

**REPORT OF  
MARKET CONDUCT EXAMINATION  
OF  
FIRST COLONY LIFE INSURANCE COMPANY  
Lynchburg, Virginia**

**AS OF  
May 19, 2006**

**COMMONWEALTH OF PENNSYLVANIA**



**INSURANCE DEPARTMENT  
MARKET CONDUCT DIVISION**

**Issued: July 12, 2006**

# FIRST COLONY LIFE INSURANCE COMPANY

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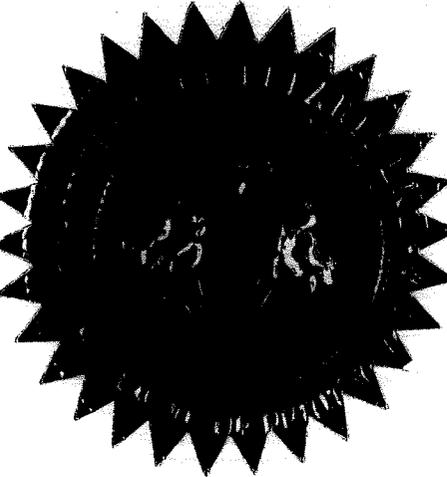
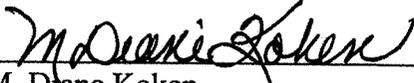
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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE: The Act of April 9, 1929, P.L. 177, No. 175, known as The  
Administrative Code of 1929

AND NOW, this 29 day of April, 2002, Randolph L.

Rohrbaugh, Deputy Insurance Commissioner, is hereby designated as the  
Commissioner's duly authorized representative for purposes of entering in and executing  
Consent Orders. This delegation of authority shall continue in effect until otherwise  
terminated by a later Order of the Insurance Commissioner.

  
  
\_\_\_\_\_  
M. Diane Koken  
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
FIRST COLONY LIFE	:	Section 903(a) of the Insurance
INSURANCE COMPANY	:	Department Act, Act of May 17, 1921,
700 Main Street	:	P.L. 789, No. 285 (40 P.S. § 323.3)
Lynchburg, VA 24504-1321	:	
	:	Section 671-A of Act 147 of 2002
	:	(40 P.S. § 310.71)
	:	
	:	Section 404-A of the Insurance
	:	Company Law, Act of May 17, 1921,
	:	P.L. 682, No. 284 (40 P.S. § 625-4)
	:	
	:	Title 31, Pennsylvania Code, Sections
	:	51.5, 81.4(b)(1), 81.5(b), 81.6(a)(1),
	:	81.6(a)(2)(ii), 81.6(c), 83.3, 83.4a,
	:	83.4b, 83.55b, 146.6 and 146.7
	:	
	:	
Respondent.	:	Docket No. MC06-06-028

CONSENT ORDER

AND NOW, this *12<sup>th</sup>* day of *July*, 2006, 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.

3. Without admitting the allegations of fact and conclusions of law contained herein, Respondent specifically denies that it violated any law or regulation of the Commonwealth.

#### FINDINGS OF FACT

4. The Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

- (a) Respondent is First Colony Life Insurance Company, and maintains its address at 700 Main Street, Lynchburg, Virginia 24504-1321.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2004 to December 31, 2004.

- (c) On May 19, 2006, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on June 17, 2006.
- (e) After consideration of the June 17, 2006 response, the Insurance Department has modified the Examination Report as attached.
- (f) 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 671-A of Act 147 of 2002 (40 P.S. § 310.71), which prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act;

- (iii) Section 404-A of the Insurance Company Law, No. 284 (40 P.S. §625-4), which requires when the individual policy or annuity is delivered to the policyholder by the producer by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and producer sign the delivery receipt, and such date shall commence any applicable policy or annuity examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered by a means other than by hand-delivery by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence;
- (iv) Title 31, Pennsylvania Code, Section 51.5, which states 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, 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;

- (v) 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;
- (vi) Title 31, Pennsylvania Code, Section 81.5(b), which requires the insurer, as part of a completed application for life insurance or annuity, to have a statement signed by the applicant indicating whether the proposed insurance or annuity will replace existing life insurance or annuity;
- (vii) 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;
- (viii) 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;

- (ix) 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;
- (x) 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;
- (xi) 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;
- (xii) 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;

- (xiii) Title 31, Pennsylvania Code, Section 83.55b, which states 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;
- (xiv) 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
- (xv) Title 31, Pennsylvania Code, Section 146.7, which requires within 15 working days after receipt by the insurer of properly executed proof of loss, the first party claimant shall be advised of the acceptance or denial of the claim by the insurer.

