

MAR 1 1996

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

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In the Matter of:)

Docket No. 96A-028)

CONSUMERS LIFE INSURANCE COMPANY)

CONSENT ORDER)

Respondent.)

A market conduct examination was made of Consumers Life Insurance Company, hereinafter referred to as "Consumers", by a Market Conduct Examiner for the Arizona Department of Insurance ("ADOI") covering the time period from January 1, 1990 to November 30, 1993. Based upon the examination results, it is alleged that Consumers has violated the provisions of Arizona Revised Statutes, Title 20, Sections 20-443, 20-448.01, and 20-2110; and Arizona Administrative Code Rules ("A.A.C. R") 4-14-202 (now 20-6-202) and 4-14-215 (now 20-6-215).

Consumers wishes to resolve this matter without formal adjudicative proceedings and hereby agrees to a Consent Order. The Director of Insurance of the State of Arizona ("the Director") enters the following Findings of Fact, and Conclusions of Law, which are neither admitted nor denied by Consumers, and the following Order:

FINDINGS OF FACT

1. Consumers is authorized to transact life and disability insurance as an insurer pursuant to a Certificate of Authority issued by the Director.

2. The Examiner was authorized by the Director to conduct a market conduct examination of Consumers and has prepared the Report of Examination of the Market Conduct Affairs of Consumers

4

1 ("the Report"). The period covered by the on-site examination
2 was concluded as of November 30, 1993.

3 3. In 1992, Consumers ceased marketing life insurance
4 policies in Arizona.

5 4. Consumers produced an advertising brochure, "Rx for
6 RN's: A Prescription for Financial Freedom" and a video tape
7 entitled "National Association of Registered Nurses, Consumer
8 Financial Group, Prescription For Tomorrow" for the purpose of
9 selling Consumers' individual life products to registered
10 nurses.

11 a. The brochure described disability protection
12 features of the policy. The video tape included a visual screen
13 stating "Prescription for Tomorrow will continue your savings
14 plan at its expense" with an accompanying audio statement "With
15 a Prescription for Tomorrow retirement plan, if for any reason
16 you become disabled and can no longer work, Consumers will
17 continue your savings plan for you, at its expense. That way
18 your retirement goals are still met."

19 However, neither the brochure nor the video tape stated
20 that the disability protection features of the policy were
21 optional benefits and may be excluded from the policy by the
22 Company or by the applicant, and that there were exceptions to
23 coverage listed in the Disability Waiver of Monthly Deduction
24 Rider and the Disability Benefit Payment Rider as "Risks Not
25 Covered". The disability protection provision was not included
26 in four (4) policies issued in Arizona through the National
27 Association of Registered Nurses.
28

1 b. The brochure and the video tape also refer to a
2 provision for "Terminal Illness Protection", which allowed an
3 insured to withdraw up to 50% of the policy proceeds prior to
4 death if he was terminally ill with less than 6 months to live.
5 This benefit was not included in any of the 29 contracts issued
6 in Arizona through the National Association of Registered Nurses
7 and was not approved for use in Arizona.

8 5. Consumers obtained signed AIDS/HIV Testing and Consent
9 forms from its applicants, but failed to word 22 of the 48 forms
10 reviewed by the Examiners as required by Circular Letter 90-10,
11 promulgated by the Director pursuant to A.R.S. § 20-448.01.

12 6. Consumers failed to provide 11 applicants with
13 specific reasons for adverse underwriting decisions regarding
14 their applications or notify them that they would be furnished
15 such information upon request.

16 7. Consumers' agent failed to submit a statement of the
17 applicant with one (1) application for life insurance as to
18 whether he or she knows replacement is or may be involved in the
19 transaction, and Consumers accepted the application without the
20 applicant's signed statement.

21 8. Consumers' agent failed to submit a statement with one
22 (1) application for life insurance as to whether or not he knew
23 that replacement of existing life insurance was or may be
24 involved in the transactions, and Consumers accepted the
25 application without the applicant's signed statement.

26 9. Consumers' agents failed to present a "Notice
27 Regarding Replacement of Life Insurance" to two (2) applicants
28 not later than the time of taking the applications, and failed

1 to present the signed Notices to Consumers. Respondent accepted
2 two (2) applications for life insurance where replacement was
3 involved, without requiring a signed copy of the Notice
4 Regarding Replacement of Life Insurance" signed by each
5 applicant.

6 10. Consumers failed to send Notices Regarding Replacement
7 of Life Insurance to the existing insurers of two (2) applicants
8 within three (3) working days of the receipt of the
9 applications.

10 11. Consumers failed to maintain an individual life
11 replacement register.

12 CONCLUSIONS OF LAW

13 1. By not preventing its agents from using an advertising
14 brochure and a video tape which failed to state that the
15 disability protection features were optional benefits, failed to
16 list all policy limitations of coverage, and included the
17 Terminal Illness Protection benefit although it was was not
18 provided in the policies, Consumers misrepresented the terms of
19 its policies in violation of A.A.C. R4-14-202(D)(6)(g) and
20 A.R.S. § 20-443(1).

