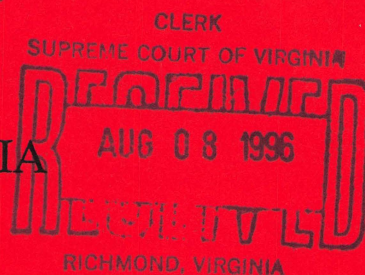


253 Va 139

SUPREME COURT OF VIRGINIA

Record No. 961078



SWISS RE LIFE COMPANY AMERICA,
f/k/a North American Reassurance
Company,

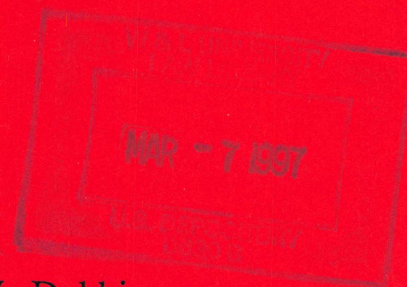
Appellant,

v.

ALFRED W. GROSS,
Acting Commissioner of Insurance,
Acting Deputy Receiver
of First Dominion Mutual Life Insurance Company,
and Acting Trustee of Fidelity Bankers Life
Insurance Company Trust,

Appellee.

APPENDIX, VOLUME II



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**Exhibits to Motion to Dismiss Petition for
Review of North American Reassurance Company,
Answer Subject Thereto, and Counterclaim,
filed January 11, 1993:**

- J. Letter to Herbert Lavine, Senior Vice President
& Chief Underwriting Officer, Resources Life,
from Edward L. Kurtz, Senior Vice President,
Underwriting, Fidelity Bankers Life Insurance Company,
Re: Memorandum
dated August 12, 1982**



growing...with the needs of our policyholders

Fidelity Bankers Life Insurance Company

Fidelity Building, Ninth and Main Streets, Richmond, Virginia 23219 • (804) 649-8411

Edward L. Kurtz
Senior Vice President, Underwriting

August 12, 1982

Mr. Herbert Lavine
Senior Vice President &
Chief Underwriting Officer
Resources Life
666 Third Avenue
New York, New York 10017

Dear Herb:

Enclosed is the memorandum I have written to our Reinsurance Department for the Universal Life Conversion and Exchange Pool. Some additional companies will probably be added to the list of companies with whom we don't have agreements.

Will you please let us know how you would like to handle this in our treaty.

Sincerely,

ELK:cb

Enclosure

TO: Reinsurance Department

JM: Edward L. Kurtz

DATE: August 10, 1982

REFER TO:

SUBJECT: UNIVERSAL LIFE CONVERSION &
EXCHANGE POOL

INTERNAL
CORRESPONDENCE



growing...with the needs of our policyholders

Fidelity Bankers Life Insurance Company

Cologne, Resources and Hamburg will accept conversions and exchanges from us when the case is reinsured with a reinsurance company with whom we don't have an agreement for Universal Life.

One cession will be prepared and sent to each member of the Pool who will receive an equal amount with the aggregate on any one life not to exceed \$1,500,000. For any amount above, we will have to contact each member for approval.

The allowances are not point in scale and are as follows:

| <u>Converted cases</u> | | <u>Exchanged cases</u> |
|------------------------|-------|------------------------|
| 1st year | 100 % | 55 % |
| 2-10 years | 16.5 | 16.5 |
| 11th year & after | 13 | 13 |

*See Rates
Aug 18 Letter
H.M.M.*

The following are companies with whom we don't have a Universal Life agreement.

Phoenix Mutual
Life and Casualty of Tenn.
Munich American
North American Life and Casualty
Security Benefit Life

Storebrand
Union Reinsurance
Gerling Global
Monarch
Corefi

ELK:cb

RESOURCES LIFE INSURANCE COMPANY

One Bridge Plaza
Fort Lee, N.J. 07024
(201) 461-0606

August 18, 1982

Herbert Lavine
Senior Vice President

Mr. Edward L. Kurtz
Senior Vice President, Underwriting
Fidelity Bankers Life Ins. Co.
Fidelity Building
Ninth and Main Street
Richmond, VA 23219

Dear Ed:

Thank you for your memorandum dated August 10, 1982, concerning Universal Life Conversion and Exchange Pool. We will make this memorandum a part of our Treaty and this letter will acknowledge our participation in the Pool.

We appreciate your including us in as much automatic reinsurance as you can. Good luck with this new product.

Sincerely,



Herbert H. Lavine

HHL/msf



An Integrated Resources, Inc. Company

, -
i -

FIDELITY BANKERS LIFE INSURANCE COMPANY

SCHEDULE D - REVISED

Annual Reinsurance Rates per \$1000 Net Amount at Risk
Effective on & after 1st Policy Anniversary for Policies with Policy Dates prior to 3-1-1983
Preferred Risks (UL1)

| Attd. Age | MALE | | FEMALE | | Attd. Age | MALE | | FEMALE | |
|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| | Policy Years | Policy Years | Policy Years | Policy Years | | Policy Years | Policy Years | Policy Years | Policy Years |
| | 2-10 | 11 & over | 2-10 | 11 & over | | 2-10 | 11 & over | 2-10 | 11 & over |
| 16-20 | 0.91 | 0.94 | 0.81 | 0.84 | 60 | 8.62 | 8.98 | 5.41 | 5.64 |
| 21 | 0.91 | 0.94 | 0.81 | 0.84 | 61 | 9.42 | 9.82 | 5.92 | 6.16 |
| 22 | 0.91 | 0.94 | 0.81 | 0.84 | 62 | 10.22 | 10.65 | 6.42 | 6.69 |
| 23 | 0.91 | 0.94 | 0.81 | 0.84 | 63 | 11.23 | 11.70 | 6.92 | 7.21 |
| 24 | 0.91 | 0.94 | 0.81 | 0.84 | 64 | 12.43 | 12.95 | 7.42 | 7.73 |
| 25 | 0.91 | 0.94 | 0.81 | 0.84 | 65 | 13.63 | 14.20 | 8.02 | 8.36 |
| 26 | 0.91 | 0.94 | 0.81 | 0.84 | 66 | 14.83 | 15.46 | 8.71 | 9.09 |
| 27 | 0.91 | 0.94 | 0.81 | 0.84 | 67 | 16.14 | 16.81 | 9.52 | 9.92 |
| 28 | 0.91 | 0.94 | 0.81 | 0.84 | 68 | 17.44 | 18.17 | 10.42 | 10.86 |
| 29 | 0.91 | 0.94 | 0.81 | 0.84 | 69 | 18.84 | 19.63 | 11.53 | 12.01 |
| 30 | 0.91 | 0.94 | 0.81 | 0.84 | 70 | 20.44 | 21.30 | 12.83 | 13.37 |
| 31 | 1.01 | 1.05 | 0.81 | 0.84 | 71 | 22.25 | 23.18 | 14.33 | 14.93 |
| 32 | 1.01 | 1.05 | 0.81 | 0.84 | 72 | 24.25 | 25.27 | 16.04 | 16.71 |
| 33 | 1.01 | 1.05 | 0.91 | 0.94 | 73 | 26.46 | 27.57 | 17.84 | 18.59 |
| 34 | 1.11 | 1.15 | 0.91 | 0.94 | 74 | 28.86 | 30.07 | 19.94 | 20.79 |
| 35 | 1.11 | 1.15 | 1.01 | 1.05 | 75 | 31.57 | 32.89 | 22.35 | 23.29 |
| 36 | 1.21 | 1.26 | 1.01 | 1.05 | 76 | 34.57 | 36.02 | 25.05 | 26.10 |
| 37 | 1.31 | 1.36 | 1.11 | 1.15 | 77 | 37.98 | 39.57 | 28.06 | 29.24 |
| 38 | 1.41 | 1.47 | 1.11 | 1.15 | 78 | 41.79 | 43.54 | 31.37 | 32.68 |
| 39 | 1.51 | 1.57 | 1.21 | 1.26 | 79 | 46.00 | 47.92 | 34.97 | 36.44 |
| 40 | 1.61 | 1.67 | 1.31 | 1.36 | 80 | 50.60 | 52.73 | 38.88 | 40.51 |
| 41 | 1.71 | 1.78 | 1.41 | 1.47 | 81 | 55.51 | 57.84 | 43.09 | 44.90 |
| 42 | 1.81 | 1.88 | 1.51 | 1.57 | 82 | 60.73 | 63.27 | 47.70 | 49.70 |
| 43 | 1.91 | 1.99 | 1.61 | 1.67 | 83 | 66.34 | 69.12 | 52.71 | 54.92 |
| 44 | 2.11 | 2.20 | 1.71 | 1.78 | 84 | 72.35 | 75.38 | 59.12 | 60.56 |
| 45 | 2.31 | 2.41 | 1.81 | 1.88 | 85 | 78.86 | 82.17 | 63.93 | 66.51 |
| 46 | 2.51 | 2.61 | 1.91 | 1.99 | 86 | 85.98 | 89.58 | 70.24 | 73.19 |
| 47 | 2.71 | 2.82 | 2.01 | 2.09 | 87 | 93.69 | 97.62 | 77.16 | 80.39 |
| 48 | 3.01 | 3.14 | 2.11 | 2.20 | 88 | 102.01 | 106.28 | 84.67 | 88.22 |
| 49 | 3.31 | 3.45 | 2.21 | 2.30 | 89 | 110.93 | 115.57 | 92.79 | 96.68 |
| 50 | 3.61 | 3.76 | 2.41 | 2.51 | 90 | 120.34 | 125.39 | 101.41 | 105.66 |
| 51 | 3.91 | 4.08 | 2.61 | 2.72 | 91 | 130.06 | 135.52 | 110.32 | 114.95 |
| 52 | 4.21 | 4.39 | 2.81 | 2.93 | 92 | 139.88 | 145.75 | 119.34 | 124.34 |
| 53 | 4.61 | 4.81 | 3.01 | 3.14 | 93 | 149.50 | 155.77 | 128.16 | 133.53 |
| 54 | 5.01 | 5.22 | 3.21 | 3.34 | 94 | 158.92 | 165.58 | 136.78 | 142.51 |
| 55 | 5.51 | 5.75 | 3.51 | 3.66 | 95 | 168.14 | 175.19 | 145.19 | 151.28 |
| 56 | 6.12 | 6.37 | 3.81 | 3.97 | 96 | 177.15 | 184.58 | 153.01 | 159.42 |
| 57 | 6.72 | 7.00 | 4.11 | 4.28 | 97 | 185.98 | 193.77 | 161.03 | 167.77 |
| 58 | 7.32 | 7.63 | 4.51 | 4.70 | 98 | 194.59 | 202.75 | 168.74 | 175.81 |
| 59 | 7.92 | 8.25 | 4.91 | 5.12 | 99 | 203.01 | 211.52 | 176.16 | 183.54 |

FIDELITY BANKERS LIFE INSURANCE COMPANY

SCHEDULE D - REVISED

Annual Reinsurance Rates per \$1000 Net Amount at Risk
Effective on & after 1st Policy Anniversary for Policies with Policy Dates prior to 3-1-1983
Standard Risks (UL2)

| Attd. Age | MALE | | FEMALE | | Attd. Age | MALE | | FEMALE | |
|--------------|----------------------|---------------------------|----------------------|---------------------------|--------------|----------------------|---------------------------|----------------------|---------------------------|
| | Policy Years 2-10 | Policy Years 11 & over | Policy Years 2-10 | Policy Years 11 & over | | Policy Years 2-10 | Policy Years 11 & over | Policy Years 2-10 | Policy Years 11 & over |
| 1-15 | 1.01 | 1.05 | 0.92 | 0.96 | 60 | 10.77 | 11.22 | 6.93 | 7.23 |
| 16-20 | 1.09 | 1.13 | 0.96 | 1.00 | 61 | 11.74 | 12.24 | 7.69 | 8.02 |
| 21-22 | 1.17 | 1.22 | 1.01 | 1.05 | 62 | 12.85 | 13.39 | 8.55 | 8.91 |
| 23 | 1.17 | 1.22 | 1.01 | 1.05 | 63 | 14.10 | 14.69 | 9.51 | 9.90 |
| 24 | 1.17 | 1.22 | 1.01 | 1.05 | 64 | 15.49 | 16.14 | 10.55 | 10.99 |
| 25 | 1.17 | 1.22 | 1.01 | 1.05 | 65 | 17.08 | 17.80 | 11.69 | 12.19 |
| 26 | 1.26 | 1.31 | 1.05 | 1.09 | 66 | 18.88 | 19.67 | 12.95 | 13.50 |
| 27 | 1.26 | 1.31 | 1.05 | 1.09 | 67 | 20.90 | 21.78 | 14.35 | 14.95 |
| 28 | 1.26 | 1.31 | 1.05 | 1.09 | 68 | 23.19 | 24.16 | 15.86 | 16.53 |
| 29 | 1.26 | 1.31 | 1.05 | 1.09 | 69 | 25.76 | 26.84 | 17.51 | 18.24 |
| 30 | 1.26 | 1.31 | 1.05 | 1.09 | 70 | 28.64 | 29.84 | 19.24 | 20.05 |
| 31 | 1.30 | 1.35 | 1.07 | 1.12 | 71 | 31.88 | 33.22 | 20.85 | 21.72 |
| 32 | 1.34 | 1.40 | 1.10 | 1.14 | 72 | 34.57 | 36.02 | 22.45 | 23.39 |
| 33 | 1.38 | 1.44 | 1.14 | 1.19 | 73 | 36.68 | 38.21 | 24.15 | 25.16 |
| 34 | 1.42 | 1.48 | 1.20 | 1.25 | 74 | 38.78 | 40.41 | 25.96 | 27.04 |
| 35 | 1.49 | 1.55 | 1.26 | 1.31 | 75 | 40.89 | 42.60 | 27.86 | 29.03 |
| 36 | 1.57 | 1.64 | 1.32 | 1.38 | 76 | 43.09 | 44.90 | 29.96 | 31.22 |
| 37 | 1.68 | 1.75 | 1.39 | 1.45 | 77 | 45.39 | 47.30 | 32.27 | 33.62 |
| 38 | 1.81 | 1.88 | 1.47 | 1.54 | 78 | 47.80 | 49.80 | 34.77 | 36.23 |
| 39 | 1.93 | 2.01 | 1.57 | 1.64 | 79 | 50.40 | 52.52 | 37.58 | 39.15 |
| 40 | 2.07 | 2.16 | 1.67 | 1.74 | 80 | 53.31 | 55.54 | 40.79 | 42.49 |
| 41 | 2.22 | 2.31 | 1.79 | 1.87 | 81 | 57.72 | 60.14 | 44.39 | 46.25 |
| 42 | 2.38 | 2.48 | 1.92 | 2.00 | 82 | 62.53 | 65.15 | 48.50 | 50.53 |
| 43 | 2.58 | 2.68 | 2.05 | 2.14 | 83 | 67.64 | 70.47 | 53.11 | 55.34 |
| 44 | 2.78 | 2.90 | 2.19 | 2.28 | 84 | 73.05 | 76.11 | 58.22 | 60.66 |
| 45 | 3.04 | 3.16 | 2.33 | 2.43 | 85 | 78.86 | 82.17 | 63.93 | 66.61 |
| 46 | 3.31 | 3.45 | 2.48 | 2.58 | 86 | 85.98 | 89.58 | 70.24 | 73.19 |
| 47 | 3.62 | 3.77 | 2.63 | 2.74 | 87 | 93.69 | 97.62 | 77.16 | 80.39 |
| 48 | 3.95 | 4.11 | 2.79 | 2.91 | 88 | 102.01 | 106.28 | 84.67 | 88.22 |
| 49 | 4.30 | 4.48 | 2.96 | 3.08 | 89 | 110.93 | 115.57 | 92.79 | 96.68 |
| 50 | 4.67 | 4.87 | 3.13 | 3.26 | 90 | 120.34 | 125.39 | 101.41 | 105.66 |
| 51 | 5.08 | 5.29 | 3.31 | 3.45 | 91 | 130.06 | 135.52 | 110.32 | 114.95 |
| 52 | 5.51 | 5.75 | 3.52 | 3.67 | 92 | 139.88 | 145.75 | 119.34 | 124.34 |
| 53 | 6.00 | 6.25 | 3.76 | 3.92 | 93 | 149.50 | 155.77 | 128.16 | 133.53 |
| 54 | 6.52 | 6.79 | 4.05 | 4.21 | 94 | 158.92 | 165.58 | 136.78 | 142.51 |
| 55 | 7.08 | 7.38 | 4.37 | 4.55 | 95 | 168.14 | 175.19 | 145.19 | 151.28 |
| 56 | 7.69 | 8.02 | 4.75 | 4.95 | 96 | 177.16 | 184.58 | 153.01 | 159.42 |
| 57 | 8.36 | 8.71 | 5.18 | 5.40 | 97 | 185.98 | 193.77 | 161.03 | 167.77 |
| 58 | 9.10 | 9.48 | 5.68 | 5.92 | 98 | 194.59 | 202.75 | 168.74 | 175.81 |
| 59 | 9.89 | 10.30 | 6.27 | 6.53 | 99 | 203.01 | 211.52 | 176.16 | 183.54 |

FIDELITY BANKERS LIFE INSURANCE COMPANY
SCHEDULE D - UL3

Annual Reinsurance Rates per \$1000 Net Amount at Risk
 For Policies with Policy Dates of 3-1-1983 and later
 Preferred Nonsmokers

| Attd. Age | MALE | | | FEMALE | | | Attd. Age | MALE | | | FEMALE | | |
|--------------|------|----------------------|------|--------|----------------------|------|--------------|------|----------------------|--------|--------|----------------------|--------|
| | 1* | Policy Years 2-10 | 11 + | 1* | Policy Years 2-10 | 11 + | | 1* | Policy Years 2-10 | 11 + | 1* | Policy Years 2-10 | 11 + |
| 15-20 | 0.11 | 0.91 | 0.94 | 0.11 | 0.81 | 0.84 | 60 | 0.98 | 8.62 | 8.98 | 0.54 | 5.41 | 5.64 |
| 21 | 0.11 | 0.91 | 0.94 | 0.11 | 0.81 | 0.84 | 61 | 1.08 | 9.42 | 9.82 | 0.54 | 5.92 | 6.14 |
| 22 | 0.11 | 0.91 | 0.94 | 0.11 | 0.81 | 0.84 | 62 | 1.19 | 10.22 | 10.65 | 0.60 | 6.42 | 6.67 |
| 23 | 0.11 | 0.91 | 0.94 | 0.11 | 0.81 | 0.84 | 63 | 1.30 | 11.23 | 11.70 | 0.60 | 6.92 | 7.21 |
| 24 | 0.11 | 0.91 | 0.94 | 0.11 | 0.81 | 0.84 | 64 | 1.41 | 12.43 | 12.95 | 0.65 | 7.42 | 7.73 |
| 25 | 0.11 | 0.91 | 0.94 | 0.11 | 0.81 | 0.84 | 65 | 1.52 | 13.63 | 14.20 | 0.71 | 8.02 | 8.36 |
| 26 | 0.11 | 0.91 | 0.94 | 0.11 | 0.81 | 0.84 | 66 | 1.62 | 14.83 | 15.46 | 0.76 | 8.72 | 9.09 |
| 27 | 0.11 | 0.91 | 0.94 | 0.11 | 0.81 | 0.84 | 67 | 1.73 | 16.14 | 16.81 | 0.81 | 9.52 | 9.92 |
| 28 | 0.11 | 0.91 | 0.94 | 0.11 | 0.81 | 0.84 | 68 | 1.84 | 17.44 | 18.17 | 0.87 | 10.42 | 10.96 |
| 29 | 0.11 | 0.91 | 0.94 | 0.11 | 0.81 | 0.84 | 69 | 2.00 | 18.84 | 19.63 | 0.98 | 11.53 | 12.01 |
| 30 | 0.11 | 0.91 | 0.94 | 0.11 | 0.81 | 0.84 | 70 | 2.22 | 20.44 | 21.30 | 1.08 | 12.83 | 13.37 |
| 31 | 0.11 | 1.01 | 1.05 | 0.11 | 0.81 | 0.84 | 71 | 2.49 | 22.25 | 23.18 | 1.19 | 14.33 | 14.93 |
| 32 | 0.11 | 1.01 | 1.05 | 0.11 | 0.81 | 0.84 | 72 | 2.81 | 24.25 | 25.27 | 1.35 | 16.04 | 16.71 |
| 33 | 0.17 | 1.01 | 1.05 | 0.11 | 0.91 | 0.94 | 73 | 3.14 | 26.46 | 27.57 | 1.52 | 17.84 | 18.57 |
| 34 | 0.17 | 1.11 | 1.15 | 0.11 | 0.91 | 0.94 | 74 | 3.51 | 28.86 | 30.07 | 1.68 | 19.94 | 20.78 |
| 35 | 0.17 | 1.11 | 1.15 | 0.11 | 1.01 | 1.05 | 75 | 3.95 | 31.57 | 32.89 | 1.89 | 22.35 | 23.29 |
| 36 | 0.17 | 1.21 | 1.26 | 0.11 | 1.01 | 1.05 | 76 | 4.43 | 34.57 | 36.02 | 2.16 | 25.05 | 26.10 |
| 37 | 0.22 | 1.31 | 1.36 | 0.11 | 1.11 | 1.15 | 77 | 4.97 | 37.98 | 39.57 | 2.49 | 28.06 | 29.24 |
| 38 | 0.22 | 1.41 | 1.47 | 0.11 | 1.11 | 1.15 | 78 | 5.57 | 41.79 | 43.54 | 2.87 | 31.37 | 32.69 |
| 39 | 0.22 | 1.51 | 1.57 | 0.17 | 1.21 | 1.26 | 79 | 6.27 | 46.00 | 47.92 | 3.35 | 34.97 | 36.44 |
| 40 | 0.27 | 1.61 | 1.67 | 0.17 | 1.31 | 1.36 | 80 | 7.08 | 50.60 | 52.73 | 3.95 | 38.88 | 40.51 |
| 41 | 0.27 | 1.71 | 1.78 | 0.17 | 1.41 | 1.47 | 81 | | 55.51 | 57.84 | | 43.09 | 44.90 |
| 42 | 0.27 | 1.81 | 1.88 | 0.17 | 1.51 | 1.57 | 82 | | 60.73 | 63.27 | | 47.70 | 49.70 |
| 43 | 0.33 | 1.91 | 1.99 | 0.17 | 1.61 | 1.67 | 83 | | 66.34 | 69.12 | | 52.71 | 54.92 |
| 44 | 0.33 | 2.11 | 2.20 | 0.22 | 1.71 | 1.78 | 84 | | 72.35 | 75.38 | | 58.12 | 60.56 |
| 45 | 0.33 | 2.31 | 2.41 | 0.22 | 1.81 | 1.88 | 85 | | 78.86 | 82.17 | | 63.93 | 66.61 |
| 46 | 0.38 | 2.51 | 2.61 | 0.22 | 1.91 | 1.99 | 86 | | 85.98 | 89.58 | | 70.24 | 73.19 |
| 47 | 0.38 | 2.71 | 2.82 | 0.27 | 2.01 | 2.09 | 87 | | 93.69 | 97.62 | | 77.16 | 80.39 |
| 48 | 0.44 | 3.01 | 3.14 | 0.27 | 2.11 | 2.20 | 88 | | 102.01 | 106.28 | | 84.67 | 89.22 |
| 49 | 0.44 | 3.31 | 3.45 | 0.27 | 2.21 | 2.30 | 89 | | 110.93 | 115.57 | | 92.79 | 96.66 |
| 50 | 0.49 | 3.61 | 3.76 | 0.33 | 2.41 | 2.51 | 90 | | 120.34 | 125.39 | | 101.41 | 105.66 |
| 51 | 0.49 | 3.91 | 4.08 | 0.33 | 2.61 | 2.72 | 91 | | 130.06 | 135.52 | | 110.32 | 114.77 |
| 52 | 0.54 | 4.21 | 4.39 | 0.33 | 2.81 | 2.93 | 92 | | 139.88 | 145.75 | | 119.34 | 124.34 |
| 53 | 0.54 | 4.61 | 4.81 | 0.38 | 3.01 | 3.14 | 93 | | 149.50 | 155.77 | | 128.16 | 133.53 |
| 54 | 0.60 | 5.01 | 5.22 | 0.38 | 3.21 | 3.34 | 94 | | 158.92 | 165.58 | | 136.78 | 142.51 |
| 55 | 0.65 | 5.51 | 5.75 | 0.38 | 3.51 | 3.66 | 95 | | 168.14 | 175.19 | | 145.19 | 151.28 |
| 56 | 0.71 | 6.12 | 6.37 | 0.44 | 3.81 | 3.97 | 96 | | 177.16 | 184.58 | | 153.01 | 159.42 |
| 57 | 0.76 | 6.72 | 7.00 | 0.44 | 4.11 | 4.28 | 97 | | 185.98 | 193.77 | | 161.03 | 167.77 |
| 58 | 0.81 | 7.32 | 7.63 | 0.49 | 4.51 | 4.70 | 98 | | 194.59 | 202.75 | | 168.74 | 175.91 |
| 59 | 0.97 | 7.92 | 8.25 | 0.49 | 4.91 | 5.12 | 99 | | 203.01 | 211.52 | | 176.16 | 183.54 |

* Reinsurance Rates in 1st policy year are applicable only if the reinsured policy resulted from the exchange of a prior permanent policy. For conversions of prior term policies the reinsurance rates in the first policy year are zero for all issue ages.

FIDELITY BANKERS LIFE INSURANCE COMPANY

SCHEDULE D - UL4

Annual Reinsurance Rates per \$1000 Net Amount at Risk
For Policies with Policy Dates of 3-1-1983 and later
Standard Nonsmokers

| Attd. Age | MALE | | | FEMALE | | | Attd. Age | MALE | | | FEMALE | | |
|--------------|------|----------------|---------------|--------|----------------|---------------|--------------|------|----------------|---------------|--------|----------------|---------------|
| | 1* | Policy 2-10 | Years 11 + | 1* | Policy 2-10 | Years 11 + | | 1* | Policy 2-10 | Years 11 + | 1* | Policy 2-10 | Years 11 + |
| 20 | 0.11 | 1.01 | 1.05 | 0.11 | 0.91 | 0.94 | 60 | 1.08 | 10.73 | 11.17 | 0.54 | 6.92 | 7.2 |
| 21 | 0.11 | 1.11 | 1.15 | 0.11 | 1.01 | 1.05 | 61 | 1.19 | 11.73 | 12.22 | 0.60 | 7.52 | 7.9 |
| 22 | 0.11 | 1.11 | 1.15 | 0.11 | 1.01 | 1.05 | 62 | 1.30 | 12.83 | 13.37 | 0.65 | 8.22 | 8.5 |
| 23 | 0.11 | 1.11 | 1.15 | 0.11 | 1.01 | 1.05 | 63 | 1.41 | 14.13 | 14.72 | 0.71 | 8.92 | 9.3 |
| 24 | 0.11 | 1.11 | 1.15 | 0.11 | 1.01 | 1.05 | 64 | 1.52 | 15.54 | 16.19 | 0.76 | 9.62 | 10.0 |
| 25 | 0.11 | 1.11 | 1.15 | 0.11 | 1.01 | 1.05 | 65 | 1.62 | 17.04 | 17.75 | 0.81 | 10.32 | 10.7 |
| 26 | 0.11 | 1.21 | 1.26 | 0.11 | 1.01 | 1.05 | 66 | 1.79 | 18.54 | 19.32 | 0.87 | 11.23 | 11.7 |
| 27 | 0.11 | 1.21 | 1.26 | 0.11 | 1.01 | 1.05 | 67 | 1.95 | 20.14 | 20.99 | 0.92 | 12.23 | 12.7 |
| 28 | 0.11 | 1.21 | 1.26 | 0.11 | 1.01 | 1.05 | 68 | 2.11 | 21.75 | 22.66 | 0.98 | 13.33 | 13.9 |
| 29 | 0.11 | 1.21 | 1.26 | 0.11 | 1.01 | 1.05 | 69 | 2.33 | 23.45 | 24.43 | 1.08 | 14.63 | 15.2 |
| 30 | 0.11 | 1.21 | 1.26 | 0.11 | 1.01 | 1.05 | 70 | 2.60 | 25.25 | 26.31 | 1.19 | 16.04 | 16.7 |
| 31 | 0.17 | 1.31 | 1.36 | 0.11 | 1.01 | 1.05 | 71 | 2.92 | 27.16 | 28.30 | 1.35 | 17.54 | 18.2 |
| 32 | 0.17 | 1.31 | 1.36 | 0.11 | 1.11 | 1.15 | 72 | 3.30 | 29.16 | 30.38 | 1.52 | 19.24 | 20.0 |
| 33 | 0.17 | 1.41 | 1.47 | 0.11 | 1.11 | 1.15 | 73 | 3.73 | 31.37 | 32.68 | 1.73 | 21.05 | 21.9 |
| 34 | 0.17 | 1.41 | 1.47 | 0.11 | 1.21 | 1.26 | 74 | 4.22 | 33.77 | 35.19 | 1.95 | 22.95 | 23.9 |
| 35 | 0.17 | 1.51 | 1.57 | 0.17 | 1.21 | 1.26 | 75 | 4.76 | 36.28 | 37.80 | 2.22 | 25.05 | 26.1 |
| 36 | 0.22 | 1.61 | 1.67 | 0.17 | 1.31 | 1.36 | 76 | 5.30 | 38.98 | 40.62 | 2.54 | 27.46 | 28.6 |
| 37 | 0.22 | 1.71 | 1.76 | 0.17 | 1.31 | 1.36 | 77 | 5.89 | 41.89 | 43.64 | 2.97 | 30.16 | 31.4 |
| 38 | 0.22 | 1.81 | 1.88 | 0.17 | 1.41 | 1.47 | 78 | 6.48 | 45.09 | 46.98 | 3.46 | 33.07 | 34.4 |
| 39 | 0.27 | 1.91 | 1.99 | 0.17 | 1.51 | 1.57 | 79 | 7.13 | 48.60 | 50.64 | 4.00 | 36.28 | 37.8 |
| 40 | 0.27 | 2.01 | 2.09 | 0.17 | 1.61 | 1.67 | 80 | 7.89 | 52.41 | 54.61 | 4.54 | 39.78 | 41.4 |
| 41 | 0.27 | 2.11 | 2.20 | 0.22 | 1.71 | 1.78 | 81 | | 56.72 | 59.09 | | 43.69 | 45.5 |
| 42 | 0.33 | 2.21 | 2.30 | 0.22 | 1.81 | 1.88 | 82 | | 61.63 | 64.21 | | 48.10 | 50.1 |
| 43 | 0.33 | 2.41 | 2.51 | 0.22 | 1.91 | 1.99 | 83 | | 66.94 | 69.74 | | 52.91 | 55.1 |
| 44 | 0.38 | 2.61 | 2.72 | 0.22 | 2.11 | 2.20 | 84 | | 72.65 | 75.69 | | 58.12 | 60.56 |
| 45 | 0.38 | 2.91 | 3.03 | 0.22 | 2.31 | 2.41 | 85 | | 78.86 | 82.17 | | 63.93 | 66.61 |
| 46 | 0.44 | 3.21 | 3.34 | 0.27 | 2.41 | 2.51 | 86 | | 85.98 | 89.58 | | 70.24 | 73.1 |
| 47 | 0.44 | 3.51 | 3.66 | 0.27 | 2.61 | 2.72 | 87 | | 93.69 | 97.62 | | 77.16 | 80.3 |
| 48 | 0.49 | 3.91 | 4.08 | 0.27 | 2.71 | 2.82 | 88 | | 102.01 | 106.28 | | 84.67 | 88.2 |
| 49 | 0.49 | 4.21 | 4.39 | 0.33 | 2.91 | 3.03 | 89 | | 110.93 | 115.57 | | 92.79 | 96.6 |
| 50 | 0.54 | 4.61 | 4.81 | 0.33 | 3.11 | 3.24 | 90 | | 120.34 | 125.39 | | 101.41 | 105.6 |
| 51 | 0.54 | 5.01 | 5.22 | 0.33 | 3.31 | 3.45 | 91 | | 130.06 | 135.52 | | 110.32 | 114.95 |
| 52 | 0.60 | 5.41 | 5.64 | 0.38 | 3.51 | 3.66 | 92 | | 139.88 | 145.75 | | 119.34 | 124.34 |
| 53 | 0.60 | 5.92 | 6.16 | 0.38 | 3.71 | 3.87 | 93 | | 149.50 | 155.77 | | 128.16 | 133.53 |
| 54 | 0.65 | 6.42 | 6.69 | 0.38 | 4.01 | 4.18 | 94 | | 158.92 | 165.58 | | 136.78 | 142.51 |
| 55 | 0.71 | 7.02 | 7.31 | 0.44 | 4.31 | 4.49 | 95 | | 168.14 | 175.19 | | 145.19 | 151.26 |
| 56 | 0.76 | 7.62 | 7.94 | 0.44 | 4.71 | 4.91 | 96 | | 177.16 | 184.58 | | 153.01 | 159.42 |
| 57 | 0.81 | 8.32 | 8.67 | 0.49 | 5.11 | 5.33 | 97 | | 185.98 | 193.77 | | 161.03 | 167.77 |
| 58 | 0.87 | 9.02 | 9.40 | 0.49 | 5.62 | 5.85 | 98 | | 194.59 | 202.75 | | 168.74 | 175.81 |
| 59 | 0.98 | 9.82 | 10.24 | 0.54 | 6.22 | 6.48 | 99 | | 203.01 | 211.52 | | 176.16 | 183.54 |

Reinsurance Rates in 1st policy year are applicable only if the reinsured policy resulted from the exchange of a prior permanent policy. For conversions of prior term policies the reinsurance rates in the first policy year are zero for all issue ages.

FIDELITY BANKERS LIFE INSURANCE COMPANY

SCHEDULE D - ULS

Annual Reinsurance Rates per \$1000 Net Amount at Risk
For Policies with Policy Dates of 3-1-1983 and later
Smokers

| Attd. Age | MALE | | | FEMALE | | | Attd. Age | MALE | | | FEMALE | | |
|--------------|------|----------------------|-------|--------|----------------------|------|--------------|------|----------------------|--------|--------|----------------------|--------|
| | 1* | Policy Years 2-10 | 11 + | 1* | Policy Years 2-10 | 11 + | | 1* | Policy Years 2-10 | 11 + | 1* | Policy Years 2-10 | 11 + |
| 16-20 | 0.17 | 1.21 | 1.26 | 0.17 | 1.01 | 1.05 | 60 | 1.19 | 13.33 | 13.89 | 0.65 | 8.42 | 8.77 |
| 21 | 0.17 | 1.41 | 1.47 | 0.17 | 1.21 | 1.26 | 61 | 1.30 | 14.53 | 15.14 | 0.71 | 9.22 | 9.61 |
| 22 | 0.17 | 1.41 | 1.47 | 0.17 | 1.21 | 1.26 | 62 | 1.46 | 15.84 | 16.50 | 0.76 | 10.02 | 10.44 |
| 23 | 0.17 | 1.41 | 1.47 | 0.17 | 1.21 | 1.26 | 63 | 1.62 | 17.24 | 17.96 | 0.81 | 10.83 | 11.29 |
| 24 | 0.17 | 1.41 | 1.47 | 0.17 | 1.21 | 1.26 | 64 | 1.79 | 18.74 | 19.53 | 0.87 | 11.73 | 12.22 |
| 25 | 0.17 | 1.41 | 1.47 | 0.17 | 1.21 | 1.26 | 65 | 1.89 | 20.44 | 21.30 | 0.92 | 12.73 | 13.26 |
| 26 | 0.17 | 1.61 | 1.67 | 0.17 | 1.41 | 1.47 | 66 | 2.06 | 22.25 | 23.18 | 0.98 | 13.83 | 14.41 |
| 27 | 0.17 | 1.61 | 1.67 | 0.17 | 1.51 | 1.57 | 67 | 2.27 | 24.15 | 25.16 | 1.03 | 15.03 | 15.66 |
| 28 | 0.17 | 1.61 | 1.67 | 0.17 | 1.51 | 1.57 | 68 | 2.54 | 26.16 | 27.25 | 1.08 | 16.34 | 17.02 |
| 29 | 0.17 | 1.71 | 1.78 | 0.17 | 1.51 | 1.57 | 69 | 2.87 | 28.26 | 29.44 | 1.19 | 17.74 | 18.48 |
| 30 | 0.17 | 1.71 | 1.78 | 0.17 | 1.51 | 1.57 | 70 | 3.19 | 30.36 | 31.64 | 1.30 | 19.24 | 20.05 |
| 31 | 0.22 | 1.81 | 1.88 | 0.22 | 1.61 | 1.67 | 71 | 3.57 | 32.47 | 33.83 | 1.46 | 20.85 | 21.72 |
| 32 | 0.22 | 1.81 | 1.88 | 0.22 | 1.61 | 1.67 | 72 | 3.95 | 34.57 | 36.02 | 1.68 | 22.45 | 23.35 |
| 33 | 0.22 | 1.81 | 1.88 | 0.22 | 1.61 | 1.67 | 73 | 4.32 | 36.68 | 38.21 | 1.89 | 24.15 | 25.16 |
| 34 | 0.22 | 1.91 | 1.99 | 0.22 | 1.61 | 1.67 | 74 | 4.76 | 38.78 | 40.41 | 2.16 | 25.96 | 27.04 |
| 35 | 0.22 | 1.91 | 1.99 | 0.22 | 1.71 | 1.78 | 75 | 5.24 | 40.89 | 42.60 | 2.43 | 27.86 | 29.03 |
| 36 | 0.27 | 2.01 | 2.09 | 0.22 | 1.71 | 1.78 | 76 | 5.78 | 43.09 | 44.90 | 2.81 | 29.76 | 31.22 |
| 37 | 0.27 | 2.11 | 2.20 | 0.22 | 1.81 | 1.88 | 77 | 6.43 | 45.39 | 47.30 | 3.24 | 32.27 | 33.62 |
| 38 | 0.27 | 2.21 | 2.30 | 0.22 | 1.81 | 1.88 | 78 | 7.13 | 47.80 | 49.80 | 3.78 | 34.77 | 36.23 |
| 39 | 0.33 | 2.31 | 2.41 | 0.22 | 1.91 | 1.99 | 79 | 7.83 | 50.40 | 52.52 | 4.38 | 37.58 | 39.15 |
| 40 | 0.33 | 2.41 | 2.51 | 0.22 | 2.01 | 2.09 | 80 | 8.64 | 53.31 | 55.54 | 4.97 | 40.79 | 42.49 |
| 41 | 0.33 | 2.51 | 2.61 | 0.27 | 2.11 | 2.20 | 81 | | 57.72 | 60.14 | | 44.39 | 46.25 |
| 42 | 0.38 | 2.71 | 2.82 | 0.27 | 2.21 | 2.30 | 82 | | 62.53 | 65.15 | | 48.50 | 50.53 |
| 43 | 0.38 | 3.01 | 3.14 | 0.27 | 2.31 | 2.41 | 83 | | 67.64 | 70.47 | | 53.11 | 55.34 |
| 44 | 0.44 | 3.31 | 3.45 | 0.27 | 2.51 | 2.61 | 84 | | 73.05 | 76.11 | | 58.22 | 60.66 |
| 45 | 0.44 | 3.61 | 3.76 | 0.27 | 2.71 | 2.82 | 85 | | 78.86 | 82.17 | | 63.93 | 66.61 |
| 46 | 0.49 | 4.01 | 4.18 | 0.33 | 2.91 | 3.03 | 86 | | 85.98 | 89.58 | | 70.24 | 73.12 |
| 47 | 0.49 | 4.41 | 4.60 | 0.33 | 3.11 | 3.24 | 87 | | 93.69 | 97.62 | | 77.16 | 80.35 |
| 48 | 0.54 | 4.81 | 5.02 | 0.33 | 3.31 | 3.45 | 88 | | 102.01 | 106.28 | | 84.67 | 88.22 |
| 49 | 0.54 | 5.21 | 5.43 | 0.38 | 3.61 | 3.76 | 89 | | 110.93 | 115.57 | | 92.79 | 96.66 |
| 50 | 0.60 | 5.62 | 5.85 | 0.38 | 3.91 | 4.08 | 90 | | 120.34 | 125.39 | | 101.41 | 105.66 |
| 51 | 0.60 | 6.02 | 6.27 | 0.38 | 4.21 | 4.39 | 91 | | 130.06 | 135.52 | | 110.32 | 114.95 |
| 52 | 0.65 | 6.52 | 6.79 | 0.44 | 4.51 | 4.70 | 92 | | 139.88 | 145.75 | | 119.34 | 124.34 |
| 53 | 0.65 | 7.12 | 7.42 | 0.44 | 4.81 | 5.02 | 93 | | 149.50 | 155.77 | | 128.16 | 133.53 |
| 54 | 0.71 | 7.82 | 8.15 | 0.44 | 5.11 | 5.33 | 94 | | 158.92 | 165.58 | | 136.78 | 142.51 |
| 55 | 0.76 | 8.52 | 8.88 | 0.49 | 5.41 | 5.64 | 95 | | 168.14 | 175.19 | | 145.19 | 151.28 |
| 56 | 0.81 | 9.32 | 9.71 | 0.49 | 5.82 | 6.06 | 96 | | 177.16 | 184.58 | | 153.01 | 159.42 |
| 57 | 0.87 | 10.22 | 10.65 | 0.54 | 6.32 | 6.58 | 97 | | 185.98 | 193.77 | | 161.03 | 167.77 |
| 58 | 0.98 | 11.23 | 11.70 | 0.54 | 6.92 | 7.21 | 98 | | 194.59 | 202.75 | | 168.74 | 175.81 |
| 59 | 1.08 | 12.23 | 12.74 | 0.60 | 7.62 | 7.94 | 99 | | 203.01 | 211.52 | | 176.16 | 183.54 |

Reinsurance Rates in 1st policy year are applicable only if the reinsured policy resulted from the exchange of a prior permanent policy. For conversions of prior term policies the reinsurance rates in the first policy year are zero for all issue ages.

AMENDMENT NO. 1

TO

AUTOMATIC POOL REINSURANCE AGREEMENT, POOL C

BETWEEN

FIDELITY BANKERS LIFE INSURANCE COMPANY
RICHMOND, VIRGINIA

AND

RESOURCES LIFE INSURANCE COMPANY
FORT LEE, NEW JERSEY

- A. Schedule D of the original reinsurance agreement (page 15 for Preferred Risks and page 16 for Standard Risks) is hereby deleted and replaced by the attached Schedule D - Revised. The revised reinsurance rates are effective on and after the first policy anniversary for reinsured policies with Policy Dates preceding March 01, 1983. Substandard rates per one table remain at 25% of these revised rates.
- B. New Schedule D rates are attached for reinsured policies with Policy Dates of March 01, 1983 and later. The new rates are further identified as follows:

UL3 for Preferred Nonsmokers,
UL4 for Standard Nonsmokers,
UL5 for Smokers.

Substandard rates per one table are 25% for UL4 and 20% for UL5. (UL3 policies for Preferred Nonsmokers cannot be substandard, except flat extra premiums for occupational or avocational hazards.)

This amendment is executed in duplicate by officers of the Company and the Reinsurer as indicated below.

| | | | |
|-----------|------------------------------|-------------------------------|----------------|
| Company | <u>Heinz A. Briegel, FSA</u> | Senior Vice Pres. and Actuary | <u>8/9/83</u> |
| | Signature | Title | Date |
| Reinsurer | <u>Karl W. Kamm</u> | Senior Vice President | <u>8/21/83</u> |
| | Signature | Title | Date |

AMENDMENT NO. 2

TO

AUTOMATIC POOL REINSURANCE AGREEMENT, POOL C

BETWEEN

FIDELITY BANKERS LIFE INSURANCE COMPANY
RICHMOND, VIRGINIA

AND

RESOURCES LIFE INSURANCE COMPANY
FORT LEE, NEW JERSEY

1. Schedule A of the original reinsurance agreement is hereby amended by adding the following policy:

Form No. 010-(4/80), Current Premium Whole Life policy

2. Paragraph 1 of Article 12 of the original reinsurance agreement is hereby amended by adding that reinsurance premiums for the above policy form will be calculated on an annual basis and will be payable in advance at issue and on each subsequent policy anniversary while the reinsurance is in force.
3. The reinsurance rates in Schedule C will also apply to the above policy form. The net amount at risk will be calculated as the amount of insurance less the terminal reserve at the end of the policy year.
4. Policies of the above form with Policy Dates of July 01, 1983 and later will be reinsured under this agreement subject to all other provisions of this agreement.

This amendment is executed in duplicate by officers of the Company and the Reinsurer as indicated below.

| | | | |
|-----------|------------------------------|--------------------------------------|----------------|
| Company | <u>Keniz A. Briegel, FSA</u> | <u>Senior Vice Pres. and Actuary</u> | <u>8/9/83</u> |
| | Signature | Title | Date |
| Reinsurer | <u>Herbert H. Levine</u> | <u>Senior Vice President</u> | <u>8/21/83</u> |
| | Signature | Title | Date |

AMENDMENT NO. 4

TO

AUTOMATIC REINSURANCE AGREEMENT, POOL C

BETWEEN

FIDELITY BANKERS LIFE INSURANCE COMPANY

RICHMOND, VIRGINIA

AND

B

RESOURCES LIFE INSURANCE COMPANY

1. Schedule A of the original reinsurance agreement is hereby amended by adding the following policy:

Form #FD2, Flexible Premium Adjustable Life Policy, Universal Life.

2. The policy will be reinsured on Plan Codes FD3, FD4 and FD5, corresponding to UL3, UL4 and UL5, at the reinsurance premiums based on the rates in Schedule G in the Agreement, payable monthly.
3. The net amount at risk will be calculated monthly in the same manner as for policy form UL1.
4. Policies issued on the above form on or after February 1, 1984 will be reinsured under this Agreement subject to all other provisions of this Agreement.

This amendment is executed in duplicate by officers of the Company and the Reinsurer as indicated below.

| | | | |
|-----------|--------------------------------------|-------------------------------------------------|-------------------------|
| Company | <u>Heinz L. Briesel</u> Signature | <u>Senior Vice Pres. & Actuary</u> Title | <u>3/8/1984</u> Date |
| Reinsurer | <u>Robert H. Hauser</u> Signature | <u>Senior Vice President</u> Title | <u>6/8/84</u> Date |

AMENDMENT NUMBER 5

TO

AUTOMATIC POOL REINSURANCE AGREEMENT, POOL C

BETWEEN

FIDELITY BANKERS LIFE INSURANCE COMPANY

RICHMOND, VIRGINIA

AND

RESOURCES LIFE INSURANCE COMPANY

FORT LEE, NEW JERSEY

1. Effective January 1, 1985 the net amount at risk for all Universal Life policies reinsured hereunder will be held constant until the next policy anniversary at the amount applicable on each policy's monthiversary date in January 1985. On each subsequent policy anniversary a new net amount at risk will be calculated and held constant during the policy year beginning on such anniversary..

For new business reinsured hereunder after December 31, 1984, the net amount at risk on the policy date will be held constant during the first policy year. Thereafter, a new net amount at risk will be calculated on each policy anniversary and held constant until the next policy anniversary.

2. The Company will continue to pay reinsurance premiums for Universal Life policies on a monthly basis.
3. Claims will be reimbursed to the Company for that net amount at risk on the date of death which had been used to calculate the reinsurance premium for the policy month of death, subject to the other provisions in Article 14, Settlement of Claims.
4. For policies submitted under the "Oversights" provision after December 31, 1984, the net amounts at risk will be calculated on an "annual" basis, as though the provisions of paragraph 1 above had been in effect on the policy date of such policy.
5. For policies reinstated after December 31, 1984, the net amount at risk applicable on the date of reinstatement will be held constant until the next policy anniversary. Thereafter, a new net amount at risk will be calculated on each policy anniversary and held constant until the next policy anniversary.
6. All net amounts at risk will be calculated in accordance with the policy provisions.
7. The effective date of this amendment is 01 January 1985.

This amendment is executed in duplicate by officers of the Company and the reinsurer as indicated below.

| | | | |
|-----------|-------------------------|--------------------------------------------|----------------|
| Company | <u>Heinz A. Briegel</u> | <u>Senior Vice President & Actuary</u> | <u>4/12/85</u> |
| | Signature | Title | Date |
| Reinsurer | <u>Robert L. Thomas</u> | <u>SR. Vice President</u> | <u>4/12/85</u> |
| | Signature | Title | Date |

TO

Ed O'Reilly

AT

Resourcer

FROM

Mike Adams

AT

FBI

SUBJECT

Pool C

DATE

3/11/86

MESSAGE

Ref: our phone conversation 3/10. Enclosed
are copy of Pool C and copy of
your pool C. Be happy to formalize
more if you require. Probably be
nice idea.

REPLY

SIGNED

DATE

287A

SENDER - DETACH THIS COPY RETAIN FOR FILE. SEND WHITE AND PINK COPIES WITH CARBON INTACT.

562

Integrated Resources
Life Insurance Company
One Bridge Plaza
Fort Lee, NJ 07024
201-461-0606

Integrated
Resources

May 20, 1987

Mr. Ed Kurtz
Senior Vice President
Underwriting
Fidelity Bankers Life Insurance Co.
Fidelity Bankers Life Building
1011 Bouldersprings Drive
Richmond, VA. 23225

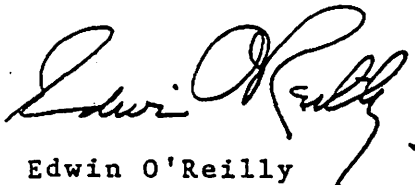
RE: Jumbo Limit

Per our conversation, we have agreed to the following Jumbo Limits:

1. MI, Angina, and Bypass Programs - \$3,000,000 (applied for and in force). *NOT applicable to Freedom III, FD3 NOT AVAILABLE yet.*
2. Automatic Business including limited pool retention - \$5,000,000 (applied for and in force). ~~RE~~

Please make this letter part of your treaty file, replacing my letter of May 15, 1987.

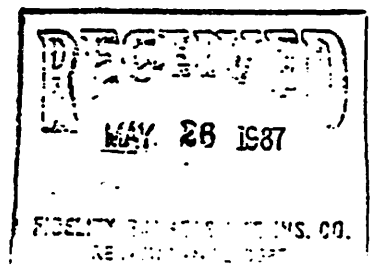
Sincerely,



Edwin O'Reilly
Vice President

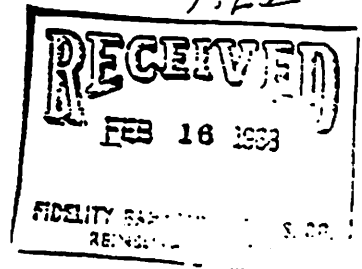
EOR/mna

cc: J. Donovan



Integrated Resources
Life Insurance Company
One Bridge Plaza
Fort Lee, NJ 07024
201-461-0606

564



January 19, 1988

Integrated
Resources

RE: Reinsurance Treaties between Resources Life and/or Providence
Life and Fidelity Bankers Life.

To whom it may concern:

Please be advised that Providence Life Insurance Company and Resources Life Insurance Company have been merged into Integrated Resources Life Insurance Company ("IR Life"), effective December 30, 1987. All of the rights and obligations of the predecessor companies are now those of Integrated Resources Life.

Please attach a copy of this letter to each Agreement you may have with Resources Life and/or Providence Life. There are no other changes to the Agreement (s) occasioned by the merger.

If any questions arise, please feel free to contact me.

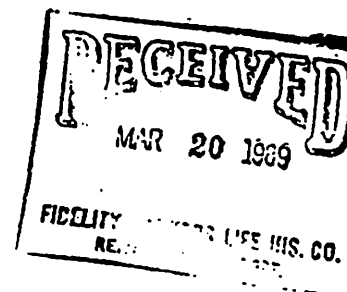
Very truly yours,

Edwin O'Reilly
Vice President

EOR/mnc

Integrated Resources
Life Insurance Company
One Bridge Plaza
Fort Lee, NJ 07024
201-461-0006

pool
C



March 16, 1989

Integrated
Resources

Mr. Michael M. Adams
Assistant Secretary
Director of Reinsurance
Fidelity Bankers Life Ins. Co.
1011 Boulder Springs Drive
Richmond, VA 23225

Dear Mike:

The purpose of this letter is to clarify and follow up on our lengthy discussion of this morning wherein we covered several topics. As discussed, I have undertaken some housekeeping measures since I will no longer be with Integrated after April 28, 1989. I will attempt to do this in outline form for ease of reference.

1. Coronary Bypass - MI Program. We had talked about this back in 1986 and again in 1987 but I do not see any follow up correspondence either in the treaty file or in my personal file on Fidelity Bankers. In order to make a clean out on this subject, we are hereby giving three months notice of our termination of participation in that program. The effective date will be June 16, 1989. This termination can be done either by a letter addendum or amendment to the 1977 treaty. Please advise as to which course of action you would prefer.
2. Again in reference to the facultative reinsurance agreement dated 11/1/77, we would like to cancel the following Amendments:

Amendment No. 4 effective January 2, 1980 -
Coinsurance on RLR and 1 year RNC.

Integrated Resources
Life Insurance Company

March 16, 1989

Mr. Michael Adams

Page 2,

Amendment No. 7 - effective July 1, 1981 covering automatic coinsurance on 1 year term No. 547, and Section 79 RLR-No. 548.

Amendment No. 8 - effective July 1, 1981 covering 5 year RNC Plans, No. 506 and No. 546.

Amendment No. 9 - effective July 1, 1982 covering YRT No. 554 and RLR No. 560.

Amendment No. 10 - effective February 15, 1983 covering all automatic and fac/oblig coinsurance.

Pool C. Despite the fact that you had forwarded us an additional copy of Pool C sometime back, we again appear to have misplaced it. However, we do have correspondence indicating the terms and conditions of Pool C for the Universal Life conversions and exchanges on those cases which could not be accepted by the previous reinsurers. In any event, we would also like to terminate coverage for Pool C effective June 16, 1989.

3. This is in reference to your March 3, 1989 letter regarding reinsurance coverage on your newly developed current premium whole life product. We do agree to accept coverage on this product using the Pool G and H Freedom III reinsurance rates, payable on an annual basis. Would you please draw up the necessary amendment adding this product to Pools G and H.



growing...with the needs of our policyholders

Fidelity Bankers Life Insurance Company

Fidelity Bankers Life Building, Ninth and Main Streets, Richmond, Virginia 23219 • (804) 649-8411

Form #9277J

Re: New Retention Schedule

Dear _____:

At the request of our new parent company, Fidelity Bankers Life will adopt the following new retention schedules for new issues with policy or certificate dates of July 1, 1986 and later.

| | Standard to <u>Table 8</u> | Table 9 to <u>Table 16</u> | Over <u>Table 16</u> |
|--------------------------|----------------------------------|----------------------------------|-------------------------|
| <u>Full Retention</u> | | | |
| Issue Ages 0-65 | \$250,000 | \$125,000 | \$25,000 |
| Issue Ages 66 & Over | \$150,000 | \$ 75,000 | \$25,000 |
| <u>Limited Retention</u> | | | |
| Issue Ages 0-65 | \$200,000 | \$ 75,000 | \$25,000 |
| Issue Ages 66 & Over | \$125,000 | \$ 50,000 | \$25,000 |

Note: Each \$1.00 of flat extra premium per \$1000 of insurance will be treated as 10% extra mortality for the purpose of determining substandard rating. However, if the total flat extra premium on a policy or certificate is \$50.00 or less and charged for a period of 3 years or less, it will be disregarded in determining maximum retention.

Aviation Risks Maximum Retention: \$200,000

Waiver of Premium Maximum Retention:
\$25,000 of Annual Premium for level premium policies
\$1,000,000.00 of Insurance for unlevel premium policies

Accidental Death Maximum Retention: Total Retention less life risk retained

Minimum Cession: \$25,000

**Exhibits to Motion to Dismiss Petition for
Review of North American Reassurance Company,
Answer Subject Thereto, and Counterclaim,
filed January 11, 1993:**

- K. Pool D Automatic Pool Coinsurance Agreement
between Fidelity Bankers Life Insurance Company
and Resources Life Insurance Company
signed September 30, 1985
and November 15, 1985**

POOL D

AUTOMATIC POOL COINSURANCE AGREEMENT

between

FIDELITY BANKERS LIFE INSURANCE COMPANY

of

RICHMOND, VIRGINIA

referred to as the Company

and

RESOURCES LIFE INSURANCE COMPANY

of

FORT LEE, NEW JERSEY

referred to as the Reinsurer

ARTICLE 1BASIS OF REINSURANCE

1. The excess of individual ordinary life insurance issued directly by the Company to residents of the United States and Canada on the policy and certificate forms listed in Schedule A will be reinsured under this agreement on an automatic basis in a reinsurance pool. The Company may bind the pool without prior approval for reinsurance of risks which satisfy the conditions stipulated in this agreement for automatic reinsurance coverage.
2. The reinsurance pool will be made up of the Reinsurer under this agreement and other participating reinsurers under similar agreements. The participating members of the pool are named in Schedule B.
3. The Reinsurer will accept for automatic reinsurance coverage a proportional share of each risk ceded to the pool by the Company. The Reinsurer's share is specified in Schedule C.

ARTICLE 2AUTOMATIC REINSURANCE COVERAGE

Subject to the following conditions, the Company may bind the Reinsurer for automatic reinsurance coverage of its share of each risk ceded to the pool:

- a. The Company will retain its maximum scheduled retention on any one life reinsured as specified in Schedule D. Amounts the Company already retains on a life on previous or concurrent policies and certificates will be taken into account in determining its required retention for automatic coverage. If it has already retained its maximum scheduled retention on a life, it may bind the Reinsurer for automatic coverage without retaining any additional amount on the life on the same terms it would have accepted the risk for its own account if it did not already have its maximum limit of retention.
- b. Amounts ceded to the Reinsurer will not exceed its share of the pool's automatic binding limits as specified in Schedule E.
- c. Life insurance reinsured will be issued directly by the Company on the forms listed in Schedule A in accordance with its current individual ordinary underwriting rules. Any change in such underwriting rules must be communicated to and agreed to by the Reinsurer.
- d. The mortality rating of any risk reinsured will not exceed Table 16 at issue of the reinsured policy or certificate. For this purpose, each \$2.50 of flat extra premium per \$1,000 of insurance will be counted as 1 table.

- e. Automatic coverage will not be provided in the pool for any risk concurrently submitted to a reinsurer for facultative consideration.
- f. The total amount of insurance in force and applied for in all companies on any life reinsured will not exceed \$5,000,000.
- g. The minimum amount eligible for automatic reinsurance in the pool will be \$25,000.
- h. If for any reason the amount of reinsurance on any risk in the pool falls below \$5,000, the reinsurance will be automatically terminated.

ARTICLE 3

FACULTATIVE REINSURANCE COVERAGE

Facultative reinsurance will not be accepted under this agreement.

ARTICLE 4

PLAN OF REINSURANCE

- 1. The plan of reinsurance under this agreement will be coinsurance insurance on the same plan and at the same premium as the original insurance subject to the allowances contained in Schedule F, paragraph 5.
- 2. At the time of issue, the Company shall cede to the pool the portion of the risk amount in excess of its retention.
- 3. If there shall be a reduction or termination of any portion of the aggregate amount of insurance which has been retained by the Company on a given life, then, any reinsurance in the pool on the same life shall be reduced by a like amount on the effective date of the reduction or termination.

ARTICLE 5

LIABILITY

- 1. The Reinsurer's liability under this agreement on reinsurance ceded to the pool will begin and end at the same time as the Company's liability on policies and certificates reinsured.
- 2. If the Company becomes liable under a Conditional Receipt or a Receipt (filed with the Reinsurer) before reinsurance has been arranged on a

risk that clearly would have been ceded under this agreement, the Reinsurer will nonetheless be liable for its share of the excess over the Company's retention on the risk, shown in Schedule D, up to the maximum amount of automatic reinsurance coverage specified in Schedule E, provided the risk is not excluded from coverage under the terms of this agreement.

3. The Reinsurer's liability on reinsurance will not be joint with that of any other participating member of the pool. In no event will the Reinsurer participate in the liability of any other participating member of the pool.

ARTICLE 6

PLACEMENT AND ADMINISTRATION OF REINSURANCE

1. The Company will have the responsibility of establishing and maintaining accurate records for the administration of reinsurance under this agreement.
2. All reinsurance under this agreement will be covered by means of a monthly report, a sample of which is attached to the agreement as Appendix I. The report will include such information as the number of lives reinsured, total amount at risk, new reinsurance ceded, terminations, claims, and net reinsurance premiums for the preceding month. The Company will send a copy of the report to the Reinsurer and each of the other participants in the pool within 25 days after the end of each month.
3. In addition to monthly reports, the Reinsurer and each of the other pool participants will receive an annual report, a sample of which is attached to the agreement as Appendix II. This report will include information from the Company's Annual Statement.

ARTICLE 7

REINSURANCE PREMIUMS

The premium rates for reinsurance under this agreement are shown in Schedule F.

ARTICLE 8

REINSURANCE EXPENSES

1. The Company will bear all costs incurred with the issuance, reinstatement or modification of the original policy or certificate.

2. The sender will bear all postal and communication costs.

ARTICLE 9

POLICY CHANGES, TERMINATIONS, AND REDUCTIONS

1. Reinsurance amounts are based on the Company's coverage in force on the life of a person. If any of the Company's policies, certificates or riders on a person are reduced or terminated, the reinsurance in the pool will be reduced by the corresponding amount. The Reinsurer's share of the risk will be reduced in proportion to the reduction in the amount reinsured in the pool.
2. The Company will notify the Reinsurer of any changes in policies and certificates reinsured under this agreement.
3. If a reinsured policy or certificate is terminated, the reinsurance will be terminated as of the same date.
4. If more than one policy or certificate on the same life is reinsured in the pool and any of the policies or certificates are terminated or reduced in amount, the amount reinsured in the pool on the remaining policy or certificate with the earliest policy or certificate date will be reduced by the same amount as of the same date. Two or more policies or certificates with the same date will be considered one. The Reinsurer's share of the risk will be reduced in proportion to the reduction in the amount reinsured in the pool.
5. In the event of a reduction in amount on a policy or certificate reinsured in the pool and by one or more other reinsurers, the amount reinsured in the pool will be reduced in proportion to the reduction in the total amount of reinsurance on the policy. The Reinsurer's share of the risk will be reduced in proportion to the reduction in the amount reinsured in the pool.
6. In any reduction in amount on a policy or certificate reinsured, the Company will maintain without change its original retention of the life insured by the policy or certificate. In no case will the Company's original retention on the life be reduced; nor will it be increased in excess of its scheduled retention limit for that issue age and mortality rating.
7. The Company will reduce each reinsurers account by the amount of any unearned reinsurance premiums resulting from the termination or reduction of its share of policies and certificates reinsured in the pool. If a reinsurer's account is insufficient for a reduction to be applied, the Reinsurer will refund the unearned reinsurance premium directly to the Company.

8. If reinsurance is terminated as a result of the death of the insured under the reinsured policy, reinsurance premiums paid for any period beyond the date of death will be deducted from each reinsurer's account or refunded as stated in the preceding paragraph.

ARTICLE 10

REINSTATEMENT

1. If a reinsured policy or certificate is terminated for any reason and is subsequently reinstated by the Company under its regular rules, the reinsurance will be automatically reinstated.

ARTICLE 11

CONVERSIONS

1. If a reinsured policy or certificate is exchanged to a plan of insurance on one of the Company's policy forms not reinsured under this agreement, the reinsurance on the exchanged policy will be continued at the attained age/duration rates contained in Schedule F.

ARTICLE 12

ACCOUNTS

1. Reinsurance premiums and adjustments for policy changes, terminations, or reductions will be accounted for and settled monthly through the reports in Article 6 Paragraph 2. Reinsurance premiums will be calculated at the Home Office of the Company on each reinsured policy's issue date and each subsequent anniversary date.
2. Settlement of the balance of account will be made by the debtor party within 25 days of the date on which the account is rendered. Alternatively, and by mutual agreement only, such unpaid balances may be offset against any other balances outstanding between the Company and the Reinsurer.

ARTICLE 13

RECAPTURE

1. If the Company increases its retention limits, it may recapture the reinsurance on those lives on which it has maintained its maximum scheduled retention. However, recapture is limited to reinsurance which has been in force at least 10 full years.

2. Recapture is at the option of the Company. If the option is exercised, all reinsurance eligible under the provisions of this article must be recaptured.
3. If a covered risk is reinsured by another company or companies, the Reinsurer's share of any reduction in its portion of the risk caused by recapture will be in proportion to its share of the total reinsurance on the risk.
4. The Company will give written notice of its intention to exercise its right of recapture. Thereafter, on the next annual policy or certificate renewal date of each individual cession eligible for recapture, the reinsurance in force will be reduced or terminated as required. In determining the new retention for a particular life insured, the age and rating at issue will be used.
5. If any reduction or termination of reinsurance is overlooked, the payment and acceptance of the full renewal premium will not make the Reinsurer liable on the reinsurance that should have been reduced or terminated. The Reinsurer's sole liability is to refund the renewal premium without interest.

ARTICLE 14

SETTLEMENT OF CLAIMS

1. When a death claim occurs on a reinsured policy or certificate, the Company will promptly notify the Reinsurer in writing and furnish the Reinsurer with copies of the death certificate and claim forms as soon as they become available.
2. Upon request by the Reinsurer, the Company will provide copies of all papers pertaining to a claim on any policy or certificate reinsured in the pool.
3. Proofs of loss obtained by the Company will be accepted as sufficient by the Reinsurer.
4. The Reinsurer will accept the Company's decision in settlement of all claims paid in accordance with the provisions of the policies and certificates reinsured in the pool.
5. When copies of proofs of loss have been received by the Reinsurer, the Reinsurer will promptly pay its share of each claim to the Company in a single lump sum without regard for the form of settlement made by the Company.

6. The Company and the Reinsurer will share in interest paid on death claims in proportion to their net liabilities provided that the Reinsurer is not held liable for any interest which may accrue after the date the Reinsurer settles the claim with the Company.
7. The Company will advise the Reinsurer of its intention to contest, compromise or litigate a claim or rescind a contract involving reinsurance. If after reviewing the complete claim file, the Reinsurer agrees in writing with the Company's intention, then the Reinsurer will pay any expense incurred by the Company in contesting or investigating a claim on a reinsured policy or certificate or in rescinding a reinsured policy or certificate in proportion to the respective liabilities of the Reinsurer and the Company. Compensation of officers and employees of the Company is not deemed a claim expense.
8. Expenses of the contest shall also include noncontractual damages assessed against the Company, but only in those cases where it is clear that the Company's denial of the claim was the sole basis for the award.
9. The Reinsurer shall not be liable for any portion of noncontractual damages or expenses when it determines in good faith that such noncontractual damages or expenses have been assessed on the basis of the fault or wrongdoing of the Company, its agents or representatives.
10. If the Reinsurer declines to be a party to the contest, it will pay the Company its full share of the claim according to the terms and conditions of this agreement.
11. If it is established after the Insured's death that a misstatement of age resulted in an increase or decrease in the original amount insured, the Company and the Reinsurer will share in the new amount in the same proportion they share originally.

ARTICLE 15

OVERSIGHTS

If either party to this agreement unintentionally fails to comply with any of its terms because of oversight, misunderstanding, or clerical error, the parties will adjust the situation to what it would have been had no oversight, misunderstanding, or clerical error occurred.

ARTICLE 16

INSPECTION OF RECORDS

The Reinsurer will have the right to inspect at the Company's office and at any reasonable time all records and papers pertaining to reinsured policies and certificates.

ARTICLE 17INSOLVENCY

1. In the event of the insolvency of the Company, the Reinsurer will make settlement of claims on reinsured policies and certificates directly to the Company's liquidator, receiver, or statutory successor under the terms, conditions, and limitations of this agreement and without diminution because of the Company's insolvency.
2. The liquidator, receiver, or statutory successor of the Company will notify the Reinsurer of any pending claim against the Company on any policy reinsured. Notice will be given in writing within a reasonable time after the claim is filed in the insolvency proceeding. While the claim is pending, the Reinsurer may investigate it and, at its own expense, interpose in the proceeding where the claim is to be adjudicated any defense or defenses it believes available to the Company or its liquidator, receiver, or statutory successor.
3. Any expense incurred by the Reinsurer in interposing a defense to a claim will be charged, subject to court approval, against the Company as an expense of liquidation to the extent of a proportionate share of the benefit that accrues to the Company solely as a result of the defense undertaken by the Reinsurer. If two or more reinsurers are involved and a majority in interest elects to interpose a defense, the expense will be apportioned in accordance with the terms of this agreement as if it had been incurred by the Company.

ARTICLE 18ARBITRATION

1. The Company and the Reinsurer will act in good faith in all matters pertaining to transactions under this agreement.
2. Any dispute or difference between the Company and the Reinsurer concerning transactions under the agreement or the interpretation of the agreement which cannot be settled between the parties will be settled by arbitration.
3. The court of arbitration will consist of three arbitrators who are officers of life insurance companies other than the parties to this agreement or their affiliates or subsidiaries. The Company and the Reinsurer will each appoint one arbitrator. The appointed arbitrators will select a third before arbitration begins. If the two are unable to agree on the third, the President of the American Council of Life Insurance will appoint the third arbitrator. The court of arbitration will be held at a site to be determined by the arbitrators.

4. The arbitrators will consider this agreement not merely as a legal document but also as a gentlemen's agreement. They will interpret the agreement in accordance with customary business and reinsurance practices and will not be bound by rules of law. The arbitrators will decide the issue by majority vote, and there can be no appeal from their written decision.
5. The cost of arbitration, including the fees of the arbitrators, will be apportioned to the Company and the Reinsurer by the arbitrators.

ARTICLE 19

PARTIES TO THE AGREEMENT

This agreement is solely between the Company and the Reinsurer. The acceptance of reinsurance under this agreement does not create any right or legal relation whatsoever between the Reinsurer and the insured or the beneficiary under any policy or certificate of the Company which is reinsured under the agreement.

ARTICLE 20

MODIFICATION OF THE AGREEMENT

Any mutually agreed upon modification of the terms of this agreement will be made by amendment or by correspondence attached to it and will be regarded as part of the agreement and equally binding.

ARTICLE 21

DURATION OF THE AGREEMENT

1. This agreement is unlimited in duration but may be terminated as to new reinsurance by either party giving at least 90 days written notice to the other by registered mail.
2. Termination of the agreement as to new reinsurance will be effective only at the close of December 31 of any calendar year.
3. During the period between notice of termination and December 31, the Reinsurer will continue to accept its share of new reinsurance ceded to the pool.
4. Termination will be limited to new reinsurance only. The Reinsurer's share of existing reinsurance under the agreement will not be affected. Existing reinsurance will remain in force with the Reinsurer until the Company's liability under the remaining policy or policies, certificate or certificates reinsured is terminated.

5. In the event the agreement is terminated as to new reinsurance, the Company will have the option of reducing the pool's binding limits for automatic coverage by an amount equal to the Reinsurer's share, awarding the Reinsurer's share to one or more other participating members of the pool who might be willing to assume it, or awarding the Reinsurer's share to one or more reinsurers not currently in the pool who might be willing to participate in the pool.

ARTICLE 22EFFECTIVE DATE AND EXECUTION OF THE AGREEMENT

1. This agreement is effective for the life insurance written on the policy and certificate forms specified in Schedule A with policy or certificate dates (issue dates on back-dated policies or certificates) falling on or after October 1, 1985. However, the agreement will have no force or effect unless it has been duly executed by officers of the Reinsurer.
2. This agreement is executed in duplicate by officers of the Company and the Reinsurer as indicated below.

FOR FIDELITY BANKERS LIFE INSURANCE COMPANY

By: Henry A. Biegel, FSATitle: Senior VP and ActuaryBy: Michael M. AdamsTitle: Manager, ReinsurancePlace: Richmond, VaDate: September 30, 1985

FOR Resources Life Insurance Company

By: Robert ThavineTitle: Senior Vice PresidentBy: Edwin O'KellyTitle: Assistant Vice PresPlace: Fort Lee, NJDate: 11/15/85

SCHEDULE AFORMS REINSURED

1. Form 502-80 Yearly Renewable Term Insurance (Individual Policy)
 Forms 081 ADB Accidental Death Benefit (Excluding Common Carrier
 Benefit)
 G2258(A) Accidental Death Benefit for Merit and RLR
 (Excluding Common Carrier Benefit)
2. Form 560-M Yearly Renewable Term Insurance (Section 79
 Certificate)
3. Form 560-RLR Yearly Renewable Term Insurance (Retired Lives
 Reserve Certificate)

The Company will promptly notify the Reinsurer of any changes to the policy and certificate forms. Maximum binding limits include ADB coverage.

SCHEDULE BPARTICIPATING MEMBERS OF THE POOL

1. American United Life Insurance Company
2. Cologne Life Reinsurance Company, Stamford, CT.
3. General Reassurance Corporation, Greenwich, CT.
4. Hamburg International Reinsurance Company, Orlando, FL.
5. North American Reassurance Company, New York, NY.
6. Resources Life Insurance Company, Fort Lee, NJ.

SCHEDULE CREINSURER'S SHARE OF POOL REINSURANCE

10% (Ten Percent)

SCHEDULE DCOMPANY'S RETENTION LIMITS

| | <u>ISSUE AGES</u> | <u>STANDARD THRU TABLE 8</u> | <u>TABLE 9 THRU TABLE 16</u> |
|-------------|-----------------------|----------------------------------|----------------------------------|
| <u>LIFE</u> | 0-65 | \$400,000 | \$175,000 |
| | 66-Over | 250,000 | 100,000 |

Notes: 1. \$2.50 per thousand of flat extra premium will be treated the same as 25% extra mortality. An exception to this are total flat extra premiums on a policy or certificate of \$50.00 or less for three years or less, which will be disregarded in determining maximum retention.

2. Aviation Risk - Maximum \$250,000.

ADB Same as LIFE, reduced by amount of life insurance retained.

AMENDED

SCHEDULE EAUTOMATIC BINDING LIMITS FOR THE POOLLife

| <u>Ages</u> | <u>Standard Through Table 8</u> | <u>Table 9 Through Table 16</u> |
|-------------|---------------------------------|---------------------------------|
| 0-65 | \$3,000,000 | \$1,500,000 |
| 66 & over | 2,000,000 | 1,000,000 |

The above amounts are reduced by the Company's retention shown in Schedule D. Maximum binding limits include ADB coverage.

Aviation \$2,000,000

ADB Issue Limit \$150,000 subject to a maximum of \$250,000 in-force and applied for.

Waiver of Premium Not Covered

SCHEDULE F

1. Current and Guaranteed Annual premium rates for Plans 562, 563 and 564 apply equally to individual and Merit/RLR policies and certificates up through attained age 79. Individual Plans 562, 563 and 564 are not renewable after that age. For Merit and RLR plans renewing after attained age 79, the rates identified as Merit and RLR extension are applicable. The allowances below are applicable to premiums, except for ADB; see Section 6.

The underwriting class by Plan Code is shown below:

| | Individual | Merit/RLR |
|----------------------|------------|-----------|
| Preferred Non-Smoker | 562 | 5M2 |
| Non-Smoker | 563 | 5M3 |
| Smoker | 564 | 5M4 |

2. Substandard rates per table are:

| | |
|-------------|-------------------------|
| Non-Smokers | 25% of Non-Smoker rates |
| Smokers | 20% of Smoker rates |

3. Policy fees are retained by FBL.
4. Premium tax reimbursement is in addition to the allowances.
5. Allowances for all plan codes are as shown below:

| | |
|--------------|------|
| First Year | 100% |
| 2 - 10 Years | 20% |
| 11+ Years | 10% |

On flat extra premiums, the Company will pay to the Reinsurer a proportionate share of the flat extra premium charged in the reinsured policy, less the following allowances:

- A. Flat extra premium payable for 5 years or less:
10% in all policy years.
- B. Flat extra premium payable for more than 5 years:
90% in first policy year,
10% in subsequent policy years.

ADB

6. The reinsurance premiums per \$1,000 of ADB per year are:

| | |
|------------------|-------|
| 1st Year | \$.25 |
| Renewal | \$.90 |
| Payable Annually | |

Substandard ADB Premiums will be the premium above times the Substandard ADB Rating.

| | | |
|------------|------------------------------------------------|----|
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FIDELITY BANKERS LIFE INSURANCE COMPANY

589

One Year RCT Rates per \$1000, MALE

Policy Fee: \$50- through \$249,999; \$25-\$250,000 through 499,999; \$0-\$500,000 & up

| Attd. Age | Current* Rates | | | Guaranteed Rates | | |
|--------------|----------------|----------|----------|------------------|----------|----------|
| | Plan Code | | | Plan Code | | |
| | 562/ 5M2 | 563/ 5M3 | 564/ 5M4 | 562/ 5M2 | 563/ 5M3 | 564/ 5M4 |
| | Prof. NS | Non-Smk. | Smoker | Prof. NS | Non-Smk. | Smoker |
| 20-30 | \$ 1.00 | \$ 1.00 | \$ 1.55 | \$ 1.55 | \$ 1.60 | \$ 2.35 |
| 31 | 1.00 | 1.00 | 1.55 | 1.55 | 1.60 | 2.40 |
| 32 | 1.00 | 1.00 | 1.55 | 1.60 | 1.65 | 2.45 |
| 33 | 1.00 | 1.05 | 1.60 | 1.65 | 1.70 | 2.50 |
| 34 | 1.00 | 1.05 | 1.65 | 1.70 | 1.75 | 2.60 |
| 35 | 1.00 | 1.10 | 1.75 | 1.75 | 1.85 | 2.70 |
| 36 | 1.05 | 1.20 | 1.90 | 1.85 | 1.95 | 2.85 |
| 37 | 1.10 | 1.30 | 2.10 | 1.95 | 2.05 | 3.05 |
| 38 | 1.20 | 1.45 | 2.35 | 2.10 | 2.20 | 3.30 |
| 39 | 1.35 | 1.60 | 2.60 | 2.25 | 2.35 | 3.60 |
| 40 | 1.50 | 1.75 | 2.90 | 2.40 | 2.50 | 3.95 |
| 41 | 1.65 | 1.95 | 3.20 | 2.60 | 2.70 | 4.35 |
| 42 | 1.85 | 2.15 | 3.50 | 2.80 | 2.90 | 4.80 |
| 43 | 2.05 | 2.40 | 3.85 | 3.00 | 3.15 | 5.25 |
| 44 | 2.25 | 2.65 | 4.25 | 3.25 | 3.40 | 5.75 |
| 45 | 2.50 | 2.95 | 4.65 | 3.50 | 3.65 | 6.30 |
| 46 | 2.75 | 3.25 | 5.10 | 3.75 | 3.95 | 6.85 |
| 47 | 3.00 | 3.55 | 5.55 | 4.05 | 4.25 | 7.45 |
| 48 | 3.25 | 3.85 | 6.05 | 4.40 | 4.60 | 8.10 |
| 49 | 3.55 | 4.15 | 6.55 | 4.75 | 5.00 | 8.80 |
| 50 | 3.85 | 4.50 | 7.10 | 5.15 | 5.40 | 9.60 |
| 51 | 4.20 | 4.90 | 7.75 | 5.60 | 5.90 | 10.45 |
| 52 | 4.60 | 5.40 | 8.45 | 6.15 | 6.45 | 11.45 |
| 53 | 5.05 | 5.95 | 9.25 | 6.75 | 7.10 | 12.55 |
| 54 | 5.50 | 6.50 | 10.10 | 7.45 | 7.80 | 13.75 |
| 55 | 6.00 | 7.10 | 11.05 | 8.20 | 8.60 | 15.15 |
| 56 | 6.50 | 7.70 | 12.00 | 9.05 | 9.50 | 16.60 |
| 57 | 7.00 | 8.25 | 12.95 | 9.95 | 10.45 | 18.10 |
| 58 | 7.50 | 8.80 | 13.90 | 10.95 | 11.45 | 19.70 |
| 59 | 8.05 | 9.40 | 14.90 | 12.05 | 12.60 | 21.40 |
| 60 | 8.60 | 10.05 | 15.90 | 13.30 | 13.90 | 23.25 |
| 61 | 9.20 | 10.75 | 17.00 | 14.65 | 15.35 | 25.30 |
| 62 | 9.85 | 11.55 | 18.20 | 16.20 | 16.95 | 27.60 |
| 63 | 10.60 | 12.45 | 19.60 | 17.95 | 18.80 | 30.25 |
| 64 | 11.50 | 13.50 | 21.25 | 19.95 | 20.90 | 33.15 |
| 65 | 12.50 | 14.70 | 23.10 | 22.15 | 23.20 | 36.30 |
| 66 | 13.65 | 16.05 | 25.25 | 24.55 | 25.60 | 39.60 |
| 67 | 14.90 | 17.55 | 27.60 | 27.15 | 28.20 | 43.05 |
| 68 | 16.25 | 19.15 | 30.15 | 29.95 | 30.95 | 46.65 |
| 69 | 17.70 | 20.85 | 32.80 | 32.95 | 33.90 | 50.45 |
| 70 | 19.25 | 22.65 | 35.65 | 36.30 | 37.25 | 54.65 |
| 71 | 20.90 | 24.60 | 38.75 | 40.05 | 41.05 | 59.35 |
| 72 | 22.70 | 26.70 | 42.05 | 44.25 | 45.40 | 64.55 |
| 73 | 24.65 | 29.00 | 45.60 | 49.10 | 50.30 | 70.30 |
| 74 | 26.80 | 31.55 | 49.45 | 54.50 | 55.75 | 76.70 |
| 75 | 29.30 | 34.45 | 53.60 | 60.25 | 61.70 | 83.80 |
| 76 | 32.25 | 37.85 | 58.15 | 66.35 | 68.00 | 91.10 |
| 77 | 35.75 | 41.95 | 63.05 | 72.70 | 74.55 | 98.55 |
| 78 | 40.00 | 47.05 | 68.35 | 79.30 | 81.30 | 106.00 |
| 79 | 45.60 | 53.65 | 74.20 | 86.15 | 88.20 | 113.50 |

*Guaranteed for first policy year

Sept. 1985

FIDELITY BANKERS LIFE INSURANCE COMPANY

One Year RCT Rates per \$1000, MALE

Policy Fee: \$50-through \$249,999; \$25-\$250,000 through 499,999; \$50-\$500,000 and up

MERIT and RLR Extension

| Attd. Age | Current* Rates | | | Guaranteed Rates | | |
|--------------|-----------------|-----------------|---------------|------------------|-----------------|---------------|
| | Plan Code | | | Plan Code | | |
| | 5M2 Pref. NS | 5M3 Non-Smk. | 5M4 Smoker | 5M2 Pref. NS | 5M3 Non-Smk. | 5M4 Smoker |
| 80 | \$ 52.85 | \$ 61.20 | \$ 80.45 | \$ 93.50 | \$ 95.75 | \$121.20 |
| 81 | 62.05 | 69.65 | 87.10 | 101.90 | 104.30 | 129.65 |
| 82 | 73.15 | 78.90 | 94.15 | 111.95 | 113.95 | 139.05 |
| 83 | 85.20 | 88.85 | 101.65 | 123.10 | 124.60 | 149.10 |
| 84 | 97.25 | 99.30 | 109.65 | 135.15 | 136.15 | 159.45 |
| 85 | 109.30 | 110.35 | 118.15 | 147.90 | 148.50 | 170.15 |
| 86 | 121.40 | 121.80 | 127.20 | 161.25 | 161.55 | 181.20 |
| 87 | 133.50 | 133.55 | 136.85 | 175.00 | 175.20 | 192.65 |
| 88 | 145.50 | 145.50 | 147.10 | 189.35 | 189.45 | 204.60 |
| 89 | 157.55 | 157.55 | 158.00 | 204.30 | 204.30 | 217.15 |
| 90 | 169.60 | 169.60 | 169.60 | 219.85 | 219.85 | 230.45 |
| 91 | 181.70 | 181.70 | 181.70 | 236.20 | 236.20 | 244.65 |
| 92 | 193.85 | 193.85 | 193.85 | 253.45 | 253.45 | 259.95 |
| 93 | 206.05 | 206.05 | 206.05 | 271.70 | 271.70 | 276.60 |
| 94 | 218.40 | 218.40 | 218.40 | 291.05 | 291.05 | 293.60 |
| 95 | 230.95 | 230.95 | 230.95 | 312.60 | 312.60 | 312.60 |
| 96 | 243.75 | 243.75 | 243.75 | 362.80 | 362.80 | 362.80 |
| 97 | 257.15 | 257.15 | 257.15 | 453.05 | 453.05 | 453.05 |
| 98 | 271.55 | 271.55 | 271.55 | 620.75 | 620.75 | 620.75 |
| 99 | 288.60 | 288.60 | 288.60 | 943.40 | 943.40 | 943.40 |

Guaranteed for first policy year

Sept. 1985

FIDELITY BANKERS LIFE INSURANCE COMPAN.
One Year RCT Rates per \$1000, FEMALE
 Policy Fee: \$50-through \$249,999; \$25-\$250,000 through 499,999; \$0-\$500,000 & up

| Attd. Age | Current* Rates | | | Guaranteed Rates | | |
|--------------|----------------------|----------------------|--------------------|----------------------|----------------------|--------------------|
| | Plan Code | | | Plan Code | | |
| | 562/ SM2 Pref. NS | 563/ SM3 Non-Smk. | 564/ SM4 Smoker | 562/ SM2 Pref. NS | 563/ SM3 Non-Smk. | 564/ SM4 Smoker |
| 20-30 | \$ 1.00 | \$ 1.00 | \$ 1.55 | \$ 1.25 | \$ 1.35 | \$ 1.65 |
| 31 | 1.00 | 1.00 | 1.55 | 1.30 | 1.40 | 1.70 |
| 32 | 1.00 | 1.00 | 1.55 | 1.35 | 1.45 | 1.75 |
| 33 | 1.00 | 1.00 | 1.55 | 1.40 | 1.50 | 1.85 |
| 34 | 1.00 | 1.00 | 1.55 | 1.45 | 1.55 | 1.95 |
| 35 | 1.00 | 1.00 | 1.55 | 1.55 | 1.60 | 2.05 |
| 36 | 1.00 | 1.05 | 1.60 | 1.65 | 1.70 | 2.20 |
| 37 | 1.00 | 1.10 | 1.70 | 1.75 | 1.80 | 2.40 |
| 38 | 1.05 | 1.20 | 1.80 | 1.85 | 1.90 | 2.60 |
| 39 | 1.10 | 1.30 | 2.00 | 2.00 | 2.05 | 2.85 |
| 40 | 1.20 | 1.45 | 2.20 | 2.15 | 2.20 | 3.15 |
| 41 | 1.30 | 1.60 | 2.45 | 2.30 | 2.35 | 3.40 |
| 42 | 1.45 | 1.75 | 2.70 | 2.45 | 2.50 | 3.65 |
| 43 | 1.60 | 1.90 | 2.95 | 2.60 | 2.65 | 4.15 |
| 44 | 1.75 | 2.05 | 3.15 | 2.80 | 2.85 | 4.40 |
| 45 | 1.85 | 2.20 | 3.40 | 3.05 | 3.10 | 4.85 |
| 46 | 2.00 | 2.35 | 3.65 | 3.30 | 3.35 | 5.20 |
| 47 | 2.15 | 2.50 | 3.95 | 3.55 | 3.65 | 5.55 |
| 48 | 2.30 | 2.65 | 4.25 | 3.80 | 3.95 | 5.95 |
| 49 | 2.40 | 2.80 | 4.55 | 4.10 | 4.25 | 6.30 |
| 50 | 2.55 | 3.00 | 4.85 | 4.40 | 4.60 | 6.85 |
| 51 | 2.70 | 3.20 | 5.15 | 4.75 | 4.95 | 7.35 |
| 52 | 2.90 | 3.40 | 5.50 | 5.10 | 5.35 | 7.90 |
| 53 | 3.10 | 3.65 | 5.85 | 5.50 | 5.80 | 8.55 |
| 54 | 3.35 | 3.95 | 6.25 | 5.95 | 6.25 | 9.25 |
| 55 | 3.60 | 4.25 | 6.75 | 6.45 | 6.75 | 9.95 |
| 56 | 3.90 | 4.60 | 7.35 | 6.95 | 7.25 | 10.70 |
| 57 | 4.30 | 5.05 | 8.10 | 7.45 | 7.75 | 11.55 |
| 58 | 4.75 | 5.60 | 8.95 | 7.95 | 8.25 | 12.45 |
| 59 | 5.25 | 6.20 | 9.90 | 8.45 | 8.80 | 13.40 |
| 60 | 5.80 | 6.85 | 10.95 | 9.05 | 9.40 | 14.50 |
| 61 | 6.40 | 7.55 | 12.05 | 9.75 | 10.10 | 15.65 |
| 62 | 7.05 | 8.30 | 13.20 | 10.60 | 11.00 | 16.85 |
| 63 | 7.75 | 9.10 | 14.40 | 11.60 | 12.10 | 18.15 |
| 64 | 8.45 | 9.95 | 15.65 | 12.80 | 13.35 | 19.60 |
| 65 | 9.20 | 10.85 | 16.90 | 14.15 | 14.75 | 21.15 |
| 66 | 10.00 | 11.80 | 18.15 | 15.60 | 16.25 | 22.85 |
| 67 | 10.85 | 12.80 | 19.45 | 17.15 | 17.85 | 24.70 |
| 68 | 11.75 | 13.85 | 20.85 | 18.80 | 19.55 | 26.70 |
| 69 | 12.75 | 15.00 | 22.35 | 20.60 | 21.40 | 28.90 |
| 70 | 13.80 | 16.25 | 23.95 | 22.60 | 23.45 | 31.40 |
| 71 | 14.95 | 17.60 | 25.70 | 24.85 | 25.80 | 34.25 |
| 72 | 16.20 | 19.05 | 27.65 | 27.45 | 28.55 | 37.50 |
| 73 | 17.55 | 20.60 | 29.85 | 30.50 | 31.80 | 41.25 |
| 74 | 19.05 | 22.35 | 32.40 | 34.10 | 35.65 | 45.55 |
| 75 | 20.75 | 24.35 | 35.30 | 38.30 | 40.05 | 50.40 |
| 76 | 22.70 | 26.70 | 38.60 | 43.10 | 45.05 | 55.80 |
| 77 | 25.10 | 29.55 | 42.35 | 48.50 | 50.60 | 61.75 |
| 78 | 28.15 | 33.10 | 46.60 | 54.50 | 56.65 | 68.25 |
| 79 | 31.95 | 37.60 | 51.35 | 61.10 | 63.15 | 75.30 |

*Guaranteed for first policy year

Sept. 1985

FIDELITY BANKERS LIFE INSURANCE COMPANY

One Year RCT Rates, per \$1000, FEMALE

Policy Fee: \$50-through \$249,999; \$25-\$250,000 through 499,999; \$50-\$599,999 & up

MERIT and RLR Extension

| Att'd. Age | Current* Rates | | | Guaranteed Rates | | |
|---------------|-----------------|-----------------|---------------|------------------|-----------------|---------------|
| | Plan Code | | | Plan Code | | |
| | 5M2 Pref. NS | 5M3 Non-Smk. | 5M4 Smoker | 5M2 Pref. NS | 5M3 Non-Smk. | 5M4 Smoker |
| 80 | \$ 37.05 | \$ 43.10 | \$ 56.50 | \$ 68.75 | \$ 70.10 | \$ 80.90 |
| 81 | 43.35 | 49.40 | 61.85 | 75.90 | 77.30 | 89.10 |
| 82 | 50.45 | 56.25 | 67.40 | 83.70 | 84.75 | 97.95 |
| 83 | 58.05 | 63.40 | 73.15 | 91.75 | 92.50 | 107.50 |
| 84 | 66.05 | 70.85 | 79.10 | 100.05 | 100.45 | 117.80 |
| 85 | 74.50 | 78.60 | 85.30 | 108.60 | 108.85 | 128.90 |
| 86 | 83.45 | 86.70 | 91.85 | 121.15 | 121.30 | 144.65 |
| 87 | 92.95 | 95.25 | 98.90 | 134.65 | 134.65 | 153.70 |
| 88 | 103.05 | 104.35 | 106.60 | 148.70 | 148.70 | 167.45 |
| 89 | 113.75 | 114.10 | 115.10 | 163.70 | 163.70 | 182.10 |
| 90 | 124.65 | 124.65 | 124.65 | 179.65 | 179.65 | 197.65 |
| 91 | 136.15 | 136.15 | 136.15 | 196.80 | 196.80 | 216.15 |
| 92 | 148.90 | 148.90 | 148.90 | 215.70 | 215.70 | 231.65 |
| 93 | 163.05 | 163.05 | 163.05 | 237.20 | 237.20 | 252.05 |
| 94 | 178.80 | 178.80 | 178.80 | 263.50 | 263.50 | 277.30 |
| 95 | 195.15 | 195.15 | 195.15 | 299.40 | 299.40 | 317.75 |
| 96 | 214.50 | 214.50 | 214.50 | 354.50 | 354.50 | 362.75 |
| 97 | 236.05 | 236.05 | 236.05 | 448.10 | 448.10 | 452.95 |
| 98 | 260.00 | 260.00 | 260.00 | 618.75 | 618.75 | 629.75 |
| 99 | 286.55 | 286.55 | 286.55 | 943.40 | 943.40 | 943.40 |

*Guaranteed for first policy year

Sept. 1985

Appendix I

Fidelity Bankers Life

Reinsurance Division

Computerized Report Explanation

Term Plans

Term Plans

There are some minor differences between this report and our U. L. report. Notably, no benefit option, total NAR or Reinsured NAR headings.

The various headings and special points about the information under them follows.

Policy # : It is repeated for new cases which have been backdated, or placed in force on the system at a later date. This allows for calculation and display of monthly reinsurance premiums to bring the case up to date. Occasionally the policy date and the oldest date in the Pol. Month beg. on heading will not match due to limitations in the program. However, manual calculations are made to offset this.

I.D. : N = new business. A number also equals new business, but indicates new business from replacement by exchange or conversion. Footnotes equating to the numbers show the replaced policy numbers.

Insured : Self explanatory.

Issue Age : Age nearest birthday.

Birthdate : Self explanatory.

Date : Self explanatory.

Policy Date : see Pol. Month beg. on heading.

Year : F = first year premium and allowance; R = renewal year premium and allowance.

Specified Amount : This is the total specified face amount.

Retained Amount : Amount retained on this case, not this life. No entry is made where retention limit on a life has already been attained.

Rating : Self explanatory.

Flat Extra p/M : Self explanatory.

U/W Class : Displays underwriting classes as follows: P-NS-pref.

595

Type : The type of cession will be shown. Auto, Fac., Fac-Off. Pool C and nonpool agreement types are based on original policy cession, as these are conversions or exchange cases.

Pol. Month Beg. on : This date is normally the anniversary date coinciding with the report month. However, a policy that is back-dated will start with the policy date and go forward through the report month. Exceptions have been mentioned before and are primarily cases whose in-force dates exceed current program limits. (See Policy #).

Annual Reinsurance Rate p/M : The annual reinsurance rate per thousand for the reinsured Net Amount at Risk, as specified in the agreements. This amount is for standard cases only. Table ratings and flat extras must be converted to a p/M per month figure and added to the rate. See gross premium.

Comm. % Allowance Reg. Flat : The commission allowance expressed as a percentage for regular and flat basis. The program converts the decimal equivalents for calculation.

Gross Premium : Reinsured Net Amount at Risk times the monthly rate p/M plus any table or flat extra.

Comm. \$ Allowance : Commission allowance in dollars.

Reinsurance Premium : Gross premium less commission allowance. It is the monthly amount for this case this month. For cases brought up to current date all amounts are included.

Bottom Labels.

No. of Policies : This is not the number of policy numbers in the left hand margin. It is the number of policies reported with a current monthiversary month matching the report month. Therefore, a policy brought to a current date would only be counted for the last current monthiversary coinciding with the report month.

Totals that are pertinent to you are: Reinsured NAR, Gross Premium, Commission Allowance, and Reinsurance Premium; These totals include all months shown on the report for each case, including amounts for cases being brought to current status. Other retained amount, reinsured amount and specified amount totals only include the amount per case so as not to double count.

Premiums are divided into first year (1983), first year (1984) and renewal. The reason for this is to accommodate internal needs and to allow a company to allocate its percentage of participation in the pools by calendar and renewal premiums. All policies with anniversaries greater than one year are renewals. First year premiums

the inception date would be the reference point for the case and consequently, the reference point for pool participation as a new member, a member leaving the pool or a member whose percentage participation changed during a given period of time. It is anticipated that the preceding activities will occur primarily on calendar year basis. Footnotes for new business as a result of conversions and replacements may be reported on the page following the monthly report. This is due to program/printer limitations.

SAMPLE, FORMAT ONLY

Reinsurance Report for Month ending February 29, 1984

Term Life Policies Ceded to POOL E

| Policy No. | ID | Insured | Iss Age | Birth Date | Policy Date | Specified Amount | Retained Amount | Reinsured Amount | Rating | Flat Extra p/m | Yrs | U/M Class | Type | Pol. Month beg. on | ANNUAL Reins. Rate p/1000 | Coool Allow Reg. Flat | Gross Prem. | Coool Allow | Reinsur. Prem. |
|------------|----|-----------------------|---------|------------|-------------|------------------|-----------------|------------------|--------|----------------|-----|-----------|---------|--------------------|---------------------------|-----------------------|-------------|-------------|----------------|
| 000333 | | FRIEDMAN, H WALLACE | 50 | M 06-10-24 | 07-15-82 | R 300,000 | 160,000 | 340,000 | Std | | | STD | Fac. Cb | 02-15-84 | 0.71500 | | 242.13 | 0.00 | 242.1 |
| 000380 | | DICKEY, FRANK D | 50 | M 10-10-24 | 02-15-83 | R 300,000 | 200,000 | 100,000 | 2.00 | | | STD | Fac. Cb | 02-15-84 | 0.71500 | | 142.47 | 0.00 | 142.4 |
| 000874 | | DEMPSEY, JAMES P | 44 | M 04-13-30 | 08-24-82 | R 300,000 | 250,000 | 250,000 | Std | | | STD | Fac. Cb | 02-24-84 | 0.21917 | | 54.42 | 0.00 | 54.4 |
| 000875 | | DEMPSEY, JAMES P | 44 | M 04-13-30 | 08-24-82 | R 300,000 | | 300,000 | Std | | | STD | Fac. Cb | 02-24-84 | 0.21917 | | 63.31 | 0.00 | 63.3 |
| 001109 | | SUSLOCK, NORMAN | 54 | M 03-28-28 | 09-24-82 | R 914,096 | 225,000 | 689,096 | Std | | | P | Fac. Cb | 02-24-84 | 0.39917 | | 250.47 | 0.00 | 250.4 |
| 001223 | | EZELL, RONALD | 38 | M 02-28-45 | 11-01-82 | R 500,000 | 150,000 | 350,000 | Std | | | STD | Fac. Cb | 02-01-84 | 0.13917 | | 48.49 | 0.00 | 48.4 |
| 002110 | | EZELL, RONALD | 38 | M 02-28-45 | 11-01-82 | R 250,000 | | 250,000 | Std | | | STD | Fac. Cb | 02-01-84 | 0.13917 | | 34.63 | 0.00 | 34.6 |
| 002411 | | WILNER, SEIZAS | 46 | M 11-23-16 | 01-04-83 | R 400,000 | 100,000 | 300,000 | Std | | | NS | Fac. Cb | 02-04-84 | 1.45750 | | 434.14 | 0.00 | 434.1 |
| 002411 | | KAMENSKY, HARRY | 57 | M 05-27-25 | 11-25-82 | R 250,000 | | 250,000 | Std | | | STD | Fac. Cb | 02-25-84 | 0.65833 | | 162.41 | 0.00 | 162.4 |
| 002411 | | SHAKER, FIDES F | 49 | M 09-08-33 | 02-28-83 | R 500,000 | 10,000 | 490,000 | 1.50 | | | STD | Fac. Cb | 02-28-84 | 0.33750 | | 247.11 | 0.00 | 247.1 |
| 003327 | | PLACER, GARY C | 39 | M 01-09-44 | 03-08-83 | F 2,000,000 | 250,000 | 1,750,000 | 1.75 | | | S | Fac. Cb | 02-08-84 | 0.09000 | | 0.00 | 0.00 | 0.0 |
| 004049 | | BATLEY, STANLEY | 39 | M 11-26-43 | 03-26-83 | F 396,000 | 100,000 | 296,000 | 1.38 | | | NS | Fac. Cb | 02-26-84 | 0.14750 | | 19.21 | 0.00 | 19.2 |
| 006101 | | CACHAT, MICHAEL F | 35 | M 10-29-48 | 09-04-83 | F 300,000 | 250,000 | 50,000 | Std | 7.00 | 6 | NS | Fac. Cb | 02-04-84 | 0.90000 | 90 | 29.03 | 26.13 | 2.1 |
| 006449 | | FICKES, WALTER H | 42 | M 07-22-41 | 11-16-83 | F 200,000 | | 200,000 | 2.00 | | | NS | Fac. Cb | 02-16-84 | 0.00000 | | 0.00 | 0.00 | 0.0 |
| 006701 | | SIMS, BETTY A | 63 | F 12-22-19 | 04-22-83 | F 1,000,000 | 250,000 | 750,000 | Std | | | P-NS | Fac. Cb | 02-22-84 | 0.00000 | | 0.00 | 0.00 | 0.0 |
| 006833 | | TEBO, CALVIN | 51 | M 12-20-31 | 04-19-83 | F 1,000,000 | 250,000 | 750,000 | Std | | | NS | Fac. Cb | 02-19-84 | 0.00000 | | 0.00 | 0.00 | 0.0 |
| 007133 | | MAXIMUK, HELEN | 70 | F 08-02-13 | 08-24-83 | F 200,000 | 100,000 | 100,000 | 1.50 | | | NS | Fac. Cb | 02-24-84 | 0.00000 | | 0.00 | 0.00 | 0.0 |
| 007164 | | LAWMA, VINCENT T | 56 | M 11-12-27 | 11-01-83 | F 300,000 | 250,000 | 250,000 | Std | | | NS | Fac. Cb | 02-01-84 | 0.00000 | | 0.00 | 0.00 | 0.0 |
| 007316 | | SCHLESSINGER, HARRY | 76 | M 04-07-07 | 08-28-83 | F 500,000 | 150,000 | 350,000 | 1.38 | | | NS | Fac. Cb | 02-28-84 | 0.00000 | | 0.00 | 0.00 | 0.0 |
| 007400 | | LIBERTA JR, MICHAEL J | 43 | M 08-18-40 | 11-01-83 | F 325,000 | 250,000 | 75,000 | Std | | | S | Fac. Cb | 02-01-84 | 0.00000 | | 0.00 | 0.00 | 0.0 |
| 007964 | | SIMON, MORRIS A | 45 | M 12-29-18 | 12-12-83 | F 250,000 | 125,000 | 125,000 | Std | | | S | Fac. Cb | 02-12-84 | 0.00000 | | 0.00 | 0.00 | 0.0 |
| 008034 | | KENTON, D CHRISTOPHER | 34 | M 01-24-50 | 10-10-83 | F 300,000 | 250,000 | 250,000 | 2.00 | | | NS | Fac. Cb | 02-10-84 | 0.00000 | | 0.00 | 0.00 | 0.0 |
| 008395 | | MATFIELD, PAUL E | 57 | M 10-23-26 | 10-13-83 | F 300,000 | 250,000 | 50,000 | 1.75 | | | S | Fac. Cb | 02-13-84 | 0.00000 | | 0.00 | 0.00 | 0.0 |
| 008463 | | VANDUSSELDORP, MELVIN | 53 | M 05-17-31 | 12-28-83 | F 300,000 | 250,000 | 250,000 | Std | | | S | Fac. Cb | 02-28-84 | 0.00000 | | 0.00 | 0.00 | 0.0 |
| 008467 | | FRANKS, DOUGLAS D | 47 | M 02-02-34 | 09-01-83 | F 335,000 | 250,000 | 85,000 | Std | | | S | Fac. Cb | 02-01-84 | 0.00000 | | 0.00 | 0.00 | 0.0 |
| 008833 | | JOHNSON JR, H MORRIS | 35 | M 04-07-48 | 10-05-83 | F 300,000 | 250,000 | 250,000 | Std | | | S | Fac. Cb | 02-05-84 | 0.00000 | | 0.00 | 0.00 | 0.0 |
| 009373 | | KOLASKY, ROBERT J | 38 | M 04-01-45 | 11-20-83 | F 250,000 | 50,000 | 200,000 | Std | | | NS | Fac. Cb | 02-20-84 | 0.00000 | | 0.00 | 0.00 | 0.0 |
| 009544 | | LEVIN, EDWARD F | 44 | M 04-19-19 | 12-05-83 | F 250,000 | 160,000 | 90,000 | Std | | | NS | Fac. Cb | 02-28-84 | 0.00000 | | 0.00 | 0.00 | 0.0 |
| 009575 | | MACFARLANE, WYATT E | 48 | M 09-20-15 | 12-12-83 | F 1,000,000 | 150,000 | 850,000 | 1.50 | 2.50 | 3 | S | Fac. Cb | 02-12-84 | 0.00000 | 10 | 174.91 | 17.49 | 157.4 |
| 009575 | | SIMON, MORRIS A | 45 | M 12-29-18 | 12-12-83 | F 250,000 | 125,000 | 125,000 | Std | | | S | Fac. Cb | 02-12-84 | 0.00000 | | 0.00 | 0.00 | 0.0 |
| 009575 | | JEFFREY, MICHAEL L | 39 | M 06-18-44 | 10-10-83 | F 200,000 | 50,000 | 150,000 | 2.00 | | | NS | Fac. Cb | 10-10-83 | 0.00000 | | 0.00 | 0.00 | 0.0 |
| 011008 | | JEFFREY, MICHAEL L | 39 | M 06-18-44 | 10-10-83 | F 200,000 | 50,000 | 150,000 | 2.00 | | | NS | Fac. Cb | 11-10-83 | 0.00000 | | 0.00 | 0.00 | 0.0 |
| 011008 | | JEFFREY, MICHAEL L | 39 | M 06-18-44 | 10-10-83 | F 200,000 | 50,000 | 150,000 | 2.00 | | | NS | Fac. Cb | 12-10-83 | 0.00000 | | 0.00 | 0.00 | 0.0 |
| 011008 | | JEFFREY, MICHAEL L | 39 | M 06-18-44 | 10-10-83 | F 200,000 | 50,000 | 150,000 | 2.00 | | | NS | Fac. Cb | 01-10-84 | 0.00000 | | 0.00 | 0.00 | 0.0 |
| 011008 | | JEFFREY, MICHAEL L | 39 | M 06-18-44 | 10-10-83 | F 200,000 | 50,000 | 150,000 | 2.00 | | | NS | Fac. Cb | 02-10-84 | 0.00900 | | 0.00 | 0.00 | 0.0 |
| 011442 | | JOHNSON, DOUGLASS F | 71 | M 03-17-13 | 02-02-84 | F 400,000 | 150,000 | 250,000 | Std | | | NS | Fac. Cb | 02-02-84 | 0.00000 | | 0.00 | 0.00 | 0.0 |

TOTAL: 15,370,096 10,363,096 1,904.75 43.62 1,861.13

NO. OF POLICIES: 32

FIRST YEAR (1983): 223.13 43.62 179.53
FIRST YEAR (1984): 0.00 0.00 0.00
RENEWAL: 1,691.60 0.00 1,691.60

SAMPLE, FORMAT ONLY

APPENDIX II

ANNUAL STATEMENT INFORMATIONAUTOMATIC POOL REINSURANCE AGREEMENT, POOL D
UNIVERSAL LIFE POLICIES

100% BASIS

POLICY EXHIBITNo. of
PoliciesAmount of
Reinsurance

In Force End of Prior Year
 New Issues
 Reinstatements
 Increases (Net)
 Death
 Maturity
 Expiry
 Surrender
 Lapse
 Decreases (Net)
 In Force End of Current Year

CLAIM LIABILITY (Exh. 11)

L.1 Due and Unpaid
 2.1 Resisted
 2.2 In Course of Settlement
 3 Incurred but Unreported
 4 Totals

LIFE INSURANCE RESERVE (Exh. 8)

Integrated Resources
Life Insurance Company
One Bridge Plaza
Fort Lee, NJ 07024
201-461-0606

599

Integrated
Resources

May 20, 1987

Mr. Ed Kurtz
Senior Vice President
Underwriting
Fidelity Bankers Life Insurance Co.
Fidelity Bankers Life Building
1011 Bouldersprings Drive
Richmond, VA. 23225

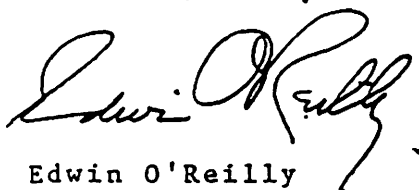
RE: Jumbo Limit

Per our conversation, we have agreed to the following Jumbo Limits:

1. MI, Angina, and Bypass Programs - \$3,000,000 (applied for and in force). *Not applicable to Freedom III, FDS not available yet.*
2. Automatic Business including limited pool retention - \$5,000,000 (applied for and in force). ~~RE~~

Please make this letter part of your treaty file, replacing my letter of May 15, 1987.

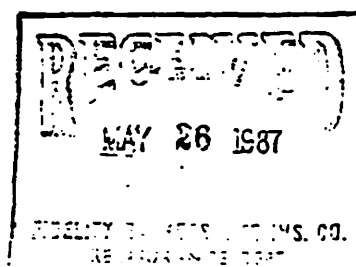
Sincerely,



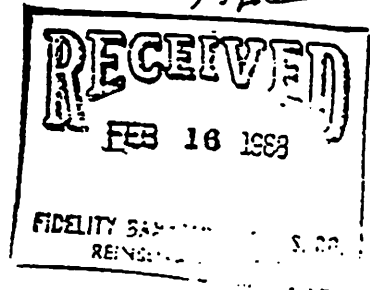
Edwin O'Reilly
Vice President

EOR/mna

cc: J. Donovan



Integrated Resou. s
Life Insurance Company
One Bridge Plaza
Fort Lee, NJ 07024
201-461-0606



January 19, 1988

Integrated
Resources

RE: Reinsurance Treaties between Resources Life and/or Providence
Life and Fidelity Bankers Life.

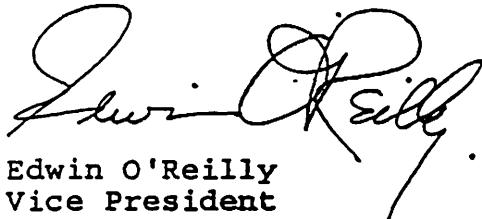
To whom it may concern:

Please be advised that Providence Life Insurance Company and Resources Life Insurance Company have been merged into Integrated Resources Life Insurance Company ("IR Life"), effective December 30, 1987. All of the rights and obligations of the predecessor companies are now those of Integrated Resources Life.

Please attach a copy of this letter to each Agreement you may have with Resources Life and/or Providence Life. There are no other changes to the Agreement (s) occasioned by the merger.

If any questions arise, please feel free to contact me.

Very truly yours,



Edwin O'Reilly
Vice President

EOR/mnc



growing...with the needs of our policyholders *

601

Fidelity Bankers Life Insurance Company

Fidelity Bankers Life Building, Ninth and Main Streets, Richmond, Virginia 23219 • (804) 649-8411

Form #9277J

Re: New Retention Schedule

Dear _____:

At the request of our new parent company, Fidelity Bankers Life will adopt the following new retention schedules for new issues with policy or certificate dates of July 1, 1986 and later.

| | Standard to Table 8 | Table 9 to Table 16 | Over Table 16 |
|--------------------------|---------------------------|---------------------------|------------------|
| <u>Full Retention</u> | | | |
| Issue Ages 0-65 | \$250,000 | \$125,000 | \$25,000 |
| Issue Ages 66 & Over | \$150,000 | \$ 75,000 | \$25,000 |
| <u>Limited Retention</u> | | | |
| Issue Ages 0-65 | \$200,000 | \$ 75,000 | \$25,000 |
| Issue Ages 66 & Over | \$125,000 | \$ 50,000 | \$25,000 |

Note: Each \$1.00 of flat extra premium per \$1000 of insurance will be treated as 10% extra mortality for the purpose of determining substandard rating. However, if the total flat extra premium on a policy or certificate is \$50.00 or less and charged for a period of 3 years or less, it will be disregarded in determining maximum retention.

Aviation Risks Maximum Retention: \$200,000

Waiver of Premium Maximum Retention:
\$25,000 of Annual Premium for level premium policies
\$1,000,000.00 of Insurance for unlevel premium policies

Accidental Death Maximum Retention: Total Retention less life risk retained

Minimum Cession: \$25,000

**Exhibits to Motion to Dismiss Petition for
Review of North American Reassurance Company,
Answer Subject Thereto, and Counterclaim,
filed January 11, 1993:**

- L. Pool G Automatic Pool Reinsurance Agreement
between Fidelity Bankers Life Insurance Company
and Resources Life Insurance Company
signed June 26, 1987
and September 25, 1987**

POOL G
AUTOMATIC POOL REINSURANCE AGREEMENT
between
FIDELITY BANKERS LIFE INSURANCE COMPANY
of
RICHMOND, VIRGINIA
referred to as the Company
and
RESOURCES LIFE INSURANCE COMPANY
of
FORT LEE, NEW JERSEY
referred to as the Reinsurer

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ARTICLE 1BASIS OF REINSURANCE

1. The excess of individual ordinary life insurance issued directly by the Company to residents of the United States and Canada on the policy forms listed in Schedule A will be reinsured under this agreement on an automatic basis in a reinsurance pool. The Company may bind the pool without prior approval for reinsurance of risks which satisfy the conditions stipulated in this agreement for automatic reinsurance coverage.
2. The reinsurance pool will be made up of the Reinsurer under this agreement and other participating reinsurers under similar agreements. The participating members of the pool are named in Schedule B.
3. The Reinsurer will accept for automatic reinsurance coverage a proportional share of each risk ceded to the pool by the Company. The Reinsurer's share is specified in Schedule C.

ARTICLE 2AUTOMATIC REINSURANCE COVERAGE

Subject to the following conditions, the Company may bind the Reinsurer for automatic reinsurance coverage of its share of each risk ceded to the pool:

- a. The Company will retain its maximum scheduled retention on any one life reinsured as specified in Schedule D. Amounts the Company already retains on a life on previous or concurrent policies will be taken into account in determining its required retention for automatic coverage. If it has already retained its maximum scheduled retention on a life, it may bind the Reinsurer for automatic coverage without retaining any additional amount on the life on the same terms it would have accepted the risk for its own account if it did not already have its maximum limit of retention.
- b. Amounts ceded to the Reinsurer will not exceed its share of the pool's automatic binding limits as specified in Schedule E.
- c. Life insurance reinsured will be issued directly by the Company in accordance with its current individual ordinary underwriting rules on policy forms within the scope of this agreement.
- d. The mortality rating of any risk reinsured will not exceed Table 16 inclusive of flat extra premiums.
- e. Automatic coverage will not be provided in the pool for any risk which has been previously submitted to a reinsurer for facultative consideration.

- f. The total amount of insurance in force and applied for in all companies on any life reinsured will not exceed \$5,000,000.
- g. The minimum specified amount eligible for automatic reinsurance in the pool will be \$25,000.
- h. If for any reason the reinsured net amount at risk on any policy reinsured in the pool falls below \$5,000 the reinsurance will be automatically terminated.

ARTICLE 3

FACULTATIVE REINSURANCE COVERAGE

Facultative reinsurance will not be accepted under this agreement.

ARTICLE 4

PLAN OF REINSURANCE

- 1. The life reinsurance under this agreement will be term insurance for the net amount at risk on the original insurance, determined as defined in the Company's policies and calculated in the following manner at the end of each month.
- 2. At the time of issue, the Company shall cede to the pool the portion of the risk amount in excess of its retention. Thereafter, subject to the terms of paragraph 3, below, the Company and the pool shall keep the same proportionate shares of the risk amount developed each month.
- 3. If the risk amount retained by the Company should increase to an amount which exceeds the Company's then current retention by more than \$25,000, the proportionate shares of the risk amount of the Company and the pool shall be adjusted so that the Company's share does not exceed its then authorized retention.
- 4. If there shall be a reduction or termination of any portion of the aggregate amount of insurance which has been retained by the Company on a given life, then, any reinsurance under this agreement on the same life shall be reduced by a like amount on the effective date of the reduction or termination. The pool's percentage shall be based on the proportion that the new face amount reinsured with the pool bears to the initial amount of insurance on the reinsured policy. Each month, thereafter, the pool's net amount at risk shall be calculated using this percentage.

ARTICLE 5LIABILITY

1. The Reinsurer's liability under this agreement on reinsurance ceded to the pool will begin and end at the same time as the Company's liability on policies reinsured.
2. If the Company becomes liable under a Conditional Receipt or a Receipt (filed with the Reinsurer as shown in Schedule A) before reinsurance has been arranged on a risk that clearly would have been ceded under this agreement, the Reinsurer will nonetheless be liable for its share of the excess over the Company's retention on the risk, shown in Schedule D, up to the maximum amount of automatic reinsurance coverage specified in Schedule E, provided the risk is not excluded from coverage under the terms of this agreement.
3. The Reinsurer's liability on reinsurance will not be joint with that of any other participating member of the pool. In no event will the Reinsurer participate in the liability of any other participating member of the pool.

ARTICLE 6PLACEMENT AND ADMINISTRATION OF REINSURANCE

1. The Company will have the responsibility of establishing and maintaining accurate records for the administration of reinsurance under this agreement.
2. All reinsurance under this agreement will be covered by means of a monthly report, a sample of which is attached to the agreement as Appendix I. The report will include such information as the number of lives reinsured, total amount at risk, new reinsurance ceded, terminations, claims, and net reinsurance premiums for the preceding month. The Company will send a copy of the report to the Reinsurer and each of the other participants in the pool within 15 days after the end of each month.
3. Upon request the Company will also provide a detailed listing of all policies reinsured in the pool.

ARTICLE 7REINSURANCE PREMIUMS

The premium rates for reinsurance under this agreement are shown in Schedule F.

ARTICLE 8REINSURANCE EXPENSES

1. The Company will bear all costs incurred with the issuance, reinstatement or modification of the original policy.
2. The sender will bear all postal and communication costs.

ARTICLE 9POLICY CHANGES, TERMINATIONS, AND REDUCTIONS

1. Reinsurance amounts are based on the Company's coverage in force on the life of a person. If any of the Company's policies or riders on a person are reduced or terminated, the reinsurance will be reduced by the corresponding amount.
2. The Company will notify the Reinsurer of any changes in policies reinsured under this agreement.
3. If a reinsured policy is terminated, the reinsurance will be terminated as of the same date. Termination is understood to mean lapse, surrender, expiry, or maturity.
4. If a reinsured policy is reduced in amount, the amount reinsured in the pool will be reduced by the same amount as of the same date. The Reinsurer's share of the risk will be reduced in proportion to the reduction in the amount reinsured in the pool.
5. If more than one policy on the same life is reinsured in the pool and any of the policies is terminated or reduced in amount, the amount reinsured in the pool on the remaining policy with the earliest policy date will be reduced by the same amount as of the same date. Two or more policies with the same date will be considered one policy. The Reinsurer's share of the risk will be reduced in proportion to the reduction in the amount reinsured in the pool.
6. In the event of a reduction in amount on a policy reinsured in the pool and by one or more other reinsurers, the amount reinsured in the pool will be reduced in proportion to the reduction in the total amount of reinsurance on the policy. The Reinsurer's share of the risk will be reduced in proportion to the reduction in the amount reinsured in the pool.
7. In any reduction in amount on a policy reinsured, the Company will maintain without change its original retention of the life insured by the policy. In no case will the Company's original retention on the life be reduced; nor will it be increased in excess of its scheduled retention limit for that issue age and mortality rating.

8. The Reinsurer will refund to the Company any unearned reinsurance premiums resulting from the termination or reduction of its share of policies reinsured in the pool.
9. If reinsurance is terminated as a result of the death of the insured under the reinsured policy, the Reinsurer will refund to the Company reinsurance premiums paid for any period beyond the date of death in the same manner as the Company returns unearned premiums for insurance on the policy reinsured.

ARTICLE 10

REINSTATEMENT

1. If a reinsured policy is terminated for any reason and is subsequently reinstated by the Company under its regular rules, the reinsurance will be automatically reinstated.

ARTICLE 11

EXCHANGES

1. If a reinsured policy is exchanged to a plan of insurance on one of the Company's policy forms not reinsured under this agreement, the reinsurance on the exchanged policy will be continued at the attained age/duration rates agreed to by the Company and this Reinsurer for the plan issued as a result of the exchange.

ARTICLE 12

ACCOUNTS

1. Reinsurance premiums and adjustments for policy changes, terminations, or reductions will be accounted for and settled monthly. Reinsurance premiums will be calculated at the Home Office of the Company on a monthly basis.
2. Settlement of the balance of account will be made by the debtor party within 25 days of the date on which the account is rendered. Balances remaining unpaid for more than two months will incur interest of 1% per month calculated from the date that the balance was first due. Alternatively, and by mutual agreement only, such unpaid balances may be offset against any other balances outstanding between the Company and the Reinsurer.

ARTICLE 13RECAPTURE

1. If the Company increases its retention limits, it may recapture the reinsurance on those lives on which it has maintained its maximum scheduled retention. However, recapture is limited to reinsurance which has been in force at least 10 full years.
2. Recapture is at the option of the Company. If the option is exercised, all reinsurance eligible under the provisions of this article must be recaptured.
3. If a covered risk is reinsured by another company or companies, the Reinsurer's share of any reduction in its portion of the risk caused by recapture will be in proportion to its share of the total reinsurance on the risk.
4. The Company will give written notice of its intention to exercise its right of recapture. Thereafter, on the next annual policy renewal date of each individual cession eligible for recapture, the reinsurance in force will be reduced or terminated as required. In determining the new retention for a particular life insured, the age and rating at issue will be used.
5. If any reduction or termination of reinsurance is overlooked, the payment and acceptance of the full renewal premium will not make the Reinsurer liable on the reinsurance that should have been reduced or terminated. The Reinsurer's sole liability is to refund the renewal premium without interest.

ARTICLE 14SETTLEMENT OF CLAIMS

1. When a death claim occurs on a reinsured policy the Company will promptly notify the Reinsurer in writing and furnish the Reinsurer with copies of the death certificate and claim forms as soon as they become available.
2. Upon request by the Reinsurer, the Company will provide copies of all papers pertaining to a claim on any policy reinsured in the pool.
3. Proofs of loss obtained by the Company will be accepted as sufficient by the Reinsurer.
4. The Reinsurer will accept the Company's decision in settlement of all claims paid in accordance with the provisions of the policies reinsured in the pool.

5. When copies of proofs of loss have been received by the Reinsurer, the Reinsurer will promptly pay its share of each claim to the Company in a single lump sum without regard to the form of settlement made by the Company.
6. The Company and the Reinsurer will share in interest paid on death claims in proportion to their net liabilities provided that the Reinsurer is not held liable for any interest which may accrue after the date the Reinsurer settles the claim with the Company.
7. The Company will advise the Reinsurer of its intention to contest, compromise or litigate a claim or rescind a contract involving reinsurance. If after reviewing the complete claim file, the Reinsurer agrees in writing with the Company's intention, then the Reinsurer will pay any expense incurred by the Company in contesting or investigating a claim on a reinsured policy or in rescinding a reinsured policy in proportion to the respective liabilities of the Reinsurer and the Company. Compensation of officers and employees of the Company is not deemed a claim expense.
8. Expenses of the contest shall also include noncontractual damages assessed against the Company, but only in those cases where it is clear that the Company's denial of the claim was the sole basis for the award.
9. The Reinsurer shall not be liable for any portion of noncontractual damages or expenses when such noncontractual damages or expenses have been assessed on the basis of the fault or wrongdoing of the Company, its agents or representatives.
10. If the Reinsurer declines to be a party to the contest, it will pay the Company its full share of the claim according to the terms and conditions of this agreement.
11. If it is established after the Insured's death that a misstatement of age resulted in an increase or decrease in the original amount insured, the Company and the Reinsurer will share in the new amount in the same proportion they share originally.

ARTICLE 15

OVERSIGHTS

In the administration of reinsurance received by the Reinsurer, if either party to this agreement unintentionally fails to comply with any of its terms because of oversight, misunderstanding, or clerical error, the parties will adjust the situation to what it would have been had no oversight, misunderstanding, or clerical error occurred.

ARTICLE 16INSPECTION OF RECORDS

The Reinsurer will have the right to inspect at any reasonable time all records and papers at the Company's office pertaining to reinsured policies.

ARTICLE 17INSOLVENCY

1. In the event of the insolvency of the Company, the Reinsurer will make settlement of claims on reinsured policies directly to the Company's liquidator, receiver, or statutory successor in accordance with the terms, conditions, and limitations of this agreement and without diminution because of the Company's insolvency.
2. The liquidator, receiver, or statutory successor of the Company will notify the Reinsurer of any pending claim against the Company on any policy reinsured. Notice will be given in writing within a reasonable time after the claim is filed in the insolvency proceeding. While the claim is pending, the Reinsurer may investigate it and, at its own expense, interpose in the proceeding where the claim is to be adjudicated any defense or defenses it believes available to the Company or its liquidator, receiver, or statutory successor.
3. Any expense incurred by the Reinsurer in interposing a defense to a claim will be charged, subject to court approval, against the Company as an expense of liquidation to the extent of a proportionate share of the benefit that accrues to the Company solely as a result of the defense undertaken by the Reinsurer. If two or more reinsurers are involved and a majority in interest elects to interpose a defense, the expense will be apportioned in accordance with the terms of this agreement as if it had been incurred by the Company.

ARTICLE 18ARBITRATION

1. The Company and the Reinsurer will act in good faith in all matters pertaining to transactions under this agreement.
2. Any dispute or difference between the Company and the Reinsurer concerning transactions under the agreement or the interpretation of the agreement which cannot be settled between the parties will be settled by arbitration.

3. The court of arbitration will consist of three arbitrators who are officers of life insurance companies other than the parties to this agreement or their affiliates or subsidiaries. The Company and the Reinsurer will each appoint one arbitrator. The appointed arbitrators will select a third before arbitration begins. If the two are unable to agree on the third, the President of the American Council of Life Insurance will appoint the third arbitrator. The court of arbitration will be held at a site to be determined by the arbitrators.
4. The arbitrators will consider this agreement not merely as a legal document but also as a gentlemen's agreement. They will interpret the agreement in accordance with customary business and reinsurance practices and will not be bound by rules of law. The arbitrators will decide the issue by majority vote, and there can be no appeal from their written decision.
5. The cost of arbitration, including the fees of the arbitrators, will be apportioned to the Company and the Reinsurer by the arbitrators.

ARTICLE 19

PARTIES TO THE AGREEMENT

This agreement is solely between the Company and the Reinsurer. The acceptance of reinsurance under this agreement does not create any right or legal relation whatsoever between the Reinsurer and the insured or the beneficiary under any policy of the Company which is reinsured under the agreement.

ARTICLE 20

MODIFICATION OF THE AGREEMENT

1. Any mutually agreed upon modification of the terms of this agreement will be made by amendment or by correspondence attached to it and will be regarded as part of the agreement and equally binding.
2. Notice of any modification in the terms or conditions of this agreement will be given to the Reinsurer promptly. If the Reinsurer dissents from any modification, and if the modification is incorporated into this agreement by amendment or correspondence, the Reinsurer may terminate its participation in new reinsurance under this agreement by giving 30 days written notice to the Company as an exception to the termination provisions set out in Article 21.

ARTICLE 21DURATION OF THE AGREEMENT

1. This agreement is unlimited in duration but may be terminated as to new reinsurance by either party giving at least 90 days written notice to the other by registered mail.
2. Termination of the agreement as to new reinsurance will be effective only at the close of December 31 of any calendar year.
3. During the period between notice of termination and December 31, the Reinsurer will continue to accept its share of new reinsurance ceded to the pool.
4. Termination will be limited to new reinsurance only. The Reinsurer's share of existing reinsurance under the agreement will not be affected. Existing reinsurance will remain in force with the Reinsurer until the Company's liability under the remaining policy or policies reinsured is terminated.
5. In the event the agreement is terminated as to new reinsurance, the Company will have the option of reducing the pool's binding limits for automatic coverage by an amount equal to the Reinsurer's share, awarding the Reinsurer's share to one or more other participating members of the pool who might be willing to assume it, or awarding the Reinsurer's share to one or more reinsurers not currently in the pool who might be willing to participate in the pool.

ARTICLE 22EFFECTIVE DATE AND EXECUTION OF THE AGREEMENT

1. This agreement is effective for the life insurance written on the policy forms specified in Schedule A with policy dates (issue dates on back-dated policies) falling on or after May 1, 1987. However, the agreement will have no force or effect unless it has been duly executed by officers of the Reinsurer.
2. This agreement is executed in duplicate by officers of the Company and the Reinsurer as indicated below.

FOR FIDELITY BANKERS LIFE INSURANCE COMPANY

By: Henry R. Biegel Title: Senior VP. and Actuary

By: Michael M. Adams Title: Manager, Reinsurance

Place: Richmond, Virginia Date: June 26, 1987

FOR RESOURCES LIFE INSURANCE COMPANY

By: Walter H. Levine Title: Ex V. P.

By: Edwin Kelly Title: Vice President

Place: Fort Lee, NJ Date: 9/25/87

SCHEDULE APOLICY FORMS REINSURED

Form No. FD3, Flexible Premium Adjustable Life Insurance (Universal Life)

Form UL-AIR Term Insurance for other insureds.

Form UL-ADB Accidental Death Benefit Rider

Form CPWL-88 Current Premium Whole Life (Added Amendment Effective 1/1/89)

- NOTES:
1. The Company will file with the Reinsurer a copy of all policy forms, including applications, listed above and will promptly notify the Reinsurer of any changes made in them.
 2. The Company will promptly notify the Reinsurer of any change in underwriting rules or programs pertaining to the policy forms reinsured under this agreement.

SCHEDULE BPARTICIPATING MEMBER OF THE POOLS

1. American United Life Insurance Company, Indianapolis, IN
2. Cologne Life Reinsurance Company, Stamford, CT
3. Hamburg International Reinsurance Company, Orlando, FL
4. North American Life and Casualty Company, Minneapolis, MN
5. North American Reassurance Company, New York, NY
6. Resources Life Insurance Company, Fort Lee, NJ

SCHEDULE C

REINSURER'S SHARE OF POOL REINSURANCE

10 (Ten Percent)

SCHEDULE DCOMPANY'S RETENTION LIMITSMaximum Amounts to be Retained byFidelity Bankers Life

| <u>Life</u> | | |
|-------------|----------------------|---------------------|
| <u>Ages</u> | <u>Std - Table 8</u> | <u>Table 9 - 16</u> |
| 0-65 | \$250,000 | \$125,000 |
| 66 & over | \$150,000 | \$ 75,000 |

NOTE: Each \$1.00 of flat extra premium per \$1,000 of insurance will be treated as 10% extra mortality for the purpose of determining substandard rating. However, if the total flat extra premium on a policy or certificate is \$50.00 or less and charged for a period of 3 years or less, it will be disregarded in determining maximum retention.

Aviation Risks - \$200,000

Accidental Death - Total retention less life risk.

SCHEDULE EAUTOMATIC BINDING LIMITS FOR THE POOL
(Maximum)Life

| <u>Ages</u> | <u>Std - Table 8</u> | <u>Table 9 - 16</u> |
|-------------|----------------------|---------------------|
| 0-65 | \$1,750,000 | \$ 875,000 |
| 66-75 | \$1,050,000 | \$ 525,000 |

The above amounts exclude the Company's retention shown in Schedule D, except for ADB which is included.

Aviation \$1,400,000

ADB Issue Limit \$150,000 subject to a maximum of \$250,000 in-force and applied for.

Waiver of Premium Not Covered

SCHEDULE FYRT REINSURANCE RATESLife

Reinsurance Rates per \$1000 of net amount at risk are based on the monthly cost of insurance rates shown in the subsequent pages of Schedule F times the Rate Factor on page 18.

The net amount at risk is re-determined on each monthliversary in accordance with the definition contained in the policy.

Substandard rates are a multiple of the standard cost of insurance rates in accordance with the following definitions.

Nonsmokers: The multiple is equal to 1 + 24% per table (25% extra mortality) of substandard rating.

Smokers: The multiple is based on the issue age and table rating in accordance with the schedule on page 17a.

On flat extra premiums, the Company will pay to the Reinsurer a proportionate share of the flat extra premium charged in the reinsured policy, less the following allowances:

1. Flat extra premium payable for 5 years or less:
10% in all policy years.
2. Flat extra premium payable for more than 5 years:
90% in first policy year,
10% in subsequent policy years.

Other Benefits Reinsurance

Other Insured Riders: Life Rates above are applicable by age, sex, and rating of the other insured.

ADB: Annual Reinsurance Rate per 1000 of ADB reinsured per year:
1st year \$.25 thereafter \$.90
Substandard ADB = above rate times substandard rating

Freedom 3, Multiples for Substandard Smokers, M & F 12/28/1986

| <u>Issue</u> <u>Ages</u> | <u>A(125%)</u> | <u>AA(138%)</u> | <u>B(150%)</u> | <u>BB(163%)</u> | <u>C(175%)</u> | <u>D(200%)</u> | <u>E(225%)</u> | <u>F(250%)</u> | <u>G(275%)</u> | <u>H(300%)</u> | <u>I(325%)</u> | <u>J(350%)</u> | <u>L(400%)</u> | <u>N(450%)</u> | <u>P(500%)</u> |
|-----------------------------|----------------|-----------------|----------------|-----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| 15-30 | 1.15 | 1.23 | 1.30 | 1.38 | 1.45 | 1.60 | 1.74 | 1.87 | 1.99 | 2.10 | 2.20 | 2.30 | 2.50 | 2.70 | 2.90 |
| 31-33 | 1.14 | 1.21 | 1.28 | 1.35 | 1.42 | 1.56 | 1.69 | 1.81 | 1.92 | 2.02 | 2.12 | 2.22 | 2.42 | 2.62 | 2.82 |
| 34-36 | 1.13 | 1.20 | 1.26 | 1.32 | 1.38 | 1.51 | 1.64 | 1.76 | 1.87 | 1.97 | 2.07 | 2.17 | 2.37 | 2.57 | 2.77 |
| 37-38 | 1.12 | 1.18 | 1.24 | 1.30 | 1.36 | 1.47 | 1.59 | 1.71 | 1.82 | 1.93 | 2.04 | 2.13 | 2.33 | 2.53 | 2.73 |
| 41 | 1.12 | 1.18 | 1.23 | 1.28 | 1.33 | 1.43 | 1.54 | 1.66 | 1.78 | 1.90 | 2.00 | 2.10 | 2.30 | 2.50 | 2.70 |
| 42-48 | 1.12 | 1.18 | 1.23 | 1.28 | 1.33 | 1.42 | 1.52 | 1.63 | 1.75 | 1.89 | 1.99 | 2.09 | 2.29 | 2.49 | 2.69 |
| 49-52 | 1.12 | 1.18 | 1.24 | 1.29 | 1.34 | 1.44 | 1.53 | 1.64 | 1.76 | 1.88 | 1.99 | 2.09 | 2.30 | 2.51 | 2.72 |
| 53-57 | 1.12 | 1.18 | 1.24 | 1.30 | 1.35 | 1.46 | 1.57 | 1.68 | 1.80 | 1.92 | 2.04 | 2.15 | 2.37 | 2.60 | 2.83 |
| 58-62 | 1.13 | 1.20 | 1.26 | 1.32 | 1.38 | 1.49 | 1.62 | 1.74 | 1.86 | 1.97 | 2.10 | 2.22 | 2.46 | 2.70 | 2.95 |
| 63-65 | 1.13 | 1.21 | 1.28 | 1.34 | 1.40 | 1.52 | 1.66 | 1.79 | 1.92 | 2.04 | 2.16 | 2.29 | 2.55 | 2.82 | 3.10 |
| 66-68 | 1.14 | 1.22 | 1.30 | 1.37 | 1.44 | 1.55 | 1.69 | 1.83 | 1.97 | 2.10 | 2.23 | 2.37 | 2.65 | 2.94 | 3.24 |
| 69-71 | 1.15 | 1.24 | 1.32 | 1.40 | 1.48 | 1.59 | 1.73 | 1.88 | 2.03 | 2.16 | 2.30 | 2.46 | 2.78 | 3.11 | 3.45 |
| 72-74 | 1.16 | 1.25 | 1.34 | 1.43 | 1.52 | 1.65 | 1.81 | 1.97 | 2.13 | 2.30 | 2.45 | 2.60 | 2.91 | 3.33 | 3.69 |
| 75-77 | 1.18 | 1.28 | 1.37 | 1.46 | 1.56 | 1.70 | 1.90 | 2.12 | 2.35 | 2.60 | 2.85 | 3.10 | 3.40 | 3.80 | 4.25 |
| 78-80 | 1.20 | 1.30 | 1.40 | 1.50 | 1.60 | 1.80 | 2.04 | 2.32 | 2.64 | 3.00 | 3.25 | 3.50 | 4.00 | 4.50 | 5.00 |

FREEDOM III POOL G REINSURANCE RATE FACTORS
(Multiply Monthly COI by Factor)

Year

| | | |
|------|------------------|-----|
| 1 | Pref. Non Smoker | 0 |
| | Std. Non Smoker | 0 |
| | Pref. Smoker | 0 |
| | Smoker | 0 |
| 2-10 | Pref. Non Smoker | .86 |
| | Std. Non Smoker | .86 |
| | Pref. Smoker | .86 |
| | Smoker | .86 |
| 11+ | Pref. Non Smoker | .89 |
| | Std. Non Smoker | .89 |
| | Pref. Smoker | .89 |
| | Smoker | .89 |

Schedule F

2/11/86
MHPFIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
MALE - PREFERRED NONSMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| 15 | 0.04917 | 0.07496 | 0.08650 | 0.09291 | 0.10073 | 0.10540 | 0.10772 | 0.10866 | 0.10778 | 0.10637 | 0.10279 | 0.09763 | 0.09247 | 0.08618 | 0.08107 | 0.07589 |
| 16 | 0.05333 | 0.07476 | 0.08462 | 0.09012 | 0.09668 | 0.10037 | 0.10191 | 0.10229 | 0.10099 | 0.09941 | 0.09604 | 0.09153 | 0.08708 | 0.08202 | 0.07801 | 0.07236 |
| 17 | 0.05748 | 0.07455 | 0.08273 | 0.08733 | 0.09263 | 0.09535 | 0.09610 | 0.09593 | 0.09421 | 0.09246 | 0.08930 | 0.08543 | 0.08169 | 0.07786 | 0.07496 | 0.06926 |
| 18 | 0.06164 | 0.07434 | 0.08084 | 0.08455 | 0.08858 | 0.09032 | 0.09029 | 0.08957 | 0.08742 | 0.08550 | 0.08255 | 0.07934 | 0.07630 | 0.07371 | 0.07191 | 0.06783 |
| 19 | 0.06579 | 0.07413 | 0.07895 | 0.08176 | 0.08453 | 0.08530 | 0.08448 | 0.08321 | 0.08063 | 0.07855 | 0.07580 | 0.07324 | 0.07091 | 0.06955 | 0.06886 | 0.06702 |
| 20 | 0.06995 | 0.07392 | 0.07707 | 0.07897 | 0.08048 | 0.08027 | 0.07866 | 0.07684 | 0.07384 | 0.07159 | 0.06906 | 0.06715 | 0.06552 | 0.06539 | 0.06581 | 0.06656 |
| 21 | 0.07235 | 0.07407 | 0.07591 | 0.07674 | 0.07722 | 0.07630 | 0.07434 | 0.07231 | 0.06953 | 0.06755 | 0.06549 | 0.06424 | 0.06334 | 0.06413 | 0.06540 | 0.06722 |
| 22 | 0.07398 | 0.07430 | 0.07497 | 0.07459 | 0.07411 | 0.07253 | 0.07038 | 0.06826 | 0.06596 | 0.06444 | 0.06295 | 0.06237 | 0.06220 | 0.06377 | 0.06575 | 0.06850 |
| 23 | 0.07525 | 0.07470 | 0.07432 | 0.07275 | 0.07142 | 0.06932 | 0.06708 | 0.06497 | 0.06331 | 0.06235 | 0.06150 | 0.06160 | 0.06217 | 0.06445 | 0.06712 | 0.07147 |
| 24 | 0.07656 | 0.07535 | 0.07404 | 0.07147 | 0.06945 | 0.06693 | 0.06475 | 0.06275 | 0.06177 | 0.06139 | 0.06120 | 0.06200 | 0.06333 | 0.06634 | 0.06973 | 0.07481 |
| 25 | 0.07831 | 0.07635 | 0.07421 | 0.07097 | 0.06849 | 0.06577 | 0.06368 | 0.06187 | 0.06150 | 0.06166 | 0.06213 | 0.06363 | 0.06576 | 0.06956 | 0.07382 | 0.07927 |
| 26 | 0.08070 | 0.07780 | 0.07488 | 0.07133 | 0.06863 | 0.06587 | 0.06395 | 0.06241 | 0.06251 | 0.06308 | 0.06412 | 0.06628 | 0.06917 | 0.07381 | 0.07910 | 0.08533 |
| 27 | 0.08345 | 0.07964 | 0.07599 | 0.07241 | 0.06968 | 0.06704 | 0.06537 | 0.06416 | 0.06469 | 0.06560 | 0.06716 | 0.06990 | 0.07352 | 0.07898 | 0.08542 | 0.09270 |
| 28 | 0.08628 | 0.08171 | 0.07747 | 0.07407 | 0.07150 | 0.06912 | 0.06782 | 0.06703 | 0.06802 | 0.06931 | 0.07144 | 0.07482 | 0.07922 | 0.08555 | 0.09321 | 0.10212 |
| 29 | 0.08891 | 0.08384 | 0.07925 | 0.07620 | 0.07394 | 0.07197 | 0.07116 | 0.07095 | 0.07250 | 0.07434 | 0.07717 | 0.08137 | 0.08671 | 0.09402 | 0.10290 | 0.11341 |
| 30 | 0.09107 | 0.08586 | 0.08127 | 0.07869 | 0.07685 | 0.07544 | 0.07528 | 0.07581 | 0.07814 | 0.08080 | 0.08455 | 0.08988 | 0.09641 | 0.10485 | 0.11492 | 0.12605 |
| 31 | 0.09261 | 0.08771 | 0.08349 | 0.08152 | 0.08021 | 0.07948 | 0.08010 | 0.08150 | 0.08479 | 0.08862 | 0.09359 | 0.10053 | 0.10870 | 0.11858 | 0.12991 | 0.14254 |
| 32 | 0.09372 | 0.08949 | 0.08598 | 0.08479 | 0.08410 | 0.08420 | 0.08568 | 0.08809 | 0.09247 | 0.09772 | 0.10414 | 0.11311 | 0.12330 | 0.13490 | 0.14758 | 0.16082 |
| 33 | 0.09461 | 0.09131 | 0.08876 | 0.08849 | 0.08859 | 0.08966 | 0.09217 | 0.09535 | 0.10137 | 0.10822 | 0.11621 | 0.12733 | 0.13964 | 0.15299 | 0.16698 | 0.18048 |
| 34 | 0.09547 | 0.09326 | 0.09183 | 0.09262 | 0.09371 | 0.09592 | 0.09969 | 0.10464 | 0.11167 | 0.12021 | 0.12981 | 0.14293 | 0.15716 | 0.17206 | 0.18716 | 0.20116 |
| 35 | 0.09652 | 0.09515 | 0.09522 | 0.09719 | 0.09950 | 0.10305 | 0.10836 | 0.11495 | 0.12357 | 0.13382 | 0.14496 | 0.15964 | 0.17530 | 0.19130 | 0.20720 | 0.22153 |
| 36 | 0.09709 | 0.09722 | 0.09831 | 0.10164 | 0.10534 | 0.11077 | 0.11821 | 0.12702 | 0.13772 | 0.14997 | 0.16272 | 0.17829 | 0.19457 | 0.21073 | 0.22650 | 0.24219 |
| 37 | 0.09705 | 0.09852 | 0.10108 | 0.10595 | 0.11180 | 0.11905 | 0.12916 | 0.14073 | 0.15401 | 0.16858 | 0.18309 | 0.19907 | 0.21535 | 0.23087 | 0.24568 | 0.26326 |
| 38 | 0.09738 | 0.10031 | 0.10448 | 0.11099 | 0.11892 | 0.12828 | 0.14116 | 0.15557 | 0.17143 | 0.18827 | 0.20446 | 0.22072 | 0.23687 | 0.25172 | 0.26564 | 0.28404 |
| 39 | 0.09906 | 0.10356 | 0.10941 | 0.11760 | 0.12756 | 0.13888 | 0.15418 | 0.17102 | 0.18900 | 0.20764 | 0.22520 | 0.24197 | 0.25836 | 0.27323 | 0.28724 | 0.30526 |
| 40 | 0.10305 | 0.10922 | 0.11681 | 0.12663 | 0.13836 | 0.15126 | 0.16819 | 0.18656 | 0.20574 | 0.22530 | 0.24368 | 0.26156 | 0.27906 | 0.29540 | 0.31137 | 0.32951 |
| 41 | 0.10861 | 0.11683 | 0.12653 | 0.13828 | 0.15180 | 0.16606 | 0.18386 | 0.20282 | 0.22215 | 0.24163 | 0.26028 | 0.27937 | 0.29826 | 0.31705 | 0.33643 | 0.35738 |
| 42 | 0.11508 | 0.12575 | 0.13796 | 0.15197 | 0.16744 | 0.18301 | 0.20120 | 0.22014 | 0.23889 | 0.25756 | 0.27609 | 0.29624 | 0.31648 | 0.33821 | 0.36184 | 0.38740 |
| 43 | 0.12360 | 0.13668 | 0.15132 | 0.16743 | 0.18457 | 0.20115 | 0.21923 | 0.23759 | 0.25520 | 0.27252 | 0.29053 | 0.31236 | 0.33477 | 0.36061 | 0.38999 | 0.42457 |
| 44 | 0.13528 | 0.15031 | 0.16680 | 0.18436 | 0.20249 | 0.21948 | 0.23693 | 0.25421 | 0.27031 | 0.28596 | 0.30304 | 0.32791 | 0.35119 | 0.38598 | 0.42325 | 0.46868 |
| 45 | 0.15126 | 0.16734 | 0.18463 | 0.20249 | 0.22048 | 0.23703 | 0.25333 | 0.26905 | 0.28347 | 0.29733 | 0.31304 | 0.33408 | 0.37577 | 0.41608 | 0.46399 | 0.52343 |
| 46 | 0.17306 | 0.18910 | 0.20580 | 0.22234 | 0.23847 | 0.25323 | 0.26722 | 0.28029 | 0.29238 | 0.30395 | 0.31723 | 0.33529 | 0.39744 | 0.44938 | 0.51134 | 0.58592 |
| 47 | 0.19995 | 0.21512 | 0.23018 | 0.24407 | 0.25694 | 0.26871 | 0.27926 | 0.28855 | 0.29755 | 0.30620 | 0.31600 | 0.32442 | 0.41849 | 0.48474 | 0.56371 | 0.65516 |
| 48 | 0.22961 | 0.24341 | 0.25627 | 0.26694 | 0.27599 | 0.28436 | 0.29125 | 0.29658 | 0.30242 | 0.30809 | 0.31429 | 0.32133 | 0.44206 | 0.52440 | 0.62242 | 0.73475 |
| 49 | 0.25972 | 0.27199 | 0.28254 | 0.29018 | 0.29572 | 0.30104 | 0.30499 | 0.30713 | 0.31042 | 0.31361 | 0.31706 | 0.32089 | 0.47129 | 0.57064 | 0.68881 | 0.82544 |
| 50 | 0.28798 | 0.29886 | 0.30749 | 0.31301 | 0.31625 | 0.31963 | 0.32228 | 0.32293 | 0.32497 | 0.32676 | 0.32924 | 0.41202 | 0.50932 | 0.62571 | 0.76419 | 0.92642 |

Schedule F

12/11/86

MHP

FIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
MALE - PREFERRED NONSMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | UL |
|-----|---------|---------|---------|---------|---------|---------|---------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| 51 | 0.31337 | 0.32262 | 0.32943 | 0.33376 | 0.33617 | 0.33804 | 0.34253 | 0.34385 | 0.34636 | 0.34818 | 0.35190 | 0.44413 | 0.55642 | 0.68930 | 0.84729 | 1.03599 |
| 52 | 0.33741 | 0.34460 | 0.34935 | 0.35296 | 0.35527 | 0.35810 | 0.36454 | 0.36805 | 0.37230 | 0.37518 | 0.38175 | 0.48266 | 0.61049 | 0.75990 | 0.93720 | 1.16182 |
| 53 | 0.36166 | 0.36689 | 0.36981 | 0.37309 | 0.37586 | 0.37933 | 0.38919 | 0.39575 | 0.40237 | 0.40684 | 0.41718 | 0.52691 | 0.67113 | 0.83798 | 1.03587 | 1.29149 |
| 54 | 0.38764 | 0.39162 | 0.39335 | 0.39668 | 0.40006 | 0.40442 | 0.41738 | 0.42717 | 0.43614 | 0.44223 | 0.45660 | 0.57620 | 0.73795 | 0.92403 | 1.14526 | 1.43875 |
| 55 | 0.41689 | 0.42087 | 0.42250 | 0.42622 | 0.43004 | 0.43528 | 0.44999 | 0.46254 | 0.47318 | 0.48041 | 0.49840 | 0.62984 | 0.81055 | 1.01853 | 1.26730 | 1.60131 |
| 56 | 0.44808 | 0.45340 | 0.45589 | 0.46012 | 0.46364 | 0.46954 | 0.48399 | 0.49909 | 0.51061 | 0.51818 | 0.53967 | 0.68233 | 0.88089 | 1.11063 | 1.38866 | 1.75811 |
| 57 | 0.48018 | 0.48780 | 0.49185 | 0.49669 | 0.49944 | 0.50592 | 0.51880 | 0.53667 | 0.54870 | 0.55616 | 0.58147 | 0.73413 | 0.94923 | 1.20002 | 1.50805 | 1.92220 |
| 58 | 0.51519 | 0.52596 | 0.53241 | 0.53835 | 0.54063 | 0.54800 | 0.55894 | 0.57943 | 0.59180 | 0.59916 | 0.62819 | 0.79348 | 1.02764 | 1.30296 | 1.64546 | 2.11263 |
| 59 | 0.55511 | 0.56975 | 0.57961 | 0.58751 | 0.59045 | 0.59933 | 0.60897 | 0.63152 | 0.64423 | 0.65197 | 0.68421 | 0.86865 | 1.12817 | 1.43570 | 1.82090 | 2.35508 |
| 60 | 0.60194 | 0.62107 | 0.63551 | 0.64658 | 0.65210 | 0.66349 | 0.67340 | 0.69709 | 0.71032 | 0.71937 | 0.75392 | 0.96788 | 1.26288 | 1.61452 | 2.05435 | 2.66371 |
| 61 | 0.65231 | 0.67734 | 0.69880 | 0.71521 | 0.72612 | 0.74111 | 0.75279 | 0.77559 | 0.78869 | 0.80004 | 0.83552 | 1.09412 | 1.43648 | 1.84696 | 2.35569 | 3.03061 |
| 62 | 0.70488 | 0.73730 | 0.76814 | 0.79178 | 0.81037 | 0.82980 | 0.84412 | 0.86426 | 0.87646 | 0.89075 | 0.92607 | 1.24189 | 1.64095 | 2.12219 | 2.71157 | 3.45489 |
| 63 | 0.76471 | 0.80482 | 0.84544 | 0.87683 | 0.90404 | 0.92862 | 0.94656 | 0.96391 | 0.97570 | 0.99355 | 1.02830 | 1.40673 | 1.86920 | 2.42887 | 3.10721 | 3.93467 |
| 64 | 0.83687 | 0.88375 | 0.93265 | 0.97090 | 1.00634 | 1.03665 | 1.05928 | 1.07537 | 1.08848 | 1.11045 | 1.14490 | 1.58421 | 2.11412 | 2.75567 | 3.52782 | 4.46458 |
| 65 | 0.92642 | 0.97798 | 1.03169 | 1.07452 | 1.11647 | 1.15294 | 1.18145 | 1.19946 | 1.21688 | 1.24348 | 1.27858 | 1.76988 | 2.36863 | 3.09126 | 3.95860 | 5.04629 |
| 66 | 1.04406 | 1.09331 | 1.14183 | 1.18001 | 1.21963 | 1.25579 | 1.28431 | 1.30009 | 1.31724 | 1.33818 | 1.36343 | 1.89630 | 2.57379 | 3.38663 | 4.36540 | 5.64234 |
| 67 | 1.18642 | 1.22718 | 1.26177 | 1.28701 | 1.31636 | 1.34584 | 1.36842 | 1.37673 | 1.38818 | 1.39320 | 1.39764 | 1.96644 | 2.73434 | 3.64933 | 4.75809 | 6.24830 |
| 68 | 1.33745 | 1.37084 | 1.39262 | 1.40704 | 1.42884 | 1.45562 | 1.47691 | 1.48340 | 1.49518 | 1.49023 | 1.48008 | 2.08145 | 2.93867 | 3.95288 | 5.18789 | 6.87708 |
| 69 | 1.48110 | 1.51557 | 1.53551 | 1.55165 | 1.57928 | 1.61769 | 1.65292 | 1.67448 | 1.70375 | 1.71094 | 1.70964 | 2.34248 | 3.27517 | 4.37079 | 5.70602 | 7.61029 |
| 70 | 1.60131 | 1.65262 | 1.69154 | 1.73236 | 1.78986 | 1.86460 | 1.93959 | 2.00383 | 2.07936 | 2.13704 | 2.18518 | 2.85069 | 3.83225 | 4.97658 | 6.36372 | 8.32933 |
| 71 | 1.64120 | 1.72911 | 1.81514 | 1.91319 | 2.03449 | 2.18258 | 2.33674 | 2.48592 | 2.65158 | 2.81922 | 2.97953 | 3.68036 | 4.67581 | 5.82575 | 7.20005 | 9.06566 |
| 72 | 1.61148 | 1.73086 | 1.90556 | 2.08647 | 2.29839 | 2.54992 | 2.81560 | 3.08466 | 3.37673 | 3.70304 | 4.02676 | 4.76406 | 5.74692 | 6.86930 | 8.18087 | 9.85947 |
| 73 | 1.59747 | 1.79721 | 2.03117 | 2.30614 | 2.62067 | 2.98728 | 3.37645 | 3.77849 | 4.21050 | 4.71242 | 5.21765 | 5.99036 | 6.94672 | 8.02396 | 9.24756 | 10.71204 |
| 74 | 1.68448 | 1.94749 | 2.26033 | 2.62618 | 3.04049 | 3.51535 | 4.01957 | 4.54586 | 5.10857 | 5.77130 | 6.44299 | 7.24783 | 8.17634 | 9.20647 | 10.34152 | 11.60923 |
| 75 | 1.95783 | 2.28104 | 2.66141 | 3.10052 | 3.59696 | 4.15478 | 4.74521 | 5.36521 | 6.02661 | 6.80360 | 7.59357 | 8.42502 | 9.33692 | 10.33355 | 11.40414 | 12.53525 |
| 76 | 2.41752 | 2.79786 | 3.23441 | 3.72918 | 4.29010 | 4.90558 | 5.55339 | 6.23653 | 6.96463 | 7.80932 | 8.66939 | 9.52195 | 10.42816 | 11.40522 | 12.43541 | 13.49011 |
| 77 | 3.00668 | 3.44507 | 3.93375 | 4.47618 | 5.09381 | 5.75396 | 6.44391 | 7.17420 | 7.95218 | 8.83919 | 9.74325 | 10.61289 | 11.51686 | 12.47697 | 13.47442 | 14.47379 |
| 78 | 3.72530 | 4.22265 | 4.75943 | 5.34153 | 6.00809 | 6.69992 | 7.41679 | 8.17822 | 8.98924 | 9.89319 | 10.81515 | 11.69785 | 12.60213 | 13.54882 | 14.52116 | 15.48630 |
| 79 | 4.57338 | 5.13062 | 5.71146 | 6.32522 | 7.03295 | 7.74348 | 8.47202 | 9.24859 | 10.07583 | 10.97133 | 11.88510 | 12.77684 | 13.68426 | 14.62076 | 15.57563 | 16.52764 |
| 80 | 5.55092 | 6.16896 | 6.78982 | 7.42725 | 8.16838 | 8.88462 | 9.60960 | 10.38531 | 11.21194 | 12.07360 | 12.95310 | 13.84984 | 14.76326 | 15.69278 | 16.63783 | 0.00000 |

