

STATE OF NEW YORK INSURANCE DEPARTMENT

REPORT ON EXAMINATION

OF THE

CGU LIFE INSURANCE COMPANY

OF NEW YORK

AS OF

DECEMBER 31, 2001

DATE OF REPORT:

MAY 31, 2002

EXAMINER:

MARC A. TSE

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

May 31, 2002

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

Sir:

In accordance with instructions contained in Appointment No. 21822, dated January 25, 2002 and annexed hereto, an examination has been made into the condition and affairs of CGU Life Insurance Company of New York, hereinafter referred to as "the Company" or "CGULNY," at its home office located at 100 Corporate Parkway, Buffalo, New York 14226.

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, 2001 filed annual statement. (See item 5 of this report)

The Company violated Section 325(a) of the New York Insurance Law by failing to maintain its charter, by-laws and books of account at its principal office. (See item 7 of this report)

The Company violated Section 1505(b) of the New York Insurance Law by not maintaining its books, accounts and records in such a manner as to clearly disclose the nature of certain inter-company transactions. The Company also violated Section 1505(d)(3) of the New York Insurance Law by failing to comply with its filed service agreement by not making payments within 90 days of the fiscal year end. (See item 3B of this report)

The Company violated Section 4228(f)(1)(A) of the New York Insurance Law by not filing its agent compensation plans. The Company violated Section 4228(e)(9)(B) of the New York Insurance Law by issuing a loan to an agent that exceeded the expected compensation of the agent over the next 12 months. This is a repeat violation from the prior report on examination. The Company violated Section 4228(e)(9)(C) of the New York Insurance Law by failing to secure collateral for an agent loan as required by Law. (See item 9 of this report)

The Company did not maintain its advertising file in its home office as required by Department Regulation No. 34-A. The Company violated Section 2122(a)(2) of the New York Insurance Law by calling attention to its parent, CGU Life Insurance Company of America, an unauthorized insurer, in its advertisements. (See item 6A of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 1998. This examination covers the period from January 1, 1999 through December 31, 2001. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2001 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, 2001 to determine whether the Company's 2001 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 violations and the comment contained in the prior report on examination. The results of the examiner's review are contained in item 11 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

