

**REPORT OF  
MARKET CONDUCT EXAMINATION  
OF**

**AMERICAN REPUBLIC INSURANCE COMPANY**  
Des Moines, Iowa

**AS OF  
November 15, 2007**

**COMMONWEALTH OF PENNSYLVANIA**



**INSURANCE DEPARTMENT  
MARKET CONDUCT DIVISION**

**Issued: January 10, 2008**

# AMERICAN REPUBLIC INSURANCE COMPANY

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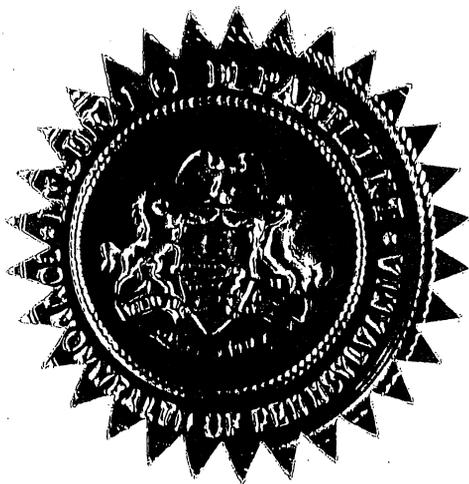
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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 6<sup>th</sup> day of July, 2007, 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.



  
\_\_\_\_\_  
Joel S. Ario  
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
AMERICAN REPUBLIC	:	Section 354 of the Insurance Company
INSURANCE COMPANY	:	Law, Act of May 17, 1921, P.L. 682,
601 6 <sup>th</sup> Avenue	:	No. 284 (40 P.S. § 477b)
Des Moines, IA 50309	:	
	:	Title 31, Pennsylvania Code, Sections
	:	51.5, 73.133(e) and (g), 88.101, 88.102,
	:	88.181, 89.783 and 146.3
	:	
	:	
Respondent.	:	Docket No. MC07-12-013

CONSENT ORDER

AND NOW, this 10<sup>th</sup> day of JANUARY, 2008, this Order is hereby issued by the Insurance Department 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 Insurance Department finds true and correct each of the following Findings of Fact:

- (a) Respondent is American Republic Insurance Company, and maintains its address at 601 6<sup>th</sup> Avenue, Des Moines, Iowa 50309.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from July 1, 2005 through June 30, 2006.
- (c) On November 15, 2007, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on December 14, 2007.
- (e) The Examination Report notes violations of the following:

- (i) 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;
  
- (ii) 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;
  
- (iii) Title 31, Pennsylvania Code, Section 73.133(e), which requires an insurer to be responsible for conducting a thorough examination of creditors with respect to its credit insurance business during the first policy year and at least annually thereafter, to assure compliance with this chapter and other applicable insurance laws and regulations of the Commonwealth. The examination shall verify the accuracy of premiums or other identifiable insurance charges, premium refunds, claim payments which have been reported to the insurer and any other pertinent information necessary for the insurer to determine that debtors are being afforded proper coverage.

Examinations performed by an insurer shall be subject to review by the Department. The group policy shall contain a provision explaining that the account will be examined annually;

- (iv) Title 31, Pennsylvania Code, Section 73.133(g), which requires the insurer to establish and maintain a written record of each creditor examination.

This record shall be maintained for at least three years from the date of examination or until the conclusion of the next succeeding regular examination by the Department of its domicile, whichever is later;

- (v) Title 31, Pennsylvania Code, Section 88.101, which states 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;

- (vi) Title 31, Pennsylvania Code, Section 88.102, which states upon determining that a sale will involve replacement, an insurer, other than a direct response insurer or its agent, shall furnish the applicant at the time of completing the application, the notice described in § 88.103 of this title (relating to notice form). One copy of the notice shall be furnished to the applicant and an additional copy signed by the applicant shall be retained by the insurer;

- (vii) Title 31, Pennsylvania Code, Section 88.181, which states no policy may be delivered or issued for delivery in this Commonwealth unless an appropriate outline of coverage, as prescribed by this chapter, either accompanies the policy or contract or is delivered at the time the application is made;
- (viii) Title 31, Pennsylvania Code, Section 89.783, which requires issuers of accident and sickness policies or certificates which provide hospital or medical expense coverage on an expense-incurred or indemnity basis to a person eligible for Medicare, shall provide to these applicants a Guide to Health Insurance for People with Medicare in the form developed jointly by the National Association of Insurance Commissioners and the Health Care Financing Administration and in a type size no smaller than 12-point type. Delivery of the Guide shall be made whether or not these policies or certificates are advertised, solicited or issued as Medicare supplement policies or certificates as defined in this subchapter. Except in the case of direct response issuers, delivery of the Guide shall be made to the applicant at the time of the application and acknowledgment of receipt of the Guide shall be obtained by the issuers. Direct response issuers shall deliver the Guide to the applicant upon request but not later than at the time the policy is delivered; and
- (ix) 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.

