

1 CALIFORNIA DEPARTMENT OF INSURANCE
2 LEGAL DIVISION

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8 **BEFORE THE INSURANCE COMMISSIONER**
9 **OF THE STATE OF CALIFORNIA**

10 **SACRAMENTO**

11 In the Matter of the Licenses and Licensing
Rights of

12 MEGA LIFE & HEALTH
INSURANCE COMPANY,

13 MID-WEST NATIONAL LIFE
14 INSURANCE COMPANY OF
TENNESSEE,

15 Respondents.
16

File No. UPA01017778
OAH No. N2004030501

ORDER TO SHOW CAUSE
(Ins. Code §§ 790.03, 790.05; 790.035;
10172.5(b), (c), 10123.13);

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18 I. **ORDER TO SHOW CAUSE**

19 The Insurance Commissioner of the State of California (Commissioner) has reason to
20 believe that the above respondents, have been engaged and/or are engaging in this State in unfair
21 or deceptive acts or practices as set forth in the statement of charges contained herein, each falling
22 within Section 790 et seq. of the California Insurance Code (CIC) and title 10, California Code of
23 Regulations (CCR) sections 2695.1 through 2695.17.

24 The Commissioner has reason to believe that a proceeding with respect to the alleged acts
25 of respondents would be in the public interest.

26 Therefore, pursuant to the provisions of section 790.05 of the CIC, respondents, MEGA
27 LIFE & HEALTH INSURANCE COMPANY (MEGA) and MID-WEST NATIONAL LIFE
28 INSURANCE COMPANY OF TENNESSEE (MID-WEST), are ordered to appear before the

1 Commissioner, or his authorized representative, on the 7th and 8th day of June, 2004, at the
2 Office of Administrative Hearings, 560 J Street, Suite 300, Sacramento, California, at 9:00 a.m.,
3 and show cause, if any cause there be, why the Commissioner should not issue an Order to said
4 Respondents requiring them and each of them to Cease and Desist from engaging in the methods,
5 acts, and practices set forth herein and for payment of penalty pursuant to CIC section 790.035, as
6 set forth in the Statement of Monetary Penalty and as otherwise prayed for herein.

7 **II. JURISDICTION**

8 A. The California Department of Insurance (Department) brings this matter before the
9 Commissioner pursuant to the provisions of CIC section 790 et seq. and section 12900 et seq.

10 **III. PARTIES**

11 A. MEGA is, and has been since from September 04, 1984, a holder of a Certificate of
12 Authority (Certificate Number 2976-9) issued by the Commissioner to act in the capacity of a
13 Life and Disability Insurer.

14 B. MID-WEST , a subsidiary of MEGA, is, and has been since December 11, 1986, a
15 holder of a Certificate of Authority (Certificate Number 3067-6) issued by the Commissioner to
16 act in the capacity of a Life and Disability Insurer.

17 **IV. FACTUAL ALLEGATIONS**

18 A. The Department conducted a Market Conduct Examination (examination) of
19 MEGA and MID-WEST pursuant to the authority granted under CIC sections 730, 733, 736, and
20 790.04; and title 10, CCR, section 2695.3, subsection (a). The on-site portion of said examination
21 was conducted from April 9, 2001 through April 27, 2001, in Dallas, Texas.

22 B. During said examination the Department reviewed a sample of 654 out of a total
23 population of 84,227 claim files that were closed by MEGA during the period of February 1,
24 2000 though January 31, 2001. Of the 654 claim files reviewed, violations of applicable
25 provisions of the CIC and CCR were found in at least 75 files, representing 116 separate and
26 distinct violations of the CIC and/or CCR.

27 C. In addition, the Department reviewed a sample of 435 of a total population of
28 63,888 claim files that were closed by MID-WEST during the period of February 1, 2000 through

1 January 31, 2001. Of the 435 files reviewed, violations of applicable provision of the CIC and/or
2 CCR were found in at least 45 files, representing 45 separate and distinct violations of the CIC
3 and/or CCR.

4 D. Prior to the on-site portion of said examination, the Department requested
5 and received from Respondents' a claims detail report depicting the total number of claims during
6 the audit period including the dates each claim was received, denied and/or paid. A review of this
7 document has identified further violations. A summary of the list of said violations is attached as
8 Exhibits C and captioned: Summary of Total Claims Data.

