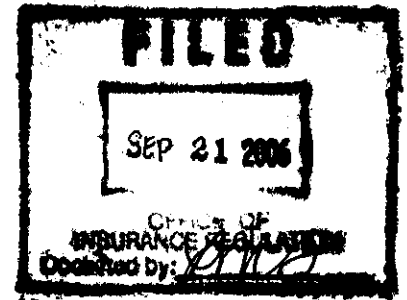




OFFICE OF INSURANCE REGULATION



KEVIN M. McCARTY
COMMISSIONER

IN THE MATTER OF:

CASE NUMBER: 86448-06

PACIFIC LIFE & ANNUITY COMPANY

CONSENT ORDER

THIS CAUSE came on for consideration as the result of an agreement between **PACIFIC LIFE & ANNUITY COMPANY** (hereinafter referred to as "**PACIFIC LIFE**") and the **OFFICE OF INSURANCE REGULATION** (hereinafter referred to as the "**OFFICE**"). Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the **OFFICE** hereby finds as follows:

1. The **OFFICE** has jurisdiction over the subject matter of, and parties to, this proceeding.
2. **PACIFIC LIFE** is a foreign life and health insurer authorized to transact insurance business in Florida, and is subject to the jurisdiction and regulation of the **OFFICE**, pursuant to the Florida Insurance Code.
3. The **OFFICE** has conducted an investigation of **PACIFIC LIFE** pursuant to Section 624.318, *Florida Statutes*. As a result of such investigation, the **OFFICE** has determined that **PACIFIC LIFE** charged an unapproved premium for occupational coverage for the Florida small group market and failed to make annual rate certifications or increases since 1998 for individual conversion contracts, in violation of the following sections of Florida law:

a. Section 627.6699(12)(e), *Florida Statutes* – A small employer carrier may not use any policy, contract, form, or rate under this section, including applications, enrollments forms, policies, contracts, certificates, evidences of coverage, riders, amendments, endorsements, and disclosure forms, until the insurer has filed it with the office and the office has approved it.

b. Rule 69O-149.037(3)(c)(2), *Florida Administrative Code* – To reflect benefit differences provided by the plan, a carrier may file for approval a rating factor reflecting the additional benefits being provided by the health plan if the small employer does not have workers' compensation insurance.

c. Section 627.410(6)(a), *Florida Statutes* – An insurer may not deliver or issue for delivery or renew in this state any health insurance policy form until it has filed with the office a copy of every applicable rating manual, rating schedule, change in rating manual, and change in rating schedule; if rating manuals and rating schedules are not applicable, the insurer must file with the office applicable premium rates and any change in applicable premium rates.

d. Section 627.410(7)(a), *Florida Statutes* - Each insurer subject to the requirements of subsection (6) shall make an annual filing with the office no later than 12 months after its previous filing, demonstrating the reasonableness of benefits in relation to premium rates.

4. The **OFFICE** and **PACIFIC LIFE** expressly waive a hearing in this matter, as well as the making of findings of fact and conclusions of law by the **OFFICE** and all further and/or other proceedings to which the parties may be entitled, either by law or by rules of the **OFFICE**. **PACIFIC LIFE** hereby knowingly and voluntarily waives all rights to challenge or to contest this Order, in any forum now available to it, including the right to any administrative proceeding, circuit or federal court action, or any appeal.

5. **PACIFIC LIFE** agrees that failure to adhere to one or more of the terms and conditions of this Order shall constitute a violation of a lawful order of the **OFFICE**, and shall subject **PACIFIC LIFE** to such administrative action as the **OFFICE** may deem appropriate.

