

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

**AMERICAN NATIONAL INSURANCE
COMPANY**

Galveston, Texas

**AS OF
February 28, 2007**

COMMONWEALTH OF PENNSYLVANIA



**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: April 30, 2007

AMERICAN NATIONAL INSURANCE COMPANY

TABLE OF CONTENTS

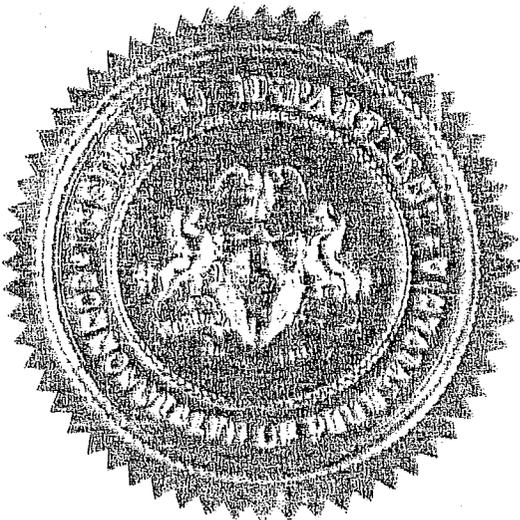
Order		
I.	Introduction	3
II.	Scope of Examination	6
III.	Company History and Licensing	7
IV.	Advertising	8
V.	Forms	9
VI.	Producer Licensing	10
VII.	Consumer Complaints	14
VIII.	Underwriting	15
	A. Underwriting Guidelines	15
	B. Group Credit Life Certificates Issued	16
	C. Group Credit Accident and Health Certificates Issued	16
	D. Group Credit Life Certificates Terminated	17
	E. Group Credit Accident and Health Certificates Terminated	17
	F. Cyberlife Term Policies Issued	18
	G. Cyberlife Life Policies Issued	21
	H. Variable Universal Life Policies Issued	24
	I. Individual Term Life Policies Issued	25
	J. Annuity Contracts Issued	27
	K. Individual Term Life Policies Issued as Replacements	29
	L. Variable Universal Life Policies Issued as Replacements	32
	M. Cyberlife Term Policies Issued as Replacements	32
	N. Cyberlife Life Policies Issued as Replacements	34
	O. Fixed Annuity Contracts Issued as Replacements	37
	P. Individual Term Conversions	39
IX.	Internal Audit & Compliance Procedures	41
X.	Group Credit Annual Audits	42

XI. Claims	43
A. Group Annuity Claims	44
B. Individual Health Claims	45
C. Individual Disability Claims	45
D. Individual Life Claims	46
E. Individual Annuity Claims	46
F. Credit Life Claims	48
G. Credit Accident and Health Claims	48
XII. Recommendations	49
XIII. Company Response	51

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 20th day of February, 2007, in accordance with Section 905(c) of the Pennsylvania Insurance Department Act, Act of May 17, 1921, P.L. 789, as amended, 40 P.S. § 323.5, I hereby designate Terrance A. Keating, Deputy Chief Counsel, 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.



A handwritten signature in black ink, appearing to read "Randolph L. Rohrbaugh". The signature is written in a cursive style with large, sweeping loops.

Randolph L. Rohrbaugh
Acting Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:
: :
AMERICAN NATIONAL : Sections 641-A and 671-A of Act 147
INSURANCE COMPANY : of 2002 (40 P.S. §§ 310.41 and 310.71)
One Moody Plaza :
Galveston, TX 77550-7999 : Sections 354, 404-A, 408-A(e)(1)(i)
: 408-A(e)(2)(i) and (iii), 409-A,
: 410D(a)(2), 410D(b)(2), and
: 410E(a)(3) of the Insurance Company
: Law, Act of May 17, 1921, P.L. 682,
: No. 284 (40 P.S. §§ 477b, 625-4,
: 625-8, 625-9 and 510)
: :
: Title 31, Pennsylvania Code, Sections
: 51.5, 73.127(c), 81.4(b)(1), 81.6(a)(1),
: 81.6(a)(2)(ii), 81.6(c), 83.4a, 83.4b,
: 83.55a, 83.55b, 146.5, 146.6 and
: 146.7
: :
Respondent. : Docket No. MC07-04-006

CONSENT ORDER

AND NOW, this 30th day of APRIL, 2007, 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.

3. Respondent neither admits nor denies that it violated any law or regulation of the Commonwealth.

FINDINGS OF FACT

4. The Insurance Department finds true and correct each of the following Findings of Fact:

- (a) Respondent is American National Insurance Company, and maintains its address at One Moody Plaza, Galveston, Texas 77550-7999.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2005 to December 31, 2005.

- (c) On February 28, 2007, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on March 30, 2007.
- (e) After consideration of the March 30, 2007 response, the Insurance Department has modified the Examination Report as attached.
- (f) The Examination Report notes violations of the following:
 - (i) Section 641.1-A of Act 147 of 2002 prohibits any entity or the appointed agent of any entity from transacting the business of insurance through anyone acting without an insurance producer license (40 P.S. § 310.41a);
 - (ii) Section 671-A of Act 147 of 2002 (40 P.S. § 310.71), which prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act;
 - (iii) Section 354 of the Insurance Company Law (40 P.S. § 477b), which prohibits issuing, selling, or disposing of any policy, contract or certificate until the forms have been submitted to, and formally approved by, the Insurance Commissioner;

(iv) Section 404-A of the Insurance Company Law, No. 284 (40 P.S. §625-4), which requires when the individual policy or annuity is delivered to the policyholder by the producer by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and producer sign the delivery receipt, and such date shall commence any applicable policy or annuity examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered by a means other than by hand-delivery by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence;

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

- (vi) Section 408-A(e)(2)(i) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which states the following applies if no illustration is used by a producer in the sale of a life insurance policy or if a computer screen is displayed. The producer shall certify in writing on a form provided by the insurer that no illustration was used in the sale of the life insurance policy. On the same form, the applicant shall acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery;
- (vii) Section 408-A(e)(2)(iii) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), states the following applies if no illustration is used by a producer in the sale of a life insurance policy or if a computer screen illustration is displayed. 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;
- (viii) Section 409-A of the Insurance Company Law, No. 284 (40 P.S. § 625-9), which states when there is solicitation for the replacement of an existing insurance policy or annuity with the same insurer or insurer group, the insurer shall, through its producers where appropriate, provide a “Notice Regarding Replacement of Life Insurance and Annuities” in the form set forth under Title 31, Pa. Code, Chapter 81;

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

they shall have prominently printed on the first page of such contract or attached thereto, a notice stating in substance that the contractholder shall be permitted to return the contract within at least twenty (20) days of its delivery and to have the premium refunded if after examination of the contract, the contractholder is not satisfied with it for any reason;

- (xii) 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;
- (xiii) Title 31, Pennsylvania Code, Section 73.127(c), which states a refund payment shall be accompanied by an explanation that the payment is a refund of premium. If the refund amount has been deducted from the debtor's outstanding indebtedness, the debtor shall be notified in writing that the refund was applied toward the outstanding indebtedness;
- (xiv) Title 31, Pennsylvania Code, Section 81.4(b)(1), which states that if replacement is involved, the agent or broker shall present to the applicant,

not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities;

- (xv) 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;

- (xvi) Title 31, Pennsylvania Code, Section 81.6(a)(2)(ii), which states an insurer that uses an agent or broker in a life insurance or annuity sale shall, if replacement is involved: Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under subparagraph (I) and in the case of life insurance, the disclosure statement as required by Section 83.3, or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 5 working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner;

- (xvii) 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;

- (xviii) Title 31, Pennsylvania Code, Section 83.4a, which states the agent shall submit to the insurer with or as a part of the application for life insurance a statement, signed by him, certifying that the written disclosure statement was given no later than the time that the application was signed by the applicant;
- (xix) Title 31, Pennsylvania Code, Section 83.4b, which requires the insurer to maintain the agent's certification of disclosure statement delivery in its appropriate files for at least three years. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no disclosure statement was provided to the prospective purchaser of life insurance;
- (xx) Title 31, Pennsylvania Code, Sections 83.55a and 83.55b, which (a) require the agent to 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 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 files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the

prospective purchaser of life insurance;

- (xxi) 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;
- (xxii) 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
- (xxiii) Title 31, Pennsylvania Code, Section 146.7, which requires within 15 working days after receipt by the insurer of properly executed proof of loss, the first party claimant shall be advised of the acceptance or denial of the claim by the insurer.

CONCLUSIONS OF LAW

5. 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 violations of Sections 641-A and 671-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):
 - (i) suspension, revocation or refusal to issue the certificate of qualification or license;
 - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;
 - (iii) an order to cease and desist; and
 - (iv) any other conditions as the Commissioner deems appropriate.

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

- (i) suspension or revocation of the license(s) of Respondent;
 - (ii) refusal, for a period not to exceed one year thereafter, to issue a new license to Respondent;
 - (iii) imposition of a fine of not more than one thousand dollars (\$1,000.00) for each act in violation of the Act.
- (d) Respondent's violations of Sections 404-A, 408-A, 410D and 410E of the Insurance Company Law, No. 284 (40 P.S. §§625-4, 625-6 and 625-8) are punishable by the following, under 40 P.S. § 625-10: Upon determination by hearing that this act has been violated, the commissioner may issue a cease and desist order, suspend, revoke or refuse to renew the license, or impose a civil penalty of not more than \$5,000 per violation.
- (e) Respondent's violations of Title 31, Pennsylvania Code, Sections 73.127 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).
- (f) Respondent's violations of Title 31, Pennsylvania Code, Chapter 81, 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, Chapter 83 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 146.5, 146.6 and 146.7 are punishable under Section 9 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9):

(i) cease and desist from engaging in the prohibited activity;

(ii) suspension or revocation of the license(s) of Respondent.

(i) In addition to any penalties imposed by the Commissioner for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 – 1171.5), the Commissioner may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:

(i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);

(ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars (\$1,000.00).

