

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, FEBRUARY 4, 2010

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COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2009-00123

THE GUARDIAN LIFE INSURANCE
COMPANY OF AMERICA,

Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, in certain instances, has violated §§ 38.2-316 A, 38.2-316 B, and 38.2-316 C 1 of the Code of Virginia by failing to comply with policy and form requirements; violated §§ 38.2-510 A 2, 38.2-510 A 5, and 38.2-510 A 15 of the Code of Virginia by failing to comply with unfair claim settlement practices; violated § 38.2-511 of the Code of Virginia by failing to maintain a complete complaint register; violated §§ 38.2-1812 A, 38.2-1822 A, and 38.2-1833 A 1 of the Code of Virginia by failing to comply with agent licensing requirements; violated §§ 38.2-3405 B, 38.2-3407.1 B, 38.2-3407.4 A, 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 4 a (ii) (c), 38.2-3407.15 B 4 a (ii) (d), 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3407.15 B 8, 38.2-3407.15 B 9, 38.2-3407.15 B 10, 38.2-3407.15 B 11, and 38.2-3407.15 C of the Code of Virginia by failing to comply with the provisions relating to accident and sickness insurance; violated §§ 38.2-5804 A, 38.2-5804 A 1,

38.2-5804 A 2, and 38.2-5804 C of the Code of Virginia by failing to comply with the requirements of the complaint system for MCHIPs; and violated 14 VAC 5-400-50 A, 14 VAC 5-400-60 A, 14 VAC 5-400-60 B, 14 VAC 5-400-70 A, and 14 VAC 5-400-70 B by failing to properly handle claims.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the 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 of Virginia the sum of Sixty-two Thousand Dollars (\$62,000), waived its right to a hearing, agreed to the entry by the Commission of a cease and desist order, and agreed to comply with the Corrective Action Plan contained in the Market Conduct Examination Report as of June 30, 2007.

The Bureau of Insurance 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 of Virginia.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau of Insurance, 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 be, and it is hereby, accepted;

(2) The Defendant cease and desist from any future conduct which constitutes a violation of §§ 38.2-316 A, 38.2-316 B, 38.2-316 C 1, 38.2-510 A 2, 38.2-510 A 5, 38.2-510 A 15, 38.2-511, 38.2-1812 A, 38.2-1822 A, 38.2-1833 A 1, 38.2-3405 B, 38.2-3407.1 B, 38.2-3407.4 A, 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 4 a (ii) (c), 38.2-3407.15 B 4 a (ii) (d), 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3407.15 B 8, 38.2-3407.15 B 9, 38.2-3407.15 B 10, 38.2-3407.15 B 11, 38.2-3407.15 C, 38.2-5804 A, 38.2-5804 A 1, 38.2-5804 A 2, or 38.2-5804 C of the Code of Virginia, or 14 VAC 5-400-50 A, 14 VAC 5-400-60 A, 14 VAC 5-400-60 B, 14 VAC 5-400-70 A, or 14 VAC 5-400-70 B; and

(3) The papers herein be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to John Dolan, Assistant Vice President, The Guardian Life Insurance Company of America, 7 Hanover Square, New York, New York 10004; Carol Crosson, Senior Project Manager, Market Conduct & Compliance, The Guardian Life Insurance Company of America, 7 Hanover Square, New York, New York 10004; and a copy shall be delivered to the Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy Commissioner Jacqueline K. Cunningham.