

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

**NATIONAL WESTERN LIFE INSURANCE
COMPANY**

Denver, Colorado

**AS OF
October 8, 2008**

COMMONWEALTH OF PENNSYLVANIA



**INSURANCE DEPARTMENT
BUREAU OF MARKET CONDUCT**

Issued: December 4, 2008

NATIONAL WESTERN LIFE INSURANCE COMPANY

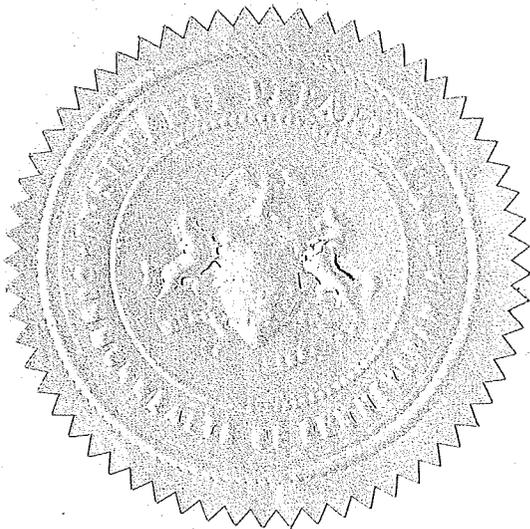
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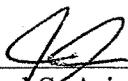
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 22ND 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:
	:	
NATIONAL WESTERN LIFE	:	Sections 641-A and 671-A of Act 147
INSURANCE COMPANY	:	of 2002 (40 P.S. §§ 310.41 and 310.71)
850 East Anderson Lane	:	
Austin, TX 78752-1602	:	Section 903(a) of the Insurance
	:	Department Act, Act of May 17, 1921,
	:	P.L. 789, No. 285 (40 P.S. § 323.3)
	:	
	:	Sections 404-A and 405-A of the
	:	Insurance Company Law, Act of May
	:	17, 1921, P.L. 682, No. 284 (40 P.S.
	:	§§ 625-4 and 625-6)
	:	
	:	Section 5(a)(11) of the Unfair Insurance
	:	Practices Act, Act of July 22, 1974,
	:	P.L. 589, No. 205 (40 P.S. § 1171.5)
	:	
	:	Title 31, Pennsylvania Code, Sections
	:	51.5, 81.5(b), 81.6(a)(1) and 81.6(a)(2)
	:	(ii), 146.3, 146.5 and 146.6
	:	
	:	
	:	
Respondent.	:	Docket No. MC08-11-010

CONSENT ORDER

AND NOW, this *4th* day of *DECEMBER*, 2008, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

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

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

FINDINGS OF FACT

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

- (a) Respondent is National Western Life Insurance Company, and maintains its address at 850 East Anderson Lane, Austin, Texas 78752-1602.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2006 to December 31, 2006.
- (c) On October 8, 2008, the Insurance Department issued a Market Conduct Examination Report to Respondent.

- (d) A response to the Examination Report was provided by Respondent on November 7, 2008.

- (e) After consideration of the November 7, 2008 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 903(a) of the Insurance Department Act, No. 285 (40 P.S. § 323.3), which requires every company or person subject to examination must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the Department may require, in order that its representatives may ascertain whether the company has complied with the laws of the Commonwealth;

(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 405-A of the Insurance Company Law, No. 284 (40 P.S. § 625-5), Establishment of Internal Audit and Compliance Procedures.

(a) Every insurer shall institute and maintain internal audit and compliance procedures which provide 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. These procedures shall also provide for the following:

- (1) Periodic reviews of consumer complaints in order to identify 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 line of communication, control and responsibility over the dissemination of advertising and promotional materials, including illustrations and illustration explanations, with the requirements 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 and sales.
- (b) Each insurer shall make available for department inspection upon request its internal audit and compliance procedures which are instituted as required by this section.
- (vi) Section 5(a)(11) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171.5), which requires a complete record of all complaints received during the preceding four years;
 - (vii) Title 31, Pennsylvania Code, Section 51.5, requires a company to file an Annual Statement, with 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 the Commonwealth;

- (viii) Title 31, Pennsylvania Code, Section 81.5(b), which requires the insurer, as part of a completed application for life insurance or annuity, require a statement signed by the applicant regarding whether the proposed insurance or annuity will replace existing life insurance or annuity;
- (ix) 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;
- (x) 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;

- (xi) Title 31, Pennsylvania Code, Section 146.3, which requires the claim files of the insurer shall be subject to examination by the Commissioner or by his appointed designees. The files shall contain notes and work papers pertaining to the claim in the detail that pertinent events and the dates of the events can be reconstructed;
- (xii) 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; and
- (xiii) 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.