## CONCLUSIONS OF LAW

5. 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 Section 671.1-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):
  - (i) suspension, revocation or refusal to issue the certificate of qualification or license;
  - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;
  - (iii) an order to cease and desist; and
  - (iv) any other conditions as the Commissioner deems appropriate.
  
- (c) Respondent's violations of Section 404-A of the Insurance Company Law, No. 284 (40 P.S. §625-4) are punishable by the following, under 40 P.S. § 625-10:  
Upon determination by hearing that this act has been violated, the

commissioner may issue a cease and desist order, suspend, revoke or refuse to renew the license, or impose a civil penalty of not more than \$5,000 per violation.

- (d) Respondent's violations of Title 31, Pennsylvania Code, Chapter 81 are punishable under Title 31, Pennsylvania Code, Sections 81.8(b) and (c), which provide failure to comply, after a hearing, may subject a company to penalties provided in 40 P.S. § 475. Failure to comply shall be considered a separate violation and may not be considered in lieu of a proceeding against the company for a violation of 40 P.S. §§472, 473 or 474. In addition, failure to make the disclosure may be considered a violation of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 to 1171.15);
  
- (e) Respondent's violations of Title 31, Pennsylvania Code, Chapter 83, are punishable under Title 31, Pennsylvania Code, Section 83.6:
  - (i) For failing to insure adequate disclosure of basic information, after a hearing, a company may be subject to the penalties provided under 40 P.S. § 475, for violations of 40 P.S. §§ 472 through 474. In addition, failure to make the disclosure outlined in this subchapter may be considered a violation of 40 P.S. §§ 1171.1 through 1171.15.

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

(i) cease and desist from engaging in the prohibited activity;

(ii) suspension or revocation of the license(s) of Respondent.

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

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

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

ORDER

6. 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-Five Thousand Dollars (\$25,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.
- (e) Payment of this matter shall be made by check payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Harbert,

Administrative Assistant, Bureau of Enforcement, 1227 Strawberry Square,  
Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty  
(30) days after the date of this Order.

7. 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.

8. 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.

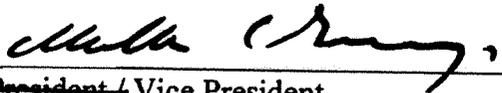
9. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

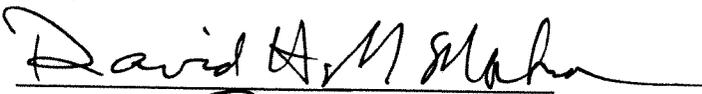
10. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

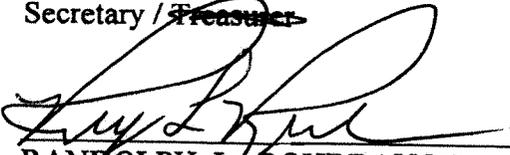
11. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

12. 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: FIRST COLONY LIFE INSURANCE  
COMPANY, Respondent

  
~~President / Vice President~~  
~~Executive~~

  
~~Secretary / Treasurer~~

  
RANDOLPH L. ROHRBAUGH  
Deputy Insurance Commissioner  
Commonwealth of Pennsylvania

## I. INTRODUCTION

The Market Conduct Examination was conducted on First Colony Life Insurance Company, hereafter referred to as "Company," at the Company's offices located in Lynchburg, Virginia, September 12, 2005, through November 4, 2005. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

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

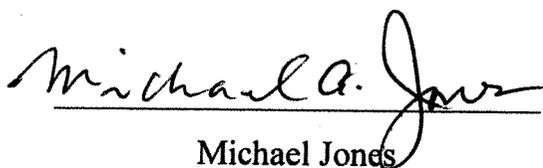
Throughout the course of the examination, Company officials were provided status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company officials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

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

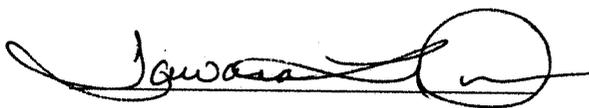
The undersigned participated in the Examination and in the preparation of this Report.



