



Government of the District of Columbia
Department of Insurance, Securities and Banking

Anthony A. Williams
Mayor

Lawrence H. Mirel
Commissioner



**MARKET
CONDUCT
EXAMINATION**



Government of the District of Columbia
Department of Insurance, Securities and Banking

Government of the District of Columbia
Department of Insurance, Securities and Banking



Lawrence H. Mirel
Commissioner

September 13, 2005

I, Lawrence H. Mirel, Commissioner of Insurance, Securities and Banking of the District of Columbia, hereby certify that I have compared the annexed copy of the

MARKET CONDUCT EXAMINATION REPORT

OF THE

ACACIA LIFE INSURANCE COMPANY
of Washington, D.C.

AS OF

DECEMBER 31, 2003

With the original on file in this Department and the same is a correct transcript there from, and of the whole of said original.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of this Department, at the City of Washington, the day and year first written

A handwritten signature in cursive script that reads "Lawrence H. Mirel".

Lawrence H. Mirel
Commissioner of Insurance, Securities and Banking

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SALUTATION

Lincoln, Nebraska
September 14, 2004

Honorable Lawrence H. Mirel
Commissioner, District of Columbia
Department of Insurance, Securities and Banking
810 1st Street, NE, Suite 701
Washington, DC 20002

Commissioner Mirel,

Pursuant to your instructions and in compliance with the provisions of D.C. Official Code §§31-1402 and 31-1403, and procedures promulgated by the National Association of Insurance Commissioners, a comprehensive market conduct examination of the management and affairs has been conducted of:

Acacia Life Insurance Company
of Washington, D.C.

at their offices located at

7315 Wisconsin Avenue
Bethesda, Maryland 20184

and

5900 "O" Street
Lincoln, Nebraska 68510

The report thereon, as of December 31, 2003 is herein respectfully submitted.

FORWARD

The report is designed to set forth reportable observations of both a positive and a negative nature and present material adverse findings and identify significant issues. The report format is termed a report by exception. Where appropriate, the examiner made comments, observations and recommendations in functional areas of operations. The report format utilizes those National Association of Insurance Commissioners (NAIC) handbook standards applicable to reflect the District of Columbia insurance activities of Acacia Life Insurance Company (hereinafter referred to as Acacia or the Company). The Company's assigned NAIC group and Company codes respectively are 943 and 60038.

SCOPE OF EXAMINATION

The examination covers the period January 1, 2001 through December 31, 2003, including any material transactions or events occurring subsequent to the conclusion of the examination fieldwork and noted during the course of the examination. The examination was conducted pursuant to D.C. Official Code §31-1401 et seq. and was guided by the NAIC Market Conduct Examination Handbook. The NAIC handbook was employed (1) to inspect and examine the Company's market conduct procedures, (2) to determine compliance with the provisions of the law, (3) to determine management's equity dealings with the policyholders and claimants, (4) to determine any other facts relative to the Company's business methods. In reviewing material for this report, the examiner relied primarily on records and materials maintained by the Company.

The examination included, but was not limited to, the following areas of the Company's operations:

1. Company Operations/Management;
2. Complaint Handling;
3. Marketing and Sales;
4. Producer Licensing;
5. Policyholders Service;
6. Underwriting and Rating; and
7. Claims.

The on-site examination was conducted at the Company's offices located in Bethesda, Maryland and Lincoln, Nebraska with fieldwork commencing on March 15, 2004 through September 14, 2004. Additional examination tasks were performed off premises, at the offices of the Department of Insurance, Securities and Banking, hereinafter referred to as "DISB".

In cases where samples were selected and file sizes warrant, error ratios are projected to indicate a maximum high or low at a 95% level of confidence. Some files may contain multiple errors, which are indicated by category, but are counted only once in determining the error ratio.

Some unacceptable or non-complying practices may not have been discovered in the course of this examination. Failure to identify or criticize specific practices does not constitute acceptance of such practices by the DISB.

METHODOLOGY

The examination process consists of a sequence of activities. Obtaining and confirming an understanding of the company's operational system is vital in the examination process. Such activities are:

- Evaluating company procedural manuals and memorandum;
- Conducting interviews with company personnel;
- Scanning transactions prior to sample selection;

After obtaining operational knowledge, an evaluation or risk assessment is performed of the company's unique characteristics, identifying and summarizing the major risks that then drive the individual exam area strategies. Although the sequence of activities outlined occurs in every DISB market conduct examination and is based on NAIC Handbook standards and tests, some standards are measured using an analysis of general data gathered by the examiner, or provided by the company in response to queries. Some standard findings are developed through direct reviews of random sampling of files.

