

STATE OF ALABAMA
DEPARTMENT OF INSURANCE
TARGET MARKET CONDUCT EXAMINATION REPORT
OF THE
AGENTS' LICENSING AND COMMISSION PAYMENTS PRACTICES
SUBJECT TO ALA. CODE §27-2-20 (1975)

OF
COLORADO BANKERS LIFE INSURANCE COMPANY

NAIC COMPANY CODE 84786
NAIC GROUP CODE 0917

STATUTORY HOME OFFICE
5990 GREENWOOD PLAZA, SUITE 325
GREENWOOD VILLAGE, COLORADO 80111

MAIN ADMINISTRATIVE OFFICE
5990 GREENWOOD PLAZA, SUITE 325
GREENWOOD VILLAGE, COLORADO 80111

STATE OF DOMICILE: COLORADO

EXAMINATION PERIOD
JANUARY 1, 2000 – APRIL 30, 2003

June 29, 2004

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STATE OF ALABAMA

COUNTY OF MONTGOMERY

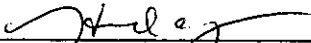
Harland A. Dyer of Latta, Langston & Dyer, being first duly sworn, upon his oath deposes and says:

THAT he is an examiner appointed by the Commissioner of Insurance for the State of Alabama;

THAT a target market conduct examination was made of the affairs of Colorado Bankers Life Insurance Company, for the period from January 1, 2000 through April 30, 2003;

THAT the following 10 pages constitute the report thereon to the Commissioner of Insurance of the State of Alabama; and

THAT the statements, exhibits, and data therein contained are true and correct to the best of his knowledge and belief.



Harland A. Dyer, ASA, MAAA, FCA
Market Conduct Examiner

Subscribed and sworn to before the undersigned authority this 29th day of June, 2004.



(Signature of Notary Public)

Donna R. Smith Notary Public
(Print Name)

in and for the State of Alabama

My commission expires 4/13/05



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HARLAND A. DYER

June 29, 2004

The Honorable Walter A. Bell
Commissioner of Insurance
State of Alabama
Department of Insurance
201 Monroe Street, Suite 1700
Montgomery, Alabama 36104

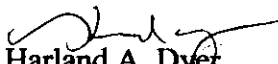
Dear Commissioner Bell:

Pursuant to your instructions and authorization, a target market conduct examination of certain practices and procedures has been made of the life, accident and health insurance business subject to ALA. CODE §27-2-20 (1975) of Colorado Bankers Life Insurance Company, an insurer whose home office is located at 5990 Greenwood Plaza, Suite 325, Greenwood Village, Colorado 80111.

The report of examination is herein respectfully submitted.

Very truly yours,

LATTA, LANGSTON & DYER


Harland A. Dyer
Consulting Actuary
Market Conduct Examiner
Alabama Department of Insurance

FOREWORD

This Target Market Conduct Examination Report regarding the operations of Colorado Bankers Life Insurance Company, with regard to the agents' licensing practices and commissions payments subject to ALA. CODE §27-7-1 (1975), in general, is a report by exception. The examiner, in writing this report, cited errors that Colorado Bankers Life Insurance Company made. However, failure to comment on specific products, procedures, or files does not constitute approval thereof by the Alabama Department of Insurance.

Wherever used in this Report:

“CBLIC” refers to Colorado Bankers Life Insurance Company

“Company” refers to Colorado Bankers Life Insurance Company

“ADI” refers to the Alabama Department of Insurance

PURPOSE AND SCOPE OF EXAMINATION

The ADI has authority for performing this examination pursuant, but not limited to, ALA. CODE §27-7-1 (1975).

The examination of CBLIC covered the time period primarily from January 1, 2000 through April 30, 2003. Material transactions or events that occurred prior to or subsequent to the examination time period may also have been reviewed. This is the first Alabama Target Market Conduct Examination of the agents' licensing practices and commissions payments of CBLIC subject to ALA. CODE §27-7-1 (1975).

The purpose of this examination was to determine whether CBLIC complied with ADI laws and regulations with regard to the agents' licensing practices and commissions payments practices, in order to assist the Commissioner in the discharge of his responsibilities by evaluating, reviewing and testing CBLIC's compliance with those laws and regulations.

The processes used in this examination are consistent with procedures developed by the ADI and the examiner. The evaluations, reviews and tests performed as a part of this examination relied primarily on the accuracy and completeness of information, documents, materials and records provided by CBLIC in various formats that included hard copy, as well as electronic copy. However, all of the information, documents, materials and records were reviewed for reasonableness by the examiner.