9 E. All identifying and privileged information regarding the claim files referenced in
10 these pleadings has been redacted from the exhibits attached hereto for purposes of publication on
11 the Department's public website pursuant to the provisions of CIC Section 12938.

12 **V. STATEMENT OF CHARGES RE: MEGA**

13 A. Exhibit "A-1" hereto provides a list of 12 claims in which Mega failed to disclose
14 all benefits, coverage, time limits or other provisions of the insurance policy. Each act constitutes
15 a violation of title 10, CCR, section 2695.4, subsection (a) and CIC section 790.03 subsection
16 (h)(1), (3) and (5).

17 B. Exhibit "A-2" hereto provides 3 claims in which Mega has failed to record in the
18 claim file the date the Company received, date(s) the Company processed and date the Company
19 transmitted or mailed every relevant document in the file. Each act constitutes a violation of
20 CCR, section 2695.3, subsection (b)(2) and CIC section 790.03, subsection (h) (2) and (3).

21 C. Exhibit "A-3" hereto provides 1 claim file in which Mega failed to maintain all
22 documents, notes and work papers (including correspondence) which reasonably pertain to each
23 claim in such detail that pertinent events and the dates of the events can be reconstructed and the
24 licensee's action pertaining to the claim can be determined. Each act constitutes a violation of
25 CCR, section 2695.3, subsection (a) and CIC section 790.03, subsection (h)(2) and (3).

26 D. In 1414 instances (1370 provided in Exhibit "C-2" and 54 identified during the on-
27 site and set forth in Exhibit "A-4" – ten of which are duplicated in Exhibit "C-2") Mega failed to
28 effectuate prompt, fair and equitable settlement of the claim in which liability had become

1 reasonably clear. The company failed to notify the claimant in writing within 40 calendar days of
2 receipt of the claim that the claim was contested or denied; or the Company failed to reimburse
3 claims as soon as practical, but not later than 40 calendar days after receipt of the claim. Each act
4 constitutes a violation of CCR section 2695.7, subsection (b) which also is a violation of CIC
5 Section 790.03, subsection (h)(5).

6 E. Exhibit A-5 hereto provides 1 claim file in which MEGA failed to adopt and
7 implement reasonable standards for the prompt investigation and processing of claims. Each act
8 constitutes a violation of CIC section 790.03, subsection (h)(3).

9 F. Exhibit A-6 hereto provides 1 claim file in which MEGA failed to include a
10 statement in their claim denial that, if the claimant believes the claim has been wrongfully denied
11 or rejected, he or she may have the matter reviewed by the California Department of Insurance.
12 Each act constitutes a violation of CCR section 2695.7, subsection (b)(3) which also is a violation
13 of CIC section 790.03, subsection (h)(3).

14 G. Exhibit A-7 hereto provides 31 claim files in which MEGA failed to notify the
15 beneficiary that interest will be paid or failed to specify the rate of interest. Said acts constitute
16 violations CIC section 10172.5, subsection (b) and CIC section 790.03, subsection (h)(3) and (5).

17 H. Exhibit A-8 provides Six claims in which MEGA failed to reimburse claims within
18 a reasonable period of time. Each act constitutes a violation of CIC section 10172.5, subsection
19 (c) which also is a violation of CIC section 790.03, subsection (h)(3) and (5).

20 I. Exhibits C-1 and C-3 hereto provide 14,637 claims (1 of which is identified as
21 part of the on-site examination (Exhibit A-9)) in which MEGA failed to pay interest on an
22 uncontested claim after thirty working days and failed to notify the claimant in writing that the
23 claim was contested or denied and further failed to reimburse the claim as soon as practical, but
24 no later than 30 working days after receipt of the claim. Each act constitutes a violation of CIC
25 section 10123.13 which is a violation CIC section 790.03, subsection (h)(3) and (5).

26 K. As provided in the paragraphs III-A – VI-D, above, Mega, has failed to adopt and
27 implement reasonable standards for the prompt investigation and processing of claims as required
28 by CIC section 790.03, subsection (h)(3)

1 L. As provided in paragraphs V-A through V-K, above, MEGA has failed to carry out
2 their contracts in good faith and or conducting its business fraudulently. Said acts constitute a
3 violation of CIC section 704.

4 M. The total number of claims processed by Respondent, MEGA, during the audit period
5 was 84,227. The pattern and frequency of the acts and violations alleged in paragraphs herein
6 demonstrate they were undertaken knowingly or constitute a general business practice.

