THE COMMONWEALTH OF MASSACHUSETTS

OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

Division of Insurance

Report on the Limited Scope Multi-State Market Conduct Examination of

Boston Mutual Life Insurance Company

Canton, Massachusetts

For the Period January 1, 2002 through April 30, 2005

NAIC COMPANY CODE: 61476

EMPLOYERS ID NUMBER: 04-1106240

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JULIANNE M. BOWLER
COMMISSIONER OF INSURANCE

February 27, 2006

Honorable Julianne M. Bowler,
Secretary, Northeast Zone
Commissioner of Insurance
Division of Insurance
Commonwealth of Massachusetts
One South Station
Boston, Massachusetts 02110-2208

Dear Commissioner Bowler:

Pursuant to your instructions and in accordance with Massachusetts General Laws, Chapter 175, Section 4, a limited scope multi-state examination has been made of the market conduct affairs of

BOSTON MUTUAL LIFE INSURANCE COMPANY

at its home office located at:

120 Royall Street
Canton, MA 02021

The following report thereon is respectfully submitted.

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SCOPE OF EXAMINATION

The Massachusetts Division of Insurance (the "Division") conducted a limited scope multi-state market conduct examination of Boston Mutual Life Insurance Company ("Boston Mutual" or "Company") for the period January 1, 2002 to April 30, 2005 ("the examination period.") The market conduct examination was called pursuant to authority in Massachusetts General Laws (M.G.L.) Chapter 175, Section 4. The market conduct examination was conducted at the direction of, and under the overall management and control of, the market conduct examination staff of the Division, with input from the Georgia Department of Insurance and the Texas Department of Insurance ("TDI"), the other lead state regulators. The focus of the market conduct examination was directed to the Company's sales and underwriting practices and complaint handling procedures for products sold to military personnel in the United States and at military facilities in Europe. Thus, all testing procedures described within this report were generally limited to insurance polices sold through the Company's military distribution channel. Although such procedures related primarily to military sales, some recommendations have been broadened to include other lines of business to ensure that problems incurred in the military sales channel are prevented in other lines of business. As a result, Required Actions are included throughout the report to address the findings and observations. Representatives from the firm of Rudmose & Noller Advisors, LLC ("RNA") were engaged to complete certain agreed upon procedures. In addition, a representative from the TDI assisted RNA in completing such agreed upon procedures.

A tailored audit approach was developed using the guidance and standards of the National Association of Insurance Commissioners ("NAIC") *NAIC Market Conduct Examiner's Handbook,* the market conduct examination standards of the Division, the Commonwealth of Massachusetts and other state insurance laws, regulations and bulletins. All procedures were performed under the management and control and general supervision of the market conduct examination staff of the Division, with input from other lead states. The following describes the procedures performed, findings and required actions for the workplan steps thereon.

EXECUTIVE SUMMARY

This executive summary is intended to provide a high-level overview of the market conduct examination results. The primary focus of the market conduct examination was the Company's sales and underwriting practices and complaint handling procedures for products sold to United States military personnel. Thus, all testing procedures described within this report were generally limited to insurance policies sold through the military distribution channel. The body of the report provides the background, procedures performed and observations, and required actions.

The Division considers a substantive issue one in which required actions on part of the Company are necessary. Since certain observations noted significant control deficiencies that may be applicable to the Company's other lines of business, in several instances we have provided Required Actions relating to all lines of business to ensure that problems incurred in the military sales channel are prevented in other lines of business. The Board of Directors should further evaluate the root causes that resulted in the substantive control deficiencies identified and undertake required actions to address the issues with products sold to military personnel and to address similar issues in all other lines of business and jurisdictions to the extent appropriate. Such corrective action and monitoring by the Board of Directors for all areas identified in the examination should commence immediately and be completed as soon as possible. A written report of the corrective action taken and monitoring conducted must be provided to the Division by June 30, 2006.

The following is a brief summary of substantive issues noted as a result of the limited scope multi-state market conduct examination of the Company. Required actions addressing these issues are found in the body of the report.

COMPLAINT HANDLING

The Company's complaint handling processes and procedures failed to properly identify and track customer's written complaints in its complaint database in possible violation of M.G.L. c. 176D, § 3(10). Such violations may be unfair trade practices in violation of Massachusetts statutes and may be violations of unfair trade practices in other jurisdictions. Further, unreasonable deference was routinely given to agents when oral and written complaints regarding agent conduct were made. As a result, numerous written complaints, oral complaints and negative written responses included in the Company's customer satisfaction surveys were not properly handled in a timely manner, or in some cases, addressed at all. Required actions to address these deficiencies are noted on page 12 and on pages 28-29.

MARKETING, SALES AND UNDERWRITING

Sales materials for the military channel have not been updated in several years and contain inappropriate agent sales guidance in possible violation of M.G.L. c. 176D, § 3(1)(a), (f), (2) and M.G.L. c. 175, § 181. Such findings may be unfair trade practices in violation of

Massachusetts statutes and may be violations of unfair trade practices in other jurisdictions. Our testing revealed that customer insurance needs assessment procedures were deficient. As a result, inappropriate sales were made to entry level enlisted military personnel with low pay grades (less than $18,000 annual salary) who often had at least $250,000 of life insurance through the military's low cost insurance plan. Further, the Company's underwriting department does not meaningfully review or challenge the customers' needs assessment performed by the agent. In numerous instances no needs assessment was performed by the agent. Required actions to address these deficiencies are noted on page 15.

Our testing also revealed significant problems with the Company's handling of replacement transactions. For replacement transactions, agents were not required to complete a needs assessment. Thus, a needs assessment was not performed. Further, the Company's oversight of agents who often replace is inadequate. In a few instances, the Company failed to provide timely notice to replaced carriers in violation of 211 CMR 34.06. Required actions to address these deficiencies are noted on pages 17-18.

The Company's persistency experience for its military sales business is far below industry benchmarks and the Company's goals. Persistency measured by the number of policies issued during the examination period and remaining in force as of April 30, 2005 was 56%. Moreover, for policies terminating during the examination period, 77% terminated within the first year of the sale. Thus, the Company failed to appropriately monitor the persistency of its military sales. The high termination rate within the first year after the sale is an indicator that customers were likely dissatisfied with their purchases or did not understand their policies. Required actions to address these deficiencies are noted on page 20.

PRODUCER LICENSING AND SUPERVISION

The Company failed to use due care in appointing many of its agents based on our review of information noted in the credit checks conducted for those producers prior to appointment. Further, the Company's training efforts for agents are inadequate and fail to properly communicate the Company's policies and procedures for submission of new business and proper customer care.

