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ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

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May 23, 2007

DENNIS B. FITZGIBBONS, CHIEF OF STAFF
GREGG A. ROTHSCHILD, CHIEF COUNSEL

Mr. C. James Prieur
Chief Executive Officer
Conseco, Inc.
11825 North Pennsylvania Street
Carmel, IN 46032

Dear Mr. Prieur:

Pursuant to Rules X and XI of the Rules of the U.S. House of Representatives, the Committee on Energy and Commerce and its Subcommittee on Oversight and Investigations are investigating allegations of unfair and deceptive business practices of companies that underwrite, market, and sell long-term nursing home and home health care insurance policies.

The U.S. Census Bureau projects that the number of Americans age 65 and older will exceed 71 million by 2030, nearly 20 percent of the population. According to the American Society on Aging, of those who reach the traditional retirement age of 65, more than 70 percent will require long-term care. The Congressional Budget Office reports that approximately 60 percent of long-term care spending is publicly financed, principally through the Medicaid program, and to a lesser extent through the Medicare program. For those long-term care policyholders whose coverage claims are denied because of bad faith practices of their company often must resort to "spending down" their assets until they are eligible for Medicaid coverage. The result further increases the financial pressure on this Nation's publicly-financed healthcare systems, limits possible life-prolonging care options for the individual policyholder, and deprives policyholders and their families the peace of mind and financial stability they had expected.

Conseco, Inc., a Delaware corporation (CNO), the successor to Conseco, Inc., an Indiana corporation, is the holding company for a group of insurance companies (collectively, "CNO companies") that operate throughout the United States. These companies develop, market, and administer a variety of insurance products, including long-term care insurance. CNO is one of the largest insurers in the country and, according to CNO's recent Securities and Exchange Commission filings, the company collected more than \$4.2 billion in premiums in 2006, of which about 21 percent were for long-term care policies. Yet a recent article¹ in *The New York*

¹ "Aged, Frail and Denied Care by Their Insurers," *New York Times*, 26 March 2007, sec. A16, p. 1.

Times by investigative reporter Charles Duhigg reported that companies such as the CNO companies may have “developed procedures that make it difficult—if not impossible—for policyholders to get paid.” Data from the National Association of Insurance Commissioners indicate that Conseco received more than 1 complaint regarding long-term care insurance for every 383 of its policyholders—a troubling statistic when compared to CNO’s industry peers. The *Times* reported that current and former employees of CNO and other long-term care insurers have “described business practices that denied or delayed policyholders’ claims for seemingly trivial reasons,” and that claims were denied because policyholders failed to submit insignificant paperwork, caretakers’ daily nursing notes did not detail minute procedures, policyholders filled out the wrong forms after receiving them from the insurance companies, or policyholders were treated at facilities deemed inappropriate despite the fact that they were licensed by State regulators.

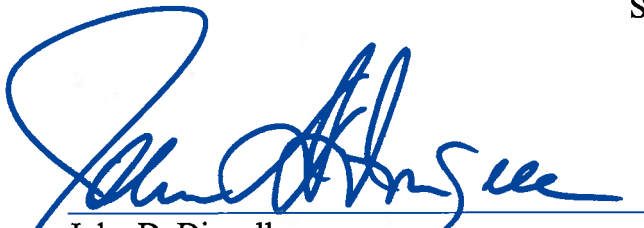
As the Congress considers ways to preserve the solvency of the Medicare Trust Fund and the long-term viability of the Medicaid program, we must ensure that those who purchase long-term care coverage, and pay their premiums on time and in good faith, are not forced to use publicly-financed programs because their insurance policies are structured to deny coverage. Accordingly, to assist us in our review of the practices and protocols some of the larger long-term care insurers use for handling claims, we request that you provide the following documents to this Committee within three weeks of the date of this letter:

1. All complaints, grievances, requests for reconsideration and appeals concerning the denial of claims for payment for long-term care services submitted to the CNO companies from September 10, 2003, through the present. As used in this letter, the term “long term care services” includes confinement to nursing facilities and assisted living facilities, home health care, community-based care furnished by licensed care providers and unlicensed caregivers, and nonforfeiture benefits (guaranteeing certain paid-up benefits in the event of policy lapse).
2. All documents from September 10, 2003, to the present that reflect administrative proceedings initiated against the CNO companies by any State Insurance Commissioner or State Insurance Department arising out of the denial of claims for payment for long-term care services.
3. All documents that reflect complaints filed against the CNO companies in State or Federal court arising out of the denial of claims for payment for long-term care services from September 10, 2003, through the present, all settlement agreements involving any such complaints, and all dismissals, voluntary or involuntary, of any such complaints.
4. All training manuals, training materials, and employee instructions and advisories concerning claims review, claims handling and investigation protocols, and dispute resolution procedures from January 1, 2002, through the present.

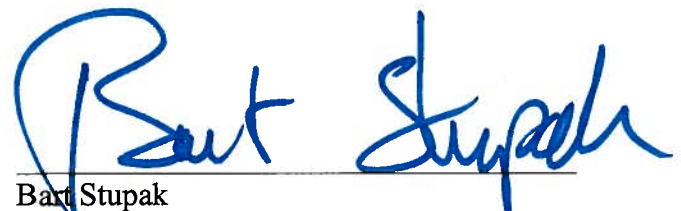
5. All documents that reflect loss ratios experienced by the CNO companies with respect to all long-term care policies from January 1, 2002, through the present.
6. All studies and recommendations of long-term care administration companies with respect to the CNO companies' claims management practices.
7. All memoranda and similar documents relating to increasing the specialization of claims adjudication teams, realignment of training and audit areas with claims processing functions, and claims handling procedures.
8. Exemplars of all notices to policyholders describing the CNO companies' dispute resolution processes issued from January 1, 2002, through the present; and
9. Job performance evaluation and bonus criteria for claims processors, adjusters, adjudicators, and customer service representatives from January 1, 2002, through the present.

Thank you in advance for your cooperation and prompt attention to this request. Should you have any questions, please contact Kristine Blackwood, Investigative Counsel to the Committee on Energy and Commerce, at (202) 226-2424.

Sincerely,



John D. Dingell
Chairman



Bart Stupak
Chairman
Subcommittee on Oversight and Investigations

cc: The Honorable Joe Barton, Ranking Member
Committee on Energy and Commerce

The Honorable Ed Whitfield, Ranking Member
Subcommittee on Oversight and Investigations