

**BEFORE THE COMMISSIONER OF INSURANCE  
OF THE STATE OF KANSAS**

In the Matter of

**VARIABLE ANNUITY LIFE INSURANCE COMPANY**  
NAIC #70238)  
)  
)

Docket No. 4678-MC

**SUMMARY ORDER**

Pursuant to the authority conferred upon the Commissioner of Insurance in K.S.A. 40-222, Sandy Praeger, the duly elected, qualified and serving Commissioner of Insurance hereby adopts the Kansas Insurance Department's Report of Market Conduct Examination of Variable Annuity Life Insurance Company ("Variable Annuity"), as of December 31, 2012 (attached herein as Attachment A) by incorporating the same in its entirety with specific findings stated as follows. This Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period if no request for a hearing is made, pursuant to K.S.A. 77-542.

**Findings of Fact**

1. The Commissioner of Insurance has jurisdiction over this matter pursuant to K.S.A. 40-222.
2. The Kansas Insurance Department ("Department") completed a targeted market conduct examination of Variable Annuity. The period of examination was January 1, 2010 through December 31, 2012.
3. The Examiner-in-Charge provided Variable Annuity a draft of the Market Conduct Examination report ("Report") with a request for Variable Annuity's response in the form of written comments, additions, or acceptance.
4. Variable Annuity responded to the Report with a letter of acceptance.

5. The Department examined Variable Annuity's complaint handling to determine if the company complied with the requirements set forth in K.S.A. 40-2404 (10) regarding the recording and proper handling of complaints.
6. The complaint log did not include the total number of complaints, the line of business, or the disposition of the complaint. Additionally, seventeen (17) of the initial complaints had an incorrect date on the log.

### **Applicable Law**

K.S.A. 40-222 states, in pertinent part:

(a) Whenever the commissioner of insurance deems it necessary but at least once every five years, the commissioner may make, or direct to be made, a financial examination of any insurance company in the process of organization, or applying for admission or doing business in this state. In addition, at the commissioner's discretion the commissioner may make, or direct to be made, a market regulation examination of any insurance company doing business in this state.

K.S.A. 40-2404 states, in pertinent part:

The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

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(10) Failure to maintain complaint handling procedures. Failure of any person, who is an insurer on an insurance policy, to maintain a complete record of all the complaints which it has received since the date of its last examination under K.S.A. 40-222, and amendments thereto; but no such records shall be required for complaints received prior to the effective date of this act. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaints, the date each complaint was originally received by the insurer and the date of final disposition of each complaint. For purposes of this subsection, "complaint" means any written communication primarily expressing a grievance related to the acts and practices set out in this section.

K.S.A. 40-2,125 states, in pertinent part:

(a) If the commissioner determines after notice and opportunity for a hearing that any person has engaged or is engaging in any act or practice constituting a violation of any provision of Kansas insurance statutes or any rule and regulation

or order thereunder, the commissioner may in the exercise of discretion, order any one or more of the following:

(1) Payment of a monetary penalty of not more than \$1,000 for each and every act or violation, unless the person knew or reasonably should have known such person was in violation of the Kansas insurance statutes or any rule and regulation or order thereunder, in which case the penalty shall be not more than \$2,000 for each and every act or violation;

(3) that such person cease and desist from the unlawful act or practice and take such affirmative action as in the judgment of the commissioner will carry out the purposes of the violated or potentially violated provision.

### **Conclusions of Law**

Based upon the Findings of Fact enumerated in Paragraphs #1 through #6 and the Applicable Law cited above, **IT IS, THEREFORE, ORDERED BY THE COMMISSIONER OF INSURANCE:**

1. The Commissioner of Insurance has jurisdiction over this matter pursuant to K.S.A. 40-222.
2. The Kansas Insurance Department's ("KID") Report of Market Conduct Examination of Variable Annuity as of December 31, 2012 is herein adopted in its entirety.
3. Based on Finding of Fact #6, Variable Annuity has violated K.S.A. 40-2404(10).
4. Pursuant to K.S.A. 40-2,125(a)(1), Variable Annuity shall pay a monetary penalty of \$1,000.00 for the above-stated violation of K.S.A. 40-2404(10).
7. Pursuant to K.S.A. 40-2,125(a)(3), Variable Annuity shall ensure all complaints are recorded in the required format on the Variable Annuity's complaint register.

IT IS SO ORDERED THIS 23rd DAY OF JULY, 2014, IN THE CITY OF TOPEKA,  
COUNTY OF SHAWNEE, STATE OF KANSAS.



/s/ Sandy Praeger  
Sandy Praeger  
Commissioner of Insurance

BY:

/s/ John Wine  
John Wine  
General Counsel

### **NOTICE OF RIGHTS**

Variable Annuity is entitled to a hearing pursuant to K.S.A. 77-537, the Kansas Administrative Procedure Act. If Variable Annuity desires a hearing, Variable Annuity must file a written request for a hearing with:

John Wine, General Counsel  
Kansas Insurance Department  
420 S.W. 9<sup>th</sup> Street  
Topeka, Kansas 66612

This request must be filed within fifteen (15) days from the date of service of this Summary Order. If Variable Annuity requests a hearing, the Department will notify Variable Annuity of the time and place of the hearing and information on the procedures, right of representation, and other rights of parties relating to the conduct of the hearing before the commencement of the same.

If a hearing is not requested in the time and manner stated above, this Summary Order shall become effective as a Final Order upon the expiration of time for requesting a hearing, pursuant to K.S.A. 77-613. In the event that Variable Annuity files a petition for judicial review, pursuant to K.S.A. 77-613(e), the agency officer to be served on behalf of the Department is:

John Wine, General Counsel  
Kansas Insurance Department  
420 S.W. 9<sup>th</sup> Street  
Topeka, Kansas 66612

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he served the above and foregoing Summary Order and Notice of Rights on this \_\_23rd\_\_ day of July, 2014, by causing the same to be deposited in the United States Mail, registered mail with return-receipt requested postage prepaid, addressed to the following:

\ Variable Annuity Life Insurance Company  
ATTN: David Den Boer  
Senior Vice-President and Chief Compliance Officer  
2727-A Allen Parkway  
Houston, TX 77019

\_\_\_\_\_/s/ Elizabeth Hickert-Fike\_\_\_\_\_  
Elizabeth Hickert Fike  
Attorney  
Consumer Assistance Division