



# Market Conduct Examination

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American General Life  
Insurance Company

Houston, Texas

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE  
Office of Consumer Protection Services

Market Conduct Examination Section

Report Adopted: March 30, 2005

MARKET CONDUCT EXAMINATION  
of the  
American General Life Insurance Company

located in  
Houston, Texas

as of  
August 4, 2004

BY EXAMINERS

of the  
STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

OFFICE OF CONSUMER PROTECTION SERVICES  
MARKET CONDUCT EXAMINATION SECTION

**REPORT ADOPTED: MARCH 30, 2005**

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# I. INTRODUCTION

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## A. SCOPE OF EXAMINATION

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This is a report of the Market Conduct activities of the American General Life Insurance Company (hereinafter referred to as American General or the Company). In this report, examiners of the New Jersey Department of Banking and Insurance (NJDOBI) present their findings, conclusions and recommendations as a result of their examination. The Market Conduct Examiners were Examiner-in-Charge Marleen J. Sheridan and John M. Sivon.

The scope of the examination included life insurance sold by the Company in New Jersey. The examiners evaluated American General's compliance with the regulations and statutes pertaining to solicitation and replacement of life insurance policies. The review period for the examination was January 1, 2003 through December 31, 2003. The examiners conducted their fieldwork at American General's offices in Houston, Texas between March 15, 2004 and March 26, 2004. On various dates following the fieldwork, the examiners completed additional review work and report writing.

The examiners randomly selected files and records from computer listings and documents provided by the Company. The random selection process is in accordance with the National Association of Insurance Commissioner's (NAIC) Market Conduct Handbook. In addition, the examiners used the NAIC Handbook, Chapter XV– Conducting the Life and Annuity Examination as a guide to examine the Company and write this report.

## B. ERROR RATIOS

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Error ratios are the percentage of files reviewed which an insurer handles in error. A file is counted as an error when it is mishandled or the insured is treated unfairly, even if no statute or regulation is applicable. If a file contains multiple errors, the examiners will count the file only once in calculating error ratios. However, any file containing more than one error will be cited more than once in the report. In the event that the insurer corrects an error as a result of a consumer complaint or due to the examiners' findings, the error will be included in the error ratio. If the insurer corrects an error independent of a complaint or NJDOBI intervention, the error is not included in the error ratios.

Whenever the examiners find that a company commits a type of error with sufficient frequency, they will cite the errors as an improper general business practice. If an error constitutes an improper general business practice, the examiners have stated this in the report that follows.

The examiners sometimes find improper general business practices of an insurer that may be technical in nature or which did not have an impact on a consumer. Even though such a practice would not be in compliance with applicable law, the examiners do not count each of these files as an error in determining error ratios. Whenever such business practices do have an impact on the consumer, each of the files in error will be counted in the error ratio. The examiners indicate in the report that follows whenever they did not count any particular files in the error ratio.

The examiners submitted written inquiries to company representatives on the errors cited in this report. This provided American General the opportunity to respond to the examiners' findings and to provide exception to the statutory and/or regulatory errors or mishandling of files reported herein. In response to these inquiries, American General agreed with some of the errors cited in this report. On those errors with which the Company disagreed, the examiners evaluated the individual merits of each response and gave due consideration to all of its comments. In some instances, the examiners did not cite the files due to the Company explanatory responses. In others, the errors remained as cited in the examiners' inquiries.

## **C. COMPANY PROFILE**

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American General Life Insurance Company is an indirect, wholly owned subsidiary of American International Group, Inc. American International Group, Inc.'s operating subsidiaries provide life and property/casualty insurance, retirement services, investment management, and financial products to institutional, corporate and retail customers.

The Company is a successor in interest to Knights Life Insurance Company of America, a Delaware company organized in 1917. In 1991 American General Life Insurance Company and California-Western States Life Insurance Company were merged into American General Life Insurance Company of Delaware. Upon the merger date, the surviving company was re-domesticated to Texas and the name was changed to American General Life Insurance Company.

American General Life is licensed in all states except New York. Approximately 33,000 independent agents distribute its products, which mainly include variable, universal and term life, corporate-owned life insurance, structured settlements, and both variable and fixed annuities.

In addition to its independent agents, the company also distributes its products through mass marketing efforts.

