

**REPORT OF  
MARKET CONDUCT EXAMINATION  
OF**

**COLONIAL PENN LIFE  
INSURANCE COMPANY**  
Philadelphia, Pennsylvania

**AS OF  
October 20, 2010**

**COMMONWEALTH OF PENNSYLVANIA**



**INSURANCE DEPARTMENT  
MARKET CONDUCT DIVISION**

**Issued: December 6, 2010**

# COLONIAL PENN LIFE INSURANCE COMPANY

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Colonial Penn Life Insurance Company  
Market Conduct Examination as of the  
close of business on October 20, 2010

Docket No.  
MC10-12-003

### ORDER

A market conduct examination of Colonial Penn Life Insurance Company (referred to herein as "Respondent") was conducted in accordance with Article IX of the Insurance Department Act, 40 P.S. §323.1, et seq., for the period January 1, 2009, through December 31, 2009. The Market Conduct Examination Report disclosed exceptions to acceptable company operations and practices. Based upon the Respondent's response to the Examination Report, the report has been modified as attached. Based on the documentation and information submitted by Respondent, the Department is satisfied that Respondent has taken corrective measures pursuant to the recommendations of the Examination Report.

It is hereby ordered as follows:

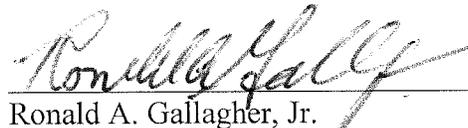
1. The attached Examination Report will be adopted and filed as an official record of this Department. All findings and conclusions resulting from the review of the Examination Report and related documents are contained in the attached Examination Report.
2. Respondent shall comply with Pennsylvania statutes and regulations.

3. Respondent shall comply with all recommendations contained in the attached Report.

4. 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.

The Department, pursuant to Section 905(e)(1) of the Insurance Department Act (40 P.S. §323.5), will continue to hold the content of the Examination Report as private and confidential information for a period of thirty (30) days from the date of this Order.

BY: The Pennsylvania Insurance Department

  
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Ronald A. Gallagher, Jr.  
Deputy Insurance Commissioner

December 6, 2010

## **I. INTRODUCTION**

The Market Conduct Examination was conducted on Colonial Penn Life Insurance Company; hereafter referred to as “Company,” at the Company’s office located in Philadelphia, Pennsylvania, April 19, 2010, through June 18, 2010. 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.

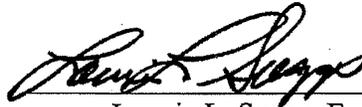
The following examiners participated in the Examination and in the preparation of this Report.

Yonise Roberts Paige  
Market Conduct Division Chief

Lonnie Suggs  
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).



Lonnie L. Suggs, Examiner in Charge

Sworn to and Subscribed Before me

This 20 Day of October, 2010

  
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, 2009, through December 31, 2009, unless otherwise noted. The purpose of the examination was to ensure compliance with Pennsylvania insurance laws and regulations.

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

Colonial Penn Life Insurance Company, a life, accident and health insurance Company, was incorporated in the Commonwealth of Pennsylvania on December 3, 1957 and commenced business on September 2, 1959. Its Charter was amended in 1963 to change the name to Colonial Penn Life Insurance Company. Effective July 2, 1998 the company changed its name to CONSECO Direct Life Insurance Company and on September 18, 2002 CONSECO Direct Life Insurance Company changed its name back to Colonial Penn Life Insurance Company.

On September 30, 1997, Conseco, Inc. ("Conseco"), purchased the Company and its affiliate, Providential Life Insurance Company. Control was maintained by Conseco Incorporated Holding Company ("CIHC, Inc."), an intermediate holding company. On July 2, 1998, the Company changed its name to Conseco Direct Life Insurance Company. On December 31, 1998, CIHC, Inc. transferred its 250,000 shares of the Company's common stock to a subsidiary, Jefferson National Life Insurance Company of Texas ("Jefferson"). Jefferson became the Company's immediate parent. On July 12, 1999, Jefferson's corporate name was changed to Conseco Life Insurance Company of Texas ("CLIC").

The Company's sole shareholder approved on August 7, 2002, a resolution changing the name of the Company to Colonial Penn Life Insurance Company. The change was appropriately reflected in the Charter and By-laws. The amendment to the Articles of Agreement was approved by the Commonwealth on August 12, 2002.

