

REPORT ON
TARGET MARKET CONDUCT EXAMINATION
OF
LINCOLN HERITAGE LIFE INSURANCE COMPANY
AS OF OCTOBER 1, 2010

Conducted from August 2, 2011

Through

February 9, 2012

By

Market Conduct Section

Life and Health Division

BUREAU OF INSURANCE

STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA

FEIN: 04-2314290

NAIC: 65927

COMMONWEALTH OF VIRGINIA

JACQUELINE K. CUNNINGHAM
COMMISSIONER OF INSURANCE
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I, Jacqueline K. Cunningham, Commissioner of Insurance of the Commonwealth of Virginia, do hereby certify that the annexed copy of the Market Conduct Examination of Lincoln Heritage Life Insurance Company, conducted at the State Corporation Commissions Bureau of Insurance in Richmond, VA, as of October 1, 2010, is a true copy of the original Report on file with this Bureau, and also includes a true copy of the Company's response to the findings set forth therein, the Bureau's review letter, the Company's offer of settlement, and the State Corporation Commission's Settlement Order in Case No. INS-2012-00216.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of this Bureau at the City of Richmond, Virginia this 17th day of October, 2012.

A handwritten signature in cursive script that reads "Jacqueline K. Cunningham".

Jacqueline K. Cunningham
Commissioner of Insurance

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I. SCOPE OF EXAMINATION

The Target Market Conduct Examination of Lincoln Heritage Life Insurance Company, (hereinafter referred to as "Lincoln Heritage"), was conducted under the authority of various sections of the Code of Virginia (hereinafter referred to as "the Code"), and regulations found in the Virginia Administrative Code (VAC), including but not necessarily limited to, the following: §§ 38.2-200, 38.2-515, 38.2-614, 38.2-1317, and 38.2-1809 of the Code, as well as 14 VAC 5-40-60 B and 14 VAC 5-90-170 A.

The period of time covered for the current examination, generally, was October 1, 2010 through December 31, 2010. The examination was conducted at the office of the State Corporation Commission's Bureau of Insurance from August 2, 2011 through February 9, 2012. The scope of the examination was limited to Lincoln Heritage's individual life and annuity lines of business. The violations cited and the comments included in this Report are the opinions of the examiners.

The purpose of the examination was to determine whether Lincoln Heritage was in compliance with various provisions of the Code and regulations found in the Virginia Administrative Code. Compliance with the following regulations was considered in this examination process:

- | | |
|-------------------------|---|
| 14 VAC 5-30-10 et seq. | Rules Governing Life Insurance Replacement; |
| 14 VAC 5-40-10 et seq. | Rules Governing Life Insurance and Annuity Marketing Practices; |
| 14 VAC 5-180-10 et seq. | Rules Governing Underwriting Practices and Coverage Limitations and Exclusions for Acquired Immunodeficiency Syndrome (AIDS); |

14 VAC 5-400-10 et seq. Rules Governing Unfair Claim Settlement Practices.

The examination included the following areas:

- Marketing Communications
- Policy and Other Forms
- Agents
- Underwriting/Unfair Discrimination/Insurance Information and Privacy Protection Act/Insurance Replacement
- Premium Notices/Reinstatements/Policy Loans and Loan Interest
- Cancellations/Nonrenewals
- Complaints
- Claim Practices

Examples referred to in this Report are keyed to the numbers of the examiners' Review Sheets furnished to Lincoln Heritage during the course of the examination.

II. COMPANY HISTORY

Lincoln Heritage Life Insurance Company was incorporated October 19, 1963, as Massachusetts Life Insurance Company. In 1969, the name of the Company was changed to Life of America Insurance Corporation of Boston. In 1984, the Londen Insurance Group, Inc. took control as a holding company with 100% ownership. In 1986, the name of the Company was changed to Life of Boston Insurance Company. In 1991, the Company redomesticated from Massachusetts to Oklahoma. In 1999, the Company redomesticated to Illinois and changed its name to Lincoln Heritage Life Insurance Company. KIAGA, Inc., a dormant corporation, wholly owned by Londen Insurance Group, Inc. and owner of Lincoln Heritage Life Insurance Company, was terminated November 14, 2001. The stock of Lincoln Heritage Life Insurance Company was transferred to Londen Insurance Group, Inc. as the ultimate controlling party.

Lincoln Heritage is authorized to write the following lines in the Commonwealth of Virginia: Life, Annuities, and Accident and Sickness.

As of December 31, 2010, the total life insurance in force was \$248,305,634, of which \$4,933,032 was the total life insurance in force in Virginia. Total net admitted assets as of December 31, 2010, were \$ 762,114,501.

III. MARKETING COMMUNICATIONS

A review was conducted of Lincoln Heritage's marketing materials to determine compliance with the Unfair Trade Practices Act, specifically §§ 38.2-502, 38.2-503, and 38.2-504 of the Code, as well as 14 VAC 5-40-10 et seq., Rules Governing Life Insurance and Annuity Marketing Practices.

Where this Report cites a violation of this regulation it does not necessarily mean that the marketing communication has actually misled or deceived any individual to whom the marketing communication was presented. A marketing communication may be cited for violations of certain sections of the regulations if it is determined by the Bureau of Insurance that a marketing communication has the capacity or tendency to mislead or deceive from the overall impression that it may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed (14 VAC 5-40-40).

14 VAC 5-40-60 B requires each insurer to maintain at its home or principal office a complete file of all life marketing communications with a notation indicating the manner and extent of distribution and the form number of any policy referred to in the marketing communication. The review revealed that Lincoln Heritage did not maintain a complete advertising file. As discussed in Review Sheet AD04, 3 additional life insurance marketing communications were discovered in other files that were provided by Lincoln Heritage for the exam. Lincoln Heritage disagreed stating that the advertisements were inadvertently left out, and claim all marketing communications were maintained in their direct marketing advertising file. The examiners maintain that

the discovery of the additional marketing communications confirms that the file was not complete; therefore, Lincoln Heritage failed to maintain a complete file of its marketing communications, as required.

The total population of 3 individual life marketing communications used to solicit business in Virginia during the examination time frame was initially selected for review. After the examiners discovered 3 additional marketing communications in the sample files provided for this examination, the review was expanded to include these 3 marketing communications. Therefore, a total of 6 marketing communications were reviewed for this examination. In the aggregate, there were 10 violations, which are discussed in the following paragraphs.

14 VAC 5-40-40 A 1 requires the form and content of a marketing communication to be sufficiently accurate, complete and clear so as to avoid deception or the capacity or tendency to mislead or deceive. 14 VAC 5-40-40 D 1 states that no marketing communication shall use as the name or title of a policy any phrase which omits the words "life Insurance" or "annuity", as appropriate, unless accompanied by other language clearly indicating it is life insurance or an annuity. As discussed in Review Sheet AD02, the review revealed 1 violation of each section. In this instance, the direct mailer included a postcard to be returned to Lincoln Heritage to request a determination on the addressee's acceptance into and qualification for the "Funeral Advantage Program." The name of the policy, and the content of the marketing communication, do not clearly indicate that Lincoln Heritage's Funeral Advantage Program is life insurance. As such, this advertisement has the capacity and tendency to mislead or deceive as to

the nature of the advertisement. Lincoln Heritage agreed with the examiners' observation.

