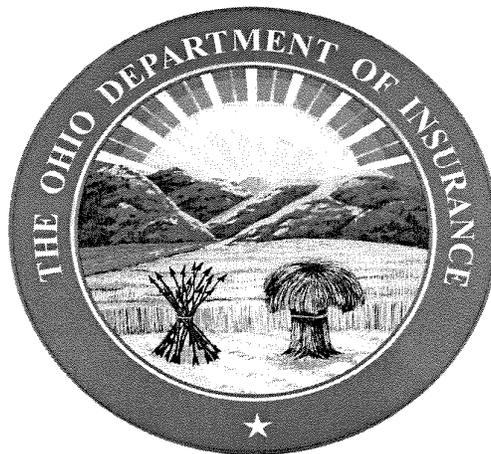


# **OHIO DEPARTMENT OF INSURANCE**

**A  
TARGETED  
MARKET CONDUCT EXAMINATION  
OF  
THE NORTH AMERICAN COMPANY FOR LIFE AND  
HEALTH INSURANCE  
NAIC #66974**

**As Of**

**December 31, 2002**





**Bob Taft, Governor**

**Ann Womer Benjamin, Director**

2100 Stella Court, Columbus, OH 43215-1067

(614) 644-2658

www.ohioinsurance.gov

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Honorable Ann Womer Benjamin  
Director  
Ohio Department of Insurance  
2100 Stella Court  
Columbus, Ohio 43215-1067

Director:

Pursuant to your instructions and in accordance with the powers vested under Title 39 of the Ohio Revised Code, a target market conduct examination was conducted on the Ohio business of:

The North American Company For Life And Health Insurance  
NAIC Company Code 66974

The examination was conducted at the Company's statutory home office located at:

525 W. Van Buren, Chicago, IL 60607

A report of the examination is enclosed.

Respectfully submitted,

A handwritten signature in black ink that reads "David R. Beck".

David R. Beck

Chief, Market Conduct Division

Date:

A handwritten date in black ink that reads "July 28th 2004".

**Accredited by the National Association of Insurance Commissioners (NAIC)**

Consumer Hotline: 1-800-686-1526

Fraud Hotline: 1-800-686-1527

OSHIIP Hotline: 1-800-686-1578

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## **SCOPE OF EXAMINATION**

The examination of the North American Company For Life And Health Insurance (the Company) commenced on April 14, 2003, at the Company's home office in Chicago, Illinois. The examination was restricted to Company activities for individual ordinary life insurance business and individual annuity business from the period of January 1, 2000 through December 31, 2002. The examination is reported by test.

This examination was conducted in accordance with the standards and procedures established by the National Association of Insurance Commissioners (NAIC) and Ohio's applicable statutes, rules, and regulations. Accordingly, the examination included the following areas of the Company's operations:

- A. Company Operations/Management
- B. Marketing and Sales
- C. Policyholder Service
- D. Underwriting
- E. Claims
- F. Complaint Handling

## **METHODOLOGY**

The examination was conducted through a review of the Company's individual ordinary life insurance and individual annuity policy files and claim files. A review was also conducted on the Company's corresponding procedure manuals and replacement logs. This information was supplemented, as necessary, with written inquiries to the Company requesting clarification and/or additional information.

Only files with Ohio insureds, policyholders or claimants were reviewed. A series of tests were designed and applied to the files reviewed to determine the Company's level of compliance with

the Ohio insurance statutes, rules and regulations. These tests are described and the results noted in this report.

The Examiners used the National Association of Insurance Commissioners' standard of:

7% error ratio on claim files (93% compliance rate)

10% error ratio on all other files (90% compliance rate)

to determine whether or not an apparent pattern or practice of non-compliance existed for any given test.

The results of each test applied to a sample are reported separately. Each test is expressed as a "yes/no" question. A "yes" response indicates compliance, and a "no" response indicates a failure to comply.

In any instance where errors were noted, the Examiners submitted to the Company a request for information describing the apparent error. Response to these inquiries were returned to the Examiners with notes as to whether the Company:

- concurred with the findings,
- had additional information for the Examiners to consider, and/or
- proposed remedial action(s) to correct the apparent deficiency.

The Company's responses and the Examiners' recommendations, as applicable, are included in this report.

## **SAMPLING**

The Examiners requested, and the Company supplied, reports of policy and claim data in file formats specified by the Examiners, which could be reviewed on an IBM compatible personal computer. Except as otherwise noted, all tests were conducted on a sample of files randomly

selected from a given report. These samples were selected using a standard business database application that provides a true random sample given that it supplies a random starting point from which to pull the sample.

### COMPANY HISTORY

The Company was incorporated on May 13, 1886, as a mutual assessment company under the title North American Accident Association and commenced business on June 15, 1886. In 1899, the Company was reincorporated as a stock company under the title of North American Accident Insurance. In 1960, the name changed to the North American Company for Life, Accident and Health Insurance. The present title, North American Company for Life and Health Insurance, was adopted in 1967.

### COMPANY OPERATIONS

The Company's reported direct premiums written and direct losses paid during the examination period as reported on Life Insurance Part 1 of the Company's Annual Financial Statements are as follows:

<i>2000 Life Insurance Pt. 1</i> <u>Line</u>	<u>Ohio</u> <u>Ordinary</u>	<u>Ohio</u> <u>Total</u>	<u>National</u> <u>Ordinary</u>	<u>National</u> <u>Total</u>
Life insurance	\$8,367,293	\$8,461,075	\$273,186,766	\$276,248,687
Annuity Considerations	445,575	445,575	1,073,647	1,073,647
Deposit-type funds	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Totals (direct premiums and annuity considerations)	<u>\$8,812,868</u>	<u>\$8,906,650</u>	<u>\$274,260,413</u>	<u>\$277,322,334</u>
Totals (direct claims and benefits paid)	<u>\$7,882,641</u>	<u>\$8,127,753</u>	<u>\$254,755,268</u>	<u>\$259,717,434</u>

<i>2001 Life Insurance Pt. 1</i>	<b>Ohio</b>	<b>Ohio</b>	<b>National</b>	<b>National</b>
<u>Line</u>	<u>Ordinary</u>	<u>Total</u>	<u>Ordinary</u>	<u>Total</u>
Life insurance	\$9,200,408	\$9,370,074	\$298,780,576	\$304,290,413
Annuity Considerations	143,292	9,435,304	69,420,535	236,902,875
Deposit-type contract funds	<u>674,083</u>	<u>674,083</u>	<u>15,264,010</u>	<u>15,264,010</u>
Totals (direct premiums and annuity considerations)	<u>\$10,017,783</u>	<u>\$19,479,461</u>	<u>\$383,465,121</u>	<u>\$556,457,297</u>
Totals (direct claims and benefits paid)	<u>\$16,223,118</u>	<u>\$16,440,507</u>	<u>\$241,492,257</u>	<u>\$246,675,964</u>

As of December 31, 2002, the officers of the Company were:

President:	Edward Arthur Turner
Treasurer:	Thomas Michael Meyer
Secretary:	Stephen Paul Horvat Jr.
Actuary:	Donald John Iverson

### **CERTIFICATE OF AUTHORITY**

The Company operates under Certificate of Authority issued in accordance with the statutes, rules and regulations of Ohio. In the course of the examination, the Examiners found the Ohio operations of the Company to be in compliance with its Certificate of Authority for the state.