6. **PACIFIC LIFE** agrees that upon the execution of this Consent Order, it shall be subject to the following terms and conditions:

a. **PACIFIC LIFE** shall pay a penalty of Thirty-Five Thousand Dollars and No/100 (\$35,000.00) and administrative costs of Three Thousand Dollars and No/100 (\$3,000.00) on or before the thirtieth (30th) day after which this Consent Order is executed.

b. **PACIFIC LIFE** shall, within thirty (30) days of execution of this Consent Order, refund all premiums, plus twelve percent (12%) interest per year from the date of each violation, to each small employer who was charged an unapproved rate for occupational coverage.

c. **PACIFIC LIFE** shall, within thirty (30) days of execution of this Consent Order, refund or credit to each individual conversion policyholder the overpayment of premiums plus twelve percent (12%) interest per year from the date of the violation with respect to each affected policy. **PACIFIC LIFE** shall have the discretion to choose whether to issue a refund or credit to each affected policyholder.

d. **PACIFIC LIFE** shall, within sixty (60) days of execution of this Consent Order, provide a report, certified by an officer of the Company to be true and correct, confirming that **PACIFIC LIFE** has provided to each identified small employer group a refund of all premium charged to that employer for occupational coverage plus twelve percent (12%) interest per year from the date of each respective violation. This report will include the policyholder name, policyholder address, policy number, refund amount, and refund date.

e. **PACIFIC LIFE** shall, within sixty (60) days of execution of this Consent Order, provide a report, certified by an officer of the Company to be true and correct, confirming that **PACIFIC LIFE** has provided to each identified individual conversion policyholder a refund or credit of the premium overpayment plus twelve percent (12%) interest per year from the date of each respective violation. This report will include the policyholder name, policyholder address, policy number, refund/credit amount, and refund/credit date.

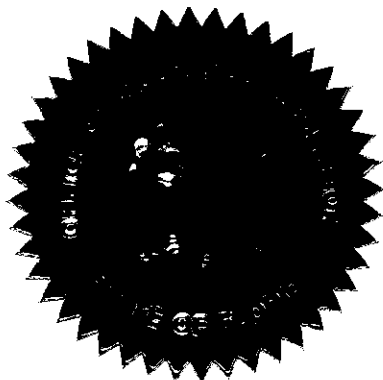
f. **PACIFIC LIFE** is hereby placed on notice of the requirements of the above-referenced sections of law and agrees that any future violations of these sections or the statutes named therein by **PACIFIC LIFE** may be deemed willful, subjecting **PACIFIC LIFE** to the appropriate penalties associated therewith.

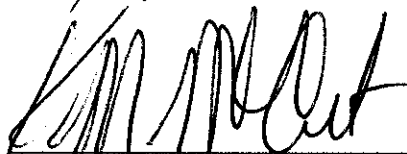
7. Except as noted above, each party to this action shall bear its own costs and attorney's fees.

8. THEREFORE, the agreement between **PACIFIC LIFE** and the **OFFICE**, the terms and conditions of which are set forth above, is approved.

FURTHER, all terms and conditions above are hereby **ORDERED**.

DONE AND ORDERED this 21st day of September, 2006.





Kevin M. McCarty
Commissioner
Office of Insurance Regulation

By execution hereof, **PACIFIC LIFE & ANNUITY COMPANY** consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents, pursuant to Section 624.310, Florida Statutes, that he/she has the authority to bind **PACIFIC LIFE & ANNUITY COMPANY** to the terms and conditions of this Consent Order.

PACIFIC LIFE & ANNUITY COMPANY

By: Sharon Pacheco

Corporate Seal

Sharon Pacheco

Print or Type Name

Title: VP, Chief Compliance Officer

Date: August 28, 2006

STATE OF California

COUNTY OF Orange

The foregoing instrument was acknowledged before me this 28th day of August 2006,

by Sharon Pacheco as Officer
(Name of person) (type of authority.... e.g. officer, trustee, attorney-in-fact)

for Pacific Life & Annuity Company
(company name)

Francis Anesi
(Signature of the Notary)

Francis Anesi

(Print, Type or Stamp Commissioned Name of Notary)

Personally Known or Produced Identification _____

Type of Identification Produced _____

[NOTARIAL SEAL]

My Commission Expires: September 20, 2009



COPIES FURNISHED TO:

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