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BEFORE THE INSURANCE COMMISSIONER

OF THE STATE OF CALIFORNIA

In the Matter of the Licenses and Licensing Rights of MIDLAND NATIONAL LIFE INSURANCE COMPANY, Respondent.	THIRD AMENDED ORDER TO SHOW CAUSE AND ACCUSATION Dept. File No. DISP-2008-00060 OAH File No. 2013020429

WHEREAS, the Insurance Commissioner of the State of California (hereinafter "the Commissioner") has reason to believe that Midland National Life Insurance Company of America, hereinafter referred to as "Midland National", has engaged in or is engaging in this State in (1) unlawful activities, including, but not limited to, failing to exhibit a duty of good faith and fair dealing to senior citizens with such a frequency as to indicate a business practice; (2) unfair methods of competition or unfair or deceptive acts or practices, and (3) other unlawful acts, as set forth in the Statement of Specific Charges/Accusation contained herein; and has violated Articles 6; 6.3; and 6.5 of Chapter 1, Part 2, Division 1 of the California Insurance Code (hereinafter "Insurance Code");

WHEREAS, the Commissioner has reason to believe that a proceeding with respect to the alleged acts of Respondent would be in the public interest;

WHEREAS, the Commissioner intends to assess against Midland National administrative

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penalties for any contract found to have been marketed, offered or issued in violation of Article 6.3 of Chapter 1, Part 1, Division 1 of the Insurance Code as provided for in Insurance Code sections 789.3(d) and (e) and

WHEREAS, the Commissioner intends to seek recission of any contract that Midland National is found to have marketed, offered or issued in violation of Article 6.3 of Chapter 1, Part 1, Division 1 of the Insurance Code as provided for in Insurance Code section 789.3(f);

NOW THEREFORE, and pursuant to the provisions of section 790.05 and 789 of the California Insurance Code, Respondent is ordered to appear at a time, date and place to be determined by the Commissioner and show cause, if any cause there be, why the Commissioner should not issue an Order:

(1) requiring that Midland National, pursuant to Insurance Code section 789(f), rescind the annuity policies listed in the Statement of Specific Charges/Accusation below;

(2) requiring Midland National to Cease and Desist from engaging in the methods, acts, and practices set forth in the Statement of Specific Charges/Accusation contained in the paragraphs below; and

(3) imposing the penalties set forth in Insurance Code sections 789.3 and 790.035 and as requested in the Prayer and Notice of Monetary Penalty set forth below.

BACKGROUND

1.

Midland National is, and since April 27, 1926, has been the holder of a Certificate of Authority to transact the classes of life and disability insurance in the State of California. The class of life insurance includes annuities as defined in section 101 of the California Insurance Code.

2.

The Department of Insurance (hereinafter "Department") conducted a Market Conduct Examination of Midland National, pursuant to 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. This market conduct exam covered the time period of January 1, 2004 through July 31, 2005 (hereinafter the "review period").

This market conduct examination focused on Midland National's annuity business and in particular, sales of annuities to senior citizens (age 65 and older) during the review period. The examination also included a review of 35 death claims; surrender requests processed during the review period; marketing materials; and consumer complaints and inquiries that Midland National received. Additionally, the examiners reviewed, among other things: transactions involving the 32 oldest consumers (age 80 to age 88) and one 65-year-old consumer [1] who were induced by Midland National's appointed life agents to replace their existing annuities with Midland National immediate and deferred annuities in California during the review period; (2.) Documents relating to the full or partial surrender of seventy (70) annuities; and (3.) Thirty five (35) death claims.

During the review period, some of the oldest seniors replaced more than one annuity with a single Midland National annuity. So, a total number of 40 annuities were replaced by Midland National annuities during that time period. Of the 40 replacement transactions that were reviewed, 45% (18 replacements) of these transactions were either financially disadvantageous to the purchaser or failed to provide the purchaser with a substantial benefit. Therefore, the Department has found violations of the Insurance Code in 45% of the replacement sales about which it obtained documentation from the insurer whose annuity was replaced. These annuities are described below at paragraph 9.

3.

All identifying and privileged information regarding the consumers referenced in the Statement of Specific Charges/Accusation, herein below, has been excluded from this pleading for purposes of publication on the Department's public website pursuant to the provisions of California Insurance Code section 12938. Accordingly, each consumer referenced in this pleading is identified in an anonymous manner. Identifying information related to each consumer is provided in Exhibit A, which is attached hereto and incorporated herein by this reference, for the purpose of this pleading only and will not be included for publication on the Department's

[1] The examiners also reviewed one transaction involving one 65 year old, who is listed herein as G.H. This is because his purchase of a Midland National annuity appears to be related to the purchase of a Midland National annuity by A.G., who was approximately 84 years old when the sales occurred.

public website.

4.

An annuity is an insurance contract that guarantees periodic payments in exchange for upfront premium payments. The insurer guarantees that the periodic payments an annuity provides will be a minimum guaranteed amount per dollar in the owner's account. These periodic payments may last for a definite period, such as 10 years, or for an indefinite period, such as the owner's lifetime.

Annuities typically offer tax-deferred growth of earnings and may include a death benefit. There are two types of annuities: immediate and deferred. Immediate annuities start providing the owner with periodic payments within a year. Deferred annuities may defer these payments for one or more years. Deferred annuities typically impose surrender penalties if more than a specified amount of money is withdrawn prior to the end of a predetermined surrender charge period.

Annuities may also be fixed or variable. In a fixed annuity, the insurer guarantees a minimum rate of interest. A variation of a fixed annuity is an equity indexed annuity, which allows the owner to tie the amount of interest received to the performance of different indices (for example, the Standard and Poors 500 Composite Stock Price Index), while protecting the owner from losses in the market index.

A variable annuity is a security. It is registered with the Securities Exchange Commission and is riskier than a fixed annuity. The owner allocates the premium money among a variety of investment options, for example, a stock or bond fund. The money is placed in subaccounts.

STATEMENT OF SPECIFIC CHARGES/ACCUSATION

A. Midland National Misled its California Appointed Agents and Consumers, including Senior Citizens, by Failing to Inform Them that Midland National had Issued its Annuity Products as Certificates to Master Group Annuity Contracts which Were or Might Be Governed by Iowa Law

5.

From approximately January 1, 2004 through July 31, 2005, Midland National issued as certificates to master group annuity contracts 14 of the 15 different annuity products it sold to consumers, including senior citizens, in California. Prior to selling said annuities in California, Midland National filed the group policy forms listed above with the Insurance Division of the Iowa Department of Commerce. Midland National issued the master group annuity contracts to the Midland National Annuity Division Trust, which was created pursuant to a trust agreement between Midland National and the Iowa State Bank on or about July 13, 1999. Midland National, through its appointed life agents, sold these certificates to all individuals who met their sales criteria. During the review period, Midland National sold to senior citizens in California, a total of 2,424 such certificates. These 14 different annuity products are as follows:

Name of Annuity	Policy Form Number
Veridian Plus	AC103A04
Veridian	AC102A04
Guaranteed Income Solution	AC098A04
Legacy Bonus 11	AC094A04
Legacy Bonus 5	AC093A04
Legacy Select	AC092A04
Guarantee Bonus 15	AC09A 04
Cash Management Annuity	AC088A 04
MNL Guarantee Plus	AC086A04
MNL Leader	AC085A04
Annual Point to Point 10	AC081A04
Annual Point to Point 16	AC079A04
Direct 16	AC067A4
Direct 10	AC064A04

6.

Commencing in approximately 2000 and ending in approximately November 2005, Midland National misled and failed to adequately inform, disclose, and/or train its California appointed agents regarding the annuities listed above at paragraph 5, which in turn caused the agents to provide misleading and/or deceptive and/or incomplete information to consumers, including senior citizens. Midland National accomplished this by issuing training materials, flyers, brochures and/other advertisements directed to its selling agents which contained misleading and/or deceptive and/or incomplete information about said annuities, in violation of Insurance Code sections 780, 785(a), 790.03(a) and (b) in that these documents failed to state:

(a) The annuities Midland National had its appointed agents sell were certificates to group annuities;

(b) The annuity products had been filed with the Iowa Division of Insurance;

(c) The annuities were issued as group annuities in Iowa and were or might be governed by Iowa law, so in the event the consumer was to have a dispute with Midland National regarding the annuity, Iowa law rather than California law would or might apply;

(d) The products had not been submitted to the California Department of Insurance for any review; and

(e) By purchasing one of the group annuities listed above in Paragraph 5, the purchaser would or might be agreeing to be bound by the terms and conditions of the trust agreement and the group policy, as required by the provisions of the Midland National Annuity Division Trust.

7.

Commencing in approximately 2000 and ending in approximately November 2005, in violation of Insurance Code sections 780, 781, 785(a), 790.03(a) and (b) and California Code of Regulations, title 10, sections 2547.4(a) and 2547.5(e), Midland National issued advertisements, including brochures, flyers, and other marketing materials for the annuities listed above at paragraph 5, which were directed to consumers, including senior citizens, and were misleading in that the advertisements failed to state:

(a) The products advertised were certificates to group annuities;

(b) The annuity products had been filed with the Iowa Division of Insurance;

(c) The annuity products had not been submitted to the California Department of Insurance for any review;

(d) The master contracts were issued in Iowa and were or might be governed by Iowa law, so in the event the consumer was to have a dispute with Midland National regarding the annuity, Iowa law would or might apply;

(e) By purchasing one of the group annuities listed above in Paragraph 5, the purchaser would or might be agreeing to be bound by the terms and conditions of the trust agreement and the group policy, as required by the provisions of the Midland National Annuity Division Trust.

Thereby, Midland National also failed to inform consumers who purchased Midland Naional group annuities, including senior citizens, of the significance and/or effect that purchasing these certificates to group annuities, as opposed to individual annuities, would or could have on them.

8.

Through committing the acts set forth in Paragraphs 6 and 7 above, Midland National failed to notify, inform, and/or disclose to its California appointed agents the significance and/or effect that purchasing these certificates to group annuities instead of purchasing individual annuities would and/or could have on California consumers, including senior citizens. As a result of Midland National committing the acts set forth in Paragraphs 6 and 7 above, Midland National's appointed agents did not inform or disclose to their California clients, including senior citizens, the significance and/or effect that purchasing these certificates to group annuities instead of individual annuities would or could have on them. These acts by Midland National constitute violations of Insurance Code sections 780, 781, 785(a), and 790.03(a) and (b).

B. Midland National's Agents Sold Senior Citizens Improper Replacement Annuities.

9.

Midland National has failed to adequately train its California appointed agents as to what constitutes a proper and improper replacement annuity, and Midland National has failed to sufficiently monitor incoming applications to determine whether it is replacing annuities unnecessarily. Midland National, through its appointed life agents, sold unnecessary replacement annuities that were either disadvantageous or were of little or no benefit to the purchasers. All of these transactions resulted in the purchasers being assessed surrender charges by the insurers whose annuities were replaced by Midland National annuities. During the review period, in no instance did Midland National find that any replacements of annuities that occurred during that time period were improper. During the review period, Midland National, through its appointed life agents, improperly induced the following senior citizens to replace their existing annuities with the Midland National annuities listed below, in violation of California Insurance Code sections 780, 781, 785(a), 790.03(a), and 790.03(b).

1. Midland National Direct Income Annuity

The Direct Income is an immediate annuity that Midland National sells to consumers who are up to age 95. Consumers who are over 85 years old and up to 95 years old may only elect a period certain payment option when they annuitize.

a. Ella L.

USG Annuity and Life Company (hereinafter "USG") issued annuity contract number 581945 on or about October 27, 1998 to Ella L., who was then approximately 82 years old. She paid approximately $40,000.00 as premium monies. The annuity provided for a guaranteed interest rate of 8.65% for one (1) year and 5.65% for the next seven (7) years. Ella L. surrendered the annuity in approximately 2003 and incurred a surrender charge of approximately $845.00.

Ella L. replaced her USG annuity with Midland National Direct Income annuity certificate number 850016618. Midland National issued the annuity on or about January 13, 2004, to Ella L., when she was approximately 87 years old. It provides for monthly payments of $364.13 for five (5) years. She paid approximately $21,000.00 as premium monies for this annuity. This equates to an annual interest rate of 1.58%. The USG annuity guaranteed a 3% payout.

Therefore, Ella L. would have been better off had she not surrendered the USG annuity for the Midland National annuity.

2. Midland National Guarantee Plus Annuity

The Guarantee Plus is a single premium declared rate annuity. An interest rate is guaranteed for a period of years selected by the policyholder. A surrender charge of 10% is applicable for the first five (5) years of any guarantee period, grading down to 2% over the next five (5) years. At the end of the period, the owner may take either: 1) a full or partial surrender without surrender charge; or 2) renew the annuity for another guaranteed period. The minimum interest rate is 3%. Midland National sells the Guarantee Plus annuity to consumers who are up to 90 years old.

a. Alvon E.

Presidential Life Insurance Company ("Presidential Life") issued annuity contract number 00439022 on or about April 1, 2002, to Alvon E., who was then approximately 82 years old. Alvon E. paid approximately $18,000.00 as premium monies. The annuity contract provided a guaranteed interest rate of 5.35% for four (4) years and 4% after that. The surrender charge schedule began at 7%, grading to 0 over 4 years. When Alvon E. surrendered this annuity contract, Presidential Life assessed a surrender charge fee of approximately $1,097.00.

Alvon E. replaced his Presidential Life annuity contract with Midland National Guarantee Plus annuity certificate number 8500175912, which issued on or about July 15, 2004. Alvon E. paid approximately $19,188.00 for his Midland National annuity. Alvon E., who was approximately 84 at the time, was the annuitant, and Eugene H. was the owner.[2] The Midland National replacement annuity provided for a guaranteed interest rate of 3.65% for 5 years and 3% after that. Surrender charges were a level 10% for the 5 year period.

This replacement was not in Alvon E.'s best interests. Had he kept his funds in the Presidential Life annuity, he would not have suffered a surrender charge and, five (5) years later, his funds would have grown, at the minimum guarantees in the Presidential Life annuity, to approximately $25,000.00. Instead, under the replacement annuity, he will have only

[2] Eugene H.'s replacement transaction is discussed below at pages 21-22.

approximately $23,000.00. In addition, in less than two (2) years he would have had penalty free access to his funds under the Presidential contract, while he is faced with a 10% surrender charge for the entire five-year surrender charge period under the Midland National annuity. Lastly, the payout rate guarantees are more favorable under the Presidential annuity contract. This replacement worked to Alvon E.'s detriment.

b. Evelyn T.

American General Life Insurance Company (hereinafter "American General") issued annuity contact number VA21020454 on or about July 23, 2001, to Evelyn T., who was then approximately 77 years old. She paid approximately $100,000.00 as the initial premium. The annuity provided for an initial 7% surrender charge (for each premium payment), grading down to zero (0) over seven (7) years. Although the American General annuity was a variable annuity, Evelyn T.'s entire premium was allocated to the one (1) year fixed fund. The guaranteed interest rate for the fixed fund was 3%. When Evelyn T. surrendered this annuity, American General assessed a surrender charge of approximately $5,000.00.

Evelyn T. replaced her American General annuity with Midland National Guarantee Plus annuity certificate number 8500226535, which issued on or about June 21, 2005, when she was approximately 81 years old. Evelyn T. paid approximately $110,820.00 as premium monies for the Midland National annuity.

Evelyn T.'s Midland National annuity provides a guaranteed interest rate of 4.05% for 5 years and 3% after that. The surrender charge is a level 10% for 5 years. After 5 years, the Midland National contract value would grow to approximately $135,000.00, while the American General contract, assuming the minimum 3% interest is paid, would grow to approximately $134,000.00. The surrender charge on the American General contract would be much lower than on the Midland National contract, becoming zero (0) in three (3) years. The payout rate guarantees are more favorable in the Midland National contract.

Evelyn T. did not receive a substantial financial benefit as a result of this replacement. Had she held on to the American General annuity, after the surrender charge period expired, she would have the option, should she desire, to shop around for competitive annuitization rates.

c. William B.

Allianz Life Insurance Company of North America (hereinafter "Allianz") annuity contract number 7603528 issued on or about November 26, 2001, to William B., who was then approximately 79 years old. William B. paid an initial premium of approximately $50,000.00. The Allianz annuity guaranteed 6.25% interest for 10 years and 3% after that. The initial surrender charge was 10%, grading to zero (0) over 10 years. When William B. surrendered this annuity, Allianz assessed a surrender charge of approximately $4,130.00.

William B. replaced his Allianz annuity with Midland National Guarantee Plus annuity certificate number 8500209541, which issued on or about April 5, 2005, when he was approximately 82 years old. William B. paid approximately $68,847.00 as premium monies for the Midland National annuity. The Midland National annuity had a guaranteed interest rate of 4.05% for five (5) years and 3% after that. There was a level 10% surrender charge throughout the five (5) year period.

William B. did not receive a substantial financial benefit as a result of this replacement. After the five (5) year guarantee period, William B.'s account value would be approximately the same as it would have been under the Allianz contract, but the Allianz contract would have guaranteed 6.25% interest for another year and a half. The payout rate guarantees are somewhat better in the Midland National contract.

d. Nancy G.

Union Pacific Life Insurance (hereinafter "Union Pacific") issued annuity contract number 01R0029678 on or about May 4, 1987, to Nancy G., who was then approximately 67 years old. Nancy G. paid an initial premium of approximately $10,585.00 for the Union Pacific annuity. It provided for a guaranteed interest rate of 8.05% for one (1) year and 5.5% after that. The initial surrender charge was 7%, grading to zero (0) over seven (7) years. She paid no surrender charge when she surrendered her Union Pacific annuity.

Nancy G. replaced her Union Pacific annuity with Midland National Guarantee Plus annuity certificate number 8500221911, which issued on or about July 19, 2005, when she was approximately 85 years old. Nancy G. paid approximately $449,957.00 as premium monies for the Midland National annuity. It guaranteed a 4.35% interest rate for 8 years and 3% after that. It also provided for a surrender charge of 10% for 5 years, grading down to zero (0) after eight (8) years.

This replacement worked to Nancy G.'s disadvantage. The Union Pacific annuity was beyond the surrender charge period and guaranteed a 5.5% interest rate. The replacement Midland National contract paid a lower rate, 4.25%, and required a new surrender charge.

3. Midland National Guaranteed Income Solution

The Guaranteed Income Solution annuity is an immediate annuity with cash out options.

a. Lucille T.

Allianz issued annuity contract numbers 5843445 and 5843423 on or about April 5, 1999 to Lucille T., who was then approximately 76 years old. She paid an initial premium amount of approximately $7371.00 for Allianz annuity number 5843445. Allianz annuity number 5843423 originally issued to F.T. with a premium amount of approximately $18,683.52. Since the Allianz annuities are the same policy form, they contain the same policy terms. They are two (2) tier indexed annuities with a guaranteed interest rate of 3%. The charges Lucille T. paid, respectively, for surrendering Allianz annuity numbers 5843445 and 5843423 were $260.08 and $729.51.

Lucille T. replaced her Allianz annuities with Midland National Guaranteed Income Solution annuity certificate number 8500178463, which issued on or about May 11, 2004, when she was approximately 81 years old. Lucille T. paid approximately $19,138.00 as premium monies for the Midland National annuity.

The Midland National annuity provides for monthly payments for a period of 18 years. The monthly payment is guaranteed to be $117.72 for ten years, after which it may change. If the payment stays level for the full 18 years, it equates to an interest rate of 3.4%.

Lucille T. did not receive a substantial financial benefit as a result of these replacements. Had Lucille T. annuitized the Allianz annuities for 18 years, the monthly payment would have been approximately $115.81 at the minimum guarantee under those annuities. It is possible that Allianz would have paid more. While this payment would have been guaranteed for the full term, there would not have been the withdrawal options present in the Midland National annuity.

4. Midland National Leader Annuity

The Midland National Leader (hereinafter "MNL Leader") annuity is a declared rate annuity, with surrender charges that begin at 12% and decrease to zero (0) over nine (9) years. The contract has a five-year guarantee period. The highest rate is paid in the first year; a lower rate is paid in years two (2) through five (5); and a 3% guaranteed rate is paid after that.

a. Sally H.

Jefferson-Pilot Life Insurance Company (hereinafter "Jefferson-Pilot") issued annuity contract number JP4319573 to Sally H. in the amount of approximately $30,000.00 on or about June 24, 1994, when she was approximately 76 years old. It was a declared rate contract with an initial surrender charge of 5% grading to zero (0) over seven (7) years. It guaranteed interest at 6% for the first year and 4.5% after that. There would have been no surrender charge on the Jefferson Pilot contract.

Sally H. replaced her Jefferson Pilot annuity with MNL Leader annuity certificate number 8500187331, which issued on or about September 2, 2004, when she was approximately 85 years old. She paid approximately $50,691.78 as premium monies for the Midland National annuity. The Midland National annuity provided for an interest rate of 7.1% in the first year, 4.1% in years two (2) through five (5) and 3% after that.

There is no justification for this replacement. The Jefferson-Pilot contract guaranteed a higher rate of interest than the Midland National contract was actually paying after the first year and the payout rate guarantees were much better under the Jefferson Pilot annuity.

b. George M.

Jefferson-Pilot issued annuity contract number 900100996 on or about July 19, 2002, to George M., when he was approximately 78 years old. George M. paid an initial premium of approximately $10,000.00. It was a declared rate annuity with a surrender charge schedule beginning at 6% and grading to zero (0) over five (5) years. Interest was guaranteed at 4.55% for 5 years and at 3.25% after that. When George M. surrendered his annuity, Jefferson-Pilot assessed a surrender charge of approximately $500.00.

George M. replaced his Jefferson Pilot annuity with MNL Leader annuity certificate number 8500223920, which issued on or about May 31, 2005, when he was approximately was 81 years old. George M. paid an initial premium of approximately $3,900.00 for the Midland National annuity. It provided for an interest rate of 6.1% in the first year, 3.7% in years two (2) through five (5) and 3% after that. The initial funds apparently came from George M.'s surrender of his Mutual Benefit Life insurance policy, and subsequently, he added $10,862.00 from the Jefferson-Pilot contract.

George M. did not receive a substantial financial benefit as a result of this replacement. At the end of 5 years, the proceeds in the Midland National contract which came from the Jefferson-Pilot contract would have grown to approximately $13,402.00. Assuming minimum interest, these funds, if left in the Jefferson-Pilot contract, would amount to approximately $13,346.00. At that time there would be no surrender charge remaining on the Jefferson Pilot contract, while four (4) years of surrender charges, beginning at 7%, would remain on the Midland National contract. After the fifth year, the Jefferson-Pilot contract offers a higher guaranteed interest rate. Pay out rate guarantees are comparable.

c. George M.

American National Insurance Company (hereinafter "American National") , issued annuity contract number 1419944 on or about April 30, 2002, to George M. when he was approximately 78 years old. The initial premium was approximately $15,000.00. It was a declared rate annuity with guaranteed interest of 5.9% in the first year, 4.9% in years two (2) through five (5) and, presumably, 3% after that. Surrender charges began at 8% and graded to zero (0) over 10 years. The annuity provided for a 30 day window at the end of the five year guarantee period when surrender charges would be waived. When George M. surrendered his annuity, American National assessed a surrender charge of approximately $1,000.00.

George M. replaced his American National annuity with MNL Leader annuity certificate number 8500223175, which issued on or about June 21, 2005, when he was approximately 81 years old. He paid approximately $7,148.00 as premium monies. The Midland National annuity provided for 6.35% interest in the first year, 3.35% in years two (2) through five (5), and 3%

after that.

This replacement did not benefit George M. The funds in the Midland National contract would grow to approximately $20,807.00 during the initial five year period, whereas if the funds had been left in the American National contract, they would have grown to at least $21,046.00. In addition, the Midland National contract would have a 7% surrender charge with four (4) years left in the surrender charge period. The American National contract would have had a 2% surrender charge with less than two (2) years remaining in the surrender charge period. Guaranteed pay out rates are somewhat more favorable under the Midland National contract.

d. Marjorie F.

Allianz issued annuity contract number 5763118 on or about December 28, 1998, to Marjorie F., who was then approximately 78 years old. She paid an initial premium of approximately $86,000.00. The Allianz contract was a declared rate two (2) tier annuity. Interest was guaranteed on the upper tier at 5.25% for the first 5 years and 3% after that. Interest on the lower tier was guaranteed at 3%. The lower tier was subject to surrender charges beginning at 10% and grading to 0 over 10 years. The annuity had an additional provision that provided for potential bonus interest depending on the performance of the Standard & Poor's index. When Marjorie F. surrendered her annuity, Allianz assessed a charge of approximately $4,846.00.

Marjorie F. replaced her Allianz annuity with MNL Leader annuity certificate number 8500167566, which issued on or about March 15, 2004, when she was approximately 83 years old. Marjorie F. paid an initial premium of approximately $95,413.77. The Midland National annuity provides for interest at 7% for one (1) year, at 4% for years two (2) through five (5), and 3% after that.

Marjorie F. did not receive a substantial financial benefit as a result of this replacement. The funds in the Midland National contract would grow to approximately $119,000.00 in the five year period, whereas the funds in the Allianz contract (lower tier), assuming only minimum interest, would have grown to approximately $116,000.00. At that time there would be no surrender charge remaining on the Allianz contract, but a 7% surrender charge and a 4 year surrender charge period would remain on the Midland National contract. In the event of annuitization, Marjorie F. would be much better off with the Allianz contract which provides a higher annuitization value tier and better pay out rate guarantees.

e. Treloar K.

American Investors Life Insurance Company (hereinafter "American Investors") annuity contract number 342302 issued on or about February 1, 2000 to Treloar K., when he was approximately 75 years old. He paid approximately $76,978.00 as premium monies. It was a declared rate annuity with a guaranteed interest rate of 7% for five (5) years and 4% after that. Surrender charges began at 7% and graded to zero (0) over five (5) years. Treloar K. did not pay a surrender charge when he surrendered his American Investors annuity.

Treloar K. replaced his American Investors annuity with MNL Leader annuity certificate number 8500206040, which issued to Treloar K. on or about February 10, 2005, when he was approximately 80 years old. Treloar K. paid approximately $148,972.00 as premium monies for the Midland National annuity. It provides for a 7% interest rate for the first year, 4% for years two (2) through five (5) and 3% after that.

This replacement did not benefit Treloar K. In the five year guarantee period, the funds from the American Investors contract would have grown to $162,771.00 in the Midland National annuity. Had the funds stayed in the American Investors contract and only minimum interest paid, they would have grown to approximately $158,207.00. But the American Investors contract would have no remaining surrender charge and an interest guarantee of 4% going forward. The Midland National contract would have a 7% surrender charge and only a 3% guarantee going forward. So by the end of the Midland National annuity's surrender charge period, Treloar K. would have made more money if he had kept his American Investors annuity. Additionally, the American Investors contract offered better payout rate guarantees.

f. Bonnie K.

Jackson National Life Insurance Company (hereinafter "Jackson National") annuity contract number 0035828840 issued on or about October 12, 1992, to Bonnie K., who was then approximately 74 years old. She paid an initial premium of approximately $26,062.00. It was a declared rate annuity with a first year interest rate of 7% and 4.5% guaranteed after that. Surrender charges began at 6% and graded to 0 over 6 years. Bonnie K. did not pay a surrender charge in connection with the surrender of the Jackson National annuity.

Bonnie K. replaced her Jackson National annuity with MNL Leader annuity certificate number 8500186142, which issued on or about August 2, 2004, when she was approximately 85 years old. She paid approximately $37,449.00 as premium monies. The Midland National annuity provided for interest at 7.5% for the first year, 4.5% in years two (2) through five (5) and 3% after that.

This replacement has little value for Bonnie K. After the five year guarantee period, the funds in the Midland National annuity would grow to approximately $48,008.00. Had the funds been left in the Jackson National annuity, they would have grown to approximately $46,668.00, assuming only minimum interest. Further, there would be no surrender charges remaining on the Jackson National annuity, whereas a 7% surrender charge would remain on the Midland National contract, so the cash value would be higher on the Jackson National annuity. Additionally, going forward, the Midland National annuity guaranteed only 3% interest, compared to 4.5% interest under the Jackson National annuity. Lastly, pay out rate guarantees are more favorable under the Jackson National annuity.

g. Elsie M.

Sun Life Assurance Company of Canada (hereinafter " Sun Life") issued variable annuity contract number 4700035894 on or about October 29, 2001 to Elsie M., who was then approximately 79 years old. She paid an initial premium of approximately $19,102.00. The Sun Life annuity had a surrender charge schedule (for each premium payment made), that began at 7% and graded to 0 over a 6 year period. There was also a fixed account that guaranteed 3% interest. Sun Life assessed a surrender charge of approximately $1,003.00 when Elsie M. surrendered her Sun Life annuity.

Sage Life Assurance of America, Inc. (hereinafter "Sage Life") issued variable annuity contract number RJ00000134 on or about January 22, 2002, to Elsie M., who was then approximately 79 years old. Elsie M. paid an initial premium of approximately $51,720.00. It was a variable annuity with a beginning surrender charge of 8% grading to 0 after three (3) years. The fixed account provided a 3% interest guarantee.

Elsie M. replaced her Sun Life and Sage Life annuities with MNL Leader annuity certificate number 8500194374, which issued on or about September 27, 2004, when she was approximately 82 years old. She paid premium monies in the approximate amount of $10,746.00. The Midland National annuity provided for an interest rate of 7.1% in the first year, 4.1% in years two (2) through five (5), and 3% after that.

Elsie M. did not receive a substantial financial benefit as a result of replacing her Sun Life annuity. The funds transferred to the Midland National contract would grow to approximately $23,360.00 during the five year period. Had the funds been left in the Sun Life contract and put in the fixed account, they would have grown to at least $22,694.00, assuming the minimum 3% interest rate. The Sun Life annuity would have had approximately three (3) years left in the surrender charge period at a rate decreasing from 4%, whereas the Midland National annuity had a nine (9) year surrender charge period, with charges decreasing from 12%. Pay out rate guarantees are the same in both annuities.

Elsie M.'s Sage Life annuity should not have been replaced. Sage Life assessed a surrender charge of approximately $6,000.00 in connection with the surrender of the Sage Life annuity. (This amount seems to be more than what was provided for pursuant to the contract terms.) It should have been avoided completely. At the time the Midland National annuity issued, there were only four (4) months remaining in the surrender charge period of the Sage Life contract. Elsie M. should have been advised to defer any surrender until then. While the replacement of the Sage Life contact may have made some sense if there were no surrender charge, it provides little benefit with that surrender charge. The funds from the Midland National contract will grow to approximately $112,000 in the five-year guarantee period; funds in the Sage contract would grow to at least $110,000 assuming the minimum 3% interest. The Sage contract would have no surrender charges in four (4) months, while the Midland National contract has nine (9) years of surrender charges. Pay out rate guarantees are slightly better under the Midland National contract.

h. Gerald G.

American General issued annuity contract number M0000658 on or about November 20, 1998, to Gerald G., who was then approximately 77 years old. Gerald G. paid an initial premium of approximately $127,000.00. The American General annuity was a declared rate annuity with a surrender charge schedule beginning at 7% and grading to 0 over seven years. The annuity guaranteed 5.9% for 6 years and 3% after that. The annuity provided that a penalty free surrender was available during the 30 day period following the 6 year guarantee period. Gerald G. had the option of renewing his American General annuity and receiving a 4.05% interest rate for a six (6) year term. Gerald G. did not incur a surrender charge when he surrendered the American General annuity.

Gerald G. replaced his American General annuity with MNL Leader annuity certificate number 8500204176, which issued on or about March 8, 2005, when he was approximately 83 years old. Gerald G. paid a premium in the approximate amount of $99,822.00. The Midland National annuity provided for an interest rate of 6.8% for the first year, 3.8% in years two (2) through five (5) and 3% after that.

This replacement was not in Gerald G.'s best interests. The American General contract had guaranteed 4.05% interest for an additional 6 year period, so the Midland National contract paid a higher rate for only one (1) year and imposed a high surrender charge and long surrender charge period. The American General annuity was near the end of the surrender charge period. The funds deposited in the Midland National contract would grow to approximately $123,762.00 in the five (5) year period. Had the funds remained in the American General annuity, they would have grown to approximately $124,397.00 in the same period, and Gerald G. would have had no surrender charges. Additionally, the American General annuity offered better pay out rate guarantees.

i. Thelma H.

Pacific Mutual Life Insurance Company (hereinafter "Pacific Mutual") issued variable annuity contract number VA 97644100 on or about August 25, 1997 to Thelma H, who was then approximately 74 years old. She paid an initial premium of approximately $26,622.00. This annuity had a surrender charge schedule beginning at 6% (for each premium payment), grading to 0 over five (5) years. The contract guaranteed 4% interest on the fixed account. Thelma H. did not pay a surrender charge in connection with the surrender of the Pacific Life contract.

Thelma H. replaced her Pacific Mutual annuity with MNL Leader annuity certificate number 8500184247 on or about June 30, 2004, when she was approximately 81 years old. She paid an initial premium of approximately $27,822.00. The Midland National annuity guaranteed 7.5% in the first year, 4.5% in years two (2) through five (5), and 3% after that.

Thelma H. did not obtain any financial benefit from this replacement. The rates for the first five years of the Midland National contract are higher than the fixed rate of the Pacific Mutual contract. Thereafter, the Midland National contract has a lower rate. At the end of the five (5) year period and after that, the cash values under the two (2) contracts would be comparable, assuming only minimum interest on the Pacific Life contract. Additionally, the Pacific Life contract offered significantly better pay out rate guarantees.

j. James C.

