



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

CONDITION:

DECEMBER 31, 2005

DATE OF REPORT:

AUGUST 18, 2006

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AS OF
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EXAMINER:

VINCENT TARGIA

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

David A. Paterson
Governor

Eric R. Dinallo
Superintendent

September 11, 2008

Honorable Eric R. Dinallo
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 22437, dated December 6, 2005 and annexed hereto, an examination has been made into the condition and affairs of First United American Life Insurance Company, hereinafter referred to as "the Company," at its home office located at 1020 Seventh North Street, Liverpool, New York 13088.

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 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, 2005 filed annual statement. (See item 5 of this report)

The Company is an active participant in the Medicare Supplement market in New York State. Based on complaints received by the Department alleging improper sales tactics in the issuance of Medicare Supplement business the Department's Consumer Services Bureau initiated an investigation into the sales activities of agents referenced in the complaints. Since all of the agents were employed by the same general agent, the Department's Consumer Services Bureau investigation focused on the Medicare Supplement sales practices of this particular agency as well as the oversight and control provided by the Company.

The Consumer Services Bureau reviewed copies of all available sales and training materials provided by the Company to its general agents and soliciting agents, as well as applications of select agents and agencies. In addition, letters were sent to insured's whose Medicare Supplement policies were replaced to determine whether the new coverage provided by the Company replaced an existing policy that was more beneficial to the insured, and whether duplicate coverage was in place.

This investigation uncovered the following:

1. The Company violated Section 52.22(b)(9) of Department Regulation No. 62 by using Medicare Supplement advertising material that was not submitted to the Department for review prior to its use. (See Section 7 of this report)

2. The Company violated Sections 215.2(b) and Section 215.17(a) of Department Regulation No. 34 by failing to maintain a system of control over the content, form and method of dissemination of its advertisements and by failing to maintain as part of its advertising file the "Weiss" rating utilized by its agents in the sale of its Medicare Supplement insurance. (See Section 7 of this report)

3. The Company violated Section 52.22(i)(1) of Department Regulation No. 62 by failing to establish auditable procedures to assure that excess Medicare Supplement insurance is not sold or issued. (See Section 7 of this report)

It is recommended that the Company implement a remediation plan, agreeable to the Department, to address whether any Medicare Supplement policyholder has excess coverage and to make appropriate refunds to such policyholders. (See Section 7 of this report)

The Company violated Section 325(a) of the New York Insurance Law by failing to maintain the minutes of the meetings of its Audit and Evaluation committee for the year 2005 at its principal office in this state. (See Section 3C of this report)

The Company violated Section 219.4(u) of Department Regulation No. 34-A by describing an enrollment period as a “last chance” or “last time” when it used successive enrollment periods as its usual method of marketing its policies. (See item 6A of this report)

The Company violated Section 2114(a)(3) of the New York Insurance Law by paying commissions to a general agency on behalf of an unlicensed insurance agent. (See item 6A of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2002. This examination covers the period from January 1, 2003 through December 31, 2005. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2005 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, 2005 to determine whether the Company's 2005 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
- Officers' and employees' welfare and pension plans
- 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 contained in the prior report on examination. The results of the examiner's review are contained in item eight 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

