

STATE OF NEW YORK INSURANCE DEPARTMENT

REPORT ON EXAMINATION

OF THE

GERBER LIFE INSURANCE COMPANY

AS OF

DECEMBER 31, 2001

DATE OF REPORT:

JANUARY 10, 2003

EXAMINER:

JO'CATENA HARGROVE

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

January 10, 2003

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

Sir:

In accordance with instructions contained in Appointment No. 21911, dated July 3, 2002 and annexed hereto, an examination has been made into the condition and affairs of Gerber Life Insurance Company, hereinafter referred to as "the Company," at its home office located at 1311 Mamaroneck Avenue, White Plains, New York 10605.

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

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

1. EXECUTIVE SUMMARY

The examiner's review of a sample of transactions did not reveal any differences which materially affected the Company's financial condition as presented in its financial statements contained in the December 31, 2001 filed annual statement. (See item 5 of this report)

The Company violated Section 3201(b)(1) of the New York Insurance Law by using unapproved policy forms. (See item 6B of this report)

The Company violated Section 3207(c) of the New York Insurance Law by issuing policies to minors in excess of the limits allowed by Law. (See item 6B of this report)

The Company violated Section 3207(e)(1) of the New York Insurance Law by paying claims in excess of the limits allowed by Law. (See item 6C of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 1998. This examination covers the period from January 1, 1999 through December 31, 2001. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2001 but prior to the date of this report (i.e., the completion date of the examination).

The examination comprised a verification of assets and liabilities as of December 31, 2001 to determine whether the Company's 2001 filed annual statement fairly presents its financial condition. The examiner reviewed the Company's income and disbursements necessary to accomplish such verification and utilized the National Association of Insurance Commissioners' Examiners Handbook or such other examination procedures, as deemed appropriate, in such review and in the review or audit of the following matters:

- Company history
- Management and control
- Corporate records
- Fidelity bond and other insurance
- Officers' and employees' welfare and pension plans
- Territory and plan of operation
- Market conduct activities
- Growth of Company
- Business in force by states
- Mortality and loss experience
- Reinsurance
- Accounts and records
- Financial statements

The examiner reviewed the 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 December 22, 1967, was licensed and commenced business on September 20, 1968. Initial resources of \$4,970,250, consisting of common capital stock of \$1,000,000 and paid in and contributed surplus of \$3,970,250, were provided through the sale of 100,000 shares of common stock (with a par value of \$10 each) for \$49.7025 per share. Changes in the capital and surplus of the Company since incorporation resulted in capital and paid in and contributed surplus of \$2,504,250 and \$16,216,00 respectively as of December 31, 2001.

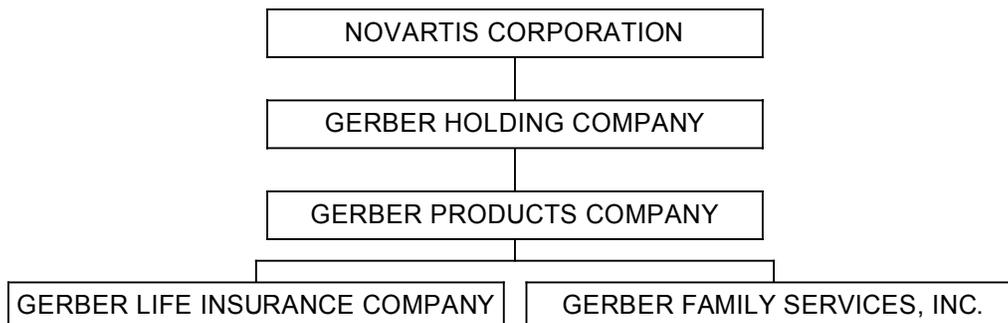
In August 1994, Gerber Holding Company was formed by Sandoz Corporation in order to purchase Gerber Products Company.

In March 1996, Sandoz Corporation and Ciba-Geigy, a large Swiss pharmaceutical company merged. The merger created Novartis Corporation, the second largest pharmaceutical company in the world. Novartis Corporation then became the new ultimate parent of the Company.

