

# **OHIO DEPARTMENT OF INSURANCE**

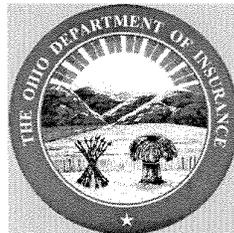
**A**

**TARGETED**

**MARKET CONDUCT EXAMINATION**

**OF**

**THE CINCINNATI LIFE INSURANCE COMPANY  
NAIC #76236**



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Commissioners and Directors:

Pursuant to the powers vested under Section 3901.04 of the Ohio Revised Code and the practices and procedures of the National Association of Insurance Commissioners (NAIC), a targeted multi-state market conduct examination was conducted as of May 31, 2001 to review certain underwriting practices of:

The Cincinnati Life Insurance Company  
Cincinnati, Ohio

The examination was conducted at The Cincinnati Life Insurance Company's (hereinafter referred to as "the Company") home office at 6200 South Gilmore Road, Fairfield, Ohio. Ohio Department of Insurance examiners conducted the on-site examination in conjunction with the NAIC Race Based Premium Working Group on behalf of all states, focusing on the top five states of: Ohio, Illinois, Pennsylvania, Indiana, and Michigan.

The report of the market conduct examination is hereby respectfully submitted.

  
David R. Beck  
Chief, Market Conduct

1-22-2004  
Date

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## BACKGROUND AND SCOPE

Member NAIC states agreed to survey their domestic life insurance industry in 2000 to ascertain whether the practice of race-based underwriting existed.

Race-based underwriting practices include, but are not limited to any of the following insurer activities:

- Limiting the amount, extent, or type of coverage available by race;
- Charging or collecting higher premiums by race;
- Assigning risk classifications by race;
- Providing lower policy benefits or non-forfeiture benefits based on race; or
- Imposing different underwriting requirements due to race.

This examination's purpose was to test for compliance with various Sections of Title 39 of the Ohio Revised Code with respect to the marketing, rating, and underwriting practices of the Company. The tests utilized during the examination addressed:

- 1) whether policies written by the Company or business acquired by the Company were rated at higher premiums on individual ordinary life or industrial life policies based on the race of the insured; and
- 2) whether the different policy forms that were used were based on the race of the insured.

The examination on The Cincinnati Life Insurance Company was conducted by the Ohio Department of Insurance (hereinafter referred to as "ODI") on behalf of all states, focusing on the five states with the largest number of in-force ordinary and industrial life insurance policies with the Company as of December 31, 2000. Those five states were determined by a review of the individual state pages of the Year 2000 Annual Statement filed by the Company with the NAIC. The resulting states with the largest number of in-force ordinary and industrial life insurance policies were Ohio, Illinois, Pennsylvania, Indiana, and Michigan:

Ohio	88,948
Illinois	29,545
Pennsylvania	26,851
Indiana	25,414
Michigan	<u>17,324</u>
Total Policies (5 states)	188,082

The total policy holdings of the five states represented 60.92% of the total number of in-force ordinary and industrial life insurance policies with the Company as of December 31, 2000. The total number of in-force ordinary and industrial life insurance policies with the Company in all states as of December 31, 2000 was 308,729. As of December 31,

2000 the Company was licensed in every state except New Jersey and New York. Ohio performed the on-site field examination work and off-site data analysis. The on-site activities commenced on July 9, 2001 and concluded on January 17, 2002.

## METHODOLOGY

A survey, dated August 18, 2000, was mailed by ODI to all Ohio domestic life insurance companies and fraternal benefit companies. The survey advised the companies of ODI's intent to investigate the issue of race-based underwriting. The survey requested that each company investigate its past and current underwriting procedures to determine if such procedures were utilized within its sales of individual life insurance policies and/or its assumed individual life insurance policies. Companies were to report findings to ODI no later than September 15, 2000. The information was requested pursuant to Section 3901.011 of the Ohio Revised Code.

In response to the ODI survey, on August 28, 2000, the Company reported to ODI that they had conducted a "search, review and examination" of their records. As a result of this internal review, the Company concluded that neither the Company, nor its predecessor, Inter-Ocean Insurance Company (hereinafter referred to as Inter-Ocean), had ever marketed or issued any industrial or small face amount life insurance in the state of Ohio which was priced based upon the race of the owner/applicant. On March 9, 2001, ODI notified the Company that ODI intended to further examine this issue and that it may conduct an on-site examination. This notification further instructed the Company to maintain and preserve any documentation that may be related to the issuance of insurance policies that were issued or underwritten based upon the race of the applicant. This notification, in part, served as a catalyst for a second internal examination by the Company, which resulted in the Company requesting a meeting with ODI on May 24, 2001 to discuss this issue further. At this meeting, Company representatives related that they were undertaking an intensive internal review, including the creation of a database that would contain detailed information regarding all industrial life policies issued by Inter-Ocean, in order to analyze whether an amendment to the original survey response was warranted. By letter dated June 7, 2001, the Company advised ODI that a preliminary inspection of some relevant documents revealed information which may be an indication of race-based underwriting, and as such related that a formal amendment may be required to their original August, 2000 survey response.

ODI commenced an examination of the company in June 2001. ODI requested that the Company provide computer files, sales and marketing materials, underwriting materials, annual statement pages, rate manuals, plan codes, policy forms, and other documentation concerning the Company's small face ordinary and industrial business in the top five states of Ohio, Illinois, Pennsylvania, Indiana, and Michigan.

The computer files contained both in-force policy records (premium paying, reduced paid up, extended term) and policy records for policies terminated due to death or surrender of

the policy. The computer files provided the basis for the sample policy files to be reviewed on site.

The Company's 2000 Annual Statement Grand Total "State Page" revealed that in all states the Company had 51,374 industrial policies and 257,355 ordinary policies in-force at the end of the year. (The Exhibit of Life Insurance in the Company's 2000 Annual Statement reported those policies in-force to be 51,375 and 257,838 respectively.) In order to account for the difference between the examination population and that reported in the Annual Statement, the Company provided the following reconciliation to the Exhibit of Life Insurance total:

- 34,918 policies had values based on the 1941 SI, 1941 SSI and 1961 CSI mortality tables;
- 7,589 policies had values based on the 1958 CSO mortality table;
- 1,226 policies had values based on the 1980 CSO mortality table;
- 7,695 policies acquired from Globe Life had values based on the American Experience Mortality Table; and
- Less 53 policies incurred but unreported deaths.

The examination reviewed the 34,918 policies based on the 1941 SI, 1941 SSI and 1961 CSI mortality tables. The policies based on the 1958 and 1980 CSO tables were excluded because the applicant's race was not on the applications used with these policies. These policies were weekly premium ordinary policies issued from 1982 through 1995. The Company ceased asking the applicant's race in 1967. The Globe Life policies were excluded from ODI examiner review because documentation provided by the Company confirmed that neither the Company nor its acquired company Inter-Ocean had any involvement with the sale, underwriting, pricing, etc. of the Globe Life policies. It was determined that the transaction between Globe Life and Inter-Ocean was a reinsurance transaction.

ODI examiners reviewed on site approximately 1800 policy files for policies that were issued in the top five states of Ohio, Illinois, Pennsylvania, Indiana, and Michigan. The files were derived through sampling techniques developed to ensure that a random statistical sampling of each plan code was conducted.

Examiners removed policy files from the sample if a requested sample policy file contained an application that was signed in a state other than one of the examining states. Replacement policy files from the same plan code as the removed policy file were requested of the Company. A total of 33 MDO policy files were removed from the sample. 22 of those policy files were replaced; 11 files were not replaced, as no other samples within the same plan code were available. A total of five (5) Ordinary policy files were removed from the sample. All five (5) of the policy files were replaced.

The following information, where available, was developed from the sample policy files by ODI examiners:

- the applicant's race;
- the applicant's gender and date of birth;
- the initial premium charged to the applicant;
- the policy form and plan code numbers received by the applicant;
- the applicant's occupation;
- the policy face amount; and
- risk factors.

The information was then reviewed by ODI examiners to determine if the premiums charged for coverage were based on race or some other discriminatory factor.

Policy file premiums were randomly compared to rate manual premiums to ensure that the stated premiums were applied. Additionally, ODI examiners reviewed rate manuals for rate differentials due to race.

Policy forms representative of the policies issued to applicants were reviewed for policy language and benefit similarities and differences.

Examiners attempted to pair similarly situated nonwhite applicants with similarly situated white applicants to ensure that both received the same or a similar premium.

Plan codes were reviewed to determine if nonwhites were steered towards certain plan codes and whites steered to other plan codes.

An investigative component was incorporated into the exam. This component included a review of various company documents and statements from current and former key Company employees who worked with small face ordinary and industrial life products.

ODI utilized the services of Actuarial Resources Corporation (ARC) in the completion of this report. ARC provided ODI with an analysis of net premiums that attempted to correlate premium differentials for the Pre-September 1964 (1941 Series) Industrial policies to recognized mortality differentials.

The results of the above reviews are provided in this report. The examiners relied upon the accuracy of the information provided by the Company.

## **COMPANY HISTORY AND OPERATIONS**

Cincinnati Insurance Company was incorporated in 1950 as a casualty company. Cincinnati Financial Corporation was incorporated in 1968 and Cincinnati Insurance Company became its first subsidiary in 1969. Cincinnati Financial Corporation entered the life insurance arena in 1972 with the creation of the Life Insurance Company of Cincinnati. Shortly afterwards, in 1973, Cincinnati Financial Corporation acquired Inter-Ocean Life Insurance Company (hereinafter referred to as "Inter-Ocean").

Inter-Ocean began as a fraternal organization, known as Woodman's Protective Association, in St. Louis, Missouri in 1903. The organization's name was changed to Woodman's Casualty Company in 1907 and then to Inter-Ocean Life Insurance and Casualty in 1911. Inter-Ocean Life and Casualty merged with Consolidated Casualty Company, Louisville, Kentucky in 1917 and proceeded to change its name to Inter-Ocean Insurance Company in 1946. On October 14, 1987, Life Insurance Company of Cincinnati merged with Inter-Ocean to create Cincinnati Life Insurance Company. The merger of Inter-Ocean into Cincinnati Life Insurance Company was approved by the Indiana Department of Insurance on February 9, 1988.

Prior to its acquisition by Cincinnati Financial Corporation, Inter-Ocean was organized into three internal life insurance divisions:

- the Personal Service division;
- the Special Service division; and
- the Life and Health division.

After the acquisition by Cincinnati Financial Corporation in 1973, Inter-Ocean was organized into three new divisions:

- the Executive Sales division;
- the Special Service division; and
- the Home Service division.

The Home Service division was responsible for the underwriting and marketing of small face value weekly and monthly premium life insurance products. Once the Cincinnati Life Insurance Company was formed in 1987, the life insurance divisions were organized into:

- "Home Service"; and
- "Other than Home Service".

A listing of The Cincinnati Life Insurance Company's officers and directors, as of December 31, 2000 can be found in Attachment 1.

## EXAMINATION RESULTS

The examination yielded five categories of small face value life and other insurance products issued by Inter-Ocean:

- (i) the 1941 Series Weekly Premium Industrial: Pre- September 1964 (1947 through August 1964 Issues);
- (ii) the 1941 Series Weekly Premium Industrial: Post-September 1964 (September 1964 through 1967 Issues);

- (iii) the 1961 Series Weekly Premium Industrial (1967 through 1981 Issues);
- (iv) the Ordinary Series (1948 through 1970 Issues); and
- (v) the Monthly Debit Ordinary Series (MDO) (1948 through 1981 Issues)

Each category is analyzed below. The two categories of 1941 Series policies: 1) Pre-September 1964 and 2) Post-September 1964 - were analyzed separately due to their distinct category characteristics and conclusions.

## POLICY SPECIFIC CONCLUSIONS

### *1941 Series*

**The Company via its acquired company Inter-Ocean Insurance Company, used race as a factor in the selection of certain policy forms.**

- A) Examiners reviewed 287 policy files from the 1941 Series. The 287 files represented 1941 Series policies issued both Pre-September 1964 and Post-September 1964. (350 policy files were requested for review; the balance was unavailable or contained little information that pertained to this examination.) The files were sampled by policy form and by plan code. The files represented in-force (active), terminated and death policies as of May 31, 2001. Generally, the applicant's race was indicated in the files originating between 1947 and 1981. A field specifically addressing the applicant's race was included on applications utilized from 1947 until 1975.
- B) As indicated in Attachment 2 certain plan codes issued in the 1941 Series before September 1964 were heavily populated with white applicants; other plan codes were heavily populated with nonwhite applicants.

**Prior to September 1964, the Company's use (via its acquired company Inter-Ocean Insurance Company) of race as a factor in the selection of 1941 Series policy forms led to nonwhite applicants receiving higher premiums than white applicants.**

- A) As previously noted, our sample of policy files revealed that certain plan codes were heavily populated with white applicants; other plan codes were heavily populated with nonwhite applicants.

The Company attempted to determine the racial characteristics of the entire 1941 Series block of business. The Company then stored that information, along with other basic policy information from the Company's mainframe system, in a master database created by the Company.

ODI reviewed information stored in the master database. ODI's review of the Company's master database indicated that of the policies issued with a "standard" or "hazardous" rating, over 98% of the applicants were nonwhite (where race could be ascertained). ODI's review of the Company's master database indicated that of the policies issued with a "preferred" rating, over 96% of the applicants were white (where race could be ascertained). However, in over 18% of the cases, the Company was unable to ascertain the applicant's race.

