

STATE OF MICHIGAN

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS



MARKET CONDUCT EXAMINATION

NUMBER 2012C -0024

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TARGETED SCOPE MARKET CONDUCT EXAMINATION REPORT

OF

***NORTH AMERICAN COMPANY FOR LIFE AND HEALTH
INSURANCE***

West Des Moines, IA

NAIC COMPANY CODE 66974

For the Period January 1, 2009 through December 31, 2011

TABLE OF CONTENTS

I. EXECUTIVE SUMMARY	1
II. HISTORY AND PROFILE.....	1
III. PURPOSE, SCOPE AND METHODOLOGY	2
IV. EXAMINATION FINDINGS AND RECOMMENDATIONS.....	3
A. Good Standing Subclass Members	3
B1. Lapsed Coverage Subclass Members	4
B2. Lapsed Coverage Subclass Members	4
C. Complaints.....	5
V. ACKNOWLEDGEMENT.....	5

I. EXECUTIVE SUMMARY

North American Company for Life and Health Insurance (Company) is an authorized insurance company domiciled in Iowa. This examination was conducted in conformance with the National Association of Insurance Commissioners (NAIC) *Market Regulation Handbook* (2011) and the Michigan Insurance Code.

The focus of the targeted market conduct examination was on the terms of the settlement agreement in *Krummell, et al, vs North American Company for Life and Health Insurance*, United States District Court, Central District of California Case No. CV08-01509 CAS (FMOx) and how the Company has complied with these terms.

This summary of the targeted examination of the Company is intended to provide a high-level overview of the examination results. The body of the report provides details of the scope of the examination, findings, Company responses, and OFIR recommendations.

OFIR considers a substantive issue one in which a “finding” or violation of Michigan Insurance Code was found to have occurred, or one in which corrective action on the part of the Company is deemed advisable. There were no findings or recommendations.

II. HISTORY AND PROFILE

The Company was incorporated in Illinois on May 13, 1886, under the name North American Accident Association, a mutual assessment company. It was reincorporated as a stock company on August 16, 1899, under the title North American Accident Insurance Company. In 1958, it was purchased by CIT Financial Corporation. The name was changed to The North American Company for Life, Accident and Health Insurance on January 1, 1960. The Company’s present title, North American Company for Life and Health Insurance, was adopted September 30, 1967.

In 1984, the Company was acquired by RCA Corporation. In 1986, General Electric purchased RCA Corporation of which the Company was a part. In the same year, the Company was sold by RCA Corporation to a private investor group which has direct ownership of Institutional Founders Life Insurance Company (IFLIC), a Texas corporation. At that time, IFLIC became the Company’s parent corporation.

In 1996, Sammons Enterprises, Inc (SEI), a Texas general business corporation, acquired NACOLAH Holding Corporation, the parent company of IFLIC. Effective January 1, 2002, NACOLAH Holding Corporation was merged into its parent, Sammons Financial Group, Inc., formerly Sammons Financial Group, Inc (SFG) effective January 3, 2002; thereby making SFG the parent company of IFLIC.

Effective April 1, 2003, IFLIC was voluntarily dissolved and the Company assumed all of its policies pursuant to an assumption reinsurance agreement and all of IFLIC’s remaining assets

and liabilities were transferred to SFG, its parent. SEI is the ultimate parent of the Company. However, SFG, a wholly owned subsidiary of SEI, directly owns the Company.

The Company re-domesticated to Iowa on September 27, 2007. The re-domestication was made in order to simplify regulatory compliance for the Company's holding company by utilizing a common regulator for the Company and its affiliates and to reduce current taxes and future tax costs related to the anticipated growth of the Company's annuity business.

According to the 2011 annual statement filed with the OFIR, the Company reported direct ordinary premium for life insurance in Michigan in the amount of \$17,032,551 and annuity considerations in Michigan in the amount of \$125,020,636.

III. PURPOSE, SCOPE AND METHODOLOGY

The State of Michigan's Office of Financial and Insurance Regulation (OFIR) conducted a targeted market conduct examination of North American Company for Life and Health Insurance for the period of January 1, 2009 through December 31, 2011. The examination was called pursuant to Section 500.222 of the Michigan Statutes and was conducted in accordance with NAIC market conduct guidelines. Representatives from the firm of INS Regulatory Insurance Services, Inc. were engaged to complete certain agreed upon procedures.

The examination was conducted under the direction of Regan Johnson, Director of the Market Conduct Section, and Sherry J. Bass-Pohl, Manager of the Market Conduct Unit. The examination activities were conducted by Jim Myers, Ron Poplus and supervised by Dan Stemcosky.

The scope of the examination was to review the Company's activities relating to the terms and settlement agreement of *Krummell, et al, vs North American Company for Life and Health Insurance*, United States District Court, Central District of California Case No. CV08-01509 CAS (FMOx) and how the Company has complied with these terms.

The main contention involves the Company's premium notices, grace period notices, annual statements and other communications and related omissions that would have caused the inadvertent lapse of coverage under flexible premium adjustable universal life insurance policies. It is alleged that the Company induced its flexible premium adjustable life insurance policyholders to default in premium payments through the Company's purported use of ambiguous and misleading written communications and the Company's alleged failure to notify policyholders of the true status of the policies.

Per the settlement agreement, the Company agreed to revise its Planned Premium Notices and Grace Notices. Additionally, if a policy had inadvertently lapsed, procedures were established for reinstatement of coverage and for filing a claim for any Monetary Benefits that may have been effected. The review focused on ensuring the two subclasses of Michigan policyholders

established in part by the terms of the settlement agreement were being properly notified of their rights and given all opportunity to exercise their rights accordingly.

