

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
THE UNION LABOR LIFE	:	Section 903(a) of the Insurance
INSURANCE COMPANY	:	Department Act, Act of May 17,
1625 Eye Street, N.W.	:	1921, P.L. 789, No. 285 (40 P.S.
Washington, DC 20006	:	§ 323.3)
	:	
	:	Sections 404-A, 406-A, 411-B and
	:	617(A)(9) of the Insurance Company
	:	Law, Act of May 17, 1921, P.L. 682,
	:	No. 284 (40 P.S. §§ 625-4, 625-6,
	:	511b and 752(A)(9))
	:	
	:	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
	:	83.3, 83.4b, 89a.108, 89.119, 89a.121,
	:	146.3, 146.5, 146.6 and 146.7
	:	
	:	Title 18, Pennsylvania Consolidated
	:	Statutes, Section 4117(k)
	:	
Respondent.	:	Docket No. MC04-06-089

CONSENT ORDER

AND NOW, this *7th* day of *July*, 2004, 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 The Union Labor Life Insurance Company, and maintains its address at 1625 Eye Street, N.W., Washington, DC 20006.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from July 1, 2001 through June 30, 2002.
- (c) On May 12, 2004, the Insurance Department issued a Market Conduct Examination Report to Respondent.

(d) A response to the Examination Report was provided by Respondent on June 11, 2004.

(e) The Examination Report notes violations of the following:

(i) 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;

(ii) 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 to the policyholder 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;

- (iii) 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;

- (iv) Section 411B of the Insurance Company Law, No. 284 (40 P.S. § 511b), which states (a) life insurance death benefits not paid within 30 days after satisfactory proof of death was submitted to the insurer shall bear interest at the rate of interest payable on death benefits left on deposit by the beneficiary with the insurer. This interest shall accrue from the date of death of the insured to the date benefits are paid to the beneficiary. In cases where satisfactory proof of death is submitted more than 180 days after the death of the insured, and the death benefits are not paid within 30 days after the satisfactory proof of death was submitted to the insurer, interest shall accrue from the date on which satisfactory proof was submitted to the date on which the benefits of the policy are paid. (b) Notwithstanding Section 6 of Act No. 367, referred to as the Group Life Insurance Policy Law, this section shall apply to all life insurance policies except variable insurance

policies. The term “left on deposit” shall mean a specific settlement option provided within the life insurance policy under which the death benefit proceeds are retained by the insurer for the beneficiary and are credited with a specific rate of interest.

- (v) Section 617(A)(9) of the Insurance Company Law, No. 284 (40 P.S. § 752(A)(9)), which mandates coverage for physically handicapped/mentally retarded children;
- (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 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;
- (viii) Title 31, Pennsylvania Code, Section 83.4b, which requires the insurer to maintain the agent’s certification of disclosure statement delivery in its appropriate files for at least three years. The absence of the agent’s

- certification from the files of the insurer shall constitute *prima facie* evidence that no disclosure statement was provided to the prospective purchaser of insurance;
- (ix) Title 31, Pennsylvania Code, Section 89a.108, which provides that long term care policies, other than policies for which no applicable premium rate or rate schedule increases can be made, insurers shall provide all of the information listed in this subsection to the applicant at the time of application or enrollment, unless the method of application does not allow for delivery at that time. In such a case, an insurer shall provide all of the information listed in this section to the applicant no later than time of delivery, with a statement that the policy may be subject to rate increases in the future;
- (x) Title 31, Pennsylvania Code, Section 89a.119, which requires prior to an insurer or similar organization offering group long-term care insurance to a resident of this Commonwealth under Section 1104 of the Act, it shall file with the Commissioner evidence that the group policy or certificate there under has been approved by a state having statutory or regulatory long-term care insurance requirements substantially similar to those adopted in this Commonwealth;

