

**State of New Hampshire  
Insurance Department**

**In Re: Lincoln Heritage Life Insurance Company**

**Docket No. Ins. 13-012-EP**

**ORDER TO SHOW CAUSE  
AND NOTICE OF HEARING**

Pursuant to New Hampshire Revised Statutes Annotated (“RSA”) 400-A:17, Lincoln Heritage Life Insurance Company (“Lincoln Heritage”) is hereby notified that a hearing shall commence on October 22, 2013 at 9:00 a.m. at the offices of the New Hampshire Insurance Department (“NHID”), 21 South Fruit Street, Suite 14 in Concord, New Hampshire. This hearing is scheduled for purposes of giving Lincoln Heritage the opportunity to show cause why the Insurance Commissioner should not revoke or suspend Lincoln Heritage’s certificate of authority, impose an administrative fine, or both for violating N.H. Code of Admin. Rules Ins (“Ins”) 2602, as well as the New Hampshire Unfair Insurance Trade Practices Act, which is codified at N.H. Rev. Stat. Ann 417:4. Specifically, the NHID alleges as follows:

**I. STATEMENT OF FACTS**

1. Lincoln Heritage is a foreign domiciled licensed insurance company with a principal place of business at 4343 E. Camelback Road in Phoenix, Arizona.
2. Since January 1, 2012, and probably earlier, Lincoln Heritage has marketed individual whole life insurance policies to New Hampshire consumers through direct mail solicitations.
3. More specifically, since January 1, 2012, Lincoln Heritage mailed, or caused to be mailed on its behalf, two different direct mail solicitation forms to New Hampshire

consumers. One form, a tri-fold card, is identified by the code "FA1DNIH," and during the period at issue in this Order, Form FA1DNIH was mailed to at least 138,579 consumers. The second form, which was sent in a yellow envelope, is identified by the code "FATCNH" and was mailed to at least 5,100 consumers. Both forms state that the offering is intended to pay for "final expenses."

4. Certain consumers who received forms FA1DNIH and FATCNH were deceived by the mailers' combination of words, symbols and other characteristics into believing the mailer was connected in some manner with a governmental program or agency.

5. Copies of forms FA1DNIH and FATCNH are attached hereto and incorporated herein as Attachments A and B, respectively.

## **II. STATEMENT OF ISSUES**

6. Whether the Lincoln Heritage direct mail solicitations bearing the form numbers FA1DNIH and FATCNH failed to prominently describe the type of policy being offered as required by Ins 2602.05 (e).

7. Whether the Lincoln Heritage direct mail solicitations bearing the form numbers FA1DNIH and FATCNH had the capacity or tendency to mislead or deceive consumers of average education or intelligence as prohibited by Ins 2602.04 (a).

8. Whether the Lincoln Heritage direct mail solicitations bearing the form numbers FA1DNIH and FATCNH used a combination of words, symbols and physical materials that by their content, phraseology, shape, color or other characteristics were so similar to a combination of words, symbols and physical materials used by a government program or agency or otherwise appeared to be of such a nature that they could tend to mislead

prospective insureds into believing that the solicitation was in some manner connected with a government program or agency as prohibited by Ins. 2602.06 (c).

9. Whether Lincoln Heritage's practice of mailing the direct mail solicitations bearing the form numbers FA1DNH and FATCNH to New Hampshire consumers operated as a deceit upon the purchasers of the insurance as prohibited by RSA 417:4, I (h).

10. The NHID reserves the right to amend this Statement of Issues upon reasonable notice to the Commissioner (or his designated representative) and the Respondent.

### **III. NEW HAMPSHIRE INSURANCE LAWS VIOLATED BY RESPONDENT**

11. The NHID maintains that Lincoln Heritage has violated the following insurance laws: 1) Ins. 2602.05 (e); 2) Ins 2602.04 (a); 3) Ins. 2602.06 (c); and 4) RSA 417:4, I (h).

12. The NHID reserves the right to amend this list of insurance laws violated by Lincoln Heritage upon reasonable notice to the Commissioner (or his designated representative) and Lincoln Heritage.

### **IV. REQUEST FOR ADMINISTRATIVE PENALTIES**

13. Based on the insurance law violations alleged above and pursuant to Ins 2602.10 and RSA 400-A:15, III, the NHID requests that the Commissioner (or his designated representative) revoke or suspend Lincoln Heritage's New Hampshire certificate of authority, and levy an administrative fine in the amount of \$2,500 per each direct mail solicitation bearing the form number FA1DNH or FATCNH that Lincoln Heritage has mailed, or caused to be mailed on its behalf, to New Hampshire consumers since January 1, 2012.

V. **NOTICE OF HEARING**

14. The hearing in this matter shall commence on October 22, 2013 at 9:00 a.m. at the offices of the NHID, 21 South Fruit Street, Suite 14 in Concord, New Hampshire. The hearing shall be conducted pursuant to the practices and procedures set forth in RSA 541-A, the New Hampshire Administrative Procedure Act; RSA 400-A, Insurance Department; and New Hampshire Code of Administrative Rules Ins 200, Practices and Procedures.

