

**REPORT OF  
MARKET CONDUCT EXAMINATION  
OF**

**TIAA-CREF LIFE INSURANCE COMPANY**  
New York, New York

**AS OF  
June 27, 2007**

**COMMONWEALTH OF PENNSYLVANIA**



**INSURANCE DEPARTMENT  
MARKET CONDUCT DIVISION**

**Issued: August 20, 2007**

# TIAA-CREF LIFE INSURANCE COMPANY

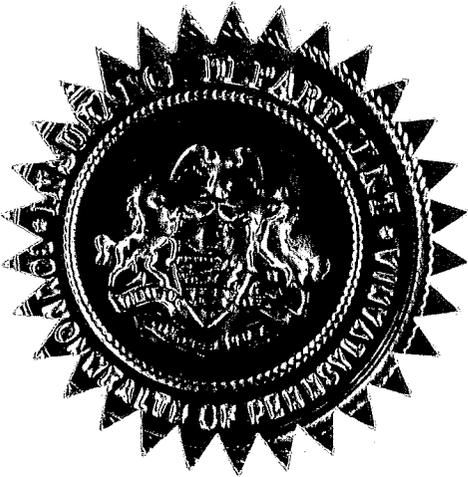
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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

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



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

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:	VIOLATIONS:
TIAA-CREF LIFE INSURANCE COMPANY 730 Third Avenue New York, NY 10017	Sections 641-A and 671-A of Act 147 of 2002 (40 P.S. §§ 310.41 and 310.71)
	Section 903(a) of the Insurance Department Act, Act of May 17, 1921, P.L. 789, No. 285 (40 P.S.323.3)
	Sections 349, 404-A, 406-A, 408-A(a)(1), 408-A(a)(4), 408-A(e)(1)(i), 408-A(e)(2)(i), 410D(a)(2), 410D(b)(2) and 410D(b)(3) of the Insurance Company Law, Act of May 17, 1921, P.L. 682, No. 284 (40 P.S. §§ 474, 625-4, 625-6, 625-8 and 510)
	Title 31, Pennsylvania Code, Sections 81.4(b)(1), 81.6(a)(1), 81.6(a)(2)(ii), 81.6(c), 81.7, 83.4a, 83.4b, 83.4c, 83.55c, 146.5, 146.6 and 146.7
Respondent.	Docket No. MC07-07-050

CONSENT ORDER

AND NOW, this *20<sup>th</sup>* day of *AUGUST*, 2007, 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. Respondent neither admits nor denies the Findings of Fact or Conclusions of Law contained herein.

#### FINDINGS OF FACT

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

(a) Respondent is TIAA-CREF Life Insurance Company, and maintains its address at 730 Third Avenue, New York, New York 10017.

(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 June 27, 2007, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on July 26, 2007.
- (e) After consideration of the July 26, 2007 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 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;

(iv) Section 349 of the Insurance Company Law (40 P.S. § 474), which states any person knowingly concerned for profit, gain, benefit, favor or otherwise, in preparing or forwarding any fraudulent application, affidavit, proof of loss or claim or attempting to collect any wholly or partly fraudulent claim or money demand from any insurance company, association or exchange, whether by policy or agreement of insurance was lawfully procured or procured by fraud, shall be guilty of a misdemeanor and upon conviction, shall be sentenced to undergo imprisonment or not more than one year or less than six months, and pay a fine of not more than \$500 nor less than \$100. This section shall apply whether or not insurance was in force and whether or not the offending person received profit or gain from the attempt to defraud;

(v) 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;

- (vi) Section 406-A of the Insurance Company Law, No. 284 (40 P.S. § 625-6), which prohibits any alteration of any written application for a life insurance policy or annuity to be made by any person other than the applicant without the applicant's written consent;
  
- (vii) Section 408-A(a)(1) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which require each insurer marketing policies shall notify the commissioner whether a life insurance policy form is to be marketed with or without an illustration. For all life insurance policy forms being actively marketed on the effective date of this section, the insurer shall identify in writing those forms and whether or not an illustration will be used with them. The notification shall be provided within 60 days of the effective date of this section. For life insurance policy forms approved by the Department but not being actively marketed on the effective date of this section, the identification shall be made on or before the time the life insurance policy

form is actively marketed. For life insurance policy forms filed with the commissioner after the effective date of this section, the identification shall be made at the time of filing;

- (viii) Section 408-A(a)(4) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which requires if a life insurance policy form is identified by the insurer as one to be marketed with an illustration, a basic illustration prepared and delivered in accordance with this section is required;
  
- (ix) Section 408-A(e)(1)(i) of the Insurance Company Law, No. 284 (40 P.S. § 625-8), which requires if the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this section, shall be submitted to the insurer no later than the time the policy application is sent to the insurer. A copy shall also be provided to the applicant no later than the time the application is signed by the application;
  
- (x) 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;

(xi) 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”);

(xii) Section 410D(b)(2) of the Insurance Company Law, No. 284 (40 P.S. § 510), which states individual variable life insurance 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 Pennsylvania unless they have prominently printed on the first page or attached thereto a notice stating in substance that the policyholder shall be permitted to return the policy within at least 45 days of its delivery;

(xiii) Section 410D(b)(3) of the Insurance Company Law, No. 284 (40 P.S. § 510), which states individual variable life 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 Pennsylvania unless they have prominently printed on the first page or attached thereto a notice stating in substance that the policyholder shall be permitted to return the policy within at least 20 days of its delivery;

- (xiv) 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;
- (xv) 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;
- (xvi) 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;

- (xvii) 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;
  