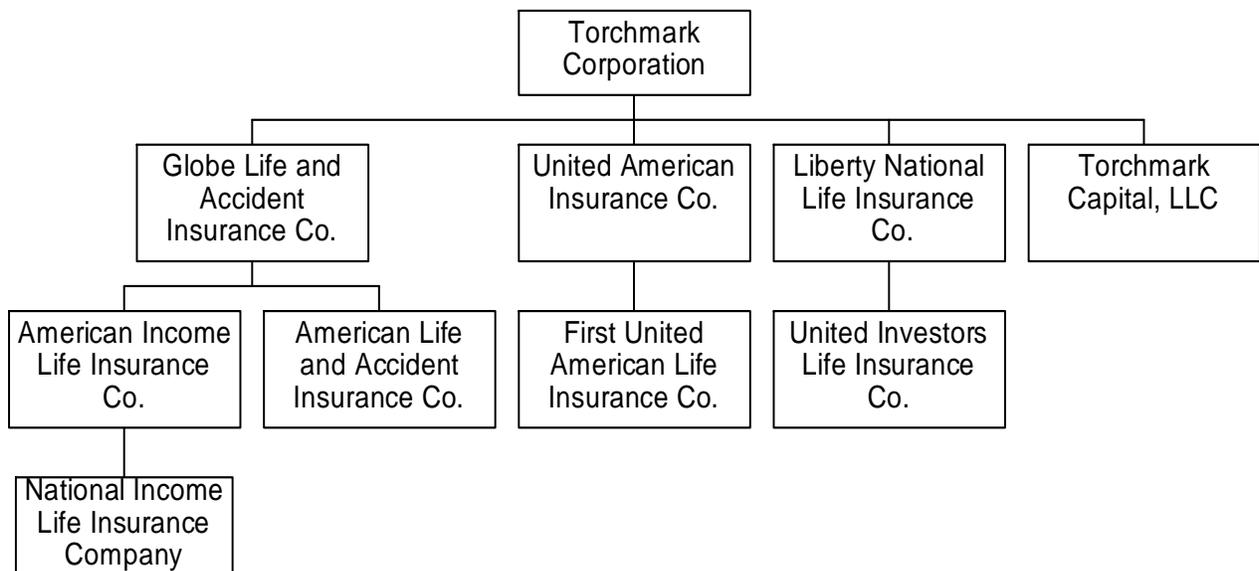
A. History

The Company was incorporated as a stock life insurance company under the laws of New York on June 16, 1981 under the name of Globe International Life Insurance Company. The Company was licensed and commenced business on December 10, 1984. The name of the Company was changed to First United American Life Insurance Company effective October 1, 1985. Initial resources of \$6,428,480 consisting of common capital stock of \$2,000,000 and paid in and contributed surplus of \$4,428,480 were provided through the sale of 100 shares of common stock (with a par value of \$20,000 each) for \$64,284.80 per share.

B. Holding Company

The Company is a wholly owned subsidiary of United American Insurance Company (“UAIC”), a Delaware insurance company. UAIC is in turn a wholly owned subsidiary of Torchmark Corporation (“TMK”), the ultimate parent of the Company. TMK is a publicly traded Delaware investment advisory company.

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2005 follows:



The Company had five 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	Income/ (Expense)* For Each Year of the Examination
Investment (File#024005)	1/1/1994	TMK	The Company	Investment advisory services	2005 - (\$12,000) 2004 - (\$12,000) 2003 - (\$12,000)
Administrative (File #28815)	8/1/2000	UAIC	The Company	Underwriting, claims and administrative support for certain health insurance and military business; data processing, accounting, record retention, legal and actuarial	2005 - (\$934,000) 2004 - (\$952,000) 2003 - (\$981,000)
Administrative (File #31541)	5/17/2000	The Company	National Income Life Insurance Company ("NILIC")	Supervisory, oversight, support and managerial services	2005 \$6,000 2004 \$6,000 2003 \$6,000
Administrative (File #27016)	4/1/2001	Globe Life and Accident Insurance Company ("Globe")	The Company	Billing, underwriting, claims, marketing and advertising for direct response business	2005 - (\$5,578) 2004 - (\$5,131) 2003 - (\$4,127)
Amended (File #31378)	6/1/2003			Amended provisions regarding the billing services, maintenance of books and ownership and custody of records	
Sublease (File #31377)	5/1/2002	The Company	NILIC	Sublease of office space	2005 - \$1,947 2004 - \$1,460 2003 - \$5,116

* Amount of Income or (Expense) Incurred by the Company

The Company participates in a federal income tax allocation agreement with its parent and affiliates.

C. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than nine and not more than 21 directors. The number of directors, however, shall be increased to not less than 13 within one year following the end of the calendar year in which the corporation exceeds \$1.5 billion in admitted assets. Directors are elected for a period of one year at the annual meeting of the shareholders held at the time and on the date determined by the board of directors. As of December 31, 2005, the board of directors consisted of 10 members. Meetings of the board are held immediately following the annual meeting of the shareholders and at such intervals and on such dates as the board may designate. All meetings of the board of directors were held by means of unanimous written consent.

