

## **STIPULATION AND CONSENT ORDER**

The Vermont Department of Financial Regulation (the Department) and The Lafayette Life Insurance Company ("Lafayette" or "Respondent") hereby agree and stipulate as follows:

### **Introduction and Parties**

1. The Department, through its Commissioner, pursuant to 8 V.S.A. §§ 11, 12, 15, and 4726, is charged with enforcing the insurance laws of Vermont and authorized to investigate insurance companies to determine compliance with Vermont law.
2. Lafayette is a foreign insurance company licensed in Vermont with a principal place of business at 400 Broadway, Cincinnati, Ohio 45202. Lafayette is a member of Western & Southern Financial Group, Inc.
3. Lafayette acknowledges and admits the jurisdiction of the Commissioner over this matter.
4. The Department and Lafayette enter into this Stipulation and Consent Order to resolve, without further administrative proceedings, the Department's allegations that Lafayette violated certain provisions of 8 V.S.A. §§ 4724 and 4804 and applicable insurance regulations.

### **Findings of Fact**

5. Pursuant to 8 V.S.A. § 4726 and as a result of concerns about the business practices of certain Lafayette producers, the Department conducted a market conduct examination of Lafayette for the 2010 to 2015 time period ("the Examination Period").
6. The Department's examiners reviewed 163 Vermont sample application files.

7. All of the Vermont sample application files contained one or more violations of Vermont Insurance Division Regulation I-99-01 ("Reg. 99-01") relative to the retention of such documents as renewal letters, reasons for policy replacements, and annuitants' allocation transfer requests.
8. In 162 of the Vermont files, clients had "opted out" of providing the suitability information to Lafayette. Most of these files were associated with one producer.
9. Lafayette was aware of the high opt-out rate associated with these files. Lafayette also knew the producer was in fact collecting suitability information which was not provided to Lafayette.
10. Lafayette did not, during the Examination Period, take sufficient or timely action to reduce the opt-out rate associated with the producer's files or to verify whether or not appropriate suitability information was being collected.
11. In 162 of the Vermont files, the Buyer's Guide required by Vermont Insurance Division Bulletin 110 ("Bulletin 110") was either missing altogether or did not meet Bulletin 110's requirements of being easy to understand, displaying index values for the last five years, or describing caps and participation ratios. Lafayette had previously represented to the Department in its equity indexed annuity filing that it would comply fully with Bulletin 110.
12. Lafayette knew or should have known the 162 files contained material violations of Bulletin 110. Lafayette took insufficient action to ensure compliance with Bulletin 110.
13. The Department's examiners also reviewed 44 sample replacement policies. Replacement policies are subject to Vermont Insurance Division Regulation I-2001-03 ("Reg. 01-03"). Each of these replacement policies contained inconsistent or missing information, in violation of Reg. 01-03.
14. Lafayette took insufficient action to ensure that replacement policies issued by its producers complied with Reg. 01-03 and were suitable for its clients.
15. Since the Examination Period, Lafayette has implemented both new and additional measures to improve its regulatory compliance and enhance its supervisory processes, especially with respect to suitability. Its

compliance department appointed a new manager to focus on suitability review. Moreover, as of April 10, 2017, opt-outs were disallowed entirely.

16. Lafayette has also conducted annual trainings with respect to record keeping and replacement policies.
17. Lafayette has cooperated fully with the Department throughout the Examination, the Department's subsequent requests for information, and the negotiation of this Stipulation and Consent Order.

### **Conclusions of Law**

18. Pursuant to 8 V.S.A. §§ 11, 12, 15 and 4726, the Commissioner is charged with enforcing the insurance laws of the State of Vermont.
19. It is a violation of 8 V.S.A. § 4724(16) to issue or sell an unsuitable insurance policy.
20. It is a violation of 8 V.S.A. § 4724(17) to fail to properly supervise insurance producers.
21. It is a violation of 8 V.S.A. § 4724(19) to fail to comply with filed rules, regulations, and forms.
22. It is a violation of 8 V.S.A. § 4804(a)(9) for a producer to act in a manner that is untrustworthy, incompetent, or financially irresponsible.
23. Lafayette is responsible for the actions and inactions of its producers.
24. Certain Lafayette producers violated 8 V.S.A. §§ 4724 (16) by maintaining a near 100% opt-out rate, and Lafayette failed to properly supervise those producers, violating 8 V.S.A. §§ 4724 (17) and 4804(a)(9).
25. As a result of its producers' violation of Bulletin 110, Lafayette violated 8 V.S.A. § 4724 (17) and (19).
26. Lafayette violated 8 V.S.A. § 4724(19), Reg. 01-03 and Reg 99-01 by failing to ensure its producers complied with applicable regulations regarding replacement policies and record retention.

### **Consent Order**

27. If Lafayette fails or neglects to comply with any of the terms and conditions set forth in this Stipulation and Consent Order, the Department may, on written notice to Lafayette, institute any legal or administrative proceedings it deems appropriate to enforce the Order

and to seek such other appropriate sanctions, and Lafayette shall consent to the entry of judgment for any unpaid balance.

28. Lafayette shall pay an administrative penalty of \$300,000 to the Department within thirty (30) days of the entry of this Stipulation and Consent Order.
29. Lafayette agrees to take the following corrective action to address the violations outlined in this Order as it relates to Lafayette's business activities pertaining to Vermont and producers appointed by Lafayette to do business in Vermont:
  - A. Conduct at least annual training, of a form and duration satisfactory to the Department, relative to replacement policies and record retention, for not less than five years.
  - B. Conduct at least annual training, of a form and duration satisfactory to the Department, relative to the supervision of producers on suitability issues, for not less than five years.
  - C. Report regularly to the Department on the above trainings, within 30 days after completion of the training.
30. Nothing in this Stipulation and Consent Order shall be construed as limiting the Commissioner's authority to investigate Lafayette for matters not resolved by this Stipulation and Consent Order or for unrelated matters.
31. Nothing herein shall be construed as limiting any private action a person may have.
32. Lafayette acknowledges that this Stipulation and Consent Order constitutes a valid order duly rendered by the Commissioner and agrees to be fully bound by it.
33. Lafayette acknowledges that this Order constitutes a finding by the Commissioner that Respondent has violated Vermont law as set forth above and agrees not to contest such findings.
34. Lafayette acknowledges that noncompliance with any term of this Order shall constitute a violation of a lawful order of the Commissioner.
35. Lafayette 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.

36. Lafayette acknowledges that it has been represented by counsel in this matter and voluntarily waives its right to a hearing 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.
37. Lafayette further acknowledges the Commissioner retains jurisdiction over this matter for purposes of enforcing the Order.
38. This Order shall be governed by and construed under the laws of the State of Vermont.
39. Respondent 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.

3/19/19

Date

*KWP*  


Lafayette Life Insurance Company

By its CEO & PRESIDENT



Lafayette Life Insurance Company

By its VP & Chief Compliance Officer

Entered at Montpelier, Vermont this 29<sup>th</sup> day of March 2019.



Michael S. Pieciak, Commissioner