- B) Those plan codes heavily populated with white applicants typically possessed a "preferred" rating. Those plan codes heavily populated with nonwhite applicants typically possessed a "standard" or "hazardous" rating.

No documentation concerning the specific underwriting guidelines used to determine the appropriate classification for an applicant was located.

- C) Those plan codes issued with a "preferred" rating had a lower premium per an indicated face amount than those plans issued with a "standard" or "hazardous" rating. Premiums for the "standard" class were lower than premiums for the "hazardous" class.

This contention is supported by a review of the provided rate books associated with the plan codes. The rate books contained references to underwriting classifications such as "preferred," "standard," "hazardous," and "select."

No documentation supporting premium formulation was located.

- D) An analysis provided by ARC examined the differential in standard and preferred premiums for comparable plans since, except for one plan (20 year endowment), different plans were available for each risk classification. In an effort to confirm the thesis that the differences between the preferred and standard premium rates were primarily due to differences in the underlying mortality assumption as opposed to plan differences, the ARC examiners undertook a "net premium plus load" analysis of the various plans involved. The results of this analysis are attached as Attachments 3 and 4. Specifically, for each plan in the standard category a comparable plan was chosen in the preferred category. For each of these sets of companion plans, the gross premium is shown for various issue ages (see Attachment 3, column A). Net premiums based on the 1941 Standard Industrial (1941 SI) mortality table (with margins removed) were also determined (see Attachment 3, column B). In none of these plan set situations was the difference in the net premiums (standard vs. preferred plan) more than 1.5 cents per week, while the gross premium differentials were substantially more. Attachment 3 indicates, in the column entitled C=A/B, a much larger loading factor would have to apply relative to the 1941 SI table (with margins removed) net premiums, to achieve the standard gross premium charges. Attachment 3 also indicates in Column

D, the ratio of the standard loading to the preferred loading for various issue ages. The average ratios for the figures in Column D are approximately 116.5%, with a range of 112.6% to 118.6%. Policies with standard plans were charged premiums that were, on average, about 16.5% higher than those for preferred plans, after adjusting for plan differences.

Attachment 4 then indicates the use of a net premium based on the 1941 Substandard Industrial (1941 SSI) mortality table for the standard plan and applies the preferred loading factor to that premium. In all cases this calculation substantially reproduces the standard plan gross premium (see Attachment 4, column D). Accordingly, the ARC examiners concluded that the vast majority of the gross premium differential between a standard premium plan and its nearly comparable preferred plan is the result of a higher mortality assumption underlying the standard plan relative to that of the Preferred plan, rather than being attributable to the plan difference.

To further confirm this thesis, the ARC examiners then reviewed and performed a similar analysis on the 20-year endowment plan. In this situation, the identical plan was offered in both the preferred and standard categories. The results of this analysis are attached as Attachment 5. The analysis clearly shows that when the standard gross premium is determined as the preferred plan loading factor (i.e. the ratio of the Preferred gross premium to the 1941 SI net premium) times the 1941 SSI net premium, the results virtually reproduce the actual standard gross premiums. See Attachment 5, column G. The ARC examiners concluded that the plans in the standard category incorporated a substantially higher mortality assumption than those in the preferred category. No actual documentation supporting premium formulation was located. Note that for this analysis, the 1941 SI and SSI mortality tables were utilized since these tables were typically used for valuation, and sometimes for pricing, during this era and for this type of business (i.e. industrial).

**Prior to September 1964 non-white applicants received policy forms from plan codes utilizing higher mortality rates.**

- A) As previously indicated, non-white applicants did not typically receive policy forms from plan codes with a “preferred” rating.
- B) Those plan codes issued with a “preferred” rating utilized the 1941 Standard Industrial Mortality table (1941 SI) as the basis for non-forfeiture options such as extended term insurance values, paid-up endowment insurance values and cash surrender values. Those plan codes issued with a “standard” or “hazardous” rating utilized the 1941 Substandard

Industrial Mortality table (1941 SSI) as the basis for non-forfeiture options.

The 1941 SSI utilized a higher mortality basis than the 1941 SI.

Nonwhite applicants overwhelmingly received policy forms from plan codes utilizing the 1941 SSI table.

Thus, nonwhite applicants received policy forms that utilized a higher mortality assumption than those policy forms received by white applicants.

When all other factors are equal, a higher mortality assumption, when used to develop premiums, correlates to a higher premium. Inter-Ocean premiums for plan codes containing policies based on the 1941 Substandard table were typically higher than premiums for plan codes based on the 1941 Standard table. It appears Inter-Ocean formulated premiums based upon the mortality tables used to develop plan code non-forfeiture options. Evidence to the contrary was not located.

**The Company's use (via its acquired company Inter-Ocean Insurance Company) of race as a factor in the selection of 1941 Series policy forms primarily affects those nonwhite applicants receiving 1941 Series policies issued prior to September 1964 (1941 Series: Pre-September 1964).**

- A) Available documentation (rate manuals and policy forms) indicate that an applicant's occupation, rather than race, was the primary underwriting factor in the issuance of 1941 Series policies post September 1, 1964 (1941 Series: Post-September 1964). That documentation indicates that policies were issued on a "select," "standard" or "hazardous" risk classification basis. For example, the "standard" rate was applied to unskilled laborers in any industry; the "hazardous" rate was applied to occupations such as tunnel construction workers, explosive handlers, etc.
- B) As indicated in Attachment 6, 1941 Series: Post September 1964 policy forms were issued primarily to nonwhite applicants.

Policy forms 6101B, 6102B, 6103B, 6104B, and 6107B were all issued beginning on or after September 1, 1964 and were discontinued December 27, 1966. Thus they were all issued post-September 1, 1964.

Nonwhite applicants who received a 1941 Series: Post September 1964 policy were typically rated as a "standard" risk. White applicants

who received a 1941 Series: Post September 1964 policy were also rated as a “standard” risk.

87% of nonwhite applicants issued 1941 Series: Post September 1964 policies received a “standard” rating. Similarly, 97% of the white applicants issued 1941 Series: Post September 1964 policies received a “standard” rating.

- C) Those policy forms issued with a “standard” rating or a “hazardous” rating utilized the 1941 Substandard Industrial Mortality table as a basis for non-forfeiture options such as extended term insurance values, paid-up endowment insurance values and cash surrender values. Policy forms issued with a “select” rating utilized the 1941 Standard Industrial Mortality table. As previously noted, non-forfeiture values based on the 1941 Substandard Industrial Mortality table differed from those based on the 1941 Standard Industrial Mortality table.
- D) The higher premiums associated with 1941 Series: Post September 1964 policy forms using the 1941 Substandard Industrial Mortality table were proportionately applied to nonwhite and white applicants.

There is no evidence that applicants issued 1941 Series: Post September 1964 policies were steered to a lower rating classification class based upon their race.

**A summary of the estimated affected 1941 Series: Pre-September 1964 policies in all states follows\*:**

Issue State	Policy Count	Sum of Face Amount
Unk **	40	\$29,700.00
AL	8	\$4,500.00
CA	78	\$59,800.00
DC	8	\$4,500.00
DE	2	\$1,000.00
FL	3	\$2,800.00
GA	4	\$3,500.00
IL	3	\$1,500.00
IN	1	\$500.00
KY	22	\$12,300.00
MD	11	\$7,000.00
MI	14	\$10,900.00
NC	8	\$4,500.00
NJ	1	\$500.00
NM	2	\$1,000.00

Issue State	Policy Count	Sum of Face Amount
NV	1	\$1,000.00
NY	20	\$13,000.00
OH	3111	\$2,004,479.00
OK	2	\$2,000.00
PA	827	\$521,650.00
SC	1	\$1,000.00
TN	4	\$2,000.00
TX	3	\$1,800.00
VA	19	\$9,500.00
VT	1	\$500.00
WI	1	\$1,000.00
WV	300	\$168,700.00
<b>TOTAL</b>	<b>4,495</b>	<b>\$2,870,629.00</b>

\* This chart contains Active, Terminated and Death policy information captured by the Company.

Active policies as of 1/4/2002

Terminated policies since 12/31/94

Policies with death claims made since 12/31/82

\*\* The issue state of these 40 policies could not be ascertained.

### *1961 Series*

**The Company via its acquired company Inter-Ocean Insurance Company, did not use race as a factor in the selection of the policy form issued in the 1961 Series.**

- A) Examiners reviewed approximately 356 policy files from the 1961 Series. (435 policy files were requested for review; the balance was unavailable or contained little information that pertained to this examination.) The files represented in-force (active), terminated and death policies as of May 31, 2001. Generally, the applicant's race was indicated in the files originating between 1947 and 1981. A field specifically addressing the applicant's race was included on applications utilized from 1947 until 1975.
- B) The 1961 Series policies were weekly premium industrial policies issued on either a "standard" or a "hazardous" basis. Those plan codes issued with a "standard" rating typically had a lower premium per an indicated face amount than those plans issued with a "hazardous" rating.

- C) Available documentation (rate manuals and policy forms) indicates that an applicant's occupation was the primary underwriting factor in the issuance of 1961 Series policies. Attachment 6.
- D) Those plan codes issued with a "standard" or a "hazardous" rating utilized the 1961 Commissioners Standard Industrial Mortality table (1961 SI) as the basis for non-forfeiture options such as extended term insurance values, paid-up endowment insurance values and cash surrender values.
- E) As indicated in Attachment 8, 1961 Series policy forms were issued primarily to nonwhite applicants.

Approximately 90% of the 1961 Series policies were issued to nonwhites; 10% of the policies were issued to whites.

Over 99% of nonwhite applicants who received a 1961 Series policy were rated as a "standard" risk. Similarly, over 99% of white applicants who received a 1961 Series policy were also rated as a "standard" risk.

- F) There is no evidence that nonwhite applicants issued 1961 Series policies were steered to a higher rating classification based upon their race. The sampled policy files revealed that the rating classification correlated to the applicant's occupation.
- G) The lower premiums associated with a "standard" risk 1961 Series policy were offered to nonwhite and white applicants.

Additionally, pairings (where feasible) of similarly situated nonwhite and white applicants revealed that applicants, regardless of race, were charged the same premiums in a majority of cases.

Nonwhite applicants issued 1961 Series policy forms received the same premiums as white applicants issued 1961 Series policy forms.

**The Company did not steer applicants away from 1961 Series policies and into other business based upon an applicant's race.**

- A) As noted above, approximately 90% of the 1961 Series policies were issued to nonwhites; 10% of the policies were issued to whites.

These percentages beg the question, "Did the Company steer whites to plan codes outside of the 1961 Series policies?"

- B) In order to address the question, ODI examiners reviewed Company data (policy plan codes and issue years) to determine what business was written from 1960 through 1981.
- C) This analysis revealed that from 1960 to the mid 70's, the Company's business was comprised primarily of 1941 Series and 1961 Series policies.

The total MDO and Ordinary business written was relatively insignificant compared to the 1961 Series business (these dynamics shifted around 1977).

Steerage evidence would have existed if there had been a significant increase in Ordinary business in the 60s.

Therefore, the examiners found no evidence that white applicants were steered into MDO or Ordinary business rather than 1961 Series business.

#### *Ordinary Series*

**CLIC, via its acquired company Inter-Ocean Insurance Company, did not use race as a factor in the selection of the policy form issued in the Ordinary Series.**

- A) The Company related that it marketed the Ordinary Series through a distribution system that differed from that of the debit system. The Company sold the Ordinary Series products through independent agents who were primarily located in suburban areas.
- B) The Company determined that forty-four Ordinary policies were issued to nonwhites. The Company attempted to identify forty-four whites that were similarly situated to the nonwhite applicants (i.e. had the same policy form, issue age and policy face amount). The company identified twenty similarly situated whites and compared the policy statistics of the two groups. Company actuaries confirmed the rating for each individual of the two groups and determined that, except for medical impairments and/or the purchase of additional coverage or limits of insurance, the basic life insurance rates were identical in each situation.
- C) Examiners reviewed 309 policy files from the balance was Ordinary Series. (358 files were requested for review; the unavailable or contained little information that pertained to this examination.) Sample policy files were drawn from the entire in-force (active) population of Ordinary Series policies issued prior to 1970.

- D) The sampling confirmed the company's finding that race was not a factor in the underwriting of the Ordinary Series.

***MDO Series***

**Policies issued by Inter-Ocean Insurance Company, in the MDO Series show a correlation between the issuance of the Standard plans and race.**

- A) The Company provided to the examiners drafts of internal memos generated by Company personnel. The memo drafts were dated during the latter part of 1960. The memos outlined the general characteristics of the MDO products that were intended to be offered by the Company, together with the issue and underwriting requirements contemplated as part of the program. While there was no evidence that these draft memos were adopted or implemented by the Company, the examiners identified certain areas that potentially impacted the issue of race-based pricing.

Examiners initially reviewed 591 policy files from the MDO Series. (770 files were requested for review; the balance was unavailable, contained little information that pertained to this examination, or were removed but were irreplaceable as comparable plan code samples did not exist.) The files represented in-force (active) policies as of May 31, 2001.

A second review of policy files was conducted on the MDO Series of policies. This second review examined 225 policy files from the population of MDO Series policies issued between 1962 and 1968. (330 files were requested for review; the balance was unavailable or contained little information that pertained to this examination.) The 225 files represented active, terminated and death policies as of May 31, 2001.

