

**REPORT OF
MARKET CONDUCT EXAMINATION
OF
PROTECTIVE LIFE INSURANCE COMPANY
Birmingham, Alabama
AS OF
April 30, 2010
COMMONWEALTH OF PENNSYLVANIA**



**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: July 16, 2010

PROTECTIVE LIFE INSURANCE COMPANY

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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 22ND day of July, 2008, 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 Ronald A. Gallagher, 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:
	:	
PROTECTIVE LIFE INSURANCE	:	Section 671-A of Act 147 of 2002
COMPANY	:	(40 P.S. § 310.71)
2801 Highway 280 South	:	
Birmingham, AL 35223	:	Section 903(a) of the Insurance
	:	Department Act, Act of May 17, 1921,
	:	P.L. 789, No. 285 (40 P.S. §323.3)
	:	
	:	Sections 404-A, 408-A(c)(4)(ii),
	:	408-A(e)(1)(ii), 409-A, 410D(a)(2),
	:	410D(a)(3) and 410E(a)(3) of the
	:	Insurance Company Law, Act of
	:	May 17, 1921, P.L. 682, No. 284
	:	(40 P.S. §§ 625-4, 625-8, 625-9 and
	:	510)
	:	
	:	Section 354 of the Insurance Company
	:	Law, Act of May 17, 1921, P.L. 682,
	:	No. 284 (40 P.S. §477b)
	:	
	:	Title 31, Pennsylvania Code, Sections
	:	81.4(b)(1), 81.5(b), 81.6(a)(1),
	:	81.6(a)(2)(ii), 81.6(c), 83.3,
	:	83.3(a)(1)(2)(3)(4)(5)(6)(7), 83.4,
	:	83.4a, 83.4b, 83.3(a)(4)(i), 83.55,
	:	83.55(a), 83.55(b), 146.3, 146.5 and
	:	146.6
	:	
	:	Title 18, Pennsylvania Consolidated
	:	Statutes, Section 4117k
	:	
Respondent.	:	Docket No. MC10-05-007

CONSENT ORDER

AND NOW, this 16 day of July, 2010, 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.

3. Without admitting the allegations of fact and conclusions of law contained herein, Respondent neither admits nor denies that it violated any law or regulation of the Commonwealth.

FINDINGS OF FACT

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

- (a) Respondent is Protective Life Insurance Company, and maintains its address at 2801 Highway 280 South, Birmingham, AL 35223.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2008 to December 31, 2008.
- (c) On April 30, 2010, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on June 4, 2010.
- (e) 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 903(a) of the Insurance Department Act, Act of May 17, 1921 (40 P.S. §323.3), which requires every company subject to examination keep all records and documents relating to its business in such manner as may be required in order that the Department may verify whether the company has complied with the laws of this Commonwealth;

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

- (v) Section 408-A(e)(1)(ii) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which states if the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be mailed or delivered with the policy. The revised illustration shall conform to the requirements for basic illustrations contained in this act and shall be labeled “Revised Illustration.” The statement shall be signed and dated by the policy owner and producer no later than the time the policy is delivered. A copy shall be provided to the policy owner no later than the time the policy is delivered and to the insurer as soon as practical after the policy is delivered;
- (vi) Section 409-A of the Insurance Company Law, No. 284 (40 P.S. § 625-9), which states when there is solicitation for the replacement of an existing insurance policy or annuity with the same insurer or insurer group, the insurer shall, through its producers where appropriate, provide a “Notice Regarding Replacement of Life Insurance and Annuities” in the form set forth under Title 31, Pennsylvania Code, Chapter 81;
- (vii) Section 410D(a)(2) of the Insurance Company Law, No. 284 (40 P.S. § 510c), which requires individual fixed dollar life insurance or endowment policies which are offered as replacements for an existing life insurance policy or annuity contract with the same insurer or insurer group shall not be delivered in the Commonwealth unless they shall have prominently printed

on the first page of such policy or attached thereto, a notice stating that the policyholder shall be permitted to return the policy within at least 45 days of its delivery (“free look provision”);