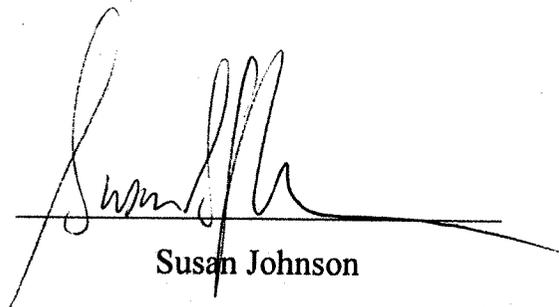
Daniel Stemcosky, AIE, FLMI  
Market Conduct Division Chief



Michael Jones  
Market Conduct Examiner



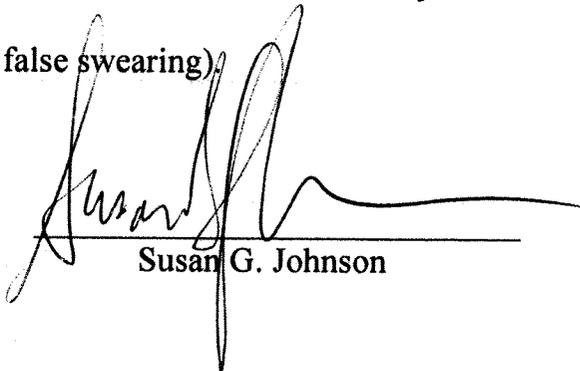
Tawana Dean  
Market Conduct Examiner



Susan Johnson  
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).

  
\_\_\_\_\_  
Susan G. Johnson

Sworn to and Subscribed Before me

This 19 Day of May, 2006

  
\_\_\_\_\_  
Notary Public

COMMONWEALTH OF PENNSYLVANIA  
NOTARIAL SEAL  
THERESA M. SENECA, Notary Public  
City of Harrisburg, Dauphin County  
My Commission Expires Aug. 15, 2006

## **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, 2004, through December 31, 2004, unless otherwise noted. The purpose of the examination was to determine compliance by the Company with Pennsylvania insurance laws and regulations.

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

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

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

### III. COMPANY HISTORY AND LICENSING

First Colony Life Insurance was incorporated and licensed under the laws of Virginia on November 22, 1955. The Great Eastern Life Insurance Company and Los Angeles Investment Company were merged into First Colony Life Insurance in 1967 and 1971, respectively. In 1972, First Colony acquired 100% control of American Mayflower Life Insurance Company of New York, and in November, 1982, Jamestown Life Insurance Company was organized by First Colony Life Insurance as a wholly owned subsidiary. Earlier that year, in May, 1982, Ethyl Corporation, Richmond, Virginia, became the controlling stockholder when it purchased all outstanding shares of First Colony Life.

On April 1, 1996, General Electric Capital Assurance Company acquired First Colony Life Insurance as a wholly owned subsidiary. On January 1, 1999, Federal Home Life Insurance Company acquired ownership of the Company.

First Colony Life Insurance Company is licensed in 49 states, the District of Columbia, and Bermuda. It offers a portfolio of whole life, term, universal life contracts, interest-sensitive life, group life, single premium life, payout annuities and structured-settlement annuities.

As of their December, 2004, annual statement for Pennsylvania, First Colony Life Insurance Company reported direct premium for ordinary life insurance and annuities in the amount of \$65,598,092; and direct premium for accident and health in the amount of \$2,427.

#### **IV. ADVERTISING**

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

The Company provided a list of 626 pieces of advertising utilized in the Commonwealth during the experience period. The advertising consisted of: Letters, Direct Mailers, Brochures, Presentations, Telemarketing Scripts, Cards, Illustrations, Product Guides, Product Manuals and the Company’s web page. A random sample of 75 pieces of advertising was requested, received and reviewed. The 75 advertising materials and the Company’s web site were reviewed to ascertain compliance with Act 205, Section 5 (40 P.S. §1171.5), Unfair Methods of Competition and Unfair or Deceptive Acts or Practices and Title 31, Pennsylvania Code, Chapter 51 and Chapter 89. The following violations were noted.

##### **1 Violation - Title 31, Pennsylvania Code, Section 51.5**

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

## V. FORMS

Throughout the course of the examination, all underwriting files were reviewed to identify the policy contracts, riders, endorsements and applications used in order to determine compliance with requirements of Insurance Company Law, Chapter 2, Section 354 (40 P.S. §477b), as well as provisions for various mandated benefits. Applications and claim forms were also reviewed to determine compliance with Title 18, Pennsylvania Consolidated Statutes, Section 4117(k). No violations were noted.