Schedule F

2/11/86
KMSFIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
MALE - STANDARD NONSMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| 0 | 0.13510 | 0.08164 | 0.05309 | 0.04489 | 0.03733 | 0.03134 | 0.02903 | 0.02431 | 0.02183 | 0.02100 | 0.01867 | 0.02213 | 0.02587 | 0.03357 | 0.05040 | 0.06003 |
| 1 | 0.07990 | 0.07402 | 0.04977 | 0.04246 | 0.03617 | 0.03067 | 0.02921 | 0.02575 | 0.02482 | 0.02671 | 0.02550 | 0.03429 | 0.04041 | 0.04873 | 0.06478 | 0.09175 |
| 2 | 0.07167 | 0.06640 | 0.04644 | 0.04003 | 0.03500 | 0.03000 | 0.02939 | 0.02719 | 0.02781 | 0.03242 | 0.03233 | 0.04645 | 0.05496 | 0.06389 | 0.07915 | 0.10624 |
| 3 | 0.06345 | 0.05879 | 0.04312 | 0.03760 | 0.03383 | 0.02933 | 0.02957 | 0.02863 | 0.03080 | 0.03814 | 0.03916 | 0.05862 | 0.06950 | 0.07905 | 0.09353 | 0.11488 |
| 4 | 0.05323 | 0.05117 | 0.03979 | 0.03517 | 0.03266 | 0.02867 | 0.02974 | 0.03007 | 0.03379 | 0.04385 | 0.04600 | 0.07078 | 0.08405 | 0.09421 | 0.10790 | 0.12528 |
| 5 | 0.04700 | 0.04355 | 0.03647 | 0.03274 | 0.03150 | 0.02800 | 0.02992 | 0.03151 | 0.03678 | 0.04956 | 0.05283 | 0.08293 | 0.09859 | 0.10937 | 0.12228 | 0.13207 |
| 6 | 0.04111 | 0.03821 | 0.03365 | 0.03162 | 0.03245 | 0.03091 | 0.03708 | 0.04017 | 0.04544 | 0.05755 | 0.06133 | 0.08962 | 0.10514 | 0.11555 | 0.12716 | 0.13601 |
| 7 | 0.03568 | 0.03307 | 0.03028 | 0.03033 | 0.03367 | 0.03482 | 0.04707 | 0.05191 | 0.05655 | 0.06654 | 0.07066 | 0.09405 | 0.10844 | 0.11812 | 0.12826 | 0.13668 |
| 8 | 0.03142 | 0.02939 | 0.02799 | 0.03023 | 0.03615 | 0.04017 | 0.05875 | 0.06521 | 0.06885 | 0.07598 | 0.08021 | 0.09717 | 0.10981 | 0.11847 | 0.12698 | 0.13418 |
| 9 | 0.02901 | 0.02840 | 0.02842 | 0.03268 | 0.04089 | 0.04742 | 0.07097 | 0.07852 | 0.08106 | 0.08531 | 0.08934 | 0.09996 | 0.11058 | 0.11800 | 0.12475 | 0.13085 |
| 10 | 0.02917 | 0.03135 | 0.03322 | 0.03904 | 0.04886 | 0.05703 | 0.08258 | 0.09031 | 0.09190 | 0.09396 | 0.09745 | 0.10337 | 0.11208 | 0.11808 | 0.12300 | 0.12668 |
| 11 | 0.03280 | 0.04031 | 0.04512 | 0.05210 | 0.06289 | 0.07167 | 0.09516 | 0.10167 | 0.10240 | 0.10293 | 0.10525 | 0.10819 | 0.11487 | 0.11896 | 0.12164 | 0.12334 |
| 12 | 0.03946 | 0.05506 | 0.06303 | 0.07097 | 0.08230 | 0.09105 | 0.10948 | 0.11363 | 0.11339 | 0.11260 | 0.11316 | 0.11378 | 0.11808 | 0.11972 | 0.11972 | 0.12168 |
| 13 | 0.04774 | 0.07159 | 0.08284 | 0.09143 | 0.10289 | 0.11114 | 0.12316 | 0.12455 | 0.12337 | 0.12147 | 0.12008 | 0.11896 | 0.12084 | 0.11999 | 0.11737 | 0.11667 |
| 14 | 0.05626 | 0.08667 | 0.10046 | 0.10931 | 0.12046 | 0.12792 | 0.13385 | 0.13278 | 0.13080 | 0.12805 | 0.12495 | 0.12254 | 0.12233 | 0.11941 | 0.11471 | 0.11143 |
| 15 | 0.06363 | 0.09689 | 0.11177 | 0.12039 | 0.13080 | 0.13736 | 0.13918 | 0.13668 | 0.13418 | 0.13085 | 0.12668 | 0.12334 | 0.12168 | 0.11761 | 0.11188 | 0.10600 |
| 16 | 0.06975 | 0.10100 | 0.11509 | 0.12288 | 0.13189 | 0.13737 | 0.13668 | 0.13418 | 0.13085 | 0.12668 | 0.12334 | 0.12019 | 0.11803 | 0.11384 | 0.10833 | 0.10170 |
| 17 | 0.07555 | 0.10127 | 0.11317 | 0.11955 | 0.12655 | 0.13065 | 0.13026 | 0.12866 | 0.12618 | 0.12287 | 0.11870 | 0.11476 | 0.11193 | 0.10836 | 0.10398 | 0.09805 |
| 18 | 0.08117 | 0.09958 | 0.10852 | 0.11314 | 0.11779 | 0.12031 | 0.12013 | 0.11981 | 0.11761 | 0.11470 | 0.11108 | 0.10749 | 0.10471 | 0.10227 | 0.09963 | 0.09665 |
| 19 | 0.08676 | 0.09784 | 0.10367 | 0.10638 | 0.10863 | 0.10950 | 0.10958 | 0.11033 | 0.10839 | 0.10589 | 0.10286 | 0.09998 | 0.09768 | 0.09671 | 0.09611 | 0.09612 |
| 20 | 0.09245 | 0.09793 | 0.10114 | 0.10198 | 0.10206 | 0.10134 | 0.10114 | 0.10221 | 0.10034 | 0.09806 | 0.09540 | 0.09356 | 0.09217 | 0.09278 | 0.09420 | 0.09617 |
| 21 | 0.09875 | 0.10025 | 0.10120 | 0.09992 | 0.09786 | 0.09536 | 0.09408 | 0.09435 | 0.09217 | 0.08978 | 0.08713 | 0.08694 | 0.08718 | 0.08977 | 0.09337 | 0.09812 |
| 22 | 0.10557 | 0.10355 | 0.10216 | 0.09839 | 0.09402 | 0.08946 | 0.08672 | 0.08543 | 0.08269 | 0.07998 | 0.07715 | 0.07925 | 0.08186 | 0.08691 | 0.09307 | 0.10097 |
| 23 | 0.11215 | 0.10722 | 0.10363 | 0.09742 | 0.09089 | 0.08437 | 0.08016 | 0.07710 | 0.07381 | 0.07079 | 0.06781 | 0.07241 | 0.07766 | 0.08532 | 0.09413 | 0.10613 |
| 24 | 0.11774 | 0.11064 | 0.10524 | 0.09705 | 0.08885 | 0.08081 | 0.07548 | 0.07099 | 0.06741 | 0.06432 | 0.06144 | 0.06832 | 0.07603 | 0.08609 | 0.09737 | 0.11193 |
| 25 | 0.12161 | 0.11323 | 0.10659 | 0.09731 | 0.08825 | 0.07930 | 0.07379 | 0.06875 | 0.06541 | 0.06271 | 0.06040 | 0.06892 | 0.07844 | 0.09034 | 0.10361 | 0.11940 |
| 26 | 0.12300 | 0.11457 | 0.10739 | 0.09811 | 0.08923 | 0.08076 | 0.07562 | 0.07113 | 0.06874 | 0.06702 | 0.06592 | 0.07508 | 0.08542 | 0.09828 | 0.11280 | 0.12929 |
| 27 | 0.12168 | 0.11309 | 0.10789 | 0.09944 | 0.09154 | 0.08409 | 0.08023 | 0.07705 | 0.07613 | 0.07583 | 0.07646 | 0.08552 | 0.09601 | 0.10918 | 0.12440 | 0.14131 |
| 28 | 0.12001 | 0.11536 | 0.10855 | 0.10142 | 0.09499 | 0.08905 | 0.08683 | 0.08535 | 0.08618 | 0.08755 | 0.09013 | 0.09893 | 0.10940 | 0.12270 | 0.13848 | 0.15629 |
| 29 | 0.11978 | 0.11598 | 0.10982 | 0.10419 | 0.09940 | 0.09515 | 0.09462 | 0.09492 | 0.09750 | 0.10057 | 0.10507 | 0.11396 | 0.12476 | 0.13852 | 0.15507 | 0.17424 |
| 30 | 0.12001 | 0.11752 | 0.11217 | 0.10786 | 0.10458 | 0.10194 | 0.10282 | 0.10461 | 0.10868 | 0.11328 | 0.11940 | 0.12929 | 0.14131 | 0.15629 | 0.17424 | 0.19440 |
| 31 | 0.12167 | 0.11991 | 0.11559 | 0.11240 | 0.11047 | 0.10938 | 0.11128 | 0.11421 | 0.11948 | 0.12548 | 0.13298 | 0.14503 | 0.15937 | 0.17656 | 0.19665 | 0.21931 |
| 32 | 0.12401 | 0.12276 | 0.11978 | 0.11773 | 0.11720 | 0.11778 | 0.12053 | 0.12447 | 0.13082 | 0.13825 | 0.14706 | 0.16205 | 0.17950 | 0.19956 | 0.22226 | 0.24705 |
| 33 | 0.12698 | 0.12618 | 0.12473 | 0.12390 | 0.12485 | 0.12719 | 0.13078 | 0.13573 | 0.14309 | 0.15188 | 0.16185 | 0.18021 | 0.20116 | 0.22446 | 0.25008 | 0.27674 |
| 34 | 0.13054 | 0.13031 | 0.13046 | 0.13098 | 0.13351 | 0.13766 | 0.14225 | 0.14830 | 0.15666 | 0.16669 | 0.17756 | 0.19934 | 0.22385 | 0.25046 | 0.27911 | 0.30839 |
| 35 | 0.13464 | 0.13525 | 0.13697 | 0.13903 | 0.14328 | 0.14925 | 0.15515 | 0.16250 | 0.17192 | 0.18296 | 0.19440 | 0.21931 | 0.24705 | 0.27674 | 0.30839 | 0.34005 |

Schedule F

2/11/86

MNS

FIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
MALE - STANDARD NONSMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|----------|----------|
| 36 | 0.13901 | 0.14066 | 0.14379 | 0.14757 | 0.15365 | 0.16143 | 0.16902 | 0.17789 | 0.18829 | 0.19987 | 0.21107 | 0.23882 | 0.26948 | 0.30193 | 0.33635 | 0.37282 |
| 37 | 0.14369 | 0.14647 | 0.15090 | 0.15656 | 0.16456 | 0.17419 | 0.18373 | 0.19424 | 0.20553 | 0.21722 | 0.22742 | 0.25799 | 0.29149 | 0.32657 | 0.36368 | 0.40202 |
| 38 | 0.14908 | 0.15319 | 0.15903 | 0.16672 | 0.17677 | 0.18828 | 0.19995 | 0.21224 | 0.22448 | 0.23625 | 0.24541 | 0.27873 | 0.31498 | 0.35272 | 0.39266 | 0.43464 |
| 39 | 0.15557 | 0.16134 | 0.16888 | 0.17879 | 0.19102 | 0.20448 | 0.21838 | 0.23258 | 0.24599 | 0.25821 | 0.26700 | 0.30293 | 0.34187 | 0.38244 | 0.42561 | 0.47174 |
| 40 | 0.16357 | 0.17144 | 0.18116 | 0.19349 | 0.20805 | 0.22357 | 0.23971 | 0.25594 | 0.27093 | 0.28433 | 0.29414 | 0.33255 | 0.37405 | 0.41779 | 0.46484 | 0.51828 |
| 41 | 0.17214 | 0.18289 | 0.19561 | 0.21089 | 0.22821 | 0.24603 | 0.26460 | 0.28321 | 0.30031 | 0.31583 | 0.32842 | 0.36827 | 0.41126 | 0.45767 | 0.50845 | 0.56451 |
| 42 | 0.18099 | 0.19353 | 0.21178 | 0.23051 | 0.25100 | 0.27137 | 0.29262 | 0.31392 | 0.33359 | 0.35188 | 0.36853 | 0.40884 | 0.45224 | 0.50070 | 0.55488 | 0.61456 |
| 43 | 0.19156 | 0.20969 | 0.23003 | 0.25224 | 0.27591 | 0.29882 | 0.32272 | 0.34677 | 0.36919 | 0.39067 | 0.41210 | 0.45315 | 0.49738 | 0.54854 | 0.60701 | 0.67475 |
| 44 | 0.20528 | 0.22688 | 0.25072 | 0.27599 | 0.30241 | 0.32763 | 0.35390 | 0.38041 | 0.40558 | 0.43036 | 0.45676 | 0.50014 | 0.54705 | 0.60286 | 0.66770 | 0.74502 |
| 45 | 0.22357 | 0.24782 | 0.27422 | 0.30165 | 0.32998 | 0.35705 | 0.38512 | 0.41353 | 0.44120 | 0.46914 | 0.50014 | 0.54870 | 0.60165 | 0.66530 | 0.73981 | 0.82984 |
| 46 | 0.24797 | 0.27401 | 0.30193 | 0.33038 | 0.35948 | 0.38777 | 0.41636 | 0.44533 | 0.47466 | 0.50514 | 0.53993 | 0.59680 | 0.65935 | 0.73429 | 0.82189 | 0.92623 |
| 47 | 0.27754 | 0.30485 | 0.33361 | 0.36226 | 0.39126 | 0.42029 | 0.44831 | 0.47670 | 0.50701 | 0.53955 | 0.57770 | 0.64514 | 0.71989 | 0.80872 | 0.91202 | 1.03269 |
| 48 | 0.30996 | 0.33807 | 0.36715 | 0.39553 | 0.42402 | 0.45358 | 0.48100 | 0.50883 | 0.54032 | 0.57521 | 0.61693 | 0.69682 | 0.78601 | 0.89097 | 1.01240 | 1.15297 |
| 49 | 0.34290 | 0.37142 | 0.40046 | 0.42847 | 0.45647 | 0.48659 | 0.51445 | 0.54291 | 0.57665 | 0.61494 | 0.66110 | 0.75491 | 0.86045 | 0.98341 | 1.12520 | 1.28870 |
| 50 | 0.37405 | 0.40264 | 0.43144 | 0.45931 | 0.48730 | 0.51828 | 0.54870 | 0.58014 | 0.61807 | 0.66158 | 0.71366 | 0.82249 | 0.94595 | 1.08841 | 1.25262 | 1.43913 |
| 51 | 0.39796 | 0.42609 | 0.45438 | 0.48267 | 0.51161 | 0.54430 | 0.58137 | 0.62020 | 0.66617 | 0.71883 | 0.78061 | 0.90517 | 1.04761 | 1.21000 | 1.39690 | 1.60290 |
| 52 | 0.41619 | 0.44327 | 0.47069 | 0.49971 | 0.53026 | 0.56534 | 0.61244 | 0.66228 | 0.71958 | 0.78481 | 0.85962 | 1.00088 | 1.16361 | 1.34661 | 1.55660 | 1.78938 |
| 53 | 0.43689 | 0.46265 | 0.48893 | 0.51852 | 0.55062 | 0.58793 | 0.64547 | 0.70688 | 0.77591 | 0.85395 | 0.94173 | 1.10124 | 1.28628 | 1.49218 | 1.72832 | 1.98451 |
| 54 | 0.46870 | 0.49271 | 0.51764 | 0.54718 | 0.58002 | 0.61860 | 0.68404 | 0.75446 | 0.83278 | 0.92068 | 1.01797 | 1.19785 | 1.40796 | 1.64067 | 1.90866 | 2.20445 |
| 55 | 0.51828 | 0.54193 | 0.56539 | 0.59378 | 0.62582 | 0.66387 | 0.73172 | 0.80550 | 0.88779 | 0.97941 | 1.07935 | 1.28232 | 1.52097 | 1.78606 | 2.09423 | 2.44659 |
| 56 | 0.59300 | 0.61574 | 0.63678 | 0.66189 | 0.69058 | 0.72522 | 0.78758 | 0.85678 | 0.93551 | 1.02135 | 1.11260 | 1.34288 | 1.61314 | 1.91129 | 2.26270 | 2.68653 |
| 57 | 0.68693 | 0.70848 | 0.72610 | 0.74612 | 0.76941 | 0.79830 | 0.84923 | 0.90800 | 0.97752 | 1.05019 | 1.12370 | 1.38513 | 1.68957 | 2.02041 | 2.41634 | 2.93887 |
| 58 | 0.79126 | 0.81201 | 0.82646 | 0.84110 | 0.85846 | 0.88089 | 0.91808 | 0.96396 | 1.02199 | 1.07918 | 1.13256 | 1.42671 | 1.76854 | 2.13896 | 2.58863 | 3.22686 |
| 59 | 0.89715 | 0.91819 | 0.93095 | 0.94147 | 0.95387 | 0.97077 | 0.99551 | 1.02949 | 1.07710 | 1.12151 | 1.15912 | 1.48531 | 1.86832 | 2.29247 | 2.81305 | 3.58119 |
| 60 | 0.99580 | 1.01885 | 1.03269 | 1.04184 | 1.05179 | 1.06573 | 1.08291 | 1.10941 | 1.15101 | 1.19040 | 1.22330 | 1.57850 | 2.00721 | 2.50649 | 3.12307 | 4.01969 |
| 61 | 1.08155 | 1.10852 | 1.12680 | 1.13727 | 1.14639 | 1.15851 | 1.17184 | 1.19380 | 1.23289 | 1.27666 | 1.31458 | 1.69056 | 2.16847 | 2.77533 | 3.52876 | 4.53381 |
| 62 | 1.16026 | 1.19262 | 1.21789 | 1.23134 | 1.24024 | 1.25061 | 1.26135 | 1.27942 | 1.31729 | 1.37146 | 1.41970 | 1.80946 | 2.33993 | 3.08197 | 4.00781 | 5.12369 |
| 63 | 1.24044 | 1.27939 | 1.31324 | 1.33147 | 1.34208 | 1.35288 | 1.36414 | 1.38119 | 1.42046 | 1.48063 | 1.55439 | 1.95925 | 2.54666 | 3.43493 | 4.54510 | 5.78700 |
| 64 | 1.33057 | 1.37707 | 1.42019 | 1.44510 | 1.46070 | 1.47619 | 1.49288 | 1.51401 | 1.55866 | 1.64196 | 1.73442 | 2.16387 | 2.81373 | 3.84272 | 5.12556 | 6.51771 |
| 65 | 1.43913 | 1.49390 | 1.54602 | 1.57967 | 1.60404 | 1.63142 | 1.66027 | 1.69279 | 1.74814 | 1.84528 | 1.97553 | 2.44727 | 3.16621 | 4.31386 | 5.73410 | 7.31779 |
| 66 | 1.56980 | 1.62909 | 1.68381 | 1.72201 | 1.75559 | 1.79401 | 1.83603 | 1.88108 | 1.94429 | 2.04052 | 2.21886 | 2.75775 | 3.55965 | 4.80728 | 6.33054 | 8.14393 |
| 67 | 1.71692 | 1.77714 | 1.82868 | 1.86718 | 1.90709 | 1.95672 | 2.01171 | 2.06895 | 2.13626 | 2.21848 | 2.45392 | 3.07935 | 3.97733 | 5.31731 | 6.52495 | 8.98951 |
| 68 | 1.87498 | 1.93924 | 1.99104 | 2.03490 | 2.08774 | 2.15638 | 2.23270 | 2.31107 | 2.39099 | 2.46625 | 2.76898 | 3.48961 | 4.48594 | 5.90554 | 7.57757 | 9.87035 |
| 69 | 2.03849 | 2.11660 | 2.18130 | 2.24492 | 2.32594 | 2.42979 | 2.54444 | 2.66209 | 2.77541 | 2.87092 | 3.25233 | 4.06610 | 5.15216 | 6.63356 | 8.34866 | 10.88719 |
| 70 | 2.20193 | 2.31041 | 2.40987 | 2.51695 | 2.65008 | 2.81378 | 2.99232 | 3.17669 | 3.35646 | 3.51957 | 3.99223 | 4.88636 | 6.04266 | 7.56295 | 9.29847 | 11.90384 |
| 71 | 2.31572 | 2.47590 | 2.64050 | 2.82578 | 3.04606 | 3.30779 | 3.59033 | 3.88388 | 4.18018 | 4.48292 | 5.07055 | 6.03109 | 7.23298 | 8.75835 | 10.47890 | 12.95647 |

Schedule F

12/11/86

MMS

FIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
 MONTHLY COST OF INSURANCE RATES PER \$1000
 MALE - STANDARD NONSMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULI |
|-----|---------|---------|---------|---------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| 72 | 2.38352 | 2.61226 | 2.86626 | 3.15823 | 3.49495 | 3.88728 | 4.30819 | 4.74721 | 5.20195 | 5.70291 | 6.42845 | 7.44861 | 8.67867 | 10.17870 | 11.84980 | 14.09130 |
| 73 | 2.47972 | 2.78666 | 3.14150 | 3.55218 | 4.01791 | 4.53307 | 5.12493 | 5.72317 | 6.35270 | 7.07347 | 7.94312 | 9.01784 | 10.26643 | 11.72703 | 13.33329 | 15.30981 |
| 74 | 2.67874 | 3.08626 | 3.52062 | 4.04545 | 4.63607 | 5.30601 | 6.01939 | 6.76822 | 7.56337 | 8.48833 | 9.49173 | 10.61774 | 11.88295 | 13.30644 | 14.85131 | 16.59209 |
| 75 | 3.05496 | 3.51824 | 4.05797 | 4.67589 | 5.37060 | 6.14694 | 6.97120 | 7.83886 | 8.76487 | 9.84202 | 10.95153 | 12.12725 | 13.41492 | 14.81990 | 16.32661 | 17.91557 |
| 76 | 3.60840 | 4.14258 | 4.75335 | 5.44352 | 6.22149 | 7.07583 | 7.97976 | 8.93507 | 9.95722 | 11.13393 | 12.32246 | 13.54638 | 14.86235 | 16.26743 | 17.75859 | 19.28025 |
| 77 | 4.28945 | 4.89452 | 5.57113 | 6.32309 | 7.17464 | 8.09219 | 9.05924 | 10.08587 | 11.18645 | 12.43498 | 13.68641 | 14.95581 | 16.30078 | 17.71368 | 19.19934 | 20.68615 |
| 78 | 5.09811 | 5.77403 | 6.51069 | 7.31460 | 8.23003 | 9.19593 | 10.20965 | 11.29127 | 12.45237 | 13.74518 | 15.04339 | 16.35557 | 17.73020 | 19.15864 | 20.64888 | 22.13325 |
| 79 | 6.03437 | 6.78118 | 7.57224 | 8.41804 | 9.38773 | 10.38714 | 11.43099 | 12.55126 | 13.75538 | 15.06451 | 16.39339 | 17.74563 | 19.15062 | 20.60232 | 22.10720 | 23.62155 |
| 80 | 7.09825 | 7.91590 | 8.75579 | 9.63346 | 10.64767 | 11.66576 | 12.72325 | 13.86584 | 15.09547 | 16.39298 | 17.73641 | 19.12601 | 20.56203 | 22.04471 | 23.57431 | 0.00000 |

Schedule F

12/12/86
MSPFIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
MALE - PREFERRED SMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|-----|
| 15 | 0.07759 | 0.11223 | 0.12383 | 0.12829 | 0.13200 | 0.13398 | 0.13287 | 0.12947 | 0.12623 | 0.12168 | 0.11665 | 0.11176 | 0.10705 | 0.10199 | 0.09746 | 0.09352 | 30 |
| 16 | 0.08886 | 0.11650 | 0.12525 | 0.12832 | 0.13052 | 0.13122 | 0.12947 | 0.12593 | 0.12243 | 0.11798 | 0.11327 | 0.10882 | 0.10480 | 0.10090 | 0.09757 | 0.09216 | 31 |
| 17 | 0.10014 | 0.12078 | 0.12668 | 0.12835 | 0.12903 | 0.12846 | 0.12608 | 0.12239 | 0.11862 | 0.11429 | 0.10989 | 0.10589 | 0.10254 | 0.09981 | 0.09768 | 0.09209 | 32 |
| 18 | 0.11142 | 0.12506 | 0.12811 | 0.12838 | 0.12755 | 0.12571 | 0.12269 | 0.11885 | 0.11482 | 0.11059 | 0.10651 | 0.10295 | 0.10029 | 0.09872 | 0.09779 | 0.09404 | 33 |
| 19 | 0.12270 | 0.12934 | 0.12953 | 0.12841 | 0.12606 | 0.12295 | 0.11929 | 0.11531 | 0.11102 | 0.10689 | 0.10313 | 0.10001 | 0.09803 | 0.09764 | 0.09790 | 0.09672 | 34 |
| 20 | 0.13398 | 0.13362 | 0.13096 | 0.12844 | 0.12458 | 0.12019 | 0.11590 | 0.11177 | 0.10722 | 0.10320 | 0.09975 | 0.09708 | 0.09578 | 0.09655 | 0.09801 | 0.10051 | 35 |
| 21 | 0.13655 | 0.13332 | 0.12947 | 0.12609 | 0.12161 | 0.11681 | 0.11247 | 0.10864 | 0.10475 | 0.10154 | 0.09906 | 0.09743 | 0.09707 | 0.09894 | 0.10147 | 0.10553 | 36 |
| 22 | 0.13547 | 0.13103 | 0.12664 | 0.12254 | 0.11776 | 0.11293 | 0.10867 | 0.10530 | 0.10245 | 0.10035 | 0.09909 | 0.09877 | 0.09943 | 0.10234 | 0.10586 | 0.11097 | 37 |
| 23 | 0.13243 | 0.12781 | 0.12330 | 0.11870 | 0.11389 | 0.10928 | 0.10532 | 0.10254 | 0.10095 | 0.10011 | 0.10022 | 0.10135 | 0.10311 | 0.10708 | 0.11160 | 0.11863 | 38 |
| 24 | 0.12913 | 0.12471 | 0.12031 | 0.11547 | 0.11087 | 0.10669 | 0.10323 | 0.10115 | 0.10086 | 0.10131 | 0.10281 | 0.10540 | 0.10835 | 0.11346 | 0.11913 | 0.12718 | 39 |
| 25 | 0.12726 | 0.12280 | 0.11850 | 0.11375 | 0.10937 | 0.10599 | 0.10322 | 0.10192 | 0.10282 | 0.10446 | 0.10721 | 0.11116 | 0.11541 | 0.12180 | 0.12888 | 0.13713 | 40 |
| 26 | 0.12668 | 0.12186 | 0.11761 | 0.11339 | 0.10987 | 0.10712 | 0.10536 | 0.10495 | 0.10693 | 0.10963 | 0.11350 | 0.11853 | 0.12407 | 0.13178 | 0.14047 | 0.14932 | 41 |
| 27 | 0.12625 | 0.12120 | 0.11717 | 0.11379 | 0.11121 | 0.10955 | 0.10911 | 0.10971 | 0.11278 | 0.11650 | 0.12143 | 0.12737 | 0.13416 | 0.14320 | 0.15361 | 0.16409 | 42 |
| 28 | 0.12621 | 0.12113 | 0.11744 | 0.11517 | 0.11374 | 0.11335 | 0.11437 | 0.11605 | 0.12020 | 0.12494 | 0.13090 | 0.13780 | 0.14601 | 0.15653 | 0.16887 | 0.18178 | 43 |
| 29 | 0.12676 | 0.12195 | 0.11801 | 0.11779 | 0.11760 | 0.11857 | 0.12101 | 0.12383 | 0.12903 | 0.13482 | 0.14181 | 0.14998 | 0.15992 | 0.17222 | 0.18682 | 0.20300 | 44 |
| 30 | 0.12812 | 0.12399 | 0.12163 | 0.12188 | 0.12297 | 0.12530 | 0.12896 | 0.13287 | 0.13912 | 0.14601 | 0.15405 | 0.16405 | 0.17623 | 0.19075 | 0.20801 | 0.22689 | 45 |
| 31 | 0.13012 | 0.12721 | 0.12594 | 0.12749 | 0.12987 | 0.13355 | 0.13818 | 0.14326 | 0.15066 | 0.15893 | 0.16829 | 0.18058 | 0.19528 | 0.21217 | 0.23218 | 0.25372 | 46 |
| 32 | 0.13259 | 0.13142 | 0.13150 | 0.13448 | 0.13820 | 0.14326 | 0.14876 | 0.15508 | 0.16376 | 0.17367 | 0.18462 | 0.19947 | 0.21688 | 0.23620 | 0.25896 | 0.28466 | 47 |
| 33 | 0.13583 | 0.13664 | 0.13826 | 0.14275 | 0.14790 | 0.15443 | 0.16070 | 0.16825 | 0.17812 | 0.18960 | 0.20200 | 0.21988 | 0.24047 | 0.26271 | 0.28873 | 0.31764 | 48 |
| 34 | 0.14012 | 0.14292 | 0.14616 | 0.15221 | 0.15892 | 0.16702 | 0.17402 | 0.18266 | 0.19343 | 0.20608 | 0.21945 | 0.24095 | 0.26552 | 0.29159 | 0.32192 | 0.35606 | 49 |
| 35 | 0.14574 | 0.15027 | 0.15514 | 0.16277 | 0.17119 | 0.18102 | 0.18874 | 0.19822 | 0.20941 | 0.22249 | 0.23596 | 0.26183 | 0.29149 | 0.32272 | 0.35891 | 0.39874 | 50 |
| 36 | 0.15225 | 0.15816 | 0.16463 | 0.17389 | 0.18428 | 0.19611 | 0.20443 | 0.21432 | 0.22511 | 0.23727 | 0.24935 | 0.28186 | 0.31840 | 0.35694 | 0.40106 | 0.44805 | 51 |
| 37 | 0.15946 | 0.16654 | 0.17466 | 0.18563 | 0.19873 | 0.21231 | 0.22109 | 0.23104 | 0.24075 | 0.25085 | 0.26028 | 0.30160 | 0.34661 | 0.39434 | 0.44812 | 0.50546 | 52 |
| 38 | 0.16803 | 0.17627 | 0.18610 | 0.19880 | 0.21368 | 0.23009 | 0.23934 | 0.24927 | 0.25771 | 0.26555 | 0.27203 | 0.32206 | 0.37608 | 0.43365 | 0.49803 | 0.56239 | 53 |
| 39 | 0.17865 | 0.18817 | 0.19979 | 0.21422 | 0.23130 | 0.24991 | 0.25981 | 0.26988 | 0.27737 | 0.28370 | 0.28786 | 0.34425 | 0.40680 | 0.47359 | 0.54876 | 0.62579 | 54 |
| 40 | 0.19199 | 0.20308 | 0.21659 | 0.23268 | 0.25172 | 0.27226 | 0.28315 | 0.29377 | 0.30112 | 0.30763 | 0.31102 | 0.36919 | 0.43874 | 0.51290 | 0.59825 | 0.69197 | 55 |
| 41 | 0.20830 | 0.22133 | 0.23687 | 0.25455 | 0.27532 | 0.29753 | 0.31002 | 0.32191 | 0.33026 | 0.33965 | 0.34455 | 0.39499 | 0.46759 | 0.54413 | 0.63668 | 0.76479 | 56 |
| 42 | 0.22714 | 0.24236 | 0.26005 | 0.27930 | 0.30167 | 0.32542 | 0.34002 | 0.35371 | 0.36386 | 0.37820 | 0.38626 | 0.42096 | 0.49338 | 0.56814 | 0.64540 | 0.84452 | 57 |
| 43 | 0.24811 | 0.26569 | 0.28560 | 0.30637 | 0.33020 | 0.35531 | 0.37211 | 0.38771 | 0.39999 | 0.41982 | 0.43163 | 0.44995 | 0.52254 | 0.59608 | 0.65917 | 0.94255 | 58 |
| 44 | 0.27085 | 0.29078 | 0.31296 | 0.33521 | 0.36038 | 0.38659 | 0.40527 | 0.42244 | 0.43668 | 0.46106 | 0.47611 | 0.48481 | 0.56155 | 0.63911 | 0.75274 | 1.04984 | 59 |
| 45 | 0.29495 | 0.31714 | 0.34159 | 0.36528 | 0.39166 | 0.41868 | 0.43846 | 0.45642 | 0.47200 | 0.49846 | 0.51518 | 0.52839 | 0.61684 | 0.70841 | 0.84085 | 1.17772 | 60 |
| 46 | 0.31988 | 0.34166 | 0.37198 | 0.39741 | 0.42529 | 0.45292 | 0.47276 | 0.49026 | 0.50638 | 0.53160 | 0.54775 | 0.58378 | 0.69254 | 0.80980 | 0.97006 | 1.32417 | 61 |
| 47 | 0.34588 | 0.37366 | 0.40449 | 0.43196 | 0.46163 | 0.48972 | 0.50806 | 0.52495 | 0.54112 | 0.56279 | 0.57683 | 0.64908 | 0.78435 | 0.93586 | 1.13054 | 1.48721 | 62 |
| 48 | 0.37379 | 0.40132 | 0.43839 | 0.46769 | 0.49881 | 0.52704 | 0.54514 | 0.55956 | 0.57556 | 0.59266 | 0.60406 | 0.71966 | 0.88608 | 1.07781 | 1.31245 | 1.66789 | 63 |
| 49 | 0.40443 | 0.43683 | 0.47296 | 0.50333 | 0.53496 | 0.56205 | 0.58000 | 0.59320 | 0.60905 | 0.62182 | 0.63108 | 0.79086 | 0.99156 | 1.22689 | 1.50599 | 1.86550 | 64 |
| 50 | 0.43862 | 0.47135 | 0.50748 | 0.53764 | 0.56821 | 0.59510 | 0.61183 | 0.62495 | 0.64093 | 0.65090 | 0.65952 | 0.85806 | 1.09459 | 1.37434 | 1.70133 | 2.08444 | 65 |

Schedule F

FIDELITY BANKERS FREEDOM J UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
MALE - PREFERRED SMOKER

1/86
HSP

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|----------|----------|----------|----------|----------|----------|----------|----------|----------|-----|
| 51 | 0.47484 | 0.50515 | 0.53773 | 0.56529 | 0.59713 | 0.61668 | 0.63353 | 0.64794 | 0.66431 | 0.67308 | 0.68246 | 0.91609 | 1.19061 | 1.51599 | 1.89457 | 2.33078 | 66 |
| 52 | 0.51254 | 0.53811 | 0.56421 | 0.58711 | 0.60796 | 0.62895 | 0.64617 | 0.66279 | 0.67962 | 0.68793 | 0.69880 | 0.96805 | 1.28374 | 1.65769 | 2.09224 | 2.60247 | 67 |
| 53 | 0.55401 | 0.57434 | 0.59321 | 0.61110 | 0.62535 | 0.64257 | 0.66040 | 0.67978 | 0.69720 | 0.70570 | 0.71894 | 1.02167 | 1.38083 | 1.80568 | 2.30022 | 2.89294 | 68 |
| 54 | 0.60152 | 0.61793 | 0.63106 | 0.64523 | 0.65395 | 0.66824 | 0.68688 | 0.70924 | 0.72741 | 0.73663 | 0.75324 | 1.08469 | 1.48875 | 1.96619 | 2.52438 | 3.20841 | 69 |
| 55 | 0.65737 | 0.67301 | 0.68406 | 0.69749 | 0.70339 | 0.71663 | 0.73624 | 0.76145 | 0.78057 | 0.79097 | 0.81209 | 1.16482 | 1.61435 | 2.14549 | 2.77057 | 3.55490 | 70 |
| 56 | 0.72118 | 0.73958 | 0.75266 | 0.76878 | 0.77449 | 0.78853 | 0.80828 | 0.83557 | 0.85532 | 0.86668 | 0.89444 | 1.25693 | 1.75598 | 2.34612 | 3.04963 | 3.97333 | 71 |
| 57 | 0.79143 | 0.81490 | 0.83265 | 0.85378 | 0.86082 | 0.87682 | 0.89591 | 0.92472 | 0.94476 | 0.95695 | 0.99337 | 1.35586 | 1.90906 | 2.56393 | 3.35765 | 4.44029 | 72 |
| 58 | 0.86868 | 0.89893 | 0.92336 | 0.95114 | 0.96116 | 0.98032 | 0.99943 | 1.03019 | 1.05096 | 1.06480 | 1.11044 | 1.46933 | 2.07608 | 2.79506 | 3.67838 | 4.92243 | 73 |
| 59 | 0.95348 | 0.99172 | 1.02414 | 1.05950 | 1.07429 | 1.09782 | 1.11916 | 1.15326 | 1.17596 | 1.19329 | 1.24724 | 1.60506 | 2.25952 | 3.03570 | 3.99558 | 5.36958 | 74 |
| 60 | 1.04639 | 1.09317 | 1.13433 | 1.17751 | 1.19899 | 1.22813 | 1.25542 | 1.29321 | 1.32182 | 1.34545 | 1.40531 | 1.77077 | 2.46186 | 3.28198 | 4.29301 | 5.75362 | 75 |
| 61 | 1.14713 | 1.20283 | 1.25315 | 1.30383 | 1.33460 | 1.37157 | 1.41051 | 1.45971 | 1.49323 | 1.52807 | 1.59047 | 1.97766 | 2.69046 | 3.53678 | 4.56726 | 6.09153 | 76 |
| 62 | 1.25532 | 1.32071 | 1.38105 | 1.43936 | 1.48192 | 1.52894 | 1.58423 | 1.64590 | 1.68881 | 1.73911 | 1.80167 | 2.22058 | 2.94366 | 3.80266 | 4.83116 | 6.39154 | 77 |
| 63 | 1.37139 | 1.44754 | 1.51918 | 1.58611 | 1.64196 | 1.69975 | 1.77310 | 1.84829 | 1.90154 | 1.96841 | 2.03021 | 2.48274 | 3.21043 | 4.07532 | 5.09281 | 6.61025 | 78 |
| 64 | 1.49577 | 1.58404 | 1.66869 | 1.74610 | 1.81572 | 1.88354 | 1.97368 | 2.06138 | 2.12441 | 2.20581 | 2.26737 | 2.74734 | 3.47975 | 4.35046 | 5.34133 | 6.78616 | 79 |
| 65 | 1.62886 | 1.73093 | 1.83073 | 1.92134 | 2.00421 | 2.07984 | 2.18249 | 2.27967 | 2.35039 | 2.44114 | 2.50445 | 2.99760 | 3.74059 | 4.62379 | 5.59182 | 6.91342 | 80 |
| 66 | 1.75416 | 1.87122 | 1.98868 | 2.09633 | 2.19146 | 2.27053 | 2.37838 | 2.47798 | 2.54906 | 2.64004 | 2.70029 | 3.18060 | 3.94171 | 4.84723 | 5.77682 | 7.10935 | 81 |
| 67 | 1.87138 | 2.00443 | 2.14176 | 2.26974 | 2.37681 | 2.45594 | 2.56366 | 2.65996 | 2.72509 | 2.80928 | 2.86070 | 3.30753 | 4.09046 | 5.02365 | 5.89794 | 7.37300 | 82 |
| 68 | 2.00530 | 2.15605 | 2.31493 | 2.46480 | 2.58419 | 2.66321 | 2.77006 | 2.86342 | 2.92412 | 3.00042 | 3.04741 | 3.45777 | 4.26371 | 5.22516 | 6.04284 | 7.70233 | 83 |
| 69 | 2.18069 | 2.35157 | 2.53311 | 2.70475 | 2.83756 | 2.91952 | 3.02932 | 3.12612 | 3.19181 | 3.26498 | 3.32217 | 3.71067 | 4.53030 | 5.52386 | 6.29921 | 7.83860 | 84 |
| 70 | 2.42233 | 2.61651 | 2.82126 | 3.01284 | 3.16084 | 3.25203 | 3.37316 | 3.48586 | 3.57377 | 3.65451 | 3.74671 | 4.14561 | 4.99110 | 5.99186 | 6.75174 | 8.32933 | 85 |
| 71 | 2.72683 | 2.95427 | 3.18691 | 3.39735 | 3.56717 | 3.67338 | 3.81167 | 3.95286 | 4.08359 | 4.17815 | 4.34050 | 4.79612 | 5.65581 | 6.66155 | 7.45646 | 9.06566 | 86 |
| 72 | 3.07768 | 3.34786 | 3.61343 | 3.84277 | 4.04057 | 4.16547 | 4.32369 | 4.50192 | 4.69083 | 4.80154 | 5.06238 | 5.60939 | 6.48120 | 7.48486 | 8.34591 | 9.85947 | 87 |
| 73 | 3.47996 | 3.79215 | 4.08952 | 4.33670 | 4.56138 | 4.70933 | 4.89410 | 5.11772 | 5.37514 | 5.51097 | 5.88315 | 6.53483 | 7.41670 | 8.41321 | 9.35254 | 10.71204 | 88 |
| 74 | 3.93872 | 4.28201 | 4.60388 | 4.86672 | 5.10989 | 5.28596 | 5.50778 | 5.78493 | 6.11618 | 6.29274 | 6.77363 | 7.52241 | 8.41175 | 9.39801 | 10.40579 | 11.60923 | 89 |
| 75 | 4.45906 | 4.81231 | 5.14519 | 5.42040 | 5.66644 | 5.87641 | 6.14959 | 6.48824 | 6.89359 | 7.13312 | 7.70463 | 8.52172 | 9.41580 | 10.39068 | 11.43510 | 12.53525 | 90 |
| 76 | 5.04096 | 5.38306 | 5.71346 | 5.99775 | 6.23102 | 6.48066 | 6.81954 | 7.22763 | 7.70737 | 8.03213 | 8.67615 | 9.53277 | 10.42884 | 11.39123 | 12.44046 | 13.49011 | 91 |
| 77 | 5.68105 | 5.99766 | 6.31622 | 6.60705 | 6.81675 | 7.11137 | 7.52772 | 8.01332 | 8.57109 | 8.99890 | 9.70765 | 10.58909 | 11.48458 | 12.43204 | 13.46893 | 14.47379 | 92 |
| 78 | 6.37933 | 6.65613 | 6.95348 | 7.24829 | 7.42363 | 7.76854 | 8.27411 | 8.84532 | 9.48475 | 10.03344 | 10.79913 | 11.69069 | 12.58302 | 13.51311 | 14.52049 | 15.48630 | 93 |
| 79 | 7.13579 | 7.35847 | 7.62524 | 7.92148 | 8.05166 | 8.45217 | 9.05873 | 9.72362 | 10.44835 | 11.13573 | 11.95058 | 12.83756 | 13.72416 | 14.63444 | 15.59516 | 16.52764 | 94 |
| 80 | 7.95043 | 8.10466 | 8.33149 | 8.62661 | 8.70084 | 9.16226 | 9.88157 | 10.64823 | 11.46189 | 12.30579 | 13.16202 | 14.02971 | 14.90800 | 15.79603 | 16.69292 | 0.00000 | 95 |

Schedule F

12/12/86
NSSFIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
MALE - STANDARD SMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|-----|
| 15 | 0.09636 | 0.13946 | 0.15412 | 0.16047 | 0.16581 | 0.16928 | 0.16891 | 0.16560 | 0.16255 | 0.15773 | 0.15240 | 0.14754 | 0.14286 | 0.13813 | 0.13398 | 0.13063 | 30 |
| 16 | 0.11556 | 0.14979 | 0.16061 | 0.16484 | 0.16787 | 0.16929 | 0.16776 | 0.16392 | 0.16029 | 0.15537 | 0.15222 | 0.14966 | 0.14767 | 0.14620 | 0.14539 | 0.14293 | 31 |
| 17 | 0.13476 | 0.16013 | 0.16710 | 0.16920 | 0.16992 | 0.16930 | 0.16660 | 0.16224 | 0.15802 | 0.15301 | 0.15204 | 0.15179 | 0.15247 | 0.15426 | 0.15680 | 0.15303 | 32 |
| 18 | 0.15397 | 0.17046 | 0.17358 | 0.17357 | 0.17198 | 0.16931 | 0.16545 | 0.16056 | 0.15576 | 0.15064 | 0.15187 | 0.15391 | 0.15728 | 0.16233 | 0.16821 | 0.17399 | 33 |
| 19 | 0.17317 | 0.18080 | 0.18007 | 0.17793 | 0.17403 | 0.16932 | 0.16429 | 0.15888 | 0.15349 | 0.14828 | 0.15169 | 0.15604 | 0.16208 | 0.17039 | 0.17962 | 0.18872 | 34 |
| 20 | 0.19237 | 0.19113 | 0.18656 | 0.18230 | 0.17609 | 0.16933 | 0.16314 | 0.15720 | 0.15123 | 0.14592 | 0.15151 | 0.15816 | 0.16689 | 0.17846 | 0.19103 | 0.19522 | 35 |
| 21 | 0.19420 | 0.19162 | 0.18614 | 0.18142 | 0.17558 | 0.16959 | 0.16485 | 0.16028 | 0.15563 | 0.15167 | 0.15766 | 0.16407 | 0.17232 | 0.18312 | 0.19473 | 0.19504 | 36 |
| 22 | 0.19170 | 0.18781 | 0.18258 | 0.17801 | 0.17336 | 0.16964 | 0.16753 | 0.16521 | 0.16270 | 0.16073 | 0.16631 | 0.17126 | 0.17750 | 0.18559 | 0.19417 | 0.19358 | 37 |
| 23 | 0.18616 | 0.18198 | 0.17776 | 0.17336 | 0.17158 | 0.17002 | 0.17114 | 0.17141 | 0.17142 | 0.17173 | 0.17639 | 0.17970 | 0.18346 | 0.18824 | 0.19315 | 0.19618 | 38 |
| 24 | 0.17920 | 0.17641 | 0.17336 | 0.17058 | 0.17002 | 0.17169 | 0.17503 | 0.18086 | 0.18530 | 0.18974 | 0.19417 | 0.19861 | 0.20020 | 0.20179 | 0.20338 | 0.20497 | 39 |
| 25 | 0.17503 | 0.17336 | 0.17169 | 0.17002 | 0.17169 | 0.17503 | 0.18086 | 0.18530 | 0.18974 | 0.19417 | 0.19861 | 0.20020 | 0.20179 | 0.20338 | 0.20497 | 0.20656 | 40 |
| 26 | 0.17321 | 0.17169 | 0.17002 | 0.17169 | 0.17503 | 0.18086 | 0.18530 | 0.18974 | 0.19417 | 0.19861 | 0.20020 | 0.20179 | 0.20338 | 0.20497 | 0.20656 | 0.20815 | 41 |
| 27 | 0.17166 | 0.17002 | 0.17169 | 0.17503 | 0.18086 | 0.18530 | 0.18974 | 0.19417 | 0.19861 | 0.20020 | 0.20179 | 0.20338 | 0.20497 | 0.20656 | 0.20815 | 0.20974 | 42 |
| 28 | 0.17002 | 0.17169 | 0.17503 | 0.18086 | 0.18530 | 0.18974 | 0.19417 | 0.19861 | 0.20020 | 0.20179 | 0.20338 | 0.20497 | 0.20656 | 0.20815 | 0.20974 | 0.21133 | 43 |
| 29 | 0.17169 | 0.17503 | 0.17991 | 0.18668 | 0.19204 | 0.20021 | 0.20479 | 0.20931 | 0.21639 | 0.22413 | 0.23266 | 0.24134 | 0.25026 | 0.25928 | 0.26841 | 0.27764 | 44 |
| 30 | 0.17503 | 0.18086 | 0.18670 | 0.19507 | 0.20309 | 0.21133 | 0.21949 | 0.22592 | 0.23551 | 0.24595 | 0.25787 | 0.27246 | 0.29013 | 0.31045 | 0.33437 | 0.36193 | 45 |
| 31 | 0.18000 | 0.18670 | 0.19552 | 0.20670 | 0.21703 | 0.23014 | 0.24027 | 0.25078 | 0.26497 | 0.28011 | 0.29762 | 0.31741 | 0.33635 | 0.35484 | 0.37698 | 0.39037 | 46 |
| 32 | 0.18640 | 0.19534 | 0.20601 | 0.21921 | 0.23338 | 0.25002 | 0.26581 | 0.28202 | 0.30243 | 0.32382 | 0.34880 | 0.37489 | 0.39383 | 0.40729 | 0.42452 | 0.43727 | 47 |
| 33 | 0.19473 | 0.20533 | 0.21877 | 0.23422 | 0.25246 | 0.27299 | 0.29519 | 0.31784 | 0.34512 | 0.37345 | 0.40661 | 0.43958 | 0.45865 | 0.46690 | 0.47846 | 0.48706 | 48 |
| 34 | 0.20550 | 0.21806 | 0.23422 | 0.25320 | 0.27459 | 0.29911 | 0.32749 | 0.35643 | 0.39029 | 0.42540 | 0.46620 | 0.50622 | 0.52691 | 0.53275 | 0.54024 | 0.54585 | 49 |
| 35 | 0.21921 | 0.23422 | 0.25339 | 0.27507 | 0.30009 | 0.32844 | 0.36179 | 0.39599 | 0.43518 | 0.47605 | 0.52277 | 0.56949 | 0.59469 | 0.60395 | 0.61135 | 0.61208 | 50 |
| 36 | 0.23422 | 0.25339 | 0.27507 | 0.30009 | 0.32844 | 0.36103 | 0.39599 | 0.43518 | 0.47605 | 0.52277 | 0.56949 | 0.62038 | 0.65781 | 0.68079 | 0.69266 | 0.69971 | 51 |
| 37 | 0.25339 | 0.27507 | 0.30009 | 0.32844 | 0.36086 | 0.39599 | 0.43518 | 0.47605 | 0.52277 | 0.56949 | 0.62038 | 0.67378 | 0.72488 | 0.76389 | 0.78320 | 0.78147 | 52 |
| 38 | 0.27507 | 0.30009 | 0.32844 | 0.36160 | 0.39598 | 0.43518 | 0.47605 | 0.52277 | 0.56949 | 0.62038 | 0.67378 | 0.72488 | 0.77929 | 0.82577 | 0.86164 | 0.87445 | 53 |
| 39 | 0.30009 | 0.32844 | 0.36102 | 0.39599 | 0.43436 | 0.47605 | 0.52092 | 0.56773 | 0.61688 | 0.67165 | 0.72542 | 0.77929 | 0.82577 | 0.86164 | 0.88665 | 0.89937 | 54 |
| 40 | 0.32844 | 0.36179 | 0.39599 | 0.43518 | 0.47605 | 0.52277 | 0.56949 | 0.62038 | 0.67378 | 0.73387 | 0.79229 | 0.87075 | 0.95257 | 1.04609 | 1.09690 | 1.08839 | 55 |
| 41 | 0.36109 | 0.39599 | 0.43417 | 0.47605 | 0.52028 | 0.56935 | 0.62038 | 0.67378 | 0.73387 | 0.79229 | 0.87075 | 0.95257 | 1.04609 | 1.14070 | 1.20958 | 1.20805 | 56 |
| 42 | 0.39599 | 0.43518 | 0.47547 | 0.51957 | 0.56701 | 0.61762 | 0.67378 | 0.73387 | 0.79229 | 0.87075 | 0.95257 | 1.04609 | 1.15132 | 1.25513 | 1.32558 | 1.33973 | 57 |
| 43 | 0.43518 | 0.47605 | 0.52011 | 0.56647 | 0.61740 | 0.66956 | 0.73387 | 0.79229 | 0.87075 | 0.95257 | 1.04609 | 1.15132 | 1.26326 | 1.36742 | 1.44911 | 1.49794 | 58 |
| 44 | 0.47605 | 0.52238 | 0.56834 | 0.61761 | 0.67263 | 0.72712 | 0.79229 | 0.87075 | 0.95257 | 1.04609 | 1.15132 | 1.26326 | 1.38211 | 1.48762 | 1.58138 | 1.66885 | 59 |
| 45 | 0.52277 | 0.56949 | 0.62038 | 0.67378 | 0.73387 | 0.79229 | 0.87075 | 0.95257 | 1.04609 | 1.15132 | 1.26326 | 1.38441 | 1.50050 | 1.61778 | 1.73560 | 1.86713 | 60 |
| 46 | 0.56513 | 0.61771 | 0.67378 | 0.73387 | 0.79229 | 0.86821 | 0.94805 | 1.03135 | 1.12711 | 1.23520 | 1.34509 | 1.48792 | 1.67394 | 1.76115 | 1.90689 | 2.09328 | 61 |
| 47 | 0.60714 | 0.66726 | 0.73387 | 0.79229 | 0.87075 | 0.95257 | 1.03254 | 1.11549 | 1.21121 | 1.31297 | 1.42185 | 1.59268 | 1.75401 | 1.91637 | 2.09544 | 2.30446 | 62 |
| 48 | 0.65220 | 0.72017 | 0.79229 | 0.87075 | 0.95257 | 1.04364 | 1.12082 | 1.20218 | 1.29639 | 1.39259 | 1.49568 | 1.69646 | 1.80617 | 2.07855 | 2.29508 | 2.52552 | 63 |
| 49 | 0.70372 | 0.77847 | 0.86563 | 0.94925 | 1.04229 | 1.13369 | 1.20946 | 1.28058 | 1.38065 | 1.47121 | 1.56871 | 1.79708 | 2.01587 | 2.24282 | 2.49961 | 2.76931 | 64 |
| 50 | 0.76510 | 0.84421 | 0.93621 | 1.02485 | 1.12236 | 1.21899 | 1.29503 | 1.37188 | 1.46199 | 1.54869 | 1.64307 | 1.89233 | 2.13854 | 2.40130 | 2.70285 | 3.03333 | 65 |

Schedule F

12/12/86
NSSFIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
MALE - STANDARD SMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | ATT AGE |
|-----|---------|---------|---------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|------------|
| 51 | 0.83766 | 0.91697 | 1.00831 | 1.09866 | 1.19602 | 1.29389 | 1.37268 | 1.44661 | 1.53448 | 1.61950 | 1.71391 | 1.97323 | 2.24149 | 2.55063 | 2.88934 | 3.30840 | 66 |
| 52 | 0.91914 | 0.99539 | 1.08190 | 1.17159 | 1.26527 | 1.36155 | 1.44468 | 1.51464 | 1.59946 | 1.68374 | 1.77980 | 2.04125 | 2.32776 | 2.68505 | 3.06319 | 3.59705 | 67 |
| 53 | 1.00755 | 1.08009 | 1.16033 | 1.24833 | 1.33699 | 1.43043 | 1.51833 | 1.58419 | 1.66582 | 1.74969 | 1.84003 | 2.10985 | 2.41639 | 2.82612 | 3.24761 | 3.89427 | 68 |
| 54 | 1.10091 | 1.17171 | 1.24695 | 1.33357 | 1.41805 | 1.50900 | 1.60092 | 1.66345 | 1.74245 | 1.82565 | 1.92589 | 2.19250 | 2.52643 | 2.99237 | 3.46580 | 4.21099 | 69 |
| 55 | 1.19722 | 1.27087 | 1.34509 | 1.43203 | 1.51531 | 1.60573 | 1.69974 | 1.76061 | 1.83827 | 1.91990 | 2.02066 | 2.30265 | 2.67692 | 3.20234 | 3.74095 | 4.56070 | 70 |
| 56 | 1.28997 | 1.37352 | 1.45218 | 1.54188 | 1.62833 | 1.72117 | 1.81466 | 1.87586 | 1.95382 | 2.03234 | 2.13217 | 2.43663 | 2.86653 | 3.45504 | 4.07768 | 4.94853 | 71 |
| 57 | 1.38047 | 1.47924 | 1.56599 | 1.66000 | 1.75253 | 1.84966 | 1.94081 | 2.00372 | 2.08316 | 2.15745 | 2.25556 | 2.58547 | 3.08255 | 3.73810 | 4.46052 | 5.38972 | 72 |
| 58 | 1.47852 | 1.59411 | 1.69039 | 1.78910 | 1.88858 | 1.99040 | 2.07840 | 2.14394 | 2.22547 | 2.29537 | 2.39108 | 2.75467 | 3.32700 | 4.05302 | 4.88256 | 5.88695 | 73 |
| 59 | 1.59391 | 1.72420 | 1.82925 | 1.93191 | 2.03712 | 2.14256 | 2.22762 | 2.29625 | 2.37993 | 2.44626 | 2.53901 | 2.94976 | 3.60187 | 4.40128 | 5.33685 | 6.42940 | 74 |
| 60 | 1.73643 | 1.87558 | 1.98644 | 2.09113 | 2.19883 | 2.30533 | 2.38866 | 2.46038 | 2.54570 | 2.61028 | 2.69960 | 3.17624 | 3.90917 | 4.78439 | 5.81647 | 7.02990 | 75 |
| 61 | 1.92110 | 2.05972 | 2.17021 | 2.27103 | 2.37297 | 2.47262 | 2.55064 | 2.62085 | 2.70238 | 2.76241 | 2.84367 | 3.42481 | 4.25217 | 5.21733 | 6.34811 | 7.64974 | 76 |
| 62 | 2.14141 | 2.27256 | 2.37798 | 2.46981 | 2.55912 | 2.64498 | 2.71342 | 2.77782 | 2.85052 | 2.90255 | 2.97106 | 3.69178 | 4.62954 | 5.69911 | 6.93638 | 8.27796 | 77 |
| 63 | 2.37480 | 2.49691 | 2.59738 | 2.68105 | 2.75834 | 2.83153 | 2.89335 | 2.95455 | 3.02073 | 3.06022 | 3.12552 | 3.99114 | 5.03637 | 6.20724 | 7.54126 | 8.90442 | 78 |
| 64 | 2.59873 | 2.71559 | 2.81602 | 2.89839 | 2.97173 | 3.04140 | 3.10674 | 3.17426 | 3.24363 | 3.29692 | 3.35082 | 4.33683 | 5.46774 | 6.71923 | 8.12272 | 9.54779 | 79 |
| 65 | 2.79066 | 2.91139 | 3.02152 | 3.11542 | 3.20035 | 3.28370 | 3.36995 | 3.46020 | 3.54983 | 3.62618 | 3.69070 | 4.74284 | 5.91874 | 7.21258 | 8.64075 | 10.02537 | 80 |
| 66 | 2.90624 | 3.03824 | 3.16737 | 3.28730 | 3.40221 | 3.52313 | 3.65967 | 3.79903 | 3.93428 | 4.06421 | 4.15369 | 5.19405 | 6.35446 | 7.63402 | 9.01598 | 10.26135 | 81 |
| 67 | 2.96052 | 3.10759 | 3.26183 | 3.41830 | 3.57659 | 3.75360 | 3.96502 | 4.17525 | 4.37657 | 4.58601 | 4.71063 | 5.88115 | 6.77818 | 7.99853 | 9.27509 | 10.60763 | 82 |
| 68 | 3.01998 | 3.18858 | 3.37466 | 3.57567 | 3.78648 | 4.02808 | 4.32094 | 4.60887 | 4.88428 | 5.17924 | 5.34872 | 6.22680 | 7.24226 | 8.38605 | 9.53712 | 11.05479 | 83 |
| 69 | 3.15115 | 3.35031 | 3.57563 | 3.82668 | 4.09491 | 4.39954 | 4.76236 | 5.11990 | 5.46498 | 5.83158 | 6.05519 | 6.85367 | 7.79907 | 8.87649 | 9.92112 | 11.21381 | 84 |
| 70 | 3.42053 | 3.66191 | 3.93450 | 4.23860 | 4.56487 | 4.92093 | 5.32422 | 5.72835 | 6.12624 | 6.53069 | 6.81725 | 7.58444 | 8.50096 | 9.54978 | 10.54612 | 11.90384 | 85 |
| 71 | 3.87129 | 4.18168 | 4.52210 | 4.89172 | 5.29024 | 5.68317 | 6.07596 | 6.48591 | 6.90562 | 7.28516 | 7.64388 | 8.43766 | 9.37444 | 10.43957 | 11.46037 | 12.95647 | 86 |
| 72 | 4.45908 | 4.86353 | 5.29191 | 5.74122 | 6.22901 | 6.65096 | 6.99429 | 7.37924 | 7.79807 | 8.10320 | 8.54360 | 9.39821 | 10.38161 | 11.49257 | 12.58452 | 14.09130 | 87 |
| 73 | 5.11917 | 5.62003 | 6.13770 | 6.66661 | 7.24038 | 7.60792 | 7.97505 | 8.33080 | 8.74725 | 8.97195 | 9.50296 | 10.43826 | 11.49170 | 12.65832 | 13.84619 | 15.30981 | 88 |
| 74 | 5.78679 | 6.36372 | 6.95324 | 7.54746 | 8.18352 | 8.65767 | 8.91409 | 9.26305 | 9.69684 | 9.87854 | 10.50848 | 11.52998 | 12.65597 | 13.88632 | 15.17299 | 16.59209 | 89 |
| 75 | 6.39721 | 7.00716 | 7.63228 | 8.26330 | 8.91764 | 9.42385 | 9.70724 | 10.07846 | 10.59049 | 10.81011 | 11.54672 | 12.64551 | 13.83766 | 15.12609 | 16.49253 | 17.91557 | 90 |
| 76 | 6.95042 | 7.55036 | 8.17482 | 8.81413 | 9.44272 | 9.98645 | 10.35450 | 10.83703 | 11.42821 | 11.76666 | 12.61768 | 13.78487 | 15.03677 | 16.37764 | 17.80483 | 19.28025 | 91 |
| 77 | 7.48958 | 8.05160 | 8.65170 | 9.28076 | 9.85264 | 10.43639 | 10.92531 | 11.53044 | 12.24756 | 12.75676 | 13.73032 | 14.96661 | 16.27980 | 17.67462 | 19.15813 | 20.68615 | 92 |
| 78 | 8.01471 | 8.51089 | 9.06290 | 9.66168 | 10.14740 | 10.77367 | 11.41968 | 12.17870 | 13.04853 | 13.78042 | 14.88466 | 16.19073 | 17.56675 | 19.01703 | 20.55244 | 22.13325 | 93 |
| 79 | 8.52579 | 8.92823 | 9.40844 | 9.95839 | 10.32701 | 10.99829 | 11.83760 | 12.78181 | 13.83113 | 14.83763 | 16.08067 | 17.45723 | 18.89763 | 20.40487 | 21.98775 | 23.62155 | 94 |
| 80 | 9.02283 | 9.30362 | 9.68830 | 10.17041 | 10.39146 | 11.11025 | 12.17908 | 13.33977 | 14.59535 | 15.92840 | 17.31038 | 18.76611 | 20.27242 | 21.83814 | 23.46407 | 0.00000 | 95 |

Schedule F

12/18/86
FHPFIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
FEMALE - PREFERRED NONSMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|-----|
| 15 | 0.04070 | 0.04483 | 0.04806 | 0.05092 | 0.05177 | 0.05252 | 0.05141 | 0.04988 | 0.04704 | 0.04381 | 0.04098 | 0.03835 | 0.03578 | 0.03353 | 0.03207 | 0.03045 | 30 |
| 16 | 0.04468 | 0.04778 | 0.05071 | 0.05175 | 0.05173 | 0.05172 | 0.05036 | 0.04867 | 0.04600 | 0.04321 | 0.04070 | 0.03854 | 0.03627 | 0.03454 | 0.03349 | 0.03169 | 31 |
| 17 | 0.04866 | 0.05074 | 0.05256 | 0.05258 | 0.05169 | 0.05092 | 0.04931 | 0.04745 | 0.04495 | 0.04261 | 0.04042 | 0.03873 | 0.03676 | 0.03554 | 0.03491 | 0.03239 | 32 |
| 18 | 0.05264 | 0.05369 | 0.05440 | 0.05342 | 0.05165 | 0.05011 | 0.04825 | 0.04624 | 0.04391 | 0.04201 | 0.04015 | 0.03891 | 0.03724 | 0.03655 | 0.03633 | 0.03442 | 33 |
| 19 | 0.05662 | 0.05665 | 0.05625 | 0.05425 | 0.05161 | 0.04931 | 0.04720 | 0.04502 | 0.04286 | 0.04141 | 0.03987 | 0.03910 | 0.03773 | 0.03755 | 0.03775 | 0.03695 | 34 |
| 20 | 0.06060 | 0.05960 | 0.05810 | 0.05508 | 0.05157 | 0.04851 | 0.04615 | 0.04381 | 0.04182 | 0.04081 | 0.03959 | 0.03929 | 0.03822 | 0.03856 | 0.03917 | 0.04053 | 35 |
| 21 | 0.06204 | 0.06025 | 0.05801 | 0.05457 | 0.05096 | 0.04772 | 0.04572 | 0.04378 | 0.04253 | 0.04223 | 0.04189 | 0.04197 | 0.04135 | 0.04202 | 0.04290 | 0.04374 | 36 |
| 22 | 0.06246 | 0.05989 | 0.05699 | 0.05334 | 0.04992 | 0.04672 | 0.04535 | 0.04407 | 0.04383 | 0.04436 | 0.04515 | 0.04554 | 0.04542 | 0.04633 | 0.04742 | 0.04820 | 37 |
| 23 | 0.06226 | 0.05906 | 0.05568 | 0.05201 | 0.04899 | 0.04599 | 0.04537 | 0.04486 | 0.04572 | 0.04712 | 0.04915 | 0.04987 | 0.05031 | 0.05142 | 0.05269 | 0.05341 | 38 |
| 24 | 0.06187 | 0.05851 | 0.05469 | 0.05120 | 0.04868 | 0.04602 | 0.04611 | 0.04632 | 0.04817 | 0.05044 | 0.05368 | 0.05482 | 0.05587 | 0.05724 | 0.05871 | 0.05968 | 39 |
| 25 | 0.06173 | 0.05818 | 0.05466 | 0.05153 | 0.04953 | 0.04729 | 0.04790 | 0.04864 | 0.05119 | 0.05425 | 0.05851 | 0.06025 | 0.06199 | 0.06373 | 0.06547 | 0.06721 | 40 |
| 26 | 0.06179 | 0.05882 | 0.05588 | 0.05338 | 0.05193 | 0.05022 | 0.05106 | 0.05204 | 0.05491 | 0.05879 | 0.06399 | 0.06656 | 0.06906 | 0.07122 | 0.07319 | 0.07610 | 41 |
| 27 | 0.06178 | 0.05986 | 0.05792 | 0.05634 | 0.05553 | 0.05448 | 0.05538 | 0.05641 | 0.05935 | 0.06411 | 0.07026 | 0.07383 | 0.07716 | 0.07976 | 0.08187 | 0.08537 | 42 |
| 28 | 0.06173 | 0.06109 | 0.06036 | 0.05983 | 0.05974 | 0.05946 | 0.06037 | 0.06140 | 0.06429 | 0.06785 | 0.07681 | 0.08149 | 0.08570 | 0.08884 | 0.09119 | 0.09452 | 43 |
| 29 | 0.06171 | 0.06228 | 0.06275 | 0.06328 | 0.06395 | 0.06450 | 0.06555 | 0.06667 | 0.06950 | 0.07566 | 0.08314 | 0.08893 | 0.09410 | 0.09796 | 0.10079 | 0.10371 | 44 |
| 30 | 0.06177 | 0.06322 | 0.06466 | 0.06611 | 0.06755 | 0.06900 | 0.07044 | 0.07189 | 0.07478 | 0.08116 | 0.08872 | 0.09558 | 0.10177 | 0.10662 | 0.11035 | 0.11347 | 45 |
| 31 | 0.06157 | 0.06345 | 0.06558 | 0.06781 | 0.07012 | 0.07262 | 0.07490 | 0.07708 | 0.08021 | 0.08629 | 0.09324 | 0.10122 | 0.10848 | 0.11468 | 0.11985 | 0.12480 | 46 |
| 32 | 0.06109 | 0.06313 | 0.06580 | 0.06876 | 0.07204 | 0.07579 | 0.07926 | 0.08246 | 0.08594 | 0.09129 | 0.09704 | 0.10623 | 0.11463 | 0.12248 | 0.12951 | 0.13634 | 47 |
| 33 | 0.06081 | 0.06292 | 0.06609 | 0.06974 | 0.07399 | 0.07898 | 0.08371 | 0.08800 | 0.09183 | 0.09627 | 0.10060 | 0.11095 | 0.12055 | 0.13022 | 0.13936 | 0.14877 | 48 |
| 34 | 0.06123 | 0.06352 | 0.06719 | 0.07149 | 0.07661 | 0.08268 | 0.08848 | 0.09365 | 0.09776 | 0.10134 | 0.10440 | 0.11570 | 0.12659 | 0.13812 | 0.14940 | 0.16092 | 49 |
| 35 | 0.06283 | 0.06560 | 0.06988 | 0.07478 | 0.08057 | 0.08738 | 0.09376 | 0.09937 | 0.10359 | 0.10661 | 0.10893 | 0.12080 | 0.13307 | 0.14639 | 0.15964 | 0.17368 | 50 |
| 36 | 0.06580 | 0.06953 | 0.07461 | 0.08010 | 0.08630 | 0.09342 | 0.09970 | 0.10507 | 0.10912 | 0.11187 | 0.11406 | 0.12602 | 0.14000 | 0.15505 | 0.16973 | 0.18810 | 51 |
| 37 | 0.06982 | 0.07486 | 0.08086 | 0.08693 | 0.09337 | 0.10048 | 0.10615 | 0.11078 | 0.11442 | 0.11705 | 0.11947 | 0.13113 | 0.14714 | 0.16395 | 0.17956 | 0.20233 | 52 |
| 38 | 0.07460 | 0.08103 | 0.08797 | 0.09455 | 0.10111 | 0.10804 | 0.11292 | 0.11662 | 0.11983 | 0.12247 | 0.12534 | 0.13651 | 0.15451 | 0.17307 | 0.18977 | 0.21767 | 53 |
| 39 | 0.07988 | 0.08751 | 0.09522 | 0.10224 | 0.10886 | 0.11556 | 0.11978 | 0.12274 | 0.12565 | 0.12844 | 0.13188 | 0.14250 | 0.16212 | 0.18240 | 0.20117 | 0.23349 | 54 |
| 40 | 0.08536 | 0.09376 | 0.10194 | 0.10927 | 0.11595 | 0.12254 | 0.12654 | 0.12925 | 0.13221 | 0.13531 | 0.13926 | 0.14948 | 0.16998 | 0.19190 | 0.21332 | 0.25014 | 55 |
| 41 | 0.09085 | 0.09939 | 0.10761 | 0.11506 | 0.12175 | 0.12828 | 0.13262 | 0.13571 | 0.13914 | 0.14273 | 0.14693 | 0.15680 | 0.17706 | 0.20043 | 0.22719 | 0.26855 | 56 |
| 42 | 0.09652 | 0.10477 | 0.11270 | 0.12010 | 0.12669 | 0.13315 | 0.13816 | 0.14204 | 0.14623 | 0.15049 | 0.15477 | 0.16423 | 0.18536 | 0.20801 | 0.24094 | 0.28755 | 57 |
| 43 | 0.10269 | 0.11047 | 0.11796 | 0.12526 | 0.13173 | 0.13814 | 0.14402 | 0.14890 | 0.15403 | 0.15909 | 0.16361 | 0.17271 | 0.19041 | 0.21635 | 0.25612 | 0.31001 | 58 |
| 44 | 0.10968 | 0.11704 | 0.12416 | 0.13140 | 0.13785 | 0.14430 | 0.15105 | 0.15697 | 0.16309 | 0.16902 | 0.17428 | 0.18320 | 0.19976 | 0.22720 | 0.27380 | 0.33393 | 59 |
| 45 | 0.11780 | 0.12506 | 0.13207 | 0.13941 | 0.14600 | 0.15263 | 0.16012 | 0.16689 | 0.17396 | 0.18079 | 0.18761 | 0.19666 | 0.21295 | 0.24227 | 0.29505 | 0.39006 | 60 |
| 46 | 0.12708 | 0.13471 | 0.14202 | 0.14973 | 0.15679 | 0.16369 | 0.17166 | 0.17921 | 0.18737 | 0.19534 | 0.20541 | 0.21482 | 0.23164 | 0.26286 | 0.32019 | 0.42442 | 61 |
| 47 | 0.13730 | 0.14561 | 0.15350 | 0.16179 | 0.16957 | 0.17680 | 0.18511 | 0.19349 | 0.20296 | 0.21236 | 0.22212 | 0.23706 | 0.25481 | 0.28782 | 0.34852 | 0.45970 | 62 |
| 48 | 0.14843 | 0.15748 | 0.16601 | 0.17490 | 0.18344 | 0.19113 | 0.19980 | 0.20892 | 0.21962 | 0.23039 | 0.25003 | 0.26076 | 0.27995 | 0.31522 | 0.37954 | 0.49720 | 63 |
| 49 | 0.16043 | 0.17006 | 0.17904 | 0.18838 | 0.19748 | 0.20585 | 0.21505 | 0.22470 | 0.23627 | 0.24801 | 0.27144 | 0.28329 | 0.30456 | 0.34311 | 0.41276 | 0.53908 | 64 |
| 50 | 0.17326 | 0.18305 | 0.19210 | 0.20155 | 0.21080 | 0.22012 | 0.23021 | 0.24004 | 0.25181 | 0.26379 | 0.28864 | 0.30204 | 0.32615 | 0.36956 | 0.44769 | 0.58833 | 65 |

Schedule F

12/18/86
FNPFIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
FEMALE - PREFERRED NONSMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|----------|----------|----------|----------|----------|-----|
| 51 | 0.18690 | 0.19612 | 0.20451 | 0.21345 | 0.22210 | 0.23288 | 0.24442 | 0.25372 | 0.26451 | 0.27539 | 0.29035 | 0.31373 | 0.34142 | 0.39127 | 0.48100 | 0.64350 | 66 |
| 52 | 0.20139 | 0.20945 | 0.21660 | 0.22455 | 0.23199 | 0.24149 | 0.25814 | 0.26627 | 0.27510 | 0.28377 | 0.30237 | 0.32012 | 0.35205 | 0.40954 | 0.51302 | 0.70393 | 67 |
| 53 | 0.21674 | 0.22357 | 0.22939 | 0.23625 | 0.24239 | 0.25713 | 0.27263 | 0.27952 | 0.28618 | 0.29243 | 0.30563 | 0.32610 | 0.36296 | 0.42931 | 0.54874 | 0.76951 | 68 |
| 54 | 0.23298 | 0.23897 | 0.24389 | 0.25001 | 0.25525 | 0.27182 | 0.28915 | 0.29527 | 0.30034 | 0.30485 | 0.31302 | 0.33661 | 0.37909 | 0.45553 | 0.59315 | 0.84567 | 69 |
| 55 | 0.25014 | 0.25619 | 0.26110 | 0.26723 | 0.27249 | 0.29034 | 0.30877 | 0.31535 | 0.32019 | 0.32453 | 0.32946 | 0.35656 | 0.40535 | 0.49316 | 0.65123 | 0.93575 | 70 |
| 56 | 0.26693 | 0.27417 | 0.28019 | 0.28723 | 0.29359 | 0.31179 | 0.33052 | 0.33803 | 0.34380 | 0.34938 | 0.35268 | 0.38319 | 0.43831 | 0.53780 | 0.71744 | 1.04263 | 71 |
| 57 | 0.28334 | 0.29258 | 0.30049 | 0.30904 | 0.31725 | 0.33511 | 0.35296 | 0.36209 | 0.36945 | 0.37706 | 0.37942 | 0.41324 | 0.47467 | 0.58616 | 0.78844 | 1.16314 | 72 |
| 58 | 0.30130 | 0.31297 | 0.32325 | 0.33373 | 0.34427 | 0.36166 | 0.37863 | 0.39012 | 0.40000 | 0.41072 | 0.41306 | 0.45082 | 0.51961 | 0.64482 | 0.87257 | 1.30251 | 73 |
| 59 | 0.32272 | 0.33693 | 0.34972 | 0.36232 | 0.37543 | 0.39278 | 0.40991 | 0.42474 | 0.43836 | 0.45349 | 0.45701 | 0.50006 | 0.57829 | 0.72035 | 0.97015 | 1.46158 | 74 |
| 60 | 0.34955 | 0.36602 | 0.38116 | 0.39587 | 0.41153 | 0.42983 | 0.44915 | 0.46852 | 0.48740 | 0.50849 | 0.51466 | 0.56510 | 0.65590 | 0.81934 | 1.11352 | 1.64305 | 75 |
| 61 | 0.37886 | 0.39717 | 0.41445 | 0.43123 | 0.44954 | 0.47031 | 0.49460 | 0.52056 | 0.54736 | 0.57748 | 0.58821 | 0.64901 | 0.75643 | 0.94628 | 1.28203 | 1.86774 | 76 |
| 62 | 0.40937 | 0.42934 | 0.44874 | 0.46770 | 0.48894 | 0.51332 | 0.54470 | 0.57912 | 0.61632 | 0.65836 | 0.67539 | 0.74905 | 0.87613 | 1.09678 | 1.47813 | 2.12312 | 77 |
| 63 | 0.44546 | 0.46712 | 0.48873 | 0.51000 | 0.53426 | 0.56261 | 0.60205 | 0.64557 | 0.69391 | 0.74852 | 0.77291 | 0.86059 | 1.00990 | 1.26411 | 1.69678 | 2.42333 | 78 |
| 64 | 0.49149 | 0.51513 | 0.53910 | 0.56285 | 0.59091 | 0.62193 | 0.66928 | 0.72130 | 0.77980 | 0.84533 | 0.87749 | 0.97900 | 1.15083 | 1.44151 | 1.93295 | 2.76078 | 79 |
| 65 | 0.55185 | 0.57797 | 0.60455 | 0.63098 | 0.66072 | 0.69503 | 0.74899 | 0.80767 | 0.87361 | 0.94618 | 0.98583 | 1.07968 | 1.29323 | 1.62226 | 2.18161 | 3.13250 | 80 |
| 66 | 0.62847 | 0.65591 | 0.68323 | 0.70996 | 0.73876 | 0.77038 | 0.82681 | 0.88711 | 0.95429 | 1.02578 | 1.06650 | 1.19127 | 1.40669 | 1.77907 | 2.42334 | 3.53659 | 81 |
| 67 | 0.71843 | 0.74588 | 0.77203 | 0.79665 | 0.82110 | 0.84548 | 0.90098 | 0.95870 | 1.02208 | 1.08508 | 1.12168 | 1.25685 | 1.49521 | 1.91628 | 2.66191 | 3.97922 | 82 |
| 68 | 0.81883 | 0.84747 | 0.87369 | 0.89767 | 0.91921 | 0.93763 | 0.99309 | 1.04881 | 1.10857 | 1.16440 | 1.19855 | 1.34344 | 1.60439 | 2.07505 | 2.92522 | 4.46391 | 83 |
| 69 | 0.92676 | 0.96028 | 0.99096 | 1.01966 | 1.04453 | 1.06413 | 1.12472 | 1.18380 | 1.24535 | 1.29927 | 1.34424 | 1.47807 | 1.77984 | 2.29631 | 3.24361 | 4.98470 | 84 |
| 70 | 1.03932 | 1.08391 | 1.12661 | 1.16923 | 1.20850 | 1.24229 | 1.31742 | 1.39003 | 1.46400 | 1.52843 | 1.60591 | 1.76775 | 2.06716 | 2.62106 | 3.64578 | 5.54152 | 85 |
| 71 | 1.13396 | 1.19540 | 1.25774 | 1.32443 | 1.39084 | 1.45421 | 1.55382 | 1.65044 | 1.74706 | 1.83415 | 1.97576 | 2.13624 | 2.41372 | 3.02520 | 4.11345 | 6.12501 | 86 |
| 72 | 1.21263 | 1.29503 | 1.38251 | 1.48082 | 1.58393 | 1.68834 | 1.81952 | 1.94747 | 2.07346 | 2.19115 | 2.42234 | 2.57219 | 2.87912 | 3.48138 | 4.62720 | 6.74671 | 87 |
| 73 | 1.30912 | 1.41722 | 1.53526 | 1.67138 | 1.81818 | 1.97155 | 2.14062 | 2.30669 | 2.46942 | 2.62600 | 2.95737 | 3.09997 | 3.40730 | 4.02579 | 5.21447 | 7.43127 | 88 |
| 74 | 1.45728 | 1.59640 | 1.75033 | 1.92904 | 2.12402 | 2.33069 | 2.54321 | 2.75370 | 2.96114 | 3.16528 | 3.59257 | 3.74394 | 4.06219 | 4.69458 | 5.90270 | 8.15911 | 89 |
| 75 | 1.69090 | 1.86700 | 2.06204 | 2.28677 | 2.53188 | 2.79262 | 3.05336 | 3.31410 | 3.57484 | 3.83558 | 4.33965 | 4.52846 | 4.87774 | 5.52391 | 6.71934 | 8.93087 | 90 |
| 76 | 2.00999 | 2.22902 | 2.47040 | 2.74456 | 3.04175 | 3.35734 | 3.67108 | 3.98789 | 4.31052 | 4.63689 | 5.19860 | 5.45354 | 5.85374 | 6.51379 | 7.66438 | 9.74714 | 91 |
| 77 | 2.39201 | 2.65951 | 2.95251 | 3.28045 | 3.63336 | 4.00695 | 4.37899 | 4.75800 | 5.15070 | 5.55148 | 6.16163 | 6.50292 | 6.96816 | 7.64011 | 8.71953 | 10.60856 | 92 |
| 78 | 2.83696 | 3.15847 | 3.50838 | 3.89444 | 4.30669 | 4.74145 | 5.17707 | 5.62443 | 6.09538 | 6.57937 | 7.22872 | 7.67662 | 8.22041 | 8.90286 | 9.88480 | 11.45582 | 93 |
| 79 | 3.34482 | 3.72590 | 4.13800 | 4.58652 | 5.06176 | 5.56083 | 6.06533 | 6.58719 | 7.14456 | 7.72055 | 8.39988 | 8.97463 | 9.61069 | 10.30206 | 11.16017 | 12.33998 | 94 |
| 80 | 3.91562 | 4.36179 | 4.84139 | 5.35670 | 5.89856 | 6.46510 | 7.04376 | 7.64627 | 8.29825 | 8.97503 | 9.67510 | 10.39695 | 11.13879 | 11.83768 | 12.54565 | 0.00000 | 95 |

Schedule F

12/18/86
FHSFIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
FEMALE - STANDARD NONSMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | ATT AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|------------|
| 0 | 0.12083 | 0.04449 | 0.03950 | 0.03469 | 0.03009 | 0.02688 | 0.02399 | 0.02119 | 0.02093 | 0.02068 | 0.02155 | 0.02311 | 0.02559 | 0.02796 | 0.03616 | 0.03591 | 15 |
| 1 | 0.05337 | 0.04550 | 0.03984 | 0.03503 | 0.03039 | 0.02816 | 0.02624 | 0.02464 | 0.02504 | 0.02510 | 0.02605 | 0.02755 | 0.02979 | 0.03194 | 0.03875 | 0.03931 | 16 |
| 2 | 0.05456 | 0.04651 | 0.04018 | 0.03537 | 0.03069 | 0.02943 | 0.02850 | 0.02810 | 0.02915 | 0.02951 | 0.03054 | 0.03199 | 0.03398 | 0.03591 | 0.04134 | 0.04370 | 17 |
| 3 | 0.05574 | 0.04752 | 0.04051 | 0.03572 | 0.03099 | 0.03071 | 0.03075 | 0.03155 | 0.03327 | 0.03393 | 0.03504 | 0.03642 | 0.03818 | 0.03989 | 0.04393 | 0.04660 | 18 |
| 4 | 0.05693 | 0.04853 | 0.04085 | 0.03606 | 0.03129 | 0.03198 | 0.03301 | 0.03501 | 0.03738 | 0.03834 | 0.03953 | 0.04086 | 0.04237 | 0.04386 | 0.04652 | 0.04849 | 19 |
| 5 | 0.05811 | 0.04954 | 0.04119 | 0.03640 | 0.03159 | 0.03326 | 0.03526 | 0.03846 | 0.04149 | 0.04276 | 0.04403 | 0.04530 | 0.04657 | 0.04784 | 0.04911 | 0.05038 | 20 |
| 6 | 0.05526 | 0.04829 | 0.04134 | 0.03764 | 0.03390 | 0.03598 | 0.03826 | 0.04154 | 0.04397 | 0.04497 | 0.04603 | 0.04705 | 0.04801 | 0.04898 | 0.04958 | 0.05072 | 21 |
| 7 | 0.05035 | 0.04584 | 0.04129 | 0.03921 | 0.03709 | 0.03938 | 0.04167 | 0.04458 | 0.04584 | 0.04630 | 0.04703 | 0.04772 | 0.04833 | 0.04896 | 0.04916 | 0.05070 | 22 |
| 8 | 0.04498 | 0.04319 | 0.04136 | 0.04103 | 0.04068 | 0.04301 | 0.04512 | 0.04739 | 0.04726 | 0.04707 | 0.04742 | 0.04773 | 0.04800 | 0.04826 | 0.04826 | 0.04938 | 23 |
| 9 | 0.04073 | 0.04130 | 0.04187 | 0.04304 | 0.04418 | 0.04641 | 0.04823 | 0.04979 | 0.04839 | 0.04761 | 0.04758 | 0.04752 | 0.04746 | 0.04740 | 0.04725 | 0.04764 | 24 |
| 10 | 0.03917 | 0.04116 | 0.04315 | 0.04514 | 0.04712 | 0.04911 | 0.05060 | 0.05159 | 0.04941 | 0.04823 | 0.04789 | 0.04754 | 0.04720 | 0.04685 | 0.04651 | 0.04616 | 25 |
| 11 | 0.04125 | 0.04342 | 0.04558 | 0.04754 | 0.04950 | 0.05106 | 0.05211 | 0.05262 | 0.05026 | 0.04892 | 0.04834 | 0.04773 | 0.04713 | 0.04649 | 0.04585 | 0.04528 | 26 |
| 12 | 0.04590 | 0.04742 | 0.04895 | 0.05030 | 0.05166 | 0.05257 | 0.05301 | 0.05302 | 0.05083 | 0.04946 | 0.04868 | 0.04781 | 0.04694 | 0.04599 | 0.04502 | 0.04435 | 27 |
| 13 | 0.05173 | 0.05220 | 0.05267 | 0.05311 | 0.05356 | 0.05372 | 0.05350 | 0.05302 | 0.05119 | 0.04988 | 0.04892 | 0.04784 | 0.04676 | 0.04555 | 0.04430 | 0.04367 | 28 |
| 14 | 0.05733 | 0.05675 | 0.05618 | 0.05567 | 0.05518 | 0.05460 | 0.05379 | 0.05289 | 0.05144 | 0.05021 | 0.04911 | 0.04790 | 0.04668 | 0.04537 | 0.04401 | 0.04395 | 29 |
| 15 | 0.06130 | 0.06010 | 0.05889 | 0.05769 | 0.05648 | 0.05528 | 0.05407 | 0.05287 | 0.05166 | 0.05046 | 0.04925 | 0.04805 | 0.04684 | 0.04564 | 0.04443 | 0.04406 | 30 |
| 16 | 0.06342 | 0.06212 | 0.06072 | 0.05909 | 0.05738 | 0.05564 | 0.05422 | 0.05286 | 0.05165 | 0.05039 | 0.04903 | 0.04799 | 0.04690 | 0.04609 | 0.04537 | 0.04601 | 31 |
| 17 | 0.06461 | 0.06345 | 0.06207 | 0.06007 | 0.05790 | 0.05563 | 0.05411 | 0.05268 | 0.05137 | 0.04977 | 0.04843 | 0.04767 | 0.04678 | 0.04660 | 0.04662 | 0.04736 | 32 |
| 18 | 0.06523 | 0.06431 | 0.06303 | 0.06075 | 0.05817 | 0.05543 | 0.05392 | 0.05251 | 0.05110 | 0.04960 | 0.04793 | 0.04755 | 0.04699 | 0.04757 | 0.04849 | 0.05041 | 33 |
| 19 | 0.06558 | 0.06489 | 0.06375 | 0.06123 | 0.05832 | 0.05525 | 0.05385 | 0.05252 | 0.05110 | 0.04963 | 0.04804 | 0.04811 | 0.04799 | 0.04939 | 0.05128 | 0.05419 | 34 |
| 20 | 0.06600 | 0.06540 | 0.06432 | 0.06163 | 0.05847 | 0.05528 | 0.05407 | 0.05287 | 0.05166 | 0.05046 | 0.04925 | 0.04981 | 0.05030 | 0.05249 | 0.05531 | 0.05953 | 35 |
| 21 | 0.06643 | 0.06588 | 0.06458 | 0.06173 | 0.05833 | 0.05520 | 0.05433 | 0.05330 | 0.05259 | 0.05200 | 0.05170 | 0.05290 | 0.05427 | 0.05724 | 0.06084 | 0.06463 | 36 |
| 22 | 0.06667 | 0.06562 | 0.06445 | 0.06146 | 0.05780 | 0.05487 | 0.05449 | 0.05370 | 0.05372 | 0.05400 | 0.05507 | 0.05706 | 0.05957 | 0.06336 | 0.06767 | 0.07155 | 37 |
| 23 | 0.06678 | 0.06541 | 0.06419 | 0.06113 | 0.05735 | 0.05478 | 0.05497 | 0.05446 | 0.05530 | 0.05658 | 0.05914 | 0.06193 | 0.06567 | 0.07030 | 0.07540 | 0.07956 | 38 |
| 24 | 0.06684 | 0.06527 | 0.06406 | 0.06108 | 0.05742 | 0.05542 | 0.05615 | 0.05600 | 0.05764 | 0.05983 | 0.06367 | 0.06716 | 0.07199 | 0.07747 | 0.08359 | 0.08917 | 39 |
| 25 | 0.06693 | 0.06540 | 0.06432 | 0.06163 | 0.05847 | 0.05728 | 0.05843 | 0.05873 | 0.06100 | 0.06394 | 0.06846 | 0.07239 | 0.07799 | 0.08433 | 0.09185 | 0.10065 | 40 |
| 26 | 0.06674 | 0.06555 | 0.06470 | 0.06253 | 0.06043 | 0.06044 | 0.06182 | 0.06270 | 0.06545 | 0.06809 | 0.07335 | 0.07726 | 0.08302 | 0.09000 | 0.09950 | 0.11410 | 41 |
| 27 | 0.06621 | 0.06558 | 0.06503 | 0.06358 | 0.06300 | 0.06457 | 0.06606 | 0.06761 | 0.07081 | 0.07463 | 0.07848 | 0.08202 | 0.08743 | 0.09486 | 0.10682 | 0.12824 | 42 |
| 28 | 0.06582 | 0.06588 | 0.06571 | 0.06513 | 0.06620 | 0.06956 | 0.07113 | 0.07346 | 0.07697 | 0.08108 | 0.08409 | 0.08719 | 0.09223 | 0.10021 | 0.11481 | 0.14229 | 43 |
| 29 | 0.06601 | 0.06680 | 0.06714 | 0.06751 | 0.07035 | 0.07526 | 0.07703 | 0.08009 | 0.08384 | 0.08815 | 0.09039 | 0.09331 | 0.09837 | 0.10734 | 0.12447 | 0.15645 | 44 |
| 30 | 0.06727 | 0.06871 | 0.06972 | 0.07108 | 0.07532 | 0.08156 | 0.08376 | 0.08743 | 0.09133 | 0.09577 | 0.09761 | 0.10091 | 0.10685 | 0.11756 | 0.13682 | 0.17150 | 45 |
| 31 | 0.06986 | 0.07186 | 0.07377 | 0.07625 | 0.08162 | 0.08892 | 0.09192 | 0.09607 | 0.09991 | 0.10435 | 0.10614 | 0.11063 | 0.11874 | 0.13235 | 0.15292 | 0.18817 | 46 |
| 32 | 0.07348 | 0.07599 | 0.07902 | 0.08279 | 0.08918 | 0.09742 | 0.10150 | 0.10607 | 0.10965 | 0.11395 | 0.11584 | 0.12211 | 0.13337 | 0.15086 | 0.17209 | 0.20509 | 47 |
| 33 | 0.07771 | 0.08075 | 0.08499 | 0.09007 | 0.09736 | 0.10637 | 0.11162 | 0.11655 | 0.11982 | 0.12393 | 0.12610 | 0.13440 | 0.14916 | 0.17083 | 0.19275 | 0.22322 | 48 |
| 34 | 0.08213 | 0.08578 | 0.09119 | 0.09748 | 0.10548 | 0.11506 | 0.12136 | 0.12663 | 0.12971 | 0.13367 | 0.13633 | 0.14654 | 0.16447 | 0.19005 | 0.21327 | 0.24122 | 49 |
| 35 | 0.08632 | 0.09074 | 0.09716 | 0.10438 | 0.11289 | 0.12279 | 0.12985 | 0.13542 | 0.13859 | 0.14255 | 0.14592 | 0.15757 | 0.17771 | 0.20626 | 0.23205 | 0.26049 | 50 |

Schedule F

FIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
FEMALE - STANDARD NONSMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | ATT AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|------------|
| 36 | 0.08940 | 0.09497 | 0.10235 | 0.11029 | 0.11910 | 0.12903 | 0.13649 | 0.14239 | 0.14607 | 0.15025 | 0.15488 | 0.16746 | 0.18851 | 0.21871 | 0.24844 | 0.28206 | 51 |
| 37 | 0.09166 | 0.09870 | 0.10710 | 0.11563 | 0.12454 | 0.13423 | 0.14188 | 0.14811 | 0.15263 | 0.15720 | 0.16362 | 0.17606 | 0.19793 | 0.22888 | 0.26350 | 0.30379 | 52 |
| 38 | 0.09440 | 0.10291 | 0.11218 | 0.12112 | 0.12995 | 0.13922 | 0.14689 | 0.15342 | 0.15886 | 0.16385 | 0.17212 | 0.18580 | 0.20654 | 0.23793 | 0.27823 | 0.32775 | 53 |
| 39 | 0.09896 | 0.10858 | 0.11840 | 0.12749 | 0.13609 | 0.14479 | 0.15241 | 0.15911 | 0.16533 | 0.17066 | 0.18036 | 0.19432 | 0.21407 | 0.24700 | 0.29360 | 0.35285 | 54 |
| 40 | 0.10665 | 0.11668 | 0.12655 | 0.13548 | 0.14368 | 0.15178 | 0.15930 | 0.16602 | 0.17265 | 0.17809 | 0.18834 | 0.20245 | 0.22347 | 0.25724 | 0.31061 | 0.37966 | 55 |
| 41 | 0.11847 | 0.12781 | 0.13688 | 0.14504 | 0.15245 | 0.15971 | 0.16698 | 0.17338 | 0.17981 | 0.18499 | 0.19435 | 0.20847 | 0.23078 | 0.26730 | 0.32812 | 0.40907 | 56 |
| 42 | 0.13354 | 0.14133 | 0.14886 | 0.15568 | 0.16189 | 0.16804 | 0.17488 | 0.18066 | 0.18651 | 0.19105 | 0.19840 | 0.21235 | 0.23643 | 0.27641 | 0.34547 | 0.43994 | 57 |
| 43 | 0.15037 | 0.15632 | 0.16211 | 0.16747 | 0.17244 | 0.17746 | 0.18385 | 0.18897 | 0.19411 | 0.19799 | 0.20304 | 0.21668 | 0.24277 | 0.28660 | 0.36437 | 0.47572 | 58 |
| 44 | 0.16745 | 0.17189 | 0.17626 | 0.18047 | 0.18452 | 0.18868 | 0.19478 | 0.19946 | 0.20408 | 0.20756 | 0.21082 | 0.22405 | 0.25213 | 0.29990 | 0.38652 | 0.51397 | 59 |
| 45 | 0.18330 | 0.18712 | 0.19093 | 0.19475 | 0.19856 | 0.20238 | 0.20853 | 0.21325 | 0.21787 | 0.22148 | 0.22430 | 0.23704 | 0.26687 | 0.31836 | 0.41361 | 0.58982 | 60 |
| 46 | 0.19730 | 0.20180 | 0.20634 | 0.21094 | 0.21550 | 0.21972 | 0.22641 | 0.23192 | 0.23739 | 0.24195 | 0.24633 | 0.25805 | 0.28902 | 0.34336 | 0.44590 | 0.64141 | 61 |
| 47 | 0.21044 | 0.21653 | 0.22273 | 0.22899 | 0.23507 | 0.24024 | 0.24782 | 0.25471 | 0.26166 | 0.26781 | 0.27521 | 0.28537 | 0.31703 | 0.37355 | 0.48225 | 0.69483 | 62 |
| 48 | 0.22365 | 0.23164 | 0.23979 | 0.24796 | 0.25583 | 0.26220 | 0.27084 | 0.27927 | 0.28784 | 0.29577 | 0.30666 | 0.31538 | 0.34782 | 0.40684 | 0.52229 | 0.75156 | 63 |
| 49 | 0.23786 | 0.24745 | 0.25719 | 0.26691 | 0.27636 | 0.28388 | 0.29349 | 0.30321 | 0.31306 | 0.32253 | 0.33637 | 0.34449 | 0.37833 | 0.44113 | 0.56565 | 0.81448 | 64 |
| 50 | 0.25400 | 0.26431 | 0.27462 | 0.28492 | 0.29523 | 0.30354 | 0.31385 | 0.32416 | 0.33447 | 0.34477 | 0.36008 | 0.36909 | 0.40550 | 0.47432 | 0.61195 | 0.88722 | 65 |
| 51 | 0.27170 | 0.28132 | 0.29059 | 0.29989 | 0.30994 | 0.31855 | 0.32902 | 0.33871 | 0.34782 | 0.35779 | 0.37207 | 0.38440 | 0.42409 | 0.50077 | 0.65541 | 0.96830 | 66 |
| 52 | 0.29034 | 0.29827 | 0.30531 | 0.31244 | 0.32144 | 0.33007 | 0.34030 | 0.34844 | 0.35503 | 0.36380 | 0.37522 | 0.39283 | 0.43613 | 0.52187 | 0.69627 | 1.05715 | 67 |
| 53 | 0.31048 | 0.31648 | 0.32101 | 0.32571 | 0.33349 | 0.34204 | 0.35202 | 0.35847 | 0.36244 | 0.36985 | 0.37805 | 0.40154 | 0.44950 | 0.54609 | 0.74323 | 1.15385 | 68 |
| 54 | 0.33267 | 0.33728 | 0.33994 | 0.34283 | 0.34981 | 0.35843 | 0.36851 | 0.37393 | 0.37643 | 0.38302 | 0.38913 | 0.41772 | 0.47204 | 0.58191 | 0.80496 | 1.26481 | 69 |
| 55 | 0.35747 | 0.36198 | 0.36431 | 0.36692 | 0.37417 | 0.38318 | 0.39409 | 0.39995 | 0.40336 | 0.41038 | 0.41699 | 0.44853 | 0.51162 | 0.63780 | 0.89015 | 1.39485 | 70 |
| 56 | 0.38239 | 0.38667 | 0.39291 | 0.39754 | 0.40659 | 0.41642 | 0.42920 | 0.43758 | 0.44537 | 0.45396 | 0.46359 | 0.49246 | 0.56697 | 0.71218 | 0.99533 | 1.54805 | 71 |
| 57 | 0.40707 | 0.41646 | 0.42424 | 0.43261 | 0.44457 | 0.45551 | 0.47096 | 0.48340 | 0.49822 | 0.50906 | 0.52324 | 0.54472 | 0.63284 | 0.79942 | 1.11472 | 1.72171 | 72 |
| 58 | 0.43523 | 0.44825 | 0.46015 | 0.47279 | 0.48807 | 0.50026 | 0.51871 | 0.53583 | 0.55869 | 0.57260 | 0.59299 | 0.60760 | 0.71115 | 0.90186 | 1.25351 | 1.92281 | 73 |
| 59 | 0.47059 | 0.48690 | 0.50248 | 0.51875 | 0.53704 | 0.55050 | 0.57180 | 0.59331 | 0.62356 | 0.64155 | 0.66992 | 0.68337 | 0.80380 | 1.02186 | 1.41691 | 2.15328 | 74 |
| 60 | 0.51686 | 0.53530 | 0.55307 | 0.57115 | 0.59143 | 0.60605 | 0.62957 | 0.65426 | 0.68962 | 0.71205 | 0.75108 | 0.77431 | 0.91269 | 1.16178 | 1.61013 | 2.41717 | 75 |
| 61 | 0.57918 | 0.59763 | 0.61482 | 0.63120 | 0.65110 | 0.66556 | 0.68826 | 0.71192 | 0.74640 | 0.77301 | 0.82609 | 0.87550 | 1.03245 | 1.31589 | 1.82766 | 2.73939 | 76 |
| 62 | 0.65505 | 0.67195 | 0.68651 | 0.69845 | 0.71610 | 0.72916 | 0.74831 | 0.76735 | 0.79605 | 0.82648 | 0.89692 | 0.98542 | 1.16180 | 1.48263 | 2.06611 | 3.10649 | 77 |
| 63 | 0.73681 | 0.75202 | 0.76378 | 0.77110 | 0.78661 | 0.79885 | 0.81536 | 0.83067 | 0.85426 | 0.88786 | 0.97912 | 1.11145 | 1.30882 | 1.67057 | 2.33361 | 3.53567 | 78 |
| 64 | 0.81676 | 0.83159 | 0.84226 | 0.84734 | 0.86283 | 0.87665 | 0.89506 | 0.91201 | 0.93672 | 0.98299 | 1.08829 | 1.26099 | 1.48157 | 1.88833 | 2.63843 | 4.01823 | 79 |
| 65 | 0.88722 | 0.90439 | 0.91761 | 0.92539 | 0.94497 | 0.96455 | 0.99304 | 1.02152 | 1.05910 | 1.12408 | 1.23998 | 1.44141 | 1.68810 | 2.14448 | 2.98878 | 4.55074 | 80 |
| 66 | 0.93920 | 0.95960 | 0.97693 | 0.99008 | 1.01461 | 1.04038 | 1.08585 | 1.13465 | 1.19611 | 1.28827 | 1.40179 | 1.61429 | 1.88908 | 2.40183 | 3.35712 | 5.13102 | 81 |
| 67 | 0.97784 | 1.00137 | 1.02313 | 1.04261 | 1.07162 | 1.10280 | 1.16973 | 1.24466 | 1.33730 | 1.46049 | 1.56333 | 1.77471 | 2.07913 | 2.65464 | 3.73757 | 5.76616 | 82 |
| 68 | 1.01659 | 1.04598 | 1.07554 | 1.10571 | 1.14362 | 1.18508 | 1.27986 | 1.38834 | 1.52061 | 1.68242 | 1.77323 | 1.98931 | 2.31727 | 2.95873 | 4.17215 | 6.46022 | 83 |
| 69 | 1.06895 | 1.10966 | 1.15350 | 1.20213 | 1.25822 | 1.32049 | 1.45143 | 1.60248 | 1.70399 | 1.99494 | 2.08010 | 2.28872 | 2.66750 | 3.36990 | 4.70245 | 7.20632 | 84 |
| 70 | 1.14840 | 1.20867 | 1.27633 | 1.35460 | 1.44303 | 1.54230 | 1.71963 | 1.92389 | 2.16540 | 2.43894 | 2.53257 | 2.75758 | 3.17386 | 3.94398 | 5.36869 | 8.00440 | 85 |
| 71 | 1.23057 | 1.31939 | 1.42207 | 1.54423 | 1.68395 | 1.84268 | 2.08152 | 2.35570 | 2.67472 | 3.03254 | 3.14275 | 3.39542 | 3.85910 | 4.68932 | 6.18064 | 8.84371 | 86 |

Schedule F

12/18/86

FNS

FIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
 MONTHLY COST OF INSURANCE RATES PER \$1000
 FEMALE - STANDARD NONSMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | ATT AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|----------|----------|----------|----------|----------|----------|----------|----------|------------|
| 72 | 1.30647 | 1.43098 | 1.57784 | 1.75587 | 1.96256 | 2.19943 | 2.51365 | 2.87338 | 3.28666 | 3.74849 | 3.87823 | 4.16383 | 4.67587 | 5.56873 | 7.11076 | 9.73748 | 87 |
| 73 | 1.41265 | 1.57888 | 1.77658 | 2.01785 | 2.30004 | 2.62433 | 3.02042 | 3.47222 | 3.98637 | 4.55960 | 4.72083 | 5.04999 | 5.61703 | 6.56964 | 8.14514 | 10.71409 | 88 |
| 74 | 1.58565 | 1.79853 | 2.05125 | 2.35848 | 2.71754 | 3.12913 | 3.60621 | 4.14752 | 4.75903 | 5.43869 | 5.65238 | 6.04112 | 6.67144 | 7.67952 | 9.26989 | 11.75102 | 89 |
| 75 | 1.86202 | 2.12536 | 2.43480 | 2.80611 | 3.23622 | 3.72559 | 4.27344 | 4.87457 | 5.58979 | 6.35856 | 6.63470 | 7.12441 | 7.82897 | 8.88582 | 10.47109 | 12.84899 | 90 |
| 76 | 2.24176 | 2.55937 | 2.92724 | 3.36072 | 3.85609 | 4.41371 | 5.02810 | 5.71337 | 6.47866 | 7.31922 | 7.72779 | 8.29987 | 9.08961 | 10.18854 | 11.74875 | 14.00869 | 91 |
| 77 | 2.70050 | 3.07695 | 3.50660 | 4.00344 | 4.56303 | 5.18545 | 5.86125 | 6.60707 | 7.43352 | 8.33800 | 8.88376 | 9.57603 | 10.46011 | 11.59605 | 13.11215 | 15.23086 | 92 |
| 78 | 3.23824 | 3.67808 | 4.17287 | 4.73426 | 5.35705 | 6.04141 | 6.77491 | 7.57565 | 8.46038 | 9.41730 | 10.12261 | 10.95288 | 11.94049 | 13.10835 | 14.56127 | 16.44729 | 93 |
| 79 | 3.85499 | 4.36277 | 4.92606 | 5.55319 | 6.23815 | 6.98100 | 7.76906 | 8.61912 | 9.55324 | 10.55470 | 11.44436 | 12.43044 | 13.53074 | 14.72543 | 16.09611 | 17.71669 | 94 |
| 80 | 4.55074 | 5.13102 | 5.76616 | 6.46022 | 7.20632 | 8.00440 | 8.84371 | 9.73748 | 10.71409 | 11.75102 | 12.84899 | 14.00869 | 15.23086 | 16.44729 | 17.71669 | 0.00000 | 95 |

Schedule F

1/18/86
FSPFIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
FEMALE - PREFERRED SMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | ATT AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|------------|
| 15 | 0.03816 | 0.04199 | 0.04571 | 0.04759 | 0.04833 | 0.04897 | 0.04973 | 0.05108 | 0.05120 | 0.05203 | 0.05223 | 0.05108 | 0.04995 | 0.04787 | 0.04647 | 0.04527 | 30 |
| 16 | 0.04875 | 0.05157 | 0.05445 | 0.05552 | 0.05586 | 0.05594 | 0.05594 | 0.05643 | 0.05568 | 0.05568 | 0.05522 | 0.05379 | 0.05251 | 0.05053 | 0.04919 | 0.04674 | 31 |
| 17 | 0.05934 | 0.06115 | 0.06319 | 0.06345 | 0.06339 | 0.06291 | 0.06216 | 0.06177 | 0.06016 | 0.05932 | 0.05821 | 0.05650 | 0.05508 | 0.05319 | 0.05191 | 0.04896 | 32 |
| 18 | 0.06993 | 0.07073 | 0.07194 | 0.07139 | 0.07091 | 0.06989 | 0.06837 | 0.06712 | 0.06464 | 0.06297 | 0.06120 | 0.05921 | 0.05764 | 0.05585 | 0.05463 | 0.05164 | 33 |
| 19 | 0.08052 | 0.08031 | 0.08068 | 0.07932 | 0.07844 | 0.07686 | 0.07459 | 0.07246 | 0.06912 | 0.06661 | 0.06419 | 0.06192 | 0.06021 | 0.05851 | 0.05735 | 0.05509 | 34 |
| 20 | 0.09111 | 0.08989 | 0.08942 | 0.08725 | 0.08597 | 0.08383 | 0.08080 | 0.07781 | 0.07360 | 0.07026 | 0.06718 | 0.06463 | 0.06277 | 0.06117 | 0.06007 | 0.05997 | 35 |
| 21 | 0.09670 | 0.09469 | 0.09338 | 0.09040 | 0.08847 | 0.08581 | 0.08277 | 0.07989 | 0.07604 | 0.07308 | 0.07066 | 0.06856 | 0.06714 | 0.06624 | 0.06577 | 0.06516 | 36 |
| 22 | 0.10037 | 0.09760 | 0.09538 | 0.09149 | 0.08874 | 0.08553 | 0.08278 | 0.08042 | 0.07750 | 0.07543 | 0.07428 | 0.07295 | 0.07224 | 0.07227 | 0.07260 | 0.07133 | 37 |
| 23 | 0.10251 | 0.09929 | 0.09623 | 0.09156 | 0.08801 | 0.08434 | 0.08206 | 0.08043 | 0.07866 | 0.07777 | 0.07809 | 0.07767 | 0.07779 | 0.07889 | 0.08025 | 0.07959 | 38 |
| 24 | 0.10424 | 0.10045 | 0.09683 | 0.09163 | 0.08752 | 0.08357 | 0.08181 | 0.08090 | 0.08024 | 0.08043 | 0.08209 | 0.08256 | 0.08352 | 0.08575 | 0.08834 | 0.08952 | 39 |
| 25 | 0.10559 | 0.10175 | 0.09796 | 0.09271 | 0.08848 | 0.08458 | 0.08324 | 0.08285 | 0.08293 | 0.08382 | 0.08632 | 0.08747 | 0.08917 | 0.09247 | 0.09656 | 0.10082 | 40 |
| 26 | 0.10651 | 0.10312 | 0.09964 | 0.09489 | 0.09099 | 0.08743 | 0.08625 | 0.08592 | 0.08615 | 0.08713 | 0.08982 | 0.09143 | 0.09380 | 0.09819 | 0.10429 | 0.11339 | 41 |
| 27 | 0.10661 | 0.10409 | 0.10130 | 0.09749 | 0.09423 | 0.09122 | 0.09002 | 0.08945 | 0.08942 | 0.09009 | 0.09259 | 0.09454 | 0.09759 | 0.10316 | 0.11178 | 0.12721 | 42 |
| 28 | 0.10626 | 0.10480 | 0.10296 | 0.10038 | 0.09807 | 0.09586 | 0.09473 | 0.09396 | 0.09363 | 0.09394 | 0.09603 | 0.09825 | 0.10195 | 0.10866 | 0.11990 | 0.14084 | 43 |
| 29 | 0.10580 | 0.10537 | 0.10461 | 0.10346 | 0.10235 | 0.10124 | 0.10054 | 0.09995 | 0.09967 | 0.09990 | 0.10158 | 0.10401 | 0.10827 | 0.11599 | 0.12956 | 0.15453 | 44 |
| 30 | 0.10559 | 0.10593 | 0.10627 | 0.10661 | 0.10694 | 0.10728 | 0.10762 | 0.10796 | 0.10841 | 0.10921 | 0.11066 | 0.11328 | 0.11797 | 0.12643 | 0.14166 | 0.16907 | 45 |
| 31 | 0.10509 | 0.10573 | 0.10721 | 0.10927 | 0.11156 | 0.11402 | 0.11653 | 0.11911 | 0.12151 | 0.12392 | 0.12526 | 0.12792 | 0.13269 | 0.14124 | 0.15671 | 0.18470 | 46 |
| 32 | 0.10405 | 0.10468 | 0.10744 | 0.11152 | 0.11630 | 0.12154 | 0.12716 | 0.13305 | 0.13839 | 0.14320 | 0.14443 | 0.14696 | 0.15149 | 0.15957 | 0.17413 | 0.20042 | 47 |
| 33 | 0.10330 | 0.10391 | 0.10803 | 0.11419 | 0.12159 | 0.12974 | 0.13867 | 0.14809 | 0.15655 | 0.16399 | 0.16518 | 0.16761 | 0.17190 | 0.17953 | 0.19312 | 0.21720 | 48 |
| 34 | 0.10367 | 0.10455 | 0.11005 | 0.11812 | 0.12784 | 0.13834 | 0.15023 | 0.16254 | 0.17353 | 0.18321 | 0.18453 | 0.18704 | 0.19145 | 0.19922 | 0.21290 | 0.23656 | 49 |
| 35 | 0.10598 | 0.10773 | 0.11460 | 0.12416 | 0.13547 | 0.14787 | 0.16101 | 0.17470 | 0.18685 | 0.19780 | 0.19950 | 0.20247 | 0.20766 | 0.21676 | 0.23267 | 0.26052 | 50 |
| 36 | 0.11060 | 0.11421 | 0.12262 | 0.13326 | 0.14530 | 0.15829 | 0.17114 | 0.18413 | 0.19555 | 0.20653 | 0.20902 | 0.21285 | 0.21951 | 0.23109 | 0.25121 | 0.28591 | 51 |
| 37 | 0.11697 | 0.12323 | 0.13339 | 0.14485 | 0.15705 | 0.16985 | 0.18117 | 0.19197 | 0.20127 | 0.21147 | 0.21509 | 0.22006 | 0.22864 | 0.24347 | 0.26903 | 0.31564 | 52 |
| 38 | 0.12455 | 0.13366 | 0.14548 | 0.15751 | 0.16950 | 0.18170 | 0.19091 | 0.19886 | 0.20546 | 0.21441 | 0.21929 | 0.22564 | 0.23660 | 0.25549 | 0.28800 | 0.34827 | 53 |
| 39 | 0.13279 | 0.14437 | 0.15746 | 0.16980 | 0.18143 | 0.19300 | 0.20015 | 0.20547 | 0.20957 | 0.21720 | 0.22321 | 0.23115 | 0.24491 | 0.26874 | 0.30996 | 0.38526 | 54 |
| 40 | 0.14115 | 0.15421 | 0.16792 | 0.18028 | 0.19162 | 0.20288 | 0.20871 | 0.21245 | 0.21503 | 0.22164 | 0.22844 | 0.23814 | 0.25511 | 0.28481 | 0.33678 | 0.42774 | 55 |
| 41 | 0.14906 | 0.16235 | 0.17569 | 0.18759 | 0.19862 | 0.20993 | 0.21519 | 0.21856 | 0.22072 | 0.22647 | 0.23346 | 0.24521 | 0.26578 | 0.30233 | 0.36729 | 0.47264 | 56 |
| 42 | 0.15688 | 0.16954 | 0.18172 | 0.19268 | 0.20323 | 0.21470 | 0.21971 | 0.22338 | 0.22566 | 0.23049 | 0.23721 | 0.25133 | 0.27571 | 0.32024 | 0.40025 | 0.52335 | 57 |
| 43 | 0.16547 | 0.17705 | 0.18775 | 0.19760 | 0.20765 | 0.21935 | 0.22438 | 0.22874 | 0.23157 | 0.23558 | 0.24197 | 0.25859 | 0.28761 | 0.34060 | 0.43741 | 0.58281 | 58 |
| 44 | 0.17565 | 0.18614 | 0.19551 | 0.20441 | 0.21407 | 0.22599 | 0.23127 | 0.23650 | 0.24013 | 0.24364 | 0.25002 | 0.26908 | 0.30299 | 0.36545 | 0.48052 | 0.64782 | 59 |
| 45 | 0.18828 | 0.19808 | 0.20673 | 0.21516 | 0.22467 | 0.23677 | 0.24246 | 0.24850 | 0.25305 | 0.25657 | 0.26364 | 0.28488 | 0.32417 | 0.39686 | 0.53133 | 0.78011 | 60 |
| 46 | 0.20333 | 0.21278 | 0.22139 | 0.22985 | 0.23949 | 0.25105 | 0.25725 | 0.26388 | 0.26954 | 0.27373 | 0.28265 | 0.30593 | 0.35103 | 0.43468 | 0.58980 | 0.87430 | 61 |
| 47 | 0.22025 | 0.22940 | 0.23834 | 0.24711 | 0.25706 | 0.26742 | 0.27424 | 0.28141 | 0.28846 | 0.29385 | 0.30552 | 0.33083 | 0.38216 | 0.47756 | 0.65477 | 0.98375 | 62 |
| 48 | 0.23906 | 0.24807 | 0.25761 | 0.26694 | 0.27735 | 0.28880 | 0.29451 | 0.30239 | 0.31101 | 0.31709 | 0.33254 | 0.35969 | 0.41774 | 0.52568 | 0.72629 | 1.09383 | 63 |
| 49 | 0.25979 | 0.26892 | 0.27923 | 0.28932 | 0.30031 | 0.31016 | 0.31912 | 0.32811 | 0.33834 | 0.34683 | 0.36396 | 0.39260 | 0.45794 | 0.57925 | 0.80443 | 1.21832 | 64 |
| 50 | 0.28247 | 0.29208 | 0.30322 | 0.31425 | 0.32589 | 0.33842 | 0.34914 | 0.35988 | 0.37163 | 0.38162 | 0.40006 | 0.42967 | 0.50293 | 0.63848 | 0.88925 | 1.35316 | 65 |

Schedule F

12/18/86

F9P

FIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
FEMALE - PREFERRED SMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | ATT AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|----------|----------|----------|----------|----------|----------|------------|
| 51 | 0.30728 | 0.31746 | 0.32906 | 0.34090 | 0.35282 | 0.37165 | 0.38460 | 0.39764 | 0.41054 | 0.42172 | 0.43969 | 0.46890 | 0.55113 | 0.70239 | 0.98960 | 1.49936 | 66 |
| 52 | 0.33419 | 0.34498 | 0.35672 | 0.36928 | 0.38114 | 0.40922 | 0.42478 | 0.44053 | 0.45427 | 0.46648 | 0.48266 | 0.51022 | 0.60244 | 0.77085 | 1.07845 | 1.66831 | 67 |
| 53 | 0.36294 | 0.37477 | 0.38700 | 0.40062 | 0.41274 | 0.45104 | 0.46965 | 0.48863 | 0.50336 | 0.51673 | 0.53071 | 0.55663 | 0.65920 | 0.84531 | 1.18301 | 1.82375 | 68 |
| 54 | 0.39329 | 0.40698 | 0.42072 | 0.43615 | 0.44955 | 0.49702 | 0.51917 | 0.54201 | 0.55834 | 0.57329 | 0.58555 | 0.61111 | 0.72380 | 0.92723 | 1.29448 | 1.97887 | 69 |
| 55 | 0.42497 | 0.44174 | 0.45868 | 0.47711 | 0.49347 | 0.54707 | 0.57332 | 0.60074 | 0.61973 | 0.63698 | 0.64892 | 0.67666 | 0.79858 | 1.01805 | 1.41308 | 2.12415 | 70 |
| 56 | 0.45491 | 0.47670 | 0.49942 | 0.52295 | 0.54533 | 0.60186 | 0.63383 | 0.66782 | 0.69122 | 0.71173 | 0.72466 | 0.75777 | 0.88780 | 1.12164 | 1.54210 | 2.25208 | 71 |
| 57 | 0.48328 | 0.51176 | 0.54242 | 0.57286 | 0.60385 | 0.66146 | 0.70073 | 0.74319 | 0.77244 | 0.79700 | 0.81161 | 0.85245 | 0.98789 | 1.23704 | 1.68139 | 2.39607 | 72 |
| 58 | 0.51469 | 0.55046 | 0.58984 | 0.62764 | 0.66780 | 0.72484 | 0.77140 | 0.82237 | 0.85789 | 0.88689 | 0.90402 | 0.95396 | 1.09847 | 1.35843 | 1.82602 | 2.57897 | 73 |
| 59 | 0.55376 | 0.59636 | 0.64386 | 0.68810 | 0.73594 | 0.79102 | 0.84324 | 0.90089 | 0.94205 | 0.97549 | 0.99610 | 1.05555 | 1.20717 | 1.48003 | 1.97108 | 2.79163 | 74 |
| 60 | 0.60308 | 0.65299 | 0.70666 | 0.75505 | 0.80703 | 0.85876 | 0.91362 | 0.97427 | 1.01942 | 1.05693 | 1.08208 | 1.15048 | 1.30961 | 1.59604 | 2.11161 | 3.03964 | 75 |
| 61 | 0.67134 | 0.72275 | 0.78020 | 0.82896 | 0.87907 | 0.92372 | 0.97621 | 1.03472 | 1.08195 | 1.12366 | 1.15571 | 1.23007 | 1.39413 | 1.69219 | 2.33256 | 3.19384 | 76 |
| 62 | 0.74947 | 0.80327 | 0.86303 | 0.90930 | 0.95290 | 0.98598 | 1.03275 | 1.08522 | 1.13331 | 1.17962 | 1.22083 | 1.29882 | 1.46498 | 1.77235 | 2.33720 | 3.35454 | 77 |
| 63 | 0.83545 | 0.89096 | 0.95220 | 0.99536 | 1.03150 | 1.05316 | 1.09275 | 1.13746 | 1.18557 | 1.23610 | 1.28684 | 1.36975 | 1.53966 | 1.85791 | 2.44815 | 3.53806 | 78 |
| 64 | 0.92525 | 0.98225 | 1.04477 | 1.08642 | 1.11787 | 1.13270 | 1.16572 | 1.20312 | 1.25080 | 1.30440 | 1.36311 | 1.45588 | 1.63564 | 1.97026 | 2.58802 | 3.72706 | 79 |
| 65 | 1.01487 | 1.07354 | 1.13779 | 1.18179 | 1.21503 | 1.23201 | 1.26116 | 1.29388 | 1.34106 | 1.39582 | 1.45903 | 1.57025 | 1.77044 | 2.13079 | 2.77941 | 3.94694 | 80 |
| 66 | 1.09287 | 1.15201 | 1.21714 | 1.26768 | 1.31073 | 1.34161 | 1.36645 | 1.39393 | 1.43564 | 1.48338 | 1.54037 | 1.67948 | 1.91390 | 2.31408 | 3.00223 | 4.20854 | 81 |
| 67 | 1.16192 | 1.22004 | 1.28480 | 1.34456 | 1.40299 | 1.45654 | 1.47524 | 1.49550 | 1.52649 | 1.55956 | 1.60088 | 1.77490 | 2.05437 | 2.50589 | 3.24141 | 4.45673 | 82 |
| 68 | 1.23918 | 1.29689 | 1.36192 | 1.43310 | 1.51013 | 1.59104 | 1.60648 | 1.62227 | 1.64470 | 1.66481 | 1.69189 | 1.90655 | 2.23705 | 2.74431 | 3.52709 | 4.77639 | 83 |
| 69 | 1.34180 | 1.40177 | 1.46971 | 1.55399 | 1.65051 | 1.75937 | 1.77912 | 1.79796 | 1.82133 | 1.83961 | 1.86476 | 2.12449 | 2.50716 | 3.06747 | 3.88941 | 5.13424 | 84 |
| 70 | 1.48691 | 1.55394 | 1.62933 | 1.72791 | 1.84248 | 1.97577 | 2.01212 | 2.04627 | 2.08746 | 2.12442 | 2.17082 | 2.47877 | 2.90970 | 3.51348 | 4.35850 | 5.54152 | 85 |
| 71 | 1.65598 | 1.73621 | 1.82564 | 1.94007 | 2.07054 | 2.22371 | 2.29155 | 2.35545 | 2.43628 | 2.51953 | 2.61964 | 2.98496 | 3.46457 | 4.10422 | 4.95464 | 6.12501 | 86 |
| 72 | 1.83757 | 1.93576 | 2.04453 | 2.17669 | 2.32246 | 2.49371 | 2.60479 | 2.70972 | 2.84707 | 2.99797 | 3.17700 | 3.60967 | 4.14108 | 4.81427 | 5.65773 | 6.74671 | 87 |
| 73 | 2.05950 | 2.17836 | 2.30870 | 2.45994 | 2.62149 | 2.81054 | 2.97270 | 3.12666 | 3.33005 | 3.55930 | 3.82854 | 4.32959 | 4.91041 | 5.61083 | 6.43738 | 7.43127 | 88 |
| 74 | 2.34959 | 2.48977 | 2.64089 | 2.81199 | 2.97083 | 3.19898 | 3.41615 | 3.62390 | 3.89545 | 4.20308 | 4.55992 | 5.12137 | 5.74363 | 6.46108 | 7.26317 | 8.15911 | 89 |
| 75 | 2.73568 | 2.89575 | 3.06381 | 3.25502 | 3.45374 | 3.68381 | 3.95603 | 4.21904 | 4.55349 | 4.92807 | 5.35680 | 5.96168 | 6.61178 | 7.33219 | 8.10472 | 8.93087 | 90 |
| 76 | 3.21775 | 3.39631 | 3.57747 | 3.78902 | 4.01021 | 4.26504 | 4.59232 | 4.91207 | 5.30418 | 5.73667 | 6.21919 | 6.85052 | 7.51484 | 8.22417 | 8.96200 | 9.74714 | 91 |
| 77 | 3.77725 | 3.97426 | 4.16672 | 4.39921 | 4.64475 | 4.92614 | 5.31111 | 5.69127 | 6.14070 | 6.62678 | 7.15663 | 7.80345 | 8.47214 | 9.15889 | 9.85531 | 10.60856 | 92 |
| 78 | 4.41420 | 4.62962 | 4.83155 | 5.08559 | 5.35736 | 5.66712 | 6.11241 | 6.55663 | 7.06305 | 7.59919 | 8.16914 | 8.82046 | 9.48367 | 10.13636 | 10.78463 | 11.45592 | 93 |
| 79 | 5.12859 | 5.36237 | 5.57197 | 5.84817 | 6.14804 | 6.48797 | 6.99621 | 7.50815 | 8.07123 | 8.65391 | 9.25671 | 9.90157 | 10.54943 | 11.15658 | 11.74996 | 12.33998 | 94 |
| 80 | 5.92041 | 6.17253 | 6.38798 | 6.68695 | 7.01680 | 7.38869 | 7.96251 | 8.54583 | 9.16523 | 9.79093 | 10.41935 | 11.04676 | 11.66942 | 12.21954 | 12.75131 | 0.00000 | 95 |

Schedule F

2/18/86
FSS
FIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
FEMALE - STANDARD SMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|-----|
| 15 | 0.04846 | 0.05006 | 0.05358 | 0.05411 | 0.05532 | 0.05644 | 0.05786 | 0.06013 | 0.06103 | 0.06138 | 0.06273 | 0.06308 | 0.06344 | 0.06379 | 0.06464 | 0.06549 | 30 |
| 16 | 0.05810 | 0.05972 | 0.06303 | 0.06379 | 0.06542 | 0.06665 | 0.06825 | 0.06934 | 0.06889 | 0.06826 | 0.06852 | 0.06838 | 0.06851 | 0.06857 | 0.06916 | 0.06787 | 31 |
| 17 | 0.06774 | 0.06937 | 0.07248 | 0.07347 | 0.07553 | 0.07687 | 0.07864 | 0.07854 | 0.07674 | 0.07514 | 0.07431 | 0.07368 | 0.07357 | 0.07336 | 0.07368 | 0.07159 | 32 |
| 18 | 0.07739 | 0.07903 | 0.08194 | 0.08315 | 0.08563 | 0.08708 | 0.08904 | 0.08775 | 0.08460 | 0.08201 | 0.08011 | 0.07899 | 0.07864 | 0.07814 | 0.07821 | 0.07561 | 33 |
| 19 | 0.08703 | 0.08868 | 0.09139 | 0.09283 | 0.09574 | 0.09730 | 0.09943 | 0.09695 | 0.09245 | 0.08889 | 0.08590 | 0.08429 | 0.08370 | 0.08293 | 0.08273 | 0.08079 | 34 |
| 20 | 0.09667 | 0.09834 | 0.10084 | 0.10251 | 0.10584 | 0.10751 | 0.10982 | 0.10616 | 0.10031 | 0.09577 | 0.09169 | 0.08959 | 0.08877 | 0.08771 | 0.08725 | 0.08810 | 35 |
| 21 | 0.09834 | 0.10084 | 0.10251 | 0.10584 | 0.10751 | 0.11167 | 0.11471 | 0.11121 | 0.10575 | 0.10153 | 0.09824 | 0.09682 | 0.09657 | 0.09617 | 0.09631 | 0.09630 | 36 |
| 22 | 0.10084 | 0.10251 | 0.10584 | 0.10751 | 0.11167 | 0.11501 | 0.11705 | 0.11424 | 0.10985 | 0.10642 | 0.10468 | 0.10441 | 0.10506 | 0.10570 | 0.10684 | 0.10590 | 37 |
| 23 | 0.10251 | 0.10584 | 0.10751 | 0.11167 | 0.11501 | 0.11757 | 0.11844 | 0.11667 | 0.11382 | 0.11155 | 0.11182 | 0.11299 | 0.11474 | 0.11664 | 0.11894 | 0.11855 | 38 |
| 24 | 0.10525 | 0.10751 | 0.11167 | 0.11495 | 0.11834 | 0.11991 | 0.12047 | 0.11995 | 0.11889 | 0.11806 | 0.12043 | 0.12315 | 0.12614 | 0.12930 | 0.13271 | 0.13376 | 39 |
| 25 | 0.10751 | 0.11167 | 0.11501 | 0.11834 | 0.12315 | 0.12393 | 0.12471 | 0.12549 | 0.12628 | 0.12706 | 0.13130 | 0.13553 | 0.13977 | 0.14400 | 0.14824 | 0.15097 | 40 |
| 26 | 0.11098 | 0.11501 | 0.11834 | 0.12255 | 0.12758 | 0.12912 | 0.13060 | 0.13265 | 0.13538 | 0.13816 | 0.14417 | 0.15002 | 0.15578 | 0.16098 | 0.16578 | 0.17001 | 41 |
| 27 | 0.11488 | 0.11834 | 0.12303 | 0.12686 | 0.13199 | 0.13460 | 0.13707 | 0.14047 | 0.14536 | 0.15061 | 0.15850 | 0.16623 | 0.17383 | 0.18004 | 0.18526 | 0.19108 | 42 |
| 28 | 0.11834 | 0.12334 | 0.12769 | 0.13182 | 0.13716 | 0.14115 | 0.14499 | 0.14993 | 0.15716 | 0.16500 | 0.17471 | 0.18428 | 0.19369 | 0.20080 | 0.20632 | 0.21202 | 43 |
| 29 | 0.12334 | 0.12841 | 0.13324 | 0.13797 | 0.14387 | 0.14955 | 0.15523 | 0.16201 | 0.17171 | 0.18192 | 0.19319 | 0.20429 | 0.21514 | 0.22289 | 0.22860 | 0.23311 | 44 |
| 30 | 0.12918 | 0.13418 | 0.14001 | 0.14585 | 0.15289 | 0.16058 | 0.16864 | 0.17768 | 0.18994 | 0.20196 | 0.21436 | 0.22641 | 0.23794 | 0.24594 | 0.25176 | 0.25554 | 45 |
| 31 | 0.13409 | 0.14001 | 0.14585 | 0.15502 | 0.16169 | 0.17419 | 0.18585 | 0.19790 | 0.21320 | 0.22630 | 0.23907 | 0.25107 | 0.26192 | 0.26919 | 0.27458 | 0.27850 | 46 |
| 32 | 0.13872 | 0.14585 | 0.15502 | 0.16169 | 0.17419 | 0.19003 | 0.20628 | 0.22203 | 0.24086 | 0.25455 | 0.26705 | 0.27818 | 0.28721 | 0.29290 | 0.29730 | 0.30149 | 47 |
| 33 | 0.14414 | 0.15278 | 0.16169 | 0.17419 | 0.19003 | 0.20754 | 0.22755 | 0.24862 | 0.27090 | 0.28493 | 0.29701 | 0.30708 | 0.31411 | 0.31819 | 0.32174 | 0.32590 | 48 |
| 34 | 0.15144 | 0.16169 | 0.17419 | 0.19003 | 0.20754 | 0.22755 | 0.25006 | 0.27623 | 0.30132 | 0.31567 | 0.32768 | 0.33711 | 0.34290 | 0.34620 | 0.34969 | 0.35459 | 49 |
| 35 | 0.16169 | 0.17419 | 0.19003 | 0.20754 | 0.22755 | 0.25006 | 0.27757 | 0.30342 | 0.33010 | 0.34500 | 0.35776 | 0.36762 | 0.37385 | 0.37804 | 0.38296 | 0.39074 | 50 |
| 36 | 0.17419 | 0.19003 | 0.20754 | 0.22755 | 0.25006 | 0.27421 | 0.30324 | 0.33010 | 0.35679 | 0.37323 | 0.38803 | 0.39971 | 0.40851 | 0.41538 | 0.42275 | 0.42873 | 51 |
| 37 | 0.19003 | 0.20754 | 0.22755 | 0.25006 | 0.27584 | 0.30105 | 0.33010 | 0.35679 | 0.38431 | 0.40154 | 0.41934 | 0.43381 | 0.44668 | 0.45746 | 0.46785 | 0.47391 | 52 |
| 38 | 0.20754 | 0.22755 | 0.25006 | 0.27757 | 0.30326 | 0.32922 | 0.35679 | 0.38431 | 0.41178 | 0.42947 | 0.45053 | 0.46828 | 0.48607 | 0.50180 | 0.51647 | 0.52441 | 53 |
| 39 | 0.22755 | 0.25006 | 0.27757 | 0.30342 | 0.33010 | 0.35679 | 0.38431 | 0.41267 | 0.43789 | 0.45653 | 0.48046 | 0.50144 | 0.52435 | 0.54592 | 0.56683 | 0.58270 | 54 |
| 40 | 0.25006 | 0.27757 | 0.30342 | 0.33010 | 0.35679 | 0.38131 | 0.41267 | 0.44269 | 0.46278 | 0.48224 | 0.50796 | 0.53163 | 0.55921 | 0.58734 | 0.61713 | 0.64922 | 55 |
| 41 | 0.27413 | 0.30178 | 0.32746 | 0.35359 | 0.38013 | 0.40840 | 0.43509 | 0.46386 | 0.48337 | 0.50333 | 0.52931 | 0.55525 | 0.58724 | 0.62326 | 0.66517 | 0.71996 | 56 |
| 42 | 0.30100 | 0.32746 | 0.35195 | 0.37630 | 0.40183 | 0.43057 | 0.45454 | 0.48092 | 0.49991 | 0.52013 | 0.54527 | 0.57342 | 0.60999 | 0.65532 | 0.71333 | 0.80069 | 57 |
| 43 | 0.32916 | 0.35395 | 0.37690 | 0.39922 | 0.42369 | 0.45307 | 0.47425 | 0.49811 | 0.51704 | 0.53753 | 0.56144 | 0.59153 | 0.63257 | 0.68775 | 0.76314 | 0.89436 | 58 |
| 44 | 0.35679 | 0.38056 | 0.40229 | 0.42337 | 0.44753 | 0.47812 | 0.49744 | 0.51964 | 0.53940 | 0.56046 | 0.58341 | 0.61497 | 0.65609 | 0.72474 | 0.81770 | 0.98847 | 59 |
| 45 | 0.38331 | 0.40661 | 0.42812 | 0.44974 | 0.47515 | 0.50796 | 0.52734 | 0.54974 | 0.57161 | 0.59384 | 0.61676 | 0.64913 | 0.69767 | 0.77050 | 0.87973 | 1.04358 | 60 |
| 46 | 0.40753 | 0.43223 | 0.45469 | 0.47934 | 0.50822 | 0.54546 | 0.56774 | 0.59302 | 0.61885 | 0.64761 | 0.66621 | 0.69776 | 0.74805 | 0.82649 | 0.94952 | 1.11457 | 61 |
| 47 | 0.43077 | 0.45787 | 0.48200 | 0.51150 | 0.54552 | 0.58911 | 0.61649 | 0.64665 | 0.67802 | 0.70349 | 0.72804 | 0.75727 | 0.80783 | 0.88990 | 1.02526 | 1.20060 | 62 |
| 48 | 0.45341 | 0.48334 | 0.50960 | 0.54471 | 0.58457 | 0.63464 | 0.66790 | 0.70374 | 0.74138 | 0.76906 | 0.79516 | 0.82204 | 0.87289 | 0.95854 | 1.10651 | 1.31673 | 63 |
| 49 | 0.47584 | 0.50846 | 0.53707 | 0.57749 | 0.62286 | 0.67775 | 0.71629 | 0.75739 | 0.80117 | 0.83191 | 0.86052 | 0.88644 | 0.93509 | 1.03026 | 1.19284 | 1.44625 | 64 |
| 50 | 0.49843 | 0.53305 | 0.56395 | 0.60832 | 0.65789 | 0.71414 | 0.75596 | 0.80069 | 0.84964 | 0.88462 | 0.91704 | 0.94487 | 1.00232 | 1.10286 | 1.28380 | 1.59169 | 65 |

Schedule F

7/18/86
FBSFIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
FEMALE - STANDARD SMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | AGE |
|-----|---------|---------|---------|---------|---------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|-----|
| 51 | 0.51877 | 0.55446 | 0.58744 | 0.63398 | 0.68580 | 0.73733 | 0.77088 | 0.82434 | 0.87712 | 0.91793 | 0.95576 | 0.96986 | 1.05642 | 1.17185 | 1.37653 | 1.73550 | 66 |
| 52 | 0.53661 | 0.57282 | 0.60842 | 0.65546 | 0.70825 | 0.75020 | 0.78884 | 0.83294 | 0.88877 | 0.93678 | 0.98140 | 1.02515 | 1.10415 | 1.23867 | 1.47131 | 1.88521 | 67 |
| 53 | 0.55557 | 0.59209 | 0.63022 | 0.67761 | 0.73104 | 0.76244 | 0.79790 | 0.84045 | 0.89110 | 0.9506 | 1.00740 | 1.06194 | 1.15472 | 1.31008 | 1.57246 | 2.02074 | 68 |
| 54 | 0.57926 | 0.61622 | 0.65697 | 0.70530 | 0.75995 | 0.78380 | 0.81811 | 0.86084 | 0.92263 | 0.98668 | 1.04718 | 1.11143 | 1.21739 | 1.39284 | 1.68426 | 2.17304 | 69 |
| 55 | 0.61131 | 0.64917 | 0.69258 | 0.74338 | 0.80078 | 0.82399 | 0.86153 | 0.90805 | 0.97385 | 1.04552 | 1.11418 | 1.18482 | 1.30138 | 1.49369 | 1.81102 | 2.33460 | 70 |
| 56 | 0.64982 | 0.68843 | 0.73410 | 0.78962 | 0.85202 | 0.88439 | 0.93038 | 0.98423 | 1.05256 | 1.12830 | 1.20601 | 1.27546 | 1.39602 | 1.59795 | 1.93510 | 2.54395 | 71 |
| 57 | 0.69239 | 0.73136 | 0.77892 | 0.84077 | 0.90982 | 0.95852 | 1.01663 | 1.08007 | 1.14909 | 1.22575 | 1.31370 | 1.37588 | 1.49514 | 1.70111 | 2.05363 | 2.80367 | 72 |
| 58 | 0.74184 | 0.78173 | 0.83147 | 0.90020 | 0.97642 | 1.04432 | 1.11694 | 1.19236 | 1.26375 | 1.34280 | 1.44086 | 1.49607 | 1.61477 | 1.82521 | 2.19307 | 3.12054 | 73 |
| 59 | 0.80101 | 0.84329 | 0.89618 | 0.97123 | 1.05409 | 1.13970 | 1.22797 | 1.31792 | 1.39606 | 1.48440 | 1.59108 | 1.64599 | 1.77093 | 1.99229 | 2.37986 | 3.49047 | 74 |
| 60 | 0.87274 | 0.91980 | 0.97748 | 1.05722 | 1.14508 | 1.24260 | 1.34639 | 1.45353 | 1.54872 | 1.65547 | 1.76795 | 1.83564 | 1.97962 | 2.22438 | 2.64047 | 3.34783 | 75 |
| 61 | 0.96360 | 1.01798 | 1.08112 | 1.16041 | 1.24752 | 1.34535 | 1.46258 | 1.58880 | 1.71275 | 1.85630 | 1.96507 | 2.06216 | 2.24386 | 2.53057 | 2.99007 | 4.34546 | 76 |
| 62 | 1.07169 | 1.13531 | 1.20415 | 1.27857 | 1.35992 | 1.44934 | 1.57877 | 1.72585 | 1.88872 | 2.08359 | 2.18005 | 2.31891 | 2.55296 | 2.89619 | 3.41102 | 4.80632 | 77 |
| 63 | 1.18716 | 1.26173 | 1.33795 | 1.40832 | 1.48506 | 1.56605 | 1.70937 | 1.88029 | 2.08655 | 2.33693 | 2.42249 | 2.61015 | 2.90243 | 3.30757 | 3.88056 | 5.16208 | 78 |
| 64 | 1.30014 | 1.38718 | 1.47389 | 1.54632 | 1.62577 | 1.70700 | 1.86881 | 2.06774 | 2.31612 | 2.61590 | 2.70199 | 2.94014 | 3.28775 | 3.75108 | 4.37591 | 5.42161 | 79 |
| 65 | 1.40077 | 1.50159 | 1.60335 | 1.68917 | 1.78485 | 1.88368 | 2.07191 | 2.30379 | 2.58732 | 2.92007 | 3.02018 | 3.31316 | 3.70442 | 4.21307 | 4.87431 | 5.73393 | 80 |
| 66 | 1.46785 | 1.57288 | 1.69424 | 1.80791 | 1.93804 | 2.07809 | 2.30139 | 2.57574 | 2.88818 | 3.23184 | 3.39514 | 3.72300 | 4.14143 | 4.67826 | 5.35469 | 6.10591 | 81 |
| 67 | 1.50796 | 1.60777 | 1.75230 | 1.90479 | 2.08348 | 2.28258 | 2.54085 | 2.87319 | 3.21210 | 3.55148 | 3.79646 | 4.16681 | 4.60179 | 5.15575 | 5.83223 | 6.45810 | 82 |
| 68 | 1.55288 | 1.65436 | 1.82568 | 2.02327 | 2.25754 | 2.52412 | 2.83799 | 3.21520 | 3.57704 | 3.90542 | 4.24101 | 4.65370 | 5.10200 | 5.66845 | 6.33852 | 6.91243 | 83 |
| 69 | 1.63441 | 1.76079 | 1.96252 | 2.20679 | 2.49662 | 2.82973 | 3.19291 | 3.62082 | 4.00100 | 4.32007 | 4.73764 | 5.19358 | 5.65860 | 6.23931 | 6.90516 | 7.42251 | 84 |
| 70 | 1.78433 | 1.97516 | 2.21097 | 2.49884 | 2.83709 | 3.22640 | 3.63771 | 4.10911 | 4.50193 | 4.82185 | 5.29522 | 5.79513 | 6.20811 | 6.89123 | 7.56375 | 8.00440 | 85 |
| 71 | 1.99776 | 2.32249 | 2.59650 | 2.92240 | 3.29767 | 3.73108 | 4.18705 | 4.68795 | 5.07331 | 5.39578 | 5.88173 | 6.42303 | 6.95421 | 7.58609 | 8.27586 | 8.84371 | 86 |
| 72 | 2.25353 | 2.77070 | 3.08702 | 3.34783 | 3.85409 | 4.32576 | 4.82485 | 5.34463 | 5.70316 | 6.02425 | 6.49128 | 7.07107 | 7.64589 | 8.31101 | 9.02042 | 9.73748 | 87 |
| 73 | 2.55892 | 3.28228 | 3.34783 | 4.04263 | 4.47830 | 4.98503 | 5.52915 | 6.06734 | 6.40127 | 6.72973 | 7.17186 | 7.79257 | 8.41761 | 9.11959 | 9.85508 | 10.71409 | 88 |
| 74 | 2.92126 | 3.34783 | 4.23015 | 4.67032 | 5.14223 | 5.68347 | 6.27797 | 6.84427 | 7.17744 | 7.53471 | 7.97152 | 8.64081 | 9.32186 | 10.06861 | 10.83747 | 11.75102 | 89 |
| 75 | 3.34783 | 4.34546 | 4.80632 | 5.29707 | 5.81781 | 6.39564 | 7.04934 | 7.66361 | 8.04146 | 8.46166 | 8.93825 | 9.66912 | 10.41910 | 11.21408 | 12.02521 | 12.84899 | 90 |
| 76 | 3.83865 | 4.80632 | 5.29707 | 5.81781 | 6.39564 | 7.04934 | 7.79698 | 8.52535 | 8.99333 | 9.51058 | 10.07207 | 10.87749 | 11.70333 | 12.55600 | 13.41831 | 14.00869 | 91 |
| 77 | 4.38884 | 5.29707 | 5.81781 | 6.39564 | 7.04934 | 7.79698 | 8.64662 | 9.43738 | 10.02653 | 10.66650 | 11.34095 | 12.23037 | 13.14024 | 14.05703 | 14.97835 | 15.23086 | 92 |
| 78 | 4.99840 | 5.81781 | 6.39564 | 7.04934 | 7.79698 | 8.64662 | 9.54268 | 10.39968 | 11.14105 | 11.92940 | 12.74491 | 13.72778 | 14.72982 | 15.71718 | 16.70532 | 16.44729 | 93 |
| 79 | 5.66733 | 6.39564 | 7.04934 | 7.79698 | 8.64662 | 9.48342 | 10.44019 | 11.41227 | 12.33689 | 13.29928 | 14.28394 | 15.36972 | 16.47208 | 17.53645 | 18.59927 | 17.71669 | 94 |
| 80 | 6.39564 | 7.04934 | 7.79698 | 8.64662 | 9.55762 | 10.33209 | 11.39089 | 12.47514 | 13.61406 | 14.77616 | 15.95804 | 17.15617 | 18.36702 | 19.51483 | 20.66008 | 0.00000 | 95 |

Appendix I - i

Fidelity Bankers Life Insurance Company
Richmond, Virginia
Reinsurance Report For Month Ending
Universal Life Policies Ceded To

3/31/1987
Pool G

Part 1 of 2

| Policy Number | Insured Name | DOB | A G E | S E X | O P T | P L A N | K I N D | Policy Date | Spec. Amt. | Reins. Amt. |
|------------------|--------------|-----|-------------|-------------|-------------|------------------|------------------|----------------|---------------|----------------|
|------------------|--------------|-----|-------------|-------------|-------------|------------------|------------------|----------------|---------------|----------------|

Fidelity Bankers Life Insurance Company
 Richmond, Virginia
 Reinsurance Report For Month Ending
 Universal Life Policies Ceded To

3/31/1987
 Pool G

Part 2 of 2

| Policy Number | I D | Policy Date | Pol Mon Beg. On | Y E A R | Total NAR | Rein NAR | Monthly Rate P/1000 | Table Rate | Flat Extra Prem | FX Exp YR | Comm Allow | Flat Allow | Gross Prem | Total Allow | Tot: Prei |
|------------------|--------|----------------|--------------------|------------------|--------------|-------------|---------------------------|---------------|-----------------------|-----------------|---------------|---------------|---------------|----------------|--------------|
|------------------|--------|----------------|--------------------|------------------|--------------|-------------|---------------------------|---------------|-----------------------|-----------------|---------------|---------------|---------------|----------------|--------------|

Renewal () :
 First () :

 Pol

Rep. + Conv.
 ew Bus.:

Year
 Renewal (1985-On)
 First ()

0 0

Fidelity Bankers Life Insurance Company
 Richmond, Virginia
 Termination Report For Month Ending
 Universal Life Policies Ceded To

3/31/1987
 Pool G

| Policy Number | Insured | Policy Date | Paid To Date | Term Date | Term Code | Face Amount | Ceded Amount | Reinsured NAR | Gross Prem Credit | Total Allow Credit | Tota Prem Cred |
|------------------|---------|----------------|-----------------|--------------|--------------|----------------|-----------------|------------------|-------------------------|--------------------------|----------------------|
|------------------|---------|----------------|-----------------|--------------|--------------|----------------|-----------------|------------------|-------------------------|--------------------------|----------------------|

Renewal ():

First ():

 Pol

Terminations
 Deaths:

F- Conversion
 I - Replacement

S - Death
 V - Cash Surrendered

W - Lapsed
 O - Not Taken

FIDELITY BANKERS LIFE INSURANCE COMPANY
ANNUAL STATEMENT INFORMATION
APPENDIX II

REINSURANCE AGREEMENT
UNIVERSAL LIFE POOL B

100% BASIS

| POLICY EXHIBIT | NO. OF POLICIES | AMOUNT OF REINSURANCE |
|------------------------------|--------------------|--------------------------|
| IN FORCE END OF PRIOR YEAR | | |
| NEW ISSUES | | |
| REINSTATEMENTS | | |
| INCREASES (NET) | | |
| DEATH | | |
| MATURITY | | |
| EXPIRY | | |
| SURRENDER | | |
| LAPSE | | |
| DECREASES (NET) | | |
| IN FORCE END OF CURRENT YEAR | | |
| CLAIM LIABILITY (Exh. 11) | | |
| DUE AND UNPAID | | |
| RESISTED | | |
| IN COURSE OF SETTLEMENT | | |
| INCURRED BUT UNREPORTED | | |
| TOTALS | | |

LIFE INSURANCE RESERVES (See Enclosed Report)

Integrated Resources
Life Insurance Company
One Bridge Plaza
Fort Lee, NJ 07024
201-461-0606

Integrated
Resources

May 20, 1987

Mr. Ed Kurtz
Senior Vice President
Underwriting
Fidelity Bankers Life Insurance Co.
Fidelity Bankers Life Building
1011 Bouldersprings Drive
Richmond, VA. 23225

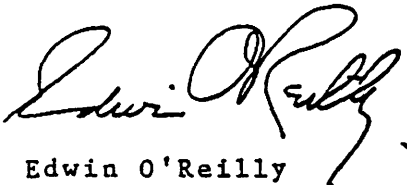
RE: Jumbo Limit

Per our conversation, we have agreed to the following Jumbo Limits:

1. MI, Angina, and Bypass Programs - \$3,000,000 (applied for and in force). *NOT applicable to Freedom III, FD3 NOT AVAILABLE yet.*
2. Automatic Business including limited pool retention - \$5,000,000 (applied for and in force). ~~NOT~~

Please make this letter part of your treaty file, replacing my letter of May 15, 1987.

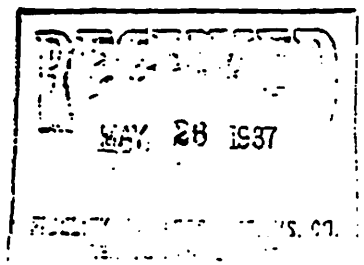
Sincerely,



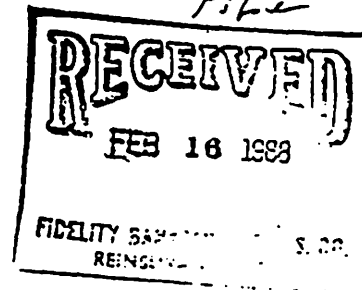
Edwin O'Reilly
Vice President

EOR/mna

cc: J. Donovan



Integrated Resources
Life Insurance Company
One Bridge Plaza
Fort Lee, NJ 07024
201-461-0606



January 19, 1988

Integrated
Resources

RE: Reinsurance Treaties between Resources Life and/or Providence
Life and Fidelity Bankers Life.

To whom it may concern:

Please be advised that Providence Life Insurance Company and Resources Life Insurance Company have been merged into Integrated Resources Life Insurance Company ("IR Life"), effective December 30, 1987. All of the rights and obligations of the predecessor companies are now those of Integrated Resources Life.

Please attach a copy of this letter to each Agreement you may have with Resources Life and/or Providence Life. There are no other changes to the Agreement (s) occasioned by the merger.

If any questions arise, please feel free to contact me.

Very truly yours,

Edwin O'Reilly
Vice President

EOR/mnc

Integrated Resources Amendments**Pool G**

**Exhibits to Motion to Dismiss Petition for
Review of North American Reassurance Company,
Answer Subject Thereto, and Counterclaim,
filed January 11, 1993:**

- M. Pool H Automatic Reduced Retention Pool Reinsurance
Agreement between Fidelity Bankers Life Insurance
Company and Resources Life Insurance Company
signed June 26, 1987
and September 25, 1987**

POOL H

AUTOMATIC REDUCED RETENTION POOL REINSURANCE AGREEMENT

between

FIDELITY BANKERS LIFE INSURANCE COMPANY

of

RICHMOND, VIRGINIA

referred to as the Company

and

RESOURCES LIFE INSURANCE COMPANY

of

FORT LEE, NEW JERSEY

referred to as the Reinsurer

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ARTICLE 1BASIS OF REINSURANCE

1. The excess of individual ordinary life insurance issued directly by the Company to residents of the United States and Canada on the policy forms listed in Schedule A will be reinsured under this agreement on an automatic basis in a reinsurance pool. The Company may bind the pool without prior approval for reinsurance of risks which satisfy the conditions stipulated in this agreement for automatic reinsurance coverage.
2. The reinsurance pool will be made up of the Reinsurer under this agreement and other participating reinsurers under similar agreements. The participating members of the pool are named in Schedule B.
3. The Reinsurer will accept for automatic reinsurance coverage a proportional share of each risk ceded to the pool by the Company. The Reinsurer's share is specified in Schedule C.

ARTICLE 2AUTOMATIC REINSURANCE COVERAGE

Subject to the following conditions, the Company may bind the Reinsurer for automatic reinsurance coverage of its share of each risk ceded to the pool:

- a. The Company will retain its maximum scheduled retention on any one life reinsured as specified in Schedule D. Amounts the Company already retains on a life on previous or concurrent policies will be taken into account in determining its required retention for automatic coverage. If it has already retained its maximum scheduled retention on a life, it may bind the Reinsurer for automatic coverage without retaining any additional amount on the life on the same terms it would have accepted the risk for its own account if it did not already have its maximum limit of retention.
- b. Amounts ceded to the Reinsurer will not exceed its share of the pool's automatic binding limits as specified in Schedule E.
- c. Life insurance reinsured will be issued directly by the Company in accordance with its current individual ordinary underwriting rules on policy forms within the scope of this agreement.
- d. The mortality rating of any risk reinsured will not exceed Table 16 inclusive of flat extra premiums.
- e. Automatic coverage will not be provided in the pool for any risk which has been previously submitted to a reinsurer for facultative consideration.

- f. The total amount of insurance in force and applied for in all companies on any life reinsured will not exceed \$5,000,000.
- g. The minimum specified amount eligible for automatic reinsurance in the pool will be \$25,000.
- h. If for any reason the reinsured net amount at risk on any policy reinsured in the pool falls below \$5,000 the reinsurance will be automatically terminated.

ARTICLE 3

FACULTATIVE REINSURANCE COVERAGE

Facultative reinsurance will not be accepted under this agreement.

ARTICLE 4

PLAN OF REINSURANCE

- 1. The life reinsurance under this agreement will be term insurance for the net amount at risk on the original insurance, determined as defined in the Company's policies and calculated in the following manner at the end of each month.
- 2. At the time of issue, the Company shall cede to the pool the portion of the risk amount in excess of its retention. Thereafter, subject to the terms of paragraph 3, below, the Company and the pool shall keep the same proportionate shares of the risk amount developed each month.
- 3. If the risk amount retained by the Company should increase to an amount which exceeds the Company's then current retention by more than \$25,000, the proportionate shares of the risk amount of the Company and the pool shall be adjusted so that the Company's share does not exceed its then authorized retention.
- 4. If there shall be a reduction or termination of any portion of the aggregate amount of insurance which has been retained by the Company on a given life, then, any reinsurance under this agreement on the same life shall be reduced by a like amount on the effective date of the reduction or termination. The pool's percentage shall be based on the proportion that the new face amount reinsured with the pool bears to the initial amount of insurance on the reinsured policy. Each month, thereafter, the pool's net amount at risk shall be calculated using this percentage.

ARTICLE 5LIABILITY

1. The Reinsurer's liability under this agreement on reinsurance ceded to the pool will begin and end at the same time as the Company's liability on policies reinsured.
2. If the Company becomes liable under a Conditional Receipt or a Receipt (filed with the Reinsurer as shown in Schedule A) before reinsurance has been arranged on a risk that clearly would have been ceded under this agreement, the Reinsurer will nonetheless be liable for its share of the excess over the Company's retention on the risk, shown in Schedule D, up to the maximum amount of automatic reinsurance coverage specified in Schedule E, provided the risk is not excluded from coverage under the terms of this agreement.
3. The Reinsurer's liability on reinsurance will not be joint with that of any other participating member of the pool. In no event will the Reinsurer participate in the liability of any other participating member of the pool.

ARTICLE 6PLACEMENT AND ADMINISTRATION OF REINSURANCE

1. The Company will have the responsibility of establishing and maintaining accurate records for the administration of reinsurance under this agreement.
2. All reinsurance under this agreement will be covered by means of a monthly report, a sample of which is attached to the agreement as Appendix I. The report will include such information as the number of lives reinsured, total amount at risk, new reinsurance ceded, terminations, claims, and net reinsurance premiums for the preceding month. The Company will send a copy of the report to the Reinsurer and each of the other participants in the pool within 15 days after the end of each month.
3. Upon request the Company will also provide a detailed listing of all policies reinsured in the pool.

ARTICLE 7REINSURANCE PREMIUMS

The premium rates for reinsurance under this agreement are shown in Schedule F.

ARTICLE 8REINSURANCE EXPENSES

1. The Company will bear all costs incurred with the issuance, reinstatement or modification of the original policy.
2. The sender will bear all postal and communication costs.

ARTICLE 9POLICY CHANGES, TERMINATIONS, AND REDUCTIONS

1. Reinsurance amounts are based on the Company's coverage in force on the life of a person. If any of the Company's policies or riders on a person are reduced or terminated, the reinsurance will be reduced by the corresponding amount.
2. The Company will notify the Reinsurer of any changes in policies reinsured under this agreement.
3. If a reinsured policy is terminated, the reinsurance will be terminated as of the same date. Termination is understood to mean lapse, surrender, expiry, or maturity.
4. If a reinsured policy is reduced in amount, the amount reinsured in the pool will be reduced by the same amount as of the same date. The Reinsurer's share of the risk will be reduced in proportion to the reduction in the amount reinsured in the pool.
5. If more than one policy on the same life is reinsured in the pool and any of the policies is terminated or reduced in amount, the amount reinsured in the pool on the remaining policy with the earliest policy date will be reduced by the same amount as of the same date. Two or more policies with the same date will be considered one policy. The Reinsurer's share of the risk will be reduced in proportion to the reduction in the amount reinsured in the pool.
6. In the event of a reduction in amount on a policy reinsured in the pool and by one or more other reinsurers, the amount reinsured in the pool will be reduced in proportion to the reduction in the total amount of reinsurance on the policy. The Reinsurer's share of the risk will be reduced in proportion to the reduction in the amount reinsured in the pool.
7. In any reduction in amount on a policy reinsured, the Company will maintain without change its original retention of the life insured by the policy. In no case will the Company's original retention on the life be reduced; nor will it be increased in excess of its scheduled retention limit for that issue age and mortality rating.

8. The Reinsurer will refund to the Company any unearned reinsurance premiums resulting from the termination or reduction of its share of policies reinsured in the pool.
9. If reinsurance is terminated as a result of the death of the insured under the reinsured policy, the Reinsurer will refund to the Company reinsurance premiums paid for any period beyond the date of death in the same manner as the Company returns unearned premiums for insurance on the policy reinsured.

ARTICLE 10

REINSTATEMENT

1. If a reinsured policy is terminated for any reason and is subsequently reinstated by the Company under its regular rules, the reinsurance will be automatically reinstated.

ARTICLE 11

EXCHANGES

1. If a reinsured policy is exchanged to a plan of insurance on one of the Company's policy forms not reinsured under this agreement, the reinsurance on the exchanged policy will be continued at the attained age/duration rates agreed to by the Company and this Reinsurer for the plan issued as a result of the exchange.

ARTICLE 12

ACCOUNTS

1. Reinsurance premiums and adjustments for policy changes, terminations, or reductions will be accounted for and settled monthly. Reinsurance premiums will be calculated at the Home Office of the Company on a monthly basis.
2. Settlement of the balance of account will be made by the debtor party within 25 days of the date on which the account is rendered. Balances remaining unpaid for more than two months will incur interest of 1% per month calculated from the date that the balance was first due. Alternatively, and by mutual agreement only, such unpaid balances may be offset against any other balances outstanding between the Company and the Reinsurer.

ARTICLE 13RECAPTURE

1. If the Company increases its retention limits, it may recapture the reinsurance on those lives on which it has maintained its maximum scheduled retention. However, recapture is limited to reinsurance which has been in force at least 10 full years.
2. Recapture is at the option of the Company. If the option is exercised, all reinsurance eligible under the provisions of this article must be recaptured.
3. If a covered risk is reinsured by another company or companies, the Reinsurer's share of any reduction in its portion of the risk caused by recapture will be in proportion to its share of the total reinsurance on the risk.
4. The Company will give written notice of its intention to exercise its right of recapture. Thereafter, on the next annual policy renewal date of each individual cession eligible for recapture, the reinsurance in force will be reduced or terminated as required. In determining the new retention for a particular life insured, the age and rating at issue will be used.
5. If any reduction or termination of reinsurance is overlooked, the payment and acceptance of the full renewal premium will not make the Reinsurer liable on the reinsurance that should have been reduced or terminated. The Reinsurer's sole liability is to refund the renewal premium without interest.

ARTICLE 14SETTLEMENT OF CLAIMS

1. When a death claim occurs on a reinsured policy the Company will promptly notify the Reinsurer in writing and furnish the Reinsurer with copies of the death certificate and claim forms as soon as they become available.
2. Upon request by the Reinsurer, the Company will provide copies of all papers pertaining to a claim on any policy reinsured in the pool.
3. Proofs of loss obtained by the Company will be accepted as sufficient by the Reinsurer.
4. The Reinsurer will accept the Company's decision in settlement of all claims paid in accordance with the provisions of the policies reinsured in the pool.

