

REPORT ON
TARGET MARKET CONDUCT EXAMINATION
OF
FINANCIAL AMERICAN LIFE INSURANCE
COMPANY
AS OF DECEMBER 31, 2012

Conducted from March 19, 2014

through

May 29, 2014

By

Market Conduct Section

Life and Health Division

BUREAU OF INSURANCE

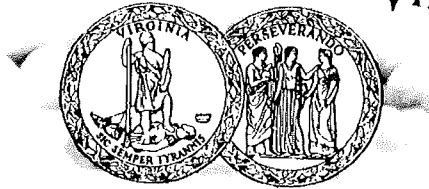
STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA

FEIN: 37-0857191
NAIC: 71455

COMMONWEALTH OF VIRGINIA

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STATE CORPORATION COMMISSION BUREAU OF INSURANCE

I, Melissa Gerachis, Insurance Market Examiner of the Bureau of Insurance (Bureau), do hereby certify that the attached copy of the Target Market Conduct Examination Report of Financial American Life Insurance Company as of December 31, 2012, conducted at the State Corporation Commission in Richmond, VA is a true copy of the original Report on file with the Bureau and also includes a true copy of the Company's response to the findings set forth therein, and of the Bureau's review letters and the State Corporation Commission's Order in Case No. INS-2014-00221 finalizing the Report.

IN WITNESS WHEREOF, I have
hereunto set my hand and affixed
the official seal of this the Bureau
at the City of Richmond, Virginia,
this 15th day of December, 2014.

Melissa Gerachis

Examiner in Charge

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I. SCOPE OF EXAMINATION

The Target Market Conduct Examination of Financial American Life Insurance Company, (hereinafter referred to as “Financial American”), was conducted under the authority of various sections of the Code of Virginia (hereinafter referred to as “the Code”) and regulations found in the Virginia Administrative Code (hereinafter referred to as “VAC”), including but not necessarily limited to, the following: §§ 38.2-200, 38.2-515, 38.2-614, 38.2-1317, 38.2-1317.1 and 38.2-1809 of the Code, as well as 14 VAC 5-41-150 C and 14 VAC 5-90-170 A.

The period of time covered for the current examination, generally, was January 1, 2011, through December 31, 2012. The examination was conducted at the office of the State Corporation Commission’s Bureau of Insurance (hereinafter referred to as the “Bureau”) from March 19, 2014 through May 29, 2014. The violations cited and the comments included in this Report are the opinion of the examiners. The examiners may not have discovered every unacceptable or non-compliant activity in which the company is engaged. Failure to identify, comment on, or criticize specific company practices in Virginia or in other jurisdictions does not constitute acceptance of such practices.

The purpose of the examination was to determine whether Financial American was in compliance with various provisions of the Code and regulations found in the Virginia Administrative Code. Compliance with the following regulations was considered in this examination process:

- | | |
|------------------------|---|
| 14 VAC 5-41-10 et seq. | Rules Governing Advertisement of Life Insurance and Annuities; |
| 14 VAC 5-90-10 et seq. | Rules Governing Advertisement of Accident and Sickness Insurance; |

14 VAC 5-130-10 et seq.	Rules Governing the Filing of Rates for Individual and Certain Group Accident and Sickness Insurance Policy Forms;
14 VAC 5-180-10 et seq.	Rules Governing Underwriting Practices and Coverage Limitations and Exclusions for Acquired Immunodeficiency Syndrome (AIDS); and
14 VAC 5-400-10 et seq.	Rules Governing Unfair Claim Settlement Practices.

The examination included the following areas:

- Advertising
- Policy and Other Forms
- Agents
- Underwriting/Unfair Discrimination/Insurance Information and Privacy Protection Act
- Cancellations
- Complaints
- Claim Practices

Examples referred to in this Report are keyed to the numbers of the examiners' Review Sheets furnished to Financial American during the course of the examination.

II. COMPANY HISTORY

Financial American was incorporated as Florists' Life Insurance Company under the provisions of the Illinois Insurance Code on June 1, 1964. The name was changed to Financial American during 1999 after a merger with the original Financial American Life Insurance Company. On September 5, 2003, Cardif Holdings, Inc. purchased all of the outstanding stock of Financial American. Effective March 29, 2004, the Company re-domesticated from Illinois to Kansas, where it continues to be domiciled.

In February 2007, Financial American changed its name to Cardif Life Insurance Company. On May 20, 2010, the Company's parent signed a Stock Purchase Agreement to sell its insurance subsidiaries, which included the Company, to Interstate National Corporation. The agreement was subsequently assigned to an affiliate company, Financial American Holdings Corporation. Effective August 30, 2010, the Company changed its name back to Financial American.

Financial American markets credit life and credit accident and sickness insurance coverage, although the company is also licensed to sell annuity products. The Company is licensed in 44 states and the District of Columbia. All premium collected is single premium business which is sold in conjunction with consumer loans designed to either pay off a loan balance if the insured dies (credit life) or make monthly payments if the insured becomes disabled (credit accident and sickness), with a maximum policy limitation of \$70,000 for credit life and \$1,000 per month for credit disability. The majority of the Company's premium is written through the automobile dealership market, with smaller percentages generated by finance companies, RV dealers, credit unions and community banks. On June 1, 2013, Financial American

discontinued writing new credit life and credit accident and sickness insurance business.

As of December 31, 2012, Financial American's admitted assets totaled \$48,954,814. Direct credit life premiums in Virginia totaled \$316,761 and direct credit accident and sickness premiums totaled \$311,382.

