

**REPORT OF EXAMINATION**

**OF THE**

**MARKET CONDUCT AFFAIRS**

**OF**

**JOHN HANCOCK MUTUAL LIFE INSURANCE  
COMPANY,**

**JOHN HANCOCK LIFE INSURANCE COMPANY**

**AND**

**JOHN HANCOCK VARIABLE LIFE INSURANCE  
COMPANY**

**BY**

**VERMONT DEPARTMENT OF BANKING,  
INSURANCE, SECURITIES AND HEALTH CARE  
ADMINISTRATION**

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## SCOPE OF EXAMINATION

### EXAMINATION AUTHORITY

The examination of John Hancock Mutual Life Insurance Company, John Hancock Life Insurance Company and John Hancock Variable Life Insurance Company, hereinafter referred to collectively as the "Company", unless specifically mentioned by name, was conducted pursuant to applicable Vermont statutes and regulations.

#### **Comment on Examination Authority**

As is noted in the "History" section of the "Company Overview" portion of the Report, in January of 2000, John Hancock Mutual Life Insurance Company converted from a mutual life insurance company to a stock-based life insurance company. In so doing, John Hancock Mutual Life Insurance Company changed its name to John Hancock Life Insurance Company. The Examination is reviewing a time period that extends back to January 1, 1998. John Hancock Life Insurance Company did not exist at that time. As such, it is respectfully suggested that John Hancock Mutual Life Insurance Company should also be referenced as one of the companies examined.

### STATUTORY HOME OFFICE

Post Office Box 111

John Hancock Place

Boston, Massachusetts, 02117

### EXAMINATION SITUS

The examination was conducted off-site. Information, documents and materials were provided directly to the examiners in both hard copy and on computer disks.

### TIME FRAME

The examination ~~generally~~ covers the period from ~~December 31, 1997~~ January 1, 1998 through December 31, 2000.

#### **Comment on Time Frame**

Thomas Prindiville's letter to the Company of February 11, 2001, specifically indicates that the examination "time period will cover the years 1998 through 2000". A

copy of the letter is attached as “Exhibit 1”. As such, the time frame should be amended as indicated.

### **MATTERS EXAMINED**

This market conduct examination report is written generally by exception and additional practices, procedures and files subject to review during the examination were omitted from the report if no improprieties were observed. The examination included, but was not limited to the following areas:

Marketing and sales

Replacement procedures

Statutory filings

Complaints

Claims procedures and processing

Producer licensing

Underwriting

Litigation

## METHODOLOGY

The examiners used random sampling techniques for selection of samples expected to achieve a 95% confidence rating with an error no greater than 5%. With respect to agent licensing, the tolerance is 0 %.

8 V.S.A. § 3573 is entitled, “Examination procedure” and requires that examiners “observe those guidelines and procedures set forth in the Examiners’ Handbook adopted by the National Association on Insurance Commissioners...” Beyond the examiners’ generalized statement, it remains unclear whether or not the examiners conformed their sampling methods to those required by the “Handbook”.

## COMPANY OVERVIEW

### HISTORY

The John Hancock Mutual Life Insurance Company was originally incorporated as a mutual life insurance company under the laws of Massachusetts on April 21, 1862 and commenced business on December 27, 1862.

On January 27, 2000, ~~the Company~~ John Hancock Mutual Life Insurance Company converted from a Massachusetts mutual life insurance company to a Massachusetts stock life insurance company and became a wholly-owned subsidiary of John Hancock Financial Services, Inc., whose shares were sold in an initial public offering on the same date. Under the ~~p~~Plan of Reorganization (“the Plan”), which was adopted by the board of directors on August 31, 1999, eligible policyholders received shares of John Hancock Financial Services, Inc., policy credits, or cash in exchange for their policyholders’ membership interests in the ~~C~~Company. In conjunction with the conversion, the ~~C~~Company changed its name from John Hancock Mutual Life Insurance Company to John Hancock Life Insurance Company. The Plan was approved by a majority vote of policyholders on November 30, 1999, and by the Massachusetts ~~Department~~Division of Insurance on December 9, 1999.

John Hancock Variable Life Insurance Company is a wholly-~~o~~wned subsidiary of John Hancock Life Insurance Company. This subsidiary company was incorporated under Massachusetts’ law on February 22, 1979 and commenced business on February 12, 1980.

## VERMONT REPORTED PREMIUMS

### **John Hancock Life Insurance Company**

	<b>1998</b>	<b>1999</b>	<b>2000</b>
Life	4,859,469	5,001,022	4,726,146
Annuity	184,712	122,947	4,468,437
A & H	1,461,876	1,483,812	1,294,481
Deposit Funds	(1,632,066)	(804,706)	(521,982)
Total	4,873,991	5,803,075	9,967,082

### **John Hancock Variable Life Insurance Company**

	<b>1998</b>	<b>1999</b>	<b>2000</b>
Life	25,010,485	4,907,631	5,551,473
Annuity	0	0	0
A & H	0	0	0
Deposit Funds	1,509,456	2,753,443	389,864
Total	26,519,941	7,661,074	5,941,337

## PREMIUM REPORTING

~~The examiners noted that the deposit funds reported by John Hancock Life Insurance Company for all three examination years were relatively large negative figures. It was also noted that the life insurance premiums reported by the John Hancock Variable Life Insurance Company dropped from \$25,010,485 in 1998 down to \$4,907,631 in 1999.~~

~~The Company explained that these unusual appearing variances were attributable to COLI (Corporate Owned Life Insurance) with premiums, which are highly variable and unpredictable. They further explained that the COLI products were “excluded from sales reporting” because of this.~~

~~As to the negative deposit funds reported by John Hancock Life Insurance Company, their explanation was as follows:~~

~~*The negative numbers appearing as Fund Deposits in JHLCo’s Schedule T for 1998-2000 are the result of the booking of retail fund deposit surrenders as return considerations.*~~

~~*True surrenders (formerly booked as return considerations) were to be booked as surrenders. If they were internal 1035 exchanges, except for current year cash*~~

~~considerations received, the original JH company (or element) would book them in the normal way, as surrenders, and the new JH company (or element) would book them as negative surrenders.~~

~~The examiners believe the Company's premium reporting methodology to be unique and therefore recommend that the calculation of premium taxes reported by the Company be reviewed by the Vermont Department of Taxes.~~

### **Comment on Premium Reporting**

The examiners' subjective commentary and conclusions regarding "Premium Reporting," appear to be based on a misunderstanding of the Company's practices. It is also the result of the Company's prior confusion regarding the examiners' original inquiry, which produced the Company's response quoted by the examiners.

While COLI life insurance sales are tracked separately from the Company's core life insurance sales for internal sales reporting purposes and are also treated differently for purposes of LIMRA sales reporting, they are not excluded from the Company's regulatory sales reporting.

JHVLICO's decline in life insurance premiums from \$25,010,485 in 1999 to \$4,907,631 in 2000 was generally due to variances in the sale of COLI products, which are highly variable and quite unpredictable. There were two life products principally responsible for this decline: First, the sale of the Variable Master Plan Plus policy declined by \$11.1 million; Second, the sale of the Majestic Universal Life policy declined by \$11.3 million.

The drop-off in annuity fund deposits is primarily due to fewer annuity sales in the State of Vermont during the time period in question. Previously, deposits from annuity contract holders who surrendered their contracts were recorded as a reduction to current year fund deposits received. Beginning in 2002, these surrenders were more properly recorded as surrender benefits. While a few states do impose a tax liability on annuity contracts that have annuitized Vermont does not. At the end of the day, there is nothing inappropriate or notable regarding the way in which the Company accounts for or reports life insurance premiums or annuity deposits.