5. When copies of proofs of loss have been received by the Reinsurer, the Reinsurer will promptly pay its share of each claim to the Company in a single lump sum without regard to the form of settlement made by the Company.
6. The Company and the Reinsurer will share in interest paid on death claims in proportion to their net liabilities provided that the Reinsurer is not held liable for any interest which may accrue after the date the Reinsurer settles the claim with the Company.
7. The Company will advise the Reinsurer of its intention to contest, compromise or litigate a claim or rescind a contract involving reinsurance. If after reviewing the complete claim file, the Reinsurer agrees in writing with the Company's intention, then the Reinsurer will pay any expense incurred by the Company in contesting or investigating a claim on a reinsured policy or in rescinding a reinsured policy in proportion to the respective liabilities of the Reinsurer and the Company. Compensation of officers and employees of the Company is not deemed a claim expense.
8. Expenses of the contest shall also include noncontractual damages assessed against the Company, but only in those cases where it is clear that the Company's denial of the claim was the sole basis for the award.
9. The Reinsurer shall not be liable for any portion of noncontractual damages or expenses when such noncontractual damages or expenses have been assessed on the basis of the fault or wrongdoing of the Company, its agents or representatives.
10. If the Reinsurer declines to be a party to the contest, it will pay the Company its full share of the claim according to the terms and conditions of this agreement.
11. If it is established after the Insured's death that a misstatement of age resulted in an increase or decrease in the original amount insured, the Company and the Reinsurer will share in the new amount in the same proportion they share originally.

ARTICLE 15

OVERSIGHTS

In the administration of reinsurance received by the Reinsurer, if either party to this agreement unintentionally fails to comply with any of its terms because of oversight, misunderstanding, or clerical error, the parties will adjust the situation to what it would have been had no oversight, misunderstanding, or clerical error occurred.

ARTICLE 16INSPECTION OF RECORDS

The Reinsurer will have the right to inspect at any reasonable time all records and papers at the Company's office pertaining to reinsured policies.

ARTICLE 17INSOLVENCY

1. In the event of the insolvency of the Company, the Reinsurer will make settlement of claims on reinsured policies directly to the Company's liquidator, receiver, or statutory successor in accordance with the terms, conditions, and limitations of this agreement and without diminution because of the Company's insolvency.
2. The liquidator, receiver, or statutory successor of the Company will notify the Reinsurer of any pending claim against the Company on any policy reinsured. Notice will be given in writing within a reasonable time after the claim is filed in the insolvency proceeding. While the claim is pending, the Reinsurer may investigate it and, at its own expense, interpose in the proceeding where the claim is to be adjudicated any defense or defenses it believes available to the Company or its liquidator, receiver, or statutory successor.
3. Any expense incurred by the Reinsurer in interposing a defense to a claim will be charged, subject to court approval, against the Company as an expense of liquidation to the extent of a proportionate share of the benefit that accrues to the Company solely as a result of the defense undertaken by the Reinsurer. If two or more reinsurers are involved and a majority in interest elects to interpose a defense, the expense will be apportioned in accordance with the terms of this agreement as if it had been incurred by the Company.

ARTICLE 18ARBITRATION

1. The Company and the Reinsurer will act in good faith in all matters pertaining to transactions under this agreement.
2. Any dispute or difference between the Company and the Reinsurer concerning transactions under the agreement or the interpretation of the agreement which cannot be settled between the parties will be settled by arbitration.

3. The court of arbitration will consist of three arbitrators who are officers of life insurance companies other than the parties to this agreement or their affiliates or subsidiaries. The Company and the Reinsurer will each appoint one arbitrator. The appointed arbitrators will select a third before arbitration begins. If the two are unable to agree on the third, the President of the American Council of Life Insurance will appoint the third arbitrator. The court of arbitration will be held at a site to be determined by the arbitrators.
4. The arbitrators will consider this agreement not merely as a legal document but also as a gentlemen's agreement. They will interpret the agreement in accordance with customary business and reinsurance practices and will not be bound by rules of law. The arbitrators will decide the issue by majority vote, and there can be no appeal from their written decision.
5. The cost of arbitration, including the fees of the arbitrators, will be apportioned to the Company and the Reinsurer by the arbitrators.

ARTICLE 19

PARTIES TO THE AGREEMENT

This agreement is solely between the Company and the Reinsurer. The acceptance of reinsurance under this agreement does not create any right or legal relation whatsoever between the Reinsurer and the insured or the beneficiary under any policy of the Company which is reinsured under the agreement.

ARTICLE 20

MODIFICATION OF THE AGREEMENT

1. Any mutually agreed upon modification of the terms of this agreement will be made by amendment or by correspondence attached to it and will be regarded as part of the agreement and equally binding.
2. Notice of any modification in the terms or conditions of this agreement will be given to the Reinsurer promptly. If the Reinsurer dissents from any modification, and if the modification is incorporated into this agreement by amendment or correspondence, the Reinsurer may terminate its participation in new reinsurance under this agreement by giving 30 days written notice to the Company as an exception to the termination provisions set out in Article 21.

ARTICLE 21DURATION OF THE AGREEMENT

1. This agreement is unlimited in duration but may be terminated as to new reinsurance by either party giving at least 90 days written notice to the other by registered mail.
2. Termination of the agreement as to new reinsurance will be effective only at the close of December 31 of any calendar year.
3. During the period between notice of termination and December 31, the Reinsurer will continue to accept its share of new reinsurance ceded to the pool.
4. Termination will be limited to new reinsurance only. The Reinsurer's share of existing reinsurance under the agreement will not be affected. Existing reinsurance will remain in force with the Reinsurer until the Company's liability under the remaining policy or policies reinsured is terminated.
5. In the event the agreement is terminated as to new reinsurance, the Company will have the option of reducing the pool's binding limits for automatic coverage by an amount equal to the Reinsurer's share, awarding the Reinsurer's share to one or more other participating members of the pool who might be willing to assume it, or awarding the Reinsurer's share to one or more reinsurers not currently in the pool who might be willing to participate in the pool.

ARTICLE 22EFFECTIVE DATE AND EXECUTION OF THE AGREEMENT

1. This agreement is effective for the life insurance written on the policy forms specified in Schedule A with policy dates (issue dates on back-dated policies) falling on or after May 1, 1987. However, the agreement will have no force or effect unless it has been duly executed by officers of the Reinsurer.
2. This agreement is executed in duplicate by officers of the Company and the Reinsurer as indicated below.

FOR FIDELITY BANKERS LIFE INSURANCE COMPANY

By: Heinz A. BrieselTitle: Senior VP and ActuaryBy: Wanda P. M. AllenTitle: Manager, ReinsurancePlace: Richmond, VirginiaDate: June 26, 1987

FOR RESOURCES LIFE INSURANCE COMPANY

By: Robert H. HaurineTitle: Exec V.P.By: Edwi O'ReillyTitle: Vice PresidentPlace: Fort Lee, NJDate: 9/25/87

SCHEDULE APOLICY FORMS REINSURED

Form No. FD3, Flexible Premium Adjustable Life Insurance (Universal Life)

Form UL-AIR Term Insurance for other insureds.

Form UL-ADB Accidental Death Benefit Rider

Form CPWL-88 Current Premium Whole Life (Added Amendment Effective 1/1/89)

- NOTES:
1. The Company will file with the Reinsurer a copy of all policy forms, including applications, listed above and will promptly notify the Reinsurer of any changes made in them.
 2. The Company will promptly notify the Reinsurer of any change in underwriting rules or programs pertaining to the policy forms reinsured under this agreement.

SCHEDULE BPARTICIPATING MEMBER OF THE POOLS

1. American United Life Insurance Company, Indianapolis, IN
2. Cologne Life Reinsurance Company, Stamford, CT
3. Hamburg International Reinsurance Company, Orlando, FL
4. North American Life and Casualty Company, Minneapolis, MN
5. North American Reassurance Company, New York, NY
6. Resources Life Insurance Company, Fort Lee, NJ

SCHEDULE CREINSURER'S SHARE OF POOL REINSURANCE

10 (Ten Percent)

SCHEDULE DCOMPANY'S RETENTION LIMITSFac. Ob. (Limited Retention)Maximum Amounts to be Retained byFidelity Bankers LifeLife

| <u>Ages</u> | <u>Std - Table 8</u> | <u>Table 9 - 16</u> |
|-------------|----------------------|---------------------|
| 0-65 | \$200,000 | \$ 75,000 |
| 66 & over | \$125,000 | \$ 50,000 |

NOTE: Each \$1.00 of flat extra premium per \$1,000 of insurance will be treated as 10% extra mortality for the purpose of determining substandard rating. However, if the total flat extra premium on a policy or certificate is \$50.00 or less and charged for a period of 3 years or less, it will be disregarded in determining maximum retention.

| | | |
|--------------------------|---|------------------------------------------------------------------------------------------------------------------|
| <u>Aviation Risks</u> | - | \$200,000 |
| <u>Waiver of Premium</u> | - | \$ 25,000 of annual premium for level premium policies. \$1,000,000 of face amount for unlevel premium policies. |
| <u>Accidental Death</u> | - | Total retention less life risk. |

SCHEDULE EAUTOMATIC BINDING LIMITS FOR POOL HLife

| <u>Ages</u> | <u>Std - Table 8</u> | <u>Table 9 - 16</u> |
|-------------|----------------------|---------------------|
| 0-65 | \$1,400,000 | \$ 525,000 |
| 66-75 | \$ 875,000 | \$ 350,000 |

The above amounts exclude the Company's retention shown in Schedule D, except for ADB, which is included.

Aviation \$1,400,000

ADB Issue Limit \$150,000 subject to a maximum of \$250,000 in-force and applied for.

Waiver of Premium Not Covered

SCHEDULE F
YRT REINSURANCE RATES

Life

Reinsurance Rates per \$1000 of net amount at risk are based on the monthly cost of insurance rates shown in the subsequent pages of Schedule F times the Rate Factor on page 18.

The net amount at risk is re-determined on each monthiversary in accordance with the definition contained in the policy.

Substandard rates are a multiple of the standard cost of insurance rates in accordance with the following definitions.

Nonsmokers: The multiple is equal to 1 + 24% per table (25% extra mortality) of substandard rating.

Smokers: The multiple is based on the issue age and table rating in accordance with the schedule on page 17a.

On flat extra premiums, the Company will pay to the Reinsurer a proportionate share of the flat extra premium charged in the reinsured policy, less the following allowances:

1. Flat extra premium payable for 5 years or less:
10% in all policy years.
2. Flat extra premium payable for more than 5 years:
90% in first policy year,
10% in subsequent policy years.

Other Benefits Reinsurance

Other Insured Riders: Life Rates above are applicable by age, sex, and rating of the other insured.

ADB: Annual Reinsurance Rate per 1000 of ADB reinsured per year:
1st year \$.25 thereafter \$.90
Substandard ADB = above rate times substandard rating

Freedom 3, Multiples for Substandard Smokers, M & F 12/28/1986

| Issue Ages | <u>A(125%)</u> | <u>AA(138%)</u> | <u>B(150%)</u> | <u>BB(163%)</u> | <u>C(175%)</u> | <u>D(200%)</u> | <u>E(225%)</u> | <u>F(250%)</u> | <u>G(275%)</u> | <u>H(300%)</u> | <u>I(325%)</u> | <u>J(350%)</u> | <u>L(400%)</u> | <u>LL(450%)</u> | <u>P(500%)</u> |
|---------------|----------------|-----------------|----------------|-----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|-----------------|----------------|
| 15-30 | 1.15 | 1.23 | 1.30 | 1.38 | 1.45 | 1.60 | 1.74 | 1.87 | 1.99 | 2.10 | 2.20 | 2.30 | 2.50 | 2.70 | 2.90 |
| 31-33 | 1.14 | 1.21 | 1.28 | 1.35 | 1.42 | 1.56 | 1.69 | 1.81 | 1.92 | 2.02 | 2.12 | 2.22 | 2.42 | 2.62 | 2.82 |
| 34-36 | 1.13 | 1.20 | 1.26 | 1.32 | 1.38 | 1.51 | 1.64 | 1.76 | 1.87 | 1.97 | 2.07 | 2.17 | 2.37 | 2.57 | 2.77 |
| 37-38 | 1.12 | 1.18 | 1.24 | 1.30 | 1.36 | 1.47 | 1.59 | 1.71 | 1.82 | 1.93 | 2.04 | 2.13 | 2.33 | 2.53 | 2.73 |
| 41 | 1.12 | 1.18 | 1.23 | 1.28 | 1.33 | 1.43 | 1.54 | 1.66 | 1.78 | 1.90 | 2.00 | 2.10 | 2.30 | 2.50 | 2.70 |
| 42-48 | 1.12 | 1.18 | 1.23 | 1.28 | 1.33 | 1.42 | 1.52 | 1.63 | 1.75 | 1.89 | 1.99 | 2.09 | 2.29 | 2.49 | 2.69 |
| 49-52 | 1.12 | 1.18 | 1.24 | 1.29 | 1.34 | 1.44 | 1.53 | 1.64 | 1.76 | 1.88 | 1.99 | 2.09 | 2.30 | 2.51 | 2.72 |
| 53-57 | 1.12 | 1.18 | 1.24 | 1.30 | 1.35 | 1.46 | 1.57 | 1.68 | 1.80 | 1.92 | 2.04 | 2.15 | 2.37 | 2.60 | 2.83 |
| 58-62 | 1.13 | 1.20 | 1.26 | 1.32 | 1.38 | 1.49 | 1.62 | 1.74 | 1.86 | 1.97 | 2.10 | 2.22 | 2.46 | 2.70 | 2.95 |
| 63-65 | 1.13 | 1.21 | 1.28 | 1.34 | 1.40 | 1.52 | 1.66 | 1.79 | 1.92 | 2.04 | 2.16 | 2.29 | 2.55 | 2.82 | 3.10 |
| 66-68 | 1.14 | 1.22 | 1.30 | 1.37 | 1.44 | 1.55 | 1.69 | 1.83 | 1.97 | 2.10 | 2.23 | 2.37 | 2.65 | 2.94 | 3.24 |
| 69-71 | 1.15 | 1.24 | 1.32 | 1.40 | 1.48 | 1.59 | 1.73 | 1.88 | 2.03 | 2.16 | 2.30 | 2.46 | 2.78 | 3.11 | 3.45 |
| 72-74 | 1.16 | 1.26 | 1.34 | 1.43 | 1.52 | 1.65 | 1.81 | 1.97 | 2.13 | 2.30 | 2.45 | 2.60 | 2.91 | 3.33 | 3.69 |
| 75-77 | 1.18 | 1.28 | 1.37 | 1.46 | 1.56 | 1.70 | 1.90 | 2.12 | 2.35 | 2.60 | 2.85 | 3.10 | 3.40 | 3.80 | 4.25 |
| 78-80 | 1.20 | 1.30 | 1.40 | 1.50 | 1.60 | 1.80 | 2.04 | 2.32 | 2.64 | 3.00 | 3.25 | 3.50 | 4.00 | 4.50 | 5.00 |

FREEDOM III POOL H REINSURANCE RATE FACTORS
(Multiply Monthly COI by Factor)

| | | Fac. Ob. |
|------|------------------|----------|
| Year | Pref. Non Smoker | 0 |
| | Std. Non Smoker | 0 |
| | Pref. Smoker | 0 |
| | Smoker | 0 |
| 1 | Pref. Non Smoker | .91 |
| | Std. Non Smoker | .91 |
| | Pref. Smoker | .91 |
| | Smoker | .91 |
| 2-10 | Pref. Non Smoker | .94 |
| | Std. Non Smoker | .94 |
| | Pref. Smoker | .94 |
| | Smoker | .94 |
| 11+ | Pref. Non Smoker | .94 |
| | Std. Non Smoker | .94 |
| | Pref. Smoker | .94 |
| | Smoker | .94 |

Schedule F

11/86
MHP
FIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
MALE - PREFERRED NONSMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| 15 | 0.04917 | 0.07496 | 0.08650 | 0.09291 | 0.10073 | 0.10540 | 0.10772 | 0.10866 | 0.10778 | 0.10637 | 0.10279 | 0.09763 | 0.09247 | 0.08618 | 0.08107 | 0.07589 |
| 16 | 0.05333 | 0.07476 | 0.08462 | 0.09012 | 0.09668 | 0.10037 | 0.10191 | 0.10229 | 0.10099 | 0.09941 | 0.09604 | 0.09153 | 0.08708 | 0.08202 | 0.07801 | 0.07236 |
| 17 | 0.05748 | 0.07455 | 0.08273 | 0.08733 | 0.09263 | 0.09535 | 0.09610 | 0.09593 | 0.09421 | 0.09246 | 0.08930 | 0.08543 | 0.08169 | 0.07786 | 0.07496 | 0.06926 |
| 18 | 0.06164 | 0.07434 | 0.08084 | 0.08455 | 0.08858 | 0.09032 | 0.09029 | 0.08957 | 0.08742 | 0.08550 | 0.08255 | 0.07934 | 0.07630 | 0.07371 | 0.07191 | 0.06783 |
| 19 | 0.06579 | 0.07413 | 0.07895 | 0.08176 | 0.08453 | 0.08530 | 0.08448 | 0.08321 | 0.08063 | 0.07855 | 0.07580 | 0.07324 | 0.07091 | 0.06955 | 0.06886 | 0.06702 |
| 20 | 0.06995 | 0.07392 | 0.07707 | 0.07897 | 0.08048 | 0.08027 | 0.07866 | 0.07684 | 0.07384 | 0.07159 | 0.06906 | 0.06715 | 0.06552 | 0.06539 | 0.06581 | 0.06656 |
| 21 | 0.07235 | 0.07407 | 0.07591 | 0.07674 | 0.07722 | 0.07630 | 0.07434 | 0.07231 | 0.06953 | 0.06755 | 0.06549 | 0.06424 | 0.06334 | 0.06413 | 0.06540 | 0.06722 |
| 22 | 0.07398 | 0.07430 | 0.07497 | 0.07459 | 0.07411 | 0.07255 | 0.07038 | 0.06826 | 0.06596 | 0.06444 | 0.06295 | 0.06237 | 0.06220 | 0.06377 | 0.06575 | 0.06850 |
| 23 | 0.07525 | 0.07470 | 0.07432 | 0.07275 | 0.07142 | 0.06932 | 0.06708 | 0.06497 | 0.06331 | 0.06235 | 0.06150 | 0.06160 | 0.06217 | 0.06445 | 0.06712 | 0.07147 |
| 24 | 0.07656 | 0.07535 | 0.07404 | 0.07147 | 0.06945 | 0.06695 | 0.06475 | 0.06275 | 0.06177 | 0.06139 | 0.06120 | 0.06200 | 0.06333 | 0.06634 | 0.06973 | 0.07481 |
| 25 | 0.07831 | 0.07635 | 0.07421 | 0.07097 | 0.06849 | 0.06577 | 0.06368 | 0.06187 | 0.06150 | 0.06166 | 0.06213 | 0.06363 | 0.06576 | 0.06956 | 0.07382 | 0.07927 |
| 26 | 0.08070 | 0.07780 | 0.07488 | 0.07133 | 0.06863 | 0.06587 | 0.06395 | 0.06241 | 0.06251 | 0.06308 | 0.06412 | 0.06628 | 0.06917 | 0.07381 | 0.07910 | 0.08533 |
| 27 | 0.08345 | 0.07964 | 0.07599 | 0.07241 | 0.06968 | 0.06704 | 0.06537 | 0.06416 | 0.06469 | 0.06560 | 0.06716 | 0.06990 | 0.07352 | 0.07898 | 0.08542 | 0.09270 |
| 28 | 0.08628 | 0.08171 | 0.07747 | 0.07407 | 0.07150 | 0.06912 | 0.06782 | 0.06703 | 0.06802 | 0.06931 | 0.07144 | 0.07482 | 0.07922 | 0.08555 | 0.09321 | 0.10212 |
| 29 | 0.08891 | 0.08384 | 0.07925 | 0.07620 | 0.07394 | 0.07197 | 0.07116 | 0.07095 | 0.07250 | 0.07434 | 0.07717 | 0.08137 | 0.08671 | 0.09402 | 0.10290 | 0.11341 |
| 30 | 0.09107 | 0.08586 | 0.08127 | 0.07869 | 0.07685 | 0.07544 | 0.07528 | 0.07581 | 0.07814 | 0.08080 | 0.08435 | 0.08988 | 0.09641 | 0.10485 | 0.11492 | 0.12605 |
| 31 | 0.09261 | 0.08771 | 0.08349 | 0.08152 | 0.08021 | 0.07948 | 0.08010 | 0.08150 | 0.08479 | 0.08862 | 0.09359 | 0.10053 | 0.10870 | 0.11858 | 0.12991 | 0.14254 |
| 32 | 0.09372 | 0.08949 | 0.08598 | 0.08479 | 0.08410 | 0.08420 | 0.08568 | 0.08809 | 0.09247 | 0.09772 | 0.10414 | 0.11311 | 0.12330 | 0.13490 | 0.14758 | 0.16082 |
| 33 | 0.09461 | 0.09131 | 0.08876 | 0.08849 | 0.08859 | 0.08966 | 0.09217 | 0.09575 | 0.10137 | 0.10822 | 0.11621 | 0.12733 | 0.13964 | 0.15299 | 0.16698 | 0.18048 |
| 34 | 0.09547 | 0.09326 | 0.09183 | 0.09262 | 0.09371 | 0.09592 | 0.09969 | 0.10464 | 0.11167 | 0.12021 | 0.12981 | 0.14293 | 0.15716 | 0.17206 | 0.18716 | 0.20116 |
| 35 | 0.09652 | 0.09515 | 0.09522 | 0.09719 | 0.09950 | 0.10305 | 0.10836 | 0.11495 | 0.12357 | 0.13382 | 0.14496 | 0.15964 | 0.17530 | 0.19130 | 0.20770 | 0.22153 |
| 36 | 0.09709 | 0.09722 | 0.09831 | 0.10164 | 0.10554 | 0.11077 | 0.11821 | 0.12702 | 0.13772 | 0.14997 | 0.16272 | 0.17829 | 0.19457 | 0.21073 | 0.22650 | 0.24219 |
| 37 | 0.09705 | 0.09852 | 0.10108 | 0.10595 | 0.11180 | 0.11905 | 0.12916 | 0.14073 | 0.15401 | 0.16858 | 0.18309 | 0.19907 | 0.21535 | 0.23087 | 0.24568 | 0.26326 |
| 38 | 0.09738 | 0.10031 | 0.10448 | 0.11099 | 0.11892 | 0.12828 | 0.14116 | 0.15557 | 0.17143 | 0.18827 | 0.20446 | 0.22072 | 0.23687 | 0.25172 | 0.26564 | 0.28404 |
| 39 | 0.09906 | 0.10356 | 0.10941 | 0.11760 | 0.12756 | 0.13888 | 0.15418 | 0.17102 | 0.18900 | 0.20764 | 0.22520 | 0.24197 | 0.25836 | 0.27323 | 0.28724 | 0.30526 |
| 40 | 0.10305 | 0.10922 | 0.11681 | 0.12663 | 0.13836 | 0.15126 | 0.16819 | 0.18656 | 0.20574 | 0.22530 | 0.24368 | 0.26156 | 0.27906 | 0.29540 | 0.31137 | 0.32951 |
| 41 | 0.10861 | 0.11683 | 0.12653 | 0.13828 | 0.15180 | 0.16606 | 0.18386 | 0.20282 | 0.22215 | 0.24163 | 0.26028 | 0.27937 | 0.29826 | 0.31705 | 0.33643 | 0.35738 |
| 42 | 0.11508 | 0.12575 | 0.13796 | 0.15197 | 0.16744 | 0.18301 | 0.20120 | 0.22014 | 0.23889 | 0.25756 | 0.27609 | 0.29624 | 0.31648 | 0.33821 | 0.36184 | 0.38740 |
| 43 | 0.12360 | 0.13668 | 0.15132 | 0.16743 | 0.18457 | 0.20115 | 0.21923 | 0.23759 | 0.25520 | 0.27252 | 0.29053 | 0.31236 | 0.33477 | 0.36061 | 0.38999 | 0.42157 |
| 44 | 0.13528 | 0.15031 | 0.16680 | 0.18436 | 0.20249 | 0.21948 | 0.23693 | 0.25421 | 0.27031 | 0.28596 | 0.30304 | 0.32791 | 0.35419 | 0.38598 | 0.42325 | 0.46868 |
| 45 | 0.15126 | 0.16734 | 0.18463 | 0.20249 | 0.22048 | 0.23703 | 0.25333 | 0.26905 | 0.28347 | 0.29733 | 0.31304 | 0.33008 | 0.37577 | 0.41608 | 0.46399 | 0.52343 |
| 46 | 0.17306 | 0.18910 | 0.20580 | 0.22234 | 0.23847 | 0.25323 | 0.26722 | 0.28029 | 0.29238 | 0.30395 | 0.31723 | 0.33529 | 0.39744 | 0.44938 | 0.51134 | 0.58592 |
| 47 | 0.19995 | 0.21512 | 0.23018 | 0.24407 | 0.25694 | 0.26871 | 0.27926 | 0.28855 | 0.29755 | 0.30620 | 0.31600 | 0.32442 | 0.41849 | 0.48174 | 0.56371 | 0.65516 |
| 48 | 0.22961 | 0.24341 | 0.25627 | 0.26694 | 0.27599 | 0.28436 | 0.29125 | 0.29658 | 0.30242 | 0.30809 | 0.31429 | 0.32433 | 0.44206 | 0.52440 | 0.62242 | 0.73475 |
| 49 | 0.25972 | 0.27199 | 0.28254 | 0.29018 | 0.29572 | 0.30104 | 0.30499 | 0.30713 | 0.31042 | 0.31361 | 0.31706 | 0.32890 | 0.47129 | 0.57064 | 0.68881 | 0.82544 |
| 50 | 0.28798 | 0.29886 | 0.30749 | 0.31301 | 0.31625 | 0.31963 | 0.32228 | 0.32293 | 0.32497 | 0.32676 | 0.32924 | 0.41202 | 0.50932 | 0.62571 | 0.76419 | 0.92642 |

Schedule F

7/11/86
RHPFIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
MALE - PREFERRED NONSMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | UL1 |
|-----|---------|---------|---------|---------|---------|---------|---------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| 51 | 0.31337 | 0.32262 | 0.32943 | 0.33376 | 0.33617 | 0.33884 | 0.34253 | 0.34385 | 0.34636 | 0.34818 | 0.35190 | 0.44413 | 0.55642 | 0.68930 | 0.84729 | 1.03599 |
| 52 | 0.33741 | 0.34460 | 0.34935 | 0.35296 | 0.35527 | 0.35810 | 0.36454 | 0.36805 | 0.37230 | 0.37518 | 0.38175 | 0.48266 | 0.61049 | 0.75990 | 0.93720 | 1.16182 |
| 53 | 0.36166 | 0.36689 | 0.36981 | 0.37309 | 0.37586 | 0.37933 | 0.38919 | 0.39575 | 0.40237 | 0.40684 | 0.41718 | 0.52691 | 0.67113 | 0.83798 | 1.03587 | 1.29149 |
| 54 | 0.38764 | 0.39162 | 0.39335 | 0.39668 | 0.40006 | 0.40442 | 0.41738 | 0.42717 | 0.43614 | 0.44223 | 0.45660 | 0.57620 | 0.73795 | 0.92403 | 1.14526 | 1.43875 |
| 55 | 0.41689 | 0.42087 | 0.42250 | 0.42622 | 0.43004 | 0.43528 | 0.44999 | 0.46254 | 0.47318 | 0.48041 | 0.49840 | 0.62984 | 0.81055 | 1.01853 | 1.26730 | 1.60131 |
| 56 | 0.44808 | 0.45340 | 0.45589 | 0.46012 | 0.46364 | 0.46954 | 0.48399 | 0.49909 | 0.51061 | 0.51818 | 0.53967 | 0.68233 | 0.88089 | 1.11063 | 1.38866 | 1.75811 |
| 57 | 0.48018 | 0.48780 | 0.49185 | 0.49669 | 0.49944 | 0.50592 | 0.51880 | 0.53667 | 0.54870 | 0.55616 | 0.58147 | 0.73413 | 0.94923 | 1.20002 | 1.50805 | 1.92220 |
| 58 | 0.51519 | 0.52596 | 0.53241 | 0.53835 | 0.54063 | 0.54800 | 0.55894 | 0.57943 | 0.59180 | 0.59916 | 0.62819 | 0.79348 | 1.02764 | 1.30296 | 1.64546 | 2.11263 |
| 59 | 0.55511 | 0.56975 | 0.57961 | 0.58751 | 0.59045 | 0.59933 | 0.60897 | 0.63152 | 0.64423 | 0.65197 | 0.68421 | 0.86865 | 1.12817 | 1.43570 | 1.82090 | 2.35508 |
| 60 | 0.60194 | 0.62107 | 0.63551 | 0.64658 | 0.65210 | 0.66349 | 0.67340 | 0.69709 | 0.71032 | 0.71937 | 0.75392 | 0.96788 | 1.26288 | 1.61452 | 2.05433 | 2.66371 |
| 61 | 0.65231 | 0.67734 | 0.69880 | 0.71521 | 0.72612 | 0.74111 | 0.75279 | 0.77559 | 0.78869 | 0.80004 | 0.83552 | 1.09412 | 1.43648 | 1.84696 | 2.35569 | 3.03061 |
| 62 | 0.70488 | 0.73730 | 0.76814 | 0.79178 | 0.81037 | 0.82980 | 0.84412 | 0.86426 | 0.87646 | 0.89075 | 0.92607 | 1.24189 | 1.64095 | 2.12219 | 2.71157 | 3.45489 |
| 63 | 0.76471 | 0.80482 | 0.84544 | 0.87683 | 0.90404 | 0.92862 | 0.94656 | 0.96391 | 0.97570 | 0.99355 | 1.02830 | 1.40673 | 1.86920 | 2.42887 | 3.10721 | 3.93467 |
| 64 | 0.83687 | 0.88375 | 0.93265 | 0.97090 | 1.00634 | 1.03665 | 1.05928 | 1.07537 | 1.08848 | 1.11045 | 1.14490 | 1.58421 | 2.11412 | 2.75567 | 3.52782 | 4.46458 |
| 65 | 0.92642 | 0.97798 | 1.03169 | 1.07452 | 1.11647 | 1.15294 | 1.18145 | 1.19946 | 1.21688 | 1.24348 | 1.27858 | 1.76988 | 2.36863 | 3.09126 | 3.95860 | 5.04629 |
| 66 | 1.04406 | 1.09331 | 1.14183 | 1.18001 | 1.21963 | 1.25579 | 1.28431 | 1.30009 | 1.31724 | 1.33818 | 1.36343 | 1.89630 | 2.57379 | 3.38663 | 4.36540 | 5.64234 |
| 67 | 1.18642 | 1.22718 | 1.26177 | 1.28701 | 1.31636 | 1.34584 | 1.36842 | 1.37673 | 1.38818 | 1.39320 | 1.39764 | 1.96644 | 2.73434 | 3.64933 | 4.75809 | 6.24830 |
| 68 | 1.33745 | 1.37084 | 1.39262 | 1.40704 | 1.42884 | 1.45562 | 1.47691 | 1.48348 | 1.49518 | 1.49023 | 1.48008 | 2.08145 | 2.93867 | 3.95288 | 5.18789 | 6.87708 |
| 69 | 1.48110 | 1.51557 | 1.53551 | 1.55165 | 1.57928 | 1.61769 | 1.65292 | 1.67448 | 1.70375 | 1.71094 | 1.70964 | 2.34248 | 3.27517 | 4.37079 | 5.70602 | 7.61029 |
| 70 | 1.60131 | 1.65262 | 1.69154 | 1.73236 | 1.78986 | 1.86460 | 1.93959 | 2.00383 | 2.07936 | 2.13704 | 2.18518 | 2.85069 | 3.83225 | 4.97658 | 6.36372 | 8.32933 |
| 71 | 1.64120 | 1.72911 | 1.81514 | 1.91319 | 2.03449 | 2.18258 | 2.33674 | 2.48592 | 2.65158 | 2.81922 | 2.97953 | 3.68036 | 4.67581 | 5.82575 | 7.20005 | 9.06566 |
| 72 | 1.61148 | 1.75086 | 1.90556 | 2.08647 | 2.29839 | 2.54992 | 2.81560 | 3.08466 | 3.37673 | 3.70304 | 4.02676 | 4.76406 | 5.74692 | 6.86930 | 8.18087 | 9.85947 |
| 73 | 1.59747 | 1.79721 | 2.03117 | 2.30614 | 2.62067 | 2.98728 | 3.37645 | 3.77849 | 4.21050 | 4.71242 | 5.21765 | 5.99036 | 6.94672 | 8.02396 | 9.24756 | 10.71204 |
| 74 | 1.68448 | 1.94749 | 2.26033 | 2.62618 | 3.04049 | 3.51535 | 4.01957 | 4.54586 | 5.10857 | 5.77130 | 6.44299 | 7.24783 | 8.17634 | 9.20647 | 10.34152 | 11.60923 |
| 75 | 1.95783 | 2.28104 | 2.66141 | 3.10052 | 3.59696 | 4.15178 | 4.74521 | 5.36521 | 6.02661 | 6.80360 | 7.59357 | 8.42502 | 9.33692 | 10.33355 | 11.40414 | 12.53525 |
| 76 | 2.41752 | 2.79786 | 3.23441 | 3.72918 | 4.29010 | 4.90558 | 5.55339 | 6.23653 | 6.96463 | 7.80932 | 8.66939 | 9.52195 | 10.42846 | 11.40522 | 12.43541 | 13.49011 |
| 77 | 3.00668 | 3.44507 | 3.93375 | 4.47618 | 5.09381 | 5.75396 | 6.44391 | 7.17420 | 7.95218 | 8.83919 | 9.74325 | 10.61289 | 11.51686 | 12.47697 | 13.47442 | 14.47379 |
| 78 | 3.72530 | 4.22265 | 4.75943 | 5.34153 | 6.00809 | 6.69992 | 7.41679 | 8.17822 | 8.98924 | 9.89319 | 10.81515 | 11.69785 | 12.60213 | 13.54882 | 14.52116 | 15.48630 |
| 79 | 4.57338 | 5.13062 | 5.71146 | 6.32522 | 7.03295 | 7.74348 | 8.47202 | 9.24859 | 10.07583 | 10.97133 | 11.88510 | 12.77684 | 13.68426 | 14.62076 | 15.57563 | 16.52764 |
| 80 | 5.55092 | 6.16896 | 6.78982 | 7.42725 | 8.16838 | 8.88462 | 9.60960 | 10.38531 | 11.21194 | 12.07360 | 12.95310 | 13.84984 | 14.76326 | 15.69278 | 16.63783 | 0.00000 |

/86
MMS

FIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
MALE - STANDARD NONSMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| 0 | 0.13510 | 0.08164 | 0.05309 | 0.04489 | 0.03733 | 0.03134 | 0.02903 | 0.02431 | 0.02183 | 0.02100 | 0.01867 | 0.02213 | 0.02587 | 0.03357 | 0.05040 | 0.06003 |
| 1 | 0.07990 | 0.07402 | 0.04977 | 0.04246 | 0.03617 | 0.03067 | 0.02921 | 0.02575 | 0.02482 | 0.02671 | 0.02550 | 0.03429 | 0.04041 | 0.04873 | 0.06478 | 0.09175 |
| 2 | 0.07167 | 0.06640 | 0.04644 | 0.04003 | 0.03500 | 0.03000 | 0.02939 | 0.02719 | 0.02781 | 0.03242 | 0.03233 | 0.04645 | 0.05496 | 0.06389 | 0.07915 | 0.10624 |
| 3 | 0.06345 | 0.05879 | 0.04312 | 0.03760 | 0.03383 | 0.02933 | 0.02957 | 0.02863 | 0.03080 | 0.03814 | 0.03916 | 0.05862 | 0.06950 | 0.07905 | 0.09353 | 0.11488 |
| 4 | 0.05523 | 0.05117 | 0.03979 | 0.03517 | 0.03266 | 0.02867 | 0.02974 | 0.03007 | 0.03379 | 0.04385 | 0.04600 | 0.07078 | 0.08405 | 0.09421 | 0.10790 | 0.12528 |
| 5 | 0.04700 | 0.04355 | 0.03647 | 0.03274 | 0.03150 | 0.02800 | 0.02992 | 0.03151 | 0.03678 | 0.04956 | 0.05283 | 0.08295 | 0.09859 | 0.10937 | 0.12228 | 0.13207 |
| 6 | 0.04111 | 0.03821 | 0.03365 | 0.03162 | 0.03245 | 0.03091 | 0.03708 | 0.04017 | 0.04544 | 0.05755 | 0.06133 | 0.08962 | 0.10514 | 0.11555 | 0.12716 | 0.13601 |
| 7 | 0.03568 | 0.03307 | 0.03028 | 0.03033 | 0.03367 | 0.03482 | 0.04707 | 0.05191 | 0.05655 | 0.06654 | 0.07066 | 0.09405 | 0.10844 | 0.11812 | 0.12826 | 0.13668 |
| 8 | 0.03142 | 0.02939 | 0.02799 | 0.03023 | 0.03615 | 0.04017 | 0.05875 | 0.06521 | 0.06885 | 0.07598 | 0.08021 | 0.09717 | 0.10981 | 0.11847 | 0.12698 | 0.13418 |
| 9 | 0.02901 | 0.02840 | 0.02842 | 0.03268 | 0.04089 | 0.04742 | 0.07097 | 0.07852 | 0.08106 | 0.08531 | 0.08934 | 0.09996 | 0.11058 | 0.11800 | 0.12475 | 0.13085 |
| 10 | 0.02917 | 0.03135 | 0.03322 | 0.03904 | 0.04886 | 0.05703 | 0.08258 | 0.09031 | 0.09190 | 0.09396 | 0.09745 | 0.10337 | 0.11208 | 0.11808 | 0.12300 | 0.12668 |
| 11 | 0.03280 | 0.04051 | 0.04512 | 0.05210 | 0.06289 | 0.07167 | 0.09516 | 0.10167 | 0.10240 | 0.10293 | 0.10525 | 0.10819 | 0.11487 | 0.11896 | 0.12164 | 0.12334 |
| 12 | 0.03946 | 0.05506 | 0.06303 | 0.07097 | 0.08230 | 0.09105 | 0.10948 | 0.11363 | 0.11339 | 0.11260 | 0.11316 | 0.11378 | 0.11808 | 0.11972 | 0.11972 | 0.12168 |
| 13 | 0.04774 | 0.07159 | 0.08284 | 0.09143 | 0.10289 | 0.11114 | 0.12316 | 0.12455 | 0.12337 | 0.12147 | 0.12008 | 0.11896 | 0.12084 | 0.11999 | 0.11737 | 0.11667 |
| 14 | 0.05626 | 0.08667 | 0.10046 | 0.10931 | 0.12046 | 0.12792 | 0.13385 | 0.13278 | 0.13080 | 0.12805 | 0.12495 | 0.12254 | 0.12233 | 0.11941 | 0.11471 | 0.11143 |
| 15 | 0.06363 | 0.09689 | 0.11177 | 0.12039 | 0.13080 | 0.13736 | 0.13918 | 0.13668 | 0.13418 | 0.13085 | 0.12668 | 0.12334 | 0.12168 | 0.11761 | 0.11188 | 0.10600 |
| 16 | 0.06975 | 0.10100 | 0.11509 | 0.12288 | 0.13189 | 0.13737 | 0.13668 | 0.13418 | 0.13085 | 0.12668 | 0.12334 | 0.12049 | 0.11803 | 0.11384 | 0.10833 | 0.10170 |
| 17 | 0.07555 | 0.10127 | 0.11317 | 0.11955 | 0.12655 | 0.13065 | 0.13026 | 0.12866 | 0.12618 | 0.12287 | 0.11870 | 0.11476 | 0.11193 | 0.10836 | 0.10398 | 0.09805 |
| 18 | 0.08117 | 0.09958 | 0.10852 | 0.11314 | 0.11779 | 0.12031 | 0.12013 | 0.11981 | 0.11761 | 0.11470 | 0.11108 | 0.10749 | 0.10471 | 0.10227 | 0.09963 | 0.09665 |
| 19 | 0.08676 | 0.09784 | 0.10367 | 0.10638 | 0.10863 | 0.10950 | 0.10958 | 0.11033 | 0.10839 | 0.10589 | 0.10286 | 0.09998 | 0.09768 | 0.09671 | 0.09611 | 0.09612 |
| 20 | 0.09245 | 0.09793 | 0.10114 | 0.10198 | 0.10206 | 0.10134 | 0.10114 | 0.10221 | 0.10034 | 0.09806 | 0.09540 | 0.09356 | 0.09217 | 0.09278 | 0.09420 | 0.09617 |
| 21 | 0.09875 | 0.10025 | 0.10120 | 0.09992 | 0.09786 | 0.09536 | 0.09408 | 0.09435 | 0.09217 | 0.08978 | 0.08713 | 0.08694 | 0.08718 | 0.08977 | 0.09337 | 0.09812 |
| 22 | 0.10557 | 0.10355 | 0.10216 | 0.09839 | 0.09402 | 0.08946 | 0.08672 | 0.08543 | 0.08269 | 0.07998 | 0.07715 | 0.07925 | 0.08186 | 0.08691 | 0.09307 | 0.10097 |
| 23 | 0.11215 | 0.10722 | 0.10363 | 0.09742 | 0.09089 | 0.08437 | 0.08016 | 0.07710 | 0.07381 | 0.07079 | 0.06781 | 0.07241 | 0.07766 | 0.08532 | 0.09413 | 0.10613 |
| 24 | 0.11774 | 0.11064 | 0.10524 | 0.09705 | 0.08885 | 0.08081 | 0.07548 | 0.07099 | 0.06741 | 0.06432 | 0.06144 | 0.06832 | 0.07603 | 0.08609 | 0.09737 | 0.11193 |
| 25 | 0.12161 | 0.11323 | 0.10659 | 0.09731 | 0.08825 | 0.07950 | 0.07379 | 0.06875 | 0.06541 | 0.06271 | 0.06040 | 0.06892 | 0.07844 | 0.09034 | 0.10361 | 0.11940 |
| 26 | 0.12300 | 0.11457 | 0.10739 | 0.09811 | 0.08923 | 0.08076 | 0.07562 | 0.07113 | 0.06874 | 0.06702 | 0.06592 | 0.07508 | 0.08542 | 0.09828 | 0.11280 | 0.12929 |
| 27 | 0.12168 | 0.11509 | 0.10789 | 0.09944 | 0.09154 | 0.08409 | 0.08023 | 0.07705 | 0.07613 | 0.07583 | 0.07646 | 0.08552 | 0.09601 | 0.10918 | 0.12440 | 0.14131 |
| 28 | 0.12001 | 0.11536 | 0.10855 | 0.10142 | 0.09499 | 0.08905 | 0.08683 | 0.08535 | 0.08618 | 0.08755 | 0.09013 | 0.09893 | 0.10940 | 0.12270 | 0.13848 | 0.15629 |
| 29 | 0.11978 | 0.11598 | 0.10982 | 0.10419 | 0.09940 | 0.09515 | 0.09462 | 0.09492 | 0.09750 | 0.10057 | 0.10507 | 0.11396 | 0.12476 | 0.13852 | 0.15507 | 0.17424 |
| 30 | 0.12001 | 0.11752 | 0.11217 | 0.10786 | 0.10458 | 0.10194 | 0.10282 | 0.10461 | 0.10868 | 0.11328 | 0.11940 | 0.12929 | 0.14131 | 0.15629 | 0.17424 | 0.19440 |
| 31 | 0.12167 | 0.11991 | 0.11559 | 0.11240 | 0.11047 | 0.10938 | 0.11128 | 0.11421 | 0.11948 | 0.12548 | 0.13298 | 0.14503 | 0.15937 | 0.17656 | 0.19665 | 0.21931 |
| 32 | 0.12401 | 0.12276 | 0.11978 | 0.11773 | 0.11720 | 0.11778 | 0.12053 | 0.12447 | 0.13082 | 0.13825 | 0.14706 | 0.16205 | 0.17950 | 0.19956 | 0.22276 | 0.24705 |
| 33 | 0.12698 | 0.12618 | 0.12473 | 0.12390 | 0.12485 | 0.12719 | 0.13078 | 0.13573 | 0.14309 | 0.15188 | 0.16185 | 0.18021 | 0.20116 | 0.22446 | 0.25008 | 0.27674 |
| 34 | 0.13054 | 0.13031 | 0.13046 | 0.13098 | 0.13351 | 0.13766 | 0.14225 | 0.14830 | 0.15666 | 0.16669 | 0.17756 | 0.19934 | 0.22385 | 0.25046 | 0.27911 | 0.30819 |
| 35 | 0.13464 | 0.13525 | 0.13697 | 0.13903 | 0.14328 | 0.14925 | 0.15515 | 0.16250 | 0.17192 | 0.18296 | 0.19440 | 0.21931 | 0.24705 | 0.27674 | 0.30839 | 0.34005 |

Schedule F

11/86
MNSFIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
MALE - STANDARD NONSMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|----------|----------|
| 36 | 0.13901 | 0.14066 | 0.14379 | 0.14757 | 0.15365 | 0.16143 | 0.16902 | 0.17789 | 0.18829 | 0.19987 | 0.21107 | 0.23082 | 0.26948 | 0.30193 | 0.33635 | 0.37282 |
| 37 | 0.14369 | 0.14647 | 0.15090 | 0.15656 | 0.16456 | 0.17419 | 0.18373 | 0.19424 | 0.20553 | 0.21722 | 0.22742 | 0.25799 | 0.29149 | 0.32657 | 0.36368 | 0.40197 |
| 38 | 0.14990 | 0.15319 | 0.15903 | 0.16677 | 0.17677 | 0.18878 | 0.19993 | 0.21221 | 0.22118 | 0.23623 | 0.24541 | 0.27813 | 0.31498 | 0.35272 | 0.39266 | 0.44164 |
| 39 | 0.15557 | 0.16134 | 0.16888 | 0.17879 | 0.19102 | 0.20418 | 0.21838 | 0.23258 | 0.24599 | 0.25821 | 0.26700 | 0.30295 | 0.34187 | 0.38244 | 0.42561 | 0.47774 |
| 40 | 0.16357 | 0.17144 | 0.18116 | 0.19349 | 0.20805 | 0.22357 | 0.23971 | 0.25594 | 0.27093 | 0.28433 | 0.29414 | 0.33255 | 0.37405 | 0.41779 | 0.46484 | 0.51828 |
| 41 | 0.17214 | 0.18289 | 0.19561 | 0.21089 | 0.22821 | 0.24603 | 0.26460 | 0.28321 | 0.30031 | 0.31583 | 0.32842 | 0.36827 | 0.41126 | 0.45767 | 0.50843 | 0.56451 |
| 42 | 0.18099 | 0.19333 | 0.21178 | 0.23051 | 0.25100 | 0.27137 | 0.29262 | 0.31392 | 0.33359 | 0.35188 | 0.36853 | 0.40884 | 0.45224 | 0.50070 | 0.55488 | 0.61456 |
| 43 | 0.19156 | 0.20969 | 0.23003 | 0.25224 | 0.27591 | 0.29882 | 0.32272 | 0.34677 | 0.36919 | 0.39067 | 0.41210 | 0.45315 | 0.49738 | 0.54854 | 0.60701 | 0.67475 |
| 44 | 0.20528 | 0.22688 | 0.25072 | 0.27599 | 0.30241 | 0.32763 | 0.35390 | 0.38041 | 0.40558 | 0.43036 | 0.45676 | 0.50014 | 0.54705 | 0.60286 | 0.66770 | 0.74502 |
| 45 | 0.22357 | 0.24782 | 0.27422 | 0.30165 | 0.32998 | 0.35705 | 0.38512 | 0.41353 | 0.44120 | 0.46914 | 0.50014 | 0.54870 | 0.60165 | 0.66530 | 0.73981 | 0.82984 |
| 46 | 0.24797 | 0.27401 | 0.30193 | 0.33038 | 0.35948 | 0.38777 | 0.41636 | 0.44533 | 0.47466 | 0.50514 | 0.53993 | 0.59680 | 0.65935 | 0.73429 | 0.82189 | 0.92623 |
| 47 | 0.27754 | 0.30485 | 0.33361 | 0.36226 | 0.39126 | 0.42029 | 0.44831 | 0.47670 | 0.50701 | 0.53955 | 0.57770 | 0.64514 | 0.71989 | 0.80872 | 0.91202 | 1.03269 |
| 48 | 0.30996 | 0.33807 | 0.36715 | 0.39553 | 0.42402 | 0.45358 | 0.48100 | 0.50883 | 0.54032 | 0.57521 | 0.61693 | 0.69682 | 0.78601 | 0.89097 | 1.01240 | 1.15297 |
| 49 | 0.34290 | 0.37142 | 0.40046 | 0.42847 | 0.45647 | 0.48659 | 0.51445 | 0.54291 | 0.57665 | 0.61494 | 0.66110 | 0.75491 | 0.86045 | 0.98341 | 1.12520 | 1.28870 |
| 50 | 0.37405 | 0.40264 | 0.43144 | 0.45931 | 0.48730 | 0.51828 | 0.54870 | 0.58014 | 0.61807 | 0.66158 | 0.71366 | 0.82249 | 0.94595 | 1.08841 | 1.25262 | 1.43913 |
| 51 | 0.39796 | 0.42609 | 0.45438 | 0.48267 | 0.51161 | 0.54430 | 0.58137 | 0.62020 | 0.66617 | 0.71883 | 0.78061 | 0.90517 | 1.04761 | 1.21000 | 1.39690 | 1.60290 |
| 52 | 0.41619 | 0.44327 | 0.47069 | 0.49971 | 0.53026 | 0.56534 | 0.61244 | 0.66228 | 0.71958 | 0.78481 | 0.85962 | 1.00088 | 1.16361 | 1.34661 | 1.55660 | 1.78938 |
| 53 | 0.43689 | 0.46285 | 0.48893 | 0.51852 | 0.55062 | 0.58793 | 0.64547 | 0.70688 | 0.77591 | 0.85395 | 0.94173 | 1.10124 | 1.28628 | 1.49218 | 1.72832 | 1.98451 |
| 54 | 0.46820 | 0.49271 | 0.51764 | 0.54718 | 0.58002 | 0.61860 | 0.68404 | 0.75446 | 0.83278 | 0.92068 | 1.01797 | 1.19785 | 1.40796 | 1.64067 | 1.90866 | 2.20445 |
| 55 | 0.51828 | 0.54193 | 0.56539 | 0.59378 | 0.62582 | 0.66387 | 0.73172 | 0.80550 | 0.88779 | 0.97941 | 1.07935 | 1.28232 | 1.52097 | 1.78606 | 2.09423 | 2.44659 |
| 56 | 0.59300 | 0.61574 | 0.63678 | 0.66189 | 0.69058 | 0.72522 | 0.78758 | 0.85678 | 0.93551 | 1.02135 | 1.11260 | 1.34288 | 1.61314 | 1.91129 | 2.26270 | 2.68653 |
| 57 | 0.68693 | 0.70848 | 0.72610 | 0.74612 | 0.76941 | 0.79830 | 0.84923 | 0.90800 | 0.97752 | 1.05019 | 1.12370 | 1.38513 | 1.68957 | 2.02041 | 2.41634 | 2.93887 |
| 58 | 0.79126 | 0.81201 | 0.82646 | 0.84110 | 0.85846 | 0.88089 | 0.91808 | 0.96396 | 1.02199 | 1.07918 | 1.13256 | 1.42671 | 1.76854 | 2.13896 | 2.58863 | 3.22686 |
| 59 | 0.89715 | 0.91819 | 0.93095 | 0.94147 | 0.95387 | 0.97077 | 0.99551 | 1.02949 | 1.07710 | 1.12151 | 1.15912 | 1.48531 | 1.86832 | 2.29247 | 2.81305 | 3.58119 |
| 60 | 0.99580 | 1.01885 | 1.03269 | 1.04184 | 1.05179 | 1.06573 | 1.08291 | 1.10941 | 1.15101 | 1.19040 | 1.22330 | 1.57858 | 2.00721 | 2.50649 | 3.12307 | 4.01969 |
| 61 | 1.08155 | 1.10852 | 1.12680 | 1.13727 | 1.14639 | 1.15851 | 1.17184 | 1.19380 | 1.23289 | 1.27666 | 1.31458 | 1.69056 | 2.16847 | 2.77533 | 3.52876 | 4.53381 |
| 62 | 1.16026 | 1.19262 | 1.21789 | 1.23134 | 1.24024 | 1.25061 | 1.26135 | 1.27942 | 1.31729 | 1.37146 | 1.41970 | 1.80946 | 2.33993 | 3.08197 | 4.00781 | 5.12369 |
| 63 | 1.24044 | 1.27939 | 1.31324 | 1.33147 | 1.34208 | 1.35288 | 1.36414 | 1.38119 | 1.42046 | 1.48863 | 1.55439 | 1.95925 | 2.54666 | 3.43493 | 4.54510 | 5.78700 |
| 64 | 1.33057 | 1.37707 | 1.42019 | 1.44510 | 1.46070 | 1.47619 | 1.49288 | 1.51401 | 1.55866 | 1.64196 | 1.73442 | 2.16387 | 2.81373 | 3.84272 | 5.12556 | 6.51771 |
| 65 | 1.43913 | 1.49390 | 1.54602 | 1.57967 | 1.60484 | 1.63142 | 1.66027 | 1.69279 | 1.74814 | 1.84528 | 1.97553 | 2.44727 | 3.16621 | 4.31386 | 5.73410 | 7.31779 |
| 66 | 1.56980 | 1.62909 | 1.68381 | 1.72201 | 1.75559 | 1.79401 | 1.83603 | 1.88108 | 1.94429 | 2.04052 | 2.21886 | 2.75775 | 3.55965 | 4.80728 | 6.33054 | 8.14393 |
| 67 | 1.71692 | 1.77714 | 1.82868 | 1.86718 | 1.90709 | 1.95672 | 2.01171 | 2.06895 | 2.13626 | 2.21848 | 2.45392 | 3.07935 | 3.97733 | 5.31731 | 6.92495 | 8.98951 |
| 68 | 1.87498 | 1.93924 | 1.99104 | 2.03490 | 2.08774 | 2.15638 | 2.23270 | 2.31107 | 2.39099 | 2.46625 | 2.76898 | 3.48961 | 4.48594 | 5.90554 | 7.57757 | 9.87035 |
| 69 | 2.03849 | 2.11660 | 2.18130 | 2.24492 | 2.32594 | 2.42979 | 2.54444 | 2.66209 | 2.77541 | 2.87092 | 3.25233 | 4.06610 | 5.15216 | 6.63356 | 8.34866 | 10.88719 |
| 70 | 2.20193 | 2.31041 | 2.40987 | 2.51695 | 2.65008 | 2.81378 | 2.99232 | 3.17669 | 3.35646 | 3.51957 | 3.99223 | 4.88636 | 6.04266 | 7.56295 | 9.29847 | 11.90384 |
| 71 | 2.31572 | 2.47590 | 2.64050 | 2.82578 | 3.04606 | 3.30779 | 3.59033 | 3.88388 | 4.18018 | 4.48292 | 5.07055 | 6.03109 | 7.23298 | 8.75835 | 10.47890 | 12.95647 |

Schedule F

2/11/86

MNS

FIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
MALE - STANDARD NONSMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT |
|-----|---------|---------|---------|---------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| 72 | 2.38352 | 2.61226 | 2.86626 | 3.15823 | 3.49495 | 3.88728 | 4.30819 | 4.74721 | 5.20195 | 5.70291 | 6.42845 | 7.44861 | 8.67867 | 10.17870 | 11.84980 | 14.09130 |
| 73 | 2.47972 | 2.78666 | 3.14150 | 3.55218 | 4.01791 | 4.55307 | 5.12493 | 5.72317 | 6.35270 | 7.07347 | 7.94312 | 9.01784 | 10.26643 | 11.72705 | 13.33329 | 15.30981 |
| 74 | 2.67874 | 3.06626 | 3.52062 | 4.04545 | 4.63607 | 5.30601 | 6.01959 | 6.76822 | 7.56337 | 8.48853 | 9.49175 | 10.61774 | 11.88295 | 13.30644 | 14.85151 | 16.59209 |
| 75 | 3.05496 | 3.51824 | 4.05797 | 4.67589 | 5.37060 | 6.14694 | 6.97120 | 7.83886 | 8.76487 | 9.84202 | 10.95153 | 12.12725 | 13.41492 | 14.81990 | 16.32661 | 17.91557 |
| 76 | 3.60840 | 4.14258 | 4.75355 | 5.44352 | 6.22149 | 7.07585 | 7.97976 | 8.93507 | 9.95722 | 11.13393 | 12.32246 | 13.54638 | 14.86235 | 16.26743 | 17.75859 | 19.28025 |
| 77 | 4.28945 | 4.89452 | 5.57113 | 6.32309 | 7.17464 | 8.09219 | 9.05924 | 10.08587 | 11.18645 | 12.43498 | 13.68641 | 14.95581 | 16.30078 | 17.71368 | 19.19934 | 20.68615 |
| 78 | 5.09811 | 5.77405 | 6.51069 | 7.31460 | 8.23005 | 9.19595 | 10.20965 | 11.29127 | 12.45257 | 13.74518 | 15.04339 | 16.35557 | 17.73020 | 19.15864 | 20.64888 | 22.13325 |
| 79 | 6.03437 | 6.78118 | 7.57224 | 8.41806 | 9.38773 | 10.38714 | 11.43099 | 12.55126 | 13.75558 | 15.06451 | 16.39339 | 17.74563 | 19.15062 | 20.60232 | 22.10720 | 23.62155 |
| 80 | 7.09825 | 7.91590 | 8.75579 | 9.63346 | 10.64767 | 11.66576 | 12.72325 | 13.86584 | 15.09547 | 16.39298 | 17.73641 | 19.12601 | 20.56203 | 22.04471 | 23.57431 | 0.00000 |

Schedule F

12/12/86
HSPFIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
MALE - PREFERRED SMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|-----|
| 15 | 0.07759 | 0.11223 | 0.12383 | 0.12879 | 0.13200 | 0.13398 | 0.13287 | 0.12947 | 0.12623 | 0.12168 | 0.11665 | 0.11176 | 0.10705 | 0.10199 | 0.09746 | 0.09352 | 30 |
| 16 | 0.08886 | 0.11650 | 0.12525 | 0.12832 | 0.13052 | 0.13122 | 0.12947 | 0.12593 | 0.12243 | 0.11798 | 0.11327 | 0.10882 | 0.10480 | 0.10090 | 0.09757 | 0.09216 | 31 |
| 17 | 0.10014 | 0.12078 | 0.12668 | 0.12835 | 0.12903 | 0.12846 | 0.12608 | 0.12239 | 0.11862 | 0.11429 | 0.10989 | 0.10589 | 0.10254 | 0.09981 | 0.09768 | 0.09209 | 32 |
| 18 | 0.11142 | 0.12506 | 0.12811 | 0.12838 | 0.12755 | 0.12571 | 0.12269 | 0.11885 | 0.11482 | 0.11059 | 0.10651 | 0.10295 | 0.10029 | 0.09872 | 0.09779 | 0.09404 | 33 |
| 19 | 0.12270 | 0.12934 | 0.12953 | 0.12841 | 0.12606 | 0.12295 | 0.11929 | 0.11531 | 0.11102 | 0.10689 | 0.10313 | 0.10001 | 0.09803 | 0.09764 | 0.09790 | 0.09672 | 34 |
| 20 | 0.13398 | 0.13362 | 0.13096 | 0.12844 | 0.12458 | 0.12019 | 0.11590 | 0.11177 | 0.10722 | 0.10320 | 0.09975 | 0.09708 | 0.09578 | 0.09655 | 0.09801 | 0.10051 | 35 |
| 21 | 0.13655 | 0.13332 | 0.12947 | 0.12609 | 0.12161 | 0.11684 | 0.11247 | 0.10864 | 0.10475 | 0.10154 | 0.09906 | 0.09743 | 0.09707 | 0.09894 | 0.10147 | 0.10553 | 36 |
| 22 | 0.13547 | 0.13103 | 0.12664 | 0.12254 | 0.11776 | 0.11293 | 0.10867 | 0.10530 | 0.10245 | 0.10035 | 0.09909 | 0.09877 | 0.09943 | 0.10234 | 0.10586 | 0.11097 | 37 |
| 23 | 0.13243 | 0.12781 | 0.12330 | 0.11870 | 0.11389 | 0.10928 | 0.10532 | 0.10254 | 0.10095 | 0.10011 | 0.10022 | 0.10135 | 0.10311 | 0.10708 | 0.11160 | 0.11863 | 38 |
| 24 | 0.12913 | 0.12471 | 0.12031 | 0.11547 | 0.11087 | 0.10669 | 0.10323 | 0.10115 | 0.10086 | 0.10131 | 0.10281 | 0.10540 | 0.10835 | 0.11346 | 0.11913 | 0.12718 | 39 |
| 25 | 0.12726 | 0.12280 | 0.11850 | 0.11375 | 0.10957 | 0.10599 | 0.10322 | 0.10192 | 0.10282 | 0.10446 | 0.10721 | 0.11116 | 0.11541 | 0.12180 | 0.12888 | 0.13713 | 40 |
| 26 | 0.12668 | 0.12186 | 0.11764 | 0.11339 | 0.10987 | 0.10712 | 0.10536 | 0.10495 | 0.10693 | 0.10963 | 0.11350 | 0.11853 | 0.12407 | 0.13178 | 0.14047 | 0.14932 | 41 |
| 27 | 0.12625 | 0.12120 | 0.11717 | 0.11379 | 0.11121 | 0.10955 | 0.10911 | 0.10971 | 0.11278 | 0.11650 | 0.12143 | 0.12737 | 0.13416 | 0.14320 | 0.15361 | 0.16409 | 42 |
| 28 | 0.12621 | 0.12113 | 0.11744 | 0.11517 | 0.11374 | 0.11335 | 0.11437 | 0.11605 | 0.12020 | 0.12494 | 0.13090 | 0.13780 | 0.14601 | 0.15653 | 0.16887 | 0.18178 | 43 |
| 29 | 0.12676 | 0.12195 | 0.11881 | 0.11779 | 0.11760 | 0.11857 | 0.12101 | 0.12383 | 0.12903 | 0.13482 | 0.14181 | 0.14998 | 0.15992 | 0.17222 | 0.18682 | 0.20300 | 44 |
| 30 | 0.12812 | 0.12399 | 0.12163 | 0.12188 | 0.12297 | 0.12530 | 0.12896 | 0.13287 | 0.13912 | 0.14601 | 0.15405 | 0.16405 | 0.17623 | 0.19075 | 0.20801 | 0.22689 | 45 |
| 31 | 0.13012 | 0.12721 | 0.12594 | 0.12749 | 0.12987 | 0.13355 | 0.13818 | 0.14326 | 0.15066 | 0.15893 | 0.16829 | 0.18058 | 0.19528 | 0.21217 | 0.23218 | 0.25372 | 46 |
| 32 | 0.13259 | 0.13142 | 0.13150 | 0.13448 | 0.13820 | 0.14326 | 0.14876 | 0.15508 | 0.16376 | 0.17367 | 0.18462 | 0.19947 | 0.21888 | 0.23620 | 0.25896 | 0.28466 | 47 |
| 33 | 0.13583 | 0.13664 | 0.13826 | 0.14275 | 0.14790 | 0.15443 | 0.16070 | 0.16825 | 0.17812 | 0.18960 | 0.20200 | 0.21988 | 0.24047 | 0.26271 | 0.28873 | 0.31764 | 48 |
| 34 | 0.14012 | 0.14292 | 0.14616 | 0.15221 | 0.15892 | 0.16702 | 0.17402 | 0.18266 | 0.19343 | 0.20608 | 0.21945 | 0.24095 | 0.26552 | 0.29159 | 0.32192 | 0.35606 | 49 |
| 35 | 0.14574 | 0.15027 | 0.15514 | 0.16277 | 0.17119 | 0.18102 | 0.18874 | 0.19822 | 0.20941 | 0.22249 | 0.23596 | 0.26183 | 0.29149 | 0.32272 | 0.35891 | 0.39874 | 50 |
| 36 | 0.15225 | 0.15816 | 0.16463 | 0.17389 | 0.18428 | 0.19611 | 0.20443 | 0.21432 | 0.22511 | 0.23727 | 0.24935 | 0.28186 | 0.31840 | 0.35694 | 0.40106 | 0.44805 | 51 |
| 37 | 0.15946 | 0.16654 | 0.17466 | 0.18563 | 0.19823 | 0.21231 | 0.22109 | 0.23104 | 0.24075 | 0.25085 | 0.26028 | 0.30160 | 0.34661 | 0.39434 | 0.44812 | 0.50546 | 52 |
| 38 | 0.16803 | 0.17627 | 0.18610 | 0.19880 | 0.21368 | 0.23009 | 0.23934 | 0.24927 | 0.25771 | 0.26555 | 0.27203 | 0.32206 | 0.37608 | 0.43365 | 0.49803 | 0.56239 | 53 |
| 39 | 0.17865 | 0.18817 | 0.19979 | 0.21422 | 0.23130 | 0.24991 | 0.25901 | 0.26908 | 0.27737 | 0.28370 | 0.28786 | 0.34425 | 0.40680 | 0.47359 | 0.54876 | 0.62579 | 54 |
| 40 | 0.19199 | 0.20308 | 0.21659 | 0.23268 | 0.25172 | 0.27226 | 0.28315 | 0.29377 | 0.30112 | 0.30763 | 0.31102 | 0.36919 | 0.43874 | 0.51290 | 0.59825 | 0.69197 | 55 |
| 41 | 0.20830 | 0.22133 | 0.23687 | 0.25455 | 0.27532 | 0.29753 | 0.31002 | 0.32191 | 0.33026 | 0.33965 | 0.34455 | 0.39499 | 0.46759 | 0.54413 | 0.63668 | 0.76479 | 56 |
| 42 | 0.22714 | 0.24236 | 0.26005 | 0.27930 | 0.30167 | 0.32542 | 0.34002 | 0.35371 | 0.36386 | 0.37820 | 0.38626 | 0.42096 | 0.49338 | 0.56814 | 0.66540 | 0.84452 | 57 |
| 43 | 0.24811 | 0.26569 | 0.28560 | 0.30637 | 0.33020 | 0.35531 | 0.37211 | 0.38771 | 0.39999 | 0.41982 | 0.43163 | 0.44995 | 0.52254 | 0.59608 | 0.69917 | 0.94255 | 58 |
| 44 | 0.27085 | 0.29078 | 0.31296 | 0.33521 | 0.36038 | 0.38659 | 0.40527 | 0.42244 | 0.43668 | 0.46106 | 0.47611 | 0.48481 | 0.56155 | 0.63911 | 0.75274 | 1.04984 | 59 |
| 45 | 0.29495 | 0.31714 | 0.34159 | 0.36528 | 0.39166 | 0.41068 | 0.43846 | 0.45642 | 0.47200 | 0.49846 | 0.51518 | 0.52839 | 0.61684 | 0.70841 | 0.84085 | 1.17772 | 60 |
| 46 | 0.31988 | 0.34466 | 0.37198 | 0.39741 | 0.42529 | 0.45292 | 0.47276 | 0.49026 | 0.50638 | 0.53160 | 0.54775 | 0.58378 | 0.69254 | 0.80980 | 0.97006 | 1.32417 | 61 |
| 47 | 0.34588 | 0.37366 | 0.40449 | 0.43196 | 0.46163 | 0.48972 | 0.50886 | 0.52495 | 0.54112 | 0.56279 | 0.57683 | 0.64908 | 0.78435 | 0.93586 | 1.13054 | 1.48721 | 62 |
| 48 | 0.37379 | 0.40432 | 0.43839 | 0.46769 | 0.49881 | 0.52704 | 0.54514 | 0.55956 | 0.57556 | 0.59266 | 0.60406 | 0.71966 | 0.88608 | 1.07781 | 1.31245 | 1.66789 | 63 |
| 49 | 0.40443 | 0.43683 | 0.47296 | 0.50333 | 0.53496 | 0.56285 | 0.58000 | 0.59320 | 0.60905 | 0.62182 | 0.63108 | 0.79086 | 0.99156 | 1.22689 | 1.50599 | 1.86550 | 64 |
| 50 | 0.43862 | 0.47135 | 0.50748 | 0.53764 | 0.56821 | 0.59510 | 0.61183 | 0.62495 | 0.64093 | 0.65090 | 0.65952 | 0.85806 | 1.09459 | 1.37434 | 1.70133 | 2.08444 | 65 |

Schedule F

12/12/86

HSP

FIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
MALE - PREFERRED SMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|----------|----------|----------|----------|----------|----------|----------|----------|----------|-----|
| 51 | 0.47484 | 0.50515 | 0.53773 | 0.56529 | 0.59213 | 0.61668 | 0.63353 | 0.64794 | 0.66431 | 0.67308 | 0.68246 | 0.91609 | 1.19061 | 1.51599 | 1.89457 | 2.33098 | 66 |
| 52 | 0.51254 | 0.53811 | 0.56421 | 0.58711 | 0.60796 | 0.62895 | 0.64617 | 0.66279 | 0.67962 | 0.68793 | 0.69880 | 0.96805 | 1.28374 | 1.65769 | 2.09224 | 2.60247 | 67 |
| 53 | 0.55401 | 0.57434 | 0.59321 | 0.61110 | 0.62535 | 0.64257 | 0.66040 | 0.67978 | 0.69720 | 0.70570 | 0.71894 | 1.02167 | 1.38083 | 1.80568 | 2.30022 | 2.89294 | 68 |
| 54 | 0.60152 | 0.61793 | 0.63106 | 0.64523 | 0.65395 | 0.66824 | 0.68688 | 0.70924 | 0.72741 | 0.73663 | 0.75324 | 1.08469 | 1.48875 | 1.96619 | 2.52438 | 3.20841 | 69 |
| 55 | 0.65737 | 0.67301 | 0.68406 | 0.69749 | 0.70339 | 0.71663 | 0.73624 | 0.76145 | 0.78057 | 0.79097 | 0.81209 | 1.16482 | 1.61435 | 2.14549 | 2.77057 | 3.55490 | 70 |
| 56 | 0.72118 | 0.73958 | 0.75266 | 0.76878 | 0.77449 | 0.78853 | 0.80828 | 0.83557 | 0.85532 | 0.86668 | 0.89444 | 1.25693 | 1.75598 | 2.34612 | 3.04963 | 3.97333 | 71 |
| 57 | 0.79143 | 0.81490 | 0.83265 | 0.85378 | 0.86082 | 0.87682 | 0.89591 | 0.92472 | 0.94476 | 0.95695 | 0.99337 | 1.35586 | 1.90906 | 2.56393 | 3.35765 | 4.44029 | 72 |
| 58 | 0.86868 | 0.89895 | 0.92336 | 0.95114 | 0.96116 | 0.98032 | 0.99943 | 1.03019 | 1.05096 | 1.06480 | 1.11044 | 1.46933 | 2.07608 | 2.79506 | 3.67838 | 4.92243 | 73 |
| 59 | 0.95348 | 0.99172 | 1.02414 | 1.05950 | 1.07429 | 1.09782 | 1.11916 | 1.15326 | 1.17596 | 1.19329 | 1.24724 | 1.60506 | 2.25952 | 3.03570 | 3.99558 | 5.36958 | 74 |
| 60 | 1.04639 | 1.09317 | 1.13433 | 1.17751 | 1.19899 | 1.22813 | 1.25542 | 1.29521 | 1.32182 | 1.34545 | 1.40531 | 1.77077 | 2.46186 | 3.28198 | 4.29301 | 5.75362 | 75 |
| 61 | 1.14713 | 1.20283 | 1.25315 | 1.30383 | 1.33460 | 1.37157 | 1.41051 | 1.45971 | 1.49323 | 1.52807 | 1.59047 | 1.97766 | 2.69046 | 3.53678 | 4.56726 | 6.09153 | 76 |
| 62 | 1.25532 | 1.32071 | 1.38105 | 1.43936 | 1.48192 | 1.52894 | 1.58423 | 1.64590 | 1.68881 | 1.73911 | 1.80167 | 2.22058 | 2.94366 | 3.80266 | 4.83116 | 6.39154 | 77 |
| 63 | 1.37139 | 1.44754 | 1.51918 | 1.58611 | 1.64196 | 1.69975 | 1.77310 | 1.84829 | 1.90154 | 1.96841 | 2.03021 | 2.48274 | 3.21043 | 4.07532 | 5.09281 | 6.61025 | 78 |
| 64 | 1.49577 | 1.58404 | 1.66869 | 1.74610 | 1.81572 | 1.88354 | 1.97368 | 2.06138 | 2.12441 | 2.20581 | 2.26737 | 2.74734 | 3.47975 | 4.35046 | 5.34133 | 6.78616 | 79 |
| 65 | 1.62886 | 1.73093 | 1.83073 | 1.92134 | 2.00421 | 2.07984 | 2.18249 | 2.27967 | 2.35039 | 2.44114 | 2.50445 | 2.99760 | 3.74059 | 4.62379 | 5.59182 | 6.91342 | 80 |
| 66 | 1.75416 | 1.87122 | 1.98868 | 2.09633 | 2.19146 | 2.27053 | 2.37838 | 2.47798 | 2.54906 | 2.64004 | 2.70029 | 3.18060 | 3.94171 | 4.84723 | 5.77682 | 7.10935 | 81 |
| 67 | 1.87138 | 2.00443 | 2.14176 | 2.26974 | 2.37681 | 2.45594 | 2.56366 | 2.65996 | 2.72509 | 2.80928 | 2.86070 | 3.30753 | 4.09046 | 5.02365 | 5.89794 | 7.37300 | 82 |
| 68 | 2.00530 | 2.15605 | 2.31493 | 2.46480 | 2.58419 | 2.66321 | 2.77006 | 2.86342 | 2.92412 | 3.00042 | 3.04741 | 3.45777 | 4.26371 | 5.22516 | 6.04284 | 7.70233 | 83 |
| 69 | 2.18069 | 2.35157 | 2.53311 | 2.70475 | 2.83756 | 2.91952 | 3.02932 | 3.12612 | 3.19181 | 3.26498 | 3.32217 | 3.71067 | 4.53830 | 5.52386 | 6.29921 | 7.83860 | 84 |
| 70 | 2.42233 | 2.61651 | 2.82126 | 3.01284 | 3.16084 | 3.25203 | 3.37316 | 3.48586 | 3.57377 | 3.65451 | 3.74671 | 4.14561 | 4.99110 | 5.99186 | 6.75474 | 8.32933 | 85 |
| 71 | 2.72683 | 2.95427 | 3.18691 | 3.39735 | 3.56717 | 3.67338 | 3.81167 | 3.95286 | 4.08359 | 4.17815 | 4.34050 | 4.79612 | 5.65581 | 6.66155 | 7.45646 | 9.06566 | 86 |
| 72 | 3.07768 | 3.34786 | 3.61343 | 3.84277 | 4.04057 | 4.16547 | 4.32369 | 4.50192 | 4.69083 | 4.80154 | 5.06238 | 5.60930 | 6.48120 | 7.48486 | 8.34591 | 9.85947 | 87 |
| 73 | 3.47996 | 3.79215 | 4.08952 | 4.33670 | 4.56138 | 4.70933 | 4.89410 | 5.11772 | 5.37514 | 5.51097 | 5.80315 | 6.53483 | 7.41670 | 8.41321 | 9.35254 | 10.71204 | 88 |
| 74 | 3.93872 | 4.28201 | 4.60388 | 4.86672 | 5.10989 | 5.28596 | 5.50778 | 5.78493 | 6.11618 | 6.29274 | 6.77363 | 7.52241 | 8.41175 | 9.39801 | 10.40579 | 11.60923 | 89 |
| 75 | 4.45906 | 4.81231 | 5.14519 | 5.42040 | 5.66644 | 5.87641 | 6.14959 | 6.48824 | 6.89359 | 7.13312 | 7.70463 | 8.52172 | 9.41580 | 10.39068 | 11.43510 | 12.53525 | 90 |
| 76 | 5.04096 | 5.38306 | 5.71346 | 5.99775 | 6.23102 | 6.48066 | 6.81954 | 7.22763 | 7.70737 | 8.03213 | 8.67615 | 9.53277 | 10.42884 | 11.39123 | 12.44046 | 13.49011 | 91 |
| 77 | 5.68105 | 5.99766 | 6.31622 | 6.60705 | 6.81675 | 7.11137 | 7.52772 | 8.01332 | 8.57109 | 8.99890 | 9.70765 | 10.58909 | 11.48458 | 12.43204 | 13.46893 | 14.47379 | 92 |
| 78 | 6.37933 | 6.65613 | 6.95348 | 7.24829 | 7.42363 | 7.76854 | 8.27411 | 8.84532 | 9.48475 | 10.03344 | 10.79913 | 11.69069 | 12.58302 | 13.51311 | 14.52049 | 15.48630 | 93 |
| 79 | 7.13579 | 7.35847 | 7.62524 | 7.92148 | 8.05166 | 8.45217 | 9.05873 | 9.72362 | 10.44835 | 11.13573 | 11.95058 | 12.83756 | 13.72416 | 14.63444 | 15.59516 | 16.52764 | 94 |
| 80 | 7.95043 | 8.10466 | 8.33149 | 8.62661 | 8.70084 | 9.16226 | 9.88157 | 10.64823 | 11.46189 | 12.30579 | 13.16202 | 14.02971 | 14.90800 | 15.79603 | 16.69292 | 0.00000 | 95 |

Schedule F

12/12/86

HSS

FIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
MALE - STANDARD SMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|-----|
| 15 | 0.09636 | 0.11946 | 0.15412 | 0.16047 | 0.16581 | 0.16928 | 0.16891 | 0.16560 | 0.16255 | 0.15773 | 0.15240 | 0.14754 | 0.14286 | 0.13813 | 0.13398 | 0.13063 | 30 |
| 16 | 0.11556 | 0.14979 | 0.16061 | 0.16484 | 0.16787 | 0.16929 | 0.16776 | 0.16392 | 0.16029 | 0.15537 | 0.15222 | 0.14966 | 0.14767 | 0.14620 | 0.14539 | 0.12953 | 31 |
| 17 | 0.13476 | 0.16013 | 0.16710 | 0.16920 | 0.16992 | 0.16930 | 0.16660 | 0.16224 | 0.15802 | 0.15301 | 0.15204 | 0.15179 | 0.15247 | 0.15426 | 0.15680 | 0.13037 | 32 |
| 18 | 0.15397 | 0.17046 | 0.17358 | 0.17357 | 0.17198 | 0.16931 | 0.16545 | 0.16056 | 0.15576 | 0.15064 | 0.15187 | 0.15391 | 0.15728 | 0.16233 | 0.16821 | 0.13399 | 33 |
| 19 | 0.17317 | 0.18080 | 0.18007 | 0.17793 | 0.17403 | 0.16932 | 0.16429 | 0.15888 | 0.15349 | 0.14828 | 0.15169 | 0.15604 | 0.16208 | 0.17039 | 0.17962 | 0.13872 | 34 |
| 20 | 0.19237 | 0.19113 | 0.18656 | 0.18230 | 0.17609 | 0.16933 | 0.16314 | 0.15720 | 0.15123 | 0.14592 | 0.15151 | 0.15816 | 0.16689 | 0.17846 | 0.19103 | 0.14522 | 35 |
| 21 | 0.19420 | 0.19162 | 0.18614 | 0.18142 | 0.17558 | 0.16959 | 0.16485 | 0.16028 | 0.15563 | 0.15167 | 0.15766 | 0.16407 | 0.17232 | 0.18312 | 0.19473 | 0.15404 | 36 |
| 22 | 0.19170 | 0.18781 | 0.18258 | 0.17801 | 0.17336 | 0.16964 | 0.16753 | 0.16521 | 0.16270 | 0.16073 | 0.16631 | 0.17126 | 0.17750 | 0.18559 | 0.19417 | 0.16358 | 37 |
| 23 | 0.18616 | 0.18198 | 0.17776 | 0.17336 | 0.17158 | 0.17002 | 0.17114 | 0.17141 | 0.17142 | 0.17173 | 0.17659 | 0.17970 | 0.18346 | 0.18824 | 0.19315 | 0.17618 | 38 |
| 24 | 0.17920 | 0.17641 | 0.17336 | 0.17058 | 0.17002 | 0.17169 | 0.17503 | 0.17829 | 0.18078 | 0.18333 | 0.18764 | 0.18936 | 0.19122 | 0.19338 | 0.19548 | 0.19029 | 39 |
| 25 | 0.17503 | 0.17336 | 0.17169 | 0.17002 | 0.17169 | 0.17503 | 0.18086 | 0.18530 | 0.18974 | 0.19417 | 0.19861 | 0.20020 | 0.20179 | 0.20338 | 0.20497 | 0.20656 | 40 |
| 26 | 0.17321 | 0.17169 | 0.17002 | 0.17169 | 0.17463 | 0.17937 | 0.18559 | 0.19055 | 0.19597 | 0.20145 | 0.20639 | 0.20912 | 0.21258 | 0.21655 | 0.22110 | 0.22626 | 41 |
| 27 | 0.17166 | 0.17002 | 0.17169 | 0.17503 | 0.17852 | 0.18430 | 0.18983 | 0.19443 | 0.20014 | 0.20607 | 0.21157 | 0.21614 | 0.22290 | 0.23134 | 0.24133 | 0.25011 | 42 |
| 28 | 0.17002 | 0.17169 | 0.17503 | 0.17986 | 0.18409 | 0.19089 | 0.19557 | 0.19975 | 0.20577 | 0.21223 | 0.21878 | 0.22592 | 0.23666 | 0.25026 | 0.26644 | 0.27820 | 43 |
| 29 | 0.17169 | 0.17503 | 0.17991 | 0.18668 | 0.19204 | 0.20021 | 0.20479 | 0.20931 | 0.21639 | 0.22413 | 0.23266 | 0.24314 | 0.25777 | 0.27579 | 0.29720 | 0.31190 | 44 |
| 30 | 0.17503 | 0.18086 | 0.18670 | 0.19587 | 0.20309 | 0.21330 | 0.21949 | 0.22592 | 0.23551 | 0.24595 | 0.25787 | 0.27246 | 0.29013 | 0.31045 | 0.33437 | 0.34993 | 45 |
| 31 | 0.18000 | 0.18670 | 0.19552 | 0.20670 | 0.21703 | 0.23014 | 0.24027 | 0.25078 | 0.26497 | 0.28011 | 0.29762 | 0.31741 | 0.33635 | 0.35484 | 0.37698 | 0.39037 | 46 |
| 32 | 0.18640 | 0.19534 | 0.20601 | 0.21921 | 0.23338 | 0.25002 | 0.26581 | 0.28202 | 0.30243 | 0.32382 | 0.34880 | 0.37489 | 0.39383 | 0.40729 | 0.42452 | 0.43727 | 47 |
| 33 | 0.19473 | 0.20533 | 0.21877 | 0.23422 | 0.25246 | 0.27299 | 0.29519 | 0.31784 | 0.34512 | 0.37345 | 0.40661 | 0.43958 | 0.45865 | 0.46690 | 0.47846 | 0.48706 | 48 |
| 34 | 0.20550 | 0.21806 | 0.23422 | 0.25320 | 0.27459 | 0.29911 | 0.32749 | 0.35643 | 0.39029 | 0.42540 | 0.46620 | 0.50622 | 0.52691 | 0.53275 | 0.54024 | 0.54585 | 49 |
| 35 | 0.21921 | 0.23422 | 0.25339 | 0.27507 | 0.30009 | 0.32844 | 0.36179 | 0.39599 | 0.43518 | 0.47605 | 0.52277 | 0.56949 | 0.59469 | 0.60395 | 0.61135 | 0.61208 | 50 |
| 36 | 0.23422 | 0.25339 | 0.27507 | 0.30009 | 0.32844 | 0.36103 | 0.39599 | 0.43518 | 0.47605 | 0.52277 | 0.56949 | 0.62038 | 0.65981 | 0.68079 | 0.69266 | 0.68971 | 51 |
| 37 | 0.25339 | 0.27507 | 0.30009 | 0.32844 | 0.36086 | 0.39599 | 0.43518 | 0.47605 | 0.52140 | 0.56949 | 0.62038 | 0.67378 | 0.72488 | 0.76389 | 0.78320 | 0.78147 | 52 |
| 38 | 0.27507 | 0.30009 | 0.32844 | 0.36160 | 0.39598 | 0.43518 | 0.47605 | 0.52026 | 0.56684 | 0.61792 | 0.66976 | 0.73387 | 0.79229 | 0.85277 | 0.88164 | 0.87445 | 53 |
| 39 | 0.30009 | 0.32844 | 0.36102 | 0.39599 | 0.43436 | 0.47605 | 0.52092 | 0.56773 | 0.61688 | 0.67165 | 0.72542 | 0.79229 | 0.86798 | 0.94699 | 0.98665 | 0.97937 | 54 |
| 40 | 0.32844 | 0.36179 | 0.39599 | 0.43518 | 0.47605 | 0.52277 | 0.56949 | 0.62038 | 0.67378 | 0.73387 | 0.79229 | 0.87075 | 0.95257 | 1.04609 | 1.09690 | 1.08839 | 55 |
| 41 | 0.36109 | 0.39599 | 0.43417 | 0.47605 | 0.52028 | 0.56935 | 0.62038 | 0.67378 | 0.73387 | 0.79229 | 0.87075 | 0.95257 | 1.04609 | 1.15132 | 1.25513 | 1.32558 | 56 |
| 42 | 0.39599 | 0.43518 | 0.47547 | 0.51957 | 0.56701 | 0.61762 | 0.67378 | 0.73387 | 0.79229 | 0.87075 | 0.95257 | 1.04609 | 1.15132 | 1.26326 | 1.36742 | 1.44911 | 57 |
| 43 | 0.43518 | 0.47605 | 0.52011 | 0.56647 | 0.61740 | 0.66956 | 0.73387 | 0.79229 | 0.87075 | 0.95257 | 1.04609 | 1.15132 | 1.26326 | 1.38211 | 1.48762 | 1.58438 | 58 |
| 44 | 0.47605 | 0.52238 | 0.56834 | 0.61761 | 0.67263 | 0.72712 | 0.79229 | 0.87075 | 0.95257 | 1.04609 | 1.15132 | 1.26326 | 1.38441 | 1.50050 | 1.61778 | 1.73560 | 59 |
| 45 | 0.52277 | 0.56949 | 0.62038 | 0.67378 | 0.73387 | 0.79229 | 0.86821 | 0.94805 | 1.03135 | 1.12711 | 1.23250 | 1.34509 | 1.48792 | 1.62394 | 1.76115 | 1.90689 | 60 |
| 46 | 0.56513 | 0.61771 | 0.67378 | 0.73387 | 0.79229 | 0.87075 | 0.95257 | 1.03254 | 1.11549 | 1.21121 | 1.31297 | 1.42185 | 1.59268 | 1.75401 | 1.91637 | 2.09544 | 61 |
| 47 | 0.60714 | 0.66726 | 0.73387 | 0.79229 | 0.87075 | 0.95257 | 1.04364 | 1.12082 | 1.20218 | 1.29639 | 1.39259 | 1.49568 | 1.69646 | 1.88617 | 2.07855 | 2.29508 | 62 |
| 48 | 0.65220 | 0.72017 | 0.79229 | 0.87075 | 0.95257 | 1.04364 | 1.12082 | 1.20218 | 1.29639 | 1.39259 | 1.49568 | 1.69646 | 1.88617 | 2.07855 | 2.29508 | 2.52552 | 63 |
| 49 | 0.70372 | 0.77847 | 0.86563 | 0.94925 | 1.04229 | 1.13369 | 1.20946 | 1.28858 | 1.38065 | 1.47121 | 1.56871 | 1.79708 | 2.01587 | 2.24282 | 2.49961 | 2.76931 | 64 |
| 50 | 0.76510 | 0.84421 | 0.93621 | 1.02485 | 1.12236 | 1.21899 | 1.29503 | 1.37188 | 1.46199 | 1.54869 | 1.64307 | 1.89233 | 2.13854 | 2.40430 | 2.70285 | 3.03333 | 65 |

Schedule F

12/12/86
NSSFIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
MALE - STANDARD SMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | ATT AGE |
|-----|---------|---------|---------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|------------|
| 51 | 0.83766 | 0.91697 | 1.00831 | 1.09866 | 1.19602 | 1.29389 | 1.37260 | 1.44661 | 1.53448 | 1.61950 | 1.71391 | 1.97323 | 2.24149 | 2.55063 | 2.88934 | 3.30840 | 66 |
| 52 | 0.91914 | 0.99539 | 1.08190 | 1.17159 | 1.26527 | 1.36155 | 1.44468 | 1.51464 | 1.59946 | 1.68374 | 1.77980 | 2.04125 | 2.32776 | 2.68505 | 3.06319 | 3.59705 | 67 |
| 53 | 1.00755 | 1.08009 | 1.16033 | 1.24833 | 1.33699 | 1.43043 | 1.51833 | 1.58419 | 1.66582 | 1.74969 | 1.84003 | 2.10985 | 2.41639 | 2.82612 | 3.24761 | 3.89427 | 68 |
| 54 | 1.10091 | 1.17171 | 1.24695 | 1.33357 | 1.41805 | 1.50900 | 1.60092 | 1.66345 | 1.74245 | 1.82565 | 1.92589 | 2.19250 | 2.52643 | 2.99237 | 3.46580 | 4.21099 | 69 |
| 55 | 1.19722 | 1.27087 | 1.34509 | 1.43203 | 1.51531 | 1.60573 | 1.69974 | 1.76061 | 1.83827 | 1.91990 | 2.02066 | 2.30265 | 2.67692 | 3.20234 | 3.74095 | 4.56070 | 70 |
| 56 | 1.28997 | 1.37352 | 1.45218 | 1.54188 | 1.62833 | 1.72117 | 1.81466 | 1.87586 | 1.95382 | 2.03234 | 2.13217 | 2.43663 | 2.86653 | 3.45504 | 4.07768 | 4.94853 | 71 |
| 57 | 1.38047 | 1.47924 | 1.56599 | 1.66000 | 1.75253 | 1.84966 | 1.94081 | 2.00372 | 2.08316 | 2.19745 | 2.25556 | 2.58547 | 3.08255 | 3.73810 | 4.46052 | 5.38972 | 72 |
| 58 | 1.47852 | 1.59411 | 1.69039 | 1.78910 | 1.88858 | 1.99040 | 2.07840 | 2.14394 | 2.22547 | 2.29537 | 2.39108 | 2.75467 | 3.32700 | 4.05302 | 4.88256 | 5.88695 | 73 |
| 59 | 1.59391 | 1.72420 | 1.82925 | 1.93191 | 2.03712 | 2.14256 | 2.22762 | 2.29625 | 2.37993 | 2.44626 | 2.53901 | 2.94976 | 3.60187 | 4.40128 | 5.33685 | 6.42940 | 74 |
| 60 | 1.73643 | 1.87558 | 1.98644 | 2.09113 | 2.19883 | 2.30533 | 2.38866 | 2.46038 | 2.54570 | 2.61028 | 2.69960 | 3.17624 | 3.90917 | 4.78439 | 5.81647 | 7.02990 | 75 |
| 61 | 1.92110 | 2.05972 | 2.17021 | 2.27103 | 2.37297 | 2.47262 | 2.55064 | 2.62085 | 2.70238 | 2.76241 | 2.84367 | 3.42481 | 4.25217 | 5.21733 | 6.34811 | 7.64974 | 76 |
| 62 | 2.14141 | 2.27256 | 2.37798 | 2.46981 | 2.55912 | 2.64498 | 2.71342 | 2.77782 | 2.85052 | 2.90255 | 2.97106 | 3.69178 | 4.62954 | 5.69911 | 6.93638 | 8.27796 | 77 |
| 63 | 2.37480 | 2.49691 | 2.59738 | 2.68105 | 2.75834 | 2.83153 | 2.89335 | 2.95455 | 3.02073 | 3.06822 | 3.12552 | 3.99114 | 5.03637 | 6.20724 | 7.54126 | 8.90442 | 78 |
| 64 | 2.59873 | 2.71559 | 2.81602 | 2.89839 | 2.97173 | 3.04140 | 3.10674 | 3.17426 | 3.24363 | 3.29692 | 3.35082 | 4.33683 | 5.46774 | 6.71923 | 8.12272 | 9.54779 | 79 |
| 65 | 2.79066 | 2.91139 | 3.02152 | 3.11542 | 3.20035 | 3.28370 | 3.36995 | 3.46020 | 3.54983 | 3.62618 | 3.69070 | 4.74284 | 5.91874 | 7.21258 | 8.64075 | 10.02537 | 80 |
| 66 | 2.90624 | 3.03824 | 3.16737 | 3.28730 | 3.40221 | 3.52313 | 3.65967 | 3.79903 | 3.93428 | 4.06421 | 4.15369 | 5.19405 | 6.35446 | 7.63402 | 9.01598 | 10.26135 | 81 |
| 67 | 2.96052 | 3.10759 | 3.26183 | 3.41830 | 3.57659 | 3.75360 | 3.96502 | 4.17525 | 4.37657 | 4.58601 | 4.71063 | 5.68115 | 6.77818 | 7.99853 | 9.27509 | 10.60763 | 82 |
| 68 | 3.01998 | 3.18858 | 3.37466 | 3.57567 | 3.78648 | 4.02808 | 4.32094 | 4.60887 | 4.88428 | 5.17924 | 5.34872 | 6.22680 | 7.24226 | 8.38605 | 9.53712 | 11.05479 | 83 |
| 69 | 3.15115 | 3.35031 | 3.57563 | 3.82668 | 4.09491 | 4.39954 | 4.76236 | 5.11990 | 5.46498 | 5.83158 | 6.05519 | 6.85367 | 7.79907 | 8.87649 | 9.92112 | 11.21381 | 84 |
| 70 | 3.42053 | 3.66191 | 3.93450 | 4.23860 | 4.56487 | 4.92093 | 5.32422 | 5.72835 | 6.12624 | 6.53069 | 6.81725 | 7.58444 | 8.50096 | 9.54978 | 10.54612 | 11.90384 | 85 |
| 71 | 3.87129 | 4.18168 | 4.52210 | 4.89172 | 5.29024 | 5.68317 | 6.07596 | 6.48591 | 6.90562 | 7.28516 | 7.64388 | 8.43766 | 9.37444 | 10.43957 | 11.46037 | 12.95647 | 86 |
| 72 | 4.45908 | 4.86353 | 5.29191 | 5.74122 | 6.22901 | 6.65096 | 6.99429 | 7.37924 | 7.79807 | 8.10320 | 8.54360 | 9.39821 | 10.38461 | 11.49257 | 12.58452 | 14.09130 | 87 |
| 73 | 5.11917 | 5.62003 | 6.13770 | 6.66661 | 7.24038 | 7.68792 | 7.97505 | 8.33080 | 8.74725 | 8.97195 | 9.50296 | 10.43826 | 11.49170 | 12.65832 | 13.84619 | 15.30981 | 88 |
| 74 | 5.78679 | 6.36372 | 6.95324 | 7.54746 | 8.18352 | 8.65767 | 8.91409 | 9.26305 | 9.69604 | 9.87854 | 10.50848 | 11.52998 | 12.65597 | 13.88632 | 15.17299 | 16.59209 | 89 |
| 75 | 6.39721 | 7.00716 | 7.63228 | 8.26330 | 8.91764 | 9.42305 | 9.70724 | 10.09846 | 10.59049 | 10.81011 | 11.54672 | 12.64551 | 13.83766 | 15.12609 | 16.49253 | 17.91557 | 90 |
| 76 | 6.95042 | 7.55036 | 8.17482 | 8.81413 | 9.44272 | 9.98645 | 10.35450 | 10.83703 | 11.42821 | 11.76666 | 12.61768 | 13.78487 | 15.03677 | 16.37764 | 17.80483 | 19.28025 | 91 |
| 77 | 7.48958 | 8.05160 | 8.65170 | 9.28026 | 9.85264 | 10.43639 | 10.92531 | 11.53044 | 12.24756 | 12.75676 | 13.73032 | 14.96661 | 16.27980 | 17.67462 | 19.15813 | 20.68615 | 92 |
| 78 | 8.01471 | 8.51089 | 9.06290 | 9.66168 | 10.14740 | 10.77367 | 11.41968 | 12.17870 | 13.04853 | 13.78042 | 14.88466 | 16.19073 | 17.56675 | 19.01703 | 20.55244 | 22.13325 | 93 |
| 79 | 8.52579 | 8.92823 | 9.40844 | 9.95839 | 10.32701 | 10.99829 | 11.83760 | 12.78181 | 13.83113 | 14.83763 | 16.08067 | 17.45723 | 18.89763 | 20.40487 | 21.98775 | 23.62155 | 94 |
| 80 | 9.02283 | 9.30362 | 9.68830 | 10.17041 | 10.39146 | 11.11025 | 12.17908 | 13.33977 | 14.59535 | 15.92840 | 17.31838 | 18.76611 | 20.27242 | 21.83814 | 23.46407 | 0.00000 | 95 |

Schedule F

12/18/86

FHP

FIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
FEMALE - PREFERRED NONSMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|-----|
| 15 | 0.04070 | 0.04183 | 0.04886 | 0.05092 | 0.05177 | 0.05252 | 0.05141 | 0.04988 | 0.04704 | 0.04381 | 0.04098 | 0.03835 | 0.03578 | 0.03353 | 0.03207 | 0.03045 | 30 |
| 16 | 0.04168 | 0.04778 | 0.05071 | 0.05175 | 0.05173 | 0.05172 | 0.05036 | 0.04867 | 0.04600 | 0.04321 | 0.04070 | 0.03854 | 0.03627 | 0.03454 | 0.03349 | 0.03189 | 31 |
| 17 | 0.04866 | 0.05074 | 0.05256 | 0.05258 | 0.05169 | 0.05092 | 0.04931 | 0.04745 | 0.04495 | 0.04261 | 0.04042 | 0.03873 | 0.03676 | 0.03554 | 0.03491 | 0.03239 | 32 |
| 18 | 0.05264 | 0.05369 | 0.05440 | 0.05342 | 0.05165 | 0.05011 | 0.04825 | 0.04624 | 0.04391 | 0.04201 | 0.04015 | 0.03891 | 0.03724 | 0.03655 | 0.03633 | 0.03442 | 33 |
| 19 | 0.05662 | 0.05665 | 0.05625 | 0.05425 | 0.05161 | 0.04931 | 0.04720 | 0.04502 | 0.04286 | 0.04141 | 0.03987 | 0.03910 | 0.03773 | 0.03755 | 0.03775 | 0.03695 | 34 |
| 20 | 0.06060 | 0.05960 | 0.05810 | 0.05598 | 0.05157 | 0.04851 | 0.04615 | 0.04381 | 0.04182 | 0.04081 | 0.03959 | 0.03929 | 0.03822 | 0.03856 | 0.03917 | 0.04053 | 35 |
| 21 | 0.06204 | 0.06025 | 0.05801 | 0.05457 | 0.05096 | 0.04772 | 0.04572 | 0.04378 | 0.04253 | 0.04223 | 0.04189 | 0.04197 | 0.04135 | 0.04202 | 0.04290 | 0.04374 | 36 |
| 22 | 0.06246 | 0.05989 | 0.05699 | 0.05334 | 0.04992 | 0.04672 | 0.04535 | 0.04407 | 0.04383 | 0.04436 | 0.04515 | 0.04554 | 0.04542 | 0.04633 | 0.04742 | 0.04820 | 37 |
| 23 | 0.06276 | 0.05906 | 0.05568 | 0.05201 | 0.04899 | 0.04599 | 0.04537 | 0.04486 | 0.04572 | 0.04712 | 0.04915 | 0.04987 | 0.05031 | 0.05142 | 0.05269 | 0.05341 | 38 |
| 24 | 0.06187 | 0.05831 | 0.05469 | 0.05120 | 0.04868 | 0.04602 | 0.04611 | 0.04632 | 0.04817 | 0.05044 | 0.05368 | 0.05482 | 0.05587 | 0.05724 | 0.05871 | 0.05968 | 39 |
| 25 | 0.06173 | 0.05818 | 0.05466 | 0.05153 | 0.04953 | 0.04729 | 0.04790 | 0.04864 | 0.05119 | 0.05425 | 0.05851 | 0.06025 | 0.06199 | 0.06373 | 0.06547 | 0.06721 | 40 |
| 26 | 0.06179 | 0.05882 | 0.05588 | 0.05338 | 0.05193 | 0.05022 | 0.05106 | 0.05204 | 0.05491 | 0.05879 | 0.06399 | 0.06656 | 0.06906 | 0.07122 | 0.07319 | 0.07610 | 41 |
| 27 | 0.06178 | 0.05986 | 0.05792 | 0.05634 | 0.05553 | 0.05448 | 0.05538 | 0.05641 | 0.05935 | 0.06411 | 0.07026 | 0.07383 | 0.07716 | 0.07976 | 0.08187 | 0.08537 | 42 |
| 28 | 0.06173 | 0.06109 | 0.06036 | 0.05983 | 0.05974 | 0.05946 | 0.06037 | 0.06140 | 0.06429 | 0.06985 | 0.07681 | 0.08149 | 0.08570 | 0.08884 | 0.09119 | 0.09452 | 43 |
| 29 | 0.06171 | 0.06228 | 0.06275 | 0.06328 | 0.06395 | 0.06450 | 0.06555 | 0.06667 | 0.06950 | 0.07566 | 0.08314 | 0.08893 | 0.09410 | 0.09796 | 0.10079 | 0.10371 | 44 |
| 30 | 0.06177 | 0.06322 | 0.06466 | 0.06611 | 0.06755 | 0.06900 | 0.07044 | 0.07189 | 0.07478 | 0.08116 | 0.08872 | 0.09558 | 0.10177 | 0.10662 | 0.11035 | 0.11347 | 45 |
| 31 | 0.06157 | 0.06345 | 0.06558 | 0.06781 | 0.07012 | 0.07262 | 0.07490 | 0.07708 | 0.08021 | 0.08629 | 0.09324 | 0.10122 | 0.10848 | 0.11468 | 0.11985 | 0.12480 | 46 |
| 32 | 0.06109 | 0.06313 | 0.06580 | 0.06876 | 0.07204 | 0.07579 | 0.07926 | 0.08246 | 0.08594 | 0.09129 | 0.09704 | 0.10623 | 0.11463 | 0.12248 | 0.12951 | 0.13634 | 47 |
| 33 | 0.06081 | 0.06292 | 0.06609 | 0.06974 | 0.07399 | 0.07898 | 0.08371 | 0.08800 | 0.09183 | 0.09627 | 0.10060 | 0.11095 | 0.12055 | 0.13022 | 0.13936 | 0.14877 | 48 |
| 34 | 0.06123 | 0.06352 | 0.06719 | 0.07149 | 0.07661 | 0.08268 | 0.08848 | 0.09365 | 0.09776 | 0.10134 | 0.10440 | 0.11570 | 0.12659 | 0.13812 | 0.14940 | 0.16092 | 49 |
| 35 | 0.06283 | 0.06560 | 0.06988 | 0.07478 | 0.08057 | 0.08738 | 0.09376 | 0.09937 | 0.10359 | 0.10661 | 0.10893 | 0.12080 | 0.13307 | 0.14639 | 0.15964 | 0.17368 | 50 |
| 36 | 0.06580 | 0.06953 | 0.07461 | 0.08010 | 0.08630 | 0.09342 | 0.09970 | 0.10507 | 0.10912 | 0.11187 | 0.11406 | 0.12602 | 0.14000 | 0.15505 | 0.16973 | 0.18810 | 51 |
| 37 | 0.06982 | 0.07486 | 0.08086 | 0.08693 | 0.09337 | 0.10048 | 0.10615 | 0.11078 | 0.11442 | 0.11705 | 0.11947 | 0.13113 | 0.14714 | 0.16395 | 0.17946 | 0.20233 | 52 |
| 38 | 0.07460 | 0.08103 | 0.08797 | 0.09455 | 0.10111 | 0.10804 | 0.11292 | 0.11662 | 0.11983 | 0.12247 | 0.12534 | 0.13651 | 0.15451 | 0.17307 | 0.18997 | 0.21767 | 53 |
| 39 | 0.07988 | 0.08751 | 0.09522 | 0.10224 | 0.10906 | 0.11556 | 0.11978 | 0.12274 | 0.12565 | 0.12844 | 0.13188 | 0.14250 | 0.16212 | 0.18240 | 0.20117 | 0.23349 | 54 |
| 40 | 0.08536 | 0.09376 | 0.10194 | 0.10927 | 0.11595 | 0.12254 | 0.12654 | 0.12925 | 0.13221 | 0.13531 | 0.13926 | 0.14948 | 0.16998 | 0.19190 | 0.21332 | 0.25014 | 55 |
| 41 | 0.09085 | 0.09939 | 0.10761 | 0.11506 | 0.12175 | 0.12828 | 0.13262 | 0.13571 | 0.13914 | 0.14273 | 0.14693 | 0.15680 | 0.17706 | 0.20043 | 0.22719 | 0.26855 | 56 |
| 42 | 0.09652 | 0.10477 | 0.11270 | 0.12010 | 0.12669 | 0.13315 | 0.13816 | 0.14204 | 0.14623 | 0.15049 | 0.15477 | 0.16423 | 0.18336 | 0.20801 | 0.24094 | 0.28755 | 57 |
| 43 | 0.10269 | 0.11047 | 0.11796 | 0.12526 | 0.13173 | 0.13814 | 0.14402 | 0.14890 | 0.15403 | 0.15909 | 0.16361 | 0.17271 | 0.19041 | 0.21635 | 0.25612 | 0.31001 | 58 |
| 44 | 0.10968 | 0.11704 | 0.12416 | 0.13140 | 0.13785 | 0.14430 | 0.15105 | 0.15697 | 0.16309 | 0.16902 | 0.17428 | 0.18320 | 0.19976 | 0.22720 | 0.27380 | 0.33393 | 59 |
| 45 | 0.11780 | 0.12506 | 0.13207 | 0.13941 | 0.14600 | 0.15263 | 0.16012 | 0.16689 | 0.17396 | 0.18079 | 0.18761 | 0.19666 | 0.21295 | 0.24227 | 0.29505 | 0.39006 | 60 |
| 46 | 0.12708 | 0.13471 | 0.14202 | 0.14973 | 0.15679 | 0.16369 | 0.17166 | 0.17921 | 0.18737 | 0.19534 | 0.20541 | 0.21482 | 0.23164 | 0.26286 | 0.32019 | 0.42442 | 61 |
| 47 | 0.13730 | 0.14561 | 0.15350 | 0.16179 | 0.16957 | 0.17680 | 0.18511 | 0.19349 | 0.20296 | 0.21236 | 0.22212 | 0.23706 | 0.25481 | 0.28782 | 0.34852 | 0.45970 | 62 |
| 48 | 0.14843 | 0.15748 | 0.16601 | 0.17490 | 0.18344 | 0.19113 | 0.19980 | 0.20892 | 0.21962 | 0.23039 | 0.25003 | 0.26076 | 0.27995 | 0.31522 | 0.37954 | 0.49720 | 63 |
| 49 | 0.16043 | 0.17006 | 0.17904 | 0.18838 | 0.19748 | 0.20585 | 0.21505 | 0.22470 | 0.23627 | 0.24801 | 0.27144 | 0.28329 | 0.30456 | 0.34311 | 0.41276 | 0.53908 | 64 |
| 50 | 0.17326 | 0.18305 | 0.19210 | 0.20155 | 0.21080 | 0.22012 | 0.23021 | 0.24004 | 0.25181 | 0.26379 | 0.28864 | 0.30204 | 0.32615 | 0.36956 | 0.44769 | 0.58833 | 65 |

Schedule F

1/18/86
FNPFIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
FEMALE - PREFERRED NONSMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | ATT AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|----------|----------|----------|----------|----------|------------|
| 51 | 0.18690 | 0.19612 | 0.20451 | 0.21345 | 0.22210 | 0.23288 | 0.24442 | 0.25372 | 0.26451 | 0.27539 | 0.29835 | 0.31373 | 0.34142 | 0.39127 | 0.48100 | 0.64350 | 66 |
| 52 | 0.20139 | 0.20945 | 0.21660 | 0.22455 | 0.23199 | 0.24169 | 0.25814 | 0.26627 | 0.27510 | 0.28377 | 0.30237 | 0.32012 | 0.35205 | 0.40954 | 0.51302 | 0.70393 | 67 |
| 53 | 0.21674 | 0.22357 | 0.22939 | 0.23625 | 0.24239 | 0.25713 | 0.27263 | 0.27952 | 0.28618 | 0.29243 | 0.30563 | 0.32610 | 0.36296 | 0.42931 | 0.54874 | 0.76951 | 68 |
| 54 | 0.23298 | 0.23897 | 0.24389 | 0.25001 | 0.25525 | 0.27182 | 0.28915 | 0.29527 | 0.30034 | 0.30485 | 0.31302 | 0.33681 | 0.37909 | 0.45553 | 0.59315 | 0.84567 | 69 |
| 55 | 0.25014 | 0.25619 | 0.26110 | 0.26723 | 0.27249 | 0.29034 | 0.30897 | 0.31535 | 0.32019 | 0.32453 | 0.32946 | 0.35656 | 0.40535 | 0.49316 | 0.65123 | 0.93575 | 70 |
| 56 | 0.26693 | 0.27417 | 0.28019 | 0.28723 | 0.29359 | 0.31179 | 0.33052 | 0.33803 | 0.34380 | 0.34938 | 0.35268 | 0.38319 | 0.43831 | 0.53780 | 0.71744 | 1.04263 | 71 |
| 57 | 0.28334 | 0.29258 | 0.30049 | 0.30904 | 0.31725 | 0.33511 | 0.35296 | 0.36209 | 0.36945 | 0.37706 | 0.37942 | 0.41324 | 0.47467 | 0.58616 | 0.78844 | 1.16314 | 72 |
| 58 | 0.30130 | 0.31297 | 0.32325 | 0.33373 | 0.34427 | 0.36166 | 0.37863 | 0.39012 | 0.40000 | 0.41072 | 0.41306 | 0.45082 | 0.51961 | 0.64482 | 0.87257 | 1.30251 | 73 |
| 59 | 0.32272 | 0.33693 | 0.34972 | 0.36232 | 0.37543 | 0.39278 | 0.40991 | 0.42474 | 0.43836 | 0.45349 | 0.45701 | 0.50006 | 0.57829 | 0.72035 | 0.97815 | 1.46158 | 74 |
| 60 | 0.34955 | 0.36602 | 0.38116 | 0.39587 | 0.41153 | 0.42983 | 0.44915 | 0.46852 | 0.48740 | 0.50849 | 0.51466 | 0.56510 | 0.65590 | 0.81934 | 1.11352 | 1.64305 | 75 |
| 61 | 0.37886 | 0.39717 | 0.41445 | 0.43123 | 0.44954 | 0.47031 | 0.49460 | 0.52056 | 0.54736 | 0.57748 | 0.58821 | 0.64901 | 0.75643 | 0.94628 | 1.28203 | 1.86774 | 76 |
| 62 | 0.40937 | 0.42934 | 0.44874 | 0.46770 | 0.48894 | 0.51332 | 0.54470 | 0.57912 | 0.61632 | 0.65836 | 0.67539 | 0.74905 | 0.87643 | 1.09678 | 1.47813 | 2.12312 | 77 |
| 63 | 0.44546 | 0.46712 | 0.48873 | 0.51000 | 0.53426 | 0.56261 | 0.60205 | 0.64557 | 0.69391 | 0.74852 | 0.77291 | 0.86059 | 1.00990 | 1.26411 | 1.69678 | 2.42333 | 78 |
| 64 | 0.49149 | 0.51513 | 0.53910 | 0.56285 | 0.59091 | 0.62193 | 0.66928 | 0.72130 | 0.77980 | 0.84533 | 0.87749 | 0.97900 | 1.15083 | 1.44151 | 1.93295 | 2.76078 | 79 |
| 65 | 0.55185 | 0.57797 | 0.60453 | 0.63098 | 0.66072 | 0.69503 | 0.74899 | 0.80767 | 0.87361 | 0.94618 | 0.98583 | 1.09968 | 1.29323 | 1.62226 | 2.18161 | 3.13250 | 80 |
| 66 | 0.62847 | 0.65591 | 0.68323 | 0.70996 | 0.73876 | 0.77038 | 0.82681 | 0.88711 | 0.95429 | 1.02578 | 1.06650 | 1.19127 | 1.40669 | 1.77902 | 2.42334 | 3.53659 | 81 |
| 67 | 0.71843 | 0.74588 | 0.77203 | 0.79665 | 0.82110 | 0.84548 | 0.90098 | 0.95870 | 1.02208 | 1.08588 | 1.12168 | 1.25685 | 1.49521 | 1.91628 | 2.66151 | 3.97922 | 82 |
| 68 | 0.81883 | 0.84747 | 0.87369 | 0.89767 | 0.91921 | 0.93763 | 0.99309 | 1.04881 | 1.10857 | 1.16440 | 1.19855 | 1.34344 | 1.60439 | 2.07505 | 2.92522 | 4.46391 | 83 |
| 69 | 0.92676 | 0.96028 | 0.99096 | 1.01966 | 1.04453 | 1.06413 | 1.12472 | 1.18380 | 1.24535 | 1.29927 | 1.34424 | 1.49807 | 1.77984 | 2.29631 | 3.24361 | 4.98470 | 84 |
| 70 | 1.03932 | 1.08391 | 1.12661 | 1.16923 | 1.20850 | 1.24229 | 1.31742 | 1.39003 | 1.46400 | 1.52843 | 1.60591 | 1.76775 | 2.06716 | 2.62106 | 3.64578 | 5.54152 | 85 |
| 71 | 1.13396 | 1.19540 | 1.25774 | 1.32443 | 1.39084 | 1.45421 | 1.55382 | 1.65044 | 1.74706 | 1.83415 | 1.97576 | 2.13624 | 2.44372 | 3.02520 | 4.11345 | 6.12501 | 86 |
| 72 | 1.21263 | 1.29503 | 1.38251 | 1.48082 | 1.58393 | 1.68834 | 1.81952 | 1.94747 | 2.07346 | 2.19115 | 2.42234 | 2.57219 | 2.87912 | 3.48138 | 4.62720 | 6.74671 | 87 |
| 73 | 1.30912 | 1.41722 | 1.53526 | 1.67138 | 1.81818 | 1.97155 | 2.14062 | 2.30669 | 2.46942 | 2.62600 | 2.95737 | 3.09997 | 3.40730 | 4.02579 | 5.21447 | 7.43127 | 88 |
| 74 | 1.45728 | 1.59640 | 1.75033 | 1.92904 | 2.12402 | 2.33069 | 2.54321 | 2.75370 | 2.96114 | 3.16528 | 3.59257 | 3.74394 | 4.06219 | 4.69458 | 5.90270 | 8.15911 | 89 |
| 75 | 1.69090 | 1.86700 | 2.06204 | 2.28677 | 2.53188 | 2.79262 | 3.05336 | 3.31410 | 3.57484 | 3.83558 | 4.33965 | 4.52846 | 4.87774 | 5.52391 | 6.71931 | 8.93087 | 90 |
| 76 | 2.00999 | 2.22902 | 2.47040 | 2.74456 | 3.04175 | 3.35734 | 3.67108 | 3.98789 | 4.31052 | 4.63689 | 5.19860 | 5.45354 | 5.85374 | 6.51379 | 7.66438 | 9.74714 | 91 |
| 77 | 2.39201 | 2.65951 | 2.95251 | 3.28045 | 3.63336 | 4.00695 | 4.37899 | 4.75800 | 5.15070 | 5.55148 | 6.16163 | 6.50292 | 6.96816 | 7.64011 | 8.71953 | 10.60856 | 92 |
| 78 | 2.83696 | 3.15847 | 3.50838 | 3.89444 | 4.30669 | 4.74145 | 5.17707 | 5.62443 | 6.09538 | 6.57937 | 7.22872 | 7.67662 | 8.22011 | 8.90286 | 9.88480 | 11.45582 | 93 |
| 79 | 3.34482 | 3.72590 | 4.13800 | 4.58652 | 5.06176 | 5.56083 | 6.06533 | 6.58719 | 7.14456 | 7.72055 | 8.39988 | 8.97463 | 9.61069 | 10.30206 | 11.16017 | 12.33998 | 94 |
| 80 | 3.91562 | 4.36179 | 4.84139 | 5.35670 | 5.89856 | 6.46510 | 7.04376 | 7.64627 | 8.29825 | 8.97503 | 9.67510 | 10.39695 | 11.13879 | 11.83768 | 12.54565 | 0.00000 | 95 |

Schedule F

682

12/18/86
FHSFIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
FEMALE - STANDARD NONSMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|-----|
| 0 | 0.12083 | 0.04449 | 0.03950 | 0.03469 | 0.03009 | 0.02688 | 0.02399 | 0.02119 | 0.02093 | 0.02068 | 0.02155 | 0.02311 | 0.02559 | 0.02796 | 0.03616 | 0.03501 | 15 |
| 1 | 0.05337 | 0.04550 | 0.03984 | 0.03503 | 0.03039 | 0.02816 | 0.02624 | 0.02464 | 0.02504 | 0.02510 | 0.02605 | 0.02755 | 0.02979 | 0.03194 | 0.03875 | 0.03931 | 16 |
| 2 | 0.05456 | 0.04651 | 0.04018 | 0.03537 | 0.03069 | 0.02943 | 0.02850 | 0.02810 | 0.02915 | 0.02951 | 0.03054 | 0.03199 | 0.03398 | 0.03591 | 0.04134 | 0.04370 | 17 |
| 3 | 0.05574 | 0.04752 | 0.04051 | 0.03572 | 0.03099 | 0.03071 | 0.03075 | 0.03155 | 0.03327 | 0.03393 | 0.03504 | 0.03642 | 0.03818 | 0.03989 | 0.04393 | 0.04660 | 18 |
| 4 | 0.05693 | 0.04853 | 0.04085 | 0.03606 | 0.03129 | 0.03198 | 0.03301 | 0.03501 | 0.03738 | 0.03834 | 0.03953 | 0.04086 | 0.04237 | 0.04386 | 0.04652 | 0.04849 | 19 |
| 5 | 0.05811 | 0.04954 | 0.04119 | 0.03640 | 0.03159 | 0.03326 | 0.03526 | 0.03846 | 0.04149 | 0.04276 | 0.04403 | 0.04530 | 0.04657 | 0.04784 | 0.04911 | 0.05038 | 20 |
| 6 | 0.05526 | 0.04829 | 0.04134 | 0.03764 | 0.03390 | 0.03598 | 0.03826 | 0.04154 | 0.04397 | 0.04497 | 0.04603 | 0.04705 | 0.04801 | 0.04898 | 0.04958 | 0.05072 | 21 |
| 7 | 0.05035 | 0.04584 | 0.04129 | 0.03921 | 0.03709 | 0.03938 | 0.04167 | 0.04458 | 0.04584 | 0.04630 | 0.04703 | 0.04772 | 0.04833 | 0.04896 | 0.04916 | 0.05070 | 22 |
| 8 | 0.04498 | 0.04319 | 0.04136 | 0.04103 | 0.04068 | 0.04301 | 0.04512 | 0.04739 | 0.04726 | 0.04707 | 0.04742 | 0.04773 | 0.04800 | 0.04826 | 0.04826 | 0.04938 | 23 |
| 9 | 0.04073 | 0.04130 | 0.04187 | 0.04304 | 0.04418 | 0.04641 | 0.04823 | 0.04979 | 0.04839 | 0.04761 | 0.04758 | 0.04752 | 0.04746 | 0.04740 | 0.04725 | 0.04764 | 24 |
| 10 | 0.03917 | 0.04116 | 0.04313 | 0.04514 | 0.04712 | 0.04911 | 0.05060 | 0.05159 | 0.04941 | 0.04823 | 0.04789 | 0.04754 | 0.04720 | 0.04685 | 0.04651 | 0.04616 | 25 |
| 11 | 0.04125 | 0.04342 | 0.04558 | 0.04754 | 0.04950 | 0.05106 | 0.05211 | 0.05262 | 0.05026 | 0.04892 | 0.04834 | 0.04773 | 0.04713 | 0.04649 | 0.04585 | 0.04528 | 26 |
| 12 | 0.04590 | 0.04742 | 0.04895 | 0.05030 | 0.05166 | 0.05257 | 0.05301 | 0.05302 | 0.05083 | 0.04946 | 0.04868 | 0.04781 | 0.04694 | 0.04599 | 0.04502 | 0.04435 | 27 |
| 13 | 0.05173 | 0.05220 | 0.05267 | 0.05311 | 0.05356 | 0.05372 | 0.05350 | 0.05302 | 0.05119 | 0.04988 | 0.04892 | 0.04784 | 0.04676 | 0.04555 | 0.04430 | 0.04367 | 28 |
| 14 | 0.05733 | 0.05675 | 0.05618 | 0.05567 | 0.05518 | 0.05460 | 0.05379 | 0.05289 | 0.05144 | 0.05021 | 0.04911 | 0.04790 | 0.04668 | 0.04537 | 0.04401 | 0.04395 | 29 |
| 15 | 0.06130 | 0.06010 | 0.05889 | 0.05769 | 0.05648 | 0.05528 | 0.05407 | 0.05287 | 0.05166 | 0.05046 | 0.04925 | 0.04805 | 0.04684 | 0.04564 | 0.04443 | 0.04406 | 30 |
| 16 | 0.06342 | 0.06212 | 0.06072 | 0.05909 | 0.05738 | 0.05564 | 0.05422 | 0.05286 | 0.05165 | 0.05039 | 0.04903 | 0.04799 | 0.04690 | 0.04609 | 0.04537 | 0.04601 | 31 |
| 17 | 0.06461 | 0.06345 | 0.06207 | 0.06007 | 0.05790 | 0.05563 | 0.05411 | 0.05268 | 0.05137 | 0.04997 | 0.04843 | 0.04767 | 0.04678 | 0.04660 | 0.04662 | 0.04736 | 32 |
| 18 | 0.06523 | 0.06431 | 0.06303 | 0.06075 | 0.05817 | 0.05543 | 0.05392 | 0.05251 | 0.05110 | 0.04960 | 0.04793 | 0.04755 | 0.04699 | 0.04757 | 0.04849 | 0.05041 | 33 |
| 19 | 0.06558 | 0.06489 | 0.06375 | 0.06123 | 0.05832 | 0.05525 | 0.05385 | 0.05252 | 0.05110 | 0.04963 | 0.04804 | 0.04811 | 0.04799 | 0.04939 | 0.05128 | 0.05119 | 34 |
| 20 | 0.06600 | 0.06540 | 0.06432 | 0.06163 | 0.05847 | 0.05528 | 0.05407 | 0.05287 | 0.05166 | 0.05046 | 0.04925 | 0.04981 | 0.05030 | 0.05249 | 0.05531 | 0.05953 | 35 |
| 21 | 0.06643 | 0.06568 | 0.06458 | 0.06173 | 0.05833 | 0.05520 | 0.05433 | 0.05330 | 0.05259 | 0.05200 | 0.05170 | 0.05290 | 0.05427 | 0.05724 | 0.06084 | 0.06163 | 36 |
| 22 | 0.06667 | 0.06562 | 0.06445 | 0.06146 | 0.05780 | 0.05487 | 0.05449 | 0.05370 | 0.05372 | 0.05400 | 0.05507 | 0.05706 | 0.05957 | 0.06336 | 0.06767 | 0.07155 | 37 |
| 23 | 0.06678 | 0.06541 | 0.06419 | 0.06113 | 0.05735 | 0.05478 | 0.05497 | 0.05446 | 0.05530 | 0.05658 | 0.05914 | 0.06193 | 0.06567 | 0.07030 | 0.07540 | 0.07956 | 38 |
| 24 | 0.06684 | 0.06527 | 0.06406 | 0.06108 | 0.05742 | 0.05542 | 0.05615 | 0.05600 | 0.05764 | 0.05985 | 0.06367 | 0.06716 | 0.07199 | 0.07747 | 0.08359 | 0.08917 | 39 |
| 25 | 0.06693 | 0.06540 | 0.06432 | 0.06163 | 0.05847 | 0.05728 | 0.05843 | 0.05873 | 0.06100 | 0.06394 | 0.06846 | 0.07239 | 0.07799 | 0.08433 | 0.09185 | 0.10065 | 40 |
| 26 | 0.06674 | 0.06555 | 0.06470 | 0.06253 | 0.06043 | 0.06044 | 0.06182 | 0.06270 | 0.06545 | 0.06809 | 0.07335 | 0.07726 | 0.08302 | 0.09000 | 0.09950 | 0.11410 | 41 |
| 27 | 0.06621 | 0.06558 | 0.06503 | 0.06358 | 0.06300 | 0.06457 | 0.06606 | 0.06761 | 0.07081 | 0.07463 | 0.07848 | 0.08202 | 0.08743 | 0.09486 | 0.10682 | 0.12824 | 42 |
| 28 | 0.06582 | 0.06588 | 0.06571 | 0.06513 | 0.06628 | 0.06956 | 0.07113 | 0.07346 | 0.07697 | 0.08108 | 0.08409 | 0.08719 | 0.09223 | 0.10021 | 0.11481 | 0.14229 | 43 |
| 29 | 0.06601 | 0.06680 | 0.06714 | 0.06751 | 0.07035 | 0.07526 | 0.07703 | 0.08009 | 0.08384 | 0.08815 | 0.09039 | 0.09331 | 0.09837 | 0.10734 | 0.12447 | 0.15645 | 44 |
| 30 | 0.06727 | 0.06871 | 0.06972 | 0.07108 | 0.07532 | 0.08156 | 0.08376 | 0.08743 | 0.09133 | 0.09577 | 0.09761 | 0.10091 | 0.10685 | 0.11756 | 0.13682 | 0.17150 | 45 |
| 31 | 0.06986 | 0.07186 | 0.07377 | 0.07625 | 0.08162 | 0.08872 | 0.09192 | 0.09607 | 0.09991 | 0.10433 | 0.10814 | 0.11063 | 0.11874 | 0.13235 | 0.15292 | 0.18817 | 46 |
| 32 | 0.07348 | 0.07599 | 0.07902 | 0.08279 | 0.08918 | 0.09742 | 0.10150 | 0.10607 | 0.10965 | 0.11395 | 0.11584 | 0.12211 | 0.13337 | 0.15086 | 0.17209 | 0.20509 | 47 |
| 33 | 0.07771 | 0.08075 | 0.08499 | 0.09007 | 0.09736 | 0.10637 | 0.11162 | 0.11655 | 0.11982 | 0.12393 | 0.12610 | 0.13440 | 0.14916 | 0.17083 | 0.19275 | 0.22322 | 48 |
| 34 | 0.08213 | 0.08578 | 0.09119 | 0.09748 | 0.10548 | 0.11506 | 0.12136 | 0.12663 | 0.12971 | 0.13367 | 0.13633 | 0.14654 | 0.16447 | 0.19005 | 0.21327 | 0.24122 | 49 |
| 35 | 0.08632 | 0.09074 | 0.09716 | 0.10438 | 0.11289 | 0.12279 | 0.12985 | 0.13542 | 0.13859 | 0.14255 | 0.14592 | 0.15757 | 0.17771 | 0.20626 | 0.23205 | 0.26049 | 50 |

Schedule F

2/18/86

FHS

FIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
FEMALE - STANDARD NONSMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|-----|
| 36 | 0.08940 | 0.09497 | 0.10235 | 0.11029 | 0.11910 | 0.12903 | 0.13649 | 0.14239 | 0.14607 | 0.15025 | 0.15488 | 0.16746 | 0.18851 | 0.21871 | 0.24844 | 0.28206 | 51 |
| 37 | 0.09166 | 0.09870 | 0.10710 | 0.11563 | 0.12454 | 0.13423 | 0.14188 | 0.14811 | 0.15263 | 0.15720 | 0.16362 | 0.17686 | 0.19793 | 0.22888 | 0.26350 | 0.30379 | 52 |
| 38 | 0.09440 | 0.10291 | 0.11218 | 0.12112 | 0.12995 | 0.13922 | 0.14689 | 0.15342 | 0.15886 | 0.16385 | 0.17212 | 0.18580 | 0.20654 | 0.23793 | 0.27823 | 0.32775 | 53 |
| 39 | 0.09896 | 0.10858 | 0.11840 | 0.12749 | 0.13609 | 0.14479 | 0.15241 | 0.15911 | 0.16533 | 0.17066 | 0.18036 | 0.19432 | 0.21487 | 0.24700 | 0.29380 | 0.35285 | 54 |
| 40 | 0.10665 | 0.11668 | 0.12655 | 0.13548 | 0.14368 | 0.15178 | 0.15930 | 0.16602 | 0.17265 | 0.17809 | 0.18834 | 0.20245 | 0.22347 | 0.25724 | 0.31061 | 0.37966 | 55 |
| 41 | 0.11847 | 0.12781 | 0.13688 | 0.14504 | 0.15245 | 0.15971 | 0.16698 | 0.17338 | 0.17984 | 0.18499 | 0.19435 | 0.20847 | 0.23078 | 0.26730 | 0.32812 | 0.40907 | 56 |
| 42 | 0.13354 | 0.14133 | 0.14886 | 0.15568 | 0.16189 | 0.16804 | 0.17488 | 0.18066 | 0.18651 | 0.19105 | 0.19840 | 0.21235 | 0.23643 | 0.27641 | 0.34547 | 0.43994 | 57 |
| 43 | 0.15037 | 0.15632 | 0.16211 | 0.16747 | 0.17244 | 0.17746 | 0.18385 | 0.18897 | 0.19411 | 0.19799 | 0.20304 | 0.21668 | 0.24277 | 0.28660 | 0.36437 | 0.47572 | 58 |
| 44 | 0.16745 | 0.17189 | 0.17626 | 0.18047 | 0.18452 | 0.18868 | 0.19478 | 0.19946 | 0.20408 | 0.20756 | 0.21082 | 0.22405 | 0.25213 | 0.29990 | 0.38652 | 0.51397 | 59 |
| 45 | 0.18330 | 0.18712 | 0.19093 | 0.19475 | 0.19856 | 0.20238 | 0.20853 | 0.21325 | 0.21787 | 0.22148 | 0.22430 | 0.23704 | 0.26687 | 0.31836 | 0.41361 | 0.58982 | 60 |
| 46 | 0.19730 | 0.20180 | 0.20634 | 0.21094 | 0.21550 | 0.21972 | 0.22641 | 0.23192 | 0.23739 | 0.24195 | 0.24633 | 0.25805 | 0.28902 | 0.34336 | 0.44590 | 0.64141 | 61 |
| 47 | 0.21044 | 0.21653 | 0.22273 | 0.22899 | 0.23507 | 0.24024 | 0.24782 | 0.25471 | 0.26166 | 0.26781 | 0.27521 | 0.28537 | 0.31703 | 0.37355 | 0.48225 | 0.69483 | 62 |
| 48 | 0.22365 | 0.23164 | 0.23979 | 0.24796 | 0.25583 | 0.26220 | 0.27084 | 0.27927 | 0.28784 | 0.29577 | 0.30666 | 0.31538 | 0.34782 | 0.40684 | 0.52229 | 0.75156 | 63 |
| 49 | 0.23786 | 0.24745 | 0.25719 | 0.26691 | 0.27636 | 0.28388 | 0.29349 | 0.30321 | 0.31306 | 0.32253 | 0.33637 | 0.34449 | 0.37833 | 0.44113 | 0.56565 | 0.81418 | 64 |
| 50 | 0.25400 | 0.26431 | 0.27462 | 0.28492 | 0.29523 | 0.30354 | 0.31385 | 0.32416 | 0.33447 | 0.34477 | 0.36008 | 0.36909 | 0.40550 | 0.47432 | 0.61195 | 0.88722 | 65 |
| 51 | 0.27170 | 0.28132 | 0.29059 | 0.29989 | 0.30994 | 0.31855 | 0.32902 | 0.33871 | 0.34782 | 0.35779 | 0.37207 | 0.38440 | 0.42409 | 0.50077 | 0.65541 | 0.96830 | 66 |
| 52 | 0.29034 | 0.29827 | 0.30531 | 0.31244 | 0.32144 | 0.33007 | 0.34030 | 0.34844 | 0.35503 | 0.36380 | 0.37522 | 0.39283 | 0.43613 | 0.52187 | 0.69627 | 1.05715 | 67 |
| 53 | 0.31048 | 0.31648 | 0.32101 | 0.32571 | 0.33349 | 0.34204 | 0.35202 | 0.35847 | 0.36244 | 0.36985 | 0.37805 | 0.40154 | 0.44950 | 0.54609 | 0.74323 | 1.15385 | 68 |
| 54 | 0.33267 | 0.33728 | 0.33994 | 0.34283 | 0.34981 | 0.35843 | 0.36851 | 0.37393 | 0.37643 | 0.38302 | 0.38913 | 0.41772 | 0.47204 | 0.58191 | 0.80496 | 1.26481 | 69 |
| 55 | 0.35747 | 0.36198 | 0.36431 | 0.36692 | 0.37417 | 0.38318 | 0.39409 | 0.39995 | 0.40336 | 0.41038 | 0.41699 | 0.44853 | 0.51162 | 0.63780 | 0.89015 | 1.39485 | 70 |
| 56 | 0.38239 | 0.38867 | 0.39291 | 0.39754 | 0.40659 | 0.41642 | 0.42920 | 0.43758 | 0.44537 | 0.45396 | 0.46359 | 0.49246 | 0.56697 | 0.71218 | 0.99533 | 1.54805 | 71 |
| 57 | 0.40707 | 0.41646 | 0.42424 | 0.43261 | 0.44457 | 0.45551 | 0.47096 | 0.48340 | 0.49822 | 0.50906 | 0.52324 | 0.54472 | 0.63284 | 0.79942 | 1.11472 | 1.72171 | 72 |
| 58 | 0.43523 | 0.44825 | 0.46015 | 0.47279 | 0.48807 | 0.50026 | 0.51871 | 0.53583 | 0.55869 | 0.57260 | 0.59299 | 0.60760 | 0.71115 | 0.90186 | 1.25351 | 1.92281 | 73 |
| 59 | 0.47059 | 0.48690 | 0.50248 | 0.51875 | 0.53704 | 0.55050 | 0.57180 | 0.59331 | 0.62356 | 0.64155 | 0.66992 | 0.68337 | 0.80380 | 1.02186 | 1.41691 | 2.15328 | 74 |
| 60 | 0.51686 | 0.53530 | 0.55307 | 0.57115 | 0.59143 | 0.60605 | 0.62957 | 0.65426 | 0.68962 | 0.71285 | 0.75108 | 0.77431 | 0.91269 | 1.16178 | 1.61013 | 2.41717 | 75 |
| 61 | 0.57918 | 0.59763 | 0.61482 | 0.63120 | 0.65110 | 0.66556 | 0.68826 | 0.71192 | 0.74640 | 0.77381 | 0.82609 | 0.87550 | 1.03245 | 1.31589 | 1.82768 | 2.73939 | 76 |
| 62 | 0.65505 | 0.67195 | 0.68651 | 0.69845 | 0.71610 | 0.72916 | 0.74831 | 0.76735 | 0.79605 | 0.82648 | 0.89692 | 0.98542 | 1.16180 | 1.48263 | 2.06611 | 3.10649 | 77 |
| 63 | 0.73681 | 0.75202 | 0.76378 | 0.77110 | 0.78661 | 0.79885 | 0.81536 | 0.83067 | 0.85426 | 0.88986 | 0.97912 | 1.11145 | 1.30882 | 1.67057 | 2.33361 | 3.53567 | 78 |
| 64 | 0.81676 | 0.83159 | 0.84226 | 0.84734 | 0.86283 | 0.87665 | 0.89506 | 0.91201 | 0.93672 | 0.98299 | 1.08829 | 1.26099 | 1.48157 | 1.88833 | 2.63843 | 4.01823 | 79 |
| 65 | 0.88722 | 0.90439 | 0.91761 | 0.92539 | 0.94497 | 0.96455 | 0.99304 | 1.02152 | 1.05910 | 1.12488 | 1.23998 | 1.44141 | 1.68810 | 2.14448 | 2.98878 | 4.55074 | 80 |
| 66 | 0.93920 | 0.95960 | 0.97693 | 0.99008 | 1.01461 | 1.04038 | 1.08585 | 1.13465 | 1.19611 | 1.28827 | 1.40179 | 1.61429 | 1.88908 | 2.40183 | 3.35712 | 5.13102 | 81 |
| 67 | 0.97784 | 1.00137 | 1.02313 | 1.04261 | 1.07162 | 1.10280 | 1.16973 | 1.24466 | 1.33730 | 1.46049 | 1.56333 | 1.77471 | 2.07913 | 2.65464 | 3.73797 | 5.76616 | 82 |
| 68 | 1.01659 | 1.04598 | 1.07554 | 1.10571 | 1.14362 | 1.18508 | 1.27986 | 1.38834 | 1.52061 | 1.68242 | 1.77323 | 1.98031 | 2.31727 | 2.95873 | 4.17215 | 6.46022 | 83 |
| 69 | 1.06895 | 1.10966 | 1.15350 | 1.20213 | 1.25822 | 1.32049 | 1.45143 | 1.60248 | 1.78399 | 1.99494 | 2.08010 | 2.28872 | 2.66250 | 3.36990 | 4.70245 | 7.20632 | 84 |
| 70 | 1.14840 | 1.20867 | 1.27633 | 1.35460 | 1.44303 | 1.54230 | 1.71963 | 1.92389 | 2.16540 | 2.43894 | 2.53257 | 2.75758 | 3.17386 | 3.94398 | 5.36869 | 8.00440 | 85 |
| 71 | 1.23057 | 1.31939 | 1.42207 | 1.54423 | 1.68395 | 1.84268 | 2.08152 | 2.35570 | 2.67472 | 3.03254 | 3.14275 | 3.39542 | 3.85810 | 4.68932 | 6.18064 | 8.84371 | 86 |

Schedule F

FIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
 MINIMUM LIST OF INSURABLE RATES PER \$1000
 FEMALE - STANDARD NONSMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | ATT AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|----------|----------|----------|----------|----------|----------|----------|----------|------------|
| 72 | 1.30647 | 1.43098 | 1.57784 | 1.75587 | 1.96256 | 2.19943 | 2.51365 | 2.87338 | 3.28666 | 3.74849 | 3.87823 | 4.16383 | 4.67587 | 5.56873 | 7.11076 | 9.73748 | 87 |
| 73 | 1.41265 | 1.57888 | 1.77658 | 2.01785 | 2.30004 | 2.62433 | 3.02042 | 3.47222 | 3.98637 | 4.55960 | 4.72083 | 5.04999 | 5.61703 | 6.56964 | 8.14514 | 10.71409 | 88 |
| 74 | 1.58565 | 1.79853 | 2.05125 | 2.35848 | 2.71754 | 3.12913 | 3.60621 | 4.14752 | 4.75903 | 5.43869 | 5.65238 | 6.04112 | 6.67144 | 7.67952 | 9.26989 | 11.75102 | 89 |
| 75 | 1.86202 | 2.12536 | 2.43480 | 2.80611 | 3.23622 | 3.72559 | 4.27544 | 4.89457 | 5.58979 | 6.35856 | 6.65470 | 7.12441 | 7.82897 | 8.88582 | 10.47109 | 12.84899 | 90 |
| 76 | 2.24176 | 2.55937 | 2.92724 | 3.36072 | 3.85609 | 4.41371 | 5.02810 | 5.71337 | 6.47866 | 7.31922 | 7.72779 | 8.29987 | 9.08961 | 10.18854 | 11.74875 | 14.00869 | 91 |
| 77 | 2.70050 | 3.07695 | 3.50660 | 4.00344 | 4.56303 | 5.18565 | 5.86125 | 6.60707 | 7.43552 | 8.33880 | 8.88376 | 9.57603 | 10.46011 | 11.59605 | 13.11215 | 15.23086 | 92 |
| 78 | 3.23824 | 3.67808 | 4.17287 | 4.73426 | 5.35705 | 6.04141 | 6.77491 | 7.57565 | 8.46038 | 9.41730 | 10.12261 | 10.95288 | 11.94049 | 13.10835 | 14.56127 | 16.44729 | 93 |
| 79 | 3.85499 | 4.36277 | 4.92606 | 5.55319 | 6.23815 | 6.98100 | 7.76906 | 8.61912 | 9.55324 | 10.55470 | 11.44436 | 12.43044 | 13.53074 | 14.72543 | 16.09611 | 17.71669 | 94 |
| 80 | 4.55074 | 5.13102 | 5.76616 | 6.46022 | 7.20632 | 8.00440 | 8.84371 | 9.73748 | 10.71409 | 11.75102 | 12.84899 | 14.00869 | 15.23086 | 16.44729 | 17.71669 | 0.00000 | 95 |

Schedule F

12/18/86

FSP

FIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
FEMALE - PREFERRED SMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | ATT AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|------------|
| 15 | 0.03816 | 0.04199 | 0.04571 | 0.04759 | 0.04833 | 0.04897 | 0.04973 | 0.05108 | 0.05120 | 0.05203 | 0.05223 | 0.05108 | 0.04995 | 0.04787 | 0.04647 | 0.04527 | 30 |
| 16 | 0.04875 | 0.05157 | 0.05445 | 0.05552 | 0.05586 | 0.05594 | 0.05594 | 0.05643 | 0.05568 | 0.05568 | 0.05522 | 0.05379 | 0.05251 | 0.05053 | 0.04919 | 0.04674 | 31 |
| 17 | 0.05934 | 0.06115 | 0.06319 | 0.06345 | 0.06339 | 0.06291 | 0.06216 | 0.06177 | 0.06016 | 0.05932 | 0.05821 | 0.05650 | 0.05508 | 0.05319 | 0.05191 | 0.04896 | 32 |
| 18 | 0.06993 | 0.07073 | 0.07194 | 0.07139 | 0.07091 | 0.06989 | 0.06837 | 0.06712 | 0.06464 | 0.06297 | 0.06120 | 0.05921 | 0.05764 | 0.05585 | 0.05463 | 0.05164 | 33 |
| 19 | 0.08052 | 0.08031 | 0.08068 | 0.07932 | 0.07844 | 0.07686 | 0.07459 | 0.07246 | 0.06912 | 0.06661 | 0.06419 | 0.06192 | 0.06021 | 0.05851 | 0.05735 | 0.05509 | 34 |
| 20 | 0.09111 | 0.08989 | 0.08942 | 0.08725 | 0.08597 | 0.08383 | 0.08080 | 0.07781 | 0.07360 | 0.07026 | 0.06718 | 0.06463 | 0.06277 | 0.06117 | 0.06007 | 0.05997 | 35 |
| 21 | 0.09670 | 0.09469 | 0.09338 | 0.09040 | 0.08847 | 0.08581 | 0.08277 | 0.07989 | 0.07604 | 0.07308 | 0.07066 | 0.06856 | 0.06714 | 0.06624 | 0.06577 | 0.06516 | 36 |
| 22 | 0.10037 | 0.09760 | 0.09538 | 0.09149 | 0.08874 | 0.08553 | 0.08278 | 0.08042 | 0.07750 | 0.07545 | 0.07428 | 0.07295 | 0.07224 | 0.07227 | 0.07260 | 0.07133 | 37 |
| 23 | 0.10251 | 0.09929 | 0.09625 | 0.09156 | 0.08801 | 0.08434 | 0.08206 | 0.08043 | 0.07866 | 0.07777 | 0.07809 | 0.07767 | 0.07779 | 0.07889 | 0.08025 | 0.07959 | 38 |
| 24 | 0.10424 | 0.10045 | 0.09683 | 0.09163 | 0.08752 | 0.08357 | 0.08181 | 0.08090 | 0.08024 | 0.08043 | 0.08209 | 0.08256 | 0.08352 | 0.08575 | 0.08834 | 0.08952 | 39 |
| 25 | 0.10559 | 0.10175 | 0.09796 | 0.09271 | 0.08848 | 0.08458 | 0.08324 | 0.08285 | 0.08293 | 0.08382 | 0.08632 | 0.08747 | 0.08917 | 0.09247 | 0.09656 | 0.10082 | 40 |
| 26 | 0.10651 | 0.10312 | 0.09964 | 0.09489 | 0.09099 | 0.08743 | 0.08625 | 0.08592 | 0.08615 | 0.08713 | 0.08982 | 0.09143 | 0.09380 | 0.09819 | 0.10429 | 0.11339 | 41 |
| 27 | 0.10661 | 0.10409 | 0.10130 | 0.09749 | 0.09423 | 0.09122 | 0.09002 | 0.08945 | 0.08942 | 0.09009 | 0.09259 | 0.09454 | 0.09759 | 0.10316 | 0.11178 | 0.12721 | 42 |
| 28 | 0.10626 | 0.10480 | 0.10296 | 0.10038 | 0.09807 | 0.09586 | 0.09473 | 0.09396 | 0.09363 | 0.09394 | 0.09603 | 0.09825 | 0.10195 | 0.10866 | 0.11990 | 0.14084 | 43 |
| 29 | 0.10580 | 0.10537 | 0.10461 | 0.10346 | 0.10235 | 0.10124 | 0.10054 | 0.09995 | 0.09967 | 0.09990 | 0.10158 | 0.10401 | 0.10827 | 0.11599 | 0.12956 | 0.15453 | 44 |
| 30 | 0.10559 | 0.10593 | 0.10627 | 0.10661 | 0.10694 | 0.10728 | 0.10762 | 0.10796 | 0.10841 | 0.10921 | 0.11066 | 0.11328 | 0.11797 | 0.12643 | 0.14166 | 0.16907 | 45 |
| 31 | 0.10509 | 0.10573 | 0.10721 | 0.10927 | 0.11156 | 0.11402 | 0.11653 | 0.11911 | 0.12151 | 0.12392 | 0.12526 | 0.12792 | 0.13269 | 0.14124 | 0.15671 | 0.18470 | 46 |
| 32 | 0.10405 | 0.10468 | 0.10744 | 0.11152 | 0.11630 | 0.12154 | 0.12716 | 0.13305 | 0.13839 | 0.14320 | 0.14443 | 0.14696 | 0.15149 | 0.15957 | 0.17413 | 0.20042 | 47 |
| 33 | 0.10330 | 0.10391 | 0.10803 | 0.11419 | 0.12159 | 0.12974 | 0.13867 | 0.14809 | 0.15655 | 0.16399 | 0.16518 | 0.16761 | 0.17190 | 0.17953 | 0.19312 | 0.21720 | 48 |
| 34 | 0.10367 | 0.10455 | 0.11005 | 0.11812 | 0.12784 | 0.13854 | 0.15023 | 0.16254 | 0.17353 | 0.18321 | 0.18453 | 0.18704 | 0.19145 | 0.19922 | 0.21290 | 0.23656 | 49 |
| 35 | 0.10598 | 0.10773 | 0.11460 | 0.12416 | 0.13547 | 0.14787 | 0.16101 | 0.17470 | 0.18685 | 0.19780 | 0.19950 | 0.20247 | 0.20766 | 0.21676 | 0.23267 | 0.26052 | 50 |
| 36 | 0.11060 | 0.11421 | 0.12262 | 0.13326 | 0.14530 | 0.15829 | 0.17114 | 0.18413 | 0.19555 | 0.20653 | 0.20902 | 0.21285 | 0.21951 | 0.23109 | 0.25121 | 0.28591 | 51 |
| 37 | 0.11697 | 0.12323 | 0.13339 | 0.14485 | 0.15705 | 0.16985 | 0.18117 | 0.19197 | 0.20127 | 0.21147 | 0.21509 | 0.22006 | 0.22864 | 0.24347 | 0.26903 | 0.31564 | 52 |
| 38 | 0.12455 | 0.13366 | 0.14548 | 0.15751 | 0.16950 | 0.18170 | 0.19091 | 0.19886 | 0.20546 | 0.21441 | 0.21929 | 0.22564 | 0.23660 | 0.25549 | 0.28800 | 0.34027 | 53 |
| 39 | 0.13279 | 0.14437 | 0.15746 | 0.16980 | 0.18143 | 0.19300 | 0.20015 | 0.20547 | 0.20957 | 0.21720 | 0.22321 | 0.23115 | 0.24491 | 0.26874 | 0.30996 | 0.38526 | 54 |
| 40 | 0.14115 | 0.15421 | 0.16792 | 0.18028 | 0.19162 | 0.20288 | 0.20871 | 0.21245 | 0.21503 | 0.22164 | 0.22844 | 0.23814 | 0.25511 | 0.28481 | 0.33678 | 0.42774 | 55 |
| 41 | 0.14906 | 0.16235 | 0.17569 | 0.18759 | 0.19862 | 0.20993 | 0.21519 | 0.21856 | 0.22072 | 0.22647 | 0.23346 | 0.24521 | 0.26578 | 0.30233 | 0.36729 | 0.47264 | 56 |
| 42 | 0.15688 | 0.16954 | 0.18172 | 0.19268 | 0.20323 | 0.21470 | 0.21971 | 0.22338 | 0.22566 | 0.23049 | 0.23721 | 0.25133 | 0.27571 | 0.32024 | 0.40025 | 0.52335 | 57 |
| 43 | 0.16547 | 0.17705 | 0.18775 | 0.19760 | 0.20765 | 0.21935 | 0.22438 | 0.22874 | 0.23157 | 0.23558 | 0.24197 | 0.25859 | 0.28761 | 0.34060 | 0.43741 | 0.58281 | 58 |
| 44 | 0.17565 | 0.18614 | 0.19551 | 0.20441 | 0.21407 | 0.22599 | 0.23127 | 0.23650 | 0.24013 | 0.24364 | 0.25002 | 0.26908 | 0.30299 | 0.36545 | 0.48052 | 0.64782 | 59 |
| 45 | 0.18828 | 0.19808 | 0.20673 | 0.21516 | 0.22467 | 0.23677 | 0.24246 | 0.24850 | 0.25305 | 0.25657 | 0.26364 | 0.28488 | 0.32417 | 0.39686 | 0.53133 | 0.78011 | 60 |
| 46 | 0.20333 | 0.21278 | 0.22139 | 0.22985 | 0.23949 | 0.25105 | 0.25725 | 0.26388 | 0.26954 | 0.27373 | 0.28265 | 0.30593 | 0.35103 | 0.43468 | 0.58980 | 0.87430 | 61 |
| 47 | 0.22025 | 0.22940 | 0.23834 | 0.24711 | 0.25706 | 0.26742 | 0.27424 | 0.28141 | 0.28846 | 0.29385 | 0.30552 | 0.33083 | 0.38216 | 0.47756 | 0.65477 | 0.98375 | 62 |
| 48 | 0.23906 | 0.24807 | 0.25761 | 0.26694 | 0.27735 | 0.28680 | 0.29451 | 0.30239 | 0.31101 | 0.31789 | 0.33254 | 0.35969 | 0.41774 | 0.52568 | 0.72629 | 1.09303 | 63 |
| 49 | 0.25979 | 0.26892 | 0.27923 | 0.28932 | 0.30031 | 0.31016 | 0.31912 | 0.32811 | 0.33834 | 0.34683 | 0.36396 | 0.39260 | 0.45794 | 0.57925 | 0.80443 | 1.21832 | 64 |
| 50 | 0.28247 | 0.29208 | 0.30322 | 0.31425 | 0.32589 | 0.33842 | 0.34914 | 0.35988 | 0.37163 | 0.38162 | 0.40006 | 0.42967 | 0.50293 | 0.63848 | 0.88925 | 1.35316 | 65 |

Schedule F

986

2/18/86
FSPFIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
FEMALE - PREFERRED SMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|----------|----------|----------|----------|----------|----------|-----|
| 51 | 0.30728 | 0.31746 | 0.32906 | 0.34090 | 0.35282 | 0.37165 | 0.38460 | 0.39764 | 0.41054 | 0.42172 | 0.43969 | 0.46890 | 0.55113 | 0.70239 | 0.98060 | 1.49936 | 66 |
| 52 | 0.33419 | 0.34498 | 0.35672 | 0.36928 | 0.38114 | 0.40922 | 0.42478 | 0.44053 | 0.45427 | 0.46648 | 0.48266 | 0.51022 | 0.60244 | 0.77085 | 1.07845 | 1.66831 | 67 |
| 53 | 0.36294 | 0.37477 | 0.38700 | 0.40062 | 0.41274 | 0.45104 | 0.46965 | 0.48863 | 0.50336 | 0.51673 | 0.53071 | 0.55663 | 0.65920 | 0.84531 | 1.18301 | 1.82375 | 68 |
| 54 | 0.39329 | 0.40698 | 0.42072 | 0.43615 | 0.44955 | 0.49702 | 0.51917 | 0.54201 | 0.55834 | 0.57329 | 0.58555 | 0.61111 | 0.72380 | 0.92723 | 1.29448 | 1.97887 | 69 |
| 55 | 0.42497 | 0.44174 | 0.45868 | 0.47711 | 0.49347 | 0.54707 | 0.57332 | 0.60074 | 0.61973 | 0.63698 | 0.64892 | 0.67666 | 0.79858 | 1.01805 | 1.41308 | 2.12415 | 70 |
| 56 | 0.45491 | 0.47670 | 0.49942 | 0.52295 | 0.54533 | 0.60186 | 0.63383 | 0.66782 | 0.69122 | 0.71173 | 0.72466 | 0.75777 | 0.88780 | 1.12164 | 1.54210 | 2.25208 | 71 |
| 57 | 0.48328 | 0.51176 | 0.54242 | 0.57286 | 0.60385 | 0.66146 | 0.70073 | 0.74319 | 0.77244 | 0.79700 | 0.81161 | 0.85245 | 0.98789 | 1.23704 | 1.68139 | 2.39607 | 72 |
| 58 | 0.51469 | 0.55046 | 0.58984 | 0.62764 | 0.66780 | 0.72484 | 0.77140 | 0.82237 | 0.85789 | 0.88689 | 0.90402 | 0.95396 | 1.09847 | 1.35843 | 1.82602 | 2.57897 | 73 |
| 59 | 0.55376 | 0.59636 | 0.64386 | 0.68810 | 0.73594 | 0.79102 | 0.84324 | 0.90089 | 0.94205 | 0.97549 | 0.99610 | 1.05555 | 1.20717 | 1.48003 | 1.97108 | 2.79163 | 74 |
| 60 | 0.60508 | 0.65299 | 0.70666 | 0.75505 | 0.80703 | 0.85896 | 0.91362 | 0.97427 | 1.01942 | 1.05693 | 1.08208 | 1.15048 | 1.30961 | 1.59604 | 2.11161 | 3.03964 | 75 |
| 61 | 0.67134 | 0.72275 | 0.78020 | 0.82896 | 0.87907 | 0.92372 | 0.97621 | 1.03472 | 1.08195 | 1.12366 | 1.15571 | 1.23007 | 1.39413 | 1.69219 | 2.23256 | 3.19384 | 76 |
| 62 | 0.74947 | 0.80327 | 0.86303 | 0.90930 | 0.95290 | 0.98598 | 1.03275 | 1.08522 | 1.13331 | 1.17962 | 1.22083 | 1.29882 | 1.46498 | 1.77235 | 2.33720 | 3.35454 | 77 |
| 63 | 0.83545 | 0.89096 | 0.95220 | 0.99536 | 1.03150 | 1.05316 | 1.09275 | 1.13746 | 1.18557 | 1.23610 | 1.28684 | 1.36975 | 1.53966 | 1.85791 | 2.44815 | 3.53806 | 78 |
| 64 | 0.92525 | 0.98225 | 1.04477 | 1.08642 | 1.11787 | 1.13270 | 1.16572 | 1.20312 | 1.25080 | 1.30440 | 1.36311 | 1.45588 | 1.63564 | 1.97026 | 2.58802 | 3.72706 | 79 |
| 65 | 1.01487 | 1.07354 | 1.13779 | 1.18179 | 1.21503 | 1.23201 | 1.26116 | 1.29388 | 1.34106 | 1.39582 | 1.45903 | 1.57025 | 1.77044 | 2.13079 | 2.77941 | 3.94694 | 80 |
| 66 | 1.09287 | 1.15201 | 1.21714 | 1.26768 | 1.31073 | 1.34161 | 1.36645 | 1.39393 | 1.43564 | 1.48338 | 1.54037 | 1.67948 | 1.91390 | 2.31408 | 3.00223 | 4.20854 | 81 |
| 67 | 1.16192 | 1.22004 | 1.28480 | 1.34456 | 1.40299 | 1.45654 | 1.47524 | 1.49550 | 1.52649 | 1.55956 | 1.60088 | 1.77490 | 2.05437 | 2.50589 | 3.24141 | 4.45673 | 82 |
| 68 | 1.23918 | 1.29689 | 1.36192 | 1.43310 | 1.51013 | 1.57104 | 1.60648 | 1.62227 | 1.64470 | 1.66481 | 1.69189 | 1.90655 | 2.23705 | 2.74431 | 3.52709 | 4.77639 | 83 |
| 69 | 1.34180 | 1.40177 | 1.46971 | 1.55399 | 1.65051 | 1.75937 | 1.77912 | 1.79796 | 1.82133 | 1.83961 | 1.86476 | 2.12449 | 2.50716 | 3.06747 | 3.88941 | 5.13424 | 84 |
| 70 | 1.48691 | 1.55394 | 1.62933 | 1.72791 | 1.84248 | 1.97577 | 2.01212 | 2.04627 | 2.08746 | 2.12442 | 2.17082 | 2.47877 | 2.90970 | 3.51348 | 4.35850 | 5.54152 | 85 |
| 71 | 1.65598 | 1.73621 | 1.82564 | 1.94007 | 2.07054 | 2.22371 | 2.29155 | 2.35545 | 2.43628 | 2.51953 | 2.61964 | 2.98496 | 3.46457 | 4.10422 | 4.95464 | 6.12501 | 86 |
| 72 | 1.83757 | 1.93576 | 2.04453 | 2.17669 | 2.32246 | 2.49371 | 2.60479 | 2.70972 | 2.84707 | 2.99797 | 3.17700 | 3.60967 | 4.14108 | 4.81427 | 5.65773 | 6.74671 | 87 |
| 73 | 2.05950 | 2.17836 | 2.30870 | 2.45994 | 2.62149 | 2.81054 | 2.97270 | 3.12666 | 3.33005 | 3.55930 | 3.82854 | 4.32959 | 4.91041 | 5.61083 | 6.43738 | 7.43127 | 88 |
| 74 | 2.34959 | 2.48977 | 2.64089 | 2.81199 | 2.99083 | 3.19898 | 3.41615 | 3.62390 | 3.89545 | 4.20308 | 4.55992 | 5.12137 | 5.74363 | 6.46108 | 7.26317 | 8.15911 | 89 |
| 75 | 2.73568 | 2.89575 | 3.06381 | 3.25502 | 3.45374 | 3.68381 | 3.95603 | 4.21904 | 4.55349 | 4.92887 | 5.35680 | 5.96168 | 6.61178 | 7.33219 | 8.10472 | 8.93087 | 90 |
| 76 | 3.21775 | 3.39631 | 3.57747 | 3.78902 | 4.01021 | 4.26504 | 4.59232 | 4.91207 | 5.30418 | 5.73667 | 6.21919 | 6.85052 | 7.51484 | 8.22417 | 8.96200 | 9.74714 | 91 |
| 77 | 3.77725 | 3.97426 | 4.16672 | 4.39921 | 4.64475 | 4.92614 | 5.31111 | 5.69127 | 6.14070 | 6.62678 | 7.15663 | 7.80345 | 8.47214 | 9.15889 | 9.85531 | 10.60856 | 92 |
| 78 | 4.41420 | 4.62962 | 4.83155 | 5.08559 | 5.35736 | 5.66712 | 6.11241 | 6.55663 | 7.06305 | 7.59919 | 8.16914 | 8.82046 | 9.48367 | 10.13636 | 10.78463 | 11.45582 | 93 |
| 79 | 5.12859 | 5.36237 | 5.57197 | 5.84817 | 6.14804 | 6.48797 | 6.99621 | 7.50815 | 8.07123 | 8.65391 | 9.25671 | 9.90157 | 10.54943 | 11.15658 | 11.74996 | 12.33998 | 94 |
| 80 | 5.92041 | 6.17253 | 6.38798 | 6.68695 | 7.01680 | 7.38869 | 7.96251 | 8.54583 | 9.16523 | 9.79093 | 10.41935 | 11.04676 | 11.66942 | 12.21954 | 12.75131 | 0.00000 | 95 |

