STATE OF NEW YORK INSURANCE DEPARTMENT

REPORT ON EXAMINATION

OF

FIDELITY AND GUARANTY LIFE INSURANCE COMPANY OF NEW YORK

AS OF

DECEMBER 31, 2002

DATE OF REPORT:	MARCH 15, 2004
EXAMINER:	JACQUELINE TUCKER

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 15, 2004

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

Sir:

In accordance with instructions contained in Appointment No. 22103, dated November 5, 2003 and annexed hereto, an examination has been made into the condition and affairs of Fidelity and Guaranty Life Insurance Company of New York, hereinafter referred to as "the Company," at its home office located at 2500 Westchester Avenue, Purchase, New York 10577.

Wherever "Department" appears in this report, it refers to the State of New York Insurance Department.

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

1. EXECUTIVE SUMMARY

On September 28, 2001, Fidelity and Guaranty Life Insurance Company ("F&G Life") and its subsidiaries were purchased by Old Mutual U.S. Life Holdings, Inc. ("OMUSLH"), a wholly owned subsidiary of Old Mutual U.S. Holdings, Inc. ("OMUSH"), which in turn is a wholly owned subsidiary of Old Mutual, plc of London, England ("OM"). OM is an international financial services group. On December 31, 2001, OMUSLH contributed the stock of F&G Life and its subsidiaries to Omnia Life Insurance Company, a wholly owned subsidiary of OMUSLH. (See item 3A of this report)

The review of reserves raised concerns regarding the potential lack of conservatism in the assumptions and methodology of the supporting asset adequacy analysis. It is recommended that additional reserves of $3,500,000 be held until demonstrated redundant by subsequent asset adequacy analysis using assumptions and methodology with the same general level of conservatism recommended by the Department. (See item 5E of this report)

The Company violated Section 325(a) of the New York Insurance Law by failing to maintain its books of account and complete minutes of its board of directors meetings at its principal office in this state. (See item 7 of this report)

The Company violated Section 1505(d)(3) of the New York Insurance Law by receiving services on a regular and systematic basis that were not specified in the Management Service Agreement filed with the Department and by receiving investment management services on a regular and systematic basis under an agreement, prior to the agreement being filed with the Department. (See item 3B of this report)

The Company violated Section 3203(a)(2) of the New York Insurance Law by failing to refund paid premiums for periods beyond the end of the policy month in which the death occurred. (See item 6C of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 1999. This examination covers the period from January 1, 2000 through December 31, 2002. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2002 but prior to the date of this report (i.e., the completion date of the examination).

The examination comprised a verification of assets and liabilities as of December 31, 2002 to determine whether the Company's 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 prior report on examination which did not contain any violations, recommendations or comments.

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

3. DESCRIPTION OF COMPANY

A. History

The Company was incorporated as a stock life insurance company under the laws of New York on January 23, 1962, under the name of General Economics Life Insurance Company of New York. The Company was licensed and commenced business on November 26, 1962. The Company changed its name to Thomas Jefferson Life Insurance Company on January 21, 1965. The present name was adopted on March 28, 2002. Initial resources of $300,000 were provided through the sale of 60,000 shares of common stock (with a par value of $2 each) for $5 per share.

In August 1969, the Company became a wholly owned subsidiary of F&G Life, which in turn was wholly owned by United States Fidelity and Guaranty Company, hereinafter referred to as USF&G, an underwriter of multiple lines of property and casualty insurance.

On October 1, 1981, USF&G became a subsidiary of United States Fidelity and Guaranty Corporation, hereinafter referred to as USF&G Corporation, a newly formed holding company.

On January 19, 1998, The St. Paul Companies, Inc. and USF&G Corporation entered into an agreement and plan of merger whereby The St. Paul Companies, Inc. acquired USF&G Corporation through a stock exchange in which each share of USF&G Corporation stock was converted into 0.2821 of a share of The St. Paul Companies, Inc. stock.