The 10 board members and their principal business affiliation, as of December 31, 2005, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Tony G. Brill Frisco, TX	Senior Vice President, Administration First United American Life Insurance Company Executive Vice President Torchmark Corporation	1997
Gary L. Coleman Plano, TX	Executive Vice President and Chief Financial Officer Torchmark Corporation	1994
Terence P. Cummings* Montclair, NJ	Attorney at Law Ohrenstein & Brown, LLP	1989
Mark Green* New York, NY	Founder New Democracy Project	2003
Vern D. Herbel McKinney, TX	President and Chief Executive Officer First United American Life Insurance Company Executive Vice President and Chief Administrative Officer Torchmark Corporation	2004
Larry M. Hutchison Duncanville, TX	Vice President, General Counsel, and Secretary First United American Life Insurance Company Executive Vice President and General Counsel Torchmark Corporation	1993

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Dirk Marschhausen* Garden City, NY	Attorney at Law Marschhausen & Fitzpatrick PC	1997
Rosemary J. Montgomery Parker, TX	Executive Vice President and Chief Actuary First United American Life Insurance Company Torchmark Corporation	1994
James A. Savo Liverpool, NY	Vice President, Operations and General Manager First United American Life Insurance Company	2001
Stephen W. Still* Birmingham, AL	Attorney at Law Maynard, Cooper & Gale, PC	2003

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

Section 325(a) of the New York Insurance Law states, in part:

“Every domestic insurer . . . shall . . . keep and maintain at its principal office in this state . . . the minutes of any meetings of its shareholders, policyholders, board of directors and committees thereof . . .”

The Company did not maintain the minutes of the meetings of its Audit and Evaluation committee for the year 2005 at its principal office in this state.

The Company violated Section 325(a) of the New York Insurance Law by failing to maintain the minutes of the meetings of its Audit and Evaluation committee for the year 2005 at its principal office in this state.

The examiner’s review of the minutes of the meetings of the board of directors and its committees indicated that all meetings were held by unanimous written consent. Regular scheduling of board meetings is necessary to promote open discussion and better communication among directors, especially non-management directors that might otherwise have no regular forum for such discussions and communications. It is difficult to see how open discussion and better communication can be facilitated by holding all board meetings by unanimous written consent.

The examiner recommends that the Company's Board of Directors meet in person at a minimum of once every calendar year and more frequently as necessary to promote open discussion and better communication among directors.

The following is a listing of the principal officers of the Company as of December 31, 2005:

<u>Name</u>	<u>Title</u>
Vern D. Herbel	President and Chief Executive Officer
Larry M. Hutchison	Vice President, General Council and Secretary
Danny H. Almond	Treasurer
Rosemary J. Montgomery	Executive Vice President and Chief Actuary
Tony G. Brill	Senior Vice President, Administration
Ben W. Lutek	Vice President
Larry D. Strong	Vice President
James A. Savo*	Vice President, Operations

* Designated consumer services officer per Section 216.4(c) of Department Regulation No. 64

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 only licensed to write business in New York. In 2005, all life premiums, accident and health premiums and annuity considerations were received from New York. Policies are written on a non-participating basis.

Prior to 1994, the Company wrote almost exclusively individual medicare supplement insurance. In 1994, the Company began writing individual life insurance. In 1995, the Company began writing group medicare supplement insurance and individual annuities.

The Company's individual medicare supplement insurance and individual annuities are solicited through the Company's agency force, which operates on a general agency basis. Approximately 99% of the ordinary life business was sold through direct response marketing; the other 1%, mostly senior life products, was sold through the Company's agency force. All life insurance sold during the examination period was written on a simplified issue basis.

The Company's group medicare supplement insurance is primarily solicited to employer and union groups through licensed brokers or agents; direct response marketing is also used but

to a lesser extent. The group medicare supplement business may be issued as mandatory or voluntary coverage depending upon the group. For mandatory business, the employer or union bears the cost of the insurance and all retirees are covered. For voluntary business, the group policyholder provides a list of retirees eligible for coverage and the Company sends direct response packages with enrollment forms to the retirees.