## II. REPLACEMENT FILE REVIEW

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### A. INTRODUCTION

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**N.J.A.C. 11:4-2 et seq.** addresses the actions of replacing insurers, their agents and existing insurers with respect to the replacement of existing insurance, both within the same company and between two different companies. In addition, it protects the interests of life insurance policyholders by establishing minimum standards of conduct governing agents and insurers. Compliance with this regulation reduces the opportunity for agent misrepresentation by assuring that the policyholder receives information to make informed decisions.

**N.J.A.C. 11:4-2.2** defines Replacement “as any transaction in which new life insurance is to be purchased, and is known or should be known to the proposing agent, or to the proposing insurer if there is no agent, that by reason of such transaction, existing life insurance has been or is to be:

1. Lapsed, forfeited, surrendered, or otherwise terminated;
2. Converted to reduced paid-up insurance, continued on extended term insurance, or otherwise reduced in value by the use of non-forfeiture benefits or other policy benefits;
3. Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;
4. Reissued with any reduction in cash value; or
5. Pledged as collateral or subjected to borrowing, whether in a single loan or under a schedule of borrowing over a period of time for amounts in the aggregate exceeding 25 percent of the loan value set forth in the policy.”

The primary focus of this examination was a file review of the replacement activities of American General Life Insurance Company. The Company provided the examiners with a database that contained 1,419 replacement policies that were written between January 1, 2003 and December 31, 2003. The examiners randomly selected 50 files for review. In addition, the Company provided the examiners with a policy disbursement database. This database consisted of policy loans, lapses, cash surrenders, surrender of paid up additions, withdrawal of dividends and withdrawal from universal or variable life policies. The examiners

randomly selected 50 files from the disbursement database for review.

The Replacement of Life Insurance Policy regulation was in effect during the examiner's review. However, this regulation was replaced by the Life Insurance and Annuities Replacement regulation effective November 1, 2004 and operative January 30, 2005. Therefore, the examiners reference the revised regulation in the recommendation section of this report.

## B. ERROR RATIOS

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The examiners calculated error ratios for the review period by applying the procedures outlined in the introduction of this report. The following chart itemizes the number of files reviewed and the number and percentage of errors found.

<u>Sample</u>	<u>Files reviewed</u>	<u>Files Containing Errors</u>	<u>Error Ratio</u>
Replacements	50	44	88%
Disbursements	50	1	2%
Random Total	100	45	45%

## C. EXAMINERS FINDINGS

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### **1. Failure to Identify Policy Loans in Excess of 25% of Policy Value (Improper General Business Practice)**

**N.J.A.C. 11:4-2.2**, section 5, defines one type of replacement as a transaction in which a new life insurance policy is to be purchased and it is known or should be known to the proposing agent that the existing policy is to be subjected to borrowing exceeding 25% of the policy's loan value. In response to an inquiry, American General advised that its replacement detection system does not include a method for monitoring or detecting replacements that occur as a result of policy loans that exceed 25% of the policy's loan value. The Company's replacement detection system failed to comply with the New Jersey Replacement Regulation as it fails to provide the information necessary to effectively and reliably detect replacement transactions.

**2. Failure to Send a Comparative Information Form to the Existing Insurer within Three Working Days**  
**30 Files in Error**

N.J.A.C. 11:4-2.5(a)3iv states that one of the duties of the replacing insurer is to send to the existing insurer a verified Comparative Information Form as required by N.J.A.C. 11:4-2.5(a)3i and ii of this section, within three working days of the date the application and a substantially accurate Comparative Information Form are received at its Home or Regional office, or the date its policy is issued, whichever is sooner. American General issues a form letter titled, Possible Notice of Replacement to notify the existing insurer of the replacement policy. The examiners compared the date that the application was received in the regional office to the date on the file copy of the Possible Notice of Replacement letter found in the file to determine if the Company sent the Comparative Information Form in excess of the three days allowed or not at all. In an inquiry response, the Company agreed that it exceeded the three days allotted by the regulation on 28 files and did not send the form on two additional files.

