

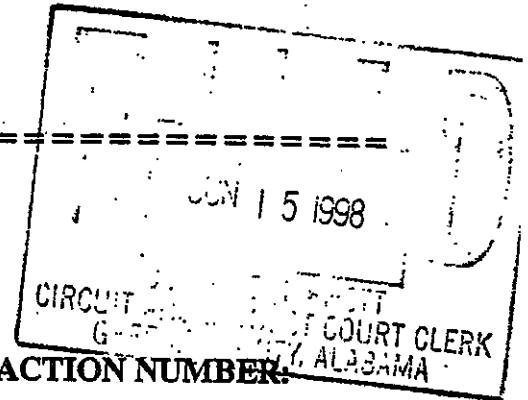
IN THE CIRCUIT COURT OF GREENE COUNTY, ALABAMA

AUBREY WAYNE TIDMORE, et al.,)
)
 Plaintiffs,)
)
 v.)
)
 STATE MUTUAL INSURANCE COMPANY,)
 et al.,)
)
 Defendants.)

CIVIL ACTION NUMBER:
CV 95-066

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CAROL BELL, et al.,)
)
 Plaintiffs,)
)
 v.)
)
 STATE MUTUAL INSURANCE COMPANY,)
 et al.,)
)
 Defendants.)

CIVIL ACTION NUMBER:
CV 96-040



ORDER AND FINAL JUDGMENT

A settlement hearing having been held before this Court on June 11, 1998, pursuant to this Court's Order of September 13, 1996, as thereafter amended by subsequent orders, to determine whether this Court should approve as fair, adequate and reasonable a settlement of this action upon the terms and conditions of the Settlement Agreement dated September 13, 1996, and executed by all parties; it appearing that due notice of said Settlement Hearing was given in accordance with the terms of the aforesaid Order; the Court having determined that notice to the Class, as described in the aforesaid Order and subsequent orders, was the best practical notice under the circumstances, and fully complies with all requirements of Due Process, and all

requirements of Alabama Rule of Civil Procedure 23; the respective parties having appeared by their attorneys of record; the Court having received and considered arguments and evidence in connection with the proposed Settlement of the action; the attorneys for the respective parties having been heard; an opportunity to be heard having been given to all of the persons requesting to be heard in accordance with the aforesaid Order; and the proposed Settlement and all other matters of record in this action having been heard and considered by the Court; and based on the Findings of Fact and Conclusions of Law set forth in the separate Order entered contemporaneously herewith, it is, therefore, ORDERED, ADJUDGED AND DECREED as follows:

1. For purposes of considering, approving and effectuating the Settlement and to fairly and adequately protect the interest of the members of the Class, this Court hereby orders and confirms that this action is to be maintained as a class action pursuant to Alabama Rules of Civil Procedure 23(b)(1)(A), 23(b)(1)(B), and 23(b)(2), for a plaintiff class consisting of:

All persons who since January 1, 1978, purchased State Mutual Insurance Company policies as described herein but who have cash surrendered, or lapsed the policies since January 1, 1992, and all persons who, since January 1, 1978, purchased and are now holders of whole life policies issued by State Mutual Insurance Company, described as Life Paid Up at 90 (LP90), Life Paid Up at 95 (LP95), Life Paid Up at 65 (LP65) and Graded Premium Whole Life (GPWL) policies, and to whom State Mutual Insurance allegedly represented that certain dividend scale projections in connection with these policies would be in effect throughout the life of the policies and/or may have suppressed the fact that the dividend scale projections could later change or be lowered and, as a result, the members of the Class were or may be in the future injured upon the subsequent lowering of said dividend. Excluding, however, any person who was a named plaintiff in any separate lawsuit filed on or before August 3, 1995, which alleged fraud, concealment, failure to disclose or misrepresentation in connection with the purchase, sale or issuance of any one or more State Mutual policies.

2. On September 13, 1996, this Court entered an Order giving preliminary approval to

the Class Action Settlement, the full text of which is incorporated herein by reference. The Findings and Conclusions set forth in that Order are hereby reaffirmed, and made final. Pursuant to said Order of September 13, 1996, and the Findings and Conclusions set forth in this Court's Order of June 11, 1998, the Class Action Certification pursuant to Rule 23(b)(2) is hereby reaffirmed and the Class Action is additionally certified pursuant to 23(b)(1)(A) and (b)(1)(B) for purposes of settlement, all of which is hereby reaffirmed, incorporated herein by reference and made final.

3. The Court has heretofore found and hereby finds and reaffirms that the Named Plaintiffs are adequate representatives of the Class and all requirements under Alabama Rules of Civil Procedure 23(a), 23(b)(1)(A), 23(b)(1)(B), and 23(b)(2) are met. The Court expressly finds that the Class is so numerous that joinder of all members is impracticable; that there are questions of law and fact, common to the Class; that the claims of the Named Plaintiffs are typical of the claims of the Class; that the Class representatives and Class Counsel have fairly and adequately represented and protected the interest of the Class and will continue to do so; that the prosecution of separate actions by individual Class Members would create a risk of varying or inconsistent adjudications which would establish incompatible standards of conduct for State Mutual, and would as a practical matter be dispositive of the interest of other Class Members or substantially impair or impede their ability to protect their interest; that, assuming the allegations of the complaint (which State Mutual Insurance Company denies) to be true, State Mutual has acted on grounds generally applicable to the Class, thereby making appropriate final equitable and injunctive relief with respect to the Class as a whole; that the nature of the interest of the Class Members, the nature of the Settlement, and the fact that the vast majority of Class Members have

not suffered any actual out-of-pocket monetary losses or damages (other than allegations concerning additional premiums) at this time, makes this action inappropriate for certification under Alabama Rule of Civil Procedure 23(b)(3); and the fact that this is a limited fund case; and that the maintenance of this action pursuant to Alabama Rules of Civil Procedure 23(b)(1)(A), 23(b)(1)(B), and 23(b)(2), separately and severally is superior to any other method of proceeding with these claims.

4. Subject to the terms and conditions of the Settlement, State Mutual Insurance Company is hereby enjoined in order to perform its obligations under the Settlement, which Settlement is hereby affirmed and approved in its entirety and incorporated herein by reference. The Court expressly finds that the primary relief provided for by the Settlement, and the primary relief which would be justified by the alleged (but denied) conduct, is injunctive and further equitable relief in the nature of declaratory relief, reformation of the insurance practice of the Defendant, and ancillary restitution. The provisions in the Settlement for incidental monetary relief is ancillary to the primary equitable and injunctive relief.

5. Subject to the terms and conditions of this Court's Order of September 13, 1996 and of the Settlement, State Mutual Insurance Company and its successors and assigns, and all other entities and individuals acting in concert with State Mutual Insurance Company are hereby permanently ENJOINED as follows:

Future Sales Practices

- a. to provide adequate training on its products to its agents;
- b. to adequately investigate individuals who apply to become State Mutual agents;
- c. to adequately advise prospective policy owners that on dividend paying (participating)

policies any projected dividends are "NOT GUARANTEED" and that future annual dividends may be higher or lower than those illustrated and that as a result, their policies' performance may vary from their illustrations in the following ways:

- i) if their policy contains the vanishing premium option, it may not vanish and should not be described as "paid up" at the projected vanish date and more premiums may need to be paid or premiums may be required for a period of time after their vanish date, as shown in their illustration;
- ii) if their policy calls for the accumulation of dividends, it may not accumulate the amount of dividends projected;
- iii) if they elected to use the dividends to buy additional insurance, they may have more or less additional insurance than shown in the projection;
- iv) if they elected to use the dividends to buy additional paid up insurance, they may have more or less additional paid up death benefits and cash values than shown in the projection;
- v) if they elected to receive their dividends in cash, the actual cash dividends might be more or less than shown in the projection; or
- vi) if they elected to use dividends to reduce premiums, the amounts of premiums due might be more or less than shown in the projection.

d. to establish an effective program to monitor the services provided by its agents and to determine their adequacy;

e. to establish an effective program to determine whether its agents adequately explained

to the policy owner that dividends on participating policies are not guaranteed and that variances in future dividends will affect the amount of cash value available to the policy owner for future use;

f. to establish a procedure to adequately verify the actual policy delivery by the agent and receipt by the policy owner of State Mutual policies;

g. to establish a procedure to adequately confirm that each policy owner is informed that the amount of cash value available to pay any future premiums will depend both on the policy owner's other use of the cash values and on the annual dividends that may or may not be declared in the future by State Mutual;

h. to require that its independent agents explain to prospective policy owners that they are licensed agents of State Mutual with respect to the sale of its policies;

i. to develop its own training manuals which are specific to State Mutual products and State Mutual sales practices and which include an entire section devoted to Ethics, emphasizing the importance of Ethics to life insurance agents and State Mutual's commitment to ethical practices;

j. to require that its agents take continuing education courses as set by their state of residence;

k. to immediately adopt the disclosure concepts of the model National Association of Insurance Commissioners (NAIC) Sales Illustrations, insofar as the same are not prohibited by any laws or regulations applicable to State Mutual;

l. to require that State Mutual's actuary review and approve the annual dividend scale set by State Mutual and, approve their use in State Mutual's illus-guaranteed nature of dividends in

comparison to the NAIC model;

m. to implement a follow up mail program to the sale of participating insurance policies with a questionnaire to the policy owner intended to determine whether the policy owner understands the dividend and cash value aspects of the policy which he or she has purchased, including the fact that the dividends illustrated are not guaranteed and may change in the future;

n. to mail an annual dividend notice to the policy owner of participating policies showing the amount of the actual current dividend and the previous year's projected dividend; and

o. to mail notice to the policy owner if any dividend scale is changed.

Future Dividend Practices

While State Mutual retains the right to declare the amount of annual dividends in the future, State Mutual will be enjoined to follow the "contribution principle" for the development of all dividend scales from 1998 forward for all policy issues described herein. As in the past, future dividends may increase or decrease from the projections of current dividend scales.

Incidental Economic Relief

State Mutual will provide incidental economic relief to Class Members who are existing policy owners by being enjoined as follows:

a. to insure that each existing policy receives \$15.00 in the form of a credit to be used to purchase paid up additional insurance using a net single premium cost basis.

b. to institute a remedial relief program in the form of a terminal dividend calculated on the following basis: State Mutual will estimate the annual difference between (1) dividends based

historical dividend scales. A percentage (not greater than 100%) of the estimated difference through the date of the filing of the class action will be accrued at the death of the insured. The amount of benefit will vary, based on the plan of insurance, issue age, the policy face amount, and issue year. The terminal dividend will only be payable at death and will only be payable if the policy was in-force as of the date of the filing of the lawsuit and is in force by payment of premiums due through the date of death. No terminal dividend benefit will be payable for any policies that lapsed or were surrendered prior to the date of the filing of the lawsuit unless such policies are reinstated as of the date of lapse or cash surrender under the company's current reinstatement rules. The terminal dividend has no surrender value and is payable only upon the death of the insured.

Lapsed or Cash Surrendered Policies

State Mutual will provide incidental economic relief to Class Members who have lapsed or cash surrendered policies by being enjoined as follows:

To allocate, for each lapsed or cash surrendered policy (since January 1, 1992), to the Lapsed Policy Owners \$15.00 cash per policy. This payment will be made to the last known address of the Lapsed Policy Owner, except for instances where the notice was undelivered and subsequent efforts to locate the Lapsed Policy Owner were unsuccessful. In such event, the proceeds may become payable under the unclaimed property law of the state of the Lapsed Policy Owner's last known address. Lapsed Policy Owners may reinstate by payment of all back premiums plus interest at six percent (6%) and meeting the company's reinstatement requirements including proof of good health. In the case reinstatement is selected by the Lapsed Policy Owner,

including proof of good health. In the case reinstatement is selected by the Lapsed Policy Owner, the \$15.00 will be credited to the policy and used to purchase paid up additional insurance. No cash payments will be made.