#### CONCLUSIONS OF LAW

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

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) 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.

- (c) Respondent's violations of Title 31, Pennsylvania Code, Sections 73.133 subject the Respondent to an Order of the Commissioner, the violation of which would result in a penalty of up to \$250 and up to \$1000 for willful violation, as well as revocation or suspension of license in addition to any other penalty provided by law (40 P.S. §1007.12; 40 P.S. §1007.14).
- (d) Respondent's violations of Title 31, Pennsylvania Code, Section 146.3, subject Respondent to the following penalties under the Unfair Insurance Practices Act (40 P.S. §§1171.1, et seq.):
- (i) a cease and desist order (40 P.S. § 1171.9);
  - (ii) suspension or revocation of the license(s) of Respondent (40 P.S. § 1171.9);
  - (iii) a five thousand dollar (\$5,000) penalty for each method of competition, act or practice which Respondent knew or should have known was in violation of the law (not to exceed \$50,000 in any six month period) (40 P.S. § 1171.11);
  - (iv) a one thousand dollar (\$1,000) penalty for each violation for each method of competition, act or practice which Respondent did not know nor reasonably should have known was in violation of the law (not to exceed \$10,000 in any six month period) (40 P.S. § 1171.11).

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department 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 Ten Thousand Dollars (\$10,000.00) 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. Fraser, Office Manager, 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 Insurance Department 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 Department 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 Department 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 Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department 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 Insurance Department. Only the Insurance Department or a duly authorized delegee 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 delegee.

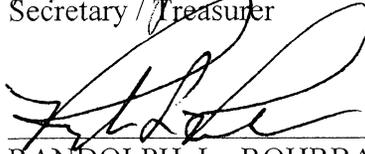
BY: AMERICAN REPUBLIC INSURANCE  
COMPANY, Respondent



\_\_\_\_\_  
President / Vice President



\_\_\_\_\_  
Secretary / Treasurer



\_\_\_\_\_  
RANDOLPH L. ROHRBAUGH  
Deputy Insurance Commissioner  
Commonwealth of Pennsylvania

## I. INTRODUCTION

The Market Conduct Examination was conducted on American Republic Insurance Company; hereafter referred to as "Company," at the Company's office located in Des Moines, Iowa, October 10, 2006, through December 8, 2006. 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.

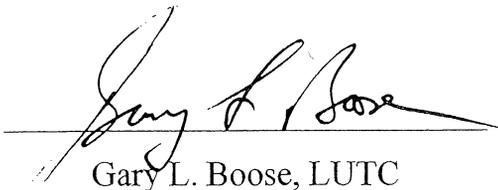
Throughout the course of the examination, Company officials were provided status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company officials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

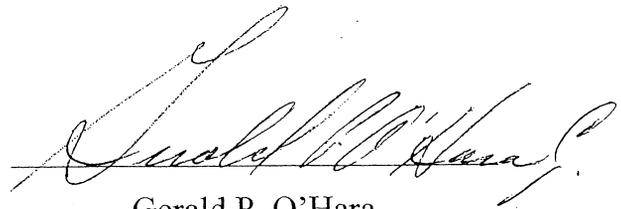
The undersigned participated in the Examination and in the preparation of this Report.



Daniel Stemcosky, AIE, FLMI  
Market Conduct Division Chief



Gary L. Boose, LUTC  
Market Conduct Examiner



Gerald P. O'Hara  
Market Conduct Examiner



Michael T. Vogel  
Market Conduct Examiner

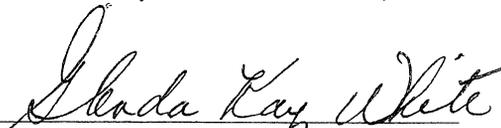
**Verification**

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).