On December 17, 2002, CIHC, Inc., the Company's former direct parent, and Conseco, Inc. ("Conseco"), the Company's ultimate parent, filed voluntary petitions for reorganization under Chapter 11 of the United States Bankruptcy Code. The

Company is a separate legal entity and was not included in the petitions.

On September 10, 2003, upon consummation of the sixth amended plan of reorganization, Conseco and CHIC, Inc. emerged from bankruptcy.

On September 12, 2003, CIHC, Inc. was merged into CIHC, Incorporated of Texas, which was then converted to a Texas insurance company named CIHC Life Insurance Company of Texas ("CIHC Life") and was granted a certificate of authority as a Texas domiciled insurance company. On the same day Conseco Life Insurance Company of Texas was merged into CIHC Life and CIHC Life adopted its current name, Conseco Life Insurance Company of Texas.

The Company received its certificate of authority to operate in the Commonwealth of Pennsylvania on September 2, 1959, and is currently authorized to do business in all states except New York. It is also authorized to transact business in the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

Colonial Penn Life Insurance Company markets individual life, group life and health insurance products on a direct basis through licensed employees.

As of the Company's December 31, 2009, annual statement for Pennsylvania, Colonial Penn Life Insurance Company reported direct premiums for ordinary life insurance in the amount of \$13,653,852 and direct premiums earned for Group Life in the amount of \$1,416,034 and accident and health insurance in the amount of \$64,970.

#### **IV. ADVERTISING**

The Department, in exercising its discretionary authority requested, received and reviewed the Company's Advertising Certificate of Compliance. The certification was reviewed to ensure compliance with Title 31, Pennsylvania Code, Section 51.5. Section 51.5 provides that "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." No violations were noted.

## **V. FORMS**

The Company was requested to provide a list and copies of all policy and/or member forms, conversion contracts, applications, riders, amendments and endorsements used during the experience period. The forms provided and forms reviewed in various underwriting sections of the exam were reviewed to ensure compliance with Insurance Company Law Section 354 and Title 18, Pennsylvania Consolidated Statutes, Section 4117(k), Fraud Notice. No violations were noted.

## **VI. CONSUMER COMPLAINTS**

The Company was requested to identify all consumer complaints received during the experience period and provide copies of consumer complaint logs for 2005, 2006, 2007 and 2008. The Company identified 12 consumer complaints received during the experience period. All 12 complaint files were requested, received and reviewed. The Company provided complaint logs as requested. 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 9 general segments.

- A. Underwriting Guidelines
- B. Level Term Life Policies Issued
- C. Renewable Term Life Policies Issued
- D. Whole Life Policies Issued
- E. Renewable Term Policies Issued as Replacement
- F. Whole Life Policies Issued as Replacement
- G. Renewable Term Life Policy Rescissions
- H. Whole Life Policy Rescissions
- I. Individual Term Life Conversions

Each segment was reviewed for compliance with underwriting practices and included forms identification and producer identification. Issues relating to forms or 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 all underwriting guidelines and manuals utilized during the experience period. The manuals were reviewed to ensure underwriting guidelines were in place and being followed in a uniform and consistent manner. The manuals were also reviewed to ensure that no underwriting practices or procedures were in place that could be considered discriminatory in nature, or specifically prohibited by statute or regulation. The Company's internet web site, [www.colonialpenn.com](http://www.colonialpenn.com), was also reviewed for same. No violations were noted.

The following guidelines including the accompanying product review and eligibility requirements were reviewed:

- Modified Benefit Whole Life Coverage eff: 4/7/08
- Modified Benefit Whole Life Coverage eff: 4/1/09
- Simplified Whole Life Coverage eff: 10/1/06
- 5 Year Renewal Level Term Life Coverage to Age 80 eff: 11/15/05
- 10 & 20 Year Guaranteed Level Term Life coverage to Age 95 eff: 4/21/08
- Accidental Death Benefit Rider for Whole Life Plans eff: 11/05

### **B. Level Term Life Policies Issued**

The Company was requested to provide a list of all level term life policies issued during the experience period. The Company provided a list that included 1 life policy. The policy was requested, received and reviewed. The files were reviewed to ensure compliance with Title 18, Pennsylvania Consolidated Statutes, Section 4117(k). No violations were noted.

### **C. Renewable Term life Policies Issued**

The Company was requested to provide a list of all renewable term life policies issued during the experience period. The Company identified a list of 2,079 policies issued. A sample of 25 policy files was requested, received and reviewed. The policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. No violations were noted.