Effective November 1998, the Company no longer accepts life and annuity business that replaces another insurer's coverage.

E. Reinsurance

As of December 31, 2005, the Company had no reinsurance treaties in effect for new business. The Company reported total accident and health unearned premium and other than unearned premium reserve credits of \$893,472. The accident and health reserve credit is related to a reinsurance treaty that was terminated on July 1, 1993 and covers the Company's long-term care business, which is currently in run-off.

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 during the period under review:

	December 31, <u>2002</u>	December 31, <u>2005</u>	<u>Increase</u>
Admitted assets	<u>\$79,806,120</u>	<u>\$101,880,147</u>	<u>\$22,074,027</u>
Liabilities	<u>\$54,800,210</u>	<u>\$ 70,256,099</u>	<u>\$15,455,889</u>
Common capital stock	\$ 2,000,000	\$ 2,000,000	\$ 0
Gross paid in and contributed surplus	4,428,480	4,428,480	0
Unassigned funds (surplus)	<u>18,577,430</u>	<u>25,195,568</u>	<u>6,618,138</u>
Total capital and surplus	<u>\$25,005,910</u>	<u>\$ 31,624,048</u>	<u>\$ 6,618,138</u>
Total liabilities, capital and surplus	<u>\$79,806,120</u>	<u>\$101,880,147</u>	<u>\$22,074,027</u>

The Company's invested assets as of December 31, 2005, were mainly comprised of bonds (98.8%). The majority (96.1%) of the Company's bond portfolio, as of December 31, 2005, was comprised of investment grade obligations.

The ordinary lapse ratio for each of the examination years was 44.9% in 2003, 60.8% in 2004 and 54.0% in 2005.

The majority of the Company's products are sold by direct response marketing rather than by agents. As a result, the observed lapse ratios are normal for products of this type and were fully anticipated in the pricing and approval of the product. The Company plans to continue selling these products in the direct response market in the future and no change in lapse experience is expected.

The following has been extracted from the Exhibits of Accident and Health Insurance in the filed annual statements for each of the years under review:

	<u>Ordinary</u>			<u>Group</u>		
	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
Outstanding, end of previous year	21,551	21,233	20,006	1,099	939	892
Issued during the year	3,660	2,884	2,346	76	49	7
Other net changes during the year	<u>(3,978)</u>	<u>(4,111)</u>	<u>(3,907)</u>	<u>(236)</u>	<u>(96)</u>	<u>(89)</u>
Outstanding, end of current year	<u>21,233</u>	<u>20,006</u>	<u>18,445</u>	<u>939</u>	<u>892</u>	<u>810</u>

The Company experienced a significant decrease in the number of ordinary and group accident and health insurance issues during the three years under examination. This was a result of competition by Medicare Advantage plans offered by “HMO” type organizations. In 2006, the Company filed new Medicare plans in New York to help compete with these plans.

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>2003</u>	<u>2004</u>	<u>2005</u>
Ordinary:			
Life insurance	\$ 175,810	\$ 32,595	\$1,151,106
Individual annuities	<u>263,672</u>	<u>365,989</u>	<u>381,872</u>
Total ordinary	\$ <u>439,482</u>	\$ <u>398,584</u>	\$ <u>1,532,978</u>
Accident and health:			
Group	\$ 135,552	\$ 163,417	\$ 154,305
Other	<u>985,979</u>	<u>3,541,235</u>	<u>3,025,384</u>
Total accident and health	\$ <u>1,121,531</u>	\$ <u>3,704,652</u>	\$ <u>3,179,689</u>
Total	\$ <u>1,561,013</u>	\$ <u>4,103,236</u>	\$ <u>4,712,667</u>

The significant fluctuation in ordinary life insurance net gains in 2005 as compared to 2004 was due to a significant decrease in advertising expense for the year 2005. The Company’s

advertising expense decreased from approximately \$6.2 million in 2004 to \$5.1 million in 2005 as a result of reductions in direct response mailings.