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SEE APPENDIX A-1 FOR FILES IN ERROR

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**3. Failure to Use Correct Notice of Replacement Form – 10 Files in Error**

N.J.A.C. 11:4-2.4(b)1 requires the writing agent to present to the applicant, not later than at the time of taking the application, a “Notice Regarding Replacement of Life Insurance” in the form as described in Exhibit A or B of this subchapter, whichever is applicable. The examiners found that in 10 files the agents used “Notice Regarding Replacement of Life Insurance” forms from an affiliated company rather than American General. Although the replacement notices contained the information required by the regulation, the inclusion of the wrong insurer’s name on the notice could be confusing and misleading to the applicant. In an inquiry response, the Company agreed with the examiners’ findings.

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SEE APPENDIX A-2 FOR FILES IN ERROR

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**4. Failure to Complete Accurate Comparative Information Form - 6 Files in Error**

N.J.A.C. 11:4-2.5(a)3ii requires the replacing insurer to verify the substantial accuracy of information concerning the proposed policy furnished to the applicant in the Comparative Information Form. In the event that information concerning the proposed policy is not substantially accurate, the replacing insurer must obtain a Comparative Information

Form signed by the agent and the applicant before it can begin to process the proposed policy application. The examiners found that in six files the Comparative Information Form was either incomplete (four policies), contained inaccurate information (one policy) or was completed on a form from another company (one policy). The Company agreed with the examiner's findings. Processing these policies without confirming substantial accuracy impeded the applicants' ability to compare riders, premium and death benefits, and cash and surrender values between existing and proposed coverage.

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SEE APPENDIX A-3 FOR FILES IN ERROR

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**5. Failure to Maintain Copy of Comparative Information Form – 9 Files in Error**

N.J.A.C. 11:4-2.5(a)3vii requires the replacing insurer to maintain a copy of the Comparative Information Form for at least five years or until the conclusion of the next succeeding regular examination, whichever is later. The examiners found that American General did not maintain copies of the Comparative Information Form for nine files. The Company agreed with these errors.

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SEE APPENDIX A-4 FOR FILES IN ERROR

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**6. Failure to Require Replacement Documentation from Agent - 1 File in Error**

According to N.J.A.C. 11:4-2.5(a)2, a replacing insurer shall require with each completed application for life insurance statements signed by the applicant and the agent as to whether or not such insurance will replace existing insurance. N.J.A.C. 11:4-2.5(a)3i states that the replacing insurer shall require from the agent a copy of the "Notice Regarding Replacement of Life Insurance" signed by the applicant, a copy of the Comparative Information Form signed by the agent and the applicant and a copy of all sales proposals used for presentation to the applicant. In a file from the policy disbursement review, the examiners determined that the insured cash-surrendered policy 2023796L on April 9, 2003 and American General issued replacement policy YM00025516 effective April 27, 2003. The Company failed to obtain the required statements and forms from the agent.

## **7. Failure to Maintain an Accurate Replacement Register - 2 Files in Error**

**N.J.A.C. 11:4-2.5(a)3vii** states that one of the duties of a replacing insurer is to maintain a replacement register, cross indexed, by replacing agent and existing insurer to be replaced. In a file from the policy disbursement review, the examiners determined that the Company entered an incorrect policy number in the replacement register for the policy that replaced file MM0255529. However, in response to an inquiry, the Company stated that this policy was a term conversion, and not a replacement. Therefore, American General erroneously entered this transaction on the replacement register.

During a review of policy number YH00070780, the examiners initially noted that the file did not contain a Comparative Information Form and “Notice Regarding Replacement of Life Insurance” to the existing insurer. In response to an inquiry, the Company stated that the policy was newly written, but not as a result of a replacement. Therefore, the Company erroneously entered this policy on the Replacement register. The examiners did not count these errors in the error ratio chart.

