

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

**SECURITY MUTUAL LIFE INSURANCE
COMPANY OF NEW YORK**
Binghamton, New York

**AS OF
March 3, 2008**

COMMONWEALTH OF PENNSYLVANIA



**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: April 28, 2008

SECURITY MUTUAL LIFE INSURANCE COMPANY OF NEW YORK

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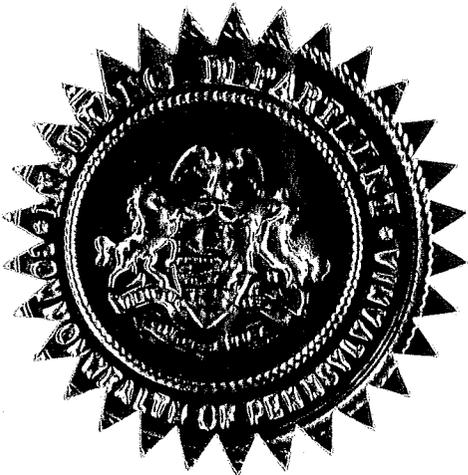
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 6th 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

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 Security Mutual Life Insurance Company of New York, and maintains its address at 100 Court Street, Binghamton, New York 13902.

(b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from July 1, 2005 to June 30, 2006.

- (c) On March 3, 2008, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on March 24, 2008.
- (e) After consideration of the March 24, 2008, response, the Insurance Department has modified the Examination Report as attached.
- (f) The Examination Report notes violations of the following:
 - (i) Section 641.1-A of Act 147 of 2002 prohibits any entity or the appointed agent of any entity from transacting the business of insurance through anyone acting without an insurance producer license (40 P.S. § 310.41a);
 - (ii) Section 671-A of Act 147 of 2002 (40 P.S. § 310.71), which prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act;
 - (iii) Section 903(a) of the Insurance Department Act, No. 285 (40 P.S. § 323.3), which requires every company or person subject to examination must keep all books, records, accounts, papers, documents and any or all computer or

other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the Department may require, in order that its representatives may ascertain whether the company has complied with the laws of the Commonwealth;

- (iv) 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;

- (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 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 81.6(c), which requires the replacing insurer to maintain evidence of the Notice Regarding Replacement of Life Insurance and Annuities;
- (xiii) Title 31, Pennsylvania Code, Section 83.3, which requires written disclosure. A life insurance agent, broker or insurer soliciting the type of business to which this subchapter applies shall provide a prospective purchaser with a written disclosure statement clearly labeled as such;
- (xiv) Title 31, Pennsylvania Code, 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;
- (xv) 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;

(xvi) Title 31, Pennsylvania Code, Section 83.55(c), which states if it is the practice of the insurer to mail the policy directly to the applicant, the appropriate officer of the insurer shall certify, in conjunction with the annual statement of the insurer, that in accordance with this subchapter surrender comparison index disclosures have been included with policies at delivery or provided earlier upon request. Failure to so certify shall constitute *prima facie* evidence that surrender comparison index disclosures have not been provided to prospective purchasers of life insurance;

(xvii) 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;

(xviii) 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;

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

CONCLUSIONS OF LAW

5. In accord with the above Findings of Fact and applicable provisions of law, the 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 Sections 641-A and 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 and 408-A of the Insurance Company Law, No. 284 (40 P.S. §§625-4 and 625-8) are punishable by the following, under 40 P.S. § 625-10: Upon determination by hearing that this act has been violated, the commissioner may issue a cease and desist order, suspend, revoke or refuse to renew the license, or impose a civil penalty of not more than \$5,000 per violation.

(d) Respondent's violations of 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);

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

(i) For failing to insure adequate disclosure of basic information, after a hearing, a company may be subject to the penalties provided under 40 P.S. § 475, for violations of 40 P.S. §§ 472 through 474. In addition, failure to make the disclosure outlined in this subchapter may be considered a violation of 40 P.S. §§ 1171.1 through 1171.15.

(f) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.3, 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.