Sun America Life Insurance Company (hereinafter "Sun America") issued annuity contract number A009759999 on or about August 5, 1997 to James C., who was then approximately 74 years old. He paid an initial premium of approximately $21,638.00. The annuity guaranteed 6% interest for 5 years and 3% after that. The surrender charge schedule began at 6% reducing to zero (0) over seven (7) years. When James C. surrendered his annuity, Sun America assessed a surrender charge of approximately $550.00. At the time James C. surrendered his annuity, there were fewer than five (5) months remaining in the surrender charge period.

James C. replaced his Sun America annuity with MNL Leader annuity certificate number 8500169310 on or about March 22, 2004, when James C. was approximately 81 years old. He paid an initial premium of approximately $30,196.00. The Midland National annuity paid a guaranteed rate of 7% in the first year, 4% in years two (2) through five (5), and 3% after that.

James C. did not receive a substantial financial benefit from this replacement. At the end of the five (5) year period, his account value in the Midland National annuity would be approximately $37,797.00 compared to approximately $36,379.00 in the American General contract (assuming minimum interest). But, he would have faced nine (9) more years of surrender charges. Payout rate guarantees are more favorable under the American General contract.

k. Aino M.

Life Investors Insurance Company of America (hereinafter "Life Investors") issued annuity contract number 100G003916 on May 13, 1982 to Aino M., who was then approximately 58 years old. She paid approximately $12,861.00 as premium monies for the annuity. The guaranteed interest rate was 6% for the first 10 years and 5% after that. The surrender charge period was 9 years. Aino M. did not incur a surrender charge when she surrendered the Life Investors contract.

Aino M. replaced her Life Investors annuity with MNL Leader annuity certificate number 8500177522, which issued on or about June 1, 2004, when she was approximately 80 years old. She paid approximately $29,009.00 as premium monies for the annuity. The Midland National annuity provided for interest of 7.5% in the first year, 4.5% in years two (2) through five (5), and 3% after that.

There is no rationale for the surrender of the Life Investors annuity. The original contract was beyond the surrender charge period and had a high interest guarantee. The replacement contract imposed 9 years of surrender charges and paid a rate higher than the Life Investors guaranteed rate in only the first year, with rates lower than the original contract guarantee after that. In addition, the payout rate guarantees under the Life Investors contract were more favorable.

5. Midland National Legacy Bonus 11

The Legacy Bonus 11 is an equity indexed annuity. It has a 14 year surrender charge penalty, with an initial surrender charge of 22%, which remains level for four (4) years, then decreases to zero (0) at the end of the fourteenth year. The Legacy Bonus 11 provides an 11% premium bonus and a guaranteed rate on the fixed account of 2%. The premium monies may be allocated among the fixed rate account and five (5) indexed funds.

a. Eugene H.

Presidential Life issued annuity contract number 00426017 on or about July 6, 2001, to Eugene H., who was then 66 years old. He paid approximately $53,158.00 as premium monies for the annuity. The annuity provided a guaranteed interest rate of 6.2% for six (6) years and 4% after that. The surrender charge schedule began at 7% grading to 0 over a six (6) year period.

When Eugene H. surrendered this annuity, Presidential Life assessed a surrender charge of approximately $4,000.00.

Eugene H. replaced his Presidential Life annuity with Midland National legacy Bonus 11 annuity certificate number 8500173985, which issued to Eugene H. on or about May 11, 2004, when he was approximately 68 years old. Eugene H. placed the initial premium and the 11% bonus in the Dow Jones Point to Point Index account. The initial cap rate of 10% and margin of 2% mean that the largest interest credit the fund can receive is 8%. Should the Company later invoke the maximum guaranteed margin of 7%, the largest interest credit possible would be 3%.

This replacement was not in Eugene H.'s best interests. The surrendered Presidential Life contract had had three (3) years left with a guaranteed rate of 6.2% and a 4% guarantee after that. Additionally, after three (3) years the surrender charge period would have been completed. The replacement contract provided for an 11% bonus, but this was offset by a 14 year surrender charge period and large surrender charges, for example 22% for four (4) years, and significantly lower guarantees. Should Midland National invoke the guaranteed margin rate, the highest interest credit Eugene H. could receive on his index account would be 3%, which is less than the guaranteed minimum on the Presidential account.

C. Senior Citizens who Surrendered Their Annuities During the Review Period Purchased Unsuitable Annuities and Were Not Told How Long the Annuities' Surrender Charge Periods Would be in Effect.

10.

Part of the examination involved reviewing documentation of instances where senior citizens partially and/or fully surrendered their annuities during the review period. The examination showed that Midland National's appointed life agents, at the time of sale: 1) sold annuities that were unsuitable for their situations; and 2) failed to disclose the length of the annuities' surrender charge period. The following shows that Midland National violated Insurance Code sections 780; 785; 790.03(a) and 790.03(b).

1. Marjie-Jo N.

On or about April 12, 2001, Marjie-Jo N., who was then approximately age 65, paid approximately $453,392.00 as premium monies for Midland National Annual Point to Point 16 annuity certificate number 8500025573. Because this annuity had a 14 year surrender charge period, Marjie-Jo N. was unable to surrender it without paying a penalty until she became approximately 79 years old. Marjie-Jo N. intended to use the annuity to pay for her mother's nursing home care, which cost her family approximately $6000.00 per month. The cost for nursing home care later rose to approximately $7000.00 per month. When the interest rate on the annuity decreased, Marjie-Jo N. was unable to withdraw sufficient money penalty free to cover her mother's expenses. Therefore, Marjie-Jo N. elected to fully surrender the annuity on or about May 24, 2005 and pay a surrender charge of approximately $86,618.00.

2. Yvette K.

On or about December 12, 2002, Yvette K., who was then approximately age 75, paid approximately $90,888.00 as premium monies for Midland National Bonus Five annuity certificate number 8500120739. This Midland National annuity had a 14 year surrender charge period, so she was unable to fully liquidate it without paying us a penalty until she became approximately 89 years old. On or about December 23, 2004, Yvette K. elected to fully surrender the annuity because she needed money to pay her bills after her husband had a stroke and was placed in a board and care facility. She paid approximately $27,608.00 as a surrender charge and received approximately $75,336.00 from Midland National.

3. Willy L.

On or about January 29, 2003, Willy L.'s daughter used the proceeds from the sale of Willy L.'s home to invest approximately $109,000.00 in two (2) Midland National Bonus Five annuity certificates (numbers 8500128391 and 8500128392). The Bonus Five annuities had a 14 year surrender charge period, so Willy L. was unable to fully liquidate them without paying a surrender charge penalty until he became approximately 90 years old. His daughter believed that she was purchasing a seven-year annuity based on the approximate life expectancy of her father. She made periodic withdrawals because she needed money to pay for her parents' care. On or about November 30, 2004, Willy L. was assessed a surrender penalty of approximately $3234.00 because his daughter withdrew approximately $7000.00. In approximately February or March of 2005, Willy L.'s daughter surrendered both annuities because her parents were moved from an assisted living facility to a skilled nursing facility, and she needed the money to pay bills. As a result of his daughter surrendering the annuity, Willy L. paid approximately $27,740.00 as a surrender charge. Willy L. passed away on or about April 30, 2005.

