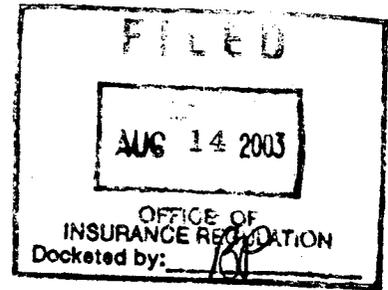




OFFICE OF INSURANCE REGULATION



KEVIN M. MCCARTY
DIRECTOR

' 01005

IN THE MATTER OF:

EQUITABLE LIFE ASSURANCE
SOCIETY OF THE UNITED STATES

CASE NO: 17888-96-C

CONSENT ORDER

THIS CAUSE came on for consideration upon the agreement by and between EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES (hereinafter "EQUITABLE") and the OFFICE OF INSURANCE REGULATION OF THE FINANCIAL SERVICES COMMISSION, WITHIN THE OFFICE OF FINANCIAL SERVICES (hereinafter referred to as the "OFFICE"). After a complete review of this entire record and upon consideration thereof, and being otherwise advised in the premises, the OFFICE finds as follows:

1. The OFFICE has jurisdiction over the subject matter hereof and the parties hereto.
2. EQUITABLE is a licensed foreign insurer domiciled in the State of New York.
3. This matter came on to be heard after EQUITABLE provided information to the OFFICE ("Office" being understood in this context as referring to the Office's immediate regulatory predecessor, the Florida Department of Insurance) that between January, 1995 and February, 1996, EQUITABLE had, through a third-party vendor, distributed indeterminate value insurance contract advertisement format literature, thirty-four (34) of which were not approved and thirteen (13) of which were specifically disapproved by the OFFICE, to approximately 947 of EQUITABLE's Florida insurance agents and to nineteen (19) insurance brokers for use as

invitations to inquire, in violation of Sections 626.9541(1)(a)(1) and 627.410, Florida Statutes, as well as Rules 4-150.103(10), 4-150.104, 4-150.105(1), and 4-150.120, Florida Administrative Code.

4. During March 1995, the OFFICE specifically disapproved the aforementioned thirteen (13) subject invitations to inquire and the OFFICE promptly notified EQUITABLE thereafter in writing of the OFFICE's disapproval.

5. EQUITABLE represented to the OFFICE on April 9, 1996, that following notification by some of EQUITABLE's agents receiving the unapproved and disapproved advertisement formats, EQUITABLE promptly notified the OFFICE regarding EQUITABLE's distribution violations and EQUITABLE promptly disseminated notices to applicable agents directing the agents to suspend use of any of the improperly distributed material.

6. EQUITABLE represents to the OFFICE that subsequent to discovery of the distribution violations, EQUITABLE contracted with a different third party vendor and began to shift distribution of EQUITABLE's insurance product advertisement format literature to this vendor.

7. On or about April 9, 1996, EQUITABLE provided information to the OFFICE that EQUITABLE published an advertisement which represented that EQUITABLE's annual administration charge for specific insurance products was thirty dollars (\$30.00), although the policy contracts for these specific insurance products provided for a sixty-five dollar (\$65.00) annual administration charge, in violation of Section 626.9541(1)(a)(1), Florida Statutes.

8. EQUITABLE has represented to the OFFICE that EQUITABLE never charged any policyholder more than thirty-dollar (\$30.00) annual administrative charge for the specific insurance products advertised. Also, EQUITABLE has represented that it disseminated in

medium and manners substantially similar to that in which the misinformation was published, an OFFICE-approved publication limiting the annual administrative charge for the subject specific insurance products to thirty dollars (\$30.00).

9. On or about April 9, 1996, EQUITABLE provided information to the OFFICE that EQUITABLE had delivered a variable annuity insurance contract option in Florida entitled the "Investment Simplifier", although the "Investment Simplifier" had not been approved by the OFFICE, in violation of Section 627.410, Florida Statutes.

10. Subsequent to EQUITABLE's Florida delivery of the "Investment Simplifier," EQUITABLE submitted the "Investment Simplifier" to the OFFICE for approval and the OFFICE thereafter approved the "Investment Simplifier" for EQUITABLE's distribution.

11. EQUITABLE represents to the OFFICE that EQUITABLE substantially initiated and implemented successful corrective measures to remedy EQUITABLE's improper distribution of advertisement material detailed hereinabove, before EQUITABLE's subject distribution violations were noted by, or brought to the attention of, the OFFICE, and before EQUITABLE was aware that the OFFICE was investigating EQUITABLE's subject distribution violations.

12. The OFFICE and EQUITABLE expressly waive hearing in this matter, the making of Findings of Fact and Conclusions of Law by the OFFICE, and all further and other proceedings herein to which the parties may be entitled by law or the rules of the OFFICE. By execution of this consent order by the Office, the parties agree that the subject matter of this Consent Order is resolved.

13. EQUITABLE waives notice of hearing under Sections 120.569 and 120.57, Florida Statutes, and agrees not to challenge or contest this Order in any forum available to it,

including the right to any administrative proceeding, circuit of federal court action, or any appeal.

14. The parties agree that this Consent Order will be deemed to be executed when the agency head or his designee has signed a copy of this Consent Order bearing the signature of the authorized representative of EQUITABLE, notwithstanding the fact that the signed copy was transmitted to the OFFICE by facsimile machine.

IT IS ORDERED THAT:

(a) Each party shall pay its own costs and attorney fees, except that Equitable has already reimbursed the Office for administrative costs in the amount of two thousand five hundred dollars (\$2,500.00), by Equitable check number 01345785, dated May 30, 1997, which was payable to the order of the Florida Department of Insurance, and was deposited by that entity on or about June 18, 1997.

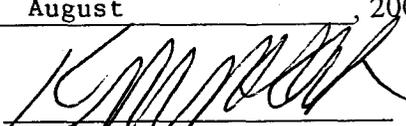
(b) EQUITABLE shall henceforth comply with all of the provisions of the Insurance Code, specifically Sections 626.9541 and 627.410, Florida Statutes, as well as Rules 4-150.103, 4-150.104, 4-150.105, and 4-150.120, Florida Administrative Code.

THEREFORE, the agreement between EQUITABLE and the OFFICE OF INSURANCE REGULATION, the terms and conditions of which are set forth above, is APPROVED.

FURTHER, all terms and conditions contained herein are hereby ORDERED.

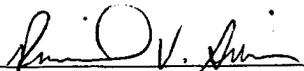
DONE and ORDERED this 14th day of August, 2003.




KEVIN M. McCARTY
DIRECTOR
OFFICE OF INSURANCE REGULATION

By execution hereof, THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES consents to entry of the Consent Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that he/she has the authority to execute this Consent Order on behalf of THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES, and therefore binds it to the terms and conditions herein.

THE EQUITABLE LIFE ASSURANCE
SOCIETY OF THE UNITED STATES

By: 

Print Name: RICHARD V. SILVER

Title: EXECUTIVE VICE PRESIDENT &
GENERAL COUNSEL

Corporate Seal

COPIES FURNISHED TO:

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Division of Legal Services
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