

**REPORT OF  
MARKET CONDUCT EXAMINATION  
OF**

**LIBERTY BANKERS LIFE INSURANCE  
COMPANY**

Edmond, Oklahoma

**AS OF  
February 17, 2010**

**COMMONWEALTH OF PENNSYLVANIA**



**INSURANCE DEPARTMENT  
BUREAU OF MARKET CONDUCT**

**Issued: March 30, 2010**

# LIBERTY BANKERS LIFE INSURANCE COMPANY

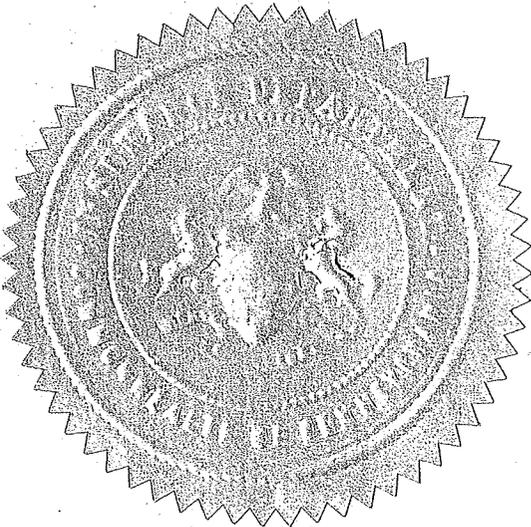
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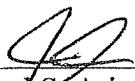
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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 22<sup>ND</sup> day of July, 2008, in accordance with Section 905(c) of the Pennsylvania Insurance Department Act, Act of May 17, 1921, P.L. 789, as amended, P.S. § 323.5, I hereby designate Ronald A. Gallagher, Deputy Insurance Commissioner, to consider and review all documents relating to the market conduct examination of any company and person who is the subject of a market conduct examination and to have all powers set forth in said statute including the power to enter an Order based on the review of said documents. This designation of authority shall continue in effect until otherwise terminated by a later Order of the Insurance Commissioner.



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

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
LIBERTY BANKERS LIFE	:	Sections 641-A and 671-A of Act 147
INSURANCE COMPANY	:	of 2002 (40 P.S. §§ 310.41 and
1605 LBJ Freeway, Suite 710	:	310.71)
Dallas, TX 75234	:	
	:	Sections 404-A and 410D(a)(2) of the
	:	Insurance Company Law, Act of May
	:	17, 1921, P.L. 682, No. 284 (40 P.S.
	:	§§625-4 and 510(c))
	:	
	:	Title 31, Pennsylvania Code, Sections
	:	81.6(a)(1), 83.3, 83.3(a)(1), (2), (3),
	:	(4), (5), (6) and (7), 83.4a and 83.4b,
	:	146.5 and 146.6
	:	
	:	Title 18, Pennsylvania Consolidated
	:	Statutes, Section 4117(k)
	:	
	:	
Respondent.	:	Docket No. MC10-03- 003

CONSENT ORDER

AND NOW, this *30<sup>th</sup>* day of *MARCH*, 2010, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

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

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

#### FINDINGS OF FACT

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

- (a) Respondent is Liberty Bankers Life Insurance Company, and maintains its address at 1605 LBJ Freeway, Suite 710, Dallas, TX 75234.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2008 to December 31, 2008.
- (c) On February 17, 2010, the Insurance Department issued a Market Conduct Examination Report to Respondent.

- (d) A response to the Examination Report was provided by Respondent on March 5, 2008.
- (e) 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 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;

- (iv) Section 410D(a)(2) of the Insurance Company Law, No. 284 (40 P.S. § 510c), which states 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;
- (v) 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;
- (vi) Title 31, Pennsylvania Code, Section 83.3, which requires written disclosure. A life insurance agent, broker or insurer soliciting the type of

business to which this subchapter applies shall provide a prospective purchaser with a written disclosure statement clearly labeled as such;

- (vii) Title 31, Pennsylvania Code, Sections 83.3(a)(1), (2), (3), (4), (5), (6) and (7) which requires a disclosure statement to be a document which shall describe the purpose and importance of the disclosure and describe the significant elements of the policy and riders being offered;
- (viii) 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;
- (ix) 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;
- (x) Title 31, Pennsylvania Code, Section 146.5, which states 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. 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;

- (xi) 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
- (xii) Title 18, Pennsylvania Consolidated Statutes, Section 4117(k), which requires all applications for insurance and all claim forms shall contain or have attached thereto the following notice: “Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.”

