



**COMMONWEALTH OF PENNSYLVANIA
INSURANCE DEPARTMENT**

**MARKET CONDUCT
EXAMINATION REPORT**

OF

**AMERICAN GENERAL LIFE
AND ACCIDENT
INSURANCE COMPANY**
Nashville, TN

As of: January 28, 2011
Issued: March 16, 2011

**MARKET ACTIONS BUREAU
LIFE AND HEALTH DIVISION**

AMERICAN GENERAL LIFE AND ACCIDENT INSURANCE COMPANY

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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:
: :
AMERICAN GENERAL LIFE AND : Sections 354, 404-A, 408-A(c)(4)(i)
ACCIDENT INSURANCE COMPANY : and (ii), 408-A(e)(2)(iii), and
580S American General Center : 408-A(e)(4) (40 P.S. §§477b, 625-4
Nashville, TN 37250 : and 625-8)
: :
: Section 5(a)(1)(vii) of the Unfair
: Insurance Practices Act, No. 205 (40
: P.S. §1171.5(a)(1))
: :
: Title 31, Pennsylvania Code, Sections
: 51.5, 81.4(b)(1), 81.6(a)(1),
: 81.6(a)(2)(ii), 81.6(c), 83.3,
: 83.3(a)(1), (2), (3), (4), (5), (6) and
: (7), 83.4a, 83.4b, 83.55a, 83.55b,
: 83.55(c), 146.5 and 146.6
: :
: Title 18, Pa.C.S. §4117(k)
: :
Respondent. : Docket No. MC11-03-002

CONSENT ORDER

AND NOW, this 16th day of March, 2011, this Order is hereby
issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant
to the statutes cited above and in disposition of the matter captioned above.

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

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

FINDINGS OF FACT

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

- (a) Respondent is American General Life and Accident Insurance Company, and maintains its address at 580S American General Center, Nashville, TN 37250.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2009 to December 31, 2009.
- (c) On January 28, 2011, the Insurance Department issued a Market Conduct Examination Report to Respondent.

- (d) A response to the Examination Report was provided by Respondent on February 18, 2011.
- (e) The Examination Report notes violations of the following:
- (i) 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;
 - (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 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 408-A(c)(4)(i) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which requires a statement to be signed and dated by the applicant or the policy owner in the case of an illustration provided at time of delivery, reading as follows: “I have received a copy of this illustration and understand that any nonguaranteed elements illustrated are subject to change and could be either higher or lower. The producer has told me they are nonguaranteed.”

- (iv) 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 nonguaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration.”

- (v) Section 408-A(e)(2)(iii) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), states the following applies if no illustration is used by a producer in the sale of a life insurance policy or if a computer screen illustration is

displayed. If the policy is issued, a basic illustration conforming to the policy issued shall be sent with the policy and signed by the policy owner no later than the time the policy is delivered. A copy shall be provided to the policy owner at the time the policy is delivered;

- (vi) Section 408-A(e)(4) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), states if the basic or revised illustration is mailed to the applicant or policy owner by the insurer, 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;

- (vii) Section 5(a)(1)(vii) of the Unfair Insurance Practices Act, No. 205 (40 P.S. § 1171.5(a)(1)), which defines unfair methods of competition or unfair and deceptive acts or practices as making, publishing, issuing or circulating any estimate, illustration, circular, statement, sales presentation, omission comparison which is a misrepresentation for the purpose of effecting a loan against any insurance policy;

- (viii) Title 31, Pennsylvania Code, Section 51.5, requires a company to file an Annual Statement, with a Certificate of Compliance executed by an authorized officer of the company wherein it is stated that to the best of his knowledge, information and belief, the advertisements which were disseminated by the company during the preceding statement year complied or were made to comply in all respects with the provisions of the insurance laws and regulations of the Commonwealth;

- (ix) Title 31, Pennsylvania Code, Section 81.4(b)(1), which states that if replacement is involved, the agent or broker shall present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities;

- (x) 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;

- (xi) Title 31, Pennsylvania Code, Section 81.6(a)(2)(ii), which states an insurer that uses an agent or broker in a life insurance or annuity sale shall, if replacement is involved: Send to each existing insurer a written communication advising of the replacement or proposed replacement and the

identification information obtained under subparagraph (I) and in the case of life insurance, the disclosure statement as required by Section 83.3, or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 5 working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner;

- (xii) 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;
- (xiii) 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;
- (xiv) Title 31, Pennsylvania Code, Sections 83.3(a)(1), (2), (3), (4), (5), (6) and (7) which requires a disclosure statement to be a document which shall describe the purpose and importance of the disclosure and describe the significant elements of the policy and riders being offered;
- (xv) Title 31, Pennsylvania Code, Section 83.4a, which states the agent shall

