STATE OF NEW YORK INSURANCE DEPARTMENT

REPORT ON EXAMINATION

OF THE

FIRST AMERITAS LIFE INSURANCE CORP. OF NEW YORK

AS OF

DECEMBER 31, 2002

DATE OF REPORT:	MARCH 11, 2004
EXAMINER:	MANISH GAJIWALA

TABLE OF CONTENTS

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

George E. Pataki
Governor

Gregory V. Serio
Superintendent

March 11, 2004

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

Sir:

In accordance with instructions contained in Appointment No. 22102, dated November 5, 2003 and annexed hereto, an examination has been made into the condition and affairs of First Ameritas Life Insurance Corp. of New York, hereinafter referred to as "the Company," at its home office located at 400 Rella Boulevard, Suffern, New York 10901.

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 Company began issuing variable annuities and variable universal life insurance in 2001. Due to unfavorable market conditions, the Company suspended selling variable products in 2003. (See item 3D 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 215.17(a) of Department Regulation No. 34 and Section 219.5(a) of Department Regulation No. 34-A by not maintaining at its home office a complete advertisement file, and by not maintaining the manner and extent of distribution of its advertisements. (See item 6A 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 2002 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 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

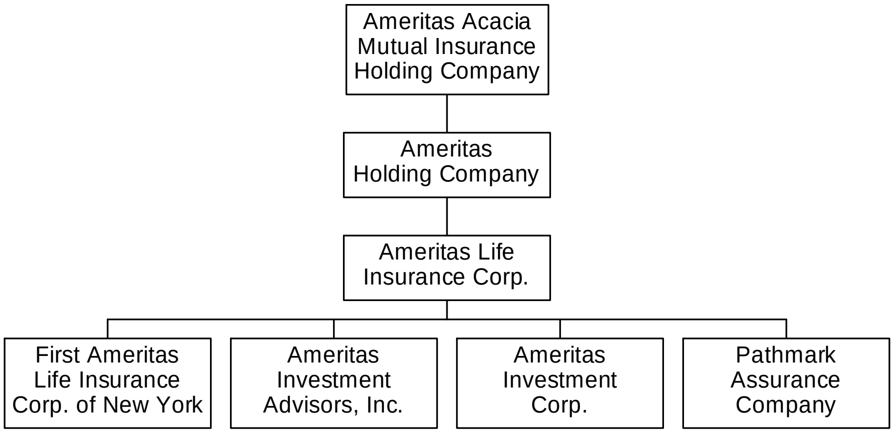
The Company was incorporated as a stock life insurance company, under the name Great Ameritas Life Insurance Corp., on April 1, 1993 and was authorized to write life insurance, annuities, and accident and health insurance as defined in paragraphs 1, 2, and 3 of Section 1113 of the New York Insurance Law. The Company changed its name to First Ameritas Life Insurance Corp. of New York by an amendment and restatement of its charter on November 9, 1993. The Company was licensed and commenced business on May 17, 1994. Initial resources of $6,300,000, consisting of common capital stock of $2,000,000 and paid in and contributed surplus of $4,300,000, were provided through the sale of 2,000 shares of common stock (with a par value of $1,000 each) for $3,150 per share.

On January 1, 1997, Ameritas Bankers Assurance Company ("ABAC"), a domestic accident and health insurer, merged into the Company. ABAC was a direct wholly owned subsidiary of Bankers Life Nebraska Company. As a result of the merger, the Company's gross paid in and contributed surplus increased to $6,800,000. As of December 31, 2002, the Company's capital and paid in and contributed surplus totaled $2,000,000 and $6,800,000, respectively.

B. Holding Company

The Company is a wholly owned subsidiary of Ameritas Life Insurance Company ("ALIC"), a Nebraska life insurance company. ALIC is a wholly owned subsidiary of Ameritas Holding Company ("AHC"), a Nebraska holding company. The ultimate parent of the Company is Ameritas Acacia Mutual Insurance Holding Company, a Nebraska holding company.

