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3 STATE OF OREGON  
4 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
5 DIVISION OF FINANCIAL REGULATION

6 In the Matter of

Case No. INS-16-0262

7 JOHN HANCOCK LIFE INSURANCE  
8 COMPANY (U.S.A.),

ORDER TO CEASE AND DESIST,  
FINAL ORDER ASSESSING CIVIL  
PENALTY AND CONSENT TO ENTRY  
OF ORDER

9 Respondent.

10 The Director of the Department of Consumer and Business Services for the State  
11 of Oregon (“Director”), acting in accordance with Oregon Revised Statutes (“ORS”)  
12 chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 743B, 744, 746, 748 and 750  
13 (“Insurance Code”) has commenced this administrative proceeding, pursuant to ORS  
14 731.256, to take enforcement action against John Hancock Life Insurance Company  
15 (U.S.A.) (“Respondent”); and

16 WHEREAS Respondent wishes to resolve and settle this matter with the Director,

17 NOW THEREFORE, as evidenced by the authorized signatures subscribed on  
18 this order, Respondent hereby CONSENTS to entry of this order upon the Director’s  
19 Findings of Fact and Conclusions of Law as stated hereinafter.

20 FINDINGS OF FACT

21 The Director FINDS that:

22 1. Respondent has been licensed in Oregon as a foreign insurer since May 17,  
23 1956. Respondent’s principal place of business is 601 Congress Street, Boston, MA  
24 02210. Respondent’s National Association of Insurance Commissioners number is  
25 65838.

26 2. On February 11, 2014, Oregon Insurance Division, now the Division of  
Financial Regulation (“Division”), sent a letter to Respondent requesting that Respondent

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1 perform an audit of its long term care and home health care claims for the time period  
2 from January 1, 2011 through February 11, 2014 and report the number of times  
3 Respondent incorrectly calculated the insured's elimination period and/or waiver of  
4 premium date. Respondent performed the audit and reported the following errors:

5 A. For policy number R11006202, Respondent incorrectly calculated the  
6 elimination period and waiver of premium, resulting in \$1,545.58 being owed to the  
7 claimant.

8 B. For policy number R11001561, Respondent incorrectly calculated the  
9 elimination period and waiver of premium, resulting in \$152.90 being owed to the  
10 claimant.

11 C. For policy number R11004126, Respondent incorrectly calculated the  
12 elimination period and waiver of premium, resulting in \$1,461.88 being owed to the  
13 claimant.

14 D. For policy number R12002576, Respondent incorrectly calculated the  
15 elimination period and waiver of premium, resulting in \$29.99 being owed to the  
16 claimant.

17 E. For policy number R10000880, Respondent incorrectly calculated the  
18 elimination period and waiver of premium, resulting in \$686.01 being owed to the  
19 claimant.

20 F. For policy number R12006918, Respondent incorrectly calculated the  
21 elimination period and waiver of premium, resulting in \$228.82 being owed to the  
22 claimant.

23 G. For policy number R10000054, Respondent incorrectly calculated the  
24 elimination period and waiver of premium, resulting in \$111.76 being owed to the  
25 claimant.

26 H. For policy number R13008248, Respondent incorrectly calculated the



1 elimination period and waiver of premium, resulting in \$25.78 being owed to the  
2 claimant.

3 I. For policy number R13009118, Respondent incorrectly calculated the  
4 elimination period and waiver of premium, resulting in \$370.62 being owed to the  
5 claimant.

6 J. For policy number R12001436, Respondent incorrectly calculated the  
7 elimination period and waiver of premium, resulting in \$7.60 being owed to the  
8 claimant.

9 K. For policy number R13002316, Respondent incorrectly calculated the  
10 elimination period and waiver of premium, resulting in \$111.88 being owed to the  
11 claimant.

12 L. For policy number R12002808, Respondent incorrectly calculated the  
13 elimination period and waiver of premium, resulting in \$44.77 being owed to the  
14 claimant.

15 M. For policy number R11004318, Respondent incorrectly calculated the  
16 elimination period and waiver of premium, resulting in \$141.92 being owed to the  
17 claimant.

18 N. For policy number R13005966, Respondent incorrectly calculated the  
19 elimination period and waiver of premium, resulting in \$112.29 being owed to the  
20 claimant.

21 O. For policy number R13000600, Respondent incorrectly calculated the  
22 elimination period and waiver of premium, resulting in \$13.92 being owed to the  
23 claimant.

24 P. For policy number R12003678, Respondent incorrectly calculated the  
25 elimination period and waiver of premium, resulting in \$35.22 being owed to the  
26 claimant.

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1 Q. For policy number R12007753, Respondent incorrectly calculated the waiver  
2 of premium, resulting in \$55.65 being owed to the claimant.

3 R. For policy number R11000257, Respondent incorrectly calculated the waiver  
4 of premium, resulting in \$454.29 being owed to the claimant.

5 S. For policy number R11001365, Respondent incorrectly calculated the waiver  
6 of premium, resulting in \$134.79 being owed to the claimant.

7 T. For policy number R10001059, Respondent incorrectly calculated the waiver  
8 of premium, resulting in \$67.86 being owed to the claimant.

9 U. For policy number JH 008193, Respondent incorrectly calculated the waiver  
10 of premium, resulting in \$191.23 being owed to the claimant.

11 3. On or before April 22, 2014, Respondent refunded the monies described in  
12 paragraphs 2A through 2U to the claimants.

