

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

PENN MUTUAL LIFE INSURANCE COMPANY
Philadelphia, Pennsylvania

**AS OF
March 31, 2005**

COMMONWEALTH OF PENNSYLVANIA



**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: May 23, 2005

PENN MUTUAL LIFE INSURANCE COMPANY

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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 29 day of April, 2002, in accordance with Section 905(c) of the Pennsylvania Insurance Department Act, Act of May 17, 1921, P.L. 789, as amended, P.S. § 323.5, I hereby designate Randolph L. Rohrbaugh, Deputy Insurance Commissioner, to consider and review all documents relating to the market conduct examination of any company and person who is the subject of a market conduct examination and to have all powers set forth in said statute including the power to enter an Order based on the review of said documents. This designation of authority shall continue in effect until otherwise terminated by a later Order of the Insurance Commissioner.



M. Diane Koken
M. Diane Koken
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:
: :
PENN MUTUAL LIFE INSURANCE : Sections 605 and 903(a) of the
COMPANY : Insurance Department Act, Act of
600 Dresher Road : May 17, 1921, P.L. 789, No. 285
Horsham, PA 19044 : (40 P.S. §§ 235 and 323.3)
: :
: Section 671-A of Act 147 of 2002
: (40 P.S. § 310.71)
: :
: Sections 354, 404-A, 406-A, 408-
: A(c)(4)(ii), 408-A(e)(1)(ii), 408-
: A(e)(4) and 408-A(e)(5) of the
: Insurance Company Law, Act of May
: 17, 1921, P.L. 682, No. 284 (40 P.S.
: §§ 477b, 625-4, 625-6 and 625-8)
: :
: Title 31, Pennsylvania Code, Sections
: 81.4(b)(1), 81.4(b)(1)(4), 81.5(b),
: 81.6(a)(1), 81.6(a)(2)(ii), 81.6(c),
: 82.62(3), 83.3, 83.55a, 83.55b, 146.5
: and 146.6
: :
: Title 18, Pennsylvania Consolidated
: Statutes, Section 4117(k)
: :
Respondent. : Docket No. MC05-04-041

CONSENT ORDER

AND NOW, this 23RD day of MAY, 2005, this Order is hereby
issued by the Deputy Insurance Commissioner 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 Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

(a) Respondent is Penn Mutual Insurance Company, and maintains its address at 600 Dresher Road, Horsham, Pennsylvania 19044.

(b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2003 through December 31, 2003.

- (c) On March 31, 2005, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on April 28, 2005.
- (e) The Examination Report notes violations of the following:
 - (i) Section 605 of the Insurance Department Act, No. 285 (40 P.S. § 235), which requires that no agent shall do business on behalf of any entity without written appointment from that entity;
 - (ii) 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;
 - (iii) Section 671-A of Act 147 of 2002 prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act (40 P.S. § 310.71).

- (iv) Section 354 of the Insurance Company Law (40 P.S. § 477b), which prohibits issuing, selling, or disposing of any policy, contract or certificate until the forms have been submitted to, and formally approved by, the Insurance Commissioner;

- (v) 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 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;

- (vi) Section 406-A of the Insurance Company Law, No. 284 (40 P.S. §625-6), prohibits alteration of any written application for a life insurance policy or annuity shall be made by any person other than the applicant without the applicant's written consent;

- (vii) Section 408-A(c)(4)(ii) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which requires a statement to be signed and dated by the producer reading as follows: “I certify that this illustration has been presented to the applicant or the policy owner and that I have explained that any non-guaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration.”

- (viii) Section 408-A(e)(1)(ii) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which requires if the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be mailed or delivered with the policy. The revised illustration shall conform to the requirements for basic illustrations contained in this act and shall be labeled “Revised Illustration.” The statement required by subsection (c)(4) shall be signed and dated by the policy owner and producer no later than the time the policy is delivered. A copy shall be provided to the policy owner no later than the time the policy is delivered and to the insurer as soon as practical after the policy is delivered;

- (ix) Section 408-A(e)(4) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which states if the basic or revised illustration is mailed to the applicant or policy owner, the applicant or policy owner shall be instructed to sign the duplicate copy of the numeric summary page of the illustration for the policy

issued and return the signed copy to the insurer. The insurer's obligation under this subsection shall be satisfied if it can demonstrate that a diligent effort has been made to secure a signed copy of the numeric summary page. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing, a self-addressed postage prepaid envelope with instructions for the return of the signed numeric summary page;