## ~~SALES AND MARKETING~~

### ~~ADVERTISING~~

~~The examiners reviewed one hundred and thirteen (113) advertising pieces, which the Company had available for use in Vermont during the examination period. The findings were as follows:~~

~~Advertising piece LTC 1416 was designed for use in marketing the Company's Advantage Gold Select Long Term Care Insurance Policy to organizations and companies. This document contains the following language:~~

*~~Why Long Term Care~~*

*~~If you're 65, your chance of having a nursing home stay is 48.6%. There is a 71.8% chance you may need home health care.~~*

~~This statement has the capacity to mislead or deceive, in violation of Vermont Regulation 71-1 § 3 A and includes statistical information which does not reflect all of the relevant facts, in violation of Vermont Regulation 71-1 § 7A. Further, the Company failed to furnish any evidence that this advertisement was filed with the Vermont Department for review and approval pursuant to Vermont Regulation 91-1 § 15.~~

~~As to the specific content of the statement, if 48.6% of the general public over age 65 have historically had a nursing home stay, this would not be a reasonable indicator of the likelihood that a purchaser of the Company's long term care policy would ever qualify to receive nursing home benefits under company rules for the following reasons:~~

- ~~1. The Company underwrites the applications. Thus, the average person who meets the company's standards of eligibility would be less likely to ultimately need nursing home care than a person from the general population, which includes many unhealthy persons.~~
- ~~2. A person insured under the Company's long term care policy cannot use the nursing home benefit unless and until the Company determines that such person meets certain requirements specified by the Company. Many members of the public who elect to enter nursing homes would not be likely to meet the Company's "trigger" or requirements for entry.~~

~~In summary, the likelihood that a person who is healthy enough to qualify for purchase of a long term care policy in the first place will ultimately become limited in their daily~~

~~living activities to such an extent as required by the Company for payment of the nursing home benefit could reasonably be expected to be far less than 48.6%.~~

~~In view of the above, the examiners recommend that the Company immediately discontinue the use of LTC 1416 and/or other advertising containing similar wording and develop procedures to insure compliance with Vermont Regulation 91-1 § 15.~~

### **Comment on LTC 1416**

The examiners have cited LTC-1416 for a violation of Vermont Regulation 91-1 § 15. Vermont Regulation 91-1 § 15 is entitled “Filing Requirements for Advertising” and reads in pertinent part as follows:

Every insurer or other entity providing long-term care insurance benefits in Vermont shall submit a copy of any long-term care insurance advertisement intended for use in Vermont whether through written, radio or television medium to the Commissioner for review and approval.

LTC-1416 was a Powerpoint presentation intended for use with association principals to assist agents to explain the benefits of offering a sponsored group discount program to eligible members. It was not for use with the insurance buying public. Therefore, it was not filed with the Department since the Company believed in good faith, that it was not a consumer advertisement as defined pursuant to Regulation 71-1 § 1A.

The examiners also indicated that the quoted statistic violates Vermont Regulation 71-1 § 3A, which states, “The format and content of an advertisement of an accident or sickness insurance policy shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive.” Respectfully, the Company believes that this piece is “sufficiently complete and clear” and that it does not have the “capacity or tendency to mislead or deceive”. The statistic in question was clearly footnoted as being from the Health Insurance Association of America’s 1997 publication, “Long Term Care: Knowing the Risk, Paying the Price”.

This reference was used merely to help highlight the fact that a relatively high percentage of individuals who are age 65 and older in the general population may require some form of long-term care. Contrary to the examiners’ claim, it was not intended as a reasonable indicator of the likelihood that a purchaser of long-term care insurance would qualify to receive nursing home benefits under the terms of the policy.

Moreover, this same statistical reference appears in at least twenty-one other marketing pieces that were submitted to and affirmatively approved by the Department. These marketing pieces are noted in the following chart.

<b>Advertising Form number</b>	<b>Date approved</b>	<b>VT Dept. File #</b>
LTC-1197 3/98	5/28/98	98-1949
GSO795 VT 12/97	5/8/98	97-6772
LTC-1057 1/98	3/20/98	98-345
LTC-1116 11/97	3/5/98	98-0055
LTC-1317 VT 7/98	1/25/99	98-5294
LTC-1084 8/98	10/29/98	98-4946
IFMS-LTC let 5/98	9/3/98	98-4146
PR1012 4/99	7/1/99	99-2705
LTC-1303 PPT VT 9/98	4/15/99	99-1529
SS041399	3/4/99	99-0617
LTC-1352 10/98	2/25/99	99-0546
JHF-RS 12/98	2/25/99	99-0539
LTC-DM 1500 5/99	9/16/99	9-3948
SC-LTC FAQ 4/00	12/1/00	00-5307
LGLT-SR 5/00	6/21/00	00-2487
LTC-SEMINV-1 3/00	5/4/00	00-1767
LTC-SEMFLY-1 3/00	5/4/00	00-1767
LTC-SEMLET-1 3/00	5/4/00	00-1767
LTC-SEMAD-1 3/00	5/4/00	00-1767
WS-LTC FAQ ed. 12/99	3/2/00	00-591
MK3025 10/99	1/13/00	99-5942

Copies of the pertinent pages from those marketing pieces, including the Department’s approval are attached collectively as “Exhibit 2.” Further, these same marketing pieces were approved for use in approximately twenty other states. Neither Vermont nor any other state insurance department has previously made a claim that the statement at issue was incomplete or that it had the capacity to mislead or deceive a prospective insured. Respectfully, all insurers make use of relevant statistics to help to show the potential *need* for insurance, not to indicate a likelihood that one may qualify for benefits. There is no indication that a single prospective or existing insured was prejudiced by John Hancock’s use of this piece with association principals. As such, the Department’s position on this issue, particularly given its affirmative approval of the same reference in other marketing pieces, is inconsistent and inequitable.

In any event, the use of Form LTC-1416 was discontinued for other reasons in August 2002. For the reasons stated, the Company asserts that there is no violation of the cited Vermont Regulations. Of the 113 advertising pieces reviewed, this was the only piece cited by the examiners. Since the Report was written by exception, this entire section of the Report should be deleted. The corresponding references in the “Index” and in the “Summary of Recommendations” should also be deleted.

## CONVERSION OF MONTHLY DEBIT ORDINARY (MDO) TO REGULAR BILLED PREMIUM

In 1983 the Company converted all of its MDO business to a regular billed premium basis. In view of this, the examiners posed the following question to the Company in writing:

*The original pricing of MDO policies necessarily includes a component in the premium to cover the company's additional costs and agents' compensation for collecting premiums at the insured's home. When this expense to the company was reduced by means of converting the MDO policies to a regular billing basis, the insureds were compelled to incur additional costs for postage. Our question is, were these insured's compensated in some fashion to account for the company's reduction in collection expenses and the insured's additional cost of postage to mail the premiums to the company? If so, explain how.*

The Company failed to answer this question after the examiners made five separate requests in writing. Such failures constitute violations of 8 V.S.A. § 3565 (b).

The examiners recommend that the Company provide the Department with a complete written response to this inquiry.

### **Comment on Conversion of MDO to Regular Billed Premium**

The scope of the Examination is 1998 – 2000. The examiners were inquiring about an event that took place in 1983. The MDO billing process was automated in an effort to improve service to the Company's customers and redirect the energies of the Company's agents towards additional service and sales related opportunities. While there may have been certain expense reductions achieved from automating the billing process, they were substantially offset by the conversion costs associated with the development, implementation and ongoing maintenance of the automated billing system.

The insurance contracts at issue require the customer remit premiums to the Company. Nowhere in the contract, does the Company commit itself to pick up the premiums at the customer's residence. Had the Company not altered the billing system, then the ever increasing expense of sending agents door to door, would ultimately have resulted in lower surplus for the Company and therefore lower dividends to policyholders.

In any event, the Company's inadvertent failure to respond to the examiners' inquiries on this issue, does not constitute a violation of 8 V.S.A. § 3565. 8 V.S.A. § 3565 is entitled "Examination of officers and books" and reads as follows:

(a) The commissioner, inspecting an insurance company, may require its officers, or any agent thereof, to exhibit books kept by them relating to their business and may examine

under oath such agents and officers and other persons as he or she thinks proper, in relation to the business transactions and conditions of the company.