The Company lacks firm guidelines or resulting punitive actions in instances where its agents do not adhere to such business policies and procedures. As a result, the Company failed to adequately supervise three of its Texas agents and allowed the three Texas agents to continue selling Boston Mutual products for a period up to 15 months when customer service phone calls, complaint activity and customer satisfaction surveys indicated serious sales practice violations. Further, Company management responsible for oversight of the three Texas agents in the general agencies department, were aware of serious sales practice issues and repeatedly failed to take timely and appropriate enforcement actions against these agents. These actions, when taken as a whole, may be unfair trade practices in violation of M.G.L. c. 176D, § 3(1)(a), (f), (2) and M.G.L. c. 175, § 181. Such actions may be violations of unfair trade practices in other jurisdictions.

Finally, the Company's efforts to track and report agent terminations and sales practice violations to the compliance and legal departments and to regulatory authorities are substandard. Required actions to address the producer licensing and supervision deficiencies are noted on pages 25-26.

POLICYHOLDER SERVICE

Written customer satisfaction survey responses with significant complaints have not been fully addressed or were not addressed timely. Additionally, several written customer satisfaction survey responses were incorrectly summarized on a spreadsheet which is designed to allow for an overall review of the survey results provided by customers. Thus, the Company failed to address timely or sufficiently respond to numerous customer comments which should have been deemed written complaints according to the Company's definition of a complaint in possible violation of M.G.L. c. 176D, § 3(10). Required actions to address these deficiencies are noted on pages 28-29.

BACKGROUND

Boston Mutual is a mutual life insurance company which has traditionally offered small face whole life products to low and middle income individuals through individual agents. Some policies are guaranteed issue, but many are underwritten in a simplified manner. In addition, the Company has a worksite marketing program where employers allow the Company to sell its products to employees with premiums paid by employees through payroll deduction. The Company also writes group life business, much of it produced through third party administrators. Boston Mutual was formerly an Insurance Marketplace Standards Association ("IMSA") certified company, but as of November 21, 2005, IMSA notified the public that the Company failed to re-qualify for membership. The Company is headquartered in Canton, Massachusetts and domiciled in Massachusetts. The Company does business in all states, Puerto Rico and on U.S. military bases in Europe. Boston Mutual's statutory surplus as of December 31, 2004 was $67.2 million.

In the last two years, regulators in several states have uncovered unfair and misleading sales practices of life insurance and annuities to military personnel by a number of companies. In response, the NAIC is facilitating a multi-state collaborative effort led by regulators in Georgia and Texas. The NAIC has also developed a consumer brochure to provide military personnel with a basic understanding of life insurance. In addition to the limited scope multi-state market conduct examination of Boston Mutual, there are a number of other companies currently under examination or investigation by other state insurance regulators.

In certain cases, the following factors have caused military personnel to be unaware they purchased life insurance: (1) products are misrepresented as savings/investment vehicles and not as life insurance because military personnel can elect to purchase a low-cost $250,000 term policy under the Servicemembers' Group Life Insurance ("SGLI") for active military or Veterans' Group Life Insurance ("VGLI") for veterans; (2) automatic payroll deductions (allotments) on military pay stubs may lead military personnel to not understand that money is being used to purchase insurance; (3) the insurance policies are often delivered by the companies to the producer or to the home address of military personnel who reside on a military base, and thus the policyholder has not always received the policy; or (4) some sales presentations, which may have been tied to general military financial education efforts, have misled military personnel to incorrectly believe that they are receiving financial advice from the Federal Government and not an insurance solicitation.

The TDI identified three Boston Mutual appointed agents (referred to through the remainder of this report as "the three Texas agents"), Steven Williams, Jennifer Graham, and Cynthia Graham, who sold 966 polices at or near Ft. Hood, Texas using misleading and unfair sales practices from early 2003 to early 2005. During that period, the Company failed to adequately supervise the actions of the three Texas agents. In 2005, all three of the agents' appointments were terminated "for cause" by Boston Mutual. The Company is cooperating with the TDI to investigate the full nature and extent of improper sales by the three Texas agents. In addition, the Company is taking corrective action at the direction of the TDI with regard to insurance polices sold by the three Texas agents.

The Boston Mutual product sold to military personnel is a participating whole life policy without a war exclusion clause for the basic policy, but it does include a war exclusion clause for accidental death benefits. The basic policy is identical to that sold in the civilian market except that the civilian product includes a war exclusion clause.

The Company has operated in the military market since 1973. The market is a relatively small one for the Company and represents approximately $3.38 million in sales from January 1, 2002 through April 30, 2005 or approximately $1 million in sales per year. Approximately 5,000 life insurance policies were sold during the 40 month period. The following table shows $3.2 million of sales over the 40 month period by region for the highest volume regions or 95% of sales during that period.

Sales By Region	**2002**	**2003**	**2004**	**Thru April 2005**	**Total**
Texas	$ 52,272	$385,928	$498,888	$87,422	$1,124,510
Tennessee	$325,629	$ 94,251	$129,910	$34,970	$ 584,760
Illinois	$ 17,028	$171,461	$204,717	$74,099	$ 467,305
California	$130,088	$ 93,504	$ 60,610	$44,203	$ 328,405
Germany	$ 81,187	$ 65,931	$110,873	$36,163	$ 294,154
Washington	$ 52,884	$ 54,245	$ 60,467	$27,856	$ 195,452
Louisiana	$ 51,307	$ 66,786	$ 31,560	$ 1,202	$ 150,855
Georgia	$ 29,641	$ 42,937	$ 11,056	$ 838	$ 84,472
Massachusetts	$ 3,005	$ 26,520	$ 26,229	$ 6,983	$ 62,737

Sales are made by independent general agents, the majority of whom were supervised by a non-employee sales director located in Illinois. The Company's highest volume agent, by number of policies sold over this period with 689 polices, is an agent based in Tennessee ("Tennessee agent"). Sales are generally made off-base although some agents have authority to develop relationships and gain access on-base. The Company is registered with the Department of Defense to gain entrance to overseas bases.

The commission structure pays agents as much as 115% of first year premium with renewal commissions ranging between 8% – 15% of annual premiums. General agents are paid 55-90% of first year premium and approximately 10% on renewal premiums. Commissions are advanced up to 70% of annual premium per sale. Underwriting efforts are somewhat simplified with nearly all who apply receiving a policy with a face value under $100,000. Medical underwriting is more rigorous for higher face value policies.

The key objectives of this examination were determined by the Division with input from other lead states and emphasis on the following areas.

