

OHIO DEPARTMENT OF INSURANCE

**A
TARGETED
MARKET CONDUCT EXAMINATION
OF
CONSECO LIFE INSURANCE COMPANY
NAIC #65900**

As Of

December 31, 2001





Bob Taft, Governor

Ann Womer Benjamin, Director

2100 Stella Court, Columbus, OH 43215-1067
(614) 644-2658 www.ohioinsurance.gov

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

Director:

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

Conseco Life Insurance Company
NAIC Company Code 65900

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

11815 N. Pennsylvania Street, Carmel, Indiana 46032

A report of the examination is enclosed.

Respectfully submitted,

David R. Beck
Chief, Market Conduct Division

Date: _____



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Consumer Hotline: 1-800-686-1526 Fraud Hotline: 1-800-686-1527 OSHIIP Hotline: 1-800-686-1578

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SCOPE OF EXAMINATION

The examination of Conseco Life Insurance Company (the Company) commenced on June 24, 2002 at the Company's home office in Carmel, Indiana. The examination was restricted to Company activities for individual ordinary life insurance business from the period of January 1, 2000 through December 31, 2001. The examination is reported by test.

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

- A. Company History
- B. Company Operations
- C. Certificate of Authority
- D. Marketing
- E. Illustrations
- F. Replacements
- G. Policyholder Services
- H. Paid Claims

METHODOLOGY

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

Only files with Ohio insureds, policyholders or claimants were reviewed. A series of tests were designed and applied to the files reviewed to determine the Company's level of compliance to the Ohio insurance statutes, rules and regulations. These tests are described and the results noted in this report.

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

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

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

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

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

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

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

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

SAMPLING

The Examiners requested, and the Company supplied, reports of policy and claim data in file formats specified by the Examiners, which could be reviewed on an IBM compatible personal computer. Except as otherwise noted, all tests were conducted on a sample of files randomly selected from a given report. These samples were selected using a standard business database application that provides a true random sample since it supplies a random starting point from which to pull the sample.

COMPANY HISTORY

The Company was incorporated in Massachusetts on January 30, 1962 as the Massachusetts General Life Insurance Company. The Company officially commenced business on May 3, 1962. In 1997, the Company was redomesticated to Indiana and the present title of Conseco Life Insurance Company was adopted.

The Company merged with Gateway Life Insurance Company in 1972; Loyal Protective Life Insurance Company in 1978; Security Guaranty Life Insurance Company in 1985; Bankers Union Life Insurance Company in 1988; Chase National Life Insurance Company in 1991; Lamar Life Insurance Company in 1998; Philadelphia Life Insurance Company in 1998; and United Presidential Life Insurance Company in 2001.

COMPANY OPERATIONS

Conseco Life Insurance Company is a stock life company, ultimately owned by Conseco, Inc. and is the group's primary vehicle through which traditional and universal life insurance is written and administered. The Company is licensed in all states (except New York), the District of Columbia, Guam, Puerto Rico and the U.S. Virgin Islands.

The Company's reported life direct premiums written and direct losses paid during the examination period are as follows:

	Ordinary Life Direct Written Premium		Ordinary Life Direct Claims and Benefits Paid	
	<u>2000</u>	<u>2001</u>	<u>2000</u>	<u>2001</u>
Ohio	\$6,695,877	\$10,941,864	\$13,037,060	\$15,275,695
National	<u>\$429,762,002</u>	<u>\$478,311,865</u>	<u>\$526,194,197</u>	<u>\$565,502,504</u>

Total Life Direct Written Premium		
	<u>2000</u>	<u>2001</u>
Ohio	\$6,699,319	\$10,954,379
National	<u>\$432,492,661</u>	<u>\$480,733,271</u>

Note: Ordinary Direct Written Premium and Ordinary Direct Claims and Benefits Paid by state for 2000 and 2001 were taken from the Company's Financial Annual Statements.

As of December 31, 2001, the officers of the Company were:

President:	Elizabeth Coit Georgakopoulos
Treasurer:	James Stephen Adams
Secretary:	David Kerr Herzog
Actuary:	James Steven Hawke

CERTIFICATE OF AUTHORITY

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

MARKETING

The Company conducts its operations through broker/dealers and a large network of independent agents. Overall, there are 200 active marketing companies and 2,000 active agents selling for Conseco Life Insurance Company in Ohio at the present time.

The Company's life insurance products are primarily sold through its distribution network of independent agents who help them sell various types of products for different life insurance companies.

The Company's life product line includes level-term life insurance, flexible-premium nonparticipating universal life insurance, flexible-premium equity-indexed universal life insurance, flexible-premium variable universal life insurance, flexible premium nonparticipating fixed-interest and equity-indexed second-to-die universal life insurance, simplified issue whole life insurance and modified-premium interest-sensitive whole life insurance.

A review of the Company's marketing materials was also conducted during this exam. This review was done to assure the Company was not engaging in any unfair or deceptive practices, in compliance with Ohio Revised Code §3901.21. The review of these materials did not indicate any statement or representation that appeared to be untrue, deceptive or misleading.

PRODUCER LICENSING

The Examiners requested, and the Company supplied, a report of all Ohio agent terminations processed between January 1, 2000 and December 31, 2001. From this population, the examiners selected 193 terminations to determine if any agents were terminated for cause. If any agents were terminated for cause, did the Company notify the Ohio Department of Insurance of the complete statements and facts surrounding the termination in compliance with Ohio Revised Code §3905.012 (B) and Rule 3901-1-40 (C) of the Ohio Administrative Code?

The Examiners were unable to determine if ten agents had been terminated for cause during the exam period because the agent file did not contain any agent termination information.

The Examiners recommend that a procedure be implemented to include enough documentation in agent termination files to indicate whether or not the agent was terminated for cause.

