



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON MARKET CONDUCT EXAMINATION  
OF THE  
PHOENIX LIFE INSURANCE COMPANY

CONDITION:

DECEMBER 31, 2007

DATE OF REPORT:

September 19, 2008

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON MARKET CONDUCT EXAMINATION

OF THE

PHOENIX LIFE INSURANCE COMPANY

AS OF

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EXAMINER:

MARK MCLEOD

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

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Andrew M. Cuomo  
Governor

Benjamin M. Lawsky  
Superintendent

June 6, 2012

Honorable Benjamin M. Lawsky  
Superintendent of Financial Services  
New York, New York 10004

Sir:

In accordance with instructions contained in Appointment No 30293, dated February 4, 2009 and annexed hereto, an examination has been made into the market conduct activities of Phoenix Life Insurance Company, hereinafter referred to as “the Company,” at its home office located at One American Row, Hartford, CT 06115.

Wherever “Department” appears in this report, it refers to the New York State Department of Financial Services. On October 3, 2011, the Insurance Department merged with the Banking Department to create the New York State Department of Financial Services.

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

## 1. EXECUTIVE SUMMARY

The material findings, comments, violations and recommendations contained in this report are summarized below.

- The Company violated Section 3201(b)(1) of the New York Insurance Law by using a policy form that was not filed with and approved by the Superintendent. (See item 4B of this report)
- The Company violated Section 3209(b)(1) of the New York Insurance law by failing to provide the preliminary information to applicants at or prior to the time the application was taken for its Phoenix Protector Term products. (See item 4B of this report)
- The Company violated several sections of Department Regulation No. 60 regarding the replacement of annuity contracts, including the Company's failure to have the Disclosure Statements completed in the format prescribed by Appendix 10B of Department Regulation No. 60. (See item 4A of this report)
- The Company violated Section 243.2(b) of Department Regulation No. 152 for failing to maintain the documentation received from the replaced insurer that was used to complete the Disclosure Statement. (See item 4A of this report)
- The Company violated Section 2611(a) and (b) of the New York Insurance Law by requiring an individual proposed for insurance coverage to be the subject of an HIV related test without receiving the written informed consent of such individual prior to testing. (See item 4B of this report)

## 2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2003 through December 31, 2007. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2007 but prior to the date of this report (i.e., the completion date of the examination).

The examination comprised a review of market conduct activities and utilized the National Association of Insurance Commissioners' Market Regulation Handbook or such other examination procedures, as deemed appropriate, in such review.

The examiner reviewed the corrective actions taken by the Company with respect to the market conduct violations and recommendations contained in the prior report on examination. The results of the examiner's review are contained in item 5 of this report.

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

### 3. DESCRIPTION OF COMPANY

#### A. History

Phoenix Mutual Life Insurance Company, hereinafter referred to as “Phoenix Mutual,” was originally incorporated under the laws of Connecticut in May 1851 as a stock company. Business commenced in May of 1851 under the name of American Temperance Life Insurance Company. The Company’s name was changed to Phoenix Mutual Life Insurance Company in 1861. In 1889, an amendment to the charter authorized the complete mutualization of Phoenix Mutual.

Home Life Insurance Company, hereinafter referred to as “Home Life,” was originally incorporated under the laws of New York on April 30, 1860 as a stock company and commenced business on May 1, 1860. Home Life was subsequently mutualized in 1916.

On July 1, 1992, Home Life merged with and into Phoenix Mutual, the surviving company, pursuant to Section 7105 of the New York Insurance Law. Immediately prior to the merger on July 1, 1992, Phoenix Mutual had redomesticated into New York pursuant to Section 7120 of the New York Insurance Law. The merger was approved by the policyholders of both companies on May 21, 1992 and by the Connecticut and New York State Insurance Departments on March 27, 1992 and June 17, 1992, respectively. Concurrent with the merger, the surviving company changed its name to Phoenix Home Life Mutual Insurance Company (“Phoenix Home”).

On June 25, 2001, Phoenix Home converted from a mutual life insurance company to a stock life insurance company, changed its name to Phoenix Life Insurance Company, and became a wholly owned subsidiary of The Phoenix Companies, Inc. (“PNX”). The demutualization was accounted for as a re-organization. The Company’s unassigned surplus was reclassified as common stock and additional paid in capital.

All policyholder membership interests in the former mutual company were extinguished and eligible policyholders received shares of common stock, \$28.8 million of cash and \$12.7 million of policy credits as compensation. To protect the future dividends of these policyholders, a closed block was established for the existing policyholders.

