2840 04/10/06 $25,000.00

MIKE KREIDLER
STATE INSURANCE COMMISSIONER

STATE OF WASHINGTON

Phone: (360) 725-7000

OFFICE OF
INSURANCE COMMISSIONER

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| *In the Matter of:*<br><br>SYMETRA LIFE INSURANCE COMPANY, SYMETRA NATIONAL LIFE INSURANCE COMPANY, and AMERICAN STATES LIFE INSURANCE COMPANY,<br><br>*Authorized Insurers.* | )<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>) | No. D 06 - 170<br><br>CONSENT ORDER IMPOSING A FINE |

## FINDINGS OF FACT

1. Symetra Life Insurance Company, formerly know as Safeco Life Insurance Company, Symetra National Life Insurance Company, formerly known as Safeco National Life Insurance Company, and American States Life Insurance Company (collectively "SYMETRA" or "Companies" hereafter) are affiliated insurance companies authorized to engage in the business of insurance in Washington by the Washington State Office of Insurance Commissioner ("OIC") pursuant to certificates of authority issued by the OIC.

2. The OIC conducted a market conduct examination of the Companies generally covering the time period between July 1, 2002 and June 30, 2003.

3. The Report of the market conduct examination of Symetra was adopted by the Insurance Commissioner by Order Adopting Report of Market Conduct Examination, Order No. G-05-47, which Order is now final.

4. OIC's examiners discovered ten American States Life Insurance Company files in which Safeco Life letterhead was used and three American States Life Insurance Company files in which the issuing Company was not identified on the application.

5. OIC's examiners discovered seventeen decline letters sent for American States policies that incorrectly identified the company declining coverage as Safeco Life.

6. OIC's examiners found two Safeco Life files in which the issuing Company name was not checked on the application and one Safeco Life file in which a replacement letter to another carrier incorrectly identified American States as the replacing company.

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7. The Companies did not adequately prepare documents for scanning and did not perform a quality check after scanning. Twenty-nine files were reviewed in which errors had been made in imaging or scanning policy records into the Companies' document retrieval system making it impossible to review complete and accurate transaction records. These errors included misfiled originals which had been scanned into the wrong file, illegible documents, illegible date stamps on documents, and missing pages from documents.

8. Applications taken on the internet were not date stamped, making it impossible in some instances to trace the correct sequence of events, and Symetra was unable to produce two of the decline files requested by OIC's examiners as part of the underwriting and policy issue sample.

9. The Companies did not keep paper copies of on line advertising materials and maintained an automatic update feature. As a result, the Companies could not track the changes that had bee made to such on line documents and could not provide accurate copies of prior versions of the documents that had been used.

10. An advertising related document entitled "Sales, Marketing and Training Material – Life & Annuities Compliance Reference Guide" advised users that only the "Company name, city & state must be included on all client pieces" and thirteen advertising pieces reviewed did not include the full Company name or the Company's full home office address.

11. In eight of three hundred twenty-one life and annuity files reviewed the producing agent did not have a direct appointment with the issuing company or did not have an affiliation with the agency listed on the application.

12. In six claims in which decedents were Washington residents at the time of death, the Companies calculated interest based upon the law of the state where the policy had been issued rather than the law of Washington.

13. In thirteen instances, the Companies failed to acknowledge notifications of death or claim inquiries within a reasonable time and within ten working days and one file was missing correspondence needed to determine whether or not the Company had responded to a notification of death within a reasonable time.

14. In eighteen instances, the Companies delayed processing claims after proof of loss statements were completed for unreasonable periods.

15. The OIC's examiners found fourteen instances in which the Companies took more than thirty days to complete claims investigations that could have been completed within that period of time

16. In sixteen files reviewed, the Companies did not advise claimants within fifteen working days of receipt of proof of loss of acceptance, denial, or the need for more time to investigate.

17. In seventeen instances where the Companies' claims investigations were not completed, the Companies did not provide written notice to the claimants within forty-five days of the initial notice explaining the reason for the delay.

18. Thirty-nine new business files reviewed by OIC's examiners contained incomplete copies of the policy illustrations used in the sale of the policies.

19. Four of the annuity replacement files reviewed had no statement signed by the agent indicating whether or not the agent knew replacement was or might be involved in the transaction.