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

- (xvi) Title 31, Pennsylvania Code, Section 83.4b, which requires the insurer to maintain the agent's certification of disclosure statement delivery in its appropriate files for at least three years. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no disclosure statement was provided to the prospective purchaser of life insurance;

- (xvii) 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;

- (xviii) Title 31, Pennsylvania Code, Section 83.55c, which states if it is the practice of the insurer to mail the policy directly to the applicant, the appropriate officer of the insurer shall certify, in conjunction with the annual statement of the insurer, that in accordance with this subchapter, surrender comparison index disclosures have been included with policies at delivery or provided earlier upon request. Failure to so certify shall constitute *prima facie* evidence that surrender comparison index disclosures have not been provided to prospective purchasers of life insurance;
- (xix) 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;
- (xx) 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
- (xxi) Title 18, Pennsylvania Consolidated Statutes, Section 4117(k), which requires all applications for insurance and all claim forms shall contain or

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

CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Insurance Department makes the following Conclusions of Law:

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

(b) Respondent’s violations of Section 354 of the Insurance Company Law (40 P.S. § 477b) are punishable by the following:

- (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.

(c) Respondent's violations of Sections 404-A and 408-A of the Insurance Company Law, No. 284 (40 P.S. §§625-4 and 625-8) are punishable by the following, under 40 P.S. § 625-10: Upon determination by hearing that this act has been violated, the commissioner may issue a cease and desist order, suspend, revoke or refuse to renew the license, or impose a civil penalty of not more than \$5,000 per violation.

(d) Respondent's violations of Sections 5(a)(1)(vii) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §§ 1171.5) are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. § 1171.9):

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

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

- (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more

than five thousand dollars (\$5,000.00);

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

(f) Respondent's violations of Title 31, Pennsylvania Code, Section 51.5 are punishable under Sections 9, 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9, 1171.10 and 1171.11), as described above.

(g) Respondent's violations of Title 31, Pennsylvania Code, Chapter 81, are punishable under Title 31, Pennsylvania Code, Section 81.8(b) and (c), which provide failure to comply, after a hearing, may subject a company to penalties provided in 40 P.S. § 475. Failure to comply shall be considered a separate violation and may not be considered in lieu of a proceeding against the company for a violation of 40 P.S. §§472, 473 or 474. In addition, failure to make the disclosure may be considered a violation of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 to 1171.15);

(h) Respondent's violations of Title 31, Pennsylvania Code, Chapter 83 are punishable under Title 31, Pennsylvania Code, Section 83.6:

(i) For failing to insure adequate disclosure of basic information, after a

hearing, a company may be subject to the penalties provided under 40 P.S. § 475, for violations of 40 P.S. §§ 472 through 474. In addition, failure to make the disclosure outlined in this subchapter may be considered a violation of 40 P.S. §§ 1171.1 through 1171.15.

- (i) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.5 and 146.6 are punishable under Sections 9, 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9, 1171.10 and 1171.11), as described above.

ORDER

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

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.

- (c) To determine Respondent's compliance with the full and timely implementation of all recommendations ("Recommendations") in the Examination Report, Respondent shall perform a self-audit of all issues addressed in the "Recommendations" section of the 2011 American General Life and Accident Insurance Company Market Conduct Examination Report. The self-audit shall be performed based on the following: The experience period will be from October 1, 2011 through March 31, 2012. The self-audit shall commence on April 1, 2012 and the results of the self-examination shall be provided in writing to the Pennsylvania Insurance Department on or before July 1, 2012.
- (d) Following the completion of the self-audit, the Pennsylvania Insurance Department reserves the right to call a targeted market conduct re-examination to determine compliance with the recommendations from the examination report, the scope of which shall not include the period 6 months after the effective date of the Consent Order.
- (e) Respondent shall pay Twenty Thousand Dollars (\$20,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.
- (f) Payment of this matter shall be made by check payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Fraser, Bureau of

Market Actions, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120.

Payment must be made no later than thirty (30) days after the date of this Order.