- (x) Section 408-A(e)(5) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), requires a copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, shall be retained by the insurer until three years after the policy is no longer in force;
- (xi) Title 31, Pennsylvania Code, Section 81.4(b)(1), which states that if replacement is involved, the agent or broker shall present to the applicant at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities;
- (xii) Title 31, Pennsylvania Code, Section 81.4(b)(1)(4), which states if replacement is involved, the agent or broker shall: (2) Present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities in the form as

accepted prior to use by the Commissioner. The notice shall be signed by both the applicant and the agent or broker and left with the applicant, and (4) Submit to the replacing insurer with the application, a copy of the notice regarding replacement of life insurance and annuities provided under paragraph (1);

- (xiii) 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;
- (xiv) 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;
- (xv) Title 31, Pennsylvania Code, Section 81.6(a)(2)(ii), which requires 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;

(xvi) Title 31, Pennsylvania Code, Section 81.6(c), which requires the replacing insurer to maintain evidence of the Notice Regarding Replacement of Life Insurance and Annuities;

(xvii) Title 31, Pennsylvania Code, Section 82.62, which requires the application for a variable life insurance policy to contain: 3) Questions designed to elicit information which enables the insurer to determine the suitability of variable life insurance for the applicant;

(xviii) 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;

(xix) Title 31, Pennsylvania Code, Sections 83.55a and 83.55b, which (a) require the agent to submit to the insurer a statement, signed by him, certifying that the surrender comparison index disclosure was given upon delivery of the policy or earlier at the request of the life insurance applicant; and (b) the insurer shall maintain the agent's certification of surrender comparison

index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance;

- (xx) 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;
- (xxi) 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
- (xxii) 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 Deputy Insurance Commissioner makes the following Conclusions of Law:

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

- (b) Violations of Section 605 of the Insurance Department Act (40 P.S. § 235) are punishable by the following, under Section 639 of the Insurance Department Act (40 P.S. § 279):
 - (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) issue an order to cease and desist.

(iv) impose such other conditions as the department may deem appropriate.

(c) Respondent's violations of Section 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.

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

(i) suspension or revocation of the license(s) of Respondent;

(ii) refusal, for a period not to exceed one year thereafter, to issue a new license to Respondent;

(iii) imposition of a fine of not more than one thousand dollars

(\$1,000.00) for each act in violation of the Act.

- (e) Respondent's violations of Sections 404-A, 406-A and 408-A 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.
- (f) Respondent's violations of Title 31, Pennsylvania Code, Sections 81.4(b)(1), 81.4(b)(1)(4), 81.5(b), 81.6(a)(1), 81.6(a)(2)(ii) and 81.6(c) 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 83.3, 83.55a and 83.55b, are punishable under Title 31, Pennsylvania Code, Section 83.6:

- (i) For failing to insure adequate disclosure of basic information, after a hearing, a company may be subject to the penalties provided under 40 P.S. § 475, for violations of 40 P.S. §§ 472 through 474. In addition, failure to make the disclosure outlined in this subchapter may be considered a violation of 40 P.S. §§ 1171.1 through 1171.15.

- (h) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.5 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.

- (i) In addition to any penalties imposed by the Commissioner for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 – 1171.5), the Commissioner may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:
 - (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);

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

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Deputy Insurance Commissioner 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 Fifteen Thousand Dollars (\$15,000.00) 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. Harbert, Administrative Assistant, Bureau of Enforcement, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

6. In the event the Deputy Insurance Commissioner 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 Deputy Insurance Commissioner 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 Deputy Insurance Commissioner 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 Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner 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.

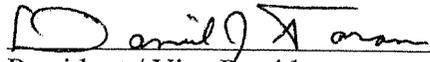
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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 Deputy Insurance Commissioner. Only the Insurance Commissioner or a duly authorized Deputy Insurance Commissioner 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 Deputy Insurance Commissioner.

BY: PENN MUTUAL LIFE INSURANCE
COMPANY, Respondent



President / ~~Vice President~~



Secretary / Treasurer GENERAL AUDITOR AND
Sr. Vice President, MARKET CONDUCT



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The Market Conduct Examination was conducted on Penn Mutual Life Insurance Company, hereafter referred to as "Company," at the Company's office located in Horsham, Pennsylvania, July 26, 2004, through September 17, 2004. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

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

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

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

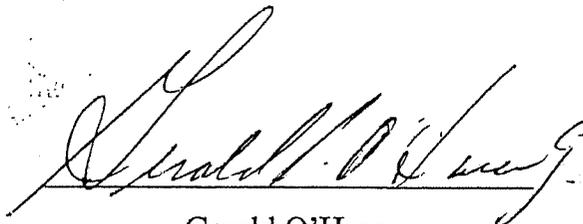
The undersigned participated in the Examination and in the preparation of this Report.



