



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
MARKET CONDUCT REPORT ON EXAMINATION
OF THE
BANKERS CONSECO LIFE INSURANCE COMPANY

CONDITION:

DECEMBER 31, 2013

DATE OF REPORT:

AUGUST 14, 2015

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON MARKET CONDUCT EXAMINATION

OF THE

BANKERS CONSECO LIFE INSURANCE COMPANY

AS OF

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EXAMINER:

IJEOMA NDIKA

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

September 4, 2018

Honorable Maria T. Vullo
Superintendent of Financial Services
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 31355, dated May 28, 2015, and annexed hereto, an examination has been made into the condition and affairs of Bankers Consec Life Insurance Company, hereinafter referred to as “the Company,” at its home office located at 350 Jericho Turnpike, Suite 304, Jericho, NY 11753.

Wherever “Department” appears in this report, it refers to the New York State Department of Financial Services.

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

1. EXECUTIVE SUMMARY

The material violations contained in this report are summarized below.

The Company violated several sections of 11 NYCRR (Insurance Regulation 60) by failing to: (i) require with or as part of each application the completed Disclosure Statement; (ii) maintain a copy of the agent authorization form, which includes a list of all life insurance policies or annuity contracts proposed to be replaced, in the policy record; and (iii) furnish the existing insurer with a copy of the sales material used in the sale of the existing life insurance policy or annuity contract and the completed Disclosure Statement within ten days of receipt of the application. (See item 4A in this report.)

2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2009, through December 31, 2013. As necessary, the examiner reviewed matters occurring subsequent to December 31, 2013, 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 Regulations 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 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 COMPANY

A. History

The Company was incorporated as a stock accident and health insurance company under the laws of New York on April 29, 1987, was licensed on June 24, 1987, and commenced business on July 13, 1987. The Company is a wholly owned subsidiary of Conseco Life Insurance Company of Texas (“Conseco Life of Texas”), a Texas life insurer. Conseco Life of Texas is in turn a wholly owned subsidiary of CDOC, Inc., a Delaware domiciled corporation. The ultimate parent of the Company is CNO Financial Group, Inc., a Delaware publicly held financial services holding company.

B. Territory and Plan of Operation

The Company 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 Company is licensed to transact business in New York State only. According to the Company’s Management Discussion and Analysis, the Company sells life insurance through direct marketing and life, annuities, Medicare supplement, and long-term care products through career agents in New York. In addition, the Company has closed blocks of annuity and long-term care products which were sold through professional independent producers.

In 2013, all of life premiums, accident and health premiums, annuity considerations, and deposit-type funds were received from New York. Policies are written on a non-participating basis. In 2013, the Company introduced an individual specified disease insurance product.

4. MARKET CONDUCT ACTIVITIES

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

A. Advertising and Sales Activities

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

Section 51.6 of 11 NYCRR (Insurance Regulation 60) states, in part:

“(b) Where a replacement has occurred or is likely to occur, the insurer replacing the life insurance policy or annuity contract shall:

- (1) Require with or as part of each application a list prepared by the agent or broker representing, to the best of his or her knowledge, all of the existing life insurance policies and annuity contracts proposed to be replaced;
- (2) Require with or as part of each application a copy of any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and proof of receipt by the applicant of the "IMPORTANT Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts" and the completed "Disclosure Statement";
- (4) Within ten days of receipt of the application furnish to the insurer whose coverage is being replaced a copy of any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and the completed "Disclosure Statement . . .

Section 243.2(b) of 11 NYCRR (Insurance Regulation 152) states, in part:

“Except as otherwise required by law or regulation, an insurer shall maintain:

- (1) A policy record for each insurance contract or policy for six calendar years after the date the policy is no longer in force or until after the filing of the report on examination in which the record was subject to review, whichever is longer . . .
A policy record shall include . . .
- (iv) other information necessary for reconstructing the solicitation, rating, and underwriting of the contract or policy . . .
- (8) Any other record for six calendar years from its creation or until after the filing of a report on examination or the conclusion of an investigation in which the record was subject to review.”

The examiner's review of a sample of 15 life and 5 annuity incoming replacements revealed that 16 out of 20 (80%) replacement transactions contained material errors or omissions, which violated Insurance Regulation 60.