COMPLAINT HANDLING

Objectives:

- Review and gain an understanding of the Company's policies and procedures with respect to written complaints.
- Review detailed complaint activity for indications of sales practice issues.
- Evaluate the Company's handling of complaints.

Procedures Performed and Observations:

RNA interviewed customer service, compliance and general agencies personnel with responsibility for handling customer complaints. The Company receives written complaints from various state insurance departments or through direct correspondence with its customers. The Company also receives oral and written complaints through its customer service department via the telephone and written complaints through its customer satisfaction survey program where new policyholders are asked to comment about the sales process and about how well they understand their policies. Historically, the Company's policy regarding non-routine oral complaints obtained via telephone required the customer to make a statement in writing to be considered a complaint. Such written statements, once received, were then treated as a complaint. Written responses received from the customer satisfaction survey program, no matter how negative, were not considered a complaint and were often not addressed by the Company.

In early 2005, as a result of problems with the three Texas agents, Boston Mutual's definition of a complaint was revised to state that "a complaint is a written communication that expresses a grievance against the company, its agents, its employees, its products, or its practices. Complaints may come to us from a policyholder, a state insurance department, an attorney, or a federal or state agency or consumer organization. While regulations use the description written communication, Boston Mutual will also include complaints communicated to us via e-mail, our website or phone calls because we want to make it easy for consumers to communicate with us." M.G.L. c. 176D, § 3(10) requires the Company to have procedures to address written complaints. Additionally, Company personnel have been instructed to contact the Vice President and Chief Compliance Officer with significant oral complaints for follow-up and inclusion in the Company's complaint database.

Since adoption of the new policy, there appears to be confusion among various Company Departments as to what constitutes a complaint. This confusion may explain why oral complaints or written complaints received as a result of the Company's customer satisfaction survey program have not been deemed to be complaints for inclusion in the Company's complaint database.

All complaints are logged, and the disposition of each complaint is tracked in the Company's complaint database. The Company's compliance department has responsibility for monitoring and maintaining the complaint database.

Insurance department complaint data related to military sales follows:

Insurance Department Complaints by Type	**2002**	**2003**	**2004**	**Through 4/30/2005**	**Total**
Producer Issues –Texas agents[1]	0	2	5	18	25
Producer Issues –All other agents	4	1	0	1	6
Customer Service & Other	3	2	2	1	8
Total	**7**	**5**	**7**	**20**	**39**

The significant increase in military complaints in 2005 is the result of complaints received by the TDI related to the three Texas agents that have been terminated "for cause" by Boston Mutual. As noted in other sections of this report, the Company failed to respond adequately to numerous oral complaints and written customer satisfaction survey responses warning that the three Texas agents' conduct was improper several months before the agents were terminated. The Company is taking corrective action with regard to such policyholders and has cooperated with the TDI by sending a written survey, approved by the TDI, to all policyholders who were sold a policy by the three Texas agents. Any such policyholder filing a written complaint or responding to the TDI approved survey stating that the policy was misrepresented, that they did not understand their military benefits, or that they did not receive their policy were given a full refund of all premiums paid, reimbursement of any other costs incurred and cancellation of their insurance polices for those in-force, if they request such cancellation.

RNA reviewed each of the 39 nationwide written complaints relating to military sales and customer service. We noted the written complaints appear to have been responded to with appropriate resolution except for two written complaints regarding two agents. In these two cases, the Company either did not fully investigate the written complaint or grant the requested refunds. Further, in 17 of the 39 written complaints, the resolution was not timely based upon a 21 day response standard. The delay in the Company's responses were caused by the Company's investigations giving deference to the agents by allowing them to respond to the Company regarding the customers' written complaints prior to the Company determining whether the written complaints were justified. However, we noted the agents frequently failed to respond to the Company's requests for additional information concerning written complaints in a timely manner, or in some instances, not at all. These findings with regard to the Company's handling of written complaints may be unfair trade practices in violation of M.G.L. c. 176D, § 3(10). Such actions may be violations of unfair trade practices in other jurisdictions.

[1] Refers to the three Texas agents the Company terminated by the Company.

<u>Required Actions</u>:

The Company shall investigate and resolve all oral and written complaints timely and fairly. Specifically, the Company shall do the following:

- Institute procedures to ensure oral and written complaint investigations that require input or a response from an agent are handled timely. The Company shall require its agents to respond to its request for information within seven business days and institute procedures to enforce disciplinary action for non-responding agents in accordance with its contract with such agent. Moreover, failure of an agent to respond timely should be a significant factor in resolving the oral or written complaint in the policyholder's favor.

- Provide full refunds to the two customers in response to their written complaints cited above and report such actions to the Division and the TDI.

- Clarify the Company's revised complaint policy adopted in early 2005 to all Company personnel and establish procedures to ensure that all oral and written complaints for all lines of business received through the customer service department via the telephone and through the customer satisfaction survey program are treated as complaints. All complaints must be responded to in writing by the Company. If the agent is referenced in the complaint, a copy of the complaint shall be sent to the agent in a timely manner. In these cases, the agent must timely provide a written response to the Company. The complaints must also be included on the Company's complaint log. (See Policyholder Service Required Actions.)

- Enhance the Board of Director's monitoring of all complaint handling policies and procedures for all lines of business. The Board shall require that the internal audit function conduct more frequent and in-depth testing and monitoring than is currently conducted to evaluate compliance with all Company complaint handling practices for all lines of business. In addition, the internal audit function shall report quarterly to the Board of Directors regarding all findings and any recommendations.

MARKETING, SALES AND UNDERWRITING

Objectives:

- Gain an understanding of the Company's current military products and any association marketing arrangements.
- Review any home office prepared or approved advertising materials used by the military sales channel for false or misleading statements.
- Review policies and procedures for home office approval of sales materials including illustrations and evaluate for adequacy.
- Review the Company's sales policies and practices and evaluate for adequacy.
- Review and gain an understanding of the company's policies and procedures to address various statutory requirements with respect to underwriting and rating and evaluate such policies and procedures.
- Review policies and procedures for compliance with various statutory requirements with regard to sales including replacements and illustrations.

Procedures Performed and Observations:

Sales, Marketing and Underwriting Practices (Excluding Replacements)

Boston Mutual states that illustrations are provided during the sale where required by statute. The policy form is approved in the states where the policies are sold. Boston Mutual states it is not involved with, or a member of, any military marketing associations. All of Boston Mutual's military sales are made by appointed agents under contract with the Company.