On September 28, 2001, F&G Life and its subsidiaries were purchased by Old Mutual U.S. Life Holdings, Inc. (“OMUSLH”), a wholly owned subsidiary of Old Mutual U.S. Holdings, Inc. (“OMUSH”), which in turn is a wholly owned subsidiary of Old Mutual, plc of London, England (“OM”).

On December 31, 2001, OMUSLH contributed the stock of F&G Life and its subsidiaries to Omnia Life Insurance Company, a wholly owned subsidiary of OMUSLH.

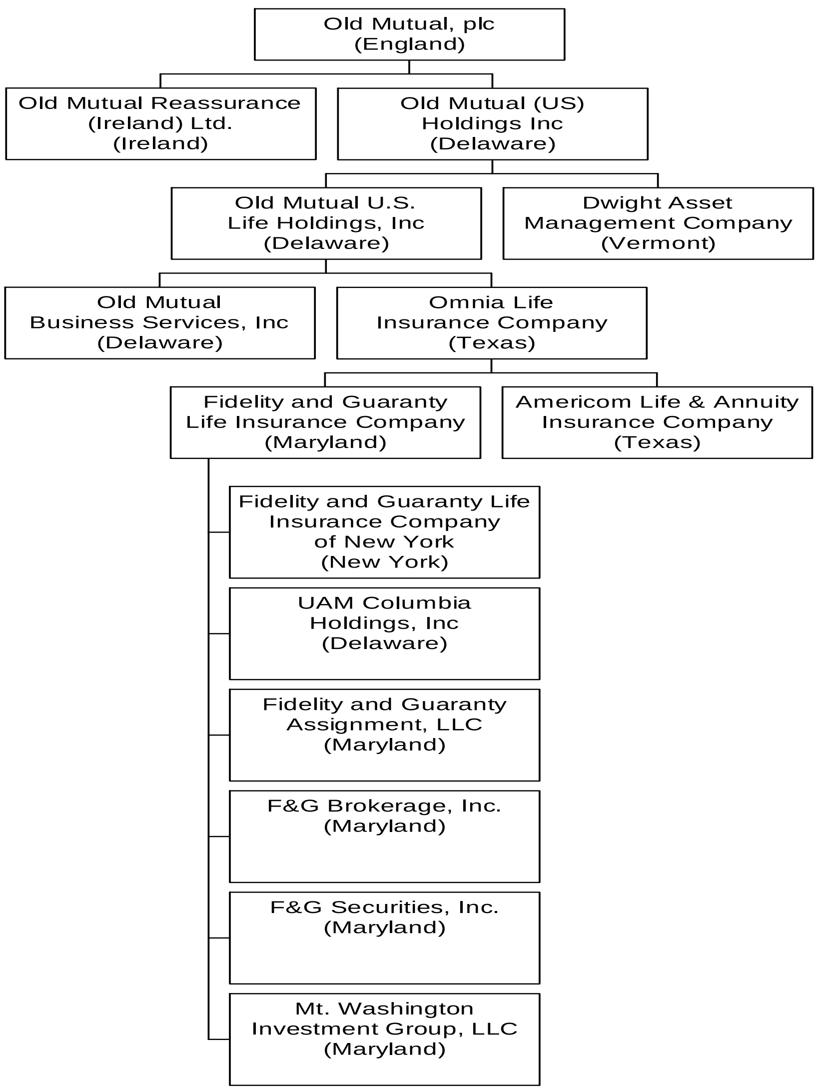
The Company received a surplus contribution of $15 million from its parent, F&G Life, prior to the acquisition by OM.

As of December 31, 2002, capital and paid-in and contributed surplus were $440,000 and $26,241,340, respectively.

B. Holding Company

The Company is a wholly owned subsidiary of F&G Life, a Maryland domiciled life insurance company. F&G Life is in turn a wholly owned subsidiary of Omnia Life Insurance Company, a Texas domiciled life insurance company. The ultimate parent of the Company is OM, an international financial services group.

