

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 9, 2022

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2022-00049

GERBER LIFE INSURANCE COMPANY,
Defendant

SETTLEMENT ORDER

Based on a market conduct inquiry performed by the Bureau of Insurance ("Bureau"), it is alleged that Gerber Life Insurance Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Virginia"), in certain instances violated §§ 38.2-316 A, 38.2-316 B and 38.2-316 C 1 of the Code of Virginia ("Code") by failing to use insurance policies or forms on file and approved by the Commission; § 38.2-508 (1) of the Code by engaging in unfair discrimination; § 38.2-509 A 2 of the Code by offering an inducement to a contract that is not specified in the contract; § 38.2-1812 A of the Code by paying or sharing of commissions with unlicensed or unappointed agents; § 38.2-1822 A of the Code by failing to comply with licensed agent requirements; § 38.2-1833 A 1 of the Code by accepting new business from agents and failing to file a notice of appointment with the Commission within thirty (30) days of execution of the first insurance application submitted; as well as 14 VAC 5-41-30 B of the Virginia Administrative Code, 14 VAC 5-41-10 *et seq.*, by using advertisements in which the form and content of such advertisements were not sufficiently accurate, complete, and clear so as to avoid deception or the capacity or tendency to mislead or deceive; Rule 14 VAC 5-41-30 C by using advertisements that contained the omission of material information or the use of words, phrases,

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statements, references, or illustrations if the omission or use had the capacity, tendency, or effect of misleading or deceiving purchasers; 14 VAC 5-41-30 E by having advertisements that used the term "College Plan" to advertise a life insurance policy; Rule 14 VAC 5-41-40 D by failing to prominently display the limitations associated with contestability and by failing to disclose the limitation of benefits of a life insurance policy within the first two years; and Rule 14 VAC 5-41-80 B by using the term "affordable" without evidence to demonstrate to whom the products would be affordable and that the advertisements were directed toward those particular demographics.

The Commission is authorized by §§ 38.2-218, 38.2-219, 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 the right to a hearing in this matter whereupon the Defendant, without admitting nor denying any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has agreed to comply with the corrective action plan outlined in the Bureau's letter dated December 16, 2020; has tendered to the Treasurer of Virginia the sum of Twenty-seven Thousand Six Hundred Dollars (\$27,600); and has waived the right to a hearing.

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.

A COPY of this order shall be sent by the Clerk of the Commission by electronic mail to: Abbey Blank Rolf, JD, Manager, Corporate Compliance, Gerber Life Insurance Company, at abbey.blank@westernsouthernlife.com, 400 Broadway, Cincinnati, Ohio 45202; and a copy shall be delivered to the Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy Commissioner Julie Blauvelt.