



STATE OF NEW YORK INSURANCE DEPARTMENT
REPORT ON MARKET CONDUCT EXAMINATION
OF
THE INDEPENDENT ORDER OF FORESTERS

CONDITION:

DECEMBER 31, 2008

DATE OF REPORT:

MAY 11, 2010

STATE OF NEW YORK INSURANCE DEPARTMENT
REPORT ON MARKET CONDUCT EXAMINATION
OF
THE INDEPENDENT ORDER OF FORESTERS
AS OF
DECEMBER 31, 2008

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EXAMINER:

ERIC C. DERCHER, CFE

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

David Paterson
Governor

James J. Wrynn
Superintendent

November 10, 2010

Honorable James J. Wrynn
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 30566, dated July, 14, 2010 and annexed hereto, an examination has been made into the condition and affairs of the Independent Order of Foresters, hereinafter referred to as "the Society," at its home office located at 789 Don Mills Road, Toronto ON MC3 1Y9, Canada.

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

1. EXECUTIVE SUMMARY

The material findings and violations in this report are summarized below:

- The Society violated section 51.6(a)(2) of Department Regulation No. 60 by failing to have a “Definition of Replacement” notice signed by the applicant and agent. (See item 4A of this report)
- The Society violated Section 51.6(c)(2) of Department Regulation No. 60 by failing to provide the required information to the replacing insurer within twenty days of the request to provide such information. (See item 4A of this report)

2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2006 through December 31, 2008. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2008 but prior to the date of this report (i.e., the completion date of the examination).

The examination comprised a review of market conduct activities and utilized the National Association of Insurance Commissioners' Market Conduct Examiners Handbook or such other examination procedures, as deemed appropriate, in such review.

The examiner reviewed the corrective actions taken by the Company with respect to the market conduct violations and recommendations contained in the prior report on examination. The results of the examiner's review are contained in item 5 of this report.

This report on examination is confined to comments on matters which involve departure from laws, regulations or rules, or which require explanation or description.

3. DESCRIPTION OF SOCIETY

A. History

The Society's origin traces back to a reincorporation under the name of the Right Worthy High Court of The Independent Order of Foresters, in Ontario in 1881.

The Society was reincorporated in 1889 as a federal corporation by an act of the Canadian Parliament and has continued to be a federal corporation under Canadian law. In 1890, the Society received a license from the State of New York to conduct business in the United States as an alien fraternal benefit society. In 1913, the Society's name was changed to The Independent Order of Foresters. Since 1926, the following societies have been merged into the Society:

<u>Year</u>	<u>Name of Society</u>
1926	The Ancient Order of the United Workmen of Ontario
1926	The United States branch of the Canadian Home Circles
1931	Royal Templars of Temperance
1931	Modern Brotherhood of America
1952	Catholic Mutual Benefit Organization
1971	The Royal Clan Order of Scottish Clans
1971	The Canadian Business of Modern Woodmen of America
1992	Canadian Foresters Life Insurance Society

B. Territory and Plan of Operation

The Society is authorized to write life insurance, annuities and accident and health insurance as defined in paragraphs 1, 2 and 3 of Section 1113(a) of the New York Insurance Law.

The Society is licensed to transact business in the District of Columbia and all states except Vermont. In 2008, 17% of life premiums, 22% of accident and health premiums, 45% of annuity considerations, and 21% of deposit type funds were received from California; 3% of life premiums, 2% of accident and health premiums, 1% of annuity considerations, and 2% of deposit type funds were received from New York. Certificates were written on a non-participating basis.

4. MARKET CONDUCT ACTIVITIES

The examiner reviewed various elements of the Society's market conduct activities affecting policyholders, claimants, and beneficiaries to determine compliance with applicable statutes and regulations and the operating rules of the Society.

A. Advertising and Sales Activities

The examiner reviewed a sample of the Society's advertising files and the sales activities of the agency force including trade practices, solicitation and the replacement of insurance policies.

The examiner selected a sample of 51 external replacements issued during the examination period. The replacements files were reviewed for compliance with Department Regulation No. 60 as well as the Company's written replacement procedures filed with the Department. The examiner noted inconsistencies in the Company's processing of the selected replacements as well as deviations from Department Regulation No. 60. These inconsistencies and deviations are noted below:

1. Section 51.6(a)(2) of Department Regulation No. 60 states:

“Each agent shall:

Require with or as part of each application, a completed “Definition of Replacement” signed by the applicant and agent.”

In four (8%) of the 51 replacements reviewed a copy of the Definition of Replacement” notice was not signed by the applicant and agent.

The Society violated section 51.6(a)(2) of Department Regulation No. 60 by failing to have a “Definition of Replacement” notice signed by the applicant and agent.