### **MARKETING**

The North American Company for Life and Health Insurance distributes life insurance and annuity products through independent agents. Life insurance is distributed in 49 states plus the District of Columbia. Annuities are distributed in 48 states plus the District of Columbia. Their sister company, North American Company for Life and Health Insurance of New York, handles the state of New York.

The Company's life portfolio consists of level premium term insurance and fixed universal life products. Agents are contracted with the Company through managing general agents. The managing general agents are responsible for recruiting agents, generating production from their agents, and company relations. The Company does not use regional offices or third party administrators in the distribution of its products.

## **LIFE INSURANCE**

### **REPLACEMENTS**

#### **Reported Replacements-Internal**

##### **Methodology:**

- The Examiners reviewed all written policies and procedures that instructed the agents on the Company's replacement procedures and requirements.
- The Company supplied the following data files:
  1. The Company's replacement register for all replacements applied for in Ohio during the exam period. This data file stated for each record whether or not there was an internal or external replacement.
  2. Individual ordinary life new business applied for in Ohio during the examination period. This data file stated for each record whether or not it was replacing another existing life insurance policy for this insured as well as whether the policy was issued, declined or not taken.
- The above data files supplied were compared to each other to verify the total number of reported replacements for the Company during the exam period.
- A file was produced based on the following:
  1. Records indicated as internal replacements,
  2. Records with an effective date or closed date during the exam period, and

3. Records indicated as Ohio applications.

- Due to population size, it was determined that all files would be reviewed and sampling was not needed.

**Standard:** Company rules pertaining to agent requirements in connection with replacements are in compliance with applicable statutes, rules and regulations.

**Test:** Did the Company require their agents to comply with the replacement requirements for life insurance according to Rule 3901-6-05 of the Ohio Administrative Code?

**Test Methodology:**

- A file was considered an exception if it did not comply with the portion of the agent requirement section of the replacement laws tested.

**Findings: Life Internal Replacements-Agent Requirements**

Test	Population	Sample	Yes	No	Standard	Compliance
Did the agent submit a statement signed by the applicant as to whether a replacement was involved?	24	24	24	0	90%	100%
Did the agent submit a statement signed by the agent as to whether he/she knew that a replacement was involved?	24	24	22	2	90%	92%
Did the agent present to the applicant a "Notice Regarding Replacement"?	24	24	24	0	90%	100%
Was the "Notice Regarding Replacement" signed not later than the time of taking the application?	24	21	3	6	90%	86%
Did the agent submit a copy of the "Notice Regarding Replacement" to the replacing company?	24	24	24	0	90%	100%
Was the "Notice Regarding Replacement" signed by both the applicant and the agent?	24	24	24	0	90%	100%
Did the agent submit a completed application to the replacing company?	24	24	22	2	90%	92%
Did the agent obtain a list of all existing life insurance to be replaced and was the list properly identified by name of insurer, the insured and contract number?	24	24	11	13	90%	46%

The standard of compliance is 90%. The Company's performance was below the minimum standard in two (2) tests.

**Standard:** Company rules pertaining to Company requirements in connection with replacements are in compliance with applicable statutes, rules and regulations.

**Test:** Did the Company's practices of handling replacement policies comply with the replacement requirements for life insurance according to Rule 3901-6-05 of the Ohio Administrative Code?

**Test Methodology:**

- A file was considered an exception if it did not comply with the company requirement section of the replacement laws tested.

**Findings: Life Internal Replacements-Company Requirements**

Test	Population	Sample	Yes	No	Standard	Compliance
Did the Company require a statement by the applicant as to whether the proposed insurance would replace existing life insurance?	24	24	24	0	90%	100%
Did the Company require a statement signed by the agent as to whether the agent knew a replacement was or could be involved?	24	24	22	2	90%	92%
Did the Company require from the agent, with the application, a list of all the applicant's existing life insurance to be replaced and was that list properly identified by the name of the insurer, insured and contract number?	24	24	11	13	90%	46%
Did the Company require from the agent, with the application, a copy of the "Notice Regarding Replacement"?	24	24	24	0	90%	100%
Did the Company maintain evidence in the file of the "Notice Regarding Replacement", the policy and contract summary or any ledger statement used?	24	24	24	0	90%	100%
Did the Company provide notification in or with the policy about the 20-day "free look" period and premium refund?	24	24	24	0	90%	100%

The standard of compliance is 90%. The Company's performance was below the minimum standard in one (1) test.

## **Reported Replacements-External**

### **Methodology:**

- The Examiners reviewed all written policies and procedures that instructed the agents on the Company's replacement procedures and requirements.
- The Company supplied the following data files:
  1. The Company's replacement register for all replacements applied for in Ohio during the exam period. This data file stated for each record whether or not there was an internal or external replacement.
  2. Individual ordinary life new business applied for in Ohio during the examination period. This data file stated for each record whether or not it was replacing another existing life insurance policy for this insured as well as whether the policy was issued, declined or not taken.
- The above supplied data files were compared to each other to verify the total number of reported replacements for the Company during the exam period.
- A file was produced based on the following:
  1. Records indicated as external replacements,
  2. Records with an effective date or closed date during the exam period, and
  3. Records indicated as Ohio applications.
- A random sample of fifty (50) files listed as external replacements either on the replacement register or indicated in new business as replacements were selected for review.

**Standard:** Company rules pertaining to agent requirements in connection with replacements are in compliance with applicable statutes, rules and regulations.

**Test:** Did the Company require their agents to comply with the replacement requirements for life insurance according to Rule 3901-6-05 of the Ohio Administrative Code?

**Test Methodology:**

- A file was considered an exception if it did not comply with the portion of the agent requirement section of the replacement laws tested.

**Findings: Life External Replacements-Agent Requirements**

Test	Population	Sample	Yes	No	Standard	Compliance
Did the agent submit a statement signed by the applicant as to whether a replacement was involved?	1,084	50	50	0	90%	100%
Did the agent submit a statement signed by the agent as to whether he/she knew that a replacement was involved?	1,084	50	45	5	90%	90%
Did the agent present to the applicant a "Notice Regarding Replacement"?	1,084	50	48	2	90%	96%
Was the "Notice Regarding Replacement" signed not later than the time of taking the application?	1,084	50	45	5	90%	90%
Did the agent submit a copy of the "Notice Regarding Replacement" to the replacing company?	1,084	50	47	3	90%	94%
Was the "Notice Regarding Replacement" signed by both the applicant and the agent?	1,084	50	45	5	90%	90%
Did the agent submit a completed application to the replacing company?	1,084	50	45	5	90%	90%
Did the agent obtain a list of all existing life insurance to be replaced and was the list properly identified by name of insurer, the insured and contract number?	1,084	50	3	47	90%	6%

The standard of compliance is 90%. The Company's performance was below the minimum standard in one (1) test.

**Standard:** Company rules pertaining to Company requirements in connection with replacements are in compliance with applicable statutes, rules and regulations.

**Test:** Did the Company’s practices of handling replacement policies comply with the replacement requirements for life insurance according to Rule 3901-6-05 of the Ohio Administrative Code?

**Test Methodology:**

- A file was considered an exception if it did not comply with the company requirement section of the replacement laws tested.