## 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 agents from doing business on behalf 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 license. Section 671.1 (40 P.S. §310.71a) of the Insurance Department Act requires the Company to report all agent terminations to the Department.

The Company provided a list of 25,262 producers. A random sample of 200 producers was compared to departmental records of agents to verify appointments, terminations and licensing. In addition, a comparison was made on the agents identified as producers on applications reviewed in the policy issued sections of the exam. The following violations were noted:

### **7 Violations – Insurance Department Act, No. 147, Section 671-A (40 P.S. §310.71)**

- (a) Representative of the insurer. – An insurance producer shall not act on behalf of or as a representative of the insurer unless the insurance producer is appointed by the insurer. An insurance producer not acting as a representative of an insurer is not required to be appointed.
- (b) Representative of the consumer. – An insurance producer acting on behalf of or representing an insurance consumer shall execute a written agreement with the insurance consumer prior to representing or acting on their behalf that:
  - (1) Delineates the services to be provided; and
  - (2) Provides full and complete disclosure of the fee to be paid to the insurance producer by the insurance consumer.

- (c) Notification to department. – An insurer that appoints an insurance producer shall file with the department a notice of appointment. The notice shall state for which companies within the insurer’s holding company system or group the appointment is made.
- (d) Termination of appointment. – Once appointed, an insurance producer shall remain appointed by an insurer until such time as the insurer terminates the appointment in writing to the insurance producer or until the insurance producer’s license is suspended, revoked or otherwise terminated.
- (e) Appointment fee. – An appointment fee of \$12.50 will be billed annually to the insurer for each producer appointed by the insurer during the preceding calendar year regardless of the length of time the producer held the appointment with the insurer. The appointment fee may be modified by regulation.
- (f) Reporting. – An insurer shall, upon request, certify to the department the names of all licensees appointed by the insurer.

The Company failed to file a notice of appointment and submit appointment fees to the Insurance Department for the following 5 producers, or agencies. The company listed these producers as active; however, department records did not indicate their appointment.

#	Producer/Agency Name
1	Halliwell, Scott
2	P Joline Associates
3	CBIZ Insurance Services
4	Rizzo Don Associates Inc.
5	Legg Mason Financial Services Inc.

The following 2 individuals were listed as producers on 2 applications reviewed in the policy issued sections of the exam. Department records do not identify these individuals as being appointed by the company at the time of application.

#	Producer/Agency Name	Section	Applications Date	Appointment Date
1	Bland, Robert S	4A	8/14/04	5/6/05
2	Boll, Ernest M	9	10/18/04	None

## VII. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for 2001, 2002, 2003 and 2004. The Company identified 5 written consumer complaints and provided complaints logs for 2001, 2002, 2003 and 2004. All 5 consumer complaint files were requested, received and reviewed.

The Department's list of written consumer complaints that were forwarded to the Company during the experience period was compared to the Company's complaint log. The complaint files and the 4 years of complaint logs were reviewed for compliance with the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171). Section 5 (a)(11) of the Act requires maintenance of a complete record of all complaints received during the preceding four (4) years. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaint and the time it took to process each complaint. Written complaint files involving claims were also reviewed for compliance with Title 31, Pennsylvania Code, Section 146.5(b) and 146.5(c), Unfair Claims Settlement Practices. The following is a synopsis of the 5 complaints reviewed.

Number - 5	Complaint Reason	Percentage – 100%
1	Claim Denial/Processing	20%
1	Misrepresentation	20%
1	Premium/Rating	20%
1	Agent Handling	20%
1	Underwriting	20%

No violations were noted.

## **VIII. UNDERWRITING**

The Underwriting review was sorted and conducted in 16 general segments.

- A. Underwriting Guidelines
- B. Group Certificates Issued
- C. Group Conversions
- D. Single Premium Immediate Annuity Policies Issued
- E. Term Life Policies Issued
- F. Interest Sensitive Life Policies Issued
- G. Whole Life Policies Issued
- H. Life Policies Declined
- I. Single Premium Immediate Annuities (SPIA) Terminated
- J. Life Policies Terminated
- K. Single Premium Immediate Annuities Issued As Replacements
- L. Term Life Policies Issued As Replacements
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- O. Life Policies Not-Taken
- P. Term Conversions

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

### **A. Underwriting Guidelines**

The Company was requested to provide copies of all established written underwriting guidelines in use during the experience period. The Company provided 1 manual entitled "Life Insurance Underwriting Guidelines were reviewed to ensure guidelines were in place and being followed in a uniform and consistent manner and no underwriting practices or procedures were in place which could possibly be considered discriminatory in nature or specifically prohibited by statute or regulation. No violations were noted.

