

AUG 20 2001

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY CS

In the Matter of:

UNITED OF OMAHA LIFE INSURANCE COMPANY,
NAIC #69868;

Respondent.

) Docket No. 01A-201-INS

) **CONSENT ORDER**

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of United of Omaha Life Insurance Company ("United"). The Report of the Examination of the Market Conduct Affairs of United, dated March 24, 1999 alleges that United has violated A.R.S. §§ 20-287, 20-310, 20-448.01, 20-461, 20-462, 20-1233, 20-2110, 20-2307, 20-2309, 20-2322, and A.A.C. R20-6-215, R20-6-801, R20-6-1203.

United wishes to resolve this matter without formal adjudicative proceedings, admits that the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. United is authorized to transact life and disability insurance pursuant to a Certificate of Authority issued by the Director.

2. The Examiners were authorized by the Director to conduct a market conduct examination of United. The on-site examination covered the time period from August 1, 1995 through July 31, 1998, and was concluded on March 24, 1999. Based on the findings the Examiners prepared the "Report of Examination of the Market Conduct Affairs of United of Omaha Life Insurance Company" dated March 24, 1999.

3. The Examiners reviewed the HIV-related test consent form used by the

1 Company during the time frame of the examination and found that United used a non-
2 compliant form. The Company submitted a revised form that was approved by the
3 Department on November 25, 1998.

4 4. The Examiners reviewed 100 of 9,940 individual life policy enrollments
5 from the CAPSIL system issued during the time frame of the examination and found
6 that United issued 42 policies that utilized employees (telemarketing representatives)
7 to transact life insurance business who were not licensed agents. These employees
8 are now licensed.

9 5. The Examiners reviewed 100 of 8,768 individual life policy enrollments
10 from the LMF system issued, 53 of 1,415 life applications on the CAPSIL system
11 rejected, 56 of 228 life applications on the LMF system rejected, 50 of 1,744 universal
12 life policies canceled, terminated, or received a disbursement, 50 of 1,900 level term
13 life policies canceled, terminated, or received a disbursement, 50 of 467 replacement
14 policies issued, 24 of 26 universal life policies issued, 50 of 272 variable annuity
15 applications issued, and 63 of 63 true group policies denied during the time frame of the
16 examination and found as follows:

17 a. United did not mail a Notice Regarding Replacement of Life
18 Insurance to eight existing insurers within three working days of the receipt of the
19 application.

20 b. United failed to advise ten applicants in writing of the specific
21 reason for the adverse underwriting decision or to advise that, upon written request,
22 the person could receive the specific reason in writing.

23 c. United failed to maintain copies of the policy summary and sales
24 proposals used for at least three years or until the conclusion of the next succeeding
25 regular examination by the Insurance department of its state of domicile, whichever is

1 later, for three files.

2 d. United failed to prominently print on four applications, a notice that,
3 on written request, the insurer is required to provide reasonable factual information
4 regarding the benefits and provisions of the annuity contract to the annuity holder and
5 that if for any reason the contract holder is not satisfied with the annuity contract the
6 contract holder may return the annuity contract within ten days after the contract is
7 delivered and receive all monies paid.

8 e. United failed upon accepting the first placement of business from
9 appointed agents, to appoint immediately the unappointed agents as limited brokers in
10 such a manner and on forms as required by the Director on three files.

11 6. The Examiners reviewed 700 (four random sample sets of 100 claims each)
12 and 300 (three targeted sample sets of 100 claims each) of 276,153 true group health
13 claims paid, 100 of 31,150 true group health claims denied, 100 of 32,574 true group
14 health no pay claims processed, 100 of 22,114 small group health claims paid, 50 of
15 4,732 small group health claims denied, and 50 of 4,205 small group no pay claims
16 processed by the Company during the time frame of the examination and found as
17 follows:

18 a. United failed to acknowledge receipt of 111 claims within ten
19 working days of the receipt of the claim.

20 b. United failed to notify 65 claimants of the acceptance or denial of
21 the claim within 15 working days of receipt of an acceptable proof of loss. United also
22 failed to notify those claimants within 15 working days of receipt of an acceptable proof
23 of loss:

24 i. That more time was needed to investigate the claim.

25 ii. United did not send a letter to the first party claimant every

1 45 days that set forth the reasons additional time was needed to investigate the claim.

2 c. United failed to pay interest on 7 claims that were not paid within
3 30 days of receipt of an acceptable proof of loss.

4 7. The Examiners reviewed 17 of 17 True group denied enrollments during
5 the time frame of the examination and found that United denied coverage to ten
6 enrollments even though the employee, spouse, or dependent child met the eligibility
7 requirements of the employer.

8 8. The Examiners reviewed 20 of 20 True group enrollment requests closed
9 during the time frame of the examination and found that United failed to enroll 15
10 applicants despite having sufficient information to determine that the person met the
11 eligibility requirements for the employer.

12 9. The Examiners reviewed two of two sets of revisions of the certificate-
13 booklet for policy GUG-5N75 that applied during the time frame of the examination and
14 found as follows:

15 a. United included a "Late Enrollee Provision" that excluded late
16 enrollees for coverage for 18 months unless the enrollee submitted evidence of good
17 health acceptable to the insurer.

18 b. United included an "Evidence of Good Health" provision which
19 requires late enrollees and individuals reinstating coverage to submit evidence of good
20 health acceptable to the insurer.

21 10. The Examiners reviewed five of five certificate-booklets for policy GUG-
22 ASPM issued during the time frame of the examination and found that United required
23 evidence of insurability or excluded coverage for spouse or dependent child of the
24 employee unless enrolled within 31 days of initial date of eligibility in all five booklets
25 even though the insurer did not provide any open enrollment period.

1 11. The Examiners reviewed three of three requests for other group policies
2 issued during the time frame of the examination and found that for all three policies
3 United postponed coverage until the termination of a medical condition or completion of
4 on-going treatment.

5 12. The Examiners reviewed five of five true group policies issued during the
6 time frame of the examination and found in all five policies that United failed to enroll
7 the applicants despite having sufficient information to determine that the person met
8 the eligibility requirements of the employer.

9 13. The Examiners reviewed 83 of 109 Small group policies issued or
10 cancelled during the time frame of the examination and found as follows:

11 a. United declined coverage for one dependent and one employee by
12 imposing standards other than those of the employer or as stated in the statutes.

13 b. United delayed acceptance for two applicants while waiting for
14 additional information that is not required to determine the acceptance of the
15 applicants.

16 c. United sent seven renewal notices that did not provide an
17 explanation of the extent to which the increase in premium was due to actual or
18 expected claims experience of the employer's health benefits plan contract.

19 d. United issued two health benefits plans with \$2,000,000 maximum
20 lifetime benefit for all sickness and injuries, but limited lifetime benefits for mental and
21 nervous disorder to \$10,000.

22 14. United has paid interest in the amount of \$2,602.48.

23 **CONCLUSIONS OF LAW**

24 1. United violated A.R.S. § 20-448.01(B) and A.A.C. R20-6-1203(C) by
25 failing to obtain written consent from the subject of an HIV-related test on a form as

1 prescribed by the Director.

2 2. United violated A.R.S. § 20-461(A)(2) and A.A.C. R20-6-801(E)(1) by
3 failing to acknowledge the receipt of a claim within ten working days of notification of
4 the claim.

5 3. United violated A.R.S. § 20-461(A)(5) and A.A.C. R20-6-801(G)(1)(a) by
6 failing to notify the first party claimant of the acceptance or denial of the claim within 15
7 working days after receipt of an acceptable proof of loss.

8 4. United violated A.R.S. § 20-461(A)(3) and A.A.C. R20-6-801(G)(1)(b) by
9 failing to notify the claimant in a letter, 45 days from the date of the initial notification of
10 the claim and every 45 days thereafter, setting forth the reasons additional time is
11 needed to investigate the claim.

12 5. United violated A.R.S. § 20-462(A) by failing to pay interest on all claims not
13 paid within 30 days of receipt of an acceptable proof of loss.

14 6. United violated A.R.S. § 20-287 by failing to license telemarketing
15 employees as agents who transacted life insurance business.

16 7. United violated A.R.S. § 20-1233 by failing to print on the application or
17 attach to the application a notice that, on written request, the insurer is required to
18 provide within a reasonable time reasonable factual information regarding the benefits
19 and provisions of the annuity contract to the annuity holder and that if for any reason
20 the contract holder is not satisfied with the annuity contract the contract holder may
21 return the annuity contract within ten days after the contract is delivered and receive all
22 premiums paid.

23 8. United violated A.R.S. § 20-310 by failing, when first receiving business
24 from an unlicensed agent, to appoint immediately the unlicensed agents as limited
25 brokers in such a manner and on forms as required by the Director.

1 9. United violated A.R.S. § 20-2110(A) by failing to give applicants for
2 insurance notice of adverse underwriting decisions that included the specific reasons
3 for the adverse underwriting decision, notification that the specific reasons could be
4 obtained upon written request.

5 10. United violated A.R.S. § 20-2307(A) by failing to issue coverage for
6 eligible enrollees, using a certificate-booklet that contained a provision which requires
7 late enrollees and individual reinstating coverage to submit evidence of good health,
8 postponing coverage until the termination of a medical condition, enroll applicants
9 despite having information sufficient to determine that the person met eligibility
10 requirements, declining eligible applicants by imposing standards other than those of
11 the employer.

12 11. United violated A.R.S. § 20-2307(D) failing to use a certificate-booklet
13 that did not exclude late enrollees for coverage unless the enrollee submitted evidence
14 of good health acceptable to the insurer.

15 12. United violated A.R.S. § 20-2309(A) by failing to include in small group
16 renewal notices an explanation of the extent to which an increase in premium was due
17 to actual or expected claims experience.

18 13. United violated A.R.S. § 20-2322(B) by failing to give lifetime benefits for
19 mental or nervous disorders equal to other health benefits.

20 14. United violated A.A.C. R20-6-215(F)(3)(c) by failing to send to the
21 existing insurer a "Notice Regarding Replacement of Life Insurance" within three
22 working days of the date the application was received.

23 15. United violated A.A.C. R20-6-215(F)(3)(f) by failing to failed to maintain
24 copies of the policy Summary and sales proposals used, for at least three years or until
25 the conclusion of the next succeeding regular examination by the Insurance

1 Department of its state of domicile, whichever is later.

2 16. Grounds exist for the entry of the following Order, in accordance with
3 A.R.S. §§ 20-220, 20-456, and 20-2117.

4 **ORDER**

5 **IT IS ORDERED THAT:**

6 1. United of Omaha Life Insurance Company shall cease and desist from
7 committing the following practices:

8 a. Obtaining permission of the applicants for HIV-related testing on
9 consent forms other than the form approved by the Director.

10 b. Failing to acknowledge receipt of a claim within ten working days.

11 c. Failing to accept or deny claims within 15 days after receipt of
12 proof of loss.

13 d. Failing to notify the claimant in a letter, 15 days from the date of
14 the initial notification of the claim and every 45 days thereafter, setting forth the reasons
15 additional time is needed to investigate the claim.

16 e. Failing to pay interest on claims not paid within 30 days after the
17 receipt of acceptable proof of loss.

18 f. Failing to give applicants and insureds written notice of adverse
19 underwriting decisions containing the specific reasons for adverse underwriting and
20 notification that the specific reason could be obtained upon written request.

21 g. Failing to provide the present insurer within three working days
22 with a notification of proposed replacement of life insurance when a replacement is
23 involved.

24 h. Failing to maintain copies of the policy Summary and sales
25 proposals, for at least three years or until the conclusion of the next succeeding regular

1 examination by the Insurance Department of its state of domicile, whichever is later.

2 i. Failing to use licensed agents to transact telemarketed life
3 insurance business.

4 j. Failing to print on the application or attach to the application a
5 notice stating that upon written request, the insurer is required to provide within a
6 reasonable time reasonable factual information regarding the benefits and provisions of
7 the annuity contract to the annuity holder and that if for any reason the contract holder
8 is not satisfied with the annuity contract the contract holder may return the annuity
9 contract within ten days after the contract is delivered and receive all premiums paid.

10 k. Failing to appoint unappointed agents as limited brokers in such a
11 manner and on forms as required by the Director, when business is first submitted.

12 l. Failing to issue coverage to eligible enrollees.

13 m. Using a certificate-booklet that excludes late enrollees for
14 coverage unless the enrollee submits evidence of good health acceptable to the
15 insurer.

16 n. Failing to include in renewal notices an explanation of the extent to
17 which an increase in premium was due to actual or expected claims experience.

18 o. Failing to give lifetime benefits for mental or nervous disorders
19 equal to other health benefits.

20 2. United has submitted to the Arizona Department of Insurance, for
21 approval, evidence that corrections have been implemented and communicated to the
22 appropriate personnel, regarding all of the items listed above in the Paragraph 1 of the
23 Order section of this Consent Order.

24 3. The Department shall be permitted, through authorized representatives,
25 to verify that United has complied with all provisions of this Order.

1 4. United shall pay a civil penalty of \$18,000.00 to the Director for deposit in
2 the State General Fund in accordance with A.R.S. § 20-220(B). The civil penalty shall
3 be provided to the Market Conduct Examinations Section of the Department prior to the
4 filing of this Order.

5 5. The Report of Examination of the Market Conduct Affairs of United as of
6 March 21, 1999, including the letter submitted in response to the Report of
7 Examination, shall be filed with the Department after the Director has filed this Order.

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9 **DATED** at Phoenix, Arizona this 20th day of August, 2001.

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12 **Charles R. Cohen**
13 **Director of Insurance**
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CONSENT TO ORDER

1. United of Omaha Life Insurance Company has reviewed the foregoing Order.

2. United of Omaha Life Insurance Company admits the jurisdiction of the Director of Insurance, State of Arizona, admits the foregoing Findings of Fact, and consents to the entry of the Conclusions of Law and Order.

3. United of Omaha Life Insurance Company is aware of the right to a hearing, at which it may be represented by counsel, present evidence, and cross-examine witnesses. United of Omaha Life Insurance Company irrevocably waives the right to such notice and hearing and to any court appeals related to this Order.

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

5. United of Omaha Life Insurance Company acknowledges that the acceptance of this Order by the Director of the Arizona Department of Insurance is solely for the purpose of settling this matter and does not preclude any other agency or officer of this state or its subdivisions or any other person from instituting proceedings, whether civil, criminal, or administrative, as may be appropriate now or in the future.

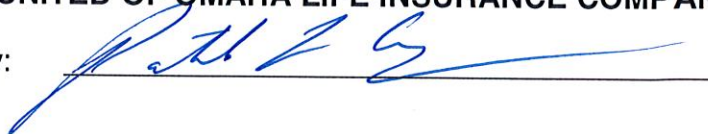
6. Patrick L. Carmody, who holds the office of Vice President of United of Omaha Life Insurance Company is authorized to enter into this Order for it and on its behalf.

UNITED OF OMAHA LIFE INSURANCE COMPANY

8-06-01

Date

By:



1 **COPY of the foregoing mailed/delivered**

2 **this 20th day of August , 2001, to:**

3
4 Sara Begley
5 Deputy Director
6 Paul J. Hogan
7 Chief Market Conduct Examiner
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 Nancy Howse
18 Chief Financial Examiner
19 Terry L. Cooper
20 Fraud Unit Chief
21 Dennis Babka
22 Life and Health Section Supervisor
23
24
25

DEPARTMENT OF INSURANCE
2910 North 44th Street, Suite 210
Phoenix, AZ 85018

Mr. Fred Kottmann, Insurance Services Department
United of Omaha Life Insurance Company
Mutual of Omaha Plaza
Omaha, NE 68175