Schedule F

2/18/86

FSS

FIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
FEMALE - STANDARD SMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | AGE |
|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|-----|
| 15 | 0.04846 | 0.05006 | 0.05358 | 0.05411 | 0.05532 | 0.05644 | 0.05786 | 0.06013 | 0.06103 | 0.06138 | 0.06273 | 0.06308 | 0.06344 | 0.06379 | 0.06464 | 0.06549 | 30 |
| 16 | 0.05810 | 0.05972 | 0.06303 | 0.06379 | 0.06542 | 0.06665 | 0.06825 | 0.06934 | 0.06889 | 0.06826 | 0.06852 | 0.06838 | 0.06851 | 0.06857 | 0.06916 | 0.06987 | 31 |
| 17 | 0.06774 | 0.06937 | 0.07248 | 0.07347 | 0.07553 | 0.07687 | 0.07864 | 0.07854 | 0.07674 | 0.07514 | 0.07431 | 0.07368 | 0.07357 | 0.07336 | 0.07368 | 0.07459 | 32 |
| 18 | 0.07739 | 0.07903 | 0.08194 | 0.08315 | 0.08563 | 0.08708 | 0.08904 | 0.08775 | 0.08460 | 0.08201 | 0.08011 | 0.07899 | 0.07864 | 0.07814 | 0.07821 | 0.07961 | 33 |
| 19 | 0.08703 | 0.08868 | 0.09139 | 0.09283 | 0.09574 | 0.09730 | 0.09943 | 0.09695 | 0.09245 | 0.08889 | 0.08590 | 0.08429 | 0.08370 | 0.08293 | 0.08273 | 0.08479 | 34 |
| 20 | 0.09667 | 0.09834 | 0.10084 | 0.10251 | 0.10584 | 0.10751 | 0.10982 | 0.10616 | 0.10031 | 0.09577 | 0.09169 | 0.08959 | 0.08877 | 0.08771 | 0.08725 | 0.08910 | 35 |
| 21 | 0.09834 | 0.10084 | 0.10251 | 0.10584 | 0.10751 | 0.11167 | 0.11471 | 0.11121 | 0.10575 | 0.10153 | 0.09824 | 0.09682 | 0.09657 | 0.09617 | 0.09631 | 0.09830 | 36 |
| 22 | 0.10084 | 0.10251 | 0.10584 | 0.10751 | 0.11167 | 0.11501 | 0.11705 | 0.11424 | 0.10985 | 0.10642 | 0.10468 | 0.10441 | 0.10506 | 0.10570 | 0.10684 | 0.10890 | 37 |
| 23 | 0.10251 | 0.10584 | 0.10751 | 0.11167 | 0.11501 | 0.11757 | 0.11844 | 0.11667 | 0.11382 | 0.11155 | 0.11182 | 0.11299 | 0.11474 | 0.11664 | 0.11894 | 0.12155 | 38 |
| 24 | 0.10525 | 0.10751 | 0.11167 | 0.11495 | 0.11834 | 0.11991 | 0.12047 | 0.11993 | 0.11889 | 0.11806 | 0.12043 | 0.12315 | 0.12614 | 0.12930 | 0.13271 | 0.13736 | 39 |
| 25 | 0.10751 | 0.11167 | 0.11501 | 0.11834 | 0.12315 | 0.12393 | 0.12471 | 0.12549 | 0.12628 | 0.12706 | 0.13130 | 0.13553 | 0.13977 | 0.14400 | 0.14824 | 0.15097 | 40 |
| 26 | 0.11098 | 0.11501 | 0.11834 | 0.12255 | 0.12758 | 0.12912 | 0.13060 | 0.13265 | 0.13538 | 0.13816 | 0.14417 | 0.15002 | 0.15578 | 0.16098 | 0.16578 | 0.17001 | 41 |
| 27 | 0.11488 | 0.11834 | 0.12303 | 0.12686 | 0.13199 | 0.13460 | 0.13707 | 0.14047 | 0.14536 | 0.15061 | 0.15050 | 0.16623 | 0.17383 | 0.18004 | 0.18526 | 0.19108 | 42 |
| 28 | 0.11834 | 0.12334 | 0.12769 | 0.13182 | 0.13716 | 0.14115 | 0.14499 | 0.14993 | 0.15716 | 0.16500 | 0.17471 | 0.18428 | 0.19369 | 0.20080 | 0.20632 | 0.21202 | 43 |
| 29 | 0.12334 | 0.12841 | 0.13324 | 0.13797 | 0.14387 | 0.14955 | 0.15523 | 0.16201 | 0.17171 | 0.18192 | 0.19319 | 0.20429 | 0.21514 | 0.22289 | 0.22860 | 0.23311 | 44 |
| 30 | 0.12918 | 0.13418 | 0.14001 | 0.14585 | 0.15289 | 0.16058 | 0.16864 | 0.17768 | 0.18994 | 0.20196 | 0.21436 | 0.22641 | 0.23794 | 0.24594 | 0.25176 | 0.25554 | 45 |
| 31 | 0.13409 | 0.14001 | 0.14585 | 0.15502 | 0.16169 | 0.17419 | 0.18585 | 0.19790 | 0.21320 | 0.22630 | 0.23907 | 0.25107 | 0.26192 | 0.26919 | 0.27458 | 0.27850 | 46 |
| 32 | 0.13872 | 0.14585 | 0.15502 | 0.16169 | 0.17419 | 0.19003 | 0.20628 | 0.22203 | 0.24086 | 0.25455 | 0.26705 | 0.27818 | 0.28721 | 0.29290 | 0.29730 | 0.30149 | 47 |
| 33 | 0.14414 | 0.15278 | 0.16169 | 0.17419 | 0.19003 | 0.20754 | 0.22755 | 0.24862 | 0.27090 | 0.28493 | 0.29701 | 0.30708 | 0.31411 | 0.31819 | 0.32174 | 0.32590 | 48 |
| 34 | 0.15144 | 0.16169 | 0.17419 | 0.19003 | 0.20754 | 0.22755 | 0.25006 | 0.27623 | 0.30132 | 0.31567 | 0.32768 | 0.33711 | 0.34290 | 0.34620 | 0.34969 | 0.35459 | 49 |
| 35 | 0.16169 | 0.17419 | 0.19003 | 0.20754 | 0.22755 | 0.25006 | 0.27757 | 0.30342 | 0.33010 | 0.34500 | 0.35776 | 0.36762 | 0.37385 | 0.37804 | 0.38296 | 0.39074 | 50 |
| 36 | 0.17419 | 0.19003 | 0.20754 | 0.22755 | 0.25006 | 0.27421 | 0.30324 | 0.33010 | 0.35679 | 0.37323 | 0.38803 | 0.39971 | 0.40851 | 0.41538 | 0.42275 | 0.42873 | 51 |
| 37 | 0.19003 | 0.20754 | 0.22755 | 0.25006 | 0.27584 | 0.30105 | 0.33010 | 0.35679 | 0.38431 | 0.41178 | 0.42947 | 0.45053 | 0.46828 | 0.48607 | 0.50180 | 0.51647 | 52 |
| 38 | 0.20754 | 0.22755 | 0.25006 | 0.27757 | 0.30326 | 0.32922 | 0.35679 | 0.38431 | 0.41178 | 0.42947 | 0.45053 | 0.46828 | 0.48607 | 0.50180 | 0.51647 | 0.52441 | 53 |
| 39 | 0.22755 | 0.25006 | 0.27757 | 0.30342 | 0.33010 | 0.35679 | 0.38431 | 0.41267 | 0.43789 | 0.45653 | 0.48046 | 0.50144 | 0.52435 | 0.54592 | 0.56603 | 0.58220 | 54 |
| 40 | 0.25006 | 0.27757 | 0.30342 | 0.33010 | 0.35679 | 0.38131 | 0.41267 | 0.44269 | 0.46278 | 0.48224 | 0.50796 | 0.53163 | 0.55921 | 0.58734 | 0.61713 | 0.64922 | 55 |
| 41 | 0.27413 | 0.30178 | 0.32746 | 0.35359 | 0.38013 | 0.40840 | 0.43509 | 0.46386 | 0.48337 | 0.50333 | 0.52931 | 0.55525 | 0.58724 | 0.62326 | 0.66517 | 0.71996 | 56 |
| 42 | 0.30100 | 0.32746 | 0.35195 | 0.37630 | 0.40183 | 0.43057 | 0.45454 | 0.48092 | 0.49991 | 0.52013 | 0.54527 | 0.57342 | 0.60999 | 0.65532 | 0.71333 | 0.80069 | 57 |
| 43 | 0.32916 | 0.35395 | 0.37690 | 0.39922 | 0.42369 | 0.45307 | 0.47425 | 0.49811 | 0.51704 | 0.53753 | 0.56144 | 0.59153 | 0.63257 | 0.68775 | 0.76314 | 0.89436 | 58 |
| 44 | 0.35679 | 0.38056 | 0.40229 | 0.42337 | 0.44753 | 0.47812 | 0.49744 | 0.51964 | 0.53940 | 0.56046 | 0.58341 | 0.61497 | 0.66009 | 0.72474 | 0.81770 | 0.98847 | 59 |
| 45 | 0.38331 | 0.40661 | 0.42812 | 0.44974 | 0.47515 | 0.50796 | 0.52734 | 0.54974 | 0.57161 | 0.59384 | 0.61676 | 0.64913 | 0.69767 | 0.77050 | 0.87973 | 1.04358 | 60 |
| 46 | 0.40753 | 0.43223 | 0.45469 | 0.47934 | 0.50822 | 0.54546 | 0.56774 | 0.59302 | 0.61085 | 0.64261 | 0.66621 | 0.69776 | 0.74805 | 0.82649 | 0.94952 | 1.11457 | 61 |
| 47 | 0.43077 | 0.45787 | 0.48200 | 0.51150 | 0.54552 | 0.58911 | 0.61649 | 0.64665 | 0.67802 | 0.70349 | 0.72804 | 0.75727 | 0.80703 | 0.88990 | 1.02526 | 1.20060 | 62 |
| 48 | 0.45341 | 0.48334 | 0.50960 | 0.54471 | 0.58457 | 0.63464 | 0.66790 | 0.70374 | 0.74138 | 0.76906 | 0.79516 | 0.82204 | 0.87289 | 0.95854 | 1.10651 | 1.31673 | 63 |
| 49 | 0.47584 | 0.50846 | 0.53707 | 0.57749 | 0.62786 | 0.67775 | 0.71629 | 0.75739 | 0.80117 | 0.83191 | 0.86052 | 0.88644 | 0.93509 | 1.03026 | 1.19284 | 1.44625 | 64 |
| 50 | 0.49843 | 0.53305 | 0.56395 | 0.60832 | 0.65789 | 0.71414 | 0.75596 | 0.80069 | 0.84964 | 0.88462 | 0.91704 | 0.94487 | 1.00232 | 1.10286 | 1.28380 | 1.59169 | 65 |

Schedule F

FIDELITY BANKERS FREEDOM 3 UNIVERSAL LIFE
MONTHLY COST OF INSURANCE RATES PER \$1000
FEMALE - STANDARD SMOKER

| AGE | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | ULT | ATT AGE |
|-----|---------|---------|---------|---------|---------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|------------|
| 51 | 0.51877 | 0.55146 | 0.58764 | 0.63398 | 0.68580 | 0.73733 | 0.77088 | 0.82434 | 0.87712 | 0.91793 | 0.95576 | 0.98986 | 1.05642 | 1.17185 | 1.37653 | 1.73550 | 66 |
| 52 | 0.53661 | 0.57282 | 0.60842 | 0.65546 | 0.70825 | 0.75020 | 0.78884 | 0.83294 | 0.88877 | 0.93678 | 0.98140 | 1.02515 | 1.10415 | 1.23867 | 1.47131 | 1.88521 | 67 |
| 53 | 0.55557 | 0.59209 | 0.63022 | 0.67761 | 0.73104 | 0.76244 | 0.79790 | 0.84045 | 0.89910 | 0.93506 | 1.00740 | 1.06194 | 1.15472 | 1.31008 | 1.57246 | 2.02074 | 68 |
| 54 | 0.57926 | 0.61622 | 0.65697 | 0.70530 | 0.75995 | 0.78380 | 0.81811 | 0.86084 | 0.92263 | 0.98668 | 1.04718 | 1.11143 | 1.21739 | 1.39284 | 1.68426 | 2.17304 | 69 |
| 55 | 0.61131 | 0.64917 | 0.69258 | 0.74338 | 0.80078 | 0.82399 | 0.86153 | 0.90805 | 0.97385 | 1.04552 | 1.11418 | 1.18482 | 1.30138 | 1.49369 | 1.81102 | 2.33460 | 70 |
| 56 | 0.64982 | 0.68843 | 0.73410 | 0.78962 | 0.85202 | 0.88439 | 0.93038 | 0.98423 | 1.05256 | 1.12830 | 1.20601 | 1.27546 | 1.39602 | 1.59795 | 1.93510 | 2.54395 | 71 |
| 57 | 0.69239 | 0.73136 | 0.77892 | 0.84077 | 0.90982 | 0.95852 | 1.01663 | 1.08007 | 1.14909 | 1.22575 | 1.31370 | 1.37588 | 1.49514 | 1.70111 | 2.05363 | 2.80367 | 72 |
| 58 | 0.74184 | 0.78173 | 0.83147 | 0.90020 | 0.97642 | 1.04432 | 1.11694 | 1.19236 | 1.26375 | 1.34280 | 1.44086 | 1.49607 | 1.61477 | 1.82521 | 2.19307 | 3.12054 | 73 |
| 59 | 0.80101 | 0.84329 | 0.89618 | 0.97123 | 1.05409 | 1.13970 | 1.22797 | 1.31792 | 1.39686 | 1.48440 | 1.59108 | 1.64599 | 1.77093 | 1.99229 | 2.37986 | 3.49047 | 74 |
| 60 | 0.87274 | 0.91980 | 0.97748 | 1.05722 | 1.14508 | 1.24260 | 1.34639 | 1.45353 | 1.54872 | 1.65347 | 1.76795 | 1.83564 | 1.97962 | 2.22438 | 2.64047 | 3.34783 | 75 |
| 61 | 0.96360 | 1.01798 | 1.08112 | 1.16041 | 1.24732 | 1.34535 | 1.46258 | 1.58880 | 1.71275 | 1.85630 | 1.96507 | 2.06216 | 2.24386 | 2.53057 | 2.99007 | 4.34546 | 76 |
| 62 | 1.07169 | 1.13531 | 1.20415 | 1.27857 | 1.35992 | 1.44934 | 1.57877 | 1.72585 | 1.88872 | 2.08359 | 2.18005 | 2.31891 | 2.55296 | 2.89619 | 3.41102 | 4.80632 | 77 |
| 63 | 1.18716 | 1.26173 | 1.33795 | 1.40832 | 1.48506 | 1.56605 | 1.70937 | 1.88029 | 2.08655 | 2.33693 | 2.42249 | 2.61015 | 2.90243 | 3.30757 | 3.88056 | 5.16208 | 78 |
| 64 | 1.30014 | 1.38718 | 1.47389 | 1.54632 | 1.62577 | 1.70700 | 1.86881 | 2.06774 | 2.31612 | 2.61590 | 2.70199 | 2.94014 | 3.28775 | 3.75108 | 4.37591 | 5.42461 | 79 |
| 65 | 1.40077 | 1.50159 | 1.60335 | 1.68917 | 1.78485 | 1.88368 | 2.07151 | 2.30379 | 2.58732 | 2.92007 | 3.02018 | 3.31316 | 3.70442 | 4.21307 | 4.87431 | 5.73393 | 80 |
| 66 | 1.46785 | 1.57288 | 1.69424 | 1.80791 | 1.93804 | 2.07809 | 2.30139 | 2.57574 | 2.88818 | 3.23184 | 3.39514 | 3.72300 | 4.14143 | 4.67826 | 5.35469 | 6.10591 | 81 |
| 67 | 1.50796 | 1.60777 | 1.75230 | 1.90479 | 2.08348 | 2.28258 | 2.54085 | 2.87319 | 3.21210 | 3.55148 | 3.79646 | 4.16681 | 4.60179 | 5.15575 | 5.83223 | 6.45810 | 82 |
| 68 | 1.55288 | 1.65436 | 1.82568 | 2.02327 | 2.25754 | 2.52412 | 2.83799 | 3.21520 | 3.57704 | 3.96542 | 4.24101 | 4.65390 | 5.10200 | 5.66845 | 6.33852 | 6.91243 | 83 |
| 69 | 1.63441 | 1.76079 | 1.96252 | 2.20679 | 2.49662 | 2.82973 | 3.19291 | 3.62082 | 4.00100 | 4.32007 | 4.73764 | 5.19358 | 5.65860 | 6.23931 | 6.90516 | 7.42251 | 84 |
| 70 | 1.78433 | 1.97516 | 2.21097 | 2.49884 | 2.83709 | 3.22640 | 3.63771 | 4.10911 | 4.50193 | 4.82185 | 5.29522 | 5.79513 | 6.20811 | 6.89123 | 7.56375 | 8.00440 | 85 |
| 71 | 1.99776 | 2.32249 | 2.59650 | 2.92240 | 3.29767 | 3.73108 | 4.18705 | 4.68795 | 5.07331 | 5.39578 | 5.88173 | 6.42303 | 6.95421 | 7.58689 | 8.27586 | 8.84371 | 86 |
| 72 | 2.25353 | 2.77070 | 3.08702 | 3.34783 | 3.85409 | 4.32576 | 4.82485 | 5.34463 | 5.70316 | 6.02425 | 6.49128 | 7.07107 | 7.64589 | 8.31101 | 9.02042 | 9.73748 | 87 |
| 73 | 2.55892 | 3.28228 | 3.34783 | 4.04263 | 4.47830 | 4.98503 | 5.52915 | 6.06734 | 6.40127 | 6.72973 | 7.17186 | 7.79257 | 8.41761 | 9.11959 | 9.85508 | 10.71409 | 88 |
| 74 | 2.92126 | 3.34783 | 4.23015 | 4.67032 | 5.14223 | 5.68347 | 6.27797 | 6.84427 | 7.17744 | 7.53471 | 7.97152 | 8.40881 | 9.32286 | 10.06861 | 10.83747 | 11.75102 | 89 |
| 75 | 3.34783 | 4.34546 | 4.80632 | 5.29707 | 5.81781 | 6.39564 | 7.04934 | 7.66361 | 8.04146 | 8.46166 | 8.93825 | 9.66912 | 10.41910 | 11.21408 | 12.02521 | 12.84899 | 90 |
| 76 | 3.83865 | 4.80632 | 5.29707 | 5.81781 | 6.39564 | 7.04934 | 7.79698 | 8.52535 | 8.99333 | 9.51058 | 10.07207 | 10.87749 | 11.70333 | 12.55600 | 13.41831 | 14.00869 | 91 |
| 77 | 4.38884 | 5.29707 | 5.81781 | 6.39564 | 7.04934 | 7.79698 | 8.64662 | 9.43738 | 10.02653 | 10.66650 | 11.34095 | 12.23037 | 13.14024 | 14.05703 | 14.97835 | 15.23086 | 92 |
| 78 | 4.99840 | 5.81781 | 6.39564 | 7.04934 | 7.79698 | 8.64662 | 9.54268 | 10.39968 | 11.14105 | 11.92940 | 12.74491 | 13.72778 | 14.72982 | 15.71718 | 16.70532 | 16.44729 | 93 |
| 79 | 5.66733 | 6.39564 | 7.04934 | 7.79698 | 8.64662 | 9.48342 | 10.44819 | 11.41227 | 12.33689 | 13.29928 | 14.28394 | 15.36972 | 16.47208 | 17.53645 | 18.59922 | 17.71669 | 94 |
| 80 | 6.39564 | 7.04934 | 7.79698 | 8.64662 | 9.55762 | 10.33209 | 11.39089 | 12.47514 | 13.61406 | 14.77616 | 15.95804 | 17.15617 | 18.36702 | 19.51483 | 20.66008 | 0.00000 | 95 |

Appendix I - i

Fidelity Bankers Life Insurance Company
Richmond, Virginia
Reinsurance Report For Month Ending
Universal Life Policies Ceded To

3/31/1987
Pool H

Part 1 of 2

| Policy Number | Insured Name | DOB | A G E | S E X | O P T | P L A N | K I N D | Policy Date | Spec. Amt. | Reins. Amt. |
|------------------|--------------|-----|-------------|-------------|-------------|------------------|------------------|----------------|---------------|----------------|
|------------------|--------------|-----|-------------|-------------|-------------|------------------|------------------|----------------|---------------|----------------|

Appendix I - ii

Fidelity Bankers Life Insurance Company
 Richmond, Virginia
 Reinsurance Report For Month Ending
 Universal Life Policies Ceded To

3/31/1987
 Pool H

Part 2 of 2

| Policy Number | I D | Policy Date | Pol Mon Beg. On | Y E A R | Total NAR | Rein NAR | Monthly Rate P/1000 | Table Rate | Flat Extra Prem | FX Exp YR | Comm Allow | Flat Allow | Gross Prem | Total Allow | To Pr |
|------------------|--------|----------------|--------------------|------------------|--------------|-------------|---------------------------|---------------|-----------------------|-----------------|---------------|---------------|---------------|----------------|----------|
|------------------|--------|----------------|--------------------|------------------|--------------|-------------|---------------------------|---------------|-----------------------|-----------------|---------------|---------------|---------------|----------------|----------|

Renewal () :
 First () :

 Pol

Rep. + Conv.
 New Bus.:

Year
 Renewal (1985-On)
 First ()

0 0

Appendix I - iii

Fidelity Bankers Life Insurance Company
 Richmond, Virginia
 Termination Report For Month Ending
 Universal Life Policies Ceded To

3/31/1987
 Pool H

| Policy Number | Insured | Policy Date | Paid To Date | Term Date | Term Code | Face Amount | Ceded Amount | Reinsured NAR | Gross Prem Credit | Total Allow Credit | Total Prem Credit |
|------------------|---------|----------------|-----------------|--------------|--------------|----------------|-----------------|------------------|-------------------------|--------------------------|-------------------------|
|------------------|---------|----------------|-----------------|--------------|--------------|----------------|-----------------|------------------|-------------------------|--------------------------|-------------------------|

Renewal ():

First ():

 Pol

Terminations
 Deaths:

F- Conversion
 I - Replacement

S - Death
 V - Cash Surrendered

W - Lapsed
 O - Not Taken

Fidelity Bankers Life Insurance Company

Richmond, Virginia

APPENDIX II

ANNUAL STATEMENT INFORMATIONPOOL H

| <u>POLICY EXHIBIT</u> | <u>No. of Policies</u> | <u>Amount of Reinsurance</u> |
|----------------------------------------------|----------------------------|----------------------------------|
| In Force End of Prior Year | | |
| New Issues | | |
| Death | | |
| Maturity | | |
| Surrender | | |
| In Force End of Current Year | | |
| Adjustment for Increases | | |
| Adjustment for Decreases | | |
| Adjusted In Force Current Year | | |
| CLAIM LIABILITY (Exh. 11) | | |
| L.1 Due and Unpaid | | |
| 2.1 Resisted | | |
| 2.2 In Course of Settlement | | |
| 3 Incurred but Unreported | | |
| 4 Totals | | |
| LIFE INSURANCE RESERVE (See enclosed report) | | |

FIDELITY BANKERS LIFE INSURANCE COMPANY
ANNUAL STATEMENT INFORMATION
APPENDIX II

REINSURANCE AGREEMENT
UNIVERSAL LIFE POOL H

100% BASIS

| POLICY EXHIBIT | NO. OF POLICIES | AMOUNT OF REINSURANCE |
|------------------------------|--------------------|--------------------------|
| IN FORCE END OF PRIOR YEAR | | |
| NEW ISSUES | | |
| REINSTATEMENTS | | |
| INCREASES (NET) | | |
| DEATH | | |
| MATURITY | | |
| EXPIRY | | |
| SURRENDER | | |
| LAPSE | | |
| DECREASES (NET) | | |
| IN FORCE END OF CURRENT YEAR | | |
| CLAIM LIABILITY (Exh. 11) | | |
| DUE AND UNPAID | | |
| RESISTED | | |
| IN COURSE OF SETTLEMENT | | |
| INCURRED BUT UNREPORTED | | |
| TOTALS | | |

LIFE INSURANCE RESERVES (See Enclosed Report)

Integrated Resources
Life Insurance Company
One Bridge Plaza
Fort Lee, NJ 07024
201-461-0606

Integrated
Resources

May 20, 1987

Mr. Ed Kurtz
Senior Vice President
Underwriting
Fidelity Bankers Life Insurance Co.
Fidelity Bankers Life Building
1011 Bouldersprings Drive
Richmond, VA. 23225

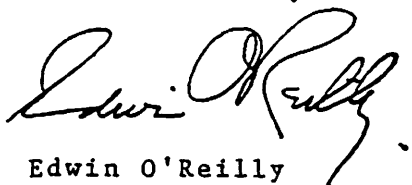
RE: Jumbo Limit

Per our conversation, we have agreed to the following Jumbo Limits:

1. MI, Angina, and Bypass Programs - \$3,000,000 (applied for and in force). *NOT applicable to FLEETSM III, FD3 NOT AVAILABLE yet.*
2. Automatic Business including limited pool retention - \$5,000,000 (applied for and in force). ~~RE~~

Please make this letter part of your treaty file, replacing my letter of May 15, 1987.

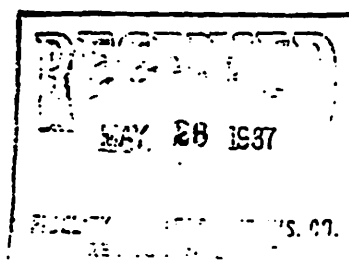
Sincerely,



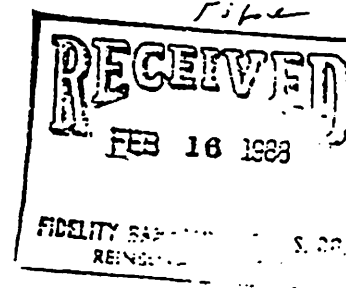
Edwin O'Reilly
Vice President

EOR/mna

cc: J. Donovan



Integrated Resources
Life Insurance Company
One Bridge Plaza
Fort Lee, NJ 07024
201-461-0606



Integrated
Resources

January 19, 1988

RE: Reinsurance Treaties between Resources Life and/or Providence
Life and Fidelity Bankers Life.

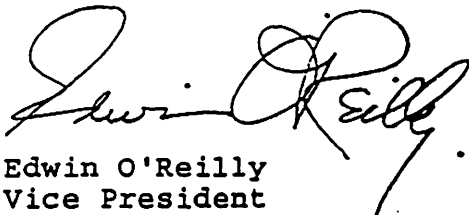
To whom it may concern:

Please be advised that Providence Life Insurance Company and Resources Life Insurance Company have been merged into Integrated Resources Life Insurance Company ("IR Life"), effective December 30, 1987. All of the rights and obligations of the predecessor companies are now those of Integrated Resources Life.

Please attach a copy of this letter to each Agreement you may have with Resources Life and/or Providence Life. There are no other changes to the Agreement (s) occasioned by the merger.

If any questions arise, please feel free to contact me.

Very truly yours,



Edwin O'Reilly
Vice President

EOR/mnc

Amendment No. 1
to Pool H
Automatic Limited Retention Agreement
between
Fidelity Bankers Life Insurance Company
Richmond, Virginia
(Company)
and
Integrated Resources Life Insurance Company
Fort Lee, New Jersey
(Reinsurer)

1. The Agreement is hereby formally amended:

- a. To include Facultative cases using the same rates and administration procedures as under Pool H, but to be reported under an individual non-pool self-administered report.
- b. To include cases issued when term policies reinsured with the reinsurer convert to plans reinsured under the Pool H Agreement. Reinsurance rates will be Pool H rates, point in scale, using the same administration procedures for Pool H, but reported under an individual non-pool self-administered report.

2. The Amendment is effective on the same date as the treaty.

The Amendment is executed in duplicate by officers of the Company and the reinsurer as indicated below.

Company

Michael M. Adams
Signature

Assistant Secretary
Title

Reinsurer

Edwin O'Kelly
Signature

Vice President
Title

Integrated Resources Amendments

Pool H

- 1) To include Facultative cases and term conversion using same rates and procedures as Pool H.

Exhibits to Motion to Dismiss Petition for
Review of North American Reassurance Company,
Answer Subject Thereto, and Counterclaim,
filed January 11, 1993:

- N. Reinsurance Agreement between Fidelity Bankers Life
Insurance and Resources Life Insurance Company
signed December 22, 1982
and January 14, 1983

REINSURANCE AGREEMENT
BETWEEN
FIDELITY BANKERS LIFE INS. CO.
OF
RICHMOND, VIRGINIA

referred to in this agreement as the Company

and

RESOURCES LIFE INSURANCE COMPANY
OF
FORT LEE, NEW JERSEY

referred to in this agreement as the Reinsurer

TABLE OF CONTENTS

- I. Automatic Reinsurance
- II. Facultative/Obligatory
- III. Facultative Reinsurance
- IV. Liability
- V. Plan of Reinsurance
- VI. Procedures to Effect Reinsurance
- VII. Premiums
- VIII. Interest Credits
- IX. Claims
- X. General Provisions
- XI. Recapture
- XII. Arbitration
- XIII. Duration of Agreement
- XIV. Execution

The Company and the Reinsurer mutually agree to reinsure on the terms and conditions set out below.

I. Automatic Reinsurance

1. Insurance. The Company will cede and the Reinsurer will accept automatically for reinsurance a fifty per cent (50%) quota share of those policies (or, on MERIT business, certificates) in excess of the minimum size stated in the next paragraph, written by the Company on residents of the United States and Canada and produced by agents, general agents, or associate general agents of Integrated Resources, Incorporated. Such fifty per cent (50%) quota share shall not exceed the automatic binding limits shown in Part II of Schedule A. With respect to "no evidence" business, the Company will cede and the Reinsurer will accept a fifty per cent (50%) quota share on those policies or certificates in excess of the minimum size written in accordance with the underwriting criteria set forth in Part III of Schedule A.

The minimum size per policy or certificate qualifying for reinsurance under this agreement is \$30,000 for permanent insurance and \$50,000 for term insurance. Universal Life policies are considered to be permanent insurance for the purpose of determining minimum size.

The Company will retain amounts of insurance up to its maximum retention as shown in Part I of Schedule A, and may reinsure amounts in excess of its retention with any reinsurer it chooses.

When the Company is already on the risk for its maximum limit of retention on a life and for this reason alone is not retaining any portion of the insurance on a current application, the Reinsurer will accept automatically reinsurance within the limits specified above.

A risk as defined in the following categories is not eligible for automatic reinsurance under this paragraph:

- a) A jumbo risk as defined in paragraph 3 below.
 - b) A risk which has been sent to the Reinsurer or any other reinsurer for facultative underwriting consideration.
2. Coverage. The life insurance coverage includes both basic policies and term riders providing life insurance protection. Life insurance resulting from a group conversion, where full evidence of insurability has not been secured, will not be included under this treaty.
 3. Jumbo Risk. A jumbo risk is one where the person to be insured has or will have total life insurance, including the current application and all amounts in force in all companies, equal to or greater than \$3,000,000.
 4. Regular Limits of Retention. The regular limits of retention shown in Schedule A, Part I may be modified by the Company by thirty days written notice to the Reinsurer. The amount of reinsurance to be ceded and accepted automatically after the new limits take effect will be determined by mutual agreement.

II. Facultative/Obligatory Reinsurance

On business produced by the sources designated in I above, where the Company chooses to retain less than its maximum retention on a life as indicated in Schedule A, Part I, the Company will cede and the Reinsurer will accept amounts of reinsurance in accordance with the automatic binding limits as outlined in Schedule A, Part II, item 2. Acceptance of this business will be on the same terms and provisions as indicated in I above.

III. Facultative Reinsurance

When reinsurance is not available as Automatic Reinsurance under Section I or as Facultative/Obligatory Reinsurance under Section II, the Company may submit the case to the Reinsurer or any reinsurer it chooses for facultative reinsurance. If the risk is acceptable to the Reinsurer at a competitive rating, the Company will cede the case to the Reinsurer under its regular reinsurance agreement.

IV. Liability

Reinsurance Liability. The liability of the Reinsurer on any automatic or facultative/obligatory reinsurance under this agreement begins and ends at the same time as that of the Company.

V. Plan of Reinsurance

1. Plan. Quota share reinsurance under this agreement shall mean coinsurance with allowances for commissions and expenses as set forth in Schedule C.
2. Reductions, Terminations, and Changes. Any increase, decrease, surrender, termination or other change in any insurance shall result in a corresponding proportionate change in the reinsurance subject to an appropriate adjustment of reinsurance premiums and allowances, where applicable, and payment of cash values and/or claims. The exchange or change of a group certificate to an individual policy providing extended term insurance or reduced paid-up insurance shall be considered a change within this treaty.
3. Reinstatements. If a policy of the Company, reinsured with Reinsurer, that was reduced, terminated or lapsed, is reinstated by the Company under its regular rules, it will be reinstated automatically under this agreement to the amount that would be in force had the policy not been reduced, terminated or lapsed. On all reinstatements the Company shall pay the Reinsurer all reinsurance premiums in arrears, less commission allowances, with interest at the same rate as the Company has received under its policy.
4. Nonforfeiture Benefits. The Reinsurer is liable for the same form and term of nonforfeiture benefit as provided for in the policy issued by the Company. The amount reinsured will be in the same proportion to the total nonforfeiture benefit as the amount of reinsurance bore to the total amount of insurance prior to nonforfeiture.

5. Policy Loans. The Reinsurer will participate to the extent of its fifty per cent (50%) quota share in policy loans as they apply to specific policies. The Company will notify the Reinsurer of policy loan transactions as part of its monthly reports. Interest credited to the Reinsurer will be at the effective rate realized by the Company on such policy loans.

exclusive of Universal
Life policies
HAR 10/11/83

VI. Procedures to Effect Reinsurance

The Company will notify the Reinsurer of any new policies or certificates reinsured under this agreement in the New Business section of the monthly reports. The section will provide detailed information for each new policy or certificate as shown in Schedule B.

VII. Premiums

1. Reinsurance Premium-Coinsurance. The Company will pay to the Reinsurer fifty per cent (50%) of the premium excluding the policy fee on each policy or certificate reinsured under this agreement except as follows:
 - a) On Universal Life policies the Company will pay to the Reinsurer fifty per cent (50%) of the cost of insurance charged in the policy instead of the premium (planned periodic or unscheduled) paid by the policyholder.
 - b) On Retired Lives Reserves certificates the Company will pay to the Reinsurer fifty per cent (50%) of the term insurance premium excluding the policy fee for the current benefit provided by the certificate. The Company will not pay any portion of any deposits which are added to the Accumulation Fund associated with Retired Lives Reserves coverage and held by the Company. However, the Company will pay to the Reinsurer fifty per cent (50%) of any amounts less the policy fee withdrawn from the Accumulation Fund or Retired Employee Fund and applied as premium for the current benefit provided by the certificate.
2. Preliminary Term Insurance. The Company will pay to the Reinsurer fifty per cent (50%) of the preliminary term premium less commission at the rate paid by the Company. For the first policy year after the preliminary term period, the premiums and allowances for all benefits will be computed at first year rates.
3. Payments. Premiums are payable annually in advance, except on Universal Life policies, regardless of the premium mode at which the Company receives premiums from its insureds. On Universal Life policies premiums are payable monthly. If reinsurance is reduced, terminated or increased by reinstatement during the year, pro-rata adjustments will be made by the Company.

Except as provided in section X, paragraph 4, the payment of reinsurance premiums shall be a condition precedent to the liability of the Reinsurer for reinsurance under this agreement. In the event of non-payment of reinsurance premiums the Reinsurer shall have the right to terminate the reinsurance under all policies with reinsurance premiums in arrears.

4. Procedure. On or before the 20th day of each calendar month, the Company will send to the Reinsurer a monthly report. The report will show the premium due

on new reinsurance effected in the preceding month and on existing reinsurance with anniversaries in the current month, any interest credit as described in Section VIII, any pro-rata adjustments for changes in reinsurance premiums less commission allowances, and policy loan transactions and cash surrender values paid during the preceding month by the Company for reinsured policies and certificates. Any amount due the Reinsurer will be remitted with the monthly report. Any amount due the Company will be remitted by the Reinsurer within ~~five (5) days~~ ^{two (2) weeks} after receipt of the monthly report. #21
1/14/83

5. Age Adjustment. If the amount of any of the Company's policies reinsured under this agreement is changed because of a misstatement of age, the Reinsurer will share in the change in the ratio of the amount reinsured to the total face amount of the policy. If the insured is still alive, and if the original face amount is to be restored, the Reinsurer will share proportionately with the Company in all adjustments.

VIII. Interest Credit

1. The Company will pay to the Reinsurer an interest credit on the cash value in Universal Life policies and on the Accumulation Fund and Retired Employees Fund associated with Retired Lives Reserve coverage. The sum of the Universal Life cash values plus Accumulation Fund plus the Retired Employees Fund on policies or certificates reinsured under this agreement shall be called the Principal.
2. The monthly interest credit will be determined in conjunction with the monthly report as one twelfth of the product a (a) times (b), where
 - (a) = fifty per cent (50%) of the arithmetic average of the Principal at the beginning and at the end of the calendar month covered by the monthly report. The Principal at the beginning of a month is equal to the Principal at the end of the immediately preceding month.
 - (b) = one half of the excess of the interest rate earned over the interest rate credited by the Company on the Principal, but not more than one half of one per cent ($\frac{1}{2}\%$).

The interest rate earned by the Company shall be determined as follows:

- i) New premiums and deposits received by the Company for Universal Life policies and RLR certificates, respectively:
Use the actual investment yield achieved by the Company, reduced by one quarter of one per cent ($\frac{1}{4}\%$) for investment expenses, on investments running for a period of more than one year, as shown by the Company's monthly investment report. If the Company made no investments running for a period of more than one year, use the average prime rate, reduced by one quarter of one per cent ($\frac{1}{4}\%$) for investment expenses, prevailing for the month at the First National City Bank of New York.
- ii) Funds held by the Company for the Principal at the beginning of a calendar year:
Use average yield by investment, reduced by one quarter of one per cent ($\frac{1}{4}\%$) for investment expenses, year corresponding to issue years of Universal Life policies and RLR certificates reinsured under this agreement. The basic data for calculating the average yield

shall be obtained from the Company's Annual Statement.

If, as a result of Federal Income Tax provisions, the excess interest rate credited by the Company must be reduced from the rate which the Company would have allowed in the absence of such provisions, the interest rate earned by the Company will be reduced by the same number of basis points (100 basis points = 1%) before determining the excess investment spread achieved by the Company.

IX. Claims

1. When a death claim occurs on a reinsured policy or certificate, the Company will promptly notify the Reinsurer in writing and furnish the Reinsurer with copies of the death certificate and claim forms as soon as they become available.
2. Upon request by the Reinsurer, the Company will provide copies of all papers pertaining to a claim on any policy reinsured under this agreement.
3. Proofs of loss obtained by the Company will be accepted as sufficient by the Reinsurer.
4. The Reinsurer will accept the Company's decision in settlement of all claims paid in accordance with the provisions of the policies and certificates reinsured under this agreement.
5. When copies of proofs of loss have been received by the Reinsurer, the Reinsurer will promptly pay its share of each claim to the Company in a single lump sum without regard for the form of settlement made by the Company.
6. The Company and the Reinsurer will share in interest paid on death claims in proportion to their net liabilities provided that the Reinsurer is not held liable for any interest which may accrue after the date the Reinsurer settles the claim with the Company.
7. The Company will advise the Reinsurer of its intention to contest, compromise or litigate a claim or rescind a contract involving reinsurance. If after reviewing the complete claim file, the Reinsurer agrees in writing with the Company's intention, then the Reinsurer will pay any expense incurred by the Company in contesting or investigating a claim or in rescinding a reinsured policy or certificate in proportion to the respective liabilities of the Reinsurer and the Company. Compensation of officers and employees of the Company is not deemed a claim expense.
8. Expenses of the contest shall also include noncontractual damages assessed against the Company, but only in those cases where it is clear that the Company's denial of the claim was the sole basis for the award.
9. The Reinsurer shall not be liable for any portion of noncontractual damages or expenses when it is determined in good faith that such noncontractual damages have been assessed on the basis of the fault or wrongdoing of the Company, its agents or representatives.

10. If the Reinsurer declines to be a party to the contest, it will pay the Company its full share of the claim according to the terms and conditions of this agreement.
11. If it is established after the Insured's death that a misstatement of age resulted in an increase or decrease in the original amount insured, the Company and the Reinsurer will share in the new amount in the same proportion they shared originally.

X. General Provisions

1. **Company Forms and Rates.** The Company will furnish the Reinsurer with copies of its application forms, policy and rider forms, premiums and any other forms or tables needed for proper handling of reinsurance under this contract. It will advise the Reinsurer of any changes or new forms it may adopt from time to time.
2. **Reinsurance Conditions.** The reinsurance is subject to the same limitations and conditions as the insurance under the policies written by the Company.
3. **Expenses.** The Company will bear the expenses of all medical examinations, inspection fees and other charges in connection with the original policies and certificates.
4. **Errors and Omissions.** It is expressly understood and agreed that if nonpayment of premiums within the time specified or failure to comply with any terms of this contract is shown to be unintentional and the result of misunderstanding or oversight on the part of either the Company or the Reinsurer, both shall be restored to the positions they would have occupied had no such error or oversight occurred.
5. **Inspection.** At any reasonable time, the Reinsurer may inspect the original papers and any and all other books or documents at the Home Office of the Company relating to or affecting reinsurance under this agreement.
6. **Premium Taxes.** When the Reinsurer is not required to pay state premium taxes on reinsurance premiums received from the Company, it will reimburse the Company for the taxes the Company is required to pay for the premiums paid to the Reinsurer.
7. **Insolvency.** All reinsurance under this agreement will be paid by the Reinsurer directly to the Company, its liquidator, receiver, or statutory successor, on the basis of the liability of the Company under the policies reinsured without diminution because of the insolvency of the Company. In the event of the insolvency of the Company, the liquidator, receiver or statutory successor of the Company will give written notice of a pending claim against the Company on any policy or certificate reinsured within a reasonable time after the claim is filed in the insolvency proceedings. While the claim is pending, the Reinsurer may investigate and interpose, at its own expense, in the proceedings where the claim is to be adjudicated any defenses which it may deem available to the Company or its liquidator, receiver or statutory successor. The expense incurred by the Reinsurer will be charged, subject to court approval, against the Company as an expense of liquidation to the extent of a proportionate share of the benefit that accrues to the Company as a result of the defenses by the Reinsurer. Where two or more reinsurers are involved and a majority in interest elect to defend a claim, the expense will be apportioned in accordance with the terms of the reinsurance agreement as if the expense had been incurred by the Company.

XI. Recapture

Business ceded under the provisions of this agreement shall not be eligible for recapture except under the following conditions:

- a) If the Reinsurer terminates this agreement with respect to new reinsurance, the Company may recapture any reinsurance which has been in force for at least ten (10) years.
- b) If the total amount of reinsurance premiums in force, after this agreement has been in effect for three (3) years, is less than \$250,000, the Company may recapture all the reinsurance then in force.

XII. Arbitration

1. Agreement. All differences between the Company and the Reinsurer on which an agreement cannot be reached will be decided by arbitration. The arbitrators will determine the interpretation of the agreement in accordance with the usual business and reinsurance practices rather than strict technicalities.
2. Method. Three arbitrators will decide any differences. They must be officers of life insurance companies other than the two parties to this agreement. One of the arbitrators is to be appointed by the Company and one by the Reinsurer, and these two will select a third. If the two are unable to agree on a third, the choice will be left to the president of the American Council of Life Insurance.
3. Effect. The arbitrators are not bound by rules of law. Their decision will be by majority vote and no appeal will be taken from it. The costs of the arbitration will be borne by the losing party unless the arbitrators decide otherwise.

XIII. Duration of Agreement

This agreement will be effective as of January 01, 1983. It is unlimited in duration but may be amended by mutual consent of the Company and the Reinsurer. It may be terminated as to new reinsurance by either party by giving 90 days written notice to the other. Termination by the Company as to new reinsurance does not affect existing reinsurance. That reinsurance will remain in force until termination of the Company's policy or policies on which the reinsurance is based in accordance with the terms of this agreement. Termination by the Reinsurer as to new reinsurance will affect existing reinsurance to the extent set forth in section XI, Recapture.

XIV. Execution

In witness of the above, this agreement is signed in duplicate at the dates and places indicated below:

Date: December 22, 1982

Place: Richmond, Va.

Witness: Stanley C. Wernicke
Vice President

FIDELITY BANKERS LIFE INSURANCE CO.

By: Heinz A. Briezel, FSA

Title: Senior Vice Pres. & Actuary

Date: January 14, 1983

Place: New Jersey

Witness: Herbert H. Havine
Senior Vice President

RESOURCES LIFE INSURANCE COMPANY

By: Kenneth L. Cutting

Title: Executive Vice President

Part I - Retention Limits of FIDELITY BANKERS LIFE INSURANCE COMPANY for Non-Medical and Medically Underwritten Business

A. 1. LIFE (Effective July 01, 1982)

| <u>Age</u> | <u>Std-Table 8</u> | <u>Table 9-16</u> | <u>Over Table 16</u> |
|------------|--------------------|-------------------|----------------------|
| 0 - 65 | \$400,000 | \$175,000 | \$25,000 |
| 66 & over | 250,000 | 100,000 | 25,000 |

\$2.50 per thousand flat extra will be treated the same as 25% extra mortality. An exception to this is flat extras of \$50.00 or less for three years or less, which will be disregarded in determining maximum retention.

Aviation Risks - Maximum \$250,000

Fidelity Bankers will keep amounts in excess of the above retention if it means reinsuring an amount less than \$25,000.

At the underwriter's discretion, any amount less than these maximum amounts may be retained.

2. WAIVER OF PREMIUM

\$25,000 of annualized premium

3. ACCIDENTAL DEATH BENEFITS *Not Reins'd under this treaty.*

Life limits less life retained

B. Retention Limits of Monarch Life

1. LIFE

\$250,000 all ages and ratings - reduced by any current in force on the life

2. WAIVER OF PREMIUM

Same as Life

*Quota Share - Resources Life -
Integrated Reinsurance business
Effective 1/3/83*

SCHEDULE A

Part II - Automatic Binding Limits

A. LIFE

1. For non-medical and medically underwritten business on which the Company keeps its full retention:

Three (3) times the retention stated in Part I, Paragraph A. 1. (*1,200,000 Max*)

2. For non-medical and medically underwritten business where the Company keeps less than its full retention:

Three (3) times the amount retained by the Company. (*750,000 - Max.*)

3. For "no evidence" business under MERIT plan as per Part III of Schedule A:

50% of each life to a maximum of \$50,000.

4. For Special MERIT under 10 non-medical program:

50% of each life to the maximums indicated in Schedule A. Part IV, Paragraph 1.

5. For Special Non-medical limits:

50% of each life to the maximums indicated in Schedule A, Part V.

B. WAIVER OF PREMIUM

(Consider U.L. permanent)

Not reinsured

C. ACCIDENTAL DEATH BENEFIT

Not reinsured

1. Split 50% of risk first
2. max. income + applied for 3,000,000
3. all business including Universal Life,
M.I.'s & Bypass program & Permanent Exchange Prog.

4. Excess: auto. + F.O. U.L. & CPWL-Pools

- auto. other Perm. - monath
- F.O. " " - F.O. Pool
- auto. Term - YRT Pool
- F.O. Term - Term F.O.

- *M.I.'s* + Bypass Program - Resources & Cologne (Reim for T. programs)
- Special N.M. - Regular reinsurer by plan

Reins Codes
R - Regular
E - Quota Share
F - Quota Share
& regular

*30,000 Perm. } minimum case
50,000 Perm. } included in Quota
 } share*

(6/25/84)

SCHEDULE A

Part II - Automatic Binding Limits

A. LIFE

1. For non-medical and medically underwritten business on which the Company keeps its full retention:

Three (3) times the retention stated in Part I, Paragraph A. 1.

2. For non-medical and medically underwritten business where the Company keeps less than its full retention:

Three (3) times the amount retained by the Company.

3. For "no evidence" business under MERIT plan as per Part III of Schedule A:

50% of each life to a maximum of \$50,000.

4. For Special MERIT under 10 non-medical program:

50% of each life to the maximums indicated in Schedule A, Part IV, Paragraph 1.

5. For Special Non-medical limits:

50% of each life to the maximums indicated in Schedule A, Part V.

B. WAIVER OF PREMIUM

One (1) times the retention stated in Part I, Paragraph A. 2.

C. ACCIDENTAL DEATH BENEFIT

Not reinsured.

SCHEDULE A

Part III - Guide for No-Evidence Underwriting for All MERIT Participants

1. Requirements:

- a. Average age of group should not exceed 43
- b. Principals must not have been postponed or declined
- c. Balanced schedule to determine amounts -- each class not more than two times the immediately preceding class.
- d. An artificial class cannot be established in order to obtain higher amounts of insurance in another class. A definite formula must be used to determine classes and amounts.

2. Maximum Limits:

- a. Groups of 7 through 13 lives will be considered for \$15,000 with minimum participation of 100%.
- b. Groups of 14 through 20 lives will be considered for \$25,000 with minimum participation of 90%.
- c. Groups of 21 or more lives will be considered for the lesser of
 10% of the total basic adjusted amount*, or
 \$1,500 times the number of lives to be insured but not to exceed \$50,000.
 There must be at least two lives in a class.

| | | |
|---------------------|----|---------------------------|
| 21 through 50 lives | -- | Minimum Participation 85% |
| 51 and more | -- | Minimum Participation 80% |

*In calculating the basic adjusted amount, insurance of more than \$40,000 per person will be excluded.

Age 61 through 64 must furnish at least non-medical evidence.
 Age 65 and over will be considered for 50% of these amounts with evidence of insurability.

3. Information Needed:

- a. Census Data form 1431A
- b. Group Information Blank form 2260
- c. Group Inspection
- d. Group Enrollment Record form 2154B for \$25,000 and above -- form 2072C for under \$25,000.

- 4. Any No-Evidence limit applies only to individuals applying for amounts up to and including this amount. Individual applying for amounts above this limit are subject to regular underwriting.
- 5. Groups designed just to fit within No-Evidence limits are discouraged and usually are not considered.
- 6. The Company reserves the right of approval, alteration or rejection of the group after submission of the Company's underwriting requirements and Group Enrollment Records. No liability exists until after approval of the group and payment of the full initial premium.

This information is only a guide to the Company's possible action. If the group is within these guides in all respects, it will probably be approved. However, depending upon the group and information received, the Company's action may be more liberal or more conservative than these guides.

SCHEDULE A

Part IV - Special MERIT Under - 10 Non-Medical Program1. Under - 10 Non-Medical Limits

The special non-medical limits will be available only where required by I.R.S. interpretation of Regulation 1.79 as expressed in Revenue Ruling 75-528. The underwriting rules previously established for MERIT plans will continue unchanged for groups of ten or more, or in such cases where fewer than ten are being "carved-out" or superimposed on a larger group, and there are at least ten insureds in the total plan including coverage provided by other carriers.

The special non-medical limits are:

| Insurance Age | Non-Medical Amount |
|---------------|--------------------|
| 20-40 | \$250,000 |
| 41-55 | \$175,000 |
| 56-65 | \$100,000 |

Amounts up to, and including, the above limits will be underwritten on a non-medical basis. The Company reserves the right to rate any participants based on the non-medical information furnished, if such action will not conflict with Internal Revenue Service regulations. Regular MERIT Modified Underwriting rules will not apply to groups qualifying for the special non-medical program, and all applicants must fully complete the non-medical (Part II) portion of application 3056.

2. Special Under - 10 Agreement Letter

Each applicant who is scheduled for insurance in excess of the amounts listed below must sign the special Under - 10 Agreement, U-10D (form 2918A). The original must be returned with the application 3056, and a copy should be retained by the applicant. No action will be taken on a particular case until all applicants required to do so have executed and returned form U-10D.

Form U-10D is not initially required for these amounts (Do complete Parts I and II, application 3056).

| Insurance Age | Amount |
|---------------|----------|
| 0-30 | \$45,000 |
| 31-35 | \$30,000 |
| 36-40 | \$20,000 |
| 41-65 | \$10,000 |

Although form U-10D will initially be required only if the amount of insurance applied for exceeds the above limits, the Underwriting Department may subsequently request that applicants for smaller amounts also agree to participate in the special underwriting and review program.

3. Benefits and Plans Available

- A. All policies presently offered under MERIT Program.
- B. Waiver of Premium Disability through issue age 55. If one individual in a group applies, all must unless an explanation is given.
- C. Increasing and Convertible Term Riders.
- D. Accidental Death Benefit will be considered provided the total amount of life and ADB applied for does not exceed the limits listed in Section 1 above. (Example: If scheduled MERIT life amount is \$200,000 for an age 39 applicant, ADB will be limited to \$50,000.) Total ADB applied for and in force in all companies must not exceed \$200,000. ADB is issued through age 55.

SCHEDULE A

4. Underwriting Information Needed

- A. Application 3056, Parts I and II for all applicants, regardless of amount. Use form 2309 when insufficient space for answers on Part II.
- B. Notice of Exchange of Information (3196-Special Authorization in states where required).
- C. Additional Health questionnaires as requested by Underwriting.
- D. Under-Ten Agreement Letter, U-10D (form 2918A) (when required by Section 2 on the preceding page.) Note: This special non-medical MERIT Program for under-ten lives will use only the proposed insured's statements on the application and questionnaires. No examinations, inspection reports, attending physician's reports or special studies will be secured prior to issue of a policy. You will be notified by your general agent if the Underwriting Department finds it necessary to obtain additional health questionnaires from applicants.

5. Post Issue Underwriting Review Guidelines

After the insurance has been issued and put in force on a paid basis, you will be informed by your general agent of any medical requirements the Company needs to complete the special review program in addition to A. below.

- A. Each individual issued amounts in excess of those listed below may be asked to furnish a medical examination by a company examiner within 60 days after the issue date, or a good copy of another company's examination completed not more than four months prior to date of underwriting approval and a home office specimen.

| Insurance Age | Amount |
|---------------|-----------|
| 20-40 | \$125,000 |
| 41-55 | 75,000 |
| 56-60 | 50,000 |
| 61-65 | 35,000 |

- B. Other information will be secured from the Home Office as needed.

6. Additions

Additions to existing Under-10 groups will be considered under this program as long as the total of the new special non-medical insurance plus any insurance previously issued on a non-medical or Modified Underwriting (no evidence) basis does not exceed the limits in Section 1 above.

For this program to succeed, it is imperative that carefully taken medical histories be initially secured. Complete and detailed information with supplementary non-medical information the proposed insured may have must be given and recorded on the non-medical Part II of the application, a form 2309 application supplement, or one of the special questionnaires which will be furnished as requested by the Underwriting Department.

SCHEDULE A

Part V - Special Non-Medical Limits

| <u>Ages</u> | <u>Limits</u> |
|-------------|---------------|
| 0-40 | \$750,000 |
| 41-50 | 500,000 |
| 51-60 | 400,000 |
| 61-65 | 300,000 |

For these special limits, the proposed insured must have a personal physician and have had a physical examination, including an electrocardiogram for ages 41 and up, within one year prior to the date of application.

Carefully taken medical histories must be secured.

These rules are for individuals with no significant underwriting impairment.

The Company reserves the right to require a current examination or to ask for additional requirements.

No significant underwriting impairment means any case which can be considered on a non-medical basis and at standard rates. However, it may be possible to consider some substandard cases for certain impairments when complete and current information from an attending physician is available.

. SCHEDULE B

Monthly Reports

1. New Issues and Reinstatements
2. Renewal Premiums - Premium/Policy Exhibit Summary for Universal Life
3. Interest Credit
4. Changes
5. Policy Loans
6. Terminations

Annual Reports

1. Statutory Reserves
2. Policy Exhibit
3. Claim Liability

New Business - 1st Year Premiums

Month _____

[illegible]

716

SCHEDULE B

Renewal Premium Report
 Month of _____
 Other Than Universal Life Policies

| Policy # | Insured | Policy Date | Pol. Yr. | Plan | Ceded Amount | Coins. Premium | Allowance |
|----------|---------|-------------|----------|------|--------------|----------------|-----------|
| | 1 | | | | | | |

SCHEDULE B

Premium/Policy Exhibit Summary Report
Universal Life PoliciesPOLICY EXHIBIT SUMMARY

Month Ending _____

| In Force End of Prior Month: | No. of <u>Policies</u> | Amount <u>Reinsured</u> |
|--------------------------------|---------------------------|----------------------------|
| Plus: New Issues | | |
| Reinstatements | | |
| Increases | | |
| Less: Terminations | | |
| Deaths | | |
| Decreases | | |
| In Force End of Current Month: | | |

REINSURANCE PREMIUMS

| | LIFE | FLAT EXTRA | TOTAL |
|----------------|------|------------|-------|
| First Year | | | |
| Renewal | | | |
| Total Premiums | | | |

SCHEDULE B

Interest Credit for Month of _____

| | <u>1st Year</u> | <u>Beg. of</u> <u>Month</u> | <u>End of</u> <u>Month</u> | <u>Average</u> |
|-----|---------------------------------------------------|--------------------------------|-------------------------------|----------------|
| 1. | Universal Life Cash Values (50%) | | | |
| 2. | RLR Accumulation Fund (50%) | | | |
| 3. | RLR Ret. Employees Fund (50%) | | | |
| 4. | (1) + (2) + (3) | | | |
| 5. | Company's Investment Yield less $\frac{1}{2}\%$ | | | |
| 6. | Excess Interest Rate Allowed | | | |
| 7. | (5) - (6), not more than $\frac{1}{2}\%$ | | | |
| 8. | Interest Credit: $1/12 \times (4) \times (7)$ | | | |
| | <u>Renewal</u> | | | |
| 9. | Universal Life Cash Values (50%) | | | |
| 10. | RLR Accumulation Fund (50%) | | | |
| 11. | RLR Ret. Employees Fund (50%) | | | |
| 12. | (9) + (10) + (11) | | | |
| 13. | Company's Investment Yield less $\frac{1}{2}\%$ | | | |
| 14. | Excess Interest Rate Allowed | | | |
| 15. | (13) - (14), not more than $\frac{1}{2}\%$ | | | |
| 16. | Interest Credit: $1/12 \times (12) \times (15)$ | | | |
| 17. | Policy Loan Interest (from Policy Loan Report) | | | |
| 18. | Total Interest Credit: (8) + (16) + (17) | | | |

SCHEDULE B

Policy Changes for Month of _____

| <u>Pol.</u> <u>No.</u> | <u>Insured</u> | <u>Change</u> <u>From</u> <u>To</u> | <u>Premium</u> <u>Adjustment</u> | <u>Allowance</u> <u>Adjustment</u> |
|---------------------------|----------------|----------------------------------------|-------------------------------------|---------------------------------------|
|---------------------------|----------------|----------------------------------------|-------------------------------------|---------------------------------------|

SCHEDULE B

Policy Loan Transactions for Month of _____

| <u>Pol.</u> <u>No.</u> | <u>Date</u> | <u>Beginning</u> <u>Loan</u> | <u>New</u> <u>Loan</u> | <u>Repayment</u> | <u>Interest</u> <u>Paid</u> | <u>Interest</u> <u>Charged</u> | <u>Outstanding</u> <u>Loan</u> |
|---------------------------|-------------|---------------------------------|---------------------------|------------------|--------------------------------|-----------------------------------|-----------------------------------|
|---------------------------|-------------|---------------------------------|---------------------------|------------------|--------------------------------|-----------------------------------|-----------------------------------|

Totals

SCHEDULE B

Termination Report

| Policy # | Insured | Effective Date Of Termination | Refund Credit | Reason for Termination |
|----------|---------|----------------------------------|---------------|---------------------------|
| | | | | |

SCHEDULE B

ANNUAL STATEMENT INFORMATIONPOLICY EXHIBITNO. OF
POLICIESAMOUNT OF
REINSURANCE

In Force End of Prior Year
New Issues
Reinstatements
Increases (Net)
Death
Maturity
Expiry
Surrender
Lapse
Decreases (Net)
In Force End of Current Year

CLAIM LIABILITY (Exh. 11)

1. Due and Unpaid
- 2.1 Resisted
- 2.2 In Course of Settlement
3. Incurred by Unreported
4. Totals

LIFE INSURANCE RESERVE (Exh. 8)

SCHEDULE C

Commission and Expense Allowances

The Reinsurer will grant the following allowances to the Company:

A. Commission and Bonus

The Reinsurer will reimburse the Company for commissions and bonus on the reinsurance premiums at the same rates as paid by the Company in accordance with the attached commission schedule and the following bonus schedule:

12.5% of commissions paid on First Year reinsurance premiums,

25.0% of commissions paid on Second Year reinsurance premiums.

B. Expenses

The Reinsurer will pay to the Company the following expense allowances:

1. First Policy Year

12.5% of all First Year reinsurance premiums remitted to the Reinsurer plus

\$25.00 per policy or certificate issued.

2. Renewal Policy Years

\$12.50 on Term Insurance

per policy or certificate in force

\$20.00 on Permanent Insurance

at the beginning of the policy year.

For the purpose of renewal expense allowance Universal Life policies will be considered Term Insurance.

For Mr. Breigel use same allowances for flat extra as we use in regular UL with Resources. 10/24/84 gm

~~Above does not apply to Freedom 2~~

~~per Mr. Breigel & Mike Adams 5/3/84~~

*We do use above 10/24/84
per Mike Adams gm*

RESOURCES LIFE INSURANCE COMPANY

One Bridge Plaza
P. O. Box 1347
Fort Lee, N.J. 07024
(201) 461-0606

Mr. Heinz A. Briegel, FSA
Senior Vice President & Actuary
Fidelity Bankers Life Insurance Company
Fidelity Building
Ninth and Main Streets
Richmond, Virginia 23219

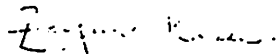
March 7, 1984

Dear Mr. Briegel,

Thank you for your letter of March 5th, 1984. The method you have suggested in that letter for Resources' interest credit would be quite acceptable to us.

I can, therefore, confirm the inclusion of that letter as part of our quota share coinsurance agreement.

Yours sincerely,



Zafar Khan
Assistant Actuary

cc. Kenneth L. Gittings

ZK/cb





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Fidelity Bankers Life Insurance Company

Fidelity Building, Ninth and Main Streets, Richmond, Virginia 23219 • (804) 649-8411

March 5, 1984

Mr. Zafar Khan, Assistant Actuary
Resources Life Insurance Company
One Bridge Plaza
P. O. Box 1347
Fort Lee, NJ 07024

Dear Mr. Khan:

Thank you for your letter of March 1, 1984. The formulas you are showing are very simple and correspond to the definition of the interest credit as contained in the Reinsurance Agreement between our companies.

The problem is the determination of the rates to be used in obtaining the difference between our investment yield and the excess interest credited. We are crediting excess interest every day and we are investing money every day. But, there is not necessarily a direct relationship between the two. In the first policy year we normally have no money to invest, since commissions, premium taxes and expenses exceed the load in the policy, and yet we are crediting excess interest. Therefore, the value of $d-e$ (in your formula) is negative.

What I tried to accomplish with my letter of January 4, 1984 was a simplification of determining values for investment yield and excess interest credited. I will now go one step further. We will assume that Resources Life will always earn the maximum interest credit, i.e., one half of one percent. However, we have to reserve the right to return to the formula interest credit defined in the Reinsurance Agreement, should the unlikely event occur that we will earn less than an additional one percent above the excess interest we are crediting.

With this change to my suggestion of January 4, 1984, I am re-stating the method we would like to use for the interest credit to Resources Life.

1. Use a monthly interest rate of one twelfth of one half of one percent (subject to adjustment as stated in previous paragraph).
2. Apply every month to Resources Life's portion of the cash value at end of previous calendar year.
3. At end of calendar year, calculate average cash value for each policy as one half of the cash value at the end of the previous and at the end of the current calendar year. Multiply the sum of these averages by one half of one percent (subject to adjustment as stated in previous paragraph).



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4. If the total interest credit for the calendar year, i.e. the sum of item 1 times item 2 for all twelve months, is less than the amount in item 3, we will pay the difference as additional interest credit to you. If it is greater, we will deduct the difference from future excess interest credits.
5. In determining the cash value of a policy any outstanding policy loan on that policy will be deducted.

Please let me know if this is agreeable.

Sincerely,

Heinze A. Briegel, F.S.A.
Senior Vice President and Actuary

/lkm

cc: Mr. Edward D. Simon
cc: Mr. Kenneth L. Gittings

FBL Universal Life Policy, UL1

Plan Code UL

Annual Cost of Insurance Rates per \$1000

Preferred Nonsmokers - Current Rates

| Attd Age | MALE | | FEMALE | | Attd Age | MALE | | FEMALE | |
|----------|---------|---------|---------|---------|----------|---------|---------|---------|---------|
| | 1st Yr. | Renewal | 1st Yr. | Renewal | | 1st Yr. | Renewal | 1st Yr. | Renewal |
| 15-20 | .24 | 1.08 | .24 | .96 | 65 | 3.36 | 16.32 | 1.56 | 9.60 |
| 21-25 | .24 | 1.08 | .24 | .96 | 66 | 3.60 | 17.76 | 1.68 | 10.40 |
| 26 | .24 | 1.08 | .24 | .96 | 67 | 3.84 | 19.32 | 1.80 | 11.40 |
| 27 | .24 | 1.08 | .24 | .96 | 68 | 4.08 | 20.88 | 1.92 | 12.48 |
| 28 | .24 | 1.08 | .24 | .96 | 69 | 4.44 | 22.56 | 2.16 | 13.80 |
| 29 | .24 | 1.08 | .24 | .96 | 70 | 4.92 | 24.48 | 2.40 | 15.36 |
| 30 | .24 | 1.08 | .24 | .96 | 71 | 5.52 | 26.64 | 2.64 | 17.16 |
| 31 | .24 | 1.20 | .24 | .96 | 72 | 6.24 | 29.04 | 3.00 | 19.20 |
| 32 | .24 | 1.20 | .24 | .96 | 73 | 6.96 | 31.68 | 3.36 | 21.36 |
| 33 | .36 | 1.20 | .24 | 1.08 | 74 | 7.80 | 34.56 | 3.72 | 23.88 |
| 34 | .36 | 1.32 | .24 | 1.08 | 75 | 8.76 | 37.80 | 4.20 | 26.76 |
| 35 | .36 | 1.32 | .24 | 1.20 | 76 | 9.84 | 41.40 | 4.80 | 30.00 |
| 36 | .36 | 1.44 | .24 | 1.20 | 77 | 11.04 | 45.48 | 5.52 | 33.00 |
| 37 | .48 | 1.56 | .24 | 1.32 | 78 | 12.36 | 50.04 | 6.36 | 37.00 |
| 38 | .48 | 1.68 | .24 | 1.32 | 79 | 13.92 | 55.08 | 7.44 | 41.38 |
| 39 | .48 | 1.80 | .36 | 1.44 | 80 | 15.72 | 60.60 | 8.76 | 46.56 |
| 40 | .60 | 1.92 | .36 | 1.56 | 81 | | 66.48 | | 51.60 |
| 41 | .60 | 2.04 | .36 | 1.68 | 82 | | 72.72 | | 57.12 |
| 42 | .60 | 2.16 | .36 | 1.80 | 83 | | 79.44 | | 63.12 |
| 43 | .72 | 2.28 | .36 | 1.92 | 84 | | 86.64 | | 69.60 |
| 44 | .72 | 2.52 | .48 | 2.04 | 85 | | 94.44 | | 76.56 |
| 45 | .72 | 2.76 | .48 | 2.16 | 86 | | 102.96 | | 84.12 |
| 46 | .84 | 3.00 | .48 | 2.28 | 87 | | 112.20 | | 92.40 |
| 47 | .84 | 3.24 | .60 | 2.40 | 88 | | 122.16 | | 101.40 |
| 48 | .96 | 3.60 | .60 | 2.52 | 89 | | 132.84 | | 111.12 |
| 49 | .96 | 3.96 | .60 | 2.64 | 90 | | 144.12 | | 121.44 |
| 50 | 1.08 | 4.32 | .72 | 2.88 | 91 | | 155.76 | | 132.12 |
| 51 | 1.08 | 4.68 | .72 | 3.12 | 92 | | 167.52 | | 142.92 |
| 52 | 1.20 | 5.04 | .72 | 3.36 | 93 | | 179.04 | | 153.48 |
| 53 | 1.20 | 5.52 | .84 | 3.60 | 94 | | 190.32 | | 163.80 |
| 54 | 1.32 | 6.00 | .84 | 3.84 | 95 | | 201.36 | | 173.88 |
| 55 | 1.44 | 6.60 | .84 | 4.20 | 96 | | 212.16 | | 183.24 |
| 56 | 1.56 | 7.32 | .96 | 4.56 | 97 | | 222.72 | | 192.84 |
| 57 | 1.68 | 8.04 | .96 | 4.92 | 98 | | 233.04 | | 202.08 |
| 58 | 1.80 | 8.76 | 1.08 | 5.40 | 99 | | 243.12 | | 210.96 |
| 59 | 1.92 | 9.48 | 1.08 | 5.88 | | | | | |
| 60 | 2.16 | 10.32 | 1.20 | 6.48 | | | | | |
| 61 | 2.40 | 11.28 | 1.20 | 7.08 | | | | | |
| 62 | 2.64 | 12.24 | 1.32 | 7.68 | | | | | |
| 63 | 2.88 | 13.44 | 1.32 | 8.28 | | | | | |
| 64 | 3.12 | 14.88 | 1.44 | 8.88 | | | | | |

FBL Universal Life Policy, UL1

Plan Code UL4

Annual Cost of Insurance Rates per \$1000

Standard Nonsmokers - Current Rates

| Attd Age | MALE | | FEMALE | | Attd Age | MALE | | FEMALE | |
|----------|---------|---------|---------|---------|----------|---------|---------|---------|---------|
| | 1st Yr. | Renewal | 1st Yr. | Renewal | | 1st Yr. | Renewal | 1st Yr. | Renewal |
| 0-15 | .24 | 1.20 | .24 | 1.08 | 65 | 3.60 | 20.40 | 1.80 | 12.36 |
| 16-20 | .24 | 1.20 | .24 | 1.08 | 66 | 3.96 | 22.20 | 1.92 | 13.44 |
| 21-25 | .24 | 1.32 | .24 | 1.20 | 67 | 4.32 | 24.12 | 2.04 | 14.64 |
| 26 | .24 | 1.44 | .24 | 1.20 | 68 | 4.68 | 26.04 | 2.16 | 15.96 |
| 27 | .24 | 1.44 | .24 | 1.20 | 69 | 5.16 | 28.08 | 2.40 | 17.52 |
| 28 | .24 | 1.44 | .24 | 1.20 | 70 | 5.76 | 30.24 | 2.64 | 19.20 |
| 29 | .24 | 1.44 | .24 | 1.20 | 71 | 6.48 | 32.52 | 3.00 | 21.00 |
| 30 | .24 | 1.44 | .24 | 1.20 | 72 | 7.32 | 34.92 | 3.36 | 23.04 |
| 31 | .36 | 1.56 | .24 | 1.20 | 73 | 8.28 | 37.56 | 3.84 | 25.20 |
| 32 | .36 | 1.56 | .24 | 1.32 | 74 | 9.36 | 40.44 | 4.32 | 27.48 |
| 33 | .36 | 1.68 | .24 | 1.32 | 75 | 10.56 | 43.44 | 4.92 | 30.00 |
| 34 | .36 | 1.68 | .24 | 1.44 | 76 | 11.76 | 46.68 | 5.64 | 32.88 |
| 35 | .36 | 1.80 | .36 | 1.44 | 77 | 13.08 | 50.16 | 6.60 | 36.12 |
| 36 | .48 | 1.92 | .36 | 1.56 | 78 | 14.40 | 54.00 | 7.68 | 39.60 |
| 37 | .48 | 2.04 | .36 | 1.56 | 79 | 15.84 | 58.20 | 8.88 | 43.44 |
| 38 | .48 | 2.16 | .36 | 1.68 | 80 | 17.52 | 62.76 | 10.08 | 47.64 |
| 39 | .60 | 2.28 | .36 | 1.80 | 81 | | 67.92 | | 52.32 |
| 40 | .60 | 2.40 | .36 | 1.92 | 82 | | 73.80 | | 57.60 |
| 41 | .60 | 2.52 | .48 | 2.04 | 83 | | 80.16 | | 63.36 |
| 42 | .72 | 2.64 | .48 | 2.16 | 84 | | 87.00 | | 69.60 |
| 43 | .72 | 2.88 | .48 | 2.28 | 85 | | 94.44 | | 76.56 |
| 44 | .84 | 3.12 | .48 | 2.52 | 86 | | 102.96 | | 84.12 |
| 45 | .84 | 3.48 | .48 | 2.76 | 87 | | 112.20 | | 92.40 |
| 46 | .96 | 3.84 | .60 | 2.88 | 88 | | 122.16 | | 101.28 |
| 47 | .96 | 4.20 | .60 | 3.12 | 89 | | 132.84 | | 111.12 |
| 48 | 1.08 | 4.68 | .60 | 3.24 | 90 | | 144.12 | | 121.44 |
| 49 | 1.08 | 5.04 | .72 | 3.48 | 91 | | 155.76 | | 132.12 |
| 50 | 1.20 | 5.52 | .72 | 3.72 | 92 | | 167.52 | | 142.92 |
| 51 | 1.20 | 6.00 | .72 | 3.96 | 93 | | 179.04 | | 153.48 |
| 52 | 1.32 | 6.48 | .84 | 4.20 | 94 | | 190.32 | | 163.80 |
| 53 | 1.32 | 7.08 | .84 | 4.44 | 95 | | 201.36 | | 173.88 |
| 54 | 1.44 | 7.68 | .84 | 4.80 | 96 | | 212.16 | | 183.24 |
| 55 | 1.56 | 8.40 | .96 | 5.16 | 97 | | 222.72 | | 192.84 |
| 56 | 1.68 | 9.12 | .96 | 5.64 | 98 | | 233.04 | | 202.08 |
| 57 | 1.80 | 9.96 | 1.08 | 6.12 | 99 | | 243.12 | | 210.96 |
| 58 | 1.92 | 10.80 | 1.08 | 6.72 | | | | | |
| | 2.16 | 11.76 | 1.20 | 7.44 | | | | | |
| 60 | 2.40 | 12.84 | 1.20 | 8.28 | | | | | |
| 61 | 2.64 | 14.04 | 1.32 | 9.00 | | | | | |
| 62 | 2.88 | 15.36 | 1.44 | 9.84 | | | | | |
| 63 | 3.12 | 16.92 | 1.56 | 10.68 | | | | | |
| 64 | 3.36 | 18.60 | 1.68 | 11.52 | | | | | |

FBL Universal Life Policy, UL1

Plan Code UL5

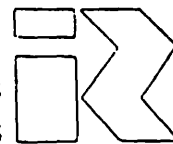
Annual Cost of Insurance Rates per \$1000

Smokers - Current Rates

| Attd Age | MALE | | FEMALE | | Attd Age | MALE | | FEMALE | |
|----------|---------|---------|---------|---------|----------|---------|---------|---------|---------|
| | 1st Yr. | Renewal | 1st Yr. | Renewal | | 1st Yr. | Renewal | 1st Yr. | Renewal |
| 15-20 | .36 | 1.44 | .36 | 1.20 | 65 | 4.20 | 24.48 | 2.04 | 15.24 |
| 21-25 | .36 | 1.68 | .36 | 1.44 | 66 | 4.56 | 26.64 | 2.16 | 16.56 |
| 26 | .36 | 1.92 | .36 | 1.68 | 67 | 5.04 | 28.92 | 2.28 | 18.00 |
| 27 | .36 | 1.92 | .36 | 1.80 | 68 | 5.64 | 31.32 | 2.40 | 19.50 |
| 28 | .36 | 1.92 | .36 | 1.80 | 69 | 6.36 | 33.84 | 2.64 | 21.24 |
| 29 | .36 | 2.04 | .36 | 1.80 | | | | | |
| | | | | | 70 | 7.08 | 36.36 | 2.88 | 23.04 |
| 30 | .36 | 2.04 | .36 | 1.80 | 71 | 7.92 | 38.88 | 3.24 | 24.96 |
| 31 | .48 | 2.16 | .48 | 1.92 | 72 | 8.76 | 41.40 | 3.72 | 26.88 |
| 32 | .48 | 2.16 | .48 | 1.92 | 73 | 9.60 | 43.92 | 4.20 | 28.92 |
| 33 | .48 | 2.16 | .48 | 1.92 | 74 | 10.56 | 46.44 | 4.80 | 31.08 |
| 34 | .48 | 2.28 | .48 | 1.92 | | | | | |
| | | | | | 75 | 11.64 | 48.96 | 5.40 | 33.36 |
| 35 | .48 | 2.28 | .48 | 2.04 | 76 | 12.84 | 51.60 | 6.24 | 35.88 |
| 36 | .60 | 2.40 | .48 | 2.04 | 77 | 14.28 | 54.36 | 7.20 | 38.64 |
| 37 | .60 | 2.52 | .48 | 2.16 | 78 | 15.84 | 57.24 | 8.40 | 41.64 |
| 38 | .60 | 2.64 | .48 | 2.16 | 79 | 17.40 | 60.36 | 9.72 | 45.00 |
| 39 | .72 | 2.76 | .48 | 2.28 | | | | | |
| | | | | | 80 | 19.20 | 63.84 | 11.04 | 48.84 |
| 40 | .72 | 2.88 | .48 | 2.40 | 81 | | 69.12 | | 53.16 |
| 41 | .72 | 3.00 | .60 | 2.52 | 82 | | 74.88 | | 58.08 |
| 42 | .84 | 3.24 | .60 | 2.64 | 83 | | 81.00 | | 63.60 |
| 43 | .84 | 3.60 | .60 | 2.76 | 84 | | 87.48 | | 69.72 |
| 44 | .96 | 3.96 | .60 | 3.00 | | | | | |
| | | | | | 85 | | 94.44 | | 76.56 |
| 45 | .96 | 4.32 | .60 | 3.24 | 86 | | 102.96 | | 84.12 |
| 46 | 1.08 | 4.80 | .72 | 3.48 | 87 | | 112.20 | | 92.40 |
| 47 | 1.08 | 5.28 | .72 | 3.72 | 88 | | 122.16 | | 101.40 |
| 48 | 1.20 | 5.76 | .72 | 3.96 | 89 | | 132.84 | | 111.12 |
| 49 | 1.20 | 6.24 | .84 | 4.32 | | | | | |
| | | | | | 90 | | 144.12 | | 121.44 |
| 50 | 1.32 | 6.72 | .84 | 4.68 | 91 | | 155.76 | | 132.12 |
| 51 | 1.32 | 7.20 | .84 | 5.04 | 92 | | 167.52 | | 142.92 |
| 52 | 1.44 | 7.80 | .96 | 5.40 | 93 | | 179.04 | | 153.48 |
| 53 | 1.44 | 8.52 | .96 | 5.76 | 94 | | 190.32 | | 163.80 |
| 54 | 1.56 | 9.36 | .96 | 6.12 | | | | | |
| | | | | | 95 | | 201.36 | | 173.88 |
| 55 | 1.68 | 10.20 | 1.08 | 6.48 | 96 | | 212.16 | | 183.24 |
| 56 | 1.80 | 11.16 | 1.08 | 6.96 | 97 | | 222.72 | | 192.84 |
| 57 | 1.92 | 12.24 | 1.20 | 7.56 | 98 | | 233.04 | | 202.08 |
| 58 | 2.16 | 13.44 | 1.20 | 8.28 | 99 | | 243.12 | | 210.96 |
| 59 | 2.40 | 14.64 | 1.32 | 9.12 | | | | | |
| | | | | | | | | | |
| 60 | 2.64 | 15.96 | 1.44 | 10.08 | | | | | |
| 61 | 2.88 | 17.40 | 1.56 | 11.04 | | | | | |
| 62 | 3.24 | 18.96 | 1.68 | 12.00 | | | | | |
| 63 | 3.60 | 20.64 | 1.80 | 12.96 | | | | | |
| 64 | 3.96 | 22.44 | 1.92 | 14.04 | | | | | |

CURRENT MONTHLY COST OF WAIVER RATES
Per \$1000 Net Amount at Risk

| ATTD. AGE | PREFERRED NONSMOKERS | | MALE STANDARD NONSMOKERS | | SMOKERS | | PREFERRED NONSMOKERS | | FEMALE STANDARD NONSMOKERS | | SMOKERS | |
|--------------|-------------------------|-------|--------------------------------|-------|---------|-------|-------------------------|-------|----------------------------------|-------|---------|-------|
| | 1st Yr | Ren'l | 1st Yr | Ren'l | 1st Yr | Ren'l | 1st Yr | Ren'l | 1st Yr | Ren'l | 1st Yr | Ren'l |
| 15-30 | .001 | .004 | .001 | .004 | .001 | .005 | .001 | .006 | .001 | .006 | .001 | .008 |
| 31 | .001 | .004 | .001 | .005 | .001 | .006 | .002 | .006 | .002 | .007 | .002 | .009 |
| 32 | .001 | .005 | .001 | .005 | .001 | .006 | .002 | .007 | .002 | .007 | .002 | .010 |
| 33 | .001 | .005 | .001 | .006 | .002 | .007 | .002 | .007 | .002 | .008 | .003 | .011 |
| 34 | .001 | .006 | .001 | .006 | .002 | .007 | .002 | .008 | .002 | .009 | .003 | .012 |
| 35 | .001 | .006 | .001 | .007 | .002 | .008 | .002 | .008 | .002 | .010 | .003 | .013 |
| 36 | .002 | .007 | .002 | .007 | .002 | .008 | .002 | .009 | .002 | .011 | .003 | .014 |
| 37 | .002 | .007 | .002 | .008 | .002 | .009 | .002 | .010 | .002 | .012 | .003 | .015 |
| 38 | .002 | .008 | .002 | .008 | .003 | .010 | .003 | .011 | .003 | .013 | .004 | .016 |
| 39 | .002 | .008 | .002 | .009 | .003 | .011 | .003 | .012 | .003 | .014 | .004 | .017 |
| 40 | .002 | .009 | .002 | .010 | .003 | .012 | .003 | .013 | .003 | .015 | .004 | .018 |
| 41 | .002 | .009 | .002 | .011 | .003 | .013 | .003 | .014 | .003 | .016 | .005 | .019 |
| 42 | .002 | .010 | .002 | .012 | .003 | .014 | .003 | .015 | .003 | .018 | .005 | .021 |
| 43 | .003 | .011 | .003 | .013 | .004 | .016 | .004 | .016 | .004 | .020 | .005 | .023 |
| 44 | .003 | .012 | .003 | .014 | .004 | .018 | .004 | .017 | .004 | .022 | .006 | .025 |
| 45 | .003 | .014 | .003 | .016 | .004 | .020 | .004 | .018 | .004 | .024 | .006 | .027 |
| 46 | .003 | .016 | .003 | .019 | .004 | .023 | .005 | .020 | .005 | .026 | .007 | .030 |
| 47 | .004 | .019 | .004 | .022 | .005 | .027 | .005 | .022 | .005 | .029 | .007 | .034 |
| 48 | .005 | .022 | .005 | .026 | .006 | .032 | .006 | .025 | .006 | .032 | .008 | .039 |
| 49 | .006 | .026 | .006 | .031 | .007 | .038 | .007 | .029 | .007 | .036 | .009 | .045 |
| 50 | .007 | .030 | .007 | .036 | .008 | .045 | .008 | .033 | .008 | .041 | .010 | .052 |
| 51 | .008 | .035 | .008 | .042 | .010 | .053 | .009 | .038 | .009 | .047 | .011 | .058 |
| 52 | .010 | .042 | .010 | .050 | .012 | .063 | .010 | .044 | .010 | .055 | .013 | .067 |
| 53 | .012 | .052 | .012 | .061 | .015 | .076 | .012 | .053 | .012 | .065 | .015 | .079 |
| 54 | .015 | .066 | .015 | .076 | .018 | .094 | .015 | .066 | .015 | .078 | .018 | .096 |
| 55 | .018 | .085 | .018 | .096 | .021 | .119 | .018 | .085 | .018 | .096 | .021 | .119 |
| 56 | .021 | .109 | .021 | .122 | .024 | .152 | .021 | .109 | .021 | .122 | .024 | .152 |
| 57 | .024 | .138 | .024 | .155 | .027 | .194 | .024 | .138 | .024 | .155 | .027 | .194 |
| 58 | .028 | .172 | .028 | .197 | .031 | .246 | .028 | .172 | .028 | .197 | .031 | .246 |
| 59 | .032 | .211 | .032 | .250 | .035 | .309 | .032 | .211 | .032 | .250 | .035 | .309 |

Integrated Resources
Life CompaniesResources Life Insurance Company ☐ Providence Life Insurance CompanyOne Bridge Plaza
Fort Lee, New Jersey 07024
201-461-0616

December 5, 1983

Mr. Edward L. Kurtz
Senior Vice President, Underwriting
Fidelity Bankers Life Ins. Co.
Fidelity Bldg.
9th & Main Street
Richmond, VA 23219

Dear Ed:

This letter is a follow up re your Special Permanent Policy
Exchange Program.

On those cases where Fidelity Bankers will be retaining \$250,000:

1. Resources will reinsure up to \$250,000 using Facultative
Obligatory Allowances for Universal Life and CPWL. 2. Regular
Facultative YRT rates, as outlined in your Treaty will be used
for any other permanent plan.

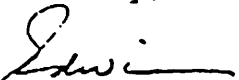
On those large amount cases which you would be considering up
to a maximum of \$1,000,000 we will accept up to \$400,000 using
Facultative Obligatory rates. We understand that you will be
furnished copies of the underwriting papers such as exams, APS's etc.,
secured at the original date or since that date. We also understand
that you will be requiring a full non-medical application and HOS
in addition to the forms under the regular program. This too will be
for Universal Life and CPWL.

As discussed, IR agency business is excluded from this agreement as
it will come to us under our Marketing Agreement with you.

Please accept this letter as confirmation of our agreement and make
it part of your Treaty.

Thank you for your cooperation.

Sincerely,

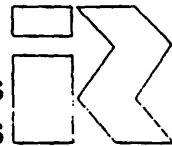

Edwin O'Reilly
Assistant Vice President
Reinsurance Marketing

EOR/msf

file

Place
in
Q.S. County Place
11/16

Integrated Resources
Life Companies



Resources Life Insurance Company ☐ Providence Life Insurance Company

One Bridge Plaza
Fort Lee, New Jersey 07024
201-461-0606

June 8, 1984

Mr. Michael Adams
Manager of Reinsurance
Fidelity Bankers Life Ins. Co.
Fidelity Building
Ninth and Main Streets
Richmond, Va. 23219

Dear Mr. Adams:

We are returning your copies of Amendment No. 4, Pools A, B, C.

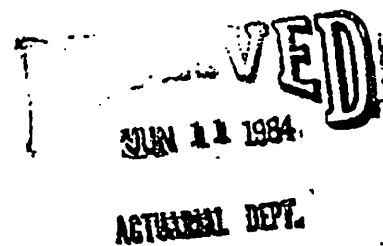
We also agree that Freedom II, Universal Life will be included in the quote share basis as set forth in the treaty for Universal Life. Please accept this letter in lieu of a specific amendment to the treaty.

If we can be of any further service please let us know.

Sincerely,

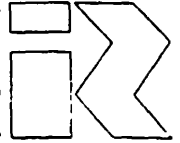
Joan W. Donovan

Joan W. Donovan
Senior Underwriter



AUG 28 1984 M A 734

Integrated Resources
Life Companies



Resources Life Insurance Company ☐ Providence Life Insurance Company

One Bridge Plaza
Fort Lee, New Jersey 07024
201-461-0606

July 26, 1984

Edward L. Kurtz
Senior Vice President
Underwriting
Fidelity Bankers Life Ins. Co.
Fidelity Building
9th & Main Street
Richmond, Virginia 23219

Dear Ed:

This letter will reflect changes in my letter of 12/5/83 to you regarding your Special Permanent Policy Exchange Program.

1. On large amount cases where Fidelity Bankers would be considering up to a maximum of \$1,000,000, we will increase our participation from \$400,000 to \$450,000 using Fac/Oblig rates and allowances. This increase is effective starting 8/1/84 and covers Universal Life and CPWL. Regular Facultative YRT rates will be used for any other permanent plan. Terms for cases up to 500M will remain the same.
2. Effective 8/1/84 Resources Life will also accept exchanges to Fidelity Bankers Universal Life or CPWL on term plans on the same basis as outlined in paragraph # 1. On cases where Fidelity Bankers is retaining 250M, the terms outlined in my 12/5/83 letter will apply.
3. Effective 8/1/84, Resources Life will accept exchanges of American Agency Life Insurance Company's Pref. GP20 plan which were written by the James Toner Agency to Fidelity Bankers Universal Life or CPWL. The same terms of the Special Permanent Policy Exchange Program will apply (i.e., policy to be surrendered to Fidelity Bankers Life, and form 1746E to be completed).

July 26, 1984

Edward L. Kurtz,
Senior Vice President
Underwriting

Page 2,

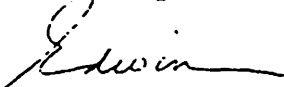
On those cases over 500M up to and including \$1,000,000 we understand that you will be furnished copies of the underwriting papers such as exams, APS's etc secured at the original issue date or since that date. We also understand you will be securing a non-medical and HOS in addition to the forms under the regular program.

As discussed, IR Agency business is excluded from this agreement as it will come to us under our Marketing Agreement with you.

Please accept this letter as confirmation of our agreement and make it part of your treaty.

Please reply by letter with acceptance.

Sincerely,



Edwin O'Reilly
Assistant Vice President
Reinsurance Marketing

EOR/msf

cc: J. Donovan
H. Lavine
S. Mertz

AMENDMENT NUMBER 1

TO

REINSURANCE AGREEMENT

BETWEEN

FIDELITY BANKERS LIFE INSURANCE COMPANY

RICHMOND, VIRGINIA

AND

RESOURCES LIFE INSURANCE COMPANY

FORT LEE, NEW JERSEY

(Red 5/3/84)
FREEDOM 2 C1

QUOTA 736
SHARE

REJECTED
RESOURCES 6/8/84

A. The Agreement dated December 22, 1982 and January 14, 1983 is hereby amended. Article VII Paragraph 1, A) Premiums is amended to add "Policies issued on Form FD2, Flexible Premium Adjustable Life (Universal Life) will use reinsurance rates in Schedule C1".

B. New Schedule C1 rates are attached for reinsured policies on Form FD2, with Policy Dates of February 1, 1984 and later. The new rates are further identified as follows:

UL3 for Preferred Nonsmokers,
UL4 for Standard Nonsmokers,
UL5 for Smokers.

Substandard rates per one table are 25% for UL4 and 20% for UL5. (UL3 policies for Preferred Nonsmokers cannot be substandard, except flat extra premiums for occupational or avocational hazards.)

This amendment is executed in duplicate by officers of the Company and the Reinsurer as indicated below.

Company

Henry A. Biegel
Signature

Senior Vice Pres. & Actuary
Title

3/8/1984
Date

Reinsurer

Signature

Title

Date

AMENDMENT
TO
REINSURANCE AGREEMENT
BETWEEN
FIDELITY BANKERS LIFE INSURANCE COMPANY
RICHMOND, VIRGINIA
AND
RESOURCES LIFE INSURANCE COMPANY
FORT LEE, NEW JERSEY

1. Article VII , Premiums, of the quota share treaty effective January 01, 1983 is hereby amended by adding to paragraph a) the following:

The reinsurance premiums for policies issued on Form FD 2 as of February 01, 1984 are based on the Cost of Insurance charges and applicable allowances in the agreement for policies issued under Form UL 1. For this Amendment, plan codes FD3, FD4, and FD5 are equal to plan codes UL3, UL4, and UL5, respectively.

This amendment is executed in duplicate by officers of the Company and the Reinsurer as indicated below.

| | | | |
|-----------|------------------------------|--------------------------------------------|-----------------|
| Company | <u>Henry A. Briesel, FSA</u> | <u>Senior Vice President & Actuary</u> | <u>12/28/83</u> |
| | | Title | Date |
| Reinsurer | <u>Herbert H. Havin</u> | <u>Senior Vice President</u> | <u>7/28/83</u> |
| | | Title | Date |

AMENDMENT
TO
REINSURANCE AGREEMENT
BETWEEN
FIDELITY BANKERS LIFE INSURANCE COMPANY
RICHMOND, VIRGINIA
AND
RESOURCES LIFE INSURANCE COMPANY
FORT LEE, NEW JERSEY

Schedule C, Commission and Expense Allowances, of the quota share agreement effective January 01, 1983 is hereby amended by adding the following:

On flat extra premiums, the Company will pay to the Reinsurer a proportionate share of the flat extra premium charged in the re-insured policy, less the following allowances:

1. Flat extra premium payable for 5 years or less:
10% in all policy years.
2. Flat extra premium payable for more than 5 years:
90% in first policy year,
10% in subsequent policy years.

This amendment is effective for policies issued on or after January 01, 1985.

This amendment is executed in duplicate by officers of the Company and the Reinsurer as indicated below.

Company Henry A. Biegel, FSA

Senior Vice President & Actuary
Title

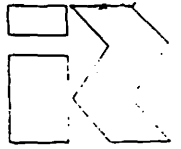
12/28/1985
Date

Reinsurer Richard H. Havine

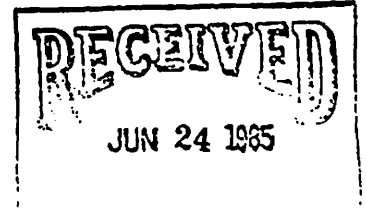
Senior Vice President
Title

7/23/86
Date

Date

Integrated Resources
Life CompaniesResources Life Insurance Company ☐ Providence Life Insurance CompanyOne Bridge Plaza
Fort Lee, New Jersey 07024
201-461-0606

June 18, 1985



Mr. Michael M. Adams
Manager of Reinsurance
Fidelity Bankers Life Ins. Co.
Fidelity Bankers Life Building
Ninth and Main Street
Richmond, VA. 23219

Re: Net Amount at Risk on UL Replacements

Dear Mr. Adams:

We have reviewed your June 10, 1985 letter and have no problem with the method of calculation for the Net Amount at Risk on U.L. Replacements.

We appreciate your bringing this matter to our attention.

Sincerely,

Edwin O'Reilly
Assistant Vice President

cc: H. Lavine

AMENDMENT
TO
QUOTA SHARE REINSURANCE AGREEMENT
BETWEEN
FIDELITY BANKERS LIFE INSURANCE COMPANY
RICHMOND, VIRGINIA
AND
RESOURCES LIFE INSURANCE COMPANY
FORT LEE, NEW JERSEY

1. Schedule A of the original reinsurance agreement is hereby amended by adding the following Rider:

Form Number UL-AIR, Term Life Insurance Rider for Other Insured(s).

2. For this Rider, the net amount at risk for any other Insured(s) remains the same and equals the initial amount reinsured for that other Insured(s).

3. Retention per life, as shown in Schedule A and automatic binding limits per life, as shown in Article I, are applied to the Other Insured(s) independently of the retention and automatic binding limits for the Insured under the Base Policy.

4. Riders issued on or after January 1, 1985 will be reinsured under the agreement subject to all other provisions of this agreement.

This amendment is executed in duplicate by officers of the Company and the Reinsurer as indicated below.

| | | | |
|-----------|------------------------------|--------------------------------------------|------------------|
| Company | <u>Keniz A. Briezel, FSA</u> | <u>Senior Vice President & Actuary</u> | <u>8/20/1985</u> |
| | | Title | Date |
| Reinsurer | <u>Edwin Kelly</u> | <u>Assistant Vice Pres</u> | <u>8/26/85</u> |
| | | Title | Date |



growing...with the needs of our policyholders

Fidelity Bankers Life Insurance Company

Fidelity Bankers Life Building, Ninth and Main Streets, Richmond, Virginia 23219 • (804) 649-8411

March 20, 1986

Mr. Herbert H. Lavine
Senior Vice President
Resources Life Insurance Company
One Bridge Plaza
Fort Lee, NJ 07024

Dear Herb:

As you know, changes affecting business seem to come more frequently and current positions must frequently change as well.

Please accept this letter as confirmation that both parties mutually agree to terminate the Quota Share reinsurance treaty of January 01, 1983 with respect to new business, effective January 01, 1986.

All cases with Policy Dates prior to January 01, 1986 will continue to be reinsured and administered in accordance with the provisions of the treaty.

Please place this letter in your treaty and return a copy to us indicating you received it.

Thank you for your continued assistance and support of our reinsurance needs.

Sincerely,

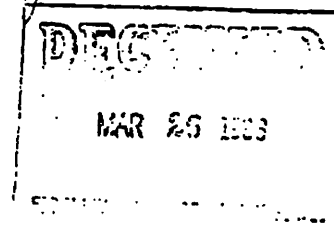
Michael M. Adams
Manager, Reinsurance

MM/ams

cc: Mr. Edward Kurtz

3/23/86
Agreed
H.H. Lavine

3/24/86
Diet



TO: All Underwriters
 FROM: Thomas C. Sima
 DATE: March 21, 1986
 REFER TO:
 SUBJECT: Resources Life Quote Share Reinsurance

INTERNAL
 CORRESPONDENCE



growing... with the needs of our policyholders

Fidelity Bankers Life Insurance Company

The Resources Life Quote Share Reinsurance Treaty has been terminated retro-active to Jan. 1, 1986.

This means that, effective immediately, the 50-50 split between FBL and Resources Life on business from Integrated Resources agencies is no longer applicable. Also, the special reinsurance schedule for Integrated Resources agencies in the Myocardial Infarction and Coronary Bypass Programs (see memos of Aug. 27, 1984) should no longer be used.

Business from Integrated Resources agencies should now be retained and reinsured on the same basis as business from other agencies.

Steps will be taken to correct retention and reinsurance on those cases placed on the books from Jan. 1, 1986 to date. If there is any questions as to who the Integrated Resources agencies are, please refer to Irene Bality's June 21, 1984 memo to Ed Kurtz.


 Thomas C. Sima

Distribution

Ed Kurtz
 Keith Dobbins
 Joyce Hart
 Ian Finlayson
 Gerry Glassman
 Keith Hilts
 George Greis
 Jack Tayloe
 Debbie Winall
 Bob Batugowski
 Paul Archibald
 Flora Satterwhite
 Frances Kohout
 Mike Adams

Integrated Resources
Life Insurance Company
One Bridge Plaza
Fort Lee, NJ 07024
201-461-0606

744

Integrated
Resources

May 20, 1987

Mr. Ed Kurtz
Senior Vice President
Underwriting
Fidelity Bankers Life Insurance Co.
Fidelity Bankers Life Building
1011 Bouldersprings Drive
Richmond, VA. 23225

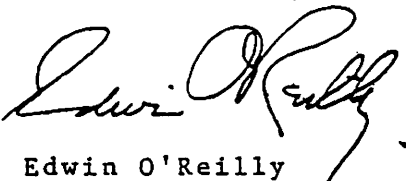
RE: Jumbo Limit

Per our conversation, we have agreed to the following Jumbo Limits:

1. MI, Angina, and Bypass Programs - \$3,000,000 (applied for and in force). *NOT applicable to Freedom III, PD3 NOT AVAILABLE yet.*
2. Automatic Business including limited pool retention - \$5,000,000 (applied for and in force). ~~RE~~

Please make this letter part of your treaty file, replacing my letter of May 15, 1987.

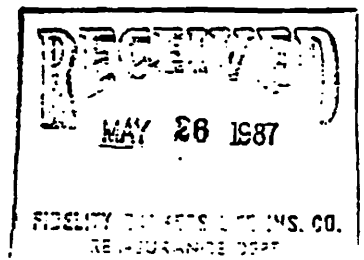
Sincerely,



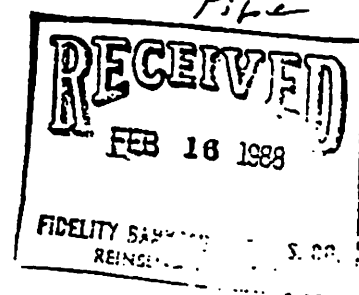
Edwin O'Reilly
Vice President

EOR/mna

cc: J. Donovan



Integrated Resources
Life Insurance Company
One Bridge Plaza
Fort Lee, NJ 07024
201-461-0606



January 19, 1988

Integrated
Resources

RE Reinsurance Treaties between Resources Life and/or Providence
Life and Fidelity Bankers Life.

To Whom it may concern:

Please be advised that Providence Life Insurance Company and Resources Life Insurance Company have been merged into Integrated Resources Life Insurance Company ("IR Life"), effective December 30, 1987. All of the rights and obligations of the predecessor companies are now those of Integrated Resources Life.

Please attach a copy of this letter to each Agreement you may have with Resources Life and/or Providence Life. There are no other changes to the Agreement (s) occasioned by the merger.

If any questions arise, please feel free to contact me.

Very truly yours,

Edwin O'Reilly
Vice President

EOR/mnc

9 3 0 2 1 0 0 3 746

DOCUMENT CONTROL WILEY, REIN & FIELDING

1993 FEB -1 PM 4: 15

1776 K STREET, N.W.
WASHINGTON, D. C. 20006
(202) 429-7000

February 1, 1993

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

WRITER'S DIRECT DIAL NUMBER

(202) 828-3176

BY HAND

Proof of Claim Department
Fidelity Bankers Life Insurance
Company, In Receivership
Commonwealth of Virginia
State Corporation Commission
Document Control Center
1220 Bank Street, Room B-1
Richmond, Virginia 23219

INS920441

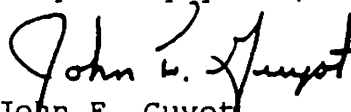
Re: Fidelity Bankers Life Insurance Company,
In Receivership -- Case No. INS910068--
Proof of Claim of North American
Reassurance Company ("NARe")

Dear Sirs:

Enclosed for filing in connection with the above-referenced receivership proceeding is the proof of claim of NARe, with exhibits attached thereto. Four complete, extra copies for the State Corporation Commission are also enclosed.

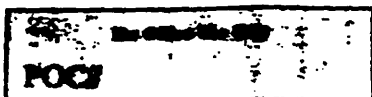
Please acknowledge receipt of NARe's proof of claim and the enclosed extra copies thereof by file stamping the enclosed sixth copy of such proof of claim and returning it to us with our messenger.

Very truly yours,


John F. Guyot
VA Bar No. 27790

JFG:ds

cc: Robert M. Mangino, Esq. (w/encl.)



PROOF OF CLAIM

Filing Deadline
February 1, 1993

Please carefully read the *Proof of Claim Instructions*. Please Print or Type.

| | | |
|------------------------------------|----------|-------|
| North American Reassurance Company | | |
| Name of Claimant | | |
| 237 Park Avenue | | |
| Street Address | | |
| New York | New York | 10017 |
| City | State | Zip |

\$ 21,050,436
Total Amount of Claim
(212) 907-8661
Telephone
13-156-2932
Soc. Sec. or Tax I.D. No.

NOTE: Policyholders, Annuity Contract-holders, and Option One Holders should not use this form to claim the benefits provided by Opting-In or Opting-Out of the Plan.

| |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Explanation of Claim: As is more fully discussed in the attached Supplement, NARE has a claim in the amount of \$21,050,436 against Fidelity Bankers Life Insurance Company ("Fidelity"), which represents the 1991 and 1992 excess mortality claims that NARE has ceded to Fidelity under Reinsurance Treaty No. AEL-0045 (currently amounting to \$2,340,974) plus the excess mortality claims that NARE is projected to incur and, pursuant to that Treaty, is entitled to cede to Fidelity in the future (amounting to \$19,900,281), less amounts set-off against such claim as noted below.</p> |
| |
| |
| |

State of New York
County of Queens

For Office Use Only

DATE _____

SEARCHED _____

FILE _____

Unless noted herein: I alone am entitled to file this claim; no others have an interest in this claim; no payments have been made on the claim; no third party is liable on this debt; the sum claimed is justly owing; and there is no set-off.¹ I declare, under penalty of perjury, that all of the statements made in this Proof of Claim and all documents attached to this form are true, complete, and correct.

Signed and Sworn before me, this 29th
day of January, 1993

Signature of Claimant or Authorized Agent

Secretary

Title

CAMILLE S. COOPER
Notary Public, State of New York
 No: 4792069
 Qualified in: Queens County
 Commission Expires: Dec. 31, 1993

Notary Public, State of

1. Claimant has set off against its claim certain reinsurance claims ceded to it by Fidelity Bankers. As of January 29, those claims amounted to \$1,190,819.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

| | | |
|------------------------------|---|--------------------|
| COMMONWEALTH OF VIRGINIA |) | |
| at the relation of the |) | |
| STATE CORPORATION COMMISSION |) | |
| |) | |
| v. |) | Case No. INS910068 |
| |) | |
| FIDELITY BANKERS LIFE |) | |
| INSURANCE COMPANY, |) | |
| |) | |
| Defendant. |) | |

SUPPLEMENT TO PROOF OF CLAIM OF
NORTH AMERICAN REASSURANCE COMPANY

1. This supplement is hereby expressly incorporated into and made a part of the Proof of Claim of North American Reassurance Company ("NARe") in the above-captioned matter.

2. On or about December 28, 1990, Fidelity Bankers Life Insurance Company ("Fidelity") and Protective Life Insurance Company ("Protective") entered into a Treaty of Assumption and Bulk Reinsurance of Life Insurance Policies ("Treaty of Assumption"). Fidelity recognized a \$26,875,000 profit on this transaction. (SCC v. Fidelity Bankers Life Insurance Company, Case No. INS910068, Proposed Rehabilitation Plan, dated May 1, 1992 (hereinafter "Prop. Rehab. Plan") at 6).

3. On or about December 31, 1990, NARe entered into Reinsurance Treaty No. AEL-0044 with Protective (Exhibit A) under which it agreed to indemnify Protective against claims

- 2 -

above the expected mortality rate on certain policies to be assumed by Protective under the Treaty of Assumption. At the same time and date, Fidelity entered into Reinsurance Treaty No. AEL-0045 (Exhibit B) under which it agreed to indemnify NARE against the claims that were ceded to NARE by Protective. The provisions of the two treaties are virtually identical. For instance, NARE's payment of claims ceded to it by Protective is due on the 15th day after the end of the calendar year during which such claims were incurred. (Exhibit A, 4.04). Fidelity's payment of claims ceded to it by NARE is due on the same date. (Exhibit B, 4.04).

4. As a result of these reciprocal reinsurance agreements with Fidelity and Protective, NARE assumed the role of a pass-through of Protective's claims for losses above the expected mortality rate to Fidelity. As part of the arrangement, NARE was to receive a nominal reinsurance premium from Protective of \$0.027 per thousand times the face amount of the policies in force at the beginning of each calendar year (Exhibit A, 3.01), all of which NARE was obligated to pass through to Fidelity on the same date that it was received from Protective. (Exhibit B, 3.01). In addition, under Treaty No. AEL-0045, NARE was to receive from Fidelity an annual administrative service fee equal to \$5.00 per policy in force at the beginning of each calendar year

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(up to a charge of no more than two times the reinsurance premium for the calendar year). (Exhibit B, 2.07). The fee amounted to approximately \$30,000 for 1991. As the number of policies in force has declined each year, the fee has become progressively lower.

5. Treaty AEL-0045 between Fidelity and NARe was explicitly made conditional upon Treaty AEL-0044 between Protective and NARe. At several points in the Fidelity/NARe treaty, the Protective/NARe treaty is referred to as "the underlying agreement." (Exhibit B, 2.08 and 2.09). Further, Fidelity had the right to cancel its treaty with NARe if NARe should "cease to assume the risks reinsured from Protective" under their treaty. (Exhibit B, 2.10).

6. By entering into the reinsurance agreements, NARe performed a valuable service for Fidelity. The price of the business assumed by Protective was substantially higher as a result of the stop loss arrangement. Moreover, Protective had refused to assume the life insurance business from Fidelity unless the term policies were protected by such an arrangement and Protective was unwilling to enter into such an arrangement directly with Fidelity. By agreeing to serve as a pass-through of stop loss reinsurance claims, NARe enabled Fidelity to conclude a transaction that substantially

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increased Fidelity's surplus. The Commissioner of Insurance has acknowledged that "[w]ithout the Protective Life reinsurance transaction, Fidelity Bankers would have been close to financial impairment or a hazardous condition...." (Prop. Rehab. Plan at 8).

7. On or about January 7, 1992, Protective submitted to NARE, with a copy to Fidelity, a statement showing 1991 calendar year claims above expected mortality of \$1,134,923. (Exhibit C). NARE paid Protective \$1,041,960, representing Protective's \$1,134,923 claim, minus \$100,000 attributable to a recovery under another reinsurance treaty, plus \$7,037 in interest, under a reservation of rights. (Exhibit D). These claims were ceded to Fidelity pursuant to Treaty No. AEL-0045. Fidelity has not made any payment to NARE on these ceded claims.

8. On January 21, 1993, Protective submitted to NARE, with a copy to Fidelity, a statement showing 1992 calendar year claims above expected mortality of \$1,299,014. (Exhibit E). NARE will pay Protective \$1,299,014 on or before February 15, 1993, under a reservation of rights. These claims have been ceded to Fidelity pursuant to Treaty No. AEL-0045. Fidelity has not made any payment of NARE on these ceded claims.

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9. An independent actuarial consultant commissioned by NARE has concluded that there will continue to be significant excess mortality claims arising out of the policies underlying Treaty Nos. AEL-0044 and AEL-0045 through the year 2023. Based on the actual claims experience on the policies for 1991 and 1992 and other factors, that actuarial consultant has determined that excess mortality claims for 1993 and future years will amount to \$19,900,281. (Exhibit F). Further support for this determination is derived from an actuarial and underwriting analysis of the relevant life insurance policies performed by NARE in mid-1992. Consistent with the underwriting audits of two other reinsurers (Cologne Re and American United), NARE's review revealed an underrating by Fidelity of mortality risk on the policies by about three tables, or 75%.

10. NARE has asserted its statutory right, pursuant to Va. Code. Ann. § 38.2-1515, to set-off against the above-mentioned claims, totalling \$22,241,255, certain reinsurance claims ceded by Fidelity to it. As of January 29, 1993, the claims ceded by Fidelity to NARE and set-off amounted to \$1,190,819. These claims arise out of NARE's participation in certain reinsurance pool arrangements with Fidelity and its assumption of certain reinsurance treaties covering Fidelity's policies. Should NARE's set-off be disallowed, in


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part or in whole, NARE's resulting claim of \$21,050,436 would be increased by the amount of such disallowance.

11. The filing of this Proof of Claim by NARE is not intended to be and shall not be construed as an election of remedy, a waiver of any past, present or future event of default or a waiver or limitation of any rights of NARE against Fidelity or any other party. NARE reserves all rights it may have against Fidelity or any other party, including, but not limited to, (i) the right to setoff against amounts it owes or in the future may owe Fidelity under other reinsurance treaties amounts Fidelity owes or in the future may owe NARE under Reinsurance Treaty No. AEL-0045, (ii) the right to assert that its claim herein explained is entitled to priority as an administrative expense of Fidelity's receivership and conservation proceeding, and (iii) the right to amend and/or supplement its Proof of Claim and/or this Supplement as it for any reason deems necessary or appropriate.

Respectfully submitted,

By:


Robert M. Mangino
General Counsel
NORTH AMERICAN REASSURANCE COMPANY
237 Park Avenue
New York, New York 10017
(212) 907-8661

Dated: February 1, 1993

REINSURANCE AGREEMENT
between
PROTECTIVE LIFE INSURANCE COMPANY
BIRMINGHAM, ALABAMA
and
NORTH AMERICAN REASSURANCE COMPANY
NEW YORK, NEW YORK

TREATY # AEL-0044

I. PREAMBLE

This Agreement is made and entered into by and between Protective Life Insurance Company (hereinafter referred to as the "Company") and North American Reassurance Company (hereinafter referred to as the "Reinsurer").

The Company and the Reinsurer mutually agree to reinsure on the terms and conditions stated herein. This Agreement is an indemnity reinsurance agreement solely between the Company and the Reinsurer and performance of the obligations of each party under this Agreement shall be rendered solely to the other party. In no instance shall anyone other than the Company or its successors, as allowed and provided for in 2.08, or the Reinsurer have any rights under this Agreement and the Company shall be and remain solely liable to any insured, policyowner, or beneficiary under any policy reinsured hereunder.

II. GENERAL PROVISIONS

2.01 Coverages and Exclusions. The Reinsurer agrees to indemnify and the Company agrees to reinsure with the Reinsurer, according to the terms and conditions hereof, the following Renewable and Convertible Term life insurance plans, which shall be reinsured on a 100% coinsurance basis and shall possibly be assumed by the Company from Fidelity Bankers Life Insurance Company pursuant to the terms of the Service Agreement and

Indemnity Coinsurance Agreement and Treaty of Assumption and Bulk Reinsurance of Life Insurance Policies Between Fidelity Bankers Life Insurance Company and Protective Life Insurance Company and described below:

5M2, 5M3, 5M4, 500-501, 504 to 506, 508-509, 540 to 546, 548 to 560, 562 to 564, 590 to 593.

2.02 Plan of Reinsurance. This indemnity reinsurance shall be on the aggregate excess of loss plan of reinsurance. The Reinsurer shall only be liable for the mortality claims of the policies reinsured hereunder, in excess of the expected claims calculated as defined herein, on an inception to date basis.

2.03 Conversions. Conversions allowed to permanent whole life, as provided for in the underlying policy forms reinsured herein, are covered under this Agreement subject to the conditions regarding mortality factors as defined in 4.02 (c).

2.04 Inspection. At any reasonable time after the date on which the Company has assumed the administration and taken possession of the books and records of the policies reinsured hereunder, the Reinsurer may inspect, during normal business hours, at the principal office of the Company, the papers and any and all other books or documents of the Company relating to any and all claims incurred under this Agreement.

2.05 Misunderstandings and Oversights. If any failure to pay amounts due or to perform any other act required by this Agreement is unintentional and caused by misunderstanding or oversight, the Company and the Reinsurer will adjust the situation to what it would have been had the misunderstanding or oversight not occurred.

2.06 Reinstatements. If a policy reinsured hereunder that was reduced, terminated, or lapsed is reinstated

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for such policy under this Agreement will be reinstated automatically to the amount that would be in force if the policy had not been reduced, terminated, or lapsed.

2.07 Existing Mortality Reinsurance Coverages. As of December 31, 1990 there existed certain reinsurance agreements concerning the policies described in 2.01 with third party reinsurers that provided for mortality indemnification. All claims incurred by the Company in determining the total mortality experience as defined herein, shall be net of all recoveries from such third party reinsurance. Additionally, the calculation of expected claims shall consider and be reduced by any third party reinsurance. Furthermore, the Company agrees to continue such reinsurance in force for the duration of this Agreement. In the event that such mortality reinsurance should be recaptured, terminated or otherwise reduced prior to the termination of this Agreement as provide herein, the total mortality experience and expected claims as defined herein shall be calculated as if such third party reinsurance was still in force.

2.08 Change of Ownership. Should a material change of ownership of the policies reinsured hereunder occur, the Reinsurer shall continue this Agreement in force under the terms of this Agreement provided such acquiring entity at such time possesses a minimum rating of "A" from the A. M. Best Company or its successor. Should the acquiring entity not meet the above standard, then the Reinsurer shall have the right to prior approval of such acquiring entity. The Reinsurer shall not unreasonably withhold its approval of such a change in ownership. Should the Reinsurer decline to give its approval, the Company and the Reinsurer hereby agree that this agreement shall be terminated as of the effective date of such change in ownership as described below. Should this Agreement be terminated as described above, the Reinsurer will have no further liability to the Company hereunder. For purposes of this

Agreement a material change of ownership will include but not be limited to: any reinsurance agreement other than the Service Agreement and Indemnity Coinsurance Agreement and Treaty of Assumption and Bulk Reinsurance of Life Insurance Policies Between Fidelity Bankers Life Insurance Company and Protective Life Insurance Company, covering the policies reinsured hereunder, in which the administration or amount of premiums charged the policyholder, is no longer directly controlled by the Company; or any sale, of the stock of the Company or any holding company which effectively controls the stock of the Company, which would give direct or indirect controlling interest of the Company to such acquiring party, control/controlling interest being defined as ownership of greater than 50% of the Company stock or the holding company stock.

2.09 Premium Changes. Should the Company or any successor change the premium scale for any plan from the premium scale which was in effect on the effective date for any of the policies reinsured hereunder, the Company shall promptly notify the Reinsurer. The Reinsurer shall have the right to accept or reject such changes. Should the Reinsurer decide not to accept such changes, each of the policies affected by such change shall be excluded from this Agreement as of the effective date of the premium scale change.

2.10 Termination. This Agreement is indefinite in duration and can not be terminated by the Company or the Reinsurer except if one of the following events occurs:

- a) the Net Amount at Risk is less than \$10,000,000 (ten million) of originally issued face amount as of the date the Company has assumed the administration and taken possession of the books and records of the policies reinsured hereunder, or
- b) the negative value of the Reinsurer's Loss Account equals or exceeds the face amount of insurance in force on

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the policies reinsured, or

c) this Agreement is terminated pursuant to the provisions of 2.08.

III. REINSURANCE PREMIUMS

3.01 Reinsurance Premiums. The reinsurance premiums shall be an amount equal to \$0.027 per thousand times the face amount in force as of the beginning of each calendar year and shall be due and payable as of each January 15th of each calendar year for which this calculation is being made.

3.02 Nonpayment of Premiums. If within 30 days after the date such premiums as defined in 3.01 are due such reinsurance premiums remain unpaid the Reinsurer shall have the right to terminate this Agreement. However, prior to termination, the Reinsurer must provide the Company with prior written notice by certified mail of its intent to terminate. The Company shall then have the right to prevent termination by payment of the unpaid premium and interest thereon within 30 days of receipt of the Reinsurer's notice. Such interest penalty shall be calculated as simple interest from the due date of the reinsurance premium at a rate of 10% per annum.

IV. REINSURANCE LOSSES

4.01 Reinsurance Losses. Reinsurance losses under this Agreement shall be limited to the amount by which actual incurred losses on the policies reinsured hereunder exceeds expected losses, as defined herein, on an inception to date basis. The calculation of such losses shall be made quarterly. A report of the Reinsurer's Loss Account as defined in 4.02 shall be submitted to the Reinsurer by the Company within 15 days of the end of each calendar quarter. Any losses incurred shall be paid by the Reinsurer to the Company annually as of each December

31st and shall be payable as defined in 4.04, below.

4.02 Definitions. For purposes of this Agreement the following definitions shall apply:

- a) Incurred Losses. Incurred losses shall mean the sum of the total incurred losses, net of any third party reinsurance, for the policies reinsured hereunder as calculated in accordance with NAIC accounting rules from the Effective Date of this Agreement to the end of the calendar quarter for which such calculation is being made.
- b) Expected Losses. Expected losses for each quarter shall mean the amount of accumulated expected losses as of the end of the immediately preceding calendar quarter, plus the result of; the face amount on the policies reinsured hereunder as of the beginning of the calendar quarter for which this calculation is being made, plus, the face amount on the policies reinsured hereunder as of the end of the calendar quarter for which this calculation is being made, divided by the whole number 2, multiplied by, the appropriate mortality factor, divided by the whole number 4. Expected losses, wherever used, shall be net of any third party reinsurance.
- c) Mortality Factors. Excluding conversions, mortality factor shall mean for all plan codes except 540, 70% of the mortality rates as provided for in the 1965/70 Select and Ultimate Mortality Table with a select period of fifteen years based on issue age and duration for each and every policy. For plan code 540 the calculation shall be the same as above except the percentage of the mortality table shall be 100%. For policies which are converted, the mortality factor shall be 105% of the above referenced mortality table except for plan code 540 conversions, which shall use a mortality factor of 150% of the above referenced mortality table. On converted policies, such percentages shall continue to be applied on an original

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age and duration basis.

d) Reinsurer's Loss Account. The Reinsurer's loss account shall mean the incurred losses as defined above, minus, the expected losses as defined above.

4.03 Determination of Settlement. Should the Reinsurer's Loss Account be negative no payment shall be required under this Agreement. Should the loss account be a positive amount as of the beginning of the calendar year for which such calculation is being made, increases to the account for such calendar year shall be paid by the Reinsurer to the Company; and decreases to the account shall be paid by the Company to the Reinsurer only to the extent that such decrease does not exceed such positive amount. For any calendar year in which the Reinsurer's Loss Account was negative as of the beginning of the calendar year and positive as of the end of such calendar year for which this calculation is being made, after credit for any negative carryover amount, the amount of increase payable to the Company by the Reinsurer shall be only the amount of increase in the account in excess of zero.

4.04 Payment of Losses. Any losses incurred by the Reinsurer in connection with the policies reinsured hereunder, shall be due the Company on the January 15th immediately following the close of the calendar year for which such losses have been calculated. Should the amount as calculated in this paragraph remain unpaid after 30 days from the due date an interest penalty shall accrue on the unpaid balance. Such interest penalty shall be calculated as simple interest at a 10% per annum rate.

4.05 Right to Audit. The Reinsurer, after the date on which the Company has assumed the administration and taken possession of the books and records of the policies reinsured hereunder, retains the right to audit any and all claim papers and proof obtained by the Company in the course of settlement or investigation of any death claims paid by the Company on the

policies reinsured hereunder.

4.06 Investigation of Claims. The Company, after the date on which the Company has assumed the administration and taken possession of the books and records of the policies reinsured hereunder, agrees to follow all of its existing usual and customary claim procedures relating to the policies reinsured hereunder. Should audit by the Reinsurer disclose that the Company has been negligent in adhering to such procedures, any claims incurred by the Company in which such procedures were not followed, shall not be included in determining the total incurred claims of the Company as defined in 4.02, above.

V. ARBITRATION

5.01 Agreement. All disputes and differences between the Company and the Reinsurer on which an agreement cannot be reached will be decided by arbitration. The arbitrators will regard this Agreement from the standpoint of practical business and equitable principles rather than that of strict law.

5.02 Method. Three arbitrators will decide any differences. They must be, or have been, officers of life insurance companies other than the two parties to this Agreement or any company owned by, or affiliated with, either party. One of the arbitrators is to be appointed by the Reinsurer, another by the Company, and they shall select a third before arbitration begins. The appointments shall be made in the following manner: The Company and the Reinsurer shall each present an initial list of five arbitration candidates to the other party within 25 days of the mailing of the notification initiating the arbitration. The Company and the Reinsurer shall select one arbitrator each from the list supplied by the other party. Should the selected arbitrator decline to serve, another name shall be selected from the respective list. The party who initiated the list will

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submit as many additional names as necessary so that at all times there will be a pool of five names from which the other party may make its selection. The two arbitrators, once selected, shall then select the third arbitrator from the remaining eight names on the two lists. Should the two arbitrators be unable to agree on a choice for the third arbitrator the choice shall be referred back to the Company and the Reinsurer. The Company and the Reinsurer shall take turns striking the name of one of the remaining candidates from the initial eight candidates until only one candidate remains. If the candidate so chosen shall decline to serve as the third arbitrator, the candidate whose name was stricken last shall be nominated as the third arbitrator. The first turn at striking the name of a candidate shall belong to the party that is responding to the other party's initiation of the arbitration.

VI. INSOLVENCY

6.01 Agreement. In the event of the Company's insolvency, the Reinsurer's contractual liability on policies reinsured hereunder shall continue to be determined by all the terms, conditions and limitations under this Agreement, but the Reinsurer will make settlement (1) directly to the Company's liquidator, receiver or statutory successor, and (2) without increase or diminution because of the Company's insolvency. The liquidator, receiver or statutory successor of the Company shall give the Reinsurer written notice of the pendency of a claim against the Company on any policy reinsured within a reasonable time after such claim is filed in the insolvency proceeding. During the pendency of any such claim, the Reinsurer may investigate such claim and interpose in the Company's name (or in the name of the Company's liquidator, receiver or statutory successor), in the proceeding where such claim is to be adjudicated, any defense or defenses which the Reinsurer may deem available to the Company or its liquidator, receiver or statutory successor. The expense thus

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incurred by the Reinsurer shall be chargeable, subject to court approval, against the Company as a part of the expense of liquidation to the extent of a proportionate share of the benefit which may accrue to the Company solely as a result of the defense undertaken by the Reinsurer.

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VII. EXECUTION AND EFFECTIVE DATE

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate, with an Effective Date of: January 1, 1991.

PROTECTIVE LIFE INSURANCE COMPANY (Company)

By: _____

Title: _____

Date: _____

Attest: _____

Title: _____

Date: _____

NORTH AMERICAN REASSURANCE COMPANY (Reinsurer)

By: James E. HaddockTitle: PresidentDate: December 31, 1990Attest: Michael A. P. [Signature]Title: Marketing RepresentativeDate: 12/31/91

VII. EXECUTION AND EFFECTIVE DATE

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate, with an Effective Date of: January 1, 1991.

PROTECTIVE LIFE INSURANCE COMPANY (Company)

By: J. E. Mangano
Title: Sr. V.P.
Date: 12/31/90

Attest: _____
Title: _____
Date: _____

NORTH AMERICAN REASSURANCE COMPANY (Reinsurer)

By: [Signature]
Title: Vice President
Date: December 26, 1990

Attest: _____
Title: _____
Date: _____

REINSURANCE AGREEMENT
between
NORTH AMERICAN REASSURANCE COMPANY
NEW YORK, NEW YORK
and
FIDELITY BANKERS LIFE INSURANCE COMPANY
RICHMOND, VIRGINIA

TREATY # AEL-0045

I. PREAMBLE

This Agreement is made and entered into by and between North American Reassurance Company (hereinafter referred to as the "Company") and Fidelity Bankers Life Insurance Company (hereinafter referred to as the "Reinsurer").

The Company and the Reinsurer mutually agree to reinsure on the terms and conditions stated herein. This Agreement is an indemnity reinsurance agreement solely between the Company and the Reinsurer and performance of the obligations of each party under this Agreement shall be rendered solely to the other party. In no instance shall anyone other than the Company or the Reinsurer have any rights under this Agreement and the Company shall be and remain solely liable to any insured, policyowner, or beneficiary under any policy reinsured hereunder.

II. GENERAL PROVISIONS

2.01 Coverages and Exclusions. The Reinsurer agrees to indemnify and the Company agrees to reinsure with the Reinsurer, according to the terms and conditions hereof, the following Renewable and Convertible Term life insurance plans, assumed by the Company from Protective Life Insurance Company and described below:

5M2, 5M3, 5M4, 500-501, 504 to 506, 508-509, 540 to 546, 560, 562 to 564, 590 to 593.

2.02 Plan of Reinsurance. This indemnity reinsurance shall be on the aggregate excess of loss plan of reinsurance. The Reinsurer shall only be liable for the mortality claims of the policies reinsured hereunder, in excess of the expected claims calculated as defined herein, on an inception to date basis.

2.03 Conversions. Conversions allowed to permanent whole life, as provided for in the underlying policy forms reinsured herein, are covered under this Agreement subject to the conditions regarding mortality factors as defined in 4.02 (c).

2.04 Inspection. At any reasonable time, the Reinsurer may inspect, during normal business hours, at the principal office of the Company, the papers and any and all other books or documents of the Company relating to any and all claims incurred under this Agreement.

2.05 Misunderstandings and Oversights. If any failure to pay amounts due or to perform any other act required by this Agreement is unintentional and caused by misunderstanding or oversight, the Company and the Reinsurer will adjust the situation to what it would have been had the misunderstanding or oversight not occurred.

2.06 Reinstatements. If a policy reinsured hereunder that was reduced, terminated, or lapsed, is reinstated, the reinsurance for such policy under this Agreement will be reinstated automatically to the amount that would be in force if the policy had not been reduced, terminated, or lapsed.

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2.07 Administrative Service Fee. The Reinsurer shall pay the Company an administrative service fee equal to \$5.00 per policy up to a charge of no more than two times the reinsurance premium as defined in 3.01 for such calendar year. Such payment shall be made annually by the Reinsurer to the Company within 15 days of receipt of the annual reinsurance premium.

2.08 Change of Ownership. The Reinsurer shall have the right to approve any change of ownership as contemplated within paragraph 2.08 of the underlying agreement. The Company agrees to inform and consult with the Reinsurer regarding any such change of ownership. Should either party decline to grant any approvals as required and may be provided for therein such decision shall be binding upon both the Company and the Reinsurer.

2.09 Premium Changes. The Reinsurer shall have the right to approve any premium changes as contemplated within paragraph 2.09 of the underlying agreement. The Company agrees to inform and consult with the Reinsurer regarding any such premium changes. Should either party decline to grant any approvals as required and may be provided for therein such decision shall be binding upon both the Company and the Reinsurer.

2.10 Termination. This Agreement may be terminated by the Company or the Reinsurer when one of the following events occurs:

- a) the Net Amount at Risk is less than \$10,000.000, or
- b) the negative value of the Reinsurer's Loss Account equals or exceeds the face amount of insurance in force on the policies reinsured.

This Agreement shall automatically terminate should the Company cease to assume the risks reinsured from Protective Life. Such termination shall be effective as of the same date as the termination of the Company's assumption of the risks reinsured from Protective Life. This Agreement may also be terminated for nonpayment of reinsurance premiums as provided in 3.02 or

nonpayment of administrative service fees as provided in 2.07.

III. REINSURANCE PREMIUMS

3.01 Reinsurance Premiums. The reinsurance premiums shall be an amount equal to \$0.027 per thousand times the face amount in force as of the beginning of each calendar year and shall be due and payable as of each January 15th of each calendar year for which this calculation is being made.

3.02 Nonpayment of Premiums. If within 30 days after the date such premiums as defined in 3.01 are due such reinsurance premiums remain unpaid the Reinsurer shall have the right to terminate this Agreement. However, prior to termination, the Reinsurer must provide the Company with prior written notice by certified mail of its intent to terminate. The Company shall then have the right to prevent termination by payment of the unpaid premium and interest thereon within 30 days of receipt of the Reinsurer's notice. Such interest penalty shall be calculated as simple interest from the due date of the reinsurance premium at a rate of 10% per annum.

IV. REINSURANCE LOSSES

4.01 Reinsurance Losses. Reinsurance losses under this Agreement shall be limited to the amount by which actual incurred losses on the policies reinsured hereunder exceeds expected losses, as defined herein, on an inception to date basis. The calculation of such losses shall be made quarterly. A report of the Reinsurer's Loss Account as defined in 4.02 shall be submitted to the Reinsurer by the Company within 15 days of the end of each calendar quarter. Any losses incurred shall be paid by the Reinsurer to the Company annually as of each December 31st and shall be payable as defined in 4.04, below.

4.02 Definitions. For purposes of this Agreement the following definitions shall apply:

- a) Incurred Losses. Incurred losses shall mean the sum of the total incurred losses, net of any third party reinsurance, for the policies reinsured hereunder as calculated in accordance with NAIC accounting rules from the Effective Date of this Agreement to the end of the calendar quarter for which such calculation is being made.
- b) Expected Losses. Expected losses for each quarter shall mean the amount of accumulated expected losses as of the end of the immediately preceding calendar quarter, plus the result of; the face amount on the policies reinsured hereunder as of the beginning of the calendar quarter for which this calculation is being made, plus, the face amount on the policies reinsured hereunder as of the end of the calendar quarter for which this calculation is being made, divided by the whole number 2, multiplied by, the appropriate mortality factor, divided by the whole number 4. Expected losses, wherever used, shall be net of any third party reinsurance.
- c) Mortality Factors. Excluding conversions. mortality factor shall mean for all plan codes except 540, 70% of the mortality rates as provided for in the 1965/70 Select and Ultimate Mortality Table with a select period of fifteen years based on issue age and duration for each and every policy. For plan code 540 the calculation shall be the same as above except the percentage of the mortality table shall be 100%. For policies which are converted, the mortality factor shall be 105% of the above referenced mortality table except for plan code 540 conversions, which shall use a mortality factor of 150% of the above referenced mortality table. On converted policies, such percentages shall continue to be applied on an original age and duration basis.
- d) Reinsurer's Loss Account. The Reinsurer's loss

account shall mean the incurred losses as defined above, minus, the expected losses as defined above.

4.03 Determination of Settlement. Should the Reinsurer's Loss Account be negative no payment shall be required under this Agreement. Should the loss account be a positive amount as of the beginning of the calendar year for which such calculation is being made, increases to the account for such calendar year shall be paid by the Reinsurer to the Company; and decreases to the account shall be paid by the Company to the Reinsurer only to the extent that such decrease does not exceed such positive amount. For any calendar year in which the Reinsurer's Loss Account was negative as of the beginning of the calendar year and positive as of the end of such calendar year for which this calculation is being made, after credit for any negative carryover amount, the amount of increase payable to the Company by the Reinsurer shall be only the amount of increase in the account in excess of zero.

4.04 Payment of Losses. Any losses incurred by the Reinsurer in connection with the policies reinsured hereunder, shall be due the Company on the January 15th immediately following the close of the calendar year for which such losses have been calculated. Should the amount as calculated in this paragraph remain unpaid after 30 days from the due date an interest penalty shall accrue on the unpaid balance. Such interest penalty shall be calculated as simple interest at a 10% per annum rate.

4.05 Right to Audit. The Reinsurer retains the right to audit any and all claim papers and proof obtained by the Company in the course of settlement or investigation of any death claims paid by the Company on the policies reinsured hereunder and direct the Company to obtain such papers and proof under the terms of the its underlying agreement.

4.06 Investigation of Claims. Should audit by the Reinsurer

-7-

disclose that the underlying ceding company has been negligent in adhering to its existing usual and customary claim procedures, any claims incurred by the Company in which such procedures were not followed, shall not be included in determining the total incurred claims of the Company as defined in 4.02, above.

V. ARBITRATION

5.01 Agreement. All disputes and differences between the Company and the Reinsurer on which an agreement cannot be reached will be decided by arbitration. The arbitrators will regard this Agreement from the standpoint of practical business and equitable principles rather than that of strict law.

5.02 Method. Three arbitrators will decide any differences. They must be, or have been, officers of life insurance companies other than the two parties to this Agreement or any company owned by, or affiliated with, either party. One of the arbitrators is to be appointed by the Reinsurer, another by the Company, and they shall select a third before arbitration begins. The appointments shall be made in the following manner: The Company and the Reinsurer shall each present an initial list of five arbitration candidates to the other party within 25 days of the mailing of the notification initiating the arbitration. The Company and the Reinsurer shall select one arbitrator each from the list supplied by the other party. Should the selected arbitrator decline to serve, another name shall be selected from the respective list. The party who initiated the list will submit as many additional names as necessary so that at all times there will be a pool of five names from which the other party may make its selection. The two arbitrators, once selected, shall then select the third arbitrator from the remaining eight names on the two lists. Should the two arbitrators be unable to agree on a choice for the third arbitrator the choice shall be referred back to the Company and the Reinsurer. The Company and the

Reinsurer shall take turns striking the name of one of the remaining candidates from the initial eight candidates until only one candidate remains. If the candidate so chosen shall decline to serve as the third arbitrator, the candidate whose name was stricken last shall be nominated as the third arbitrator. The first turn at striking the name of a candidate shall belong to the party that is responding to the other party's initiation of the arbitration.

VI. INSOLVENCY

6.01 Agreement. In the event of the Company's insolvency, the Reinsurer's contractual liability on policies reinsured hereunder shall continue to be determined by all the terms, conditions and limitations under this Agreement, but the Reinsurer will make settlement (1) directly to the Company's liquidator, receiver or statutory successor, and (2) without increase or diminution because of the Company's insolvency. The liquidator, receiver or statutory successor of the Company shall give the Reinsurer written notice of the pendency of a claim against the Company on any policy reinsured within a reasonable time after such claim is filed in the insolvency proceeding. During the pendency of any such claim, the Reinsurer may investigate such claim and interpose in the Company's name (or in the name of the Company's liquidator, receiver or statutory successor), in the proceeding where such claim is to be adjudicated, any defense or defenses which the Reinsurer may deem available to the Company or its liquidator, receiver or statutory successor. The expense thus incurred by the Reinsurer shall be chargeable, subject to court approval, against the Company as a part of the expense of liquidation to the extent of a proportionate share of the benefit which may accrue to the Company solely as a result of the defense undertaken by the Reinsurer.

-9-

VII. EXECUTION AND EFFECTIVE DATE

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate, with an Effective Date of: January 1, 1991.

NORTH AMERICAN REASSURANCE COMPANY (Company)

By: James H. LittleTitle: Vice PresidentDate: December 31, 1990Attest: Michael A. Piller
Title: Marketing Representative
Date: 12/31/90

FIDELITY BANKERS LIFE INSURANCE COMPANY (Reinsurer)

By: _____

Title: _____

Date: _____

Attest: _____
Title: _____
Date: _____

775
DEC 31 '90 18:03 FIDE

BANKERS LIFE INSURANCE

P.11

DEC-31-1990 13:38 FROM MAIL BOXES ETC MILFORD CT TO

14018851551

P.01

-9-

VII. EXECUTION AND EFFECTIVE DATE

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate, with an Effective Date of: January 1, 1991.

NORTH-AMERICAN REASSURANCE COMPANY (Company)

BY: [Signature]

Title: Vice President

Date: December 31, 1990

Attest: _____

Title: _____

Date: _____

FIDELITY BANKERS LIFE INSURANCE COMPANY (Reinsurer)

BY: [Signature]

Title: Assistant Secretary

Date: December 31, 1990

Attest: [Signature]

Title: Vice President

Date: Dec 31, 1990

**PROTECTIVE LIFE CORPORATION**

WAYNE E. STUENKEL, F.S.A.
Senior Vice President & Chief Actuary

P.O. Box 2506 • Birmingham, AL 35202 • 205.279-6100

January 7, 1992

Mr. David Nussbaum
North American Reassurance Company
237 Park Avenue
New York, NY 10017

Re: Protective - Fidelity Bankers
Stop Loss Reinsurance Agreement

Dear David:

Enclosed are results for the entire year of 1991 for the stop loss agreement that Protective has with North American Re on the term business that we assumed from Fidelity Bankers.

The first attachment is a restatement of the information provided to you as of the end of the third quarter. As you will note, this information has been adjusted in two ways on the revised page which includes the fourth quarter results, as follows:

1. The actual death claims for the second quarter of 1991 have been revised downward, consistent with the fact that several death claims which were not in the plan codes covered under the treaty were inadvertently included in the prior information.
2. The expected mortality for the first nine months is restated, consistent with the information attached to my letter of December 31, 1991 to you.

As can be noted, these two changes reduced the amount recoverable by Protective from North American as the end of the third quarter from \$1,381,657 to \$1,163,556.

Also enclosed is information related to the fourth quarter of 1991. I am including both a listing of the paid claims and pending claims during the fourth quarter of 1991, and a calculation of the expected mortality, updated for the year-end 1991 in-force. These amounts, when added to the previous accrual, indicates an amount receivable by Protective from North American Re of \$1,134,923.

As an estimate of the December 31, 1991, incurred but not reported claims, I have used 1/12 of the paid plus pending claims during 1991, net of reinsurance.

**PROTECTIVE LIFE CORPORATION**

PO Box 2606 • Birmingham, AL 35202 • 205 579 923

Under the terms of the treaty, the settlement amount is due by the 15th of January immediately following the close of the calendar year for which the losses have been calculated. Offsetting the amount recoverable by Protective is the premium for the 1992 calendar year, which is expressed as 2.7 cents per \$1,000 of in-force as of the start of the calendar year. Based on the net in-force as of 12/31/91 of \$438,580,820, I calculate this premium as being \$11,842. It would be acceptable if the settlement from North American to Protective were to net out this amount.

Please let me know what additional information I can provide to you relating to this treaty.

Sincerely,

Wayne E. Stuenkel

WES/cmb

CC: Tom Nuckols

re: Mortal/financial

17-Oct-91

Protective - North American Stop-Loss Reinsurance Treaty
 Relating to Fidelity Bankers Business

| Year | -----Paid Claims this q----- | | | -----Pending Claims EOP----- | | | IGNR EOP | --Actual Mortality-- | |
|------|------------------------------|---------|-----------|------------------------------|---------|---------|----------|----------------------|------------|
| | Direct | Ceded | Net | Direct | Ceded | Net | | Quarterly | Cumulative |
| 1 91 | 457,800 | 200,000 | 457,800 | 0 | 0 | 0 | 0 | 457,800 | 457,800 |
| 2 91 | 412,250 | 150,000 | 262,250 | 0 | 0 | 0 | 0 | 262,250 | 720,050 |
| 3 91 | 1,302,000 | 132,500 | 1,670,500 | 402,500 | 205,000 | 197,500 | 287,561 | 2,155,561 | 2,375,611 |

| Year | --Expected Mortality, Net of-- | | | --Expected Mortality-- | | Cumulative Excess of Actual Over Expected |
|------|--------------------------------|-----------|-----------|------------------------|------------|----------------------------------------------------|
| | ---Reinsurance, Annual Rate--- | | | Quarterly Cumulative | | |
| | IGR | EOP | Average | Quarterly | Cumulative | |
| 1 91 | 2,000,713 | 2,005,153 | 2,004,431 | 501,108 | 501,108 | 0 |
| 2 91 | 2,005,153 | 2,003,638 | 2,003,596 | 500,839 | 1,002,007 | 0 |
| 3 91 | 2,003,008 | 1,933,541 | 1,967,790 | 491,947 | 1,493,954 | 1,381,657 |

As originally
 prepared
 (10-17-91 LHW)

General Financial
13-Jan-92

Protective - North American Stop-Loss Reinsurance Treaty
Relating to Fidelity Bankers business

| Quarter | -----Paid Claims this Q----- | | | -----Pending Claims EOP----- | | | ISNA EOP | --Actual Mortality-- | |
|---------|------------------------------|---------|-----------|------------------------------|---------|---------|----------|----------------------|------------|
| | Direct | Ceded | Net | Direct | Ceded | Net | | Quarterly | Cumulative |
| 1 91 | 457,800 | 200,000 | 457,800 | 0 | 0 | 0 | 0 | 457,800 | 457,800 |
| 2 91 | 102,250 | 0 | 102,250 | 0 | 0 | 0 | 0 | 102,250 | 560,050 |
| 3 91 | 1,803,000 | 132,500 | 1,670,500 | 402,500 | 205,000 | 197,500 | 269,783 | 2,137,783 | 2,697,833 |
| 4 91 | 651,500 | 0 | 651,500 | 135,000 | 105,000 | 30,000 | 242,671 | 456,888 | 3,154,721 |

| | --Expected Mortality, Net of-- | | | --Expected Mortality-- | | Cumulative Excess of Actual Over Expected |
|------|--------------------------------|-----------|-----------|------------------------|------------|----------------------------------------------------|
| | BOF | EOP | Average | Quarterly | Cumulative | |
| 1 91 | 2,062,638 | 2,058,298 | 2,060,468 | 515,117 | 515,117 | 0 |
| 2 91 | 2,058,298 | 2,052,070 | 2,055,184 | 513,796 | 1,028,913 | 0 |
| 3 91 | 2,052,070 | 1,990,846 | 2,021,458 | 505,365 | 1,534,278 | 1,163,556 |
| 4 91 | 1,990,846 | 1,893,315 | 1,942,081 | 485,520 | 2,019,798 | 1,134,923 |

Restated for expected
mortality



237 PARK AVENUE
NEW YORK, NEW YORK 10017
212/907-8000

March 10, 1992

Mr. Wayne Stuenkel, FSA
Senior Vice President & Chief Actuary
Protective Life Corporation
P.O. Box 2606
Birmingham, Alabama 35202

RE: Aggregate Stop Loss Agreement
Treaty No. AEL-0044

Dear Mr. Stuenkel:

Enclosed is NARE's check in the amount of \$1,041,960.00 which represents our liability of \$1,034,923.00 plus \$7,037.00 interest (February 15, 1992 - March 10, 1992) as our share of the proceeds for the above agreement.

This liability is \$100,000 less than the claims presented due to a reinsurance recovery for the Massee claim (Policy No. FB0375651) provided by our Ordinary Department, therefore reducing the liability under this treaty.

Please be advised that NARE reserves all rights at law and at equity to enforce its rights under this three-party arrangement. Further, NARE, by the above payment, has not waived or released any of its rights or remedies under the contracts in question.

If you have any questions, please do not hesitate to call.

Very truly yours,

Joel Grossman
Senior Claims Examiner
Group



JG:ht
Enclosure

bcc: B. Goebel
P. Goscinski
G. Levy
R. Mangino
D. Nussbaum
M. Pellino
L. Santiago

NARENORTH AMERICAN REASSURANCE COMPANY
237 PARK AVENUE
NEW YORK, NY 10017THE BANK OF NEW YORK
NEW YORK, NY50-828
219

PAY

DATE 03/10/92 CHECK NO 00009254 AMOUNT \$*****1,041,960

ONE MILLION AND *****
FORTY ONE THOUSAND NINE HUNDRED SIXTY AND 00/100 DOLLARSTO THE
ORDER
OFPROTECTIVE LIFE INSURANCE CO.
P.O. BOX 2606
BIRMINGHAM AL
35202

AUTHORIZED SIGNATURE

⑈00009254⑈ ⑆021908288⑆ 98⑈100202⑈

⑈01041960C

MR '92' 17 2
0214-0950-9
2024-0950-92

AKSOUTH BANK 03/16/92
B' HAM AL SS 0000000329
▶0620000019◀
40257511

MR '92' 17

PAID.
THE BANK OF
NEW YORK
HARRISON, NY

Protecting Life Insurance Companies
American Life Insurance

MR 16 1992

FROM DEPOSIT ONLY

**PROTECTIVE LIFE CORPORATION**

WAYNE E. STUENKEL, F.S.A.
Senior Vice President & Chief Actuary

P.O. Box 2606 • Birmingham AL 35202 • 205: 379 92

January 21, 1993

Mr. Gerald A. Levy
Senior Vice President, Group
North American Reinsurance Company
237 Park Avenue
New York, NY 10017

Re: Stop Loss Reinsurance Agreement

Dear Jerry:

As we discussed, I have revised the formula for the calculation for the incurred but not reported liability as of December 31, 1992. The formula, which we will also apply in the future, relates the total claims paid and reported over the prior two years to the average in force during that time, and assumes that one month's claims will be outstanding at any time.

The incurred but not reported liability in future periods will be 0.5755 times the amount of net in force expressed in thousands. As of December 31, 1992, this leads to an incurred but not reported liability of \$211,137. In turn, this reduces the amount of recoverable by Protective from North American Reinsurance to \$1,299,014.

It is my plan to continue to use this incurred but not reported method in future reporting periods. Please let me know if you have any questions about this.

Sincerely,

Wayne E. Stuenkel, F.S.A.

WES/tll

naresort/financial
21-Jan-93

Protective - North American Stop-Loss Treaty
Relating to Fidelity Bankers business

6,003,560 Paid and pend claims
1st 2 years
434,659 Avg inforce 1st 2 yrs
0.57350 IBNR factor - mult
times inforce

| Quarter | Paid Claims this period | | | Pending Claims EOP | | | Net inforce IBNR EOP | | -Incurred Mortality- | |
|---------|-------------------------|---------|-----------|--------------------|---------|-----------|----------------------|---------|----------------------|------------|
| | Direct | Ceded | Net | Direct | Ceded | Net | | | This Per | Cumulative |
| 1 91 | 657,800 | 200,000 | 457,800 | 0 | 0 | 0 | 510,790 | 0 | 457,800 | 457,800 |
| 2 91 | 102,250 | 0 | 102,250 | 0 | 0 | 0 | 499,181 | 0 | 102,250 | 560,050 |
| 3 91 | 1,803,000 | 132,500 | 1,670,500 | 402,500 | 205,000 | 197,500 | 471,224 | 269,783 | 2,137,783 | 2,697,833 |
| 4 91 | 651,500 | 0 | 651,500 | 135,000 | 105,000 | 30,000 | 438,581 | 242,671 | 456,888 | 3,154,721 |
| Jan 92 | 76,750 | 0 | 76,750 | 621,000 | 155,000 | 466,000 | | 242,671 | 512,750 | 3,667,471 |
| Feb 92 | 581,000 | 100,000 | 481,000 | 502,000 | 50,000 | 452,000 | | 242,671 | 467,000 | 4,134,471 |
| Mar 92 | 452,500 | 100,000 | 352,500 | 100,000 | 50,000 | 50,000 | 413,957 | 282,042 | (10,129) | 4,124,342 |
| Apr 92 | 100,000 | 50,000 | 50,000 | 400,000 | 50,000 | 350,000 | | 282,042 | 350,000 | 4,474,342 |
| May 92 | 200,000 | 0 | 200,000 | 514,000 | 50,000 | 464,000 | | 282,042 | 314,000 | 4,788,342 |
| Jun 92 | 995,000 | 0 | 995,000 | 564,000 | 550,000 | 14,000 | 336,016 | 374,271 | 637,229 | 5,425,571 |
| Jul 92 | 664,000 | 0 | 664,000 | 100,000 | 575,000 | (475,000) | | 374,271 | 175,000 | 5,600,571 |
| Aug 92 | 100,000 | 450,000 | (350,000) | 185,000 | 125,000 | 60,000 | | 374,271 | 185,000 | 5,785,571 |
| Sep 92 | 85,000 | 0 | 85,000 | 102,000 | 130,000 | (28,000) | 380,649 | 248,354 | (128,917) | 5,656,654 |
| Oct 92 | 140,745 | 125,000 | 15,745 | 261,265 | 32,500 | 228,765 | | 248,354 | 272,510 | 5,929,164 |
| Nov 92 | 177,000 | 27,500 | 149,500 | 135,015 | 30,000 | 105,015 | | 248,354 | 25,750 | 5,954,914 |
| Dec 92 | 82,000 | 0 | 82,000 | 375,015 | 55,000 | 320,015 | 366,873 | 211,137 | 259,783 | 6,214,697 |

—Expected Mortality, Net of—
—Reinsurance, Annual Rate—
BOP EOP Average
—Expected Mortality—
This Per Cumulative

Cumulative Payments
Excess of from NA Re
Actual Over to NA Re
Expected PLICO to PLICO

| | | | | | | | |
|--------|-----------|-----------|-----------|---------|-----------|-------|-----------|
| 1 91 | 2,062,638 | 2,058,298 | 2,060,468 | 515,117 | 515,117 | 0 | 0 |
| 2 91 | 2,058,298 | 2,052,070 | 2,055,184 | 513,796 | 1,028,913 | 0 | 0 |
| 3 91 | 2,052,070 | 1,990,846 | 2,021,458 | 505,365 | 1,534,278 | 571.1 | 1,163,556 |
| 4 91 | 1,990,846 | 1,893,315 | 1,942,081 | 485,520 | 2,019,798 | 51.1 | 1,134,923 |
| Jan 92 | 1,893,315 | 1,888,553 | 1,890,933 | 157,578 | 2,177,376 | | 1,490,095 |
| Feb 92 | 1,888,553 | 1,883,796 | 1,886,176 | 157,181 | 2,334,557 | | 1,799,914 |
| Mar 92 | 1,883,796 | 1,879,036 | 1,881,416 | 156,785 | 2,491,342 | | 1,633,000 |
| Apr 92 | 1,879,036 | 1,872,812 | 1,875,924 | 156,327 | 2,647,669 | | 1,826,673 |
| May 92 | 1,872,812 | 1,866,588 | 1,869,700 | 155,808 | 2,803,477 | | 1,984,865 |
| Jun 92 | 1,866,588 | 1,860,364 | 1,863,476 | 155,290 | 2,958,767 | 851. | 2,466,804 |
| Jul 92 | 1,860,364 | 1,855,190 | 1,857,777 | 154,815 | 3,113,581 | | 2,486,990 |
| Aug 92 | 1,855,190 | 1,850,015 | 1,852,603 | 154,384 | 3,267,965 | | 2,517,606 |
| Sep 92 | 1,850,015 | 1,844,841 | 1,847,428 | 153,952 | 3,421,917 | 651. | 2,234,757 |
| Oct 92 | 1,844,841 | 1,838,530 | 1,841,685 | 153,474 | 3,575,391 | | 2,353,773 |
| Nov 92 | 1,838,530 | 1,832,218 | 1,835,374 | 152,948 | 3,728,339 | | 2,226,575 |
| Dec 92 | 1,832,218 | 1,825,907 | 1,829,063 | 152,422 | 3,880,761 | 60/. | 2,333,937 |

**FIDELITY BANKERS LIFE INSURANCE COMPANY
PROJECTION OF MORTALITY ON TERM BUSINESS
(\$000)**

| | | |
|----------------------|--------|--------|
| MORTALITY ASSUMPTION | 1991 | 156.2% |
| | - 1992 | 169.8% |
| | 1993 + | 166% |

| | FACE AMOUNT YEAR BEG. OF YEAR | EXPECTED MORTALITY | TOTAL MORTALITY | EXCESS MORTALITY |
|-------------|----------------------------------|-----------------------|--------------------|---------------------|
| 1991 Actual | 522,400,000 | 2,020,000 | 3,155,000 | 1,135,000 |
| 1992 Actual | 436,980,897 | 1,860,761 | 3,159,775 | 1,299,014 |
| 1993 | 366,873,000 | 1,941,444 | 3,216,973 | 1,275,529 |
| 1994 | 314,888,805 | 1,879,624 | 3,114,537 | 1,234,913 |
| 1995 | 270,347,095 | 1,826,310 | 3,026,196 | 1,199,886 |
| 1996 | 233,520,973 | 1,778,800 | 2,947,472 | 1,168,672 |
| 1997 | 202,697,185 | 1,720,362 | 2,850,639 | 1,130,278 |
| 1998 | 176,373,416 | 1,652,745 | 2,738,598 | 1,085,853 |
| 1999 | 153,788,109 | 1,584,209 | 2,625,034 | 1,040,825 |
| 2000 | 134,422,337 | 1,514,971 | 2,510,307 | 995,336 |
| 2001 | 117,519,494 | 1,398,938 | 2,318,040 | 919,102 |
| 2002 | 102,441,815 | 1,292,942 | 2,142,405 | 849,463 |
| 2003 | 89,912,235 | 1,208,716 | 2,002,842 | 794,126 |
| 2004 | 79,079,077 | 1,128,086 | 1,869,239 | 741,153 |
| 2005 | 69,709,616 | 1,054,981 | 1,748,104 | 693,123 |
| 2006 | 61,746,412 | 999,899 | 1,656,832 | 656,933 |
| 2007 | 54,947,827 | 945,400 | 1,566,527 | 621,127 |
| 2008 | 48,766,213 | 876,394 | 1,452,184 | 575,791 |
| 2009 | 43,122,346 | 805,581 | 1,334,847 | 529,267 |
| 2010 | 38,170,715 | 738,951 | 1,224,441 | 485,491 |
| 2011 | 33,911,321 | 679,478 | 1,125,895 | 446,417 |
| 2012 | 30,344,163 | 628,571 | 1,041,542 | 412,971 |
| 2013 | 27,309,747 | 584,225 | 968,061 | 383,836 |
| 2014 | 24,578,772 | 542,462 | 898,860 | 356,398 |
| 2015 | 22,120,895 | 503,210 | 833,819 | 330,609 |
| 2016 | 19,908,806 | 466,383 | 772,797 | 306,414 |
| 2017 | 17,917,925 | 431,890 | 715,642 | 283,752 |
| 2018 | 16,126,133 | 399,632 | 662,189 | 262,557 |
| 2019 | 14,513,519 | 369,506 | 612,271 | 242,765 |
| 2020 | 13,062,167 | 341,409 | 565,715 | 224,306 |
| 2021 | 11,755,951 | 315,236 | 522,347 | 207,111 |
| 2022 | 10,580,356 | 290,884 | 481,995 | 191,111 |
| 2023 | 9,522,320 | 268,250 | 444,491 | 176,241 |

TOTAL UNDISCOUNTED \$22,255,368

DISCOUNTED TO 2/1/93 AT :

| | | |
|-------|---|--------------|
| 5.00% | = | \$15,588,867 |
| 6.00% | = | \$13,973,995 |
| 7.00% | = | \$12,793,284 |
| 8.00% | = | \$11,591,375 |

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

| | | |
|---------------------------------|---|--------------------|
| PETITION OF |) | |
| |) | |
| North American Reassurance |) | |
| Company |) | |
| |) | |
| For Review of Fidelity Bankers |) | |
| Life Insurance Company's Deputy |) | Case No. INS920441 |
| Receiver's Determination of |) | |
| Appeal as to Certain Claims |) | |
| Arising under North American |) | |
| Reassurance Company's |) | |
| Reinsurance Treaty No. AEL-0045 |) | |

AFFIDAVIT OF BERNARD GOEBEL

| | | |
|--------------------|---|------|
| STATE OF NEW YORK |) | |
| |) | ss.: |
| COUNTY OF NEW YORK |) | |

I, BERNARD GOEBEL, being duly sworn, do hereby depose and say:

1. I am a Senior Vice President, Marketing, of North American Reassurance Company ("NARe") and previously was a Vice President, Marketing Actuarial. I make this affidavit in support of NARe's Reply to the Motion to Dismiss and Answer to the Counterclaim of the Deputy Receiver in the above-referenced matter.

2. During December 1990 through November 1991, I was personally involved in the negotiations that resulted in NARe's acquisition of certain ceding treaties from Integrated Resources Life Insurance Company ("Integrated") to which reference is made in the Deputy Receiver's Motion to Dismiss,

- 2 -

Answer and Counterclaim in this matter, dated January 11, 1993, at pages 2 and 3. Roughly 9-10% of the reinsurance business represented by such treaties involved Fidelity Bankers Life Insurance Company ("Fidelity Bankers"); the remainder involved roughly 60 other insurers.

3. Integrated first contacted NARe about assuming this reinsurance business in December 1990. NARe undertook substantial evaluation of the reinsurance business being offered for sale by Integrated. (See December 21, 1990 letter from Philip Velazquez of NARe to Bruce Nelson of Synergy Group, brokers for Integrated, copy attached as Exhibit A.)

4. On March 28, 1991, NARe confirmed its intent to purchase such business at the price of \$4.5 million, subject to a due diligence review. (See March 28, 1991 letter from Bernard Goebel as Vice President, Marketing Actuarial, of Swiss-Am Reassurance Company, an affiliate of NARe, to Bruce N. Nelson of Synergy Group, copy attached as Exhibit B.) Integrated confirmed on April 1, 1991, that NARe's offer would be acceptable at that price and agreed to withdraw the business from the market for the due diligence review until April 30, 1991. (See April 1, 1991 letter from Robert E. Van Metre, President of Integrated, to Bernard Goebel of Swiss-Am Re, copy attached as Exhibit C.)

- 3 -

5. NARE completed its due diligence review and executed an assumption and reinsurance agreement with Integrated on or about November 13, 1991, effective July 1, 1991. NARE did not acquire the ceding treaties involving Fidelity from Integrated with a view to using Integrated's reinsurance obligations or any subsequent reinsurance losses thereunder in favor of Fidelity as an offset against NARE's reinsurance claims against Fidelity under Reinsurance Treaty No. AEL-0045. In this regard, NARE actually paid Fidelity on several claims under such ceding treaties prior to notification by Fidelity in January 1992 that Fidelity might not fulfill its obligations under Treaty AEL-0045.