B. 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 all 50 states, the District of Columbia, Puerto Rico, and the US Virgin Islands. In 2007, 21.9% of life premiums, 17.6% of accident and health premiums, 69.8% of annuity considerations, and 13.0% of deposit type funds were received from New York. Policies are written on a participating and non-participating basis.

The Company's agency operations are conducted on a General Agency basis.

#### 4. 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 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 . . .

(3) Examine any proposal used, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and the “Disclosure Statement,” and ascertain that they are accurate and meet the requirements of the Insurance Law and this Part;

(4) Within ten days of receipt of the application furnish to the insurer whose coverage is being replaced a copy of any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and the completed “Disclosure Statement”. . .

(6) Where the required forms are received with the application and found to be in compliance with this Part, maintain copies of: any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract; proof of receipt by the applicant of the “IMPORTANT Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts;” the signed and completed “Disclosure Statement;” and the notification of replacement to the insurer whose life insurance policy or annuity contract is to be replaced indexed by agent and broker, for six calendar years or until after the filing of the report on examination in which the transaction was subject to review by the appropriate insurance official of its state of domicile, whichever is later;

(7) Where the required forms are not received with the application, or if the forms do not meet the requirements of this part or are not accurate, within ten days from the date of receipt of the application either have any deficiencies corrected or reject the application and so notify the applicant of such rejection and the reason therefor. . .”

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

“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 . . .  
 A policy record shall include . . .  
 (iv) Other information necessary for reconstructing the solicitation, rating and underwriting of the contract or policy . . .  
 (8) Any other record for six calendar years from its creation or until after the filing of a report on examination or the conclusion of an investigation in which the record was subject to review. ”

1. The examiner reviewed 30 variable annuity replacement transactions (29 external and 1 internal) during the examination period.

a. In 23 out of 30 (76.7%) variable annuity replacement transactions reviewed (one contract was an internal replacement), the Disclosure Statement was not completed in the format prescribed by Appendix 10B of Department Regulation No. 60. Information required to be completed on the Disclosure Statement was provided on a separate document and was referenced on the Disclosure Statement by the notation “see attached.” Since the disclosure statement numbers were provided in two separate documents, it was difficult to perform a side by side comparison of the disclosure statement figures. In addition, the Disclosure Statement for two annuity contracts did not indicate whether estimates or information from the replaced company was used for their completion.

The Company violated Section 51.6(b)(3) of Department Regulation No. 60 by failing to examine and ascertain that the Disclosure Statement was in the form prescribed by the Superintendent and met the requirements of Department Regulation No. 60.

b. In 3 out of 30 (10.0%) variable annuity replacements reviewed, the application was signed before the Disclosure Statement and the IMPORTANT Notice Regarding Replacement.

The Company violated Section 51.6(b)(7) of Department Regulation No. 60 by failing to, within ten days from the date of receipt of the application, either have the deficiencies corrected or reject the application where the required disclosure forms did not meet the requirements of Department Regulation No. 60.

c. In all 29 (100%) external variable annuity replacements reviewed, the examiner found no evidence that, within 10 days of the receipt of the application, a copy of any proposal, including sales material used in the sale, and the completed Disclosure Statement used in the replacement transactions were furnished to the insurer whose coverage is being replaced. For each transaction, the examiner found a letter requesting a 1035 exchange, which did not indicate that the aforementioned information was enclosed.

The examiner recommends that the Company indicate in the letter to the replaced company for its annuity replacements that a copy of any proposal, including sales material used in the sale, and the completed Disclosure Statement are enclosed, in accordance with Section 51.6(b)(4) of Department Regulation No. 60.

2. The examiner reviewed a sample of 46 life replacement transactions (40 external and 6 internal) executed during the examination period.

In 4 out of 40 external replacements (10.0%), there was no evidence of the information received from the replaced company that was used to complete the Disclosure Statement.

The Company violated Section 243.2(b) of Department Regulation No. 152 for failing to maintain the documentation received from the replaced insurer that was used to complete the Disclosure Statement.

#### B. Underwriting and Policy Forms

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

1. Section 3201(b)(1) of the New York Insurance law states in part:

“No policy form shall be delivered or issued for delivery in this state unless it has been filed with and approved by the superintendent...”

(a) In 15 out of 20 New York Corporate Owned Life Insurance (“COLI”) policies reviewed, the Company used policy form V614 in New York instead of Department approved policy form V614NY. The Company stated that their third party administrator, Andesa, mistakenly used the

wrong form when constructing the policy package. The Company added that the corrected forms have been incorporated into the production system.