(viii) Title 31, Pennsylvania Code, Section 410D(a)(3), which states individual fixed dollar life insurance policies or endowment insurance policies which are offered as replacements for an existing life insurance policy or annuity contract with an insurer or insurer group other than the one which issued the original policy or contract shall not be delivered in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such policy or attached thereto a notice stating in substance that the policyholder shall be permitted to return the policy within at least twenty (20) days of its delivery;

(ix) Title 31, Pennsylvania Code, Section 410E(a)(3), which states individual fixed dollar annuity contracts which are offered as replacements for an existing annuity contract or life insurance policy with an insurer or insurer group other than the one which issued the original contract or policy shall not be entered into in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such contract or attached thereto a notice stating in substance that the contract holder shall be permitted to return the contract within at least twenty (20) days of its delivery;

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

- (xiv) 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;
- (xv) 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;
- (xvi) 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;
- (xvii) Title 31, Pennsylvania Code, Sections 83.3(a)(1), (2), (3), (4), (5), (6) and (7), which requires a disclosure statement to be a document which shall

describe the purpose and importance of the disclosure and describe the significant elements of the policy and riders being offered;

- (xviii) Title 31, Pennsylvania Code, Section 83.4, which requires the written disclosure statement shall be given no later than the time the application form is signed by the applicant;
- (xix) 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;
- (xx) 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;
- (xxi) Title 31, Pennsylvania Code, Section 83.3(a)(4)(i), which requires the disclosure statement to list the name of the producer, home address or agency address and home or agency telephone number of the insurance producer making the solicitation;

(xxii) 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;

(xxiii) 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;

(xxiv) 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;

(xxv) Title 31, Pennsylvania Code, Section 146.5, which states 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. 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;

(xxvi) 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

(xxvii) 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

5. 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 violations of Sections 404-A, 408-A, 409-A, 410D and 410E of the Insurance Company Law, No. 284 (40 P.S. §§625-4, 625-8, 625-9 and 510) 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 Section 354 of the Insurance Company Law (40 P.S. §477b) are punishable by the following:
- (i) suspension or revocation of the license(s) of Respondent;
 - (ii) refusal, for a period not to exceed one year thereafter, to issue a new license to Respondent;
 - (iii) imposition of a fine of not more than one thousand dollars (\$1,000.00) for each act in violation of the Act.
- (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, Sections 146.3, 146.5 and 146.6 are punishable under Section 9 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9):
 - (i) cease and desist from engaging in the prohibited activity;
 - (ii) suspension or revocation of the license(s) of Respondent.

- (h) 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 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 Thirty-Five Thousand Dollars (\$35,000.00) 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 Sharon L. Fraser, Bureau of Market Actions, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

7. 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.

8. 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.

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 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: PROTECTIVE LIFE INSURANCE
COMPANY, Respondent


~~President~~ / Vice President


Secretary / ~~Treasurer~~


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

I. INTRODUCTION

The Market Conduct Examination was conducted on Protective Life Insurance Company; hereafter referred to as "Company," at the Company's office located in Birmingham, Alabama, August 10, 2009, through October 16, 2010. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

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

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

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

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

Daniel Stemcosky, AIE, FLMI, MCM
Market Conduct Division Chief

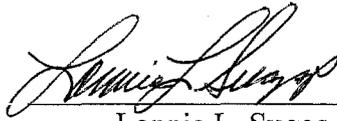
Lonnie L. Suggs
Market Conduct Examiner

Frank W. Kyazze, AIE, FLMI, ALHC, MCM
Market Conduct Examiner

Michael A. Jones
Market Conduct Examiner

VERIFICATION

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



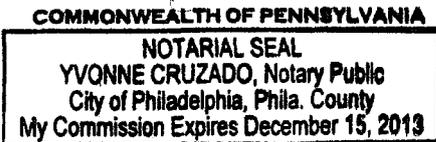
Lonnie L. Suggs, Examiner-In-Charge

Sworn to and Subscribed Before me

This *27th* Day of *April*, 2010



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, 2008, through December 31, 2008, unless otherwise noted. The purpose of the examination was to ensure compliance with Pennsylvania insurance laws and regulations.

