

**STATE OF VERMONT
DEPARTMENT OF BANKING, INSURANCE, SECURITIES
& HEALTH CARE ADMINISTRATION**

In re: Massachusetts Mutual Life
Insurance Company

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DOCKET NO. 06-069-I

ORDER ADOPTING REPORT OF EXAMINATION

NOW COMES John P. Crowley, Commissioner of the Vermont Department of Banking, Insurance, Securities and Health Care Administration, and hereby issues the following Order adopting the Market Conduct Examination Report in the above referenced docket number, subject to the exceptions and qualifications discussed below.

FINDINGS OF FACT

1. Pursuant to the authority granted by Vermont law, including, but not limited to, that contained in 8 V.S.A. §§ 10-13, 18, 3564-3574 and 4726, the Commissioner of the Department of Banking, Insurance, Securities and Health Care Administration (“the Department”) is charged with administering and enforcing the insurance laws and regulations of the State of Vermont and is authorized to conduct periodic examinations of insurers and licensees to determine whether they are in compliance with said laws and regulations.

2. Massachusetts Mutual Life Insurance Company is a mutual life insurance company organized under the laws of the State of Massachusetts. This Order shall refer to Massachusetts Mutual Life Insurance Company as “the Company.”

3. On October 6, 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.

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

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 “**CLAIMS PROCEDURES AND PROCESSING**” (page 10), the examiners criticize the “Settlement Option (D/3)” payment option, under which the benefit proceeds are left on deposit with the Company, and interest is paid on those proceeds at rates ranging from 5.55% in 2001 to 3% in 2004. The examiners contend that the Company constructively pays the benefits when depositing the proceeds in the account for the beneficiary, thereby requiring a minimum interest of 6% under 8 V.S.A. § 3665(c). The examiners recommend recalculate the interest paid to those claimants who chose this settlement option at 6% and refund the difference, for a period of time selected by the Department, and that the Company amend this option to provide

for a minimum interest rate of 6% for those cases subject to Vermont laws and regulations.

In response, the Company accepts the recommendation to amend the interest rate pursuant to 8 V.S.A. § 3665(c) from the date of death until the effective date that the proceeds are placed on deposit, to be implemented not later than October 1, 2006, and does not address the recommendation of recalculating and refunding past interest payments. However, the Company responded to the examiners during the exam by stating that § 3665(c) applies to the payment of claims, and not to retention of claim benefits on deposit.

Upon consideration, the Department adopts this section of the Report, as modified herein. Since § 3665(c) requires interest be paid from the date of death, the Company's response is correct in recognizing that the statutory interest must be paid from the date of death until the proceeds are paid; at that point, if the beneficiaries choose to deposit the proceeds with the Company, the interest rate is determined by their agreement, and the statutory interest period is ended by the constructive payment of benefits. The Company shall audit the claims since January 1, 1997 under which the proceeds were placed on deposit, and provide the Department with a spreadsheet in Excel format showing the amounts paid, interest paid, and dates thereof for each such claim, within 90 days of the effective date of this order. Once the Department has approved the audit, the Company shall have 30 days within which to pay the additional interest owed the claimants. The Company shall begin paying the statutorily required interest immediately for new claims. The violations of 8 V.S.A. § 3665 warrant an administrative penalty of \$2,000.

The examiners also fault the Company for using claims forms that do not comply with the statutory interest requirements of 8 V.S.A. § 3665(c). The examiners recommend amending the policy language, or providing an endorsement to policyholders. The Company responds that the beneficiaries, not the policyholders, are the persons who should be apprised of the statutory requirements for interest on benefits, and agree to inform beneficiaries in writing at the time of their claim that they will receive interest on the proceeds at the rate established by law, to be implemented not later than September 1, 2006.

Upon consideration, the Department adopts this section of the Report but not the examiners' recommendation. The Company shall submit for the Department's approval a notice to beneficiaries, within 30 days of the effective date of this order.

The examiners find that the Company paid less than the required 6% interest on 11 claims files of the 62 claims files reviewed. The Company responded during the exam that their review identified 33 policies that were underpaid, and that each was paid the additional amount due plus 3% additional interest from the date of the initial payment to September 1, 2004 (when the corrective action was taken). The Company further informed the examiners that the Company undertook additional training of its claims examiners, and scheduled Vermont for annual review by its internal quality audit team. The examiners make no recommendations.

Upon consideration, the Department adopts this section of the Report. The violations of 8 V.S.A. § 3665(c) warrant an administrative penalty of \$1,500.

