



3. On October 13, 2005, a final market conduct examination report was issued by examiners James Montgomery III, Robbie Kriplean and Jennifer Greenway on behalf of the Vermont Department of Banking, Insurance, Securities and Health Care Administration (hereinafter “the Report”).

4. In accordance with the requirements of 8 V.S.A. § 3574(b), the Report was transmitted to the Company and the Company was afforded a reasonable period of time to submit a formal written response to the findings of the Report. The Company submitted a formal response (“the Response”), addressing the issues raised in the Report with the Department, on June 19, 2006.

5. Pursuant to 8 V.S.A. § 3574(c), the undersigned Commissioner has considered fully the Report and the Company’s Response.

#### **CONCLUSIONS OF LAW**

6. Unless specified otherwise, the Department adopts the Report as it has been written.

7. In the section of the report entitled “**REPLACEMENTS**” (page 10), the examiners found numerous violations of Regulation 2001-3. Out of 46 replacement files for individual annuity contracts reviewed, the examiners noted 74 violations.<sup>1</sup> The examiners found numerous other violations in reviewing annuity and issued life policy files. The most frequent violations were the failure to verify that the required replacement forms were received, and the failure to produce a notice signed by both the applicant and the producer attesting that the notice was read aloud by the producer or that the applicant did not wish to have the notice read aloud, in violation of Regulation 2001-3

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<sup>1</sup> The examiners note that the absence of a replacement form from a file results in multiple violations of the regulation.

§§ 5.A(1) and 3.B, respectively. The examiners recommend that producers and appropriate staff be retrained in compliance with the replacement regulation, and that one or more responsible persons be designated for reviewing replacements for compliance.

The Company responds that it has undertaken training of its employees and third-party agents, and has implemented a quality review process which includes a replacement component. The Department finds that the Company's response adequately addresses the examiners' concerns, and that no administrative penalty is warranted.

The examiners also found that some replacements were provided "free look" periods of less than 30 days, in violation of Regulation 2001-3 § 5.A(4), and one instance where an insured did not receive full reimbursement after canceling a policy during the free look period. The examiners recommend that all persons who were afforded less than 30 days be afforded a new "free look" period of 30 days less the time of their original period, with the opportunity to return their contracts and receive refunds during the new period. The examiners also recommend that the Company refund the additional \$7,569.28 due to the one customer who was not reimbursed fully.

The Company responds that it has performed both of the recommended acts already.

Upon consideration, the Department adopts this section of the Report and the examiners' recommendation. The Company shall provide the Department written proof of reimbursement of the \$7,569.28, as well as satisfaction of the "free look" requirement, within 30 days of the effective date of this order. This filing shall list the Vermont policyholders afforded additional time, the amount of time afforded each, and the dates on which this was performed.

8. In the section of the report entitled **“CLAIMS PROCEDURES AND PROCESSING”** (page 20), the examiners found that, on the closed block of individual life claims, the Company used the policyholder’s current state of residence in place of the state of issuance, if the state of issuance was not listed on the computer system. The examiners recommend that the Company verify the state of issuance for the closed block of business, to ensure accurate information is available to the Department.

The Company responds that it has reviewed its process, and that accurate information is available to the Department. The Company further states that it reviewed the state of issue for all claims on the closed block of business under examination, and paid additional interest on three claims. The Department finds that the Company has satisfied the examiners’ recommendations, and that an administrative penalty of \$800 is warranted for the eight underpayments (the five noted by the examiners and corrected prior to issuance of the Report, and the additional three discovered during the Company’s review of the closed block).

The examiners also found that the Company did not have written guidelines for paying the penalty interest rate of 12% for claims paid after 30 days, required by 8 V.S.A. § 3665(d), which the Company corrected before issuance of the Report, and that from January 1, 1987 to January 25, 2004 the Company paid less than the 6% interest rate on timely payments required by 8 V.S.A. § 3665(c)(2). The examiners recommend that the Company perform an audit of individual life claims to ensure the 6% interest rate was afforded to claimants.

The Company responds that it has performed an audit for individual life claims back through 1998 and identified only one affected claim, on which additional interest

has been paid. The Department finds that 10 years is an appropriate audit period, and the Company shall review claims going back to January 26, 1994 for compliance. The Company shall provide the Department a copy of its audit, in Excel spreadsheet format, for all claims from January 26, 1994 through January 25, 2004 within 90 days of the effective date of this order, and shall remit payment within 30 days of the Department's approval of the audit. The failure to use the required statutory interest rates warrants an administrative penalty of \$1,000.

### **ORDER**

Based upon the Findings of Fact and Conclusions of Law set forth above, **IT IS THEREFORE ORDERED** by the Commissioner of the Department of Banking, Insurance, Securities and Health Care Administration that the MARKET CONDUCT EXAMINATION REPORT OF THE MANUFACTURERS LIFE INSURANCE COMPANY (U.S.A.) OF BLOOMFIELD HILLS, MICHIGAN AS OF DECEMBER 31, 2003 BY VERMONT DEPARTMENT OF BANKING, INSURANCE, SECURITIES AND HEALTH CARE ADMINISTRATION (which is incorporated herein by reference) shall be and hereby is adopted with the following modifications and clarifications:

9. As discussed in Paragraph 7 above, the Department adopts the “**REPLACEMENTS**” section of the Report. The Company shall provide the Department written proof of reimbursement of the \$7,569.28, as well as satisfaction of the “free look” requirement, within 30 days of the effective date of this order. This filing shall list the Vermont policyholders afforded additional time, the amount of time afforded each, and the dates on which this was performed.

10. As discussed in Paragraph 8 above, the Department adopts the “**CLAIMS PROCEDURES AND PROCESSING**” section of the report. The Company shall provide the Department a copy of its audit, in Excel spreadsheet format, for all claims from January 26, 1994 through January 25, 2004 within 90 days of the effective date of this order, and shall remit payment within 30 days of the Department’s approval of the audit.

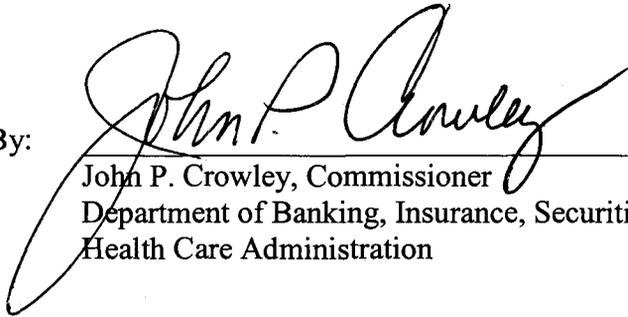
11. The Company shall pay an administrative penalty of \$1,800 to the Department, within 30 days of the effective date of this order.

**PURSUANT TO 8 V.S.A. § 3574(c), THIS ORDER AND REMEDIAL ACTION SET FORTH HEREIN MAY BE APPEALED TO THE COMMISSIONER BY FILING AN ADMINISTRATIVE APPEAL WITHIN THIRTY (30) DAYS OF THE DATE SET FORTH BELOW. FURTHER REMEDIAL ACTIONS AND PENALTIES ORDERED UPON RECEIPT OF INFORMATION ORDERED HEREIN MAY BE APPEALED WITHIN THIRTY (30) DAYS OF SUBSEQUENT DECISIONS BY THE DEPARTMENT.**

Dated at Montpelier, Vermont this 25<sup>th</sup> day of July, 2006.

Department of Banking, Insurance,  
Securities and Health Care Administration

By:

  
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John P. Crowley, Commissioner  
Department of Banking, Insurance, Securities and  
Health Care Administration