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 405-A of the Insurance Company Law, No. 284 (40 P.S. §§625-4 and 625-5 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 Section 5(a)(11) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171.5) are punishable by the following, 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.

(e) 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).

- (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, Sections 51.5, 146.3 146.5 and 146.6 are punishable under Sections 9, 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9, 1171.10 and 1171.11), as described above.

ORDER

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

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

- (b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.
- (c) Respondent shall comply with all recommendations contained in the attached Report.
- (d) Respondent shall pay Twenty-Five Thousand Dollars (\$25,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.
- (e) Payment of this matter shall be made by check payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Fraser, Office Manager, Bureau of Market Conduct, 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.

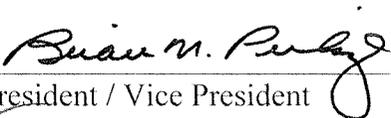
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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.

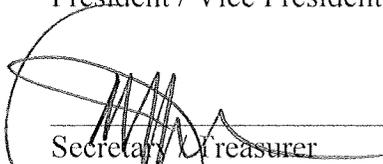
11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law

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

BY: NATIONAL WESTERN 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 National Western Life Insurance Company; hereafter referred to as "Company," at the Company's office located in Austin, Texas, August 7, 2007, through December 21, 2007. 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.

Verification

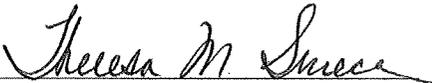
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).



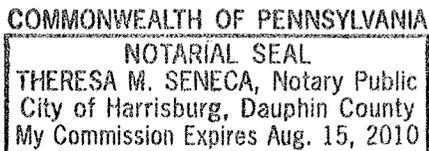
Frank W. Kyazze, AIE, ALHC, FLMI
[Examiner in Charge]

Sworn to and Subscribed Before me

This *21* Day of *August*, 2008



Notary Public



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. Kyazze, AIE, FLMI, ALHC
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted pursuant to the authority granted by Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of January 1, 2006, through December 31, 2006, 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, Consumer Complaints, Forms, Underwriting Practices and Procedures and Claim Handling Practices and Procedures.

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

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

III. COMPANY HISTORY AND LICENSING

National Western Life Insurance Company is a life insurance company, chartered in the State of Colorado in 1956, and doing business in forty-nine states, the District of Columbia, and four U.S. territories or possessions. It is also licensed in Haiti, and although not otherwise licensed, the Company accepts applications from and issues policies to residents of various Central and South American, Caribbean, and Pacific Rim countries. National Western operates within segments organized along product types and geographic marketing areas. These operating segments include domestic life insurance, international life insurance, and annuities.

National Western Life Insurance Company is a legal reserve insurance company, and must set aside a portion of its assets equal to reserves required by law. Annually, a financial statement is filed with each state's insurance department. Through reviews and in-depth audits, these departments verify that the appropriate reserves are maintained.

National Western Life's domestic operations primarily markets annuities, universal life insurance and traditional life insurance and term life products through independent national marketing organizations. National Western Life's international operations markets universal life, equity indexed universal life, traditional life insurance and annuities through independent contractor broker-agents and consultants.

As of the Company's December 31, 2006, annual statement, National Western Life Insurance Company reported direct premiums for ordinary life insurance and annuity considerations in the amount of \$13,072,769 and direct premiums for group annuities in the amount of \$21,232,723.

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 a copy of the advertising certificate of compliance as required by Title 31, Pennsylvania Code, Section 51.5. The following violation was noted:

1 Violation - Title 31, Pennsylvania Code, Section 51.5 Certificate of Compliance

A company required to file an annual statement which is now or which hereafter becomes subject to this chapter shall file with the Department with its Annual Statement a Certificate of Compliance executed by an authorized officer of the company wherein it is stated that to the best of his knowledge, information and belief the advertisements which were disseminated by the company during the preceding statement year complied or were made to comply in all respects with the provisions of the insurance laws and regulations of this Commonwealth.