## **D. Whole Life Policies Issued**

The Company was requested to provide a list of whole life policies issued during the experience period. The Company identified a universe of 6,608 policies issued during the experience period. A random sample of 50 policy files was requested, received and reviewed. Of the 50 files policies issued, 4 files were solicited by the writing producer with coverage exceeding \$5000.00. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were 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 noted file was missing the application.

### **4 Violations – Title 31, Pennsylvania Code, Section 81.6(a)(1)**

An insurer that uses an agent or broker in a life insurance or annuity sale shall:  
Require with or as part of a completed application for life insurance or annuity a statement signed by the agent or broker as to whether the broker knows replacement is or may be involved in the transaction.

The producer's question on replacement was not completed in the noted 4 applications.

### **E. Renewable Term Life Policies Issued as Replacement**

The Company was requested to provide a list of all renewable term life insurance policies issued as replacements during the experience period. The Company identified a universe of 37 renewable term life policies issued as replacements during the experience period. All 37 policies files was requested, received and reviewed. The policy files were reviewed to determine compliance with issuance, underwriting, and replacement statutes and regulations. No violations were noted.

### **F. Whole Life Policies Issued as Replacements**

The Company was requested to provide a list of all whole life policies issued as replacements during the experience period. The Company identified a list of 11 policies issued. All 11 policy files were requested, received and reviewed. The policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. No violations were noted.

### **G. Renewable Term Life Policy Rescissions**

The Company was requested to provide a list of renewable term life insurance policies that were rescinded during the experience period. The Company identified a universe of 20 policies that were rescinded; all policies were requested, received and reviewed. A rescinded policy is a policy that was issued and the company terminated the contract and returns all premiums paid from the policy effective date to the insured. The 20 policies files were reviewed to determine compliance with contract provisions, terminated laws and regulations, proper return of premium and a valid reason for the rescission. No violations were noted.

## **H. Whole Life Policies Rescissions**

The Company was requested to provide a list of whole life policies that were rescinded during the experience period. The Company identified a universe of 7 policies issued during the experience period. All 7 policy files were requested, received and reviewed. A rescinded policy is a policy that was issued and the company terminated the contract and returns all premiums paid from the policy effective date to the insured. The 7 files were reviewed to determine compliance with contract provisions, terminated laws and regulations, proper return of premium and a valid reason for the rescission. No violations were noted.

## **I. Individual Term Life Conversions**

The Company was requested to provide a list of individual term life policies that was converted during the experience period. The Company identified a universe of 63 conversion policies. A random sample of 20 conversion files were requested, received and reviewed. The files were reviewed to determine compliance with issuance underwriting statutes and regulations. The following violations were 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 noted file was missing the application.

## **IX. INTERNAL AUDIT & 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, Qualified Independent Assessor's Supplemental Report was reviewed with no unsatisfactory gaps identified.

Following is a brief description of the information received and reviewed:

- Insurance Marketplace Standards Association (IMSA) Report
- Underwriting Quality Standards
- Internal Audit Claims Reviews (audits of rates and claim information accuracy)

- Internal Audit Report (audit scope, management action plans)
- Financial review of 2007
- Quality Control

Several other instances of internal audit procedures were documented throughout the exam sections. No violations were noted.

## **X. CLAIMS**

The claims review consisted of a review of the Company's claim manuals and a review of the claim files. The Company was requested to provide copies of all procedural guidelines including all manuals, memorandums, directives and any correspondence or instructions used for processing claims during the experience period. The Company provided the following claim manuals for review.

1. Life Claims - Process Map
2. Life Claims Brochure
3. Medicare Supplement Plans

The claim manuals and procedures were reviewed for any inconsistencies, which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature. No violations were noted.

The claim file review consisted of 2 areas:

- A. Medicare Supplement Health Insurance Claims
- B. Individual Life Claims

All claim files sampled were reviewed for compliance with requirements of the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171) and Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices.

### **A. Medicare Supplement Health Insurance Claims**

The Company was requested to provide a list of Medicare supplemental claims received during the experience period. The Company identified 409 claims received. A random sample of 25 claims was requested, received and reviewed. The 25 files were identified as claim files were reviewed to ensure that the Company's claims adjudication process was adhering to the provisions of the policy contract, as well as complying with pertinent state insurance laws and regulations. No violations were noted.