6. At no time has Fidelity or the Deputy Receiver voiced any objection to NARE regarding NARE's assumption of Integrated's obligations to Fidelity under the ceding treaties.

7. Since the Integrated/NARE assignment and assumption of the ceding treaties involving Fidelity (among others), the Deputy Receiver has made premium payments on such ceding treaties directly to the order of NARE under cover of reports indicating payment for "NARE Q[uota] S[hare] (IRLIC Q[uota]

S[hare]))". (See Fidelity's Cover Report for December 1992
Premium Payment, copy attached as Exhibit D.)

Bernard Goebel
Bernard Goebel

Sworn before me this
7th day of February 1993

Genevieve Puccio
Notary Public

GENEVEVE PUCCIO
Notary Public, State of New York
No. 41-687282
Qualified in Westchester County
Commission Expires January 31, 1994

EXHIBIT A

NORTH AMERICAN RE. INSURANCE COMPANY

NARe207 PARK AVENUE
NEW YORK, NEW YORK 10017PHILIP A. VELAZQUEZ, F.S.A.
Actuary

TELEPHONE (212) 307-8420

December 21, 1990

Mr. Bruce Nelson, FSA, MAAA
Synergy Group
1665 Meadow
Bannockburn, Illinois 60015

Dear Bruce:

I enjoyed my recent meeting with you and appreciate the opportunity to review your gross premium valuation of Integrated Resources Life's Pool Business. In addition to the August 14, 1990 Report, you also gave me the Reinsurance Pool Mortality Audit prepared by Lincoln National Management Services. I probably won't be able to study the reports in much depth until after the Holiday Season. However, I anticipate completing the preliminary phase of my review by the end of the third week in January.

I look forward to receiving your report on the Marketing Coinsurance block as soon as it has been completed.

Please do not hesitate to contact me if you wish to discuss any aspects of this project.

Sincerest wishes for a Happy Holiday Season.

Sincerely,


Philip A. Velazquez

PAV:ccp

bcc: J. Cornely
R. Gandjean
P. Jaynes
D. Loparco
R. McGinnity
R. Reale
J. Sataro
RSD

SWISS-AM REASSURANCE COMPANY



EXHIBIT B

237 Park Avenue
New York, N.Y. 10017

March 28, 1991

FAX # (708) 948-7337

Mr. Bruce N. Nelson, FSA
Synergy Group
1665 Meadow
Bannockburn, Illinois 60015

Dear Mr. Nelson:

This letter of intent will confirm Swiss-Am Reassurance Company's offer to purchase, from Integrated Resources Life Insurance Company, the Pool line of business and the Marketing Coinsurance line of business. The purchase price is \$4,500,000. This offer is subject to regulatory approval and our due diligence review, which will include but not be limited to:

- Administration
- Treaties/Contracts
- Crediting Rate Methodology

In establishing this purchase price, we have assumed that cash assets equal in value to the full statutory reserves as of the purchase date will be transferred to Swiss-Am Reassurance. The statutory reserves will include those additional reserves for excess mortality, AIDS and overhead and maintenance expenses that were first established in 1990. We have assumed that excise tax payments made by the reinsurer will be reimbursed by the retrocessionaires. We also have assumed that the business in force as of the purchase date will be consistent with that reported as of December 31, 1990.

The due diligence review will be performed with a deliberate effort to have completion in a timely manner. The process will commence the week of April 1, 1991, subject to acceptance of our offer and the business involved being removed from the active market.

Sincerely,

Bernard Goebel
Vice President,
Marketing Actuarial

BG/bm

bcc: B. Connolly
P. Jaynes
R. McGonigly

M. Sales
P. Velasquez
B. Tucker

TTS

Integrated Resources
Life Companies

EXHIBIT C

April 1, 1991

Mr. Bernard Goebel
Vice President, Marketing Actuarial
Swiss-Am Reassurance Company
237 Park Avenue
New York, NY 10017

Re: Letter from Swiss-Am Reassurance Company dated
March 28, 1991

Dear Mr. Goebel:

We are in receipt of Swiss-Am Reassurance Company's ("Swiss-Am") offer to purchase Integrated Resources Life Insurance Company's ("IR Life") pool line of business and marketing coinsurance line of business for a purchase price of \$4.5 million, subject to the conditions set forth in Swiss-Am's letter dated March 28, 1991.

We confirm the advice previously provided to you by Bruce Nelson that the purchase price of \$4.5 million for these lines of business is acceptable to IR Life. As you were advised by Bruce Nelson, \$4.5 million is the lowest price that IR Life is prepared to accept for the purchase of these lines of business and IR Life is only prepared to accept this amount in order to effect an expeditious sale. No legally binding agreement with respect to the sale of these lines of business by IR Life to Swiss-Am will be effective unless and until execution of a definitive agreement with respect to such sale.

In order to induce Swiss-Am to promptly commence and complete the due diligence investigations outlined in Swiss-Am's letter dated March 28, 1991, IR Life hereby agrees that from the date hereof until April 30, 1991, or such earlier date as Swiss-Am terminates its efforts to acquire the lines of business at a purchase price of \$4.5 million, IR Life will not solicit or initiate any discussions with any person with respect to acquisition of the lines of insurance business referred to in this letter.

Very truly yours,

Robert E. Van Matre

Robert E. Van Matre
President

Integrated Resources Life Insurance Company
10 Union Square East, 5th Floor
New York, NY 10003
212/353-7797

FIDELITY BANKERS LIFE
Requisition Backup for U. L. Reinsurance

Company NARE QS (IIRC QS) Date Requested 1-15-93
Date of Report 12-31-92 Requested By N. BARNES

| | |
|----------|-----------------------------|
| Non Pool | <u>27,161.15</u> |
| Pool A | <u> </u> |
| Pool B | <u> </u> |
| Pool C | <u> </u> |
| Total: | <u>\$ 27,161.15</u> |

Check Number
Date Mailed

Detailed Backup in Reinsurance Department

INTEREST Payment of \$ 497.00 included in Total

THE ATTACHED CHECK IS IN PAYMENT OF:
☐ MEDICAL EXAMINATION FEE FOR.....
☐ COMMISSIONS FOR
☐ YOUR INVOICE
☐ OTHER—SEE EXPLANATION BELOW

*0326

UL QS PREM DEC 1992 7

209

JANUARY 19 1993
***\$27,161.15**

IMPORTANT!

DETACH THIS STUB BEFORE CASHING. PLEASE DO NOT STAPLE OR FOLD THIS CHECK.

Fidelity Bankers Life Insurance Company
AG Lic 2386 • Richmond, Virginia 23216

136800

2. On information and belief, NARE admits that Integrated Resources Life Insurance Company ("Integrated") and Fidelity Bankers entered into the "Assigned Ceding Treaties" on various dates from July 1, 1982 through May 1, 1987, and that the Assigned Ceding Treaties cover some of the pools that are covered by the Original Ceding Treaties.

- 2 -

3. On information and belief, NARE admits that the Order of the Circuit Court of the City of Richmond, Virginia, placing Fidelity Bankers into receivership was entered on May 13, 1991.

4. NARE:

(a) admits that Integrated assigned all of its interest in the Assigned Ceding Treaties to NARE as of July 1, 1991;

(b) denies knowledge or information sufficient to form a belief as to whether Fidelity Bankers gave its prior consent to the assignment; and

(c) avers that since the assignment, Fidelity Bankers has regularly paid premiums directly to NARE and has accepted reinsurance claim payments from NARE and therefore has consented to the assignment.

5. NARE admits that it has received notice from Fidelity Bankers of losses on claims by insureds in the pools covered by the Original Ceding Treaties and the Assigned Ceding Treaties and avers that its liability to Fidelity Bankers on such claims is subject to its right to offset pursuant to Section 38.2-1515 of the Virginia Code.

6. NARE admits that it has received notice from Fidelity Bankers of the claims and amounts due as set forth in the schedule provided in paragraph 6 of the Deputy Receiver's Counterclaim.

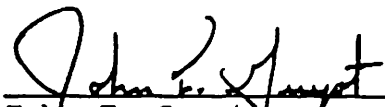
- 3 -

7. NARE admits that it has exercised its statutory setoff rights pursuant to Section 38.2-1515 and denies that those amounts are "justly due" to Fidelity Bankers.

8. NARE denies that the Deputy Receiver is entitled to judgment against NARE in any amount.

WHEREFORE, NARE respectfully prays that the Commission dismiss the Deputy Receiver's Counterclaim.

Respectfully submitted,

By: 
John F. Guyot
(A Member of the Virginia Bar)

WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006
(202) 429-7000

Counsel for North American
Reassurance Company

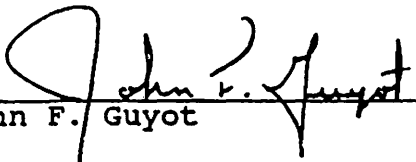
Of Counsel,

Ida C. Wurczinger

Dated: February 10, 1993

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Answer was served on the Deputy Receiver by hand to Howard H. Dobbins, Esq., Williams, Mullen, Christian & Dobbins, Central Fidelity Bank Building, Two James Center, 1021 East Cary Street, Richmond, Virginia 23210-1320, its attorney of record, on February 10, 1992.


John F. Guyot

**FIDELITY BANKERS LIFE
INSURANCE COMPANY TRUST**

Steven T. Foster
Trustee

Patrick H. Cantilo
Special Deputy Trustee

In Receivership for Conservation & Rehabilitation

March 31, 1995

Ms. Ida Wurczinger-Draim
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Re: NOTICE OF CLAIM DETERMINATION
Claimant: North American Reassurance Company ("NARC")
Claim Reference Number: 626

Dear Ms. Wurczinger-Draim:

This letter is written on behalf of Steven T. Foster, the Deputy Receiver of Fidelity Bankers Life Insurance Company ("Fidelity Bankers"), now the Trustee of Fidelity Bankers' successor in interest, the Fidelity Bankers Life Insurance Company Trust. This letter will serve as a Notice of Claim Determination pursuant to the Receivership Appeal Procedure approved by the State Corporation Commission ("Commission") of the Commonwealth of Virginia.

A review of the available records has failed to demonstrate either the location or the existence of "the Proof of Claim Department of Virginia's State Corporation Commission" where you indicated NARC's Proof of Claim was filed in your June 24, 1993, letter to Jeffrey L. Wood. Indeed, your filing of NARC's Proof of Claim does not appear to be strictly in compliance with the Receivership Appeal Procedure. However, this Determination will assume that NARC's erroneous filing of its claim with the Commission satisfies substantially the filing requirements for Proofs of Claim in the Fidelity Bankers receivership proceedings.

Based upon the issues raised in NARC's Proof of Claim received by the Commission at the Document Control Center on February 1, 1993, NARC's claim in the Fidelity Bankers receivership proceedings is hereby approved as a general, unsecured creditor claim acknowledged as valid, subject to future audit and verification. Because the amount claimed by NARC changes over time and because no payments are being made at this time on general creditor claims, this Determination will establish a preliminary approved amount which will be revised upon recalculation on or before the date at which payment is made on general creditor claims. Therefore, the

North American Reassurance Company
March 31, 1995
Page 2

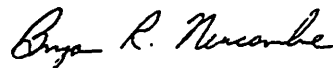
8

claim is now approved in the amount of \$3,759,115 plus future amounts to be determined based upon covered actual excess mortality claims incurred and paid by NARC under Reinsurance Treaty No. AEL-0045.

Please note that the approval or acknowledgement of NARC's claim is not to be misconstrued as an acceptance or approval of NARC's decision to set off certain amounts due from NARC and Integrated Resources Life Insurance Company to Fidelity Bankers. To the extent that NARC's claim has been acknowledged as a valid general, unsecured creditor claim, please be advised that the granting or acknowledgement of such a claim is not a guarantee of payment of any amount. Until certain priority claims are calculated and priority distributions made, it is impossible to determine what funds, if any, will be available for distribution to general, unsecured creditors. If sufficient assets remain after the referenced distributions are completed, then payments may be made, in whole or in part, to unsecured creditors.

Under the terms of Paragraph B of the Receivership Appeal Procedure, a copy of which is attached, NARC has thirty (30) days from the Date of Decision in which to appeal this Notice of Claim Determination. Copies of any appeal filed on this matter should be sent to the address printed below. The date at the top of this Notice of Claim Determination will serve as the Date of Decision for purposes of the Receivership Appeal Procedure. In the interim, please feel free to contact me if you need any further information, or if you believe our understanding of the facts relating to your claim is incorrect.

Very truly yours,



Bryan R. Newcombe
Counsel to the Deputy Receiver

Attachment

237 PARK AVENUE
NEW YORK, NEW YORK 10017
212 907-8661

ROBERT M. MANGINO
General Counsel & Secretary

TELEPHONE (212) 907-8661

April 27, 1995

VIA FEDERAL EXPRESS

Steven T. Foster, Trustee
Patrick H. Cantilo, Special Deputy Trustee
Fidelity Bankers Life Insurance Company Trust
c/o Interco Associates, LC
111 Congress Avenue, Suite 1750
Austin, Texas 78701

Re: **NOTICE OF APPEAL ON BEHALF OF
NORTH AMERICAN REASSURANCE COMPANY
Claim Reference No. 626**

Dear Messrs. Foster and Cantilo:

This letter will serve as a Notice of Appeal on behalf of North American Reassurance Company ("NARe") with respect to the above-referenced Claim Determination dated March 31, 1995. (A copy of the Claim Determination is at Tab 1 of the Appendix submitted herewith.)¹

As a preliminary matter, to the extent that the Claim Determination purports to preserve any objection to the sufficiency of NARe's filing of its Proof of Claim, we note that the Deputy Receiver/Trustee has waived any and all such objections and is estopped from raising them in the future. The Deputy Receiver/Trustee has been aware of the facts relating to the filing of

¹

NARe's Proof of Claim is also at Tab 1 of the Appendix.

NARe's Proof of Claim since at least June 24, 1993. (See letter, dated June 24, 1993, from Ida Wurzinger Drait to Jeffrey L. Wood, P.C., at Tab 2 of Appendix.) He has never taken a definitive position on whether that filing substantially complied with applicable requirements notwithstanding repeated requests by NARe that he state his position. NARe is entitled to finality on this issue. By failing for more than 21 months to take any position on this issue and then assuming that NARe has substantially complied for purposes of his claim determination, the Deputy Receiver has intentionally relinquished any entitlement to raise the issue of noncompliance with the filing requirements in the future.

1. The Deputy Receiver Has Not Fulfilled His Obligation To Effect A Complete Determination of NARe's Claim.

The receivership claims determination process is intended to provide a mechanism through which creditors' claims can be quantified and accorded a priority status. The Deputy Receiver/Trustee's Claim Determination fails to provide any definitive quantification of NARe's claim. In paragraph 3 of the Determination, it is erroneously asserted that "the amount claimed by NARC changes over time." This purportedly justifies the establishment of a "preliminary approved amount, which will be revised upon recalculation on or before the date at which payment is made on general creditor claims."

The amount claimed by NARe has not changed. What has changed is the portion of that amount that consists of past-due, as opposed to future, excess mortality claims. This does not justify making NARe's claim subject to recalculation. NARe's claim is based, in large part, upon actuarially-determined long-term excess mortality loss exposure, which is highly susceptible to accurate estimation. Indeed, as part of its claim, NARe has submitted the actuarial projections of an independent consultant retained by it. (See Exhibit F to Proof of Claim.) The Deputy Receiver/Trustee has not

addressed the validity of these projections or provided any projections of his own; he simply disregards NARe's long-term excess mortality loss exposure in determining NARe's claim.

The Deputy Receiver Trustee's approach is not only a serious departure from established principles of claim determination, it is inconsistent with the treatment of this claim in Fidelity's own financial statements. Fidelity has consistently reserved against its long-term exposure on the NARe claim. The 1992 Annual Statement for Fidelity Bankers Life Insurance Company reflects statutory reserves in the amount of \$8,097,735 and reinsurance payable of \$2,333,937 with respect to Treaty No. AEL-0045. The Trust's 1993 financial statements reflect a liability in the amount of \$7,538,887 for Fidelity's obligations under the Treaty. (See excerpts from Fidelity Bankers 1992 and 1993 Financial Statements at Tab 3 of the Appendix.) Having acknowledged, for accounting purposes, that Fidelity is liable to NARe for NARe's long-term exposure under Treaty No. AEL-0045, the Deputy Receiver/Trustee is estopped from limiting NARe's claim to the excess mortality losses incurred by NARe to date.

2. **NARe's Claim Is Entitled To Administrative Expense Priority.**

NARe's receivership claim arises out of a treaty that was expressly affirmed by the Deputy Receiver more than two and a half years ago. In his Determination of Appeal for North American Reassurance Company, dated September 17, 1992, the Deputy Receiver stated that Treaty No. AEL-0045 between NARe and Fidelity Bankers, out of which NARe's claim arises, was to be "treated as [if] it [had] never [been] disavowed," and thus that "the status quo ante is restored." (See Determination of Appeal for North American Reassurance Company, dated September 17, 1992, at Tab 4 of

Appendix.) Further, following his affirmance of the Treaty, the Deputy Receiver demanded performance from NARe. (See Letter, dated September 23, 1992, from Michael Adams to David Nussbaum, at Tab 5 of Appendix; Letter, dated September 23, 1992 from Mark Allen Land to Ida Wurczinger, at Tab 6 of Appendix.) These actions effected an assumption of the Treaty as an executory contract of the receivership estate.

When an executory contract is assumed in the course of a receivership, the obligations under that contract are to be paid as administrative expenses of the receivership. Notwithstanding his affirmance of Treaty No. AEL-0045 and NARe's performance of its obligations under that Treaty, the Deputy Receiver has not been paying the excess mortality claims that NARe has submitted to him pursuant to the Treaty. NARe therefore has a claim for immediate payment of those past-due claims, currently amounting to \$3,759,115, at the level of priority which they would have been accorded had they been paid as they became due, that is, as administrative expenses.

With respect to future excess mortality claims, the Deputy Receiver remains obligated to pay such claims, as they become due, as administrative expenses. Further, to the extent that the Deputy Receiver intends to distribute all of the funds of the receivership estate to creditors, he must first pay to NARe, as administrative expenses, the discounted present value of its future claims under the Treaty. NARe submitted an analysis of its long-term excess mortality loss exposure under the Treaty as part of its Proof of Claim. The Deputy Receiver should apply a discount rate to this valuation and determine the amount which NARe is entitled to be paid at the above-mentioned priority level at the time when priority distributions are made.

3. NARe Is Entitled To Contractually-Mandated Interest On Its Claim.

Section 404 of Treaty No. AEL-0045 between NARe and Fidelity Bankers provides that should any amount due NARe remain unpaid after 30 days from the due date, interest calculated at the rate of 10 percent per annum shall accrue on the unpaid balance. (See Exhibit B to Proof of Claim, Section 4.04.) The Claim Determination does not address the issue whether interest will be paid on the amount which is past due to NARe at the time that creditor distributions are made.² NARe claims an entitlement to interest on two grounds: First, when a receiver assumes an executory contract as an administrative expense of the estate, he becomes liable for any contractually-mandated interest because that is one of the contractual obligations that he has assumed. Second, irrespective of whether NARe's claim is accorded administrative expense priority, contractually-mandated interest is appropriately paid on a claim where the assets of the receivership estate are sufficient to pay such interest without reducing the claims of other creditors. It is highly likely that there will be sufficient assets in the Fidelity Trust to pay all of the creditors' claims and interest to NARe. Accordingly, NARe should receive the interest to which it is entitled under Treaty No. AEL-0045.

4. The Statutory Set-Off Effected By NARe Is Valid.

NARe has exercised its right, pursuant to Va. Code §38.2-1515, to set-off against its receivership claim the approximately \$2.4 million in reinsurance claims that were ceded to NARe by Fidelity. The Virginia set-off

² NARe raised this issue before the Commission in its Notice of Appeal filed in May 1992 and before the Deputy Receiver in other correspondence preceding that appeal.

statute invoked by NARe is self-executing, that is, a set-off effected pursuant to that statute is presumptively valid unless and until it is invalidated by a tribunal with jurisdiction over the matter. The Deputy Receiver/Trustee challenged the validity of NARe's set-off more than two years ago in a proceeding before the State Corporation Commission yet the Commission has not acted to invalidate the set-off.

Not only is NARe's set-off presumptively valid, it is valid on the merits. There is mutuality of time and capacity with respect to NARe's receivership claim and the Fidelity reinsurance claims. Both NARe's receivership claim and the Fidelity reinsurance claims arise out of reinsurance treaties that pre-date the commencement of the receivership. The mortality losses on the policies underlying those treaties are highly susceptible to actuarial determination and hence were well-defined as of the May 13, 1991 receivership date. Hence, NARe had a non-contingent claim against the receivership estate on that date.

5. NARe's Claim Should Not Be Subordinated To The Claims Of The Former Fidelity Contract-Holders.

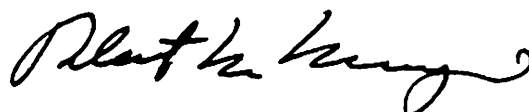
The Claim Determination notes that NARe's claim will be paid after "certain priority claims are calculated and priority distributions made." The priority claims to which reference is made are obviously the claims of the former Fidelity investment contract-holders, who are now Hartford investment contract-holders. The contract-holders have been promised a one-time "dividend" that is contingent upon whether the restructured interest rate provisions of their Hartford contracts prove to be less lucrative than the corresponding provisions of their former Fidelity contracts. Fidelity has set up a \$328 million reserve to make this contingent payment, in the absence of which Fidelity would have more than \$100 million in surplus.

By consistently referring to this group as "contract-holders" in all of the receivership documents including the Rehabilitation Plan, the Deputy Receiver/Trustee concedes that these are not true policyholders.³ Accordingly, even if NARE's claim is awarded unsecured general creditor status, there is no justification for preferring these contract-holders over NARE in the distribution of the assets of the receivership estate.

* * * * *

For all of the foregoing reasons, NARE's claim should be approved as an administrative expense of the Fidelity Trust and: (a) all past-due excess mortality loss claims, plus contractually-mandated interest, should be paid immediately; (b) NARE's excess mortality claims from 1995 forward should be paid on a timely basis as administrative expenses; and (c) NARE should be paid the present value of its future excess mortality loss exposure, as an administrative expense, on the date that priority distributions are made.

Very truly yours,



³ A recent New York Court of Appeals case makes clear that owners of annuities and other investment products are not policyholders. See N.Y.S. Assoc. of Life Underwriters v. N.Y.S. Banking Dept., 83 N.Y.2d 353, 632 N.E.2d 876 (N.Y. 1994).

STATE OF NEW YORK)
 :SS.
COUNTY OF NEW YORK)

Before me, the undersigned authority, on this day personally appeared ROBERT M. MANGINO, known to me to be the person whose name is subscribed to the foregoing NOTICE OF APPEAL, and having by me been first duly sworn, upon his oath deposed and stated that the facts therein contained are true and correct to his knowledge and belief.

Given under my hand and seal of office on this 27 day of April, 1995.



Notary Public

DEBORAH T. CASSARINO
Notary Public, State of New York
No. 01CA4554G45
Qualified in Kings County
Commission Expires August 21, 1995

**APPENDIX TO NOTICE OF APPEAL OF
NORTH AMERICAN REASSURANCE COMPANY**

Claim Reference No. 626

**Ida Wurczinger Drain
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006**

**Counsel to
North American Reassurance Company**

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| Excerpts from Fidelity Bankers 1992 and 1993 Financial Statements | 3 |
| Determination of Appeal of North American Reassurance Company, dated September 17, 1992 | 4 |
| Letter, dated September 23, 1992, from Michael Adams to David Nussbaum | 5 |
| Letter, dated September 23, 1992, from Mark Allen Land to Ida Wurczinger | 6 |
| Deposition Transcript, dated January 13, 1995, of Michael Adams | 7 |

* In accordance with Section B.3. of the Receivership Appeal Procedure, this Appendix contains documents supporting the appeal of North American Reassurance Company ("NARe") that are not cited in the letter submitted herewith.

**Appendix to Notice of Appeal of
North American Reassurance Company,
dated April 27, 1995:**

- 1. Letter from Bryan R. Newcombe,
Counsel to the Deputy Receiver,
to Ida Wurczinger-Draim,
Wiley, Rein & Fielding,
Re: Notice of Claim Determination,
with attachments,
dated March 31, 1995**

**FIDELITY BANKERS LIFE
INSURANCE COMPANY TRUST**

Steven T. Foster
Trustee

Patrick H. Cantilo
Special Deputy Trustee

In Receivership for Conservation & Rehabilitation

March 31, 1995

Ms. Ida Wurczinger-Draim
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Re: NOTICE OF CLAIM DETERMINATION
Claimant: North American Reassurance Company ("NARC")
Claim Reference Number: 626

Dear Ms. Wurczinger-Draim:

This letter is written on behalf of Steven T. Foster, the Deputy Receiver of Fidelity Bankers Life Insurance Company ("Fidelity Bankers"), now the Trustee of Fidelity Bankers' successor in interest, the Fidelity Bankers Life Insurance Company Trust. This letter will serve as a Notice of Claim Determination pursuant to the Receivership Appeal Procedure approved by the State Corporation Commission ("Commission") of the Commonwealth of Virginia.

A review of the available records has failed to demonstrate either the location or the existence of "the Proof of Claim Department of Virginia's State Corporation Commission" where you indicated NARC's Proof of Claim was filed in your June 24, 1993, letter to Jeffrey L. Wood. Indeed, your filing of NARC's Proof of Claim does not appear to be strictly in compliance with the Receivership Appeal Procedure. However, this Determination will assume that NARC's erroneous filing of its claim with the Commission satisfies substantially the filing requirements for Proofs of Claim in the Fidelity Bankers receivership proceedings.

Based upon the issues raised in NARC's Proof of Claim received by the Commission at the Document Control Center on February 1, 1993, NARC's claim in the Fidelity Bankers receivership proceedings is hereby approved as a general, unsecured creditor claim acknowledged as valid, subject to future audit and verification. Because the amount claimed by NARC changes over time and because no payments are being made at this time on general creditor claims, this Determination will establish a preliminary approved amount which will be revised upon recalculation on or before the date at which payment is made on general creditor claims. Therefore, the

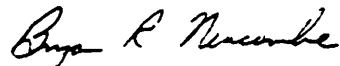
North American Reassurance Company
March 31, 1995
Page 2

claim is now approved in the amount of \$3,759,115 plus future amounts to be determined based upon covered actual excess mortality claims incurred and paid by NARC under Reinsurance Treaty No. AEL-0045.

Please note that the approval or acknowledgement of NARC's claim is not to be misconstrued as an acceptance or approval of NARC's decision to set off certain amounts due from NARC and Integrated Resources Life Insurance Company to Fidelity Bankers. To the extent that NARC's claim has been acknowledged as a valid general, unsecured creditor claim, please be advised that the granting or acknowledgement of such a claim is not a guarantee of payment of any amount. Until certain priority claims are calculated and priority distributions made, it is impossible to determine what funds, if any, will be available for distribution to general, unsecured creditors. If sufficient assets remain after the referenced distributions are completed, then payments may be made, in whole or in part, to unsecured creditors.

Under the terms of Paragraph B of the Receivership Appeal Procedure, a copy of which is attached, NARC has thirty (30) days from the Date of Decision in which to appeal this Notice of Claim Determination. Copies of any appeal filed on this matter should be sent to the address printed below. The date at the top of this Notice of Claim Determination will serve as the Date of Decision for purposes of the Receivership Appeal Procedure. In the interim, please feel free to contact me if you need any further information, or if you believe our understanding of the facts relating to your claim is incorrect.

Very truly yours,



Bryan R. Newcombe
Counsel to the Deputy Receiver

Attachment

103

PROOF OF CLAIM

DOCUMENT CONTROLS

Filing Deadline

February 1, 1993

103 FEB - 1 34 5:13

Please carefully read the *Proof of Claim Instructions*. Please Print or Type.

North American Reassurance Company
Name of Claimant
237 Park Avenue
Street Address
New York New York 10017
City State Zip

\$ 21,050,436
Total Amount of Claim
(212) 907-8661
Telephone
13-156-2932
Soc. Sec. or Tax I.D. No.

NOTE: Policyholders, Annuity Contract-holders, and Option One Holders should not use this form to claim the benefits provided by Opting-In or Opting-Out of the Plan.

Explanation of Claim: As is more fully discussed in the attached Supplement, NARE has a claim in the amount of \$21,050,436 against Fidelity Bankers Life Insurance Company ("Fidelity"), which represents the 1991 and 1992 excess mortality claims that NARE has ceded to Fidelity under Reinsurance Treaty No. AEL-0045 (currently amounting to \$2,340,974) plus the excess mortality claims that NARE is projected to incur and, pursuant to that Treaty, is entitled to cede to Fidelity in the future (amounting to \$19,900,281), less amounts set-off against such claim as noted below.

Answer: **Yes**

State of New York
County of Queens

For Office Use Only

Transmitted by _____

Station _____

File # _____

Unless noted herein: I alone am entitled to file this claim; no others have an interest in this claim; no payments have ~~been~~ made on the claim; no third party is liable on this debt; the sum claimed is justly owing; ~~and this is no contest~~.¹ I declare, under penalty of perjury, that all of the statements made in this Proof of Claim and all documents attached to this form are true, complete, and correct.

Signed and Sworn before me, this 29th
day of January, 1993

Robert L. ...
Signature of Claimant or Authorized Agent

Secretary

Attachment 54**Title**

CAMILLE S. COOPER
City Clerk, State of New York
No. 479259
Dated: June 1, 1969

Notary Public, State of New York
reinsurance claims ceded to it by Fidelity
ceded to \$1,190,819.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

| | | |
|------------------------------|---|--------------------|
| COMMONWEALTH OF VIRGINIA |) | |
| at the relation of the |) | |
| STATE CORPORATION COMMISSION |) | |
| |) | |
| v. |) | Case No. INS910068 |
| |) | |
| FIDELITY BANKERS LIFE |) | |
| INSURANCE COMPANY, |) | |
| |) | |
| Defendant. |) | |

SUPPLEMENT TO PROOF OF CLAIM OF
NORTH AMERICAN REASSURANCE COMPANY

1. This supplement is hereby expressly incorporated into and made a part of the Proof of Claim of North American Reassurance Company ("NARe") in the above-captioned matter.

2. On or about December 28, 1990, Fidelity Bankers Life Insurance Company ("Fidelity") and Protective Life Insurance Company ("Protective") entered into a Treaty of Assumption and Bulk Reinsurance of Life Insurance Policies ("Treaty of Assumption"). Fidelity recognized a \$26,875,000 profit on this transaction. (SCC v. Fidelity Bankers Life Insurance Company, Case No. INS910068, Proposed Rehabilitation Plan, dated May 1, 1992 (hereinafter "Prop. Rehab. Plan") at 6).

3. On or about December 31, 1990, NARe entered into Reinsurance Treaty No. AEL-0044 with Protective (Exhibit A) under which it agreed to indemnify Protective against claims

- 2 -

above the expected mortality rate on certain policies to be assumed by Protective under the Treaty of Assumption. At the same time and date, Fidelity entered into Reinsurance Treaty No. AEL-0045 (Exhibit B) under which it agreed to indemnify NARE against the claims that were ceded to NARE by Protective. The provisions of the two treaties are virtually identical. For instance, NARE's payment of claims ceded to it by Protective is due on the 15th day after the end of the calendar year during which such claims were incurred. (Exhibit A, 4.04). Fidelity's payment of claims ceded to it by NARE is due on the same date. (Exhibit B, 4.04).

4. As a result of these reciprocal reinsurance agreements with Fidelity and Protective, NARE assumed the role of a pass-through of Protective's claims for losses above the expected mortality rate to Fidelity. As part of the arrangement, NARE was to receive a nominal reinsurance premium from Protective of \$0.027 per thousand times the face amount of the policies in force at the beginning of each calendar year (Exhibit A, 3.01), all of which NARE was obligated to pass through to Fidelity on the same date that it was received from Protective. (Exhibit B, 3.01). In addition, under Treaty No. AEL-0045, NARE was to receive from Fidelity an annual administrative service fee equal to \$5.00 per policy in force at the beginning of each calendar year

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(up to a charge of no more than two times the reinsurance premium for the calendar year). (Exhibit B, 2.07). The fee amounted to approximately \$30,000 for 1991. As the number of policies in force has declined each year, the fee has become progressively lower.

5. Treaty AEL-0045 between Fidelity and NARe was explicitly made conditional upon Treaty AEL-0044 between Protective and NARe. At several points in the Fidelity/NARe treaty, the Protective/NARe treaty is referred to as "the underlying agreement." (Exhibit B, 2.08 and 2.09). Further, Fidelity had the right to cancel its treaty with NARe if NARe should "cease to assume the risks reinsured from Protective" under their treaty. (Exhibit B, 2.10).

6. By entering into the reinsurance agreements, NARe performed a valuable service for Fidelity. The price of the business assumed by Protective was substantially higher as a result of the stop loss arrangement. Moreover, Protective had refused to assume the life insurance business from Fidelity unless the term policies were protected by such an arrangement and Protective was unwilling to enter into such an arrangement directly with Fidelity. By agreeing to serve as a pass-through of stop loss reinsurance claims, NARe enabled Fidelity to conclude a transaction that substantially

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increased Fidelity's surplus. The Commissioner of Insurance has acknowledged that "[w]ithout the Protective Life reinsurance transaction, Fidelity Bankers would have been close to financial impairment or a hazardous condition...." (Prop. Rehab. Plan at 8).

7. On or about January 7, 1992, Protective submitted to NARE, with a copy to Fidelity, a statement showing 1991 calendar year claims above expected mortality of \$1,134,923. (Exhibit C). NARE paid Protective \$1,041,960, representing Protective's \$1,134,923 claim, minus \$100,000 attributable to a recovery under another reinsurance treaty, plus \$7,037 in interest, under a reservation of rights. (Exhibit D). These claims were ceded to Fidelity pursuant to Treaty No. AEL-0045. Fidelity has not made any payment to NARE on these ceded claims.

8. On January 21, 1993, Protective submitted to NARE, with a copy to Fidelity, a statement showing 1992 calendar year claims above expected mortality of \$1,299,014. (Exhibit E). NARE will pay Protective \$1,299,014 on or before February 15, 1993, under a reservation of rights. These claims have been ceded to Fidelity pursuant to Treaty No. AEL-0045. Fidelity has not made any payment of NARE on these ceded claims.

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9. An independent actuarial consultant commissioned by NARE has concluded that there will continue to be significant excess mortality claims arising out of the policies underlying Treaty Nos. AEL-0044 and AEL-0045 through the year 2023. Based on the actual claims experience on the policies for 1991 and 1992 and other factors, that actuarial consultant has determined that excess mortality claims for 1993 and future years will amount to \$19,900,281. (Exhibit F). Further support for this determination is derived from an actuarial and underwriting analysis of the relevant life insurance policies performed by NARE in mid-1992. Consistent with the underwriting audits of two other reinsurers (Cologne Re and American United), NARE's review revealed an underrating by Fidelity of mortality risk on the policies by about three tables, or 75%.

10. NARE has asserted its statutory right, pursuant to Va. Code. Ann. § 38.2-1515, to set-off against the above-mentioned claims, totalling \$22,241,255, certain reinsurance claims ceded by Fidelity to it. As of January 29, 1993, the claims ceded by Fidelity to NARE and set-off amounted to \$1,190,819. These claims arise out of NARE's participation in certain reinsurance pool arrangements with Fidelity and its assumption of certain reinsurance treaties covering Fidelity's policies. Should NARE's set-off be disallowed, in


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part or in whole, NARE's resulting claim of \$21,050,436 would be increased by the amount of such disallowance.

11. The filing of this Proof of Claim by NARE is not intended to be and shall not be construed as an election of remedy, a waiver of any past, present or future event of default or a waiver or limitation of any rights of NARE against Fidelity or any other party. NARE reserves all rights it may have against Fidelity or any other party, including, but not limited to, (i) the right to setoff against amounts it owes or in the future may owe Fidelity under other reinsurance treaties amounts Fidelity owes or in the future may owe NARE under Reinsurance Treaty No. AEL-0045, (ii) the right to assert that its claim herein explained is entitled to priority as an administrative expense of Fidelity's receivership and conservation proceeding, and (iii) the right to amend and/or supplement its Proof of Claim and/or this Supplement as it for any reason deems necessary or appropriate.

Respectfully submitted,

By:


Robert M. Mangino
General Counsel
NORTH AMERICAN REASSURANCE COMPANY
237 Park Avenue
New York, New York 10017
(212) 907-8661

Dated: February 1, 1993

REINSURANCE AGREEMENT
between
PROTECTIVE LIFE INSURANCE COMPANY
BIRMINGHAM, ALABAMA
and
NORTH AMERICAN REASSURANCE COMPANY
NEW YORK, NEW YORK

TREATY # AEL-0044

I. PREAMBLE

This Agreement is made and entered into by and between Protective Life Insurance Company (hereinafter referred to as the "Company") and North American Reassurance Company (hereinafter referred to as the "Reinsurer").

The Company and the Reinsurer mutually agree to reinsure on the terms and conditions stated herein. This Agreement is an indemnity reinsurance agreement solely between the Company and the Reinsurer and performance of the obligations of each party under this Agreement shall be rendered solely to the other party. In no instance shall anyone other than the Company or its successors, as allowed and provided for in 2.08, or the Reinsurer have any rights under this Agreement and the Company shall be and remain solely liable to any insured, policyowner, or beneficiary under any policy reinsured hereunder.

II. GENERAL PROVISIONS

2.01 Coverages and Exclusions. The Reinsurer agrees to indemnify and the Company agrees to reinsure with the Reinsurer, according to the terms and conditions hereof, the following Renewable and Convertible Term life insurance plans, which shall be reinsured on a 100% coinsurance basis and shall possibly be assumed by the Company from Fidelity Bankers Life Insurance Company pursuant to the terms of the Service Agreement and

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Indemnity Coinsurance Agreement and Treaty of Assumption and Bulk Reinsurance of Life Insurance Policies Between Fidelity Bankers Life Insurance Company and Protective Life Insurance Company and described below:

5M2, 5M3, 5M4, 500-501, 504 to 506, 508-509, 540 to 546, 548 to 560, 562 to 564, 590 to 593.

2.02 Plan of Reinsurance. This indemnity reinsurance shall be on the aggregate excess of loss plan of reinsurance. The Reinsurer shall only be liable for the mortality claims of the policies reinsured hereunder, in excess of the expected claims calculated as defined herein, on an inception to date basis.

2.03 Conversions. Conversions allowed to permanent whole life, as provided for in the underlying policy forms reinsured herein, are covered under this Agreement subject to the conditions regarding mortality factors as defined in 4.02 (c).

2.04 Inspection. At any reasonable time after the date on which the Company has assumed the administration and taken possession of the books and records of the policies reinsured hereunder, the Reinsurer may inspect, during normal business hours, at the principal office of the Company, the papers and any and all other books or documents of the Company relating to any and all claims incurred under this Agreement.

2.05 Misunderstandings and Oversights. If any failure to pay amounts due or to perform any other act required by this Agreement is unintentional and caused by misunderstanding or oversight, the Company and the Reinsurer will adjust the situation to what it would have been had the misunderstanding or oversight not occurred.

2.06 Reinstatements. If a policy reinsured hereunder that was reduced, terminated, or lapsed, is reinstated, the reinsurance

for such policy under this Agreement will be reinstated automatically to the amount that would be in force if the policy had not been reduced, terminated, or lapsed.

2.07 Existing Mortality Reinsurance Coverages. As of December 31, 1990 there existed certain reinsurance agreements concerning the policies described in 2.01 with third party reinsurers that provided for mortality indemnification. All claims incurred by the Company in determining the total mortality experience as defined herein, shall be net of all recoveries from such third party reinsurance. Additionally, the calculation of expected claims shall consider and be reduced by any third party reinsurance. Furthermore, the Company agrees to continue such reinsurance in force for the duration of this Agreement. In the event that such mortality reinsurance should be recaptured, terminated or otherwise reduced prior to the termination of this Agreement as provide herein, the total mortality experience and expected claims as defined herein shall be calculated as if such third party reinsurance was still in force.

2.08 Change of Ownership. Should a material change of ownership of the policies reinsured hereunder occur, the Reinsurer shall continue this Agreement in force under the terms of this Agreement provided such acquiring entity at such time possesses a minimum rating of "A" from the A. M. Best Company or its successor. Should the acquiring entity not meet the above standard, then the Reinsurer shall have the right to prior approval of such acquiring entity. The Reinsurer shall not unreasonably withhold its approval of such a change in ownership. Should the Reinsurer decline to give its approval, the Company and the Reinsurer hereby agree that this agreement shall be terminated as of the effective date of such change in ownership as described below. Should this Agreement be terminated as described above, the Reinsurer will have no further liability to the Company hereunder. For purposes of this

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Agreement a material change of ownership will include but not be limited to: any reinsurance agreement other than the Service Agreement and Indemnity Coinsurance Agreement and Treaty of Assumption and Bulk Reinsurance of Life Insurance Policies Between Fidelity Bankers Life Insurance Company and Protective Life Insurance Company, covering the policies reinsured hereunder, in which the administration or amount of premiums charged the policyholder, is no longer directly controlled by the Company; or any sale, of the stock of the Company or any holding company which effectively controls the stock of the Company, which would give direct or indirect controlling interest of the Company to such acquiring party, control/controlling interest being defined as ownership of greater than 50% of the Company stock or the holding company stock.

2.09 Premium Changes. Should the Company or any successor change the premium scale for any plan from the premium scale which was in effect on the effective date for any of the policies reinsured hereunder, the Company shall promptly notify the Reinsurer. The Reinsurer shall have the right to accept or reject such changes. Should the Reinsurer decide not to accept such changes, each of the policies affected by such change shall be excluded from this Agreement as of the effective date of the premium scale change.

2.10 Termination. This Agreement is indefinite in duration and can not be terminated by the Company or the Reinsurer except if one of the following events occurs:

- a) the Net Amount at Risk is less than \$10,000,000 (ten million) of originally issued face amount as of the date the Company has assumed the administration and taken possession of the books and records of the policies reinsured hereunder, or
- b) the negative value of the Reinsurer's Loss Account equals or exceeds the face amount of insurance in force on

the policies reinsured, or

c) this Agreement is terminated pursuant to the provisions of 2.08.

III. REINSURANCE PREMIUMS

3.01 Reinsurance Premiums. The reinsurance premiums shall be an amount equal to \$0.027 per thousand times the face amount in force as of the beginning of each calendar year and shall be due and payable as of each January 15th of each calendar year for which this calculation is being made.

3.02 Nonpayment of Premiums. If within 30 days after the date such premiums as defined in 3.01 are due such reinsurance premiums remain unpaid the Reinsurer shall have the right to terminate this Agreement. However, prior to termination, the Reinsurer must provide the Company with prior written notice by certified mail of its intent to terminate. The Company shall then have the right to prevent termination by payment of the unpaid premium and interest thereon within 30 days of receipt of the Reinsurer's notice. Such interest penalty shall be calculated as simple interest from the due date of the reinsurance premium at a rate of 10% per annum.

IV. REINSURANCE LOSSES

4.01 Reinsurance Losses. Reinsurance losses under this Agreement shall be limited to the amount by which actual incurred losses on the policies reinsured hereunder exceeds expected losses, as defined herein, on an inception to date basis. The calculation of such losses shall be made quarterly. A report of the Reinsurer's Loss Account as defined in 4.02 shall be submitted to the Reinsurer by the Company within 15 days of the end of each calendar quarter. Any losses incurred shall be paid by the Reinsurer to the Company annually as of each December

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31st and shall be payable as defined in 4.04, below.

4.02 Definitions. For purposes of this Agreement the following definitions shall apply:

- a) Incurred Losses. Incurred losses shall mean the sum of the total incurred losses, net of any third party reinsurance, for the policies reinsured hereunder as calculated in accordance with NAIC accounting rules from the Effective Date of this Agreement to the end of the calendar quarter for which such calculation is being made.
- b) Expected Losses. Expected losses for each quarter shall mean the amount of accumulated expected losses as of the end of the immediately preceding calendar quarter, plus the result of; the face amount on the policies reinsured hereunder as of the beginning of the calendar quarter for which this calculation is being made, plus, the face amount on the policies reinsured hereunder as of the end of the calendar quarter for which this calculation is being made, divided by the whole number 2, multiplied by, the appropriate mortality factor, divided by the whole number 4. Expected losses, wherever used, shall be net of any third party reinsurance.
- c) Mortality Factors. Excluding conversions, mortality factor shall mean for all plan codes except 540, 70% of the mortality rates as provided for in the 1965/70 Select and Ultimate Mortality Table with a select period of fifteen years based on issue age and duration for each and every policy. For plan code 540 the calculation shall be the same as above except the percentage of the mortality table shall be 100%. For policies which are converted, the mortality factor shall be 105% of the above referenced mortality table except for plan code 540 conversions, which shall use a mortality factor of 150% of the above referenced mortality table. On converted policies, such percentages shall continue to be applied on an original

age and duration basis.

d) Reinsurer's Loss Account. The Reinsurer's loss account shall mean the incurred losses as defined above, minus, the expected losses as defined above.

4.03 Determination of Settlement. Should the Reinsurer's Loss Account be negative no payment shall be required under this Agreement. Should the loss account be a positive amount as of the beginning of the calendar year for which such calculation is being made, increases to the account for such calendar year shall be paid by the Reinsurer to the Company; and decreases to the account shall be paid by the Company to the Reinsurer only to the extent that such decrease does not exceed such positive amount. For any calendar year in which the Reinsurer's Loss Account was negative as of the beginning of the calendar year and positive as of the end of such calendar year for which this calculation is being made, after credit for any negative carryover amount, the amount of increase payable to the Company by the Reinsurer shall be only the amount of increase in the account in excess of zero.

AMERICAN ASSURANCE COMPANY

4.04 Payment of Losses. Any losses incurred by the Reinsurer in connection with the policies reinsured hereunder, shall be due the Company on the January 15th immediately following the close of the calendar year for which such losses have been calculated. Should the amount as calculated in this paragraph remain unpaid after 30 days from the due date an interest penalty shall accrue on the unpaid balance. Such interest penalty shall be calculated as simple interest at a 10% per annum rate.

4.05 Right to Audit. The Reinsurer, after the date on which the Company has assumed the administration and taken possession of the books and records of the policies reinsured hereunder, retains the right to audit any and all claim papers and proof obtained by the Company in the course of settlement or investigation of any death claims paid by the Company on the

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policies reinsured hereunder.

4.06 Investigation of Claims. The Company, after the date on which the Company has assumed the administration and taken possession of the books and records of the policies reinsured hereunder, agrees to follow all of its existing usual and customary claim procedures relating to the policies reinsured hereunder. Should audit by the Reinsurer disclose that the Company has been negligent in adhering to such procedures, any claims incurred by the Company in which such procedures were not followed, shall not be included in determining the total incurred claims of the Company as defined in 4.02, above.

V. ARBITRATION

5.01 Agreement. All disputes and differences between the Company and the Reinsurer on which an agreement cannot be reached will be decided by arbitration. The arbitrators will regard this Agreement from the standpoint of practical business and equitable principles rather than that of strict law.

5.02 Method. Three arbitrators will decide any differences. They must be, or have been, officers of life insurance companies other than the two parties to this Agreement or any company owned by, or affiliated with, either party. One of the arbitrators is to be appointed by the Reinsurer, another by the Company, and they shall select a third before arbitration begins. The appointments shall be made in the following manner: The Company and the Reinsurer shall each present an initial list of five arbitration candidates to the other party within 25 days of the mailing of the notification initiating the arbitration. The Company and the Reinsurer shall select one arbitrator each from the list supplied by the other party. Should the selected arbitrator decline to serve, another name shall be selected from the respective list. The party who initiated the list will

submit as many additional names as necessary so that at all times there will be a pool of five names from which the other party may make its selection. The two arbitrators, once selected, shall then select the third arbitrator from the remaining eight names on the two lists. Should the two arbitrators be unable to agree on a choice for the third arbitrator the choice shall be referred back to the Company and the Reinsurer. The Company and the Reinsurer shall take turns striking the name of one of the remaining candidates from the initial eight candidates until only one candidate remains. If the candidate so chosen shall decline to serve as the third arbitrator, the candidate whose name was stricken last shall be nominated as the third arbitrator. The first turn at striking the name of a candidate shall belong to the party that is responding to the other party's initiation of the arbitration.

VI. INSOLVENCY

6.01 Agreement. In the event of the Company's insolvency, the Reinsurer's contractual liability on policies reinsured hereunder shall continue to be determined by all the terms, conditions and limitations under this Agreement, but the Reinsurer will make settlement (1) directly to the Company's liquidator, receiver or statutory successor, and (2) without increase or diminution because of the Company's insolvency. The liquidator, receiver or statutory successor of the Company shall give the Reinsurer written notice of the pendency of a claim against the Company on any policy reinsured within a reasonable time after such claim is filed in the insolvency proceeding. During the pendency of any such claim, the Reinsurer may investigate such claim and interpose in the Company's name (or in the name of the Company's liquidator, receiver or statutory successor), in the proceeding where such claim is to be adjudicated, any defense or defenses which the Reinsurer may deem available to the Company or its liquidator, receiver or statutory successor. The expense thus

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incurred by the Reinsurer shall be chargeable, subject to court approval, against the Company as a part of the expense of liquidation to the extent of a proportionate share of the benefit which may accrue to the Company solely as a result of the defense undertaken by the Reinsurer.

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VII. EXECUTION AND EFFECTIVE DATE

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate, with an Effective Date of: January 1, 1991.

PROTECTIVE LIFE INSURANCE COMPANY (Company)

By: _____
Title: _____
Date: _____

Attest: _____
Title: _____
Date: _____

NORTH AMERICAN REASSURANCE COMPANY (Reinsurer)

By: James J. [Signature]
Title: President
Date: December 31, 1990

Attest: Michael J. [Signature]
Title: Witness Representative
Date: 12/31/90

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VII. EXECUTION AND EFFECTIVE DATE

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate, with an Effective Date of: January 1, 1991.

PROTECTIVE LIFE INSURANCE COMPANY (Company)

BY: J. E. MangalaTitle: SC. V.P.Date: 12/31/90

Attest: _____

Title: _____

Date: _____

NORTH AMERICAN REASSURANCE COMPANY (Reinsurer)

BY: [Signature]Title: Vice PresidentDate: December 1, 1990

Attest: _____

Title: _____

Date: _____

REINSURANCE AGREEMENT
between
NORTH AMERICAN REASSURANCE COMPANY
NEW YORK, NEW YORK
and
FIDELITY BANKERS LIFE INSURANCE COMPANY
RICHMOND, VIRGINIA

TREATY # AEL-0045

I. PREAMBLE

This Agreement is made and entered into by and between North American Reassurance Company (hereinafter referred to as the "Company") and Fidelity Bankers Life Insurance Company (hereinafter referred to as the "Reinsurer").

The Company and the Reinsurer mutually agree to reinsure on the terms and conditions stated herein. This Agreement is an indemnity reinsurance agreement solely between the Company and the Reinsurer and performance of the obligations of each party under this Agreement shall be rendered solely to the other party. In no instance shall anyone other than the Company or the Reinsurer have any rights under this Agreement and the Company shall be and remain solely liable to any insured, policyowner, or beneficiary under any policy reinsured hereunder.

II. GENERAL PROVISIONS

2.01 Coverages and Exclusions. The Reinsurer agrees to indemnify and the Company agrees to reinsure with the Reinsurer according to the terms and conditions hereof, the following Renewable and Convertible Term life insurance plans, assumed by the Company from Protective Life Insurance Company and described below:

5M2, 5M3, 5M4, 500-501, 504 to 506, 508-509, 540 to 546, 560, 562 to 564, 590 to 593.

2.02 Plan of Reinsurance. This indemnity reinsurance shall be on the aggregate excess of loss plan of reinsurance. The Reinsurer shall only be liable for the mortality claims of the policies reinsured hereunder, in excess of the expected claims calculated as defined herein, on an inception to date basis.

2.03 Conversions. Conversions allowed to permanent whole life, as provided for in the underlying policy forms reinsured herein, are covered under this Agreement subject to the conditions regarding mortality factors as defined in 4.02 (c).

2.04 Inspection. At any reasonable time, the Reinsurer may inspect, during normal business hours, at the principal office of the Company, the papers and any and all other books or documents of the Company relating to any and all claims incurred under this Agreement.

2.05 Misunderstandings and Oversights. If any failure to pay amounts due or to perform any other act required by this Agreement is unintentional and caused by misunderstanding or oversight, the Company and the Reinsurer will adjust the situation to what it would have been had the misunderstanding or oversight not occurred.

2.06 Reinstatements. If a policy reinsured hereunder that was reduced, terminated, or lapsed, is reinstated, the reinsurance for such policy under this Agreement will be reinstated automatically to the amount that would be in force if the policy had not been reduced, terminated, or lapsed.

2.07 Administrative Service Fee. The Reinsurer shall pay the Company an administrative service fee equal to \$5.00 per policy up to a charge of no more than two times the reinsurance premium as defined in 3.01 for such calendar year. Such payment shall be made annually by the Reinsurer to the Company within 15 days of receipt of the annual reinsurance premium.

2.08 Change of Ownership. The Reinsurer shall have the right to approve any change of ownership as contemplated within paragraph 2.08 of the underlying agreement. The Company agrees to inform and consult with the Reinsurer regarding any such change of ownership. Should either party decline to grant any approvals as required and may be provided for therein such decision shall be binding upon both the Company and the Reinsurer.

2.09 Premium Changes. The Reinsurer shall have the right to approve any premium changes as contemplated within paragraph 2.09 of the underlying agreement. The Company agrees to inform and consult with the Reinsurer regarding any such premium changes. Should either party decline to grant any approvals as required and may be provided for therein such decision shall be binding upon both the Company and the Reinsurer.

2.10 Termination. This Agreement may be terminated by the Company or the Reinsurer when one of the following events occur:

- a) the Net Amount at Risk is less than \$10,000,000, or
- b) the negative value of the Reinsurer's Loss Account equals or exceeds the face amount of insurance in force on the policies reinsured.

This Agreement shall automatically terminate should the Company cease to assume the risks reinsured from Protective Life. Such termination shall be effective as of the same date as the termination of the Company's assumption of the risks reinsured from Protective Life. This Agreement may also be terminated for nonpayment of reinsurance premiums as provided in 3.02 or

nonpayment of administrative service fees as provided in 2.07.

III. REINSURANCE PREMIUMS

3.01 Reinsurance Premiums. The reinsurance premiums shall be an amount equal to \$0.027 per thousand times the face amount in force as of the beginning of each calendar year and shall be due and payable as of each January 15th of each calendar year for which this calculation is being made.

3.02 Nonpayment of Premiums. If within 30 days after the date such premiums as defined in 3.01 are due such reinsurance premiums remain unpaid the Reinsurer shall have the right to terminate this Agreement. However, prior to termination, the Reinsurer must provide the Company with prior written notice by certified mail of its intent to terminate. The Company shall then have the right to prevent termination by payment of the unpaid premium and interest thereon within 30 days of receipt of the Reinsurer's notice. Such interest penalty shall be calculated as simple interest from the due date of the reinsurance premium at a rate of 10% per annum.

IV. REINSURANCE LOSSES

4.01 Reinsurance Losses. Reinsurance losses under this Agreement shall be limited to the amount by which actual incurred losses on the policies reinsured hereunder exceeds expected losses, as defined herein, on an inception to date basis. The calculation of such losses shall be made quarterly. A report of the Reinsurer's Loss Account as defined in 4.02 shall be submitted to the Reinsurer by the Company within 15 days of the end of each calendar quarter. Any losses incurred shall be paid by the Reinsurer to the Company annually as of each December 31st and shall be payable as defined in 4.04, below.

4.02 Definitions. For purposes of this Agreement the following definitions shall apply:

- a) Incurred Losses. Incurred losses shall mean the sum of the total incurred losses, net of any third party reinsurance, for the policies reinsured hereunder as calculated in accordance with NAIC accounting rules from the Effective Date of this Agreement to the end of the calendar quarter for which such calculation is being made.
- b) Expected Losses. Expected losses for each quarter shall mean the amount of accumulated expected losses as of the end of the immediately preceding calendar quarter, plus the result of: the face amount on the policies reinsured hereunder as of the beginning of the calendar quarter for which this calculation is being made, plus, the face amount on the policies reinsured hereunder as of the end of the calendar quarter for which this calculation is being made, divided by the whole number 2, multiplied by, the appropriate mortality factor, divided by the whole number 4. Expected losses, wherever used, shall be net of any third party reinsurance.
- c) Mortality Factors. Excluding conversions, mortality factor shall mean for all plan codes except 540, 70% of mortality rates as provided for in the 1965/70 Select and Ultimate Mortality Table with a select period of fifteen years based on issue age and duration for each and every policy. For plan code 540 the calculation shall be the same as above except the percentage of the mortality table shall be 100%. For policies which are converted, the mortality factor shall be 105% of the above referenced mortality table except for plan code 540 conversions, which shall use a mortality factor of 150% of the above referenced mortality table. On converted policies, such percentages shall continue to be applied on an original issue age and duration basis.
- d) Reinsurer's Loss Account. The Reinsurer's loss

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account shall mean the incurred losses as defined above, minus, the expected losses as defined above.

4.03 Determination of Settlement. Should the Reinsurer's Loss Account be negative no payment shall be required under this Agreement. Should the loss account be a positive amount as of the beginning of the calendar year for which such calculation is being made, increases to the account for such calendar year shall be paid by the Reinsurer to the Company; and decreases to the account shall be paid by the Company to the Reinsurer only to the extent that such decrease does not exceed such positive amount. For any calendar year in which the Reinsurer's Loss Account was negative as of the beginning of the calendar year and positive as of the end of such calendar year for which this calculation is being made, after credit for any negative carryover amount, the amount of increase payable to the Company by the Reinsurer shall be only the amount of increase in the account in excess of zero.

4.04 Payment of Losses. Any losses incurred by the Reinsurer in connection with the policies reinsured hereunder, shall be due the Company on the January 15th immediately following the close of the calendar year for which such losses have been calculated. Should the amount as calculated in this paragraph remain unpaid after 30 days from the due date an interest penalty shall accrue on the unpaid balance. Such interest penalty shall be calculated as simple interest at a 10% per annum rate.

4.05 Right To Audit. The Reinsurer retains the right to audit any and all claim papers and proof obtained by the Company in the course of settlement or investigation of any death claims paid by the Company on the policies reinsured hereunder and direct the Company to obtain such papers and proof under the terms of the its underlying agreement.

4.06 Investigation of Claims. Should audit by the Reinsurer

disclose that the underlying ceding company has been negligent in adhering to its existing usual and customary claim procedures, any claims incurred by the Company in which such procedures were not followed, shall not be included in determining the total incurred claims of the Company as defined in 4.02, above.

V. ARBITRATION

5.01 Agreement. All disputes and differences between the Company and the Reinsurer on which an agreement cannot be reached will be decided by arbitration. The arbitrators will regard this Agreement from the standpoint of practical business and equitable principles rather than that of strict law.

5.02 Method. Three arbitrators will decide any differences. They must be, or have been, officers of life insurance companies other than the two parties to this Agreement or any company owned by, or affiliated with, either party. One of the arbitrators is to be appointed by the Reinsurer, another by the Company, and they shall select a third before arbitration begins. The appointments shall be made in the following manner: The Company and the Reinsurer shall each present an initial list of five arbitration candidates to the other party within 25 days of the mailing of the notification initiating the arbitration. The Company and the Reinsurer shall select one arbitrator each from the list supplied by the other party. Should the selected arbitrator decline to serve, another name shall be selected from the respective list. The party who initiated the list will submit as many additional names as necessary so that at all times there will be a pool of five names from which the other party may make its selection. The two arbitrators, once selected, shall then select the third arbitrator from the remaining eight names on the two lists. Should the two arbitrators be unable to agree on a choice for the third arbitrator the choice shall be referred back to the Company and the Reinsurer. The Company and the

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Reinsurer shall take turns striking the name of one of the remaining candidates from the initial eight candidates until only one candidate remains. If the candidate so chosen shall decline to serve as the third arbitrator, the candidate whose name was stricken last shall be nominated as the third arbitrator. The first turn at striking the name of a candidate shall belong to the party that is responding to the other party's initiation of the arbitration.

VI. INSOLVENCY

6.01 Agreement. In the event of the Company's insolvency, the Reinsurer's contractual liability on policies reinsured hereunder shall continue to be determined by all the terms, conditions and limitations under this Agreement, but the Reinsurer will make settlement (1) directly to the Company's liquidator, receiver or statutory successor, and (2) without increase or diminution because of the Company's insolvency. The liquidator, receiver or statutory successor of the Company shall give the Reinsurer written notice of the pendency of a claim against the Company on any policy reinsured within a reasonable time after such claim is filed in the insolvency proceeding. During the pendency of any such claim, the Reinsurer may investigate such claim and interpose in the Company's name (or in the name of the Company's liquidator, receiver or statutory successor), in the proceeding where such claim is to be adjudicated, any defense or defenses which the Reinsurer may deem available to the Company or its liquidator, receiver or statutory successor. The expense thus incurred by the Reinsurer shall be chargeable, subject to court approval, against the Company as a part of the expense of liquidation to the extent of a proportionate share of the benefit which may accrue to the Company solely as a result of the defense undertaken by the Reinsurer.

-9-

VII. EXECUTION AND EFFECTIVE DATE

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate, with an Effective Date of: January 1, 1991.

NORTH AMERICAN REASSURANCE COMPANY (Company)

By: [Signature]
Title: Vice President
Date: December 31, 1990

Attest: [Signature]
Title: Marketing Representative
Date: 12/31/90

FIDELITY BANKERS LIFE INSURANCE COMPANY (Reinsurer)

By: _____
Title: _____
Date: _____

Attest: _____
Title: _____
Date: _____

DEC 31 '90 18:03 FIDE

BANKERS LIFE INSURANCE

DEC-31-1990 13:30 FROM

MAIL BOXES ETC MILFORD CT TO

14010051551

P. 1E

P. 22

841

-9-

VII. EXECUTION AND EFFECTIVE DATE

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate, with an Effective Date of: January 1, 1991.

NORTH-AMERICAN REASSURANCE COMPANY (Company)

BY: [Signature]
Title: Vice President
Date: December 31, 1990

Attest: _____
Title: _____
Date: _____

FIDELITY BANKERS LIFE INSURANCE COMPANY (Reinsurer)

BY: [Signature]
Title: Assistant Secretary
Date: December 31, 1990

Attest: [Signature]
Title: Vice President
Date: Dec 31, 1990

**PROTECTIVE LIFE CORPORATION**

WAYNE E. STUCKEL, FSA
Senior Vice President & Chief Actuary

Protective Life Corporation
One Protective Plaza
New York, NY 10017

January 7, 1992

Mr. David Hussbaum
North American Reassurance Company
237 Park Avenue
New York, NY 10017

Re: Protective - Fidelity Bankers
Stop Loss Reinsurance Agreement

Dear David:

Enclosed are results for the entire year of 1991 for the stop loss agreement that Protective has with North American Re on the term business that we assumed from Fidelity Bankers.

The first attachment is a restatement of the information provided to you as of the end of the third quarter. As you will note, this information has been adjusted in two ways on the revised page which includes the fourth quarter results, as follows:

1. The actual death claims for the second quarter of 1991 have been revised downward, consistent with the fact that several death claims which were not in the plan codes covered under the treaty were inadvertently included in the prior information.
2. The expected mortality for the first nine months is restated, consistent with the information attached to my letter of December 31, 1991 to you.

As can be noted, these two changes reduced the amount recoverable by Protective from North American as the end of the third quarter from \$1,381,657 to \$1,163,556.

Also enclosed is information related to the fourth quarter of 1991. I am including both a listing of the paid claims and pending claims during the fourth quarter of 1991, and a calculation of the expected mortality, updated for the year-end 1991 in-force. These amounts, when added to the previous accrual, indicates an amount receivable by Protective from North American Re of \$1,134,923.

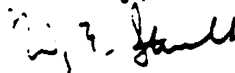
As an estimate of the December 31, 1991, incurred but not reported claims, I have used 1/12 of the paid plus pending claims during 1991, net of reinsurance.

P
PROTECTIVE LIFE CORPORATION

Under the terms of the treaty, the settlement amount is due by the 15th of January immediately following the close of the calendar year for which the losses have been calculated. Offsetting the amount recoverable by Protective is the premium for the 1992 calendar year, which is expressed as 2.7 cents per \$1,000 of in-force as of the start of the calendar year. Based on the net in-force as of 12/31/91 of \$438,580,820, I calculate this premium as being \$11,842. It would be acceptable if the settlement from North American to Protective were to net out this amount.

Please let me know what additional information I can provide to you relating to this treaty.

Sincerely,



Wayne E. Stuenkel

WES/cmp

CC: Tom Nuckols

Report prepared by
Actuary

Investment - United American Insurance Policy Office Report
Relating to Floating Barriers Business

| Investment - United American Insurance Policy Office Report | | | Investment - United American Insurance Policy Office Report | | | Actual Mortality | |
|-------------------------------------------------------------|----------|-------|-------------------------------------------------------------|-------|------|------------------|-------|
| Line | Contract | Net | Contract | Net | Line | Contract | Net |
| 1 | 10000 | 10000 | 10000 | 10000 | 1 | 10000 | 10000 |
| 2 | 10000 | 10000 | 10000 | 10000 | 2 | 10000 | 10000 |
| 3 | 10000 | 10000 | 10000 | 10000 | 3 | 10000 | 10000 |

| Expected Mortality, Net of-- | | | | Cumulative | |
|------------------------------|----------|-------|------|-------------|-------|
| Expected Mortality, Net of-- | | | | Excess of | |
| Expected Mortality, Net of-- | | | | Actual Over | |
| Expected Mortality, Net of-- | | | | Expected | |
| Line | Contract | Net | Line | Contract | Net |
| 1 | 10000 | 10000 | 1 | 10000 | 10000 |
| 2 | 10000 | 10000 | 2 | 10000 | 10000 |
| 3 | 10000 | 10000 | 3 | 10000 | 10000 |

As originally
prepared
(10-17-91 LHM)

Wm. F. Fidelity
10-1-1922

Protective - North American Stop-Loss Reinsurance Treaty
Relating to Fidelity Bankers business

| Date | -----Paid Claims Since 1-1-1922----- | | | -----Pending Claims EOP----- | | | LGR EOP | -----Actual Mortality----- | |
|----------|--------------------------------------|---------|-----------|------------------------------|---------|---------|---------|----------------------------|------------|
| | Direct | Ceded | Net | Direct | Ceded | Net | | Quarterly | Cumulative |
| 1-1-1922 | 107,000 | 200,000 | 457,800 | 0 | 0 | 0 | 0 | 457,800 | 457,800 |
| 1-1-1923 | 102,250 | 0 | 102,250 | 0 | 0 | 0 | 0 | 102,250 | 560,050 |
| 1-1-1924 | 1,600,000 | 121,500 | 1,670,500 | 402,500 | 205,000 | 197,500 | 263,763 | 3,137,793 | 2,637,800 |
| 1-1-1925 | 651,500 | 0 | 651,500 | 105,000 | 105,000 | 20,000 | 242,671 | 456,868 | 3,154,781 |

| -----Expected Mortality, Net of----- | | | | -----Expected Mortality----- | | Cumulative Excess of Actual Over Expected |
|--------------------------------------|-----------|-----------|-----------|------------------------------|------------|----------------------------------------------------|
| Reinsurance | Annual | Rate | | Quarterly | Cumulative | |
| EOP | EOP | Average | | | | |
| 1-1-1922 | 2,058,338 | 2,058,338 | 2,058,338 | 515,117 | 515,117 | 0 |
| 1-1-1923 | 2,058,338 | 2,058,338 | 2,058,338 | 515,736 | 1,030,853 | 0 |
| 1-1-1924 | 2,058,338 | 2,058,338 | 2,058,338 | 505,363 | 1,536,216 | 1,163,856 |
| 1-1-1925 | 1,330,315 | 1,330,315 | 1,330,315 | 485,520 | 2,019,736 | 1,134,923 |

Restated for expected
mortality

NORTH AMERICAN REASSURANCE COMPANY
NARE

237 PARK AVENUE
 NEW YORK, NEW YORK 10017
 212.907-8000

March 10, 1992

Mr. Wayne Stuenkel, FSA
 Senior Vice President & Chief Actuary
 Protective Life Corporation
 P.O. Box 2606
 Birmingham, Alabama 35202

**RE: Aggregate Stop Loss Agreement
 Treaty No. AEL-0044**

Dear Mr. Stuenkel:

Enclosed is NARE's check in the amount of \$1,041,960.00 which represents our liability of \$1,034,923.00 plus \$7,037.00 interest (February 15, 1992 - March 10, 1992) as our share of the proceeds for the above agreement.

This liability is \$100,000 less than the claims presented due to a reinsurance recovery for the Massee claim (Policy No. FB0375651) provided by our Ordinary Department, therefore reducing the liability under this treaty.

Please be advised that NARE reserves all rights at law and at equity to enforce its rights under this three-party arrangement. Further, NARE, by the above payment, has not waived or released any of its rights or remedies under the contracts in question.

If you have any questions, please do not hesitate to call.

Very truly yours,

Joel Grossman
 Senior Claims Examiner
 Group

JG:ht
 Enclosure

bcc: B. Goebel
 P. Goscinski
 G. Levy
 R. Mangino
 D. Nussbaum
 M. Pellino
 L. Santiago

847

NARE

NORTH AMERICAN REASSURANCE COMPANY
237 PARK AVENUE
NEW YORK, NY 10017

THE BANK OF NEW YORK
NEW YORK, NY

10-178
111

| PAY | DATE | CHECK NO | AMOUNT |
|----------------------------------------------------------|----------|----------|------------------|
| | 03/10/92 | 00009254 | \$*****1,041,960 |
| ONE MILLION AND | | | |
| FORTY ONE THOUSAND NINE HUNDRED SIXTY AND 00/100 DOLLARS | | | |

TO THE
ORDER
OF

PROTECTIVE LIFE INSURANCE CO.
P.O. BOX 2606
BIRMINGHAM AL
35202

Raymond H. Hest
Robert R. Connelley
10-00210 1-C&P-VOL

⑈00009254⑈ ⑆021908288⑆ 98-100202⑈

⑈01041960⑈

1 MR '92 17 2
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10214-0950-2

ANSOUTH BANK 93/16/92
8 HAR AL SS 000000329
▶0620000019◀
40257511

MR '92 17

PAID
THE BANK OF
NEW YORK
HARRISON, NY

MR 10 1992
America's Life Insurance Company
American Life Insurance Company

P
PROTECTIVE LIFE CORPORATION

WAYNE E. STUENKEL, F.S.A.
Senior Vice President & Chief Actuary

P.O. Box 2816 • Birmingham, AL 35202 • 205 379 9211

January 21, 1993

Mr. Gerald A. Levy
Senior Vice President, Group
North American Reinsurance Company
237 Park Avenue
New York, NY 10017

Re: Stop Loss Reinsurance Agreement


Dear Jerry:

As we discussed, I have revised the formula for the calculation for the incurred but not reported liability as of December 31, 1992. The formula, which we will also apply in the future, relates the total claims paid and reported over the prior two years to the average in force during that time, and assumes that one month's claims will be outstanding at any time.

The incurred but not reported liability in future periods will be 0.5755 times the amount of net in force expressed in thousands. As of December 31, 1992, this leads to an incurred but not reported liability of \$211,137. In turn, this reduces the amount of recoverable by Protective from North American Reinsurance to \$1,299,014.

It is my plan to continue to use this incurred but not reported method in future reporting periods. Please let me know if you have any questions about this.

Sincerely,



Wayne E. Stuenkel, F.S.A.

WES/dll

Statement of Financial
21-Jan-95

Protective - North American Ship-Loss Treaty
Relating to Fidelity Bonders business

6,003,360 Paid and some claims
1st & 2nd years
850 434,639 Avg Inforce 1st & 2nd
0.57550 DDB Factor - self

Time Inforce

Inferred Mortality

-----Paid Claims this period-----Funding Claims EDP-----
Quarter Direct Ceded Net Direct Ceded Net Net Inforce 1994 EDP This Per Cumulative

| | | | | | | | | | | |
|--------|-----------|---------|-----------|---------|---------|----------|---------|-----------|-----------|-----------|
| 1 91 | 657,800 | 200,000 | 457,800 | 0 | 0 | 0 | 510,750 | 0 | 457,800 | 457,800 |
| 2 91 | 102,250 | 0 | 102,250 | 0 | 0 | 0 | 498,181 | 0 | 102,250 | 560,050 |
| 3 91 | 1,803,000 | 135,300 | 1,670,300 | 402,300 | 608,000 | 157,300 | 258,783 | 2,157,783 | 2,697,832 | |
| 4 91 | 651,500 | 0 | 651,500 | 125,000 | 108,000 | 20,000 | 438,581 | 842,671 | 456,888 | 3,154,721 |
| Jan 92 | 76,750 | 0 | 76,750 | 621,000 | 155,000 | 466,000 | 842,671 | 512,750 | 3,667,471 | |
| Feb 92 | 581,000 | 100,000 | 481,000 | 302,000 | 50,000 | 452,000 | 842,671 | 467,000 | 4,134,471 | |
| Mar 92 | 452,500 | 100,000 | 352,500 | 100,000 | 50,000 | 50,000 | 413,557 | 202,042 | 4,120,342 | |
| Apr 92 | 100,000 | 50,000 | 50,000 | 400,000 | 50,000 | 350,000 | 202,042 | 202,042 | 4,074,342 | |
| May 92 | 200,000 | 0 | 200,000 | 514,000 | 50,000 | 464,000 | 376,016 | 202,042 | 3,140,000 | 4,786,342 |
| Jun 92 | 952,000 | 0 | 952,000 | 564,000 | 550,000 | 14,000 | 374,271 | 657,229 | 5,455,571 | |
| Jul 92 | 644,000 | 0 | 644,000 | 104,000 | 572,000 | 64,000 | 374,271 | 175,000 | 5,630,571 | |
| Aug 92 | 100,000 | 450,000 | (350,000) | 182,000 | 125,000 | 120,000 | 204,354 | 185,000 | 5,815,571 | |
| Sep 92 | 65,000 | 0 | 65,000 | 102,000 | 120,000 | (20,000) | 204,354 | 185,000 | 5,630,571 | |
| Oct 92 | 140,745 | 125,000 | 15,745 | 261,255 | 32,500 | 228,755 | 204,354 | 272,510 | 5,903,144 | |
| Nov 92 | 177,000 | 27,500 | 149,500 | 125,015 | 30,000 | 105,015 | 204,354 | 25,750 | 5,928,914 | |
| Dec 92 | 82,000 | 0 | 82,000 | 375,015 | 55,000 | 320,015 | 211,137 | 238,783 | 6,214,637 | |

-----Expected Mortality, Net of-----

---Reinsurance, Annual Rate---

EDP EDP Average

-----Expected Mortality-----

This Per Cumulative

| | | | | | |
|--------|-----------|-----------|-----------|---------|-----------|
| 1 91 | 2,052,639 | 2,058,298 | 2,064,468 | 515,117 | 515,117 |
| 2 91 | 2,054,298 | 2,052,070 | 2,055,184 | 513,795 | 1,028,913 |
| 3 91 | 2,052,070 | 1,990,846 | 2,021,458 | 505,365 | 1,534,278 |
| 4 91 | 1,990,846 | 1,853,315 | 1,942,081 | 485,520 | 2,019,798 |
| Jan 92 | 1,853,315 | 1,804,555 | 1,879,535 | 157,578 | 2,177,376 |
| Feb 92 | 1,804,555 | 1,843,755 | 1,886,175 | 157,181 | 2,334,557 |
| Mar 92 | 1,843,755 | 1,879,035 | 1,881,416 | 156,785 | 2,491,342 |
| Apr 92 | 1,879,035 | 1,872,812 | 1,875,994 | 156,327 | 2,647,669 |
| May 92 | 1,872,812 | 1,866,588 | 1,883,780 | 155,888 | 2,803,477 |
| Jun 92 | 1,866,588 | 1,864,364 | 1,862,475 | 155,290 | 2,958,767 |
| Jul 92 | 1,860,364 | 1,855,190 | 1,857,777 | 154,815 | 3,113,581 |
| Aug 92 | 1,855,190 | 1,850,015 | 1,852,603 | 154,384 | 3,267,965 |
| Sep 92 | 1,850,015 | 1,844,841 | 1,847,428 | 153,952 | 3,421,917 |
| Oct 92 | 1,844,841 | 1,839,530 | 1,841,685 | 153,474 | 3,575,391 |
| Nov 92 | 1,839,530 | 1,832,218 | 1,835,374 | 152,946 | 3,728,337 |
| Dec 92 | 1,832,218 | 1,825,907 | 1,829,653 | 152,422 | 3,880,761 |

Cumulative Payments Due from

Excess of from net re

Actual Over to

Expected R.L.C.D. R.L.C.D.

| | | | |
|------|-----------|-----------|-----------|
| 0 | 0 | 0 | 0 |
| 0 | 0 | 0 | 0 |
| 5767 | 1,163,555 | 1,163,555 | 1,163,555 |
| 5767 | 1,134,923 | 1,134,923 | 1,134,923 |
| | 1,990,095 | 1,990,095 | 1,990,095 |
| | 1,779,914 | 1,779,914 | 1,779,914 |
| | 1,632,000 | 1,634,923 | 998,077 |
| | 1,625,673 | | 791,750 |
| | 1,594,865 | | 949,942 |
| | 2,466,804 | | 1,431,881 |
| | 2,446,990 | | 1,452,457 |
| | 2,517,626 | | 1,462,683 |
| 657 | 2,234,757 | | 1,159,814 |
| | 2,353,773 | | 1,316,650 |
| | 2,226,575 | | 1,191,652 |
| 69% | 2,333,937 | | 1,293,014 |

**Appendix to Notice of Appeal of
North American Reassurance Company,
dated April 27, 1995:**

- 2. Letter from Ida Wurczinger-Drain,
Wiley, Rein & Fielding,
Jeffrey L. Wood, P.C.,
Rubenstein & Perry, LLP,
dated June 24, 1993**

WILEY, REIN & FIELDING

1776 K STREET, N. W.
WASHINGTON, D. C. 20006
(202) 429-7000

IDA C. WURCZINGER-DRAIN
(202) 828-4932

June 24, 1993

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

VIA FEDERAL EXPRESS

Jeffrey L. Wood, P.C.
Rubenstein & Perry, LLP
2000 Lincoln Plaza
500 North Akard Street
Dallas, Texas 75201

Re: North American Reassurance Corporation ("NARE")/
Fidelity Bankers Life Insurance Company ("Fidelity
Bankers")

Dear Jeff:

Your letter of June 22, 1993, in which you indicate that there is no record of NARE filing a Proof of Claim was a real surprise. Enclosed is a copy of the cover letter, Proof of Claim and Supplement, which we hand-delivered to the Proof of Claim Department of Virginia's State Corporation Commission on February 1, 1993. The first page of the Proof of Claim shows receipt of this document at 4:13 p.m., February 1, 1993, by Document Control.

As you can see, NARE filed its Proof of Claim well ahead of the May 1st bar date. We are concerned that it has not been located and therefore is not in process for review notwithstanding that it was filed three months before the deadline.

Please notify me as soon as possible as to how this situation will be handled. Thank you.

Very truly yours,


Ida Wurczinger Drain

Enclosure

**Appendix to Notice of Appeal of
North American Reassurance Company,
dated April 27, 1995:**

- 3. Schedule S, Part 3C, Section 1
 dated 1992**

Form 1

ANNUAL STATEMENT FOR THE YEAR 2002 OF THE Fidelity Bonders Life Insurance Company (In Receivership)


 000063264 92 477 0
 FIDELITY BARNERS LIFE INSURANCE COMPANY
 Life-Schedule S Part 3C Section 1

SCHEDULE S - PART 3C - SECTION 1

(To be filed not later than April 1)

Showing Data on Reinsurance Assumed for Life Insurance, Annuities and Related Benefits as of December 31, Current Year.

| 1 RBC Company Code | 2 Federal ID Number | 3 Effective Date | 4 Name of Reinsured | 5 Location | 6 Type of Reinsurance Assumed | 7 Amount of Re Insured at End of Year | 8 Reserve | 9 Premium | 10 Reinsurance Payable on Policy and Unpaid Losses |
|------------------------------|------------------------------|------------------------|----------------------------------------------|---------------------|----------------------------------------|------------------------------------------------|--------------|--------------|----------------------------------------------------------------|
| 000000 000000 - AFFILIATES | | | | | | | | | |
| 000000 | 000000000 | 12/1/99 | One Affiliates | Richmond, Virginia | 0 | | | | |
| 000000 | 000000000 | 00/00/00 | Life Insurance Company of Virginia | Fort Wayne, Indiana | 0 | 1,000,000 | 70,000 | 0,000,000 | 700 |
| 000000 | 000000000 | 11/1/99 | Lincoln National Life Insurance Company | New York, New York | 0 | | | 0,000,000 | |
| 000000 | 000000000 | 00/00/00 | Metropolitan Life Insurance Company | New York, New York | 0 | | | 0,000,000 | 0,000,000 |
| 000000 | 000000000 | 00/00/00 | Prudential Life Insurance Company of America | Newark, New Jersey | 0 | | | 0,000,000 | 0,000,000 |
| | | | | | | 1,000,000 | 0,100,000 | 0,000,000 | 0,000,000 |
| 000000 000000 - SUBSIDIARIES | | | | | | 1,000,000 | 0,100,000 | 0,000,000 | 0,000,000 |
| 000000 000000 - SUBSIDIARIES | | | | | | 1,000,000 | 0,100,000 | 0,000,000 | 0,000,000 |
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NOTES TO FINANCIAL STATEMENTS - STATUTORY BASIS, Continued

3. Investments, continued:

At December 31, 1993, other invested assets consists of the following:

| | In Thousands |
|-------------------------------|------------------|
| Limited partnerships | \$ 17 498 |
| Surplus note - First Dominion | 20,000 |
| Other | <u>130</u> |
| | <u>\$ 37,628</u> |

4. Reinsurance:

The liability for the reinsurance treaty with North American Reassurance Company ("North American") was transferred from First Dominion to the Trust pursuant to the Plan. North American has challenged certain actions taken by the Deputy Receiver in relation to a reinsurance treaty ("Treaty") between North American and First Dominion. The Deputy Receiver denied North American's request (1) that its claim be given administrative priority under the Deputy Receiver's Plan, (2) that it is entitled to be paid 10% interest on its claim, and (3) that it is entitled to use set-off to satisfy its claim. North American has appealed each of these decisions to the Commission. In its appeal, North American asserts that its claim under the Treaty may total more than \$25 million. The financial statements reflect a liability in the total amount of \$7,538,887 for this contingency. The recorded liability may be changed substantially depending on the outcome of litigation pending before the Commission. The Trustee of the Trust is the successor in interest to the Deputy Receiver in the North American litigation. The Trustee believes there are meritorious defenses to all or a portion of North American's claims. As of December 31, 1993, North American had purported to set-off amounts due Fidelity Bankers under separate reinsurance agreements in the amount of \$2,390,865 against the amount North American claims to be due under the Treaty. North American's right to set-off is disputed by the Trustee and the Trustee is vigorously pursuing a ruling from the Commission that such set-off is improper and that North American should be ordered to pay immediately to the Trustee the amounts North American has purported to set-off. The Trustee believes there are meritorious defenses to North American's appeal and he continues to defend this matter before the Commission.



ANNUAL STATEMENT

FOR THE YEAR ENDED DECEMBER 31, 1994
OF THE CONDITION AND AFFAIRS OF THE

Fidelity Bankers Life Insurance Company Trust

NAIC Group Code NONE NAIC Company Code NONE Employer's ID Number 54-6358997
Organized under the Laws of the State of Virginia
using _____ as the Port of Entry, made to the'

INSURANCE DEPARTMENT OF THE STATE OF Virginia

PURSUANT TO THE LAWS THEREOF

Organized December 15, 1993 Commenced Business December 15, 1993
Statutory Home Office 1300 E. Main Richmond, Virginia 23219
(Street and Number) (City or Town, State and Zip Code)

Main Administrative Office 111 Congress Avenue, Suite 1750
(Street and Number)
Austin, Texas 78701 512-404-6555
(City or Town, State and Zip Code) (Area Code)(Telephone Number)

Mail Address P.O. Box 684867 Austin, Texas 78768-4867
(Street and Number or P.O. Box) (City or Town, State and Zip Code)

Primary Location of Books and Records 111 Congress Avenue, Suite 1750
(Street and Number)
Austin, Texas 78701 512-404-6555
(City or Town, State and Zip Code) (Area Code)(Telephone Number)

Annual Statement Contact Mike R. Parker 512-404-6555
(Name) (Area Code)(Telephone Number)(Extension)

OFFICERS

President _____ Secretary _____
Treasurer _____ Actuary _____

VICE PRESIDENTS

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DIRECTORS OR TRUSTEES

Steven T. Foster, Commissioner of Insurance, Commonwealth of Virginia, Trustee

Patrick H. Cantillo, Special Deputy Trustee

Mike R. Parker, Assistant to The Special Deputy Trustee

State of Texas

County of Travis } ss

President,

Secretary,

Treasurer

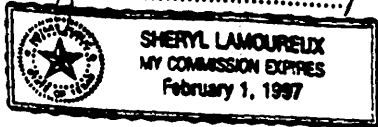
of the Fidelity Bankers Life Insurance Company Trust being duly sworn, each deposes and says that they are the above representatives of the said insurer, and that on the thirty-first day of December last, all of the herein described assets were the absolute property of the said insurer, free and clear from any liens or claims thereon, except as herein stated, and that this annual statement, together with related exhibits, schedules and explanations therein contained, annexed or referred to are a full and true statement of all the assets and liabilities and of the condition and affairs of the said insurer as of the thirty-first day of December last, and of its income and deductions therefrom for the year ended on that date, and have been completed in accordance with the NAIC annual statement instructions and accounting practices and procedures manuals except to the extent that: (1) state law may differ; or, (2) that state rules or regulations require differences in reporting not related to accounting practices and procedures, according to the best of their information, knowledge and belief, respectively.

Patrick Cantillo
Special Deputy Trustee

Mike R. Parker
Assistant to the Special Deputy Trustee

Subscribed and sworn to before me this
15th day of Sept. 1995

Sheryl Lamoureux



a. Is this an original filing? Yes [X] No []

b. if no. 1. State the amendment number
2. Date filed
3. Number of pages attached

Form 1

ANNUAL STATEMENT FOR THE YEAR 1994 OF THE Fidelity Bankers Life Insurance Company Trust

ASSETS

| | 1 December 31, 1994 | 2 December 31, 1993 |
|-------------------------------------------------------------------------|------------------------|------------------------|
| 1. Bonds (less \$0 liability for asset transfers with put options) | 82,893,669 | 47,296,496 |
| 2. Stocks: | | |
| 2.1 Preferred stocks | 879 | 2,500 |
| 2.2 Common stocks | 13,404,260 | 15,648,719 |
| 3. Mortgage loans on real estate | 6,164,860 | 16,745,296 |
| 4. Real estate: | | |
| 4.1 Properties occupied by the company (less \$0 encumbrances) | 0 | 0 |
| 4.2 Properties acquired in satisfaction of debt (less \$0 encumbrances) | 3,593,000 | 2,259,427 |
| 4.3 Investment real estate (less \$0 encumbrances) | 0 | 0 |
| 5. Policy loans | 0 | 0 |
| 6. Premium notes, including \$0. for first year premiums | 0 | 0 |
| 7. Collateral loans | 0 | 0 |
| 8.1 Cash on hand and on deposit | 254,495 | 31 |
| 8.2 Short-term investments | 3,930,308 | |
| 9. Other invested assets | 27,593,162 | |
| 10. Aggregate write-ins for invested assets | 0 | |
| 10A. Subtotals, cash and invested assets (Lines 1 to 10) | 137,834,633 | |

11. Reinsurance ceded:

| | | |
|---------------------------------------------------------------------------------|-------------|-------------|
| 11.1 Amounts recoverable from reinsurers | 0 | |
| 11.2 Commissions and expense allowances due | 0 | 0 |
| 11.3 Experience rating and other refunds due | 0 | 0 |
| 12. Electronic data processing equipment | 0 | 0 |
| 13. Federal income tax recoverable | 0 | 4,300,300 |
| 14. Life insurance premiums and annuity considerations deferred and uncollected | 0 | 0 |
| 15. Accident and health premiums due and unpaid | 0 | 0 |
| 16. Investment income due and accrued | 1,517,797 | 311,360 |
| 17. Net adjustment in assets and liabilities due to foreign exchange rates | 0 | 0 |
| 18. Receivable from parent, subsidiaries and affiliates | 0 | 0 |
| 19. Amounts receivable relating to uninsured accident and health plans | 0 | 0 |
| 20. Aggregate write-ins for other than invested assets | 0 | 370,537 |
| 21. Total assets excluding Separate Accounts business (Lines 10A to 21) | 139,352,430 | 133,491,923 |
| 22. From Separate Accounts Statement | 0 | 0 |
| 24. Totals (Lines 22 and 23) | 139,352,430 | 133,491,923 |

| | | |
|---------------------------------------------------------------------|---|--------|
| DETAILS OF WRITE-INS | | |
| 1001. Due from investment brokers | | 42,088 |
| 1002. | | |
| 1003. | | |
| 1098. Summary of remaining write-ins for Line 10 from overflow page | 0 | 0 |
| 1099. Totals (Lines 1001 thru 1003 plus 1098) (Line 10 above) | 0 | 42,088 |

| | | |
|---------------------------------------------------------------|---|---------|
| 2101. Receivable from First Dominion Mutual Life | | 181,719 |
| 2102. Illinois income tax recovery | | 138,818 |
| 2103. | | |
| Summary of remaining write-ins for Line 21 from overflow page | 0 | 0 |
| 2199. Totals (Lines 2101 thru 2103 plus 2198) (Line 21 above) | 0 | 370,537 |

Form 1

ANNUAL STATEMENT FOR THE YEAR 1994 OF THE Fidelity Bankers Life Insurance Company Trust

LIABILITIES, SURPLUS AND OTHER FUNDS

| | | 1 December 31, 1994 | 2 December 31, 1993 |
|---------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|------------------------|------------------------|
| 1. Aggregate reserve for life policies and contracts | \$553,814,383 (Exh. 8, Line H) less | \$0 | \$0 |
| included in Line 7.3 | | 553,814,383 | 328,272,631 |
| 2. Aggregate reserve for accident and health policies (Exhibit 9, Line 17, Col. 1) | | 0 | 0 |
| 3. Supplementary contracts without life contingencies (Exhibit 10, Line 7, Col. 1) | | 0 | 0 |
| 4. Policy and contract claims: | | | |
| 4.1 Life (Exhibit 11, Part 1, Line 4d, Column 1 less sum of Columns 9, 10 and 11) | | 0 | 0 |
| 4.2 Accident and health (Exhibit 11, Part 1, Line 4d, sum of Columns 9, 10 and 11) | | 0 | 0 |
| 5. Policyholders' dividend and coupon accumulations (Exhibit 10, Line 8 plus Line 9, Col. 1) | | 0 | 0 |
| 5. Policyholders' dividends | \$0 and coupons | \$0 | \$0 |
| due and unpaid (Exhibit 7, Line 10) | | 0 | 0 |
| 7. Provision for policyholders' dividends and coupons payable in following calendar year - estimated amounts: | | | |
| 7.1 Dividends apportioned for payment to | 19.... | 0 | 0 |
| 7.2 Dividends not yet apportioned | | 0 | 0 |
| 7.3 Coupons and similar benefits | | 0 | 0 |
| 8. Amount provisionally held for deferred dividend policies not included in Line 7 | | 0 | 0 |
| 9. Premiums and annuity considerations received in advance less: | \$0 discount: including | | |
| \$0 accident and health premiums (Exhibit 1, Part 1, Col. 1, sum of Lines 4 and 14) | | 0 | 0 |
| 10. Liability for premium and other deposit funds: | | | |
| 10.1 Policyholder premiums, including | \$0 deferred annuity liability | 0 | 0 |
| (Exhibit 10, Line 1, Col. 1) | | 0 | 0 |
| 10.2 Guaranteed interest contracts, including... | \$0 deferred annuity liability | 0 | 0 |
| (Exhibit 10, Line 2, Col. 1) | | 0 | 0 |
| 10.3 Other contract deposit funds, including | \$0 deferred annuity liability | 0 | 0 |
| (Exhibit 10, Line 3, Col. 1) | | 0 | 0 |
| 11. Policy and contract liabilities not included elsewhere: | | | |
| 11.1 Surrender values on cancelled policies | | 0 | 0 |
| 11.2 Provision for experience rating refunds, including | \$0 ASB experience rating refunds | 0 | 0 |
| 11.3 Other amounts payable on reinsurance assumed | | 0 | 0 |
| 11.4 Interest maintenance reserve (Page 48, Line 6) | | 0 | 0 |
| 12. Commissions to agents due or accrued - life and annuity | \$0 accident and health | \$0 | \$0 |
| 12A. Commissions and expense allowances payable on reinsurance assumed | | 0 | 0 |
| 13. General expenses due or accrued (Exhibit 5, Line 12, Col. 5) | | 736,870 | 1,120,117 |
| 13A. Transfers to Separate Accounts due or accrued (net) | | 0 | 0 |
| 14. Taxes, licenses and fees due or accrued, excluding federal income taxes (Exhibit 6, Line 9, Col. 5) | | 14,512 | 48,992 |
| 14A. Federal income taxes due or accrued, including | \$0 on capital gains (excluding deferred taxes) | 0 | 0 |
| 15. Cost of collection on premiums and annuity considerations deferred and uncollected in excess of total loading thereon | | 0 | 0 |
| 16. Unearned investment income (Exhibit 2, Line 10, Col. 2) | | 7,392 | 0 |
| 17. Amounts withheld or retained by company as agent or trustee | | 255,965 | 246,553 |
| 18. Amounts held for agents' account, including | \$36,850 agents' credit balances | 36,850 | 36,350 |
| 19. Remittances and lines not allocated | | 0 | 14,732 |
| 20. Net adjustment in assets and liabilities due to foreign exchange rates | | 0 | 0 |
| 21. Liability for benefits for employees and agents if not included above | | 0 | 0 |
| 22. Borrowed money | \$0 and interest thereon | \$0 | \$0 |
| 23. Dividends to stockholders declared and unpaid | | 0 | 0 |
| 24. Miscellaneous liabilities: | | | |
| 24.1 Asset Valuation Reserve (Page 49, Line 12, Col. 7) | | 0 | 0 |
| 24.2 Reinsurance in unauthorized companies | | 0 | 0 |
| 24.3 Funds held under reinsurance treaties with unauthorized reinsurers | | 0 | 0 |
| 24.4 Payable to parent, subsidiaries and affiliates | | 0 | 0 |
| 24.5 Drafts outstanding | | 0 | 0 |
| 24.6 Liability for amounts held under uninsured accident and health plans | | 0 | 0 |
| 25. Aggregate write-ins for liabilities | | 18,640,734 | 17,408,768 |
| 26. Total Liabilities excluding Separate Accounts business (Lines 1 to 25) | | 573,506,706 | 347,129,179 |

| | | | |
|---------------------------------------------------------------------------------------------------------|---------------|---------------|---|
| 27. From Separate Accounts Statement | | | 3 |
| 28. Total Liabilities (Lines 26 and 27) | 573,506,706 | 347,129,179 | |
| 29. Common capital stock | | | 3 |
| 30. Preferred capital stock | | | 3 |
| 31. Aggregate write-ins for other than special surplus funds | 0 | 0 | 0 |
| 32. Surplus Notes | | | 3 |
| 33. Gross paid in and contributed surplus (Page 3, Line 33, Col. 2 plus Page 4, Line 44a, Col. 1) | | | 3 |
| 34. Aggregate write-ins for special surplus funds | 0 | 3 | 3 |
| 35. Unassigned funds (surplus) | (434,154,276) | (213,637,256) | |
| 36. Less treasury stock, at cost: | | | |
| (1) 0 shares common (value included in Line 29) | \$0) | | 3 |
| (2) 0 shares preferred (value included in Line 30) | \$0) | | 3 |
| 37. Surplus (Total Lines 31 + 32 + 33 + 34 + 35 - 36) | (434,154,276) | (213,637,256) | |
| 38. Totals of Lines 29, 30 and 37 (Page 4, Line 46) | (434,154,276) | (213,637,256) | |
| 39. Totals of Lines 28 and 38 (Page 2, Line 24) | 139,352,430 | 133,491,923 | |
| DETAILS OF WRITE-INS | | | |
| 2501. Guaranty fund assessments | 10,675,878 | 9,635,792 | |
| 2502. Contingent liability - North American | 6,967,285 | 7,638,974 | |
| 2503. Approved proofs of claim | 574,825 | 134,002 | |
| 2598. Summary of remaining write-ins for Line 25 from overflow page | 422,746 | 3 | |
| 2599. Totals (Lines 2501 thru 2503 plus 2598) (Line 25 above) | 18,640,734 | 17,408,768 | |
| 3101. | | | |
| 3102. | | | |
| 3103. | | | |
| 3198. Summary of remaining write-ins for Line 31 from overflow page | 0 | 3 | |
| 3199. Totals (Lines 3101 thru 3103 plus 3198) (Line 31 above) | 0 | 3 | |
| 3401. | | | |
| 3402. | | | |
| 3403. | | | |
| 3498. Summary of remaining write-ins for Line 34 from overflow page | 0 | 3 | |
| 3499. Totals (Lines 3401 thru 3403 plus 3498) (Line 34 above) | 0 | 3 | |

Form 1

ANNUAL STATEMENT FOR THE YEAR 1994 OF THE Fidelity Bankers Life Insurance Company Trust

SUMMARY OF OPERATIONS

(Excluding Unrealized Capital Gains and Losses)

| | 1 1994 | 2 1993 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|-----------------------------|
| 1. Premiums and annuity considerations (Exhibit 1, Part 1, Line 20d, Col. 1, less Col. 11) | 0 | 0 |
| 2. Depository funds | 0 | 0 |
| 3. Considerations for supplementary contracts with life contingencies (Exhibit 12, Line 3, Col. 1) | 0 | 0 |
| 4. Considerations for supplementary contracts without life contingencies and dividend accumulations (Exhibit 12, Lines 4 and 5, Col. 1) | 0 | 0 |
| 5A. Coupons left to accumulate at interest (Exhibit 12, Line 5A, Col. 1) | 0 | 0 |
| 6. Net investment income (includes: a. Income or loss of subsidiaries (Exhibit 2, Line 16) b. Amortization of interest maintenance reserve (IMR) (Page 48, Line 5) c. Commissions and expense allowances on reinsurance ceded (Exhibit 1, Part 2, Line 26a, Col. 1) d. Reserve adjustments on reinsurance ceded (Exhibit 12, Line 9A, Col. 1) e. Aggregate write-ins for miscellaneous income | 5,722,300 0 0 0 1,502,743 | 629,251 0 0 0 0 |
| 7. Total (Lines 1 to 6) | 7,225,043 | 629,251 |
| 8. Death benefits | 0 | 0 |
| 9. Matured endowments (excluding guaranteed annual pure endowments) | 0 | 0 |
| 10. Annuity benefits (Exhibit 11, Part 2, Line 6d, Cols. 4 + 8) | 0 | 0 |
| 11. Disability benefits and benefits under accident and health policies | 0 | 0 |
| 11A. Coupons, guaranteed annual pure endowments and similar benefits (Exhibit 7, Line 15, Cols. 3 + 4) | 0 | 0 |
| 12. Surrender benefits and other fund withdrawals | 0 | 0 |
| 13. Group conversions | 0 | 0 |
| 14. Interest on policy or contract funds | 0 | 0 |
| 15. Payments on supplementary contracts with life contingencies (Exhibit 12, Line 20.1, Col. 1) | 0 | 0 |
| 16. Payments on supplementary contracts without life contingencies and of dividend accumulations (Exhibit 12, Lines 20.2 and 21, Col. 1) | 0 | 0 |
| 16A. Accumulated coupon payments (Exhibit 12, Line 21A, Col. 1) | 0 | 0 |
| 17. Increase in aggregate reserves for life and accident and health policies and contracts | 225,541,752 | 328,272,531 |
| 17A. Increase in liability for premium and other deposit funds | 0 | 0 |
| 18. Increase in reserve for supplementary contracts without life contingencies and for dividend and coupon accumulations | 0 | 0 |
| 19. Totals (Lines 8 to 18) | 225,541,752 | 328,272,531 |
| 20. Commissions on premiums and annuity considerations (direct business only) (Exhibit 1, Part 2, Line 30, Col. 1) | 0 | 0 |
| 21. Commissions and expense allowances on reinsurance assumed (Exhibit 1, Part 2, Line 26b, Col. 1, less Col. 11) | 0 | 0 |
| 22. General insurance expenses (Exhibit 5, Line 10, Cols. 1 + 2 + 3) | 3,253,534 | 560,259 |
| 23. Insurance taxes, licenses and fees, excluding federal income taxes (Exhibit 6, Line 7, Cols. 1 + 2 + 3) | 7,256 | 0 |
| 24. Increase in loading on and cost of collection in excess of loading on deferred and uncollected premiums | 0 | 0 |
| 24A. Net transfers to or (from) Separate Accounts | 0 | 0 |
| 25. Aggregate write-ins for deductions | (230,866) | 0 |
| 26. Totals (Lines 19 to 25) | 228,571,726 | 328,832,690 |
| 27. Net gain from operations before dividends to policyholders and federal income taxes (Line 7 minus Line 26) | (221,346,183) | (329,441,740) |
| 28. Dividends to policyholders (Exhibit 7, Line 15, Cols. 1 and 2) | 0 | 0 |
| 29. Net gain from operations after dividends to policyholders and before federal income taxes (Line 27 minus Line 28) | (221,346,183) | (329,441,740) |
| 30. Federal income taxes incurred (excluding tax on capital gains) | (5,429) | 0 |
| 31. Net gain from operations after dividends to policyholders and federal income taxes and before realized capital gains or (losses) (Line 29 minus Line 30) | (221,340,754) | (329,441,740) |
| 32. Net realized capital gains or (losses) less capital gains tax of \$0 (excluding \$0 transferred to the IMR) | 2,641,907 | 115,620 |
| 33. Net income (Line 31 plus Line 32) | (218,698,847) | (329,326,120) |

CAPITAL AND SURPLUS ACCOUNT

| | | |
|-----------------------------------------------------------------------------------------------------------------|---------------|---------------|
| 34. Capital and surplus, December 31, previous year (Page 3, Line 38, Col. 2) | (213,637,256) | 3 |
| 35. Net income (Line 33) | (218,698,847) | (329,325,120) |
| 36. Change in net unrealized capital gains or (losses) | (778,389) | (15,738,921) |
| 37. Change in non-admitted assets and related lines (Exhibit 14, Line 13, Col. 3) | (1,040,386) | (12,515,258) |
| 38. Change in liability for reinsurance in unauthorized companies, (Page 3, Line 24.2, Col. 2 minus Col. 1) | 0 | 0 |
| 39. Change in reserve on account of change in valuation basis, (Increase) or decrease (Exh. 8A, Line 0, Col. 4) | 0 | 0 |
| 40. Change in asset valuation reserve (Page 49, Col. 7, Line 2 thru Line 3a plus Line 11) | 0 | 0 |
| 41. Change in treasury stock (Page 3, Lines 36 (1) & (2), Col. 2 minus Col. 1) | 0 | 0 |
| 42. Change in surplus in Separate Accounts Statement | 0 | 0 |
| 43. Capital changes: | | |
| a. Paid in | | 3 |
| b. Transferred from surplus (Stock Dividend) | | 3 |
| c. Transferred to surplus (Exhibit 12, Line 24, Col. 1, capital portion) | | 3 |
| 44. Surplus adjustments: | | |
| a. Paid in | | 0 |
| b. Transferred to capital (Stock Dividend) (Exhibit 12, Line 25, inside amount for stock \$) | 0 | 0 |
| c. Transferred from capital (Exhibit 12, Line 24, Col. 1, surplus portion) | | 0 |
| 45. Dividends to stockholders | 0 | 0 |
| 46. Aggregate write-ins for gains and losses in surplus | 0 | 143,993,053 |
| 47. Net change in capital and surplus for the year (Lines 35 through 46) | (220,517,022) | (213,637,256) |
| 48. Capital and surplus, December 31, current year (Lines 34 + 47) (Page 3, Line 38) | (434,154,277) | (213,637,256) |
| DETAILS OF WRITE-INS | | |
| 0601. Other income | 1,502,743 | |
| 0602. | | |
| 0603. | | |
| 0698. Summary of remaining write-ins for Line 6 from overflow page | 0 | 0 |
| 0699. TOTALS (Lines 0601 thru 0603 plus 0698) (Line 6 above) | 1,502,743 | 0 |
| 2501. Decrease in contingent liability to North American | (671,589) | |
| 2502. Increase in approved proof of claims | 440,823 | |
| 2503. | | |
| 2598. Summary of remaining write-ins for Line 25 from overflow page | 0 | 0 |
| 2599. TOTALS (Lines 2501 thru 2503 plus 2598) (Line 25 above) | (230,766) | 0 |
| 4601. Surplus transferred in | | 143,993,053 |
| 4602. | | |
| 4603. | | |
| 4698. Summary of remaining write-ins for Line 46 from overflow page | 0 | 0 |
| 4699. TOTALS (Lines 4601 thru 4603 plus 4698) (Line 46 above) | 0 | 143,993,053 |

FIDELITY BANKERS LIFE INSURANCE COMPANY TRUST

NOTES TO FINANCIAL STATEMENT OF DECEMBER 31, 1994

1. Basis for Presentation

The accompanying financial statements of the Fidelity Bankers Life Insurance Company Trust, (the "Trust") have been prepared in conformity with the accounting practices prescribed or permitted by the National Association of Insurance Commissioners and the Bureau of Insurance, State Corporation Commission of the Commonwealth of Virginia. With respect to the liabilities transferred to the Trust, as more fully described on the pages which follow, these liabilities will be processed by the Trustee of the Trust, and these liabilities may be paid subject to the payment priority scheme approved by the State Corporation Commission ("Commission") and as authorized by Virginia law. This financial statement has been prepared in conformity with the format adopted by the Bureau of Insurance for the Commonwealth of Virginia, and, as such, this financial does not segregate the Trust's liabilities by order of payment priority. In this connection, some of the liabilities listed in this financial statement may never be paid if the Trust has insufficient assets available to satisfy these claims.

2. Basis of Valuation of Invested Assets

a. Asset values are generally stated as follows:

Bonds not backed by other loans and short-term investments are valued at amortized cost using the scientific method of amortization for long-term and straight-line for short-term. Loan-backed bonds and structured securities are valued at amortized cost using the scientific method including anticipated prepayments at date of purchase; factors are adjusted for significant changes in estimated cash flows from the original purchase assumptions. NAIC class 6 bonds are valued at market value. NAIC class 3, 4 and 5 bonds are identified as a "trading portfolio" and are carried at market value instead of amortized cost.

Preferred stocks are stated at cost. Common stocks and publicly traded common stock warrants are stated at market value.

Real estate acquired in satisfaction of debt is stated at lower of appraised value or at the value of the asset exchanged therefor.

Mortgage loans in good standing are stated at unpaid principal balance or amortized value. Mortgage loans not in good standing are stated at amortized value or net realizable value of the security, whichever is less. Fire insurance at least equal to the excess of the loan over the maximum loan which would be permitted by law on land without the buildings is carried on every loan.

Limited partnerships are valued at equity value, a chattel mortgage not in good standing is stated at the restructured loan value of the security, bond residuals are stated at amortized cost and a surplus debenture note is stated at unpaid balance.

b. The Trust owns no invested assets requiring a method of depreciation or depletion.

c. The Trust has no basis in subsidiaries.

3. Investment Income

a. Due and accrued income was excluded from investment income on the following bases:

Mortgage loans - on loans in foreclosure or delinquent more than one year or where collection of interest is uncertain.

Bonds - where collection of interest is uncertain.

The total amount excluded was \$9,173,607.

b. The Trust does not use the investment year method for allocation of income to lines of business.

4. Federal Income Tax Allocation

a. The Trust's Federal Income Tax Return is consolidated with the following entity:

First Dominion Mutual Life Insurance Trust ("First Dominion")

b. The method of allocation between the Trust and First Dominion is subject to a written agreement approved by the Deputy Receiver of First Dominion and the Trustee of the Trust. Allocation is based upon separate return calculations with current credit for net losses. Intercompany tax balances are to be settled promptly.

FIDELITY BANKERS LIFE INSURANCE COMPANY TRUST
Page 2 of Notes to Financial Statement of December 31, 1994

5. Information Concerning Parent, Subsidiaries and Affiliates

- a. The Trust is not directly nor indirectly owned or controlled by any other company, corporation, group of companies or individual.
- b. The Trust had no transactions with any affiliate.
- c. The Trust does not hold any investment in a parent, subsidiary or affiliate.
- d. The Trust does not own shares of an upstream intermediate or ultimate parent, either directly or indirectly.
- e. There are no guarantees or undertakings for the benefit of an affiliate.
- f. The Trust has effected a cost sharing agreement with First Dominion whereby shared costs and expenses shall be borne by each party based on such party's assigned sharing ratio.

6. Retirement Plans, Deferred Compensation and Other Postretirement Benefits

- a. Employment Retirement Plan

The defined benefit pension plan (the "Pension Plan") for employees of First Dominion was frozen effective March 31, 1994. The Pension Plan was terminated by the Deputy Receiver of First Dominion effective July 1, 1995. The Deputy Receiver is now seeking bids from third party insurers for the purchase of a group annuity to cover the retirement benefits of those plan participants who remain in the Pension Plan. The Trust is responsible to cover any deficit arising from the termination of the Pension Plan. Conversely, the Trust will receive any surplus arising from the termination of the Pension Plan after satisfaction of all obligations due to the Pension Plan's participants. At December 31, 1994, the Pension Plan's accumulated benefit obligation, determined in accordance with FASB Statement No. 87 and valued as of December 31, 1994, based on an expected long term rate of return of eight percent (8%) and a discount rate of seven and one-half percent (7.5%) was \$10,904,433, including vested benefits of \$10,904,433, and the fair value of the Pension Plan assets was \$12,700,513.

b. **Deferred Compensation Plans**

The Trust has no deferred compensation plans.

c. **Postretirement Benefit**

The Trust has no liability for post retirement benefits.

7. **Capital and Surplus and Shareholders' Dividends**

a. **Shareholders' dividends** - Not applicable.

b. **Preferred stock** - Not applicable.

c. **Unassigned surplus** - Unassigned surplus is not restricted and is held for the benefit of the beneficiaries.

d. **Stock held for special purposes** - Not applicable.

e. **Surplus note** - The Trust owns a surplus note in the principal amount of \$19,865,577 issued by First Dominion. The surplus note bears interest only at a rate of three percent (3%) and matures on June 15, 2000. Payments of interest are to be made quarterly, provided, however, no payment shall be made without the prior approval of the Commission and unless the statutory surplus of First Dominion exceeds the greater of \$4,000,000 or the amount of minimum surplus then required for the Company under Virginia insurance laws.

8. **Borrowed Money**

The Trust has no liability for borrowed money.

9. **Life and Annuities Reserves**

a. The Trust had no premium collections. Surrender values were not promised in excess of legally computed reserves.

b. The Trust has no substandard policies in force.

c. The Trust has no insurance in force for which the gross premiums are less than the net premiums according to standard valuation set by the Commonwealth of Virginia.

FIDELITY BANKERS LIFE INSURANCE COMPANY TRUST
Page 3 of Notes to Financial Statement of December 31, 1994

d. The Tabular Interest (Page 7, Part A, Line 4), the Tabular Less Actual Reserve Released (Page 7, Part A, Line 5) and The Tabular Cost (Page 7, Part A, Line 9) have been determined as described in the instructions for Page 7.

e. The Trust had no "funds not involving life contingencies".

f. The Trust had no "Other Increases" (net) to be reported under Page 7, Part B, Line 5.

10. Analysis of Annuity Actuarial Reserves and Deposit Liabilities

Withdrawal Characteristics of Annuity Actuarial
Reserves and Deposit Liabilities

| | Amount | % of Total |
|-----------------------------------------------------------------------|--------------------|--------------|
| Subject to discretionary withdrawal - without adjustment | | |
| -at book value (minimal or no charge or adjustment) | \$ -0- | -0- |
| Not subject to discretionary withdrawal provision | <u>197,313,327</u> | <u>100.0</u> |
| Total annuity actuarial reserves and deposit fund liabilities (gross) | <u>197,313,327</u> | <u>100.0</u> |
| Less: Reinsurance | <u>-0-</u> | |
| Total annuity actuarial reserves and deposit fund liabilities (net)* | <u>197,313,327</u> | |

*Reconciliation of total annuity actuarial reserves and deposit fund liabilities

| | |
|---------------------------------------------------------------|--------------------|
| Life & Accident & Health Annual Statement | |
| Exhibit 8, Section B, Total (net) | <u>197,313,327</u> |
| Exhibit 8, Section C, Total (net) | <u>-0-</u> |
| Exhibit 10, Column 1, Line 12 | <u>-0-</u> |
| Total annuity actuarial reserves and deposit fund liabilities | <u>197,313,327</u> |

11. Premium and Annuity Considerations Deferred and Uncollected

The Trust had no deferred and uncollected premium and annuity considerations.

12. Uncollectible Reinsurance

The Trust had no uncollectible reinsurance (see Note 14.b regarding amount due from North American Reassurance Company ("North American")).

13. Commutation of Ceded Reinsurance

None.

14. Contingent Liabilities

a. In the normal course of its business operations, Fidelity Bankers Life Insurance Company ("Fidelity Bankers") was involved in litigation from time to time with various persons and entities. Various lawsuits pending against Fidelity Bankers became the responsibility of the Trust under the terms of the rehabilitation plan for Fidelity Bankers.

b. North American filed an appeal before the Commission challenging certain actions taken by the Deputy Receiver (now, the "Trustee") in relation to a reinsurance treaty (the "Treaty") between North American and Fidelity Bankers. The Deputy Receiver denied North American's request: (1) that its claim be given administrative priority under the Deputy Receiver's Plan, (2) that it is entitled to be paid 10% interest on its claim, and (3) that it is entitled to use set-off to satisfy its claim. North American has appealed each of these decisions to the Commission. In its appeal, North American asserts that its claim under the Treaty may total approximately \$20 million. On or about March 31, 1995, the Trustee, subject to audit by the Trustee, approved North American's claim as a general unsecured creditor claim in the amount of \$3,759,115 plus future amounts to be determined based upon covered actual excess mortality claims incurred and paid by North American under Reinsurance Treaty No. AEL-0045. Subsequently, the Trustee discovered that North American may have inadvertently overstated its claim against the Trust by approximately \$100,000. Liabilities in the total amount of \$6,967,285 are carried for this contingency. Based on the data submitted to the Trust, a liability of this amount may not be required. Depending on various undetermined factors, a material reduction may be appropriate to present more fairly this liability, if any. Based on the information currently available to the Trustee, it is believed that the amount,

FIDELITY BANKERS LIFE INSURANCE COMPANY TRUST
Page 4 of Notes to Financial Statement of December 31, 1994

if any, to which North American may be entitled is substantially less than the amount currently included as a liability.

As of December 31, 1994, North American had purported to set-off amounts due Fidelity Bankers under separate reinsurance agreements in the amount of \$2,390,865 against the amount North American claims to be due under the Treaty. North American's right to set-off is disputed by the Trustee and the Trustee is vigorously pursuing a ruling from the Commission that such set-off is improper and that North American should be ordered to pay immediately to the Trust the amounts North American has purported to set-off. The Trustee believes there are meritorious defenses to North American's appeal and he continues to defend this matter before the Commission. The Trustee also continues to pursue settlement of this action.

- 15. Leases
None
- 16. Interest Rate Swap Contracts
None
- 17. Uninsured and Partially Insured A&H Plans
None
- 18. Asset Transfers with Put Options
None
- 19. Direct Premium Written by MGAs/Third Party Administrators
None
- 20. Events Subsequent
None
- 21. Other Items

a. Failure of items to add to the totals shown on this and all other pages or to cross reference to supporting schedules is due to rounding.

b. Effective October 1, 1994, an Administrative Services Agreement ("Services Agreement") by and between the Trust and Transaction Application Group, Inc. ("TAG") was entered into which provides for the Trust to engage TAG as a third party administrator of its insurance contracts. The Services Agreement provides for TAG to assume all policy administration services. Effective November 1, 1994, the Trust also entered into an Administrative Services Agreement ("Interco Agreement") with Interco Associates, LC ("Interco"). The services to be performed by Interco include the supervision or coordination of (i) certain specified aspects of the Trust's administration, (ii) TAG's administration of the insurance contracts, and (iii) management of creditor claims and day-to-day operations of the Trust. The Interco Agreement terminates on August 31, 2000.

c. The following litigation by or against Fidelity Bankers or First Dominion has become the responsibility of the Trust under the terms of the Plan:

1. Several class action lawsuits were filed by Fidelity Bankers' policyowners against its former parent company, FCH. In addition, at least one such lawsuit was filed against Fidelity Bankers, and this lawsuit was stayed in deference to the Commission's Receivership Order. FCH is in bankruptcy and its principal assets were all of the outstanding stock of Fidelity Bankers and another insurer in conservation, First Capital Life Insurance Company. The policyholder class reached a tentative settlement which was approved by the respective courts having jurisdiction over the class actions. Fidelity Bankers did not contribute or pay any amounts to the settling parties and sustained no liability as a result of this matter. The settlement did not settle claims held by the Trustee against any party. In 1994, retired Judge Irving, as Settlement Master, made his finding concerning the Fidelity Bankers plan of rehabilitation and the tentative settlement became final.

2. Several former officers and directors of Fidelity Bankers filed numerous claims against Fidelity Bankers in connection with the termination of their employment with Fidelity Bankers and sought indemnification from Fidelity Bankers for their attorneys fees and for claims asserted against them in various civil suits. The Deputy Receiver also filed an action in Virginia against many of these officers in connection with the insolvency of Fidelity Bankers. The claims by and against these officers and directors have been settled.

3. In December of 1992, the Deputy Receiver filed suit naming certain former officers and directors of Fidelity Bankers (not referenced in Note 21.c.2) as well as Shearson Lehman Brothers Holdings, Inc., as defendants. The Trustee is seeking from each of the defendants in this action, jointly and severally, damages for breach of fiduciary duty, negligence, fraud, waste of corporate

FIDELITY BANKERS LIFE INSURANCE COMPANY TRUST
Page 5 of Notes to Financial Statement of December 31, 1994

assets, unjust enrichment, violations of various Virginia securities laws and other Virginia statutes, fraudulent transfers, voidable transfers, conspiracy, and certain other causes of action. The damages sought in this matter are in the hundreds of millions of dollars.

4. The Trustee has filed a lawsuit against Integrated Resources Life Insurance Company ("Integrated") seeking approximately \$1.15 million and other amounts due under various reinsurance agreements. Integrated purported to delegate to North American its duty to pay Fidelity Bankers under those agreements, and North American purported to setoff the obligation to make payments under those agreements against other amounts North American claims it is owed by Fidelity Bankers. See Note 14.b. Fidelity Bankers disputes Integrated's attempt to avoid liability by delegating its duties to North American. After this lawsuit had been filed before the State Corporation Commission in Virginia, Integrated became the subject of voluntary liquidation proceedings in Iowa. In May of 1994, the Trustee filed a Proof of Claim with the Integrated Estate seeking to recover the above-referenced \$1.15 million. In June of 1994, the Chief Deputy Liquidator of Integrated denied the Trustee's claim against the Integrated Estate.

The Trustee appealed this denial to the District Court for Polk County, Iowa. That Court affirmed the Chief Deputy Liquidator's denial, and the Trustee is now considering an appeal of that decision to the Iowa Supreme Court. As noted above concerning the litigation involving North American, the Trustee continues to pursue settlement negotiations with North American in an effort to resolve both the North American litigation before the Commission and the proceedings against Integrated in the Iowa courts.

5. The Trustee filed a lawsuit against Symphony Cafe, Inc. and Joseph Ameil seeking to recover amounts due, owing, and unpaid pursuant to a promissory note drawn by the defendants in favor of Fidelity Bankers. The Trustee's lawsuit has been settled, with the Trustee recovering approximately \$380,000.00.

6. The members of the Fidelity Bankers Benefits Committee (the "Committee") in their capacity as fiduciaries for the Fidelity Bankers' pension plan and former participants in the First Capital Holdings Pension Plan (the "First Capital Plan") filed a lawsuit which named the First Capital Plan's former Administrative Committee, Pilgrim Management Corp. and IBJ Schroder Bank and Trust Company, as defendants. The members were seeking, from each of the defendants, damages for breach of fiduciary duties and certain other causes of action. The lawsuit was settled in 1994 for \$2,081,284.

d. On May 13, 1991, the Circuit Court of the City of Richmond, Virginia, entered its order appointing the State Corporation Commission ("Commission") of the Commonwealth of Virginia as Receiver of Fidelity Bankers Life Insurance Company. On that same date, the Commission entered its order appointing Steven T. Foster, Commissioner of Insurance for the Commonwealth of Virginia, as Deputy Receiver.

On September 29, 1992, the Commission, serving as receivership court for the rehabilitation of Fidelity Bankers, issued its confirmation order approving the Deputy Receiver's Rehabilitation Plan ("Plan") as submitted. The Deputy Receiver had previously entered into an Agreement of Intent ("Agreement") with Hartford Life Insurance Company ("Hartford") to participate in the rehabilitation of Fidelity Bankers. The Hartford Agreement was the centerpiece of the Deputy Receiver's Plan. On February 10, 1993, in accordance with the Plan, definitive agreements were signed by Hartford and the Deputy Receiver for the acquisition by Hartford of Fidelity Bankers' insurance business.

On October 29, 1992, First Capital Holdings Corporation ("FCH") filed its "Notice of Intent to Appeal" the order of the Commission which approved the Plan. On April 7, 1993, pursuant to FCH's request, FCH's appeal of the Commission's order approving the Plan was dismissed by the Supreme Court of the Commonwealth of Virginia. FCH, on behalf of itself and all of its affiliates, entered into a settlement agreement ("Settlement") with the Deputy Receiver which released FCH's stockholder equity, its surplus note claim, and all of its other claims against Fidelity Bankers. Citibank, N.A. ("Citibank") was a party to the Settlement and it released all of the bank's claims against Fidelity Bankers, including any claim it might have held under a commission finance arrangement between First Capital Finance Corporation and Fidelity Bankers. This financial statement reflects the financial effects of the FCH and Citibank Settlement.

The FCH settlement caused the Plan to become final, and, as a result, on June 15, 1993, the Deputy Receiver transferred assets with a fair market value equal to 94% of the account values for those policies assumed and reinsured by Hartford. Hartford guaranteed 100% of Fidelity Bankers' account values for all policyowners who Opted-In to the Plan, and Hartford made certain contractual

FIDELITY BANKERS LIFE INSURANCE COMPANY TRUST
Page 6 of Notes to Financial Statement of December 31, 1994

modifications to the Trust's annuities, Single Premium Whole Life, Universal Life, and Interest Sensitive Whole Life contracts.

The Plan provided that the policyowners would be paid certain enhancements for loss or damage suffered during the course of the receivership proceeding. To this end, the policyowners who Opted-In to the Plan received a "Plan Credit" to compensate them for the loss of interest and liquidity suffered during the course of the receivership. The Plan Credit was paid to Hartford upon its assumption of the Opt-In policies on June 15, 1993. The Plan also provided that, to the extent of available assets, the policyowners who Opt-In shall receive a Plan Dividend payable on June 15, 2000. The Plan Dividend is designed to reimburse the policyowners for the loss of interest and account value resulting from the restructuring of their contracts under the Plan. The Plan Dividend became a direct obligation and liability of the Trust under the terms of the Plan.

Approximately 34,680 of Fidelity Bankers' policyowners Opted Out of the Hartford assumption. The Opt-Out policyowners were paid 85% of their account value (but not more than their cash value) by the Deputy receiver and received a non-guaranteed annuity ("Opt-Out Annuity") from Fidelity Bankers which has an account value equal to the balance of their original Fidelity Bankers policies. The Opt-Out Annuity, which offers several settlement options, may be settled, in part, no earlier than June 15, 1995, if a settlement option is elected by the Opt-Out policyowners on or before the maturity date of the Opt-Out Annuity. If such a settlement option were elected, account values may be paid in two installments: one-half of the account value paid on the requested settlement date (no earlier than June 15, 1995) and the remaining unpaid balance plus interest paid six months later. The Deputy Receiver has declared a 3% interest crediting rate for the Opt-Out Annuity policies.

Fidelity Bankers was mutualized on December 13, 1993, and, by order of the Commission, First Dominion became the successor company. The Trust was organized on December 15, 1993, and certain assets and liabilities were transferred to the Trust in accordance with the Plan. The Deputy Receiver, acting as directed in the Plan, transferred to the Trust all assets, claims, obligations and liabilities, except those that were required for (1) the Opt-Out Annuity policies, (2) the proper capitalization of First Dominion, and (3) the necessary operations and affairs of First Dominion. First Dominion has been capitalized at a surplus level which complies with the laws of the states in which the Trust is licensed to do business. First Dominion's primary liabilities are the Opt-Out Annuity policies. The Trust is primarily responsible for the Plan Dividend liability to the Opt-In policyholders and other priority claims. Additionally, the Trust will be secondarily responsible to pay the valid creditor claims or other obligations perfected against Fidelity Bankers. First Dominion is still operating under the control of the Commission and Steven T. Foster is the appointed Deputy Receiver of First Dominion and the Trustee of the Trust.

e. The Trust has no material unfunded investment commitments.

f. During the course of the Receivership, Fidelity Bankers received but did not pay numerous Class B and Class C guaranty fund assessments from the various State Guaranty Funds. The Deputy Receiver applied for abatement of the assessments. A liability of \$10,675,878, representing the total of the assessments on which no response to the request for abatement was received, is included in the financial statement. A corresponding non-ledger asset is also reflected. However, this amount is not admitted since it is unlikely that Fidelity Bankers will have sufficient premium tax liability in the future to offset this amount. Amounts previously paid and unused, \$467,179, is also not admitted for the same reason. No accrual of liability is made for assessment amounts abated by member guaranty associations.

g. Approximately 610 Proofs of Claim were filed for amounts purportedly owed to the claimants by the receivership estate. Pursuant to the Plan, these claims were transferred to the Trust by the Deputy Receiver. These claims can generally be separated into the following categories: agents, policyholders, guaranty associations, former employees, vendors, litigants, and other general creditors. As of December 31, 1994, four policyholder claims with the combined value of \$31,646.91 had been approved, as had 19 general unsecured creditor claims with a combined value of \$543,178.43, for a total of \$574,825.34 in approved claims, and this amount has been accrued as a liability on this financial statement. Certain claims cannot be properly and finally evaluated until the termination of the Plan, and as a result, the Deputy Receiver is presently unable to determine the extent to which a reserve should be established for these claims.

Appendix to Notice of Appeal of
North American Reassurance Company,
dated April 27, 1995:

4. Letter from Randolph N. Wiesener
Counsel to the Deputy Receiver,
Fidelity Bankers Life Insurance Company,
to Ida Wurczinger-Draim,
Wiley, Rein & Fielding,
dated September 17, 1992



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Fidelity Bankers Life

Insurance Company

Steven L. Foster
Deputy Receiver

In Receivership for Conservation & Rehabilitation

Fidelity Bankers Life
Insurance Company

September 17, 1992

Via Certified Mail

Ms. Ida Wurczinger
Wiley, Rein & Fielding
1776 "K" Street, N.W.
Washington, D. C. 20006

Re: Determination of Appeal For North American Reassurance Company

1. On May 20, 1992, the Deputy Receiver received the Notice of Appeal ("Appeal") by which North American Reassurance Company ("NARE") appealed the decisions and determinations set forth in letters dated February 19, 1992, and April 8, 1992, to NARE. On June 19, 1992, the Deputy Receiver extended by ninety days the time in which to respond to the Appeal. The Deputy Receiver has considered all of the materials NARE submitted either in the Appeal or subsequently, and the Deputy Receiver's determination thereof is hereby communicated to you.

2. The Appeal is granted in part, and denied in part. In the Appeal, NARE seeks five specific forms of relief, each of which is discussed below.

3. The primary relief requested in the Appeal is:

that the Deputy Receiver's disavowal and termination of Treaty No AEL-0045 be reversed or in the alternative that NARE's liquidated

Ms. Ida Wurczinger
September 17, 1992
Page -2-

damages claim of approximately \$12 million' be paid in the rehabilitation.

Upon consideration of the Appeal, the Deputy Receiver hereby reverses his prior decision and retracts his disavowal and termination of the Agreement. The Agreement is, therefore, treated as it was never disavowed, and, as described herein, the *status quo ante* is restored. In light of this action, there is no reason to consider either NARE's alternative request for liquidated damages or NARE's argument that the disavowal and termination violated NARE's constitutional rights.

4. The second request for relief is:

that NARE's claim for 1991 reinsurance losses in the amount of \$1,035,000 be paid in the rehabilitation.

The Deputy Receiver approves NARE's 1991 claim in the amount of \$1,035,000, as a general, unsecured claim, subject to Fidelity Bankers' right to inspect NARE's records and to audit the claims paid. This claim will be paid in the manner prescribed in the Rehabilitation Plan adopted or otherwise ordered by the State Corporation Commission of the Commonwealth of Virginia (the "Commission").

5. The third request for relief is:

that NARE's claim for 10% interest on the 1991 reinsurance losses be paid in the rehabilitation.

The Deputy Receiver hereby denies this request.

¹ NARE has recently revised this amount to \$75,471,002

Ms. Ida Wurczinger
September 17, 1992
Page -3-

6 The fourth request for relief is:

that NARE's 1991 reinsurance losses and liquidated damages claims with respect to Treaty No. AEL-0045 be granted priority in the rehabilitation as "cost and expenses of administration."

The Deputy Receiver hereby denies this request. NARE's claim is not a proper administrative claim.

7. The fifth, and final, request for relief is that:

NARE be permitted to continue to set-off against the \$1,035,000 claim that it has ceded to Fidelity Bankers under treaty No. AEL-0015 the claims ceded by Fidelity Bankers under certain reinsurance treaties.

The Deputy Receiver hereby denies this request. Pursuant to the requirements of Section 38.2-1515 of the Virginia Code, NARE is not permitted to use set-off as a means to satisfy its claim against Fidelity Bankers.

8. The Deputy Receiver hereby demands that NARE immediately turn over to the Deputy Receiver all money owed under the Ceding Treaties and that NARE cease and desist all further attempts to set-off against amounts owing under the Ceding Treaties. Further efforts to set-off against money owed to Fidelity Bankers will be treated as violations of the injunction contained in the Receivership Order issued by the Commission on May 13, 1991, and the Deputy Receiver expressly reserves all rights and remedies to redress NARE's wrongful set-off, including the right to withhold payment of premiums under the Ceding Treaties and to disallow all of NARE's claims under the Rehabilitation Plan.

Ms. Ida Wurczinger
September 17, 1992
Page 4.

9. All relief not expressly granted herein is denied. You may appeal this Determination of Appeal in accordance with the Receivership Appeal Procedure, a copy of which has been provided to you previously.

STEVEN T. FOSTER
Deputy Receiver
Fidelity Bankers Life Insurance Co.

By: 

Randolph N. Wisener
Counsel to Deputy Receiver

**Appendix to Notice of Appeal of
North American Reassurance Company,
dated April 27, 1995:**

- 5. Letter from Michael M. Adams,
Assistant Secretary, Director of Reinsurance,
to David Nussbaum, Actuary,
North American Reassurance Company,
dated September 23, 1992**



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Fidelity Bankers Life

Insurance Company

Steven T. Foster
Deputy Receiver

In Receivership for Conservation & Rehabilitation

Page 4 of 4

September 23, 1992

Mr. David Nussbaum
Actuary
North American Reassurance Co.
237 Park Avenue
New York, New York 10017

RE: Treaty AEL-0045

Dear David:

As I am sure you are aware, the Deputy Receiver last week granted North American Reassurance Company's request to retract the disavowal and termination of Treaty AEL-0045.

In light of this action, this letter is to request that you resume sending the various notices and reports contemplated by the Treaty to Fidelity Bankers. You may send these materials directly to my attention.

Please feel free to contact me if you have any questions or concerns about this Treaty or any other reinsurance matters involving Fidelity Bankers.

Thank you for your assistance, and I look forward to hearing from you.

Sincerely,

Michael M. Adams
Assistant Secretary, Director
of Reinsurance

Appendix to Notice of Appeal of
North American Reassurance Company,
dated April 27, 1995:

6. Letter from Mark Allen Land,
Counsel to the Deputy Receiver,
to Ida Wurczinger-Draim,
Wiley, Rein & Fielding,
dated September 23, 1992



Fidelity Bankers Life

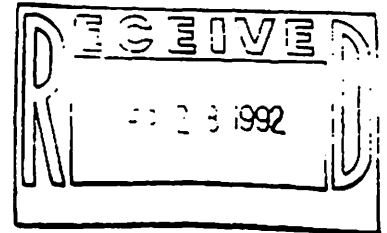
Insurance Company

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Steven T. Foster
Deputy Receiver

In Receivership for Conservation & Rehabilitation

September 23, 1992



VIA FACSIMILE

Ms. Ida Wurczinger
Wiley, Rein & Fielding
1776 "K" Street, N.W.
Washington, D. C. 20006

RE: North American Reassurance Company

Dear Ida:

Attached please find the original of a letter from Mike Adams to David Nussbaum. Since you have been representing North American Reassurance Company, I thought it appropriate to send the letter to your attention.

I believe it will be less expensive for both of our clients if we allow them to communicate directly in regard to routine matters. Please let me know if you agree.

Please feel free to call if you would like to discuss this matter in more detail.

Sincerely,

Mark Allen Land
Counsel to the Deputy Receiver

/djf
Attachment

**Appendix to Notice of Appeal of
North American Reassurance Company,
dated April 27, 1995:**

- 7. Condensed Transcript and Concordance
in the matter of Liquidation of
Integrated Resources Life Insurance
dated January 13, 1995**

MICHAEL M. ADAMS - JANUARY 13, 1995 - FILE NO: 9500228

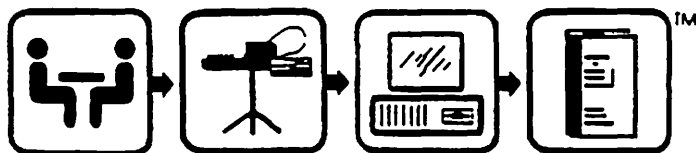
PAGE 1 TO PAGE 232

CASE:

IN THE MATTER OF: THE LIQUIDATION OF INTERGRATED RESOURCES LIFE INSURANCE

Atkinson-Baker™

C o u r t R e p o r t e r s



CONDENSED TRANSCRIPT AND CONCORDANCE
PREPARED BY:

ATKINSON-BAKER, INC.
330 N. Brand Boulevard
Suite 250
Glendale, CA 91203
Phone: 1-800-288-3376
FAX: 1-800-925-5910

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APPEARANCES

2. FOR THE ALLEGED RESOURCES LIFE

3. GUARANTEE COMPANY

4. WIFE, MRS. E. E. JONES

5. 30 MARKET STREET, (IND.)

6. SEAN E. LAM, INC.

7. 116 S. STREET, N.W.

8. WASHINGTON, D.C. 20006

9. FOR STEVEN'S WIFE, COMMISSIONER OF

10. GUARANTEE OF THE "CONTRIBUTION" OF "NATIONAL

11. AS REPORT RECEIVED BY "NATIONAL GUARANTEE

12. GUARANTEE COMPANY AND AS "NATIONAL OF

13. "NATIONAL GUARANTEE LIFE GUARANTEE COMPANY

14. "NATIONAL"

15. CAROLINE, MRS. E. JONES, 116 S.

16. STREET, N.W., WASH., D.C.

17. STEVEN E. JONES, INC.

18. 116 S. STREET, N.W.

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(1) MICHAEL M. ADAMS, (2) of 31 Spring Lane, West Hartford, (3) Connecticut 06107, having first (4) been duly sworn, was examined and (5) testified as follows:

(7) EXAMINATION

(8) BY MS. DRAIM:

(9) Q. Will you please state your full (10) name for the record?

(11) A. Michael McDonald Adams.

(12) Q. Mr. Adams, are you represented by (13) counsel here today?

(14) A. Yes, I am.

(15) MS. KINDALL: Clare Kindall representing (16) Michael Adams.

(17) MS. DRAIM: This is a deposition pursuant (18) to agreement?

(19) MR. WOOD: As far as I know it is.

(20) MS. KINDALL: Yes, it is, though we do not (21) waive signature.

(22) MS. DRAIM: The other stipulations

then are (23) governed depositions taken up to this time will (24) apply, is that correct, Mr. Woods?

(25) MR. WOOD: Yes.

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(1) THE REPORTER: Could you state what those (2) are?

(3) MS. DRAIM: I think this deposition will be (4) governed by the Iowa Rules and that essentially - (5) I think that's basically it.

(6) MR. WOOD: Yes. With regard to signature, (7) although I'm told by Iowa court reporters that (8) apparently they do not engage in the practice of (9) presenting depositions to witnesses for signature (10) in that state, since some of us are not used to (11) that practice, we have followed the practice of (12) allowing witnesses outside the state to read and (13) sign their depositions.

(14) We have a hearing scheduled in this matter (15) on January 30th. So, we will need to have - in (16) order for this deposition to be used at that time, (17) I suppose we will have to have it transcribed and (18) submitted to the witness for signature and get it (19) back sometime prior to a few days prior to (20) January 30th, if that's possible.

(21) MS. KINDALL: If the transcript is ready in (22) time, we will certainly do that. What was actually (23) why I requested signature because I know you intend (24) to use it as trial testimony. I wanted to make (25) sure there's no typos or no misunderstandings as

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(1) far as answers in the record.

(2) MS. DRAIM: You'll try to return it in (3) about a couple of days in terms of signature?

(4) MS. KINDALL: Yes.

(5) MS. DRAIM: We will make arrangements for (6) expedited transcribing of the deposition.

(7) MS. KINDALL: Terrific.

(8) BY MS. DRAIM:

(9) Q. Mr. Adams, my name is Ida Draitm. (10) I'm with the law firm of Wiley, Rein & Fielding. (11) We represent Integrated Resources Life Insurance (12) Company in this matter, and on the side of me is (13) Bryan Earl who is an associate with the law firm.

(14) We have requested your deposition (15) in connection with certain matters regarding the (16) relationship between Integrated and Fidelity (17) Bankers. Have you ever been deposed before?

(18) A. No.

(19) Q. Well, the standard format will be (20) that I will ask the questions and you will provide (21) answers to those questions. In the

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event that you (22) don't understand a question that I ask or that I'm (23) not speaking distinctly or loudly enough, please (24) tell me and I'll make an attempt to remedy that. (25) If you answer a question, I'll assume that you

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(1) understood the question. Is that all right?

(2) A. Yes.

(3) Q. Now, you recall you met with me (4) yesterday?

(5) A. Yes, I do.

(6) Q. At that time I asked you, I thought it would save some time on the record if you had a (8) resume of your experience and your educational (9) history if you could provide that to me.

(10) A. Yes.

(11) Q. I'd like to have this document (12) marked as Adams Exhibit number 1.

(13) (Adams Exhibit 1 was marked for (14) identification.)

(15) BY MS. DRAIM:

(16) Q. Mr. Adams, if I could refer you to (17) Adams Exhibit 1. Did you locate this document and (18) provide it to us and opposing counsel in response (19) to my request during our meeting yesterday?

(20) A. Yes.

(21) Q. Does this document fully describe (22) your professional experience to date apart from (23) your current position?

(24) A. Yes.

(25) Q. Does it also fully describe your

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(1) educational background starting with college and (2) moving forward?

(3) A. Yes. May I say this was a rough (4) draft that was prepared at an earlier date and (5) actually now that I understand your drift a little (6) more fully, my actual work experience prior to 1973 (7) is not on this document. This is strictly (8) insurance-oriented. Also there is a typo in the (9) time frame 1983 to 1988, senior policy examiner. (10) It should be 1983 to 1984.

(11) So, it is, with respect to my (12) insurance experience.

(13) Q. Is it correct that you had no (14) experience working in the insurance industry prior (15) to 1976?

(16) A. That's correct.

(17) Q. Now, have you taken any (18) insurance-related courses that are not reflected on (19) this document?

(20) A. I don't recall taking any more (21) courses than this that were correspondence or (22) insurance related. I may have taken an in-house (23) seminar or something like that.

(24) I think this accurately reflects (25) it.

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(1) Q. Do you belong to any professional (2) associations?

(3) A. None other than the professional (4) business fraternity.

(5) Q. What is your current position?

(6) A. I am the reinsurance manager for (7) actuarial and product management in the Individual (8) Life and Annuity Division of Hartford Life (9) Insurance Company.

(10) Q. How long have you held that (11) position?

(12) A. Since August of '93.

(13) MS. KINDALL: Can we hold the deposition (14) for two moments?

(15) MS. DRAIM: Sure.

(16) *(Pause in proceedings.)*

(17) BY MS. DRAIM:

(18) Q. Prior to August of 1993 were you (19) the assistant secretary and director of reinsurance (20) at Fidelity Bankers as indicated on Exhibit 1?

(21) A. Yes, I was.

(22) Q. What were your responsibilities in (23) that position?

(24) A. Supervising the administration of (25) reinsurance and assisting in the negotiation of

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(1) reinsurance and the contract drafting.

(2) Q. To whom did you report in that (3) position?

(4) A. To the actuary for the company, (5) which was Heins Briegel before he retired and then (6) Tom Nuckols after that.

(7) Q. Do you remember approximately when (8) Mr. Briegel retired?

(9) A. Approximately in the summer or fall (10) of 1990.

(11) Q. At that point Mr. Nuckols assumed (12) his responsibilities and you reported to (13) Mr. Nuckols?

(14) A. Yes.

(15) Q. To whom did Mr. Briegel report?

(16) A. He reported to the president and (17) the chairman of the company, two different (18) individuals. The president was Charles Williams (19) and the chairman was Edward Simon.

(20) Q. Did Mr. Williams have his post from (21) 1988 through August of 1993?

(22) A. I don't think so. Mr. Williams was (23) not present when I left the company. I do not know (24) - I don't recall when he was not at the company (25) any longer.

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(1) Q. Do you recall whether he was with (2) the company throughout 1992?

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(3) A. No, I don't, actually.

(4) Q. Do you recall whether he was with (5) the company throughout 1991?

(6) A. I do not recall if he was with the (7) company the whole year of 1991. I don't recall (8) when he left.

(9) Q. Who succeeded Mr. Williams in that (10) position?

(11) A. To my knowledge, no one.

(12) Q. Was Mr. Williams in that position (13) through to the time that Fidelity Bankers went into (14) receivership?

(15) A. Yes.

(16) Q. Was Mr. Simon in his position (17) through to the time that Fidelity Bankers went into (18) receivership?

(19) A. Yes.

(20) Q. Do you recall when he left the (21) company?

(22) A. No, I don't.

(23) Q. Do you recall whether he's with the (24) company throughout 1991?

(25) A. I don't recall that he was with the

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(1) company throughout 1991. I don't recall when he (2) left.

(3) Q. I notice on Adams Exhibit Number 1 (4) you also have listed a series of positions with the (5) life and health division of the Virginia Bureau of (6) Insurance?

(7) A. Yes.

(8) Q. Can you describe your (9) responsibilities while you were at that Bureau of (10) Insurance?

(11) A. Yes. I was a life and health (12) annuity contract analyst reviewing forms submitted (13) by life insurance companies and health insurance (14) companies for approval under the statutes and the (15) rules of the Virginia Insurance Department.

(16) Q. Can you describe more fully what (17) you mean by forms submitted for approval?

(18) A. Any time an insurance company (19) desires to solicit an authorized coverage in a (20) given state, before they can use a document in that (21) solicitation that will become part of a contract, (22) they have to have that document approved by the (23) department.

(24) So, what I did was looked at their (25) submission to see that it complied with all of our

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(1) rules and regulations and laws and then either (2) granted approval or denied approval.

(3) Q. Did you have any other (4) responsibilities while you were at the Virginia (5) Bureau of Insurance?

(6) A. For a brief period of time as an (7)

examiner trainee. I was in the financial condition (8) examination section and went out on (9) examination. As a policy examiner, I was involved (10) in a couple of regulatory audits of some small (11) companies for some spot-checks.

(12) Q. When you say that you went out on (13) some field exams, what was the purpose of those (14) examinations?

(15) A. To audit the company's records. In (16) the case of the financial department, I was (17) involved in a financial audit of Fidelity Bankers (18) Life and in the case of another small private (19) mortgage insurance company, I was involved in their (20) financial audit. I don't recollect the exact time (21) frames.

(22) Then I was involved in an (23) industrial insurance company's sales procedures as (24) a policy examiner checking whether or not they were (25) using required forms. And following the required

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(1) procedures.

(2) Q. When you say that you were involved (3) in financial audits, was the purpose of those (4) audits to ascertain the financial condition of the (5) insurance company?

A. Yes.

(6) Q. Is it fair to say that by (8) participating in those audits you gained an (9) understanding as to the various signs that might be (10) indicative of an adverse financial condition on the (11) part of an insurance company?

(12) A. I don't know that I could use those (13) exact words. I think it would be fair to say that (14) there's some general rules of thumb for any company (15) when you analyze their financial condition. That (16) general rule is if the liabilities exceed the (17) assets, there's probably a problem.

(18) So, my involvement as a trainee (19) limited how much financial condition work I did. (20) So, I didn't get into that.

(21) Q. Apart from that balance sheet-type (22) formula while you were at the Bureau of Insurance, (23) did you also gain any experience in other (24) indications of potentially adverse financial (25) condition on the part of an insurance company?

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(1) A. No. Really just along the lines of (2) that formula. If you don't have capital, you got (3) problems.

(4) Q. When you were at the Virginia (5) Bureau of Insurance, did you have any experience (6) whatsoever with assumption agreements?

(7) A. No.

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(8) Q. When I use the term, "assumption (9) agreement," do you understand me to be referring to (10) an agreement under which one insurance company (11) assumes all or part of the insurance business of (12) another insurance company?

(13) A. No, I did not understand you to say (14) that. I honestly don't recollect if I had (15) involvement with those sorts of agreements when I (16) was a policy examiner.

(17) Q. What about in any of your (18) capacities at the Bureau of Insurance?

(19) A. I don't recall that I was directly (20) involved or not in any sort of activity like that (21) or assumption agreements that - as you described (22) them. Well, in my capacity of approving forms, I (23) may have approved forms, but I don't recall the (24) exact circumstances of surrounding those things. I (25) just don't recall.

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(1) Q. Do you recall whether in your (2) capacity of reviewing and approving forms submitted (3) by insurance companies, you ever saw any assumption (4) certificates?

(5) A. Yes, I believe I recall seeing (6) assumption certificates. Yes.

(7) Q. Do you recall in what context you (8) saw it or if there were more than one context? I'm (9) sorry.

(10) A. My recollection is it was the (11) context of a company acquiring another company's (12) business.

(13) Q. What is your understanding as to (14) the purpose of an assumption certificate?

(15) MR. WOOD: Objection. Lack of foundation. (16) That he was any real understanding of the purpose.

(17) BY MS. DRAIM:

(18) Q. Let me just state for the record, (19) Mr. Adams, that Mr. Wood and Mr. Adkins, as counsel (20) for the deputy receiver, may, from time to time, (21) assert various objections to my questions.

(22) I believe the main purpose of those (23) objections, and correct me if I'm wrong, is to (24) preserve their ability to preserve, to object to (25) the introduction of your testimony at trial if we

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(1) were to attempt to do that. That should have no (2) bearing on your answering the question.

(3) Your counsel sitting next to you is (4) the person who will instruct you not to answer if (5) she believes that should be the case.

(6) MS. DRAIM: Is that correct as to the (7) purpose of your objection?

(8) MR. WOOD: I don't know if I want to

adopt (9) everything you said. I'm making objections (10) pursuant to Iowa Rules of Civil Procedure as to the (11) form of the question.

(12) MS. DRAIM: Fine.

(14) *(The pending question was read by (15) the Court Reporter.)*

(16) THE WITNESS: To be inserted into the (17) policy of the insured for the company that's giving (18) up their business or selling their business as (19) notice that a new company has taken over the (20) contract.

(21) BY MS. DRAIM:

(22) Q. Mr. Adams, I know from Adams (23) Exhibit 1 that you actually began your position (24) with Fidelity Bankers in 1984; is that correct?

(25) A. Yes.

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(1) Q. And you began as a manager of the (2) reinsurance department of that company?

(3) A. Yes.

(4) Q. Were your responsibilities in that (5) capacity any different from those you had as (6) director of reinsurance?

(7) A. Yes. As director of reinsurance, (8) my responsibilities were increased. At the time I (9) was made director, I was promoted to assistant (10) secretary, which was the lowest officer position. (11) So, I could be authorized to sign certain (12) documents.

(13) Q. That was one of the principal (14) differences between your functions in the two (15) positions?

(16) A. Yes.

(17) Q. To whom did you report when you (18) were manager of reinsurance?

(19) A. To Heins Briegel.

(20) Q. Throughout that period from '84 to (21) '88?

(22) A. Yes.

(23) Q. When you were manager of (24) reinsurance at Fidelity Bankers, did you have any (25) involvement with the reinsurance treaties under

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(1) which Fidelity Bankers ceded claims to Integrated (2) Resources?

(3) A. Yes.

(4) Q. What was your involvement with (5) those treaties and that business?

(6) A. Well, my involvement with the (7) treaties was to see to it that they were (8) administered according to their terms by the staff (9) that worked for me; to see to it that the billings (10) were prepared appropriately and payments were made, (11) refunds collected. All of the administrative (12) activities that go on under that.

(13) To assist other departments with (14)

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any questions about claims payment or financial (15) adjustments with respect to those contracts and to (16) just answer questions from the Integrated Resources (17) company about what we were administering and (18) provide financial information. Just totally (19) administer the contracts.

(20) Q. Did you have a contact person or (21) persons at Integrated with whom you dealt in (22) performing those functions?

(23) A. Yes, I did.

(24) Q. Can you name that person or (25) persons?

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(1) A. Well, they changed over a period of (2) time. They differed from the time when I first (3) arrived at Fidelity to the time that I left (4) Fidelity. Edwin O'Reilly was one of my contacts at (5) Integrated Resources when it was in New Jersey and (6) Herb Levine was the other. Then they moved and my (7) primary contact subsequently became Ken Klein. And (8) I may have spoken to other accounting-type persons (9) at the company, but I don't recall any names (10) offhand.

(11) Q. When you say Integrated moved, are (12) you referring to the relocation to Iowa?

(13) A. Yes.

(14) Q. Do you recall, approximately, when (15) that occurred?

(16) A. I don't recall, approximately, when (17) it occurred. I would have to look at something.

(18) Q. Mr. Adams, do you recall when we (19) met yesterday, you mentioned that you had (20) essentially looked at one document to refresh your (21) recollection as to dates, potentially significant (22) dates, in connection with this matter prior to our (23) meeting?

(24) A. Yes.

(25) MS. DRAIM: I'd like to have this marked as

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(1) Adams Exhibit 2.

(2) *(Adams Exhibit 2 was marked for (3) Identification.)*

(4) BY MS. DRAIM:

(5) Q. Mr. Adams, I show you Adams Exhibit (6) Number 2, which appears to be a couple of pages (7) from AM Best Insurance Reports. Can you identify (8) this document?

(9) A. Yes, I can.

(10) Q. What is it?

(11) A. It is a copy of several pages out (12) of the AM Best rating book.

(13) Q. Is this the document to which you (14) referred prior to our meeting yesterday that you (15) tried to refresh your recollection as to some (16) dates?

(17) A. Yes.

Q. Why don't you take a moment to look (19) at it and see if it refreshes your recollection as (20) to approximately when Integrated Resources Life (21) Insurance Company moved its operations from New (22) Jersey to Iowa.

(23) *(Pause in proceedings.)*

(24) MS. KINDALL: I would caution the witness (25) that the question is, Does it refresh your

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(1) recollection. Not what the document says.

(2) *(Pause in proceedings.)*

(3) THE WITNESS: It is not sufficient to (4) really answer that question.

(5) BY MS. DRAIM:

(6) Q. Do you recall whether the move (7) occurred sometime in the late 1980s?

(8) A. Yes. That's my recollection.

(9) Q. Did you start dealing with (10) Mr. Klein after the move because Mr. O'Reilly did (11) not follow the company to Iowa?

(12) A. My recollection is that I had dealt (13) with Mr. Klein at some point prior to that, but (14) that he became my primary contact as a result of (15) Mr. O'Reilly not moving. Mr. Klein moved.

(16) Q. Once Mr. Klein became your primary (17) contact, can you characterize for me the frequency (18) of your communication with him?

(19) A. In correspondence it would have (20) been on a quarterly basis reporting financial (21) information back and forth. Other than that, it (22) was sporadic, depending upon matters that came up (23) that needed us to correspond or communicate.

(24) Towards the latter part of the (25) eighties and the early nineties we probably

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(1) communicated a little more frequently due to the (2) situation that was developing with his company.

(3) Q. What do you mean by the situation (4) that was developing with Mr. Klein's company?

(5) A. I developed a certain - I don't (6) know exactly when - that his company was (7) deteriorating or would be affected by the parent (8) company's deterioration.

(9) Q. Just to clarify the record when you (10) say, "His," you mean Integrated Resources Life (11) Insurance Company?

(12) A. Correct.

(13) Q. When you say, "Parent company," you (14) mean Integrated Resources, Inc.?

(15) A. Yes.

(16) Q. Do you recall what first caused you

(17) to develop that concern?

(18) A. At some point in time, and I'm not (19) certain of any dates, I saw something somewhere in (20) some publication, professional journal or financial (21) newspaper that indicated that Integrated Resources, (22) Inc. was in financial trouble, and knowing that the (23) life community was a establishment that raised a red (24) flag.

(25) Q. Does any?

(1) help you to refresh your (2) memory that the (3) parent trouble?

(4) A. Yes. I would point at the very last

(5) Q. Now, Mr. Adams, you've described (6) for us your responsibilities as manager and then (7) director of reinsurance at Fidelity Bankers. In (8) both of those positions did you, as part of your (9) job, try to stay abreast of the financial condition (10) of the companies to whom Fidelity Bankers ceded (11) claims and losses?

(12) A. Yes, I did.

(13) Q. And you considered that to be part (14) of your job responsibilities?

(15) A. Yes.

(16) Q. How did you do that? How did you (17) perform that function?

(18) A. Basically, the primary source was (19) to track the AM Best ratings and any other agency (20) ratings that they might have. Just to be alert to (21) articles in various trade publications and business (22) journals and newspapers as to activities of those (23) companies and with their parents and to keep my ear (24) in the network of the various industry people with

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(1) whom I dealt that I might be in contact with. (2) Usually reinsurance representatives or just anybody (3) else that I happen to have contact with in the (4) industry.

(5) Q. When you became aware of (6) information that caused you to have a concern about (7) the financial condition of a reinsurer, was it your (8) practice to communicate that information to your (9) superiors at Fidelity Bankers?

(10) A. Yes.

(11) Q. Who would that have been?

(12) A. To whomever I was reporting, (13) immediately reporting to, at that point in time. (14) Either Heins Briegel or Tom Nuckols.

(15) Q. When you saw something indicating (16) that Integrated Resources, Inc. was in financial (17) trouble, did you communicate

that information to (18) Mr. Briegel?

(19) A. Yes. I recall that I mentioned it (20) to him.

(21) Q. Was it at about the same time that (22) you became aware of that information; when you (23) first became aware of it?

(24) A. I don't recall what the time frame (25) was. I can't say whether it was when I very first

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(1) became aware of it.

(2) Q. Do you know of any reason why you (3) would not have communicated that information to (4) Mr. Briegel shortly after becoming aware of it?

(5) A. If only my first awareness was that (6) something was up, I may have wanted to get more (7) information. That's the only reason I can think (8) of.

(9) Q. So, it - and I don't want to put (10) words in your mouth - is it fair to say that once (11) you had sufficient information that you felt there (12) was a strong indication of some sort of financial (13) difficulty at a particular reinsurer or potential (14) difficulty, you would then immediately bring that (15) information to the attention of Mr. Briegel?

(16) A. Yes.

(17) Q. Can you recall whether by early (18) 1990 you had at least had one discussion with (19) Mr. Briegel about potential financial problems at (20) Integrated Resources Life Insurance Company?

(21) A. I recall having a discussion (22) sometime in 1990. I can't characterize whether it (23) was earlier or later that I had concerns about the (24) life company of Integrated Resources.

(25) Q. Would it have been before mid-1990?

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(1) And again, feel free to refer to Exhibit 2 if it (2) helps you at all.

(3) A. Yes, I believe it would have been (4) about that time; before mid-1990, yes.

(5) Q. Now, you mentioned that Mr. Briegel (6) reported to Mr. Simon and Mr. Williams; is that (7) correct?

(8) A. Yes.

(9) Q. Was it his practice when you told (10) him about concerns as to the financial condition of (11) particular reinsurers, to bring that attention to (12) Mr. Simon and/or Mr. Williams?

(13) MR. WOOD: Objection. Lack of foundation.

(14) THE WITNESS: I don't know what his (15) practice was as to how he communicated those (16) matters.

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(17) BY MS. DRAIM:

(18) Q. Did he communicate your concerns as (19) to the financial condition of reinsurers to either (20) Mr. Williams and/or Mr. Simon?

(21) A. Could you repeat that?

(22) Q. Did he communicate your concerns as (23) to the financial condition of various reinsurers to (24) Mr. Williams and/or Mr. Simon?

(25) A. Yes.

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(1) Q. And how do you know that?

(2) A. At some point in time, and I don't (3) honestly recollect when or how, but I do recall (4) that I was asked by one or the other, of Mr. Simon (5) or Mr. Williams, as to the status of various (6) reinsurers. So, that indicated to me that they had (7) been told.

(8) Q. Now, were you ever asked by (9) Mr. Simon or Mr. Williams as to the status of (10) Integrated Resources Life Insurance Company?

(11) A. I recollect being asked in the (12) hallway passing, but I don't recollect when that (13) Mr. Simon just asked the status.

(14) Q. Did that indicate to you that (15) Mr. Briegel or Mr. Nuckols had communicated to him (16) concerns you had voiced to either Mr. Briegel or (17) Mr. Nuckols concerning Integrated Resources Life (18) Insurance Company?

(19) MR. WOOD: Objection. Calls for (20) speculation.

(21) THE WITNESS: At the point in time I can't (22) recall. I really can't tell you whether Mr. Simon (23) at that point knew because I had said something or (24) Mr. Briegel had said something. I honestly don't (25) recall the circumstances.

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(1) BY MS. DRAIM:

(2) Q. But you do recall that on at least (3) one occasion Mr. Simon asked you about Integrated (4) Resources Life Insurance Company and its financial (5) condition?

(6) MR. WOOD: Objection. Asked and answered.

(7) THE WITNESS: Yes.

(8) BY MS. DRAIM:

(9) Q. Do you recall whether that occurred (10) during 1990?

(11) A. No. Actually, I don't recall when (12) it occurred.

