



STATE OF NEW YORK INSURANCE DEPARTMENT
REPORT ON EXAMINATION
OF THE
FIRST UNUM LIFE INSURANCE COMPANY

CONDITION:

DECEMBER 31, 2008

DATE OF REPORT:

MAY 18, 2010

STATE OF NEW YORK INSURANCE DEPARTMENT

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AS OF

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EXAMINER:

PHARES CATON

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STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NEW YORK 10004

Andrew M. Cuomo
Governor

James J. Wynn
Superintendent

January 25, 2011

Honorable James J. Wynn
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 30323, dated April 2, 2009 and annexed hereto, an examination has been made into the condition and affairs of First Unum Life Insurance Company, hereinafter referred to as "the Company," at its home office located at 666 Third Avenue, New York, NY 10017.

Wherever "Department" appears in this report, it refers to the State of New York Insurance Department.

The report indicating the results of this examination is respectfully submitted.

1. EXECUTIVE SUMMARY

The material comments contained in this report are summarized below.

- In November 2004, as the result of a Multi-State examination of Unum Group's insurance subsidiaries (First Unum Life Insurance Company, Unum Life Insurance Company of America, The Paul Revere Life Insurance Company, Provident Life and Accident Insurance Company and Provident Life and Casualty Insurance Company), concerning disability insurance claims handling practices, several Insurance Departments, including the New York Insurance Department, and the United States Department of Labor entered into Regulatory Settlement Agreements ("RSA") with the Unum Group. Effective with the signing of the RSA, the Unum Group agreed to the payment of a fine of \$15 million, of which \$1.64 million was allocated to New York.

The RSA required the Unum Group's insurance subsidiaries to make significant changes in corporate governance, implement a meaningful claim reassessment process, make changes in the companies' claim organization, implement significant revisions to claim procedures and provide for a full re-examination of both reassessed claims and disability insurance claim decisions after the January 2005 effective date of the RSA.

A Multi-State Market Conduct examination was conducted at the end of the remediation period to ensure that Unum Group was fulfilling the terms of the RSA. According to the examination report dated April 14, 2008, conducted as of December 31, 2007, the error rates determined as a result of the examination were within the allowable tolerance levels provided for by the NAIC in its Market Conduct Handbook and as provided by the Regulatory Settlement Agreement.

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2005. This examination covers the period from January 1, 2006 through December 31, 2008. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2008 but prior to the date of this report (i.e., the completion date of the examination).

The examination comprised a verification of assets and liabilities as of December 31, 2008 to determine whether the Company's 2008 filed annual statement fairly presents its financial condition. The examiner reviewed the Company's income and disbursements necessary to accomplish such verification and utilized the National Association of Insurance Commissioners' Examiners Handbook or such other examination procedures, as deemed appropriate, in such review and in the review or audit of the following matters:

- Company history
- Management and control
- Corporate records
- Fidelity bond and other insurance
- Territory and plan of operation
- Market conduct activities
- Growth of Company
- Business in force by states
- Mortality and loss experience
- Reinsurance
- Accounts and records
- Financial statements

The examiner reviewed the corrective actions taken by the Company with respect to the violations, recommendations and/or comments contained in the prior report on examination. The results of the examiner's review are contained in item 8 of this report.

This report on examination is confined to financial statements and comments on those matters which involve departure from laws, regulations or rules, or which require explanation or description.

3. DESCRIPTION OF COMPANY

A. History

The Company was incorporated as a stock life insurance company under the laws of the State of New York on October 16, 1959 under the name Hamilton Life Insurance Company of New York ("Hamilton Life"). The Company was licensed and commenced business on January 22, 1960. Initial resources of \$400,000, of common capital stock, were provided through the sale of 4,000 shares of common stock with a par value of \$100 each.

In March 1968, due to surplus problems, the New York State Supreme Court gave the Department permission to take over Hamilton Life and attempt to rehabilitate it. This action was taken as a result of a special report by the Department that indicated that Hamilton Life was insolvent.

In May 1970, an agreement was executed for the recapitalization of Hamilton Life among: the Superintendent of Insurance, as court appointed rehabilitator of Hamilton Life; Union Mutual Life Insurance Company, Portland, Maine; Unionmutual Corporation, a Delaware Corporation; and the Life Insurance Guaranty Corporation. The agreement called for Union Mutual Life Insurance Company, the parent company of Unionmutual Corporation, to contribute \$1,000,000 in cash and \$575,000 in securities to Hamilton Life's capital and surplus. One million dollars was allocated to the capital account, consisting of 1,000,000 shares of common stock (with a par value of \$1), and \$578,519 was contributed to surplus. This transaction was completed on September 30, 1970, and the Company's name was changed to Unionmutual Stock Life Insurance Company of New York.

