

STATE OF NEW YORK INSURANCE DEPARTMENT

REPORT ON EXAMINATION

OF THE

FIRST FORTIS LIFE INSURANCE COMPANY

AS OF

DECEMBER 31, 2002

DATE OF REPORT:

SEPTEMBER 26, 2003

EXAMINER:

JOHN LETOURNEAU

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

September 26, 2003

Honorable Gregory V. Serio
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 21990, dated January 21, 2003 and annexed hereto, an examination has been made into the condition and affairs of First Fortis Life Insurance Company, hereinafter referred to as "the Company," at its home office located at 308 Maltbie Street, Syracuse, New York 13204.

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

On April 1, 2001, Fortis, Inc. (“Fortis”) completed the sale of its Fortis Financial Group Division (“Division”) to Hartford Life Insurance and Annuity Company (“Hartford”). The Division includes, among other blocks of business, certain individual life insurance policies and annuity contracts written by the Company. Hartford is reinsuring the insurance contracts on a 100% coinsurance basis and is administering the insurance contracts going forward. In connection with the sale, the Company received an aggregate consideration of approximately \$15 million from Hartford. (See item 3A of this report)

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, 2002 filed annual statement. (See item 5 of this report)

The Company violated Section 243.2(b)(1) of Department Regulation No. 152 by failing to maintain all records and application files for all of its credit life and disability in-force policies. A similar comment was contained in the two immediately preceding filed reports on examination of Bankers American Life Assurance Company (“BALAC”). (See item 6B of this report).

The Company violated Section 3220(a)(6) of the New York Insurance Law by issuing group life policies without the required total and permanent disability policy provision with respect to conversions. (See item 6B of this report).

The Company violated Section 185.14(d)(1) of Department Regulation No. 27-A by failing to meet the mortgage credit life insurance required benefit ratio requirements for 1996-2002. The Company also violated Section 185.14(d)(4) of Department Regulation No. 27-A when it used an alternative plan to provide refunds that was not approved by the Superintendent. (See item 6C of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 1999. This examination covers the period from January 1, 2000 through December 31, 2002. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2002 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, 2002 to determine whether the Company's filed 2002 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 violation and recommendations contained in the prior report on examination. The results of the examiner's review are contained in item 7 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 August 12, 1971 under the name Securance Life Insurance Company. The Company was licensed and commenced business on April 5, 1974. Initial resources of \$3,000,088, consisting of common capital stock of \$1,000,000 and paid in and contributed surplus of \$2,000,088, were provided through the sale of 100,000 shares of common stock (with a par value of \$10 each) for \$30 per share. The Company was a wholly owned subsidiary of the Crum and Forster Life Insurance Company. On July 1, 1978, the Company's name was changed to Crum and Forster Life Insurance Company (New York).

On December 12, 1979, the Charter Company ("Charter"), an industrial and financial services conglomerate, purchased the Company from Crum and Forster Life Insurance Company. On March 11, 1980, the name of the Company was changed to Charter Security Life Insurance Company (New York).

On January 10, 1985, Metropolitan Life Insurance Company ("Metropolitan Life") purchased the Company from Charter. The name of the Company was changed to Metlife Security Insurance Company on June 15, 1985.

On March 24, 1989, Fortis purchased the Company from Metropolitan Life. Effective June 16, 1989, the name of the Company was changed to Financial Security Life Insurance Company ("FSLIC").

On January 4, 1991, Fortis AMEV, N.V., a Dutch corporation, purchased the Company from its subsidiary, Fortis. The sale was accomplished through the transfer of shares of FSLIC from Fortis, its immediate parent, to Fortis AMEV, N.V., its ultimate parent. On January 27, 1992, the name of the Company was changed to First Fortis Life Insurance Company.

On April 30, 1997, Fortis re-acquired 100% of the Company's common stock.

