

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

FEB 17 1994

DEPARTMENT OF INSURANCE  
By *[Signature]*

1 2 3 4 5 6 7	In the Matter of:  COMMERCIAL BANKERS LIFE INSURANCE COMPANY  Respondent.	) ) ) ) ) ) )	Docket No. 8357  CONSENT ORDER
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8 A market conduct examination was made of Commercial Bankers  
9 Life Insurance Company, hereinafter referred to as "Commercial  
10 Bankers", by a Market Conduct Examiner for the Arizona  
11 Department of Insurance ("ADOI") covering the time period from  
12 January 1, 1989 to May 31, 1992. Based upon the examination  
13 results, it is alleged that Commercial Bankers has violated the  
14 provisions of Arizona Revised Statutes, Title 20, Sections  
15 20-311, 20-442, 20-443, 20-448.01, 20-1213 and 20-2110 and  
16 Arizona Administrative Code Rule ("A.A.C. R") 4-14-215.  
17 Commercial Bankers wishes to resolve this matter without formal  
18 adjudicative proceedings and hereby agrees to a Consent Order.

19 The Director of Insurance of the State of Arizona ("the  
20 Director") enters the following Findings of Fact, and  
21 Conclusions of Law, which are neither admitted nor denied by  
22 Commercial Bankers, and the following Order:

FINDINGS OF FACT

23  
24 1. Commercial Bankers is authorized to transact life and  
25 disability insurance as an insurer pursuant to a Certificate of  
26 Authority issued by the Director.

27 2. The Examiner was authorized by the Director to conduct  
28 a market conduct examination of Commercial Bankers and has

1 prepared the Report of Examination of the Market Conduct Affairs  
2 of Commercial Bankers ("the Report"). The Examination included  
3 policies underwritten and/or administered by Commercial Bankers  
4 on behalf of National Home Life Assurance Company ("NHL"). The  
5 period covered by the on-site examination was concluded as of  
6 May 31, 1992.

7 3. The Examiner reviewed all fourteen (14) applications  
8 for insurance which were declined by Commercial Bankers during  
9 the time frame of the Examination. In each of the declined  
10 applications Commercial Bankers failed to inform the applicant  
11 of the specific reason for the declination or his right to  
12 receive the reason upon written request to Commercial Bankers.

13 4. Commercial Bankers contracted with a telemarketing  
14 firm to solicit applications in Arizona for the mortgage  
15 products offered by NHL. In each of the fourteen (14) Arizona  
16 applications reviewed, the agent of the telemarketing firm  
17 soliciting the application was not licensed as an insurance  
18 agent in Arizona. The Company issued the policies and paid  
19 commissions.

20 5. Commercial Bankers failed to keep a replacement  
21 register to track replacement of life insurance. Since the  
22 replacement register was not kept the Examiner was unable to  
23 determine the number of identity of policies applied for which  
24 were to replace coverage with an existing insurer.

25 6. The Examiner reviewed all twenty-five (25) NHL  
26 policies underwritten by Commercial Bankers and found that  
27 twenty (20) applicants had been tested for antibodies to the HIV  
28 virus without Commercial Bankers obtaining permission of the

1 applicant as evidenced by the applicants' signature on an HIV  
2 consent form approved by the Director as required by Circular  
3 Letter No. 90-10, promulgated by the Director pursuant to A.R.S.  
4 § 20-448.01.

5 7. Commercial Bankers sent out notices to twenty-nine  
6 (29) Universal Life insureds that their policies were in the  
7 grace period when the policies still had cash value left to pay  
8 the mortality charges and administrative expenses.

9 8. Commercial Bankers allowed the insureds of two (2)  
10 policies to continue paying premiums when their policies had  
11 technically lapsed, without informing the insureds of the  
12 current status of their policies. On Policy #C002012624 the  
13 negative cash value of the policy was \$631.37 and on Policy  
14 #C2010630 the negative cash value of the policy was \$10,901.50.

15 9. Commercial Bankers sent a letter to 155 insureds  
16 following the date the insureds' policies lapsed. The letter  
17 stated "we are offering you a one time opportunity to apply for  
18 reinstatement of your policy". The restatement provision of the  
19 policy provided the insured a five (5) year period for  
20 reinstatement.

21 10. On twenty-four (24) policies, Commercial Bankers  
22 disclosed the total premiums paid and current cash value of the  
23 policies to a person other than the policyholder. These  
24 insureds had not provided written authorization to Commercial  
25 Bankers for such disclosure.

#### 26 CONCLUSIONS OF LAW

27 1. By failing to inform applicants of the specific  
28 reasons for declination of the applicants' right to receive the

1 reasons upon written request to Commercial Bankers, Commercial  
2 Bankers violated A.R.S. § 20-2110(A).

3 2. By paying commissions to agents not licensed by the  
4 Director to solicit applications for mortgage related insurance,  
5 Commercial Bankers violated A.R.S. § 20-311(A) and the agents  
6 violated A.R.S. § 20-287(A) and (B) by soliciting insurance  
7 without being licensed to do so.

8 3. By failing to keep a replacement register, Commercial  
9 Bankers violated A.A.C. R4-14-215(F)(3)(f) and A.R.S. § 20-442.