In November of 1986, Union Mutual Life Insurance Company demutualized and changed its name to Unum Life Insurance Company ("Unum Life"). In addition, the Unionmutual Corporation changed its name to Unum Holding Company and Unionmutual Stock Life Insurance Company of New York changed its name to First Unum Life Insurance Company. At the same time, a new corporation, Unum Corporation, was formed which owned 100% of Unum Life.

On July 25, 1990, the Department approved the acquisition of First Commercial Life Insurance Company by the Unum Corporation from the Continental Corporation. On July 31, 1990, First Commercial Life Insurance Company was merged into the Company.

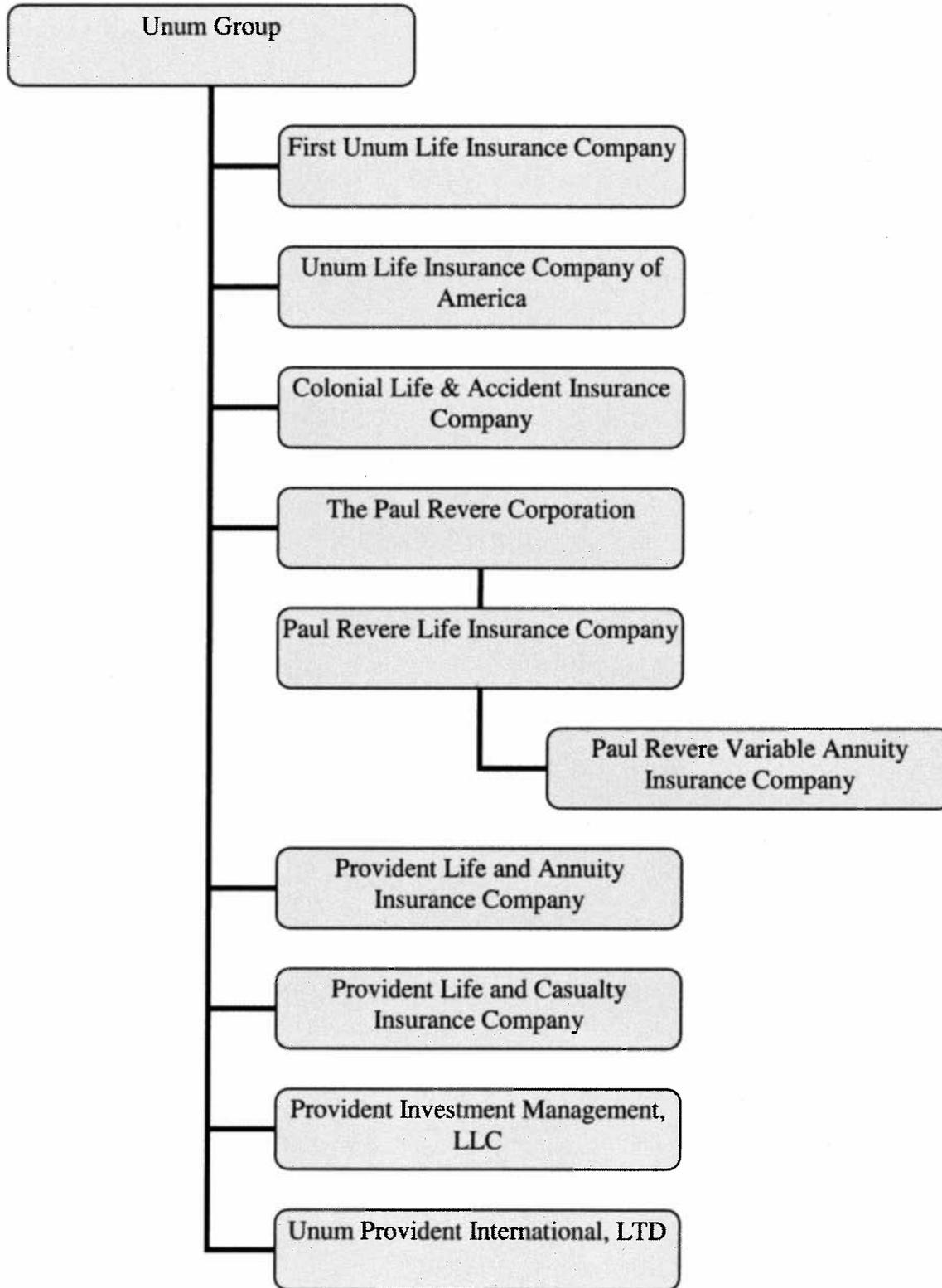
On December 31, 1991, Unum Life merged into Unum Life Insurance Company of America leaving Unum Holding Company wholly owned by Unum Corporation. On June 30, 1999, Unum Corporation merged with and into Provident Companies, Inc. under the name UnumProvident Corporation. On December 22, 2004, Unum Holding Company was merged into UnumProvident Corporation and the Company was 100% owned by UnumProvident Corporation. In 2007, UnumProvident Corporation changed its name to Unum Group (“Unum”).