(b) The Company used policy form UR81 (Original Date Exchange) instead of Department approved policy form UR81NY in New York. Also, the Company used policy form VR35 (Phoenix Exchange Option Rider) instead of approved policy form VR35NY in New York. UR81 was used in the only case in the selected sample of COLI policies reviewed where the Original Date Exchange Rider was selected by the policyholder in New York and VR35 was used in all six cases in the selected sample of COLI policies reviewed that the Phoenix Exchange Option Rider was selected by the policyholder in New York. The Company used policy form UR81 twelve times and VR35 twenty times in New York during the examination period.

The Company stated that their third party administrator, Andesa, mistakenly used the wrong forms during the construction of the policy package for the COLI policies. The correct forms have been provided to Andesa for inclusion in policy packages going forward.

The Company violated Section 3201(b)(1) of the New York Insurance Law by using policy forms that were not filed with and approved by the Superintendent.

2. Section 3209 of the New York Insurance law states in part:

(b)(1)“No policy of life insurance shall be delivered or issued for delivery in this state ... unless the prospective purchaser has been provided with the following:

(A)a copy of the most recent buyer's guide and the preliminary information required by subsection (d) of this section, at or prior to the time an application is taken...

(d) The preliminary information shall be in writing and include, to the extent applicable, the following:

(1) the name and address of the insurance agent or broker or, if no agent or broker is involved, a statement of the procedure to be followed in order to receive responses to inquiries concerning the preliminary information;

(2) the full name and home office, administrative office or branch or agency office address of the company in whose name the life insurance policy is to be written;

(3) the date of the preliminary information and the generic name, the initial amount of insurance and the initial annual premium for the basic policy;

(4) the total guaranteed cash surrender values for the basic policy, at the end of the tenth and twentieth policy years or at the end of the premium-paying period if earlier. These values may be shown on a per thousand or per unit basis;

- (5) the effective policy loan annual percentage interest rate, if the policy would contain this provision, and whether this rate is applied in advance or in arrears, adjustable or fixed;
- (6) for the life insurance policies described in paragraph one of subsection (n) of this section, life insurance cost indexes and the equivalent level annual dividend for the basic policy for ten and twenty years, but in no case beyond the premium-paying period;
- (7) in addition, the applicant shall be advised that, when the policy is issued, a complete policy summary, including cost data, based on the benefits, premiums and dividends of the policy as issued, will be furnished; and that, following the receipt of the policy and policy summary, there will be a period of not less than ten days within which the applicant may return the policy for an unconditional refund of the premiums paid; and
- (8) notwithstanding the foregoing, no applicant for life insurance shall be prevented or delayed in effecting or applying for coverage by the requirements of this section. In such cases where prior to application it is impractical to provide any items prescribed by this section, such items may be estimated in good faith or furnished as soon thereafter as practical prior to delivery of policy.”

The Company was not able to provide any evidence that prospective applicants, of its Phoenix Protector Term products, were provided with a copy of the preliminary information required by Section 3209(d) of the New York Insurance Law during the period under examination.

The Company violated Section 3209(b)(1) of the New York Insurance law by failing to provide the preliminary information to applicants at or prior to the time the application was taken for its Phoenix Protector Term products. The Company issued 1,870 Phoenix Protector Term policies in New York during the examination period.

3. Section 2611 of the New York Insurance law states in part:

- “(a) No insurer or its designee shall request or require an individual proposed for insurance coverage to be the subject of an HIV related test without receiving the written informed consent of such individual prior to such testing and without providing general information about AIDS and the transmission of HIV infection.
- (b) Written informed consent to an HIV related test shall consist of a written authorization that is dated and includes at least the following:
- (1) a general description of the test;
  - (2) a statement of the purpose of the test;
  - (3) a statement that a positive test result is an indication that the individual may develop AIDS and may wish to consider further independent testing;

- (4) a statement that the individual may identify on the authorization form the person to whom the specific test results may be disclosed in the event of an adverse underwriting decision, which person may be the individual or a physician or other designee at the discretion of the individual proposed for insurance;
  - (5) the department of health's statewide toll-free telephone number that may be called for further information about AIDS, the meaning of HIV related test results, and the availability and location of HIV related counseling services; and
  - (6) the signature of the applicant or individual proposed for insurance, or if such individual lacks capacity to consent, the signature of such other person authorized to consent for such individual.
- (c) In the event that an insurer's adverse underwriting decision is based in whole or in part on the result of an HIV related test, the insurer shall notify the individual of the adverse underwriting decision and ask the individual to elect in writing, unless the individual has already done so, whether to have the specific HIV related test results disclosed directly to the individual or to such other person as the individual may designate. If the individual elects to receive the HIV related test results directly, the insurer shall advise the individual that he or she may call the department of health's statewide toll-free telephone number for further information about AIDS, the meaning of HIV related test results, and the availability and location of HIV related counseling services and shall also advise such individual to consult with a physician about the meaning of and need for counseling, where appropriate, as to the HIV related test results..."