The examiner's judgment determines the specific procedures, plans and tests appropriate for each company operation. The standards were measured using tests designed to adequately measure how the company met the standard. Each functional exam area contains the examiner's comments, observations, recommendations, and findings and any finding resolution under its respective heading. A failed standard that also has a specific DC Official Code citation is identified under the related company function. Unresolved examination findings/issues are located at the end of the report under the caption, "Summary of Significant Issues".

COMPANY OPERATIONS/MANAGEMENT

History and Profile

Acacia Life Insurance Company was organized on October 26, 1866 and chartered by the Congress of the United States on March 3, 1869 as Masonic Mutual Relief Association of the District of Columbia. On May 14, 1932, in an amended charter, the company changed its name to Acacia Mutual Life Insurance Company.

In January 1997, Acacia filed an application and plan of reorganization with D.C. In May 1997, Acacia Life Insurance Company became a stock life insurance company with all shares of capital stock issued to and owned by Acacia Financial Group, Ltd, a wholly-owned company of Acacia Mutual Holding Corporation (AMHC), which at all times is to retain voting control of Acacia.

On January 1, 1999 AMHC merged with Ameritas Mutual Insurance Holding Company to form Ameritas Acacia Mutual Holding Company. Likewise, the intermediary holding companies merged, retaining the name Ameritas Holding Company (AHC). Both Ameritas Life Insurance Corp. and Acacia Life Insurance Company remained separate stock life companies operating independently and wholly owned by AHC.

Life insurance products include traditional participating whole life, fixed universal life and term insurance. Fixed annuities are also offered. Marketing uses a financial planning approach with emphasis on needs based selling and estate planning for professionals and small business owners. Variable products are available through

Ameritas Variable Life Insurance Company. Products were offered through over 330 career agents in eleven financial centers and twenty financial planning boutiques, as well as 512 other agents and brokers.

The Company is licensed in forty-seven states and D.C. For the year ending December 31, 2003, Acacia's total statutory premium was \$124,080,000, of which \$3,121,697 was in D.C.

Management and Control

The directors of the Company as of the examination date are as follows:

Haluk Ariturk	Floretta Dukes McKenzie
Patricia Ann McGuire	Donald Wayne Silby
Robert Marcellus Willis	Edward Jeremiah Quinn, Jr.
Charles Tuckey Nason, Chairman	

The officers of the Company as of the examination date are as follows:

Haluk Ariturk	President & CEO
Jan Connolly	Sr. VP - Operations
Robert Barth	Sr. VP - Controller & CAO
Arnold Henkel	Sr. VP - Individual Distribution
Brian Owens	Sr. VP - Career Distribution
Barry Ritter	Sr. VP & CIO
Robert-John Sands	Sr. VP - General Counsel & Corporate Sec.
Janet Schmidt	Sr. VP - Human Resources
Richard Vautravers	Sr. VP & Corporate Actuary
Edward Beller	VP & Chief Underwriter
Richard Bigler	VP - Independent Distribution
David Glazer	VP - Marketing Services
Barry Gritton	VP - Individual Distribution
James Guntow	VP - Marketing Operations
James Harvey	VP, Corp. Financial Officer & Assistant to the Executive Office
Thomas Higley	VP, Financial Actuary & Appointed Actuary
William Lester	VP & Treasurer
Dennis Luchey	VP - Human Resources
Thomas McArdle	VP and Illustration Actuary
William Nelson	VP - Ameritas Acacia Shared Services Center
Dale Niebuhr	VP - Auditor
Andrew White	VP - Securities

NOTE: During the course of the review of Company management, the examiners sought data to evaluate the following questions:

- Has the Company's management taken measures to adhere to the recommendations made by DISB on prior regulatory examinations?
- Has management implemented procedures to comply with applicable regulatory requirements found by other states market conduct examinations?
- Do management standards comply with both the applicable regulatory requirements and the interest of the general public?

In order to evaluate the Company's operations, the examiner gathered Company data using informational requests, direct questioning, interviews, and presentations by the Company staff and officers.

The Company's operations/management exam phase were reviewed using tests prescribed in the NAIC Examiners Handbook, Volume I, Chapter XV to determine if the Company was meeting established industry standards. NAIC standards A-10, A-11, A-12, A-13, A-14, A-15, A-16, A-17 are not addressed in this examination report. The DISB is performing a separate privacy examination on the entire Ameritas Holding Company group and any work covering NAIC standards A-10 through A-17 would be a duplicative process.

MGA, GA, TPA Oversight

OBSERVATION: The Company had no managing general agents, general agents, or third-party administrators operating in D.C. during the period of the examination.