1. In 2 of the 15 (13%) life replacements reviewed, the files did not contain the completed Disclosure Statements.

The Company violated Section 51.6(b)(2) of 11 NYCRR (Insurance Regulation 60) by failing to require with or as part of each application the completed Disclosure Statement. A similar violation appeared in the prior report on examination. (See item 5 of this report)

2. In 3 of 15 (20%) life replacement transactions reviewed, a copy of the agent authorization form, which includes a list of all life insurance policies or annuity contracts proposed to be replaced, was not maintained in the policy record.

- The Company violated Section 51.6(b)(1) of 11 NYCRR (Insurance Regulation 60) and Section 243.2(b)(1) of 11 NYCRR (Insurance Regulation 152) by failing to maintain a copy of the agent authorization form, which includes a list of all life insurance policies or annuity contracts proposed to be replaced, in the policy record.

3. In 8 of 20 (40%) replacement transactions reviewed, the Company did not maintain the notification letter or any other evidence to confirm that it furnished the existing insurer(s) with a copy of the sales material used in the sale of the proposed life insurance policy or annuity contract and the completed disclosure statement within ten days of receipt of the application.

The Company violated Section 51.6(b)(4) of 11 NYCRR (Insurance Regulation 60) by failing to furnish the existing insurer with a copy of the sales material used in the sale of the proposed life insurance policy or annuity contract and the completed Disclosure Statement within ten days of receipt of the application. A similar violation appeared in the prior report on examination.

B. Underwriting and Policy Forms

The examiner reviewed a sample of new underwriting files, both issued and declined, 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.

1. Section 216.4(e) of 11 NYCRR (Insurance Regulation 64) states:

“As part of its complaint handling function, an insurer's consumer services department shall maintain an ongoing central log to register and monitor all complaint activity.”

A review of the Company's consumer complaint logs from the Company's Enterprise Report and Senior Health Insurance Company of Pennsylvania consumer support (closed block) revealed that it failed to include five consumer complaints forwarded to the Company by the Department's Consumer Assistance Unit during the examination period.

The Company violated Section 216.4(e) of 11 NYCRR (Insurance Regulation 64) by failing to include in its complaint log all complaints referred to it by the Department.

2. Insurance Circular Letter No. 11 (1978) advises, in part:

“As part of its complaint handling function, the company's consumer services department will maintain an ongoing central log . . . The log should be kept in a columnar form and list the following . . .

2. The name of the complainant...”

The Company's consumer complaint log did not include item 2 (the name of the complainant) above.

The examiner recommends that the Company comply with the provisions of Circular Letter No. 11 (1978) by including the required item (the name of the complainant) in its complaint log.

5. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations, 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 Company violated Section 51.6(a)(2) of 11 NYCRR (Insurance Regulation 60) by failing to require a completed “Definition of Replacement” signed by the applicant and agent.</p> <p>The review of a sample of replacement files revealed that the Company obtained a completed “Definition of Replacement” signed by the applicant and agent.</p>
B	<p>The Company violated Section 51.6(b)(2) of 11 NYCRR (Insurance Regulation 60) by failing to require proof of receipt by the applicant of the IMPORTANT Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts and the completed Disclosure Statement.</p> <p>The review of a sample of replacement files revealed that the Company again violated Section 51.6(b)(2) of 11 NYCRR (Insurance Regulation 60) by failing to require with or as part of each application the completed Disclosure Statement. (See item 4A of this report)</p>
C	<p>The Company violated Section 51.6(b)(3) of 11 NYCRR (Insurance Regulation 60) in the cases where it failed to examine the Disclosure Statements to ascertain that they were accurate and met the requirements of the Regulation. The Company also violated Section 51.6(b)(7) of 11 NYCRR (Insurance Regulation 60) because in the cases where the required forms did not meet the requirements of the Regulation or were not accurate, or were left blank, the Company failed to, within ten days from the date of receipt of the application, either have the deficiencies corrected or reject the application and so notify the applicant of such rejection and the reason for such rejection.</p> <p>The review of a sample of replacement files revealed that the Disclosure Statements were examined to ascertain that they were accurate and complete and met the requirements of the Regulation. The review did not reveal any instance where the forms were left blank and any deficiencies were corrected or the application was rejected, and the applicant was notified of such rejection within ten days from the date of receipt of the application.</p>