(g) In addition to any penalties imposed by the Commissioner for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 – 1171.5), the Commissioner may, under Sections 10 and 11 of the Unfair

Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:

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

ORDER

6. In accord with the above Findings of Fact and Conclusions of Law, the 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 Forty-Five Thousand Dollars (\$45,000.00) 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.

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.

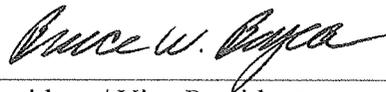
9. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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.

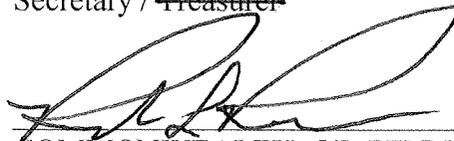
BY: SECURITY MUTUAL LIFE INSURANCE
COMPANY OF NEW YORK, Respondent



President / ~~Vice President~~



Secretary / ~~Treasurer~~



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

I. INTRODUCTION

The Market Conduct Examination was conducted on Security Mutual Life Insurance Company of New York, hereafter referred to as “Company,” at the Company’s office located in Binghamton, New York, February 6, 2007, through March 30, 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.

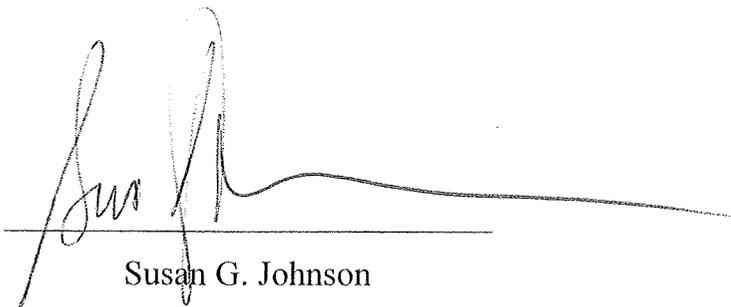
Throughout the course of the examination, Company officials were provided status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company officials 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.



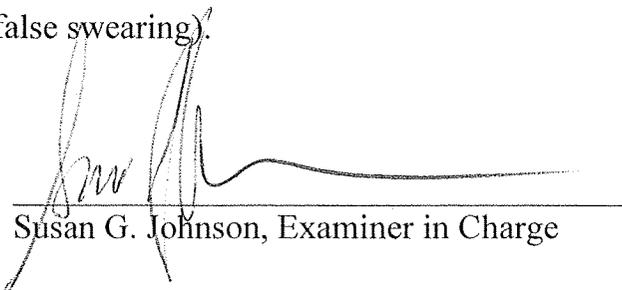
Daniel Stemcosky, AIE, FLMI
Market Conduct Division Chief



Susan G. Johnson
Market Conduct Examiner

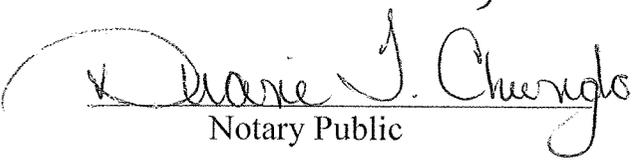
VERIFICATION

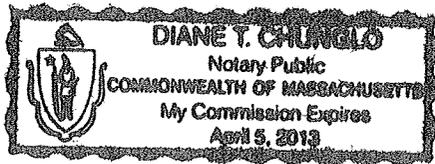
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).


Susan G. Johnson, Examiner in Charge

Sworn to and Subscribed Before me

This 11th 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 July 1, 2005, through June 30, 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

The Company was incorporated as Security Mutual Life Association on November 6, 1886 as a mutual assessment association and commenced business on January 3, 1887. The Company was re-incorporated as Security Mutual Life Insurance Company, a stipulated premium company, on May 31, 1898. The Company reorganized on December 28, 1899 as a legal reserve mutual company. The Company changed its name to Security Mutual Life Insurance Company of New York in 1960. The Company is licensed in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. The Company offers individual, worksite and group life insurance, group disability insurance and individual annuities.

