

STATE OF NORTH DAKOTA
BEFORE THE COMMISSIONER OF INSURANCE

In the Matter of)	
)	
Life Investors Insurance Company)	CONSENT ORDER
of America,)	
FEIN 42-0191090,)	
)	
Respondent.)	

Commissioner of Insurance Jim Poolman (hereinafter "Commissioner") has determined as follows:

1. The Commissioner has authority in this matter pursuant to N.D. Cent. Code Title 26.1 and N.D. Cent. Code § 28-32-22.
2. Life Investors Insurance Company of America, FEIN 42-0191090 (hereinafter "Respondent"), is a foreign insurance company domiciled in Iowa and licensed to do business in North Dakota pursuant to N.D. Cent. Code Chapter 26.1-11.
3. The Commissioner has jurisdiction over the Respondent and the subject matter of this Consent Order is made in the public interest.
4. N.D. Cent. Code § 26.1-30-19(3) states:

No insurance policy, certificate, contract, or agreement or notice of proposed insurance against loss or expense from the sickness, bodily injury, or death by accident of the insured may be issued for delivery or delivered to any person in this state nor may any application, rider, or endorsement be used in connection therewith until the form thereof and the classification of risks and the premium rates, or in the case of cooperatives or assessment companies the estimated costs pertaining thereto, have been filed with and approved by the commissioner. A form must be disapproved if the benefits provided are unreasonable in relation to the premium charge or if the benefits do not comply with chapters 26.1-36 and 26.1-37.

5. N.D. Cent. Code § 26.1-36.4-05(1) states:

An insurer issuing policies or certificates under this chapter shall provide for the renewability or continuability of coverage unless:

- a. The individual or group has failed to pay premiums or contributions in accordance with the terms of the health benefit plan or the insurer has not received timely premium payments.
- b. The individual or group has performed an act or practice that constitutes fraud or made an intentional misrepresentation of a material fact under the terms of the coverage.
- c. Noncompliance with the insurer's minimum group participation requirements.
- d. Noncompliance with the insurer's employer group contribution requirements.
- e. A decision by the insurer to discontinue offering a particular type of health insurance coverage in the group or individual market. A type of group health benefit plan or individual policy may be discontinued by the insurer in that market only if the insurer:
 - (1) Provides advance notice of its decision under this paragraph to the commissioner in each state in which it is licensed;
 - (2) Provides notice of the decision not to renew coverage to all affected individuals, employers, participants, beneficiaries, and to the commissioner in each state in which an affected insured is known to reside at least ninety days prior to the nonrenewal of any health benefit plans by the insurer. Notice to the commissioner under this subdivision must be provided at least three working days prior to the notice to the affected individuals, employers, participants, and beneficiaries;
 - (3) Offers to each affected group or individual the option to purchase all other health benefit plans or individual coverage currently being offered by the insurer in that market; and

- (4) In exercising the option to discontinue the particular type of group health benefit plan or individual coverage and in offering the option of coverage under paragraph 3, the insurer acts uniformly without regard to claims experience or any health status-related factor relating to any affected individuals, participants, or beneficiaries covered or new individuals, participants, or beneficiaries who may become eligible for such coverage.
- f. A decision by the insurer to discontinue offering and to nonrenew all its health benefit plans or individual coverage delivered or issued for delivery to employers or individuals in this state. In such a case, the insurer shall:
 - (1) Provide advance notice of its decision under this paragraph to the commissioner in each state in which it is licensed;
 - (2) Provides notice of the decision not to renew coverage to all affected individuals, employers, participants, and beneficiaries, and to the commissioner in each state in which an affected insured is known to reside at least one hundred eighty days prior to the nonrenewal of any health benefit plans by the insurer. Notice to the commissioner under this subdivision must be provided at least three working days prior to the notice to the affected individuals, employers, participants, and beneficiaries; and
 - (3) Discontinue all health insurance issued or delivered for issuance in the state's group or individual market and not renew such health coverage in that market.
- g. In the case of health benefit plans that are made available in the group or individual market only through one or more associations, the membership of an employer or individual in the association, on the basis of which the coverage is provided, ceases, but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor relating to any covered individual.
- h. The commissioner finds that the continuation of the coverage would not be in the best interests of the policyholders or certificate holders or would impair the insurer's ability to meet its contractual obligations. In this case the commissioner shall

assist affected insureds in finding replacement coverage.