21 2. By testing applicants for antibodies to the HIV virus
22 without obtaining permission of the applicants on an HIV consent
23 from approved by the Director, Consumers violated A.R.S.
24 § 20-448.01(E).

25 3. By failing to provide applicants specific reasons for
26 adverse underwriting decisions or notice of the opportunity to
27 be given the specific reasons, Consumers violated A.R.S.
28 § 20-2110(A).

1 4. By accepting an application for life insurance which
2 did not include the applicant's signed statement, Consumers
3 violated A.A.C.R4-14-215(F)(2)(a).

4 5. By accepting applications for life insurance which did
5 not include the agents' signed statements as to whether
6 replacement was or may be involved in the transaction, Consumers
7 violated A.A.C.R4-14-215(F)(2)(b).

8 6. By processing applications for life insurance where
9 replacement was involved without requiring its agents to furnish
10 "Notices Regarding Replacement" signed by the applicants,
11 Consumers violated A.A.C.R4-14-215(F)(3)(a).

12 7. By failing to send Notices Regarding Replacement of
13 Life Insurance to existing insurers within three (3) working
14 days of receipt of applications, Consumers violated A.A.C.
15 R4-14-215(F)(3)(c).

16 8. By failing to maintain an individual life replacement
17 register, Consumers violated A.A.C.R4-14-215(F)(3)(f).

18 9. Grounds exist for the entry of all provisions of the
19 following Order.

20 ORDER

21 Consumers having admitted the jurisdiction of the Director
22 to enter the Order set forth herein, having waived the Notice of
23 Hearing and the hearing, having waived any and all rights to
24 appeal this Order, and having consented to the entry of the
25 Order set forth hereinafter, and there being no just reason for
26 delay:

27 IT IS HEREBY ORDERED THAT:

28 1. Consumers and its agents shall cease and desist from:

1 a. stating in its advertising materials that
2 specific features are benefits of its policies unless they are
3 in fact unconditional benefits of the policies being advertised,
4 and making statements in its advertising materials that cannot
5 be verified through examination of the policies themselves.

6 b. failing to list all limitations of policy
7 coverage in its advertising materials;

8 c. failing to use the form approved by the Director
9 to obtain written permission of applicants prior to testing them
10 for the HIV virus.

11 d. failing to send notices of adverse underwriting
12 decisions to applicants as required by A.R.S. § 20-2110(A),
13 which include a summary of rights and the specific reasons for
14 the decisions, or advise the applicants that they may receive
15 the specific reasons for the adverse decision upon written
16 request.

17 e. failing to process applications for replacement
18 life insurance in accordance with A.A.C.R20-6-215.

19 2. Prior to marketing any life or disability insurance
20 products in Arizona, Consumers shall file an amended AIDS/HIV
21 testing and consent form which is in compliance with Circular
22 Letter 90-10 and A.A.C.R20-6-1201, et seq. with the ADOI.

23 3. Prior to any future advertising or sale of life
24 insurance in Arizona, Consumers shall file with the ADOI:

25 a. all of its advertising materials to be used in
26 the state;

27 b. a written action plan to monitor and ensure that
28 its personnel process applications in accordance with A.R.S. §

1 20-2110(A) where adverse underwriting action has been taken,
2 and

3 c. a copy of its individual life replacement
4 register.


5 4. The ADOI shall be permitted, through an authorized
6 representative, to verify that Consumers has complied with all
7 provisions of this Order, and the Director may separately order
8 Consumers to comply.

9 5. Consumers shall pay TEN THOUSAND DOLLARS (\$10,000) to
10 the Director for remission to the State Treasurer for deposit in
11 the State General Fund in accordance with A.R.S.

12 § 20-220(B). Said \$10,000 shall be provided to the Market
13 Conduct Examinations Division of the ADOI on or before January
14 31, 1996.

15 6. The Report of Market Conduct Examination as of
16 December 23, 1993, to include the objections to the Report
17 submitted by Consumers, shall be filed with the ADOI.

18 DATED at Phoenix, Arizona this 1st day of March, 1996.

19
20 
21 Chris Herstam
22 Director of Insurance

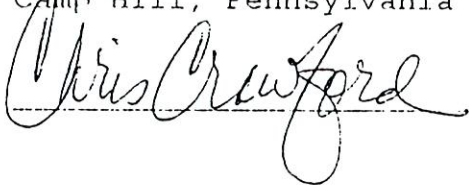
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1 COPY of the foregoing mailed/delivered
2 this 1st day of March , 1995, to:

3 Charles R. Cohen
4 Deputy Director
5 Gregory Y. Harris
6 Executive Assistant Director
7 Lewis D. Kowal
8 Chief Administrative Law Judge
9 Erin H. Klug
10 Chief Market Conduct Examiner
11 Saul R. Saulson
12 Examinations Supervisor
13 Market Conduct Examinations Division
14 Mary Butterfield
15 Assistant Director
16 Life & Health Division
17 Deloris E. Williamson
18 Assistant Director
19 Rates & Regulations Division
20 Gary Torticill
21 Assistant Director and Chief Financial Examiner
22 Corporate & Financial Affairs Division
23 Cathy O'Neil
24 Assistant Director
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26 John Gagne
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