### **B. Group Certificates Issued**

The Company was requested to provide a list of all certificate holders enrolled during the experience period. The Company provided a universe of 5 group certificate issued. All 5 certificate files were requested, received and reviewed. The files were reviewed to ensure compliance with Title 18, Pennsylvania Consolidated Statutes, Section 4117(k). No violations were noted.

### **C. Group Conversions**

The Company was requested to provide a list of all certificate holders converting group insurance during the experience period. The Company identified a universe of 2 certificate holders converting their group life coverage upon termination to an optional group life insurance plan. Further review of the policy files showed that both policies were issued pursuant to a Funded Group Life Trust as opposed to a group life insurance policy. For both policies, the employers elected to participate in the Retired Lives Provision of a multi-employer Funded Group Life Trust

established by First Colony Life Insurance Company. The Retired Lives Provisions, or Retired Lives Reserve, allows the employer to pre-fund the premiums for a life insurance benefit for designated employees when they retire. After careful review, it was determined that the files provided didn't qualify under the conversion laws due to the retirement aspect associated with the coverage. No violations were noted.

#### **D. Single Premium Immediate Annuity Policies Issued**

The Company identified a universe of 139 single premium immediate annuity policies issued, during the experience period. A random sampling of 25 policy files was requested, received, and reviewed. The annuity files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

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

An insurer that uses an agent or broker in a life insurance or annuity sale shall:

Require with or as part of a completed application for life insurance or annuity a statement signed by the agent or broker as to whether the broker knows replacement is or may be involved in the transaction. The agent's question on replacement was not completed in the noted applications.

##### **2 Violations - 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 required notice of replacement was not evident in the noted files.

## **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 letters to the replaced company was not documented in the noted files.

## **15 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 noted files.

## **E. Term Life Policies Issued**

The Company identified a universe of 5,433 individual term life policies issued during the experience period. A random sampling of 100 policies files was requested, received and reviewed. During the review, it was determined that 24 of the individual term life policies issued were issued outside of the experience period and 3 of the individual term life applications were signed outside of our jurisdiction. The remaining 73 individual term life policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

### **2 Violations- Title 31, Pennsylvania Code, Section 81.4(b)(1)**

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

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

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

### **2 Violations - Title 31, Pennsylvania Code, Section 81.6(a)(2)(ii)**

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

disclosure statement as required by § 83.3 (relating to disclosure statement) or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 5 working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner. The replacement letter to the replaced company was not documented or was sent after the required 5 working days in the noted files.

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

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

**1 Violation-Title 31, Pennsylvania Code, Sections 83.55a and 83.55b**

- a) The agent shall submit to the insurer a statement, signed by him, certifying that the surrender comparison index disclosure was given upon delivery of the policy or earlier at the request of the life insurance applicant.
- b) The insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance. The agent delivered the following policies. The agent's certification of the surrender comparison index disclosure delivery was not evident in the noted file.

## **72 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. The following files did not contain policy delivery receipts. Verification of the date of policy delivery could not be established in 24 noted files and the agent failed to sign the delivery receipt in the other 48 noted files.

### **F. Interest Sensitive Life Policies Issued**

The Company identified a universe of 647 interest sensitive life policies issued during the experience period. A random sampling of 25 policy files was requested, received and reviewed. The policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

#### **1 Violation - Title 31, Pennsylvania Code, Section 81.5 (b)**

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

or annuity will replace existing life insurance or annuity. The applicant's replacement question was not answered in the noted application.

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

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

**2 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. (Appendix A of the Regulation). Evidence that a written disclosure was provided could not be established in the note files.

**3 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 could not be verified in the noted files.

**9 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 noted files.

**3 Violations—Title 31, Pennsylvania Code, Sections 83.55a and 83.55b**

- a) The agent shall submit to the insurer a statement, signed by him, certifying that the surrender comparison index disclosure was given upon delivery of the policy or earlier at the request of the life insurance applicant.
- b) The insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance. The agent delivered the following

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

### **G. Whole Life Policies Issued**

The Company identified a universe of 2 whole life policies issued during the experience period. Both policies issued were requested, received and reviewed. After careful review, it was determined that the policies provided weren't issued during our experience period. No violations were noted.