Company's Response: We will take the recommendation made by the Examiners to ensure that the agent terminations files contain the proper documentation as it relates to an agent termination.

ILLUSTRATIONS

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

Test: Did the Company file the Annual Life Illustrations Certifications as required by Rule 3901-6-04 (K) (4) of the Ohio Administrative Code and did the Certifications accurately state which policies were being marketed with illustrations?

Methodology:

- The Company supplied the following data files:

1. Ordinary Individual Life new business written during the examination period.
 2. A file of all policy forms and plan codes used to write Ordinary Individual Life new business. This file indicated whether or not these policy forms used illustrations.
- The Company supplied copies of the Annual Life Insurance Illustration Certifications for the years covered in the examination period.
 - Each policy form was manually checked against the Annual Life Illustration Certifications to verify that the Certification was accurate and complete.
 - A file was considered an exception if either:
 1. A policy form was listed in the Company supplied data files as using an illustration but was not listed as using an illustration per the Company-supplied Annual Life Illustration Certifications,
 2. A policy form was listed on the Annual Life Insurance Illustration Certification, but not marked accordingly in the Company supplied data files.

Findings:

The examiners found no illustrated policy forms that were not identified on the Annual Life Insurance Illustration Certification.

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

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

Methodology:

- The Company supplied the following data files:
 1. Ordinary Individual Life new business written during the examination period.
 2. A file of all the policy forms and plan codes used to write Ordinary Individual Life new business.

- The Company supplied copies of the Annual Life Insurance Illustration Certifications for the years covered in the examination period.
- A sample of fifty (50) new Ordinary Individual Life policies, indicating the use of illustrations, were pulled for review.
- Each policy file was reviewed to verify that all required information was contained in the illustration and that it was delivered according to the illustration law.
- A file was considered an exception if it did not comply with the portion of the illustration laws tested.

Findings: Please refer to page 9 of 36.

Test	Population	Sample	Yes	No	Standard	Compliance
Did the file contain the required illustration?	1,869	50	48	2	90%	96%
Was the agent issued illustration or certification signed at the date of the application?	1,869	50	39	11	90%	78%
Was the illustration clearly labeled "Life Insurance Illustration", did it contain the name of the insurer, the name, age, and sex of the insured, the name and business address of the agent or other authorized representative, the underwriting/rating class, the generic policy name, product name and form number, the initial death benefit, when applicable the dividend option election or application of non-guaranteed elements and were the terms defined in language understood by the typical public?	1,869	50	30	20	90%	60%
Did the illustration not include prohibited misleading representations?	1,869	50	45	5	90%	90%
Did the basic illustration contain all parts required?	1,869	50	45	5	90%	90%
Did the Narrative Summary contain all parts required?	1,869	50	45	5	90%	90%
Did the Numeric Summary contain the required statements that were signed and dated by both the agent and the policy owner; include policy maturity and final expiration if premium was to change; contain the correct guaranteed death benefit and surrender value corresponding to the policy year for which the contract premium has been paid; and were non-guaranteed elements shown for the same duration as guaranteed elements?	1,869	50	41	9	90%	82%
Was the revised illustration sent with the policy marked as "Revised Illustration", signed and dated by the applicant or policy owner no later than the policy delivery date and did the Company receive a signed copy of the revised illustration?	1,869	50	44	6	90%	88%

The standard of compliance is 90%. The Company's performance was below the minimum standard in four (4) tests.

Examiners' Recommendations:

1. The Company's rules and procedures pertaining to company requirements in connection with illustrations should comply with applicable statutes, rules and regulations.
2. The Company should institute agent training and awareness of the illustration requirements of Rule 3901-6-04 of the Ohio Administrative Code.
3. For documentation purposes, the Company should maintain an entire copy of the illustration. This should include the first illustration from the agent and the revised illustrations sent by Company personnel if any were produced.
4. The Company should insist and verify that the illustration contains the name of the proposed insured.
5. The Company should insist and verify that the illustration and the "Revised Illustration" be signed and dated by the applicant or policy owner.
6. The Company should insist and verify that the illustration and the "Revised Illustration" be signed and dated by the insurance agent or other authorized representative of the insurer.

Company's Response:

Test1: Did the file contain the required illustration? **Response1:** *No comment.*

Test2: Was the agent issued illustration or certification signed at the date of the application?

Response2: Conseco Life Insurance Company, herein after referred to as The Company, is sending out a field bulletin to all agents reiterating the illustration requirements of Rule 3901-6-04 of the Ohio Administrative Code.

Test3: Was the illustration clearly labeled "Life Insurance Illustration", did it contain the name of the insurer, the name, age, and sex of the insured...? **Response3:** Out of the 20 files found to be noncompliant, 15 of these had all the necessary requirements with the exception of the proposed insured's name. The Company used the policy number instead to ensure the illustration was matched to the correct file. The Company maintains written procedures for

illustrations, which comply with the applicable Ohio statutes, rules, and regulations. The Company will take action to ensure these procedures are being enforced and followed. The remaining five files were noncompliant since a complete copy of the illustration was not in the file. The Company has written procedures in place to keep a complete copy of the illustration in the file; however, sometimes we are unable to obtain a copy of the complete signed illustration from the insured. The Company does its best and takes many efforts to obtain a signed copy of the illustration or revised illustration from the insured, but there are times we cannot force the insured to comply with our request.

Test4: Did the illustration not include prohibited misleading representations? **Response4:** *No comment.*

Test5: Did the basic illustration contain all parts required? **Response5:** *No comment.*

Test6: Did the Narrative Summary contain all parts required? **Response6:** *No comment.*

Test7: Did the Numeric Summary contain the required statements that were signed and dated by both the agent and the policy owner...? **Response7:** The Company agrees with the examiners findings that 41 of the 50 files were found to be in compliance leaving only 9 files out of compliance with this test. One policy was only found to be noncompliant with regard to the revised illustration. The original illustration was in compliance with this specific test and is attached as Exhibit B. The Company has written procedures in place to keep a complete copy of the illustration in the file; however, sometimes we are unable to obtain a copy of the complete signed illustration from the insured.

Test8: Was the revised illustration sent with the policy marked as “Revised Illustration”, signed and dated by the applicant or policy owner...? **Response8:** The Company agrees with the examiners findings that 44 of the 50 files were found to be in compliance leaving 6 files out of compliance with this test.

The Company maintains written procedures for illustrations, which comply with the applicable statutes, rules, and regulations of the Ohio Insurance Code. The Company strives to do its best and will continue to enforce that these procedures are being followed.

REPLACEMENTS

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

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

Methodology:

- The Examiners reviewed all written policies and procedures that instructed the agents on the Company's replacement procedures and requirements.
- The Company supplied the following data files:
 1. The Company's replacement register for business replaced in Ohio.
 2. Ordinary Individual Life new business written in Ohio during the examination period. This data file stated for each policy whether it was a replacement for another existing life insurance policy owned by the insured.
 3. Policies terminated in Ohio during the examination period.
 4. Policies in-force in Ohio as of the end of the examination period.
- All of the data files supplied were compared to each other, looking for possible unreported replacements.
- A file was produced for review containing:
 1. A random sample of one hundred (100) policies listed in the replacement register.
- A file was considered an exception if it did not comply with the portion of the agent requirement section of the replacement laws tested.

Findings:

Four (4) files were not located by the Company so the files were deemed to have failed all applicable tests.

Agent requirements for replacements:

Test	Population	Sample	Yes	No	Standard	Compliance
Did the agent submit a statement signed by the applicant as to whether a replacement was involved?	440	100	93	7	90%	93%
Did the agent submit a statement signed by the agent as to whether he/she knew that a replacement was involved?	440	100	94	6	90%	94%
Did the agent present to the applicant a "Notice Regarding Replacement"?	440	100	87	13	90%	87%
Was the "Notice Regarding Replacement" signed not later than the time of taking the application?	440	100	85	15	90%	85%
Did the agent submit a copy of the "Notice Regarding Replacement" to the replacing company?	440	100	89	11	90%	89%
Was the "Notice Regarding Replacement" signed by both the applicant and the agent?	440	100	32	68	90%	32%
Did the agent submit a completed application to the replacing company?	440	100	93	7	90%	93%
Did the agent obtain a list of all existing life insurance to be replaced and was the list properly identified by name of insurer, the insured and contract number?	440	100	33	67	90%	33%

The standard of compliance is 90%. The Company's performance was below the minimum standard in (5) tests.

Examiners' Recommendations:

1. It is recommended that the Company's rules and procedures pertaining to agent requirements in connection with replacements comply with applicable statutes, rules and regulations.
2. It is also recommended that the agents should consistently use the Notice Regarding Replacement Form (13514) that has an effective date of 6/2000.
3. It is also recommended in every situation where a replacement is involved, the agent should present to the applicant, not later than at the time of taking the application, a "Notice Regarding Replacement."
4. It is also recommended in every situation where a replacement is involved, the agent should submit a copy of the "Notice Regarding Replacement" to the replacing insurer.
5. In particular, it is recommended that the Company should require from the agent with the application a list of all the applicant's existing life insurance to be replaced, and properly identified by the name of the insurer, insured and contract or policy number.
6. In particular, it is also recommended that the Company institute new policies and procedures to insure that both the agent and applicant sign the "Notice of Replacement" before any application is accepted.

Company's Response:

Test1: Did the agent submit a statement signed by the applicant as to whether a replacement was involved? **Response1:** *No Comment.*

Test2: Did the agent submit a statement signed by the agent as to whether he/she knew that a replacement was involved? **Response2:** *No Comment.*

Test3: Did the agent present to the applicant a "Notice Regarding Replacement"? **Response3:** The Company is sending out a field bulletin to all agents reiterating the replacement requirements according to Rule 3901-6-05 of the Ohio Administrative Code.

Test4: Was the "Notice Regarding Replacement" signed not later than the time of taking the application? **Response4:** 4 of the 15 noncompliant files are the 4 files deemed to have failed all tests since these files could not be found. The Company respectfully states that even though

these files could not be located, this does not necessarily mean they were proven to be noncompliant.

Test5: Did the agent submit a copy of the “Notice Regarding Replacement” to the replacing company? **Response5:** Even though no evidence exists in the 7 files for this specific test, it cannot be 100% concluded that the agent did not submit a copy of the Notice Regarding Replacement to the replacing company only that a copy did not reach the home office or the file. The remaining 4 noncompliant files are the 4 files deemed to have failed all tests since these files could not be found. The Company respectfully states that even though these files could not be located, this does not necessarily mean they were proven to be noncompliant.

Test6: Was the “Notice Regarding Replacement” signed by both the applicant and the agent? **Response6:** The Company would like to request that this specific test only count as 1 infraction rather than 68 infractions since the incorrect Ohio Notice of Replacement form was being used, which did not allow a line for the agent’s signature. During the course of the exam, this error was brought to the Company’s attention and we have since started using the correct Ohio replacement form. Four of the 68 files were deemed to have failed all tests since these files could not be found. The Company respectfully states that even though these files could not be located, this does not necessarily mean they were proven to be noncompliant.

Test7: Did the agent submit a completed application to the replacing company? **Response7:** *No Comment.*

Test8: Did the agent obtain a list of all existing life insurance to be replaced and was the list properly identified by name of insurer, the insured and contract number? **Response8:** Of the 67 files found to be noncompliant, 63 of these files did not include on the application the contract number of the applicant’s existing insurance contract. The Company has revised replacement form 13514 to include a section for name of insured, insurer name, and policy/contract number. Four of the 100 files were deemed to have failed all tests since these files could not be found. The Company respectfully states that even though these files could not be located, this does not necessarily mean they were proven to be noncompliant.

The Company’s rules and procedures pertaining to agent requirements in connection with replacements comply with the applicable statutes, rules, and regulations of the Ohio Insurance Code. The Company strives to do its best and will continue to enforce that these procedures are

being followed by our agents. The agents were informed during the course of the exam of the correct Ohio Replacement Form (13514) to use and have since been following this requirement. The agents will be notified with a field bulletin to reiterate the procedures regarding replacements. The Ohio Replacement Form (13514) has being revised to incorporate a place for the agent to obtain a list of existing insurance, including the insured name, the insurer name, and the contract or policy number and will be sent out to all agents December 10, 2002.

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

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

Methodology:

- The Examiners reviewed all written policies and procedures on the Company's replacement procedures and requirements.
- The Company supplied the following data files:
 1. The Company's replacement register for business replaced in Ohio.
 2. Ordinary Individual Life new business written in Ohio during the examination period. This data file stated for each policy whether it was a replacement for another existing life insurance policy owned by the insured.
 3. Policies terminated in Ohio during the examination period.
 4. Policies in-force in Ohio as of the end of the examination period.
- All of the data files supplied were compared to each other, looking for possible unreported replacements.
- A file was produced for review containing:
 1. A random sample of one hundred (100) policies listed in the replacement register.
- A review was performed of the replacement register to determine if it contained all of the necessary information according to state statutes, rules and regulations.

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

Findings:

Four (4) files were not located by the Company so the files were deemed to have failed all applicable tests.

Company's Response: *No Comment*

Company requirements for replacements:

Test	Population	Sample	Yes	No	Standard	Compliance
Did the Company require a statement by the applicant as to whether the proposed insurance would replace existing life insurance?	440	100	96	4	90%	96%
Did the Company require a statement signed by the agent as to whether the agent knew a replacement was or could be involved?	440	100	96	4	90%	96%
Did the Company require from the agent, with the application, a list of all the applicant's existing life insurance to be replaced and was that list properly identified by the name of the insurer, insured and contract number?	440	100	0	100	90%	0%
Did the Company require from the agent, with the application, a copy of the "Notice Regarding Replacement"?	440	100	96	4	90%	96%
Did the Company maintain evidence in the file of the "Notice Regarding Replacement", the policy and contract summary or any ledger statement used?	440	100	88	12	90%	88%
Did the Company provide notification in or with the policy about the 20 day free look period and premium refund?	440	100	96	4	90%	96%
Did the Company send a written communication to the existing insurer advising of the replacement within three (3) working days of receipt of the application?	440	100	89	11	90%	89%
Did the Company include in the written communication a policy or contract summary or ledger statement to each existing insurer?	440	100	3	97	90%	3%

The standard of compliance is 90%. The Company's performance was below the minimum standard in four (4) tests.

Examiners' Additional Comments:

1. The review of the actual replacement register showed that the Company was maintaining the register as required.

Examiners' Recommendations:

1. It is recommended that the Company's rules and procedures pertaining to company requirements in connection with replacements comply with applicable statutes, rules and regulations.
2. It is also recommended that the Company should instruct their agents to consistently use the Notice Regarding Replacement Form (13514) that has an effective date of 6/2000.
3. It is also recommended that the Company put into place a procedure to insure documentation is kept of all correspondence involved in the replacement of existing insurance.
4. In particular, it is recommended that the Company should instruct their agents to obtain with the application a list of all the applicant's existing life insurance to be replaced, and properly identified by the name of the insurer, insured and contract or policy number.
5. It is also recommended that the Company maintain evidence in their policy file of the "Notice Regarding Replacement", the policy and contract summary or any ledger statement used.
6. It is also recommended that the Company should send a written communication to each existing insurer advising of the replacement within three (3) working days of receipt of the application.
7. In particular, it is recommended that the Company should include in the written communication to each existing insurer a policy summary, contract summary or ledger statement.

Company's Response:

Test 1: Did the Company require a statement by the applicant as to whether the proposed insurance would replace existing life insurance? **Response 1:** *No comment.*

Test 2: Did the Company require a statement signed by the agent as to whether the agent knew a replacement was or could be involved? **Response2:** *No Comment*

Test 3: Did the Company require from the agent, with the application, a list of all the applicant's existing life insurance to be replaced and was that list properly identified by the name of the insurer, insured and contract number? **Response 3:** Of the 100 files found to be noncompliant, 96 of these files did not include on the application the contract number of the applicant's existing insurance contract. The Company has revised replacement form 13514 to include a section for name of insured, insurer name, and policy/contract number. Four of the 100 files were deemed to have failed all tests since these files could not be found. The Company respectfully states that even though these files could not be located, this does not necessarily mean they were proven to be noncompliant.

Test 4: Did the company require from the agent, with the application, a copy of the "Notice Regarding Replacement"? **Response 4:** *No Comment*

Test 5: Did the Company maintain evidence in the file of the "Notice Regarding Replacement", the policy and contract summary or any ledger statement used? **Response 5:** 4 of the files sampled were deemed to have failed all tests since these files could not be found. The Company respectfully states that even though these files could not be located, this does not necessarily mean they were proven to be noncompliant.

Test 6: Did the Company provide notification in or with the policy about the 20-day free look period and premium refund? **Response 6:** *No Comment*

Test 7: Did the Company send a written communication to the existing insurer advising of the replacement within three (3) working days of receipt of the application? **Response 7:** 4 of the files sampled were deemed to have failed all tests since these files could not be found. The Company respectfully states that even though these files could not be located, this does not necessarily mean they were proven to be noncompliant.

Test 8: Did the Company include in the written communication a policy or contract summary or ledger statement to each existing insurer? **Response 8:** The Company does send with the replacement form a sales proposal to the existing insured. This is part of the procedure followed by the New Business Department

POLICYHOLDER SERVICES

Standard: Policy transactions are processed accurately and completely.

Test: Did the Company process terminated policies according to the policy provisions and Ohio Revised Code §3915.071?

Methodology:

- The Examiners' requested, and the Company supplied, a data file containing all terminations that occurred during the exam period.
- From the data file, individual populations of expired, lapsed and surrendered policies were developed.
- A terminated file would be considered an exception if:
 1. Cash surrender values were not calculated correctly or not provided when required.
 2. Nonforfeiture benefits were not offered to the policyholder according to the policy provisions.
 3. The policy was not terminated according to policy provisions.

Findings: Expired Policies

Population	Sample	Yes	No	Standard	Compliance
43	43	35	8	90%	81%

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

- Seven (7) files did not comply because the company was unable to locate the plan code and therefore provide a specimen policy for review of the policy provisions.
- One (1) file did not comply because the company was unable to locate a copy of the file.

Findings: Lapsed Policies

Population	Sample	Yes	No	Standard	Compliance
382	50	47	3	90%	94%

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

- Three (3) files did not comply because the policy file was incomplete. It did not appear that the insured received a notification of the lapse.

Findings: Surrendered Policies

Population	Sample	Yes	No	Standard	Compliance
289	50	49	1	90%	98%

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

- One (1) file did not comply because the surrender value was not calculated correctly.

Examiners' Recommendations:

1. The company should implement procedures that would enable it to reconstruct its termination activities by full and complete documentation of policy provisions and company correspondence relating to the policy termination.

Company's Response:

Expired Policies: Please find attached in [Exhibit I] three of the policy specimens not previously found. I would request that the examiners review these three policy specimens and the corresponding files to determine if they comply with the test.

Lapsed Policies: Test: Did the Company process terminated policies according to the policy provisions and Ohio Revised Code §3915.071? **Response Lapsed Policies:** *No Comment*

Surrendered Policies: Test: Did the Company process terminated policies according to the policy provisions and Ohio Revised Code §3915.071? **Response Surrendered Policies:** *No Comment*

PAID CLAIMS

Adequate Documentation

Standard: Claim files are adequately documented.

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

Methodology:

- The Examiners' requested, and the Company supplied, a report of all claims files that had death claims paid on them during the exam period. The Examiners' selected a random sampling of 50 files to test for compliance with Ohio Revised Code §3901-1-07.

- The claim files were reviewed to verify dates in the claim process.
- A claim was considered an exception if proper documentation could not be found within the claim file.

Findings:

Population	Sample	Yes	No	Standard	Compliance
189	50	48	2	93%	96%

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

- One (1) file did not comply because the complete file could not be located.
- One (1) file did not comply because the death certificate, claimant’s statement and claims worksheet were not in the file.

Initial Contact

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

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

Methodology:

- The Examiners’ requested, and the Company supplied, a report of all claims files that had death claims paid on them during the exam period. The Examiners’ selected a random sampling of 50 files to test for compliance with Ohio Revised Code §3901-1-07(C) (5).
- The claim files were reviewed to verify dates in the claim process.

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

Findings:

Population	Sample	Yes	No	Standard	Compliance
189	50	42	8	93%	84%

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

- Eight (8) files did not comply because the company did not contact the claims within fifteen (15) working days of receiving notice of the claim.

Examiners' Recommendations:

1. The company should implement procedures to assure that the claimant is contacted within fifteen (15) working days of receiving notice of the claim.

Timely Investigation

Standard: Investigations are conducted in a timely manner.

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

Methodology:

- The Examiners’ requested, and the Company supplied, a report of all claims files that had death claims paid on them during the exam period. The Examiners’ selected a random sampling of 50 files to test for compliance with Ohio Revised Code §3901-1-07(C) (4).
- The claim files were reviewed to verify dates in the claim process.
- A claim was considered an exception if the Company did not begin investigating the claim within the required time frame or could not document investigating the claim with the required time frame.

Findings:

Population	Sample	Yes	No	Standard	Compliance
189	50	40	10	93%	80%

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

- Ten (10) files did not comply because the company did not begin investigating the claim within fifteen (15) working days of receiving notice of the claim.

Examiners’ Recommendations:

1. The company should implement procedures to assure they begin investigating the claim within fifteen (15) working days of receiving notice of the claim.

Timely settlement

Standard: Claims are settled in a timely manner.

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

Methodology:

- The Examiners’ requested, and the Company supplied, a report of all claims files that had death claims paid on them during the exam period. The Examiners’ selected a random sampling of 50 files to test for compliance with Ohio Revised Code §3915.05 (K).
- The claim files were reviewed to verify dates in the claim process.
- A claim was considered an exception if the Company did not settle the claim within the required time frame.

Findings:

Population	Sample	Yes	No	Standard	Compliance
189	50	45	5	93%	90%

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

- Five (5) files did not comply because the company did not settle the claim within two months after the receipt of due proof of death.

Examiners’ Recommendations:

1. The company should implement procedures to assure that the claim is settled not later than two months after the receipt of due proof of death.

Timely response to Correspondence

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

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

Methodology:

- The Examiners’ requested, and the Company supplied, a report of all claims files that had death claims paid on them during the exam period. The Examiners’ selected a random sampling of 50 files to test for compliance with Ohio Revised Code §3901-1-07(C) (2).
- The Company provided computer files of all claims paid during the examination period.
- The Examiners selected a random sampling of 50 claims files for review.
- The claim files were reviewed to verify dates in the claim process.
- A claim was considered an exception if the file showed that the Company did not respond to subsequent, not the initial contact, claim correspondence within the required time frame.

Findings:

Population	Sample	Yes	No	Standard	Compliance
189	50	39	11	93%	78%

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

- Eleven (11) files did not comply because the company did not respond to all claim correspondence within 15 days.

Examiners’ Recommendations:

1. The company should implement procedures to assure they respond to all claim correspondence within 15 days.

Claim handling

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

Test: Were the claims correctly paid with interest from the date of the death of the insured to the date of the payment of the proceeds according to §3915.052 of the Ohio Revised Code?

Methodology:

- The Examiners’ requested, and the Company supplied, a report of all claims files that had death claims paid on them during the exam period. The Examiners’ selected a random sampling of 50 files to test for compliance with Ohio Revised Code §3915.052
- The Company provided computer files of all claims paid during the examination period.
- The Examiners selected a random sample of 50 claims files for review.
- The claim files were reviewed to verify dates in the claim process, the insured’s resident state at the time of death and the issue state of the policy.
- A payment set up as a separate account/checking account for the beneficiary was considered a lump sum payment.
- A claim file was considered an exception if the Company did not accurately calculate interest payments due.

Findings:

Population	Sample	Yes	No	Standard	Compliance
189	50	32	18	93%	64%

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

- Eighteen (18) files did not comply because the interest computation was incorrect due to the Company’s not using the higher of the annual short-term applicable federal rate in effect at the time of death or the current Company rate in effect at the date of payment. In addition, the formula utilized to calculate the interest was incorrect in some cases where the annual short-term federal rate and the current Company rate were identical. This resulted in underpaid interest on claims.

Examiners' Recommendations:

1. It is recommended that the Company's rules and regulations pertaining to paid claims comply with applicable statutes, rules and regulations.
2. It is recommended that the Company revise its procedures concerning methods used in computing interest on paid death claims.
3. The Company should review all Ohio claims for the exam period and pay any additional interest due to claimants, based on the corrected interest rates and computations.

Company's Response:

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

Response: *No comment*

Initial Contact: Test: Upon receiving notification of claim, did the Company contact claimant within fifteen (15) working days of receiving notice of claim according to Rule 3901-1-07 (C) (5) of the Ohio Administrative Code? **Response:** The Company's procedures are to notify the claimant within 15 working days from receipt of the notice of claim. We recognize that we were deficient in 8 of the 50 files sampled. We will make every effort to maintain and monitor this process in the future.

Timely Investigation: Test: Did the Company begin investigating the claim within fifteen (15) working days of receiving the notice of the claim according to Rule 3901-1-07 (C) (4) of the Ohio Administrative Code? **Response:** The Company's procedures are to begin the investigation of a claim within 15 working days from receipt of notice of claim. We recognize that in 10 of the 50 files sampled, we were deficient in this area. We will make every effort to maintain and monitor this process in the future.

Timely settlement: Test: Was the claim settled no later than two months after the receipt of due proof of death according to 3915.05 (K) of the Ohio Revised Code? **Response:** The

Company's procedures are to work to settle a claim within not later than two months after receipt of due proof of death pursuant to 3915.08 (K) of the Ohio Revised Code. We recognize that in 5 of the 50 files sampled, we failed to be in compliance with this code. We are making every effort to maintain and monitor this process in the future.

Timely Response to Correspondence: Test: Did the Company respond to all claim correspondence within 15 days according to Rule 3901-1-07 (C) (2) of the Ohio Administrative Code? **Response:** The Company's procedures are to respond to all claim correspondence within 15 days from receipt of claim pursuant to Rule 3901-1-07 (C) (2) of the Ohio Administrative Code. We recognize that in 11 of the 50 policies sampled we were not in compliance with this code. We are making every effort to maintain and monitor this process in the future.

Claim Handling: Test: Were the claims correctly paid with interest from the date of death of the insured to the date of payment of the proceeds according to 3915.052 of the Ohio Revised Code? **Response:** The Company's procedures are to correctly pay claims with interest from the date of death of the insured to the date of payment proceeds pursuant to 3915.052 of the Ohio Revised Code. We recognize that we were out of compliance on 18 of the 50 policy files sampled. This issue was brought to the attention of the Claims Department and they are making every effort to make sure that the files found are credited correctly pursuant to 3915.052 of the Ohio Revised Code.

Cancelled checks and drafts

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

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

Methodology:

- The Examiners’ requested, and the Company supplied, a report of all claims files that had death claims paid on them during the exam period. The Examiners’ selected a random sampling of 50 files to test for compliance with Ohio Revised Code §3901-1-07.
- Canceled benefit checks were reviewed and compared to claim files to verify correct payee, payment amounts and payment dates.
- A claim was considered an exception if the Company did not follow Company procedures for claim payments or the provisions in the initial policy and if information on the canceled benefit check did not match information in the claim file itself.
- A claim was also considered an exception if a copy of the canceled check was not available.

Findings:

Population	Sample	Yes	No	Standard	Compliance
189	50	35	15	93%	70%

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

- Fifteen (15) files did not comply because a copy of the canceled check was not available.

Examiners’ Recommendations:

1. The Company should implement procedures to assure that a copy of the canceled check is available on all death claims in order to document that the claim was paid according to Company policies, policy provisions and beneficiary requests.

Company Response: The Company recognizes that we did not fall into compliance with regard to 15 out 50 of the policy files sampled. We will take the recommendation made by the examiner and monitor this process on future claims to ensure we are in compliance.

ADDITIONAL EXAMINATION FINDINGS

Unfortunately, the company did not supply the information requested by the data specialists and the examiners in a timely manner. In some situations, the information provided to the examiners was illegible. It appears a quality control program should be implemented to monitor the quality of scanned documents.

In addition, the Examiners conducted a review of the Company's complaint register. The Company received a total of thirty-two (32) complaints during the exam period. The review was conducted to assure the complaint register was being maintained adequately and to uncover any problem areas or negative trends in service. The exam findings went as follows:

- Ten (10) of the complaints involved delays in processing surrenders, transfers, premium payment, illustrations, quotes, cancellations and policy changes.
- Six (6) of the complaints involved policy performance.
- Three (3) of the complaints involved procedures in processing policy conversions, premium applications and cash values.
- Three (3) of the complaints involved agent related issues regarding policy issuance and cancellations.
- Five (5) of the complaints involved errors in processing the application and policy loans.
- Two (2) of the complaints involved requests for general information.
- One (1) of the complaints involved premium notices.
- One (1) of the complaints involved a customer relations issue regarding a cancellation.
- One (1) of the complaints involved a problem with a bank draft.

Examiners' Recommendations:

1. The company should periodically review their complaint register to find possible problems with the policyholder service area of their business.
2. The company should continually strive to process business in a timely and efficient manner.

Company's Response:

The Market Conduct Department does have in place a procedure to monitor the complaint register for use in identifying any service problems within the policyholder service area. Each department within the company has its own guidelines to address any issues that may arise with regard to policyholder service issues. We are constantly in a stage of improving our processes.

In response to not providing the requested data in a timely manner, we make every effort to supply any and all information as it is requested by the examiner. However, due to the size of the Company, the influx of different computer systems and the age of the data requested, we feel that we adequately responded in the time allowed. In some instances we were given a request for information either late afternoon or on a Friday before the examiners departed for the weekend. This was counted as one day against us in our response time. With regard to receiving the request on a Friday, it could be assumed that the request for information may not have been processed until Monday (the due date for the information) due to it being a weekend. The Company strives to be the best and to provide quality to its customers both internally and externally. We are in a constant state of improvement and are making strides to improved service.

SUMMARY

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

<u>Areas of Review</u>	<u>Compliance Standard</u>	<u>Compliance Rate</u>
Illustrations		
Illustration/Certification Signed as of Application Date	90%	78%
Illustration clearly labeled and containing all required information	90%	60%
Numeric Summary containing all required information	90%	82%
Proper Procedures for Revised Illustrations	90%	88%
Replacements – Agent Requirements		
“Notice Regarding Replacement” presented to applicant	90%	87%
“Notice Regarding Replacement” signed as of Application Date	90%	85%
“Notice Regarding Replacement” submitted to replacing company	90%	89%
“Notice Regarding Replacement” signed by applicant and agent	90%	32%
Obtain list of existing life insurance to be replaced containing all required information	90%	33%
Replacements – Company Requirements		
Obtain list of existing life insurance to be replaced containing all required information	90%	0%
Maintain evidence of the Notice, policy and contract summary	90%	88%
Send a written communication to existing insurer within 3 days	90%	89%
Include in written communication a policy or contract summary	90%	3%
Policyholder Services		
Expired Policies terminated according to policy provisions	90%	81%
Claims		
Initial Contact with Claimant	93%	84%
Timely Investigation	93%	80%
Timely Settlement	93%	90%
Timeliness in Responding to Claim Correspondence	93%	78%
Correct payment with interest	93%	64%
Canceled checks and drafts claim handling practices	93%	70%

This concludes the report of the Market Conduct Examination of the Conseco Life Insurance Company.

Bob Baker
Bob Baker
Examiner in Charge

January 7, 2004
Date

ATTACHMENT



CONSECO SERVICES, L.L.C.
11815 N. Pennsylvania Street
P.O. Box 1911
Carmel, Indiana 46082-1911

September 25, 2003

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

RECEIVED
SEP 26 2003
OHIO DEPT. OF INSURANCE
MARKET CONDUCT DIVISION

Re: exam of Conseco Life Insurance Company (NAIC code 65900)

Dear Mr. Beetch:

With regard to the exam report, our only objection is to the section on page 32, and in the summary on page 35, in which a violation of code 3901-1-07 is indicated, because 15 of the 50 claim files sampled did not include copies of cancelled checks. We believe that code was not violated, because it does not require files to contain copies of cancelled checks, nor does it address any aspect pertaining to record keeping.

Please know that we are taking steps to address the issues raised in the exam, and we appreciate their being brought to our attention.

We also appreciate the professionalism and courtesy extended by the Department and examiner during the course of this examination.

Sincerely,

A handwritten signature in cursive script that reads "Mark Burdett".

Mark Burdett FLMI, FAHM, ALHC
Senior Manager, Regulatory Compliance

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

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

The Superintendent of the Ohio Department of Insurance ("Department") is responsible for administering Ohio insurance laws pursuant to Section 3901.011 of the Ohio Revised Code ("R.C."). The Department conducted a market conduct examination of Conseco Life Insurance Company ("Company"). The Company is authorized to engage in the business of insurance in the State of Ohio and, as such, is under the jurisdiction of the Superintendent and the Department. This market conduct examination was restricted to the Company's individual ordinary life insurance business in the State of Ohio between January 1, 2000, and December 31, 2001.

