Florida threatens action against Prudential

From Wire Reports

TALLAHASSEE, Fla. — Prudential Insurance Co. coaxed more than 100,000 older Floridians into buying new life insurance that stripped the value from old policies and wiped out their retirement nest eggs, the state charged Monday.

Insurance Commissioner Bill Nelson ordered the nation's largest life insurer to show why he should not revoke its state license to sell life insurance and impose "the stiffest of fines."

"The message is that no matter how big you are, you still have to obey the law," Mr. Nelson said. "For starters, I will insist that Prudential return every penny that has been taken away from Florida customers."

Prudential spokesman Bob DeFillippo said the company takes "Florida's action very seriously."

"We will oppose any attempt to revoke our license," he said.

Florida's move could jeopardize settlements worth as much as $2 billion already negotiated between Prudential and 45 state insurance departments and attorneys representing some policyholders. Texas, California, Massachusetts and Virginia also rejected the terms accepted by the other states, describing the settlement as inadequate.

The investigation by Florida indicated that 30 percent of all life insurance sales, or 126,400 policies, were sold for [illegible] using the value of other policies, Mr. Nelson said.

The state will refuse to join a settlement that Prudential has reached with 45 other states for such "churning" tactics, he said.

Customers thought they were getting better insurance coverage for the same price, the state alleges. They were told that dividends on their old policies likely would cover premiums on new policies, but many ended up paying premiums and interest on loans against their old policies when dividends fell short after a few years, Mr. Nelson charged.

Florida and other states previously have said that Prudential failed to take adequate steps to deal with the problem, which continued from 1982 until 1995 and may have affected as many as 10.7 million life insurance policyholders nationwide.

At a Jan. 21 hearing in U.S. District Court in Newark, Florida plans to object to an agreement Prudential accepted in September to pay at least $410 million to settle class-action lawsuits nationally on behalf of churning victims.

"It's a bad deal for policyholders," Mr. Nelson said.

Among other things, the settlement would require policyholders to give written proof that Prudential used deceptive tactics, but agents often talked customers into such arrangements, leaving no paper trail, he said.

Mr. Nelson's order accused the insurer of obstructing his investigation, destroying potential evidence and ignoring a May 1995 subpoena for information on its sales practices. He said the investigation also found that Prudential managers were told not to report complaints and that Prudential training films glorified deceptive sales tactics.

In August, Prudential fired its senior official in Florida because it said he allowed documents under subpoena by state investigators to be destroyed. Former senior vice president David Fastenberg has since sued Prudential for wrongful termination, the company said.

Florida officials charge that Mr. Fastenberg destroyed nine file cabinets of documents including audits, business practices investigations and regional files.

John Cressman, a former Prudential auditor, told Florida investigators in September that churning continued long after he first alerted senior Prudential management to the problem in 1982.

On Wednesday, the ABC television program *Prime Time Live* will run a segment based on its six-month investigation of Prudential's life insurance sales operation, a network spokesman said.

After Florida files its complaint, Newark-based Prudential has 21 days to respond or face penalties ranging from fines to the revocation of its license to sell life insurance in Florida.

Business Tuesday

The Dallas Morning News

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By Terrence Stutz

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(908) 604-1000 Fax: (908) 604-1014

ThePrudential

April 4, 1994

Phillip Morris
700 Mount Vernon
Richardson, TX 75081

Dear Phillip;

Effective 5:00 pm (CST) on April 5, 1994, the P&C Specialist Contract between you and The Prudential Insurance Company of America is terminated.

Your attention is directed to the provisions of the contract which require you to return books and records and to refrain from replacing The Prudential's policies with the policies of another insurer.

Sincerely,

E. Michael Caulfield

E. Michael Caulfield

c: General Manager - FTWX

D219

COPY

Texas Department of Insurance
333 Guadalupe Street P.O. Box 149104 Austin Texas 78714-9104
512-463-6169

March 15, 1994

#6

The Honorable Fred Hill
Texas House of Representatives
P. O. Box 2910
Austin, Texas 78768-2910

RE: Phil Morris/Prudential Insurance

Dear Representative Hill:

This letter will respond to your inquiry addressed to Mr. Padilla dated March 3, 1994 in the referenced matter. The information you provided to this Department has been of vital importance in our review of Prudential's activities. Additionally, I have been in contact with Mr. Julian Buenger, an attorney in Dallas who is representing certain of the agents in their litigation with Prudential. Mr. Buenger has provided copies of relevant pleadings in the litigation mentioned in your March 3rd letter. After reviewing those pleadings, I advised Mr. Buenger that I do not anticipate the Department of Insurance becoming involved in the agents' litigation with Prudential.

However, based upon the documents reviewed to date, we have significant regulatory concerns over possible violations of law and administrative rules by Prudential. Specifically, we are concerned that Prudential's pricing and underwriting methods may be unfairly discriminatory. Further, we are concerned that Prudential may have developed inappropriate 'target marketing' strategies. This is not intended to be an exhaustive list of potential violations of regulatory concerns, but rather a response to your inquiry after an initial review of available documents. We intend to thoroughly investigate this matter and will, to the fullest extent possible, keep you informed of our progress. You may contact me at any time at (512) 322-2250 regarding this matter.

Sincerely,

Mark Gentle

Mark Gentle
Section Chief, Market Activities

cc: District Office
2485 Promenade Center
Richardson, Texas 75080

Mary Keller, Senior Associate Commissioner
Legal and Compliance Division

THE TEXAS HOUSE OF REPRESENTATIVES

FRED HILL CHAIRMAN, COMMITTEE ON URBAN AFFAIRS

March 3, 1994

Texas Department of Insurance
Company Activities, Legal Enforcement Division
P.O. Box 149104
Austin, TX 78714-9104

ATTN: Mr. Javier Padilla
Staff Attorney

Dear Mr. Padilla,

I have been contacted by Mr. Phil Morris of the Phil Morris Insurance Agency, located in my district, regarding what appears to be Texas Insurance Code violations by the Prudential Preferred Financial Services Company. Enclosed, is information regarding this case, including a copy of a letter written by you to Prudential.

According to Mr. Morris, Prudential has been forcing clients to purchase extra insurance before they can receive coverage. As you are already aware, the insurance company has been using a point system, whereby a client must have a certain number of points before being able to be covered, i.e., three points for other PRUPAC business, two points for PRU LIFE business, and one point for no lapse in coverage.

Mr. Morris states that now Prudential is attempting to terminate contracts with the independent agents "without the notice required by Texas Insurance Code § 21, 11-1", causing them to be "deprived of their book of business and livelihood without adequate compensation before a judicial determination can be made".

In an effort to countermand the temporary restraining order granted by Judge McClellan Marshall of the 14th Judicial District, Prudential filed a federal court class action law suit against all Texas Independent agents. They are attempting to get the federal court to force the agents to post a $9 million bond because of the supposed loss of revenue to Prudential's business. Mr. Morris feels that by moving the case to the federal courts, it can be tied up for years and the independent agents won't have the funds to wait that long. They will go out of business before the case is settled.

I would appreciate it if you would apprise me of the status of this case.

Sincerely,

Fred Hill

cc: Claire Korioth, Chairman, State Board of Insurance
Georgia Flint, Commissioner of Insurance

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