 Violations – Insurance Company Law, Section 408-A(e)(2)(i)

(40 P.S. §625-8)

The following applies if no illustration is used by a producer in the sale of a life insurance policy or if a computer screen illustration is displayed. The producer shall certify in writing on a form provided by the insurer that no illustration was used in the sale of the life insurance policy. On the same form the applicant shall acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. The 12 files noted did not contain the required agent's certification or the applicant's acknowledgement.

1 Violation – Insurance Company Law, Section 408-A(e)(3)(i) (40 P.S. §625-8)

The producer shall certify in writing on a form provided by the insurer that the policy applied for is other than as illustrated. On the same form the applicant shall acknowledge that the policy applied for is other than as illustrated and shall further acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. This form shall

be submitted to the insurer as soon as practical after the application is signed by the applicant. The file noted did not contain the required agent's certification or the applicant's acknowledgement.

**1 Violation – Insurance Company Law, Section 408-A(e)(3)(ii)
(40 P.S. §625-8)**

The following applies if an illustration is used by a producer in the sale of a life insurance policy but the policy applied for is other than as illustrated. If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed by the policy owner no later than the time the policy is delivered. A copy shall be provided to the policy owner no later than the time the policy is delivered and to the insured as soon as practical after the policy is delivered. The file noted did not contain the required basic illustration conforming to the policy as issued.

1 Violation – Insurance Company Law, Section 409-A (40 P.S. §625-9)

When there is solicitation for the replacement of an existing insurance policy or annuity with the same insurer or insurer group, the insurer shall, through its producers where appropriate, provide a "Notice Regarding Replacement of Life Insurance and Annuities" in the form set forth under Title 31, Pennsylvania Code, Chapter 81 (relating to replacement of life insurance and annuities). The file noted did not contain the required replacement notice.

3 Violations – Insurance Company Law, Section 410D(a)(2) (40 P.S. §510c)

Individual fixed dollar life insurance or endowment policies which are offered as replacements for an existing life insurance policy or annuity contract with the same insurer or insurer group shall not be delivered in the Commonwealth of

Pennsylvania unless they shall have prominently printed on the first page of such policy or attached thereto a notice stating in substance that the policyholder shall be permitted to return the policy within at least forty-five (45) days of its delivery. Verification of the attachment of the required 45 day "free look" statement could not be established in the 3 files noted.

8 Violations – Insurance Company Law, Section 410D(a)(3) (40 P.S. §510c)

Individual fixed dollar life insurance policies or endowment insurance policies which are offered as replacements for an existing life insurance policy or annuity contract with an insurer or insurer group other than the one which issued the original policy or contract shall not be delivered in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such policy or attached thereto a notice stating in substance that the policyholder shall be permitted to return the policy within at least twenty (20) days of its delivery. Verification of the attachment of the required 20 day "free look" statement could not be established in the 8 files noted.

K. Life Policies Issued As Replacements

The Company identified a universe of 1 life policy issued as replacements during the experience period. The Life Policy was requested, received and reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The Department determined this policy was not a replacement. No violations were noted.

L. Life Policies Terminated

The Company was requested to provide a list of all policies terminated during the experience period. The Company identified a universe of 428 life policies terminated. A random sample of 50 files was requested, received and reviewed. The 50 insurance policies consisted of 1 variable universal life, 3 universal life contracts, 5 endowment contracts, 13 term life contracts and 28 whole life contracts. The files were reviewed to ensure compliance with contract provisions, termination laws and regulations, and proper return of any unearned premium. No violations were noted.

M. Life Policies Declined

The Company was requested to provide a list of all individual life policies declined during the experience period. The Company identified a universe of 9 policies. All 9 policies were requested, received and reviewed. The 9 files were reviewed to ensure declinations were not the result of any discriminatory underwriting practice and the proper return of any unearned premium. No violations were noted.

N. Individual Life Policies Not-Taken

The Company was requested to provide a list of all policies not-taken during the experience period. The Company identified 2 individual life policies not-taken. Both files were requested, received and reviewed. A not-taken policy by definition is a contract that is issued and the insured decides to decline the contract. The files

were reviewed to ensure compliance with the free look provisions of the contract. The following violation was noted.

1 Violation - Insurance Department Act, Section 903 (40 P.S. §323.3)

(a) Every Company or person subject to examination in accordance with this act must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the department, at its discretion, may require in order that its authorized representatives may readily ascertain whether the Company or person has complied with the laws of this Commonwealth. The file noted was missing evidence of premium refund and the customer's (or agent's) request for cancellation.