Our review of sales materials for the military channel concluded that such materials have not been updated in several years and do not appear to have been approved by the compliance or legal departments prior to use as several items in the materials contained inappropriate sales guidance for agents. For example, the materials instructed the agent when meeting with the consumer to "create a need." Further, the sales materials suggested explaining the whole life product to the consumer by equating permanent insurance with "owning" and term insurance with "renting." Such findings may be unfair trade practices in violation of M.G.L. c. 176D, § 3 (1)(a), (f), (2) and M.G.L. c. 175, § 181. Such actions may be violations of unfair trade practices in other jurisdictions.

RNA sampled 100 insurance polices sold during the examination period, excluding the business sold by the three Texas agents. Of the 100 insurance policies selected, 50 were policies that remained in-force as of April 30, 2005, and 50 were polices that lapsed, were surrendered or were "not taken" by the policyholder prior to April 30, 2005. RNA reviewed each sale transaction to evaluate the Company's use of proper insurance applications; approved policy forms; required policy summaries, illustrations, and disclosure forms; replacement procedures and disclosures (when applicable), underwriting or needs assessment guidelines, and properly licensed/appointed agents. Our observations and results of our testing are as follows:

- For the 100 sales sampled -

  - Forty-one (41) of the 100 sales lacked adequate documentation to determine whether a sufficient needs assessment was performed by the agent. For example, several of the insurance application sections which describe an applicant's income, assets, dependants, or other insurance information were incomplete. Also, we noted two additional applications where the needs assessment was completed and indicated that the need was "savings." We also noted at least 27 of the 100 sales were made to military personnel at the E-3, or lower, pay grade. Entry or lower level enlisted positions typically comprise E-1 through E-3 pay grades, and most of such applicants were single males under age 21 earning less than $18,000 per year. Since a significant number of the applicants we tested had at least $250,000 of the military's term SGLI, we believe the Company should have required its agents to document that they have fully assessed the applicant's need for life insurance.
  - Seventeen (17) of the 100 sales lacked documentation that a disclosure notice regarding the Company's maintenance of privacy information was delivered at the time the application was taken as required by Company policy and regulation in some jurisdictions.
  - Two agents were not properly appointed in the jurisdiction where the sale occurred.

- For the 50 lapsed, surrendered and "not taken" sales sampled -

  - Seven of the 50 policies were "not taken" as the applicant exercised his or her option under the "free look" provision to decline acceptance or delivery of the insurance policy.
  - Sixteen (16) of 43 lapsed and surrendered policies were in-force two months or less.
  - Twenty-eight (28) of 43 lapsed and surrendered policies were in-force less than six months.
  - Thirty-six (36) of the 43 lapsed and surrendered policies were in-force less than one year.
  - In our view, the high number of policies terminating within the insurance policy's first year is an indicator that customers were likely dissatisfied with their purchases or did not properly understand their policies.

Required Actions:

The Company shall institute new procedures as follows:

- Revise the military sales material to remove inappropriate sales guidance. All existing sales, training and advertising materials for all Company products and distribution channels should undergo an immediate review to be completed by the compliance and legal departments by June 30, 2006. Both the legal and compliance departments shall sign off and approve all sales, training and advertising material developed by the Company prior to use. This approval shall be documented for later monitoring and follow-up. The results of this review shall be reported to the Company's Market Conduct Committee and the Board of Directors.
- Require that Company will verify that all questions on the insurance application and agent's statement (Form NB-1) with regard to needs assessment are adequately answered when business is submitted to the home office. The underwriting department shall review the needs assessment contained on Form NB-1, and concur with the assessment, if appropriate, and document their concurrence prior to policy issuance.
- Revise all sales and underwriting manuals to include the new needs assessment procedures and guidelines. Specifically, any such procedures and guidelines must address needs assessment for sales to military personnel with a pay grade of E-1 through E-3 and those who have SGLI or VGLI.
- Implement procedures to ensure that the required disclosure notice regarding the Company's maintenance of privacy information was delivered at the time the application was taken.
- Enhance the Board of Director's monitoring of compliance with Company policies and procedures including those stated herein with regard to the performance of needs assessment procedures during the sales process. The Board should strongly consider requiring that the internal audit function conduct review and testing of compliance with needs assessment procedures and provide timely reporting to the Board of such findings and any recommendations.

Replacements

The Division's market conduct examination report dated May 1, 2004, which covered the period January 1, 2001 to June 30, 2003, cited several observations and recommendations with regard to the Company's practices and procedures regarding replacement sales and oversight. The report noted, among other observations and findings regarding replacements, that the Company was not requiring the agent to submit Form NB-104 as required by Company policy for internal replacements and noted that oversight of replacement activity of the Company's District Office agents was inadequate. As a result, examination recommendations included the required use of Form NB-104 for all Company internal replacements and new oversight procedures to be instituted over high replacing agents in the Company's District Office.

As noted above, RNA sampled 100 insurance polices sold during the examination period and tested attributes for each of the sampled transactions. Our observations and results for those that were replacements are as follows:

- Replacements included in the 100 sales sampled -

  - Six of the 100 sales were external replacement transactions whereby Boston Mutual was replacing another carrier's insurance policy. Such transactions also require timely notice to the replaced carrier, generally within seven days after the home office receives notice of the replacement. The Company failed to provide timely notice to the replaced carrier in four of the six sales. Also, one of the six sales lacked documentation that required state replacement disclosure notice was provided to the applicant.
  - Four of the 100 sales involved an internal replacement whereby Boston Mutual was replacing one of its own insurance policies. In connection with the sale of insurance products which are internal replacements, Boston Mutual's needs assessment process includes the completion of Company Form NB-104, which must be signed by the agent and customer at the time of sale. The purpose of this form is to clearly identify the customer's need to replace a previous policy, so that the Company can document its determination that the proposed sale meets those needs. The agent failed to complete the Form NB-104 for all four of the internal replacement transactions, and the Company failed to require the completion of the form. Also, three of the four sales lacked documentation that required state replacement disclosure notices were provided to the applicants.
  - One of the transactions involved an internal replacement of an insurance policy on a child that subsequently lapsed. The Company failed to include the sales transaction on its replacement register. The undisclosed internal replacement did not have the required replacement disclosure forms. Moreover, we noted the undisclosed internal replacement was the second replacement transaction on the same child as a prior external replacement transaction occurred in April of 2001. Thus, all three policies (two Boston Mutual and one other) terminated through lapse or replacement by the time the child was age four. There is no evidence that the underwriting department challenged these replacements to ensure that they were in the customers' best interests. As such, these transactions may be unfair trade practices in violation of M.G.L. c. 176D, § 3(1)(a), (f), (2) and M.G.L. c. 175, § 181. Such transactions may be violations of unfair trade practices in other jurisdictions.