Internal Audits

COMMENT and OBSERVATION: All companies within the corporation are subject to review by the internal audit department who reports directly to the board of directors. A summary of internal audit results performed on Company operations was reviewed. Additionally, audit reports on advertising, escheat procedures, underwriting and issue, premium billing and receipts, policy surrenders and replacements and data recovery

testing were requested for review. The reports contained observations of areas that might need attention and management response to each such observation. Follow-ups were done to see what changes had been made to procedures. These reports provided insight into each operational area reviewed and reduced the examination time required.

Anti Fraud Plan

COMMENT and OBSERVATION: Pursuant to D.C. Official Code §22-3225.15, the Company is required to develop and maintain an anti-fraud program. The Company fraud program and the "Annual Report of Fraud Statistical Data for 2003" were reviewed. The Company fraud policy is distributed to all associates annually. All new associates receive instructions on the subject of fraud and, depending on their functions, regular classes are held to maintain skills and awareness. In addition to claims, fraud awareness is practiced in many areas of the Company including policyholder services, underwriting and accounting. The program is subject to updating as procedures change but no less often than every twenty-four months.

Certificate of Authority

OBSERVATION: A copy of the Company's current Certificate of Authority, issued by DISB, was reviewed and found to be in conformity with the Company's operations.

Disaster Recovery

OBSERVATION: An executive summary of the Business Recovery Plan was provided and reviewed prior to an interview with the person responsible for the Plan. The entire plan is available only on a secured internet-based system. It was due for implementation on December 31, 2003, but is currently having updates and additions done. The first testing is scheduled for the third quarter of 2004.

Computer Systems

OBSERVATION: The information security policy is a comprehensive plan to ensure the confidentiality, integrity and availability of information used to conduct the

Company business. The plan is subject to regular review, at least annually, and was last updated in September 2003.

Board of Director's Meeting Minutes

OBSERVATION: The minutes of the board of director's meetings for the examination period were reviewed without comment.

Privacy

COMMENT: Concurrent with this market conduct examination, an extensive review of the Company privacy policy was being performed by PricewaterhouseCoopers, LLP on behalf of DISB.

Records

COMMENT and OBSERVATION: During the course of the examination, the examiner sought to determine if the Company was in compliance with D.C. Official Code §31-2231.10, which prescribes that "no person shall fail to maintain its books, records, documents, and other business records in such order that data regarding complaints, claims, rating, underwriting, and marketing are not accessible and retrievable for examination by the Commissioner. Data for at least the current calendar year and the 2 preceding years shall be maintained."

The Company used an imaging program to store its business related documents. All of the files requested from operational departments by the examiner were provided as printouts of the imaged documents. While there was some evidence that not all pertinent documents were imaged, and that documents were not always in logical or chronological order, the biggest problem noted was the record system's lack of any form of indexing. Indexing would allow the searching, sorting and selection of particular documents from a file.

It was observed that all policy history and documents are transferred into a claim file at the time a death claim is filed. In the absence of a Company's system for indexing file

contents, large files are printed out in their entirety because pertinent file items/transactions could not be individually selected. For example, when the examiner went to select claim file number 4160189438 for claim review, the Company's system required the entire 654-page file be printed when only seven pages related to the claim.

The examination process requires the request for and identification of specific transactions to be reviewed. The inability of the Company to, upon request, isolate the necessary records so that a meaningful sample can be examined frustrates the exam process. This situation arose when the Company's system provided the examiner with a listing of surrendered policies for testing. The testing discovered the Company surrender list mixed in force policies with surrendered policies. The Company failed to offer an explanation.

The lack of a formal procedure to search for all policies within the Company or affiliates at claim time was also a concern expressed during the Company's DISB financial examination.

RECOMMENDATION: It is the responsibility of management to assure records maintenance and retrieval systems provide users meaningful information upon request. Management should consider addressing the following:

- Provide staff training and user guidelines to assure the information sought meets the user request.
- Provide some form of file image index to allow better access of pertinent records within a file without the need to review or print out the entire file.
- Provide a Company standard for the documentation of transactions and correspondence with policyholders.
- The Company should employ a method of better identifying transaction types. For example, full disclosure of policy values, rights and options provided by the contract should be disclosed to allow policyholders to make reasonably informed decisions regarding their coverage.

COMPLAINT HANDLING

NOTE: The NAIC definition of a complaint is a written communication primarily expressing a grievance (meaning an expression of dissatisfaction). The examiner reviewed the Company's procedures for processing policyholder or other related complaints. The Company's complaint handling exam phase tested NAIC Examiners Handbook, Volume I, Chapter XV standards B-1 through B-4.