- (xviii) Title 31, Pennsylvania Code, Section 81.7, which states in the solicitation of a direct sale, if the insurer did not propose the replacement and a replacement is involved, the insurer shall send to the applicant with the policy a Notice Regarding Replacement of Life Insurance and Annuities in the form described in Appendix A or Appendix B, or other similar form filed and accepted prior to use by the Commissioner;
  
- (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 83.4c, which states the appropriate officer of each direct response or mail-order insurer shall certify, in conjunction with the annual statement of the insurer, that all written disclosure statements have been provided. Failure to certify shall constitute *prima facie* evidence that written disclosure statements have not been provided to prospective purchasers of life insurance;

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

(xxiii) 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;

- (xxiv) 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
- (xxv) 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, 406-A, 408-A and 410D of the Insurance Company Law, No. 284 (40 P.S. §§625-4, 625-6, 625-8 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 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 146.5, 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 Fifty Thousand Dollars (\$50,000.00) 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, Office Manager, 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.

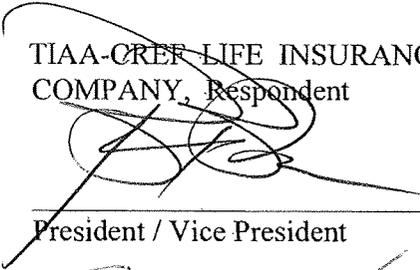
10. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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: TIAA-CREF LIFE INSURANCE  
COMPANY, Respondent



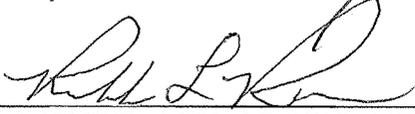
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President / Vice President



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Secretary / Treasurer



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COMMONWEALTH OF PENNSYLVANIA

By: Randolph L. Rohrbaugh  
Deputy Insurance Commissioner

## **I. INTRODUCTION**

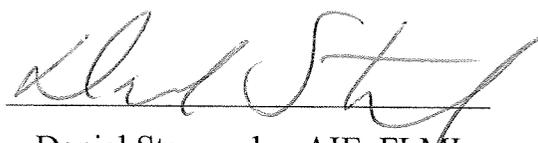
The Market Conduct Examination was conducted on TIAA-CREF Life Insurance Company, hereafter referred to as "Company," at the Company's office located in New York, New York, November 8, 2006, through December 22, 2006. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

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

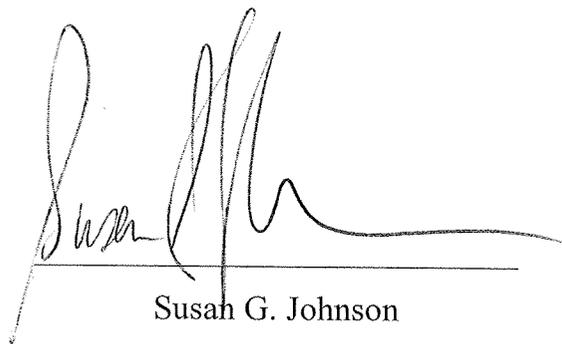
Throughout the course of the examination, Company officials were provided status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company officials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

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

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

A handwritten signature in black ink, appearing to read "Daniel Stemcosky", written over a horizontal line.

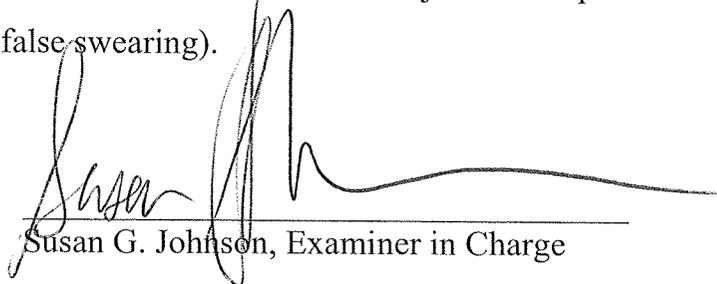
Daniel Stemcosky, AIE, FLMI  
Market Conduct Division Chief

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

Susan G. Johnson  
Market Conduct Examiner

**VERIFICATION**

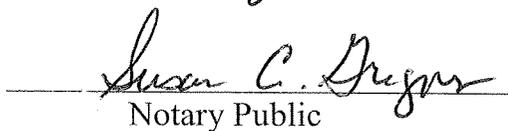
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).



Susan G. Johnson, Examiner in Charge

Sworn to and Subscribed Before me

This <sup>19<sup>th</sup></sup> Day of *June*, 2007



Susan C. Gregory  
Notary Public

**SUSAN C. GREGORY**  
Notary Public, State of New York  
No. 01 GR4680338  
Qualified in Rensselaer County  
Commission Expires June 30, 2010

## **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 a stock life insurance company under the laws of New York on November 20, 1996, as TIAA Life Insurance Company. The Company was issued a Certificate of Authority by the New York Insurance Department (hereinafter "the Department") and commenced business on December 18, 1996. The Company's name was changed to its present name, TIAA-CREF Life Insurance Company, on May 1 1998. It was licensed in Pennsylvania on September 8, 1998. TIAA-CREF Life markets individual life insurance and individual annuity products to TIAA's customers, who are employed by academic, cultural, medical, and research institutions and to the general public.

The Company is a wholly owned subsidiary of Teachers Insurance and Annuity Association of America ("TIAA"). All of the outstanding stock of TIAA is collectively held by the TIAA Board of Overseers, a nonprofit corporation created solely for the purpose of holding the stock of TIAA. TIAA-CREF Life does not own shares of common stock of its parent, TIAA, either directly or indirectly. The majority of services for operation of TIAA-CREF Life are provided at cost by TIAA pursuant to a Service Agreement.