The second population of policy files was requested primarily to ensure the sample's statistical validity. The examiners decided to review the second population of MDO policy files to determine 1) whether MDO plans issued on a Preferred basis during the period of 1962 through 1968 were reserved for whites and 2) whether MDO plans issued on a "standard" basis during the period of 1962 through 1968 were reserved for nonwhites.

The period of 1962 through 1968 was selected for the second review because race was generally contained on the application during these years. A field specifically addressing the applicant's race was included on MDO applications until 1968.

- B) Available documentation (rate manuals, policy forms and memos) indicate that an applicant's occupation was intended to be the primary underwriting factor in the issuance of MDO Series policies. An applicant's medical condition was a secondary underwriting factor. (Attachment 9)
- C) A separate ARC analysis of the MDO data collected by ODI personnel regarding the racial profile of the Standard and Preferred MDO plans issued from 1962 to 1968 is attached as Attachment 10. The Attachment indicates that, for the MDO policies issued during this period, information on race was collected for all but 45 of the 351 policies sampled, or 12.8%. Eighty percent (80%) of the Standard plans were issued to non-Caucasians while 67% of the Preferred plans were issued to Caucasians. These differentials support the thesis that the underwriting guidelines used were a proxy for distinguishing the plans by race.
- D) As a result of this analysis, the characteristics of the MDO portfolio issued during the period of 1962-1968 indicate a steering of applicants to either the Preferred or Standard plans based on race.
- E) In determining the impact of this steering, the examiners and the Company agreed to apply the same 16.5% premium differential between the standard and premium policies found in the 1941 series analysis. Independent premium rate differential analysis was not performed due to the relatively minor number of affected policies.

**Applicants were steered to the Standard plans categories of policy forms based on the applicant's race.**

- A) The statistics contained in Attachment 10 indicate that a disproportionate number of nonwhites were issued Standard plans.
- B) A disproportionate number of nonwhites were issued MDO Standard Series plans from 1962 to 1968.

**A summary of the estimated affected MDO Series policies issued 1962 to 1968 in all states follows \* :**

<b>ISSUE STATE</b>	<b>POLICY COUNT<sup>(1)</sup></b>	<b>SUM OF FACE AMOUNT<sup>(2)</sup></b>
AZ	1	100
CA	2	1,156
DC	1	2,500
FL	3	300

ISSUE STATE	POLICY COUNT <sup>(1)</sup>	SUM OF FACE AMOUNT <sup>(2)</sup>
KY	2	2,500
MI	5	3,950
NC	1	100
OH	170	193,236
PA	104	111,591
WA	60	53,909
<b>TOTAL</b>	<b>349</b>	<b>\$369,342</b>

\* This chart contains Active, Terminated and Death policy information captured by the Company.

Active policies as of 1/4/2002

Terminated policies since 12/31/94

Policies with death claims made since 12/31/82

<sup>(1)</sup> 80% of the policies included in this table are estimated to be eligible for relief (i.e., non-white).

<sup>(2)</sup> Draft amount data provided by CLIC were utilized for Deaths since face amount data were not included.

#### GENERAL REPORT CONCLUSIONS

**Inter-Ocean Insurance Company's applications no longer contained an applicant race question after 1975. A review of provided applications and sample policy files revealed that:**

- A) From 1947 until 1975, the applications used with the 1941 and 1961 Series contained the race question.
- B) Until 1968, the applications used with the Ordinary Series contained the race question.
- C) From 1962 through 1968, applications used with MDO policies contained the race question.
- D) Typically, an applicant's race could not be determined after the race question was removed from applications utilized by Inter-Ocean Insurance Company.

**There is no evidence that the Company or Inter-Ocean Insurance Company differentiated between policy benefits available to an applicant based upon the race of the applicant.**

- A) Benefits such as waiver of premium, double indemnity, etc. were available in plan codes heavily populated with white applicants as well as in plan codes heavily populated with nonwhite applicants.
- B) Similarly situated applicants within the same plan code, charged the same initial premium, were charged the same amount for these benefits regardless of the applicant's race.
- C) Applicants were charged more for these benefits when the applicant was deemed a higher risk. These higher benefit charges were applied to white and nonwhite high-risk applicants.
- D) Policy face amounts were not limited due to an applicant's race.

None of the reviewed rate books or underwriting materials explicitly distinguished rates based upon the race of the applicant/insured.

**Rates charged to nonwhite and white applicants matched the rates contained in premium books utilized by the Company and Inter-Ocean personnel.**

- A) Examiners randomly sampled rates contained in sample policy files. Where rate books were available, the rates matched the base rates in the premium books.
- B) Not surprisingly, substandard MDO Series rates did not correlate to premium book rates. Substandard MDO Series rates represent base premium book rates plus additional premium amounts referred to as "flat extra premiums" or "table ratings"(a complete definition of these additional charges can be found in Attachment 7). Thus, the substandard MDO Series rates charged to applicants would not mirror the rates contained in premium books.

**The Company was able to provide reliable documentation for the majority of the available requested sample policy files.**

- A) A "missing" file is defined as one in which application and policy information could be retrieved from the Company's mainframe but a corresponding hardcopy application or other hardcopy policy documentation was not available.

- B) The Company reports that it searched for documentation in several locations including departmental files and warehouse files.
- C) As of approximately December 17, 2001, the Company reported that 5.99% of the total population of 1941 Series policies were missing; 7.35% of the total population of 1961 Series policies were missing.

As previous pages of this report indicate, ODI examiners requested 2,243 policy files for review; 1,768 files were reviewed. Thus, 79% of the requested policy files were provided for review and contained information pertinent to this examination.

- D) Factors contributing to the number of missing files include the number of times that the Company and its predecessors relocated their offices. Additionally, a located memo from 1986 indicates the Company sometimes maintained applications separate from the rest of the policy file. This procedure resulted in lost or misplaced applications. Lastly, some of the requested policy files had aged beyond the Company's document retention schedule and possibly no longer existed.

**The Company has the means and a process in place to adequately search for unpaid death claims on multiple policies when presented with a single death claim.**

- A) As stated earlier in the report, in conjunction with its internal review of the race-based issue, the Company created a database to centrally organize all of the industrial policies issued by Inter-Ocean. This database contains detailed information regarding the underlying policyholders. Consequently, ODI is satisfied that the Company has the means and a process in place to search for additional applicable policies when presented with a death claim.

## EXAM CONCLUSION

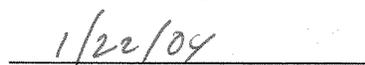
The customary practices and procedures promulgated by the National Association of Insurance Commissioners were followed in performing this target multi-state market conduct examination of The Cincinnati Life Insurance Company.

This concludes the examination. The Examiners would like to acknowledge the assistance and cooperation provided by both the management and employees of the Company.

Respectfully submitted,



Daniel J. Atkisson, CPCU, CIDM, CIE  
Insurance Compliance Supervisor  
Market Conduct Division  
Ohio Department of Insurance



Date

## ATTACHMENT 1

A listing of The Cincinnati Life Insurance Company's officers and directors, as of December 31, 2000 follows:

### OFFICERS

David Hugh Popplewell	President
Kenneth William Stecher	Sr. V.P., Treas., & Sec
Richard Ward Cumming	Sr. V.P. & Actuary
Donald Rupert Adick	Sr. Vice President
James Eugene Benoski	Sr. Vice President
Bob Ray Kerns	Sr. Vice President
James Gordon Miller	Sr. Vice President
Kenneth Stewart Miller	Sr. Vice President
Urban George Neville	Sr. Vice President
Glenn Douglas Nicholson	Sr. Vice President
Jacob Ferdinand Scherer, Jr.	Sr. Vice President
Timothy Lee Timmel	Sr. Vice President
Brad Eric Behringer	Vice President
Joseph Michael Dempsey	Vice President
Donald Joseph Doyle, Jr.	Vice President
Harold Lee Eggers	Vice President
Craig William Forrester	Vice President
Stephen Carl Frechtling	Vice President
Todd Hancock Pendery	Vice President
Thomas Joseph Scheid	Vice President
Gregory Dale Schmidt	Vice President
Gregory Joseph Ziegler	Vice President
Marc Anthony O'Dowd	Internal Audit Officer
Douglas Albert Bogenreif	Assistant Vice President
David Lewis Burbrink	Assistant Vice President
Richard Lewis Mathews	Assistant Vice President
Richard Parks Matson	Assistant Vice President
Deborah Kae Parrott	Assistant Vice President
Eric Nelson Taylor	Assistant Vice President
Mark Alan Welsh	Assistant Vice President
Michael Ray Abrams	Secretary
Richard Larry Arlen	Secretary
Ricky Gene Baker	Secretary
William James Geier	Secretary
Scott Alan Gilliam	Secretary
Martin Francis Hollenbeck	Secretary
Carol Ann Oler	Secretary
Steven Anthony Soloria	Secretary
David Allen Webb	Secretary
Michael Joseph Martini	Assistant Secretary
David Hall Park	Assistant Secretary
Michael Kevin O'Connor	Assistant Treasurer

### DIRECTORS OR TRUSTEES

James Eugene Benoski	Robert Cleveland Schiff
Larry Richard Plum	Timothy Lee Timmel
John Jefferson Schiff, Jr.	James Gordon Miller
Kenneth William Stecher	Jacob Ferdinand Scherer, Jr.
Richard Ward Cumming	Thomas Reid Schiff
David Hugh Popplewell	

**ATTACHMENT 2**

**Pre-September 1, 1964**

**1941 Series Policy Form Distribution by Race**

As indicated below, certain plan codes were heavily populated with white applicants; other plan codes were heavily populated with nonwhite applicants.

FORM	PLAN NUMBER	PLAN CODE'S CLASS *	SAMPLE'S PERCENTAGE RACIAL COMPOSITION	RACE
5000	0	P	81%	White
			19%	Unk
5002	2	P	71%	White
			29%	Unk
5003	3	S	86%	Nonwhite
			5%	White
			9%	Unk
5005	5	S	84%	Nonwhite
			16%	Unk
5016	16	P	100%	White
5017	17	S	100%	Nonwhite

\* S= Standard  
P= Preferred

Policy forms 5000, 5002, 5003, 5005, 5016 and 5017 were issued beginning August 31, 1947 and discontinued August 26, 1964- i.e. pre- September 1, 1964.

Attachment 3

Cincinnati Life Insurance Company  
 ODI Race Based Premium Exam  
 Pre-1964 Industrial Policies  
 Standard Premium vs. Comparable Preferred Premium (1941 SI table with margins removed)

Policy Form	Plan Description	Class	Issue Age	A Gross Premium <sup>(1)</sup>	B Adj. 1941 SI Net Premium <sup>(2)</sup>	C = A/B Adj. 1941 SI Loading Fx	D = C <sup>Standard</sup> / C <sup>Preferred</sup> Standard/Preferred Loading ratio
<b>5003 vs. 5000</b>							
5003	End. @75	Standard	25	0.43	0.143	3.001	118.4%
5000	Life PU @75	Preferred	25	0.35	0.138	2.535	
5003	End. @75	Standard	35	0.55	0.208	2.640	117.3%
5000	Life PU @75	Preferred	35	0.45	0.200	2.251	
5003	End. @75	Standard	45	0.75	0.320	2.345	113.5%
5000	Life PU @75	Preferred	45	0.63	0.305	2.066	
<b>5005 vs. 5002</b>							
5005	20-Pay End. @75	Standard	5	0.43	0.133	3.243	115.7%
5002	20-Pay Life	Preferred	5	0.36	0.128	2.802	
5005	20-Pay End. @75	Standard	25	0.59	0.220	2.676	116.0%
5002	20-Pay Life	Preferred	25	0.49	0.212	2.307	
5005	20-Pay End. @75	Standard	45	0.85	0.380	2.237	112.6%
5002	20-Pay Life	Preferred	45	0.72	0.362	1.987	
<b>5017 vs. 5016</b>							
5017	10-Pay End. @75	Standard	1	0.56	0.245	2.288	118.6%
5016	10-Pay Life	Preferred	1	0.46	0.238	1.929	
5017	10-Pay End. @75	Standard	5	0.59	0.230	2.568	116.6%
5016	10-Pay Life	Preferred	5	0.49	0.222	2.203	
5017	10-Pay End. @75	Standard	10	0.85	0.257	2.525	118.6%
5016	10-Pay Life	Preferred	10	0.53	0.249	2.129	

(1) Weekly gross premium effective 4/1/60 (\$500 face amount).

(2) Annual Net Premium/52 (based on the adjusted 1941 Standard Industrial mortality table w/ margins removed and 3% interest).

Pre-1964 Net Premium Analysis-ODI (Adjusted 1941)

Prepared by ARC-TB 6/25/2003

Cincinnati Life Insurance Company  
 Ohio DOI Race Based Premium Exam  
 Pre-1964 Industrial Policies  
 Standard Premium vs. 1941 SSI Net Premium With Preferred Loading

Policy Form	Plan Description	Class	Issue Age	A		B 1941 SSI Net Premium <sup>(2)</sup>	C = A/B		D = B x C		E = A/D	
				Gross Premium <sup>(1)</sup>	Premium <sup>(3)</sup>		Preferred Loading Fx <sup>(3)</sup>	Est. Gross Premium	Actual/Est. Gross Premium ratio			
5003	End. @75	Standard	25	0.43	0.210	2.269	0.477	90%				
			35	0.55	0.290	2.031	0.589	93%				
			45	0.75	0.423	1.866	0.789	95%				
5005	20-Pay End. @75	Standard	5	0.43	0.190	2.439	0.463	93%				
			25	0.59	0.297	2.114	0.628	94%				
5017	10-Pay End. @75	Standard	45	0.85	0.480	1.827	0.877	97%				
			1	0.56	0.354	1.674	0.592	95%				
			5	0.59	0.324	1.928	0.625	94%				
			10	0.65	0.360	1.892	0.681	96%				

(1) Weekly gross premium effective 4/1/60 (\$500 face amount).  
 (2) Annual Net Premium/52 (based on the 1941 Substandard Industrial mortality table and 3% interest).  
 (3) Preferred Gross Premium/1941 SSI Net Premium for comparable plan (see Attachment 6 for details).