### **H. Life Policies Declined**

The Company was requested to provide a list of all policies declined during the experience period. The Company identified a universe of 499 life policies declined. A random sample of 50 files was requested, received, and reviewed. The files were reviewed to ensure declinations were not the result of any discriminatory underwriting practice and the proper return of any unearned premium. The following violations were noted:

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

(a) Every Company or person subject to examination in accordance with this act must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the department, at its discretion, may require in order that its authorized representatives may readily ascertain whether the Company or person has complied with the laws of this Commonwealth. The reason for declination wasn't evident in the noted files.

## **I. Single Premium Immediate Annuities (SPIA) Terminated**

The Company was requested to provide a list of all annuities terminated during the experience period. The Company identified a universe of 128 individual single premium immediate annuities terminated. A random sample of 25 files was requested, received, and reviewed. The annuity files were reviewed to ensure that terminations were not the result of any discriminatory underwriting practice. The annuities terminated files due to death were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. No violations were noted.

## **J. Life Policies Terminated**

The Company was requested to provide a list of all policies terminated during the experience period. The Company identified a universe of 1,293 life policies terminated. A random sample of 25 files was requested, received and reviewed. The terminated policies were reviewed to ensure compliance with contract provisions, termination laws and regulations, and proper return of any unearned premium. No violations were noted.

## **K. Single Premium Immediate Annuities Issued As Replacements**

The Company identified a universe of 37 individual single premium immediate annuities issued as replacements during the experience period. A random sample of 12 files was requested, received and reviewed. The annuity 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 dated after the application date in the noted file.

### **1 Violation - Title 31, Pennsylvania Code, Section 81.5(b)**

The insurer shall require as part of a completed application for life insurance or annuity a statement signed by the applicant as to whether the proposed insurance or annuity will replace existing life insurance or annuity. The applicant's replacement question was not answered in the noted application.

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

An insurer that uses an agent or broker in a life insurance or annuity sale shall:

Require with or as part of a completed application for life insurance or annuity a statement signed by the agent or broker as to whether the broker knows replacement is or may be involved in the transaction. The agent's replacement question was not answered in the noted files.

**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 replaced company was not documented in the noted file.

**10 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 noted files.

#### **L. Term Life Policies Issued As Replacements**

The Company identified a universe of 1,396 term life policies issued as replacements during the experience period. A random sampling of 50 files was requested, received and reviewed. The replacement policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

##### **5 Violations- Title 31, Pennsylvania Code, Section 81.4(b)(1)**

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

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

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

**10 Violations - Title 31, Pennsylvania Code, Section 81.6(a)(2)(ii)**

An insurer that uses an agent or broker in a life insurance or annuity sale shall, if replacement is involved: Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under subparagraph (I) and in the case of life insurance, the disclosure statement as required by § 83.3 (relating to disclosure statement) or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 5 working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner. The replacement letter to the replaced company was not sent within 5 working days of the date of application receipt in the noted files.

**1 Violation – Title 31, Pennsylvania Code, Section 83.3 Disclosure Statement**

(a) Required written disclosure. A life insurance agent, broker or insurer soliciting the type of business to which this subchapter applies shall provide a prospective purchaser with a written disclosure statement clearly labeled as such. An acceptable disclosure statement is attached as Appendix A. Evidence that a written disclosure was provided could not be established in the noted file.

**6 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. The disclosure statement was dated after the application date in the noted files.

### **50 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 27 noted files and the agent's signature was missing on the delivery receipt in 23 noted files.

### **M. Interest Sensitive Life Policies Issued As Replacements**

The Company identified a universe of 218 life policies issued as replacements during the experience period. A random sampling of 10 life replacement files was requested, received and reviewed. Of the 10 interest sensitive life policies issued as replacements, one file was determined not to be a replacement. The remaining 9 replacement policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

## **2 Violations - Title 31, Pennsylvania Code, Section 81.6(a)(2)(ii)**

An insurer that uses an agent or broker in a life insurance or annuity sale shall, if replacement is involved: Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under subparagraph (I) and in the case of life insurance, the disclosure statement as required by § 83.3 (relating to disclosure statement) or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 5 working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner. The replacement letter to the replaced company was not documented in the 1 noted file and verification that the replacement letter was sent within 5 working days of the date the application was received could not be established in the other file.