As of their December, 2005, annual statement for Pennsylvania, TIAA-CREF Life Insurance Company reported direct premium for ordinary life insurance, annuities, deposit-type contract funds and other considerations in the amount of \$8,207,335; and direct premium for accident and health in the amount of \$785,739.

#### **IV. ADVERTISING**

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

The Company was requested to provide a list of their advertising Certificate of Compliance. The Advertising Certificate and the Company’s web site were reviewed to ascertain compliance with Act 205, Section 5 (40 P.S. §1171.5), Unfair Methods of Competition and Unfair or Deceptive Acts or Practices, Title 31, Pennsylvania Code, Chapter 51. No violations were noted.

## V. FORMS

Throughout the course of the examination, all underwriting files were reviewed to identify the policy contracts, riders, endorsements and applications used in order to determine compliance with requirements of Insurance Company Law, Chapter 2, Section 354 (40 P.S. §477b), as well as provisions for various mandated benefits. Applications and claim forms were also reviewed to determine compliance with Title 18, Pennsylvania Consolidated Statutes, Section 4117(k).

No violations were noted.

## VI. PRODUCER LICENSING

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

The Company provided a list of 100 active producers. All 100 producers were compared to departmental records of agents to verify appointments, terminations and licensing. In addition, a comparison was made on the 140 producers identified on applications reviewed in the policy issued sections of the exam and the 38 customer service representatives. The following violations were noted:

### **9 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 7 individuals were listed as agents by the Company and/or identified on 5 applications in the policy issued sections of the exam. Department records do not identify these individuals as being appointed by the Company during the experience period and/or at the time of application.

<b>Producer</b>	<b>Number of Applications</b>
Brian Fox	2
Christopher Lee	1
Kim Richards	
Charles Walsh	2
Angela McNeill	
Jeffrey Payne	
William Pearce	

**2 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 2 individuals were listed by the Company as producers and/or identified on an application reviewed in the policy issued section of the exam. Department records did not identify these individuals as holding a Pennsylvania insurance license during the experience period and/or at the time of application.

<b>Producers</b>	<b>Number of Applications</b>
Christopher Lee	1
Angela McNeill	

## **VII. CONSUMER COMPLAINTS**

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for 2003, 2004 and 2005. The Company identified 2 consumer complaints received during the experience period. Of the 2 consumer complaints identified, none were forwarded from the Department. Both of the complaint files were requested, received and reviewed. The Company provided the logs as requested.

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 9 general segments.

- A. Underwriting Guidelines
- B. Term Life Policies Issued
- C. Universal Life Policies Issued
- D. Variable Universal Life Policies Issued
- E. Annuity Contracts Issued
- F. Term Life Policies Issued as Replacements
- G. Variable Universal Life Policies Issued as Replacements
- H. Universal Life Policies Issued as Replacements
- I. Annuity Contracts Issued as Replacements

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 copies of all established written underwriting guidelines in use during the experience period. Underwriting guidelines were reviewed to ensure guidelines were in place and being followed in a uniform and consistent manner and no underwriting practices or procedures were in place which could possibly be considered discriminatory in nature, or specifically prohibited by statute or regulation. No violations were noted.

The following guidelines were reviewed:

1. Operating Procedures
2. Medical Requirements
3. Height and Weight Chart
4. Underwriting Criteria

### **B. Term Life Policies Issued**

The Company identified a universe of 468 term life policies issued during the experience period. A random sample of 50 term life policies was requested, received and reviewed. The policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

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

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

Require with or as part of a completed application for life insurance or annuity a statement signed by the agent or broker as to whether the broker knows replacement is or may be involved in the transaction. The agent's question on replacement was not completed in the 26 files noted.

#### **4 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 in 3 files and the replacement letter was not provided in the remaining file.

**10 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. Evidence of the notice regarding replacement could not be confirmed in the 10 files noted.

**44 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 44 files noted did not contain a copy of the required agent's certification of disclosure.

**7 Violations – Title 31, Pennsylvania Code, Section 83.4c**

The appropriate officer of each direct response or mail-order insurer shall certify, in conjunction with the annual statement of the insurer, that all written disclosure statements have been provided in accordance with this subchapter. Failure to so certify shall constitute prima facie evidence that written disclosure statements have

not been provided to prospective purchasers of life insurance. The 7 files noted indicated that delivery of the policies had been made by mail with no evidence of a certification of disclosure by an officer of the company.

**18 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 18 files noted.

**11 Violations – Insurance Company Law, Section 408-A(a)(1)**

**(40 P.S. §625-8(a)(3))**

If the insurer identifies a life insurance policy form as one to be marketed without an illustration, any use of an illustration with any policy using that policy form prior to the first policy anniversary is prohibited. Evidence of the usage of an illustration for a policy designated as a non-illustrative policy was confirmed in the 11 files noted.

**1 Violation – Insurance Company Law, Section 408-A(a)(4) (40 P.S. §625-8)**

If a life insurance policy form is identified by the insurer as one to be marketed with an illustration, a basic illustration prepared and delivered in accordance with this section is required, except that a basic illustration need not illustration is based. The file was represented as a direct response sale; however, evidences of an illustration that met the requirements of the law could not be established in the file noted.

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

The following applies if a basic illustration is used by a producer in the sale of a life insurance policy. If the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this section, shall be submitted to the insurer no later than the time the policy application is sent to the insurer. A copy shall also be provided to the applicant no later than the time the application is signed by the applicant. The agent's certification and the applicant's acknowledgement of the illustration used at the time of application was not signed and dated in the 4 files.