COPY

III. ADVERTISING

A review was conducted of Financial American's advertisements to determine compliance with the Unfair Trade Practices Act, specifically §§ 38.2-502, 38.2-503, and 38.2-504 of the Code, as well as 14 VAC 5-41-10 et seq., Rules Governing Advertisement of Life Insurance and Annuities and 14 VAC 5-90-10 et seq., Rules Governing Advertisement of Accident and Sickness Insurance.

Where this Report cites a violation of these regulations it does not necessarily mean that the advertisement has actually misled or deceived any individual to whom the advertisement was presented. An advertisement may be cited for violations of certain sections of the regulations if it is determined by the Bureau of Insurance that an advertisement has the capacity or tendency to mislead or deceive from the overall impression that it may be reasonably expected to create within the segment of the public to which it is directed (14 VAC 5-41-30 B and 14 VAC 5-90-50).

14 VAC 5-41-150 C and 14 VAC 5-90-170 A require an insurer to maintain at its home or principal office a complete file of all advertisements with a notation indicating the manner and extent of distribution and the form number of any policy referred to in the advertisement. As discussed in Review Sheet AD01 B, Financial American failed to indicate the manner and extent of distribution of the advertisements selected for review. Financial American agreed with the examiners' observations.

The total population of 2 advertisements used to solicit business in Virginia during the examination time frame was reviewed. In the aggregate, there was 1 violation involving 1 of the advertisements reviewed.

14 VAC 5-90-55 A requires that an invitation to inquire shall contain a provision in the following or substantially similar form: "This policy has [exclusions] [limitations] [reduction of benefits] [terms under which the policy may be continued in force or discontinued]. For costs and complete details of the coverage, call [write] your insurance agent or the company [whichever is applicable]." As discussed in Review Sheet AD02-B, the review revealed 1 violation of this section, where the invitation to inquire failed to contain the required disclosure. Financial American agreed with the examiners' observation.

SUMMARY

Financial American was in violation of 14 VAC 5-41-150 C, 14 VAC 5-90-55 A, and 14 VAC 5-90-170 A, placing it in violation of Subsection 1 of § 38.2-502 and § 38.2-503 of the Code.

IV. POLICY AND OTHER FORMS

A review of policy forms in use during the examination time frame was performed to determine if Financial American complied with various statutory, regulatory and administrative requirements governing the filing and approval of forms.

Section 38.2-3725 of the Code sets forth the requirements for filing and approval of credit life and credit accident and sickness insurance forms that are issued for delivery in this Commonwealth. Section 38.2-3725 of the Code also sets forth the requirements for disclosure forms regarding the purchase of credit insurance and § 38.2-3737 of the Code sets the standards for the use of application or enrollment forms for credit insurance contracts. Section 38.2-3728 A of the Code sets forth the requirements for the filing of rates and the use of rates that are not in excess of the prima facie rates as required by §§ 38.2-3726 and 38.2-3727 of the Code.

The review revealed that Financial American was in substantial compliance.

V. AGENTS

The purpose of this review was to determine compliance with various Sections of Title 38.2, Chapter 18 of the Code.

A sample of 10 from a population of 55 agent and agency appointments was selected for review. In addition, the writing agents or agencies designated in the 60 new business files were also reviewed.

LICENSED AGENT REVIEW

Sections 38.2-1822 A and 38.2-3734 of the Code prohibit a person from acting as an agent prior to obtaining a license to transact the business of insurance in the Commonwealth.

The review revealed that Financial American was in substantial compliance with these sections.

APPOINTED AGENT REVIEW

Section 38.2-1833 A of the Code requires that an insurer, within 30 days of the date of execution of the first application submitted by a licensed but not yet appointed agent, either reject such application or appoint the agent.

The review revealed that Financial American was in substantial compliance with this section.

Administrative Letters

Administrative Letter 2002-2 was sent to all insurers conducting business in Virginia with the request that insurers insert a separate document in each new agent's packet directing the new agent to be aware of certain administrative letters specifically

applicable to licensed agents in Virginia, and advising that a complete listing of these administrative letters is available on the Bureau of Insurance website.

Administrative Letter 2002-9 was sent to all insurers conducting business in Virginia with the request that insurers instruct each newly appointed Virginia agent to review this Administrative Letter at the Bureau of Insurance website.

Financial American responded that it does not direct agents to the specific Administrative Letters on the Bureau's web site as it appears that the web site refers to agents holding ordinary life licenses, while Financial American agents typically hold Life and Health authority under a limited license class.

As discussed in AGTMEM01, Financial American failed to comply with the directives of the Administrative Letters.

COMMISSIONS

Section 38.2-1812 A of the Code prohibits the payment of commission or other valuable consideration to an agent or agency which was not appointed or that was not licensed at the time of the transaction.

The review revealed that Financial American was in substantial compliance with this section.

TERMINATED AGENT APPOINTMENT REVIEW

Section 38.2-1834 D of the Code requires that an insurer notify the agent within 5 calendar days, and the Commission within 30 calendar days, upon termination of the agent's appointment.

A sample of 5 from a population of 24 agent and agency terminations processed during the examination time frame was selected for review. In addition, a sample of 10 agents and agencies appointed during the examination timeframe was reviewed since

the examiners were informed that Financial American had terminated all of its agents and agencies prior to the start of the examination. The review revealed 15 violations of this section. An example is discussed in Review Sheet AGTERM01, where Financial American failed to notify the agent within 5 calendar days of the appointment termination. Financial American responded that the Commission had been properly notified of the agent and agency terminations through the National Insurance Producer Registry (NIPR), but agreed that the company had failed to notify the agents and agencies within 5 days as required.