As a result of our findings noted above, we expanded our testing of the Company's oversight over replacements and agents who often replace. We reviewed the Company's replacement register for the examination period and noted that one of the Company's military sales agents, the Tennessee agent, replaced a high number of policies over that period. He also had the highest number of replacements of all Company agents for all lines of business for the Company for the period June 1, 2004 to February 10, 2005. Based on our inquiries of the Company, no oversight of replacement activity by agent is conducted by the home office. From the replacement registers for the examination period, we selected 20 replacements throughout the period including some replacements sold by the Tennessee agent.

- For the 20 replacements sampled -

  - All 20 of the sales had documentation that required state replacement disclosure notices were provided to the applicant. However, for the two of the 20 sales that were internal replacements, Form NB-104 was not utilized.
  - Sixteen (16) of the 20 replacements were sales for the same face value and/or were replacing policies issued by companies with higher ratings from A.M. Best (a nationally recognized insurance industry rating organization) with no compelling justification about why the replacements were in the customers' best interests. There was no evidence that the underwriting department challenged the proposed replacements to ensure that they were in the customers' best interests.
  - Two of the 20 sales had no documentation that a needs assessment was performed.
  - Two of the 20 sales had documentation showing that notice to the replacing carrier was not timely in violation of 211 CMR 34.06.
  - One of the 20 sales had documentation showing that notice to the replacing carrier was sent to the wrong carrier and that the replacing carrier was never notified of the replacement in violation of 211 CMR 34.06.

<u>Required Actions</u>:

- The Company shall update its underwriting and sales manuals to expand the procedures regarding replacements to describe (1) who within the Company will be responsible for locating replacement transactions and ensuring that such transactions are included on the Company's replacement register, (2) how and when such periodic searches for replacements will occur; and (3) how such periodic searches for replacements will be supervised and monitored.

- The underwriting and sales manuals shall be updated to include and require the use of Form NB-104 for all replacement transactions. To effectively implement the use of Form NB-104, the Company shall amend the home office underwriting approval form to include a question asking whether Form NB-104 was properly completed by agent for all replacements. The underwriting department will critically evaluate the completion of the form to ensure that the replacement was in the customer's best interest as provided by law or regulation and further acknowledged by customers with their signatures.

- The Company shall institute new written policies, guidelines and procedures for the home office review and approval of all replacement transactions by the underwriting department. The guidelines for reviewing replacement transactions shall address instances where the face value of the new policy is unchanged from the existing policy. The Company's policy shall require that in these instances, justification for the replacement shall be required to be in the customer's best interest as provided by law or regulation and that the rationale for such justification shall be adequately documented on Form NB-104.

- The Company shall institute new procedures to ensure that notice is provided to the replacing carrier when the application is received in the home office on a timely basis in all instances.

- The Company's compliance department shall institute new procedures to monitor all of its agents' replacement activity monthly. Those agents who replace three or more policies per month shall be closely monitored and investigated to ensure that the level of replacement activity is appropriate and that the replacements are in the customers' best interests. The Company shall retain documentation supporting these monthly reviews for subsequent monitoring. The compliance department shall report to the Company's Market Conduct Committee and the Board of Directors quarterly on the results of this monitoring.

- The Company shall provide refunds to the family of the child noted earlier who was insured under two Company policies terminated by the time the child was age four.

- Enhance the Board of Director's monitoring of compliance with Company policies and procedures including those stated herein with regard to replacement procedures and oversight of agents who frequently replace. The Board should strongly consider requiring that internal audit function conduct review and testing of compliance with replacement procedures and of oversight procedures for agents who frequently replace with timely reporting to the Board of such findings and any recommendations.

Persistency Analysis as a Measure of Appropriate Needs Assessment Procedures

In order to further analyze lapse and surrender activity, RNA obtained the Company's data for all military sales occurring during the examination period. For that period, the persistency measured by the number of insurance policies issued during the period and remaining in-force was as follows:

Total Military Sales 1/1/02-4/30/05	**Number of Insurance Policies**	**Percentage**
Total Sales	5,015	100%
In-Force at 4/30/05	2,801	56%
Not Taken by Policyholder	510	10%
Lapsed or Surrendered	1,704	34%

We also analyzed the data by excluding the three Texas agents, which accounted for 400 of the lapsed or surrendered (terminated) insurance policies. As a result, we noted a small improvement or increase in the in-force ratio of 6 percentage points. However, the improvement in the in-force ratio is largely offset by the decrease of 4 percentage points in insurance policies "not taken" during the "free look" period. Thus, the termination ratio is comparable between the two data sets. We also observe the percentages reflect the cumulative termination rate as of April 30, 2005 of all military business sold during the examination period. As a result, the cumulative termination rate is positively influenced by inclusion of recent sales which have not fully developed reliable persistency data. We further analyzed the insurance policies sold by the issue year and the in-force rate of those policies as follows:

In-Force Ratio by Sales Year	All Military Sales	Military Sales Excluding the Three Texas Agents
2002	55%	55%
2003	43%	50%
2004	61%	72%
Thru 4/30/2005	90%	95%

Boston Mutual's company-wide persistency goal is 80% measured after 25 months. Management stated the goal for the military market is lower at 70% after 25 months. Excluding the three Texas agents, the in-force ratio for business written is 55% and 50% in 2002 and 2003, respectively. Thus, the Company's actual persistency is far below their 70% goal. In addition, the persistency of the Company's business is 15-33% lower than the average of other Companies' whole life persistency based on LIMRA industry studies. It is likely 2004 sales will also fall short of the Company's 70% goal once the 25 month measurement period is reached. When analyzing Boston Mutual's military sales lapses, the number and percentage of policies that terminated by aging period follows:

Period of Termination	Cumulative Number of Terminations by period	Cumulative Percentage of Terminations by Period
<31 days	17	1%
<61 days	347	20%
<91 days	574	37%
<121 days	766	45%
<151 days	884	52%
<181 days	961	56%
<271 days	1198	70%
<361 days	1361	80%
>361 days	343	20%
Total Terminations	1,704	100%

This analysis indicates the percentage of terminations within the first year are significant with 56% of terminated polices occurring within the first 6 months, 70% of terminated policies occurring within 9 months, and 80% of terminated policies occurring within the first year. Thus, for those policies that lapse or are surrendered, it is likely that the termination will occur in the first year. We believe a high termination rate within the first year after an insurance policy is sold is an indicator that customers were likely dissatisfied with their purchases or did not understand their policies.

