

1 CALIFORNIA DEPARTMENT OF INSURANCE  
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  
12 Rights of

13 THE MEGA LIFE & HEALTH  
INSURANCE COMPANY,

14 MID-WEST NATIONAL LIFE  
15 INSURANCE COMPANY OF  
16 TENNESSEE,

17 Respondents.

File No. UPA01017778  
OAH No. N2004030501

[PROPOSED] SETTLEMENT AGREEMENT  
(Ins. Code §§ 790.03, 790.05; 790.035;  
10172.5(b), (c), 10123.13);

18 The Insurance Commissioner of the State of California ("the Commissioner") and The  
19 MEGA Life and Health Insurance Company (MEGA) and the Mid-West National Life Insurance  
20 Company of Tennessee (Mid-West) hereby enter into this compromise settlement agreement as  
21 follows:

22 A. MEGA is, and has been since September 4, 1984, a holder of a Certificate of  
23 Authority (Certificate Number 2976-9) issued by the Commissioner to act in the capacity of a  
24 Life and Disability insurer. Mid-West, a sister company of MEGA, is, and has been since  
25 December 11, 1986, a holder of a Certificate of Authority (Certificate Number 3067-6) issued by  
26 the Commissioner to act in the capacity of a Life and Disability insurer.

27 B. The Commissioner undertook an examination of the claims handling practices of  
28 MEGA and Mid-West pursuant to the authority granted under California Insurance Code ("CIC")

1 sections 730, 733, 736, and 790.04; and title 10, CCR, section 2695.3, subsection (a). The  
2 examination reviewed claims files closed by MEGA and Mid-West during the period of February  
3 1, 2000 though January 31, 2001 (“the audit period”). As part of the audit, MEGA and Mid-West  
4 provided to the Commissioner a claims data report which included all claims closed by them  
5 during the audit period. MEGA and Mid-West represent that during the audit period they  
6 processed only group and blanket, health and life claims.

7 C. As a result of the examination and on March 23, 2004, the Commissioner issued  
8 an Order to Show Cause in the above-captioned action (“this action”). On May 6, 2004, the  
9 Commissioner issued a First Amended Order to Show Cause. This action alleges that MEGA and  
10 Mid-West have engaged in unfair or deceptive acts or practices in violation of CIC section 790 et  
11 seq. On August 11, 2004, the Commissioner issued a Second Amended Order to Show Cause.

12 D. MEGA and Mid-West filed and served Notices of Defense to each Order to Show  
13 Cause, in which they each denied that they had violated any of the cited provisions of law.

14 E. MEGA and Mid-West and the Commissioner wish to resolve the allegation  
15 pertaining to the claims alleged in this action, without further need for a hearing or administrative  
16 action. The Commissioner believes it is in the public interest to resolve this action without further  
17 proceeding, and therefore enters into this settlement agreement.

18 F. This settlement is not an admission of liability, wrongdoing or violation of law,  
19 and no factual findings or legal conclusions have been made.

20 G. This settlement agreement shall release MEGA and Mid-West of liability only for  
21 those claims closed during the audit period as expressly alleged in this action; provided, however,  
22 the Commissioner agrees not to seek penalties or take other enforcement action in connection  
23 with any calculation and delay in processing of claims closed, and payment of interest on claims  
24 closed, for the period January 1, 1998 through January, 2000, except as it may pertain to the  
25 enforcement of this settlement agreement and any order issued thereon.

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1 Accordingly, the Commissioner, MEGA and Mid-West agree as follows:

2 1. Within 30 days of the service of an Order adopting this settlement agreement,  
3 MEGA and Mid-West will submit to the Commissioner a corrective action plan which will  
4 address and respond to each type of violation identified in this action. Such plan shall include the  
5 creation of policies and procedures for the training of claims handling staff and shall specifically  
6 include the identification and implementation of systems for calculation and payment of interest  
7 and compliance with the statutory and regulatory provisions set forth in the Second Amended  
8 Order To Show Cause. Mega and Mid-West shall submit, with the plan of correction, documents  
9 and details of the training to be provided including the nature, duration, providers and  
10 participants. Mega and Mid-West shall create and maintain and make available to the  
11 Commissioner a contemporaneous written record of the training provided.

12 2. If MEGA and Mid-West violate any of the terms of this settlement agreement, the  
13 Commissioner may bring further enforcement action, including, but not limited to, those remedies  
14 provided pursuant to CIC sections 704 and 790 et seq.

