

STATE OF NEW YORK INSURANCE DEPARTMENT
REPORT ON EXAMINATION
OF
PHOENIX HOME LIFE MUTUAL INSURANCE COMPANY
REGARDING RESPONSE TO
SUPPLEMENT NO. 1 TO CIRCULAR LETTER NO. 19 (2000)

DATE OF REPORT:

JUNE 14, 2001

EXAMINER:

CLIFFORD CHANCE ROGERS & WELLS LLP

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STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NEW YORK 10004

June 14, 2001

Honorable Gregory V. Serio
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 21665, dated January 3, 2001 and annexed hereto, a limited scope examination has been made into the condition and affairs of Phoenix Home Life Mutual Insurance Company, hereinafter referred to as "the Company" or "Phoenix Home Life", at its administrative office located at One American Row, Hartford, Connecticut. The Company's home office is located at 10 Krey Boulevard, East Greenbush, New York.

Wherever "Department" appears in this report, it refers to the State of New York Insurance Department.

The report indicating the results of this examination is respectfully submitted.

1. SUPPLEMENT NO. 1 TO CIRCULAR LETTER NO. 19 (2000)

Supplement No. 1 to Circular Letter No. 19 (2000) (the "Supplement"), issued by the Department on June 22, 2000, notified all licensed life insurers and fraternal benefit societies that the Department was investigating allegations of race-based underwriting of life insurance by its licensees. The Supplement defined race-based underwriting as including, but not limited to, one or more of the following practices based solely on an insured's race, color, creed or national origin: refusing to insure; refusing to continue to insure or limiting the amount, extent or kind of coverage available; charging or collecting higher premiums or rates; making or requiring any rebate upon the amount paid; assigning substandard risk classifications; crediting or providing lower dividends, policy benefits or nonforfeiture values; making any distinction as to policy terms or conditions; imposing greater underwriting requirements (medical vs. non-medical); and fixing any fees or commissions in a manner as to encourage or discourage the writing or renewing of a specific type of policy.

The Supplement directed, pursuant to Section 308 of the New York Insurance Law, each domestic and foreign life insurer and fraternal benefit society to review its past and current underwriting practices regarding race-based underwriting and to report its findings to the Department no later than August 15, 2000. The Supplement further directed that all relevant documents, including, but not limited to, rate charts, mortality tables, labor negotiation documents with distribution force unions, agent and broker contracts, compensation schedules, underwriting and agent manuals, applications, policy form filings, board of directors (and committee) minutes, and internal memoranda be included in the insurer's review.

2. COMPANY RESPONSE TO THE SUPPLEMENT

By letter dated August 8, 2000 (Exhibit A), the Company reported to the Department the findings of its review of past and current underwriting practices regarding race-based underwriting made in accordance with the requirements of the Supplement. In response to the Department's request for additional information dated October 16, 2000 (Exhibit B), the Company supplemented its August 8, 2000 response with a letter dated October 27, 2000 (Exhibit C).

A. The Company's Investigation in Response to the Supplement

The Company's investigation in response to the Supplement consisted of three primary components: (i) a review of certain Company documents to identify race-based underwriting policies, (ii) a review and analysis of certain life insurance policy application files, and (iii) conversations with current and former long-term Company actuaries to determine whether they knew of any race-based underwriting policies or practices at the Company.

The Company reported that the following documents for the date ranges indicated were included in its review:

- selected rate books 1927 – 1970;
- underwriting manuals and memoranda 1979 – present;
- agent and broker contracts 1950s – present;
- policy filings 1985 – present; and,
- board minutes 1851 – present.

The Company also reviewed a sample of policy application files dating from the 1920s through the 1980s. Because a policyholder's race is not identifiable from the Company's computer databases, the Company attempted to identify policies issued to minority applicants in the manner described below.

- Urban Area Scan

The Company scanned its computer databases to identify active policies issued between January 1955 and December 1975 to policyholders living in urban areas in Florida, Georgia, Kentucky, Maryland, Massachusetts, New York and Washington, D.C., on the theory that a greater percentage of minority policyholders were likely to reside in such areas. The scan identified 7,100 active policies in these areas. The Company reviewed the application files of 58 randomly selected policies identified by the urban area scan. The Company then expanded this scan to include urban areas in certain western and mid-western states, and reviewed an additional 35 to 40 policy application files.

- Flat Extra Premium Scan

In an effort to determine whether a pattern of charging minority policyholders a flat extra premium could be discerned, the Company scanned its computer databases to identify policies issued between 1955 and 1975 on which a flat extra premium was charged. The Company reviewed the application files of approximately 30 policies identified by the flat extra premium scan.

- Bedford-Stuyvesant Area Scan

On the theory that many minorities reside in the Bedford-Stuyvesant area of New York, the Company identified by computer database scans and reviewed the application files of all six active policies issued to persons residing in that area. The reviewed policies were issued between 1960 and 1970.

