

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

BANKERS LIFE AND CASUALTY COMPANY

Chicago, Illinois

**AS OF
April 7, 2004**

COMMONWEALTH OF PENNSYLVANIA



**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: May 21, 2004

BANKERS LIFE AND CASUALTY COMPANY
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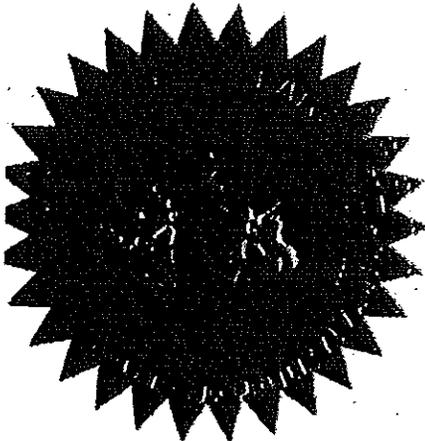
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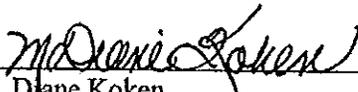
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

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
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:
: :
BANKERS LIFE AND CASUALTY : Sections 606 and 903(a) of the
COMPANY : Insurance Department Act, Act of
222 Merchandise Mart Plaza : May 17, 1921, P.L. 789, No. 285
Chicago, IL 60054 : (40 P.S. §§ 236 and 323.3)
: :
: Sections 354, 404-A, 408-A(e)(2)(iii),
: 408-A(e)(5) and 410E(a)(2) of the
: Insurance Company Law, Act of May
: 17, 1921, P.L. 682, No. 284 (40 P.S.
: §§ 477b, 625-4, 625-8 and 510d)
: :
: Section 2166(A) of the Act of June 17,
: 1998, P.L. 464, No. 68 (40 P.S.
: § 991.2166)
: :
: Title 31, Pennsylvania Code, Sections
: 37.61, 81.5(b), 81.6(a)(1),
: 81.6(a)(2)(ii), 81.6(c), 83.4a, 83.55a,
: 83.55b, 88.101, 88.102, 88.181, 146.3,
: 146.5 and 146.6
: :
: Title 18, Pennsylvania Consolidated
: Statutes, Section 4117(k)
: :
Respondent. : Docket No. MC04-04-019

CONSENT ORDER

AND NOW, this 21st day of *May*, 2004, this Order is hereby
issued by the Deputy Insurance Commissioner of the Commonwealth of

Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

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

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

FINDINGS OF FACT

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

- (a) Respondent is Bankers Life and Casualty Company, and maintains its address at 222 Merchandise Mart Plaza, Chicago, Illinois 60054.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2002 through December 31, 2002.

- (c) On April 7, 2004, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on May 6, 2004.
- (e) The Examination Report notes violations of the following:
 - (i) Section 606 of the Insurance Department Act, No. 285 (40 P.S. § 236), which requires all entities to report to the Department all appointments and terminations of appointments in the format and time frame required by the Department's regulations;
 - (ii) 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;
 - (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 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)(2)(iii) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which requires if a producer in the sale of a life insurance policy uses no illustration or if a screen illustration is displayed, and 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 at the time the policy is delivered and to the insurer;

- (vi) Section 408-A(e)(5) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), requires a copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, shall be retained by the insurer until three years after the policy is no longer in force;
- (vii) Section 410E(a)(2) of the Insurance Company Law, No. 284 (40 P.S. § 510d) which requires individual fixed 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 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 45 days of its delivery (“free look provision”);
- (viii) Section 2166(A) of Act 68 (40 P.S. § 991.2166), which requires a licensed insurer or managed care plan to pay a clean claim submitted by a health care provider within 45 days of receipt of the clean claim;