The significant fluctuation in net gain from operations for the accident and health other line in 2004 as compared to 2003 was due to a favorable claims ratio. While other accident and health premiums collected was fairly consistent from 2003 to 2004, claims paid decreased by approximately \$2.7 million and claims incurred decreased by approximately \$2.6 million.

5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2005, as contained in the Company's 2005 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, 2005 filed annual statement.

A. ASSETS, LIABILITIES, CAPITAL AND SURPLUS AS OF DECEMBER 31, 2005

Admitted Assets

Bonds	\$ 89,103,004
Cash, cash equivalents and short term investments	(229,892)
Contract loans	1,331,947
Investment income due and accrued	1,552,086
Premiums and considerations:	
Uncollected premiums and agents' balances in the course of collection	1,356,684
Deferred premiums, agents' balances and installments booked but deferred and not yet due	4,855,175
Current federal and foreign income tax recoverable and interest thereon	622,658
Net deferred tax asset	3,092,000
New York Department adjustments	<u>196,485</u>
 Total admitted assets	 <u>\$101,880,147</u>

Liabilities, Capital and Surplus

Aggregate reserve for life policies and contracts	\$ 46,429,815
Aggregate reserve for accident and health contracts	12,133,715
Contract claims:	
Life	1,551,000
Accident and health	6,669,000
Premiums and annuity considerations for life and accident and health contracts received in advance	1,006,321
Contract liabilities not included elsewhere	
Interest maintenance reserve	17,603
Taxes, licenses and fees due or accrued, excluding federal income taxes	(259,420)
Amounts withheld or retained by company as agent or trustee	153,244
Amounts held for agents' account	498,337
Miscellaneous liabilities:	
Asset valuation reserve	608,115
Payable to parent, subsidiaries and affiliates	1,440,126
Adjustment for nursing home business	<u>8,243</u>
 Total liabilities	 \$ <u>70,256,099</u>
 Common capital stock	 \$ 2,000,000
Gross paid in and contributed surplus	4,428,480
Unassigned funds (surplus)	<u>25,195,568</u>
 Total capital and surplus	 \$ <u>31,624,048</u>
 Total liabilities, capital and surplus	 \$ <u>101,880,147</u>

The Company closes its books as of December 24th each year instead of December 31st. The 1990 report on examination contained a recommendation that the Company establish an accrual for the period between December 24th and December 31st in order to comply with Section 307 of the New York Insurance Law. The New York Department adjustments line in the annual statement represents an estimate of cash transactions for premiums, claims, commissions, investment income, etc., during the period between December 24th and December 31st of the current year.

B. CONDENSED SUMMARY OF OPERATIONS

	<u>2003</u>	<u>2004</u>	<u>2005</u>
Premiums and considerations	\$56,656,939	\$59,050,027	\$59,331,607
Investment income	5,138,277	5,543,394	5,968,036
Commissions and reserve adjustments on reinsurance ceded	20,365	19,346	16,155
Miscellaneous income	<u>21,229</u>	<u>208,234</u>	<u>108,592</u>
 Total income	 <u>\$61,836,810</u>	 <u>\$64,821,001</u>	 <u>\$65,424,390</u>
Benefit payments	\$38,023,594	\$35,810,328	\$37,328,469
Increase in reserves	5,440,103	5,698,371	5,302,559
Commissions	7,254,668	6,771,315	6,384,918
General expenses and taxes	6,244,002	8,916,223	8,215,876
Increase in loading on deferred and uncollected premium	1,314,241	758,275	(477,127)
Miscellaneous deductions	<u>329,767</u>	<u>0</u>	<u>0</u>
 Total deductions	 <u>\$58,606,375</u>	 <u>\$57,954,512</u>	 <u>\$56,754,695</u>
 Net gain (loss)	 \$ 3,230,435	 \$ 6,866,489	 \$ 8,669,695
Federal and foreign income taxes incurred	<u>1,669,421</u>	<u>2,763,251</u>	<u>3,957,027</u>
 Net gain (loss) from operations before net realized capital gains	 \$ 1,561,014	 \$ 4,103,238	 \$ 4,712,668
Net realized capital gains (losses)	<u>80</u>	<u>(16,711)</u>	<u>0</u>
 Net income	 <u>\$ 1,561,094</u>	 <u>\$ 4,086,527</u>	 <u>\$ 4,712,668</u>