In addition to the above-described policy application files, the Company identified and reviewed 50 of the "oldest looking" policy application files maintained at its East Greenbush, New York home office. The majority of those policies were issued between the late 1920s and the 1950s.

B. Findings Reported by the Company

In its response to the Department, the Company disclosed that it found in the minutes of a January 24, 1853 board of directors meeting a description of a board vote stating, without any explanation, that "*it is inexpedient at present to engage in the business of insuring Negroes in Virginia.*" The Company also reported the following to the Department concerning the Company's review and analysis of the policy application files:

- certain of the policy application files from 1927 through 1963 included either an agent's report or an inspection report prepared by a third party that included an inquiry concerning and information identifying the race of the applicant; and,
- an actuarial review comparing the premiums charged to the then-effective rate books found that the premiums charged were consistent with those specified in the rate books, and that the policy application

files and the rate books contained no notations evidencing race-based underwriting policies or practices.

Concluding its report, the Company stated that it "found no evidence that Phoenix [Home Life], including its predecessor companies [or an affiliated company], engaged in any sales, marketing, rating or underwriting practice based solely on an insured's race, color, creed or national origin."

3. SCOPE OF THE EXAMINATION

A limited-scope examination was made into the affairs of the Company solely with respect to race-based underwriting policies and practices.

Phoenix Mutual Life Insurance Company ("Phoenix") was incorporated as a stock company under the laws of Connecticut in May 1851 as the American Temperance Life Insurance Company. The name Phoenix Mutual Life Insurance Company was adopted in 1861. Home Life Insurance Company ("Home Life") was incorporated as a stock company under the laws of New York in April 1860. Both Phoenix and Home Life subsequently mutualized in 1889 and 1916, respectively. On July 1, 1992, Home Life merged with and into Phoenix pursuant to Section 7105 of the New York Insurance Law. Immediately prior to the merger, Phoenix redomesticated into the State of New York and concurrent with the merger, the Company's name was changed to Phoenix Home Life Mutual Insurance Company. In June 2001, the Company's name was changed to Phoenix Life Insurance Company upon the Company's demutualization.

The scope of the examination included a review of life insurance business directly issued by the Company and any life insurance business acquired by the Company as the result of an assumption, merger, acquisition, consolidation or purchase, except as noted below. Thus, a review of Home Life's life insurance business acquired by Phoenix Home Life in the merger was included in the scope of the examination in addition to life insurance business directly issued by Phoenix. However, business assumed by Phoenix Home Life from two other entities - Confederation Life Insurance Company (a company in receivership from which Phoenix Home Life acquired an individual life block of business) and Anchor National Life Insurance Company (a company from which Phoenix Home Life acquired a block of variable universal life policies issued between 1987 and 1999) – was not reviewed. This business was excluded from review because of the low probability (based upon the characteristics of

the business) that either block of assumed business would have been subjected to race-based underwriting practices. Also, the business of Phoenix Life and Reassurance Company of New York, a New York-domiciled subsidiary of the Company which was referenced in the Company's responses to the Supplement, was not included in the scope of the examination because such business was not directly issued or acquired by the Company. In addition, this business was excluded from review because of the low probability (based upon the characteristics of the business) that it would have been subjected to race-based underwriting practices. The business of Phoenix American Life Insurance Company, a former subsidiary of the Company which was sold in 2000 but was referenced in the Company's responses to the Supplement, also was not included in the scope of the examination.

The scope of the examination included a review of the documents reviewed by the Company in its internal investigation, as well as additional documents not reviewed by the Company. The examiners' review included, but was not limited to, the following significant materials:

- (a) all available Phoenix and Home Life rate books (approximately 260) ranging in date for Phoenix from 1851 through 1983 and for Home Life from 1933 to 1983;
- (b) all available Phoenix and Home Life underwriting manuals, which were limited to four Phoenix manuals dated 1969, 1979, 1983 and 1991;
- (c) all available Phoenix and Home Life agent contract forms dating from the 1920s to the present;
- (d) Phoenix board minutes ranging in date from July 1851 to December 1968, January 1972 to December 1976, and February 1981 to February 1986, and Home Life board minutes ranging in date from January 1860 to April 1916 and January 1942 to June 1992 (Board minutes for each company for the missing periods were not available for review);
- (e) Phoenix Guide Books (agent manuals) ranging in date from 1919 through 1957;
- (f) selected company publications, including a published history of Phoenix and a limited sample of monthly Phoenix field publications;
- (g) notes of employee interviews conducted by the Company in preparing its response to the Supplement;
- (h) New York State Insurance Department examination reports on Home Life ranging in date from 1893 to 1978; and,
- (i) selected reference materials available from public sources.