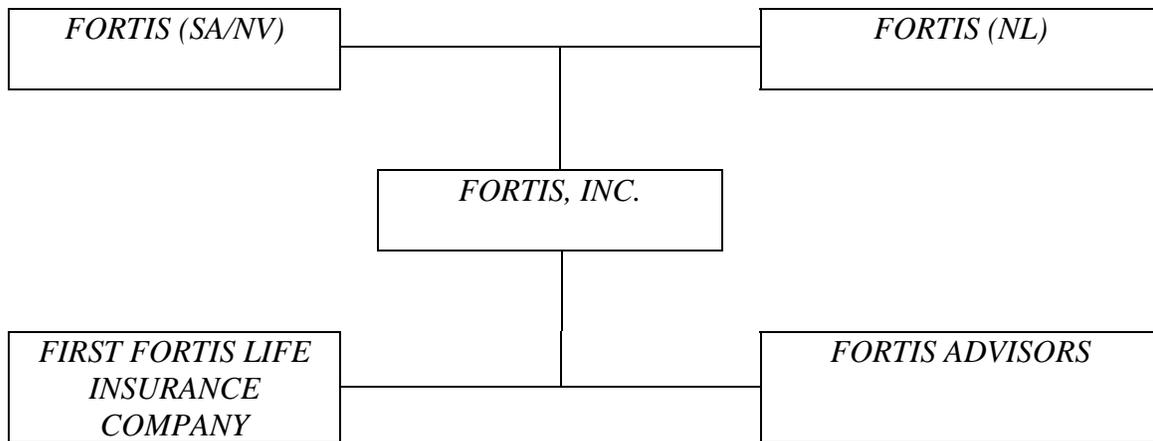
In 1999, Fortis acquired American Bankers Insurance Group, Inc. ("ABIG"). One of the subsidiaries of ABIG was BALAC, a life and accident and health insurer licensed in New York. On November 30, 2001, the Company acquired 100% of the issued and outstanding common stock of BALAC from ABIG. Immediately following the stock purchase, BALAC merged with and into the Company, with the Company as the surviving corporation.

On April 1, 2001, Fortis, Inc. (“Fortis”) completed the sale of its Fortis Financial Group Division (“Division”) to Hartford Life Insurance and Annuity Company (“Hartford”). The Division includes, among other blocks of business, certain individual life insurance policies and annuity contracts written by the Company. Hartford is reinsuring the insurance contracts on a 100% coinsurance basis and is administering the insurance contracts going forward. In connection with the sale, the Company received aggregate consideration of approximately \$15 million from Hartford.

B. Holding Company

The Company is a wholly owned subsidiary of Fortis, a Nevada corporation. Fortis is owned equally by Fortis (NL) of the Netherlands and Fortis (SA/NV) of Belgium. Fortis (NL) and Fortis (SA/NV) are leading multi-national providers of insurance, banking and financial services in several countries, including the United States.

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2002 follows:



The Company had one service agreement with Fortis in effect as of December 31, 2002. This agreement replaced all prior service agreements, with the exception of the Investment Management Agreement, that were in effect between various affiliates and the Company.

The following are the service agreements in effect as of December 31, 2002:

Type of Agreement	Effective Date	Provider(s) of Service(s)	Recipient(s) of Service(s)	Specific Service(s) Covered
Investment Management Agreement	03/01/94	Fortis Advisors	the Company	Investment management services.
Administrative Service Agreement	10/1/00	Fortis	the Company	Information technology, legal, insurance, and management services.

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 13 directors, provided that the number of directors shall be increased to not less than 13 within one year following the end of the calendar year in which the Company exceeds \$500 million in admitted assets. Directors are elected for a period of one year at the annual meeting of the stockholders held in April of each year. As of December 31, 2002, the board of directors consisted of nine members. Meetings of the board are held annually.

The nine board members and their principal business affiliation, as of December 31, 2002, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Larry M. Cains Marlboro, NJ	Senior Vice President Fortis, Inc. Treasurer First Fortis Life Insurance Company	1995
Allen R. Freedman Charlotteville, NY	Retired Chairman of the Board Fortis, Inc.	1989
Clarence E. Galston* Westwood, MA	Retired	1989

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Dale E. Gardner* Malta, NY	Retired	1989
Barbara R. Hege West Orange, NJ	Senior Vice President Fortis, Inc. Chief Financial Officer First Fortis Life Insurance Company	1999
Terry J. Kryshak Syracuse, NY	Senior Vice President and Chief Administrative Officer First Fortis Life Insurance Company	1991
Esther L. Nelson* Fly Creek, NY	Consultant	1999
Kenneth W. Nelson* Staten Island, NY	President and Owner Tech Products, Inc.	1989
Robert B. Pollock New York, NY	Executive Vice President, Chief Financial Officer and Treasurer Fortis, Inc. President and Chief Executive Officer Fortis Benefits Insurance Company First Fortis Life Insurance Company	1995