B. Holding Company

The Company is a wholly owned subsidiary of Gerber Products Company (“Gerber Products”), a Michigan corporation and a leading producer of baby foods. The Company’s ultimate parent is Novartis Corporation, a Switzerland pharmaceutical company.

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



The Company had four service agreements in effect as of December 31, 2001.

1. The Company has a service agreement with its parent, whereby the Company receives supportive facilities and services in the administrative, advertising and computer areas.
2. The Company has a general agency agreement with Gerber Family Services, Inc. (“GFS”).
3. The Company has a service agreement with GFS, whereby the Company provides supportive facilities, services and materials in the administrative and advertising areas to GFS.
4. The Company also has a service agreement with GFS whereby the Company purchases surplus advertising materials at cost from GFS.

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 15 directors. The number of directors shall be increased to not less than 13 within one year following the end of the calendar year in which the Company’s admitted assets exceed \$1.5 billion. Directors are elected for a period of one year at the annual meeting of the stockholders held in April of each year. As of December 31, 2001, the board of directors consisted of ten members. Meetings of the board are held in January, April, July and October.

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

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Victor J. Fennon* Bronxville, NY	Retired	1997
Kurt P. Furger Berkeley Heights, NJ	Global Chief Financial Officer Novartis Consumer Health Division	1998

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
John E. Gould* Scarsdale, NY	Senior Partner Thompson Hine	2000
Ronald J. Masiero Huntington, CT	Chairman of the Board, President and Chief Executive Officer Gerber Life Insurance Company	1985
William R. Morrissey* Hartsdale, NY	President WRM Consulting	1998
Donna H. Myers* Holmdel, NJ	President DHM Group, Inc.	1974
Frank P. Palantoni South Salem, NY	Global Chief Executive Officer Novartis Consumer Health Division	1999
Alfred A. Piergallini Jersey City, NJ	Chief Executive Officer Novartis Consumer Health Worldwide	1990
Steven M. Tobin Hartsdale, NY	Senior Vice President and Treasurer Gerber Life Insurance Company	1991
Ellen B. Yuracko Hartsdale, NY	Senior Vice President, Marketing and Secretary Gerber Life Insurance Company	1988

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

In January 2002, Alfred A. Piergallini retired from the board. In January 2003, Kurt P. Furger and Ellen B. Yuracko resigned from the board, Ronald J. Masiero resigned as President and Chairman but will remain a member of the board. Also in January of 2003 Frank Palantoni was elected Chairman of the board, Wesley Protheroe, Andre Cadieux and Keith O'Reilly were elected to serve on 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, 2001:

<u>Name</u>	<u>Title</u>
Ronald J. Masiero	Chairman of the Board, President and Chief Executive Officer
Jacquelin Howard	Senior Vice President – Operations
Steven M. Tobin	Senior Vice President and Treasurer
Ellen B. Yuracko	Senior Vice President – Marketing and Secretary
Merle J. Hanson	Vice President – Information Systems
Robert J. Lodewick, Jr. *	Vice President – General Counsel
Peter J. Mendelson	Vice President – Direct Response Marketing
Leslie A. Napoleon	Vice President – Product Actuary
Keith M. O'Reilly	Vice President – Corporate Planning
Warren H. Silberstein	Vice President – Financial Actuary
Rosemary S. Ginter	Assistant Secretary

In January 2003 Ronald J. Masiero and Ellen B. Yuracko retired from the Company. Effective November 1, 2002 Wesley Protheroe was elected President of the Company.

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

D. Territory and Plan of Operation

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

The Company is licensed to transact business in 50 states, the District of Columbia, Puerto Rico, and Canada. In 2001, 18% of life premiums and 11% of accident and health premiums were received from New York. No other state is responsible for 10% or more of the Company's premium. Policies are written on a non-participating basis.

The Company sells its life products primarily through mass marketing and sells its group life and accident and health products primarily through its general agency force.

The Company sells a substantial amount of life insurance by direct mail with a first month's premium of \$1. The applicant pays the low first month's premium, receives a policy and then decides whether to continue coverage. Approximately one third of this business lapses after the first month.