We noted inappropriate sales materials were disseminated to agents as described on page 13 of this report. In addition, as noted in our detail testing of the 50 terminated insurance polices, we further believe that appropriate needs assessment was not conducted at the point of sale by the agent or Boston Mutual since significant numbers of policyholders terminated their policies within the first year either because they could not afford them, did not understand them, or did not need them. Moreover, based upon the high first year termination percentages noted above, the Company failed to appropriately monitor the persistency of its military sales or ascertain the root causes for the poor persistency. Thus, we conclude that a significant portion of the Company's sales to military personnel were inappropriate and may be unfair trade practices in violation of M.G.L. c. 176D, § 3(1)(a), (f), and (2); and M.G.L. c. 175, § 181. Such actions may be violations of unfair trade practices in other jurisdictions.

Required Actions:

- The Company shall develop an analysis tool for evaluating the persistency of new business for all products and distribution channels for indications of problem sales and poor agent conduct. The analysis tool shall enable the Company to prepare a report of the Company's products' persistency along with a comparison to comparable LIMRA persistency averages or other comparable commonly available industry persistency data. This report shall be provided quarterly to the compliance and legal departments for review and subsequent action to address persistency problems. Additionally, the Company's Market Conduct Committee shall review the persistency report and proposed actions and provide the findings and actions to the Board of Directors quarterly.

- The Company shall make full refunds to all former military policyholders whose policies were in-force beginning January 1, 2002 through April 30, 2005 who subsequently lapsed or surrendered their policies within one year after policy issuance. Policyholders who were sold policies by the three Texas agents and have not already received full refunds shall be included in this relief. The Company shall provide the Division with evidence, upon request, that the efforts to locate former policyholders are rigorous and exhaustive. Such efforts shall include the use of or consultation with third parties or their databases, and consultation with the Department of Defense, to locate these former policyholders as approved by the Division.

PRODUCER LICENSING AND SUPERVISION

<u>Objectives</u>:

- Review the Company's policies and procedures with respect to agent recruitment, contracting and appointment and evaluate for adequacy.
- Review procedures for training of agents and evaluate for adequacy.
- Review commission chargebacks and current debit balances for military sales agents.
- Review policies and procedures for supervisory oversight of agents and determine whether such policies and procedures are adequate.
- Review terminated agents, the reason for such terminations and efforts to report agents terminated for cause to various regulatory authorities.

<u>Procedures Performed and Observations</u>:

General Policies and Procedures

RNA reviewed the policies and procedures surrounding agent recruitment, contracting, appointment, training, compensation, supervision and termination. RNA and representatives from the Division and the TDI interviewed the sales director who was instrumental in recruiting agents for the military channel and who, along with the Company's general agencies department, had responsibility for agent supervision. The sales director provided information about agent recruitment, training and supervision efforts, particularly as they related to the three Texas agents. In addition to our discussions with the sales director, we interviewed representatives of the general agencies department and reviewed documentation relating to agent recruitment, supervision, commissions and terminations.

Agents are recruited primarily by referral from existing agents. Many producers who learn that Boston Mutual serves the military market may also contact the Company directly and seek to be appointed by the Company. For several years, Company policy has required that credit checks be conducted prior to appointing an agent. Recently, the Company also began to require that criminal background checks also be conducted prior to appointment. Once the licensed producer is appointed by signing a written contract, the Company's supervision is the responsibility of the sales director and the general agencies department.

The commission structure pays agents as much as 115% of first year premium with renewal commissions ranging between 8% – 15% of annual premiums. General agents, who also may oversee agents, are paid 55-90% of first year premium and approximately 10% on renewal premiums. Commissions are advanced up to 70% of annual premium per sale. Agent terminations are either "for cause" or "in accordance" with the contract. Agent commissions are charged back to the agent, the general agent and at times to the sales director when agents are terminated or when active agents' business sold does not meet persistency goals.

The Three Texas Agents

With regard to the three Texas agents, the first agent, Steven Williams was recruited by the sales director and appointed by the Company in March 2003. Customer service phone logs throughout 2003 reveal extensive concerns and oral complaints by customers. According to customer service management, when oral complaints were received in customer service throughout 2003, the sales director and the general agencies department were notified of concerns. Several conference calls were held with the sales director and Mr. Williams about his sales and service practices in 2003 and 2004. Written customer satisfaction surveys received by the Company also indicated numerous instances of dissatisfaction with Mr. Williams, and he was asked by the Company to respond to these customers' comments, but Mr. Williams rarely, if ever, responded. The general agencies department often did not follow up to obtain responses from Mr. Williams. Despite the inordinate number of oral complaints and written customer satisfaction survey complaints about Mr. William's conduct, the Company failed to take appropriate action against the agent in 2003 and early 2004.

In addition, four written complaints were received by the Company from August 2003 to February 2004, and an additional written complaint was received in August 2004 regarding Mr. Williams' sales practices. After investigation of the complaints, the Company determined that Mr. Williams engaged in unfair sales practices and failed to deliver policies to customers in all five cases. The Company refunded the customers' money in each case. In mid 2004, the sales director transferred supervisory responsibility for Mr. Williams to the general agencies department. Mr. Williams was warned in a letter from the general agencies department in mid 2004, 15 months after his appointment that his performance (both sales volume and sales practices) must improve. When it did not, he was terminated "for cause" in January 2005. The TDI agent licensing system shows only that the appointment was "cancelled." The NAIC I-SITE system shows that the appointment was "terminated not for cause." In addition, during 2004 the TDI was in the process of conducting general inquiries of military personnel regarding life insurance sales in the Ft. Hood area. As a result of the TDI's inquiries, the TDI contacted the Company regarding Mr. William's sales practices. Subsequently, 10 written complaints have been received by the Company in 2005 regarding Mr. William's sales practices.

The second Texas agent, Jennifer Graham, was recruited by the sales director and appointed by the Company in June 2003. Once appointed, she worked under the sales director's supervision. Customer service phone logs from late 2003 and early 2004 indicate oral complaints about customers not receiving delivery of policies, the agent not returning customer's calls, and sales practice violations. According to customer service management, when oral complaints were received in customer service, the sales director and the general agencies department were notified of concerns. There is minimal evidence that that the sales director or the general agencies department addressed these concerns. Written customer satisfaction surveys also indicated dissatisfaction with Jennifer Graham, and we were told that she was asked to respond to these customers' comments. There is little evidence that she responded and that the general agencies department followed up to obtain a response if none was received.