COPY

VI. UNDERWRITING/UNFAIR DISCRIMINATION/INSURANCE INFORMATION AND PRIVACY PROTECTION ACT

The examination included a review of Financial American's underwriting practices to determine compliance with the Unfair Trade Practices Act, §§ 38.2-500 through 38.2-514; the Insurance Information and Privacy Protection Act, §§ 38.2-600 through 38.2-620; the Credit Life Insurance and Credit Accident and Sickness Insurance Act §§ 38.2-3717 through 38.2-3738; and 14 VAC 5-180-10 et seq., Rules Governing Underwriting Practices and Coverage Limitations and Exclusions for Acquired Immunodeficiency Syndrome (AIDS).

UNDERWRITING/UNFAIR DISCRIMINATION

The review was conducted to determine whether Financial American's underwriting guidelines were unfairly discriminatory, whether applications were underwritten in accordance with Financial American's procedures, and whether correct premiums were being charged.

UNDERWRITING REVIEW

The examiners reviewed a sample of 60 from a population of 2,803 single premium credit life and credit accident and sickness insurance policies. The review revealed that the policies and certificates were issued in accordance with Financial American's established procedures. There was no evidence of unfair discrimination.

Disclosure Requirements

Section 38.2-3735 C 2 of the Code requires the clear disclosure of the difference in premiums charged for a contract with credit insurance and a contract without credit insurance. The disclosure shall include the difference between the amount financed,

monthly payment, and premium for each kind of credit insurance. The review revealed 3 violations of this section. An example is discussed in Review Sheet UN07-M, where the disclosure form provided to the applicant was not properly completed by the creditor representative and failed to provide the required disclosures. Financial American agreed with the examiners' observations.

UNDERWRITING PRACTICES - AIDS

14 VAC 5-180-10 et seq. sets forth rules and procedural requirements that the Commission deems necessary to regulate underwriting practices and policy limitations and exclusions with regard to HIV infection and AIDS.

The review revealed that Financial American was in substantial compliance.

MECHANICAL RATING REVIEW

Sections 38.2-3726, 38.2-3727, 38.2-3730, and 38.2-3732 of the Code set forth various requirements for rates charged and calculations of premium for contracts of credit life and or credit accident and sickness insurance.

In most instances, premium for credit life and or credit accident and sickness insurance is calculated by the producer at the automobile dealership where the policy is sold. Financial American verifies these premium calculations upon receipt of the application to ensure that the premium was calculated in accordance with the filed and approved rates and premium calculation formulas.

The review revealed that Financial American was in substantial compliance.

INSURANCE INFORMATION AND PRIVACY PROTECTION ACT

Title 38.2, Chapter 6 of the Code requires a company to establish standards for collection, use, and disclosure of personal/privileged information gathered in connection with insurance transactions.

NOTICE OF INSURANCE INFORMATION PRACTICES (NIP)

Section 38.2-604 of the Code sets forth the requirements for a NIP, either full or abbreviated, to be provided to all individual applicants and to applicants for group insurance that are individually underwritten.

Financial American provided a full and abbreviated NIP form that complied with the requirements of this section.

DISCLOSURE AUTHORIZATION FORMS

Section 38.2-606 of the Code sets standards for the content and use of the disclosure authorization forms to be used when collecting personal or privileged information about individuals.

The review revealed that Financial American's disclosure authorization forms used in the underwriting of new business and the processing of claims were in substantial compliance.

ADVERSE UNDERWRITING DECISIONS (AUD)

Section 38.2-610 A of the Code requires that in the event of an adverse underwriting decision on an applicant that is individually underwritten, the insurance institution responsible for the decision shall give a written notice in a form approved by the Commission.

Administrative Letter 1981-15 provides life and health insurers with a prototype AUD notice. An AUD notice containing wording substantially similar to the wording in the prototype notice is deemed to be approved for use in Virginia.

The examiners reviewed a sample of 29 from a population of 78 applications for credit life insurance and the total population of 21 applications for credit accident and sickness insurance that were declined during the examination time frame. In total, a sample of 50 from a population of 99 declined applications was reviewed. In addition, during the review of the sample approved credit accident and sickness files, it was discovered that Financial American had declined coverage for some applicants.

Section 38.2-610 A 1 of the Code states that, in the event of an adverse underwriting decision, the insurer shall give a written notice that either provides the applicant with the specific reason or reasons for the adverse underwriting decision in writing or advises such person that upon written request he may receive the specific reason or reasons in writing. Section 38.2-610 A 2 of the Code states that, in the event of an adverse underwriting decision, the insurer responsible for the decision shall give a written notice in a form approved by the Commission that provides the applicant with a summary of the rights established under subsection B of this section and §§ 38.2-608 and 38.2-609 of the Code.

The review revealed 51 violations of each of these sections. An example is discussed in Review Sheet UN02-A. Financial American agreed with the examiners' observations.

ADMINISTRATIVE LETTER 2010-12

The purpose of this Administrative Letter is to inform life and accident and sickness insurers of the disclaimer required to be attached to policies in order to comply with § 38.2-1715 B of the Code, which states that an insurer may not deliver a policy or contract to a policy or contract owner unless the summary document is delivered to the policy or contract owner at the time of delivery of the policy or contract. The summary document, Notice of Protection Provided by the Virginia Life, Accident and Sickness Insurance Guaranty Association, was approved effective November 1, 2010.

Financial American informed the examiners at the start of the examination that it was not aware of any requirement to provide the Guaranty Association disclosure to the applicants and/or insureds. As discussed in Review Sheet UN14-M, Financial American failed to deliver the summary document to the policy or contract owner in 60 instances, in violation of § 38.2-1715 B of the Code in each instance.