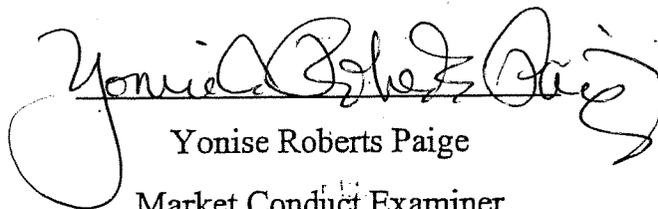
Daniel Stemcosky, AIE, FLMI
Market Conduct Division Chief



Michael Jones
Market Conduct Examiner



Gerald O'Hara
Market Conduct Examiner



Yonise Roberts Paige
Market Conduct Examiner

Verification

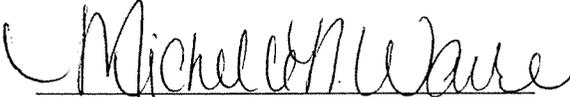
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).



Michael Jones, Examiner-in- Charge

Sworn to and Subscribed Before me

This 29th Day of March, 2005



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, 2003, through December 31, 2003, unless otherwise noted. The purpose of the examination was to determine compliance by the Company with Pennsylvania insurance laws and regulations.

The examination focused on the Company's operation in areas such as: Advertising, Consumer Complaints, Forms, Agent/Broker Licensing, 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

Penn Mutual Life Insurance Company was incorporated in Pennsylvania on February 24, 1847, and commenced business on May 25, 1847. The Company is licensed in all states and the District of Columbia.

The Company maintains a broad product line of variable and fixed-rate life insurance and annuity products. The Company works closely with five affiliates described below. Penn Insurance and Annuity Company, a subsidiary company, was formed in 1980, and is licensed to do business in 48 states and the District of Columbia. Janney Montgomery Scott LLC, is a full service regional securities broker/dealer. The Pennsylvania Trust Company, provides a selection of investment advisory and trust services. Hornor, Townsend & Kent, Inc. is a wholly owned broker/dealer subsidiary of Penn Mutual. Independence Capital Management, Inc. is a wholly owned investment advisory subsidiary of Penn Mutual.

As of their December, 2003, annual statement for Pennsylvania, Penn Mutual Life Insurance Company reported direct premium for life insurance and annuities in the amount of \$134,291,459; and direct premium for accident and health in the amount of \$1,310,009.

IV. ADVERTISING

Title 31, Pennsylvania Code, Section 51.2(c) provides that “Any advertisements, whether or not actually filed or required to be filed with the Department under the provisions of this Regulation may be reviewed at any time at the discretion of the Department.” The Department, in exercising its discretionary authority for reviewing advertising, requested the Company to provide copies of all advertising materials used for solicitation and sales during the experience period.

The Company provided a list of 1,053 pieces of advertising and identified 43 websites utilized in the Commonwealth during the experience period. The advertising consisted of: Field office website materials, home office materials, generic ads for producers and field marketing advertising material. A sample of 540 pieces of advertising and 17 websites were selected and reviewed. The 540 advertising materials and the Company’s web sites were reviewed to ascertain compliance with Act 205, Section 5 (40 P.S. §1171.5), Unfair Methods of Competition and Unfair or Deceptive Acts or Practices and Title 31, Pennsylvania Code, Chapter 51 and Chapter 89. No violations were noted.

V. FORMS

Throughout the course of the examination, all underwriting files were reviewed to identify the policy contracts, riders, endorsements and applications used in order to determine compliance with requirements of Insurance Company Law, Chapter 2, Section 354 (40 P.S. §477b). Applications and claim forms were also reviewed to determine compliance with Title 18, Pa. C.S., Section 4117(k). The following violations were noted:

2 Violations – Insurance Company Law, Chapter 2, Section 354 (40 P.S. §477b)

It shall be unlawful for any insurance company, doing business in the Commonwealth of Pennsylvania, to issue, sell, or dispose of any policy, contract, or certificate, covering life insurance, or use application, riders, or endorsements, in connection therewith, until the forms have been submitted to, and formally approved by, the Insurance Commissioner.

The following form was not filed for approval with the Department.

Type	Form #	Form Description
Life	WP-80	Rider

The following form found in the variable life issued section of the exam was not filed for approval with the Department.

Form #	Issue Date
PM0479	12/23/03

14 Violations – Title 18, Pa. C.S., 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 14 applications did not contain the required fraud statement. The application form description and frequency of use is listed in the table below.

Form Description	Number
Application Form 576A	12
Application Form 9354-1	1
Application Form PM5695	1

VI. PRODUCER LICENSING

The Company was requested to provide a list of all agents/producers active and terminated during the experience period. Section 605 (40 P.S. §235) of the Insurance Department Act prohibits agents from doing business on behalf of any entity without a written appointment from that entity. Section 623 (40 P.S. §253) of the Insurance Department Act prohibits a company from accepting insurance license. Title 31, Pennsylvania Code, Section 37.61 requires the Company to report all agent terminations to the Department.

