

**[IN ACCORDANCE WITH CALIFORNIA INSURANCE CODE (CIC) SECTION 12938,
THIS REPORT WILL BE MADE PUBLIC AND PUBLISHED ON THE
CALIFORNIA DEPARTMENT OF INSURANCE (CDI) WEBSITE]**

**WEBSITE PUBLISHED REPORT OF THE MARKET CONDUCT
EXAMINATION OF THE CLAIMS PRACTICES OF**

**THE PENN MUTUAL LIFE INSURANCE COMPANY
NAIC # 67644 CDI # 0166-9**

**THE PENN INSURANCE AND ANNUITY COMPANY
NAIC # 93262, CDI #2642-7**

AS OF February 28, 2013

ADOPTED JANUARY 23, 2014

STATE OF CALIFORNIA



**CALIFORNIA DEPARTMENT OF INSURANCE
MARKET CONDUCT DIVISION
FIELD CLAIMS BUREAU**

NOTICE

The provisions of Section 735.5(a) (b) and (c) of the California Insurance Code (CIC) describe the Commissioner's authority and exercise of discretion in the use and/or publication of any final or preliminary examination report or other associated documents. The following examination report is a report that is made public pursuant to California Insurance Code Section 12938(b)(1) which requires the publication of every adopted report on an examination of unfair or deceptive practices in the business of insurance as defined in Section 790.03 that is adopted as filed, or as modified or corrected, by the Commissioner pursuant to Section 734.1.

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DEPARTMENT OF INSURANCE

Consumer Services and Market Conduct Branch
Field Claims Bureau, 11th Floor
300 South Spring Street
Los Angeles, CA 90013



January 23, 2014

The Honorable Dave Jones
Insurance Commissioner
State of California
300 Capitol Mall
Sacramento, California 95814

Honorable Commissioner:

Pursuant to instructions, and under the authority granted under Part 2, Chapter 1, Article 4, Sections 730, 733, 736, and Article 6.5, Section 790.04 of the California Insurance Code; and Title 10, Chapter 5, Subchapter 7.5, Section 2695.3(a) of the California Code of Regulations, an examination was made of the claims handling practices and procedures in California of:

**The Penn Mutual Life Insurance Company
NAIC 67644**

**The Penn Insurance and Annuity Company
NAIC 93262**

Group NAIC # 0850

Hereinafter, the Companies listed above also will be referred to as PML, PIA or the Company or, collectively, as the Companies.

This report is made available for public inspection and is published on the California Department of Insurance website (www.insurance.ca.gov) pursuant to California Insurance Code section 12938(b)(1).

FOREWORD

The examination covered the claims handling practices of the aforementioned Companies on Individual Life and Individual Annuity claims closed during the period from March 1, 2012 to February 28, 2013. The examination was made to discover, in general, if these and other operating procedures of the Companies conform to the contractual obligations in the policy forms, the California Insurance Code (CIC), the California Code of Regulations (CCR) and case law. This report contains all alleged violations of laws that were identified during the course of the examination.

The report is written in a “report by exception” format. The report does not present a comprehensive overview of the subject insurer’s practices. The report contains a summary of pertinent information about the lines of business examined, details of the non-compliant or problematic activities that were discovered during the course of the examination and the insurer’s proposals for correcting the deficiencies. When a violation that reflects an underpayment to the claimant is discovered and the insurer corrects the underpayment, the additional amount paid is identified as a recovery in this report. All unacceptable or non-compliant activities may not have been discovered. Failure to identify, comment upon or criticize non-compliant practices in this state or other jurisdictions does not constitute acceptance of such practices.

Alleged violations identified in this report, any criticisms of practices and the Companies’ responses, if any, have not undergone a formal administrative or judicial process.

SCOPE OF THE EXAMINATION

To accomplish the foregoing, the examination included:

1. A review of the guidelines, procedures, training plans and forms adopted by the Companies for use in California including any documentation maintained by the Companies in support of positions or interpretations of the California Insurance Code, Fair Claims Settlement Practices Regulations, and other related statutes, regulations and case law used by the Company to ensure fair claims settlement practices.

2. A review of the application of such guidelines, procedures, and forms, by means of an examination of a sample of individual claims files and related records.

3. A review of the California Department of Insurance's (CDI) market analysis results; a review of consumer complaints and inquiries about these Companies closed by the CDI during the period March 1, 2012 through February 28, 2013; a review of previous CDI market conduct claims examination reports on these Companies; and a review of prior CDI enforcement actions.

The review of the sample of individual claims files was conducted at the offices of the Department of Insurance, Los Angeles, California.

EXECUTIVE SUMMARY OF CLAIMS SAMPLE REVIEWED

The Individual Life and Individual Annuity claims reviewed were closed from March 1, 2012 to February 28, 2013, referred to as the “review period”. The examiners randomly selected 81 PML claims files and two PIA claims files for examination. The examiners cited 36 alleged claims handling violations of the California Insurance Code and other specified codes from this sample file review.

Findings of this examination include a failure to notify the beneficiary of the specified rate of interest paid on the death benefit.