20. Nine of the external replacement files reviewed, replacement notices were not sent to the incumbent insurer within three days and one file contained no receipt date on the application so that the timeliness of the replacement notice to the incumbent insurer could not be determined.

21. Ten of the variable annuity replacement files reviewed contained no evidence that the purchasers had been notified of their right to rescind within twenty days of the application date.

22. The OIC examiners found one deferred annuity for which the Company used an application form for another state that had not been filed with the OIC.

## CONCLUSIONS OF LAW

1. RCW 48.05.185 authorizes the Commissioner to impose a fine in lieu of or in addition to the suspension or revocation of an insurer's certificate of authority.

2. By using incorrect letterhead and incorrectly identifying the Company involved on applications and declination letters, the Companies failed to transact business in their own legal names in violation of RCW 48.05.190(1).

3. The Companies' failure to keep and maintain adequate records of their transactions and affairs violated RCW 48.05.280.

4. The Companies' failure to maintain a complete file containing a specimen copy of every version of its internet advertising violated WAC 284-23-090.

5. The Companies' use of advertising materials that did not include the Companies' full name and full home address violated RCW 48.30.050 and WAC 284-23-060(1).

6. The Companies' issuance of policies and annuities in situations where the producing agent did not have an appointment with the issuing company and in situations where the producing agent did not have an affiliation with the agency listed on the application violated RCW 48.17.160.

7. By failing to apply the interest rates specified in RCW 48.23.300 in calculating and paying interest in six claims in which decedents were Washington residents at the time of death, the Companies violated RCW 48.23.300.

8. The Companies' failure to acknowledge notifications of death or death claim inquiries within a reasonable time and within ten working days violated WAC 284-30-330(2) and WAC 284-30-360(1) and (4).

9. The Companies' unreasonable delays in processing claims and completing claims investigations after receiving completed proof of loss statements and the Companies' failures to advise claimants within fifteen working days of receipt of proof of loss of acceptance, denial, or the need for more time to investigate violated WAC 284-30-360(1) and (4), WAC 284-370, and WAC 284-30-380(1) and (3).

10. The Companies' failure to maintain complete copies of the policy illustrations that were used in the sale violated RCW 48.23A.060.

11. The absence of signed statements by the agents in four replacement files indicating whether or not the agent knew replacement was or might be involved in the transaction violated WAC 284-23-455(1).

12. The Companies' failure to send replacement notices to the incumbent insurers in replacement situations within three days violated WAC 284-23-455(2)(b).

13. The Companies' failure to provide written notice to the purchasers of replacement variable annuities of their right to rescind within twenty days of the application date violated WAC 284-23-455(4).

14. By using an application form for another state that had not been filed with the OIC in a Washington transaction, the companies violated RCW 48.18.100(1).

## CONSENT TO ORDER

NOW, THEREFORE, Symetra consents to the following in consideration of its desire to resolve this matter without further administrative or judicial proceedings, and the Insurance

Commissioner consents to settle the matter in consideration of Symetra's payment of a fine and other commitments as set forth below.

1. Symetra consents to entry of this Order, acknowledges its duty to comply fully with the applicable laws of the State of Washington, and waives further administrative or judicial challenge to the OIC's actions related to the subject matter of this Order.

2. By agreement of the parties, the OIC will impose a fine of $50,000 upon the Companies, $25,000 of which amount shall be suspended for a period of two years on condition that the Companies shall not violate the provisions of the Washington State Insurance Code or Washington Administrative Code which are the subject of this Order and on the further condition that the Companies carry out and fulfill the requirements of the Compliance Plan which is attached hereto as Exhibit "A".

3. The non-suspended portion of the fine set forth in paragraph two shall be due in thirty days from the date of entry of this Order.

4. Failure to timely pay the fine set forth in paragraph two and failure to meet the other conditions set forth therein shall constitute grounds for the revocation of the Companies' certificates of authority and for the recovery of the full fine.

Executed this 30th day of MARCH, 2006.