O. Term Life Conversion Policies

The Company identified a universe of 6 individual term life conversion policies issued during the experience period. All 6 files were requested, of which 4 were received and reviewed. The files were reviewed to determine compliance to issuance and underwriting statutes and regulations. The following violations were noted:

2 Violations - Insurance Department Act, Section 903 (40 P.S. §323.3)

(a) Every Company or person subject to examination in accordance with this act must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the Department, at its discretion, may require

in order that its authorized representatives may readily ascertain whether the Company or person has complied with the laws of this Commonwealth. The 2 files noted were not provided by the Company.

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

When the producer delivers the individual policy or annuity to the policyholder 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 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. Verification of policy delivery could not be established in the file noted.

P. Individual Accident and Health Policies Terminated

The Company was requested to identify all individual accident and health policies terminated during the experience period. The Company identified 8 policies terminated. All 8 terminated files were requested, received and reviewed. The files were reviewed to ensure that terminations were not the result of any discriminatory underwriting practice. No violations were noted.

Q. Group Life Conversions

The Company was requested to provide a list of all certificate holders converting group insurance during the experience period. The Company identified a universe of 4 certificate holders converting their group life coverage upon termination to an optional life insurance plan. All 4 conversion files were requested, received and reviewed. The following violation was noted.

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

When the producer delivers the individual policy or annuity to the policyholder 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 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. Verification of policy delivery could not be established in the file 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.

The following violation was noted.

1 Violation – Insurance Company Law, Section 410D(a)(2) (40 P.S. §510c)

Individual fixed dollar life insurance or endowment policies which are offered as replacements for an existing life insurance policy or annuity contract with the same insurer or insurer group shall not be delivered in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such

policy or attached thereto a notice stating in substance that the policyholder shall be permitted to return the policy within at least forty-five (45) days of its delivery. The Company's compliance manual did not contain the required 45 day "free look" statement for internal replacement.

X. CLAIMS

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 the following Manuals: Individual Life Claims, The Life Claims Reference Guide, Group Disability Claims Manual, Medical Training Guidelines Manual, Group Disability Reference Guidelines, The Disability Training Program Manual, Group Disability Claims Procedural Guidelines Manual and three Job Aids: Life Waiver of Premium, The Check Service Center, and The Life Claim were reviewed for any inconsistencies, which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature. No violations were noted.

The Claim file review consisted of 4 areas:

- A. Individual Annuity, Life & Waiver Claims
- B. Group Health Claims
- C. Group Life Claims
- D. Annuity Claims

All claim files sampled were reviewed for compliance with requirements of the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171). The insured submitted claims were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices and the provider submitted claims were reviewed for compliance with Act 68, Section 2166 (40 P.S. §991.2166), Prompt Payment of Provider Claims. The life claims were additionally reviewed for compliance with Insurance Company Law, Section 411B, Payment of Interest (40 P.S. §511b).

A. Individual Annuity, Life & Waiver Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified 142 individual annuity, life and waiver claims received. All 142 individual annuity, life and waiver claims were requested, received and reviewed. The claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146, in addition the life claims were reviewed for compliance with Insurance Company Law, Section 411B, Payment of Interest (40 P.S. §511b). The following violations were noted:

1 Violation – Title 31, Pennsylvania Code, Section 146.3

The claim files of the insurer shall be subject to examination by the Commissioner or by his appointed designees. The files shall contain notes and work papers pertaining to the claim in the detail that pertinent events and the dates of the events can be reconstructed. The file noted was missing pertinent information.

70 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 timely status letters for the 70 claims noted.

1 Violation - Title 31, Pennsylvania Code, Section 146.7

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The Company failed to provide notice of acceptance or denial within 15 working days for the claim noted.

B. Group Health Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified 499 health claims received. A random sample of 100 health claims was requested, received and reviewed. Of the 100 health claims files requested, 76 were Long Term Disability claims, 12 were Short Term Disability claims, 10 were Voluntary Disability (Short) claims and 2 were Voluntary Disability (Medium) claims. The files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146 and Insurance Company Law, Section 411. The following violations were noted:

1 Violation – Title 31, Pennsylvania Code, Section 146.3

The claim files of the insurer shall be subject to examination by the Commissioner or by his appointed designees. The files shall contain notes and work papers pertaining to the claim in the detail that pertinent events and the dates of the events can be reconstructed. The claim file noted was missing pertinent data.