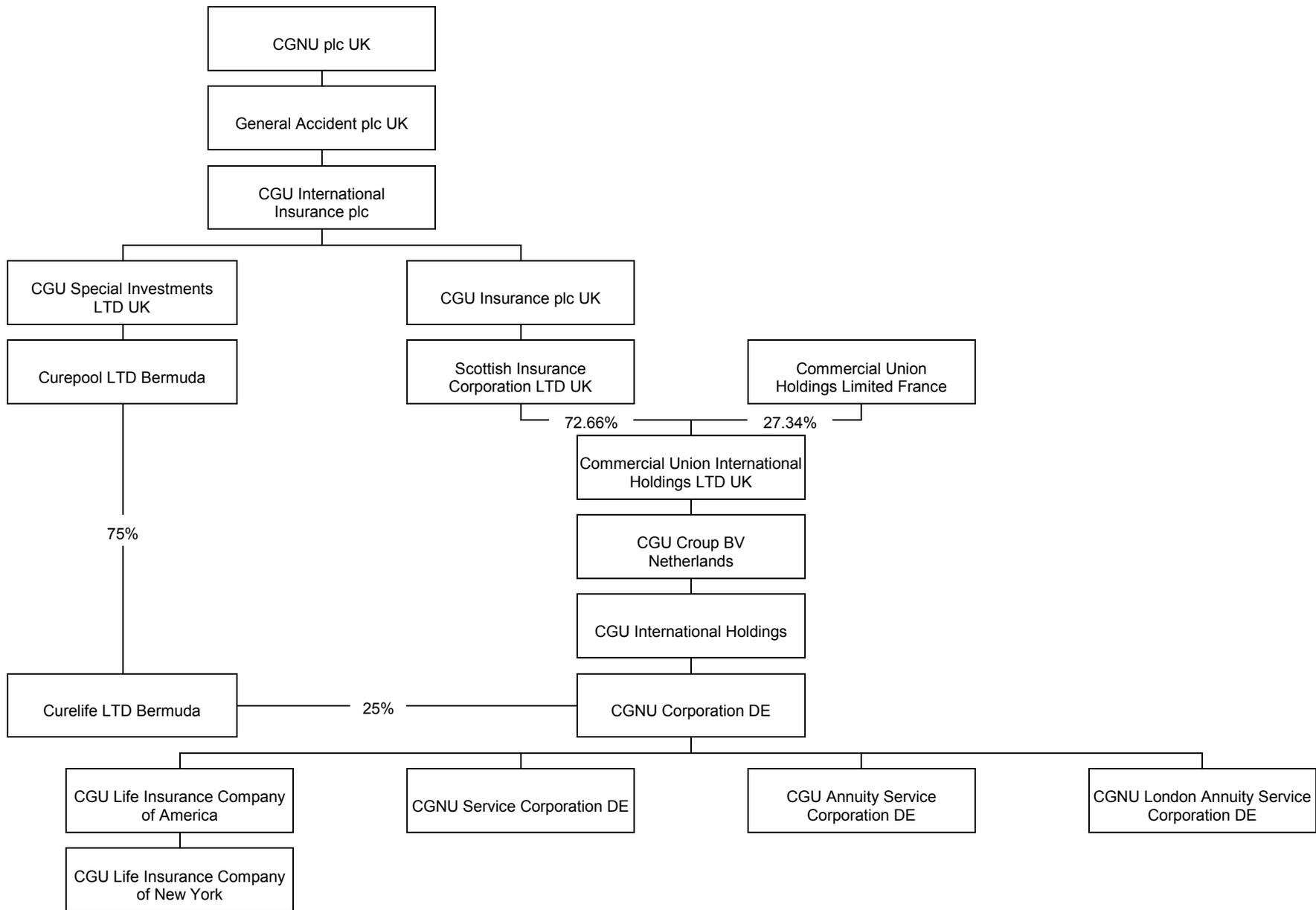
A. History

The Company was incorporated under the laws of New York on March 25, 1981 under the name CU Life Insurance Company of New York. The Company was licensed and commenced business on April 6, 1981. Initial resources of \$6,000,000, consisting of common capital stock of \$2,000,000 and paid in and contributed surplus of \$4,000,000 were provided through the sale of 20,000 shares of common stock, with a par value of \$100, for \$300 per share. The Company changed its name to its present name on November 1, 1999. Since incorporation, the Company has received an additional \$14,100,000 in contributions to surplus from its parent, CGU Life Insurance Company of America (“CGULICA”).

B. Holding Company

The Company is a wholly owned subsidiary of CGULICA, a Delaware life insurance company. CGULICA is in turn a wholly owned subsidiary of CGNU Corporation, a Delaware holding company. The ultimate parent of the Company is CGNU plc, a United Kingdom holding company.

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2001 follows:



The Company had one service agreement in effect as of December 31, 2001. The agreement is with CGNU Service Corporation (“CGNUSC”), which provides the Company with administrative services. The administrative services provided under the agreement include, underwriting, producer management, claims processing, legal services, human resources and general services.

Section 1505(b) of the New York Insurance Law states:

“The books, accounts and records of each party to all such transactions shall be so maintained as to clearly and accurately disclose the nature and details of the transactions including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties.”

A review of the Company’s records indicated that the Company paid \$1,349,842 for services received from CGNUSC in 2001, and that the Company had an inter-company payable of \$4,886,108 at year-end 2001 for such services. Note 10 of the General Interrogatories of the Company’s 2001 filed annual statement reported that \$3,700,000 of the inter-company payable was for services received from CGULICA. The Company’s records also indicated that \$3,700,000 of the inter-company payable was due to CGULICA. The Company does not have a service agreement with CGULICA. However, the Company maintains that the payable is not actually due CGULICA, it is due to the service company, CGNUSC. The Company’s records were not kept in a manner to clearly disclose the nature of the transactions.

The Company violated Section 1505(b) of the New York Insurance Law by not maintaining its books, accounts and records in such a manner as to clearly disclose the nature of the transactions.

Section 1505(d) of the New York Insurance Law states, in part:

“The following transactions between a domestic controlled insurer and any person in its holding company system may not be entered into unless the insurer has notified the superintendent in writing of its intention to enter into any such transaction at least thirty days prior thereto, or such shorter period as he may permit, and he has not disapproved it within such period . . .

(3) rendering of services on a regular or systematic basis . . .”

