

COMMISSIONER OF BANKING
STATE OF WEST VIRGINIA

In the Matter of:

**REQUEST FOR AUTHORIZATION TO
ENGAGE IN SUBSIDIARY BUSINESS BY
A REGULATED CONSUMER LENDER
filed on behalf of
ASSOCIATES FINANCIAL SERVICES CO.
OF WEST VIRGINIA, INC. and
KENTUCKY FINANCE, INC.
(Re: Non-credit disability insurance)**

DECISION ON AUTHORIZATION REQUEST

On November 21, 1996 Associates Corporation of North America on behalf of its licensed Regulated Consumer Lender affiliates, Associates Financial Services Co. of West Virginia, Inc. and Kentucky Finance Co., Inc., by letter, requested of the West Virginia Commissioner of Banking a DECISION ON AUTHORIZATION pursuant to W. Va. Code § 46A-4-110 in regards to the marketing and selling of non-credit disability insurance in the same office, room, or place of business in which its regulated consumer lender licensees conduct the business of making regulated consumer loans.

Upon review of this request, the Commissioner of Banking has determined that such a product is insufficiently related to the business of transacting regulated consumer loans; that the nature and character of marketing and selling such product might facilitate evasions or contradictions of Article 4, Chapter 46A of the West Virginia Code or the rules issued thereunder; and that the marketing and selling of non-credit disability insurance by regulated consumer lenders is not in the best interests of the consumers of this state.

The issue of selling non-credit based insurance products through supervised/regulated consumer lenders has repeatedly come before previous Commissioners of Banking in this State, and generally has been denied in the past. Indeed, records at the Division of Banking indicate that virtually every Commissioner appointed over the past ten years has addressed this question for supervised or regulated consumer lenders. The primary basis of the previous denials has been the concern that such sales would result in undue pressure and tying of the non-credit insurance product to the grant of the regulated consumer loan. (See, Letter of Terrance Rodgers, Acting Deputy Commissioner of Banking, Nov. 3, 1983). Since unfair pressure and tying was the main occurrence that W. Va. Code § 46A-4-110 was meant to prevent, these authorization requests were generally denied. In this regard, a similar request by AVCO Financial Services to market and sell non-credit disability insurance was denied by the Commissioner in October 1993.

A second reason that the sale of non-credit related insurance by regulated consumer lenders is disfavored is that it can result in "stacking" when sold in conjunction with permissible credit related insurance. Stacking occurs when insurance policy coverages overlap. As the Applicants are already permitted to sell credit disability insurance pursuant to W. Va. Code § 46A-3-109, any non-credit disability insurance would be to some extent duplicative. This same Code section would also permit the Applicants sale of credit life insurance and credit health insurance.

The sale of multiple insurance policies to consumers by regulated consumer lenders, which policies by their very nature contain overlapping coverage, is not in the best interest of consumers. Nor, given the regulated consumer lenders' ability to sell credit related disability insurance, is the sale of non-credit related disability insurance substantially related to the business of transacting regulated consumer loans. While, admittedly, (after earlier rejection, and with "initial misgivings") a previous Commissioner's declaratory ruling of July 16, 1985 currently permits regulated consumer lenders on a case-by-case basis to obtain approval for the sale of non-credit life insurance and non-credit accidental death and dismemberment insurance, in accordance with certain strict limitations-- this exception is as

far as this office is willing to proceed for the foreseeable future. Further exceptions will only promote and facilitate improper stacking.

Based upon these determinations and findings the Commissioner of Banking IS OF THE OPINION that a regulated consumer lender licensee may not conduct the business of making regulated consumer loans in the same office, room, or place of business in which non-credit disability insurance is marketed and sold. THEREFORE THE REQUEST FOR AUTHORIZATION IS HEREBY DENIED.

SGB

Sharon G. Bias
Commissioner of Banking

Date: 4/18/97