E. Reinsurance

As of December 31, 2001, the Company had reinsurance treaties in effect with over 70 companies, of which 12 were authorized or accredited. The Company's life and accident and health businesses are reinsured on a coinsurance, quota share, and yearly renewable term basis. Reinsurance is provided on an automatic basis.

The maximum retention limit for individual life contracts is \$30,000 per life on standard rated cases, \$10,000 per life on substandard risk and \$15,000 on accidental death benefits. On its guaranteed issue individual life business, the Company generally reinsures 75% of policy amounts in excess of \$5,000. The total face amount of life insurance ceded, as of December 31, 2001, was \$758,128,954 which represents 3.9% of the total face amount of life insurance in force. Reserve credit taken for reinsurance ceded to unauthorized companies and reinsurance recoverables from unauthorized companies, totaling \$31,504,350, was supported by letters of credit.

The total face amount of life insurance assumed, as of December 31, 2001, was \$1,218,876,673. This represents 6% of the total life insurance in force.

4. SIGNIFICANT OPERATING RESULTS

Indicated below is significant information concerning the operations of the Company during the period under examination as extracted from its filed annual statements. Failure of items to add to the totals shown in any table in this report is due to rounding.

The following table indicates the Company's financial growth during the period under review:

	December 31, <u>1998</u>	December 31, <u>2001</u>	Increase (Decrease)
Admitted assets	<u>\$349,640,499</u>	<u>\$580,065,418</u>	<u>\$230,424,919</u>
Liabilities	<u>\$292,822,322</u>	<u>\$488,490,798</u>	<u>\$195,668,476</u>
Common capital stock	\$ 2,500,000	\$ 2,500,000	\$ 0
Preferred capital stock	4,250	4,250	0
Gross paid in and contributed surplus	16,216,000	16,216,000	0
Group life contingency reserve	4,428,371	5,677,707	1,249,336
Unassigned funds (surplus)	<u>33,669,556</u>	<u>67,176,663</u>	<u>33,507,107</u>
Total capital and surplus	<u>\$ 56,818,177</u>	<u>\$ 91,574,620</u>	<u>\$ 34,756,443</u>
Total liabilities, capital and surplus	<u>\$349,640,499</u>	<u>\$580,065,418</u>	<u>\$230,424,919</u>

The Company's invested assets as of December 31, 2001 were mainly comprised of bonds (90.2%) and cash and short-term investments (5.3%).

The Company's entire bond portfolio, as of December 31, 2001, was comprised of investment grade obligations.

The ordinary lapse ratio for each of the examination years was 15.5% in 2001, 16.3% in 2000 and 18.0% in 1999.

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

	<u>1999</u>	<u>2000</u>	<u>2001</u>
Ordinary life insurance	\$ <u>11,127,707</u>	\$ <u>11,571,023</u>	\$ <u>11,133,824</u>
Group life	\$ <u>1,320,041</u>	\$ <u>1,413,874</u>	\$ <u>1,188,071</u>
Accident and health:			
Group	\$ 1,580,052	\$ 1,309,558	\$ 2,623,866
Other	<u>(1,292,794)</u>	<u>(593,117)</u>	<u>(339,863)</u>
Total accident and health	\$ <u>287,258</u>	\$ <u>716,441</u>	\$ <u>2,284,003</u>
Total	\$ <u>12,735,006</u>	\$ <u>13,701,338</u>	\$ <u>14,605,898</u>

The increase in the group accident and health business in 2001 is due to the Company's decision to decrease the amount of reinsurance ceded and retain a greater portion of this profitable line of business.

The accident and health other line is a closed block of Medicare Supplement business.

5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital, surplus and other funds as of December 31, 2001, as contained in the Company's 2001 filed annual statement, a condensed summary of operations and a reconciliation of the capital and surplus account for each of the years under review. The examiner's review of a sample of transactions did not reveal any differences which materially affected the Company's financial condition as presented in its financial statements contained in the December 31, 2001 filed annual statement.