#### CONCLUSIONS OF LAW

- 4. In accord with the above Findings of Fact and applicable provisions of law, the 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 violations of Sections 404-A and 410D(a)(2) 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.
  
- (d) 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);

(e) 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.

(f) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.5 and 146.6 are punishable under Section 9 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9):

- (i) cease and desist from engaging in the prohibited activity;
- (ii) suspension or revocation of the license(s) of Respondent.

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

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

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

#### ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department orders and Respondent consents to the following:

(a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.

- (b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.
  
- (c) Respondent shall pay Ten Thousand Dollars (\$10,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.
  
- (d) Payment of this matter shall be made by check payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Fraser, Bureau of Market Actions, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

6. In the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein may pursue any and all legal remedies available, including but not limited to the following: The 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.

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

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

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

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

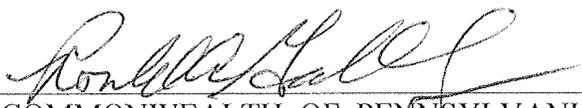
11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law

contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

BY: LIBERTY BANKERS LIFE INSURANCE  
COMPANY, Respondent

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

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

  
\_\_\_\_\_  
COMMONWEALTH OF PENNSYLVANIA  
By: Ronald A. Gallagher, Jr.  
Deputy Insurance Commissioner

## I. INTRODUCTION

The Market Conduct Examination was conducted on Liberty Bankers Life Insurance Company; hereafter referred to as "Company," at the Company's office located in Springfield, Illinois, April 6, 2009, through June 12, 2009. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

Pennsylvania Market Conduct Examination Reports generally note only those items, to which the Department, after review, takes exception. A violation is any instance of Company activity that does not comply with an insurance statute or regulation. Violations contained in the Report may result in imposition of penalties. Generally, practices, procedures, or files that were reviewed by Department examiners during the course of an examination may not be referred to in the Report if no improprieties were noted. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was identified. This enables Company management to review these areas of concern in order to determine the potential impact upon Company operations or future compliance.

Throughout the course of the examination, Company officials were provided status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company officials to discuss the various types of violations identified during the examination and review written summaries provided on the violations found.

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

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

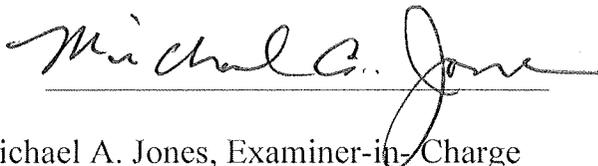
Daniel Stemcosky, AIE, FLMI, MCM  
Market Conduct Division Chief

Michael A. Jones  
Market Conduct Examiner

Gerald P. O'Hara, Jr.  
Market Conduct Examiner

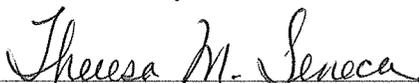
## Verification

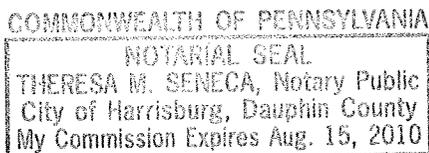
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).

  
Michael A. Jones, Examiner-in-Charge

Sworn to and Subscribed Before me

This 12 Day of January, 2010

  
Notary Public



## II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted pursuant to the authority granted by Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of January 1, 2008, through December 31, 2008, unless otherwise noted. The purpose of the examination was to ensure compliance with Pennsylvania insurance laws and regulations.

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

The Company was requested to identify the universe of files for each segment of the review. Based on the universe sizes identified, random sampling was utilized to select the files reviewed for this examination.

During the course of the examination, for control purposes, some of the review segments identified in this Report may have been broken down into various sub-categories by line of insurance or Company administration. These specific sub-categories, if not reflected individually in the Report, would be included and grouped within the respective general categories of the Examination Report.

### III. COMPANY HISTORY AND LICENSING

Liberty Bankers Life Insurance Company was incorporated under the name Royal Oak Life Insurance Company, organized pursuant to the laws of the Commonwealth of Pennsylvania. The Company was originally incorporated as a wholly owned subsidiary of Pilgrim Life Insurance Company of America, which was wholly owned by Middle Atlantic General Investment Company. In 1985, the name of the Company was changed to Middle Atlantic Life Insurance Company. Effective July 14, 1987, Middle Atlantic Life Insurance Company merged with United Security Financial Corporation of Illinois. On June 1, 1989, Pilgrim Life Insurance Company reinsured all of its business into the Company, transferred ownership to United Security Financial Corporation of Illinois, and was sold to new interests.

United Security Financial Corporation sold 100% ownership interest of the Company to American Hilton Corporation, a South Carolina insurance holding Company in December 1992. Upon the transfer of ownership to American Hilton Corp., the name was changed to Liberty Bankers Life Insurance Company, its present title and redomiciled to the State of Ohio. Effective August 25, 1995, the holding company, Circle Investors, Inc., acquired 100% of the Company's common stock from American Hilton Corp. On June 26, 1996, Circle Investors and its subsidiary Securus Financial Corp acquired 100% ownership of Laurel Life Insurance Company and its subsidiaries, including American Founders Life Insurance Company. As part of the 1996 transaction, 100% of the capital stock of the Company was contributed to American Founders Life Insurance Company.

Effective September 30, 1998, 100% of the capital stock of the Company was purchased by Atlantic Financial Company, a Florida insurance holding company.

Upon Atlantic Financial Company's acquisition, the Company re-domiciled to the State of Wisconsin. On March 31, 2001, the Company was acquired by American Reserve Life Holdings Company (ARL Holdings), a wholly owned subsidiary of National Chiropractic Mutual Holding Company (NCMHC). At the time of the acquisition, the Company re-domiciled to the State of Iowa.

Currently, the Company has assets of approximately \$900 million and operates in 36 states. Domiciled in the state of Oklahoma, Liberty Bankers Life Insurance Company is currently rated "B" by AM Best and distributes its portfolio of fixed annuity products and whole and term life through a network of more than 2,500 independent agents and brokers.

The Company was purchased in March 2004, by American Reserve Life Insurance Company and its parent company, Heritage Guaranty Holdings, Inc., as part of a strategic plan to expand their national insurance presence. This recent purchase follows the acquisition of American Reserve in 1999 and Mid-Continent Life Insurance Company in 2002. Through Heritage Guaranty Holdings, the organization seeks continued growth through building existing companies and acquiring additional life insurance companies and blocks of profitable annuity and life business.

Liberty Bankers Life Insurance Company purchased The Capitol Life Insurance Company in December 2007. Capitol Life has not sold any new business in over 10 years and has approximately 5,000 annuity policies in the pay out phase. Their plans are to begin marketing similar products through the Capitol Life name beginning in 2008.

As of the Company's December 31, 2008, annual statement for Pennsylvania, Liberty Bankers Life Insurance Company reported direct life insurance premiums and annuity considerations in the amount of \$3,361,150 and zero premium for accident and health insurance.

#### IV. ADVERTISING

The Company was requested to provide a copy of the Advertising Certificate of Compliance submitted to the Department for the experience period. The certification was requested to ensure compliance with Title 31, Pennsylvania Code, Section 51.5. Section 51.5 provides that “A company required to file an annual statement which is now or which hereafter becomes subject to this chapter shall file with the Department with its Annual Statement a Certificate of Compliance executed by an authorized officer of the company wherein it is stated that to the best of his knowledge, information and belief the advertisements which were disseminated by the company during the preceding statement year complied or were made to comply in all respects with the provisions of the insurance laws and regulations of this Commonwealth.” No violations were noted.

## V. FORMS

The Company was requested to provide a list and copies of all policy and/or member forms, conversion contracts, applications, riders, amendments and endorsements used during the experience period. The forms provided and forms reviewed in various underwriting sections of the exam were reviewed to ensure compliance with Insurance Company Law, Section 354 and Title 18, Pennsylvania Consolidated Statutes, Section 4117(k), Fraud notice. The following violations were noted:

### **1 Violation – Title 18, Pennsylvania Consolidated Statutes, Section 4117(k)**

*All applications for insurance and all claim forms shall contain or have attached thereto the following notice: “Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.”*

The application form (APPHS0206 PA) noted did not contain the required fraud statement.