17 Violations - Title 31, Pennsylvania Code, Section 146.5

Every insurer, upon receiving notification of a claim, shall within ten working days, acknowledge the receipt of such notice unless payment is made within such

period of time. If an acknowledgement is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. The Company failed to acknowledge the 17 claims noted within 10 working days.

7 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 timely status letters for the 7 claims noted.

10 Violations - Title 31, Pennsylvania Code, Section 146.7(a)(1)

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The Company failed to provide notice of acceptance or denial within 15 working days for the 10 claims noted.

C. Group Life Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 75 individual life claims. All 75 files were requested and received. However, 74 files were reviewed since 1 file was determined to be a claim that was denied by Union Central outside of our

experience period. The claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146 and Insurance Company Law, Section 411B, Payment of Interest (40 P.S. §511b). The following violations were noted:

1 Violation – Title 31, Pennsylvania Code, Section 146.3

The claim files of the insurer shall be subject to examination by the Commissioner or by his appointed designees. The files shall contain notes and work papers pertaining to the claim in the detail that pertinent events and the dates of the events can be reconstructed. The claim noted was missing pertinent data.

51 Violations - Title 31, Pennsylvania Code, Section 146.5

Every insurer, upon receiving notification of a claim, shall, within 10 working days, acknowledge the receipt of the notice unless payment is made within the period of time. If an acknowledgment is made by means other than writing, an appropriate notation of the acknowledgment shall be made in the claim file of the insurer and dated. The dates shown in the “bold” type column reflect dates identified in the files that differed from their relative dates on the listing. The Company failed to acknowledge the 51 claims noted within 10 working days.

4 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 a timely status letter for the 4 claims noted.

25 Violations - Title 31, Pennsylvania Code, Section 146.7

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The Company failed to provide notice of acceptance or denial within 15 working days for the 25 claims noted.

1 Violation - Insurance Company Law, Section 411B, Payment of Benefits (40 P.S. §511b)

(a) Life insurance death benefits not paid within thirty days after satisfactory proof of death was submitted to the insurer shall bear interest at the rate of interest payable on death benefits left on deposit by the beneficiary with the insurer. This interest shall accrue from the date of death of the insured to the date benefits are paid to the beneficiary. In cases where satisfactory proof of death is submitted more than one hundred eighty days after the death of the insured, and the death benefits are not paid within thirty days after the satisfactory proof of death was submitted to the insurer, interest shall accrue from the date on which satisfactory proof was submitted to the date on which the benefits of the policy are paid. The Company did not pay the required interest on the claim file noted.

D. Annuity Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 29 Annuity Claims. All 29 claim files were requested, received and reviewed. The claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. The following violations were noted:

2 Violations - Title 31, Pennsylvania Code, Section 146.5

Every insurer, upon receiving notification of a claim, shall within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgement is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. The Company failed to acknowledge the 2 claims noted within 10 working days.

3 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 timely status letters for the 3 claims noted.

3 Violations - Title 31, Pennsylvania Code, Section 146.7

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The Company failed to provide notice of acceptance or denial within 15 working days for the 3 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 implement procedures to ensure compliance with the fraud statement notice requirements of Title 18, Pennsylvania Consolidated Statutes Section 4117(k).
2. 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.
3. The Company must review and revise internal control procedures to ensure compliance with the interest payment requirements of Section 411B of the Insurance Company Law of 1921 (40 P.S. §511b). The Company is to provide the required interest payment on the claim noted and provide proof of payment to the Department within 30 days of the finalization of this Report.
4. The Company must review and revise Licensing procedures to ensure compliance with Section 671-A of the Insurance Department Act of 1921 (40 P.S. §310.71).
5. The Company must review and revise procedures to ensure all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the Company are maintained in such manner and for such period of time to ensure compliance with Section 903(a) of the Insurance Department Act of 1921 (40 P.S. §323.3).
6. The Company must implement procedures to ensure advertising certification requirements of Title 31, Pennsylvania Code, Chapter 51.