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 three service agreements in effect during the examination period.

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 Examination**
Management Service Agreement	June 1, 1992	F&G Life	the Company	Data processing, financial & tax reporting, actuarial services, education & training, qualified plan administration & sales support	2002: ($1,368,729) 2001: ($1,149,710) 2000: ($ 600,000)
Management Service Agreement	May 28, 2003	Old Mutual Business Services, Inc. (OMBS)	the Company	Data processing, financial & tax reporting, actuarial services, education & training, qualified plan administration, sales support, executive, human resources, operations administration, purchase and supply, and facility overhead.	2002: ($0) 2001: ($0) 2000: ($0)
Investment Management Agreement (The agreement with Dwight Asset Management Company (see below) replaced this agreement)	August 10, 1999	Mt. Washington Investment Group, Inc. (MWIG)	the Company	Investment management services	2002: ($ 0) 2001: ($108,326) 2000: ($119,625)
Investment Management Agreement	July 1, 2002	Dwight Asset Management Company (“DAMC”)	the Company	Investment management services	2002: ($298,750) 2001: ($ 61,128) 2000: ($ 0)

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

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 systematic basis . . . "

The Company allocated expenses for services that were not specified in the filed Management Service Agreement between F&G Life and the Company. The services provided that were not specified in the agreement include: executive; human resources; operations administration; purchase and supply; and facility overhead. For 2002, the total payment made by the Company for these services was $278, 952.

Under a separate agreement, the Company began using the investment management services of Dwight Asset Management Company in September of 2001. This agreement was not filed with the Department until November of 2001 and was not approved until July 1, 2002.

The Company violated Section 1505(d)(3) of the New York Insurance Law by receiving services on a regular and systematic basis that were not specified in the Management Service Agreement filed with the Department and by receiving investment management services on a regular and systematic basis under an agreement, prior to the agreement being filed with the Department.

During the examination period, the administrative service agreement with OMBS was in effect; however, the services under the agreement were provided to the Company by F&G Life, under its administrative service agreement. There were no payments made to OMBS during the examination period resulting from this agreement. In addition, the Investment Management Agreement with MWIG became inactive during the examination period when the services provided under the agreement were replaced by the services provided by DAMC under its Investment Management Agreement. There were no payments made to MWIG in the latter part of 2001 or in 2002.

Going forward the Company anticipates that administrative services will be provided by OMBS and investment management services will be provided by DAMC. The examiner recommends that the Company withdraw the service agreements with F&G Life and MWIG since the agreements are inactive, or will become inactive, and the services will be covered under other service agreements.

> Section 308(a) of the New York Insurance Law states, in part:
>
> "The superintendent may also address to any authorized insurer or its officers any inquiry in relation to its transactions or condition or any matter connected therewith. Every corporation or person so addressed shall reply in writing to such inquiry promptly . . . "
>
> Department Circular Letter No. 33 (1979) advises that:
>
> "Pursuant to the provisions of Section 27 [currently Section 308] of the Insurance Law every domestic insurer is directed to notify this Department within 60 days of this circular letter if it participates in a consolidated tax return and to submit a copy of its tax allocation agreement. Any domestic insurer which currently does not participate in a consolidated tax return shall file a copy of its tax allocation agreement with this Department within 30 days of electing to do so. Furthermore, notification to this Department should be given within 30 days of any amendment to or termination of a tax allocation agreement."

The Company participates in a tax sharing agreement whereby it files a consolidated tax return with its ultimate parent and affiliates. Although the Company had filed a tax sharing agreement with the Department, the agreement was not amended to reflect the recent changes to the organization's corporate structure. The Company's consolidated tax return that was filed for tax year 2002 included affiliates that were not part of the filed agreement. A new tax sharing agreement was not filed with the Department to reflect the organizational changes until December 22, 2003.