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

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

**1 Violation – Insurance Company Law, Section 408-A(e)(2)(i) (40 P.S. §625-8)**

The following applies if no illustration is used by a producer in the sale of a life insurance policy or if a computer screen is displayed. The producer shall certify in writing on a form provided by the insurer that no illustration was used in the sale of the life insurance policy. On the same form the applicant shall acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. The agent's certification and applicant's acknowledgement that no illustration was used in the sale of a life insurance policy was not evident in the file noted.

**14 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 required 45 day "free look" statement was not evident in the 14 files noted.

### **C. Universal Life Policies Issued**

The Company identified a universe of 11 universal life policies issued during the experience period. All 11 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:

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

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

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

An insurer that uses an agent or broker in a life insurance or annuity sale shall: Require with or as part of a completed application for life insurance or annuity a statement signed by the agent or broker as to whether the broker knows replacement is or may be involved in the transaction. The agent's question on replacement was not completed on the application for the 8 files 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 required notice of replacement was not evident in the file noted.

**11 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 11 files noted.

**11 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 11 files noted indicated that delivery of the policies have been made by mail with no evidence of a certification of surrender comparisons index disclosures by an officer of the company.

**3 Violations – Insurance Company Law, Section 349 (40 P.S §474) Fraud in Procuring Insurance or in collecting claims**

(b) any person knowingly concerned for profit, gain, benefit, favor, or otherwise, in preparing or forwarding any fraudulent application, affidavit, proof of loss, in 298 Pennsylvania Insurance Laws, Chapter 2, §349.1 or claim or attempting to

collect or collecting any wholly or partly fraudulent claim or money demand from any insurance company, association, or exchange, lawfully transaction business within this Commonwealth, whether by policy or agreement of insurance was lawfully procured by fraud, shall be guilty of a misdemeanor, and, upon, conviction, shall be sentenced to undergo imprisonment for not more than one year or less than six months and, in addition to pay a fine not exceeding five hundred dollars (\$500) or less than one hundred (\$100). The provisions of this section shall apply, whether or not insurance was actually in force and whether, or not the offending person or persons received profits, gain, benefit, or favor or from the attempt to defraud or from the consummation of the fraud. The question indicating that an illustration was provided at the time of application was pre-checked by the company's representative, sent to the applicant and later signed by the applicant; however, no illustration was provided at the time of application in the 3 files noted.

**5 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 5 files noted.

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

The following applies if a basic illustration is used by a producer in the sale of a life insurance policy. If the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this section, shall be submitted to the insurer no later than the time the policy application is sent to the insurer. A copy shall also be provided to the applicant no later than the time the application is signed by the applicant. The agent's certification and the applicant's acknowledgement of the illustration used was signed and dated after the application date in 4 files noted. The illustration date was provided in the remaining file noted.

**1 Violation – Insurance Company Law, Section 410D(b)(2) (40 P.S. §510c)**

Individual variable life insurance 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 required 45 day "free look" statement was not evident in the file noted.

## **D. Variable Universal Life Policies Issued**

The Company identified a universe of 6 variable universal life policies issued during the experience period. All 6 variable universal life policies were requested, receipted and reviewed. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

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

(b) If replacement is involved, the agent or broker shall: (1) Present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities in the form as described in Appendix A (relating to notice regarding replacement of life insurance and annuities), or other substantially similar form filed and accepted prior to use by the Commissioner. The notice shall be signed by both the applicant and the agent or broker and left with the applicant. The replacement form was dated after the application date in the 2 files 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 question on replacement was not completed in the 3 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 to the replaced company was not documented in the file noted.

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

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

**4 Violations – Insurance Company Law, Section 410D(b)(2) (40 P.S. §510c)**

Individual variable life insurance 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 required 45 day "free look" statement was not evident in the 4 files noted.

### **E. Annuity Contracts Issued**

The Company identified a universe of 11 variable annuity contracts issued during the experience period. All 11 variable annuity contracts was requested, received and reviewed. Annuity contracts were reviewed to determine compliance with issuance, and replacement statutes and regulations. The following violations were noted:

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

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

## **F. Term Life Policies Issued as Replacements**

The Company identified a universe of 187 term life policies issued as replacements during the experience period. A random sample of 50 term life replacement files was requested, received and reviewed. The replacement policy files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

### **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 on the application for the 2 files noted.

### **27 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 in the 27 files noted.

**33 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 32 files noted. The replacement form was dated after the application date in one file.

**50 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 50 files noted.

**20 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 20 files noted.

**1 Violation – Insurance Company Law, Section 406-A (40 P.S. §625-6)**

No alteration of any written application for a life insurance policy or annuity shall be made by any person other than the applicant without the applicant's written consent. The date on the application was altered without the applicant's consent in the file noted.

**11 Violations – Insurance Company Law, Section 408-A(a)(1)**

**(40 P.S. §625-8(a)(3))**

If the insurer identifies a life insurance policy form as one to be marketed without an illustration, any use of an illustration with any policy using that policy form prior to the first policy anniversary is prohibited. Evidence of the usage of an illustration with a non-illustrative identified policy was confirmed in the 11 files noted.

**12 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 agent's signed certification and applicant's acknowledgement that no illustration was used in the sale of the life insurance policy was not evident in the 12 files noted.

**34 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 required 45 day "free look" statement was not evident in the 34 files noted.