(13) Q. Let me ask you this for purposes of (14) trying to place this in terms of time. Did it (15) occur prior to the assumption of Integrated's (16) reinsurance business by North American Reassurance?

(17) A. Yes, I recall that it occurred (18) be-

fore that. That being sometime much later.
(19) Sometime in '91 is when that event transpired.

(20) So, it was before that event.

(21) Q. When you refer to "that event," you
(22) mean the assumption of the reinsurance
business by (23) North American Reassurance

(24) A. Yes.

(25) MS. KINDALL: For the record, you
have to

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(1) let her finish her question before you answer (2) because the Court Reporter can't get both

(3) THE WITNESS: Thanks.

(4) MS. KINDALL: And also give your
counsel a (5) chance to object.

(6) THE WITNESS: Sorry.

(7) BY MS. DRAIM:

(8) Q. Mr. Adams, I believe you also (9)
mentioned earlier that one of the ways in
which you (10) would keep abreast of develop-
ments concerning the (11) financial condition
of various reinsurers of (12) Fidelity Bankers
would be to speak with individuals (13) with
whom you had business contacts at those (14)
reinsurance companies; is that correct?

(15) A. Yes.

(16) Q. And you also mentioned that after
(17) Integrated Resources Life Insurance
Company moved (18) to Iowa, your primary
contact there was Ken Klein; (19) is that cor-
rect?

(20) A. Yes.

(21) Q. Did you discuss with Ken Klein (22)
developments concerning the financial condi-
tion of (23) Integrated Resources Life Insur-
ance Company?

(24) A. Yes.

(25) MR. WOOD: Objection. Was that
question

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(1) unlimited as to time? We can't - when the
(2) conversation he's talking about occurred.

(3) BY MS. DRAIM:

(4) Q. Do you recall doing that in 1990?

(5) A. Yes.

(6) Q. And during 1991?

(7) A. Yes.

(8) Q. Mr. Adams, do you recall becoming
(9) aware at some point that Integrated Re-
sources Life (10) Insurance Company in-
tended to pay a dividend of (11) approxi-
mately \$25 million to its parent company?

(12) A. Yes. I recall that. I don't (13) recall
exactly when.

(14) MS. DRAIM: I'd like to have this docu-
ment (15) marked as Exhibit 3.

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(16) (Adams Exhibit 3 was marked for (17)
Identification.)

(18) MS. DRAIM: For the convenience of
opposing (19) counsel, this is a document you
produced to us, (20) Bates stamp 9460015009.
The follow on is 010.

(21) MR. WOOD: Counsel, was it produced
to you (22) by us?

(23) MS. DRAIM: Yes.

(24) MR. WOOD: Thank you.

(25) BY MS. DRAIM:

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(1) Q. If I could direct your attention, (2)
Mr. Adams, on Exhibit 3, and ask you if you
could (3) look at both pages of that exhibit
and tell me (4) whether either one of those
pages looks familiar to (5) you.

(6) (Pause in proceedings.)

(7) THE WITNESS: Yes. There was a docu-
ment (8) you showed me during our meeting
yesterday.

(9) BY MS. DRAIM:

(10) Q. If I could direct - had you seen (11)
that document prior to my showing it to you;
either (12) page of it?

(13) A. I don't recollect seeing the (14) docu-
ment. I don't recollect not seeing it. I just (15)
don't recall not seeing anything about it.

(16) Q. If I could direct your attention to (17)
page 2, does that page contain a characteriza-
tion (18) of the nature and extent of the re-
insurance (19) business that Fidelity Bankers
was then doing with (20) Integrated Re-
sources?

(21) MR. WOOD: Object. Lack of founda-
tion. (22) The witness testified he doesn't
know anything (23) about the document.
Therefore, what is transpiring (24) is he's being
asked to read a document into the (25) record.

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(1) MS. DRAIM: No. I'm asking whether
his (2) recollection, that accurately character-
izes the (3) reinsurance business that existed as
of that point.

(4) THE WITNESS: Yes. I would say that
it (5) does.

(6) BY MS. DRAIM:

(7) Q. Did you, or a member of your staff,
(8) provide the information that is contained
in the (9) second page of that exhibit, Exhibit
Number 3?

(10) A. I don't recall that I or my staff (11)
gave this precise information to the author of
the (12) second page, Mr. Sumpter, but I re-
call that we were (13) asked on several occa-
sions to produce such (14) summaries.

(15) MS. DRAIM: I have another document
that (16) was produced to us by the deputy re-
ceiver, Bates (17) stamp 9020080218. I'd like

to have this marked as (18) Adams Exhibit Number 4.

(19) *(Adams Exhibit 4 was marked for (20) Identification.)*

(21) BY MS. DRAIM:

(22) Q. Mr. Adams, I show you Exhibit 4, (23) and I ask you, have you ever seen that document (24) before?

(25) A. Yes. I did see it yesterday at our

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(1) meeting and I recollect having given this (2) information to Mr. Briegel.

(3) Q. By "this information," do you mean (4) the information that's reflected on Exhibit (5) Number 4?

(6) A. Yes.

(7) Q. Now, if you can turn, once again, (8) to the second page of Exhibit Number 3, does (9) Exhibit Number 4 refresh your recollection as to (10) whether the information on that second page was (11) derived from you and your staff?

(12) MS. KINDALL: Point of clarification, by (13) information are you referring to the charts, the (14) tables and the numbers?

(15) MS. DRAIM: Yes. And also whatever the (16) text was provided.

(17) THE WITNESS: I don't recall providing a (18) text, but I do recall providing the summary of the (19) policy counts and allocation of the business. And (20) the reserves in the insurance.

(21) BY MS. DRAIM:

(22) Q. Now, do Exhibits Number 3 and 4 (23) refresh your recollection as to when you became (24) aware that Integrated Resources Life Insurance (25) Company intended to pay a liquidating dividend to

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(1) its parent company?

(2) A. Yes. I recall that it was (3) occurring sometime in early 1990; that event.

(4) Q. What do you mean when you say it (5) was occurring?

(6) A. Well, I don't recall exactly when I (7) became aware of it; that dividend issue was - (8) actually happened. I don't know what if any time (9) lag is occurring in any dates. My recollection is (10) only that it would be early 1990.

(11) Where I saw it was in the press in (12) one of the trade journals or something like that. (13) So, I can't tell you when it was first reported (14) versus when it became an issue that we really had (15) to deal with.

(16) Q. Was Mr. Briegel aware of this (17) liquidating dividend issue, as you described it in (18) early 1990?

(19) MR. WOOD: Objection. Lack of foun-

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dation.

(20) THE WITNESS: Yes. Because if I was aware (21) of it, he was aware of it.

(22) BY MS. DRAIM:

(23) Q. And why do you say that?

(24) A. Because if I was concerned about (25) it, I would have told him about it.

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(1) Q. Did you tell him about it?

(2) A. Yes.

(3) Q. Was Mr. Simon aware of this (4) liquidating dividend issue in early 1990?

(5) MR. WOOD: Objection. Lack of foundation. (6) Calls for speculation.

(7) THE WITNESS: I recall that Mr. Simon was (8) aware of it before mid-1990. I don't recall (9) precisely when.

(10) BY MS. DRAIM:

(11) Q. How did you know that he was aware (12) of it?

(13) A. Because I had talked to Mr. Briegel (14) about this issue and I recall that he had mentioned (15) it to Mr. Simon and others, and we were a very (16) small company. So, it's not likely that Mr. Simon (17) didn't know of it.

(18) Q. When you say that Mr. Briegel had (19) mentioned it to Mr. Simon and others, who were the (20) others?

(21) A. I recall it was discussed with (22) somebody in the financial area, but I don't (23) specifically remember whom. Any time the (24) reinsurance agreement was going to have potentially (25) major impact on our balance sheet, then the

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(1) financial people would have been apprised of that.

(2) Q. Did Mr. Briegel mention the (3) liquidating dividend issue to Mr. Williams?

(4) A. I honestly don't know if he (5) specifically mentioned it to him or not.

(6) Q. How did you know that Mr. Briegel (7) had mentioned or discussed the liquidating dividend (8) issue with Mr. Simon?

(9) A. Mr. Briegel and I had periodic (10) meetings on what was going on in reinsurance. He (11) had periodic meetings with all of his - with his (12) several staff, and that was an item of discussion. (13) And I recall it being discussed that Mr. Simon knew (14) about it.

(15) Q. Were you concerned about what you (16) referred to as the liquidating dividend issue?

(17) A. Yes.

(18) Q. Why?

(19) A. I did not know what the financial (20) position of the Integrated Resources Life In-

insurance (21) Company was relative to that dividend being paid, (22) if it were paid, to the Integrated Resources (23) Corporation and, therefore, I had concern as to (24) whether or not they would be able to pay their (25) claims to us under their reinsurance agreements on

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- (1) a long-term basis.
 (2) Q. Did you discuss that concern with (3) Mr. Briegel?
 (4) A. Yes.
 (5) Q. Did Mr. Briegel indicate to you (6) that he shared that concern?
 (7) A. Yes.
 (8) Q. Did Mr. Briegel ever indicate to (9) you that Mr. Simon shared that concern?
 (10) A. Yes.
 (11) Q. How did he indicate that?
 (12) A. In the staff meeting that he and I (13) would have.
 (14) Q. Do you recall what he said or the (15) substance of what he said?
 (16) A. He would like a summary of where we (17) stood relative to the reinsurance enforced with (18) that company, Integrated Resources.
 (19) MS. KINDALL: Point of clarification. Who (20) was "he" in that question and answer, please?
 (21) THE WITNESS: Oh, Mr. Briegel. Mr. Briegel (22) wanted the numbers.
 (23) BY MS. DRAIM:
 (24) Q. Did he indicate that his request (25) was prompted by any concern on the part of

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- (1) Mr. Simon regarding this liquidating dividend (2) issue?
 (3) A. I can't characterize or recall that (4) he indicated it was Mr. Simon's concern. It was (5) certainly Mr. Briegel's concern to report these (6) facts to his superiors because that was his job.
 (7) Q. Now, Mr. Adams, do you recall (8) whether in early 1990 when you became aware of the (9) liquidated dividend issue, Integrated Resources (10) Life Insurance Company was under the supervision of (11) the Iowa insurance regulators?
 (12) A. I don't recall when they were under (13) the supervision of the Iowa insurance regulators.
 (14) Q. Is there anything in Exhibit (15) Number 2 that would refresh your recollection as to (16) that company?
 (17) (Pause in proceedings.)
 (18) THE WITNESS: Yes. My recollection is that (19) certainly sometime in 1990 that was my impression. (20) I can't recall if it was my impression earlier. (21) But certainly during 1990. Before mid-1990.

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- (22) BY MS. DRAIM:
 (23) Q. So, you became aware before (24) mid-1990 that Integrated Resources Life Insurance (25) Company was under the supervision of the Iowa

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- (1) insurance regulators?
 (2) A. It was my impression. I can't say (3) that I was aware that they certainly were. But it (4) was - my recollection is for all practical (5) purposes they were.
 (6) Q. Do you recall how you found that out?
 (7) A. From Ken Klein.
 (8) Q. Did you bring that matter to the (9) attention of Mr. Briegel?
 (10) A. Yes.
 (11) Q. Did you do that in early to (12) mid-1990?
 (13) A. Yes. If my recollection is then, (14) at least that's when I did it.
 (15) Q. Did you view Integrated being under (16) the supervision of the Iowa regulators as an (17) indication that the company was having financial (18) difficulties?
 (19) A. Yes.
 (20) Q. Is that the reason that you brought (21) that matter to the attention of Mr. Briegel?
 (22) A. Yes.
 (23) Q. Do you know whether Mr. Briegel (24) told Mr. Simon that Integrated was under the

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- (1) supervision of the Iowa regulators?
 (2) A. That specifically I don't know.
 (3) Q. What about generally?
 (4) A. Generally, he would have reported (5) what he knew about it and what I told him about it. (6) We certainly still had an ongoing concern about (7) what was going on with this company in light of the (8) dividend that they were trying to get and what was (9) going on with their subsidiary, Integrated (10) Resources Life. So, that was a continuing concern. (11) It was a continuing topic of discussion.
 (12) Q. Let me see if I can summarize what (13) you've told me. Is it the case that throughout (14) 1990 developments at Integrated Resources Life (15) Insurance Company was a continuing source of (16) discussion between yourself and Mr. Briegel and to (17) your knowledge between Mr. Briegel and Mr. Simon?
 (18) MR. WOOD: Objection. Improperly (19) mischaracterizes the witness' prior testimony.
 (20) THE WITNESS: At the point that - at

(21) whatever point in 1990 I became concerned about the (22) financial situation and the impression that I had (23) that they were under the supervision of the Iowa (24) department, that was a routine status update to (25) Mr. Briegel as to what was going on. I don't have

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(1) any knowledge how he conveyed that information or (2) what tone it had with anything with respect to (3) talking to Mr. Simon about it.

(4) I wasn't privy to those meetings. So, I (5) don't know.

(6) MS. KINDALL: Off the record just for a (7) moment.

(8) *(Discussion held off the record.)*

(9) BY MS. DRAIM:

(10) Q. Now, Mr. Adams, in addition to (11) having these discussions with Mr. Briegel and/or (12) reporting to him as to developments at Integrated (13) Resources Life Insurance Company, did you also (14) report directly to Mr. Simon and/or Mr. Williams (15) about developments at Integrated Resources Life (16) Insurance Company?

(17) MR. WOOD: Objection. Vague and ambiguous (18) as to the term, "developments."

(19) MS. DRAIM: I'll rephrase it.

(20) BY MS. DRAIM:

(21) Q. In addition to having the (22) discussions with Mr. Briegel that you just (23) testified about, did you also have discussions (24) directly with Mr. Simon and/or Mr. Williams about (25) developments at Integrated Resources Life Insurance

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(1) Company after you developed a concern as to the (2) company's financial condition?

(3) A. Yes. I recall mentioning something (4) to Mr. Simon in passing, in the passageways.

(5) Q. Did you have any written (6) communications with Mr. Simon or Mr. Williams on (7) that topic?

(8) A. I don't recall specific instances. (9) I may have certainly been directed to produce (10) something for them.

(11) MS. DRAIM: I have before me a document (12) that was produced by Fidelity Bankers. Bates stamp (13) 9320012243 through 2250. I'd like it marked as (14) Exhibit 5.

(15) *(Adams Exhibit 5 was marked for (16) identification.)*

(17) *(The last question and answer were (18) read by the Court Reporter.)*

(19) BY MS. DRAIM:

(20) Q. Mr. Adams, can you identify Adams

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(21) Exhibit Number 5?

(22) A. Yes. It's a Fidelity Bankers Life (23) Insurance Company internal correspondence to (24) Mr. Edward D. Simon and Mr. Charles P. Williams (25) from Mr. Michael M. Adams. The subject is

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(1) "Release of \$25 million dividend from Integrated (2) Resources to parent." The date is August 22, 1990.

(3) Q. Were you directed to provide this (4) report to Mr. Simon and Mr. Williams?

(5) A. I don't recall whether I was (6) directed or it was suggested it would be a good (7) thing to do. But I do recall that I was to report (8) a summary of this information.

(9) Q. And who told you to do that?

(10) A. Mr. Briegel would have told me to (11) do that.

(12) Q. Does this first page accurately (13) summarize the state of your knowledge concerning (14) the \$25 million dividend at that point?

(15) A. Yes. That's a summary of my (16) knowledge of the subject at that point.

(17) Q. At the time that this memo was (18) prepared by you, was the Virginia Bureau of (19) Insurance also monitoring the liquidating dividend (20) issue with respect to Integrated Resources Life (21) Insurance Company?

(22) MR. WOOD: Objection. No foundation.

(23) THE WITNESS: I can't tell you whether they (24) were or not. I have no idea. This document (25) doesn't do it and my recall does not suggest that

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(1) they were monitoring the situation. My rec

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(2) BY MS. DRAIM:

(3) Q. Please go on.

(4) A. I have no recollection of what they (5) were doing.

(6) Q. If I could direct your attention to (7) the second to last paragraph of this document, (8) which begins with the sentence, "I called Ed (9) Buylas, chief of annual statement audits at the (10) Virginia department."

(11) A. Uh-hum.

(12) Q. Does that in any way refresh your (13) recollection as to whether the Virginia Bureau of (14) Insurance was monitoring what was happening in (15) Integrated Resources Life Insurance Company?

(16) A. No. My recollection was that this (17) was just a simple fact in exchange for Ed's help (18) with some information that I would tell him if (19) there was anything that he should be alerted to, (20) but that's all it was.

A courtesy between two (21) people.

(22) Q. What do you mean when you say that (23) you would tell him if there was anything he should (24) be alerted to?

(25) A. Well, that's a subjective judgment.

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(1) certainly on my part. But it's just, I think, the (2) normal thing that you do when you're exchanging (3) information. You know if something significant in (4) your estimation pops up, you provide that to the (5) other party and you let them decide for themselves (6) whether it's significant or not.

(7) Q. Is there any reason why information (8) concerning Integrated Resources Life Insurance (9) Company would be of interest to Mr. Buyalos?

(10) MR. WOOD: Objection. Calls for (11) speculation.

(12) THE WITNESS: Only to the extent that Ed (13) Buyalos was the chief of annual inside audits and, (14) you know, you always keep your ears to the ground.

(15) BY MS. DRAIM:

(16) Q. It's Buyalos, if I'm pronouncing (17) this correctly?

(18) A. Yes.

(19) Q. Was it Mr. Buyalos or his staff who (20) audited the financial condition of Fidelity Bankers (21) during 1990 and 1991?

(22) A. I recall that his staff did. I (23) don't actually recall whether Mr. Buyalos was on (24) that job at that time or not. He was - my (25) recollection is that he was no longer an outside

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(1) auditor. And recalling that then, it wouldn't have (2) been his staff, because that would have been inside (3) audit at that time. So, it was not he or his staff (4) that did the field audit.

(5) Q. As of the date of this memo, which (6) is Exhibit Number 5, was Mr. Buyalos' department (7) responsible for auditing the financial condition of (8) Fidelity Bankers?

(9) A. That would be a fair assessment, (10) yes.

(11) Q. Did you bring this information in (12) the second to last paragraph of this exhibit to (13) Mr. Buyalos' attention because it related to a (14) company that reinsured a significant portion of (15) Fidelity Bankers' business?

(16) A. I don't recall that being the case.

(17) Q. Did you bring the information in (18) the second to last paragraph of Exhibit 5 to (19) Mr. Buyalos' attention because Integrated Resources (20) Life Insurance Company was a reinsurer of Fidelity (21) Bankers?

(22) A. I don't recall that being the case (23)

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either.

(24) Q. Do you recall any reason why you (25) brought this information to his attention other

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(1) than the exchange of information that you just (2) testified about?

(3) A. I really don't recollect what we (4) were discussing at that point in time.

(5) Q. I didn't hear your whole answer.

(6) A. I apologize. No, I don't recollect (7) what the circumstances were as to why, other than (8) exchanging information as to why I would be giving (9) him the information.

(10) Q. Do you recall any discussions at (11) any time between yourself and anyone at the (12) Virginia Bureau of Insurance concerning Integrated (13) Resources Life Insurance Company?

(14) MR. WOOD: Well, I'm going to object to (15) that question to the extent it calls for (16) communications between Mr. Adams and (17) representatives of the deputy receiver, which may (18) be the same thing subsequent to May 13, 1991 on the (19) basis of confidentiality and possibly (20) attorney/client privilege information. I want to (21) make it clear that we are asserting the (22) attorney/client privilege on behalf of the receiver (23) to the extent the question calls for Mr. Adams to (24) reveal information which he may have stated (25) concerning the rendering of legal advice after

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(1) May 13, 1991. We're asserting the privilege and we (2) will instruct that he not give that information out (3) at this time.

(4) BY MS. DRAIM:

(5) Q. For the current purposes what I'm (6) interested in, are discussions between yourself and (7) anybody at the Virginia Bureau of Insurance prior (8) to the beginning of the Fidelity Bankers (9) receivership concerning the financial condition of (10) Integrated Resources Life Insurance Company.

(11) A. I recall speaking to Ed Buyalos (12) about trying to get some updated financial (13) information on Integrated Resources Life Insurance (14) Company.

(15) Q. Why would Mr. Buyalos have access (16) to that information?

(17) A. The insurance companies that do (18) business in the Commonwealth of Virginia would have (19) to provide their annual statement as of the end of (20) each year to his department.

(21) MS. KINDALL: Is this now a good time to (22) take a break?

(23) MS. DRAIM: Why don't we do that

(24) MS. KINDALL: Ten minutes?

(25) (Recess 11:26 to 11:45 a.m.)

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(1) BY MS. DRAIM:

(2) Q. Mr. Adams, do you recall becoming
(3) aware at some point that Integrated Re-
sources Life (4) Insurance Company was in
the process of selling its (5) life insurance busi-
nesses?

(6) A. I don't remember the specific date, (7)
but I do recall that, yes.

(8) Q. How did you become aware of that?

(9) A. Partly through conversations with (10)
various people, including Ken Klein. I don't
(11) recall other specific times. And I seem to
recall (12) that at some point it was certainly
in the trade (13) journals.

(14) Q. Do any of the exhibits marked so (15)
far help to refresh your recollection as to
when (16) you first became aware that Inte-
grated Resources (17) Life Insurance Com-
pany was in the process of (18) selling its life
insurance businesses?

(19) A. Yes. Exhibit 2 refreshes my memory
(20) that sometime in late '89, early '90 I was
aware (21) that they were looking for buyers
for the various (22) blocks of business.

(23) Q. How did you become aware of that?

(24) A. Primarily, again, through trade (25)
journal. I think, and discussions with other
people

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(1) and Ken Klein.

(2) Q. When you say they were looking for
(3) buyers for various blocks, would that be all
of the (4) insurance businesses that were then
being operated (5) by Integrated Resources
Life Insurance Company to (6) your aware-
ness?

(7) A. My recollection is that my (8) impres-
sion was that they would try and sell the (9)
whole company. But that's all I recall.

(10) Q. You said the word, "or." I'm (11) won-
dering if there was something on the other
end (12) of that.

(13) A. I was going to refer back to what (14)
you said. That is the various blocks. Get all
you (15) can. Lock, stock and barrel or piece-
meal.

(16) Q. Your recollection is you became (17)
aware they were either trying to sell the com-
pany (18) as a whole or trying to sell all of the
businesses (19) piecemeal?

(20) A. I'm not sure my recollection is (21)
they were trying to sell the company as an en-
tity. (22) What I mean is they were willing to
sell all the (23) business, all the lines of busi-
ness to any one (24) buyer was my impression.
I don't recollect (25) anything about how they

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were actually trying to do

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(1) it. I have no information on that.

(2) Q. Now, do you recall becoming aware
(3) at some point that Integrated Resources
Life (4) Insurance Company either was in the
process of or (5) had already sold its ordinary
life insurance (6) business to Loyalty Life?

(7) A. Yes. I don't recall the specific (8) date,
but at some point in time Ken Klein was,
when (9) I called his phone number, they an-
swered Loyalty (10) Life, which kind of threw
me for a loop. And I (11) don't recall when
that was. That the when I (12) discovered that
they had purchased all of the life (13) busi-
ness.

(14) Q. Do you recall whether you (15) discov-
ered that shortly after the transaction (16) oc-
curred?

(17) A. I don't know how long after. I (18) re-
ally don't know.

(19) Q. Going back to late 1989 when you
(20) became aware that Integrated Resources
Life (21) Insurance Company was in the pro-
cess of selling off (22) all of its businesses, did
you bring that to (23) anyone's attention at Fi-
delity Bankers?

(24) A. I'm not specifically certain that (25) it
was late '89. Sometime '89 or '90. When I

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(1) became aware that they were selling busi-
ness, yeah, (2) I told my superiors.

(3) Q. Who was it that you told?

(4) A. Heins Briegel.

(5) Q. Did you also tell Mr. Simon?

(6) A. I don't have any recall of telling (7)
Mr. Simon directly.

(8) Q. Did Mr. Briegel ever indicate to (9)
you that he had told Mr. Simon?

(10) A. I don't recall specifically him (11) say-
ing, "Mike, I told Eddie this." I don't recall (12)
that at all.

(13) Q. When you became aware of the (14)
Loyalty Life transaction, what was your im-
pression (15) with respect to - what was your
view with respect (16) to the significance of
that transaction to (17) Integrated Resources
Life Insurance Company's (18) business?

(19) A. I'm sorry. Could you say that (20)
again?

(21) Q. Okay. When you became aware of
the (22) Loyalty Life transaction, what was
your view with (23) respect to the significance
of that transaction to (24) Integrated's busi-
ness?

(25) A. My only recollection at this point

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(1) was I was concerned as to whether or not
that (2) transaction included the reinsurance

business.

- (3) Q. Why were you so concerned?
- (4) A. Well, I had a large interest in the (5) reinsured cases that we had with Integrated (6) Resources Life. I wanted to know what the (7) disposition of that business was. That's it.
- (8) Q. I take it you learned at some point (9) that the Loyalty Life transaction did not include (10) the reinsurance business that Fidelity Bankers had (11) with Integrated?
- (12) A. That's correct.
- (13) Q. At the point when you learned that (14) what was your view with respect to the significance (15) of the Loyalty Life transaction with respect to (16) Integrated's business?
- (17) MR. WOOD: Objection. Assumes he had a (18) view, which is not in evidence.
- (19) THE WITNESS: My view at that point in time (20) was a concern of what did this mean about the (21) reinsurance business to Fidelity Bankers Life. Who (22) was liable for the claims and that sort of thing.
- (23) BY MS. DRAIM:
- (24) Q. Why did you have that concern after (25) learning that the reinsurance business had not been

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- (1) transferred to Loyalty Life?
- (2) A. Because of a lack of information (3) about what was going on. And I wanted a comfort (4) level.
- (5) MS. DRAIM: This is another document (6) produced to us, 9020080208 through 80210.
- (7) *(Adams Exhibit 6 was marked for (8) Identification.)*
- (9) BY MS. DRAIM:
- (10) Q. Mr. Adams, I show you Adams (11) Exhibit 6. Can you identify this document?
- (12) A. Yes. This is a document that you (13) showed me yesterday, and I had, after my memory was (14) refreshed, I recall seeing this document before (15) Fidelity Bankers Life.
- (16) Q. In what context did you see it or (17) receive it?
- (18) A. A consultant for the Iowa Insurance (19) Department was requesting information about the (20) business that Fidelity has reinsured with (21) Integrated Resources Life.
- (22) Q. Was that consultant Bruce Nelson?
- (23) A. Yes.
- (24) Q. Did you have a conversation with (25) Mr. Nelson prior to getting Exhibit Number 6?

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- (1) A. I honestly don't recall exactly (2) when I had a conversation with him relative to this (3) document. Whether it was prior or after.

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- (4) Q. Did you have a conversation with (5) him at any point with respect to this document?
- (6) A. Well, certainly, after I received (7) it I had conversations with him.
- (8) Q. Was the first such conversation (9) close in time to the date of the document, which is (10) April 9, 1990? By that I mean, a couple of days (11) before or after?
- (12) A. Sure. I think so.
- (13) Q. At the time that you received this (14) document were you aware that Integrated Resources (15) was trying to sell their reinsurance business, (16) including the business under which Fidelity coded (17) claims to Integrated?
- (18) A. Yes. Because I recall that by some (19) point in 1990 I knew that they were - Integrated (20) Resources Life was trying to sell its various (21) businesses and selling all of their business. So, (22) when I got this, I knew they were selling their (23) business.
- (24) Q. Do you know whether Mr. Nelson had (25) any discussions with anyone else at Fidelity

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- (1) Bankers with respect to the topics that are set (2) forth in Adams Exhibit 6?
- (3) A. I recall that he had discussions (4) with someone besides myself, but I don't recall (5) when or whom.
- (6) Q. Getting back to Adams Exhibit (7) Number 6, Mr. Adams, when you got this document, (8) did you interpret it as - let me ask you this: (9) What was your understanding when you got this (10) document with respect to whether or not Integrated (11) Resources was actively soliciting buyers for its (12) reinsurance business?
- (13) A. My recollection is that by the time (14) I got this document they were actively seeking (15) buyers for their reinsurance business.
- (16) Q. Was anyone else at Fidelity Bankers (17) aware of that information?
- (18) A. At this point in time I believe or (19) shortly after the date of this memo I would have (20) told Heins Briegel, similarly because I would have (21) had to have his direction and guidance on what (22) information could be released to Bruce Nelson.
- (23) Q. What was the purpose of releasing (24) information to Mr. Nelson?
- (25) A. To allow Mr. Nelson to develop a

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- (1) valuation of the worth of the business.
- (2) Q. Was that to be a written valuation (3) or report?
- (4) A. I don't know how he was directed to (5) produce his report.

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(6) Q. You didn't have any understanding (7) as to what form that valuation was going to take?

(8) A. I don't recall what form the report (9) would take.

(10) MS. DRAIM: I have in front of me an (11) Integrated Resources produced document, INT 01498 (12) and 01499. I'd like to have it marked as Adams (13) Exhibit 7.

(14) *(Adams Exhibit 7 was marked for (15) Identification.)*

(16) BY MS. DRAIM:

(17) Q. In what form did you provide (18) Mr. Nelson with information concerning Fidelity (19) Bankers reinsurance business with Integrated? I (20) should say in what forms or forms did you provide (21) information to Mr. Nelson concerning Fidelity (22) Bankers reinsurance business with Integrated?

(23) A. Well, I recall providing him (24) summary information in written form, copies of (25) reports. I gave him verbal information clarifying

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(1) answers to questions that he had. I don't recall (2) whether I produced any computer disks or anything (3) like that for him. I don't recall that.

(4) Q. Let me show you Adams Exhibit 7. (5) Can you identify that document?

(6) A. It's a copy of a memo to Bruce (7) Nelson, FSA from Mike Adams. The date is 4-19-90. (8) The subject was his request for information on (9) Integrated Resources Life, dated 4-9-90.

(10) Q. Do you recall sending that document (11) to Mr. Nelson?

(12) A. Yes, I recall.

(13) Q. There's a reference in the second (14) paragraph of the document to a conversation between (15) Mr. Nelson and Mr. Briegel?

(16) A. Yes.

(17) Q. Do you know whether that (18) conversation occurred?

(19) A. Do I know whether it occurred? (20) Yes. I wouldn't have written that in there had it (21) not occurred.

(22) Q. How did you know that it occurred?

(23) A. Because I discussed his request of (24) April 9, 1990 - Bruce Nelson's request with (25) Mr. Briegel. And that's how I can confirm that

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(1) they had spoken.

(2) Q. Do you know the subject of the (3) conversation?

(4) A. No, I honestly don't. What I said (5) earlier was that I would have asked Mr. Briegel (6) what could be released, but I can't

tell you what (7) they discussed in any particular conversation.

(8) Q. But the general topic was obtaining (9) information concerning Fidelity Bankers reinsurance (10) business with Integrated for purposes of using it (11) in solicitation materials?

(12) MR. WOOD: Objection. He said he doesn't (13) know. So there's no foundation for answering (14) questions further on the subject.

(15) THE WITNESS: Yes.

(16) MS. DRAIM: Please mark this.

(17) *(Adams Exhibit 8 was marked for (18) Identification.)*

(19) BY MS. DRAIM:

(20) Q. Adams 8 is a document that (21) Integrated produced in this matter. Bates stamp (22) Integrated 01549 to 01596. Mr. Adams, I show you (23) Exhibit Number 8. Have you ever seen that document (24) before?

(25) A. I have no recollection of ever

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(1) seeing this document.

(2) Q. Do you recall whether at any point (3) during 1990 Mr. Nelson ever provided to you drafts (4) of any analyses or discussions that pertained to (5) Fidelity Bankers reinsurance business with (6) Integrated?

(7) A. I don't recall Mr. Nelson (8) presenting me with any drafts or associated (9) analyses. I do recall Mr. Nelson providing me with (10) some questions and information that he would have (11) questions about and I would answer that, receive (12) that information. But I wouldn't characterize it (13) as him sharing his analysis with me. That's not (14) the way I would characterize it.

(15) Q. If I could direct your attention to (16) the review and summary section of this document, (17) it's page 6 - it's titled, "Overview and Summary (18) of Results."

(19) MS. KINDALL: Do you want me to read the (20) whole thing?

(21) MS. DRAIM: No.

(22) BY MS. DRAIM:

(23) Q. If I could direct your attention to (24) the second paragraph on this page, particularly, (25) the paragraph starting with the sentence, "A

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(1) substantial portion of the administered business (2) was written on a facultative basis while the (3) self-administered business is automatic. Much of (4) the business is substandard. That whole (5) remaining part of that paragraph.

(6) Does the statement, "Much of the (7) business is substandard," is that an accurate (8)

statement with respect to Fidelity Bankers (9) reinsurance business with Integrated Resources?

(10) A. Yes.

(11) Q. At that point in time?

(12) A. Yes. That's an accurate statement.

(13) MS. DRAIM: What I would like to do if it (14) fits everybody's else's schedule is break at this (15) point and resume.

(16) MS. KINDALL: That's fine.

(17) *(Discussion held off the record.)*

(18) *(Luncheon recess taken at (19) 12:00 p.m.)*

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(1) AFTERNOON SESSION

(2) 1:00 O'CLOCK P.M.

(4) *(The last few questions and answers (5) were read by the Court Reporter.)*

(6) MICHAEL M. ADAMS, (7) resumed the witness stand and testified (8) further on his oath as follows:

(9) BY MS. DRAIM:

(10) Q. Mr. Adams, does the phrase, (11) "substandard" have commonly understood meaning in (12) the insurance industry when used in the context as (13) it's used in this Exhibit Number 8?

(14) A. Yes.

(15) Q. What is that?

(16) A. It means business that has table (17) ratings applied to it for extra mortality.

(18) Q. Can you explain that in laymen's (19) terms?

(20) A. I'm sorry. It would be a case that (21) was not appraised by an underwriter as being (22) standard risk, and that is just a function of the (23) mortality tables the industry uses to appraise its (24) risks.

(25) So, if you describe a case as being

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(1) substandard and it doesn't meet certain parameters (2) to be a standard or what you might expect to be a (3) clean case, there's some risk associated with it.

(4) Q. In that circumstance, in the (5) circumstance of a substandard risk or substandard (6) business, does the phrase, "substandard" indicate (7) that the underwriting risk on that business is (8) greater than would be on the business that's not (9) substandard?

(10) A. Yes.

(11) Q. And that was the case with the (12) reinsurance business that Fidelity had with (13) Integrated Resources?

(14) A. A great deal of it; if that's what (15) you mean. What do you mean? Do you mean all the (16) business?

(17) MS. KINDALL: If you don't understand the (18) question, just ask her to repeat it.

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(19) Do you understand the question?

(20) THE WITNESS: Would you repeat the (21) question, please?

(22) BY MS. DRAIM:

(23) Q. What I'll do is because - I'll (24) rephrase it because you indicated what's ambiguous.

(25) Was all or part of the business of

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(1) Fidelity Bankers ceded to Integrated Resources (2) substandard?

(3) A. Part of the business was (4) substandard.

(5) Q. Which part?

(6) A. A great portion of it.

(7) Q. Are you able to characterize that portion in any way that would help to identify?

(9) A. I can't quantify it without (10) referring to specific reports, but my recollection (11) is that since Fidelity wrote a great deal of (12) substandard business and we reinsured it with (13) everyone and since Integrated Resources was a (14) member of a particular agreement, that along with (15) two other companies had a goodly amount of risk in (16) it. Yes, they got a portion of substandard risk. (17) I can't quantify it in terms of greater than 50 (18) percent or less than 50 percent. I'd have to have (19) reports.

(20) Q. Would any of the exhibits that I've (21) shown you so far help you to quantify it?

(22) A. Not really.

(23) *(Pause in proceedings.)*

(24) BY MS. DRAIM:

(25) Q. Mr. Adams, was Integrated Resources

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(1) Life Insurance Company losing money on the (2) reinsurance business that it did with Fidelity (3) Bankers in 1990?

(4) MR. WOOD: Objection. Lack of foundation.

(5) THE WITNESS: I don't recall the specifics (6) for that company at that time.

(7) MS. DRAIM: I have a document produced to (8) us by Fidelity. It's marked 9020080219 to 220. I (9) would like to have it marked as Adams Exhibit 9.

(10) *(Adams Exhibit 9 was marked for (11) identification.)*

(12) BY MS. DRAIM:

(13) Q. Mr. Adams, I show you Adams Exhibit (14) Number 9. Have you ever seen that document before?

(15) A. I don't recall ever seeing this.

(16) Q. I notice that the document appears (17) to be written on behalf of a First Colony Life (18) Insurance Company. Is that com-

pany familiar to you (19) in any respect?

(20) A. Yes. It's a Virginia Life (21) Insurance Company and it was a competitor of ours.

(22) Q. To your knowledge, did they also (23) seek claims to Integrated Resources?

(24) A. I really didn't have any idea who (25) they ceded business to. I don't recall.

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(1) Q. If I could direct your attention to (2) the first two sentences of the fourth paragraph of (3) this letter. I'll read them and I'll give the (4) letter back to you.

(5) Integrated Resources Life acquired (6) its large block of facultative reinsurance by (7) underwriting risks we would not take. Our (8) information indicates that Integrated Resources (9) Life Insurance Company and its reinsurers have been (10) losing money on the subject facultative (11) reinsurance."

(12) Do those two statements accurately (13) characterize Fidelity Bankers' reinsurance business (14) with Integrated Resources?

(15) MR. WOOD: Objection. Lack of foundation (16) for any other question concerning the document (17) since he already testified he's never seen it. (18) Further objection, asked and answered about the (19) losing nature of the business.

(20) MS. DRAIM: He can testify whether two (21) statements in any document also apply to Fidelity (22) Bankers and its business with Integrated. He (23) doesn't have to have seen the document before.

(24) MR. WOOD: I made my objections.

(25) THE WITNESS: Would you repeat your

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(1) question? I got distracted reading it.

(2) MS. KINDALL: I was going to ask it be (3) reread.

(4) BY MS. DRAIM:

(5) Q. Do the first two sentences of the (6) fourth paragraph of this letter accurately describe (7) Fidelity Bankers' reinsurance business with (8) Integrated?

(9) MR. WOOD: Same objection. Further (10) objection that the question is misleading inasmuch (11) as the two statements referenced do not, by their (12) own terms, mention Fidelity Bankers in any way, (13) shape, form or fashion.

(14) MS. DRAIM: I'll rephrase the question.

(15) BY MS. DRAIM:

(16) Q. Do the first two sentences of the (17) fourth paragraph of this letter also describe (18) Fidelity Bankers' reinsurance business with (19) Integrated?

(20) MR. WOOD: Same objections.

(21) THE WITNESS: I can't use those two

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(22) sentences to characterize the business for the (23) reason that I don't recall what the makeup of the (24) business was and I do not recall at this point in (25) time what the experience of the business with

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(1) Integrated Resources may have been.

(2) BY MS. DRAIM:

(3) Q. So, and let me ask you this also: (4) Does this document in any way refresh your (5) recollection as to whether in 1990 Integrated (6) Resources was losing money on its reinsurance (7) business with Fidelity Bankers?

(8) A. I honestly - I really don't know (9) at that point in time, and this document does not (10) refresh my recollection as to what the status of (11) their exposure was.

(12) Q. You've testified that during 1990 (13) you became aware that Integrated Resources was (14) trying to sell its reinsurance business, including (15) that business with Fidelity Bankers: is that (16) correct?

(17) A. Correct.

(18) Q. Did you have a view at that time as (19) to whether it would be difficult for Integrated (20) Resources to sell that business?

(21) MR. WOOD: Objection. Vague and ambiguous, (22) assumes facts not in evidence.

(23) THE WITNESS: My personal opinion at that (24) time was that there would be a limited number of (25) companies that might be interested in the business.

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(1) BY MS. DRAIM:

(2) Q. What was the basis for that (3) opinion?

(4) A. There are a limited number of (5) companies at that time that engaged in underwriting (6) either directly or from a reinsurance standpoint, (7) substandard life insurance cases.

(8) Q. At the time that you held that (9) opinion, did you have in your mind what the (10) universe of that of those companies was?

(11) A. Not quantified.

(12) Q. Did you know which were the (13) companies that would underwrite substandard (14) business?

(15) A. I knew those with whom we dealt and (16) our competitors, but no others.

(17) Q. In your view, how many such (18) companies were there?

(19) MR. WOOD: Counsel, do you mean how many (20) was he aware of as opposed to how many might have (21) been in existence which he was unaware?

(22) MS. DRAIM: I'm asking in his view how many (23) companies were there that would

underwrite (24) substandard risks.

(25) MS. KINDALL: Point of clarification. In

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(1) terms of his last answer that he was aware of (2) people he wrote with and his competitors wrote (3) with?

(4) MS. DRAIM: Yes.

(5) THE WITNESS: I don't recall having a (6) particular group of companies in mind at that time. (7) I can tell you that at that time there were (8) probably no more, in my opinion, three or four (9) direct writers that competed with us.

(10) So, they or their reinsurers, whom I knew (11) not, and our reinsurers, whom I knew, and that (12) would be about three or four companies that we were (13) dealing with at that point in time as reinsurers (14) that handled that kind of business, our business, (15) substandard business.

(16) BY MS. DRAIM:

(17) Q. So, when you said there was a (18) limited number of such reinsurers, you were (19) referring to three or four such companies?

(20) A. No.

(21) MR. WOOD: It mischaracterizes his (22) testimony.

(23) THE WITNESS: No. When I say there's a (24) limited number, I'm referring to the fact that out (25) of the universe of those companies that engage in.

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(1) that business, there are only going to be so many (2) that are interested enough in that business to look (3) at somebody else's risk-taking. And I can't (4) quantify how many that is, but it's an intuitive (5) thing.

(6) BY MS. DRAIM:

(7) Q. Would it be less than three or four (8) companies?

(9) A. I didn't have any idea at that (10) point in time.

(11) *(Pause in the proceedings.)*

(12) BY MS. DRAIM:

(13) Q. At any point in 1990 did you (14) discuss your views concerning whether it would be (15) difficult for Integrated to sell its reinsurance (16) business with Mr. Briegel?

(17) A. I recall discussing all the issues (18) surrounding the reinsurance business we had with (19) Integrated and how it would be handled; whether it (20) would be disposed of. So, yes, that would be part (21) of the discussion.

(22) Q. What was Mr. Briegel's view on (23) whether it would be difficult for Integrated (24) Resources to sell its reinsurance business?

(25) MR. WOOD: Objection. Assumes facts

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not in

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(1) evidence.

(2) THE WITNESS: I don't recall specifics, but (3) I think the general tone, I recall, is that we both (4) felt that it was going to be tough to sell that (5) business.

(6) BY MS. DRAIM:

(7) Q. Mr. Adams, did there come a point (8) during 1990 when Fidelity Bankers sold part of its (9) business to Protective Life Insurance?

(10) A. I don't recall exactly when the (11) transaction took place. I would have to refresh (12) myself on that. I recall we were looking at (13) potential blocks of business that we could sell and (14) we were in discussions with companies and (15) ultimately with Protective Life, and if you'll give (16) me a minute to think -

(17) Q. Sure. Take as long as you need.

(18) *(Pause in the proceedings.)*

(19) THE WITNESS: Okay. My recollection is we (20) negotiated a co-insurance treaty which was to (21) convert to an assumption agreement with Protective (22) Life that was to be concluded - the co-insurance (23) portion was to be concluded. I recall, at the end (24) of 1990. And the assumption at a future date.

(25) I don't recall that date, because it seems

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(1) to me there were some contingencies about when it (2) would be concluded.

(3) BY MS. DRAIM:

(4) Q. Do you recall what the (5) contingencies were?

(6) A. I think they had to do with being (7) able to meet deadlines for accomplishing certain (8) tasks, but I don't recall anything other than that.

(9) Q. I believe you just mentioned that (10) you recall discussion with respect to Fidelity (11) Bankers looking at selling various blocks of its (12) business?

(13) A. Uh-hum.

(14) MS. KINDALL: You need to say yes or no.

(15) THE WITNESS: I'm sorry, yes.

(16) BY MS. DRAIM:

(17) Q. What prompted those discussions, so (18) far as you know?

(19) A. My recollection is that we were (20) writing an awful lot of business and our owners (21) wanted to streamline the type of business they were (22) writing, and the amount of business that we were (23) writing was using up a lot of capital. So, we (24) wanted to improve our financial position so we (25) could

write more business.

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(1) Q. When you refer to owners, whom or
(2) what are you referring to?

(3) A. First Capital Holding Corporation.

(4) Q. Was there any other reason that (5)
Fidelity Bankers wanted to free up some of its
(6) surplus?

(7) A. I don't have any recollection of (8) any
other reason.

(9) Q. At the time that these discussions (10)
with respect to selling off blocks of Fidelity
(11) Bankers were taking place, did Fidelity
Bankers (12) have a note on which it owed
funds to First (13) Capital?

(14) A. I don't recollect the nature of the (15)
debt of any note to First Capital or anybody
else (16) offhand. I don't recall. That wasn't
part of my (17) daily routine. So, I just don't
recall anything (18) about that.

(19) Q. You said that you don't recall the (20)
nature of the debt. Was there a debt owed
from (21) Fidelity Bankers to First Capital at
that time?

(22) A. I honestly don't recall at that (23) time
if there was or not. I mean, I recall a note (24)
in our balance sheet, but I couldn't character-
ize (25) it for you. I really don't recall anything
about

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(1) it.

(2) Q. Do you recall that Fidelity (3)
Bankers' payments on that note were condi-
tioned (4) upon its having a certain minimum
amount of (5) surplus?

(6) A. I can't say about that note if by (7) that
note you're referring to the note that I just (8)
said I didn't recall any details about.

(9) Q. Do you recall that Fidelity (10)
Bankers' payments on any debt that it owed
to First (11) Capital were conditioned upon it
having a minimum (12) amount of surplus?

(13) MR. WOOD: Objection. At this point
(14) there's a lack of foundation for any fur-
ther (15) testimony by Mr. Adams on this
point is well (16) established.

(17) THE WITNESS: I really don't recall the
(18) nature of those arrangements. I can't
characterize (19) that particular transaction for
you. I really (20) don't recall the details of it.

(21) BY MS. DRAIM:

(22) Q. Getting back to the assumption of
(23) certain portions of Fidelity Bankers' busi-
ness by (24) Protective Life, was North Ameri-
can Reassurance (25) company involved in any
respect in that

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(1) transaction?

(2) A. North American Re became involved

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(3) in the transaction at the last minute at the
(4) request of Fidelity Bankers.

(5) Q. Can you describe for me, more (6)
fully, just how that happened to occur?

(7) A. The block of business which was (8)
going to be sold to Protective Life, Fidelity (9)
assured them of the mortality experience on
that (10) and agreed that we would pay the
Protective Life (11) company if the mortality
experience was excessive (12) of some param-
eters that they established. I don't (13) re-
member the details on that.

(14) Just before we concluded the (15) trans-
action, at the last minute Protective de-
manded (16) that we have a professional rein-
surer come between (17) Fidelity and Protec-
tive to guarantee that that (18) reinsurer
would pay those excess losses should they (19)
occur.

(20) So, wanting to conclude the deal, (21) we
tried to think of who best we could call upon
to (22) help us out in that circumstance. Ulti-
mately, we (23) found North American Re
would help us out, and (24) that's how they
became involved.

(25) Q. When you say, "We were thinking
who

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(1) we could call upon" -

(2) A. "We," Fidelity. My boss, Heins (3)
Briegel and I, put our heads together very
quickly (4) and tried to assess who would be
most likely and (5) willing to help us out.

(6) Q. How did you come up with North (7)
American Re as being that candidate?

(8) A. Well, they were not the only (9) candi-
date that we thought of. But the reason they
(10) were a candidate was that we had a long-
term, (11) favorable and large relationship
with them.

(12) Q. So, you and Mr. Briegel felt (13) com-
fortable with them coming in and assuming
the (14) role that you described to me?

(15) A. Yes.

(16) Q. Now, was there a contract through
(17) which North American Re assumed this
role that you (18) just described to me?

(19) A. Yes, there was.

(20) Q. How would you characterize that (21)
contract?

(22) MR. WOOD: Objection, vague and am-
biguous.

(23) THE WITNESS: Simply a stop loss
agreement (24) between Protective and North
American Re.

(25) BY MS. DRAIM:

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(1) Q. Did you have any involvement with
(2) respect to the drafting of that contract?

- (3) A. Some involvement, yes.
 (4) Q. What was that involvement?
 (5) A. North American Re presented the (6) extract for our review and we had to review the (7) terms of it to make sure that it was doing what the (8) parties wanted to have occur. So, that was the (9) extent of my involvement.
 (10) Q. Do you recall that there were two (11) stop loss contracts?
 (12) A. Yes, I do.
 (13) Q. How did they work? What was the (14) effect of those two contracts?
 (15) A. One contract -
 (16) MR. WOOD: Excuse me. Vague and ambiguous (17) and compound. Excuse me.
 (18) THE WITNESS: That's all right. I gotta (19) stop listening to what you say.
 (20) MS. DRAIM: I'll concur with that.
 (21) *(The last few questions and answers (22) were read by the Court Reporter.)*
 (23) MS. DRAIM: Why don't I limit it to just (24) one question.
 (25) BY MS. DRAIM:

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- (1) Q. How did they work?
 (2) MR. WOOD: Vague and ambiguous.
 (3) THE WITNESS: There were two contracts that (4) were put in place at the same time. The one I (5) described earlier between Protective Life and North (6) American Re was North American Re reinsuring (7) Protective Life for excess loss on a block of (8) business they were buying from Fidelity.
 (9) The companion contract was an agreement (10) between North American Re and Fidelity Bankers Life (11) whereby Fidelity Bankers reinsured North American (12) Re for the same loss.
 (13) BY MS. DRAIM:
 (14) Q. So, is it accurate to say that the (15) intended effect of those two contracts was that the (16) excess mortality losses would pass from Protective (17) through North American Re back to Fidelity Bankers?
 (18) A. That would be accurate.
 (19) MS. DRAIM: Would you mark this as 10?
 (20) *(Adams Exhibit 10 was marked for (21) Identification.)*
 (22) BY MS. DRAIM:
 (23) Q. Mr. Adams, I show you Exhibit 10.
 (24) Can you identify that document?
 (25) A. It's a letter, dated January 4,

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- (1) 1991 to Mr. James E. Hackett at North American (2) Reassurance Company from me, Mike Adams, at (3) Fidelity. Is that enough description?

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- (4) Q. Did you draft this letter?
 (5) A. Yes.
 (6) Q. And send it?
 (7) A. Yes.
 (8) Q. Does it accurately characterize (9) your view with respect to North American Re (10) entering into the role that it entered into with (11) respect to the Protective assumption of Fidelity (12) Bankers' position?
 (13) A. Yes.
 (14) Q. Does it accurately set forth (15) Fidelity Bankers' view with respect to North (16) American Re doing that?
 (17) A. Yes.
 (18) Q. Now, I believe you mentioned this (19) morning, Mr. Adams, that you from time to time (20) spoke with Mr. Klein about developments with (21) respect to the financial condition of Integrated (22) Life Insurance Company and that at some point you (23) began probing him for information in that regard?
 (24) MR. WOOD: Objection to the (25) characterization of his prior testimony. It speaks

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- (1) for itself.
 (2) MS. DRAIM: Let me rephrase it.
 (3) MR. WOOD: Any way you rephrase it I'll (4) object because he said what he said.
 (5) MS. DRAIM: Fine.
 (6) BY MS. DRAIM:
 (7) Q. At some point, without talking (8) about your testimony this morning, at some point, (9) Mr. Adams, did you begin to actively solicit (10) information from Mr. Klein with respect to (11) developments at Integrated Resources Life Insurance (12) Company?
 (13) A. Yes, I did.
 (14) Q. Can you tell me when that occurred?
 (15) A. It occurred in my recollection once (16) I knew or had discerned that they were selling off (17) all their business and that they were having (18) difficulty selling the reinsurance, and I became (19) concerned about their status.
 (20) Q. When would that have been?
 (21) A. Certainly at some point in 1990.
 (22) Q. Do you recall discussing with (23) Mr. Klein whether any companies had expressed an (24) interest in the reinsurance business?
 (25) A. Yes, I do recall that.

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- (1) Q. When was that?
 (2) A. It would have been during various (3) conversations. I don't recall specific dates.
 (4) Q. Was it in 1990?
 (5) A. I recall in 1990 that I would have (6) asked that, yes.
 (7) Q. Do you recall how he responded?
 (8) A. There were people poking around.

(9) Q. Did he identify any of those (10) people?

(11) A. Ultimately he did, yes. (12) Ultimately, he identified that he thought North (13) American Re was poking around.

(14) Q. Do you recall when he identified (15) North American Re?

(16) A. No, I don't recall a specific date.

(17) Q. Was it in 1990?

(18) A. I really don't recall if it was in (19) 1990 or not.

(20) Q. Is there any document that would (21) refresh your recollection on when Mr. Klein first (22) identified North American Re?

(23) A. There may be. I can't name one (24) right offhand. There was one you showed me (25) yesterday at the meeting, but I don't know that

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(1) that was 1990.

(2) MS. DRAIM: May I have this document marked (3) Exhibit 11?

(4) *(Adams Exhibit 11 was marked for (5) identification.)*

(6) BY MS. DRAIM:

(7) Q. Before I show you this document let (8) me ask you apart from the stop loss treaty, did (9) North American Re also have a direct reinsurance (10) relationship with Fidelity Bankers under which (11) North American Re was Fidelity Bankers reinsurer (12) during 1990 and 1991?

(13) A. Yes.

(14) Q. In the context of that relationship (15) would people from North American Re make periodic (16) visits to Fidelity Bankers?

(17) A. Certainly.

(18) Q. Can you identify those people from (19) North American Re who would do that?

(20) A. Well, Bill Reifenberger was the (21) account executive and over the years different (22) people from North American Re visited. Bob (23) Persichetti is one. I don't remember who else.

(24) Q. Would those people meet with you, (25) among others, at Fidelity Bankers?

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(1) A. On occasion, yes. --

(2) Q. Do you recall a visit from people (3) from North American Re to Fidelity Bankers in (4) mid-1991?

(5) A. I recall a visit and that sounds (6) about right; 1991, mid.

(7) Q. Do you recall who from North (8) American Re visited?

(9) A. I don't recall whether it was Bill (10) Reifenberger and/or other people or somebody else. (11) I don't remember.

(12) Q. Did you meet with the North (13)

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American Re people during that visit?

(14) A. Yes.

(15) Q. What was the purpose of that visit?

(16) A. It was a reinsurance visit. I (17) don't recall the details why they were coming to (18) visit or if there was anything particularly (19) specific about it. Reinsurers visit all the time.

(20) Q. Did Integrated's efforts to sell (21) its reinsurance business come up in any of your (22) discussions with people from North American Re (23) during that visit?

(24) A. I recall discussing it with them. (25) I'm not recalling the exact details of the

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(1) conversation.

(2) Q. Let me show you Adams Exhibit (3) Number 11. I'd like to ask you, first of all, does (4) this document refresh your recollection with (5) respect to who from North American Re visited at (6) Fidelity Bankers during this visit in mid-1991 that (7) you just testified about?

(8) A. Yes.

(9) Q. Can you identify who it was?

(10) A. Yes. Bob Persichetti and a fellow (11) by the name of McNamara.

(12) Q. Who is Bob Persichetti?

(13) A. My recollection is he was one of (14) the administrators or managers that looked over (15) administrative operations and reinsurance, what the (16) various clients were doing. And that sort of (17) thing. He was not an account rep per se like Bill (18) Reifenberger.

(19) Q. Who is Mr. McNamara?

(20) A. I honestly don't recall.

(21) Q. Was he a subordinate of (22) Mr. Persichetti's?

(23) A. I don't recall whether he was a (24) subordinate or a superior; to tell you the truth.

(25) Q. I take it this visit - does this

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(1) document also refresh your recollection as to the (2) date on which North American Re visited with (3) Fidelity Bankers?

(4) A. Yes, it does.

(5) Q. Did the visit occur after Fidelity (6) Bankers went into receivership?

(7) A. Yes, it did.

(8) Q. Does this document refresh your (9) recollection as to what was discussed with respect (10) to Integrated's attempts to sell its reinsurance (11) business?

(12) A. Yes, it does refresh my (13) recollection.

(14) Q. What was discussed?

(15) A. We discussed what was going on with (16) Integrated and, basically, I told them

what I had (17) heard and that's when they confirmed to me, as I (18) recall, that they were very interested in the (19) business.

(20) Q. When you say, "They," do you mean (21) the people from North American Re?

(22) A. North American Re, yes.

(23) Q. Had you been told prior to this (24) visit by Ken Klein of Integrated that North (25) American Re had bid on the Integrated reinsurance

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(1) business?

(2) A. Yes, I had been told by Ken Klein.

(3) Q. Prior to this visit had you relayed (4) the information you received from Ken Klein (5) concerning North American Re's bid to anyone at (6) Fidelity Bankers?

(7) A. Yes. I recall telling, I believe, (8) Tom Nuckols at that point that North American Re (9) was actively pursuing the business.

(10) Q. Did Mr. Nuckols react at all to (11) your telling him that information?

(12) A. Yeah. He wanted to know if I (13) thought that was good; is my recollection. Good (14) for Fidelity.

(15) Q. How did you respond to him?

(16) A. I responded that it was good for (17) Fidelity.

(18) Q. At that time were you aware of any (19) others within Fidelity that shared your view, that (20) it would be good to have a reinsurance relationship (21) with North American Re?

(22) MR. WOOD: Objection. Mischaracterizes his (23) testimony. That's not what he said.

(24) THE WITNESS: I don't recall how others (25) felt particularly about it. My only recollection

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(1) is it was good news that there might be an ongoing (2) company taking over the liability as opposed to (3) having it sitting at Integrated with a certain (4) future.

(5) MR. WOOD: Object to the nonresponsiveness (6) of most of the answer and move to strike.

(7) BY MS. DRAIM:

(8) Q. At this time that you had this (9) conversation with Mr. Nuckols, in your view, was (10) North American Re a financially stable, ongoing (11) company?

(12) A. Yes.

(13) Q. During the mid-1991 visit from (14) North American Re that you've been testifying (15) about, did you discuss at all with the team from (16) North American Re doing additional reinsurance (17) business with North American Re?

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(18) A. I recall discussing that; the topic (19) of whether or not we were doing additional business (20) in receivership and the fact that we were right in (21) the middle of a product that they were helping us (22) with, and that we wanted to reinsure if we were (23) permitted to go forward with it.

(24) Q. Did you want to reinsure that (25) product with North American Re?

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(1) A. They were the ones that helped us (2) develop it, so that's who we would have reinsured (3) it with.

(4) Q. Was the product, single premium (5) joint life product, that's referred to in Adams 11?

(6) A. Yes.

(7) Q. Did you instruct the people from (8) North American Re to go ahead and prepare a treaty (9) for the reinsurance of this product?

(10) A. I talked to them about preparing a (11) treaty. I don't know if I would characterize it as (12) instructing them. I recall telling them I wanted (13) to see a treaty.

(14) Q. So, maybe it would be more accurate (15) to say that you requested that they prepare a (16) treaty?

(17) A. Yes.

(18) Q. So, you did make that request?

(19) A. Yes.

(20) Q. If I could direct your attention to (21) the second page of Exhibit Number 11 and the first (22) full paragraph on that page. The first sentence of (23) that paragraph states, "We told Mike we'd keep in (24) touch as matters develop with the Virginia (25) department."

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(1) Do you have any awareness as to (2) what that's referring to?

(3) A. Well, we had just been placed in (4) receivership, and what happens, typically, in a (5) situation like that is matters get delayed while (6) they're being reviewed and that sort of thing. So, (7) some of our billing statements going out were (8) somewhat delayed, and they were just concerned (9) about what was going on.

(10) Q. These were billing statements with (11) respect to Fidelity Bankers direct reinsurance with (12) North American Re?

(13) A. Yes.

(14) Q. The last sentence of this paragraph (15) states, "Our overall administrative rapport with (16) Mike and the staff is good."

(17) In your view, is that an accurate (18) statement?

(19) A. Yes.

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(20) Q. Did your functions as director of (21) reinsurance at Fidelity Bankers change in any (22) respect as a result of Fidelity Bankers going into (23) receivership?

(24) A. Would you tell me what you mean by (25) functions?

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(1) Q. Your day-to-day responsibilities?

(2) A. Yes. They have changed to the (3) extent that I had to make sure what I was doing was (4) in accordance with the guidelines of the (5) receivership and in conformance with the wishes of (6) the receiver team that was on site.

(7) Q. Who were the members of that team?

(8) MR. WOOD: Objection. Not clear as to (9) time.

(10) THE WITNESS: My recollection is those (11) persons employed and directed to that function by (12) the law firm of Rubenstein & Perry, which (13) represented the deputy receiver, the commissioner (14) and some outside consultants that had been engaged (15) by Rubenstein & Perry to carry out the receivership (16) accounting functions. I can't name them all.

(17) BY MS. DRAIM:

(18) Q. Once the receivership commenced, (19) did you report to someone - whom did you report to (20) once the receivership commenced?

(21) A. Well, it depended on what the topic (22) was. Once procedures were established relative to (23) what activities we could carry out in the routine (24) administration of reinsurance, then I reported to (25) whichever member of the receiver team had been

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(1) assigned to monitor that function.

(2) By way of example, in the sending (3) out of billing statements and requesting checks to (4) be sent out, the members of the accounting group (5) that were hired would have to approve those (6) payments. So, I had to go through them. That was (7) a procedure that was established.

(8) If it had to do with questions (9) about giving information to outsiders, then I had (10) to check with the appropriate members of the (11) receiver team, legal staff.

(12) Q. To whom would you report in (13) connection with your administering Fidelity Bankers (14) - to whom did you report in connection with your (15) administering Fidelity Bankers reinsurance business (16) with Integrated Resources once the receivership had (17) commenced?

(18) A. Those function areas that I just (19)

described. If it was billing, it would be the (20) accounting people. If it was some other legal (21) issue, it would be members of the receiver team (22) that were monitoring those issues.

(23) Q. What - with respect to (24) Integrated's attempts to sell the reinsurance (25) business, to whom would you report on that?

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(1) MR. WOOD: Objection. Assumes facts not in (2) evidence.

(3) THE WITNESS: Well, I certainly still (4) maintain my communication with Tom Nuckols and my (5) other peers. And I don't recall, as that (6) transaction progressed what discussions I had with (7) the receiver team about it. I don't recall (8) specifically at this point.

(9) BY MS. DRAIM:

(10) Q. Do you know who was the deputy (11) receiver of Fidelity Bankers once it went into (12) receivership?

(13) A. The deputy receiver was the (14) commissioner of insurance.

(15) Q. Who was that?

(16) A. Steven Foster.

(17) Q. Was there an individual that (18) carried out the functions of a receiver on the (19) day-to-day basis?

(20) A. The special deputy receiver, (21) Mr. Cantilo.

(22) Q. Did you report to Mr. Cantilo with (23) respect to Integrated's attempts to sell the (24) reinsurance business once the receivership (25) commenced?

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(1) A. No. I did not have day-to-day (2) contact with Mr. Cantilo.

(3) Q. Did you report to him on a periodic (4) basis with respect to that matter?

(5) A. Not to Mr. Cantilo.

(6) Q. Was there someone else you reported (7) to on a periodic basis apart from Mr. Nuckols?

(8) A. With respect to reinsurance (9) matters, it would have been Mark Bennett who was in (10) charge of operations and members of the receiver (11) team who were monitoring certain aspects of the (12) business.

(13) Q. Was Mr. Bennett an assistant to (14) Special Deputy Receiver Cantilo?

(15) A. I don't recall his exact title. He (16) was in charge of the operations of the company was (17) my recollection.

(18) Q. Was he a member of the same law (19) firm as Mr. Cantilo?

(20) A. Yes.

(21) Q. So, he was part of what you have (22) referred to as the receivership team?

(23) A. Yes.

(24) Q. Did you report to Mr. Bennett that (25) North American Re had made a bid for the

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(1) reinsurance business of Integrated?
 (2) A. I don't recall that I specifically (3) reported. What do you mean by "reported"?
 (4) Q. Did you mention it to him; discuss (5) it with him?
 (6) A. Yes. At some point in time I (7) discussed it with him.
 (8) Q. Do you recall how it came up?
 (9) A. No. I don't have a recollection as (10) to specifically how that came up.
 (11) Q. Let me ask you this: Would you (12) meet periodically with what you referred to as the (13) receivership team to discuss a whole range of (14) developments with respect to Fidelity Bankers (15) reinsurance business?
 (16) A. As I was requested to.
 (17) Q. Was that set up as a formal sort of (18) periodic meeting schedule?
 (19) A. No.
 (20) Q. They would call you and request (21) meetings if they wanted specific information from (22) you?
 (23) A. Yes.
 (24) Q. Do you recollect being called by (25) Mr. Bennett to meet on the issue of Integrated's

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(1) sale of its reinsurance business at some point?
 (2) A. I don't recollect whether I was (3) called in to specifically discuss that issue. I (4) don't recall that.
 (5) Q. But you do recall discussing North (6) American Re had bid on there an individual that (7) carried out the functions of a receiver on the (8) day-to-day basis?
 (9) A. The special deputy receiver, (10) Mr. Cantillo.
 (11) Q. Did you report to Mr. Cantillo with (12) respect to Integrated's attempts to sell the (13) reinsurance business once the receivership (14) commenced?
 (15) A. No. I did not have day-to-day (16) contact with Mr. Cantillo.
 (17) Q. Did you report to him on a periodic (18) basis with respect to that matter?
 (19) A. Not to Mr. Cantillo.
 (20) Q. Was there someone else you reported (21) to on a periodic basis apart from Mr. Nuckols?
 (22) A. With respect to reinsurance (23) matters, it would have been Mark Bennett who was in (24) charge of operations and members of the receiver (25) team who were monitoring certain aspects of the

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(1) business.
 (2) Q. Was Mr. Bennett an assistant to (3) Special Deputy Receiver Cantillo?
 (4) A. I don't recall his exact title. He (5) was in charge of the operations of the company was (6) my recollection.
 (7) Q. Was he a member of the same law (8) firm as Mr. Cantillo?
 (9) A. Yes.
 (10) Q. So, he was part of what you have (11) referred to as the receivership team?
 (12) A. Yes.
 (13) Q. Did you report to Mr. Bennett that (14) North American Re had made a bid for the (15) reinsurance business of Integrated?
 (16) A. I don't recall that I specifically (17) reported. What do you mean by "reported"?
 (18) Q. Did you mention it to him; discuss (19) it with him?
 (20) A. Yes. At some point in time I (21) discussed it with him.
 (22) Q. Do you recall how it came up?
 (23) A. No. I don't have a recollection as (24) to specifically how that came up.
 (25) Q. Let me ask you this: Would you

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(1) meet periodically with what you referred to as the (2) receivership team to discuss a whole range of (3) developments with respect to Fidelity Bankers (4) reinsurance business?
 (5) A. As I was requested to.
 (6) Q. Was that set up as a formal sort of (7) periodic meeting schedule?
 (8) A. No.
 (9) Q. They would call you and request (10) meetings if they wanted specific information from (11) you?
 (12) A. Yes.
 (13) Q. Do you recollect being called by (14) Mr. Bennett to meet on the issue of Integrated's (15) sale of its reinsurance business at some point?
 (16) A. I don't recollect whether I was (17) called in to specifically discuss that issue. I (18) don't recall that.
 (19) Q. But you do recall discussing North (20) American Re had bid on the business with (21) Mr. Bennett?
 (22) A. At some point, yes.
 (23) Q. Did that discussion take place (24) prior to North American Re's acquisition of the (25) business?

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(1) A. I don't recollect at what point in (2) time that I discussed it with Mr. Bennett relative (3) to what point in time that I thought that North (4) American Re had acquired the business.

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(5) Q. Do you recall whether this (6) discussion with Mr. Bennett occurred at about the (7) time that the meeting that is summarized in Adams (8) Exhibit 11 occurred?

(9) MR. WOOD: Objection. Asked and answered, (10) lack of foundation. He's already testified he (11) didn't know when it happened.

(12) THE WITNESS: I can't characterize the time (13) frame. I can't recollect when it would have (14) occurred.

(15) BY MS. DRAIM:

(16) Q. At the time that you discussed the (17) North American Re bid with Mr. Bennett, did he (18) appear to have any knowledge on that issue apart (19) from what you were telling him?

(20) MR. WOOD: Well, objection. At this point (21) I have a number of objections. Number one, that (22) calls for speculation. Asking about appearances.

(23) I also am very concerned about this line of (24) questioning because it would be the position of the (25) deputy receiver that any kind of discussions

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(1) whatsoever between the receivership staff and, more (2) particularly, of the attorneys on the receivership (3) staff and Mr. Adams subsequent to the date of (4) receivership are absolutely privileged on the basis (5) of attorney/client and confidentiality privileges.

(6) And I would assert those privileges at this (7) time and implore the witness not to reveal the (8) contents of discussions that he had between (9) attorneys - between himself and attorneys (10) representing the deputy receiver.

(11) MS. DRAIM: Let me say in response to that (12) that there is no blanket privilege that applies to (13) all of Mr. Adams' discussions with members of the (14) receiver's staff. The receiver essentially came in (15) and took over the management of Fidelity Bankers.

(16) And to the extent that he was assisted in (17) managing the company in receivership by various (18) individuals from Rubenstein & Perry, those (19) individuals may, in fact, have had business-related (20) discussions with Mr. Adams, the same way as any (21) other member of Fidelity Bankers' management would (22) have business-related discussion with Mr. Adams.

(23) It seems to me if the attorney/client (24) privilege is applicable at all in this context, (25) it's limited as it is in every other context to

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(1) communications that are rendered for the purpose of (2) giving or seeking legal advice.

And we haven't had (3) any indication that the type of communications that (4) Mr. Adams is testifying about were related to that (5) purpose.

(6) MS. KINDALL: I would ask the parties, (7) before we get into more of this, whether or not (8) this issue has arisen before and how you have dealt (9) with it in other depositions. (10) Clearly, from our perspective, to the (11) extent there is any attorney/client privilege, it (12) is up to the receiver's attorneys to assert it as (13) their privilege. And I have no intentions of (14) asserting it.

(15) It seems to me that counsel for North (16) American Re/Integrated made a good point that also (17) it's related to business. Therefore, at this time (18) I ask whether you have ever come across this issue (19) in another deposition and in other dealings and how (20) you have dealt with it. I would rather not be in a (21) position to arbitrate whether or not he answers or (22) doesn't answer.

(23) MS. DRAIM: I can say this issue, to my (24) recollection, has not previously arisen. I also (25) think that, unfortunately, it is going to come down

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(1) to a matter of your judgment as to how to advise (2) your client because you're the only individual who (3) can advise him not to answer a question, being his (4) counsel.

(5) I have no intention of invading the (6) attorney/client privilege, but it seems to me (7) Mr. Adams has already testified once the company (8) went into receivership, in effect the management of (9) the company was assumed by a team and it was (10) comprised of people from Rubenstein & Perry.

(11) What I'm trying to get at is the flow of (12) information to the members of that team with (13) respect to the routine management-related aspects (14) of Fidelity Bankers' business. I'm not trying to (15) invade the attorney/client privilege.

(16) MR. WOOD: Well, my further statement in (17) this regard would be that I think I agree with (18) Ms. Daim's statement, it hasn't come up in any (19) prior deposition and this is the first opportunity (20) that we've had to address the issue.

(21) I would also like to state in addition to (22) attorney/client concerns and concerns relating to (23) confidentiality, we also have implicated the (24) deliberative process privilege which pertains to (25) the fact that the receiver has an absolute right of

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(1) confidentiality with regard to the deliberative (2) processes that he and his organization

engaged in (3) in connection with any receivership related (4) activity as well as an executive privilege.

(5) I'm asserting all of those on behalf of the (6) deputy receiver at this time and imploring the (7) witness not to answer questions that concern (8) discussions that he had with members of the (9) receivership team concerning receivership-related (10) business.

(11) Right now the question that's pending is a (12) question that merely asked if Mr. Bennett appeared (13) to have any knowledge of that question is (14) independently objectionable on the grounds that (15) it's calling for speculation. I don't know if (16) we've reached the point yet that we've got to deal (17) with this. But we are coming dangerously close to (18) it.

(19) MS. DRAIM: Let me say in response to that, (20) that I am not aware of any executive or (21) deliberative privilege being applicable in the (22) context of a receiver coming and essentially (23) stepping into the shoes of management and handling (24) the day-to-day business operations of an entity and (25) employees of that entity and management people in

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(1) that entity communicating with the receiver in that (2) regard. There just is no executive deliberative (3) privilege that's applicable in that context.

(4) So, I really think what we're talking about (5) here is are there any communications that fall (6) under the traditional scope of attorney/client (7) privilege, period.

(8) MR. ADKINS: Also there's a deliberative (9) process privilege or executive privilege that (10) pertains to the operations of a receiver after he's (11) been appointed.

(12) MR. WOOD: As Mr. Adkins stated our (13) position, there is such a thing as a deliberative (14) process privilege or executive privilege that (15) pertains to the operations of a receiver after he's (16) been appointed and that we assert that it would (17) protect and render absolutely privileged and (18) confidential discussions between the receiver or (19) any of his agents or staff or attorneys and (20) Mr. Adams. And we assert at this time, and implore (21) him not to reveal information that would fall (22) within the confines of that privileged information.

(23) MS. KINDALL: Mr. Wood, I must say I'm not (24) familiar with the privilege either. In Connecticut (25) the rules are fairly strict; that the only

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(1) assertion that I can instruct the witness not

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to (2) answer is on the basis of attorney/client (3) privilege. I haven't come across either (4) deliberative privilege or your executive privilege (5) prior to this point.

(6) Why don't we take a five-minute break and (7) let me confer with some of my colleagues on how we (8) want to proceed.

(9) If you have a case, I would be interested (10) in that since you have stipulated this is under (11) Iowa rules. I will tell you now unless that case (12) is dead on point and convinces me otherwise, to the (13) extent that she intends to ask questions about the (14) everyday business operations of the company in (15) receivership, I do not intend to instruct my client (16) not to answer.

(17) To the extent my client is going to be (18) asked questions about their discussions with the (19) firm or anybody on the team regarding in (20) anticipation of litigation or during litigation or (21) any other thing on that order I will instruct him (22) not to answer. My apologies in advance to the Iowa (23) commissioner.

(24) MR. WOOD: Well, it's not the Iowa (25) commissioner that should be concerned. It's the

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(1) Virginia commissioner. I don't have much more to (2) say about this other than I don't want you to (3) misconstrue what we said earlier as meaning that (4) Iowa law controls this issue entirely.

(5) What we said was that the Iowa Rules of (6) Civil Procedure govern the rules of the taking of (7) the deposition. It would certainly be our view (8) that the Virginia law of privilege would apply to (9) activities of a Virginia receiver and Virginia (10) staff. Although I don't know whether we can come (11) up with that case law on an immediate basis or not, (12) this issue has been briefed, to my recollection, in (13) other matters involving the Fidelity Bankers' (14) receivership in which we have been engaged in (15) unrelated matters to the issue we're here today.

(16) I will also make a couple of phone calls to (17) see whether or not I can be any more accommodating (18) than I'm being at the moment with regard to my (19) position. And we'll just see where we go from (20) there.

(21) At this point I guess in addition to saying (22) I'm imploring Mr. Adams not to reveal the content (23) of the privileged communication as I view them, I'm (24) instructing him not to do so on behalf of the party (25) that possesses the privilege. But obviously I

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(1) don't represent Mr. Adams here today and

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he will (2) have to take such action as he deems fit.

(3) With that, why don't we take --

(4) MS. DRAIM: I want to state it seems to me (5) it was fairly clear that this issue was likely to (6) come up, given that Mr. Adams remained in the (7) employ of Fidelity Bankers for a very substantial (8) period of time after it went into receivership.

(9) So, I, quite frankly, am a little surprised (10) at the need to take a break right now and go (11) scurrying around for precedent. If you had it, I (12) think you should have brought it with you to begin (13) with. So said, I'm happy to go off the record.

(14) (Recess 2:15 to 2:30 p.m.)

(15) MR. WOOD: We're back. How would you like (16) to proceed? Did you want to start asking questions (17) or would you like a further statement from me on (18) where we stand? Maybe I should make a further (19) statement on where we stand.

(20) It seems to the deputy receiver's counsel (21) that from and after the date that the receivership (22) occurred Mr. Bennett was acting in the capacity as (23) an attorney representing the deputy receiver of (24) Fidelity Bankers. He was not a business person and (25) was acting in the capacity as an attorney at all

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(1) times subsequent to receivership having commenced.

(2) While Mr. Adams may or may not be aware of (3) precisely why Mr. Bennett might have been seeking (4) information in discussion that he had with (5) Mr. Adams, his position of the deputy receiver's (6) counsel that from and after the date of the (7) receivership, each and every conversation which (8) Mr. Bennett had with Mr. Adams was had for the (9) purpose of either rendering legal advice in (10) connection with the receivership or seeking (11) information for the purpose of being able to take (12) positions on behalf of the deputy receiver with (13) regard to issues that might reasonably be (14) anticipated to come up in a litigation context.

(15) Therefore, it is our position that any and (16) all conversations with Mr. Adams -- between Mr. (17) Adams and Mr. Bennett on subject matter areas (18) related to Integrated fall within the confines of (19) the attorney-client and work product privileges. (20) And we are asserting those at this time.

(21) In addition to that, while we are in the (22) middle of a deposition and cannot provide you (23) immediately with case law to this effect, we are (24) aware case law concerning a

deliberative process (25) privilege that further would protect the

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(1) information.

(2) We don't want to put Hartford or Hartford's (3) counsel in the position of having to decide the (4) issue because we realize how uncomfortable that is. (5) But we are asserting the privileges and will take (6) appropriate action to the extent permitted by law. (7) If information which is privileged is revealed, (8) contrary to the expressed instructions of the (9) deputy receiver.

(10) So, we think the best approach to take (11) would be for the witness not to reveal information (12) which we believe is covered by the privileges. We (13) can go at it on a question by question basis, and (14) if I object on the basis that I described, we would (15) like to see the witness not answer those questions. (16) Ms. Drait can then bring any appropriate motion (17) that she wishes to bring before the Iowa court on (18) this issue, and if she prevails, she'll be entitled (19) to the answers. At that point nothing will have (20) been harmed. The privilege will not have been (21) adversely affected.

(22) If, on the other hand, we go about this by (23) allowing Mr. Adams to reveal information which we (24) believe is privileged and we're right, our (25) privilege will have been irreparably harmed. So.

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(1) that's the position we're taking and the suggestion (2) we would have is how to proceed further.

(3) MS. KINDALL: Point of clarification, (4) Mr. Wood. Is your position that any conversation (5) that Mr. Adams had with anybody on the receiver (6) team is also privileged?

(7) MR. WOOD: I'd have to hear the specific (8) questions and that's why I think we may need to go (9) on a question by question basis.

(10) In general, we believe that discussion with (11) the receivership staff will be covered by one or (12) more of the privileges that we have asserted. (13) Obviously, not all of those persons were attorneys, (14) but the conversations to the extent that they (15) occurred, and I don't know what the testimony would (16) reveal as to whether they did or did not or what (17) the content was, precisely, but to the extent they (18) occurred, we would be concerned the testimony (19) concerning them would implicate one or more of the (20) attorney-client, work product, deliberative process (21) or executive privileges.

(22) MS. KINDALL: Point of clarification. To (23) the extent that anybody on the receivership team (24) was an attorney, is it your position that if they (25) were an attorney, then you're asserting the

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(1) attorney/client privilege?

(2) MR. WOOD: I think that's basically (3) accurate. What we're saying is when those persons (4) who were attorneys were acting, they were acting in (5) the capacity as attorneys. And that communications (6) which those persons had with Mr. Adams concerning (7) matters relating to Integrated at all times were (8) had for the purpose of either giving legal advice (9) concerning those matters or for the purpose of (10) obtaining information for use by the receiver in (11) arriving at legal positions with regard to matters (12) that could be reasonably anticipated to result in (13) litigation. And therefore, would be covered by (14) work product.

(15) MS. KINDALL: May I voir dire the witness?

(16) MS. DRAIM: Sure. (17) VOIR DIRE
MS. KINDALL:

(18) Q. Mr. Adams, what, when the (19) receivership first came into being, what was Mark (20) Adams' role in the receivership?

(21) MR. WOOD: Objection. You mean Mark (22) Bennett?

(23) MS. KINDALL: I'm sorry. Mark Bennett.

(24) THE WITNESS: He was the operational (25) executive in my understanding.

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(1) BY MS. KINDALL:

(2) Q. In his role as operational (3) executive, did management of Fidelity present him (4) with operational information regarding the (5) operations of Fidelity?

(6) A. Yes.

(7) Q. Did they do this in anticipation of (8) litigation or because he was receiver and the (9) receiver had taken over the management of the (10) business?

(11) MR. WOOD: Objection. Calls for (12) speculation as to what it was that Mr. Bennett - (13) the purpose for which Mr. Bennett was seeking the (14) information.

(15) BY MS. KINDALL:

(16) Q. You may answer the question.

(17) A. It would be for both instances.

(18) MS. KINDALL: Mr. Wood, I am not going to (19) instruct my witness not to answer questions unless (20) they involved attorney-client privilege. It (21) strikes me, as much as I really despise getting (22) between you two, I don't want you guys having to (23) come

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back for a follow-up deposition regarding (24) these issues.

(25) To the extent it has anything to do with

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(1) litigation, to the extent that can be separated I (2) will instruct the witness - that is labeled as (3) such, I will instruct the witness not to answer. (4) It strikes me that you are asserting an (5) extraordinarily broad privilege on anything that's (6) ever said to anybody in this receivership and I am (7) very uncomfortable with that proposition.

(8) To the extent that you do have a proper - (9) that you are correct and that the privilege is that (10) broad, I give you my apologies and I ask you to (11) reserve your objections and I ask the testimony be (12) struck as attorney-client privilege during your (13) hearing.

(14) But you're in trial in two and a half (15) weeks. Mr. Adams is severely hampered in his (16) performance at The Hartford as it is in having his (17) deposition today and in preparation as he has (18) needed to get prepared for it. I am very unwilling (19) and will not, unless you have a court order, let (20) you back here before your trial. Because this man (21) is working 24 hours a day as it is.

(22) So, this is your shot, folks.

(23) MR. WOOD: Well, we didn't want to burden (24) Mr. Adams any further either. We're not the ones (25) asking questions that ask for invasion of a

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(1) privilege. So, it's not our fault. All we're (2) saying is we're invoking the privileges and we'll (3) continue to do so and we will instruct Mr. Adams (4) not to answer because it's the receiver's (5) privilege, and he has a right to instruct people (6) not to violate his privilege. Mr. Adams can (7) conduct himself as he sees fit upon your advice or (8) otherwise.

(9) MS. KINDALL: Mr. Adams is represented by (10) me, which is why he's not being represented by you (11) and therefore, to the extent that he's being (12) instructed to speak or not to speak is my call.

(13) And as I said, reserve the privilege to the (14) extent you feel necessary. My understanding from (15) Mr. Adams is that there is going to be times when (16) it's going to be impossible to know whether it was (17) ordinary course of business information or (18) litigation.

(19) To that extent I have instructed him if it (20) is too intermingled to distinguish between the two, (21) do not answer. But to the extent that it was his (22) ordinary business activities that he ordinarily (23) would have reported to a supervisor, I'm (24) instructing him to an-

over the questions.

(25) MR. WOOD: I think we all understand each

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(1) other. As long as you understand it's our position (2) that each and every communication took place (3) subsequent to May 13, 1991. I know you are not (4) familiar with the deliberative process privilege, (5) so I want to focus your attention primarily on (6) attorney/client and work product privileges and I (7) want to make sure you understand it's our position (8) that every communication took place after May 13, (9) 1991, between an attorney representing the receiver (10) and Mr. Adams on the subject of Integrated was a (11) conversation had in the course of developing (12) information about a matter that was reasonably (13) expected to result in litigation.

(14) So, I don't see how we can get into any of (15) this subject matter without violating the work (16) product or attorney/client privileges. If you see (17) it differently, we'll just proceed and the (18) privileges will be asserted.

(19) MS. KINDALL: That is fine. My (20) instructions to the witness are to the extent that (21) this was information he would have reported in the (22) normal course of business to a supervisor, that he (23) is to answer these questions.

(24) To the extent that this information was (25) requested by an attorney for presumably legal -

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(1) not ordinary course of business as to ordinary (2) business activities, to the extent he's had (3) discussions regarding litigation or anticipated (4) litigation, he's instructed not to answer.

(5) To the extent that those two cannot be (6) easily separated, I ask that he say that the two (7) cannot be easily separated and not answer unless a (8) question can be asked as to separate between the (9) two.

(10) Why don't we proceed.

(11) BY MS. DRAIM:

(12) Q. Mr. Adams, how did you first become (13) aware that Fidelity Bankers had gone into (14) receivership?

(15) A. The morning of the receivership the (16) receiver team appeared. That was May 13th of 1991.

(17) Q. Do you recall who it was that (18) appeared?

(19) A. Persons from the insurance (20) department. I recognized them. I don't recall (21) names. I just remember faces. People that I had (22) seen previously. Various mem-

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bers of the - it (23) seems various attorneys, but I don't recall which (24) ones appeared when to tell you the truth since I (25) didn't know their faces and names on that date.

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(1) Q. When you say, "Members of the (2) receivership team appeared," what do you mean?

(3) A. They entered the premises. (4) Management told us to cooperate with them.

(5) Q. Did the receivership team have any (6) means through which they had indicated (7) themselves as to the status of Fidelity Bankers (8) reinsurance business at that time?

(9) A. Yes. I was requested to prepare a (10) complete listing and summary of all the reinsurance (11) relationships and contacts.

(12) Q. Who instructed you to do that?

(13) A. Mr. -

(14) MR. WOOD: I'll object, again, on the (15) attorney/client, work product, deliberative process (16) and executive privilege. So, I don't keep spending (17) a lot of time doing this, can we just have an (18) agreement that when I say objection on the basis of (19) the privileges, that everybody will know what I (20) mean?

(21) MS. KINDALL: I have no objection.

(22) MS. DRAIM: That's fine.

(23) MS. KINDALL: That would be preferred.

(24) MR. WOOD: Those privileges - (25) attorney/client, work product, deliberative process

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(1) and executive privilege - are the privileges I'm (2) talking about when I'm asserting the privileges at (3) this time and objecting to the answer on the basis (4) of those privileges.

(5) MS. KINDALL: You may answer the question. (6) And you may want to have the question repeated.

(7) *(The pending question was read by (8) the Court Reporter.)*

(9) THE WITNESS: I don't recall who instructed (10) me specifically to do that. I was to do it.

(11) BY MS. DRAIM:

(12) Q. I believe you testified earlier (13) that Mr. Bennett performed the role of an (14) operational executive with respect to Fidelity (15) Bankers in receivership; is that correct?

(16) A. Yes.

(17) Q. Was the reinsurance business of (18) Fidelity Bankers under Mr. Bennett's responsibility (19) in that capacity?

(20) MR. WOOD: Objection. Privileges.

(21) THE WITNESS: He had operational say-so, in (22) my opinion, of those reinsur-

ance matters. He did (23) not attend to the daily supervision of those (24) matters.

(25) BY MS. DRAIM:

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(1) Q. Is it fair to say that functions (2) such as filling claim submissions were not (3) something that Mr. Bennett got involved in, but (4) more significant issues such as - let's start (5) with, is it fair to say the day-to-day function (6) such as billing and claim submission would not be (7) something that Mr. Bennett got involved in?

(8) MR. WOOD: Objection. Privileges.

(9) THE WITNESS: To the extent that procedures (10) had been put in place by the receiver team to cover (11) those operations, that would be an accurate (12) assessment; that he did not get involved in the (13) day-to-day functions that had already been set up (14) and approved.

(15) BY MS. DRAIM:

(16) Q. But as part of the receiver team, (17) he might have been involved in setting up (18) procedures under which those day-to-day reinsurance (19) operations were carried out?

(20) MR. WOOD: Objection. Privileges.

(21) THE WITNESS: I honestly don't know how (22) that was set up.

(23) BY MS. DRAIM:

(24) Q. Let me ask you this: Was the issue (25) of Integrated's attempts to sell its reinsurance

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(1) business a matter in which Mr. Bennett would have (2) become involved?

(3) MR. WOOD: Objection. Privileges.

(4) THE WITNESS: Would you please repeat your (5) question?

(6) BY MS. DRAIM:

(7) Q. Let me rephrase it. Did (8) Mr. Bennett become involved in the issue of (9) Integrated's attempts to sell its reinsurance (10) business in any way?

(11) MR. WOOD: Same objections.

(12) THE WITNESS: I do not - I cannot (13) recollect whether his involvement would have been a (14) part of his operational responsibility or would (15) have -

(16) MS. KINDALL: Okay. Let me clarify my (17) instruction to the witness. Her question doesn't (18) ask what he said, but whether or not he was at all (19) involved in any capacity. Answer the question, yes (20) or no.

(21) THE WITNESS: Yes. I'm sorry.

(22) MS. KINDALL: Your answer is yes?

(23) THE WITNESS: Yes.

(24) BY MS. DRAIM:

(25) Q. Did you report to Mr. Bennett with

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(1) respect to developments that came to your attention (2) concerning Integrated's attempts to sell its (3) reinsurance business?

(4) MR. WOOD: Objection. Privileges.

(5) MS. KINDALL: I would request that counsel (6) ask a foundation question on that. Whether that (7) would have been something he would have reported in (8) the ordinary course of business.

(9) MS. DRAIM: I believe he already testified (10) he reported to Mr. Briegel and Mr. Nuckols (11) generally with respect to developments concerning (12) Integrated Resources Life Insurance Company.

(13) BY MS. DRAIM:

(14) Q. Is that correct, Mr. Adams?

(15) A. That's correct. At that point in (16) time I don't recall making a point of going to (17) Mr. Bennett to report that.

(18) Q. I believe you testified earlier (19) that you first became aware that Fidelity Bankers (20) was in receivership when the receivership team (21) appeared on premises at Fidelity Bankers; is that (22) correct?

(23) A. Yes.

(24) Q. You've also testified that (25) Mr. Bennett was the member of the team who had

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(1) responsibility for the reinsurance operation of (2) Fidelity Bankers, at least in certain respects?

(3) A. That's correct.

(4) MR. WOOD: Objection. Privileges.

(5) BY MS. DRAIM:

(6) Q. Apart from your preparing this (7) listing and summary of all the reinsurance (8) relationships, what other communications did you (9) have with Mr. Bennett to familiarize him with the (10) status of the reinsurance business of Fidelity (11) Bankers at that time that the receivership (12) commenced?

(13) MR. WOOD: Objection. Privileges.

(14) MS. KINDALL: You may answer.

(15) THE WITNESS: The communications with (16) Mr. Bennett would have been more along the lines of (17) him requesting information from me. And I don't (18) recall all the topics.

(19) BY MS. DRAIM:

(20) Q. Terms of, let's try to place the (21) request for information into a specific time (22) period, if we can try to do that.

(23) You say the receivership team appeared on (24) the premises one day.

(25) MS. KINDALL: You need to say yes or no.

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(1) THE WITNESS: Yes. I'm sorry.

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(2) BY MS. DRAIM:

(3) Q. Shortly after appearing on the (4) premises did they engage, to your knowledge, did (5) the receivership team engage in information (6) gathering with respect to the status of Fidelity (7) Bankers' business for the purpose of being able to (8) carry out the receivership?

(9) MR. WOOD: Objection. Privileges.

(10) THE WITNESS: Yes.

(11) BY MS. DRAIM:

(12) Q. And that began shortly after they (13) appeared on the premises; is that correct?

(14) A. Yes.

(15) Q. Did you have conversations with (16) Mr. Bennett shortly after the receivership began (17) with respect to the status of Fidelity Bankers' (18) reinsurance business?

(19) MR. WOOD: Objection. Privileges.

(20) THE WITNESS: I don't recall when I would (21) have had conversations with him regarding the time (22) frame you're suggesting.

(23) BY MS. DRAIM:

(24) Q. Do you recall that they were early (25) with respect to when the receivership commenced?

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(1) MR. WOOD: Objection. Privileges.

(2) THE WITNESS: No, I don't. No recollection (3) as to the timing of that.

(4) BY MS. DRAIM:

(5) Q. Who, other than yourself, had (6) managerial responsibilities with respect to (7) Fidelity Bankers reinsurance business at the time (8) that the receivership commenced?

(9) A. Mr. Nuckols, my boss.

(10) Q. You were the only two individuals (11) with those types of responsibilities with respect (12) to the reinsurance business?

(13) A. From the administration and (14) actuarial side. If there were underwriting issues (15) involved, that would have been the underwriting (16) department's responsibility.

(17) Q. From administrative and actuarial (18) it was you and Mr. Nuckols?

(19) A. Yes. And my staff.

(20) Q. Did Mr. Nuckols concentrate (21) primarily on actuarial side of the reinsurance (22) business as opposed to administrative?

(23) A. Yes.

(24) Q. So, you were, as of the date that (25) Fidelity Bankers went into receivership, you were

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(1) the person in charge of the administrative aspects (2) of its reinsurance business?

(3) A. Yes.

(4) Q. Is there any way other than (5) com-

municating with you that Mr. Bennett would have (6) oriented himself with respect to the reinsurance (7) aspects, the administrative aspects of Fidelity (8) Bankers' reinsurance business?

(9) MR. WOOD: Objection. Calls for (10) speculation and privileges.

(11) MS. KINDALL: You may answer.

(12) THE WITNESS: One would have had to have (13) gotten information from the reinsurance department (14) about our reinsurance relationships and accounts. (15) And if that was done, it was generally done through (16) me. Does that answer your question?

(17) BY MS. DRAIM:

(18) Q. Your answer is, you were the (19) principal source of information on the (20) administrative aspects of reinsurance business at (21) the time the receivership commenced?

(22) A. Yes.

(23) Q. Does that help you to recollect (24) whether you had conversations with Mr. Bennett (25) about the status of the reinsurance business, say,

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(1) during the month after the receivership team first (2) appeared on the premises?

(3) MR. WOOD: If that's asking for the content (4) of the conversations, I would object on the (5) privileges.

(6) THE WITNESS: I don't recall when I would (7) have had conversations within the first month of (8) receivership with Mr. Bennett. There were many (9) individuals that had delegated responsibilities on (10) the receiver's staff. Some of whom I had contact (11) with.

(12) BY MS. DRAIM:

(13) Q. So, you had contact with some (14) members of the receivership team during the first (15) month after the receivership commenced with respect (16) to the reinsurance business of Fidelity Bankers?

(17) A. Yes.

(18) Q. Were those contacts in the nature (19) of discussions between you and those individuals on (20) the receivership team as to the status of that (21) reinsurance business?

(22) MR. WOOD: Objection. Privileges.

(23) THE WITNESS: Yes.

(24) BY MS. DRAIM:

(25) Q. Did the fact that Integrated

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(1) Resources was seeking to sell the reinsurance (2) business that it was doing with Fidelity Bankers (3) come up during those discussions?

(4) MR. WOOD: Objection. Privileges.

(5) THE WITNESS: That I don't recall. I

just (6) don't recall that coming up.

(7) BY MS. DRAIM:

(8) Q. Did the fact that Integrated (9) Resources was undergoing financial difficulties (10) come up during those discussions?

(11) MR. WOOD: Objection. Privileges.

(12) THE WITNESS: I don't recall that during (13) those discussions that issue came up.

(14) BY MS. DRAIM:

(15) Q. Do you recall that issue coming up (16) at any time?

(17) MR. WOOD: Same objection.

(18) THE WITNESS: At some point - and I can't (19) tell you when - in the life of the receivership (20) that issue came up.

(21) BY MS. DRAIM:

(22) Q. Can you tell me whether the issue (23) of Integrated's financial troubles came up while (24) Integrated was still Fidelity Bankers' reinsurer?

(25) MR. WOOD: Objection. Privileges.

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(1) THE WITNESS: Yes.

(2) BY MS. DRAIM:

(3) Q. So, that issue arose prior to the (4) assumption of the Integrated reinsurance block by (5) North American Reassurance?

(6) MR. WOOD: Objection. Privileges.

(7) THE WITNESS: That I don't recall whether (8) it arose prior to that or not. I don't recall (9) exactly the time on that.

(10) BY MS. DRAIM:

(11) Q. Can you describe for me the (12) discussion that you recall having with the (13) receivership team concerning Integrated?

(14) MS. KINDALL: Time period. He said he had (15) had discussion in the first month about the (16) reinsurance business. Maybe I'm mucking it up. If (17) there is a time limit on it.

(18) BY MS. DRAIM:

(19) Q. If you can place the discussion in (20) terms of a time frame, that would be very good.

(21) A. Would you repeat your question?

(22) Q. Can you describe for me the (23) discussions that you had with members of the (24) receivership team concerning Integrated?

(25) MS. KINDALL: I would instruct the witness

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(1) to the extent it's talking about litigation or (2) anticipation of litigation do not testify or to (3) testify it would fall under that privilege.

(4) MR. WOOD: I'll object on the basis of (5) privileges and vague and ambiguous with regard to (6) the receivership team members.

(7) MS. KINDALL: You may answer. Don't pay (8) attention to us. Except to me.

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(9) THE WITNESS: I understand. I can't answer (10) that question.

(11) MS. KINDALL: On the basis of (12) attorney/client?

(13) THE WITNESS: On the basis I'm unable to (14) separate with that question the issues. On the (15) basis of attorney/client privilege.

(16) MS. KINDALL: Use your own words. It was (17) basically worried about litigation and in (18) anticipation of litigation?

(19) THE WITNESS: The question as asked I (20) cannot separate litigation discussion from not.

(21) MS. KINDALL: Okay.

(22) BY MS. DRAIM:

(23) Q. Mr. Adams, if I can focus your (24) attention once more on the first month after the (25) receivership commenced. The receivership team

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(1) appeared on the premises with Fidelity Bankers. (2) During that first month after the receivership (3) commenced did North American Reassurance come up in (4) any discussions between yourself and any members of (5) the receivership team?

(6) MR. WOOD: Objection. Privileges.

(7) THE WITNESS: Not specifically.

(8) BY MS. DRAIM:

(9) Q. Well, did you discuss during that (10) first month with the receivership team whether (11) Fidelity was going to go ahead and issue the single (12) premium joint life product that's referenced in (13) Adams Exhibit number 11?

(14) MR. WOOD: Objection. Deliberative process (15) privilege, but none of the others.

(16) THE WITNESS: I don't recall specifically (17) discussing this product with a particular member of (18) the receivership team. This was part of an (19) internal Fidelity management, if you will, (20) marketing group trying to keep things on track.

(21) I just don't recall whether I would have (22) had a particular discussion with anyone on the (23) receivership team about doing this. That's the (24) extent that I can answer on that.

(25) BY MS. DRAIM:

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(1) Q. Were you part of the market team (2) that you just referred to?

(3) A. Tangentially. To the extent they (4) need my reinsurance. That's the only way.

(5) Q. At any point after the receivership (6) began did they ask you to speak with the (7) receivership team about setting up this particular (8) insurance with the joint life product?

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(9) MR. WOOD: Objection. Privileges.
 (10) THE WITNESS: Yes. I recall that I was
 (11) asked to go ahead and keep working on
 that project. (12) That it was still a live project.
 (13) BY MS. DRAIM:
 (14) Q. Would your work on that project (15)
 necessarily entail speaking with the receiver-
 ship (16) team?
 (17) A. I don't recall at that point I (18) would
 have had to - because I wasn't doing (19) any-
 thing that was going to obligate anybody to
 (20) anything. In other words, it was develop-
 ment. And (21) that was an ongoing project
 and we were just told (22) - and I say we were
 just told. I was told by (23) Mr. Nuckols to
 continue on that. That the (24) marketing
 group wanted to see what kind of (25) reinsur-
 ance we could get.

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(1) Q. So, what did you do to continue (2)
 with that project?
 (3) A. Well, I had - at that point we had (4)
 developed the product pretty much and we
 were (5) ironing out details. What we needed
 to know was (6) how you reinsure a product
 like this. This was a (7) new product which we
 had started before the (8) receivership.
 (9) So, we had made quite a bit of (10)
 progress. But we had by no means finalized
 it.
 (11) Q. Did your work continuing on that (12)
 project after the commencement of the re-
 ceivership (13) entail communication with
 people from North (14) American Re?
 (15) A. Yes.
 (16) Q. What was the nature of those (17)
 communications?
 (18) A. Just basically issues that we (19)
 should consider about this type of product.
 And it (20) was very limited, because we were
 reaching the (21) point where we were feeling
 comfortable about how (22) to do it. But you
 need to clarify things at the (23) end of a pro-
 ject.
 (24) Q. At the point that you were having (25)
 these communications, was North American
 Re going

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(1) to be the reinsurer with respect to this sin-
 gle (2) premium joint life product?
 (3) A. They were the prime candidate and
 (4) in all probability would have been. Be-
 cause they (5) had developed the product with
 us, basically. They (6) had worked with us on
 all aspects of it.
 (7) Q. So, in communicating with the North
 (8) American Re people after the receivership
 had (9) commenced, did you communicate to
 them that they (10) were still the prime candi-

date to become reinsurers (11) for this prod-
 uct?

(12) A. Yes.
 (13) Q. With whom did you communicate at
 (14) North American Re on this topic?
 (15) A. Bill Reiffenberger was the account (16)
 executive. I can't recall if I was still (17) com-
 municating with the actuary that worked on it
 at (18) that point in time or not.
 (19) Q. What was the name of the actuary
 (20) that work on the product?
 (21) A. I honestly don't recall.
 (22) Q. Was it David Nussbaum?
 (23) A. No.
 (24) Q. If I could direct your attention to (25)
 Adams Exhibit 11 and distribution on the
 right-hand

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(1) corner of that exhibit, do any of those
 names (2) refresh your recollection as to who
 was the actuary (3) working on the product at
 North American Re?
 (4) A. I think Bob really was at one (5) point.
 I don't know at this point if he still was (6) or
 not. I can't really say that that's the case. (7)
 That doesn't really ring a bell. I can't recall
 (8) who it was that I was dealing with.
 (9) Q. Did Fidelity Bankers ever issue (10)
 single premium joint life product?
 (11) A. No.
 (12) Q. Why was that?
 (13) A. We were in a moratorium from (14)
 issuing new business after we went into (15)
 receivership.
 (16) Q. Was there a point at which that (17)
 moratorium was communicated to you?
 (18) A. Yes. It was early in the (19) receiver-
 ship, but I don't recall the specific date.
 (20) Q. Do you recall who communicated it
 (21) to you?
 (22) A. No. Honestly, I don't recall.
 (23) Q. Mr. Adams, let me show you a (24)
 document previously marked as Jaynes Ex-hi-
 bit 12, (25) J-a-y-n-e-s. Can you identify that
 document?

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(1) A. It's a letter from Thomas Heaphy of
 (2) North American Re, dated March 9, 1992
 to me. The (3) subject is the acquisition of
 Integrated Resources (4) Life business by
 North American Re. The (5) reinsurance
 business for the record.
 (6) There's an attachment that's an as-
 sumption (7) agreement that has been signed
 by Integrated (8) Resources and North Amer-
 ican Re. But there are no (9) signatures for
 Fidelity Bankers.
 (10) Q. Mr. Adams, when you received
 Jaynes (11) Exhibit 12, was Fidelity Bankers al-

ready in (12) receivership?

(13) A. Yes.

(14) Q. Do you recall whether when you (15) received this exhibit, you were aware that North (16) American Re had assumed the reinsurance business of (17) Integrated Resources?

(18) A. No. The reason is I really don't (19) recall when I received it, what I was doing or what (20) was going on. I just don't recall it.

(21) Q. Do you have any reason to believe (22) that you did not receive this document?

(23) A. No, I don't. Because I produced (24) the document at a later date.

(25) Q. Do you know Thomas Heaphy?

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(1) A. I have spoken with Mr. Heaphy and I (2) know his position as the contract administrator for (3) North American Re.

(4) Q. Prior to receiving this document (5) had you spoken with Mr. Heaphy?

(6) A. I had spoken to Mr. Heaphy before, (7) but I can't recall what I would have spoken to him (8) about at that time. As the contract administrator (9) for his company, it would be normal for he and I to (10) have conversation about contracts.

(11) Q. Do you recall having such (12) conversations with Mr. Heaphy?

(13) A. I don't recall having conversations (14) with him about this matter.

(15) Q. What about concerning other (16) contracts?

(17) A. I recall having conversations with (18) Mr. Heaphy about other contracts. I can't tell you (19) at what point in time those conversations occurred.

(20) Q. Were you surprised to receive this (21) document?

(22) A. No.

(23) Q. Why not?

(24) A. Because I knew that North American (25) Re was the prime candidate to acquire the business

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(1) and from discussions with Ken Klein and rumor on (2) the street, they sounded like they'd probably get (3) it. And from some discussion with one of their (4) folks, Bill Reifensberger, I believe.

(5) Q. Is this document and its attachment (6) what are commonly referred to as an assumption (7) certificate in the insurance industry?

(8) MR. WOOD: Objection. The first couple of (9) pages of the document are not an assumption (10) certificate.

(11) THE WITNESS: I could not characterize this (12) as an assumption certificate.

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(13) BY MS. DRAIM:

(14) Q. What about the attachment?

(15) A. The attachment is an assumption (16) agreement. And I make that distinction as opposed (17) to a certificate, which would be attached to (18) somebody's policy. This would be attached to the (19) reinsurance contract. I don't know if I'm (20) nitpicking or not.

(21) MS. KINDALL: Be precise.

(22) BY MS. DRAIM:

(23) Q. Based on your experience in the (24) insurance industry, is there any difference between (25) an assumption agreement and an assumption

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(1) certificate?

(2) MR. WOOD: Object to the extent it calls (3) for a legal conclusion.

(4) MS. KINDALL: You can answer the question.

(5) THE WITNESS: Would you define an (6) assumption certificate in the context that you're (7) using it?

(8) BY MS. DRAIM:

(9) Q. I'm referring to an assumption (10) certificate in the context in which you testified (11) earlier this morning, in which you referred to a (12) certificate that would be included in a (13) policyholder's policy at the point when the policy (14) would be assumed by a successor company.

(15) A. The assumption certificate provided (16) to a policyholder would typically be provided (17) without their consent. And they may or may not (18) have known about the transaction. The assumption (19) agreement could also occur that way with respect to (20) a reinsurance contract and the company receiving it (21) may or may not know about it. But it calls for the (22) company, typically, to acknowledge that assumption.

(23) And whether the company does or not, may (24) make a difference as to the status of that (25) assumption of reinsurance or assumption of other

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(1) insurance. That's my answer.

(2) BY MS. DRAIM:

(3) Q. Apart from signing an assumption (4) agreement, is there any other way that a ceding (5) company can acknowledge the assumption of its (6) reinsurance business?

(7) MR. WOOD: Objection to the extent it calls (8) for a legal conclusion.

(9) BY MS. DRAIM:

(10) Q. Let me make clear, Mr. Adams. I'm (11) not asking you to provide a legal conclusion. I'm (12) asking you to give me the bene-

fit of your (13) experience in the industry and testify as a matter (14) of that experience.

(5) A. You could do it by letter amendment. (16) Some companies operate that way. Most companies (17) nowadays want a little more formal document than a (18) letter amendment. By letter amendment, I mean a (19) letter that you acknowledge by signing it and (20) sending it back to the author.

(21) Whereas with a more formal amendment, it (22) puts it in the context of an amendment as a (23) document and asks for it and a witness.

(24) Q. Is it another means by which a (25) ceding company can acknowledge the assumption of

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(1) its reinsurance business for that company to pay (2) premiums to the assuming company?

(3) MR. WOOD: Objection. Legal conclusion.

(4) THE WITNESS: I don't know if that's a (5) means of acknowledging that that has occurred.

(6) BY MS. DRAIM:

(7) Q. Is the payment of premiums by a (8) ceding company to an assuming reinsurer a means of (9) a ceding company evidencing its consent to the (10) assumption?

(11) MR. WOOD: Objection to the extent it calls (12) for a legal conclusion.

(13) BY MS. DRAIM:

(14) Q. As a matter of business practice.

(15) A. As a matter of business practice, (16) it would indicate that the company knew that (17) something about the liability of that business had (18) changed if they were paying premiums to a new (19) company for that business.

(20) Q. That doesn't answer my question.

(21) A. Would you repeat your question (22) then?

(23) Q. Is the payment of premiums by a (24) ceding company to an assuming reinsurer one means (25) of indicating the ceding company's consent to the

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(1) assumption?

(2) MR. WOOD: Object to the extent it calls (3) for legal conclusion. The question may also be (4) improper hypothetical question. Excuse me for (5) interrupting your train of thought, Mr. Adams. The (6) question may also - there may be no foundation for (7) the witness' knowledge on this subject. I object (8) further on that ground.

(9) THE WITNESS: In my opinion, if you pay (10) another company for business which

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they told you (11) they've assumed, then you're asking them to also (12) honor the claims and, therefore, you're (13) acknowledging that they have taken their liability.

(14) I don't know whether that draws any legal (15) conclusions or not, but from a practical standpoint (16) as an administrator, that's what that means to me.

(17) BY MS. DRAIM:

(18) Q. Does -

(19) MR. WOOD: I'll object and move to strike (20) that answer to the extent that it gave an opinion, (21) because Mr. Adams has not been - there's been no (22) attempt to qualify or designate him as an expert by (23) any party and subject him to giving opinions on any (24) subject.

(25) MS. KINDALL: This is discovery, Counsel.

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(1) Not trial testimony.

(2) BY MS. DRAIM:

(3) Q. Mr. Adams, do you have the same (4) opinion with respect to the effect of a ceding (5) company submitting claims to an assuming company?

(6) MR. WOOD: Objection?

(7) THE WITNESS: Yes.

(8) MR. WOOD: Calls for legal conclusion, (9) hypothetical, and you're asking him for an expert (10) opinion without qualifying him as such.

(11) BY MS. DRAIM:

(12) Q. Had Fidelity Bankers not been in (13) receivership, would you have signed the assumption (14) agreement that comprises Jaynes Exhibit 12?

(15) MR. WOOD: Objection. Speculation.

(16) THE WITNESS: Yes, I would have signed it.

(17) BY MS. DRAIM:

(18) Q. Mr. Adams, do you recall at some (19) point becoming aware of a decision by the deputy (20) receiver to disavow the stop loss treaty between (21) Fidelity Bankers and North American Reassurance.

(22) MS. KINDALL: I would ask the witness (23) whether or not he's aware to discuss the contents (24) of that conversation. Just answer the question, in (25) other words, Mike.

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(1) THE WITNESS: Yes.

(2) BY MS. DRAIM:

(3) Q. When did you become aware of that?

(4) MS. KINDALL: You can answer that question.

(5) THE WITNESS: I don't recall the specific (6) date. It was after the receivership had been in (7) place for more than a month, I

believe. But I (8) don't recall the specific date.

(9) MS. DRAIM: Could I have this marked as (10) Adams 12?

(11) *(Adams Exhibit 12 marked for (12) Identification.)*

(13) *(Jaynes Exhibit 12 marked for (14) Identification.)*

(15) BY MS. DRAIM:

(16) Q. Mr. Adams, can you identify that (17) document, which is Adams Exhibit 12?

(18) A. It is a certified mail letter, (19) dated February 19, 1992 to Mr. David Nussbaum, (20) N-u-s-s-b-a-u-m, at North American Re signed by me, (21) and the subject is termination of treaty AEL-0045.

(22) MR. WOOD: Before we continue examination (23) on this document, could you enlighten me as to the (24) source of this document since it does not have (25) further production numbers on it? Is this one of

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(1) the ones you brought us today?

(2) MS. DRAIM: This morning I brought to the (3) attention of counsel for the deputy receiver (4) certain documents which were located prior to this (5) deposition by Integrated Resources and North (6) American Reassurance. As I also pointed out this (7) morning, a great many of these documents, all of (8) them with the exception of one, are documents that (9) were either authored by Fidelity Bankers or sent to (10) Fidelity Bankers. So, I believe that many of these (11) documents actually exist in your own files, but (12) were just simply never provided to us.

(13) MR. WOOD: Without regard to that, the (14) source of this document is North American Re, is (15) that correct?

(16) MS. DRAIM: That's correct.

(17) MR. WOOD: Thank you.

(18) BY MS. DRAIM:

(19) Q. Mr. Adams, when you refer to treaty (20) AEL-0045, is that the document we've been referring (21) to as the stop loss treaty between Fidelity Bankers (22) and North American Reassurance?

(23) A. Yes. In the letter it's identified (24) as the aggregate excessive loss insurance treaty.

(25) Stop loss is the common name.

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(1) Q. Was the purpose of this (2) communication from you to David Nussbaum to inform (3) him of the special deputy receiver's determination (4) to disavow the stop loss treaty?

(5) A. Yes.

(6) Q. Who is David Nussbaum?

(7) A. He is the person - he is one of (8) the persons that was responsible for the (9) ad-

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ministration of this treaty at North American Re; (10) as I recall.

(11) Q. Did you have any discussion with (12) Mr. Nussbaum concerning the disavowal of the treaty (13) prior to sending him this letter?

(14) A. Yes. I recall discussing this (15) issue with him.

(16) Q. Do you recall when that discussion (17) occurred?

(18) A. No, I really don't.

(19) Q. Do you recall what was said in that (20) discussion?

(21) A. To summarize it, we weren't going (22) to pay the claims.

(23) Q. Fidelity Bankers was not going to (24) pay the claims submitted by North American Re under (25) the stop loss treaty?

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(1) A. Correct.

(2) Q. Why was Fidelity Bankers not going (3) to pay the claims?

(4) MR. WOOD: Objection. Privileges.

(5) THE WITNESS: I don't think I can tell you (6) why. All I can say is that the decision was made (7) to terminate this particular arrangement, and the (8) contents of the letter explain how the outstanding (9) amounts would be handled.

(10) BY MS. DRAIM:

(11) Q. Is it fair to say that the decision (12) to terminate the arrangement was not one that you (13) made?

(14) A. Yes.

(15) Q. Who made that decision?

(16) A. I do not know.

(17) MS. DRAIM: Could I have this marked as (18) Adams Exhibit 13?

(19) *(Adams Exhibit 13 was marked for (20) Identification.)*

(21) BY MS. DRAIM:

(22) Q. Mr. Adams, I show you Exhibit 13.

(23) Does that refresh your recollection as to when you (24) had the discussion with Mr. Nussbaum that you've (25) just testified about?

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(1) A. Yes.

(2) Q. Does this document also refresh (3) your recollection as to what was said during that (4) discussion?

(5) A. A little bit. To the extent that (6) Mr. Nussbaum was not very happy about the (7) information I was giving him, and that I didn't (8) agree with it, of course. I told him nonetheless, (9) he would be getting a letter from us explaining the (10) termination.

(11) Q. During your discussion with (12) Mr. Nussbaum, did he make the point that the stop (13) loss treaty could result in Fidelity

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Bankers (14) receiving sums at some point in the future as (15) opposed to it paying excess mortality claims?

(16) A. Not in my discussion with him. In (17) my discussion with him I don't recall that being (18) discussed. It was more where's the money.

(19) Q. If I could direct your attention to (20) the third sentence in the first paragraph of this (21) letter and the fourth sentence. "Tom said that he (22) did explain to the receivers that the treaty was on (23) a cumulative basis, but he would talk to them again (24) to make the effective cancellation clearer."

(25) I assume the Tom that's being

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(1) referred to there is Mr. Nuckols. Did Mr. Nuckols (2) participate in the conversation that you had with (3) Mr. Nussbaum on this topic?

(4) A. Not in the same conversation, but (5) he did talk to him.

(6) Q. Are you aware of Mr. Nuckols (7) explaining to the deputy receiver or the special (8) receiver that the stop loss treaty was on a (9) cumulative basis?

(10) MR. WOOD: Objection. Privileges.

(11) THE WITNESS: I can't speak - my (12) recollection is that Mr. Nuckols and I discussed (13) how the treaty worked, and that he was going to (14) talk to somebody about it, but I can't tell you (15) what he discussed or what was said to him regarding (16) this matter from anybody on the receiver team.

(17) So, I can't answer the question any better (18) than that.

(19) BY MS. DRAIM:

(20) Q. When you just stated that you and (21) Mr. Nuckols discussed how the treaty worked, do you (22) mean that you discussed that with somebody on the (23) receivership team?

(24) A. No, no.

(25) MR. WOOD: Objection. Privileges.

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(1) THE WITNESS: No. Tom and I discussed in (2) his office how the agreement worked. And I'm not (3) recalling fully the details, but the flavor of the (4) discussion was that perhaps it's not clear to (5) people how this works, and Tom offered that he (6) would try to explain it to somebody. But I can't (7) recall whom he spoke with or what the discussion (8) was about.

(9) BY MS. DRAIM:

(10) Q. What prompted you and Mr. Nuckols (11) to believe that perhaps it wasn't clear to people (12) how the treaty worked?

(13) A. Well, just basically that (14) hypotheti-

cally over the long-term this agreement. (15) based on what we believed about our mortality (16) experience and the nature of this treaty, and the (17) arrangement with Protective, that all of those (18) together would benefit Fidelity Bankers Life from a (19) financial point of view, rather than harm it.

(20) Q. At some point did Mr. Nuckols (21) determine to try and explain that to some members (22) of the receivership team in connection with their (23) consideration whether to disavow this treaty?

(24) A. I can't say that he did that in (25) connection with disavowing the treaty just as a

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(1) matter of financial matters. I can't characterize (2) exactly how he went about that. I don't know.

(3) Q. You know that he did provide that (4) explanation to the receivership team?

(5) A. I can't say - I really can't say (6) what he said to them. I don't recall what his (7) discussion was or anything about it. The only (8) thing I recall is that we, regardless, terminated (9) the treaty.

(10) Q. If I can direct your attention to (11) Adams Exhibit 12, to the second page, second to (12) last sentence of that letter, "We regret the (13) circumstances that force us to take this action, (14) but this matter is beyond our control." (15) Mr. Adams, did you regret having to (16) inform North American Reassurance that the deputy (17) receiver had determined to terminate the stop loss (18) treaty?

(19) A. Let me understand your question. (20) Did I regret delivering this message?

(21) Q. Yes.

(22) A. Yes.

(23) Q. Why?

(24) A. Because it's unpleasant giving (25) people bad news and breaking off relationships.

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(1) Q. Any other reason?

(2) A. No. I think that sums it up.

(3) Q. In your opinion, was this action (4) unfair to North American Reassurance?

(5) MR. WOOD: Objection. Vague and ambiguous.

(6) THE WITNESS: I can't answer that question. (7) I don't pretend to know all the circumstances (8) surrounding the disavowal of this treaty because I (9) was not privy to that decision process. I could (10) characterize it as saying it was unfortunate and (11) that in business certain things take place. I'm (12) not sure that I can say I thought it was unfair.

(13) BY MS. DRAIM:

(14) Q. What was the result of the (15) disavowal of the stop loss treaty from the (16) standpoint of North American Reassurance?

(17) A. My recollection is that they took (18) the position that they would offset claims under (19) the right of offset in their other reinsurance (20) agreements.

(21) Q. Was another result of the disavowal (22) of the treaty that the excess mortality claims (23) ceded by North American Re to Fidelity Bankers were (24) not paid by Fidelity Bankers?

(25) A. I'm sorry, I apologize. I totally

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(1) blanked off.

(2) Q. It's okay. Was another result of (3) the disavowal of the stop loss treaty that the (4) excess mortality claims ceded by North American Re (5) to Fidelity Bankers were not paid by Fidelity (6) Bankers?

(7) A. Yes.

(8) MS. KINDALL: Can we take a five-minute (9) stretch?

(10) (Recess: 3:45 to 3:50 p.m.)

(11) BY MS. DRAIM:

(12) Q. Mr. Adams, did there come a time (13) when the stop loss treaty with North American (14) Reassurance was reinstated?

(15) A. I did not recall that. You (16) refreshed me in the meeting that that occurred. I (17) had forgotten it.

(18) Q. Is there anything I showed you that (19) refreshed your recollection or was it something (20) else? Was it a document that I showed you?

(21) A. It was a document.

(22) MS. DRAIM: Let me have this marked as (23) Adams Exhibit 14.

(24) (Adams Exhibit 14 was marked for (25) Identification.)

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(1) BY MS. DRAIM:

(2) Q. I show you Exhibit 14. Is this the (3) document that I showed you yesterday that refreshed (4) your recollection with respect to whether the stop (5) loss treaty with North American Re was reinstated?

(6) A. Yes.

(7) Q. Did you draft that document?

(8) A. It looks like my language; the way (9) I would write it, and there's no other indication (10) that I didn't do it. I would have been directed, (11) of course, to write this. It would not have been (12) something that I did on my own.

(13) Q. So, your answer to my question (14) is

(15) A. Yes.

(16) Q. Who directed you to draft that (17)

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document?

(18) MR. WOOD: Objection. Privileges.

(19) THE WITNESS: I don't honestly recall. It (20) would have been a member of the receiver team.

(21) BY MS. DRAIM:

(22) Q. Did you participate in the decision

(23) to reinstate the stop loss treaty?

(24) A. Not that I recall.

(25) Q. Did you have any discussions with

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(1) any member of the receiver team with respect to the (2) reinstatement of the stop loss treaty?

(3) MR. WOOD: If the answer goes beyond yes or (4) no, I object on the basis of privilege.

(5) THE WITNESS: Would you repeat your (6) question?

(7) BY MS. DRAIM:

(8) Q. Yes. Did you participate in any (9) discussion with any member of the receiver team (10) with respect to the reinstatement of the stop loss (11) treaty?

(12) A. Yes.

(13) Q. With whom did you have such a (14) discussion or discussions?

(15) MR. WOOD: Objection. Privileges.

(16) THE WITNESS: I really don't recall with (17) whom. But I wouldn't have written this letter (18) without participating in a discussion.

(19) BY MS. DRAIM:

(20) Q. Was there one discussion or more (21) than one discussion?

(22) MR. WOOD: Objection. Privileges.

(23) THE WITNESS: I don't recall.

(24) BY MS. DRAIM:

(25) Q. Can you describe whatever

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(1) discussions occurred?

(2) MR. WOOD: Now, we really are seriously (3) getting into the area of privileges to which I (4) object. This is after a date that North American (5) Re had filed an appeal from the decision of the (6) deputy receiver to disavow the treaty. The matter (7) was in a litigation mode at that point; in a claims (8) adjudication process.

(9) I strenuously object to the witness talking (10) about the conversation he had with receiver staff (11) in the context of that situation.

(12) MS. KINDALL: Are you standing by the (13) question?

(14) MS. DRAIM: Yes.

(15) (The pending question was read by (16) the Court Reporter.)

(17) MS. KINDALL: I would instruct my client (18) not to answer.

(19) BY MS. DRAIM:

(20) Q. Did you have any discussions with (21) people at North American Reassurance with respect (22) to the reinstatement of the stop loss treaty?

(23) A. I recall having a discussion as to (24) - with someone as to what this meant, but I don't (25) recall any details.

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(1) Q. Do you recall when that discussion (2) occurred in relation to your letter to David (3) Nussbaum?

(4) A. It would have been after that. I (5) don't recall when.

(6) Q. Was the person with whom you had (7) that discussion someone within North American (8) Reassurance?

(9) A. My recollection is it would have (10) been David.

(11) Q. Do you recall what was discussed?

(12) A. Not in details. I don't recall.

(13) *(Adams Exhibit 15 was marked for (14) Identification.)*

(15) BY MS. DRAIM:

(16) Q. Mr. Adams, when Fidelity Bankers (17) entered into the stop loss treaty with North (18) American Reassurance, did it establish reserves for (19) its obligations under that treaty?

(20) MR. WOOD: I'm not sure I understood. (21) Which treaty are you referring to? Because I (22) believe the evidence there are numerous treaties (23) between North American and -

(24) BY MS. DRAIM:

(25) Q. Mr. Adams, do you understand what I

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(1) mean by the stop loss treaty between Fidelity (2) Bankers and North American Re?

(3) A. In the context of this (4) conversation, you mean the aggregate excessive loss (5) treaty that was between us?

(6) Q. Yes.

(7) A. We would have established the (8) proper financial figures for that treaty.

(9) Q. By proper financial figures, do you (10) mean statutory reserves?

(11) A. Yes.

(12) Q. Who would have participated in the (13) decision as to what amount of reserves to set up?

(14) A. That would have been our actuary, (15) and I don't recall exactly whether Helms Briegel (16) was still involved at that point or whether Tom (17) Nuckols did that. For annual statement purposes, (18) probably Tom Nuckols.

(19) Q. Did you have any input into the (20)

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establishment of those reserves?

(21) A. No.

(22) Q. Do you recall what the amount of (23) reserves that was established was?

(24) A. No.

(25) MR. WOOD: Counsel, are we talking about

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(1) the initial time that the treaty was entered into?

(2) MS. DRAIM: That's what we're talking (3) about.

(4) MR. WOOD: Since your question was (5) unlimited completely as to time, I didn't know.

(6) THE WITNESS: The answer is no. I don't (7) recall what those numbers were. I should clarify (8) that even though I was the reinsurance manager, (9) there were a couple of agreements of this - not of (10) this type, but there were some agreements that (11) required a lot of actuarial work, which you would (12) let the actuary take care of. There was no sense (13) in me replicating their work. They would handle (14) the details of those reserves.

(15) BY MS. DRAIM:

(16) Q. Were you pointing that out because (17) you were generally involved in setting up reserves (18) with respect to reinsurance?

(19) A. At the direction of the actuaries I (20) implemented systems calculation for my systems that (21) generated reinsurance reserves.

(22) Q. Are you saying you did not (23) implement any systems calculation for purposes of (24) setting up the reserve on the stop loss treaty (25) between North American Reassurance and Fidelity

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(1) Bankers?

(2) A. Correct.

(3) Q. Why was that?

(4) A. It had to do with the type of (5) agreement and it's the type of agreement where the (6) actuaries have to calculate a lot of calculation (7) about what they expect mortality to be versus what (8) they hope to achieve in the transactions and what (9) they're going to pay for. It's a fairly complex (10) scenario there.

(11) They're looking at a whole block.

(12) Q. Would the setting up of reserves on (13) the stop loss treaty between North American Re and (14) Fidelity Bankers also have involved a consideration (15) of actuarial aspects of Fidelity Bankers' sale of (16) the business to Protective?

(17) MR. WOOD: Objection. Vague and ambiguous.

(18) THE WITNESS: Could you rephrase

that?

(19) BY MS. DRAIM:

(20) Q. I'm just trying to understand the (21) import of the answer that you just gave me with (22) respect to why you would not have done the usual (23) procedures that you did to determine reserves with (24) respect to the stop loss treaty between North (25) American Re and Fidelity Bankers.

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(1) You mentioned that actuaries came (2) in and performed those calculations because they (3) had to do so with an understanding of what they (4) were trying to achieve. I'm not sure what you mean (5) by that. So, I'm seeking a clarification of the (6) import of your previous answer.

(7) A. Okay. On a normal reinsurance (8) agreement where you reinsure one risk at a time, (9) you set the reserve for each case, one at a time. (10) And then you sum them up. You do a similar thing (11) on a block of business where you have all those (12) cases at one time.

(13) But in a stop loss agreement there (14) are some other calculations entering into the (15) transaction because what you're trying to do is (16) establish a total reserve for that total block and (17) you're making projections, and it's easier for the (18) actuary to do that because he's got all the (19) information. He can get all the information in a (20) block.

(21) I don't do reinsurance (22) administration that way. That the not traditional (23) day-to-day reinsurance administration operations. (24) That's the only difference I meant between the two.

(25) So, therefore, I'm not familiar

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(1) with the methodology and the actual number that was (2) in the statement at the time that you're (3) questioning.

(4) Q. When you say factors other than the (5) expected mortality on individual policies would (6) have to be considered, you mean factors that (7) pertain to the block as a whole such as expected (8) lapses, things of that type?

(9) A. Yes.

(10) Q. And the person who performed those (11) calculations to arrive at the reserve was (12) Mr. Nuckols?

(13) A. Yes.

(14) Q. When Fidelity Bankers determined to (15) reinstate the stop loss treaty between it and North (16) American Reassurance, did it again establish (17) reserves for its obligations under that contract?

(18) A. I don't have knowledge of that. I (19)

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don't recall anything about it. No recollection.

(20) Q. In your experience as director of (21) reinsurance of Fidelity Bankers, was the company (22) required to have reserves for any reinsurance (23) contract under which it had outstanding (24) obligations?

(25) MR. WOOD: Objection. Not only to the

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(1) extent it may call for a legal conclusion.

(2) THE WITNESS: A company is required by (3) statute to hold reserves for its obligations and if (4) it assumed reinsurance obligation, it's required to (5) have those reserves.

(6) BY MS. DRAIM:

(7) Q. So, the answer to my question is yes?

(9) A. Yes.

(10) Q. Does that help you with respect to (11) the question of whether Fidelity Bankers reinstated (12) reserves when it reinstated the stop loss treaty (13) with North American Re?

(14) A. No. It doesn't, because I was not (15) involved in that, and I don't recall what was done (16) with that business.

(17) (Pause in proceedings.)

(18) BY MS. DRAIM:

(19) Q. Mr. Adams, I show you Exhibit 15.

(20) Can you identify that document?

(21) A. It's a copy of the statutory annual (22) statement of Fidelity Bankers Life Insurance (23) Company if receivership for conservation and (24) rehabilitation for the year ended December 31, (25) 1992.

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(1) Q. If I could direct your attention to (2) - this is page 80 of this document, and there's a (3) marking in pen on this page, which I will identify (4) for the record as my own marking. It's on (5) Schedule S. There's an entry, a whole entry, (6) across several columns and it identifies North (7) American Reassurance Company.

(8) I would like to ask you whether (9) this document and this page refreshes your (10) recollection as to whether when the stop loss (11) treaty with North American Reassurance was (12) reinstated, reserves were set up with respect to (13) Fidelity Bankers under that treaty?

(14) A. This page reflects the fact that (15) reserves for that treaty were set up.

(16) MS. KINDALL: Is that your recollection or (17) is that what the document shows?

(18) THE WITNESS: That's what the document (19) shows. I have no recollection of when or how it (20) occurred. I wasn't involved in it.

(21) *(Adams Exhibit 16 was marked for (22) Identification.)*

(23) BY MS. DRAIME

(24) Q. Mr. Adams, I show you Exhibit 16.

(25) Can you identify that document?

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(1) A. This document is a copy of a letter (2) to Tom Nuckols, FSA at Fidelity Bankers Life from (3) Paul G-o-s-c-h-a-s-k-i at North American Re. It's (4) dated February 3, 1993. It describes claims (5) information with a total due North American Re.

(6) Q. To your knowledge, does this (7) document set forth the excess mortality claims made (8) by North American Re to Fidelity Bankers for the (9) years 1991 and 1992?

(10) MR. WOOD: Objection. Lack of foundation. (11) The record shall also reflect that Adams Exhibit 16 (12) is, apparently, an unsigned document.

(13) MS. DRAIME: That's correct. The original (14) of this document should have been located by (15) Fidelity Bankers during its search of its files in (16) response to the document production request of (17) Integrated Resources, but despite our having asked (18) you for documents that fall into the category that (19) this one falls into, we never got any copy of the (20) original in any of the document production.

(21) So, what I have here is a file copy from (22) the files of North American Re.

(23) MS. KINDALL: I would ask the question to (24) be read back, please.

(25) *(The pending question was read by*

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(1) *the Court Reporter.)*

(2) MS. KINDALL: I would agree with a (3) foundational objection. I instruct the witness, (4) it's what you know. Not what the document says.

(5) MR. WOOD: Same objections.

(6) THE WITNESS: I have a problem here with -

(7) MS. KINDALL: You can ask her to rephrase (8) the question if you don't understand it.

(9) THE WITNESS: No. It isn't that. It's a (10) problem with the question of does this fall into (11) the litigation area or not.

(12) MS. DRAIME: Let me clarify my question.

(13) MS. KINDALL: I'm sure she's not asking (14) anything to do with litigation with respect to this

(15) *(indicating).*

(16) BY MS. DRAIME:

(17) Q. Let me sort of step back a minute.

(18) You testified that you were involved in

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the setting (19) up of this stop loss arrangement between North (20) American Re and Fidelity Bankers; is that correct?

(21) A. Yes.

(22) Q. The arrangement contemplated on an (23) annual basis North American Reinsurance would code (24) any excess mortality claims arising under the block (25) of business that was assumed by Protective to

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(1) Fidelity Bankers; is that correct?

(2) A. Yes.

(3) Q. That would occur on an annual (4) basis?

(5) A. Yes.

(6) Q. And the first year for which excess (7) mortality claims would have been coded by North (8) American Re to Fidelity Bankers was in the calendar (9) year 1991; is that correct?

(10) A. That's correct.

(11) Q. The method of coding those claims (12) would have been through written notification; is (13) that correct?

(14) A. Correct.

(15) Q. Do you recall receiving such (16) notification from North American Re with respect to (17) calendar year 1991 excess mortality claims?

(18) A. Yes. I recall that we, in our (19) department, had the actuarial department, received (20) such notice.

(21) Q. Do you remember the amount of (22) excess mortality claims that were coded?

(23) A. I don't remember the specific (24) dollar amount, but it was over a million.

(25) Q. It was over a million?

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(1) A. Yes.

(2) Q. Did your department audit those (3) claims when they were coded by North American Re?

(4) A. I don't recall what we did. I (5) honestly don't recall. Mr. Nuckols would have been (6) involved there from the standpoint of comparing all (7) of the data to what had been established in the (8) block.

(9) So, to that extent, at least we made sure (10) we weren't getting claims from policies that (11) weren't part of the block. If that qualifies as an (12) audit as you put it, then, yes, we performed some (13) audit on the claims.

(14) Q. At some point did you determine (15) that North American Re had at least one million (16) dollars in valid and payable excess mortality (17) claims since Fidelity?

(18) MS. KINDALL: For the year 1991?

(19) MS. DRAIME: Yes.

(20) MR. WOOD: Calls for legal conclusion with (21) regard to the payable aspect as much as the company (22) was in receivership at that time.

(23) MS. KINDALL: You may answer the question.

(24) THE WITNESS: Through a combined effort in (25) our department, we concluded that there was over a

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(1) million dollars in excess loss, apparently, due to (2) North American Re.

(3) BY MS. DRAIM:

(4) Q. Do you recall after the conclusion (5) of calendar year 1992 receiving written (6) notification from North American Re concerning (7) excess mortality losses for 1992?

(8) A. I only recall that we were apprised (9) of that fact. I don't recall personally receiving (10) it and I don't recall how I became aware of it, (11) other than possibly conversation with Tom Nuckols (12) about that block.

(13) Q. But you do recall at some point you (14) were apprised of the excess mortality losses for (15) 1992 under the stop loss treaty between North (16) American Re and Fidelity?

(17) A. Yes. I do recall that.

(18) Q. Do you remember what the amount of (19) those losses was?

(20) A. I don't remember the dollar amount, (21) but I do remember it was another bad year.

(22) Q. Do you remember that it was over a (23) million dollars?

(24) A. I honestly don't. I just remember (25) it was another bad year.

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(1) Q. Does Adams Exhibit 16 refresh your (2) recollection as to what the 1992 excess mortality (3) losses were?

(4) A. It seems to me it was a number (5) again at a million or greater mark that we were (6) being presented with. That's the best that (7) refreshes my recollection. It doesn't tell me a (8) specific number.

(9) Q. Did your department audit that (10) information when they received it from North (11) American Reassurance?

(12) A. Again, a combined effort, the (13) documentation was reviewed.

(14) Q. At some point was it determined (15) that North American Re had a claim for over a (16) million dollars in excess mortality losses for the (17) calendar year of 1992?

(18) A. I believe that's correct.

(19) Q. It was determined that was a valid (20) and payable claim?

(21) MR. WOOD: Objection.

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(22) BY MS. DRAIM:

(23) Q. Let me just clarify, Mr. Adams. (24) I'm not asking you to state a legal conclusion. (25) When I use the term, "valid and payable," I mean

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(1) for the moment disregarding the fact that Fidelity (2) Bankers was in receivership, if that claim had been (3) made to Fidelity Bankers as a company not in (4) receivership, it would have paid that claim?

(5) MR. WOOD: That's a hypothetical and calls (6) for speculation. I'll object on those grounds.

(7) MS. DRAIM: Fine. You've been asking (8) hypothetical questions all week. Mr. Wood, and this (9) one does not differ from those in any significant (10) respect.

(11) THE WITNESS: I recall that we agreed that (12) we had two years of large claims that under the (13) agreement between us and North American Re were due (14) and payable to them. As to the absolute dollar (15) amount, I can't attest to that. I don't remember (16) it.

(17) MS. KINDALL: I think you lost the question (18) with the objection.

(19) MS. DRAIM: I think the answer is (20) responsive.

(21) MS. KINDALL: I thought you asked whether (22) you thought 1992 was valid.

(23) MS. DRAIM: She can read back the question, (24) but it did respond.

(25) MS. KINDALL: That's fine. If you're

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(1) happy, that's fine.

(2) BY MS. DRAIM:

(3) Q. Mr. Adams, in light of your (4) testimony that you recollect the claims for each (5) year were over a million, do you recollect that the (6) combined sum which you just testified about which (7) was due to North American Re was over two million?

(8) A. It seems to me I recall it being in (9) that neighborhood, yes.

(10) Q. Mr. Adams, did you meet me for the (11) first time yesterday?

(12) A. For the first time yesterday, yes.

(13) Q. Have you ever communicated with me (14) prior to that? I represented North American Re and (15) you're probably thinking you did communicate with (16) me in the course of the receivership.

(17) Had you ever communicated with me (18) with respect to your testifying in this matter?

(19) A. No.

(20) Q. Is there anything that we discussed

(21) yesterday concerning Integrated, Fidelity

Bankers (22) or North American Re that has not come up during (23) your deposition today?

(24) MS. KINDALL: I don't know if I could answer that question.

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(1) THE WITNESS: It covers a fair amount of (2) territory.

(3) MS. KINDALL: If you recall.

(4) *(Pause in proceedings.)*

(5) THE WITNESS: If there is, I honestly have (6) forgotten it.

(7) BY MS. DRAIM:

(8) Q. When I met with you yesterday, was (9) that the only time I met with you prior to this (10) deposition?

(11) A. Yes.

(12) Q. During our meeting did I in any way (13) suggest to you as to what you should testify to (14) today?

(15) A. No.

(16) Q. All of your answers today have been (17) your own idea?

(18) A. Yes.

(19) Q. Have you had any conversations with (20) Mr. Wood or Mr. Adkins concerning your testimony (21) here today or deposition?

(22) A. They had a similar opportunity to (23) speak with me via phone instead of in person, much (24) as you did - the same as you did.

(25) Q. Is there anything that came up in

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(1) your conversation with Mr. Wood and Mr. Adkins that (2) has not come up during your deposition today?

(3) A. Not that I recall.

(4) Q. Did you only have one conversation (5) with them about your deposition?

(6) A. I had two conversations. One was (7) the day of the deposition. And Mr. Adkins had (8) called me previously to try and set it up.

(9) MS. KINDALL: Regarding setting up the (10) deposition?

(11) THE WITNESS: Yes. As a matter of fact, he (12) mentioned he was doing that also on your behalf.

(13) BY MS. DRAIM:

(14) Q. And then the other conversation was (15) a longer conversation in which you discussed (16) various topics relating to Fidelity Bankers with (17) Mr. Adkins and Mr. Wood; is that correct?

(18) A. Correct.

(19) Q. During that longer conversation did (20) Mr. Adkins or Mr. Wood suggest to you that you (21) should not testify with respect to any particular (22) topic or issue?

(23) A. No. I don't recall that.

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(24) Q. During either of your conversations (25) with Mr. Adkins and Mr. Wood, did they ask you

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(1) whether you would be willing to be the designee of (2) Fidelity Bankers with respect to any matters (3) related to this proceeding?

(4) A. What does designee mean?

(5) Q. Did they ask you whether you would (6) be willing to speak on behalf of Fidelity Bankers (7) with respect to any issue relating to this (8) proceeding?

(9) MS. KINDALL: You mean as a trial witness (10) or as their designated authorized representative?

(11) MS. DRAIM: As their designated authorized (12) representative. Thanks for pointing out that (13) phrase.

(14) THE WITNESS: No.

(15) BY MS. DRAIM:

(16) Q. They did not ask you?

(17) A. They certainly asked me to be their (18) designated whatever you said.

(19) MS. KINDALL: Authorized representative.

(20) THE WITNESS: Authorized representative.

(21) MS. DRAIM: I think I'm just about done. I (22) would like to take a second or two.

(23) MS. KINDALL: We'll step outside and come (24) right back in.

(25) *(Recess 4:20 to 4:30 p.m.)*

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(1) MS. DRAIM: Mr. Adams, I have no further (2) questions at this time. I want to thank you for (3) taking the time out to come here today and appear (4) for testimony. I'll turn it over to people in the (5) deputy receiver's office.

(6) MS. KINDALL: I will note it's 4:30.

(8) CROSS EXAMINATION

(9) BY MR. WOOD:

(10) Q. Mr. Adams, as you probably know I'm (11) Jeff Wood, one of the attorneys representing the (12) deputy receiver. I'm just going to hopefully have (13) a small number of questions for you.

(14) Let me show you a document that was (15) previously marked in another deposition as Klein (16) Exhibit 1. Can you identify that as being one of (17) the treaties that was executed between Fidelity (18) Bankers Life Insurance Company and Integrated (19) Resources Life Insurance Company pursuant to which (20) insurance risks on policies written by Fidelity (21) Bankers were ceded to Integrated?

(22) A. Yes. I identify it as a copy of (23) Pool

B Treaty and Automatic Reinsurance Agreement (24) between Fidelity Bankers Life and Integrated (25) Resources Life Insurance Company as the reinsurer.

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- (1) MS. KINDALL: Mr. Wood, just for (2) housekeeping purposes, I ask anything showed to him (3) marked is kept in this deposition.
- (4) MR. WOOD: No problem.
- (5) BY MR. WOOD:
- (6) Q. Mr. Adams, do you recall whether (7) that treaty or any of the other treaties between (8) Fidelity Bankers and Integrated Resources Life (9) spoke to the issue of when and under what (10) circumstances set-offs were to be allowed between (11) the parties?
- (12) A. I would have to refresh my memory (13) on that. I don't recall.
- (14) Q. You have no independent (15) recollection of that?
- (16) A. No.
- (17) Q. Let me show you page 6 of this (18) document, the paragraph at the top of the page (19) entitled, "Paragraph Number 2." Would you please (20) read that paragraph and then tell me if that helps (21) you refresh your recollection at all as to the (22) issue, the circumstances under which the parties to (23) that particular agreement agreed?
- (24) MS. KINDALL: I would caution the witness (25) that the question is whether or not it refreshes

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- (1) your recollection. Not what the document says.
- (2) MR. WOOD: That's correct.
- (3) BY MR. WOOD:
- (4) Q. I'm asking just for you to read it (5) and tell me yes or no whether it refreshes your (6) recollection under the circumstances under which (7) Fidelity Bankers and Integrated agreed with each (8) other that set-offs were permitted.
- (9) MS. KINDALL: I object to the form of the (10) question.
- (11) THE WITNESS: It refreshes my memory.
- (12) BY MR. WOOD:
- (13) Q. What is your understanding with (14) regard to the issue of the circumstances under (15) which Fidelity Bankers and Integrated could set off (16) against one another?
- (17) MS. DRAIM: Object to the form of the (18) question.
- (19) THE WITNESS: We were supposed to let each (20) other know about the set-off and agree to it.
- (21) BY MR. WOOD:

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(22) Q. Was it your understanding at the (23) time you were administering activities with regard (24) to the reinsurance treaties in place between (25) Fidelity Bankers Life and Integrated Resources Life

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- (1) such as that exhibit that neither party would be (2) allowed to set off against the other unless it had (3) the consent of the other party?
- (4) MS. DRAIM: Object to the form of the (5) question.
- (6) THE WITNESS: I think you lost me. I'm (7) sorry.
- (8) MS. KINDALL: It's a long question.
- (9) BY MR. WOOD:
- (10) Q. Was one party to the contract that (11) you have before you allowed to set off against the (12) other to your understanding without the consent of (13) the other party?
- (14) MS. KINDALL: At the time he was (15) administering these contracts?
- (16) MR. WOOD: Yes.
- (17) MS. DRAIM: Object. It calls for legal (18) conclusion. It also assumes there were no other (19) means for effecting a set-off such as statutory (20) set-off provision that permitted set-offs in the (21) context of receiverships.
- (22) BY MR. WOOD:
- (23) Q. I'm merely asking for your (24) understanding of the business arrangement between (25) the two parties.

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- (1) A. It was my understanding with (2) respect to the agreements of this nature the pool (3) agreements - and there were several pool (4) agreements - that set-off was mutual. I don't (5) recall if set-off was to be mutually agreed upon (6) under every agreement. But I do recall the pool (7) agreements were that way.
- (8) Q. When you say by mutual, do you mean (9) that set-off could not occur if either party (10) objected to setting off had taken place?
- (11) MS. DRAIM: Same objection to the form of (12) the question. Calls for legal conclusion and it (13) fails to take into account the existence of state (14) set-off statutes.
- (15) THE WITNESS: The terms of the treaty were (16) that you shouldn't do it without agreeing to it (17) between the two parties.
- (18) BY MR. WOOD:
- (19) Q. During a period of time that you (20) administered the business that was ceded to (21) Integrated Resources Life under pool agreements (22) such as Klein Exhibit 1, did Integrated Resources (23) Life Insurance company ever request permission to (24) ac-

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 accomplish a set-off against Fidelity Bankers?
 (25) A. I don't recall.

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- (1) Q. You recall no instance in which (2) Integrated Resources Life ever asked for permission (3) to set off against Fidelity Bankers under those (4) pool treaties; is that correct?
 (5) A. That's correct.
 (6) Q. Do you recall a circumstance - do (7) you recall whether or not Integrated Resources Life (8) ever attempted to set off against Fidelity Bankers (9) under any treaty?
 (10) MS. KINDALL: Time period?
 (11) MR. WOOD: Any time that he was (12) administering this business on behalf of Fidelity (13) Bankers Life.
 (14) MS. KINDALL: Before or after receivership?
 (15) MR. WOOD: At both times.
 (16) THE WITNESS: From the time I came to (17) Fidelity until the time I left while Integrated (18) Resources had the business, I do not recall them (19) setting off.
 (20) BY MR. WOOD:
 (21) Q. You don't recall them asking to set (22) off?
 (23) A. I don't recall that.
 (24) Q. After you became aware that an (25) assumption and reinsurance agreement had been

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- (1) entered into between North American Re and (2) Integrated Resources Life that purported to have (3) some relationship to the business that Fidelity had (4) ceded to Integrated, do you recall whether or not (5) North American Re ever asked for permission to (6) accomplish a set-off against Fidelity Bankers at (7) any time?
 (8) A. I have no recall of any (9) communication to me asking for any permission (10) asking to set off.
 (11) Q. Are you aware of any request for (12) permission to set off that North American Re made (13) to anyone associated with Fidelity Bankers or the (14) deputy receiver?
 (15) A. I have no recollection of that.
 (16) Q. You have no recollection that (17) permission was ever sought by North American Re?
 (18) A. Right. It certainly wasn't down at (19) my level and I wouldn't have known what was going (20) on at the receiver's level.
 (21) Q. What is your best understanding, as (22) you sit here today, of the time period that you (23) first learned that North American Re was purporting (24) to set off amounts due under the stop loss (25) agreement that you were referring to earlier

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- (1) against funds that were due Fidelity Bankers under (2) the various Integrated treaties that Fidelity had (3) with Integrated?
 (4) MS. DRAIM: I think you're about to say (5) what I'm about to say. While I have it on my mind, (6) I'm older, I might forget. I have an objection (7) because it appears to be totally inconsistent with (8) the position you've taken with respect to the (9) executive and deliberative privileges.
 (10) You foreclosed that avenue of inquiry on (11) the part of Integrated and yet you seem to be (12) getting into the same topic in your own (13) cross-examination.
 (14) I think Ms. Kindall has more to say.
 (15) MS. KINDALL: It doesn't call for (16) attorney/client privilege as the parameters have (17) been here.
 (18) MR. WOOD: I did not want you to reveal the (19) nature of conversations you had with (20) representatives of deputy receiver's staff. I'm (21) looking more towards any other knowledge you might (22) have had.
 (23) MS. DRAIM: It seems it goes beyond the (24) attorney/client privilege. You've taken the (25) position any conversations he had with anybody on

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- (1) the receiver team are subject to an executive or (2) deliberative privilege. Are you asking him now to (3) waive that privilege?
 (4) MR. WOOD: No. I'm certainly not. The (5) question can be answered without revealing that (6) information.
 (7) MS. DRAIM: You need to rephrase your (8) question. As currently phrased, it certainly does (9) get into that area.
 (10) BY MR. WOOD:
 (11) Q. You can assume I'm not asking you, (12) Mr. Adams, to reveal the nature of conversations (13) that you had with anyone on the deputy receiver's (14) staff; attorneys, the accountants, the deputy (15) receiver, the special deputy receiver, anyone like (16) that. And assume that for purposes of my question, (17) I'm not even asking you for the content of (18) anything.
 (19) I'm asking for when you understood (20) that they first began purporting to accomplish a (21) set-off of amounts that they claim were due under a (22) stop close agreement against amounts due Fidelity (23) Bankers under the various reinsurance treaties that (24) had been in place between Integrated and Fidelity (25) Bankers.

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- (1) A. I became aware of it through the (2) claims department, but when I became aware

of it, I (3) can't pin down to a close time frame.
 (4) Q. Was it your understanding that (5) North American purported to accomplish such a (6) set-off beginning sometime subsequent to your (7) notification of North American that the stop loss (8) agreement had been disavowed by the deputy (9) receiver?

(10) A. That would be my recollection.

(11) Q. To the best of your knowledge, did (12) Fidelity Bankers, during the entire period of time, (13) both prior to and subsequent to receivership, make (14) all premium payments that were due under the (15) treaties that were in place between Fidelity (16) Bankers and Integrated, either to Integrated or to (17) North American?

(18) A. Could you repeat that?

(19) *(The pending question was read by (20) the Court Reporter.)*

(21) THE WITNESS: My recollection is that at (22) least up until the time I left and from the time I (23) was there we, Fidelity, did pay the premiums that (24) were due to Integrated and North American Re with (25) adjustments made by us prior to and after the

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(1) receivership as we deemed fit.

(2) BY MR. WOOD:

(3) Q. Do you recall either Integrated or (4) North American ever expressing any problem or (5) dissatisfaction concerning either the timeliness or (6) the amount of the premium payments that Fidelity (7) Bankers made pursuant to the various reinsurance (8) agreements that had been in place between (9) Integrated and Fidelity?

(10) A. I do recall that we did not always (11) make our deadlines and after the receivership I (12) recall that there was a point in time when we were (13) woefully behind on payments to North American Re.

(14) Q. Was that delinquency with respect (15) to the amounts that were due under the treaties (16) that had been in place between Fidelity and (17) Integrated?

(18) A. I can't answer that question (19) because it would be dependent at the point in time (20) that North American Re asserted that they had (21) assumed the Integrated business. And I can't (22) recollect if the time that those delinquencies (23) occurred was before that or after that.

(24) Q. So, you don't know whether there (25) was ever a delinquency on payments made by Fidelity

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(1) Bankers for premiums under the treaties that were (2) in place between Fidelity and Integrated?

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(3) MS. DRAIM: Objection.

(4) MS. KINDALL: It misrepresents his (5) testimony.

(6) MR. WOOD: It's a freestanding question.

(7) MS. KINDALL: I object to the question on (8) the same grounds.

(9) THE WITNESS: I do know that we were (10) delinquent on all our treaties at some point in (11) time after the receivership due to procedural (12) delays.

(13) BY MR. WOOD:

(14) Q. Do you ever recall Integrated (15) expressing dissatisfaction over that fact?

(16) A. I don't recall Integrated (17) expressing dissatisfaction. I recall being queried (18) about it.

(19) Q. Do you recall North American (20) expressing dissatisfaction over any of the (21) delinquency that might have pertained to premiums (22) due on the treaties that had been in place between (23) Fidelity and Integrated?

(24) A. Yes.

(25) Q. To the best of your knowledge.

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(1) ultimately, were all the premiums that were due (2) paid?

(3) A. To the best of my knowledge and (4) recollection, they were.

(5) Q. And those payments were accepted by (6) either Integrated or North American, whoever they (7) were made to?

(8) A. To my knowledge, they were.

(9) Q. Now, to the extent that Fidelity (10) Bankers or the deputy receiver began making (11) payments of premium due under the treaties that had (12) been in place between Fidelity Bankers and (13) Integrated to North American, were those payments (14) made to North American because North American (15) requested that they be paid to North American?

(16) MS. DRAIM: Objection to the form of the (17) question.

(18) MS. KINDALL: Feel free to have the (19) question reread.

(20) THE WITNESS: The answer to that would be (21) yes.

(22) BY MR. WOOD:

(23) Q. Did Integrated Resources Life or (24) any of its representatives ever ask you or other (25) representatives of Fidelity Bankers or the deputy

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(1) receiver to make payments of premium on the (2) treaties that had been in place between Fidelity (3) Bankers and Integrated to North American?

(4) MS. KINDALL: I would raise the objec-

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tion (5) that you're advising my client to waive your (6) privilege when you ask to your knowledge was (7) anything told to receivers.

(8) MR. WOOD: By Integrated.

(9) MS. DRAIM: Exactly.

(10) MR. WOOD: You can always assume in every (11) question that I'm asking you, and please tell me if (12) it would call in your view for disclosure of any (13) privileged information as I've defined it. But I'm (14) asking for your knowledge as to whether an outside (15) party Integrated requested that you - requested of (16) you - let's start with you.

(17) BY MR. WOOD:

(18) Q. Do you recall whether or not (19) Integrated ever requested of you that Fidelity (20) Bankers over the deputy receiver start making (21) premium payments on the treaties that had been in (22) place between Fidelity Bankers and Integrated to (23) North American?

(24) A. It seems to me I recall that it (25) came up in a discussion. I don't know whether you

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(1) characterize it as a formal request or that it was (2) an event that was about to transpire. So, I can't (3) say yes or no to that question.

(4) Certainly, Ken Klein told me at (5) some point in time that North American Re would be (6) getting the business. That's one of the things I (7) testified to earlier. And that we discussed how it (8) would be paid, and that he would let me know and I (9) would probably bear from North American Re.

(10) I don't recall when or if any would (11) be at Integrated - they may not have told me.

(12) They might have told my staff. I would have known (13) about it ultimately.

(14) So, I don't recall if somebody said (15) at Integrated, "Start paying the checks to North (16) American Re."

(17) Q. What you do recall is Ken Klein (18) saying to you that at some point Fidelity Bankers (19) would be asked to begin remitting premium payments (20) were due under those treaties to North American Re?

(21) A. Right.

(22) Q. Did you understand by Mr. Klein's (23) comments that Integrated was in agreement with the (24) concept of those premium payments beginning to be (25) made over to North American Re?

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(1) A. Oh, yes.

(2) Q. Now, with respect to notification (3) to the reinsurer of losses. Before covered by the (4) treaties between Fidelity Bankers and Integrated (5) Resources Life, there came a

point in time where (6) Fidelity Bankers began sending notices of losses (7) covered by the treaties to North American instead (8) of Integrated; is that correct?

(9) A. I believe that's correct. At some (10) point in time. I don't recall when.

(11) Q. Do you have an understanding as to (12) whether that was requested to be done by North (13) American or its representatives?

(14) A. It was a direction as to where to (15) send claims. So, yes, they requested it.

(16) Q. And Fidelity Bankers complied with (17) that request; is that correct?

(18) A. We wanted the claims paid.

(19) Q. So, yes, is the answer to the (20) question?

(21) A. Yes.

(22) Q. Do you recall whether a request was (23) ever made by representatives of Integrated (24) Resources Life to you, to begin sending notices of (25) losses due under the treaties that had been in

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(1) place between Fidelity and Integrated to North (2) American?

(3) A. I recall that. I don't recall the (4) circumstances whether it was another conversation (5) with Ken or whether we got a letter or whether the (6) claims department got a letter. But I knew it to (7) be occurring that Integrated agreed with it.

(8) Q. Other than the possible delinquency (9) in the timeliness of the payment of premiums due (10) under those treaties between Fidelity and (11) Integrated that you testified to earlier, are you (12) aware of any other obligations that you understood (13) Fidelity Bankers to have under those treaties that (14) Fidelity Bankers did not perform while you were (15) employed by Fidelity Bankers?

(16) A. Do I understand you to be excluding (17) the stop loss agreement or are we still speaking (18) only of the pool agreements?

(19) Q. Any and all agreements between (20) Fidelity Bankers and Integrated as opposed to North (21) American.

(22) A. I don't recall any other (23) delinquencies on Integrated Resources.

(24) Q. What I'm specifically asking about, (25) leaving aside the delinquencies because we talked

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(1) about those. Are there any other obligations that (2) you understood Fidelity Bankers to have under the (3) treaties that had been in place between Fidelity (4) Bankers and Integrated that Fidelity Bankers did (5) not perform?

(6) A. No, I don't recall any obligation (7)

that we did not perform.

(8) Q. At sometime subsequent to your (9) becoming aware that Integrated and North American (10) had entered into an assumption reinsurance (11) agreement that had some relationship to the (12) business that had been ceded by Fidelity to (13) Integrated, did Integrated cease making payments on (14) the losses covered by those treaties?

(15) MS. DRAIM: Objection to the form of the (16) question.

(17) THE WITNESS: Not to my knowledge or (18) recollection.

(19) BY MR. WOOD:

(20) Q. You don't recall whether Integrated (21) stopped making payments on losses covered by the (22) treaties in place between Integrated and Fidelity (23) subsequent to the assumption and reinsurance (24) transaction between Integrated and North American?

(25) A. Okay. I misunderstood. Maybe I

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(1) misunderstood your other question. I apologize.

(2) MS. KINDALL: Just for the record, (3) Mr. Adams, Mr. Wood is asking questions on (4) cross-examination. By necessity, they're longer (5) questions.

(6) THE WITNESS: That's okay.

(7) MS. KINDALL: To the extent there's (8) something in there that trips you up, don't (9) hesitate to ask it be reread. He's going to assume (10) you understand everything he says.

(11) THE WITNESS: Thank you. That went over my (12) head.

(13) MS. KINDALL: Just answer the question as (14) you understand, but make sure you understand before (15) you answer.

(16) THE WITNESS: Can you reread that?

(17) MR. WOOD: It might be faster if I repeat (18) it.

(19) BY MR. WOOD:

(20) Q. Did there come a time subsequent to (21) when you became aware that Integrated and North (22) American had entered into an assumption reinsurance (23) agreement that had some relationship to the (24) business what had been ceded to Integrated by (25) Fidelity where Integrated stopped making payments

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(1) on losses covered by the treaties between Fidelity (2) and Integrated?

(3) A. Could you rephrase the question, (4) Mr. Wood?

(5) Q. I'm not sure how else to ask it.

(6) MS. KINDALL: I could probably help if you (7) like. Did you stop making claims to

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Integrated?

(8) THE WITNESS: We stopped making claims to (9) Integrated and they stopped paying claims. And we (10) started submitting the claims to North American Re (11) and they paid them.

(12) BY MR. WOOD:

(13) Q. There came a point in time when (14) Integrated wasn't paying claims anymore?

(15) MS. DRAIM: Objection to the form of the (16) question.

(17) BY MR. WOOD:

(18) Q. To Fidelity, isn't that right?