## **8. Witnessing of the Prospective Insured Signature on the Application - 6 Files in Error**

**N.J.A.C. 11:17A-4.2** states that in cases where an applicant’s signature is required, an insurance producer who takes an application for insurance shall be required to witness the signature of the prospective insured on the application prior to the submission of the application to the insurer. This requirement may be waived, however, upon prior written authorization by the insurer. In the absence of any such waiver, the examiners found six applications in which the producers indicated that they did not witness the proposed insured’s signature on the application. Nevertheless, the Company approved all six applications for insurance. However, in reply to an inquiry, American General stated, “The Company prohibits an agent from signing as a witness if the agent did not actually witness the applicant’s signature. Section 6, Completion of Documents and Signatures, of the Company’s Compliance Manual states that the Company strictly prohibits the agent from “signing a document as a witness if the distributor has not actually seen the customer sign the document.” American General further stated, “The Company holds the agent responsible for assuring the accuracy of all information and the authenticity of the customer’s signature. Violation of the Compliance Manual subjects the agent to disciplinary action including, but not limited to, contract termination or legal action.” Notwithstanding the Company’s response, the examiners were unable to locate any of the affected agents’ names that wrote these policies on the NJ Agent Investigation and/or Discipline Records-database.

## 9. Replacement Register

N.J.A.C. 11:4-2.5(a)3vii requires an insurer that is replacing an existing policy to maintain a replacement register, which is cross-indexed, by replacing agent and existing insurer to be replaced. American General has an electronic replacement register. The Company provided the examiners with a demonstration of its replacement register, which included data, entry form, and other reporting functions. These functions allow for cross indexing by several fields such as agent code, existing insurer to be replaced, internally and externally replaced policy numbers, effective date of replacement and face amount of existing and replacement policies. The examiners found that American General's replacement register complied with N.J.A.C. 11:4-2.5(a)3vii.

## D. DATABASE ANALYSIS

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The examiners requested from American General a policy transaction database for the period January 1, 2003 through December 31, 2003. The examiners requested specific information regarding new business that occurred in households with existing American General policies as well as households without any existing American General products. In addition, the Company provided the examiners with databases that included disbursement records from households with multiple American General policies, information in relation to the agent force, the Company's replacement records, internal tracking records for undisclosed replacements, agent discipline records and recaptured agent commission data.

For all policies the Company provided the following information: the insured's name, policy number, premium, face amount, billing mode, effective date, name of agent, marketing information and the current status of any policies in the household. The examiners were particularly interested in the Company's systems for monitoring replacement transactions, the Company's ability to identify possible undisclosed replacements and the procedures when the Company discovers an undisclosed replacement. The latter is discussed further in section III-Agent Discipline Review of this report.

The examiners developed a series of computer queries to obtain certain information from the aforementioned databases. These queries provided the examiners with the following information:

1. Total New Jersey policies in force during review period is 94,576 as follows:

<u>In Force Category</u>	<u>Number of Policies</u>	<u>Percent of Total</u>
Unmatched (one policy per household)	84,910	90%
Matched (more than one per household)	<u>9,666</u>	<u>10%</u>
Total in force	94,576	100%

2. New policies issued in New Jersey during the review period is 6,509 as follows:

<u>In Force Category</u>	<u>Number of Policies</u>	<u>Percent of Total</u>
Unmatched (one policy per household)	5,551	85%
Matched (more than one per household)	<u>958</u>	<u>15%</u>
Total New	6,509	100%

3. Matched policies with disbursements is 664 as follows:

<u>Type of Transaction</u>	<u>Number of Policies</u>	<u>Percent of Total</u>
Policy Surrender	235	35%
Policy Loan	204	31%
Dividend Withdrawal	127	19%
Withdrawal Univ/Var Life	73	11%
Surrender of Paid up Add'l	<u>25</u>	<u>4%</u>
Total Disbursements	664	100%

4. Total policy replacements is 1,419 as follows:

<u>Type of Replacement</u>	<u>Number of Policies</u>	<u>Percent of Total</u>
External replacements	1,165	82%
Internal replacements	<u>254</u>	<u>18%</u>
Total	1,419	100%

5. New business funded by an existing policy is 0. According to the Company's Disbursement database, Matched Records database and responses to inquiries, no disbursements were issued to fund another policy.

Based on the statistics presented above, 90% of American General's book of business is comprised of one policy households (unmatched business), and only 10% of its book of business consists of two or more policies per household (matched business). The examiners noted that the

distribution of American General's matched and unmatched new business for calendar year 2003 is similar to that of the overall in-force book of business: 85% of the company's new business was unmatched, while 15% of the new business was matched.

The examiners also noted that replacements accounted for 22% ( $1,419/6,509=22\%$ ) of all new business written in 2003. Of these, internal replacements accounted for only 4% ( $254/6,509=4\%$ ) of all new policies, and external replacements accounted for only 18% ( $1,165/6,509=18\%$ ). Based on the databases provided by the company, the examiners found no indication of excessive internal or external replacement activity.