VII. CANCELLATIONS

The examination included a review of Financial American's cancellation practices and procedures to determine compliance with its contract provisions; the requirements of § 38.2-508 of the Code covering unfair discrimination; and § 38.2-3729 C of the Code, concerning credit insurance premium refunds.

Cancellations involve those policies no longer in force but which have premium refunds payable due to death, early payoff, renewal or refinancing of the loan, receipt of the insured's request for cancellation, or non-payment of insurance premiums and/or loan payments.

The examiners reviewed a sample of 83 from a population of 1,195 credit life and credit accident and sickness insurance cancellations. The examiners also reviewed the cancellations of credit accident and sickness insurance associated with the underwriting sample and the credit life claim sample.

Section 38.2-3729 G 2 of the Code states that if a debtor prepays the indebtedness other than as a result of death; that any accident and sickness insurance covering such indebtedness shall be terminated and an appropriate refund of the credit accident and sickness insurance premium shall be paid or credited to the person entitled to the refund.

The review revealed 25 violations of this section. An example is discussed in Review Sheet CN02, where Financial American refunded less than the amount to which the policyholders were entitled. Financial American agreed with the examiners' observations.

Section 38.2-3729 H 1 of the Code states that if an indebtedness is prepaid by the proceeds of a credit life insurance policy covering the debtor, then it shall be the

responsibility of the insurer to see that an appropriate refund of the credit accident and sickness insurance premium is paid to the insured debtor, if living, or the beneficiary, other than the creditor, named by the debtor or to the debtor's estate.

The review revealed 6 violations of this section. As discussed in Review Sheet CL03, Financial American failed to make the appropriate refund of the credit accident and sickness insurance premium. Financial American agreed with the examiners' observations.

COPY

VIII. COMPLAINTS

Financial American's complaint records were reviewed for compliance with § 38.2-511 of the Code. This section sets forth the requirements for maintaining complete records of complaints to include the number of complaints, the classification by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint. A "complaint," is defined by this section as "any written communication from a policyholder, subscriber or claimant primarily expressing a grievance."

The total population of 2 written complaints received during the examination time frame was reviewed. The review revealed that Financial American was in substantial compliance with its established procedures and the requirements of this section.

IX. CLAIM PRACTICES

The examination included a review of Financial American's claim practices for compliance with §§ 38.2-510, 38.2-3115 and 38.2-3731 of the Code as well as 14 VAC 5-400-10 et seq., Rules Governing Unfair Claim Settlement Practices.

GENERAL HANDLING STUDY

The review consisted of a sampling of credit life and credit accident and sickness insurance claims. All claims were processed by Summit Administrators and adjudicated according to the terms in the certificate of insurance. The examiners were provided a copy of the claim procedures manual.

PAID CLAIM REVIEW

Credit Life

The entire population of 23 credit life claims paid during the examination time frame was selected for review.

The review revealed that Financial American was in substantial compliance with its established procedures and policy provisions.

Interest on Life Claims

Section 38.2-3115 B of the Code states that interest upon the principal sum shall be paid at an annual rate of 2.5% or the annual rate currently paid by the insurer on proceeds left under the interest settlement option, whichever is greater.

The review revealed 23 violations of this section. An example is discussed in Review Sheet CL01, where Financial American failed to pay interest. Financial American agreed with the examiners' observations.

Credit Accident and Sickness

A sample of 25 was selected from a total population of 61 credit accident and sickness claims paid during the examination time frame.

The review revealed that Financial American was in substantial compliance with its established procedures and policy provisions.

TIME PAYMENT STUDY

The time payment study was computed by measuring the time it took Financial American, after receiving the properly executed proof of loss, to issue a check for payment. The term "working days" does not include Saturdays, Sundays, or holidays. The study was conducted on the total population of 48 paid claims.

The review revealed that all 48 claims were paid within 15 working days from receipt of complete proof of loss.

DENIED CLAIM REVIEW

Credit Life

The entire population of 7 credit life claims denied during the examination time frame was selected for review.

The review revealed that Financial American was in substantial compliance with its established procedures and policy provisions.

Credit Accident and Sickness

A sample of 25 was selected from a total population of 43 credit accident and sickness claims denied during the examination time frame.

The review revealed that Financial American was in substantial compliance with its established procedures and policy provisions.

UNFAIR CLAIM SETTLEMENT PRACTICES REVIEW

A total sample of 80 paid and denied claims was also reviewed for compliance with 14 VAC 5-400-10 et seq., Rules Governing Unfair Claim Settlement Practices.

14 VAC 5-400-50 A requires every insurer to acknowledge the receipt of notification of a claim within 10 working days, unless payment is made within that time.

The review revealed 1 instance where a claim was not acknowledged within 10 working days upon receipt of notification. An example is discussed in Review Sheet CL14, where Financial American took 21 days to acknowledge the claim. Financial American agreed with the examiners' observation.

Financial American's failure to comply with 14 VAC 5-400-50 A did not occur with such frequency as to indicate a general business practice.

THREATENED LITIGATION

The total population of 1 file involving threatened litigation was reviewed. The review revealed that Financial American handled the file in substantial compliance with its procedures and policy provisions.