4. Herbert G.

On or about October 2, 2003, Herbert G., who was then approximately age 75 and had cancer, paid approximately $40,000.00 as premium monies for Midland National Legacy Bonus 11 annuity certificate number 8500157048. This annuity had a 14 year surrender charge period, which means that Herbert G. was unable to liquidate it without paying a penalty until he became approximately 89 years old. At the time of purchase, Herbert G. was unaware of the lengthy surrender charge period. Had he known of it, he would not have purchased the annuity because of his reduced life expectancy. On or about October 26, 2004, Herbert G. elected to fully surrender his annuity, because he was planning for his death. As a result of surrendering his annuity, Herbert G. a surrender charge of approximately $10,518.00.

5. Marjorie K.

During approximately October 2002, Marjorie K. purchased Midland National annuity certificate number 8500113325. The premiums she paid totaled approximately $80,000.00. The annuity had a 14 year surrender charge period. At the time she purchased the annuity, Marjorie K. had been living off a monthly pension of less than $300.00. The year after she purchased the Midland National annuity, she was diagnosed with a functional disability. Her estate was placed into a conservatorship. She needed to withdraw money from her annuity because she was placed in a care facility and needed to pay her bills. The annuity was partially surrendered in approximately July 2004, November 2004, and February 2005. Midland National assessed Marjorie K. approximately $22,672.00 in surrender charges for making these partial withdrawals.

6. Arden W.

On or about February 8, 2002, Arden W., who was then approximately 80 years old, paid approximately $30,000.00 as premium monies for Midland National Direct Ten annuity certificate number 8500060991. The Direct Ten annuity had a nine (9) year surrender charge period, which means that Arden W. would not have been able to fully liquidate it without paying a penalty until he was approximately 89 years old. At the time that Arden W. purchased the annuity, he lived alone in a mobile park and suffered from transient ischemic attacks (mild strokes). On or about November 1, 2004, Arden W. fully surrendered the annuity because he needed the money to pay for his care. He paid a surrender charge of approximately $3647.00.

7. Ivan O.

On or about March 18, 2002, Ivan O., who was then approximately 89 years old, paid approximately $42,489.00 in premium monies for Midland National Direct Guarantee annuity certificate number 8500069156. The Direct Guarantee annuity had a six (6) year surrender charge period, which meant that he would not have been able to fully liquidate it without paying a penalty until he was approximately 95 years old. Ivan O. had an eighth grade education. When he purchased the annuity, he was in the first stages of Alzheimer's disease and was living in a retirement home. On or about September 27, 2004, Ivan O. had to surrender the Direct Guarantee annuity because he needed the money to cover his rent and medical bills. As a result, he paid a surrender charge of approximately $2531.00.

8. Wesley H.

During or about November of 2001, Wesley H., who was then approximately 82 years old, paid approximately $57,955.00 for Midland National Direct 16 annuity certificate number 8500054456. This annuity had a 14 year surrender charge period, which meant that Wesley H. would not have been able to fully liquidate it without paying a penalty until he was approximately 96 years old. On or about August 19, 2004, Wesley H. elected to fully surrender the annuity, which resulted in his paying a surrender charge penalty of approximately $13,960.00. Wesley H.

needed to surrender the annuity because he was suffering from dementia, had a broken hip and needed the money to pay for nursing home care.

9. Helen H.

On or about December 13, 2002, Helen H., who was then approximately 84 years old, surrendered her London Pacific annuity and used the proceeds to purchase Midland National Bonus 10 annuity certificate number 8500099149, in the amount of approximately $14,790.00. The Bonus 10 annuity had a surrender charge period that lasted approximately 13 years, which meant that Helen H. was unable to fully liquidate the annuity without paying a penalty until she was approximately 97 years old. At the time Helen H. purchased the annuity, she did not understand what an annuity was and did not know that there was a 13 year surrender charge period. During or about January 2004, Helen H. surrendered her annuity, and Midland National assessed approximately $5006.00 as surrender charges. The life agent who sold Helen H. the Bonus 10 annuity also sold her a heater, which her son successfully canceled.

10. Bessie H.

During or about October 2000, Bessie H. purchased Midland National annuity number 8500014783, with the premium amount of approximately $15,000.00. Her agent did not disclose to her that the annuity had a 14 year surrender charge period. She partially surrendered her annuity in approximately October 2003 and fully surrendered it in approximately February 2004. Midland National assessed a surrender charge of approximately $3651.00.

11. James P.

During or about August 2003, James P. purchased two (2) Midland National annuity certificates, respectively numbered 8500152931 and 8500152932. He paid a total of approximately $100,000.00 as premium monies. The Midland National agent who sold him these annuities did not disclose to him that the annuities had a 14 year surrender charge period. James P. surrendered both annuities on or about March 1, 2005. Midland National assessed a surrender charge of approximately $26,845.00.

12. Kathryn Q.

During or about May 2002, Kathryn Q. purchased Midland National annuity certificate number 85000079166. She paid premium monies that totaled approximately $150,000.00. The annuity had a nine (9) year surrender charge period. The Midland National life agent who sold her the annuity failed to disclose the length of the surrender charge period. She partially surrendered the annuity in approximately October 2002 and November 2002. She fully surrendered the annuity on or about July 19, 2004. Midland National assessed surrender charges totaling approximately $18,357.00.

D. Midland National Issued Misleading Advertisements and Training Materials.

11.

From approximately January 1, 2004 through July 31, 2005, Midland National failed to adequately train its agents and caused them to provide misleading and/or deceptive information to consumers who were over 75 years old by issuing "Quick Reference Guides" directed to selling agents which contained incomplete information, in violation of Insurance Code sections 780, 781, 785(a), 790.03(a) and (b). These Quick Reference Guides contain brief summaries of key provisions of Midland National's annuities.

The following annuity policy forms contain riders that are automatically added to the annuity at no cost to the annuity holder if the owner is age 75 or younger at the time of issue. However the agent-directed Quick Reference Guides for these annuity policy forms fail to note this age cut-off, even though Midland National issued these annuities to consumers who were over age 75. These riders and policy forms are:

1. **Nursing Home Confinement Rider**

   Quick Reference Guides for Annuity Policy Forms: Guaranteed Income Solution; MNL Leader; Veridian; and Legacy Select.

2. **Terminal Illness Rider**

   Quick Reference Guides for Annuity Policy Forms: Guaranteed Income Solution and MNL Leader

3. **Unemployment Rider**

   Quick Reference Guide for Annuity Policy Form: MNL Leader

12.