# III. AGENT DISCIPLINE REVIEW

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During the review period January 1, 2003 to December 31, 2003, 1,321 producers wrote New Jersey business for American General Life Insurance Company. The examiners reviewed records provided by the Company of agents investigated or disciplined during the review period. The purpose of this review was to determine the number of agents investigated or disciplined, the type and frequency of disciplinary action implemented and the underlying reasons prompting disciplinary activity.

## A. AGENT DISCIPLINE PROCEDURES

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### 1. Discipline Records

The examiners reviewed American General's Agent Investigation and Discipline Records database. This database identified three agents that the Company disciplined. In each case, American General terminated the agents' contract. The Company terminated one (OQH13) of the agents due to disseminating misleading information and unauthorized advertising materials. American General terminated another agent (ORJ39) as a result of altering medical information contained on the application, and yet another (70783) due to improper activity concerning the conversion of a term policy to a whole life policy.

### 2. Failure to Maintain Complete Discipline Records – 6 Files in Error

As indicated in Section II.C.8 above, the examiners cited five agents for failure to attest that he or she witnessed the applicant's signature on six applications. Notably, the Company was aware of this deficiency and processed each application. Yet, American General did not discipline or enter the agent's name on the Company's discipline records. N.J.A.C. 11:17A-4.2 and the Company's compliance manual prohibit an agent from signing as a witness if the agent did not actually witness the applicant's signature. In response to an inquiry, the Company disagreed that these agents should be listed in the discipline database, maintaining that the Company may waive this requirement. However, N.J.A.C. 11:17A-4.2 specifies that such a waiver must be in writing. In its response to the examiners' inquiries, American General did not provide documentation in support of such waivers; nor were they contained in files reviewed by the examiners.

In addition, the examiners' review of the Company's Unreported Replacement chart revealed that agent number 1C852 failed to report two replacements. This agent did not appear on the Company's discipline database. In response to an inquiry, American General did not indicate a reason for omitting the agent from the discipline database. Instead, the Company stated that a survey response from the new policyholders "indicated possible undisclosed replacements may have occurred and additional review and research was required." However, file documentation provided to the examiners did not reveal that the Company followed up on the survey information indicating possible undisclosed replacements.

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SEE APPENDIX B-1 FOR ERRORS

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## **B. AGENT COMPENSATION ON REPLACEMENT POLICIES**

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American General issued a bulletin to all agents that included guidelines and schedules regarding commission adjustments for replacement policies. The Company applies the commission adjustment schedules and guidelines to replacement transactions that occur internally or with an affiliate of the Company. American General pays no commission on a new policy if an existing policy is in force for less than one year. In addition, the Company does not pay commission on any values that are rolled over from an existing policy into a replacement policy. Under this scenario, the new policy face value remains the same as the face value of the policy being replaced. However, the Company will pay full commission on any new money that is in excess of the amount transferred from another policy. Under this scenario, the new policy face value is higher than the face value of the policy being replaced. Commission is paid only on the difference between the new and expiring policy. The Company's position is that the commission adjustment guidelines aid in the prevention of inappropriate or excessive internal replacements. The examiners found no conclusive indications that would contradict this position.

## **C. REPLACEMENT AND REPORT TRACKING**

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American General provides all producers with a copy of its Replacement Policies and Guidelines brochure. The brochure states that the Company requires producers to ensure that a replacement transaction is appropriate by understanding the definition of replacement and asking the necessary questions of the applicant to determine if there is a replacement. In addition, the brochure states that the Company requires the producer to comply with appropriate state regulations. The brochure defines a replacement policy and advises the producer to disclose the

transaction as a replacement on the application, complete state-required replacement forms and follow the Company's replacement policies and guidelines. American General periodically issues field bulletins to notify the field force of any changes or updates to replacement regulations and any necessary procedural changes that occur to assure compliance with regulations.