### **B. Individual Life Claims**

The Company was requested to provide a list of claims received during the experience period. The Company identified 4,112 individual life claims received. A random sample of 50 claims was requested, received and reviewed. The 50 files were identified as claim files were reviewed to ensure that the Company's claims adjudication process was adhering to the provisions of the policy contract, as well as complying with pertinent state insurance laws and regulations. The following violations were noted:

#### **1 Violation - Title 31, Pennsylvania Code, Section 146.6**

(a) Every insurer shall complete investigation of a claim within 30 days after notification of claim, unless such investigation cannot reasonably be completed within such 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 claim noted.

## **XI. RECOMMENDATIONS**

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

1. The Company must review and revise internal control procedures to ensure compliance with the replacement requirements of Title 31, Pennsylvania Code, Chapter 81.
2. 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).
3. 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.

## XII. COMPANY RESPONSE

In preamble, the Company would like to provide assurance that it takes its obligations to policyholders very seriously and that it has policies and procedures in place for compliance with applicable laws and regulations governing its practices. The Company response corresponds with the recommendations under Section XI of the Report of Examination.

1. The Company has reviewed Title 31, Pennsylvania Code, Chapter 81 that deals with replacement requirements. The Company's internal procedures require that the agent complete all sections of the application prior to submission to the Home Office. The Company acknowledges that for the 4 applications noted, the applicant indicated that there was no replacement involved but the agent did not check the appropriate box in the agent certification section. The New Business area and the Branch Offices have been reminded that all sections of the application must be completed or the application will be returned to the agent.
2. The Company has reviewed Section 903(a) of the Insurance Department Act of 1921 (40 P.S. §323.3) regarding maintenance of books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the Company. The Company recognizes its obligation to maintain accurate policyholder records and has established procedures to image all pertinent documents that are submitted and store them in the document repository. The Company acknowledges that of the 246 files that were reviewed, 2 were missing a copy of the application. Since this error rate is less than 1%, the Company believes that this is an indication of isolated errors and not a general business practice. Nevertheless, the affected areas have been reminded of the importance of imaging all pertinent documents.
3. The Company has reviewed Section 404-A of the Insurance Company Law of 1921 (40 P.S. §625-4) that deals with policy delivery requirements. Section 404-A (40 P.S. §625-4) states "When the individual policy or annuity is delivered to the policyholder **by the producer** by hand, a delivery receipt shall be used". It further states "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. A certificate of mailing is adequate proof of delivery". (Emphasis supplied). The Company has interpreted the language of 404-A to apply only to policies delivered or mailed **by a producer**. The cited policies were not delivered by a producer. The applications were sent to the Company by the applicant and the policies were delivered **by the Company** directly to the applicants by first class mail. (Emphasis supplied). To further support the Company's interpretation that Section 404-A does not apply to policies that are not delivered by a producer, the Company relied on a Department ruling in a prior Market Conduct Examination. In the Initial Summaries of the Market Conduct Examination made as of the close of business on September 12, 2002 ("2002 Market Conduct Examination"), there were 200 violations cited for Section 404-A. After the examiners considered the Company response that the statute only applies to policies that are delivered by the producer, the violations were removed.

During the course of this Market Conduct Examination, the Company learned that the Department had a concern that verification of the date of policy delivery could not be established for policies that were delivered by the Company. Since it is the Company's intent to comply with the Department's recent interpretation of Section 404-A, the Company has agreed to modify its process. A copy of the procedure that the Company will follow on a go-forward basis will be sent to the Department within 30 days of entering into a Consent Agreement.

4. The Company has reviewed Title 31, Pennsylvania Code, Chapter 146 that deals with Unfair Claims Settlement Practices. The Company has established procedures in place to investigate claims within 30 days after notification of claim, unless such investigation cannot reasonably be completed within such time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the Company has procedures to provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. First notice of the claim in question was received by telephone on 06/15/09 wherein the Company was advised that the proceeds were being assigned for funeral expenses. On 07/13/09 a fax was received from the funeral funding company confirming their interest in the policy. Normally, a follow-up would have been sent on 07/15/09. However, given receipt of the fax prior to that date and knowing that the originals would be forthcoming from the funeral funding company (it is standard operating procedure for them to submit the original documents shortly after sending a fax), the Company acknowledges that a follow-up was not performed.. Since the Department has indicated that a follow-up was necessary in this situation, the Claims Department has been advised to send follow-ups in the timeframe requirements of Section 146.6 even in situations where they have received notification that the documents are being sent.