Article II, Section 3 of the service agreement with CGNUSC states:

“a. Within sixty (60) days after the end of each fiscal quarter, CGNUSC shall submit to the CGULNY a statement of actual apportioned expense for such prior fiscal quarter showing the basis for the apportionment of each item. Payment of the amount of the apportioned items’ expenses shall be made by CGULNY within thirty (30) days of receipt of the forgoing statement.

b. Within sixty 60 days after the end of each fiscal year, CGNUSC shall submit to CGULNY a statement of actual apportioned expenses for such fiscal year showing the basis for the apportionment of each item . . . Any difference between the amount of the estimated apportioned expenses paid by CGULNY and the amount of the actual apportioned expenses shall be paid to either CGUNSC or CGULNY, as the case may be, within thirty (30) days of the receipt of the statement of actual apportioned expenses.”

As previously noted, the Company reported an inter-company payable of \$3,700,000 to CGULICA. Of this amount, \$1,700,000 was outstanding for more than a year and was reported as an inter-company payable in the 2000 annual statement. Under the terms of the service agreement, settlements for services received are to be made within 90 days of the fiscal year-end. The Company did not make payment for services received in 2000 within the 90 day period. The Company did not follow the terms of the service agreement as submitted to the Department.

The Company violated Section 1505(d)(3) of the New York Insurance Law by failing to comply with its filed service agreement by not making payments within 90 days of the fiscal year end.

C. Management

The Company’s by-laws provide that the board of directors shall be comprised of not less than 13 members and that the number of directors for each corporate year shall be fixed by vote at the meeting at which they are elected. As of December 31, 2001, the board of directors consisted of 13 members. Meetings of the board are held quarterly, with one meeting immediately following the annual meeting of stockholders.

The 13 board members and their principal business affiliation, as of December 31, 2001, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Hans L. Carstensen, III Norwell, MA	President CGU Life Insurance Company of America CGU Life Insurance Company of New York	1996
Thomas O. Clark * Commack, NY	Retired Vice President and New York City Regional Manager CGU Property Casualty Companies	1990
Bruce D. Drucker * Wellfleet, MA	Retired Managing Partner Rivkin, Radler & Kremer	1992
John R. Dunne * Spencertown, NY	Counsel Whiteman Osterman & Hanna	1981
Richard J. Kypta Duxbury, MA	Senior Vice President, General Counsel and Secretary CGU Life Insurance Company of America CGU Life Insurance Company of New York	1997
Kevin J. McCoy Seekonk, MA	Vice President, Agency Marketing CGU Life Insurance Company of New York	2000
Mark J. McVeigh Charlestown, MA	Vice President, Financial Institution Marketing CGU Life Insurance Company of New York	2000
Sterling W. Nowka North Tonawanda, NY	Vice President CGU Life Insurance Company of New York	2000
Pauline E. Parsons Newton, MA	Vice President of TSA Marketing CGU Life Insurance Company of New York	2001
Diane D. Posnak* New York, NY	Managing Director Pearl Meyer & Partners, Inc.	1993
Frederick A. Randall Wayland, MA	Senior Vice President and Chief Actuary CGU Life Insurance Company of America CGU Life Insurance Company of New York	1992

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Alan J. Rein* Scarsdale, NY	Partner Kurzman & Eisenberg	1981
Martin Sheerin Briantree, MA	Vice President and Corporate Actuary CGU Life Insurance Company of America CGU Life Insurance Company of New York	2001

* 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.

In March 2002, Frederick A. Randall retired from the board and was replaced by Jeffery J. Whitehead.

The following is a listing of the principal officers of the Company as of December 31, 2001:

<u>Name</u>	<u>Title</u>
Hans L. Carstensen, III	President
Richard J. Kypta	Senior Vice President, General Counsel and Secretary
George J. Harrington	Assistant Vice President, Treasurer and Controller
Frederick A. Randall	Senior Vice President and Chief Actuary
Thomas J. Struth	Vice President and Chief Information Officer
Paul M. Grew	Vice President
Richard Warren Lindequist	Vice President, Producer Service
Kevin J. McCoy	Vice President, Agency Marketing
Mark J. McVeigh	Vice President, Financial Institution Marketing
Christopher F. Murphy	Vice President, Planning & Analysis
Sterling W. Nowka*	Vice President
Sean P. O'Brien	Vice President, Customer Service
Martin Sheerin	Vice President and Corporate Actuary

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

In February 2002, Jeffery J. Whitehead replaced George J. Harrington as Treasurer and became Senior Vice President and Chief Financial Officer and Gerard J. Guimond replaced Richard J. Kypta as General Counsel and Secretary.