Unum made capital contributions totaling \$20 million to the Company in 2006. As of December 31, 2008, the Company had \$2,000,000 of common capital stock consisting of 2,000,000 shares with a par value of \$1 each and gross paid in and contributed surplus of \$193,435,244.

B. Holding Company

The Company is a wholly owned subsidiary of Unum, a Delaware general business corporation that acts as a holding company for a number of insurance and non-insurance subsidiaries. Unum is the largest writer of individual and group disability insurance in the world.

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2008 follows:



The Company had two service agreements in effect with affiliates during the examination period.

| Type of Agreement and Department File Number | Effective Date | Provider(s) of Service(s) | Recipient(s) of Service(s) | Specific Service(s) Covered | (Expense)* For Each Year of the Examination |
|--|-------------------------------------|--------------------------------------|-----------------------------------|--|--|
| General Services File Number 235777 | 01/01/2001 Amended 01/01/2004 | UnumProvident Corporation | First Unum Life Insurance Company | Personnel and resources List of services to include; Accounting, Legal, Sales management, Claims, Tax accounting, and Banking, | 2006: (\$46,669,606) 2007: (\$47,943,712) 2008: (\$53,885,077) |
| Investment Management Agreement File Number 323646 | 06/30/1999 Amended 03/23/2005 | Provident Investment Management, LLC | First Unum Life Insurance Company | Management of designated assets | 2006: (\$ 2,326,473) 2007: (\$ 2,522,905) 2008: (\$ 2,637,420) |

* Amount of (Expense) incurred by the Company

The Company is also party to a tax allocation agreement, effective January 1, 2007, with its parent and its affiliates.

C. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than 13 and not more than 15 directors. Directors are elected for a period of one year at the annual meeting of the stockholders held in February of each year. As of December 31, 2008, the board of directors consisted of 13 members. Meetings of the board are held quarterly.

The 13 board members and their principal business affiliation, as of December 31, 2008, were as follows:

| <u>Name and Residence</u> | <u>Principal Business Affiliation</u> | <u>Year First Elected</u> |
|---|--|---------------------------|
| Robert O. Best Signal Mountain, TN | Executive Vice President, Chief Operating Officer - First Unum Life Insurance Company | 2006 |
| Elmer L. Bishop III Lookout Mountain, TN | Executive Vice President and General Counsel First Unum Life Insurance Company | 2008 |
| Robert E. Cash* Cumberland Foreside, ME | Retired | 1992 |
| Regina M. Del Campo Hastings-On-Hudson, NY | Director, Service & Administration Unum Group | 2008 |
| Robert E. Derrah* Jackson, NH | Retired | 2002 |
| Barbara J. Feneli Victor, NY | Director, Service & Administration Unum Group | 2005 |
| Ward I. Graffam* Portland, ME | Chairman, Graffam & Associates | 2006 |
| Robert C. Greving Signal Mountain, TN | Executive Vice President and Chief Financial Officer - First Unum Life Insurance Company | 2006 |
| Joseph P. Heaney Falmouth, ME | Vice President, Managing Director Sales Unum US Group | 2007 |
| Edward R. Hillman* Yarmouth, ME | Retired | 1995 |
| Kevin P. McCarthy Falmouth, ME | Executive Vice President, President and Chief Executive Officer Unum US | 2006 |
| Thomas R. Watjen Lookout Mountain, TN | President, Chief Executive Officer and Chairman First Unum Life Insurance Company | 1999 |
| Henry M. White, Jr.* Mystic, CT | Retired | 1992 |

* Not affiliated with the Company or any other company in the holding company system.

In August, 2009, Robert C. Greving resigned from the Board and was replaced by Richard P. McKenney.

The examiner's review of the minutes of the meetings of the board of directors and its committees indicated that meetings were well attended and that each director attended a majority of meetings.

The following is a listing of the principal officers of the Company as of December 31, 2008:

| <u>Name</u> | <u>Title</u> |
|-------------------------|---|
| Thomas R. Watjen | President and Chief Executive Officer |
| Kevin P. McCarthy | Executive Vice President |
| Susan N. Roth | Vice President, Secretary and Assistant General Counsel |
| Kevin A. McMahon | Vice President and Corporate Secretary |
| Robert O. Best | Executive Vice President, Chief Operating Officer |
| Robert C. Greving | Executive Vice President, Chief Financial Officer and Chief Actuary |
| Elmer L. Bishop III | Executive Vice President and General Counsel |
| Joseph R. Foley | Senior Vice President and Chief Marketing Officer |
| Vicki W. Corbett | Vice President and Controller |
| Albert A. Riggieri, Jr. | Vice President Actuarial |

The designated consumer services officer per Section 216.4(c) of Department Regulation No. 64 is Susan J. Griffin, Vice President of Market Conduct.