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

Admitted Assets

Bonds	\$464,792,805
Stocks:	
Common stocks	13,823,624
Real estate:	
Properties occupied by the company	44,010
Policy loans	9,067,089
Cash and short term investments	27,503,955
Other invested assets	52,654
Reinsurance ceded:	
Amounts recoverable from reinsurers	1,084,525
Commissions and expense allowances due	4,834,993
Guaranty funds receivable or on deposit	179,263
Life insurance premiums and annuity considerations deferred and uncollected on in force business	36,207,802
Accident and health premiums due and unpaid	1,114,544
Investment income due and accrued	7,990,750
Due from joint ventures	13,334,115
Other receivables	<u>35,289</u>
 Total admitted assets	 <u>\$580,065,418</u>

Liabilities, Capital, Surplus and Other Funds

Aggregate reserve for life policies and contracts	\$402,360,238
Aggregate reserve for accident and health policies	5,336,283
Policy and contract claims:	
Life	11,079,333
Accident and health	37,389,305
Premiums and annuity considerations for life and accident and health policies and contracts received in advance	4,608,779
Policy and contract liabilities:	
Interest maintenance reserve	3,916,427
Commissions to agents due or accrued	5,474,286
Commissions and expense allowances payable on reinsurance assumed	9,668
General expenses due or accrued	3,612,883
Taxes, licenses and fees due or accrued	218,498
Federal and foreign income taxes	272,732
Amounts withheld or retained by company as agent or trustee	287,281
Amounts held for agents' account	2,969
Remittances and items not allocated	5,920,909
Miscellaneous liabilities:	
Asset valuation reserve	2,310,763
Reinsurance in unauthorized companies	214,279
Payable to parent, subsidiaries and affiliates	4,950
Drafts outstanding	14,397
Interest on death claims pending	64,286
Due to joint ventures	4,639,054
Miscellaneous payables	534,140
Current year escheatable items	<u>219,338</u>
 Total liabilities	 <u>\$488,490,798</u>
 Common capital stock	 \$ 2,500,000
Preferred capital stock	4,250
Gross paid in and contributed surplus	16,216,000
Group life contingency reserve	5,677,707
Unassigned funds (surplus)	<u>67,176,663</u>
 Total capital, surplus and other funds	 <u>\$ 91,574,620</u>
 Total liabilities, capital, surplus and other funds	 <u>\$580,065,418</u>

B. CONDENSED SUMMARY OF OPERATIONS

	<u>1999</u>	<u>2000</u>	<u>2001</u>
Premiums and considerations	\$156,946,100	\$167,762,256	\$186,968,703
Investment income	20,887,478	26,842,517	31,691,791
Commissions and reserve adjustments on reinsurance ceded	36,832,313	30,098,391	30,862,270
Miscellaneous income	<u>7,378,824</u>	<u>7,756,944</u>	<u>7,312,216</u>
Total income	<u>\$222,044,715</u>	<u>\$232,460,108</u>	<u>\$256,834,980</u>
Benefit payments	\$ 68,223,227	\$ 67,839,340	\$ 71,002,552
Increase in reserves	49,726,945	58,512,013	71,009,919
Commissions	47,441,707	40,277,153	41,167,955
General expenses and taxes	37,449,893	41,799,463	47,071,051
Increase in loading on deferred and uncollected premium	<u>268,725</u>	<u>982,809</u>	<u>1,974,240</u>
Total deductions	<u>\$203,110,497</u>	<u>\$209,410,778</u>	<u>\$232,225,717</u>
Net gain (loss)	\$ 18,934,218	\$ 23,049,330	\$ 24,609,263
Federal and foreign income taxes incurred	<u>6,199,212</u>	<u>9,347,992</u>	<u>10,003,365</u>
Net gain (loss) from operations before net realized capital gains	\$ 12,735,006	\$ 13,701,338	\$ 14,605,898
Net realized capital gains (losses)	<u>1,496,072</u>	<u>4,835,425</u>	<u>(1,411,436)</u>
Net income	<u>\$ 14,231,078</u>	<u>\$ 18,536,763</u>	<u>\$ 13,194,462</u>