The Company has been licensed in Pennsylvania since 1899. As of their 2005 annual statement for Pennsylvania, the Company reported direct premiums for ordinary and group life insurance, annuities and deposit-type contract funds of \$10,694,222 and direct premium for accident and health insurance of \$2,662,279.

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. No violations were noted.

VI. PRODUCER LICENSING

The Company was requested to provide a list of all producers active and terminated during the experience period. Section 671-A (40 P.S. §310.71) of the Insurance Department Act prohibits agents from doing business on behalf of any entity without a written appointment from that entity. Section 641.1-A (40 P.S. §310.41a) of the Insurance Department Act prohibits a company from accepting insurance 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 producers and 2 group student producers. The entire list was 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:

11 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 6 individuals/entities were listed as a producer on 11 applications reviewed in the policy issued sections of the exam. Department records did not identify these individuals as being appointed by the company at the time of application.

Producer
Eric Blumencranz
Brian McGeehan
Daniel Norris
John Mazzola
David Babcock
School M Independent

5 Violations –Insurance Department Act, No. 147, Section 641.1-A (40 P.S. §310.41a)

(a) Any insurance entity or licensee accepting applications or orders for insurance or securing any insurance business that was sold, solicited or negotiated by any person acting without an insurance producer license shall be subject to civil penalty of no more than \$5000 per violation in accordance with this act. This section shall not prohibit an insurer from accepting an insurance application directly from a consumer or prohibit the payment or receipt of referral fees in accordance with this act.

(b) A person that violates this section commits a misdemeanor of the third degree.

The following entity was listed as a producer on 5 applications reviewed in the policy issued sections of the exam. Department records do not identify these individuals as holding a Pennsylvania insurance license at the time of application.

Producer
School M Independent

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 identified 4 consumer complaints received during the experience period. Of the 4 complaints identified, 3 were forwarded from the Department. All 4 complaint files were requested, received and reviewed. The Company provided complaint logs as requested. The Department's list of written consumer complaints that were forwarded to the Company during the experience period was compared to the Company's complaint log.

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

VIII. UNDERWRITING

The Underwriting review was sorted and conducted in 11 general segments.

- A. Underwriting Guidelines
- B. Group Policies Issued
- C. Group Student Policies Issued
- D. Group Certificates Issued
- E. Group Student Certificates Issued
- F. Individual Life Policies Issued
- G. Term Life Policies Issued
- H. Annuity Contracts Issued
- I. Life Policies Issued as Replacements
- J. Term Life Policies Issued as Replacements
- K. 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. Individual Life Insurance
2. Group Insurance UW Controls
3. Benefits Division Response to Question B.1 of PA Market Conduct Preliminary Exam
4. Individual (non-worksites) Underwriting Guidelines
5. Group LTW UWing Guidelines
6. Group Products Available for Marketing
7. Group UWing Manual
8. STD UW
9. Underwriting Guidelines – Worksite

B. Group Policies Issued

The Company was requested to provide a list of all group policies issued during the experience period. The company identified 36 group policies issued. A random sample of 10 group policy files was requested, received and reviewed. The policy files were reviewed to determine compliance to issuance statutes and regulations. No violations were noted.

C. Group Student Policies Issued

The Company was requested to provide a list of all group policies issued during the experience period. The company identified 12 group student policies issued. All 12 group student policy files were requested, received and reviewed. The policy files were reviewed to determine compliance to issuance statutes and regulations. No violations were noted.

D. 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 11,252 group 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.

E. Group Student 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 238 student certificate holders. A random sample of 25 student certificate holders enrolled was requested. The company failed to provide the student certificates citing Pennsylvania Insurance 40 P.S §756.3(c) – Blanket Group Classifications. The

group policy was reviewed to ensure compliance with Title 18, Pennsylvania Consolidated Statutes, Section 4117(k). No violations were noted.