In August, 2009, Richard P. McKenney replaced Robert C. Greving as Executive Vice President and Chief Financial Officer.

D. Territory and Plan of Operation

The Company is authorized to write life insurance, annuities and accident and health insurance as defined in paragraphs 1, 2 and 3 of Section 1113(a) of the New York Insurance Law.

The Company is licensed to transact business in New York only. In 2008, 95.4% of life premiums, 89.0% of accident and health premiums, 100% of annuity considerations, and 100% of deposit type funds) were received from New York State. Policies are written on a non-participating basis.

The Company principally markets group and individual disability income insurance, group life insurance and specialty accident and health insurance. The Company targets the sale of its disability products to executive, administrative and management personnel, and other professionals such as educators, consultants, health care providers, accountants and engineers.

The Company markets its products through sales personnel and brokers.

E. Reinsurance

As of December 31, 2008, the Company had reinsurance treaties in effect with 31 companies, of which 18 were authorized or accredited. The Company's life and accident and health business is reinsured on a coinsurance and yearly renewable term basis.

The maximum retention limit for individual life contracts is \$600,000. The total face amount of life insurance ceded as of December 31, 2008, was \$522,510,881, which represents 1.6% of the total face amount of life insurance in force. Reserve credit taken for reinsurance ceded to unauthorized companies, totaling \$5,621,712, was supported by letters of credit and trust agreements.

The total face amount of life insurance assumed as of December 31, 2008, was \$298,597,605.

4. SIGNIFICANT OPERATING RESULTS

Indicated below is significant information concerning the operations of the Company during the period under examination as extracted from its filed annual statements. Failure of items to add to the totals shown in any table in this report is due to rounding.

The following table indicates the Company's financial growth (decline) during the period under review:

| | December 31, <u>2005</u> | December 31, <u>2008</u> | Increase (Decrease) |
|--|-----------------------------|-----------------------------|------------------------|
| Admitted assets | <u>\$1,497,286,468</u> | <u>\$1,933,234,243</u> | <u>\$435,947,775</u> |
| Liabilities | <u>\$1,337,161,723</u> | <u>\$1,739,440,994</u> | <u>\$402,279,271</u> |
| Common capital stock | \$ 2,000,000 | \$ 2,000,000 | \$ 0 |
| Gross paid in and contributed surplus | 173,435,244 | 193,435,244 | 20,000,000 |
| Aggregate write-ins for special surplus funds | 2,065,765 | 1,132,873 | (932,892) |
| Unassigned funds (surplus) | <u>(17,376,264)</u> | <u>(2,774,868)</u> | <u>14,601,396</u> |
| Total capital and surplus | <u>\$ 160,124,745</u> | <u>\$ 193,793,249</u> | <u>\$ 33,668,504</u> |
| Total liabilities, capital and surplus | <u>\$1,497,286,468</u> | <u>\$1,933,234,243</u> | <u>\$435,947,775</u> |

The Company's invested assets as of December 31, 2008, exclusive of separate accounts, were mainly comprised of bonds (92.5%), mortgage loans (4.0%), stocks (1.6%), cash and short-term investments (1.4%), and policy loans (0.5%).

The majority (96.3%) of the Company's bond portfolio, as of December 31, 2008, was comprised of investment grade obligations.

The following is the net gain (loss) from operations by line of business after federal income taxes but before realized capital gains (losses) reported for each of the years under examination in the Company's filed annual statements:

| | <u>2008</u> | <u>2007</u> | <u>2006</u> |
|---------------------------|----------------------|----------------------|----------------------|
| Ordinary: | | | |
| Life insurance | \$ 1,524,639 | \$ 1,669,657 | \$ 2,228,674 |
| Supplementary contracts | <u>1,087,361</u> | <u>1,151,295</u> | <u>1,387,702</u> |
| Total ordinary | \$ <u>2,612,000</u> | \$ <u>2,820,952</u> | \$ <u>3,616,376</u> |
| Group: | | | |
| Life | \$ 8,696,388 | \$ 5,409,564 | \$ 8,234,886 |
| Annuities | <u>16,825</u> | <u>16,113</u> | <u>5,019</u> |
| Total group | \$ <u>8,713,213</u> | \$ <u>5,425,677</u> | \$ <u>8,239,905</u> |
| Accident and health: | | | |
| Group | \$23,073,886 | \$ 21,437,846 | \$ 29,845,735 |
| Other | <u>(9,570,969)</u> | <u>(11,888,606)</u> | <u>(14,939,389)</u> |
| Total accident and health | \$ <u>13,502,917</u> | \$ <u>9,549,240</u> | \$ <u>14,906,346</u> |
| Total | \$ <u>24,828,129</u> | \$ <u>17,795,870</u> | \$ <u>26,762,627</u> |

Over the last 3 years the Company's "Other Accident and Health" line of business (Individual Long Term care) has lost money due to higher claim cost compared to the premium and investment income received.