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 two states, namely Massachusetts and New York. In 2001, 96.3% of life premiums and 25.9% of deposit type funds were received from New York and 97.2% of annuity considerations and 74.1% of deposit type funds were received from Massachusetts. Policies are written on a non-participating basis.

Annuities, sold as structured settlements, are the largest component of the Company's business. The structured settlements accounted for 99% of annuity considerations in 2001. Annuity considerations, life premiums and deposit type funds received in 2001 were 46%, 33% and 20% of total cash receipts from policyholders, respectively. The Company writes term and whole life insurance with face amounts primarily between \$75,000 to \$100,000.

The Company's agency operations are conducted on a general agency basis. The structured settlements are sold through independent agents that the Company refers to as brokers. The Company's primary distribution channel for its life insurance policies are banks.

E. Reinsurance

As of December 31, 2001, the Company had reinsurance treaties in effect with nine companies, of which eight were authorized or accredited. The Company's individual life policies are ceded on a coinsurance, modified coinsurance, and yearly renewable term basis. Reinsurance is provided on an automatic and facultative basis.

The maximum retention limit for individual life contracts is \$200,000. The total face amount of life insurance ceded, as of December 31, 2001, was \$668,215,931, which represents 36% of the total face amount of life insurance in force. The Company withheld funds in the amount of \$400,000 for reinsurance in an unauthorized company.

The Company assumed \$8,048,133 of annuity business from its parent, CGULICA, as of December 31, 2001. This amount represents 4% of annuity business in force.

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:

	<u>December 31,</u> <u>1998</u>	<u>December 31,</u> <u>2001</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$361,903,831</u>	<u>\$328,914,107</u>	<u>\$(32,989,724)</u>
Liabilities	<u>\$329,908,738</u>	<u>\$296,831,028</u>	<u>\$(33,077,710)</u>
Common capital stock	\$ 2,000,000	\$ 2,000,000	\$ 0
Gross paid in and contributed surplus	18,100,000	18,100,000	0
Aggregate write-ins for special surplus funds	12,215	12,258	43
Unassigned funds (surplus)	<u>11,882,878</u>	<u>11,970,821</u>	<u>87,943</u>
Total capital and surplus	<u>\$ 31,995,093</u>	<u>\$ 32,083,079</u>	<u>\$ 87,986</u>
Total liabilities, capital and surplus	<u>\$361,903,831</u>	<u>\$328,914,107</u>	<u>\$(32,989,724)</u>

The Company's invested assets as of December 31, 2001 were mainly comprised of bonds (96.3%). The majority (98.1%) of the Company's bond portfolio as of December 31, 2001 was comprised of investment grade obligations.

The Company's assets and liabilities declined during the period under examination primarily due to net cash outflows from operations. The net cash outflows from operations totaled \$31,892,894 for the period under examination and was due to surrenders of the Company's individual deferred annuity business.

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>1999</u>	<u>2000</u>	<u>2001</u>
Ordinary:			
Life insurance	\$ 323,800	\$ (912,257)	\$ (563,849)
Individual annuities	1,443,154	(1,816,182)	1,420,724
Supplementary contracts	<u>91,832</u>	<u>3,385,736</u>	<u>624,850</u>
Total ordinary	<u>\$1,858,786</u>	<u>\$ 657,297</u>	<u>\$1,481,725</u>
Group:			
Life	\$ 48,964	\$ 18,675	\$ 7,500
Annuities	<u>9,269</u>	<u>16,261</u>	<u>67,714</u>
Total group	<u>\$ 58,233</u>	<u>\$ 34,936</u>	<u>\$ 75,214</u>
Accident and health Group	\$ <u>45</u>	\$ <u>1,644</u>	\$ <u>(1,068)</u>
Total	<u>\$1,917,064</u>	<u>\$ 693,877</u>	<u>\$1,555,871</u>

The Company attributes its losses in the life insurance line of business in 2000 and 2001 to a downturn in the sale of its simplified issue products by one of its major banks and the discontinuation of sales by another major bank. Also, general expenses increased in 2000 and 2001 due to the costs associated with the implementation of a new infrastructure for distributing life insurance through financial institutions.