6. In the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein may pursue any and all legal remedies available, including but not limited to the following: The Insurance Department may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or the Department may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

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

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

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

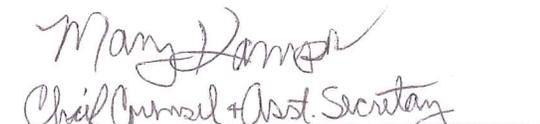
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

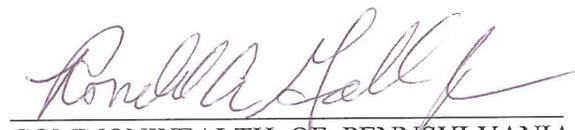
BY: AMERICAN GENERAL LIFE AND
ACCIDENT INSURANCE COMPANY,
Respondent



President / Vice President



Secretary / Treasurer



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

I. INTRODUCTION

The Market Conduct Examination was conducted on American General Life and Accident Insurance Company; hereafter referred to as “Company,” at the Company’s office located in Brentwood, TN June 21, 2010, through October 28, 2010. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

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

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

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

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

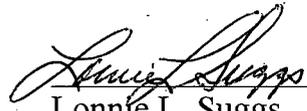
Yonise A. Roberts Paige
Market Conduct Division Chief

Lonnie L. Suggs
Market Conduct Examiner

Jerry Houston
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).


Lonnie L. Suggs
[Examiner in Charge]



Sworn to and Subscribed Before me

This 26th Day of January, 2011



Notary Public

Notary Public - State of Indiana
Marion County
My Commission Expires:
September 2, 2016

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, 2009, through December 31, 2009, unless otherwise noted. The purpose of the examination was to ensure compliance with Pennsylvania insurance laws and regulations.

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

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

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

III. COMPANY HISTORY AND LICENSING

The Company was incorporated February 28, 1900 under the assessment law of the State of Tennessee as “The National Sick and Accident Association of Nashville”. In 1902, the name of the Company was changed by a charter amendment to “The National Life and Accident Insurance Company.”

The Company’s business continued on the assessment plan until 1905, when it was reorganized on a legal reserve basis. An ordinary life department was created in 1920, prior to which time the Company had written industrial life insurance only.

The company began to conduct business in Pennsylvania in 1919. The company became a wholly owned subsidiary of NLT Corporation (NLT) on December 23, 1968, the effective date of a Plan Exchange and Agreement dated September 30, 1968, whereby shareholders of the Company exchanged their shares on a one-for-one basis for shares of NLT.

On November 4, 1982, American General Corporation (AGC) acquired NLT and its subsidiaries in an Agreement of Merger dated July 6, 1982. This agreement was supplemented and amended by an Agreement and Plan of Merger dated August 17, 1982; the two are collectively referred to as the Merger Agreement.

Effective January 30, 1984, AGC contributed all of the capital stock of NLT, which included all of the outstanding capital stock of the Company, to AGC Life Insurance Company (AGC Life), which is domiciled in Missouri. Subsequently on April 30, 1984, NLT was dissolved and the Company became a wholly owned subsidiary of AGC Life. The Company has since remained a wholly owned subsidiary of AGC Life.

The Company changed its name to “American General Life and Accident Insurance Company” via a charter amendment effective January 1, 1984.

Effective December 21, 1993, all of the outstanding stock of Gulf Life Insurance Company, (Gulf Life), a wholly-owned subsidiary of AGC Life, was contributed to the Company by its Parent and subsequently, Gulf Life was merged with and into the Company effective December 31, 1995.

On February 29, 1996, AGC, the Company’s ultimate parent, acquired Independent Insurance Group, Inc. (IIG); a Florida domiciled company, and its subsidiaries. On the same date, IIG merged with and into AGC Life. The Independent Life and Accident Insurance Company, the primary subsidiary of IIG merged with and into the Company effective December 31, 1997.

On April 16, 1997, AGC, the Company’s ultimate parent, acquired Home Beneficial Corporation (HBC), a Virginia domiciled company, and its subsidiaries. On the same date, HBC merged with and into AGC Life. Home Beneficial Life Insurance Company, a subsidiary of HBC, merged with and into the Company effective December 31, 1997.

American International Group, Inc. acquired AGC, the Company’s ultimate parent, on August 29, 2001.

As of the Company’s December 31, 2009, annual statement for Pennsylvania, American General Life and Accident Insurance Company reported direct premiums for life insurance considerations in the amount of \$72,736,635 and direct premiums for accident and health insurance in the \$ 6,014,049.