### **Concern:**

The Department is concerned with the following question in the health section of application form (LBL-SIM APP 0408-PA): “Have you been diagnosed, awaiting surgery, medical test or test results for Sickle Cell Anemia?”. Since this form of ‘Anemia’ is predominately associated with a specific racial group, its usage could lead to an unfair discriminatory practice.

## 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 107 active producers and 3 terminated producers. The entire list was compared to departmental records of producers to verify appointments, terminations and licensing. In addition, a comparison was made on the individuals identified as producers on applications reviewed in the policy issued sections of the exam.

Subsequent to the start of the onsite review, the Company reported litigation in process with an individual producer concerning administration and accounting of a specific block of business. The issue was reviewed and forwarded to the Department's Bureau of Licensing and Enforcement for any further appropriate review and action.

The following violations were noted:

**11 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 producer listed by the Company as active.

<b>Producer</b>
Donald Reimold

The following 7 individuals were listed as producers on 10 applications reviewed in the policy issued sections of the exam. Department records do not identify these individuals as being appointed by the company.

<b>Producer</b>
C. Knotick
P. Richardson
A. Foor
R. Evans
S. Fidrych
S. Mullarkey
D. Dewitt

**1 Violation - 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 individual was listed as a producer for the Company; however, Departmental records did not identify the individual as holding a Pennsylvania insurance license.

<b>Producer</b>
Donald Reimold

## 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 2005, 2006, 2007 and 2008. The Company identified 9 consumer complaints received during the experience period. In total 31 complaints were identified and 22 were forwarded from the Department. All 31 complaint files were requested, received and reviewed. The Company provided complaint logs as requested. The Department's list of written consumer complaints that were forwarded to the Company during the experience period was compared to the Company's complaint log.

The complaint files and the 4 years of complaint logs were reviewed for compliance with the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171). Section 5(a)(11) of the Act requires maintenance of a complete record of all complaints received during the preceding four (4) years. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaint and the time it took to process each complaint. Written complaint files involving claims were also reviewed for compliance with Title 31, Pennsylvania Code, Section 146.5(b) and 146.5(c), Unfair Claims Settlement Practices. No violations were noted.

## **VIII. UNDERWRITING**

The Underwriting review was sorted and conducted in 7 general segments.

- A. Underwriting Guidelines
- B. UTG Life Policies Issued
- C. TSL Life Policies Issued
- D. UTG Annuity Contracts Issued
- E. UTG Annuity Contracts Issued as Replacements
- F. TSL Life Policies Issued as Replacements
- G. UTG Life Policies Rescinded

Each segment was reviewed for compliance with underwriting practices and included forms identification and producer identification. Issues relating to forms or licensing appear in those respective sections of the Report and are not duplicated in the Underwriting portion of the Report.

### **A. Underwriting Guidelines**

The Company was requested to provide all underwriting guidelines and manuals utilized during the experience period. The documentation provided was reviewed to ensure underwriting guidelines were in place and being followed in a uniform and consistent manner and that no underwriting practices or procedures were in place that could be considered discriminatory in nature, or specifically prohibited by statute or regulation. No violations were noted.

The following guidelines were reviewed:

#### Home Services Division Underwriting

1. Home Services Division Underwriting Procedures
2. Home Services Division Underwriting Internal Audit
3. Procedure New Underwriting LBL Services Application
4. Quick Guide Whole Life Underwriting

Home Services Division Claims Life and Annuity

1. Receipt of Claims Mail
2. Miscellaneous Notes
3. Agency manual Procedures, Manual 5 Claims
4. ACL Law Survey

Ordinary Life Division Underwriting

1. Ordinary Life Division Underwriting Procedures
2. Ordinary Life Division Internal Audit

Ordinary Life Division Claims/Life

1. Claims Narrative

**B. UTG Life Policies Issued**

The Company identified a universe of 1,300 life policies issued during the experience period and administered by a third party, United Trust Group (UTG). A random sample of 100 life policy files was requested. Of the 100 files requested, one was declined, nine were not taken, one was withdrawn, one lapsed and one was missing. The remaining 87 policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

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

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

The agents question on replacement was not completed on the application for the 4 files noted.

