

JAMESON C. WALKER
Office of the Commissioner of
Securities & Insurance
840 Helena Avenue
Helena, MT 59601
(406) 444-3467

Attorney for the Insurance Department

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE STATE AUDITOR
STATE OF MONTANA**

IN THE MATTER OF:) Case No.: INS-2010-65
Aetna Life Insurance Company, NAIC #60054) **CONSENT AGREEMENT AND**
Respondent.) **FINAL ORDER**

This Consent Agreement and Final Order (Agreement) is entered into by the Insurance Department of the Montana Commissioner of Securities and Insurance, office of the State Auditor (CSI), acting pursuant to the authority of the Montana Insurance Code, Mont. Code Ann. § 33-1-101, *et seq.*, (Insurance Code), and Aetna Life Insurance Company, an insurance company with a principal place of business in Hartford, Connecticut (Respondent).

RECITALS

WHEREAS, on October 27, 2009, the CSI requested information regarding Respondent's group long-term care policies. The letter inquired whether gender or marital status had been considered in calculating premium for any Montana residents;

WHEREAS, on November 30, 2009, a senior Actuary for Respondent stated that from 2005-2010, Respondent mistakenly applied a 10 percent spousal discount to ten Montanans with coverage under these policies. The Actuary affirmed to the best of his knowledge that: 1) only

ten Montana residents had been issued this discount; 2) Respondent discontinued selling group long-term care insurance and the mistake was unlikely to happen again; and 3) gender and marital status are not currently utilized in underwriting, rating, forms and endorsements subject to the laws of Montana;

WHEREAS, the CSI alleges the Respondent violated Mont. Code. Ann. § 49-2-309(1) by considering marital or gender status in calculating premium; and

WHEREAS, the CSI and the Respondent agree that the best interests of the public would be served by entering into this Agreement.

NOW THEREFORE, in consideration of the mutual undertakings contained in this Agreement, the CSI and the Respondent hereby agree to settle this matter pursuant to the following terms and conditions:

STIPULATIONS AND CONSENTS

- I. Without admitting or denying any of the CSI's allegations, the Respondent stipulates and consents to the following:
 - A. The Commissioner of Securities and Insurance (Commissioner) and the CSI have jurisdiction over the subject matter of the above-entitled proceeding.
 - B. Within ten days from the execution of this Agreement, the Respondent shall pay a \$5,000.00 fine to the state of Montana. The fine should be made payable to the "State of Montana" and sent to the CSI, c/o Jameson C. Walker, Attorney, 840 Helena Avenue, Helena, MT 59601.
 - C. Respondent shall not issue policies in Montana in violation of Mont. Code Ann. § 49-2-309(1).

D. Respondent agrees to comply with the terms and conditions of this Agreement, the Insurance Code and all other regulations of the state of Montana.

E. Respondent further understands that, upon the signing of the Final Order by the Commissioner or her representative, this Agreement will be an order of the Commissioner and failure to comply with the same may constitute separate violations of the Montana Insurance Code, pursuant to Mont. Code Ann. § 33-1-318, and/or other applicable statutes or rules, and may result in subsequent legal action by the CSI.

F. Respondent understands that the Agreement is a public record under Montana law and, as such, may not be sealed or otherwise withheld from the public.

G. Respondent understands that this Consent Agreement is not effective until such time as the Final Order is signed.

H. Respondent fully and forever releases and discharges the CSI, the elected Commissioner and all CSI employees from any and all actions, claims, causes of action, demands, or expenses for damages or injuries that may arise from the allegations underlying this Agreement, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of the action.

I. Respondent specifically and affirmatively waives a contested case hearing and all rights to appeal under the Montana Administrative Procedure Act, Mont. Code Ann. § 2-4-101, *et seq.*, and elects to resolve this matter on the terms and conditions set forth herein;

II. All parties to this Agreement agree as follows:

A. Under authority of the Insurance Code, the CSI hereby agrees that it will not initiate any civil or administrative action against Respondent regarding the allegations contained in this action.

B. The applicable statute of limitation, Mont. Code Ann. § 33-1-318 is tolled for two years from the date of execution of this Agreement with regard to the allegations set forth above. In the event Respondent violates the terms of this Agreement at any time during the two-year tolling period, the CSI reserves the right to seek additional fines of up to \$25,000.

C. This Consent Agreement shall be incorporated and made a part of the attached Final Order issued by the Commissioner herein.

D. This Consent Agreement constitutes the entire agreement between the parties, there being no other promises or agreements, either express or implied.

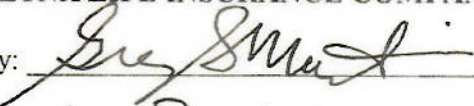
DATED this 9th day of September, 2010

INSURANCE DEPARTMENT

By: 
JAMESON C. WALKER
Attorney

DATED this 20th day of August, 2010

AETNA LIFE INSURANCE COMPANY

By: 
Its: Vice President

FINAL ORDER

Pursuant to the authority vested by Mont. Code Ann. § 2-4-603 and § 33-1-101, *et seq.*, and upon review of the foregoing Consent Agreement and good cause appearing,

IT IS HEREBY ORDERED that the foregoing Consent Agreement between the CSI and Respondent Aetna Life Insurance Company is adopted as if set forth fully herein.

DATED this 9th day of SEPTEMBER, 2010.

MONICA J. LINDEEN
Commissioner of Securities and Insurance
Montana State Auditor

By: Robert Moon
ROBERT MOON
Deputy Insurance Commissioner

cc. Jameson C. Walker
Aetna Life Insurance Company