COMMENTS and OBSERVATIONS: The Company provided the complaint handling procedures for the Ameritas Acacia companies. The document detailed the various reporting requirements and related some internal time-line standards. The only external time-line reference was the need to request an extension of time from the Department if unable to respond within the allotted time.

In an interview with the persons responsible for complaint responses, it was stated that their practice was to provide a complete response within a few days or to provide an acknowledgement of receipt with advice as to the actions being taken to resolve the issues.

The Company was requested to provide the D.C. complaint files from January 1, 2001 through December 31, 2003. A total of fifty-three complaint files were reviewed. The review indicated the following:

None of the complaint files provided were related to business from D.C. A review of records provided by DISB confirmed there were no complaints filed with DISB during the examination period.

The files provided were from other states and included thirty-two complaints filed through the departments of insurance and twenty-one that were filed by the policyholder, or someone else on the policyholder's behalf.

FINDING AND RESOLUTION: Upon review of the Company complaint register, it was determined the records maintained did not include the classification by line of insurance as required by D.C. Official Code §31-2231.18. During the examination, the Company revised its complaint log, which now includes the line of insurance and now complies with D.C. Official Code §31-2231.18.

MARKETING AND SALES

NOTE: This portion of the examination is designed to evaluate representations made by the Company and its agents about its products. It is not an area that is typically evaluated based on testing or sampling techniques but can be. The areas to be considered in this kind of review include all media (radio, television, etc.), written and verbal advertising and sales materials. The Company's marketing and sales exam phase tested each applicable NAIC Examiners Handbook, Volume I, Chapter XV standard.

COMMENTS and OBSERVATIONS: All advertising and sales materials were reviewed for any possible misrepresentations or false or misleading statements. Most of the advertising material used by the Company is designed to assist potential clients in the identification and clarification of financial needs that may be solved with insurance products. Product specific advertising is more limited. All general and specific advertising items are subject to a formal review process by various staff members for compliance with state and federal requirements. The process appeared to be comprehensive. No discrepancies were noted.

The Company's web site was reviewed at length. Products offered by Acacia and related companies were found. The products were properly identified by company name and plan name or form number. No discrepancies were noted.

Producer training is extensive, to a great degree, because securities-related products are offered through affiliated companies. In addition to an annual national training session, regional training is ongoing at various levels depending upon the needs of the individual producers. The web site also offers much information to assist producers with the proper presentation and sale of specific products.

The Company has adopted the NAIC model guidelines regarding the use of illustrations with the sale of their products. No discrepancies were noted.

PRODUCER LICENSING

NOTE: This portion of the examination is designed to test the Company's compliance with DC producer licensing laws and rules. The Company's producer licensing exam phase tested each applicable NAIC Examiners Handbook, Volume I, Chapter XV standard.

COMMENT and OBSERVATION: Producer licensing records were reviewed to determine that the Company is accepting business only from producers properly licensed and appointed with the District, and that appointment and termination of appointment procedures are in compliance with the requirements of the laws of D.C.

FINDING: D.C. Official Code §31-1131.15(b) requires timely, written notification to the Commissioner and to the producer of termination of the appointment, employment, contract or other insurance business relationship. During the examination period, six (6) agents were terminated without the proper notification to the producer and/or the Commissioner. They are as follows:

Agent Name	Term. Date	Dept. Notice	Agent Notice	Comments
CAMPBELL, BRIAN	07/30/02	05/15/03	06/30/02	late termination notice to dept. done on 5/03 renewal
GIBBS, PHILLIP	08/21/01	05/15/03	08/21/01	late termination notice to dept. done on 5/03 renewal
MOLONEY, MICHAEL	UNKNOWN	05/15/03		no agt notice, late termination notice to dept. done on 5/03 renewal
ORR, RONALD	07/01/02	05/15/03		no agt notice, late termination notice to dept. done on 5/03 renewal
REESE, GEORGE	10/29/01			no termination notice to agt or to dept.
WATKINS, EDWARD	07/15/02	05/15/03		no agt notice, late termination notice to dept. done on 5/03 renewal

In response to the above issues, although the Company believed it had provided timely termination notice to the agents and to DISB, the Company agreed with the findings.