The Company violated Section 308(a) of the New York Insurance Law by failing to give notification to the Superintendent within 30 days of participating in a Tax Sharing Agreement, as advised by Circular Letter No. 33 (1979).

C. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than nine and not more than twenty directors. Directors are elected for a period of one year at the annual meeting of the stockholders held in May of each year. As of December 31, 2002, the board of directors consisted of ten members.

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

Name and Residence	Principal Business Affiliation	Year First Elected
Guy V. Barker Lexington, MA	Chairman and Chief Executive Officer Old Mutual U.S. Life Holdings, Inc.	2001
Larry E. Fondren* Malvern, PA	President Entre Global Services	1991
Paul A. Hoffman* New York, NY	Chairman of the Board Ringler Associates, Inc.	2000
John Knutson Brooklin, ME	Retired	2002
Kimberleigh A. Mitchell New Rochelle, NY	Chief Administrative Officer Fidelity and Guaranty Life Insurance Company of New York	2000
James R. Morrison Towson, MD	President Fidelity and Guaranty Life Insurance Company of New York	2002
Roger B. Oresman* New York, NY	Consulting Partner Milbank, Tweed, Hadley & McCloy	1969
Claire M. Smith Baltimore, MD	Vice President and Chief Financial Officer Fidelity and Guaranty Life Insurance Company of New York	2002
John R. Wittpenn* Vero Beach, FL	Retired	1982
Wendy J. Young Mt. Airy, MD	Vice President and Chief Actuary Fidelity and Guaranty Life Insurance Company of New York	2002

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

The following changes in the board have occurred since December 31, 2002: Guy V. Barker resigned as Chairman of the Board and was replaced by Bruce G. Parker in June 2003; Wendy J. Young resigned and was replaced by Steeve A. Jean in December 2003; and Michael A. McGrath, Robert W. Hock and Thomas J. White were elected to the board in December 2003.

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
Guy V. Barker	Chairman of the Board
James R. Morrison	President
Michael A. McGrath	Vice President , General Counsel and Secretary
Claire M. Smith	Vice President and Chief Financial Officer
Wendy J. Young	Vice President and Chief Actuary
Damon Gasque	Vice President
Michael J. O'Brien*	Vice President
William F. Rothenbach	Vice President

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

In December 2003, the following changes took place: Michael A. McGrath was named Senior Vice President, General Counsel and Secretary; and Steeve A. Jean replaced Wendy J. Young as Chief Actuary and was named Assistant Vice President and Chief Actuary.

The Company did not require the members of the board or its principal officers to complete a conflict of interest questionnaire for 2002.

The examiner recommends that the Company have its officers and directors complete appropriate conflict of interest questionnaires every year.

D. Territory and Plan of Operation

The Company is authorized to write life insurance, annuities and accident and health insurance as defined in paragraphs 1, 2 and 3 of Section 1113(a) of the New York Insurance Law.

The Company is only licensed to transact business in New York. In 2002, 100% of life premiums, annuity considerations and deposit type funds were received from New York. Policies are written on a non-participating basis. The Company has continued to focus on marketing its fixed annuity and structured settlement annuity products. For the years ended December 2000, 2001 and 2002, annuity products accounted for 95%, 90% and 91%, respectively, of the Company's premium income.

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

E. Reinsurance

As of December 31, 2002, the Company had reinsurance treaties in effect with five companies, of which four were authorized or accredited. Reinsurance of the Company's ordinary life insurance is ceded on a coinsurance and yearly renewable term basis. Reinsurance is provided on both 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 $185,369,383, which represents 39.7% of the total face amount of life insurance in force. Reserve credit taken for reinsurance ceded to unauthorized companies, totaling $182,204, was supported by funds withheld.

The Company did not assume any business as of December 31, 2002.