X. CORRECTIVE ACTION PLAN

Financial American shall:

1. Bring its advertisements and its advertising file into compliance with the requirements of 14 VAC 5-41-10 et seq. and 14 VAC 5-90-10 et seq.;
2. Establish and implement procedures to ensure compliance with Administrative Letters 2002-2 and 2002-9;
3. Establish and maintain procedures for compliance with § 38.2-1834 D of the Code concerning the notification to agents of appointment termination;
4. Strengthen its procedures to ensure that insured debtors are provided the disclosures required by § 38.2-3735 C 2 of the Code;
5. Establish and maintain procedures to ensure that the AUD notice required by §§ 38.2-610 A 1 and 38.2-610 A 2 of the Code is provided to declined applicants in accordance with the guidelines established by Administrative Letters 1981-15 and 2003-6. Immediately going forward, furnish such AUD notices in all necessary instances, as required by § 38.2-610 A of the Code;
6. Establish and maintain procedures to ensure that the summary document *Notice of Protection Provided by the Virginia Life, Accident and Sickness Insurance Guaranty Association* is delivered to the policy or contract owner at the time of delivery of the policy or contract, as required by § 38.2-1715 B of the Code;
7. Review and revise its procedures to ensure that refunds due to policyholders are consistently calculated correctly, as required by § 38.2-3729 G 2 of the Code;

8. Review and recalculate all credit accident and sickness premium refunds for the years of 2009, 2010, 2011, 2012, 2013, and the current year. Determine which premium refunds were calculated in noncompliance with the requirements of §§ 38.2-3729 G 2 of the Code, and send checks for the required refunds to the debtor, along with a letter of explanation stating that “As a result of a Target Market Conduct Examination by the Virginia State Corporation Commission’s Bureau of Insurance, it was determined that the premium refund had not been properly calculated.” Then, within 120 days after this Report is finalized, furnish the examiners with documentation that the required amounts have been paid;
9. Review and revise its procedures to ensure that upon payment of the indebtedness by the proceeds of a credit life insurance policy covering the debtor, appropriate refunds of the credit accident and sickness insurance premium are paid to the insured debtor, if living, or the beneficiary, other than the creditor, named by the debtor or the debtor’s estate, as required by § 38.2-3729 H 1 of the Code;
10. Review all single premium credit life insurance claims processed in 2009, 2010, 2011, 2012, 2013 and the current year where the indebtedness was prepaid by the proceeds of a credit life insurance policy covering the debtor, and identify each instance where the appropriate refund of the credit accident and sickness insurance premium was not paid or credited promptly to the insured debtor, if living, or the beneficiary, other than the creditor, named by the debtor or to the debtor's estate as required by §§ 38.2-3729 H 1 of the Code. Send checks for the required refunds to the insured debtor or

- beneficiary along with a letter of explanation stating that as a result of a Target Market Conduct Examination by the Virginia State Corporation Commission's Bureau of Insurance, an error was found. Then, within 120 days after this Report is finalized, furnish the examiners with documentation that the required amounts have been paid;
11. Establish and implement procedures for the payment of interest due on credit life claim proceeds, as required by § 38.2-3115 B of the Code;
 12. Review and reopen all credit life claims where interest was due for the years 2009, 2010, 2011, 2012, 2013, and the current year and make interest payments where necessary, as required by § 38.2-3115 B of the Code. Send checks for the required interest along with letters of explanation stating that, "As a result of a Target Market Conduct Examination by the Virginia State Corporation Commission's Bureau of Insurance, it was determined that this interest had not been paid previously." After which, furnish the examiners with documentation that the required interest has been paid within 120 days of this Report being finalized; and
 13. Within 120 days of this Report being finalized, furnish the examiners with documentation that each of the above actions has been completed.

XI. ACKNOWLEDGMENT

The courteous cooperation extended to the examiners by Financial American's officers and employees during the course of this examination is gratefully acknowledged.

Arthur Dodd, MBA, FLMI, AIE, AIRC, MCM, Bill Benson, FLMI, AIE, ACS, MCM, and Melissa Gerachis, FLMI, AIRC, MCM of the Bureau of Insurance participated in the work of the examination and writing of the Report.

Respectfully submitted,

Julie R. Fairbanks

Julie Fairbanks, FLMI, AIE, AIRC, MCM
Supervisor, Market Conduct Section
Life and Health Division
Bureau of Insurance

XII. AREA VIOLATIONS SUMMARY BY REVIEW SHEET

ADVERTISING

14 VAC 5-41-150 C, 1 violation, AD01-B

14 VAC 5-90-55 A, 1 violation, AD02-B

14 VAC 5-90-170 A, 1 violation, AD01-B

AGENTS

§ 38.2-1834 D, 15 violations, AGTRM01 (5), AGTRM02 (10)

UNDERWRITING

§ 38.2-610 A 1, 51 violations, UN02-A (28), UN03-A (1), UN04-A (1), UN05-A (1), UN01-M (1), UN03-M (1), UN04-M (1), UN06-M (1), UN09-M (1), UN12-M (14), UN13-M (1)

§ 38.2-1715 B, 60 violations, UN14-M

§ 38.2-3735 C 2, 3 violations, UN07-M, UN10-M, UN11-M

CANCELLATIONS

§ 38.2-3729 G 2, 25 violations, CN02 (23), UN02-M (1), UN05-M (1)

§ 38.2-3729 H 1, 6 violations, CL03, CL06, CL11, CL13, CL24, CL26

CLAIMS PRACTICES

§ 38.2-3115 B, 23 violations, CL01, CL02, CL03, CL04, CL05, CL06, CL07, CL08, CL09, CL10, CL11, CL12, CL13, CL14, CL15, CL16, CL21, CL22, CL23, CL24, CL25, CL26, CL27

14 VAC 5-400-50 A, 1 violation, CL14

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August 18, 2014

CERTIFIED MAIL 7013 2630 0001 8681 0655
RETURN RECEIPT REQUESTED

Ms. Carol Jones
Vice President of Operations
Financial American Life Insurance Company
P.O. Box 77-0250
Miami, Florida 33177-0250

RE: Market Conduct Examination Report
Exposure Draft

Dear Ms. Jones:

Recently, the Bureau of Insurance conducted a Market Conduct Examination of Financial American Life Insurance Company (Financial American) for the period of January 1, 2011 through December 31, 2012. A preliminary draft of the Report is enclosed for your review.