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed by the commissioner, timely, convenient and free access at all reasonable hours at its offices to 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 being examined. The officers, directors, employees and agents of the company or person shall cooperate in the examination.

Clearly, Subsection (b) does not relate to an inadvertent failure to respond to a question asked by the examiners during the course of an examination. As such, the entire section should be deleted from the Report.

### JOHN HANCOCK SIGNATURE ACCESS ACCOUNTS

~~With respect to individual life policies, the Company has the practice of unilaterally placing death proceeds in a "John Hancock Signature Access Account" which they open in the beneficiary's name without receiving prior permission from the beneficiary. The letter informing the beneficiary of their claim approval and the opening of the "Access Account" also states the following:~~

~~*You will receive an information package shortly including a supply of checks for your immediate use. The amount deposited to the account is itemized below.*~~

~~8 V.S.A. § 3665 (c) (2) requires that all payments of claims under policies of life insurance include interest accrued from the date of death at the rate paid on proceeds left on deposit, or six percent (6%) whichever rate is greater.~~

~~It is the Company's practice to calculate the interest on death claims from the date of death up until the claim is approved. A problem arises, however, since the insured is not notified of the "Access Account" until several days later when the letter goes out to the beneficiary informing them of the existence of the account. Even then the beneficiary does not have immediate access to the account because a supply of checks is not sent out until a later date.~~

~~As a result of this practice the beneficiary is deprived of the statutory interest from the date of claim approval until the date the supply of checks are mailed out. If the difference in dates was five days, for example, the resulting underpayment would be more than \$40 on a \$50,000 claim.~~

~~In view of these underpayments of interest on death claims it is the examiners' recommendation that the Company be instructed to go back and recalculate and pay the additional interest due these beneficiaries, at least for claims settled during the examination period.~~

### **Comment on John Hancock Signature Access Accounts**

The examiners' concerns about the Company's Signature Access Account relative to 8 V.S.A. § 3665(c)(2) are misplaced. The Company pays statutory interest on a claim from the date of death to the date of claim approval. The beneficiary retains total control of, and immediate access to, insurance proceeds through a free, personalized checkbook. Checks are mailed to the beneficiary the day after the death claim proceeds are moved to the Signature Access Account. Checks can be written the day the beneficiary receives the checks and the unused balance continues to earn interest. Interest on these accounts is immediate and is paid even while the checks are in transit to the beneficiary.

Through the Signature Access Account, the safety of the proceeds is assured because John Hancock guarantees the principal and earned interest. Further, through the checking privilege, the beneficiary had immediate access to the entire proceeds. A checkbook is sent to beneficiaries within two business days of the claim being approved. Upon receipt, checks could be written immediately to pay bills or meet expenses. Interest is compounded and credited monthly. There are no costs to open this account. There are no monthly service charges and no charge for the checks. In July, 1995, the NAIC issued a model regulation on "Retained Asset Accounts Sample Bulletin". Respectfully, the Company's Signature Access Account is in complete accord with the model regulation.

It is implicit, that the period immediately following the death of a loved one, is not necessarily an appropriate time to make an important financial decision. Yet for many beneficiaries, the need to make such decisions may be difficult to avoid. Under pressure to "do something" with the death claim proceeds, a beneficiary might be rushed into a spending or investment decision which may not be appropriate in the long run. The Signature Access Account allows beneficiaries a framework in which they can make important financial decisions. The automatic feature simplifies the settlement process for beneficiaries by eliminating the necessity to immediately consider other investment alternatives. It further serves as a deterrent against those who might otherwise take advantage of the beneficiary at a vulnerable time in their lives.

During a portion of the time period at issue in the Examination, John Hancock utilized "Claim Form," Form 14R 5/2000 ed., a copy of which is attached as "Exhibit 3". On this form, it indicates that on lump-sum payments involving "total proceeds of \$10,000 or more from one or more policies will be placed in the John Hancock Signature Access Account". If the death benefit was less than \$10,000, John Hancock paid the beneficiary by check. The reason John Hancock sent a check for proceeds less than \$10,000, was that for most beneficiaries in this category, the monies at issue are immediately applied toward funeral and burial expenses. As noted in the Claim Form, the beneficiary is advised in detail about the Signature Access Account. If the

beneficiary does not want to have the lump sum proceeds paid in this form, he or she could so advise the Company.

# CLAIMS PROCEDURES AND PROCESSING

## WRITTEN PROCEDURES

### **Individual Life Claims**

~~In reviewing the Company's written procedures with respect to the payment of death claims, the examiners observed that interest is calculated by the Company's computer system (IPO Payment Screen). The formula by which the system calculates interest failed to indicate the applicable 12% interest due in the event of an untimely death claim payment. Reference 8 V.S.A. § 3665 (d).~~

### **Comment on Individual Life Claims Procedures**

8 V.S.A. § 3665 is entitled "Timely payment of claims; interest; damages". Subsection (d) reads as follows:

(d) If an insurer fails to pay timely a claim, it shall pay interest on the amount of the claim beginning 30 days after a beneficiary files a properly executed proof of loss. In the event judgment is entered for a beneficiary or a settlement agreement between the insurer and the beneficiary is executed, interest shall accrue from 30 days after the beneficiary filed a proof of loss. The interest rate imposed on the insurer shall be the judgment rate allowed by law.

The interest rate imposed by the statute is the "judgment rate allowed by law". There is no reference in the statute to a 12% interest rate. The judgment rate allowed by law fluctuates over time as determined by Vermont's legislature. Moreover, the statute does not impose a requirement that the Company's "computer system" include this calculation. The Company calculates basic claim interest by the IPO system. Penalty interest is not by the IPO system. In a situation where penalty interest is due, it is the Claim Examiner's responsibility to manually calculate the amount due based on the rate specified in the reference materials used in the Claim Services area.

### **Group Life and Disability Claims**

The examiners' review of the Company's group life and disability claims handling procedures revealed an irregularity. It is the Company's practice to pay interest on the death benefit based on the residence of the beneficiary rather than the residence of the certificateholder.

### **Date Stamping**

The examiners note that the Company does not date stamp the death certificate unless it is the only document received. ~~The examiners recommend that the Company instruct all~~

~~claims handling personnel to date stamp all pertinent file documents including the copy of the certified death certificate, in order to verify when proof of loss is actually received.~~

### **Comment on Date Stamping**

The Company date stamps at least one document in each packet of claim materials received. All documents received in a claim packet are imaged as one complete set, which indicates that it was all received together. It is unnecessary and overly burdensome to date stamp additional documents. As such, the examiners' recommendation is unwarranted.

### **CLAIM AUDITS**

The examiners requested on five (5) occasions information as to whether the Company performed internal claim audits and if so, the results of those audits. The Company failed to provide the requested information, ~~violating 8 V.S.A. § 3565 (b).~~

The examiners recommend that the Company answer the examiners question as to whether they performed internal claim audits and, if so, to furnish copies of the audit findings to the Department.

### **Comment on Claim Audits**

The Company's inadvertent failure to respond to the examiners' inquiries does not constitute a violation of 8 V.S.A. § 3565. 8 V.S.A. § 3565 is entitled "Examination of officers and books" and reads as follows:

(a) The commissioner, inspecting an insurance company, may require its officers, or any agent thereof, to exhibit books kept by them relating to their business and may examine under oath such agents and officers and other persons as he or she thinks proper, in relation to the business transactions and conditions of the company.

(b) Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed by the commissioner, timely, convenient and free access at all reasonable hours at its offices to 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 being examined. The officers, directors, employees and agents of the company or person shall cooperate in the examination.

Clearly, Subsection (b) does not relate to an inadvertent failure to respond to a question asked by the examiners during the course of an examination. As such, the reference to the statute should be deleted from the Report.

## INDIVIDUAL PAID LIFE CLAIMS

From a population of three hundred (300) paid life claims a sample of seventy-one (71) was selected for the compliance review. The findings were as discussed below.

### Underpayments

- Claim # ~~813870~~, # 900573~~6~~, # 800198 and # 9004740

The Company failed to apply the statutorily required rate of interest (6%) in violation of 8 V.S.A. § 3665 ( c ) (2), resulting in an underpayment of the death benefit for those ~~four~~three (4~~3~~) claims referenced above.