COMMENT and OBSERVATION: The Company produced documents that showed agents Campbell and Gibbs received termination notices. The Company did not produce any documents to show termination notice was given to agent Moloney. The Company offered an electronic data sheet from APAK, their electronic subscription service, to show what happened on the remaining agents. On Orr, APAK shows termination was accepted by DISB on March 31, 2000. The Company did not produce a notice of termination that was sent to the agent or an explanation why the Company's file contained a marketing request for termination as of July 1, 2002 and why Orr's termination was again re-submitted using the DISB renewal list in May of 2003. On Reese, the APAK record shows the Department accepted the termination on October 31, 2001, but there is no record of notice to the agent. On Watkins, the APAK record showed termination was accepted by DISB on October 29, 2001, but there was no record of notice to the agent.

There is separate discussion in this report under the caption, "Underwriting and Rating" regarding producer appointments.

RECOMMENDATION: The Company termination procedures reviewed indicate that, "The system will produce a system generated termination letter the next business day." The procedure did not indicate what actions were required to trigger the letter. It would

appear the procedures need to be improved to make sure a letter is always produced and mailed. A step needs to be added to assure the proper form is completed on a timely basis to notify the Commissioner. In the past, the Company relied on the annual appointment renewal listing to simply "not renew" those agents it may have already terminated. Since the DISB renewal listing no longer allows for non-renewals, the Company will need to provide separate, timely termination notice on the forms required by the Commissioner.

POLICYHOLDER SERVICES

NOTE: Policyholders services procedures and transactions are reviewed to determine compliance with records requirements, timeliness and fairness in dealing with policyholders. Correspondence should not be misleading, but should be accurate and properly disclose the information necessary for the policyholder to reasonably understand and make an informed decision. Billing and receipts processing was not examined after reviewing the internal audit report on this subject. The Company's policyholder services exam phase tested each applicable NAIC Examiners Handbook, Volume I, Chapter XV standard.

COMMENTS and OBSERVATIONS: Selected for review was the processing of non-forfeiture benefits provided under the life contracts. Non-forfeiture benefits, when requested by the policyholder or initiated by defined events, are the same as any other claim benefit and protected accordingly by statute. The Company identified the following populations: surrenders (SURR), automatic premium loans (APL), extended term insurance (ETI), and reinstatements (REIN). Random samples from the following populations were made: SURR's total population was 552, APL's total population was 221, ETI's total population was 14, and REIN's population was 2.

The examiner's data request sought ETI transactional information occurring during the examination period, i.e., January 1, 2001 through December 31, 2003. When the Company queried its ETI database, the query identified and produced all ETI files (transactions). The examiner assumed the Company's EIT population consisted of

2001, 2002, and 2003 transactions. The sample selection showed that none of the ETI transactions occurred during the examination period.

The ETI information retrieval initially caused the examiner to make misleading assumptions regarding the Company's ETI practices. The examiner determined that the Company was not able to identify files properly upon request within the examination period; nonetheless the ETI transactions were accessible and retrievable and available as required by D.C. Official Code §31-2231.10.

The examiner's sample review of the ETI transactions revealed eight files where the correspondence with the policyholder could not be produced for review. The ETI correspondence copies reviewed showed 2 policyholders had policies go to ETI in 2000. The underlying correspondence did not give notice of their right to reinstate the policy back to its original form. The ETI correspondence files with exceptions are listed below:

Policy Number	Examiner's Notes	Company's Date of ETI
4007701683	ETI Letter Not Found	Policy Lapsed April 17, 1961
4008358616	ETI Letter Not Found	Policy Lapsed Sept. 1, 1968
4008719213	ETI Letter Not Found	Policy Lapsed Nov. 7, 1965
4010082782	ETI Letter Not Found	Policy Lapsed Oct. 13, 1982
4010154086	ETI Letter Not Found	Policy Lapsed May 22, 1991
4011406394	No Documents Found	Policy Lapsed July 15, 1986
4011483203	ETI Letter Not Found	Policy Lapsed Sept. 17, 1981
4016727620	ETI Letter Not Found	Policy Lapsed March 19, 1997
4008449845	Reinstatement Not Offered	
4017167784	Reinstatement Not Offered	

A recap of the Company's review of the eight ETI transactions produced evidence that the most recent transaction (March 19, 1997) lapsed more than seven years ago with the remaining ETI transactions lapsed more than 14 years ago. The examination determined that §31-2231.10 would not require the maintenance of ETI transaction correspondence to policyholder in these circumstances.

The ETI correspondence copies that applied to the period under examination were reviewed. The 2000 reinstatement notice given the policyholders, which did not give notice of their right to reinstate the policy back to its original form, was compared to similar correspondence written in 2001. The 2001 correspondence did provide policyholders with better disclosure language regarding reinstatement of policies back to original form. The examiner considered this matter could be a violation of D.C. Official Code §§31-2231.17(a)(1) and 31-2231.17(b)(1) in 2000 but the Company's 2001 reinstatement notice corrected any shortcomings.