- (ix) Title 31, Pennsylvania Code, Section 37.61 requires termination activity by an entity shall be reported to the Department on a monthly basis, in a format approved by the Department and filed within 30 days of the end of the month being reported;
- (x) Title 31, Pennsylvania Code, Section 81.5(b), which requires the insurer, as part of a completed application for life insurance or annuity, require a statement signed by the applicant regarding whether the proposed insurance or annuity will replace existing life insurance or annuity;
- (xi) 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;
- (xii) Title 31, Pennsylvania Code, Section 81.6(a)(2)(ii), which requires 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;

- (xiii) 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;
- (xiv) Title 31, Pennsylvania Code, Section 83.4(a), which requires the agent to submit to the insurer with or as 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;
- (xv) Title 31, Pennsylvania Code, Sections 83.55a and 83.55b, which requires
 - (a) the agent shall submit to the insurer a statement, signed by him, certifying that the surrender comparison index disclosure was given upon delivery of the policy or earlier at the request of the life insurance applicant, and
 - (b) the insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least three years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later.The absence of the agent's certification from the appropriate files of the

insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance;

- (xvi) Title 31, Pennsylvania Code, Section 88.101, which requires application forms shall contain a question to elicit information as to whether the insurance to be issued is to replace any other accident and health insurance presently in force. A supplementary application or other form to be signed by the applicant containing such a question may be used;
- (xvii) Title 31, Pennsylvania Code, Section 88.102, which requires an insurer, upon determining that a sale will involve replacement, to furnish the applicant at the time of completing the application, a notice described in Section 88.103. One copy of this notice shall be furnished to the applicant and an additional copy signed by the applicant shall be retained by the insurer;
- (xviii) Title 31, Pennsylvania Code, Section 88.181, which prohibits a policy from being delivered or issued for delivery in the Commonwealth unless an appropriate outline of coverage, as prescribed by this chapter, either accompanies the policy or contract or is delivered at the time application is made;

- (xix) 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 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;

- (xx) 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;

- (xxi) Title 31, Pennsylvania Code, Section 146.6 states that if an investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected; and

- (xxii) Title 18, Pennsylvania Consolidated Statutes, Section 4117(k), which requires all applications for insurance and all claim forms shall contain or have attached thereto the following notice: "Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially

false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.”

CONCLUSIONS OF LAW

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

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Violations of Section 606 of the Insurance Department Act (40 P.S. § 236) are punishable by the following, under Section 639 of the Insurance Department Act (40 P.S. § 279):
 - (i) suspension, revocation or refusal to issue the certificate of qualification or license;
 - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act.
 - (iii) issue an order to cease and desist.

- (iv) impose such other conditions as the department may deem appropriate.
- (c) Respondent's violation of Section 354 of The Insurance Company Law is punishable by the following, under Section 354 of The Insurance Company Law (40 P.S. § 477b):
- (i) suspension or revocation of the license(s) of Respondent;
 - (ii) refusal, for a period not to exceed one year thereafter, to issue a new license to Respondent;
 - (iii) imposition of a fine of not more than one thousand dollars (\$1,000.00) for each act in violation of the Act.
- (d) Respondent's violations of Sections 404-A, 408-A and 410-E of the Insurance Company Law, No. 284 (40 P.S. §§625-4, 625-8 and 510d) are punishable by the following, under 40 P.S. § 625-10: Upon determination by hearing that this act has been violated, the commissioner may issue a cease and desist order, suspend, revoke or refuse to renew the license, or impose a civil penalty of not more than \$5,000 per violation.