ORDER

6. In accord with the above Findings of Fact and Conclusions of Law, but without admitting or denying that it violated any law or regulation, the 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 exercise due diligence to promptly and fully comply with all recommendations contained in the attached Report.
- (d) Respondent shall pay Forty Thousand Dollars (\$40,000.00) to the Commonwealth of Pennsylvania.
- (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.

7. 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 Insurance 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.

8. 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.

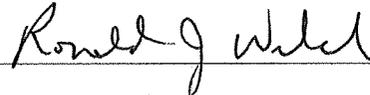
9. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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

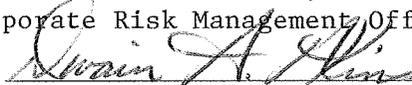
11. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

12. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner 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 NATIONAL INSURANCE
COMPANY, Respondent



Ron Welch
Sr. Executive Vice President, Chief Actuary &
Chief Corporate Risk Management Officer



Dwain A. Akins
Sr. Vice President, Corporate Affairs/Compliance,
Chief Compliance Officer



COMMONWEALTH OF PENNSYLVANIA

By: Terrance A. Keating
Deputy Chief Counsel

I. INTRODUCTION

The Market Conduct Examination was conducted on American National Insurance Company; hereafter referred to as "Company," at the Company's office located in Galveston, Texas, August 14, 2006, through November 17, 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.

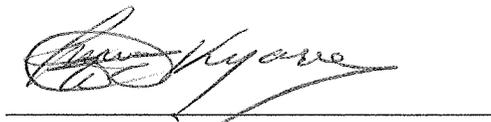
The courtesy and cooperation extended by the Officers and Employees of the Company during the course of the examination is acknowledged.

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



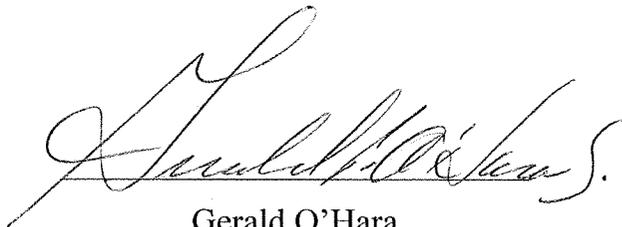
Daniel Stemcosky, AIE, FLMI

Market Conduct Division Chief



Frank W. K. Kyazze, AIE, ALHC, FLMI

Market Conduct Examiner



Gerald O'Hara

Market Conduct Examiner

Verification

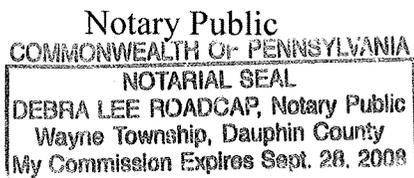
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).



Frank W. Kyazze, AIE, ALHC, FLMI
[Examiner in Charge]

Sworn to and Subscribed Before me

This *22nd* Day of *February*, 200*7*.



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, 2005, through December 31, 2005, 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 National Insurance Company (American National) was incorporated in the State of Texas on March 17, 1905. American National is a stock life insurance company and is licensed in 49 states and the District of Columbia.

The American National family of companies offers a broad line of financial products, including life insurance, annuities, property and casualty insurance and health insurance. The family of companies conducts business in all 50 states, the District of Columbia, Puerto Rico, Guam, Mexico and America Samoa.

The family of companies includes six life insurance companies, eight property and casualty insurance companies and several non-insurance enterprises. American National and its subsidiaries are organized into seven separate marketing distribution channels, each of which has independent but coordinated management personnel and marketing strategies.

American National's primary emphasis is on life insurance and annuities. Marketing channels are aligned to satisfy specific target markets in such a way that channel conflict is minimized, while maintaining key brand identities. Products are cross-sold by channels whenever possible to maximize product offerings and minimize duplication effort.

As of their 2005 annual statement for Pennsylvania, the Company reported direct premium for ordinary life insurance and annuities in the amount of \$12,935,405 and direct premium for accident and health insurance in the amount of \$ 509,903.

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 a copy of the Company’s latest Annual Statement along with the Advertising Certificate of Compliance as required by Title 31, Pennsylvania Code, Section 51.5. The information received was reviewed to ascertain compliance with Title 31, Pennsylvania Code, Chapter 51. The following violation was noted:

1 Violation - Title 31, Pennsylvania Code, Section 51.5

Certificate of Compliance

Each 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 did not provide a copy of the required 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 violation was noted:

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

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

Form Number	Description	Frequency of Use
4167	Application	1

VI. PRODUCER LICENSING

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

The Company provided a list of 2,067 producers. A random sample of 258 producers was requested, received and reviewed. All 258 producers were compared to departmental records of producers to verify appointments, terminations and licensing. In addition, a comparison was made on the producers identified on applications reviewed in the policy issued sections of the exam. The following violations were noted:

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

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

insurance consumer prior to representing or acting on their behalf that:

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

The Company failed to file a notice of appointment and submit appointment fees to the Insurance Department for the following 16 producers or agencies. The Company listed these producers as active; however, Department records did not indicate their appointment.

Producer
Frank Acito
Aip Marketing Allian
Asset Protectors Adv
Lisa Bond

Brokerage Marketing
Ces Insurance Agency
Davidson Asset Manag.
Byron Day
Robert Hobbs
Lisa Kaminski
Millennium Fin. Brkg
Gabriel Myers
South Winds Inc.
Superior Performers
Tri State Brokerage
United Solutions All

The Company failed to file a notice of appointment and submit appointment fees to the Insurance Department for the noted producer. The noted individual was listed as a producer on 2 applications reviewed in the policy issued section of the exam. Department records did not identify this individual as being appointed by the company at the time of application.

Individual/Entity
DDMG Enterprises Inc.

The Company failed to file a notice of appointment and submit appointment fees to the Insurance Department for the noted producer. The noted individual was listed as a producer on 1 application reviewed in the policy issued section of the exam. Department records did not identify this individual as being appointed by the company at the time of application.

Individual
Robert Smith

7 Violations – Insurance Department Act, No. 147, Section 641.1-A

(40 P.S. §310.41a)

- (a) Any insurance entity or licensee accepting applications or orders for insurance or securing any insurance business that was sold, solicited or negotiated by any person acting without an insurance producer license shall be subject to civil penalty of no more than \$5000 per violation in accordance with this act. This section shall not prohibit an insurer from accepting an insurance application directly from a consumer or prohibit the payment or receipt of referral fees in accordance with this act.
- (b) A person that violates this section commits a misdemeanor of the third degree.

The following 7 individuals/entities were listed as producers for the Company; however, Department records did not identify the individuals/entities as holding a Pennsylvania insurance license during the experience period.

Individuals/Entities
Asset Protectors Adv
Ces Insurance Agency
Davidson Asset Manag.
Byron Day
Robert Hobbs
Millenium Fin. Brkg.
United Solutions All

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 2001, 2002, 2003, and 2004. The Company identified a total of 24 consumer complaints received during the experience period. All 24 consumer complaint files were requested, received and reviewed. The Company also 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 16 general segments.

- A. Underwriting Guidelines
- B. Group Credit Life Certificates Issued
- C. Group Credit Accident and Health Certificates Issued
- D. Group Credit Life Certificates Terminated
- E. Group Credit Accident and Health Certificates Terminated
- F. Cyberlife Term Policies Issued
- G. Cyberlife Policies Issued
- H. Variable Universal Life Policies Issued
- I. Individual Term Life Policies Issued
- J. Annuity Contracts Issued
- K. Individual Term Life Policies Issued as Replacements
- L. Variable Universal Life Policies Issued as Replacements
- M. Cyberlife Term Policies Issued as Replacements
- N. Cyberlife Policies Issued as Replacements
- O. Fixed Annuity Contracts Issued as Replacements
- P. Individual 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, manuals, bulletins and declination procedures for all individual and group products solicited or sold 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 underwriting guidelines and manuals were reviewed:

1. Credit Insurance – Eligibility Guidelines
2. Credit Insurance Division – Underwriting Procedures
3. Swiss Re: Life & Health Manual
4. True Group Term Life, Dependent Life And Accidental Death & Dismemberment Underwriting Guideline Manual
5. Declination Procedures

B. Group Credit Life Certificates Issued

The Company was requested to provide a list of all credit life certificates issued during the experience period. The Company identified a universe of 49 group credit life certificates issued. A random sample of 25 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.

C. Group Credit Accident and Health Certificates Issued

The Company was requested to provide a list of all credit accident and health certificates issued during the experience period. The Company identified a universe of 25 group credit accident and health certificates issued. All 25 certificates issued were requested, received and reviewed. The files were reviewed to ensure compliance with contract provisions, issuance and rating laws and regulations. No violations were noted.

D. Group Credit Life Certificates Terminated

The Company was requested to provide a list of all credit life certificates terminated during the experience period. The Company identified a universe of 51 group credit life certificates terminated. A random sample of 25 certificates 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. The following violations were noted:

14 Violations - Title 31, Pennsylvania Code, Section 73.127(c) Refunds.

Refund notice. A refund payment shall be accompanied by an explanation that the payment is a refund of premium. If the refund amount has been deducted from the debtor's outstanding indebtedness, the debtor shall be notified in writing that the refund was applied toward the outstanding indebtedness. The 14 files noted did not contain the required refund notice.

E. Group Credit Accident and Health Certificates Terminated

The Company was requested to provide a list of all credit accident and health certificates terminated during the experience period. The Company identified a universe of 9 group credit accident and health certificates terminated. All 9 certificate files 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 following violations were noted:

7 Violations - Title 31, Pennsylvania Code, Section 73.127(c) Refunds.

Refund notice. A refund payment shall be accompanied by an explanation that the payment is a refund of premium. If the refund amount has been deducted from the debtor's outstanding indebtedness, the debtor shall be notified in writing that the refund was applied toward the outstanding indebtedness. The 7 files noted did not contain the required refund notice.

F. Cyberlife Term Policies Issued

The Company identified a universe of 114 Cyberlife term life policies issued during the experience period. Cyberlife is the name of an administrative system. A random sample of 25 policy files were requested, received and reviewed. Of the 25 files reviewed, 21 were determined to be group certificates, and the remaining 4 were individual term policies. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

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

An insurer that uses an agent or broker in a life insurance or annuity sale shall:

Require with or as part of a completed application for life insurance or annuity a statement signed by the agent or broker as to whether the broker knows replacement is or may be involved in the transaction. The agent's question on replacement was not completed on the application in the file noted.

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

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

(b) The insurer shall maintain the agent's certification of disclosure statement delivery in its appropriate files for at least three years. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no disclosure statement was provided to the prospective purchaser of life insurance. The 4 files noted did not contain a copy of the required agent's certification of disclosure delivery.

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

When the individual policy or annuity is delivered to the policyholder by the producer by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and producer sign the delivery receipt, and such date shall commence any applicable policy or annuity examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered by a means other than by hand delivery by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence. Verification of the date of policy delivery could not be established in the 3 files noted.

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

The following applies if a basic illustration is used by a producer in the sale of a life insurance policy. If the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this section, shall be submitted to the insurer no later than the time the policy application is sent to the insurer. A copy shall also be provided to the applicant no later than the time the application is signed by the applicant. The agent certification and applicant's acknowledgement of the illustration used was not signed or dated in the file noted.

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

The following applies if no illustration is used by a producer in the sale of a life insurance policy or if a computer screen is displayed. The producer shall certify in writing on a form provided by the insurer that no illustration was used in the sale of the life insurance policy. On the same form the applicant shall acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. The 3 files noted did not contain the signed certification and acknowledgement that no illustration was used in the sale of the life insurance policy.

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

The following applies if no illustration is used by a producer in the sale of a life insurance policy or if a 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 22 files noted did not contain the signed certification and acknowledgement of the delivery of an illustration at the time of policy issuance and delivery.

G. Cyberlife Life Policies Issued

The Company identified a universe of 484 individual life policies issued during the experience period. A random sample of 50 policy files was requested, received and reviewed. Of the 50 files reviewed, 35 were determined to be group life certificates and the remaining 15 were individual life policies. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

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

If replacement is involved, the agent or broker shall: present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities. The replacement form was not dated in the file noted.

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

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

(b) The insurer shall maintain the agent's certification of disclosure statement delivery in its appropriate files for at least three years. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no disclosure statement was provided to the prospective purchaser of life insurance. The 15 files noted did not contain a copy of the required agent's certification of disclosure.

15 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 required agent's certification of surrender comparison index disclosure delivery was not evident in the 15 files noted.

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

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

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

The following applies if no illustration is used by a producer in the sale of a life insurance policy or if a computer screen is displayed. The producer shall certify in writing on a form provided by the insurer that no illustration was used in the sale of the life insurance policy. On the same form the applicant shall acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. The 2 files noted did not contain the signed certification and acknowledgement that no illustration was used in the sale of the life insurance policy.

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

The following applies if no illustration is used by a producer in the sale of a life insurance policy or if a 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 5 files noted did not contain the signed certification and acknowledgement of the delivery of an illustration at the time of policy issuance and delivery.

H. Variable Universal Life Policies Issued

The Company identified a universe of 95 variable universal life policies issued during the experience period. A random sample of 25 policy files was requested, received and reviewed. All 25 files were determined to be group variable universal life insurance certificates. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

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

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

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

Individual variable life insurance policies which are offered as replacements for an existing life insurance policy or annuity contract with the same insurer or insurer group shall not be delivered in the Commonwealth of Pennsylvania unless they shall have

prominently printed on the first page of such policy or attached thereto a notice stating in substance that the policyholder shall be permitted to return the policy within at least forty-five (45) days of its delivery. The file noted did not contain the required 45-day "free look" statement.

I. Individual Term Life Policies Issued

The Company identified a universe of 135 individual term life policies issued during the experience period. 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. The following violations were noted:

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

An insurer that uses an agent or broker in a life insurance or annuity sale shall: Require with or as part of a completed application for life insurance or annuity a statement signed by the agent or broker as to whether the broker knows replacement is or may be involved in the transaction. The agent's question on replacement was not evident on the applications in the 21 files noted.

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

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

(b) The insurer shall maintain the agent's certification of disclosure statement delivery in its appropriate files for at least three years. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no

disclosure statement was provided to the prospective purchaser of life insurance. The 25 files noted did not contain a copy of the required agent's certification of disclosure delivery.

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

When the individual policy or annuity is delivered to the policyholder by the producer by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and producer sign the delivery receipt, and such date shall commence any applicable policy or annuity examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered by a means other than by hand delivery by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence. Verification of the date of policy delivery could not be established in the 25 files noted.

J. Annuity Contracts Issued

The Company identified a universe of 348 annuity contracts issued during the experience period. A random sample of 50 contract files was requested, received and reviewed. Of the 50 contract files reviewed, 32 were determined to be group annuity contracts and the remaining 18 were individual annuity contracts. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

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

If replacement is involved, the agent or broker shall: present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities. The replacement form was not dated in the 2 files noted.

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

An insurer that uses an agent or broker in a life insurance or annuity sale shall, if replacement is involved: Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under subparagraph (I) and in the case of life insurance, the disclosure statement as required by § 83.3 (relating to disclosure statement) or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 5 working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner. The replacement letter to the replaced Company was not evident in the 2 files noted.

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

When the individual policy or annuity is delivered to the policyholder by the producer by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and producer sign the delivery receipt, and such date shall commence any applicable policy or annuity examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered by a means other than by hand delivery by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence. The date of contract delivery could not be verified in the 14 files noted.

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

Individual fixed dollar annuity contracts which are offered as replacements for an existing annuity contract or life insurance policy with an insurer or insurer group other than the one which issued the original contract or policy shall not be entered into in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such contract or attached thereto a notice stating in substance that the contractholder shall be permitted to return the contract within at least twenty (20) days of its delivery and to have the premium refunded if after examination of the contract the contractholder is not satisfied with it for any reason. The 7 files noted did not contain the required 20-day "free look" statement.

K. Individual Term Life Policies Issued as Replacements

The Company identified a universe of 17 individual term life policies issued as replacements during the experience period. All 17 policy files were requested, received and reviewed. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

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

If replacement is involved, the agent or broker shall: present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities. The date the replacement form was signed was not evident in the 11 files noted.

15 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 applications in the 15 files noted did not contain an agent's statement regarding replacement.

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

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

(b) The insurer shall maintain the agent's certification of disclosure statement delivery in its appropriate files for at least three years. The absence of the agent's certification

from the appropriate files of the insurer shall constitute prima facie evidence that no disclosure statement was provided to the prospective purchaser of life insurance.

The 17 files noted did not contain a copy of the required agent's certification of disclosure.

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

When the individual policy or annuity is delivered to the policyholder by the producer by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and producer sign the delivery receipt, and such date shall commence any applicable policy or annuity examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered by a means other than by hand delivery by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence. Verification of the date of policy delivery could not be established in the 16 files noted.

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

Replacements with the Same Insurer or Insurer Group.

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

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

Individual fixed dollar life insurance or endowment policies which are offered as replacements for an existing life insurance policy or annuity contract with the same insurer or insurer group shall not be delivered in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such policy or attached thereto a notice stating in substance that the policyholder shall be permitted to return the policy within at least forty-five (45) days of its delivery. The file noted did not contain the required 45-day "free look" statement.

L. Variable Universal Life Policies Issued as Replacements

The Company identified a universe of 5 individual variable universal life policies issued as replacements during the experience period. All 5 policy files were requested, received and reviewed. All 5 files were determined to be group variable universal life insurance certificates. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. No violations were noted.

M. Cyberlife Term Policies Issued as Replacements

The Company identified a universe of 9 term life policies issued as replacements during the experience period. The policy files were requested, received and reviewed. All 9 files were determined to be group annual renewable term life certificates. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

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

The following applies if a basic illustration is used by a producer in the sale of a life insurance policy. If the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this section, shall be submitted to the insurer no later than the time the policy application is sent to the insurer. A copy shall also be provided to the applicant no later than the time the application is signed by the applicant. The agent certification and applicant's acknowledgement of the illustration used in the files noted was not signed or dated in the 2 files noted.

1 Violation - Insurance Company Law, Section 408-A(e)(2)(i) The following applies if no illustration is used by a producer in the sale of a life insurance policy or if a computer screen illustration is displayed. The producer shall certify in writing on a form provided by the insurer that no illustration was used in the sale of the life insurance policy. On the same form the applicant shall acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. The file noted did not contain the signed certification and acknowledgement that no illustration was used in the sale of the life insurance policy.

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

The following applies if no illustration is used by a producer in the sale of a life insurance policy or if a 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 5 files noted did not contain the signed certification and acknowledgement of the delivery of an illustration at the time of policy issuance and delivery.

N. Cyberlife Life Policies Issued as Replacements

The Company identified a universe of 33 life policies issued as replacements during the experience period. All 33 replacement policy files were requested, received and reviewed. Of the 33 policy files received, 2 were determined to have been included in error, 16 were group certificates and 15 were individual policies. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

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

If replacement is involved, the agent or broker shall: present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities. The date the replacement form was signed was not evident in the 12 files noted.

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

The replacing insurer shall maintain evidence of the Notice Regarding Replacement of Life Insurance and Annuities. The required notice of replacement form was not evident in the file noted.

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

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

(b) The insurer shall maintain the agent's certification of disclosure statement delivery in its appropriate files for at least three years. The absence of the agent's certification

from the appropriate files of the insurer shall constitute prima facie evidence that no disclosure statement was provided to the prospective purchaser of life insurance.

The 14 files noted did not contain a copy of the required agent's certification of disclosure.

11 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 required agent's certification of the surrender comparison index disclosure delivery was not evident in the 11 files noted.

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

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

insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence. Verification of the date of policy delivery could not be established in the 9 files noted.

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

The following applies if no illustration is used by a producer in the sale of a life insurance policy or if a 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 2 files noted did not contain the signed certification and acknowledgement of the delivery of an illustration at the time of policy issuance and delivery.

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

Individual fixed dollar life insurance or endowment policies which are offered as replacements for an existing life insurance policy or annuity contract with the same insurer or insurer group shall not be delivered in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such policy or attached thereto a notice stating in substance that the policyholder shall be permitted to return the policy within at least forty-five (45) days of its delivery. The 3 files noted did not contain the required 45-day "free look" statement.

O. Fixed Annuity Contracts Issued as Replacements

The Company identified a universe of 49 individual fixed annuity contracts issued as replacements during the experience period. A random sample of 25 contract files was requested, received and reviewed. Of the 25 files reviewed, 9 were determined to be group annuity certificates, and 16 were individual annuity contracts. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

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

If replacement is involved, the agent or broker shall: present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities. The replacement form was not dated in the 10 files noted.

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

When the individual policy or annuity is delivered to the policyholder by the producer by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and producer sign the delivery receipt, and such date shall commence any applicable policy or annuity examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered by a means other than by hand delivery by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence. The date of contract delivery could not be verified in the 11 files noted.

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

Individual fixed dollar annuity contracts which are offered as replacements for an existing annuity contract or life insurance policy with an insurer or insurer group other than the one which issued the original contract or policy shall not be entered into in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such contract or attached thereto a notice stating in substance that the contractholder shall be permitted to return the contract within at least twenty (20) days of its delivery and to have the premium refunded if after examination of the contract the contractholder is not satisfied with it for any reason. The 24 files noted did not contain the required 20-day "free look" statement.

P. Individual Term Conversions

The Company identified a universe of 15 individual term conversion policies issued during the experience period. All 15 policy files were requested, received and reviewed. The files were reviewed to determine compliance to issuance and underwriting statutes and regulations. The following violations were noted:

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

When the individual policy or annuity is delivered to the policyholder by the producer by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and producer sign the delivery receipt, and such date shall commence any applicable policy or annuity examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered by a means other than by hand delivery by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence. Verification of policy delivery date could not be established in the 3 files noted.

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

The following applies if no illustration is used by a producer in the sale of a life insurance policy or if a computer screen is displayed. The producer shall certify in writing on a form provided by the insurer that no illustration was used in the sale of the life insurance policy. On the same form the applicant shall acknowledge an understanding that an illustration conforming to the policy as issued will be provided

no later than at the time of policy delivery. The 7 files noted did not contain the signed certification and acknowledgement that no illustration was used in the sale of the life insurance policy.

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

The following applies if no illustration is used by a producer in the sale of a life insurance policy or if a 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 9 files noted did not contain the signed certification and acknowledgement of the delivery of an illustration at the time of policy issuance and delivery.

IX. INTERNAL AUDIT & COMPLIANCE PROCEDURES

The Company was requested to provide copies of their internal audit and compliance procedures. The audits and procedures received 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.

In addition, the Company's Insurance Marketplace Standards Association (IMSA), Qualified Independent Assessor's Supplement Report was reviewed with no unsatisfactory gaps identified. No violations were noted.

X. GROUP CREDIT ANNUAL AUDITS

The Company was requested to provide copies of their creditor audit and examination procedures and audit files. The Company provided copies of the audit procedures and 10 audit files. Of the 10 files received and reviewed, 1 was determined to have been included in error. The remaining 9 audit files and the procedures were reviewed to ensure compliance with Title 31, Pennsylvania Code, Section 73.133. Subsections (e) and (f) of Section 73.133 provide for the insurers' responsibility in conducting an annual examination of creditors to ensure compliance, and the requirement to make available for Department inspection its creditor examination procedures. No violations were noted

XI. CLAIMS

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

1. Credit Insurance Division Procedural Manual
2. Health Claim Department Procedural Guidelines and Memos
3. Time Requirements For All States
4. Fraud Detection and Prevention Plan and Instructions
5. Red Flags (Claims Handling)
6. Catastrophic Disaster Plan
7. Life Insurance Claim Procedures For Processing Variable Life Policies At Death Of Insured
8. Annuity Claims Procedures For Processing Variable Annuity Policies At Death Of Insured

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 7 areas:

- A. Group Annuity Claims
- B. Individual Health Claims
- C. Individual Disability Claims
- D. Individual Life Claims
- E. Individual Annuity Claims
- F. Credit Life Claims
- G. Credit Accident and Health 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. Group Annuity Claims

The Company was requested to provide a list of annuity claims received during the experience period. The Company identified a universe of 84 group annuity claims. A random sample of 25 claim files was requested, received and reviewed. The files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. The following violation was noted:

1 Violation - Title 31, Pennsylvania Code, Section 146.6

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

B. Individual Health Claims

The Company was requested to provide a list of health claims received during the experience period. The Company identified a universe of 94 individual health claims. A random sample of 25 claim files was requested, received and reviewed. Of the 25 files reviewed, 4 were determined to be out of Pennsylvania's jurisdiction. The remaining 21 claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146 and Act 68, Section 2166 (40 PS § 991.2166) - Prompt Payment of Provider Claims. The following violation was noted:

1 Violation - Title 31, Pennsylvania Code, Section 146.5

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

C. Individual Disability Claims

The Company was requested to provide a list of disability claims received during the experience period. The Company identified a universe of 4 individual disability claims. All 4 claim files were requested, received and reviewed. The files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. No violations were noted.

D. Individual Life Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 77 individual life claims received. A random sample of 50 claim files was requested, received and reviewed. The files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146 and Insurance Company Law, Section 411B, Payment of Interest (40 P.S. §511b). The following violations were noted:

15 Violations - Title 31, Pennsylvania Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company failed to provide timely status letters for the 15 claims noted.

E. Individual Annuity Claims

The Company was requested to provide a list of annuity claims received during the experience period. The Company identified a universe of 53 individual annuity claims. A random sample of 25 claim files was requested, received and reviewed. The files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. The following violations were noted:

2 Violations - Title 31, Pennsylvania Code, Section 146.5

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

3 Violations - Title 31, Pennsylvania Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company failed to provide timely status letters for the 3 claims noted.

1 Violation - Title 31, Pennsylvania Code, Section 146.7

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

F. Credit Life Claims

The Company was requested to provide a list of life claims received during the experience period. The Company identified 3 credit life claims received. All 3 claim files were requested, received and reviewed. The 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.

G. Credit Accident and Health Claims

The Company was requested to provide a list of accident and health claims received during the experience period. The Company identified a universe of 3 credit accident and health claims. All 3 claim files were requested, received and reviewed. The files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. No violations were 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 requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices.
2. The Company must review and revise Licensing procedures to ensure compliance with Sections 641.1-A, Section 671-A and Section 671.1-A of the Insurance Department Act of 1921 (40 P.S. §§310.41a and 310.71).
3. The Company must implement procedures to ensure advertising certification requirements of Title 31, Pennsylvania Code, Chapter 51.
4. The Company must review and revise internal control procedures to ensure compliance with the replacement requirements of Title 31, Pennsylvania Code, Section 81.
5. The Company must review internal control procedures to ensure compliance with disclosure requirements of Title 31, Pennsylvania Code, Chapter 83.
6. 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).
7. The Company must implement procedures to ensure compliance with the policy delivery receipt requirements of Section 404-A of the Insurance Company Law of 1921 (40 P.S. §625-4).
8. The Company must review internal control procedures to ensure compliance with illustration certification and delivery requirements of Section 408-A of the Insurance Company Law of 1921 (40 P.S. §625-8).
9. The Company must implement internal control procedures to ensure compliance with replacement requirements of Section 409-A of the Insurance Company Law of 1921 (40 P.S. §625-9).

10. The Company must review internal control procedures to ensure compliance with Section 410D of the Insurance Company Law of 1921 (40 P.S. §510c) pertaining to the “Free Look” provision requirements for life insurance and endowment insurance.
11. The Company must review internal control procedures to ensure compliance with Section 410E of the Insurance Company Law of 1921 (40 P.S. §510d) pertaining to the “Free Look” provision requirements for annuity and pure endowment contracts.
12. The Company must review and revise procedures to ensure compliance with refund requirements of Title 31, Pennsylvania Code, Section 73.127.

XII. COMPANY RESPONSE



AMERICAN NATIONAL INSURANCE COMPANY

AMBER L. ADAMS, ASSISTANT COMPLIANCE ATTORNEY
ONE MOODY PLAZA, GALVESTON, TX 77550-7999
Bus: (409) 766-6560, Fax: (409) 621-4194, Toll Free: (800) 392-0644
Email: amber.adams@anico.com

March 29, 2006

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

Via Express Mail

Re: Market Conduct Examination
American National Insurance Company (ANICO) NAIC #60739
Examination Warrant Number: 06-M27-009

Dear Mr. Stemcosky:

This letter has been prepared in response to the Report of Examination of American National Insurance Company ("ANICO") covering the period of January 1, 2005 through December 31, 2005, which we received from you on March 2, 2007. For ease of your review, we are responding to findings in order of their appearance within the examination report. ANICO would request that its responses provided previously to the Department be incorporated herein.

Advertising (findings found on page 8)

The report indicates that ANICO failed to file a copy of the advertising certificate of compliance required by 31 Pa. Code § 51.5. ANICO disagrees with this finding. Sections V., Line 101 in the annual statement instructions as published by the Pennsylvania Department of Insurance shows an "N/A" for foreign/alien companies. There is a clarifying asterisk which states "If an N/A appears in the column, the filing is required with the domiciliary state." The annual statement instructions also infer that the filing with the Pennsylvania Department of Insurance is only required for Pennsylvania domiciled companies. Based upon our reading of the code and the instructions for the annual statement, the advertising certificate of compliance is to be filed by foreign insurance companies with their respective domiciliary state. Accordingly, ANICO filed its certificate with the Texas Department of Insurance.