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

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

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

III. COMPANY HISTORY AND LICENSING

Protective Life Insurance Company, a life and health insurance company, was incorporated in the State of Alabama on July 24, 1907, and commenced business on September 1, 1907. Protective redomesticated to the State of Tennessee on December 29, 1992.

The Company received its certificate of authority to operate in the Commonwealth of Pennsylvania on April 9, 1981. The Company is authorized to do business in 49 states plus the District of Columbia, American Samoa, Guam, Puerto Rico, the Commonwealth of the Northern Mariana Islands and the U.S. Virgin Islands.

Protective markets a full line of fixed and variable individual life and annuity products through independent agents, stockbrokers and financial institutions. The Company also has a division devoted to the acquisition of insurance policies from other insurers, as well as entire insurance companies. The Company's credit life and credit disability insurance products are marketed by employee field representatives and general agents representing Protective.

In July, 2006, Protective and affiliated companies acquired five insurance companies from J P Morgan Chase & Company. Through various transactions, the business of three companies merged into Protective effective January 1, 2007. Also on January 1, 2007, Empire General Life Assurance Corporation was merged into Protective.

As of the Company's December 31, 2007, annual statement for Pennsylvania, Protective Life Insurance Company reported direct premiums for ordinary life insurance and annuity considerations in the amount of \$71,329,181 and direct premiums earned for accident and health insurance in the amount of \$3,103,831.

IV. ADVERTISING

The Company was requested to provide a copy of the Advertising Certificate of Compliance submitted to the Department for the experience period. The certification was requested to ensure compliance with Title 31, Pennsylvania Code, Section 51.5. Section 51.5 provides that "A company required to file an annual statement which is now or which hereafter becomes subject to this chapter shall file with the Department with its Annual Statement a Certificate of Compliance executed by an authorized officer of the company wherein it is stated that to the best of his knowledge, information and belief the advertisements which were disseminated by the company during the preceding statement year complied or were made to comply in all respects with the provisions of the insurance laws and regulations of this Commonwealth." No violations were noted.

V. FORMS

The Company was requested to provide a list and copies of all individual and group policy/certificate forms, conversion contracts, applications, riders, amendments and endorsements used during the experience period of January 1, 2008, through December 31, 2008, in Pennsylvania. The forms provided 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:

11 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.

Department form approval could not be established for the forms noted. The form number, description and frequency of use is listed in the table below.

Form No.	Description	Frequency of Use
IPD-2081	Application	10
IPD-2082FL	Application	1

2 Violations - Title 18, Pennsylvania Consolidated Statutes, 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 application noted did not contain the required fraud statement. The form number and frequency of use are listed in the table below.

Form No.	Frequency of Use
IPD-2110 5/06	2

VI. PRODUCER LICENSING

Although the Company was not requested to provide a list of all producers active and terminated during the experience period, a comparison was made on the individuals identified as producers on applications reviewed in the policy issued sections of the exam.

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

The following violations were noted:

4 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 individuals were listed as producers on applications reviewed in the policy issued sections of the exam. Department records do not identify these individuals as being appointed by the company.

Producer
John F. Coleman
Craig A. Dykstra
Bruce Cassens
William A. Timm

VII. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of consumer complaint logs for 2004, 2005, 2006 and 2007. The Company identified 30 Department complaints received during the experience period. A random sample of 25 complaint files was requested, received and reviewed. The Company provided complaint logs as requested. The Department's list of written consumer complaints that were forwarded to the Company during the experience period was compared to the Company's complaint log.

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

No violations were noted.

VIII. UNDERWRITING

The Underwriting review was sorted and conducted in 12 general segments.