- (e) Respondent's violations of Section 2166(A) of Act 68 (40 P.S. § 991.2166) are punishable under Section 2182 of Act 68, which states the Department may impose a penalty of up to five thousand dollars (\$5,000.00) for a violation of this article.
- (f) Respondent's violations of Title 31, Pennsylvania Code, Sections 81.5(b), 81.6(a)(1), 81.6(a)(2)(ii) and 81.6(c) are punishable under Title 31, Pennsylvania Code, Section 81.8(b) and (c), which provide failure to comply, after a hearing, may subject a company to penalties provided in 40 P.S. § 475. Failure to comply shall be considered a separate violation and may not be considered in lieu of a proceeding against the company for a violation of 40 P.S. §§472, 473 or 474. In addition, failure to make the disclosure may be considered a violation of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 to 1171.15);
- (g) Respondent's violations of Title 31, Pennsylvania Code, Sections 83.4(a) and 83.55 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.

(h) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.3, 146.5 and 146.6 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, 1311 Strawberry Square,
Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty
(30) days after the date of this Order.

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

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

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

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

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

11. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or a duly authorized Deputy Insurance Commissioner is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized Deputy Insurance Commissioner.

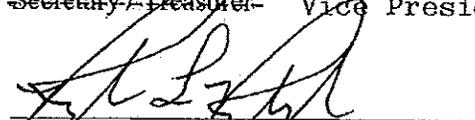
BY: BANKERS LIFE AND CASUALTY
COMPANY, Respondent



~~President / Vice President~~ Senior Vice President



~~Secretary / Treasurer~~ Vice President



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

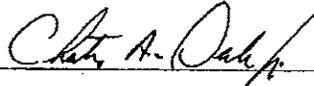
The Market Conduct Examination was conducted on Bankers Life and Casualty Company, hereafter referred to as "Company," at the Company's offices located in Chicago, Illinois, May 12, 2003, through June 27, 2003. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

Pennsylvania Market Conduct Examination Reports generally note only those items, to which the Department, after review, takes exception. A violation is any instance of Company activity that does not comply with an insurance statute or regulation. Violations contained in 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.

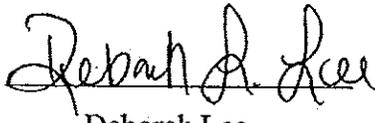
The courtesy and cooperation extended by the Officers and Employees of the Company during the course of the examination is acknowledged.

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



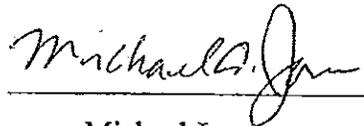
Chester A. Derk Jr., AIE, HIA

Market Conduct Division Chief



Deborah Lee

Market Conduct Examiner



Michael Jones

Market Conduct Examiner



Dan Stemcosky, AIE, FLMI

Market Conduct Examiner

II. SCOPE OF EXAMINATION

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

Bankers Life and Casualty Company started as a mutual assessment company formed in 1932. The oldest predecessor, Hotel Men's Mutual Benefit Association of the United States and Canada, a mutual assessment association, commenced business on January 17, 1879 and was incorporated on April 6, 1880 in Illinois. The Company was licensed in Pennsylvania on March 10, 1950, and is authorized to do business in Canada, the District of Columbia and all states except New York.

Bankers Life and Casualty Company is a wholly owned subsidiary of Bankers Life Insurance Company of Illinois, an intermediate life insurance holding company, which, in turn, is owned by Conseco, Inc. based in Carmel, Indiana. On December 17, 2002, Conseco, Inc., filed for permission to reorganize under Chapter 11 bankruptcy protection. Conseco, Inc., completed its reorganization and emerged from Chapter 11 on September 10, 2003. As a holding company, Conseco, Inc. is a separate legal entity that is distinct and apart from its subsidiary insurance operations. Bankers operates as an independent company and is regulated as a separate company.

Bankers Life and Casualty Company markets a wide variety of accident and health products including a Medicare Supplement product. The Company also markets a variety of life insurance and annuity products, including traditional and term life insurance, universal life insurance and fixed annuities.

As of their December, 2002, annual statement for Pennsylvania, the Company reported direct premium for ordinary life insurance and annuities in the amount of \$35,371,967; and direct premium for accident and health in the amount of \$49,808,137.