Nevertheless, as ANICO has been made aware of the Department's position, it has filed with the Pennsylvania Department of Insurance an advertising certificate of compliance

AMERICAN NATIONAL INSURANCE COMPANY

for 2006. ANICO will continue this practice in the future and respectfully suggests that the Department clarify the annual statement instructions.

Forms (Findings on page 9)

The report indicates that in one instance an unapproved form was used by an agent, in violation of Insurance Company Law, Section 354 (40 P.S. §477b).

When ANICO receives an application from a producer, that application is manually entered into our system. The administrator checks the form to determine whether it is an appropriate form to use in that State. In this instance, the administrator incorrectly believed that the form the producer submitted was approved in Pennsylvania and inadvertently accepted the application and issued the policy. All areas have been notified of the importance of verifying approved forms.

Producer Licensing (Findings on pages 10 through 13)

The report indicates two findings regarding Producer Licensing.

Finding One: 19 violations of Insurance Department Act No. 147, Section 671-A (40 P.S. § 310.71) alleging that persons listed on applications as the producer were not appointed by ANICO on the date the application was completed; and, maintaining on its Producer Database individuals and entities that were not properly appointed with the Department.

The following is an explanation for Aip Marketing Allian, Asset Protectors Adv., Ces Insurance Agency and United Solutions All:

The majority of states permit overwrite commissions to be paid to an unlicensed agent in the up-line, as long as they are not involved in the sale, solicitation, or negotiation of the insurance policy. Once ANICO became aware that this was not permissible in Pennsylvania, these entities were closed out of ANICO's Pennsylvania database effective January 31, 2005.

The following explanation is in reference to Frank Acito, Brokerage Marketing, Davidson Asset Management and Byron Day:

The above-mentioned persons and entities were inadvertently in the Company's Pennsylvania database and did not act on behalf of or as a representative of ANICO. No commissions were paid to these individuals or entities. Since none of these acted on behalf of or represented ANICO it does not meet the definition of an individual or entity that requires appointment with Pennsylvania. Therefore, there is no violation of the statute. ANICO has corrected its Pennsylvania database.

The following is in regard to Lisa Kaminski, Millennium Finance Brokerage, and Tri State Brokerage:

AMERICAN NATIONAL INSURANCE COMPANY

In each instance, an appointment was sent to Pennsylvania. The Department initially rejected each appointment. As a result of a clerical error, a corrected appointment request was not resubmitted to the Department. During a routine audit ANICO became aware that the appointments had not been approved by the Department. ANICO is diligently working with its license vendor to provide daily reports detailing all appointments that are rejected by the Department. This will enable managers to follow-up with staff to ensure all appointments are properly approved. It should be noted that no business was submitted and no commissions were paid.

The following references Robert Hobbs:

This producer failed to notify ANICO that his license had expired and remained in ANICO's database until a routine audit revealed that his license had expired. ANICO has instituted procedures that require monthly auditing of the Producer Database to determine which producers are no longer licensed by the Department. This measure should prevent unlicensed producers from remaining on ANICO's appointment list.

ANICO has reminded the licensing, contract, and appointment staff of the procedures and processes involved in securing a producer's appointment. ANICO has provided training to staff to identify these issues during quality assurance checks.

Finding Two: 7 instances were noted where an individual and/or an entity listed as the producer on an application did not hold an insurance license with the state of Pennsylvania, in violation of Insurance Department Act, No. 147, Section 641-1-A (40 P.S. § 310.41a).

There is no evidence that the seven individuals and entities ever sold, solicited or negotiated insurance business, as contemplated by the statute. No commissions were ever paid to these individuals and entities that would evidence any insurance being written. Further, these individuals and entities were previously cited by the examiners. As stated above the listing of these individuals and entities on ANICO's producer database was done in error and each was immediately removed from the database when ANICO became aware of the error.

Group Credit Life Certificates Terminated (Findings on page 17)

The report alleges that in 14 files a refund notice explaining that the payment was a refund of premium did not accompany the refund of premium, in violation of 31 Pa. Code § 73.127(c).

ANICO has taken corrective action to rectify this issue. As of October 19, 2006, ANICO has assumed the administrative responsibility of handling the refund process. Producers are no longer permitted to handle this administrative function. Revised procedures on

AMERICAN NATIONAL INSURANCE COMPANY

how to handle cancellations were sent to producers. Further, with each cancellation or refund check that is issued, the insured now receives a letter with the check explaining that the enclosed check is a refund of premium.

Group Credit Accident and Health Certificates Terminated (Findings on page 17 and 18)

The report alleges that in 7 files a refund notice explaining that the payment was a refund of premium did not accompany the refund of premium, in violation of 31 Pa. Code § 73.127(c).

ANICO has taken corrective action to rectify this issue. As of October 19, 2006, ANICO has assumed the administrative responsibility of handling the refund process. Producers are no longer permitted to handle this administrative function. Revised procedures on how to handle cancellations were sent to producers. Further, with each cancellation or refund check that is issued, the insured now receives a letter with the check explaining that the enclosed check is a refund of premium.

Cyberlife Term Policies Issued (Findings on pages 18 through 21)

The report indicates seven findings regarding Cyberlife Term Policies Issued.

Finding One: One violation of 31 Pa. Code § 81.6(a)(1) for the producer's failure to include a signed statement as to whether the producer knew replacement was or may be involved in the transaction.

ANICO has taken corrective action by reminding managers of the necessity to ensure that applications are complete, especially with regard to questions involving replacement and that these questions and statements must be completed at the time of application.

Finding Two and Three: 4 violations of 31 Pa. Code §§ 83.4a and 83.4b for failure of the producer to submit to ANICO a copy of the producer's signed certification that a disclosure statement was provided to the applicant no later than at the time of application. The absence of such certification constitutes prima facie evidence that no disclosure statement was provided to the applicant, in violation of 31 Pa. Code § 83.3.

Upon becoming aware of these violations ANICO sent a bulletin to all producers notifying them of every producer's responsibility to provide every applicant a copy of the required written disclosure and submit to ANICO a signed statement certifying that the applicant was given the disclosure notice at the time of application. The bulletin emphasizes that no policy will be issued without the required signed certification by the producer.

ANICO would respectfully request that these violations be considered as a single violation for each file. Had the producer signed the appropriate certification acknowledging delivery of the disclosure notice neither section of the statute would have been violated.

AMERICAN NATIONAL INSURANCE COMPANY

Finding Four: 3 violations of Insurance Company Law, § 404-A (40 P.S. § 625-4) for the producer's failure to submit to ANICO a delivery receipt from the applicant acknowledging receipt of the policy.

An internal compliance review conducted in early 2006 revealed that producers were not always supplying ANICO with copies of the delivery receipt. As a result of this review, ANICO implemented new procedures regarding delivery receipts. Presently, ANICO mails the delivery receipt and the original policy to the producer. If ANICO has not received a copy of the delivery receipt within 30 days ANICO sends a copy of the delivery receipt to the policyholder and asks that they acknowledge receipt of the policy by signing and returning the delivery receipt directly to the home office.

Finding Five: One violation of Insurance Company Law, § 408-A(e)(1)(i) (40 P.S. § 625-8) for the agent's failure to certify and obtain the applicant's signature acknowledging that an illustration was not used in the sale of the product.

This case appears to be a clerical error that occurred when the file was imaged into ANICO's imaging system. The signature page was inadvertently not imaged into our system. Procedures have been put into place to ensure that the entire document is accurately imaged into our system.

Finding Six: The report states 3 instances where the file did not contain the signed certification and acknowledgement that no illustration was used in the sale of the product, in violation of Insurance Company Law, § 408-A(e)(2)(i) (40 P.S. § 625-8).

ANICO has emphasized to its producers that pursuant to ANICO's policies and procedures and Pennsylvania law, producers must obtain a signed certification from the applicant acknowledging that no illustration was used in the sale of the product.

Finding Seven: 22 violations of Insurance Company Law, § 408-A(e)(2)(iii) (40 P.S. § 625-8) for failure to maintain, in the applicant's file, a signed certification and acknowledgement of the delivery of an illustration at the time of policy issuance and delivery.

Previously, ANICO's administration system included edits to assist with the illustration compliance process. Recently, ANICO converted to a new administration system that inadvertently did not include all compliance edits. ANICO has now implemented the compliance edits into the new administration system and does not anticipate a repeat of this issue.

Cyberlife Policies Issued (Findings on pages 21 through 24)

The report indicates eight findings regarding Cyberlife Policies Issued.

Finding One: One violation of 31 Pa. Code § 81.4(b)(1) for the producer's failure to date the replacement form.

AMERICAN NATIONAL INSURANCE COMPANY

Producers have been notified by ANICO that the “Notice Regarding Replacement Form” must be signed and dated for each application for a replacing policy.

Finding Two and Three: One violation of 31 Pa. Code §§ 83.4a and 83.4b for failure of the producer to submit to ANICO a copy of the producer’s signed certification that a disclosure statement was provided to the applicant no later than at the time of application. The absence of such certification constitutes prima facie evidence that no disclosure statement was provided to the applicant, in violation of 31 Pa. Code § 83.3.

Upon becoming aware of these violations ANICO sent a bulletin to all producers notifying them of every producer’s responsibility to provide every applicant a copy of the required written disclosure and submit to ANICO a signed statement certifying that the applicant was given the disclosure notice at the time of application. The bulletin emphasizes that no policy will be issued without the required signed certification by the producer.

ANICO would respectfully request that these violations be considered as a single violation for each file. Had the producer signed the appropriate certification acknowledging delivery of the disclosure notice neither section of the statute would have been violated.

Finding Four: 14 violations of 31 Pa. Code § 83.55 for failing to maintain in the file the required cost surrender comparison index disclosure.

ANICO is currently in the process of implementing procedures to ensure that a “Surrender Comparison Index Disclosure” is issued to the applicant at the time of policy delivery.

Finding Five: 15 violations of 31 Pa. Code §§ 83.55a and 83.55b for the producer’s failure to sign a certification acknowledging delivery of the required surrender comparison index disclosure to the applicant.