The examination also included a review and analysis of Phoenix and Home Life policy application files. Policy application files were selected for review by the examiners by querying Company databases using automated techniques based on criteria designed by the Department to enhance the likelihood of identifying minority policyholders. In addition, the examiners undertook a limited review of the policy application files that were included in the Company's review (as previously described in Section 2.A). The Department also performed data analysis of the Company's in-force file to detect patterns of issuance that may indicate race-based underwriting.

In addition to the review of Company documents and policy application files, the examiners conducted meetings with Company employees and consultants responsible for key aspects of the Company's internal investigation, and interviewed several current and former long-term Company agents and underwriters.

Certain documentation identifying Company policies and practices during the relevant time period was discarded in accordance with the Company's normal record retention policies and consistent with regulatory retention requirements, and consequently was unavailable for the examiners' review.

4. EXAMINATION FINDINGS

Set forth below are the findings rendered by the examination, divided into two parts: (A) findings from the examiners' review of Company documents; and (B) findings from the examiners' review and analysis of application files.

A. Findings from the Review of Company Documents

(1) Race-Based Underwriting Policies Evidenced in Company Documents

The following race-based underwriting policies were evidenced in the written records of the Company:

(a) Refusal to Insure

As disclosed by the Company in its response to the Supplement, a minute book entry from January 24, 1853, documented that the board of Phoenix's predecessor, American Temperance Life Insurance Company, voted that it was "*inexpedient at present to engage in the business of insuring Negroes in Virginia.*" No further discussion of this

subject was located in any other board minutes or Company documents. The Company was not licensed to sell insurance in Virginia until 1893.

(b) Refusal to Pay Commissions

Editions of Phoenix's Guide Book dated 1919, 1921, 1923, 1933 and 1939 (i.e., all of the Guide Books reviewed by the examiners for that period) indicate that Phoenix had a written policy that commissions would not be paid on life insurance policies issued to non-Caucasians from at least 1919 through at least 1933 in all jurisdictions, and until at least 1943 in jurisdictions that did not prohibit such a policy. No similar policy is included in a 1947 Guide Book — the first edition the examiners received post-dating the 1939 edition.

Phoenix's policy of denying commissions on life insurance policies issued to non-Caucasians was further documented in two internal memoranda issued in 1933, which affirmed the Company's "established policy of paying no commissions on any form of contract, annuity or otherwise, issued on the lives of Negroes."

(c) Refusal to Grant Accidental Death Benefit Coverage

A Home Life rate book first published in January 1933, but revised to be current until some unknown date after December 1940, contains the following provision applicable to policies issued after December 1940: "*[T]he [Accidental Death Benefit] is not granted to applicants of other than the White or Caucasian race.*" Similar language was not included in a 1944 Home Life rate book, which was the first rate book the examiners received post-dating the 1933 rate book. However, a subsection entitled "Change of Policies to Include Benefit" in the Accidental Death Benefit section of the 1944 rate book, which was in use until 1947, states: "*The benefit will be considered in the case of policies of the September, 1941 or subsequent editions already in force . . . if the applicant is qualified for the benefit under the underwriting rules then effective.*" It is not clear whether the phrase "then effective" refers to (i) the underwriting rules in effect at the time a policy originally was issued (in which case non-Caucasians remained ineligible for accidental death benefit coverage until at least 1947), or (ii) the rules in effect at the time an application to

add the benefit was submitted (in which case non-Caucasians were eligible for accidental death benefit coverage by at least 1944).

Phoenix's written policies relating to refusal to insure and refusal to pay commissions appear in Company documents that predate the adoption of express statutory prohibitions making those practices violations of the Insurance Law. Only Home Life's written policy with regard to the refusal to grant accidental death benefit coverage solely on the basis of race appears to have existed after the adoption of express statutory prohibitions making that practice a violation of the New York Insurance Law. The examiners were unable through their review of policy application files to identify any minority policyholder whose policy was issued when Home Life's written policy was in effect. Consequently, the examiners' review did not reveal whether or not any minority policyholder was denied accidental death benefit coverage on account of race.

(2) Occupational Underwriting

Phoenix and Home Life agent and/or rate books reflected classifications providing that workers in certain occupations that are not apparently hazardous, but may have been held disproportionately by minority workers, are ineligible for life insurance coverage, ineligible for accidental death or disability coverage, or eligible for such coverage only upon the payment of greater-than-standard premiums. These occupational classifications were contained in Guide Books or rate books from 1911 to 1965.

The occupational classifications apparently were based, at least in part, on a study of the effect of occupation on mortality included in the Medico-Actuarial Mortality Investigation and the Experience of Thirty-four Life Companies upon Ninety-Eight Special Classes of Risks, which were compiled and published between 1903 and 1914. In addition, a 1933 Home Life rate book provided that extra premiums charged due to occupation would be waived upon a showing that, among other things, the insured has been employed for one full year or more in an occupation not requiring an extra premium.