Cincinnati Life Insurance Company  
Ohio DOI Race Based Premium Exam  
Pre-1964 Industrial Policies

20 yr Endowment Plan

Issue Age	A		B		C = B/A		D		E		F = A/D		G = E x F		H = B/G	
	5001 (Pref) Gross Premium <sup>(1)</sup>	5004 (Std) Gross Premium <sup>(1)</sup>	Ratio	1941 SI Net Premium <sup>(2)</sup>	1941 SSI Net Premium <sup>(3)</sup>	Preferred (41 SI) Loading Ex	1941 SSI Net Premium Times Pref. Loading Ex	Gross Premium Ratio								
5	0.56	0.58	103.6%	0.364	0.373	1.540	0.57	101.8%								
10	0.56	0.59	105.4%	0.364	0.380	1.537	0.58	101.7%								
15	0.57	0.61	107.0%	0.369	0.393	1.546	0.61	100.0%								
20	0.58	0.62	106.9%	0.374	0.404	1.552	0.63	98.4%								
25	0.59	0.64	108.5%	0.379	0.413	1.558	0.64	100.0%								
30	0.6	0.66	110.0%	0.387	0.426	1.551	0.66	100.0%								
35	0.62	0.69	111.3%	0.400	0.446	1.549	0.69	100.0%								
40	0.66	0.74	112.1%	0.422	0.477	1.564	0.75	98.7%								
45	0.71	0.8	112.7%	0.455	0.518	1.561	0.81	98.8%								
50	0.78	0.88	112.8%	0.503	0.576	1.550	0.89	98.9%								

(1) Weekly gross premium effective 7/1/54 (\$500 face amount)  
 (2) Annual Net Premium/52 (based on the 1941 Standard Industrial mortality table and 3% interest).  
 (3) Annual Net Premium/52 (based on the 1941 Substandard Industrial mortality table and 3% interest).

ATTACHMENT 6

**Post-September 1, 1964  
1941 Series Policy Form Distribution by Race**

As indicated below, 1941 Series policy forms issued post-September 1, 1964 were issued primarily to nonwhite applicants.

FORM	PLAN NUMBER	PLAN CODE'S CLASS *	SAMPLE'S PERCENTAGE RACIAL COMPOSITION	RACE
6101B	1B-C	B,C	94%	Nonwhite
			6%	White
6102B	2B-C	B,C	86%	Nonwhite
			10%	White
			4%	Unknown
6103B	3B-C	B,C	86%	Nonwhite
			10%	White
			4%	Unknown
6104B	4B-C	B,C	61%	Nonwhite
			26%	White
			13%	Unknown
6107B	7B-C	B,C	83%	Nonwhite
			8%	White
			9%	Unknown
IND64-A	NA	P	36%	Nonwhite
			64%	White
IND64-B	NA	P	10%	Nonwhite
			14%	White
			76%	Unknown
IND64-I	NA	P	24%	Nonwhite
			5%	White
			71%	Unknown

\* P= Preferred  
B= Standard  
C= Hazardous

Policy forms 6101B, 6102B, 6103B, 6104B, and 6107B were all issued beginning on or after September 1, 1964 and were discontinued December 27, 1966. Thus they were all issued post-September 1, 1964.

Inter-Ocean Insurance Company  
Executive Office - Cincinnati, Ohio  
Weekly Premium Life Insurance  
FIELD UNDERWRITING INSTRUCTIONS  
JANUARY 2, 1967

- I. All rates quoted through age 60 on the rate sheets for Weekly Premium Life Policies, Form #'s 6121, 6122, 6123, 6124, 6125, 6126 and 6127 include a premium for Policy AD-Ind. 346.

Premium included are as follows: (a) Ages 1 thru 50: \$ .10 cents.  
(b) Ages 51 thru 60: \$ .15 cents.

II. Classification of Risks

- A. Hazardous Rate: All persons employed in the following occupations or in similar occupations will be classified as working in Hazardous occupations. Policies issued to such individuals will be issued using the Hazardous premium rate, and will carry an Endorsement specifying that the additional rate is charged because of the hazards involved in their occupations.

Blasters	Cable Splicers	Smoke Stack & high chimney workers
Brakemen	Tree Trimmers	Oil Well Shooters
Building Wreckers	Workers handling lead, arsenic, poisonous gas or vapors.	Structural Steel Workers
Caisson Workers	Railroad Brake Couplers	Switchmen (except in towers)
Drillers, using explosives	Underground Mining Work of any Nature.	Window Cleaners
Tunnel Construction workers	Structural Iron Workers	Steel Mill employees working at open hearths.
Bridge Workers	Electric Linemen	Stone Cutters
Carmen	Explosive Handlers	Riggers
Loggers		
Winchmen		

B. Not Acceptable Risks (If Professional)

- |   |                           |
|---|---------------------------|
| 1. Divers                                 | 5. Gamblers               |
| 2. Riders                                 | 6. Sand Blasters          |
| 3. Steeplejacks                           | 7. Any Illegal Occupation |
| 4. Caisson Workers (under compressed air) |                           |

C. Standard Classification

Any case not listed in A and B above, provided such risk qualified from a health, environmental or morals standpoint.

III. Size of Policy: (Maximums)

A. Ages 1 thru 45 next birthday	\$3,000	C. Ages 51 thru 60 next birthday	\$1,000
B. Ages 46 thru 50 next birthday	\$1,500	D. Ages 61 thru 65 next birthday	\$ 750
		E. Ages 66 thru 70 next birthday	\$ 500

Minimum Policy - \$250 at all ages. (one half of \$500 Rate)

IV. ELIGIBILITY FOR ADDITIONAL COVERAGES

After above maximums under (III) has been reached, subject to Insurability and after 6 months from the time such maximum has been reached, an Insured will be eligible to apply for additional coverage, as follows:

	<u>Additional</u>	<u>Overall Maximum</u>
A. Ages 1 thru 45 next birthday	\$500	\$3,500
B. Ages 46 thru 50 next birthday	\$500	\$2,000
C. Ages 51 thru 60 next birthday	\$300	\$1,500
D. Ages 61 thru 65 next birthday	\$250	\$1,000
E. Ages 66 thru 70 next birthday	\$250	\$ 750

Any such additional coverage must be inspected by a Staff Manager, approved by the District Manager and sent to Home Office as a Category II issue. Example of Additional Coverage: Applicant, age 30, is issued \$2,000 on 1-2-67. An additional \$1,000 is issued 4-3-67, bringing total in force up to \$3,000, which is the maximum for that age. This applicant will be eligible to apply for an amount not exceeding \$500 on or after 10-2-67 (6 months after reaching the \$3,000 maximum). The point to remember here is that the applicant is not eligible for the \$500 additional coverage (bringing his overall maximum to \$3,500) until at least 6 months have expired from the time he reached the original \$3,000 maximum.

V. Determination of Payor Rider Rates

Rates for Rider are 20% of premium on basic juvenile contract rounded up to next full .01 cent. (Example: Rate on a juvenile contract is \$.72 cents. \$.72 x 20% equals 14.4¢. Thus rate for rider is \$.15 cents.

- (a) Rider may be sold on any juvenile policy provided the juvenile has not reached his 16th birthday and provided the payor has not reached their 45th birthday.  
(b) Rider terminates on the anniversary date of the policy on which the age of the Insured (juvenile) is twenty-one years, or concurrent with expiry of premium payment if before age 21.

- VI. Binding Receipt or Certificate is not to be used on applications for juveniles less than fifteen (15) days old, and on any cases where less than two full Weekly Premium Deposits are made.

**ATTACHMENT 8**

**1961 Series Policy Form Distribution by Race**

As indicated below, 1961 Series policy forms were issued primarily to nonwhite applicants.

PLAN CODE	POLICY FORM	PLAN CODE CLASS*	# FILES REVIEWED	SAMPLE'S PERCENTAGE RACIAL COMPOSITION	RACE
WIH	6121	H	4	75%	Nonwhite
				25%	White
W1S	6121	S	68	88%	Nonwhite
				1%	White
				11%	Unknown
W3H	6123	H	3	100%	Nonwhite
W3S	6123	S	89	79%	Nonwhite
				13%	White
				8%	Unknown
W4H	6124	H	6	83%	Nonwhite
				17%	White
W4S	6124	S	83	80%	Nonwhite
				6%	White
				14%	Unknown
W2H	6122	H	2	100%	Nonwhite
W2S	6122	S	47	90%	Nonwhite
				4%	White
				6%	Unknown
W5S	6125	S	24	79%	Nonwhite
				4%	White
				17%	Unknown

\* S= Standard  
H= Hazardous

**1961 Series Policy Form Distribution by Race (continued)**

PLAN CODE	POLICY FORM	PLAN CODE CLASS*	# FILES REVIEWED	SAMPLE'S PERCENTAGE RACIAL COMPOSITION	RACE
W6S	6126	S	4	100%	Nonwhite
W7S	6127	S	22	77%	Nonwhite
				9%	White
				14%	Unknown
W1D	IND64A	P	2	100%	Nonwhite
W3D	IND64I	P	1	100%	Nonwhite
16	W1S00	Unk	1	100%	Nonwhite

\* S= Standard  
P= Preferred  
Unk= Unknown

### OCCUPATIONS CLASSIFIED AS STANDARD RISKS

Non-licensed practical nurses	Janitors
Unskilled hospital workers	Self-employed non-technical workers
Farm laborers	Domestic servants
Unskilled laborers in any industry	Maids
Tavern employees	Bus boys (or girls)
	Elevator operators

In addition, extra ratings, for environment, morals or health and extra occupational ratings may be applied for occupations of a hazardous nature.

The below list of occupations will normally be considered as Weekly Premium prospects and not MDO:

Bellhops	Most laborers and unskilled workers
Sanitation workers	Porters
Handymen, yardmen	Bootblacks
Locker-room & Washroom attendants	Unemployment or other welfare check recipients
Cesspool or sewage disposal workers	Garbage and ash collectors
Dishwashers	Car Washers
Street sweepers or cleaners	Laundry workers
Errand boys	Construction laborers

Generally speaking, preferred risk MDO would involve people of high moral and environmental background as well as an occupation that would indicate quality and persistency of the business. For this reason, there could be exceptions to any of the foregoing occupational classifications, but they will have to be treated as an exception, with the Writing Agent spelling out his reasons for requesting a more preferred rating.

Normal non-medical and non-inspection privilege (shown herein), will apply. However, any application requesting a better rating classification than called for in "occupational classification" above, will require an inspection report and may require a medical examination.

CLIC  
MDO Samples - Performed by ODI  
Standard/Preferred Issues 1981-1988  
Results of MDO Samples - Race

Plan Code	Plan Description	Non-White		White		Unknown Number	Not Reviewed Number <sup>(2)</sup>	Total Number of Policies
		Number	% <sup>(1)</sup>	Number	% <sup>(1)</sup>			
<b>Standard Plans</b>								
1715	15-Pay Life	25	68%	12	32%	10	23	70
2767	20-Pay Endowment @65	5	100%	0	0%	2	6	13
2785	Endowment @85	49	74%	17	26%	5	118	189
47F2	Family Plan	43	96%	2	4%	6	26	77
Standard Total		122	80%	31	20%	23	173	349
<b>Preferred Plans</b>								
1720	20-Pay Life	22	30%	51	70%	6	97	176
1765	Life PU @65	21	48%	23	52%	7	76	127
2766	Endowment @65	5	71%	2	29%	4	18	29
47F1	Family Plan	3	10%	28	90%	5	48	82
Preferred Total		51	33%	102	67%	22	239	414

(1) Percentages based on samples where race was discovered.

(2) Samples by the ODI included policies issued in the Top 5 (by size) States. Those policies issued outside of the Top 5 States were not included in the ODI sampling.

**STATE OF OHIO  
DEPARTMENT OF INSURANCE**

IN THE MATTER OF: :  
CINCINNATI LIFE INSURANCE COMPANY : CONSENT ORDER  
MARKET CONDUCT EXAMINATION :

The Superintendent of the Ohio Department of Insurance (hereinafter "Superintendent") is responsible for administering the insurance laws in the state of Ohio pursuant to Ohio Revised Code (hereinafter "ORC") § 3901.011. The Cincinnati Life Insurance Company (hereinafter "Company") is domiciled in Ohio, is authorized to engage in the business of insurance in Ohio, and as such, is under the jurisdiction of the Superintendent. On June 12, 2000, as a part of a national review, the National Association of Insurance Commissioners (hereinafter "NAIC") adopted a resolution, in which the members of the NAIC agreed to work cooperatively, to determine if individual insurance companies had engaged in race-based discriminatory practices, and to jointly seek a multi-state settlement with each of the affected insurance companies. Pursuant to this resolution, the Superintendent, as primary examiner and negotiator, and in consultation with regulators in Illinois, Indiana, Michigan, and Pennsylvania, conducted a market conduct examination on the Company related to the sale of industrial life and certain other life insurance policies. As a result of this examination, the Superintendent has entered into this Consent Order with the Company.