IV. ADVERTISING

The Department, in exercising its discretionary authority requested, received and reviewed the Company's Advertising Certificate of Compliance. The certification was reviewed to ensure compliance with Title 31, Pennsylvania Code, Section 51.5. Section 51.5 provides that "A company required to file an annual statement which is now or which hereafter becomes subject to this chapter shall file with the Department with its Annual Statement a Certificate of Compliance executed by an authorized officer of the company wherein it is stated that to the best of his knowledge, information and belief the advertisements which were disseminated by the company during the preceding statement year complied or were made to comply in all respects with the provisions of the insurance laws and regulations of this Commonwealth." The following violations were noted:

1 Violation – Title 31, Pennsylvania Code, Section 51.5

Each company required to file an annual statement which is now or which hereafter becomes subject to this chapter shall file with the Department with its Annual Statement a Certificate of Compliance executed by an authorized officer of the company wherein it is stated that to the best of his knowledge, information and belief the advertisements which were disseminated by the company during the preceding statement year complied or were made to comply in all respects with the provisions of the insurance laws and regulations of this Commonwealth. The Company did not provide the required certificate of compliance.

V. FORMS

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

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

It shall be unlawful for any insurance company, association, or exchange, including domestic mutual fire insurance companies, doing business in this Commonwealth, to issue, sell, or dispose of any policy, contract, or certificate, covering life, health, accident, personal liability, fire, marine, title, and all forms of casualty insurance or contracts pertaining to pure endowments or annuities, or any other contracts of insurance, or use applications, riders, or endorsements, in connection therewith, until the forms of the same have been submitted to and formally approved by the Insurance Commissioner. Evidence of the Department's approval could not be established for the 5 noted files.

VI. PRODUCER LICENSING

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

The Company provided a list of 719 producers. A random sample of 50 producers was compared to departmental records of producers to verify appointments, terminations and licensing. In addition, a comparison was made on the individuals identified as producers on applications reviewed in the policy issued sections of the exam. No violations were noted.

VII. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of consumer complaint logs for 2005, 2006, 2007 and 2008. The Company identified 115 consumer complaints received during the experience period. Of the 50 complaints files identified, 1 was identified as a duplicate. All 49 complaint files were requested, received and reviewed. The Company provided complaint logs as requested. The Department's list of written consumer complaints that were forwarded to the Company during the experience period was compared to the Company's complaint log.

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

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

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

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

1 Violation – § 1171.5 Unfair methods of competition and unfair or deceptive acts or practices defined. (a) "Unfair methods of competition" and "unfair or deceptive acts or practices" in the business of insurance means:

1. Making, publishing, issuing or circulating any estimate, illustration, circular, statement, sales presentation, omission comparison which:
 - i. Misrepresents the benefits, advantages, conditions or terms of any insurance policy;
 - vii Is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy

The producer misrepresented the contract provisions and mislead the insured into thinking the policy was surrendered for the full cash value, when a policy loan was effectuated. The insured had to file a complaint to recover the full cash value in the noted file.

VIII. UNDERWRITING

The Underwriting review consisted of 12 general segments.

- A. Underwriting Guidelines
- B. Annuity Contracts Issued
- C. Universal Life Insurance Policies Issued
- D. Term Life Insurance Policies Issued
- E. Whole Life Insurance Policies Issued
- F. Annuity Contracts Issued as Replacements
- G. Universal Life Insurance Policies Issued as Replacements
- H. Term Life Insurance Policies Issued as Replacements
- I. Whole Life Insurance Policies Issued as Replacements
- J. Policy Rescissions
- K. Whole Life Insurance Policy Conversions
- L. Universal Life Insurance Policy Conversions

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

A. Underwriting Guidelines

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

The following guidelines were reviewed:

1. Swiss Re Life Underwriting Manual
2. MARC (Munich American Reassurance Company) Disability Manual
3. AGLA Underwriting and Reference Manual
 - a. Medical
 - b. Non-Medical
 - c. Guidelines
 - d. General Reference
 - e. Product Information
 - f. Worksite
 - g. Training Material

B. Annuity Contracts Issued

The Company was requested to provide a list of all annuity contracts issued during the experience period. The Company provided a list of 110 annuity contracts issued. A random sample of 25 contracts was requested, received and reviewed. Annuity contracts were reviewed to determine compliance with issuance, and replacement statutes and regulations. The following violations were noted:

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

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

annuity is delivered by a means other than by hand delivery by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence. Verification of the date of the annuity contract delivery could not be established in the 2 noted files.

C. Universal Life Insurance Policies Issued

The Company was requested to provide a list of all policies issued during the experience period. The Company identified a list of 3,533 universal life insurance policies issued. A random sample of 100 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 81.4(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 missing from the noted file.

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 noted file did not contain a copy of the required notice of replacement.

51 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. Evidence that a written disclosure was provided could not be established in the 51 noted files.

17 Violations – Title 31, Pennsylvania Code, Section 83.3 (a)(1)(2)(3)(4)(5)(6)(7)

A disclosure statement shall be a document which shall describe the purpose and importance of the disclosure and describe the significant elements of the policy and riders being offered. The disclosure statements were incomplete in the 17 noted files.