RESULTS OF REVIEWS OF MARKET ANALYSIS, CONSUMER COMPLAINTS AND INQUIRIES, AND PREVIOUS EXAMINATIONS, AND PRIOR ENFORCEMENT ACTIONS

There was no specific area of concern identified in the review of market analysis or complaint information.

The previous examination reviewed the period from July 1, 2007 through June 30, 2008. There was no specific area of concern identified in that examination.

DETAILS OF THE CURRENT EXAMINATION

Further details with respect to the examination and alleged violations are provided in the following tables and summaries:

PML SAMPLE FILES REVIEW			
LINE OF BUSINESS / CATEGORY	CLAIMS IN REVIEW PERIOD	SAMPLE FILES REVIEWED	NUMBER OF ALLEGED CITATIONS
Life/ Individual Life	780	69	31
Annuity/ Individual Annuity	47	12	4
TOTALS	827	81	35

PIA SAMPLE FILES REVIEW			
LINE OF BUSINESS / CATEGORY	CLAIMS IN REVIEW PERIOD	SAMPLE FILES REVIEWED	NUMBER OF ALLEGED CITATIONS
Life /Individual Life	13	1	0
Annuity/ Individual Annuity	5	1	1
TOTALS	18	2	1

TABLE OF TOTAL CITATIONS

Citation	Description of Allegation	PML Number of Alleged Citations	PIA Number of Alleged Citations
CIC §10172.5(c) *[CIC §790.03(h)(3)]	The Company failed to notify the beneficiary of the specified rate of interest paid on the death benefit.	35	1
Total Number of Citations		35	1

*DESCRIPTONS OF APPLICABLE UNFAIR CLAIMS SETTLEMENT PRACTICES

CIC §790.03(h)(3)	The Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under insurance policies.
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TABLE OF CITATIONS BY LINE OF BUSINESS

<p align="center">The Penn Mutual Life Insurance Company LIFE 2012 Written Premium: \$ 53,625,636</p>	NUMBER OF CITATIONS
<p>AMOUNT OF RECOVERIES \$ 0</p>	
CIC §10172.5(c) [CIC §790.03(h)(3)]	31
SUBTOTAL	31

<p align="center">The Penn Mutual Life Insurance Company ANNUITY 2012 Written Premium: \$17,783,626</p>	NUMBER OF CITATIONS
<p>AMOUNT OF RECOVERIES \$ 0</p>	
CIC §10172.5(c) [CIC §790.03(h)(3)]	4
SUBTOTAL	4

<p align="center">The Penn Insurance and Annuity Company LIFE 2012 Written Premium: \$ 30,465,233</p>	NUMBER OF CITATIONS
<p>AMOUNT OF RECOVERIES \$ 0</p>	
CIC §10172.5(c) [CIC §790.03(h)(3)]	0
SUBTOTAL	0

<p align="center">The Penn Insurance and Annuity Company ANNUITY 2012 Written Premium: \$ 0</p>	NUMBER OF CITATIONS
<p>AMOUNT OF RECOVERIES \$ 0</p>	
CIC §10172.5(c) [CIC §790.03(h)(3)]	1
SUBTOTAL	1

TOTAL	36
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SUMMARY OF EXAMINATION RESULTS

The following is a brief summary of the criticisms that were developed during the course of this examination related to the violations alleged in this report.

In response to each criticism, the Companies are required to identify remedial or corrective action that has been or will be taken to correct the deficiency. The Companies are obligated to ensure that compliance is achieved.

Any noncompliant practices identified in this report may extend to other jurisdictions. The Companies were asked if they intend to take appropriate corrective action in all jurisdictions where applicable. The Companies intend to implement corrective actions in all jurisdictions where applicable.

There were no recoveries discovered within the scope of this report.

LIFE

1. **In 31 instances, the Companies failed to notify the beneficiary of the specified rate of interest paid on the death benefit.** The Companies did not disclose the rate of interest used to calculate death benefits. The Department alleges these acts are in violation of CIC §10172.5(c) and are unfair practices under CIC §790.03(h)(3).

Summary of the Companies' Response: The Companies state that due to a programming issue, it appears that in some cases the notification of the interest rate to the designated beneficiaries was inadvertently removed from the voucher portion of the payment. The programming issue has been resolved. This disclosure is now being provided to each beneficiary in accordance with CIC §10172.5(c). The Companies emphasize that statutory interest has been paid in all applicable claims.

ANNUITY

2. **In five instances, the Companies failed to notify the beneficiary of the specified rate of interest paid on the death benefit.** The Companies did not include the rate of interest used to calculate the annuity/death benefits. The Department alleges these acts are in violation of CIC §10172.5(c) and are unfair practices under CIC §790.03(h)(3).

Summary of the Companies' Response: The Companies state that due to a programming issue, it appears that in some cases the notification of the interest rate to the designated beneficiaries was inadvertently removed from the voucher portion of the payment. The programming issue has been resolved. This disclosure is now being provided to each beneficiary in accordance with CIC §10172.5(c). The Companies emphasize that statutory interest has been paid in all applicable claims.