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

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, 2002:

<u>Name</u>	<u>Title</u>
Robert B. Pollock	President and Chief Executive Officer
Terry J. Kryshak*	Senior Vice President and Chief Administrative Officer
Katherine Greenzang	Secretary
Larry M. Cains	Treasurer
Barbara R. Hege	Chief Financial Officer
Miles Yakre	Corporate Actuary

*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 licensed to transact business in New York only. Policies are written on a non-participating basis.

Market emphasis is placed on the sale of group life, group disability income, group dental, and group credit life and health coverages. The Company has a limited number of ordinary life policies, which were obtained through conversions from group life contracts. The Company exited the New York group medical market effective January 1, 1996.

The Company's agency operations are conducted on a general agency basis for the employee benefit products (group life, disability income, and dental). For the credit business, the Company acts as a wholesaler to financial institutions.

E. Reinsurance

As of December 31, 2002, the Company had reinsurance treaties in effect with 41 companies, of which 7 were authorized or accredited. The Company's life and accident and health policies are reinsured on a coinsurance and yearly renewable term basis. Reinsurance is provided on an automatic and facultative basis.

The maximum retention limit for individual life contracts is \$500,000. The total face amount of life insurance ceded as of December 31, 2002, was \$2,698,423,612, which represents

26.6% of the total face amount of life insurance in force. The total face amount ceded to unauthorized insurers was \$1,148,152,000, which represents 43% of the total face amount of ceded life insurance in force. Reserve credit taken for reinsurance ceded to unauthorized companies, totaling \$81,127,994 was supported by letters of credit and trust agreements.

The maximum retention limit for group disability income is \$2,000 per month. Amounts in excess of \$2,000 per month are reinsured with an affiliate, Fortis Benefits Insurance Company, to a maximum of \$10,000 per month. Amounts above \$10,000 are reinsured with Munich American Reassurance Corp.

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>1999</u>	December 31, <u>2002</u>	Increase (Decrease)
Admitted assets	\$ <u>213,657,679</u>	\$ <u>226,676,980</u>	\$ <u>13,019,301</u>
Liabilities	\$ <u>183,238,633</u>	\$ <u>162,644,751</u>	\$(<u>20,593,882</u>)
Common capital stock	\$ 2,000,000	\$ 2,000,000	\$ 0
Gross paid in and contributed surplus	36,500,000	36,500,000	0
Group life contingency reserve	3,296,824	0	(3,296,824)
Unassigned funds (surplus)	<u>(11,377,778)</u>	<u>25,532,229</u>	<u>36,910,007</u>
Total capital and surplus	\$ <u>30,419,046</u>	\$ <u>64,032,229</u>	\$ <u>33,613,183</u>
Total liabilities, capital and surplus	\$ <u>213,657,679</u>	\$ <u>226,676,980</u>	\$ <u>13,019,301</u>

The Company's invested assets as of December 31, 2002, exclusive of Separate Accounts, were mainly comprised of bonds (95.8%). The majority (93%) of the Company's bond portfolio as of December 31, 2002 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>2000</u>	<u>2001</u>	<u>2002</u>
Ordinary:			
Life insurance	\$ 511,752	\$ (120,278)	\$ 662,655
Individual annuities	(366,305)	450,286	1,123,909
Supplementary contracts	<u>4,143</u>	<u>50,273</u>	<u>403</u>
Total ordinary	\$ <u>149,590</u>	\$ <u>380,281</u>	\$ <u>1,786,967</u>
Credit life	\$ <u>217,758</u>	\$ <u>3,143,956</u>	\$ <u>220,863</u>
Group:			
Life	\$1,089,691	\$ 4,133,596	\$ 3,980,184
Annuities	<u>(92,569)</u>	<u>346,826</u>	<u>0</u>
Total group	\$ <u>997,122</u>	\$ <u>4,480,422</u>	\$ <u>3,980,184</u>
Accident and health:			
Group	\$3,306,464	\$ 1,104,162	\$ 5,107,142
Credit	483,046	3,305,268	(357,549)
Other	<u>547,956</u>	<u>1,451,267</u>	<u>149,462</u>
Total accident and health	\$ <u>4,337,466</u>	\$ <u>5,860,697</u>	\$ <u>4,899,055</u>
Total	\$ <u>5,701,936</u>	\$ <u>13,865,356</u>	\$ <u>10,887,069</u>

The above results for 2000 do not include BALAC. The above results for 2001 and 2002 include BALAC.

