

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

In the Matter of)
ATHENE ANNUITY &)
LIFE COMPANY)
NAIC # 61689)
)
and)
)
ACCORDIA LIFE &)
ANNUITY COMPANY)
NAIC # 62200)

Docket No.: 85023

CONSENT AGREEMENT AND FINAL ORDER
(Pursuant to K.S.A. 40-222, and K.S.A. 77-537)

The Kansas Insurance Department (“the Department”) and Athene Annuity and Life Company (“Athene”) and Accordia Life & Annuity Company (“Accordia Life”) enter into this Consent Agreement and Final Order. Athene and Accordia Life hereby waives any and all rights to further administrative adjudication or review of this matter, including any and all rights established under K.S.A. 77-501, *et seq.* Pursuant to the authority granted to the Commissioner of Insurance in K.S.A. 40-222, Vicki Schmidt, the duly elected, qualified and serving Commissioner of Insurance (“Commissioner”), hereby adopts this agreement and finds and Orders as follows:

Allegations

The parties stipulate that if a hearing were conducted in this matter, the following information could be offered by the Commissioner, and although neither admitted nor denied by either company, may be recognized as admissible to show the following:

1. Athene is domiciled in West Des Moines, Iowa and has been authorized to do business in Kansas since 1919.

2. Accordia Life is domiciled in Des Moines, Iowa and has been authorized to do business in Kansas since 2010.
3. In October 2013, Athene purchased Aviva USA and its subsidiaries. In a simultaneous transaction with that purchase, Athene sold Aviva USA's life insurance business through a series of reinsurance transactions to Global Atlantic Financial Group ("GAFG") and also sold a life insurance company that Athene owned, Presidential Life Insurance Company, which GAFG subsequently renamed "Accordia Life."
4. Under the terms of the agreements, Accordia Life has responsibility for all of the life insurance business, including administration. However, the majority of the life policies have novated to Accordia Life, and a small portion of the life policies remain on Athene paper.
5. Accordia Life entered into an agreement with a licensed third-party administrator, Alliance-One, to convert the in-force policies onto Alliance-One's administration platform and to service business going forward. The conversion started in August 2015 and was completed on December 31, 2018.
6. Accordia Life contacted the Department to self-report the conversion providing updates on the volume of restricted policies throughout the conversion and the processes in place to service specific transactions while the policies remained in a restricted status.
7. In August 2018, Accordia Life provided a Kansas policy status update. At that time, the company reported that 5,281 policies were in good order. The company reported that 414 policies did not have any technical issues but had other operational issues, 227 policies experienced technical issues, but correction was underway or planned, and 55 policies had technical issues that were not corrected at that time.

8. In December 2018, Accordia Life provided a Kansas policy status update. At that time, the company reported that 5,637 policies were in good order. The company reported that 306 policies did not have any technical issues but had other operational issues and 26 policies experienced technical issues, but correction was underway or planned.
9. During the conversion, policies were routinely placed into restricted status and the number fluctuated each week. Certain policies placed in restricted status did not process and did not generate annual statements automatically. Throughout the conversion process specific financial transactions were processed manually for policies in a restricted status.
10. Policyholders with an ACH agreement and back premium due were provided notification that Accordia Life would be withdrawing the full back premium amount due. Accordia Life implemented special payment arrangements providing the policyowner with the option to establish a payment plan in the notification.
11. Accordia Life was required to produce annual statements for 1,272 Kansas policies from 2014-2019 but either did not do so or did so more than ninety days later than the policy anniversary.
12. As of August 2019, 31 Kansas policies were identified as receiving an annual statement(s) containing material errors.
13. Approximately 229 Athene policies received Accordia Life branded material during the period in question, as they were novated incorrectly due to the premature system coding referenced above. These policies were subsequently identified and corrected.
14. There were 265 Kansas policies impacted by an issue with the post-conversion loan collateralization that resulted in necessary credits to policyholder accounts. As of April 21,

2020, 12 policies were still pending correction. Remediation began as early as June 24, 2019. As of August 5, 2020, Accordia Life reported all policies were remediated.

Applicable Law

1. K.S.A. 40-222 (a) provides:

(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.

2. K.S.A. 40-411 provides:

Before any such cancellation or forfeiture can be made for the non-payment of any such premium the insurance company shall notify the policyowner of any such policy that the premium thereon, stating the amount thereof, is due and unpaid, and of its intention to forfeit or cancel the same, and such policyowner shall have the right, at any time within thirty (30) days after such notice has been duly deposited in the post office, postage prepaid, and addressed to such policyowner to the address last known by such company, to pay such premium: Provided, That in lieu of the notice hereinbefore provided, in the case of policies providing for a period of grace of not less than thirty (30) days, or one month, for the payment of premiums and containing any provision for cancellation or forfeiture in case of nonpayment of premiums at the end of such period, the insurance company may, not more than thirty (30) days prior to the date specified in such policy when any premium will

become due and payable without grace, in like manner notify the policyowner under any such policy, of the date when such premium will fall due, stating the amount thereof, and its intention to forfeit or cancel the same if such premium be not paid within the period of grace provided in the policy; and any attempt on the part of such insurance company, within six (6) months after default in the payment of any premium, to cancel or forfeit any such policy without the notice herein provided shall be null and void. The affidavit of any responsible officer, clerk or agent of the corporation authorized to mail such notice, that the notice required by this section has been duly addressed and mailed by the corporation issuing such policy shall be prima facie evidence that such notice has been duly given.