7 **VI. STATEMENT OF CHARGES RE: MID-WEST**

8 A. In 215 instances (Exhibit C-5 provides 186 claims and Exhibit "B-1" lists 34
9 claims which were identified as part of the on-site examination (5 of which are duplicated in
10 Exhibit C-6) in which MID-WEST failed to effectuate prompt, fair and equitable settlements of
11 claims in which liability had become reasonably clear. Each act constitutes a violations of CCR
12 section 2695.7, subsection (b) and which constitute violations of CIC section 790.03, subsection
13 (h)(5).

14 B. Exhibit B-2 hereto provides one claim in which MID-WEST failed maintain
15 a claim file containing all documents, notes and work papers which pertain to the claim. Each act
16 constitute a violation of CCR section 2695.3 subsection (a) which also is a violation of CIC
17 section 790.03, subsection (h)(5).

18 C. Exhibits C-4 and C-6 hereto provide a list of 13,958 claims (eleven of which were
19 identified as part of the on-site examination (Exhibit B-3)) in which MID-WEST failed to notify
20 the claimant in writing within 30 working days of receipt of the claim that the claim was
21 contested or denied; or, failed to reimburse the claim as soon as practical, but no later than 30
22 working days after receipt of the claim and further, failed to pay interest on the claim after 30
23 working days. Each act constitute a violation of CIC section 10123.13 which also is a violation
24 of CIC section 790.03, subsection (h)(5).

25 E. As provided in the paragraphs VI-A through VI-D, above, MID-WEST, has failed to
26 adopt and implement reasonable standards for the prompt investigation and processing of claims
27 as required by CIC section 790.03, subsection (h)(3).

28 F. As provided in paragraphs VI-A through VI-E, above, MID-WEST, has

1 failed to carry out their contracts in good faith and or conducting its business fraudulently. Said
2 act constitute a violation of CIC section 704.

3 G. The total number of claims processed during the audit period by MID-WEST, was
4 63,888. The pattern and frequency of the acts and violations alleged in paragraphs herein
5 demonstrate they were undertaken knowingly or constitute a general business practice.

6 **VIII. STATEMENT OF MONETARY PENALTY [CIC §§790.05 & 790.35]**

7 A. The facts alleged in paragraphs III-A through VI-G, above, constitute grounds for the
8 Commissioner, pursuant to CIC sections 790.05 and 790.35 to impose an order that Respondents,
9 MEGA and MID-WEST, and each of them, cease and desist from engaging in such unfair and
10 deceptive practices and pay a civil penalty not to exceed five thousand (\$5,000) dollars for each
11 act, or if the act or practice is willful, a civil penalty not to exceed ten thousand (\$10,000) dollars
12 for each act.

13 B. The facts alleged in paragraphs III-A through VI-F above, constitute grounds for the
14 Commissioner to suspend their Certificates of Authority for a period not to exceed on year
15 pursuant to CIC section 704, subsection (b) or, pursuant to CIC section 704.7, to impose a fine in
16 an amount not exceeding \$55,000 in lieu of said suspensions.

17 **IX. PRAYER**

18 The Commissioner requests, with regard to Respondents Mega and Mid-West, the
19 following:

20 A. Pursuant to CIC Section 790.05 an Order to Cease and Desist engaging in such unfair
21 acts or practices in violation of CIC Section 790.03, as set forth above;

22 B. Pursuant to CIC Section 790.035, for willful acts in violation of section 790.03 and
23 CCR sections 2695.1 through 2695.17, as set forth above, a penalty in an amount to be fixed by
24 the Commissioner not to exceed ten thousand dollars (\$10,000.00) for each act; and/or for each
25 unfair or deceptive act or practice not found to be willful, a penalty in an amount to be fixed by
26 the Commissioner not to exceed five thousand dollars (\$5,000.00) for each act;

27 C. Pursuant to CIC sections 10123.13 and 10172.5 pay interest at an amount to be
28 determined on each of the claims found not to have been paid in compliance with those sections;

1 and,

2 D. For acts in violation of CIC section 704, subsection (b), suspension of the
3 Respondents', and each of their, Certificates of Authority for a period not exceeding one-year or,
4 in lieu thereof, a fine in the amount of fifty-five thousand (\$55,000) dollars.

5 Date: March 23, 2004.

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JOHN GARAMENDI,

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Insurance Commissioner

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By: _____

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WESLEY E. KENNEDY
Senior Staff Counsel

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