- A. Underwriting Guidelines
- B. Group Fixed Annuity Contracts Issued
- C. Group Variable Annuity Contracts Issued
- D. Immediate Annuity Contracts Issued (IMS)
- E. Immediate Annuity Contracts Issued (LPS)
- F. Term Life Policies Issued
- G. Group Variable Annuities Issued as Replacements
- H. Ordinary Life Policies Issued as Replacements
 - I. Individual Universal Life Policies Issued as Replacements
 - J. Variable Universal Life Policies Issued as Replacements
- K. Ordinary Life Term Conversions
- L. Individual Universal Life Term Conversions

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

A. Underwriting Guidelines

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

The following guidelines were reviewed:

- Swiss Underwriting Manual January 1, 2008 to September 30, 2008; Gen-Re underwriting manual October 1, 2008 to December 31, 2008
- Producer's Underwriting Guide Institutional Distribution Group (IDG)
- Producer's Underwriting Guide Independent Agent Distribution (IAD),
- New Business NAIC Life Insurance Illustration procedures; (Undated)
- A narrative of the training process
- A narrative of the declination procedures

B. Group Fixed Annuity Contracts Issued

The Company identified a universe of 298 group fixed annuity contracts issued during the experience period of January 1, 2008 to December 31, 2008. A random sample of 50 files was requested, received and reviewed. The files were reviewed to determine compliance with issuance, and replacement statutes and regulations. The following violations were noted:

14 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 14 files noted were missing pertinent documents or data.

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 on the application in the file noted.

1 Violation – Insurance Company Law, Section 409-A (40 P.S. §625-9)

Replacements With the Same Insurer or Insurer Group. When there is solicitation for the replacement of an existing insurance policy or annuity with the same insurer or insurer group, the insurer shall, through its producers where appropriate, provide a "Notice Regarding Replacement of Life Insurance and Annuities" in the form set forth under Title 31, Pennsylvania Code, Chapter 81 (relating to replacement of life insurance and annuities).

The file noted did not contain the required notice of replacement.

C. Group Variable Annuity Contracts Issued

The Company identified a universe of 77 group variable annuity contracts issued during the experience period of January 1, 2008 through December 31, 2008. A random sample of 50 annuity contract files was requested, received and reviewed. The files were reviewed to determine compliance with issuance, and replacement statutes and regulations. No violations were noted.

D. Immediate Annuity Contracts Issued (IMS)

The Company identified a universe of 10 immediate annuity contracts issued which were housed on the Insurance Management System (IMS), during the experience period of January 1, 2008 through December 31, 2008. All 10 contract files were requested, received and reviewed. The 10 files received were reviewed to determine compliance with issuance, and replacement statutes and regulations. The following violations were noted:

4 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 contract delivery receipt in the 4 files noted was not signed by the producer.

1 Violation - Insurance Company Law, Section 410E(a)(3) (40 P.S. §510d)

Individual fixed dollar annuity contracts which are offered as replacements for an existing annuity contract or life insurance policy with an insurer or insurer group other than the one which issued the original contract or policy shall not be entered

into in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such contract or attached thereto a notice stating in substance that the contract holder shall be permitted to return the contract within at least twenty (20) days of its delivery.

The contract did not contain the required 20-day "free look" statement.

E. Immediate Annuity Contracts Issued (LPS)

The Company identified a universe of 8 immediate annuity contracts issued which were housed on the Leverage Payout System (LPS) during the experience period of January 1, 2008, through December 31, 2008. All 8 contract files were requested, received and reviewed. Of the 8 files, 2 were determined to be out of the experience period. The remaining 6 files were reviewed to determine compliance with issuance, and replacement statutes and regulations. The following violations were noted:

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

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

policy or annuity and of establishing the date from which any applicable policy or examination period shall commence.

The delivery receipts in the 2 files noted were not signed by the producer.

F. Term Life Policies Issued

The Company identified a universe of 8 term life policies issued during the experience period of January 1, 2008 to December 31, 2008. All 8 term life insurance policy files were requested, received and reviewed. One file was determined to have been included in the universe in error. The remaining 7 files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. No violations were noted.