The fluctuation in the changes in the gains and losses on the ordinary life line of business are magnified due to the small size of this block of business.

The individual annuity line represents a relatively new line of business and the Company anticipated that results would fluctuate until significant mass was generated. This block was coinsured with Hartford in April 2001 resulting in gains in 2001 and 2002.

Supplementary contract benefits were reported with ordinary life benefits in error at year-end 2001. The benefits were reported correctly in 2002.

In 2001, BALAC merged into the Company. The results of the BALAC credit business are reflected in the 2001 statutory statement. During the same year, credit business began a decline. In 2002, the results of the decline are reflected.

During 2000, there was a higher incidence of claims in the group life line of business. Claims were approximately \$3,000,000 more than in 2001 and 2002.

The group accident and health results have shown improvement over the last six years due to the improved results on the long-term disability business and improved results on the dental business. In 2002, commissions decreased on the group accidental death and dismemberment business due to timing and refunds.

5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital, surplus and other funds as of December 31, 2002, as contained in the Company's 2002 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, 2002 filed annual statement.

A. ASSETS, LIABILITIES, CAPITAL, SURPLUS AND OTHER FUNDS AS OF DECEMBER 31, 2002

Admitted Assets

Bonds	\$166,499,835
Preferred stocks	3,053,859
Policy loans	24,113
Cash and short term investments	2,929,593
Other invested assets	348,000
Receivable for securities	967,268
Reinsurance ceded:	
Amounts recoverable from reinsurers	1,785,377
Commissions and expense allowances due	3,554
Experience rating and other refunds due	152,279
Electronic data processing equipment and software	4,222
Federal and foreign income tax recoverable and interest thereon	1,734,977
Life insurance premiums and annuity considerations deferred and uncollected on in force business	670,192
Accident and health premiums due and unpaid	1,076,977
Investment income due and accrued	2,332,636
Receivable from parent, subsidiaries and affiliates	1,653,585
Accounts receivable	10,869
From Separate Accounts statement	<u>43,429,644</u>
 Total admitted assets	 <u>\$226,676,980</u>

Liabilities, Capital, Surplus and Other Funds

Aggregate reserve for life policies and contracts	\$ 29,958,760
Aggregate reserve for accident and health policies	63,604,484
Liability for deposit-type contracts	44,900
Policy and contract claims:	
Life	4,099,783
Accident and health	6,737,572
Premiums and annuity considerations for life and accident and health policies and contracts received in advance	232,548
Policy and contract liabilities:	
Provision for experience rating refunds	524,428
Other amounts payable on reinsurance assumed	3,533,314
Commissions to agents due or accrued	3,980,925
Commissions and expense allowances payable on reinsurance assumed	(103,181)
General expenses due or accrued	193,944
Transfers to Separate Accounts due or accrued	(941,200)
Taxes, licenses and fees due or accrued	76,697
Federal and foreign income taxes	2,147,173
Amounts withheld or retained by company as agent or trustee	80,431
Remittances and items not allocated	2,581,324
Miscellaneous liabilities:	
Asset valuation reserve	582,997
Reinsurance in unauthorized companies	56,058
Funds held under reinsurance treaties with unauthorized reinsurers	123,926
Payable to parent, subsidiaries and affiliates	119,394
Loss expense allowance	1,221,805
Cost of collection in excess of loading	175,245
Unclaimed funds	115,362
Other	68,418
From Separate Accounts statement	<u>43,429,644</u>
 Total liabilities	 <u>\$162,644,751</u>
 Common capital stock	 \$ 2,000,000
Gross paid in and contributed surplus	36,500,000
Unassigned funds (surplus)	<u>25,532,229</u>
 Total capital, surplus and other funds	 <u>\$ 64,032,229</u>
 Total liabilities, capital, surplus and other funds	 <u>\$226,676,980</u>