C. CAPITAL AND SURPLUS ACCOUNT

	<u>2003</u>	<u>2004</u>	<u>2005</u>
Capital and surplus, December 31, prior year	<u>\$25,005,910</u>	<u>\$26,572,426</u>	<u>\$30,704,238</u>
Net income	\$ 1,561,094	\$ 4,086,527	\$ 4,712,668
Change in net deferred income tax	751,000	367,000	842,000
Change in non-admitted assets and related items	(586,629)	1,162,159	(1,770,661)
Change in asset valuation reserve	(158,949)	16,126	(64,197)
Dividends to stockholders	<u>0</u>	<u>(1,500,000)</u>	<u>(2,800,000)</u>
Net change in capital and surplus for the year	\$ <u>1,556,516</u>	\$ <u>4,131,812</u>	\$ <u>919,810</u>
Capital and surplus, December 31, current year	<u>\$26,572,426</u>	<u>\$30,704,238</u>	<u>\$31,624,048</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.

1. Section 219.4(u) of Department Regulation No. 34-A states:

“An advertisement shall not describe an enrollment period as special or limited or use similar words or phrases in describing it when the insurer uses successive enrollment periods as its usual method of marketing its policies.”

The Company continuously described and/or labeled the advertisement of three products (Children's Life Insurance, Modified Premium Whole Life, and Term Life Insurance) as “This May Be Your Last Chance” or “This May Be Your Last Time” and mailed the advertisements at numerous points in time, in the same year.

The Company violated Section 219.4(u) of Department Regulation No. 34-A by describing an enrollment period as “last chance” or “last time” when it used successive enrollment periods as its usual method of marketing its policies.

2. Section 2114(a)(3) of the New York Insurance Law states, in part:

“No insurer . . . doing business in this state and no agent or other representative thereof shall pay any commission or other compensation to any person, firm, association or corporation for services in soliciting or procuring in this state any new contract of accident or health insurance . . . except to a licensed accident and health insurance agent of such insurer . . .”

The Company paid commissions to a general agency (“GA”) for the years 2002, 2003, 2004 and 2005 for Medicare Supplement policies sold by one of its agents. The agent was the

principal agent for the GA and signed the general agent contract with the Company on behalf of the GA. The agent's New York license expired on June 30, 2001.

The Company violated Section 2114(a)(3) of the New York Insurance Law by paying commissions to a general agency on behalf of an unlicensed insurance agent.

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 with the exception of Medicare Supplement findings (see Section 7 of the report).

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.

Based upon the sample reviewed, no significant findings were noted with the exception of Medicare Supplement findings (see Section 7 of the report).

7. MEDICARE SUPPLEMENT INSURANCE

The Company is an active participant in the Medicare Supplement market in New York State. Based on complaints received by the Department alleging improper sales tactics in the issuance of Medicare Supplement business the Department's Consumer Services Bureau initiated an investigation into the sales activities of agents referenced in the complaints. Since all of the agents were employed by the same general agent, the Department's Consumer Services Bureau investigation focused on the Medicare Supplement sales practices of this particular agency as well as the oversight and control provided by the Company.

The Consumer Services Bureau reviewed copies of all available sales and training materials provided by the Company to its general agents and soliciting agents, as well as applications of select agents and agencies. In addition, letters were sent to insured's whose Medicare Supplement policies were replaced to determine whether the new coverage provided by the Company replaced an existing policy that was more beneficial to the insured, and whether duplicate coverage was in place.

This investigation uncovered the following:

1. It was determined that agents of the Company were using published "Weiss" ratings during sales presentations as part of their marketing materials to convince customers that the Company was a better rated company than that of its competitors. The "Weiss" ratings page that was used by the Company's agents was determined to be both incomplete and deceptive as only the front page was made available to prospective buyers. The last paragraph on the front page directs the user to "consult the Important Precautions and Terms and Conditions," however, that section was not made available to prospective buyers.