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 five 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	Income/ (Expense) For Each Year of the Examination
Investment Advisory Agreement	April 22, 1994	Ameritas Investment Advisors, Inc.	the Company	Investment advisory services	2000 = $(43,203) 2001 = $(47,615) 2002 = $(59,578)
Administrative Services Agreement	September 1 1998	Pathmark Assurance Company	the Company	Administrative services for dental and vision	2000 = $0 2001 = $0 2002 = $0
Administrative Services Agreement	June 1994 Amended and Restated January 1, 2001 Amended and Restated August 1, 2002	ALIC	the Company	Administrative, advertising, underwriting, policy issue, premium processing, customer service, claims, agent licensing, and information management support	2000 = $(1,252,701) 2001 = $(1,173,405) 2002 = $(1,945,723)
Underwriting Agreement	January 1, 2001	Ameritas Investment Corporation	the Company	Distribution and underwriting of variable products	2000 = $0 2001 = $(475,200) 2002 = $(475,200)
Strategic Planning	March 22, 2001	the Company	AHC	The president of the Company shares his time with the affiliate for strategic planning	2000 = $0 2001 = $301,031 2002 = $400,385

During the examination period, the administrative service agreement with Pathmark Assurance Company ("Pathmark") was in effect; however, the services listed under the agreement were actually provided to the Company by ALIC, per their June 1994 administrative service agreement (amended August 2002). Hence, there were no payments made to Pathmark resulting from the September 1998 agreement.

The examiner recommends that the Company withdraw its agreement with Pathmark, since the agreement has been dormant for more than three years, and the same services are covered under the agreement with ALIC.

The Company also has a federal tax allocation agreement with ALIC.

The Company paid “bank charges” several times in 2002 to Acacia Life Insurance Company (“Acacia”). Acacia and the Company utilized the same bank, and the bank charged all bank fees to Acacia. Acacia, in turn, allocated and collected the appropriate fee from the individual companies within the enterprise. Similarly, in 2002, the Company paid a monthly “reinsurance premium” to Ameritas Variable Life Insurance Company (“AVLIC”). One of the Company’s reinsurers, AXA Corporate Solutions Life Reinsurance Company, billed all reinsurance premiums to AVLIC. AVLIC subsequently allocated and collected these premiums from the individual companies within the enterprise.

The Company received services from Acacia and AVLIC on a regular basis without receiving the prior approval of the Superintendent. The examiner recommends that the Company either: cease utilizing the services of the affiliates; file agreements with the Department to permit these services; or amend the agreement that is on file with the Department to include these affiliates as party to the agreement.

C. Management

The Company’s by-laws provide that the board of directors shall be comprised of 13 directors. Directors are elected for a period of one year at the annual meeting of the stockholders held in March of each year. As of December 31, 2002, the board of directors consisted of 13 members. Meetings of the board are held quarterly.

The 13 board members and their principal business affiliation, as of December 31, 2002, were as follows:

Name and Residence	Principal Business Affiliation	Year First Elected
Lawrence J. Arth Lincoln, NE	Chairman, President and Chief Executive Officer Ameritas Acacia Mutual Holding Company	1993
John P. Carsten * Albany, NY	Executive Director New York State Nurses Association Pension & Benefits Fund	1993
Phyllis J. Carsten-Boyle Suffern, NY	Vice President – Group Operations First Ameritas Life Insurance Corp. of New York	1993
Robert J. Lanik * Lincoln, NE	President and Chief Executive Officer St. Elizabeth Community Health Center	1993
Kenneth C. Louis Lincoln, NE	Chairman First Ameritas Life Insurance Corp. of New York	1993
JoAnn M. Martin Lincoln, NE	President and Chief Operating Officer Ameritas Life Insurance Corp.	1993
David C. Moore Lincoln, NE	Executive Vice President First Ameritas Life Insurance Corp. of New York	1993
David J. Myers * Lincoln, NE	Assistant to Superintendent Lincoln Public Schools	1993
Mitchell F. Politzer Suffern, NY	President and Chief Executive Officer First Ameritas Life Insurance Corp. of New York	2000
James E. Rembolt * Lincoln, NE	Partner Rembolt, Ludtke, Parker & Berger	1993
Kim M. Robak * Lincoln, NE	Vice President of External Affairs and Corporate Secretary University of Nebraska	2002
Edmund G. Sullivan * Fayetteville, NY	Retired	1997
Kenneth L. VanCleave Lincoln, NE	Senior Vice President – Group Division Ameritas Life Insurance Corp.	2002