B. CONDENSED SUMMARY OF OPERATIONS

	<u>2000</u>	<u>2001</u>	<u>2002</u>
Premiums and considerations	\$106,772,623	\$ 80,702,682	\$71,663,684
Investment income	12,228,200	12,786,755	11,099,917
Amortization of interest maintenance reserve	306,091	142,024	44,828
Commissions and reserve adjustments on reinsurance ceded	12,148,869	14,841,128	8,505,463
Miscellaneous income	<u>1,556,438</u>	<u>915,140</u>	<u>325,681</u>
Total income	<u>\$133,012,221</u>	<u>\$109,387,729</u>	<u>\$91,639,573</u>
Benefit payments	\$ 64,902,817	\$ 53,508,291	\$47,874,753
Increase in reserves	2,020,989	(6,071,607)	(2,929,602)
Commissions	25,067,515	21,703,823	14,641,193
General expenses and taxes	16,451,716	13,801,336	16,793,786
Increase in loading on deferred and uncollected premium	(43,343)	(157,607)	144,745
Net transfers to (from) Separate Accounts	8,083,585	222,906	(11,953,518)
Miscellaneous deductions	<u>36,622</u>	<u>2,507,382</u>	<u>11,632,934</u>
Total deductions	<u>\$116,519,901</u>	<u>\$ 85,514,524</u>	<u>\$76,204,291</u>
Net gain (loss)	\$ 16,492,320	\$ 23,873,205	\$15,435,282
Federal and foreign income taxes incurred	<u>6,445,079</u>	<u>10,007,852</u>	<u>4,548,213</u>
Net gain (loss) from operations before net realized capital gains	\$ 10,047,241	\$ 13,865,353	\$10,887,069
Net realized capital gains (losses)	<u>114,833</u>	<u>(1,387,208)</u>	<u>(2,116,606)</u>
Net income	<u>\$ 10,162,074</u>	<u>\$ 12,478,145</u>	<u>\$ 8,770,463</u>

C. CAPITAL AND SURPLUS ACCOUNT

	<u>2000</u>	<u>2001</u>	<u>2002</u>
Capital and surplus, December 31, prior year	\$ <u>58,089,171</u>	\$ <u>67,504,314</u>	\$ <u>55,785,916</u>
Net income	\$10,162,074	\$ 12,478,145	\$ 8,770,463
Change in net unrealized capital gains (losses)	(556,517)	(444,736)	347,671
Change in non-admitted assets and related items	446,905	(730,632)	331,671
Change in liability for reinsurance in unauthorized companies	(289,318)	461,812	(13,493)
Change in asset valuation reserve	1,128,277	635,003	(43,250)
Cumulative effect of changes in accounting principles	0	0	639,977
Capital changes: Paid in	0	(32,115,110)	0
Surplus adjustments: Change in surplus as a result of reinsurance	1,090,722	7,997,120	(1,786,726)
Dividends to stockholders	<u>(2,567,000)</u>	<u>0</u>	<u>0</u>
Net change in capital and surplus	\$ <u>9,415,143</u>	\$(<u>11,718,398</u>)	\$ <u>8,246,313</u>
Capital and surplus, December 31, current year	\$ <u>67,504,314</u>	\$ <u>55,785,916</u>	\$ <u>64,032,229</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.

Section 243.2 of Department Regulation No. 152 states, in part:

- “(b) Except as otherwise required by law or regulation, an insurer shall maintain:
- (1) A policy record for each insurance contract or policy for six calendar years after the date the policy is no longer in force or until after the filing of the report on examination in which the record was subject to review, whichever is longer”
 - (d) An insurer shall require, by contract or other means, that a person authorized to act on its behalf in connection with the doing of an insurance business, including a managing general agent, an administrator, or other person or entity, shall comply with the provisions of this Part in maintaining records that the insurer would otherwise be required to maintain. Notwithstanding the above, the insurer shall be responsible if the person or entity fails to maintain the records in the required manner.
 - (e) The records shall be readily available and easily accessible to the superintendent in accordance with Insurance Law Section 310. . . .”