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	$230,102,644	$476,483,662	$246,381,018
Liabilities	$214,496,559	$442,009,010	$227,512,451
Common capital stock	$ 440,000	$ 440,000	$ 0
Gross paid in and contributed surplus	11,241,340	26,241,340	15,000,000
Unassigned funds (surplus)	3,924,745	7,793,312	3,868,567
Total capital and surplus	$ 15,606,085	$ 34,474,652	$ 18,868,567
Total liabilities, capital and surplus	$230,102,644	$476,483,662	$246,381,018

The increase in gross paid in and contributed surplus is attributed to the $15,000,000 surplus contribution made by F&G Life in 2001. The large increase in assets and liabilities is due to the increased writing of annuity products.

The Company's invested assets as of December 31, 2002 were mainly comprised of bonds (95%). The majority (89.6%) of the Company's bond portfolio, as of December 31, 2002, was comprised of investment grade obligations.

The following is the net gain (loss) from operations by line of business after federal income taxes but before realized capital gains (losses) reported for each of the years under examination in the Company's filed annual statements:

	2000	2001	2002
Ordinary:			
Life insurance	$ 885,069	$1,922,113	$1,022,756
Individual annuities	(2,181,999)	3,018,981	927,273
Supplementary contracts	(154,086)	2,758	54,066
Total ordinary	$(1,451,016)	$4,943,852	$2,004,095
Group:			
Life	$ 22,239	$ 30,032	$ (3,878)
Annuities	3,327	87	1,487
Total group	$ 25,566	$ 30,119	$ (2,391)
Total	$(1,425,450)	$4,973,971	$2,001,704

The annuity loss in 2000 is attributed to: the strain on new business caused by increased sales of annuities; high surrenders as a result of surrender charges expiring on older annuities; and poor persistency on a newer block of annuity business.

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.

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

Admitted Assets

Bonds	$445,052,153
Stocks:	
Preferred stocks	3,005,600
Policy loans	2,494,543
Cash and short term investments	17,912,309
Receivable for securities	485,944
Reinsurance ceded:	
Amounts recoverable from reinsurers	540,206
Federal and foreign income tax recoverable and interest thereon	450,000
Life insurance premiums and annuity considerations deferred and uncollected on in force business	376,609
Investment income due and accrued	5,686,857
Receivable from parent, subsidiaries and affiliates	479,204
Other receivable	237
Total admitted assets	$476,483,662

Liabilities, Capital, Surplus and Other Funds

Aggregate reserve for life policies and contracts	$370,193,966
Liability for deposit-type contracts	42,153,626
Policy and contract claims	
Life	487,232
Policyholders' dividends and coupons due and unpaid	22
Provision for policyholders' dividends and coupons payable in following calendar year – estimated amounts:	
Dividends apportioned for payment	3,154
Dividends not yet apportioned	13,673
Premiums and annuity considerations for life and accident and health policies and contracts received in advance	73,681
Policy and contract liabilities:	
Interest maintenance reserve	3,744,593
Commissions to agents due or accrued	(340,014)
General expenses due or accrued	(22,793)
Taxes, licenses and fees due or accrued	90,000
Federal and foreign income taxes	3,117,491
Amounts withheld or retained by company as agent or trustee	(15,791)
Amounts held for agents' account	15,527
Remittances and items not allocated	2,524,542
Miscellaneous liabilities:	
Asset valuation reserve	523,681
Funds held under reinsurance treaties with unauthorized reinsurers	540,000
Drafts outstanding	1,775,195
Payable for securities	16,952,674
Unpresented drafts pending escheatment	178,551
Total liabilities	$442,009,010
Common capital stock	$ 440,000
Gross paid in and contributed surplus	26,241,340
Unassigned funds (surplus)	7,793,312
Total capital, surplus and other funds	$ 34,474,652
Total liabilities, capital, surplus and other funds	$476,483,662

