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P. O. Box 140874
Salt Lake City, Utah 84114-0874
Telephone: (801) 367-0375

RECEIVED
MAR 15 2011
UTAH STATE
INSURANCE DEPT.

BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH

COMPLAINANT:	**STIPULATION AND ORDER**
UTAH INSURANCE DEPARTMENT	Docket No. 2010-168 LF
RESPONDENT:	Enf. Case No. 2749
MIDLAND NATIONAL LIFE INSURANCE COMPANY 4350 Westown Parkway West Des Moines, IA 50266 NAIC ID 66044 Company ID 490	

STIPULATION

1. Respondent, Midland National Life Insurance company is an insurer domiciled in the State of Iowa and authorized to do business in the State of Utah.

2. Respondent stipulates with the Complainant, Utah Insurance Department, as follows:

a. If a hearing were held, witnesses called by the Complainant could offer and introduce evidence that would support the Findings of Fact herein;

b. Respondent admits the Findings of fact and Conclusions made therefrom;

c. Respondent stipulates to the Summary entry of the Order herein which shall

be in lieu of other administrative proceedings by Complainant in this matter; and

d. Respondent and Complainant have negotiated the terms of the Order entered herein and Respondent agrees to its entry and further agrees to be bound by all its terms.

3. Respondent is aware of its right to a hearing at which it may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived its right to such hearing and to any appeal related thereto.

4. Respondent admits the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.

5. Respondent is acting herein free from any duress or coercion of any kind or nature, having been advised fully as to its rights set forth herein.

6. Respondent acknowledges that the issuance of this Order by the Commissioner is solely for purpose of disposition of the matter entitled herein.

DATED this 10th day of March, 2011.

MIDLAND NATIONAL LIFE INSURANCE COMPANY
Brent Mardis, Chief Compliance Officer

UTAH INSURANCE DEPARTMENT
M. Gale Lemmon
Assistant Attorney General

Based upon the foregoing Stipulation and information in the file, the Presiding Office makes the following Findings of Fact:

FINDINGS OF FACT

1. Respondent, Midland National Life Insurance company is an insurer domiciled in the State of Iowa and authorized to do business in the State of Utah.

2. On or about April 29, 2009, Midland National Life Insurance company was issued a Private Letter of Admonition from the Utah Insurance Department regarding an annuity contract issued in May 2003 to a Utah resident using a form that was not filed for use in Utah.

3. The Respondent resolved the issue by rescinding the contract and returning the premium paid to the owner plus 3% annual interest.

4. As a result of the Private Letter of Admonition, Respondent immediately reviewed their current compliance procedures and self-reported approximately 100 additional non-compliant policies on June 23, 2009.

5. During the period May 7, 2002 through February 24, 2009, forty four (44) of Respondent's producers solicited and sold ninety four (94) annuity contracts to Utah residents using forms that were not filed in Utah before being delivered or issued for delivery to Utah residents. The application forms were submitted with Utah addresses; however each application stated that the forms were signed in states other than Utah.

6. Additionally, many of the subject annuity contracts did not comply with the Utah Standard Nonforfeiture Law for Individual Annuities. The contracts had higher surrender charges or surrender charges covering a longer period of time than those allowed under Utah law.

7. Respondent met with the Department personnel on October 7, 2010 to discuss a

remediation plan and Respondent requested additional time to review the 94 contracts for compliance.

8. Respondent met with Department personnel again on December 1, 2010 and provided documentation that during the period August 5, 2002 through February 10, 2009, twenty eight (28) of Respondent's producers solicited and sold seventy (70) annuity contracts to Utah residents using forms that were not previously filed in Utah.

9 Respondent's remediation plan was accepted by the Department and a forfeiture amount was agreed upon by the parties. An administrative forfeiture amount of $20,000 was agreed upon, and in addition, Respondent agreed to payment of $15,000 in administrative costs.

10. The remediation plan agreed upon requires that the affected policy holders be able to retain the policies they purchased, including the benefits described within the policies. However the surrender provisions in the contracts will be changed to comply with Utah Code Ann. § 31A-21-107(2). To avoid policyholder confusion and administration issues, Respondent will create a new and unique system plan code from scratch for each of the contracts at issue. The affected policyholders will be notified in writing that their surrender charge schedules are being altered to bring them into compliance with Utah law. Respondent will provide the Department with a copy of the notification letter to the policyholder, as well as any related endorsement, for the Department's review and acceptance prior to the notification being sent out by Respondent to the policyholder.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

CONCLUSIONS OF LAW

1. Utah Code Ann. § 31A-21-201(1) (West 2009) states:

> (1)(a) Except as exempted under Subsections 31A-21-101(2) through (6), a form may not be used, sold, or offered for sale unless the form has been filed with the commissioner.
> (b) A form is considered filed with the commissioner when the commissioner receives:
> (I) the form:
> (ii) the applicable filing fee as prescribed under Section 31A-3-103; and
> (iii) the applicable transmittal forms as required by the commissioner.