The Company could not provide any financial or underwriting records for a number of the institutions involved with the credit life and disability business. The records are maintained entirely by the client/financial institution. The Company was able to provide data files for the

credit business of the remaining client/financial institutions from which credit life and disability underwriting samples were selected. However, a number of the underwriting files requested were not received. Of the files received, many of the files were incomplete in that no applications were in the file.

The Company violated Section 243.2(b)(1) of Department Regulation No. 152 by failing to maintain all records and application files for all of its credit life and disability in-force policies. This includes: all of the records pertaining to several of the institutions that maintain the records themselves; a number of underwriting files that were requested but not received; and the missing applications in a number of files. A similar comment was contained in the two immediately preceding filed reports on examination of BALAC. (See item 7 of this report)

Section 3220(a)(6) of the New York Insurance Law states, in part:

“ . . . In addition, the group policy shall contain a provision that if the coverage of an employee or member ceases because of termination of employment due to the employee's total and permanent disability or termination of membership due to the member's total and permanent disability, the employee or member, at the option of such employee or member, shall be entitled to have issued to him, a policy of life insurance only, in any one of such forms, preceded by term insurance for a period of one year with the premium payable, at the option of the employee or member, in any mode customarily offered by the insurer, in the amount of such employee's or member's life insurance protection in effect immediately before termination, less the amount of any life insurance which is replaced with the same or another insurer within forty-five days after cessation of the group life insurance protection. . . .”

During the period under examination the Company issued group life policies using policy form “LifeNY”, which contained the terms by which a group certificateholder could convert to an individual policy under certain conditions. However, the conversion terms did not include the total and permanent disability provision required by Section 3220(a)(6) of the New York Insurance Law.

The Company violated Section 3220(a)(6) of the New York Insurance Law by issuing group life policies without the required total and permanent disability policy provision.

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.

Section 185.14(d) of Department Regulation No. 27-A states, in part:

“The following provisions shall apply to mortgage credit life policies:

(1) As of December 31st of each year, each insurance company shall set aside for distribution in the following year any amount needed so that the total benefits for the experience period equal at least 72 percent of earned premiums attributed to contributions from debtors for the life insurance for such period, exclusive of benefits and premiums for those persons insured for less than one year.

(i) For purposes of this paragraph, benefits shall include: (a) incurred claims; and (b) premium charge adjustments returned to or applied for the sole benefit of those persons contributing to premiums by payment of identifiable premium charges, who are insured on the date such premium charge adjustments are distributed to the policyholder by the insurance company. A company may establish a minimum duration for eligibility for premium charge adjustments.

(ii) For purposes of this paragraph, benefits and earned premium for each year shall be combined with respect to all insured residents of New York, exclusive of those residents insured for less than one year for mortgage credit life with any insurer.

(iii) For purposes of this paragraph, the experience period shall be, as of each December 31st, the most recent calendar years up to a maximum of three, including the calendar year then ending, using estimates for the most recent calendar year. The first calendar year of experience to be considered shall be 1998 . . .

(4) In lieu of paragraph (1) . . . of this subdivision, a company may use other plans designed to produce a reasonable relationship of benefits to premiums, provided such plans are approved by the superintendent . . . ”

The Company has failed to meet the required mortgage credit life insurance benefit ratio requirements for the years 1996 through 2002. The Company has reported experience for that period as follows:

<u>Year</u>	<u>Premium</u>	<u>Incurred</u> <u>Claims</u>	<u>Loss</u> <u>Ratio</u>	<u>Required</u>		<u>Refunds</u> <u>Paid</u>	<u>Shortfall</u>
				<u>Benefit</u> <u>Ratio</u>	<u>Required</u> <u>Refunds</u>		
1996	1,375,290	474,569	35%	75%	556,898	0	556,898
1997	1,338,033	453,857	34%	75%	549,667	204,206	345,461
1998	1,146,162	519,191	45%	75%	340,431	0	340,431
1999	1,391,979	762,250	55%	72%	239,975	0	239,975
2000	1,334,398	760,584	57%	72%	200,183	449,770	(249,587)
2001	1,316,425	473,004	36%	72%	474,822	0	474,822
2002	1,214,592	412,704	34%	72%	461,802	0	461,802
Total	9,116,879	3,856,160	42%	73.27%	2,823,778	653,976	2,169,802