51 Violations – Title 31, Pennsylvania Code, Section 83.4a and Section 83.4b

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

(b) The insurer shall maintain the agent's certification of disclosure statement delivery in its appropriate files for at least three years. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no disclosure statement was provided to the prospective purchaser of life insurance. The required agent's certification of disclosure statement delivery was not evident in the 51 noted files.

13 Violations – Title 31, Pennsylvania Code, Sections 83.55a and 83.55b

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

b) The insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance. The required agent's certification of surrender comparison index disclosure delivery was not evident in the 13 noted files.

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

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

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

A statement to be signed and dated by the applicant or the policy owner in the case of an illustration provided at time of delivery, reading as follows: “I have received a copy of this illustration and understand that any nonguaranteed elements illustrated are subject to change and could be either higher or lower. The producer has told me they

are nonguaranteed.” The applicant’s acknowledgement of the illustration receipt was not dated or signed in the 3 noted files.

2 Violations – 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 that this illustration has been presented to the applicant or the policy owner and that I have explained that any nonguaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration.” Evident of a signed certification by the producer could not be established in the 2 noted files.

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

The following applies if no illustration is used by a producer in the sale of a life insurance policy or if a screen illustration is displayed. If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed by the policy owner no later than the time the policy is delivered. A copy shall be provided to the policy owner at the time the policy is delivered and to the insurer. Evidence of a signed certification and acknowledgement of the delivery of an illustration at the time of policy issuance and delivery could not be established in the 3 noted files.

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

If the basic or revised illustration is mailed to the applicant or policy owner by the insurer, 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 page. Verification could not be established that a diligent effort was made to secure signed copies of illustration page in the 2 noted files.

D. Term Life Insurance Policies Issued

The Company identified a universe of 1,461 life policies issued during the experience period. A random selection 100 policy files were requested, received and reviewed. The policy files were reviewed to determine compliance with 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. The following files did not contain policy delivery receipts or proof of mailing. Verification of the date of policy delivery could not be established in the noted file.

E. Whole Life Insurance Policies Issued

The Company identified a universe of 514 whole life policies issued during the experience period. A random sampling of 50 life policy files were 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:

38 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. Evidence that a written disclosure statement was provided could not be established in the 38 noted files.

4 Violations – Title 31, Pennsylvania Code, Section 83.3 (a)(1)(2)(3)(4)(5)(6)(7)

A disclosure statement shall be a document which shall describe the purpose and importance of the disclosure and describe the significant elements of the policy and riders being offered. The disclosure statements were incomplete in the 4 noted files.

38 Violations – Title 31, Pennsylvania Code, Section 83.4a and Section 83.4b

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

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

The required agent's certification of disclosure statement delivery was not evident in the 38 noted files.

2 Violations – Title 31, Pennsylvania Code, Sections 83.55a and 83.55b

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

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

The required agent's certification of the surrender comparison index disclosure delivery was not evident in the 2 noted files.

1 Violation – Title 31, Pennsylvania Code, Section 83.55c

If it is the practice of the insurer to mail the policy directly to the applicant, the appropriate officer of the insurer shall certify, in conjunction with the annual statement of the insurer, that in accordance with this subchapter surrender comparison index disclosures have been included with policies at delivery or provided earlier upon request. Failure to so certify shall constitute prima facie evidence that surrender comparison index disclosures have not been provided to prospective purchasers of life insurance. The required officer certification was not evident for the noted file.

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

When the individual policy or annuity is delivered to the policyholder by the producer by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate

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

F. Annuity Contracts Issued as Replacements

The Company identified a universe of 41 annuity contracts issued as replacement policies during the experience period. A random sampling of 25 annuity contracts was requested, received and reviewed. Annuity contracts were reviewed to determine compliance with issuance, and replacement statutes and regulations. The following violations were noted:

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

An insurer that uses an agent or broker in a life insurance or annuity sale shall, if replacement is involved: Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under subparagraph (I) and in the case of life insurance, the disclosure statement as required by § 83.3 (relating to disclosure statement) or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 5 working days of the date the application is received in the replacing insurer's home or regional office, or the date

the proposed policy or contract is issued, whichever is sooner. The replacement letter to the replaced Company was untimely in the 2 noted files.

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

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

G. Universal Life Insurance Policies Issued as Replacements

The Company identified a universe of 932 universal life policies issued as replacements during the experience period. A random sampling of 50 universal life policies issued as replacement policy files were requested, received and reviewed. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

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 missing from 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 producer's question on replacement was inconsistent with the finding in the application 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 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 external replaced Company was untimely in the noted file.