### Comment on Underpayments

#### Claim # 813870, regarding Policy Number M7067524

Death Benefit	\$1,192.09
Interest Paid	\$ <u>186.13</u>
Total Paid	\$1,378.22

The Company paid 903 days of interest at 6%. As such, the correct amount of interest was paid and the reference to this claim should be deleted from the Report.

#### Claim # 900573, regarding Policy Number VL587266

Death Benefit	\$56,658.76
Paid up additions	\$ 2,077.14
Outstanding loan	\$(8,847.28)
Premium Due	\$ (68.10)
Net Amount due	\$49,820.52
Interest paid	\$ <u>109.20</u>
Total paid	\$49,929.72

The Company paid 16 days of interest at 5%. Interest should have been paid at 6%. A check for the balance of the interest due was sent out on October 11, 2002. A copy of the payment documentation is attached as part of “Exhibit 4”.

#### Claim # 800198, regarding Policy Number VL673784

Death Benefit	\$64,668.84
Paid up additions	\$ 1,423.64
Premium refund	\$ 64.95
Outstanding loan	\$(5,045.06)

Net Amount due	\$61,112.37
Interest paid	\$ <u>359.98</u>
Total paid	\$61,472.35

The Company paid 43 days of interest at 5%. Interest should have been paid at 6%. A check for the balance of the interest due was sent out on October 11, 2002. A copy of the payment documentation is attached as part of Exhibit 4.

**Claim # 900474, regarding Policy Number VL513081**

This policy lapsed for non-payment of the premium due on December 3, 1998. Coverage for \$57,358.00 continued as extended term insurance.

Death Benefit	\$57,358.00
Interest paid	\$ <u>360.65</u>
Total paid	\$57,718.65

The Company paid 51 days of interest at 4%. Interest should have been paid at 6%. A check for the balance of the interest due was sent out on December 6, 2002. A copy of the payment documentation is attached as part of Exhibit 4.

**Overpayment**

- Claim # 900624

The Company paid \$12,370.67 in interest on this life claim, the correct amount is \$7,781.40, resulting in an overpayment of \$4,589.27. The Company advised the examiners ~~inquiry with regard to the overpayment of death proceeds, revealed that that~~ the Company’s “Focus Death Claim” system contained a “bug”, ~~which that resulted in interest being~~ calculated ~~interest~~ incorrectly. ~~The Company further indicated t~~That the problem was corrected during the spring of 2001.

**Not timely paid-underpayment**

- Claim # 808260

The claimant’s statement and proof of loss were received 8/17/98. The Company did not pay the claim until 12/3/98 and failed to pay the statutorily required rate for untimely payments in violation of 8 V.S.A. § 3665 (d) resulting in an underpayment of death proceeds.

The claimant’s statement indicates that the insured had ~~two other another~~ life insurance policiespolicy, Policy Number 65582876 and one variable annuity. The examiners

recommend that the Company recalculate the death proceeds for ~~these~~this policy reflecting the required rate of interest for delaying payment of the claim.

~~(Policies # M004998878 & Policy 65582876)~~

### Comment on Not Timely Paid-underpayment

#### Claim # 808260, Policy Number M8821962

This claim was inadvertently shelved without being paid. The claimant called inquiring about the status of the claim on November 19, 1998. The file was located and payment was made. The Claims area failed to apply the penalty rate for untimely payments. As such, a check for the balance of the interest due was sent out on October 11, 2002. A copy of the payment documentation is attached "Exhibit 5". For the same reason, the claim for Policy Number 65582876 was not paid in a timely manner. A check for the balance of the interest due was sent out on October 11, 2002. A copy of the payment documentation is attached as part of Exhibit 5.

The claim on Policy Number M004998878 was received August 17, 1998 and paid on August 24, 1998. As such, no interest is due. Annuity V0107153 was claimed on March 4, 1999 and paid on March 8, 1999. As such, no interest is due.

### Conclusion and recommendation

The examiners' finding of ~~eight~~five (8~~5~~) errors out of a sample of seventy-one (71) individual paid claims reflects an error rate of ~~11.37%~~ 7.1% ~~-when applied to the total population of three hundred (300) paid claims it results in an estimate of thirty four (34) total errors. In view of this result, the examiners recommend that the Company review all individual Vermont paid claims for the examination period and recalculate the interest and make additional interest payments where indicated.~~

### Claim Irregularity

~~? Claim # 707752~~

~~The examiners observed an irregularity in that the initial claim notice was received by the Company on approximately 4/7/97 (date stamped incorrectly by the company). A letter was sent to the claimant on 4/7/97 advising that the beneficiary was the estate and requesting court appointment papers. There was no further correspondence or communication from the Company to the claimant until the claimant submitted the requested documents on 1/21/98. It is the examiners' opinion that the Company should~~

~~have made follow-up requests during the nine (9) month period that lapsed between receipt of the claim and receipt of the requested documents.~~

### **Comment on Claim Irregularity**

#### **Claim # 707752, Policy Number 65908297**

On April 7, 1997, following the Company's receipt of a claim from the brother of the insured, a letter was sent advising him that the beneficiary was the Estate and a request was made that the appropriate court appointment papers be submitted. The Company heard nothing until January 21, 1998. At that time, a request was received from the attorney for the estate, instructing the Company to pay half the proceeds. Payment was made on February 6, 1998. The other surviving heir was a minor and could not be paid until he reached the age of majority. Payment was made within 30 days of receipt of the required documentation. There was no obligation for the Company to make a "follow-up request". Under the circumstances, the examiners' subjective "opinion" is inappropriate and misplaced. This entire section should be deleted from the Report.

## **GROUP PAID LIFE CLAIMS**

There were seventeen (17) group life claims paid during the examination period. All seventeen (17) claim files were reviewed. The findings of this portion of the examination are discussed below.

### **Underpayments**

- Claims # 9800660, 9806898, 9804573, 9909258, 9908398, 9901822, 9905317, 9903192, 2007338, 2003782, 2000350 & 2001434

The Company failed to apply the statutorily required rate of interest (6%) in violation of 8 V.S.A. § 3665 ( c) (2), resulting in an underpayment of the death benefit for those twelve (12) claims referenced above.

### **No interest paid**

- Claims # 9801343, 9904597, 9904233, 2004944 & 2004130

8 V.S.A. § 3665 ( c) (2) requires that all payments of claims under policies of life insurance shall include interest accrued from the date of death of the insured at the rate of six (6) percent or the rate paid on proceeds left on deposit, whichever rate is greater. The Company failed to pay interest on five (5) of the reviewed claims pursuant to 8 V.S.A. § 3665 ( c) (2).

The examiners recommend that the Company pay the beneficiaries of those claims listed above the additional amounts of interest to which they are entitled.

### **Comment on Group Paid Life Claims**

The Claims area has made the appropriate additional interest payments on the twelve underpaid claims and the five claims where no interest was paid. Copies of the proof of the payments to those that were underpaid are attached as “Exhibit 6”. Copies of the proof of payment where no interest was paid are attached as “Exhibit 7”. No interest was paid on the five referenced claims because they were all Group Life Insurance policies where the policies were sited in states other than Vermont, where, under their law, no interest would have been due. Based on the Examination, the Claims area has now changed its procedure to apply the provisions of 8 V.S.A. § 3665 if the insured or the beneficiaries reside in Vermont at the time of death.

**GROUP PAID HEALTH CLAIMS**  
**(Coinsured by UNICARE)**

From a population of three thousand eight hundred and sixty four (3,864) group health claims the examiners selected a sample of fifty-four (54) for review in order to determine compliance with 18 V.S.A. § 9418 (Payment for health care services). Seven (7) of the fifty-four (54) claim files could not be located. The examiners observed ~~that four (4) claims were in “apparent” violation \* of 18 V.S.A. § 9418 (b) (1) & (e),~~ that two (2) claims were in violation of 18 V.S.A. § 9418 (b) (1) & (e) and two (2) claims were in violation of 18 V.S.A. § 9418 (b) (2).