**85 Violations – Title 31, Pennsylvania Code, Section 83.3 Disclosure Statement**

*(a) Required written disclosure. A life insurance agent, broker or insurer soliciting the type of business to which this subchapter applies shall provide a prospective purchaser with a written disclosure statement clearly labeled as such. An acceptable disclosure statement is attached as Appendix A.*

The 85 files did not contain evidence that a written disclosure was provided.

**85 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 85 files did not contain a copy of the required agent's certification of disclosure.

**7 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 7 files noted.

### **C. TSL Life Policies Issued**

The Company identified a universe of 9 life policies issued during the experience period and administered by a third party, Texas Service Life (TSL). All 9 life policy files were requested and received. Of the 9 life policy files received, 1 was reviewed in the life policy replacement section of the exam. The remaining 8 policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

#### **5 Violations – Title 31, Pennsylvania Code, Section 83.3 Disclosure Statement**

*(a) Required written disclosure. A life insurance agent, broker or insurer soliciting the type of business to which this subchapter applies shall provide a prospective purchaser with a written disclosure statement clearly labeled as such. An acceptable disclosure statement is attached as Appendix A.*

The 5 files noted did not contain evidence that a written disclosure was provided.

## **5 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 5 files noted did not contain a copy of the required agent's certification of disclosure.

## **2 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 2 files noted.

#### **D. UTG Annuity Contracts Issued**

The Company identified a universe of 25 annuity contracts issued during the experience period and administered by a third party, United Trust Group (UTG). All 25 annuity contracts were requested, received and reviewed. The annuity contracts were reviewed to determine compliance with issuance and replacement statutes and regulations. No violations were noted.

#### **E. UTG Annuity Contracts Issued as Replacements**

The Company identified a universe of 6 annuities issued as replacements during the experience period. All 6 replacement files were requested, received and reviewed. The annuity files were reviewed to determine compliance to issuance, underwriting and replacement statutes and regulations. No violations were noted.

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

The Company identified a universe of 1 life policy issued as a replacement during the experience period and administered by a third party, Texas Service Life (TSL). The file was requested, received and reviewed. The policy file was reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

##### **1 Violation -Title 31, Pennsylvania Code, Section 83.3(a)(1)(2)(3)(4)(5)(6)(7)**

*A disclosure statement shall be a document which shall describe the purpose and importance of the disclosure and describe the significant elements of the policy and riders being offered.*

The disclosure statement in the file noted was not dated.

**1 Violation - 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 required agent's certification of disclosure was not dated in the file 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(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.

**G. UTG Life Policies Rescinded**

The Company was requested to provide a list of all policies rescinded during the experience period. The Company identified a universe of 5 life insurance policies rescinded. A rescinded policy is a policy that was issued and the company terminates the contract and returns all premium paid from the policy effective date. All 5 files were requested, received and reviewed. The policies were reviewed to ensure compliance with contract provisions, termination laws and regulations, proper return of premium and a valid reason for rescission. No violations were noted.

## **IX. INTERNAL AUDIT & COMPLIANCE PROCEDURES**

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

- (1) Periodic reviews of consumer complaints in order to determine patterns of improper practices.
- (2) Regular reporting to senior officers and the board of directors or an appropriate committee thereof with respect to any significant findings.
- (3) The establishment of lines of communication, control and responsibility over the dissemination of advertising and promotional materials, including illustrations and illustration explanations, with the requirement that such materials shall not be used without the approval by company employees whose compensation, other than generally applicable company bonus or incentive plans, is not directly linked to marketing or sales.
- (4) The laws requires that each insurer shall make available for the Department's inspection upon request its internal audit and compliance procedures which are instituted as required by this section.

No violations were noted.

## X. CLAIMS

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

- Home Services Division Claims Life and Annuity
  1. Receipt of Claims Mail
  2. Miscellaneous Notes
  3. Agency Manual Procedures, Manual 5 Claims
  4. ACL Law Survey
  
- Ordinary Life Division Claims/Life
  1. Claims Narrative

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 3 areas:

- A. UTG Life Claims
- B. TSL Life Claims
- C. UTG Annuity Claims

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

## **A. UTG Life Claims**

The Company was requested to provide a list of claims received during the experience period. The Company identified 215 life claims received and administered by a third party, United Trust Group (UTG). A random sample of 50 files was requested, received and reviewed. The files were reviewed to determine 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:

### **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.

### **7 Violations - Title 31, Pennsylvania Code, Section 146.6**

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

The Company failed to provide a timely status letter for the 7 claims noted.