13 4. On October 9, 2015, the Division requested that Respondent provide a list of  
14 all long term care claims and home health care claims that Respondent did not process  
15 within the time required by Oregon insurance regulations. On November 9, 2015,  
16 Respondent provided data to the Division revealing that, between August 29, 2014 and  
17 September 6, 2015, on 122 occasions Respondent failed to respond to the claimant within  
18 30 business days after receiving a claim for long term care or home health care.

19 CONCLUSIONS OF LAW

20 The Director CONCLUDES that:

21 5. Pursuant to ORS 731.252(1), whenever the Director has reason to believe that  
22 any person has been engaged or is engaging or is about to engage in any violation of the  
23 Insurance Code, the Director may issue an order, directed to such person, to discontinue  
24 or desist from such violation or threatened violation.

25 6. Pursuant to ORS 746.230(1)(a), no insurer or other person shall misrepresent  
26 facts or policy provisions in settling claims.

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1 7. Respondent violated ORS 746.230(1)(a) on 21 occasions when it  
2 misrepresented facts and/or policy provisions by incorrectly calculating the elimination  
3 period and/or waiver of premium benefit when settling claims as described in paragraphs  
4 2A through 2U above.

5 8. Pursuant to ORS 743.652(5), “long term care insurance” means any insurance  
6 policy designed to provide coverage for not less than 24 consecutive months for one or  
7 more necessary or medically necessary services, including but not limited to nursing,  
8 diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services,  
9 provided in a setting other than an acute care unit of a hospital.

10 9. Pursuant to Oregon Administrative Rule (“OAR”) 836-052-0770(2), within 30  
11 business days after receipt of a claim for benefits under a long term care insurance policy  
12 or certificate, an insurer shall pay the claim if it is a claim that has no defect or  
13 impropriety, or (a) send a written notice acknowledging the date of receipt of the claim  
14 and that the insurer is declining to pay all or part of the claim and the specific reason for  
15 denial or (b) that additional information is necessary to determine if all or any part of the  
16 claim is payable and the specific additional information that is necessary.

17 10. Respondent violated OAR 836-052-0770(2) on 122 occasions by failing to  
18 respond within 30 business days after receipt of a claim for long term care.

19 11. Pursuant to ORS 731.988(1) the Director may impose a civil penalty of up to  
20 \$10,000 per violation upon any person that violates any provision of the Insurance Code  
21 or any lawful rule or final order of the Director.

22 **ORDERS**

23 Now, therefore, the Director issues the following ORDERS:

24 12. As authorized by ORS 731.252(1), the Director ORDERS Respondent to  
25 CEASE AND DESIST from violating any provision of the Insurance Code or the  
26 administrative rules promulgated thereunder.

1 13. Based upon the foregoing and as authorized by ORS 731.988(1), the Director  
2 ORDERS that Respondent pay a CIVIL PENALTY of \$71,500 as follows:

3 A. A CIVIL PENALTY of \$500 per occurrence for 21 violations of ORS  
4 746.230(1)(a) for a total CIVIL PENALTY of \$10,500.

5 B. A CIVIL PENALTY of \$500 per occurrence for 122 violations of OAR 836-  
6 052-0770(2) for a total CIVIL PENALTY of \$61,000.

7 14. The Director SUSPENDS the collection of \$35,000 of the total CIVIL  
8 PENALTY assessed above, so long as Respondent complies with all terms and  
9 conditions of this Order and all requirements of the Oregon Insurance Code. If  
10 Respondent complies with the terms of this Order and the Director has not initiated an  
11 enforcement action for new violations of the Oregon Insurance Code during the three-  
12 year period from the effective date of this Order, the Director WAIVES the collection of  
13 the suspended CIVIL PENALTY assessed herein.

14 15. The \$36,500 CIVIL PENALTY assessed above that is not suspended is due  
15 and payable at the time this Order is returned to the Division.

16 SO ORDERED this 17<sup>th</sup> day of February, 2017.

17 PATRICK M. ALLEN, Director  
18 Department of Consumer and Business Services

19 /s/ David Tatman  
20 David C. Tatman, Chief of Enforcement  
21 Division of Financial Regulation

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1 CONSENT TO ENTRY OF ORDER

2 I, William Ball, state that I am an officer of John  
3 Hancock Life Insurance Company (U.S.A.) and I am authorized to act on its behalf. I  
4 have read the foregoing order, and I know and fully understand the contents hereof. I  
5 have been advised of the right to a hearing and of the right to be represented by counsel  
6 in this matter. John Hancock Life Insurance Company (U.S.A.) voluntarily and without  
7 any force or duress consents to the entry of this order expressly waiving any right to a  
8 hearing in this matter. John Hancock Life Insurance Company (U.S.A.) understands that  
9 the Director reserves the right to take further actions to enforce this order or to take  
10 appropriate action upon discovery of other violations of the Insurance Code. John  
11 Hancock Life Insurance Company (U.S.A.) will fully comply with the terms and  
12 conditions stated herein.

13 John Hancock Life Insurance Company (U.S.A.) understands that this order is a  
14 public document.

15 /s/ William Ball  
16 Signature

17 William Ball  
18 Printed name

19 Vice President Operations  
20 Office held

21 ACKNOWLEDGMENT

22 There appeared before me this 9<sup>th</sup> day of February, 2017,  
23 William Ball, who was first duly sworn on oath, and stated that  
24 she/he was and is an officer of John Hancock Life Insurance Company (U.S.A.) and that  
25 she/he is authorized and empowered to sign this Consent to Entry of Order on behalf of  
26 John Hancock Life Insurance Company (U.S.A.) and to bind John Hancock Life  
Insurance Company (U.S.A.) to the terms hereof.

/s/ Julie Tamburo  
Signature of Notary Public

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