

**REPORT OF  
MARKET CONDUCT EXAMINATION  
OF**

**LAFAYETTE LIFE INSURANCE COMPANY**  
Lafayette, Indiana

**AS OF  
January 22, 2008**

**COMMONWEALTH OF PENNSYLVANIA**



**INSURANCE DEPARTMENT  
MARKET CONDUCT DIVISION**

**Issued: March 11, 2008**

**LAFAYETTE LIFE INSURANCE COMPANY**

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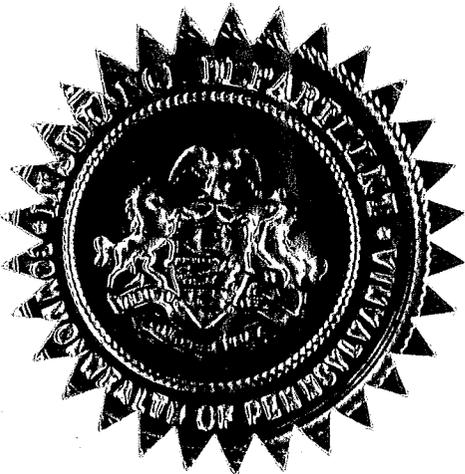
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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 6<sup>th</sup> day of July, 2007, in accordance with  
Section 905(c) of the Pennsylvania Insurance Department Act, Act of May 17, 1921,  
P.L. 789, as amended, P.S. § 323.5, I hereby designate Randolph L. Rohrbaugh, Deputy  
Insurance Commissioner, to consider and review all documents relating to the market  
conduct examination of any company and person who is the subject of a market conduct  
examination and to have all powers set forth in said statute including the power to enter  
an Order based on the review of said documents. This designation of authority shall  
continue in effect until otherwise terminated by a later Order of the Insurance  
Commissioner.



  
\_\_\_\_\_  
Joel S. Ario  
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
LAFAYETTE LIFE INSURANCE	:	Section 671-A of Act 147 of 2002
COMPANY	:	(40 P.S. § 310.71)
1905 Teal Road	:	
Lafayette, IN 47905-2225	:	Sections 354, 404-A, 406-A,
	:	408-A(e)(1)(i), and 408-A(e)(2)(i)
	:	and (iii) of the Insurance Company
	:	Law, Act of May 17, 1921, P.L. 682,
	:	No. 284 (40 P.S. §§ 477b, 625-4,
	:	625-6 and 625-8)
	:	
	:	Title 31, Pennsylvania Code, Sections
	:	81.4(b)(1), 81.5(b), 81.6(a)(1),
	:	81.6(a)(2)(ii), 83.3, 83.4a, 83.4b,
	:	83.55, 83.55a, 83.55b, 89b.11, 146.3,
	:	146.5, 146.6 and 146.7
	:	
	:	Title 18, Pennsylvania Consolidated
	:	Statutes, Section 4117(k)
	:	
	:	
	:	
Respondent.	:	Docket No. MC08-02-030

CONSENT ORDER

AND NOW, this *11<sup>th</sup>* day of *MARCH*, 2008, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

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

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

#### FINDINGS OF FACT

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

- (a) Respondent is Lafayette Life Insurance Company, and maintains its address at 1905 Teal Road, Lafayette, Indiana 47905-2225.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2006 to December 31, 2006.
- (c) On January 22, 2008, the Insurance Department issued a Market Conduct Examination Report to Respondent.

- (d) A response to the Examination Report was provided by Respondent on February 19, 2008.
  
- (e) After consideration of the February 19, 2008 response, the Insurance Department has modified the Examination Report as attached.
  
- (f) The Examination Report notes violations of the following:
  - (i) 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;
  
  - (ii) 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;
  
  - (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) Section 406-A of the Insurance Company Law, No. 284 (40 P.S. § 625-6), which prohibits any alteration of any written application for a life insurance policy or annuity to be made by any person other than the applicant without the applicant's written consent;
  
- (v) Section 408-A(e)(1)(i) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which requires if the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this section, shall be submitted to the insurer no later than the time the policy application is sent to the insurer. A copy shall also be provided to the applicant no later than the time the application is signed by the application;

- (vi) Section 408-A(e)(2)(i) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which 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 is displayed. The producer shall certify in writing on a form provided by the insurer that no illustration was used in the sale of the life insurance policy. On the same form, the applicant shall acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery;
- (vii) 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 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;
- (viii) 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;