(\* See **Note** following the chart below)

Additionally, 18 V.S.A. § 9418 (e) provides that interest shall accrue on a claim that is uncontested from the first calendar day following the 45-day period following the date the claim is received by the company at the rate of 12 percent per annum. The Company did not pay interest on the claims as detailed in the following chart.

Master Case #	Clmt. #	Date of Service	Date Paid or Denied	Total Amt. of Claim	Amt. Paid	Date Claim Recv'd	# of Days from date claim recv'd to date paid	Remarks
25919	008261857 Sample # 4	6-27-97	2-12-98	52.75	52.75	<del>*7-20-97</del>	<del>*207</del>	* Apparent violation of 18 V.S.A. § 9418 (b) (1) & (e)
25919	009287102 Sample # 8	2-2-98	11-3-98	23.77	0	9-17-98	47	Violation of 18 V.S.A. § 9418 (b) (2)

25919	041680632 Sample # 14	6-2-98	12-15-98	30.00	0	10-26-98	50	Violation of 18 V.S.A. § 9418 (b) (2)
26527	008502552 Sample # 19	1-08-98	3-28-98	33.00	23.00	<del>*1-31-98</del>	<del>*56</del>	<del>* Apparent violation of 18 V.S.A. § 9418 (b) (1) &amp; (e)</del>
26527	008503045 Sample # 20	8-11-97	1-7-98	85.00	42.50	<del>*9-3-97</del>	<del>*126</del>	<del>* Apparent violation of 18 V.S.A. § 9418 (b) (1) &amp; (e)</del>
26527	008683675 Sample # 24	6-12-97	3-10-98	95.00	95.00	<del>*7-5-97</del>	<del>*248</del>	<del>* Apparent violation of 18 V.S.A. § 9418 (b) (1) &amp; (e)</del>
26527	008683675 Sample # 25 (Same claimant as above)	8-8-97	4-14-98	297.00	297.00	9-12-97	249	Violation of 18 V.S.A. § 9418 (b) (1) & (e)
27515	008405270 Sample # 51	7-28-98	9-22-98	211.33	173.10	8-5-98	48	Violation of 18 V.S.A. § 9418 (b) (1) & (e)

**\* NOTE:**

The Company was unable to provide the “date of receipt of claim” as they could not locate the claim file. ~~The examiners estimated the average number of days that lapsed between the date of service and the date of receipt of the claim to be twenty three (23) days. Since the exact date is not known the application of the estimated date of receipt is indicated in the chart above to reflect the untimeliness of the claim payment.~~

**Comment on the Examiners’ Estimates**

If the file was unavailable, it is inappropriate to estimate the “date of receipt” and thereby allege a violation of law.

The Company should take steps to bring all of its procedures in conformity with the statute and regulation cited above. In addition, a further effort should be made to locate the missing files and to review all of the files to make corrections where necessary as well as making additional payments to claimants where indicated.

Out of the sample of fifty-four (54) claim files there were a total of ~~fourteensix (146)~~ violations and apparent violations, resulting in a violation rate of ~~25.911~~%. ~~Applying this percentage to the total population of claims, the estimated number of violations would be one thousand (1,000).~~

### **Comment on Group Paid Health Claims**

The examiners appear to have counted more than one error per file in calculating error ratios. It is inequitable and inappropriate for the examiners to have cited single files for multiple violations of the same regulation or statute, then it should be cited for being in violation of said regulation or statute. This casts the Company in a false light. A file is either compliant with a regulation or state law, or it is not. Only eight of the 47 claim files reviewed were allegedly in violation. The eight files relate to only 3 master case numbers. To cite an individual file for multiple violations of the same law, and to then total the violations, unfairly inflates the number of violations and paints an inequitable picture of the number of files truly at issue. The Company will make every effort to pay additional interest due.

It is also inappropriate for the examiners to have extrapolated the violation rate to the entire population of claims. 8 V.S.A. § 3573 is entitled, “Examination procedure” and requires that examiners “observe those guidelines and procedures set forth in the Examiners’ Handbook adopted by the National Association on Insurance Commissioners...” Chapter V of the Market Conduct Examiners’ Handbook is entitled “Sampling”. There, it is clearly stated that, “If the examiner wishes to make inferences concerning the files of an examinee, then all files must be reviewed or an appropriately drawn statistical sample must be drawn and explained. Otherwise, no general statements can be made about the examinee’s files that can be supported”. It is inappropriate for the examiners to extrapolate beyond the sample reviewed and apply an alleged error ratio to the entire universe of files. As noted in the Handbook, “Generalization or extrapolation of the results beyond the field of files from which the sample is selected is not acceptable”.

## UNDERWRITING

### HIV TESTING

The examiners selected a sample of ninety (90) issued life policies from a population of six hundred and seventeen (617) for review in order to determine compliance with Vermont statutes and regulations. The population of six hundred and seventeen (617) represented life policies issued in Vermont during the examination period.

The review revealed eighteen (18) violations of Vermont statutes. The sample error rate was therefore 20%. ~~When applied to the total populations of six hundred seventeen (617) this would give an estimated number of one hundred twenty three (123) total violations.~~

#### **Comment on Extrapolation**

8 V.S.A. § 3573 is entitled, “Examination procedure” and requires that examiners “observe those guidelines and procedures set forth in the Examiners’ Handbook adopted by the National Association on Insurance Commissioners...” Chapter V of the Market Conduct Examiners’ Handbook is entitled “Sampling”. There, it is clearly stated that, “If the examiner wishes to make inferences concerning the files of an examinee, then all files must be reviewed or an appropriately drawn statistical sample must be drawn and explained. Otherwise, no general statements can be made about the examinee’s files that can be supported”. It is inappropriate for the examiners to extrapolate beyond the sample reviewed and apply an alleged error ratio to the entire universe of files. As noted in the Handbook, “Generalization or extrapolation of the results beyond the field of files from which the sample is selected is not acceptable”.

The violations are detailed in the following discussion.

Re: Policy # 003358997

In violation of 8 V.S.A. § 4724 (20) ( C), the Company failed to obtain the correct HIV consent form (VT 88-1) and requested testing by means of oral fluid, a method not approved by Vermont. It should be noted that subsequently the correct form was presented and acknowledged by the applicant several weeks after the application had been signed.

Re: Policy # 003336827

In violation of 8 V.S.A. § 4724 (20) ( C), the Company failed to obtain the correct HIV consent form (VT 88-1) and there is no evidence of compliance with 8 V.S.A. § 4724 (B) which, among other requirements, provides that the information statement be read aloud to the individual by the agent or broker.

Re: Policy # 003367183

There is no evidence that the agent read aloud the information statement to the applicant in that the "Acknowledgment of Information Statement for HIV-Related Tests" form was not signed by the agent, in violation of 8 V.S.A. § 4724 (20) (B).

Re: Policy # 003339397

There is no evidence of compliance with 8 V.S.A. § 4724 (20) (B) in that the "Acknowledgment of Information Statement for HIV-Related Tests" form was not signed by either the applicant or the agent.

Re: Policy # 067244505

The "Informed Consent" form (VT 88-1) was not signed by the proposed insured violating 8 V.S.A. § 4724 (20) (B).

Re: Policy # 067215520

In violation of 8 V.S.A. § 4724 (20) ( C), the Company failed to obtain the correct HIV consent form (VT 88-1) but used instead form # 1675-VT (Rev. 6-90) which is not on the approved forms listing. Additionally, there is no evidence of compliance with 8 V.S.A. § 4724 (B) which, among other requirements, provides that the information statement be read aloud to the individual by the agent or broker.

Re: Policy # 075064441

There is no evidence of compliance with 8 V.S.A. § 4724 (20) (B) in that the "Acknowledgment of Information Statement for HIV-Related Tests" form was not signed by either the applicant or the agent.

