

**STATE OF VERMONT
DEPARTMENT OF FINANCIAL REGULATION**

IN THE MATTER OF:)
)
John Hancock Life Insurance Company (U.S.A.))
)
_____)

19-046-I

STIPULATION AND CONSENT ORDER

This Stipulation and Consent Order is entered this 26th day of November, 2019 by and between John Hancock Life Insurance Company (U.S.A.) (the “Company”) and the Vermont Department of Financial Regulation (the “Department”).

INTRODUCTION AND PARTIES

1. The Commissioner of the Department (the “Commissioner”) is responsible for administering and enforcing the insurance laws of the State of Vermont, including 8 V.S.A. §§ 11, 12, 15, 3665, 4723, and 4724
2. John Hancock is a foreign insurer licensed in Vermont with a principal place of business at 200 Berkeley Street, Boston, Massachusetts, 02116, NAIC # 65838.
3. John Hancock acknowledges and admits the jurisdiction of the Commissioner over this matter.
4. The Department and John Hancock enter into this Stipulation and Consent Order to resolve, without further administrative proceedings, the Department’s allegations that John Hancock violated certain provisions of 8 V.S.A. §§ 3665 and 4724.

FINDINGS OF FACT

5. At all times relevant to this matter, the Company operated as a licensed life insurer in the State of Vermont.

6. In 2004, the Department and the Company entered into a Stipulation & Consent Order (“2004 Stipulation”) (Docket No. 03-038-I) relating in part to the Company’s failure to pay the statutorily required interest on six life insurance claims.

7. Pursuant to the 2004 Stipulation, the Company was required to
- a. review life insurance claims for the period January 1, 1998 through May 5, 2004, and pay additional interest deficiencies after providing a spreadsheet of the required audit’s results to the Department for its review and approval for payment; and
 - b. review and modify its procedures for life insurance claim payments to comply with Vermont statutes.

8. Beginning in July 2017, after the Company’s production of data to the Department, the Department conducted a review of life insurance claims pertaining to policies issued in Vermont, as well as claims paid to Vermont residents for the period January 1, 2014 through December 31, 2016 for individual and group policies.

9. Based on this review, the Department determined that 49.9% of the Company’s claim payments during the three years reviewed included insufficient interest payments for Vermont-issued policies and Vermont-resident beneficiaries.

10. As a result, the Company reviewed its Vermont death claim payments beginning in January 1, 2013, when a new internal claims management system and interest calculator was implemented at the Company.

11. The Company was in compliance from 2004 – 2012. In January of 2013, in connection with the installation of a new claims payment system and general review of how the Company calculates interest on death claims, a Company employee overlooked the Consent Order and misinterpreted Vermont's statute. As a consequence of that mistake, there were 962 interest calculation and payment errors between January 1, 2013 and July 31, 2018.

12. All 962 errors occurred after publication of Bulletin 159 (Nov. 30, 2010), which clarifies the Department's application of 8 V.S.A. § 3665 to life insurance claims.

13. The above errors involved a total of \$154,499.57 in underpayments to beneficiaries.

14. Upon learning of the errors, the Company promptly paid the interest that was due to those beneficiaries.

15. In April of 2015, in response to a specific request by a Department reviewer, a Company employee sought and received internal confirmation, based on the incorrect assumption that the interest payments rule put into the system was correct, which she relied upon to certify that the Company was in full compliance with the interest rate requirements of Section 3665(c)(2).

16. The errors described in paragraphs 11-13 are identical in substance to the statutory violations for which the Company was cited in 2004.

17. Company staff have been cooperative and promptly responded to the Department's requests, acknowledged the statutory violations, initiated a self-audit without Department order, and proactively initiated corrective actions.

18. Since the audit period, the Company has implemented controls to prevent such errors and has engaged in ongoing self-audit and remediation throughout the implementation process, which has been completed and reported to the Department prior to the entry of this Order.

CONCLUSIONS OF LAW

19. Pursuant to 8 V.S.A. §§ 11, 12, 15, 3665, 4723, and 4724, the Commissioner is charged with enforcing the insurance laws of the State of Vermont.

20. Pursuant to 8 V.S.A. § 3661, the Commission may impose a civil administrative penalty for each violation of Title 8, an administrative rule of the Department, or an order of the Commissioner relating to insurance, or has not complied with its requirements.

Violations are subject to an administrative penalty of up to \$1,000 per violation and up to \$10,000 per willful violation.

21. It is a violation of 8 V.S.A. § 3665(c)(2) to fail to provide, as part of the payment of a life insurance policy claim, the interest accrued from the date of death of the insured at a rate of 6%.