Upon close review of this matter by others, DISB could not determine conclusively that the Company knowingly misrepresented the 2000 reinstatement facts in such a manner as to indicate a general business practice. Thus, discrimination and misrepresentation did not occur with respect to all ETI notices though the Company's 2000 reinstatement information was incomplete.

COMMENT AND OBSERVATION: The Company maintains an electronic record of the date the Automatic Premium Loans (APL) occurred as a result of non-payment of premium. The only notice to the policyholder of the transaction was a **Notice of Past Due Premium** in which a secondary footnote makes reference to the automatic loan provision of the policy. The examiner questioned the clarity of the **Notice of Past Due Premium**, reasoning some policyholders would read it but fail to understand the meaning of the reference to the automatic loan provision. The Company's **Notice of Past Due Premium** does not provide any information about the amount of cash value or other options available.

The examiner brought the Company's **Notice of Past Due Premium** to management's attention, as it was unclear in the reading of the notice if management was meeting its objective of making proper disclosure of information available to the policyholder to reasonably understand and make informed decisions.

The examiner sampled the APL population. The sample selection failed to provide evidence of actual sent billing notices. According to the Company, the dates of the actual billing notices are maintained electronically as part of the policyholder records but the actual notice is not made part of record. DISB reviewed the Company retention practice over the actual billing notices and found its practice did not violate DC Official Code §31-2231.10 (Failure to maintain marketing and performance records).

The files in question are listed below:

Policy Number	APL Dates	Examiner's Notes
4006824577	March 2, 2004	Actual past due notice not in file
4007288251	May 26, 2004	Actual past due notice not in file
4008420655	May 7, 2003	Actual past due notice not in file
4009010224	Aug. 4, 2003	Actual past due notice not in file
4009565532	Dec. 8, 2003	Actual past due notice not in file
4009941774	March 29, 2004	Actual past due notice not in file
4010321859	Nov. 10, 2003	Actual past due notice not in file
4010321867	Nov. 10, 2003	Actual past due notice not in file
4010405561	Jan. 13, 2003	Actual past due notice not in file
4011295268	May 25, 2004	Actual past due notice not in file
4011696812	May 21, 2004	Actual past due notice not in file
4011877644	March 16, 2004	Actual past due notice not in file
4011995081	Aug. 7, 2003	Actual past due notice not in file
4012228920	May 17, 2004	Actual past due notice not in file
4013629571	Dec. 6, 2002	Actual past due notice not in file
4014831820	May 17, 2004	Actual past due notice not in file
4014952675	Sept. 25, 2003	Actual past due notice not in file
4016732695	March 3, 2004	Actual past due notice not in file
4016843260	June 3, 2004	Actual past due notice not in file
4016873770	Feb. 19, 2004	Actual past due notice not in file

COMMENT AND OBSERVATION: The Company received separate telephone requests for an address change and a maximum policy loan on policies 4011284635 and 4016885071. The Company's policy is to change the address of record only upon receipt of a written request signed by the policyholder. In each case the address change and the loan were processed. The Company failed to produce a copy of the signed address change request for either file. The lack of a signed written change of address request appears to be a violation of the Company's policy.

COMMENT AND OBSERVATION: The Company provided a listing of surrender transactions from which the examiner selected a sample for this phase of the examination. Thirty percent of the files selected for review did not contain surrender transactions. Two of the policies were still in force and the others were either loans or lapses. The Company said that loans and lapses were included in the original listing because they have the same accounting code and could not be separated. The examiner brought the to the attention of management the findings of the files sampled.

The files in question are identified below:

Policy No.	Notes
4009438094	LAPSE, NOT A SURR
4009557711	LAPSED, NOT A SURR
4010233161	STILL IN FORCE, NOT A SURR
4012154449	LOAN, NOT A SURR
4016741373	LAPSE, NOT A SURR
4017001264	LAPSE, NOT A SURR
4030077234	LOAN, NOT A SURR
4030119879	STILL IN FORCE, NOT A SURR
4030510655	LOAN, NOT A SURR

In response to the above issues, the Company's management said it was able to produce all requested records regarding surrenders. Its records listed all surrenders during the examination period. Because the Company's accounting system uses one code to record all disbursements, including surrenders and lapses (and loans), additional files could have been provided to the examiner for clarity. The Company's position is there were no omissions of surrendered files and all files requested were provided.

RECOMMENDATION: For simultaneous loan requests taken over the telephone and change of address, the Company requires a signed written change of address request. Two simultaneous loan requests and change of address were processed without signed written change of address requests. The Company agreed more training was needed to make sure that its procedures (requiring signed written change of address request) are followed when a change of address and loan request are made simultaneously.