**G. Variable Universal Life Policies Issued as Replacements**

The Company identified a universe of 3 variable universal life policies issued during the experience period. All 3 policies 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:

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

(b) If replacement is involved, the agent or broker shall: (1) Present to the applicant, not later than at the time of taking the application, a Notice Regarding Replacement of Life Insurance and Annuities in the form as described in Appendix A (relating to notice regarding replacement of life insurance and annuities), or other substantially similar form filed and accepted prior to use by the Commissioner. The notice shall be signed by both the applicant and the agent or broker and left with the applicant. The replacement form was dated after the application date in the 2 files noted.

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

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

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

**3 Violations – Insurance Company Law, Section 349 (40 P.S §474) Fraud in Procuring Insurance or in collecting claims**

(b) any person knowingly concerned for profit, gain, benefit, favor, or otherwise; in preparing or forwarding any fraudulent application, affidavit, proof of loss, in 298 Pennsylvania Insurance Laws, Chapter 2, §349.1 or claim or attempting to collect or collecting any wholly or partly fraudulent claim or money demand from any insurance company, association, or exchange, lawfully transaction business within this Commonwealth, whether by policy or agreement of insurance was lawfully procured by fraud, shall be guilty of a misdemeanor, and, upon, conviction, shall be sentenced to undergo imprisonment for not more than one year or less than six months and, in addition to pay a fine not exceeding five hundred dollars (\$500) or less than one hundred (\$100). The provisions of this section shall apply, whether or not insurance was actually in force and whether, or not the offending person or persons received profits, gain, benefit, or favor or from the attempt to defraud or from the consummation of the fraud. The question indicating that an illustration was provided at the time of application was pre-checked by the company's representative, sent to the applicant and later signed by the applicant; however, no illustration was provided at the time of application in the 3 files noted.

**2 Violations – Insurance Company Law, Section 410D(b)(3) (40 P.S. §510c)**

Individual variable life 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 required 20 day "free look" statement was not evident in the 2 files noted.

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

The following applies if no illustration is used by a producer in the sale of a life insurance policy or if a computer screen is displayed. The producer shall certify in writing on a form provided by the insurer that no illustration was used in the sale of the life insurance policy. On the same form the applicant shall acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. The agent's certification and applicant's acknowledgement that no illustration was used in the sale of the life insurance policy was not evident in the 2 files noted.

## **H. Universal Life Policies Issued as Replacements**

The Company identified a universe of 2 universal life policies issued as replacements during the experience period. Both 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:

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

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

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

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

**1 Violation - Title 31, Pennsylvania Code, Section 83.4a and Section 83.4b**

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

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

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

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

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

The following applies if no illustration is used by a producer in the sale of a life insurance policy or if a computer screen is displayed. The producer shall certify in writing on a form provided by the insurer that no illustration was used in the sale of the life insurance policy. On the same form the applicant shall acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. The signed certification and acknowledgement that no illustration was used in the sale of the life insurance policy was not evident in the 2 files noted.

**I. Annuity Contracts Issued as Replacements**

The Company identified a universe of 7 annuities contracts issued as replacement, during the experience period. All 7 replacement files was requested, received, and reviewed. The annuity files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

**3 Violations – Title 31, Pennsylvania Code, Section 81.7**

**Duties of insurers with respect to direct response sales.**

(a) If in the solicitation of a direct response sale, the insurer did not propose the replacement and a replacement is involved, the insurer shall:

(1) Send to the applicant with the policy a Notice Regarding Replacement of Life Insurance and Annuities in the form as described in Appendix A or Appendix B (relating to notice regarding replacement of life insurance and annuities) or other substantially similar form filed and accepted prior to use by the Commissioner. In

such instances, the insurer may delete the last sentence and the references to signatures from Appendix A without having to refile the form and obtain acceptance prior to use by the Commissioner. The required notice regarding replacement was not evident in the 3 files noted.

**3 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 was not sent within 5 working days in the 3 files noted.

**7 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 7 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 claim manuals:

1. Life Insurance Death Claim Manual
2. Death Processing Manual
3. Disbursement Manual
4. Matrixes for DCI calculations

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

The Claim file review consisted of 2 areas:

- A. Life Claims
- B. Annuity Claims

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

### **A. Life Claims**

The Company was requested to provide a list of claims received during the experience period. The Company identified 1 individual life claim received. The claim file 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). No violations were noted.

### **B. Annuity Claims**

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 42 annuity claims. All 42 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 violations were noted:

#### **10 Violations - Title 31, Pennsylvania Code, Section 146.5**

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

**39 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 39 claims noted.

**15 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 15 claims noted.

## **XI. RECOMMENDATIONS**

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

1. The Company must review and revise internal control procedures to ensure compliance with requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices.
2. The Company must 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, 310.71 and 310.71a).
3. 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).
4. The Company must review internal control procedures to ensure compliance with application alteration requirements of Section 406-A of the Insurance Company Law of 1921 (40 P.S. §625-6).
5. 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).
6. 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.
7. The Company must review current procedures to ensure compliance with Section 349 of the Insurance Company Law of 1921 (40 P.S. §474) pertaining to the proper procurement and application process.
8. The Company must review and revise internal control procedures to ensure compliance with the replacement requirements of Title 31, Pennsylvania Code, Section 81.

9. 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).
  
10. The Company must review internal control procedures to ensure compliance with disclosure requirements of Title 31, Pennsylvania Code, Chapter 83.