- (ix) Title 31, Pennsylvania Code, Section 81.5(b), which requires the insurer, as part of a completed application for life insurance or annuity, require a statement signed by the applicant regarding whether the proposed insurance or annuity will replace existing life insurance or annuity;
  
- (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 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;
- (xiii) 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;
- (xiv) 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;
- (xv) Title 31, Pennsylvania Code, Section 83.55, which states: (a) The Surrender Comparison Index Disclosure shall be given as a separate document upon delivery of the policy or earlier if requested by the life insurance applicant. If requested earlier, the index disclosure shall be provided as soon as reasonably possible; and (b) A disclosure that is minimally satisfactory to the Insurance Department is set forth in Appendix B. If the Appendix B disclosure will be

used, a letter to that effect, prior to use, is adequate notification to the Department for review prior to use;

(xvi) 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;

(xvii) Title 31, Pennsylvania Code, Section 89b.11(b), which requires each form to contain a form number consisting of numbers, letters or both. The form number shall be adequate to distinguish the form from all others used by the insurer. The form number may be the same as that of a form to be replaced. However, if the form to be replaced was approved by or filed with the Department, it may not have been issued in this Commonwealth;

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

- (xxii) Title 18, Pennsylvania Consolidated Statutes, Section 4117(k), which requires all applications for insurance and all claim forms shall contain or have attached thereto the following notice: “Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.”

#### CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the 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 671-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):
  - (i) suspension, revocation or refusal to issue the certificate of qualification or license;

- (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;
- (iii) an order to cease and desist; and
- (iv) any other conditions as the Commissioner deems appropriate.

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

- (i) suspension or revocation of the license(s) of Respondent;
- (ii) refusal, for a period not to exceed one year thereafter, to issue a new license to Respondent;
- (iii) imposition of a fine of not more than one thousand dollars (\$1,000.00) for each act in violation of the Act.

(d) Respondent's violations of Sections 404-A, 406-A and 408-A of the Insurance Company Law, No. 284 (40 P.S. §§625-4, 625-6 and 625-8) are punishable by the following, under 40 P.S. § 625-10: Upon determination by hearing that this act has been violated, the commissioner may issue a cease and desist order, suspend, revoke or refuse to renew the license, or impose a civil penalty of not more than \$5,000 per violation.

- (e) 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);
- (f) 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.
- (g) Respondent's violations of Title 31, Pennsylvania Code, Section 89b.11(b) are punishable under Section 354 of the Insurance Company Law (40 P.S. § 477b) by suspension or revocation of the license(s) of Respondent; refusal, for a period not to exceed one year thereafter, to issue a

new license to Respondent; or imposition of a fine of not more than one \$1,000.00 for each act in violation of the Act.

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

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

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

- (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);
- (ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars (\$1,000.00).

ORDER

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

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.
- (c) Respondent shall pay Fifteen Thousand Dollars (\$15,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.
- (d) Payment of this matter shall be made by check payable to the Commonwealth of Pennsylvania. Payment should be directed to Ginny Marquart, Administrative Assistant, Bureau of Enforcement, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

6. In the event the 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.

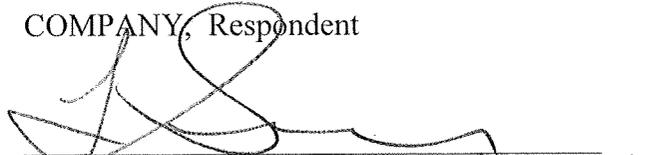
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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: *The* LAFAYETTE LIFE INSURANCE  
COMPANY, Respondent

  
~~President / Vice President~~ Jerry B. Stillwell,  
President & CEO

  
~~Secretary / Treasurer~~ Deborah J. Vargo,  
Senior Vice President, General  
Counsel and Secretary

  
COMMONWEALTH OF PENNSYLVANIA  
By: Randolph L. Rohrbaugh  
Deputy Insurance Commissioner

## **I. INTRODUCTION**

The Market Conduct Examination was conducted on Lafayette Life Insurance Company, hereafter referred to as "Company," at the Company's office located in Lafayette, Indiana, April 10, 2007, through May 31, 2007. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