Effective June 4, 2003, Insurance Department Act, No. 147, Licensing of Insurance Producers, replaced Section 601 through Section 663 of the Insurance Department Act and any sections of Title 31, Pennsylvania Code, Chapter 37 which are inconsistent with the new statute.

The Company provided a list of 2,273 active agents, and 371 terminated agents. A random sample of 200 active agents and 75 terminated agents were compared to departmental records of agents to verify appointments, terminations and licensing. In addition, a comparison was made on the agents identified as producers on applications reviewed in the policy issued sections of the exam. The violations listed below are listed according to the law in effect at the time of the violation.

10 Violations – Insurance Department Act, Section 605(c)(d) (40 P.S. §235)

- (a) No agent shall do business on behalf of any entity without a written appointment from that entity.
- (b) All appointments shall be obtained by procedures established by the Insurance Department's regulations.

- (c) Insurance entities authorized to do business in this Commonwealth shall, from time to time as determined by the Insurance Department, certify to the Insurance Department the names of all agents appointed by them.
- (d) Each appointment fee, both new and renewal, shall be paid in full by the entity appointing the agent.

The company failed to certify and submit appointment fees to the Insurance Department for the following 6 agents/producers listed on 10 applications reviewed in the underwriting sections of the exam.

AGENT LAST NAME	AGENT FIRST NAME	APPLICATION DATE	SECTION
BARTOW	JAMES	01/25/2003	1A
INGARGIOLA	LOUIS P	05/21/2003	10
INGARGIOLA	LOUIS P	03/05/2003	10
MARQUART	GREGORY	02/12/2003	1
MARQUART	GREGORY	02/05/2003	1C
MROZEK	ROBERT C	04/10/2003	10
REIMELS	JOSEPH	04/03/2003	1A
REIMELS	JOSEPH O	05/27/2003	1B
REIMELS	JOSEPH O	03/11/2003	10
SHAPIRO	MARK	03/07/2003	8

3 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 insurer appoints the insurance producer. An insurance producer is not required to be appointed when not acting as a representative of an insurer.
- (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 2 individuals were listed as producers on 3 applications reviewed in the policy issued sections of the exam. Department records do not identify these individuals as being appointed by the company.

AGENT LAST NAME	AGENT FIRST NAME	APPLICATION DATE	SECTION
DILUCIDO	PATRICIA	09/29/2003	8
DILUCIDO	PATRICIA	09/08/2003	9
NICHOLSON	LEE	08/19/2003	1

VII. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for 2000, 2001, 2002 and 2003. The Company identified 15 written consumer complaints and provided complaints logs for 2000, 2001, 2002 and 2003. Of the 15 consumer complaints identified, 3 were forwarded from the Department. All 15 consumer complaint files were requested, received and reviewed.

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 14 general segments.

- A. Underwriting Guidelines
- B. Whole Life Policies Issued
- C. Term Life Policies Issued
- D. Universal Life Policies Issued
- E. Variable Life Policies Issued
- F. Life Policies Declined
- G. Individual Life Policies Not-Taken
- H. Life Policies Terminated
- I. Individual Life Term Conversions
- J. Life Policies Issued As Replacements
- K. Annuity Contracts Issued
- L. Annuities Not-Taken
- M. Annuity Contracts Terminated
- N. Annuities Issued As Replacements

Each segment was reviewed for compliance with underwriting practices and included forms identification and agent identification. Issues relating to forms or agent/broker 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 copies of all established written underwriting guidelines in use during the experience period. Underwriting guidelines were reviewed to ensure guidelines were in place and being followed in a uniform and consistent manner and no underwriting practices or procedures were in place which could possibly be considered discriminatory in nature, or specifically prohibited by statute or regulation. No violations were noted.

The following guides were provided and reviewed:

APS Guideline Chart, April 28, 2003:

- Age of Applicant and amount applied for:
- Medical Impairment Chart

Declination Procedures:

- Underwriter Procedures
- Case Administrator Procedures

Risk Selection Guide: (*Transamerica Reinsurance*)

- Foreign travel and Residence

Producer's Underwriting Guide:

- Purpose of guide
- Philosophy
- Routine underwriting requirements
- Expediting the process
- Preferred criteria
- Height and Weight
- Underwriting action for Medical Impairment
- Avocation and occupation Guidelines i.e., Military
- Delivery of the Policy
- VIP Program

B. Whole Life Policies Issued

The Company identified a universe of 127 Whole Life policies issued during the experience period. A random sampling of 50 life policy files was requested, received and reviewed. The policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

1 Violation - 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 noted file.

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

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

1 Violation – 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. The file noted did not contain a disclosure form.

C. Term Life Policies Issued

The Company identified a universe of 513 term life policies issued during the experience period. A random sampling of 50 life policy files was requested, received and reviewed. Of the 50 files reviewed, 3 files were identified as out of state contracts. The remaining 47 policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

3 Violations - Title 31, Pennsylvania Code, Section 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 in the 3 files noted.