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

In March 2003, the following changes to the board took place: Kenneth C. Louis retired from the board and was replaced by Donald R. Stading; David C. Moore replaced Mr. Louis as chairman of the board.

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:

Name	Title
Kenneth C. Louis	Chairman
Mitchell F. Politzer	President and Chief Executive Officer
William W. Lester	Treasurer
Robert C. Barth	Controller
David C. Moore	Executive Vice President
Eldon R. Bohmont	Vice President – Individual Client Services
Phyllis J. Carsten-Boyle	Vice President – Group Operations
Raymond M. Gilbertson	Vice President – Corporate Compliance
William W. Nelson	Vice President – Group Claims
Donald R. Stading	Vice President, Secretary and General Counsel
Richard W. Vautravers	Corporate Actuary
Raymond M. Gilbertson*	Vice President – Corporate Compliance

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

In March 2003, Kenneth L. Van Cleave was elected Vice President. In May 2003, Robert C. Barth's title was changed to Vice President and Controller.

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 State only. In 2002, 91% of individual life premiums, 98% of individual annuities and 100% of group accident and health premiums were received from New York. The Company writes only nonparticipating policies. During the examination period, the Company marketed term insurance, universal life insurance, variable universal life insurance, individual variable annuities, group dental insurance and group vision care insurance. Group dental insurance premiums comprised 54% and individual variable annuities comprised 43% of the Company’s total premiums and considerations in 2002. The Company started writing variable annuities and variable universal life insurance in 2001, but suspended writing the variable products in 2003 due to unfavorable market conditions.

The Company does not use a captive agency force for the sale of its life insurance products and does not pay commissions on its life insurance products. The Company’s life insurance products are sold: 1) directly to the consumer through call centers; 2) through marketing centers and fee producers; and 3) through fee adviser referrals. Each sales channel is described below.

Through the direct distribution channel, potential policyholders contact a call center from the “800” number found in the Company’s advertisements. Potential policyholders are connected to an account representative at ALIC. Account representatives are salaried employees of ALIC. The account representatives that process New York applications are licensed and appointed with the Company.

Marketing centers and fee producers identify, develop, and solicit new markets for the Company’s life insurance products. Each marketing center is licensed and appointed with the Company either as an agent or as a corporate general agency. Individuals are licensed and appointed under the marketing center as fee producers, via a fee producer contract. The Company pays compensation to the marketing center only. Fee producers receive compensation from the marketing center.

The third distribution channel for its ordinary life insurance products is the fee adviser referrals. Fee advisers, such as CPA’s, lawyers, etc., refer potential policyholders to the Company. Fee advisers are not licensed and do not receive compensation from the Company. They receive compensation from their clients under a fee agreement for the professional services provided (e.g., accounting, tax planning, legal, etc.). Home office employees who are licensed agents write the applications.

The Company sells group health insurance products through licensed agents and brokers.

Finally, the Company sells variable life and annuity products via Ameritas Investment Corp. (“AIC”). Under the terms of the approved selling agreement, AIC provides all services relating to the issuance of variable annuities, including the training of agents with respect to the Company’s products. Although the agents are licensed by the Company, they are compensated by AIC. The Company reimburses expenses to AIC in accordance with the terms of the selling agreement.

On July 1, 2002, the Company issued a group dental policy with annualized premiums of approximately $9,000,000. Business Council of New York State (“BCNYS”) is the third party administrator for this block of business.

E. Reinsurance

As of December 31, 2002, the Company had reinsurance treaties in effect with four companies, of which three were authorized.