C. CAPITAL AND SURPLUS ACCOUNT

	<u>1999</u>	<u>2000</u>	<u>2001</u>
Capital and surplus, December 31, prior year	<u>\$56,818,177</u>	<u>\$70,586,487</u>	<u>\$80,875,101</u>
Net income	\$14,231,078	\$18,536,763	\$13,194,462
Change in net unrealized capital gains (losses)	2,281,711	(11,044,978)	(1,483,492)
Change in non-admitted assets and related items	(463,747)	(789,924)	(2,551,196)
Change in liability for reinsurance in unauthorized companies	(806,535)	(677,618)	1,507,495
Change in asset valuation reserve	(1,474,197)	4,264,371	(307,093)
Cumulative effect of changes in accounting principles	<u>0</u>	<u>0</u>	<u>339,343</u>
Net change in capital and surplus	<u>\$13,768,310</u>	<u>\$10,288,614</u>	<u>\$10,699,519</u>
Capital and surplus, December 31, current year	<u>\$70,586,487</u>	<u>\$80,875,101</u>	<u>\$91,574,620</u>

6. MARKET CONDUCT ACTIVITIES

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

A. Advertising and Sales Activities

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

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

B. Underwriting and Policy Forms

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

Section 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 as conforming to the requirements of this chapter and not inconsistent with law. . . .”

Brochures which contained five unapproved application forms were utilized in the Company's mass marketing advertisements for two different products. These applications were accepted by the Company in the issuance of insurance.

The Company violated Section 3201(b)(1) of the New York Insurance Law by using unapproved policy application forms.

The review of policy number CGLT-860 entitled “Guaranteed Term Life Insurance Plan” revealed it has been changed to “Decreasing Term Life Insurance Plan.” The changed policy was not submitted to the Superintendent for approval.

The Company violated Section 3201(b)(1) of the New York Insurance Law by using an unapproved policy form.

Section 3207(c) of the New York Insurance Law states, in part:

“ . . . an insurer shall not knowingly issue such a policy or policies for an amount which, together with the amount of life insurance under any policy or policies then in force upon the life of such minor, is in excess of the limit of ten thousand dollars or the limit of fifty per centum (five thousand dollars or the limit of twenty-five per centum in the case of a minor under the age of four years and six months) of the amount of life insurance in force upon the life of the person effectuating the insurance at the date of issue of the policy on the life of such minor, whichever limit is the greater . . . ”

The review of new issues during the examination period revealed that the Company issued policies in New York which exceeded the limits of life insurance in force on minors.

The Company violated Section 3207(c) of the New York Insurance Law by issuing policies on minors in excess of the limits allowed by Law.

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 3207(e)(1) of the New York Insurance Law states, in part:

“If an insurer shall deliver or issue for delivery in this state any policy of life insurance on the life of a minor for an amount in excess of the limits prescribed by subsection (b) or (c) of this section, whichever is applicable, the amount under such policy which is in excess shall not be valid, or payable as a claim by death . . . ”

The Company paid claims which were in excess of the limits of insurance allowed by Law.

The Company violated Section 3207(e)(1) of the New York Insurance Law by paying claims on policies on minors in excess of the limits allowed by Law.

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 a report on September 19, 2001 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 conducted a review of all relevant documents including a review of rate charts, mortality tables, agent contracts, compensation schedules, underwriting and agent manuals, applications, policy form filings, board of directors and committee minutes, and internal memoranda. In summary, the Company’s findings were that there were no results from the review that would indicate any degree of race-based rating.

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. SUMMARY AND CONCLUSIONS

Following are the violations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 3201(b)(1) of the New York Insurance Law by using unapproved policy application forms.	15
B	The Company violated Section 3201(b)(1) of the New York Insurance Law by using an unapproved policy form.	15
C	The Company violated Section 3207(c) of the New York Insurance Law by issuing policies on minors in excess of the limits allowed by law.	16
D	The Company violated Section 3207(e)(1) of the New York Insurance Law by paying claims in excess of the limits allowed by law.	16

APPOINTMENT NO. 21911

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:

JO'CATENA HARGROVE

as a proper person to examine into the affairs of the

GERBER LIFE INSURANCE COMPANY

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 3rd day of July, 2002



GREGORY V. SERIO

Superintendent of Insurance

A handwritten signature in cursive script, appearing to read "Gregory V. Serio", is written over a horizontal line.

Superintendent