(19) MS. KINDALL: Objection to the form of the (20) question as being somewhat misleading. If your (21) question is, did Integrated not pay claims as were (22) submitted to Integrated, then he would have one (23) answer.

(24) If you're saying because the claims were no (25) longer being presented to Integrated but were being

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(1) presented to North American Re, he would have - (2) Integrated stopped paying claims, he would have a (3) separate answer. And I would ask you to clarify (4) what your question is.

(5) MS. DRAIM: For that matter, ITT Hartford (6) wasn't making any claims to Fidelity either.

(7) MR. WOOD: I'm asking if there came a point (8) in time when Integrated wasn't, for any reason, (9) wasn't making payments for losses covered by the (10) treaties that had been in place with Fidelity and (11) Integrated.

(12) MS. KINDALL: Same objection.

(13) MS. DRAIM: I concur.

(14) MS. KINDALL: Answer to the extent you (15) understand, Mr. Adams.

(16) MS. DRAIM: Actually I have an additional (17) objection because I believe his question was (18) already asked and answered.

(19) MS. KINDALL: I concur. You may answer the (20) question, Mr. Adams.

(21) THE WITNESS: Does it have to be a yes or (22) no answer?

(23) MS. KINDALL: No. Under no circumstances. (24) Answer as you understand the question.

(25) THE WITNESS: As I understand the question.

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(1) at some point after the assumption by North (2) American Re of the Integrated business which they (3) reinsured for Fidelity, Integrated ceased paying (4) claims.

(5) BY MR. WOOD:

(6) Q. Thank you.

(7) Mr. Adams, except as, insofar as as (8)

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NARE, North American purported set-offs might (9) arguably be construed to be payment, do you recall (10) whether or not North American ever made payments to (11) Fidelity Bankers for losses covered by the treaties (12) that had been in place between Fidelity and (13) Integrated?

(14) A. I don't recall the timing of when (15) claims for Integrated business started being (16) submitted to North American Re. So, I can't answer (17) the question, because I would have to know when (18) they started setting off and I have no recollection (19) of that without some documentation.

(20) Q. So, you are unable to recall one (21) way or the other, whether North American ever paid (22) any cash dollars to Fidelity Bankers on account of (23) losses of Fidelity Bankers covered by the treaties (24) that had been in place between Integrated and (25) Fidelity Bankers?

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(1) A. That's right. I really don't (2) recall one way or the other.

(3) Q. Mr. Adams, subsequent to May 13, (4) 1991, does that date have a meaning for you in the (5) annals of history?

(6) A. I actually was able to forget it (7) for a few weeks.

(8) Q. Was May 13, 1991 the date that the (9) receiver staff came in the door at Fidelity Bankers (10) and found that a receivership was now in place for (11) Fidelity Bankers?

(12) A. Yes.

(13) Q. Now, after that date did you (14) understand that the powers of the board and the (15) officers of the company were suspended by operation (16) of the receivership?

(17) A. My recollection is there was some (18) confusion about that fact, because it was not made (19) clear to people at my level that the board's powers (20) had been altered. It was clear to me that there (21) was a change in how we were going to do business.

(22) Q. Did you ever come to the (23) understanding that the directors and officers of (24) the company had no power to act except insofar as (25) they were delegated the authority to do so by the

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(1) deputy receiver?

(2) A. Subsequent to some point in time in (3) the first few weeks I think I came to that (4) realization.

(5) Q. I want to show you a document that (6) was marked in a prior deposition as Klein (7) Exhibit 4. I'm not sure if you'll be able to (8) identify the first page or two of that or not. (9) Look at the document and tell me if you

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can (10) identify any portion of the document. (11) MS. KINDALL: Off the record for a moment.

(12) *(Discussion off the record.)*

(13) *(Pause in the proceedings.)*

(14) BY MR. WOOD:

(15) Q. The question was can you identify (16) that document or any portion of it?

(17) A. Yes. It's notice that was sent to (18) all reinsurers of Fidelity Bankers Life by the (19) special deputy receiver. It has a list of (20) addressees which I recall preparing.

(21) Q. You prepared the list of reinsurers (22) to whom that document would be sent?

(23) A. Yes.

(24) Q. Were Integrated Resources Life (25) Insurance Company and North American Reassurance

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(1) Company among those reinsurers to whom you (2) understood that document would be sent?

(3) A. At the time I prepared this list I (4) was not told what the purpose of it was, but (5) subsequent to that time I understood that everyone (6) had been sent this. I was merely asked to prepare (7) a list of all our contacts. I wasn't told what it (8) was about other than they needed it.

(9) Q. You had no involvement in the (10) preparation of the actual two-page notice, dated (11) May 17, 1991; isn't that correct?

(12) A. That's right; no.

(13) MS. KINDALL: Point of clarification. You (14) didn't prepare this at all or have any part of (15) this? You said, "Isn't that correct?" And you (16) said, "No."

(17) THE WITNESS: Oh. Good point.

(18) What time is it?

(19) MS. KINDALL: Twelve after 5:00.

(20) THE WITNESS: I'm teasing. I'm getting my (21) second wind.

(22) BY MR. WOOD:

(23) Q. Did you acquire an understanding (24) having received that notice, that the deputy (25) receiver of Fidelity Bankers was taking the

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(1) position with Fidelity's reinsurers that those (2) reinsurers should continue to perform all (3) obligations owed by them to Fidelity Bankers (4) subsequent to receivership having commenced?

(5) MS. DRAIM: Objection to the form. Calls (6) for a legal conclusion as to the meaning and effect (7) of that document.

(8) THE WITNESS: I understood shortly after (9) the receivership that it was the position of the (10) receiver that the reinsurers

continued to pay their (11) claims.

(12) BY MR. WOOD:

(13) Q. Is it true that at no time did you (14) in the assumption agreement that Mr. Heaphy sent (15) to you with his March 9, 1992 correspondence, a (16) copy of which has been marked as -

(17) MS. DRAIM: Jaynes Exhibit 12.

(18) BY MR. WOOD:

(19) Q. Jaynes Exhibit 12?

(20) A. To the best of my recollection, I (21) don't recall signing this document.

(22) Q. Did you not sign it because you (23) understood you did not have the authority from the (24) deputy receiver to sign such a document?

(25) A. Yes. That would be as I recall.

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(1) the reason.

(2) Q. Did you understand that at any (3) point in time you had been given the authority by (4) the deputy receiver to consent to release (5) Integrated Resources Life Insurance Company from (6) any obligations it had to Fidelity Bankers?

(7) MS. KINDALL: I would raise the same (8) objection earlier about asking for a privilege you (9) asked him not to talk about.

(10) MR. WOOD: I understand your point.

MS. KINDALL: It's continuing my objection.

(12) MR. WOOD: To the extent it's a waiver, I (13) don't think it is and I guess it is, but I'm not (14) asking him for the content of any communications he (15) had with the receiver staff. I'm merely asking if (16) you ever understood that you had the authority (17) granted to you by the deputy receiver to consent.

(18) MS. KINDALL: You have a distinction. I (19) keep the same objection. You can answer the (20) question.

(21) MS. DRAIM: I concur in that objection. I (22) object to the form of the question because I (23) believe it's asking the witness to draw a number of (24) legal conclusions as to the scope of his authority (25) and the effect of actions that were taken with

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(1) respect to the reinsurance policy treaties.

(2) BY MR. WOOD:

(3) Q. I'm merely asking for your (4) understanding and now that the record is so (5) confused I'll ask it again, and everybody can say, (6) "Same objection" and you can answer.

(7) Q. Did you understand at any time that (8) had been given the authority by the (9) receiver to consent to release Integrated Resources (10) Life Insurance Company from any obligation it owed (11) to Fi-

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delity Bankers?

(12) MS. DRAIM: Same objection.

(13) MS. KINDALL: Same objection.

(14) THE WITNESS: To the extent that the (15) procedures were in place that require the approval (16) of the receiver team to make payment of the (17) premiums with such portions that were also (18) allocable to the Integrated Resources treaties (19) which require the approval of the receiver's team, (20) to that extent I felt I had the authority to make (21) those payments.

(22) BY MR. WOOD:

(23) Q. Are you through with your answer?

(24) A. Yes.

(25) Q. You had the authority, as you

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(1) understood it, to make the payments of premium due (2) under the treaties that had been in place between (3) Fidelity and Integrated to North American, correct?

(4) A. As I said, given the procedures, (5) those payments had to be approved by the receiver (6) team before they were disbursed. That was my (7) authority.

(8) Q. And you felt that you had the (9) authority to cause notices of losses covered by the (10) treaties that had been in place between Fidelity (11) and Integrated to be sent to North American, (12) correct?

(13) A. If I had been paying them premium (14) it seemed they should pay the claims.

(15) Q. But did you not have any authority (16) to take any other action of any kind to effect a (17) release of obligations owed by Integrated to (18) Fidelity; is that correct?

(19) MS. DRAIM: Object to the form of the (20) question. It calls for the witness to draw a legal (21) conclusion with respect to his actions.

(22) THE WITNESS: Outside of the procedures and (23) practices and directives that I had been given, I (24) did not feel that I had the authority to make a (25) decision outside of those to release anybody.

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(1) BY MR. WOOD:

(2) Q. Mr. Adams, you did not ever tell a (3) representative of Integrated Resources Life (4) Insurance Company that Integrated was released from (5) any obligations it owed to Fidelity Bankers under (6) the treaties that had been in place between the two (7) companies; did you?

(8) A. I told Ken Klein we were sending (9) premiums and claims to North American Re.

(10) Q. That's not responsive. That's not (11) what I asked you. I asked you did you ever tell -

(12) MS. KINDALL: I would object to the
(13) objection. You can answer the next question. It's (14) on the record. You guys can work out what it means (15) later.
(16) MS. DRAIM: But I do object to his (17) objection.
(18) MS. KINDALL: To the extent one can in a (19) deposition. Ask your next question, please, (20) Mr. Wood.
(21) MR. WOOD: I never heard of objecting to an (22) objection as responsive. It's been happening (23) lately. That's okay.
(24) BY MR. WOOD:
(25) Q. You did not tell Ken Klein or

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(1) anybody else from Integrated Resources Life that (2) Integrated Resources Life was released from any (3) obligation it owed to Fidelity Bankers under the (4) treaties in place with Integrated Resources and (5) Fidelity; did you?
(6) MS. DRAIM: Asked and answered.
(7) MS. KINDALL: You may answer.
(8) *(Pause in proceedings.)*
(9) MS. KINDALL: Mr. Adams, answer the (10) question as you understand it.
(11) THE WITNESS: As I understand your (12) question, no, I did not tell someone at Integrated (13) that they were specifically released.
(14) BY MR. WOOD:
(15) Q. You did not use those words or any (16) words to that effect in a conversation with anyone (17) from Integrated Resources Life; did you?
(18) A. No, I did not say, "You are (19) released from liability."
(20) MS. DRAIM: At this point could I point out (21) that we have a 6:55 flight, the only flight that (22) leaves for Washington tonight. We've arranged for (23) a cab to pick us up at quarter to 6:00 and that's (24) 20 minutes away. If there's any reason why we (25) should make other arrangements, we would like to

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(1) know. It could take a good 20 or 30 minutes to get (2) another cab.
(3) MR. WOOD: I don't have that many more (4) questions left. This is going slow because of the (5) objections. If it moves more smoothly I don't (6) anticipate there would be any need to make other (7) arrangements. I can't guarantee that we'll be (8) through at 5:45. The cab will be here. If you ask (9) it to wait a couple of seconds, I guess that will (10) be all right. I have been allowed to ask questions (11) 'til just now. That's all I can do.
(12) MS. KINDALL: You've been asking

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questions (13) for about an hour and ask away. I'll make my (14) objections as I see fit.
(15) MR. WOOD: I wasn't really referring to (16) anyone in particular.
(17) BY MR. WOOD:
(18) Q. Mr. Adams, you never told any (19) representative of North American Re that Integrated (20) Resources Life was released from any obligations (21) that it owed to Fidelity Bankers under the treaties (22) that had been in place with Fidelity and (23) Integrated; did you?
(24) MS. DRAIM: Object to the form of the (25) question.

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(1) THE WITNESS: No, I did not specifically (2) tell someone at North American Re that Integrated (3) was released from their obligations.
(4) BY MR. WOOD:
(5) Q. You didn't use any words similar to (6) that in a conversation with anyone at North (7) American Re; did you?
(8) A. Depends on how far you define (9) similar. I asked them to pay claims.
(10) Q. But you didn't use any words (11) similar to release; did you?
(12) MS. DRAIM: Objection to the form.
(13) THE WITNESS: Not that I recall.
(14) BY MR. WOOD:
(15) Q. At all times while you were working (16) under the general direction and supervision of the (17) deputy receiver and his staff, you intended to the (18) best of your ability to discharge your obligations (19) in accordance with the instructions that were given (20) to you by the deputy receiver and his staff; is (21) that correct?
(22) A. That's correct.
(23) Q. So, whatever you did in your job (24) you thought you were carrying out the instructions (25) of the deputy receiver; is that correct?

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(1) MS. KINDALL: Subsequent to receivership?
(2) MR. WOOD: Yes.
(3) THE WITNESS: That's correct.
(4) BY MR. WOOD:
(5) Q. You would never have intended to do (6) anything that you thought was contrary to the (7) instructions that you were given about how to (8) handle your job functions by the deputy receiver?
(9) A. That's correct.
(10) Q. Now, Mr. Adams, you have been (11) employed by Hartford Life now for how long?
(12) A. Since August of '93.

(13) Q. In your capacity here at Hartford (14) Life do you have occasion to conduct business (15) relations with representatives of North American Re (16) - conduct Hartford business?

(17) A. Yes.

(18) Q. Can you describe to me, generally, (19) what types of business relationships Hartford Life (20) has with North American Re?

(21) MS. KINDALL: I object to the extent it (22) calls for confidential business information. (23) Unless you produce a protective order to this (24) deposition.

(25) MS. DRAIM: And relevance.

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(1) MS. KINDALL: I would object to the (2) relevance. I still make an objection to the extent (3) you're asking for confidential business (4) information.

(5) MR. WOOD: I understand. I don't have a (6) problem doing something that would be satisfactory (7) to you to render this deposition confidential. I (8) think this goes to the bias and interest of the (9) witness to the extent there might be. That's why (10) I'm asking the question.

(11) MS. KINDALL: You can ask, and let me (12) confer with my client first - whether or not it's (13) a lot a little. To the extent you're asking who, (14) where, what and when, I will instruct him not to (15) answer.

(16) BY MR. WOOD:

(17) Q. I won't try to get too far. Let's (18) delve in step by step and see how far we can go.

(19) Does Hartford Life have (20) relationships of a business nature with North (21) American Re that Hartford Life considers (22) significant to Hartford?

(23) MS. DRAIM: Objection to the form. I don't (24) believe this witness is in any position to know how (25) significant Hartford's business is with North

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(1) American Re to the entire entity of ITT Hartford.

(2) MS. KINDALL: I would join in the (3) objection.

(4) THE WITNESS: I only speak for a small part (5) of the Hartford Life companies, albeit a good part. (6) We have a relationship with North American Re which (7) we value as we do all of our relationships. The (8) nature of the relationship in general is (9) substantially that of any ceding company to a (10) reinsurer. As you know, we took over the business (11) that Fidelity Bankers formerly had.

(12) MS. KINDALL: "We" meaning The

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Hartford?

(13) THE WITNESS: The Hartford. Of which a (14) portion is reinsured by North American Re.

(15) BY MR. WOOD:

(16) Q. In addition to the business that (17) you just described that was taken over from (18) Fidelity Bankers that's reinsured by North American (19) Re, does Hartford have other relationships with (20) North American wherein risks of Hartford are coded (21) to North American?

(22) A. Yes.

(23) Q. Did those relationships predate the (24) commencement of your employment with The Hartford (25) to the best of your knowledge?

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(1) A. To the best of my knowledge, they (2) did, yes.

(3) Q. For the small part of Hartford for (4) which you speak, would you consider the (5) relationship of that Hartford has with North (6) American to be of significance?

(7) A. They are not our largest reinsurer.

(8) Q. Are they a significant reinsurer?

(9) A. I haven't looked at the figures for (10) this year and I don't recollect what they were for (11) last year. I was brand new here. I can't - I (12) really can't characterize - significant, whatever (13) that means.

(14) Q. You understand, don't you, that (15) North American Reassurance is in dispute with the (16) deputy receiver of Fidelity Bankers over matters, (17) some of which concern what we've been talking about (18) today and some of which concern other matters?

(19) A. That's what I've heard.

(20) Q. As a matter of fact, when you were (21) still working for the deputy receiver that dispute (22) was already ongoing, wasn't it?

(23) A. That's privileged information. I (24) can't say that.

(25) Q. You can say that.

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(1) A. Yes.

(2) Q. That would be a communication that (3) you know that was ongoing?

(4) A. Yes.

(5) Q. Do you have any understanding as to (6) whether there are any agreements or understandings (7) in place between Integrated and North American (8) concerning the payment of costs that Integrated is (9) incurring in defending itself against the claims (10) that the deputy receiver, Fidelity is bringing now (11) against Integrated?

(12) A. I have not been privy to that (13) information.

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(14) Q. You don't know one way or the other (15) whether North American is picking up any of the (16) costs for defense of Integrated on the claims that (17) are being brought by the deputy receiver?

(18) A. I'm aware that there's a common (19) interest with the same counsel. I don't know any (20) of the arrangements.

(21) Q. You're aware of the fact that (22) Ms. Draim and her firm also represent North (23) American in the dispute that's ongoing with North (24) American and Fidelity Bankers.

(25) A. Yes.

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(1) MS. KINDALL: She announced at the (2) beginning of this deposition.

(3) Q. Were you aware of it during this (4) deposition?

(5) A. She told me at the meeting (6) yesterday. I knew at one point when I was still at (7) the receivers, your name has changed.

(8) MS. DRAIM: Yes. I became married in the (9) meantime.

(10) THE WITNESS: I just want to make that, (11) that she was representing North American Re. And (12) in my conversations with Mr. Adkins.

(13) BY MR. WOOD:

(14) Q. Aside from Ms. Draim, have you (15) spoken prior to today's deposition with any other (16) attorneys representing Integrated Resources Life (17) Insurance Company or its liquidator in Iowa (18) concerning your deposition or testimony that you (19) might give in the deposition?

(20) A. No, I have not.

(21) Q. Have you ever spoken with an (22) individual named Ron Anderson or Richard House?

(23) A. Ever?

(24) Q. No. In the last year, let's say. (25) Since you came to Hartford.

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(1) A. I don't recall those names. I speak (2) to an awful lot of people who call in.

(3) Q. Do you understand who Richard House (4) or Ron Anderson are?

(5) A. Not right now.

(6) Q. I'll represent to you that they're (7) attorneys from Des Moines, Iowa that are (8) representing the liquidator of Integrated Resources (9) Life Insurance Company. A guy named Thomas (10) Wrigley. Do you now know whether or not you have (11) ever spoken to those two gentlemen in the last (12) year?

(13) A. I honestly have no recollection of (14) that. I was made available to the receiver by The (15) Hartford and I've answered a lot of

questions and (16) I've taken some calls since I've been here. But I (17) honestly don't remember those names.

(18) Q. Have you spoken to anybody else (19) that you know to be affiliated with Ms. Draim's (20) firm about the defendant you might give in this (21) deposition other than Ms. Draim?

(22) A. Not that I'm aware of or recall.

(23) Q. Did Ms. Draim show up any documents (24) when you had your meeting with her other than the (25) ones we've reviewed with you in connection with

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(1) today's proceedings?

(2) A. Not that I recall.

(3) Q. Do you have any idea of the (4) approximate number of documents you reviewed during (5) your session with Ms. Draim?

(6) A. Not the total. There were a couple (7) of new ones here I think at this time. I think I (8) saw most of them.

(9) Q. Can you think of any documents (10) right now that you were shown by Ms. Draim that did (11) not get discussed in today's proceedings?

(12) MS. KINDALL: Objection. Asked and (13) answered. You may answer.

(14) THE WITNESS: No, I can't think of any.

(15) BY MR. WOOD:

(16) Q. How long did the session that you (17) had with Ms. Draim last?

(18) A. About two hours. Maybe a little (19) longer.

(20) MS. KINDALL: Sounds familiar.

(21) BY MR. WOOD:

(22) Q. When did you first understand that (23) an interview would be occurring yesterday between (24) yourself and Ms. Draim?

(25) MS. KINDALL: Counsel represented on the

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(1) record that she was called Monday and asked, and (2) given the fact that counsel for the deputy receiver (3) had gone over her head and asked for an interview (4) with Mr. Adams in December, thought that it was a (5) certain - given her request there was certainly no (6) objection to her having the same shot.

(7) I must say for the record I find this line (8) of question infuriating given the fact we bent over (9) backwards to be as responsible to you guys. (10) Mr. Adkins had repeated calls. Help us out. Help (11) us out. I need to ask you a question. Did you (12) deal with your client on the phone.

(13) Now because you don't like his answers

that (14) he might be biased is infuriating, gentlemen.

(15) MR. WOOD: I'm sorry you're getting so (16) upset. There's no need to. There's absolutely no (17) reason to get upset. It's purely a question of (18) bringing out the facts of what has happened.

(19) MS. DRAIM: We're beyond the facts at this (20) point.

(21) MS. KINDALL: I did not call Ms. Draim (22) saying these guys have called. "By the way, do you (23) want your own shot?"

(24) She said, "Hi, I'd like to have a chance to (25) talk with him." Well, I didn't tell her at the

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(1) time. "Have they been up here yet?" (2) It's a reasonable suggestion that both of (3) you guys have asked for access to this witness and (4) to the extent that you're saying that his stuff is (5) biased because - never mind. I've had my say. (6) Ask your questions.

(7) MR. WOOD: No reason to get upset. I'm (8) just asking what's transpired. That's all. (9) Everybody can draw their own conclusions. I'm not (10) drawing any at this moment. I'm just trying to get (11) some information.

(12) BY MR. WOOD:

(13) Q. Is that your understanding, (14) Mr. Adams, sometime earlier this week the (15) arrangements were made for you to have an interview (16) with Ms. Draim?

(17) A. My understanding was she called The (18) Hartford and spoke with my counsel and that was two (19) days ago, I think, that I was advised of that.

(20) Q. The conversation that occurred on (21) the telephone between yourself and Ms. Kindall and (22) myself and Mr. Adams occurred sometime prior to the (23) Christmas holiday, is that correct?

(24) A. Yes.

(25) Q. Do you recall whether at or about

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(1) that time either yourself or Ms. Kindall told (2) either Mr. Adkins or myself that you would not be (3) available for an interview immediately prior to (4) this deposition because of your busy work schedule?

(5) A. I don't recall the context of that (6) discussion, but I know that we mentioned that (7) because it was a matter of some concern to me. I (8) don't recall exactly when that was. Whether it was (9) subsequent to our interview or immediately prior. (10) My recollection is a lot of dates were being (11) discussed.

(12) Q. Is your recollection that the (13) possibility of having a discussion between yourself

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(14) and/or Mr. Adkins and Mr. Kindall and us was (15) discussed for a date a few days prior to the (16) deposition and you indicated that you preferred not (17) to do that because of your busy work schedule?

(18) MS. KINDALL: I object. Attorney/client (19) privilege. To the extent you're asking it was (20) discussed during our four-way conversation I'll (21) allow the question. Only what you remember during (22) our four-way conversation.

(23) MR. WOOD: Yes.

(24) THE WITNESS: As I remember I don't (25) remember the context at the time when we discussed

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(1) that.

(2) BY MR. WOOD:

(3) Q. Did something occur about your work (4) schedule that made it more convenient for you to (5) meet with people about this subject yesterday than (6) you thought was the case when you had discussions (7) with Mr. Adkins and I before Christmas?

(8) MS. DRAIM: I object to the form of the (9) question.

(10) MS. KINDALL: It calls for attorney/client (11) confidential communications.

(12) MR. WOOD: I'm not asking for any such. (13) I'm asking if your work schedule changed.

(14) THE WITNESS: At the time frame that I (15) first raised the concerns, the work schedule and (16) certain reporting activity was not entirely set. (17) It was not clear as to how smooth it would go. I (18) was trying to put everybody on notice that it was (19) going to be real tough for me. I don't think that (20) I ever intimated that I was - I wanted to try to (21) cooperate and be available if it was possible.

(22) MS. KINDALL: For the record, if you guys (23) haven't had access to him, she would not. As we (24) have said repeatedly to both sides, The Hartford (25) does not want to be - we value our relationships

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(1) with receiver as well as with North American Re. (2) We made that abundantly clear in conversations off (3) the record.

(4) MS. DRAIM: Could I just note it's quarter (5) to 6:00. My associate, Bryan Earl, is going to go (6) down and try to hold the cab. I'm sure there's a (7) limit how long the cab will wait.

(8) BY MR. WOOD:

(9) Q. I have a couple more questions. (10) Mr. Adams. You mentioned in your direct (11) examination by Ms. Draim at some point

in 1989 or (12) so you began to acquire some information that (13) Integrated Resources, Inc., the parent of (14) Integrated Resources Life, was experiencing (15) financial difficulties.

(16) At the time you received that information (17) did you have any specific understanding or (18) information that the life subsidiary, Integrated (19) Resources Life Insurance was financially troubled (20) as opposed to the parent?

(21) A. My recollection is that the life (22) subsidiary was not financially troubled.

(23) Q. After you received Jaynes Exhibit (24) Number 12, the March 9, 1992 correspondence, was (25) there a period of time after which you received

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(1) that document that you did not bring that letter (2) and the draft assumption agreement to the attention (3) of the deputy receiver staff?

(4) MS. DRAIM: Object to the form of the (5) question.

(6) THE WITNESS: The letter came in about the (7) same time as we were doing a lot of year-end work. (8) The letter was misplaced. I had looked for some (9) evidence of that transaction from North American Re (10) and never recalled seeing this.

(11) As you all know in a subsequent search (12) effort during a meeting -

(13) MS. KINDALL: Privileged meeting.

(14) BY MR. WOOD:

(15) Q. Don't recall the content but (16) continue with your answer.

(17) A. I was asked to try again to see if (18) there was anything anywhere, and subsequently I (19) flushed this bird out of the records. I don't even (20) remember where it came from. That's when I (21) presented it to the receiver.

(22) MS. DRAIM: Move to strike the answer as (23) nonresponsive.

(24) MR. WOOD: In light of the time constraints (25) we're under, I think I'll suspend at this point.

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(1) Mr. Adams, thank you.

(2) MS. DRAIM: Before we close the record I (3) think there's one other question that Mr. Adams' (4) counsel would probably like me to ask. And that I (5) also would like to ask and that is, Mr. Adams, has (6) the fact that Hartford does business with North (7) American Reassurance, among many other reinsurance, (8) in any other way influenced your testimony here (9) today?

(10) THE WITNESS: No.

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(11) MR. WOOD: Let me make one statement for (12) the record that has nothing to do with Mr. Adams. (13) There have been some statements by counsel today (14) that I don't really feel the necessity to respond (15) to about the latest efficiency of production of (16) documents by the deputy receiver.

(17) I want to state for the record by my (18) silence, except to the extent I'm speaking now, I (19) do not wish my silence to be construed as an (20) acknowledgment or agreement with any of the (21) statements counsel made concerning her allegations (22) about the efficiency of the production of (23) documents. I didn't want silence to be construed (24) in that fashion.

(25) That's all I have to say.

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(1) MS. DRAIM: We're ordering a copy of the (2) transcript. With respect to exhibits I want to (3) note an issue. We have another deposition in this (4) case scheduled for the 17th of January in Richmond. (5) I'm concerned I may want to use these exhibits in (6) that deposition. I'm wondering whether it would (7) make sense - we have weekend copying service. (8) Would it be sensible for us to take the exhibits (9) and send the originals back?

(10) MS. KINDALL: You'll have to ask counsel (11) for the deputy receiver. I have no objection.

(12) *(Discussion off the record.)*

(13) MS. KINDALL: I would request if you send (14) the originals back to the Court Reporter, make life (15) easier and send a copy direct to me.

(16) MR. WOOD: I don't have a problem who (17) copies them as long as we don't lose them and as (18) along as we can get a copy, too.

(19) MS. KINDALL: Send the originals to the (20) Court Reporter and then a copy to me and a copy to (21) Mr. Wood.

(22) THE REPORTER: Do you want an expedited (23) transcript, Jeff?

(24) MR. WOOD: It's my position that it was (25) Ms. Daim's deposition. She can decide if she

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(1) wants expedited transcript. If she wants an (2) expedited transcript. I would like to have a copy. (3) However quickly it gets done we'd like to have it. (4) Do you all provide ASCII disk copies. If we could (5) have a disk of the deposition in ASCII disk in the (6) Abacus format if I understand correctly. That (7) would be on the machines. I'm not specifically (8) asking that you expedite the tran-

FIDELITY BANKERS LIFE INSURANCE COMPANY TRUST

In Receivership for Conservation and Rehabilitation

Steven T. Foster
Trustee

Patrick H. Cantilo
Special Deputy Trustee

May 31, 1995

By Facsimile and Regular Mail

Ida Wurczinger Draim, Esq.
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Robert M. Mangino, Esq.
General Counsel and Secretary
North American Reassurance Company
237 Park Avenue
New York, New York 10017

Re: DETERMINATION OF APPEAL
Claimant: North American Reassurance Company ("NARC")
Claim Reference Number: 626

Dear Ms. Draim and Mr. Mangino:

This letter is written on behalf of Steven T. Foster, the Deputy Receiver of Fidelity Bankers Life Insurance Company ("Fidelity Bankers"), now the Trustee of Fidelity Bankers' successor in interest, the Fidelity Bankers Life Insurance Company Trust. Pursuant to the Receivership Appeal Procedure, your Notice of Appeal was received on May 1, 1995, and has been considered with respect to your request for payment of excess mortality claims under Treaty No. AEL-0045. Having considered your Notice of Appeal, the Deputy Receiver regrets to inform you that your appeal is hereby denied, such that your previous Notice of Claim Determination is hereby affirmed.

After reviewing NARC's Proof of Claim and appeal, it appears that the issues discussed in the Notice of Claim Determination were correct. Subject to the terms and conditions of the Notice of Claim Determination dated March 31, 1995, a copy of which is attached to this correspondence and which is incorporated by reference herein for all purposes, NARC is currently entitled to a general, unsecured creditor claim, acknowledged as valid, and subject to future audit and verification, in the amount of \$3,759,115, plus future amounts to be determined based upon covered actual excess mortality claims incurred and paid by NARC under Reinsurance Treaty No. AEL-0045.

Ida Wurczinger Drain, Esq.
Robert M. Mangino, Esq.
May 31, 1993
Page 2

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As you know, payments are not being made at this time on general, unsecured creditor claims. The Determination of NARC's claim will establish a preliminary approved amount which will be revised upon recalculation on or before the date at which payment is made on general, unsecured creditor claims.

Please note that the approval or acknowledgement of NARC's general unsecured creditor claim is not to be misconstrued as an acceptance or approval of NARC's decision to set off certain amounts due from NARC and Integrated Resources Life Insurance Company to Fidelity Bankers. To the extent that NARC's claim has been acknowledged as a valid general, unsecured creditor claim, please be advised that the granting or acknowledgement of such a claim is not a guarantee of payment of any amount. Until certain priority claims are calculated and priority distributions made, it is impossible to determine what funds, if any, will be available for distribution to general, unsecured creditors. If sufficient assets remain after the referenced distributions are completed, then payments may be made, in whole or in part, to unsecured creditors.

Pursuant to the provision in Section C of the Receivership Appeal Procedure, you have thirty (30) days after this Determination of Appeal to challenge this decision. Copies of any appeal filed with the Commission should also be sent to the address printed below. As always, please feel free to contact me if you would like to further discuss this matter, or if you believe that my understanding of the facts relating to your claim are incorrect.

Very truly yours,



Bryan R. Newcombe
Counsel to the Deputy Receiver

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
1015 JUN 23 11:03:23 AT RICHMOND

PETITION OF

North American Reassurance
Company

For Review of Fidelity Bankers
Life Insurance Company's
Deputy Receiver's
Determination of Appeal as to
Certain Claims Arising Under
North American Reassurance
Company's Reinsurance Treaty
No. AEL-0045

CASE NO. INS 920441

STIPULATION UPDATING STATUS AND AMOUNT OF CLAIMS

Steven T. Foster, as Deputy Receiver of Fidelity Bankers Life Insurance Company and as Trustee of the Fidelity Bankers Life Insurance Company Trust (the "Deputy Receiver") and North American Reassurance Company ("NARE"), in response to the request of the Commission for an update as to the status and amount of their claims as of May 31, 1995, hereby stipulate as follows:

A. The Deputy Receiver's Claim

1. The Deputy Receiver asserts in this proceeding, inter alia, that NARE has improperly set-off its claims filed with the Deputy Receiver (as described herein at paragraphs 5 - 10) against certain amounts it owes to Fidelity Bankers. In reliance on this set-off, NARE has withheld payment of claims arising under certain reinsurance risks that had been ceded by Fidelity Bankers to Integrated Resources Life Insurance Company ("Integrated") and NARE during 1991-1993. As of May 31, 1995, the amount of those reinsurance claims was \$2,390,865.

2. It is the Deputy Receiver's position that NARE is Integrated's delegate by virtue of an Assumption and Reinsurance

Agreement entered into between them in November of 1991 by which NARE assumed certain reinsurance treaties from Integrated (the "Integrated Treaties"). Under the Integrated Treaties, Fidelity Bankers ceded reinsurance risks to Integrated. It is also the Deputy Receiver's position that, in light of that Assumption and Reinsurance Agreement, Integrated and NARE are jointly and severally liable for the obligations under the Integrated Treaties. Further, it is the Deputy Receiver's position that, since neither he nor Fidelity Bankers consented to the set-off (as allegedly required by the terms of the Integrated Treaties) or to a release of Integrated as a result of the assumption by NARE of Integrated's obligations, NARE's set-off is improper as a matter of law.

3. The Deputy Receiver has filed a claim with Integrated's Liquidator in Iowa for that portion of the amount set-off by NARE which arises under the Integrated Treaties (\$1,146,962.33). The Deputy Receiver's appeal of the Liquidator's denial of that claim is pending before the District Court in Polk County, Iowa (the "Liquidation Court"). At the request of the Liquidation Court, both the Deputy Receiver and Integrated have recently filed Proposed Findings of Fact and Conclusions of Law in that matter.

4. On or about June 15, 1993, the policies underlying the treaties under which the Deputy Receiver ceded the above-mentioned claims were assumed from Fidelity Bankers by Hartford Life Insurance Company. Accordingly, no additional unpaid reinsurance claims have accrued since that date.

B. NARE's Claims

5. NARE asserts in this proceeding, inter alia, that the Deputy Receiver has improperly and illegally withheld payment on

certain excess mortality loss claims for the years 1991-1994 that were ceded by NARE to the Deputy Receiver under Treaty AEL-0045 because of alleged legal constraints imposed by Fidelity Bankers' rehabilitation proceedings. As of May 31, 1995, the amount of those excess mortality claims is \$3,759,115.

6. NARE contends that the Deputy Receiver owes interest on the above-mentioned unpaid excess mortality claims at the rate of 10% per annum under the terms of Treaty AEL-0045 (the "Treaty"). The Deputy Receiver disagrees with NARE's position. As of May 31, 1995, the total interest claimed by NARE amounts to \$821,647.

7. The Treaty, under which NARE ceded the above-mentioned excess mortality loss claims to the Deputy Receiver, has not been assumed by any third party. It is NARE's position that, by its terms, the Treaty continues in effect until the underlying policies are no longer in force. Accordingly, excess mortality claims may continue to accrue under the Treaty. NARE asserts, inter alia, that, as part of its claim in these rehabilitation proceedings, it is entitled to be paid the present value of such anticipated excess mortality claims.

8. On or about March 31, 1995, the Deputy Receiver approved NARE's claims as a general unsecured creditor claim in the amount of \$3,759,115 "plus future amounts to be determined based upon covered actual excess mortality claims incurred and paid by NARC under Reinsurance Treaty No. AEL-0045."

9. The Deputy Receiver has obtained an analysis of NARE's future excess mortality loss exposure under the Treaty. A true and correct copy of this analysis is attached hereto as Exhibit "A" and is incorporated herein by reference. According to this analysis,

NARe's projected excess mortality loss exposure until the dissolution of the Fidelity Bankers Life Insurance Company Trust in the year 2000, based upon expected mortality rates and discounted by 5% to present value at December 31, 1994, is \$6,967,285.

10. NARe has obtained an analysis of its future excess mortality loss exposure under the Treaty. A true and correct copy of this analysis is attached hereto as Exhibit "B" and is incorporated herein by reference. According to this analysis, NARe's projected excess mortality loss exposure over the life of the policies underlying Treaty AEL-0045 discounted by 5% to present value as of May 31, 1995, is \$12,587,396 and to present value as of January 1, 2000, is \$15,741,768. It is NARe's position that it is entitled to receive, as part of its claim in this proceeding, the present value of the projected excess mortality loss exposure over the life of the policies underlying the Treaty, discounted to present value as of the date on which a distribution is made to NARe.

Respectfully submitted,

Steven T. Foster, Commissioner of
Insurance, Bureau of Insurance, State
Corporation Commission, as Deputy Receiver
of Fidelity Bankers Life Insurance Company
and as Trustee of the Fidelity Bankers Life
Insurance Company Trust

By:  

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Counsel to the Deputy Receiver

and
North American Reassurance Company

By: _____

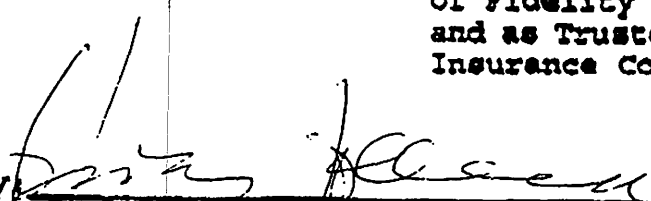
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Counsel to North American Reassurance Company

945

Respectfully submitted,

Steven T. Foster, Commissioner of
Insurance, Bureau of Insurance, State
Corporation Commission, as Deputy Receiver
of Fidelity Bankers Life Insurance Company
and as Trustee of the Fidelity Bankers Life
Insurance Company Trust


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June 14, 1994

Steven E. Adkins
Cantilo, Maisel & Hubbard, L.L.P.
111 Congress Avenue
Suite 1700
Austin, TX 78701

Dear Steve:

As you requested, I have updated our estimate of the liability regarding the 100% Quota Share Reinsurance Agreement Between Fidelity Bankers and North American Reassurance Company to December 31, 1994. I have included in this liability estimates for claims incurred through the year 1999 which will be submitted to Fidelity Bankers in the year 2000. The following summarizes the liability estimate as of December 31, 1994:

| | |
|---------------------------------------|--------------------|
| For claims incurred 1994 and prior | \$3,659,114 |
| For claims incurred in 1995 and later | <u>\$3,308,171</u> |
| Total Liability | \$6,967,285 |

My calculations were based on the following information:

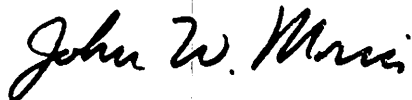
- The liability for claims incurred prior to January 1, 1995 was developed from actual and expected experience as summarized in the table below. Note that as in our prior estimates, no interest was accrued on these amounts.

| | Expected Mortality | Actual Mortality | Actual less Expected | Actual/Exp. |
|-------|--------------------|------------------|----------------------|-------------|
| 1991 | \$2,019,798 | \$3,154,721 | \$1,134,923 | 1.56 |
| 1992 | \$1,860,963 | \$3,059,976 | \$1,199,013 | 1.64 |
| 1993 | \$1,781,959 | \$2,429,364 | \$647,405 | 1.36 |
| 1994 | \$1,759,544 | \$2,437,317 | \$677,773 | 1.39 |
| Total | \$7,422,264 | \$11,081,378 | \$3,659,114 | 1.49 |

- In our original analysis, we estimated that future excess mortality would be 147.5% of the expected mortality. This was based on underwriting analysis of the underlying policies at the time the treaty was implemented. On the basis of the above table, I thought that it was appropriate to leave our mortality factor at 147.5% for future projected mortality.
- I discounted the excess mortality projected for the years 1995 through 1999 to December 31, 1994 at 5%.
- I used the Lewis & Ellis model of this business that was developed in 1991 to project future mortality. The inforce projected in the model is very close to actual for 1994. However, the model's projected expected mortality is 6.8% higher than what was actually calculated in 1994. To bring future expected mortality in line with the 1994 calculation, I adjusted the remaining expected mortality in the model by a factor of .936.

Please call me if you have any questions regarding this or require additional information.

Sincerely,



John W. Morris, F.S.A.
Consulting Actuary

JWM/lb

FIDELITY BANKERS LIFE INSURANCE COMPANY
ANALYSIS OF ACTUAL & PROJECTED MORTALITY ON TERM BUSINESS
(\$000)

ACTUAL RESULTS FOR : 1991 156.2% of expected
 1992 169.8% of expected
 1993 136.3% of expected
 1994 138.9% of expected

OVERALL ACTUAL RESULTS FOR 1991 - 1994 150.8% of expected
Assumption for 1995 + 150.8% of expected

| | YEAR | FACE AMOUNT BEG. OF YEAR | EXPECTED MORTALITY | TOTAL MORTALITY | EXCESS MORTALITY | CUMULATIVE EXCESS |
|--------|------|-----------------------------|-----------------------|--------------------|---------------------|----------------------|
| Actual | 1991 | 522,400,000 | 2,019,798 | 3,154,721 | 1,134,923 | 1,134,923 |
| Actual | 1992 | 436,980,897 | 1,860,963 | 3,159,977 | 1,299,014 | 2,433,937 |
| Actual | 1993 | 369,227,020 | 1,781,959 | 2,429,363 | 647,404 | 3,081,341 |
| Actual | 1994 | 319,732,693 | 1,741,595 | 2,419,369 | 677,774 | 3,759,115 |
| | 1995 | 285,567,213 | 1,692,232 | 2,551,886 | 859,654 | 4,618,769 |
| | 1996 | 249,886,001 | 1,648,210 | 2,485,501 | 837,291 | 5,456,060 |
| | 1997 | 219,783,893 | 1,594,062 | 2,403,845 | 809,783 | 6,265,843 |
| | 1998 | 193,840,802 | 1,531,409 | 2,309,365 | 777,956 | 7,043,799 |
| | 1999 | 171,375,142 | 1,467,904 | 2,213,600 | 745,695 | 7,789,494 |
| | 2000 | 151,939,987 | 1,403,750 | 2,116,855 | 713,105 | 8,502,599 |
| | 2001 | 134,800,682 | 1,296,235 | 1,954,722 | 658,487 | 9,161,087 |
| | 2002 | 119,314,653 | 1,198,021 | 1,806,615 | 608,595 | 9,769,681 |
| | 2003 | 106,368,755 | 1,119,978 | 1,688,927 | 568,949 | 10,338,630 |
| | 2004 | 95,074,303 | 1,045,268 | 1,576,264 | 530,996 | 10,869,627 |
| | 2005 | 85,219,868 | 977,530 | 1,474,116 | 496,585 | 11,366,212 |
| | 2006 | 76,790,681 | 926,492 | 1,397,149 | 470,658 | 11,836,870 |
| | 2007 | 69,551,880 | 875,993 | 1,320,998 | 445,005 | 12,281,874 |
| | 2008 | 62,885,167 | 812,053 | 1,224,577 | 412,523 | 12,694,397 |
| | 2009 | 56,713,154 | 746,439 | 1,125,631 | 379,191 | 13,073,589 |
| | 2010 | 51,244,891 | 684,701 | 1,032,529 | 347,828 | 13,421,417 |
| | 2011 | 46,480,377 | 623,078 | 950,526 | 327,448 | 13,748,864 |
| | 2012 | 42,297,143 | 561,570 | 877,715 | 316,145 | 14,065,009 |
| | 2013 | 38,490,400 | 500,178 | 810,311 | 310,133 | 14,375,142 |
| | 2014 | 35,026,264 | 438,901 | 747,930 | 309,029 | 14,684,171 |
| | 2015 | 31,873,900 | 377,740 | 690,215 | 312,475 | 14,996,646 |
| | 2016 | 29,005,249 | 321,079 | 636,830 | 315,750 | 15,312,396 |
| | 2017 | 26,394,777 | 272,917 | 587,463 | 314,546 | 15,626,942 |
| | 2018 | 24,019,247 | 233,255 | 541,824 | 308,570 | 15,935,512 |
| | 2019 | 21,857,515 | 202,091 | 499,642 | 297,551 | 16,233,063 |
| | 2020 | 19,890,338 | 179,427 | 460,664 | 281,237 | 16,514,300 |
| | 2021 | 18,100,208 | 163,278 | 424,654 | 261,376 | 16,775,676 |
| | 2022 | 16,471,189 | 148,583 | 391,395 | 242,812 | 17,018,488 |
| | 2023 | 14,988,782 | 135,211 | 360,683 | 225,473 | 17,243,961 |

TOTAL UNDISCOUNTED \$17,243,961

DISCOUNTED TOTAL EXCESS
TO 5/31/95 TO 1/1/2000

DISCOUNTED AT :

Note : 1991 through 1994
are actual results.
1995 and later based on
adjusted projections.

| | | |
|---------|--------------|--------------|
| 5.00% = | \$12,587,396 | \$15,741,768 |
| 6.00% = | \$12,055,263 | \$15,745,698 |
| 7.00% = | \$11,605,520 | \$15,824,874 |
| 8.00% = | \$11,224,725 | \$15,972,318 |

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

| | | |
|------------------------------|---|--------------------|
| COMMONWEALTH OF VIRGINIA | § | |
| at the Relation of the | § | |
| STATE CORPORATION COMMISSION | § | |
| | § | |
| | § | Case No. INS910068 |
| v. | § | |
| | § | |
| FIDELITY BANKERS LIFE | § | |
| INSURANCE COMPANY, | § | |
| | § | |
| Defendant. | § | |

**PETITION FOR REVIEW OF DEPUTY RECEIVER'S DETERMINATION
OF APPEAL AND MOTION FOR CONSOLIDATION WITH PENDING APPEAL**

Claimant, North American Reassurance Company ("NARe") (Claim Reference No. 626), hereby appeals from the Deputy Receiver's Determination of Appeal, dated May 31, 1995.

The grounds for this appeal are set forth in the following pleadings:

- North American Reassurance Company's Notice Of Appeal, dated April 27, 1995;
- Reply Of North American Reassurance Company To The Deputy Receiver's Motion To Dismiss Its Petition For Review Of The Deputy Receiver's Determination On Its Appeal, dated February 10, 1993 and Errata To Reply Of North American Reassurance Company, dated February 16, 1993;
- Answer Of North American Reassurance Company To Counterclaim Of The Deputy Receiver Of Fidelity Bankers Life Insurance Company, dated February 10, 1993; and
- Petition Of North American Reassurance Company For Review Of The Deputy Receiver's Determination On NARe's Appeal As To Certain Claims Arising Under Reinsurance Treaty No. AEL-0045 and Appendix To Petition For Review Of North American Reassurance Company, dated October 19, 1992.

- 2 -

A copy of each of these documents is attached hereto.

There is currently pending before the Commission NARe's appeal from the Deputy Receiver's Determination On NARe's Appeal As To Certain Claims Arising Under Reinsurance Treaty No. AEL-0045. The issues raised by NARe in that appeal are the same as the issues raised in the present appeal. Accordingly, NARe hereby moves consolidation of the two appeals. It is our understanding that the Deputy Receiver does not oppose consolidation.

Respectfully submitted,

Stuart F. Carwile (by IDB)

Stuart F. Carwile (Va. Bar No. 07665)
Ida Wurczinger Drain
WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006

Counsel for North American
Reassurance Company

June 29, 1995

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of June, 1995, I caused copies of the foregoing "PETITION FOR REVIEW OF DEPUTY RECEIVER'S DETERMINATION OF APPEAL AND MOTION FOR CONSOLIDATION WITH PENDING APPEAL" to be mailed by Express Mail (overnight delivery) and UPS (overnight delivery) to the following:

Deputy Receiver
Fidelity Bankers Life Insurance Company
In Receivership for Conservation and
Rehabilitation
1011 Boulder Springs Drive
Richmond, Virginia 23225

Bryan R. Newcombe
c/o Interco Associates, LC
111 Congress Avenue
Suite 1750
Austin, Texas 78701

Howard W. Dobbins
Williams, Mullen, Christian & Dobbins
Central Fidelity Bank Building
Two James Center
1021 East Cary Street
Richmond, Virginia 23210-1320

Stuart F. Carwile (by IWD)
Stuart F. Carwile

Exhibits to Petition for Review of
Deputy Receiver's Determination of
Appeal and Motion for Consolidation
with Pending Appeal,
dated June 29, 1995:

1. North American Reassurance Company's
Notice of Appeal
dated April 27, 1995

237 PARK AVENUE
NEW YORK, NEW YORK 10017
(212) 907-8000

ROBERT M. MANGINO
General Counsel & Secretary
TELEPHONE (212) 907-8661

April 27, 1995

VIA FEDERAL EXPRESS

Steven T. Foster, Trustee
Patrick H. Cantilo, Special Deputy Trustee
Fidelity Bankers Life Insurance Company Trust
c/o Interco Associates, LC
111 Congress Avenue, Suite 1750
Austin, Texas 78701

Re: **NOTICE OF APPEAL ON BEHALF OF
NORTH AMERICAN REASSURANCE COMPANY
Claim Reference No. 626**

Dear Messrs. Foster and Cantilo:

This letter will serve as a Notice of Appeal on behalf of North American Reassurance Company ("NARe") with respect to the above-referenced Claim Determination dated March 31, 1995. (A copy of the Claim Determination is at Tab 1 of the Appendix submitted herewith.)¹

As a preliminary matter, to the extent that the Claim Determination purports to preserve any objection to the sufficiency of NARe's filing of its Proof of Claim, we note that the Deputy Receiver/Trustee has waived any and all such objections and is estopped from raising them in the future. The Deputy Receiver/Trustee has been aware of the facts relating to the filing of

¹

NARe's Proof of Claim is also at Tab 1 of the Appendix.

NARe's Proof of Claim since at least June 24, 1993. (See letter, dated June 24, 1993, from Ida Wurzinger Drait to Jeffrey L. Wood, P.C., at Tab 2 of Appendix.) He has never taken a definitive position on whether that filing substantially complied with applicable requirements notwithstanding repeated requests by NARe that he state his position. NARe is entitled to finality on this issue. By failing for more than 21 months to take any position on this issue and then assuming that NARe has substantially complied for purposes of his claim determination, the Deputy Receiver has intentionally relinquished any entitlement to raise the issue of noncompliance with the filing requirements in the future.

1. The Deputy Receiver Has Not Fulfilled His Obligation To Effect A Complete Determination of NARe's Claim.

The receivership claims determination process is intended to provide a mechanism through which creditors' claims can be quantified and accorded a priority status. The Deputy Receiver/Trustee's Claim Determination fails to provide any definitive quantification of NARe's claim. In paragraph 3 of the Determination, it is erroneously asserted that "the amount claimed by NARC changes over time." This purportedly justifies the establishment of a "preliminary approved amount, which will be revised upon recalculation on or before the date at which payment is made on general creditor claims."

The amount claimed by NARe has not changed. What has changed is the portion of that amount that consists of past-due, as opposed to future, excess mortality claims. This does not justify making NARe's claim subject to recalculation. NARe's claim is based, in large part, upon actuarially-determined long-term excess mortality loss exposure, which is highly susceptible to accurate estimation. Indeed, as part of its claim, NARe has submitted the actuarial projections of an independent consultant retained by it. (See Exhibit F to Proof of Claim.) The Deputy Receiver/Trustee has not

addressed the validity of these projections or provided any projections of his own; he simply disregards NARe's long-term excess mortality loss exposure in determining NARe's claim.

The Deputy Receiver Trustee's approach is not only a serious departure from established principles of claim determination, it is inconsistent with the treatment of this claim in Fidelity's own financial statements. Fidelity has consistently reserved against its long-term exposure on the NARe claim. The 1992 Annual Statement for Fidelity Bankers Life Insurance Company reflects statutory reserves in the amount of \$8,097,735 and reinsurance payable of \$2,333,937 with respect to Treaty No. AEL-0045. The Trust's 1993 financial statements reflect a liability in the amount of \$7,538,887 for Fidelity's obligations under the Treaty. (See excerpts from Fidelity Bankers 1992 and 1993 Financial Statements at Tab 3 of the Appendix.) Having acknowledged, for accounting purposes, that Fidelity is liable to NARe for NARe's long-term exposure under Treaty No. AEL-0045, the Deputy Receiver/Trustee is estopped from limiting NARe's claim to the excess mortality losses incurred by NARe to date.

**2. NARe's Claim Is Entitled To
Administrative Expense Priority.**

NARe's receivership claim arises out of a treaty that was expressly affirmed by the Deputy Receiver more than two and a half years ago. In his Determination of Appeal for North American Reassurance Company, dated September 17, 1992, the Deputy Receiver stated that Treaty No. AEL-0045 between NARe and Fidelity Bankers, out of which NARe's claim arises, was to be "treated as [if] it [had] never [been] disavowed," and thus that "the status quo ante is restored." (See Determination of Appeal for North American Reassurance Company, dated September 17, 1992, at Tab 4 of

Appendix.) Further, following his affirmance of the Treaty, the Deputy Receiver demanded performance from NARe. (See Letter, dated September 23, 1992, from Michael Adams to David Nussbaum, at Tab 5 of Appendix; Letter, dated September 23, 1992 from Mark Allen Land to Ida Wurczinger, at Tab 6 of Appendix.) These actions effected an assumption of the Treaty as an executory contract of the receivership estate.

When an executory contract is assumed in the course of a receivership, the obligations under that contract are to be paid as administrative expenses of the receivership. Notwithstanding his affirmance of Treaty No. AEL-0045 and NARe's performance of its obligations under that Treaty, the Deputy Receiver has not been paying the excess mortality claims that NARe has submitted to him pursuant to the Treaty. NARe therefore has a claim for immediate payment of those past-due claims, currently amounting to \$3,759,115, at the level of priority which they would have been accorded had they been paid as they became due, that is, as administrative expenses.

With respect to future excess mortality claims, the Deputy Receiver remains obligated to pay such claims, as they become due, as administrative expenses. Further, to the extent that the Deputy Receiver intends to distribute all of the funds of the receivership estate to creditors, he must first pay to NARe, as administrative expenses, the discounted present value of its future claims under the Treaty. NARe submitted an analysis of its long-term excess mortality loss exposure under the Treaty as part of its Proof of Claim. The Deputy Receiver should apply a discount rate to this valuation and determine the amount which NARe is entitled to be paid at the above-mentioned priority level at the time when priority distributions are made.

3. NARe Is Entitled To Contractually-Mandated Interest On Its Claim.

Section 404 of Treaty No. AEL-0045 between NARe and Fidelity Bankers provides that should any amount due NARe remain unpaid after 30 days from the due date, interest calculated at the rate of 10 percent per annum shall accrue on the unpaid balance. (See Exhibit B to Proof of Claim, Section 4.04.) The Claim Determination does not address the issue whether interest will be paid on the amount which is past due to NARe at the time that creditor distributions are made.² NARe claims an entitlement to interest on two grounds: First, when a receiver assumes an executory contract as an administrative expense of the estate, he becomes liable for any contractually-mandated interest because that is one of the contractual obligations that he has assumed. Second, irrespective of whether NARe's claim is accorded administrative expense priority, contractually-mandated interest is appropriately paid on a claim where the assets of the receivership estate are sufficient to pay such interest without reducing the claims of other creditors. It is highly likely that there will be sufficient assets in the Fidelity Trust to pay all of the creditors' claims and interest to NARe. Accordingly, NARe should receive the interest to which it is entitled under Treaty No. AEL-0045.

4. The Statutory Set-Off Effected By NARe Is Valid.

NARe has exercised its right, pursuant to Va. Code §38.2-1515, to set-off against its receivership claim the approximately \$2.4 million in reinsurance claims that were ceded to NARe by Fidelity. The Virginia set-off

² NARe raised this issue before the Commission in its Notice of Appeal filed in May 1992 and before the Deputy Receiver in other correspondence preceding that appeal.

statute invoked by NARe is self-executing, that is, a set-off effected pursuant to that statute is presumptively valid unless and until it is invalidated by a tribunal with jurisdiction over the matter. The Deputy Receiver/Trustee challenged the validity of NARe's set-off more than two years ago in a proceeding before the State Corporation Commission yet the Commission has not acted to invalidate the set-off.

Not only is NARe's set-off presumptively valid, it is valid on the merits. There is mutuality of time and capacity with respect to NARe's receivership claim and the Fidelity reinsurance claims. Both NARe's receivership claim and the Fidelity reinsurance claims arise out of reinsurance treaties that pre-date the commencement of the receivership. The mortality losses on the policies underlying those treaties are highly susceptible to actuarial determination and hence were well-defined as of the May 13, 1991 receivership date. Hence, NARe had a non-contingent claim against the receivership estate on that date.

5. NARe's Claim Should Not Be Subordinated To The Claims Of The Former Fidelity Contract-Holders.

The Claim Determination notes that NARe's claim will be paid after "certain priority claims are calculated and priority distributions made." The priority claims to which reference is made are obviously the claims of the former Fidelity investment contract-holders, who are now Hartford investment contract-holders. The contract-holders have been promised a one-time "dividend" that is contingent upon whether the restructured interest rate provisions of their Hartford contracts prove to be less lucrative than the corresponding provisions of their former Fidelity contracts. Fidelity has set up a \$328 million reserve to make this contingent payment, in the absence of which Fidelity would have more than \$100 million in surplus.

By consistently referring to this group as "contract-holders" in all of the receivership documents including the Rehabilitation Plan, the Deputy Receiver/Trustee concedes that these are not true policyholders.³ Accordingly, even if NARE's claim is awarded unsecured general creditor status, there is no justification for preferring these contract-holders over NARE in the distribution of the assets of the receivership estate.

* * * * *

For all of the foregoing reasons, NARE's claim should be approved as an administrative expense of the Fidelity Trust and: (a) all past-due excess mortality loss claims, plus contractually-mandated interest, should be paid immediately; (b) NARE's excess mortality claims from 1995 forward should be paid on a timely basis as administrative expenses; and (c) NARE should be paid the present value of its future excess mortality loss exposure, as an administrative expense, on the date that priority distributions are made.

Very truly yours,



³ A recent New York Court of Appeals case makes clear that owners of annuities and other investment products are not policyholders. See N.Y.S. Assoc. of Life Underwriters v. N.Y.S. Banking Dept., 83 N.Y.2d 353, 632 N.E.2d 876 (N.Y. 1994).

STATE OF NEW YORK)
 :SS.
COUNTY OF NEW YORK)

Before me, the undersigned authority, on this day personally appeared ROBERT M. MANGINO, known to me to be the person whose name is subscribed to the foregoing NOTICE OF APPEAL, and having by me been first duly sworn, upon his oath deposed and stated that the facts therein contained are true and correct to his knowledge and belief.

Given under my hand and seal of office on this 27 day of April, 1995.



Notary Public

DEBORAH T. CASSARINO
Notary Public, State of New York
No. 01CA4954345
Qualified in Kings County
Commission Expires August 21, 1995

Exhibits to Petition for Review of
Deputy Receiver's Determination of
Appeal and Motion for Consolidation
with Pending Appeal,
dated June 29, 1995:

2. Errata to Reply of
North American Insurance Company
dated February 16, 1993

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

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| PETITION OF |) | |
| |) | |
| North American Reassurance |) | |
| Company |) | |
| |) | |
| For Review of Fidelity Bankers |) | |
| Life Insurance Company's Deputy |) | Case No. INS920441 |
| Receiver's Determination of |) | |
| Appeal as to Certain Claims |) | |
| Arising under North American |) | |
| Reassurance Company's |) | |
| Reinsurance Treaty No. AEL-0045 |) | |

**ERRATA TO REPLY OF NORTH AMERICAN REASSURANCE COMPANY TO THE
DEPUTY RECEIVER'S MOTION TO DISMISS ITS PETITION FOR REVIEW
OF THE DEPUTY RECEIVER'S DETERMINATION ON ITS APPEAL**

North American Reassurance Company ("NARe") submits this errata sheet with respect to its Reply to the Deputy Receiver's Motion to Dismiss Its Petition for Review of the Deputy Receiver's Determination on Its Appeal, which Reply NARe filed February 10, 1993.

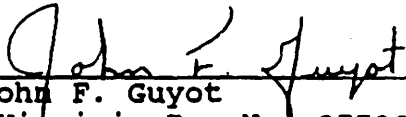
The following corrections are hereby made:

1. Page 14, note 5, beginning of third sentence:
change "Integrated" to "PLICO".

- 2 -

2. Page 16, fifth line of text: delete the word "not" following the word "neither" and preceding the word "dischargeable".

Respectfully submitted,


John F. Guyot
(Virginia Bar No. 27790)

WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006
(202) 429-7000

Counsel for North American
Reassurance Company

Of Counsel,

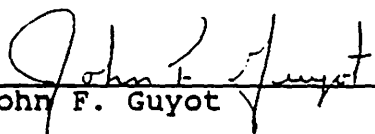
Ida C. Wurczinger

Dated: February 16, 1993

CERTIFICATE OF SERVICE

962

I hereby certify that a true copy of the foregoing Errata to NARE's Reply to the Deputy Receiver was served on the Deputy Receiver by depositing the same in the mail, postage pre-paid, to Howard H. Dobbins, Esq., Williams, Mullen, Christian & Dobbins, Central Fidelity Bank Building, Two James Center, 1021 East Cary Street, Richmond, Virginia 23210-1320, the Deputy Receiver's attorney of record, on February 16, 1992.


John F. Guyot

Exhibits to Petition for Review of
Deputy Receiver's Determination of
Appeal and Motion for Consolidation
with Pending Appeal,
dated June 29, 1995:

3. Reply of North American Reassurance Company
to the Deputy Receiver's Motion to Dismiss
Its petition for Review of the Deputy Receiver's
Determination on its Appeal,
with attachments,
dated February 10, 1993

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

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| Company |) | |
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| For Review of Fidelity Bankers |) | |
| Life Insurance Company's Deputy |) | Case No. INS920441 |
| Receiver's Determination of |) | |
| Appeal as to Certain Claims |) | |
| Arising under North American |) | |
| Reassurance Company's |) | |
| Reinsurance Treaty No. AEL-0045 |) | |

**REPLY OF NORTH AMERICAN REASSURANCE COMPANY TO THE DEPUTY
RECEIVER'S MOTION TO DISMISS ITS PETITION FOR REVIEW OF THE
DEPUTY RECEIVER'S DETERMINATION ON ITS APPEAL**

NORTH AMERICAN REASSURANCE COMPANY
237 Park Avenue
New York, New York 10017

WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006

February 10, 1993

Counsel for North American
Reassurance Company

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

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| PETITION OF |) | |
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| Company |) | |
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| For Review of Fidelity Bankers |) | |
| Life Insurance Company's Deputy |) | Case No. INS920441 |
| Receiver's Determination of |) | |
| Appeal as to Certain Claims |) | |
| Arising under North American |) | |
| Reassurance Company's |) | |
| Reinsurance Treaty No. AEL-0045 |) | |

**REPLY OF NORTH AMERICAN REASSURANCE COMPANY TO THE DEPUTY
RECEIVER'S MOTION TO DISMISS ITS PETITION FOR REVIEW OF THE
DEPUTY RECEIVER'S DETERMINATION ON ITS APPEAL**

North American Reassurance Company ("NARe") submits this memorandum and the accompanying affidavit in response to the Deputy Receiver's Motion to Dismiss Petition for Review of North American Reassurance Company ("Motion to Dismiss").

**I. THE DEPUTY RECEIVER HAS ASSERTED "FACTS" THAT NOT ONLY
ARE ABSENT FROM THE RECORD BUT ARE REFUTED BY IT.**

The Deputy Receiver has made a number of factual assertions in support of his motion to dismiss that are not part of the record in this matter and in some instances, are directly refuted by the facts on record. The evident dispute between the parties as to these facts, some of which may be outcome determinative, confirms that a full hearing is necessary for the appropriate determination of NARe's Petition for Review.

First, the Deputy Receiver has asserted that

Because of concerns regarding Fidelity Bankers' solvency, [Protective Life Insurance Company ("PLICO")] refused to accept Fidelity Bankers as its reinsurer. To address PLICO's concern . . . NARE . . . was paid to assume the direct risk to PLICO that Fidelity Bankers might become insolvent and unable to meet its obligations.

(Brief in Support of Motion to Dismiss at 3-4). The record in this proceeding is devoid of any support for the above-quoted statement and others like it in the Deputy Receiver's motion papers.¹ There has been no testimony, nor has any evidence been introduced, as to why PLICO was unwilling to enter into a stop loss guarantee arrangement directly with Fidelity Bankers. Further, there is no reason why PLICO would have had concerns as to Fidelity Bankers' solvency in late 1990 when Fidelity Bankers had a published A.M. Best's rating of "A+/contingent" and ample surplus to policyholders, which only Fidelity and state insurance examiners knew to be overstated.

Likewise, there is no evidence that NARE knew in late 1990 that Fidelity Bankers' financial condition was far less stable than was indicated by Fidelity's published rating and regulatory filings. In fact, the record refutes the assertion that NARE had such knowledge or that NARE was paid to assume the risk of

¹ See Motion to Dismiss at 2 ("NARE accepted the risk of whether Fidelity Bankers would reimburse it for its liability to PLICO"); Brief in Support of Motion to Dismiss at 12 (" . . . NARE's risk under the PLICO Assuming Treaty transaction was the risk of Fidelity Bankers' insolvency").

Fidelity's insolvency. At the time that NARE agreed to act as a pass-through in the Fidelity Bankers/PLICO stop loss arrangement, PLICO and two other reinsurers already had performed underwriting audits (with the knowledge of Fidelity) and had concluded that there was substantial excess mortality loss exposure. (See NARE's Notice of Appeal from a Decision of the Deputy Receiver Terminating and Disavowing Reinsurance Treaty No. AEL-0045, sworn to by Gerald A. Levy on May 18, 1992, at ¶¶ 1, 18).² Yet, under the Fidelity/PLICO stop loss arrangement, NARE was paid only a nominal administrative service fee of \$ 30,000 or less per year. It is inconceivable that NARE would accept the risk of Fidelity's insolvency and a potential financial exposure of more than \$ 20 million for a mere \$ 30,000 or less per year.

Second, the Deputy Receiver has asserted that

The Deputy Receiver and his consultants and experts have determined that [NARE's] claim for future years is inherently speculative and, if forced to extrapolate into the future, the expected liability is substantially less than NARE estimates.

(Brief in Support of Motion to Dismiss at 5). This assertion is flatly contradicted by the notes to the most recently filed financial statement of Fidelity Bankers, which state in pertinent part

² NARE's Notice of Appeal is at Tab 2 of the Appendix to its Petition.

Fidelity Bankers' year-end 1991 reserve for future losses [on the Fidelity/NARE Treaty] was \$2,099,349. The disavowal [of the Fidelity/NARE Treaty] was withdrawn in September 1992, and the reinsurance treaty was returned to its status quo ante. A reinsurance reserve of \$ 8,869,706 was established and based on certain mortality assumptions, and this calculation was made to reflect recent adverse experience on this business.

. . . In its appeal, NARE asserts that its claim under the treaty may total more than \$ 25 million. As stated in Note 7a, the Deputy Receiver has established a reserve in the amount of \$ 8,869,706. It is believed that this reserve amount presents more fairly the liability of Fidelity Bankers.

(Quarterly Statement, as of September 30, 1992, of the Condition and Affairs of the Fidelity Bankers Life Insurance Company (In Receivership), at pages 2 n.7a and 6 n.8 of Notes to Financial Statement) (emphasis added). The Deputy Receiver set up the above-mentioned reserve not because he was "forced to extrapolate" but because regulatory accounting principles required that he recognize the non-contingent excess mortality loss exposure under the Fidelity/NARE Treaty. In setting up this reserve, the Deputy Receiver has conceded that the present value of the loss exposure under the Treaty is at least \$ 8.8 million.

Third, by invoking Section 38.2-1515(B)(2) of the Virginia Code as a ground for denying NARE an offset of its reinsurance obligations to Fidelity against its claim in this receivership, the Deputy Receiver implicitly alleges that NARE assumed those reinsurance obligations from Integrated Resources Life Insurance

Company ("Integrated") in the words of the statute: "with a view of [their] being used as an offset." (See Va. Code Section 38.2-1515(B)(2)). However, as the affidavit submitted herewith shows, NARE was contacted by Integrated about the assumption of the relevant reinsurance treaties in December 1990, a full six months before Fidelity Bankers formally entered receivership. (See Affidavit of Bernard Goebel, sworn to on February 8, 1993 ("Goebel Aff."), at ¶ 3, attached hereto at Tab A). Further, NARE entered into a preliminary assumption agreement with Integrated in late March 1991, at least 45 days prior to the commencement of this receivership. (Goebel Aff. at ¶ 4).

In short, the Deputy Receiver cannot rely upon erroneous and unsupported factual allegations to defeat NARE's Petition without a hearing. Indeed, the parties' divergent positions on key factual issues demonstrate that a hearing is necessary for the full and fair resolution of this matter.

- 6 -

II. THE DEPUTY RECEIVER'S LEGAL ARGUMENTS ARE FATALLY FLAWED.

A. The Deputy Receiver Cannot Avoid Its Performance Obligation under the Fidelity/NARE Treaty Through an Eleventh Hour Characterization of It As "Non-Executory."

In deciding what treatment to accord the Fidelity/NARE Treaty in this receivership, the Deputy Receiver had two choices: (a) treat the treaty as a non-executory contract thereby causing all of Fidelity's performance obligations to NARE to mature, resulting in NARE having a claim in the receivership for its estimated unpaid future excess mortality losses; or (b) assume the treaty as an executory contract, thereby creating an obligation to provide for the continuation of Fidelity Bankers' performance.

The Deputy Receiver initially rejected the treaty, but he improperly disclaimed any obligation to pay liquidated damages to NARE on the grounds that such damages were too speculative.³ After NARE provided the Deputy Receiver with an actuarial

³ In response, NARE took the legal position that the Treaty was non-executory and that it therefore had a liquidated damages claim arising out of Fidelity Bankers' failure to complete performance. (See Memorandum of NARE in Support of Its Appeal from a Division of the Deputy Receiver Terminating and Disavowing Reinsurance Treaty No. AEL-0045, at Tab 3 of Appendix to NARE's Petition, at 16-18). To hold NARE to that position would be improper for two reasons. For one, the principles of waiver and estoppel cited in the Deputy Receiver's Brief, at 8-9, apply only to assertions of fact whereas NARE was making a legal characterization. Further, since NARE changed its legal position in direct response to the Deputy Receiver's reversal, it would be prejudicial and unfair to hold NARE to its earlier legal posture while permitting the Deputy Receiver to make a change.

analysis of future excess mortality losses, which was consistent with analyses done in 1990 and was supported by actual experience, the Deputy Receiver assumed the Treaty, but improperly failed to provide for the continuation of Fidelity Bankers' performance to NARE. Now, in its Brief in Support of its Motion to Dismiss, the Deputy Receiver asserts, for the first time, that

NARE's initial argument was correct: the [Fidelity/NARE] Treaty was not executory. NARE performed all of its material obligations before May 13, 1991.

(Brief in Support of Motion to Dismiss at 9). The Deputy Receiver therefore asserts that Fidelity Bankers owes no duty of performance to NARE and relegates NARE to the pursuit of a general unsecured creditor's claim in the receivership.

The Deputy Receiver's new position calls into serious question the meaning and effect of his Determination on NARE's Appeal. In that Determination, the Deputy Receiver purported to

[reverse] his prior decision and [retract] his disavowal and termination of the [Fidelity/NARE Treaty].

(See Determination of Appeal for North American Reassurance Company, Tab 1 of Appendix to NARE's Petition, at 2). The Deputy Receiver further explicitly assumed a duty of performance under the Treaty by stating

The [Treaty] is, therefore, treated as [if] it was never disavowed, and, as described herein,

the status quo ante is restored.

(Id.) Consistent with that Determination, the Deputy Receiver established a \$8.8 million reserve for Fidelity Bankers' future liability to NARE under the Treaty. The Deputy Receiver's new position is nothing more than an eleventh hour attempt to avoid the legal consequences of his own Determination by, yet again, changing his characterization of the status of the Treaty.

NARE's Petition demonstrates, at 19-24, that the Deputy Receiver has assumed a duty to continue performance under the Treaty, which can be fulfilled only by according NARE's excess mortality loss claims administrative expense priority. The Deputy Receiver's Brief in Support of Motion to Dismiss does not even begin to refute NARE's arguments because its underlying premise is that the Treaty is a non-executory contract. For instance, the Deputy Receiver contends that

NARE's position blatantly ignores the overwhelming authority holding that reinsurers are entitled to only a general, unsecured claim against an insolvent insurance company's estate.

(Brief in Support of Motion to Dismiss at 5). In support of this contention, the Deputy Receiver cites a series of cases in which administrative expense priority was denied to claims under reinsurance treaties that, unlike the Fidelity/NARE Treaty, were terminated and disavowed.

The Deputy Receiver's assertion that NARE is not providing any post-receivership benefit to Fidelity Bankers (id. at 6) is

likewise based upon the erroneous premise that the Treaty is a non-executory contract on which NARE has fully performed. In making this assertion, the Deputy Receiver ignores the undisputed fact that NARE has rendered substantial performance under the stop loss arrangement since May 13, 1991. NARE has paid more than \$ 2 million in excess mortality loss claims, in effect honoring Fidelity Bankers' stop loss guarantee obligations to PLICO. By stepping into Fidelity Bankers' shoes as ultimate stop loss guarantor, NARE has conferred an enormous benefit upon Fidelity Bankers and has enabled Fidelity to avoid the assertion of claims against it by PLICO. Moreover, by continuing to perform, NARE will enable Fidelity to avoid the collapse of the entire stop loss arrangement and the unraveling of the PLICO assumption of policies from Fidelity to the detriment of the underlying policyholders.

B. NARE Is Entitled to Set-off.

1. NARE's Set-off Fulfills the Requirements of Section 38.2-1515(A) of the Virginia Code.

The Deputy Receiver contends that NARE's set-off does not meet the requirements of Section 38.2-1515(A) on the ground that

The requirement of mutuality of time is absent because NARE's claim was contingent on May 13, 1991.

(Brief in Support of Motion to Dismiss at 16). This argument confuses the issue whether the claims set-off by NARE are "mutual" with the issue whether those claims are "contingent,"

notwithstanding that these two are very different concepts in receivership law. To establish mutuality, it must be shown that the debts to be set-off arose out of contractual obligations that existed prior to the entry of the receivership order. Since it is undisputed that both the Assuming Ceding Treaties and Treaty No. AEL-0045 pre-dated May 13, 1991, NARe has met this requirement.

The "contingent" nature of a claim has no relevance to whether or not a debt that satisfies the above mutuality requirement may be set-off against that claim. The Virginia Code expressly provides for the valuation and allowance of such claims in receivership proceedings. Accordingly, NARe may offset debts arising under the Assuming Ceding Treaties against its claim under Treaty No. AEL-0045 whether or not this claim was "contingent" on May 13, 1991.

**a. NARe Has Established the Requisite
Mutuality Under Section 38.2-1515(A).**

"Mutuality," for purposes of state receivership set-off provisions, has three components,

First, the debts [to be setoff] must be owed contemporaneously with, or prior to issuance of, the liquidation order. . . . Next, such debts must exist between the same persons or entities. . . . Finally, the setoff can occur only between persons or entities of equal capacity. . . .

Prudential Reinsurance Co. v. Superior Court of Los Angeles County, 1992 Cal. LEXIS 5692, at 6 (citations omitted).⁴ Only the first component, known as "temporal mutuality," is implicated by the Deputy Receiver's argument. In order to establish temporal mutuality with respect to reinsurance claims, it must be shown that the reinsurance contracts, out of which those claims arose, were entered into prior to the commencement of the receivership. Id. at 9 (citing O'Connor v. INA, 622 F. Supp. 611, 618-619 (N.D. Ill. 1985), aff'd sub nom, Stamp v. INA, 908 F. 2d 1375, 1380 (7th Cir. 1990)).

This requirement is met with respect to both the Assumed Ceding Treaties and Reinsurance Treaty No. AEL-0045 because these treaties all were entered into prior to May 13, 1991. It is undisputed that the Assuming Ceding Treaties, out of which NARE's reinsurance obligations to Fidelity arise, were entered into "at various dates between July 1, 1982 and May 1, 1987." (See Motion to Dismiss at 7, para. 2 (Counterclaim)). It is likewise undisputed that Reinsurance Treaty No. AEL-0045, out of which NARE's claim against Fidelity arises, was entered into in December 1990. (Id. at 2). Accordingly both the "debt" and the "credit" that have been offset by NARE arose prior to or contemporaneous with this receivership and there is temporal mutuality.

⁴ A copy of the Prudential decision is attached at Tab B.

The fact that NARE assumed Integrated's obligation to Fidelity under the Assumed/Ceding Treaties "as of" a date after May 13, 1991 does not alter this result. The assumption essentially was the assignment of a contract. Under accepted principles of contract law, the assignee of the contract assumes all of its benefits as well as its burdens. See e.g., Cook v. Eastern Gas & Fuel Associates, 129 W.Va. 146, 39 S.E.2d 321 (1946). Accordingly, when NARE assumed the obligations of Integrated under the Assumed Ceding Treaties, it succeeded to all of Integrated's rights in connection with such obligations, including the right to set-off any pre-insolvency claims against such obligations.

The Deputy Receiver contends that because NARE was not obligated to Fidelity under the Assumed Ceding Treaties on May 13, 1991, NARE is not entitled to set-off its claims under Treaty AEL-0045 against debts arising under the Assumed Ceding Treaties. This contention ignores the concept of "relation back" that is integral to the assignment of a contract. See, e.g., Sonoco Service, Inc. v. Bella Const. Co., 175 Conn. 299, 397 A.2d 1364 (1978) (assumption of obligation by third party merely provides obligee with additional security on original debt). As noted above, the obligations in question were pre-petition debts.

Further, the cases upon which the Deputy Receiver relies are inapposite. The Deputy Receiver cites three cases that allegedly support the proposition that the right to setoff against an

insolvent in receivership is governed by the state of facts existing at the time of insolvency (here May 13, 1991) and cannot be based upon rights created or obtained thereafter. See Dakin v. Bayly, 290 U.S. 143 (1933); Gambrell v. Cox, 157 S.E.2d 233 (S.C. 1967); Manchester Premium Budget Corp. v. Manchester Ins. & Indemnity Co., 612 F.2d 389 (8th Cir. 1980). However, each case involves a post-insolvency assignment or transfer of a claim against the insolvent entity to a person who then utilized that claim for set-off. Section 38.2-1515(B)(2) of the Virginia Code supplements that narrow rule by prohibiting set-offs using claims acquired "with a view toward their being used as an offset." The same danger of abuse is not present in the case of the assumption of a debt or obligation to the insolvent. To the extent that the insolvent claims not to have consented to the assumption of that obligation by the party claiming the setoff, it may assert a claim to enforce that obligation against the assignor. See, e.g., Baker v. Weaver, 279 S.C. 479, 309 S.E.2d 770 (1983) (person may not simply delegate duty to another and thereby extinguish his own liability to perform that duty).

**b. "Contingent" Claims May Be Setoff
Under Section 38.2.1515(A).**

A "contingent" claim, in the receivership context, is a claim on which liability has not yet been determined and thus which is not yet fixed in amount. See Hilgeman v. State ex rel.

Payne, 374 So.2d 1327 (Ala. 1979); In re Lexington Surety & Indem. Co., 272 N.Y. 210, 5 N.E.2d 204 (1936); Ellis v. Burnham, 236 Mass. 57, 160 N.E. 437 (1928). Consistent with federal bankruptcy law, the Virginia Code expressly provides for the valuation even of contingent claims and the allowance of such claims in receivership proceedings. See 12 U.S.C. § 502(c) (1988); Va. Code Ann. § 38.2-1515 (1990).

The fact that a claim or debt is contingent on the date the receivership is instituted does not magically transform the claim to a post-petition claim; contingency is irrelevant to the issue of temporal mutuality. See, e.g., Braniff Airways, Inc. v. Exxon Co., U.S.A., 814 F.2d 1030 (5th Cir. 1987) (the character of a claim or debt is not transformed from pre-petition to post-petition because of its unmatured, unliquidated, and/or contingent nature as of the date of the filing of the petition) (citing In re Nickerson & Nickerson, Inc., 62 B.R. 83 (Bankr. D. Neb. 1986); In re Elsinore Shore Associates, 67 B.R. 926 (Bankr. D.N.J. 1986); In re Delta Energy Resources, Inc., 67 B.R. 8 (Bankr. W.D. La 1986)). Thus, even if NARE's claim under Treaty AEL-0045 is contingent,⁵ Prudential and Stamp nonetheless support

⁵ NARE does not concede that its claim is contingent. To so classify its claim belies reality and mocks actuarial science. Integrated will unquestionably suffer excess mortality losses on the underlying life insurance policies, meaning Fidelity unquestionably will owe funds to NARE under Treaty AEL-0045. Moreover, the amount of such obligations can be calculated

(continued...)

NARe's position that the temporal mutuality of its claims is determined in accordance with the time of entry into the contracts out of which those claims arose.

In asserting that other states' courts have held that a contingent claim may not serve as the basis for set-off, the Deputy Receiver relies upon outdated and inapposite precedent. Prior to the adoption of the Chandler Amendments of 1938 (with respect to the federal Bankruptcy Act of 1898), some states' courts held that a contingent claim was not, for purposes of the relevant receivership laws, a "claim". See, e.g., People v. Metropolitan Surety Co., 205 N.Y. 135, 140-143, 98 N.E. 412, 413-415 (N.Y. 1912) (quoting, inter alia, People v. Commercial Alliance Life Ins. Co., 154 N.Y. 95, 98, 47 N.E. 968, 969 (N.Y. 1897)) (cited in Friedman, supra, 276 N.Y.S. at 77), and therefore could not serve as the basis for setoff, see, e.g., Friedman, supra, 276 N.Y.S. at 78-79, nor could it be discharged,

⁵(...continued)

statistically, and quite precisely, with a high degree of confidence. For example, NARe estimated excess mortality losses on the underlying insurance policies and thus its claim under Treaty AEL-0045 for calendar year 1992 well in advance at \$1,284,269. (See Notice of Appeal of North American Reassurance Company from A Decision of the Deputy Receiver Terminating and Disavowing Reinsurance Treaty No. AEL-0045, Exhibit H, Tab 2 of Appendix.) On January 21, 1993, PLICO reported actual excess mortality losses for 1992 of \$1,299,014, a difference of just 1.17%. NARe notes also that the "premiums" on Treaty AEL-0045 were effectively paid up-front in the form of a \$26 million "profit" to Fidelity on the sale of the underlying policies to PLICO, with the understanding that it would over time be paid back through payments on excess mortality claims. The Treaty thus effectively evidences a financing arrangement and is akin to a note.

see, e.g., Metropolitan Surety Co., supra, 205 N.Y. at 144, 146-147, 98 N.E. at 415-416. These positions accorded with the original statutory scheme of the Bankruptcy Act of 1898, under which contingent claims were provable but not allowable and therefore neither not dischargeable nor a permissible basis for set-off. See 3 Collier on Bankruptcy § 502.03 (pp. 502-73 - 502-74) (L. King 15th ed. 1992); 4 Collier on Bankruptcy §§ 553.01[3], [4] (L. King 15th ed. 1992).⁶

In 1938, the U.S. Congress concluded that this result worked an unjustified and unfair hardship on both the claimant and the debtor and acted to correct the problem where, as here, the claim could be liquidated or reasonably estimated.⁷ The Virginia legislature followed suit in 1952 and directed that contingent

⁶ The rationale for the above-mentioned rule was twofold: first, that waiting out the contingencies would unduly delay or interfere with the distribution of the estate's assets (i.e., with the administration of the case); and second, that the effect of discharge should be strictly confined. See, e.g., id., 205 N.Y. at 143, 98 N.E. at 415; Commercial Alliance Life Ins. Co., supra, 154 N.Y. at 95, 47 N.E. at 969. The rationale as to delaying the administration of the estate is inoperative where, as here, the value of the contingent claim can be estimated quite precisely with a high degree of confidence. See Carr v. Hamilton, 129 U.S. 252, 256 (1889) (interests in life insurance contracts "capable of instant and present valuation, almost as certain and determinate as the discount of a note or bill payable in the future"). Further, the notion that a debtor's right to discharge should be strictly confined simply does not comport with one of the fundamental goals of receivership/bankruptcy laws, particularly insofar as rehabilitation efforts are concerned -- to allow the debtor a fresh start.

⁷ See 3 Collier on Bankruptcy § 502.03 (pp. 502-72 - 502-74) (L. King 15th ed. 1992) (discussing at length the reasons for this change and describing it as "probably the most far-reaching change brought by the Chandler Amendments of 1938").

claims be allowable and dischargeable. See Va. Code Ann. § 38.2-1512 ("the rights of claimants holding contingent claims on [the date of the entry of the order directing the liquidation or rehabilitation of the insurer] shall be determined by this chapter").

As a result, the Deputy Receiver's reliance upon Wisconsin Mutual, Friedman and Pink is sorely misplaced. All of these cases were decided under statutory law materially different from that of Virginia's receivership law, which has been in effect since 1952. Friedman and Pink were decided before New York amended its statutory law in 1939, following the lead of the 1938 U.S. Congress.⁸ Wisconsin Mutual, decided in 1964, was issued before Wisconsin enacted a similar provision affecting the treatment of contingent claims in insurance company receiverships in 1967.⁹

⁸ See 1939 N.Y. Laws c. 882, § 544; amended 1952 N.Y. Laws c. 26, §6; 1965 N.Y. Laws c. 845, §45. In particular, this provision provided that "no contingent claim could share in a distribution of the assets of an insurer which has been adjudicated . . . insolvent . . . , except that such [a] claim . . . may be allowed to share where (a) such claim becomes absolute against the insurer on or before the last day fixed for filing proofs of claim against the assets of such insurer [typically well after entry of the order of rehabilitation or liquidation], or (b) there is a surplus and the liquidation is thereafter conducted upon the basis that such insurer is solvent." The provision is now codified at N.Y. Ins. Laws § 7433 (McKinney's 1985). Bankruptcy law goes further by calling for estimation of the value of contingent claims, the liquidation of which would unduly delay administration of the estate.

⁹ Foster, also cited by the Deputy Receiver, was decided after Pennsylvania added a contingent claims provision in 1977.
(continued...)

Accordingly, even if NARE's claims under Treaty AEL-0045 and its debts to Fidelity under the Assuming Ceding Treaties were contingent on May 13, 1991, that characteristic would not render such claims or debts post-petition claims or debts lacking temporal mutuality for purposes of the right to set-off under section 38.2-1515(A) of the Virginia Code.

c. The State Corporation Commission Does Not Have the Discretion to Deny Set-off.

The Deputy Receiver asserts that NARE's right to set-off is subject to the discretion of the Commission in exercising of its equitable jurisdiction over insurance company receiverships. In support of this assertion, the Deputy Receiver relies, indirectly, upon a misinterpretation of Cumberland Glass Manufacturing Co. v. DeWitt, 237 U.S. 447 (1915). Cumberland actually affirmed the principle courts may not deny set-off when debts and credits are mutual. See 237 U.S. at 454-455 ("While the operation of this privilege of setoff has the effect to pay one creditor more than another, it is a provision based upon the generally recognized right of mutual debtors which has been

⁹(...continued)
(See 1977 Pa. Laws P.L. 280, No. 92, §2 (codified at Pa. Stat. Ann. tit. 40, § 221.39(c) (Purdon 1992)). The Foster court, however, either completely ignored the provision, or concluded implicitly that the claims in question would unduly interfere with the administration of the receivership. The first possibility is far more likely than the second, given the court's stated reliance on pre-section 221.39(c) insurance receivership and bank receivership decisions.

enacted as part of the Bankruptcy Act, and when relied upon should be enforced by the court" (emphasis added)); In re Applied Logic Corp., 576 F.2d 952, 957 (1978) ("The rule allowing setoff, both before and after bankruptcy, is not one that courts are free to ignore when they think application would be 'unjust'").

In short, the word "shall" in section 38.2-1515(A) of the Virginia Code means shall, not may. It is not within the power of the Commission to ignore, indeed disobey, the mandate of the Virginia legislature, and to substitute its weighing of the equities and public policy considerations for those made by the Virginia legislature unless language in the statute clearly suggests a contrary intent. See, e.g., Underwood v. County Comm'n of Kanawha County, 176 W. Va. 713, 349 S.E.2d 443 (1986). The language of the statute in question does not clearly so suggest. See Prudential, supra, 1992 Cal. LEXIS 5692, at 17; Receivers v. Paterson Gaslight Co., 23 N.J.L. 283, 297 (1852) (quoted in Newman v. Hatfield Wire & Cable Co., 113 N.J.L. 484, 487, 174 A. 491, 493 (1934)).¹⁰

¹⁰ It would be ironic, to say the least, if the Commission were to undermine the mandate of the State that was the first in the United States to enact a setoff statute. S. Schwab, et al., "Onset of an Offset Revolution: The Application of Set-Offs in Insurance Insolvencies," 95 Dickinson L. Rev. 449, 476-77 (1991) (citing, I. Henning's Laws 294, February 17, 1644-5); Lloyd, "The Development of Set-Off," 64 U. Pa. L. Rev. 541, 553-60 (1916).

2. The Exception Set Forth in Section 38.2-1515(B)(1) is Inapplicable -- NARE is Entitled to Share in the Assets of Fidelity's Estate.

Section 38.2-1515(B)(1) of the Virginia Code provides that no offset is to be allowed where "the obligation of the insurer to the person would not entitle him at the date of the entry of any rehabilitation or liquidation order to share as a claimant in the assets of the insurer." For the reasons discussed above, even if NARE's claim was contingent on May 13, 1991, it would not disqualify NARE from participating as a claimant in the Fidelity receivership proceeding.

The Deputy Receiver, misreading the exception, also asserts that NARE could not share in the assets of Fidelity's estate because on May 13, 1991 there were not enough assets to cover the claims of policyholders. Such a reading of the exception was expressly rejected in Prudential, supra, 1992 Cal. LEXIS 5692, at 15-16. As therein stated, the Deputy Receiver's reading of the exception would condition the right to set-off on the insolvent insurer's ability to satisfy all obligations that are superior to that in favor of the party asserting setoff. Such a reading would nullify the statutory setoff provision by denying set-off to most general unsecured creditors. Section 38.2-1515(B)(1) is intended to deny set-off to those who have no claim -- contingent or otherwise -- in the receivership such as, for instance, post-receivership judgment creditors. As discussed above, NARE's has

a pre-receivership claim and therefore falls outside of this exception.

3. The Exception Set Forth in Section 38.2-1515 (B)(2) is Clearly Inapplicable.

Section 38.2-1515(B)(2) of the Virginia Code provides that no offset is to be allowed where "the obligation of the insurer to the person [i.e., the claimant] was purchased by or transferred to the person with a view of its being used as an offset." (Emphasis added.) The Deputy Receiver's brief could be read to suggest that he believes the exception to be applicable in this case notwithstanding that it involves the assumption of an obligation of a person (NARE) to the insurer. The inapplicability of this provision is facially obvious."

Moreover, even if it could be interpreted differently, Section 38.2-1515(B)(1) does not prohibit NARE's set-off because NARE did not assume the Assumed Ceding Treaties from Integrated with a view toward using the reinsurance obligations arising thereunder as an offset. It was Integrated that approached NARE with respect to assuming the Treaties (Goebel Aff. at ¶ 3). That

" Section 38.2-1515(B)(2) is meant to supplement the rule set forth and applied in Dakin v. Bayly, *supra*, 290 U.S. 143, Gambrell v. Cox, *supra*, 157 S.E.2d 233, and Manchester Premium Budget Corp. v. Manchester Ins. & Indem. Co., 612 F.2d 389 -- namely that one cannot set-off based on a claim acquired after entry of the order of receivership. In particular, it is meant also to reach even pre-receivership assignments made with a view to set-off. For a case raising such a fact pattern, *see Sawyer v. Hoag*, 84 U.S. 610 (1873), although the assignee eventually lost for lack of mutuality of capacity.

first contact occurred in December 1990, six months prior to the formal commencement of this receivership. (Id. at ¶ 3).


Further, there was even a preliminary assumption agreement in place 45 days prior to the Fidelity receivership order. (Id. at ¶ 4).

In sum, this simply is not the type of situation intended to be encompassed by Section 38.2-15.5(B)(2).

CONCLUSION

For all of the foregoing reasons, the relief requested in NARE's Petition should be granted and the Deputy Receiver's Counterclaim should be dismissed.

Respectfully submitted,

By: 
John F. Guyot
(Virginia Bar No. 27790)

WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006
(202) 429-7000

Counsel for North American
Reassurance Company

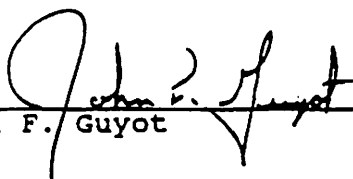
Of Counsel,

Ida C. Wurczinger

Dated: February 10, 1993

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Reply was served on the Deputy Receiver by hand to Howard H. Dobbins, Esq., Williams, Mullen, Christian & Dobbins, Central Fidelity Bank Building, Two James Center, 1021 East Cary Street, Richmond, Virginia 23210-1320, its attorney of record, on February 10, 1992.



John F. Guyot

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

| | | |
|---------------------------------|---|--------------------|
| PETITION OF |) | |
| |) | |
| North American Reassurance |) | |
| Company |) | |
| |) | |
| For Review of Fidelity Bankers |) | |
| Life Insurance Company's Deputy |) | Case No. INS920441 |
| Receiver's Determination of |) | |
| Appeal as to Certain Claims |) | |
| Arising under North American |) | |
| Reassurance Company's |) | |
| Reinsurance Treaty No. AEL-0045 |) | |

AFFIDAVIT OF BERNARD GOEBEL

| | | |
|--------------------|---|------|
| STATE OF NEW YORK |) | |
| |) | ss.: |
| COUNTY OF NEW YORK |) | |

I, BERNARD GOEBEL, being duly sworn, do hereby depose and say:

1. I am a Senior Vice President, Marketing, of North American Reassurance Company ("NARE") and previously was a Vice President, Marketing Actuarial. I make this affidavit in support of NARE's Reply to the Motion to Dismiss and Answer to the Counterclaim of the Deputy Receiver in the above-referenced matter.

2. During December 1990 through November 1991, I was personally involved in the negotiations that resulted in NARE's acquisition of certain ceding treaties from Integrated Resources Life Insurance Company ("Integrated") to which reference is made in the Deputy Receiver's Motion to Dismiss,

Answer and Counterclaim in this matter, dated January 11, 1993, at pages 2 and 3. Roughly 9-10% of the reinsurance business represented by such treaties involved Fidelity Bankers Life Insurance Company ("Fidelity Bankers"); the remainder involved roughly 60 other insurers.

3. Integrated first contacted NARE about assuming this reinsurance business in December 1990. NARE undertook substantial evaluation of the reinsurance business being offered for sale by Integrated. (See December 21, 1990 letter from Philip Velazquez of NARE to Bruce Nelson of Synergy Group, brokers for Integrated, copy attached as Exhibit A.)

4. On March 28, 1991, NARE confirmed its intent to purchase such business at the price of \$4.5 million, subject to a due diligence review. (See March 28, 1991 letter from Bernard Goebel as Vice President, Marketing Actuarial, of Swiss-Am Reassurance Company, an affiliate of NARE, to Bruce N. Nelson of Synergy Group, copy attached as Exhibit B.) Integrated confirmed on April 1, 1991, that NARE's offer would be acceptable at that price and agreed to withdraw the business from the market for the due diligence review until April 30, 1991. (See April 1, 1991 letter from Robert E. Van Metre, President of Integrated, to Bernard Goebel of Swiss-Am Re, copy attached as Exhibit C.)

5. NARE completed its due diligence review and executed an assumption and reinsurance agreement with Integrated on or about November 13, 1991, effective July 1, 1991. NARE did not acquire the ceding treaties involving Fidelity from Integrated with a view to using Integrated's reinsurance obligations or any subsequent reinsurance losses thereunder in favor of Fidelity as an offset against NARE's reinsurance claims against Fidelity under Reinsurance Treaty No. AEL-0045. In this regard, NARE actually paid Fidelity on several claims under such ceding treaties prior to notification by Fidelity in January 1992 that Fidelity might not fulfill its obligations under Treaty AEL-0045.

6. At no time has Fidelity or the Deputy Receiver voiced any objection to NARE regarding NARE's assumption of Integrated's obligations to Fidelity under the ceding treaties.

7. Since the Integrated/NARE assignment and assumption of the ceding treaties involving Fidelity (among others), the Deputy Receiver has made premium payments on such ceding treaties directly to the order of NARE under cover of reports indicating payment for "NARE Q[uota] S[hare] (IRLIC Q[uota]

- 4 -

S(hare))". (See Fidelity's Cover Report for December 1992
Premium Payment, copy attached as Exhibit D.)

Bernard Goebel
Bernard Goebel

Sworn before me this
_____ day of February 1993

Notary Public

JOSEPH P. PUCCIO
Notary Public, State of New York
No. 037282
Queens, Westchester County
Commission Expires January 31, _____

207 PARK AVENUE
NEW YORK, NEW YORK 10017

PHILIP A. VELAZQUEZ, F.S.A.

Actuary

TELEPHONE (212) 307-8420

December 21, 1990

Mr. Bruce Nelson, FSA, MAAA
Synergy Group
1665 Meadow
Bannockburn, Illinois 60015

Dear Bruce:

I enjoyed my recent meeting with you and appreciate the opportunity to review your gross premium valuation of Integrated Resources Life's Pool Business. In addition to the August 14, 1990 Report, you also gave me the Reinsurance Pool Mortality Audit prepared by Lincoln National Management Services. I probably won't be able to study the reports in much depth until after the Holiday Season. However, I anticipate completing the preliminary phase of my review by the end of the third week in January.

I look forward to receiving your report on the Marketing Coinsurance block as soon as it has been completed.

Please do not hesitate to contact me if you wish to discuss any aspects of this project.

Sincerest wishes for a Happy Holiday Season.

Sincerely,

Philip A. Velazquez

PAV:ccp

bcc: J. Cornely
R. Gandjean
P. Jaynes
D. Loparco
R. McGinnity
R. Reale
J. Setaro
RSD



March 28, 1991

FAX # (708) 948-7337

Mr. Bruce N. Nelson, FSA
Synergy Group
1665 Meadow
Bannockburn, Illinois 60015

Dear Mr. Nelson:

This letter of intent will confirm Swiss-Am Reassurance Company's offer to purchase, from Integrated Resources Life Insurance Company, the Pool line of business and the Marketing Coinsurance line of business. The purchase price is \$4,500,000. This offer is subject to regulatory approval and our due diligence review, which will include but not be limited to:

- Administration
- Treaties/Contracts
- Crediting Rate Methodology

In establishing this purchase price, we have assumed that cash assets equal in value to the full statutory reserves as of the purchase date will be transferred to Swiss-Am Reassurance. The statutory reserves will include those additional reserves for excess mortality, AIDS and overhead and maintenance expenses that were first established in 1990. We have assumed that excise tax payments made by the reinsurer will be reimbursed by the retrocessionaires. We also have assumed that the business inforce as of the purchase date will be consistent with that reported as of December 31, 1990.

The due diligence review will be performed with a deliberate effort to have completion in a timely manner. The process will commence the week of April 1, 1991, subject to acceptance of our offer and the business involved being removed from the active market.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bernard Goebel". The signature is fluid and cursive, with the first name "Bernard" and last name "Goebel" clearly distinguishable.

Bernard Goebel
Vice President,
Marketing Actuarial

BG/bm

bcc: B. Connelly
P. Jaynes

M. Sales
P. Velasquez

TIS

April 1, 1991

Mr. Bernard Goebel
Vice President, Marketing Actuarial
Swiss-Am Reassurance Company
237 Park Avenue
New York, NY 10017

Re: Letter from Swiss-Am Reassurance Company dated
March 28, 1991

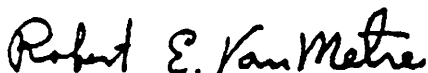
Dear Mr. Goebel:

We are in receipt of Swiss-Am Reassurance Company's ("Swiss-Am") offer to purchase Integrated Resources Life Insurance Company's ("IR Life") pool line of business and marketing coinsurance line of business for a purchase price of \$4.5 million, subject to the conditions set forth in Swiss-Am's letter dated March 28, 1991.

We confirm the advice previously provided to you by Bruce Nelson that the purchase price of \$4.5 million for these lines of business is acceptable to IR Life. As you were advised by Bruce Nelson, \$4.5 million is the lowest price that IR Life is prepared to accept for the purchase of these lines of business and IR Life is only prepared to accept this amount in order to effect an expeditious sale. No legally binding agreement with respect to the sale of these lines of business by IR Life to Swiss-Am will be effective unless and until execution of a definitive agreement with respect to such sale.

In order to induce Swiss-Am to promptly commence and complete the due diligence investigations outlined in Swiss-Am's letter dated March 28, 1991, IR Life hereby agrees that from the date hereof until April 30, 1991, or such earlier date as Swiss-Am terminates its efforts to acquire the lines of business at a purchase price of \$4.5 million, IR Life will not solicit or initiate any discussions with any person with respect to acquisition of the lines of insurance business referred to in this letter.

Very truly yours,



Robert E. Van Metre
President

Integrated Resources Life Insurance Company
10 Union Square East, 5th Floor
New York, NY 10003
212/353-7797

995

FIDELITY BANKERS LIFE
Requisition Backup for U. L. Reinsurance

Company NARE QS (INC QS) Date Requested 1-15-93
Date of Report 12-31-92 Requested By N BARNES

Non Pool 27,161.15
Pool A _____
Pool B _____
Pool C _____
Total: \$27,161.15

Check Number _____
Date Mailed _____

Detailed Backup in Reinsurance Department

INTEREST Payment of \$ 1497.00 INCLUDED IN TOTAL

3520

THE ATTACHED CHECK IS IN PAYMENT OF:

- ☐ MEDICAL EXAMINATION FEE FOR.....
☐ COMMISSIONS FOR.....
☐ YOUR INVOICE.....
☐ OTHER-SEE EXPLANATION BELOW:

DL QS PREM DEC 1992

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PRUDENTIAL REINSURANCE COMPANY, Petitioner, v. THE SUPERIOR COURT OF LOS ANGELES COUNTY, Respondent; JOHN GARAMENDI, as Insurance Commissioner, etc., Real Party in Interest.

997

S014036

SUPREME COURT OF CALIFORNIA

3 Cal. 4th 1118; 842 P.2d 48; 1992 Cal. LEXIS 5692; 14 Cal. Rptr. 2d 749; 92 Cal. Daily Op. Service 9599; 92 Daily Journal DAR 16013

November 30, 1992, Decided

NOTICE: [*1] THE LEXIS PAGINATION OF THIS DOCUMENT IS SUBJECT TO CHANGE PENDING RELEASE OF THE FINAL PUBLISHED VERSION.

PRIOR HISTORY: Ct. of Appeal B041978. Super. Ct. No. C572724. Appeal from the Superior Court of Los Angeles County, Kurt J. Lewin, Judge.

DISPOSITION: Affirmed.

COUNSEL: For Appellant: Adams, Duque & Hazeltine, Robert M. Mitchell, Margaret Levy, John L. Viola, Vicki W. W. Lai, F. Christopher Chrisbens, Wilson, Elser, Moskowitz, Edelman & Dicker, Patrick M. Kelly, Thomas R. Manisero, Blanc, Gilburne, Williams & Johnston, Gary R. Klouse, John A. Kronstadt, Sidley & A. tin, Peter R. Chaffetz, Janet M. Letson, Hoon Chun, Mendes & Mount, Valerie A. Gordon, LeBouef, Lamb, Leiby & MacRae, Sanford Kingsley, Hufstedler, Miller, Kaus & Beardsley, John P. Olson, Arnold & Porter, Daniel M. Lewis & Gary P. Poon for Petitioner. Bryan, Cave, McPheeter & McRoberts, Martin J. Foley, Phillip E. Stano, Daniel J. Conway, Richard E. Goodman, Jack H. Blaine, Craig A. Berrington, Ronald S. Gass and John J. Nangle as Amici Curiae on behalf of Petitioner.

For Respondent: No appearance for Respondent. John K. Van de Kamp and Daniel E. Lungren, Attorneys General, Edmond B. Mamer, Jack T. Kerry and Raymond B. Jue, Deputy Attorneys General, [*2] Rubenstein & Perry, Rubenstein, Perry & Lip, Karl L. Rubenstein, Kathleen M. McCain, Melissa S. Kooistra and Dana Carli Brooks for Real Party in Interest. Horvitz & Levy, Ellis J. Horvitz, Barry R. Levy, Lisa Perrochet, Spiegel & McDiarmid, Richard A. Brown, Spencer L. Kimball, Cynthia S. Bogorad, Diane J. Lautrup, Jeffrey R. Babbins, Hugh Alexander and Charles E. Erdmann II as Amici Curiae on behalf of Real Party in Interest.

JUDGES: LUCAS, PANELLI, ARABIAN, BAXTER, KLINE, * MOSK, KENNARD

* Hon. J. Anthony Kline, Presiding Justice, Court of Appeal, First District, Division Two, assigned by the Acting Chairperson of the Judicial Council.

OPINIONBY: LUCAS

OPINION: Insurance Code section 620 (all further statutory references are to this code unless otherwise stated), defines a reinsurance contract as "one by which an insurer procures a third person to insure him against loss or liability by reason of such original insurance." Typically, under a reinsurance

contract, the primary insurer "cedes" a portion of the premiums for its policies, and the losses on those policies, to the reinsurer.

In a reinsurance transaction, policyholders pay premiums to their original insurer, who, in turn, pays a reinsurer a percentage [*3] of the initial premiums as consideration for reinsuring a specified part of the original risk. If, after a loss, the original insurer must compensate its policyholders, the reinsurer in turn indemnifies the insurer. The advantage of reinsurance is to secure to the original insurer adequate risk distribution by transferring a portion of the risk assumed to another insurer. (Semple & Hall, The Reinsurer's Liability in the Event of the Insolvency of a Ceding Property and Casualty Insurer (hereafter Semple & Hall) (1986) 21 Tort & Ins.L.J. 407 ["A reinsurance agreement is one by which the reinsurer indemnifies the ceding company for losses paid"].)

We granted review to determine as a matter of first impression whether reinsurance debts and credits generated between a reinsurer and the original insurer, under the terms of their reciprocal reinsurance contracts, may be set off pursuant to section 1031, when the original insurer becomes insolvent. Section 1031 provides in pertinent part that: "In all cases of mutual debts or mutual credits between the person in liquidation under Section 1016 and any other person, such credits and debts shall be set off and the balance only shall be allowed [*4] or paid. . . ."

Section 1031 allows the setoff of all mutual debts and credits in the course of liquidation proceedings and is patterned after the federal Bankruptcy Act of 1978 (11 U.S.C. = 108, repealed and reenacted as 11 U.S.C. = 553), and an identical New York statute that has been adopted by several states (N.Y. Ins. Law, = 420, recodified as = 7427). The federal and New York provisions were in turn derived from the equitable right of setoff established in 17th century England, and later adopted in early federal court cases allowing equitable setoff in the insurance context. (Downey v. Humphreys (1951) 102 Cal.App.2d 323, 335-336; see also Scammon v. Kimball (1876) 92 U.S. 362 [allowing banker to setoff insolvent insurer's deposits against unrelated insured losses].) n1

- - - - -Footnotes- - - - -

n1 Although the federal government has the power to regulate insurance as part of interstate commerce (United States v. South Eastern Underwriters Ass'n (1944) 322 U.S. 533), Congress has declined to exercise that power, leaving insurance regulation to the states. (Ibid.; McCarran-Ferguson Ins. Regulation Act (1976) == 1011-1015; see also 11 U.S.C. = 109 [exempting insurers from Bankruptcy Act].) As part of our state's insurance regulatory scheme, our Legislature adopted section 1031 in 1935.

- - - - -End Footnotes- - - - -

[*5]

Assuming setoff is permitted, there remain questions pertaining to the relative priorities of setoff and other claims in liquidation against the insurer. An exception to the general rule of section 1031 is provided in section 1031, subdivision (a) (hereafter section 1031(a)), which does not allow setoff when the "obligation of the person in liquidation to such other person does not entitle such other person claiming such setoff to share as a claimant in the

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assets of such person in liquidation." Accordingly, we must also consider whether section 1031(a) allows setoff claims if the estate has insufficient assets to satisfy fully all primary policyholders and claims of the California Insurance Guarantee Association (CIGA) whose claims, absent setoff, have priority (under section 1033) over those of reinsurers and other general creditors. n2 Because reinsurers are not considered priority claimants in an insolvency proceeding, the amount of setoff money remaining after priority claimants are paid would be less than that available before statutory preference is given to other claimants.

- - - - -Footnotes- - - - -

n2 Section 1033, subdivision (a), lists the priority of claims in liquidation in pertinent part as follows:

"1. Expense of administration.

"2. Unpaid charges due under the provisions of Section 763.

"3. Taxes due to the State of California.

"4. Claims having preference by the laws of the United States and by laws of this state.

"5. All claims of the California Insurance Guarantee Association . . . and associations or entities performing a similar function in other states, together with claims for refund of unearned premiums and all claims of policyholders of an insolvent insurer that are not covered claims.

". . . .

"6. All other claims. . . ."

As discussed below, we conclude the statutory right of setoff is independent of section 1033 priorities.

- - - - -End Footnotes- - - - -

[*6]

We conclude that section 1031 may not reasonably be construed as conditioning a reinsurer's right to set off on the insolvent insurer's ability to pay in full the claims of those in higher priority classes. As we explain, the majority of state and federal courts addressing the statutory right of setoff adopt this position. Thus, we hold that the reciprocal reinsurance contracts at issue here created "mutual credits and debts" under section 1031.

We also conclude that section 1031(a) does not preclude setoff in this case. Plaintiff reinsurer has shown a contractual and legal entitlement to the status of creditor of the insolvent insurer, and the contract between the two entities does not make setoff contingent on the ultimate financial ability of the original insurer or its estate to first pay all claimants in higher priority classes.

Finally, we determine that any policy considerations favoring payment of proceeds under original policies may not override the unequivocal language of section 1031 or policies favoring setoff. To disallow setoff in this case would not only subvert clear legislative intent, but would also lead to an increased cost of insurance for the consumer, because [*7] offsetting an insurer's debts spreads the risk incurred by the insurer and often allows smaller insurers to remain in business. (See *Stamp v. Insurance Co. of North America* (7th Cir. 1990) 908 F.2d 1375, 1380 [offsetting debts spreads risk and acts as mutual security for performance].)

I. BACKGROUND

On February 2, 1982, the Commissioner of Insurance (Commissioner) placed Mission Insurance Company (Mission) and its affiliated insurance companies into conservatorship due to insolvency. (= 1011, subd. (d) [vesting title to assets in Commissioner when insurer's transaction of business is hazardous to policyholders].) Several weeks later, the Commissioner obtained an order pursuant to section 1016, authorizing liquidation of the Mission companies. The Commissioner was appointed liquidator, and thereafter demanded all reinsurers of Mission pay in full the amounts owed under their reinsurance contracts. The reinsurers refused to make any such payments, claiming that under section 1031, they were entitled to set off the amounts owed by Mission for reinsurance proceeds and "unearned premiums" (or amounts insureds prepaid for coverage in the days and months [*8] ahead), owed to them by the insolvent insurers, against the debts they owed the insolvent insurers under reinsurance contracts executed prior to insolvency. The Commissioner commenced the underlying action against 144 reinsurers, and brought the present summary judgment motion against petitioner Prudential Reinsurance Company (Prudential Reinsurance) to compel payment, without setoff, of moneys owed the Mission companies.

The trial court granted the Commissioner's summary judgment motion on the ground that section 1031 allows a setoff only when the assets of the liquidating estate are sufficient to pay in full all the claims asserted by claimants in priority classes higher than the claimant asserting the setoff right. In other words, the court concluded that section 1031 makes the statutory right of setoff contingent on the ultimate financial ability of the liquidation estate to pay in full all claimants in section 1033 priority classes higher than the setoff claimant.

The Court of Appeal followed the rule of every state and federal court that has considered the reinsurer's right to statutory setoff and issued a peremptory writ of mandate ordering the trial court to vacate its order [*9] granting summary judgment and to enter a new order allowing Prudential Reinsurance the right of setoff. The Commissioner seeks our review of this judgment.

As we explain, we adopt the thoughtful analysis of the Court of Appeal and conclude that a plain reading of sections 1031 and 1033 allows an insolvent insurer and a reinsurer to set off debts and credits after the appointment of a liquidator. Because we agree with the Court of Appeal that Prudential Reinsurance is entitled to set off Mission's debts, we affirm the Court of Appeal's judgment.

II. DISCUSSION

A The Reinsurance Contracts

Reinsurance contracts, as contracts of indemnity, operate to shift a part of the risk of loss under the insurance policy from the original insurer to the reinsurer. (1 Cal. Insurance Law & Practice, Reinsurance (1991) = 11.01. pp. 11-6, 11-7.) The insured, however, remains in privity with the original insurer, and the reinsurer owes no duties to the insured. (Ibid.) Thus, the original insured has no right to pursue contract or bad faith actions against the reinsurer. (= 623; Ascherman v. General Reinsurance Corp. (1986) 183 Cal.App.3d 307, 310.)

Reinsurance [*10] contracts are classified as either "facultative" or "treaty." Reinsurance is facultative if it covers the reinsured's risk on an individual policy. The majority of reinsurance contracts are placed under a treaty, which covers the reinsured's risk for an entire class of policies. (1 Cal. Insurance Law & Practice, supra, = 11.02, at p. 11-22.)

In the present case, Prudential Reinsurance is the reinsurer under 14 reinsurance treaties. The parties refer to these treaties as "Relation A" contracts; these contracts reinsure the Mission companies. The other reinsurance contracts at issue here are called "Relation B" contracts and reinsure Prudential Reinsurance and its subsidiary, Gibraltar, as principals. Mission is the reinsurer under all but one of these latter contracts; a related company, Mission National Insurance Company, is the reinsurer under the remaining contract.

The setoff clauses of the "Relation A" contracts provide in substance that Mission, other named Mission subsidiaries (as reinsureds), and Prudential Reinsurance (as reinsurer) agree that the parties thereto may offset any and all reinsurance debts owed by or to them "under the same or any other reinsurance agreement [*11] between them." Some of the clauses acknowledge that in the event of insolvency of a party thereto, setoff rights are controlled by section 1031. Similarly, the "Relation B" contracts also grant Prudential Reinsurance the express right to set off moneys due from Mission against amounts due Mission under the same or any other reinsurance contract between them. Keeping this background in mind, we now turn to the issues before us.

B. Mutuality

As noted above, in 1935 the Legislature granted a statutory right of setoff under section 1031 "in all cases of mutual debts or mutual credits." The key to setoff is the requirement of mutuality. Justice Benjamin Cardozo defined mutuality as follows: "To be mutual, the debts must be due to and from the same persons in the same capacity." (Beecher v. Peter A. Vogt Mfg. Co. (1920) 125 N.E. 831; see Marick et al., Excess, Surplus Lines and Reinsurance: Recent Developments (1991) 26 Tort & Ins. L.J. 231, 244.) Later cases required that the subject debts be mutual in three respects. First, the debts must be owed contemporaneously with, or prior to issuance of, the liquidation order. In other words, preinsolvency [*12] debts may be set off, but a preinsolvency debt may not be set off against a debt arising after appointment of a liquidator. (See, e.g., Stamp v. Insurance Co. of North America, supra, 908 F.2d at p. 1379; Downey v. Humphreys, supra, 102 Cal.App.2d at p. 336.)

Next, such debts must exist between the same persons or entities in order to establish mutuality of identities. (Matter of Midland Ins. Co. v. Kemper Reinsurance Co. (N.Y. 1992) 590 N.E.2d 1186, 1192 (hereafter Midland); Harrrison v. Adams (1942) 20 Cal.2d 646, 649-650.) Finally, the setoff can occur only between persons or entities of equal capacity; debts owed in a fiduciary, agency, trustee, or partnership capacity are not subject to setoff. (Downey v. Humphreys, supra, 102 Cal.App.2d at p. 336; Midland, supra, 590 N.E.2d at pp. 1192-1193; see also Garrison v. Edward Brown & Sons (1946) 28 Cal.2d 28, 30.)

The Court of Appeal found all three requirements were met in the present case, and that the [*13] reciprocal reinsurance contracts created "mutual credits and debts" under section 1031 as between Prudential Reinsurance and Mission. The court also concluded that section 1031 permits setoff when the reinsurer shows legal status as a creditor of the insolvent insurer, and does not make the statutory right of setoff contingent on the ultimate financial ability of the insolvent entity to first pay all claimants (including original insureds and CIGA) in higher priority classes under section 1033. The court concluded that favoring payment of the insureds under original policies and CIGA was contrary to the plain meaning of section 1031. As explained below, we agree with the Court of Appeal that mutuality was established in this case.

1. Contemporaneous Mutuality

The Commissioner first contends the reinsurance obligations between Prudential Reinsurance, its subsidiary, Gibraltar, and Mission did not meet the contemporaneous requirement for mutuality, because the debts owed by the reinsurers to Mission (namely, payments on insured losses), are postliquidation debts, while those owed to the reinsurers by Mission (namely, past-due premiums), are preliquidation debts. The Commissioner [*14] reasons that the reinsurance proceeds and the return of policy premiums may not be set off because those debts are postliquidation debts that will not be due until the policyholders' loss claims are allowed or liquidated.

As the Court of Appeal herein observed, however, the Commissioner's assertion is not supported by section 1031 or case law.

Prior to the enactment of sections 1031 and 1033 in 1935, California and federal decisions addressing the common law doctrine of equitable setoff held that debts and credits of an insolvent insurer amounted to mutual obligations for purposes of equitable setoff even if the obligations were technically not payable until closing of the insolvency estate.

For example, in Carr v. Hamilton (1889) 129 U.S. 252, the court held that once the insurer is declared insolvent, proceeds due the insured must be offset against the insured's separate mortgage debt to the insurer. The Carr court applied the principle of offset, initially established in federal bankruptcy law, to the insurance liquidation context and held that debts due between the insolvent insurer and other persons may be set off during insolvency even [*15] if they were otherwise due at a later date. The Carr decision was based on the premise that any contractual creditor of the insurer in liquidation should be allowed to set off mutual debts created by contract before the insolvency occurred. (See also Scammon v. Kimball, supra, 92 U.S. at p. 371; A. Swarth v. Bank of California (1897) 119 Cal. 470, 474-476 [in analogous context of estate administration, mutual debts between deceased and a bank may

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be set off against executor as long as debts existed prior to death].)

In *Downey v. Humphreys*, supra, 102 Cal.App.2d 323, the court addressed the statutory right of setoff under sections 1031 and 1033, as originally adopted in 1935. In that case, an independent insurance agent wrote an insurer's policies for payment of policy premiums. After an insolvency receivership order was issued against the insurer pursuant to section 1011, the agent set off all premiums due the insurer against claims due policyholders. The agent also retained funds due as earned commissions up to the date of the insolvency. Thereafter, the liquidator [*16] demanded that the agent pay to him all premium amounts for the newly written policies, less earned commissions which were routinely set off. The agent claimed that the initial policy premiums became "unearned premiums" because the insolvency order effected a breach of those policies by the insurer.

After the trial court allowed the setoff, the Court of Appeal affirmed on the ground that the agreement between the agent and the insurer that their cross-claims should mutually compensate each other, established the necessary relationship between the parties -- that of debtor and creditor -- to permit the setoff. (*Downey v. Humphreys*, supra, 102 Cal.App.2d at pp. 335-336.) In so holding, the Downey court reasoned that, "At the time [the insurer] was adjudicated insolvent, April 19, 1933, and at the time the liquidator was appointed, June 28, 1933, the statute providing for proceedings against delinquent insurance companies was silent as to the right of setoff. (Stats. 1919, p. 265, as amended Stats. 1933, p. 1420.) In 1935 the statute was amended to provide for setoff of mutual debts and mutual credits. (Stats. 1935, p. 544.) The statute was based [*17] on the New York law and was but the enactment of the prevailing rule. [Citations]. The Bankruptcy Act provides for a setoff of mutual debts and mutual credits. (11 U.S.C.A. = 108.)" (*Downey*, supra, 102 Cal.App.2d at pp. 335.) (Ibid.)

"A receiver occupies no better position than that which was occupied by the party for whom he acts. . . . The right [of set off] is to be determined by the condition of things as they existed at the moment the party was adjudged insolvent. If the right of setoff was available to defendant at that time, the insolvency of [the insurer] did not defeat it [citations]. The fact that the policyholders received their unearned premiums did not create an unlawful preference."

(*Downey v. Humphreys*, supra, 102 Cal.App.2d 335-336; see also *O'Connor v. Insurance Co. of North America* (N.D. Ill. 1985) 622 F.Supp. 611, 619 [accord].)

The Commissioner asserts that even under *Downey v. Humphreys*, supra, 102 Cal.App.2d at pages 335-336, setoff must be disallowed if the debts were not debited and credited prior to the [*18] appointment of a liquidator. The Downey court made it clear, however, that the liquidator succeeds to the insolvent insurer's interest in assets, subject to legislatively imposed limitations existing against the insolvent prior to the liquidation. (Ibid.)

Although California courts have not addressed the statutory right of setoff since Downey in 1951, other jurisdictions have more recently discussed the issue, and we look to them for guidance. For example, in *O'Connor v. Insurance Co. of North America* (O'Connor), supra, 622 F.Supp. 611, the court considered the issue whether debts owed under reciprocal reinsurance contracts between a

reinsurer and an insolvent insurer are subject to a right of setoff under an Illinois statute that is substantially similar to the right granted under Section 1031.

The O'Connor court addressed the requirement of contemporaneous mutuality under the Illinois Insurance Code which provides, inter alia, that debts "between the company and another company" would be subject to setoff as long as the debts were mutual. (Ill.Rev.Stat. ch. 73, = 818 (1983).) In O'Connor, the liquidator of an insolvent [*19] insurer asserted that debts owed to it involving reinsurance proceeds, as well as unearned premiums that followed the cancellation of the policies on insolvency of the insurer, amounted to post-liquidation debts that could not be set off by the debts owed by the insolvent insurer to the reinsurers, because those debts amounted to preliquidation debts. The O'Connor liquidator concluded that mutuality did not exist when the reinsurers' debts were postliquidation debts, whereas the insolvent insurers' debts were preliquidation debts. (O'Connor, supra, 622 F.Supp. at p. 618.)

Like the courts in Carr v. Hamilton, supra, 129 U.S. 252, and Downey v. Humphreys, supra, 102 Cal.App.2d 323, the O'Connor court relied on bankruptcy law in rejecting the liquidator's contention. The court observed, "Even if the Liquidator is correct in his assertion that the debts for reinsurance proceeds and unearned premiums were not due at the time of liquidation, that fact has no bearing on whether Defendants may use these debts for set-off purposes. 'The right of set-off may be asserted in the bankruptcy proceedings [*20] even though at the time the petition is filed one of the debts involved is absolutely owing but not presently due, or where a definite liability has accrued but is as unliquidated.'" (O'Connor, supra, 622 F.Supp. at p. 618, quoting from 4 Collier on Bankruptcy (14th ed. 1978) P 68.10[2].)

Finally, the O'Connor court concluded that the reinsurers and the insolvent insurer "entered into a reinsurance contract which defined all of the parties' rights and obligations. Any liability [the insolvent insurer] may incur to pay reinsurance proceeds or return unearned premiums or ceding commissions arises as a result of provisions in the previously executed reinsurance agreement that require them to make these payments." (O'Connor, supra, 622 F.Supp. at pp. 618-619.) The court held that because the reinsurance contracts existed prior to the insolvency, the reinsurer's debts were "provable" under the Bankruptcy Act and became payable on the date of insolvency. Hence, the court determined that the reinsurance debts were preliquidation debts that satisfied the Illinois Insurance Code's contemporaneous mutuality requirement. (O'Connor, supra, 622 F.Supp. at p. 619.) [*21]

The Commissioner in the present case attempts to distinguish the O'Connor holding. In O'Connor, all claims giving rise to the insurer's liability were filed prior to the insolvency order. By contrast, the Commissioner observes, in the present case, the "vast majority" of the reinsurance obligations arose after the liquidation order, and therefore the debts could not be mutual.

As the Court of Appeal explained, however, the O'Connor court determined that mutuality depends on whether the debts were in existence before insolvency, not whether individual claims arose before the date of insolvency. Thus, if the reinsurance debts arose from contracts executed prior to the date of liquidation, debts arising from those contracts are considered preliquidation

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debts subject to setoff. (See also *Ainsworth v. Bank of California*, supra, 119 . 470.)

The O'Connor view of contemporaneous debt is shared by *Stamp v. Insurance Co. of North America*, supra, 908 F.2d 1375, in which the court approved the setoff of debts owed by an insolvent insurer to a reinsurance pool. Initially, the Stamp court [*22] observed, "The Bankruptcy Code does not apply to insurance companies. 11 U.S.C. = 109(b)(2), (d). Like most other states, Illinois handles the failure of insurers in state court under the supervision of the state's chief regulator, who takes title to the firm's assets as trustee and liquidator." (Id. at p. 1377.) In approving the setoff, the Stamp court found that the requirement of contemporaneous mutuality had been met. The court noted, "A debt may exist even though it has not been valued conclusively and even though there is a bona fide dispute about the obligation to pay. [Citations.] This is the usual understanding about mutuality." (Id. at p. 1380.)

In an attempt to diminish the authority of O'Connor, Justice Kline's dissent herein asserts "O'Connor proceeds on the unstated assumption, legally incorrect and illogical, that setoff must be allowed because it is permitted." (Dis. opn., post, at p. [typed dis. opn., pp. 42-43].) To the contrary, O'Connor's reasoning with respect to setoff has been endorsed in subsequent decisions.

First, rather than reject O'Connor's [*23] reasoning, the Northern District Court in Illinois denied the liquidator's motion to reconsider O'Connor in *O'Connor v. Insurance Co. of North America* (N.D. Ill. 1987) 668 F.Supp. 1183. In so doing, the court observed that there is "also a significant policy reason for upholding [the O'Connor decision]. [The reinsurer] has a right to the benefit of its reinsurance contracts, which defined the parties' rights and liabilities with respect to the monies in dispute. Reinsurance contracts are construed in accordance with general principles of contract law, including an implied duty of good faith. . . . Once the reinsured goes into liquidation, the purpose of the reinsurance agreements is vitiated. The reinsured's liability on the policies ceases, and the reinsurer is bound to return unearned premiums and, presumably, any other form of consideration to which it is not entitled. . . . Any other result would not be in accordance with what the parties must have intended upon entering into the reinsurance contracts." (Id. at p. 1186 [denying motion for reconsideration].)

In addition, as noted above and contrary to the [*24] dissent herein, the Stamp court followed the O'Connor holding in allowing reinsurers to exercise their statutory setoff rights. (*Stamp v. Insurance Co. of North America*, supra, 908 F.2d at p. 1380.) Again, Justice Kline's dissent misreads the applicable law.

This dissent criticizes the O'Connor court's reliance on Professor Collier's 1978 treatise for the proposition that federal bankruptcy law recognizes that "one creditor may be getting paid more than other creditors" (O'Connor, supra, 622 F.Supp. at p. 619). The criticism is misplaced. Contrary to the dissent, Collier's 15th edition treatise states the exact principle almost verbatim. (4 Collier on Bankruptcy P 553.02 (15th ed. 1992.)) In addition, Collier recognizes that "In permitting setoff . . . Congress wisely has hedged the privilege granted under the [federal bankruptcy] Code with certain stated qualifications, [namely, recently forbidding preferences occurring 90 days before filing of insolvency] so as to prevent abuse." (Ibid.) As Justice Kline's dissent herein

later observes, the "qualifications" noted by Collier and outlined by Bankruptcy
ie, section 553 [*25] (11 U.S.C. = 553), are not applicable in this case.

- - - - -Footnotes- - - - -

n3 Following oral argument, counsel for the Commissioner requested the court
consider Foster v. Mutual Fire, Marine and Inland Insurance Company (1992) Pa.
Lexis 429 (hereafter Foster). We have read the case and conclude it is not
persuasive. Contrary to section 1031, the set-off statute at issue in Foster
expressly prohibits reinsurer setoff of premium obligations. (Foster, supra, Pa.
Lexis at p. 439.)

- - - - -End Footnotes- - - - -

Based on the foregoing, we reject the Commissioner's contention that the
reinsurance obligations between Prudential Reinsurance and Mission were not
contemporaneous preliquidation debts subject to setoff.

2. The Insolvency Clause

Section 922.2 requires all reinsurance contracts to contain an "insolvency
clause" allowing the liquidator to collect from the reinsurer the amount that
would have been due if the ceding company had not become insolvent. The
insolvency clause in this case states in pertinent part [*26] that:
"reinsurance provided by each and every reinsurance agreement heretofore or
hereafter entered into by and between the parties hereto shall be payable by the
reinsurer directly to the Company or to its liquidator, receiver, conservator or
statutory successor on the basis of the liability of the Company without
diminution because of the insolvency of the Company or because the liquidator,
receiver, conservator or statutory successor of the Company has failed to pay
all or a portion of any claim. . . ."

In a very recent case addressing statutory setoff and the requirement of
mutuality, the New York Court of Appeals upheld a reinsurer's statutory right of
offset against an insolvent insurer. (Midland, supra, 590 N.E.2d 1186.) As
plaintiff's counsel observe, the Midland case is of particular significance
because section 1031 was modeled after the New York setoff statute at issue.
(New York Ins. Law, = 7427; see Downey v. Humphreys, supra, 102 Cal.App.2d at
pp. 335-336; see also State of California ex rel. Van de Kamp v. Texaco, Inc.
(1988) 46 Cal.3d 1147, 1162 [statute patterned after Texas statute [*27]
given same construction as Texas courts].)

The Midland court was faced with the issue whether a reinsurer could offset
amounts it was owed by Midland under separate reinsurance contracts at the time
Midland was placed into liquidation. The liquidator objected to the setoff on
the grounds that the debts were not mutual, the insolvency clause contained in
one of the contracts prevented setoff, and the debts were not owed to and from
the same person.

The New York Court of Appeals allowed the setoff under New York Insurance Law
section 7427, subdivision (a). In addressing the liquidator's argument that the
insolvency clause contained in one reinsurance contract prevented the offset,
the court observed that "although reinsurance contracts are indemnity

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contracts, they commonly contain insolvency clauses which, even in the absence of a primary insurer's payment to policyholders, permit a liquidator to collect from the reinsurer the amount of reinsurance proceeds that would have become due if the ceding company had not become insolvent. The [offset] statutes encourage such clauses by providing that unless the reinsurance contract contains an insolvency clause the primary insurer may [*28] not consider the reinsurance as an asset or claim a deduction for the amount ceded [see section 922.2]. The loss of those rights is substantial because if the primary insurer must maintain reserves in the full amount of reinsurance ceded, one of the primary reasons for obtaining reinsurance is defeated." (Midland, supra, 590 N.E.2d at pp.1188-1189.)

The Commissioner relies on Melco System v. Receivers of Trans-America Ins. Co. (Ala. 1958) 105 So.2d 43, to contend that the insolvency clause destroys contemporaneous mutuality and, hence, prevents setoff because it requires payment of reinsurance recoverables "without diminution because of insolvency." In addition, Justice Kline's dissent herein interprets section 922.2 as requiring any money due the insolvent insurer to be paid to the liquidator without any subtraction notwithstanding Prudential Reinsurance's contractual right to offset Mission losses prior to insolvency. As explained below, both the Commissioner and Justice Kline's dissent misunderstand the purpose of the insolvency clause.

The Melco court held that a reinsurer was not entitled to set off unpaid premiums due from the insolvent, [*29] because the insolvency clause in reinsurance contracts requires payment of proceeds after insolvency, when the clause becomes operative. (Melco, supra, 105 So.2d at p. 53.) Both Prudential Reinsurance and the Court of Appeal herein correctly point out that the Melco analysis is inapposite. n4

- - - - -Footnotes- - - - -

n4 The Commissioner also cites Bluewater Ins. v. Balzano (Colo. 1992) 823 P.2d 1365, to support his argument that section 922.2 defeats a reinsurer's statutory right to offset. As the Midland court observed, however, Bluewater dealt with a common law right to offset. The Colorado Supreme Court distinguished the case from cases involving the statutory setoff rights which specifically allow offsets in insurance liquidation proceedings. (Midland, supra, 590 N.E.2d at p. 1192, fn. 4.)

- - - - -End Footnotes- - - - -

As Midland, supra, observed, statutory provisions comparable to section 922.2 that require an insolvency clause in reinsurance contracts were "enacted in response to the Supreme [*30] Court's decision in Fidelity & Deposit Co. v. Pink (1937) 302 U.S. 224. . . . That case held, based on the language of the reinsurance contract and consistent with the indemnity nature of reinsurance contracts in general, that a reinsurer need only reimburse the liquidator of the insolvent ceding company for losses actually paid by the ceding company or the liquidator to the insureds on the underlying policies (see, Fidelity & Deposit Co. v. Pink, supra). [The statutory insolvency clause] was intended to overcome that decision by altering the indemnity nature of a reinsurance contract when the ceding company becomes insolvent. . . . Pursuant to the statute, if the contract contains a statutory insolvency clause, the reinsurer is obligated to

pay the liquidator his or her allocated share of any losses due under the insurance contract even though the insolvent ceding company has not first made payment to the insureds on the underlying policies. Nothing in the language of [the statutory insolvency clause] or its history, however, supports the conclusion that the statute was enacted to destroy a reinsurer's [statutory] [*31] right of offset." (Midland, supra, 590 N.E.2d at pp. 1191-1192.)

Thus, as noted above, the purpose of section 922.2 and the insolvency clause is to provide the liquidator with the same rights and obligations of the insolvent insurer pursuant to the terms of the reinsurance contract. Certainly, the setoff in this case does not shield the reinsurers from paying reinsurance obligations directly to the liquidator or allow the reinsurer to walk away fully compensated, leaving policyholders and other more favored creditors holding the bag. Indeed, no "diminution because of insolvency" will occur in light of this setoff.

Therefore, section 922.2 does not conflict with section 1031; rather, it simply prevents the reinsurer from refusing to pay valid claims "on the grounds that its obligation was to indemnify the reinsured against loss, and that the reinsured only incurred loss in the amount of the diminished payments" made by the liquidator. (1 Cal. Ins. Law & Practice, supra, = 11.05(6)(c) at p. 11-52; Semple & Hall, supra, 21 Tort & Ins. L.J. 407; American Re-Insurance Co. v. Insurance Commissioner (C.D. Cal. 1981) 527 F.Supp. 444, 452.). [*32]

Melco, supra, 105 So.2d 43, did not discuss the effect of an insolvency setoff statute, and the case is contrary to California, federal and sister state law. (See Downey v. Humphreys, supra, 102 Cal.App.2d 335-336; O'Connor, supra, F.Supp. at p. 619 [rejecting Melco]; Midland, supra, 590 N.E.2d at pp. 1191-1192.) As the O'Connor court observed, the Melco court erroneously believed that "to allow the offset would give a preference to the reinsurer over other creditors because the reinsurer would be receiving full payment on its claim while other creditors would receive only fractional payment. . . . It is true that the reinsurer would be paid in full if a set-off is permitted, but, of course, that is the case anytime a set-off is permitted. The whole point of the statutory set-off section is to make clear that such actions are permissible, even though one creditor may be getting paid more than other creditors." (O'Connor, supra, 622 F.Supp. at p. 619, italics in original.) n5

- - - - -Footnotes- - - - -

n5 The Melco decision has questionable effect on the issues before us because in 1971, 13 years after Melco was decided, the Alabama Legislature enacted a statutory right of setoff substantially identical to that of section 1031. (Ala. Ins. Code = 27-32-29.)

- - - - -End Footnotes- - - - -

[*33]

In a related context, Justice Kline's dissent herein suggests the statutory setoff scheme was not intended to be used to create a preference for reinsurers over other creditors of the insolvent insurer. (See dis. opn., post, at p. [typed dis. opn., at p. 25].) Such reasoning begs the question when reinsurers' rights are not statutorily subordinate because there is a setoff statute (= 10-1) that specifically allows setoff in insurer liquidation proceedings.

In refuting the liquidator's argument that statutory setoff ignores bankruptcy priorities, Midland observed that although "permitting offsets may conflict with the statutory purpose of providing for the pro rata distribution of the insolvent's estate to creditors, the Legislature has resolved the competing concerns and recognized offsets as a species of lawful preference. Indeed, if an offset is otherwise valid, there would seem to be no reason why its allowance should be considered a preference: it is 'only the balance, if any, after the set-off is deducted which can justly be held to form part of the assets of the insolvent.'" (Midland, *supra*, 590 N.E.2d at p. 1191, quoting *Scott v. Armstrong* (1892) 146 U.S. 499, 510.) [*34]

Finally, Justice Kline's reliance on *Corcoran v. Ardra Ins. Co. Ltd.* (2d Cir. 1988) 842 F.2d 31, for the proposition that we should "enhance the power of the Commissioner, as liquidator, to protect [policyholders] against overreaching reinsurers" is misplaced. (Dis. opn., post, at p. [typed dis. opn., p.].) The *Corcoran* decision simply affirmed an order of the United States District Court for the Southern District remanding the action to state court for a determination of remedies available to the parties under their reinsurance contracts after a liquidation order had been entered. Nowhere does the case suggest that the liquidator's appointment affects a creditor's substantive right of offset. (See also *Midland*, *supra*, 590 N.E.2d at p. 1192, fn. 5.)

3. Mutuality of Identity And Capacity

The Commissioner next asserts that the order of liquidation destroyed the debtor-creditor relationship between the Mission companies and Prudential Reinsurance. According to the Commissioner, as a result of the liquidation order, the reinsurance debts are owed to the Commissioner as a trustee for the benefit of the Mission companies, [*35] and are no longer owed to Mission; there is no mutuality because the trustee has no contractual obligation to Prudential Reinsurance. We agree with the Court of Appeal, and find the Commissioner's contention without merit.

As the Court of Appeal observed, section 1031 broadly frames its mutuality criterion in terms of "all cases of mutual debts or mutual credits between the person in liquidation under section 1016 and any other person" (Italics added.) It is well settled that once insolvency has occurred and a liquidator has been appointed to assume all the rights of the insolvent insurer, he does so subject to all legal defenses and setoffs to which the insolvent was subject at the time of insolvency and liquidation orders. (= 1031.) In other words, the liquidator steps into the shoes of the insolvent insurer, taking the relevant claims and defenses as he finds them. The liquidator's appointment does not disrupt the status of mutual debts at the time the liquidation order is issued. (*Downey v. Humphreys*, *supra*, 102 Cal.App.2d at pp. 335-337.) Therefore, the Commissioner's construction of section 1031 would never permit an offset [*36] because appointment of the liquidator would always effect a change in the parties, and always transform debts owed to the insolvent insurer, as trustee for the insolvent's creditors. This reasoning would nullify section 1031.

In concluding that mutual credits and debts arising from mutual reinsurance contracts may permit section 1031 setoffs in insurance liquidation proceedings, the Court of Appeal limited application of the setoff doctrine to true contractual debtor-creditor relationships between principal insurers. In doing

so, it rejected Prudential Reinsurance's assertion that its subsidiary, Gibraltar, should be permitted to set off debts owed by Prudential Reinsurance under the "Relation A" contracts even though Gibraltar is not a party to those contracts. The Court of Appeal concluded that because Gibraltar does not owe reinsurance proceeds or premiums to the Mission companies as a principal reinsurer under the "Relation A" contracts, it has no mutual credits or debts with those companies upon which Prudential Reinsurance may claim a section 1031 setoff against what it owes to Mission as their reinsurer.

The Court of Appeal also observed that because Prudential Reinsurance [*37] was reinsured by Mission and by Mission National Insurance Company, but not other Mission companies, the remaining Mission companies are not principal reinsurers having mutual reinsurance debts and credits with Prudential Reinsurance.

We agree with the Court of Appeal. Accordingly, we refuse to expand the section 1031 setoff of debts in the absence of an express mutual agreement that the subsidiary would be deemed a mutual debtor-creditor of the parent. (See, e.g., *In the Matter of Berger Steel Company* (7th Cir. 1964) 327 F.2d 401; *Black & Decker Mfg. Co. v. Union Trust Co.* (Ohio Ct. App. 1936) 4 N.E.2d 929.) We conclude that such an unwarranted expansion of the setoff doctrine would permit an exponential increase in the amount subsidiaries could set off to the detriment of liquidation estates.

C. Section 1031(a)

As discussed above, under section 1031(a), no setoff is allowed when the liquidation of the person in liquidation to such other person does not entitle such other person claiming such setoff to share as a claimant in the assets of such person in liquidation." The Commissioner construes this subdivision [*38] as conditioning the right of setoff on the insolvent insurer's ability to satisfy all obligations that are superior to its own in favor of the party asserting the setoff. Under the Commissioner's interpretation of the statute, Prudential Reinsurance is "entitled" to share in the assets of Mission only if Mission has satisfied its obligations to all claimants superior in priority to Prudential Reinsurance under section 1033. (See fn. 2, at p. 4, ante.) In other words, unless the estate has sufficient assets -- after collection of all debts owed to it, without allowance of setoffs -- to pay all priority claimants in full, no setoff claimant who is a member of the lower-priority ranks may take any estate assets by way of its section 1031 setoff claim. According to the Commissioner, such a taking would be in effect an unauthorized preference.

The Court of Appeal rejected this argument, concluding that under the Commissioner's construction, a claimant's right to assert a setoff cannot be determined until all the insolvent's assets have been marshalled and the claims of all superior classes have been submitted. As the Court of Appeal observed, "entitlement" under section 1031(a) should [*39] be considered independently of Mission's obligations to other claimants. If Prudential Reinsurance is owed a debt that satisfies the requirements of mutuality, it is "entitled" to share in Mission's assets. (= 1031(a).)

The Commissioner now contends that the Court of Appeal erred in so interpreting section 1031(a) because a claimant asserting the right of setoff must already be a creditor of the insurer in liquidation. According to the

Commissioner, if the claimant is a creditor, it is ipso facto entitled to share the assets of the insolvent, and section 1031(a) is simply redundant.

As the Court of Appeal observed, however, if we were to adopt the Commissioner's proffered construction of section 1031(a), the statutory provision would be nullified because "setoffs would essentially be permitted only in cases where the estate is sufficient to pay higher priority classes in full and most likely be sufficient to also pay the setoff claimant in full without resort to setoff. [P] If the Legislature had meant to gear setoff entitlement to the estate's financial capacity, we presume it would have worded section 1031 to make that intention sufficiently clear."

Finally, the Commissioner's [*40] assertion that the Legislature, when it amended section 1033 priorities in 1979 to create the separate priority ranks, intended to protect original policyholders from diminution of their loss recoveries due to setoffs by lower priority claimants, is contravened by legislative history. When sections 1031 and 1033 were enacted (Stats. 1935, ch. 145, pp. 544-545), section 1033 referred to three classes of claimants only -- original policyholders, CIGA, and reinsurers all shared the same priority that was classified under "all other claims." Accordingly, if the Legislature intended to deny setoff unless there were sufficient assets to satisfy the claims of all claimants in higher priority classes, that result would have been made explicit in the statute. In sum, section 1031(a) is nothing more than a restatement of the mutuality requirement that is a prerequisite to the assertion of a section 1031 setoff.

D. Public Policy and Equitable Considerations

The Commissioner's final contention is that considerations of public policy and equity should preclude reinsurers' right to set off debts they claim to be owed by the Mission companies. The Commissioner claims the allowance of a setoff [*41] permits reinsurers to obtain complete satisfaction of the debt they are owed, while Mission policyholders are relegated to partial satisfaction only. This result, he claims, subverts the recovery scheme expressly adopted by the Legislature and codified in section 1033, which, as discussed above, generally ranks the claims of policyholders superior to the claims of other insurers. To this specific argument, he adds the more general one that it is unfair that policyholders -- as opposed to reinsurers -- bear the lion's share of Mission's insolvency, while implying even more broadly that the entire business of reinsurance was developed to permit original insurers to avoid their obligations to California policyholders.

CIGA, as amicus curiae in support of the Commissioner, asserts that allowing reinsurers to exercise their setoff rights ignores specific language in section 1033 that expressly denies them priority. CIGA relies on an exception to section 1033 discussed below.

Ranked fifth in section 1033 priority, after expense of administration, certain unpaid charges, taxes, and claims entitled to federal preference, are "(5) All claims of the California Insurance Guarantee Association [*42] . . . and associations or entities performing a similar function in other states, together with claims for refund of unearned premiums and all claims of policyholders of an insolvent insurer that are not covered claims. . . ." Ranked sixth and last are "All other claims." A subparagraph of the fifth rank

provides, in addition, that "Claims excluded by paragraph[] (3) (except claims for refund of unearned premiums) . . . of subdivision (c) of section 1063.1 . . . shall be excluded from this priority." Paragraph 3 of subdivision (c) of section 1063.1 provides, inter alia, that "'covered claims' shall not include any obligations of the insolvent insurer arising out of any reinsurance contracts. . . ." CIGA claims that the exclusion section 1033 paragraph (5) is evidence of the Legislature's express intention that a reinsurer's claim to the insolvent's assets be ranked inferior to the claims of policyholders.

Such a conclusion, however, is clear without reference to section 1033 paragraph (5). A reinsurer's claim is not a claim of CIGA or of an association or an entity performing a similar function, or any otherwise uncovered claim asserted by a policyholder of the insolvent. To the [*43] extent the reinsurer submits a claim for a refund of unearned premiums, that claim is not subject to the exclusion. Accordingly, the apparent exclusion of a reinsurer's claim from paragraph (5) effects no substantive change: that claim was already within the residual sixth rank -- "All other claims."

It is true that the claims of policyholders are generally entitled to priority over the claims of reinsurers. Nonetheless, the Legislature has created an exception to the general rules of priority in situations in which the claimant and the insolvent have mutual debts; that exception is codified in section 1031. We cannot ignore its broad mandate.

In a related context, the Commissioner and Justice Kline's dissent assert that because the doctrine of setoff is based on equitable principles, it should be denied when it would "harm the public." As we explain, there is no evidence that the section 1031 setoff "harms the public" and the cases on which Justice Kline and the Commissioner rely to support their arguments are distinguishable.

First, in *Federal Deposit Insurance Corporation v. Bank of America Nat'l Trust and Savings Ass'n* (9th Cir. 1983) 701 F.2d 831 [*44] (hereafter *Federal Deposit*), the court disapproved a setoff of a debt similar to the reinsurance debts under consideration in this case. In *Federal Deposit*, a Puerto Rican chartered bank issued a subordinated capital note to the Bank of America, which sought to set off the insolvent's deposits with the Bank of America against the balance due on that note. It was held that the law of Puerto Rico controlled and that no setoff was permissible because the subscription note was expressly subordinated to general creditors of the insolvent. The setoff clause was invalid under Puerto Rican law but the transaction was nevertheless improperly approved by the Puerto Rican Secretary of the Treasury.

In deciding the case under Puerto Rican law, the *Federal Deposit* court observed that the portion of the subordinated capital agreement that provided there shall be no waiver of the right of setoff, violated the language of the Puerto Rican statute and regulations promulgated under it. The court stated, "'capital notes shall be subject in right to the obligations with the depositors and other creditors of the issuing bank.'" (*Federal Deposit*, supra, 701 F.2d at p. 839, quoting [*45] P.R. Laws Ann. tit. 7, = 111(o), original italics.) The court noted that the regulation clarifies this restriction, providing: "'The capital notes shall be subordinate in all rights to the bank's liabilities to its depositors, liabilities under bankers acceptances and letters of credit, and all other current obligations characteristic of banking operations.'" (*Id.* at pp. 839-840, quoting P.R.R. & Regs. tit. 4, no. 4, original italics.)

The Court of Appeal herein rejected the reasoning of Federal Deposit because concerned Puerto Rican law without any reference to the statutory right of setoff or to section 1031, and because the setoff discussion focused on analogous stock subscription debts, which are not allowed in California. (= 1031, subd. (c); *Kaye v. Metz* (1921) 186 Cal. 42, 49.) We agree with the Court of Appeal that Federal Deposit is inapposite.

The Commissioner and Justice Kline's dissent also rely on *Kruger v. Wells Fargo Bank* (1974) 11 Cal.3d 352, in which a bank exercised its setoff right under former Code of Civil Procedure section 440 (cross-demands for money) [*46] against a depositor's checking account that consisted of payments for unemployment compensation and state disability benefits, which had been deposited in the account and comprised the depositor's only source of income. We held that the depositor's unemployment and disability benefits were protected from setoff by the bank. In so doing, we rejected the "assumption that a creditor's right of setoff is absolute except when explicitly limited by statute." (*Kruger*, supra, at p. 368.) We based our reasoning on the settled rule that a creditor is not allowed to set off a debt against exempt property, and that unemployment compensation and disability benefits are such property. (*Ibid.*) We concluded that the "legislative objective in providing unemployment compensation and disability benefits -- to furnish the unemployed worker and his family with a stream of income to defray the cost of their subsistence -- would obviously fail if creditors could seize that income and apply it to past debts." (*Id.* at p. 370.) As the Court of Appeal observed, *Kruger* is materially distinguishable from the present matter. (See also *Bluewater Insurance Limited, et al. v. Balzano* (Colo. 1992) 823 P.2d 1365 [*47] [equitable setoff disallowed when proscribed by statute].)

Kruger was decided on the basis of a public policy of protecting those who require welfare and disability benefits for their subsistence, and it was those benefits that were taken by setoff. (See also *Jess v. Herrmann* (1979) 26 Cal.3d 131, 142 [disallowed setoff of cross-judgments for comparative fault injuries on public policy grounds].) By contrast, in the present case, original insureds have no interest or right in a contract of reinsurance (= 623), and no rights against the reinsurer (= 922.2).

The Commissioner and Justice Kline also assert the insolvency statutes were adopted to protect the interests of policyholders and the public in general and setoff would abrogate that protection. Such is not the case. As *Midland* observed, "An important reason offset has been recognized as desirable is that it provides a form of security to insurers." (*Midland*, supra, 590 N.E.2d at p. 1191.) Offsetting debts not only spreads risk but also acts as mutual security for performance. "Such security is especially important for smaller insurers; if the large firms [*48] could not count on the netting of balances to satisfy obligations, they would be more likely to exclude smaller or tottering firms -- making new entry harder and precipitating failures of firms in difficulty. . . . If . . . one member fails the other members' exposure becomes the gross rather than the net obligation, then the mutual security of the offsetting debts is destroyed. [Reinsurance] becomes less useful; the premium charged to bear risk will rise." (*Stamp v. Insurance Company of North America*, supra, 908 F.2d at p. 1380.)

Finally, Justice Kline's dissent charges us with favoring reinsurers over insureds in an economic contest over the limited resources in the estate of an

insolvent insurance carrier. We plead not guilty. The reinsurers prevail in this case because our Legislature has expressly and broadly recognized their right of setoff, along with the similar right of others who have dealt with insolvent carriers. Our conclusion in this respect is in accordance with those of the United States Court of Appeals for the Seventh Circuit and the New York Court of Appeals, both of which have construed statutory schemes similar to ours. In [*49] contrast, the dissent would employ what it labels equitable considerations to favor "invariably unsophisticated" policyholders over "highly sophisticated" reinsurers.

We do not perceive the issue to be one of relative levels of commercial sophistication. Nor is it one that calls for judicial favoritism of one group of claimants over another on supposed "equitable" grounds having nothing to do with the historic concerns of equity jurisprudence in this area. Instead, the issue is one calling for construction of a comprehensive broadly phrased statute permitting setoff and admitting no exception for reinsurance relationships. The types of economic arguments made by the dissent are best addressed to the Legislature. "We are unwilling to engage in complex economic regulation under the guise of judicial decisionmaking." (Harris v. Capital Growth Investors XIV (1991) 52 Cal.3d 1142, 1168.)

III. CONCLUSION

Once the Commissioner declared Mission insolvent, Prudential Reinsurance had a legal, statutory right to set off unearned premiums against the amount it owed Mission. The mere fact that a liquidator was appointed did not impair or affect that right. Accordingly, [*50] we affirm the Court of Appeal's judgment.

LUCAS, C.J.

WE CONCUR:

PANELLI, J.
 ARABIAN, J.
 BAXTER, J.

DISSENTBY: KENNARD; KLINE

DISSENT: DISSENTING OPINION BY KENNARD, J.

I concur in Justice Kline's excellent dissenting opinion. I write separately, however, to make one additional point: the majority's interpretation of Insurance Code section 1031 renders part of that statute meaningless, contrary to accepted principles of statutory construction.

Insurance Code section 1031 n6 (section 1031) gives creditors of insurers in liquidation a general right of setoff subject to specified exceptions. The first paragraph of section 1031 states that, as between the insolvent insurer and any other person, mutual debts and credits shall be set off except in the situations described in subdivisions (a), (b), and (c). Only subdivision (a) of section 1031 is relevant here.

- - - - -Footnotes- - - - -

Section 1031 states in full: "In all cases of mutual debts or mutual credits between the person in liquidation under Section 1016 and any other person, such credits and debts shall be set off and the balance only shall be allowed or paid, but no set-off shall be allowed in favor of such other person where any of the following facts exist: [P] (a) The obligation of the person in liquidation to such other person does not entitle such other person claiming such set-off to share as a claimant in the assets of such person in liquidation. [P] (b) The obligation of the person in liquidation to such other person was purchased by, or transferred to, such other person. [P] (c) The obligation of such other person to the person in liquidation is to pay an assessment levied against such other person or to pay a balance upon a subscription for shares of the capital stock of the person in liquidation." (*Italics added.*)

- - - - -End Footnotes- - - - -
[*51]

Subdivision (a) of section 1031 prohibits a setoff if the entity claiming the setoff is not entitled "to share as a claimant in the assets" of the insolvent insurer. In other words, only those entities that are entitled to share in the insolvent insurer's assets may exercise the right of setoff. What, then, does the statute mean by an entitlement "to share as a claimant in the assets" of the insolvent insurer?

According to the majority, subdivision (a) of section 1031 means only that a reinsurer (or any other party seeking to exercise a setoff) must possess a claim against the insolvent insurer. The reinsurer does not, under the majority's view, have to actually receive, or share in, any portion of the insolvent insurer's assets. As the majority readily acknowledges, this interpretation makes subdivision (a) merely a restatement of the conditions of setoff -- that is, the existence of "mutual debts and credits" between the insolvent insurer and the party seeking to exercise a setoff. As the majority puts it, "In sum, section 1031(a) is nothing more than a restatement of the mutuality requirement that is a prerequisite to the assertion of a section 1031 setoff." (Maj. opn., ante, [*52] p. [typed maj. opn. at p. 31].) Under the majority's view, subdivision (a) of section 1031 is redundant and superfluous.

The majority's conclusion violates these precepts of statutory construction: to give independent meaning and significance whenever possible to each word, phrase, and sentence in a statute (see, e.g., *Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1386-1387); to avoid an interpretation that makes any part of a statute meaningless (*id.* at p. 1387; accord, *Woods v. Young* (1991) 53 Cal.3d 315, 323; *California Mfrs. Assn. v. Public Utilities Com.* (1979) 24 Cal.3d 836, 844); and to harmonize statutes both internally and with each other (*Woods v. Young*, *supra*, at p. 323).

It is not necessary, as the majority has done, to read subdivision (a) of section 1031 as having the identical meaning as the general rule to which it is an exception. There is, as the Insurance Commissioner correctly notes, another construction of section 1031 that gives independent meaning and purpose [*53] to subdivision (a) and harmonizes section 1031 both internally and with other components of the statutory scheme. Under this construction, subdivision (a) bars setoff by those entities that have claims against the insolvent insurer but do not actually share in the insolvent insurer's assets.

Reading section 1031 this way gives its words -- particularly the phrase "to be as a claimant in the assets" -- their ordinary and traditional meaning. It recognizes that subdivision (a) prohibits setoffs in a clearly defined situation. Finally, it harmonizes section 1031 both internally and, as ably demonstrated by Justice Kline (dis. opn., post, pp. [typed dis. opn. at pp. 2-10]), with the statutory scheme of which it is a part. In brief, this reading of section 1031 is preferable to the majority's when judged by the neutral criteria traditionally used for statutory construction. I perceive no sound basis for rejecting it.

KENNARD, J.

I CONCUR:

MOSK, J.

DISSENTING OPINION BY KLINE, J.

The majority's allowance of setoff -- which elevates the economic interests of reinsurers over the legislatively preferred and equitably superior rights of policyholders, injured claimants [*54] and other creditors -- results from a fundamental misunderstanding of the insurance insolvency statutes and contravenes clear legislative intent.

Permitting reinsurer setoff will result in the disallowance of many justifiable claims and have a ruinous effect on many individual policyholders, who reasonably believed they were protected against injury. As a consequence, policyholders, injured claimants and the public will bear costs of insolvency that the Legislature intended to impose, and which would much more fairly be imposed, on reinsurers, which were paid to assume the risk of the insolvency they are now unconscionably permitted to turn to their advantage. The majority opinion will also discourage self-regulation within the industry and exacerbate the growing problem of insurance insolvency now plaguing this nation.

I.

The majority says that "the reinsurers prevail in this case because our Legislature has expressly and broadly recognized their right of setoff" (Maj. opn., ante, at p. [typed maj. opn. at p. 37].) The Legislature has done no such thing. It is the intention of this court, opposed to that of the Legislature, that carries the day for the reinsurers. [*55]

It is elemental that in ascertaining the intent of the Legislature, "every statute should be construed with reference to the whole system of law of which it is a part so that all may be harmonized and have effect." (Select Base Materials v. Board of Equalization (1959) 51 Cal.2d 640, 645, quoting Stafford v. L.A. etc. Retirement Board (1954) 42 Cal.2d 795, 799; accord Moyer v. Workmen's Comp. Appeals Bd. (1973) 10 Cal.3d 222, 230.) "Words must be construed in context, and statutes must be harmonized, both internally and with each other, to the extent possible." (Woods v. Young (1991) 53 Cal.3d 315, 323, quoting California Mfrs. Assn. v. Public Utilities Com. (1979) 24 Cal.3d 836, 844.)

Insurance Code sections 1031 and 1033, n7 which were simultaneously enacted 1935, are both contained in division 1, part 2, article 14, of the Insurance Code, which relates to insolvency. For this reason, and because both statutes pertain to the rights of creditors of an insolvent insurance company, they clearly cannot be [*56] considered in isolation from one another. Nonetheless, accepting the insurance industry's bald claim that "the right of setoff is outside and antecedent to = 1033's distribution priorities," and that therefore "there is no legal or public policy reason to attempt a reconciliation of = 1033 with = 1031," n8 the majority examines section 1031 in a vacuum. By resolutely ignoring the context in which section 1031 appears, and by reading into that statute a purpose that does not appear from its words, the majority has profoundly distorted the legislative intendment. n9

- - - - -Footnotes- - - - -

n7 All statutory references are to the Insurance Code unless otherwise indicated.

n8 Brief of Amici Curiae American Council of Life Insurance, Reinsurance Association of America, American Insurance Association, the Alliance of American Insurers, and the National Association of Independent Insurers.

n9 The majority also misrepresents the trial court's ruling, stating that "The trial court granted the Commissioner's summary judgment motion on the ground that section 1031 allows a setoff only when the assets of the liquidating estate are sufficient to pay in full all the claims asserted by claimants in priority classes higher than the claimant asserting the setoff right." (Maj. Op., ante, at p. [typed maj. opn. at p. 6].) Although this is the effect of the judgment of the trial court it was not the rationale. The trial judge summed up his reasoning as follows: "All counsel acknowledge that a setoff amounts to a legislative grant of an otherwise disfavored preference. As such a preference is inconsistent with the otherwise equal treatment of all others within any applicable priority, it therefore must be strictly construed. As sought to be applied here, it would also prefer a priority six creditor to all priority five claimants, a result irreconcilable with the purpose of Article 14 of the Insurance Code." As the trial court correctly noted, "The overriding purpose of Article 14 is to protect insureds first."