## **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 1 noted file and the agent's signature was missing on the delivery receipt in 2 noted files.

## **N. Single Premium Immediate Annuities Policies Not-Taken**

The company was requested to provide a list of policies issued and not-taken during the experience period. The Company identified a universe of 2 individual single premium immediate annuities policies not-taken. Both annuity files were requested, received and reviewed. A not-taken policy by definition is a contract that is issued and the insured requests cancellation. After careful review it was determined that the annuity files provided did not satisfy the definition of not-taken policies. No violations were noted.

## **O. Life Policies Not-Taken**

The Company was requested to provide a list of all policies issued and not-taken during the experience period. The Company identified 1,005 individual life policies not-taken. A random sample of 50 files was requested, received and reviewed. A not-taken policy by definition is a contract that is issued and the insured requests cancellation. The files were reviewed to ensure compliance with the free-look provisions of the contract. The following violations were noted:

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

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

## **P. Term Conversions**

The Company identified a universe of 62 term policies conversions during the experience period. A random sampling of 25 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:

### **25 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 verified in the noted files.

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

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

- (1) Periodic reviews of consumer complaints in order to determine patterns of improper practices.
- (2) Regular reporting to senior officers and the board of directors or an appropriate committee thereof with respect to any significant findings.
- (3) The establishment of lines of communication, control and responsibility over the dissemination of advertising and promotional materials, including illustrations and illustration explanations, with the requirement that such materials shall not be used without the approval by company employees whose compensation, other than generally applicable company bonus or incentive plans, is not directly linked to marketing or sales.

No violations were noted.

## X. CLAIMS

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

### A. Processing Death Claims

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

The Claim file review consisted of 2 areas:

### A. Life Claims

### B. Waiver of Premium Claims

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

## **A. Life Claims**

The Company was requested to provide a list of all claims received during the experience period. The Company identified a universe of 189 life claims received. All random sample of 100 claim files were requested, received and reviewed. The claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146 and Insurance Company Law, Section 411B, Payment of Interest (40 P.S. §511b). The following violations were noted:

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

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

### **1 Violation- Title 31, Pennsylvania Code, Section 146.7**

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 Company failed to provide notice of acceptance or denial within 15 working days for the noted claim.

## **B. Waiver of Premium Claims**

The Company was requested to provide a list of all claims received during the experience period. The Company identified a universe of 11 waiver of premium claims. All 11 claim files were requested and received. Of the 11 claims requested, 2 claims were not in the experience period. The remaining 9 claim files were reviewed for compliance with Title 31, Pennsylvania Code, and Chapter 146. The following violations were noted:

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

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

## **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 requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices.
- 2 The Company must review and revise Licensing procedures to ensure compliance with Section 671.1-A, of the Insurance Department Act of 1921 (40 P.S. § 310.71).
- 3 The Company must review and revise procedures to ensure all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the Company are maintained in such manner and for such period of time to ensure compliance with Section 903(a) of the Insurance Department Act of 1921 (40 P.S. §323.3).
- 4 The Company must implement procedures to ensure advertising certification requirements of Title 31, Pennsylvania Code, Chapter 51.
- 5 The Company must review and revise internal control procedures to ensure compliance with the replacement requirements of Title 31, Pennsylvania Code, Section 81.

- 6 The Company must review internal control procedures to ensure compliance with disclosure requirements of Title 31, Pennsylvania Code, Chapter 83.
- 7 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).

## **XII. COMPANY RESPONSE**

**Genworth**  
Financial



**Robert J. Bowen**  
*Associate General  
Counsel*

**First Colony Life Insurance  
Company**

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June 15, 2006

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

Re: First Colony Life Insurance Company  
Market Conduct Examination  
Examination Warrant Number: 05-M25-060

Dear Mr. Stemcosky:

We have reviewed the Report of Examination sent to us on May 19, 2006.

We respectfully continue to disagree with the findings in the report with respect to the alleged violations of Title 31, Pennsylvania Code, Section 81.5(b) and 81.6(a)(1). The answers to the applicant's replacement question and the agent's replacement questions were provided with respect to each of the cited applications when they were resubmitted after being returned by us to the agent for completion.

Thank you for the courtesy of you and your examiners throughout the examination.

Very Truly Yours,

Robert J. Bowen  
Associate General Counsel

RJB/km