

STATE OF ARIZONA
FILED

AUG 24 2007

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY JB

In the Matter of:

NEW YORK LIFE INSURANCE COMPANY,

NAIC # 66915

Respondent

Docket No. 07A-153-INS

CONSENT ORDER

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of New York Life Insurance Company ("NYLIC"). The Report of Targeted Examination of the Market Conduct Affairs of New York Life Insurance Company alleges that NYLIC has violated A.R.S. §§ 20-1241.04 (D) and (H); 20-1241.05 (C), and 20-1241.05(G)(1) and (G)(2)

NYLIC wishes to resolve this matter without formal proceedings, neither admits nor denies the following Findings of Fact and Conclusions of Law are true and consents to the entry of the following Order.

FINDINGS OF FACT

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

2. The Director authorized the Examiners to conduct a targeted market examination of NYLIC. The examination covered the time period from October 1, 2004 through March 31, 2005 and concluded on January 9, 2007. Based on the examination findings, the Examiners prepared the "Report of Targeted Examination of NYLIC Life Insurance Company" ("Report"), dated March 31, 2005.

3. The Report alleges the following:

1 a. NYLIC failed to require, with or as a part of the application, a statement
2 signed by the applicant and insurance producer as to whether the applicant had an
3 existing policy or contract on 162 of the 162 life new business issues, internal
4 replacements and external replacement files reviewed;

5 b. NYLIC failed to require, with or as a part of the application, a
6 statement signed by the applicant and insurance producer as to whether the applicant
7 had an existing policy or contract and either failed to notify the producer and applicant
8 that outstanding requirements needed to be fulfilled, or did not fulfill the incomplete
9 requirements on 162 of the 162 life new business issues, internal replacements and
10 external replacement files reviewed;

11 c. NYLIC failed to notify the existing insurer that may be affected by
12 the proposed replacement within five business days of receipt of a completed
13 application which indicated replacement in 41 of 62 life external replacement files
14 reviewed;

15 d. NYLIC failed to require the insurance producer to submit a signed
16 statement with the application stating that the insurance producer used only approved
17 sales materials and that a copy was left with the applicant on 76 of the 97 life internal
18 replacements and external replacement files reviewed;

19 e. NYLIC failed to notify the applicant within ten days of the issuance
20 of the contract. This issue was found in 85 of the 97 life internal replacement and
21 external replacement files reviewed.

22 1. That the producer made a representation that only approved
23 sales materials were used during the sales presentation and that copies
24 were left with the applicant.
25

1 2. To provide the applicant with a toll free number to contact insurer
2 personnel responsible for regulatory compliance if the insurance producer
3 did not leave sales materials.

4 3. To advise the applicant that it is important to retain copies of
5 the sales material for future.

6 **CONCLUSION OF LAW**

7 1. a. NYLIC allegedly violated A.R.S. § 20-1241.04(D) by failing to
8 require, with or as a part of the application, a statement signed by the applicant and
9 insurance producer as to whether the applicant had an existing policy or contract;

10 b. NYLIC allegedly violated A.R.S. § 20-1241.04(H) by failing to
11 notify the producer and applicant of the outstanding replacement requirements that
12 needed to be fulfilled, or did not fulfill the incomplete requirements;

13 c. NYLIC allegedly violated A.R.S. § 20-1241.05(C) by failing to
14 notify the existing insurer that may be affected by the proposed replacement within five
15 business days of the receipt of a completed application indicating replacement;

16 d. NYLIC allegedly violated A.R.S. § 20-1241.05(G)(1) by failing to
17 require the insurance producer to submit a signed statement with the application
18 stating that the insurance producer used only approved sales materials and that a copy
19 was left with the applicant;

20 e. NYLIC allegedly violated A.R.S. § 20-1241.05(G)(2) by failing to
21 notify the applicant within ten days of the issuance of the contract that the producer
22 made a representation that only approved sales materials were used during the sales
23 presentation and that copies were left with the applicant; provide the applicant with a
24 toll free number to contact insurer personnel responsible for regulatory compliance,
25 and to advise the applicant that it is important to retain copies of the sales material for
future reference.