Since it appears from a reading of the Report that there have been violations of Virginia Insurance Laws and Regulations on the part of Financial American, I would urge you to read the enclosed draft and furnish me with your written response within 30 days of the date of this letter. Please specify in your response those items with which you agree, giving me your intended method of compliance, and those items with which you disagree, giving your specific reasons for disagreement. Financial American's response(s) to the draft Report will be attached to and become part of the final Report.

Once we have received and reviewed your response, we will make any justified revisions to the Report and will then be in a position to determine the appropriate disposition of this matter.

Thank you for your prompt attention to this matter.

Yours truly,

Julie R. Fairbanks, AIE, AIRC, FLMI, MCM
Principal Insurance Market Examiner
Market Conduct Section
Life and Health Division
Bureau of Insurance
(804) 371-9385

JRF:mhh
Enclosure
cc: Althelia Battle



FINANCIAL AMERICAN
INSURANCE GROUP

Sent via Email and Certified Mail

October 10, 2014

Ms. Julie R. Fairbanks
Principal Insurance Market Examiner
Market Conduct Section, Life and Health Division
Commonwealth of Virginia
Bureau of Insurance
PO Box 1157
Richmond, Virginia 23218

RE: Market Conduct Examination Report
Financial American Life Insurance Company, NAIC # 71455

Dear Ms. Fairbanks:

This letter is a reply to the Bureau's preliminary draft of the Market Conduct Examination Report dated August 18, 2014.

Enclosed are the Company Responses to the Virginia MCE Corrective Action Plan. Please note that as stated in the Responses, on some items we took corrective action prior to receiving the draft report.

In addition to the Responses, we have enclosed the following Exhibits which we respectfully request that you do not include in the published report. These exhibits contain documentation to substantiate that the Company issued the unearned premium refunds and the life interest payments.

Exhibits

- Exhibit A - Virginia Unearned Premium Refund Report
- Exhibit B - Sample Additional Premium Refund Letter
- Exhibit C - Virginia Life Interest Payment Report
- Exhibit D - Sample Interest Payment Letter

Please feel free to contact me at (305) 234-1771 if you have any questions or if any other information is needed.

Sincerely,


Manuel J. Millor,
President and CEO
For and on behalf of Financial American Life Insurance Company

Enclosures

cc: Carol R. Jones, Vice President, Operations

**VIRGINIA MCE - CORRECTIVE
ACTION PLAN
(COMPANY RESPONSES)**

Financial American Life Insurance Company shall:

1. Bring its advertisements and its advertising file into compliance with the requirements of 14 VAC 5-41-10 et seq. and 14 VAC 5-90-10 et seq.;
Response: Company does not disagree with observation. Financial American Life Insurance Company (FAMLI) discontinued selling new business on June 1, 2013. While there is no likelihood of any advertising being disseminated; future advertisements will include requirements noted in the cited regulations.

2. Establish and implement procedures to ensure compliance with Administrative Letters 2002-2 and 2002-9;
Response: Company does not disagree with observation. FAMLI discontinued selling new business on June 1, 2013 and terminated all of its agent appointments on October 15, 2013. Notwithstanding that FAMLI is in run-off status and has no agents currently, we have posted on the company website the link referenced by the Virginia BOI;
<http://www.scc.virginia.gov/boi/adminlets/>
<http://www.famli.com/company.html#FAMLI> (See Admin. Ltr 2002-2).

3. Establish and maintain procedures for compliance with § 38.2-1834 D of the Code concerning the notification to agents of appointment termination;
Response: Company does not disagree with observation. FAMLI discontinued selling new business on June 1, 2013 and terminated all of its agent appointments on October 15, 2013. Notwithstanding that FAMLI is in run-off status and has no agents currently, future agent appointment terminations will include requirements noted in the cited regulations.

4. Strengthen its procedures to ensure that insured debtors are provided the disclosures required by § 38.2-3735 C 2 of the Code;
Response: Company does not disagree with observation. While FAMLI has no plans to write new business; any future new business underwritten by FAMLI will include the disclosure requirements noted in the cited regulation.

5. Establish and maintain procedures to ensure that the AUD notice required by §§ 38.2-610 A 1 and 38.2-610 A 2 of the Code is provided to declined applicants in accordance with the guidelines established by Administrative Letters 1981-15 and 2003-6. Immediately going forward, furnish such AUD notices in all necessary instances, as required by § 38.2-610 A of the Code;
Response: Company does not disagree with observation. While FAMLI has no plans to write new business, any future declination of coverage letters will

comply with the prototype AUD notice found in the cited Administrative Letters.

6. Establish and maintain procedures to ensure that the summary document Notice of Protection Provided by the Virginia Life, Accident and Sickness Insurance Guaranty Association is delivered to the policy or contract owner at the time of delivery of the policy or contract, as required by § 38.2-1715 B of the Code;

Response: Company does not disagree with observation. FAML I discontinued selling new business on June 1, 2013. However, FAML I has placed the Guarantee Association Notice on its company website.