  
\_\_\_\_\_  
Gary L. Boose, Examiner-in-Charge

Sworn to and Subscribed Before me

This *16<sup>th</sup>* Day of *October*, 2007

  
\_\_\_\_\_  
Notary Public

GLEENDA KAY WHITE  
NOTARY PUBLIC STATE OF MARYLAND  
My Commission Expires *10/5/08*

## **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 July 1, 2005, through June 30, 2006, 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, 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

American Republic Insurance Company, hereinafter referred to as “Company”, was incorporated in the State of Iowa on April 4, 1929, and commenced business on May 10, 1929. The Company is licensed in 49 states and has nearly 15,000 agents across the country. The Company provides a variety of major medical, Medicare supplement, life, annuity, credit life, credit accident and health and critical care/cancer care products.

In 2004, AmericanEnterprise was created through the merger of American Republic Mutual Holding Company and the World Mutual Holding Company. With the merger, two organizations—Iowa-based American Republic Insurance Company, and Nebraska-based World Insurance Company—combined their experience and financial strength to expand their services to the individual life and health care market throughout the United States.

In August of 2006, AmericanEnterprise acquired, through reinsurance, the major medical business from Ceres Group. With this transaction, the Enterprise’s in-force policies increased by more than 50,000 and licensed agents by more than 10,000.

As of their 2006 annual statement for Pennsylvania, the Company reported direct premium for ordinary life insurance and credit life insurance in the amount of \$1,379,843; accident and health and credit accident and health in the amount of \$2,268,800.

#### 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 was requested to provide advertising and marketing materials used during the experience period and a certificate of authority. The Company provided the information as requested, but did not provide a certificate of authority. The reviewing criteria used was to ascertain compliance with Act 205, Section 5 (40 P.S. § 1171.5), Unfair Methods of Competition and Unfair or Deceptive Acts or Practices. Also the material was reviewed for compliance with Title 31, Pennsylvania Code, Chapter 51, Title 31 Pennsylvania Code, Section 73.136(a)(c)(d)(e)(f), and Title 18, Pennsylvania Consolidated Statutes, Section 4117(k). The following violation was noted:

**1 Violation – Title 31, Pennsylvania Code, Section 51.5, Certificate of compliance.**

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 Company failed to provide the advertising certificate of compliance.

## 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, Title 31, Pennsylvania Code, Chapter 73, and Insurance Department Act, Section 903 (40 P.S. §323.3). The applicable sections are as follows: 73.114 insurability requirements, 73.115 benefits exclusions, 73.116 age requirements, 73.130 election of coverage and disclosure requirements, 73.133 group examination and audits and 73.136(a) approval of forms and rates. The following violations were noted:

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

It shall be unlawful for any insurance company, doing business in Commonwealth of Pennsylvania, to issue, sell, or dispose of any policy, contract, or certificate, covering life insurance, or use applications, riders, or endorsements in connection therewith, until the forms have been submitted to, and formally approved by, the Insurance Commissioner. The following forms were not filed and approved. The application form number, description and frequency of use are listed in the table below.

<b>Form Number</b>	<b>Description</b>	<b>Frequency of Use</b>
A-3978	Application	4

## 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 97 active and terminated producers. The entire list was compared to departmental records of producers to verify appointments, terminations and licensing. In addition, a comparison was made on the 81 producers identified on applications reviewed in the policy issued sections of the exam. No violations were noted.

## VII. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of consumer complaint logs for 2002, 2003, 2004, and 2005. The Company reported 20 consumer complaints were received during the experience period. Of the 20 complaints identified, 1 was forwarded from the Department. All 20 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 17 general segments.

- A. Underwriting Guidelines
- B. Active Credit Groups
- C. Credit Life Policies Issued
- D. Credit Accident and Health Policies Issued
- E. Credit Single Premium Certificates Issued
- F. Credit Monthly Outstanding Balance Certificates Issued
- G. Credit Single Premium Certificates Terminated
- H. Credit Monthly Outstanding Balance Certificates Terminated
- I. Medicare Supplement Policies Issued
- J. Major Medical Policies Issued
- K. Medicare Supplement Policies Issued as Replacements
- L. Major Medical Policies Issued as Replacements
- M. Life Policies Declined
- N. Major Medical Policies Declined
- O. Major Medical Policies Terminated
- P. Term Life Policies Terminated
- Q. Term 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 guidelines and manuals received were reviewed to ensure that underwriting guidelines were in place and being followed in a

uniform and consistent manner and that no underwriting practices or procedures were in place that could be considered discriminatory in nature, or specifically prohibited by statute or regulation. No violations were noted.

The following guidelines were reviewed:

1. Life Product Manual, Life Underwriting & Administration
2. Underwriting Guidelines
3. Life Savings Manual

#### **B. Active Credit Groups**

The Company was requested to provide a list of their group policyholders during the experience period. The Company identified a universe of 152 group policies. A random sample of 50 groups was selected for the Company to provide copies of the group's required annual examinations as well as copies of the Company's group master contracts. Of the requested contracts and audits, the Company provided all the materials that they had for the requested group contracts and audits. The group contracts and the audits were reviewed to ensure compliance with Title 31, Pennsylvania Code, Section 73.133. Subsections (e), (f), and (g) of Section 73.133 provides for the insurers responsibility in conducting an annual examination of creditors to ensure compliance and the requirements to establish and maintain written records of its creditor examination. The following violations were noted:

**27 Violations – Title 31, Pennsylvania Code, Section 73.133(e), Claims and examination procedures.**

(e) Creditor examination. An insurer shall be responsible for conducting a thorough examination of creditors with respect to its credit insurance business during the first policy year and at least annually thereafter to assure compliance with this chapter and other applicable insurance laws and regulations of the Commonwealth. The examination shall verify the accuracy of premiums or other identifiable insurance charges, premium refunds, claim payments which have been reported to the insurer and any other pertinent information necessary for the insurer to determine that debtors are being afforded proper coverage. Examinations performed by an insurer shall be subject to review by the Department. The group policy shall contain a provision explaining that the account will be examined annually. The 27 audit group contracts noted did not include the required annual audit provision.

**50 Violations – Title 31, Pennsylvania Code, Section 73.133(g), Claims and examination procedures.**

(g) Record of examination. The insurer shall establish and maintain a written record of each creditor examination. This record shall be maintained for at least 3 years from the date of examination or until the conclusion of the next succeeding regular examination by the Department of its domicile, whichever is later. The 50 audit records noted were not provided.

### **C. Credit Life Policies Issued**

The Company was requested to provide a list of their group credit life policies issued during the experience period. The Company identified a universe of 2 group policies. Both group policies were selected for the Company to provide copies of the group's master contracts. The group contracts were reviewed to ensure compliance with Title 31, Pennsylvania Code, Section 73.133. Subsections (e), (f), (g) and (h) of Section 73.133 provides for the insurers responsibility in conducting an annual examination of creditors to ensure compliance and the requirements to establish and maintain written records of its creditor examination. No violations were noted.

### **D. Credit Accident and Health Policies Issued**

The Company was requested to provide a list of their group policyholders during the experience period. The Company identified a universe of 2 group credit accident and health policyholders. Both groups were selected for the Company to provide copies of the Company's group master contracts. The group contracts were reviewed to ensure compliance with Title 31, Pennsylvania Code, Section 73.133. Subsections (e), (f), and (g) of Section 73.133 provides for the insurers responsibility in conducting an annual examination of creditors to ensure compliance and the requirements to establish and maintain written records of its creditor examination. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. No violations were noted.

### **E. Credit Single Premium Certificates Issued**

The Company was requested to provide a list of all credit single premium certificates issued during the experience period. The Company identified a universe of 4,060 single premium certificates issued. A random sample of 122 certificate files was requested. Of the 122 certificate files requested, 72 life certificates and 50 disability certificates were received and reviewed. The files were reviewed to ensure compliance with contract provisions, issuance, and rating laws and regulations. No violations were noted.

### **F. Credit Monthly Outstanding Balance Certificates Issued**

The Company was requested to provide a list of all credit certificates issued during the experience period. The Company identified a universe of 221 monthly outstanding balance issued certificates. A random sample of 20 certificate files was requested, received and reviewed. The files were reviewed to ensure compliance with contract provisions, termination laws and regulations. No violations were noted.

### **G. Credit Single Premium Certificates Terminated**

The Company was requested to provide a list of all certificates issued used during the experience period. The Company identified a universe of 9,443 single life and disability certificates issued. A random sample of 100 certificate files was requested, received and reviewed. The files were reviewed to ensure compliance with contract provisions, issuance, and rating laws and regulations. No violations were noted.

## **H. Credit Monthly Outstanding Balance Certificates Terminated**

The Company was requested to provide a list of all credit certificates cancelled during the experience period. The Company identified a universe of 179 monthly outstanding balance terminated certificates. A random sample of 10 certificate files was requested, received and reviewed. The files did not terminate before completing the requested term of coverage. No refunds were made as these files were billed in arrears. The files were reviewed to ensure compliance with contract provisions, termination laws and regulations. No violations were noted.

## **I. Medicare Supplement Policies Issued**

The Company was requested to provide a list of all Medicare supplement policies issued during the experience period. The Company provided a list of 7 policies issued. All 7 policies were requested, received and reviewed. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

### **4 Violations – Title 31, Pennsylvania Code, Section 88.181**

No policy may be delivered or issued for delivery in this Commonwealth unless an appropriate outline of coverage, as prescribed by this chapter, either accompanies the policy or contract or is delivered at the time of application. The 4 files did not contain evidence that the required outline of coverage was provided.

### **7 Violations - Title 31, Pennsylvania Code, Section 89.783**

Issuers of accident and sickness policies or certificates which provide hospital or medical expense coverage on an expense incurred or indemnity basis to a person eligible for Medicare, shall provide to these applicants a Guide to Health Insurance for People with Medicare in the form developed jointly by the National Association of Insurance Commissioners and Centers for Medicare & Medicaid Services (CMS) and in a type size no smaller than 12-point type. Delivery of the Guide shall be made whether or not these policies or certificates are advertised, solicited or issued as Medicare supplement policies or certificates as defined in this subchapter. Except in the case of direct response issuers, delivery of the Guide shall be made to the applicant at the time of application and acknowledgment of receipt of the Guide shall be obtained by the issuers. Direct response issuers shall deliver the Guide to the applicant upon request but not later than at the time the policy is delivered. The 7 files noted did not provide the "Guide to Health Insurance for People with Medicare."

### **J. Major Medical Policies Issued**

The Company was requested to provide a list of all policies issued during the experience period. The Company identified a universe of 81 major medical policies issued. A random sampling of 25 files was 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:

### **3 Violations – Title 31, Pennsylvania Code, Section 88.101. Application Forms**

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 3 files noted did not contain an answer regarding replacement.

### **K. Medicare Supplement Policies Issued as Replacements**

The Company was requested to provide a list of all Medicare Supplement policies issued during the experience period. The Company provided a list of 6 policies issued. All 6 policies were requested, received and reviewed. The files were reviewed to determine compliance to issuance, underwriting and replacement statutes and regulations. The following violations were noted:

### **3 Violations – Title 31, Pennsylvania Code, Section 88.181**

No policy may be delivered or issued for delivery in this Commonwealth unless an appropriate outline of coverage, as prescribed by this chapter, either accompanies the policy or contract or is delivered at the time of application. The 3 files noted did not contain evidence that the required outline of coverage was provided.

### **6 Violations – Title 31, Pennsylvania Code, Section 89.783**

(6) Issuers of accident and sickness policies or certificates which provide hospital or medical expense coverage on an expense incurred or indemnity basis to a person eligible for Medicare, shall provide to these applicants a Guide to Health Insurance for People with Medicare in the form developed jointly by the National Association of

Insurance Commissioners and the Health Care Financing Administration and in a type size no smaller than 12-point type. Delivery of the Guide shall be made whether or not these policies or certificates are advertised, solicited or issued as Medicare supplement policies or certificates as defined in this subchapter. Except in the case of direct response issuers, delivery of the Guide shall be made to the applicant at the time of application and acknowledgment of receipt of the Guide shall be obtained by the issuers. Direct response issuers shall deliver the Guide to the applicant upon request but not later than at the time the policy is delivered. The 6 files noted did not provide the Guide to Health Insurance for People with Medicare.

#### **L. Major Medical Policies Issued as Replacements**

The Company was requested to provide a list of all policies issued during the experience period. The Company identified a universe of 19 major medical policies issued as replacements. All 19 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 88.102**

Upon determining that a sale will involve replacement, an insurer, other than a direct response insurer or its agent, shall furnish the applicant at the time of completing the application, the notice described in § 88.103 of this title (relating to notice form). One copy of such notice shall be furnished to the applicant and an additional copy signed by the applicant shall be retained by the insurer. The replacement form was missing in the file noted.

### **M. Life Policies Declined**

The Company was requested to provide a list of all policies declined during the experience period. The Company identified a universe of 2 life policies declined. The 2 files were requested, received and reviewed. The 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. Major Medical Policies Declined**

The Company was requested to provide a list of all policies declined during the experience period. The Company identified 3 major medical policies declined. All 3 files were requested, received and reviewed. The 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.