- (xi) Title 31, Pennsylvania Code, Section 89a.121, which requires every insurer to: (a) develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant, train its producers to use the suitability standards, and maintain a copy of the standards and make them available for inspection upon request by the Commissioner;
- (b) to determine whether the applicant meets the standards, the producer and issuer shall develop procedures that take into consideration the ability to pay for the proposed coverage and pertinent financial information, the applicant's goals or needs and the advantages or disadvantages of insurance to meet those goals, the values, benefits and costs of the applicant's existing insurance when compared to the values, benefits and costs of the recommended purchase or replacement. The issuer, and when a producer is involved, the producer shall make reasonable efforts to obtain the information above. The efforts shall include a presentation to the applicant, at or prior to the application, a "Long-Term Care Insurance Personal Worksheet". The personal worksheet shall contain, at a minimum, the information required, in at least 12 point type. The issuer may request the applicant to provide additional information to comply with suitability standards, and a copy of the worksheet shall be filed with the Commissioner. A completed personal worksheet shall be returned to the issuer prior to the issuer's consideration of the applicant for coverage, except the personal worksheet need not be returned for sales of employer

group long-term care insurance to employees and their spouses. The sale or dissemination outside the company or agency by the issuer or producer of information obtained through the personal worksheet in Appendix B is prohibited.

(c) The issuer shall use the suitability standards it has developed under this section in determining whether issuing long-term care insurance is appropriate.

(d) Producers shall use the suitability standards developed by the issuer in marketing long-term care insurance.

(e) At the same time as the personal worksheet is provided to the applicant, the disclosure form entitled "Things You Should Know Before You Buy Long-Term Care Insurance" shall be provided. The form shall be in the format contained in the Appendix C.

(f) If the issuer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the issuer may reject the application. In the alternative, the insurer shall send the applicant a letter similar to the one presented in Appendix D. If the applicant has declined to provide financial information, the issuer may use some other method to verify the applicant's intent. Either the applicant's returned letter or a record of the alternative method of verification shall be made part of the applicant's file.

- (g) The issuer shall report annually to the Commissioner the total number of applications received from residents of this Commonwealth, the number of those who declined to provide information on the personal worksheet, the number of applicants who did not meet the suitability standards and the number of those who chose to confirm after receiving a suitability letter.
- (xxii) 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;
- (xxiii) 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;
- (xxiv) 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;

(xxv) Title 31, Pennsylvania Code, Section 146.7(a)(1) requires that within 15 working days after receipt by the insurer of properly executed proofs of loss, the first party claimant shall be advised of the acceptance or denial of the claim by the insurer. The denial shall be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial; and

(xxvi) 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) Respondent's violations of Sections 404-A, 406-A, 411-B and 617(A)(9) the Insurance Company Law, No. 284 (40 P.S. §§625-4, 625-6, 625-8, 511b and 752(A)(9)) 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.

- (c) 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.

- (d) 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).
- (e) Respondent's violations of Title 31, Pennsylvania Code, Sections 83.3 and 83.4b are punishable under Title 31, Pennsylvania Code, Section 83.6:
 - (i) For failing to make adequate disclosure of basic information, after a hearing, a company may be subject to the penalties provided under 40 P.S. § 475, for violations of 40 P.S. §§ 472 through 474. In addition, failure to make the disclosure outlined in this subchapter may be considered a violation of 40 P.S. §§ 1171.1 through 1171.15.
- (f) Respondent's violations of Title 31, Pennsylvania Code, Sections 89a.108, 89.119 and 89a.121, are punishable under 40 P.S. § 991.1114, Penalties, an insurer or agent found to have violated requirements relating to the regulations of long-term care insurance or the marketing of such insurance shall be subject to a civil penalty of up to three times the amount of any

commissions paid for each policy involved in the violation, or \$10,000, whichever is greater.

- (g) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.3, 146.5, 146.6 and 146.7 are punishable under Section 9 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9), as above.

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 Twenty Thousand Dollars (\$20,000.00) 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, 1311 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: THE UNION LABOR LIFE INSURANCE
COMPANY, Respondent

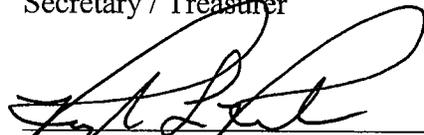


President / Vice President



Asst.

Secretary / Treasurer



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania