

1 BEFORE THE INSURANCE COMMISSIONER

2 STATE OF CALIFORNIA

3
4 In the Matter of the Licenses and Licensing
Rights of:

5 LIFE INSURANCE COMPANY OF NORTH
6 AMERICA,

7 Respondent.

CASE NO. UPA 2008-0004

OAH No. Pending

STIPULATION AND WAIVER

8
9 Respondent LIFE INSURANCE COMPANY OF NORTH AMERICA (“LINA”),
10 and the California Department of Insurance (“Department”), do hereby enter this Stipulation and
11 Waiver in the above-entitled consolidated matter and hereby stipulate as follows:

12 1. Respondent LINA holds a Certificate of Authority to transact the business
13 of life and disability insurance in the State of California, pursuant to Section 700 et seq. of the
14 California Insurance Code.¹

15 2. Respondent LINA is domiciled in Pennsylvania, and is a wholly owned
16 subsidiary of Connecticut General Corporation, which is a wholly owned subsidiary of CIGNA
17 Financial, Inc., which is a wholly owned subsidiary of CIGNA Corporation.

18 3. Pursuant to the authority granted under Part 2, Chapter 1, Article 4
19 Sections 730, 733, 736, and Article 6.5, Section 790.04 of the Insurance Code; and Title 10,
20 Chapter 5, Subchapter 7.5, Section 2695.3(a) of the California Code of Regulations, the
21 Department examined LINA’s claims handling practices and procedures in California for the
22 period February 1, 2005 through June 20, 2006.

23 4. The examination was made to discover, in general, if these and other
24 operating procedures of LINA conform with the contractual obligations in the policy forms, to
25 provisions of the California Insurance Code, the California Code of Regulations, and case law.
26 The Department previously conducted a similar exam of LINA’s operations in 2003.

27 5. The examination specifically included review of the following:

28 ¹ Unless otherwise noted, all references are to the California Insurance Code

1 (a) guidelines, procedures, training plans and forms adopted by LINA
2 for use in California including any documentation maintained by LINA in support of positions or
3 interpretations of fair claims settlement practices;

4 (b) application of such guidelines, procedures, and forms, by means of
5 an examination of claims files and related records; and

6 (c) consumer complaints received by the Department in the most recent
7 year prior to the start of the examination.

8 6. The Department issued a Public Report of the Market Conduct
9 Examination As of June 20, 2006 (“Public Report”) that identified instances in which the
10 Department alleged that LINA did not comply with California Insurance Code §790.03 and its
11 related regulations.

12 7. The Department also issued a Report of the Market Conduct Examination
13 As of June 20, 2006 (collectively with Public Report, “the Reports”) that identified instances in
14 which the Department alleged that LINA did not comply with provisions of the Insurance Code
15 other than §790.03 and its related regulations.

16 8. Prior to their publication, LINA responded to the Reports, indicating its
17 objection to many of the allegations and findings contained in them.

18 9. On or about November 13, 2008, the Department caused to be served upon
19 LINA an Order to Show Cause (Insurance Code Sections 790.03 and 790.05) (“OSC”); a
20 Statement of Charges/Accusation (Insurance Code Sections 790.03 and 790.05); 704(b) 704.7; a
21 Notice of Monetary Penalty Insurance Code Sections 790.03, 790.05 and 790.035) and an Order
22 to Show Cause (Insurance. Code Section 790.06) (“Accusation”).

23 10. Subsequent to the filing of the OSC, the Department and LINA continued
24 their previous discussions regarding the findings set forth in the Reports and Accusation and the
25 improvements implemented by LINA in response to the Department’s findings in the Reports.

26 11. LINA was cooperative throughout the examination process and receptive to
27 feedback from the Department, in agreeing to, proposing and implementing process
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1 enhancements in response to concerns expressed by the Department and has continued to be
2 cooperative subsequent to the filing of the aforementioned OSC and Accusation.

3 12. This Stipulation and Waiver does not constitute an admission of liability,
4 violation or wrongdoing by LINA, and LINA expressly denies any of its actions or alleged
5 actions, were knowingly committed or represented a pattern and/or business practice that would
6 be violative of California Insurance Code Section 790.03 or California Code of Regulations
7 Section 2295.1 et seq.

8 13. LINA and the Department, in order to avoid the expense, uncertainty and
9 distractions of litigation, have agreed to enter into this Stipulation and Waiver solely for the
10 purpose of reaching a compromise settlement of and conclusion to the 2006 examination, without
11 the need for a hearing or further administrative action. By this Stipulation and Waiver, LINA
12 waives any and all rights to a hearing in this matter, and any and all other rights related to this
13 proceeding which may be accorded pursuant to Chapter 5, Part 1, Division 3, Title 2
14 (commencing with §11500) of the California Government Code, and by the California Insurance
15 Code.

16 14. LINA has attested to the Department the following:

- 17 • Without admitting wrongdoing or improper conduct, LINA agrees
18 to and shall cease and desist from engaging in any acts or practices in the business of life and
19 disability insurance in violation of the Insurance Code and the California Code of Regulations.
- 20 • In 2004, shortly after and partially in response to the 2003 Report of
21 Examination, LINA invested approximately \$2 million to establish a California based claims
22 administration office for the purpose of enhancing the quality of the administration of claims of
23 California consumers.
- 24 • Since 2003 and the opening of LINA's California claims office,
25 (i) LINA has invested an additional \$1.1 million to lower the case loads of its California claims
26 examiners by 38%; (ii) LINA has increased its California-related spending for claims
27 investigations and specialty claims related resources by \$0.3 million; (iii) LINA has established a
28 unit that it entitled a "National Consumer Advocacy Team" that it is designed to ensure timely

1 and effective responses to consumer inquiries and complaints, and has increased staffing and
2 resources for its Appeals team, at a collective annual cost of \$0.4 million.

3 • LINA's California claims office located in Glendale currently
4 employs 100 people to service California disability claims; and LINA currently anticipates that it
5 will continue to grow that office to match its market growth in the California region.

6 • LINA's operating budget for its California claims office in
7 Glendale has grown since 2003 and is approximately \$9 million for 2009.

8 • Many of the violations cited in the 2006 Report of Examination and
9 alleged in the OSC and Accusation/Statement of Charges occurred during the transition of
10 California claims administration to the newly staffed Glendale claims office, and that the number
11 of errors occurring in the administration of claims in the Glendale office has decreased. LINA
12 has reviewed these errors and believes that the decrease in errors is a direct result of claims
13 administrator experience, increased training resources, increased staffing and increased
14 management and supervision of adjusters.

15 15. LINA further agrees to and shall take the following actions in response to
16 the findings in the 2006 Report of Examination as referenced in the Accusation in all jurisdictions
17 where applicable:

18 **A. Open Claims and Future Claims**

19 • review, clarify, and update, as necessary, its policies and procedures
20 related to initial claim evaluations, ensuring that claimants are given a reasonable timeframe,
21 including any extensions permitted under California or federal law, to submit information in
22 support of their claim; and

23 • expand its methods for requesting medical documentation at
24 LINA's expense, from claimants' treatment providers, including processing pre-payment
25 requests, following up on outstanding record requests, and utilizing copy service providers where
26 necessary; and

27 • partner with medical providers, as appropriate, to address and
28 resolve providers' requirements for customized authorizations or other forms relating to the

1 release of claimant medical information; and

2 • make reasonable efforts to identify and obtain all records relevant
3 to its claims evaluation and determination including, e.g. Workers Compensation, Social Security
4 Disability Income and other administrative records; and

5 • reinforce its existing policies and procedures, or create new policies
6 and procedures as necessary, related to the following:

- 7 1. Use of Functional Capacity Exams (“FCEs”) in the claims
8 review process;
- 9 2. review of the claim file as a whole in making claim
10 determinations;
- 11 3. “own occupation” evaluations;
- 12 4. “any occupation” evaluations and consideration of a
13 claimant’s “station in life”;
- 14 5. impact of the “course and nature” of a claimant’s condition
15 on his/her claim; and

16 • conduct new or refresher training related to the following:

- 17 1. awareness and use of Company’s specialized medical
18 resources during claims evaluation process;
- 19 2. appropriate file documentation;
- 20 3. review of claim file as a whole prior to making a claim
21 determination;
- 22 4. application of policy limitations related to mental illness;
- 23 and

24 • implement a letter generation system to facilitate content accuracy,
25 including prompting claims personnel to verify the need for California Department of Insurance
26 language in adverse determination letters.

27 16. No later than six (6) months after the date of this Stipulation and Waiver is
28 accepted by the Commissioner as final settlement of this matter, LINA shall provide to the

1 Department a copy of the updated training, policy and procedures reflecting the claims handling
2 protocol referenced in paragraph 15. Additionally, no later than this date, LINA shall assure that
3 in each claim's file, either in hard copy form, electronically, or both, a checklist is maintained, to
4 be used by claims handlers, reflecting protocol as referenced in paragraph 15.