As the examiners' review of policy application files failed to identify minority policyholders employed in such occupations, no instance was noted in which coverage

was either denied or made available only upon payment of a greater-than-standard premium as a result of any suspect occupational classification.

B. Findings from the Review and Analysis of Policy Application Files

The examiners' ability to identify race-based underwriting practices in which Phoenix or Home Life might have engaged was limited in part by the relatively small number of policyholders who could be identified as minorities. Minority policyholders appear to have constituted a small percentage of Phoenix and Home Life policyholders during the period under review. A written description of Phoenix's historical marketing policies that was prepared by the Company for the examiners indicated that Phoenix's marketing "focus has consistently been on the more affluent sectors of the market..." Similarly, the Company indicated that Home Life's historical marketing focus was on "high income and professional people," and thus "people of modest economic means were not primary marketing targets." The fact that few policies issued to minorities during the relevant time period were identified appears to be consistent with the companies' stated marketing policies.

The examiners reviewed 433 Phoenix policy application files and 755 Home Life policy application files. Of the 433 Phoenix files reviewed, the race of the policyholder could be identified in 240 files. In 145 of the 240 files, the policyholder was identified as a minority. Of the 755 Home Life files reviewed, the race of the policyholder could be identified in 136 files. In 10 of the 136 files, the policyholder was identified as a minority. Where the race of the applicant was identified, it most often was included either in an agent's report or a third-party inspection report, and less frequently in a physician's or medical examiner's report. Neither company's application forms included an inquiry as to the applicant's race in the part of the application that was completed by the applicant.

The review of minority policy application files did not reveal any instances of race-based underwriting practices. Minority policyholders and non-minority policyholders were charged the same premiums for identical policies. The premium each policyholder was charged was consistent with the rate book then in force, and the same rate books were used for both minority and non-minority applicants. In addition, no instances of assigning substandard classifications, limiting available coverage or imposing greater underwriting requirements based solely on an applicant's race, color, creed or national

origin were identified through the examiners' review and analysis of policy application files.

The review of Phoenix and Home Life policy application files did, however, reveal instances in which both companies continued to use outdated forms that made inquiries as to the race of applicants after the issuance of Circular Letter No. 5 (1964), which prohibited such practice.

Circular Letter No. 5 (1964), dated February 14, 1964, states, in part:

"The Department's attention, however, has been directed to certain forms and reports furnished to some licensed insurers in which there may be set forth information as to the race or nationality of an insurance applicant, ...etc. Such forms, which are of the kind not required to be submitted to the Insurance Department for approval prior to use, includes agents confidential reports, medical reports, adjusters reports and inspection or credit reports.

The inclusion of inquiries or information as to race, color, creed or national origin in any form used by a licensed insurer, or the making of such inquiries on its behalf, clearly suggest possible or likely violation of both Section 40(10) and the firmly established policy of New York State. Accordingly, such practices shall be discontinued."

Several of the reviewed Phoenix and Home Life applications dated subsequent to the issuance of Circular Letter No. 5 (1964) revealed instances in which one or more forms inquiring and/or recording information as to the race of the applicant were used. Inquiries relating to race most often appeared on inspection reports prepared by third parties. The latest inquiry noted in the examiners' review was included in a third-party inspection report completed on a Phoenix applicant in July 1967.

At the time that Circular Letter No. 5 (1964) was issued by the Department, Phoenix was not a New York-domiciled company. Because it was not then the practice of the Department to conduct regular examinations of foreign insurers, no Department Reports on Examination covering the relevant time period are available for Phoenix. However, Home Life's acceptance of third-party reports containing inquiries concerning race after the issuance of Circular Letter No. 5 (1964) was noted in the Department's Report on Examination of Home Life as of December 31, 1963. A Report on Examination as of December 31, 1966, indicated that Home Life continued to receive third-party reports on which the applicants' race was indicated. No further comment was noted in the Report on Examination for the subsequent examination period.

5. CONCLUSION

The Department's examination revealed that certain race-based underwriting policies were evidenced in written records of both Phoenix and Home Life dated 1944 or earlier. However, the examiners were not able to identify any current or past policyholder who was affected by any race-based underwriting policy or practice.

Respectfully submitted,

Clifford Chance Rogers & Wells LLP
Consultant

/s/ _____
Partner

STATE OF NEW YORK)
)SS:
COUNTY OF NEW YORK)

James F. Moyle, being duly sworn, deposes and says that the foregoing report is true to the best of his knowledge and belief.

