



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON MARKET CONDUCT EXAMINATION
OF THE
FIRST RELIANCE STANDARD LIFE INSURANCE COMPANY

CONDITION:

DECEMBER 31, 2013

DATE OF REPORT:

FEBRUARY 13, 2015

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EXAMINER:

ADELIA GBADAMOSI

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

April 28, 2017

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

Madam:

In accordance with instructions contained in Appointment No. 31263, dated January 7, 2014, and annexed hereto, an examination has been made into the condition and affairs of First Reliance Standard Life Insurance Company, hereinafter referred to as “the Company,” at its parent’s home office located at 2001 Market Street, Philadelphia, PA 19103.

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 various Sections of Insurance Regulation No. 34 by: stating information that is not true; failing to clearly identify the insurer on its website or prominently describing the type of policy advertised; and failing to maintain at its home address in New York a complete file of its accident and health advertisements. (See item 4A of this report)
- The Company violated various Sections of Insurance Regulation No. 34-A by: exaggerating its years in business; failing to clearly identify the insurer on its website or prominently describing the type of policy advertised; failing to prominently state on its website that an insurance policy is not available in all states; and failing to maintain at its home address in New York a complete file of its life advertisements. (See item 4A of this report)
- The Company violated Insurance Regulation No. 95, 11 NYCRR Section 86.4 by using claim forms that did not contain the required fraud warning statement. (See item 4C of this report)

2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2011, 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 prior report on examination which did not contain any market conduct violations, recommendations or comments.

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 June 16, 1983, under the name Dresser Insurance Company, was licensed on September 24, 1984, and commenced business on October 1, 1984. In 1987 the Company changed its name to Reliance Standard Insurance Company. On September 26, 1989, the Company was licensed to write life insurance in New York and changed its name to its present name, First Reliance Standard Life Insurance 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, Delaware and the District of Columbia.

In 2013, the Company's premiums were split between life insurance (42.3%) and accident and health insurance (57.7%). In 2013, all life and accident and health premiums were received from the State of New York. Policies are written on a non-participating basis.

The Company primarily writes group insurance. The Company's group products include: short-term and long-term disability, life insurance, accidental death and dismemberment, and dental insurance, which are directed at the employee benefits market. The Company did not sell any individual insurance during the examination period except as a result of group conversions.

The Company's sales operations are conducted on a brokerage basis. Its distribution system includes independent agents and brokers through 30 regional offices. The market segments emphasized have historically been small to medium size companies in the service industry having ten to 1,000 employees. As of December 31, 2013, the Company reported 1,736 independent agents and brokers.

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.

1. Insurance Regulation No. 34, 11 NYCRR Section 215 states, in part:

“. . . (5)(a) The format and content of an advertisement of an accident and health insurance policy shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive. Whether an advertisement has a capacity or tendency to mislead or deceive shall be determined by the superintendent from the overall impression that the advertisement may be reasonably expected to create upon a person of average education and intelligence, unique to the particular type of audience to which the advertisement is directed, and whether it may be reasonably comprehended by the segment of the public to which it is directed . . .

(13)(a) The name of the actual insurer and the form number or numbers advertised shall be identified and made clear in all of its advertisements. An advertisement shall not use a trade name, any insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device which without disclosing the name of the actual insurer would have the capacity and tendency to mislead as to the true identity of the insurer . . .

(16) An advertisement shall not contain statements which are untrue in fact, or by implication misleading, with respect to the assets, corporate structure, financial standing, age or relative position of the insurer in the insurance business . . .

(17)(a) *Advertising file.* Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its individual policies and typical printed, published or prepared advertisements of its blanket, franchise and group policies hereafter disseminated in this or any other state whether or not licensed in such other state, with a notation attached to each such advertisement which shall indicate the manner and extent of distribution and the form number of any policy advertised. Such file shall be subject to regular and periodical inspection by the department. All such advertisements shall be maintained in said file . . . until the filing of the next regular report on examination of the insurer, whichever is the longer period of time.”

The examiner reviewed five accident and health advertising pieces and five accident and health proposals. The examiner's review revealed that two of five (40%) accident and health advertising pieces and all five (100%) proposals contained the statement, "A+ rated, providing flexible, affordable benefits solutions for over a century." However, the Company has only been in business since 1983.