5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2008, as contained in the Company's 2008 filed annual statement, a condensed summary of operations and a reconciliation of the capital and surplus account for each of the years under review. The examiner's review of a sample of transactions did not reveal any differences which materially affected the Company's financial condition as presented in its financial statements contained in the December 31, 2008 filed annual statement.

A. ASSETS, LIABILITIES, CAPITAL AND SURPLUS AS OF DECEMBER 31, 2008

Admitted Assets

| | |
|--|----------------------------|
| Bonds | \$1,737,451,278 |
| Stocks: | |
| Preferred stocks | 29,550,451 |
| Mortgage loans on real estate: | |
| First liens | 75,095,724 |
| Cash, cash equivalents and short term investments | 26,346,616 |
| Contract loans | 9,532,726 |
| Investment income due and accrued | 23,012,663 |
| Premiums and considerations: | |
| Uncollected premiums and agents' balances in the course of collection | 22,713,556 |
| Deferred premiums, agents' balances and installments booked but deferred and not yet due | 60,792 |
| Reinsurance: | |
| Amounts recoverable from reinsurers | 63,438 |
| Other amounts receivable under reinsurance contracts | 875,713 |
| Amounts receivable relating to uninsured plans | 34,914 |
| Net deferred tax asset | 4,275,343 |
| Receivables from parent, subsidiaries and affiliates | 3,231,290 |
| Other assets | <u>891</u> |
| Total assets excluding Separate Accounts, Segregated Accounts. | 1,932,245,396 |
| From Separate Accounts, Segregated Accounts and Protected Cell Accounts | <u>988,847</u> |
| Total admitted assets | <u>\$1,933,234,243</u> |

Liabilities, Capital and Surplus

| | |
|--|----------------------------|
| Aggregate reserve for life policies and contracts | \$ 75,519,912 |
| Aggregate reserve for accident and health contracts | 1,435,281,963 |
| Liability for deposit-type contracts | 36,217,939 |
| Contract claims: | |
| Life | 17,372,736 |
| Accident and health | 112,635,843 |
| Premiums and annuity considerations for life and accident and health contracts received in advance | 3,143,875 |
| Contract liabilities not included elsewhere: | |
| Other amounts payable on reinsurance | 138,408 |
| Interest maintenance reserve | 6,376,043 |
| Commissions to agents due or accrued | 3,406,674 |
| Commissions and expense allowances payable on reinsurance assumed | 10,283 |
| Taxes, licenses and fees due or accrued, excluding federal income taxes | 3,854,363 |
| Current federal and foreign income taxes | 1,567,487 |
| Unearned investment income | 335,612 |
| Amounts withheld or retained by company as agent or trustee | 144,034 |
| Remittances and items not allocated | 2,929,223 |
| Miscellaneous liabilities: | |
| Asset valuation reserve | 12,458,180 |
| Liability for unclaimed property | 1,264,559 |
| Cash collateral on derivatives | 21,563,383 |
| Derivative deferred gains | 3,825,000 |
| Amounts payable to third party administrators | 269,620 |
| Other liabilities | 137,009 |
| From Separate Accounts statement | <u>988,847</u> |
| Total liabilities | <u>\$1,739,440,994</u> |
| Common capital stock | \$ 2,000,000 |
| Deferred gains on reinsurance transactions | 1,132,873 |
| Gross paid in and contributed surplus | 193,435,244 |
| Unassigned funds (surplus) | <u>(2,774,868)</u> |
| Surplus | <u>\$ 191,793,249</u> |
| Total capital and surplus | <u>\$ 193,793,249</u> |
| Total liabilities, capital and surplus | <u>\$1,933,234,243</u> |