The Company’s life and accident and health businesses are reinsured on a yearly renewable term basis. Reinsurance is provided on an automatic and facultative basis.

The maximum retention limit for individual life contracts is $100,000. The total face amount of life insurance ceded as of December 31, 2002, was $165,205,312, which represents 61.41% of the total face amount of life insurance in force.

The Company does not assume life insurance.

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, 1999	December 31, 2002	Increase
Admitted assets	$17,089,691	$36,309,599	$19,219,908
Liabilities	$ 3,887,979	$20,799,030	$16,911,051
Common capital stock	$ 2,000,000	$ 2,000,000	$ 0
Gross paid in and contributed surplus	6,800,000	6,800,000	0
Unassigned funds (surplus)	4,401,712	6,710,569	2,308,857
Total capital and surplus	$13,201,712	$15,510,569	$ 2,308,857
Total liabilities, capital and surplus	$17,089,691	$36,309,599	$19,219,908

The Company's invested assets as of December 31, 2002, exclusive of Separate Accounts, were mainly comprised of bonds (70%), and cash and short-term investments (27%).

The Company's entire bond portfolio, as of December 31, 2002, was comprised of investment grade obligations.

The following has been extracted from the Exhibits of Annuities in the filed annual statements for each of the years under review:

	Ordinary Annuities		
	2000	2001	2002
Outstanding, end of previous year	0	0	57
Issued during the year	0	58	87
Other net changes during the year	0	(1)	(8)
Outstanding, end of current year	0	57	136

The Company started issuing individual variable annuities in 2001. During 2002, individual variable annuities represented approximately 43% of total premiums and considerations received. As stated previously, the Company suspended issuing individual variable annuities in 2003 due to unfavorable market conditions.

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:

	2000	2001	2002
Ordinary:			
Life insurance	$ (626,506)	$ (171,259)	$ (557,824)
Individual annuities	0	(213,239)	(375,421)
Total ordinary	$ (626,506)	$ (384,498)	$(1,011,004)
Group accident and health	$1,570,720	$1,467,713	$ 1,090,407
All other lines	$ 91,270	$ 0	$ 0
Total	$1,035,484	$1,083,215	$ 157,162

The losses in the ordinary life insurance line of business are due to the lack of critical mass needed to be profitable on this block of business. The losses in the individual annuity line of business are due to the necessary start-up expenses related to variable annuities.

The following ratios, applicable to the accident and health business of the Company, have been extracted from Schedule H for each of the indicated years:

	2000	2001	2002
Premiums earned	100.0%	100.0%	100.0%
Incurred losses	60.2%	63.6%	71.0%
Commissions	6.2	5.8	5.7
Expenses	16.4	14.6	14.7
	82.8%	84.0%	91.4%
Underwriting results	17.2%	16.0%	8.6%

The loss ratio increased in 2002 because the Company added a block of policies (as indicated in Section 3D above) in July 2002 that had a significantly higher loss ratio.

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	$22,242,827
Mortgage loans	
First liens	888,420
Policy loans	110,843
Cash and short term investments	8,605,987
Reinsurance ceded:	
Amounts recoverable from reinsurers	10,641
Federal and foreign income tax recoverable and interest thereon	208,945
Life insurance premiums and annuity considerations deferred and uncollected on in force business	119,737
Accident and health premiums due and unpaid	794,410
Investment income due and accrued	369,889
Receivable from parent, subsidiaries and affiliates	30,355
Amounts receivable relating to uninsured accident and health plans	3,745
State income tax receivable	5,769
From Separate Accounts statement	2,918,031
Total admitted assets	$36,309,599