Re: Policy # 067221892

In violation of 8 V.S.A. § 4724 (20) ( C), the Company failed to obtain the correct HIV consent form (VT 88-1) and there is no evidence of compliance with 8 V.S.A. § 4724 (B).

Re: Policies # 67214456, 75030008, 75040602, 75064796 and 75077626

In violation of 8 V.S.A. § 4724 (20) (B), the Company used VT 88-1 but the insured did not sign page 2 regarding reading of page 1 of the form. There was no correspondence from the underwriting department returning the form or writing to the agency regarding it.

Re: Policy # 67215095

The old Vermont authorization form 1675-VT was completed, however, this form was only accepted until 1989. The required statement is not a part of that form. The underwriting department did not require current form VT 88-1, hence a violation of 8 V.S.A. § 4724 (20) (B).

Re: Policy 7037120

This policy was issued in Vermont but authorization form 15761 was signed when the physical examination was performed. Form VT 88-1 was not signed on page 2, in violation of 8 V.S.A. § 4724 (20) (B).

### **Comment on HIV Testing**

As the Department is aware, John Hancock no longer has any agencies physically in Vermont. The majority of the policies cited were written by two agencies: A220 in Concord, New Hampshire and A101 in Albany, New York. Agency 220 closed in July, 2001 and merged with A057, which was located in Andover, Massachusetts. On September 30, 2002, Agency A057 was closed and was merged with A103, which is located in Boston, Massachusetts.

As a result of the Examiners' findings, the Company has sent a notification to agencies A103 and A101, which are the agencies that are now geographically closest to Vermont, reminding them that Form VT88-1 is the operative form to use and that Form 1675-VT (Rev. 6-90) had been replaced and is no longer permitted for use. Copies of the letters to the agencies from Senior Underwriting Consultant Anne Marie Moore are attached collectively as "Exhibit 8". The Company has also notified the entire Underwriting Department that regardless of the source of the application, they must make sure that Form VT88-1 is fully completed on all applications issued in Vermont if blood is being taken from the prospective insured. Also, all relevant underwriting personnel have been advised that if both the insured and agent do not sign in both the Acknowledgement of Information Statement for HIV-Related Tests and the Informed Consent sections of the form then it may not be accepted. A copy of this notice is attached as "Exhibit 9".

Additionally, there were six (6) policies written by the "direct sales method" through the Internet for which the examiners observed irregularities.

The "Acknowledgment of Information Statement for HIV-Related Tests" form reads:

*I have listened to the undersigned agent read aloud this printed Information Statement to me. I acknowledge that I have heard and understood this material, and that I have received a copy of this Information Statement.*

The six (6) forms were not acknowledged by the agent, therefore there is no evidence of compliance with 8 V.S.A § 4724 20 (B).

The examiners recommend that the Company revise their procedures with respect to the requirements of 8 V.S.A. § 4724 (20) assuring compliance with the statute.

**See Appendix I**

### **Comment on Direct Sales Method**

Since “direct sales” are made thorough the internet, agents in the traditional sense are not involved in the process. Direct Sales are referenced as Agency 158. In such circumstances, the HIV Information Statement is completed by one of two paramedic vendors used by the Company, Portamedic and PMSI. In internet sales, the medical professional is responsible for reading the first page of the Information Statement to the proposed insured and for signing the form in the sections where the agent’s signature is called for. The letters attached as “Exhibit 10”, were sent to PMSI and Portamedic on November 7, 2002, to remind them of their responsibility for completing Vermont’s HIV Information Statement.

## **~~POLICY LOAN INTEREST~~**

~~Policy loan provision 10. LOANS provides for an adjustable loan rate calculation method that produces the maximum variable interest rate permissible under 8 V.S.A. § 3731 (7) (B). On the other hand, however, the last sentence under policy provision 6. INCREASE IN CREDITED RATE reads as follows:~~

~~“The increase in credited rate is applied only to amounts of Account Value in excess of indebtedness.”~~

~~Since the Company already charges the maximum statutory variable loan interest rate pursuant to policy Section 10, it would be unlawful to impose an additional cost of the loan by means of depriving a borrower of the full credited rate on the amount of the indebtedness.~~

~~Although the interest rates for the loaned portion of the cash value are actually higher than the rates applied to the loaned portion for some time periods, such was not always the case.~~

~~The examiners recommend that the Company pay any persons who were credited with a lower amount, by virtue of their having a policy loan, the difference between the amount they were actually credited and the amount they would have been credited had they not taken out a policy loan. Further, the Company’s procedures should be revised so as to prevent borrowers from being credited with less interest than non borrowers in the future.~~

### **Comment on Policy Loan Interest**

Nothing in 8 V.S.A. 3731 addresses the interest rate to be credited to the loaned portion of the Account Value, the relationship between the interest rate credited to the loaned portion and the unloaned portion of the Account Value, or the relationship between the interest rate credited and the interest rate charged on the loan portion. Given the statutory scheme, the Company believes that the policy, as written and as administered was in full compliance with Vermont law.

The interest rate the Company credits to a policy’s cash value must reflect the investment returns of the underlying investment. The investments that support the crediting of interest to the cash value in excess of indebtedness are invested in the Company’s general account. The interest earnings on these investments will generally exceed the amount of interest credited resulting in positive net revenue to the Company. The investment return on cash value up to and including indebtedness are limited to the policy loan interest rate. In a very real sense, the Company invests in the policyholder rather than the general account when a loan is taken. Therefore, to provide a profitable

revenue stream from the loan transaction, the Company must credit less interest than charged.

## LEGAL ACTIONS INVOLVING OTHER INSURANCE DEPARTMENTS

Vermont Bulletin 30 requires all insurance companies to file a report with the Department on or before March 15<sup>th</sup> of each year of actions by the insurance department of any other state against the insurance company, which involves any allegation of violation of law or regulation and which results in any of the dispositions listed in the Bulletin.

The Company failed to file the required reports for the years 1998, 1999 and 2000. Such failure constitutes violations of 8 V.S.A. § 3561 and § 3562.

~~The two most significant actions taken by any state during the examination period were as follows:~~

~~1. Without admitting any wrongdoing, in March, 1998, John Hancock stipulated to an entry of judgment with the Attorney General of Massachusetts for alleged violations of various insurance statutes and regulations over the preceding fifteen years and paid a civil sanction of \$1.2 million. This matter arose from the Attorney General's tangential involvement with the Company's sales practices class action lawsuit, Duhaime, et al. V. John Hancock, et al.~~

### Comment on Massachusetts Attorney General Matter

As the examiners were previously advised, the Massachusetts Attorney General's Office inserted itself into the settlement of the Company's sales practices class action lawsuit entitled, Duhaime, et al. v. John Hancock, et al. At the Attorney General's insistence, certain amendments were made to the Settlement Agreement that had been entered into with Class Counsel. On March 24, 1998, after a negotiated resolution was finalized, a civil Complaint, an Assented to Motion for Entry of Final Judgment, and a proposed Final Judgment Order were all filed in the Superior Court Department of the Trial Court, Suffolk Division. The Order was subsequently executed on March 25, 1998. No specific insurance statutes or regulations were cited. In the Final Order, it is specifically noted that "John Hancock has expressly denied any and all wrongdoing." Also, as is noted in the Order, the monetary sum of \$1.2 million was not a fine, sanction or penalty.

The Class period in Duhaime was 1979-1996. Since the examination was not reviewing that time period, the relevance of the lawsuit and the Attorney General's

involvement therein is of limited relevance. Moreover, Bulletin 30 relates specifically to “actions by the insurance department of any other state.” In fact, the title of Bulletin 30 is “Legal Actions Involving Other Insurance Departments”. Bulletin 30 specifically indicates that, “A reportable action should not include ... an action not involving the insurance department of any other state”. Clearly, this matter did not involve the insurance department of another state. As such, this event is not reportable pursuant to Bulletin 30 and the reference to it here should be deleted from the Report.