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 333 pieces of advertising utilized during the experience period. The advertising consisted of: Print Ads, Letters, Direct Mailers, Radio Commercial Scripts, Brochures, Publications, Product Guides and Booklets. All advertising including the Company’s website at www.bankerslife.com was reviewed to ascertain compliance with Act 205, Section 5 (40 P.S. § 1171.5), Unfair Methods of Competition and Unfair or Deceptive Acts or Practices and Title 31 Pennsylvania Code, Chapter 51 and Chapter 89. The following violations were noted:

3 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 act, which is a crime and subjects such person to criminal and civil penalties.” The applications within the following brochures did not contain the required fraud statement.

Brochure Description	Application Form Number
Senior Whole Life 12667-PA(4/00)	Application: L-12570-PA
Accident Only Policy 6135PA(12/97) & 6135PA(10/02)	Application: 3833-PL
Daily Cash Hospital Confinement 10387A-PA(5/96)	Application: 7353

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:

100 Violations – Insurance Company Law, Section 354 (40 P.S. §477b)

It shall be unlawful for any insurance company, association, or exchange, including domestic mutual fire insurance companies, doing business in this Commonwealth, to issue, sell, or dispose of any policy, contract, or certificate, covering life, health, accident, personal liability, fire, marine, title, and all forms of casualty insurance or contracts pertaining to pure endowments or annuities, or any other contracts of insurance, or use applications, riders, or endorsements, in connection therewith, until the forms of the same have been submitted to and formally approved by the Insurance Commissioner.

The following forms utilized as part of the application and identified in the Medicare Supplement underwriting sections of the exam were not filed for approval.

Form	Form Number	Description	Number of Files
Application	12513-AU and 14119-PA	Group Medicare Supplement Application	25
Application	12513-AU and 14119-PA	Individual Medicare Supplement Application	75

383 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 act, which is a crime and subjects such person to criminal and civil penalties.” The following application forms identified in the underwriting sections of the exam did not contain the required fraud statement. The application form listed in “*italics*” was provided in the forms section of the exam.

Form	Form Number	Description	Number of Files
Application	L11602A-PA	Life Application	225
Application	L-12570-PA	Life Application	131
Application	12046A-PA	Disability Income Application	26
Application	<i>2260A(86) PA</i>	Juvenile Life Application	1

VI. AGENT/BROKER LICENSING

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

The Company provided a list of 188 active agents, and 380 terminated agents. All 188 active agents and a random sample of 50 terminated agents were compared to departmental records of agents and brokers to verify appointments, terminations and licensing. In addition, a comparison was made on the agents identified as producers on applications reviewed in the policy issued sections of the exam. The following violations were noted:

1 Violation – Insurance Department Act, Section 606 (40 P.S. §236)

All entities shall report to the Insurance Department all appointments and terminations of appointments in the format and time frame required by the Insurance Department's regulations. The Company failed to report all agent terminations to the Insurance Department.

1 Violation – Title 31, Pennsylvania Code, Section 37.61

Appointments and terminations by entity.

- (4) Termination activity by an entity shall be reported to the Department on a monthly basis. The report shall be in a format approved by the Department. The report shall be filed within 30 days of the end of the month being reported.

The following agent was listed as terminated by the Company but not reported as terminated to the Department.

Agent Name	Company Termination Date
Mason, Rodney	7/27/2002

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 1999, 2000, 2001, and 2002. The Company identified 40 written consumer complaints and 42 complaints forwarded from the Department. The Company also provided complaints logs for 1999, 2000, 2001 and 2002. A random sampling of 20 consumer complaint files and 20 complaints forwarded from the Department was 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, PA Code, Section 146.5(b) and 146.5(c), Unfair claims Settlement Practices. No violations were noted.

The following table is a synopsis of the 40 complaints reviewed.