1 Violation - 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 3 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 in the file 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 a disclosure form.

1 Violation– Insurance Company Law, Section 408-A(c)(4)(ii) (40 P.S. §625-8)

A statement to be signed and dated by the producer reading as follows: “I certify this illustration has been presented to the applicant or the policy owner and that I have explained that any non-guaranteed elements are subject to change. I have made no statements that are inconsistent with the illustration.” The writing agent did not sign the certification. The file noted was missing the agent’s certification.

2 Violations – Insurance Company Law, Section 408-A(e)(4) (40 P.S. §625-8)

If the basic or revised illustration is mailed to the applicant or policy owner, the applicant or policy owner shall be instructed to sign the duplicate copy of the numeric summary page of the illustration for the policy issued and return the signed copy to the insurer. The insurer’s obligation under this subsection shall be satisfied if it can demonstrate that a diligent effort has been made to secure a signed copy of the numeric summary page. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed numeric summary page. The 2 files noted did not contain a signed copy of the illustration numeric summary page or verification that the insurer made a diligent

effort to secure a copy upon the mailing of the basic or revised illustration to the policy owner or applicant.

D. Universal Life Policies Issued

The Company identified a universe of 1,738 Universal Life policies issued during the experience period. A random sampling of 100 life policy files was requested, received and reviewed. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

2 Violations - Insurance Department Act, Section 903 (40 P.S. §323.3)

(a) Every Company or person subject to examination in accordance with this act must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time period 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 2 files noted were missing pertinent information.

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

If replacement is involved, the agent or broker shall: present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities. The replacement form was dated after the application date in the file 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 in the 2 files noted was not sent within 5 working days from the date the application was received in the replacing insurer's home office.

1 Violation – 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 disclosure statement in the file noted did not comply with Appendix A requirements.

1 Violation– Insurance Company Law, Section 406-A (40 P.S. §625-6)

No alteration of any written application for a life insurance policy or annuity shall be made by any person other than the applicant without the applicant's written consent. The file noted contained alterations without the applicants consent.

E. Variable Life Policies Issued

The Company was requested to provide a list of variable life policies issued during the experience period. The Company identified 174 variable life policies issued. A random sample of 50 files, was requested, received and reviewed. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

5 Violations - 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 5 files noted were missing various pages of the application.

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

If replacement is involved, the agent or broker shall: (1) Present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities in the form as accepted prior to use by the Commissioner. The notice shall be signed by both the applicant and the agent or broker and left with the applicant. The notice of replacement form utilized in the file noted was not a Department accepted replacement form.

2 Violation - 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 in the 2 files noted.

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

The replacing insurer shall maintain evidence of the Notice Regarding Replacement of Life Insurance and Annuities. The file noted did not contain a copy of the required notice of replacement.

3 Violations - Title 31, Pennsylvania Code, Section 82.62(3)

The application for a variable life insurance policy shall contain: (3) Questions designed to elicit information which enables the insurer to determine the suitability of variable life insurance for the applicant. The suitability questions were either unanswered or not attached to the application in the 3 files noted.

9 Violations– Insurance Company Law, Section 406-A (40 P.S. §625-6)

Any person other than the applicant without the applicant's written consent shall make no alteration of any written application for a life insurance policy or annuity. The 9 files noted contained alterations without the applicants consent.

F. Life Policies Declined

The Company was requested to provide a list of all the individual life policies declined during the experience period. The Company identified a universe of 56 policies. All 56 policies were requested and received. Three of the files were out-of-state files. The remaining 53 files were reviewed to ensure declinations were not the result of any discriminatory underwriting practice. The following violations were noted:

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 file noted was missing declination information.

G. Individual Life Policies Not-Taken

The Company was requested to provide a list of all policies not-taken during the experience period. The Company identified 109 individual life policies not-taken.

A random sample of 50 files was requested, received and reviewed. A Not-Taken policy by definition is a contract that is issued and the insured decides not to accept the coverage. The files were reviewed to ensure compliance with the free-look provisions of the contract. No violations were noted.

