

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

In re: Union Central Life)	
Insurance Company)	
)	DOCKET NO. 06-061-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. Union Central Life Insurance Company is a mutual life insurance company organized under the laws of the State of Ohio. This Order shall refer to Union Central Life Insurance Company as “the Company.”

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.

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 9), the examiners found numerous violations of Regulation 2001-3. Out of 86 replacement files for individual life insurance files reviewed, the examiners noted 134 violations.¹ The examiners found 39 violations in reviewing 100 annuity and issued life policy files. The most frequent violations were the failure to verify that the required replacement forms

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

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 §§ 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 concurs with this recommendation.

Upon consideration, the Department adopts this section of the Report and the examiners' recommendation. The Company shall assign, to one or more responsible persons, specific accountability for the review of every replacement file and responsibility for completing and signing a checklist before each file is closed to ensure compliance with the replacement regulations, and shall file with the Department written notice of compliance 30 days from the effective date of this order.

The examiners also recommend that the Company amend their annuity applications or include an additional form to be completed by all annuity applicants, to comply with Regulation 2001-3 § 4.C, which requires a statement as to whether the applicant has any existing policies or contracts. The Company informed the examiners that they were in the process of including an additional form in their automated system, and concur with this recommendation in their response.

Upon consideration, the Department adopts this section of the Report and the examiners' recommendation. The Company shall file with the Department written notice of compliance 30 days from the effective date of this order.

The examiners also found the Company failed to offer a 30 day “free look” period in all cases. The Company responds that they included the 30 day notice in an appendix. However, this response does not address the finding by the examiners (at pages 12 and 16) that the notice was not sent to 27 of the applicants, who therefore were not made aware of the full 30 days’ availability. The examiners recommend that all persons who were not sent a notice, and thus afforded only 20 days instead of the required 30 days of “free look” period, be given a further 10 days within which to return their contracts and receive refunds under regulation 2001-3 § 5.A(4).

The Company objects to this recommendation, stating that they found no complaints within the 30 day period, and that offering additional time at this point might be confusing to policyholders. The absence of a complaint does not prove the absence of harm to affected policyholders. Some policyholders might have chosen to return their policies if given the opportunity but, not knowing of the legal requirement violated by the Company, did not know to complain. As for potential confusion, the wording of the remediation notice should alleviate any confusion by articulating the basis for the additional 10 days within which to return the policy for a refund.

Upon consideration, the Department adopts this section of the Report and the examiners’ recommendation. The Company shall file, for the Department’s approval, a notice to affected policyholders, 30 days from the effective date of this order, and shall pay an administrative fine of \$500.

The examiners also found that the Company supplied its producers with inaccurate information on replacements, continuing to advise the producers under Regulation 88-2 after it had been superseded by Regulation 2001-3 and mischaracterizing the scope of

Regulation 2001-3 as to registered contracts. The Company informed the examiners that the producer guidelines were revised during the examination to correct the errors.

The examiners recommend that the Company immediately amend the “free look” provisions on all policies and contracts to provide for a 30 day period for replacement transactions. The Company responds that they include the 30 day period in the notice on Appendix A, as permitted by Regulation 2001-3 § 5.A(4). As the examiners point out, providing such notice without amending the policies leaves the policyholder with conflicting information, a 20 day period in their policy and a 30 day period in their notice. This contradiction can be cured by the inclusion of a statement in the notice, that any provision of the policy affording less than 30 days is superceded by the notice, and that the policyholder has 30 days to return the policy or contract for a refund. The Company shall file with the Department, for its approval, a revised notice within 30 days of the effective date of this order.

The examiners found 4 files in which the producers erroneously applied Regulation 88-2 instead of Regulation 2001-3 to calculate the suicide and incontestability period where the Company was both the replacing insurer and existing insurer. The examiners recommend that the Company inform their producers of the suicide and incontestability period changes under Regulation 2001-3, which requires the policyholder get credit for time periods under the replaced policy, and review the completed UC2174 VT forms for compliance. The Company concurs with this recommendation in their response. The Department finds that these 4 violations warrant an administrative penalty of \$400.

The examiners also found the Company in violation of Regulation 2001-3 § 6, in that the notices the Company sent to policy and contract owners after receiving replacement

notices from other insurers failed to inform the owners of their right to receive an in force illustration or policy summary. The Company informed the examiners that the notice was revised to correct this omission effective September 27, 2004. The Company shall provide the Department a copy of the revised notice within 30 days of the effective date of this order. The examiners found two contracts for which the notice was not sent, for which an administrative penalty of \$500 is warranted.