The examination was directed primarily to the following operations of CBLIC:

- Agents' Licensing Practices
- Commission Payment Practices

This examination was conducted at the following location:

Colorado Bankers Life Insurance Company
5990 Greenwood Plaza, Suite 325
Greenwood Village, Colorado 80111

EXAMINATION FINDINGS

I. ORGANIZATION AND HISTORY

CBLIC was originally incorporated in Colorado on May 28, 1974 and commenced business on November 7, 1974. The Company was acquired by Preferred Financial Corporation (PFC) which is a holding company principally engaged in the servicing and marketing of financial products sold through payroll deduction programs. In 1986 PFC became a wholly owned subsidiary of Lincoln National Corporation (LNC). During 1990, PFC was sold by LNC to Health Care Service Corporation, which conducts business as Blue Cross Blue Shield of Illinois/Texas/New Mexico.

CBLIC is licensed in the District of Columbia and forty-eight states (excluding New York and Vermont). CBLIC markets individual life insurance and annuity policies and an accident only disability policy through independent and personal producing general agents and brokers.

In Alabama, CBLIC collected premiums of \$338,911 in 2000, \$622,753 in 2001 and \$888,452 in 2002. For calendar year 2002, the collected premiums in Alabama were approximately 2.5% of the total premiums collected. The states that had the largest premium collections in 2002 were California, Maryland and Illinois.

II. AGENTS' LICENSING AND COMMISSIONS

PAYMENTS PRACTICES

The applicable laws with regard to agents' licensing and commission payments practices are as follows (in part).

ALA. CODE §27-1-2(3) (1975). Definitions. Person. An individual, insurer, company, association, organization, Lloyd's insurer, society, reciprocal insurer or interinsurance exchange, partnership, syndicate, business trust, corporation and every legal entity.

ALA. CODE 27-7-4(a). License requirement. No person shall in this state sell, solicit, or negotiate insurance for any class or classes of insurance unless the person is then licensed for that line of authority in accordance with this chapter. Any insurer accepting business directly from a person not licensed for that line of authority and not appointed by the insurer shall be liable to a fine up to three times the premium received from the person.

(b). No producer shall act on behalf of any insurer for which an appointment is not held under this chapter. A producer who is not acting on behalf of an insurer is not required to become appointed. For purposes of this section, a producer who refers business to an appointed producer pursuant to section 27-7-34 shall not be deemed to be acting on behalf of the insurer with whom the business is placed, regardless of whether commissions on this business are shared.

ALA. CODE §27-7-4.1(a) Commissions. No insurer or producer shall pay, directly or indirectly, any commission or other valuable consideration to any person for services as a producer or service representative within this state unless the person holds a currently valid license as a producer or service representative as to the kind or class of business involved as required by this chapter.

(b) Any insurer or producer violating this section shall be liable for a fine in an amount of up to three times the amount of the commission paid. The fine shall be levied and collected by the commissioner. Upon failure to pay the fine the commissioner may, in the commissioner's discretion, revoke the license of the producer or the insurer's certificate of authority.

ALA. CODE §27-7-5(b) License application. A business entity acting as an insurance producer is required to obtain an insurance producer license.

ALA. CODE §27-7-35.1 (a) Commissions. An insurance company or insurance producer shall not pay a commission, service fee, brokerage, or other valuable consideration to a person for selling, soliciting, or negotiating insurance in this state if that person is required to be licensed under this chapter and is not so licensed.

(b) A person shall not accept a commission, service fee, brokerage, or other valuable consideration for selling, soliciting, or negotiating insurance in this state if that person is required to be licensed under this chapter and is not so licensed.

(e) An insurer or producer violating this section shall be liable for a fine in an amount of up to three times the amount of the commission paid. The fine shall be levied and collected by the commissioner. Upon failure to pay the fine the commissioner may, in his or her discretion, revoke the license of the producer or the insurer's certificate of authority, or both.

Background Facts. CBLIC has a Sales Agreement dated June 25, 1984, with its holding company PFC. That Sales Agreement states, in part, the following. "1. CBLIC hereby appoints PFC for the purpose of procuring and transmitting applications for policies. 2.... 3. PFC shall appoint agents who shall be licensed by PFC to represent CBLIC. Agents appointed by PFC shall have no claim whatsoever on CBLIC for commissions, and PFC shall be solely responsible for its agents for any and all commissions due under any contract or agreement made between PFC and its appointed agents. 4. CBLIC agrees to pay to PFC commissions for applications for insurance accepted by CBLIC in accordance with the written commission schedule."