The examination covers the period January 1, 2009 through December 31, 2011.

This examination is based on the Standards and Tests for a Market Conduct Examination of a Life Insurer found in the NAIC's *Market Regulation Handbook* (2010 edition). The utilization of this chapter is derived from applicable Michigan Statutes, Rules and Regulations.

The reviews used for this type of examination fall into three general categories: generic, sample, and electronic.

A "generic" review indicates that a standard was tested through an analysis of general data gathered by the examiner, or provided by the examinee in response to queries by the examiner. A "sample" review indicates that a standard was tested through direct review of a random sample of files using a sampling methodology described in the *NAIC Market Regulation Handbook*. The sampling techniques used are based on a 95 percent confidence level. This means that there is a 95 percent confidence level that the error percentages shown in the various standards so tested are representative of the entire set of records from which it was drawn.

An "electronic" review indicates that a standard was tested through the use of a computer program or routine applied to a download of computer records of the examinee. This type of review typically reviews 100 percent of the records of a particular type.

In this examination, the standards were tested through a combination of all the above types. The sampling method described in the *NAIC Market Regulation Handbook* generally calls for a sample of 119 files when the file population being sampled exceeds 2,000. This was the case in a "sample" developed in this examination.

IV. EXAMINATION FINDINGS AND RECOMMENDATIONS

The following examination areas were reviewed and deemed as passing without notable exceptions:

A. Good Standing Subclass Members

Observations:

The Company was requested to provide a list of all Good Standing Subclass Members who held a Michigan policy during the experience period of January 1, 2009 through December 31, 2011. The Company identified a universe of 3,462 Good Standing Subclass Members during the experience period. A random sample of 119 Good Standing Subclass Member files was requested, received and reviewed. The files were reviewed to ensure compliance with the implementation and distribution of the revised planned premium and grace notices as required by

the final settlement agreement of *Krummell, et al. v. North American Company for Life and Health Insurance*. Of the 119 files reviewed, 117 files included a review of the policyholder's annual statement. The remaining two files consisted of a surrender and a death claim.

No exceptions were noted.

Company Response: The Company declined to respond.

B1. Lapsed Coverage Subclass Members

Observations:

The Company was requested to provide a list of all Subclass Members who held a Michigan policy which had lapsed on or after March 6, 2004, due to insufficient premiums to continue coverage and had not applied for reinstatement as of October 18, 2010. The Company identified a universe of 384 Lapsed Coverage Subclass Members. Of the 384 Lapsed Coverage Subclass Members notified of their reinstatement rights under the settlement agreement, 20 members responded and requested additional information in filing a claim. All 20 Lapsed Coverage Subclass Members files were requested, received and reviewed. The files were reviewed to ensure compliance with the implementation and distribution of any requests for reinstatement of coverage as required by the final settlement agreement of *Krummell, et al. v. North American Company for Life and Health Insurance*. Of the 20 members requesting information, two Lapsed Coverage Subclass Members had applied for reinstatement. The two members were denied reinstatement of coverage. Their eligibility for Monetary Benefits was also denied as they failed to meet the funding test as described in the settlement agreement.

No exceptions were noted.

Company Response: The Company declined to respond.

B2. Lapsed Coverage Subclass Members

Observations:

The Company was requested to provide a list of all Subclass Members who held a Michigan policy which had lapsed on or after March 6, 2004, due to insufficient premiums to continue coverage and had not applied for reinstatement as of October 18, 2010. The Company identified a universe of 384 Lapsed Coverage Subclass Members. Of the 384 Lapsed Coverage Subclass Members notified of their reinstatement rights under the settlement agreement, a random sample of 60 Lapsed Coverage Subclass Members files was requested, received and reviewed. The files were reviewed to ensure compliance with the implementation and distribution of notices for reinstatement of coverage as required by the final settlement agreement of *Krummell, et al. v. North American Company for Life and Health Insurance*. All 60 files reviewed indicated appropriate notices were provided and none of the 60 members had requested additional information or a request for reinstatement.

No exceptions were noted.

Company Response: The Company declined to respond.

C. Complaints

Observations:

The Company was asked for a list of all complaints received, regarding the settlement agreement of *Krummell, et al. v. North American Company for Life and Health Insurance*, during the examination period of January 1, 2009 through December 31, 2011. The Company indicated no complaints specific to the settlement agreement, were received during the examination period.

No exceptions were noted.

Company Response: The Company declined to respond.

V. ACKNOWLEDGEMENT

This is to certify that the undersigned is duly qualified and, in conjunction with INS Regulatory Insurance Services, Inc, applied certain agreed-upon procedures to the corporate records in order for the OFIR to conduct a targeted scope market conduct examination of the Company.

The undersigned's participation in this targeted examination as the Examiner-In-Charge encompasses responsibility for the coordination and direction of the examination which was performed in accordance with, and substantially complied with those standards established by the National Associations of Insurance Commissioners (NAIC) and the NAIC *Market Regulation Handbook*. This participation consisted of involvement in the planning, administration and preparation of the targeted scope examination report.

The cooperation and assistance of the officers and employees of the Company extended to the examiners during the course of the examination is hereby acknowledged.

In addition to the undersigned, Ron Poplus, Market Conduct Examiner, and Dan Stemcosky, Supervisor, participated on the examination.

The examination report is respectfully submitted.

James R Myers

James R Myers, MCM
Examiner-in-Charge
For the Office of Financial and Insurance Regulation
Market Conduct Section
June 15, 2012