F. Individual Life Policies Issued

The Company identified a universe of 282 life policies issued during the experience period. A random sampling of 50 individual life policy files was requested, received and reviewed. Of the 50 files requested, 2 files were outside of Pennsylvania's jurisdiction. The remaining 48 policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

40 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. Evidence that a written disclosure was provided at the time of application could not be established in the 40 files noted.

40 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 40 files noted.

36 Violations – Title 31, Pennsylvania Code, Section 83.55c

If it is the practice of the insurer to mail the policy directly to the applicant, the appropriate officer of the insurer shall certify, in conjunction with the annual statement of the insurer, that in accordance with this subchapter surrender comparison index disclosures have been included with policies at delivery or provided earlier upon request. Failure to so certify shall constitute prima facie evidence that surrender comparison index disclosures have not been provided to prospective purchasers of life insurance. The 36 files noted indicated that delivery of the policies had been made by mail with no evidence of the annual certification of surrender comparisons index disclosures by an officer of the insurer.

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

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

means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence. Verification of the date of policy delivery could not be established in the 36 files noted.

1 Violation– Insurance Company Law, Section 408-A(e)(1)(ii) (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 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 illustration dated 5/11/06 was not labeled “Revised” in the file noted.

**6 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 signed certification and acknowledgement that no illustration was used in the sale of the life insurance policy was not evident in the 6 files noted.

2 Violations – Insurance Company Law, Section 408-A(e)(2)(iii)

(40 P.S. §625-8)

The following applies if no illustration is used by a producer in the sale of a life insurance policy or if a screen illustration is displayed. If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed by the policy owner no later than the time the policy is delivered. A copy shall be provided to the policy owner at the time the policy is delivered and to the insurer. The signed certification and acknowledgement of the delivery of an illustration was dated after the date of policy delivery in the 2 files noted.

G. Term Life Policies Issued

The Company identified a universe of 78 term life policies issued during the experience period. A random sample of 25 term life policy files were requested, received and reviewed. After review one file was determined to be outside of Pennsylvania's jurisdiction. The remaining 24 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)(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 wasn't sent within 5 working days from the date or receipt in the file noted.

12 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. Evidence that a written disclosure was provided could not be established in the 12 files noted.

12 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 12 files noted.

H. Annuity Contracts Issued

The Company identified a universe of 2 annuity contracts issued during the experience period. Both of the annuity contracts were requested, received and reviewed. Annuity contracts were reviewed to determine compliance with issuance, and replacement statutes and regulations. No violations were noted.

I. Life Policies Issued as Replacements

The Company identified a universe of 18 life policies issued as replacements during the experience period. All 18 replacement files were requested, received and reviewed. The replacement policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

10 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 10 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 completed in the file noted.

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

An insurer that uses an agent or broker in a life insurance or annuity sale shall: Require with or as part of a completed application for life insurance or annuity a statement signed by the agent or broker as to whether the broker knows replacement is or may be involved in the transaction. The agent's statement on replacement was not completed for the 3 files noted.

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

An insurer that uses an agent or broker in a life insurance or annuity sale shall, if replacement is involved: Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under subparagraph (I) and in the case of life insurance, the disclosure statement as required by § 83.3 (relating to disclosure statement) or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 5 working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner. The replacement letter to the replaced company was not sent within 5 working days of the date received in the 15 files noted.

17 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. Evidence that a written disclosure was provided could not be established in the 17 files noted.

17 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 17 files noted.

17 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 signed certification and acknowledgement that no illustration was used in the sale of the life insurance policy was not evident in the 17 files noted.

J. Term Life Policies Issued as Replacements

The Company identified a universe of 34 term life policies issued as replacements during the experience period. All 34 term life replacement files was requested, received and reviewed. Of the 34 term policy files reviewed, 3 were duplicate records. The remaining 31 replacement policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

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

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. Pertinent information was missing in the 2 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 completed in the file noted.