## **B. TSL Life Claims**

The Company was requested to provide a list of TSL life claims received during the experience period. The Company identified 34 life claims received and administered by a third party, Texas Service Life (TSL). All 34 life claims were requested, received and reviewed. The claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146 and Insurance Company Law, Section 411B, Payment of Interest (40 P.S. §511b). The following violations were noted:

### **8 Violations - Title 31, Pennsylvania Code, Section 146.6**

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

The Company failed to provide a timely status letter for the 8 claims noted.

## **C. UTG Annuity Claims**

The Company was requested to provide a list of UTG annuity claims received during the experience period. The Company identified a universe of 2 annuity claims, administered by a third party, United Trust Group (UTG). Both claim files were requested, received and reviewed. The claim 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 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 and Section 671-A of the Insurance Department Act of 1921 (40 P.S. §§310.41a and 310.71).
3. The Company must implement procedures to ensure compliance with the fraud statement notice requirements of Title 18, Pennsylvania Consolidated Statutes, Section 4117(k).
4. 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).
5. The Company must review and revise internal control procedures to ensure compliance with the replacement requirements of Title 31, Pennsylvania Code, Chapter 81.
6. The Company must review internal control procedures to ensure compliance with disclosure requirements of Title 31, Pennsylvania Code, Chapter 83.
7. 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.

## XII. COMPANY RESPONSE



1605 LBJ Freeway, Suite 710  
Dallas, TX 75234

RECEIVED  
Insurance Dept.

MAR 02 2010

Bureau of Market Conduct

February 26, 2010

Pennsylvania Department of Insurance  
Office of Market Regulation  
Attn: Mr. Daniel Stemcosky  
1227 Strawberry Square  
Harrisburg, PA 17120

RE: Market Conduct Exam Warrant # 09-M11-006

Dear Mr. Stemcosky:

The Pennsylvania 2008 Market Conduct Exam findings have been reviewed and discussed by members of our management team as well as our third party administrators.

We believe we have implemented procedures as well as additional processor training that address all deficiencies noted in your exam report.

Attached is our company response.

I look forward to hearing from you after you have had the opportunity to review the response. I very much appreciate the professionalism and courtesy extended by you and Mr. Jones during the exam.

Sincerely,

A handwritten signature in cursive script that reads "Chad Leiding".

Chad Leiding, AIRC  
Vice President Compliance  
Liberty Bankers Life Insurance Company  
Phone: 469-522-4332  
Fax: 469-522-4401  
[chad.leiding@libertybankerslife.com](mailto:chad.leiding@libertybankerslife.com)

cc: Bradford Phillips, president  
Caroline Scott, esq

**RESPONSE TO**

**2008 PENNSYLVANIA MARKET CONDUCT EXAM**

**OF**

**LIBERTY BANKERS LIFE INSURANCE COMPANY**

**NAIC 68543**

**As DECEMBER 31, 2008**

**1. Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices**

These were administrative oversights. The claims processors of our third party administrators have been reminded of the importance of timely claim communication with claimants. Existing procedures require acknowledgement of claim within 10 days and status communications to be sent every 30 days thereafter.

**2. Sections 641.1A and 671-A, Agent Licensing**

An internal audit of our agent licensing procedures in August 2008 uncovered the above deficiency. We since revised our procedures so that agents are appointed and terminated in accordance with Pennsylvania requirements.

**3. Title 18, Section 4117(k), Fraud provision and health question on application**

APPHS0206 (PA) was approved by the Pennsylvania Department on May 1, 2006. However this application is no longer used by our agents. The Pennsylvania Department reviewed and approved application form LBL-HS-APP-1008-PA on December 18, 2008 and it has the required fraud notice.

LBL-SIM APP 0408-PA was reviewed and approved by the Pennsylvania Department on June 4, 2008. However, we have since modified and re-filed the application with the Pennsylvania Department without the reference to "Sickle Cell." The application form LBL-SIM APP 0110-PA was approved on January 29, 2010.

**4. 40 P.S section 625-4, Policy delivery receipts**

We would like to note that in three of the seven violations noted, the policy lapsed within one month of policy issue and therefore we did not follow up for the missing delivery receipt since the policy was no longer in force.