The Company has also issued procedures for the units that process replacement policies. The procedures define a replacement policy and describe how a processor can identify a replacement from the application. If the application indicates that it is a replacement, then the processor must verify that the correct replacement form was received with the application. If it is determined that the application is a replacement policy, but does not include a replacement form or contains an incorrect replacement form, the processor must contact the agent and advise that a replacement form was not included with the application. The agent must send the replacement form within 10 days or the application is considered incomplete.

American General does not have an electronic control system to detect replacement activity. However, the Company sends a survey to insureds of newly issued policies. The survey includes questions, which are designed to reveal previously undisclosed replacement activity. When the Company's Quality Assurance department receives survey responses, additional research and policy review is conducted to verify if a replacement occurred. During the review period, January 1, 2003 to December 31, 2003, American General mailed 6,069 surveys to New Jersey policyholders. The Company received 278 responses to the surveys that indicated the replacement of another policy may have occurred. Further investigation by American General demonstrated that only two policies were undisclosed replacements.

Additionally, American General stated the Consumer Affairs department monitors consumer complaints for evidence of undisclosed replacement activity. The Company received 29 complaints during the review period. Two of those complaints involved undisclosed replacements.

## IV. ADVERTISING, SALES AND TRAINING MATERIAL AND POLICY FORMS

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### A. ADVERTISING

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American General Life Insurance Company provided the examiners with all advertising and marketing materials that the Company utilized to solicit individual life insurance during the review period January 1, 2003 to December 31, 2003. The examiners reviewed 42 advertising materials for compliance with N.J.A.C. 11:2-23.1 et seq. (regulations governing advertisement of life insurance), N.J.A.C. 11:4-11.1 et seq. (regulations governing life insurance solicitation) and N.J.S.A. 17B:30-3 and 4 (statutes prohibiting misrepresentation, false information and false advertising). The examiners found no errors in this review.

### B. SALES AND TRAINING MATERIALS

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The Company provided the examiners with a list of 396 training materials, which included field bulletins, sales tools, compliance manuals, procedure bulletins and training booklets. These materials are distributed to the agency force by webcast, mailings, newsletters, meetings and seminars. The examiners randomly selected and reviewed 10 pieces for compliance with N.J.A.C. 11:2-23.1 et seq. The examiners found no errors in this review

### C. POLICY FORM REVIEW

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American General supplied the examiners with a list of 140 contracts, riders, policies, endorsements, certificates, buyer's guides and applications that were provided to New Jersey consumers during the review period. The examiners compared the Company's list of forms with the Department's database of forms and found that American General filed each form with DOBI.

The examiners reviewed specimen copies of 10 policy forms and four policy applications. Additionally, the examiners retained copies of all 50 applications that they reviewed during the examination. The examiners compared these forms with the forms that the Company filed with the Department. The examiners found the following errors:

## **1. Misleading Statements on Policy Forms – 12 Errors**

**N.J.A.C. 11:4-41.3(a)** states that no life insurance policy, rider, application or endorsement shall contain provisions which are unjust, unfair, inequitable, misleading, contrary to law or to the public policy of this State. The examiners found 12 policy forms that contain two “Right to Return Policy” statements. One statement found on the Statement of Policy Cost and Benefit Information page indicates that the insured has 10 days to return the policy to the company after receipt. The other statement, on page one of the policy form in each policy, stipulates that the policyholder has 30 days to return the policy after receipt. In response to an inquiry, American General agreed with this error and stated, “the Company would honor the greater of the two provisions. Corrective action has been taken to assure the statement reflects the correct "Right to Return" provision of 30 days, as is guaranteed in the policy.”

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SEE APPENDIX C-1 FOR A LIST OF FILES IN ERROR

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## **2. Buyer’s Guide Deficiency**

**N.J.A.C. 11:4-11.3** defines a Buyer’s Guide as a document which contains, and is limited to, the language contained in the Appendix to **N.J.A.C. 11:4-11**. The Appendix states that “the face page of the buyer’s guide shall read as follows: LIFE INSURANCE BUYER’S GUIDE This guide can show you how to save money when you shop for life insurance. It helps you to: Decide how much life insurance you should buy; Decide what kind of life insurance policy you need; and Compare the cost of similar life insurance policies.” The examiners reviewed the Buyer’s Guide (form number L2191) that the Company utilized during the review period. The Buyer’s guide did not include the above mentioned required statements. American General disagreed that the Buyer’s Guide is contrary to **N.J.A.C. 11:4-11** and stated, “Although the Company’s Buyer’s Guide does not use the specific verbiage outlined in **N.J.A.C. 11:4-11** Appendix, it does fulfill the purpose and intent set forth.” However, the regulation requires that the Buyer’s Guide is limited to the language contained in the Appendix to **N.J.A.C. 11:4-11**.