From approximately January 1, 2004 through July 31, 2005, Midland National failed to adequately train its agents and caused them to provide misleading and/or deceptive information to consumers who were senior citizens through issuing advertisements directed to selling agents which contained incomplete information, in violation of Insurance Code sections 780, 781, 785(a), 790.03(a) and (b). These advertisements contain one line summaries of key provisions of Midland National's Guaranteed Income Solution annuity product. Midland National used these advertisements to communicate the features of this annuity product to its appointed agents and entice them to sell Guaranteed Income Solution annuities. The following advertisements list the terminal illness and nursing home riders mentioned above in Paragraph 11, but fail to state that these riders will not be automatically included as part of the Guaranteed Income Solution annuity if the purchaser is age 75 or older on the date Midland National issues the annuity. These advertisements are: 9160Y-HTML; 9343Y-HTML; 9359Y-HTML; 9457Y 4/04; 9458Y 4/04; 9459Y-HTML; 9427Y-HTML; and 9503Y-HTML.

13.

During or about February 2004, Midland National issued and began disseminating Guaranteed Income Solution brochure number 9116Y (Rev. 2/04) which mentions the nursing home confinement rider and terminal illness rider in a section entitled "Liquidity Features". The age limitation on these riders is not mentioned in the main text of the brochure, but a footnote is located behind the name of each of these riders. However, in order to find out the age limitation, the reader must go to the last page of the brochure, where the information is hidden in the third paragraph of italicized typeface and the footnote numbers are a minuscule font size, making it difficult for the reader to find out this information. Guaranteed Income Solution brochure number 9116Y (Rev. 2/04) is misleading and/or deceptive to consumers who are senior citizens in that it fails to clearly state the age cutoff on the riders, in violation of Insurance Code sections 780, 781, 785(a), 790.03(a) and (b) and California Code of Regulations, title 10, sections 2547.4(a) and 2547.5(a).

14.

During approximately 2009, Midland National disseminated an annuity product brochure for the Guaranteed Income Solution (form 9116Y Rev. 8-08). This brochure conceals the age limitations of the nursing home confinement and terminal illness riders by referring the reader to a small print footnote on the last page of the brochure, which makes it difficult for the reader to find out this information. Guaranteed Income Solution brochure number 9116Y (Rev. 8-08) is misleading and/or deceptive to consumers who are senior citizens in that it fails to clearly state the age cutoff on the riders, in violation of Insurance Code sections 780, 781, 785(a), 790.03(a) and (b) and California Code of Regulations, title 10, sections 2547.4(a) and 2547.5(a).

15.

In approximately December 2003, Midland National issued and disseminated to its appointed agents an information sheet on the Guarantee Bonus 15 annuity that failed to state that the bonus is added to the accumulation value in increments at the end of the eighth, ninth, and tenth contract years, thereby misleading the agents as to when clients who purchase the Guarantee Bonus 15 annuity would receive the bonus, constituting a violation of Insurance Code sections 780 and 790.03(a) and (b).

PRAYER AND NOTICE OF MONETARY PENALTY

WHEREFORE, Petitioner prays for judgment against Midland National, as follows:

(a) An Order to Cease and Desist from engaging in such unfair acts and practices in violation of Insurance Code section 790.03 and other Insurance Code sections and related statutes, as set forth above;

(b) Pursuant to Insurance Code section 790.035, for willful acts in violation of Insurance Code section 790.03, a penalty in an amount to be fixed by the Commissioner not to exceed ten thousand dollars ($10,000.00) for each act; and for each unfair or deceptive act or practice not found to be willful, a penalty in an amount to be fixed by

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the Commissioner not to exceed five thousand dollars ($5,000.00) for each act.

(c) Pursuant to Insurance Code section 782, a fine not exceeding twenty-five thousand dollars ($25,000.00), or in a case in which the loss of the victim exceeds ten thousand dollars ($10,000.00), by a fine not exceeding three (3) times the amount of the loss suffered by the victim. Restitution to the victim ordered pursuant to section 1202.4 of the Penal Code shall be satisfied before any fine imposed by this section is collected.

(d) Pursuant to Insurance Code section 783.5, the suspension of the insurer's certificate of authority for knowingly violating any provision of Insurance Code sections 780 or 781, or knowingly permitting any officer, agent, or employee to do so.

(e) Pursuant to Insurance Code section 789.3(d), an administrative penalty of ten thousand dollars ($10,000.00) for the first violation of Article 6.3 of Chapter 1, Part 2, Division 1 of the Insurance Code, entitled "Senior Insurance".

(f) Pursuant to Insurance Code section 789.3(e), for knowing violations or violations of Article 6.3 of Chapter 1, Part 2, Division 1 of the Insurance Code, entitled "Senior Insurance", which occur with such frequency as to indicate a general business, an administrative penalty of no less than thirty thousand dollars ($30,000.00) for the first violation and no more than three hundred thousand dollars ($300,000.00) for each violation;

(g) Pursuant to Insurance Code section 789.3(f), rescission of any contract found to have been marketed, offered or issued in violation of Article 6.3 of Chapter 1, Part 2, Division 1 of the Insurance Code, entitled "Senior Insurance", which includes Insurance Code section

785.

DATED: 9/12/14

CALIFORNIA DEPARTMENT OF INSURANCE

By Jodi S. Lerner

JODI S. LERNER
Senior Staff Counsel

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In the Matter of the Licenses and Licensing Rights of MIDLAND NATIONAL LIFE INSURANCE COMPANY, Respondent.	)))))))	DECLARATION OF SERVICE BY MAIL File No. DISP-2008-00060 OAH No. 2013020429

I am over the age of 18 years, and not a party to this cause.

I am an employee at the Department of Insurance, State of California, employed at 45 Fremont Street, 21st Floor, San Francisco, CA 94105.

On September 12, 2014, at San Francisco, California, I sealed into an envelope and deposited in the United States mail, postage there upon fully prepaid, true copies of the following documents in the above entitled matter; the original, or a true copy, of each document served is attached hereto; said copies were addressed as follows:

C THIRD AMENDED ORDER TO SHOW CAUSE AND ACCUSATION AND DECLARATION OF SERVICE were mailed to:

Sanford Michelman David M. Samuels Taylor Burras David Hauge Michelman & Robinson, LLP 15760 Ventura Boulevard, 5th Floor Encino, CA 91436	**BY U.S. MAILAND E-MAIL** SMichelman@mrlp.com DSamuels@mrlp.com tburras@mrlp.com dhauge@mrlp.com
David B. Rosenman Administrative Law Judge Office of Administrative Hearings 320 West Fourth Street, 6th Floor Los Angeles, CA 90013 laxfilings@dgs.ca.gov	**BY E-MAIL**

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 12, 2014, at San Francisco, California.

Florinda Cristobal, Declarant

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