The Company did not provide 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.

1 Violation - Insurance Department Act, Section 903 (40 P.S. §323.3)

Every Company or person subject to examination in accordance with this act must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the department, at its discretion, may require in order that its authorized representatives may readily ascertain whether the Company or person has complied with the laws of this Commonwealth.

The Omega Blue Universal Life form was not provided for review.

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 1,285 active and terminated producers. A random sample of 100 producers was compared to departmental records of producers to verify appointments, terminations and licensing. In addition, a comparison was made on producers identified on applications reviewed in the policy issued sections of the exam. The following violations were noted:

9 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. The Company listed this producer as active; however, Department records did not indicate his appointment during the experience period.

Producer
Steven Hoak

The following 7 individuals were listed as producers on 8 applications reviewed in the policy issued sections of the exam; however, Department records do not identify these individuals as being appointed by the Company on the dates the applications were signed.

Producer	Application Dates
John Wright	2/9/2006
Arthur Sybell	9/27/2006
Petruso & Associates	1/3/2006
Richard Pankowski	7/9/2006
Thomas Tusick	2/7/2006, 4/20/2006
Howard Blanck	11/29/2005
Clifford Harro	3/6/2006

During the course of the on-site examination, the examiner received additional information from its market analysis and enforcement divisions concerning the activity of a number of producers. The Company was requested to provide additional data and documentation to further investigate the activity of these producers. The following violations were noted:

146 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 following 10 individuals were listed as producers on 146 applications as listed in the documentation provided by the Company. Department records do not identify these individuals as being appointed by the Company on the dates the applications were signed.

Producer Last Name	Producer First Name	Number of Applications
Bellamy	Michael	1
Petruso	P.	1
Gay	Brian	1
Madeline	Gary	2
Tusick	Thomas	2
Green	Donnie	1
Cohen	Jay	2
Patterson	Stephen	1
Blanck	Howard	70
Blundetto	Michael	65

4 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 individuals/entities were listed as producers for the Company; however, Department records did not identify the individual/entities as holding a Pennsylvania insurance license. Additionally, the Company paid commissions to these producers although they were not licensed at the time of application.

Producer	Number of Applications
Arie Greuter	2
Michael Bellamy	1
Robert Douglas	1

VII. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of consumer complaint logs for 2002, 2003, 2004 and 2005. The Company identified 25 consumer complaints received during the experience period. Of the 25 complaints identified, 10 were forwarded from the Department. All 25 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. The following violations were noted:

13 Violations – Unfair Insurance Practices Act, No. 205, Section 5(a)(11) (40 P. S. §1171.5)

Failure of any person to maintain a complete record of all the complaints which it has received during the preceding four years. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint. For

purposes of this paragraph, “compliant” means any written communication primarily expressing a grievance.

The disposition checked for the 13 complaint files noted did not provide sufficient detail on the type or nature of the corrective action taken. Although the “Corrective Action” column was checked, the code that describes the nature of the action taken was not completed or checked.

VIII. UNDERWRITING

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

- A. Underwriting Guidelines
- B. Group Annuity Contracts Issued
- C. Group Annuity Certificates Issued
- D. Annuity Contracts Issued
- E. Universal Life Policies Issued
- F. Annuity Contracts Issued as Replacements
- G. Universal Life Policies Issued as Replacements

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.

B. Group Annuity Contracts Issued

The Company was requested to provide a list of all annuity contracts issued during the experience period. The Company identified 5 group annuity contracts issued. All 5 files were requested, received and reviewed. The files were reviewed to determine compliance to issuance statutes and regulations. No violations were noted.

C. Group Annuity Certificates Issued

The Company was requested to provide a list of all certificate holders enrolled during the experience period. The Company provided a universe of 360 annuity certificate holders. A random sample of 50 annuity certificate holders enrolled was requested, received and reviewed. The files were reviewed to ensure compliance with Title 18, Pennsylvania Consolidated Statutes, Section 4117(k). No violations were noted.

D. Annuity Contracts Issued

The Company identified a universe of 387 annuity contracts issued during the experience period. A random sample of 100 annuity contract files was requested, received and reviewed. Of the 100 annuity contracts reviewed 1 was a duplicate file. The remaining 99 files were reviewed to determine compliance with issuance, and replacement statutes and regulations. The following violations were noted:

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

The insurer shall require as part of a completed application for life insurance or annuity a statement signed by the applicant as to whether the proposed insurance or annuity will replace existing life insurance or annuity.