G. Group Variable Annuities Issued as Replacements

The Company identified a universe of 41 variable annuities issued as replacement contracts during the experience period of January 1, 2008 to December 31, 2008. A random sample of 25 contract files was requested, received and reviewed. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

1 Violation - 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:

(1) 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 on the application in the file noted.

1 Violation – Insurance Company Law, Section 409-A (40 P.S. §625-9)

Replacements With the Same Insurer or Insurer Group. When there is solicitation for the replacement of an existing insurance policy or annuity with the same insurer or insurer group, the insurer shall, through its producers where appropriate, provide a "Notice Regarding Replacement of Life Insurance and Annuities" in the form set forth under Title 31, Pennsylvania Code, Chapter 81 (relating to replacement of life insurance and annuities).

The file noted did not contain the required notice of replacement.

H. Ordinary Life Policies Issued as Replacements

The Company identified a universe of 140 ordinary life policies issued as replacements during the experience period of January 1, 2008 through December 31, 2008. A random sample of 75 policy files was requested, received and reviewed. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

4 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 not dated in the 4 files noted.

1 Violation - Title 31, Pennsylvania Code, Section 81.6(a)(2)(ii)

An insurer that uses an agent or broker in a life insurance or annuity sale shall, if replacement is involved: Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under subparagraph (I) and in the case of life insurance, the disclosure statement as required by § 83.3 (relating to disclosure statement) or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 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 was not sent within 5 working days in the file noted.

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

The replacing insurer shall maintain evidence of the Notice Regarding Replacement of Life Insurance and Annuities.

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

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.

The 2 files noted did not contain a copy of the required disclosure statement.

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

A disclosure statement shall be a document which shall describe the purpose and importance of the disclosure and describe the significant elements of the policy and riders being offered.

The disclosure form was incomplete in the 8 files noted.

11 Violations - Title 31, Pennsylvania Code, Section 83.3(a)(4)(i)

A disclosure statement shall describe the name of the agent or broker, home address or agency address and the home or agency telephone number of the insurance agent or broker making the solicitation.

The agent's telephone number and/or address were missing on the disclosure form in the 11 files noted.

4 Violations - Title 31, Pennsylvania Code, Section 83.4. Time of Delivery

Except as otherwise provided herein, the written disclosure statement shall be given no later than the time the application form is signed by the applicant.

Of the 4 files noted, the disclosure form was dated after the application date in 3 files. In the remaining file, the disclosure form was not dated and the Department was unable to ascertain the date it was given to the applicant.

9 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.

Of the 9 files noted, 2 files did not contain a copy of the required agent's certification of disclosure and the disclosure certification was not signed in the remaining 7 files.

12 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 delivery receipts were not signed by the producers of record in the 12 files noted.

2 Violations - Insurance Company Law, Section 410D(a)(2) (40 P.S. §510c)

Individual fixed dollar life insurance or endowment policies which are offered as replacements for an existing life insurance policy or annuity contract with the same insurer or insurer group shall not be delivered in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such policy or attached thereto a notice stating in substance that the policyholder shall be permitted to return the policy within at least forty-five (45) days of its delivery.

The 2 files noted did not contain the required 45 day "free look" statement.

I. Individual Universal Life Policies Issued as Replacements

The Company identified a universe of 28 individual universal life policies issued as replacements during the experience period of January 1, 2008 to December 31, 2008. All 28 policy files were requested, received and reviewed. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

4 Violations – Insurance Company Law, Section 410D(a)(3) (40 P.S. §510c)

Individual fixed dollar life insurance policies or endowment insurance policies which are offered as replacements for an existing life insurance policy or annuity contract with an insurer or insurer group other than the one which issued the original policy or contract shall not be delivered in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such policy or attached thereto a notice stating in substance that the policyholder shall be permitted to return the policy within at least twenty (20) days of its delivery.

The 4 files noted did not contain the required 20 day "free look" statement.

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 was not sent within 5 working days for the 2 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 for review prior to use.

The file noted did not include the Cost Surrender Comparison Index Disclosure.

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 file noted.

