

M. GALE LEMMON #4363
Assistant Attorney General
MARK L. SHURTLEFF #4666
Attorney General
Attorneys for Utah Insurance Department
160 East 300 South, Fifth Floor
P.O. Box 140874
Salt Lake City, UT 84114-0874
Telephone: 801.366.0375

BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENT:

ALLIANZ LIFE INSURANCE COMPANY
OF NORTH AMERICA
5701 Golden Hills Drive
Minneapolis, MN 55416-1297
NAIC ID 90611, UT Company ID 1902

STIPULATION AND ORDER

Docket No. 2011-081 HL

Enf. Case No. 2798

STIPULATION

1. Respondent, Allianz Life Insurance Company of North America is an insurer domiciled in the State of Minnesota and authorized to do business in the State of Utah, NAIC ID 90611, Utah Company ID 1902.

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 neither admits nor denies the Findings of Fact or the

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.

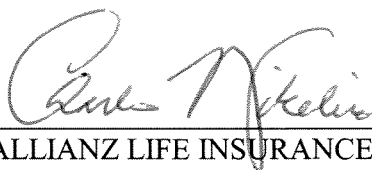
3. Respondent is aware of its right to a hearing at which it may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived its right to such hearing and to any appeal related thereto.

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.

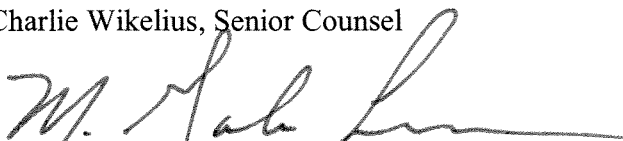
6. Respondent acknowledges that the issuance of this Order by the Commissioner is solely for purpose of disposition of the matter entitled herein.

DATED this 16th day of May, 2011.



ALLIANZ LIFE INSURANCE COMPANY OF
NORTH AMERICA

Charlie Wikelius, Senior Counsel



UTAH INSURANCE DEPARTMENT

M. Gale Lemmon

Assistant Attorney General

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

FINDINGS OF FACT

1. During the period June 10, 2005 through November 24, 2008, three of Respondent's producers, licensed to do business in the State of Utah, solicited and sold approximately 43 annuity contracts to Utah residents using forms that were not filed in Utah before being delivered or issued for delivery in Utah.

2. The subject annuity contracts did not comply with the Utah Standard Nonforfeiture Law for Individual Deferred Annuities because the contracts were either two-tier annuity products or single-tier products with higher surrender charges or charges covering a longer period of time than those allowed under Utah law.

3. The three producers knew the annuities were not available for sale in Utah, therefore all applications were submitted with fraudulent Nevada addresses (provided by the producers) and each application (which was signed by the applicant and producer) stated that the forms were signed in Nevada (cross-border sales). In reliance on the Nevada addresses listed on the applications, Respondent issued the annuity contracts to Utah residents on policy forms that were filed in Nevada. Shortly after the contracts were issued, the producers advised the annuitants to submit "change of address" forms to the Respondent after which the annuitants' information was updated to reflect their correct Utah address.

4. Respondent met with a department investigator on August 31, 2010 to discuss a remediation plan and forfeiture. Respondent had reviewed their current compliance procedures prior to the meeting and self-reported approximately 19 additional cross-border sales of policies issued during the period March 14, 2007 through September 14, 2009.

5. Respondent has agreed to a forfeiture amount, to reimburse Department administrative expenses, and to a remediation plan.

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

CONCLUSIONS OF LAW

Applicable Statutes & Rules:

1. Utah Code Ann. § 31A-21-201(1)(a), Filing of Forms, 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 until the form is 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 (10)(a)(ii)(B), Standard Nonforfeiture Law for Individual Deferred Annuities, provides:

- (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 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.
- (b) In the case of an annuity contract issued on or 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. Utah Code Ann. § 31A-21-107, Contract Rights Under Noncomplying Policies, states:

(1) Except as otherwise specifically provided by this title, a policy is enforceable against the insurer according to its terms, even if it exceeds the authority of the insurer.

(2) Any insurance policy, rider, or endorsement issued after July 1, 1986, and which is otherwise valid, which contains any condition or provision not in compliance with the requirements of this title, is not rendered invalid by this title. However, those conditions and provisions shall be construed and applied as if the policy, rider, or endorsement was in full compliance with this title.

(3) Upon written request of the policyholder or an insured whose rights under the policy are continuing and not transitory, an insurer shall reform and reissue or amend by a clearly stated rider its written policy to comply with the requirements of the law existing at the date of issuance of the policy. Subject to this section and Section **31A-21-102**, a person seeking to reform a written insurance agreement by complaint or petition to a judicial authority shall show by clear and convincing evidence the existence of facts establishing the reformation.

4. The activities of Respondent's Utah producers relating to the contracts addressed above were in violation of the above statutory provisions. Pursuant to Section 31A-23a-405, Respondent is responsible for the actions of its producers.

5. An administrative forfeiture of \$29,500 plus \$20,500 to reimburse the Department for administrative expenses is appropriate under the circumstances of this matter.

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 Allianz Life Insurance Company of North America is hereby assessed an administrative forfeiture in the amount of \$29,500.00. In addition Respondent is ordered to reimburse the Department \$20,500.00 for administrative expenses. The total amount of

\$50,000.00 shall be paid to the Utah Department of Insurance within 30 days of the issuance of this Order.

2. Respondent is hereby ordered to comply with a remediation plan for the affected policyholders which has been agreed upon by Respondent and the Department. The remediation plan requires that the affected policyholders be allowed to retain the policies purchased, including the benefits described in those policies. However, pursuant to Utah Code Ann. § 31A-21-107(2), the surrender provisions in the contracts at issue will be changed to comply with Utah law. The policyholders are to be notified in writing of the changes to be applied to bring the policies into compliance. Respondent shall provide to the Department a copy of the notification letter to the policyholder, as well as any related endorsement, for the Departments's review and acceptance prior to the mailing of the letter to policyholders.

DATED this 17th day of May, 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 forfeiture 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 forfeitures 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.