/s/ _____
James F. Moyle

Subscribed and sworn to before me
this _____ day of _____ 2001

APPOINTMENT NO. 21665

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, **NEIL D. LEVIN**, Superintendent of Insurance of the State of New York,
pursuant to the provisions of the Insurance Law, do hereby appoint:

CLIFFORD CHANCE ROGERS & WELLS

as a proper person to examine into the affairs of the
PHOENIX HOME LIFE MUTUAL INSURANCE COMPANY
and to make a report to me in writing of the condition of the said
COMPANY

with such other information as it shall deem requisite.

In Witness Whereof, I have hereunto subscribed by name
and affixed the official Seal of the Department
at the City of New York

this 3rd day of January, 2001



NEIL D. LEVIN
Superintendent of Insurance

by **KEVIN RAMPE**
Senior Deputy Superintendent
And General Counsel

Company's August 8, 2000 Response to
Supplement No. 1 to Circular Letter No. 19 (2000)
(Exhibit A)



LEWIS A. SINGER
Vice President
Office of Corporate Compliance

August 8, 2000

Mrs. Ruth Gumaer
Principal Insurance Examiner – Life Bureau
New York State Insurance Department
25 Beaver St.
New York, NY 10004

RE: Report of Findings and Response to Circular Letter No. 19 (2000)
Phoenix Home Life Mutual Insurance Company, NAIC #67814 and 2 88 76
Phoenix Life and Reassurance Company of New York, NAIC #73059 2 88 77

Dear Mrs. Gumaer:

The following response is submitted on behalf of Phoenix Home Life Mutual Insurance Company ("Phoenix") and Phoenix Life and Reassurance Company of New York ("PLARNY"). We have conducted a thorough and systematic review and found no evidence that Phoenix or PLARNY employed practices that resulted in a cost differential for similarly situated policyholders based on race. I would further note that neither Phoenix nor PLARNY marketed small value life business such as industrial life, or pre-need/burial insurance, which are the type of products referred to in recent media attention on this subject.

SCOPE OF REVIEW

Phoenix

In preparing this response, members of the Company's Underwriting, Actuarial, Law and Corporate Compliance departments reviewed Phoenix's available records including rate books and dividend scales, underwriting manuals, agent and broker contracts, policy filings, memoranda, application forms, policy files and Board minutes. In addition, a scan of Phoenix business from various geographical areas was also conducted with individual files selected at random for review. These files were evaluated by our actuaries to determine if any improper cost differential could be ascertained. Interviews were also conducted of certain long-standing Company employees having knowledge of past actuarial, marketing and underwriting practices. In accordance with the Company's record retention standards, some records relating to marketing materials and policies that have been out of force for over 10 years were not available. However, several of the individuals interviewed have substantial knowledge of underwriting and marketing practices extending back over this period of time.

During the course of our extensive review of Phoenix board minutes, we found that the minutes of a meeting held on January 24, 1853 contained a vote stating that "it is inexpedient at present to engage in the business of insuring negroes in Virginia". As confirmed to the Department, we have no other records or information relating to this vote. Accordingly, it is impossible to determine the context or purpose of this vote, particularly since there were no other similar board actions taken with respect to any other state. We have found no evidence of the Company having taken any action on this vote or to implement a practice which denied coverage on the basis of race. Phoenix was founded in 1851 by members of the temperance movement. Hence its initial name American Temperance Life Insurance Company. In addition several of the initial board members were active in various religious movements. At least one of the incorporators, Francis Gillette, was a noted abolitionist, whose sister Harriet Beacher Stowe wrote the novel Uncle Tom's Cabin. It would seem very unlikely that negative race based business practice would have grown out of this early Company culture.

For a period of time, the agent report for Phoenix completed along with an application contained an inquiry as to the race and sex of the applicant. Standard inspection report forms utilized by independent credit reporting firms also referenced race over a period of time. We have found no evidence of the Company having utilized this information for rating or underwriting purposes.

Effective this year, Phoenix American Life Insurance Company, a subsidiary through which group business was written, was sold to GE Financial Assurance Company. In connection with the sale, Phoenix reinsured over to Phoenix American Life its remaining block of group life insurance business and Phoenix American has contracted to administer such business going forward. Accordingly, all records relating to the Phoenix group life business were transferred to Phoenix American. In connection with our response, Phoenix American has performed the review and analysis of the records of the Phoenix block of group life business. Phoenix American reviewed general rating and underwriting guidelines, as well as specific account information. Documents reviewed included application forms, rate tables, health statements, medical underwriting requirements, historical regulatory filings of policy forms, producer contracts, commission schedule filings and various internal communications regarding rating and underwriting practices (i.e., group bulletins). In addition, accounts from a scan of group life business issued since the inception of this block were selected at random and reviewed as to how the case was rated, sold and underwritten. Interviews were also conducted of employees with experience in the various areas covered by this review.

Several years ago, Phoenix assumed an individual life block of business from Confederation Life which was in receivership at the time. Under the circumstances, Phoenix received limited information concerning past rating or underwriting practices of Confederation Life. Personal interviews have been conducted of former long-standing Confederation Life employees we believe to be knowledgeable with respect to the information relevant to the issues involved in this response.

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Phoenix Life and Reassurance Company of New York (PLARNY)

PLARNY has never written or issued individual or group life business.

FINDINGS

Based on our review and investigation of available information, as well as interviews of knowledgeable personnel, we have found no evidence that Phoenix or Phoenix Life and Reassurance Company of New York engaged in any sales, marketing, rating or underwriting practice based solely on an insured's race, color, creed or national origin. Neither did we find any evidence that Phoenix or Phoenix Life and Reassurance of New York employed any practices that resulted in a cost differential for similarly situated policyholders based on such factors.

Any questions concerning this response may be directed to the undersigned at the address listed above or by phone at (860) 403-5553.

Very truly  yours.

Lewis A. Singer

LAS:gt

racebsny

State of Connecticut) ss. Hartford
County of Hartford

Dona D. Young, President of Phoenix Home Life Mutual Insurance Company, being duly sworn, deposes and says that, to the best of her information, knowledge and belief, the attached Report, together with all attachments thereto, is true and complete and not misleading and contains the most accurate information available at the time of its submission.

Dona D. Young

Subscribed and sworn to before me this 24th day of August, 2000.

Notary Public

My Commission Expires:

DEBORA E. BROWN

~~NOTARY PUBLIC~~

MY COMMISSION EXPIRES NOV. 30, 2001

State of Connecticut)
) ss. Hartford
County of Hartford

David R. Pellerin, President of Phoenix Life and Reassurance Company of New York, being duly sworn, deposes and says that, to the best of his information, knowledge and belief, the attached Report, together with all attachments thereto, is true and complete and not misleading and contains the most accurate information available at the time of its submission.

David R. Pellerin

Subscribed and sworn to before me this 7th day of August, 2000.

Notary Public
My Commission Expires: BARBARA J. OPACKI
NOTARY PUBLIC
MY COMMISSION EXPIRES SEP. 30. 2002

Department's October 16, 2000 Request for
Additional Information
(Exhibit B)



STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NEW YORK 10004

October 16, 2000

Mr. Lewis Singer
Vice President
Phoenix Home Life Mutual Insurance Company
One American Row
PO Box 5036
Hartford, CT 06102-5056

Re: Phoenix Home Life Mutual Insurance Company ("Phoenix")
Phoenix Life and Reassurance Company of New York ("PLARNY")
Supplement No. 1 to Circular Letter No. 19 (2000)

Dear Mr. Singer:

We have completed our review of your organization's submission made pursuant to Supplement No. 1 to Circular Letter No. 19 (2000).

Based upon our review, we have the following queries and comments:

1. The Supplement stated that the report should discuss the insurer's findings with regard to the marketing and/or sale of business directly issued by the insurer and business acquired by the insurer as a result of assumption, merger, acquisition, consolidation or purchase. Although the filed report discussed acquisition of business by Phoenix from Confederation Life, the report failed to discuss findings with regard to the marketing and/or sale of business acquired by Phoenix as a result of its merger with Home Life Insurance Company. Please discuss in the amended report the scope of your review, document availability and findings relative to the Home Life business and any other business acquired by Phoenix as a result of assumption, merger, acquisition, consolidation or purchase.
2. The filed report indicated, relative to Phoenix's business, that various departments of the Company reviewed Phoenix's available records including rate books, dividend scales, underwriting manuals, agent and broker contracts, policy filings, memoranda, application forms, policy files and Board minutes. Please indicate in the amended report the period of time covered by each type of record reviewed.
3. The filed report indicates that individual files selected at random for review were evaluated by actuaries to determine if any improper cost differential could be ascertained. Since improper cost differential is only one type of race-based practice covered by the Supplement, please indicate in the amended report if such files were also reviewed to determine if other race-based practices indicated in the Supplement could be ascertained.

4. The filed report indicated that “For a period of time, the agent report for Phoenix completed along with an application contained an inquiry as to the race and sex of the applicant.” Please specify in the amended report the period of time during which the inquiry appeared. In addition, the filed report stated that no evidence was found that the Company utilized the response to the inquiry for rating and underwriting purposes. Please indicate in the amended report the methodology used or the procedures performed which support this conclusion.
5. With regard to PLARNY, the filed report stated only that PLARNY has never written individual or group life business. Please clarify what type of business has been written or issued by PLARNY and indicate if PLARNY has ever acquired business as a result of assumption, merger, acquisition, consolidation or purchase. If business has been acquired, please discuss the scope of your review, document availability and findings relative to such business.

Please amend the filed report to include the information previously not contained in the report. The amended report must be filed, **accompanied by a jurat** in the form specified in Supplement No. 1 of Circular Letter No. 19 (2000), **no later than 15 days** from receipt of this letter.

