

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION**

South Carolina Department of Insurance,) Docket No. 01-ALJ-09-0585-CC
Petitioner,)

v.

Liberty Life Insurance Company,

Respondent.)

) **MOTION TO FILE MEMORANDUM AS**
) ***AMICUS CURIAE* OR, IN THE ALTERNATIVE,**
) **MOTION TO INTERVENE BY NATIONAL**
) **ASSOCIATION OF INSURANCE**
) **COMMISSIONERS**

COMES NOW the National Association of Insurance Commissioners (NAIC) and moves for leave to file as *amicus curiae* its Memorandum in Support of the Motion for Partial Summary Judgment filed by the South Carolina Department of Insurance, or, in the alternative, in accordance with Rule 20 moves to intervene solely for the purpose of filing its Memorandum in Support of the Motion for Partial Summary Judgment filed by the South Carolina Department of Insurance in this cause. In support of this Motion, the NAIC states as follows:

1. The National Association of Insurance Commissioners (NAIC) is a non-profit corporation whose membership consists solely of the Commissioners, Directors, Superintendents or other individuals who by law are charged with the principal responsibility of supervising the business of insurance within each State, territory or insular possession of the United States. Started in 1871, it is the nation's oldest association of state government officials. In submitting this brief, the NAIC seeks to demonstrate its interest in this proceeding and to fulfill the purpose of the NAIC, as set out in its Certificate of Incorporation:

... to assist state insurance regulators, individually and collectively, in serving the public interest and achieving the following fundamental insurance regulatory goals in a responsive, efficient and cost-effective manner, consistent with the wishes of its members:

1. Protect the public interest, promote competitive markets and facilitate the fair and equitable treatment of insurance consumers;
2. Promote, in the public interest, the reliability, solvency, and financial solidity of insurance institutions; and
3. Support and improve state regulation of insurance.

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2. The members of the NAIC believe that the setting of insurance premium rates on the basis of an individual's race is fundamentally wrong, actuarially unjustified, unfairly discriminatory and illegal under both state and federal law.

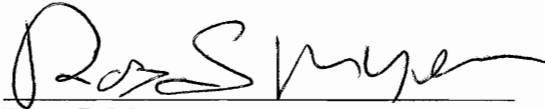
3. On June 12, 2000 the members of the NAIC unanimously adopted a resolution agreeing to work towards investigating and stopping race-based practices (attached hereto as Exhibit "A"). To that end it created a Race-Based Premium Working Group comprised of twenty-four (24) states charged with assisting the members in halting race-based practices. Many consumers residing in states other than South Carolina have been adversely affected by the race-based practices of Respondent, Liberty Life Insurance Company, and under state law the members of the NAIC are charged with protecting their interests. The members of the NAIC are thus vitally interested in the legal precedent of any final Order entered in this matter.

4. That this intervention, if granted, will not unduly prolong the proceedings or otherwise prejudice the rights of the existing parties. Intervener seeks only to file its Memorandum in Support of the Motion for Partial Summary Judgment filed by the South Carolina Department of Insurance and to do so in accordance with the scheduling order handed down on February 21, 2002. Its Memorandum will only address the limited legal issue of whether federal civil rights laws are in conflict with South Carolina insurance law.

5. As good cause, Intervener states that the NAIC Executive Committee voted only recently to request leave to file an *amicus curiae* brief or to intervene in this matter and that the scheduling order was not handed down or known at that time.

WHEREFORE, the NAIC prays it be granted leave to file its Memorandum in Support of the Motion for Partial Summary Judgment as *amicus curiae*, or as an intervener.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ross S. Myers", written over a horizontal line.

Ross S. Myers

2301 McGee Street, Suite 800

Kansas City, MO 64108-2604

Telephone: (816) 842-3600

Fax: (816) 783-8054

Counsel for Movant

NATIONAL ASSOCIATION OF INSURANCE
COMMISSIONERS

CERTIFICATE OF SERVICE

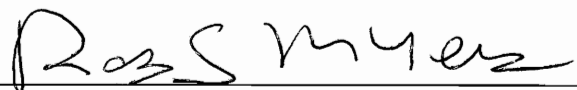
I hereby certify that the original was mailed to the Clerk of the Division and a true and correct copy of the foregoing was served by regular U.S. mail upon the following this 5th day of March, 2002:

Frank Ellerbe, III, Esq.
Robinson, McFadden & Moore, P.C.
P.O. Box 944
Columbia, SC 29202

Charles Speth, II, Esq.
Haynsworth, Baldwin, Johnson & Greaves, L.L.C.
1201 Main Street, Suite 1230
Columbia, SC 29201

Camden Lewis, Esq.
Lewis, Babcock & Haswkins, L.L.P.
P.O. Box 11208
Columbia, SC 29211

Gwendolyn Fuller, Esq.
David Belton, Esq.
John O'Neal, III, Esq.
South Carolina Department of Insurance
300 Arbor Lake Drive. Suite 1200
Columbia, SC 29223



Attorney for National Association of
Insurance Commissioners

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NAIC Adopts Resolution on Race Criteria, Small-Face-Value Products

RESOLUTION

WHEREAS, the Florida Department of Insurance on October 25, 1999 issued investigative subpoenas regarding industrial life and low value life insurance policies sold in Florida, and has engaged in an extensive investigation of these products; and

WHEREAS, the investigation indicates that in some cases, industrial life and low value life insurance policies were sold to African-Americans with higher premiums based upon their race; and

WHEREAS, many instances have been uncovered where the initially discriminatory treatment was never corrected to a race neutral practice and is still in force across the nation, with different premiums still being collected based on race, and death benefits not appropriately adjusted ; and

WHEREAS, several other states have initiated information gathering and investigations, it is desirable to coordinate state regulatory efforts to provide consistent and fair treatment for affected policyholders, and to address the problem in an efficient and expedited manner; and

WHEREAS the Florida Insurance Commissioner is currently negotiating the first settlement agreement with an industrial life company;

IT IS HEREBY RESOLVED:

That the undersigned members of the NAIC, as the chief insurance regulatory officials of their respective jurisdictions, jointly agree to work with the Florida Insurance Commissioner, as the primary negotiator, in consultation with other regulators, on this settlement agreement; and

Further, the undersigned members of the NAIC agree to work cooperatively, to utilize existing investigative and information gathering work to the greatest degree possible, and additionally to determine if any other companies have engaged in race-based practices which have not been corrected, and to jointly seek a national negotiated settlement with each of the affected insurance companies which will consider restitution for race-based practices, and other remedies as needed.

Further, it is resolved that the members of the NAIC will redirect regulatory analysis of the low value life insurance business, in all its various distribution forms, and will emphasize in this analysis the overriding goal of fair policyholder treatment, not only in terms of market conduct, such as appropriate disclosures, and issues of suitability of the product for the customer, but also addressing the issue of fair value for the premiums paid, and any other related issues, such as sales of multiple policies and appropriate escheat handling; and that the results of this analysis are to be included in detailed proposals for reform, which shall be completed by June 2001, for consideration by the NAIC membership.