### **O. Major Medical Policies Terminated**

The Company was requested to identify all major medical policies terminated during the experience period. The Company identified 8 policies terminated. All 8 terminated policies were 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. The reviewed files revealed that 3 were terminated by the insured's request and 5 were lapsed. No violations were noted.

#### **P. Term 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 31 term life insurance policies terminated. A random sample of 10 files was requested, received and reviewed. The policies were reviewed to ensure compliance with contract provisions, termination laws and regulations, and proper return of any unearned premium. No violations were noted.

#### **Q. Term Conversions**

The Company identified a universe of 1 term life conversion policy issued during the experience period. The term life conversion policy was requested, received and reviewed. The policy was reviewed to determine compliance to issuance and underwriting statutes and regulations. No violations were noted.

## **IX. INTERNAL AUDIT AND COMPLIANCE**

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

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

No violations were noted.

## 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:

1. Compliance Procedures Manual
2. HIPPA Manual
3. Notes and Forms
4. Codes and Modifiers
5. Discount Procedures Repricing
6. Miscellaneous Policy Procedures
7. Atlas Letters
8. Line Remarks
9. Adjustments

The claim manuals and procedures (guidelines) 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 3 areas:

- A. Life Claims
- B. Medicare Supplement Claims
- C. Major Medical 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. The life claims were additionally reviewed for compliance with Insurance Company Law, Section 411B, Payment of Interest (40 P.S. §511b).

### **A. Life Claims**

The Company was requested to provide a list of claims received during the experience period. The Company identified 3 life claims received during the experience period. All 3 life claims were requested, received and reviewed. 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). No violations were noted.

### **B. Medicare Supplement Claims**

The Company was requested to provide a list of all health claims received during the experience period. The Company identified 6,487 Medicare Supplement claims. A random sample of 50 claims was requested, received and reviewed. The claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146 and the provider-submitted claim files were reviewed for compliance with Act 68, Section 2166 (40 P.S. §991.2166), Prompt Payment of Provider Claims. No violations were noted.

### **C. Major Medical Claims**

The Company was requested to provide a list of all health claims received during the experience period. The Company identified a universe of 3,685 Major Medical Claims. A random sample of 50 claim files was requested, received and reviewed. The claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146 and with Quality

Health Care Accountability and Protection Act, No. 68, Section 2166 (40 P.S. §991.2166), Prompt Payment of Provider Claims. 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 the necessary information needed to verify the processing time lines.

## 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 advertising certification requirements of Title 31, Pennsylvania Code, Chapter 51.
2. 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).
3. The Company must implement procedures to ensure compliance with annual audit and examination requirements of Title 31, Pennsylvania Code, Section 73.133(e).
4. The Company must implement procedures to ensure compliance with maintaining record of examination requirements of Title 31, Pennsylvania Code, Section 73.133(g).
5. The Company must review internal control procedures to ensure compliance with application and outline of coverage requirements of Title 31, Pennsylvania Code, Chapter 88.
6. The Company must review internal control procedures to ensure compliance with replacement requirements of Title 31, Pennsylvania Code, Chapter 88.
7. The Company must review internal control procedures to ensure compliance with the required disclosure provision requirements of Title 31, Pennsylvania Code, Section 89.783.
8. 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



# American Republic Insurance Company

601.6th Avenue, Des Moines, Iowa 50334

DeDee Birdsall  
Compliance Manager  
P. O. Box 1  
Des Moines, Iowa 50334  
(515) 245-2243

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

December 13, 2007

RE: Examination Warrant Number: 06-M24-006 – American Republic Insurance  
Company (NAIC 60836)

Dear Mr. Stemcosky,

Thank you for your letter and final report for the market conduct examination of  
American Republic Insurance Company for the period July 1, 2005 through June 30,  
2006. In response, we've included the State's recommendations in the same order as they  
appear in the report, followed by a summary of our comments or corrective action.

Sincerely,

DeDee Birdsall  
Compliance Manager  
American Republic Insurance Company

**American Republic Insurance Company**  
**Pennsylvania Market Conduct Examination**  
**Examination Period July 1, 2005 through June 30, 2006**

**State Recommendations**

1. The Company must implement procedures to ensure advertising certification requirements of Title 31, Pennsylvania Code, Chapter 51.