14 VAC 5-40-40 A 7 states that no marketing communication shall make unfair, inaccurate or incomplete comparisons of policies, benefits, dividends, or rates of other insurers. A marketing communication shall not falsely or unfairly describe other insurers, agents, policies, or methods of marketing. As discussed in Review Sheet AD03, the review revealed 1 violation of this section. In this instance, a letter from one of Lincoln Heritage's agents to prospective customers states that "While most life insurance companies can take up to 30 to 90 days to pay their claims, the Lincoln Heritage Life Insurance Company can provide this much needed cash benefit to your family within 24 hours after receipt of all required documents." The examiners contend that it is false and unfair to state that other insurers, with the same documentation from the beneficiary, could take 30 to 90 days to pay their claims. Lincoln Heritage agreed with the examiners' observation and indicated that the letter is no longer in use.

14 VAC 5-40-40 D 17 prohibits a marketing communication that relates to a particular policy to fail to include the form number of the policy referred to in the marketing communication or other appropriate description. The review revealed 2 violations of this section. An example is discussed in Review Sheet AD02, where Lincoln Heritage failed to clearly identify the form number of the policy to which it was referring in the marketing communication. Lincoln Heritage agreed with the examiners' observation.

14 VAC 5-40-40 E 2 states that no marketing communication of a particular policy shall use the phrase "low cost" or any similar term unless such is capable of

being demonstrated to the satisfaction of the Commission. As discussed in Review Sheet AD03, the review revealed 1 violation of this section. In this instance, the marketing communication states “Our low cost plans come with absolutely no medical exams.” The term “low cost” has not been demonstrated to the satisfaction of the Commission. Lincoln Heritage agreed with the examiners’ observation and indicated that the letter is no longer in use.

14 VAC 5-40-40 H 1 states, in part, that no marketing communication of an individual policy or combination of policies shall state or imply that such policy or combination of policies is an introductory, initial, or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless such is the fact. The review revealed 3 violations of this section. An example is discussed in Review Sheet AD04, where the marketing communication offered a free gift if the response was received before a specific date. Lincoln Heritage disagreed stating,

“A date is printed on the advertisement, to encourage the applicant to respond to receive the free organizer. Each advertisement may have a different date depending on the date it was mailed. The printed date is 8 weeks from the mailing date.

There is no obligation to buy insurance to receive the “MY FINAL WISHES” organizer.

The insurance policy is not offered as introductory, initial or special offer or with advantages not available at a later date. The insurance policy can be applied for at any time.”

The examiners maintain that the statement in the marketing communication that a response is required by a specific date has the capacity and tendency to mislead by suggesting to the reader that an introductory, initial, or special offer exists for only a

limited time. Although, Lincoln Heritage stated in its response that there is no obligation to buy insurance to receive the free gift, one must complete the application for insurance in order to receive the gift.

SUMMARY

Lincoln Heritage was in violation of 14 VAC 5-40-40 A 1, 14 VAC 5-40-40 A 7, 14 VAC 5-40-40 D 1, 14 VAC 5-40-40 D 17, 14 VAC 5-40-40 E 2, 14 VAC 5-40-40 H 1, and 14 VAC 5-40-60 B, placing it in violation of Subsection 1 of § 38.2-502 and § 38.2-503 of the Code.

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IV. POLICY AND OTHER FORMS

A review was made to determine if Lincoln Heritage complied with various statutory, regulatory, and administrative requirements governing the filing and approval of forms.

Section 38.2-316 of the Code sets forth the filing and approval requirements for forms and rates that are to be issued or issued for delivery in Virginia.

POLICIES

The examiners reviewed a sample of 85 from a total population of 652 individual life insurance policies issued during the examination time frame. The review revealed that the individual policies issued in connection with these 85 new business files had been filed with and approved by the Commission as required.

APPLICATIONS

Sections 38.2-316 B and 38.2-316 C of the Code set forth the requirements for the filing and approval of application forms prior to use. The examiners reviewed the application forms used in connection with the 85 new business files reviewed, as well as the total population of 16 applications that were declined during the examination time frame.

As illustrated in the table below, Lincoln Heritage failed to file for approval the following applications:

Form	# of Violations per section	Review Sheet
IAGPGN09	11	PF01
IAICGN01	5	PF02
Reinstatement form; no form number	37	PF04
Reinstatement Application-NC-Rev 3/00	1	PF05
AL/AZ/CO/HI/IA/LA/ME/MS/MT/MD/NC/NH/NJ/NM/OH/OR/RI/UT/VA/VT REP	1	PF07
AL/AZ/CO/HI/IA/LA/ME/MS/MT/MD/NC/NH/NJ/NM/OH/OR/RI/UT/VA/VT REP NO DIR MARK	1	PF08
AL/AZ/CO/HI/IA/LA/ME/MS/MT/MD/NC/NH/NJ/NM/OH/OR/RI/UT/VA/VT REP YES DIR MARK	1	PF09

In the aggregate, there were 57 instances where forms were issued for use prior to being filed with and approved by the Commission, in violation of §§ 38.2-316 B and 38.2-316 C 1 of the Code.

V. AGENTS

The purpose of this review was to determine compliance with various Sections of Title 38.2, Chapter 18 of the Code.

A sample of 15 from a total population of 30 agent/agency appointments was selected for review. In addition, the writing agents or agencies designated in the 85 new business files were also reviewed.

LICENSED AGENT REVIEW

Section 38.2-1822 A of the Code prohibits a person from acting as an agent prior to obtaining a license to transact the business of insurance in the Commonwealth.

The review revealed that Lincoln Heritage was in substantial compliance.

APPOINTED AGENT REVIEW

Section 38.2-1833 A of the Code requires that an insurer, within 30 days of the date of execution of the first application submitted by a licensed but not yet appointed agent, either reject such application or appoint the agent.

The review revealed that Lincoln Heritage was in substantial compliance.

Administrative Letters

Administrative Letter 2002-2 was sent to all insurers conducting business in Virginia with the request that insurers insert a separate document in each new agent's packet directing the new agent to be aware of certain administrative letters specifically applicable to licensed agents in Virginia, and advising that a complete listing of these administrative letters is available on the Bureau of Insurance website.

The review revealed that Lincoln Heritage was in substantial compliance with the Commissioner's request.

COMMISSIONS

Section 38.2-1812 A of the Code prohibits the payment of commission or other valuable consideration to an agent or agency which was not appointed or which was not licensed for the class of insurance involved at the time of the transaction.

The review revealed that Lincoln Heritage was in substantial compliance.

TERMINATED AGENT APPOINTMENT REVIEW

Section 38.2-1834 D of the Code requires that an insurer notify the agent within 5 calendar days, and the Commission within 30 calendar days, upon termination of the agent's appointment. A sample of 15 from a total population of 39 agent/agency terminations during the examination time frame was selected for review.

The review revealed that Lincoln Heritage was in substantial compliance.

VI. UNDERWRITING/UNFAIR DISCRIMINATION/INSURANCE INFORMATION AND PRIVACY PROTECTION ACT/INSURANCE REPLACEMENT

The examination included a review of Lincoln Heritage's underwriting practices to determine compliance with the Unfair Trade Practices Act, §§ 38.2-500 through 38.2-514; the Insurance Information and Privacy Protection Act, §§ 38.2-600 through 38.2-620; 14 VAC 5-30-10 et seq., Rules Governing Life Insurance Replacements; and 14 VAC 5-180-10 et seq., Rules Governing Underwriting Practices and Coverage Limitations and Exclusions for Acquired Immunodeficiency Syndrome (AIDS).

UNDERWRITING/UNFAIR DISCRIMINATION

The review was made to determine if Lincoln Heritage's underwriting guidelines were unfairly discriminatory, whether applications were underwritten in accordance with Lincoln Heritage's guidelines, and whether correct premiums were being charged.

The review revealed no evidence of unfair discrimination.

UNDERWRITING REVIEW

Individual Life Insurance

The examiners reviewed a sample of 85 from a total population of 652 individual life insurance policies issued during the examination time frame.

The review revealed that the contracts were issued in accordance with Lincoln Heritage's established procedures.

Declined

The total population of 16 applications for life insurance that were declined during the examination time frame was reviewed.

The review revealed that Lincoln Heritage was in substantial compliance with its established procedures and policy provisions. There was no evidence of unfair discrimination.

UNDERWRITING PRACTICES – AIDS

14 VAC 5-180-10 et seq. sets forth rules and procedural requirements that the Commission deems necessary to regulate underwriting practices, policy limitations and exclusions with regard to HIV infection and AIDS.

The review revealed that Lincoln Heritage was in substantial compliance.

MECHANICAL RATING REVIEW

The review revealed that Lincoln Heritage calculated premium amounts in accordance with its established guidelines.

INSURANCE INFORMATION AND PRIVACY PROTECTION ACT

Title 38.2, Chapter 6 of the Code requires a company to establish standards for collection, use, and disclosure of personal/privileged information gathered in connection with insurance transactions.

NOTICE OF INSURANCE INFORMATION PRACTICES (NIP)

Section 38.2-604 of the Code sets forth the requirements for a NIP, either full or abbreviated, to be provided to all individual applicants and to applicants for group insurance that are individually underwritten.

Lincoln Heritage provided a full and abbreviated NIP form that complied with the requirements of this section.

DISCLOSURE AUTHORIZATION FORMS

Section 38.2-606 of the Code sets standards for the content and use of the disclosure authorization forms to be used when collecting personal or privileged information about individuals.

The review revealed that Lincoln Heritage's disclosure authorization forms used in the underwriting of new business and the processing of claims were in substantial compliance.

ADVERSE UNDERWRITING DECISIONS (AUD)

Section 38.2-610 A of the Code requires that in the event of an adverse underwriting decision on an applicant that is individually underwritten, the insurance

institution or agent responsible for the decision shall give a written notice in a form approved by the Commission that provides the applicant with a summary of the rights established under Subsection B of this section and §§ 38.2-608 and 38.2-609 of the Code.

The examiners reviewed the total population of 16 individual life insurance applications declined during the examination time frame. As discussed in Review Sheet UN09, the review revealed 1 violation of this section. In this instance, Lincoln Heritage included a "Letter to Examiner" in the sample declination file explaining that the incorrect AUD letter was sent. The examiners requested a copy of the letter in memo UNMEM02. Lincoln Heritage responded by stating again that the incorrect version of the letter was sent to the applicant, "as it did not contain Virginia required wording." Upon review of the AUD letter, it was determined that Lincoln Heritage failed to provide the reason(s) for the declination of coverage or, that upon request, the applicant may receive the specific reason(s) in writing. The letter also failed to provide a summary of the applicant's rights. Lincoln Heritage agreed with the examiners' observations and indicated that its procedures have been reviewed and corrected, and that this incident was an isolated event.

INSURANCE REPLACEMENT

A review was conducted to determine if Lincoln Heritage was in compliance with the requirements of 14 VAC 5-30-10 et seq., Rules Governing Life Insurance Replacements.

Insurance replacement procedures, sample letters, and sample forms were reviewed for compliance with this section.

14 VAC 5-30-40 B requires that the agent present and read to the applicant a notice regarding replacements (Form 30-A) or other substantially similar form approved by the Commission. However, no approval shall be required when amendments to the notice are limited to the omission of references not applicable to the product being sold or replaced. The review revealed 1 violation of this section. As discussed in Review Sheet PF07, Lincoln Heritage modified Form 30-A with the addition of 2 paragraphs. Lincoln Heritage agreed with the examiners' observation and indicated that it has created and established a replacement notice that contains the same wording as Form 30-A for use in Virginia.

14 VAC 5-30-70 A states that in the event of an application that is initiated as a result of a direct response solicitation, the insurer shall require a statement asking whether the applicant intends to replace, discontinue or change an existing policy or contract. If the applicant indicates a replacement or change is not intended or if the applicant fails to respond to the statement, the insurer shall send the applicant, with the policy or contract, a notice regarding replacement (Form 30-B) or other substantially similar form approved by the Commission. The review revealed 1 violation of this section. As discussed in Review Sheet PF08, Lincoln Heritage modified Form 30-B with the addition of a statement requiring a signature of the applicant and, if there is one, the producer's signature. Lincoln Heritage agreed with the examiners' observation and stated that Lincoln Heritage's current form was discontinued and replaced with a form that contains the wording in Form 30-B.

14 VAC 5-30-70 B states that if the insurer has proposed the replacement or if the applicant indicates a replacement is intended and the insurer continues with the replacement, the insurer shall provide to the applicant or prospective applicant with the policy or contract a notice (Form 30-C), or other substantially similar form approved by the commission. The review revealed 1 violation of this section. As discussed in Review Sheet PF09, Lincoln Heritage modified Form 30-C with the addition of 2 paragraphs. Lincoln Heritage agreed with the examiners' observation and indicated that it has since created and established a replacement notice that contains the same wording as Form 30-C for use in Virginia.

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VII. PREMIUM NOTICES/REINSTATEMENTS/POLICY LOANS AND LOAN INTEREST

The examiners reviewed Lincoln Heritage's procedures and practices for processing premium notices, reinstatements and premium loans.

PREMIUM NOTICES

Lincoln Heritage's procedures state that premium billing and collection may be completed by either Pre-Authorized Checking bank draft (PAC or Paytype 4) or direct bill. Both methods utilize a system of cutoff dates. Cutoff dates are determined based on the premium due date. For example, if the policyholder selects the 20th of each month for the bank draft, Lincoln Heritage's system automatically establishes an initial cutoff date on the 7th and a second cutoff date on the 15th of the month. If the bank draft is selected, a savings is passed on to the policyholder of either \$2.00 per month or a 15% savings, depending on when the policy was issued. For direct bill, notices are generated by Lincoln Heritage's system and mailed to policyholders 3 cutoff dates before the premium is due. For example, premium due on the last day of the month has 3 cutoff dates on the 7th, 15th, and 22nd of the month. Section 38.2-3303 A of the Code states that each individual life insurance policy shall contain a provision that the insured is entitled to a grace period of not less than thirty-one days. As discussed in Review Sheet PB01, Lincoln Heritage's procedures state that "Lapse notices are automatically sent when the policy is past its 30-day grace period." Lincoln Heritage conceded that its procedures "should have included more detail" by adding that "Lapse Notices print after 30 days to be mailed to the policyholder after the 31 day grace period." While the examiners observed that Lincoln Heritage's policy forms and sample

lapse notices provided at least 31 days for the grace period, the examiners would caution Lincoln Heritage to potential violations due to the inconsistency between their procedures and § 38.2-3303 A of the Code.

REINSTATEMENTS

Lincoln Heritage permits the reinstatement of policies that have lapsed due to nonpayment of premiums. All lapse notices include a reinstatement application form. Prior to reinstatement, Lincoln Heritage verifies receipt of a completed reinstatement application form, the required premium, answers to health questions, and required signatures.

Lincoln Heritage also permits reinstatement by redate, a type of reinstatement that can only be done once in the life of a policy. Redated policies have a new issue date and require 1 month of premium with a completed redate application.

A sample of 15 from a population of 45 reinstatements was selected for review. The review revealed that Lincoln Heritage was in substantial compliance with its reinstatement procedures and policy provisions.

POLICY LOANS AND LOAN INTEREST

Most of the policies marketed by Lincoln Heritage have a loan feature which allows policyholders to receive a portion of their cash value as a loan. Upon request, the policyholder is notified of available loan amounts and is sent a loan request form that must be signed and notarized. Loan requests are processed with an interest rate of 8% per year. Repayment, while not mandatory, may be made at any time. If the loan

becomes delinquent, an Automatic Loan Repayment feature may be applied from any remaining cash value to the loan balance.

The review revealed that policy loans and loan interest were calculated and processed in accordance with established procedures and policy provisions.

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VIII. CANCELLATIONS/NONRENEWALS

The examination included a review of Lincoln Heritage's cancellation/nonrenewal practices and procedures to determine compliance with its contract provisions and the requirements of § 38.2-508 of the Code covering unfair discrimination.

Cancellations

Lincoln Heritage's whole life policies contain provisions for policies that have lapsed for nonpayment of premium to continue in force as extended term insurance until the accumulated cash value is exhausted. Letters are sent to policyholders regarding the status of their policies, the options that are available, and due dates. For policyholders that have requested cancellation, Lincoln Heritage requires a completed signed form to process the request. For cancelled policies due to nonpayment, cash surrenders, and expired extended term policies, policyholders are offered policy reinstatement. Policies that are reduced paid up have a non-forfeiture option that permits cash surrender of the policy. Extended Term Policies have a non-forfeiture option that permits reduced paid up or cash surrender of the policy. For Matured Age at 100, upon reaching an attained age, notice is given that funds will be paid to the policyholder or, if no response is received within 60 days, funds will be paid to the policyholder's state of residence.

A sample of 50 from a total population of 276 policies cancelled during the examination time frame was selected for review. The review revealed that Lincoln Heritage was in substantial compliance with its established procedures and the policy provisions.

IX. COMPLAINTS

Lincoln Heritage's complaint records were reviewed for compliance with § 38.2-511 of the Code. This section sets forth the requirements for maintaining complete records of complaints to include the number of complaints, the classification by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint. A "complaint" is defined by this section as "any written communication from a policyholder, subscriber or claimant primarily expressing a grievance."

Lincoln Heritage's complaint procedure indicates that each complaint is reviewed by the Compliance Officer and the appropriate manager. The complaint is logged into Lincoln Heritage's complaint record log and a written response is sent to the complainant within 5 business days. A file is maintained in either electronic or paper format. Lincoln Heritage indicated that it does not utilize form letters for complaints because each issue the complainant presents is specifically addressed in Lincoln Heritage's response letter.

Lincoln Heritage informed the examiners that there were no complaints received during the examination time frame.

X. CLAIM PRACTICES

The examination included a review of Lincoln Heritage's claim practices for compliance with §§ 38.2-510 and 38.2-3115 of the Code, as well as 14 VAC 5-400-10 et seq., Rules Governing Unfair Claim Settlement Practices.

GENERAL HANDLING STUDY

The review consisted of a sampling of claims received during the examination time frame from previously issued individual life insurance business.

The examiners were furnished with a claims manual containing detailed instructions and procedures for the receipt, handling, and payment of life insurance claims. All life insurance claims require proof of death, by means of a death certificate.

PAID CLAIM REVIEW

Individual Life

A sample of 40 from a population of 89 claims paid during the examination time frame was selected for review.

Section 38.2-510 A 6 of the Code prohibits, as a general business practice, not attempting in good faith to make prompt, fair and equitable settlements of claims in which liability has become reasonably clear. As discussed in Review Sheet CL23, the review revealed 1 instance of non-compliance with this section. In this instance, claim proceeds were underpaid, also resulting in an underpayment of interest. Lincoln Heritage disagreed, stating that the benefit calculation was based on 24 months of coverage; the 2 months of unearned premium was simply refunded. The examiners do

not concur. The policy form associated with this claim states that “Any premiums paid for any insured beyond the policy month of the date of death will be returned as part of the death benefit.” The policy also states that “The death benefit will be equal to ...120% of all premiums paid, less any debt, if the death of the insured occurs between the first and second anniversaries”. In this case, 26 months of premium was paid prior to the date of death and the date of death was during the second policy year. Therefore, since the policy states that premium paid beyond the policy month of the date of death will be part of the death benefit, the death benefit should have been calculated based on 26 months of premium paid times 120%.

INTEREST ON CLAIM PROCEEDS

Section 38.2-3115 B of the Code sets forth the requirements for the payment of interest on life claim proceeds. Section 38.2-3115 B of the Code states that if no action is brought, interest upon the principal sum paid to the beneficiary or policyowner shall be computed daily at an annual rate of 2 ½ percent or at the annual rate currently paid by the insurer on proceeds left under the interest settlement option, whichever is greater, commencing from the date of death to the date of payment. The interest shall be added to and become a part of the total sum payable. The current rate of interest adopted by Lincoln Heritage for individual life proceeds was 2½ percent during the examination time frame.

The review revealed 16 violations of this section. An example is discussed in Review Sheet CL24 where interest was underpaid. Lincoln Heritage disagreed stating,

“In accordance with your Insurance Code § 38.2-3115 B, the interest is paid to the date of payment which is the date on the check.”

Lincoln Heritage further stated that “Checks are printed at the end of the day and mailed the next business day.” The examiners maintain that the Bureau of Insurance considers the date the check is placed in the mail to be the date of payment. Therefore, interest was not paid from the date of death to the date of payment, in violation of this section.

TIME PAYMENT STUDY

The time payment study was computed by measuring the time it took Lincoln Heritage, after receiving the properly executed proof-of-loss, to issue a check for payment. The term “working days” does not include Saturdays, Sundays, or holidays.

Of the 40 paid claims reviewed for the time study, all were settled within 15 working days.

DENIED CLAIM REVIEW

The total population of 4 individual life insurance claims denied during the examination time frame was reviewed. All claims were denied during the 2 year contestability period due to health condition(s) not disclosed on the application for insurance.

As part of the denied claims review, the examiners reviewed each policyholder’s application for insurance to determine if misrepresentation had occurred, thereby validating Lincoln Heritage’s decision to deny each claim. In each instance, the applicant failed to disclose a serious health condition on the application. As such, the examiners confirmed that each claim was denied in accordance with the terms of the policy and Lincoln Heritage was justified in rescinding the policy and refunding all premiums paid. However, in each instance, the applicant listed a prescribed medication

which could have indicated a serious health condition that the applicant did not note in response to the health questions. For final expense insurance, Lincoln Heritage's underwriting manual instructs the underwriter to determine if medications on the application are on the Modified Medications Database. In the event that medications are on the database, the underwriter may advise that the application be re-written before issuing the policy or Lincoln Heritage will accept the application with a certain plan selected. However, Lincoln Heritage's procedures do not instruct the underwriter to cross-reference the list of medications with the health questions to determine if a more serious health condition exists than what was disclosed in response to the health questions.

Section 38.2-512 A of the Code states that no person shall make or cause or allow to be made false or fraudulent statements or representations on or relative to an application or any document or communication relating to the business of insurance for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, broker, premium finance company, or individual. While no violations are being cited in these 4 instances, the BOI advises Lincoln Heritage that failure to research medications listed that could indicate misrepresentations made in response to the health questions could lead to future violations of this section.

UNFAIR CLAIM SETTLEMENT PRACTICES REVIEW

The sample of 40 individual life insurance claims paid and the total population of 4 individual life insurance claims denied during the examination time frame were also reviewed for compliance with 14 VAC 5-400-10 et seq., Rules Governing Unfair Claim Settlement Practices.

The review revealed that Lincoln Heritage was in substantial compliance with this section.

THREATENED LITIGATION

Lincoln Heritage informed the examiners that no threatened litigation occurred during the examination time frame.

COPY

XI. CORRECTIVE ACTION PLAN

Based on the findings stated in this Report, Lincoln Heritage shall:

1. Revise and strengthen its procedures for maintaining a complete advertising file that complies with the requirements of 14 VAC 5-41-150 C;
2. Take the necessary action to bring all advertisements into compliance with 14 VAC 5-41-10 et seq, as well as Subsection 1 of §§ 38.2-502 and 38.2-503 of the Code;
3. Revise and strengthen procedures to ensure that all necessary forms are filed with and approved by the Commission prior to use, as required by §§ 38.2-316 B and 38.2-316 C 1 of the Code;
4. Immediately notify its agents to use the revised insurance replacement forms;
5. Revise and strengthen its billing and collection procedures with regard to lapse notices;
6. Establish and maintain procedures to ensure that all calculations for life insurance proceeds include earned and unearned premium prior to calculating death benefits in the event the policy includes a provision for a percentage of premium paid as part of the death benefit;
7. Review and reopen all claims for policies where the death benefit is based on a percentage of the premium paid for the years 2007, 2008, 2009, 2010, 2011, and the current year and pay death benefits in accordance with the terms of the policy. Recalculate interest as described in Item 9 below. Send checks for the required death benefit amount along with letters of explanation stating that, "As a result of a

8. Target Market Conduct Examination by the Virginia State Corporation Commission's Bureau of Insurance, it was determined that this amount had not been paid previously." After which, furnish the examiners with documentation that the required amount has been paid within 90 days of this Report being finalized;
9. Establish and maintain procedures to ensure that interest calculations for life insurance proceeds include the date the check is placed in the mail, as required by § 38.2-3115 B of the Code;
10. Review and reopen all claims where interest was due for the years 2007, 2008, 2009, 2010, 2011, and the current year and make interest payments where necessary, as required by § 38.2-3115 B of the Code. Send checks for the required interest along with letters of explanation stating that, "As a result of a Target Market Conduct Examination by the Virginia State Corporation Commission's Bureau of Insurance, it was determined that this interest had not been paid previously." After which, furnish the examiners with documentation that the required interest has been paid within 90 days of this Report being finalized;
11. Revise and strengthen its underwriting procedures to ensure that during the underwriting review process, all medications listed on applications are considered indicators of the possible existence of a health conditions; and
12. Within 90 days of this Report being finalized, furnish the examiners with documentation that each of the above actions has been completed.

XII. ACKNOWLEDGMENT

The courteous cooperation extended to the examiners by Lincoln Heritage's officers and employees during the course of this examination is gratefully acknowledged. Laura Klanian and Bill Benson, FLMI, AIE, ACS of the Bureau of Insurance participated in the work of the examination and writing of the Report.

Respectfully submitted,

Julie Fairbanks, FLMI, AIE, AIRC
Supervisor, Market Conduct Section II
Life and Health Division
Bureau of Insurance

XIII. REVIEW SHEET SUMMARY BY AREA

ADVERTISING

14 VAC 5-40-60 B, 1 violation, AD04
14 VAC 5-40-40 A 1, 1 violation, AD02
14 VAC 5-40-40 A 7, 1 violation, AD03
14 VAC 5-40-40 D 1, 1 violation, AD02
14 VAC 5-40-40 D 17, 2 violations, AD02, AD04
14 VAC 5-40-40 E 2, 1 violation, AD03
14 VAC 5-40-40 H 1, 3 violations, AD02, AD04, AD05
§§ 38.2-502 and 38.2-503

POLICY FORMS

§§ 38.2-316 B and 38.2-316 C 1, 57 violations, PF01 (11), PF02 (5), PF04 (37), PF05, PF07, PF08, PF09

UNDERWRITING

§ 38.2-610 A, 1 violation, UN09
14 VAC 5 30-40 B, 1 violation, PF07
14 VAC 5 30-70 A, 1 violation, PF08
14 VAC 5 30-70 B, 1 violation, PF09

CLAIM PRACTICES

38.2-510 A 6, 1 instance of non-compliance, CL23
38.2-3115 B, 16 violations, CL08, CL09, CL10, CL11, CL12, CL13, CL14, CL15, CL16, CL17, CL18, CL19, CL20, CL21, CL23, CL24

COMMONWEALTH OF VIRGINIA

JACQUELINE K. CUNNINGHAM
COMMISSIONER OF INSURANCE
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE



P.O. BOX 1157
RICHMOND, VIRGINIA 23218
TELEPHONE: (804) 371-9741
TDD/VOICE: (804) 371-9206
www.scc.virginia.gov/boi

May 18, 2012

CERTIFIED MAIL 7005 1820 0007 5460 6364
RETURN RECEIPT REQUESTED

Ms. Shirley Grossman, FLMI, FLHC, AIRC, ARA, ACS, CCP
Vice President
Lincoln Heritage Life Insurance Company
4343 East Camelback Road, Suite 400
Phoenix, AZ 85018

RE: Market Conduct Examination Report
Exposure Draft

Dear Ms. Grossman:

Recently, the Bureau of Insurance conducted a Market Conduct Examination of Lincoln Heritage Life Insurance Company (Lincoln Heritage) for the period of October 1, 2010, through December 31, 2010. A preliminary draft of the Report is enclosed for your review.

Since it appears from a reading of the Report that there have been violations of Virginia Insurance Laws and Regulations on the part of Lincoln Heritage, I would urge you to read the enclosed draft and furnish me with your written response within 30 days of the date of this letter. Please specify in your response those items with which you agree, giving me your intended method of compliance, and those items with which you disagree, giving your specific reasons for disagreement. Lincoln Heritage's response(s) to the draft Report will be attached to and become part of the final Report.

Once we have received and reviewed your response, we will make any justified revisions to the Report and will then be in a position to determine the appropriate disposition of this matter.

Thank you for your prompt attention to this matter.

Yours truly,

Julie R. Fairbanks, AIE, AIRC, FLMI, ACS
Principal Insurance Market Examiner
Market Conduct Section II
Life and Health Division
Bureau of Insurance
(804) 371-9385

JRF:mhh
Enclosure
cc: Althelia Battle



Lincoln Heritage
LIFE INSURANCE COMPANY

June 7, 2012

Julie R. Fairbanks, AIE, AIRC, FLMI, ACS
Principal Insurance Market Examiner
Market Conduct Section II
Life and Health Division
Bureau of Insurance
P.O. Box 1157
Richmond Virginia 23218

RE: Market Conduct Examination Report Exposure Draft response

Dear Ms. Fairbanks:

We respectfully submit to you the formal response of Lincoln Heritage Life Insurance Company (Lincoln Heritage Life) to the draft of the Target Market Conduct Examination Report. We would like to express our gratitude for the professional and courteous approach of the Bureau of Insurance's examiners.

Advertising

14 VAC 5-40-60 B (AD04) – violation of not maintaining a complete advertising file.

Response - Our position has not changed, the advertisements were inadvertently left out. We have procedures to insure our marketing communication file complies with the requirements of 14 VAC 5-40-60 B.

14 VAC 5-40-40 A 1 (AD02) – violation of not clearly indicating that our funeral advantage program is life insurance.

Response - Our consulting attorney George Katosic discussed with Bill Benson the changes requested for this advertising communication in September of 2011. Changes were made in accordance with this discussion with Mr. Benson. A copy of the revised advertising communication is attached.

14 VAC 5-40-40 A7 (AD03) – violation of falsely or unfairly describing other insurers etc. in our marketing communication.

Response - The letter referred to in the review sheet was an agent letter that was sent to only 6 individuals. We agreed with the examiner and the letter is no longer in use.

14 VAC 5-40-40 D 1 (AD02) – violation of not using the phrase 'life insurance' after the name or title of a policy in our marketing communication.

Response - Our consulting attorney George Katosic discussed with Bill Benson the changes requested for this advertising communication in September of 2011. Changes were made in accordance with this discussion with Mr. Benson. A copy of the revised advertising communication is attached.

Our Business is You

4343 East Camelback Road
Suite 400
Phoenix, AZ 85018-2705
www.lhlic.com
Toll Free (800) 433-8181
Direct (602) 957-1650
Fax (602) 840-9726

14 VAC 5-40-40 D 17 (AD02, AD04) – violation of not identifying the form number for the policy form referred to in our marketing communication.

Response - We agreed with the examiner and corrected the marketing communications.

14 VAC 5-40-40 E 2 (AD03) – violation of using the phrase ‘low cost’ or similar term unless demonstrated to the satisfaction of the Commission.

Response - The letter referred to in the review sheet was an agent letter that was sent to only 6 individuals. We agreed with the examiner and the letter is no longer in use.

14 VAC 5-40-40 H 1 (AD02, AD04, AD05) – violation of marketing communication implying the applicants will receive substantial advantages not available at a later date.

Response - We respectfully disagree with this violation, the date or time frame shown in our marketing communications is to encourage the applicant to respond in a timely manner to receive the free organizer. We do not consider this free organizer as a substantial advantage. During the discussion between our consulting attorney George Katosic and Bill Benson concerning the changes needed for the marketing communication referenced in review sheet AD02, there was no discussion regarding the wording “Requests received after 15 days may not be processed.” We have discontinued using the marketing communication referenced in AD04 and AD05.

Per Corrective Action Plan #1 we have procedures to insure our marketing communication file complies with the requirements of 14 VAC 5-40-60 B.

Per Corrective Action Plan #2 we have taken steps to bring all marketing communications into compliance with 14 VAC 5-41-10 et seq, 38.2-502 and 38.2-503 as noted above.

Policy Forms

38.2-316 B & C 1 (PF01, PF02, PF04, PF05, PF07, PF08, PF09) – violation of issuing forms prior to being filed with and approved by the Commission.

Response - The irrevocable assignment forms referenced in PF01 and PF02 we feel are administrative forms and did not need to be filed. Though we disagreed with the examiner’s findings, we discontinued using these forms and filed a new irrevocable assignment form with Virginia which was approved on March 22, 2012.

The reinstatement form referenced in PF04 is printed on the back of the lapsed premium notice. We are in the process of correcting our printing of the lapse premium notices to only include approved reinstatement forms. On June 4, 2012, we emailed the Bureau of Insurance asking for verification that 37 was the correct number of violations for this review sheet. PF04 identifies only 3 BOI items. We request information on the other 34 if this number is correct or a correction made on the chart on page 10 and on the review sheet summary on page 32.

The reinstatement form referenced in PF05 was inadvertently used in Virginia. This was a single isolated incident and we have addressed this issue with additional training to insure only Virginia forms are used with Virginia policies.

The replacement forms referenced in PF07, PF08 and PF09 have been discontinued and revised forms that match Form 30-A, Form 30-B and Form 30-C are now being used.

Per Corrective Action Plan #3 our procedure is to file all of the forms that are required to be filed prior to use as required by 38.2-316 B and 38.2-316 C 1.

Underwriting

38.2-610A (UN09) – violation of not sending an adverse underwriting letter that contained specific reasons or allows such person to request specific reasons.

Response - We agreed that the letter sent was not the correct Virginia letter. We reviewed our procedures at the time of the incident and additional training was given to prevent this from happening again. This was a single isolated incident.

14 VAC 5 30-40 B (PF07), 14 VAC 5 30-70 A (PF08), 14 VAC 5 30-70 B (PF09) – violation of using replacement notices that were not approved by the Commission.

Response - We cannot disagree; these forms were discontinued and forms that match the language in Form 30-A, Form 30-B and Form 30-C are now being used.

Per Corrective Action Plan #4 we notified our agents to use the revised insurance replacement forms.

Per Corrective Action Plan #5 we revised our written billing and collection procedures with regard to lapse notices.

Claims

38.2-510 A 6 (CL23) – violation for underpayment of claim, also resulting in an underpayment of interest.

Response - We respectfully disagree with the reevaluation of this claim. The claim in question was a Modified Death Benefit plan that provided that if death occurred in the second policy year the benefit would equal 120% of premium paid. In the life insurance context, premiums are paid on a policy as they come due. In this case the insured died prior to the end of the twenty-fourth month of the policy. Therefore, there were twenty-four (24) months of premium required to keep the policy in force at the time of the insured's death. The claim payment was based upon payment of the required premium multiplied by the policy benefit of 120% with an additional refund of two months unearned premium refunded with the claim.

In this case, the family failed to contact Lincoln Heritage Life until two months after the insured's passing. Lincoln Heritage Life continued receiving premium payments after the insured's death in accordance with the payment instructions (monthly bank draft) given by the policy owner when applying for the insurance policy. The two premium payments in question were deducted after the insured's death but prior to our knowledge of such. Therefore, those payments were unearned by Lincoln Heritage Life and were simply refunded with the claim.

Finally, we believe that the benefit interpretation that is proposed would be very misleading to the beneficiary as such a payment would imply that the policy was in force for a period of two plus years. That amount of time would indicate that the policy benefit should have been for the full death benefit not the 120% as indicated on the policy schedule. This scenario would lead to benefit confusion and increased complaints regarding claim payment in our opinion.

Per Corrective Action Plan #6 and #7 Lincoln Heritage Life respectfully disagrees with the necessity of these requests based upon our response above and will await a further review by the Bureau before proceeding.

38.2-512 A (CL25, CL26, CL27, CL28) – violation for allowing false or fraudulent statements or representations related to an application for insurance for the purpose of obtaining money from an individual.

Response – Lincoln Heritage Life respectfully disagrees with these violations outlined in the report. Simplified issue life insurance policies are sold for small face amounts usually to people of advanced age to help take care of any final expenses that they might incur. These types of products have built in higher mortality assumptions and assume that the applying insured is going to have some medical issues that would still qualify for a standard plan of insurance. Each application for life insurance with completed medical information and listed medications is reviewed to determine if the applicant is issuable for the plan of insurance applied for. Our underwriters review that combined information to assess the risk assumed by the plan. In the four highlighted violations, the underwriter properly assessed the risks presented on the application and determined that the insured represented a risk that was acceptable to the company based upon the information given. Later those four applicants died during the contestability period of their policy and it was found that material health information was misrepresented at the time of application. Had Lincoln Heritage Life known this misinformation at the time of underwriting, we would not have issued the policies as applied for. Therefore, the claims were denied and the premium refunded in accordance with the Virginia Insurance Code in section 38.2-3511 C.

In the **Appendix** attached to the end of this response, Lincoln Heritage Life will discuss each of these four violations fully so that we can explain our underwriting procedure and what material information was misrepresented on each policy resulting in the declining of the claim.

The brief synopsis of each of the violations listed should indicate that there was no particular information provided on the applications for life insurance which would indicate that additional underwriting assessments were needed in order to issue the policies in question. The corrective action plan (item #10) suggestion of “revising and strengthening of our underwriting procedures to ensure that during the underwriting process, all medications listed on applications are considered indicators of the possible existence of a health condition” is overzealous. Lincoln Heritage Life places great importance on the information provided during the application process to promptly be able to assess the risk presented and issue the policy applied for if possible.

Lincoln Heritage Life agrees that a medication listed on an application indicates the existence of a health condition. However, we will not agree that all such listings indicate the existence of a significant health condition which would prevent the issuance of the applied for policies. Underwriting is the assessment of risks willing to be assumed by the company in issuing life insurance policies.

Finally, it must be stated these products are not priced for this suggested level of underwriting. If this corrective action plan is implemented, Lincoln Heritage Life would have to increase the pricing for this product; thus causing the premium rates to be increased for Virginia policyholders. This proposed action plan would also cause lengthy delays in the underwriting process for not only the company but also the prospective insured.

Per Corrective Action Plan item #10, Lincoln Heritage Life respectfully disagrees with this recommendation and requests the Bureau to eliminate this item from this report. We must be able to promptly issue the policies applied for based upon the information given. Our underwriters need to assess the risk presented and decide if the plan issued is an acceptable risk for the company to take.

38.2-3115 B (CL08, CL09, CL10, CL11, CL12, CL13, CL14, CL15, CL16, CL17, CL18, CL19, CL20, CL21, CL22, CL23, CL24) – violation to pay required interest on claims from date of death to the date of mailing.

Lincoln Heritage Life respectfully disagrees with these violations, and we believe that the Bureau is interpreting the statute in question in error. 38.2-3115 B states “If no action is brought, interest upon the principal sum paid to the beneficiary or policyowner shall be computed daily at an annual rate of 2 ½ percent or at the annual rate currently paid by the insurer on proceeds left under the interest settlement option, whichever is greater, commencing from the date of death to the **date of payment.**” (emphasis added)

Lincoln Heritage Life paid all claims in accordance with 38.2-3115 B as indicated in the examination. We believe the report is adding a new provision to 38.2-3115 B in that statement “the Bureau of Insurance considers the date the check is placed in the mail to be the date of payment.” That is not a requirement of 38.2-3115 B. Lincoln Heritage Life has also checked for any bulletin from the Bureau or Attorney General in regards to this matter or any court case in Virginia requiring this additional requirement. Therefore, it is our position that additional requirements are being added over and above what is required by the statute in contradiction to the plain meaning of the words provided by 38.2-3115 B.

Per Corrective Action Plan items #8 and #9, Lincoln Heritage Life believes it has already established and maintains adequate procedures that meet the requirements of 38.2-3115 B of the Code. We further respectfully disagree with the Bureau in regards to the necessity of item #9 of the Corrective Action Plan and would like to request that item be removed from the final report.

In conclusion, we look forward to answering any questions you may have regarding this response. We wish to reserve all of our rights with respect to a hearing on the merits of this examination until any disputed issues are resolved.

Thank you for your consideration.

Sincerely,



Shirley Grossman FLMI, FLHC, AIRC, ARA, ACS, CCP
Vice President
Lincoln Heritage Life Insurance Company

COMMONWEALTH OF VIRGINIA

JACQUELINE K. CUNNINGHAM
COMMISSIONER OF INSURANCE
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE



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September 7, 2012

**CERTIFIED MAIL 7011 0110 0001 6085 2038
RETURN RECEIPT REQUESTED**

Shirley Grossman
Vice President
Lincoln Heritage Life Insurance Company
4343 East Camelback Road, Suite 400
Phoenix, AZ 85018-2705

Dear Ms. Grossman:

The Bureau of Insurance (BOI) has completed its review of your June 7, 2012, response to the Target Market Conduct Examination Report of Lincoln Heritage Life Insurance Company (Lincoln Heritage) sent with my letter of May 18, 2012.

Your response indicates that Lincoln Heritage has concerns regarding the writing of the Report. This letter addresses those concerns in the same order as presented in your June 7th response. Since Lincoln Heritage's response will also be attached to the final Report, this response does not address those issues where Lincoln Heritage indicated agreement and/or action taken as a result of the Report.

Advertising

14 VAC 5-40-60 B (AD04) – violation of not maintaining a complete advertising file.

In its response, Lincoln Heritage indicated that the marketing communications referenced in the Report were inadvertently left out and that it already has procedures in place to comply with 14 VAC 5-40-60 B. However, when asked to provide the examiners with a list of all advertisements used to solicit business in Virginia during the examination timeframe, Lincoln Heritage failed to include half of the advertisements used. Therefore, upon finalization of this exam, Lincoln Heritage will be required to revise and strengthen its procedures to maintain a file containing *all* advertisements to ensure future compliance with 14 VAC 5-41-150 C. Corrective Action Item 1 in the Report has been revised to refer to the regulation that is currently in effect requiring an insurer to maintain a complete file of all advertisements used in Virginia. The wording has also been changed to "Revise and strengthen procedures" to more accurately reflect the action that will be required. The revised page is enclosed for your review.

14 VAC 5-40-40 H 1 (AD02, AD04, AD05) – violation of marketing communication implying the applicants will receive substantial advantages not available at a later date.

While the BOI acknowledges Lincoln Heritage's statement that the marketing communications referenced in AD02, AD04, and AD05 have been discontinued, the BOI maintains that by setting a time limit on an offer for a free organizer, the marketing communication implies that it is an introductory, initial, or special offer, or that the applicant will receive special advantages that will not be available at a later date. In its response Lincoln Heritage stated it does not consider the free organizer to be a substantial advantage. However, this application of this regulation is not based on the value of the item. These marketing communications are enticing individuals to apply for coverage in order to take advantage of a limited time offer, when the free organizer is provided to any individual who fills out and returns the application attached to these advertisements at any time.

Effective July 1, 2011, the Commonwealth of Virginia repealed 14 VAC 5-40-10 et seq and replaced it with 14 VAC 5-41-10 et seq. Based on the fact that Lincoln Heritage was not in compliance with sections of Chapter 40 during the examination time frame, the BOI urges Lincoln Heritage to comply with Corrective Action Plan Item 2 regarding 14 VAC 5-41-10 et seq. to bring its procedures, practices, and advertisements into compliance with current provisions of the Virginia Administrative Code.

Policy Forms

38.2-316 B & C 1 (PF01, PF02, PF04, PF05, PF07, PF07, PF09) – violation of issuing forms prior to being filed with and approved by the Commission.

The BOI acknowledges Lincoln Heritage's response that the irrevocable assignment form was discontinued and a new form was filed for approval with the Commission. The BOI does not consider the irrevocable assignment form to serve an administrative function as it is an agreement that directs how benefits will be distributed upon the death of the insured.

Lincoln Heritage's email request on June 4, 2012 for the item numbers referenced in PF04 was provided to the Company via email on June 18, 2012. If Lincoln Heritage has comments or concerns regarding the information provided on June 18th, please provide an additional response for our review and consideration.

In view of the fact that the irrevocable assignment form, reinstatement form, and 3 separate replacement forms were not in compliance with §§ 38.2-316 B and 38.2-316 C 1 of the Code, upon finalization of this exam, the BOI will require Lincoln Heritage to strengthen its procedures to ensure future compliance with these sections. Corrective Action Item 3 has been revised to now read: "Revise and strengthen procedures to ensure that all necessary forms are filed with and approved by the Commission prior to use, as required by §§ 38.2-316 B and 38.2-316 C 1 of the Code;". The revised page is enclosed for your review.

Claims

38.2-510 A 6 (CL23) – violation for underpayment of claim, also resulting in an underpayment of interest

The BOI based its calculation of the death benefit solely on the language in the policy. The policy language states that “Any premiums paid for any insured beyond the policy month of the date of death will be returned as part of the death benefit”. Since 2 additional premium payments were made after the date of death, and the policy states that the death benefit will be equal to 120% of all premiums paid, the death benefit should have been calculated based on 26 months of premium paid. While we understand that Lincoln Heritage may not have intended to calculate the death benefit this way, the language in the policy does not support the company’s calculation of the death benefit based on 24 months of premium paid.

38.2-512 A (CL25, CL26, CL27, CL28) – violation for allowing false or fraudulent statements or representations related to an application for insurance for the purpose of obtaining money from an individual.