2. Utah Code Ann. § 31A-22-409 (West 2009) states in part:

> (1) This section is known as the "Standard Nonforfeiture Law for Individual Deferred Annuities."
>
> . . . .
>
> (10)(a) For the purpose of determining the benefits calculated under Subsections (8) and (9), the maturity date shall be considered to be:
> (I) in the case of an annuity contract issued on or before May 5, 2002, under which an election may be made to have an annuity payment commence at an optional maturity date, the latest date for which an election is permitted by the contract, except that it may not be considered to be later than the later of:
> (A) the anniversary of the contract next following the day on which the annuitant becomes 70 years of age; or
> (B) the tenth anniversary of the contract; or
> (ii) in the case of an annuity contract issued on or after May 6, 2002, the latest date permitted by the contract, except that it may not be considered to be the later of:
> (A) the anniversary of the contract next following the day on which the annuitant becomes 70 years of age; or
> (B) the tenth anniversary of the contract.
> (b) In the case of an annuity contract issued after May 6, 2002:
> (I) for a contract that provides cash surrender benefits, the cash surrender value on or past the maturity date shall be equal to the amount used to determine the annuity benefit payments; and
> (ii) a surrender charge may not be imposed on or past maturity.

3. Respondent violated Utah Code Ann. § 31A-21-201(1) during the period May 7, 2002 through February 24, 2009 when Respondent's producers wrote annuity contracts on forms that

had not been filed with the Department for use in Utah.

4. Respondent violated Utah Code Ann. § 31A-22-409 (10)(a)(ii)(B) during the period May 7, 2002 through February 24, 2009 inasmuch as many of the non-compliant contracts had higher surrender charges or surrender charges covering a longer period of time than those allowed by Utah law.

5. An administrative forfeiture of $20;000 is appropriate under the circumstances of this case.

6. An assessment of $15 ,000 for repayment of administrative costs to the Department is appropriate in this case.

Based upon the foregoing Stipulation, Findings of Fact and Conclusions of Law, the Presiding Officer herewith enters the following Order:

ORDER

IT IS HEREBY ORDERED:

1. Respondent, Midland National Life Insurance Company, is assessed an administrative forfeiture of $20,000 to be paid within 30 days of the date of this Order.

2. Respondent is ordered to pay $15,000 for reimbursement of administrative costs to the Utah Department of Insurance within 30 days of the date of this Order.

3. Respondent is ordered to complete the remediation plan approved by the Department.

NOTIFICATION

You are hereby notified that a failure to obey an Order of the Commissioner may subject you to further penalties, including forfeitures of up to $5,000 per violation and the suspension or revocation of your license and the filing of an action in district court, which may impose penalties of up to $10,000 per day for continued violation.

You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

DATED this 17th day of March ~~2010~~ 2011.

NEAL T. GOOCH
Insurance Commissioner

MARK E. KLEINFIELD
Administrative Law Judge
Utah Insurance Department
State Office Building, Room 3110
Salt Lake City, Utah 84114
Telephone: (801) 538-3800

WELLS FARGO

Image

CHECK HAS A COLORED BACKGROUND AND A PINK INK SQUARE IN BOTTOM RIGHT CORNER. RUB SQUARE AND INK WILL FADE AND REAPPEAR

MIDLAND NATIONAL®
Life Insurance Company
A Member of the Sammons Financial Group

One Sammons Plaza - Sioux Falls, SD 57193

0003111518

Wells Fargo Bank, N.A.
Denver, CO 82-91
For inquiries call: 1021
1-800-289-3557 option 1, option 2

DATE
12-27-2010

PAY TO THE ORDER OF

AMOUNT
$****35,000.00*****

UTAH INSURANCE DEPARTMENT
3110 STATE OFFICE BUILDING
SALT LAKE CITY UT 84114-6901

⑈0003111518⑈ ⑆102100918⑆ 4990009781⑈

PAY TO THE ORDER OF
First Security Bank of Utah, N.A.
SALT LAKE CITY, UTAH 84111
> 124000012 <
FOR DEPOSIT ONLY
STATE OF UTAH
INSURANCE DEPARTMENT
#6901 INS. DEPT. ADMINISTRATION
0000008643

487526

Item Detail

Amount:**$ 35,000.00**
Check Number:**3111518**
Posting Date:**01/04/2011**
As Of Date:**01/04/2011**

Account Name:**Midland National Life**
Account Number:**4990009781**
Routing Number:**10210091**
Type Code/Description:**475/CHECK PAID**
Item Sequence Number:**288567864**

Additional Item Details:**0000100 +000000399194905**

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State of Utah

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

NEAL T. GOOCH
Commissioner

Insurance Department

CERTIFICATE OF MAILING

I do hereby certify that on this date I mailed, by regular mail postage prepaid, a true and correct copy of the attached:

STIPULATION
&
ORDER

To the following:

Midland National Life Insurance Company
4350 Westown Parkway
West Des Moines, IA 50266

DATED this 22 th day of March, 2011

Linda Hardy
Utah Department of Insurance
State Office Building, Room 3110
Salt Lake City, UT 84114-6901

UTAH
Invoice

Printed Date: March 21, 2011

Invoice Date: December 14, 2010
Balance Due: $0.00
Due Date: January 18, 2011
Invoice ID: 487526

MIDLAND NATIONAL LIFE INSURANCE COMPANY
ONE SAMMONS PLAZA
SIOUX FALLS SD 57193

Item Description		Amount
Monetary Penalty Company		$35,000.00
	Original Amount Due	$35,000.00
Payments Received		
12/30/2010 Check		$35,000.00
	Balance Due	$0.00

UTAH
Invoice

Printed Date: March 21, 2011

Invoice Date: December 14, 2010
Balance Due: $0.00
Due Date: January 18, 2011
Invoice ID: 487526

Make checks payable to: Utah Insurance Department

Send payment to:

Utah Insurance Department
3110 State Office Building
Salt Lake City, UT 84114-6901

Detach and Return with Payment