**Findings: Life External Replacements-Company Requirements**

Test	Population	Sample	Yes	No	Standard	Compliance
Did the Company require a statement by the applicant as to whether the proposed insurance would replace existing life insurance?	1,084	50	50	0	90%	100%
Did the Company require a statement signed by the agent as to whether the agent knew a replacement was or could be involved?	1,084	50	45	5	90%	90%
Did the Company require from the agent, with the application, a list of all the applicant’s existing life insurance to be replaced and was that list properly identified by the name of the insurer, insured and contract number?	1,084	50	3	47	90%	6%
Did the Company require from the agent, with the application, a copy of the “Notice Regarding Replacement”?	1,084	50	45	5	90%	90%
Did the Company maintain evidence in the file of the “Notice Regarding Replacement”, the policy and contract summary or any ledger statement used?	1,084	50	48	2	90%	96%
Did the Company provide notification in or with the policy about the 20-day “free look” period and premium refund?	1,084	50	50	0	90%	100%
Did the Company send a written communication to the existing insurer advising of the replacement within three (3) working days of receipt of the application?	1,084	50	29	21	90%	58%
Did the Company include in the written communication a policy or contract summary or ledger statement to each existing insurer?	1,084	50	40	10	90%	80%

The standard of compliance is 90%. The Company's performance was below the minimum standard in three (3) tests.

**Examiners' Recommendations:**

1. The Company needs to implement changes to their current procedures of obtaining the applicant's existing life insurance information. These changes should include revisions to the application to include this information or include a separate form that contains this information.
2. The Company needs to implement changes to their current guidelines regarding the "Notice Regarding Replacement" presented at the time of application. These changes should include procedures to ensure the applicant is presented a "Notice Regarding Replacement" at the time of application.
3. The Company needs to implement changes to their current procedures of sending written communication to each existing insurer advising of the replacement within three (3) working days of receipt of the application. These changes should include implementing procedures to assure that written communication is sent within the required time frame.
4. The Company needs to implement changes to their current guidelines regarding including a policy or contract summary or ledger statement in the written communications to each existing insurer. These changes should include procedures to ensure that a policy, contract summary or ledger statement is included with the written communication to each existing insurer. Additionally, the Company should maintain copies of the written communication, including all attachments for three years.
5. The Company shall supply the Examiners with copies of these procedures.

**ILLUSTRATIONS**

**Methodology:**

- The Company supplied the following data files:

1. Individual ordinary life new business applied for in Ohio during the examination period. This data file stated for each record whether or not the policy was issued, declined or not taken.
  2. A file of all individual ordinary life policy forms and plan codes used to write individual ordinary life new business during the exam period. This data file stated for each record whether or not the Company considered the form illustratable.
- The above data files were compared to each other to verify that the Examiners received a complete listing of all policy forms and plan codes.
  - The file of all policy forms and plan codes was then compared to the Illustration Certification filed annually by the Company with the Department to verify that the two documents matched.
  
  - A file was produced based on the following:
    1. Records indicated as illustratable,
    2. Records with an effective date during the exam period (no declines or not takens), and
    3. Records indicated as Ohio applications.
  - A random sample of fifty (50) files was selected for review.
  - Each policy file was reviewed to verify that all required information was contained in the illustration and that it was delivered according to the illustration law.

**Standard:** The Company files all illustration certifications with the Department of Insurance as required by statutes, rules, and regulations.

**Test:** Did the Company file annual life illustrations certifications as required by Rule 3901-6-04 (K) (4) of the Ohio Administrative Code and did it accurately state which policies were being marketed with illustrations?

**Test Methodology:**

- A file was considered an exception if either:
  1. A policy form was listed in the Company supplied data files as using an illustration but was not listed as using an illustration per the Company-supplied annual life illustration certifications,
  2. A policy form was listed on the annual life insurance illustration certification, but not marked accordingly in the Company supplied data files.

**Findings:**

The Examiners found no illustrated policy forms that were not identified on the annual life insurance illustration certification.

**Standard:** An illustration used in the sale of a policy contains all required information and is delivered in accordance with statutes, rules and regulations.

**Test:** Did the Company's illustrations comply with the life insurance illustration requirements of Rule 3901-6-04 of the Ohio Administrative Code?

**Test Methodology:**

- A file was considered an exception if it did not comply with the section of the illustration laws tested.

**Findings:**

Illustrations

Test	Population	Sample	Yes	No	Standard	Compliance
Did the file contain the required illustration?	374	50	25	25	90%	50%
Was the agent issued illustration or certification signed at the date of the application?	374	50	33	17	90%	66%
Was the illustration clearly labeled "Life Insurance Illustration", did it contain the name of the insurer, the name, age, and sex of the insured, the name and business address of the agent or other authorized representative, the underwriting/rating class, the generic policy name, product name and form number, the initial death benefit, when applicable the dividend option election or application of non-guaranteed elements and were the terms defined in language understood by the typical public?	374	50	26	24	90%	52%
Did the illustration not include prohibited misleading representations?	374	50	37	13	90%	74%
Did the basic illustration contain all parts required?	374	50	37	13	90%	74%
Did the Narrative Summary contain all parts required?	374	50	36	14	90%	72%
Did the Numeric Summary contain the required statements that were signed and dated by both the agent and the policy owner; include policy maturity and final expiration if premium was to change; contain the correct guaranteed death benefit and surrender value corresponding to the policy year for which the contract premium has been paid; and were non-guaranteed elements shown for the same duration as guaranteed elements?	374	50	36	14	90%	72%
Was the revised illustration sent with the policy marked as "Revised Illustration", signed and dated by the applicant or policy owner no later than the policy delivery date and did the Company receive a signed copy of the revised illustration?	374	50	44	6	90%	88%

The standard of compliance is 90%. The Company's performance was below the minimum standard in all eight (8) tests.

**Examiners' Recommendations:**

1. The Company should develop and implement procedures to have the agent, at the time of policy application, provide either a copy of the illustration that will be used in the sale of the life insurance policy or a certification that no illustration was used in the sale of the life insurance policy. The Company shall maintain evidence of the 'complete' illustration or certification in the file.
2. The Company should develop and implement procedures to have the illustration or certification signed and dated by the applicant and the agent at the time of policy application.
3. The Company should develop and implement procedures to ensure that any revisions to the illustration are clearly marked as "Revised Illustration," signed and dated by the applicant or policyholder no later than the policy delivery date.
4. The Company should institute agent training and awareness of the illustration requirements of Rule 3901-6-04 of the Ohio Administrative Code.
5. The Company shall submit copies of the new procedures to the Examiners.

**TERMINATIONS****New Business Terminations****Methodology:**

- The Examiners requested, and the Company supplied, a data file containing all life insurance new business that occurred during the exam period.
- The Company supplied a data file containing individual ordinary life new business applied for in Ohio during the examination period. This data file stated for each record whether or not the policy was issued, declined or not taken.
- A file was produced based on the following:
  1. Records indicated as declined or not taken,
  2. Records with a closed date during the exam period, and
  3. Records indicated as Ohio applications.

- A random sample of fifty (50) declined files and a separate random sample of fifty (50) not taken files was selected for review.

**Standard:** Policy transactions are processed accurately and completely.

**Test:** Did the Company process terminated new business life insurance policies according to the policy provisions and Ohio Revised Code §3904.10?

**Test Methodology:**

- A declined file would be considered an exception if:
  1. The Company did not provide the specific reason(s) for the adverse underwriting decision or advise this information may be requested.
  2. The Company did not provide the individual with a summary of his/her rights regarding the adverse underwriting decision.