- - - - -End Footnotes- - - - -

[*57]

Section 1031, which does not specifically refer to reinsurers or any other particular class of creditors, is a general statute providing that "mutual debts or mutual credits" between an insolvent insurance company in liquidation and "any other person" may be set off and the balance only allowed, provided that "no set-off shall be allowed in favor of such other person where . . . [P] (a) The obligation of the [insolvent insurer] to such other person does not entitle such other person claiming such set-off to share as a claimant in the assets of such person in liquidation."

Section 1033 is a much more specific statute that does refer to reinsurer claims. Subdivision (a) of section 1033, the pertinent portion of which is set forth in the margin below, n10 prescribes the order in which claims against an insolvent insurer are to be allowed. The statute divides claims into six

classes, each entitled to priority over the class following it, in order.

creditors in a given class may be paid only after the assets of the insolvent insurer have been distributed pro rata to all other classes of creditors with higher priority, and such creditors have been paid in full. The highest priority; [*58] claims are those relating to the expense of administration. The second highest relate to the cost of the Commissioner's examination of the books and papers of the insolvent insurer. (= 736.) The third and fourth priorities relate to unpaid taxes and other claims having preference under federal and other state statutes. The fifth priority -- which has particular significance for this case -- relates to the claims of the California Insurance Guarantee Association (CIGA) and similar associations, "together with claims for refund of unearned premiums and all claims of policyholders that are not "covered claims" within the meaning of section 1063.1. The sixth and last priority under section 1033 includes "all other claims." Among the claims explicitly excluded from the fifth priority and therefore placed in the lowest priority are "any obligations of the insolvent insurer arising out of any reinsurance contracts," because these are not "covered claims" within the meaning of paragraph (3) of subdivision (c) of section 1063.1.

- - - - -Footnotes- - - - -

n10 Section 1033 employs the following language to determine the order in which claims against an insolvent insurer are to be allowed:

"(a) Claims allowed in a proceeding under this article shall be given preference in the following order:

(1) Expense of administration.

(2) Unpaid charges due under the provisions of Section 736 [i.e., the costs of the commissioner's examination of the books of the insolvent insurer].

(3) Taxes due to the State of California.

(4) Claims having preference by the laws of the United States and by the laws of this state.

(5) All claims of the California Guarantee Association . . . , together with claims for refund of unearned premiums and all claims of policyholders of an insolvent insurer that are not covered claims.

Claims excluded by paragraph[] (3) (except claims for refund of unearned premiums) . . . of subdivision (c) of Section 1063.1 [i.e., claims "arising out of any reinsurance contract"] . . . shall be excluded from this priority.

(6) All other claims." (Emphasis added.)

- - - - -End Footnotes- - - - -

[*59]

Because the exclusion of reinsurer claims is so obviously inimical to its view of this case, the majority belittles it, stating that "the apparent exclusion of a reinsurer's claim from paragraph (5) effects no substantive change." (Maj. opn., ante, at p. [typed maj. opn. at p. 33].) Reinsurer

claims were already within the residual sixth rank, the majority explains, cause a reinsurer's claim "is not a claim of CIGA . . . or any otherwise uncovered claim asserted by a policyholder of the insolvent." n11 (Ibid.) This analysis completely misses the point, which is the explicit manner in which the Legislature expressed its specific intent to subordinate the rights of reinsurers to those of policyholders.

-Footnotes-

n11 The majority also says that the exclusion does not apply "to the extent the reinsurer submits a claim for a refund of unearned premiums." (Maj. opn., ante, at p. [typed maj. opn. at p. 33].) This statement is baffling. The reinsurer claims against a reinsured are for a percentage of the earned premium received by the reinsured, not a refund of unearned premiums. Such reinsurer claims arise entirely out of the reinsurance contract and are therefore clearly excluded from the fifth class.

-End Footnotes-

[*60]

The setoff allowed by the majority under section 1031 frustrates this manifest legislative purpose because it provides reinsurers the very priority that the Legislature prevented. (See *Baker v. Gold Seal Liquors* (1974) 417 U.S. 467, 473; *People v. California etc. Trust Co.* (1914) 168 Cal. 241, 248.) There is no basis for this unduly expansive interpretation of section 1031. By permitting the use of setoff to diminish the amount of reinsurance payable to liquidator, the majority has given a general statute which does not mention reinsurer claims and was never intended to provide any particular benefit to reinsurers precedence over a more detailed statute -- section 1033 -- specifically designed to subordinate their interests, with respect to a matter within the purview of both statutes. This violates the fundamental principle that where there is a conflict the more specific statute controls over the more general. (2B *Sutherland, Statutory Construction* (5th ed. 1992) = 51.02, p. 121, fns. omitted.) As this court recently reiterated, "'A specific provision relating to a particular subject will govern a general [*61] provision, even though the general provision standing alone would be broad enough to include the subject to which the specific provision relates.'" (*Woods v. Young*, supra, 53 Cal.3d 315, 325, quoting *People v. Tanner* (1979) 24 Cal.3d 514, 521.) Indeed, the Legislature has itself declared that "when a general and [a] particular provision are inconsistent, the latter is paramount to the former. So that a particular intent will control a general one that is inconsistent with it." (*Code Civ. Proc.*, = 1859.)

The precedence the majority accords section 1031 also violates the rule that insolvency statutes should not be construed to create creditor preferences not expressly specified by the Legislature, as such preferences "are regarded with extreme disfavor." (3A *Sutherland, Statutory Construction* (4th ed. 1986) = 69.07, p. 469; 3 *Collier on Bankruptcy* (15th ed. 1992) = 507.02[2], p. 507-11 ["Priorities are to be fixed by Congress. Courts are not free to fashion their own rules"]; see also, discussion, post, at p. [typed dis. opn. at pp. 43-44].) If a setoff may be denied that merely provides a [*62] bankrupt's creditor a preference over another of equal rank (see, e.g., *Walker v. Wilkinson* (5th Cir. 1929) 296 Fed. 850, 853, cert. den. 265 U.S. 596), a setoff that gives an advantage to one creditor at the expense of a co-creditor

of higher rank is more obviously improper. The order of priorities prescribed by section 1033 is one of the most important ways in which the Legislature achieves the chief purpose of the insolvency statutes: an equitable distribution of the assets of an insolvent insurance company. We should respect the legislative prescription. The majority's adoption of the view of the Court of Appeal that "'entitlement' under section 1031(a) should be considered independently of [the insolvent insurer's] obligations to other claimants" (maj. opn., ante, at p. [typed maj. opn. at p. 29], *italics added*) pursuant to section 1033 is no more than an ipse dixit, for which there is no support in the regulatory scheme, relevant case law, or reason.

Acknowledging "that the claims of policyholders are generally entitled to priority over the claims of reinsurers" (maj. opn., ante, at p. [typed [*63] maj. opn. at p. 33]), the majority contends that "nonetheless, the Legislature has created an exception to the general rules of priority in situations in which the claimant and the insolvent have mutual debts; that exception is codified in section 1031." (Ibid.) The notion that section 1031 codifies an "exception" to the priorities specified in section 1033 even though it does not expressly purport to do so is untenable even apart from the fact that it gives a general statute precedence over a conflicting specific statute.

First of all, as a general rule of statutory construction, courts cannot create exceptions to rules of general application in the absence of an explicit legislative intention to do so. (*Stockton Theatres, Inc. v. Palermo* (1956) 47 Cal.2d 469, 476.) "A court may not insert into a statute qualifying provisions not intended by the Legislature and may not rewrite a statute to conform to an assumed legislative intent not apparent. (*Bruce v. Gregory* (1967) 65 Cal.2d 666, (. . . .)" (*Burnsed v. State Bd. of Control* (1987) 189 Cal.App.3d 213, 217; 2A Sutherland, [*64] Statutory Construction (5th ed. 1992) = 47.11, p. 165.) The Legislature has provided no reason to believe it intended section 1031, which is merely permissive (see discussion, post, at p. [typed dis. opn. at p. 12]), to constitute an exception to section 1033, which is mandatory. The opposite conclusion is indeed far more justifiable, as a specific statute such as section 1033 may be "treated as an exception" to a general statute, like section 1031, with which it would otherwise be in conflict. (*Rose v. State of California* (1942) 19 Cal.2d 713, 723-724; *English Manor Corp. v. Vallejo Sanitation & Flood Control Dist.* (1974) 42 Cal.App.3d 996, 1000-1001.

Furthermore, the provision of section 1033 giving the claims of policyholders and certain other creditors priority over the claims of reinsurers (= 1033, subd. (a)(5)) was added to that statute in 1979 (Stats. 1979, ch. 384, = 1, p. 1445), 45 years after enactment of section 1031. The precedence given to section 1031 thus also violates the rule that if new provisions cannot be reconciled with earlier provisions of an entire scheme, the new provisions [*65] should prevail. "Where two statutes deal with the same subject matter, the more recent enactment prevails as the latest expression of the legislative will." (2B Sutherland, Statutory Construction (5th ed. 1992) = 51.02, p. 122, fn. omitted); *Stafford v. L.A. etc. Retirement Board*, supra, 42 Cal.2d 795, 798; *Woodard v. Southern Cal. Permanente Medical Group* (1985) 171 Cal.App.3d 656, 664.) The majority's conclusion that the general provisions of section 1031 constitute an "exception" to the specific grant of policyholder priority over reinsurers enacted nearly a half century later not only ignores the rules ordinarily employed by appellate courts to determine legislative purpose, but ascribes to the Legislature an intention it clearly repudiated when it last addressed the

issue.

Equally untenable is the majority's alternative view that the reinsurers have a "contractual entitlement" that supersedes section 1033 because "the contract between [the reinsurer and the insolvent insurer] does not make setoff contingent on the ultimate financial ability of the original insurer or its estate to first pay all claimants [*66] in higher priority classes." (Maj. opn., ante, at p. [typed maj. opn. at p. 5].) Clearly, two parties cannot by contract deprive a third party of statutory rights. This court has pointed out on more than one occasion that "the substantive law of this state cannot be enlarged, circumvented, defeated, or modified by any provision which the insurer may have elected to place in its contract in derogation of or in conflict therewith." (*Malmgren v. Southwestern A. Ins. Co.* (1927) 201 Cal. 29, 33; *Wildman v. Government Employees' Ins. Co.* (1957) 48 Cal.2d 31, 39.)

The inordinately broad and dispositive effect the majority opinion accords section 1031 reflects not only its indifference to related statutes that specifically address and subordinate the rights of reinsurers, but the majority's basic misunderstanding of the concept of setoff generally.

II.

Section 1031 derives not simply "from the equitable right of setoff established in 17th century England" (maj. opn., ante, at p. [typed maj. opn. at p. 3]), but more venerably from the concept of compensation, or *compensatio*, known to pre-classic [*67] Roman procedural law. (See, generally, Comment, Automatic Extinction of Cross-Demands: *Compensatio* From Rome to California (1965) 53 Cal.L.Rev. 224; Loyd, The Development of Set-off (1916) 64 U.Pa.L.Rev. 541.) From the beginning, compensation and setoff have been permitted only when, due to the particular circumstances of the case, it is fair to do so. Compensation is never permitted under the civil law "where its operation would involve a deception and a disappointment of the just expectation and confidence of the party against whom it is set up." (3 Story, Commentaries on Equity Jurisprudence (14th ed. 1918) = 1877, p. 479.) Similarly, "a set-off is ordinarily allowed in equity only when the party, seeking the benefit of it, can show some equitable ground for being protected against his adversary's demand; the mere existence of cross demands is not sufficient." (*Id.*, = 1872, p. 474.) As the United States Supreme Court has explained, courts do not allow setoff "except under very special circumstances, and where the proofs are clear and the equity is very strong." (*Scammon v. Kimball, Assignee* (1875) 92 U.S. 362, 367, [*68] italics added; accord *Federal Deposit Ins. Corp. v. Bank of America* (9th Cir. 1983) 701 F.2d 831, 836-837, cert. den. 464 U.S. 935 ["Setoff will not be permitted when it would be inequitable or contrary to public policy to do so"].)

Judicial discretion to deny setoff that would have unfair consequences exists even if, like section 1031, the applicable statute provides that setoff "shall" be allowed. Although the statutory language appears to be mandatory, "it has been held that the right of set-off is permissive, not mandatory, and that its application lies within the discretion of the trial court, which exercises such discretion under the general principles of equity. [Citation.]" (*O'Connor v. Insurance Co. of North America* (D.C.Ill. 1985) 622 F.Supp. 611, 616; accord *Crown v. Savings Bldg. & Loan Co.* (3d Cir. 1990) 896 F.2d 54, 57; *Melamed v. L.A. County Nat. Bank* (6th Cir. 1984) 727 F.2d 1399, 1404; *Cumberland Glass*

Co. v. De Witt (1915) 237 U.S. 447, 455.)

Thus, in California [*69] cases in which the right to setoff has been at issue, the court was governed "not by the statute of setoff, but by the general principles of equity." (Pendleton v. Hellman Com. Etc. Bank (1922) 58 Cal.App. 448, 451, quoting Nashville Trust Co. v. Fourth Nat. Bank (1892) 91 Tenn. 336, 18 S.W. 822, 824, italics added.) In other words, "there is no magic in the statutory enactment of a rule derived from equity, whereby in receiving this legislative sanction the principle is deprived of its equitable qualities." (58 Cal.App. at p. 451; see also Gonsalves v. Bank of America (1940) 16 Cal.2d 169.)

The two most recent opinions of this court involving setoff -- Jess v. Herrmann (1979) 26 Cal.3d 131 and Kruger v. Wells Fargo Bank (1974) 11 Cal.3d 352 -- illustrate the foregoing principles at work and show that the taking into account of equitable factors and policy considerations does not amount to "economic regulation under the guise of judicial decisionmaking," [*70] as the majority fallaciously claims. (Maj. opn., ante, at p. [typed maj. opn. at p. 38].)

Jess v. Herrmann, supra, involved cross-actions for personal injuries arising out of a collision between the parties' vehicles, in which both plaintiff and defendant were injured. After deductions for comparative negligence, the plaintiff (Jess) was awarded \$ 60,000 in damages and an award of \$ 5,600 was made to the defendant (Herrmann). The trial court invoked a mandatory setoff rule (Code of Civ. Proc., == 431.70, 666) and, over the objection of both parties, offset the two awards and rendered judgment for plaintiff only in the amount of \$ 54,400. Concluding that the trial court erred in setting off the parties' respective judgments, this court vacated the judgment and remanded. In doing so the court observed that "both the public policy of California's financial responsibility law and considerations of fairness clearly support a rule barring a setoff of one party's recovery against the other. . . . Equitable considerations would best be served by remanding the matter to the trial court so that it may ascertain the parties' actual insurance [*71] coverage and thereafter resolve the setoff issue with full knowledge of such coverage." (Jess v. Herrmann, supra, 26 Cal.3d at p. 142, fn. omitted.)

The unfairness that concerned the court was that, assuming both parties were adequately insured, Jess's recovery from Herrmann's insurer would be limited to \$ 54,400 but Herrmann would be denied any recovery whatsoever from Jess's insurer. In that common situation setoff "diminishes both injured parties' actual recovery and accords both insurance companies a corresponding fortuitous windfall at their insureds' expense. Indeed, in this context, application of a mandatory setoff rule produces the anomalous situation in which a liability insurer's responsibility under its policy depends as much on the extent of the injury suffered by its own insured as on the amount of damages sustained by the person its insured has negligently injured." (Jess v. Herrmann, supra, 26 Cal.3d at p. 138, italics in original.) As will be seen, setoff has equally anomalous results in the present case.

Kruger v. Wells Fargo Bank, supra, 11 Cal.3d 352 [*72] also shows that setoff will not be allowed where it would result in an inequity or frustrate strong public policy. The plaintiff in Kruger sued the defendant bank on the theory that it had improperly exercised its right of setoff, for a credit card delinquency, against plaintiff's checking account which comprised only

statutorily exempt unemployment and state disability benefits. This court reversed, denying setoff. Despite the statute granting bankers a lien on customer deposits "for the balance due to the banker . . . from the customer in the course of the business," (Civ. Code, = 3054), the court emphasized that "the creditor's right to setoff is not absolute," but may be restricted by judicial limitations necessary to uphold a state policy. (11 Cal.3d at p. 367.) The opinion reasons that "to permit bankers' setoffs against unemployment and disability benefits will frustrate the Legislature's objectives in providing such benefits and in protecting them from seizure by creditors." (Ibid.) Kruger emphasizes the numerous occasions on which California courts have limited the right of setoff in order to effectuate state policies. n12 The setoff [*73] allowed by the majority in the present case is no less inimical to the important state policy of protecting insureds, as will be described.

- - - - -Footnotes- - - - -

n12 The court cited the following cases: McKean v. German-American Savings Bank (1897) 118 Cal. 334; Roberts v. Spires (1925) 195 Cal.267; Keck v. Keck (1933) 219 Cal. 316; Crooks v. State Bar (1970) 3 Cal.3d 346; Avila v. Leonardo (1942) 53 Cal.App.2d 602; Williams v. Williams (1970) 8 Cal.App.3d 636; Berryessa Cattle Co. v. Sunset Pacific Oil Co. (9th Cir. 1937) 87 F.2d 972; and Linder v. McBride (1920) 7 I.A.C. 144. (Kruger v. Wells Fargo Bank, supra, 11 Cal.3d at p. 368, fn. 24.)

- - - - -End Footnotes- - - - -

This court's opinion in Kruger v. Wells Fargo Bank, supra, 11 Cal.3d 352, was relied upon by the [*74] Ninth Circuit in Federal Deposit Ins. Corp. v. Bank of America, supra, 701 F.2d 831 (hereafter Federal Deposit), where setoff was denied in circumstances analogous to those of the present case. There, a Puerto Rican bank (Banco Credito) issued a subordinated capital note in the amount of \$ 5 million to the Bank of America. The note purchase agreement, approved by the Puerto Rican Secretary of the Treasury, explicitly acknowledged the Bank of America's right of setoff in the event Banco Credito became insolvent. About four years later, when Banco Credito became insolvent, the Federal Deposit Insurance Corporation (FDIC) became receiver for the purpose of total liquidation. Among Banco Credito's assets were about \$ 1 million in deposits with the Bank of America. The Bank of America thereafter set off this amount as a credit against Banco Credito's remaining debt on the note. FDIC sued, alleging breach of contract and conversion, and the Bank of America defended on the ground that it had properly set off the deposit balances against the obligation of Banco Credito under the subordinated note. (Id., at p. 834.) [*75] The district court allowed the setoff, granting summary judgment for the Bank of America. The Ninth Circuit reversed.

Preliminarily, the circuit court of appeals observed that the subordination of the note was required by Puerto Rican law "for the protection of the depositors and creditors of Banco Credito" (Federal Deposit, supra, 701 F.2d at p. 835) as well as the general public; when the Secretary of the Treasury suspended the insolvent bank's obligation to pay the note "his purpose was to prevent, for the benefit of creditors, any further diminution of the assets of Banco Credito, thereby protecting its depositors and creditors. Thus, at that point, Bank of America was relegated to a position behind the depositors and general creditors of Banco Credito -- an eventuality obviously contemplated as

possible when Bank of America bought the subordinated note." (Id., at p. 836.)

A court noted that "the effect of the offset was to defeat the purpose of the subordination of the capital note, to the tune of approximately one million dollars. Not only that, but the effect was also to put the Bank of America ahead of all of the depositors and creditors [*76] of Banco Credito, by that amount, rather than its being subordinate to their rights. Bank of America kept the million; the depositors and creditors got none of it." (Ibid.)

Denying setoff, the Ninth Circuit pointed to this court's emphasis on the equitable nature of setoff. "As Justice Tobriner, speaking for a unanimous California Supreme Court, remarked, 'The creditor's right to setoff is not absolute, but may be restricted by judicial limitations imposed to uphold a state policy of protecting the rights of the debtor.' [Citing *Kruger v. Wells Fargo Bank*, supra, 11 Cal.3d at p. 367.] Setoff will not be permitted when it would be inequitable or contrary to public policy to do so." (Federal Deposit, supra, 701 F.2d at pp. 836-837.)

"The purpose for which Banco Credito sought the loan from Bank of America," the Ninth Circuit recognized, "was to strengthen its capital position, and Bank of America knew it." (Federal Deposit, supra, 701 F.2d at p. 837.) "To permit Bank of America to offset Banco Credito's deposits against its liability on the subordinated note deprives the intended beneficiaries of the subordinated note, Banco [*77] Credito's depositors and creditors, pro tanto, of the very protection that the law, and the subordination provisions of the agreement, were designed to create." (Ibid.) Precisely the same rationale warrants denial of setoff in the instant case. Section 1033 provides protections comparable to those of the Puerto Rican law that required subordination of the note. Further, as later explained (see discussion, post, at pp. - [typed dis. opn. at pp. 28-29]) reinsurance has the effect of increasing the surplus of the primary insurer and thereby represents to policyholders and others that said insurer is able to meet its financial obligations. Reinsurers are very much aware of this, as they are aware that California law relegates them to the lowest creditor priority. The allowance of reinsurer setoff permits betrayal of the representation to policyholders and grants reinsurers a windfall they had no reasonable right to expect.

The majority's attempt to distinguish Federal Deposit, supra, on the ground that it contains no "reference to the statutory right of setoff" and because stock subscription debts are not allowed in California (maj. opn., ante, at p. [*78] [typed maj. opn. at p. 35]) fails dismally. The application of a statute is inconsequential; as already explained, statutes authorizing or even mandating setoff have never been permitted to enlarge the right to setoff beyond that permitted by the applicable equitable principles. Such statutes do not "enable a party to make a set-off in cases where the principles of legal or equitable set-off did not previously authorize it." (*Sawyer v. Hoag* (1873) 84 U.S. 610, 622.) The propriety of stock subscription debts is analytically irrelevant to the opinion in Federal Deposit and its precedential value to this case.

III.

The majority offers two reasons the allowance of setoff in this case does not offend public policy: (1) under the insurance insolvency statutes "original insureds have no interest or right in a contract of reinsurance (= 623). and

no rights against the reinsurer (= 922.2) [maj. opn., ante, at p. [typed
opn. at p. 36]];" and (2) the interests of policyholders and the general
public are advanced by spreading the risk through reinsurance, and this will not
effectively occur if the offsetting [*79] of debts is disallowed. The Court
of Appeal offered the additional reason that the losses of primary policyholders
will be covered by CIGA, which is financed by the insurance industry.

These contentions do not bear scrutiny. Properly understood, the
considerations identified by the majority and the Court of Appeal (and other
relevant considerations) compel the denial, not the allowance, of setoff.

A.

The majority's reliance on provisions of the insolvency statutes declaring
that original insureds have no interest in a contract of reinsurance (= 623) and
cannot proceed directly against the reinsurer (= 922.2) is ironic, because these
statutes were intended to protect policyholders and other creditors of an
insolvent insurer against reinsurers.

The reason third parties ordinarily have no rights in reinsurance agreements,
which ostensibly are contracts for indemnity rather than liability, flows not
simply from their lack of privity (see, generally, Annot. (1936) 103 A.L.R.
1485), n13 but from the need to preserve the benefits of such agreements to all
policyholders and creditors, not particular claimants or creditors. (Nutter,
[*80] Insurer Insolvencies, Guaranty Funds, and Reinsurance Proceeds, 1979
Fed'n. of Ins. Couns. Q. 373, 374.) n14 The statement at the end of section
922.2 which the majority emphasizes -- that "the original insured or
policyholder shall not have any rights against the reinsurer which are not
specifically set forth in the contract of reinsurance" -- was never intended to
facilitate a preference to reinsurers vis-a-vis policyholders or any other
creditors with respect to the assets of an insolvent reinsured; it simply
ensures that, absent a cut-through endorsement in the reinsurance agreement see
fn. 8, ante), all policyholders have the same rights and that their rights and
those of other creditors as against the assets of the insolvent insurer cannot
be abrogated by the reinsurance agreement.

- - - - -Footnotes- - - - -

n13 The rule, which has its source in French law, was first established in
this country in Mutual Safety Ins. Co. v. Hone (1849) 2 N.Y. 235. See also the
numerous cases cited in Fontenot v. Marquette Casualty Co. (1971) 258 La. 671,
690, 247 So.2d 572, 578-579.) [*81]

n14 "The only recognized exception to the principle that reinsurance is a
general asset for the benefit of all policyholders is when the reinsurance
agreement specifically indicates an intent on the part of the reinsurer to
become directly liable to an original insured. This assumption of direct
liability is technically a novation, but is commonly called a 'cut-through
endorsement.'" (Id., at pp. 374-375.)

- - - - -End Footnotes- - - - -

Moreover, as the Supreme Court of Colorado has recognized, "because the
public interest is implicated in reinsurance contracts . . . such contracts

may not be considered pure indemnity contracts" (Bluewater Ins. Ltd. v. Izano (Colo. 1992) 823 P.2d 1365, 1368, mod., reh'g. den. P.2d .) Due to this public interest, and because policyholders and other third parties have no direct right of action against reinsurers, this court should enhance the power of the Commissioner of Insurance, as liquidator, to protect the public against overreaching reinsurers by enforcing section 922.2. As pointed out in Corcoran v. Ardra Ins. Co., Ltd. (2d Cir. 1988) 842 F.2d 31, [*82] a liquidator's power to collect on reinsurer agreements "is a matter of no little concern, for policy holders have no direct right of action against reinsurers; only the Superintendent, as liquidator, can recover from the reinsurer. [Citations.] The extent to which the Superintendent is able to collect thus affects the degree to which the insolvent insurer's estate will have assets sufficient to satisfy the claims of its creditors." (Id., at p. 37.)

The court in Corcoran v. Ardra Ins. Co., Ltd., supra, 842 F.2d 31, is not alone in comprehending that the equitable considerations favoring policyholders and injured claimants over reinsurers are unaffected by the fact that they are not parties to the reinsurance agreement and cannot proceed directly against reinsurers. For example, in Glacier Gen. Assur. Co. v. Cas. Indem. Exchange (D.Mont. 1977) 435 F.Supp. 855, it was held that the equitable remedy of rescission will not be allowed where the effect would be to discharge reinsurance obligations, because the burden would fall unfairly "on the policyholders or claimants, or some state-created [*83] fund." (Id., at p. 861.) The court was properly unimpressed by the fact that policyholders and claimants were not parties to the contract and had no direct rights against the reinsurer, because in light of the equitable character of the issue before it, the court "cannot blind itself to the fact that third parties are involved." (Id., at p. 862.) Similarly, in O'Connor v. Insurance Co. of North America, supra, 622 F.Supp. 611, which the majority relies upon in a different connection (see post, at pp. - [typed dis. opn. at pp. 41-45]), the court recognized the need to "consider the concerns of persons who are not necessarily parties to a contract, but who nonetheless also have claims against assets of the insolvent's estate." (622 F.Supp. at p. 615, fn. 2.) Here too, the fact that policyholders have no direct rights under the reinsurance agreement does not relieve this court of the duty to protect them, a duty imposed not only by the equities but by several specific provisions of the Insurance Code.

Section 922.2, which prevents policyholders [*84] from proceeding directly against reinsurers, was enacted in response to the opinion of the United States Supreme Court in Fidelity & Deposit Co. v. Pink (1937) 302 U.S. 224. In that case the reinsurer refused to pay the liquidator of an insolvent insurance company on the basis of a clause in the reinsurance agreement providing that the reinsurer's liability would arise only upon actual payment by the insurer -- an impossibility given the insurer's insolvency. By upholding the contractual provision, the Supreme Court permitted reinsurers to avoid complete payment to an insolvent reinsured. To reverse this result, New York enacted legislation in 1939 designed to require, among other things, that in the event of the insolvency of the ceding company, reinsurance proceeds were to be paid directly to the liquidator upon liability of, not actual payment by, the insolvent insurer. (1939 N.Y. Laws, ch. 882, = 77.) Such an "insolvency clause" in the reinsurance agreement is now almost universally mandated by similar state statutes, of which section 922.2 is an example.

Though section 922.2 was chiefly designed to address a problem different from that presented [*85] in this case, n15 the statute is based on the idea that the reinsurer's liability ought to be determined by the occurrence of the event insured against by the reinsured, not by the solvency of the reinsured. "Since the reinsurer has received a premium designed to compensate it for assuming the risks incident to a contract of indemnity against liability, there seems to be no reason for allowing the reinsurer to gain because of the reinsured's insolvency." (Note, Distribution of the Proceeds of a Reinsurance Policy Upon the Insolvency of the Reinsured (1936) 50 Harv.L.Rev. 93, 98-99.) Unlike policyholders, who paid money to avoid risk, reinsurers were paid to accept it; they should not be permitted to walk away fully compensated, leaving policyholders, injured claimants and other more favored creditors holding the bag. The reinsurer setoff allowed by the majority in this case as a result of the insolvency of the reinsured will deprive policyholders and other preferred creditors of about \$ 300 million. n16 The majority's mysterious conclusion that "no 'diminution because of insolvency' will occur in light of this setoff" (maj. opn., ante, at p. [*86] [typed maj. opn. at p. 23]) is judicial self-deception.

-Footnotes-

n15 A derivative purpose of the insolvency clause, which does address a problem presented by this case, is discussed, post, at p. [typed dis. opn. at pp. 29-30].

n16 It may also result in the denial of tax and other claims of the State of California and the federal government, if any, which are in the third and fourth priorities specified by Section 1033. With respect to any federal claims that may be frustrated, the setoff allowed by the majority conflicts not only with section 1033, but apparently as well with the so-called "superpriority statute," 31 United States Code section 3713, subdivision (a)(1), which provides that "A claim of the United States Government shall be paid first when -- [P](A) a person indebted to the Government is insolvent and -- . . . [P] (iii) an act of bankruptcy is committed."

-End Footnotes-

By ignoring the general purpose of the statute -- which was to prevent reinsurers from turning insolvency to [*87] their own advantage -- and by misconceiving the reason for the language preventing a particular policyholder from proceeding directly against a reinsurer -- which was to protect the rights of all other policyholders and creditors -- the majority opinion has given section 922.2 precisely the opposite effect it was intended to have.

The interests of policyholders in an insolvent insurer's contract of reinsurance are protected under section 1037, which requires the Commissioner of Insurance, as liquidator, to marshal the assets of the insolvent company for the benefit of all creditors, and section 1033, which, as we have seen, provides policyholders and certain other creditors priority over reinsurers in the allowance of claims. As this court has pointed out, setoff cannot be allowed where it would "disturb the just and equal distribution of the assets" of an unsettled estate. (People v. California etc. Trust Co., supra, 168 Cal. 241, 2) A setoff having that effect is inequitable and improper because it "would not only prevent a pro rata distribution among [the estate's] creditors, but,

on the contrary, would give the creditor claiming [*88] the benefit of setoff: undue preference over other creditors of the estate to the extent of full payment of his claim. [Citation.]" (Ibid.; accord Sawyer v. Hoag, supra, 84 U.S. 610, 622.)

Reinsurers are highly sophisticated entities whose complex commercial arrangements are largely unregulated by government. n17 Policyholders, on the other hand, are often unsophisticated individuals without the expertise to independently assess the financial strength of a primary insurer or otherwise protect themselves against insurer insolvency. Such persons may be devastated by the unexpected absence of adequate protection against catastrophic loss. n18

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n17 A congressional committee has described reinsurance as "the 'black hole' of solvency regulation." (Failed Promises: Insurance Company Insolvencies, Rep. by the Subcom. on Oversight & Investigations of the House Com. on Energy & Commerce, H.R. Rep., Committee Print 101-P (101st Cong., 2d Sess.) p. 60 (1990) [hereinafter Failed Promises].) As the Supreme Courts of many states have noted, the relatively unregulated nature of the reinsurance business is one of the reasons the reinsurance obligations of an insolvent insurer are almost universally assigned a lower priority than an insolvent's obligations to policyholders under primary policies. For example, in *Neff v. Cherokee Ins. Co.* (Tenn. 1986) 704 S.W.2d 1, the Tennessee Supreme Court observed that "contracts of reinsurance are not subjected to the strictures and requirements of most of the insurance statutes [,] . . . although the statutes do place certain financial obligations on companies that seek credit under reinsurance agreements losses or unearned premiums on their liability. . . . If reinsurers want the protections and advantages of the statute, they must also assume the liabilities and obligations of these provisions, including the attendant tax burden. To do otherwise would place reinsurance in a wholly preferred position to direct policies, which would be clearly contrary to the statutory scheme" (Id., at p. 6; accord *In re Liquidations of Reserve Ins. Co.* (1988) 122 Ill.2d 555 [524 N.E. 2d 538]; *State ex rel. Long v. Beacon Ins. Co.* (N.C. 1987) 359 S.E.2d 508; *Foremost Life Ins. Co. v. Department of Ins.* (Ind. 1980) 409 N.E.2d 1092; *Aetna Casualty & S. Co. v. International Re-Ins. Corp.* (N.J. Ch. 1934) 175 A. 114.) [*89]

n18 Because it is limited to debts arising under "cross-reinsurance" contracts, this case does not address other types of reinsurer setoff presenting different equitable considerations; such as, for example, whether a reinsurer should be allowed to offset the unpaid premium on a policy against its obligation to pay a loss on that policy.

-----End Footnotes-----

B.

The majority's policy justification for setoff is that it will facilitate risk spreading and permit smaller insurers to remain in business. The majority reasons that reinsurer setoff "not only spreads risk but also acts as mutual security for performance." (Maj. opn., ante, at p. [typed maj. opn. at pp. 3 17].) This reasoning, which is at the heart of the majority opinion, is specious. There is no empirical evidence whatsoever that the ability of

reinsurance pools to spread risk requires the setoff the majority allows.

However, the spreading effect the majority celebrates only occurs in the context of insolvency if the liquidator pays valid claims against the insurer, which the majority prevents.

With respect to the need for mutual security, the [*90] majority, quoting Judge Easterbrook of the Seventh Circuit, says that "if the large firms [participating in reinsurance pools] could not count on the netting of balances [through set-off] to satisfy obligations, they would be more likely to exclude smaller or tottering firms -- making new entry harder and precipitating failures of firms in difficulty.'" (Maj. opn., ante, at pp. [typed maj. opn. at pp. 36-37], quoting *Stamp v. Insurance Company of North America* (7th Cir. 1990) 908 F.2d 1375, 1380.) This view -- which, apparently because they share it, the majority does not condemn as "economic regulation under the guise of judicial decisionmaking" (maj. opn., ante, at p. [typed maj. opn. at p. 38]) -- places the perceived interest of the insurance industry above that of the public. There is no public interest in artificially propping up "tottering" insurance companies. Diminution in the volume of policies issued by "firms in difficulty" due to the unavailability of reinsurance is vastly preferable to the insolvency that results when the easy availability of reinsurance permits a financially insecure primary insurer to [*91] remain in business or to bite off more than it can chew (which is apparently what happened in this case). n19 In the former situation it is primarily the company that suffers; the victims of insolvency, on the other hand, invariably include thousands upon thousands of innocent policyholders and injured claimants.

-Footnotes-

n19 A congressional inquiry into the insolvency of the Mission Insurance Company concluded that the chief reason "a company with less than \$ 240 million in capital surplus [could] write enough bad business to cause a \$ 1.6 billion failure" was its "excessive use of reinsurance." (Failed Promises, supra, at p. 12.) The committee report states that at one point more than 600 reinsurers were involved in reinsuring Mission's direct business. Very few were admitted to do business in California and 75 percent were foreign companies, based in Europe, the Middle East, Africa, Australia, India and elsewhere. (Id., at pp. 12-13.) It was claimed "that the unlicensed reinsurers conspired to use Mission as a front to gain access to lucrative premiums in the United States marketplace." (Id., at p. 14.)

-End Footnotes-

[*92]

It is probably true that the disallowance of reinsurer setoff would increase the cost of reinsurance and that this increase would be passed on to the insurance-buying public. Diffusion of the increased cost among millions of consumers is, however, much more bearable and equitable than visiting the equivalent cost upon the much smaller group of policyholders and others with claims against insolvent insurers.

The misguided public policy theory posited by the majority, which is inconsistent with the legislative assignment of the lowest priority to the claims of reinsurers, also reflects an incomplete appreciation of the function of reinsurance. In addition to spreading the risk, reinsurance significantly

enhances the underwriting capacity of the reinsured. Insurance companies are required by law to maintain a certain level of surplus, roughly the amount by which their assets exceed their liabilities. (== 700.02, 700.025.) n20 The surplus requirement imposes a limit on the amount of new business an insurer can write, as each new policy adds liabilities to its balance sheet and thereby decreases the insurer's surplus. "Reinsurance decreases liabilities on the reinsured's balance sheet, [*93] thus raising surplus and allowing a greater volume of new policies to be written." (1 Cal. Insurance Law & Prac. (1992) = 11.01[4][e], p. 11-15.) Because the financial stability of a primary insurer is chiefly measured by its surplus, reinsurance enhances the stability of such an insurer in the eyes of both regulators and the public. (Id., = 11.01[4][d], p. 11-14.) Reinsurance therefore not only permits but induces expansion of the underwriting business of both the reinsured and the reinsurer.

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n20 Pursuant to section 700.02, "surplus means the excess of admitted assets over the sum of (1) liabilities for losses reported, expenses, taxes and all other indebtedness and reinsurance of outstanding risks as provided by law, and (2) paid-in capital, in the case of an insurer issuing or having outstanding shares of capital stock, or (3) the minimum paid-in capital required, in the case of any other insurer."

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The deductions from liabilities that have this salutary economic effect on the reinsurance business are authorized [*94] by sections 922.1 and 922.15. The deductions are not, however, automatically available. Their use is explicitly conditioned on the protection of policyholders by inclusion of the insolvency clause in the reinsurance agreement. (= 922.2.) Thus, the insolvency clause should be construed "not only to thwart the kind of windfall sanctioned by [Fidelity & Deposit Co. v.] Pink, [supra, 302 U.S. 224] [see discussion, ante, at pp. [typed dis. opn. at pp. 22-23]], but also to foil the associated evil of the abuse of the statutorily granted credit for reserves which looms in cases of insolvency. [P] . . . The credit . . . is granted only because the reinsurance makes up the difference, maintaining the reserve at a prescribed minimum. If offsets were permitted . . . the quid pro quo would be destroyed." (Bluewater Ins. Ltd. v. Balzano, supra, 823 P.2d at p. 1371.) n21

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n21 The Commissioner of Insurance's interpretation of the insolvency clause in this manner cannot easily be dismissed. Noting that there is "a degree of ambiguity in the insolvency clause," the court in Bluewater Ins. Ltd. v. Balzano, supra, deferred to the judgment of the Colorado Insurance Commissioner that the clause barred reinsurer setoff in circumstances similar to those presented here, because such a "construction of the insolvency clause is consistent with what is reasonably allowed or required by other provisions of the reinsurance statute and, for that reason, merits deference." (823 P.2d at p. 1373.)

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Allowing reinsurer setoff permits a reinsurer to reap the considerable benefit of section 922.2 without the attendant burdens consumers and other creditors assumed it would bear. The reinsurer is or should be aware that policyholders and other creditors reasonably rely on reinsurance in evaluating the ability of the primary insurer to meet its obligations and justifiably assume it will protect them if for any reason the primary insurer is unable to do so. As earlier explained, setoff should not be permitted "where its operation would involve a deception and a disappointment of the just expectation and confidence of the party against whom it is set up." (3 Story, Equity Jurisprudence, supra, = 1877, p. 479.) Setoff is not only unfair, but contrary to the declared policy that reinsurance shall "provide adequate safeguards for the policyholders, creditors and the public." (= 985, subd. (e).) As noted, by providing financial security to reinsurers beyond that allowed by the Legislature, setoff will encourage the reinsurance of marginal insurers, which should be discouraged. The availability of setoff may also cause reinsurers who believe a reinsured is in financial trouble to delay [*96] loss payments so that in the event of insolvency it will be in a stronger position than other creditors, a practice that might force the insolvency of primary insurers dependent upon reinsurance payables.

The unusual relationship that often exists between primary insurers and their reinsurers may also invite exploitation of the availability of setoff, to the disadvantage of the public. "While professional reinsurers may be independent companies, they frequently are subsidiaries or affiliates of primary insurance companies within a holding company family." (1 Cal. Insurance Law & Prac., supra, = 11.01[3][b], p. 11-9.) As earlier pointed out, "most large primary insurers maintain their own divisions to handle their reinsurance needs exclusively." (Id., = 11.01[3][c], p. 11-10.) The "treaties" in the present case provide an excellent illustration of the unusually close business relationship that typically exists. Not only is Gibraltar, one of the two reinsurers under the "Relation A" contracts, the subsidiary of the other reinsurer, Prudential Reinsurance, but these two reinsurers are themselves reinsured under the "Relation B" contracts by Mission Insurance Company and its affiliate, [*97] Mission National Insurance Company, the primary insurers. Thus the affiliated Mission companies provide both primary policies of insurance to the public and reinsurance contracts to other insurers or reinsurers.

Allowing the setoff of debts incurred under the "Relation B" contracts to which Mission companies were parties subsidizes largely unregulated commercial transactions between parties whose common interests are in some measure inimical to those of policyholders. Allowing such setoff will not only encourage self-serving arrangements harmful to consumers, but disserve the overall long-term interests of the insurance industry. As one thoughtful commentator has written, the availability of setoff "diminishes the reinsurer's incentive to continually scrutinize and assess the financial integrity of its reinsurance partners. This lack of scrutiny on an ongoing basis reduces the degree of self-regulation in the industry and tends to mask the existence of financially weak capacity in the marketplace. [P] This lack of scrutiny is compounded if [as in the present case] a reinsurer is permitted offset rights not only among all its reinsurance contracts but also among contracts in which [*98] the reinsurer also may have ceded business to the insolvent insurer." (Jernigan, The Case for Restricting Offsets (July 1990) 91 Best's Rev. 55 at p. 124 (Prop./Cas. ed.)). The allowance of offset is particularly unwise in light of the extraordinary and very ominous growth in insurance insolvencies now taking

3 Cal. 4th 1118; 842 P.2d 48;
1992 Cal. LEXIS 5692, *98; 14 Cal. Rptr. 2d 749¹

place in this nation. n22 A congressional study of insurance insolvencies states that "reinsurance abuse has been a key factor in every insolvency studied by the Subcommittee" and that "conflicts of interest in arranging reinsurance have been fairly common" (Failed Promises, supra, at p. 69.)

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n22 A 1989 study by the National Association of Independent Insurers states that "over 150 property/casualty insurance companies have become insolvent since 1969, with nearly half of them occurring during the past 5 years. The number of companies designated for regulatory attention by the National Association of Insurance Commissioners because of financial problems has more than quadrupled in the past 10 years, and the cost of insurance insolvencies is growing at an alarming rate." (Failed Promises, supra, at p. 2.)

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[*99]

The inevitable response of reinsurance companies to the holding of the majority will be to enter into reciprocal insurance agreements or to issue policies of insurance only when they have potentially offsetting policies of reinsurance from the original insurers with which they do business. In this manner they will be able to largely insulate themselves from the risk of loss due to insolvency, shifting it instead to the unfortunate individuals who purchased policies from the insolvent insurer, as well as injured claimants, other creditors and the insurance-buying public.

Reinsurance companies do not need this protection. Because of their expertise and superior access to information, n23 reinsurers are already in a much better position than policyholders and others to assess the strengths and weaknesses of the primary insurer and protect themselves accordingly. For example, they can decline to reinsure financially unstable insurers or increase the cost of reinsurance commensurate with increased risk.

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n23 Section 622 provides that "Where an insurer obtains reinsurance, he must communicate all the representations of the original insured, and also all the knowledge and information he possesses, whether previously or subsequently acquired, which are material to the risk." (*Italics added.*) See also, Staring, *The Law of Reinsurance Contracts in California in Relation to Anglo-American Common Law* (1988) 23 U.S.F.L.Rev. 1, 5-8; *Firemen's F. I. Co. v. Aachen & Munich F. I. Co.* (1906) 2 Cal.App. 690; and *Glacier Gen. Assur. Co. v. Cas. Indem. Exchange*, supra, 435 F.Supp. 855, 857.

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[*100]

C.

Acknowledging the reality the majority avoids, the Court of Appeal in effect conceded reinsurer setoff would diminish assets available to cover the losses of primary policyholders. The Court of Appeal nevertheless rejected the Commissioner's public policy argument that setoff should for this reason be

disallowed because it believed such policyholder losses would for the most part covered by CIGA n24 and that "this expense will be shared among all the insurers doing business in this state" [6 Cal.App.4th at p. 298.] The implication that policyholders will be made whole at the expense of the insurance industry, and that the public will not pay, is simply not true.

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n24 For a detailed description of CIGA, see Barger, California Insurance Guarantee Association (1970) 45 State Bar J. 475.

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First of all, CIGA's expenses will not be borne by the insurance industry. The Insurance Code specifically provides that CIGA's "plan of operation" (see = 1063) "shall [*101] contain provisions whereby each member insurer is required to recoup over a reasonable length of time a sum reasonably calculated to recoup the assessments paid by the member insurer under this article by way of surcharge on premiums charged for insurance policies to which this article applies." (= 1063.14, subd. (a), italics added; see also = 1063.145.) Because, as the Chief Justice has elsewhere pointed out, "CIGA in effect spreads the loss among other insureds, in the form of increased costs to the insurance-buying public" (Isaacson v. California Ins. Guarantee Assn. (1988) 44 Cal.3d 775, 787), it is the millions of Californians who purchase insurance, not the insurance industry, and least of all reinsurers, who bear the costs of the sometimes meager benefits available from CIGA.

The majority effectively requires CIGA -- that is, the insurance-buying public -- to absorb the debts of an insolvent insurance company to its reinsurer, because setoff will result in CIGA having to pay all or a portion of claims that would otherwise have been satisfied by reinsurance payables. The Legislature clearly intended to prevent this. "CIGA is limited [*102] to the payment of 'covered claims' which are defined in relevant part as 'obligations of an insolvent insurer, . . . imposed by law and arising out of an insurance policy of the insolvent insurer . . . which were unpaid by the insolvent insurer' (Ins. Code, = 1063.1, subd. (c) (1).)" (In re Imperial Ins. Co. (1984) 157 Cal.App.3d 290, 293, fn. omitted.) Subdivision (c)(3) of section 1063.1 states that "'covered claims' shall not include any obligations of the insolvent insurer arising out of any reinsurance contracts" (Italics added.)

If there were any doubt about the Legislature's intent to insulate CIGA and consumers from liability for a primary insurer's obligations under a reinsurance contract, it is eliminated by section 1033. As earlier explained, subdivision (a)(5) of that statute explicitly provides that claims arising out of any reinsurance contract shall be excluded from the penultimate priority, thus placing them in the lowest priority. The setoff allowed by the majority will require the insurance buying public to bail out reinsurers, though the latter are in a far better position to assess the risk and protect themselves. [*103]

Moreover, entirely apart from the fact that CIGA's expenses are really borne by consumers, CIGA does not in any event wholly protect policyholders and insured claimants. The legislation creating guarantee associations places maximum limits on the amounts that can be paid out on a policy underwritten by

an insolvent insurer. n25 CIGA will not pay an insured or an injured claimant amounts that exceed this ceiling. Amounts in excess of the ceiling can be recovered, if at all, only from the liquidator; and reinsurance is usually the most substantial asset available to the liquidator. (Bluewater Ins. Ltd. v. Balzano, supra, 823 P.2d at pp. 1367-1368; 1 Cal. Insurance Law & Prac., supra, = 11.06[1], p. 11-54; Nutter, Insurer Insolvencies, Guaranty Funds, and Reinsurance Proceeds, supra, 1979 Fed'n. of Ins. Couns. Q. at p. 373.)

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n25 CIGA only pays certain covered claims arising out of an insurance policy to a maximum of \$ 500,000 per claim. (= 1063.1, subd. (c)(1), (6).) The California Health Insurance Guaranty Association pays on covered policies to a maximum of \$ 200,000 (adjusted for inflation as necessary) per injured person. (= 1066.2, subd. (c).) The California Guaranty Life Insurance Association pays on covered policies to a maximum of \$ 250,000 in life insurance death benefits for any one life. (= 1067.02, subd. (c)(2).)

- - - - -End Footnotes- - - - -
 [*104]

The manner in which reinsurers escape payment of amounts over guarantee association ceilings has been described in the following way. "If a claimant settles with the guaranty association, she forfeits any possibility of obtaining an amount over the ceiling. The claimant's only alternative is to reject settlement, proceed to judgment and, if she wins, to collect the guaranty association compensation up to the ceiling and attempt to collect the balance from the liquidator. Claimants will rarely choose the latter alternative because they would be risking a defense verdict. Further, even if they were to win, claimants would likely have incurred significant litigation expenses and recover very little from the liquidator at some time in the distant future. Thus, even claimants with potential damages significantly higher than the ceiling will settle with the guaranty association. Such settlements cause paradoxical results: first, the injured claimant is not fully compensated; second, the reinsurers on the risk above the ceiling escape without paying anyone; third, the failure of the claimant to bring a claim in liquidation for amounts over the guaranty association ceiling deprives the liquidator, [*105] and therefore all of the general creditors, of reinsurance proceeds above the ceiling. In short, guaranty associations protect reinsurers and help them receive a windfall. This peculiar result contradicts the purpose of statutory insolvency clauses, the purpose of guaranty associations and the goals of public policy in general." (Comment, Reinsurance and Insurer Insolvency: The Problem of Direct Recovery By the Original Insured or Injured Claimant (1982) 29 UCLA L.Rev. 872, 893-894.)

As the Commissioner correctly contends, setoff contravenes the overarching purpose of the insurance laws: effectuating payment of policyholders' losses. There is no persuasive public policy or equitable reason to allow it in this case.

IV.

The result the majority reaches is compelled neither by Downey v. Humphreys (1991) 102 Cal.App.2d 323 (Downey), nor by any other controlling case. Downey

did not involve a reinsurer or statutes analogous to those pertinent to this case; nor were the equities in Downey at all comparable to those of this case. Downey was an action by the liquidator of affiliated insurance companies against [*106] an agent to recover unremitted and unearned insurance premiums. The companies became insolvent on April 19, 1933. Prior to that date the defendant agent had issued policies on behalf of the companies and collected premiums from the policyholders which he did not remit. When he learned of the insolvencies, the agent "replaced all of the existing policies written in [the insolvent companies] by getting other companies 'to accept the coverage blanket' and within 15 days wrote new policies. He used the . . . [premium payments] he had on hand on April 19, 1933, and [additional payments] which he collected thereafter, in replacing the insurance." (Id., at p. 329.)

The court permitted the agent to set off the amount of the premiums he collected on the basis of legal and equitable factors not present here. Setoff was approved in Downey because, among other things, "the fact that the policyholders received their unearned premiums did not create an unlawful preference." (Downey, supra, 102 Cal.App.2d at p. 336.) As the court explained, an insurer has no right to an unearned premium in the first place. "A company cannot recover premiums for the portion [*107] of the term of insurance after insolvency has taken place. Nor can it maintain an action against an agent for the recovery of premiums received by him, the consideration for which has failed.'" (Id., at p. 337, quoting Johnson v. Button (1917) 120 Va. 339 [91 S.E. 151, 153], in turn quoting 22 Cyc. 1404.) In Downey the policyholders' rights were legally superior to those of the liquidator and the insolvent companies and it was not unfair to allow them a preference over other creditors. The setoff approved in the present case has the opposite effect: it defeats rights of policyholders and other creditors that are by statute superior to the competing rights of reinsurers.

It bears noting, finally, that, like Downey, supra, 102 Cal.App.2d 323, most of the cases the majority relies upon (e.g., Carr v. Hamilton (1889) 129 U.S. 252; Ainsworth v. Bank of California (1897) 119 Cal. 470; Barnett Bank v. State, Dept. of Ins. (Fla.Ct. App. 1987) 507 So.2d 142) are inapposite. While these cases articulate [*108] certain broad principles applicable to setoff generally, they do not shed light on the unusual statutory and equitable considerations peculiar to setoff under reciprocal reinsurance agreements and are therefore of limited use and not controlling. The opinions of the New York Court of Appeals in Matter of Midland Ins. Co. (1992) 79 N.Y.2d 253 [590 N.E.2d 1186], and the Seventh Circuit in Stamp v. Insurance Co. of North America, supra, 908 F.2d 1375, which the majority rely upon most heavily, relate primarily to the esoteric issue of mutuality, n26 which is not central to the present case.

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n26 Whether a reinsurer's debts are "owed" prior to liquidation, and therefore mutual in time with the preliquidation debts of the reinsured, usually turns on whether a court believes the reinsurer's debts are sufficiently mature. Liquidators argue that such debts are contingent until insolvency occurs and payment compelled by an order of the liquidator or a court. Reinsurers, on the other hand, argue that temporal mutuality is satisfied because the event giving rise to the liability occurred upon the execution of the reinsurance agreement, prior to insolvency. The case law does not satisfactorily resolve the issue.

Some courts have tended to deny setoff on the ground that the reinsurer's debt unripe prior to actual insolvency. (See, e.g., *Melco System v. Receivers of Transamerica Insurance Co.* (1958) 268 Ala. 152, 105 So.2d 43.) Others have gone the other way. (See, e.g., *Stamp v. Insurance Co. of North America*, supra, 908 F.2d 1375, 1379-1380; *Matter of Midland Ins. Co.*, supra, 590 N.E.2d 1186.) The issue is further clouded by the fact that the United States Supreme Court, which has never dispositively addressed the issue, has implied that because setoff is a fundamentally equitable matter, trial courts may have discretion to determine whether debts or credits are sufficiently mutual to allow set-off. (*Cumberland Glass Co. v. De Witt* (1915) 237 U.S. 447, 457; see also *Melco System v. Receivers of Trans-America Ins. Co.*, supra, 105 So.2d 43, 53; Schwab et al., *Onset of an Offset Revolution: The Application of Set-Offs in Insurance Insolvencies* (1990) 8 J. Ins. Reg. 464, 486.)

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[*109]

Though it does involve a reinsurer's right to setoff in connection with an insurance insolvency, *O'Connor v. Insurance Co. of North America*, supra, 622 F.Supp. 611 (*O'Connor*) does not deserve the weight assigned it by the majority. *O'Connor* permits a setoff it acknowledges will give the reinsurer priority over other creditors on the basis of the observation in *Collier on Bankruptcy* that the federal bankruptcy statute authorizing setoff contemplated that "one creditor may be getting paid more than other creditors." (*O'Connor*, supra, 622 F.Supp. at 619, citing 4 *Collier on Bankruptcy* (14th ed. 1978) P 68.02[1].) *Collier* stated that the setting off of mutual debts does not amount to an invalid "preference." (*Ibid.*) n27 However, the same section of *Collier* emphasizes that, even as to claims that are undeniably mutual, setoff is never mandatory: "Its application . . . rests in the discretion of the court, exercised under the general principles of equity." (4 *Collier on Bankruptcy* (14th ed. 1978) P 68.02[1], repeated in 4 *Collier on Bankruptcy* (15th ed. 1992) P 553.02, p. 553-13.) Although *O'Connor* gives lip service to this [*110] guiding principle (622 F.Supp. at p. 616), the opinion does not even discuss the equities, let alone identify a single equitable reason to grant reinsurers priority over policyholders and other creditors. *O'Connor* proceeds on the unstated assumption, legally incorrect and illogical, that setoff must be allowed because it is permitted.

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n27 The statement from Professor *Collier's* 1978 treatise that is the gravamen of the opinion in *O'Connor* is qualified in the most recent (1992) edition of that treatise by the observation "that the earlier setoff provision [since amended] is now considered to have been too broad. The result was that in too many cases, certain creditors received a preference to the detriment of other creditors and the debtor's estate. Consequently, [11 U.S.C. = 553, as amended] has restricted the right of setoff beyond what was done in earlier acts, and contains restrictions in some ways parallel to those found in the preference section [11 U.S.C. = 547]." (4 *Collier on Bankruptcy* (15th ed. 1992) P 553.02, p. 553-10, fns. omitted.)

Collier's acknowledgment of the inequities that often result from setoff is m compared to that of some other commentators. It has been persuasively concended that the allowance of setoff in the bankruptcy context is "unsound,"

inimical to "natural justice and equity" and primarily reflects the "organized and powerful voice in legislative halls" of banks and other institutional creditors that benefit from the doctrine. (McCoid, Setoff: Why Bankruptcy Priority? (1989) 75 Va.L.Rev. 15, 43; see also, Note, Setoff in Bankruptcy: Is the Creditor Preferred or Secured? 50 (1979) U.Colo.L.Rev. 511 and Murray, Banks versus Creditors of Their Customers: Set-Offs Against Customers' Accounts (1977) 82 Com.L.J. 449.)

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[*111]

O'Connor, supra, 622 F.Supp. 611, is indifferent not only to the equities but also to the law relating to creditor priorities. The chief factor that usually determines the priority of a creditor's claim in the context of bankruptcy is whether his or her interest is secured or unsecured, a factor that is rarely significant in connection with insurance insolvencies. As between the claims of unsecured creditors, the Federal Bankruptcy Code is similar to section 1033, in that it divides claims into classes (eight), in descending order of priority. (11 U.S.C. = 507.) One of the most important features of the order of priorities established by the Bankruptcy Code, as Collier points out (3 Collier on Bankruptcy (15th ed. 1992) = 507.02[2] p. 507-11), is its exclusive nature. There is no judicial power to alter the statute. Despite the fact "that bankruptcy proceedings themselves are purely equitable in their character . . . [and] are to be administered in accord with the general principles and practices of equity[,] . . . the court may not by granting a priority which it deems equitable set aside the clear congressional mandate [*112] that no such priority shall be accorded. [Citation.]" (In re Columbia Ribbon Co. (3d Cir. 1) 117 F.2d 999, 1002.) "The theme of the Bankruptcy Act is 'equality of distribution' (Sampsell v. Imperial Paper Corp., 313 U.S. 215, 219); and if one claimant is to be preferred over others, the purpose should be clear from the statute." (Nathanson v. Labor Board (1952) 344 U.S. 25, 29.)

A setoff cannot be allowed that would have the effect of altering the priorities assigned the eight classes of creditors established under the Bankruptcy Code. Because "the bankruptcy code attempts to ensure that all creditors similarly situated receive equal treatment" (In re C-L Cartage Co., Inc. (6th Cir. 1990) 899 F.2d 1490, 1492), it has been said that setoff is proper in the bankruptcy context only where "it does not disturb, but promotes, equality of distribution among creditors of the same class" (Walker v. Wilkinson, supra, 296 F. 850, 853, cert. den. 265 U.S. 596.) If a federal court cannot [*113] use the federal setoff statute to alter priorities assigned creditors under the federal bankruptcy scheme, there certainly is no reason it should be permitted to use the doctrine to upset priorities established under a state regulatory scheme. That is, however, precisely what O'Connor, supra, 622 F.Supp. 611, accomplished, as a result of its complete indifference to the Illinois counterpart to section 1033 (Ill. Ins. Code, = 205; Ill.Rev.Stat. 1981, ch. 73, par. 817(1)), which the court did not even bother to cite. n28 It seems to me entirely inappropriate for this court to look for "guidance" to a federal trial judge completely lacking respect for governing state law.

- - - - -Footnotes- - - - -

n28 Section 205 of the Illinois Insurance Code grants "claims by policyholders, beneficiaries, insureds and liability claims against insureds"

priority over "all other claims of general creditors" The Illinois Supreme Court has held that claims arising out of reinsurance contracts are claims of general creditors, and therefore subordinate to the claims of policyholders and injured claimants and others. (In re Liquidations of Reserve Ins. Co., supra, 122 Ill.2d 555 [524 N.E. 2d 538].)

- - - - -End Footnotes- - - - -
[*114]

The opinion in O'Connor, supra, 622 F.Supp. 611, justifies the determination of the Tenth Circuit that "whether or not [a state statute defining a reinsurer's right of offset] is applicable and what its provisions require are matters which are inseparably related to a state liquidation proceeding, and, as such, should not be decided in a federal court" (Grimes v. Crown Life Ins. Co. (10th Cir. 1988) 857 F.2d 699, 706, cert. den. 489 U.S. 1096; see also, Corcoran v. Ardra Ins. Co. Ltd., supra, 842 F.2d 31, 37.)

For the foregoing reasons, I would reverse the decision of the Court of Appeal.

KLINE, J.

WE CONCUR:

MOSK, J.

KENNARD, J.

Exhibits to Petition for Review of
Deputy Receiver's Determination of
Appeal and Motion for Consolidation
with Pending Appeal,
dated June 29, 1995:

4. Answer of North American Reassurance Company to
Counterclaim of the Deputy Receiver of
Fidelity Bankers Life Insurance Company
dated February 10, 1992

DOCUMENT CONTROL COMMONWEALTH OF VIRGINIA
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| PETITION OF |) | |
| |) | |
| North American Reassurance |) | |
| Company |) | |
| |) | |
| For Review of Fidelity Bankers |) | |
| Life Insurance Company's Deputy |) | Case No. INS920441 |
| Receivers' Determination of |) | |
| Appeal as to Certain Claims |) | |
| Arising under North American |) | |
| Reassurance Company's |) | |
| Reinsurance Treaty No. AEL-0045 |) | |

**ANSWER OF NORTH AMERICAN REASSURANCE COMPANY TO
 COUNTERCLAIM OF THE DEPUTY RECEIVER OF FIDELITY
 BANKERS LIFE INSURANCE COMPANY**

North American Reassurance Company ("NARE") answers the Counterclaim of the Deputy Receiver of Fidelity Bankers Life Insurance Company ("Fidelity Bankers") in the above-captioned proceeding as follows:

1. NARE admits that it entered into the "Original Ceding Treaties" with Fidelity Bankers on various dates from January 1, 1984 through May 1, 1987.

2. On information and belief, NARE admits that Integrated Resources Life Insurance Company ("Integrated") and Fidelity Bankers entered into the "Assigned Ceding Treaties" on various dates from July 1, 1982 through May 1, 1987, and that the Assigned Ceding Treaties cover some of the pools that are covered by the Original Ceding Treaties.

3. On information and belief, NARE admits that the Order of the Circuit Court of the City of Richmond, Virginia, placing Fidelity Bankers into receivership was entered on May 13, 1991.

4. NARE:

(a) admits that Integrated assigned all of its interest in the Assigned Ceding Treaties to NARE as of July 1, 1991;

(b) denies knowledge or information sufficient to form a belief as to whether Fidelity Bankers gave its prior consent to the assignment; and

(c) avers that since the assignment, Fidelity Bankers has regularly paid premiums directly to NARE and has accepted reinsurance claim payments from NARE and therefore has consented to the assignment.

5. NARE admits that it has received notice from Fidelity Bankers of losses on claims by insureds in the pools covered by the Original Ceding Treaties and the Assigned Ceding Treaties and avers that its liability to Fidelity Bankers on such claims is subject to its right to offset pursuant to Section 38.2-1515 of the Virginia Code.

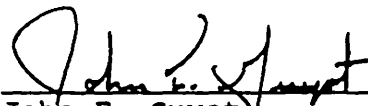
6. NARE admits that it has received notice from Fidelity Bankers of the claims and amounts due as set forth in the schedule provided in paragraph 6 of the Deputy Receiver's Counterclaim.

7. NARE admits that it has exercised its statutory setoff rights pursuant to Section 38.2-1515 and denies that those amounts are "justly due" to Fidelity Bankers.

8. NARE denies that the Deputy Receiver is entitled to judgment against NARE in any amount.

WHEREFORE, NARE respectfully prays that the Commission dismiss the Deputy Receiver's Counterclaim.

Respectfully submitted,

By: 
John F. Guyot
(A Member of the Virginia Bar)

WILEY, REIN & FIELDING
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Counsel for North American
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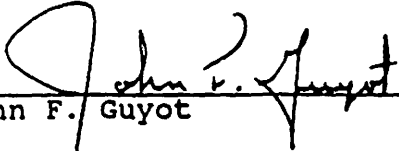
Of Counsel,

Ida C. Wurczinger

Dated: February 10, 1993

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Answer was served on the Deputy Receiver by hand to Howard H. Dobbins, Esq., Williams, Mullen, Christian & Dobbins, Central Fidelity Bank Building, Two James Center, 1021 East Cary Street, Richmond, Virginia 23210-1320, its attorney of record, on February 10, 1992.


John F. Guyot

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA
at the Relation of the
STATE CORPORATION COMMISSION

v.

FIDELITY BANKERS LIFE
INSURANCE COMPANY,

Defendant.

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Case No. INS910068

**MEMORANDUM OF NORTH AMERICAN REASSURANCE COMPANY
IN SUPPORT OF ITS APPEAL FROM A DECISION OF THE
DEPUTY RECEIVER TERMINATING AND DISAVOWING
REINSURANCE TREATY NO. AEL-0045**

NORTH AMERICAN REASSURANCE COMPANY
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Counsel for North American
Reassurance Company

May 20, 1992

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| FIDELITY BANKERS LIFE | § | |
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| Defendant. | § | |

**MEMORANDUM OF NORTH AMERICAN REASSURANCE COMPANY
IN SUPPORT OF ITS APPEAL FROM A DECISION OF THE
DEPUTY RECEIVER TERMINATING AND DISAVOWING
REINSURANCE TREATY NO. AEL-0045**

This appeal by North American Reassurance Company ("NARe") presents the issue whether to improve the balance sheet of an insurance company in rehabilitation, its receiver can impose an involuntary and inequitable assumption of its reinsurance obligations upon a third party. The rehabilitation of Fidelity Bankers Life Insurance Company ("Fidelity") actually involves two separate assumptions of Fidelity's ongoing obligations under contracts of insurance. In the acknowledged assumption of Fidelity's policies and annuities by Hartford Life Insurance Company ("Hartford"), provisions have been made for the transfer of sufficient assets to Hartford to compensate it for its loss exposure under the assumed contracts. In the unacknowledged assumption of Fidelity's stop loss reinsurance obligations by NARe, over \$18.6 million in loss exposure is being unilaterally imposed upon NARe without any compensation.

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The reinsurance obligations that the Deputy Receiver seeks to impose upon NARE were acquired by Fidelity in late 1990 in an attempt to complete the sale of its traditional life insurance business to Protective Life Insurance Company ("Protective"). In response to Protective's concerns that a portion of the business was underrated, Fidelity agreed to indemnify Protective against any claims in excess of the relevant expected mortality rates. In exchange, Protective paid a significantly higher price for the business than it would have paid without the stop loss guarantee and the sale was consummated, resulting in a net profit of \$26.8 million to Fidelity. NARE was brought into the above stop loss arrangement to function as a pass-through of Protective's claims against Fidelity. This role was formalized through the execution of reciprocal Reinsurance Treaty Nos. AEL-0044 and 0045 under which Protective ceded claims above the expected mortality rate to NARE, which then ceded such claims to Fidelity.

The Deputy Receiver has purported to "disavow and terminate" the treaty under which NARE ceded Protective's claims to Fidelity (No. AEL-0045) while leaving in place the treaty under which Protective cedes its claims to NARE (No. AEL-0044). The effect of the Deputy Receiver's action is to force NARE to become Protective's ultimate stop loss reinsurer notwithstanding that it is Fidelity that received a multi-million dollar premium for providing stop loss reinsurance at the time of the sale of the underlying policies. NARE, the recipient of a nominal pass-

through premium of less than \$40,000 per year, is being forced to assume approximately \$18.6 million in loss exposure on the policies that Fidelity very profitably sold to Protective.

No conceivable construction of the "equitable" powers of a Deputy Receiver in an insurance rehabilitation validates such an inequitable result. Neither Virginia law nor the Orders of the Circuit Court and State Corporation Commission authorize a Deputy Receiver to force a gratis assumption of the obligations of an insurer in rehabilitation upon another company. Indeed, the Deputy Receiver's disavowal of Fidelity's obligation to NARE contravenes established principles governing a receiver's exercise of its power to disavow contracts.

This closely-watched insurance company receivership will serve as an important pronouncement by Virginia insurance regulators of the extent to which pre-existing contractual obligations and relationships will be preserved in the rehabilitation of a Virginia company. In this regard, the Deputy Receiver has issued a strong message to the reinsurers to whom Fidelity cedes claims that they may not renege upon their contractual indemnity obligations as a result of the placement of Fidelity into receivership. The Deputy Receiver's disavowal of Fidelity's reinsurance obligations under Treaty No. AEL-0045, so as to force those obligations upon NARE, directly contradicts his strong stance with Fidelity's reinsurers and creates a "heads I

win, tails you lose" atmosphere with respect to the rehabilitation process.

Simply put, to maximize the assets of an insurance company in receivership through the derogation of contractual obligations to the extreme prejudice of third parties is not only illegal and inequitable, it is bad public policy. Accordingly, the Deputy Receiver's disavowal/termination decision should be reversed and NARE should be granted full recovery on its claims in this proceeding.

STATEMENT OF FACTS

This matter arises out of a stop loss reinsurance agreement between Fidelity and Protective that was an essential aspect of Fidelity's sale of its traditional life insurance business to Protective in late 1990. During the parties' negotiations, Protective disputed Fidelity's mortality ratings for its term life policies. In response, Fidelity agreed to provide stop loss reinsurance for claims above the expected mortality rates on those policies. As a result, on or about December 28, 1990, Fidelity and Protective entered into a "Treaty of Assumption and Bulk Reinsurance of Life Insurance Policies." The sale was consummated at a profit of \$26.8 million to Fidelity, which included a significant premium attributable to the stop loss guarantee. (See Notice of Appeal of North American Reassurance Company from a Decision of the Deputy Receiver Terminating and

Disavowing Reinsurance Treaty No. AEL-0045 ("Notice of Appeal") at ¶¶ 1-4).

Prior to the closing of the sale, NARE was brought into the Fidelity/Protective stop loss agreement to function as a pass-through of claims in excess of the expected mortality rate from Protective to Fidelity. This role was created for NARE through its entry, on December 31, 1990, into reciprocal reinsurance treaties with Fidelity and Protective. The treaty between NARE and Protective provides for Protective's ceding of excess loss claims to NARE and NARE's payment on the claims by the 15th day after the close of the calendar year in which they were incurred. The treaty between Fidelity and NARE provides for NARE's ceding of Protective's claims to Fidelity and Fidelity's payment to NARE on those claims on the same date that NARE is obligated to pay Protective. (See Notice of Appeal, ¶¶ 5-6 and Exhibits B and C, 4.04).

It is clear that Protective paid the actual premium for the stop loss reinsurance provided through the reciprocal treaties to Fidelity as part of the consideration paid for Fidelity's traditional life insurance business. The treaties provide for only a nominal premium that is to be passed-through in its entirety from Protective to NARE to Fidelity. (See Exhibits B and C, 3.01) NARE's sole compensation for functioning as a pass-through consists of an "administrative service fee" of approximately \$40,000 or less per year. (See Exhibit B, 2.07).

It is likewise clear that the two treaties are halves of a single stop loss reinsurance agreement. The treaties were entered into simultaneously. (Notice of Appeal, ¶ 5). The same group of term life policies are the subject of the stop loss reinsurance provided by each treaty. The terms of the reinsurance, including the premium, are identical. The Fidelity/NARE treaty refers to the Protective/NARE treaty in several of its sections as "the underlying agreement." (Exhibit B, 2.08 and 2.09). These particular sections grant to Fidelity the right to approve any change in ownership of the underlying policies and any change in the premium scale for the policies. (Id.) Further, the Fidelity/NARE treaty provides that it "shall automatically terminate should [NARE] cease to assume the risks reinsured from Protective Life." (Exhibit B, 2.10).

Consistent with the integration of the two treaties into a single agreement, on January 7, 1992, Protective submitted its first statement of claims in excess of expected mortality rates to both NARE and Fidelity. (Notice of Appeal, ¶ 14). That statement showed 1991 calendar year claims of \$1,134,923. (Id.) Fidelity has never made any payment on Protective's claims to NARE. (Id.) On March 10, 1992, under a reservation of rights, NARE paid Protective \$1,041,960, representing Protective's \$1,134,923 claim, minus \$100,000 attributable to a recovery under another reinsurance treaty, plus \$7,037 in interest. (Id., ¶ 15).

NARE has asserted a claim against Fidelity for the \$1,035,000 of Protective's claims that were properly ceded to Fidelity pursuant to the stop loss reinsurance agreement plus interest at a rate of 10% per annum as provided in the agreement. As of May 19, 1992, Fidelity has ceded to NARE approximately \$900,250 in claims under other reinsurance agreements to which Fidelity and NARE are parties. NARE has set-off these claims against the unpaid \$1,035,000 claim that NARE ceded to Fidelity under Treaty No. AEL-0045. (Notice of Appeal, ¶ 20).

On April 8, 1992, the Deputy Receiver issued his decision: (a) confirming his disavowal and termination of the reinsurance treaty between Fidelity and NARE; (b) acknowledging that NARE may have a claim against Fidelity for the 1991 reinsurance losses that were paid by NARE to Protective; (c) disputing NARE's above-mentioned set-off; and (d) declaring that NARE's claims rank with those of unsecured general creditors. (Id., ¶ 16).

The Deputy Receiver's disavowal/termination decision does not evidence any familiarity with the provisions of Treat Nos. AEL-0044 and AEL-0045 and their reciprocal nature. Nor is there any mention in that decision of the multi-million dollar loss exposure to which the disavowal of only half of the stop loss reinsurance agreement will expose NARE. The imposition of such dire financial consequences upon NARE is explained through the terse generic statement that:

The decision to disavow this contract, as well as others, was made after an extensive

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analysis of the financial status of Fidelity Bankers and the need to protect its policyholders.

(Exhibit A at 2). NARE appeals from every one of the Deputy Receiver's determinations except his acknowledgment of NARE's claim.

Upon becoming aware of the Deputy Receiver's decision, NARE performed an actuarial analysis of its loss exposure as the ultimate stop loss guarantor on the Fidelity policies that were assumed by Protective. This analysis resulted in two significant findings. For one, the mortality risk on the relevant Fidelity policies appeared to be significantly underrated by 75%. Further, the actual claims experience during the first 15 months of the stop loss agreement, combined with the underrating of the policies, indicated that as the ultimate stop loss guarantor, NARE would have a loss exposure of approximately \$18.6 million over the life of the policies. (Notice of Appeal, ¶ 18 and Exhibit G). NARE estimates that if it were to attempt to contract with another company for it to assume such an underwriting risk in exchange for a single up-front premium, it would have to pay approximately \$12 million, which represents the total loss exposure discounted to present value at an assumed interest rate of 6%. (Notice of Appeal ¶ 18). NARE's analysis is fully supported by an independent actuarial study commissioned by NARE. (Id. at ¶ 19 and Exhibit H). By contrast, if forced to

assume this risk under the present circumstances, NARe will be doing so for a premium of less than \$40,000 per year.

ARGUMENT

I. **THE DEPUTY RECEIVER LACKS AUTHORITY TO FORCE NARe TO ASSUME FIDELITY'S STOP LOSS REINSURANCE OBLIGATIONS.**

The action taken by the Deputy Receiver with respect to Treaty No. AEL-0045 extends far beyond the disavowal of an executory contract and amounts to a reformation of contract. By disavowing one-half of a stop loss agreement comprised of reciprocal reinsurance treaties, the Deputy Receiver has rewritten that agreement so as to put NARe into the shoes of the ultimate stop loss guarantor, Fidelity. Neither Virginia law nor the Orders of the Circuit Court and the Commission authorize the Deputy Receiver to unilaterally reform Fidelity's contractual relationships with third parties. Further, the accomplishment of such a reformation through the disavowal of part of an integrated agreement is a double breach because it is well-established that a receiver cannot selectively disavow portions of a contract.

A. **The Fidelity/NARe and NARe/Protective Treaties Constitute a Single Stop Loss Reinsurance Agreement.**

While the contractual relationship among Fidelity, Protective and NARe was established through two separate documents, its essence was a single reinsurance transaction with

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a single purpose: to facilitate Fidelity's sale of its life insurance business to Protective by creating a means through which Fidelity could indemnify Protective for claims in excess of the expected mortality rates on the term policies to be sold. NARE functioned as the intermediary between the two principals in this transaction. In treating NARE's treaty with one of the principals as self-sufficient and independent from NARE's treaty with the other principal, the Deputy Receiver ignores the purpose of the treaties, their integrated provisions and the plain fact that neither of the treaties would have been executed without the other.

The Fidelity/NARE and NARE/Protective treaties were executed at the same time and had a single subject matter and purpose: the provision of indemnity to Protective for losses in excess of the expected mortality rate on the term policies that it purchased from Fidelity. Where two writings are executed contemporaneously and have a common subject matter, they generally are construed as a single contract. J.M. Turner & Co. v. Delaney, 211 Va. 168, 176 S.E.2d 422, 425 (1970); Kroblin Refrigerated Xpress, Inc. v. Pitterich, 805 F.2d 96, 107 (3d Cir. 1986); Commercial Contractors, Inc. v. U.S. Fidelity & Guar. Co., 524 F.2d 944, 950 (5th Cir. 1975). "This rule obtains even when the parties are not the same, if the several contracts were known to all parties and were delivered at the same time to accomplish an agreed purpose." St. Paul Fire & Marine Ins. Co. v. Teneffos

Const. Co., 396 F.2d 623, 628 (8th Cir. 1968) (citation omitted).

Further, even a cursory reading of these treaties reveals that their material provisions are mirror images of each other. Identical payment provisions of the treaties provide for the ceding of excess loss claims by Protective to NARE and NARE to Fidelity on the same date. Identical premium provisions effectuate a pass-through of the nominal premium from Protective to NARE and from NARE to Fidelity on the same date. (See Exhibits B and C, 3.01). In acknowledgement of this interdependence, the Fidelity/NARE treaty refers to the Protective/NARE treaty, in several of its sections, as "the underlying agreement." (Exhibit B, 2.08 and 2.09). In addition, the Fidelity/NARE treaty provides that it "shall automatically terminate should [NARE] cease to assume the risks reinsured from Protective Life." (Exhibit B, 2.10). (See Notice of Appeal, ¶¶ 5-6 and Exhibits B and C, 4.04). Where several writings are connected by internal references to each other, even if not executed among all of the same parties, they will constitute a single contract so long as they involve the same subject matter and prove to be part of the same transaction. Hampton Rds. Shipping Ass'n v. International Longshoremen's Ass'n, 597 F. Supp. 709, 716 (E.D. Va.) aff'd in part and vacated in part, 746 F.2d 1015 (1984), cert. denied, 471 U.S. 1017 (1985).

Finally, it is plain that none of the parties would have assented to one of the treaties without the operation of the

other. NARE never would have entered into the treaty with Protective for a \$40,000 premium without the protection of the NARE/Fidelity treaty. Similarly, without the NARE/Protective treaty, the NARE/Fidelity treaty fails for frustration of purpose. Separate documents constitute a single agreement where "the parties assented to all the promises as a single whole, so that there would have been no bargain whatever, if any promise or set of promises were struck out." United States v. Bethlehem Steel Corp., 315 U.S. 289, 298 (1942); 6 W.H.E. Jaeger, Williston on Contracts § 863, at 275 (3d ed. 1962).

In sum, the Fidelity/NARE treaty simply is not an independent and self-sufficient contract. To treat it as such is to ignore commercial reality.

B. The Deputy Receiver Cannot Disavow Only Part of the Stop Loss Reinsurance Agreement.

Since the Fidelity/NARE and NARE/Protective treaties are halves of a single agreement, the Deputy Receiver cannot disavow only one of the treaties. Such a partial disavowal contravenes the well-settled principle that an executory contract must be rejected in its entirety or not at all. E.g., Thompson v. Texas Mexican Ry. Co., 328 U.S. 134, 141 (1946); Department of the Air Force v. Carolina Parachute Corp., 907 F.2d 1469, 1472 (4th Cir. 1990); In re Braniff, Inc., 118 B.R. 819, 845 (Bankr., M.D. Fla. 1989) (separate Lease Commitment, Purchase Agreement and Partial Assignment relating to 26 aircraft were all part of "one unified

contract," and debtor could not reject contract "in pieces" by rejecting Partial Assignment alone); In re Cafe Partners/ Washington 1983, 90 B.R. 1 (Bankr., D.D.C. 1988) (debtor could not assign lease agreement without later modifications); In re Ritchey, 84 B.R. 474 (Bankr., N.D. Ohio 1988) (contract consisted of two separate agreements and debtor could not reject one but not the other).

To hold that a party in receivership could reject only part of a contract would give that party greater power and rights in receivership than it possessed prior thereto. Id. at 476. Precisely such a situation is presented by the Deputy Receiver's disavowal of only half of the stop loss reinsurance agreement. As a result of the disavowal, NARE would be forced to assume approximately \$18.6 million in loss exposure as an ultimate stop loss guarantor for a mere \$40,000 or less per year. Such a bargain would never have been struck in arms-length negotiations between Fidelity and NARE.

The Deputy Receiver should not be permitted to obtain a better bargain for Fidelity than it could ever obtain in arms-length negotiations with NARE. Accordingly, the Deputy Receiver cannot disavow only half of the stop loss reinsurance agreement.

C. The Deputy Receiver Has Effected an
Ultra Vires Reformation of the Stop Loss
Reinsurance Agreement.

By disavowing Fidelity's obligations to NARe, the Deputy Receiver actually has rewritten the stop loss reinsurance agreement to transform the role of NARe from that of a pass-through to that of the ultimate stop loss guarantor. In doing so, the Deputy Receiver is exercising the power to reform contracts -- a power that is not granted to him by either Virginia law or the Orders under which he was appointed.

The powers of a receiver for a Virginia insurance company are specifically delineated by statute. Va. Code § 38.2-1500, et seq. Nothing in this statutory scheme allows the receiver to rewrite the insurance company's contracts.¹ Cf. In re Crippin, 877 F.2d 594, 598 (7th Cir. 1989) (Bankruptcy Code, 11 U.S.C. § 365, specifically grants trustee authority to reject an executory contract with the court's approval; however, trustee may not rewrite a contract to create better terms for the debtor); In re EES Lambert Assocs., 62 B.R. 328, 336 (Bankr., N.D. Ill. 1986) ("However expansive the bankruptcy court's power may be to protect the property interests of the debtor-in-possession, it does not extend to enlarging the rights of a debtor under a contract or rewriting its terms.").

¹ Similarly, nothing in the statutory chapter authorizing general and special receivers grants the power to rewrite contracts of a corporation in receivership. Va. Code § 8.01-582, et seq.

Nor does the Order of the Circuit Court give the receiver the power to rewrite or reform Fidelity's contracts. This order does nothing more than appoint the SCC receiver of Fidelity and allow it to "take other appropriate steps as authorized by Chapter 15 of Title 38.2 of the Code of Virginia" Order Appointing Receiver, May 15, 1991, at 2 (emphasis added). No Virginia court has held that a receiver appointed under state law has the power to rewrite or reform the receivership corporation's contracts. Thus, since nothing in the common law of Virginia creates such sweeping powers in a receiver, the Circuit Court could not have authorized the receiver to reform Fidelity's contracts.²

Neither the statutes nor the common law of Virginia authorize a receiver to reform a contract. Therefore, the Deputy

² Nor does the SCC, having "all the power and authority of a court of record as provided in Article IX, § 3, of the Constitution" in acting as a receiver, Va. Code 38.2-1508, possess such power. This constitutional provision does nothing more than give to the SCC administrative powers, not adjudicatory powers. This provision gives the SCC

the powers of a court of record to administer oaths, to compel the attendance of witnesses and the production of documents, to punish for contempt, and to enforce compliance with its lawful orders or requirements by adjudging and enforcing by its own appropriate process such fines and other penalties as may be prescribed or authorized by law.

Va. Const. Art. IX, § 3. See also Virginia Committee for Fair Utility Rates v. Virginia Electric & Power Co., 234 Va. 320, 414 S.E.2d 834 (1992) (State Corporation Commission's actions are constrained by Virginia Constitution, Virginia Code and administrative rules duly promulgated thereunder).

Receiver's reformation of the stop loss reinsurance agreement is ultra vires.

II. THE DEPUTY RECEIVER CANNOT DISAVOW THE FIDELITY/NARE REINSURANCE TREATY BECAUSE IT IS NOT AN EXECUTORY CONTRACT.

Even if the Fidelity/NARE treaty is viewed as an independent agreement, it cannot be disavowed by the Deputy Receiver. The purpose of the agreement -- to facilitate the sale of Fidelity's life insurance business by providing indemnification to Protective -- was achieved when the parties entered into their respective commitments to cede and to reinsure. Thus, performance of the parties' material obligations under this agreement has long since been completed and the only remaining contractual function is that of payment of ceded claims. The disavowal powers of a receiver do not extend to contracts in which performance is substantially completed and only payment remains to be made. Accordingly, the Deputy Receiver cannot avoid Fidelity's obligations to make payments on NARE's performance through a disavowal of the Fidelity/NARE treaty.

**A. A Receiver Can Only Disavow
"Executory" Contracts.**

The disavowal powers of a receiver are not intended to be used to repudiate claims against the receivership estate for payment on account of past performance. For this reason, only "executory" contracts can be disavowed by a receiver. See, e.g.,

D.R. Mertens, Inc. v. Florida, 478 So. 2d 1132, 1133 (Fla. App. 1985) (under Florida common law, receiver may elect to not be bound by the executory contracts of the owner of the estate being administered); Weber v. Press of H.N. Cornay, Inc., 144 So. 2d 581, 588 (La. App. 1962) (under Louisiana law, receiver has right to adopt or reject executory contracts of the corporation entered into prior to the receivership); 75 C.J.S. Receivers § 169, at 807 (1952).

B. The Fidelity/NARE Treaty Is Not an Executory Contract.

As a general matter, a contract is executory if "performance remains due to some extent on both sides," H.R. Rep. No. 595, 95th Cong. 1st Sess. 347 (1977), U.S. Code Cong. & Admin. News 1978, pp. 5787, 6303, or the obligation of both parties is so far unperformed that the failure of either party to complete performance would constitute a material breach excusing the other party's performance. Gloria Mfg. Corp. v. International Ladies' Garment Workers' Union, 734 F.2d 1020, 1022 (4th Cir. 1984). At the time that the Deputy Receiver disavowed Treaty No. AEL-0045, NARE had fully performed all of its material obligations. The right of NARE to indemnity under the contract is not dependent upon any further action except for the periodic ceding of Protective's claims to Fidelity. Such merely ministerial functions do not make a contract executory for the purposes of disavowal.

Indeed, the law is clear that indemnification agreements such as the one between NARE and Fidelity are complete and non-executory, even if the ultimate right of payment is dependent upon a future event. See In re THC Financial Corp., 686 F.2d 799, 804 (9th Cir. 1982) (indemnification agreement in favor of holder of first mortgage held to be non-executory contract although obligation to pay was still contingent); In re Cedar Rapids Meats, Inc., 121 B.R. 562, 574 (Bankr., N.D. Iowa 1990) (where bankrupt insured's only remaining obligation was to pay workers compensation claims as they became due, agreement was not executory; "well-established" that where only obligations of one party to a contract is to pay money, the contract is non-executory); In re Dolphin Titan Int'l, Inc., 93 B.R. 508, 510 (Bankr., S.D. Tex. 1988) ("loss fund agreement" set up to pay continuing third party claims against bankrupt insured not an executory contract); In re Van Dyk Research Corp., 13 B.R. 487, 506 (Bankr., D.N.J. 1981) (obligation under contract to indemnify non-bankrupt party was not executory); In re THC Financial Corp., 446 F. Supp. 1329, 1331 (D. Haw. 1977) (indemnification agreement between corporation and officers and directors was not executory where the insureds had performed their side of the agreement and nothing remained except the indemnification obligation, which involved various ministerial tasks attendant upon indemnification).

Similarly, it has been recognized that reinsurance agreements entered into before insolvency are fully executed by the time of insolvency even if some payments are not due until after insolvency. O'Connor v. Insurance Co. of North America, 622 F. Supp. 611 (N. D. Ill. 1985), aff'd sub nom. Stamp v. Insurance Co. of North America, 908 F.2d 1375 (7th Cir. 1990). The O'Connor court, addressing the issue of set-off, found that the reinsurance contracts at issue had been executed and performed prior to the time of insolvency.

Defendants and Reserve entered into a reinsurance contract which defined all of the parties' rights and obligations. Any liability Defendants may incur to pay reinsurance proceeds or return unearned premiums or ceding commissions arises as a result of provisions in the previously executed reinsurance agreement that require them to make these payments.

622 F. Supp. at 618-19.

**III. THE EQUITIES WEIGH HEAVILY IN FAVOR
OF HOLDING FIDELITY TO ITS OBLIGATIONS
UNDER THE FIDELITY/NARE TREATY.**

The power to disavow contracts in a receivership is not unfettered. In view of the potentially dire financial consequences to third parties, any disavowal of a contract must be based upon a well-founded determination that the equities favor rejection. See, e.g., National Labor Relations Board v. Bildisco & Bildisco, 465 U.S. 513, 526-27 (1984); In re Cedar Rapids Meats, Inc., 121 B.R. 562, 574 (Bankr., N.D. Iowa 1990);

In re Dolphin Titan Int'l, Inc., 93 B.R. 508, 511 (Bankr., S.D. Tex. 1988); In re Petur U.S.A. Instrument Co., 35 B.R. 561, 563-64 (Bankr., W.D. Wash. 1983). In this case, the equities clearly weigh in favor of NARE and preclude the Deputy Receiver from disavowing the Fidelity/NARE treaty.

**A. Disavowal of the Fidelity/NARE Treaty
Would Produce a Windfall for Fidelity
to the Extreme Prejudice of NARE.**

As a result of the Deputy Receiver's disavowal, Fidelity is left with its \$26.8 million profit on the sale of its life insurance business to Protective without having to provide an anticipated \$18.6 million indemnification and NARE is saddled with \$18.6 million in loss exposure on a treaty that is providing it with less than \$40,000 a year in premium income. Fidelity would therefore reap an unearned windfall while NARE would incur an unwarranted penalty.

Taking the equities into account in a strikingly similar situation, a federal bankruptcy court refused to allow the rejection of a contract on the ground that rejection was inequitable. In re Dolphin Titan Int'l, Inc., 93 B.R. 508, 511 (Bankr., S.D. Tex. 1988). In this action, the debtor moved to reject as executory a "loss fund agreement" which had been established with an insurer to cover claims made against the debtor under its workers compensation policies. Id. at 509. Under this arrangement, the debtor was basically self-insured,

paying into a loss fund to cover the claims. The fund was in control of and administered by the insurer, who would have been fully liable for the workers compensation claims if the termination had been allowed to stand. Finding that the policy could not be abrogated because it was non-executory, the court also held it could not be abrogated because to do so would be inequitable, "representing a windfall to which the Debtor would not have been entitled absent the filing of bankruptcy" Id. at 511-12.

For the same reasons, the same result lies here.

B. There Has Been No Showing that Fidelity Is Insolvent.

The purpose of disavowing a contract is to protect and preserve the assets of an estate for disbursement to creditors. If the corporation is solvent, then the rationale undergirding this rule does not exist because the funds are available to pay creditors. See In re Meehan, 59 B.R. 380, 385-386 (E.D.N.Y. 1986) (bankruptcy court properly refused to approve rejection of contract of solvent estate since creditors would be paid 100% of their claims); McNeilab, Inc. v. North River Ins. Co., 645 F. Supp. 525, 547 (D.N.J. 1986) (cessante ratione legis, cessat et ipsa lex -- "where the reason stops, there stops the rule"), aff'd mem. 831 F.2d 287 (3d Cir. 1987).

No determination of Fidelity's insolvency has ever been made. "Insolvent" under Virginia law means "(i) the condition of

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an insurer that has liabilities in excess of assets or (ii) the inability of an insurer to pay its obligations as they become due in the usual course of business." Va. Code § 38.2-1501.

Fidelity was placed into receivership, not because of an insolvency, but to stop a "run on the bank" that resulted because of the failure of a sister insurance company.³ At no point has Fidelity been found to be insolvent under Virginia law. Therefore no basis exists to disaffirm any of Fidelity's contracts.⁴

C. To Permit Fidelity to Disavow Its Reinsurance Obligations While It Insists on Performance By Its Reinsurers Is Against Public Policy.

Throughout this receivership, Fidelity has taken a strong stance with respect to the enforcement of its reinsurers' obligations to honor the claims that it cedes to them. Fidelity has insisted that the existence of this receivership should not in any way hinder its reinsurers from making payment on those claims. NARE does not take issue with that position. Notwithstanding that NARE's treaty with Protective is

³ Delinquency proceedings may be initiated, and receivers appointed, for reasons other than insolvency of an insurance company. See Va. Code § 38.2-1503.

⁴ The policy ramifications allowing a receiver to disaffirm a solvent company's contracts would be daunting. Through the device of a receivership, solvent corporations could expunge general liabilities and force creditors to accept compromises of their claims, irrespective of the availability of funds to pay them in full.

interrelated with the treaty that Fidelity has disavowed, NARE has continued to honor its reinsurance obligations to Protective. (Notice of Appeal, ¶ 15).

It is a blatant contradiction of Fidelity's position as to the preservation of its pre-existing contractual reinsurance arrangements during the receivership for it to use this process to renege upon its reinsurance obligations to NARE. In disavowing those obligations to the extreme prejudice of NARE, the Deputy Receiver is exercising a right on behalf of Fidelity that it would not concede to any of its reinsurers.

To conduct a receivership in such a "heads I win, tails you lose" environment contravenes fundamental notions of fairness. Fidelity should not be permitted to avoid the very types of contractual reinsurance obligations that it demands be honored by its reinsurers. Accordingly, the Deputy Receiver's disavowal of Treaty AEL-0045 should be reversed.

**IV. NARE IS ENTITLED TO SET-OFF AGAINST ITS UNPAID
\$1,035,000 CLAIM AGAINST FIDELITY THE
REINSURANCE CLAIMS THAT FIDELITY HAS CEDED TO NARE.**

There is no real dispute that Fidelity owes NARE payment on the \$1,035,000 claim, representing Protective's 1991 excess losses over expected mortality rates, that NARE ceded to Fidelity. The existence of this claim and its current amount have not been challenged by Fidelity. Under other reinsurance agreements between Fidelity and NARE, Fidelity has ceded to NARE

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claims that total \$900,250 as of May 19, 1992. (See Notice of Appeal, ¶ 20). NARE has properly set-off Fidelity's reinsurance claims against the \$1,035,000 claim.

Virginia law endorses the principle of setoff in connection with insurance receiverships and rehabilitations. Virginia Code § 38.2-1515 plainly states:

In all cases of mutual debt or mutual credits between the insurer and another person in connection with any action or proceedings under this chapter, the credits and debts shall be set off and the balance only shall be allowed or paid

NARE's \$1 million claim against Fidelity does not fall within any of the exceptions to this statutory entitlement. Because all conditions precedent to its payment have been met,⁵ the claim would entitle NARE to share in the assets of Fidelity upon the entry of an order of rehabilitation (id., § 38.2-1515(1)). Further, NARE was neither a purchaser nor transferee of its \$1 million claim (id., § 38.2-1515(2)) and the claim does not arise on account of a mutualization or a stock subscription (id., § 38.2-1515(3)).

Courts that have addressed the issue of set-off of reinsurance debts under statutes identical in substance have held that such set-offs are authorized and proper. In re Liquidation of Midland Ins. Co., 79 N.Y.2d 253 (1992); Prudential Reinsurance

⁵ NARE has satisfied the one condition precedent by making payment on the 1991 reinsurance loss claims that were ceded to it by Protective (Notice of Appeal, ¶ 15).

Co. v. Superior Court, 265 Cal. Rptr. 386, 216 Cal. App. 3d 1267 (1990); O'Connor v. Insurance Co. of North America, 622 F. Supp. 611 (N.D. Ill. 1985), aff'd sub nom. Stamp v. Insurance Co. of North America, 908 F 2d 1375 (7th Cir. 1990). All mutuality requirements are met in this instance. See Prudential Reinsurance Co., 265 Cal. Rptr. at 390 (mutuality requires mutual identity of parties and mutuality of capacity). All the reinsurance contracts at issue were made between NARE and Fidelity as principals, so there is both mutuality of identity and capacity.

NARE plainly and unequivocally has the right to set-off this indebtedness to Fidelity under their reinsurance agreements against its \$1,035,000 claim under the NARE/Fidelity treaty. NARE's entitlement to continue this set-off pending payment on its claims in the rehabilitation should be expressly confirmed.

**V. NARE'S CLAIMS ARE ENTITLED TO PRIORITY
AS "COSTS AND EXPENSES OF ADMINISTRATION."**

If the forced assumption by NARE of Fidelity's stop loss reinsurance obligations is sustained, it will be the second time in a year and a half that NARE has served as the vehicle for facilitating a transaction that would enhance Fidelity's assets. In December 1990, NARE stepped in and agreed to act as the pass-through for Fidelity's stop loss reinsurance guarantee to Protective and thereby facilitated the sale of Fidelity's life insurance business. The sale to Protective substantially

benefitted Fidelity. The net profit on the transaction was \$26.8 million. Further the transaction prevented Fidelity's surplus to policyholders from falling below \$30 million and thereby enabled Fidelity to continue to make payments on the surplus note issued by its holding company up until the date that it was placed into receivership. NARE is now in the position of stepping into Fidelity's shoes as the ultimate stop loss guarantor on the policies sold to Protective. Once again, NARE has a key role. Fidelity obviously has a strong interest in removing from its balance sheet the \$18.6 million loss exposure represented by these reinsurance obligations.

Virginia Code § 38.2-1509 provides in pertinent part that payment of the "costs and expenses of administration" shall be given first priority in the rehabilitation or liquidation of an insurer. If the Deputy Receiver's disavowal is sustained, NARE's liquidated damages should be considered costs and expenses of administration. On two separate occasions, NARE's assumption of contractual obligations has resulted in a material enhancement of Fidelity's assets. Both occasions were part of this receivership. In retrospect, it is clear that Fidelity's sale of its life insurance business to Protective constituted a partial liquidation in anticipation of this receivership. By ridding itself of its less attractive insurance assets, Fidelity was able to strengthen its balance sheet prior to commencing its search for a bail-out partner. A company such as Hartford could not be

expected to assume the type of underwriting risks that Fidelity was able to unload on Protective with the protection of a stop loss guarantee. Accordingly, Fidelity began the process of grooming its insurance assets portfolio for a potential bail-out partner while it was still free from the constraints of a receivership.

In the context of the official receivership that began in May 1991, NARe is in the same position as Hartford, that is, NARe is assuming substantial insurance obligations from Fidelity and thereby decreasing its balance sheet liabilities. However, while Hartford will receive compensation for its assumption ahead of distributions to Fidelity's policyholders, the Deputy Receiver proposes to compensate NARe, if at all, as an unsecured creditor.

NARe is entitled to priority with Hartford with respect to its assumption of insurance obligations from Fidelity. The only way in which such equal treatment can be accomplished is to treat NARe's liquidated damage claims as costs and expenses of administration.

**VI. NARe's CLAIMS AGAINST FIDELITY
PROPERLY INCLUDE LIQUIDATED DAMAGES.**

**A. The Termination Gives Rise to A
Cause of Action for Breach of Contract.**

It is hornbook receivership law that a cause of action for breach of contract accrues in the non-debtor party where the receiver terminates a contract. See Pennsylvania Steel Co. v.

New York City Ry. Co., 198 F. 721 (2d Cir. 1912). This principle also applies in bankruptcy law. 11 U.S.C. § 365(g); In re Murphy, 694 F.2d 172, 174 (8th Cir. 1982) (rejection of executory contract under Bankruptcy Code constitutes breach of contract and injured party is entitled to assert claims for damages); In re Maryville Community Hosp., 456 F.2d 414, 418 (9th Cir.), cert. denied sub nom. Bratrud v. Durning, 407 U.S. 879 (1972).

**B. NARE's Claim Includes
Liquidation Damages.**

NARE's claims against Fidelity are not limited to the \$1 million that had accumulated by the time the Deputy Receiver terminated the Fidelity/NARE contract. NARE's claims include liquidated damages of approximately \$12 million incurred by this breach of contract. See Commissioner of Insurance v. Massachusetts Accident Co., 314 Mass. 558, 50 N.E.2d 801, 807 (1943) (claims are provable against receiver of insolvent insurance company if terminated policies had value ascertainable in any reasonable way and policyholder suffered loss of that value); First Empire Bank v. FDIC, 572 F.2d 1361, 1369 (9th Cir. 1978), cert. denied, 439 U.S. 919 (1978) (under equitable receivership principles contingent claims that can be liquidated are provable against the estate) (citing Pennsylvania Steel Co. v. New York City Ry. Co., 198 F. 721, 738 (2d Cir. 1912)).

NARE's damages arising from the Deputy Receiver's termination can be calculated as the cost to NARE to obtain the

same reinsurance protection minus the cost of coverage with Fidelity. See Universal Life Ins. Co. v. Binford, 76 Va. 103, 110, 114 (1882) (damages for cancellation of policy due to insolvency is the difference between the cost of coverage from the insolvent company and the cost of the same coverage purchased from a solvent company over the life of the policy, reduced to present cash value). See also In re Cochise College Park, Inc., 703 F.2d 1339, 1351-52 n.11 (9th Cir. 1983) (appropriate damages for rejection of executory contract are those ordinarily available for breach of contract). NARE's damages -- the cost of an up-front premium for the coverage previously provided by the NARE/Fidelity treaty -- total approximately \$12 million, which represents the amount of the loss exposure discounted to a present value at an assumed interest rate of 6%. This figure is fully supported by independent actuarial analysis. (See Notice of Appeal, ¶¶ 18-19 and Exhibits G and H).

CONCLUSION

For the reasons set forth above and in NARE's Notice of Appeal the Deputy Receiver's disavowal/termination decision should be reversed and NARE should be granted full recovery on its claims.

Respectfully submitted,

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Dated: May 20, 1992

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Exhibits to Petition for Review of
Deputy Receiver's Determination of
Appeal and Motion for Consolidation
with Pending Appeal,
dated June 29, 1995:

5. Petition of North American Reassurance Company
for Review of the Deputy Receiver's Determination
of NARE's Appeal as to Certain Claims arising under
Reassurance Treaty No. AEL-0045 and
Appendix to Petition for Review of
North American Reassurance Company
dated October 19, 1992

1. The first of these is the fact
that the present system of
education is not adapted to the
needs of the people.

2. The second is the fact that
the present system of education
is not adapted to the needs of the
people. The third is the fact that
the present system of education
is not adapted to the needs of the
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COMMONWEALTH OF VIRGINIA

1080

STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA
at the Relation of the
STATE CORPORATION COMMISSION

v.

**FIDELITY BANKERS LIFE
INSURANCE COMPANY,**

Defendant.

S S S S S S S S

Case No. INS910068

**PETITION OF NORTH AMERICAN REASSURANCE COMPANY
FOR REVIEW OF THE DEPUTY RECEIVER'S
DETERMINATION ON NARE'S APPEAL AS TO CERTAIN
CLAIMS ARISING UNDER REINSURANCE TREATY NO. AEL-0045**

NORTH AMERICAN REASSURANCE COMPANY
237 Park Avenue
New York, New York 10017

WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006

October 19, 1992

**Counsel for North-American
Reassurance Company**

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SUMMARY OF GROUNDS FOR REVIEW AND REQUESTED RELIEF

North American Reassurance Company ("NARE") hereby petitions the Commonwealth's State Corporation Commission (the "Commission") for review of certain aspects of the Deputy Receiver's "Determination of Appeal for North American Reassurance Company" (the "Determination").¹ The Determination concerns the treatment, in this rehabilitation, of Reinsurance Treaty No. AEL-0045 between Fidelity Bankers Life Insurance Company ("Fidelity Bankers") and NARE (the "Treaty") and certain reinsurance losses and interest charges arising under the Treaty.

The Treaty is half of a tripartite agreement under which, to facilitate the sale of its life insurance business to Protective Life Insurance Company ("PLICO"), Fidelity Bankers granted PLICO a stop loss guarantee with respect to losses in excess of the rated mortality on certain policies ("excess mortality losses") and NARE agreed to serve as a pass-through of those losses from PLICO to Fidelity Bankers. The other half of the agreement consists of a reinsurance treaty between PLICO and NARE, the terms of which are virtually identical to those of the Fidelity Bankers/NARE Treaty, under which PLICO is to cede to NARE the excess mortality losses that NARE is then to cede to Fidelity Bankers.

¹ A copy of the Determination is at Tab 1 of the Appendix submitted herewith.

Notwithstanding commencement of the receivership, NARE has performed under its treaty with PLICO. NARE has paid approximately \$1 million in 1991 excess mortality losses ceded to it by PLICO and expects to pay close to \$3 million in such losses for 1992. Actuarial studies indicate that the excess mortality losses under the stop loss agreement could total more than \$25 million over the life of the underlying policies. This proceeding concerns the extent to which the Fidelity Bankers' receivership estate will fulfill its obligation, as the ultimate stop loss guarantor, to make timely payment on such losses.

The Determination sets forth five rulings. NARE requests review of each. NARE further requests a hearing before the Commission for the purpose of resolving the disputed factual issues raised by NARE's appeal.

1. The Deputy Receiver reversed his previous disavowal and termination of Treaty No. AEL-0045 and ordered restoration of the status quo ante.

NARE accepts the Deputy Receiver's reversal of his previous disavowal and termination and restoration of the status quo ante. NARE requests review of the Deputy Receiver's ruling to determine whether it implicitly grants administrative expense priority to losses ceded under the Treaty and, if not, NARE requests that the Commission review whether such priority should be granted.

The Deputy Receiver's restoration of the status quo ante with respect to the Treaty is tantamount to the post-petition assumption of an executory contract in a bankruptcy reorganization. Under both bankruptcy law and the law of receiverships, performance obligations under such an assumed contract are entitled, as of right, to administrative expense priority. Neither the Deputy Receiver's Determination² nor the Commission's Final Order dated September 29, 1992 ("Final Order") address the issues of how and when excess mortality claims ceded under the Treaty will be paid. Section 4.04 of the Treaty requires payment of such ceded claims, on an annual basis, 15 days after the end of the year in which they are incurred.³ Compliance with this provision must be effected through the treatment of ceded excess mortality losses as costs and expenses of administration.

NARe thus requests that the Commission order the Deputy Receiver to pay the excess mortality losses ceded by NARe on a timely basis as costs and expenses of administration.

² As is discussed with respect to ruling No. 4, the Deputy Receiver has denied administrative expense priority with respect to NARe's 1991 reinsurance losses and liquidated damages claims. The Deputy Receiver has not addressed the priority of the future losses to be ceded under the Treaty.

³ See Exhibit B to Notice of Appeal (at Tab 2 of Appendix) at Section 4.04.

2. The Deputy Receiver approved NARE's claim for 1991 reinsurance losses in the amount of \$1,035,000 as a general unsecured claim.

NARE accepts the ruling of the Deputy Receiver that it has a claim against Fidelity Bankers for the \$1,035,000 in 1991 reinsurance losses on excess mortality losses that NARE paid to PLICO and ceded to Fidelity Bankers but on which NARE never received payment. NARE seeks review of the ruling that this is a general unsecured claim.

The Deputy Receiver's restoration of the Treaty's status quo ante constituted an assumption of past and future performance obligations arising under the Treaty. Because past performance remained due at the time of assumption, the Deputy Receiver came under an obligation immediately to provide such past performance. Past performance obligations that became immediately due as a result of the assumption of an executory contract are entitled to the same administrative expense priority as future obligations arising under that contract.

Accordingly, NARE requests that the Commission order the Deputy Receiver to provide for payment of the \$1,035,000 in 1991 reinsurance losses as costs and expenses of administration.

3. The Deputy Receiver denied NARE's claim for 10 percent interest on the 1991 reinsurance losses.

NARE seeks review of this ruling; review of the issue whether NARE has a claim for interest on unpaid reinsurance losses for 1992 and subsequent years; and review of the issue as to what priority should be accorded to such claims for interest.

The interest charges at issue arise under the Treaty, which has been restored to its status quo ante. Section 4.04 of the Treaty expressly provides for the payment of 10 percent per annum simple interest on ceded claims that are not paid within 30 days of their due date.⁴ As noted above, the assumption of an executory contract gives rise to a duty to provide any past performance that remains due and confers upon such unfulfilled past obligations administrative expense priority. Thus, in addition to being obligated to pay the 1991 reinsurance losses as costs and expenses of administration, the Deputy Receiver is required also to pay interest ~~that~~ has accrued on those losses as an administrative expense. Interest on unpaid future ceded claims is entitled to the same administrative expense priority for the same reasons.

⁴ See Exhibit B to Notice of Appeal (at Tab 2 of Appendix) at Section 4.04.

If administrative expense priority is denied with respect to the above interest charges, NARe is nonetheless entitled to have such charges included in its claim as a general unsecured creditor. The interest charges are not in the nature of a penalty for a contractual default. Rather, they are intended to compensate NARe for the loss of the time value of the funds that it has paid and will pay on the excess mortality losses that are ceded by PLICO if Fidelity Bankers does not make timely payment on those losses when they are passed-through by NARe.⁵

NARe thus requests that the Commission order the Deputy Receiver to: (i) provide for payment of 10 percent interest on the 1991 reinsurance losses as costs and expenses of administration; (ii) provide that interest on any future ceded claims that are not timely paid shall be accorded administrative expense priority; and (iii) should the Commission deny administrative expense priority to such claims for interest, allow the past and future accrued interest charges as unsecured creditors' claims.

⁵ Even under bankruptcy law, penalty interest claims are not disallowed; rather, they are merely relegated to lower distribution priority. Accordingly, there is no justification for the Deputy Receiver's disallowance of this claim.

4. The Deputy Receiver denied NARe's claim for treatment of the 1991 reinsurance losses and liquidated damage claims under the Treaty as "costs and expenses of administration."

NARe seeks review of this ruling.

As discussed in paragraphs 1 and 2 above, by restoring the status quo ante with respect to the Treaty, the Deputy Receiver created an ongoing contractual relationship between NARe and the Fidelity Banker's receivership estate; unsatisfied past obligations and future obligations arising under that contractual relationship are entitled to administrative expense priority. Likewise, once such a post-receivership contractual relationship is established, liquidated damages for a subsequent default in performance are entitled to the same administrative expense priority.

Accordingly, NARe requests that the Commission order the Deputy Receiver to: (i) pay NARe's 1991 reinsurance losses as costs and expenses of administration; and (ii) pay any liquidated damages for future defaults under the Treaty as costs and expenses of administration.

5. The Deputy Receiver denied NARe's claim for set-off against the unpaid \$1,035,000 in 1991 reinsurance losses of certain claims ceded by Fidelity Bankers to NARe under other reinsurance treaties.

NARe seeks review of this ruling.

The Deputy Receiver apparently contends that, under the Virginia set-off statute, a creditor's claim must be set in

amount as of the claims' fixing date in order for the creditor to be able to set-off its obligations to the debtor against those claims. The ruling is erroneous because (i) any temporal mutuality requirement under the Virginia set-off statute is met when the reinsurance treaties under which the respective set-off claims arise were entered into prior to the claims fixing date even if the amount of the claims was not certain on that date; and (ii) in denying administrative expense priority to NARE's claims for excess mortality losses, the Deputy Receiver has treated those claims as fixed and he cannot repudiate that position for purposes of denying NARE set-off rights.

Accordingly, if the Commission accords general unsecured creditor status to any of NARE's claims in paragraphs 1-4 above, which necessarily means that such claims are fixed, then NARE requests that the Commission affirm NARE's right to set-off against such claims, the claims ceded to NARE by Fidelity Bankers under other reinsurance treaties between them.

FACTS TO BE PRESENTED AT THE HEARING

NARe refers the Commission to its Notice of Appeal,⁶ which contains a 20-paragraph sworn statement of the pertinent facts underlying NARe's claims. The Deputy Receiver has not indicated what factual assertions in the Notice of Appeal he has accepted or rejected for purposes of his Determination. Accordingly, NARe presently intends to present evidence at the hearing with respect to each fact in the Notice of Appeal that is pertinent to the above requests for relief and any additional pertinent facts that have come to light since the filing of the Notice.

The testimony at the hearing principally will provide additional support for NARe's contention that the excess mortality losses that it has ceded and will cede to Fidelity Bankers under the Treaty, and any interest charges thereon, should be accorded administrative expense priority. The factual presentation will consist primarily of an extensive examination of: the circumstances of Fidelity Bankers' sale of its traditional life insurance business to PLICO in late 1990; the concurrent statutory examination of Fidelity Bankers by the Commonwealth's insurance regulators and their

⁶ Copies of NARe's Notice of Appeal and accompanying Memorandum are at Tabs 2 and 3 of the Appendix submitted herewith.

discovery of improper financial reporting practices; and the regulators' approval of the stop loss guarantee agreement among Fidelity Bankers, PLICO and NARe with knowledge of the concealed precarious financial condition of Fidelity Bankers.

NARe asserts herein that its entitlement to administrative expense priority arises, as a matter of law, by virtue of the Deputy Receiver's restoration of the status quo ante with respect to the Treaty. However, the factual presentation set forth herein will provide alternative grounds for granting NARe such priority. For one, NARE expects to be able to demonstrate that the receivership of Fidelity Bankers actually commenced, on an informal basis, with its sale of its life insurance business to PLICO in late 1990. If that is the case, then the Commission's approval, through its insurance regulatory arm, of the stop loss agreement in early May 1991 amounted to the assumption of an executory contract after the commencement of a receivership. Further, even if the receivership is deemed to have commenced on May 13, 1991, by virtue of its approval of the stop loss agreement with knowledge of the concealed precarious financial condition of Fidelity Bankers and imminence of the receivership, the Commission is estopped from claiming that the Treaty now constitutes a burden upon the receivership estate and therefore should not be accorded administrative expense priority.

A. The Receivership of Fidelity Bankers Actually Commenced in or Was Imminent by, Late 1990 When Fidelity Bankers Sold Its Life Insurance Business to PLICO.

The receivership of Fidelity Bankers actually commenced with the sale of its life insurance business to PLICO in late 1990, the purpose of which was to rid Fidelity Bankers of its least attractive assets in preparation for its search for a bail-out partner. The undisputed facts show that without the sale to PLICO, from which Fidelity Bankers reaped an immediate \$26.8 million paper profit, Fidelity Bankers could not have continued doing business. (See Proposed Rehabilitation Plan in SCC v. Fidelity Bankers Life Insurance Company, Case No. INS910068, dated May 1, 1992 (hereinafter "Rehab. Plan") at 6-8). At that time, Fidelity Bankers was undergoing a statutory examination during which the regulators had uncovered violations of Virginia law and improper financial reporting. (Rehab. Plan at 7). The regulators had informed Fidelity Bankers that it would have to make significant revisions to its financial reports, which would decrease Fidelity Bankers' reported 1990 surplus to policyholders from \$121.9 million to \$7.2 million. (Id. at 8). Without the \$26.8 million from the sale to PLICO, which was concluded just three days before year-end 1990, Fidelity Bankers would have failed to meet its minimum statutory capital requirements. (Id.)

In actuality, Fidelity Bankers' purported \$26.8 million profit from the sale to PLICO was illusory. Fifteen percent of the life insurance business sold to PLICO consisted of 6,000 policies on which Fidelity had experienced significantly higher than normal mortality losses since the policies' inception in 1986 (the "Treaty Policies"). (See Notice of Appeal, ¶ 1, 18). During negotiations for the sale, PLICO had informed Fidelity Bankers that it considered these policies to be substantially underrated⁷ and had insisted upon obtaining a stop loss guarantee on them as a condition of the sale. (Id. at ¶1). Under the stop loss agreement, Fidelity Bankers was obligated to remit to PLICO, 15 days after the end of each year, the amount by which mortality losses on the Treaty policies exceeded their rated mortality levels. (See Exhibits B and C to Notice of Appeal, Section 4.04). Had Fidelity Bankers not gone into receivership, it would have remitted approximately \$4 million to PLICO during just the first two years after the sale. Actuarial analyses show that had Fidelity Bankers remained solvent for the duration of the stop loss agreement, its total payments to PLICO could have equalled or exceeded the

⁷ Actuarial analyses of the underwriting risk on the Treaty policies performed by two unrelated companies prior to the sale also had concluded that the Treaty policies were substantially underrated. (Notice of Appeal, ¶ 18).

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purported \$26.8 million profit. (See Exhibit H to Notice of Appeal).

B. At the Time of Fidelity Bankers' Transaction with PLICO, Its Precarious Financial Condition Was Concealed from Everyone but the Insurance Regulators.

Up to the date that it formally went into receivership, Fidelity Bankers had a published A.M. Best's rating of "A+/contingent." (Notice of Appeal, ¶12). Fidelity Bankers' precarious financial condition had been concealed through improper financial reporting, including failure to establish proper reserves against the Treaty policies during 1986 through 1989 and the recognition of an illusory profit on the sale to PLICO.

These matters were not unknown to the Commonwealth's insurance regulators. There were no doubt statutory examinations during the years when the Treaty policies were experiencing significant excess mortality losses during which the rating of the policies would have been reviewed. Further, by the time of their 1990 examination, the regulators knew that Fidelity Bankers had overstated its surplus by \$114.7 million or over 1600 percent. As discussed below, the regulators also were aware that the sale to PLICO would not improve Fidelity Bankers' financial condition over the long run because as part of the transaction, it was incurring substantial liabilities as a stop loss guarantor.

None of the above-mentioned matters were publicly revealed until significantly after the formal commencement of this receivership.

C. NARE Was Brought into the Fidelity/PLICO Transaction for the Sole Purpose of Serving as a Pass-Through of Excess Mortality Losses.

NARE was first approached with respect to having a role in the Fidelity Bankers/PLICO transaction, nine days before the date of the sale to PLICO, purportedly because PLICO wanted an independent reinsurer to serve as the pass-through for Fidelity Bankers' stop loss obligations to PLICO. (Notice of Appeal, ¶¶ 2-4). NARE agreed to perform this function for a mere \$30,000 or less per year. (Exhibit B to Notice of Appeal, Section 2.07).⁸ The agreement was formalized through two treaties -- one under which PLICO ceded excess mortality losses to NARE and another under which NARE ceded those same losses to Fidelity Bankers -- whose terms and provisions, including the premium amounts, are virtually identical. As is more fully discussed in NARE's Memorandum in Support of Its Notice of Appeal,⁹ a side-by-

⁸ NARE was to receive a fee of \$5.00 per policy per year, which would amount to \$30,000 on the 6,000 Treaty policies for the first year and would be reduced as the number of outstanding Treaty policies declined over the years due to mortality and cancellations.

⁹ See Memorandum, at Tab 3 of Appendix, at pp. 9-12.

side review of the treaties shows that they were intended to be and are halves of a single agreement.

Because Fidelity Bankers had been concealing its precarious condition through improper financial reporting, NARE did not know and could not have known that Fidelity Bankers' receivership had commenced or was imminent at the time that it agreed to participate in this agreement. Moreover, given NARE's nominal fee, its appearance at the eleventh hour and its lack of opportunity to conduct any due diligence, it is clear that none of the parties to this agreement viewed NARE as anything but a pass-through.

D. The Insurance Regulators Approved the Stop Loss Guarantee Agreement among Fidelity Bankers, PLICO and NARE.

The Commonwealth's insurance regulators, with knowledge of Fidelity Bankers' concealed precarious financial condition, approved the stop loss guarantee agreement and all of the parties roles in it, including the role of NARE as a pass-through. In May 1991, just prior to the formal commencement of this receivership, the Bureau of Insurance approved the sale of Fidelity Banker's life insurance business to PLICO. (Notice of Appeal, ¶ 11). Fidelity Bankers' provision of a stop loss guarantee to PLICO was an essential part of that transaction, which would have come to the attention of the regulators during the approval process, particularly since it raised the specter of continuing

substantial liabilities for Fidelity Bankers on the Treaty policies. In reviewing the Fidelity Bankers/NARE Treaty, the regulators would have noticed that Sections 2.08 and 2.09 of the Treaty refer to "the underlying agreement." (See Exhibit B to Notice of Appeal, Sections 2.08 and 2.09). This would have led to the review of the underlying PLICO/NARE treaty. A review of these two treaties would have revealed that NARE was the pass-through in a stop loss agreement between Fidelity Bankers and PLICO and that the purpose of the agreement was to pass the excess mortality losses on the Treaty policies from PLICO back to Fidelity Bankers.

E. The Deputy Receiver Has Directed NARE to Continue to Perform its Pass-Through Function pursuant to the Treaty.

Six days after the Deputy Receiver restored the status quo ante with respect to the Treaty, NARE was directed to render performance. Michael Adams, the individual at Fidelity Bankers who had administered the Treaty on its behalf, wrote a letter to David Nussbaum, his counterpart at NARE, noting that the Deputy Receiver had granted NARE's request "to retract the disavowal and termination of Treaty AEL-0045" and stating

In light of this action, this letter is to request that you resume sending the various notices and reports contemplated by the Treaty to Fidelity Bankers. You may send these materials directly to my attention.

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(See Letter from Michael Adams to David Nussbaum, dated September 23, 1992 ("Adams Letter"), at Tab 5 of Appendix). In addition, Counsel for the Deputy Receiver wrote a letter to counsel for NARE asserting that

I believe it will be less expensive for both of our clients if we allow them to communicate directly in regard to routine matters.

(See Letter from Mark Allen Land to Ida Wurczinger, dated September 23, 1992 ("Allen Letter"), at Tab 5 of Appendix) (emphasis added).

It is apparent from the above-quoted correspondence that the Deputy Receiver and Fidelity Bankers are anxious to resume business as usual under the Treaty. NARE is ready and willing to render its performance and expects full performance from Fidelity Bankers in return.

LEGAL BASES FOR RELIEF

I.

THE EXCESS MORTALITY LOSSES CEDED BY NARE TO FIDELITY BANKERS PURSUANT TO TREATY NO. AEL-0045 ARE ENTITLED TO ADMINISTRATIVE EXPENSE PRIORITY.

The Deputy Receiver's restoration of the status quo ante with respect to the Treaty was tantamount to a bankruptcy trustee's post-petition assumption of an executory contract cum onere, which confers administrative expense priority status on all unperformed past and future contractual obligations. The Deputy Receiver has failed to take the actions necessary to fulfill these obligations. There is no procedure in the Determination or the Final Order that explicitly provides for the timely payment of excess mortality claims ceded by NARE pursuant to the Treaty and the treatment of such claims as costs and expenses of administration. Further, the Deputy Receiver has refused to accord administrative expense priority to NARE's unpaid 1991 reinsurance losses and has instead lumped this claim with the general unsecured creditors' claims.

In order to rectify these errors and omissions, the Commission should order the Deputy Receiver to pay NARE's unpaid 1991 reinsurance losses of \$1,035,000, with interest at the rate of 10 percent per annum from January 15, 1992 until the date of payment (see Part II below), and to pay on a timely basis any future losses NARE may cede to Fidelity

Bankers under the Treaty as administrative expenses pursuant to Section 38.2-1509 of the Virginia Code.

A. The Deputy Receiver's Restoration of the Treaty's Status Quo Ante Was Tantamount to a Post-Petition Assumption of an Executory Contract.

In its Order appointing the Deputy Receiver of Fidelity Bankers, the Commission authorized the Deputy Receiver, on its behalf, "to affirm or disavow any contracts to which [Fidelity Bankers] is a party." (See Order Appointing Deputy Receiver for Conservation and Rehabilitation, dated May 13, 1991, at ¶10(e)). The Deputy Receiver initially disavowed the Treaty.¹⁰ Four months after NARE filed its appeal from that determination, however, the Deputy Receiver reversed himself. In particular, he stated in paragraph 4 of the Determination that the Treaty was to be "treated as [if] it [had] never [been] disavowed," and thus that "the status quo ante is restored."

There is no provision in the Virginia statutes governing insurance company receiverships that addresses the nature and consequences of the Deputy Receiver's action. This does not mean, however, that the Deputy Receiver has unlimited discretion to prescribe whatever consequences he desires.

¹⁰ See Letter from Bryan R. Newcombe, Counsel to Special Deputy Receiver, to Robert M. Mangino, General Counsel to NARE, dated April 8, 1992, which is Exhibit A to Notice of Appeal (at Tab B of Appendix) (stating that the decision "was made after extensive analysis. . . .").

Where there is no statutory mandate, the Deputy Receiver is held to the same duties as a trustee under general principles of bankruptcy law, which though not technically applicable in state receivership proceedings often are utilized by the courts in deciding issues raised in such receiverships. See, e.g., Stamp v. Insurance Co. of North America, 908 F.2d 1375 (7th Cir. 1990); Gerber v. Central Casualty Co., 37 Ill. 2d 392, 226 N.E. 2d 862 (1967); Geeslin v. Blackhawk Heating & Plumbing Co., 80 Ill. App. 3d 179, 398 N.E. 2d 1176 (Ill. App. 1979).¹¹

Under bankruptcy law, the Deputy Receiver's ruling could have one and only one consequence: assumption of the Treaty as an executory contract. See, e.g., In re Airlift Int'l Inc., 761 F.2d 1503 (11th Cir. 1985) (bankruptcy trustee must either assume or reject a debtor's pre-receivership executory contracts); In re Italian Cook Oil Corp., 190 F.2d 994 (3rd Cir. 1951) (same holding); 11 U.S.C. §§ 365(a), (d) (1988). It

¹¹ See also Trustees of Clients' Security Fund of Bar of New Jersey v. Beckmann, 143 N.J.S. 548, 364 A.2d 15 (1976) (questions regarding priority in distribution, set-off, provability of claims and like matters in equitable state receivership proceeding should follow equivalent provisions of federal bankruptcy laws which furnish vast body of procedural and substantive law in administration of insolvents' estates); Irving Trust Co. v. Densmore, 66 F.2d 21 (9th Cir. 1933) (powers of receiver in equity are closely analogous to powers of receiver in bankruptcy); Marion Trust Co. v. Blish, 84 N.E. 814, reh'g denied, 85 N.E. 344 (Ind. 1908) (statute concerning receiverships must be construed in light of settled doctrine of courts of equity concerning the powers of receivership).

does not matter that the Deputy Receiver did not use those precise words. The intent to assume an executory contract may be communicated implicitly or explicitly, informally or formally. See, e.g., Brown v. Presbyterian Ministers Fund, 484 F.2d 998 (3rd Cir. 1973). Here there is no need to resort to implication. Not only has the Deputy Receiver expressly restored the status quo ante, he already has directed NARE to render performance under the Treaty. (See Adams and Allen Letters at Tab 5 of Appendix, discussed at pp. 16-17, supra).

Further, had the Deputy Receiver intended any other result, such as treatment of the Treaty as an executed rather than executory contract or rejection of the Treaty, he would have been required to decide NARE's claim for liquidated damages.¹² Instead, in his Determination, the Deputy Receiver stated that in light of his restoration of the status quo ante, "there is no reason to consider . . . NARE's alternative request for liquidated damages." (See Determination at 2, at Tab 1 of Appendix) (emphasis added).

¹² See Pennsylvania Steel Co. v. New York City Ry., 198 F. 721 (2d Cir. 1912) (allowing contingent claim for liquidated damages in equitable receivership); First Empire Bank v. FDIC, 572 F.2d 1361, 1369 (9th Cir.), cert. denied, 439 U.S. 919 (1978) (following Pennsylvania Steel); Christian Broadcasting Network, Inc. v. Turner Communications Corp., 368 So. 2d 1345 (Fla. App. 1979).

B. NARE Is Entitled to Payment of Its 1991 Reinsurance Losses and Future Excess Mortality Losses under the Treaty as Costs and Expenses of Administration.

In restoring the status quo ante with respect to the Treaty, the Deputy Receiver assumed a duty to render performance in accordance with its terms. See Girard Ins. & Tr. Co. v. Cooper, 162 U.S. 529 (1896); Real Estate Marketers, Inc. v. Wheeler, 298 So. 2d 481 (Fla. App. 1974); H.D. Roosen v. Pacific Radio Pub. Co., 11 P.2d 873, 123 Cal. App. 525 (1932).¹³ There are two components to such performance. The Deputy Receiver must (i) remedy, immediately and in full, the failure of Fidelity Bankers to pay the \$1,035,000 in 1991 excess mortality losses and (ii) fulfill, on an ongoing and timely basis, all of the obligations imposed by the Treaty going forward. See, e.g., In re Airlift Int'l, Inc., 761 F.2d 1503, 1508 (11th Cir. 1985).

The vehicle for providing such performance in the context of a receivership is to treat unfulfilled past obligations and future obligations as costs and expenses of

¹³ See also Matter of Chicago, Rock Island and Pacific R. Co., 860 F.2d 267 (7th Cir. 1988) (applying Section 365 of the Bankruptcy Code) (citing Schokbeton Indus. v. Schokbeton Prods. Corp., 466 F.2d 171, 175 (5th Cir. 1972)); In re Maine, 32 Bankr. 452, 455 (Bankr. W.D.N.Y. 1983).

administration. See Va. Code § 38.2-1509 (1991).¹⁴

Administrative expense priority for such obligations is required as a matter of equity. A well known bankruptcy law treatise explains the policy rationale underlying the requirement that a trustee fully perform on an assumed contract as follows:

It is conceivable that a system of bankruptcy law might impel the nonbankrupt party to a contract, the performance of which is incomplete as to both contracting parties, to continue performing while for the counterpart refer him to a mere dividend out of the estate. Needless to say, such a solution is neither wise from the viewpoint of commercial credit, or fair from the viewpoint of equity. It neglects one of the basic principles of equity, mutuality of obligation and performance. What § 70 [of the Bankruptcy Act of 1898] actually proposes to do is precisely to secure this continued mutuality wherever it is felt to be of greater benefit to the estate to proceed in accordance with the bankrupt debtor's plans rather than to freeze his commercial relations as of the filing date. The price for securing the potential margin of benefit to the estate is high. It is nothing short of complete mutuality, that is, assumption by the estate of the bankrupt's liabilities, not as a matter of granting a distributive share, but by performance in full, just as if bankruptcy had not intervened.

4 Collier on Bankruptcy § 70.43 (14th ed. 1978) at 523-24.¹⁵

As discussed above, the Deputy Receiver had a choice whether

¹⁴ In re Coast Trading Co., Inc., 744 F.2d 686 (9th Cir. 1984); In re Pearson, 90 Bankr. 638 (Bankr. D.N.J. 1988); In re Mushroom Transp. Co., Inc., 78 Bankr. 754 (Bankr. E.D. Pa. 1987); In re Ridgewood Sacramento, 20 Bankr. 443 (Bankr. E.D. Cal. 1982); 11 U.S.C. §§ 503(b)(1)(A), 507(a)(1) (1988).

¹⁵ See also Clark, Foley and Shaw, "Adoption and Rejection of Contracts and Leases by Receivers." 46 Harv. L. Rev. 1111, 1115 (1933).

to adopt or reject the Treaty. Once he has determined to adopt it, he is required to render full performance in return.

II.

NARE IS ENTITLED TO INTEREST ON ANY CEDED CLAIMS FOR WHICH IT HAS NOT RECEIVED OR DOES NOT RECEIVE TIMELY PAYMENT UNDER THE TREATY.

As noted above, the Deputy Receiver, when he assumed the Treaty, assumed it cum onere, or in its entirety, including all of its burdens and benefits. Section 4.04 of the Treaty provides that should any amount due NARE under the Treaty remain unpaid after 30 days from the due date, interest calculated at the rate of 10 percent per annum shall accrue on the unpaid balance. Accordingly, in addition to becoming obligated upon assumption of the Treaty to cure the existing default on NARE's ceded 1991 excess mortality losses in the amount of \$1,035,000, the Deputy Receiver became obligated to pay interest at the simple rate of 10 percent per annum on such amount from January 15, 1992, the date on which such amount was due and owing.

Although a receiver is not ordinarily liable for post-petition interest on a creditor's claims, see, e.g., Vanston Bondholders Protective Committee v. Green, 329 U.S. 156 (1946); 11 U.S.C. § 502(b)(2) (1988), he is so liable on an administrative expense basis if, as here, he assumes a

contract that contains a provision requiring the payment of interest on obligations not paid in a timely manner. See, e.g., In re Felix Contracting Corp., 57 Bankr. 976 (Bankr. S.D.N.Y. 1986).

In Felix, the court addressed whether a debtor-in-possession that assumes an executory contract is liable for post-petition interest on unpaid pre-petition obligations. Felix Contracting Corporation contracted with Westchester Hudson Fuel Co. for the purchase of diesel fuel in connection with a particular project. When Felix declared bankruptcy, it owed Westchester approximately \$49,000. Shortly thereafter, Westchester filed a claim for the \$49,000 plus approximately \$3,700 interest. Felix disputed its obligation to pay the interest claim. The court, however, held Felix obligated because it had assumed the contract, including the provision therein for interest at the rate of 1 1/2 percent per month (18 percent per annum) on all obligations not paid within 30 days of the due date.¹⁶ Moreover, the court held, such obligations were entitled to postpetition administrative expense priority status.

¹⁶ In so holding the court specifically determined inapplicable those provisions of the Code that (i) limit a creditor's right to claim pre-petition interest up to the date on which the petition is filed (i.e., generally prohibit payment of post-petition interest) and (ii) relegate penalty claims and punitive damages to a level in the distribution scheme below unsecured claims.

Despite such authority, the Deputy Receiver rejected NARE's rightful claim for interest at the simple rate of 10 percent per annum on its \$1,035,000 claim for unpaid 1991 ceded reinsurance losses. Moreover, it is not clear, whether the Deputy Receiver intends to fulfill the obligation to pay such interest on any future ceded losses not paid in a timely manner.

The Commission thus should order the Deputy Receiver (i) to pay interest at the simple rate of 10 percent per annum on the 1991 reinsurance losses of \$1,035,000 from January 15, 1992 to the date on which he makes payment, and (ii) to pay interest at such rate on any future losses ceded to Fidelity under the Treaty that are not paid in a timely manner.

III.

NARE IS ENTITLED TO SET-OFF AGAINST ITS \$1,035,000 CLAIM FOR 1991 REINSURANCE LOSSES THE REINSURANCE CLAIMS THAT FIDELITY BANKERS HAS CEDED TO NARE.

The Deputy Receiver has determined that NARE has a claim in the rehabilitation for the \$1,035,000 in 1991 reinsurance losses that NARE ceded to Fidelity Bankers pursuant to the Treaty. Under other reinsurance agreements between Fidelity Bankers and NARE, Fidelity Bankers has ceded to NARE claims that totaled \$900,250 as of May 19, 1992. (See Notice of Appeal, ¶ 20). NARE has exercised its right, pursuant to Va. Code § 38.2-1515, to set-off against its \$1,035,000 claim the

\$900,250 that NARE owes to Fidelity Bankers. NARE presently intends to continue to set-off Fidelity Bankers' ceded claims against the \$1,035,000 and any future reinsurance losses incurred by NARE under the Treaty.

The Determination does not set forth any rationale for the Deputy Receiver's contention that NARE is not entitled to exercise its statutory set-off rights. In earlier correspondence, however, the Special Deputy Receiver has stated:

It appears that on May 13, 1991, the date of the Company's receivership, NARE had only a contingent claim against the estate. These debts are, therefore, not mutual as required by Section 38.2-1515(A) of the Virginia Code, and further this contingency prevents NARE from sharing in the assets of the estate as required by Section 38.2-1515(B)(1).¹⁷

The Deputy Receiver apparently construes the reference to "mutual debts and credits" in the set-off statute to require that the amounts of the debts be fixed prior to the date of receivership. Accordingly, even though the treaties under which NARE's and Fidelity Bankers' respective ceded claims arise were entered into prior to the receivership date, the fact that the claims were ceded after that date is deemed to preclude set-off.

¹⁷ See Letter from Special Deputy Receiver Patrick H. Cantilo to Ida Wurczinger (counsel for NARE), dated September 10, 1992, at Tab 4 of Appendix, at 2.

There are two reasons why the Deputy Receiver's position is erroneous. First, in invoking the concept of temporal mutuality to deny set-off to NARE, the Deputy Receiver has confused the time of payment of a claim with the time when the obligation to make payment arises. Only the latter is relevant for purposes of temporal mutuality. The Virginia set-off statute and other state statutes like it are modeled after the federal Bankruptcy Code set-off provisions; set-off of ceded claims is permitted under such statutes where the contracts, out of which the claims arose, were entered into prior to the claims fixing date, even if the claims did not arise until after that date. See O'Connor v. Insurance Co. of North America, 622 F. Supp. 611, 618-619 (N.D. Ill. 1985), aff'd sub nom., Stamp v. Insurance Co. of North America, 908 F. 2d 1375, 1379 (7th Cir. 1990); Prudential Reinsurance Co. v. Superior Court, 265 Cal. Rptr. 386, 216 Cal. App. 3d 1321 (1990) review granted, 789 P.2d 342 (1990).¹⁸ There is no dispute that the Treaty and the reinsurance contract under

¹⁸ As the Court noted in the O'Connor case, "It would hamper the utility of reinsurance pools, and so increase the cost of insurance, if bankruptcy not only carved a pool into pre-and post-filing portions but also broke up the offset for casualties occurring before the filing. Offsetting debts in a reinsurance pool not only spreads risk but also acts as mutual security for performance. Such security is especially important for smaller insurers; if the large firms could not count on the netting of balances to satisfy obligations they would be more likely to exclude smaller or tottering firms -- making new entry harder and precipitating failures of firms in difficulty." 908 F. 2d. at 1380.

- 29 -

which Fidelity Bankers has ceded claims to NARe were entered into prior to May 13, 1991. Accordingly, NARe's exercise of its set-off rights was and is proper.

Second, even under the Deputy Receiver's construction of the mutuality requirement, set-off was proper. By denying administrative expense priority to NARe's claims for ceded reinsurance losses, the Deputy Receiver treats such debts as pre-receivership contractual obligations with the priority of unsecured creditors' claims. Reinsurance losses that are treated as pre-receivership claims for purposes of priority also must be treated as pre-receivership claims for purposes of set-off. Thus, in denying administrative expense priority, the Deputy Receiver affirmed the holding of the above-cited cases that claims arising under reinsurance treaties entered into before the claims fixing date, such as the treaties at issue in this case, are "fixed" and hence mutual claims.

In short, the Deputy Receiver cannot have it both ways. He cannot treat NARe's claims as fixed for purposes of denying NARe administrative expense priority and as contingent for purposes of denying NARe its set-off rights.

CONCLUSION

For all of the foregoing reasons, NARE's requests for relief should be granted.

Respectfully submitted,

By: John F. Guyot
 John F. Guyot
 (A Member of the Virginia Bar)

WILEY, REIN & FIELDING
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Counsel for North American
 Reassurance Company

Of Counsel,

Ida C. Wurczinger

Dated: October 19, 1992

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**WILLIAMS, MULLEN,
CHRISTIAN & DOBBINS**

ATTORNEYS & COUNSELORS AT LAW
A PROFESSIONAL CORPORATION

CENTRAL FIDELITY BANK BUILDING
TWO JAMES CENTER
1021 EAST CARY STREET
P.O. BOX 1320
RICHMOND, VIRGINIA 23210-1320

OFFICES IN:
RICHMOND
WASHINGTON, D.C.

AFFILIATE OFFICE:
LONDON

July 5, 1995

Ins920441

Honorable William J. Bridge, Clerk
State Corporation Commission
Tyler Building
1300 East Main Street
Richmond, Virginia 23219

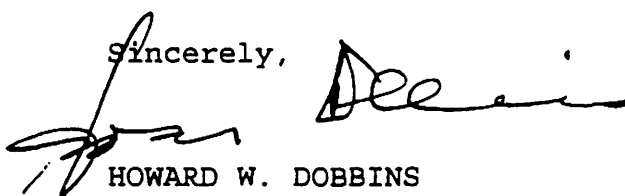
Re: Case No. 920441
Petition of North American
Reassurance Company

Dear Mr. Bridge:

Please file the enclosed document for substitution of Exhibit "A" to the Stipulation Updating Status and Amount of Claims heretofore filed on June 29, 1995. This document corrects only the date of the original Exhibit "A" from June 14, 1994 to June 14, 1995.

Thanking you for your usual assistance and courtesy, I remain

Sincerely,



HOWARD W. DOBBINS

HWD/mf
Enclosure

cc: Stuart F. Carwile, Esquire
Ida Wurczinger Drain, Esquire
Steven E. Adkins, Esquire

June 14, 1995

Steven E. Adkins
Cantilo, Maisel & Hubbard, L.L.P.
111 Congress Avenue
Suite 1700
Austin, TX 78701

Dear Steve:

As you requested, I have updated our estimate of the liability regarding the 100% Quota Share Reinsurance Agreement Between Fidelity Bankers and North American Reassurance Company to December 31, 1994. I have included in this liability estimates for claims incurred through the year 1999 which will be submitted to Fidelity Bankers in the year 2000. The following summarizes the liability estimate as of December 31, 1994:

| | |
|---------------------------------------|--------------------|
| For claims incurred 1994 and prior | \$3,659,114 |
| For claims incurred in 1995 and later | <u>\$3,308,171</u> |
| Total Liability | \$6,967,285 |

My calculations were based on the following information:

- The liability for claims incurred prior to January 1, 1995 was developed from actual and expected experience as summarized in the table below. Note that as in our prior estimates, no interest was accrued on these amounts.

| | Expected Mortality | Actual Mortality | Actual less Expected | Actual/Exp. |
|-------|--------------------|------------------|----------------------|-------------|
| 1991 | \$2,019,798 | \$3,154,721 | \$1,134,923 | 1.56 |
| 1992 | \$1,860,963 | \$3,059,976 | \$1,199,013 | 1.64 |
| 1993 | \$1,781,959 | \$2,429,364 | \$647,405 | 1.36 |
| 1994 | \$1,759,544 | \$2,437,317 | \$677,773 | 1.39 |
| Total | \$7,422,264 | \$11,081,378 | \$3,659,114 | 1.49 |

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

DOCUMENT CONTROL

AT RICHMOND, January 29, 1996

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PETITION OF

North American Reassurance
Company

For Review of Fidelity Bankers
Life Insurance Company's
Deputy Receiver's Determination
of Appeals as to Certain Claims
Involving North American Reassurance
Company

CASE NO. INS920441

FINAL ORDER

This matter is before us in two respects. First, on October 19, 1992, North American Reassurance Company ("NARE"),¹ filed a Petition ("Petition I") for review of determinations by Steven T. Foster, Deputy Receiver of Fidelity Bankers Life Insurance Company ("Deputy Receiver"), ("Fidelity"), of certain claims NARE had filed against that receivership estate.

Second, on June 30, 1995, NARE filed a similar Petition ("Petition II") seeking relief from later determinations of the Deputy Receiver related to the same basic factual situation.²

¹ NARE changed its name to Swiss Re Life Company of America in mid-1995. However, since most of the pleadings in this case refer to the company as NARE, it will be referenced as such herein.

² In that Petition, NARE moved that those matters be consolidated with the issues being considered under Petition I. above. That motion is .

The Deputy Receiver filed a Motion to Dismiss Petition I, along with other pleadings, and we will treat that motion as applicable to Petition II, also.

Though the relationship between NARE and Fidelity which gave rise to this controversy is convoluted, the basic facts seem clear.

In December, 1990, Fidelity agreed to sell a block of its life insurance business to Protective Life Insurance Company ("PLICO"). However, as a condition of the sale, PLICO insisted on a "stop-loss" guarantee, from a company other than Fidelity, to protect it against the possibility of excess mortality claims on this business. NARE agreed to provide this service, for a small annual premium. Under this arrangement, at the end of each calendar year, PLICO would report to NARE the amount of its excess mortality loss for that year, NARE would pay this amount to PLICO, and would be reimbursed in turn by Fidelity. This relationship was to continue as long as the underlying life policies remained in effect.

granted, and both Petitions are assigned to Case No. INS920441. Petition II, in our view, principally served to update the amounts and status of issues already raised in Petition I.

Also in December, 1990, NARE began discussions with Integrated Resources Life Insurance Company ("Integrated") to acquire certain reinsurance treaties from Integrated, under which Integrated served as reinsurer for other insurance companies, one of which was Fidelity. This arrangement became effective July 1, 1991. As of that date, therefore, NARE became obligated to reinsure Fidelity for certain losses.³

Thus, under these two situations, NARE could become both a debtor and a creditor of Fidelity. Its debtor relationship arose in its role as a reinsurer of Fidelity, due to those treaties acquired from Integrated, as well as those entered into directly with Fidelity. It would become a creditor of Fidelity whenever it paid an excess mortality loss amount to PLICO, since it was Fidelity's obligation under that arrangement to make NARE whole for such payments. Both such relationships did in fact develop, and became factors in the Commission's receivership proceeding regarding Fidelity.⁴

³ NARE was also Fidelity's reinsurer under other treaties directly between the two companies, which had no relation to Integrated.

⁴ In May, 1991, Fidelity Bankers was placed into receivership by order of the Circuit Court of the City of Richmond, and the Commission was appointed its Receiver.

NARE makes several contentions in its Petitions.

First, it claims it should be allowed to set-off the amounts it owes Fidelity under the reinsurance treaties against the amounts it is owed by Fidelity under the PLICO arrangement. Second, it contends that the payments it makes to PLICO should be accorded priority in the receivership proceeding, as a cost and expense of administration of the receivership estate. Third, it notes that the PLICO contracts provide for 10% interest on any payments past due from Fidelity to NARE, and it contends that such interest should be allowed as a part of its claim against Fidelity.

By contrast, the Deputy Receiver argues that no set-off should be allowed, that administrative priority should be denied, and that no interest should be allowed on NARE's claims. The Deputy Receiver is willing to approve NARE's PLICO-related losses only as a general, unsecured claim against the receivership estate, without interest, and he contends that NARE's reinsurance obligations to Fidelity should be paid immediately to the receivership estate.

In June, 1995, NARE and the Deputy Receiver filed a Stipulation which contained information as to the amounts in controversy between them. There, the Deputy Receiver

contends that NARE owes Fidelity, under the reinsurance treaties, the sum of \$2,390,865 (\$1,146,962 of which is attributable to the Integrated treaties).⁵

The Stipulation also states that NARE has paid PLICO, through May 31, 1995, \$3,759,115, none of which has been paid by Fidelity to NARE. That amount has been approved by the Deputy Receiver as a general, unsecured claim against Fidelity. He has disapproved, however, NARE's claim for 10% interest on that amount, an additional \$821,647 as of the same date.⁶

Although the magnitude of the above amounts seems non-controversial, the size of NARE's projected future obligations under the PLICO arrangement is disputed. The Deputy Receiver has calculated that loss, as of the dissolution of the Fidelity Life Insurance Company Trust in the year 2000, to be \$6,967,285, discounted at 5% present value to December 31, 1994. NARE, by contrast, has

⁵ The Stipulation notes that, as of June, 1993, all policies which formed the basis for these reinsurance arrangements were assumed by Hartford Life Insurance Company from Fidelity. Thus, the above amounts will not change in the future.

⁶ The PLICO arrangement would have required another payment from NARE to PLICO on January 15, 1996, assuming there were excess mortality losses for 1995, but we have been supplied no information on this point.

calculated a loss of \$12,587,396 as of May 31, 1995, or \$15,741,768, if discounted to January 1, 2000, using the same discount rate.

The Commission has considered fully the record in this case and believes that the matter can now be disposed of, although certain calculations will have to be performed in the future, in reliance on principles announced herein.

In the view we take of this case, we do not believe that there is any serious issue of fact in dispute between the parties, and therefore that there is no need for an evidentiary hearing. The parties have, of course, availed themselves of repeated opportunities to address the legal issues.

First, we deny NARE's claim for treatment of its PLICO payments as a cost and expense of administration of the Fidelity receivership, and thus will not give these claims priority. Were we to accord such treatment, under Va. Code § 38.2-1509, those payments would take precedence over wages of employees, claims of secured creditors, federal taxes and policyholders. We find no support for such a ruling.

Second, we deny NARE's claim for interest on these amounts. We agree with the Deputy Receiver that, although the underlying contracts may have provided for interest in a normal commercial setting, interest normally does not accrue on a creditor's claim in a receivership context.⁷

Third, we will deny NARE's request that it be permitted to set-off its obligations to Fidelity under the reinsurance treaties it assumed from Integrated against the claims it has against Fidelity for the PLICO situation. We sustain the position of the Deputy Receiver with respect to these treaties.

In particular, we find there is a requirement of mutuality inherent in Va. Code § 38.2-1515, the set-off statute. That is, the debts and credits sought to be set off must share similar characteristics in a way in which these claims do not. For example, NARE became a creditor of Fidelity under the PLICO arrangement before Fidelity was placed in receivership. It did not become a debtor to Fidelity under the Integrated assumption, however, until after the receivership date, and we find this dichotomy fatal to a set-off.

⁷ NARE seems to recognize this principle. See Petition I, page 24.

Fourth, however, we will sustain NARE's request that it be permitted to set-off its obligations to Fidelity under the "non-Integrated"⁸ reinsurance treaties. According to the parties' June, 1995, stipulation, the reinsurance obligations of NARE to Fidelity which do not involve Integrated total \$1,243,903, and this will be the amount of the permitted set-off under our ruling. The Deputy Receiver's position regarding the "non-Integrated" amounts seems focused mainly on the nature of the PLICO claim (that it is, for example, a contingent liability, which may not be the subject of a set-off), and that allowing a reinsurer such as NARE to effect a set-off somehow violates public policy. We are not persuaded by these arguments. First, the PLICO claim becomes less contingent with each passing year, yet the receivership estate is still under administration; thus, no delay in administration has been occasioned by the nature of these claims. The second argument goes merely to the wisdom of the statute, since there is no prohibition therein against use of set-off by reinsurers.

⁸ Those treaties which were not assumed by NARE from Integrated.

The remaining issue is how to handle future losses

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experienced by NARE under the PLICO arrangement. We think the treatment to date furnishes reasonable guidance on this point. That is, for each year in which NARE actually pays any amounts to PLICO, such payment will be added to its general, unsecured claim against Fidelity, without interest. The Deputy Receiver is directed to approve such claim promptly when submitted, subject only to verifying the correct amount. Such procedure will be followed until and including the potential payment which will be due from NARE to PLICO in January, 2000.

In that year, which is the year the Fidelity Life Insurance Trust will terminate, an actuarial projection will be made by the parties to estimate the likely future losses which will be suffered by NARE for the remaining life of the PLICO arrangement. That amount will be discounted to the date on which the Trust ends, using a discount rate and other factors to be agreed by the parties. The amount so calculated will be added to NARE's general, unsecured claim and resolved in the same manner as all other general, unsecured claims at that time.

To summarize, the disposition we make of the Deputy Receiver's Motion to Dismiss and counter-claim has the following elements:

1. NARE will have a general, unsecured claim against the Fidelity estate for all amounts NARE actually pays PLICO, through the payment potentially due in January, 2000, plus an actuarially determined amount for all such obligations after that date. No such amounts will bear interest. The Commission will resolve any disputes regarding calculation of these amounts, if the parties cannot in good faith settle them between themselves.
2. The general, unsecured claim noted above is reduced, effective immediately, by the set-off amount regarding reinsurance claims discussed above, \$1,243,903. Correspondingly, NARE's debt to Fidelity is reduced by the same amount, also effective immediately.
3. NARE is obligated to Fidelity for the sum of \$1,146,962, the amount related to the reinsurance obligations assumed by NARE from Integrated.

Judgment shall enter against NARE for said amount, with interest to accrue at the legal rate from the date of this order.

ACCORDINGLY, IT IS ORDERED:

1. That the disposition and relief set forth in the body of this order shall be implemented herein.

2. That, although this order is intended by the Commission to be a final order in this matter, the Commission will be available to resolve any matters, such as calculations of future amounts, which may become necessary.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to Howard W. Dobbins, Esq., Williams, Mullen, Christian & Dobbins, Central Fidelity Bank Building, Two James Center, 1021 East Cary Street, P.O. Box 1320, Richmond, Virginia 23210-1320; Stuart F. Carwile, Esq., Wiley, Rein & Fielding, 1776 K Street, N.W., Washington, D.C. 20006; and Peter B. Smith, Esq., Office of General Counsel, State Corporation Commission.

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1. The first step is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

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1. Subject 2. Reference 3. Source 4. Author 5. Editor 6. Translator 7. Illustrator 8. Designer 9. Printer 10. Publisher 11. Distributor 12. Reviewer 13. Editorial Board 14. Advisory Board 15. Contributors 16. Consultants 17. Technical Staff 18. Administrative Staff 19. Production Staff 20. Marketing Staff 21. Sales Staff 22. Customer Service Staff 23. Finance Staff 24. Legal Staff 25. Human Resources Staff 26. Information Systems Staff 27. Facilities Staff 28. Security Staff 29. Quality Assurance Staff 30. Compliance Staff 31. Regulatory Affairs Staff 32. Public Relations Staff 33. Media Relations Staff 34. Community Relations Staff 35. Government Relations Staff 36. Industry Relations Staff 37. Academic Relations Staff 38. Non-Profit Relations Staff 39. Investor Relations Staff 40. Analyst Relations Staff 41. Media Relations Staff 42. Public Relations Staff 43. Community Relations Staff 44. Government Relations Staff 45. Industry Relations Staff 46. Academic Relations Staff 47. 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DOCUMENT CONTROL

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COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

PETITION OF

North American Reassurance Company

For Review of Fidelity Bankers
Life Insurance Company's
Deputy Receiver's Determination
of Appeals as to Certain Claims
Involving North American Reassurance
Company

Case No. INS920441

NOTICE OF INTENTION TO PARTICIPATE AS APPELLEE

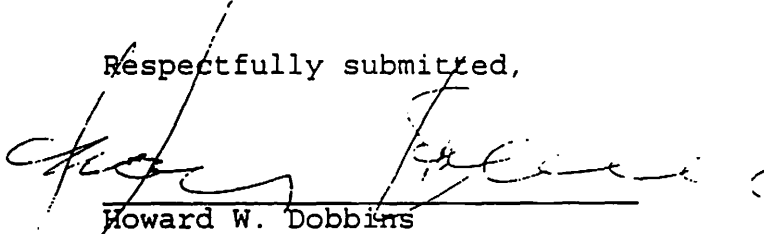
PLEASE TAKE NOTICE that Steven T. Foster, Commissioner of Insurance, Bureau of Insurance, State Corporation Commission (the "Commission"), as Deputy Receiver of Fidelity Bankers Life Insurance Company and as trustee of the Fidelity Bankers Life Insurance Company Trust (collectively, the "Deputy Receiver"), intends to participate as an appellee in the appeal of the Commission's Final Order in the captioned matter.

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Steven E. Adkins
(Va Bar No. 32834)
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DATED: March 29, 1996

Respectfully submitted,



Howard W. Dobbins
(Va. Bar No. 5394)
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DOBBINS
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Counsel to the Deputy Receiver

THE UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

WASH. D. C. 20250

100-100000-100000

TO THE SECRETARY OF THE INTERIOR
FROM THE DIRECTOR OF THE BUREAU OF LAND MANAGEMENT
SUBJECT: [Illegible]

RE: [Illegible]

1. [Illegible]

2. [Illegible]

3. [Illegible]

4. [Illegible]

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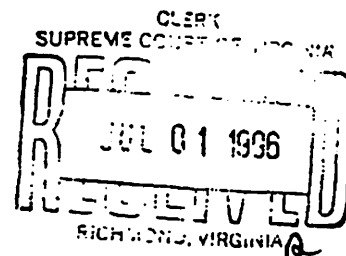
17. [Illegible]

18. [Illegible]

19. [Illegible]

20. [Illegible]

IN THE
SUPREME COURT OF VIRGINIA



Swiss Re Life Company America,

Appellant,

v.

Alfred W. Gross, Acting Commissioner
of Insurance, Acting Deputy Receiver
of First Dominion Mutual Life
Insurance Company, and Acting Trustee
of Fidelity Bankers Life Insurance
Insurance Company Trust,

Appellee.

Record No. 961078

S.C.C. Case No. INS920441

APPELLANT SWISS RE LIFE COMPANY AMERICA'S ASSIGNMENTS OF ERROR

Appellant, Swiss Re Life Company America (formerly North American Reassurance Company) ("Swiss Re"), for its assignments of error with respect to the State Corporation Commission's Final Order dated January 29, 1996, hereby states as follows:

1. The Commission erred in finding that there was no serious issue of fact in dispute between the parties and therefore no need for an evidentiary hearing in this case.
2. The Commission erred in denying Swiss Re's claim for treatment of its payments to Protective Life Insurance Company ("PLICO"), on behalf of Fidelity Bankers Life Insurance Company ("Fidelity"), as a cost and expense of administration of the Fidelity receivership.

3. The Commission erred in failing to make any findings of fact as to whether Swiss Re's reinsurance contract with Fidelity relating to Swiss Re's payments to PLICO on Fidelity's behalf satisfied any of the conditions for the treatment of contractual obligations as costs and expenses of administration.

4. The Commission erred in denying Swiss Re's claim for interest on the above-mentioned claim.

5. The Commission erred in finding that "interest normally does not accrue on a creditor's claim in a receivership context."

6. The Commission erred in failing to make any findings of fact concerning the issue whether Fidelity will have the financial ability to pay interest on creditor claims at the time that it makes its distributions in satisfaction of those claims.

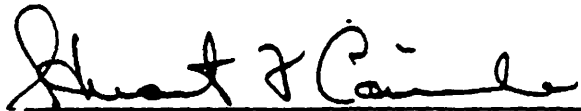
7. The Commission erred in failing to make any ruling with respect to whether Swiss Re is entitled to interest in the event that Fidelity has the financial ability to pay such interest at the time that it makes its distributions to creditors.

8. The Commission erred in denying Swiss Re's request that it be permitted to set-off its alleged obligations to Fidelity under the reinsurance treaties it assumed from Integrated Resources Life Insurance Company ("Integrated") against the claims it has against Fidelity.

9. The Commission erred in finding that Swiss Re "did not become a debtor to Fidelity under the Integrated assumption ... until after the receivership date."

10. The Commission erred in its treatment of future payments by Swiss Re to PLICO on behalf of Fidelity as additions to an unsecured creditor claim by Swiss Re against Fidelity.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Stuart F. Carwile", written over a horizontal line.

Stuart F. Carwile (Va. Bar No. 07665)

Ida Wurczinger Drain

WILEY, REIN & FIELDING

1776 K Street, N.W.

Washington, D.C. 20006

(202) 429-7000

(202) 429-7049 (Fax)

Counsel for Swiss Re Life Company America

Date: June 26, 1996

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of June 1996, the foregoing "Appellant Swiss Re Life Company America's Assignments of Error" was mailed via United States Postal Service, Certified Mail, to the following:

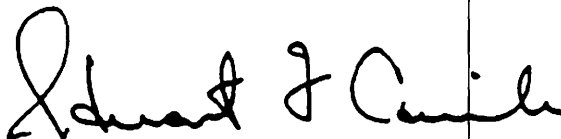
VIA First Class Mail

Peter B. Smith, Esquire
Office of General Counsel
State Corporation Commission
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Richmond, VA 23216

Howard W. Dobbins, Esquire
Williams, Mullen, Christian & Dobbins
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Stuart F. Carwile