The examiners reviewed 20 files where the Company received notices of replacement, of which 9 were not Vermont policies. The Company informed the examiners that they changed their procedures, effective immediately, to maintain the accurate state of residence of the policyholder and to keep the replacing company in a separate field in the replacement database. The examiners recommend that the Company institute procedures for determining which policies are Vermont policies when a replacement notification is received.

Upon consideration, the Department adopts this section of the Report and the examiners' recommendation. The policyholder's state of residence can change, and might not be the state in which the policy was issued. The Company shall file, for the Department's approval, written procedures for determining the state in which a policy was issued when receiving replacement notices, 30 days from the effective date of this order.

8. In the section of the report entitled **"CLAIMS PROCEDURES AND PROCESSING"** (page 21), the examiners found that the Company was paying interest on claims based upon the state of residence of the beneficiary, instead of the state of issuance of the policy. The Company provided the examiners with a revised procedure, under which the

interest paid is the highest rate of five choices, including the rate of the issue state. Accordingly, under the revised procedure, the Company will pay at least the required interest rate, or higher. The examiners also questioned whether the Company paid interest on claims not paid within 30 days at the required rate, to which the Company responded that they would pay added interest at the judgment rate for such claims effective January 1, 2004.

Based on these findings, and specific instances of underpayment of interest in reviewing files, the examiners recommend that the Company perform an audit of those claims subject to Vermont law, to ensure the 6% interest rate was afforded to claimants on timely claims and the 12% interest rate was paid on untimely claims.

The Company responds that they have performed an audit for the period of January 1, 2001 through December 31, 2003, and agree to perform such further audit as the Department selects, so long as the time period does not exceed the record keeping period. The Department finds that 10 years is an appropriate audit period, and the Company shall review claims going back to January 1, 1994 for compliance. The Company shall provide the Department a copy of its audit, in Excel spreadsheet format, for all claims from January 1, 1994 through December 31, 2003 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.

The examiners also found one instance in which the Company failed to notify a claimant in writing of the progress of the claim, as required by Regulation 79-2 § 6.C, although the notes indicated telephone communication with the claimant. The examiners

recommend that the Company take steps to ensure compliance with this regulation. The Company responds that they have trained all claims examiners and will provide continuing training on Vermont's regulation, as well as for other states.

Upon consideration, the Department adopts this section of the Report and the examiners' recommendation. The Department finds that the Company's response adequately addresses the examiners' concerns, and that no further administrative penalty is warranted for this one violation.

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 UNION CENTRAL LIFE INSURANCE COMPANY OF CINCINNATI, OHIO 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 assign, to one or more responsible persons, specific accountability for the review of every replacement file and responsibility for completing and signing a checklist before each file is closed to ensure compliance with the replacement regulations, and shall file with the Department written notice of compliance 30 days from the effective date of this order; shall file with the Department written notice of compliance with Regulation 2001-3 § 4.C within 30 days from the effective date of this order; shall file for the Department's approval a notice to

affected policyholders, 30 days from the effective date of this order, concerning the additional 10 days' "free look" period; shall file for the Department's approval a revised notice under Regulation 2001-3 § 5.A(4); shall inform their producers of the suicide and incontestability period changes under Regulation 2001-3, and review the completed UC2174 VT forms for compliance; shall provide the Department a copy of the revised notice under Regulation 2001-3 § 6.B within 30 days of the effective date of this order; and shall pay an administrative fine of \$1,400.

10. As discussed in Paragraph 8 above, the Department adopts the "**CLAIMS PROCEDURES AND PROCESSING**" section of the report. The Company shall review claims going back to January 1, 1994 for compliance. The Company shall provide the Department a copy of its audit, in Excel spreadsheet format, for all claims from January 1, 1994 through December 31, 2003 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, and shall pay an administrative penalty of \$1,000.

11. All penalties described above shall be paid to the Department no later than 10 days after the expiration of the appeal deadline of this Order, or other administrative or judicial order as appropriate.

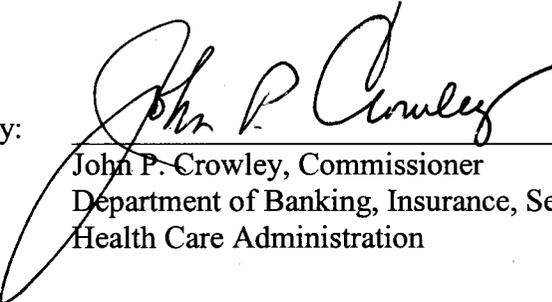
PURSUANT TO 8 V.S.A. § 3574(c), THIS ORDER AND REMEDIAL ACTION SET FORTH HEREIN MAY BE APPEALED TO THE COMMISSIONER BY FILING AN ADMINISTRATIVE APPEAL WITHIN

**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 31st day of July, 2006.

Department of Banking, Insurance,
Securities and Health Care Administration

By:



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