B. CONDENSED SUMMARY OF OPERATIONS

| | <u>2008</u> | <u>2007</u> | <u>2006</u> |
|--|--------------------------|--------------------------|--------------------------|
| Premiums and considerations | \$413,339,142 | \$408,465,762 | \$413,741,736 |
| Investment income | 111,482,925 | 103,223,194 | 94,315,459 |
| Commissions and reserve adjustments on reinsurance ceded | 4,813,858 | 3,458,323 | 5,898,415 |
| Miscellaneous income | <u>2,305,562</u> | <u>2,378,965</u> | <u>1,857,440</u> |
| Total income | <u>\$531,941,487</u> | <u>\$517,526,244</u> | <u>\$515,813,049</u> |
| Benefit payments | \$291,645,485 | \$263,221,072 | \$288,218,314 |
| Increase in reserves | 96,612,114 | 134,898,208 | 114,629,669 |
| Commissions | 34,454,223 | 33,195,533 | 32,303,464 |
| General expenses and taxes | 69,577,946 | 59,268,584 | 56,839,676 |
| Increase in loading on deferred and uncollected premium | (21,614) | (944) | 10,690 |
| Net transfers to (from) Separate Accounts | (232,250) | (749,207) | (468,690) |
| Fines and Penalties | <u>1,092</u> | <u>956</u> | <u>158,631</u> |
| Total deductions | <u>\$492,036,995</u> | <u>\$489,834,200</u> | <u>\$491,691,755</u> |
| Net gain (loss) | \$ 39,904,492 | \$ 27,692,044 | \$ 24,121,295 |
| Dividends | 0 | 0 | 0 |
| Federal and foreign income taxes incurred | <u>15,076,363</u> | <u>9,896,174</u> | <u>(2,641,332)</u> |
| Net gain (loss) from operations before net realized capital gains | \$ 24,828,129 | \$ 17,795,870 | \$ 26,762,627 |
| Net realized capital gains (losses) | <u>(5,354,685)</u> | <u>2,904,895</u> | <u>(609,601)</u> |
| Net income | <u>\$ 19,473,444</u> | <u>\$ 20,700,765</u> | <u>\$ 26,153,026</u> |

C. CAPITAL AND SURPLUS ACCOUNT

| | <u>2008</u> | <u>2007</u> | <u>2006</u> |
|--|----------------------|----------------------|----------------------|
| Capital and surplus, December 31, prior year | <u>\$184,024,505</u> | <u>\$182,762,631</u> | <u>\$160,124,744</u> |
| Net income | \$ 19,473,444 | \$ 20,700,765 | \$ 26,153,026 |
| Change in net deferred income tax | 9,092,649 | 4,859,000 | (2,605,000) |
| Change in non-admitted assets and related items | (8,001,403) | (6,046,708) | 5,251,248 |
| Change in liability for reinsurance in unauthorized companies | 132,918 | (131,085) | 139,535 |
| Change in reserve valuation basis | (7,967,285) | (14,073,889) | (23,940,256) |
| Change in asset valuation reserve | (2,679,542) | (3,742,477) | (2,013,543) |
| Surplus adjustments: | | | |
| Paid in | 0 | 0 | 20,000,000 |
| Change in surplus as a result of reinsurance | <u>(282,036)</u> | <u>(303,732)</u> | <u>(347,124)</u> |
| Net change in capital and surplus for the year | \$ <u>9,768,745</u> | \$ <u>1,261,874</u> | \$ <u>22,637,886</u> |
| Capital and surplus, December 31, current year | <u>\$193,793,249</u> | <u>\$184,024,505</u> | <u>\$182,762,631</u> |

6. MARKET CONDUCT ACTIVITIES

The examiner reviewed various elements of the Company's market conduct activities affecting policyholders, claimants, and beneficiaries to determine compliance with applicable statutes and regulations and the operating rules of the Company.

A. Advertising and Sales Activities

The examiner reviewed a sample of the Company's advertising files and the sales activities of the agency force including trade practices, solicitation and the replacement of insurance policies.

Based upon the sample reviewed, no significant findings were noted.

B. Underwriting and Policy Forms

The examiner reviewed a sample of new underwriting files, both issued and declined, and the applicable policy forms.

Based upon the sample reviewed, no significant findings were noted.

C. Treatment of Policyholders

The examiner reviewed a sample of various types of claims, surrenders, changes and lapses. The examiner also reviewed the various controls involved, checked the accuracy of the computations and traced the accounting data to the books of account.

In November 2004, as the result of a Multi-State examination of Unum Group's insurance subsidiaries (First Unum Life Insurance Company, Unum Life Insurance Company of America, The Paul Revere Life Insurance Company, Provident Life and Accident Insurance Company and Provident Life and Casualty Insurance Company), concerning disability insurance claim handling practices, several Insurance Departments, including the New York Insurance Department, and the United States Department of Labor entered into Regulatory Settlement Agreements ("RSA") with the Unum Group. Effective with the signing of the RSA, the Unum Group agreed to the payment of a fine of \$15 million, of which \$1.64 million was allocated to New York.

The RSA required that Unum Group's insurance subsidiaries make significant changes in corporate governance, implement a meaningful claim reassessment process, make changes in the companies' claim organization, implement significant revisions to claim procedures and provide for a full re-examination of both reassessed claims and disability insurance claim decisions after the January 2005 effective date of the RSA.

The RSA also provided for a three year period in which all eligible claimants who opted into the settlement agreement would have their claims remediated in accordance with the terms and requirements of the RSA.

A Multi-State Market Conduct examination was conducted at the end of the remediation period to ensure that Unum Group's insurance subsidiaries were fulfilling the terms of the RSA. According to the examination report dated April 14, 2008, conducted as of December 31, 2007, the error rates determined as a result of the examination were within the allowable tolerance levels provided for by the NAIC in its Market Conduct Handbook and as provided by the Regulatory Settlement Agreement.