Upon further review, the examiners have removed the 4 violations of § 38.2-512 A of the Code that were included in the Draft Report. The Bureau acknowledges that these 4 insureds misrepresented their health status on their applications, and that Lincoln Heritage rescinded each policy in accordance with the terms of its policies. However, it is the examiners’ opinion that Lincoln Heritage’s failure to cross-reference the answers to the health questions with the prescribed medications listed upon receipt of the application permits the company to overlook information that could have been used to identify misrepresentations on the application prior to issuance of the coverage. Identifying misrepresentations prior to the issuance of coverage will allow Lincoln Heritage to appropriately manage the risk and give the applicant the opportunity to seek other insurance coverage or financial options to provide for his or her final expenses. In addition, Lincoln Heritage noted in 1 instance that when following up with the applicant regarding answers to the health questions, the company verified with the applicant’s **spouse** that no additional information needed to be added or changes made to the application. While the examiners acknowledge Lincoln Heritage’s efforts to verify the answers to the health questions on the application, the examiners would strongly encourage Lincoln Heritage to change its procedures to require verification from the applicant himself. The Report has been revised accordingly and the revised pages are attached for your review.

38.2-3115 B (CL08, CL09, CL10, CL11, CL12, CL13, CL14, CL15, CL16, CL17, CL18, CL19, CL20, CL21, CL22, CL23, CL24) – violation to pay required interest on claims from date of death to the date of mailing.

Section 38.2-3115 B states that interest shall be calculated to the “date of claim payment”. Insurer obligations are completely fulfilled when the check is placed in the mail and the insurer no longer maintains possession of the check. For this reason, the BOI considers the date the check is placed in the mail as the date of claim payment.

Lincoln Heritage will be required to document that all revisions have been made 90 days after this exam is finalized in accordance with the Corrective Action Plan.

A copy of the revised pages of the Report are attached and are the only substantive revisions we plan to make before it becomes final.

On the basis of our review of the entire file, it appears that Lincoln Heritage has violated the Unfair Trade Practices Act, specifically Subsection 1 of § 38.2-502 and §§ 38.2-503 of the Code of Virginia.

In addition, there were violations of §§ 38.2-316 B, 38.2-316 C 1, 38.2-610 A, and 38.2-3115 B of the Code, as well as 14 VAC 5-30-40 B, 14 VAC 5-30-70 A, 14 VAC 5-30-70 B, Rules Governing Life Insurance Replacement and, 14 VAC 5-40-40 A 1, 14 VAC 5-40-40 A 7, 14 VAC 5-40-40 D 1, 14 VAC 5-40-40 D 17, 14 VAC 5-40-40 E 2, and 14 VAC 5-40-40 H 1, 14 VAC 5-40-60 B, Rules Governing Life Insurance and Annuity Marketing Practices.

Violations of the above sections of the Code can subject Lincoln Heritage to monetary penalties of up to \$5,000 for each violation and the suspension or revocation of its license to transact business in Virginia.

In light of the foregoing, this office will be in further communication with you shortly regarding the appropriate disposition of this matter.

Very truly yours,

Julie R. Fairbanks, AIE, FLMI, AIRC
Supervisor
Market Conduct Section
Life and Health Division
Telephone (804) 371-9385

JRF/

cc: Bob Grissom

Shirley Grossman
Vice President
Lincoln Heritage Life Insurance Company
4343 East Camelback Road, Suite 400
Phoenix, AZ 85018-2705

Althelia P. Battle, FLMI, HIA, AIE, MHP, AIRC, ACS
Deputy Commissioner
Bureau of Insurance
Post Office Box 1157
Richmond, VA 23218

530072

RE: Alleged Violations of the Unfair Trade Practices Act, specifically Subsection 1 of § 38.2-502 and §§ 38.2-503 of the Code of Virginia, as well as, violations of §§ 38.2-316 B, 38.2-316 C.1, 38.2-610 A, and 38.2-3115 B of the Code, as well as 14 VAC 5-30-40 B, 14 VAC 5-30-70 A, 14 VAC 5-30-70 B, Rules Governing Life Insurance Replacement and, 14 VAC 5-40-40 A 1, 14 VAC 5-40-40 A 7, 14 VAC 5-40-40 D 1, 14 VAC 5-40-40 D 17, 14VAC 5-40-40 E 2, and 14 VAC 5-40-40 H 1, 14 VAC 5-40-60 B, Rules Governing Life Insurance and Annuity Marketing Practices.

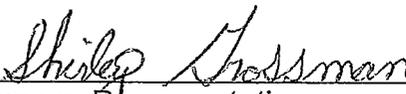
Dear Ms. Battle:

This will acknowledge receipt of your letter dated September 14, 2012, concerning the above-captioned matter.

Lincoln Heritage wishes to make a settlement offer for the alleged violations cited above. Enclosed with this letter is a check (certified, cashier's or company) in the amount of \$9,000 payable to the Treasurer of Virginia. The Company further understands that as part of the Commission's Order accepting the offer of settlement; it is entitled to a hearing in this matter and waives its right to such a hearing, and agrees to comply with the Corrective Action Plan contained in the Target Market Conduct Examination Report as of October 1, 2010.

This offer is being made solely for the purpose of a settlement and does not constitute, nor should it be construed as, an admission of any violation of law.

Yours very truly,



Company Representative

9-20-2012

Date

Enclosure (check)

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, SEPTEMBER 28, 2012

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COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

CASE NO. INS-2012-00216

LINCOLN HERITAGE LIFE
INSURANCE COMPANY,
Defendant

SETTLEMENT ORDER

Based on a target market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Lincoln Heritage Life Insurance Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), in certain instances, violated subsection 1 of § 38.2-502 of the Code of Virginia ("Code") by misrepresenting the benefits, advantages, conditions or terms of insurance policies; violated § 38.2-503 of the Code by making, publishing, disseminating, circulating, or placing before the public an advertisement, announcement or statement containing an assertion, representation or statement relating to the business of insurance which was untrue, deceptive or misleading; violated §§ 38.2-316 B and 38.2-316 C 1 of the Code by failing to comply with policy and form filing requirements; violated § 38.2-610 A of the Code by failing to give to applicants for insurance written notice of an adverse underwriting decision in the form approved by the Commission; violated § 38.2-3115 B of the Code by failing to pay interest on life insurance proceeds; violated the Commission's Rules Governing Life Insurance and Annuity Replacements, 14 VAC 5-30-10 *et seq.*, specifically 14 VAC 5-30-40 B, 14 VAC 5-30-70 A, and 14 VAC 5-30-70 B; and violated the

Commission's Rule Governing Life Insurance and Annuity Marketing Practices, 14 VAC 5-40-10 *et seq.*, specifically 14 VAC 5-40-40 A 1, 14 VAC 5-40-40 A 7, 14 VAC 5-40-40 D 1, 14 VAC 5-40-40 D 17, 14 VAC 5-40-40 E 2, 14 VAC 5-40-40 H 1, and 14 VAC 5-40-60 B.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Nine Thousand Dollars (\$9,000), waived its right to a hearing, and agreed to comply with the Corrective Action Plan contained in the Target Market Conduct Examination Report as of October 1, 2010.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of Lincoln Heritage Life Insurance Company in settlement of the matter set forth herein be, and it is hereby, accepted.

(2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:
Shirley Grossman, Vice President, Lincoln Heritage Life Insurance Company, 4343 East
Camelback Road, Suite 400, Phoenix, Arizona 85018-2705; and a copy shall be delivered to the
Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy
Commissioner Althelia P. Battle.

A True Copy
Teste:



Clerk of the
State Corporation Commission

COPY