**Section I**

- (A) In 1973, the Company's predecessor corporation, Inter-Ocean Life Insurance Company (hereinafter "Inter-Ocean"), was acquired by Cincinnati Financial Corporation. In 1988, Inter-Ocean merged with another life insurance subsidiary, Life Insurance Company of Cincinnati, to form the Company.
- (B) On May 31, 2001, the Ohio Department of Insurance (hereinafter "Department") began a targeted, multi-state market conduct examination to investigate possible race-based underwriting practices of the Company. The Company fully cooperated in the investigation, giving full access to its personnel, records, facilities and results of its own internal examination of documents.
- (C) For the purposes of the market conduct examination and this Consent Order, the look-back period utilized was 1889, which was the effective date of the analogous statutes preceding ORC §§ 3911.16 and 3911.17.
- (D) As a result of this market conduct examination, the Superintendent alleges that from 1947 through 1968, the Company, via Inter-Ocean, used race as a factor in the selection of policy forms. This practice led to African-American applicants paying higher premiums than Caucasian applicants.

- (E) The Superintendent alleges that the above-described business practice constitutes a violation of ORC §§ 3911.16, 3911.17, 3901.20 and 3901.21.
- (F) In addition to the multi-state market conduct examination of the Company's underwriting practices, a class action lawsuit was filed in the Butler County (Ohio) Court of Common Pleas, Case No. CV 2002 02 0342, against the Company on related issues.

## Section II

IT IS HEREBY AGREED AND CONSENTED TO BY THE PARTIES:

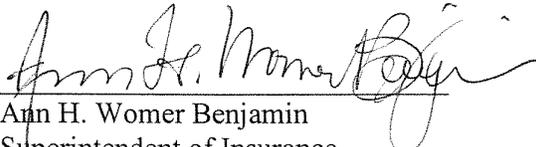
- A) The Company enters into this agreement to resolve the allegations stated in Section I of this Consent Order. In so doing, the Company expressly denies any wrongdoing alleged by the Superintendent and does not admit or concede actual or potential fault, wrongdoing, or liability in connection with any facts or claims that have been or could have been alleged against it by the Superintendent.
- B) The Company consents to the jurisdiction of the Superintendent, as primary examiner and negotiator on behalf of the regulators of the various other states where the Company transacts the business of insurance. The Company expressly waives any prerequisites to jurisdiction that may exist.
- C) For purposes of this Consent Order only, the Company agrees that the laws of any other state which joins this global settlement prohibit the same conduct as is prohibited by the Ohio statutes enumerated in paragraph (E) of Section I
- D) In conjunction with the class action lawsuit referenced in paragraph (F) of Section I, the Company has entered into a Stipulation of Settlement Agreement (hereinafter "Settlement") with class counsel, a copy of which is marked as Exhibit A, and attached hereto. The Court preliminarily approved this Settlement on January 26, 2004. This Consent Order is a part of the Company's global settlement with both class counsel and the various state insurance regulators; the terms and provisions contained in the Settlement are incorporated herein.
- E) The Company agrees to pay a regulatory enhancement of twenty-five dollars (\$25) per policy to each eligible policyholder who makes a valid claim under the terms of the Settlement. This regulatory enhancement applies to "in-force," "estate," and "terminated" policies, as defined in the Settlement.
- F) In addition to the remediation and restitution terms contained within the Settlement, and in addition to the regulatory enhancement discussed in paragraph (E) above, the Company agrees to a minimum "claims made" payout floor of \$100,000. This payout floor applies to those eligible policyholders whose policies are beyond the Company's record retention policy. After one (1) year from the implementation date of the Settlement, if the minimum payout amount of

\$100,000 has not been met through the remediation, the Company agrees to meet and confer with the Superintendent to determine appropriate disposition of part or all of the remainder. In making this determination, the Company and Superintendent shall consider the actual experience of claims made for policies outside the record retention policy, requirements for funding future claims made for such policies as required by the Settlement, and appropriate financial accounting requirements for same under state and federal law. The Company agrees that ultimately, any unused funds from the minimum payout floor shall be donated to one or more educational institutions or charities that serve African-American causes or interests.

- G) The Company will pay an administrative fine in the amount of \$100,000 to be split amongst the various participating states. The participating states will have 90 days after the date of execution of this Consent Order, or such longer period if the Superintendent determines it is appropriate, to join this global settlement. The number of participating states and their respective pro-rata share of the total affected in-force policies will determine the final allocation. This fine shall be in lieu of any other administrative penalty that may be imposed by the Superintendent.
- H) The Company will pay \$116,750.55 in administrative costs incurred by the Department to perform the market conduct examination. Payment will be made by check or money order, payable to the "Ohio Department of Insurance," no later than thirty (30) days after the date of execution of this Consent Order.
- I) The Company certifies by signing this Consent Order that it has fully disclosed all relevant information related to this examination and upon complying with the terms of this Consent Order and the Settlement, that it is in compliance with all state laws relating to non-discrimination in the sale, marketing, and underwriting of life insurance.
- J) The Company, having been advised of its right to a public hearing and of its right to appeal this Order, hereby waives its right to a hearing and any appeal of this Consent Order.
- K) The Company waives any and all causes of actions, 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.
- L) 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.

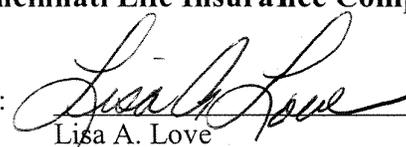
M) This Consent Order shall be entered in the Journal of the Department. All parties understand and acknowledge that this Consent Order is a public document pursuant to ORC § 149.43.

**Ohio Department of Insurance**

  
\_\_\_\_\_  
Ann H. Womer Benjamin  
Superintendent of Insurance

Date: 1/26/04

**Cincinnati Life Insurance Company**

By:   
\_\_\_\_\_  
Lisa A. Love  
Senior Counsel

Date: 1-26-04

STATE OF OHIO  
COURT OF COMMON PLEAS  
BUTLER COUNTY

BERRY M. CONE, by and through : Case No. CV 2002 02 0342  
his Administratrix, Judy Cone, on :  
behalf of Himself and All Others :  
Similarly Situated, :  
Plaintiff, :  
v. :  
: :  
CINCINNATI LIFE INSURANCE :  
COMPANY, :  
Defendant :

**STIPULATION OF SETTLEMENT AGREEMENT**

IT IS HEREBY STIPULATED AND AGREED by, between, and among the Plaintiffs in *Berry M. Cone, et al. v. Cincinnati Life Insurance Company*, Case No. CV 2002 02 0342, Common Pleas Court, Butler County, Ohio (the "Action"), in their individual and representative capacities, and Cincinnati Life Insurance Company (hereinafter referred to as "CLIC" or "Defendant"), through their duly authorized counsel, that the Action and the matters raised by the Action are settled, compromised and dismissed on the merits and with prejudice on the terms and conditions set forth in this Stipulation of Settlement Agreement (the "Agreement" or "Settlement Agreement") and the Release set forth herein, subject to the approval of the Court. Capitalized terms used alone and in conjunction with one another have the definitions referred to, or set forth, in Exhibit A hereto. All exhibits to this Settlement Agreement are incorporated by reference as if fully set forth herein.

**I. INTRODUCTION:**

## **A. ALLEGATIONS AND RESPONSE**

The Amended Complaint filed in the Action alleges, inter alia, that CLIC violated Class Members' civil rights by knowingly and intentionally discriminating against African-Americans by, among other things, charging more for policies than CLIC charged similarly situated Caucasians. CLIC expressly denies any wrongdoing alleged in the pleadings and does not admit or concede actual or potential fault, wrongdoing, or liability in connection with any facts or claims that have been or could have been alleged against them in the Action.

## **B. DISCOVERY**

Before commencing the Action and during the litigation and settlement negotiations, Plaintiffs' counsel conducted an examination and evaluation of the relevant law and facts to assess the merits of Plaintiffs' claims and potential claims and to determine how best to serve the interests of the Plaintiff and the Class. In the course of their examination, counsel for the Plaintiff and the Class reviewed over 100,000 documents produced by CLIC, including policy forms, underwriting materials, policy applications, and actuarial data.

Counsel for CLIC has also conducted a thorough examination and evaluation of the relevant law, facts and allegations to assess the merits of Plaintiffs' claims and potential claims and to determine the strength of CLIC's defenses and CLIC's liability for relief sought in the Action.

### **C. SETTLEMENT CONSIDERATIONS**

Based upon their discovery, investigation, and evaluation of the facts and law relating to the matters alleged in the pleadings, Plaintiff and counsel for the Plaintiff and the Class have agreed to settle the Action pursuant to the provisions of this Settlement Agreement after considering, among other things, (a) the substantial benefits available to the Plaintiff and the Class under the terms of this Settlement Agreement, (b) the attendant risks and uncertainty of litigation, especially in complex actions such as this, as well as the difficulties and delays inherent in such litigation, and (c) the desirability of consummating this Settlement Agreement promptly to provide effective relief to the Plaintiff and the Class.

The proposed Settlement has been reviewed by the Plaintiff, Plaintiff's counsel and by various consultants and experts retained on behalf of the Plaintiff and the Class, who agree that this Settlement Agreement is fair, reasonable, and adequate because it provides substantial benefits to the Class, is in the best interests of the Class, and fairly resolves the claims alleged in the Action.

The proposed Settlement has been reviewed by CLIC and its counsel, who agree that this Settlement Agreement is fair, reasonable and adequate because it provides substantial benefits to the Class, is in the best interest of the Class, and fairly resolves the claims alleged in the Action.

### **II. DEFINITION OF THE CLASS:**

“Class” or “Class Members” means all African-Americans who are the owners or beneficiaries of CLIC’s life insurance policies which were allegedly underwritten, priced, sold, or serviced on a racially discriminatory basis and which are listed by plan codes and, where known, by policy number, in the attached Exhibit “B” (the “Policies”). The Policies are

comprised of policies that were issued at any time that were an In Force Policy, an Estate or a Terminated Policy as of the Eligibility Date.

A. An “In Force Policy” is a life policy respecting which, as of a given date: (1) premiums are still being paid; or (2) all premiums have been fully paid, but no death or endowment benefits have been paid; or (3) the policy is on non-forfeiture status; or (4) death or endowment benefits are owed but not yet paid.

B. An “Estate” is a life policy on which death or endowment benefits had been paid or which had been surrendered and paid under the non-forfeiture provisions of the policy, as of a given date.

C. A “Terminated Policy” is a life policy on which CLIC has no further obligation under the terms of the Policy except for any policy defined as an Estate in Paragraph II B. above.

### **III. SETTLEMENT RELIEF:**

A. Class Members who do not timely request exclusion from the Class will have an opportunity to receive one or more forms of the relief described in this Section III.

#### **B. Cessation of Premium:**

After the terms of the Settlement Agreement are Finally Approved by the Court of Common Pleas of Butler County, Ohio, CLIC will declare all premium paying Class Policies fully paid up and will collect no further premiums on these policies. As used in this Agreement, “Finally Approved” means the Court has entered a judgment approving the Stipulation and Settlement Agreement and dismissing the Action with prejudice to refile and that judgment is finally affirmed on appeal or is no longer subject to appeal.

**C. In Force Policies:**

(1) For each Class Member who owns an In Force Policy as of the Implementation Date, he or she shall receive the following relief: (a) The original face amount of each eligible Class Member's In Force Policy shall be increased by the greater of 18.5 percent or \$75.00; or (b) In the alternative, eligible Class Members may elect a total cash payment per Policy equal to the cost to CLIC of providing the relief set forth in C. (1)(a) herein.

(2) If a Class Member's In Force Policy becomes a Terminated Policy after the Eligibility Date, but before the Implementation Date, such Class Member's In Force Policy shall be treated, for purposes of this Settlement Agreement, as an In Force Policy as of the Implementation Date.

**D. Estates:**

(1) For any given Policy which was an Estate prior to the Implementation Date, all eligible Class Members (whether one or more than one) with an interest in the Policy shall receive, collectively, a total cash payment per Policy equal to (a) The amount of the death, maturity benefit or cash surrender non-forfeiture benefits multiplied by 18.5 percent plus compound interest, compounded annually to the Eligibility Date at the rate of 5 percent per annum from 1990 to the Eligibility Date, 3 percent per annum from 1980 to 1990, and 2 percent for any time period before 1980, or (b) \$75.00, whichever is greater. No Class Member will be entitled to the accrual of any interest after the Eligibility Date on any claim presented under this Settlement Agreement, no matter when the claim is presented.

(2) In the case of more than one eligible Class Member presenting a claim under a Policy which was an Estate under this Settlement Agreement,

- (a) CLIC shall pay the full amount set forth in this paragraph III.D. for that policy to the first such Class Member to present a claim, as a representative of all eligible Class Members with an interest in that policy, and
- (b) CLIC shall have no obligation to make any further payment to any other eligible Class Members with an interest in that same policy.

**E. Terminated Policies:**

The relief provided for each Class Member who owned or was the beneficiary of a Terminated Policy shall be that set forth in the regulatory settlement with the Ohio Department of Insurance.

F. The relief provided pursuant to this Settlement Agreement shall be deemed to be benefits paid under, and pursuant to, the Policies.