Liabilities, Capital, Surplus and Other Funds

Aggregate reserve for life policies and contracts	$13,196,911
Policy and contract claims:	
Life	89,522
Accident and health	2,128,438
Premiums and annuity considerations for life and accident and health policies and contracts received in advance	87,717
Commissions to agents due or accrued	35,092
General expenses due or accrued	116,134
Transfers to Separate Accounts due or accrued	(92,113)
Taxes, licenses and fees due or accrued	50,000
Amounts withheld or retained by company as agent or trustee	14,295
Amounts held for agents' account	27,062
Remittances and items not allocated	1,636,373
Miscellaneous liabilities:	
Asset valuation reserve	76,102
Payable to parent, subsidiaries and affiliates	514,272
Liability for amounts held under uninsured accident and health plans	1,197
From Separate Accounts statement	2,918,031
Total liabilities	$20,799,030
Common capital stock	$ 2,000,000
Gross paid in and contributed surplus	6,800,000
Unassigned funds (surplus)	6,710,569
Total capital, surplus and other funds	$15,510,569
Total liabilities, capital, surplus and other funds	$36,309,599

B. CONDENSED SUMMARY OF OPERATIONS

	2000	2001	2002
Premiums and considerations	$10,632,123	$14,898,354	$26,922,490
Investment income	1,150,159	1,192,396	1,334,254
Commissions and reserve adjustments on reinsurance ceded	133,965	103,230	89,853
Miscellaneous income	372,155	26,716	53,827
Total income	$12,288,402	$16,220,696	$28,400,425
Benefit payments	$ 6,288,611	$ 8,000,384	$12,963,967
Increase in reserves	506,796	2,778,688	7,815,196
Commissions	635,919	666,415	1,039,503
General expenses and taxes	3,172,121	2,647,503	3,855,876
Increase in loading on deferred and uncollected premium	(8,080)	(15,528)	(12,454)
Net transfers to (from) Separate Accounts	0	476,959	2,194,629
Miscellaneous deductions	0	0	787
Total deductions	$10,595,367	$14,554,421	$27,857,503
Net gain (loss)	$ 1,693,035	$ 1,666,275	$ 542,922
Federal and foreign income taxes incurred	657,551	583,060	385,760
Net income	$ 1,035,484	$ 1,083,215	$ 157,162

C. CAPITAL AND SURPLUS ACCOUNT

	2000	2001	2002
Capital and surplus, December 31, prior year	$13,201,712	$14,113,100	$15,223,385
Net income	$ 1,035,484	$ 1,083,215	$ 157,162
Change in net deferred income tax	0	0	166,179
Change in non-admitted assets and related items	(113,077)	28,468	(120,731)
Change in asset valuation reserve	(11,019)	(22,045)	(22,937)
Cumulative effect of changes in accounting Principles	0	20,647	107,511
Net change in capital and surplus	$ 911,388	$ 1,110,285	$ 287,184
Capital and surplus, December 31, current year	$14,113,100	$15,223,385	$15,510,569

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

> "Advertising file. Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its individual policies and typical printed, published or prepared advertisements of its blanket, franchise and group policies hereafter disseminated in this or any other state whether or not licensed in such other state, with a notation attached to each such advertisement which shall indicate the manner and extent of distribution . . ."

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

> "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 its solicitors or other persons."

In response to the examiner's request for the Company's advertisement file, the Company provided access to its parent's electronic database of all affilate advertisements. The database is maintained at the parent's home office in Nebraska, contrary to New York requirements. The Company also provided hard copies of some of its individual life and group health insurance advertisements. During the review of the hard copies, the examiner noticed that some of the Company's advertisements were not included in the parent's database. Additionally, neither the Company nor the parent was able to provide the manner and extent of distribution of the Company's advertisements.

The Company violated Section 215.17(a) of Department Regulation No. 34 and Section 219.5(a) of Department Regulation No. 34-A by not maintaining at its home office a complete advertisement file, and by not maintaining the manner and extent of distribution of its advertisements.

Section 219.4(p) of Department Regulation No. 34-A states, in part:

> "In all advertisements made by an insurer, or on its behalf, the name of the insurer shall be clearly identified, together with the name of the city, town or village in which it has its home office in the United States. . . ."

From the sample of 36 advertisements that were reviewed, the examiner found 11 instances where the advertisement did not state the city in which the Company has its home office.