15 3. Within nine (9) months of the service of an order of the Commissioner adopting  
16 this settlement agreement, MEGA and Mid-West shall:

17 (i) identify each group claim for which a benefit was closed by them between January  
18 1, 1998 and January 31, 2001, in which any obligation existed during such periods to  
19 pay interest pursuant to CIC section 10123.13 and, if not already paid, calculate and  
20 pay such interest to each claimant or policyholder or assignee.

21 (ii) identify each life insurance claim closed by them between January 1, 1998 and  
22 January 31, 2001, in which any obligation existed during such period to pay interest  
23 pursuant to CIC section 10172.5 and, if not already paid, calculate and pay such  
24 interest to each claimant or policyholder or assignee.

25 (iii) identify each blanket claim closed by them between January 1, 1998 and January  
26 31, 2001, in which any obligation to pay interest existed during such period under the  
27 provisions of any policy and, if not already paid, calculate and pay such interest to  
28 each claimant or policyholder.

1 (iv) provide to the Commissioner, such information pertaining to each claim for  
2 which interest is due, in ACL or similar format and on a compact disc. Such  
3 information shall include (1) policyholder and/or claimants name, (2) claim number,  
4 (3) date claim received, (4) date of service, (5) date proof received, (6) date paid, (7)  
5 total amount of claim (8) total amount paid, (9) total amount of interest paid and (10)  
6 rate of interest.

7 (v) In undertaking their duties under this paragraph, MEGA and Mid-West shall  
8 attempt to locate all policyholders/claimants and assignees entitled to receive interest  
9 payments by requesting that the U.S. Postal Service provide a forwarding address with  
10 any returned mail.

11 (vi) if the U.S. Postal Service is unable to provide a forwarding address for a  
12 policyholder/claimant, the monies due to the policyholder or claimant shall be subject  
13 to the escheat laws of the State of California.

14 (vii) MEGA and Mid-West shall certify to the Commissioner that the interest  
15 payments are made in accordance with this settlement agreement and the CIC. To the  
16 extent that MEGA and Mid-West engage the services of a third party vendor in order  
17 to comply with this paragraph, MEGA and Mid-West agree that their contract with  
18 that vendor will expressly provide for the Commissioner's ability to review the work  
19 product of that vendor in connection with the audit of the claims identified in this  
20 paragraph.

21 4. MEGA and Mid-West waive any right to a hearing and/or further review of this  
22 action.

23 5. The Commissioner, pursuant to CIC section 790.05, shall issue an order, effective  
24 immediately upon service, that MEGA and Mid-West cease and desist from engaging in those  
25 methods of unfair acts or practices as alleged in this action.

26 6. MEGA shall pay a monetary penalty of \$100,000 within 30 days of the receipt of  
27 invoice for the same by the California Department of Insurance.

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1           7.       Mid-West shall pay a monetary penalty of \$100,000 within 30 days of the receipt  
2 of invoice for the same by the California Department of Insurance.

3           8.       This settlement agreement resolves only those violations alleged in this action as  
4 to claims closed during the audit period. As to claims closed in the period January 1, 1998  
5 through January 31, 2000, this settlement agreement resolves only the issues of the delay in  
6 processing of claims closed and the calculation and payment of interest thereon.

7           9.       The Commissioner reserves the jurisdiction and right to take any appropriate  
8 action necessary to enforce the terms of this agreement.

9           10.      If this settlement agreement is approved by the Commissioner, it will be a public  
10 record pursuant to Government Code §11517(e), and will be accessible to the public pursuant to  
11 the Public Records Act, Government Code §6250 *et seq.* This settlement agreement and any  
12 order issued pursuant to this settlement agreement will be posted on the Department's web site as  
13 required by CIC section 12968.

14          11.      MEGA and Mid-West acknowledge that CIC section 12921 requires that that this  
15 settlement agreement and any terms contained herein are not final unless and until expressly  
16 approved by the Commissioner as evidenced by an order of the Commissioner expressly adopting  
17 this settlement agreement.

18          12.      The parties have freely and voluntarily executed this settlement agreement and  
19 have been represented by and have consulted with counsel throughout these proceedings.

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13. The entire terms of the settlement agreement between the parties are set forth herein. No party is relying on any representation(s) or assurance(s) for entering into this settlement agreement other than as expressly as set forth herein.

Dated:

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PHIL MYHRA  
President of The MEGA Life and Health  
Insurance Company and President of  
Mid-West National Life Insurance Company  
of Tennessee

Dated:

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WESLEY E. KENNEDY  
Senior Staff Counsel  
for the Commissioner of the Department of  
Insurance