K.S.A. 40-447 provides:

- (a) Notwithstanding any other provision of law, each insurer admitted to transact life insurance in the state of Kansas which fails or refuses to pay the proceeds of, or payments under, any policy of life insurance issued by it within 10 days after the date of receipt of due proof of death in the manner and form requested by the policy, shall pay interest on any moneys payable and unpaid after the expiration of such 10-day period at an annual rate of not less than the current rate of interest on death proceeds left on deposit with the insurer plus 1% computed from the date of said receipt.
- (b) Nothing in this section shall be construed to allow any insurer admitted to transact life insurance in this state to withhold payment of money payable under a life insurance policy to any beneficiary for a period longer than reasonably necessary to transmit such payment.

(c) In any case in which interest on the proceeds of, or payments under, any policy of life insurance becomes payable pursuant to subsection (a), the insurer shall notify the named beneficiary or beneficiaries at their last known address that interest will be paid on the proceeds of, or payments under, such policy from the date of receipt of due proof of death of the named insured. Such notice shall specify the rate of interest to be paid.

(d) This section shall not require the payment of interest in any case in which the beneficiary elects in writing delivered to the insurer to receive the proceeds of, or payments under, the policy by any means other than a lump sum payment thereof.

(e) The commissioner of insurance may adopt such rules and regulations necessary to provide for the enforcement and administration of this act.

3. K.S.A. 40-2,125 provides, in 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 actor 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;

(2) suspension or revocation of the person's license or certificate if such person knew or reasonably should have known that such person was in violation of the Kansas insurance statutes or any rule and regulation or order thereunder; or 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.

4. K.A.R. 40-1-15 provides:

Insurance companies; approval of forms; company names.

(a) A policy form shall not contain the name of an insurance company that is unauthorized to transact business in Kansas.

(b) If the policy contains the name of more than one company authorized to transact business in Kansas, the policy shall clearly provide for the designation, when issued, of the Company, or companies, assuming direct liability on the contract.

5. K.A.R. 40-15b-1 provides, in part for the adoption of the National Association of Insurance Commissioner's Universal Life Insurance Model Regulation, 1996 edition:

Section 9. Periodic Disclosure to Policyowner

A. Requirements The policy shall provide that the policyowner will be sent, without charge, at least annually, a report which will serve to keep such policyowner advised of the status of the policy. The end of the current report period shall be not more than three (3) months previous to the date of the mailing of the report. The report shall include the following: (1) The beginning and end of the current report

period; 1989 National Association of Insurance Commissioners (2) The policy value at the end of the previous report period and at the end of the current report period; (3) The total amounts which have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense and riders); (4) The current death benefit at the end of the current report period on each life covered by the policy; (5) The net cash surrender value of the policy as of the end of the current report period; (6) The amount of outstanding loans, if any, as of the end of the current report period; (7) For fixed premium policies: If, assuming guaranteed interest, mortality and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect shall be included in the report; (8) For flexible premium policies: If, assuming guaranteed interest, mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report.

Conclusions of Law and Orders

Based on information enumerated in Paragraphs #1 through #14 and the applicable law cited above, **THE COMMISSIONER OF INSURANCE MAKES THE FOLLOWING ORDERS:**

1. The Commissioner of Insurance has jurisdiction over this matter pursuant to K.S.A. 40-222, and shall retain jurisdiction to issue any further orders deemed necessary.


2. The Department shall impose a monetary penalty of \$30,000 upon Athene for the alleged violations of Kansas law.
3. The Department shall impose a monetary penalty of \$30,000 upon Accordia Life for the alleged violations of Kansas law.
4. Athene and Accordia Life neither admits nor denies the violations noted above. The parties acknowledge that this Consent Order resolves all matters relating to the factual assertions and agreements contained herein.
5. Nothing in this Order is intended to form the basis for any disqualification under Rule 506 of Regulation D under the Securities Act of 1933 and therefore disqualification under Rule 506(d)(1) should not arise as a consequence of this Order.

IT IS SO ORDERED THIS 11th DAY OF March, 2022, IN THE CITY OF TOPEKA, STATE OF KANSAS.




Vicki Schmidt
Commissioner of Insurance

BY:


Justin L. McFarland
General Counsel

APPROVED BY:

Grant Kvalheim, President
Athene Annuity & Life Company
7700 Mills Civic Pkwy.
West Des Moines, IA 50266-3862



Andrew Shainberg, Chief Compliance Officer
Accordia Life & Annuity Company
215 10th Street, Suite 1100
Des Moines, IA 50309

NOTICE

This Consent Order and Final Agency Order constitutes final agency action in the matter and is not subject to reconsideration. If a party desires to file a petition for judicial review, the agency officer designated pursuant to K.S.A. 77-613(e) to receive service of a petition for judicial review on behalf of the Kansas Insurance Department is:

Justin L. McFarland, General Counsel
Kansas Insurance Department
1300 SW Arrowhead Road
Topeka, Kansas 66604

APPROVED BY:



Grant Kvalheim, President
Athene Annuity & Life Company
7700 Mills Civic Pkwy.
West Des Moines, IA 50266-3862

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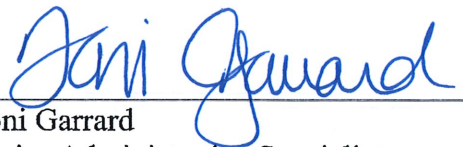
Justin L. McFarland, General Counsel
Kansas Insurance Department
1300 SW Arrowhead Road
Topeka, Kansas 66604

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served a true and correct copy of the above and foregoing Order on this 14th day of March, 2022 by causing the same to be placed in the United States Mail, addressed to the following:

Grant Kvalheim, President
Athene Annuity & Life Company
7700 Mills Civic Pkwy.
West Des Moines, IA 50266-3862

Andrew Shainberg, Chief Compliance Officer
Accordia Life & Annuity Company
215 10th Street, Suite 1100
Des Moines, IA 50309



Toni Garrard
Senior Administrative Specialist