5 **B. Previously Denied Claims**

6 17. Utilizing the quality standards outlined in Paragraph 15 above ("the
7 Standards"), LINA agrees to and shall review all California resident closed denied claims for the
8 period of January 1, 2005 through December 31, 2007, to ensure those Standards were met with
9 respect to such claims; specifically, LINA will review each claim against the Standards to
10 determine if the application of those Standards would have resulted in a change or impact to the
11 delivery of benefit payments due. For any claims where application of the Standards would have
12 resulted in a change or impact to the delivery of benefit payments due, LINA will take
13 appropriate remedial action, including payment of any such benefits due, including interest if
14 applicable. If the benefit payment delivery impact is unclear, LINA will refer the claim to a claim
15 team for additional investigation. For any claims where application of the Standards would not
16 have resulted in a change or impact to the delivery of benefit payments due, no further action will
17 be required.

18 18. LINA has represented to the Department that it anticipates that the claim
19 file assessments required under paragraph 15 hereof will cause LINA to incur costs of
20 approximately \$375,000 to \$400,000. This is in addition to the investment representations by
21 LINA, and the evidence of same provided to the Department, as stated in paragraph 14.

22 19. LINA acknowledges that the Department will conduct a follow-up
23 examination to verify that LINA has timely and substantially complied with the terms and
24 conditions stated in this Stipulation and Waiver. LINA will maintain and make available to the
25 Department documents, either hard copy, electronically, or both, evidence that it applied the
26 standards described in paragraph 15 to the reviewed claims files.

1 20. LINA agrees to and shall pay as a penalty, within thirty (30) business days
2 after receiving an invoice from the Department, Division of Accounting, the amount of \$600,000
3 (six hundred thousand dollars).

4 21. LINA and the Department agree that this Stipulation and Waiver is
5 intended to be a complete and final resolution of the issues and allegations referenced in the
6 Accusation and no further action will be brought against LINA based upon the matters referenced
7 in the allegations contained in the Accusation, provided, however, that neither this Stipulation and
8 Waiver nor the Order approving this Stipulation and Waiver are in any way intended to limit or
9 waive the Commissioner's authority to bring disciplinary action against LINA for alleged
10 violations of California law arising from acts occurring after June 20, 2006 or any other acts or
11 failures to act not referred to in the Accusation or in the Stipulation and Waiver. Nothing in this
12 agreement shall restrict the Department's regulatory authority particularly with respect to the
13 handling of consumer complaints, if any.

14 22. Nothing contained in this Stipulation and Waiver or the Order approving
15 this Stipulation and Waiver shall prevent the Department from taking action at any time to
16 enforce this Stipulation and Waiver or the Order approving this Stipulation and Waiver if LINA
17 not in compliance with the terms and conditions of the Stipulation and Waiver and/or the Order
18 approving this Stipulation and Waiver.

19 23. The Insurance Commissioner retains jurisdiction to ensure that LINA
20 complies with the provisions and terms of this Stipulation and Waiver and/or Order approving
21 this Stipulation and Waiver.

22 24. Nothing in this Stipulation and Waiver shall be interpreted to reduce or
23 increase any rights of participants in ERISA-covered plans, including but not limited to rights to
24 which they may be entitled pursuant to 29 U.S.C. § 1133 and 29 CFR § 2560.503-1 of ERISA,
25 including any appeal or review rights under the plan.

26 25. LINA represents and warrants that the persons executing this Stipulation
27 and Waiver on behalf of LINA are authorized to enter into and execute this Stipulation and
28 Waiver.

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26. LINA acknowledges that California Insurance Code Section 12921 requires the Insurance Commissioner to approve the final settlement of this matter. Both the settlement terms and conditions contained herein and the acceptance of those terms and conditions are contingent up the Commissioner's approval, which shall be evidenced and memorialized by the issuance of the Order entered by the Insurance Commissioner.

27. This Stipulation and Waiver is a compromise within the meaning of California Evidence Code Sections 1151 and 1154, and neither this Stipulation and Waiver nor the subsequent Order of the Insurance Commissioner shall be used as evidence of the truth of the facts alleged by the Insurance Commissioner herein or in the Order referenced herein.

Dated: 7-3-2009 LIFE INSURANCE COMPANY OF NORTH AMERICA
Signed: -s- _____
Name: -s- _____
Title: -s- _____

Dated: 8-18-2009 As to form CALIFORNIA DEPARTMENT OF INSURANCE
Signed: -s- _____
Name: -s- _____
Title: -s- _____