**G. Disputes With Respect to the Status or Eligibility of Class Members:**

In the event of a dispute between CLIC and a Class Member regarding that Class Member's status in the Class or eligibility for relief herein, the Class Member may provide information, including evidence of payment of a discriminatory premium during the Class Period, in order to establish the Class Member's status in the Class and entitlement to one or more categories of relief. If such information or evidence as submitted by a Class Member or putative Class Member is insufficient to demonstrate to CLIC that the Class Member's status should be changed, or that the putative Class Member is eligible for relief, CLIC shall consult with Lead Counsel within 15 days of receipt of such information or evidence. CLIC and Lead Counsel shall then confer to resolve any disagreement concerning the sufficiency of the information provided; however, in the event that CLIC and Lead Counsel disagree with respect

to whether the evidence of premium payments or other information supports the putative Class Member's claim that he or she is within the Class or has paid a discriminatory premium, CLIC and Lead Counsel shall resolve the dispute by mutual agreement or through final and binding arbitration by a sole arbitrator in accordance with the CPR Non-Administered Arbitration Rules. Such arbitration shall be held in Cincinnati, Ohio. Each party shall be responsible for its' own attorney's fees. Any administrative expense of the arbitration, including the arbitrator's fee, shall be paid by the losing party.

**H. Class Members for Whom CLIC Does Not Have Accurate Addresses:**

For all Class Members for whom CLIC does not have an accurate address in its data base such that the Class Member does not receive mailed notice, CLIC agrees to provide the relief set forth in Section III to those Class Members at any time after the Eligibility Date if the Class Member provides sufficient proof to establish the Class Member's status in the Class. Any relief, including interest payments shall be calculated in accordance with Section III.

**IV. NOTICE TO CLASS MEMBERS AND COMMUNICATIONS WITH CLASS MEMBERS AND POLICY MEMBERS:**

**A. Class Notice Package:**

1. No later than 70 days before the Fairness Hearing, CLIC shall send a Class Notice Package by first-class mail, postage prepaid, to those Class Members having addresses in CLIC's data base which have been verified by an address research firm hired by CLIC's Administrator. CLIC will pay all costs associated with producing and mailing the Class Notice Package. The Class Notice shall:

- a. Inform Class Members that, if they do not exclude themselves from the Class with respect to a particular Policy, they will be eligible to receive one or more forms of relief under the proposed settlement.

- b. Contain a short, plain description of the background of the Action, the Class, and the proposed settlement.
- c. Describe the proposed benefits outlined in Section III, and state that Class Members who do nothing in response to the Class Notice Package will be entitled to receive automatically certain benefits for which they are eligible, as well as to receive certain other benefits for which they are eligible by returning the Election Card.
- d. Explain the impact of accepting or rejecting the benefits available to them under the Settlement Agreement on any existing class litigation, claim, arbitration or other proceeding.
- e. Advise Class Members that, if they decide to exclude some, but not all, of their eligible Policies from the Class, they may not be able to use evidence or other information about their Policies or about other claims released in this Settlement Agreement if they pursue claims on Policies excluded from the Class.
- f. State that any relief to Class Members is contingent on the Court's final approval of the proposed settlement.
- g. Provide a copy of the Release and explain what claims are not being released.
- h. Explain that they may exclude themselves from the Class by submitting a written exclusion request post-marked by the Election Date.
- i. Explain that any Class Member who has not submitted a written request for exclusion may, if he or she so desires, object to the proposed settlement by filing and serving a written statement of objection no later than the Election Date.
- j. Explain that any Class Member who has filed and served written objections to the proposed settlement may, if he or she so request, enter an appearance at the Fairness Hearing either personally or through counsel.
- k. Explain that any judgment entered with respect to the Settlement Agreement, whether favorable or unfavorable to the Class, shall include, and be binding on, all Class Members who have not been excluded from the Class, even if they object to the proposed Settlement Agreement and even if they have any other claim, Class lawsuit or proceeding pending against the Defendant.

**B. Publication Notice:**

No later than 60 days before the Fairness Hearing, CLIC will publish on at least one occasion the Publication Notice, a copy of which is attached hereto as Exhibit "C" in the

newspapers agreed to by Lead Counsel and CLIC, a list of which is also attached hereto in Exhibit "C," and will publish on at least one occasion the Radio Publication Notice, the text of which is attached hereto as Exhibit "D," on the radio stations agreed to by Lead Counsel and CLIC, a list of which is also attached hereto in Exhibit "D." CLIC shall pay all of the costs associated with the Publication Notice.

**C. Retention of Address Research Firm:**

After the execution of the Settlement Agreement, the Notice Administrator shall use addresses provided by CLIC which have been verified by an address research firm for mailing notice.

**D. Distribution of Notice Cards to the Public:**

No later than 60 days before the Fairness Hearing, CLIC or the Notice Administrator shall distribute copies of the Notice Cards to churches and/or other public places believed to be frequented by Class Members as determined by CLIC or the Notice Administrator. No later than 55 days before the Fairness Hearing, CLIC shall provide Lead Counsel with a list of all places at which Notice Cards were distributed.

**E. Remailing and Additional Notice:**

CLIC shall at its expense re-mail any Class Notice Package returned by the Postal Service with a forwarding address that is received by CLIC or the Notice Administrator at least 35 days before the Fairness Hearing.

**F. Retention of Administrator:**

Upon consultation and approval of Lead Counsel, CLIC has retained Rust Consulting, Inc. as Administrator and, if it becomes necessary pursuant to paragraph F.4. below, shall at its

expense retain a replacement Administrator, with the approval of Lead Counsel, to help implement the terms of the Settlement Agreement.

1. The Administrator may assist with various tasks, including, without limitation, (a) mailing or arranging for the mailing or other distribution of the Class Notice Package, (b) arranging for publication of the Publication Notice, (c) preparing and distributing Notice Cards, (d) handling return mail not delivered to Class Members, (e) attempting to obtain updated address information for Class Members for Class Notice Packages returned without a forwarding address or an expired forwarding address, (f) making any additional mailing required under the terms of this Settlement Agreement, (g) arranging for and staffing a toll free telephone number to assist the Parties in responding to inquiries from Class Members and others, (h) answering written inquiries from Class Members and/or forwarding such inquiries to Lead Counsel or its designee, (i) receiving and maintaining on behalf of the Court any Class Member correspondence regarding requests for exclusion and objection to the settlement, and (j) establishing and maintaining the CLIC Settlement and Administration Center and (k) otherwise assisting CLIC with administration of the Settlement Agreement. The Administrator shall provide its services up until six months following the Implementation Date, after which date, the Administrator's duties will cease and CLIC shall take possession of all the relevant data collected by the Administrator. Any claim submitted thereafter will be administered directly by CLIC. CLIC will pay the reasonable fees and expenses of the Administrator, as well as any other fees and expenses incurred in performing all of the tasks described in this Section IV.F.

2. Lead Counsel and/or its designee shall be entitled to observe and monitor the performance of the Administrator to assure compliance with the Settlement Agreement.

3. The contract between CLIC and the Administrator shall obligate the Administrator to abide by the following performance standards.

a. The Administrator shall accurately and neutrally describe, and shall train and instruct its employees and agents to accurately, objectively, and neutrally describe, the provisions of this Settlement Agreement in communications with Class Members.

b. The Administrator shall provide prompt, accurate, and objective response to inquiries from Lead Counsel or its designee, CLIC, and CLIC's counsel during the term of its contract.

c. If, in the course of any communication with a Class Member, the Class Member request that the Administrator and/or its agent or employee refer the communication to Lead Counsel, or its designee, or CLIC, then the Administrator and/or its agent or employee shall promptly fulfill such request.

d. If, in the course of any communication with a Class Member, an agent or employee of the Administrator reasonably concludes that the Class Member is not satisfied with the information and/or assistance provided, then the agent or employee shall promptly refer the Class Member's communication to a supervisor on duty and Lead Counsel or its designee.

4. If the Administrator fails to perform adequately on behalf of CLIC, Lead Counsel, or the Class, then, if CLIC and Lead Counsel agree, they can remove the Administrator or, if they do not agree, either Party can petition the Court to remove the Administrator.

**G. Communication With Class Members and Policy Owners:**

1. CLIC expressly reserves the right to communicate with and respond to inquiries from Policy Owners and Class Members orally and/or in writing, consistent with the provisions of the Settlement Agreement.

2. CLIC through its Administrator will establish the CLIC Settlement Administration Center for the purpose of facilitating and providing information to Class Members regarding the Settlement Agreement and their rights under it. The CLIC Settlement Administration Center shall include, among other things, a telephone bank with a toll-free telephone number for

responding to inquiries from Class Members and other Policy Owners about the proposed Settlement and any issues related to the Settlement Agreement or the Action.

3. CLIC will issue a written directive to its Home Service Agents that in responding to inquiries from, and/or communications with, present or former CLIC Policy Owners about the proposed Settlement, they shall, in each instance, refer Class Members' inquiries to the toll-free number established to respond to such inquiries.

4. Lead Counsel or its designees may monitor and participate in the education and training process for the Administrator's telephone representatives and may review CLIC's written directive issued pursuant to paragraph G.3. above prior to its dissemination.

5. Mass and/or generalized communications with Class Members regarding the proposed Settlement, whether by Lead Counsel, CLIC, or its current Agents, and whether by mail, telephone scripts, or any other means, shall be made jointly with, or with the approval of, the other Party. This subparagraph G.5. does not apply to communications with the media or to communications to the employees or shareholders of CLIC or any of its affiliates, nor to communications with individual Class Members or their counsel.

#### **H. Media Communications:**

Lead Counsel and counsel for CLIC agree, to the extent possible, to exchange any initial press release announcing the Settlement before dissemination and publication of such release.

#### **V. REQUEST FOR EXCLUSION**

A. Any potential Class Member who wishes to be excluded from the Class must mail or deliver a written request for exclusion to the Clerk of the Court, care of the address provided in the Class Notice Package, postmarked or delivered no later than 25 days before the Fairness Hearing, or as the Court otherwise may direct, and specifying the Policy or Policies that he or

she wants to exclude. The written request for exclusion must identify the Policy or Policies for which the Class Member is requesting exclusion and must be signed by the Class Member or a representative who has legal authority to sign for the Class Member. A list reflecting all requests for exclusion shall be filed with the Court by CLIC at or before the Fairness Hearing.

**B.** Any potential Class Member who does not file a timely written request for exclusion with respect to a Policy as provided in the proceeding Section V. A., shall be bound with respect to that Policy by all subsequent proceedings, orders and judgments, in the Action relating to the Settlement Agreement, even if he or she has pending class litigation, or subsequently initiates litigation, arbitration or any other proceeding against CLIC relating to that Policy and the claims released in this Action.

## **VI. OBJECTIONS TO THE SETTLEMENT**

**A.** Any Class Member who has not filed a timely written request for exclusion for all of his or her Policies and who wishes to object to the fairness, reasonableness, or adequacy of this Settlement Agreement or the proposed Settlement, or to the award of Attorneys' Fees and Expenses, must deliver to Lead Counsel and CLIC's Counsel and file with the Court, no later than 25 days before the Fairness Hearing, or as the Court otherwise may direct, a statement of his or her objection, as well as the specific reason(s), if any, for each objection, including any legal support the Class Member wishes to bring to the Court's attention, any evidence the Class Member wishes to introduce in support of the objection, and the name and address of any witness(es) the Class Member intends to call at the Fairness Hearing. Class Members may object either on their own or through an attorney hired at their own expense.

**B.** Class Members and their personal attorneys may obtain access at their own expense to the documents disclosed through discovery to Plaintiffs' Counsel by CLIC in the Action, but

must first agree in writing to be bound by the Stipulation and Order of Confidentiality entered into in the Action and attached hereto as Exhibit E. These discovery documents shall be made available by appointment during regular business hours at the offices of Co-Lead Counsel, Parry Deering Futscher & Sparks, PSC, 128 East Second Street, Covington, Kentucky 41011. Lead Counsel shall inform CLIC's counsel promptly of any request by Class Members or their attorneys or other persons or any of these for access to such documents.

C. If a Class Member hires an attorney to represent him or her, the attorney must (a) file a Notice of Appearance with the Clerk of the Court no later than 25 days before the Fairness Hearing, or as the Court may otherwise direct, and (b) deliver to Lead Counsel and CLIC's counsel no later than 25 days before the Fairness Hearing a copy of the same.

D. Any Class Member who files and serves a written objection, as described in Section VI. A., may appear at the Fairness Hearing, either in person or through personal counsel hired at the Class Member's expense, to object to the fairness, reasonableness, or adequacy of this Settlement Agreement, or the proposed Settlement, or the award of Attorneys' Fees and Expenses. Class Members or their attorneys intending to make an appearance at the Fairness Hearing must deliver to Lead Counsel and CLIC's counsel and file with the Court no later than 25 days before the Fairness Hearing, or as the Court may otherwise direct, a Notice of Intention to Appear.

E. Any Class Member who fails to comply with the provisions of this Section VI. shall waive and forfeit any and all rights he or she may have to appear separately and/or object, and shall be bound by all the terms of this Settlement Agreement and by all proceedings, orders, and judgments in the Action.