Department Circular Letter No. 03 (1989) advises, in part:

"Section 2782 of the Public Health Law prohibits the disclosure of confidential HIV related information obtained in the course of providing any health or social service or pursuant to a release except to specified entities, including an insurance institution provided the insurance institution secures a dated and written authorization. Such an authorization must indicate that health care providers, health facilities, insurance institutions and other persons are authorized to disclose information about the protected individual, the nature of the information to be disclosed, the purposes for which the information is to be disclosed and the authorization must be signed by the protected individual, a beneficiary or claimant if the protected individual is deceased, or by a person authorized to consent for the protected individual."

The examiner reviewed 133 of the Company's underwriting files.

In nine out of 133 (7%) cases reviewed by the examiner, the Company violated Section 2611(a) of the New York Insurance Law by requiring an individual proposed for insurance coverage to be the subject of an HIV related test without receiving the written informed consent of such individual prior to such testing.

In one out of 133 (1%) cases reviewed by the examiner, the Company violated Section 2611(a) and (b) of the New York Insurance Law by requiring an individual proposed for insurance coverage to be the subject of an HIV related test without receiving the written informed consent of such individual.

### 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.

#### 1. Section 403(d) of the New York Insurance Law states, in part:

“All applications for commercial insurance, individual, group or blanket accident and health insurance and all claim forms...shall contain a notice in a form approved by the superintendent that clearly states in substance the following:

‘Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.’

Section 86.4 of Department Regulation No. 95 states in part:

“(a) . . . all claim forms for insurance, and all applications for commercial insurance and accident and health insurance, provided to any person residing or located in this State in connection with insurance policies for issuance or issuance for delivery in this State, shall contain the following statement:

‘Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.’ . . .

(e) . . . insurers may use substantially similar warning statements provided such warning statements are submitted to the Insurance Frauds Bureau for prior approval.”

A review of disability and death claims revealed that all of the Company’s death and disability claim forms reviewed contained a fraud warning statement that differed from the

language required under Section 403(d) and Section 86.4 of Department Regulation No. 95. The fraud warning statement on the Company's claim forms mentioned above stated the following:

“A person commits a fraudulent insurance act, which is a crime, if he or she knowingly and with intent to defraud any insurance company or other person, either: (1) Files an application for accident and health insurance or statement of claim containing any materially false information; or (2) Conceals for the purpose of misleading, information about any fact that is material to a claim. VIOLATIONS ARE SUBJECT TO CRIMINAL PROSECUTION AND MAY ALSO RESULT IN SUBSTANTIAL CIVIL PENALTIES.”

The Company violated Section 403(d) of the New York Insurance Law and Section 86.4 of Department Regulation No. 95 by utilizing fraud warning statements that differed from the fraud warning statement required by Section 403(d) of the New York Insurance Law without submitting the fraud warning statement to the Insurance Frauds Bureau for prior approval. During the examination period, the Company processed approximately 39,190 claims that included claim forms with a fraud warning statement. This number includes multiple beneficiaries.

2. Section 243.2(b) of Department Regulation No. 152 states, in part:

“Except as otherwise required by law or regulation, an insurer shall maintain...  
(8) Any other record for six calendar years from its creation or until after the filing of a report on examination or the conclusion of an investigation in which the record was subject to review.”

The Company sends policy loan confirmation letters to policy owners whenever a policy loan is made. The letters are mailed approximately two weeks after the loan is processed. The Company does not maintain copies of the policy loan letters.

When the Company processes a surrender of their traditional product, the only item that is sent to the policy holder is the surrender check

The examiner recommends that the Company forward a surrender payment letter explaining payment calculations, including any surrender charges incurred, with the surrender benefit check for all traditional surrenders.