**American Republic Insurance Response:**

American Republic has taken this opportunity to change our procedures for the annual statement form filing process in the state of Pennsylvania. By way of background American Republic does file the Advertising Certificate of Compliance in states where it is required. However, American Republic concluded during the examination, that this particular form was not filed in Pennsylvania, as it did not appear as a requirement on the Pennsylvania state form checklist. However, at this time, procedures have been changed and the form will be sent with the annual statement in 2008.

2. The Company must review internal control procedures to ensure compliance with form filing and approval requirements of Section 354 of the Insurance Company Law of 1921 (40 P.S. §477b).

**American Republic Insurance Response:**

Effective December 7, 2007, form A-3978 as noted in the examination as not being filed and approved for use by the Commonwealth of Pennsylvania, has been submitted via SERFF for approval. American Republic respectfully apologizes for the oversight in this form filing. It is not the general practice of American Republic to use forms that have not been filed and approved for use by the Department of Insurance.

3. The Company must implement procedures to ensure compliance with annual audit and examination requirements of Title 31, Pennsylvania Code, Section 73.133(e). (Active Credit Groups-Life of the South-Annual Audit Provision)

**American Republic Insurance Response:**

As required by the Commonwealth of Pennsylvania, Life of the South revised the appropriate policy forms and resubmitted these forms for approval, effective, July 12, 2007. Therefore, no further compliance action is required.

4. The Company must implement procedures to ensure compliance with maintaining record of examination requirements of Title 31, Pennsylvania Code, Section 73.133(g). (Active Credit Groups-Life of the South-audit records not provided)

**American Republic Insurance Response:**

American Republic and Life of the South understand they must ensure compliance with maintaining record of examination requirements and have taken steps to revise internal procedures to comply with this requirement. During the examination, the records were available, but the format in which the records were supplied caused confusion and misunderstanding. The records were eventually accepted by the examiner, however, American Republic and Life of the South respectfully apologizes for the delay in supplying the original information.

5. The Company must review internal control procedures to ensure compliance with application and outline of coverage requirements of Title 31, Pennsylvania Code, Chapter 88.

**American Republic Insurance Response:**

A review of internal procedures indicates that the outline of coverage (form A-3146-1 PA Rev. 06/06 for agent sold business) and (form 01-114-1602-0107 PA for direct sold business) are included in the sales kits and therefore supplied to the agent for delivery to the insured. American Republic agrees four files did not contain evidence of delivery; however, the internal procedures are in compliance. Therefore we believe these instances constitute a human error rather than a general business practice.

6. The Company must review internal control procedures to ensure compliance with replacement requirements of Title 31, Pennsylvania Code, Chapter 88. (Med Supp Policies Issues as Replacements – outline of coverage not provided)

**American Republic Insurance Response:**

American Republic Insurance has reviewed internal procedures regarding the outline of coverage form number (A-3146-1 PA Rev. 06/06). The outline of coverage is included in the agent sales kit for delivery at the time of issue. It appears the three files that did not contain evidence that the outline of coverage was provided, were most likely the result of a human error and does not constitute a general business practice.

7. The Company must review internal control procedures to ensure compliance with the required disclosure provision requirements of Title 31, Pennsylvania Code, Section 89.783. (Med Supp Policies Issued as Replacements - Guide to Health Insurance for People with Medicare)

**American Republic Insurance Response:**

A review of our internal policies and procedures indicates the Pennsylvania information packet for Direct Sold business (form number 01-1221210-000000PA) and Agent Sold (form number 01 122 1210 060107 PA) include the Guide to Health Insurance for People with Medicare. Six of the seven policies listed in the violation were sold as direct and one was agent sold. Because it is our policy to include the form in the materials received by the policyholder, it appears to be a human error and does not constitute a general business practice. Therefore, a review of the policy packets and state requirements should assure the proper distribution of the Guide at the time of sale. At this time, all policies and procedures comply with the Title 31, Pennsylvania Code, Section 89.793.

8. 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. (Claims – claim file missing the necessary information needed to verify processing time)

**American Republic Insurance Response:**

American Republic understands the requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices and has internal controls in place to ensure these requirements. American Republic respectfully concedes that the file in question did not contain the necessary information needed to verify processing time, however, this proved to be an internal/claims department error and does not constitute a general business practice. American Republic takes very seriously the requirements of the law and the time frames established for the payment of claims to both providers and policyholders.