The loss in the annuity line of business in 2000 was due to high surrenders in the deferred annuity line of business. The Company attributes the high surrenders to the low interest rate environment. Also contributing to the loss, is the reserve strain and general expenses associated with the issuance of structured settlements.

The large gain in the supplementary contract line of business in 2000 as compared to 1999 and 2001 is due to a decrease in reserves in 2000.

5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital, surplus and other funds as of December 31, 2001, as contained in the Company's 2001 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, 2001 filed annual statement.

A. ASSETS, LIABILITIES, CAPITAL, SURPLUS AND OTHER FUNDS AS OF DECEMBER 31, 2001

Admitted Assets

Bonds	\$308,352,008
Policy loans	5,149,192
Cash	6,615,477
Reinsurance ceded:	
Amounts recoverable from reinsurers	257,850
Other amounts receivable under reinsurance contracts	2,055
Life insurance premiums and annuity considerations deferred and uncollected on in force business	2,770,895
Investment income due and accrued	5,540,554
Miscellaneous receivables	<u>226,076</u>
 Total admitted assets	 <u>\$328,914,107</u>

Liabilities, Capital, Surplus and Other Funds

Aggregate reserve for life policies and contracts	\$241,885,551
Liability for deposit-type contracts	38,015,377
Policy and contract claims - life	4,879,460
Premiums and annuity considerations received in advance	8,896
Interest maintenance reserve	295,767
Commissions to agents due or accrued	192
General expenses due or accrued	330,805
Taxes, licenses and fees due or accrued	322,984
Federal income taxes due or accrued	1,130,530
Unearned investment income	174,183
Amounts withheld or retained by company as agent or trustee	10,713
Amounts held for agents' account	42,475
Remittances and items not allocated	4,761,333
Payable to parent, subsidiaries and affiliates	4,886,000
Unclaimed funds	<u>86,762</u>
 Total liabilities	 <u>\$296,831,028</u>
 Common capital stock	 \$ 2,000,000
Gross paid in and contributed surplus	18,100,000
Group life contingency reserve	12,258
Unassigned funds (surplus)	<u>11,970,821</u>
 Total capital, surplus and other funds	 <u>\$ 32,083,079</u>
 Total liabilities, capital, surplus and other funds	 <u>\$328,914,107</u>

B. CONDENSED SUMMARY OF OPERATIONS

	<u>1999</u>	<u>2000</u>	<u>2001</u>
Premiums and considerations	\$32,054,330	\$30,872,782	\$24,588,341
Investment income	24,759,812	23,318,850	22,150,690
Commissions and reserve adjustments on reinsurance ceded	3,036	1,055,840	543,672
Miscellaneous income	<u>852</u>	<u>810</u>	<u>421,509</u>
Total income	<u>\$56,818,030</u>	<u>\$55,248,282</u>	<u>\$47,704,212</u>
Benefit payments	\$68,193,696	\$53,288,032	\$47,440,053
Increase (decrease) in reserves	(21,359,714)	(9,234,482)	(8,434,128)
Commissions	1,828,964	3,176,214	3,097,480
General expenses and taxes	3,449,303	6,476,688	4,471,191
Increase in loading and cost of collection	<u>121,470</u>	<u>545,581</u>	<u>(75,507)</u>
Total deductions	<u>\$52,233,719</u>	<u>\$54,252,033</u>	<u>\$46,499,089</u>
Net gain (loss)	\$ 4,584,311	\$ 996,249	\$ 1,205,123
Federal income taxes	<u>2,667,247</u>	<u>302,372</u>	<u>(350,748)</u>
Net gain (loss) from operations before net realized capital gains	\$ 1,917,064	\$ 693,877	\$ 1,555,871
Net realized capital gains (losses)	<u>96,819</u>	<u>(10,534)</u>	<u>(4,520,396)</u>
Net income	<u>\$ 2,013,883</u>	<u>\$ 683,343</u>	<u>\$ (2,964,525)</u>

The Company suffered a \$4,520,396 realized capital loss in 2001, of which \$4,035,269 pertained to the adjustment in book value of an Enron bond.