The Company violated Insurance Regulation No. 34, 11 NYCRR Sections 215.5(a) and 215.16 by stating information that is not true in fact and has the capacity or tendency to mislead or deceive with respect to the age of the Company.

The examiner reviewed the Company's website for compliance with Department's rules and regulations. The link to the Company's product on the website failed to clearly identify the insurer and in the instances where the parent company or affiliates were displayed, the Company failed to use a disclaimer stating that the parent company and other affiliates were not licensed in New York.

The Company violated Insurance Regulation No. 34, 11 NYCRR Section 215.13(a) by failing to clearly identify on its website the insurer and/or placing a clear and conspicuous disclaimer indicating the licensing status of the entities relative to New York or prominently describing the types of policy advertised.

During a visit to the Company's principal office in New York, the examiners noted that a complete advertising file was not maintained at that office. Also, the review of the advertising file and/or log provided by the Company did not indicate the manner and extent of distribution of its advertising materials as required by Insurance Regulation No. 34.

The Company violated Insurance Regulation No. 34, 11 NYCRR Section 215.17(a) by failing to maintain at its home address in New York a complete file of its accident and health advertisements including a notation indicating the manner and extent of distribution of its advertising materials.

2. Insurance Regulation No. 34-A, 11 NYCRR Section 219.4 states, in part:

"(a)(1) Advertisements shall be truthful and not misleading in fact or implication .

..

(q) . . . a joint advertisement may include the name of an unauthorized insurer and would not be considered calling attention to the unauthorized insurer, provided that the unauthorized insurer does not do an insurance business in New York and the

advertisement contains a clear and conspicuous disclaimer indicating the licensing status of the entities relative to New York. An acceptable disclaimer could either state that the unauthorized insurer is not authorized in New York and does not do an insurance business in New York or name the insurer that is authorized to sell insurance in New York. Any joint advertisement of a specific insurance policy or policies may also use general disclaimers such as “This insurance policy is not available in all states.” or “Some insurance policies are not available in all states.” The name of the unauthorized insurer shall not be more prominent than the name of the authorized insurer. The disclaimer shall be of prominence and placement relative to references to unauthorized insurers or insurance policies not available in New York so as not to minimize, render obscure or otherwise diminish the importance of the information contained therein.”

The examiner reviewed two life advertising pieces and four life proposals provided by the Company with its advertising materials. Both (100%) life advertising pieces and three of four (75%) life proposals contained the statement, “A+ rated, providing flexible, affordable benefits solutions for over a century.” However the Company has only been in business since 1983.

The Company violated Insurance Regulation No. 34-A, 11 NYCRR Section 219.4(a)(1) by exaggerating its years in business in its life advertisements.

The examiner reviewed the Company’s website for compliance with Department’s rules and regulations. The link to the Company’s products on the website failed to clearly identify the insurer and in the instances where the parent company or affiliates were displayed, the Company failed to use a disclaimer stating that the parent company and other affiliates were not licensed in New York. The Company also failed to either state that the insurance policy is not available in all states or some insurance policies are not available in all states.

The Company violated Insurance Regulation No. 34-A, 11 NYCRR Section 219.4(q) by failing to clearly identify on its website the insurer and/or placing a clear and conspicuous disclaimer indicating the licensing status of the entities relative to New York or prominently describing the type of policy advertised and by failing to prominently state on its website that an insurance policy is not available in all states or some insurance policies are not available in all states.

3. Insurance Regulation No. 34-A, 11 NYCRR Section 219.5(a) states, in part:

“Each insurer shall maintain at its home office a complete file containing a specimen copy of every printed, published or prepared advertisement hereafter

disseminated in this state, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. In order to be complete, the file must contain all advertisements whether used by the company, its agents or solicitors or other persons . . .”

During a visit to the Company’s principal office in New York, the examiner noted that a complete advertising file was not maintained at that office. Also, the review of the advertising file and/or log provided by the Company did not indicate the manner and extent of distribution of its advertising materials as required by Insurance Regulation No. 34-A.

The Company violated Insurance Regulation No. 34-A, 11 NYCRR Section 219.5(a) by failing to maintain at its home office in New York a complete file of its life advertisements including a notation indicating the manner and extent of distribution of its advertising materials.