15. Kathleen L. Belanger shall preside as the Hearing Officer in this matter.

16. Karen Cassin shall serve as clerk to the Hearing Officer. The parties should direct all communications to Ms. Cassin, whose contact information is:

Karen Cassin, Clerk  
New Hampshire Insurance Department  
21 South Fruit Street, Suite 14  
Concord, NH 03301  
Tel: (603) 271-2261  
Fax: (603) 271-1406  
Email: karen.cassin@ins.nh.gov

17. Lincoln Heritage has the right to be represented by counsel at its expense. Should Lincoln Heritage elect to obtain counsel, said counsel shall file a Notice of Appearance with Clerk Karen Cassin at the earliest possible date. A copy of the NHID Notice of Appearance is enclosed with this Order

18. Richard P. McCaffrey, Esquire shall appear as staff advocate, representing the interests of the NHID.

19. A record of the hearing in this matter shall be made by audio recording.

However, any party may request that the hearing be transcribed by a certified court reporter. The costs incurred for the services of a certified court reporter shall be borne by

the requesting party. The party requesting transcription of the proceedings shall file a written request for a certified court reporter with the Commissioner or his designated representative at least 10 days prior to the scheduled hearing date.

It is SO ORDERED.

NEW HAMPSHIRE INSURANCE DEPARTMENT

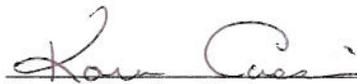
Dated: 7-29-13

  
\_\_\_\_\_  
Roger A. Sevigny, Commissioner

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing Order to Show Cause and Notice of Hearing was sent this date by first-class mail, postage prepaid, and by certified mail, return receipt requested, to Lincoln Heritage Life Insurance Company at the mailing address on file with the NHID. Additionally, a courtesy copy of the Order to Show Cause and Notice of Hearing was sent by email to George Katosic, Esquire (grklaw@aol.com), counsel to Lincoln Heritage.

Date: 7/30/13

  
\_\_\_\_\_  
Karen Cassin, Clerk



DALLAS TX 75222-9760  
PO BOX 226555  
PROCESSING CENTER

POSTAGE WILL BE PAID BY ADDRESSEE

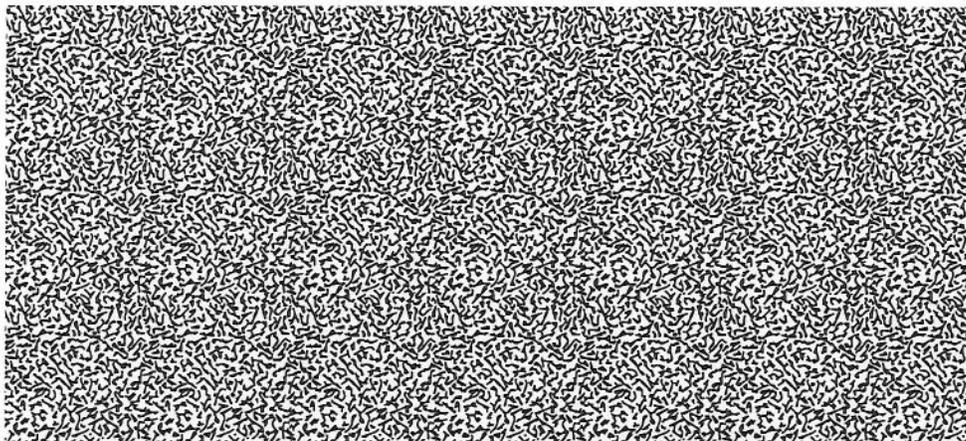
**BUSINESS REPLY MAIL**  
FIRST-CLASS MAIL PERMIT NO. 2086 DALLAS TX



NO POSTAGE  
NECESSARY IF  
MAILED  
IN THE  
UNITED STATES



The U.S. Government, the Federal Medicare Program nor any state agency is affiliated with nor endorses the company or its representatives. Underwritten by Lincoln Heritage Life Insurance Company. If time allows, information will be delivered by a representative. Request cards received after the deadline may not receive this information in a timely manner.



**MAIL POSTCARD NOW**  
Postcards received after the deadline may NOT receive this information in a timely manner.

	2012		PRSR STD US POSTAGE PAID Permit #1454 Dallas, TX
<b>UNITED STATES MAIL RECIPIENT</b>			<b>NH</b>
THE ENCLOSED INFORMATION INTENDED FOR THE ADDRESSEE BELOW			

IMPORTANT NON-GOVERNMENT DOCUMENT ENCLOSED ON INSURANCE BENEFITS

To Open This Side - Slide Finger Under This Edge





# Funeral Advantage Program Assists Seniors

# NH

ATTENTION:

Mail Postage-paid Information Request Card Below

WE ARE PLEASED TO ANNOUNCE:

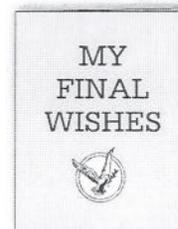
You may qualify for the Funeral Advantage Program that will pay your family in the event of your death an insurance cash benefit up to \$20,000.00 TAX FREE.

THOUSANDS OF NEW HAMPSHIRE RESIDENTS AGE 50-85 have been accepted so far for this program — created to help pay for one's funeral and any other final expenses.

TO SEE IF YOU QUALIFY, mail this postage-paid card today. There is no charge for this information. Currently, you may qualify even if you have a health condition.

**MAIL TODAY TO ALSO RECEIVE  
THIS VALUABLE PLANNING HELP.**

Requests received after 15 days may not be processed.



▼ **IMPORTANT** — COMPLETE & RETURN POSTAGE-FREE CARD TODAY ▼

<b>IS YOUR ADDRESS CORRECT?</b>					
<b>LAST</b>		<b>FIRST</b>		<b>MIDDLE INITIAL</b>	
<b>STREET ADDRESS</b>			<b>CITY</b>		<b>NH</b>
<b>ZIP CODE</b>	<b>AGE</b>	<b>AREA CODE</b>	<b>PHONE</b>		
<input type="checkbox"/> Please see that I receive the final expense insurance plan information that I requested as soon as possible.					
<b>OFFICE USE ONLY</b>					


**Funeral Advantage™ Program Assists Seniors**
**NH**
**ATTENTION:**

Mail Postage-paid Information Request Card Below

**WE ARE PLEASED TO ANNOUNCE:**

You may qualify for the Funeral Advantage Program that will pay your family in the event of your death an insurance cash benefit up to \$20,000.00 TAX FREE.

THOUSANDS OF NEW HAMPSHIRE RESIDENTS AGE 50-85 have been accepted so far for this program — created to help pay for one's funeral and any other final expenses.

TO SEE IF YOU QUALIFY, mail this postage-paid card today. There is no charge for this information. Currently, you may qualify even if you have a health condition.

### MAIL TODAY

Requests received after 15 days may not be processed.

 ▼ **IMPORTANT** — COMPLETE & RETURN IN THE POSTAGE -FREE ENVELOPE TODAY ▼

<b>IS YOUR ADDRESS CORRECT?</b>			
<b>LAST</b>	<b>FIRST</b>	<b>MIDDLE INITIAL</b>	
<b>ADDRESS</b>	<b>CITY</b>	<b>NH</b>	
<b>ZIP CODE</b>	<b>AGE</b>	<b>AREA CODE</b>	<b>PHONE</b>
<input type="checkbox"/> Please see that I receive the final expense insurance plan information that I requested as soon as possible.			
<b>OFFICE USE ONLY</b>			

The U.S. Government, the Federal Medicare Program nor any state agency is affiliated with nor endorses the company or its representatives. You may qualify for the Funeral Advantage Program that will pay your family in the event of your death an insurance cash benefit. Underwritten by Lincoln Heritage Life Insurance Company. Thousands of Residents have been accepted so far for this program created to help pay for one's funeral and any other final expenses. To see if you qualify, mail the card in the enclosed postage paid envelope today. There is no charge for this information. Currently, you may qualify even if you have a health condition. Request cards received after the deadline may not receive this information in a timely manner.

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**NEW HAMPSHIRE INSURANCE DEPARTMENT**


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**ATTORNEY APPEARANCE or WITHDRAWAL**

Docket No. (if known): \_\_\_\_\_

Respondent Name or Case Name: \_\_\_\_\_

 **APPEARANCE**Please **ENTER** my appearance as  
Counsel for \_\_\_\_\_ I confirm that neither I nor any member of my  
law firm have been retained by the Department  
of Insurance or the Commissioner of Insurance. **WITHDRAWAL**Please **WITHDRAW** my appearance as  
Counsel for \_\_\_\_\_ Notice of Withdrawal sent to my client on:  
\_\_\_\_\_ at the following address:\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_I hereby certify that I provided a copy of this original request to the Department and a copy to all other  
known parties to this matter in accordance with Ins 204.09.

Signed: \_\_\_\_\_

Name: \_\_\_\_\_ NH Bar #: \_\_\_\_\_

Firm Name: \_\_\_\_\_ Email: (see also below) \_\_\_\_\_

Physical Address: \_\_\_\_\_

Mailing Address (if different): \_\_\_\_\_

Phone: \_\_\_\_\_

**Email Consent:**  By checking this box, I consent to delivery by email in accordance with Ins 204.09(c).  
Please send communications and documents to the above email address.**Date:** \_\_\_\_\_ **Signature:** \_\_\_\_\_***If you do not consent to delivery by email, all communications will be sent to you by personal delivery  
at your physical address or by United States Postal Service first class mail to your mailing address.***