In addition, two written complaints were received by the Company in March 2004 and October 2004 regarding her sales practices. After investigation of the written complaints, the Company determined that, in one case, Jennifer Graham engaged in unfair sales practices and in the other, failed to deliver a policy to a customer. The Company refunded the customers' money in both cases. In addition, during 2004 the TDI was in the process of conducting general inquiries of military personnel regarding life insurance sales in the Ft. Hood area. As a result of the TDI's inquiries, the TDI contacted the Company regarding Jennifer Graham's sales practices. Subsequently, four additional written complaints were received by the Company in January to May 2005. All four written complaints were found to be valid complaints, and refunds to customers were made. There is little evidence that any supervisory action was taken against Jennifer Graham by the Company until she was terminated in May 2005. The Company's internal documentation shows that the agent was terminated for "lack of production," although we understand that she was terminated "for cause."

The third Texas agent, Cynthia Graham (sister of Jennifer Graham) was recruited by the sales director and appointed by the Company in February 2004. Once appointed, she worked under the sales director's supervision. Customer service phone logs in 2004 reveal complaints about customers not receiving delivery of policies, the agent not returning customer's calls, and sales practice violations. According to customer service management, when oral complaints were received in customer service, the sales director and the general agencies department were notified of concerns. There is no evidence that that the sales director or the general agencies department addressed these concerns. Written customer satisfaction surveys also indicated dissatisfaction with Cynthia Graham, and we were told that she was asked to respond to these customers' comments. There is little evidence that she responded and that the general agencies department followed up to obtain a response if none was received.

During 2004 the TDI was in the process of conducting general inquiries of military personnel regarding life insurance sales in the Ft. Hood area. As a result of the TDI's inquiries, the TDI contacted the Company regarding Cynthia Graham's sales practices. Subsequently, two written complaints were received in January 2005, and one written complaint was received in February 2005 regarding Cynthia Graham which alleged improper sales practices and the agent failing to cancel coverage as requested by the policyholder. Full refunds were given in each of the three cases. An additional written complaint was received in March 2005 alleging sales practice violations and the Company has denied a refund to this customer. (See Complaint Handling Required Actions.) There is little evidence that any supervisory action was taken against Cynthia Graham by the Company until she was terminated in April 2005 "for cause."

Agents' Credit Histories, Commissions and Training

RNA reviewed of credit histories obtained during appointment due diligence. Our review indicated that for the top 30 military channel agents appointed by the Company based on number of sales, 15 (50%) had poor credit records including five (17%) who had judgments against them. Credit reports for nine (30%) of the 30 agents could not be located. Only 6 (20%) had good or strong credit records. Criminal background checks have recently been conducted prior to appointment for producer applicants. No evidence of any applicant having a criminal background was noted for agents subsequently appointed. Our review of commission chargebacks noted no large debit balances other than for known problem agents.

Training of agents was primarily informal with the sales director shadowing a new agent on a few sales calls and then mentoring the agent thorough routine contact. Formal training was not provided by the Company regarding the Company's polices and procedures included in its agents sales manual. We also noted the sales manual was prepared several years ago and included non-current and inappropriate sales guidance to agents. (See Marketing, Sales and Underwriting Practices Required Actions.) An annual sales meeting was also provided to the highest producing agents and devoted a limited amount of time to technical training. Such annual meetings were usually held in resort locations and primarily served as an incentive or reward for the agents' production.

Our review of producer licensing and supervision concludes the following:

- As noted in our sales testing (see Marketing, Sales and Underwriting Practices), for two of the 100 sales tested, the agents were not properly appointed in the jurisdiction where the sale occurred.
- While the Company's policy is to conduct criminal background and credit checks on prospective producers prior to appointment, the Company failed to use due care in appointing many of its agents based on information noted in the credit checks conducted for those producers prior to appointment.
- The Company's training efforts for agents are inadequate and fail to properly communicate the Company's policies and procedures for submission of new business and proper customer care as well as firm guidelines for enforcement of such policies and procedures.
- The Company failed to adequately supervise the three Texas agents and allowed the three Texas agents to continue selling Boston Mutual products for a period up to 15 months when customer service phone calls, complaint activity and customer satisfaction surveys indicated serious sales practice violations. Further, Company management responsible for oversight of the agents in the general agencies department, were aware of serious sales practice issues and repeatedly failed to take timely and appropriate enforcement actions against these agents.

- The Company's efforts to track and report agent terminations and sales practice violations to the compliance and legal departments and to regulatory authorities are substandard.

These actions with regard to producer licensing and supervision, when taken as a whole, may be unfair trade practices in violation of M.G.L. c. 176D, § 3(1)(a), (f), (2) and M.G.L. c. 175, § 181. Such actions may be violations of unfair trade practices in other jurisdictions.

<u>Required Actions</u>:

- Until such time as internal processes and controls can be revised and the revisions approved to the satisfaction of the Board of Directors, responsibility for supervision and oversight of agents by the general agencies department as it relates to compliance issues shall be transferred to the compliance, legal, or other appropriate department which shall report on the progress of the reorganization to the Company's Market Conduct Committee and quarterly to the Board of Directors.

- The Company shall accumulate and evaluate all complaints, customer service satisfaction survey results and oral complaints received by the customer service department and any other known information, such as high replacement activity, obtained by Boston Mutual employees, contractors or general agents relating to potential problem agents in a timely manner. When potential problems are identified, a thorough and complete investigation shall be conducted and documented. All correspondence relating to the matter shall be documented. A watch list of potential problem agents shall be created and maintained by the compliance department. Finally, the Company's decisions with regard to the potential problems will be documented, and the results of the investigations reported to the Company's Market Conduct Committee. The compliance department shall also continually report to the Board of Directors on the quarterly activity with regard to agents on the watch list.

- Credit reports and criminal background checks shall be obtained for all producers prior to appointment. Any producer with unusual activity or entries on either the credit report or the criminal background check shall be presented to the Company's Market Conduct Committee for approval before any such producer is appointed.

- The Company shall develop a short and long-term plan, approved by the legal and compliance departments, with regard to agent training. All agent training shall be planned and directed by the Company and should be tailored to various experience levels of the agents and to the products that they sell. All agents shall receive and successfully complete the first level of training prior to the Company accepting any sales from that agent.

- The Company shall revise its procedures for tracking agent terminations and report any agent terminated "for cause" or for "in accordance" to the appropriate insurance departments immediately along with the cause for such termination. Further, the Company shall provide corrected information to the TDI and to the NAIC through its I-SITE system regarding all terminated agents including Mr. Williams. All such terminations shall be reported to the Company's Market Conduct Committee and quarterly to the Board of Directors.

- The Company shall institute new procedures in the underwriting department to ensure that no United States business is accepted from non-appointed producers.

