

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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In the Matter of

LINCOLN NATIONAL CORPORATION AND
LINCOLN LIFE & ANNUITY COMPANY OF NEW YORK
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CONSENT ORDER

WHEREAS, the New York State Department of Financial Services ("the Department") commenced an investigation in April 2015 pursuant to the New York Insurance Law (the "Investigation") of Lincoln Life & Annuity Company of New York ("LLACNY"), a subsidiary of Lincoln National Corporation, which together with its subsidiaries does business nationwide as Lincoln Financial Group (collectively "Lincoln");

WHEREAS, the Investigation followed Lincoln's self-reporting of issues relating to pending claims and acknowledgement of violations of New York Insurance Laws and Regulations;

WHEREAS, the Department investigated Lincoln's conduct as to life insurance and annuities with death benefits sold in New York, and has determined that Lincoln engaged in unfair claims settlement practices by failing to effectuate prompt, fair, and equitable settlements of claims in violation of the New York Insurance Law and related regulations with respect to self-reported policies as well as numerous additional policies;

WHEREAS, on April 3, 2006, Lincoln acquired for approximately \$7.5 billion Jefferson-Pilot Corporation, a New York-authorized insurer, and merged the companies' claims processing offices and related technical systems;

WHEREAS, following the merger, Lincoln lost track of numerous claims in New York from the Jefferson-Pilot book it acquired, and consequently failed to make timely communications and/or payments to thousands of New York beneficiaries over the next several years;

WHEREAS, in June 2008, senior executives at the highest levels of Lincoln received a post-merger audit report of its claims processing division, which revealed significant claims processing errors, but failed to adequately address the seriousness of the problem;

WHEREAS, claims errors persisted from June 2008 through June 2014 (the "Relevant Period"), and Lincoln's backlog of pending claims rose to historical highs;

WHEREAS, in June 2014, the company's production of data in response to unclaimed property audits being conducted by certain states revealed, among other things, a high backlog of pending claims nationally, which led to an internal review by Lincoln to determine the validity of the data and subsequent engagement of outside counsel to investigate knowledge of the issue by company personnel, but Lincoln did not then notify the Department;

WHEREAS, on March 1, 2015, Lincoln filed with the Department its 2014 Annual Statement dated December 31, 2014, which failed to highlight the extensive claims backlog;

WHEREAS, in April 2015, after completing its investigation and commencing efforts to address the issues, Lincoln notified the Department of the backlog of pending claims;

WHEREAS, the Department's Investigation concludes that: (1) following the Jefferson-Pilot acquisition Lincoln lost track of thousands of claims in New York and nationwide; (2) Lincoln failed to adequately address internal audits and internal warnings of significant problems with the amount of pending claims; (3) upon being confronted with the problem, Lincoln waited an additional 10 months before notifying the Department; and (4) thousands of beneficiaries of

New York policyholders waited weeks, months and in some cases years to receive communications and/or payments to which they were entitled in violation of the New York Insurance Law;

NOW, THEREFORE, the Department and Lincoln are willing to resolve the matters cited herein in lieu of proceeding by notice and a hearing.

FINDINGS

The findings of the Investigation are as follows:

Relevant Entities

1. Lincoln Life & Annuity Company of New York is an insurer licensed by the Department to offer life insurance, annuities, and accident and health insurance in New York. It is headquartered in Syracuse, New York. Lincoln National Corporation is a holding company headquartered in Radnor, Pennsylvania. The company and its subsidiaries do business nationwide as Lincoln Financial Group. LLACNY is authorized to write life insurance and annuities in New York State, one of Lincoln National Corporation's five largest markets for its life insurance and annuities business.

2. Jefferson-Pilot Corporation was a holding company based in Greensboro, North Carolina. Through its subsidiaries, it offered among other things a range of individual life, annuity, and investment products across the United States, including in New York.

Background

3. On April 3, 2006, Lincoln National Corporation acquired Jefferson-Pilot Corporation for approximately \$7.5 billion in cash and stock, which created one of the largest publicly traded life insurance companies in the United States. The merged company carries the Lincoln National

Corporation name and does business as Lincoln Financial Group, and its insurance division is now based in Greensboro.