H. Life Policies Terminated

The Company was requested to provide a list of all policies terminated during the experience. The Company identified a universe of 2,173 life policies terminated. A random sample of 100 files was requested. Of the 100 files requested, 17 were determined to be out-of-state files, and were not reviewed. The remaining 73 files were reviewed to ensure compliance with contract provisions, termination laws and regulations, and proper return of any unearned premium. No violations were noted.

The following table is a synopsis of the 100 files reviewed.

No.	Termination Reason	Percent
1	Expiry/Lapse	1
2	Lapse	3
13	Maturity	13
17	Not Applicable - Out of State	17
27	Death	27
40	Surrender	40
100	Total	100%

I. Individual Life Term Conversions

The Company identified a universe of 28 individual term life conversion policies issued during the experience period. All 28 term life conversion files were requested. Of the 28 files requested, 2 were outside the experience period and 1 was a not-taken policy. The remaining 25 files were reviewed to determine compliance to issuance and underwriting statutes and regulations. The following violations were noted:

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

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

When the individual policy or annuity is delivered by a means other than by hand delivery by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence. Verification of policy delivery could not be established in the file noted.

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

If the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be mailed or delivered with the policy. The revised illustration shall conform to the requirements for basic illustrations contained in this act and shall be labeled “Revised Illustration.” The statement required by subsection (c)(4) shall be signed and dated by the policy owner and producer no later than the time the policy is delivered. A copy shall be provided to the policy owner no later than the time the policy is delivered and to the insurer as soon as practical after the policy is delivered. The file noted listed a policy delivery date that was prior to the illustration delivery date.

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

A copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, shall be retained by the insurer until three (3) years after the policy is no longer in force. The 2 files noted were missing the agent certification and the applicants acknowledgment in regards to the illustration used.

J. Life Policies Issued As Replacements

The Company identified a total universe of 493 life policies issued as replacements during the experience period. A random sampling of 100 life replacement files was requested. Of the 100 files requested, 99 were received and reviewed. The remaining file was reviewed in another section of the exam. The files were

reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

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

If replacement is involved, the agent or broker shall: Present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities. The replacement form was dated after the application date or not dated in the 21 files noted.

9 Violations - Title 31, Pennsylvania Code, Sections 83.55a and 83.55b

a) The agent shall submit to the insurer a statement, signed by him, certifying that the surrender comparison index disclosure was given upon delivery of the policy or earlier at the request of the life insurance applicant.

b) The insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance. The agent's certification of the surrender comparison index disclosure delivery was not signed, or dated in the 9 files noted.

K. Annuity Contracts Issued

The Company was requested to provide a list of all the annuity contracts issued during the experience period. The Company identified 423 annuities issued. A

random sample of 50 policies was requested, received and reviewed. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

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

If replacement is involved, the agent or broker shall:

- (1) Present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities in the form as accepted prior to use by the Commissioner. The notice shall be signed by both the applicant and the agent or broker and left with the applicant.

The replacement notice was dated after the application date in the file 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.

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

When the producer delivers the individual policy or annuity to the policyholder 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 producer delivers the individual policy or annuity, the insurer shall

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

L. Annuities Not-Taken

The Company was requested to provide a list of all annuities not-taken during the experience period. The Company identified 6 annuities not taken. All 6 files were requested for review. A Not-Taken policy by definition is a contract that is issued and the Annuitant decides to decline the contract. The files were reviewed to ensure compliance with the free look provisions of the contract. No violations were noted.

M. Annuity Contracts Terminated

The Company was requested to provide a list of all annuities terminated during the experience. The Company identified a universe of 738 annuity contracts terminated. A random sample of 100 annuities terminated was requested. Of the 100 requested, 3 were determined to be still in force, 1 was outside the experience period. The remaining 96 files were reviewed to ensure compliance with contract provisions, termination laws and regulations, and proper return of any unearned premium. No violations were noted.

The following table is a synopsis of the 100 annuity policies terminated.

No.	Termination Reason	Percent
12	Death	12%
42	Insured Request Cash Surrender	44%
42	Transfer/Rollover to Other Annuity Plan	44%
96	Totals	100%

N. Annuities Issued As Replacements

The Company was requested to provide a list of annuities issued as replacements during the experience period. The Company identified 99 replacement contracts. A random sample of 50 files was requested, received and reviewed. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

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 policy delivery could not be established in the file noted.

2 Violations– Insurance Company Law, Section 406-A (40 P.S. §625-6)

No alteration of any written application for a life insurance policy or annuity shall be made by any person other than the applicant without the applicant's written consent. The 2 files noted contained alterations without the applicants consent.