<u>Item</u>	<u>Description</u>
D	<p>The Company violated Section 51.6(e) of 11 NYCRR (Insurance Regulation 60) by not implementing its established procedures that would ensure compliance with Section 51.5(c)(2) of 11 NYCRR (Insurance Regulation 60) which requires an agent to submit to the insurer whose policy or contract is being replaced a proper authorization from the applicant and a request for the information necessary to complete the Disclosure Statement with respect to the life insurance policy or annuity contract proposed to be replaced.</p> <p>The Company failed to take corrective action in response to the prior report violation.</p>
E	<p>The Company violated Section 51.6(b)(4) of 11 NYCRR (Insurance Regulation 60) by failing to furnish the insurer whose coverage was being replaced, within ten days of receipt of the application, a copy of any proposal, and a completed Disclosure Statement.</p> <p>The review revealed that the Company failed to furnish the insurer whose coverage was being replaced, within ten days of receipt of the application, a copy of any proposal, and a completed Disclosure Statement. (See item 4A of this report)</p>
F	<p>The Company violated Section 51.7(b) of 11 NYCRR (Insurance Regulation 60) by failing to comply with the orderly working of this Regulation in accomplishing its intended purpose in the protection of policyholders and contract holders.</p> <p>The review revealed that the appropriate timing of the events and the receipt of replacement documentation occurred prior to the ultimate replacement of a policy and that the Company conformed to the proper sequence of events in replacing a policy.</p>
G	<p>The Company violated Sections 243.2(b)(1) and (8) of 11 NYCRR (Insurance Regulation 152) when it failed to maintain an illustration for the replaced policy or contract, or any other information from the company being replaced that was used to complete the Disclosure Statement.</p> <p>The review of a sample of replacements revealed that the Company maintains an illustration for the replaced policy or contract but did not maintain copies of the signed notification of replacement to the insurer whose life insurance contract is to be replaced.</p>

<u>Item</u>	<u>Description</u>
H	<p>The Company violated Section 3224-a (b) of the New York Insurance Law by failing to provide a notification of denial of the payment of long-term care claims within the required 30 days of receipt of the claim. This violation appeared in the prior report on examination.</p> <p>The review revealed that the Company is providing notification of denials of payment of long-term care claims within the required 30 days of receipt of the claim as required by Section 3224-a (b) of the New York Insurance Law.</p>

6. SUMMARY AND CONCLUSIONS

Following are the violations and recommendation contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 51.6(b)(2) of 11 NYCRR (Insurance Regulation 60) by failing to require with or as part of each application the completed Disclosure Statement.	6
B	The Company violated Section 51.6(b)(1) of 11 NYCRR (Insurance Regulation 60) and Section 243.2(b)(1) of 11 NYCRR (Insurance Regulation 152) by failing to maintain a copy of the agent authorization form, which includes a list of all life insurance policies or annuity contracts proposed to be replaced, in the policy record.	6
C	The Company violated Section 51.6(b)(4) 11 NYCRR (Insurance Regulation 60) by failing to furnish the existing insurer with a copy of the sales material used in the sale of the proposed life insurance policy or annuity contract and the completed Disclosure Statement within ten days of receipt of the application. A similar violation appeared in the prior report on examination.	6
D	The Company violated Section 216.4(e) 11 NYCRR (Insurance Regulation 64) by failing to include in its complaint log all complaints referred to it by the Department.	7
E	The examiner recommends that the Company comply with the provisions of Circular Letter No. 11 (1978) by including the required item (the name of the complainant) in its complaint log.	7

Respectfully submitted,

/s/

Ijeoma Ndika
Senior Insurance Examiner

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

Ijeoma Ndika, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

/s/

Ijeoma Ndika

Subscribed and sworn to before me

this _____ day of _____

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, BENJAMIN M. LAWSKY, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

IJEOMA NDIKA

as a proper person to examine the affairs of the

BANKERS CONSECO LIFE INSURANCE COMPANY

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

COMPANY

with such other information as she shall deem requisite.

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

this 28th day of May, 2015

BENJAMIN M. LAWSKY
Superintendent of Financial Services

By:

Mark McLeod

MARK MCLEOD
ASSISTANT CHIEF - LIFE BUREAU