4. As a result of the 2006 merger, Lincoln National Corporation consolidated its claims departments by moving its life claim processes office from Hartford, Connecticut, as well as its annuity death claims processes office from Fort Wayne, Indiana, to Greensboro.

5. Lincoln integrated its claims-related computer system with three administration systems in 2006, which resulted in four separate claims processing systems. The systems did not update and track each other's data, and employees did not uniformly enter data into any one system, resulting in a high degree of inconsistencies among the four different claims processing systems. In 2007 Lincoln continued to merge claims-related technical systems, sunsetting an old claims-related system and converting the company's legacy system to a new system known as the Individual Claim Administration System.

6. As a result of the technical systems integration, combined with failures to adequately train staff among other management failures, in or around 2007 Lincoln National Corporation and LLACNY began to lose track of an extensive number of claims in New York and nationwide, a problem that would persist for years.

7. Because of the merger, movement of offices, merger of technical systems, and other related changes, an internal audit of the Greensboro office life insurance claims processes was performed in late 2007 and early 2008. This was the first such audit performed after the merger, the last having been performed in 2006, and it resulted in a report dated June 30, 2008 (the "Audit Report").

8. Within a day of issuance of the Audit Report, it was circulated among executives at the highest levels of Lincoln National Corporation, including Lincoln's CEO and Chief Claims Officer, as well to an outside accounting firm.

9. The Audit Report indicated a "Satisfactory, Needs Improvement" opinion. The Audit Report identified ten "opportunities for improvement" and stated that all recommendations would be implemented by the end of 2008.

10. The Audit Report noted that the audit revealed "claims that were not paid timely and in accordance with state regulations" and "claims that were not paid accurately and the claim department was not aware of until notified by the agent of [the] beneficiary."

11. The Audit Report found that ten percent (10%) of the audited claims had "untimely or no follow-up completed."

12. Despite the Audit Report's identification of significant claims processing errors to the most senior executives of Lincoln National Corporation, claims errors persisted throughout the Relevant Period, with claims department employees continuing to notify mid-level managers at several intervals including:

- a. Noting a "historical high" of almost 4,000 pending life claims in September of 2009, approximately a 40% annual increase;
- b. Requesting additional staff and overtime hours in late 2009, and noting that "Follow ups [sic] have not been in regulatory compliance for a long time"; and
- c. In December 2009, Claims Department heads presenting a "service recovery proposal" to the Head of Shared Services and IT, which noted a

technical issue affecting thousands of claims resulting in “active follow ups [sic] not being done dating back several years.”

13. In early 2014, unclaimed property audits in certain states brought yet again the pending claims backlog to the attention of Lincoln executives, after which Lincoln performed an internal investigation of the extent of the problem and hired outside counsel to perform an investigation of the knowledge of the issue within Lincoln, the results of which were not shared with the Department until after Lincoln self-reported the issue in April 2015.

14. Lincoln has represented to the Department that in September 2014 the company began to examine pending claims, attempt to locate beneficiaries, and pay pending claims with interest.

15. On March 1, 2015, LLACNY filed with the Department its 2014 Annual Statement, dated December 31, 2014, a filing that included a Claims Liability Exhibit which listed the company's liability for claims that were:

- a. Direct (due and unpaid);
- b. Direct (in course of settlement; resisted); and
- c. Directed (in course of settlement; other).

This filing failed to highlight the extensive claims backlog and did not make clear whether the claims liability numbers took into account the backlog.

16. In April 2015, Lincoln National Corporation, after completing its investigation to understand the extent of the issues and commencing efforts to address the issues, reported the extensive claims backlog and related issues to state regulators, including the Department.

17. Despite the Audit Report and other evidence of the claims tracking failures and resultant backlog, thousands of beneficiaries of New York policyholders received interrupted or

no communication from Lincoln or received payments that were weeks, months, or even years late.

18. Lincoln has represented to the Department that in response to the foregoing failures, it has paid or escheated all identified valid pending claims and has spent millions of dollars hiring additional staff, updating its computer policies, and instituting new policies and procedures to ensure that the problems do not reoccur.

Relevant Statutes and Regulations

19. Insurance Law Section 2601(a) prohibits insurers from engaging in unfair claim settlement practices, including “failing to adopt and implement reasonable standards for the prompt investigation of claims” (2601(a)(3)) and “not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims submitted in which liability has become reasonably clear” (2601(a)(4)).