The refunds paid were based on an alternative plan as allowed by Section 185.14(d)(4) of Department Regulation No. 27-A. However, the use of an alternative plan requires the approval of the Superintendent. Such a plan was not approved. The Company submitted an alternative plan that was not acceptable. The defects in the plan were indicated to the Company by letter dated November 16, 1998. The two main defects in the submitted plan were: including changes in reserves as a benefit while not providing for a refund of the reserve to the insured upon termination of the coverage; and an inappropriate application of credibility in calculating incurred claims. In dealing with alternative plans for compliance with Section 185.14(d)(1) and (2) of Department Regulation No. 27-A, Section 185.14(d)(4) of Department Regulation No. 27-A specifically indicates:

“Such plans may provide for an accumulation of a reserve in addition to the unearned premium reserve, and such reserve may be in lieu of some or all premium charge adjustments, provided provision is made for refund upon termination other than by death . . . ”

Based on this, the Company removed the reserve component from their calculation of the refunds, but continued to use the offending credibility adjustment.

The Company violated Section 185.14(d)(1) of Department Regulation No. 27-A by failing to meet the required mortgage credit life insurance benefit ratio requirements for 1996-2002.

The Company also violated Section 185.14(d)(4) of Department Regulation No. 27-A when it used an alternative plan that was not approved by the Superintendent.

The Company is in the process of working out the details of distributing the \$2,169,802 in overdue refunds. Also included in the refunds will be an additional adjustment for interest due to the delay in payment. A 5.00% interest rate will be used with a total adjustment for interest of \$897,765.

Section 4232 of the New York Insurance Law states, in part:

“(a)(1) If any contract subject to section four thousand two hundred twenty-three of this article, provides for additional amounts to be credited to the contract during any period in accordance with the provisions of paragraph one of subsection (g) of section four thousand two hundred thirty-one of this article, then any additional amounts to be so credited must be determined for each year during such period . . .

(2) No such additional amounts shall be guaranteed or credited except upon . . .

(iii) written criteria approved by the board of directors of the company or a committee thereof. . . .”

The Company sells deferred annuities with fixed accounts. Additional amounts of interest above the amounts guaranteed are credited to these contracts. Section 4232(a)(2)(iii) of the New York Insurance Law requires written criteria approved by the board of directors of the Company or a committee thereof.

In response to the examiner’s request for such written criteria, the Company provided a November 21, 1991 Board of Directors Resolution for Financial Security Life Insurance Company, a predecessor company. The Resolution stated that the new money rate is determined by deducting a spread of 1.80% and a default margin of .18% from the expected yield of new investments. For renewal rates, these spreads and margins are deducted from the earnings of existing assets. Adjustments for competitive situations may be made.

The policy form file for a previously approved individual variable annuity with a fixed account was researched. The actuarial memorandum in that file described different crediting procedures. The new money rate was described as the 5-year treasury rate less 1.20%, adjusted

for competitive considerations and Company profitability objectives. The renewal rate was described as a procedure that moves to the new money rate based on 30% of the difference when rates are increasing and 60% of the difference when rates are decreasing.

A letter to the Company dated December 18, 2003 stated:

“It appears that there is no current Board Resolution in effect regarding crediting additional interest. Based on the October 13, 1999 letter (from the Company), the procedure described in the November 21, 1991 Board Resolution for Financial Security Life Insurance Company is no longer being followed. The Company is out of compliance with the written criteria requirement of Section 4232(a)(2)(iii) of the New York Insurance Law. A Resolution describing current practices is still required. This Resolution should be drafted to follow the guidance in item 1 of the Department’s November 3, 2003 letter. This Resolution should be adopted by the Board as soon as is reasonably possible.”

The Company’s response dated February 10, 2004 stated:

“At this time, we are still engaged in the process of assembling the required material to provide you with a current Board Resolution approving the written criteria requirement of Section 4232(a)(2)(iii) of the New York Insurance Law. Once this process is complete, we will forward the information to you.”