4. The examiner reviewed a sample of 32 disability claims processed during the examination period.

In 17 out of 32 (53%) disability claim files reviewed, Matrix Absence Management was listed on the face of the claim form thereby creating the impression that Matrix Absence is the insurer, rather than the administrator. In One out of 32 (3%) disability claim files reviewed, the Company used a claim form that referenced an unauthorized insurer, Reliance Standard Life Insurance Company (“RSL”). The form did not mention the name of the Company.

The examiner recommends that the Company refrain from using claim forms that reference unauthorized insurer, RSL and only the name of its Third Party Administrator, Matrix Absence Management without mentioning the name of the company as insurer.

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. Insurance Regulation No. 95, 11 NYCRR Section 86.4 states, in part:

“(a) . . . all claim forms for insurance, and all applications for commercial insurance and accident and health insurance, provided to any person residing or located in this State in connection with insurance policies for issuance or issuance for delivery in this State, shall contain the following statement:

‘Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation’ . . . ”

The examiner reviewed a sample of 32 disability claims and 35 death and accelerated death benefit claims processed during the examination period. Thirty (30) of the 32 long term and short term claims reviewed contained a claim form. In 28 out of 30 (93%) long term and short term disability claim forms reviewed, the Company used claim forms that did not contain the required fraud warning statement. In all 35 (100%) death and accelerated death benefit claim forms reviewed, the Company used claim forms that did not contain the required fraud warning statement.

The Company violated Insurance Regulation No. 95, 11 NYCRR Section 86.4(a) by using claim forms that did not contain the required fraud warning statement.

2. In response to information regarding its Retained Asset Account, the Company indicated that the rate is set and approved by its Senior Vice President of Finance. In an e-mail dated February 6, 2015, the Company responded that the board of directors does not approve the rate.

The examiner recommends that going forward the board of directors approve the rate that the Company pays on its Retained Asset Account.

5. 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 Company violated Insurance Regulation No. 34, 11 NYCRR Sections 215.5(a) and 215.16 by stating information that is not true in fact and has the capacity or tendency to mislead or deceive with respect to the age of the Company.	6
B	The Company violated Insurance Regulation No. 34, 11 NYCRR Section 215.13(a) by failing to clearly identify on its website the insurer and/or placing a clear and conspicuous disclaimer indicating the licensing status of the entities relative to New York or prominently describing the type of policy advertised.	6
C	The Company violated Insurance Regulation No. 34, 11 NYCRR Sections 215.17(a) by failing to maintain at its home office in New York a complete file of its accident and health advertisements including a notation indicating the extent and scope of distribution of its advertising materials.	6
D	The Company violated Insurance Regulation No. 34-A, 11 NYCRR Section 219.4(a)(1) by exaggerating its years in business in its life advertisements.	7
E	The Company violated Insurance Regulation No. 34-A, 11 NYCRR Section 219.4(q) by failing to clearly identify the insurer on its website and/or placing a clear and conspicuous disclaimer indicating the licensing status of the entities relative to New York or prominently describing the type of policy advertised; and failing to prominently state that an insurance policy is not available in all states or some insurance policies are not available in all states.	7
F	The Company violated Insurance Regulation No. 34-A, 11 NYCRR Section 219.5(a) by failing to maintain at its home office in New York a complete file of its life advertisements including a notation indicating the extent and scope of distribution of its advertising materials.	8

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
G	The examiner recommends that the Company refrain from using claim forms that reference unauthorized insurer, RSL and only the name of the TPA, Matrix Absence Management without mentioning the name of the company as insurer.	8
H	The Company violated Insurance Regulation No. 95, 11 NYCRR Section 86.4(a) by using claim forms that did not contain the required fraud warning statement.	9
I	The examiner recommends that going forward the board of directors approve the rate that the Company pays on its Retained Asset account.	9

Respectfully submitted,

/s/
Adelia Gbadamosi
Senior Insurance Examiner

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

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

/s/
Adelia Gbadamosi

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31263

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:

ADELIA GBADAMOSI

*as a proper person to examine the affairs of the
FIRST RELIANCE STANDARD 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 7th day of January, 2014

*BENJAMIN M. LAWSKY
Superintendent of Financial Services*

By:



***MICHAEL MAFFEI
ASSISTANT DEPUTY SUPERINTENDENT
AND CHIEF OF THE LIFE BUREAU***