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 noted file did not contain a copy of the required notice of replacement.

10 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. Evidence that a written disclosure was provided could not be established in the 10 noted files.

7 Violations – Title 31, Pennsylvania Code, Section 83.3(a)(1)(2)(3)(4)(5)(6)(7)

A disclosure statement shall be a document which shall describe the purpose and importance of the disclosure and describe the significant elements of the policy and riders being offered. The disclosure statements were incomplete in the 7 noted files.

10 Violations – Title 31, Pennsylvania Code, Section 83.4a and Section 83.4b

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

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

The required agent's certification of disclosure statement delivery was not evident in the 10 noted files.

11 Violations – Title 31, Pennsylvania Code, Sections 83.55a and 83.55b

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

b) The insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance. The required agent's certification of the surrender comparison index disclosure delivery was not evident in the 11 noted files.

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

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

H. Term Life Insurance Policies Issued as Replacement

The Company identified a universe of 157 term life policies issued as replacements during the experience period. A random sampling of 25 life replacement files were

requested, received and reviewed. The policy files were reviewed to determine compliance with issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

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

An insurer that uses an agent or broker in a life insurance or annuity sale shall, if replacement is involved: Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under subparagraph (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 untimely in the 5 noted files.

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

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

examination period shall commence. Verification of the date of policy delivery could not be established in the noted file.

I. Whole Life Insurance Policies Issued as Replacements

The Company identified a universe of 26 whole life policies issued as replacements during the experience period. All 26 whole life replacement 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:

13 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. Evidence that a written disclosure was provided could not be established in the 13 noted files.

2 Violations – Title 31, Pennsylvania Code, Section 83.3(a)(1)(2)(3)(4)(5)(6)(7)

A disclosure statement shall be a document which shall describe the purpose and importance of the disclosure and describe the significant elements of the policy and riders being offered. The disclosure statements were incomplete in the 2 noted files.

13 Violations – Title 31, Pennsylvania Code, Section 83.4a and Section 83.4b

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

(b) The insurer shall maintain the agent's certification of disclosure statement delivery in its appropriate files for at least three years. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no disclosure statement was provided to the prospective purchaser of life insurance. The required agent's certification of disclosure statement delivery was not evident in the 13 noted files.

21 Violations – Title 31, Pennsylvania Code, Sections 83.55a and 83.55b

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

b) The insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance. The required agent's certification of surrender comparison index disclosure delivery was not evident in the 21 noted files.

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

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

insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence. Verification of the date of policy delivery could not be established in the 3 noted files.

J. Policy Rescissions

The Company was requested to provide a list of all policies rescinded during the experience period. The Company identified 1 life insurance policy rescinded. A rescinded policy is a policy contract that was issued and then terminated by the Company. Upon termination, the Company returns all premium paid from the policy effective date to the insured. The policy was reviewed to ensure compliance with contract provisions, termination laws and regulations, proper return of premium and a valid reason for rescission. No violations were noted.

K. Whole Life Insurance Policy Conversions

The Company was requested to provide a list of all policies converted during the experience period. The Company identified a universe of 86 whole life conversion policies issued and converted. The policies were term life policies that were converted to whole life policies. A random sample of 25 whole life conversion files were selected, received and reviewed. The files were reviewed to determine compliance with issuance and underwriting statutes and regulations. The following violations were noted:

9 Violations – 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 the date of policy delivery could not be established in the 9 noted files.

L. Universal Life Insurance Policy Conversions

The Company identified a universe of 583 term life policies converted to universal life policies. A random sampling of 50 term life policy conversion files were requested, of which two applications were determined to be non-Pennsylvania jurisdiction and were not reviewed. The remaining 48 files were reviewed to determine compliance to issuance and underwriting statutes and regulations. The following violations were noted:

10 Violations – 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 the date of policy delivery could not be established in the 10 noted files.

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

The following applies if no illustration is used by a producer in the sale of a life insurance policy or if a screen illustration is displayed. If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed by the policy owner no later than the time the policy is delivered. A copy shall be provided to the policy owner at the time the policy is delivered and to the insurer. Evidence of the delivery of an illustration at the time of policy issuance and delivery could not be established in the 3 noted files.

1 Violation – 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 by the insurer, 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 page. Verification

could not be established that a diligent effort was made to secure a signed copy of the numeric summary page in the noted file.

IX. INTERNAL AUDIT & COMPLIANCE PROCEDURES

The Company was requested to provide copies of their internal audit and compliance procedures. The Company was also requested provide a narrative statement explaining internal control methods or systems used to control and assure compliance with underwriting guidelines and proper rating. Additionally, the Company was requested to provide an explanation of any self-auditing or membership in any “best practices organizations”, such as the Insurance Market Standards Association (IMSA). The internal audit & compliance procedures provided 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.