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

An insurer that uses an agent or broker in a life insurance or annuity sale shall:
Require with or as part of a completed application for life insurance or annuity a statement signed by the agent or broker as to whether the broker knows

replacement is or may be involved in the transaction. The agent's statement on replacement was not completed in the 2 files noted.

18 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 (1) and in the case of life insurance, the disclosure statement as required by § 83.3 (relating to disclosure statement) or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 5 working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner. The replacement letter to the replaced company was not sent within 5 working days of the date of receipt in the 18 files noted.

3 Violations - Title 31, Pennsylvania Code, Section 81.6(c)

The replacing insurer shall maintain evidence of the Notice Regarding Replacement of Life Insurance and Annuities. The required notice of replacement was not evident in the 3 files noted.

31 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. Evidence that a written disclosure was provided could not be established in the 31 files noted.

31 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 31 files noted.

K. Term Life Conversions

The Company identified a universe of 13 individual term life conversion policies issued during the experience period. All 13 term life conversion files were requested. Of the 13 files received, 1 file was a duplicate record. The remaining 12 files were reviewed to determine compliance to issuance and underwriting statutes and regulations. The following violations were noted:

6 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 signed certification and acknowledgement that no illustration was used in the sale of the life insurance policy was not evident in the 6 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.

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. Integrated Disability Resources, Inc. Manual
2. Disability RMS Claims Manual Introduction
3. Reassure America/Swiss RE Claims Manual
4. Client Document

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 9 areas:

- A. Group Accidental Death and Dismemberment
- B. Group Disability Claims
- C. Group Life Claims
- D. Group Waiver of Premium Claims
- E. Annuity Claims
- F. Individual Disability Claims
- G. Individual Hospital Claims
- H. Individual Life Claims
- I. Individual Waivers of Premium Claims

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

A. Group Accidental Death and Dismemberment Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 2 accidental death and dismemberment claims. Both claim files were requested, received and reviewed. The claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146 and Insurance Company Law, Section 411B, Payment of Interest (40 P.S. §511b). No violations were noted.

B. Group Disability Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 258 group disability claims. A random sample of 25 group disability claim files were 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 146.5

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. 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.

1 Violation - Title 31, Pennsylvania Code, Section 146.7

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the insurer shall advise the first-party claimant of the acceptance or denial of the claim. The Company failed to provide notice of acceptance or denial within 15 working days in the claim noted.

C. Group Life Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified 46 group life claims received. All 46 group life claims were requested, receipted and reviewed. The claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146 and Insurance Company Law, Section 411B, Payment of Interest (40 P.S. §511b). The following violations were noted:

4 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 in the 4 claims noted.

9 Violations - Title 31, Pennsylvania Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and

every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company failed to provide a timely status letter for the 9 claims noted.

1 Violation - Title 31, Pennsylvania Code, Section 146.7

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first- party claimant shall be advised of the acceptance or denial of the claim by the insurer. The Company failed to provide notice of acceptance or denial within 15 working days in the claim noted.

D. Group Waiver of Premium Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 11 group waiver of premium claims. All 11 group waiver of premium 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. Annuity Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 10 annuity claims. All 10 annuity claim files 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 146.5

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 noted claim within 10 working days.

5 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 5 claims noted.

2 Violations - Title 31, Pennsylvania Code, Section 146.7

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the insurer shall advise the first-party claimant of the acceptance or denial of the claim. The Company failed to provide notice of acceptance or denial within 15 working days in the 2 claims noted.

F. Individual Disability Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 4 individual disability claims. All 4 claim files were requested. Of the 4 claim files received, 1 file was a duplicate record. The remaining 3 claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. No violations were noted.

G. Individual Hospital Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 1 individual hospital claim. The claim file was requested, received and reviewed. The claim file was reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. No violations were noted.

H. Individual Life Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified 37 individual life claims received. All 37 individual 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). The following violations were noted:

2 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. Pertinent information was missing in the 2 claims noted.

13 Violations - Title 31, Pennsylvania Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company failed to provide a timely status letter for the 13 claims noted.

4 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 4 claims noted.