1 ORDER

2 **IT IS ORDERED THAT:**

3 1. New York Life Insurance Company shall take appropriate action to:

4 a. file for approval, if necessary, a form that will require, with or as a part
5 of the application, a statement signed by the applicant and insurance producer as to
6 whether the applicant had an existing policy or contract;

7 b. file for approval, if necessary, a form that will require with or as a part
8 of the application, a statement signed by the applicant and insurance producer as to
9 whether the applicant had an existing policy or contract and either notify the producer
10 and applicant that outstanding requirements needed to be fulfilled, or fulfill the
11 incomplete requirement;

12 c. notify the existing insurer that may be affected by the proposed
13 replacement within five business days of a completed application which indicated
14 replacement;

15 d. require the insurance producer to submit a signed statement with the
16 application stating that the insurance producer used only approved sales materials and
17 that copies of the sales materials were left with the applicant;

18 e. notify the applicant within ten days of the issuance of the contract that
19 the producer made a representation that only approved sales materials were used
20 during the sales presentation and that copies of the sales materials were left with the
21 applicant; provide the applicant with a toll free number to contact insurer personnel
22 responsible for regulatory compliance, and to advise the applicant that it is important to
23 retain copies of the sales material for future reference.

24 2. Within 90 days of filed date of this Order, NYLIC shall submit to the
25 Arizona Department of Insurance, for approval, evidence that corrections have been

1 implemented and communicated to the appropriate personnel, regarding the items
2 listed above in Paragraph 1(c),(d) and (e) of the Order section of this Consent Order.
3 Within 180 days of filed date of this Order, NYLIC shall submit to the Arizona
4 Department of Insurance, for approval, evidence that corrections have been
5 implemented, filed, if necessary, and communicated to the appropriate personnel,
6 regarding the items listed above in Paragraph 1(a) and (b) of the Order section of this
7 Consent Order. Evidence of corrective action includes but is not limited to memos,
8 bulletins, E-mails, correspondence, procedures manuals, print screens and training
9 materials.

10 3. The Department shall be permitted, through authorized representatives,
11 to verify that NYLIC has complied with all provisions of this Order.

12 4. NYLIC shall pay a civil penalty of \$40,000.00 to the Director for deposit in
13 the State General Fund in accordance with A.R.S. § 20-220(B). This civil penalty shall
14 be provided to the Market Conduct Examinations Section of the Department prior to
15 the filing of this Order.

16 5. The Report of Targeted Examination of the Market Conduct Affairs of
17 New York Life Insurance Company dated March 31, 2005 including the letter submitted
18 in response to the Report of Examination, shall be filed with the Department after the
19 Director has filed this Order.

20 DATED Arizona this 20th day of August, 2007.

21
22 
23 Christina Urias
24 Director of Insurance
25

1 **CONSENT TO ORDER**

2 1. New York Life Insurance Company has reviewed the foregoing Order.

3 2. New York Life Insurance Company admits the jurisdiction of the Director
4 of Insurance, State of Arizona, neither admits nor denies the foregoing Findings of
5 Fact and Conclusions of Law are true, and consents to the entry of the Order.

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

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

13 5. New York Life Insurance Company acknowledges that the acceptance of
14 this 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. Chris Blunt, who holds the office of
19 Senior Vice President of New York Life Insurance Company, is authorized
20 to enter into this Order for it and on its behalf.

21 **NEW YORK LIFE INSURANCE COMPANY**

22 8/13/07
23 Date

24 By: 
25

1 COPY of the foregoing mailed/delivered
2 this 24 day of August, 2007, to:

3 Gerrie Marks

Deputy Director

4 Mary Butterfield

Assistant Director

5 Consumer Affairs Division

6 Paul J. Hogan

Market Oversight Administrator

7 Market Oversight Division

8 Dean Ehler

Assistant Director

9 Rates & Regulations Division

10 Steve Ferguson

Assistant Director

11 Financial Affairs Division

12 Alan Griffieth

Chief Financial Examiner

13 Alexandra Schafer

Assistant Director

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15 Terry L. Cooper

Fraud Unit Chief

16 DEPARTMENT OF INSURANCE

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