The Company violated Section 219.4(p) of Department Regulation No.34-A by failing to indicate in its advertisements the name of the city where it has its home office.

B. Underwriting and Policy Forms

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

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

C. Treatment of Policyholders

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

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 has never marketed life insurance policies using any form of race-based underwriting. It also reported that it has not acquired any life insurance business as the result of an assumption, merger, acquisition, consolidation, or purchase, and that the Company was formed in March of 1993.

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

Item	Description
A	The examiner recommended that the Company rewrite the agreements so that each agreement includes only the Company and the vendor or third party. The Company is rewriting the agreements upon renewal. New agreements include the Company only.
B	The Company violated Section 1505(d)(3) of the New York Insurance Law by failing to notify the Superintendent before entering into the agreement with Veritas Corp. The agreement with Veritas Corp. has been replaced with the agreement with ALIC. However, this report contains a similar violation for failing to comply with the terms of the filed service agreement.
C	The Company violated Section 1202(b)(1) of the New York Insurance Law by having two committees of the board of directors without the minimum number of unaffiliated members. The Company appointed one unaffiliated member of the board to both committees. Hence, the committees are now comprised of the minimum number of unaffiliated members.
D	The Company violated Section 2122(a)(2) of the New York Insurance Law by calling attention to an unauthorized insurer in three of its advertisements. A review of the Company's advertising file revealed no objectionable advertisements.
E	The Company violated Section 215.6(a)(3) of Department Regulation No. 34 by describing a policy limitation or exception in a positive manner in three health advertisements. The Company has discontinued the use of the three health advertisements referenced above. The examiner's review did not reveal any advertisements that described a policy limitation or exception in a positive manner.
F	The Company violated Section 215.13(a) of Department Regulation No. 34 by failing to list the name of the Company or the policy form number in several

health advertisements.

The review did not reveal instances where the policy form number was missing from the advertisement.

G The Company violated Section 219.4(a) of Department Regulation No. 34-A by using three advertisements for term life policies that were misleading.

A review of the Company's advertising file revealed no objectionable advertisements.

H The Company violated Section 219.4(x) of Department Regulation No. 34-A by emphasizing the investment and tax features of its universal life policy and minimizing the insurance features of the policy.

The Company has revised its advertising standards for promoting universal life insurance by including a balanced presentation of the tax advantages as well as life insurance features. The examiner's review of advertisements did not reveal any advertisement that emphasized the investment and tax features over the insurance features.

I The examiner recommended that the Company review all of its group health policy forms that include variable text and re-file these policy forms with the variable text in brackets.

The Company has re-filed the applicable policy forms. The examination did not reveal any instances where the Company used unapproved policy forms.

8. SUMMARY AND CONCLUSIONS

Following are the violations and recommendations contained in this report:

Item	Description	Page No(s).
A	The examiner recommends that the Company withdraw its agreement with Pathmark, since the agreement has been dormant for more than three years, and the same services are covered under the agreement with ALIC.	6
B	The examiner recommends that the Company either: cease utilizing the services of the affiliates; file agreements with the Department to permit these services; or amend the agreement that is on file with the Department to include these affiliates as party to the agreement.	6
C	The Company violated Section 215.17(a) of Department Regulation No. 34 and Section 219.5(a) of Department Regulation No. 34-A by not maintaining at its home office a complete advertisement file, and by not maintaining the manner and extent of distribution of its advertisements.	18 - 19
D	The Company violated Section 219.4(p) of Department Regulation No. 34-A by failing to indicate in its advertisements the name of the city where it has its home office.	19

Respectfully submitted,

/s/
Manish Gajiwala
Senior Insurance Examiner

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

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

/s/
Manish Gajiwala

Subscribed and sworn to before me

this__________ day of ____________________2004.

APPOINTMENT NO. 22102

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:

MANISH GAJIWALA

as a proper person to examine into the affairs of the

FIRST AMERITAS LIFE INSURANCE CORP. 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 5th day of November, 2003

GREGORY V. SERIO
Superintendent of Insurance

Superintendent