6. Respondent implemented a rate increase without approval of the North Dakota Insurance Department by implementing an increase for contract holders transferring from CHP CERT 491 contracts to CHP 1102 CERT PPO contracts. The average rate increase for the policyholders was 28%. The increase occurred during the first half of 2004. Respondent's action of using an unapproved rate is a violation of N.D. Cent. Code § 26.1-30-19(3).

7. Respondent discontinued the CHP CERT 491 health plan without offering the insureds an opportunity to select from among all other plans offered by Respondent in North Dakota. Respondent's action is a violation of N.D. Cent. Code § 26.1-36.4-05(1)(e)(3).

8. Respondent discontinued the CHP CERT 491 health plan and used health status related factors in offering replacement coverage. Respondent's action is a violation of N.D. Cent. Code § 26.1-36.4-05(1)(e)(4).

9. As a result of information obtained by the Department regarding the conduct of Respondent, the Commissioner has considered scheduling a formal hearing to determine whether Respondent's conduct, as alleged, constitutes a basis for imposition of civil penalty, or any action that the Commissioner deems necessary.

10. As a result of the above violation, Respondent is subject to payment of an administrative monetary penalty of up to \$10,000 under N.D. Cent. Code § 26.1-01-03.3.

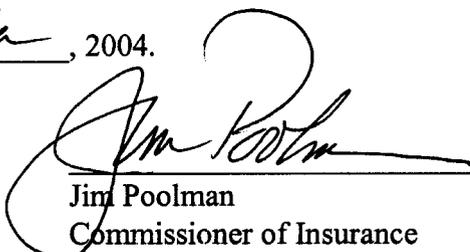
11. Respondent disputes the allegations outlined above but has agreed to an informal disposition of this matter, without a hearing, as provided under N.D. Cent. Code § 28-32-05.1.

12. For purposes of resolving this matter, without further administrative proceedings, Respondent and the Commissioner have agreed to enter into the following Order:

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent will not be assessed an administrative monetary penalty.
2. Respondent will rescind the premium increase described in paragraph 6 above and will refund any excess premiums collected from contract holders as a result of the premium increase.
3. Respondent will notify those CHP CERT 491 contract holders who had allowed their policies to lapse after receiving notice of the premium increase that the premium increase is rescinded and will allow those contract holders the option of reinstating coverage under CHP 1102 CERT PPO.
4. Respondent will not implement any durational increases for CHP 1102 CERT PPO, but will be allowed to file for a rate increase supported with an actuarial opinion, at the discretion of Respondent, Respondent will be allowed to treat the former CHP CERT 491 contract holders as a separate class of business for future rate action requirements.
5. The use of this Consent Order for competitive purposes by an insurance agent or agency holding a license in the State of North Dakota, or by any company holding a Certificate of Authority, or by anyone on their behalf, may be deemed unfair competition and be grounds for suspension or revocation of said license or authority.

DATED this 9th day of September, 2004.



Jim Poolman
Commissioner of Insurance
State of North Dakota

CONSENT TO ENTRY OF ORDER

The undersigned, DAVID G. ROSS, on behalf of Life Investors Insurance Company of America, states that he/she has read the foregoing Consent Order, that he/she knows and fully understands its contents and effect; that he/she has been advised of his/her right to be

represented by legal counsel, his/her right to a hearing in this matter, his/her right to present evidence and arguments to the Commissioner, and his/her right to appeal from an adverse determination after hearing; and that by the signing of this Consent to Entry of Order he/she waives those rights in their entirety, and consents to entry of this Order by the Commissioner of Insurance. It is further expressly understood that this Order constitutes the entire settlement agreement between the parties hereto, there being no other promises or agreements, either expressed or implied.

DATED this 7th day of SEPTEMBER, 2004.

Life Investors Insurance Company of America

By: David A. Ross
Name
VICE PRESIDENT
Title

Subscribed and sworn to before me

this 7th day of September, 2004.

Angela Armon
Notary Public

My Commission Expires:

