

t. In the matter of John Travers, DBR No. 10-I-0165

4. This Consent Order resolves the responsibility of the Respondent and the aforementioned producers concerning the Department's allegations in the Order to Show Cause with the exception of Roy Norberg who has been defaulted by the Hearing Officer for not responding to the Order to Show Cause served upon him. Accordingly, the Department shall not take additional enforcement action against Respondent for a violation of Rhode Island law relating to unsuitability or unreasonableness in connection with the marketing of replacement life insurance or annuities occurring between January 1, 2006 and December 31, 2010 unless Bankers fails to abide by this Consent Order. The Department and the producers will enter into appropriate Consent Orders in each of the above listed proceedings.

5. Respondent and the Department enter into this Consent Order to resolve the allegations set forth in the Order to Show Cause without further administrative proceedings. Notwithstanding this Consent Order, the Department continues to allege that the allegations in the Order to Show Cause have occurred but the parties agree that this Consent Order does not constitute adjudication or a finding of a violation of statute or regulation and Respondent neither admits nor denies the Department's allegations in the Order to Show Cause. Respondent agrees to implement the Remediation Program defined below and maintain the policies and procedures described in this Consent Order to address the allegations contained in the Order to Show Cause.

THEREFORE, based on the foregoing, Respondent and the Department have decided to resolve this matter without further administrative proceedings by agreeing to the following:

1. Remediation Program. The Remediator (as defined below) will perform a retrospective review of each life insurance policy and annuity issued by Bankers from January 1, 2006, through December 31, 2010 (the "Time Period") as a replacement for one or more previously issued life insurance policies or annuities.

The Remediator will apply the criteria set forth on Exhibit A attached hereto in order to make a determination as to whether the issuance of the replacement life insurance policy or annuity was suitable or reasonable and will include such determination in the Remediation Report (as defined herein); provided, however, that nothing herein shall require the Remediator to make a determination of suitability or reasonableness with respect to any life insurance policy or annuity that is not in the scope (as described above) of this Consent Order. This review is intended to be completed by Remediator within 180 days after the Effective Date (as defined herein) of this Consent Order. For only those policies which the Remediator has found were the subject of an unsuitable or unreasonable replacement sale, the Remediator will determine the appropriate remediation as outlined below:

a. Consumer Surrender of Former Life Insurance Policy or Annuity.

(i) Life Insurance Policy. The Remediator will determine whether the consumer incurred a Surrender Charge for replacing the Former Life Insurance Policy (as defined herein) as a result of the purchase of a life insurance policy issued by Respondent. For purposes of this Consent Order, a Former Life Insurance Policy is a life insurance policy issued to a consumer by Bankers Life or another insurer, prior to Bankers Life issuing a replacement

life insurance policy to such consumer. A Surrender Charge is defined as the difference between the Account Value and Cash Surrender Value of the Former Life Insurance Policy. If the Former Life Insurance Policy did not have an Account Value and Cash Surrender Value, then there would not be an applicable Surrender Charge. If the consumer incurred a Surrender Charge for replacing the Former Life Insurance Policy, the Remediator will detail this finding in the Remediation Report (as defined herein) and Respondent will reimburse the Surrender Charge for the Former Life Insurance Policy incurred by the consumer no later than thirty (30) days of acceptance of the Remediation Report by the Department unless the Remediator's determination is successfully appealed as detailed in Section 2(e) below.

(ii) Annuity. The Remediator will determine whether the consumer incurred a Surrender Charge paid to the replaced insurer as a result of the sale of a Former Annuity and the purchase of a life insurance policy or an annuity issued by Respondent. For purposes of this Consent Order, a Former Annuity is an annuity issued to a consumer by Bankers Life or another insurer prior to Bankers Life issuing a replacement annuity to such consumer. A Surrender Charge is defined as the difference between the Account Value and Cash Surrender Value of the Former Annuity. If the consumer paid a Surrender Charge relating to the Former Annuity, the Remediator will detail this finding in the Remediation Report and Respondent will reimburse the Surrender Charge paid by the consumer no later than thirty (30) days of acceptance of Remediation Report by the Department unless the Remediator's determination is successfully appealed as detailed in Section 2(e) below.

b. Consumer's Bankers Life Insurance Policy or Annuity.

With regard to Respondent's Life Insurance policies that are not Whole Life Insurance policies (such as term policies or any other policy which does not build cash value), the consumer will be offered the option to terminate their policy and receive a refund of all premiums paid into the policy. The consumer will also have the option to continue their life insurance policy. The consumer will be given sixty (60) days notice of these options. If the consumer fails to respond within the sixty (60) days, Bankers will continue the policy. Respondent will implement the decision made by the consumer or continue the policy if no response is received from the consumer and no further action under this consent order is applicable.

With regard to Respondent's Whole Life Insurance policies (defined as any insurance that builds cash value including universal life), the Remediator will determine whether the consumer has incurred or could incur a Financial Penalty (as defined herein) under the Bankers policy as a result of its sale. For Whole life insurance policies that are not universal life, a Financial Penalty is the difference between the initial premium paid to purchase the Bankers Life policy and the cash value received by the consumer if he or she accesses the cash value. For universal life policies a Financial Penalty is the amount of surrender charges paid. For universal life policies that lapse in the future due to insufficient cash value, a payment will be made to the consumer at the time of lapse equal to the difference between the initial premium paid to purchase the Bankers policy and any previously received loan or surrender amounts.

With regard to annuities, the Remediator will determine whether the consumer has incurred or could incur a Financial Penalty in the Bankers annuity. For annuities, a Financial Penalty is the amount of the surrender charge paid.

If a Financial Penalty exists or could exist with regard to the Bankers Whole Life Insurance policy or annuity purchased which the Remediator has found to be unsuitable or unreasonable, the remedy will be one of the following:

(1) If the consumer has accessed some or all of the cash value, the Remediator will determine whether the consumer in such instance incurred a Financial Penalty and, if so, the amount of that penalty. If a Financial Penalty was incurred, Respondent will notify the consumer and reimburse whatever Financial Penalty is determined by the Remediator to have been incurred. Respondent will make whatever financial payment is necessary no later than thirty (30) days of the acceptance of the Remediation Report by the Department unless the Remediator's determination is successfully appealed as detailed in section 2(e) below.

(2) If the consumer has not yet accessed the cash value, Respondent agrees that any Financial Penalty subsequently incurred by the consumer will be waived unless the Remediator's determination is successfully appealed as detailed in Section 2(e) below.

No remedy listed above will apply if the consumer has made a voluntary replacement of the Bankers policy with a life insurance policy or annuity issued by another insurer. Further, no remedy under this Section 1(b) shall apply to Bankers life insurance policies that were voided, cancelled or surrendered during a 30 day free look period or that were terminated due to a death benefit being paid.

c. Contestability. The Remediator will determine whether the life insurance policies have a contestability provision which has not expired. If so, Remediator will so inform Respondent, and Respondent will waive the contestability provision at the time of claim unless the Remediator's determination is appealed as detailed in Section 2(e) below. For those policies under which Respondent has contested the claim, Respondent will pay restitution (i.e. the death benefit plus interest at the prescribed statutory rate) to the beneficiaries under the policy no later than thirty (30) days after the acceptance of the Remediation Report by the Department unless the Remediator's determination is successfully appealed as detailed in Section 2(e) below.

d. Taxable Event. The Remediator will determine whether a taxable event occurred as a result of the sale. The Remediator will include a discussion supporting the conclusion that a taxable event occurred in the Remediation Report. Once the determination that a taxable event occurred is final (either through Respondent's agreement with the conclusion or a decision of the Hearing Officer through the procedure set forth in Section 2(e)), the Remediator will contact the consumer and seek from the consumer proof regarding taxes actually paid. If the consumer provides proof that the consumer actually paid taxes as a result of the taxable event, the Remediator will contact Respondent and Respondent shall reimburse the consumer the amount of the tax paid no later than thirty (30) days after notice of the amount from the Remediator.

e. Commissions and Overrides. With regard to all sales during the Time Period which are rescinded or where Respondent pays refunds under this Consent Order, Respondent will chargeback commissions and overrides to all producers who shared in the commissions and overrides.

2. Remediation Process. The Department shall select a third party technical consultant, as the Department deems necessary, to perform the review required by the Consent Order and set forth in Section 1(a) through (d) above (the “Remediator”). Respondent agrees that it is responsible for the cost of this Remediator as approved by the Department and will pay the bills forwarded to it by the Department.

a. It is the intent of the parties that the Remediator will produce the Remediation report within 180 days of the Effective Date of this Consent Order, detailing the remediation action required by Respondent as set forth in Section 1(a) through (d) above. The Department may extend the time for completion of the Remediation Report after consultation with the Remediator regarding the reasons additional time may be necessary. If the time period is extended Respondent will be notified in writing.

b. The remediation is a continuation of the examination of Respondent referenced in the Order to Show Cause and is subject to R.I. Gen. Laws § 27-13.1-1 *et seq.* Final resolution by appeal or otherwise of all remediation action required by this Consent Order terminates the examination referenced in the Order to Show Cause. Respondent acknowledges its continuing obligations under the Consent Order.

c. Upon completion of the Remediation Report the Remediator shall send a draft copy of the Remediation Report to Respondent. Respondent shall return any comments to the Remediator within sixty (60) days. Due to the personally identifiable consumer information necessarily included in the Remediation Report the Remediation Report will be considered a workpaper and not a final report of examination subject to discretionary public disclosure.

d. The Department will provide written notification to the Respondent when it has finally accepted the Remediation Report and comments (the “Department Acceptance Date”). The Department Acceptance Date is the date which will guide the appellate rights discussed below and the payment to consumers discussed throughout this Consent Order.

e. Respondent shall have twenty (20) days after the Department Acceptance Date to file an appeal with the Hearing Officer appointed in this matter with respect to any of the conclusions regarding specific transactions set forth in the Remediation Report. Respondent may accept some of the findings of the Remediation Report and contest others with the Hearing Officer making a determination only with regard to the findings contested by Respondent. The appeal will be limited to the specific conclusions regarding specific transactions as detailed in the Remediation Report.

f. Should Respondent disagree with the Remediator’s conclusion an appeal can be made on individual determinations to the Hearing Officer appointed in this administrative action. Said appeal shall consist solely of presentation of the Remediator/Department’s position and rebuttal presentation by Respondent. The Hearing Officer’s determination on suitability

and/or reasonableness shall be final, subject to the Respondent's rights under Title 42, Chapter 35. The remediation, if any, on individual sales shall be determined under the terms of this Consent Order should the Hearing Officer agree with the Remediator/Department's conclusion. If the Hearing Officer agrees with Respondent's position, no remediation will be necessary.

g. After the Department Acceptance Date, Respondent shall proceed with payment to consumers as outlined in this Consent Order for any transactions not appealed as outlined in Section 2(e) above. Nothing in this Consent Order shall prohibit Respondent from making remediation payments to consumers earlier than the dates set forth in this Consent Order.

h. Respondent will provide to the Department a complete listing of all payments made to consumers under this agreement including the policy or annuity number, the insured or owners name, the person to whom payment was made, the amount of such payment and the date of such payment.

g. The analysis of the Remediator is considered a continuation of the examination of Respondent and all documents provided to or generated by the Remediator fall within R.I. Gen. Laws §27-13.1-5(f). All written information submitted to the Remediator or made available to the Remediator and all documents, notes, memoranda, findings, opinions, conclusions, recommendations or other information created, developed or prepared by the Remediator as a result of or in connection with the performance of the Remediator shall be deemed a "workpaper" under R.I. Gen. Laws § 27-13.1-5(f). All drafts of the Remediation Report and comments from Respondent on the Remediation Report are "workpapers" for purposes of R.I. Gen. Laws § 27-13.1-5(f). The Remediation Report accepted by the Department also is a "workpaper" under R.I. Gen. Laws § 27-13.1-5(f) and is not a final report of examination under R.I. Gen. Laws § 27-13.1-15(e) subject to discretionary public disclosure.

3. Compliance. Respondent asserts that it has instituted a Market Assurance Program ("MAP") and an Annuity Suitability Program ("ASP") as presented by Respondent to the Department on February 14, 2011. Respondent agrees to conduct its business operations consistent with MAP and ASP as presented. If Respondent considers any changes to MAP or ASP, such changes will be presented to Department for review and approval and approval shall not be unreasonably withheld. Respondent acknowledges that the Department may monitor Respondent's compliance with MAP and ASP at Respondent's expense. Respondent acknowledges that this does not in any way affect the Department's examination authority and that an examination may be called at any time pursuant to R.I. Gen. Laws §27-13.1-1 *et seq.*

4. Training. Respondent will provide quarterly training to all producers appointed by and managers employed by Respondent regarding Rhode Island statutory insurance law and the Department's regulations, including but not limited to the suitability and replacement regulations. Respondent shall identify the trainers, topics, and materials as part of its regular reporting to the Department.