<http://www.famli.com/company.html#FAML I> (Guaranty Association Notice of Protection)

7. Review and revise its procedures to ensure that refunds due to policyholders are consistently calculated correctly, as required by § 38.2-3729 G 2 of the Code;

Response: Company does not disagree with observation. In June 2013, the Virginia BOI initiated a review of FAML I's rates, rate formulas, and refund formulas in effect from January 1, 2011 through December 31, 2012. FAML I completed an internal review of the refund formulas programmed in the processing system from 2009 through current. It was determined that the formula in place during the period of October 2011 and November 2013 did not correspond with the approved formula in the cited regulation. On November 6, 2013, FAML I re-programmed the correct refund formula in the processing system and issued the additional refunds due. Please note that all other years before and after these dates were programmed and calculated accurately.

8. Review and recalculate all credit accident and sickness premium refunds for the years of 2009, 2010, 2011, 2012, 2013, and the current year. Determine which premium refunds were calculated in noncompliance with the requirements of §§ 38.2-3729 G 2 of the Code, and send checks for the required refunds to the debtor, along with a letter of explanation stating that "As a result of a Target Market Conduct Examination by the Virginia State Corporation Commission's Bureau of Insurance, it was determined that the premium refund had not been properly calculated." Then, within 120 days after this Report is finalized, furnish the examiners with documentation that the required amounts have been paid;

Response: Company does not disagree with observation. Immediately upon discussion and prior to receipt of the Market Conduct Examination Draft Report, on July 18, 2014 FAML I completed the recalculation project and generated 468 refund payments totaling \$26,619.69. As a result, the specific language stated above was not included in the explanation letters.

9. Review and revise its procedures to ensure that upon payment of the indebtedness by the proceeds of a credit life insurance policy covering the debtor, appropriate refunds of the credit accident and sickness insurance premium are paid to the insured debtor, if living, or the beneficiary, other than the creditor, named by the debtor or the debtor's estate, as required by § 38.2-3729 H 1 of the Code;

Response: Company does not disagree with observation. FAML I has implemented internal monitoring procedures to ensure that unearned premium refunds are processed in accordance with the Virginia BOI Insurance Code.

10. Review all single premium credit life insurance claims processed in 2009, 2010, 2011, 2012, 2013 and the current year where the indebtedness was prepaid by the proceeds of a credit life insurance policy covering the debtor, and identify each instance where the appropriate refund of the credit accident and sickness insurance premium was not paid or credited promptly to the insured debtor, if living, or the beneficiary, other than the creditor, named by the debtor or to the debtor's estate as required by §§ 38.2-3729 H 1 of the Code. Send checks for the required refunds to the insured debtor or beneficiary along with a letter of explanation stating that as a result of a Target Market Conduct Examination by the Virginia State Corporation Commission's Bureau of Insurance, an error was found. Then, within 120 days after this Report is finalized, furnish the examiners with documentation that the required amounts have been paid;

Response: Company does not disagree with observation. Review completed, please see response to #8 (above).

11. Establish and implement procedures for the payment of interest due on credit life claim proceeds, as required by § 38.2-3115 B of the Code;

Response: Company does not disagree with observation. FAML I has implemented internal monitoring procedures to ensure that interest is calculated and paid in accordance with the Virginia BOI Insurance Code.

12. Review and reopen all credit life claims where interest was due for the years 2009, 2010, 2011, 2012, 2013, and the current year and make interest payments where necessary, as required by § 38.2-3115 B of the Code. Send checks for the required interest along with letters of explanation stating that, "As a result of a Target Market Conduct Examination by the Virginia State Corporation Commission's Bureau of Insurance, it was determined that this interest had not been paid previously." After which, furnish the examiners with documentation that the required interest has been paid within 120 days of this Report being finalized; and

Response: Company does not disagree with observation. Immediately upon discussion and prior to receipt of the Market Conduct Examination Draft Report, on June 6, 2014 FAML I completed the review of all life claims paid and generated 53 interest payments totaling \$3,753.54. As a result, the specific language stated above was not included in the explanation letters.

13. Within 120 days of this Report being finalized, furnish the examiners with documentation that each of the above actions has been completed.

Response: FAML I will provide documentation of necessary actions taken by established deadline upon receipt of final report.

COMMONWEALTH OF VIRGINIA

JACQUELINE K. CUNNINGHAM
COMMISSIONER OF INSURANCE
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE



P.O. BOX 1157
RICHMOND, VIRGINIA 23218
TELEPHONE: (804) 371-9741
TDD/VOICE: (804) 371-9206
www.scc.virginia.gov/boi

October 15, 2014

CERTIFIED MAIL 7013 2630 0001 8681 0556
RETURN RECEIPT REQUESTED

Mr. Manuel J. Millor
President and CEO
Financial American Life Insurance Company
P.O. Box 77-0250
Miami, Florida 33177-0250

Dear Mr. Millor:

The Bureau of Insurance (BOI) has completed its review of your October 10, 2014, response to the Target Market Conduct Examination Report of Financial American Life Insurance Company (Financial American) sent with my letter of August 18, 2014.

Your response indicates that Financial American does not disagree with the findings of the report and will document compliance with each item in the Corrective Action Plan within 120 days of the finalization of this exam.

On the basis of our review of the entire file, it appears that Financial American has violated the Unfair Trade Practices Act, specifically Subsection 1 of § 38.2-502 and § 38.2-503 of the Code of Virginia.