The applicant's replacement question was not answered in the 3 files noted.

3 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 communication to the replaced company was missing or untimely in the 3 files 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 the date of annuity contract delivery could not be established in the 3 files noted.

E. Universal Life Policies Issued

The Company identified a universe of 24 universal life policies issued during the experience period. All 24 universal life 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:

3 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 completed in the application for the 3 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 documented or was not sent within 5 working days of the date the application was received in the 2 files noted.

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.

F. Annuity Contracts Issued as Replacements

The Company identified a universe of 322 annuity contracts issued as replacements, during the experience period. A random sample of 50 replacement files was requested and received. Of the 50 replacement files received, 2 were duplicate files. The remaining 48 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 81.5(b)

The insurer shall require as part of a completed application for life insurance or annuity a statement signed by the applicant as to whether the proposed insurance or annuity will replace existing life insurance or annuity.

The applicant's replacement question was not answered in the 2 files noted.

5 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 (1) 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 sent within 5 working days from the date of receipt in the 5 files noted.

G. Universal Life Policies Issued as Replacements

The Company identified a universe of 10 universal life policies issued as replacements during the experience period. All 10 policy files were requested and received. After further review, it was determined that all 10 files were duplicates of files reviewed under Section 4, Universal Life Policies Issued; therefore, no violations were noted under this section.

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.

The following violation was noted:

2 Violations - Insurance Company Law, Section 405-A (40 P.S. §625-5)

Establishment of Internal Audit and Compliance Procedures.

(a) Every insurer shall institute and maintain internal audit and compliance procedures which provide 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. These procedures shall also provide for the following:

- (1) Periodic reviews of consumer complaints in order to identify 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 line of communication, control and responsibility over the dissemination of advertising and promotional materials, including illustrations and illustration explanations, with the requirements 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 and sales.*

(b) Each insurer shall make available for department inspection upon request its internal audit and compliance procedures which are instituted as required by this section.

The Company failed to provide proof of the written compliance procedures in regards to:

- (1) The periodic reviews of consumer complaints in order to determine patterns of improper practices.
- (2) The regular reporting to senior officers and the board of directors or an appropriate committee thereof with respect to any significant findings.

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 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 4 areas:

- A. Annuity Claims
- B. Universal Life Claims
- C. Term Life Claims
- D. Whole Life Claims

All claim files sampled were reviewed for compliance with requirements of the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171) and Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices. The life claims were additionally reviewed for compliance with Insurance Company Law, Section 411B, Payment of Interest (40 P.S. §511b).

A. Annuity Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 455 annuity claims. A random sample of 100 claims was requested and received. Of the 100 claims, 12 claims were duplicates. The remaining 88 annuity claims were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. The following violations were noted:

1 Violation - Title 31, Pennsylvania Code, Section 146.3

The claim files of the insurer shall be subject to examination by the Commissioner or by his appointed designees. The files shall contain notes and work papers pertaining to the claim in the detail that pertinent events and the dates of the events can be reconstructed.

The Company did not provide the claim form and claim proofs in the file 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.

57 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 in the 57 claim files noted.

B. Universal Life Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 50 universal life claims received. A random sample of 25 universal life claims was requested for review. Of the 25 files requested, 9 were duplicate records. The remaining 16 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:

5 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 in the 5 claim files noted.

C. Term Life Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified 3 term life claims received. Of the 3 files requested, 2 were duplicate files. The claim file was received and 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:

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 within 10 working days.

D. Whole Life Claims

The Company identified a universe 90 whole life claims received during the experience period. A random sample of 50 whole life claims was requested and received. Of the 50 files received, 12 were duplicate files. The remaining 38 whole life 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:

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.

21 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 in the 21 claim files 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 implement procedures to ensure compliance with the advertising certification requirements of Title 31, Pennsylvania Code, Chapter 51.
2. 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.
3. 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).
4. The Company must review procedures to ensure all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the Company are maintained in such manner and for such period of time to ensure compliance with Section 903(a) of the Insurance Department Act of 1921 (40 P.S. §323.3).
5. The Company must review and revise internal control procedures to ensure compliance with the replacement requirements of Title 31, Pennsylvania Code, Section 81.
6. The Company must implement procedures to ensure compliance with the contract delivery receipt requirements of Section 404-A of the Insurance Company Law of 1921 (40 P.S. §625-4).
7. The Company must implement internal audit and compliance procedures to ensure compliance with Section 405-A of the Insurance Company Law of 1921 (40 P.S. §625-5).
8. The Company must implement procedures to ensure compliance with the complaint maintenance requirements of Section 5 of the Unfair Insurance Practices Act (40 P.S. §1171.5).

