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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENT:

NORTH AMERICAN COMPANY FOR LIFE
& HEALTH INSURANCE
4350 Westown Parkway
West Des Moines, IA 50266
NAIC ID 66975
Utah Company ID 564

STIPULATION AND ORDER

Docket No. 2010-167 L.F

Enf. Case No. 2750

STIPULATION

1. Respondent, North American Company for Life & Health Insurance, is an insurer domiciled in the State of Iowa and authorized to do business in the State of Utah, and is an affiliate of Midland National Life Insurance Company.

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.


NORTH AMERICAN COMPANY FOR
LIFE & HEALTH INSURANCE
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, North American Company for Life & Health Insurance, is an insurer domiciled in the State of Iowa and authorized to do business in the State of Utah, and is an affiliate of Midland National Life Insurance Company.

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. On June 23, 2009, Market Conduct received a phone call from Respondent's compliance officer reporting that due to the Private Letter of Admonition issued to Respondent's affiliated company, Respondent had immediately reviewed their then current compliance procedures and were self-reporting to the Department approximately 100 non-compliant policies.

4. On August 17, 2009, the Department received written explanation and the required documentation on 101 non-compliant annuities from Respondent via a CD disk.

5. During the period May 7, 2002 through April 7, 2009, twenty-two of Respondent's producers solicited and sold one hundred and one (101) annuity contracts to Utah residents using forms that were not filed in Utah before being 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. During the period May 7, 2002 through April 7, 2009, many of the subject annuity contracts did not comply with the Utah Standard Nonforfeiture Law for Individual Annuities.

Many of the contracts had higher surrender charges or surrender charges covering a longer period of time than those allowed under Utah law.

7. The Department and Respondent have negotiated a remediation plan for Respondent, an administrative forfeiture for the violation of Utah statutes and rules and, an amount payable to offset administrative costs of the Department in this matter.

8. On December 1, 2010, a meeting was held at the Department with representatives of the Department and the Respondent participating. At the meeting, Respondent's remediation plan was accepted by the department. an administrative forfeiture in the amount of \$30,000 was agreed upon, and administrative expenses to be paid by Respondent in the amount of \$20,500 was agreed upon.

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 April 7, 2009 when Respondent's producers wrote 101 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 most 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 \$30,000 is appropriate under the circumstances of this case.

6. An assessment of \$20,500 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, North American Company For Life & Health Insurance, is assessed an administrative forfeiture of \$30,000 to be paid within 30 days of the date of this Order.
2. Respondent is ordered to pay the sum of \$20,500 for reimbursement of administrative costs to the Utah Insurance Department within 30 days of the date of this Order.

DATED this 17th day of March, 2011.

NEAL T. GOOCH
Insurance Commissioner



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

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.



Image

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



North American Company for Life & Health Insurance
Principal Office: 4350 Westown Pkwy, West Des Moines, IA 50266
Administrative Office: PO Box 5088, Sioux Falls, SD 57117-5088

PAY TO THE ORDER OF

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

1600392315

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**

AMOUNT
\$***50,500.00*******

John J. Craig
Paul White

⑈ 1600392315 ⑆ ⑆ 102100918 ⑆ 499001778 ⑆ ⑆



PAY TO THE ORDER OF
 First Security Bank of Utah, N.A.
 SALT LAKE CITY, UTAH 84111
 > 12400012 <
 FOR DEPOSIT ONLY
 STATE OF UTAH
 INSURANCE DEPARTMENT
 #8901 INS. DEPT. ADMINISTRATION
 0600008643
 487525

Item Detail

Amount: \$ 50,500.00	Account Name: Nacolah
Check Number: 1600392315	Account Number: 4990017781
Posting Date: 01/04/2011	Routing Number: 10210091
As Of Date: 01/04/2011	Type Code/Description: 475/CHECK PAID
	Item Sequence Number: 288567878

Additional Item Details: 0000022 +000000191265386



Insurance Department

State of Utah

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

NEAL T. GOOCH
Commissioner

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:

North American Company for Life & Health Insurance
4350 Westown Parkway
West Des Moines, IA 50266

DATED this 22th 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: December 30, 2010
Invoice ID: 487525

NORTH AMERICAN COMPANY FOR LIFE HEALTH INSURANCE
ONE SAMMONS PLAZA
SIOUX FALLS SD 57193

Item Description	Amount
Monetary Penalty Company	\$50,500.00
Original Amount Due	\$50,500.00
Payments Received	
12/30/2010 Check	\$50,500.00
Balance Due	\$0.00

**UTAH
Invoice**

Printed Date: March 21, 2011

Invoice Date: December 14, 2010
Balance Due: \$0.00
Due Date: December 30, 2010
Invoice ID: 487525

Make checks payable to: Utah Insurance Department

Send payment to:

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