## **XII. COMPANY RESPONSE**



FINANCIAL SERVICES  
FOR THE GREATER GOOD®

Bret L. Benham Chairman, President & CEO TIAA-CREF Life Insurance Company

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bbenham@tiaa-cref.org

July 24, 2007

Via Overnight Mail

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

Re: TIAA-CREF Life Insurance Company ("TC Life")  
Examination Warrant Number 06-M28-022

Dear Mr. Stemcosky:

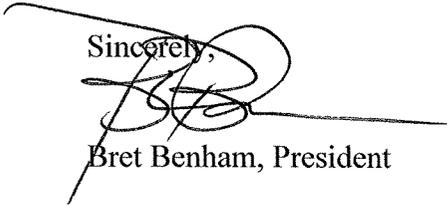
The management of TIAA-CREF Life Insurance Company has reviewed the draft Report on Examination of TIAA-CREF Life insurance Company covering the period July 1, 2005, through June 30, 2006. As President of TC Life, I accept the findings as noted.

Enclosed is our response to the concerns raised in your letter. Our response includes additional clarifications or details on the corrective actions taken by TC Life to address those concerns. We also convey our thanks to the Department's examination team for the professional courtesy extended to TC Life and its employees.

We appreciate the opportunity to respond to the issues noted by the Department and hope that it comprehensively addresses the concerns noted in your June 27, 2007 letter. We trust that you understand that we are committed to resolving these and that we are dedicated to full cooperation with the Department.

If you need further clarifications or additional details, please do not hesitate to contact me at (704) 988-5810 or Arti Jurakhan, Compliance Officer at (212) 916-4724.

Sincerely,



Bret Benham, President

8500 Andrew Carnegie Boulevard, Charlotte, NC 28262

cc: Edward Hancock, Associate General Counsel  
Arti Jurakhan, Compliance Officer  
Wayne Smiley, Compliance Officer  
Janice Innis-Thompson, SVP and Chief Compliance Officer

The letter lists the items raised in the report on Examination of TIAA-CREF Life insurance Company covering the period July 1, 2005, through June 30, 2006. The remainder of this letter is first with a recap of the findings, the Department's recommendation and then with our response.

### **Producer Licensing**

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

The Department noted that 7 individuals were listed as agents by the Company and/or identified on 5 applications in the policy issued sections of the exam. Department records do not identify these individuals as being appointed by the Company during the experience period and/or at the time of application.

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

The Department noted that 2 individuals were listed by the Company as producers and/or identified on an application reviewed in the policy issued section of the exam. Department records did not identify these individuals as holding a Pennsylvania insurance license during the experience period and/or at the time of application.

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

### **TC Life's Response:**

*The Company agrees with the Department's recommendation. Supervisory procedures have been revised to require each supervising principal to review the licensing/registration information in the Compliance Management system ("CMS") to ensure each agent/representative assignment on his or her team is accurate, and the agent/representative holds appropriate producer licenses and insurance company appointments.*

*In addition, TC Life has formed a dedicated sales team and the number of agents has been significantly reduced early this year. The Underwriting team has developed new agent verification process. This process requires that the Case Manager verifies the agent's information on the application to determine if the agent is licensed /appointed. This additional verification control will ensure that agent identified on each insurance or annuity application has proper license/appointment.*

### Underwriting – Title 31, Pennsylvania Code, Section 81 and 83

#### Term Life Policies Issued:

- **26 Violations – Title 31, Pennsylvania Code, Section 81.6 (a) (1)**  
The agent's question on replacement was not completed in the 26 files noted by the Department.
- **4 Violations – Title 31, Pennsylvania Code, Section 81.6(a)(2)(ii)**  
The Department noted that the replacement letter was not sent within 5 working days in 3 files and the replacement letter was not provided in the remaining file.
- **10 Violations – Title 31, Pennsylvania Code, Section 81.6 (c)**  
Evidence of the notice regarding replacement could not be confirmed in the 10 files noted by the Department.
- **44 Violations – Title 31, Pennsylvania Code, Section 83.4a and Section 83.4b**  
The 44 files noted by the Department did not contain a copy of the required agent's certification of disclosure.
- **7 Violations – Title 31, Pennsylvania Code, Section 83.4c**  
The 7 files noted by the Department indicated that delivery of the policies had been made by mail with no evidence of a certification of disclosure by an officer of the company.

#### Universal Life Policies Issued:

- **8 Violations – Title 31, Pennsylvania Code, Section 81.6 (a)(1)**  
The agent's question on replacement was not completed on the application for the 8 files noted by the Department.
- **1 Violation – Title 31, Pennsylvania Code, Section 81.6 (c)**  
The required notice of replacement was not evident in the file noted by the Department.
- **11 Violations – Title 31, Pennsylvania Code, Section 83.4a and Section 83.4b**  
The required agent's certification of disclosure was not evident in the 11 files noted by the Department.
- **11 Violations – Title 31, Pennsylvania Code, Section 83.55c**  
The 11 files noted by the Department indicated that delivery of the policies had been made by mail with no evidence of a certification of surrender comparisons index disclosures by an officer of the company.

#### Variable Universal Life Policies Issued:

- **2 Violations – Title 31, Pennsylvania Code, Section 81.4 (b) (1)**  
The replacement form was dated after the applicable date in the 2 files noted by the Department.

- **3 Violations – Title 31, Pennsylvania Code, Section 81.6 (a) (1)**  
The agent's question on replacement was not completed in the 3 files noted by the Department.
- **1 Violations – Title 31, Pennsylvania Code, Section 81.6(a)(2)(ii)**  
The Department noted that the replacement letter was not documented in the file noted by the Department.