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

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

The file noted contained a revised illustration but the illustration was not labeled as "Revised Illustration".

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

A statement to be signed and dated by the producer reading as follows: "I certify that this illustration has been presented to the applicant or the policy owner and that I have explained that any nonguaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration."

The writing agent did not sign the revised illustration in the 19 files noted.

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

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

Verification of policy delivery could not be established in the file noted.

J. Variable Universal Life Policies Issued as Replacements

The Company identified a universe of 5 variable universal life policies issued as replacements during the experience period. All 5 policy files were requested, received and reviewed. The files were reviewed to determine compliance with issuance, and replacement statutes and regulations. No violations were noted.

K. Ordinary Life Term Conversions

The Company identified a universe of 1 ordinary life term conversion policy issued during the experience period. The conversion file was requested, received and reviewed. The file was reviewed to determine compliance to issuance and underwriting statutes and regulations. The following violation was 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.

The producer did not sign the policy delivery receipt.

L. Individual Universal Life Term Conversions

The Company identified a universe of 56 individual universal term life conversion policies issued during the experience period of January 1, 2008 through December 31, 2008. A random sample of 25 policy 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:

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

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

The producer did not sign the delivery receipt in the 4 files noted.

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

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

The producer did not sign the revised illustration in the 5 files 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.
- (4) The laws requires that each insurer shall make available for the Department's inspection upon request its internal audit and compliance procedures which are instituted as required by this section.

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 documentation:

1. Life Claims Narrative (dated) 12/23/2008
 - I. Notification
 - II. Claim Record – System
 - III. Claim Process
 1. Non – Contestable (< \$10,000)
 2. Non - Contestable (> \$10,000)
 3. Contestable
 - IV. Payment
 - V. Reinsurance
 - VI. Bank Reon
 - VII. GL Recon

2. Annuity Death claim Procedures (Undated) Procedures
 - I. Spousal Continuation
 - II. Lump Sum Payment of proceeds
 - III. Annuitize the proceeds
 - IV. Disclaiming Death Benefits

The 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 following concern was noted:

Concern: The Company did not provide any training manuals, internal audit examination manuals or Company memos as requested. Although the Life Claims

Narrative dated December 23, 2008, Section 1, Notification indicates that the majority of claim notification are received either through telephone calls to the Company or by mail and then scanned into Acorde.

The claim file review consisted of 9 areas:

- A. Fixed Annuity Claims
- B. Immediate Annuity Claims (LPS)
- C. Variable & Index Annuity Claims (TLS)
- D. Medical Denied Claims
- E. Medical Payment Claims
- F. Disability Payment Claims
- G. First Variable Life Annuity Claims
- H. Life Claims
- I. Third Party Administrator Life 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.

A. Fixed Annuity Claims

The Company was requested to provide a list of claims received during the experience period of January 1, 2008 through December 31, 2008. The Company identified a universe of 12 fixed annuity claims. All 12 claim files were requested, received and reviewed. The files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. The following violations were noted:

4 Violations - 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 4 claim files noted were missing proof of claim notifications.

3 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 3 claims noted.

B. Immediate Annuity Claims (LPS)

The Company was requested to provide a list of claims received during the experience period of January 1, 2008 through December 31, 2008. The Company identified a universe of 5 immediate annuity claims which were housed on the Leverage Payout System (LPS). The 5 claim files were requested, received and reviewed. The files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. No violations were noted.

C. Variable & Index Annuity Claims (TLS)

The Company was requested to provide a list of all claims received during the experience period of January 1, 2008 through December 31, 2008. The Company identified a universe of 7 variable & index annuity claims which were housed on the The Leverage System (TLS). All 7 claim files were requested, received and reviewed. The files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. The following violations were noted:

4 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 status letters in the 4 files noted.

D. Medical Denied Claims

The Company was requested to provide a list of all claims received during the experience period of January 1, 2008 through December 31, 2008. The Company identified a universe of 1 denied medical claim. The claim file was requested, received and reviewed. The provider submitted claim was reviewed for compliance with Insurance Company Law of 1921, Section 2166 (40 P.S. §991.2166), Prompt Payment of Claims and other pertinent state insurance laws and regulations. No violations were noted.