In addition, there were violations of §§ 38.2-610 A 1, 38.2-1715 B, 38.2-1834 D, 38.2-3115 B, 38.2-3729 G 2, 38.2-3729 H 1, and 38.2-3735 C 2 of the Code, as well as 14 VAC 5-41-150 C of Rules Governing Advertisement of Life Insurance and Annuities, 14 VAC 5-90-55 A and 14 VAC 5-90-170 A of Rules Governing Advertisement of Accident and Sickness Insurance, and 14 VAC 5-400-50 A of Rules Governing Unfair Claims Settlement Practices.

Violations of the above sections of the Code can subject Financial American to monetary penalties of up to \$5,000 for each violation and the suspension or revocation of its license to transact business in Virginia.

In light of the foregoing, this office will be in further communication with you shortly regarding the appropriate disposition of this matter.

Yours truly,

Julie R. Fairbanks, AIE, FLMI, AIRC
Supervisor
Market Conduct Section
Life and Health Division
Telephone (804) 371-9385

cc: Bob Grissom

Mr. Manuel J. Millor
President and CEO
Financial American Life Insurance Company
P.O. Box 77-0250
Miami, Florida 33177-0250

STATE CORP COMMISSION
BUREAU OF INSURANCE
14 NOV 18 AM 10:26

Althelia P. Battle, FLMI, HIA, AIE, MHP, AIRC, ACS
Deputy Commissioner
Bureau of Insurance
Post Office Box 1157
Richmond, VA 23218

RE: Alleged violations of the Unfair Trade Practices Act, specifically Subsection 1 of § 38.2-502 and § 38.2-503 of the Code of Virginia as well as violations of §§ 38.2-610 A 1, 38.2-1715 B, 38.2-1834 D, 38.2-3115 B, 38.2-3729 G 2, 38.2-3729 H 1, and 38.2-3735 C 2 of the Code, as well as 14 VAC 5-41-150 C of Rules Governing Advertisement of Life Insurance and Annuities, 14 VAC 5-90-55 A and 14 VAC 5-90-170 A of Rules Governing Advertisement of Accident and Sickness Insurance, and 14 VAC 5-400-50 A of Rules Governing Unfair Claims Settlement Practices.

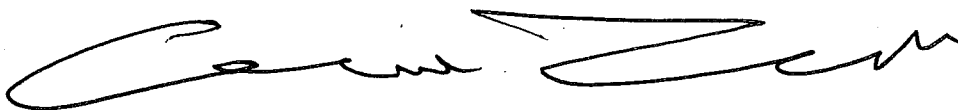
Dear Ms. Battle:

This will acknowledge receipt of your letter dated October 22, 2014, concerning the above-captioned matter.

Financial American wishes to make a settlement offer for the alleged violations cited above. Enclosed with this letter is a check (certified, cashier's or company) in the amount of \$14,000 payable to the Treasurer of Virginia. The Company further understands that as part of the Commission's Order accepting the offer of settlement; it is entitled to a hearing in this matter and waives its right to such a hearing and agrees to comply with the Corrective Action Plan contained in the Target Market Conduct Examination Report as of December 31, 2012.

This offer is being made solely for the purpose of a settlement and does not constitute, nor should it be construed as, an admission of any violation of law.

Yours very truly,



Company Representative

11/17/14

Date

NOV. 19. 2014 *500031

Enclosure (check)

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

141210189

AT RICHMOND, DECEMBER 8, 2014

SCC-CLERK'S OFFICE
DOCUMENT CONTROL CENTER

2014 DEC -8 P 3: 33

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2014-00221

FINANCIAL AMERICAN LIFE
INSURANCE COMPANY,
Defendant

SETTLEMENT ORDER

Based on a target market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Financial American Life Insurance Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), in certain instances, violated §§ 38.2-502 (1) and 38.2-503 of the Code of Virginia ("Code"), as well as 14 VAC 5-41-150 C of the Commission's Rules Governing Advertisement of Life Insurance and Annuities, 14 VAC 5-41-10 *et seq.*, and 14 VAC 5-90-55 A and 14 VAC 5-90-170 A of the Commission's Rules Governing Advertisement of Accident and Sickness Insurance, 14 VAC 5-90-10 *et seq.*, by failing to comply with advertising requirements; violated § 38.2-610 A (1) of the Code by failing to accurately provide the required adverse underwriting decision and reasons to insureds; violated § 38.2-1715 B of the Code by failing to properly notify policy owners; violated § 38.2-1834 D of the Code by failing to comply with agent licensing requirements; violated § 38.2-3115 B of the Code by failing to properly pay interest on life insurance proceeds; violated §§ 38.2-3729 G (2) and 38.2-3729 H (1) of the Code by failing to comply with the laws regarding appropriate refund of credit accident and sickness insurance premiums; violated § 38.2-3735 C (2) of the Code by failing to comply with the laws regarding disclosure and

readability; and violated 14 VAC 5-400-50 A of the Commission's Rules Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10 *et seq.*, by failing to properly handle claims with such frequency as to indicate a general business practice.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke a defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that a defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Fourteen Thousand Dollars (\$14,000), waived its right to a hearing, and agreed to comply with the corrective action plan contained in the Target Market Conduct Examination Report as of December 31, 2012.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

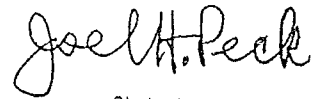
Accordingly, IT IS ORDERED THAT:

(1) The offer of the Defendant in settlement of the matter set forth herein is hereby accepted.

(2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:
Manuel J. Millor, President and CEO, Financial American Life Insurance Company, P.O. Box
77-0250, Miami, Florida 33177; and a copy shall be delivered to the Commission's Office of
General Counsel and the Bureau of Insurance in care of Deputy Commissioner Althelia P. Battle.

A True Copy
Teste:



Clerk of the
State Corporation Commission

COPY