20. Department Regulation 64, 11 N.Y.C.R.R. Part 216 (“Reg. 64”), defines minimum standards for insurers under Insurance Law Section 2601. 11 N.Y.C.R.R. 216.0(b). It requires insurers to notify claimants within fifteen days of proof of loss that the claim was accepted, rejected, or that additional time is needed for an investigation. 11 N.Y.C.R.R. 216.0(c). If the claim remains unsettled, the insurer must follow up every ninety days thereafter. *Id.*

21. Department Regulation 200, 11 N.Y.C.R.R. Part 226 (“Reg. 200”), requires insurers to establish procedures to locate beneficiaries and make prompt payments or distributions in accordance with Reg. 64. 11 N.Y.C.R.R. 226.4(g).

Violations

22. Lincoln violated Insurance Law Section 2601, Reg. 64, and Reg. 200 by failing to attempt in good faith to effectuate prompt, fair, and equitable settlements of claims. In

particular, Lincoln failed to communicate and follow-up in a timely manner with claimants, and also failed to locate and attempt to contact beneficiaries when Lincoln had reason to believe that the insured had died.

AGREEMENT

IT IS HEREBY UNDERSTOOD AND AGREED by Lincoln, and all subsidiaries, affiliates, successors, assigns, agents, representatives, employees, and subcontractors, that:

Injunctive Terms

23. For all policies affected by the violations set forth in this Consent Order, to the extent not already provided, Lincoln shall provide to the Department a list of such policies, updated quarterly, which shall include:

- a. the type of policy;
- b. the claim, policy, and, if applicable, certificate numbers;
- c. the date of the insured's death, the date the company had notice of the death, and, for any payments made, the dates of such claim payments;
- d. the names of the insured and all affected claimants and beneficiaries; and
- e. the amount of claim payment and any policy face value remaining.

24. For all policies affected by the violations set forth in this Consent Order, Lincoln shall continue to identify beneficiaries and pay claims, with interest, in accordance with Insurance Law Section 2601, Reg. 64, and Reg. 200.

25. Lincoln must develop policies and procedures to ensure, and must ensure to the Department's satisfaction, before onboarding new policies after a merger involving combined technical systems, to the extent New York policyholders may be impacted that all claims

processing systems are compatible or, until all such systems are rendered compatible, all systems will be able to run in parallel.

26. No later than March 30, 2017, Lincoln must produce to the Department a proposal to enhance its policies and procedures for (a) ensuring that after such mergers any combined technical systems are compatible or able to be run in parallel and (b) following up with audits that highlight violations or potential violations of the Insurance Law.

Monetary Penalty

27. Lincoln shall pay a civil penalty of 1.5 million dollars (\$1,500,000) to the Department within ten days of the date on which this Consent Order is signed by Lincoln and the Department. The payment shall be in the form of a wire transfer in accordance with instructions provided by the Department.

28. Lincoln agrees that it will not claim, assert, or apply for a tax deduction or tax credit with regard to any U.S. federal, state, or local tax, directly or indirectly, for any portion of the civil monetary penalty paid pursuant to this Consent Order.

Other Relief

29. Lincoln submits to the authority of the Department to effectuate this Consent Order.

30. Lincoln will cease and desist from engaging in any acts in violation of the New York Insurance Law and regulations and will comply with each and every one of those laws and regulations.

31. Lincoln represents and warrants, through the signatures below, that the terms and conditions of this Consent Order are duly approved, and execution of this Consent Order is duly authorized.

32. In the event that the Department believes Lincoln to be materially in breach of the Consent Order ("Breach"), the Department will provide written notice to the company of the Breach and the company must, within ten business days from the date of receipt of said notice, or on a later date if so determined in the sole discretion of the Department, appear before the Department and shall have an opportunity to rebut the evidence, if any, of the Department that a Breach has occurred and, to the extent pertinent, to demonstrate that any such Breach is not material or has been cured.

33. Lincoln understands and agrees that Lincoln's failure to appear before the Department to make the required demonstration within the specified period as set forth in paragraph 32 is presumptive evidence of Lincoln's Breach. Upon a finding of Breach, the Department has all the remedies available to it under the New York Insurance Law, Financial Services Law, or other applicable laws and may use any and all evidence available to the Department for all ensuing hearings, notices, orders, and other remedies that may be available under the New York Insurance Law, Financial Services Law, or other applicable laws.