XII. COMPANY RESPONSE



REY PEREZ
ASSISTANT VICE PRESIDENT
CORPORATE COUNSEL

November 6, 2008

Daniel A. Stemcosky
Market Conduct Division Chief
PA Department of Insurance
Bureau of Enforcement
1321 Strawberry Square
Harrisburg, PA 17120

VIA FEDERAL EXPRESS

*RE: National Western Life Insurance Company (NAIC #66850)
Market Conduct Examination
Experience Period: January 1, 2006 to December 31, 2006*

Dear Mr. Stemcosky:

Thank you for your correspondence dated October 8, 2008, and the Report of Examination included with your correspondence.

National Western appreciates the Department's spirit of cooperation in conducting these exams so that companies are allowed to take the appropriate corrective measures for the benefit of both consumers and the company. Attached please find National Western's rebuttals to the Examination Report.

The Company wishes to thank you and Mr. Kyazze for your assistance in this matter. I and National Western look forward to completing this examination and implementing the recommendations that the Department has made. Please do not hesitate to contact me if you have any questions or need any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Rey Perez", with a large, stylized flourish extending from the end of the signature.

Rey Pérez

Enclosure

COMPANY RESPONSE

National Western has begun implementing the recommendations made by the Department in Section XI of the examination report and looks forward to fully adopting the changes that will help the Company meet the Department's requirements. The Company appreciates the Department's continued assistance and guidance with these matters.

IV. Advertising

Section 51.5 states that "A company required to file an annual statement...shall file with the Department with its Annual Statement a Certificate of Compliance..." Pennsylvania does not require National Western to file an annual statement. As such, National Western is not required to file the Certificate of Compliance, and therefore has not violated Section 51.5.

VI. Producer Licensing

Providential Group – Wrote no business for NWL since 01/03.
Ronald Bailey – He never represented NWL. This was a Life Assurance Company of Pennsylvania agent.

VII. Consumer Complaints

The disposition of the complaints was included in the complaint register. 40 P.S. Section 1171.5(a)(11) requires that the complaint record list the "disposition" of the complaints, which National Western's complaint register does. The statute does not require additional specifications which best describe the nature of the corrective action taken.

IX. Internal Audit & Compliance Procedures

National Western acknowledges that its procedures for handling and auditing complaints are not in writing, however National Western's Policyowner Services personnel responsible for handling consumer complaints are continuously examining and reviewing complaints for patterns of improper agent practices. Upon determining that an improper practice may have taken place, the individual reviewing the complaint or complaints communicates his or her findings to the Vice President of Policyowner Services, who then communicates with Marketing and Legal, and other Company departments as necessary, to determine the best course of action in addressing and resolving the complaint. Please note that 40 P.S. § 625-5 does not require an insurer maintain samples of its reviews of consumer complaints and their outcome, and while these procedures were not in writing, they are the procedures in place regarding complaint handling and reporting. National Western's practice regarding the review of consumer complaints is not limited to a specific periodic cycle, but is an ongoing, continuous process for the National Western personnel involved in the complaint process. Significant findings are communicated by the Policyowner Services personnel to Marketing and Legal and from there communicated to senior management as appropriate. The Company is memorializing its procedures in writing.

X. Claims

The definitions in Section 146.2(b), which apply to Chapter 146 of the Insurance Code, state that “notification of claim” is “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.” National Western’s contracts do not provide a means of submitting a claim other than in writing. In addition, a “claim” is defined as “A demand for payment by a claimant and not an inquiry concerning coverage.”

Taken as a whole, the provisions of Section 146.2(b) of the Code argue in favor of National Western’s position that until the Company receives a proper written notification of a claim (i.e., “demand for payment”), and not an inquiry concerning coverage or notice of an insured’s death, the clock does not begin to run under Chapter 146. As such, the Company disputes the validity of the violations listed in this section.