

MEMORANDUM

Date: August 13, 2007

To: Members of the NAIC

From: Gail M. Sciacchetano, Deputy General Counsel
Noreen Vergara, Staff Attorney

Re: *Beverly Block, et al. v. Ohio State Life Ins. Co., et al*
Case No. 06-CV-04118-GAF

Executive Summary

The lawsuit alleges that The Ohio State Life Insurance Company, its agents and subsidiaries (OSL), materially breached the terms of Plaintiffs' Flexible Premium Adjustable Life insurance policies. These policies required Plaintiffs to pay OSL premiums in return for certain life insurance and investment services. The terms of these policies limited increases in the Cost of Insurance (C.O.I) rate to mortality factors and expectations of future mortality. Plaintiffs allege that OSL increased the C.O.I. rate for reasons unrelated to mortality factors or future mortality and charged Plaintiffs for this increase through their premiums. This action was contrary to the express terms of the policies.

This case was originally filed in the U.S. District Court for the Western District of Missouri, Central Division on December 13, 2001.

There are three (3) elements to the settlement:

1. **"Rollback"**: OSL will voluntarily reduce the C.O.I. rates currently applied to its Flexible Premium Adjustable Life insurance policy, Form 59-2034. The C.O.I. rate scale will be rolled back to that in effect on July 1, 1988;
2. **"Cash Payment"**: OSL will pay a cash benefit equal to \$.50 per \$1,000 of net amount at risk on the insured's policy at the time of the insured's death; and
3. **"Additional Coverage"**: OSL will provide non-transferable accidental death benefit insurance coverage, not to exceed \$350,000 per policy, for one (1) year in an amount equal to the face amount of the Class Member's current policy as of the date of the final approval, or the date the Class Member terminated the policy.

Domiciliary or other Regulator Involvement

No regulatory activities are challenged. The issue is whether OSL materially breached the contractual terms of Plaintiffs' Flexible Premium Adjustable Life insurance policies by

increasing the C.O.I. rate for reasons unrelated to mortality factors or expectations of future mortality.

Contact Information

Settlement information can be obtained by calling 1-888-482-1732, or writing:

Robert Horn and/or Joseph Kronawitter
Horn Aylward & Bandy, LLC
2600 Grand Boulevard
Suite 500
Kansas City, MO 64108

History of the Case

Elizabeth Leukens and Audrie Bates filed a lawsuit against OSL on December 13, 2001. Plaintiffs alleged that OSL breached the terms of their Flexible Premium Adjustable Life Insurance Policies. Beverly Block and Lupe Rodriguez filed a similar lawsuit, on May 31, 2006, against OSL. Plaintiffs' joined their lawsuits and filed an amended complaint requesting class action certification in the United States District Court for the Western District of Missouri on June 11, 2007. This combined lawsuit was filed as a class action on behalf of Plaintiffs and all other similarly situated individuals.

Plaintiffs and OSL entered into the proposed settlement on June 11, 2007. The Court certified this suit as a class action for settlement purposes and granted Preliminary Approval on June 14, 2007. The Final Approval Hearing is scheduled for Friday, September 14, 2007.

Terms of the Proposed Settlement

Settlement Class members are divided into four (4) categories:

Category One (1) Settlement Class Members: All current policyholders as of the date of Final Settlement Approval, for whom OSL has a current address at the time of Preliminary Approval.

Category Two (2) Settlement Class Members: All policyholders who were insured with OSL on June 30, 1990, for whom OSL had an electronically-maintained address as of January 1, 1997. Members of this Category are not current policyholders.

Category Three (3) Settlement Class Members: All policyholders who were insured with OSL on June 30, 1990, but were not insured as of January 1, 1997. OSL does not have an electronically-maintained address for members of this Category.

Category Four (4) Settlement Class Members: All beneficiaries of a Category Two (2) or Category Three (3) class member where the policyholder selected Option B as the method for policy accumulation. Members of this Category must have actually received death benefits from OSL.

Settlement relief will be provided to each Category of Class Members as follows:

Category One (1): Class Members will receive both the Rollback and the Additional Coverage benefits. January 1, 2008, or sixty (60) days after final approval, whichever is later, Class Members will receive an automatic reduction to their policies' C.O.I. rates. The C.O.I. rate shall be adjusted to the C.O.I. rate scale in effect on July 1, 1988. The original terms of the policy will govern any subsequent rate changes. Category One (1) Class Members shall also receive Additional Coverage in an amount equal to the lesser of the face amount of their respective policies as of the date of final approval or \$350,000. Category One (1) Class Members will not be required to submit a Proof of Claim unless the first mailed Class Notice is returned as undeliverable.

Category Two (2) and Category Three (3): Class Members will receive Additional Coverage in an amount equal to the lesser of the face amount of their respective policies as of the date their policies were terminated or \$350,000. Category Two (2) and Category Three (3) Class Members will be required to submit a Proof of Claim on a Claim Form approved by the Court.

Category Four (4): Class Members will receive the Cash Payment benefit. Members will receive a cash payment in an amount equal to \$.50 per \$1,000 of the net amount at risk at the time of the insured's death. Category Four (4) Class Members will be required to submit a Proof of Claim on a Claim Form approved by the Court.

The proposed settlement provides that OSL will pay attorneys' fees to Class Counsel in an amount not to exceed \$4,500,000. The payment of attorneys' fees will not reduce the benefits provided to Class Members. OSL also agrees to pay the litigation expenses of Class Counsel in an amount not to exceed \$129,000. The payment of litigation expenses will not reduce the benefits provided to Class Members.

Should you need further information, please do not hesitate to contact Gail Sciacchetano at 816-783-8019, or Noreen Vergara at 816-783-8878.