B. CONDENSED SUMMARY OF OPERATIONS

	2000	2001	2002
Premiums and considerations	$63,978,132	$ 85,960,945	$ 83,116,608
Investment income	17,810,326	22,099,895	28,103,020
Commissions and reserve adjustments on reinsurance ceded	64,268	66,832	185,031
Miscellaneous income	175	18,419	105
Total income	$81,852,901	$108,146,091	$111,404,764
Benefit payments	$31,436,767	$ 24,568,620	$ 25,240,720
Increase in reserves	47,329,495	72,489,883	75,693,770
Commissions	2,917,944	3,777,238	4,003,089
General expenses and taxes	1,595,786	2,030,148	2,767,729
Increase in loading on deferred and uncollected premium	(4,597)	(113,062)	104,945
Miscellaneous deductions	(14,758)	(307,008)	44,178
Total deductions	$83,260,637	$102,445,819	$107,854,431
Net gain (loss)	$ (1,407,736)	$ 5,700,272	$ 3,550,333
Dividends	(2,739)	18,386	18,697
Federal and foreign income taxes incurred	20,453	707,915	1,529,932
Net gain (loss) from operations Before net realized capital gains	$ (1,425,450)	$ 4,973,971	$ 2,001,704
Net realized capital gains (losses)	81,635	(1,931,885)	(2,115,471)
Net income	$ (1,343,815)	$ 3,042,086	$ (113,767)

C. CAPITAL AND SURPLUS ACCOUNT

	2000	2001	2002
Capital and surplus, December 31, prior year	$15,606,085	$15,389,196	$34,588,465
Net income	$ (1,343,815)	$ 3,042,086	$ (113,767)
Change in net unrealized capital gains (losses)	(987,474)	986,004	(11,541)
Change in non-admitted assets and related items	(8,810)	(2,692,117)	83,357
Change in reserve valuation basis	1,753,328	0	0
Change in asset valuation reserve	369,882	711,094	141,341
Cumulative effect of changes in accounting principles		(1,061,798)	0
Surplus adjustments:			
Paid in	0	15,000,000	0
Change in net deferred income tax	0	3,214,000	(213,203)
Net change in capital and surplus	$ (216,889)	$19,199,269	$ (113,813)
Capital and surplus, December 31, current year	$15,389,196	$34,588,465	$34,474,652

D. FINANCIAL STATEMENT REPORTING AND ACCOUNTING RECORDS

Several deficiencies in financial reporting and accounting records were noted during the examination. A description of each item is outlined below.

a) The inventory of policy loans provided to the examiner did not tie to the 2002 filed annual statement. The amount per the inventory was $52,974 less than the amount reported in the annual statement.

b) The amount reported for the asset "Receivables for securities" included an amount that was due November 1, 2001. This amount of $16,945 should have been a non-admitted asset.

c) The inventories provided for lapses and surrenders for the period under examination did not reconcile to the amounts reported in the filed annual statements.

The examiner recommends that the Company take greater care in the preparation of its filed annual statements.

E. RESERVES

The Department conducted a review of reserves as of December 31, 2002 and as of December 31, 2003. This review included an examination of the supporting asset adequacy analyses in accordance with Department Regulation No. 126. During the review, concerns were raised regarding a potential lack of conservatism in assumptions and methodology. In response, the Company revised the asset adequacy analysis, incorporating various recommendations made by the Department. Based upon the more conservative basis, additional reserves in the amount of $3,500,000 were recommended until a more refined analysis could be performed. The Company agreed to establish such additional reserves with the September 30, 2004 quarterly statement. The examiner recommends that such additional reserves be held until demonstrated redundant by subsequent asset adequacy analysis using assumptions and methodology with the same general level of conservatism as was recommended by the Department.

6. MARKET CONDUCT ACTIVITIES

The examiner reviewed various elements of the Company's market conduct activities affecting policyholders, claimants, and beneficiaries to determine compliance with applicable statutes and regulations and the operating rules of the Company.

A. Advertising and Sales Activities

The examiner reviewed a sample of the Company's advertising files and the sales activities of the agency force including trade practices, solicitation and the replacement of insurance policies.