## **VII. RELEASE AND WAIVER, AND ORDER OF DISMISSAL**

**A. Release and Waiver:**

1. Plaintiff and the Class agree to the following Release and Waiver, which shall take effect upon entry of the Final Judgment and Order Approving Settlement:

Plaintiff and all Class Members hereby expressly agree that they hereby release and discharge CLIC, its officers, directors, employees, and affiliates (collectively "CLIC") from, and shall not now or hereafter institute, participate in, maintain, maintain a right to or assert against CLIC, either directly or indirectly, on their own behalf, or on behalf of the Class or any other person or entity, any and all causes of action, claims for damages, awards, equitable, legal and administrative relief, interest, demands, or rights, including without limitation, claims for rescission, restitution or damages of any kind, including those in excess of actual damages and claims for mental anguish relating to claims of civil rights violations or other unlawful discrimination based on race or national origin, whether based on Federal, state, or local law, statute, ordinance, regulation, contract, common law, or any other source, including, without limitation, the provisions of the Federal and state civil rights laws, 42 U.S.C. §1981, et seq., and state constitutions, statutes, and municipal ordinances modeled after provisions of the Civil Rights Act of 1964, respecting only claims for or claims based upon, wholly or in part, discrimination, whether direct or indirect, on the basis of race or national origin, whether such discrimination related to rate tables, socio-economic factors, or other factors, that have been, could have been, may be or could be alleged or asserted now or in the future by Plaintiff or any Class Member against CLIC in the Action or in any other Court action or before any administrative body (including any brought by or on behalf of any state Attorney General or Department of Insurance or other regulatory entity or state prosecutorial or other organization), tribunal, arbitration panel, or other adjudicatory body on the basis of, connected with, arising out of, or related to, in whole or in part, the claims in the Amended Complaint, including without limitation, any claim alleging racial discrimination by CLIC in the development, marketing, underwriting or sale of a Policy or the collection of premiums thereon, including, but not limited to, allegations that CLIC charged African-Americans more than Caucasians for insurance benefits or discriminated against African-Americans in the development, marketing, underwriting or sale of insurance products or the collection of premiums thereon.

2. Nothing in this Release shall be deemed to alter (a) a Class Member's contractual rights to make a claim for benefits that will become payable in the future pursuant to the express written terms of a Policy form issued by CLIC, or (b) a Class Member's right to assert any claim that independently arises from acts, facts or circumstances arising after the end of the Class Period; provided, however, that this provision should not entitle a Class Member to assert claims that relate to the allegations in the Amended Complaint.

3. Plaintiff and Class Members expressly understand that principles of law such as Section 1542 of the Civil Code of the State of California provide that a general release does not extend to claims which a creditor does not know or suspect to exist in his favor at the time of executing the Release, which if known by him must have materially affected his settlement with the Debtor. To the extent that, as a result of or notwithstanding the choice of law provisions in the Settlement Agreement, California or other law may be applicable, Plaintiff and the Class hereby agree that the provisions of Section 1542 and all similar federal or state laws, rights, rules, or legal principles of any other jurisdiction which may be applicable herein, are hereby knowingly and voluntarily waived and relinquished by Plaintiff and the Class Members, and Plaintiff and the Class Members hereby agree and acknowledge that this is an essential term of this Release.

4. In connection with this Release, Plaintiff and Class Members acknowledge that they are aware that they may hereafter discover racial discrimination or other claims relating to the matters set forth in Section VII.A.(1) that are presently unknown or unsuspected, or facts in addition to or different from those that they now know or believe to be true with respect to the matters released herein for acts, facts, circumstances, or transactions occurring or arising during the Class Period. Nevertheless, it is the intention of Plaintiff and the Class Members in

executing this Release fully, finally and forever to settle and release all such matters, and all claims relating thereto, which exist, hereinafter may exist, or might have existed (whether or not previously or currently asserted in any action or proceeding) with respect to the claims asserted in the Action.

5. Subject to the provisions of Section VII., nothing in this Release shall preclude any Action to enforce the terms of the Settlement Agreement including participation in any of the processes detailed herein.

6. Plaintiff and the Class Members hereby agree and acknowledge that the provisions of this Release together constitute an essential term of the Settlement Agreement.

**B. Order of Dismissal:**

The Parties will seek and obtain from the Court a Final Judgment and Order Approving Settlement (for which, as a condition of settlement, the time for appeal has expired without any modifications in the Final Judgment or Order Approving Settlement). The Final Judgment and Order Approving Settlement shall, among other things, (a) approve this Settlement Agreement as fair, reasonable and adequate, (b) dismiss the Action with prejudice and on the merits, and (c) incorporate the terms of the Release.

**VIII. ATTORNEYS' FEES AND EXPENSES**

A. The Parties have agreed that the settlement benefits provided to Class Members, as set forth above, shall be net benefits that should not be reduced by Attorneys' Fees or litigation Expenses. It is, therefore, agreed that, in addition to the Settlement provided to Class Members, as described above, CLIC will pay to Plaintiffs' counsel such reasonable attorneys' fees and reimbursement of litigation costs as are approved by the Court.

**B.** Plaintiff shall make an application for the award of reasonable Attorneys' Fees. Plaintiff shall also make an application for the award of Expenses consisting of reasonable out-of-pocket costs advanced by Plaintiffs' counsel including costs advanced by Plaintiffs' counsel to actuaries to evaluate the reasonableness of the Settlement.

**C.** Lead Counsel may petition the Court for an incentive award up to \$2,500.00 to be paid to the named Plaintiff in this Action that is being resolved pursuant to this Settlement Agreement. The Company agrees not to oppose this request. The purpose of such award shall be to compensate the class representative for efforts and risks taken by him on behalf of the Class. Any incentive award made by the Court shall be paid by CLIC.

**D.** CLIC will bear administrative expenses and costs incurred after the execution of this Settlement Agreement, including the costs of publishing, printing, and mailing the Class Notice Package and publishing the Publication Notice, post office rental box costs, any processing costs to request for exclusion, Election Cards, fees and disbursements to the Administrator and any other third party contractors or Administrators hired by CLIC; expense of establishing and operating the CLIC Settlement Administration Center; distribution of Notice Cards, and administration and relief costs of the Settlement Agreement; and if so ordered or agreed, Attorneys' Fees and Expenses described in Section VIII.B.

**E.** Neither CLIC nor its past, present, or future parents, subsidiaries, predecessors, successors and assigns, nor any of their respective past, present, and future officers, directors, employees, general agents, agents, producers, brokers, solicitors, representatives, attorneys, heirs, administrators, executors, insurers, predecessors, successors and assigns, or any of them, shall be liable for or obligated to pay any fees, expenses, costs, or disbursements to, or incur any expense on behalf of, any person, either directly or indirectly in connection with the Action, this

Settlement Agreement, or the proposed Settlement, other than the amount or amounts provided for in this Settlement Agreement.

#### **IX. ORDER OF NOTICE, FAIRNESS HEARING AND ADMINISTRATION**

A. The Parties have negotiated, drafted and agreed to the form of the following documents: The Class Notice Package (Exhibit F), the Publication Notice (Exhibit C), the Radio Publication Notice (Exhibit D), the Notice Card (Exhibit G), and the Stipulation and Order of Confidentiality (Exhibit E). These documents shall be an integral part of this Settlement Agreement.

B. No later than January 26<sup>th</sup>, 2004, the Parties will submit this Settlement Agreement, including all attached Exhibits to the Court and seek and obtain from the Court a proposed Hearing Order, unless otherwise agreed to by the Parties. The Hearing Order shall provide the following.

1. Certification of the Class for settlement purposes only.
2. A finding that the proposed settlement is sufficient to warrant sending notice to the Class.
3. The date for the Fairness Hearing to consider the fairness, reasonableness, and adequacy of the proposed settlement and whether it should be approved by the Court.
4. Approval of the proposed Class Notice Package, Publication Notice, and additional notice methodology described in this Settlement Agreement.
5. A finding that the Class Notice Package, together with the Publication Notice, the Notice Card, and the CLIC Settlement Administration Center, (a) is the best practical notice, (b) is reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action and of their right to object or to exclude themselves from the proposed settlement, (c)

is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice, and (d) meets all applicable requirements of the Ohio Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), the Ohio Constitution, the Rules of the Court and any other applicable law.

6. Directing CLIC or its designee to cause the Class Notice Package to be mailed by first class mail, postage prepaid, no later than 70 days before the Fairness Hearing.

7. Direct CLIC or its designee to publish the Publication Notice as provided in this Settlement Agreement no later than 60 days before the Fairness Hearing.

8. Direct CLIC or its designee to distribute the Notice Card as provided in Section IV.D no later than 60 days before the Fairness Hearing.

9. Order CLIC to have its Administrator retain an address research firm or firms within 10 days of the Execution Date.

10. Order CLIC, or the Administrator, to remain any Class Notice Packages returned by the postal service with forwarding addresses that are received by CLIC or the Administrator at least 35 days before the Fairness Hearing.

11. Authorize the Parties to expand the distribution of the Class Notice Package and dissemination of the fact of the Settlement Agreement and ability to obtain the Class Notice Package by calling the toll-free telephone number.

12. Order CLIC to file proof of the mailing of the Class Notice Package, publication of the Publication Notice, and distribution of the Notice Card to the public at or before the Fairness Hearing.

13. Authorize CLIC, including its current agents or other representatives and any other retained personnel, to communicate with potential Class Members, Class Members and other

present or former policy owners about the Action and the terms of the proposed settlement, in accordance with Section IV. G. and to engage in any other communications within the normal course of the company's business.

14. Require each Class Member who wishes to exclude himself or herself from the Class to submit an appropriate, timely written request for exclusion, postmarked or delivered no later than 25 days before the date of the Fairness Hearing, to the Clerk of the Court, care of the address provided in the Class Notice Package.

15. Order that any Class Member who does not submit a timely, written request for exclusion from the Class will be bound by all proceedings, orders and judgments in the Action relating to this Settlement Agreement, even if such Class Member has previously initiated class litigation or subsequently initiates individual or class litigation against CLIC or other proceedings encompassed by the Release and relating to a Policy or Policies.

16. Require each Class Member who wishes to object to the fairness, reasonableness, or adequacy of this Settlement Agreement or the proposed Settlement, or to the award of Attorneys' Fees and Expenses to deliver to Lead Counsel and CLIC's counsel and to file with the Court, no later than 25 days before the Fairness Hearing, or at such other time as the Court may direct, a statement of his or her objection, as well as the specific reasons, if any, for each objection, including any legal support the Class Member wishes to bring to the Court's attention, any evidence the Class Member wishes to introduce in support of their objection, any witnesses the Class Member intends to present at the hearing, or be forever barred from separately objecting.

17. Requiring any attorney hired by a Class Member at the Class Member's expense for the purpose of objecting to this Settlement Agreement, the proposed settlement, or the award of Attorneys' Fees and Expenses, to file with the Clerk of Court and deliver to Lead Counsel and

CLIC's counsel a Notice of Appearance no later than 25 days before the Fairness Hearing, or as the Court otherwise may direct.

18. Require any Class Member who files and serves a written objection and who intends to make an appearance at the Fairness Hearing, either in person or through personal counsel hired at the Class Member's expense, to deliver to Lead Counsel and CLIC's counsel and file with the Court no later than 25 days before the Fairness Hearing, or as the Court may otherwise direct, a notice of intention to appear.

19. Direct CLIC or its designated agents to rent one or more post office boxes in the name of the Clerk of the Court to be used for receiving requests for exclusion, objection, and any other communication, including Election Cards, and providing that, other than the Court or the Clerk of Court, only CLIC, Lead Counsel, and their designated agents shall have access to such post office box (es). Such post office box(es) will be closed <sup>six months after</sup> at the termination of the Administrator's contract.

20. Direct CLIC's counsel and Lead Counsel, and any other counsel for Plaintiff or the Class, promptly to furnish each other with copies of any and all objections or written requests for exclusion that might come into their possession.

21. Provide a means for those filing objections to obtain access at their own expense, at Lead Counsel's office, to the documents produced by CLIC through discovery to Plaintiffs' counsel in the Action and also provide that such individuals should not be given access to these materials unless and until they enter into the Stipulation and Order of Confidentiality, as set forth in Exhibit C.

22. Contain any additional provisions that might be necessary to implement and administer the terms of this Settlement Agreement and the proposed settlement.

C. The Estate of Barry M. Cone, through its Administrator, Judy Cone, as the named Plaintiff, will not request exclusion from the Class, or object to the proposed Settlement, or file an appeal from or otherwise seek review of any Order approving the proposed Settlement.

**X. FINAL APPROVAL AND FINAL JUDGMENT AND ORDER APPROVING SETTLEMENT**

A. After the Fairness Hearing, and upon the Court's approval of this Settlement Agreement, the Parties shall seek and obtain from the Court a Final Judgment and Order Approving Settlement, which shall include the following.

1. A finding that the Court has personal and continuing jurisdiction over all Class Members and that the Court has subject matter jurisdiction to approve this Settlement Agreement and all Exhibits thereto.

2. Approval of this Settlement Agreement and the proposed settlement as fair, reasonable and adequate, consistent and in compliance with all applicable requirements of the Ohio Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), the Ohio Constitution, the rules of the Court and any other applicable law, and in the best interests of each of the Parties and the Class Members; direct the Parties and their counsel to implement and consummate this Settlement Agreement according to its terms and provisions; and declare this Settlement Agreement to be binding on Plaintiffs and all other Class Members, as well as their heirs, executors and administrators, successors and assigns, and, as to all claims and issues that have or could have been raised in the Action, to have *res judicata* and other preclusive effect in all pending and future lawsuits or other proceedings encompassed by the Release maintained by or on behalf of Plaintiffs and all other Class Members, as well as their heirs, executors and administrators, successors and assigns.

