

APR 3 2002

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE  
BY CB

In the Matter of:

**PROTECTIVE LIFE INSURANCE COMPANY**

NAIC #68136,

**Respondent**

) Docket No. 02A-064-INS

) CONSENT ORDER

A market conduct examination was made of Protective Life Insurance Company, ("Protective") by Market Conduct Examiners ("the Examiners") for the Arizona Department of Insurance ("the Department"). The Report of the Examination of the Market Conduct Affairs of Protective alleges that the Company has violated A.R.S. §§20-461, 20-2110, 20-2536 and A.A.C. R20-6-801.

Protective wishes to resolve this matter without formal proceedings, neither admits nor denies 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. Protective is authorized to transact life and disability insurance in the State of Arizona, pursuant to a Certificate of Authority issued by the Director.

2. The Director authorized the Examiners to conduct a market conduct examination of Protective, covering the time period from January 1, 2000 through May 31, 2001, and was concluded on August 23, 2001. Based on their findings the Examiners prepared the "Report of Examination of the Market Conduct Affairs of Protective Life Insurance Company" dated August 23, 2001.

1 3. The Examiners reviewed 53 of 64 declined life insurance applications  
2 processed by the Company during the time frame of the examination and found that  
3 the Company failed to send a complete Summary of Rights to 53 proposed insureds  
4 who were subject to an adverse underwriting decision.

5 4. The Examiners reviewed 21 of 21 formal appeals processed during the  
6 time frame of the examination and found as follows:

7 a. Protective failed to acknowledge 9 appeals within five business  
8 days of receiving the appeal.

9 b. Protective failed to notify 2 appellants within 60 days of receiving  
10 the appeal of the outcome of the appeal or of the criteria used and clinical reasons for  
11 the decision.

12 c. Protective failed to advise 10 appellants whose formal appeals  
13 were upheld of the option to proceed to an external independent review.

14 5. The Examiners reviewed 100 of 17,625 dental paid claims and 50 of  
15 4,089 dental denied claims processed by the Company during the time frame of the  
16 examination and found as follows:

17 a. Protective failed to send an acknowledgment of the claim to 37  
18 claimants within 10 working days of receipt of the initial notice of the claim.

19 b. Protective failed to accept or deny 16 claims within 15 working  
20 days of receipt of a properly executed proof of loss.

21 6. Protective failed to pay interest on one life insurance claim not paid within  
22 30 days of receipt of an acceptable proof of loss, resulting in underpayment of interest  
23 of \$45.59.

24 **CONCLUSIONS OF LAW**

25 1. Protective violated A.R.S. §20-2110(A) by failing to send a complete

1 Summary of Rights to insureds who were subject to an adverse underwriting decision.

2 2. Protective violated A.R.S. §20-2536(B) by failing to acknowledge receipt  
3 of formal appeals within five business days of receiving the appeal.

4 3. Protective violated A.R.S. §20-2536(E)(2) by failing to notify the appellant  
5 within 60 days of the outcome of the formal appeal and the criteria used and clinical  
6 reasons for the decision.

7 4. Protective violated A.R.S. §20-2536(G) by failing to advise 10 appellants  
8 whose formal appeals were upheld of the option to proceed to external independent  
9 review.

10 5. Protective violated A.R.S. §20-461(A)(2) and A.A.C. R20-6-801(E)(1) by  
11 failing to acknowledge claims not paid within 10 working days of receipt of the notice of  
12 the claim.

13 6. Protective violated A.R.S. §20-461(A)(5) and A.A.C. R20-6-801(G)(1)(a)  
14 by failing to accept or deny claims within 15 working days of receipt of a properly  
15 executed proof of loss.

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

18 **ORDER**

19 **IT IS HEREBY ORDERED THAT:**

20 1. Protective shall cease and desist from:

21 a. Failing to provide applicants who were subject to an adverse  
22 underwriting decision with a complete Summary of Rights.

23 b. Failing to acknowledge all formal appeals within five business days  
24 of receipt.