Term Life Policies Issued as Replacements:

- **2 Violations – Title 31, Pennsylvania Code, Section 81.6(a)(1)**  
The agent's statement on replacement was not completed on the application for the 2 files noted by the Department.
- **27 Violations – Title 31, Pennsylvania Code, Section 81.6(a)(2)(ii)**  
The Department noted that the replacement letter was not sent within working days in the 27 files noted.
- **33 Violations – Title 31, Pennsylvania Code, Section 81.6(c)**  
The required notice of replacement was not evident in the 32 files noted and the replacement form was dated after the application date in one file.
- **50 Violations – Title 31, Pennsylvania Code, Section 83.4a and Section 83.4b**  
The required agent's certification of disclosure was not evident in the 50 files noted by the Department.

Variable Universal Life Policies Issued as Replacements:

- **2 Violations – Title 31, Pennsylvania Code, Section 81.4 (b) (1)**  
The Department noted that the replacement form was dated after the applicable date in the 2 files noted by the Department.
- **1 Violation – Title 31, Pennsylvania Code, Section 81.6(a) (1)**  
The Department found that the agent's question on replacement was not completed in the file noted by the Department.

Universal Life Policies Issued as Replacements:

- **1 Violation – Title 31, Pennsylvania Code, Section 81.6(a) (1)**  
The Department found that the agent's statement on replacement was not completed in the file noted.
- **1 Violations – Title 31, Pennsylvania Code, Section 81.6(a)(2)(ii)**  
The replacement letter was not documented in the file noted by the Department.
- **1 Violation – Title 31, Pennsylvania Code, Section 83.4a and Section 83.4b**  
The required agent's certification of disclosure was not evident in the file noted by the Department.

Annuity Contracts Issued as Replacements:

- **3 Violations – Title 31, Pennsylvania Code, Section 81.7 Duties of insurers with respect to direct response sales.**  
The required notice regarding replacement was not evident in the 3 files noted by the Department.
- **1 Violations – Title 31, Pennsylvania Code, Section 81.6(a)(2)(ii)**  
The replacement was not sent within 5 working days in the 3 files noted.

The Department recommends that the Company review and revise internal control procedures to ensure compliance with the replacement requirements of Title 31, Pennsylvania Code, and Section 81 and with disclosure requirements of Title 31, Pennsylvania Code, Chapter 83.

**TC Life's Response:**

*The Company agrees with the Department's recommendations. In January of 2007, a new unit, The Business Support Unit, was created to address training, regulatory and compliance oversight, process improvement and overall business support for the New Business, Underwriting, Claims and Annuity teams. The staff has undergone significant training based upon new procedures that have been implemented. Control measures that have been developed or implemented (or are in the process of being implemented) include:*

- 1) *Revised replacement procedures for Life and Annuity products*
- 2) *Systems enhancement for automated replacement letter for life products*
- 3) *Automated alert to New Business staff regarding replacement for life products*
- 4) *Replacement log tracking replacements for all states for life and annuity products*
- 5) *Quality assurance checklist that is completed prior to mailing a contract to the contract owner for life products*
- 6) *Revised Disclosure Statement (filing with PA pending) for life products*
- 7) *Designed Surrender Comparison Index Disclosure (filing with PA pending) for life products*
- 8) *Revised Agent Certification (filing with PA pending) for life products*
- 9) *Designed Supplement to Agent Certification (filing with PA pending) for life products*

**Underwriting – Title 31, Insurance Company Law, Section 349**

Universal Life Policies Issued:

- **3 Violations –Insurance Company Law, Section 349 (40 P.S. §474) Fraud in Procuring Insurance or in collecting claims**

There was no illustration provided at the time of application in the 3 files noted by the Department.

Variable Universal Life Policies Issued as Replacements:

- **3 Violations –Insurance Company Law, Section 349 (40 P.S. §474) Fraud in Procuring Insurance or in collecting claims**  
There was no illustration provided at the time of application in the 3 files noted by the Department.

The Department recommends that the Company must review current procedures to ensure compliance Section 349 of the Insurance Company Law of 1921 (40 P.S. §474) pertaining to the proper procurement and application process.

**TC Life's Response:**

*The Company agrees with the Department's recommendation and has developed control procedures or they have been developed or implemented (or are in the process of being implemented) and these new procedures include:*

- 10) Quality Assurance Checklist as noted previously (#5)*
- 11) Systems enhancement to require a conforming illustration with appropriate signature, date, etc. as an automated requirement that will need to be received before contract can be issued*

**Underwriting – Title 31, Insurance Company Law, Section 404A, 406A, 408-A, 410D**

Term Life Policies Issued:

- **18 Violations –Insurance Company Law, Section 404-A (40 P.S. §625-4)**  
Verification of the date of policy delivery could not be established in the 18 files noted by the Department.
- **11 Violations – Insurance Company Law, Section 408-A (a) (1) (40. P.S. §625-8(a)(3))**  
Evidence of usage of an illustration for a policy designed as a non-illustrative policy was confirmed in the 11 files noted by the Department.
- **1 Violation – Insurance Company Law, Section 408-A (a) (4) (40. P.S. §625-8)**  
The Department found that the file was represented as a direct response sale; however, evidences of an illustration that met the requirements of the law could not be established in the file noted.
- **4 Violations – Insurance Company Law, Section 408-A (e) (1) (i) (40. P.S. E**

The Department noted that the agent's certification and the applicant's acknowledgement of the illustration used at the time of application was not signed and dated in the 4 files.

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

The Department found that the illustration was dated after the application date in file noted.

- **1 Violation – Insurance Company Law, Section 408-A (e) (2) (i) (40. P.S. §625-8)**

The agent's certification and applicant's acknowledgement that no illustration was used in the sale of a life insurance policy was not evident in the file noted by the Department.