2. Section 51.6(c)(2) of the New York Insurance Regulation 60 states, in part:

“Within twenty days of receipt of a request from a licensee of the Department, for information necessary for completion of the “Disclosure Statement” with respect to the life insurance policy or annuity contract proposed to be replaced, together with proper authorization from the applicant, furnish the required information simultaneously to the agent of record of the existing life insurance policy or annuity contract being replaced and the agent and insurer replacing the life insurance policy or annuity contract. This information shall include the insurer's customer service telephone number, the current status of the existing life insurance policy or annuity contract and the currently illustrated dividends/interest and other non-guaranteed costs and benefits.”

In four (8%) of the 51 replacement files reviewed, the Society failed to provide the required information to the replacing insurer within twenty days of the request to furnish such information from the replacing insurer.

The Society violated 51.6(c)(2) of Department Regulation No. 60 by failing to provide the required information to the replacing insurer within 20 days of a request to provide such information.

B. Underwriting and Policy Forms

The examiner reviewed new underwriting files, and the applicable policy forms. Based upon the sample reviewed, no significant findings were noted.

C. Treatment of Policyholders

The examiner reviewed a sample of various types of claims, surrenders, changes and lapses. The examiner also reviewed the various controls involved, checked the accuracy of the computations and traced the accounting data to the books of account. Based upon the sample reviewed, no significant findings were noted.

5. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations, recommendations and comments contained in the prior report on examination and the subsequent actions taken by the Company in response to each citation:

<u>Item</u>	<u>Description</u>
A	<p>The Society violated Section 3209(d)(7) of the New York Insurance Law by failing to disclose, in the preliminary information provided in writing to prospective purchasers of term certificates, that following the receipt of the policy and policy summary, there will be a period of not less than ten days within which the applicant may return the policy for an unconditional refund of the premiums paid.</p> <p>The examiners noted that the preliminary information contained the required disclosure that the applicant may return the policy within 10-days for an unconditional refund of premiums paid.</p>
B	<p>The Society violated Section 3209(d)(6) of the New York Insurance Law by failing to disclose the life insurance cost indexes and the equivalent level annual dividends at the end of the tenth and twentieth policy years or at the end of the premium-paying period, if earlier, in the preliminary information provided in writing to prospective purchasers of term certificates.</p> <p>The examiner's review of a sample of underwriting files revealed that the Society took corrective action in response to this violation.</p>
C	<p>The examiner recommended that the Society put appropriate procedures in place in order to ensure compliance with Department Regulation No. 60 in the future</p> <p>The examiner's review of a sample of replacement files revealed that the Society failed to take corrective action in response to this prior report recommendation. Violations appear in this report.</p>
D	<p>The Society violated Section 2112(a) and Section 2114(a)(1) of the New York Insurance Law by failing to file a certificate of appointment in such form as the Superintendent may prescribe in order to appoint insurance agents to represent such insurer and paying commissions to such agents.</p> <p>The examiners did not note any instances where the Society failed to file a certificate of appointment as required.</p>

<u>Item</u>	<u>Description</u>
E	<p>The Society violated Section 2112(d) of the New York Insurance Law by failing to notify the Superintendent of the facts relative to the termination of the certificate of appointment of one agent.</p> <p>The Society did not terminate any agents for cause during the examination period.</p>

6. SUMMARY AND CONCLUSIONS

Following are the violations and recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Society violated section 51.6(a)(2) of Department Regulation No. 60 by failing to have a "Definition of Replacement" notice signed by the applicant and the agent.	5
B	The Society violated 51.6(c)(2) of the New York Insurance Regulation 60 by failing to provide the required information to the replacing insurer within twenty days of a request to provide such information.	6

Respectfully submitted,

Eric C. Dercher, CFE
Examiner-in-Charge

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

Eric C. Dercher, being duly sworn, deposes and says that the foregoing report, subscribed by him, is true to the best of his knowledge and belief.

Eric C. Dercher, CFE

Subscribed and sworn to before me

this _____ day of _____

APPOINTMENT NO. 30566

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, JAMES J. WRYNN, Superintendent of Insurance of the State of New York,
pursuant to the provisions of the Insurance Law, do hereby appoint:

ERIC DERCHER

as a proper person to examine into the affairs of the

INDEPENDENT ORDER OF FORESTERS

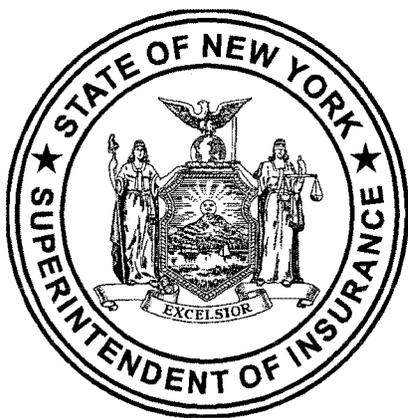
and to make a report to me in writing of the condition of the said

SOCIETY

with such other information as he 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 14th day of July, 2010



JAMES J. WRYNN
Superintendent of Insurance

A handwritten signature in cursive script, appearing to read "James J. Wrynn".

Superintendent