SECTION I

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

- A. The Company failed in some instances to comply with the life illustration requirements of Ohio Administrative Code ("O.A.C.") 3901-6-04; to wit, agent-issued illustrations or certificates were not signed at the date of the application, illustrations were not labeled and/or were incomplete, numeric summaries were incomplete, and revised illustration forms lacked signatures and/or dates.
- B. The Company accepted and processed some replacement policy applications from its agents that were incomplete, including lack of required documentation and applications that failed to list information pertaining to existing life insurance policies as required under Ohio Administrative Code ("O.A.C.") 3901-6-05(E). By accepting and processing incomplete replacement policy applications from its agents without informing the agents of the defects in these applications, and/or without insuring proper documentation was maintained, the Company failed to meet its statutorily imposed duties outlined in O.A.C. 3901-6-05(F) and (G).
- C. The Company failed in some instances to comport with the "three business days" notification requirement of O.A.C. 3901-6-05(G) to existing insurers regarding replacement policies. In addition, the Company failed to include a policy or summary to existing insurer.
- D. A review of the terminated policies indicated that the Company failed in some instances to process these terminations according to the policy provisions and R.C. 3915.071. This failure was due to the Company's inability to locate file information or plan code.
- E. Upon receipt of notification of a claim, the Company failed in some instances to contact the claimant within the statutorily imposed timeframe outlined in O.A.C. 3901-1-07(C)(5).
- F. Upon receipt of notification of a claim, the Company failed in some instances to begin investigating the claim within the statutorily imposed timeframe outlined in O.A.C. 3901-1-07(C)(4).

- G. The Company failed in some instances to settle claims in a timely manner after proof of death in violation of R.C. 3915.05(K).
- H. Upon receipt of notification of a claim, the Company failed in some instances to respond claims correspondence within the statutorily imposed timeframe outlined in O.A.C. 3901-1-07(C)(2).
- I. The Company failed in some instances to use the correct interest rate in calculating interest on death claims files in violation of R.C. 3915.052. This resulted in the underpayment of interest on some claims.
- J. The Company failed in some instances to demonstrate that its cancelled benefits checks and drafts reflect appropriate claim handling practices in accordance with O.A.C. 3901-1-07 because copies of cancelled checks were not available.
- K. The Company provided a list of terminated agents during the examination period but in some instances could not provide documentation as to why the agents were terminated. Former R.C. 3905.012(B) and current R.C. 3905.21(B) require insurance companies to notify the Department if an agent was terminated for cause. In addition, O.A.C. 3901-1-40(C), effective November 30, 1981, requires insurance companies to notify the Department of agents who engage in misconduct. Due to lack of documentation, the Company was unable to verify the circumstances of each termination.

SECTION II

It is hereby agreed to by the parties that:

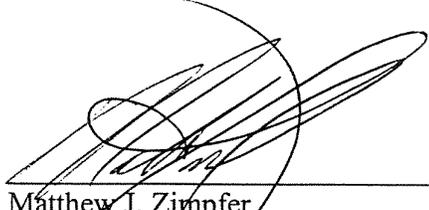
- A. The Superintendent and the Company enter into this Consent Order to resolve the allegations as set forth in Section I of this order.
- B. The Company has been advised that it has a right to a hearing before the Superintendent pursuant to R.C. Chapter 119; that, at a hearing, it would be entitled to appear in person, to be represented by an attorney or other representative who is permitted to practice before the agency; and that, at a hearing, it would be entitled to present its position, arguments or contentions in writing and to present evidence and examine witnesses appearing for and against it. The Company hereby waives all such rights.
- C. The Company consents to the jurisdiction of the Superintendent and the Department to determine the issues set forth herein. The Company expressly waives any prerequisites to jurisdiction that may exist.
- D. The Company will revise its current policies, practices and procedures to ensure compliance with the terms of this Consent Order.
- E. The Company will recalculate the amount of interest paid on all claims files for the period January 1, 2000 to present to ensure compliance with R.C. 3901.052. Any and all underpayment of interest on claims shall be promptly corrected. This information shall be submitted to the Department no later than sixty (60) days after the date of execution of this Consent Order.

- F. The Company agrees to conduct three (3) self-audits of its operations and submit the results of the audits to the Department to ensure its compliance with the terms and conditions of this Consent Order. The first self-audit shall be submitted to the Department no later than six (6) months after the date of execution of this Consent Order. The remaining two (2) self-audits shall be submitted a six (6) month intervals. The audits shall be used to confirm that the Company is operating within acceptable standards on the following issues:
- i. Documentation on agent termination activity;
 - ii. Processing of claims comporting with O.A.C. 3901-1-07, R.C. 3915.05(K) and R.C. 3915.052;
 - iii. Processing of terminated policies comporting with R.C. 3915.071;
 - iv. Life replacement activities comporting with O.A.C. 3901-6-05; and
 - v. Life illustration activities comporting with O.A.C. 3901-6-04.
- G. The Company will pay a fine in the amount of \$60,000.00 to the Department. 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.
- H. The Company will pay \$18,337.48 in administrative costs incurred by the Department to perform the Market Conduct examination. The Department will send the Company an invoice for said costs.
- I. 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.
- J. The Company has read and understands this Consent Order. The Company further understands that it has the right to seek counsel of its choice and to have counsel review this Consent Order.
- K. This Consent Order has the full force and effect of an Order of the Superintendent. Failure to abide by the terms of this agreement may constitute an actionable violation and subject the Company to any and all remedies available to the Superintendent.

- L. This Consent Order shall be entered in the Journal of the Ohio Department of Insurance. All parties understand and acknowledge that this Consent Order is a public document pursuant to R.C. 149.43.

Date: _____

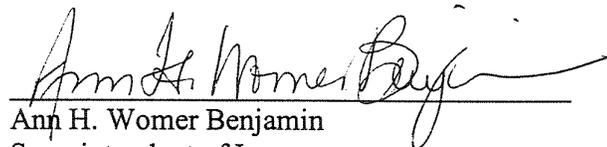
8/18/04



Matthew J. Zimpfer
Vice President, Associate General Counsel
and Secretary
Conseco Life Insurance Company

Date: _____

8/26/04



Ann H. Womer Benjamin
Superintendent of Insurance