## 5. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the market conduct violations and recommendations 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 examiner recommends that the Company conform to its current underwriting guidelines or change the guidelines to reflect the actual practices of the Company's underwriting department.</p> <p>The Company conformed to its underwriting guidelines during the examination period.</p>
B	<p>The Company violated Section 3211(a)(1) of the New York Insurance Law by lapsing variable life policies when the policy lapse notices were mailed more than 45 days before the payment due dates</p> <p>Section 3211(a)(1) of the New York Insurance Law has been amended and now the Company is in compliance with this section of the law.</p>
C	<p>The examiner recommends that the Company investigate all dormant PCA accounts that have been dormant a minimum of three years in order to determine if any account(s) should be reported as unclaimed funds and eventually remitted to the appropriate state(s).</p> <p>The Company has investigate all dormant PCA accounts that have been dormant a minimum of three years in order to determine if any account(s) should be reported as unclaimed funds and eventually remitted to the appropriate state(s).</p>
D	<p>The examiner recommends that the Company include as part of its Individual Benefits Beneficiary Statement form, or through some other method of disclosure, the option of a settlement check for the full death benefit amount when proceeds are \$7,500 or greater.</p> <p>The Company includes as part of its Individual Benefits Beneficiary Statement form, or through some other method of disclosure, the option of a settlement check for the full death benefit amount when proceeds are \$7,500 or greater.</p>

<u>Item</u>	<u>Description</u>
E	<p>The Company violated Section 243.2(b)(4) of Department Regulation No. 152 by failing to maintain all of its death claim files as required by the Regulation.</p> <p>The Company was able to provide the death claim files requested by the examiner.</p>
F	<p>The examiner recommends that the Company implement procedures such that, in the future, it can produce in a timely manner, policy level data that can be reconciled to the filed annual statements, and in particular to the Exhibit of Life Insurance, for the period under examination.</p> <p>The Company implemented procedures such that, in the future, it can produce in a timely manner, policy level data that can be reconciled to the filed annual statements, and in particular to the Exhibit of Life Insurance, for the period under examination.</p>
G	<p>The examiner recommends that the Company maintain the date of death for all death claims on all of their administration systems in order to facilitate the examination.</p> <p>The Company maintains the date of death for all death claims on all of their administration systems in order to facilitate the examination. However, this information was not provided to the examiner upon original request. It was provided at a later date.</p>
H	<p>The examiner recommends that the Company modify its claim payment procedures to ensure that the individuals that approve the payment of death claims do not also gain possession of the claim checks.</p> <p>The Company modified its claim payment procedures to ensure that the individuals that approve the payment of death claims do not also gain possession of the claim checks.</p>

## 6. SUMMARY AND CONCLUSIONS

Following are the market conduct violations and recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 51.6(b)(3) of Department Regulation No. 60 by failing to examine and ascertain that the Disclosure Statement was in the form prescribed by the Superintendent and met the requirements of Department Regulation No. 60.	7
B	The Company violated Section 51.6(b)(7) of Department Regulation No. 60 by failing to, within ten days from the date of receipt of the application, either have the deficiencies corrected or reject the application where the required disclosure forms did not meet the requirements of Department Regulation No. 60.	7
C	The examiner recommends that the Company indicate in the letter to the replaced company for its annuity replacements that a copy of any proposal, including sales material used in the sale, and the completed Disclosure Statement are enclosed, in accordance with Section 51.6(b)(4) of Department Regulation No. 60.	8
D	The Company violated Section 243.2(b) of Department Regulation No. 152 for failing to maintain the documentation received from the replaced insurer that was used to complete the Disclosure Statement.	8
E	The Company violated Section 3201(b)(1) of the New York Insurance Law by using policy forms that were not filed with and approved by the Superintendent.	9
F	The Company violated Section 3209(b)(1) of the New York Insurance law by failing to provide the preliminary information to applicants at or prior to the time the application was taken for its Phoenix Protector Term products.	10
G	The Company violated Section 2611(a) and (b) of the New York Insurance Law by requiring an individual proposed for insurance coverage to be the subject of an HIV related test without receiving the written informed consent of such individual prior to testing.	11

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
H	The Company violated Section 403(d) of the New York Insurance Law and Section 86.4 of Department Regulation No. 95 by utilizing fraud warning statements that differed from the fraud warning statement required by Section 403(d) of the New York Insurance Law without submitting the fraud warning statement to the Insurance Frauds Bureau for prior approval.	13
I	The examiner recommends that the Company forward a surrender payment letter explaining payment calculations, including any surrender charges incurred, with the surrender benefit check for all traditional surrenders.	13



APPOINTMENT NO. 30293

**STATE OF NEW YORK**  
**INSURANCE DEPARTMENT**

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

**MARK MCLEOD**

as a proper person to examine into the affairs of the

**PHOENIX 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 4<sup>th</sup> day of February, 2009



ERIC R. DINALLO

Superintendent of Insurance

A handwritten signature in black ink, appearing to read "Eric Dinallo".

Superintendent