**Findings for Declined Business:** Did the Company provide the specific reason(s) for the adverse underwriting decision or advise this information may be requested?

Population	Sample	Yes	No	Standard	Compliance
398	50	6	44	90%	12%

The standard of compliance is 90%. The Company’s performance was below the minimum standard.

**Findings for Declined Business:** Did the Company provide the individual with a summary of his rights regarding the adverse underwriting decision?

Population	Sample	Yes	No	Standard	Compliance
398	50	6	44	90%	12%

The standard of compliance is 90%. The Company’s performance was below the minimum standard.

**Findings for Not Taken Policies:**

The Examiners' reviewed a sample of fifty (50) new business terminations files that were coded as not taken. The review was done to determine if any abnormal trends exist for the denial reason code not taken. The review concluded that the files were being handled appropriately and the Examiners did not discover any abnormal trends.

**Examiners' Recommendations:**

1. The Company should revise the wording of denial letters to include the specific reason(s) for the denial or advise that this information may be requested.
2. The Company should implement procedures to provide the individual with a summary of his/her rights regarding the adverse underwriting decision for all life insurance new business terminations and maintain documentation on the file.
3. The Company shall submit copies of the new procedures to the Examiners.

**Additional Comments:**

The Company stated their procedure does not include a reason code for the state of Ohio. In February of 2003, their procedure was changed to be in compliance with Ohio law. The Company forwarded a copy of the new procedure, along with a sample letter to the Examiners for review. The new procedure meets the requirements set forth in §3904.10 of the Ohio Revised Code.

**Policy Terminations****Methodology:**

- The Examiners requested, and the Company supplied, a data file containing all life insurance terminations that occurred during the exam period.
- The Company supplied a data file containing all individual ordinary life terminations that occurred during the exam period. This file indicated for each record the reason for termination.

- A file was produced based on the following:
  1. Records indicated as surrendered, lapsed or converted,
  2. Records with a termination date during the exam period, and
  3. Records indicated as Ohio policies.
- A random sample of fifty (50) policies was selected for review.

**Standard:** Policy transactions are processed accurately and completely.

**Test:** Did the Company process terminated life insurance policies according to the policy provisions and §3915.05, 3915.06, 3915.07, 3915.071, 3915.072 of the Ohio Revised Code?

**Test Methodology:**

- A surrendered file would be considered an exception if:
  1. The policy was not terminated according to policy provisions.
  2. Nonforfeiture benefits were not offered to the policyholder according to the policy provisions.
  3. Cash surrender values were not calculated correctly or not provided when required.
- A lapsed file would be considered an exception if:
  1. The policy was not terminated according to policy provisions.
  2. Nonforfeiture benefits were not offered to the policyholder according to the policy provisions.
- A converted file would be considered an exception if:
  1. The original policy was not terminated according to policy provisions.

**Findings for Surrendered Policies:** Did the Company process terminated policies according to the policy provisions?

Population	Sample	Yes	No	Standard	Compliance
420	50	50	0	90%	100%

The standard of compliance is 90%. The Company's performance was above the minimum standard.

**Findings for Surrendered Policies:** Did the Company calculate the surrender value correctly?

Population	Sample	Yes	No	Standard	Compliance
420	50	49	1	90%	98%

The standard of compliance is 90%. The Company's performance was above the minimum standard.

**Findings for Lapsed Policies:** Did the Company process terminated policies according to the policy provisions?

Population	Sample	Yes	No	Standard	Compliance
1,559	50	48	2	90%	96%

The standard of compliance is 90%. The Company's performance was above the minimum standard.

**Findings for Lapsed Policies:** Did the Company process terminated policies according to state law?

Population	Sample	Yes	No	Standard	Compliance
1,559	50	50	0	90%	100%

The standard of compliance is 90%. The Company's performance was above the minimum standard.

**Findings for Converted Policies:** Did the Company process terminated policies according to the policy provisions?

Population	Sample	Yes	No	Standard	Compliance
18	18	18	0	90%	100%

The standard of compliance is 90%. The Company's performance was above the minimum standard.

**Examiners' Recommendations:**

While it is not required under §3915.05, 3915.06, 3915.07, 3915.071, and 3915.072 of the Ohio Revised Code, the Examiners recommend that the Company provide a detailed cash surrender calculation to its insured's at the time of surrender. This detailed cash surrender calculation could avoid possible confusion on the part of the insured and protect the Company from allegations of misrepresentation, misappropriate and/or unfair and deceptive acts.

**PAID CLAIMS**

**Methodology:**

- The Company supplied a data file containing all individual ordinary life claims that occurred during the exam period. This file indicated for each record whether the claim was paid or denied as well as the type of claim.
- A file was produced based on the following:
  1. Records with a paid date during the exam period,
  2. Records indicated as death claims, and
  3. Records indicated as Ohio Residents at time of death.
- A random sample of fifty (50) unique claims was selected for review.
- The claim files were reviewed to verify dates in the claim process, the insured's resident state at the time of death, and the issue state of the policy was Ohio.
- A payment set up as a separate account/checking account for the beneficiary was considered a lump sum payment.

- Canceled benefit checks were reviewed and compared to claim files to verify correct payee, payment amounts and payment dates.

**Standard:** Claim files are adequately documented.

**Test:** Were the claim files adequately documented to determine the date of death, receipt date of notification of the death, receipt date of proof of death and the dates of all correspondence?

**Test Methodology:**

- A claim was considered an exception if proper documentation could not be found within the claim file.

**Findings:**

Population	Sample	Yes	No	Standard	Compliance
142	50	48	2	93%	96%

The standard of compliance is 93%. The Company's performance was above the minimum standard.

**Standard:** The initial contact by the Company with the claimant is within the required time frame.

**Test:** Upon receiving notification of claim, did the Company contact the claimant within fifteen (15) working days of receiving notice of the claim according to Ohio Administrative Code Section 3901-1-07 (C) (5)?

**Test Methodology:**

- A claim was considered an exception if the Company did not contact the claimant within the prescribed number of days from the date of notification of the insured's death.

**Findings:**

Population	Sample	Yes	No	Standard	Compliance
142	50	49	1	93%	98%

The standard of compliance is 93%. The Company's performance was above the minimum standard.

**Standard:** Investigations are conducted in a timely manner.

**Test:** Did the Company begin investigating the claim within fifteen (15) working days of receiving notice of the claim according to Rule 3901-1-07 (C) (4) of the Ohio Administrative Code?

**Test Methodology:**

- A claim was considered an exception if the Company did not begin investigating the claim within the required time frame or could not document investigating the claim within the required time frame.

**Findings:**

Population	Sample	Yes	No	Standard	Compliance
142	50	49	1	93%	98%

The standard of compliance is 93%. The Company's performance was above the minimum standard.

**Standard:** Claims are settled in a timely manner.

**Test:** Was the claim settled not later than two months after the receipt of due proof of death according to Ohio Revised Code Section 3915.05 (K)?

**Test Methodology:**

- A claim was considered an exception if the Company did not settle the claim within the required time frame.

**Findings:**

Population	Sample	Yes	No	Standard	Compliance
142	50	50	0	93%	100%

The standard of compliance is 93%. The Company's performance was above the minimum standard.

**Standard:** The Company responds to claim correspondence in a timely manner.

**Test:** Did the Company respond to all claim correspondence within 15 days according to Ohio Administrative Code Section 3901-1-07 (C) (2)?