I. Individual Waivers of Premium Claims

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 3 individual waivers of premium claims. All 3 individual waivers of premium claim files was requested, received and reviewed. The claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. No violations were 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 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 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).
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



SECURITY MUTUAL LIFE

INSURANCE COMPANY OF NEW YORK

SECURITY MUTUAL BUILDING • 100 COURT STREET
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March 24, 2008

VIA OVERNIGHT DELIVERY

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

Re: Examination Warrant Number: 06-M25-024

Dear Mr. Stemcosky:

Security Mutual Life Insurance Company of New York respectfully submits the enclosed response to the recommendations set forth in the Report of Examination of Security Mutual Life Insurance Company of New York covering the period July 1, 2005, through June 30, 2006.

Security Mutual is fully committed to compliance with applicable laws and regulations in the conduct of our business. In that regard, we endeavor to assure that appropriate compliance procedures are in place and that our employees are properly trained to administer those procedures.

We thank the Pennsylvania Insurance Department for the information and insight provided to us during the course of this examination, which we will utilize to further enhance our procedures and controls.

Please let me know if we can be of any further assistance in concluding this examination.

Very truly yours,

A handwritten signature in black ink, appearing to read 'F. David Mistretta'.

F. David Mistretta
Executive Vice President,
General Counsel & Secretary

Enc.

cc: Bruce W. Boyea, Chairman, President & Chief Executive Officer
F. L. Wortman, Executive Vice President & Chief Compliance Officer

**THE PENNSYLVANIA INSURANCE DEPARTMENT
MARKET CONDUCT EXAMINATION
FOR THE PERIOD JULY 1, 2005, THROUGH JUNE 30, 2006**

In response to the recommendations made by the Commonwealth of Pennsylvania Insurance Department (the "Insurance Department") resulting from the Market Conduct Examination of Security Mutual Life Insurance Company of New York (the "Company"), the Company wishes to confirm that the Company takes its obligation to comply with all applicable requirements of the statutes and regulations of Pennsylvania most seriously. As noted below, in some cases, the Company's good faith interpretations of those requirements differed from those expressed by the Insurance Department. Nevertheless, the Company understands the Department's positions as communicated in the course of the examination and has reviewed, confirmed, or is in the process of revising its compliance procedures, in satisfaction of the Insurance Department's recommendations. Specific responses to the recommendations are as follows:

1. Insurance Department Recommendation

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.

Security Mutual Response:

The Company has reviewed and enhanced its procedures and internal controls to further ensure satisfactory compliance with the requirements of Chapter 146, Unfair Claims Settlement Practices. With respect to several of the violations noted, the Company believed that by sending one letter within 10 working days of receipt of notification of claim for the purpose of both acknowledging receipt of the claim and indicating what additional information was necessary to complete the claim investigation, the Company was complying with the requirements of 31 Pa. Code §146.5 (requiring the insurer to acknowledge receipt of notification of a claim within 10 working days of receipt) and 31 Pa. Code §146.6 (requiring the insurer to provide a status letter regarding why its investigation of the claim has not been completed within 30 days of receipt of notification of a claim). The Company now understands that it is the Department's position that the status letter should be separate from the acknowledgement letter and should be mailed close to the end of the 30 day period, and the Company has instituted procedures to do so.

2. Insurance Department Recommendation

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).

Security Mutual Response:

The Company respectfully notes that it believed in good faith that Section 404-A of the Insurance Company Law, 40 P.S. §625-4 was not applicable to the block of policies for which violations were noted. Section 404-A provides that "[w]hen the individual policy or annuity is delivered to the policyholder by a means other than by hand delivery by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity

and of establishing the date from which any applicable policy or examination period shall commence.” The alleged violations all involve worksite policies for which the Company does not rely upon “delivery by the producer.” The subject worksite policies were all mailed to the policyowner directly from the Home Office of the Company. Thus, this provision appeared to be inapplicable to such policies.