The producers have been notified that Pennsylvania law requires that they must not only provide the applicant a copy of the “Surrender Comparison Index Disclosure”, but must also submit to ANICO a signed certification acknowledging that they did, in fact, deliver the disclosure to the applicant.

ANICO would respectfully request that the Department take the violations of 31 Pa. Code § 83.55 and 31 Pa. Code §§ 83.55a and 83.55b as a single violation for each file. Had the producer signed the appropriate certification acknowledging delivery of the surrender comparison index disclosure neither section of the statute would have been violated.

Finding Six: 15 violations of Insurance Company Law, § 404-A (40 P.S. § 625-4) for the inability to verify the date of policy delivery in the file.

AMERICAN NATIONAL INSURANCE COMPANY

An internal compliance review conducted in early 2006 revealed that producers were not always supplying ANICO with copies of the delivery receipt. As a result of this review, ANICO implemented new procedures regarding delivery receipts. Presently, ANICO mails the delivery receipt and the original policy to the producer. If ANICO has not received a copy of the delivery receipt within 30 days ANICO sends a copy of the delivery receipt to the policyholder and asks that they acknowledge receipt of the policy by signing and returning the delivery receipt directly to the home office.

Finding Seven: 2 instances where the files did not contain the signed certification and acknowledgement that no illustration was used in the sale of the product, in violation of Insurance Company Law, § 408-A(e)(2)(i) (40 P.S. § 625-8).

ANICO has emphasized to its producers that pursuant to ANICO's policies and procedures and Pennsylvania law, producers must obtain a signed certification from the applicant acknowledging that no illustration was used in the sale of the product.

Finding Eight: 5 violations of Insurance Company Law, § 408-A(e)(2)(iii) (40 P.S. § 625-8) for failure to maintain, in the applicant's file, a signed certification and acknowledgement of the delivery of an illustration at the time of policy issuance and delivery.

Previously, ANICO's administration system included edits to assist with the illustration compliance process. Recently, ANICO converted to a new administration system that inadvertently did not include all compliance edits. ANICO has now implemented the compliance edits into the new administration system and does not anticipate a repeat of this issue.

Variable Universal Life Policies (Findings on pages 24 and 25)

The report indicates two findings regarding Variable Universal Life Policies Issued.

Finding One: One violation of Insurance Company Law, § 404-A (40 P.S. § 625-4) for the inability to verify the date of policy delivery in the file.

An internal compliance review conducted in early 2006 revealed that producers were not always supplying ANICO with copies of the delivery receipt. As a result of this review, ANICO implemented new procedures regarding delivery receipts. Presently, ANICO mails the delivery receipt and the original policy to the producer. If ANICO has not received a copy of the delivery receipt within 30 days ANICO sends a copy of the delivery receipt to the policyholder and asks that they acknowledge receipt of the policy by signing and returning the delivery receipt directly to the home office.

Finding Two: One violation of Insurance Company Law, § 410-D(b)(2) (40 P.S. 510c) for failing to prominently print, on the first page of the replacing policy, that the applicant shall have a 45 day free-look period.

AMERICAN NATIONAL INSURANCE COMPANY

ANICO has implemented an automated system to generate the replacement "Free Look" form for all policies issued through its DAP system. For policies issued through its Policy Link system ANICO has instituted procedures where the Policy Link system will issue a notice to ANICO's administrative staff advising them that the policy is a replacement policy and requires the replacement "Free Look" form.

Individual Term Life Policies Issued (Findings on pages 25 through 27)

The report indicates four findings regarding Individual Term Life Policies Issued.

Finding One: 21 violations of 31 Pa. Code § 81.6(a)(1) for the producer's failure to include a signed statement as to whether the producer knew replacement was or may be involved in the transaction.

ANICO has taken corrective action by issuing a bulletin managers illustrating the necessity to ensure that applications are complete, especially with regard to questions involving replacement and that these questions and statements must be completed at the time of application.

Finding Two and Three: 25 violations of 31 Pa. Code §§ 83.4a and 83.4b for failure of the producer to submit to ANICO a copy of the producer's signed certification that a disclosure statement was provided to the applicant no later than at the time of application. The absence of such certification constitutes prima facie evidence that no disclosure statement was provided to the applicant, in violation of 31 Pa. Code § 83.3.

Upon becoming aware of these violations ANICO sent a bulletin to all producers notifying them of every producer's responsibility to provide every applicant a copy of the required written disclosure and submit to ANICO a signed statement certifying that the applicant was given the disclosure notice at the time of application. The bulletin emphasizes that no policy will be issued without the required signed certification by the producer.

ANICO would respectfully request that these violations be considered as a single violation for each file. Had the producer signed the appropriate certification acknowledging delivery of the disclosure notice neither section of the statute would have been violated.

Finding Four: 25 violations of Insurance Company Law, § 404-A (40 P.S. § 625-4) for the inability to verify the date of policy delivery in the file.

An internal compliance review conducted in early 2006 revealed that producers were not always supplying ANICO with copies of the delivery receipt. As a result of this review, ANICO implemented new procedures regarding delivery receipts. Presently, ANICO mails the delivery receipt and the original policy to the producer. If ANICO has not received a copy of the delivery receipt within 30 days ANICO sends a copy of the delivery receipt to the policyholder and asks that they acknowledge receipt of the policy by signing and returning the delivery receipt directly to the home office.

AMERICAN NATIONAL INSURANCE COMPANY

Annuity Contracts Issued (Findings on pages 27 through 29)

The report indicates four findings regarding Annuity Contracts Issued.

Finding One: 2 violations of 31 Pa. Code § 81.4(b)(1) for failing to date the replacement form.

ANICO was inadvertently using the replacement form prescribed by Appendix B of the statute, which was not formatted with a place for the form to be dated. Upon becoming aware of this oversight, ANICO has implemented the form prescribed by Appendix A. ANICO disseminated a bulletin and the correct form to the producers apprising them of the correct form to use for replacement policies.

Finding Two: 2 violations of 31 Pa. Code § 81.6(a)(2)(ii) for failing to maintain in the file a copy of the replacement letter to the replaced Company.

Upon receipt of an application involving replacement, it is ANICO's procedure to notify the existing insurer of the replacement with five days of receipt of the application. In this instance, it appears that the coder failed to indicate that notice needed to be sent to the existing insurer. ANICO reminded staff of its company procedure and the regulations regarding replacement policies.

Finding Three: 14 violations of Insurance Company Law, § 404-A (40 P.S. § 625-4) for the inability to verify the date of policy delivery in the file.

An internal compliance review conducted in early 2006 revealed that producers were not always supplying ANICO with copies of the delivery receipt. As a result of this review, ANICO implemented new procedures regarding delivery receipts. Presently, ANICO mails the delivery receipt and the original policy to the producer. If ANICO has not received a copy of the delivery receipt within 30 days ANICO sends a copy of the delivery receipt to the policyholder and asks that they acknowledge receipt of the policy by signing and returning the delivery receipt directly to the home office.

Finding Four: 7 violations of 410-E(a)(3) (40 P.S. § 510d) for failing to prominently print, on the first page of the replacing policy, that the applicant shall have a 20 day free-look period.

ANICO has implemented an automated system to generate the replacement "Free Look" form for all policies issued through its DAP system. For policies issued through its Policy Link system ANICO has instituted procedures where the Policy Link system will issue a notice to ANICO's administrative staff advising them that the policy is a replacement policy and requires the replacement "Free Look" form.

Individual Term Life Policies Issued as Replacements (Findings on pages 29 through 32)

The report indicates seven findings regarding Individual Term Life Policies Issued as Replacements.

Finding One: 11 violations of 31 Pa. Code § 81.4(b)(1) for failing to date the replacement form.

ANICO was inadvertently using the replacement form prescribed by Appendix B of the statute, which was not formatted with a place for the form to be dated. Upon becoming aware of this oversight, ANICO has implemented the form prescribed by Appendix A. ANICO disseminated a bulletin and the correct form to the producers apprising them of the correct form to use for replacement policies.

Finding Two: 15 violations of 31 Pa. Code § 81.6(a)(1) for the producer's failure to include a signed statement as to whether the producer knew replacement was or may be involved in the transaction.

ANICO has taken corrective action by emphasizing to managers of the necessity to ensure that applications are complete, especially with regard to questions involving replacement and that these questions and statements must be completed at the time of application.

Finding Three and Four: 17 violations of 31 Pa. Code §§ 83.4a and 83.4b for failure of the producer to submit to ANICO a copy of the producer's signed certification that a disclosure statement was provided to the applicant no later than at the time of application. The absence of such certification constitutes prima facie evidence that no disclosure statement was provided to the applicant, in violation of 31 Pa. Code § 83.3.

Upon becoming aware of these violations ANICO sent a bulletin to all producers notifying them of every producer's responsibility to provide every applicant a copy of the required written disclosure and submit to ANICO a signed statement certifying that the applicant was given the disclosure notice at the time of application. The bulletin emphasizes that no policy will be issued without the required signed certification by the producer.

ANICO would respectfully request that these violations be considered as a single violation for each file. Had the producer signed the appropriate certification acknowledging delivery of the disclosure notice neither section of the statute would have been violated.

Finding Five: 16 violations of Insurance Company Law, § 404-A (40 P.S. § 625-4) for the inability to verify the date of policy delivery in the file.

In early 2005, a review of our third party administrator's customer files revealed that receipts were being logged into the system, but the receipts were not imaged into the

AMERICAN NATIONAL INSURANCE COMPANY

customer's file. In April 2005, new procedures were implemented requiring case managers to review all documentation provided with a new application. If there is no delivery receipt in the file they will follow up with the producer to ensure that the file contains all appropriate documentation.

Finding Six: 1 violation of Insurance Company Law, § 409-A (40 P.S. § 625-9) for the file not containing the required "Notice Regarding Replacement of Life Insurance and Annuities".