**Test Methodology:**

- A claim was considered an exception if the file showed that the Company did not respond to subsequent, not the initial contact, claim correspondence within the required time frame.

**Findings:**

Population	Sample	Yes	No	Standard	Compliance
142	50	47	3	93%	94%

The standard of compliance is 93%. The Company's performance was above the minimum standard.

**Standard:** Claim files are handled in accordance with policy provisions and state law.

**Test:** Were the claims correctly paid with interest from the date of the death for policies where both the insured was an Ohio resident at the time of death, and the proceeds were paid in a lump sum according to Ohio Revised Code Section 3915.052 (A)?

**Test Methodology:**

- A claim file was considered an exception if the Company did not accurately calculate interest payments due.

**Findings:**

Population	Sample	Yes	No	Standard	Compliance
142	50	50	0	93%	100%

The standard of compliance is 93%. The Company's performance was above the minimum standard.

**Standard:** Canceled benefit checks and drafts reflect appropriate claim handling practices.

**Test:** Do the canceled checks and drafts show that the claim was paid according to Company policies and beneficiary requests?

**Test Methodology:**

- A claim was considered an exception if the Company did not follow Company procedures for claim payments or the provisions in the initial policy and if information on the canceled benefit check did not match information in the claim file itself.
- A claim was also considered an exception if a copy of the canceled check or proof of payment was not available.

**Findings:**

Population	Sample	Yes	No	Standard	Compliance
142	50	50	0	93%	100%

The standard of compliance is 93%. The Company's performance was above the minimum standard.

**ANNUITIES****REPLACEMENTS****Reported Replacements-External****Methodology:**

- The Examiners reviewed all written policies and procedures that instructed the agents on the Company's replacement procedures and requirements.
- The Company supplied the following data files:
  1. The Company's replacement register for all replacements applied for in Ohio during the exam period. This data file stated for each record whether or not there was an internal or external replacement. A replacement register was not kept prior to March 19, 2001.
  2. Individual ordinary annuity new business applied for in Ohio during the examination period. This data file stated for each record whether or not it was replacing another existing annuity policy for this insured, as well as whether the policy was issued, declined or not taken.
- The above data files supplied were compared to each other to verify the total number of reported replacements for the Company during the exam period.
- A file was produced based on the following:
  1. Records indicated as external replacements,
  2. Records with an Effective Date or Closed Date during the exam period, and

3. Records indicated as Ohio applications.
- A random sample of fifty (50) unique files listed as external replacements either on the replacement register or indicated in new business as replacements were selected for review.

**Standard:** Company rules pertaining to agent requirements in connection with replacements are in compliance with applicable statutes, rules and regulations.

**Test:** Did the Company require their agents to comply with the replacement requirements for annuities according to Rule 3901-6-05 of the Ohio Administrative Code?

**Test Methodology:**

- A file was considered an exception if it did not comply with the portion of the agent requirement section of the replacement laws tested.
- Annuities that were not subject to Rule 3901-6-05 of the Ohio Administrative Code were removed from the sample.
- Five (5) annuity replacement files were replaced in order to complete a sample size of fifty (50).

**Findings: Annuity External Replacements-Agent Requirements**

Test	Population	Sample	Yes	No	Standard	Compliance
Did the agent submit a statement signed by the applicant as to whether a replacement was involved?	257	50	48	2	90%	96%
Did the agent submit a statement signed by the agent as to whether he/she knew that a replacement was involved?	257	50	49	1	90%	98%
Did the agent present to the applicant a "Notice Regarding Replacement"?	257	50	50	0	90%	100%
Was the "Notice Regarding Replacement" signed not later than the time of taking the application?	257	50	49	1	90%	98%
Did the agent submit a copy of the "Notice Regarding Replacement" to the replacing company?	257	50	50	0	90%	100%
Was the "Notice Regarding Replacement" signed by both the applicant and the agent?	257	50	49	1	90%	98%
Did the agent submit a completed application to the replacing company?	257	50	47	3	90%	94%
Did the agent obtain a list of all existing annuities to be replaced and was the list properly identified by name of insurer, the insured and contract number?	257	50	48	2	90%	96%

The standard of compliance is 90%. The Company's performance was above the minimum standard in all eight (8) tests.

**Standard:** Company rules pertaining to Company requirements in connection with replacements are in compliance with applicable statutes, rules and regulations.

**Test:** Did the Company's practices of handling replacement policies comply with the replacement requirements for life insurance according to Rule 3901-6-05 of the Ohio Administrative Code?

**Test Methodology:**

- A file was considered an exception if it did not comply with the company requirement section of the replacement laws tested.

- Annuities that were not subject to Rule 3901-6-05 of the Ohio Administrative Code were removed from the sample.

**Findings: Annuity External Replacements-Company Requirements**

Test	Population	Sample	Yes	No	Standard	Compliance
Did the Company require a statement by the applicant as to whether the proposed annuity would replace existing annuities?	257	50	48	2	90%	96%
Did the Company require a statement signed by the agent as to whether the agent knew a replacement was or could be involved?	257	50	49	1	90%	98%
Did the Company require from the agent, with the application, a list of all the applicant's existing annuities to be replaced and was that list properly identified by the name of the insurer, insured and contract number?	257	50	48	2	90%	96%
Did the Company require from the agent, with the application, a copy of the "Notice Regarding Replacement"?	257	50	49	1	90%	98%
Did the Company maintain evidence in the file of the "Notice Regarding Replacement," the policy and contract summary or any ledger statement used?	257	50	50	0	90%	100%
Did the Company provide notification in or with the contract about the 20-day "free look" period and premium refund?	257	50	50	0	90%	100%
Did the Company send a written communication to the existing insurer advising of the replacement within three (3) working days of receipt of the application?	257	50	27	23	90%	54%
Did the Company include in the written communication a policy or contract summary or ledger statement to each existing insurer?	257	50	4	46	90%	8%

The standard of compliance is 90%. The Company's performance was below the minimum standard in two (2) tests.

**Examiners' Recommendations:**

1. The Company should send a written communication to each existing insurer advising of the replacement within three (3) working days of receipt of the application.

2. The Company should include in the written communication to the existing insurer a policy, contract summary or ledger statement.

### **SINGLE PREMIUM DEFERRED ANNUITIES**

#### **Methodology:**

- The Examiners requested, and the Company supplied, a data file containing all Ohio annuity new business written during the examination period.
- The Company supplied the following data files:
  1. Individual ordinary annuity new business applied for in Ohio during the examination period. This data file stated for each record whether or not the policy was issued, declined or not taken.
- A file was produced based on the following:
  1. Records indicated with a policy type of single premium,
  2. Records indicated with an annuity type of deferred,
  3. Records with an effective date during the exam period (no declines or not taken), and
  4. Records indicated as Ohio applications.
- Due to population size, it was determined that all files would be reviewed and sampling was not needed.

**Standard:** All mandated disclosures for single premium deferred annuities are documented and in accordance with applicable statutes, rules and regulations.

**Test:** Was the disclosure form signed by the applicant and the selling agent at the time an application was taken for a single premium deferred annuity, and was the disclosure form worded exactly as required by Rule 3901-1-47 of the Ohio Administrative Code?

#### **Test Methodology:**

- A file was considered an exception if the disclosure form was not signed by the applicant and the selling agent at the time an application was taken for a single premium deferred annuity.

