

**STATE OF NORTH DAKOTA**  
**BEFORE THE COMMISSIONER OF INSURANCE**

**In the Matter of the )  
Examination of Lincoln Mutual Life )  
and Casualty Insurance Company of )  
Fargo, North Dakota. )**

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND ORDER**

**INTRODUCTION**

The North Dakota Insurance Department has conducted a market conduct examination of Lincoln Mutual Life and Casualty Insurance Company (hereinafter "Respondent") in order to determine compliance with North Dakota law. The examination was made of the condition and affairs of Respondent as of December 31, 1999. It was conducted concurrently with a statutory financial examination and generally covered the time period from July 1, 1994, through December 31, 1999, together with consideration of prior or subsequent matters as deemed pertinent in the judgment of the examiner. The current examination was conducted by the State of North Dakota without participation from any other states. Pursuant to N.D. Cent. Code § 26.1-03-19.4, the examiners have presented to the Commissioner of Insurance a written report of examination. A copy of a report of examination and Notice were mailed to the Respondent on March 8, 2000. The Respondent was given 30 days to make written submission or rebuttal with respect to any matters in the examination report prior to release of a final report by the Commissioner. Respondent requested and was granted an extension in which to reply. Respondent's response was received April 26, 2000, with certain exceptions to the report.

During the period between April 26, 2000, and July 27, 2001, Respondent and the Department negotiated concerning the Respondent's objections. On July 27, 2001, a revised

report was served on Respondent. By letter dated August 14, 2001, Respondent accepted the revised report with three exceptions as outlined in the letter of J. Scott Koltas, President, dated August 14, 2001.

The Commissioner of Insurance, having fully considered and reviewed the examiner's report, enters the following Findings of Fact, Conclusions of Law, and Order.

#### **FINDINGS OF FACT**

The Commissioner specifically adopts as his findings herein the revised examination report filed by the examiners on July 27, 2001, a copy of which is attached hereto and by this reference incorporated herein. Respondent's letter with exceptions to the report dated August 14, 2001, is also attached hereto and make a part hereof.

#### **CONCLUSIONS OF LAW**

Except as otherwise noted in the market conduct examination report, Respondent is in compliance with all North Dakota laws relative to its market conduct activities. Violations as noted in the report will be addressed in another proceeding.

#### **ORDER**

NOW, THEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, it is hereby ordered that the market conduct examination report herein incorporated by reference is adopted.

It is further ordered that Lincoln Mutual Life and Casualty Insurance Company shall comply with all of the examiner's recommendations listed in the examination report insofar as they relate to a specific statutory requirement.

The examination report incorporated herein by reference shall remain private and confidential information for a period of 15 days from the date of this Order, except as otherwise

provided under N.D. Cent. Code § 26.1-03-19.4, and thereafter shall become open for public inspection so long as no court of competent jurisdiction has stayed its publication.

The use of this 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 17<sup>th</sup> day of August, 2001.



Jim Poolman  
Commissioner  
N.D. Insurance Department  
600 East Boulevard  
Bismarck, ND 58505  
(701) 328-2440



J. SCOTT KOLTES, CLU  
President

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August 14, 2001

Jim Poolman, Commissioner  
ND Insurance Department  
600 East Boulevard, Dept 401  
Bismarck, ND 58505-0320

Re: Market Conduct Examination Report

Dear Commissioner Poolman,

Thank you for your letter of July 27, 2001 and the marked copy of the amended report which clearly demonstrated the extensive changes made to our examination report. We very much appreciate the time and effort which went into making all of the changes and we appreciate the work you have done.

Lincoln Mutual Life and Casualty Insurance Company accepts the examination report with the exceptions noted below.

1. **Recommendation No. 3:** LML does attach a copy of the application to each policy sent to the policy owner and LML does retain a copy of the application and policy.
2. **Recommendation No. 6; and Recommendation No. 17:** LML has only issued two different certificates in North Dakota and our certificate booklets all contain conversion options as illustrated in the forms we previously submitted. We dispute the possibility that there were certificates checked that did not give conversion options as stated in the third paragraph, page 9 since conversion options are contained in all of our contracts.
3. **Recommendation No. 11:** As stated in the report, LML had properly withdrawn this form for use in North Dakota. The production of the form during the exam does not represent that we were using it in North Dakota. We had not issued a policy in ND

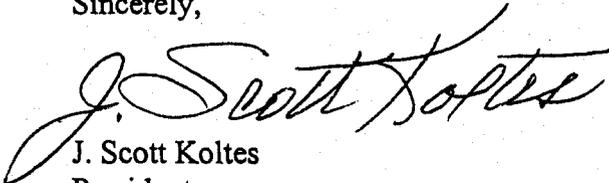
containing this form. The form was present in our documentation because it may be used in other states where it is approved and in which we are licensed.

4. **Recommendation No. 18:** The policy was changed to terminate at retirement as of the effective date of the contract. Prior documentation submitted to the Insurance Department shows that the original policy was effective August 1, 1985 and the Request for Service form changing the coverage was also effective August 1, 1985. Therefore all certificates issued on this group included the required wording along with conversion options. Also, note that it was approximately 10 years later when Lincoln Mutual took ownership of this business on January 1, 1995.

It is our understanding from previous discussions that Appendix A will be removed from the final report because of private information included on the data and that the reference to a group name on page 6 would also not be included.

Again, thank you for the time and energy you have devoted to this report.

Sincerely,



J. Scott Koltres  
President

Cc: Douglas L. Holloway  
Deputy Commissioner