The application was inadvertently coded in ANICO's system as not involving replacement. Subsequently, our automated measures system did not note the discrepancy in the file. The importance of keying in applications accurately has been emphasized to all Coders.

Finding Seven: 1 violation of Insurance Company Law, § 410-D(a)(2) (40 P.S. 510c) for failing to prominently print, on the first page of the replacing policy, that the applicant shall have a 45 day free-look period.

ANICO has implemented an automated system to generate the replacement "Free Look" form for all policies issued through its DAP system. For policies issued through its Policy Link system ANICO has instituted procedures where the Policy Link system will issue a notice to ANICO's administrative staff advising them that the policy is a replacement policy and requires the replacement "Free Look" form.

Cyberlife Term Policies Issued as Replacements (Findings on pages 32 and 33)

The report indicates three findings regarding Cyberlife Term Policies Issued as Replacements.

Finding One: 2 violations of Insurance Company Law, § 408-A(e)(1)(i) (40 P.S. § 625-8) for the agent's failure to certify and obtain the applicant's signature acknowledging that an illustration was not used in the sale of the product.

ANICO has notified producers emphasizing that they must obtain a signed certification from the applicant acknowledging that an illustration was used in the sale of the product.

Finding Two: 1 instance where the files did not contain the signed certification and acknowledgement that no illustration was used in the sale of the product, in violation of Insurance Company Law, § 408-A(e)(2)(i) (40 P.S. § 625-8).

ANICO has implemented procedures requiring all incoming mail from a policyholder be imaged into the policyholder's file upon receipt. All files are reviewed by Case Managers to ascertain completeness of the file. If the file does not contain the signed certification, the Case Manager is required to immediately request it from producer.

Finding Three: 5 violations of Insurance Company Law, § 408-A(e)(2)(iii) (40 P.S. § 625-8) for failure to maintain, in the applicant's file, a signed certification and

AMERICAN NATIONAL INSURANCE COMPANY

acknowledgement of the delivery of an illustration at the time of policy issuance and delivery.

ANICO has implemented procedures requiring all incoming mail from a policyholder be imaged into the policyholder's file upon receipt. All files are reviewed by Case Managers to ascertain completeness of the file. If the file does not contain the signed certification that the illustration was delivered with the policy, the Case Manager is required to immediately request it from producer.

Cyberlife Life Policies Issued as Replacements (Findings on pages 34 through 37)

The report indicates nine findings regarding Cyberlife Life Policies Issued as Replacements.

Finding One: 12 violations of 31 Pa. Code § 81.4(b)(1) for failing to date the replacement form.

ANICO was inadvertently using the replacement form prescribed by Appendix B of the statute, which was not formatted with a place for the form to be dated. Upon becoming aware of this oversight, ANICO has implemented the form prescribed by Appendix A. ANICO disseminated a bulletin and the correct form to the producers apprising them of the correct form to use for replacement policies.

Finding Two: 1 violation of 31 Pa. Code § 81.6(c) for failing to maintain evidence of the "Notice Regarding Replacement of Life Insurance and Annuities" in the file.

Policy Administration staff has been notified of the importance to retain the "Notice Regarding Replacement" in the insureds file for at least three years.

Finding Three and Four: 14 violations of 31 Pa. Code §§ 83.4a and 83.4b for failure of the producer to submit to ANICO a copy of the producer's signed certification that a disclosure statement was provided to the applicant no later than at the time of application. The absence of such certification constitutes prima facie evidence that no disclosure statement was provided to the applicant in 13 files, in violation of 31 Pa. Code § 83.3.

Upon becoming aware of these violations ANICO sent a bulletin to all producers notifying them of every producer's responsibility to provide every applicant a copy of the required written disclosure and submit to ANICO a signed statement certifying that the applicant was given the disclosure notice at the time of application. The bulletin emphasizes that no policy will be issued without the required signed certification by the producer.

ANICO would respectfully request that these violations be considered as a single violation for each file. Had the producer signed the appropriate certification acknowledging delivery of the disclosure notice neither section of the statute would have been violated.

AMERICAN NATIONAL INSURANCE COMPANY

Finding Five: 11 violations of 31 Pa. Code § 83.55 for failing to maintain in the file the required cost surrender comparison index disclosure.

ANICO is currently in the process of implementing procedures to issue a “Surrender Comparison Index Disclosure” to the applicant at the time of policy delivery.

Finding Six: 11 violations of 31 Pa. Code §§ 83.55a and 83.55b for the agent’s failure to sign a certification acknowledging delivery of the required surrender comparison index disclosure to the applicant.

The producers have been notified that in order to comply with Pennsylvania law they must not only provide the applicant a copy of the “Surrender Comparison Index Disclosure”, but must also submit to ANICO a signed certification acknowledging that they did, in fact, delivery the disclosure to the applicant.

ANICO would respectfully request that the Department consider the violations of 31 Pa. Code § 83.55 and 31 Pa. Code §§ 83.55a and 83.55b as a single violation for each file. Had the producer signed the appropriate certification acknowledging delivery of the surrender comparison index disclosure neither section of the statute would have been violated.

Finding Seven: 9 violations of Insurance Company Law, § 404-A (40 P.S. § 625-4) for the inability to verify the date of policy delivery in the file.

An internal compliance review conducted in early 2006 revealed that producers were not always supplying ANICO with copies of the delivery receipt. As a result of this review, ANICO implemented new procedures regarding delivery receipts. Presently, ANICO mails the delivery receipt and the original policy to the producer. If ANICO has not received a copy of the delivery receipt within 30 days ANICO sends a copy of the delivery receipt to the policyholder and asks that they acknowledge receipt of the policy by signing and returning the delivery receipt directly to the home office.

Finding Eight: 2 violations of Insurance Company Law, § 408-A(e)(2)(iii) (40 P.S. § 625-8) for failure to maintain, in the applicant’s file, a signed certification and acknowledgement of the delivery of an illustration at the time of policy issuance and delivery.

Procedures have been implemented to ensure that an illustration is delivered at the same time that the policy is delivered and the policyholder signs a certification acknowledging receipt of the same.

Finding Nine: 3 violations of Insurance Company Law, § 410-D(a)(2) (40 P.S. 510c) for failing to prominently print, on the first page of the replacing policy, that the applicant shall have a 45 day free-look period.

AMERICAN NATIONAL INSURANCE COMPANY

ANICO has implemented an automated system to generate the replacement "Free Look" form for all policies issued through its DAP system. For policies issued through its Policy Link system ANICO has instituted procedures where the Policy Link system will issue a notice to ANICO's administrative staff advising them that the policy is a replacement policy and requires the replacement "Free Look" form.

Fixed Annuity Contracts Issued as Replacements (Findings on pages 37 and 38)

The report indicates three findings regarding Fixed Annuity Contracts Issued as Replacements.

Finding One: 10 violations of 31 Pa. Code § 81.4(b)(1) for failing to date the replacement form.

ANICO was inadvertently using the replacement form prescribed by Appendix B of the statute, which was not formatted with a place for the form to be dated. Upon becoming aware of this oversight, ANICO has implemented the form prescribed by Appendix A. ANICO disseminated a bulletin and the correct form to the producers apprising them of the correct form to use for replacement policies.

Finding Two: 11 violations of Insurance Company Law, § 404-A (40 P.S. § 625-4) for the inability to verify the date of policy delivery in the file.

An internal compliance review conducted in early 2006 revealed that producers were not always supplying ANICO with copies of the delivery receipt. As a result of this review, ANICO implemented new procedures regarding delivery receipts. Presently, ANICO mails the delivery receipt and the original policy to the producer. If ANICO has not received a copy of the delivery receipt within 30 days ANICO sends a copy of the delivery receipt to the policyholder and asks that they acknowledge receipt of the policy by signing and returning the delivery receipt directly to the home office.

Finding Three: 24 violations of Insurance Company Law, § 410-E(a)(3) (40 P.S. § 510d) for failing to prominently print, on the first page of the replacing policy, that the applicant shall have a 20 day free-look period.

ANICO has implemented an automated system to generate the replacement "Free Look" form for all policies issued through its DAP system. For policies issued through its Policy Link system ANICO has instituted procedures where the Policy Link system will issue a notice to ANICO's administrative staff advising them that the policy is a replacement policy and requires the replacement "Free Look" form.

Individual Term Conversions (Findings on pages 39 and 40)

The report indicates three findings regarding Fixed Annuity Contracts Issued as Replacements.

Finding One: 3 violations of Insurance Company Law, § 404-A (40 P.S. § 625-4) for the inability to verify the date of policy delivery in the file.

AMERICAN NATIONAL INSURANCE COMPANY

An internal compliance review conducted in early 2006 revealed that producers were not always supplying ANICO with copies of the delivery receipt. As a result of this review, ANICO implemented new procedures regarding delivery receipts. Presently, ANICO mails the delivery receipt and the original policy to the producer. If ANICO has not received a copy of the delivery receipt within 30 days ANICO sends a copy of the delivery receipt to the policyholder and asks that they acknowledge receipt of the policy by signing and returning the delivery receipt directly to the home office.

Finding Two: 7 instances where the files did not contain the signed certification and acknowledgement that no illustration was used in the sale of the product, in violation of Insurance Company Law, § 408-A(e)(2)(i) (40 P.S. § 625-8).

ANICO has emphasized to its producers that pursuant to ANICO's policies and procedures and Pennsylvania law, producers must obtain a signed certification from the applicant acknowledging that no illustration was used in the sale of the product.

Finding Three: 9 violations of Insurance Company Law, § 408-A(e)(2)(iii) (40 P.S. § 625-8) for failure to maintain, in the applicant's file, a signed certification and acknowledgement of the delivery of an illustration at the time of policy issuance and delivery.

Procedures have been implemented to ensure that an illustration is delivered at the same time that the policy is delivered and the policyholder signs a certification acknowledging receipt of the same.

Group Annuity Claims (Finding on page 44)

The report alleges one violation of 31 Pa. Code § 146.6 for failing to provide status letters to the claimant as to why the claim had not been finalized.

ANICO respectfully disagrees with the finding of the Department. ANICO received a letter informing it that a death occurred, a claim form requiring investigation had not yet been filed. The initial letter, sent by the decedent's attorney, merely requested the forms necessary to file a claim. The claim form and instructions were promptly sent to the decedent's attorney. It is ANICO's position that the statute dictates that the time for performing an investigation does not begin to run until the claim form is received.

Pursuant to 31 Pa. Code § 146.2(b), a "claim" is defined as a demand for payment by a claimant and **not an inquiry concerning coverage** (emphasis added). Further, "notification of a claim" is defined as a notification, whether in writing or other means acceptable under the terms of an insurance policy or insurance contract, to an insurer or its agent, by a claimant or insured, **which reasonably apprises the insurer of the facts pertinent to a claim** (emphasis added).

AMERICAN NATIONAL INSURANCE COMPANY

Proper statutory construction requires giving meaning to all words included in the statute. Clearly, the legislature when defining "Claim" took great care to restrict the definition. Not only did it include "demand" for payment but it clearly attempted to exclude the very common communication concerning coverage and how to make a claim. A typical initial inquiry received by ANICO does not include any demand for payment but rather is attempting to verify coverage and to ascertain the proper method for making a demand or claim. Likewise, the definition for notification was intentionally restricted. To be proper notice it must include "facts pertinent to a claim." This is not the case under the instances challenged by the Department. There is no proof of death, no verification or even identity of the beneficiary such as a social security number nor authorization to request other information, should that be needed.

The Company's position is that under proper statutory interpretation a mere phone call or inquiry concerning a possible claim does not commence the time table for notice. Not only is this the proper statutory interpretation, but it makes the most sense in serving the consumers and the obvious intent behind the statutes. The Department has stated that the purpose is to keep claimants informed. The Company respectfully notes that applied as the Department proposes it does not further the purpose of the statute. When a claimant merely makes an informal call asking for a claim form, that claimant does not expect, nor need, any further communication other than the supplying of the claim form and any relevant instructions.

ANICO's procedures are both in keeping with the statutes and the concept of providing prompt helpful claim service. When an inquiry is made that is not a demand but rather a request for information the proper forms are sent promptly. From the form and the cover letter the claimant is aware of the status. When the claim form is returned ANICO promptly processes the claim (or requests further information) and the check is sent with interest to the proper beneficiary. This procedure has worked quite well with no known relevant consumer complaints. Under the Department's interpretation, ANICO would have to continually send correspondence every 45 days. Theoretically, this could go on indefinitely, especially if the person who made the original informal request had no intention of pursuing it (possibly because they knew the insured was still alive). This could not have been the intent of the legislature. Further, ANICO was unable to locate any bulletins issued by the Department that would aid in interpreting this statute and the requisite definitions.

Although ANICO disagrees with the Department's interpretation of the statute, ANICO is in the process of instituting new procedures to avoid any further conflict with the Department.

Individual Health Claims (Finding on page 45)

The report alleges one violation of 31 Pa. Code § 146.5 for failing to acknowledge, within ten working days, that ANICO had received the claimant's claim.

As of May 2, 2006, when claims are received and logged into the system an acknowledgement letter is automatically generated and mailed to the claimant. ANICO does not foresee any future issues with policyholders receiving acknowledgement letters within the required ten days.

Individual Life Claims (Finding on page 46)

The report alleges one violation of 31 Pa. Code § 146.6 for failing to provide status letters to the claimant as to why the claim had not been finalized.

Please see the above-referenced response given for Group Annuity Claims.

Individual Annuity Claims (Findings on pages 46 and 47)

The report indicates three findings regarding Individual Annuity Claims.

Finding One: The report alleges 2 violation of 31 Pa. Code § 146.5 for failing to acknowledge, within ten working days, that ANICO had received the claimant's claim.

As of May 2, 2006, when claims are received and logged into the system an acknowledgement letter is automatically generated and mailed to the claimant. ANICO does not foresee any future issues with policyholders receiving acknowledgement letters within the required ten days.

Finding Two: The report alleges 3 violation of 31 Pa. Code § 146.6 for failing to provide status letters to the claimant as to why the claim had not been finalized.

Please see the above-referenced response given for Group Annuity Claims.

Finding Three: One violation of 31 Pa. Code § 146.7 for failing to advise the first-party claimant, within 15 working days, of the acceptance or denial of the claims.

ANICO believes that this was an isolated incident and has implemented revised procedures to ensure that policyholders receive notification of acceptance or denial of a claim with 15 working days. No future issues are anticipated.

Recommendations of the Department

The Department made the following recommendations to ANICO and we respond to each recommendation accordingly.

1. The Company must review and revise internal control procedures to ensure compliance with Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices.

ANICO is currently in the process of drafting policies and procedures to ensure compliance with the Department's interpretation of Title 31, Pennsylvania Code, Chapter 146.

2. The Company must review and revise Licensing procedures to ensure compliance with Sections 641.1-A, Section 671-A and Section 671.1-A of the Insurance Department Act of 1921 (40 P.S. §§ 310.41a and 310.71).

ANICO has implemented procedures to conduct routine reviews of its Producer Database to ensure that its appointments have been approved by the Department. Further, ANICO is diligently working with its license vendor to provide daily reports detailing all appointments that are rejected by Pennsylvania. This will enable managers to follow-up with staff to ensure all appointments are properly approved. Also, ANICO has been conducting monthly audits to ensure that all appointments are currently licensed by the Department.

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

ANICO has implemented procedures to file an advertising certification directly with the Pennsylvania Department of Insurance. An advertising certificate of compliance for 2006 was filed directly with the Department.

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

In October 2006, ANICO sent a bulletin to all producers reminding them of the importance of providing the "Notice of Replacement", signing and dating the "Notice of Replacement", and certifying that the producer knew or had reason to know that replacement was involved in the transactions. Further, the quality assurance team will review the contracts for completeness and accuracy. If it is determined that a replacement form, or any other form, is missing the contract will not be issued to the policyholder until the appropriate forms are received from the producer.

AMERICAN NATIONAL INSURANCE COMPANY

5. The Company must review internal control procedures to ensure compliance with disclosure requirements of Title 31, Pennsylvania Code, Chapter 83.

In October 2006, ANICO sent out a bulletin notifying all producers that policies would not be issued unless all disclosure requirements were met; including providing the disclosure notice to the applicant and submitting to ANICO a signed statement by the producer that the disclosure statement was delivered to the applicant.

Further, ANICO is currently in the process of implementing procedures to ensure that a "Surrender Comparison Index Disclosure" is provided to the applicant at the time of policy delivery.

6. 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).

A bulleting was disseminated notifying all areas of the importance of verifying approved forms.

7. The Company must implement procedures to ensure compliance with the policy delivery receipt requirements of Section 404-A of the Insurance Company Law of 1921 (40 P.S. § 625-4).

In early 2006, ANICO implemented new procedures regarding delivery receipts. ANICO mails the delivery receipt and the original policy to the producer. If the home office does not receive a copy of the delivery receipt with 30 days, the home office re-mails a copy of the delivery receipt directly to the client. ANICO maintains copies of this correspondence in the file in an attempt to secure a signed copy of a delivery receipt.

8. The Company must review internal control procedures to ensure compliance with illustration certification and delivery requirements of Section 408-A of the Insurance Company Law of 1921 (40 P.S. § 625-8).

ANICO implemented policies and procedures to monitor compliance with Pennsylvania law regarding illustrations. It was emphasized to producers the importance of acquiring a signature from the applicant that either an illustration was used at the time of sale and the type of illustration; or, an illustration was not used at the time of sale but, an illustration was delivered to the applicant with the policy.

9. The Company must implement internal control procedures to ensure compliance with replacement requirements of Section 409-A of the Insurance Company Law of 1921 (40 P.S. § 625-9).

ANICO has notified its Coders and emphasized the importance of keying in the applicant's correct information in order to maintain compliance with replacement requirements.

10. The Company must review internal control procedures to ensure compliance with Section 410D of the Insurance Company Law of 1921 (40 P.S. § 510c) pertaining to the "Free Look" provision requirements for life insurance and endowment insurance.

ANICO has implemented an automated system to generate the replacement "Free Look" form for all policies issued through its DAP system. For policies issued through its Policy Link system ANICO has instituted procedures where the Policy Link system will issue a notice to ANICO's administrative staff advising them that the policy is a replacement policy and requires the replacement "Free Look" form.

11. The Company must review internal control procedures to ensure compliance with Section 410E of the Insurance Company Law of 1921 (40 P.S. § 510d) pertaining to the "Free Look" provision requirements for annuity and pure endowment contracts.

ANICO has implemented an automated system to generate the replacement "Free Look" form for all policies issued through its DAP system. For policies issued through its Policy Link system ANICO has instituted procedures where the Policy Link system will issue a notice to ANICO's administrative staff advising them that the policy is a replacement policy and requires the replacement "Free Look" form.

12. The Company must review and revise procedures to ensure compliance with refund requirements of Title 31, Pennsylvania Code, Section 73.127.

As of October 19, 2006, ANICO has assumed the administrative responsibility of handling the refund process. Producers are no longer permitted to handle this administrative function. Revised procedures on how to handle cancellations were sent to producers. Further, with each cancellation or refund check that is issued, the insured now receives a letter with the check explaining that the enclosed check is a refund of premium.

Although ANICO respectfully does not agree with all of the findings in the Examiner's Final Report, ANICO has seriously considered the report. ANICO has taken significant remedial action to rectify the areas that the examiners criticized. ANICO will continue to diligently examine and monitor its policies, procedures, and operations to improve compliance and satisfy the requirements of the Department.

AMERICAN NATIONAL INSURANCE COMPANY

Sincerely,



Amber L. Adams, J.D.
Compliance Attorney
American National Insurance Company



Dwain A. Akins, J.D.
Senior Vice President-Corporate Affairs
Chief Compliance Officer
American National Insurance Company

cc: Jim Pozzi
Ron Welch
Albert Amato
Judy Regini