The company in a memorandum to the examiners provided the following narrative statement explaining their internal control methods or systems used to control and assure compliance with underwriting guidelines and proper rating.

- Underwriting standards are for the most part directed by American General Life, located in Houston, TX. Regular meetings with management personnel at various underwriting sites are conducted where underwriting issues are discussed to improve consistency.

- The Underwriting Department uses the following system of self-checks:
 - a. Random quality checks are completed weekly
 - b. Every six months, a sample of each underwriter's work is obtained. The samples consist of seven standard (or better) accepted cases, two substandard and one denial, the files are evaluated by department managers against a numeric scale.
 - i. Each underwriter has another underwriter/underwriter manager to refer cases as needed allowing for considerable discussion on processes within the department.
 - ii. Underwriting decisions are periodically challenged by sales personnel and the underwriting decisions are reviewed by management
 - iii. An issued policy is either sent to the agent or the applicant, depending on the plan type or state of issue, and it is the agent's responsibility to review the policy with the policy owner.
 - iv. Reinsurers audit a sampling of their reinsured cases. Internal Audit and Financial Reporting (SOX) periodically reviews New Business and Underwriting procedures.
No violations were noted.

X. CLAIMS

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

- Life Claims Training Manual
- Life Claims CRC (Central Reference Center) Manual

The claim manuals and procedures were reviewed for any inconsistencies, which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature.

The claims file review consisted of 2 areas:

- A. Life Insurance Claims
- B. Annuity Claims

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

A. Individual Life Insurance Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified 4,136 individual life claims received during the experience period. A sampling of 100 files was requested, 98 files were received and reviewed, two file were duplicates. The 98 claim files were reviewed for compliance

with Title 31, Pennsylvania Code, Chapter 146 and Insurance Company Law, Section 411B, Payment of Interest (40 P.S. §511b). The following violations were noted:

1 Violation – Title 31, Pennsylvania Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of claim and provide the claimant with status letters if such investigation cannot be completed within 30 days. Verification of a timely 30 day status letter could not be established in the noted file.

B. Annuity Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 131 Annuity Claims. A random sample of 25 claim files was selected, received and reviewed. The files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146 and other applicable statutes and regulations. The following violations were noted:

1 Violation – Title 31, Pennsylvania Code, Section 146.5

(a) Every insurer, upon receiving notification of a claim, shall, within 10 working days, acknowledge the receipt of the notice unless payment is made within the period of time. If an acknowledgment is made by means other than writing, an appropriate notation of the acknowledgment shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer, dating from the time the insurer receives notice.

(b) Every insurer, upon receipt of an inquiry from the Department respecting a claim shall, within 15 working days of receipt of the inquiry, furnish the Department with an adequate response to the inquiry.

(c) An appropriate reply shall be made within 10 working days on other pertinent communications from a claimant who reasonably suggests that a response is expected.

(d) Every insurer, upon receiving notification of claim, shall provide within 10 working days necessary claim forms, instructions and reasonable assistance so That first-party claimants can comply with the policy conditions and reasonable requirements of the insurer. Compliance with this subsection within 10 working days of notification of a claim shall constitute compliance with subsection (a).

Verification of acknowledgement within 10 working days could not be established in the noted claim file.

1 Violation – Title 31, Pennsylvania Code, Section 146.6

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

XI. RECOMMENDATIONS

The recommendations made below identify corrective measures the Department finds necessary as a result of the number of some violations, or the nature and severity of other violations, noted in the Report.

1. The Company must review and revise internal control procedures to ensure compliance with prompt and fair claims settlement requirements of Section 5 of the Unfair Insurance Practices Act 205 of 1974 (40 P.S. section 1171).
2. The Company must review and revise internal control procedures to ensure compliance with the replacement requirements of Title 31, Pennsylvania Code, Chapter 81.
3. The Company must implement procedures to ensure compliance with the fraud statement notice requirements of Title 18, Pennsylvania Consolidated Statutes, Section 4117(k).
4. The Company must 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).
5. The Company must review and revise procedures to the annual statement filing to ensure compliance with the requirements of the Certificate of Compliance Title 31, Pennsylvania Code, Chapter 51.
6. The Company must review internal control procedures to ensure compliance with disclosure requirements of Title 31, Pennsylvania Code, Chapter 83.
7. The Company must review internal control procedures to ensure compliance with illustration certification and delivery requirements of Section 408-A of the Insurance Company Law of 1921 (40 P.S. §625-8).
8. 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).
9. 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.