A complete listing was requested from CBLIC of all persons licensed in Alabama and who were paid commissions during the examination period. That listing was then compared to the listing furnished by the ADI.

PFC was not on either of the two listings. Thus, CBLIC appears to be paying commissions to a person that does not have a license nor has been appointed by CBLIC and PFC appears to have been receiving commissions without a license or appointment. Thus CBLIC is in violation of ALA. CODE §27-7-4.1(a) and ALA. CODE §27-7-35.1(a). In addition, PFC is in violation of ALA. CODE §27-7-4(a) and (b) and ALA CODE §27-7-35.1(b).

ALA. CODE §27-7-5(5)(b) states, "A business entity acting as an insurance producer is required to obtain an insurance producer license. PFC did not obtain an insurance producer license. Thus, PFC appears to be in violation of ALA. CODE §27-7-5(5)(b).

Some persons that PFC pays commissions to were not licensed or appointed by CBLIC. Those persons are Benefits for America, Anderson Agency, Inc., and Annuity and Insurance Marketing. Since these persons were not licensed by the ADI or appointed by CBLIC, these persons may have violated ALA. CODE §27-7-4(a) and (b), ALA. CODE §27-7-5(b) and ALA. CODE §27-7-35.1(b).

It should be noted that ALA. CODE § 27-7-4.1(a) states, in the pertinent part, that:

"No insurer or producer shall pay, directly or indirectly, any commission or other valuable consideration to any person for services as a producer or service representative within this state unless the person holds a current valid license as a producer or service representative..."

In addition, it should be noted that ALA. CODE § 27-7-4(a) states, in the pertinent part, that:

“No person shall in this state sell, solicit, or negotiate insurance for any class or classes of insurance unless the person is then licensed for that line of authority in accordance with this chapter.”

However, in discussions with the Company regarding the three agencies, it was determined that the Company was applying their understanding of the Alabama statutes, in particular ALA. CODE § 27-7-4(a) and § 27-7-4.1(a), in accordance with the intent of the National Association of Insurance Commissioners (NAIC) at the time the model producers law was developed by the NAIC. The Company maintained that commissions paid to the three agencies were in the nature of override commissions for services as recruiting general agents and such services do not require licensing or appointment in Alabama.

With respect to PFC, the Sales Agreement between PFC and CBLIC referred to above contained language that was not in accordance with the model producers law or the Alabama statutes. During the course of the examination, the Company rewrote the agreement between PFC and CBLIC to bring it into compliance with Alabama statutes and the intent and current practices of PFC and CBLIC.

It should be noted that ALA. CODE § 27-7-4(b) states, in the pertinent part, that:

“No producer shall act on behalf of any insurer for which an appointment is not held under this chapter.”

Item (a) of that statute stipulates that, “Any insurer accepting business directly from a person not licensed for that line of authority and not appointed by the insurer shall be liable to a fine up to three times the premium received from the person.” Based upon the intent of the model producers law, documentation evidencing premiums accepted by the Company from persons not appointed by the Company totaling approximately \$3,005 was provided by the Company; accordingly, the Company would be contingently liable for a fine of as much as approximately \$9,015.

CONTINGENT LIABILITIES

As was noted previously under the Agents' Licensing and Commissions Payments Practices, the Company reported collected premiums of approximately \$3005. Based on that amount, and in accordance with ALA. CODE § 27-7-4(a), the Company is contingently liable for a fine of up to three times the premium received, or approximately \$9,015.

RECOMMENDATIONS

Page 9. It is recommended that CBLIC immediately cease paying commissions to persons that do not hold proper licenses and appointments.

Page 10. It is recommended that CBLIC immediately verify that all persons to whom it is paying commissions hold a proper license and appointment.

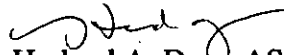
Page 9. It is recommended that PFC immediately obtain the proper license.

It is noted that the Company filed a new Sales Agreement with the ADI that now makes clear the responsibilities of both PFC and CBLIC; that is worded in accordance with the intent of the model producers law as promulgated by the NAIC; and that removes any ambiguities as to whether commissions will be paid to unlicensed producers or premiums collected from unlicensed producers. Based upon the new Sales Agreement, PFC would not be required to obtain a license.

ACKNOWLEDGMENT

The courteous cooperation extended to the examiner by the CBLIC officers and employees during the course of this examination is gratefully acknowledged.

Respectfully submitted,



Harland A. Dyer, ASA, MAAA, FCA
Consulting Actuary, Market Conduct Examiner
Alabama Department of Insurance