UNDERWRITING AND RATING

NOTE: Underwriting practices and procedures were reviewed for use of approved forms, signs of inappropriate replacement of policies, and consisted application of rates and underwriting guidelines that might otherwise indicate unfair discrimination. The Company underwriting manual was also reviewed. The Company's underwriting exam phase tested each applicable NAIC Examiners Handbook, Volume I, Chapter XV standard.

Underwriting practices and procedures were also checked for the following items:

- Policies issued on approved forms
- Applications taken by properly appointed agents
- Use of policy illustrations in accordance with Company guidelines

All applications for Acacia and Ameritas Life are processed by the same underwriters on the same system. Guidelines appropriate to variable life products are applied to the Ameritas Life products. Once logged into the system, the applications can be tracked regarding the status and outstanding requirements by the underwriting and the marketing staff, including the producer in the field.

All twenty applications for insurance taken within D.C. during the examination period were provided for review. Six errors were noted for an error ratio of 30%.

Four agents not appointed by the Company in the District at the time of the application took five of the applications. The policies numbers are as follows: 4003145208, 4003144752, 4003153761, 4003157910AA, and 4003153581. It is noted that the last two numbers listed were for policies on the same applicant taken by the same agent that were declined. However, the Company records indicate the applications were declined for reasons other than agent eligibility. This appears to be a violation of D.C. Official Code §31-1131.14 (Appointments), which states, in part, ..." An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer..."

In response to the above issues, the Company agreed with the findings. It appeared the reports from agent appointment service, APAK, were not properly being utilized to check for errors in appointment submissions. Corrective procedures have been adopted.

The application for policy number 4003155019 was taken in the state of Maryland on an applicant that resided in D.C. A policy form approved in D.C., but not in Maryland, was issued. This does not appear to be in compliance with Company policy. In response to the above issue, the Company agreed that their policies were not followed and it has issued a corrected policy to the policyholder.

RECOMMENDATION: It was recommended that appointment procedures be amended to include electronic follow-up to make sure DISB has accepted the appointments. The Company is supposed to process appointments for both Acacia and Ameritas Life at the same time on most agents. These processes and follow-ups need to be distinct enough to make sure both are properly completed. It is also recommended that the annual renewal of appointments list from DISB be checked to make sure all agents the Company expects to be on the list are there. In the past, such renewal listings did not contain agents the Company thought they had appointed. Apparently, the absence was not noted, as no corrective action was taken.

CLAIMS

NOTE: This portion of the examination is designed to provide a view of how the company treats claimants and whether that treatment is in compliance with applicable statutes, rules and regulations. Claim practices of a company are examined to ensure timely response to claims correspondence, efficiency of handling, accuracy of payment, compliance to the District of Columbia Code and Regulations, and adherence with underlying contract provisions. Taken under consideration was the reasonable promptness to pertinent written communication with respect to claims arising under policies. The Company's claims phase tested each applicable NAIC Examiners Handbook, Volume I, Chapter XV standard.

A claim is taken to be a demand for payment by an insured or beneficiary claimant under coverage of the insurer, which claim is:

Paid by the insurer as:

1. Full recompense
2. Partial recompense

Closed without payment by reason of no:

1. Relevant coverage
2. Liability

The Company provided a copy of all D.C. claims processed during the examination period. From the total of thirty-one files in the study, eight errors were noted for an error ratio of 25.8%. The errors are discussed below.

Claim Time Studies

For these studies, claim payments are measured from the following:

From the date of receipt by the insurer of written documents such as proof of death, claim forms, medical bills or other reasonable evidence of a claim, until the date the insurer pays or denies the claim.

All claims were processed within a reasonable time from the receipt of complete proof of loss, with the average handling time being eight days.

One claim, on policy number 4008420853, was promptly paid on one beneficiary upon receipt of proof. The second beneficiary was written to on July 10, 2003 with a request for documents necessary for the processing of the claim. The second beneficiary did not respond, and the Company failed to follow-up within the eleven months that transpired until the claim was reviewed as part of this examination. This could appear to be a violation of D.C. Official Code §§31-2231.17(b)(2) and (3), which requires the Company to act promptly on claims correspondence and to promptly investigate a claim. The Company agreed that lack of follow-up was not within their own claims handling standards, and would make further attempts to contact the beneficiary to complete the processing of the claim.