7. The Company must review and revise internal control procedures to ensure compliance with the replacement requirements of Title 31, Pennsylvania Code, Chapter 81.
8. The Company must review internal control procedures to ensure compliance with disclosure requirements of Title 31, Pennsylvania Code, Chapter 83.
9. The Company must review internal control procedures to ensure compliance with forms filing and approval requirements of Section 354 of the Insurance Company Law of 1921 (40 P.S. §477b).
10. The Company must implement procedures to ensure compliance with the policy delivery receipt requirements of Section 404-A of the Insurance Company Law of 1921 (40 P.S. §625-4).
11. The Company must review internal control procedures to ensure compliance with illustration certification and delivery requirements of Section 408-A of the Insurance Company Law of 1921 (40 P.S. §625-8).
12. The Company must implement internal control procedures to ensure compliance with replacement requirements of Section 409-A of the Insurance Company Law of 1921 (40 P.S. §625-9).
13. The Company must review internal control procedures to ensure compliance with Section 410D of the Insurance Company Law of 1921 (40 P.S. §510c) pertaining to the “Free Look” provision requirements for life insurance and endowment insurance.
14. The Company must review internal control procedures to ensure compliance with Section 410E of the Insurance Company Law of 1921 (40 P.S. §510d) pertaining to the “Free Look” provision requirements for annuity and pure endowment contracts.
15. The Company must review internal control procedures to ensure compliance with the form requirements of Title 31, Pennsylvania Code, Section 89b.

XII. COMPANY RESPONSE



October 7, 2005

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

RE: Market Conduct Examination
Examination Warrant Number: 04-M25-038

Dear Mr. Stemcosky,

I have received the Pennsylvania Insurance Department's Report of Examination of our company, American United Life Insurance Company®, for the period January 1, 2004, through December 31, 2004, and have reviewed the report in detail.

Most of the violations cited in that report have already been corrected or are in the process of being corrected now. In fact, many of the violations were corrected while your examiners were still onsite. For example, documents missing the fraud language or containing fraud language that was not verbatim to Pennsylvania's fraud language have been updated to either include the fraud language in total or to change the one word by which our language differed from Pennsylvania's language. (I do note that most of those violations were for our fraud language being different than Pennsylvania's required language, and our language only differed by one word.) Likewise, the company's Compliance Manual was updated to incorporate the appropriate free-look period for Pennsylvania while the examiners were still on site.

For other violations, we either had processes already in place that were remedying situations we knew to be problematic or have since instituted procedures to correct problems brought to our attention. For example, we are in the process of reorganizing compliance functions within our Enterprise. That reorganization had already begun before this exam was started. Part of that reorganization has included revision of our advertising review process and the creation of a new advertising inventory system. This new inventory system will resolve the violation identified under Title 31, Section 51.4. Likewise, before this exam began, we had formulated several working groups to review specific compliance issues across our enterprise. One such working group is our Replacement Working Group, which will be addressing all of the replacement related violations that were identified in your report. We have also been reviewing our system for filing policy delivery receipts and will be instituting changes to that system shortly. Lastly, we are reviewing our claims handling procedures to ensure that required notices are sent within the appropriate number of days according to Pennsylvania statutes.

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INSURANCE MARKETPLACE
STANDARDS ASSOCIATION

Other violations were simply one-time errors, such as the failure to file the Certificate of Compliance with the 2003 Annual Statement. Regarding the failure to file that Certificate of Compliance, the people within our company responsible for filing that certificate were relying upon a checklist on the Pennsylvania Department of Insurance's website and simply misunderstood the instruction provided by that checklist. Specifically, the checklist appeared to indicate that the Certificate of Compliance was not necessary, and therefore our people did not file the Certificate of Compliance with that 2003 Annual Statement.

I specifically wanted to address the numerous violations for the inability to verify attachment of the free-look period provision for our annuity contracts and life policies. We were cited for forty-two (42) violations on this issue. We have a process in place and an approved form in place for the provision of this free-look amendment to our policyholders. The amendment is attached in a manual process to new policies issued, and there is simply no evidence that our current system has ever failed to provide an appropriate free-look amendment with a new policy issued. As I understand the report, the violations cited were simply because our process is manual and because we do not maintain paper copies of policies issued to policyholders in policyholder files. As with many companies we are attempting to retain more and more records electronically, and we can re-create a policy issued to a policyholder including the attachment of the appropriate free-look provision. Despite the fact that we are confident that our current system is issuing policies appropriately and that we can re-create those policies, including the free look provision, in response to this exam, we are changing our manual process to an automated electronic process so that the free-look provisions will print automatically from our issue system with the other policy pages. The process will no longer be manual.

In summary, I would like to thank you and your examiners for the valuable information you have provided to us regarding our company's practices and procedures. As you know from your examiners and from the information contained in this letter, many of the issues you identified we have either already corrected or are now working to correct.

Please do not hesitate to contact me if you have questions or concerns regarding any of the information I have provided in this letter.

Sincerely,

A handwritten signature in black ink that reads "Stephanie Valadez / MW". The signature is written in a cursive style with a large, stylized 'S' and 'V'.

Stephanie L. Valadez
Director of Compliance
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