The Company’s established business practice was to mail such policies directly to the policyholder within no more than two days of the policy issue date and the Company is aware of no complaints from any Pennsylvania policyowner that any policy free look period was prejudiced because a policy was not timely delivered directly from the Company.

Nonetheless, the Company understands that the Insurance Department’s position is that a delivery receipt or other appropriate means of verifying delivery of the policy and establishing the date from which any applicable policy or examination period shall commence is required for all policies. The Company will take steps to comply with this requirement.

3. Insurance Department Recommendation

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).

Security Mutual Response:

The Company respectfully notes that the single application submitted for both cases noted as violations was not dated when it was signed by the applicant. In each instance, the Company obtained an application amendment, signed by both the applicant and the agent, reflecting the date of application. However, the Company now understands that the Insurance Department’s position is that, when the application is not dated, it must be returned to the applicant. The Company has instructed appropriate personnel regarding this requirement.

[No item 4]

5. Insurance Department Recommendation

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).

Security Mutual Response:

The Company wishes to assure the Department that compliance with agent licensing and appointment requirements is a Company imperative and respectfully notes that, in five of the six violations noted, the Company’s licensing personnel believed, based on information received from a reputable third

party compliance service, that Pennsylvania law permitted appointment of a producer within 30 days of receipt of the first application from the producer. We understand from the Insurance Department that the Company was not alone in relying on this misinformation. The Company has taken corrective action to ensure satisfactory compliance in the future.

[No item 6]

7. Insurance Department Recommendation

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

Security Mutual Response:

The Company respectfully notes that with respect to illustrated policies, the Company in good faith believed it was complying with the disclosure requirements of Chapter 83 by complying with the requirements of the Pennsylvania illustration statute. As stated in the letter dated May 28, 1997, from the Pennsylvania Insurance Department to the American Council of Life Insurers, a compliant life insurance illustration may be used in lieu of the disclosure statement required by Section 83.3(a), so long as the illustration discloses that a surrender comparison index will be provided upon delivery of the policy or earlier if requested. In each instance, the Company provided an illustration that included the surrender comparison index.

The Company understood the Department's letter to the ACLI to mean that the Company would be in compliance with the Insurance Department's letter so long as it used an illustration that complied and was delivered in accordance with the requirements of Sections 401-A, 407 and 408-A of Article IV-A. However, the Company now understands that the Insurance Department's position is that an illustration may be used in lieu of a disclosure statement only if it is presented and signed at time of application, and the Company has revised its procedures accordingly.

With respect to policies for which illustrations are not used at time of application, the Company will reconfirm with all Pennsylvania licensed producers the requirements set forth in 31 Pa. Code Section 83.3. Agents will be required to provide a quotation that includes the disclosures required by Section 83.3(a) at time of application and to certify that the disclosure statement was provided as required by Section 83.4(a).

The Company further wishes to respectfully note that thirty-six of the violations noted relate to the single error of failing to file with the Annual Statement for 2005 the required officer's certification regarding surrender comparison index disclosures for policies mailed directly from the Home Office, as required by 31 Pa. Code §83.55. The Company has implemented procedures to ensure filing of the certification.

8. Insurance Department Recommendation

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).

Security Mutual Response:

The Company has strengthened its procedures to ensure that all of the requirements of Section 408-A are complied with. The Company respectfully notes that 29 of the 32 cases noted as violations involved failure to obtain or retain a signed statement from the applicant acknowledging that no illustration was used at time of application and that an illustration would be provided at time of policy delivery. In each case, a complete illustration was in fact provided to and signed by the policyowner when the policy was delivered.

9. Insurance Department Recommendation

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

Security Mutual Response:

The Company has strengthened its procedures and internal training for reviewing applications for completeness of replacement requirements and timely notifying the replaced insurer of pending replacements. These procedures will also be communicated to all Pennsylvania licensed producers. These procedures include a requirement to return applications received by the Company that do not include complete replacement requirements rather than permitting such information to be corrected by, e.g., subsequent delivery of a replacement notice or completion of application information by amendments to the application signed by the applicant.