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

B. Underwriting and Policy Forms

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

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.

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 policy for six calendar years after the date the policy is no longer in force or after the filing of the report on examination in which the record was subject to review, whichever is longer. . . . "

The Company did not maintain lapsed policy records for the period under examination.

The Company violated Section 243.2(b) of Department Regulation No. 152 by failing to maintain its lapsed policy records as required by the Regulation.

Section 3203(a)(2) of the New York Insurance Law states, in part:

> " . . . if the death of the insured occurs during a period for which the premium has been paid, the insurer shall add to the policy proceeds a refund of any premium actually paid for any period beyond the end of the policy month in which such death occurred . . . "

The examiner reviewed 30 traditional and term life death claims. In nine of the 30 claims reviewed the Company did not refund premiums for periods beyond the end of the policy month in which the death occurred.

The Company violated Section 3203(a)(2) of the New York Insurance Law by failing to refund premiums for periods beyond the end of the policy month in which the death occurred. In response to this violation, the Company has stated that they will review all death claims paid from January 1, 1995 through the date correct procedures were enforced (i.e. the date of the report), to ensure appropriate premiums have been refunded and will make additional reimbursements where applicable.

D. <u>Response to Supplement No. 1 to Department Circular Letter No. 19 (2000)</u>

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.

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. BOOKS OF ACCOUNT AND 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 books of account . . . and . . . the minutes of any meetings of its shareholders, policyholders, board of directors and committees thereof. . . ."

The Company maintains its books of account (including, but not limited to, general ledgers, subsidiary ledgers and annual statement workpapers) at its parent's principal office in Baltimore, Maryland. The Company also maintains the complete minutes of the board of directors meetings at the same office in Baltimore, Maryland.

The Company violated Section 325(a) of the New York Insurance Law by failing to maintain its books of account and complete minutes of its board of directors meetings at its principal office in this state.

8. SUMMARY AND CONCLUSIONS

Following are the violations and recommendations contained in this report:

Item	Description	Page No(s).
A	The Company violated Section 1505(d)(3) of the New York Insurance Law by receiving services on a regular and systematic basis that were not specified in the Management Service Agreement filed with the Department and by receiving investment management services on a regular and systematic basis under an agreement, prior to the agreement being filed with the Department.	7
B	The examiner recommends that the Company withdraw the service agreements with F&G Life and MWIG since the agreements are inactive, or will become inactive, and the services will be covered under other service agreements.	7
C	The Company violated Section 308(a) of the New York Insurance Law by failing to give notification to the Superintendent within 30 days of participating in a Tax Sharing Agreement, as advised by Circular Letter No. 33 (1979).	8
D	The examiner recommends that the Company have its officers and directors complete appropriate conflict of interest questionnaires every year.	10
E	The examiner recommends that the Company take greater care in the preparation of its filed annual statement.	18
F	The Department recommends that additional reserves of $3,500,000 be held until demonstrated redundant by subsequent asset adequacy analysis using assumptions and methodology with the same general level of conservatism recommended by the Department.	18
G	The Company violated Section 243.2(b) of Department Regulation No. 152 by failing to maintain its lapsed policy records as required by the Regulation.	19
H	The Company violated Section 3203(a)(2) of the New York Insurance Law by failing to refund premiums for periods beyond the end of the policy month in which the death occurred.	20

Item	Description	Page No(s).
I	The Company violated Section 325(a) of the New York Insurance Law by failing to maintain its books of account and complete minutes of its board of directors meetings at its principal office in this state.	21

Respectfully submitted,

/s/
Jacqueline Tucker
Senior Insurance Examiner

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

Jacqueline Tucker, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

/s/
Jacqueline Tucker

Subscribed and sworn to before me

this__________ day of ____________________2004.

APPOINTMENT NO. 22103

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:

JACQUELINE TUCKER

as a proper person to examine into the affairs of the

FIDELITY AND GUARANTY 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 she 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