10 4. By testing applicants for antibodies to the HIV virus  
11 without obtaining permission of the applicant on an HIV consent  
12 form approved by the Director, Commercial Bankers violated  
13 A.R.S. § 20-448.01(B).

14 5. By sending notices to policyholders that their policy  
15 was in the grace period when the policy still had a cash value  
16 left to pay the mortality charges and expenses, Commercial  
17 Bankers misrepresented the terms, benefits or advantages of the  
18 policies in violation of A.R.S. § 20-443(1).

19 6. By failing to send notices of lapse to insureds and by  
20 allowing the insureds of policies to continue paying premiums  
21 when their policies had technically lapsed, Commercial Bankers  
22 misrepresented the terms, benefits or advantages of the policies  
23 in violation of A.R.S. § 20-443(1).

24 7. By sending a letter to insureds following the date of  
25 policy lapse stating "we are offering you a one time opportunity  
26 to apply for reinstatement of your policy", Commercial Bankers  
27 misrepresented the reinstatement provision of the policy in  
28 violation of A.R.S. § 20-443(1).

1       8.    By disclosing to a person other than the insured the  
2 total premiums paid and the current cash value of policies  
3 without the express written permission of the insureds,  
4 Commercial Bankers violated A.R.S. § 20-1213.

5       9.    Grounds exist for the Director to revoke or suspend  
6 Commercial Bankers's Certificate of Authority pursuant to A.R.S.  
7 § 20-220(A)(1).

8       10.   Grounds exist for the entry of all other provisions of  
9 the following order.

10                                   ORDER

11       Commercial Bankers having admitted the jurisdiction of the  
12 Director to enter the Order set forth herein, having waived the  
13 Notice of Hearing and the hearing, having waived any and all  
14 rights to appeal this Order, and having consented to the entry  
15 of the Order set forth hereinafter, and there being no just  
16 reason for delay:

17           IT IS HEREBY ORDERED THAT:

18       1.    Commercial Bankers shall cease and desist from failing  
19 to give the specific reason for the declination of an  
20 application and informing the applicant of his right to receive  
21 the reason upon written request to Commercial Bankers; from  
22 employing unlicensed agents to solicit applications for  
23 insurance and paying commissions thereto; from failing to keep a  
24 replacement register cross indexed by replacing agent and  
25 existing insurer to be replaced; from failing to obtain  
26 permission of the applicant prior to HIV testing and using a  
27 consent form approved by the Director; from sending notices to  
28 insureds that their policies are in the grace period when the


1 policies still had cash value left to pay mortality charges and  
2 expenses; from sending letters to insureds after policy lapse in  
3 variance to the reinstatement provision of the policy and from  
4 disclosing to another, without the express written authorization  
5 of the insured, the total premiums paid and the current cash  
6 value of the insured's policy.

7 2. The ADOI shall be permitted, through an authorized  
8 representative, to verify that Commercial Bankers has complied  
9 with all provisions of this Order, and the Director may  
10 separately order Commercial Bankers to comply.

11 3. Commercial Bankers shall pay a civil penalty of  
12 Eleven Thousand Dollars (\$11,000.00) to the Director for  
13 remission to the State Treasurer for deposit in the State  
14 General Fund in accordance with A.R.S. § 20-220(B). Said Eleven  
15 Thousand Dollars (\$11,000.00) shall be provided to the Hearing  
16 Division of the ADOI on or before February 16, 1994.

17 4. The Report of Market Conduct Examination as of May 31,  
18 1992, to include the objections to the Report by Commercial  
19 Bankers, shall be filed with the ADOI.

20  
21 DATED at Phoenix, Arizona this 17 day of February, 1994.

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24 Chris Herstam  
25 Director of Insurance

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CONSENT TO ORDER

1. Respondent, Commercial Bankers Life Insurance Company, has reviewed the foregoing Order.

2. Respondent is aware of its right to a hearing at which hearing Respondent may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived its right to such public hearing and to any court appeals relating thereto.

3. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona, and consents to the entry of this Order.

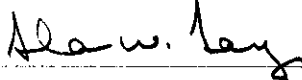
4. Respondent states that no promise of any kind or nature whatsoever was made to induce it to enter into this Order and that it has entered into this Order voluntarily.

5. Respondent acknowledges that the acceptance of this Order by the Director of Insurance, State of Arizona, is solely for the purpose of settling this litigation against it and does not preclude any other agency or officer of this state or subdivision thereof from instituting other civil or criminal proceedings as may be appropriate now or in the future.

6. Alan W. Faigin represents that as Assistant Secretary he is an officer of Commercial Bankers Life Insurance Company, and that as such, he has been authorized by it to enter into this Order for and on its behalf.

COMMERCIAL BANKERS LIFE INSURANCE COMPANY

February 14, 1994  
(DATE)

BY 

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COPY of the foregoing mailed/delivered  
this 17th day of February, 1994, to:  
Katrina Rogers  
Hearing Officer  
Deloris E. Williamson  
Assistant Director  
Rates & Regulations Division  
\*Saul R. Saulson  
Supervisor  
Examinations Section  
Mary Butterfield  
Manager  
Health Policy Division  
Earl Brown  
Supervisor  
Life and Disability Section  
Jay Rubin  
Assistant Director  
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*Chris Crawford*