XII. COMPANY RESPONSE



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Accident Insurance Company
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February 18, 2011

VIA OVERNIGHT MAIL
717.783.3209

Yonise Roberts Paige, Chief
Life, Accident and Health Division
Bureau of Market Actions
1321 Strawberry Square
Harrisburg PA 17120

Re: Response to Market Conduct Examination Report
Examination Warrant Number: 10-M27-057
American General Life and Accident Insurance Company (NAIC #66672)

Dear Ms. Paige:

The purpose of this letter is to accept the Report of Examination of American General Life and Accident Insurance Company (hereinafter referred to as "the Company") covering the period January 1, 2009, through December 31, 2009 as of the close of business on January 28, 2011.

Set out below are the Company's responses to the Recommendations.

Recommendations

1. The Company must review and revise internal control procedures to ensure compliance with prompt and fair claims settlement requirements of Section 5 of the Unfair Insurance Practices Act 205 of 1974 (40 P.S. section 1171).

Company Response: This violation was the result of human error. The Company has issued a reminder to its subject personnel reinforcing our mandated procedure to properly refer complaint letters.



CHANGING THE WAY AMERICANS THINK ABOUT, PURCHASE AND USE LIFE INSURANCE.*

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

Company Response: The Company has issued a reminder to its staff reinforcing our mandated procedures regarding replacement requirements.

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

Company Response: This recommendation is a result of instances where an agent inadvertently used an application form approved by another state. While its application forms are coded for recognition by agents, human error can lead to mistaken use of an incorrect form when agents sell in contiguous states. The Company has issued instructions to Data Entry Operators to verify state application form numbers for Pennsylvania. In addition, a systematic process has been proposed whereby the form number will be systematically checked against a State Approval List. The automation is tentatively scheduled for first Quarter 2011.

4. 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).

Company Response: This recommendation is a result of instances where an agent inadvertently used an application form approved by another state. While its application forms are coded for recognition by agents, human error can lead to mistaken use of an incorrect form when agents sell in contiguous states. The Company has issued instructions to Data Entry Operators to verify state application form numbers for Pennsylvania. In addition, a systematic process has been proposed whereby the form number will be systematically checked against a State Approval List. The automation is tentatively scheduled for first Quarter 2011.

5. The Company must review and revise procedures to the annual statement filing to ensure compliance with the requirements of the Certificate of Compliance Title 31, Pennsylvania Code, Chapter 51.

Company Response: The Company will annually submit the Certificate of Compliance along with the Annual Statement Jurat page.

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

Company Response: Regarding the Surrender Comparison Index Disclosure, during the course of the Market Conduct Examination, it was discovered that a programming error omitted the Surrender Comparison Index Disclosure from a group of plans. The correction for this defect was implemented November 4, 2010. In addition, Policy Delivery processing instructions have been updated to specify the necessity to review the Surrender Comparison Index Disclosure for appropriate signatures.

Regarding the Disclosure Statement, there was a programming error with respect to the Company's electronic application that inadvertently eliminated the agent's certification of delivery of the required Pennsylvania Disclosure Statement. The error occurred when the electronic application was re-filed with Pennsylvania in April 2008. This deletion was discovered in November 2009, and the missing certification was then added to the Agents Certification on the electronic application in January 2010, documenting delivery of the Disclosure Statement from that point in time forward.

Regarding incomplete Disclosure Statements, the Company has issued a reminder to its staff reinforcing our procedures regarding acceptability standards for the Pennsylvania Disclosure Statement.

7. 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).

Company Response: The Company has issued a reminder to its staff reinforcing the procedures for the processing of Illustrations.

8. 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).

Company Response: The Company has issued a reminder to the New Business staff reinforcing the mandated procedure for processing of policy delivery receipts. In addition, as of March 2010, the Customer Service staff now follows the same procedure for all new policy contracts mailed as a result of a transfer and/or exchange.

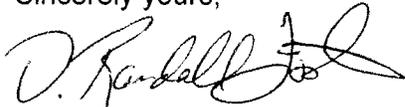
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Bureau of Market Actions
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9. The Company must review and revise internal control procedures to ensure compliance with requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices.

Company Response: The Company has issued a reminder to its staff reinforcing the correct procedure for acknowledgement of claims and follow-up letters.

Thank you for the opportunity to respond to the Department's Report of Examination of American General Life and Accident Insurance Company. If you should have any questions, please feel free to contact me.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D. Randall Foster". The signature is fluid and cursive, with a large initial "D" and "F".

D. Randall Foster
Associate General Counsel