25 c. Failing to notify insureds who requested a formal appeal of a

1 denied claim of the outcome of the appeal, including the criteria used and clinical  
2 reasons for the decision, within 60 days of receiving the appeal.

3 d. Failing to advise insureds whose formal appeals were upheld of  
4 the option to proceed to external independent review.

5 e. Failing to send acknowledgments of the receipt of a claim within  
6 10 working days of receipt.

7 f. Failing to accept or deny claims within 15 working days of receipt  
8 of properly executed proof of loss.

9 2. Within 90 days of the filed date of this Order, Protective shall submit to the  
10 Arizona Department of Insurance, for approval, evidence that corrections have been  
11 implemented and communicated to the appropriate personnel regarding all of the items  
12 mentioned in Paragraph 1 of the Order section of this Consent Order. Evidence of  
13 corrective action and communication thereof includes but is not limited to memos,  
14 bulletins, E-mails, correspondence, procedure manuals, print screens and training  
15 materials.

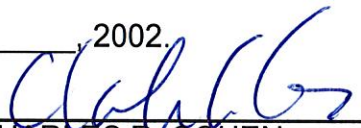
16 3. Within 90 days of the filed date of this Order, Protective shall pay \$45.59 plus  
17 interest at the rate of 10% per annum to the insured from the date the claim was  
18 received to the date of payment on claim number E0507224, received on June 7, 2000.  
19 Payment shall include a letter to the insured in a form previously approved by the  
20 Director. Verification of payment, giving the amount of interest paid, and the date of  
21 payment, shall be provided to the Department within 90 days of the filed date of this  
22 Order.

23 4. The Department shall be permitted, through authorized representatives, to  
24 verify that Protective has complied with all provisions of this Order.

25 5. Protective shall pay a civil penalty of \$6,000 to the Director for remission to

1 the State Treasurer for deposit in the State General Fund in accordance with A.R.S.  
2 §20-220(B). The civil penalty shall be provided to the Market Conduct Examination  
3 Section of the Department prior to the filing of this Order.

4 6. The August 23, 2001 Report of Examination and the letter of objection to the  
5 Report filed by Protective shall be filed with the Department upon the filing of this  
6 Order.

7 DATED this 2<sup>nd</sup> day of April 2002.  
8   
9 \_\_\_\_\_  
10 CHARLES R. COHEN  
11 Director of Insurance

10 .....  
11 .....  
12 .....

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**CONSENT TO ORDER**

1. Protective Life Insurance Company has reviewed the foregoing Order.

2. Protective Life Insurance Company admits the jurisdiction of the Director of Insurance, State of Arizona, neither admits nor denies the foregoing Findings of Fact, and consents to the entry of the Conclusions of Law and Order.

3. Protective 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. Protective Life Insurance Company irrevocably waives the right to such notice and hearing and to any court appeals related to this Order.

4. Protective 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. Protective 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. Deborah J. Long, who holds the office of Senior Vice President, Secretary and General Counsel of Protective Life Insurance Company is authorized to enter into this Order for it and on its behalf.

**Protective Life Insurance Company**

March 8, 2002  
\_\_\_\_\_  
(Date)

By: Deborah J Long

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

COPY of the foregoing mailed/delivered  
This 3rd day of April 2002, to:

- Sara Begley  
Deputy Director
- Mary Butterfield  
Assistant Director  
Consumer Affairs Division
- Paul Hogan  
Chief Market Conduct Examiner  
Market Conduct Examinations Section
- Deloris E. Williamson  
Assistant Director  
Rates & Regulations Division
- Steve Ferguson  
Assistant Director  
Financial Affairs Division
- Nancy Howse  
Chief Financial Examiner  
Financial Affairs Division
- Alexandra Shafer  
Assistant Director  
Life and Health Division
- Terry Cooper  
Manager  
Fraud Unit

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

PROTECTIVE LIFE INSURANCE COMPANY  
Lynn Williams, Senior Associate Counsel  
P.O. Box 2606  
Birmingham, AL 35202