E. Medical Payment Claims

The Company was requested to provide a list of all claims received during the experience period of January 1, 2008 through December 31, 2008. The Company identified a universe of 6 medical payment claims. All 6 claim files were requested, received and reviewed. The files were reviewed for compliance with Insurance Company Law. §991.2166), Prompt Payment of Claims, for any provider submitted claims, and any insured submitted claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. No violations were noted.

F. Disability Payment Claims

The Company was requested to provide a list of all claims received during the experience period of January 1, 2008 through December 31, 2008. The Company identified a universe of 11 disability payment claims. All 11 claim files were requested, received and reviewed. All 11 claims were insured submitted. The files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. No violations were noted.

G. First Variable Life Annuity Claims

The Company was requested to provide a list of claims received during the experience period of January 1, 2008 through December 31, 2008. The Company identified a universe of 2 first variable life annuity claims. The 2 claim files were requested, received and reviewed. The files were reviewed for compliance with Title 31, Pennsylvania Code, 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 timely status letters for the 2 claims noted.

H. Life Claims

The Company was requested to provide a list of claims received during the experience period of January 1, 2008 through December 31, 2008. The Company identified a universe of 165 individual life claims received. A random sample of 50 claim files was requested, received and reviewed. The 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.

I. Third Party Administrator Life Claims

The Company was requested to provide a list of claims received during the experience period of January 1, 2008 to December 31, 2008. The Company identified 150 third party administrator life claims received. A random sample of 25 claim files was 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 violation was noted:

1 Violation - Title 31, Pennsylvania Code, Section 146.5

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

The Company failed to acknowledge the claim within 10 working days.

XI. RECOMMENDATIONS

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

1. The Company must implement procedures to ensure compliance with the fraud statement notice requirements of Title 18, Pennsylvania Consolidated Statutes, Section 4117(k).
2. The Company must review 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).
3. The Company must review and revise Licensing procedures to ensure compliance with Section 671-A of the Insurance Department Act of 1921 (40 P.S. §310.71).
4. The Company must review and revise procedures to ensure all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the Company are maintained in such manner and for such period of time to ensure compliance with Section 903(a) of the Insurance Department Act of 1921 (40 P.S. §323.3).
5. The Company must review and revise internal control procedures to ensure compliance with the replacement requirements of Title 31, Pennsylvania Code, Chapter 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).
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 implement internal control procedures to ensure compliance with replacement requirements of Section 409-A of the Insurance Company Law of 1921 (40 P.S. §625-9).
10. The Company must review internal control procedures to ensure compliance with Section 410D of the Insurance Company Law of 1921 (40 P.S. §510c) pertaining to the “Free Look” provision requirements for life insurance and endowment insurance.
11. The Company must review internal control procedures to ensure compliance with Section 410E of the Insurance Company Law of 1921 (40 P.S. §510d) pertaining to the “Free Look” provision requirements for annuity and pure endowment contracts.
12. The Company must review and revise internal control procedures to ensure compliance with requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices.

XII. COMPANY RESPONSE

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June 4, 2010

VIA UPS NEXT DAY DELIVERY
Tracking #: 1Z 331 167 01 9711 7727

Chris Monahan, Director
Bureau of Market Actions
Pennsylvania Insurance Department
1321 Strawberry Square
Harrisburg, PA 17120

Re: Protective Life Insurance Company
Examination Warrant Number: 09-M24-007

Dear Mr. Monahan:

We have reviewed the Report of Examination of Protective Life Insurance Company covering the period January 1, 2008 through December 31, 2008. With the exception of the violation listed on page 14 (regarding the requirement that producers hold a Pennsylvania insurance license), we otherwise agree with the Report as it stands.

Attached you will find Protective Life Insurance Company's "Response to XI. Recommendations" which are found on pages 41 and 42 of the Report. We addressed our question regarding the producer licensing issue in this Response.

We would like to thank you and your staff for the professional, knowledgeable and cooperative manner in which this exam was conducted. We, too, look forward to working with you to reach an appropriate resolution to the issues raised by the examination.

Yours truly,

A handwritten signature in black ink, appearing to be "Lynn W. Williams", written over a horizontal line.

(Mrs.) Lynn W. Williams, CLU

Attachment:

PROTECTIVE LIFE INSURANCE COMPANY

RESPONSE TO

XI. RECOMMENDATIONS

Protective Life Insurance Company hereby respectfully submits its corrective actions in response to the Pennsylvania Insurance Department's recommendations which are found on pages 41 and 42 of the Report of Examination of Protective Life Insurance Company:

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

Company Response: Steps have been taken to ensure that only applications that have been updated with the required fraud language are available for use in Pennsylvania.

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

Company Response: Steps have been taken to ensure the use of forms filed and approved.

3. The Company must review and revise Licensing procedures to ensure compliance with Sections 641.1-A and Section 671-A of the Insurance Department Act of 1921 (40 P.S. §§310.41a and 310.71).

Company Response: The responsible areas have been reminded of the requirements of Section 671-A (40 P.S. §310.71), that agents must be appointed by the Company. Edits have been placed in the processing system to handle these requirements. Compliance will perform periodic audits to help ensure compliance with these requirements.

With respect to Section 641.1-A (40 P.S. §310.41a) regarding a producer not holding a Pennsylvania insurance license, we have reviewed the production materials and we cannot find where this violation was previously cited. Additionally, we researched our producer licensing and appointment system and did not find a "Douglas Felts" or a "Felts Douglas" listed as appointed or licensed with us in any state. We therefore respectfully request that this violation either be removed, or that further information be provided to us regarding this violation.

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

Company Response: The responsible areas have been reminded of the requirement that all records must contain pertinent documents and/or data.

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

Company Response: The responsible areas have been reminded of the replacement requirements. Edits have been placed in the processing system to identify the replacement requirements. Compliance will perform periodic audits to help ensure compliance with these requirements.

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

Company Response: The responsible areas have been reminded of the disclosure requirements. Edits have been placed in the processing system to identify the disclosure requirements. Compliance will perform periodic audits to help ensure compliance with these requirements.

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).

Company Response: The responsible areas have been reminded of the policy delivery receipt requirements. A project has been implemented to ensure that the producer's signature line will be added to the delivery receipt.

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).

Company Response: The responsible areas have been reminded of the illustration certification and delivery requirements. A project has been implemented to ensure that the producer's signature line will be added to revised illustrations.

9. The Company must implement internal control procedures to ensure compliance with replacement requirements of Section 409-A of the Insurance Company Law of 1921 (40 P.S. §625-9).

Company Response: The responsible areas have been reminded of the replacements requirements. Edits have been placed in the processing system to identify the replacement requirements. Compliance will perform periodic audits to help ensure compliance with these requirements.

10. The Company must review internal control procedures to ensure compliance with Section 410D of the Insurance Company Law of 1921 (40 P.S. §510c) pertaining to the "Free Look" provision requirements for life insurance and endowment insurance.

Company Response: The responsible areas have been reminded of the "Free Look" provision requirements for life insurance and endowment insurance. A project has been implemented to make sure that the applicable "Free Look" requirements are in place.

11. The Company must review internal control procedures to ensure compliance with Section 410E of the Insurance Company Law of 1921 (40 P.S. §510d) pertaining to the "Free Look" provision requirements for annuity and pure endowment contracts.

Company Response: The responsible areas have been reminded of the "Free Look" provision requirements for annuity and pure endowment contracts. A project has been implemented to make sure that the applicable "Free Look" requirements are in place.

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

Company Response: The claims processing areas have been reminded of the requirements outlined in Chapter 146 regarding unfair claims settlement practices, paying special attention to maintaining proof of claim notifications, acknowledging receipt of a notice of claim in a timely manner, and providing timely status letters when appropriate.