2 Violations – Title 31, Pennsylvania Code, Section 81.4(b)(1)(4)

If replacement is involved, the agent or broker shall:

- (2) Present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities in the form as accepted prior to use by the Commissioner. The notice shall be signed by both the applicant and the agent or broker and left with the applicant.
- (4) Submit to the replacing insurer with the application a copy of the notice regarding replacement of life insurance and annuities provided under paragraph (1).

The replacement notice submitted to the replacing insurer was not provided in the one file noted and the replacement notice to the applicant was not presented at the time of application in the other file.

IX. INTERNAL AUDIT AND 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.

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 a document entitled "Death Claims Process Flow Narrative". The document included the following topics: Death Claim Process, Death Claim Settlement and Training and Disability Waiver of Premium.

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

The Claim file review consisted of 2 areas:

- A. Life Claims
- B. Disability Income Claims

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

A. Life Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified 733 life claims received. A random sample of 100 life claims was requested, received and reviewed. Of the 100 files reviewed, 12 were annuity claims and 88 were life claims. 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 noted within 10 working days.

35 Violations - Title 31, Pennsylvania Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company failed to provide timely status letters for the 35 claims noted.

B. Disability Income Claims

The Company was requested to provide a list of all Disability Income Claims during the experience period. The Company identified a list of 4 Disability Income Claims. All 4 files were requested, received, and reviewed. 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 implement procedures to ensure compliance with the fraud statement notice requirements of Title 18, Pennsylvania Consolidated Statutes Section 4117(k).
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 Section 671-A of the Insurance Department Act of 1921 (40 P.S. §310.71).
4. The Company must review and revise procedures to ensure all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the Company are maintained in such manner and for such period of time to ensure compliance with Section 903(a) of the Insurance Department Act of 1921 (40 P.S. §323.3).
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 review internal control procedures to ensure compliance with variable life insurance suitability requirements of Title 31, Pennsylvania Code, Chapter 82.
7. The Company must review internal control procedures to ensure compliance with disclosure requirements of Title 31, Pennsylvania Code, Chapter 83.

8. The Company must review internal control procedures to ensure compliance with forms filing and approval requirements of Section 354 of the Insurance Company Law of 1921 (40 P.S. §477b).
9. 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).
10. The Company must review internal control procedures to ensure compliance with application alteration requirements of Section 406-A of the Insurance Company Law of 1921 (40 P.S. §625-6).
11. The Company must review internal control procedures to ensure compliance with illustration certification and delivery requirements of Section 408-A of the Insurance Company Law of 1921 (40 P.S. §625-8).

XII. COMPANY RESPONSE



A better way of life

April 27, 2005

VIA UPS Overnight

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

Re: Examination Warrant Number: 04-M21-006

Dear Mr. Stemcosky:

The Penn Mutual Life Insurance Company respectfully submits the enclosed response to the recommendations outlined by the Insurance Department on page thirty-seven of the Final Report of the Market Conduct Examination of the Company covering the period January 1, 2003 through December 31, 2003.

On behalf of Penn Mutual management, I would like to acknowledge the valuable insight provided by the examiners throughout the examination period. Going forward, we will utilize the knowledge gained to continually strengthen our processes.

Please do not hesitate to contact Robyn Label at (215) 956-8141 if we may be of further assistance in concluding this examination.

Sincerely,

A handwritten signature in black ink that reads 'Daniel J. Toran'.

Daniel J. Toran
President and Chief Operating Officer

Enclosure

c: Robert E. Chappell, Chairman and Chief Executive Officer
Nina M. Mulrooney, Senior V.P. Market Conduct & General Auditor
Robyn G. Label, V.P. Market Conduct & Compliance

**The Pennsylvania Insurance Department
Market Conduct Examination
For the Period January 1, 2003 to December 31, 2003**

In response to the recommendations submitted by The Commonwealth of Pennsylvania Insurance Department (“the Insurance Department”) resulting from the Market Conduct Examination of The Penn Mutual Life Insurance Company (“the Company”), the Company has reviewed and strengthened its procedures, or has established and begun to carry out a plan to strengthen its procedures, in satisfaction of the Insurance Department’s recommendations. Specific responses to the recommendations are as follows:

1. Insurance Department Recommendation

The Company must implement procedures to ensure compliance with the fraud statement notice requirements of Title 18, Pennsylvania Consolidated Statutes Section 4117(k).

Penn Mutual Response:

The Company has reviewed its policy forms and re-filed forms PM5695 (Term Conversion Request) and 576A (Policy Change Application) for the Insurance Department’s approval. Our filing cover letter is dated April 5, 2005. These forms now include the required fraud statement.

2. Insurance Department Recommendation

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.