- A file was considered an exception if the disclosure form was not worded exactly as required.
- Five (5) files were removed from the sample because it was determined that they were not single premium deferred annuity files.

**Findings:**

Population	Sample	Yes	No	Standard	Compliance
54	54	1	53	90%	2%

The standard for compliance is 90%. The Company’s disclosure form practices were below this standard.

**Examiners’ Recommendations:**

1. The Company should revise the wording of the disclosure form to match the wording outlined in Rule 3901-1-47 of the Ohio Administrative Code.
2. The Company should implement the use of the disclosure form in the sales process and be able to document the usage of the disclosure form.
3. The Company should institute agent training and awareness of the disclosure requirements of Rule 3901-1-47 of the Ohio Administrative Code.
4. The Company shall supply the Examiners with a copy of the new disclosure form.

**TERMINATIONS**

**Methodology:**

- The Examiners requested, and the Company supplied, a data file containing all annuity contract terminations that occurred during the exam period.
- The Company supplied a data file containing all individual ordinary annuity terminations that occurred during the exam period. This file indicated for each record the reason for termination.
- A file was produced based on the following:
  1. Records with a termination date during the exam period, and

2. Records indicated as Ohio policies.

- Due to population size, it was determined that all files would be reviewed and that sampling was not needed.

**Standard:** Policy transactions are processed accurately and completely.

**Test:** Did the Company process terminated life insurance policies according to the policy provisions and §3915.073 of the Ohio Revised Code?

**Test Methodology:**

- A terminated file would be considered an exception if the annuity contract was not terminated according to company procedures.
- A terminated file would be considered an exception if the annuity contract was not terminated according to state law.
- A terminated file would be considered an exception if the surrender value was not calculated correctly.

**Findings:** Did the Company process terminated annuities according to the annuity provisions?

Population	Sample	Yes	No	Standard	Compliance
121	121	118	3	90%	98%

The standard of compliance is 90%. The Company's performance was above the minimum standard.

**Findings:** Did the Company process terminated annuities according to state law?

Population	Sample	Yes	No	Standard	Compliance
121	121	117	4	90%	97%

The standard of compliance is 90%. The Company's performance was above the minimum standard.

**Findings:** Did the Company calculate the surrender value correctly?

Population	Sample	Yes	No	Standard	Compliance
121	121	118	3	90%	98%

The standard of compliance is 90%. The Company's performance was above the minimum standard.

### **PAID CLAIMS**

#### **Methodology:**

- The Company supplied a data file containing all individual ordinary annuity claims that occurred during the exam period. This file indicated for each record whether the claim was paid or denied.
- A file was produced based on the following:
  1. Records with a Paid Date during the exam period, and
  2. Records indicated as Ohio annuitants at time of death.
- Due to population size, it was determined that all files would be reviewed and that sampling was not needed.
- The claim files were reviewed to verify dates in the claim process.
- Canceled benefit checks were reviewed and compared to claim files to verify correct payee, payment amounts and payment dates.

**Standard:** Claim files are adequately documented.

**Test:** Were the claim files adequately documented from the first notice of loss to resolution of the claim to adequately justify the Company's claims handling practices?

#### **Test Methodology:**

- A claim was considered an exception if proper documentation could not be found within the claim file.

**Findings:**

Population	Sample	Yes	No	Standard	Compliance
21	21	16	5	93%	76%

The standard of compliance is 93%. The Company's performance was below the minimum standard.

**Standard:** The initial contact by the Company with the claimant is within the required time frame.

**Test:** Upon receiving notification of claim, did the Company contact the claimant within fifteen (15) working days of receiving notice of the claim according to Ohio Administrative Code Section 3901-1-07 (C) (5)?

**Test Methodology:**

- A claim was considered an exception if the Company did not contact the claimant within the prescribed number of days from the date of notification of the insured's death.

**Findings:**

Population	Sample	Yes	No	Standard	Compliance
21	21	17	3	93%	81%

The standard of compliance is 93%. The Company's performance was above the minimum standard.

**Standard:** Investigations are conducted in a timely manner.

**Test:** Did the Company begin investigating the claim within fifteen (15) working days of receiving notice of the claim according to Ohio Administrative Code Section 3901-1-07 (C) (4)?

**Test Methodology:**

- A claim was considered an exception if the Company did not begin investigating the claim within the required time frame or could not document investigating the claim with the required time frame.

**Findings:**

Population	Sample	Yes	No	Standard	Compliance
21	21	17	4	93%	81%

The standard of compliance is 93%. The Company's performance was above the minimum standard.

**Standard:** The Company responds to claim correspondence in a timely manner.

**Test:** Did the Company respond to all claim correspondence within 15 days according to Ohio Administrative Code Section 3901-1-07 (C) (2)?

**Test Methodology:**

- A claim was considered an exception if the file showed that the Company did not respond to subsequent, not the initial contact, claim correspondence within the required time frame.

**Findings:**

Population	Sample	Yes	No	Standard	Compliance
21	21	17	4	93%	81%

The standard of compliance is 93%. The Company's performance was below the minimum standard.

**Standard:** Canceled benefit checks and drafts reflect appropriate claim handling practices.

**Test:** Do the canceled checks and drafts show that the claim was paid according to Company policies, policy provisions, beneficiary requests and documentation within the claim file?

**Test Methodology:**

- A claim was considered an exception if the Company did not follow Company procedures for claim payments or the provisions in the initial policy and if information on the canceled benefit check did not match information in the claim file itself.
- A claim was also considered an exception if a copy of the canceled check or proof of payment was not available.

**Findings:**

Population	Sample	Yes	No	Standard	Compliance
21	21	21	0	93%	100%

The standard of compliance is 93%. The Company's performance was above the minimum standard.

**Examiners' Recommendations:**

1. The Company should develop and implement procedures to adequately document the claims file from the opening of the claim until the claim has been settled. This should include documenting phone calls and all written correspondence to the claimant or claimant's representative.
2. The Company should revise procedures to assure that all correspondence received is handled in a timely manner and within state regulations.
3. The Company shall forward these procedures to the Examiners for review.

## COMPLAINT REGISTER

The Company provided a listing of 23 complaint files. The review consisted of both complaints forwarded from the Ohio Department of Insurance and complaints received directly from consumers. The Examiners reviewed the complaint files to determine if any trends exist for any particular line of business or for any particular product offered from the Company. Of the 23 complaint files, seven were duplicate complaints. Of the 16 remaining complaint files, the reason for the complaint was as follows:

Surrender charges	2
Underwriting denial	1
Policyholder service	4
Pre-paid premium refund	3
Annuity suitability/deceptive sales practices	5
Fraud	1

Half of the complaints concerned either policyholder service related issues or suitability issues. There was no trend discovered in the policyholder service complaint files, but the suitability complaint files all focused on the suitability and/or deceptive sales practices of various annuity products for elderly clients.

The Company's complaint handling procedures state the response time is 10 days from receipt of the complaint. The review of the complaint files has indicated the Company is not following their procedures, as the internal 'Complaint Transmittal' form is allowing for a response time in excess of 10 days.

### **Examiners' Recommendations:**

1. The Company should review the current marketing strategies for their annuity products to ensure that the intended target market is a good fit for these products both ethically and financially.

2. The Company should revise the response time allowed on ‘Complaint Transmittal’ forms to be in compliance with internal procedures of 10 days.