- Enhance the Board of Director's monitoring of compliance with Company policies and procedures including those stated herein with regard to agent oversight. The Board should strongly consider requiring that internal audit function conduct review and testing of compliance with agent oversight procedures with timely reporting to the Board of such findings and any recommendations.

POLICYHOLDER SERVICE

Objectives:

- Review customer service phone logs and all available summaries for indications of policyholder concerns communicated orally and evaluate the Company's response to such concerns.
- Review the Company's policies and procedures to address written complaint responses to the Company's customer satisfaction survey and evaluate for adequacy.
- Review policies and procedures for lapses and surrenders and evaluate such for adequacy giving special consideration to how the Company reaches and treats policyholders who may be overseas at that time.

Procedures Performed and Observations:

Customer Service Phone Calls

The Company maintains an 800 number call center to respond to customer inquiries and process routine insurance policy changes and transactions. RNA interviewed management and line personnel with responsibility for handling customer service inquiries in the call center and reviewed phone logs of customer service activity. Our review of customer service department phone logs and correspondence indicated that the Company's customer service department appeared to reasonably address policyholder concerns in a timely manner. We also noted that customers of the three Texas agents made vastly more calls than customers of other agents, and the customer service manager stated that the three Texas agents were "legendary" in the customer service department which is another indication of the unusual volume of calls the Company received. We reviewed copies of electronic mail correspondence where recurring problems or trends with particular agents were identified by the customer service department and communicated to the general agencies department in a timely manner for follow-up. Extensive information regarding Mr. Williams was provided to the general agencies department up to 15 months before the agent was terminated. However, we did not find any evidence that such problems were communicated to the compliance or legal departments or to other senior management.

Boston Mutual's definition of a complaint was revised in early 2005 to state that "a complaint is a written communication that expresses a grievance against the company, its' agents, its' employees, its' products, or its' practices. Complaints may come to us from a policyholder, a state insurance department, an attorney, or a federal or state agency or consumer organization. While regulations use the description written communication, Boston Mutual will also include complaints communicated to us via e-mail, our website or phone calls because we want to make it easy for consumers to communicate with us." M.G.L. c. 176D, § 3(10) requires the Company to have procedures to address written complaints. Additionally, Company personnel have been instructed to contact the Vice-

President and Chief Compliance Officer with significant oral complaints for follow-up and inclusion in the Company's complaint database.

Since adoption of the new policy, we have seen no evidence that oral complaints have been deemed to be complaints for inclusion in the Company's complaint database.

Customer Satisfaction Surveys

The Company routinely mails customer satisfaction surveys to policyholders following the issuance of a new insurance policy. The customer satisfaction surveys include several questions regarding the sales process such as inquiries regarding an agent's performance, the source of funds for the new insurance policy, or the customer's understanding of the non-guaranteed values and benefits of the insurance policy purchased. Returned customer satisfaction surveys are received in the Company's home office. Such surveys are then reviewed by Company management and distributed to various departments within the Company for follow-up based upon the nature of the customer's response. The customer satisfaction survey results are also tabulated in a database, summarized, and reported monthly. RNA selected 23 customer satisfaction survey responses with low satisfaction ratings, negative comments regarding an agent, or a customer indicating that he or she did not receive the insurance policy. A majority of the returned surveys needing follow-up by the Company are forwarded to the general agencies department because the nature of the comments relate to an agent's performance, such as failure to deliver an insurance policy. Our review of processes and procedures surrounding the customer satisfaction survey results concludes the following:

- Sixteen (16) of the 23 written customer satisfaction survey responses with significant complaints have not been fully addressed or were not addressed timely.
- Six (6) of 15 written customer satisfaction survey responses were incorrectly summarized on a spreadsheet which is designed to allow for an overall review of the survey results provided by customers.
- Based upon our review, the Company failed to address timely or sufficiently respond to numerous customer comments which should have been deemed written complaints according to the Company's definition of a complaint.
- Since customer satisfaction survey comments have not historically been treated as written complaints by the Company, such written complaints have been improperly excluded from the Company's complaint database and tracking system and may be a violation of M.G.L. c. 176D, § 3(10). Such logging and tracking of all complaints is a key Company control to ensure complaints are reviewed timely and handled appropriately.

Required Actions:

- The Company shall institute procedures to ensure that all oral complaints and customer satisfaction survey responses with significant concerns, complaints or grievances are reviewed, monitored and included as complaints as defined by the

Company. Such complaints shall be responded to in writing by the Company. If the agent is referenced in the complaint, a copy of the complaint shall be sent to the agent in a timely manner. In these cases, the agent must timely provide a response to the Company which shall be documented. All complaints shall be included on the Company's complaint log and monitored by the compliance department.

Lapses and Service of Overseas Policyholders

The Company lapses an insurance policy for non-payment of premium after giving required notices to the policyholder. Policyholder requests to surrender an insurance policy must be made in writing and are processed timely by the Company. The Company's insurance polices contain a "free look" provision whereby a newly delivered insurance policy may be returned for a full refund or "not taken" within its first 30 days.

As noted previously, RNA selected a sample of 50 lapsed or surrendered insurance policies including insurance policies issued overseas. The overseas policyholders appeared to be treated similar to policyholders in the United States. The Company attempts to obtain an additional address, such as that of a relative in the United States in case the policyholder or his or her family is deployed overseas. Also the Company's policy administration system showed that lapse notices were sent in a timely manner. As noted previously in this report, the results of our testing of the lapsed or surrendered insurance policies demonstrated the Company failed to perform sufficient needs assessment on numerous life insurance policies it sold in the military market.

ACKNOWLEDGMENT

This is to certify that the undersigned is duly qualified and that, in conjunction with Rudmose & Noller Advisors, LLC, the Texas Department of Insurance and the Georgia Department of Insurance, applied certain agreed-upon procedures to the corporate records of Boston Mutual in order for the Division of Insurance of the Commonwealth of Massachusetts to perform a limited scope multi-state market conduct examination ("limited scope examination") of the Company.

The undersigned's participation in this limited scope examination as the Examiner-In-Charge encompassed responsibility for the coordination and direction of the examination performed, which was in accordance with, and substantially complied with, those standards established by the National Association of Insurance Commissioners (NAIC) and the *NAIC Market Conduct Examiners' Handbook*. This participation consisted of involvement in the planning (development, supervision and review of agreed-upon procedures), administration and preparation of the limited scope examination report.

The cooperation and assistance of the officers and employees of Boston Mutual extended to all examiners during the course of the examination is hereby acknowledged.

Matthew C. Regan III
Director of Market Conduct &
Examiner-In-Charge
Commonwealth of Massachusetts
Division of Insurance
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