5. Solicitation.

a. Mailings. Respondent shall modify all return envelopes that it uses in mail solicitations to Rhode Island mailing addresses so that the return envelopes list Respondent's name in the return address even if the envelopes go to Respondent's vendor's post office box. Respondent shall modify current mail solicitations to clearly indicate, by either bold type or type size larger than any other on the page, that this is a solicitation from an insurance company and not an official governmental communication and will also place the disclosure which is currently on the back of the notice explaining that the document is from Respondent to the front page of the notice.

b. Phone Solicitation. Respondent shall submit phone scripts to the Department for review one (1) month prior to implementation. Respondent shall conduct random quarterly monitoring for two (2) years from the date of this Consent Order to ensure that producers comply with scripts and provide reports of its monitoring to the Department. Respondent shall report any non-compliance to the Department immediately (no later than one (1) week from the discovery of the non-compliance). Respondent shall only use scripts presented to the Department when making phone solicitations.

c. Telemarketing Compliance. Respondent shall implement specific standards which shall be reviewed by the Department prior to use to help ensure compliance with the state and Federal Telemarketing (Do Not Call) laws. Respondent shall continue to utilize a do-not call monitoring phone system, such as Gryphon Networks, which is designed to prohibit calls to consumers listed on State, Federal and Company do not contact lists. Respondent will require field management to review Gryphon usage reports regularly to verify proper use of the Gryphon system, and will monitor agent compliance through regular review by the Home Office.

6. Documentation.

a. Files. Respondent shall maintain at its Branch Office in Rhode Island all sales material and producer notes used at or created during any communication between producers and consumers or between producers and anyone else relating to the presentation and sale of Respondent's products in accordance with the Department's regulations. Producers shall create and maintain within paper or electronic files complete descriptions of the basis for the producers' recommendation that the consumer purchase any annuity and/or that the consumer replace any product. The paper or electronic files shall contain the level of specificity as required by Insurance Regulation 67. Respondent agrees that any time a paper or electronic file is provided to the Department at the Departments' request all documents related to that file will be provided.

b. Notification to Replaced Carriers. Respondent shall send a specific replacement letter that has been approved by the Department to each replaced carrier, in addition to a 1035 letter, and shall retain a copy of the specific letter as required by Insurance Regulation 29.

7. Recruiting. Respondent shall require resumes of all applicants who are appointed with Respondent and shall retain the resumes at the Branch Office and Home Office for a period of five (5) years. Respondent shall conform with 18 U.S.C. § 1033 and any regulations promulgated thereunder with respect to recruitment of producers.

8. Reporting to the Department. Respondent shall provide additional reports to the Department in a reasonable time frame upon request demonstrating Respondent's compliance with the Consent Order.

9. Audit by the Department. Respondent acknowledges that the Department may institute an examination at Respondent's cost at any time pursuant to R.I. Gen. Laws § 27-13.1-1 *et seq.* Such examination may include third-party audits of Respondent's practices and may include, but is not limited to, review of Respondent's MAP and ASP programs; conformity with the Department's file documentation requirements; review of marketing and sales practices including telephone and mail solicitations; review of producer recruiting, licensing and appointment; and review of Respondent's internal training programs.

10. Meetings. Respondent shall participate in meetings with the Department scheduled at the Department's request for two (2) years after the Effective Date to ensure that Respondent is performing consistent with this Consent Order and Rhode Island statutory and regulatory law.

11. Continuing Compliance. If Respondent commits a material violation of this Consent Order, the license of Respondent to conduct the business of insurance in the State of Rhode Island may be revoked by the Rhode Island Superintendent of Insurance (the "Superintendent") unless the Superintendent determines that a lesser penalty is adequate to remedy the violation and protect the interests of Rhode Island insurance consumers. Adjudication of whether there has been a material violation hereof, and the final decision as to whether a material violation has occurred and, if so, the penalty for such material violation will be made by the Superintendent, in all cases subject to Respondent's rights under Title 42, Chapter 35 of the Rhode Island General Laws, including without limitation, notice, rights to a hearing, confrontation and cross examination of witnesses, production of evidence and judicial review.

12. Administrative Penalty. In addition to the aforementioned restitution, Respondent shall pay the Department Nine Hundred and Seventy-Five Thousand Dollars (\$975,000) constituting an administrative penalty (the "Administrative Penalty") which shall be paid by check payable to the General Treasurer of the State of Rhode Island within thirty (30) days of the Effective Date.

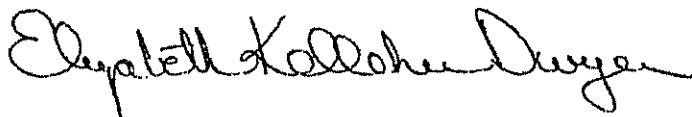
13. Resolution of Order to Show Cause. The Department and Respondent agree that terms of the Consent Order satisfy all the allegations contained in the Order to Show Cause with the exception of sales of health insurance products. The parties acknowledge that this Consent Order does not address any activities not specifically enumerated in the Order to Show Cause or with regard to any products other than life insurance and annuities.