Number - 40	Complaint Reason	Percentage -- 100%
19	Agent Misrepresentation/Handling	48%
13	Service/Administrative Problems	32%
8	Claim Denial/Processing	20%

VIII. UNDERWRITING

The Underwriting review was sorted and conducted in 24 general segments.

- A. Underwriting Guidelines
- B. Group Medicare Supplement Certificates Issued
- C. Group Medicare Supplement Certificates Declined
- D. Group Medicare Supplement Certificates Terminated
- E. Group Medicare Supplement Certificates Not-Taken
- F. Group Medicare Supplement Certificates Issued as Replacements
- G. Annuity Contracts Issued
- H. Whole Life and Term Life Policies Issued
- I. Flexible Premium Life Policies Issued
- J. Individual Medicare Supplement Policies Issued
- K. Accident and Health Policies Issued
- L. Annuity Contracts Declined
- M. Life Policies Declined
- N. Accident and Health Policies Declined
- O. Annuities Terminated
- P. Life Policies Terminated
- Q. Accident and Health Policies Terminated
- R. Annuities Not-Taken
- S. Life Policies Not-Taken
- T. Accident and Health Policies Not-Taken
- U. Annuities Issued as Replacements
- V. Life Policies Issued as Replacements
- W. Accident and Health Policies Issued as Replacements
- X. Term 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.

The following manuals and guides were provided and reviewed:

Life/Annuity Underwriting Information

Life Insurance Underwriting Guidelines

Life/Annuity UPDATE (New Underwriting Procedures --13T & 29G)

Nursing Home Care Policy GR-N130 and GR-N130-HHC Annual Rates and Rules

Long Term Care Policies N240, N250, N270, N280 Rates and Submission Rules

Long Term Care Policies N340, N350, N370, N380 Submission Rules

Long Term Care Policies N340, N350, N370, N380 Rates and Rider Rate Factors

Home Health Care Policies N400 and N410 Annual Rates and Submission Rules

Underwriting Rules for Accident Only Policy

Critical Advantage Critical Illness Q201 and GR-G201 Rates and Rules Book

PRD Supplemental Health Benefits Rates and Rules Book

PRD Disability Income Benefits Accident Only Disability Policy Rates and Rules
Hospital Confinement 74X Accident Only 771-PL Annual Rates and Rules
Critical Advantage Benefits Critical Illness P010 and Rider Rates and Rules Book
No violations were noted.

B. Group Medicare Supplement Certificates Issued

The Company was requested to provide a list of all Group Medicare Supplement Certificates issued during the experienced period. The Company provided a list of 1,535 policies issued. A random sample of 25 policies was requested, received and reviewed. The files were reviewed to determine compliance to issuance, underwriting, as well as, replacement statutes and regulations. No violations were noted.

C. Group Medicare Supplement Certificates Declined

The Company was requested to provide a listing of all policies declined during the experience period. The company identified 99 Group Medicare Supplement policies declined. A random sample of 25 declined policy files was requested, received, and reviewed. The files were reviewed to ensure declinations were not the result of any discriminatory underwriting practice and any remittance of unearned premium was properly refunded. No violations were noted.

D. Group Medicare Supplement Certificates Terminated

The Company identified a universe of 411 group Medicare supplement certificates terminated during the experience period. A random sample of 25 files was requested, received and reviewed. 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.

The following table is a synopsis of the 25 files terminated.

Number	Termination Reason	Percent
10	Insured Request	40%
6	Free Look Provision Exercised	24%
6	Death	24%
2	Not-Taken	8%
1	Conversion to another Plan	4%

E. Group Medicare Supplement Certificates Not-Taken

The Company was requested to provide a list of group Medicare supplement certificates not-taken during the experience period. The Company identified a universe of 117 group medicare supplement certificates not-taken. A random sample of 25 not-taken files was requested, received and reviewed. A not-taken group certificate by definition is a certificate that is issued and the insured requests cancellation. The files were reviewed to ensure compliance with the free look provisions of the contract. No violations were noted.