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

The required 45 day "free look" statement was not evident in the 14 files noted by the Department.

#### Universal Life Policies Issued:

- **5 Violations – Insurance Company Law, Section 404-A (40 P.S. §625-4)** Verification of the date of policy delivery could not be established in the 5 files noted by the Department.
- **5 Violations – Insurance Company Law, Section 408-A (e) (1) (i) (40. P.S. §625-8)**  
The agent's certification and the applicant's acknowledgement of the illustration used was signed and dated after the application date in 4 files noted. The illustration date was not provided in the remaining file noted.
- **1 Violation – Insurance Company Law, Section 410D (b) (2) (40. P.S. §510c)**  
The required 45 day "free look" statement was not evident in the file noted by the Department.

#### Variable Universal Life Policies Issued:

- **1 Violation – Insurance Company Law, Section 404-A (40 P.S. §625-4)**  
Verification of the date of policy delivery could not be established in the file noted by the Department.
- **4 Violation – Insurance Company Law, Section 410D (b) (2) (40. P.S. §510c)**  
The required 45 day "free look" statement was not evident in the 4 files noted by the Department.

#### Annuity Contracts Issued:

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

Verification of the date of policy delivery could not be established in the 11 files noted by the Department.

Term Life Policies Issued as Replacements:

- **20 Violations –Insurance Company Law, Section 404-A (40 P.S. §625-4)**  
Verification of the date of policy delivery could not be established in the 20 files noted by the Department.
- **1 Violation – Insurance Company Law, Section 406-A (40 P.S. §625-6)**  
The Department noted that the date on the application was altered without the applicant’s consent in the file noted.
- **11 Violations – Insurance Company Law, Section 408-A (a) (1) (40. P.S. §625-8(a)(3))**  
The Department found that evidence of the usage of an illustration with a non-illustrative identified policy was confirmed in the 11 files noted.
- **12 Violations – Insurance Company Law, Section 408-A (e) (2) (i) (40. P.S. §625-8)**  
The agent’s certification and the applicant’s acknowledgement of the illustration used at the time of application was not signed and dated in the 12 files noted by the Department.
- **34 Violations – Insurance Company Law, Section 410D (a) (2) (i) (40. P.S. §510c)**  
The required 45 day “free look” statement was not evident in the 34 files noted by the Department.

Variable Universal Life Policies Issued as Replacements:

- **2 Violation – Insurance Company Law, Section 410D (b) (3) (40. P.S. §510c)**  
The required 20 day “free look” statement was not evident in the 2 files noted by the Department.
- **2 Violations – Insurance Company Law, Section 408-A (e) (2) (i) (40. P.S. §625-8)**  
The agent’s certification and the applicant’s acknowledgement that no illustration was used in the sale of the life insurance policy was not evident in the 2 files noted by the Department.

Universal Life Policies Issued as Replacements:

- **1 Violation –Insurance Company Law, Section 404-A (40 P.S. §625-4)**  
Verification of the date of policy delivery could not be established in the file noted by the Department.
- **2 Violations – Insurance Company Law, Section 408-A (e) (2) (i) (40. P.S. §625-8)**

The agent's certification and the applicant's acknowledgement that no illustration was used in the sale of the life insurance policy

Annuity Contracts Issued as Replacements:

- **7 Violations –Insurance Company Law, Section 404-A (40 P.S. §625-4)**  
Verification of the date of policy delivery could not be established in the 7 files noted by the Department.

The Department recommends that the Company implement procedures to ensure compliance with the

- Policy delivery receipt requirements of Section 404-A of the Insurance Law of 1921 (40 P.S. §625-4)
- Application alteration requirements of Section 406-A of the Insurance Company Law of 1921 ((40 P.S. §625-6)
- Illustration certification and delivery requirements of Section 408-A of the Insurance Company Law of 1921 (40 P.S. . §625-8)
- 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.

**TC Life's Response:**

***The company agrees with the Department's recommendations. TC Life has developed and implemented (or is in the process of implementing) the following control procedures:***

- 12) Two day overnight delivery process with tracking implemented 5/07***
- 13) Systems enhancement for conforming illustration as noted previously (# 11)***
- 14) Revised Agent's Certification as noted previously (#8)***
- 15) Systems Enhancement to correct Free Look period – pending implementation***
- 16) Quality Assurance Checklist as noted previously (#5)***

**Underwriting – Insurance Department Act, Section 903**

Universal Life Policies Issued:

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

The Department noted that the date was missing on the application for the file noted.

The Department recommends that the Company review and revise procedures to ensure that 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).

**TC Life’s Response:**

*The company agrees with the Department’s recommendation. Control measures that have been developed and implemented (or are in the process of being implemented) include:*

- 17) Quality Assurance Checklist as noted previously (#5)*

**Annuity Claims**

- **10 Violations – Title 31, Pennsylvania Code, Section 146.5**  
The Department noted that the Company failed to acknowledge a claim within 10 working days for the 10 files noted.
- **39 Violations – Title 31, Pennsylvania Code, Section 146.6**  
The Department noted the Company failed to provide a timely status letter for the 39 claims noted.
- **15 Violations – Title 31, Pennsylvania Code, Section 146.7**  
The Department noted the Company failed to provide notice of acceptance or denial within 15 working days in the 15 claims noted.

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

**TC Life's Response:**

*The company agrees with the Department's recommendations. TC Life has developed and implemented (or is in the process of implementing) the following control procedures:*

*18) Revised Death Claims Process*

*19) Implement Quality Assurance Process in 5/07*