Section 52.22(b)(9) of Department Regulation No. 62 states:

"An insurer shall provide, prior to its use, a copy of any advertisement for a Medicare Supplement insurance policy or certificate intended for use in this State whether through written, radio or television medium to the superintendent for review. Such advertisement shall comply with all applicable regulations and laws of this state."

Section 215.2(b) of Department Regulation No. 34 states:

"Every insurer shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its

policies. All such advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurer whose policies are so advertised.”

Section 215.17(a) of Department Regulation No. 34 states, in part:

“ . . . Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement . . . which shall indicate the manner and extent of distribution and the form number or any policy advertised . . . ”

A review of the marketing material utilized in the sale of the Company’s Medicare Supplement insurance indicated that the Company has not submitted the “Weiss” rating for use as marketing material to the Department as required by Section 52.22(b)(9) of Department Regulation No. 62.

The Company violated Section 52.22(b)(9) of Department Regulation No. 62 by using Medicare Supplement advertising material that was not submitted to the Department for review prior to its use.

A review of the Company’s advertising files that were maintained at its home office revealed that the “Weiss” rating utilized by its agents in the sale of its Medicare Supplement insurance was not included or made part of the advertising file as required by Section 215.2(b) of Department Regulation No. 34.

The Company violated Sections 215.2(b) and Section 215.17(a) of Department Regulation No. 34 by failing to maintain a system of control over the content, form and method of dissemination of its advertisements and by failing to maintain as part of its advertising file the “Weiss” rating utilized by its agents in the sale of its Medicare Supplement insurance.

2. The June 2005 issue of “The Summit,” a brochure made available by the Company to its agents, contains a segment on the Medicare Supplement High Deductible F Plan, stating that the Company will waive \$500 of the \$1,730 deductible.

Section 52.22(e)(7) of Department Regulation 62 states:

“Standardized Medicare supplement benefit high deductible plan “F” shall include only the following: 100 percent covered expenses following the payment of the annual high deductible plan “F” deductible. The covered expenses include the core benefit as defined in paragraph (d)(5) of this section, plus the Medicare

Part A deductible, skilled nursing facility care, the Medicare Part B deductible, 100 percent of the Medicare Part B excess charges and medically necessary emergency care in a foreign country as defined in subparagraphs (d)(6(i), (ii), (iii), (v) and (viii) of this section. The annual high deductible plan “F” deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan “F” policy, and shall be in addition to any other specific benefit deductibles. The annual high deductible plan “F” deductible shall be \$1,500 for 1998 and 1999, and shall be based on the calendar year. Such deductible shall be adjusted annually thereafter by the Secretary of the United States Department of Health and Human Services to reflect the change in the Consumer Price Index for all urban consumers for the twelve month period ending with August of the preceding year, and rounded to the nearest multiple of \$10.”

The deviation from the standardized plan set forth by the federal government would be a violation of Section 52.22(e)(7) of Department Regulation No. 62. In addition, the Company’s failure to submit and receive approval from the Department for the changes to its High Deductible F Plan would be in violation of Section 3201(b)(1) of the New York Insurance Law.

However, the Company stated that the language contained in the June 2005 issue of “The Summit”, that said the Company will waive a portion of the deductible on its Medicare High Deductible F Plan was only applicable to its parent UAIC.

The Company has attested that they did not issue any Medicare High Deductible F Plan policies in which any portion of the deductible was waived.

3. A review of policyholder applications and confirmations that were sent to insured’s revealed that in 15 instances the Company’s Medicare Supplement policyholders had duplicate Medicare Supplement policies with other insurers.

Section 52.22(i)(1) of Department Regulation No. 62 states, in part:

“ . . . An insurer, directly or through its agents or other producers, shall:

(i) Establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate.

(ii) Establish marketing procedures to assure excess insurance is not sold or issued

...

(iv) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has accident and health insurance and the types and amount of any such insurance.

(v) Establish auditable procedures for verifying compliance with this subdivision.”

The Company violated Section 52.22(i)(1) of Department Regulation No. 62 by failing to establish auditable procedures to assure that excess Medicare Supplement insurance is not sold or issued.

The examiner recommends that the Company establish auditable procedures to assure that excess Medicare Supplement insurance is not sold or issued.