The provisions of paragraph 4 and paragraph 5 shall be effective unless and until such time as this Order and Final Judgment is vacated, modified, reversed or remanded on appeal, in whole or in part. All other aspects of the final relief set forth in this Order shall be automatically stayed in the event of appeal as contemplated by the terms and conditions of the Settlement.

6. Consistent with the Findings of Fact and Conclusions of Law entered contemporaneously herewith, and subject to this Court's retention of jurisdiction to enforce this Order in the Settlement, all claims asserted in this action, including those claims asserted in the Named Plaintiffs' amended complaint, and all claims which have been or could have been asserted (by intervention or otherwise) by or on behalf of any Class Member relating to the "Misrepresentation" as defined under the Settlement Agreement or the "Released Transactions" (as those terms are defined in the Settlement Agreement) are dismissed in their entirety on the merits, with prejudice, and Defendant State Mutual Insurance Company (and the related beneficiaries of the Release as set forth in Section F of the Settlement Agreement) are hereby RELEASED from all claims, actions, causes of action and liabilities which were or could be asserted by or on behalf of any Class Members, which relate to the alleged Released Transactions or the released claims as the defined in the Settlement Agreement. The Release provided in Section F of the Settlement Agreement is hereby approved and made effective and incorporated herein by reference.

7. Named Plaintiffs and each and all Class Members are hereby permanently, ENJOINED, precluded and barred from filing, initiating, asserting, maintaining, pursuing, or continuing or participating as a litigant (by intervention or otherwise) in any action, whether an individual lawsuit or class action, in any court, asserting any of the claims dismissed herein or any of the Released Transactions as defined in the Settlement Agreement; provided however, that neither this injunction, nor the Settlement benefits provided by the Settlement Agreement described in this Order, shall apply to any individual who was a named plaintiff in any separate action filed on or before August 3, 1995, which alleges fraud, concealment, failure to disclose or misrepresentation in connection with the purchase, sale or issuance of any one or more State Mutual policies, unless said action has been voluntarily dismissed without prejudice prior to the date of this Order and Final Judgment.

8. There being no reason for delay, the Clerk of the Court is hereby directed, pursuant to Alabama Rule of Civil Procedure 54(b), to enter this Order as a FINAL JUDGMENT. Subject to the terms and conditions of the Settlement Agreement and the Court finding that the fee and expense request to be reasonable, Plaintiffs' counsel, heretofore approved by the Court as Class Counsel, being Frank H. Tomlinson and Alexander W. Jones, Jr. of Pritchard, McCall & Jones, L.L.C., are awarded One Million and No/100 (\$1,000,000.00) Dollars in full payment of all attorneys' fees and expenses. Said sum is to be paid by Defendant State Mutual Insurance Company on the final settlement date as that term is defined in the Settlement Agreement. The Court also awards each of the twelve named Class representatives the sum of Two Thousand Five Hundred and No/100 (\$2,500.00) Dollars each (a total of Thirty Thousand and No/100 (\$30,000.00) Dollars) as reimbursement for their time and expenses in maintaining this action.

All court costs are taxed against the Defendant, State Mutual Insurance Company.

9. This Court reserves and maintains continuous jurisdiction over State Mutual and the members of the Class with respect to all matters relating to the Settlement or the consummation of the Settlement; the validity of the Settlement; the construction and enforcement of the Settlement in any orders entered pursuant thereto; in any disputes which may arise between Class Members with respect to the persons entitled to receive the proceeds of any amounts payable to Class Members under the Settlement Agreement; and the entry and enforcement of this FINAL JUDGMENT and the injunctions contained herein, including modification of this Final Judgment, jurisdiction to revoke this Order and Final Judgment in its entirety and reinstate all claims dismissed or claims, actions, causes of action and liabilities released pursuant to paragraph 5 hereof; to tax court costs, and all other matters pertaining to the Settlement or its implementation and enforcement.

10. All pending motions of objectors and intervenors not previously ruled upon are hereby denied and overruled.

The Court has set forth its Findings of Fact and Conclusions of Law in a separate Order entered contemporaneously herewith.

DONE this the 15th day of June, 1998.

 Eric J.
CIRCUIT JUDGE