34. If Lincoln defaults on any of its obligations under this Consent Order, the Department may terminate this Consent Order, at its sole discretion, upon ten days' written notice to Lincoln. In the event of such termination, Lincoln expressly agrees and acknowledges that this Consent Order shall in no way bar or otherwise preclude the Department from commencing, conducting, or prosecuting any investigation, action, or proceeding, however denominated, related to the Consent Order, against them, or from using in any way statements, documents, or other materials produced or provided by Lincoln prior to or after the date of this Consent Order, including, without limitation, such statements, documents, or other materials, if any, provided for purposes of settlement negotiations.

35. The Department has agreed to the terms of this Consent Order based on, among other things, the representations made to the Department by Lincoln and its counsel and the Department's own Investigation. To the extent that representations made by Lincoln or its counsel are later found to be materially incomplete or inaccurate, this Consent Order or certain provisions thereof are voidable by the Department in its sole discretion.

36. All notices, reports, requests, certifications, and other communications to any party pursuant to this Consent Order shall be in writing and shall be directed as follows:

If to the Department:

New York Department of Financial Services
One State Street
New York, New York 10004-1511
Attention: Bruce Wells, Associate Counsel

If to Lincoln National Corporation:

Lincoln Financial Group
150 N. Radnor Chester Road
Radnor, Pennsylvania 19087-5221
Attention: Kirkland L. Hicks, General Counsel

with a copy to:

Greenberg Traurig, LLP
MetLife Building
200 Park Avenue
New York, NY 10166
Attention: Michael A. Berlin, Esq.

If to Lincoln Life & Annuity Company of New York:

Lincoln Life & Annuity Company of New York
100 Madison Street
Suite 1860
Syracuse, NY 13202
Attention: Robert Sheppard

with a copy to:

Greenberg Traurig, LLP
MetLife Building
200 Park Avenue
New York, NY 10166
Attention: Michael A. Berlin, Esq.

37. This Consent Order and any dispute thereunder shall be governed by the laws of the State of New York without regard to any conflicts of laws principles.

38. Lincoln waives its right to further notice and hearing in this matter as to any allegations of past violations up to and including the Effective Date and agree that no provision of the Consent Order is subject to review in any court or tribunal outside the Department.

39. This Consent Order may not be amended except by an instrument in writing signed on behalf of all the parties to this Consent Order.

40. This Consent Order constitutes the entire agreement between the Department and Lincoln and supersedes any prior communication, understanding, or agreement, whether written or oral, concerning the subject matter of this Consent Order. No inducement, promise, understanding, condition, or warranty not set forth in this Consent Order has been relied upon by any party to this Consent Order.

41. In the event that one or more provisions contained in this Consent Order shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Consent Order.

42. Upon execution by the parties to this Consent Order, the Department will discontinue the Investigation as and against Lincoln solely with respect to claims made by beneficiaries during the Relevant Period. No further action will be taken by the Department against Lincoln

for the conduct set forth in the Consent Order provided that Lincoln complies fully with the terms of the Consent Order.

43. This Consent Order may be executed in one or more counterparts, and shall become effective when such counterparts have been signed by each of the parties hereto and the Consent Order is So Ordered by the Superintendent of Financial Services or her designee ("Effective Date").

WHEREFORE, the signatures evidencing assent to this Consent Order have been affixed
hereto on the dates set forth below.

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

By: Joy Feigenbaum
Joy Feigenbaum
Executive Deputy Superintendent
Financial Frauds & Consumer Protection Division
March 7
February 1, 2017

LINCOLN NATIONAL CORPORATION

By: Ronuk Holinsky
Ronuk Holinsky, Vice President &
February 24, 2017 Chief Compliance Officer

LINCOLN LIFE & ANNUITY COMPANY OF NEW YORK

By: Robert S. Sluppert
February 24, 2017

THE FOREGOING IS HEREBY APPROVED.
IT IS SO ORDERED.

Dated: New York, New York

February 7, 2017
March

L. Vullo

MARIA T. VULLO
Superintendent of Financial Services