## V. RECOMMENDATIONS

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American General should inform all responsible personnel and third party entities who handle the files and records cited as errors in this report of the examiners' recommendations and remedial measures that follow in the report sections indicated. The examiners also recommend that American General establish procedures to monitor compliance with these measures.

Throughout this report, the examiners cite and/or discuss all errors found. If the report cites a single error, the examiners often include a "reminder" recommendation because if a single error is found, more errors may have occurred.

The examiners acknowledge that during the examination, American General had agreed and had already complied with, either in whole or in part, some of the recommendations. For the purpose of obtaining proof of compliance and for the Company to provide its personnel with a document they can use for future reference, the examiners have listed all recommendations below.

### A. GENERAL INSTRUCTIONS

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All items requested for the Commissioner and copies of all written instructions, procedures, recommended forms, etc., should be sent to the Commissioner, c/o Clifton J. Day, Manager of the Market Conduct Examinations and Anti-Fraud Compliance Unit, Mary Roebing Building, 20 West State Street, PO Box 329, Trenton, NJ 08625, within thirty (30) days of the date of the adopted report.

### B. REPLACEMENTS

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1. The company should conduct training seminars for all appropriate field and regional office personnel to provide instruction in identifying replacements pursuant to New Jersey regulation, including **N.J.A.C. 11:4-2.1** *et seq.* Instruction should include all amendments, revisions and new rules as found in the Life Insurance and Annuities Replacement regulation that is operative as of January 30, 2005. Emphasis should be placed on, but not limited to:
  - a.) **N.J.A.C. 11: 4-2.3** – Duties of Producers
  - b.) **N.J.A.C. 11: 4-2.4** – Duties of Replacing Insurers

- c.) **N.J.A.C. 11: 4-2.5** – Duties of Insurers that Use Producers
2. The Company should implement systematic measures in its replacement detection system to recognize and identify as replacements, all policy loans that are defined as a “financed purchase” in **N.J.A.C. 11: 4-2.2** of the Life Insurance and Annuities Replacement regulation that is operative as of January 30, 2005.
  3. American General should issue written instructions to all appropriate personnel that **N.J.A.C. 11:17A-4.2** states in cases where an applicant’s signature is required, an insurance producer who takes an application for insurance shall be required to witness the signature of the prospective insured on the application prior to the submission of the application to the insurer. The Company should document any waivers of this requirement.

### **C. AGENT DISCIPLINE REVIEW**

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4. American General should record and track all instances of agent investigations and discipline. The record should be accurate, consistent and complete. Written procedures should be implemented to ensure that all instances are promptly and properly recorded. A written instructive memo establishing such record keeping should be issued to all appropriate personnel.

### **D. ADVERTISING, SALES AND TRAINING MATERIAL AND POLICY FORMS**

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5. In order to assure consistency with the forms filed with and approved by the Commissioner, American General should review and revise all applicable policy forms to assure that the “Right to Return Statement” indicates that the insured has 30 days to return the policy from the date of receipt. Reference to the 10-day return period should be deleted from all applicable forms. Copies of the revised forms should be sent to the Commissioner for review.
6. The Company should revise its current Buyer’s Guide (form number L2191) to include the language contained in the Appendix to **N.J.A.C. 11:4-11**. Copies of the revised Buyer’s Guide must be sent to the Commissioner for review.