C. CAPITAL AND SURPLUS ACCOUNT

	<u>1999</u>	<u>2000</u>	<u>2001</u>
Capital and surplus, December 31, prior year	<u>\$31,995,093</u>	<u>\$33,386,483</u>	<u>\$33,290,285</u>
Net income	\$ 2,013,883	\$ 683,343	\$ (2,964,525)
Change in non-admitted assets and related items	(730,215)	(638,360)	(71,268)
Change in asset valuation reserve	107,722	(141,181)	1,739,699
Prior year federal income taxes	0	0	84,528
Prior year surplus adjustment	<u>0</u>	<u>0</u>	<u>4,360</u>
Net change in capital and surplus	<u>\$ 1,391,390</u>	<u>\$ (96,198)</u>	<u>\$ (1,207,206)</u>
Capital and surplus, December 31, current year	<u>\$33,386,483</u>	<u>\$33,290,285</u>	<u>\$32,083,079</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.

Section 219.5(a) of Department Regulation No. 34-A states, in part:

“Each insurer shall maintain at its home office a complete file containing a specimen copy of every printed, published or prepared advertisement hereafter disseminated in this State, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. In order to be complete, the file must contain all advertisements whether used by the company, its agents or solicitors or other persons. . . .”

The Company's advertising file was maintained at the home office of CGULICA in Massachusetts.

The Company violated Section 219.5(a) of Department Regulation No. 34-A by failing to maintain its advertising file at its home office.

Section 2122(a)(2) of the New York Insurance Law states:

“No insurance agent, insurance broker or other person, shall, by any advertisement or public announcement in this state, call attention to any unauthorized insurer or insurers.”

The Company used advertisements that were also advertisements for its parent, CGULICA. The advertisements contained the name and home office address of CGULICA, which is an unauthorized insurer.

The Company violated Section 2122(a)(2) of the New York Insurance Law by calling attention to an unauthorized insurer in its advertisements.

B. Underwriting and Policy Forms

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

Section 51.6(b) of Department Regulation No. 60 states, in part:

“Where a replacement has occurred or is likely to occur, the insurer replacing the life insurance policy or annuity contract shall . . .

(5) Submit quarterly reports within thirty days of the end of each quarter, beginning at the end of the first full calendar quarter after the effective date of this Part, to the Superintendent of Insurance, indicating which insurers, if any, have failed to provide the information as required in Section 51.6(c)(2) herein . . .”

The Company maintained a list of insurers who failed to provide the information required by Section 51.6(c)(2) of Department Regulation No. 60. However, the Company failed to submit this information to the Superintendent.

The Company violated Section 51.6(b)(5) of Department Regulation No. 60 by not submitting quarterly reports, to the Superintendent, of insurers who failed to provide information in accordance with Section 51.6(c)(2) of Department Regulation No. 60.

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.

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 reported that it reviewed all rate and underwriting manuals, past and present. The Company also reported that it has never merged with another company or acquired policies from another company. In summary, the Company’s findings were that the Company never engaged in underwriting based on 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. MAINTENANCE OF RECORDS

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 its charter and by-laws . . . and its books of account . . .”

A review of the information maintained at the Company’s principal office revealed that the Company did not maintain the following records:

- a. Charter and by-laws
- b. Significant portions of its books of accounts, specifically:
 - i. Quarterly statements
 - ii. Workpapers supporting quarterly and annual statements
 - iii. Subsidiary ledgers (investment, claims etc.)
 - iv. Cash books.

The Company violated Section 325(a) of the New York Insurance Law by failing to maintain its charter, by-laws and books of account at its principal office in this state.

8. PRIVACY

Section 420.13(a) of Department Regulation No. 169 states, in part:

“(1) The opt out requirements in sections 420.7 and 420.10 of this Part do not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions on the licensee’s behalf, if the licensee . . .

(ii) Enters into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception in section 420.14 or 420.15 of this Part in the ordinary course of business to carry out those purposes.”

The Company utilizes two third party administrators (“TPAs”) to perform its information system and internal audit functions. The examiner requested the contract between the Company and the TPAs. The examiner was provided a “NON-DISCLOSURE AND NON-USE AGREEMENT” between CGULICA and the TPAs, which the Company offered as evidence of compliance with Section 420.13(a)(1)(ii). However, the Company is not a party to the agreement. As a result, the Company did not obtain the necessary contractual safeguards for sharing nonpublic personal financial information with a nonaffiliated third party.

The Company violated Section 420.13(a)(1)(ii) of Department Regulation No. 169 by sharing nonpublic personal financial information with a nonaffiliated third party without a contractual agreement that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information.