## SUMMARY

The examination found the Company to be out of compliance in the following areas:

<u>Areas of Review</u>	<u>Compliance Standard</u>	<u>Compliance Rate</u>
<b>LIFE INSURANCE</b>		
<b>Internal Life Insurance Replacements – Agent Requirements</b>		
Was the ‘Notice’ signed at time of application	90%	86%
Did agent obtain a list of all life insurance to be replaced	90%	46%
<b>Internal Life Insurance Replacements – Company Requirements</b>		
Did company obtain a list of all life insurance to be replaced	90%	46%
<b>External Life Insurance Replacements – Agent Requirements</b>		
Did agent obtain a list of all life insurance to be replaced	90%	6%
<b>External Life Insurance Replacements – Company Requirements</b>		
Did agent obtain a list of all life insurance to be replaced	90%	6%
Sent a written communication to existing insurer within 3 days	90%	58%
Written communication included a contract summary	90%	80%
<b>Illustrations</b>		
Did the file contain the required illustration	90%	50%
Illustration/Certification signed as of application date	90%	66%
Illustration clearly labeled and containing all required information	90%	52%
Illustration did not include prohibited misleading representations	90%	74%
Basic Illustration contained all required parts	90%	74%
Narrative Summary contained all required information	90%	72%
Numeric Summary contained all required information	90%	72%
Revised illustration clearly marked “Revised Illustration”	90%	88%
<b>New Business Terminations-Declines</b>		
Company provides specific reasons for denial	90%	12%
Company provides individuals with summary of rights regarding adverse underwriting decision	90%	12%

**ANNUITIES**

**Annuity Replacements – Company Requirements**

Sent a written communication to existing insurer within 3 days	90%	54%
Written communication included a contract summary	90%	8%

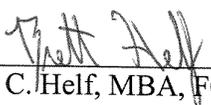
**Single Premium Deferred Annuity**

Disclosure form signed by applicant and agent at time of application	90%	2%
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**Paid Claims**

Adequately documented claims files	93%	76%
Initial contact within 15 working days	93%	81%
Initial investigation within 15 working days	93%	81%
Respond to claims correspondence within 15 days	93%	81%
Claims settled in a timely manner	93%	91%

This concludes the report of the Market Conduct Examination of the North American Company for Life and Health Insurance. The Examiners, Bob Baker, John Pollock, Cheryl Davis, and Brett Helf would like to acknowledge the assistance and cooperation provided by the management and the employees of the Company.

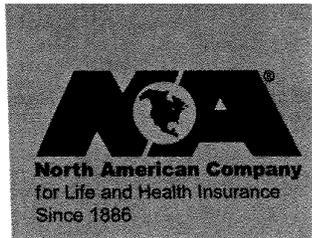


\_\_\_\_\_  
Brett C. Helf, MBA, FCLS, API

Examiner in Charge

7/28/04

\_\_\_\_\_  
Date



A Member of the Sammons Financial Group

RECEIVED

MAR 29 2004

OHIO DEPT. OF INSURANCE  
MARKET CONDUCT DIVISION

March 26, 2004

Mr. Rodney E. Beetch  
Insurance Compliance Supervisor  
Market Conduct Division  
Ohio Department of Insurance  
2100 Stella Court  
Columbus, Ohio 43215

Dear Mr. Beetch:

Re: Market Conduct Examination Workpaper Responses  
North American Company for Life and Health  
Your letter dated February 27, 2004

Enclosed are our responses to the Department's Market Conduct Examination Workpapers.

We enjoyed working with you and members of your staff. If you need any additional information or have questions regarding the enclosed, please contact me.

Sincerely,

Meg J. Taylor  
Vice President  
Chief Compliance Officer

enclosure

Company Response: The Company is in the process of revising its replacement procedures and will provide the Examiners with copies as soon as they are available for final publication.

Page 17, item 1

Recommendation: The Company should develop and implement procedures to have the agent, at the time of policy application, provide either a copy of the illustration that will be used in the sale of the life insurance policy, or certification that no illustration was used in the sale of the life insurance policy. The Company shall maintain evidence of the "complete" illustration or certification in the file.

Company Response: To comply with Rule 3901-6-04(I) of Ohio Administrative Code and the Examiners' recommendation, the Company has reviewed its procedures and will maintain evidence of the complete illustration or certification in the file.

Page 17, item 2

Recommendation: The Company should develop and implement procedures to have the illustration or certification signed and dated by the applicant and the agent at the time of policy application.

Company Response: To comply with Rule 3901-6-04(I) of Ohio Administrative Code and the Examiners' recommendation, the Company has reviewed its procedures to ensure an illustration or certification signed and dated by the applicant and the agent is obtained at the time of policy application.

Page 17, item 3

Recommendation: The Company should develop and implement procedures to ensure that any revisions to the illustration are clearly marked as "Revised Illustration", signed and dated by the applicant or policyholder, no later than the policy delivery date.

Company Response: To comply with Rule 3901-6-04(I) of Ohio Administrative Code and the Examiners' recommendation, the Company has reviewed its procedures to ensure that any revisions to the illustration are marked as Revised Illustration, signed and dated by the applicant or policyholder no later than the policy delivery date.

Page 17, item 4

Recommendation: The Company should institute agent training and awareness of the illustration requirements of Rule 3901-6-04 of the Ohio Administrative Code.

Company Response: The Company currently does and will continue to periodically publishes bulletins distributed to its field force reminding them of the illustration requirements of Rule 3901-6-04 of the Ohio Administrative Code. A sample copy of such bulletin is attached.

Page 17, item 5

Company Response: The Company is in the process of revising its illustrations procedures and will provide the Examiners with copies as soon as they are available for final publication.

Page 19, item 1

Recommendation: The Company should revise the wording of denial letters to include the specific reason(s) for the denial or advise that this information may be requested.

Company Response: To comply with and the Examiners' recommendation, the Company has revised the wording of denial letters to advise that specific information may be requested. These revised denial letters are in the process of being implemented. A sample copy is attached.

Page 19, item 2

We have reviewed the final findings of the Ohio Market Conduct Examination Report and have the following responses:

Page 12, item 1.

Recommendation: The Company needs to implement changes to their current procedures of obtaining the applicant's existing life insurance information. These changes should include revisions to the application to include this information or include a separate form that contains this information.

Company Response: To comply with Rule 3901-6-05 (E)(2)(b) of Ohio Administrative Code and the Examiners' recommendation, a Replacement Notice that will allow the company to obtain the name of the existing insurer, the insured and contract number was submitted to the Ohio Insurance Department for approval and will replace the notice currently being used, which is identical to that shown in Appendix A of the Rule. In addition, the company is in the process of revising its applications so that this information will be captured.

Page 13, item 2.

Recommendation: The Company needs to implement changes to their current guidelines regarding the "Notice Regarding Replacement" presented at time of application. These changes should include procedures to ensure the applicant is presented a "Notice Regarding Replacement" at time of application.

Company Response: In reviewing Rule 3901-6-05 (E)(2)(a) of Ohio Administrative Code and the Examiners' recommendation, the current application contains a statement that if the replacement question is answered "Yes", a Replacement Form must be completed. Additionally, the Company currently does and will continue to periodically publish bulletin distributed to its field force reminding them of the Company replacement guidelines. A sample copy of such bulletin is attached.

Page 13, item 3

Recommendation: The Company needs to implement changes to their current procedures of sending written communication to each existing insurer advising of the replacement within three (3) working days of receipt of the application. These changes should include implementing procedures to assure that written communication is sent within the required time frame.