It is further recommended that the Company implement a remediation plan, agreeable to the Department, to address whether any Medicare Supplement policyholder has excess coverage and to make appropriate refunds to such policyholders.

8. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations 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 1505(d)(3) of the New York Insurance Law by failing to notify the Superintendent in writing of its intention to sublease office space to an affiliate at least 30 days prior thereto.</p> <p>The Company submitted and received approval from the Department for a sublease agreement with its affiliate National Income Life Insurance Company.</p>
B	<p>The Company violated Section 312(b) of the New York Insurance Law by failing to furnish a copy of the report on examination to each member of its board of directors and failing to have each member sign a statement, retained by the Company, confirming that such member received and read such report.</p> <p>The Company instituted procedures to ensure that it furnishes and collects an affidavit confirming that each member of its board of directors received and read the report on examination. The examination did not reveal any instances where a director did not receive and read the report on examination.</p>
C	<p>The Company violated Section 219.5(a) of Department Regulation No. 34-A by failing to maintain at its home office a complete advertising file of all advertisements printed, published, or prepared for dissemination in New York.</p> <p>The Company instituted procedures to ensure that it maintains, at its home office, a complete advertising file of all advertisements printed, published, or prepared for dissemination in New York. The examination did not reveal any instances where life advertisements were not maintained at its home office. However, the examination revealed one instance, related to Medicare Supplement insurance, where an advertisement was not maintained at the Company's home office. (see item 7 of this Report)</p>
D	<p>The Company violated Section 3209(b)(1) of the New York Insurance Law by failing to include language in its direct response advertisements that alerts the prospective purchaser of their right to receive, upon request, a buyer's guide and policy summary prior to the delivery of the policy.</p> <p>The Company instituted procedures to ensure that it includes language in its direct response advertisements that alerts the prospective purchaser of their right to receive, upon request, a buyer's guide and policy summary prior to the delivery of the policy. The examination revealed that the Company failed to include the required language in one instance during the period under examination (3/2005).</p>

9. SUMMARY AND CONCLUSIONS

Following are the violations and recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 325(a) of the New York Insurance Law by failing to maintain the minutes of the meetings of its Audit and Evaluation committee for the year 2005 at its principal office in this state.	8
B	The examiner recommends that the Company's Board of Directors meet in person at a minimum of once every calendar year and more frequently as necessary to promote open discussion and better communication among directors.	8
C	The Company violated Section 219.4(u) of Department Regulation No. 34-A by describing an enrollment period as "last chance" or "last time" when it used successive enrollment periods as its usual method of marketing its policies.	18
D	The Company violated Section 2114(a)(3) of the New York Insurance Law by paying commissions to the general agency on behalf of an unlicensed insurance agent.	19
E	The Company violated Section 52.22(b)(9) of Department Regulation No. 62 by using Medicare Supplement advertising material that was not submitted to the Department for review prior to its use.	21
F	The Company violated Sections 215.2(b) and Section 215.17(a) of Department Regulation No. 34 by failing to maintain a system of control over the content, form and method of dissemination of its advertisements and by failing to maintain as part of its advertising file the "Weiss" rating utilized by its agents in the sale of its Medicare Supplement insurance.	21
G	The Company violated Section 52.22(i)(1) of Department Regulation No. 62 by failing to establish auditable procedures to assure that excess Medicare Supplement insurance is not sold or issued.	23

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
H	The examiner recommends that the Company establish auditable procedures to assure that excess Medicare Supplement insurance is not sold or issued. It is further recommended that the Company implement a remediation plan, agreeable to the Department, to address whether any Medicare Supplement policyholder has excess coverage and to make appropriate refunds to such policyholders.	23

APPOINTMENT NO. 22437

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, HOWARD MILLS, Superintendent of Insurance of the State of New York,
pursuant to the provisions of the Insurance Law, do hereby appoint:

VINCENT TARGIA

as a proper person to examine into the affairs of the

FIRST UNITED AMERICAN 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 6th day of December, 2005



A handwritten signature in dark ink, appearing to read "Howard Mills", written over a horizontal line.

HOWARD MILLS
Superintendent of Insurance