Please direct any questions and your response to:

Mrs. Ruth Gumaer
Principal Insurance Examiner – Life Bureau
New York State Insurance Department
25 Beaver Street
New York, New York 10004
Phone: (212) 480-4763 Fax: (212) 480-5329
E-mail: rgumaer@ins.state.ny.us

Very truly yours,

Ruth Gumaer
Principal Insurance Examiner

Company's October 27, 2000 Supplemental Response
(Exhibit C)

Phoenix Home Life Mutual Insurance Company

One American Row
PO Box 5056
Hartford CT 06102-5056

Phone 860 403-3553 or
860 253-1000
Fax 860 403-7203



October 27, 2000

RECEIVED
NEW YORK STATE
INSURANCE DEPARTMENT

31 2000

LEWIS A. SINGER
Vice President
Office of Corporate Compliance

Mrs. Ruth Gumaer
Principal Insurance Examiner – Life Bureau
New York State Insurance Department
25 Beaver St.
New York, NY 10004

LIFE BUREAU N.Y.C.

RE: Amended Report of Findings and Response to Circular Letter #19 (2000)
Phoenix Home Life Mutual Insurance Company and
Phoenix Life and Reassurance Company of New York

Dear Mrs. Gumaer:

In response to your letter of October 16, 2000, we have modified the report submitted on behalf of the companies listed above to incorporate the additional information requested. I have also attached completed jurat pages for the amended report. Please substitute this amended report for our original response.

If you have any questions, please don't hesitate to contact my office.

Very truly yours,

Lewis A. Singer

LAS:gt

nyexp

Phoenix Home Life Mutual Insurance Company

One American Row
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LEWIS A. SINGER
Vice President
Office of Corporate Compliance

October 27, 2000

Mrs. Ruth Gumaer
Principal Insurance Examiner – Life Bureau
New York State Insurance Department
25 Beaver St.
New York, NY 10004

RE: Report of Findings and Response to Circular Letter No. 19 (2000)
Phoenix Home Life Mutual Insurance Company, NAIC #67814 and
Phoenix Life and Reassurance Company of New York, NAIC #73059

Dear Mrs. Gumaer:

The following response is submitted on behalf of Phoenix Home Life Mutual Insurance Company ("Phoenix") and Phoenix Life and Reassurance Company of New York ("PLARNY"). We have conducted a thorough and systematic review and found no evidence that Phoenix or PLARNY engaged in race-based underwriting as that term is used within the Circular Letter. I would further note that neither Phoenix nor PLARNY marketed small value life business such as industrial life, or pre-need/burial insurance, which are the type of products referred to in recent media attention on this subject.

SCOPE OF REVIEW

Phoenix

Our review and investigation conducted in responding to Circular Letter No. 19 (2000) encompassed business directly issued and acquired by Phoenix Home Life and its predecessor companies, Phoenix Mutual Life and Phoenix Home Life Insurance Companies. In preparing this response, members of the Company's Underwriting, Actuarial, Law and Corporate Compliance departments reviewed available records for Phoenix Home Life and its predecessor companies (Phoenix Mutual Life and Home Life Insurance Company) including: rate books and dividend scales for the period between 1927 and 1970; underwriting manuals and memoranda for the period from 1979 to present; agent and broker contracts from the 1950's to the present; policy filings from 1985 to the present; application forms as contained in policy records reviewed from the 1920's through the 1970's; and Board minutes for Phoenix Mutual beginning in 1851 and Home Life beginning in the 1950's through the date of merger and Phoenix Home Life through current date. In accordance with the record retention standards for Phoenix Home Life and its predecessor companies, some records and policies that had been out of force for over 10 years were not available.

In addition, we conducted a sampling of policy files and records which cover the period from the 1920's through the 1970's to ascertain whether any race-based underwriting occurred as the term is used in Supplement One to Circular Letter No. 19 (2000). This included reviews for improper flat extra ratings or ratings of any kind, different dividends or different policy benefits or values of any kind. During this review, we determined that the agent report for Phoenix Mutual Life contained an inquiry as to the race and sex of the applicant for a period of time. The earliest instance found in a file was in 1927 and the latest instance was in 1963. Standard inspection report forms utilized by independent credit reporting firms also referenced race for a period of time. A comprehensive review was conducted of Phoenix Mutual and Home Life rate books, underwriting manuals, memorandum and actuarial memorandum and located no race-distinct tables, rating, dividend structure, policy types or policy values differentiating on the basis of race. We also interviewed long-standing members of our Actuarial Department having experience from both the Home Life and Phoenix Mutual organizations who confirmed that the companies did not practice discrimination in rates, dividends or values based on the race of the insured. In addition, we conducted a scan of business in selected larger, urban geographical areas across the United States for the period in question and reviewed surrendered policies having a flat extra rating to confirm whether such rating was based on legitimate mortality-related circumstances. The results of our file level review was consistent with corporate policies and practices and showed no evidence that the companies had utilized race-based underwriting or rating practices.