3. Certification of the Class for settlement purposes.

4. A finding that the Class Notice Package, the Publication Notice and the Notice Card and the notice methodology, including the CLIC Settlement Administration Center and any outreach or other notice programs agreed to by the Parties pursuant to Section IV., and implemented pursuant to this Settlement Agreement: (a) constituted the best practicable notice; (b) constituted notice that was reasonably calculated, under the circumstance, to apprise Class Members of the pendency of the Action, their right to object to or exclude themselves from the proposed settlement and their right to appear at the Fairness Hearing; (c) were reasonable and constituted due, adequate and sufficient notice to all persons entitled to receive notice; and (d) met all applicable requirements to the Ohio Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), the Ohio Constitution, the Rules of the Court and any other applicable law.

5. A finding that Lead Counsel and the Class representatives adequately represented the Class for purposes of entering into and implementing the settlement.

6. Dismiss the Action (including all individual claims and Class claims presented thereby) on the merits and with prejudice, without fees or costs to any Party except as provided in this Settlement Agreement.

7. Incorporate the Release set forth above in Section VII. and make the Release effective as of the date the Settlement is Finally Approved.

8. Permanently bar and enjoin all Class Members who have not been timely excluded from the Class with respect to a Policy from: (a) filing, commencing, prosecuting, intervening in, participating in (as Class Members or otherwise), or receiving any benefits or other relief from, any other lawsuit, arbitration, or administrative, regulatory or other proceeding or order in any

jurisdiction based on or relating to the claims and causes of action, or the facts and circumstances relating thereto, in the Action as to that Policy; and (b) organizing such non-excluded Class Members into a separate class for purposes of pursuing as a purported class action (including by seeking to amend a pending complaint to include class allegations, or by seeking class certification in a pending action) any lawsuit based on or relating to the claims and causes of action, or the facts and circumstances relating thereto, in the Action as to that Policy.

9. Permit CLIC, in the event that a Class Member who has not been timely excluded from the Class initiates any litigation or proceeding against CLIC based on or relating to the claims and causes of action included in the Release, as to his or her Policy or Policies, to request an order from the Court, for good cause shown, (a) enjoining the Class Member from pursuing the litigation or other proceeding, and (b) requiring the Class Member and/or his or her attorney to indemnify CLIC for CLIC's expense of defending any such litigation or proceeding or seeking relief from this Court by way of injunction or otherwise, including contempt proceedings. Lead Counsel reserve the right to oppose any such request by CLIC.

10. Authorize the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of this Settlement Agreement and all exhibits attached to the Settlement Agreement as (a) are not materially inconsistent with the Final Judgment and Order Approving Settlement, and (b) do not limit the rights of Class Members under the Settlement Agreement.

11. Without affecting the finality of the Final Judgment and Order Approving Settlement for purposes of appeal, retain jurisdiction as to all matters relating to the administration, consummation, enforcement and interpretation of this Settlement Agreement and the Final Judgment and Order Approving Settlement, and for any other necessary purpose; provided however, that nothing in this Section shall restrict the ability of the Parties to exercise their rights under Section VI.

12. Incorporate any other provisions that the Court deems necessary and just.

#### **XI. MODIFICATION OR TERMINATION OF THIS AGREEMENT**

A. The terms and provisions of this Settlement Agreement may be amended, modified or expanded by agreement of Lead Counsel and CLIC's Counsel and approval of the Court; provided however, that after entry of the Final Judgment and Order Approving Settlement Lead Counsel and CLIC's Counsel may by agreement effect such amendments, modifications or expansions of this Settlement Agreement and its implementing documents (including all exhibits to the Settlement Agreement) without notice to or approval by the Court if such changes are not materially inconsistent with the Court's Final Judgment and Order Approving Settlement and do not limit the rights of Class Members under the Settlement Agreement.

B. This Settlement Agreement will terminate at the sole option and discretion of CLIC or Plaintiffs if (a) the Court, or any appellate court(s), rejects, modifies or denies approval of any portion of this Settlement Agreement or the proposed settlement that the terminating Party in its (or their) sole judgment and discretion determine(s) is material, including, without limitation, the terms of relief, the findings of the Court, the provisions relating to notice, the definition of the Class and/or the terms of the Release; or (b) the Court, or any appellate court(s), does not enter or completely affirm, or alters or expands, any portion of the Final Judgment or Order Approving

Settlement, that the terminating Party in its (or their) sole judgment and discretion determine(s) is material. The terminating Party must exercise the option to withdraw from and terminate this Settlement Agreement, as provided in this Section no later than 20 days after receiving notice of the event prompting the termination.

C. Notwithstanding the preceding Section XI.B., Plaintiffs may not terminate this Settlement Agreement solely because of the amount of Attorneys' Fees and Expenses awarded by the Court or any appellate court(s).

D. Upon termination of the Settlement Agreement pursuant to this Section XI., then the following consequences shall result:

1. This Settlement Agreement shall be null and void and shall have no force or effect and no Party to this Settlement Agreement shall be bound by any of its terms.

2. This Settlement Agreement, all of its provisions, and all negotiations, statements and proceedings relating to it shall be without prejudice to the rights of CLIC, Plaintiffs or any other Class Member, all of whom shall be restored to their respective positions existing immediately before the execution of this Settlement Agreement.

3. CLIC and their current and former directors, officers, Agents, employees, attorneys and representatives expressly and affirmatively reserve all defenses, arguments and motions as to all claims that have been or might later be asserted in the Action, including (without limitation) any applicable statutes of limitation and the argument that the Action may not be litigated as a class action.

4. Plaintiffs and their current and former predecessors, successors, heirs, agents, attorneys, representatives or assigns expressly and affirmatively reserve all motions as to, and arguments in support of, all claims that have been or might later be asserted in the Action,

including (without limitation) any argument concerning class certification and/or punitive damages.

5. Neither this Settlement Agreement, nor the negotiations leading thereto, nor the fact of its having been made, shall be admissible or entered into evidence for any purpose whatsoever.

6. Any order or judgment entered after the date of this Settlement Agreement will be deemed vacated and will be without any force or effect.

## **XII. GENERAL MATTERS AND RESERVATIONS**

**A.** This Settlement Agreement is contingent upon entry by the Court of the Final Judgment and Order Approving Settlement, from which order the time to appeal has expired or which has remained unmodified after any appeal(s).

**B.** The Parties and their counsel agree to keep the existence and contents of this Settlement Agreement and all related negotiations confidential until the date of the first public announcement by the Parties; provided however, that this Section shall not prevent earlier disclosure of such information to regulators, rating agencies, financial analysts, Agents, or any other person or entity (such as experts, courts, and/or Administrators) to whom the Parties agree disclosure must be made to effectuate the terms and conditions of this Settlement Agreement.

C. Plaintiffs and their counsel agree that the documents made available to them through the discovery process were made available on the condition that neither Plaintiffs nor their counsel may disclose the documents to third parties (other than experts or consultants retained by Plaintiffs in connection with this case), that the documents not be the subject of public comment, and absent agreement by CLIC, the documents may not be used by Plaintiffs or their counsel in connection with any pending motion for class certification or in any other way in this litigation, or in any other litigated proceeding, should the Action not settle; provided however, that nothing contained herein shall prohibit Plaintiffs from seeking such documents through formal discovery or from referring to the existence of such information in connection with the Action or the settlement of this litigation.

D. Lead Counsel represents that it is authorized to enter into this Settlement Agreement on behalf of Plaintiffs and any other attorneys who have represented or who now represent Plaintiffs in the Action with respect to the claims in the Action.

E. Plaintiff represents and certifies that (a) she has agreed to serve as representative of the Class proposed to be certified herein; (b) she is willing, able and ready to perform all of the duties and obligations of representative of the Class, including, but not limited to, being available for discovery and fact finding; (c) she has read the pleadings in the Action, including the Complaint, or has had the contents of such pleadings described to her; (d) she has been kept apprised of the progress of the Action and/or the settlement negotiations among the Parties; and has either read this Settlement Agreement, including the exhibits attached to the Settlement Agreement, or has received a description of it from Lead Counsel, and she has agreed to its terms; (e) she has consulted with Lead Counsel and/or other Plaintiffs' counsel of record about the Action, this Settlement Agreement and the obligations of a representative of the Class; (f) she

has authorized Lead Counsel to execute this Settlement Agreement on her behalf; and (g) she will remain and serve as representative of the Class until the terms of this Settlement Agreement are effectuated, this Settlement Agreement is terminated in accordance with its terms, or the Court at any time determines that said Plaintiff cannot represent the Class.

F. The person executing this Settlement Agreement on behalf of CLIC represents that he is authorized to enter into this Settlement Agreement on behalf of CLIC and any attorneys who have represented or who now represent CLIC in the Action.

G. This Settlement Agreement sets forth the entire agreement among the Parties with respect to its subject matter, and it may not be altered or modified except in accordance with Section XI. or other written agreement of the Parties. The Parties expressly acknowledge that no other agreements, arrangements or understandings not expressed in this Settlement Agreement exist among or between them.

H. This Settlement Agreement and any ancillary agreements shall be governed by and interpreted according to the law of the State of Ohio excluding its conflict of laws provisions.

I. Any action to enforce this Settlement Agreement shall be commenced and maintained only in this Court, provided, however, that the Parties hereto agree that any and all disputes, claims or controversies arising out of or relating to this Agreement brought by Class Members, that are not resolved by mutual agreement shall be submitted to final and binding arbitration by a sole arbitrator in accordance with the AAA Arbitration Rules. Each party shall be responsible for its own attorney's fees. Any administrative expenses of the arbitration, including the arbitrator's fee, shall be paid by the losing party.

J. Whenever this Settlement Agreement requires or contemplates that one Party shall or may give notice to the other, notice shall be provided by facsimile and/or next-day (excluding Sunday) express delivery service as follows:

1. If to CLIC, then to

L. Clifford Craig  
Earl K. Messer  
Taft, Stettinius & Hollister, LLP  
1800 Firststar Tower  
425 Walnut Street  
Cincinnati, OH 45202-3957

2. If to the Plaintiffs, then to

David A. Futscher  
Parry Deering Futscher & Sparks, PSC  
128 East Second Street  
P.O. Box 2618  
Covington, Kentucky 41012-2618

K. All time periods set forth herein shall be computed in calendar days unless otherwise expressly provided. In computing any period of time prescribed or allowed by this Settlement Agreement or by order of court, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, or, when the act to be done is the filing of a paper in court, a day on which weather or other conditions have made the office of the clerk of the court inaccessible, in which event the period shall run until the end of the next day that is not one of the aforementioned days. As used in this Section, "legal holiday" includes New Year's Day, Birthday of Martin Luther King, Jr., Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas

Day and any other day appointed as a holiday by the President or the Congress of the United States.

L. The Parties reserve the right, subject to the Court's approval, to make any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement.

M. All parties agree that this Settlement Agreement was drafted by counsel for the Parties at arm's length, and that no parol or other evidence may be offered to explain, construe, contradict or clarify its terms, the intent of the Parties of their counsel, or the circumstances under which the Settlement Agreement was made or executed.

N. In no event shall the Settlement Agreement, any of its provisions or any negotiations, statements or court proceedings relating to its provisions in any way be construed as, offered as, received as, used as or deemed to be evidence of any kind in the Action, any other action, or any judicial, administrative, regulatory or other proceeding, except a proceeding to enforce this Settlement Agreement. Without limiting the foregoing, neither this Settlement Agreement nor any related negotiations, statements or court proceedings shall be construed as, offered as, received as, used as or deemed to be evidence or an admission or concession of any liability or wrongdoing whatsoever on the part of any person or entity, including, but not limited to CLIC.

O. CLIC expressly denies any wrongdoing alleged in the pleadings and does not admit or concede any actual or potential fault, wrongdoing or liability in connection with any facts or claims that have been or could have been alleged against it in this Action, but considers it desirable for the Action to be settled and dismissed because this settlement will (a) provide substantial benefits to CLIC's present and former policy owners, (b) avoid the substantial expense and the further disruption of the management and operation of CLIC's business due to

the pendency and defense of the Action, and (c) finally put Plaintiffs' claims and the underlying matters to rest.

**P.** Plaintiffs expressly affirm that the allegations contained in the Complaint were made in good faith and have a substantial basis in fact, but consider it desirable for the Action to be settled and dismissed because of the substantial benefits that the proposed settlement will provide to Class Members.

**Q.** No opinion concerning the tax consequences of the proposed settlement to individual Class Members is being given or will be given by CLIC, Defendants' Counsel or Lead Counsel; nor is any representation or warranty in this regard made by virtue of this Settlement Agreement. The Class Notice Package will direct Class Members to consult their own tax advisors regarding the tax consequences of the proposed settlement, including any payments, contributions or credits provided hereunder, and any tax reporting obligations they may have with respect thereto. Each Class Member's tax obligations, and the determination thereof, are the sole responsibility of the Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Class Member.

**R.** The Parties, their successors and assigns, and their attorneys undertake to implement the terms of this Settlement Agreement in good faith, and to use good faith in resolving any disputes that may arise in the implementation of the terms of this Settlement Agreement.

**S.** The Parties, their successors and assigns, and their attorneys agree to cooperate fully with one another in seeking court approval of this Settlement Agreement and to use their best efforts to effect the prompt consummation of this Settlement Agreement and the proposed settlement.

T. This Settlement Agreement may be signed in counterparts, each of which shall constitute a duplicate original.

Stipulated and agreed:

Attorneys for Plaintiffs

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