F. Group Medicare Supplement Certificates Issued as Replacements

The Company was requested to provide a listing of all policies issued as replacements during the experience period. The Company identified 1,100 Group Medicare Supplemental policies issued as replacements. A random sample of 25 policy files was requested, received, and reviewed. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. No violations were noted.

G. Annuity Contracts Issued

The Company identified a total universe of 1,013 Annuities issued during the experience period. A random sample of 50 Annuity files was requested, received and reviewed. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted.

2 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 readily ascertain whether the Company or person has complied with the laws of this Commonwealth. The 2 files noted were missing pertinent data.

2 Violations - Title 31, Pennsylvania Code, Section 81.5 (b)

The insurer shall require as part of a completed application for life insurance or annuity a statement signed by the applicant as to whether the proposed insurance or annuity will replace existing life insurance or annuity. The applicant's replacement question was not answered in the 2 files 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. Contract delivery could not be verified in the file noted.

1 Violation - Insurance Company Law, Section 410E(a)(2) (40 P.S. §510d)

Individual fixed 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. The contract file noted did not contain the required 45-day "free look" statement.

H. Whole Life and Term Life Policies Issued

The Company was requested to provide a list of all Life policies issued during the experience period. The Company provided a list of 3,621 life policies issued. Of the 3,621 life policies issued, 53 were identified as Whole Life policies, 2,926 were identified as Senior Whole Life policies, 163 were identified as Term Life policies and 479 were Flexible Premium Life policies. All 53 Whole Life policies and random samples of 100 Senior Whole Life and 50 Term Life policies was requested, received and reviewed. Since the Flexible Premium Life policies were marketed with an illustration, the results of their review is addressed in another section of the Report. Life issued policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

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

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

58 Violations—Title 31, Pennsylvania Code, Sections 83.55a and 83.55b

- a) The agent shall submit to the insurer a statement, signed by him, certifying that the surrender comparison index disclosure was given upon delivery of the policy or earlier at the request of the life insurance applicant.
- b) The insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance. The agent's certification of the surrender comparison index disclosure delivery was not evident in the files noted.

32 Violations - 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. The policy delivery could not be verified in the files noted.

I. Flexible Premium Life Policies Issued

The Company identified a total universe of 3,621 life policies issued during the experience period. Of the 3621 life policies issued, 130 were identified as Equity Index Flexible Premium policies and 349 were identified as Flexible Premium Adjustable Life Policies. A random sampling of 50 Equity Index Flexible Premium policies and 75 Flexible Premium Adjustable policies was requested and received. Of the 125 policy files received, 111 policies were issued, 11 were voided by the company due to insufficient information, 2 were declined for medical reasons and 1 was cancelled at the client's request prior to issuance. The 111 policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

3 Violations - Title 31, Pennsylvania Code, Section 83.4a

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. The disclosure statement was dated after the application date in 2 files noted and the disclosure statement was not dated in the other file noted.

3 Violations -Insurance Company Law, Section 408A(e)(2)(iii) (40 P.S. §625-8)

The following applies if a producer in the sale of a life insurance policy uses no illustration or if a screen illustration is displayed. 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 at the time the policy is delivered and to the insurer. The 3 files noted did not contain the signed certification and acknowledgement of the delivery of an illustration.

5 Violations – Insurance Company Law, Section 408-A (e)(5) (40 P.S. §625-8)

A copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, shall be retained by the insurer until three (3) years after the policy is no longer in force. The 5 files noted were missing the agent certification and the applicant's acknowledgment in regards to the illustration used or the actual copy of the illustration.

J. Individual Medicare Supplement Policies Issued

The Company was requested to provide a listing of all accident and health policies issued during the experience period. The Company identified 2,636 health policies issued. Of the 2,636 health policies issued, 704 provided Medicare Supplement coverage. A random sampling of 75 Medicare Supplement policy files was requested, received, and reviewed. The policies were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. No violations were noted.