The examiners note one instance in which the Company did not communicate timely with a claimant, but make no recommendations. The Company responds by admitting

the error, and identifying corrective action taken to prevent such occurrences in the future. Upon consideration, the Department adopts this section of the Report, and finds that the Company's response adequately addresses the issue. No administrative penalty is warranted for this single occurrence.

The examiners also note that the Company misreported the number of group life claims paid for Vermont, which did not match the group life claims reported in the state pages of the Annual Statements. The examiners recommend that the Company take steps to ensure that group life claims are reported accurately. The Company responds describing a reconciliation process implemented in December 2004 to address reporting, as well as a quality audit review performed in 2005 to check the accuracy of the reporting. Upon consideration, the Department adopts this section of the Report, and finds that the Company's response adequately addresses the issue, and that no administrative penalty is warranted.

The examiners report that the Company identified one group life claim paid in 2001, but not reported, and find that the Company failed to pay the required 6% interest rate on the claim. The Company took corrective action during the exam, on November 3, 2004, including 3% interest on the interest owed. The examiners recommend that the Company take steps to ensure that the statutory interest rate is paid on all claims involving Vermont certificate holders.

The Company responds that quarterly quality assurance reviews are conducted to verify, among other issues, that the statutorily required interest rate is paid on all Vermont claims. Upon consideration, the Department adopts this section of the Report,

and finds that the Company's response adequately addresses the issue. No administrative penalty is warranted beyond that assessed above for violation of 8 V.S.A. § 3665(c).

8. In the section of the Report entitled "**REPLACEMENTS**" (page 20), the examiners found one violation of Regulation 88-2 § 8.B(2), as one file was missing evidence of communication to the existing insurer, two violations of Regulation 2001-3 § 5.A(1), for failure to verify that the required forms were received, and two violations of 2001-3 § 5.A(3), as the Company was unable to produce copies of the notification regarding replacements. The examiners make no recommendations.

The Company responds with a detailed description of the processes put in place as a result of the examiners' concerns. The Department finds that these processes are sufficient to remedy the violations.

The examiners also find three violations of Regulation 2001-3 in one of the 50 issued life samples reviewed, and two violations of Regulation 2001-3 in one of the 50 issued annuity samples reviewed. Again, the examiners make no recommendations, and the Company responds with a detailed description of the processes put in place as a result of the examiners' concerns.

Upon consideration, the Department adopts this section of the Report. The violations of Regulation 2001-3 warrant an administrative fine of \$2,000.

9. In the section of the Report entitled "**COMPLAINTS**" (page 24), the examiners note one instance in which the Company failed to respond to the Department within 15 working days, as required under Regulation 79-2. The examiners recommend that the Company strictly conform to the 15-day requirement of the regulation.

In response, the Company states that it has implemented procedures to ensure compliance with the regulation, including a process for identifying complaints with responses due within 14 days. The Department finds that these processes are sufficient to remedy the violation, and that no administrative penalty is warranted by the single violation of regulation 79-2.

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 MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY OF SPRINGFIELD, MASSACHUSETTS 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:

10. As discussed in Paragraph 7 above, the Department adopts the “**CLAIMS PROCEDURES AND PROCESSING**” section of the Report. The Company shall: audit the claims since January 1, 1997 under which the proceeds were placed on deposit, provide the Department with a spreadsheet in Excel format showing the amounts paid, interest paid, and dates thereof for each such claim, within 90 days of the effective date of this order for the Department’s approval, then shall have a further 30 days within which to pay the interest owed; shall begin paying the statutorily required interest immediately for new claims; shall submit for the Department’s approval a notice to beneficiaries, within

30 days of the effective date of this order; and shall pay an administrative penalty of \$3,500.

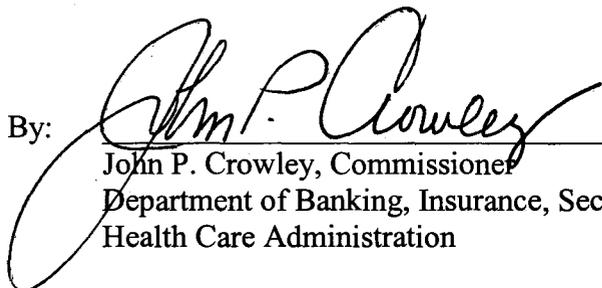
11. As discussed in Paragraph 8 above, the Department adopts the “REPLACEMENTS” section of the Report. The Company shall pay an administrative penalty of \$2,000.

12. As discussed in Paragraph 9 above, the Department adopts the “COMPLAINTS” section of the Report.

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 5th day of ~~August~~ ^{September}, 2006.

Department of Banking, Insurance,
Securities and Health Care Administration

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