22. The Department published Insurance Division Bulletin 159 on November 30, 2010, addressing interest payments on claims arising under life insurance policies with a nexus to multiple states. Bulletin 159 states that "it is the Department's position" that the statutory interest rate is required to be paid in all of the following situations:

- a. When the individual or group policy was delivered or issued for delivery in Vermont, regardless of whether the beneficiary resides in Vermont at the time of death of the owner or certificate holder;
- b. When the beneficiary resides in Vermont at the time of the death of the owner or certificate holder, regardless of where the group or individual policy was issued; and
- c. When the group policy was issued outside of Vermont, but the certificate was delivered or issued for delivery to a Vermont resident who is also a resident of this state at the time of his or her death.

23. It is a violation of 8 V.S.A. §§ 4723 and 4724(19) to fail to comply with any rates, rules, regulations, or forms filed with the Commissioner.

24. Pursuant to 8 V.S.A. § 4726, the Commissioner may impose a civil administrative penalty for each violation of Title 8, Chapter 129. Violations are subject to an administrative penalty of up to \$1,000 per violation and up to \$10,000 per willful violation.

25. By failing to pay sufficient statutory interest on 962 death benefit claims from January 1, 2013 through July 31, 2018, the Company violated 8 V.S.A. § 3665(c) and 8 V.S.A. §§ 4723, 4724(19). The violations were identical in substance to those for which the Company had previously been fined.

CONSENT ORDER

NOW, THEREFORE, based on the Company's stipulation and on the Findings of Fact and Conclusions of Law above, the Commissioner issues the following Order:

1. If the Company fails or neglects to comply with any of the terms, conditions or undertakings set forth in this Stipulation and Consent Order, the Department may, upon

written notice to the Company, institute any legal or administrative proceedings it deems appropriate to enforce same and to seek such other appropriate sanctions.

2. The Company shall pay an administrative penalty in the amount of \$800,000 to the Department within thirty (30) days of the full execution and delivery of this Stipulation and Consent Order to John Hancock.

3. The Company has implemented or shall implement the following corrective actions (“Corrective Action Plan” or “CAP”):

- a. Update the interest rate parameters in the Company’s claims interest calculation tool or Vermont to ensure compliance with all Vermont laws, Regulations, Orders, and Bulletins which pertain to claim payments.
- b. Institute a control in conjunction with the claims interest calculation tool that will capture the details of any changes or updates to interest rate parameters, including date, and name of the individual performing the change or update.
- c. Regular Company audits of death claim procedures and interest rate calculations.
- d. Quality review all Vermont claims paid for a period of two years (June 2018 through June 2020). This review will be performed quarterly and if any claim is paid incorrectly, the Company will remediate immediately.
- e. Ongoing testing protocol to promptly detect any errors in interest payments on death claims.
- f. Comply with all Vermont laws, Regulations, Orders, and Bulletins with respect to the payment of interest on death claims.
- g. The Company shall conduct a self-audit no later than August 31, 2020, covering the time-period from the date of this fully executed Order until July

31, 2020, to ensure compliance with the CAP and Vermont law. The full results of the self-audit, including detailed information regarding all Vermont life-insurance claims and payments made, and a certification of compliance with the CAP and Vermont law, must be reported to the Department by September 30, 2020.

- h. The Company shall provide reports to the Department, not less than quarterly for a period of two years, regarding all life insurance payments made to Vermont beneficiaries.
- i. The Company must obtain the Department's prior written approval to make any changes to the CAP.
- j. All expenses incurred by the Department in reviewing CAP compliance will be billed back to the Company.
- k. Nothing in this Order shall be construed as limiting the Commissioner's authority to investigate the Company for matters not resolved by this Order or for matters unrelated to this Order.
- l. Nothing herein shall be construed as limiting any private action a person may have.
- m. The Company consents to the entry of this Order and acknowledges its consent is given freely and voluntarily and that no promise has been made to induce it to consent except as otherwise stated herein.
- n. The Company acknowledges it has been represented by counsel in this matter and voluntarily waives its right to a hearing on this matter and to judicial review of this matter, including its right to a hearing before the Commissioner

or his designee and all other procedures otherwise available under Vermont law, the rules of the Department and the provisions of Title 3, Chapter 25.

- o. The Company further acknowledges the Commissioner retains jurisdiction over this matter for purposes of enforcing this Order.
- p. This Order is entered into solely for the purpose of resolving this matter and is not intended to be used for any other purpose.
- q. The Company acknowledges its understanding of all terms, conditions, and obligations contained in the Consent Order and further acknowledges that should it fail to comply with any provision of the Consent Order, the Commissioner may impose additional sanctions and seek appropriate relief, subject to Respondent's right to a hearing pursuant to Vermont insurance laws.
- r. This Order shall be governed by and construed under the laws of the State of Vermont.

11/21/19
Date

By: 
John Hancock Life Insurance Company (U.S.A.)

Entered at Montpelier, Vermont this 26th day of November, 2019.


Michael S. Pieciak, Commissioner
Vermont Department of Financial Regulation