

1 a. C.M., as the replacing insurer, did not mail to the existing insurer a
2 "Notice Regarding Replacement of Life Insurance" within three working days of the
3 receipt of ten applications.

4 b. C.M. used an HIV testing form in 38 files that did not specify the time
5 period during which release provisions are effective. The form used had been filed and
6 approved, but had not been revised after the adoption of A.A.C. R20-6-1203(C)(8) to
7 show the time period during which release provisions are effective.

8 5. The Examiners reviewed 10 of 10 life insurance policy applications
9 rejected by the Company during the time frame of the examination and found as
10 follows:

11 a. C.M. did not give three applicants a specific reason for the adverse
12 underwriting decision.

13 b. C.M. did not mail to seven applicants a Summary of Rights explaining
14 the adverse underwriting decision.

15 c. C.M. used an HIV testing consent form with 10 of 10 applicants that did
16 not explain the applicant's right to wait ten days to decide whether to allow the test nor
17 the right not to have the information used after 180 days.

18 6. C.M. during the time frame of the examination and found that C.M., as the
19 replacing insurer, failed to send a "Notice Regarding Replacement of Life Insurance" to
20 the existing insurer within three working days of receipt of one application.

21 7. The Examiners reviewed nine of 19 internal replacement life insurance
22 policies issued by C.M. during the time frame of the examination and found as follows:

23 a. C.M. failed to require from the agent a copy of the applicable "Notice
24 Regarding Replacement of Life Insurance" with three life insurance applications. Two
25

1 files contained the notice applicable to external replacements, rather than internal
2 replacements.

3 b. C.M. failed to maintain a copy of the Policy Summary for three policies.

4 CONCLUSIONS OF LAW

5 1. By failing to mail a Summary of Rights to the policyholder when the policy
6 was issued with higher than standard rates, C.M. violated A.R.S. §20-2110(A).

7 2. By failing to mail to the existing insurer a "Notice Regarding Replacement
8 of Life Insurance" within three working days of the receipt of the life insurance policy
9 application, C.M. violated A.A.C. R20-6-215(F)(3)(c).

10 3. By using an HIV testing consent form that did not give the applicant an
11 explanation of the right to wait 10 days to decide whether to allow the test or not to
12 have the information used after 180 days, C.M. violated A.R.S. §20-448.01(B) and
13 A.A.C. R20-6-1203(C)(8).

14 4. By not giving the specific reason for a declination of an application, C.M.
15 violated A.R.S. §20-2110 (A).

16 5. By not mailing a Summary of Rights to applicants when an application
17 was declined, C.M. violated A.R.S. §20-2110(A).

18 6. By failing to require the agent to submit with the application a copy of the
19 "Notice Regarding Replacement of Life Insurance" when an internal replacement is
20 involved, C.M. violated A.A.C. R20-6-215(F)(3)(a).

21 7. By failing to maintain a copy of the Policy Summary in the policy file as
22 prescribed by A.A.C. R20-6-215(F)(3)(d) and (f), C.M. violated A.A.C. R20-6-
23 215(F)(3)(f).

24 8. Grounds exist for the entry of the following Order, in accordance with
25 A.R.S. §§20-220 and 20-2117.

1 ORDER

2 **IT IS ORDERED THAT:**

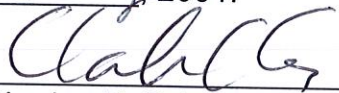
- 3 1. C.M. Life Insurance Company shall cease and desist from:
- 4 a. failing to give applicants a Summary of Rights when an adverse
- 5 underwriting decision is made.
- 6 b. failing to send a "Notice Regarding Replacement of Life Insurance"
- 7 to the existing insurer within three working days of receipt of the application when an
- 8 external replacement is involved in the transaction.
- 9 c. failing to give applicants a specific reason for an adverse
- 10 underwriting decision.
- 11 d. using an HIV testing consent form that does not explain the
- 12 applicant's right to wait 10 days to decide whether to allow the test nor the right not to
- 13 have the information used after 180 days.
- 14 e. failing to require from the agent with the policy application a copy of
- 15 the applicable "Notice Regarding Replacement of Life Insurance" when an internal
- 16 replacement is involved.
- 17 f. failing to maintain a copy of the Policy Summary in those files
- 18 involving replacement of life insurance.
- 19 2. Within 90 days of the filed date of this Order, C.M. Life Insurance
- 20 Company shall submit to the Arizona Department of Insurance, for approval, evidence
- 21 that corrections have been implemented and communicated to the appropriate
- 22 personnel, regarding all of the items listed above in Paragraph 1 of the Order section of
- 23 this Consent Order. Evidence of corrective action and communication thereof includes,
- 24 but is not limited to memos, bulletins, E-mails, correspondence, procedures manuals,
- 25 print screens and training materials.

1 3. The Department shall be permitted, through authorized representatives, to
2 verify that C.M. has complied with all provisions of this Order.

3 4. C.M. Life Insurance Company shall pay a civil penalty of \$5,000 to the
4 Director for deposit in the State General Fund in accordance with A.R.S. §20-220(B).
5 This civil penalty shall be provided to the Market Conduct Examinations Section of the
6 Department prior to the filing of this Order.

7 5. The Report of Examination of the Market Conduct Affairs of C.M. Life
8 Insurance Company dated July 9, 1998 including the letter submitted in response to the
9 Report of Examination, shall be filed with the Department after the Director has filed this
10 Order.

11 DATED at Phoenix, Arizona this 7th day of February, 2001.

12 
13 _____
14 Charles R. Cohen
15 Director of Insurance
16
17
18
19
20
21
22
23
24
25

1 **CONSENT TO ORDER**

2 1. C.M. Life Insurance Company has reviewed the attached Consent Order.

3 2. C.M. Life Insurance Company admits the jurisdiction of the Director of
4 Insurance, State of Arizona, admits the foregoing Findings of Fact, and consents to the
5 entry of the Conclusions of Law and Order.

6 3. C.M. Life Insurance Company is aware of its right to a hearing, at which it
7 may be represented by counsel, present evidence and cross-examine witnesses.
8 Respondent irrevocably waives its right to such notice and hearing and to any court
9 appeals related to this Order.

10 4. C.M. Life Insurance Company states that no promise of any kind or nature
11 whatsoever was made to it to induce it to enter into this Consent Order and that it has
12 entered into this Consent Order voluntarily.

13 5. C.M. Life Insurance Company acknowledges that the acceptance of this
14 Order by the Director of Insurance, State of Arizona, is solely to settle this matter
15 against it and does not preclude any other agency or officer of this state or its
16 subdivisions or any other person from any other civil or criminal proceedings, whether
17 civil, criminal, or administrative, as may be appropriate now or in the future.

18 6. James E. Miller, who holds the office of
19 Executive Vice President of C.M. Life Insurance Company, is authorized to
20 enter into this Order for it and on its behalf.

21 **C.M. LIFE INSURANCE COMPANY**

22 02-01-01
23 Date

24 By: James E. Miller
25

1 COPY of the foregoing mailed/delivered
2 This 8th day of February 2001, to:

3 Sara Begley
4 Deputy Director
5 Paul Hogan
6 Chief Market Conduct Examiner
7 Market Conduct Examinations Section
8 Mary Butterfield
9 Assistant Director
10 Consumer Affairs Division
11 Deloris E. Williamson
12 Assistant Director
13 Rates & Regulations Division
14 Steve Ferguson
15 Assistant Director
16 Financial Affairs Division
17 Alexandra Shafer
18 Assistant Director
19 Life and Health Division
20 Terry Cooper
21 Manager
22 Fraud Unit

23 DEPARTMENT OF INSURANCE
24 2910 North 44th Street, Second Floor
25 Phoenix, AZ 85018

26 C.M. LIFE INSURANCE COMPANY
27 Diane Mack, Associate Counsel
28 1295 State Street
29 Springfield, MA 01111-0001

30 
31 _____