Penn Mutual Response:

The Company has revised its procedures and internal controls to comply with the notice requirements regarding claims settlement practices. Procedures require all claims be acknowledged on the same date that they are received, except in cases where confirmation of the beneficiary requires additional research. In those cases, claims examiners review all claims with an initiation date greater than seven calendar days to meet the acknowledgement requirement. A quality control process has been implemented to review the cases weekly to monitor compliance of this process. Additionally, a system modification was completed to generate follow up letters as of 25 days from the date the claim is initiated.

3. Insurance Department Recommendation

The Company must review and revise licensing procedures to ensure compliance with Section 671-A of the Insurance Department Act of 1921 (40 P.S. §310.71).

Penn Mutual Response:

The Company has enhanced its procedures to reasonably assure compliance with the Department’s requirement for properly dating the notices of appointment. The revisions were communicated and implemented on March 21, 2005 to ascertain that the correct effective date is used with the original submission at the time of appointment processing.

4. Insurance Department Recommendation

The Company must review and revise procedures to ensure all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the Company are maintained in such manner and for such period of time to ensure compliance with Section 903(a) of the Insurance Department Act of 1921 (40 P.S. §323.3).

Penn Mutual Response:

The Company has strengthened its procedures and conducted training to reinforce the importance of reviewing all documentation submitted with the application. This includes review of policy delivery documents for completeness, proper dates and signatures. New Business management will reinforce the importance of sending out declination letters on all applications that result in coverage being declined. Furthermore, the Company has begun implementing imaging technology in its business processes to improve capabilities for retaining and retrieving its books and records.

5. Insurance Department Recommendation

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

Penn Mutual Response:

The Company has strengthened its procedures and internal training in reviewing applications for completeness of replacement requirements. These procedures will also be reinforced with our field offices, reminding the field that state specific replacement forms must be used. Forms must not post-date the application and all questions on the application, relative to replacement, must be complete. Applications received in the new business area without a replacement form or forms that post-date the application will be returned, requiring a new application and an appropriately dated replacement form be obtained.

6. Insurance Department Recommendation

The Company must review internal control procedures to ensure compliance with variable life insurance suitability requirements of Title 31, Pennsylvania Code, Chapter 82.

Penn Mutual Response:

The Company has complied with the variable life suitability requirements by maintaining copies of the suitability form used by its affiliate broker-dealer in the application file. Procedures will be revised to obtain this information from all broker-dealers. Additionally, as noted in #4 above, training was conducted to reinforce the importance of reviewing the completeness of suitability information and other documentation submitted with the application.

7. Insurance Department Recommendation

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

Penn Mutual Response:

The Company has revised its procedures and internal controls to more effectively fulfill the disclosure requirements of Title 31, Pennsylvania Code, Chapter 83. Associates on our new business teams have been instructed to verify that applications are accompanied by a signed illustration or re-illustration. In addition, the Company instituted a monitoring process to check that the complete, signed illustration is included in the application file and retained by the Company.

8. Insurance Department Recommendation

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

Penn Mutual Response:

The Company has re-educated associates on the importance of referencing the list of approved application and policy forms. This list is routinely updated as forms are added or eliminated, so that all forms submitted are approved for use. Procedures have been put in place so that all application and policy forms are filed with and approved by the Insurance Department as required by Section 354 (40 P.S. §477b) of the Insurance Company Law.

9. Insurance Department Recommendation

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).

Penn Mutual Response:

Procedures have been upgraded and status reports implemented to provide improved monitoring, at periodic intervals, to better control delivery receipt requirements for completeness, inclusion in the application file and proper document retention. Also, as noted above in #4, the Company expects to advance its capabilities for retaining and retrieving these documents through its newly implemented imaging technology.

10. Insurance Department Recommendation

The Company must review internal control procedures to ensure compliance with application alteration requirements of Section 406-A of the Insurance Company Law of 1921 (40 P.S. §625-6).

Penn Mutual Response:

Training was conducted with associates to reinforce the importance of accepting only authorized applicant information. Applications are reviewed for any alterations and if identified, it is determined if proper approval has been documented by the applicant. If alterations are not initialed, an amendment identifying the change will be produced and included with the policy. If the alteration cannot be amended, the application will be returned to obtain the applicant's authorization for the change.

11. Insurance Department Recommendation

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

Penn Mutual Response:

The Company requires that a signed illustration, matching the application, must be submitted for all life applications (other than variable life). In the event the application and illustration do not match, the applicant acknowledges this on the application along with the understanding that they will receive a re-illustration that matches the policy being issued. The owner must return a signed copy of the re-illustration. In the event the signed copy is not received within 60 days, a duplicate copy is sent along with a postage paid envelope directly to the policy owner. The Company modified its procedures in early 2005 to retain a full copy of the re-illustration and letter in the file.