Our procedure is to follow up on missing delivery receipts every 30 days. In addition, we have recently created and implemented a Certificate of Policy Mailing which will be sent to the agent with the policy. If the agent decides to mail the policy to the policy holder the agent will be required to sign and return the form to the home office. The free look period then begins 10 business days after the agent mailed the contract to the policy holder to allow for mailing time. This new procedure was communicated to our agents in the attached Compliance Bulletin dated April 15, 2009.

**5. Title 31, Pennsylvania Code, Chapter 81, Replacements**

These were administrative oversights. Our Third Party Administrators are aware of the replacement requirements in all states and have reminded their new business staff of the requirements. In addition, the attached Compliance Bulletin dated July 15, 2009 was sent to our agents reminding them of the replacement requirements.

**6. Title 31, Pennsylvania Code, Chapter 81, Solicitation Disclosure**

In February 2009, the Company implemented the use of the required solicitation disclosure and is now in compliance.

**7. 40 P.S section 510c, Free Look for Internal Replacements**

This item was an administrative oversight and the new business processors have been reminded of the requirement of inserting the 45 day free look period for all internal replacements.

# Compliance Alert

Marketing Support  
1.800.274.4829

[www.LibertyBankersLife.com](http://www.LibertyBankersLife.com)

Administrative Support  
1.800.745.4927

**April 15, 2009**

## **Policy Delivery Receipt Requirements (PDR)**

Positive proof of policy delivery helps reduce market conduct and policy service complaints by establishing:

- the date the policy is physically delivered and
- the date the free-period commences

Regardless of whether a state has regulations requiring proof of delivery, the Company has decided to require policy delivery receipts in all states where the contract is hand-delivered by you.

If a policy is mailed directly to the policy owner, you are not required to submit a signed delivery receipt but are required to complete the Certification of Policy Mailing Form (Form LBL-CPM).

In the next couple of months, all life insurance and annuity contract will automatically be sent to you with three copies of the PDR and a Certification of Policy Mailing Form. You should have the policy owner(s) sign all three copies of the delivery receipt. You should also sign each copy. One copy should be left with the policy owner(s), another copy should be retained in your client file, and the final copy returned to the home office. If you are mailing the contract, please complete and return the Certification of Policy Mailing Form to the home office.

If you have any questions regarding this issue or other compliance issues, please contact the Director of Compliance, Chad Leiding, at 469-522-4332.

# Compliance Alert

Marketing Support  
1.800.274.4829

[www.LibertyBankersLife.com](http://www.LibertyBankersLife.com)

Administrative Support  
1.800.745.4927

**July 15, 2009**

This Bulletin is to remind all agents about state insurance and annuity replacement regulations. **Recently we have seen an increase in applications without the replacement questions answered by the applicant and the producer. We would like to remind you that an application without the replacement questions answered is incomplete and must be rejected and returned to the producer.**

Most states have replacement regulations designed to help protect the interests of the insurance buying public. Replacements may not always be in the best interest of the customer. It is the producer's responsibility to help determine whether the replacement will help accomplish the customer's goals.

Individual states' replacement regulations vary. It is your responsibility to study carefully the regulations applicable in the state(s) in which you conduct business. When Replacement Notices are required, it is important to use the correct forms applicable in the state in which the application is being written as state Insurance departments frequently specify the exact wording required. Appropriate Replacement Notice forms for life insurance and annuities are available via our website ([www.libertybankerslife.com](http://www.libertybankerslife.com)).

Liberty Bankers and state insurance departments want to ensure that producers replace existing policies only when the replacement will benefit the customer. It is especially important that the customer receives complete and accurate information about both the old and new policies on which to base his or her decision. Replacement regulations require that producers comply with the following guidelines:

- The customer must answer the replacement questions on the application completely and honestly.
- The replacement forms must be completed fully and accurately. Note that some states require replacement notices when the customer owns other life insurance or annuity contracts, even if they are not being replaced.
- The producer must give copies of the completed replacement forms to the applicant at the time the application is taken.

Remember that giving careful attention to meeting replacement requirements can help prevent unnecessary delays and undesirable exposure to disciplinary action by state insurance departments and the Company. Please make sure that you comply with all replacement requirements applicable in those states where you are licensed to sell.

For questions regarding compliance with replacement requirements, please contact our Compliance Director, Chad Leiding, at 469-522-4332.