SYMETRA LIFE INSURANCE COMPANY, SYMETRA NATIONAL LIFE INSURANCE COMPANY, and AMERICAN STATES LIFE INSURANCE COMPANY

By: _____

ROGER F. HARBIN
Printed Name

EXECUTIVE VICE PRESIDENT
Printed Corporate Title

## ORDER

NOW, THEREFORE, pursuant to the foregoing Findings of Fact, Conclusions of Law, and Consent to Order, the Insurance Commissioner hereby orders as follows:

1. Pursuant to RCW 48.05.185, the Insurance Commissioner hereby imposes a fine of $50,000 on the above-named Companies of which amount $25,000 is suspended for a period of two years on the condition that the Companies shall not violate the provisions of the Washington State Insurance Code or Washington Administrative Code which are the subject of this Order and on the further condition that the Companies carry out and fulfill the requirements of the Compliance Plan which is attached hereto as Exhibit "A".

2. The non-suspended portion of the fine is due within thirty days of the entry of this order.

3. Failure by the Companies to timely pay the non-suspended portion of the fine or meet the other conditions set forth in the Consent to Order Section of this Order shall constitute grounds for the revocation of the Companies' certificates of authority and for recovery of the full fine amount.

ENTERED AT TUMWATER, WASHINGTON, this 31st day of March, 2006.

MIKE KREIDLER
Insurance Commissioner

By: Charles D Brown
CHARLES D. BROWN
OIC Staff Attorney
Legal Affairs Division

## EXHIBIT A - COMPLIANCE PLAN

A. Purpose of and Consideration for the Plan

The Companies enter into this Compliance Plan with the Office of the Insurance Commissioner ("OIC") for the State of Washington to promote compliance by the Companies with the requirements of the laws and regulations of the State of Washington. The Companies are also entering into a Consent Order with OIC. This Plan is attached to the Consent Order as Exhibit "A" and is fully incorporated into said Consent Order, and the Companies' obligations under this Compliance Plan are made a part of the Consent Order and constitute obligations under said Consent Order as though this Compliance Plan and the Companies' obligations under it were fully set forth in said Consent Order.

B. Term of Plan

The effective date of this Plan shall be the date of entry of the Consent Order, on which date this Plan shall become final and binding. The Companies' obligations under this Compliance Plan shall continue from its effective date until termination of the period during which conditions are imposed by the Consent Order suspending imposition of any portion of the fine set forth in the Consent Order.

C. Compliance Plan

1. Internal Audit

   a. Information to OIC: The Companies will conduct two annual audits. Within thirty (30) days of the effective date of this Plan, the Companies shall establish an annual audit plan and schedule with regard to the violations included in the Consent Order, and shall forward a written copy of the plan and schedule to Christine Tribe, OIC Legal Affairs Division. Copies of each internal audit report on the two annual audits to be performed during the period of this Plan shall also be provided to OIC Legal Affairs Division within thirty days of the report being issued. Reports shall be issued no later than thirty days following the reporting period.

   b. Internal Audit Obligations: The Companies shall provide its internal audit unit with the Consent Order and shall direct their internal audit personnel to include the areas of violation in the annual internal audits conducted pursuant to this Compliance Plan.

   c. Audit Scope: Each annual audit shall encompass at least fifty (50) files, or all of files if there are less than fifty available, for each of the violations listed in the Consent Order. Each file audited must involve Washington insureds or beneficiaries.

   d. Correction of Exceptions: Any exception or deficiency identified by the internal audits conducted pursuant to this Plan shall be corrected. The Companies agree to

advise OIC within sixty (60) days of the audit report of any corrective measures contemplated to address any such exceptions or deficiencies or any other areas requiring correction. The OIC shall then review these measure(s) and notify the Companies of any comments associated thereto. Unless the OIC requests modifications to the proposed corrective measure(s), the Companies shall have sixty (60) days from the end of the OIC's review period to implement the measure(s). However, should the Companies need longer than sixty (60) days to correct any exception or deficiency, they may contact the OIC Legal Affairs Division and request an extension to the sixty (60) day requirement.

D. Miscellaneous

1. Authority to Enter Plan: The Companies give express assurance that under applicable laws, regulations and where applicable, their Articles and By-Laws, they have the authority to comply fully with the terms and conditions of this Plan, and that they will provide written notification to the other parties within ten days of any material change to this authority or of any violation of this Plan.

SYMETRA LIFE INSURANCE COMPANY, SYMETRA NATIONAL LIFE INSURANCE COMPANY, and AMERICAN STATES LIFE INSURANCE COMPANY

BY: _____
TITLE: EXECUTIVE VICE PRESIDENT
DATE: March 30, 2006