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

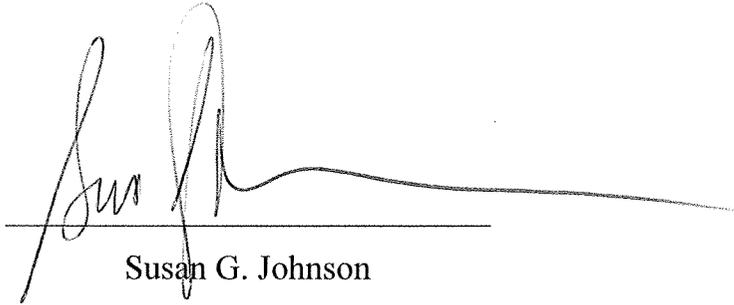
Throughout the course of the examination, Company officials were provided status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company officials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

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.

A handwritten signature in cursive script, appearing to read "Dan Stemcosky", written over a horizontal line.

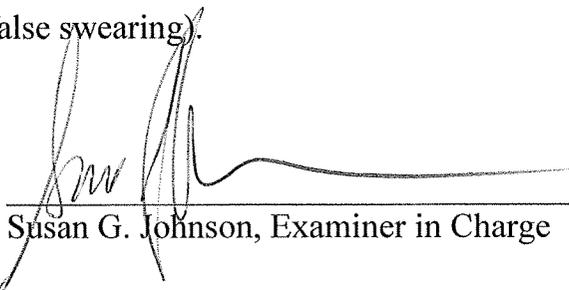
Daniel Stemcosky, AIE, FLMI  
Market Conduct Division Chief

A handwritten signature in cursive script, appearing to read "Susan G. Johnson", written over a horizontal line.

Susan G. Johnson  
Market Conduct Examiner

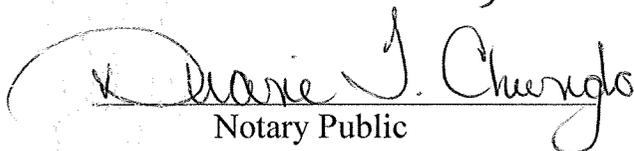
**VERIFICATION**

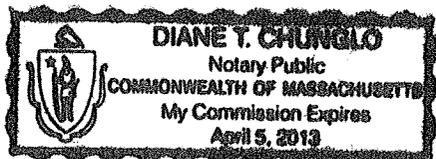
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).

  
\_\_\_\_\_  
Susan G. Johnson, Examiner in Charge

Sworn to and Subscribed Before me

This 11<sup>th</sup> Day of January, 2008

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



## **II. SCOPE OF EXAMINATION**

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

Lafayette Life Insurance Company was founded in 1905, as a mutual life insurance company. In December 2000, the Company was reorganized as a stock life insurance company and became a member of a mutual insurance holding company controlled by Lafayette Life MIHC, Inc. In June 2005, Lafayette Life MIHC, Inc. merged with Western & Southern Mutual Holding Company. The Company is now a subsidiary of Western & Southern Financial Group.

The Company provides a broad range of fixed (non-variable) life insurance and annuity products to individuals and businesses through multiple distribution channels. The individual product portfolio includes whole life, term life, universal life, immediate annuities, and indexed universal life and annuities. The Company serves small to medium-sized businesses by offering group life and ancillary products. The Company operates in 48 states and the District of Columbia.

As of their December, 2006, annual statement for Pennsylvania, Lafayette Life Insurance Company reported direct premium for life and annuities in the amount of \$6,493,683; and direct premium for accident and health in the amount of \$2,049,565.

#### **IV. ADVERTISING**

The Company was requested to provide a copy of their Advertising Certificate of Compliance. The Advertising Certificate and the Company's website was 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. No violations were noted.

## 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:

### **14 Violations – Title 31, Pennsylvania Code, Section 89b.11**

(b) Form number. Each form shall contain a form number consisting of numbers, letters, or both. The form number shall be adequate to distinguish the form from all others used by the insurer. The form number may be the same as that of a form to be replaced. However, if the form to be replaced was approved by or filed with the Department, it may not have been issued in this Commonwealth and shall be withdrawn from any issuance in this Commonwealth. The required form number was not evident on various amendments, agreements and application forms utilized during the experience period.

### **2 Violations - Insurance Company Law, Chapter 2, Section 354**

#### **(40 P.S. §477b)**

It shall be unlawful for any insurance company, doing business in the Commonwealth of Pennsylvania, to issue, sell, or dispose of any policy, contract, or certificate, covering life insurance, or use application, riders, or endorsements, in connection therewith, until the forms have been submitted to, and formally approved by, the Insurance Commissioner. Verification of form approval could not be established for the 2 forms noted.

<b>FORM NUMBER</b>	<b>DESCRIPTION</b>
1280 (II)	Application for Term Conversion
80 (II) (PA)	Application for Reinstatement of Lapsed Policy

**6 Violations – Title 18, Pennsylvania C.S., Section 4117(k)**

All applications for insurance and all claim forms shall contain or have attached thereto the following notice:

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties. Evidence of the required fraud language could not be established in the 6 forms noted.

<b>FORM NUMBER</b>	<b>DESCRIPTION</b>
636D	Group Enrollment Card
GPAPP96	Group Term Life Application
GP 1246	Small Group Application
GP2038	Joinder Agreement
None	Enrollment Form
A-1033PA	Enrollment Form

**8 Violations – Title 18, Pennsylvania C.S., Section 4117(k)**

All applications for insurance and all claim forms shall contain or have attached thereto the following notice:

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties. The master group application utilized in the 8 files noted did not contain the required fraud

statement. The form number for 5 of the files noted was not evident. The form numbers for the remaining 3 files were GP 1246-B-2003 and GPAPP2003 PA for the remaining 2 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 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 applications or securing any insurance business through anyone acting without a 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 100 active producers. All 100 producers were compared to departmental records of producers to verify appointments, terminations and licensing. In addition, a comparison was made on the producers identified on applications reviewed in the policy issued sections of the exam. The following violations were noted:

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

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

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

The following individual was listed as a producer on 3 applications reviewed in the policy issued sections of the exam. Department records did not identify this individual as being appointed by the company at the time of application.

<b>Producer</b>
Joseph Walsh

## **VII. CONSUMER COMPLAINTS**

The Company was requested to identify all consumer complaints received during the experience period, and to provide copies of consumer complaint logs for 2002, 2003, 2004 and 2005. The Company did not report any consumer complaints received during the experience period. The Company provided complaint logs as requested.

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

## **VIII. UNDERWRITING**

The Underwriting review was sorted and conducted in 10 general segments.

- A. Underwriting Guidelines
- B. Group Policies Issued
- C. Group Certificates Issued
- D. Individual Annuity Contracts Issued
- E. Individual Term Life Policies Issued
- F. Individual Long Term Care Policies Issued
- G. Individual Annuity Contracts Issued as Replacements
- H. Individual Term Life Policies Issued as Replacements
- I. Individual Life Policies Issued as Replacements
- J. Individual Term Life Conversions

Each segment was reviewed for compliance with underwriting practices and included forms identification and agent identification. Issues relating to forms or producer 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 and guidelines received were reviewed to ensure that 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 manuals and guidelines were reviewed:

1. National Insurance Services & Group Reinsurance Plus – Disability Underwriting
2. Group Underwriting Guidelines 1 & 2
3. LLIC Underwriting Guidelines

### **B. Group Policies Issued**

The Company was requested to provide a list of all group policies issued during the experience period. The company identified 15 group policies issued. All 15 group policy files were requested, received, and reviewed. The policy files were reviewed to determine compliance to issuance statutes and regulations. No violations were noted.

### **C. Group Certificates Issued**

The Company was requested to provide a list of all certificate holders enrolled during the experience period. The Company provided a list of 2,849 certificate holders. A random sample of 25 certificate holders enrolled was requested, received and reviewed. The files were reviewed to ensure compliance with Title 18, Pennsylvania Consolidated Statutes, Section 4117(k). No violations were noted.

### **D. Individual Annuity Contracts Issued**

The Company identified a universe of 9 annuity contracts issued during the experience period. All 9 annuity contracts were requested, received and reviewed. Of the 9 annuity contracts received 1 was a duplicate record. The remaining 8 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 406-A (40 P.S. §625-6)**

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

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

The Company identified a universe of 21 term life policies issued during the experience period. All 21 term life policies were requested, received and reviewed. Of the 21 policies requested, 1 policy file was a duplicate record. The remaining 20 policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

**16 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 16 files noted.

**16 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 was not evident in the 16 files noted.

**1 Violation – 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. The illustration delivery was signed and dated after the policy delivery date in the file noted.

#### **F. Individual Long Term Care Policies Issued**

The Company identified a universe of 3 long term care policies issued during the experience period. All 3 policy files were requested, reviewed and received. The policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. No violations were noted.

#### **G. Individual Annuity Contracts Issued as Replacements**

The Company identified a universe of 2 annuities issued as internal/external replacements, during the experience period. Both replacement files were requested. After receipt it was determined that 1 file was a duplicate record. The annuity file was reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. No violations were noted.

#### **H. Individual Term Life Policies Issued as Replacements**

The Company identified a universe of 1 life policy issued as a replacement during the experience period. The term life replacement file was requested, received and reviewed. The file was reviewed to determine compliance to issuance,

underwriting, and replacement statutes and regulations. The following violations were noted:

**1 Violation - Title 31, Pennsylvania Code, Section 81.6(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 statement on replacement was answered incorrectly on the noted application.

**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.

**1 Violation - 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 was not evident in the file noted.

## **I. Individual Life Policies Issued as Replacements**

The Company identified a universe of 35 life policies issued as replacements during the experience period. All 35 life replacement files were requested, received and reviewed. The replacement files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

### **7 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 7 files 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 statement on replacement was not answered in the application for the file noted.

### **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 statement on replacement was not completed in the application for the file noted.

**12 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 in the 12 files noted.

**25 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 25 files noted.

**25 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 was not evident in the 25 files noted.

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

(a) The Surrender Comparison Index Disclosure shall be given as a separate document upon delivery of the policy or earlier if requested by the life insurance applicant. If requested earlier, the index disclosure shall be provided as soon as reasonably possible.

(b) A disclosure that is minimally satisfactory to the Insurance Department is set forth in Appendix B. If the Appendix B disclosure will be used, a letter to that effect, prior to use, is adequate notification to the Department. However, if a disclosure different than Appendix B will be used, it must be filed with the Department for review prior to use.

The Surrender Comparison Index Disclosure was not evident in the file noted.

**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 agent failed to certify the Cost Surrender Comparison Index Disclosure was provided in the 2 files noted.

**2 Violations – Insurance Company Law, Section 408-A(e)(2)(i)  
(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 computer screen is displayed. The producer shall certify in writing on a form provided by the insurer that no illustration was used in the sale of the life insurance policy. On the same form the applicant shall acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. The required certification and acknowledgement that no illustration was used in the sale of the life insurance policy was not dated in the 2 files noted.

**J. Individual Term Life Conversions**

The Company identified a universe of 8 individual term life conversion policies issued during the experience period. All 8 term life conversion files was requested, received and reviewed. The files were reviewed to determine compliance to issuance and underwriting statutes and regulations. The following violations were noted:

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

When the producer delivers the individual policy or annuity to the policyholder by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The

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

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

The following applies if a basic illustration is used by a producer in the sale of a life insurance policy. If the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this section, shall be submitted to the insurer no later than the time the policy application is sent to the insurer. A copy shall also be provided to the applicant no later than the time the application is signed by the applicant. The producer failed to certify the illustration delivery at the time of application in the file noted.

**1 Violation – Insurance Company Law, Section 408-A(e)(2)(i) (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 computer screen is displayed. The producer shall certify in writing on a form provided by the insurer that no illustration was used in the sale of the life insurance policy. On the same form the applicant shall acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. The signed certification and acknowledgement that no illustration was used in the sale of the life insurance policy was not evident in the file noted.

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

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

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

No violations were noted.

## X. CLAIMS

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

1. LTD Claims Manual #1, #2 & #3
2. Life Plans (LTD) Claims Guidelines
3. Hartford Claims (BMS Procedure Manual)
4. Swiss Re Claims 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. No violations were noted.

The Claim file review consisted of 6 areas:

- A. Income Disability Claims
- B. Individual Life Claims
- C. Premium Waiver Claims
- D. Custom Disability Solutions Long Term Disability Claims
- E. Custom Disability Solutions Short Term Disability Claims
- F. Group Long Term Disability Claims

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

### **A. Income Disability Claims**

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 2 income disability claims. Both claim files were requested, received and reviewed. The claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. No violations were noted.

### **B. Individual Life Claims**

The Company was requested to provide a list of claims received during the experience period. The Company identified 22 life claims received. All 22 life claims 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). No violations were noted.

### **C. Premium Waiver Claims**

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 2 premium waiver claims. Both claim files were requested, received and reviewed. The claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. No violations were noted.

#### **D. Custom Disability Solutions Group Long Term Disability Claims**

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 2 long-term disability claims. Both claim files were requested, received and reviewed. The claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. No violations were noted.

#### **E. Custom Disability Solutions Short Term Disability Claims**

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 10 short-term disability claims. All 10 claims was requested, received and reviewed. The claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. No violations were noted.

#### **F. Group Long Term Disability Claims**

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 130 long term disability claims. All 130 claims was requested, received and reviewed. The claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. The following violations were noted:

**1 Violation – Title 31, Pennsylvania Code, Section 146.3**

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

**15 Violations - Title 31, Pennsylvania Code, Section 146.5**

Every insurer, upon receiving notification of a claim, shall within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgement is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. The Company failed to acknowledge a claim within 10 working days for the 15 files noted.

**20 Violations - Title 31, Pennsylvania Code, Section 146.6**

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company failed to provide timely status letters for the 20 claims noted.

**10 Violations - 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 10 claims noted.

## **XI. RECOMMENDATIONS**

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

1. The Company must 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 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).
3. 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).
4. The Company must implement procedures to ensure compliance with the fraud statement notice requirements of Title 18, Pennsylvania Consolidated Statutes Section 4117(k).
5. The Company must review and revise Licensing procedures to ensure compliance with Section 671-A of the Insurance Department Act of 1921 (40 P.S. §310.71).
6. The Company must review internal control procedures to ensure compliance with application alteration requirements of Section 406-A of the Insurance Company Law of 1921 (40 P.S. §625-6).
7. The Company must review internal control procedures to ensure compliance with disclosure requirements of Title 31, Pennsylvania Code, Chapter 83.
8. The Company must review internal control procedures to ensure compliance with illustration certification and delivery requirements of Section 408-A of the Insurance Company Law of 1921 (40 P.S. §625-8).

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

## **XII. COMPANY RESPONSE**



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February 15, 2008

Via Overnight Delivery

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

RE: **Examination Warrant Number: 06-M28-044**  
**The Lafayette Life Insurance Company**

Dear Mr. Stemcosky:

The Report of Examination of Lafayette Life Insurance Company covering the period January 1, 2006, through December 31, 2006 has been received and reviewed in detail. In accordance with Section 905 (40 P.S. § 323.5) of the Insurance Department Act, this letter is the written response on behalf of The Lafayette Life Insurance Company to the Report of Examination.

With respect to the 9 recommendations made by the Department in the Report of Examination, Lafayette Life has or intends to implement all of the corrective measures identified by the Department. We more specifically address below the recommendations and the corresponding violations.

As reflected by our history of serving the needs of insureds for over 100 years and our reputation in the industry, Lafayette Life is strongly committed to conducting business in compliance with applicable laws and regulations. In furtherance of that commitment, Lafayette Life strives to assure that appropriate procedures are in place to address the specific requirements of such laws and regulations, and that our employees are trained regarding those procedures. We believe, on the whole, that the Department's Examination confirms our commitment to compliance.

## RESPONSE TO RECOMMENDATIONS

• *With regard to the recommendations pertaining to forms filing and approval requirements, fraud statement notice requirements, and producer licensing and appointment requirements (recommendations 3, 4, and 5), Lafayette Life more specifically responds as follows:*

As noted during the course of the Examination, some of the violations cited in the report were corrected while the examiner was still on site. For example, documents missing the fraud language have been updated to include the Pennsylvania required language, and documents missing form numbers or containing inadequate form numbers have been corrected. Similarly, for the two (2) documents in violation of the form filing

requirements (i.e. an application for term conversion and an application for reinstatement), both documents have been filed and have been approved by Pennsylvania. For the one group life agent for whom the Department did not receive notice of appointment, which was the result of an administrative error outside our established procedures, the Company promptly sent such notice when it was informed of the violation.

- *With regard to the recommendations pertaining to claims handling requirements, disclosure requirements, and the illustration certification and delivery requirements (recommendations 1, 7, and 8), Lafayette Life more specifically responds as follows:*

As also noted during the course of the Examination, for some of the violations, there were revised processes and procedures already in place that were addressing and remedying the identified issues. For example, with respect to the claim violations identified by the Department, the third party administrator who handled all of such Group Long Term Disability claims for the benefit of the Company had already begun addressing the noted deficiencies by revising its work flow model, increasing its staffing level pertaining to Company business, running weekly reports to enhance process management, and modifying its claims process, such as its diary system to also require written communications of status of claims in addition to fax or phone communications. The third party administrator also conducted training for its employees on the applicable Pennsylvania regulations and the process changes. Most, if not all of the violations regarding the third party administrator's processing of the Group Long Term Disability claims were technical or clerical in nature and were not indicative of a systemic disregard of Pennsylvania's claims handling requirements. Notwithstanding such deficiencies, as reflected by the detailed responses during the Examination to the listed violations, it is important to note that the claimants were kept informed of the status of their claims. Further, we received no consumer complaints and the Department received no direct complaints pertaining to any of the claims where violations were noted. (As an aside, the Report of Examination reflects that Lafayette Life did not have any violations pertaining to any of the claims handled directly by its employees.)

Similarly, with respect to the disclosure requirements under Title 31, Pennsylvania Code, Chapter 83, which we note are unique to Pennsylvania and are fairly complex given the interplay between the illustration requirements and the disclosure requirements, before the Examination began Lafayette Life revised its processes and procedures to specifically tailor them to comply with the Pennsylvania disclosure requirements. We implemented these revised processes and procedures prior to the commencement of the Examination.

While we certainly recognize the violations regarding the disclosure requirements as set forth in the Report of Examination, Lafayette Life notes that the Department found sound compliance practices with respect to the illustration requirements, including compliance with the illustration delivery requirements. There were only two (2) violations regarding the delivery of the policy illustrations, which contain comparable disclosures.

- *With regard to the recommendations pertaining to the policy delivery receipt requirements, the application alteration requirements, and the replacement requirements (recommendations 2, 6, and 9), Lafayette Life more specifically responds as follows:*

Since the Examination, we have reviewed and modified our procedures as needed to correct issues brought to our attention regarding these recommendations. For example, with respect to the replacement violations, we have enhanced our training for employees and agents. Our enhanced training stresses the importance of following established practices and procedures and helps ensure awareness of and compliance with Pennsylvania replacement requirements.

With respect to the two (2) violations pertaining to application alterations that were made by the same producer with the same policy owner, which we reasonably believe were made to correct simple miswrites, we have informed this particular producer of the applicable Pennsylvania requirement and we have enhanced our employee training regarding such requirement. In addition to the enhanced training, we have reorganized certain compliance functions within the Company through the establishment of a new compliance unit, which will allow for an even greater emphasis on compliance related issues, such as replacements and application changes. Lastly, regarding the error of failing to obtain the policy delivery receipt, which was a one time error, we have implemented an automated computer program to help assure that policy delivery receipts are obtained.

#### **ADDITIONAL FACTORS TO CONSIDER**

In its further review of the Report of Examination, we trust the Department will take into account Lafayette Life's strong overall compliance efforts and results during the examination period and its high level of responsiveness and cooperation during the examination process, in addition to the specifics set forth above. For the Department's further consideration, we also note the following:

- a. Overall Lafayette Life had 0 violations in 12 of the 22 areas examined.
- b. Lafayette Life had 0 violations associated with the claims handled directly by Lafayette Life employees.
- c. Lafayette Life had 5 violations or less in 6 of the remaining 10 areas examined.
- d. In the 4 areas where there were multiple violations (i.e., more than 5 violations), such violations were often of a technical or clerical nature and/or involved on-going communications with or disclosures made to the interested parties.

As a rule, the violations were not the result of the intentional disregard of any applicable law or regulation, nor are they indicative of any pattern or trend in disregarding any applicable law or regulation. Additionally, when violations were discovered, either before the Examination even began as the result of internal review or during the Examination, immediate responsive efforts were commenced to address any deficiencies in procedures or processes. All of this reflects Lafayette Life's strong commitment to conducting business in compliance with all applicable laws or regulations.

In conclusion, on behalf of our staff, I would like to thank you and Susan Johnson, the Examiner, for your flexibility, professionalism and cooperation in the Examination process. The information that the Department provided to us during the Examination regarding the reviewed procedures is important and valuable information that has been and will be used by Lafayette Life to enhance its established procedures and processes.

Please feel free to contact me if anything further is needed.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark J. Snyder". The signature is written in a cursive style with a large initial "M".

Mark J. Snyder  
Associate General Counsel