Claim Handling

The contract language and the Company procedures call for payment of interest on the proceeds. Interest is added from the date of death until the date of payment. Two different interest calculation methods were employed during the examination period. The first was a compound interest method that was applied automatically to all life benefits based on the information input into the claim system. Errors were found when invalid information was input.

The second method was a simple interest calculation, not imbedded within the claims system that relied on an Excel spreadsheet formula to calculate the interval days and interest amounts due. There was no documentation in the files with errors, so the reasons could not always be determined.

A total of five errors were found in the payment of interest as called for by the contract language and Company policy. The errors are listed below:

Policy No.	Loss date	Action date	Reason	Comments
4016853970	09/24/02	11/12/02	NONE PROVIDED	INTEREST OVER PAID \$4.01
4016974362	09/08/01	10/03/01	USED WRONG DOD FOR INTEREST CALCULATION	INTEREST OVER PAID \$3.46
4006204796	12/23/98	01/10/01	ONLY PAID INTEREST FOR ONE YEAR	INTEREST UNDER PAID \$103.97
4016834681	10/10/02	10/29/02	NONE PROVIDED	INTEREST UNDER PAID \$4.44
4030062541	06/19/01	07/27/01	USED WRONG NO. OF DAYS FOR INTEREST CALCULATION	INTEREST UNDER PAID \$2.26

The Company has adopted the simple interest method as their current standard. It is recommended it be required that each file contains a copy of the calculation used in determining number of days and the interest amount to be added. This would permit auditing and stress the importance of accuracy. The Company agreed that the calculation copy should be in the file. They also agreed the underpayment of \$103.97 should be corrected, and they mailed the beneficiary a check for the underpayment plus interest. The Company also paid the other two underpayments plus interest, although not requested because of the amount. The Company implemented a practice to manually re-calculate interest on all large cases above \$25,000.00. The Company did agree that the interest calculation procedure and method would be documented and added to the claim check off list. A copy of the calculation would be required in every file. The implemented changes appear more than adequate.

D.C. Official Code §§31-2231.17 (a)(4) and (b)(10) (Unfair Insurance Trade Practices and Unfair Claim Settlement Practices) requires an explanation of benefits (EOB) paid be made to the insured or beneficiary. On policy number 4009648650TA, the benefits were transferred internally to another contract. The letter that went to the beneficiary did not detail the source of the various amounts that were part of the claim payment. The Company agreed that the same level of information provided on their claim checks

should have been provided this beneficiary. On policy number 4011416146TA information regarding the dates of premium deduction were not given in a meaningful format. The Company agreed and pointed out that that error type had already been corrected.

Large claims may be paid using the Benefit Plus program where claim benefits are transferred into a checking account on behalf of the beneficiary. Unlike "retained assets accounts" used elsewhere in the industry, these funds are fully transferred to the bank and are federally insured. The Company provides full disclosure and utilizes this account only upon request of the beneficiary.

RECOMMENDATION: From a total of 31 files in the claims study, the Examiner made the following observations. One of the underpayments was an 18% error. Overpayments are errors just as much as underpayments. Five miscalculated payments out of thirty-one claims in the survey is an error ratio of 16.1%. It is suggested that error tolerances be established on both dollar amounts and percent of total. Perhaps the Company could look to its Internal Audit staff for guidance in this regard.

In response to the explanation of benefits (EOB) issues, the Company does not disagree with the details, but feels the examples are anomalies rather than examples of a general business practice. This examiner is concerned with the overall error ration of almost 26%. While samples from small populations do not always accurately reflect the overall operation of the Company, the number of errors found would indicate a lack of attention to detail.

SUMMARY OF SIGNIFICANT ISSUES

In the specific area of "Producer Licensing", page 11, the examiner noted the following issue:

Six agents' appointments were terminated without proper notice to the agent or to the Commissioner as required by D.C. Official Code §31-1131.15(b)

In the specific area of "Underwriting and Rating", the examiner noted the following issue:

Five applications taken by agents not appointed to represent the Company as required by D.C. Official Code §31-1131.14

In the specific area of "Claims", the examiner noted the following issues:

Claim Time Studies

One claim without follow-up for claim documents as required by D.C. Official Code §§31-2231.17(b)(2) and (b)(3) to act promptly on claims correspondence and to promptly investigate a claim

Claim Handling

Five errors in calculation of interest due on life proceeds as required by contract provisions and Company policy

Two claims with inadequate explanation of benefits as required by D.C. Official Code §§31-2231.17(a)(4) and (b)(10)

ACKNOWLEDGMENT AND CONCLUSION

In addition to the undersigned, William McCune, Supervisory Market Conduct Examiner reviewed the supporting work papers and assisted in the preparation of the written report.

Respectfully submitted,



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