K. Accident and Health Policies Issued

The Company was requested to provide a list of all accident and health policies issued during the experience period. The Company provided a list 2,636 accident and health policies issued. Of the 2,636 health policies issued, 1,339 were identified as Long Term Care, 538 provided coverage for Convalescent Care, 26 were Disability Income policies, 18 provided Accident only coverage, 7 provided coverage for Hospital Indemnity and 4 provided coverage for Dread Diseases. Random samples of 100 Long Term Care policies and 50 Convalescent Care policies were requested. All 26 Disability Income, 18 Accident Only, 7 Hospital Indemnity and 4 Dread Disease policies were requested for review. All 205 policy files were requested, received and reviewed. The policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

1 Violation – Title 31, Pennsylvania Code, Section 88.101

Application forms shall contain a question to elicit information as to whether the insurance to be issued is to replace any other accident and health insurance presently in force. A supplementary application or other form to be signed by the applicant containing such a question may be used. The replacement question was not answered in the noted file.

2 Violations – Title 31, Pennsylvania Code, Section 88.181

No policy may be delivered or issued for delivery in the Commonwealth unless an appropriate outline of coverage, as prescribed by this chapter, either accompanies the policy or contract or is delivered at the time application is made. The outline of coverage information was missing or not marked appropriately in the files noted.

L. Annuity Contracts Declined

The Company was requested to provide a listing of all policies declined during the experience period. The company identified 162 annuity contracts declined. A random sample of 50 declined annuity contract files was requested, received, and reviewed. The files were reviewed to ensure declinations were not the result of any discriminatory underwriting practice and any remittance of funds was properly refunded. No violations were noted.

M. Life Policies Declined

The Company was requested to provide a listing of all policies declined during the experience period. The company identified 213 life policies declined. A random sampling of 50 declined life policy files was requested, received, and reviewed. The files were reviewed to ensure declinations were not the result of any discriminatory underwriting practice and any remittance of premiums was properly refunded. No violations were noted.

N. Accident and Health Policies Declined

The Company was requested to provide a listing of all policies declined during the experience period. The company identified 507 health policies declined. A random sampling of 75 declined health policy files was requested, received, and reviewed. The files were reviewed to ensure declinations were not the result of

any discriminatory underwriting practice and any remittance of premiums was properly refunded. 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 Company failed to produce 2 files for review.

O. Annuities Terminated

The Company was requested to provide a list of all annuities terminated during the experience. The Company identified a universe of 467 annuities and 2 immediate annuities terminated. A random sample of 50 annuities and both immediate annuity files were requested, received and reviewed. Both immediate annuities reviewed were terminated due to death. 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.

The following table is a synopsis of the 52 annuities terminated.

Number	Termination Reason	Percent
26	Insured Request Cash Surrender	50%
16	Transfer/Rollover to Other Annuity Plan	31%
7	Not-Taken	13%
3	Death	6%

P. Life Policies Terminated

The Company identified a universe of 4,003 life policies terminated during the experience period. A random sample of 75 policy files was requested, received and reviewed. 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.

The following table is a synopsis of the 75 policies terminated.

Number	Termination Reason	Percent
41	Policy Holder Canceled	55%
12	Cash Surrender	16%
10	Policy Lapsed	13%
9	Death Benefit Paid	12%
3	Policy Matured	4%

Q. Accident and Health Policies Terminated

The Company was requested to provide a list of all health insurance terminated during the experience. The Company identified a universe of 3,601 health insurance policies terminated. A random sample of 100 files was requested, received and reviewed. Of the 100 health policies reviewed, the coverage consisted of the following types: 51 Medicare Supplement policies, 22 Long Term Care policies, 19 Convalescent Care policies, 4 Disability Income policies, 3 Hospital Indemnity policies and 1 Major Medical/Hospital Surgical policy. 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.