FILED
DEC 06 2024
INSURANCE REGULATION
Docketed by:

OFFICE OF INSURANCE REGULATION

MICHAEL YAWORSKY
COMMISSIONER

Index: OIR 2024-161

IN THE MATTER OF: CASE NO.: 400063-24-CO

EMPOWER ANNUITY INSURANCE COMPANY
_____/

CONSENT ORDER

THIS CAUSE came for consideration as the result of EMPOWER ANNUITY INSURANCE COMPANY's ("EMPOWER ANNUITY") failure to timely file its Gross Annual Premium Enrollment ("GAP") Data Reporting form with the FLORIDA OFFICE OF INSURANCE REGULATION (the "OFFICE"), as required by section 627.9175(1), Florida Statutes, and Rule 69O-137.004, *Florida Administrative Code.*

Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the OFFICE hereby finds as follows:

1. The OFFICE has jurisdiction over the subject matter and the parties herein.

2. EMPOWER ANNUITY is an insurer authorized to transact business in Florida and subject to regulation by the OFFICE, pursuant to the Florida Insurance Code.

3. Section 624.316, Florida Statutes, allows the OFFICE to examine the affairs, transactions, accounts, records, and assets of any insurer as often as the OFFICE deems it advisable.

4. In January 2024, the OFFICE issued a data call notice for life and health GAP data reporting to each insurer required to submit a filing.

5. Insurers were required to submit GAP data by April 1, 2024.

6. Rule 69O-137.004, *Florida Administrative Code*, requires each insurer that issues health insurance policies in Florida to file Form OIR-B2-1094, "Report of Gross Annual Premiums and Enrollment Data for Health Benefit Plans Issued to Florida Residents", with the OIR covering the preceding calendar year on or before April 1.

7. EMPOWER ANNUITY failed to submit its GAP data with the OFFICE by the deadline, which was April 1, 2024.

8. On May 21, 2024, EMPOWER ANNUITY submitted its GAP data with the OFFICE.

9. Section 624.4211(1), Florida Statutes, provides that if the OFFICE finds that one or more grounds exist for the discretionary revocation or suspension of a certificate of authority issued under chapter 624, the OFFICE may, in lieu of such revocation or suspension, impose a fine upon the insurer.

10. The OFFICE finds that EMPOWER ANNUITY violated section 627.9175(1), Florida Statutes, and Rule 69O-137.004. The OIR finds that the violation was non-willful, and it assesses a fine in the amount of $12,500 for the violation pursuant to section 624.4211(2).

11. EMPOWER ANNUITY agrees that within 10 days of the execution of this Consent Order, EMPOWER ANNUITY shall pay an administrative fine in the amount of $12,500 U.S. Dollars ("USD") and administrative costs of $1,000 USD to the OIR.

12. Any deadlines, reporting requirements, other provisions, or requirements set forth in this Consent Order may be altered or terminated by written approval of the OIR. Such approval must be requested in writing prior to any proposed deviation from the terms of this Consent Order.

13. EMPOWER ANNUITY agrees that, upon execution of this Consent Order, failure to adhere to one or more of the terms and conditions contained herein may result, without further proceedings, in the OIR suspending, revoking, or taking other administrative action as it deems appropriate upon EMPOWER ANNUITY's certificate of authority in this state in accordance with sections 120.569(2)(n) and 120.60(6), Florida Statutes.

14. EMPOWER ANNUITY agrees that, upon execution of this Consent Order, failure to adhere to one or more of the terms and conditions contained herein may subject EMPOWER ANNUITY to such administrative action as the OIR deems appropriate as specifically authorized by law.

15. EMPOWER ANNUITY agrees that any future violations of the statutes or rules named herein may be deemed willful, subjecting EMPOWER ANNUITY to penalties as the OIR deems appropriate.

16. EMPOWER ANNUITY expressly waives a hearing in this matter, the making of findings of fact and conclusions of law by the OIR, and all further and other proceedings herein to which it may be entitled by law or rules of the OIR. EMPOWER ANNUITY hereby knowingly and voluntarily waives all rights to challenge or to contest this Consent Order in any forum available to it, now or in the future, including the right to any administrative proceeding, state or federal court action, or any appeal.

17. Except as noted above, each party to this action shall bear its own costs.

18. The parties agree that this Consent Order shall be deemed to be executed when the OIR has signed a copy of this Consent Order bearing the notarized signature of the authorized representative of EMPOWER ANNUITY.

WHEREFORE, the agreement between EMPOWER ANNUITY INSURANCE COMPANY and the FLORIDA OFFICE OF INSURANCE REGULATION, the terms and conditions of which are set forth above, is APPROVED.

All terms and conditions contained herein are hereby ORDERED.

DONE AND ORDERED this 6TH day of DECEMBER, 2024.

Michael Yaworsky, Commissioner
Office of Insurance Regulation

By execution hereof, EMPOWER ANNUITY INSURANCE COMPANY, consents to entry of this Consent Order, agrees without reservation to all the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that they have the authority to bind EMPOWER ANNUITY INSURANCE COMPANY, to the terms and conditions of this Consent Order.

[Corporate Seal]

EMPOWER ANNUITY INSURANCE COMPANY

By: _____

Print Name: Christine Moritz

Title: President & Chief Executive Officer

Date: 11/14/2024

STATE OF Colorado

COUNTY OF Arapahoe

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 14th day of November 2024, by Christine Moritz (name of person) as President & Chief Executive Officer (type of authority; e.g., officer, trustee, attorney in fact) for Empower Annuity Insurance Company (company name)

_____
(Signature of the Notary)

Abiane Finster
(Print, Type or Stamp Commissioned Name of Notary)

Personally Known ✓ OR Produced Identification _____

Type of Identification Produced n/a

My Commission Expires 12-28-26

ABIANE FINSTER
Notary Public
State of Colorado
Notary ID # 20104058374
My Commission Expires 12-28-2026

COPIES FURNISHED TO:

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