The Company stated that, as of December 31, 2009, 41.7% of the claims reassessed were reversed in whole or in part, and that approximately \$43.3 million was paid to New York claimants. All claims under the terms of the RSA have been identified and for those that remain in open status, the Company has established an additional reserve of \$18.3 million.

During the current examination a sample of 97 disability claims were selected. These claims were split between long term disability (37), short term disability (39), and individual disability (21). The sample included both paid and denied claims. The examiner also reviewed 49 long term care claims that also included paid and denied claims. In addition, the examiner reviewed 20 compromised claims (instances where claimants requested a lump sum payment instead of monthly payments).

The review of the paid claims did not reveal any deviations from New York Insurance Law or Department Regulations.

7. ACTUARIAL STATEMENT OF SELF-SUPPORT AND SUPPORTING DEMONSTRATIONS

Section 4228(h) of the New York Insurance Law states, in part:

“(h) No company shall offer for sale any life insurance policy form or annuity contract form covered by this section or any debit life insurance policy form which shall not appear to be self-supporting on reasonable assumptions as to interest, mortality, persistency, taxes, agents' and brokers' survival and expenses resulting from the sale of the policy or contract form. For all such forms offered for sale in this state, and for all forms filed for use outside this state by domestic life insurance companies, a statement that the requirements of this subsection have been met, signed by an actuary who is a member in good standing of the American Academy of Actuaries and meets the requirements prescribed by the superintendent by regulation shall be submitted with each such life insurance policy or annuity contract form filed pursuant to paragraph one or six of subsection (b) of section three thousand two hundred one of this chapter. A demonstration supporting each such statement, signed by an actuary meeting such qualifications, shall be retained in the company's home office, while such form is being offered in this state and for a period of six years thereafter and be available for inspection . . .”

The examiner conducted a review of the pricing adequacy for various products subject to Section 4228(h) of the New York Insurance Law. This review included an examination of the required actuarial statements of self support and the supporting demonstrations. The examiner requested statements of self-support and corresponding demonstrations for selected policy forms. Upon request, the company was able to provide evidence that such analyses had been performed prior to the date of the corresponding statement of self support. However, the Company was unable to provide a signed demonstration of self-support in violation of Section 4228(h).

In response to the Department's concerns, the Company reviewed the requirements of Section 4228(h) and updated their procedures to ensure compliance with such requirements.

The Company violated Section 4228(h) of the New York Insurance Law by failing to provide signed demonstrations for Forms FUL-21794, FUL 21825, FWL 1.0 and FOT 1.0.

In addition, the examiner recommends that the Company monitor the implemented changes to ensure future compliance.

8. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations, recommendations and comments contained in the prior report on examination and the subsequent actions taken by the Company in response to each citation:

| <u>Item</u> | <u>Description</u> |
|-------------|--|
| A | <p>The Company violated Section 4235(h)(3) of the New York Insurance Law by paying commissions in excess of the commission schedule on file with the Department.</p> <p>The violation resulted from the Company's relationship with a single broker. The Company terminated its relationship with the broker.</p> |
| B | <p>The examiner recommended that the Company continue the LTC reserves strengthening plan, implement the segmentation plan and establish the related interest rate swaps as agreed upon with the Department.</p> <p>The Company complied with the requirements of the agreement entered in to with the Department.</p> |
| C | <p>The Company violated Section 215.2(b) of Department Regulation No. 34 by not at all times maintaining a system of control over the content, and form of all advertisement of its policies.</p> <p>The Company reviews advertising material for compliance with Department laws and regulations and to ensure that the Company's insurance products and services are presented accurately. The Company's advertising review process requires that all advertising material be reviewed and approved prior to the material being disseminated outside the Company. In addition, the Company continually educates home office and sales office employees about the advertising review process.</p> |
| D | <p>The Company violated Section 215.13(a) of Department Regulation No. 34 by: failing to identify the Company as the insuring and underwriting entity on all its policy forms; failing to identify the actual insurer in its advertisements and by using an incorrect policy form number in its advertisement.</p> <p>The Company reviewed and reinforced efforts to achieve compliance with Section 215.13(a). The Company procedures require that the proper underwriting insurer and form number appear on all advertising materials and policy forms distributed in New York state. Additionally, the Company ended its affiliation with the broker, which was the origin of the majority of the noncompliant policy forms and advertisements.</p> |