# APPENDIX A – REPLACEMENT ERRORS

## **1. Failure to Send a Comparative Information Form to the Existing Insurer within Three Working Days - 30 Files in Error.**

<u>Policy number</u>	<u>Date received in office</u>	<u>Date notice sent</u>	<u>Total Working Days</u>
YM00084217	9-24-03	10-1-03	5
YM00084808	11-13-03	11-19-03	4
YM00088296	11-17-03	11-24-03	5
YM00045709	8-01-03	8-12-03	7
YM00048386	6-27-03	7-07-03	5
YM00053479	7-01-03	7-09-03	5
YM00053709	7/28/03	*	-
YM00063122	9-23-03	10-01-03	6
YM00069997	9-16-03	9-23-03	5
YM00079670	10-8-03	*	-
A10201791L	5-23-03	6-03-03	7
U10017232L	4-14-03	4-22-03	6
YH00070780	4-17-03	4-29-03	8
YH00082390	4-28-03	5-08-03	8
Yh00148410	9-10-03	10-08-03	20
YM00118353	11-11-03	12-5-03	16
YM00033225	6-23-04	6-30-03	5
YM00036076	6-30-04	7-09-03	6
YM00036460	7-17-03	7-28-03	7
YM00037424	7-16-03	7-22-03	4
U10019012L	7-07-03	7-16-03	7
UM0006404L	7-07-03	7-14-03	8
YH00073930	4-21-03	4-30-03	7
YH00148280	9-05-03	9-16-03	6
YM00003734	6-10-03	6-16-03	4
YM00039735	5-13-03	5-19-03	4
YM00027126	3-17-03	3-27-03	8
YM00029447	7-21-03	7-25-03	4
YM00013796	4-15-03	4-23-03	6
YM00002556	7-10-03	7-16-03	4

\* Not sent as of August 4, 2004

**2. Failure to Use Correct Notice of Replacement Form – 10 Files in Error**

<u>Policy Number</u>	<u>Replacement form Issued</u>
YM00033225	Old Line Life
YM00053709	Old Line Life
YM00079670	Old Line Life
YH00082390	Old Line Life
YM00010442	Old Line Life
YM00022597	Old Line Life
YM00027126	Old Line Life
YM00013796	Old Line Life
YM00037424	Old Line Life
YH00185830	The US Life Ins. Co. in the City of NY

**3. Failure to Complete Accurate Comparative Information Form – 6 Files in Error**

<u>Policy number</u>	<u>Incomplete or from Another Company</u>
YM00084217	Incomplete
YM00079670	Incomplete
YM00027126	Another Company
YH00151480	Incomplete
YH00148410	Incomplete
YM00036992	Inaccurate

**4. Failure to Maintain Copy of Comparative Information Form – 9 Files in Error**

<u>Policy number</u>
YM00006081
A10201791L
YH00148280
YH00034250
A70007298L
YH00048630
YM00065586
YH00165390
YME0179356

**5.Failure to Witness Signing of the Application – 6 Files in Error**

<u>Policy Number</u>
YH00188860
YH00088296
YM00065586
YH00148280
YM00022596
YM00027126

# APPENDIX B-AGENT DISCIPLINE ERRORS

## 1. Failure to Maintain Complete Discipline Records – 6 Files in Error

<u>Agent Contract Number</u>
1C 590/000x310700
83578
76197
X4467
BL6043F
1C852

# APPENDIX C - POLICY FORM ERRORS

## 1. Misleading Statements on Policy Forms – 12 Errors

<u>Policy Forms</u>
Nj Ltg 2002 Ultra 10 yragl
Nj Ltg Ultra 20 Yr
Nj Ltg2002ultra 15yragl
Nj Ltg Ultra C 10 0403
Nj Ltg Ultra C 15 0403
Nj Ltg Ultra C 20 0403
Nj Ltg 2002 Ultra C 30
Newjersy Ltgultrac 10yragl
Newjersy Ltg2002ultrac15yrag
Newjersy Ltg2002ultrac20yrag
Newjersy Ltgultrac30yr0403
Nj Ltg 2002 Ultra 30

# VERIFICATION PAGE

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I, Marleen Sheridan, am the Examiner-in-Charge of the Market Conduct Examination of American General Life Insurance Company conducted by examiners of the New Jersey Department of Banking and Insurance. This verification is based on my personal knowledge as acquired in my official capacity.

The findings, conclusions and recommendations contained in the foregoing report represent, to the best of my knowledge, a full and true statement of the Market Conduct examination of American General Life Insurance Company as of August 4, 2004.

I certify that the foregoing statements are true. I am aware that if any of the foregoing statements made by me is willfully false, I am subject to punishment.

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Date

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Marleen Sheridan  
Examiner-In-Charge  
New Jersey Department  
of Banking and Insurance