14. Complying With Consent Order. The Department will monitor compliance by Respondent with the policies and procedures as set forth herein on an ongoing basis. The parties agree that noncompliance could result in further administrative proceedings.

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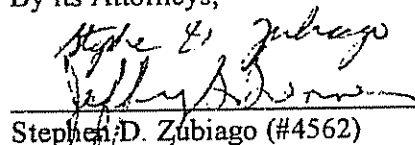
Counsel for the Department and Respondent hereby consent and agree to the foregoing on behalf of their respective clients the ~~7th~~ ^{4th} day of ~~September~~ ^{October}, 2011 (the "Effective Date").

Rhode Island Department of Business Regulation,
By its Attorney, *CRW*



Elizabeth Kelleher Dwyer (#5157)
Department of Business Regulation
Insurance Division
1511 Pontiac Avenue, Bldg. 69-2
Cranston, RI 02920
Tel: (401) 462-9615
Dated: October 4, 2011


Bankers Life & Casualty Company,
By its Attorneys,



Stephen D. Zubiago (#4562)
Jeffrey S. Brenner (#4369)
Nixon Peabody LLP
One Citizens Plaza
Providence, RI 02903
Tel: (401) 454-1000
Dated: October 4, 2011

I hereby approve of the foregoing Consent Order and recommend its adoption.

HEARING OFFICER:



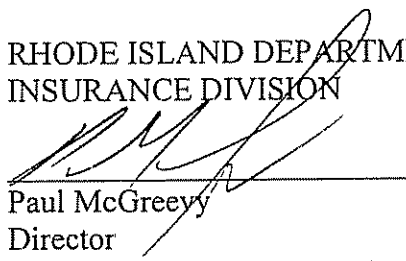
Catherine R. Warren, Esq.
Dated: October 5th, 2011

I have read the Hearing Officer's Decision and Recommendation in this matter, and I hereby

ADOPT
 REJECT
 MODIFY

the Decision and Recommendation.

RHODE ISLAND DEPARTMENT OF BUSINESS REGULATION
INSURANCE DIVISION



Paul McGreevy
Director

Rhode Island Department of Business Regulation

Dated: October 13, 2011

THIS DECISION CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO RHODE ISLAND GENERAL LAWS TITLE 42 CHAPTER 35. AS SUCH, THIS DECISION MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE DATE OF THIS ORDER. SUCH APPEAL, IF TAKEN, MAY BE COMPLETED BY FILING A PETITION FOR REVIEW IN SAID COURT.

EXHIBIT A

CRITERIA OF CERTAIN DETERMINATIONS TO BE MADE PURSUANT TO THE CONSENT ORDER

- (1) Pursuant to Section 1 of the October 4, 2011 Consent Order by and between Bankers Life & Casualty Company (“Respondent”) and the Rhode Island Department of Business Regulation (“Department”), the Department shall contract with a third party (the “Remediator”) to conduct a retrospective review of each life insurance policy and annuity issued by Respondent from January 1, 2006 through December 31, 2010 (the “Time Period”) as a replacement for one or more previous issued life insurance policies or annuities to determine if those policies fall into one of the categories specified in Section 1(a) -(d) of the Consent Order.
- (2) Standards for Determinations to be Made by the Remediator
 - a. Decision. In making a decision as to whether an annuity sale was suitable or a life insurance sale was reasonable, the Remediator shall consider all information that was available on the date the product was sold, review all information submitted to Respondent as part of the application and take in and weigh all evidence in such manner as the Remediator determines, in its reasonable discretion.
 - b. Annuities. The following criteria will be considered by the Remediator in coming to a conclusion regarding the reasonableness of a sale for purposes of suitability: (1) the liquidity of the customer (which shall be presumed if the customer (i) has an annual income of \$20,000, or (ii) the premium does not exceed 50 percent of all annuity owner’s household liquid assets, or (iii) the annuity owner is not residing in a nursing home or assisted living facility); (2) the age of the consumer and amount and period of the surrender charges of the annuity; (3) the source of funds for the annuity; and (4) whether the annuity was a suitable replacement for an in force product. The Remediator shall explicitly state the basis for his or her conclusion that a sale was unsuitable.
 - c. Life Insurance Replacements. The following criteria will be considered by the Remediator in coming to a conclusion regarding the reasonableness of the replacement of a life insurance policy: (1) the age of the consumer and the contestable period of the new policy; (2) the characteristics of the replaced policy such as dividend payments, options to alter investments without surrender and options for paid up insurance; and (3) any other criteria comparing the old and new policies. The Remediator shall explicitly state the basis for his or her conclusions that a replacement was not reasonable.