Company Response: To comply with Rule 3901-6-05 (G)(2)(b) Ohio Administrative Code and the Examiners' recommendation, the Company has reviewed its current procedures and implemented changes to ensure that written communication to each existing insurer advising of a replacement is sent within 3 working days of receipt of the application to comply with

Page 13, item 4

Recommendation: The Company needs to implement changes to their current guidelines regarding including a policy, or contract summary or ledger statement in the written communications to each existing insurer. These changes should include procedures to ensure that a policy, contract summary or ledger statement is included with the written communication to each existing insurer. Additionally, the Company should maintain copies of the written communication, including all attachments for three years.

Company Response: The Company has reviewed its current guidelines and implemented changes to ensure that a policy, contract summary, or ledger statement is included in the written communications to each existing insurer and will maintain copies of the written communication, including all attachments for three years.

Page 13, item 5

Recommendation: The Company shall supply the Examiners with copies of these procedures.

Recommendation: The Company should implement procedures to provide the individual with a summary of his/her rights regarding the adverse underwriting decision for all life insurance new business terminations and maintain documentation on the file.

Company Response: To comply Section 3904.10 of the Ohio Revised Code and the Examiners' recommendation, the Company has revised its adverse underwriting procedures to include a summary of policyholder rights regarding adverse underwriting decisions. A sample copy of such notice is attached. Additionally, the Company will maintain documentation in the file.

Page 19, item 3.

Recommendation: The Company shall submit copies of the new procedures to the Examiners.

Company Response: The Company is in the process of revising its adverse underwriting notification procedures and will provide the Examiners with copies as soon as they are available for final publication.

**STATE OF OHIO**  
**DEPARTMENT OF INSURANCE**  
2100 Stella Court  
Columbus, Ohio 43215

**IN THE MATTER OF** : **CONSENT ORDER**  
**THE NORTH AMERICAN COMPANY FOR** :  
**LIFE AND HEALTH INSURANCE MARKET** :  
**CONDUCT EXAMINATION** :

The Superintendent of the Ohio Department of Insurance ("Department") is responsible for administering Ohio insurance laws pursuant to Section 3901.011 of the Ohio Revised Code ("R.C."). The Department conducted a market conduct examination of The North American Company for Life and Health Insurance ("Company"). The Company is authorized to engage in the business of insurance in the State of Ohio and, as such, is under the jurisdiction of the Superintendent and the Department. The Department examined the Company's individual ordinary life and annuity insurance business in the State of Ohio for the period of January 1, 2000 through December 31, 2002.

SECTION I

As a result of the market conduct examination, the Superintendent alleges:

- A. The Company accepted and processed some life insurance replacement policy applications (internal and external) from its agents that were defective or incomplete; for example, notices were not signed at the date of the application and lists of existing life insurance policies to be replaced were not obtained as required under Ohio Administrative Code ("O.A.C.") 3901-6-05. By accepting and processing incomplete life insurance replacement policy applications from its agents without informing the agents of the defects in these applications, and/or without insuring proper documentation was maintained, the Company failed to meet its statutorily imposed duties outlined in O.A.C. 3901-6-05.
- B. The Company failed to comport with the "three business days" notification rule to existing insurers regarding life insurance replacement policies (external) and failed to include a contract summary in its written communication as required by O.A.C. 3901-6-05.
- C. The Company in some instances failed to comply with the illustration requirements of O.A.C. 3901-6-04; to wit, several files did not contain an illustration, illustrations or certificates were not signed at the date of the application, illustrations were not labeled and/or did not contain all required information, basic illustrations failed to contain all required parts, narrative and/or numeric summaries were incomplete, and revised illustrations were not clearly marked.
- D. Terminated new business life applications did not comport with R.C. 3904.10 in that the Company did not provide specific reason(s) for adverse underwriting decisions and/or advise an applicant that adverse underwriting decisions may be requested from the Company.

- E. The Company failed to comport with the “three business days” notification rule to existing insurers regarding annuity replacement contracts and failed to include a contract summary in some of its written communication as required by O.A.C. 3901-6-05.
- F. For single premium deferred annuities, the Company did not ensure that its selling agents complied with the disclosure requirements of O.A.C. 3901-1-47.
- G. A review of the paid claims files for annuity claims during the exam period disclosed that some of these claim files were not adequately documented. As such, the examiners could not determine if the Company’s claims handling practices comported with Ohio law. Further, if the claim file was complete, it was discovered that the Company failed to contact the claimant within fifteen working days of receiving notice of the claim, failed to investigate the claim within fifteen working dates of receiving notice of the claim, failed to respond to all claims correspondence within fifteen days and/or failed to settle the claim in a timely manner as required by O.A.C. 3901-1-07(C).

## SECTION II

It is hereby agreed to by the parties that:

- A. The Superintendent and the Company enter into this Consent Order to resolve the allegations as set forth in Section I of this order. Further, the Company admits to the allegations set forth in Section I.
- B. The Company has been advised that it has a right to a hearing before the Superintendent pursuant to R.C. Chapter 119; that, at a hearing, it would be entitled to appear in person, to be represented by an attorney or other representative who is permitted to practice before the agency; and that, at a hearing, it would be entitled to present its position, arguments or contentions in writing and to present evidence and examine witnesses appearing for and against it. The Company hereby waives all such rights.
- C. The Company consents to the jurisdiction of the Superintendent and the Department to determine the issues set forth herein. The Company expressly waives any prerequisites to jurisdiction that may exist.
- D. The Company has and will continue to institute policies, procedures and controls to ensure compliance with the illustration requirements of O.A.C. 3901-6-04 and the replacement requirements of O.A.C. 3901-6-05.
- E. The Company has and will continue to institute policies, procedures and controls to ensure compliance with the underwriting notification requirements found in R.C. 3904.10 and single premium annuity disclosure requirements found in O.A.C. 3901-1-47.
- F. The Company will institute policies, procedures and controls to ensure that its claims practices comports with O.A.C. 3901-1-07.
- G. The Company will pay an administrative fine in the amount of \$18,000.00 by check or money order made payable to the “Ohio Department of Insurance” no later than thirty (30) days after the date of execution of this Consent Order.

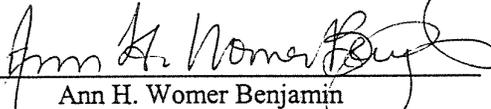
- H. The Company waives any and all causes of action, claims or rights, known or unknown, which it may have against the Department, and any employees, agents, consultants, contractors or officials of the Department, in their individual and official capacities, as a result of any acts or omissions on the part of such persons or firms arising out of this matter.
- I. The Company has read and understands this Consent Order. The Company further understands that it has the right to seek counsel of its choice and to have counsel review this Consent Order.
- J. This Consent Order has the full force and effect of an Order of the Superintendent. Failure to abide by the terms of this agreement shall constitute an actionable violation in and of itself without further proof and may subject the Company to any and all remedies available to the Superintendent.
- K. This Consent Order shall be entered in the Journal of the Ohio Department of Insurance. All parties understand and acknowledge that this Consent Order is a public document pursuant to R.C. 149.43.

Date: 2/9/05



Ronald H. Ridlehuber  
President  
The North American Company for Life and  
Health Insurance

Date: 2/16/05



Ann H. Womer Benjamin  
Superintendent of Insurance