During the course of our extensive review of Board minutes, we found that the minutes of a Phoenix Mutual Board meeting held on January 24, 1853 contained a vote stating that "it is inexpedient at present to engage in the business of insuring negroes in Virginia". As confirmed to the Department, we have no other records or information relating to this vote. Accordingly, it is impossible to determine the context or purpose of this vote, particularly since there were no other similar board actions taken with respect to any other state. We have found no evidence of Phoenix Mutual having taken any action on this vote or to implement a practice which denied coverage on the basis of race. Phoenix Mutual Life was founded in 1851 by members of the temperance movement. Hence its initial name American Temperance Life Insurance Company. In addition several of the initial board members were active in various religious movements. At least one of the incorporators, Francis Gillette, was a noted abolitionist, whose sister Harriet Beacher Stowe wrote the novel Uncle Tom's Cabin. It would seem very unlikely that negative race based business practice would have grown out of this early Company culture.

Effective this year, Phoenix American Life Insurance Company, a subsidiary through which group business was written, was sold to GE Financial Assurance Company. In connection with the sale, Phoenix reinsured over to Phoenix American Life its remaining block of group life insurance business and Phoenix American has contracted to administer such business going forward. Accordingly, all records relating to the Phoenix group life business were transferred to Phoenix American. In connection with our response, Phoenix American has performed the review and analysis of the records of the Phoenix block of group life business. Phoenix American reviewed general rating and

underwriting guidelines, as well as specific account information. Documents reviewed included application forms, rate tables, health statements, medical underwriting requirements, historical regulatory filings of policy forms, producer contracts, commission schedule filings and various internal communications regarding rating and underwriting practices (i.e., group bulletins). In addition, accounts from a scan of group life business issued since the inception of this block were selected at random and reviewed as to how the case was rated, sold and underwritten. Interviews were also conducted of employees with experience in the various areas covered by this review.

Several years ago, Phoenix assumed an individual life block of business from Confederation Life which was in receivership at the time. Under the circumstances, Phoenix received limited information concerning past rating or underwriting practices of Confederation Life. Personal interviews have been conducted of former long-standing Confederation Life employees we believe to be knowledgeable with respect to the information relevant to the issues involved in this response.

Phoenix Mutual acquired a block of variable universal life policies from Anchor National in 1990. The business was written from 1987 through 1999 and the majority of policies were on a single premium basis. Periodic premium policies included in this block were primarily high premium products. We have no available information or records concerning the actual rating or underwriting structure for this business. As of September 30th, there were 362 policies remaining in force within this block of the originally issued total of 842 policies. A review was conducted of a sampling of policy files and records and found no evidence of race-based underwriting or rating practices.

Phoenix Life and Reassurance Company of New York (PLARNY)

The former Maximum Life Insurance Company was purchased by Phoenix and renamed Phoenix Life and Reassurance Company of New York. There are 35 annual renewable term policies which were written by Maximum Life that are now administered by PLARNY. This business was issued beginning in 1988 with the current oldest active case issued in 1991. We have no information or records concerning the underlying rating or underwriting structure. A review was conducted of the applicable files for all of these cases and found no evidence of discriminatory practices on the basis of an applicant's race.

FINDINGS

Based on our review and investigation of available information, as well as interviews of knowledgeable personnel, we have found no evidence that Phoenix, including its predecessor companies, or Phoenix Life and Reassurance Company of New York engaged in any sales, marketing, rating or underwriting practice based solely on an insured's race, color, creed or national origin. Neither did we find any evidence that Phoenix or Phoenix Life and Reassurance of New York employed any practices that resulted in a cost differential for similarly situated policyholders based on such factors.

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We respectfully request on behalf of each of the above-captioned companies that the information contained in this response be exempt from disclosure to the extent provided under Subdivision 2 of Section 87 of the Public Officers law, or other applicable law. Disclosure of this information would cause substantial injury to the competitive position of the companies.

Any questions concerning this response may be directed to the undersigned at the address listed above or by phone at (860) 403-5553.

Very truly yours,

Lewis A. Singer

LAS:gt

raceamd

State of Connecticut

ss. Hartford

County of Hartford

Dona D. Young, President of Phoenix Home Life Mutual Insurance Company, being duly sworn, deposes and says that, to the best of her information, knowledge and belief, the attached Report, together with all attachments thereto, is true and complete and not misleading and contains the most accurate information available at the time of its submission.

Dona D. Young

Subscribed and sworn to before me this 27th day of October, 2000.

Notary Public

My Commission Expires:

DEBORA E. BROWN

NOTARY PUBLIC

MY COMMISSION EXPIRES NOV. 30, 2001

