

OCT 25 2007

DEPT OF INSURANCE
BY CB

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:

NEW YORK LIFE INSURANCE AND ANNUITY

CORPORATION,

NAIC # 91596,

Respondent

) Docket No. 07A-185-INS

) **CONSENT ORDER**

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of New York Life Insurance and Annuity Corporation ("NYLAC"). The Report of Examination of the Market Conduct Affairs of New York Life Insurance and Annuity Corporation alleges that New York Life has violated A.R.S. §§ 20-1233 (A), 20-1241.05 (C) and (G)(1).

NYLAC 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. NYLAC 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 NYLAC. The examination covered the time period from October 1, 2004 through March 31, 2005 and concluded on August 30, 2006. Based on the examination findings, the Examiners prepared the "Report of Targeted Examination of New York Life Insurance and Annuity Corporation", dated March 31, 2005.

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1 3. a. The Department alleges that NYLAC used five annuity contract
2 forms that contained a Free Look notice that failed to included a statement notifying
3 contract holders that, upon written request, the insurer is required to provide within a
4 reasonable time reasonable factual information regarding the benefits and provisions
5 of the annuity contract to the contract holder;

6 b. The Department alleges that NYLAC failed to notify the existing
7 insurer that may be affected by the proposed replacement within five business days of
8 the receipt of a completed application indicating replacement on 14 of the 24 life
9 external replacement files reviewed;

10 c. The Department alleges that NYLAC failed to require, with the
11 application, a statement signed by the producer stating that the producer used only
12 sales material which had been approved by the Company and that copies were
13 provided to the applicants on 22 of the 31 life internal and external replacement files
14 reviewed;

15 d. The Department alleges that NYLAC failed to notify the existing
16 insurer that may be affected by the proposed replacement within five business days of
17 the receipt of a completed application indicating replacement on six of the 46 annuity
18 external replacement files reviewed;

19 e. The Department alleges that NYLAC failed to require, with the
20 application, a statement signed by the producer stating that the producer used only
21 sales material which had been approved by the Company and that copies were
22 provided to the applicants on 26 of the 56 annuity internal and external replacement
23 files reviewed.

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1 **CONCLUSIONS OF LAW**

2 1. NYLAC allegedly violated A.R.S. § 20-1233 (A) by using annuity contract
3 forms that contained a Free Look notice that failed to included a statement notifying
4 contract holders that, upon written request, the insurer is required to provide within a
5 reasonable time reasonable factual information regarding the benefits and provisions
6 of the annuity contract to the contract holder;

7 2. a. NYLAC allegedly violated A.R.S. § 20-1241.05 (C) by failing on
8 both life and annuity applications to notify the existing insurer that may be affected by
9 the proposed replacement within five business days of the receipt of a completed
10 application indicating replacement;

11 b. NYLAC allegedly violated A.R.S. § 20-1241.05 (G)(1) by failing on
12 both life and annuity applications to obtain a statement signed by the producer stating
13 that the producer used only sales material which had been approved by the Company.

14 **ORDER**

15 **IT IS ORDERED THAT:**

16 1. New York Life Insurance and Annuity Corporation shall take appropriate
17 action to:

18 a. use annuity contract forms that included a statement notifying
19 contract holders that, upon written request, the insurer is required to provide within a
20 reasonable time reasonable factual information regarding the benefits and provisions
21 of the annuity contract to the contract holder;

22 b. notify the existing insurer that may be affected by the proposed
23 replacement within five business days of a completed application which indicated
24 replacement;

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1 c. obtain a statement signed by the producer stating that the producer
2 used only sales material which had been approved by the Company.

3 2. Within 90 days of filed date of this Order, New York Life and Annuity
4 Corporation shall submit to the Arizona Department of Insurance, for approval,
5 evidence that corrections have been implemented and communicated to the
6 appropriate personnel, regarding all of the items listed above in Paragraph 1 of the
7 Order section of this Consent Order. Evidence of corrective action includes but is not
8 limited to memos, bulletins, E-mails, correspondence, procedures manuals, print
9 screens and training materials.

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

12 4. New York Life and Annuity Corporation shall pay a civil penalty of
13 \$26,000.00 to the Director for deposit in the State General Fund in accordance with
14 A.R.S. § 20-220(B). This civil penalty shall be provided to the Market Conduct
15 Examinations Section of the Department prior to the filing of this Order.

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

20 DATED Arizona this 24th day of October, 2007.

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23 Christina Urias
24 Director of Insurance
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1 **CONSENT TO ORDER**

2 1. New York Life Insurance and Annuity Corporation has reviewed the
3 foregoing Order.

4 2. New York Life Insurance and Annuity Corporation admits the jurisdiction
5 of the Director of Insurance, State of Arizona, admits the foregoing Findings of Fact,
6 and consents to the entry of the Conclusions of Law and Order.

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

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

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

20 6. Christopher Blunt, who holds the office of
21 Senior Vice President of New York Life Insurance and Annuity
22 Corporation, is authorized to enter into this Order for it and on its behalf.

23 **NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION**

24 10/15/07
Date

By: 

1 COPY of the foregoing mailed/delivered
2 this 25th day of October , 2007, to:

3 Gerrie Marks
4 Deputy Director
5 Mary Butterfield
6 Assistant Director
7 Consumer Affairs Division
8 Paul J. Hogan
9 Market Oversight Administrator
10 Market Oversight Division
11 Dean Ehler
12 Assistant Director
13 Rates & Regulations Division
14 Steve Ferguson
15 Assistant Director
16 Financial Affairs Division
17 Alan Griffieth
18 Chief Financial Examiner
19 Alexandra Schafer
20 Assistant Director
21 Life and Health Division
22 Terry L. Cooper
23 Fraud Unit Chief

24 DEPARTMENT OF INSURANCE
25 2910 North 44th Street, Suite 210
Phoenix, AZ 85018

Randi J. Bader
Associate General Counsel
New York Life Insurance Company
51 Madison Avenue
New York, NY 10010

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