| <u>Item</u> | <u>Description</u> |
|-------------|--|
| E | <p>The examiner recommended that the Company amend its policy forms to reflect the correct name of the insurer.</p> <p>The Company procedures require that the proper underwriting insurer and form number appear on all policy forms distributed in New York state. Additionally, the Company ended its affiliation with the broker, which was the origin of the majority of the noncompliant policy forms.</p> |
| F | <p>The examiner recommended that all correspondence with policyholders, insureds, physicians, and applicants reflect the correct name of the insurer.</p> <p>The Company procedures require that the proper underwriting insurer and form number appear on all policy forms distributed in New York state. Additionally, the Company ended its affiliation with the broker, which was the origin of the majority of the noncompliant policy forms.</p> |
| G | <p>The Company violated Section 53-3.5(a) of Department Regulation No. 74 by failing to consistently provide applicants with a copy of the sales illustration used at the point of sale.</p> <p>The Company developed a procedure to ensure that illustrations are provided at the point of sale.</p> |
| H | <p>The Company violated Section 53-3.5(e) of Department Regulation No. 74 by failing to retain the sales illustrations on issued policies.</p> <p>The Company now retains a copy of the illustration.</p> |
| I | <p>The Company violated Section 3201(b)(1) of the New York Insurance Law by using two employee enrollment forms and two endorsements and one application that were not filed with and approved by the Superintendent.</p> <p>The Company filed the enrollment forms with Department.</p> |
| J | <p>The Company violated Section 403(d) of the New York Insurance Law by failing to use the required fraud warning language on the enrollment forms for the group AD&D policies issued to credit union members.</p> <p>The Company corrected the violation and is now using the correct fraud warning.</p> |

| <u>Item</u> | <u>Description</u> |
|-------------|---|
| K | <p>The examiner recommended that the Company revise the aforementioned enrollment forms to include the complete fraud warning required by Law.</p> <p>The Company has revised the fraud warning.</p> |
| L | <p>A Multi-State Market Conduct examination conducted at the end of the remediation period revealed that the error rates determined as a result of the examination were within the allowable tolerance levels provided for by the NAIC in its Market Conduct Handbook and as provided by the Regulatory Settlement Agreement. As a result of the claims reassessment process, approximately \$59.8 million of additional benefits were set aside for New York claimants.</p> <p>The Company stated that, as of December 31, 2009, 41.7% of the claims reassessed were reversed in whole or in part, and that approximately \$43.3 million was paid to New York claimants.</p> |
| M | <p>The Company violated Section 4232(b)(4) of the New York Insurance Law for crediting additional amounts on universal life policies without written criteria approved by the board of directors of the Company.</p> <p>The Company obtained the required written criteria approved by the Board of Directors.</p> |
| N | <p>The Company violated Section 4232(b)(2) of the New York Insurance Law when the method used to credit interest rates on its universal life policies was not based directly on reasonable investment income assumptions for the asset segment supporting the Company's policies.</p> <p>Interest is now credited based on a rate approved by the Board of Directors, and in line with the Department guidelines. The Company corrected the previous shortfalls by performing remediation to the affected policies.</p> |
| O | <p>The Company violated section 53-3.6(d) of Department Regulation No. 74, by failing to notify policyowners of widened interest spreads between investment income and the credited interest rates.</p> <p>The Company explained in writing to all affected policyholders both terminated and inforce why they received additional interest on their policies.</p> |

9. SUMMARY AND CONCLUSIONS

Following are the comment, violation and recommendation contained in this report:

| <u>Item</u> | <u>Description</u> | <u>Page No(s).</u> |
|-------------|--|--------------------|
| A | As of December 31, 2009, All claims under the terms of the RSA have been identified and for those that remain in open status, the Company has established an additional reserve of \$18.3 million. | 18 |
| B | The Company violated Section 4228(h) of the New York Insurance Law by failing to provide signed demonstrations for Forms FUL-21794, FUL 21825, FWL 1.0 and FOT 1.0. | 19 |
| C | The examiner recommends that the Company monitor the implemented changes to ensure future compliance. | 19 |

Respectfully submitted,

_____/s/_____
Marc A. Tse
Associate Insurance Examiner

STATE OF NEW YORK)
)SS:
COUNTY OF NEW YORK)

Marc A. Tse, being duly sworn, deposes and says that the foregoing report, subscribed by him, is true to the best of his knowledge and belief.

_____/s/_____
Marc A. Tse

Subscribed and sworn to before me

this _____ day of _____

APPOINTMENT NO. 30323

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, ERIC R. DINALLO, Superintendent of Insurance of the State of New York,
pursuant to the provisions of the Insurance Law, do hereby appoint:

PHARES CATON

as a proper person to examine into the affairs of the

FIRST UNUM LIFE INSURANCE COMPANY

and to make a report to me in writing of the condition of the said

COMPANY

with such other information as he shall deem requisite.

In Witness Whereof, I have hereunto subscribed by name
and affixed the official Seal of the Department
at the City of New York

this 2nd day of April, 2009



ERIC R. DINALLO

Superintendent of Insurance

A handwritten signature in black ink that reads "Eric R. Dinallo".

Superintendent