The examiner recommends that the Company enter into a contractual agreement with the TPAs, and that the agreements prohibits the TPAs from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, as required by Department Regulation No. 169.

9. AGENT'S COMPENSATION

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

“ . . . (f) (1) Filing requirements for agent compensation plans are as follows: (A) A company shall make annual information filings with respect to any newly-introduced plans or changes under which the company makes payments to agents or brokers if such plans are commission plans for which the commission percentages are, in all policy or contract years, no greater than the commission percentages set forth in paragraphs one, two, three and four of subsection (d) of this section, expense allowance plans other than those meeting the definition of a compensation arrangement, plans subject to the provisions of paragraph one of subsection (e) of this section under which compensation is not in excess of two percent of the fund annually in any of the first four policy or contract years, or plans subject to the provisions of paragraph four of subsection (e) of this section. These filings shall consist of a summary of information in enough detail to generally describe the filing content, and shall be made not later than the last day of February next following the year in which such plans were placed in use or changed. The first such filing shall be due not later than the last day of February following the end of the year which includes the effective date of this section . . .

(g)(4) A company may, for a period of one year after the effective date of this subsection, continue to employ any plan of compensation, including any expense allowance plan, that it was using as of the effective date, unless the superintendent shall determine that such plan was not approvable at the time it was placed in effect. . . .”

The law requires that companies file any compensation plans that were in effect prior to the revision of Section 4228, no later than one year after the effective date of the revision. The Company did not submit filings for agent compensation plans that were in use prior to the revision of Section 4228 of the New York Insurance Law.

The Company violated Section 4228(f)(1)(A) of the New York Insurance Law by not filing its agent compensation plans with the Superintendent.

Section 4228(e)(9) of the New York Insurance Law states, in part:

“ . . . (B) A company may make a loan to any of its agents pursuant to a plan of agent compensation. The maximum amount of any loan shall not exceed the expected compensation of the agent over the next twelve months. A company shall charge interest on loans at a rate not less than a rate consistent with current short-term borrowing rates . . .

(C) A company shall secure adequate collateral for any advance or loan to an agent; such collateral shall, as a minimum, consist of any compensation earned by the agent from sales of new policies or contracts.”

The previous report on examination contained a violation of Section 4228(e)(9)(B) of the New York Insurance Law for failure to charge interest on loans made to an agent. Subsequent to that examination, the Company entered into a loan agreement, effective January 1, 2000, with the same agent to charge interest on the loan. The loan was entered into as part of a release and settlement agreement with the agent that was signed on May 18, 2000. As of the effective date of the loan agreement, the agent had an outstanding loan balance of \$292,956. The loan agreement provides for the agent to borrow an additional \$5,000 per month from the Company during each of the years 2000, 2001, 2002 and an additional \$4,000 per month during each of the years 2003, 2004, and 2005. The balance of the loan was \$312,253 on January 1, 2001; \$273,362 on January 1, 2002 and; \$278,760 on April 30, 2002. The agent's compensation for 1999, 2000 and 2001 were \$109,909, \$168,510 and \$115,326, respectively. These amounts were used to offset the loan. The agent's annual compensation from commissions was expected to be less than the outstanding balance of the loan from inception of the loan through 2005.

As previously noted, the Company entered into a release and settlement agreement with the general agent effective May 18, 2000. The general agent's agreement with the Company terminated effective October 16, 1999. Thereafter, the agent's compensation consisted primarily of renewal commissions, which was the collateral for the agent's loan.

The Company violated Section 4228(e)(9)(B) of the New York Insurance Law by issuing a loan to an agent exceeding the expected compensation of the agent over the next 12 months. This is a repeat violation from the prior report on examination.

The Company violated Section 4228(e)(9)(C) of the New York Insurance Law by failing to secure adequate collateral for an agent loan as required by Law.

10. RESERVES

A review of a sample of reserve calculations provided by the Company for both the universal life and traditional life blocks revealed several discrepancies in the December 31, 2001 reported reserves.

The sample calculations did not agree with those in the supporting seriatim details and summaries and the reserves reported in the 2001 annual statement. The aggregate December 31, 2001 life insurance reserves were found to be deficient by an estimated \$0.7 million.

The Department raised concerns with respect to these discrepancies and compliance with the New York Insurance Laws and Regulations, as they relate to life insurance reserves. Initially, the Company did not respond to inquiries raised by the Department in a timely manner. Several months into the examination the Company's response time improved significantly.