~~2. At the writing of this report John Hancock Life Insurance Company was involved in a suit against another life insurance company in the United States District Court for the District of Massachusetts. In a matter peripherally related to that suit, John Hancock entered into a civil stipulation with the New York State Insurance Department that included the payment of a civil penalty in the amount of \$1,000,000.~~

#### **Comment on New York Department Matter**

The matter with the New York Department involved a suit John Hancock brought against another life insurance company in the United States District Court for the District of Massachusetts, regarding that company’s eligibility to receive shares of stock pursuant to John Hancock’s reorganization from a mutual life insurance company to a stock insurance company. John Hancock and the Department entered into a stipulation wherein John Hancock agreed that a trust agreement to secure payment to the other insurance company of any shares of stock to which that company might ultimately be determined to be entitled, would be in the form previously submitted to the Department, subject only to such changes as might be necessitated by tax considerations and approved by the New York Superintendent of Insurance. However, the actual trust agreement that was dated March 1, 2000, included certain modifications and revisions which had not been submitted to or approved by the Superintendent. Ultimately, on August 16, 2000, the Company entered into a civil stipulation with the Department that included the payment of a civil penalty in the amount of \$1,000,000. The Stipulation did not allege a “violation of law or regulation” and thus, was not reportable pursuant to Bulletin 30. Consequently, the reference to the New York Department matter should be deleted from the Report.

~~There were a number of lesser actions taken by other state insurance departments, which are not enumerated in this report, however, t~~The examiners recommend that both John Hancock Life Insurance Company and John Hancock Variable Life Insurance Company immediately file the reports required by Vermont Bulletin 30 for the years 1998, 1999 and 2000 in the detail required by the regulation.

### **Comment on Legal Actions Involving Other Insurance Departments**

John Hancock inadvertently failed to file the reports mandated by Bulletin 30 for the years 1998 - 2000. As such, on December 18, 2002, John Hancock Life Insurance filed Company reports for the years 1998, 1999 and 2000. Copies of the reports are attached collectively as "Exhibit 11". On December 18, 2002, John Hancock Variable Life Insurance Company filed reports for the years 1998, 1999 and 2000. Copies of the reports are attached collectively as "Exhibit 12". The Company has put a process in place to ensure the timely compliance with Bulletin 30 in the future.

## **CONSUMER COMPLAINTS**

Vermont Regulation 76-1 § 5 requires that each insurer submit to the Vermont Department a summary sheet of its complaint record for the preceding year on or before April 1, of each year. The information required and the format must be in accordance with Exhibit 3 of the Regulation.

Exhibit 3 provides for summarizing the total number of complaints, comparisons of total earned premium for Vermont, total number of Vermont insureds, the ratio of total number of complaints to 1,000 Vermont insureds and the ratios of number of complaints to the number of Vermont insureds by line of insurance for those lines of insurance in which the insurer insures more than 1,000 Vermonters.

The examiners note that the summary sheets furnished for the review failed to include the above described information.

According to the Company's complaint registers, the numbers of Vermont complaints received by the Company during the examination period were as follows:

<b>1998</b>	<b>1999</b>	<b>2000</b>
14	17	30

The numbers of complaints were relatively small and the types of complaints did not indicate any pattern of abuse. Although the number of complaints increased during 2000, the increase was almost entirely attributable to the demutualization program taking place during that time, which was a nonreoccurring event.

The examiners recommend that the Company refile the reports of consumer complaints for the three examination years correctly and in the required format.

### **Comment on Consumer Complaints**

On December 12, 2002, the Company submitted revised reports for both JHMLICO/JHLICO and JHVLICO to the Department for 1998-2000. The revised reports include the information that was inadvertently omitted from the original filings. Copies of these reports are attached collectively as “Exhibit 13”. The Company has put a process in place to ensure full compliance with Regulation 76-1 § 5.

## PRODUCER LICENSING

The Company does not have an agency that is physically located in the State of Vermont. Products are sold through a number of agents licensed in Vermont that work out of offices outside of the state. Vermont policyholders receive service through the agency office or by calling an 800 customer access line in Boston to request routine service such as billing, loans, or change of beneficiary. More complex matters are handled through an agent.

The examiners' review testing compliance with Vermont licensing statutes revealed ~~two~~ one violations as discussed below.

- Re: Policy # VP2041778

Agent No. 013122 (company's agent no.) wrote an application for a variable annuity on 11/3/99. According to company records agent # 013122 was not licensed to write variable products in violation of 8 V.S.A. § 4793.

~~? Re: Policy # 67260771~~

~~Agent No. 068749 (company's agent no.) wrote an application for life insurance on 7/17/00. His license was effective 8/9/00, therefore violating 8 V.S.A. § 4793.~~

The Company should take steps to prevent any further producer licensing violations.

### **Comment on Policy Number 67260771**

Specifically because of the agent's license status, the application for Policy Number 67260771 that was completed on July 17, 2000, was intentionally completed on an informal basis. In the Intra-Company Memo dated July 25, 2000, a copy of which is attached as "Exhibit 14", the submission to Life Underwriting is referenced as an "Informal Application". The memo specifically notes that, "As discussed, Vermont license is being processed". A subsequent Intra-Company Memo, dated September 6, 2000 to Life Underwriting with a subject referenced as "New App", reads as follows: "Please see new application completed as requested to be used as an amendment application subject to signature upon issue. Please be aware original application was sent

for processing which license was cleared on 7/25/00". A copy of this memorandum is attached as "Exhibit 15".

As such, when the application was issued in September, 2000, it was done Subject to Signature of a new application being signed after the agent's license became effective. In this regard, there is a "signed subject to signature" application dated 11/30/2000, which is after the agent's license for the state and product was effective. Therefore, there was no violation of 8 V.S.A. § 4793.

## POLICY FORM FILINGS

The examiners' review included a compliance test to determine if properly filed and approved policy forms were used pursuant to Vermont statutes and regulations. The test was applied to randomly selected samples from a listing of policies/contracts issued in Vermont during the exam period. The total population of the issued listing was one thousand forty-four (1,044), broken down by the following lines of insurance:

Issued life	617
Issued annuities	173
Issued "COLI" cases	179
Issued GLTC (Group long-term Care)	75

~~Irregularities involving the use of unapproved HIV Testing forms are discussed in this report under the section entitled "Underwriting".~~

The examiners' review of thirty-six (36) samples from the GLTC (Group long-term Care) listing revealed ~~numerous~~ the discrepancies as detailed below:

- ~~Thirty one (31) cases used an application form not filed or approved for use in the State of Vermont, in violation of 8 V.S.A. § 3541, § 4062 and Regulation 91-1 § 14.~~

### Comment on GLTC Policy Forms

The forms at issue in the 31 files cited in Appendix II, were in fact filed and approved as noted. In preparing for use with the Company's individual employer group clients' enrollment kits, the marketing area made use of an internal number to identify the account and forms and in the process omitted the filed form numbers. This has been corrected.

#### Group # 0000108 (IBM)

The applications in question, GLTC 8/93 and GLTC 7/92, are actually filed form number GLTC 6/91, approved on November 26, 1991, Vermont file number 91-6825. The only differences were the variables that were idiosyncratic to the specific employer. The form number has since been replaced by filed form number GLTC-ABC 2/96, approved by the Department on May 30, 1996, Vermont file number.

#### Group # 0000142 (General Motors)

The application in question, GLTC-GM 9/95, is filed actually form number GLTC-ABC 2/96, approved by the Department on May 30, 1996, Vermont file number 96-2340. The form number has since been replaced by filed form number GLTC-ABC 2/96.

**Group # 0000129 (Liberty Mutual)**

The application in question, GLTC-LM-APP 1/97, is actually filed form number GLTC-ABC 2/96, approved by the Department on May 30, 1996, Vermont file number 96-2340. The form number has since been replaced by filed form number GLTC-ABC 2/96.

It appears that the forms at issue were all completed prior to 1998. As such, these are transactions that are outside the scope of the Examination.