The Company violated Section 4232(a)(2)(iii) of the New York Insurance Law by crediting additional interest without written criteria approved by the board of directors or a committee thereof and will continue to be in violation until the required Board Resolution is approved.

D. Response to Supplement No. 1 to Department Circular Letter No. 19 (2000)

Supplement No. 1 to Circular Letter No. 19 (2000) (the “Supplement”), issued by the Department on June 22, 2000, notified all licensed life insurers that the Department was investigating allegations of race-based underwriting of life insurance by its licensees. The Supplement directed, pursuant to Section 308 of the New York Insurance Law, each domestic and foreign life insurer to review its past and present underwriting practices regarding race-based underwriting and to report its findings to the Department, no later than August 15, 2000.

Pursuant to Section 308 of the New York Insurance Law, the Company submitted in a timely manner a report of the findings of its review of past and present underwriting practices regarding race-based underwriting made in accordance with the requirements of the Supplement.

The Company reviewed its past and present underwriting practices. This review included an examination of internal underwriting manuals, rate books and guidelines, mortality tables, policy forms, board of director meeting minutes, producer agreements and compensation schedules. The Company also stated that they never assumed business from any other company. In summary, the Company's findings were that they have never marketed policies with premium rates, face amounts or non-forfeiture values that reflect race.

An analysis of the Company's response to the Supplement and other factors indicated that the Company's review of its past and present underwriting practices complied with the requirements of the Supplement.

7. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violation and recommendation 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 and failed to comply with Department Circular Letter No. 33 (1979) by participating in a tax allocation agreement without the approval of its board of directors and non-disapproval of the Department.</p> <p>The Company does not currently participate in a tax allocation agreement.</p>
B	<p>The examiner recommends that the tax allocation agreement be amended to include the Company as a party thereto and that the agreement be submitted to the Company's board of directors for approval and the Department for non-disapproval</p> <p>The Company does not currently participate in a tax allocation agreement.</p>

The following recommendations were made in the previous report on examination of BALAC, which merged with the Company in November 2001.

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommends that the Company maintain better control over its application files.</p> <p>The Company did not implement this recommendation and it now appears as a violation in this report on examination.</p>
B	<p>The examiner recommends that the Company institute procedures which would make available all claim files on a timely basis.</p> <p>A review of claims files indicated that the claim files were readily available for review.</p>

8. SUMMARY AND CONCLUSIONS

Following are the violations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No.</u>
A	The Company violated Section 243.2(b)(1) of Department Regulation No. 152 by failing to maintain all records and application files for all of its credit life and disability in-force policies.	17 – 18
B	The Company violated Section 3220(a)(6) of the New York Insurance Law by issuing group life policies without the required total and permanent disability policy provision.	18
C	The Company violated Section 185.14(d)(1) of Department Regulation No. 27-A by failing to meet the required mortgage credit life insurance benefit ratio requirements for the years 1996-2002.	19 – 21
D	The Company violated Section 185.14(d)(4) of Department Regulation No. 27-A when it used an alternative plan to provide refunds that was not approved by the Superintendent.	19 – 21
E	The Company violated Section 4232(a)(2)(iii) of the New York Insurance Law by crediting additional interest without written criteria approved by the board or a committee thereof and will continue to be in violation until the required Board Resolution is approved.	21 – 22

APPOINTMENT NO. 21990

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, GREGORY V. SERIO, Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:

JOHN LETOURNEAU

as a proper person to examine into the affairs of the

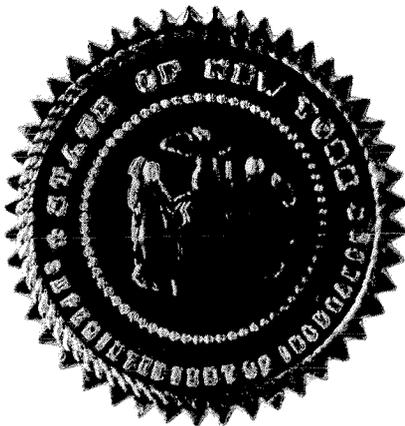
FIRST FORTIS LIFE INSURANCE COMPANY

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 21st day of January, 2003



GREGORY V. SERIO
Superintendent of Insurance

Gregory V. Serio
Superintendent