The Company eventually provided evidence that conversion to a new valuation system resolved the material reserve concerns and concerns regarding compliance with New York Insurance Laws and Regulations. The new valuation system has been fully implemented.

11. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations and the comment contained in the prior report:

<u>Item</u>	<u>Description</u>
A	<p>Comment that any rent due in arrears for more than three months should be reported as a not admitted asset.</p> <p>The Company did not report rent in arrears for more than three months as an admitted asset during the examination period.</p>
B	<p>The Company violated Section 3207(c) of the New York Insurance Law by exceeding the 25 percent limit of life insurance in force on parties effectuating insurance on minors.</p> <p>A review of a sample of policy files did not reveal any instances where the limit of life insurance on juveniles exceeded the limit set by Section 3207(c) of the New York Insurance Law.</p>
C	<p>The Company violated Section 4224(a) of the New York Insurance Law by applying different underwriting standards on identical policies.</p> <p>A review of the Company's underwriting standards indicated that the Company modified its underwriting process to provide the same standards on identical policies.</p>
D	<p>The Company violated Section 2611 of the New York Insurance Law by not receiving complete written informed consents from individuals requested or required to be subject to an HIV related test.</p> <p>A review of a sample of new policy files revealed that complete written informed consents were obtained from individuals subject to an HIV related test.</p>
E	<p>The Company violated Section 4228(e)(9)(B) of the New York Insurance Law by failing to charge interest on loans made to agents.</p> <p>A review of agent loans revealed that the Company is now charging interest on loans made to agents.</p>

<u>Item</u>	<u>Description</u>
F	<p>The Company violated Section 4228(e)(9)(B) of the New York Insurance Law by issuing a loan to an agent exceeding the expected compensation of the agent over the next 12 months.</p> <p>A review of agent loans revealed that the Company is still in violation of Section 4228(e)(9)(B) of the New York Insurance Law.</p>

12. SUMMARY AND CONCLUSIONS

Following are the violations and the recommendation contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 1505(b) of the New York Insurance Law by not maintaining its books, accounts and records in such a manner as to clearly disclose the nature of the transactions.	6
B	The Company violated Section 1505(d)(3) of the New York Insurance Law by failing to comply with its filed service agreement by not making payments within 90 days of the fiscal year end.	6 – 7
C	The Company violated Section 219.5(a) of Department Regulation No. 34-A by failing to maintain its advertising file in its home office.	17
D	The Company violated Section 2122(a)(2) of the New York Insurance Law by calling attention to an unauthorized insurer in its advertisements.	17 – 18
E	The Company violated Section 51.6(b)(5) of Department Regulation No. 60 by not submitting to the Superintendent, a list of insurers who failed to provide information in accordance with Section 51.6(c)(2) of the Regulation.	18
F	The Company violated Section 325(a) of the New York Insurance Law by failing to maintain its charter, by-laws and books of account at its principal office in this state.	20
G	The Company violated Section 420.13(a)(1)(ii) of Department Regulation No. 169, by sharing nonpublic personal financial information with a nonaffiliated third party without a contractual agreement that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information.	21
H	The examiner recommends that the Company enter into a contractual agreement with the TPAs, that prohibits the TPAs from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, as required by Department Regulation No. 169.	21

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
I	The Company violated Section 4228(f)(1)(A) of the New York Insurance Law by not filing its agent compensation plans with the Superintendent.	22
J	The Company violated Section 4228(e)(9)(B) of the New York Insurance Law by issuing a loan to an agent exceeding the expected compensation of the agent over the next 12 months.	23
K	The Company violated Section 4228(e)(9)(C) of the New York Insurance Law by failing to secure adequate collateral for an agent loan as required by Law.	23

APPOINTMENT NO. 21822

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:

MARC TSE

as a proper person to examine into the affairs of the

CGU LIFE INSURANCE COMPANY OF NEW YORK

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.

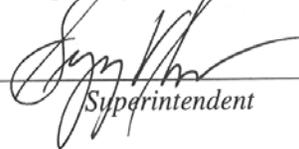
In Witness Whereof, I have hereunto subscribed by name
and affixed the official Seal of the Department
at the City of New York

this 25th day of January, 2002



GREGORY V. SERIO

Superintendent of Insurance


Superintendent