~~? Three (3) cases did not contain evidence of compliance with Regulation 91-1 § 11 (Requirements for application forms and replacement coverage).~~

**See Appendix II**

**Comment on Regulation 91-1 § 11**

The examiners did not specify what portion of Regulation 91-1 § 11 the Company allegedly violated. The examiners simply indicated that the alleged non-compliance involved “Requirements for application forms and replacement coverage.” There are numerous such requirements within this regulation. Respectfully, the Company requires more specificity in order to properly respond.

Regardless, each enrollment kit would have included a form entitled, Supplement to Long-Term Care Insurance Application. It is Form Number GLTC-ABC Supp1 – 6/96. This form was approved by Vermont on December 12, 1996. The Vermont file number is 96-5437. If the applicant intends to replace coverage, the supplemental form instructs the applicant to complete and return the form to John Hancock along with the enrollment card. As an example, the form for Certificate # 008428835, is attached as “Exhibit 16”. If the applicant does not intend to replace coverage, the form would not be completed or returned. This form contains the language mandated by Regulation 91-1 § 11.

~~The examiners also observed that at number of the Company’s current life insurance policy forms contain a provision, which reads as follows:~~

***16. Interest on Proceeds***

*We will pay interest on proceeds paid in one sum in the event of the insureds death from the date of death to the date of payment. The rate will be the same as declared for option 1 in Section 23, Settlement Provisions.*

Option 1 under Section 23, Settlement Provisions, reads in part as follows:

*Option 1 interest income at the declared rate but not less than 3.5% a year on proceeds held on deposit.*

Policy Section 23 contravenes 8 V.S.A. § 3665 (c) (2) in that it permits a minimum rate of interest on policy proceeds of 3.5% a year whereas the code sets the minimum interest at 6% per year.

In view of the above, it is recommended that the Company prepare amendments to each of its policies that permit a minimum interest rate of less than 6% on death proceeds and file them with the Vermont Department for approval.

**Comment on Interest on Proceeds**

The Interest on Proceeds provision among a number of life policy forms, all of which have been reviewed and approved by the Vermont Department of Insurance, contain Vermont-specific language, and comply with Vermont law. The following is typical Interest on Proceeds language:

We will pay interest on proceeds paid in one sum in the event of the insured's death from the date of death to the date of payment (or first installment if lump sum is not elected). The rate will be the same as declared for Option 1 in Section 27, Settlement Provisions, or such greater rate as is required by law.

The parenthetical language appears only in Vermont contracts, as required by Vermont law. The bold, italics language is standard contract language. Since the Company contractually agrees to pay whatever "greater rate" of interest as "is required by law", the examiners' assertion that Vermont law has been violated is incorrect. As such, this entire section should be deleted from the Report.

## **EVENTS SUBSEQUENT TO THE EXAMINATION PERIOD**

### **Vermont Mandatory Civil Union Endorsement**

~~The Company utilizes their own version of the required Vermont Mandatory Civil Union Endorsement. Bulletin HCA 110 and Bulletin No. 128 provides that if an insurer chooses to use an alternative endorsement other than the required Vermont Mandatory Civil Unions Endorsement (health insurance) or the Vermont Life Insurance Mandatory Civil Union Endorsement, the form must be approved by the Department. The Company did not obtain filing approval in violation of Regulation H 00-1 § 7.~~

~~It is recommended that the Company take steps to bring all of its Vermont certificates in compliance with Vermont's "Act Relating to Civil Unions" and accompanying regulations.~~

### **Comment on Events Subsequent to the Examination Period**

The examination period is 1998 - 2000. Insurance Bulletin No. 128 ("Bulletin") is dated December 13, 2000. The Bulletin relates to Act 91 of the 2000 Legislative Session, which is entitled, "Act Relating to Civil Unions". This law was enacted on April 26, 2000. The Bulletin clearly indicates that the effective date of the law is January 1, 2001. Events that are "subsequent to the examination period" are outside the scope of the examination and should not be referenced in this Report.

## SUMMARY OF RECOMMENDATIONS

### **Page 4**

~~The examiners recommend that the calculation of premium taxes reported by the Company be reviewed by the Vermont Department of Taxes in view of the Company's unique premium reporting methodology.~~

### **Page 5**

~~It is recommended that the Company immediately discontinue the use of LTC 1416 and/or other advertising containing similar wording and develop procedures to insure compliance with Vermont Regulation 91-1 § 15.~~

### **Page 7**

The Company should provide the Department with a complete written response to the examiners' inquiry regarding conversion of MDO to the regular billed premium mode.

### **Page 7 & 8**

~~In view of the underpayments of interest on death claims due to utilization of the "Access Accounts" it is the examiners recommendation that the Company be instructed to go back and recalculate and pay the additional interest due these beneficiaries, at least for claims settled during the examination period.~~

### **Page 9**

The examiners recommend that the Company's written claim procedures be revised so as to avoid the violations discussed in this portion of the examination report.

### **Page 9**

~~The Company should instruct all claims handling personnel to date stamp all pertinent file documents, including copies of the certified death certificates, in order to facilitate verification of when proof of loss is actually received.~~

### **Page 9**

The examiners recommend that the Company answer the examiners' question as to whether they performed internal claim audits and, if so, furnish copies of the audit findings.

### **Page 10**

~~The Company should recalculate the interest paid on all Vermont individual claims during the examination period and make additional interest payments where indicated.~~

### **Page 12**

It is recommended that the Company pay the beneficiaries of those group paid life claims listed in this report the additional amounts of interest to which they are entitled.

**Page 13**

The Company should take steps to bring all of its group health claim procedures in conformity with statues and regulations cited in this report.

**Page 13**

A further effort should be made to locate the missing group health paid claim files and to review all of the files and make corrections where necessary, as well as making additional payments to claimants where indicated.

**Page 16 & 17**

The examiners recommend that the Company revise their procedures with respect to the requirements of 8 V.S.A. § 4724 (20) assuring compliance with the statute.

~~**Page 19**~~

~~The examiners recommend that the Company pay any persons who were credited with a lower amount, by virtue of their having a policy loan, the difference between the amount they were actually credited and the amount they would have been credited had they not taken out a policy loan. Further, the Company's procedures should be revised so as to prevent borrowers from being credited with less interest than non-borrowers in the future.~~

**Page 20**

The Company should immediately file the reports required by Vermont Bulletin 30 for the years 1998, 1999 and 2000 in the detail required by the Bulletin.

**Page 21**

The examiners recommend that the Company refile the reports of consumer complaints for the three examination years correctly and in the required format.

**Page 22**

The Company should take steps to prevent any further producer licensing violations.

~~**Page 23**~~

~~It is recommended that the Company prepare amendments to each of its policies that permit a minimum interest rate of less than 6% on death proceeds and file them with the Vermont Department for approval.~~

~~**Page 25**~~

~~It is recommended that the Company take steps to bring all of its Vermont certificates in compliance with Vermont's "Act Relating to Civil Unions" and accompanying regulations.~~

## **APPENDIX I**

### **Underwriting**

**Six (6) forms were not acknowledged by the agent - no evidence of compliance with 8 V.S.A § 4724 (B)**

#### **Policy Numbers:**

075013199

075015711

075018139

075059933

075055742

075056160

**APPENDIX H**

**Policy Form Filings**

**Thirty-one (31) violations of 8 V.S.A. § 3541, 4062 and Regulation 91-1 §14:**

**Group # 0000108**

**Certificate #'s**

008249856

429836784

202489131

138406648

008281010

009400521

009362008

215544227

009361303

397483227

395583594

009446508

282689117

013307874

009304481

044343136

117385127

003365443

009382986

065340050

008467988

009388545

123425534

009241868

015606652

008144723

055427421

009322687

~~Group # 0000142~~  
~~Certificate #~~  
~~236205535~~

~~Group # 0000129~~  
~~Certificate #~~  
~~022247370~~  
~~026249767~~

~~Three violations of Regulation 91-1 § 11:~~

~~(Requirements for application forms and replacement coverage)~~

~~Group # 0000118~~  
~~Certificate #~~  
~~002382136~~

~~Group # 0000220~~  
~~Certificate #~~  
~~008428835~~

~~Group # 0000203~~  
~~Certificate #~~  
~~016506141~~